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Title 3—

The President

Proclamation 5954 of April 13, 1989

Pan American Day and Pan American Week, 1989

By the President of the United States of America

A Proclamation

The people of the Americas share a deep love of liberty and dedication to the principles of democracy; the vast majority of nations throughout this hemisphere have freely elected governments. For the past century, these nations have been united in a unique international alliance that is known today as the Organization of American States. Pan American Day and Pan American Week celebrate the ideals we share as members of that alliance, as well as our collective commitment to political and economic freedom.

The peoples of the Americas represent the joining of European, African, Asian, and native American cultures. Centuries ago, these diverse cultures blended and emerged stronger. Our common past, our common values, and a desire for hemispheric unity for the sake of future generations motivated our forefathers to establish the Inter-American system one hundred years ago. Today, the Organization of American States is the proud successor to the Pan American Union, which evolved from the International Union of American Republics formed in 1890. Through the years, the Organization has faithfully served member states and their changing needs.

The United States firmly believes in the value of the Inter-American system and in the vision of freedom and representative democracy to which members are committed by the Charter of the Organization of American States. We support efforts to reevaluate and reinvigorate the system so that it can continue to be a formidable opponent of totalitarianism and drug trafficking and an effective instrument for promoting democracy, human rights, economic development, and peace in the region.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Friday, April 14, 1989, as Pan American Day and the week of April 9 through April 15, 1989, as Pan American Week. I urge the Governors of the fifty States, the Governor of the Commonwealth of Puerto Rico, and officials of other areas under the flag of the United States of America to honor these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.

George Bush

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA-89-006]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Revision of User Fees and Other Administrative Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is increasing the fees charged for services provided under the dairy inspection and grading program. The program is a voluntary, user-fee program conducted under the authority of the Agricultural Marketing Act of 1946 as amended.

This action increases the hourly rate for all services and eliminates the separate hourly rate for "continuous" nonresident services. The major new fees are $32.00 per hour for resident services and $36.00 per hour for nonresident services.

The purpose of the fee increases is to offset an increase in operating expenses, including a 4.1 percent increase in Federal salaries, a 28.3 percent increase in the Agency's Federal Employees Health Benefits Program contributions, and a 10 percent increase in travel costs (mileage and per diem). The increase will also offset declining revenues resulting from a major reduction in grading activities for Government purchases of surplus dairy products.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Lynn G. Boerger, USDA/AMS/Dairy Division, Dairy Grading Section, Room 2750-S, P.O. Box 96456, Washington, DC 20090-6456, (202) 382-9381.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified a "non-major" rule under the criteria contained therein.

The final rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Administrator, Agricultural Marketing Service, has determined that it will not have a significant economic impact on a substantial number of small entities. The changes will not significantly affect the cost per unit for grading and inspection services. The Agricultural Marketing Service (AMS) estimates that overall this rule will yield an additional $400,000 during fiscal year 1989. The Agency does not believe the increases will affect competition. Furthermore, the dairy grading program is a voluntary program.

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide Federal dairy grading and inspection services that facilitate marketing and help consumers obtain the quality of dairy products they desire. The Act provides that reasonable fees be collected from the users of the services to cover as nearly as practicable the cost of maintaining the program.

Although the hourly fee rates under the program were increased on June 19, 1988, the changes were based on workload levels experienced during FY 1987 and did not take into account the significant and unforeseen drop in workload during the last half of 1988. Also, the changes did not include the recent increase in operating costs caused by the recent 4.1 percent increase in Federal employee salaries, the 28.3 percent increase in the Agency's contribution to the Federal Employee Health Benefits Program, and a travel cost increase of 10 percent. Because of inadequate grading revenues during FY 1988, the operating reserve of over $2 million was depleted. In fact, drastic program adjustments to reduce costs were taken to prevent the program from realizing a negative reserve balance of approximately $600,000 in FY 1988. During FY 1989, further decreases in workload are expected for the nonresident program as a result of a substantial projected reduction in purchases of surplus products under the dairy price support program.

Since the last fee increase, a major restructuring of the grading and inspection program was initiated to bring staffing and operational activities in line with the reduced workload. The adjustments included a 39 percent reduction in staff, closure of one of four regional offices, reductions in travel, deferred computer purchases, and a reduction in management overhead costs.

In spite of these extensive cost-cutting measures, the higher costs for salaries, health benefits and travel and the continuing decline in revenues because of a lower workload are causing the program further financial problems. Without the fee increases, a negative reserve balance of over $400,000 is projected by the end of FY 1989. Revenues and costs for FY 1989 without any fee increases, are projected to be $6 million and $6.4 million, respectively. The fee increases will reverse this situation and will lead to the desired 4-month operating reserve of $2.3 million by the end of FY 1991. With the fee increases, both revenues and costs for FY 1989 are estimated to be $6.4 million.

Program Changes Adopted in the Final Rule

This document makes the following changes in the regulations implementing the dairy inspection and grading program:

1. Increases the hourly fee for resident services from $24.00 to $32.00 and for nonresident services from $33.00 to $36.00.

The resident hourly rate is charged to those who are using grading and inspection services performed by an inspector or grader assigned to a plant on a continuous year-round, resident basis. The nonresident hourly rate is charged to users who request an inspector or grader for particular dates and amounts of time to perform specific grading or inspection activities. These users of nonresident services are charged for the amount of time required to perform the task and undertake related travel, plus travel costs.

2. Eliminates the fee for continuous nonresident service.

The continuous nonresident rate, which was higher than the nonresident rate, applied to users who had contracts with the Agricultural Stabilization and

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Conservation Services (ASCS) and who requested service in 40-hour week increments. This rate was intended to include not only the cost for in-plant inspection and grading services but the related travel costs as well. The rate is being discontinued because the Agency cannot accurately establish a rate for all users since the Agency has no control over where the contracts are awarded and thus cannot project under the current workload and staffing level the average travel costs that must be built into the fee rate. Under the change, the user would be charged the nonresident rate plus travel costs. This change will enable the agency to recover the cost of providing service by making charges for travel only when the cost is incurred and charging only those users who require the travel.

3. Increases the fees for laboratory services.

Effective January 15, 1989, the Agency's Commodities Scientific Support Division (CSSD) assumed administrative control of all dairy laboratory services supporting the grading program except those performed in conjunction with the resident services. The resident services laboratory functions will receive oversight and audit of their technical procedures by CSSD. The Dairy Division will continue to bill applicants for laboratory services.

To reflect the additional costs of providing laboratory services that stem from increased salaries and other related employee costs, the hourly rate for laboratory services is increased from $24.00 to $28.00. The charges for specifically listed tests are increased to reflect the change in the hourly rate. Tests that are no longer performed by the laboratory are being deleted from the list of charges.

4. Makes miscellaneous nonsubstantive changes to clarify several of the provisions. These changes include the deletion of the definition of "Continuous nonresident service."

Response to Industry Comments

A rulemaking document proposing the changes discussed above was published in the Federal Register on February 14, 1989 (54 FR 6682). A 30-day comment period was provided so that interested persons could submit comments on the proposed changes.

The Agency received four comments. Two were from dairy manufacturing plants, one was from a major industry trade association, and one was from a U.S. Congressman expressing the concerns of his State's Department of Agriculture.

Commenters expressed concern about the size of the proposed fee increases, particularly in view of the relatively recent increase in fees on June 19, 1988. The justification for the fee increases was detailed in the proposed rule and, in addition, was conveyed to industry participants at a January 12, 1989, meeting initiated by the Agency. The total cost of the increases is dependent, of course, upon the number of hours of service provided to the industry. Based on workload projections, the additional cost to the industry is estimated to be approximately $400,000 in FY 1989.

One of the commenters expressed the viewpoint that although inspection and grading activities are provided by AMS as a service to the dairy industry, they also serve the needs of two USDA programs, namely, the price support program and the food distribution programs. The commenter's opinion was that the financial obligations of inspection and grading activities should be borne by all benefiting parties, not just the dairy industry.

Under the Agricultural Marketing Act of 1946 the Secretary of Agriculture is directed and authorized to collect sufficient fees for services rendered to cover as nearly as practicable the costs of such services. In accordance with the regulations issued under the Act, fees and charges for any inspection and grading services are to be paid by the interested party making the application for the service. Although other Government programs may benefit indirectly from these services, there is no requirement that such programs provide financial support to the inspection and grading program. Whether such support would be appropriate is outside the purview of this rulemaking proceeding.

Two of the commenters suggested that an increased level of inspection and grading service be performed through cooperative agreements with individual state agencies. AMS currently has cooperative agreements with 20 states to provide dairy grading and inspection services. Similar cooperative arrangements are available to other states that are interested and have the programs and the personnel necessary to provide the service. However, the costs of providing services through agreements with state agencies must also be covered through fees collected for those services. The fees collected for such services have not always been sufficient to cover the cost of those programs. Currently, cooperative agreements with state agencies are being revised to facilitate greater utilization of these programs and to assure that each program is financially self-supporting.

As a means of reducing grading costs, one commenter suggested that the industry be allowed to collect samples through the use of automated sampling techniques, and that this be coupled with the issuance of a "modified" grading certificate. Automated sampling methods for official samples have been considered numerous times in the past. The challenge of finding a method that provides representative samples still continues, even though many interested parties have participated in discussions on this issue.

The use of modified certificates is inherently limited by the need to accurately reflect the certification involved and to maintain a high level of program integrity. The official certificate must specifically state the status of the product so that the recipient of the certificate can rely on the document to determine product compliance.

One commenter suggested that the fees for laboratory tests be similar to those of commercial laboratories and that a certification/approval of industry laboratories be instituted. The laboratory fee increases set forth herein are intended to cover the increased costs of providing laboratory services that stemmed from increased salaries and other related employee costs. The Agency's Commodities Scientific Support Division (CSSD) will continue to evaluate the cost of providing laboratory tests and will propose fee adjustments as necessary. Also, CSSD and the Dairy Division are currently working with the industry to determine the feasibility of the certification/approval of industry laboratories.

One commenter suggested that consideration be given to discontinuing the ASCS requirement that continuous inspection be required during the manufacture of process cheese intended for sale to the Commodity Credit Corporation. Several years ago the continuous inspection requirement was recommended to ASCS by AMS as a way to improve product quality and reduce consumer complaints. Prior to that recommendation, in-plant investigations by AMS found numerous situations where manufacturers were using a natural cheese of lesser quality than that required by the ASCS announcement. We believe that continuous inspection is primarily responsible for a more consistent quality product and a significant decrease in consumer complaints.

One commenter suggested a further consolidation of USDA inspection and grading activities, including joint

program efforts between dairy and other commodity divisions in AMS (meat, poultry and fruit and vegetable). This method of reducing the overall cost of AMS user fee programs has been used for several years. The cross-utilization of graders between the various commodity divisions can maximize the utilization of manpower and provide flexibility within each program to adjust to changing workloads. This option has been used extensively by the dairy grading and inspection program during the past eight months. This method of providing service will continue and when possible be expanded to reduce program costs through cross-utilization of manpower.

Information Collection Requirements and Recordkeeping

Information collection requirements and the recordkeeping provision contained in 7 CFR Part 58, Subpart A, have been approved previously by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581-0126.

Pursuant to 5 U.S.C. 553, it is hereby found that good cause exists for not delaying the effective date of this action until 30 days after publication of this final rule in the Federal Register. The seriousness of the revenue shortfall warrants putting the higher rates into effect as quickly as possible. An immediate increase in fees is essential for effective management and operation of the program, and to satisfy the requirements of the Agricultural Marketing Act of 1946. The necessity to implement the changes as soon as possible after publication of a final rule was discussed in the proposal and during a USDA-initiated meeting with industry representatives in January 1989.

The provisions of this final rule are known to interested parties. A proposed rule setting forth the fee increases and other administrative changes adopted herein was published in the Federal Register on February 14, 1989. The changes effected by this final rule will not require extensive preparation or substantial changes in operation by those persons using the program's services.

List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products.

For the reasons set forth in the preamble, 7 CFR Part 58 is amended by amending Subpart A as follows:

Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products

PART 58—[AMENDED]

1. The authority citation for Part 58 continues to read as follows:

Authority: Sections. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

§ 58.1 [Amended]

2. Section 58.1 is amended to remove the definition of the term "Continuous nonresident service."

3. Section 58.41 is revised to read as follows:

§ 58.41 Fees for additional copies of certificates.

Additional copies of any inspection or grading certificates (including takeoff certificates), other than those provided for in § 58.20 may be supplied to any interested party upon payment of a fee based on time required to prepare such copies at the hourly rate specified in § 58.43.

4. Section 58.43 is revised to read as follows:

§ 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in this section and §§ 58.38 through 58.46, charges shall be made for inspection, grading, and sampling service at the hourly rate of $36.00 for service performed between 6 a.m. and 6 p.m., and $39.60 for service performed between 6 p.m. and 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

5. Section 58.44 is revised to read as follows:

§ 58.44 Fees for laboratory analysis.

Except as otherwise provided in this section, charges shall be made for laboratory analysis at the hourly rate of $28.00 for the time required to perform the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued. The following minimum rates per test, which are based on the average time required to perform the test is greater than the minimum set forth:

(a) Dry milk and related products

Total fat (ether extraction)	$5.07
Moisture	3.91
Titratable acidity	1.92
Solubility index	2.63
Scorched particles	2.63
Bacterial plate count	5.07
Bacterial direct microscopic count	7.58
Whey protein nitrogen	12.77
Vitamin A	25.32
Alkalinity of ash	28.00
Dispersibility	12.77
Coliform (solid media)	5.07
Salmonella	28.00
Phosphatase	28.00
Oxygen	15.17
Density	1.92
Antibiotic	9.39

(b) Condensed milk and related products

Fat (fat extraction)	$7.58
Total solids	5.07
Sugar (sucrose)	28.00
Net weight (per can)	3.09

(c) Cheese and related products

Moisture	$5.07
Moisture in duplicate	7.58
Total fat (ether extraction)	8.93
Moisture and fat (dry basis) complete	14.00
Meltability (Process cheese)	5.07

(d) Butter and related products

Moisture	$5.07
Fat	10.09
Salt	5.07
Complete Kohman analysis	15.17
Fat and moisture (same sample)	12.77
Peroxide value	28.00
Free fatty acid	12.77
Yeast and mold	6.42
Proteolytic count	6.42

(e) Meat and related products

Fat (hamburger)	$13.13

6. Section 58.45 is revised to read as follows:

§ 58.45 Fees for continuous resident service.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of $32.00 per hour for services performed during the assigned tour of duty. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section.

§ 58.47 [Removed]

7. Section 58.47 is removed.

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Signed at Washington, DC on April 13, 1989.

J. Patrick Boyle,

Administrator, Agricultural Marketing Service.

[FR Doc. 89-9249 Filed 4-14-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 911 and 915

[Docket No. FV-89-021]

Expenses and Assessment Rates for the Marketing Orders Covering Limes and Avocadoes Grown in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes assessment rates under Marketing Orders 911 and 915 for the 1989–90 fiscal year for each marketing order program. These expenditures and assessment rates are needed by the administrative committees established under these orders to pay program expenses and collect assessments from handlers to pay those expenses. This action is intended to enable these committees to perform their duties and the programs to operate.

EFFECTIVE DATES: April 1, 1989, through March 31, 1990, for each order.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under the Marketing Agreements and Marketing Order Nos. 911 (7 CFR Part 911) regulating the handling of limes grown in Florida, and 915 (7 CFR Part 915) regulating the handling of avocadoes grown in South Florida. These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 26 handlers of Florida limes and 34 handlers of Florida avocadoes subject to regulation under these marketing orders, and about 280 lime producers and 300 avocado producers in Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

Marketing orders administered by the U.S. Department of Agriculture (Department) require that the assessment rate for a particular fiscal year shall apply to all assessable commodities handled from the beginning of such year. An annual budget of expenses is prepared by each administrative committee and submitted to the Department for approval. The members of administrative committees are handlers and producers of the regulated commodities. They are familiar with the committees' needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by each administrative committee is derived by dividing anticipated expenses by the expected shipments of the commodity (e.g., pounds, tons, boxes, cartons, bushels, etc.). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committees shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committees will have funds to pay their expenses.

The Florida Lime Administrative Committee (FLAC) met January 11, 1989, and unanimously recommended a 1989–90 budget with expenditures of $233,000 and an assessment rate of $0.15 per bushel (55 pounds) of assessable limes shipped under M.O. 911. In comparison, 1988–89 fiscal year budgeted expenditures were $233,500 and the assessment rate was $0.15 per bushel. Major expenditure items budgeted for the 1989–90 fiscal year, compared with those budgeted in 1988–89 (in parentheses), are $105,300 ($107,900) for program administration, $102,700 ($100,600) for production research, and $25,000 ($25,000) for market development and public relations. To cover 1989–90 expenses, assessment income is estimated at $225,000 based on shipments of 1,500,000 bushels of assessable limes, and interest income at $8,000. The FLAC also unanimously recommended that excess 1988–89 assessments estimated at $15,000 be placed in its reserve, creating a reserve of about $151,000, an amount well within the maximum authorized.

The Avocado Administrative Committee (AAC) met January 11, 1989, and unanimously recommended a 1989–90 budget with expenditures of $200,000 and an assessment rate of $0.16 per bushel (55 pounds) of assessable avocados shipped under M.O. 915. In comparison, 1988–89 fiscal year budgeted expenditures were $193,500 and the assessment rate was $0.11 per bushel. Major expenditure items budgeted for the 1989–90 fiscal year, compared with those budgeted in 1988–89 (in parentheses), are $113,800 ($107,300) for program administration, $61,200 ($61,200) for production research, and $25,000 ($25,000) for market development and public relations. To cover 1989–90 expenses, assessment income is estimated at $195,200 based on shipments of 1,220,000 bushels of assessable avocados, and interest income at $4,800. The AAC expects to have about $59,000 in its reserve at the beginning of the 1989–90 fiscal year, an amount well within the maximum authorized.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities

This action adds new §§ 911.228 and 915.228 and is based on the committees' recommendations and other information. A proposed rule concerning this action was published in the **Federal Register** (54 FR 7935, February 24, 1989). Comments on the proposed rule were invited from interested persons until March 27, 1989. No comments were received.

After consideration of the information and recommendations submitted by the committees and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

This final rule should be expedited because the committees need to have sufficient funds to pay their expenses, which are incurred on a continuous basis. In addition, handlers are aware of the action, which was recommended by the committees at public meetings. Therefore, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Parts 911 and 915

Marketing agreements and orders, limes, avocados, Florida.

For the reasons set forth in the preamble, 7 CFR Parts 911 and 915 are amended as follows:

Note: These sections will not appear in the Code of Federal Regulations.

1. The authority citation for 7 CFR Parts 911 and 915 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New §§ 911.228 and 915.228 are added to read as follows:

PART 911—LIMES GROWN IN FLORIDA

§ 911.228 Expenses and assessment rate.

Expenses of $233,000 by the Florida Lime Administrative Committee are authorized, and an assessment rate of $0.15 per bushel (55 pounds) of assessable limes is established for the fiscal year ending March 31, 1990. Any unexpended funds from the 1988–89 fiscal year shall be carried over as a reserve.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

§ 915.228 Expenses and assessment rate.

Expenses of $200,000 by the Avocado Administrative Committee are authorized, and an assessment rate of $0.16 per bushel (55 pounds) of assessable avocados is established for the fiscal year ending March 31, 1990. Any unexpended funds from the 1988–89 fiscal year shall be carried over as a reserve.

Dated: April 12, 1989.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-9129 Filed 4-14-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 925

[Docket No. FV-89-028]

Expenses and Assessment Rate for Marketing Order No. 925

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 925 for the 1989 fiscal period. Authorization of this budget will allow the California Desert Grape Administrative Committee to incur expenses reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: January 1, 1989 through December 31, 1989.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 925 and Marketing Order No. 925 (7 CFR Part 925) regulating the handling of grapes grown in a designated area of southeastern California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California desert grapes under this marketing order, and approximately 90 desert grape producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The marketing order requires that the assessment rate for a particular fiscal period shall apply to all assessable grapes handled from the beginning of such period. An annual budget of expenses is prepared by the committee and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of grapes. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by expected shipments of grapes. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. A recommended budget and rate of assessment is usually acted upon by the committee before the season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approval must be expedited so that the committee will have funds to pay its expenses.

The California Desert Grape Administrative Committee met on February 9, 1989, and unanimously recommended a 1989 budget of $48,000. This year's budget is $3,000 more than last year's, due to added expenditures for committee expenses and salary increases for the committee staff. Other increases include payroll taxes, printing, postage, and office expenses. The committee also recommended an assessment rate of $0.004 per lug. This rate, when applied to anticipated shipments of 8,000,000 lugs would yield

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$32,000 in assessment revenue which, when added to $16,000 from interest income and reserve funds, will be adequate to cover budgeted expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the **Federal Register** (54 FR 11004, March 16, 1989). That document contained a proposal to add § 925.208 to establish expenses and an assessment rate for the California Desert Grape Administrative Committee. That rule provided that interested persons could file comments through March 27, 1989. No comments were received.

It is found that the specified expenses are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will end to effectuate the declared policy of the Act.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, the Secretary also finds that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 925

Marketing agreements and orders, grapes (California).

For the reasons set forth in the preamble, 7 CFR Part 925 is amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

1. The authority citation for 7 CFR Part 925 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 925.208 is added to read as follows:

Note: This section prescribes the annual expenses and assessment rate and will not be published in the Code of Federal Regulations

§ 925.208 Expenses and assessment rate.

Expenses of $48,000 by the California Desert Grape Administrative Committee are authorized, and an assessment rate of $0.004 per 22-pound container of grapes is established for the fiscal period ending December 31, 1989. Unexpected funds may be carried over as a reserve.

Dated: April 11, 1989.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–9116 Filed 4–14–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1065

[DA–89–013]

Milk in the Nebraska-Western Iowa Marketing Area; Temporary Revision of Diversion Limitation Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily relaxes for the months of April through August 1989 the limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the Nebraska-Western Iowa milk order. The limits would be revised temporarily from 50 percent to 70 percent. The revision is made in response to a request by a cooperative association representing producers supplying the market, and will prevent uneconomic movements of milk.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Temporary Revision of Diversion Limitation Percentages: Issued March 16, 1989; published March 21, 1989 (54 FR 11546).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action will provide greater assurance that handlers will not engage in uneconomic movement of the market's reserve milk supplies in qualifying such milk for pricing status under the order. The action will also tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under the criteria contained therein.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the provisions of § 1065.13(d)(4) of the Nebraska-Western Iowa order.

Notice of proposed rulemaking was published in the **Federal Register** (54 FR 11546) concerning a proposed relaxation of the limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The temporary revision was proposed to be effective for the months of April through August 1989. The public was afforded the opportunity to comment on the notice by submitting written data, views and arguments by March 28, 1989.

Statement of Consideration

After consideration of all relevant material, data, views and arguments filed and other available information, it is hereby found and determined that the diversion limits on producer milk should be increased by 20 percentage points, from 50 percent to 70 percent.

Pursuant to the provisions of § 1065.13(d), the Director of the Dairy Division may increase or decrease the diversion limitation percentages by up to 20 percentage points in any month. Such changes may be made to encourage additional milk shipments needed to assure an adequate supply of milk to fluid handlers, or to prevent uneconomic shipments of milk merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

With the exception of three months in 1987, the order's diversion limits have been revised temporarily since May 1986. Most recently the order's diversion limitation percentages were revised from 50 to 65 percent for the months of April through August 1988, and from 40 to 60 percent for the months of September 1988 through March 1989.

National Farmers Organization (NFO), a cooperative association which represents producers supplying the Nebraska-Western Iowa market, requested that for the months of April through August 1989, the diversion limit on producer milk be increased by 20 percentage points.

The cooperative stated that the percentage of producer milk used in Class II and Class III under the Nebraska-Western Iowa order was approximately 70 percent during the months of April through August 1988, and it expects that percentage to be approximately the same for the same months of 1989. NFO stated that keeping the order's diversion allowance at a level approximately equal to the marketwide Class II and Class III usage is quite appropriate.

According to NFO, milk produced that is surplus to the fluid needs of the market must be diverted to manufacturing facilities. In order to comply with the order's 50-percent diversion limits, the cooperative stated that the required percentage of its members' milk must be delivered to pool plants. However, a significant amount of its members' milk is not needed at pool plants. In order to qualify for pooling, some of the cooperative's members' milk must be unloaded at a pool plant, then reloaded and shipped to a nonpool plant to be used. NFO stated that without the temporary revision such uneconomic milk shipments will be necessary for the months of April through August 1989 if the milk of its member producers customarily pooled under the Nebraska-Western Iowa order is to continue to be priced under the order and receive the benefits of such pricing. According to NFO, the temporary increase of the diversion limits is necessary to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers historically associated with the market will continue to have their milk priced under the order.

Comments supporting the temporary revision of the diversion limitations were received from Associated Milk Producers, Inc. (AMPI), a cooperative association also representing producers on the Nebraska-Western Iowa market. AMPI supported the temporary revision of the order's diversion limits, stating that the volume of producer milk pooled under the order was higher for the months of January and February 1989 than for the same months of 1988 and that Class I use was lower.

The cooperative emphasized that an increase of diversion limits, to allow more milk not needed for Class I use to be shipped directly to manufacturing plants, is the most economical solution to the problem of decreased Class I utilization and increased supplies of producer milk.

No comments opposing the proposed relaxation of the Nebraska-Western Iowa order's diversion limits were received.

Without the temporary revision, milk would have to be moved unnecessarily and uneconomically from farms to pool plants for the sole purpose of maintaining the pool status of producers historically pooled under the Nebraska-Western Iowa order. In addition to such movements of milk being inefficient and uneconomic, the additonal pumping to which the milk would be subject would be detrimental to the quality of the milk. It is concluded the relaxation of the producer milk diversion limit by 20 percentage points will prevent uneconomic movements of milk to pool plants merely for the purpose of qualifying it as producer milk under the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of April through August 1989;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective upon publication of this notice in the **Federal Register**.

List of Subjects in 7 CFR Part 1065

Milk marketing order, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of § 1065.13(d) (2) and (3) of the Nebraska-Western Iowa milk order are hereby revised for the months of April through August 1989.

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. The authority citation for 7 CFR Part 1065 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

§ 1065.13 [Amended]

2. In § 1065.13(d) (2) and (3), the provision "50 percent" is revised to "70 percent" for the months of April through August 1989.

Signed at Washington, DC, on April 12, 1989.

W.H. Blanchard,

Director, Dairy Division.

[FR Doc. 89–9130 Filed 4–14–89; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 89–45]

Adding People's Republic of China to the List of Nations Entitled to Special Tonnage Tax Exemption

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations by adding the People's Republic of China to the list of nations whose vessels are exempt from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. The Department of State informed Customs that there is satisfactory evidence that no discriminatory duties of tonnage or impost are being imposed in ports of the People's Republic of China upon vessels belonging to citizens of the United States or on their cargoes. This amendment provides reciprocal privileges for vessels registered in the People's Republic of China.

EFFECTIVE DATE: December 15, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Falcon, Carrier Rulings Branch. (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, called "light money", on all foreign vessels which enter United States ports (46 U.S.C. App. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof satisfactory to the President that no discriminatory duties of tonnage or impost are imposed by that foreign nation on U.S. vessels or their cargoes (46 U.S.C. App. 121, 141). Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the

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payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money.

By letter dated September 19, 1980, the Department of State advised the Department of Treasury that satisfactory evidence existed, in the form of the U.S.-China Agreement on Maritime Transport and the U.S.-China Agreement on Trade Relations, that no discriminating duties of tonnage or impost are imposed or levied in ports of the People's Republic of China upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported into the People's Republic of China on vessels of the United States. Accordingly, T.D. 82-16, published in the Federal Register on January 14, 1982, (47 FR 2084) amended § 4.22, Customs Regulations, by granting reciprocal privileges to vessels of China as of September 17, 1980.

Subsequently, by letter dated December 19, 1983, the Department of State informed the Customs Service that the U.S.-China Agreement on Maritime Transport, which was signed and became effective on September 17, 1980, had expired on December 16, 1983. Since no successor agreement was concluded and the only assurances the Government of China had provided the U.S. Government concerning tonnage duties were contained in the Maritime Agreement, which expired on December 16, 1983, the Department of State recommended that China be removed, effective December 16, 1983, from the list of nations whose vessels are exempt from the payment of special tonnage tax and light money. Accordingly, T.D. 84-57, published in the Federal Register on March 8, 1984, amended § 4.22, Customs Regulations, by deleting the People's Republic of China from the list of nations in § 4.22, effective December 16, 1983.

By a communication dated December 20, 1988, together with an accompanying copy of a new U.S.-China Agreement on Maritime Transport that became effective on December 15, 1988, and due to expire four years hence, the Department of State informed the Customs Service that no discriminating duties of tonnage or impost are imposed or levied in ports of the People's Republic of China upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported into the People's Republic of China on vessels of the United States. Consequently, the Department of State recommended the addition of the People's Republic of China, effective December 15, 1988, to the list of nations whose vessels are exempted from the payment of tonnage tax and light money.

The authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Finding

On the basis of the information received from the Department of State regarding the absence of discriminatory duties of tonnage or impost imposed on U.S. vessels in the ports of the People's Republic of China, it has been determined that the People's Republic of China should be added to the list of nations whose vessels are exempt from the payment of the special tonnage tax and light money.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely implements a statutory requirement and involves a matter in which the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

Inapplicability of the Regulatory Flexibility Act

This document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Earl Martin, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in its development.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Cargo vessels, Maritime carriers, Vessels.

Amendment to the Regulations

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority for Part 4 and the specific authority for § 4.22 continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624, and 46 U.S.C. App. 3 Section 4.22 also issued under 46 U.S.C. App. 121, 128, 141.

§ 4.22 [Amended]

2. Section 4.22 is amended by inserting "People's Republic of China" in appropriate alphabetical order, in the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

Dated: April 11, 1989.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 89-9032 Filed 4-14-89; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners; Reference to Disciplinary Hearing Officers

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is revising the language used in 28 CFR 2.34 to reflect changes made by the Bureau of Prisons with regard to institution disciplinary committee hearings. The change substitutes the term "disciplinary hearing officer" for "institutional disciplinary committee" where these words appear in paragraphs (a) and (c). The reference in paragraph (a) makes an institutional discipline committee finding a basis for retarding parole or scheduling a recission hearing. Subparagraph (c) makes an institutional disciplinary committee finding "conclusive evidence" of the misconduct. A disciplinary hearing officer serves the same purpose as the former institutional disciplinary committee, and the change in the language merely reflects a change in the terms employed by the Bureau of Prisons.

EFFECTIVE DATE: May 17, 1989.

FOR FURTHER INFORMATION CONTACT: Richard K. Preston, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. Telephone: (301) 492-5959.

SUPPLEMENTARY INFORMATION: (see summary above)

This rule change will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and Parole.

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Section 2.34 is amended by revising paragraphs (a) and (c) to read as follows:

§ 2.34 Rescission of parole.

(a) When an effective date of parole has been set by the Commission, release on that date is conditioned upon continued satisfactory conduct by the prisoner. If a prisoner granted such a date has been found in violation of institution rules by a disciplinary hearing officer or is alleged to have committed a new criminal act at any time prior to the delivery of the certificate of parole, the Regional Commissioner shall be advised promptly of such information. The prisoner shall not be released until the institution has been notified that no change has been made in the Commission's order to parole. Following receipt of such information, the Regional Commissioner may reopen the case and retard the parole date for up to 90 days without a hearing, or schedule a rescission hearing under this section on the next available docket at the institution or on the first docket following return to a federal institution from a Community Treatment Center or a state or local halfway house.

(b) * * *

(c) A hearing before a disciplinary hearing officer resulting in a finding that the prisoner has committed a violation of disciplinary rules may be relied upon by the Commission as conclusive evidence of institutional misconduct. However, the prisoner will be afforded an opportunity to explain any mitigating circumstances, and to present documentary evidence in mitigation of the misconduct at the rescission hearing.

* * * * *

Date: April 5, 1989.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 89-9157 Filed 4-14-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Regulatory Program; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects the final rule notice published on January 30, 1989 (54 FR 4276) concerning an amendment to the Ohio regulatory program approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment (Program Amendment Number 33) revised Ohio's regulations concerning coal exploration. This document corrects an inadvertent typographical error which occurred in the preparation of the final rule notice.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION: The first sentence of Finding 2. (concerning OAC 1501:13-4-02(B)(1)(c)) in the Director's Findings section, on page 4277, should be corrected as follows. The word "area" in line two should be corrected to read "site." In line three, the word "site" should be corrected to read "area." The corrected sentence should read as follows:

To improve consistency in terminology, Ohio is replacing "site" with "area" when referencing the location of exploration activities.

Date: April 7, 1989.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Field Operations

[FR Doc. 89-9098 Filed 4-14-89; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 392

[DoD Directive 5134.4]

Director of Small and Disadvantaged Business Utilization; Correction

AGENCY: Department of Defense.

ACTION: Correction.

SUMMARY: This corrects an administrative error printed on April 3, 1989 (54 FR 13381). The DoD Directive number previously read "5134.3." This corrects the number to "5134.4." All other information is correct.

EFFECTIVE DATE: March 17, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Linda M. Bynum, Correspondence and Directives Directorate, Washington, DC 20301-1155, telephone 202-697-4111.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 11, 1989.

[FR Doc. 89-9040 Filed 4-14-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

RIN 2115-AA39

[CGD-79-131]

U.S./Canadian Cooperative Vessel Traffic Management System

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rulemaking establishes the Cooperative Vessel Traffic Management System (CVTMS) in Haro Strait and the Strait of Juan de Fuca northwest of the State of Washington and southeast of Vancouver Island. In 1979, the United States and Canada signed an agreement to establish a jointly managed CVTMS in this region. These regulations implement that agreement, and provide for the safe and expeditious movement of vessel traffic while minimizing the risk of pollution and marine casualties.

EFFECTIVE DATE: April 24, 1989.

FOR FURTHER INFORMATION CONTACT: LT J.M. SOLLOSI, Office of Navigation Safety and Waterway Services, Vessel Traffic Services Branch, (202) 267-0407. Normal office hours are 7:00 a.m. to 3:30 p.m., Monday through Friday.

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SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) for this regulation was published on Thursday, August 18, 1983 in the **Federal Register**, (48 FR 37433). The comment period closed on October 3, 1983. One comment was received. As a result of this comment, administrative corrections to the NPRM were subsequently published in the **Federal Register** on Tuesday, August 30, 1983, (48 FR 39244). In addition, the NPRM was reviewed by the Joint Coordinating Group, a committee consisting of members of the U.S. and Canadian Coast Guards that was formed to develop the U.S. and Canadian regulations and to ensure that they were compatible.

Drafting information: The principal persons involved in drafting this Final Rule were LTJG Kenneth J. BRADLEY, Project Manager; and Christena GREEN, Project Counsel, Office of the Chief Counsel.

Background: The Ports and Waterways Safety Act, (33 U.S.C. 1221) provides authority for the Coast Guard to "establish, operate, and maintain vessel traffic services * * * in any area covered by an international agreement." In order to reduce the risk of vessel collisions and pollution, the United States and Canada jointly implemented a voluntary Traffic Separation Scheme (TSS) for the Strait of Juan de Fuca. The TSS was established in 1975 in accordance with guidelines and procedures of the International Maritime Organization (IMO), and was adopted by that organization on January 1, 1982. The joint Canadian/United States "Agreement for a Cooperative Vessel Traffic Management System for the Juan de Fuca Region" was signed by representatives of both nations on December 19, 1979. The purpose of the agreement between the United States and Canada is to establish a permanent vessel traffic service in the Juan de Fuca region between the United States and British Columbia, Canada. The objectives of the agreement are to enhance safe and expeditious vessel traffic movement, and to minimize risk of pollution to the marine environment. The United States and Canada determined that the terms of this agreement would best be carried out through the issuance and enforcement of compatible regulations by each party. The Joint Coordinating Group was formed to develop compatible U.S. and Canadian regulations. Amendments to the Canada Shipping Act, authorizing the Canadian regulations, will become effective April 24, 1989, and the implementing Canadian rules will be effective as of that date. It is essential to the implementation of the joint vessel traffic service that these rules and the Canadian rules have the same effective date. Therefore, under the provisions of 5 U.S.C. 553(d), good cause exists for making these rules effective in less than 30 days.

Discussion of Final Rule

The waters to which this rulemaking apply are referred to as the Cooperative Vessel Traffic Management System Area (CVTMS Area). The CVTMS Area is separated into three divisions, referred to as zones. The Tofino and Vancouver zones are managed by the Canadian Coast Guard, while the United States Coast Guard manages the Seattle zone. The zone boundaries are described in §§ 161.256, 161.258 and 161.260. In the Tofino and Vancouver Zones, Canadian Regulations and the regulations in this final rule require vessels in Canadian waters and U.S. waters, respectively, to report to and comply with the directions of the appropriate Canadian Vessel Traffic Management Center. In the Seattle Zone, Canadian Regulations and the regulations in this final rule require vessels in Canadian waters and U.S. waters, respectively, to report to, and comply with, directions of the United States Vessel Traffic Management Center. Each set of regulations applies only to the waters over which the issuing nation has jurisdiction, and each nation will enforce only its own set of regulations.

Vessels which are located in each zone will be monitored by radar at the respective Vessel Traffic Management Center. Radar observations of vessels will be augmented by radiotelephone reports which are made by each vessel to the Center at specified times.

This Final Rule requires the carriage of a radiotelephone by certain vessels which would not otherwise be required to carry one. Currently, the Vessel Bridge-to-Bridge Radiotelephone Act requires the use of radiotelephones on power-driven vessels of 300 gross tons and upward, on vessels of 100 gross tons and upward carrying one or more passengers for hire, on towing vessels of 26 feet and over, and on certain dredges and floating plants. This Final Rule also requires certain vessels engaged in towing and most vessels of 30 meters or more to carry a radiotelephone. The impact of this requirement will be to require the carriage of a radiotelephone by the following vessels which presently are not required to carry one:

a. Power-driven vessels of 30 meters or more but less than 300 gross tons, except fishing vessels;

b. All vessels of 30 meters or more but less than 100 gross tons carrying one or more passengers for hire;

c. All nonpower-driven vessels greater than 30 meters which are not presently required to carry a radiotelephone except unmanned vessels or those being towed or pushed;

d. All vessels engaged in towing alongside or astern, or in pushing ahead, which are less than 8 meters, where (1) the combined overall length of the vessel towing, the towing apparatus, and the vessel or object being towed is 45 meters or more; or (2) the vessel or object towed is 30 meters or more in overall length.

The Traffic Separation Scheme and Precautionary Areas "J" and "JA" mentioned in these regulations are IMO approved, and the geographical coordinates for these areas agree with those used in "IMO Ship's Routeing." However, the Port Angeles Precautionary Area is not IMO approved.

Discussion of Comments and Resultant Changes to NPRM

The one comment received was from the National Ocean Service which pointed out several administrative errors, such as spelling and wording. Editorial changes were made to correct these errors prior to the expiration of the comment period (48 FR 39244, August 30, 1983). Representatives from U.S. and Canadian Coast Guards met several times to review both Canadian and U.S. regulations. As a result of these meetings, the Thirteenth Coast Guard District, via the Joint Coordinating Group, has recommended several changes to the NPRM to enhance readability. A notation was also added discussing the applicability of the North American Datum (1983) to the geographic coordinates used in these regulations. All of the changes are administrative, editorial, or structural in nature. No substantive changes have been made to the rule as proposed. These changes have been incorporated into this Final Rule.

Regulatory Evaluation

This Final Rule is considered to be non-major under Executive Order 12291 and "non-significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. The rule provides certain operating directives to vessels in the affected area, but these are minimal and will not have any appreciable cost impact. Ninety-nine per cent of all vessels that will be required to participate under these rules have been participating voluntarily since the inception of the Puget Sound Vessel Traffic Service in September 1972. The rule does require radiotelephones to be carried on some vessels which are not presently required to carry them; however, the number of vessels in these categories is small and these regulations would not affect most recreational and fishing vessels. The cost to equip a vessel with equipment required by these regulations, a radiotelephone, would average $400 per unit. Since the impact of this final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Reporting and Recordkeeping Requirements

This proposed rulemaking contains an information collection requirement. This item has been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and has been approved by OMB under control number 2115-0540.

Environmental Impact

An Environmental Assessment (EA) for this action was prepared by the Coast Guard and circulated in accordance with OMB Circular A-95 Clearinghouse and COMDTINST M16475.1A. Based upon the EA, a Finding of No Significant Impact (FONSI) has been approved.

Federalism Assessment

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 161

Navigation (water), Vessels, Traffic separation scheme.

For reasons set forth in the preamble, 33 CFR Part 161 is amended as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

1. The authority citation for Part 161 is revised to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. Subpart B is amended by adding §§ 61.200 through 161.266 under the undesignated center heading "Juan de Fuca Region Cooperative Vessel Traffic Management System" to read as follows:

Subpart B—Vessel Traffic Services

* * * * *

Juan De Fuca Region Cooperative Vessel Traffic Management System

General Rules

Sec.
161.200 Purpose.
161.201 Applicability.
161.202 Vessel exemptions.
161.203 Definitions.
161.204 Vessel operation in the CVTMS area.
161.205 CVTMC directions.
161.206 Requirements to carry regulations.
161.207 Laws and regulations not affected.
161.208 Authorization to deviate from these rules; equivalent procedures.
161.210 Emergencies.

Communication Rules

161.212 Radio listening watch.
161.214 Use of designated frequencies.
161.216 Time.
161.218 English language.
161.220 Radiotelephone equipment failure.
161.222 Report of radio failure.
161.224 Report of impairment to the operation of the vessel.
161.226 Miscellaneous reports.

Vessel Movement Reporting System (VMRS) Rules

161.227 Local harbor report.
161.228 Initial report.
161.231 Underway report.
161.232 Zone boundary and calling-in-point report.
161.234 Follow-up report.
161.236 Final report.

Traffic Separation Scheme (TSS) Rules

161.242 Vessel operation in the TSS.

Descriptions and Geographic Coordinates

161.254 CVTMS Area.
161.256 Tofino Zone.
161.258 Seattle Zone.
161.260 Vancouver Zone.
161.262 Separation zones.
161.264 Traffic lanes.
161.266 Precautionary areas.

* * * * *

Subpart B—Vessel Traffic Services

Juan De Fuca Region Cooperative Vessel Traffic Mangement System

General Rules

§ 161.200 Purpose.

Sections 161.200 to 161.266 prescribe rules for vessel operation in the Cooperative Vessel Traffic Management System (CVTMS) Area of the Juan de Fuca region. These rules are intended to enhance safe and expeditious vessel traffic movement, to prevent groundings and collisions, and to minimize the risk of property damage and pollution to the marine environment.

§ 161.201 Applicability.

(a) The CVTMS is established as a program jointly managed by the United States and Canada. The CVTMS Area is divided into zones, each of which is administered solely by the United States or Canada. The appropriate Vessel Traffic Management Center administers, within its zone, the regulations issued by both nations. Each set of regulations applies only to the waters over which the issuing nation has jurisdiction and each nation will enforce only its own set of regulations. With the exception of the vessels listed in § 161.202, the United States' regulations apply in the CVTMS Area to:

(1) Each vessel of 30 meters or more in length;

(2) Each vessel that is engaged in towing alongside or astern, or in pushing ahead, one or more vessels or objects, other than fishing gear, where:

(i) The combined overall length of the vessel towing, the towing apparatus, and the vessel or object towed is 45 meters or more; or

(ii) The vessel or object towed is 20 meters or more in overall length.

(b) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

§ 161.202 Vessel exemptions.

The rules contained in §§ 161.212 through 161.236 do not apply to:

(a) Fishing vessels of less than 300 gross tons;

(b) Unmanned vessels or vessels which are being towed or pushed, or;

(c) Vessels engaged in towing or pushing within a booming ground.

§ 161.203 Definitions.

As used in §§ 161.200 through 161.266:

"Authority" means the Commissioner of the Canadian Coast Guard or the Commandant of the United States Coast Guard.

"Berth" means any wharf, pier, anchorage, or mooring buoy.

"Cooperative Vessel Traffic Management Center (CVTMC)" means the shorebased facility established by the appropriate Authority for managing vessel traffic in the CVTMS.

"Cooperative Vessel Traffic Management Center direction (CVTMC

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direction)" means an instruction issued by a vessel traffic management center to one or more ships, for the purpose of managing vessel traffic.

"Cooperative Vessel Traffic Management System (CVTMS)" means the system of vessel traffic management established and jointly operated by Canada and the United States within the waters of the CVTMS Area.

"Cooperative Vessel Traffic Management System Area (CVTMS Area)" means the waters described in § 161.254.

"ETA" means estimated time of arrival.

"National vessel traffic service" means a vessel traffic service which is operated and administered solely by Canada or the United States and is not a part of the Cooperative Vessel Traffic Management System.

"Person" means an individual, firm, corporation, association, partnership or governmental entity.

"Precautionary Area" means a routing measure comprising an area within defined limits where ships must navigate with particular caution and within which the direction of traffic flow may be recommended.

"Separation Zone" means an area of the TSS separating the opposing traffic lanes.

"Traffic Lane" means an area of the TSS within defined limits in which one way traffic is established. Natural obstacles, including those forming separation zones, may constitute a boundary.

"Traffic Separation Scheme (TSS)" means the routing measure aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes.

"Vessel Movement Reporting System (VMRS)" means a system by which vessel progress is monitored by reports from a vessel rather than by electronic surveillance.

"Zone" means a geographic subdivision of the CVTMC Area, defined for purposes of allocating responsibility for vessel traffic management to one of the authorities.

§ 161.204 Vessel operation in the CVTMS Area.

No person, except those authorized to do so under § 161.208, may cause or authorize the operation of a vessel in the CVTMS Area contrary to the rules in § 161.200 through 161.266.

§ 161.205 CVTMC directions.

(a) During conditions of vessel congestion, adverse weather, reduced visibility, or other hazardous circumstances in a CVTMS Zone, the CVTMC may issue directions to control and supervise traffic, and may specify times when vessels may enter, move within or through, or depart from ports, harbors, or other waters of the CVTMS Zone.

(b) When a vessel is navigating in an unsafe manner or with improperly functioning equipment, the CVTMC may direct the vessel's movement, including directing it to anchor or moor.

(c) The master, pilot, or person directing the movement of a vessel shall comply with each direction issued to the vessel.

§ 161.206 Requirement to carry regulations.

(a) The master of a vessel shall ensure that a copy of the current Cooperative Vessel Traffic Management System regulations, Title 33, Code of Federal Regulations, Sections 161.200–161.266 (33 CFR 161.200–161.266), is available on board the vessel when it is in the CVTMS Area. The regulations are reprinted in the CVTMS User's Manual.

(b) A CVTMS User's Manual, which contains the regulations and other useful information for operating in the CVTMS area, is available from:

Officer-in-Charge, Transport Canada, Canadian Coast Guard Vessel Traffic Management Centre, P.O. Box 190, Ucluelet, BC Canada, V0R 3AO Phone: (604) 726–7777

Commanding Officer U.S. Coast Guard Vessel Traffic Service 1519 Alaskan Way S., Seattle, Washington 98134, Phone: (206) 286–5640

Officer-in-Charge, Transport Canada, Canadian Coast Guard, Vessel Traffic Management Centre Room 1006, Kapilano 100, Park Royal West Vancouver, BC Canada, V7T 1A2, Phone: (604) 666–6011.

§ 161.207 Laws and regulations not affected.

Nothing in §§ 161.200 through 161.266 is intended to relieve any person from complying with any other applicable laws or regulations.

§ 161.208 Authorization to deviate from these rules; equivalent procedures.

(a) Where these regulations require a particular procedure, the Commander, Thirteenth Coast Guard District may, upon written request, authorize any other procedure for use in U.S. waters if it is determined that such other procedure provides a level of safety equivalent to that provided by the required procedure. An application for an authorization must state the need and fully describe the proposed procedure.

(b) The CVTMC may, upon request, issue an authorization to deviate from any rule in §§ 161.200 through 161.266 for a voyage or part of a voyage on which a vessel is embarked or about to embark.

§ 161.210 Emergencies.

In an emergency, the master, pilot, or person directing the movement of the vessel may deviate from any rule in §§ 161.200 through 161.266 to the extent necessary to avoid endangering persons, property, or the environment, and shall report the deviation to the CVTMC as soon as possible.

Communication Rules

§ 161.212 Radio listening watch.

(a) When underway, or anchored or moored to a buoy, in the CVTMS Area, the master, pilot, or person directing the movement of a vessel shall ensure that a radiotelephone listening watch is maintained on the frequency designated in § 161.214 for the sector of the CVTMS Area in which the vessel is operating, except when transmitting on that frequency.

(b) All reports and communications required by these rules must be made to the CVTMC on its designated frequency using a radiotelephone that is maintained in effective operating condition and is capable of operation on the navigational bridge of the vessel, or, in the case of a dredge, at its main control station.

(1) The radio listening watch required by paragraph (a) of this section may be maintained in a location other than the vessel's navigational bridge when the vessel is anchored or moored to a buoy.

§ 161.214 Use of designated frequencies.

(a) In accordance with Federal Communication Commission regulations, no person may use the frequency or frequencies designated in this section to transmit any information other than information necessary for the safety of vessel traffic.

(b) All transmissions on the CVTMS frequencies shall be initiated on low power; high power may only be used if low power communications are unsuccessful.

(c) The frequencies to be used when communicating with the CVTMC and with other vessels are as follows:

Zone	Primary frequency		Secondary frequency	
	MHz	Channel	MHz	Channel
Tofino Zone	156.725	74	156.550	11

Zone	Primary frequency		Secondary frequency	
	MHz	Channel	MHz	Channel
Seattle Zone	156.700	14	156.650	13
Vancouver Zone	156.550	11	156.725	74

§ 161.216 Time.

Each report required by §§ 161.200 through 161.266 must specify time using:

(a) The zone time in effect in the CVTMS Area; and

(b) The 24-hour clock system.

§ 161.218 English language.

Each report required by §§ 161.200 through 161.266 shall be made in the English language.

§ 161.220 Radiotelephone equipment failure.

(a) If the radiotelephone required by § 161.212 ceases to operate, the master shall ensure that it is restored to operating condition as soon as possible. The failure of a vessel's radiotelephone equipment, while the vessel is underway, shall not in itself constitute a violation of these rules, nor shall it obligate the vessel to moor or anchor; however, required reports shall be made by other means, if possible.

(b) A vessel that cannot meet the radiotelephone requirements of these rules may not get underway in the CVTMS Area without permission from the CVTMC.

§ 161.222 Report of radio failure.

Whenever the master, pilot, or person directing the movement of a vessel deviates from any rule in §§ 161.200 through 161.266 because of a radio failure, the deviation and radio failure shall be reported to the CVTMC as soon as possible.

§ 161.224 Report of impairment to the operation of the vessel.

The master, pilot, or person directing the movement of a vessel in the CVTMS Area shall report to the CVTMC as soon as possible:

(a) Any condition on the vessel that may impair its navigation, such as fire, defective propulsion machinery, defective steering equipment, defective radar, defective gyrocompass, defective echo depth sounding device, defective communications equipment, or defective navigational lighting;

(b) Any tow that the towing vessel is unable to control or can control only with difficulty; or

(c) When involved in a grounding, collision, or ramming of a fixed or floating object.

§ 161.226 Miscellaneous reports.

The master, pilot, or person directing the movement of a vessel within the CVTMS Area should report to the CVTMC whenever any of the following circumstances are observed:

(a) Another vessel in apparent difficulty or involved in a casualty.

(b) An obstruction which is dangerous to navigation.

(c) Any aid to navigation which is malfunctioning, damaged, missing, or off position.

(d) Any pollution of the marine environment.

(e) Any vessel which may be creating a hazard to traffic.

(f) Any other danger to navigation including adverse weather conditions.

(g) Any significant change in information previously supplied under this section.

Vessel Movement Reporting System (VMRS) Rules

§ 161.227 Local harbor report.

(a) When a vessel moves and remains within a three mile radius of its point of departure in the CVTMS Area, the movement is a local harbor movement. A vessel making a local harbor movement is exempted from the reporting requirements in Initial report (§ 161.228), Underway report (§ 161.231), and Final report (§ 161.236).

(b) At least 5 minutes, but not more than 45 minutes, before a vessel makes a local harbor movement under paragraph (a) of this section, the master, pilot, or person directing the movement of the vessel shall report, or cause to be reported the following information to the CVTMC:

(1) Name and type of vessel.

(2) Position of departure.

(3) Time of departure.

(4) Destination, route, and ETA.

(5) General description of operation to be performed.

(c) The master, pilot, or person directing the movement of the vessel, shall report, or cause to be reported, any changes from the information reported under paragraph (b) of this section, except that departing or ETA times must be reported only if they vary by 15 minutes or more from the report.

§ 161.228 Initial report.

(a) At least 15 minutes, but not more than 2 hours, before a vessel enters or begins to navigate in the CVTMS Area, the master, pilot, or person directing the movement of the vessel shall report by radiotelephone or telephone the following information to the appropriate CVTMC:

(1) The type and name of the vessel.

(2) The point of entry in the CVTMS Area.

(3) Estimated time of entering or beginning to navigate in the CVTMS Area.

(4) Destination, ETA at destination, and route in the CVTMS Area.

(5) Anticipated speed of the vessel in knots.

(6) Length and deepest draft of the vessel.

(7) Whether or not any dangerous cargo listed in Part 160, Subpart C of this Chapter is on board the vessel or its tow if bound to or from a U.S. port.

(8) Any impairment to the operation of the vessel as described in § 161.224 (a) and (b).

(9) Any planned maneuvers that may impede traffic.

(b) Vessels making movements that require Local harbor reports (§ 161.227) are exempt from making this report.

(c) Vessels that will be entering from a national VTS Area and have previously reported the above information to another VTC are exempt from making this report.

§ 161.231 Underway report.

As soon as a vessel enters or begins to navigate in the CVTMS Area, the master, pilot, or person directing the movement of the vessel shall report the following to the CVTMC:

(a) Vessel name.

(b) Vessel location.

§ 161.232 Zone boundary and calling-in-point report.

(a) When a vessel crosses a zone boundary, the master, pilot, or person directing the movement of the vessel shall report the following information to the CVTMC by radiotelephone on the designated frequency for the zone in which the vessel is located or leaving and on the designated frequency for the zone that the vessel is entering:

(1) Vessel name.

(2) Vessel location.

(b) When directed to do so by the CVTMC, vessels shall report, on either a one-time basis, or as a series of reports, their:

(1) Vessel name.

(2) Vessel location.

§ 161.234 Follow-up report.

The master, pilot, or person directing the movement of a vessel shall report any information which has changed since the previous report, including, but not limited to, ETA, speed, destination, and route.

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§ 161.236 Final report.

No later than 30 minutes after a vessel anchors in, moors in, or departs from the CVTMS Area, the master, pilot, or person directing the movement of the vessel shall report the place of anchoring, mooring, or departure to the CVTMC.

Traffic Separation Scheme (TSS) Rules

§ 161.242 Vessel operation in the TSS.

The master, pilot, or person directing the movement of a vessel in the TSS described in §§ 161.262 through 161.266, shall comply with Rule 10 of the International Regulations for Prevention of Collisions at Sea, 1972.

Descriptions and Geographic Coordinates

§ 161.254 CVTMS Area.

For the purpose of these rules, the CVTMS Area consists of the waters from a point in the Pacific Ocean at 48°23'30" N., 124°48'37" W.; thence due east to the Washington State coast at Cape Flattery; thence southeastward along the Washington coastline to New Dungeness Light; thence northerly to Puget Sound Traffic Lane Entrance Lighted Buoy "S"; thence to Rosario Strait Traffic Lane Entrance Lighted Horn Buoy "R"; thence to Hein Bank Lighted Bell Buoy; thence to Cattle Point Light on San Juan Island; thence along the shoreline to Lime Kiln Light; thence to Kellett Bluff Light on Henry Island; thence to Turn Point Light on Stuart Island; thence to Skipjack Island Light; thence to Sucia Island Daybeacon 1; thence along the shoreline of Sucia Island to a point at 48°46'06" N., 122°53'30" W.; thence to Clements Reef Buoy "2"; thence to Alden Bank Lighted Gong Buoy "A"; thence to Birch Point at 48°56'33" N., 122°49'18" W.; thence along the shoreline to a point where the shoreline intersects the 49° north parallel of latitude; thence due west to the Canadian shoreline at Maple Beach; thence along the shoreline around Point Roberts to a point where the shoreline intersects the 49° north parallel of latitude at Boundary Bluff; thence due west to a point at 49°00'00" N., 123°19'14" W.; thence southerly to Active Pass Light; thence to East Point on Saturna Island; thence to Point Fairfax Light on Moresby Island; thence to Discovery Island Light; thence to Trail Island Light; thence to Brotchie Ledge Light; thence to Albert Head Light; thence westward along the Canadian shoreline to the intersection of the shoreline with 48°35'45" N., near Bonilla Point; thence due west to a point at 48°35'45" N., 124°47'30" W.; thence southerly along a rhumb line to the starting point at 48°23'30" N., 124°48'37" W.

§ 161.256 Tofino Zone.

The Tofino Zone comprises that portion of the CVTMS Area west of 124°40'00" W.

§ 161.258 Seattle Zone.

The Seattle Zone comprises that portion of the CVTMS Area in the Strait of Juan de Fuca, bordered on the west by 124°40'00" W., and on the north and east by lines drawn from the tip of Church Point on the Canadian shoreline to Race Rocks Light; thence easterly to the intersection of the U.S./Canadian border at position 48°17'04" N., 123°14'51" W.; thence northeasterly to Hein Bank Lighted Bell Buoy; thence southerly to Rosario Strait Traffic Lane Entrance Lighted Horn Buoy "R"; thence to Puget Sound Traffic Lane Entrance Lighted Buoy "S"; thence to New Dungeness Light.

§ 161.260 Vancouver Zone.

The Vancouver Zone comprises that portion of the CVTMS Area north of a line drawn from the tip of Church Point on the Canadian shoreline to position 48°17'04" N., 123°14'51" W.; thence northeasterly to Hein Bank Lighted Bell Buoy; thence northeasterly to Cattle Point.

§ 161.262 Separation zones.

The CVTMS Area contains traffic separation zones bounded by lines connecting the following geographical positions:

(a) Juan de Fuca separation zone.
(1) 48°28.8' N., 124°43.6' W.
(2) 48°13.4' N., 123°56.9' W.
(3) 48°13.4' N., 123°31.7' W.
(4) 48°14.7' N., 123°31.8' W.
(5) 48°17.8' N., 124°00.6' W.
(6) 48°29.6' N., 124°43.6' W.
(b) Port Angeles separation zone.
(1) 48°10.4' N., 123°28.5' W.
(2) 48°12.3' N., 123°27.9' W.
(3) 48°12.5' N., 123°27.3' W.
(4) 48°10.6' N., 123°25.8' W.
(c) Juan de Fuca western approach separation zone.
(1) 48°30.5' N., 124°58.5' W.
(2) 48°30.2' N., 124°54.0' W.
(3) 48°28.9' N., 124°54.1' W.
(4) 48°28.8' N., 124°58.6' W.
(d) Juan de Fuca southwestern approach separation zone.
(1) 48°23.2' N., 124°55.5' W.
(2) 48°25.0' N., 124°52.0' W.
(3) 48°23.7' N., 124°50.1' W.
(4) 48°21.4' N., 124°52.9' W.
(e) Victoria separation zone.
(1) 48°20.7' N., 123°25.1' W.
(2) 48°16.2' N., 123°28.5' W.
(3) 48°15.8' N., 123°27.1' W.
(4) 48°20.5' N., 123°24.4' W.

§ 161.264 Traffic lanes.

The traffic lanes, which extend to, but do not enter the precautionary areas, are located on both sides of the separation zones and are bounded by lines connecting the following geographical points:

Western Lanes

(a) A traffic lane for northwestbound traffic is established between the separation zone and a line connecting the following geographical positions:
(1) 48°15.6' N., 123°31.0' W.
(2) 48°18.8' N., 124°00.2' W.
(3) 48°30.7' N., 124°43.5' W.
(b) A traffic lane for southeastbound traffic is established between the separation zone and a line connecting the following geographical positions:
(1) 48°27.1' N., 124°43.8' W.
(2) 48°27.1' N., 124°41.8' W.
(3) 48°12.4' N., 123°57.2' W.
(4) 48°12.4' N., 123°30.2' W.

Southern Lanes

(c) A traffic lane for northbound traffic is established between the separation zone and a line connecting the following geographical positions:
(1) 48°10.9' N., 123°25.0' W.
(2) 48°13.6' N., 123°26.1' W.
(d) A traffic lane for southbound traffic is established between the separation zone and a line connecting the following geographical positions:
(1) 48°12.4' N., 123°30.2' W.
(2) 48°10.1' N., 123°27.3' W.

Western Approach

(e) A traffic lane for westbound traffic is established between the separation zone and a line connecting the following geographical positions:
(1) 48°31.9' N., 124°53.3' W.
(2) 48°32.4' N., 124°57.8' W.
(f) A traffic lane for eastbound traffic is established between the separation zone and a line connecting the following geographical positions:
(1) 48°27.3' N., 124°58.3' W.
(2) 48°27.5' N., 124°53.8' W.

Southwestern Approach

(g) A traffic lane for northeastbound traffic is established between the separation zone and a line connecting the following geographical positions:
(1) 48°20.6' N., 124°51.0' W.
(2) 48°23.2' N., 124°48.8' W.
(h) A traffic lane for southwestbound traffic is established between the separation zone and a line connecting the following geographical positions:
(1) 48°28.1' N., 124°53.0' W.
(2) 48°24.4' N., 124°56.7' W.

Northern Lanes

(i) A traffic lane for southbound traffic is established between the separation zone and a line connecting the following geographical positions:
(1) 48°20.9' N., 123°26.1' W.
(2) 48°15.6' N., 123°31.0' W.
(j) A traffic lane for northbound traffic is established between the separation zone and a line connecting the following geographical positions:
(1) 48°13.6' N., 123°26.1' W.
(2) 48°20.2' N., 123°23.4' W.

§ 161.266 Precautionary areas.

(a) Precautionary area "J".

A precautionary area is bounded as follows: from 48°31.9' N., 124°53.3' W.; thence southeasterly to 48°30.7' N., 124°43.5' W.; thence southerly to 48°27.1' N., 124°43.8' W.; thence westerly to 48°27.1' N., 124°45.4' W.; thence southwesterly to 48°23.2' N., 124°48.8' W.; thence northwesterly and northerly by an arc of 7 nautical miles radius, centered at 48°29.2' N., 124°43.6' W.; thence to the point of origin.

(b) Precautionary area "JA".

A precautionary area of radius two miles is centered upon geographical position: 48°14.2' N., 123°28.9' W.

(c) Port Angeles precautionary area.

An area enclosed by a line beginning on the shoreline at New Dungeness Spit at 48°11'00" N., 123°06'30" W.; thence due north to 48°17'10" N., 123°06'30" W.; thence southwesterly to geographical position 48°10'00" N., 123°27'38" W.; thence due south to the shorelines, thence along the shoreline to the point of beginning.

Date: April 10, 1989.

Robert T. Nelson,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89-9028 Filed 4-14-89; 8:45 am]
BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Prince William Sound Regulation 89-01]

Safety Zone Regulation: Prince William Sound

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a combination of fixed and mobile safety zones around the T/V EXXON VALDEZ in Prince William Sound, Alaska. These zones are required to assist in the salvage and pollution response operations resulting from the grounding of the T/V EXXON VALDEZ. Entry into these zones is prohibited unless authorized by the Captain of the Port, Prince William Sound.

EFFECTIVE DATE: This regulation becomes effective on 4 April 1989. It will remain effective until the T/V EXXON VALDEZ departs Prince William Sound.

FOR FURTHER INFORMATION CONTACT: LT Rice at 907-835-4791.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest due to the emergency nature of the salvage operations, the major impact on the environment, and the limited duration of this safety zone.

Drafting Information

Drafter of this regulation is LT R.N. Janelle, project officer for the Captain of the Port, and LCDR Mackell, project attorney, 17th Coast Guard District Legal Office.

Discussion of Regulations

The event requiring this regulation began with the grounding of the T/V EXXON VALDEZ in Prince William Sound on or about 0030 March 24, 1989. Damage to the vessel was extensive and resulted in the discharge of 10 million gallons of crude oil. This event is expected to draw various groups of onlookers aboard a variety of vessels. Primary hazards are collisions with small vessels and environmental damage resulting from vessel contact with oil.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231, 50 U.S.C. 191, as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart C of Part 165, Title 33 Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new § 165.T1702 is added to read as follows:

§ 165.T1702 Safety Zone: Prince William Sound, Alaska.

(a) *Location:* The following area is a safety zone: That portion of Prince William Sound, Alaska centered on position 60-51 N, 146-52 W and within 1,000 yards of the T/V EXXON VALDEZ. This safety zone will become a mobile safety zone with a 1,000 yard radius centered on the ship when the ship is moved to position 60-37 N, 147-29 W in Outside Harbor for temporary repairs. Upon anchoring in Outside Harbor, a fixed safety zone with a 1,000 yard radius centered on the ship remains effective until departure. Upon departure, a mobile safety zone with a 1,000 yard radius centered on the ship is established and will remain effective until the T/V EXXON VALDEZ is abeam of Seal Rocks in Hitchenbrook Entrance.

(b) *Effective Date:* This regulation became effective at 4:00 pm, April 4, 1989. It will remain in effect until the >T/V EXXON VALDEZ departs Prince William Sound.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Prince William Sound. (2) A fixed safety zone with a 1,000 yard radius and centered on the T/V EXXON VALDEZ is established at position 60-51 N, 146-52 W. This zone will become a mobile safety zone with a 1,000 yard radius centered on the ship, during the vessel's transit to the temporary repair anchorage in Outside Bay on Naked Island in position 60-37 N, 147-29 W. Upon anchoring in Outside Harbor, a fixed safety zone with a 1,000 yard radius centered on the ship remains effective until departure. Upon departure, a mobile safety zone with a 1,000 yard radius centered on the ship is established and will remain effective until the T/V EXXON VALDEZ is abeam of Seal Rocks in Hitchenbrook Entrance.

Dated: April 4, 1989.

S. A. McCall,

Commander, U.S. Coast Guard, Captain of the Port Prince William Sound.

[FR Doc. 89-9026 Filed 4-14-89; 8:45 am]
BILLING CODE 4910-14-M

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3541-6]

Approval and Promulgation of Air Quality Implementation Plans; Shasta, Tehama, and Yolo-Solano Air Pollution Control Districts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On November 25, 1987, the California Air Resources Board (CARB) submitted a set of revisions to the California State Implementation Plan (SIP). This notice takes action on the noncontroversial, generally administrative revisions, affecting the Shasta County Air Pollution Control District (APCD), the Tehama County APCD, and the Yolo-Solano APCD. EPA has determined that these revisions should be approved because they strengthen or retain existing emission control requirements, and are consistent with the Clean Air Act, 40 CFR Part 51, and EPA policy.

EFFECTIVE DATE: This action will be effective on June 16, 1989, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Please address any comments to: Regional Administrator, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: State Implementation Plan Section (A-2-3).

Copies of EPA's Technical Evaluation Report and the submitted revisions are available for public inspection during normal business hours at the EPA Region 9 office. The submitted revisions can also be reviewed at the California Air Resources Board and the appropriate Air Pollution Control Districts listed below.

Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460.

Office of the Federal Register, 1100 L Street NW., Room 8301, Washington, DC 20460.

California Air Resources Board, P.O. Box 2815, 1102 "Q" Street, Sacramento, CA 95812.

Shasta County Air Pollution Control District, 1855 Placer St., Redding, CA 96001.

Tehama County Air Pollution Control District, 1760 Walnut Street, P.O. Box 38, Red Bluff, CA 96080.

Yolo-Solano Air Pollution Control District, 323 First Street, Suite 5, P.O. Box 1006, Woodland, CA 95695.

FOR FURTHER INFORMATION CONTACT: Andrew L. Wickens, State Implementation Plan Section (A-2-3), Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7644; FTS 454-7644.

SUPPLEMENTARY INFORMATION:

Background

The following rules were submitted by the California Air Resources Board for incorporation into the California SIP on November 25, 1987. This notice contains noncontroversial rules where adverse public comment is not anticipated. These revisions either clarify or strengthen existing rules.

Shasta County APCD

Rule 1:2 Definitions
Rule 2:6 Open Burning: General Provisions
Rule 2:7 Conditions for Open Burning
Rule 2:8 Agricultural Burning
Rule 2:19 Appeals

Tehama County APCD

Rule 1.2 Definitions
Rule 3.1 Agricultural Burning
Rule 3.6 Preparation of Agricultural Wastes
Rule 3.11 Restricted Burning
Rule 3.12 Wildland Vegetation Management Burning
Rule 3.13 Range Improvement Burning
Rule 3.14 Forest Management Burning
Rule 3.15 Penalties
Rule 4.3 Particulate Matter
Rule 4.24 Fugitive, Indirect, or Non-Traditional Sources

Yolo-Solano APCD

Rule 3.7 Information

Evaluation

The above rule revisions affect definitions and Wildland Vegetation Management Burning limitations, alter agricultural burning regulations, clarify the appeals process, regulate particulate matter, and specify information to be given to the Air Pollution Control Officer. The rules have been evaluated by EPA, and have been found to be consistent with the Clean Air Act, 40 CFR Part 51, and EPA policy. All of the rules either strengthen or maintain the existing emission limits contained in the SIP. EPA's detailed evaluation reports of the submitted rules are available at the Region 9 office in San Francisco.

EPA Action

Pursuant to section 110 of the Clean Air Act, EPA is approving the rules listed above, and incorporating them into the California SIP. In addition to section 110, EPA is approving Yolo-Solano Rule 3.7 under Part D of the Clean Air Act as representing reasonably available control technology (RACT). EPA is publishing this action without prior proposal because the Agency views these as noncontroversial amendments and anticipates no adverse public comments. This action will be effective 60 days from the date of publication of this Federal Register unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective June 16, 1989.

Regulatory Process

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 16, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Date: March 13, 1989.

Daniel W. McGovern,

Regional Administrator, Region 9.

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart F—California

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.220 is amended by adding paragraph (c) (175) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(175) Revised regulations for the following APCD's were submitted on November 25, 1987, by the Governor's designee.

(i) Incorporation by Reference.

(A) Shasta County AQMD.

(*1*) Amended rules 1:2, 2:6.a.4.(c), 2:6.b, 2:7.a, 2:7.c, 2:8.c.2.(a), 2:8.c.3.(a), 2:8.c.4, and 2:19, adopted on July 28, 1987.

(B) Tehama County APCD.

(*1*) New or amended rules 1:2, 3:1, 3:6(1), 3:11(a), 3:12, 3:13.], 3:14(10), 3:15, 4:3, and 4:24, adopted on August 4, 1987.

(C) Yolo-Solano APCD.

(*1*) Amended rule 3:7(d), adopted on August 12, 1987.

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[FR Doc. 89-8869 Filed 4-14-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[SC-012b; FRL-3556-2]

Approval and Promulgation of Implementation Plans; South Carolina; Volatile Organic Compound (VOC) Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today disapproving the May 24, 1985, version of revisions made by South Carolina in its Air Pollution Control Regulations and Standards and submitted to EPA June 5, 1985. These revisions create deficiencies in the State's ozone control strategy. Today's disapproval action provides the basis for correcting the deficiencies expeditiously.

DATE: This action will be effective June 16, 1989 unless notice is received within 30 days of publication that adverse or critical comments will be submitted.

ADDRESSES: Written comments should be addressed to Diane Altsman of EPA Region IV, Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201

Public Information Reference Unit, Library System Branch, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Diane Altsman, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347-2684 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: On June 5, 1985, the South Carolina Department of Health and Environmental Control submitted to EPA for approval revisions to the volatile organic compound (VOC) provisions of the South Carolina Air Pollution Control Regulations and Standards. These revisions were adopted by the South Carolina Board of Health and Environmental Control on December 20, 1984, and were forwarded to the State Legislature for approval. The revisions became State-effective on May 24, 1985. EPA finds the revisions to be deficient for the following reasons.

1. Regulation 62.5, Standard No. 5, Section I, Part B.2—South Carolina's VOC regulations contain a general applicability provision with a 100 tpy cutoff level. These regulations must meet the cutoff level specified in the appropriate EPA Control Techniques Guideline (CTG) category. For non-CTG sources, and for CTG sources that do not have a cutoff level, recommended cutoffs are described in Appendix D of the November 24, 1987, post-1987 ozone policy statement (52 FR 45044). This policy statement reiterates existing EPA policy at the time of South Carolina's SIP submittal.

2. Regulation 62.1, Section I, 39—A vapor pressure of 0.1 mm Hg should not be used to define VOC. Such a definition would exempt compounds of low volatility which under certain processes, would volatilize and therefore participate in photochemical reactions.

3. Regulation 62.5, Standard No. 5, Section I, Part A.1, A.9, A.22, A.38, A.39, A.51, A.75—These various coating definitions need to specifically include "functional coatings" as well as protective or decorative films.

4. Regulation 62.5, Standard No. 5, Section II, Part C.1—This regulation for the surface coating of paper, vinyl, and fabric does not specifically apply to saturation processes and must therefore be revised to include them.

5. Regulation 62.5, Standard No. 5, Section I, Part A.75—The definition of "vinyl coating" needs to be revised to state that it does not include the application of "vinyl organisol" as well as vinyl plastisol to the fabric.

6. Regulation 62.5, Standard No. 5, Section II, Part A, B, C, D, E, F, G, H, N, O, P, Q, R, S, T—In the provision for specific sources several concerns have been identified. They are as follows:

(i) The regulations within Section II, Parts A through H and Parts N through T need to be revised to clearly state compliance period (e.g., hourly, daily) and averaging method (arithmetic or weighted).

(ii) Capture systems are required as a method of control technology for the following surface coating regulations: Section II—Provisions for Specific Sources Part A.2.e., B.2.e., C.2.e., D.2.e., E.2.e., Part F.3.e., G.3.e., H.3.e.

(iii) Regulations which require capture efficiency systems must specify test methods.

7. Regulation 62.5 Standard No. 5, Section I, Part F, Recordkeeping, Reporting, Monitoring—The recordkeeping requirement provisions as stated in the May 25, 1988, OAQPS document entitled, "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," should be included within this regulation.

8. Regulation 62.5, Standard No. 5, Section I, Part E, Volatile Organic Compound Compliance Testing—It is not clear in the VOC compliance testing requirement that the most recent test methods must be used. The regulation must be revised to state this.

At this time, EPA is disapproving the revisions to the South Carolina State Implementation Plan as listed above. This disapproval is also based on the following considerations.

On May 3, 1988, EPA released the latest data on the degree to which areas throughout the nation have attained the NAAQS. On May 26, 1988, the Honorable Carroll A. Campbell was notified that the South Carolina SIP was substantially inadequate to achieve the ozone NAAQS, pursuant to section 110(a)(2)(H) of the Clean Air Act, 42 U.S.C. 7410(a)(2)(H). In this letter, EPA requested that South Carolina respond to the "SIP call" in two phases—the first phase, within 60 days upon receipt of EPA's letter to the State agency (South Carolina Department of Health and Environmental Control) which outlined in detail the SIP call response, and the second phase following the issuance of the final Ozone/CO policy. The first

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phase requires that the states initiate certain fundamental activities necessary to continue to make progress in attaining the ozone or CO NAAQS. These required activities include the correction of identified discrepancies between EPA's existing policy and the state's SIP or pending SIP submittal.

On September 9, 1988, EPA requested that South Carolina correct the identified deviations within their SIP. On October 12, 1988, South Carolina notified EPA that regulatory revisions within their SIP must be done either under a State initiative or the need to meet federal requirements. South Carolina additionally state in their October 12, 1988, letter to EPA that the State-initiated revisions involve a more lengthy process, including ratification by the South Carolina General Assembly. In order for the regulatory revisions to meet federal requirements, South Carolina must be able to cite the specific **Federal Register** notification of a deficiency. Therefore, at South Carolina's written request and in order to facilitate an expedient correction of all EPA-identified deviations within the South Carolina VOC regulations, EPA is today disapproving the regulations that have been identified as being deficient.

Final Action

At South Carolina's request, EPA today disapproves the aforementioned regulatory revisions to the South Carolina SIP.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective May 17, 1989 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such a notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action, and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective May 17, 1989.

Under 5 U.S.C. 605(b), I certify that this disapproval will not have a significant economic impact on a substantial number of small entities because its purpose is to provide the State the basis for correcting its SIP.

The Office of Management and Budget has waived review of this action, normally required under Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the Untied States Court of Appeals for the appropriate circuit by May 17, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Date: April 3, 1989.

Lee A. DeHihns, III,

Acting Regional Administrator.

Part 52 of Chapter 1, Title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart PP—South Carolina

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. A new § 52.2126 is added as follows:

§ 52.2126 Control strategy: Ozone.

(a) The following regulations submitted on June 5, 1985, are disapproved due to deficiences that were identified in accordance with the EPA guidance document entitled "Issues Relating to Cutpoints, Deficiencies, and Deviations" (52 FR 45044).

1. Regulation 62.5, Standard No. 5, Section I, Part B.2
2. Regulation 62.1, Section I, 39
3. Regulation 62.5, Standard No. 5, Section I, Part A.1, A.9, A.22, A.38, A.39, A.51, A.75
4. Regulation 62.5, Standard No. 5, Section II, Part C.1
5. Regulation 62.5, Standard No. 5, Section I, Part A.75
6. Regulation 62.5, Standard No. 5, Section II, Parts A through H and Parts N through T
7. Regulation 62.5, Standard No. 5, Section I, Part F
8. Regulation 62.5, Standard No. 5, Section I, Part E

[FR Doc. 89–9123 Filed 4–14–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 58

[FRL–3553–4]

Modification of the Ozone Monitoring Season; Texas

AGENCY: Environmental Protection Agency.

ACTION: Final rule; notice of ozone monitoring season modification.

SUMMARY: Ozone (O_3) is required to be monitored at National Air Monitoring Stations (NAMS) and the State and Local Air Monitoring Stations (SLAMS) sites only during the "O_3 season" as designated in the Aerometric Information Retrieval System (AIRS) files on a state by state basis. Previously, the ozone season for Texas had been designated as the entire year. The State of Texas covers a large geographical area and historical monitoring data indicates that certain areas in Texas are not subject to high O_3 concentrations during the winter months. Therefore, pursuant to 40 CFR 58.13(a)(3), by letter dated January 17, 1989, I made the final determination that Air Quality Control Regions (AQCR) 1, 2, 3, 6, 8, 9, and 12 in Texas are exempted from the twelve month ozone monitoring season and are now subject to a March–October O_3 monitoring timeframe. The modified O_3 season will apply to 1988 O_3 monitoring data and future monitoring efforts unless otherwise revised.

EFFECTIVE DATE: January 17, 1989.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–AN), 1445 Ross Avenue, Dallas, Texas 75202.

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: Rebecca Caldwell, Air Programs Branch, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655–7214 or (FTS) 255–7214.

SUPPLEMENTARY INFORMATION:

Background

The State of Texas has an extensive monitoring program since the emissions and meteorological conditions in parts of Texas are conducive to the production of ozone. In addition to the monitors already in place, Texas is also conducting seasonal O_3 monitoring in counties that surround metropoliten areas in order to determine the geographical extent of the high ozone concentrations. Given this need for an increase in the O_3 monitoring data base, EPA Region 6 and the State of Texas discussed the possibility of reducing the monitoring timeframe in certain areas in order to conserve resources. 40 CFR 58.13(a)(3) provides that the Regional Administrator may exempt periods or seasons from consecutive hourly

averages for continuous SLAMS analyzers.

EPA Region 6 technical staff reviewed the O_3 data from 1979 through 1987 to determine when the O_3 exceedances have occurred in the past years. The results are as follows:

Region 1: No O_3 monitoring data
Region 2: No O_3 monitoring data
Region 3: June 16–October 12
Region 4: No O_3 monitoring data
Region 5: April 16–October 15
Region 6: May 24 (only exceedance)
Region 7: January 1–December 29
Region 8: April 24–September 30
Region 9: July 22–September 12
Region 10: January 4–December 18
Region 11: January 27–November 16
Region 12: March 1–October 8

Based on the above data, I made the final determination on January 17, 1989, that the Gulf Coast areas (AQCRs 4, 5, 7, 10) as well as the El Paso area (AQCR 11) will remain subject to a year-long O_3 season since O_3 exceedances have occurred in the winter months or are expected to occur due to the climatological similarities of the Gulf Coast area. Additionally, I modified the remaining Regions' (AQCRs 1, 2, 3, 6, 8, 9, 12) O_3 seasons to a 245 day time period of March–October since O_3 exceedances have not occurred or are not expected to occur outside this timeframe in these AQCRs. O_3 monitoring has not been conducted in AQCR 1, 2, and 4, however, we would expect the meteorology to be similiar to the AQCRs that surround these areas and have grouped them accordingly.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307 (b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 16, 1989. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

Date: April 3, 1989.

Robert E. Layton, Jr.,

Regional Administrator.

List of Subjects in Part 58

Air pollution control, Intergovernmental relations.

PART 58—[AMENDED]

Title 40, Part 58 of the Code of Federal Regulations is being amended as follows:

1. The authority citation for Part 58 continues to read as follows:

Authority: 42 U.S.C. 7410, 7601(a), 7613, 7619.

Appendix D—[Amended]

2. In Appendix D, in the table in § 2.5, the current entry for Texas is removed and the following two entries are added in its place:

State	Begin month	End month
•	•	•
Texas AQCR 4,5,7,10,11	January	December
Texas AQCR 1, 2, 3, 6, 8, 9, 12.	March	October
•	•	•

[FR Doc. 89–8627 Filed 4–14–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 81

[FR1–3554–7]

Designation of Areas of Air Quality Planning Purposes; Michigan

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is today approving a change to the designation of Midland County, in the State of Michigan, from secondary nonattainment to attainment for total suspended particulates (TSP). This revision to the Michigan State Implementation Plan (SIP) is based on eight quarters of violation-free data from monitors representative of worst case concentrations and evidence that the improvements in air quality were due to federally approved or permanent emission reductions.

USEPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with a nominal diameter of 10 micrometers or less (PM_{10}). However, in keeping with past policy, USEPA will continue to process redesignations of areas from nonattainment to attainment or unclassifiable for TSP, because various regulatory provisions such as nonattainment new source review and Prevention of Significant Deterioration (PSD) are keyed to the attainment status of areas. The July 1, 1987, notice (p. 24682, Column 1) describes USEPA's transition policy regarding TSP redesignations.

DATE: This action is effective June 16, 1989, unless notice is received by May 17, 1989, that someone wishes to submit comments.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Ms. Toni Lesser, at (312) 886–6037, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, Stevens T. Mason Building, 530 West Allegan, Lansing, Michigan 48909.

Comments on these proposed rules should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, U.S. Environmental Protection Agency, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ms. Toni Lesser, Michigan Regulatory Specialist, U.S. Environmental Protection Agency, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and October 5, 1978 (43 FR 45993) under section 107(d) of the Clean Air Act, the Administrator promulgated a listing of the attainment status of each area of every State with respect to the National Ambient Air Quality Standards (NAAQS). USEPA designated a 12 square-mile region of Midland, Michigan, as nonattainment of the secondary NAAQS for TSP (R2E, T14N, Sections 14–16, 21–23, 26–28, and 33–35). This decision was based on exceedances of the NAAQS during the previous year. The source population of industrial particulates in Midland County during this period was relatively uncontrolled. Since then a federally approved control strategy has been implemented.

On March 1, 1988, the Michigan Department of Natural Resources (MDNR) requested that USEPA redesignate to attainment for TSP that portion of Midland County, Michigan, which is currently designated secondary nonattainment for TSP. MDNR submitted a report entitled, "Technical Support Document for the TSP Redesignation of Midland, Michigan, to Attainment," February 1988. In addition, the State submitted eight quarters of violation-free data from monitors representative of worst case concentrations and evidence that the improvements in air quality were due to federally approved or permanent emission reductions.

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Criteria for Redesignation Requests

USEPA's general criteria for redesignation approval requires the following elements:

(1) Submission of eight consecutive quarters of the most recent, quality-assured ambient air quality data which reveal no violations of the TSP NAAQS. The monitors indicating attainment must be placed at the points of expected maximum TSP impact, and the monitoring network must be extensive enough to produce fully representative data. If monitoring data are not representative of the impact of a major source on air quality, dispersion modeling must be used to determine the full impact of the source.

(2) Implementation of an EPA-approved control strategy. The improvement in monitored readings since the year the area was designated nonattainment must be attributable to enforceable emission reductions approved and implemented since that year.

(3) It must be proven that emission reductions and the improvement in air quality are not temporary or merely the result of economic downturn. It must be shown that it is highly unlikely that emission rates will increase significantly at units operating below their allowable emission rates. It must also be shown that it is highly unlikely that production levels will increase significantly.

(4) It must be proven that dispersion techniques are not responsible for the improvement in air quality. Sources in the nonattainment area should be reviewed in light of the revised Section 123 regulations published on July 8, 1985.

USEPA's revised particulate standard of July 1, 1987, contained a transition policy with respect to TSP redesignations. According to USEPA's transition policy, TSP redesignation requests will be reviewed for compliance with USEPA's redesignation policy issued in the memoranda from the Director of the Office of Air Quality Planning and Standards (OAQPS) on April 21, 1983, and September 30, 1985. USEPA's policy consists of the four criteria discussed above, which demonstrate the reason why the air quality has improved and the reason why the air quality improvement will continue in the future.

Analysis of Midland County Redesignation Request

1. Violation-Free Monitoring Data

MDNR submitted ambient monitoring data for five sites which had operated in 1985 and 1986 to meet USEPA's requirement of eight consecutive quarters of the most recent air quality data, with no violations of the TSP NAAQS. A map showing industrial sources, monitor locations, and the nonattainment boundaries provided evidence that monitors were placed at the points of expected maximum TSP impact. Three sites were operated by the MDNR, and two sites by Dow Chemical, USA.

In addition, MDNR provided a table of the highest second high concentrations of all the monitors from 1976 through 1986. USEPA supplemented this information with Storage and Retrieval of Aerometric Data (SAROAD) 1987 monitoring results. The most recent violation of the former secondary TSP standard occurred in 1985 at the SAROAD Site number 23-3480-004-F01 when the TSP values twice exceeded 150 $\mu g/m^3$. MDNR considers the exceedance of 371 $\mu g/m^3$ which occurred on May 31, 1985, to be the result of an exceptional event. The document entitled, "Guideline on the Identification and Use of Air Quality Data Affected by Exceptional Events" (EPA-450/4-86-007), details USEPA's policy on exceptional events. As stated in this guideline, high winds combined with a significant contribution of crustal material can be an exceptional event. USEPA believes that the elevated TSP monitored values on May 31, 1985, were due to an exceptional event, because MDNR has shown that the high winds were present on that day, and that the majority of the TSP was crustal.

2. Implementation of USEPA-Approved Control Strategy

The USEPA-approved control strategy (i.e., SIP) must have been implemented. The improvement in monitored readings for TSP (since the base year used for the nonattainment designation) must be attributable to enforceable or permanent emission reductions implemented since that year. In this case, Michigan demonstrated that the improvement in air quality resulted from: (1) The permanent shutdown of the Westside Powerhouse at Dow; (2) the installation of a baghouse at the Southside Powerside, (3) the installation of an electrostatic precipitator at the Dow incinerators, (4) the permanent shutdown of the Hicks Company, and (5) the permanent shutdown of the Martin Marietta plant. The net reduction in emissions between the 1977 actual emissions and the 1985 allowable emissions was 3930 tons per year (TPY). Because these reductions have been cited by Michigan as necessary to achieve attainment, these reductions cannot be used for netting in any Prevention of Significant Deterioration applications.

3. Permanent Emission Reductions

Emission reductions and improvement in air quality must not be temporary or merely the result of an economic downturn. It must be shown that it is unlikely that emission rates will increase significantly at units operating below their allowable emission rates (e.g., because economic, technological or regulatory factors would prevent such increases). It must also be shown that production levels are not likely to increase significantly.

Michigan made such a showing by documenting that current allowable TSP emissions in Midland are approximately 4000 TPY less than the 1977 actual emissions. The major emission reductions were either permanent, with the sources removed from the emission inventory, or federally enforceable as the result of actions necessary to comply with the SIP.

4. Dispersion Techniques

Dispersion techniques, which are not creditable according to the revised Section 123, Clean Air Act regulations (50 FR 27892), cannot be responsible for the improvement in air quality. MDNR reviewed the Midland sources for dispersion techniques as part of a statewide effort. The study verified that particulate and SO_2 sources do not employ greater than Good Engineering Practices (GEP) stack heights. USEPA believes that improvement of air quality in Midland County was due primarily to the installation of the baghouse at the Dow Chemical Southside Powerhouse which reduced emissions by approximately 2900 tons per year. Overall maximum concentrations decreased 99.52 percent as a result of the baghouse, merging, and raising the stack height to 81 meters. At Dow, the increase in stack height was originally grandfathered as a "within formula" increase prior to October 11, 1983. Thus, a demonstration was not required.

Current USEPA Policy states that requests for redesignation of areas from nonattainment to attainment which are affected by any of the remanded provisions of the stack height regulations will be put on hold until USEPA has completed relemaking necessary to comply with the court's remand. (Memorandum from J. Craig Potter, Assistant Administrator for Air and Radiation, to the Regional Air Division Directors, entitled "Interim Policy on Stack Height Regulatory Actions," April 22, 1988.)

The State of Michigan showed that the stack changes affected by the remand resulted in only a small contribution to the overall improvement in air quality in Midland County. According to air quality modeling, the increase in stack height from 65 meters to 81 meters only decreased ambient concentrations by 0.02 percent. USEPA believes that the redesignation is still approvable without crediting this improvement.

Regulatory Action

USEPA is today approving the redesignation of Midland, Michigan, to attainment for TSP. The State has provided eight quarters of violation-free data from monitors representative of worst case concentrations and evidence that the improvements in air quality were due to federally approved or permanent emission reductions.

USEPA believes today's action to be noncontroversial and routine. Therefore, it is being approved without prior proposal. This action will become effective June 16, 1989. However, if we receive notice by May 17, 1989, that someone wishes to submit comments, then USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that this SIP approval action will not have a significant economic impact on a substantial number of small entities.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 16, 1989. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

List of Subjects in 40 CFR Part 81

Air pollution control, Total suspended particulates, Intergovernmental relations.

Date: March 23, 1989.

Valdas V. Adamkus,

Regional Administrator.

Designation of Areas for Air Quality Planning Purposes—Michigan

Part 81 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follow:

PART 81—[AMENDED]

1. The entry "AQCR 122" of the TSP Table in § 81.323 is amended by removing "Midland County" and by renumbering the remainder of the entry to read as follows:

§ 81.323 Michigan.

MICHIGAN—TSP

Designated area	Do not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 122-Except subareas defined				X
1. Bay County:				
R5E, T14N, Sections 14–16, 21–23		X		
2. Genesee County:				
Starting on Industrial Ave., north to Pierson Rd., east to Dort Highway, south to Hitchcock St., south to Olive Ave. (extended), south to Robert T. Longway Boulevard, west and southwest to Industrial Ave.		X		
3. Muskegon County:				
R16W, T9N, Sections 5 and 6, R16W, T10N, Sections 21, 22 and 27–34		X		
4. Saginaw County:				
a. Northeast Section:				
Starting on Tittabawassee Rd., east to I–75, south to Wadsworth Ave., west to I–675, west and north to Tittabawassee Rd.		X		
b. Southwest Section				
T12N–R4E, the eastern half of Section 34 (that which is east of Maple St.) and Section 35.		X		

[FR Doc. 89-8995 Filed 4-14-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Parts 141 and 142

[WH-FRL-3555-6]

Drinking Water Regulations; Public Notification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA is issuing this technical amendment to correct errors in the final rule amending the public notification requirements for public water systems which fail to comply with certain requirements of the National Primary Drinking Water Standards (NPDWRs) promulgated pursuant to the Safe Drinking Water Act and public water systems that have a variance or exemption from a NPDWR requirement. This final regulation was published in the Federal Register on October 28, 1987 (52 FR 41534).

EFFECTIVE DATE: These amendments are effective April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Ralph Langemeier, Chief, Drinking Water Branch, Water Management Division, Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone (913) 236-2815; or Carl Reeverts, Deputy Director, State Programs Division, Office of Drinking Water, WH-550E, 401 M Street, SW., Washington, DC 20460, telephone (202) 382-5522.

SUPPLEMENTARY INFORMATION: On October 28, 1987, EPA amended 40 CFR § 141.32 which specifies public notification requirements for public water systems that violated certain requirements of NPDWRs or have a variance or exemption from an NPDWR requirement. Certain errors in the amended public notification requirements in § 141.32 have come to light. This notice amends the regulation to correct these errors.

Note: The October 28, 1987 notice also promulgated new public notification requirements regarding lead contamination of drinking water in 40 CFR § 141.34, and amended the public notification requirements for exceedances of the National Secondary Drinking Water Regulation for fluoride in 40 CFR § 143.5 and the State implementation regulations in 40 CFR Part 142, Subpart B.

Today's amendments do not affect these other provisions.

The first error concerns use of hand delivery or posting in lieu of electronic media notification to notify the public of "acute" violations, as defined elsewhere in the public notification rule. Specifically, in § 141.32(a)(3)(ii), it states that "[I]n lieu of the requirements of paragraphs (a) (1) and (2) * * * a non-community water system may give notice within 14 days after the violation or failure by hand delivery or by continuous posting * * *." Paragraph (a)(1) sets out the method and timing for initial public notification of "Tier 1" violations (which include maximum contaminant level, treatment technique, and variance and exemption schedule violations, some of which may be acute); paragraph (a)(2) sets out the repeat notice requirements for these violations. Paragraph (a)(3)(ii) allow alternative methods of notice, i.e., hand delivery and posting, for non-community water systems. Inadvertently, this paragraph does not address the timing of initial notification for acute violations. EPA intended the timing to be the same for each type of violation, regardless of the notification method used (i.e., initial notice of Tier 1 violations within 14 days, unless the violation is acute, in which case, public notice must take place within 72 hours). This notice amends paragraph (a)(3)(ii) to add the timing requirements for acute violations so it is clear that the timing requirements are the same for all methods of notification.

Paragraph (a)(3)(i) sets out the public notification requirements for systems in areas not served by a daily or weekly newspaper of general circulation (they must substitute hand delivery or posting for newspaper notice). This paragraph specifies both the initial and repeat notice requirements; thus, it operates in lieu of the repeat notice requirements of paragraph (a)(2), as well as the initial notice requirements of paragraph (a)(1). Today's notice makes this clear by amending the citation in paragraph (a)(3)(i).

Paragraph (a)(3)(i) also discusses the timing of initial public notice for Tier 1 violations without addressing acute violations. Thus, this notice makes the same correction described above for paragraph (a)(3)(ii) to make it clear that the timing of initial public notices is the same, regardless of the method used.

The preamble to the final public notification rule summarized the rule's requirements in Table 2. Today's notice contains a revised table that takes into account the clarification and corrections described above.

This notice also corrects two citations in Part 142 and removes the words "by establishing" which were inadvertently included in § 142.16(a)(2).

Dated: April 6, 1989.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

For the reasons set forth in the preamble, the following corrections are made to the Drinking Water Regulations; Public Notification, published in the **Federal Register** on October 28, 1987 (52 FR 41534).

1. In the preamble, on page 41542, the chart is corrected to read as follows:

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Table 2—Summary of the Final Public Notification Requirements

Violation Category Type	Mandatory Health Effects Information Required (All PWS)	Notice to New Billing Units (CWS Only)	Type of PWS	Time Frame Within Which Notice Must be Given (Box indicates time frame for initial notice, and is followed by the frequency of repeat notice)
TIER 1			Community	Acute Violations:
1. MCL	Yes	Yes		Elec. Media — No Repeat
2. Treatment Technique	Yes	Yes		Newspaper[1] — No Repeat
3. Variance or Exemption Schedule Violation	Yes	Yes		Mail or Hand Delivery[2] — Quarterly Repeat
				Non-Acute Violations:
				Newspaper[1] — No Repeat
				Mail or Hand Delivery[2] — Quarterly Repeat
			Non-Community[3]	Option 1: Notice as for Community Water Systems or Option 2:
				Acute Violations: Posting or Hand Delivery — Continuous/Quarterly Repeat
				Non-Acute Violations: Posting or Hand Delivery — Continuous/Quarterly Repeat
TIER 2			Community	Newspaper[1] — Quarterly Repeat by Mail or Hand Delivery
1. Monitoring[4]	No	No		
2. Testing Procedure	No	No	Non-Community[3]	Option 1: Notice as for Community Water Systems or Option 2:
3. Variance or Exemption Issued	Yes	No		Posting or Hand Delivery — Continuous/Quarterly Repeat

Violation | 72 hours | 7 days | 14 days | 45 days | 3 months | Annual

Footnotes

[1] If no newspaper of general circulation is available, posting or hand delivery is required as specified in §141.32(a)(3)(i) and §141.32(b)(3)(i).
[2] May be waived in accordance with §141.32(a)(1)(ii).
[3] Includes both transient non-community public water systems and non-transient non-community public water systems.
[4] Less frequent notice (but no less than annual) to be required as in §142.16(a).

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PART 141—[AMENDED]

2. In Part 141:

a. The authority citation for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300g–1, 300g–3, 300g–6, 300j–4, and 300j–9.

b. Section 141.32 is amended by revising paragraph (a)(3) (i) and (ii) to read as follows:

§ 141.32 Public notification.

* * * * *

(a) * * *

(3)(i) In lieu of the requirements of paragraphs (a) (1) and (2) of this section, the owner or operator of a community water system in an area that is not served by a daily or weekly newspaper of general circulation must give notice by hand delivery or by continuous posting in conspicuous places within the area served by the system. Notice by hand delivery or posting must begin as soon as possible, but no later than 72 hours after the violation or failure for acute violations (as defined in paragraph (a)(1)(iii) of this section), or 14 days after the violation or failure (for any other violation). Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

(ii) In lieu of the requirements of paragraphs (a) (1) and (2) of this section, the owner or operator of a non-community water system may give notice by hand delivery or by continuous posting in conspicuous places within the area served by the system. Notice by hand delivery or posting must begin as soon as possible, but no later than 72 hours after the violation or failure for acute violations (as defined in paragraph (a)(1)(iii) of this section), or 14 days after the violation or failure (for any other violation). Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

* * * * *

PART 142—[AMENDED]

3. In Part 142:

a. The authority citation for Part 142 continues to read as follows:

Authority: 42 U.S.C. 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, and 300j–9.

b. Section 142.10 is amended by revising paragraph (b)(6)(v) to read as follows:

§ 142.10 Requirements for a determination of primary enforcement responsibility.

* * * * *

(b) * * *

(6) * * *

(v) Authority to require public water systems to give public notice that is no less stringent than the EPA requirements in §§ 141.32 and 142.16(a).

* * * * * *

c. Section 142.16 is revised to read as follows:

§ 142.16 Special primacy requirements.

(a) *State public notification requirements.* If a State exercises the option specified in § 141.32(b)(4) to authorize less frequent notice for minor monitoring violations, it must adopt a program revision enforceable under State authorities which promulgates rules specifying either: (1) Which monitoring violations are minor and the frequency of public notification for such violations; or (2) criteria for determining which monitoring violations are minor and the frequency of public notification.

(b) [reserved]

[FR Doc. 89-9122 Filed 4-14-89; 8:45 am]

BILLING CODE 6560-50-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Part 51-7

Public Availability of Agency Materials

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule.

SUMMARY: The Committee has revised its regulations to implement the provisions of the Freedom of Information Act of 1986.

EFFECTIVE DATE: May 17, 1989.

FOR FURTHER INFORMATION CONTACT: Beverly L. Milkman, Executive Director (703) 557–1145.

SUPPLEMENTARY INFORMATION: On October 27, 1986, the President signed the Freedom of Information Reform (FOIA) Act of 1986 (Pub. L. 99–570). This legislation amended the FOIA to provide broader exemption protection for law enforcement information and modified the Act's fee and fee waiver provisions. On January 19, 1988, the Committee published a proposed rule revising its FOIA regulations accordingly. The fee provisions conform to the uniform FOIA fee schedule and guidelines promulgated by OMB, 52 FR 10011–10020 (March 27, 1987). In issuing the fee waiver criteria, policy guidance issued by the Department of Justice on April 2, 1987 was considered. Public comment was invited, with the comment period extending to March 15, 1988. During that period, comments were received from one interest group representing the media. A discussion of their comments follows:

Comment: The Committee should furnish records "promptly" rather than "within a reasonable time" as proposed.

Response: The Committee Regulations at § 51–7.7(c) have been revised to provide the records "as soon as possible."

Comment: The Committee should offer assistance to requesters who do not reasonably describe the information that they request.

Response: § 51–7.2(a) of the Committee's regulations have been revised to include: "Where a request does not reasonably describe the requested information, the requester will be asked to provide more specific information."

Comment: The Committee's proposed business notification procedures would interfere with and regularly prevent the agency from adhering to the 10-day time limit for responding to FOIA requests.

Response: § 51–7.8(a) in part states that in responding to an FOIA request, if the Committee cannot readily determine whether the information is privileged or confidential business information, it will obtain and consider the views of the submitter of the information and provide the submitter at least 10 working days to object to any decision to disclose the information. The Committee believes that business submitters of information should be afforded an opportunity to object to the release of information considered privileged or confidential. Further, taking time extensions for the purpose of consulting with submitters of information is consistent with court decisions and the intent of Executive Order 12600, "Predisclosure Notification Procedures for Confidential Commercial Information," June 1987.

Comment: The Committee should not defer its responsibility for granting or denying requests if another agency has "primary responsibility" for the requested records.

Response: FOIA does not preclude an agency from referring requests for records to the agency which has primary responsibility for the requested records, particularly where the primary agency is in the best position to determine whether records must be disclosed or whether an exemption can and should be asserted. This practice is not unusual among federal agencies.

Comment: The Committee's regulations should indicate that records denied to an FOIA requester will be preserved for the life of the Statute of Limitations regarding those records.

Response: The Committee addresses "Preservation of Records" at § 51–7.16 in its regulations. The Committee will comply with all applicable recordkeeping requirements.

Comment: The Committee in its regulations should eliminate or redefine its definition of "representative of the news media."

Response: The Committee's definition was taken from the OMB fee guidelines which were made final only after a period of public comment during which concerns were raised and considered. The statute specifically mandates that agencies follow OMB guidelines in promulgating their own regulations. The Committee believes that its definition properly implements the statutory terms of the amended Act.

Comment: The Committee should make it easier to obtain fee waivers on requests for information.

Response: The Committee's fee waiver regulations are based on and in compliance with the Department of Justice guidelines issued on April 2, 1987. The Committee has reviewed these guidelines and believes they are in accord with the 1986 fee waiver amendments to FOIA. Special concerns raised by the commenter have been addressed by the Department in its notice of final rulemaking, 52 FR 33230–33231 (September 2, 1987).

Comment: The Committee's regulations violate the Paperwork Reduction Act by requiring FOIA requesters seeking waiver of fees to provide proof of entitlement. The Committee should be able to determine from the initial request whether a fee is justified.

Response: The Committee agrees that, in many instances, the initial request itself may provide sufficient information for the Committee to make a fee waiver determination. However, the Committee recognizes that there will be instances where the initial request does not provide sufficient information. In such cases, the requester should be given an opportunity to provide additional justification. Accordingly, the Committee's regulations have been revised to allow for this circumstance. The Committee believes its fee waiver procedures are in compliance with the Paperwork Reduction Act.

Comment: The Committee's proposed regulations on fee waivers should exclude the news dissemination function from its test to determine the requester's commercial interest.

Response: The Department of Justice in its fee waiver guidelines indicated that news gathering and dissemination by established news media organizations, as a rule, should not be considered to be "primarily" in their commercial interest. However, the Department indicated there are instances such as "the disclosure of agency records to data brokers or others who compile and market Government information for direct economic return which can more readily be considered as primarily in the commercial interests of the requester." The Committee concurs with the Department's statement, that each agency is best situated to make a comparative assessment as to the likely effects of disclosure of its own records.

Comment: The Committee's prepayment requirement interferes with the agency's requirement to provide information promptly, and the media's ability to provide timely dissemination of information.

Response: The Committee believes its prepayment requirement is fair and necessary. Further, both the Act and OMB guidelines specifically provide for prepayment of fees.

Miscellaneous

In the proposed rule as published, the Committee did not include the statutory requirement that extensions of time for responding to a request may be extended for a total of 10 working days, divided between the initial response and the appeal response. The Committee has recognized this oversight and has added conforming language to § 51–7.11. The Committee has also recognized that it did not include the usual and customary 30-day time frame for the submission of appeals to initial denials of records, and it has amended § 51–7.10 accordingly.

List of Subjects in 41 CFR Part 51–7

Freedom of Information.

41 CFR Part 51–7 is revised to read as follows:

PART 51–7 PUBLIC AVAILABILITY OF AGENCY MATERIALS

Sec.

51–7.1 Purpose.
51–7.2 Scope.
51–7.3 Definitions.
51–7.4 Availability of materials.
51–7.5 Requests for records.
51–7.6 Aggregating requests.
51–7.7 Committee response to requests for records.
51–7.8 Business information.
51–7.9 Records of other agencies.
51–7.10 Appeals.
51–7.11 Extensions of time.
51–7.12 Fee schedule.
51–7.13 Fees charged by category of requester.
51–7.14 Fee waivers and reductions.
51–7.15 Collection of fees and charges.
51–7.16 Preservation of records.

Authority: 5 U.S.C. 552.

§ 51–7.1 Purpose.

These regulations implement the provisions of the "Freedom of Information Act," 5 U.S.C. 552. They establish procedures under which the public may inspect and obtain copies of nonexempt material maintained by the Committee, provide for administrative appeal of initial determinations to deny requests for material, and prescribe uniform fees to be charged by the Committee to recover search, review, and duplication costs.

§ 51–7.2 Scope.

(a) These regulations shall apply to all final determinations made by the Committee, including all objections; and to any other Committee records reasonably described and requested by a person in accordance with these regulations—except to the extent that such material is exempt in accordance with paragraph (b) of this section. Where a request does not reasonably describe the requested information, the requester will be asked to provide more specific information.

(b) Requests for inspection and copies shall not be granted with respect to matters that are:

(1) Related to records:

(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and

(ii) In fact properly classified pursuant to such Executive Order;

(2) Related solely to the internal personnel rules and practices of the Committee;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Committee;

(6) Personnel, medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

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(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution, which furnished information on a confidential basis and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operation, or condition of reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps concerning wells.

(c) Whenever a request is made which involves access to records described in paragraph (b)(7)(i) of this section and:

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that:

(i) The subject of the investigation or proceeding is not aware of its pendency, and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, then the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(d) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(e) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in paragraph (b)(1) of this section, the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

§ 51-7.3 Definitions.

As used in these regulations:

(a) The term "Act" means the Freedom of Information Act (5 U.S.C. 552), as amended.

(b) The term "Committee" means the Committee for Purchase from the Blind and Other Severely Handicapped.

(c) The term "Chairman" means the Chairman of the Committee for Purchase from the Blind and Other Severely Handicapped.

(d) The term "Executive Director" means the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped.

(e) The term "exempt materials" means those materials described in § 51-7.2(b).

(f) The term "non-exempt materials" refers to all materials described in § 51-7.2(a), except "exempt materials" included in § 51-7.2(b).

(g) The term "duplication" refers to the process of making a copy of a document necessary to respond to a request. Such copies can take the form of paper copy, audio-visual materials, or machine readable materials (e.g., magnetic tape or disk), among others.

(h) The term "search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents.

(i) The term "review" refers to the process of examining documents located in response to a request that is for a commercial use to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

§ 51-7.4 Availability of materials.

All non-exempt materials shall be available for inspection during normal business hours at the Committee's offices, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509. Space shall be made available at that location for the use of any person who is granted permission to inspect such materials. An individual who intends to visit the Committee offices in person to inspect non-exempt material shall make an appointment with the Executive Director at least one week in advance, except when the Committee has provided notification that certain records are available for inspection in the Committee offices. An individual who intends to inspect those records shall make an appointment with the Executive Director at least 24 hours in advance.

§ 51-7.5 Requests for records.

(a) Requests to inspect and obtain copies of any material maintained by the Committee must be submitted in writing to the Executive Director, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509. The requester may in his or her petition ask for a fee waiver if there is likely to be a charge for the requested information. All requests for records shall be deemed to have been made pursuant to the FOIA, regardless of whether the Act is specifically mentioned. Failure to submit a request in accordance with these procedures may delay the processing of the request.

(b) A request must reasonably describe the records to enable agency personnel to locate them with reasonable effort. Where possible, a requester should supply specific information regarding dates, titles, and other identification which will help to identify the records.

(c) If the Committee determines that a request does not reasonably describe the records, it shall inform the requester of this fact and extend to the requester an opportunity to clarify the request or to confer promptly with knowledgeable agency personnel to attempt to identify the records he or she is seeking. The "date of receipt" in such instances shall be the date of receipt of the amended or clarified request.

(d) Nothing in this part shall be interpreted to preclude the Committee from honoring an oral request for information, but, if the requester is dissatisfied with the response, the Committee official involved shall advise the requester to submit a written request in accordance with paragraph (a) of this section. The "date of receipt" of such a request shall be the date of receipt of the written request. For recordkeeping purposes, the Committee in responding to an oral request for information may ask the requester to confirm the oral request in writing.

§ 51-7.6 Aggregating requests.

When the Committee reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Committee may aggregate any such requests and charge accordingly. Elements to be considered in determining whether a belief would be reasonable include the time period in which the requests have occurred and the subject matter involved.

§ 51-7.7 Committee response to requests for records.

(a) An initial determination whether, and to what extent, to grant each request for records or a fee waiver shall be made by the Executive Director within 10 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of that request. The person making the request shall be notified as soon as the determination is made.

(b) In making an initial determination whether and to what extent requested information will be released, the Committee shall first consider whether the material requested is of a type described in § 51-7.2(a); if it is, the request shall be granted unless the material is exempted by § 51-7.2(b). If the material requested is not a type described in § 51-7.2(a), or is the subject of one or more exemptions, the request may be denied.

(c) If a determination is made to grant a request, the relevant material shall be furnished as soon as possible following the determination to grant the request, and after payment of the fee specified in § 51-7.12 when required, except that copies of less than 10 pages of material requested in person ordinarily will be furnished immediately following the determination to grant the request.

(d) Where portions of the requested material are exempt under § 51-7.2(b), and are reasonably segregable from the remainder of the material, those portions shall be excised from the materials disclosed.

(e) If a determination is made to deny a request, or a portion thereof, the notification shall include a statement of the reasons for such action, shall set forth the name and position of the person responsible for the denial, and shall advise the requester of the right, and the procedures required under § 51-7.10 to appeal the denial to the Chairman.

(f) The Committee will require prepayment of fees for search, review, and reproduction which are likely to exceed $250.00. When the anticipated total fee exceeds $250.00, the requester will receive notice to prepay and at the same time will be given an opportunity to modify his or her request to reduce the fee. The Committee will also inform the requester that fees for search time will be charged even if the search proves unsuccessful. The Committee will not start processing a request until payment is received.

(g) Whenever duplication fees or search fees are anticipated to exceed $25.00, but not more than $250.00 and the requester has not indicated, in advance, a willingness to pay fees as high as those anticipated, the Committee will notify the requester of the amount of the anticipated fee. Similarly, where an extensive and therefore costly successful search is anticipated, the Committee will notify requesters of the anticipated fees. The Committee will not start processing the request until assurance of payment is received.

(h) Photocopies and directives furnished to the public are restricted to one copy of each page.

§ 51-7.8 Business information.

(a) When, in responding to an FOIA request, the Committee cannot readily determine whether the information obtained from a person is privileged or confidential business information or when a submitter has labeled information as proprietary at the time of submission, it shall:

(1) Obtain and consider the views of the submitter of the information and provide the submitter at least 10 working days to object to any decision to disclose the information and to provide reasons for the objection;

(2) Provide business information submitters with notice of any determination to disclose such records, to which the submitter has objected to disclosure, 10 working days prior to the disclosure date, and the reasons for which its disclosure objection is not sustained;

(3) Notify business information submitters promptly of all instances in which FOIA requesters are bringing suit seeking to compel disclosure of submitted information.

(b) The submitter, in responding to a request under paragraph (a)(1) of this section, must explain fully all grounds upon which disclosure is opposed. For example, if the submitter maintains that disclosure is likely to cause substantial harm to its competitive position, the submitter must explain how disclosure would cause such harm.

(c) When a central nonprofit agency has submitted business information on behalf of a workshop, the workshop shall be considered to be the "business information submitter" for the purposes of this section.

§ 51-7.9 Records of other agencies.

(a) When the Committee receives a request to make available current records that are the primary responsibility of another agency, the Committee will refer the request to the agency concerned for appropriate action.

(b) The Committee will notify the requestor of the referral in paragraph (a) of this section and include the name and address of the office to which the request was referred.

§ 51-7.10 Appeals.

(a) An appeal to the Chairman of any denial, in whole or in part, of a request for access to and copies of material may be made by submission of a written request for reconsideration. Such requests shall state the specific reasons for reconsideration that address directly the grounds upon which the denial was based. Requests must be addressed to the Chairman at the Committee offices and must be received within 30 calendar days of the requester's receipt of the Committee's initial denial.

(b) The Chairman shall make a determination with respect to any appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of the request for reconsideration. The person making such a request shall immediately be notified by mail of the determination.

(c) If the initial denial is reversed by the Chairman, any material with which the reversal is concerned shall be made available in accordance with § 51-7.7(b).

(d) If the denial is upheld, in whole or in part, the Chairman shall include in the notification a statement of the requester's right of judicial review under 5 U.S.C. 552(a)(4), and the name and position of the person responsible for the denial.

§ 51-7.11 Extensions of time.

(a) Whenever unusual circumstances exist, such as those set forth in paragraph (b) of this section, the times within which determinations must be made by the Executive Director on requests for access (10 working days), and by the Chairman on requests for reconsideration (20 working days), may be extended by written notice to the requester for a time not to exceed an aggregate of 30 working days. The notice shall set forth the reasons for such extension, and the date on which a determination is expected to be made.

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Extensions of time shall be utilized only to the extent reasonably necessary to the proper processing of the particular request.

(b) As used in this section, "unusual circumstances" may mean:

(1) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are the subject of a single request;

(2) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request; or

(3) The need to obtain and consider the views of a business information submitter under § 51–7.8.

§ 51–7.12 Fee schedule.

(a) This schedule sets forth fees to be charged for processing requests for records under the FOIA. No higher fees or charges in addition to those provided for in this schedule may be charged a party requesting records under FOIA.

(b) Subject to the criteria set forth in § 51–7.13, fees may be assessed under FOIA on all requests involving document search, duplication, and review. Fees may also be charged in situations involving special service to requests, such as certifying that records requested are true copies, or sending records by special methods such as express mail, etc.

(c) Instances in which fees may not be charged are as follows:

(1) No charge shall be made for the first 100 pages of duplicated information (8½"x14" or smaller-size paper), or the first two hours of manual search time, or the first two minutes of computer search time, except on requests seeking documents for a commercial use, as specified in § 51–7.13;

(2) Also, no charge shall be made—even to commercial use requesters—if the cost of collecting a fee would be equal to or greater than the fee itself;

(3) In addition, fees shall not be charged for time spent by an agency employee in resolving legal or policy issues, or in monitoring a requester's inspection of agency records;

(4) Documents shall also be furnished without charge when members of the public provide their own copying equipment, in which case no copying fee will be charged (although search and review fees may still be assessed).

(d) Fees for records and related services are as follows:

(1) The fee for photocopies of pages 8½"x14" or smaller shall be $0.20 for each page;

(2) The fee for photocopies larger than 8½"x14" shall be $0.50 per linear foot of the longest side of the copy;

(3) The fee for other forms of duplicated information, such as microfilm, audio-visual materials, or machine-readable documentation (i.e., magnetic tape or disk) shall be the actual direct cost of producing the document(s);

(4) Manual searches shall be charged at the salary rate of the employee conducting the search, plus 16 percent of the employee's basic pay.

(e) Computer searches and services shall be charged at the rate of $22.00 per minute. The $22.00-per-minute rate includes the cost of operating the central processing unit (CPU), and the computer operator's salary. When the services of a computer programmer or a computer program analyst are required in connection with an FOIA request, the fee for those services shall be $16.00 and $20.00 per hour, respectively.

(f) Charges for unsuccessful searches, or searches which fail to locate records or which locate records which are exempt from disclosure, shall be assessed at the same fee rate as searches which result in disclosure of records.

(g) The fee for providing review services shall be the hourly salary rate (i.e., basic pay plus 16 percent) of the employee conducting the review to determine whether any information is exempt from mandatory disclosure.

§ 51–7.13 Fees charged by category of requester.

(a) Under the FOIA, as amended, there are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each category.

(b) Commercial use requesters. For commercial use requesters, the Committee shall assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents referenced in § 51–7.12(c)(1). The Committee may charge for the cost of searching for and reviewing records for commercial use requesters even if there is ultimately no disclosure of records.

(1) A commercial use requester is defined as one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(2) In determining whether a requester properly belongs in this category the Committee must determine whether the requester will put the documents to a commercial use. Where the Committee has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Committee may seek additional clarification from the requester.

(c) Educational and non-commercial scientific institution requesters. Fees for this category of requesters shall be limited to the cost of providing duplication service alone, minus the charge for the first 100 reproduced pages. No charge shall be made for search or review services. To qualify for this category, requesters must show that the request is being made as authorized by and under the auspices of an eligible institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly research (if the request is from a non-commercial scientific institution).

(1) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(2) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(d) Requesters who are representatives of the news media—Fees for this category of requesters shall also be limited to the cost of providing duplication service alone, minus the charge for the first 100 reproduced pages. No charge shall be made for providing search for review services. Requests in this category must not be made for a commercial use.

(1) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.

(2) The term "news" means information that is about current events or that would be of current interest to the public.

(3) Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals which disseminate news and who make their products available for purchase or subscription by the general public.

(4) "Freelance" journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

(e) All other requesters. Fees for requesters who do not fit into any of the above categories shall be assessed for the full reasonable direct cost of searching for and duplicating documents that are responsive to a request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge.

§ 51–7.14 Fee waivers and reductions.

The Committee will waive or reduce fees on requests for information if disclosure of the information is deemed to be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and is not primarily in the commercial interest of the requester.

(a) In determining when fees shall be waived or reduced, the Committee will consider the following six factors:

(1) The subject of the request, i.e., whether the subject of the requested records concerns "the operations or activities of the Government;"

(2) The informative value of the information to be disclosed, i.e., whether the disclosure is "likely to contribute" to an understanding of Government operations or activities;

(3) The contribution to an understanding of the subject by the general public likely to result from disclosure, i.e., whether disclosure of the requested information will contribute to "public understanding";

(4) The significance of the contribution to public understanding, i.e., whether the disclosure is likely to contribute "significantly" to public understanding of Government operations or activities;

(5) The existence and magnitude of a commercial interest, i.e., whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so,

(6) The primary interest in disclosure, i.e., whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

(b) The Committee may waive or reduce fees associated with a request for disclosure regardless of whether a waiver or reduction has been requested if the Committee determines that disclosure will primarily benefit the general public.

(c) Fees shall be waived, however, without discretion in all circumstances where the amount of the fee is $20.00 or less.

§ 51–7.15 Collection of fees and charges.

(a) Except when prepayment is required, payments shall be collected to the fullest extent possible at the time the requested materials are furnished. Payments shall be made by requesters within 30 days of the date of the billing.

(b) Payments shall be made by check, draft, or money order made payable to the Treasury of the United States.

(c) In instances where a requester has previously failed to pay a fee, the Committee may require the requester to pay the full amount owed, plus any applicable interest as provided below, as well as the full estimated fee associated with any new request before it begins to process the new or subsequent request.

(d) On requests that result in fees being assessed, interest will be charged on an unpaid bill starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in section 3717 of Title 31 United States Code, and will accrue from the date of the billing.

(e) In attempting to collect fees levied under FOIA, the Committee will abide by the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) in disclosing information to consumer reporting agencies and in the use of collection agencies, where appropriate, to encourage payment.

§ 51–7.16 Preservation of records.

The Committee shall preserve all correspondence relating to the requests it receives under this part, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to Title 44 United States Code, and to the General Records Schedule. Records shall not be destroyed while they are the subject of a pending request, appeal, or lawsuit under the Act.

Beverly L. Milkman,

Executive Director.

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BILLING CODE 6820–33–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 19

[FCC 89–102]

Establishment of the Office of Inspector General and Internal Control and Security Office

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC is creating an Office of Inspector General (OIG) in conformance with the Inspector General Act Amendments of 1988. The Commission is also transferring all audit and many investigatory functions from the Internal Review and Security Division (IRSD), Office of the Managing Director, to the new OIG in conformance with this law. To reflect this change in functions, IRSD is renamed the Internal Control and Security Office, but continues to report to the Managing Director.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Brent Weingardt or Eileen Savell, Office of the Managing Director, 202–632–3906.

SUPPLEMENTARY INFORMATION: This is the complete text of the Commission's *Order* (FCC 89–102), Adopted March 29, 1989 and Released April 12, 1989.

1. By this action, the Commission amends its rules to reorganize the Internal Review and Security Division within the Office of Managing Director into two distinct organizations: an independent Office of Inspector General reporting directly to the Chairman and the Internal Control and Security Office, which will be under the supervision of the Managing Director.

2. On October 18, 1988, the President signed into law the Inspector General Act Amendments of 1988. Pub. L. No. 100–504, 102 Stat. 2515 (1988). This law amends the Inspector General Act of 1978 [1] to require 33 designated federal entities to create an Office of Inspector General (OIG) as they now exist in many Executive Branch departments. Section 104 of the Act defines the Federal Communications Commission as one of the designated federal entities that must establish and maintain an Office of Inspector General not later than 180 days after the enactment of the law.

3. The reasons for the creation of an Office of Inspector General are set out in the Inspector General Acts. First, the

[1] 5 U.S.C. Appendix 3.

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OIG will conduct and supervise audits and investigations relating to the programs and operations of the agency. Second, it will provide leadership and coordination and recommend policies for activities designed to promote economy, efficiency and effectiveness, as well as to prevent and detect fraud and abuse in the programs of the agency. Finally, the Office of Inspector General will provide a means for keeping the head of the agency, Commissioners and the Congress fully and currently informed about problems and deficiences at the agency.[2]

4. The Inspector General is appointed by the Chairman with the approval of the Commissioners and operates under the Chairman's general supervision. However, the Chairman may not prevent nor prohibit the Inspector General from initiating or completing any audit or investigation, or from issuing any subpoena. Should an Inspector General be removed or transferred to another office, the Chairman must communicate the reasons for the action in writing to Congress.[3]

5. This reorganization entails the transfer of all audit and many investigative functions from the Internal Review and Security Division (IRSD) to the new Office of Inspector General. To reflect these modified functions, IRSD will be renamed the Internal Control and Security Office (ICSO), but will continue to report to the Managing Director. The ICSO will continue to coordinate the Commission's Freedom of Information Act program; provide *ex parte* coordination; oversee employee ethics and financial disclosure; operate the personnel clearance and security program; maintain building and document security; and conduct Part 19 employee misconduct investigations in which the Inspector General chooses not to participate. In addition, ICSO will be responsible for the Commission's internal control and vulnerability assessment program.

6. Because these amendments address only matters of internal agency organization and procedure, compliance with the notice and comment procedure of the Administrative Procedure Act is not required. 5 U.S.C. 553(b)(1)(A).

Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act, 5 U.S.C. 603 and 604, does not apply.

[2] 5 U.S.C. App. 3, section 2, as amended. Pub. L. No. 100-504, section 101. "The IGs are intended to act as independent factgatherers, with no vested interest in policy, or in particular programs and operations." H.R. Rep. No. 1020, 100th Cong., 2nd Sess. 28 (1988) *reprinted in* 1988 *U.S. Code Cong. & Ad. News* 3154, 3187.

[3] Pub. L. No. 100-504, § 104.

7. Accordingly, *it is hereby ordered* That, pursuant to the authority contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 155(b), and section 104 of Public Law Number 100-504, the Inspector General Act Amendments of 1988, Parts 0 and 19 of the Commission's rules ARE AMENDED as set forth below. These rules are effective upon publication in the **Federal Register**. *See* 5 U.S.C. 553(d).

List of Subjects

47 CFR Part 0

Organization and functions.

47 CFR Part 19

Conflict of interests.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

For the reasons set out in the preamble, Title 47, Parts 0 and 19 of the Code of Federal Regulations is amended to read as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read:

Authority: Sec. 4, 303, Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303 unless otherwise noted. Implement 5 U.S.C. 552, unless otherwise noted.

2. Section 0.5 is amended by revising paragraph (a) in its entirety to read as follows:

§ 0.5 General description of commission organization and operations.

(a) *Principal staff units.* The Commission is assisted in the performance of its responsibilities by its staff, which is divided into the following principal units:

(1) Office of Managing Director.
(2) Office of Engineering and Technology.
(3) Office of General Counsel.
(4) Office of Plans and Policy.
(5) Office of Public Affairs.
(6) Office of Legislative Affairs.
(7) Office of Administrative Law Judges.
(8) Review Board.
(9) Office of Inspector General.
(10) Mass Media Bureau.
(11) Common Carrier Bureau.
(12) Private Radio Bureau.
(13) Field Operations Bureau.

* * * * *

3. Section 0.13, including a new caption, is added to Part 0, subpart A to read as follows:

Office of Inspector General

§ 0.13 Functions of the Office.

The Office of Inspector General is directly responsible to the Chairman as head of the agency. However, the Chairman may not prevent or prohibit the Office of Inspector General from carrying out its duties and responsibilities as mandated by the Inspector General Act Amendments of 1988 (Pub. L. 100-504) and the Inspector General Act of 1978 (5 U.S.C. Appendix 3), as amended. The Office has the following duties and responsibilities.

(a) Provide policy direction for and to conduct, supervise and coordinate audits and investigations relating to the programs and operations of the Federal Communications Commission.

(b) Review existing and proposed legislation and regulations relating to programs and operations of the Commission and to make recommendations in its required semiannual reports to Congress concerning the impact of such legislation or regulations on the economy and efficiency in the administration of these programs and operations, or the prevention and detection of fraud and abuse in such programs and operations.

(c) Recommend policies and conduct or coordinate other activities to promote economy and efficiency in the administration of Commission programs, or detect and prevent fraud and abuse in Commission activities. Coordinate with other governmental agencies and non-governmental entities on these matters.

(d) Keep the Chairman of the Commission—and through him the other Commissioners—and the Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of Commission programs and operations; recommend corrective action and report on the progress made in implementing such corrective action. In addition to providing the Chairman with the results of completed audits and inspections, the Inspector General shall prepare statutorily required reports, identified as such, to include:

(1) Semiannual reports summarizing activities of the office during the preceding six month period (due to the Chairman by April 30 and October 31);

(2) Special reports specifically identifying any serious or flagrant problems, abuses or deficiencies (due to the Chairman immediately upon discovery of these matters by the Inspector General).

4. The caption preceding former § 0.176, "Network Inquiry Special Staff," is removed.

5. The heading of § 0.387 is revised to read as follows:

§ 0.387 Other National Security and Emergency Preparedness delegations; cross reference.

* * * * *

6. Section 0.231 is amended by revising paragraph (h) to read as follows:

§ 0.231 Authority delegated.

* * * * *

(h) The head of the Internal Control and Security Office, Office of the Managing Director, is delegated authority to act as the "designated agency ethics official" within the meaning of sections 206 and 209 (10) of the Ethics in Government Act of 1978, Pub. L. 95-521, 92 Stat. 1824 (1978).

* * * * *

PART 19—EMPLOYEE RESPONSIBILITIES AND CONDUCT

1. The authority citation for Part 19 continues to read as follows:

Authority: E.O. 11222, 3 CFR 1965 Comp., 5 CFR 735.104, unless otherwise noted.

2. Section 19.735-105 is amended by revising paragraph (a)(1) to read as follows:

§ 19.735-105 Interpretation and advisory service.

(a)(1) The head of the Internal Control and Security Office is designated as the agency's ethics official for purposes of 5 CFR Parts 734 and 737. The General Counsel is designated as legal counselor for the Commission to provide guidance on matters relating to ethical conduct. The General Counsel is to serve as the Commission's designee to the Office of Personnel Management on matters covered by 5 CFR Part 735.

* * * * *

3. Section 19.735-107 is amended by redesignating existing paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 19.735-107 Disciplinary and other remedial action.

* * * * *

(c) The Inspector General will be promptly notified of all complaints or allegations of employee misconduct. The Inspector General will also be notified of the planned initiation of an investigation under this Part. Such notification shall occur prior to the initiation of the investigation required by paragraph (a) of this section. The Inspector General may choose to conduct the investigation in accordance with these rules. Should the Inspector General choose to conduct the investigation, he will promptly notify the Chairman. The Inspector General will serve as the designated officer and be solely responsible for the investigation. In carrying out this function, the Inspector General may obtain investigative services from other Commission offices, other governmental agencies or non-governmental sources and use any other means available to him in accordance with Pub. L. 100-504 or 5 U.S.C. Appendix 3. The Inspector General will be provided with the results of all investigations in which he chooses not to participate.

* * * * *

4. Section 19.735-410 is revised to read as follows:

§ 19.735-410 Confidentiality of employees' statements.

Each statement of employment and financial interests, and each supplementary statement, shall be held in confidence and shall be retained in the Office of the Managing Director. Each employee charged with reviewing a statement is responsible for maintaining the statements in confidence and shall not allow access to or allow information to be disclosed from a statement except to carry out the purpose of this part or as otherwise required by law. Information from these statements shall not be disclosed except as the Office of Personnel Management or the Chairman may determine for good cause shown.

[FR Doc. 89-8914 Filed 4-14-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[FCC 89-36]

Revision of Part 73, Subpart G of the Rules Concerning the Emergency Broadcast System (EBS)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has determined that Part 73, Subpart G contains a few outdated, unnecessary or unclear provisions concerning the Emergency Broadcast System (EBS). Amendment of these provisions will reduce confusion. Also, in a filing received by the Commission on July 15, 1988, Hammett and Edison, Inc., Consulting Engineers, requested an informal declaratory ruling as to whether or not § 73.932(d) of the rules requires an entry in a station log if the check required by § 73.932(c) reveals no defect in the station's own EBS monitoring receiver equipment. The Commission has moved the language in § 73.932(d)(1) from its present position to § 73.932(c) to make it absolutely clear that an entry in the log is required as originally intended regardless of the reason for failure to receive an Emergency Broadcast System weekly test.

EFFECTIVE DATE: February 15, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Frank Lucia, Management Planning and Program Evaluation Office, (202) 632-3906.

SUPPLEMENTARY INFORMATION: Section 73.912 of the rules is revised to include all radio, television, and cable networks, program suppliers, wire services and common carriers that voluntarily participate in the EBS. Section 73.926(d) of the rules is also updated to recognize that additional radio, satellite, and wire service networks may voluntarily participate in EBS at the state and local levels. The sentence, "Appropriate entries must be made in the station log, indicating reasons why the Weekly Test Transmissions were not received." is moved from § 73.932(d)(1) to § 73.932(c) to make it absolutely clear that an entry in the log is required as originally intended regardless of the reason for failure to receive an Emergency Broadcast System weekly test. Section 73.962 is amended to remove the need for a Commission Order and Public Notice in the **Federal Register** whenever an EBS Closed Circuit Tests is performed. Notification to industry will be in the form of a telegram issued by the Managing Director. The action by the participants is voluntary, and the Order and publication serve no useful purpose other than notification.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, Part 73, is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

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Authority: 47 U.S.C. 154 and 303.

2. Section 73.912 is revised to read as follows:

§ 73.912 Emergency Broadcast System participants.

The following non-government industry entities voluntarily participate in the Emergency Broadcast System (EBS):

(a) *Radio and Television Networks.*
(1) ABC Radio and ABC–TV.
(2) Associated Press Radio (APR).
(3) CBS Radio and CBS–TV.
(4) Mutual Broadcasting System (MBS).
(5) MUZAK.
(6) NBC Radio.
(7) NBC–TV.
(8) National Public Radio (NPR).
(9) Public Broadcasting Service (PBS–TV).
(10) Satellite Music Network.
(11) Transtar.
(12) United Press International Audio (UPIA).
(13) United Stations.

(b) *Cable Networks and Program Suppliers.*
(1) Cable News Network (CNN).
(2) Christian Broadcasting Network (CBN).
(3) Cinemax.
(4) Disney Channel.
(5) Entertainment and Sports Programming Network (ESPN).
(6) Home Box Office (HBO).
(7) Movie Channel.
(8) MTV.
(9) Nashville Network.
(10) Nickelodeon.
(11) Showtime.
(12) VH–1.
(13) Weather Channel.

(c) *Wire Services.*
(1) Associated Press (AP).
(2) United Press International (UPI).

(d) *Common Carriers.*
(1) American Telephone and Telegraph (AT&T).

3. Section 73.926 is amended by revising paragraph (d) to read as follows:

§ 73.926 Participation in the Emergency Broadcast System.

* * * * *

(d) Any AM, FM, TV, or Low Power TV broadcast station or cable, satellite, wire or radio network or system may, at the discretion of management, voluntarily participate in the State level and Operational (Local) level EBS in accordance with the provisions of the State EBS Operational Plan. An EBS Authorization is not required.

4. Section 73.932 is amended by revising paragraphs (c) and (d) to read as follows:

§ 73.932 Radio monitoring and Attention Signal transmission requirements.

* * * * *

(c) The licensee has the responsibility to insure that the equipment used for off-the-air signal monitoring and generating the EBS Attention Signal is in functioning condition during all times the station is in operation, and to determine the cause of any failure to receive the Weekly Transmission Tests as described in paragraph (c) of § 73.961. Appropriate entries must be made in the station log, indicating reasons why the Weekly Test Transmissions were not received.

(d) In the event that the equipment for receiving the Attention Signal and emergency programming transmitted by other broadcast stations, or the equipment for generating the Attention Signal becomes defective, the station may operate without the defective equipment pending its repair or replacement for a period not in excess of 60 days without further authority of the Commission, provided that appropriate entries are made in the station log showing the date and the time the equipment was removed and restored to service. Weekly Test Transmissions of the Test Script, without the equipment for generating the Attention Signal, must still be conducted.

5. Section 73.962 is amended by revising paragraph (a) to read as follows:

§ 73.962 Closed Circuit Tests of approved National level interconnecting systems and facilities of the Emergency Broadcast System.

(a) Tests of approved National level interconnecting systems and facilities of non-government entities voluntarily participating in the EBS will be conducted on a random or scheduled basis not more than once a month and not less than once every three months. The time of the test will be selected by both the White House and participating industry personnel in coordination with the FCC. Unless a random Closed Circuit Test has been selected, the FCC will notify the networks, wire services and participating cable systems and common carriers of the selected time window, four working days (holidays excluded) prior to the test.

* * * * *

[FR Doc. 89–9019 Filed 4–14–89; 8:45am]
BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–472; RM–6305]

Radio Broadcasting Services; Ackerman & Cleveland, Mississippi

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 300C for Channel 300C1 at Ackerman, Mississippi, in response to a petition filed by French Camp Radio, Inc. and Carol B. Ingram. We shall also modify the license of Station WFCA to specify operation on Channel 300C in lieu of Channel 300C1 in accordance with § 1.420(g) of the Commission's Rules. The coordinates for Channel 300C are 33–25–25 and 89–24–13. To accommodate the substitution at Ackerman, it is necessary to substitute Channel 295A for Channel 299A at Cleveland, Mississippi. Channel 299A was allotted to Cleveland in MM Docket 84–231 and made available for application in Window No. 51. Carol B. Ingram is the applicant for Channel 299A at Cleveland (880301NM) and has filed comments in which she agrees to the substitution of channels, at coordinates 33–46–04 and 90–44–37. In accordance with Commission policy, we will retain the applicant's filing protection for Channel 299A when she amends to specify Channel 295A since the class of channels are equivalent. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 10, 1989.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–472, adopted February 2, 1989, and released February 24 , 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In Section 73.202(b), the Table of FM Allotments under Mississippi is amended by removing Channel 300C1 and adding Channel 300C at Ackerman and by removing Channel 299A and adding Channel 295A at Cleveland.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division. Mass Media Bureau.

[FR Doc. 89–9022 Filed 4–14–89; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 580

[Docket Number 87–09; Notice 4W]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (Ohio).

SUMMARY: This is in response to a petition for an extension of time filed by the Ohio Department of Highway Safety (Ohio). Ohio cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Ohio an extension of time, until December 31, 1990, to achieve compliance. Because Ohio has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Ohio's petition for an extension of time. Ohio has until December 31, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Ohio's Petition

The Ohio Department of Highway Safety (Ohio) submitted a petition for an extension of time. In support of its petition, Ohio states that the Ohio Legislature passed a bill creating the Automated Title Processing Board, to oversee the design and implementation of an automated title processing system. In conjunction with the creation of this system, Ohio has been redesigning its title document. In addition, Ohio explains that it has been drafting legislation to amend the portions of the Ohio Revised Code which pertain to the issuance of certificates of titles to motor vehicles, specifically to implement the new Federal security requirements. For these reasons, Ohio requests that it be granted an extension of time until December 31, 1990.

NHTSA's Response to the Petition

NHTSA finds that Ohio has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, the Ohio Legislature passed legislation that will lead to the creation of an automated title processing system. This system will help Ohio to meet the requirements of the Truth of Mileage Act. As this system is being implemented, Ohio will continue to redesign its title documents and draft additional legislation to ensure that the title documents are printed by a secure printing process.

In light of Ohio's past and planned actions, we grant Ohio's request for an extension of time until December 31, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89–9042 Filed 4–12–89; 8:45 am]
BILLING CODE 4910–59–M

49 CFR Part 580

[Docket Number 87–09; Notice 4X]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (Wyoming).

SUMMARY: This is in response to a petition for an extension of time filed by the Wyoming Department of Revenue and Taxation (Wyoming). Wyoming cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Wyoming an extension of time, until September 1, 1990, to achieve compliance. Because Wyoming has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Wyoming's petition for an extension of time. Wyoming has until September 1, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall

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ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Wyoming's Petition

The Wyoming Department of Revenue and Taxation (Wyoming) submitted a petition for an extension of time. In support of its petition, Wyoming states that it has reviewed its laws and its title documents. The laws must be amended in order to change the title documents to comply with the new Federal regulatory requirements. Nevertheless, to expedite the process, Wyoming intends to submit a draft title for bids in the near future. In addition, Wyoming states that it will undertake an analysis concerning the use of powers of attorney and dealer reassignment forms. Finally, Wyoming estimates that it has a twelve to eighteen month supply of titles on hand and that to replace the current supply with conforming title documents could "create a severe financial burden". For these reasons, Wyoming requests that it be granted an extension of time until September 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that Wyoming has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Wyoming has reveiwed its title documents, statutes, and administrative procedures. It has determined that legislative action is necessary. In addition, Wyoming has been working to design a new title document and will submit the title for bids in the near future. Finally, Wyoming intends to consider printing secure power of attorney forms.

In light of Wyoming's past and planned actions and in order to allow Wyoming to expend its current supply of titles, we grant Wyoming's request for an extension of time until September 1, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89-9043 Filed 4-12-89; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket Number 87-09; Notice 4Y]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (North Dakota)

SUMMARY: This is in response to a petition for an extension of time filed by the North Dakota Motor Vehicle Department (North Dakota). North Dakota cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant North Dakota an extension of time, until January 1, 1991, to achieve compliance. Because North Dakota has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted North Dakota's petition for an extension of time. North Dakota has until January 1, 1991 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

North Dakota's Petition

The North Dakota Motor Vehicle Department (North Dakota) submitted a petition for an extension of time. In support of its petition, North Dakota states that legislative change is necessary and explains that it has introduced conforming legislation. North Dakota anticipates that this legislation will be enacted by July 1, 1989. In addition, North Dakota states that since it has not had odometer disclosure requirements, it will conduct a public information campaign to ensure that motorists are aware of the requirements. Finally, North Dakota states that it is redesigning its title. However, North Dakota asserts that it currently has a supply of titles that may last for approximately two years and that replacement with conforming titles prior to exhausting the current supply, will create a "severe financial burden." As soon as the current supply is expended, North Dakota states that it will begin to issue new, conforming titles. For these reasons, North Dakota requests that it be granted an extension of time until January 1, 1991.

NHTSA's Response to the Petition

NHTSA finds that North Dakota has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, North Dakota has drafted legislation to incorporate the Federal requirements. This legislation has already been introduced and may be enacted by July 1989. In addition, North Dakota is currently designing a title that would meet all the Federal requirements. It will also be conducting a public information campaign to ensure that vehicle owners are aware of the new requirements.

In light of North Dakota's past and planned actions, and in order to allow the State to expend its current supply of title documents, we grant North Dakota's request for an extension of time until January 1, 1991, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e)

Issued on April 11, 1989.

Erika Z. Jones

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89-9044 Filed 04-12-89; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket Number 87-09; Notice 4Z]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (Pennsylvania).

SUMMARY: This is in response to a petition for an extension of time filed by the Pennsylvania Department of Transportation, Bureau of Motor Vehicles, (Pennsylvania). Pennsylvania cannot conform its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Pennsylvania an extension of time, until January 1, 1990, to achieve compliance. Because Pennsylvania has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Pennsylvania's petition for an extension of time. Pennsylvania has until January 1, 1990 to revise its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Pennsylvania's Petition

The Pennsylvania Department of Transportation, Bureau of Motor Vehicles, (Pennsylvania) submitted a petition for an extension of time. In support of its petition, Pennsylvania states that it already prints its titles by a secure process, includes a mileage reading when it issues its titles, has disclosure requirements applicable to lessees and lessors, and requires the retention of certain odometer information by auction companies. Pennsylvania explains that it needs additional time to incorporate enhancements to its forms and its processes. For example, Pennsylvania notes that it has redesigned its title document to incorporate all the new Federal regulatory requirements and that it will eliminate separate dealer reassignment forms (MV-27). Additionally, Pennsylvania states that it currently accepts powers of attorney forms on title assignments and plans to review the Federal requirements concerning powers of attorney in connection with mileage disclosure. Finally, Pennsylvania states that expending its current supply of titles would be a cost savings measure. For these reasons, Pennsylvania requests an extension of time until January 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that Pennsylvania has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Pennsylvania currently issues titles that are set forth by a secure printing process and that contain a mileage disclosure. Nevertheless, Pennsylvania has reviewed its title document and has determined that changes are necessary to conform the disclosure information on the reverse side of the title. Pennsylvania has redesigned its title document to incorporate all the new Federal odometer disclosure requirements. However, Pennsylvania requests an extension as a cost savings measure to expend its current supply of titles. In addition, Pennsylvania wishes to review the Federal requirements concerning the use of powers of attorney in connection with mileage disclosures.

In light of Pennsylvania's past and planned actions and in order to permit the State to expend its current supply of title documents, we grant Pennsylvania's request for an extension of time until January 1, 1990, to revise its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89-9045 Filed 4-12-89; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket Number 87-09; Notice 4AA]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (Connecticut).

SUMMARY: This is in response to a petition for an extension of time filed by the Connecticut Department of Motor Vehicles (Connecticut). Connecticut cannot conform its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Connecticut an extension of time, until April 29, 1990, to achieve compliance. Because Connecticut has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Connecticut's petition for an extension of time. Connecticut has until April 29, 1990 to revise its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-1834).

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SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Connecticut's Petition

The Connecticut Department of Motor Vehicles (Connecticut) submitted a petition for an extension of time. In support of its petition, Connecticut states that by April 29, 1989, it will have amended the Commissioner's Regulations to include the Federal regulatory definitions. In addition, Connecticut states that its title document is set forth by means of a secure printing process and that, effective April 29, 1989, Connecticut will print the odometer reading on the face of the title and whether or not the reading reflects the actual mileage or whether the odometer reading reflects the mileage in excess of the designed mechanical limits of the odometer. However, Connecticut explains that it cannot conform its title documents to all the other Federal regulatory requirements by April 29, 1989. Connecticut has a one year supply of three ownership documents, at a total document cost of $61,000, Connecticut explains that these documents are very costly and that destroying them could result in a financial burden to the State. Connecticut plans to revise the current title documents to meet the Federal requirements and have them printed and distributed within twelve months. Until the current supply is depleted, Connecticut will use a supplemental odometer disclosure statement which meets the Federal regulatory requirements. Because the current inventory of title documents will be depleted by April 1990, Connecticut requests that it be granted an extension of time until April 29, 1990.

NHTSA's Response to the Petition

NHTSA finds that Connecticut has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Connecticut drafted regulations to incorporate the Federal regulatory definitions into the Commissioner's Regulations. In addition, Connecticut is working on the design of the new ownership documents and expects that these documents will be ready to use within twelve months. Finally, Connecticut has decided to eliminate any form that would permit dealers to sign an odometer disclosure statement as both the transferor and transferee in the same transaction.

In light of Connecticut's past and planned actions, and in order to allow Connecticut to expend its current supply of titles documents, we grant Connecticut's request for an extension of time until April 29, 1990, to revise its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e)

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89-9046 Filed 4-12-89; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket Number 87-09; Notice 4BB]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (Arizona).

SUMMARY: This is in response to a petition for an extension of time filed by the Arizona Department of Transportation, Motor Vehicle Division, (Arizona). Arizona cannot conform its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Arizona an extension of time, until December 1990, to achieve compliance. Because Arizona has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Arizona's petition for an extension of time. Arizona has until December 1, 1990, to revise its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Arizona's Petition

The Arizona Department of Transportation, Motor Vehicle Division, (Arizona) submitted a petition for an extension of time. In support of its petition, Arizona states that it has been working to achieve compliance with the Federal requirements. Arizona asserts that since October 1987, it has been issuing a computer generated title document. In addition, Arizona notes that the title document is securely printed by the intaglio process, and has latent images, microline printing, and background inks that fluoresce under ultraviolet light. However, Arizona has reviewed the title document and recognizes that it does not meet all the new Federal regulatory requirements. To permit Arizona to amend the title document and to allow Arizona to expend its current supply of almost 2,000,000 titles, Arizona requests an extension of time until December 1990.

NHTSA's Response to the Petition

NHTSA finds that Arizona has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since October 1987, Arizona has issued computer generated title documents that are intaglio printed and incorporate other security features. In addition, Arizona plans to design a new title document to include a conforming disclosure on the reverse side of the document. Arizona has submitted a sample of its current title and the State will be notified in a letter of the changes that are necessary to bring the title document into compliance.

In light of Arizona's past and planned actions and in order to permit the State to expend its current supply of title documents, we grant Arizona's request for an extension of time until December 1, 1990, to revise its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89-9047 Filed 4-12-89; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket Number 87-09; Notice 4CC]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (Iowa).

SUMMARY: This is in response to a petition for an extension of time filed by the Iowa Department of Transportation, Motor Vehicle Division (Iowa). Iowa cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Iowa an extension of time, until July 1, 1990, to achieve compliance. Because Iowa has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Iowa an extension of time. Iowa has until July 1, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Iowa's Petition

The Iowa Department of Transportation, Motor Vehicle Division, (Iowa) submitted a petition for an extension of time. In support of its petition, Iowa states that, since the enactment of the Truth in Mileage Act of 1986, it has been working to achieve compliance with the Federal requirements. Iowa declares that it reviewed the Act and concluded that the title needed only minor changes. Iowa notes that it followed the regulatory process, submitted comments to NHTSA expressing its concerns, and met with representatives of the Iowa Dealers Association, the Attorney General's Office, financial institutions, and the auction industry to discuss implementation. Iowa states that it has determined that form, legislative, and system changes are necessary to comply with the Federal requirements. Iowa explains that it will request complying legislation in June 1989 and anticipates that this legislation will become effective on July 1, 1990. These legislative changes would include adding a mileage brand and revising the types of vehicles that are subject to the odometer requirements. With regard to its titling system, Iowa states that major changes in odometer recording and print programs are necessary to comply with the Federal requirements. Finally, Iowa states that it has approximately 1.5 million titles in inventory. For these reasons, Iowa requests that it be granted an extension of time until July 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that Iowa has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act of 1986, Iowa has been working to comply with the new Federal requirements. Iowa has analyzed its title documents, its legislation, and its titling system and determined that changes are necessary. Iowa will request complying legislation in June 1989 to permit Iowa to amend its title documents. In addition, Iowa is planning major changes to its titling system, specifically in the areas of odometer recording and print programs.

In light of Iowa's past and planned actions and in order to allow Iowa to expend its current supply of title documents, we grant Iowa's request for an extension of time until July 1, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e)

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89-9048 Filed 4-12-89; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket Number 87-09; Notice 4Q]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of Petition for Extension of Time (Hawaii).

SUMMARY: This is in response to a petition for an extension of time filed by the City and County of Honolulu Department of Finance, Division of Motor Vehicles and Licensing, (Hawaii). Hawaii cannot issue title documents to

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meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Hawaii an extension of time, until May 1, 1990, to achieve compliance. Because Hawaii has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Hawaii's petition for an extension of time. Hawaii has until May 1, 1990 to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Hawaii's Petition

The City and County of Honolulu Department of Finance, Division of Motor Vehicles and Licensing, (Hawaii) submitted a petition for an extension of time. In support of its petition, Hawaii states that Hawaii does not have a State Department of Motor Vehicles. Rather each county is responsible for titling vehicles in its own jurisdiction and each county currently issues a certificate of ownership. The counties have been working together to design a Hawaii certificate of title that would meet the Federal requirements and the needs of the individual counties. Hawaii states that computer programming changes are also needed and that there is a stock of Certificates of Ownership on hand. The current inventory of Certificates of Ownership will be depleted by May 1, 1990. To allow for the depletion of the current supply of ownership documents and for the manufacture and delivery of the new Hawaii Certificate of Title and to effectuate the necessary computer programming changes and the testing of those changes, Hawaii requests that it be granted an extension of time until May 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that Hawaii has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Hawaii has been working to design a Hawaii title document that would meet the Federal requirements and the needs of each county. Hawaii has also been working on ways to ensure that the appropriate computer programming changes are made so that the information printed by the titling authorities may be computer generated.

In light of Hawaii's past and planned actions, and in order to allow the counties of Hawaii to expend their current supply of certificates of ownership, we grant Hawaii's request for an extension of time until May 1, 1990, to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89–9049 Filed 4–12–89; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 580

[Docket Number 87–09; Notice 4R]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (Maine).

SUMMARY: This is in response to a petition for an extension of time filed by the Maine Department of State, Motor Vehicle Division, (Maine). Maine cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Maine an extension of time, until December 31, 1989, to achieve compliance. Because Maine has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Maine's petition for an extension of time. Maine has until December 31, 1989 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Maine's Petition

The Maine Department of State, Motor Vehicle Division, (Maine) submitted a petition for an extension of time. In support of its petition, Maine states that, since October 1988, it has been working to achieve compliance with the Federal requirements. Maine declares that from October through December 1988, it drafted legislation. This legislation will be considered during the current legislative session and would not be effective until ninety days after the legislature adjourns, approximately mid-September. In addition, Maine states that it redesigned its title documents and that it is seeking bids on the title documents and on secure transfer forms, together with other New England States. Maine also plans to seek bids on secure power of attorney forms. Since the contracts have not been awarded, the vendor will be unable to provide documents before April 29, 1989. Maine notes that purchasing titles outside of the New England purchasing pool would create a severe financial burden. Therefore, Maine requests that it be granted an extension of time until December 31, 1989. While the extension is in effect, Maine states that it will require that a complying odometer disclosure statement be submitted with the title application.

NHTSA's Response to the Petition

NHTSA finds that Maine has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since October 1988, Maine has drafted complying legislation. In addition, Maine has designed a new title document and a secure transfer form. Maine is currently seeking bids to purchase these documents. While the extension is in effect, Maine will require purchasers to submit a conforming odometer disclosure statement with the title that has been transferred to them and the application for title.

In light of Maine's past and planned actions, we grant Maine's request for an extension of time until December 31, 1989, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89–9050 Filed 04–12–89; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 580

[Docket Number 87–09; Notice 4S]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (Montana).

SUMMARY: This is in response to a petition for an extension of time filed by the Montana Department of Justice, Motor Vehicle Division, (Montana). Montana cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Montana an extension of time, until August 1, 1989, to achieve compliance. Because Montana has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Montana's petition for an extension of time. Montana has until August 1, 1989 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Montana's Petition

The Montana Department of Justice, Motor Vehicle Division, (Montana) submitted a petition for an extension of time. In support of its petition, Montana states that the Montana Legislature passed a bill, HB130, that would bring the Montana odometer statutes into compliance with the Truth in Mileage Act. The bill has been sent to the Governor for signature. In addition, Montana states that it has a five-month supply of nonconforming titles on hand and that it is in the process of redesigning it's title. Until the current supply is depleted, Montana states that it will require that a conforming odometer disclosure statement accompany the current title document and the application for title. Because the current inventory of title documents will be depleted in approximately five months, Montana requests that it be granted an extension of time until August 1, 1989.

NHTSA's Response to the Petition

NHTSA finds that Montana has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Montana drafted legislation to amend its odometer statutes to bring them into conformity with the Truth in Mileage Act of 1986. The bill was passed by the Montana Legislature and has already been sent to the Governor for signature. In addition, Montana has been redesigning and reformatting its title document.

In light of Montana's past and planned actions, and in order to allow Montana to expend its current supply of titles documents, we grant Montana's request for an extension of time until August 1, 1989, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89–9051 Filed 4–12–89; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 580

[Docket Number 87–09; Notice 4U]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (Washington).

SUMMARY: This is in response to a petition for an extension of time filed by the Washington Department of Licensing (Washington). Washington

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cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Washington an extension of time, until April 29, 1990, to achieve compliance. Because Washington has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Washington's petition for an extension of time. Washington has until April 29, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Washington's Petition

The Washington Department of Licensing (Washington) submitted a petition for an extension of time. In support of its petition, Washington states that, since the passage of the Truth in Mileage Act, it has been working to achieve compliance with the Federal requirements. Washington declares that it submitted legislation during the 1987 and 1988 legislative sessions. However, because the legislation was not enacted, Washington asserts that new legislation has been drafted and will be submitted during the 1990 session. In addition, Washington notes that it has reviewed its title and determined that it does not comply with the new Federal regulatory requirements. Therefore, Washington states that a new title document is being drafted and should be revised to comply with the Federal requirements by January 1990. Washington also plans to issue secure power of attorney forms, revise its vehicle records data base, and train its license and title agents in the new titling procedures. For these reasons, Washington requests that it be granted an extension of time until April 29, 1990.

NHTSA's Response to the Petition

NHTSA finds that Washington has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since 1987, Washington has attempted to draft and enact complying legislation and will submit legislation during the 1990 legislative session. In addition, Washington has been working to design a new title document and to convert its vehicle records data base to include odometer disclosure information. Washington plans to train its license and title agents in the new titling procedures.

In light of Washington's past and planned actions, we grant Washington's request for an extension of time until April 29, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e)

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89–9053 Filed 4–12–89; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 580

[Docket Number 87–09; Notice 4V]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (Wisconsin).

SUMMARY: This is in response to a petition for an extension of time filed by the Wisconsin Department of Transportation, Division of Motor Vehicles (Wisconsin). Wisconsin cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Wisconsin an extension of time, until October 29, 1990, to achieve compliance. Because Wisconsin has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Wisconsin's petition for an extension of time. Wisconsin has until October 29, 1990, to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Wisconsin's Petition

The Wisconsin Department of Transportation, Division of Motor Vehicles (Wisconsin), submitted a petition for an extension of time. In support of its petition, Wisconsin states that, since the passage of the Truth in Mileage Act, it has been working to achieve compliance with the Federal requirements. Wisconsin declares that it is necessary to amend the Wisconsin laws. It explains that the present legislature is the first to convene since the issuance of NHTSA's August 1988 final rule and that the legislature will consider amendments to the Wisconsin odometer laws in late 1989. In addition, Wisconsin notes that it has reviewed its title and, although the title includes an odometer reading and brand on the face of the title, the title does not comply with the new Federal regulatory requirements. Therefore, Wisconsin states that it will redesign its title and, consistent with the new design, Wisconsin will make data processing changes. For these reasons, Wisconsin requests that it be granted an extension of time until October 29, 1990.

NHTSA's Response to the Petition

NHTSA finds that Wisconsin has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth of Mileage Act and the issuance of the implementing regulation, Wisconsin has reviewed its odometer and related motor vehicle consumer laws. Wisconsin plans to draft new legislation and submit this legislation for consideration by the legislature in late 1989. It will also redesign its title documents and make data processing changes.

In light of Wisconsin's past and planned actions, we grant Wisconsin's request for an extension of time until October 29, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e)

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89–9054 Filed 4–12–89; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 580

[Docket Number 87–09; Notice 4T]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition for extension of time (Vermont).

SUMMARY: This is in response to a petition for an extension of time filed by the Vermont Agency of Transportation, Department of Motor Vehicles, (Vermont). Vermont cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Vermont an extension of time, until July 1, 1990, to achieve compliance. Because Vermont has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Vermont's petition for an extension of time. Vermont has until July 1, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Vermont's Petition

The Vermont Agency of Transportation, Department of Motor Vehicles, (Vermont) submitted a petition for an extension of time. In support of its petition, Vermont states that it is proposing changes to the Vermont statutes. More specifically, an amendment to the titling laws was introduced during the current legislative session. The amendment parallels the Federal statutory and regulatory requirements. In addition, Vermont states that it has reviewed its title documents. Vermont explains that although its titles are set forth by a secure printing process and include a space for the disclosure of odometer information, they do not meet all the new Federal regulatory requirements. The bill of sale forms are not currently printed by a secure process and need to include more disclosure information. Therefore, Vermont is designing a new title and bill of sale forms. Finally, Vermont has a one year supply of the title documents. For these reasons, Vermont requests that it be granted an extension of time until July 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that Vermont has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Vermont has drafted legislation to amend the Vermont statutes. This legislation parallels the Federal statutory and regulatory requirements and was introduced during the current legislative session. Vermont has also reviewed its title documents and determined that additional information must be included on both the title and bill of sale forms. Therefore, Vermont is redesigning the title and bill of sale form to ensure compliance.

In light of Vermont's past and planned actions, and in order to allow Vermont to expend its current supply of titles documents, we grant Vermont's request for an extension of time until July 1, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 11, 1989.

Erika Z. Jones,

Chief Counsel, National Highway Traffic Safety Administration.

[FR Doc. 89–9052 Filed 4–12–89; 1:56 pm]

BILLING CODE 4910–59–M

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Magazine Mountain Shagreen (Mesodon magazinensis)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Magazine Mountain shagreen (*Mesodon magazinensis*) to be a threatened species. The snail is found only on Magazine Mountain in Logan County, Arkansas, in a very restricted area and is vulnerable to any land use changes or management activities that may have an adverse effect on it or its habitat. This determination implements the protections provided by the Endangered Species Act (Act) of 1973, as amended.

EFFECTIVE DATE: May 17, 1989.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jackson, Mississippi, Field Office, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Pulliam at the above address (601/965-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

The Magazine Mountain shagreen (*Mesodon magazinensis*) is a dusky brown, or buff colored, medium-sized snail, approximately 13 millimeters (mm) (0.5 inches) wide and 7 mm (0.3 inches) high. The rough shell surface is covered with half-moon, scale-like processes that can be seen with a hand lens. The outer lip of the aperture has a small triangular shaped tooth, the inner side has a blade-like tooth, and there is a small swelling on the basal lip near the center of the shell (Pilsbry and Ferriss 1906).

The Magazine Mountain shagreen was originally described as a subspecies of *Polygyra edentatus* (Pilsbry and Ferriss 1906). Pilsbry (1940) subsequently placed this snail into the genus *Mesodon* and elevated it to specific status. This species can be separated from *M. infectus*, a similar but widespread species also found on Magazine Mountain, by genitalia differences (Hubricht 1972) and a large maximum diameter of 12.7–14.0 mm (0.50–0.55 inches) for the former and 8.3–13.8 mm (0.33–0.54 inches) for the latter (R.S. Caldwell, Lincoln Memorial University, personal communication).

This snail is known only from rock slides on the north slope of Magazine Mountain in Logan County, Arkansas. A single dead specimen was found on the south slope of Magazine Mountain in 1903 (Pilsbry and Ferriss 1906), but this population has not been verified since that time (Caldwell 1986). Preferred habitat is found on approximately 60 percent slope between 600 meters (2,000 feet) and 790 meters (2,600 feet) elevation. Apparently this species prefers cool moist conditions. Therefore, the species moves deeper into the rock crevasses and becomes inaccessible for collection during the warm dry weather in July and August (Caldwell 1986). Because of its limited range, this snail would be vulnerable to any land use change or activities that would have an adverse effect on these rock slides. The species' entire range is within the Ozark National Forest and is classified as a Special Interest Area. The Mountain is being considered as a candidate for a Research Natural Area.

On April 28, 1976, the Service published a proposed rule (41 FR 17742) to determine 32 species of snails as endangered or threatened, including *Mesodon magazinensis*. The 1978 amendments to the Act required that all proposals over 2 years old be withdrawn if not finalized by November 1979. On December 10, 1979, the Service published a notice (44 FR 70796) withdrawing the proposal of April 28, 1976.

The Magazine Mountain middle-toothed snail (recently changed to Magazine Mountain shagreen) was included as a category 2 species in a notice of review of invertebrate wildlife for listing as endangered or threatened species on May 22, 1984 (49 FR 21664). Category 2 included taxa for which information then in possession of the Service indicated that proposing to list the species was possibly appropriate, but for which available data were not judged sufficient to support a proposed rule. In 1986, Dr. Ronald S. Caldwell completed a status survey on this species under contract to the Arkansas Nongame Species Preservation Program. The U.S. Forest Service, the U.S. Army Corps of Engineers, the Arkansas Game and Fish Commission, the Arkansas Division of State Parks, and the Logan County government are all aware of the rarity of this snail and are supportive of the proposal. There is a local concern for the effect listing the snail would have on the proposed development of a State Park on top of the Mountain. Certainly, the effect on the snail's habitat would have to be considered during any future developments or land use changes.

Summary of Comments and Recommendations

In the July 5, 1988, proposed rule (53 FR 25179) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in the *Southwest Times Record*, Ft. Smith, Arkansas, on July 16, 1988, the *Booneville Democrat*, Booneville, Arkansas, on July 20, 1988, the *Paris Express-Progress*, Paris, Arkansas, on July 21, 1988, and the *Arkansas Gazette*, Little Rock, Arkansas, on July 25, 1988, which invited general public comment. Comments were received from only three parties, the Arkansas Natural Heritage Commission, the Arkansas Nature Conservancy, and the Arkansas Game and Fish Commission, all in support of the proposal. No public hearing was requested and none was held.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Magazine Mountain shagreen should be classified as a threatened species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Magazine Mountain shagreen (*Mesodon magazinensis*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Because of the restricted range of the Magazine Mountain shagreen, it is vulnerable to any land use change or activity that would have an adverse effect on the rock slides where it is found. The Arkansas Department of Parks and Tourism has applied for a Special Use Permit from the Forest Service to develop a State Park on Magazine Mountain. Any construction or recreational activities, such as buildings, roads, pipelines, or trails, could have an adverse effect on the snail if the rock slides on the north slope are disturbed. The U.S. Army would like to use the National Forest in this area for training exercises. If any troop movements, vehicle movements, or artillery operations affected the north slope, they also could have a negative impact on the snail. These activities, as well as forestry and recreational activities, represent potential threats, unless such activities are planned and conducted with the protection of the north slope of Magazine Mountain in mind. The Service has contacted the U.S. Forest Servite, the Arkansas Department of Parks and Tourism, and the U.S. Army regarding protection needs of the Magazine Mountain shagreen.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although it is difficult to collect this species during hot, dry periods, a knowledgeable collector could damage the population during a cool period following a rain. Therefore, collecting should be carefully controlled because of this species' rarity and limited range.

C. *Disease or predation.* There are no known diseases or predators that pose a significant threat to the snail.

D. *The inadequacy of existing regulatory mechanisms.* Other than the Special Interest Area designation by the U.S. Forest Service, there are no regulations in effect that provide protection for this species.

E. *Other natural or manmade factors affecting its continued existence.* The Magazine Mountain shagreen is a very rare snail, being found only on the north slope of Magazine Mountain where it is limited to rockslides at the foot of the cliff. It occurs in small numbers and is dependent on a cool, moist microhabitat.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Magazine Mountain shagreen as threatened. Since the species has a very restricted range, it is vulnerable to collecting and to any adverse habitat modification. Therefore, it seems appropriate to list the snail as threatened, defined as likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range. Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor B in the "Summary of Factors Affecting the Species," uncontrolled collecting could be a problem. Publication of critical habitat descriptions would make this species even more vulnerable and increase enforcement problems. In addition, the entire range is in the Ozark National Forest and the U.S. Forest Service is aware of its presence. Protection of this species' habitat will also be addressed through the recovery process and through the Section 7 jeopardy standard. Therefore it would not be prudent to determine critical habitat for the Magazine Mountain shagreen at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The only Federal activities that may affect this species are any land use changes or activities adversely affecting the habitat, which is exclusively found on U.S. Forest Service land. The U.S. Army is interested in the area for training exercises. However, the north slope could be excluded from this activity.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidentel take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

The Service will review this species to determine whether it should be considered for placement on the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and on the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Caldwell, R.S. 1986. Status of *Mesodon magazinensis* (Pilsbry and Ferriss), the Magazine Mountain Middle-toothed Snail.

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Pilsbry, H.A., and J. Ferriss. 1906. Mollusca of the Ozarkian Fauna. Proc. Acad. Nat. Sci., Philadelphia. 1906:529-567.
Pilsbry, H.A. 1940. Land Mollusca of North America (North of Mexico). Acad. Nat. Sci., Philadelphia, Monog. 3, 1(2):575-994.

Author

The primary author of this proposed rule is Mr. John J. Pulliam III (see **ADDRESSES** Section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411; Pub. L. 100-478, 102 Stat. 2306; Pub. L. 100-653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500 unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "SNAILS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species								
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
SNAILS							
Shagreen, Magazine Mountain.	*Mesodon magazinensis*	U.S.A. (AR)	NA	T	348	NA	NA

Dated: March 16, 1989.

Becky Norton Dunlop,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-3 Filed 4-14-89; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 80

Federal Aid in Sport Fish Restoration and Federal Aid in Wildlife Restoration Act; Interest Earned from License Fees

AGENCY: Fish and Wildlife Service, Interior

ACTION: Final rule.

SUMMARY: On August 5, 1988, the U.S. Fish and Wildlife Service published a proposed rule in the **Federal Register** (53 CFR 29500) proposing that interest earned on revenues derived from license fees paid by hunters and fishermen be considered by the Secretary of the Interior as license fee revenue for purposes of the Federal Aid in Wildlife Restoration (Pittman-Robertson and Federal Aid in Sport Fish Restoration (Dingell-Johnson) Acts. It also clarified situations causing diversions, defined other assets acquired by license fees, and identified sources of license revenues affected by the proposed rule. This action requires States to use interest earned on hunting and fishing license revenues for fish and wildlife resource management as a condition to remain eligible to receive Federal Aid (Pittman-Robertson or Dingell-Johnson) funds.

EFFECTIVE DATE: Provisions of this rule will become effective on May 17, 1989 except that those States that will require legislative action to implement requirements relating to the disposition of interest revenues will be allowed up to three years from this date to get such authorization.

FOR FURTHER INFORMATION CONTACT: Conley Moffett, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (703) 235-1526.

SUPPLEMENTARY INFORMATION: Both the Federal Aid in Wildlife Restoration (16 U.S.C. 669, *et seq.*) and Federal Aid in Sport Fish Restoration (16 U.S.C. 777, *et seq.*) Acts contain provisions requiring that no money may be apportioned to a State unless that State has passed laws assenting to the provisions of the pertinent Act and has passed laws for conservation of wildlife and fish. Such laws must contain a prohibition against diversion of license fees paid by hunters and fishermen for any other purpose than the administration of the State fish and wildlife agency. This rule clarifies previously undefined Department of the Interior rules in accord with the generally-accepted principle that interest should accrue to principal from which it was generated.

The Federal Aid in Wildlife Restoration Act and Federal Aid in Sport Fish Restoration Act require that as a prerequisite to receiving federal funds, States must prevent diversions of license fees derived from fishermen and hunters to any purpose other than "the administration of said State game and fish department." The previous rule promulgated under authority of the Acts (50 CFR 80.4) stated that "[a] diversion of license fees occurs when a State fish and wildlife agency, through legislation or otherwise: (1) Loses control of the expenditure of any portion of its license revenues, or (2) Loses control of capital assets (or income therefrom) derived from license revenues * * *." Because of the increased complexity of State government and the variety of responsibilities assigned to fish and wildlife agencies, the requirements relating to control of assets and expenditures involve an increased number of controls at higher levels in the State. Accordingly, this new rule does not require that fish and wildlife agencies have complete control over license funds, but, instead, that license revenues must be used by State fish and wildlife agencies only to manage fish and wildlife resources that they have authority by the State law to manage.

The Department has determined that this rule is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, the preparation of an Environmental Impact Statement is not required.

This rule is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). The annual effect on the economy will be less than the threshold required for a major rule, no major increase in costs or prices will occur, and no significant effects on competition, employment, investment, productivity, innovation are expected. This rule does not contain any recordkeeping or information collection requirements requiring Office of Management and Budget approval under the Paperwork Reduction Act of 1980.

This rule was published as a proposed rule on August 5, 1988 (53 CFR 29500) and comments were invited until September 19, 1988. A total of 44 comments were received; 16 from State fish and wildlife agencies, 19 from State conservation organizations, 6 from National conservation organizations, and 1 from a private citizen. Of the 44 comments, 3 States expressed opposition to the portion that related to the requirement that interest earned on license revenues be regarded as license revenues. No negative comments were received from the other groups.

The 3 States expressed concern that claiming money derived from interest would jeopardize their existing appropriations from the general fund or that they would be assessed higher costs for State overhead than they are presently foregoing and that the rule would require the cost of additional accounting. We recognized that the rules could have negative impacts on several States but judged that significantly greater numbers of States would benefit from it. Income from interest had become a significant source of revenue for most agencies. The Wildlife Conservation Fund of America survey of 1987 shows that the number of States receiving interest from license revenues has increased from 18 to 36 in the 7 year period from the prior survey to the last one in 1986. The total interest was about 22 million dollars in 1986.

Many commentors asked for clarification of the effective date. The effective date of this revision is 30 days after publication in the **Federal Register**. However, it is recognized that some States may need to enact legislation to meet the requirements of this provision. Therefore, for those States a period not to exceed 3 years after the effective date of the rule will be allowed in order to enact the needed legislation. All other States will need to be in compliance, and remain in compliance, on or after the effective date. The 3 year period was generally accepted by most commentors.

Most of the State conservation organizations suggested that income derived from license revenue funded law enforcement activities such as fines, penalties, and sales of confiscated equipment be defined as license revenues for purposes of this rule. This suggestion was not adopted because it was judged that the Secretary was not given this authority by legislation.

Commentors also suggested that fees charged on recreation areas that are managed by the State using license revenues such as camping, boat launching, and parking be included in the term "access fees" in section (a)(1). The final rule had been changed to "access and recreation fees" to clarify this intent.

Some commentors suggested that the proceeds of leases of lands be treated as license revenues like the sale of lands. That suggestion was incorporated in section (a)(2).

The principal author of this proposal is Thomas W. Taylor, Division of Federal Aid, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 80

Fish grant program, Natural Resources, Grant administration, and wildlife.

Accordingly, 50 CFR 80 is amended as follows:

PART 80—[AMENDED]

1. Authority for 50 CFR 80 continues to read as follows:

Authority: Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777i) and Federal Aid in Wildlife Restoration Act (16 U.S.C. 669i).

2. Part 80 is amended by revising § 80.4 to read as follows:

§ 80.4 Diversion of license fees.

Revenues from license fees paid by hunters and fishermen shall not be diverted to purposes other than administration of the State fish and wildlife agency.

(a) Revenues from license fees paid by hunters and fishermen are any revenues the State receives from the sale of licenses issued by the State conveying to a person the privilege to pursue or take wildlife or fish. For the purpose of this rule, revenue with respect to license sales by vendors, is considered to be the net income to the State after deducting reasonable vendor fees or similar amounts retained by sales agents. License revenues include income from:

(1) General or special licenses, permits, stamps, tags, access and recreation fees or other charges imposed by the State to hunt or fish for sport or recreation.

(2) Sale, lease, rental, or other granting of rights of real or personal property acquired or produced with license revenues. Real property includes, but is not limited to, lands, building, minerals, energy resources, timber, grazing, and animal products. Personal property includes, but is not limited to, equipment, vehicles, machine, tools, and annual crops.

(3) Interest, dividends, or other income earned on license revenues.

(4) Federal Aid project reimbursements to the States to the extent that license revenues originally funded the project for which the reimbursement is being made.

(b) For purposes of this rule, administration of the State fish and wildlife agency include only those functions required to manage the fish and wildlife-oriented resources of the State for which the agency has authority under State law.

(c) A diversion of license fee revenues occurs when any portion of license revenues is used for any purpose other than the administration of the State fish and wildlife agency.

(d) If a diversion of license revenues occurs, the State becomes ineligible to participate under the pertinent Act from the date the diversion is declared by the Director until:

(1) Adequate legislative prohibitions are in place to prevent diversion of license revenue, and

(2) All license revenues or assets acquired with license revenues are restored, or an amount equal to license revenue diverted or current market value of assets diverted (whichever is greater) is returned and properly available for use for the administration of the State fish and wildlife agency.

(e) Federal funds obligated for projects approved prior to the date a diversion is declared remain available for expenditure on such projects without regard to the intervening period of the State's ineligibility.

Date: February 17, 1989.

Becky Norton Dunlop,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-9089 Filed 4-14-89; 8:45 am]

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Proposed Rules

Federal Register
Vol. 54, No. 72
Monday, April 17, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27 and 28

[CN-89-001]

Revisions of User Fees for Cotton Classification, Testing and Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to increase the user fees charged to cotton producers for classification services under the Cotton Statistics and Estimates Act in accordance with the forumla provided in the Uniform Cotton Classing Fees Act of 1987. The 1989 user fee for this classification service would be $1.23 per bale.

Fees charged for cotton classification services under the U.S. Cotton Standards Act would also be increased. Fees charged for the purchase of American Upland, American Pima and linters grade and staple standards would also be increased. The proposed higher fees for these classification and testing services and for standards and calibration cottons are necessary to recover, as nearly as practicable, the increased costs of providing such services including administrative and supervisory costs.

DATE: Comments must be received by May 15, 1989.

ADDRESS: Comments and inquiries should be addressed to Garry L. Lewicki, Cotton Division, AMS, USDA, Room 2641-S, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Garry L. Lewicki, (202) 447-2145.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be "non-major" since it does meet the criteria for a major regulatory action as stated in the order.

The Administrator, Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (1) The proposed fee increases merely reflect a minimal increase in the cost-per-unit currently borne by those entities utilizing the services; (2) the cost increase will not affect competition in the marketplace; (3) the use of classification and testing services and the purchase of standards is voluntary.

The information collection requirements contained in this final rule have been previously approved by the Office of Management and Budget and assigned OMB control numbers under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

It is anticipated that the proposed changes, if adopted, would be made effective July 1, 1989.

Fees for the Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for manual classification services under the Smith-Doxey amendment to the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was $1.03 during the 1988 harvest season (53 FR 20089) as determined using the formula provided in the Uniform Cotton Classing Fees Act of 1987. The charges cover salaries, cost of equipment and supplies, and other overhead and include administrative and supervisory costs. This proposed rule would increase user fee for manual classification charged to producers from $1.03 per bale to $1.23 per bale. This new fee was calculated by using the 1988 base fee adjusted for the rate of inflation, the projected size of the crop and the addition of a surcharge necessary to maintain an adequate operating reserve. The 1988 base fee is $1.15 per bale. A 4.1 percent, or five cents per bale, increase due to the Implicit Price Deflator of the Gross National Product would be added to the $1.15 resulting in a 1989 base fee of $1.20 per bale. The 1989 crop is currently estimated at 12,700,000 running bales. The base fee would be decreased two percent based on the estimated size of the crop (one percent for every 100,000 bales or portion thereof above the base of 12,500,000 bales). This percentage factor would amount to a two cents per bale reduction and would be subtracted from the base fee of $1.20 per bale resulting in a fee of $1.18 per bale. There would be a surcharge of five cents added to the $1.18 per bale fee since the projected operating reserve is less than 25 percent. The projected operating reserve is 18 percent. This would establish the 1989 season fee at $1.23 per bale. No further adjustments would be warranted under the formula.

Therefore, the fee for this service in § 28.909 during the 1989 harvest season would be $1.23 per bale. The additional fee for High Volume Instrument (HVI) classification would remain 50 cents per bale and the fee for HVI classification during the 1989 harvest season would be revised to $1.73 per bale. As provided for in the Uniform Cotton Classing Fees Act of 1987, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents.

The fee for a manual review classification in § 28.911 would also be increased from $1.03 to $1.23 per bale since the fee for review classification is the same as the original classification fee. For the same reason the fee for HVI review classification would be increased from $1.53 to $1.73 per bale.

Fees for Cotton Standards

Practical forms of the cotton standards are prepared and sold by the Cotton Division offices in Memphis, Tennessee, under the authority of the United States Cotton Standards Act (7 U.S.C. 51 *et seq.*). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) directs that the price for standards will cover, as nearly as practicable, the costs of providing the standards.

This proposal would increase the fees listed in §§ 28.123 and 28.151 for practical forms of the cotton standards, including both grade and staple standards for American Upland cotton, American Pima cotton and for cotton linters. The fees need to be adjusted due to increased costs for salaries and preparation, delivery, and postage of the standards. Current and estimated demand for the standards has also been factored into the fee revision since per unit costs are directly related to volume.

The fees for American Upland cotton grade standards would be increased from $100.00 to $110.00 f.o.b. Memphis, Tennessee, or overseas air freight collect. The price would be increased from $104.00 to $114.00 for domestic surface delivery and from $140.00 to $150.00 for overseas air parcel post delivered. The fees for American Upland staple standards f.o.b. Memphis and overseas airfreight collect would increase from $14.00 to $16.00. The domestic surface delivered fee would increase from $16.00 to $18.00 and the overseas air parcel post delivered fee would increase from $28.00 to $30.00. The fees for American Pima grade standards would increase from $126.00 to $140.00 f.o.b. Memphis or overseas air freight collect. The price would increase from $130.00 to $144.00 for domestic surface delivered and from $166.00 to $180.00 for overseas air parcel post delivered. Fees for American Pima staple standards would increase from $15.00 to $17.00 for f.o.b. Memphis and overseas air freight collect. The domestic surface delivered fee would increase from $17.00 to $19.00 and the overseas air parcel post delivered fee would increase from $29.00 to $31.00. The fees for linters grade strandards would be increased from $100.00 to $110.00 f.o.b. Memphis or overseas air freight collect. The price for domestic surface delivery would increase from $104.00 to $114.00 and the price for overseas air parcel post delivery would increase from $140.00 to $150.00. The f.o.b. Memphis or overseas air freight collect fees for linters staple standards would increase from $16.00 to $18.00. The delivered price would increase from $18.00 to $20.00 for domestic and from $30.00 to $32.00 for overseas air parcel post.

Fees for Classification Services Under the United States Cotton Standards Act

Certain other cotton classification services are conducted under the United States Cotton Standards Act. Fees for these services have been reviewed. In order to recover increased costs, including supervision and overhead, it is proposed that the fees for classification of cotton or samples in § 28.116 be increased: for grade, staple and micronaire readings from $1.30 per sample to $1.45; for grade and staple only from $1.15 per sample to $1.25; and for grade only or staple only from $.90 to $1.00.

The fee in § 28.117 for each new memorandum or certificate issued in substitution for a prior one would increase from $4.00 per sheet to $4.50. The additional hourly fee charged for Form C determinations in §§ 28.120 and 28.149 would increase from $18.00 per hour or each portion thereof to $20.00 per hour, or each portion thereof, plus traveling expenses and subsistence or per diem. The fee in § 28.122 for a complete practical classing examination for cotton or cotton linters would increase from $125.00 to $135.00 and the fee for reexamination for a failed part, either grade or staple, would increase from $75.00 to $80.00. Fees for the classification, comparison, or review of linters in § 28.148 would increase from $1.20 to $1.30 per bale or sample involved. In § 28.148, the fee for classification or comparison of cotton linters and the issuance of a memorandum would increase from $1.20 to $1.30 per sample.

The United States Cotton Futures Act (7 U.S.C. 15b) authorizes the Secretary to make such regulations as are necessary to carry out the provisions of that Act. Pursuant to that authority, Part 27 of the regulations (7 CFR Part 27) provides for cotton classification under the Cotton Futures Act including fees to recover the costs of classification and micronaire. Under this proposal, the fees charged for the services would be increased to cover the costs of providing such services, including overhead costs.

These fees have been reviewed and it is proposed that the fees in § 27.80 for initial classification be increased from $1.20 per bale to $1.30 per bale; for review classification to be increased from $1.40 per bale to $1.50 per bale. All supervision fees would be increased by 20 cents. Pursuant to § 27.85, fees for withdrawal of requests or applications for review, after such services have been started, are the same as the fees in § 27.80 for services completed, so such charges would be affected by this proposal. Fees for certificates which appear in § 27.81 would increase from 60 cents to 65 cents per certificate.

Testing Services

Cotton testing services are provided by USDA Laboratory in Clemson, South Carolina under the authority of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471-478). The tests are available, upon request, to private sources on a fee basis. The Cotton Service Testing Amendment (7 U.S.C. 473d) specifies that the fees for the services be reasonable and cover as nearly as practicable the costs of rendering the services. The cost of providing these services has increased since the last fee increase in 1987 due to higher costs for salaries and miscellaneous overhead costs including supplies and materials. Therefore, the fees for cotton testing services would be increased to recover, as nearly as practicable, the cost of these services.

The fees for fiber and processing tests in § 28.956, except items 1.0, 5.0, 7.0, 7.1, 8.0, 8.1, 9.0, 15.0, 18.0, and 19.0 will be increased.

The proposed fees are as follows:

Item No.	Current Fee	Proposed
1.0a	84.00	84.00
b	88.00	88.00
c	84.00	84.00
d	124.00	124.00
2.0a	15.00	17.00
b	16.00	18.00
c	15.00	17.00
d	25.00	27.00
2.1a	23.00	25.00
b	25.00	27.00
c	23.00	25.00
d	37.00	39.00
3.0	95.00	105.00
3.1	15.00	17.00
4.0	25.00	30.00
4.1	12.00	15.00
5.0	1.60	1.60
6.0	1.08	1.10
7.0	8.50	8.50
7.1	5.50	5.50
8.0	8.75	8.75
8.1	5.50	5.50
9.0a	8.75	8.75
b	6.50	6.50
c	5.50	5.50
10.0	0.55	0.65
10.1	0.30	0.35
11.0	10.00	12.00
Minimum	50.00	60.00
12.0	6.00	6.50
13.0a	65.00	70.00
b	103.00	108.00
c	125.00	130.00
13.1a	48.00	52.00
b	70.00	74.00
c	97.00	101.00
13.2	117.00	122.00
14.0a	22.00	24.00
b	27.00	29.00
c	32.00	34.00
15.0a	7.50	7.50
b	13.00	13.00
16.0	14.00	15.00
17.00	4.50	5.00
Minimum	22.50	25.00
18.0	25.00	25.00
19.0	80.00	80.00
20.0	105.00	110.00
20.1	80.00	85.00
21.0	95.00	100.00
22.0	140.00	145.00
23.0	200.00	210.00
24.0	220.00	230.00
25.0	29.00	31.00
25.1	40.00	42.00
26.0a	75.00	80.00
b	22.00	23.00
27.0	11.00	12.00
28.0	4.50	5.00
28.1	6.50	7.50
29.0	17.00	18.00
29.1	29.00	31.00
30.0	12.00	14.00
Minimum	36.00	42.00
31.0	2.50	3.00
32.0	3.00	3.50
33.0	1.10	1.25
33.1	12.00	15.00

It has been determined that a 15 day comment period is appropriate for interested persons to comment on this proposed regulatory revision because all

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user fee increases in the revision are required by the Acts governing the services, and the new user fee charged to producers for the classification of cotton must be announced by June 1, 1989, as provided in the Uniform Cotton Classing Fees Act of 1987. The new user fee charged to cotton producers was calculated in accordance with the Uniform Cotton Classing Fees Act of 1987 and includes the maximum 1 percent decrease for every 100,000 bales of the crop estimate over the 12,500,000 base level cited in the Act. Other user fee increases in the revision reflect fees needed to recover the costs of providing these services as are required in the Acts governing these services.

List of Subjects

7 CFR Part 27

Cotton, Classification, Samples, Micronaire, Spot markets.

7 CFR Part 28

Cotton samples, Standards, Cotton linters, Grades, Staples, Market news, Testing.

For the reasons set forth in the preamble, the following amendments to 7 CFR Parts 27 and 28 are proposed to be amended as follows:

PART 27—[AMENDED]

1. The authority citation for Part 27 continues to read as follows:

Authority: 90 Stat. 1841–1846; 7 U.S.C. 15b.

2. Sections 27.80 and 27.81 would be revised to read as follows:

§ 27.80 Fees; classification, micronaire, and supervision.

For services rendered by the Cotton Division pursuant to this subpart, whether the cotton involved in tenderable or not, person requesting the services shall pay fees as follows:

(a) Initial classification and ceretification—$1.30 per bale.

(b) Review classification and certification—$1.50 per bale.

(c) Micronaire determination and certification—30 cents per bale.

(d) Combination service—$2.80 per bale. (Initial classification, review classification, and Micronaire determination covered by the same request and only the review classification and Micronaire determination results certified on cotton class cerificates.)

(e) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of a cotton when any two or more of these operations are performed together—$1.55 per bale.

(f) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any one of these operations is performed individually—$1.55 per bale.

(g) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different delivery point, including issuance of new cotton class certificates in substitution for prior certificates—$2.65 per bale.

(h) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different warehouse at the same delivery point, including issuance of new cotton class certificates in substitution for prior certificates—$1.90 per bale.

§ 27.81 Fees; certificates.

For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for the purpose of business convenience, or when made necessary by the transfer of cotton under the supervision of any exchange inspection agency as provided in § 27.73, the person making the request shall pay a fee of 65 cents for each certificate issued.

PART 28—[AMENDED]

3. The authority citation for Subpart A of Part 28 continues to read as follows:

Authority: Sec. 5, 50 Stat. 62, as amended (7 U.S.C. 55); Sec. 10, 42 Stat. 1519 (7 U.S.C. 61).

4. Section 28.116 would be amended by revising paragraph (a) to read as follows:

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the sevices shall pay a fee, as follows, subject to the additional fee provided by paragraph (c) of this section.

(1) Grade, staple, and micronaire reading—$1.45 per sample.

(2) Grade, staple only—$1.25 per sample.

(3) Grade only or staple only—$1.00 per sam le.

* * * * *

5. Sections 28.117, 28.120, and 28.122 would be revised to read as follows:

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder, thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convencience, the person requesting such substitution shall pay a fee of $4.50 per sheet.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A or Form D determination, the expenses of inspection and sampling, the preparation of the samples and delivery of such samples to the classification room or other place specifically designated for the purpose by the Director shall be borne by the party requesting classification. For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $20.00 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.122 Fee for practical classing examination.

The fee for the complete practical classing examination for cotton or cotton linters shall be $135.00. Any applicant who passes both parts of the examination may be issued a certificate indicating this accomplishment. Any person who passes one part of the examination, either grade or staple, and fails to pass the other part, may be reexamined for that part that was failed The fee for this practical reexamination is $80.00.

6. Section 28.123 would be revised to read as follows:

§ 28.123 Cost of practical forms of cotton standards.

The costs of practical forms of the cotton standards of the United States shall be as follows:

Effective date: July 1, 1989	Dollars each box or roll			
	Domestic shipments		Shipments delivered outside the continental United States	
	F.O.B. Memphis, Tenn.	Surface delivery	Air freight collect	Air parcel post delivered
Grade standards:				
American Upland	$110.00	$114.00	$110.00	$150.00
American Pima	140.00	144.00	140.00	180.00
Standards for length of staple:				
American Upland (prepared in one 1-pound rolls for each length)	16.00	18.00	16.00	30.00
American Pima (prepared in 1-pound rolls for each length)	17.00	19.00	17.00	31.00

7. Sections 28.148 and 28.149 would be revised to read as follows:

§ 28.148 Fees and costs; classification; review; other.

The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these qualities shall be at the rate of $1.30 for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable apply to services performed with respect to linters.

§ 28.149 Fees and costs; Form C determination.

For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition a fee of $20.00 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of each request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

8. Section 28.151 would be revised to read as follows:

§ 28.151 Cost of practical forms for linters, period effective.

Practical forms of the official cotton linters standards of the United States will be furnished to any person subject to the applicable terms and conditions specified in § 28.105; *Provided,* that no practical form of any of the official cotton linters standards of the United States for grade shall be considered as representing any such standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12 months following the date of its certification. The cost of the practical forms of cotton linters standards of the United States shall be as follows:

Effective date: July 1, 1989	Dollars each box or roll			
	Domestic shipments		Shipments delivered outside the continental United States	
	F.O.B. Memphis, Tenn.	Surface delivery	Air freight collect	Air parcel post delivered
Linters grade standards: (6 sample box for each grade	$110.00	$114.00	$110.00	$150.00
Linters staple standards: (prepared in 1-one pound rolls for each length)	18.00	20.00	18.00	32.00

9. The authority citation of Subpart B of Part 28 continues to read as follows:

Authority: Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1624).

10. Section 28.184 would be revised to read as follows:

§ 28.184 Cotton Linters; general.

Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Cotton Division. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be $1.30 per sample.

11. The authority citation for Subpart D of Part 28 continues to read as follows:

Authority: Sec. 3a, 50 Stat. 62, as amended (7 U.S.C. 473a); Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c); unless otherwise noted.

12. Paragraph (b) of § 28.909 would be revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of manual cotton classification service to producers is $1.23 per sample.

* * * * *

13. Paragraph (b) of § 28.910 would be amended by revising it to read as follows:

§ 28.910 Classification of samples and issuance of classification data.

* * * * *

(b) Upon request of an owner of cotton for which classification memoranda have been issued under this subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be $4.50 per sheer.

14. Section 28.911 would be amended by revising it to read as follows:

§ 28.911 Review classification.

A producer may request one manual or one High Volume Instrument (HVI) review classification for each bale of eligible cotton. The fee for manual review classification is $1.23 per sample. The fee for HVI review classification is $1.73 per sample. Samples for review classification must be drawn by gins or

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warehouses licensed pursuant to § 28.20–28.22, or by employees of the United States Department of Agriculture. Each sample for reveiw classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification, the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds from the sale of samples that become Government property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 30 cents per sample in addition to the fee established above in this section.

15. The authority citation for Subpart E of Part 28 continues to read as follows:

Authority: Sec. 3c, 50 Stat. 62; 7 U.S.C. 473c; Sec. 3d, 55 Stat. 131 (7 U.S.C. 473d).

16. Section 28.956 would be amended by revising it to read as follows:

§ 28.956 Prescribed fees.

Fees for fiber and processing tests shall be assessed as listed below:

Item No.	Kind of test	Fee per test
1.0	Calibration cotton for use with High Volume instruments, per 5 pound package:	
	a. f.o.b. Memphis, Tennessee	$84.00
	b. By surface delivery within continental United States	88.00
	c. By air freight collect outside continental United States	84.00
	d. By air parcel post delivery outside continental United States	124.00
2.0	Furnishing international calibration cotton standards with standard values for micronaire reading and fiber strength at zero and ⅛-inch gage and Fibrograph length:	
	a. f.o.b. Memphis Tennessee, ½-lb. sample	17.00
	b. By surface delivery within continental United States, ½-lb. sample	18.00
	c. By air freight collect outside continental United States, ½-lb. sample	17.00
	d. By air parcel post delivery outside continental United States, ½-lb. sample	27.00
2.1	Furnishing international calibration cotton standards with standards values for micronaire reading only:	
	a. f.o.b. Memphis Tennessee, 1-lb. sample	25.00
	b. Surface delivery within continental United States, 1-lb. sample	27.00
	c. By air freight collect outside continental United States, 1-lb. sample	25.00
	d. By air parcel post delivery outside continental United States, 1-lb. sample	39.00
3.0	Furnishing color standards, including a set of standard tiles and a master diagram for use in calibrating Nickerson-Hunter Cotton Colorimeters, per set.	105.00
3.1	Furnishing replacement calibration tiles for above sets, each tile.	17.00
4.0	Furnishing a Colorimeter calibration sample box containing 6 cotton samples with color values Rd and +b plotted on a color diagram based on the Nickerson-Hunter Cotton Colorimeter, per box.	30.00
4.1	Furnishing new Colorimeter readings on samples in calibration boxes returned for check readings, per 6-sample box.	15.00
5.0	High Volume Instrument (HVI) measurement. Readings micronaire, length, length uniformity, ⅛-inch gage strength, color and trash content. Based on a 6 oz. (170 g) sample, per sample.	1.60
6.0	Color of ginned cotton lint. Reporting data on the reflectance and yellowness in terms of Rd and b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5×6-½ inches and weigh appropriately 50 grams, per sample.	1.10
7.0	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 4 specimens from a blended sample, per sample.	8.50
7.1	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 2 specimens from each unblended sample.	5.50
8.0	Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gage as specified by applicant. Reporting the average strength as based on 6 specimens from a blended sample, per sample.	8.75
8.1	Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gage as specified by applicant. Reporting the strength as based on 2 specimens for each unblended sample, per sample.	5.50
9.0	Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gage. Reporting the average strength and elongation:	
	a. Based on 6 specimens from each blended sample, per sample	6.75
	b. Based on 4 specimens from each blended sample, per sample	6.50
	c. Based on 2 specimens from each blended sample, per sample	5.50
10.0	Micronaire readings on ginned lint. Reporting the micronaire based on 2 specimen per sample.	.65
10.1	Micronaire reading based on 1 specimen per sample.	.35
11.0	Fiber maturity and fineness of ginned cotton lint by the Causticaire method. Reporting the average maturity, fineness, and micronaire reading as based on 2 specimens from a blended sample, per sample.	12.00
	Minimum fee	60.00
12.0	Fiber fineness and maturity of ginned cotton lint by the IIC-Shirley Fineness/Maturity Tester method, reporting the average micronaire, maturity ratio, percent mature fibers and fineness (linear density) based on 2 specimens from a blended sample, per sample.	6.50
13.0	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ½-inch group, average length and average length variability as based on 3 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	70.00
	b. Cotton comber noils, per sample	106.00
	c. Other cotton wastes, per sample	130.00
13.1	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ½-inch group, average length, and average length variability as based on 2 specimens from a blended sample	
	a. Ginned cotton lint, per sample	52.00
	b. Cotton comber noils, per sample	74.00
	c. Other cotton wastes, per sample	101.00
13.2	Fiber Length array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers by weight in each ½-inch group, average length and average length variability as based on 3 specimens from a blended sample, per sample	122.00

Item No.	Kind of test	Fee per test
14.0	Fiber Length and Length Distribution of cotton samples by the Almeter method. Reporting the upper 25 percent length, mean length, coefficient of variation, and short fiber percentages by weight, number of tuft in each ½-inch group, as based on 2 specimens from a blended sample	
	a. Report percentages of fiber by weight only	24.00
	b. Report percentages of fiber by weight and number or tuft	29.00
	c. Report percentages of fiber by weight, number and tuft	34.00
15.0	Foreign matter content of cotton samples. Reporting data on the non-lint content as based on the Shirley Analyzer separation of lint and foreign matter:	
	a. For samples of ginned lint or comber noils, per 100-gram specimen	7.50
	b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen	13.00
16.0	Neps content of ginned cotton lint. Reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender, per sample.	15.00
17.0	Sugar content of cotton. Reporting the percent sugar content as based on a quantitative analysis of reducing substances (sugars) on cotton fibers, per sample.	5.00
	Minimum fee	25.00
18.0	Miniature carded cotton spinning test. Reporting data on tenacity (centinewtons per tex) of 22's yarn and HVI data (see Item 5.0). Based on the processing of 50 grams of cotton in accordance with special procedures per sample.	25.00
19.0	Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn neps and the classification and the fiber length of the cotton as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into two standard carded yarn numbers employing a standard twist multiplier, per sample.	80.00
20.0	Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps and classification, and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6-½, 9-½, or 12-½ pounds-per-hour into two of the standard carded yarn number of 8s, 14s, 22s, 36s, 44s, or 50s, employing a standard twist multiplier unless otherwise specified, per sample.	110.00
20.1	Cotton carded yarn spinning test (open-end) for short staple (31/32nd inches and shorter) cottons. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at a carding rate of 12-½ pounds-per-hour into 8's using a silver weight of 60 grains per yard; a rotor speed of 45,000 RPM; and opening roll speed of 7,200 RPM; a twist multiple of 4.5; and rotor diameter of 46 millimeters.	85.00
21.0	Spinning potential tests. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yarn number. This test requires an additional 4 pounds of cotton, per sample.	100.00
22.0	Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 8 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4-½, 6-½, or 9-½ pounds-per-hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified, per sample.	145.00
23.0	Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 10 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns, per sample.	210.00
24.0	Cotton carded and combed yarns spinning test. Reporting the results as based on the processing of 9 pound of cotton into two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample.	230.00
25.0	Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn.	31.00
25.1	Processing and furnishing of additional yarn: Any yarn number processed in connection with spinning tests. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn.	42.00
26.0	Twist in yarns by direct-counting method. Reporting direction of twist and average turns per inch of yarn:	
	a. Single yarns based on 40 specimens, per lot of yarn	80.00
	b. Plied or cabled yarns based on 10 specimens, per lot of yarn	23.00
27.0	Skein strength of yarn. Reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant, per sample.	12.00
28.0	Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin.	5.00
28.1	Furnishing yarn would on boards in connection with yarn appearance tests.	7.50
29.0	Strength of cotton fabric. Reporting the average warp and filling strength by the grab method as based on 5 breaks for both warp and filling of fabric furnished by the applicant, per sample.	18.00
29.1	Cotton fabric analysis. Reporting data on the number of warp and filling threads per inch and weight per yard of fabric as based on at least three (3) 6×6-inch specimens of fabric which were processed or furnished by the applicant, per sample.	31.00

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Item No.	Kind of test	Fee per test
30.0	Chemical finishing test on finished drawing silver. The Ahiba Texomat Dyer is used for scouring, bleaching and dyeing of a 3-gram sample. Color measurements are made on the unfinished, bleached and dyed cotton samples, using a Hunterlab Colorimeter, Model 25 M-3. The color values are reported in terms of reflectance (Rd), yellowness (+b) and blueness (−b).	14.00
	Minimum fee	42.00
31.0	Furnishing copies of test data worksheets. Includes individual observations and calculations which are not routinely furnished to the applicant, per sheet.	3.00
32.0	Furnishing identified cotton samples. Includes samples of ginned lint stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample.	3.50
33.0	Furnishing additional copies of test reports. Include extra copies in addition to the 2 copies routinely furnished in connection with each test item, per additional sheet.	1.25
33.1	Furnishing a certified relisting of test results. Includes samples or sub-samples selected from any previous tests, per sheet.	15.00
34.0	Classification of ginned cotton lint is available in connection with other fiber tests, under the provisions of 7 CFR 28, § 28.56, at the fees prescribed by 7 CFR 28, § 28.116. Classification includes grade, staple, and micronaire reading based on a 6 oz. (170 g) sample.	

Dated: April 12, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 9148 Filed 4–14–89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 33

[Docket No. FV-89-009]

Regulations Issued Under the Export Apple and Pear Act; Proposed Increase in Exemptions for Pears Being Shipped to Certain Foreign Destinations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would exempt from the current minimum U.S. No. 2 grade and container marking requirements those export shipments of pears in less than carload lots shipped to all Western Hemisphere countries touching or lying south of the Tropic of Cancer. This would include all countries in Central America, South America, and the Caribbean but not Bermuda or the Bahama Islands. The proposed rule would also redefine the term "less than carload lot" to mean a quantity of pears in packages not exceeding 50,000 pounds gross weight or 1,000 standard boxes or equivalent. These proposed changes reflect the industry's desire to expand the markets for pears and to increase their fresh utilization.

DATE: Comments must be received by May 17, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection in the office of the Docket Clerk during regular business hours. All comments should reference the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Virginia Olson, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2531–S, Washington, DC 20090–6456; telephone: (202) 475–3930.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under authority of the Export Apple and Pear Act (7 U.S.C. 581–590), as amended, applicable to shipments of apples and pears to any foreign destination. This rule would amend "Regulations Issued Under Authority of the Export Apple and Pear Act" (7 CFR Part 33).

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. There are approximately 100 pear handlers in Oregon, Washington and California subject to regulations issued under authority of the Export Apple and Pear Act, and approximately 1,800 pear producers in the Oregon, Washington and California area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

Exemptions from the export regulations are specified in § 33.12—*Apples and pears not subject to regulation.* Currently, quantities of apples or pears not exceeding a total of 5,000 pounds gross weight or 100 boxes of apples or pears packed in standard boxes on a single conveyance may be shipped exempt from regulations to any country. Also exempt are shipments of pears to Venezuela and Mexico in less than carload lots are exceeding one such lot to any one consignee or receiver on a single conveyance. "Less than carload lot" is defined in § 33.8 as packages not exceeding 20,000 pounds gross weight or 400 standard boxes or equivalent. Apples and pears shipped in larger quantiites are subject to quality and container marking requirements and must be inspected by the Federal or Federal-State Inspection Service. Section 33.10 requires that apples grade at least U.S. No. 1 grade and pears grade U.S. No. 2 grade with specified exceptions. Also, packages of apples and pears for export must be marked as to the source of the fruit, varietal name, U.S. or state grade designation, and count of fruit in the package.

The Oregon-Washington-California Pear Bureau, which represents a substantial portion of the Northwest pear industry, unanimously recommended to change the definition of "less than carload lot", and to exempt from regulation shipments of pears in less that carload lots to any country in the Western Hemisphere which touches or lies south of the Tropic of Cancer, i.e., any country in Central America, South America, or the Caribbean, except Bermuda and the Bahama Islands.

The Northwest pear industry reports that during certain growing seasons pears may be affected by limb rub or frost damage. While these pears do not meet the minimum U.S. No. 2 grade requirements, they are otherwise acceptable to consumers. Pears from the Northwest which fail to meet U.S. No. 2 due to such factors as limb rub or frost damage are marketed domestically. The Northwest pear industry believes that increasing the minimum quantity

exemption and extending the exemption to additional export outlets could expand markets for these pears and increase the fresh utilization of the crop. Pears which are not shipped for fresh consumption to domestic or foreign markets are disposed of in processing outlets, such as juice. Processing outlets are normally not as remunerative as fresh use outlets.

Based on information furnished by the Winter Pear Control Committee, which administers the Federal Winter Pear Marketing Order, during the 1986–87 shipping season, 9,056,641 boxes of winter pears were produced in the Northwest. Of these, 1,183,626 boxes or 13 percent were exported. Of those exported, it is estimated that about eight percent (100,175 boxes) were shipped to South America, four percent (50,913 boxes) were shipped to Mexico, two percent (24,915 boxes) were shipped to the Caribbean, and one percent (9,790 boxes) were shipped to Central America. Exports to these countries represents approximately fifteen percent of the total exported from the U.S. or two percent of the total pears produced in the Northwest.

The industry has recommended redefining "less than carload lot" to enable exporters to ship substantially full loads of pears to foreign destinations. Under current limitations, many conveyances are travelling to destinations partially full. Under this proposal, "less than carload lot" for pears would be redefined to mean a quantity of pears in packages not exceeding 50,000 pounds gross weight or 1,000 standard boxes or equivalent. This is an increase from the current definition (not exceeding 20,000 pounds gross weight or 400 standard boxes or equivalent). Regulations applicable to exports of apples would not be changed.

The Oregon-Washington-California Pear Bureau and other industry groups conduct periodic meetings and consider recommendations for modification, suspension, or termination of the regulatory requirements under the Export Apple and Pear Act. These meetings are open to the public, and interested persons are given an opportunity to express their views at these meetings. The Department reviews recommendations and information submitted by these and other industry groups as well as other available information and determines whether such modification, suspension, or termination of the regulatory requirements would tend to effectuate the purposes of the Act.

Therefore, the Department's view is that the impact of this proposed action would be beneficial to producers and handlers because it would enable exporters to provide pears consistent with buyer preferences.

Based on the above, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 33

Export Apple and Pear Act, Apples and Pears.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 33 be amended as follows:

PART 33—REGULATIONS ISSUED UNDER AUTHORITY OF THE EXPORT APPLE AND PEAR ACT

1. The authority citation for 7 CFR Part 33 continues to read as follows:

Authority: Sec. 7, 48 Stat. 124; 7 U.S.C. 584 and 587.

2. Section 33.8 is revised to read as follows:

§ 33.8 Less than carload lot.

"Less than carload lot" means a quantity of apples is packages not exceeding 20,000 pounds gross weight or 400 standard boxes or equivalent, or a quantity of pears in packages not exceeding 50,000 pounds gross weight or 1,000 standard boxes or equivalent.

3. Section 33.12 is amended by revising paragraph (a) to read as follows:

§ 33.12 Apples and pears not subject to regulations.

* * * * *

(a) A quantity of apples or pears to any foreign country not exceeding a total of 5,000 pounds gross weight or 100 boxes of apples or pears packed in standard boxes on a single conveyance: *Provided*, That pears may be shipped to Western Hemisphere countries touching or lying south of the Tropic of Cancer in less than carload lots not exceeding one such lot to any one consignee or receiver on a single conveyance.

* * * * *

Dated: April 12, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–9131 Filed 4–14–89; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

[Docket No. 89–042]

7 CFR Part 301

Varroa Mite Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: In response to comments, we are withdrawing a proposal that would have established Varroa mite regulations. The proposed regulations would have guarantined states known or believed to be infested with Varroa mites, and would have restricted the interstate movement of regulated articles from the quarantined areas. The action we proposed was intended to retard, without absolutely preventing, the interstate spread of Varroa mites.

FOR FURTHER INFORMATION CONTACT: Doug Ladner, Senior Staff Officer, Plant Protection Management Systems, Policy and Program Development, APHIS, USDA, Room 812, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8716.

SUPPLEMENTARY INFORMATION: On April 11, 1988, we published in the **Federal Register** an interim rule that, effective April 6, 1988, added Varroa mite (Varroa) regulations (7 CFR 301.92 *et seq.*) to the "Domestic Quarantine Notices" in Title 7 of the Code of Federal Regulations (53 FR 11825–11830, Docket No. 87–140). Within a month we found it necessary to rescind those regulations, which we did in an interim rule effective May 6, 1988 and published in the **Federal Register** on May 10, 1988 (53 FR 16536–16538, Docket No. 88–082). As we explained at that time and in our affirmation of that interim rule on September 14, 1988 (53 FR 35425–35426, Docket No. 88–129), the Varroa regulations proved unworkable.

We considered the suggestions submitted by persons invited to comment on our several actions and, on November 8, 1988, we followed up with a notice in the **Federal Register** (53 FR 45134–43135). In that notice we announced our intent to establish a Varroa Mite Negotiated Rulemaking Advisory Committee. To quote from the document:

The comments we have received on the subject of Varroa mite regulations suggest that, while the Animal and Plant Health Inspection Service (APHIS) should again establish a federal regulatory program, we are unlikely to draft a rule that all interested parties would find acceptable. Accordingly, many commenters urged us to work with

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representatives of these divergent interests, convinced that consensus on Varroa mite regulations is attainable. This encourages us to believe that negotiated rulemaking can, in this case, succeed.

Committee membership was to be determined by the ability of each participant to represent interests compatible, if not identical, with his/her own. We invited public comment on potential participants. The duly formed Varroa Mite Negotiated Rulemaking Advisory Committee (the Committee) included representatives of beekeeping organizations, migratory beekeepers, grower groups, related industry groups, state agencies, and the federal government.

The Committee met in two public sessions: November 30 through December 2, 1988, and January 5 through January 6, 1989 (meeting notices were published in the **Federal Register** November 10, 1988, 53 FR 45484, Docket No. 88-165, and December 19, 1988, 53 FR 50972, Docket No. 88-200, respectively). Accepting the consensus-based recommendations of the Committee, we published a proposed rule in the **Federal Register** of March 16, 1989 (54 FR 10992-11001, Docket No. 89-002). The proposal provided a 15-day period, ending March 31, 1989, in which the public could comment.

Sixty-seven comments reached us in time to be considered in our review. More than half objected to Varroa regulations. Other comments reflected ambivalence or were too ambiguous to count as supportive. Comments supporting the proposed regulations did so with reservations, skeptical about compliance and enforcement, or with provisos.

Having received no unqualified votes of confidence, we analyzed the provisos, caveats, concerns, and suggestions. Our decision against proceeding with the proposed regulations derives from that analysis.

Commenters expressed concern that overtreatment with Apistan will develop fluvalinate-resistant Varroa. Most researchers consider two treatments per year an acceptable limit. Our proposal would have allowed states to monitor and require retreatment at 45-day intervals if the Varroa infestation reached the proposed threshold.

Many commenters objected to the proposed treatment-triggering threshold. Whether they thought the threshold was too high or too low depended on whether the commenters' interest was pragmatic or regulatory.

Commenters also feared misapplication of chemicals under present conditions, when Apistan, the only Environmental Protection Agency-approved treatment, competes with other, unauthorized chemicals which, while illegal in this country, have been reported effective elsewhere. Commenters concerned about the possibility of residues in honey asked whether the United States Department of Agriculture would compensate producers with honey confiscated for impurity because of USDA-mandated treatment. Further, commenters representative of all interested parties expressed concern about the efficacy of the treatment. Commenters' doubts about the chemical were compounded by questions about compliance and enforcement.

Many states objected in their comments to the pest risk associated with the proposed sanctioned interstate movement of hives treated with Apistan, a treatment less than 100-percent effective.

We lack data with which to refute the objections to the pest risk, efficacy of the treatment, treatment-triggering threshold, and the possible effects of repeated treatments, which could delay movement, contaminate honey, and accelerate development of Apistan-resistant Varroa mites. We therefore find plausible the contention (expressed in many comments) that what we proposed could do more harm than good.

It seems unlikely, given the data now available, that any federal action could result in workable regulations that would win widespread support. Accordingly, we defer to the efforts of research, state government, and the beekeeping community itself. In publishing this document, we withdraw the Varroa regulations proposed on March 16, 1989.

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff; 161, 162, 164-167, and 2260; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 13th day of April 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-9263 Filed 4-14-89; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 918

[Docket No. AO-162-A6; AMS-FV-88-039]

Peaches Grown in Georgia; Recommended Decision on Proposed Amendment of Marketing Agreement and Order No. 918

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and opportunity to file exceptions.

SUMMARY: This recommended decision invites written exceptions on proposed further amendment of the Marketing Agreement and Marketing Order No. 918, covering Georgia peaches. The amendment proposals would: (1) Limit the terms of office of Industry Committee members to six consecutive one-year terms; (2) change committee voting procedures on size regulation recommendations by requiring at least one affirmative member vote from each of the three growing districts; (3) authorize container and pack regulations and container marking regulations; (4) add authority for positive lot identification procedures for inspected peaches; (5) authorize production research and marketing research and development projects; (6) require a referendum at least every six years to determine if growers are in favor of continuing the marketing order; (7) add provisions protecting the confidentiality of information provided by handlers; (8) add provisions specifying that the Secretary and the committee may verify the correctness of reports filed by handlers and compliance with recordkeeping requirements; and (9) make any necessary conforming changes. The amendment proposals are designed to improve the administration, operations, and functioning of the marketing order.

DATE: Written exceptions must be filed by May 17, 1989.

ADDRESS: Written exceptions should be filed with the Hearing Clerk, United States Department of Agriculture, Room 1079, South Building, Washington, DC 20250. Four copies of all written exceptions should be submitted, and they shall be made available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: G.J. Kelhart, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3919, or John R. Toth, Officer-In-Charge, Southeast Marketing Field Office, Florida Citrus Building, 500 Third Street, NW., P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: (813) 299-4770. Copies of this decision may be obtained from either of the above named individuals.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of hearing issued April 6, 1988, and published in the **Federal Register** on April 11, 1988 (53 FR 11867).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291 and Departmental Regulation 1512-1.

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed further amendment of Marketing Agreement and Marketing Order No. 918, as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia, hereinafter referred to collectively as the order.

This notice of filing of the recommended decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900).

This proposed amendment of the order is based on the record of a public hearing held in Byron, Georgia, on April 28, 1988. All but three of the amendment proposals considered at the hearing were submitted by the Industry Committee (committee) established under the order. The United States Department of Agriculture (Department) proposed the addition of provisions protecting the confidentiality of information provided by handlers and specifying that the Secretary and the committee may verify the correctness of reports filed by handlers and compliance with recordkeeping requirements. In addition, the Department proposed that it be authorized to make any necessary conforming changes.

Small Business Considerations

In accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000. Small agricultural service firms, which include shippers under this marketing agreement and order, are defined as those firms with gross annual receipts of less than $3,500,000.

The purpose of the FRA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Interested persons were invited in the notice of hearing to present evidence at the hearing on the probable regulatory and informational impact of the proposed changes on small businesses. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both the RFA and the Act are compatible with respect to small entities.

During the 1987 season, approximately 30 handlers of Georgia peaches were subject to regulation under the order. In addition, there are approximately 265 peach producers in Georgia. The majority of these handlers and producers may be classified as small entities.

The proposed amendment of § 918.26 to limit the terms of office of commitee members of six consecutive one-year terms would facilitate a regular rotation in committee membership and broaden industry participation in committee decision making. This would strengthen the program without adversely impacting small entities.

Revising § 918.30(a) to alter the committee voting procedures to require at least one affirmative vote from each of the three producer representation districts for any recommendation on size regulations would ensure that there was support for such recommendations in each district. The proposal should benefit small entities in all representation districts.

The proposal to add a new § 918.61a would authorize the committee, with the approval of the Secretary, to establish container, pack, and container-marking regulations in order to facilitate the efficient marketing of Georgia peaches and benefit producers and handlers. Such authority could reduce container and other marketing costs which would benefit small entities. Any savings would be directly proportional to the quantity of peaches handled. The impact of any particular proposed container, pack, and container-marking regulations would, of course, be considered at the time that such proposal would be made.

The proposed change amending § 918.64, would authorize the committee, with the approval of the Secretary, to establish positive lot identification procedures for peaches inspected under the order and would facilitate the committee's compliance effort by providing it with a reliable means of tying the inspection certificates it receives to the lots covered by the certificates. This could benefit both producers and handlers because the minimum quality and size requirements established under the order are important to the industry in fostering consumer satisfaction and increasing the demand for Georgia peaches. Hence, any advantages resulting from these procedures would be expected to outweigh any additional costs incurred by growers and handlers for positive lot identification. The additional costs would be proportional to the quantity of peaches handled. The impact of any particular proposal pertaining to positive lot identification would be considered at the time it is made.

The proposed addition of § 918.72 would authorize the committee, with the approval of the Secretary, to establish or provide for the establishment of production research and market research and development projects in order to facilitate research on many of its production and marketing problems. Such projects would benefit producers and handlers and would not adversely impact small entities. Any costs associated with this provision would be outweighed by the benefits of such projects.

The proposed amendment to § 918.81 would require a continuance referendum at least every six years which would provide producers a more frequent opportunity of periodically voting on whether the order should be continued. Such referenda would not adversely affect small entities.

The proposed amendment to § 918.76 containing provisions which would require confidential information provided by handlers to be protected from disclosure would improve operation of the order and would not adversely affect small entities.

The addition of § 918.77 authorizing the Secretary and the committee to verify the correctness of reports filed by handlers and to check handler compliance with recordkeeping requirements also would improve operation of the order and would not adversely affect small entities.

All of the proposed changes set forth in this document are designed to enhance the administration, operation, and functioning of the order. The proposed amendments to the order would not have a significant impact on the recordkeeping and reporting burdens of the Georgia peach industry. Moreover, the proposed changes would not appreciably change the reporting and recordkeeping requirements under the Paperwork Reduction Act of 1980 (44

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U.S.C. Chapter 35), which have been previously approved by the Office of Management and Budget (OMB) under OMB No. 0581–0135. The action includes proposed amendments that would require information to be retained by handlers for at least two years. The evidence of record indicates that handlers generally maintain such information in the normal course of business for periods longer than two years. The information collection requirements contained in this proposal action will be submitted to OMB for approval. The requirements will not become effective prior to OMB approval.

Material Issues

The material issues of record addressed in this decision are:

(1) Whether to limit the terms of office of committee members to six consecutive years;

(2) Whether to change committee voting procedures on size regulation recommendations by requiring one affirmative member vote from each of the three growing districts;

(3) Whether to authorize container and pack regulations and container marking regulations;

(4) Whether to add authority for positive lot identification procedures for inspected peaches;

(5) Whether to authorize production research and marketing research and development projects;

(6) Whether to require a referendum at least every six years to determine if growers are in favor of continuing the order;

(7) Whether to add provisions to protect the confidentiality of information provided by handlers;

(8) Whether to add provisions allowing the Secretary and the committee to verify the correctness of reports filed by handlers and ascertain handler compliance with recordkeeping requirements; and

(9) Whether conforming changes should be made.

Findings and Conclusions

The findings and conclusions on the material issues, all of which are based on evidence adduced at the hearing and the record thereof, are:

(1) Section 918.26 should be amended by adding a proviso to limit the tenure of committee members to six consecutive one-year terms. Currently, members and alternates may serve an indefinite number of one-year terms.

The evidence of record indicates that the limitation on tenure would improve committee representation by bringing additional persons with different view points and experiences into active roles in the administration of the program. This would be beneficial to the committee's operations; moreover, such a limitation would encourage and foster to the maximum extent possible broad-based participation by all members of the industry in the administration of the order.

The provisions limiting each member's tenure to six consecutive one-year terms of office should apply starting with the term of office beginning March 1, 1989. The provisions would not apply to the number of consecutive terms alternate members may serve. Moreover, any person after having served six consecutive terms as member shall be immediately eligible to serve as an alternate member but shall not be eligible to serve again as a member until the term of office which begins one year later.

Consideration was given as to whether there would be enough qualified candidates in each district committee service in view of the planned rotation. The record evidence indicates that there are approximately 265 peach growers. Moreover, peach production is widely dispersed among the three districts. Therefore, there should be enough qualified candidates to serve on the committee in each district. Also, inasmuch as there is only one public member position on the committee, there should be enough qualified candidates from the entire State of Georgia to fill such position. However, to guard against the possibility of a position remaining vacant because of a lack of eligible nominees or eligible persons willing to serve, the Secretary should have the authority to exempt an individual from the tenure limitation. Such an exception would be made only in special and unusual circumstances.

Limiting the tenure of committee members as proposed would be in accordance with the Secretary's "Guidelines for Fruit, Vegetable, and Speciality Crop Marketing Orders."

(2) Section 918.15 provides for the establishment of a committee, consisting of nine members and alternate members to administer the order locally. This section also specifies that eight members and alternates shall be growers of peaches and that one member and alternate shall be individuals who are neither growers nor handlers of peaches. As specified in § 918.16, the members of the committee are apportioned among three grower districts referred to as the South Georgia District, the Central Georgia District, and the North Georgia District. Of the eight grower positions on the committee, the Central Georgia District is apportioned four positions and the other two districts are apportioned two positions each. The current committee procedural requirements in § 918.30 for the conduct of business require a quorum of five, and five concurring votes for the adoption of recommendations. These procedures should be changed by requiring at least one affirmative committee member vote from each district for any recommendations on size regulations to be valid.

Over the past several years, there have been differences of opinion among the growers from the South Georgia District and the growers from the Central and North Districts on the level of the minimum size (diameter) requirements needed to successfully market fresh Georgia peaches. The growers from the southern district tend to produce a higher percentage of small peaches in the 1⅝ to 1¾ inch in diameter range than the growers in the other two districts. In 1986, a total of 3,992.25 bushels of size 1⅝ inch or smaller peaches were shipped to regulated markets from all three districts. A total of 3,014.25 (or 75 percent) of those shipments originated from the South Georgia District. Hence, any increase in minimum size requirements could affect South Georgia growers more than the growers from the central and northern parts of the state.

Recommendations to increase and to decrease the size requirements have been made by the committee and implemented by the Department several times since the late 1970's. Currently, any peaches shipped to regulated markets cannot be smaller than 1¾ inches in diameter (lot and container tolerances are prescribed allowing for some smaller peaches to be shipped).

To protect themselves from possible size increases thought necessary by the growers from the Central and North Georgia Districts, the South Georgia growers in 1984 submitted a formal request to the Department to amend the order. The requested proposed that the South Georgia District be excluded from the production area, or in the alternative, that grade and size recommendations applicable to South Georgia growers be made by growers in that district under a separate order. In light of this request and numerous failed attempts to resolve this issue at the committee level, the Department decided to hold a referendum in the fall of 1986 to determine whether Georgia peach growers as a whole favored continuance of the order. Of the growers voting, 76 percent favored continuance and they represented 89 percent of the peaches produced by those voting.

Subsequent to the announcement of the results of that referendum, the committee held further discussions and unanimously agreed to request the Department to amend the order to prescribe a permanent 1¾ inch size regulation. However, after further considering the inflexibility of its recommendation, the committee met again and on January 18, 1988, unanimously agreed to withdraw its proposal and in its place recommended that the order be amended to require that any future size regulation recommendation receive at least one concurring vote from each of the three districts and continue to require at least five concurring votes for any size recommendation to pass.

One of the factors considered in the evaluation of this proposal, insofar as it would enable any one district to defeat any motion by the other two districts to change size regulations, was whether it would adversely impact the long-term interest of growers. The Secretary's "Guidelines for Fruit, Vegetable and Specialty Crop Marketing Orders" recognize that quality requirements and size regulations can lead to long term market expansion. Those guidelines also emphasize the importance of establishing quality and size requirements which are flexible enough to maximize the marketing of all fruit suitable for consumption in fresh form. The testimony indicated that this proposal would provide such flexibility inasmuch as it would assure the growers of each district a decisive role in the committee's recommendations concerning size regulations. This recognizes that peaches grown in the three districts are of different varieties and have different characteristics, and that it is important to have a clear consensus of opinion within the industry to assure success in achieving program objectives.

Therefore, the committee's size regulation recommendations should be subjected to a more rigorous test of industry agreement. To accomplish this, the last sentence of § 918.30 should be revised to specify that for any recommendation of the Industry Committee to be valid, not less than five affirmative votes shall be necessary: *Provided*, That any decision on minimum size regulations also shall require at least one concurring vote from each district.

(3) A new § 918.61(a) should be added providing that whenever the Industry Committee deems it advisable to establish a container regulation for any variety or varieties of peaches, it shall recommend to the Secretary the size, capacity, weight, markings, or pack of the container, or containers which may be used in the handling of these peaches. It also should be provided that if the Secretary finds upon the basis of such recommendation or other information available that such container regulation would tend to effectuate the declared policy of the Act, the Secretary shall establish such regulations. Notice of the effective dates of any container regulation shall be sent by the Industry Committee to all handlers of record before the effective date of the regulation so they can plan accordingly.

The evidence of record indicates that there are 30 commercial packinghouses in Georgia that ship peaches in interstate commerce. These packinghouses pack their peaches in 25 different packages of one-half bushel and three-quarter bushel capacities manufactured by six corrugated box companies. Many of the containers differ in construction and dimensions, but not capacity. Testimony indicated that the practice of packing peaches in such an array of containers of differing types, shapes, strengths, and dimensions has significantly increased packaging costs. With container uniformity, proponents believe that the cost of containers could be reduced through economies of scale; carton manufacturers can produce large lots of a few types of containers less expensively than they can produce small quantities of many styles and types of containers.

The evidence of record also indicates that many of the containers used are not providing adequate protection to minimize physical injury during transit and marketing. Moreover, peaches from different packinghouses are often commingled and because the containers are not of comparable size they are difficult to load in a stable configuration. Movement during transit has resulted in physical injury to the peaches. Container standardization would allow commingled loads to be packed more tightly, thus reducing injury to the peaches, and in-transit losses. Through the use of container regulations the committee could foster the use of containers and packages offering the most protection during transit and which are more efficient in maintaining fruit quality.

The proponents indicated that any container limitations would be recommended only after thorough study and research and that handlers should be allowed to utilize their existing inventories to avoid wastage and higher packaging costs.

Some Georgia peach shippers pack volume fill, tray packs, and bulk bin containers utilizing a size system referred to in the industry as the "everything and up" pack. Under this system, containers of "one and three quarters and up" hold peaches varying in size from one and three-quarters to three inches in diameter, the maximum diameter usually reached by peaches grown in Georgia. This lack of uniformity in the size of the peaches from container to container has caused misunderstandings in the marketplace between the shippers and buyers. The proponents indicated that the confusion between the buyers and shippers has hindered sales of Georgia peaches.

The proponents contend that these misunderstandings can be avoided when a packing system, with moderate separation between the lower and higher sizes (diameters), is used. Some shippers in the industry have begun to pack sizes ranging between one and three-quarters to two inches, two inches to two and one-half inches, and two and one-half to three inches in diameter. The proponents indicated that these packs have fostered better communications and improved relationships with their buyers because there is less variability between the peaches in the containers and less chance of misunderstandings. Because of this, the proponents believe that the use of these packs on an industry-wide basis could lead to increased buyer satisfaction and increased sales. Therefore, authority allowing the committee, with the approval of the Secretary, to establish different pack and container specifications for different size and quality peaches shipped into regulated markets would be beneficial to the Georgia peach industry.

The evidence of record further indicates that authority to require accurate and uniform marking of the containers in which Georgia peaches are shipped would help interested persons more readily identify the shipments and the buyers in storing and retrieving the peaches at destination. These advantages can foster buyer satisfaction.

The record indicates that experience has shown that containers which are clearly marked and identified move through the marketing and distribution system more efficiently. This is especially important in handling a perishable commodity like peaches with a limited shelf life. Peaches can be kept in reasonably good condition after harvest for up to 14 days if handled properly and kept in cold storage. Ideally they should arrive at the

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marketplace in four to five days. The use of incorrect marking as to variety, size and other factors have unduly delayed Georgia peach shipments.

Also, clear markings will enable the Industry Committee to more easily determine whether the peaches have been inspected and certified as required under the order and other identifying information such as the name of the shipper.

Any marking requirements could require the containers to be clearly marked and identified with the variety of the peaches; net weight, count, and/or volume; name and address of the packer or shipper; origin of the peaches; size and grade if applicable; and any other information on quality and pack of fruit as may be required under the order.

In connection with this recommended change, a minor conforming change in the first sentence of § 918.63 is necessary. The provisions of that sentence reference §§ 918.60 and 918.61. These references should be changed to §§ 918.60 through 918.61a in order to include the proposed section on container regulations.

(4) The evidence of record indicates that most peach packinghouses (i.e., handlers) in Georgia pack more than their own production. As a consequence, the trucks, trailers or other modes of transportation conveying the shipments to their final destination normally contain lots from several growers and/or packers at the same time which have been inspected and certified as meeting the minimum grade, quality, size and maturity requirements established under the order.

Section 918.64 requires handlers to cause each shipment of peaches to regulated markets to be inspected by the Federal Inspection Service or the Federal-State Inspection Service or any other designated inspection service. The handlers also are required to promptly provide the Industry Committee a copy of each inspection certificate issued. These procedures enable the committee to determine how many packages of a given brand or mark have been certified on a day-to-day basis. Currently, however, without positive lot identification procedures, the committee lacks the ability to determine precisely if any given lot has been inspected. This limitation is especially troublesome on those loads made up of lots from different growers and handlers.

Under the lot inspection and certification system currently employed under the order a licensed inspector selects samples and performs the inspection in accordance with established procedures and practices, and issues an official certification on the inspected product. Shipper brands and the name of the packers/shippers or growers usually are used on the certificate for the purpose of identifying the inspected lots. This type of inspection and certification has been used to determine that the lots or brands have been inspected as required under the order. However, because the identification marks appearing on the certificates are not necessarily unique to inspected cartons of fruit shipped, the committee's compliance checks are more difficult because a particular load or lot cannot be positively identified as having been inspected. Any handler who has a certificate covering a given number of cartons of a particular brand or mark could pack additional fruit in similarly marked cartons and could represent these cartons as the ones covered by the certificate.

Positive lot identification procedures provide an efficient and effective means of positively linking a load or lot in a truck or other mode of transportation to a specific inspection certificate. Under such procedures, the inspection service, in addition to sampling, inspecting and certifying the product, also becomes directly involved in identifying the product so that it can easily be tied to a specific certificate. The fruit must be packed and the required identification must be affixed to the cartons or the conveyance under the observation and supervision of the inspector.

It is the proponents' view that such procedures would make it more difficult for handlers to bypass the inspection and certification requirements established under the order and make the committee's compliance activities somewhat easier because loads or lots could be correlated to specific certificates. Georgia peaches destined to regulated markets tend to be made up of commingled lots from various growers and handlers. Providing the committee with the ability to tie specific certificates to particular lots of varying quality and size could help the committee more easily ascertain compliance of individual lots with the quality and size requirements implemented under the order and make it more difficult for handlers to circumvent order requirements. The quality and size requirements implemented under the order are important to the industry in fostering consumer satisfaction and increasing the demand for Georgia peaches.

Implementation of such procedures would increase handler inspection costs. However, the magnitude of the increase is diffiucit to quantify because it depends on the type of positive lot procedures implemented. The committee should thoroughly assess program benefits and costs before recommending positive lot identification procedures.

Therefore, § 918.64 should be amended by adding paragraph (b) providing that the Industry Committee may establish, with the approval of the Secretary, positive lot identification requirements for lots of peaches inspected and certified pursuant to this section. Whenever implemented, such requirements should at least specify that upon inspection, all peaches shall be identified by tags, stamps, marks, or other means of identification recognized by the inspection service, that such identification shall be affixed to the container by the handler under the supervision of an inspector, and that such identification shall not be altered or removed except as directed by an inspector. The language in proposed § 918.64(b) has been changed from that which appeared in the notice of hearing. This change is for clarity and would reference the inspection services that appear in paragraph (a) of the proposed section. For the purposes of inspection and positive lot identification procedures, lot means the aggregate quantity of peaches of the same variety, in like containers with like identification offered for inspection as a shipping unit.

In the notice of hearing, the provisions proposed in § 918.64 would have authorized the Industry Committee to prescribe the means of identification, allowed the identification to be affixed to the containers under the supervision of the Industry Committee, and allowed the identification to be altered or removed under the direction of the Industry Committee. However, in implementing positive lot identification procedures, these activities are best performed by the Federal or Federal-State Inspection Service. Accordingly, the recommended provisions of paragraph (b) would require all of these activities to be performed by the Federal or Federal-State Inspection Service.

No evidence was presented at the hearing concerning other safeguards which might be needed to properly and positively identify peach shipments and prevent shipments of uninspected peaches. Hence, when the Industry Committee has considered the details of handling, storing, and shipping peaches under positive lot identification requirements, these procedures should be established through the informal rulemaking process. The proponents did indicate that such procedures and safeguards should be designed to assure that the lots of inspected peaches shipped and delivered were the same peaches described on the inspection certificate covering the lot and that the Industry Committee would work closely with the Federal or Federal-State Inspection Service in developing the procedures necessary to accomplish these goals.

(5) Section 918.72 should be added to permit the Industry Committee, with the approval of the Secretary, to establish, or provide for the establishment of projects involving production research, and marketing research and development designed to assist, improve or promote the marketing, distribution and consumption of peaches and the efficient production of peaches. The expenses of such projects would be paid from funds collected pursuant to § 918.41, or from any other sources approved by the Secretary.

Under the authority contained in proposed § 918.72 the Industry Committee could undertake or contract for such projects or support ongoing projects to find solutions to its production and marketing problems which will be beneficial to the peach industry in Georgia. It is not expected that the funds likely to become available from assessements will be sufficient to conduct large research and development projects directly, because the financial resources of the Georgia peach industry are limited. However, the authorization would permit the committee to cooperate more effectively in projects conducted by Federal or State agencies, educational institutions, and private research organizations through contracts or other appropriate means. The authorization would also allow the Industry Committee to use other sources of income approved by the Secretary to fund needed production research and market research and development projects.

Hearing testimony was presented noting that public funds are becoming increasingly difficult to obtain. The delay in research on split pits and pit fragments was given as an example of the difficulties experienced in obtaining research funds. The proponents emphasized that this authority would allow the committee to provide researchers with needed funds to establish or continue industry-related research projects.

Under the proposed authority the Industry Committee could range for the conduct of production research in the areas of insect and disease control, tree and crop research, and fumigant, insecticide, fertilizer, and herbicide application. The proponents indicated that research in these areas could help the industry improve its yield per acre, improve the quality of the peaches produced, and reduce production costs. Research in the areas of market research and market development could help the industry market its peaches and reduce its marketing costs. More specifically, research could be used by the industry to study the effects of its minimum quality regulations in fostering increased peach sales. Research could also be conducted on containers to determine which containers perform the best in the marketing chain. Market development research could involve efforts to identify new markets for peaches. Researchers could survey peach buyers at chain stores and terminal markets and consumers of peaches in an effort to better understand the quality attributes that consumers desire in peaches. It is not intended that Industry Committee efforts under this provision would be limited to the activities mentioned above, but that it have broad discretion, with the approval of the Secretary, in determining the types of research and development efforts which it believes will be beneficial to the Georgia peach industry as a whole.

Inasmuch as there is a need for greater effort and participation of the indusry in the solution of its common problems, and because the authority to conduct such research activities can be expected to contribute to the more efficient production and marketing of Georgia peaches, it is concluded that this provision should be addd to the order.

(6) Section 918.81 should be amended by redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) to require that referenda on continuance of the order be held a minimum of every six years after the effective date of the amendment. Currently, the order does not provide for the conduct of periodic continuance referenda, but does provide that the Secretary shall conduct a continuance referendum when recommended by the committee, or upon the request of six or more growers who produced 10 percent or more of the inspected peaches shipped during the then current fiscal period as long as such request is received prior to December 1.

The Secretary of Agriculture has determined that continuance referenda are an effective means for ascertaining whether producers favor continuation of marketing order programs. Currently, the order and the Act provide that the Secretary shall terminate the marketing order program whenever, through the conduct of a referendum, it is indicated that a majority of all producers favor termination and such majority produced more than 50 percent of the commodity for market during a representative period. Since less than 50 percent of all producers usually participate in a referendum, it is difficult to determine producer support for an order. Thus, to provide a basis for determining whether producers favor continuance of the order, § 918.81 should be amended to provide for continuance referenda. The results of continuance referenda should be based upon the same percentage of support required in section 8c(8) of the Act with respect to producer approval of the issuance of a marketing order. This requirement is considered adequate to measure producer support to continue the marketing order. The Secretary would consider termination of the order if less than two-thirds of the producers voting in the referendum and producers of less then two-thirds of the volume of fruit represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the Secretary would not only consider the results of the referendum but also would consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to producers, handlers,and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act. In this regard, in the event of an adverse vote by producers in a continuance referendum, the Secretary may solicit input from the public through meetings, press releases, or other means.

In any event, section 8c(16)(B) of the Act requires the Secretary to terminate the order whenever the Secretary finds that the majority of all producers favor termination, and that such majority produced more than 50 percent of the commodity for market. To be effective, termination of the order, resulting from any referendum, should be announced on or before the last day of the then current fiscal period. The fiscal period for this program ends the last day of February. This date precedes the beginning of the committee's operation for a new fiscal period and is considered to be an appropriate time to terminate the operations of the order.

The Secretary's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" provide for periodic referenda to allow producers the opportunity to indicate their support for or rejection of a marketing order. The Department believes that periodic referenda ensure that marketing order programs continue to be accountable to their producers, obligate producers to evaluate their programs periodically, and involve them more closely in their

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operation. The record evidence supports these goals.

Therefore, the order should be amended providing that the Secretary shall conduct a referendum among growers a minimum of every six years after the effective date of this amended subpart to ascertain whether continuance of this part is favored by growers. However, when a continuance referendum is conducted pursuant to paragraph (c) of this section, this referendum shall be conducted six years after the referendum conducted pursuant to paragraph (c). The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by producers who, during a representative period, determined by the Secretary, have been engaged in the production for market of the fruit in the production area, except that termination of this part shall be effective only if announced on or before the last day of the then current fiscal period.

(7) A new § 918.76 as proposed by the Department should be added to specify that confidential information provided by them would be protected from disclosure. To effect this change, § 918.76 should specify that all data or other information constituting a trade secret or disclosing a trade position or business condition shall be received by, and kept in the custody of, one or more designated employees of the committee, and information which would reveal the circumstances of a single handler shall be disclosed to no person other than the Secretary, except as required by law.

Although the provisions would appear in the order for the first time, the requirements are not new. The Act under which the order is issued already requires that such information be kept confidential and the statutory requirements have been implemented through the supervision of the Industry Committee (and similar committees for other marketing order commodities) by the Department.

Section 918.76 would specify the procedures which will be followed to keep certain information submitted to the committee by handlers confidential. These provisions would specify that designated employees of the committee would have the responsibility for safeguarding the confidentiality of all data and information submitted by handlers to the committee, which constitutes a trade secret or discloses a trade position or business condition of an individual handler. All such information submitted would be received by and kept in the custody of one or more designated employees of the committee.

Information submitted by handlers would remain confidential and would be disclosed to no person other than the Secretary or persons authorized by the Secretary to review such information unless disclosure is otherwise required by law. This is necessary to prevent the disclosure of information that may affect the financial position or business operations of individual handlers. Under certain circumstances, the release of composite information compiled from data and information submitted by handlers has been helpful to the Industry Committee and the industry in planning operations under the marketing order and this will be continued. However, as in the past, such composite information would not disclose the identities of the individual handlers or their separate business operations.

(8) A new § 918.77 should be added, as proposed by the Fruit and Vegetable Division, AMS, to expressly state in the order language the right of the Secretary, and confer such right on the committee, to verify the correctness of reports filed by handlers and to check handler compliance with recordkeeping requirements.

This proposal would merely specify in the order the investigative authority already provided by the Act. Section 918.77 would specify that the Secretary and the committee, through its duly authorized employees, would have access to any premises where handlers' peaches are held and, at any time during normal business hours, would be permitted to examine any such peaches and any and all records with respect to matters within the purview of this marketing order. Handlers would be responsible for furnishing labor as may be necessary to facilitate such examinations. The Secretary and duly authorized committee employees would have the authority to examine and audit records of all handlers to determine compliance with provisions of this marketing order. The committee would report the results of such examinations and audits to the Secretary.

So that the committee would be able to perform investigations effectively and to verify compliance under this marketing order, each handler would be required to maintain complete record which accurately show such handler's acquisition and disposition of peaches each season, including the quantity of peaches held, sold, and shipped. Such information is generally maintained by handlers in the normal course of business and would not impose additional costs and reporting burdens on the handlers.

Further, should it be found necessary, the committee, with the approval of the Secretary, would have the authority to issue regulations which would establish the type of records which must be maintained. Handlers would be required to keep the records for at least two years following the end of each fiscal period. A two-year period should afford the committee's employees adequate time for examining and reviewing such records in the event of alleged program violations by handlers. This requirement should not impose an undue burden on handlers, since such records are likely retained for a similar or longer period under normal business practices.

(9) The Department proposed in the notice of hearing that it be authorized to make any necessary changes in the order language to make the entire order conform with any amendments resulting from this proceeding. This proposal was supported at the hearing without opposition. Such conforming changes as necessary and stated herein have been incorporated in this recommended decision.

Rulings on Briefs of Interested Persons

At the conclusion of the hearing, the Administrative Law Judge fixed June 17, 1988, as the final date for interested persons to file proposed findings and conclusions and written arguments or briefs, based on the evidence received at the hearing. None were filed.

General Findings

Upon the basis of the record, it is found that: (1) The findings hereinafter set forth are supplementary to, and in addition to, the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act:

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of fresh peaches grown in the production area in the same manner as, and are applicable only to, persons in the respective classes

of commercial and industrial activity specified in the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(5) The marketing agreement and order, as amended and as hereby proposed to be further amended, prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of fresh peaches grown in the production area; and

(6) All handling of fresh peaches grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

List of Subjects in 7 CFR Part 918

Marketing agreements and orders, Georgia, Peaches.

Recommended Further Amendment of the Marketing Agreement and Order

The following amendment of the marketing agreement and order, both as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

PART 918—PEACHES GROWN IN GEORGIA

1. The authority citation for 7 CFR Part 918 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 918.26 is amended by adding a proviso to read as follows:

§ 918.26 Term of office.

* * * *Provided*, That no member shall serve more than six full consecutive terms starting with the term beginning March 1, 1989.

3. The last sentence of § 918.30(a) is revised to read as follows:

§ 918.30 Procedure.

(a) * * * For any recommendation of the Industry Committee to be valid, not less than five (5) affirmative votes shall be necessary: *Provided*, That any recommendation on minimum size regulations also shall require at least one (1) concurring vote from each district.

* * * * *

4. A new § 918.61a is added to read as follows:

§ 918.61a Container regulation.

Whenever the Industry Committee deems it advisable to establish a container regulation for any variety or varieties of peaches, it shall recommend to the Secretary the size, capacity, weight, marking, or pack of the container, or containers, which may be used in the handling of these peaches. If the Secretary finds upon the basis of such recommendation or other information available that such container regulation would tend to effectuate the declared policy of the Act the Secretary shall establish such regulation. Notice thereof shall be sent by the Industry Committee to all handlers of record.

§ 918.63 [Amended]

5. Section 918.63 is amended by changing the words "pursuant to §§ 918.60 and 918.61," in the first sentence to "pursuant to §§ 918.60 through 918.61a."

6. Section 918.64 is amended by designating the current provisions as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 918.64 Inspection.

(a) * * *

(b) The Industry Committee may establish with the approval of the Secretary positive lot identification requirements for lots of peaches inspected and certified pursuant to this section. Whenever implemented, such requirements shall at least specify that upon inspection, all peaches shall be identified by tags, stamps, marks, or other means of identification recognized by the Federal Inspection Service or the Federal-State Inspection Service or any other inspection service designated by the Secretary; that such identification shall be affixed to the contained by the handler under the supervision of the Federal Inspection Service or the Federal-State Inspection Service or any other inspection service designated by the Secretary; and that such identification shall not be altered or removed except as directed by the Federal Inspection Service or the Federal-State Inspection Service or any other inspection service designated by the Secretary. For the purposes of this section, lot means the aggregate quantity of peaches of the same variety, in like containers with like identification offered for inspection as a shipping unit.

7. Insert the undesignated center heading, "Research and Development," after § 918.71 and add § 918.72 to read as follows:

Research and Development

§ 918.72 Production and research and market research and development.

The Industry Committee, with the approval of the Secretary, may establish or provide for the establishment of projects involving production research and marketing research and development designed to assist, improve or promote the marketing, distribution and consumption of peaches and the efficient production thereof. The expenses of such projects shall be paid from funds collected pursuant to § 918.41, or from any other sources approved by the Secretary.

8. Section 918.81 is amended by redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) to read as follows:

§ 918.81 Termination.

* * * * *

(d) The Secretary shall conduct a referendum among growers every six years after the effective date of this amended subpart to ascertain whether continuance of this part is favored by growers. However, when a continuance referendum is conducted pursuant to paragraph (c) of this section, this referendum shall be conducted six years after the referendum conducted pursuant to paragraph (c). The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the fruit in the production area, except that termination of this part shall be effective only if announced on or before the last day of the then current fiscal period.

* * * * *

9. A new § 918.76 is added to read as follows:

§ 918.76 Confidential information.

All data or other information constituting a trade secret or disclosing a trade position or business condition shall be received by, and kept in the custody of, one or more designated employees of the Industry Committee, and information which would reveal the circumstances of a single handler shall be disclosed to no person other than the Secretary.

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10. A new § 918.77 is added to read as follows:

§ 918.77 Verification of reports and records.

For the purpose of checking compliance with recordkeeping requirements and verifying reports filed by handlers, the Secretary and the Industry Committee through its duly authorized employees shall have access to any premises where peaches are held and, at any time during reasonable business hours, shall be permitted to examine any peaches held and any and all records with respect to matters within the purview of this part. Handlers shall furnish labor necessary to facilitate such examinations at no expense to the Industry Committee. All handlers shall maintain complete records which accurately show the quantity of peaches held, sold, and shipped. The Industry Committee, with the approval of the Secretary, may establish the type of records to be maintained. Such records shall be retained by handlers for not less than two years subsequent to the termination of each fiscal period.

Dated: April 12, 1989.

J. Patrick Boyle,

Administrator, Agricultural Marketing Service.

[FR Doc. 89-9132 Filed 4-14-89; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-26715; File No. S7-3-89]

Suitability Requirements for Transactions in Certain Securities

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: The Securities and Exchange Commission is extending from April 17, 1989, to May 19, 1989, the date by which comments must be received on Securities Exchange Act Release No. 26529 (February 8, 1989), 54 FR 6693, concerning suitability requirements for transactions in certain securities.

DATE: Comments on Securities Exchange Act Release No. 26529 should be received on or before May 19, 1989.

ADDRESS: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Mail Stop 6-9, Washington, DC 20549. Comment letters should refer to File No. S7-3-89. All comment letters received will be made available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. 20549.

FOR FURTHER INFORMATION CONTACT: Robert L.D. Colby, Chief Counsel, (202) 272-2844; or Dan Gray, Attorney, (202) 272-2848, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Mail Stop 5-1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In Securities Exchange Act Release No. 26529 (February 8, 1989) 54 FR 6693, the Commission requested written comments on proposed Rule 15c2-6. The proposed rule would require written customer agreement to, and a documented suitability determination for, certain recommended transactions in equity securities that are not registered on a national securities exchange or authorized for quotation in the NASDAQ system, and whose issuers do not meet certain minimum financial standards. Several potential commentators have indicated their need for additional time to prepare their comments. In order to receive the benefit of comments from the greatest number of interested persons, the Commission is extending the comment period on Securities Exchange Act Release No. 26529 from April 17, 1989, to May 19, 1989.

By the Commission.

Dated: April 12, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9126 Filed 4-14-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners; Manufacture, Sale, and Fradulent Use of Credit Cards

AGENCY: Parole Commission, Justice.

ACTION: Proposed rule.

SUMMARY: The Parole Commission is proposing an amendment to its paroling guidelines at 28 CFR 2.20, Chapter Three, Subchapter D, section 331(f), to provide instruction as to how offenses involving the fraudulent manufacture, sale and use of credit cards should be rated. Currently, there is not a means to consistently assess these types of offenses which often involve some degree of sophistication, planning, and orchestration. The revised guidelines provide for three separate classes of credit card related offenses. This proposed rule will provide a fair assessment of the relative seriousness of the types of offenses described.

DATE: Public comment must be received by May 17, 1989.

ADDRESS: Comments should be addressed to: Richard K. Preston, General Counsel's Office, United States Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Richard K. Preston, Attorney, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: Over the past few years, the Parole Commission has noted a significant increase in the fraudulent use and fraudulent manufacture of credit cards. In the past, rating the seriousness of an offense involving the use of a stolen credit card has been fairly straightforward. However, the recent trend of manufacturing fradulent credit cards and the wholesale distribution or possession of multiple stolen credit cards has not been adequately addressed in the Commission's guidelines. Therefore, the Commission is proposing the following changes in order to more consistently assess the type of offenses involving credit cards.

This proposed rule change will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and Parole, Prisoners.

The Proposed Amendment

Accordingly, the Parole Commission proposes to amend Part 2 of 28 CFR as follows:

PART 2—[AMENDED]

1. The authority citation for 28 C.F.R. Part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR 2.20, Chapter Three, Subchapter D, Paragraph 331(f) is amended to add a new subpart (4) to read as follows:

§ 2.20 [Amended]

(f) *Exceptions:*

(1) • • •

(2) • • •

(3) • • •

(4) Grade manufacture, sale, and fraudulent use of credit cards as follows:

(i) Grade the manufacture, distribution or possession of counterfeit or altered credit cards as not less than Category Four.

(ii) Grade the distribution or possession of multiple stolen credit cards as not less than Category Three.

(iii) Grade the distribution or possession of a single stolen credit card as not less than Category Two.

• • • • •

Date: April 5, 1989.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 89-9158 Filed 4-14-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

Texas Permanent Regulatory Program; Reopening and Extension of Public Comment Period on Proposed Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: OSMRE is announcing receipt of revisions pertaining to a previously proposed amendment to the Texas permanent regulatory program (hereinafter, the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions pertain to self-bonding regulations. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards.

This notice sets forth the times and locations that the Texas program and the proposed amendment to that program are available for public inspection, and the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATE: Written comments must be received by 4:00 p.m., c.d.t. May 2, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. James H. Moncrief at the address listed below.

Copies of the Texas program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSMRE's Tulsa Field Office.

Mr. James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 550, Tulsa, OK 74135; Telephone: (918) 581-6430

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 1100 L Street NW., Washington, DC 20240; Telephone: (202) 343-5492

Railroad Commission of Texas, Surface Mining and Reclamation Division, Capitol Station, P.O. Drawer 12967, Austin, TX 78711; Telephone: (512) 463-6900.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Moncrief, Director, Tulsa Field Office, at the address or telephone number listed in "ADDRESSES."

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program, can be found in the February 27, 1980, **Federal Register** [45 FR 12998]. Subsequent actions concerning Texas' program and program amendments can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Proposed Amendment

Texas submitted the proposed amendment in response to a February 18, 1987, letter (administrative record No. TX-390) that OSMRE sent in accordance with 30 CFR 732.17(c). The regulations that Texas proposes to amend are at § 806.309(j), Terms and Conditions of the Bond; Self-bonding.

OSMRE published a notice in the September 27, 1988, **Federal Register** (53 FR 37599), announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment. The public comment period ended October 27, 1988.

During its review of the amendment, OSMRE identified concerns relating to the proposed regulations at 806.309(j), Terms and Conditions of the Bond; Self-bonding—Sections 1(D) and (H), 2, 3, 4, 5(A) and (B), 6(A) through (E), 7, 8, and 9. OSMRE notified Texas of the concerns by letter dated November 15, 1988 (administrative record No. TX-427). Texas responded in a letter dated March 21, 1989, by submitting a revised amendment package (administrative record No. TX-445).

III. Public Comment Procedures

OSMRE is reopening the comment period on the proposed Texas program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSMRE is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Texas program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Tulsa Field Office will not be considered in the final rulemaking or included in the administrative record.

List of Subjects in 30 CFR Part 943

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

Date: April 7, 1989.

[FR Doc. 89-9097 Filed 4-14-89; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3555-7]

Approval and Promulgation of Implementation Plans; Public Hearing on Federal Assistance Limitations and Construction Moratorium; State of Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of postponement of public hearing.

SUMMARY: USEPA is giving notice that the public hearing set in the notice of proposed rulemaking published March 13, 1989 (54 FR 10381), has been postponed from April 13, 1989, to May 25, 1989. This notice proposed the imposition of Federal highway, air quality, and sewage treatment funding restrictions, and a stationary source

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construction moratorium, for Lake and Porter Counties, Indiana, because the State did not have an adequate program to enforce the requirements of its vehicle inspection and maintenance (I/M) program. The State Legislature has subsequently passed authorization for a registration denial enforcement mechanism; however, adequate funding to operate the program must still be provided. The Legislature is expected to address program funding by the end of the current legislative session. If adequate funding to operate the I/M program is provided, USEPA will cancel the May 25, 1989, public hearing and will not proceed with the sanction process. The time and place of the May 25, 1989, public hearing will be announced at a later date.

DATES: The public hearing has been changed from April 13, 1989, to May 25, 1989.

FOR FURTHER INFORMATION CONTACT: Cheryl Newton, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6081.

Date: April 6, 1989.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 89-9124 Filed 4-14-89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 141 and 142

[FRL-3556-3]

National Primary Drinking Water Regulations; Filtration and Disinfection; Turbidity, Giardia Lamblia, Viruses, Legionella, and Heterotrophic Bacteria; Total Coliforms.

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of draft Guidance Manual for comment.

SUMMARY: On November 3, 1987, EPA proposed for comment surface water treatment requirements and a national primary drinking water regulation for total coliforms, plus maximum contaminant level goals for certain microbiological contaminants, under the Safe Drinking Water Act (52 FR 42178 and 52 FR 42224). On May 6, 1988, EPA published a notice of availability (52 FR 16348), which solicited specific data, offered additional regulatory options for comment, and clarified and corrected statements made in the November 3, 1987, proposal.

EPA also prepared a draft "Guidance Manual for Compliance with the Surface Water Treatment Requirements (SWTR) for Public Water Supplies" ("Guidance Manual") dated October 8, 1987. The manual was intended to provide guidance for implementing the proposed surface water treatment requirements. As part of the November 1987, notice of proposed rulemaking, EPA solicited comment on the Guidance Manual. As a result of those comments and planned revisions to the SWTR, EPA has prepared a revised draft Guidance Manual dated March 31, 1989. To receive a copy of the March 31, 1989, draft Guidance Manual, contact the Safe Drinking Water Hotline, telephone (800) 426-4791 or (202) 382-5533, in Washington, DC.

EPA solicits written comments on the guidelines and recommendations in the March 31, 1989, draft Guidance Manual.

DATES: To be considered in the development of the final Guidance Manual, written comments must be submitted on or before June 15, 1989. EPA will have a final Guidance Manual available this summer.

ADDRESSES: Send written comments on the March 31, 1989, Draft Guidance Manual to Surface Water Treatment Rule—Guidance Manual; Comment Clerk; Criteria and Standards Division; Office of Drinking water (WH-550D); Environmental Protection Agency; 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, telephone (800) 426-4791 or (202) 382-5533 in the Washington, DC metropolitan area; or Stig Regli, Environmental Engineer, Science and Technology Branch, Criteria and Standards Division, Office of Drinking Water (WH-550D), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; telephone (202) 382-7379.

Date: April 11, 1989.

William A. Whittington,

Acting Assistant Administrator for Water.

[FR Doc. 89-9120 Filed 4-14-89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 82

[FRL-3554-3]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: EPA is issuing this advance notice of proposed rulemaking (ANPRM) to support its efforts to protect stratospheric ozone. Specifically, the Agency is considering the possibility of adding methyl chloroform and carbon tetrachloride to the list of ozone-depleting chemicals already regulated by the Montreal Protocol on Substances That Deplete the Ozone Layer and the EPA rule implementing the Protocol (53 FR 30566, August 12, 1988). Today's notice explains why regulation of methyl chloroform and carbon tetrachloride may be necessary and requests public comments on EPA's analysis and the possible impact of regulating these chemical substances.

DATE: Written comments on the ANPRM Rule must be submitted by May 15, 1989, to the location listed below.

ADDRESSES: Written comments should be sent to Docket (A-89-09) Air Docket, First Floor-Waterside Mall, Room 1500, LE131, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket may be inspected between 8 a.m. and 3:30 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying. To expedite review, it is also requested that a duplicate copy of written comments be sent to Karla Perri at the address listed below.

FOR FURTHER INFORMATION CONTACT: Karla Perri, Division of Global Change, OIAIP, Office of Air and Radiation, (ANR-445), U.S. EPA, 401 M Street SW., Washington, DC 20460. Telephone (202) 475-7496.

SUPPLEMENTARY INFORMATION:

I. Background

The threat of depletion of the ozone layer from chlorine released from chlorofluorocarbons (CFCs) was first raised well over a decade ago by the scientific community. (Molina and Rowland 1974). The initial theory suggested that because CFCs are relatively inert, emissions of these chemicals would not break down in the lower atmosphere, but would instead slowly migrate to the stratosphere where they would then break apart releasing chlorine. Once freed in the stratosphere, the chlorine would catalytically destroy ozone. From a health and environmental perspective, depletion of the ozone layer would allow more harmful ultraviolet radiation to penetrate the atmosphere and strike the earth's surface. This would increase the incidence of skin cancers and cataracts, suppress the human immune system, damage crops, forests, and aquatic systems, accelerate weathering of certain plastics, and increase the formation of ground level (tropospheric) ozone or smog.

In the fourteen years of research since the original theory was proposed considerable scientific evidence has supported the general concern that increased emissions of CFCs (and halons) would lead to ozone depletion. (See, for example, "Present State of Knowledge of the Upper Atmosphere 1988: An Assessment Report," National Aeronautics and Space Administration (NASA), #1208, August 1988).

In 1981, in response to the growing scientific consensus, the United Nations Environment Program (UNEP) began negotiations to develop a multilateral response to reducing the threat of ozone depletion. These negotiations resulted in the Vienna Convention for the Protection of the Ozone Layer in March 1985. The convention provided a framework for international cooperation in research, monitoring, and information exchange. Further negotiations resulted in the Montreal Protocol on Substances that Deplete the Ozone Layer. The Montreal Protocol was signed in September 1987 and requires the Parties to control or reduce their use of specified ozone-depleting chemicals. EPA promulgated regulations implementing the Protocol on August 12, 1988. (See 52 FR 47486, December 14, 1987, and 53 FR 30566, August 12, 1988). The conditions for the Protocol's entry-into-force were statisfied in December 1988, and the Protocol and the EPA's rule went into effect January 1, 1989.

On the same day that the Agency issued its final rule implementing the Montreal Protocol, it also published an Advance Notice of Proposed Rulemaking (ANPRM) on possible further efforts to protect stratospheric ozone (53 FR 30604, August 12, 1988). Currently, the Montreal Protocol and the EP regulation require a 50 percent phase-in reduction in the production and consumption of specified fully-halogenated CFCs by 1998, and a freeze at 1986 levels of specified halons beginning in 1992. In the August ANPRM however, EPA described new scientific information which suggests that additional reductions in CFCs, halons and possibly other ozone depleting chemicals may be necessary.

This new scientific information along with other information is currentiy being reviewed under Article 6 of the Protocol. Article 6 states that the Parties (nations that have ratified the Protocol) will assess whether the control measures, as provided for in Article 2 of the Protocol, are sufficient to meet the goals for reducing ozone depletion. According to Article 6, this assessment will include a review of the current state of knowledge on technical, scientific, environmental and economic issues related to stratospheric ozone protection.

II. Today's Notice

The Agency is beginning to prepare for a meeting of the Parties, scheduled to take place in April of 1990, at which the Parties will decide on changes to the protocol's control measures. Because of the new scientific information suggesting that ozone has been depleted more than had previously been thought to have occurred, some nations are likely to call for a phase-out of the chemicals already included in the Protocol along with a freeze or reduction in the production and consumption of other chlorinated compounds that were not included in the original agreement. The Agency expects that methyl chloroform (1,1,1-trichloroethane, TCA) and carbon tetrachloride (CC14) will be among the new chemicals suggested for inclusion in the Protocol. Therefore, the EPA is putting current users of these chemical substances on notice that a freeze and/or reduction in the production and consumption of a methyl chloroform and carbon tetrachloride may be forthcoming.

The present worldwide concerns about TCA focus primarily on the chlorine emissions that occur because of current uses. EPA is particularly concerned however, about future increases in the use of TCA because of regulatory actions recently taken or which are being prepared by EPA and the Occupational Health and Safety Administration (OSHA). These regulatory actions restrict (or presumably will restrict) the use of other chlorinated solvents such as methylene chloride, perchloroethylene, and trichloroethylene by placing exposure limits on the chemical substances. These exposure limits may lead some chlorinated solvent users in the short-term to substitute the use of methyl chloroform for these other solvents instead of trying to control exposures. In addition, there are U.S. and worldwide concerns about continued uses (and emissions and subsequent exposures) of carbon tetrachloride as a solvent and as a pesticide.

EPA strongly encourages chlorinated solvent users and producers to seek low cost, long-term solutions and to use the best available controls to minimize environmental releases of all of the chlorinated solvents listed above in complying with the federal regulations mentioned. in addition, EPA wants to make clear that the Agency does not condone simply substituting one problem chemical for another, and strongly encourages the use of less objectionable chemicals or non-chlorinated solvent alternatives where possible.

More importantly, EPA wants to reinforce its earlier position as stated in the August 1988 ANPRM (53 FR 30617) that "EPA expressly does not view shifting away from CFC-113 to *other chlorinated solvents which are currently under regulatory scrutiny by EPA*, as an acceptable solution to protecting the ozone layer." This means that in stopping the use of CFC-113, the Agency does not want producers and users to replace it with solvents which are also considered ozone depletors or probably human carcinogens. The chlorinated solvents under regulatory scrutiny by EPA include methyl chloroform, methylene chloride, perchloroethylene, trichloroethylene and carbon tetrachloride.

In this ANPRM, EPA discusses the new scientific information available on methyl chloroform and explains the possible role of methyl chloroform in ozone depletion. In addition, the Agency explains why carbon tetrachloride may also be added to the list of chemicals regulated under the Protocol. EPA is seeking comments on its analysis and on the possible impact of placing limits on methyl chloroform and carbon tetrachloride by adding them to the list of chemicals regulated under the Montreal Protocol.

A. New Scientific Information

In its August 1988 ANPRM, EPA discussed new scientific information suggesting that ozone was depleting at a faster rate than the scientific community and the Agency had originally anticipated. Over an 18-month period the world's leading atmospheric scientists conducted an extensive review of the existing ground-based and satellite measurements of the rate and level of ozone depletion. The group of scientists issued an executive summary of their work in March of 1988 (The Ozone Trends Panel Report: Executive Summary; 1988).

They reported that apparent ozone decreases since 1969 of 1.7 to 3.0 percent had occurred in Northern mid-latitudes. They also stated that, "There has been a large, sudden, and unexpected decrease in the abundance of springtime Antarctic ozone over the past decade," and that CFCs were a primary cause of the Antarctic ozone hole. The authors also specifically cited methyl chloroform as an important source of chlorine that photochemically controls the abundance of ozone.

The full body of this report has not yet been released or reviewed by EPA. However, the summary clearly suggestes

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that current atmospheric models may significantly underestimate the link between CFCs and ozone depletion. Applying the models used in the EPA's Regulatory Impact Analysis (RIA), the ozone depletion of the magnitude that the Ozone Trends Panel Report cites, has already occurred over the past twenty years, should not have occurred even with the CFC reduction called for by the Protocol until the year 2050. Additional research appears necessary to account for this apparent underprediction. An alternative approach can be used which looks at the risk of ozone depletion as a function of chlorine and bromine levels in the stratosphere. Future chlorine and bromine concentrations in the upper atmosphere will depend primarily on future CFC and halon emissions, and their atmospheric fate. In August 1988, EPA issued a study entitled "Future Concentrations of Stratospheric Chlorine and Bromine," (Clx Report), (Office of Air and Radiation, EPA 400/1–88/005, August 1988), which looked at chlorine and bromine levels after the implementation of the restrictions in the Montreal Protocol. The EPA found that levels of chlorine in the stratosphere would increase from 2.7 to 8 parts per billion (ppb) by 2075, even with the reductions in CFCs called for in the Protocol.

This increase would be caused not only by the continued continued use of CFCs and halons, but also by the growth in the production and use of the non-regulated chemicals such as methyl chloroform. Specifically, the study predicted that approximately 45 percent of the increase in the chlorine and bromine would be caused by emissions from the remaining CFCs and halons. An additional 35 percent of the increase in chlorine would occur as the result of methyl chloroform emissions. Furthermore, the EPA analysis showed that if methyl chloroform use increases as predicted, it would account for over 80 percent of the growth in chlorine levels associated with substances not covered by the Protocol.

The Clx Report also examined what actions would be required to stabilize chlorine at current atmospheric levels. It showed that a phase-out of CFCs and at least a freeze in methyl chloroform would be required. It is important to note however, that stabilization would not reverse past ozone depletion. To reverse past ozone depletion that the Ozone Trends Panel reports has already occurred and to return Clx levels in the stratosphere to those that existed prior to the Antarctic ozone hole, even further cuts in methyl chloroform might be required.

B. Potential for Growth in Methyl Chloroform Use

Chemical companies that produce methyl chloroform have stated that they do not expect methyl chloroform production or use to grow within the next few years. However, in the absence of limits on this chemical its production and consumption may increase substantially within the next few years for a number of reasons.

First, the Occupational Health and Safety Administration (OSHA) promulgated regulations (54 FR 2332, January 19, 1989) that reduce the Permissible Exposure Level (PEL) to exposures of perchloroethylene and trichloroethylene in the workplace. OSHA is also planning to promulgate new PEL standards for methylene chloride to a level substantially below the current level. OSHA expects that manufacturers should be able to comply with these limits by increasing ventilation in the workplace, or through the use of other materials, which are less hazardous. However, in many cases changes in workplace equipment or operating procedures may not be sufficient to meet these new standards. Solvent users may be inclined to switch to methyl chloroform, rather than try to meet the new federal standards for their current solvent.

Second, EPA may, within the next few years, further regulate perchloroethylene, trichloroethylene, and methylene chloride because the Agency classifies them as probable human carcinogens. The Agency is also concerned about the non-cancerous or other acute health effects these chemicals may have. In addition, EPA is in the process of writing a National Emission Standard for Hazardous Air Pollutants (NESHAP) which will control ambient air emissions for perchloroethylene, trichloroethylene and methylene chloride. Moreover, since these chemicals are classified as probable human carcinogens, they are targets for EPA regulations concerning wastewater discharge. More importantly, many companies worried about the stigma of a probable human carcinogen classification may use TCA instead of the other solvent because of concerns over public image, liability and insurance expenses. For these reasons, additional layers of federal regulation may increase user preference for methyl chloroform.

Third, the reduction in CFC production and import required by the EPA rule implementing the Montreal Protocol may lead some CFC users to substitute methyl chloroform for CFCs. However, the Agency has made clear that it does not view shifting from CFC–113 to other chlorinated solvents which are currently under regulatory scrutiny as an acceptable solution to protecting the ozone layer.

D. CFC Substitutes

EPA has sponsored and co-chaired with industry a variety of technological and economic workgroups to discuss alternatives to CFCs in industrial and commercial uses. For example, EPA and industry are engaged in cooperative projects to determine whether electronic components and circuit boards can be cleaned with aqueous and terpene cleaners instead of CFC–113 or methyl chloroform. In addition, the Agency has been working with chemical manufacturers and industry representatives to find out the extent to which CFC–113 and methyl chloroform can be replaced in metal cleaning or degreasing.

EPA is coordinating the review of these substitutes among various Agency offices and with other federal agencies, to ensure that current federal regulations or policies do not unnecessarily hinder the switch away from CFCs to other chemicals or processes. For example, the EPA is working with the U.S. Department of Defense (DOD) to revise ane eliminate military procurement specifications that require manufacturers to specifically use CFC–113, methyl chloroform or other chlorinated solvents in electronic, precision and metal cleaning. Eliminating restrictive specifications would allow CFC–113 and methyl chloroform to be replaced with other chemicals, non-chemicals solutions, or processes that perform equally as well or better and do not contribute to ozone depletion.

D. Carbon Tetrachloride

Carbon tetrachloride is a relatively strong ozone depletor, and in fact has a greater ozone depleting potential than any of the CFCs currently listed in the Protocol. In the U.S. it is used primarily as a feedstock to produce other CFCs. Emissions from this use were believed to be small, and therefore it was reasonable to exclude carbon tetrachloride from the original Protocol. However, atmospheric levels have been found to be greater than would be expected from past emissions estimates. Preliminary evidence suggests that in Japan, the Eastern Block countries and less developed countries, carbon tetrachloride is used in the production of pesticides, as a solvent and in the production of synthetic rubber and dyes, among other things. Emissions estimates for these uses are still uncertain. Nevetheless, EPA believes that they may be significant and that it may be necessary to control them under the Protocol.

E. Public Comments Sought

As stated previously, EPA is issuing this ANPRM to solicit general comments on the role of methyl chloroform and carbon tetrachloride in stratospheric ozone protection efforts, and specific comments on the possible effect of adding methyl chloroform and carbon tetrachloride to the list of chemicals regulated by the Montreal Protocol. The Agency is specifically seeking comments on the following points.

(1) What substitutes exist for methyl chloroform in the following use categories: metal, precision and electronic cleaning, aerosols, and adhesives?

(2) What can EPA do to expedite and assist in finding substitutes for methyl chloroform in these use categories? What are the barriers to such substitution?

(3) Will the demand for methyl chloroform increase when the initial reduction in CFC use is effective, in July 1989?

(4) Should the international response be to freeze, reduce or eliminate methyl chloroform and carbon tetrachloride? How, and why or why not? Over what time period?

References

EPA (1988) U.S. Environmental Protection Agency, "Future Concentrations of Stratospheric Chlorine and Bromine," EPA 400/1–88/005, July 1988.

EPA (1987) U.S. Environmental Protection Agency, "Assessing the Risk of Trace Gases That Can Modify the Stratosphere," EPA 400/1–87/001, December 1987.

EPA (1987) U.S. Environmental Protection Agency; "Regulatory Impact Analysis: Protection of Stratospheric Ozone," December 1987.

EPA (1988) U.S. Environmental Protection Agency, "Regulatory Impact Analysis: Protection of Stratospheric Ozone," August 1988.

Molina, M.J. and F.S. Rowland (1974). "Stratospheric Sink for Chlorfluoromethanes: Chlorine Atom-Catalysed Destruction of Ozone." Nature, 249, 810–812.

National Aeronautics and Space Administration, (1988) "Present State of Knowledge in the Upper Atmosphere 1988: An Assessment Report," #1208, August 1988.

World Meteorologicel Association (WMO) (1986). "Atmospheric Ozone 1985: Assessment of Our Understanding of the Processes Controlling its Present Distribution and Change, WMO Global Ozone Research and Monitoring Project—Report No. 16 WMO, Geneva, Switzerland.

Don R. Clay,

Acting Assistant Administrator.

[FR Doc. 89–8819 Filed 4–14–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–38, RM–6517]

Radio Broadcasting Services; Flint, Harbor Beach, and Sebewaing, Michigan

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Reams Broadcasting, Inc., proposing the substitution of FM Channel 288B1 for Channel 288A at Flint, Michigan, and modification of the license for Station WWCK–FM to specify operation on Channel 288B1. The coordinates for Channel 288B1 are 43–01–18 and 83–41–00. To accommodate Channel 288B1 at Flint, Channel 279C2 must be substituted for 289C2 at Harbor Beach and Channel 267A must be substituted for Channel 280A at Sebewaing, Michigan. DCS Radio, Ltd. holds the construction permit for Channel 289C2 at Harbor Beach (BPH 870225IB) and Family Stations, Inc. holds the construction permit for Channel 280A at Sebewaing (BMPED871008ID). The coordinates for Channel 279C2 are 43–59–06 and 82–58–25. The coordinates for Channel 267A are 43–48–01 and 83–23–38. Canadian Concurrence must be obtained for the allotment of channels at all three communities. The allotments for Harbor Beach and Sebewaing will require concurrence from the Canadian government as a specially negotiated short spaced allotment in accordance with the U.S.-Canadian working agreement.

DATES: Comments must be filed on or before April 17, 1989, and reply comments on or before May 2, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Marnie K. Sarver, Donald M. Itzkoff, Pierson, Ball & Dowd, 1200–18th Street, NW., Suite 1000, Washington, DC 20036. (Counsel for Reams Broadcasting, Inc.).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–38, adopted January 30, 1989, and released February 24, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–9025 Filed 4–14–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–37, RM–6590]

Radio Broadcasting Services; Two Harbors, Minnesota

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Twin Ports Broadcasting, Inc., permittee of Channel 282A, Two Harbors, Minnesota, proposing the substitution of Channel 282C2 for Channel 282A, and modification of the permit to specify

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operation on Channel 282C2. Canadian concurrence will be sought for the allotment of Channel 282C2 at Two Harbors at coordinates 46–59–51 and 91–50–13.

DATES: Comments must be filed on or before April 17, 1989, and reply comments on or before May 2, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Richard J. Bodorff, Fisher, Wayland, Cooper, & Leader, 1255—23rd Street, NW., Suite 800, Washington, DC 20037. (Counsel to the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–37, adopted February 2, 1989, and released February 24, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–9023 Filed 4–14–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–39, RM–6611]

Radio Broadcasting Services; Alexandria, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Paradis Broadcasting of Alexandria, Inc., proposing the substitution of Channel 222C2 for 224A at Alexandria, Minnesota, and modification of the license for Station KXRA–FM to specify operation on Channel 222C2. Petitioner's coordinates for Channel 222C2 are 45–54–00 and 95–39–00.

DATES: Comments must be filed on or before April 17, 1989, and reply comments on or before May 2, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Frank R. Jazzo, Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, DC 20036. (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–39, adopted February 2, 1989, and released February 24, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–9024 Filed 4–14–89; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 350 et al.

[FHWA Docket No. MC–89–2]

RIN 2125–AC04

Federal Motor Carrier Safety Regulations; Paperwork Reduction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The FHWA requests comments on ways to reduce paperwork burdens imposed on motor carriers subject to the requirements of the Federal Motor Carrier Safety Regulations (49 CFR Parts 350 through 399). Changes are being considered in accordance with the requirements of the Paperwork Reduction Reauthorization Act of 1986. The Act requires regulatory agencies to set goals to reduce, by 20 percent, the paperwork burden imposed on the public by September 30, 1990.

DATE: Written comments must be received on or before July 17, 1989.

ADDRESS: All signed, written comments should refer to the docket number that appears at the top of this document and should be submitted to Federal Highway Administration, Room 4232, Office of Chief Counsel, HCC–10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., ET, Monday through Friday, except legal holidays. Commenters who want to be notified that the FHWA received their comments should include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366–2981; or Mr. Edward J. Mullaney, Office of Chief Counsel, HCC–10, (202) 366–1356, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Section 815(4) of the Paperwork Reduction Reauthorization Act of 1986 (1986 Act) (Pub. L. 99–500, 100 Stat. 1783–337, 44 U.S.C. 3505) requires regulatory agencies to:

(a) Set a goal to reduce, by September 30, 1987, the burden of Federal collections of information existing on September 30, 1986, by at least 5 percent; and

(b) For the fiscal year beginning on October 1, 1987, and each of the next 2 fiscal years, set a goal to reduce the burden of Federal collections of information existing at the end of the immediately preceding fiscal year by at least 5 percent.

In the past, the FHWA has made changes in the Federal Motor Carrier Safety Regulations (FMCSRs) to reduce the paperwork burden imposed on motor carriers without degrading safety. For example, in 1987, the driver's log form was replaced by the more flexible driver's record of duty status grid and several data elements were eliminated from the recordkeeping requirement, resulting in an industry wide burden reduction of several million hours. To comply with the 1986 Act, the FHWA must again seek ways to further change the regulations without affecting safety, the importance of which is universally recognized. To this end, we are asking interested parties to suggest new ideas and approaches to meet the new burden-reduction requirements.

The Office of Management and Budget (OMB) maintains a computer file of all Federal paperwork, recordkeeping, and other information collection requirements, as well as the burdens they impose upon the public. These burden-hour estimates are also contained in the Department of Transportation's Information Collection Budget (ICB), which is submitted annually to the OMB pursuant to 5 CFR 1320.10. The following is a list of recordkeeping and reporting requirements contained in the FMCSRs and currently approved by OMB.

Part	OMB No.	Title
350	2125–0536	*Motor Carrier Safety Assistance Program*—Reporting and recordation requirements in 49 CFR 350 requiring States that wish to participate in the Motor Carrier Safety Assistance Program to file grant applications for funds and, if a grant is awarded, submit quarterly and annual reports of activity. (1,764 burden hours).
383	2125–0542	*Commercial Driver's License Requirements*—Requiring a commercial drivers license, pursuant to 49 CFR 383 that will entail the driver reporting certain information to the employer and to the State licensing authorities. (496,529 burden hours).
385	2125–0038	*Motor Carrier/Shipper Operations Questionnaire*—Use of Form MC–137 soliciting motor carrier operating statistics, particularly mileage data used in determining carrier accident rates and need for safety survey. This burden will be replaced by Form MCS–150 once it is approved by the OMB. Form MCS–150 was discussed in the final rule entitled Safety Fitness Procedures (FHWA Docket No. MC–123) published in the FEDERAL REGISTER on December 19, 1988 (53 FR 50961). (5,000 burden hours).
387	2125–0074	*Endorsement of Motor Carrier Policies of Insurance*—Endorsement of Motor Carrier Policies of Insurance for Public Liability and Motor Carrier Public Liability Surety Bond Under Sections 29 and 30 of the Motor Carrier Act of 1980, retained and made available to the public as proof of financial responsibility. (13,000 burden hours).
387	2125–0518	*Minimum Levels of Financial Responsibility for Motor Carriers of Passengers*—Responsibility of promulgating and enforcing regulations governing the provisions of Section 18 of the Bus Regulatory Reform Act of 1982. (49 CFR § 387.31 and § 387.39) (75 burden hours).
391	2125–0065	*Driver Qualification Files (Regularly Employed and Intermittent, Casual or Occasional Drivers)*—Pursuant to 49 CFR 391.51, requiring motor carriers to maintain a qualification file for each regularly employed driver for as long as the driver is employed by that motor carrier and for 3 years thereafter; and pursuant to 49 CFR 391.63, requiring motor carriers employing drivers on an intermittent, casual or occasional basis, to obtain and retain identifying information in lieu of certain paperwork requirements for regularly employed drivers. (700,366 burden hours).
391	2125–0081	*Qualifications Certificate*—Pursuant to 49 CFR § 391.65, requiring a motor carrier to retain in its files for 3 years a copy of a driver's qualification certificate in lieu of the complete driver qualification file, if the driver is regularly employed by another motor carrier. (9,631 burden hours).
391 and 394	2125–0543	*Controlled Substances Testing*—Parts 391 and 394 of the FMCSRs have been amended to require motor carriers to test their drivers for use of controlled substances (illicit drugs), in order to get drug-users out of the drivers' seats of commercial motor vehicles. The greatest part of the burden comes from the chain-of-custody and medical review requirements in Part 391. The additional accident reporting paperwork burden is relatively insignificant. (Estimated Burden Hours—1,053,961).
391 and 398	2125–0080	*Medical Qualification Requirements*—Pursuant to 49 CFR 391 and 398, requiring drivers to have in their possession, while driving, a physician's medical certificate or a waiver issued by the FHWA in response to an application, copies of which are retained in the driver's qualification file. Also, submission of an application for the resolution by the FHWA of medical conflicts between physicians. (14,352 burden hours).
394	2125–0526	*Motor Carrier Accident Reports MCS–50T and MCS–50B*—Requirements in 49 CFR 394 that motor carriers must file accident reports with the FHWA on forms MCS–50T (truck) and MCS–50B (bus), along with related fatality notifications. (36,820 burden hours).
395	2125–0016	*Driver's Record of Duty Status*—Pursuant to 49 CFR § 395.8, a driver is required to retain a copy of the driver's record of duty status for 8 days and the motor carrier to retain a copy of the record for 6 months. (12,874,171 burden hours).
395	2125–0196	*Time Records*—Requirement contained in 49 CFR § 395.8(1) authorizing certain motor carriers to maintain general time records for certain drivers in lieu of the preparation of the driver's record of duty status. (10,804,553 burden hours).
396	2125–0037	*Inspection, Repair, and Maintenance and Driver Vehicle Inspection Report*—Pursuant to 49 CFR 396, requirements for the retention of inspection, repair, and maintenance records for 1 year and the retention of the vehicle inspection report for 90 days. The vehicle inspection report, or a copy, is to be carried on the vehicle for 1 day. (16,620,879 burden hours).
397	2125–0508	*Hazardous Materials Instructions and Documents*—Pursuant to 49 CFR § 397.19(b), motor carriers are required to retain for 1 year the receipt signed by a driver acknowledging receipt of parking and driving documents before operating a vehicle transporting Class A or Class B explosives. (3,645 burden hours).
397	2125–0528	*Marking of Vehicles—HM Private Carriers*—Pursuant to 49 CFR 397.21, all vehicles which transport hazardous materials, which must display placards on the vehicle, and are operated by private motor carriers, are required to be labeled on both sides with the carrier's name and address. (5,833 burden hours).

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RULEMAKING ACTIONS AWAITING OMB'S PAPERWORK BURDEN REVIEW

Part	Title
383	*Commercial Driver's Testing*—Approval for requiring knowledge and skills test which was published in the FEDERAL REGISTER on July 21, 1988 (53 FR 27628). The knowledge test and the skills test together equals approximately 2 million burden hours based on Section 12005 of the Commercial Motor Vehicle Safety Act of 1986 which requires truck drivers to take these tests before being issued a commercial driver's license. (Estimated Burden Hours—2,000,000).
396	*Annual Motor Vehicle Inspection Program*—Approval for inspection and recording requirements in 49 CFR 396, which could require annual or more frequent motor vehicle inspection and retention by employers of records of such inspections in compliance with Section 210 of the Motor Carrier Safety Act of 1984. (Estimated Burden Hours—13,000,000).
385	*Declaration of Safety Fitness*—Section 215 of the Motor Carrier Safety Act of 1984 directs the Secretary of Transportation, in cooperation with the Interstate Commerce Commission (ICC), to establish a procedure to determine the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers. Section 385.23 of the proposed rule on Safety Fitness Procedures requiring all unrated motor carriers to file Form MCS–150, Motor Carrier Identification Report. Additionally, motor carriers may use this form to obtain a USDOT number for their vehicles. The Safety Fitness Procedures final rule was published in the FEDERAL REGISTER on December 19, 1988 (53 FR 50961). Approval has been sought for the collection of information required in Form MCS–150. Form MCS–150 will replace Form MCS–137, Description of Motor Carrier Operations. Form MCS–150 will be used to identify previously unknown motor carriers operating in interstate commerce, to issue the USDOT number required by 49 CFR §390.21, to require motor carriers to certify that they are familiar with the FMCSRs, and to assist the FHWA in prioritizing motor carriers for safety review contacts. (Estimated Burden Hours—30,833).

At this time, the paperwork burden placed on motor carriers that has been approved by OMB is approximately 41.6 million hours per year; rules based on recent legislation and currently awaiting OMB review would add an additional 15.1 million hours to this burden. To fulfill the intent of the Paperwork Reduction Act, the FHWA, motor carrier industry, drivers, public interest organizations, and the general public must join together to consider ways to reduce this burden without degrading safety. The burden of the FHWA's motor carrier programs represents nearly all the paperwork burden that FHWA imposes on the public because of the large number of drivers, vehicles, and motor carriers subject to these rules. This is especially true for the regulations which require individual drivers to perform and document an action. The FHWA estimates that there are approximately 5 million interstate drivers subject to the FMCSRs. The FHWA estimates that 5.5 million interstate and intrastate drivers are covered by the Commercial Driver's License Requirements (Part 383), 3 million of whom are also covered by the FMCSRs. Actions which require just a short time for each driver each day, when multiplied by the number of drivers, result in quite a large annual recordkeeping burden nationally.

For purposes of focusing the agency's paperwork reduction efforts on the most burdensome requirements in keeping with congressionally mandated reduction goals, we have categorized these recordkeeping requirements into three groups, namely, (1) five requirements currently approved by OMB with burden hours over 100,000 hours, (2) nine requirements currently approved by OMB with burden hours under 100,000 hours, and (3) four new or currently approved requirements involving newly issued rulemaking actions and probable future significant burden increases. The groups are indicated below:

Group I—(Currently approved by OMB—Over 100,000 burden hours)	
Inspection, Repair and Maintenance	16,620,879
Driver's Record of Duty Status	12,874,171
Time Records	10,804,553
Driver Qualification Files	700,366
Commercial Driver's Licensing Requirements	496,529
Controlled Substances Testing	1,053,961
Total Burden Hours	42,550,459
Group II—(Currently approved by OMB—less than 100,000 burden hours)	
Motor Carrier Accident Reports (MCS–50T and MCS–50S)	36,820
Medical Qualification Requirements	14,352
Endorsement of Motor Carrier Policies of Insurance	13,000
Qualifications Certificate	9,631
Marking of Hazardous Materials—Private Carriers	5,833
Description of Motor Carrier Operations	5,000
Hazardous Materials Instructions and Documents	3,645
Motor Carrier Safety Assistance Program	1,764
Minimum Levels of Financial Responsibility for Motor Carriers of Passengers	75
Total Burden Hours	90,120
Group III—(Pending Rulemaking Actions for OMB Approval)	
Annual Vehicle Inspection Requirements	13,000,000
Commercial Drivers Testing and Licensing	2,000,000
Declaration of Safety Fitness	30,833
Total Burden Hours	15,030,833

Three examples are presented to aid the reader in suggesting ways to reduce the burden hours. The first example deals with the requirement that a driver maintain a "record of duty status," commonly referred to as a log book.

This Group I requirement is contained in 49 CFR § 395.8. Drivers are required to document their duty status for each 24-hour period and to submit the original completed record to the motor carrier 13 days following completion of the form and retain a copy of the form in his/her possession for 7 days, and that the motor carrier retain the original for each calendar month until the 20th day following the end of the succeeding calendar month. Significant reductions have already been made for this requirement. In a further effort to reduce the paperwork burden, the FHWA has explored the potential of on-board computers to fulfill the hours-of-service recordkeeping requirements. The FHWA granted waivers to ten motor carriers to allow their drivers to operate motor vehicles with automatic on-board computers for recording hours-of-service information in lieu of preparing handwritten records. These waivers were granted in a program designed to provide the FHWA with information about the applicability, accuracy, reliability, and acceptability of driver interactive computer devices. On September 30, 1988, the FHWA published a final rule (53 FR 38666, Docket MC–130) allowing, at the motor carrier's option, the use of automatic on-board recording devices in lieu of the handwritten driver's records of duty status. This final rule replaced the case-by-case review of petitions to permit such devices in lieu of the handwritten records. The FHWA expects the introduction and acceptance of automatic on-board recorders to reduce greatly the paperwork burden for motor carriers as a result of savings of time

and expense in handling, evaluating, filing, and storing records.

The burden hours borne by the motor carrier industry prior to the final rule (53 FR 38666, Docket MC–130), had been determined to be 12,674,171 hours per annum. The FHWA expects that the motor carriers will be installing these devices in increasing numbers over a 3-year period, given the advantage of utilizing the automatic on-board recording devices over the handwritten duty status record. The FHWA has estimated that the savings in time will be equal to at least 90 percent for each handwriten document prepared by the driver and 10 percent reduction in time for the motor carrier for each such record. Therefore, the FHWA anticipates nearly a 24 percent reduction (3,069,146 burden hours) over a 3-year period. The FHWA intends to reestimate the actual burden-hour reduction of this rulemaking at a later date, based on actual experience and greater utilization as more motor carriers make use of these devices. A listing of the estimated percentage of reduction of paperwork burden per year follows:

Year	Reduction of Percentage
1	8.96
2	15.94
3	23.84

A second example also involves the recordkeeping requirements in 49 CFR Part 395—Hours of Service of Drivers, specifically § 395.8(1)—Exemptions—100 air-mile radius driver. This section exempts motor carriers and drivers from the driver's record of duty status requirement when they operate within a "100 air-mile radius" of the driver's work-reporting location. Instead, each motor carrier is required to maintain and retain, for a period of 6 months, accurate and true time records showing:

(a) The time the driver reports for duty each day;

(b) The total number of hours the driver is on duty each day;

(c) The time the driver is released from duty each day; and

(d) The total time for the preceding 7 days in accordance with paragraph (j)(2) of § 395.8 for drivers used for the first time intermittently.

In this example, the FHWA may consider a proposed change to § 395.8 by deleting paragraph (b) above. Savings in the industry's paperwork burden could amount to over 5 million hours per year.

If § 395.8(b) were eliminated, the safety specialists conducting safety reviews or motor carrier investigations would complete the calculations needed to determine a specific driver's daily total hours on duty. The burden would be marginally increased in the few instances where a safety specialist examines a driver employed by a specific motor carrier and subject to the recording provisions of § 395.8.

One possible safety implication resulting from this type of change is that motor carrier management may not become aware of breaches in a drivers' hours of service when the hours are not totaled daily. A possible counter to this concern, however, is that payroll operations in most companies are geared to identifying specific accounting irregularities, such as hours worked versus required hours of work. In addition, expanding safety operations conducted by the FHWA's Office of Motor Carriers' field staff and the enhanced State enforcement programs now operating under the FHWA's Motor Carrier Safety Assistance Program (MCSAP) (a safety grant program to participating States) may be sufficient to maintain current safety enforcement rules.

A third example also from the Group I listing, is the burden hours accruing from 49 CFR Part 396, Inspection, Repair and Maintenance. This burden originates under requirements found in Section 396.11—Driver Vehicle Inspection Reports. The FHWA estimates that 16.6 million hours are expended annually by the motor carrier industry as a result of this requirement. A final rule (See 53 FR 49402, December 7, 1988) implementing recent legislation will increase the burden by another 13 million hours.

Section 396.11(a)—Report required, states "Every motor carrier shall require its drivers to report, and every driver shall prepare a report in writing at the completion of each day's work on each vehicle operated and the report shall cover at least the following parts and accessories:

—Service brakes including trailer brake connections
—Parking (hand) brake
—Steering mechanism
—Lighting devices and reflectors
—Tires
—Horn
—Windshield wipers
—Rear vision mirrors
—Coupling devices
—Wheels and rims
—Emergency equipment."

Of the 11 items listed, nine are considered critical for the safe operation of a motor vehicle. If one or more of the nine are found in unsafe hazardous condition, enforcement officials conducting roadside vehicle inspections may place the vehicle out of service.

The daily inspection of these parts and accessories has been determined by safety experts, and substantiated by accident statistics, to be vital to safe vehicle operation, The rationale involved in developing the regulation was that the driver should best know the current condition of the vehicle. A driver is around, on, in and out of a vehicle many times during a work day, in addition to driving the vehicle. Thus, the driver should know what, if any, safety equipment is working, not working, functioning intermittently, or starting to fail—such as a crack in a wheel rim. The driver can most effectively provide maintenance personnel information necessary to make repairs and prevent future mechanical failure-related accidents. The regulation also serves to inform the "next" driver who may be assigned to that particular vehicle whether the vehicle is in safe operating condition or not prior to commencing a trip.

The regulations require a driver to note only those safety-related items that are defective. All other safety items need not be listed or commented upon by the driver. Because the driver is considered to be familiar with the safety aspects or problems of a vehicle, no additional inspection is required prior to preparing the vehicle inspection report at the end of the driver's work day.

The FHWA has studied the inspection, repair and maintenance requirements carefully in past years in accordance with the requirements of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 94 Stat. 2812. Further reductions in the reporting requirements set out in Part 396 have proven difficult to identify.

Comments Requested

The FHWA requests comments on possible ways to reduce the paperwork burden placed on the motor carrier industry under all parts of the FMCSRs. While comments aimed at the most burdensome requirements are particularly requested, all comments will receive full consideration, no matter how small the burden involved. Information submitted to the docket may be used in later rulemaking actions. The FHWA is especially interested in receiving substantive responses to the following questions:

(1) Are there unrecognized duplications of FMCSRs requiring paperwork that may be eliminated?

(2) What effect on safety will there be if the FHWA eliminated the paperwork

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requirements related to the driver's medical examination certificate (49 CFR Part 391); the intermittent, casual, or occasional driver requirements (49 CFR Part 391); or other such paperwork requirements? Are there alternative ways to monitor these areas which would reduce paperwork burdens?

(3) Accident reporting requirements of 49 CFR Part 394 present a serious problem for the FHWA; there may be considerable under reporting. Comments are requested for ideas or suggestions that would assist in drafting proposed rulemaking to increase compliance with the accident reporting requirement without greatly increasing the paperwork burden.

(4) The FHWA is interested in exploring potential technology applications, such as, electronic data storage, retrieval and transmission, that would reduce records storage and information transmission time and costs. Can accident reports be efficiently and accurately transmitted electronically? Can motor carrier records be stored electronically, such as on computer output microfilm or optical laser disks, that would be available to the FHWA motor carrier safety specialists conducting safety compliance reviews and investigations?

(5) Would a program exempting motor carriers with superior safety performance over the past 5 years from FMCSRs recordkeeping requirements be an acceptable way to reduce the paperwork burden? Could such a program promote increased motor carrier safety while simultaneously reducing motor carrier paperwork costs? From which paperwork requirements, if any, should motor carriers with superior safety performance be exempted? What positive and negative impacts would such an exemption program have on compliance with Parts 387, 391, 394, 395 and 396 of the FMCSRs and the continued safe conduct of motor carrier operations?

(6) What other suggestions do commenters have for conducting the paperwork burden of the FHWA's motor carrier programs?

(7) Is there a better means, or a new technology, whereby the driver could record and report findings pertaining to the vehicle's condition of repair as required by 49 CFR Part 396?

(8) If your company has mechanical or electronic systems to account for drivers' hours when operating under the 100-air mile radius exemption, please explain how the system reduces, or could reduce paperwork and reduce costs arising from accounting, handling and recordkeeping.

Respondents are by no means limited to these specific examples or questions addressed in this notice, but are encouraged to identify and comment on any potential reductions in burdens that are attributable to FMCSRs. Every comment will be given full and fair consideration.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. A draft regulatory evaluation will be prepared based upon the data received in response to this notice.

Based on the information available to the FHWA at this time, the action taken in this rulemaking will not have a significant economic impact on a substantial number of small entities.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Federalism Assessment

This ANPRM requests comments on ways to reduce paperwork burdens imposed on motor carriers and their drivers subject to the requirements of the FMCSRs (49 CFR 350 through 399). The potential requirements resulting from this request for comments would directly affect motor carriers and the drivers for these motor carriers. Nothing in this document directly preempts any State law or regulation. The FMCSRs establish minimum safety regulations which, at the current time, may be supplemented by the States, except for the adoption of inconsistent regulations. Accordingly, it is certified that the policies contained in this document have been assessed in light of the principles, criteria, and requirements of the Federalism Executive Order.

List of Subjects in 49 CFR Parts 350 through 399

Highways and roads, Highway safety, Motor carriers, Driver's hours of service, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

(49 U.S.C. 3102; 49 U.S.C. App. 2505; 49 CFR 1.48)

[Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety]

Issued on April 11, 1989.

R.D. Morgan,

Executive Director.

[FR Doc. 89-9041 Filed 4-14-89; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Dwarf Wedge Mussel

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for the dwarf wedge mussel (*Alasmidonta heterodon*). Critical habitat is not proposed. This freshwater mussel has declined precipitously over the last one hundred years. Once found in approximately 70 locations in 15 major Atlantic slope drainages from New Brunswick to North Carolina, it is now known from only ten localities. The extant populations occur in the Ashuelot River in Cheshire County, New Hampshire; two reaches of the Connecticut River in Sullivan County, New Hampshire, and Windsor County, Vermont; McIntosh Run in St. Mary's County, Maryland; two tributaries of Tuckahoe Creek in Talbot, Queen Anne's and Caroline Counties, Maryland; Little River in Johnston County, North Carolina; the Tar River in Granville County, North Carolina; and two Tar River tributaries in Franklin County, North Carolina. All extant populations are small, and probably decling due to continued environmenal degradation. Threats include siltation, pollution, agricultural and urban runoff, channelization, land development, and road and dam construction. This proposal, if made final, would implement Federal protection provided by the Endangered Species Act of 1973, as amended. The Service is requesting data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by June 16, 1989. Public hearing requests must be received by June 1, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Annapolis Field Office, U.S. Fish and Wildlife Service, 1825 Virginia Street, Annapolis, Maryland 21401. Comments and materials received will

be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. G. Andrew Moser at the above address (301/269-5448).

SUPPLEMENTARY INFORMATION:

Background

The dwarf wedge mussel was first described by Lea (1892) as *Unio heterodon*; it was subsequently placed in the genus *Alasmidonta*. The species name *heterodon* refers to the chief distinguishing characteristic of this species, which is the only North American freshwater mussel that consistently has two lateral teeth on the right valve, but only one on the left (Fuller 1977). It is a small mussel whose shell rarely exceeds 1.5 inches in length. The species exhibits strong sexual dimorphism with females showing posterior inflation of the shell to accommodate the marsupial gills.

The dwarf wedge mussel lives on muddy sand, sand, and gravel bottoms in creeks and rivers of varying sizes, in areas of slow to moderate current and little silt deposition. The most commonly associated freshwater mussels are *Elliptio complanata* and *Alasmidonta undulata*. Other co-occurring mussels include *Strophitus undulotus, Anodonta cataracta, Elliptio lanceolata, Elliptio fisheriana, Lampsilis radiata, Margaritifera margaritifera*.

In the species as a whole, the gravid (egg-laden) females are found from late August to June (Clarke 1981). The host fish, to which the larval mussels attach, has not been determined. *A. heterodon* recently disappeared from New Brunswick waters still supporting a diversity of other mussels, including sensitive species such as *Alasmidonta varicosa*, following construction of a causeway blocking the passage of anadromous fishes. This fact, coupled with the coastal distribution of *A. heterodon*, suggests that the host fish may be an anadromous or catadromous species (Master 1986).

The dwarf wedge mussel was once widely distributed in river systems of the Atlantic slope from New Brunswick, Canada, south to the Neuse River system in North Carolina. It was recorded from 70 localities in 15 drainages in 11 states and one Canadian province (Master 1986). River systems historically inhabited by this species included: the Petitcodiac River system in New Brunswick; the Taunton River, Agawam River, Merrimac River, Connecticut River and Quinnipiac River system in New England; the Hackensack River, Delaware River, and Susquehanna River systems in the Middle Atlantic states; the Choptank River, Rappahannock River, James River, Tar River and Neuse River systems in the southeast.

Based on the Nature Conservancy's recemt rangewide status survey (Master 1986) and other survey data, *A. heterodon* is now thought to be extirpated from all but ten small sites in five drainages in four states. The extant populations occur in the Ashuelot River in Cheshire County, New Hampshire; two reaches of the Connecticut River in Sullivan County, New Hampshire, and Windsor County, Vermont; McIntosh Run in St. Mary's County, Maryland; two tributaries of Tuckahoe Creek in Talbot, Queen Anne's and Caroline Counties, Maryland; Little River in Johnston County, North Carolina; the Tar River in Granville County, North Carolina; and two Tar River tributaries in Franklin County, North Carolina. One population of this mussel occuring in the Fort River in Hampshire County, Massachusetts, considered extant by Master (1986), now appears to be extipated.

Despite a considerable amount of unionid (freshwater mussel) field work in recent years throughout the range of this species, the few new populations discovered were mostly near previously known populations, attesting both to the coverage of historical field work and to the widespread decline of this species. There may be as few as four viable populations (Ashuelot River, Connecticut River, Tar River and Tuckahoe Creek drainages), each of which occupies a very limited area where they face an uncertain future due to threats of development, pollution, dam and bridge construction, etc. (Master 1986).

In the **Federal Register** of May 22, 1984 (49 FR 21675) the dwarf wedge mussel was included in category 2 of the Service's Review of Invertebrate Wildlife. Category 2 comprises those taxa for which proposed listing is possibly appropriate but for which conclusive data on biological vulnerability are not available to support a proposed rule. Completion of the Nature Conservancy's status survey provided much of the data needed to support a listing proposal.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the dwarf wedge mussel (*Alasmidonta heterodon*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Habitat modification has been an important factor in the dramatic reduction in the distribution of this mussel. The damming and channelization of rivers throughout the species' range has resulted in the elimination of much formerly occupied habitat. For example, dams have converted much of the Connecticut River mainstream into a series of impoundments. Immediately upstream from each dam, conditions, including heavy silt deposition and low oxygen levels, are inimical to mussel species such as the dwarf wedge mussel. Immediately downstream from these dams, daily water level and water temperature fluctuations as a result of intermittent power generation and hypolimnetic discharges are also stressful to mussels. In some areas below dams the river banks have been stabilized and the substrate is no longer suitable for any bivalve species.

Dams may also cause a more subtle influence on this species. The Petitcodiac River in New Brunswick still provides a suitable habitat for other rare, declining, and apparently sensitive mussels such as the brook floater (*Alasmidonta varicoso*). but the dwarf wedge mussel is ow absent. In the intervening years since the dwarf wedge mussel was collected in this drainage, a downstream casuseway has acted as a dam, blocking access to the dwarf wedge mussel habitat by anadromous fishes. Although the fish host(s) of the dwarf wedge mussel is unknown, the mussel's absence from the Petitcodiac suggests the possible loss of an anadromous or catadromous fish host. A dam proposal currently threatens one of the ten known remaining populations (at Summar Falls, New Hampshire).

The disappearance of the dwarf wedge mussel from most of its historic sites can best be explained by agricultural, domestic, and industrial pollution of its aquatic habitat. Mussels are known to be sensitive to potassium (a common pollutant associated with paper mills and irrigation return water), zinc, copper, cadmium, and other elements (Havlik and Marking 1987). Pesticides, chlorine, excessive nutrients, and silt carried by agricultural runoff also present a threat to this species.

No mussels survive in several large, undammed sections of the Connecticut

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and Delaware River drainages where water pollution has exerted to heavy toll on the benthic fauna. Even where water quality has improved, as in the lower Connecticut River, chemicals trapped in the sediments inhabited by mussels may impede the recovery of sensitive species (Master 1986).

One of the largest known remaining populations of the dwarf wedge mussel occurs where the Ashuelot River meanders through a golf course. The continuing decline of the dwarf wedge mussel at this site, particularly downstream of the golf course, may well be attributed to fungicides, herbicides, insecticides, and fertilizers applied to the golf course and to agricultural runoff from abutting corn fields and pastures (Master 1986). Current plans to expand the golf course would increase the portion of the mussel population that the golf course affects and thereby accelerate the population's decline.

Pollutants may also affect the mussels indirectly; nitrogen and phosphorus input cause organic enrichment and, if extreme, oxygen depletion. Acid rain may mobilize toxic metals and lead to decreased alkalinity which is inimical to most mussels. Increased acidity appears to have contributed to the recent decline of the dwarf wedge mussel in the Fort River in Massachusetts (D. Smith, Univ. of Massachusetts Museum of Zoology, pers. comm.).

Erosion and siltation resulting from land clearing and grading and construction of bridges, roads, and other structures may be especially damaging to the dwarf wedge mussel's habitat. For instance, in Massachusetts, a dwarf wedge mussel population was decimated in one small stream when "the construction of a small bridge resulted in accelerated sedimentation erosion which buried and killed many of the bivalves" (Smith 1981).

Paradoxically, some bank erosion control measures such as riprapping may also adversely affect the species. A significant portion of one of the extant Connecticut River populations was eliminated in 1987 by burial under rock riprap placed along the shore of a Vermont state part (F. Brackley, Vermont Natural Heritage Program, pers. comm.).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although collection was probably an insignificant factor in the species' decline, it is a serious threat to the few remaining populations. These populations are vulnerable because of their small size and because the entire population may occur in a few hundred yards of stream length. Furthermore, because of its rarity and unusual shell anatomy, the species is sought by collectors.

C. *Disease or predation.* Although the dwarf wedge mussel is presumably utilized for food by mammals such as, mink, muskrat, and raccoon, predation is not though to be a significant factor in the decline of this species.

D. *The inadequacy of existing regulatory mechanisms.* The dwarf wedge mussel is listed as a State endangered species in Maryland, Massachusetts, New Hampshire, and Vermont; no protection is afforded the species in North Carolina. Although State listings provide limited protection against taking, in most of these States it provides little or no protection of habitat. It will not be adequate to prevent the species' further decline.

E. *Other natural or manmade factors affecting its continued existence.* The dwarf wedge mussel is threatened by its limited distribution and low numbers. Most of the sites where this species occurs are isolated from each other. This creates isolated gene pools that are vulnerable to loss of genetic variability. Furthermore, because this species, like all freshwater mussels, depends on water currents to transport gametes from one individual to another, its reduced numbers and population densities decrease the likelihood of successful reproduction.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the dwarf wedge mussel as an endangered species. This species has been extirpated from most of the localities from which it was known historically. The small size and very limited geographic extent of each of this mussel's remaining populations makes them extremely vulnerable to extirpation. Any of these small populations could be eliminated by a single catastrophic event such as a chemical spill; several face imminent threats from dam construction, bridge construction, or channelization. Threatened status would therefore not be appropriate. Critical habitat is not proposed for the reasons given in the following section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the dwarf wedge mussel at this time. This rare and unusual mussel is sought after by amateur and scientific collectors. Its occurrence in small, localized populations makes this species particularly vulnerable to overcollecting. Because of this, the Service believes a detailed description of the species' habitat, required as part of any critical habitat designation, could increase the species' vulnerability to illegal taking and increase law enforcement problems. Therefore, it would not be prudent to designate critical habitat for this species. Doing so would draw attention to the dwarf wedge mussel and risk depletion of its already limited populations.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and local governments and private agencies, groups, and individuals. The Endangered Species Act provide for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. Some actions may be initiated prior to listing, circumstances permitting. Recovery actions that may be beneficial to the dwarf wedge mussel include:

(1) Determination of the host fish(es);

(2) Determination of the species' sensitivities to various pollutants and water quality factors;

(3) Controlling pollution and runoff from adjacent and upstream areas of the watersheds inhabited by the mussel;

(4) Establishing conservation easements along selected river and stream corridors;

(5) Transplants of the species to unoccupied historical sites having appropriate substrate and water quality conditions. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the

Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal activities that could impact the dwarf wedge mussel in the future include, but are not limited to the following: road bridge and dam construction; stream channelization; permits for effluent discharges and stream alterations; licensing of hydroelectric facilities; and registration of pesticides. One specific project having Federal involvement which could impact the species has been identified. This project involves the construction of a new bridge crossing for Maryland Route 404 over a tributary of Tuckahoe Creek in Maryland. The Service has begun coordination with the Maryland State Highway Administration regarding methods to minimize impact of this proposed project on the dwarf wedge mussel.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exception that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the rage and distribution of this species;

(4) Current or planned activities in the subject area and their possible impacts on this species.

The final decision on this proposed rule will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of publication of the proposal. Such requests must be made in writing (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Clarke, A. H. 1981. The Tribe Alasmidontini (Unionidae: Anodontinae), Part I: *Pegias, Alasmidonta,* and *Arcidens*. Smithsonian Contributions to Zoology, No. 328. 101 pp.

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Lea, I. 1829. Description of a New Genus of the Family of Naiades [etc.]. Transactions of the American Philosophical Society, new series. 3:403–456.

Master, L. 1986. *Alosmidonta heterodon:* Results of a Global Status Survey and Proposal to List as An Endangered Species. A report submitted to Region 5 of the U. S. Fish and Wildlife Service. 10 pp. and appendices.

Smith, D. 1981. Selected Freshwater Invertebrates Proposed for Special Concern Status in Massachusetts (Mollusca, Annelida, Arthropoda). Massachusetts Department of Environmental Quality Engineering, Division of Water Pollution Control. 26 pp.

Author

The primary author of this proposed rule is G. Andrew Moser, Annapolis Field Office, U.S. Fish and Wildlife Service, 1825 Virginia Street, Annapolis, Maryland 21401 (301/269–5448).

List of Subject in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "CLAMS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

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(h) * * *

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS							
Mussel, dwarf wedge	Alasmidonta heterodon	U.S.A. (CT, MA, MD, NC, NH, NJ, PA, VA, VT), Canada (New Brunswick).	NA	E		NA	NA

Dated: March 22, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-9114 Filed 4-14-89; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 54, No. 72
Monday, April 17, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs—Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced-price meals or free milk for the period from July 1, 1989 through June 30, 1990. These guidelines are used by schools, institutions, and centers participating in the National School Lunch Program, School Breakfast Program, Special Milk Program for Children, and Child Care Food Program and by commodity schools. The annual adjustments are required by section 9 of the National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for increases in the Consumer Price Index.

EFFECTIVE DATE: July 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756-3620.

SUPPLEMENTARY INFORMATION: This Notice has been reviewed under Executive Order 12291 and has been classified not major. This Notice will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.533, No. 10.555, No. 10.556, and No. 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, and the final rule related notice published at 48 FR 29112, June 24, 1983.)

This Notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and thus is exempt from the provisions of that Act.

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the National School Lunch Act (42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)), the Department annually issues the Income Eligibility Guidelines for free and reduced-price meals in the National School Lunch Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Child Care Food Program (7 CFR Part 226), commodity schools (7 CFR Part 210), and the guidelines for free milk in the Special Milk Program (7 CFR Part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size.

The Department requires schools and institutions which charge for meals separately from other fees to serve free meals to all children from any household with income at or below 130 percent of the poverty guidelines. The Department also requires such schools and institutions to serve reduced-price meals to all children from any household with income higher than 130 percent of the poverty guidelines, but at or below 185 percent of the poverty guidelines. Schools and institutions participating in the Special Milk Program may, at local option, serve free milk to all children from any household with income at or below 130 percent of the poverty guidelines.

Definition of Income

"Income," as the term is used in this Notice, means income before any deductions such as income taxes, social security taxes, insurance premiums, charitable contributions and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commisions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment, (4) social security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (90 government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which would be available to pay the price of a child's meal.

"Income," as the term is used in this Notice, does not include any income or benefits received under any Federal programs which are excluded from consideration as income by any legislative prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 1989 through June 30, 1990. The Department's guidelines for free meals and milk and reduced-price meals were obtained by multiplying the 1989 Federal income proverty guidelines by 1.30 and 1.85, respectively, and by rounding the result upward to the next whole dollar. Weekly and monthly guidelines were computed by dividing annual income by 52 and 12, respectively, and by rounding upward to the next whole dollar.

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Authority: (42 U.S.C. 1758(b)(1))
Date: April 10, 1989.
G. Scott Dunn,
Acting Administrator.

INCOME ELIGIBILITY GUIDELINES—JULY 1, 1989–JUNE 30, 1990

Household size	Reduced price meals—185 percent			Free meals—130 percent			Federal poverty guidelines		
	Year	Month	Week	Year	Month	Week	Year	Month	Week
48 Contiguous United States, District of Columbia, Guam and Territories									
1	11,063	922	213	7,774	648	150	5,980	499	115
2	14,837	1,237	286	10,426	869	201	8,020	669	155
3	18,611	1,551	358	13,078	1,090	252	10,060	839	194
4	22,385	1,866	431	15,730	1,311	303	12,100	1,099	233
5	26,159	2,180	504	18,382	1,532	354	14,140	1,179	272
6	29,933	2,495	576	21,034	1,753	405	16,180	1,349	312
7	33,707	2,809	649	23,686	1,974	456	18,220	1,519	351
8	37,481	3,124	721	26,338	2,195	507	20,260	1,689	390
For each add. family member	+3,774	+315	+73	+2,652	+221	+51	+2,040	+170	+40
Alaska									
1	13,836	1,154	267	9,724	811	187	7,480	624	144
2	18,556	1,547	357	13,039	1,087	251	10,030	836	193
3	23,273	1,940	448	16,354	1,363	315	12,580	1,049	242
4	27,991	2,333	539	19,669	1,640	379	15,130	1,261	291
5	32,708	2,726	629	22,984	1,916	442	17,680	1,474	340
6	37,426	3,119	720	26,299	2,192	506	20,230	1,686	390
7	42,143	3,512	811	29,814	2,468	570	22,780	1,899	439
8	46,861	3,906	902	32,929	2,745	634	25,330	2,111	448
For each add. family member	+4,718	+394	+91	+3,315	+277	+64	+2,550	+213	+50
Hawaii									
1	12,710	1,060	245	8,931	745	172	6,870	573	133
2	17,057	1,422	329	11,986	999	231	9,220	769	178
3	21,405	1,784	412	15,041	1,254	290	11,570	965	223
4	25,752	2,146	496	18,096	1,508	348	13,920	1,160	268
5	30,100	2,509	579	21,151	1,763	407	16,270	1,356	313
6	34,447	2,871	663	24,206	2,018	466	18,620	1,552	359
7	38,795	3,233	747	27,261	2,272	525	20,970	1,748	404
8	43,142	3,596	830	30,316	2,527	583	23,320	1,944	449
For each add. family member	+4,3487	+363	+84	+3,055	+255	+59	+2,350	+196	+46

[FR Doc. 89-9068 Filed 4-14-89; 8:45 am]
BILLING CODE 3410-30-M

Forest Service

Continental Divide National Scenic Trail, Montana-Idaho

AGENCY: Forest Service, USDA.

ACTION: Decision notice for Continental Divide National Scenic Trail, Montana-Idaho section.

SUMMARY: Pursuant to requirements of the Continental Divide National Scenic Trail Comprehensive Plan approved by the Chief of the Forest Service November 6, 1985, the Regional Foresters, Northern and Intermountain Regions in cooperation with other federal and state agencies, have completed an Environmental Assessment and selected a route for the Trail on federal lands from the U.S.-Canada border to the western boundary of Yellowstone National Park.

DATE: The Decision Notice for the selected route of the trail was signed April 7, 1989.

ADDRESSES: Copies of the Environmental Assessment and Decision Notice are available for public inspection at the following offices:

U.S.D.A., Forest Service, Regional Office, 200 E. Broadway, Missoula, MT 59801
U.S.D.A., Forest Service, Regional Office, 324-25th Street, Ogden, UT 84401
U.S.D.A., Forest Service, Washington Office, South Bldg., 12th & Independence Avenue, SW., Washington, DC 20250
U.S.D.I., National Park Service, Glacier National Park, West Glacier, MT 59936
U.S.D.I., Bureau of Land Management, Butte District Office, Industrial Park, Box 3888, Butte, MT 59702

SUPPLEMENTARY INFORMATION: Other offices of the U.S.D.A., Forest Service, where copies of the Decision Notice and Environmental Assessment can be reviewed include Forest Supervisor's offices and some Ranger District offices on the following National Forests: Flathead, Lewis and Clark, Lolo, Helena, Deerlodge, Bitterroot, Beaverhead, Salmon, Targhee and Gallatin.

John W. Mumma,
Regional Forester.
Date: April 7, 1989.
[FR Doc. 89-9071 Filed 4-14-89; 8:45 am]
BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Final Approval of Amendment No. 3 to the Alaska Coastal Management Program

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management.

ACTION: Approval of amendment to the Alaska Coastal Management Program.

Location: Aleutians East Borough, Alaska.

SUMMARY: The Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) received a request from the State of Alaska to incorporate the Aleutians East Borough (formerly Coastal Resource Service Area) Coastal Management Program (AECMP) into the federally-approved Alaska Coastal Management Program (ACMP). The State's request was made pursuant to section 306(g) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1455(g) and the regulations implementing the CZMA at 15 CFR 923.81. The AECMP creates a new coastal boundary for the ACMP in the region and establishes goals and policies for activities taking place in the Aleutians East Borough. The AECMP follows the guidelines and standards for local program development set in the ACMP and will be administered by the Borough and the State.

Notice is hereby given that the Director of the Office of Ocean and Coastal Resource Management has reviewed the amendment request and has made a determination that the ACMP as amended by the AECMP will still constitute an approvable program and that the procedural requirements of section 306(g) of the CZMA have been met.

Notice of intent to approve the amendment was published in the **Federal Register** on Wednesday, December 14, 1988, and interested parties had until January 27, 1989 to comment on the proposed changes. The proposed amendment along with the preliminary Determination of Approvability was distributed to Federal agencies and other interested parties. All comments received have been responded to and Final Findings of Approvability approved by the Director of OCRM. The Federal consistency provisions of section 307 of the CZMA shall apply to the AECMP on the date that the AECMP is filed with the Lieutenant Governor of the State of Alaska.

Inquiries regarding this program should be addressed to: James P. Burgess, Acting Regional Manager, Pacific Region, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue NW., Washington, DC 20235, (202) 673-5158.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Date: April 4, 1989.
Thomas J. Maginnis,
Assistance Administrator for Ocean Services and Coastal Zone Management.
[FR Doc. 89-9029 Filed 4-14-89; 8:45 am]
BILLING CODE 3510-08-M

National Marine Fisheries Service; Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The National Marine Fisheries Service andthe U.S. Fish and Wildlife Service will hold a joint meeting to discuss progress on the Emergency Striped Bass Research Study as authorized by the amended Anadromous Fish Conservation Act (Pub. L. 96-118).

DATE: The meeting will convene on Thursday, May 25, 1989, at 10:00 a.m., and will adjourn at approximately 3:00 p.m. The meeting is open to the public.

ADDRESS: Room 7000-A, Department of the Interior, C Street between 18th and 19th Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: David G. Deuel, Office of Fisheries Conservation and Management, National Marine Fisheries Service, Silver Spring, MD 20910. Telephone: (301) 427-2347.

Dated: April 10, 1989.
Richard H. Schaefer,
Director of Office of Fisheries, Conservation and Management National Marine Fisheries Service.
[FR Doc. 89-9065 Filed 4-14-89; 8:45 am]
BILLING CODE 3510-22-M

International Trade Administration

[A-484-801]

Antidumping Duty Order: Electrolytic Manganese Dioxide From Greece

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In separate investigations concerning electrolytic manganese dioxide ("EMD") from Greece, the United States Department of Commerce ("the Department") and the United States International Trade Commission ("the ITC") have determined that EMD from Greece is being sold at less than fair value and that sales of EMD from Greece are materially injuring a U.S. industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption, of EMD from Greece made on or after November 14, 1988, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro (202) 377-1130 or Holly Kuga (202) 377-4733, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The product covered by this order is electrolytic manganese dioxide from Greece. EMD was classifiable under item 419.4420 in the Tariff Schedules of the United States Annotated ("TSUSA"). EMD is currently classifiable under item number 2820.10.0000 of the Harmonized Tariff Schedule ("HTS").

In accordance with section 735(a) of the Tariff Act of 1930 ("the Act"), as amended (19 U.S.C. 1673(a)) (the Act), on March 2, 1989, the Department made its final determination that EMD from Greece was being sold at less than fair value (54 FR 8771). On April 10, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that such imports materially injure a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administrating authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of EMD from Greece. These antidumping duties will be assessed on all unliquidated entries of EMD entered, or withdrawn from warehouse, for consumption on or after November 14, 1988, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register** (53 FR 45793).

On or after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated

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weighted-average antidumping duty margins noted below:

Manufacturer/Producer/Exporter	Weighted-average margin Percentage
Tosoh Hellas	36.72
All others	36.72

This determination constitutes an antidumping duty order with respect to EMD from Greece, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48)

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

Dated: April 14, 1989.

[FR Doc. 89-9361 Filed 4-14-89; 12:14 pm]

BILLING CODE 3510-DS-M

[A-588-806]

Antidumping Duty Order: Electrolytic Manganese Dioxide From Japan

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In separate investigations concerning electrolytic manganese dioxide ("EMD") from Japan, the United States Department of Commerce ("the Department") and the United States International Trade Commission ("the ITC") have determined that EMD from Japan is being sold at less than fair value and that sales of EMD from Japan are materially injuring a U.S. industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption, of EMD from Japan made on or after November 14, 1988, the date on which the Department published its "Preliminary Determination" notice in the Federal Register, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the Federal Register.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro (202) 377-1130 or Holly Kuga (202) 377-4733, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The product covered by this order is electrolytic manganese dioxide from Japan. EMD was classifiable under item 419.4420 in the Tariff Schedules of the United States Annotated ("TSUSA"). EMD is currently classifiable under item number 2820.10.0000 of the Harmonized Tariff Schedule ("HTS").

In accordance with section 735(a) of the Tariff Act of 1930 ("the Act"), as amended (19 U.S.C. 1673d(a)) (the Act), on March 2, 1989, the Department made its final determination that EMD from Japan was being sold at less than fair value (54 FR 8778). On April 10, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that such imports materially injure a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administrating authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of EMD from Japan. These antidumping duties will be assessed on all unliquidated entries of EMD entered, or withdrawn from warehouse, for consumption on or after November 14, 1988, the date on which the Department published its "Preliminary Determination" notice in the Federal Register (53 FR 45796).

On or after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins noted below:

Manufacturer/Producer/Exporter	Weighted-average margin Percentage
Mitsui Mining and Smelting	77.43
Tosoh Corporation	71.91
All others	73.30

This determination constitutes an antidumping duty order with respect to EMD from Japan, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48)

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

Date: April 14, 1989.

[FR Doc. 89-9362 Filed 4-14-89; 12:14 pm]

BILLING CODE 3510-DS-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1989 commodities to be produced and a service to be provided by workshops for the blind or other severely handicapped.

Comments must be received on or before: May 17, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018):

Commodities

Bandage, Gauze, Compressed, Camouflaged
6510-00-200-3180
6510-00-200-3190

Folder, File
7530-FMHA Supply Item No. 38

Enamel, Alkyd, Lusterless
8010-00-948-7388

Service

Janitorial/Custodial
Federal Building Complex in the following Oklahoma City, Oklahoma locations:
U.S. Post Office/U.S. Courthouse
215 Dean A. McGeen Avenue
Federal Building/U.S. Courthouse
200 North West Fourth Street
Alfred P. Murrah Federal Building
200 North West Fifth Street
Federal Parking Facility
200 North West Fifth Street

Beverly L. Milkman,

Executive Director.

[FR Doc. 89-9035 Filed 4-14-89; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1989 Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletions from procurement list.

SUMMARY: This action deletes from Procurement List 1989 services which have been provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 17, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On January 27, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (54 FR 4060) of proposed deletions from Procurement List 1989, which was published on November 15, 1989 (53 FR 46018).

Deletions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

Accordingly, the following services are hereby deleted from Procurement List 1989:

Commissary Warehouse Service
Maxwell Air Force Base, Alabama
Commissary Warehouse Service
Scott Air Force Base, Illinois

Beverly L. Milkman,

Executive Director.

[FR Doc. 89-9036 Filed 4-14-89; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Establishment of the Commodity Futures Trading Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Establishment of advisory commission.

SUMMARY: Commodity Futures Trading Commission has determined to establish the "Commodity Futures Trading Commission Regulatory Coordination Advisory Committee." As required by section 9(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, section 9(a)(2); 41 CFR 101-6.1007; and OMB Bulletin No. 89-06, the Commission has consulted with the Committee Management Secretariat of the General Services Administration and with the Office of Management and Budget. The Commission certifies that creation of this Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed on the Commission by the Commodity Exchange Act ("Act"), 7 U.S.C. 1 *et seq.*, as amended. This notice is published pursuant to section 9(a)(2) of the federal Advisory Committee Act, 5 U.S.C. App. I, section 9(a)(2) and 41 CFR 101-6.1015.

FOR FURTHER INFORMATION CONTACT: Robert J. MacKay, Chief of Staff (Tel. (202) 254-3343) or Helen G. Blechman, Assistant General Counsel (Tel. (202) 254-9880), Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: The 1980's have seen a technological and financial revolution that has spawned a worldwide market in financial instruments and information. The world's stock, stock index futures and options markets have become increasingly automated and economically linked in terms of financial instruments, trading strategies, market participants and clearing and trading mechanisms.[1] the degree of this linkage was demonstrated during the October 1987 price break.

This internationalization and linkage of markets presents the CFTC and other domestic and foreign regulators and industry participants with numerous challenges. Among these challenges is the need to identify: those areas where regulators and industry participants can improve regulatory coordination; those areas where a regulatory gap may exist; and those areas where there may be duplication of effort, and therefore a need to take certain corrective measures.

In order to address this need and the Commission's obligation to regulate the futures and options markets, which "are affected with a national public interest," the Commission is establishing a Regulatory Coordination Advisory Committee. *See* Section 3 of the Commodity Exchange Act, 7 U.S.C. 5. This advisory committee will conduct public meetings and submit reports and recommendations to the Commission on issues concerning regulatory coordination among domestic and international regulators and others interested in or affected by financial, agricultural and other commodities markets regulated by the CFTC. These issues will include:

1. Regulatory coordination on critical issues that affect related domestic and international financial markets and institutions;

2. Considerations raised by the development of separate but economically linked futures, stock, options and off-exchange markets in the United States and abroad, including, but not limited to the regulatory costs involved and the problems posed by regulatory costs involved and the problems posed by differing and/or duplicative regulatory frameworks;

3. Identification of methods to improve and enhance the sharing of information relating to enforcement, market conditions and financial risk among domestic and international regulators;

4. Considerations raised by a changing and increasingly linked domestic and international marketplace, including, but not limited to, the identification of methods to improve coordination among domestic and international regulatory structures to enhance operational efficiency and capabilities of users; and

5. Improved credit, clearing and payment systems to ensure the necessary coordination within and between markets.

The Commission believes that the most efficient and effective means of gaining the necessary understanding of these questions is to receive practical advice and policy suggestions on a regular basis from other domestic and foreign regulators and users of these markets.

The Chairman of the Commission has determined that this Advisory Committee is essential to the conduct of agency business and is in the public interest. The reports, recommendations and general advice from this Committee

[1] *See* January 1988 Report of the Presidential Task Force on Market Mechanisms ("Brady Report") at 69.

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will enable the Commission to assess possible statutory, regulatory or policy alternatives and practical considerations in a rapidly growing and changing industry and global marketplace, enabling the Commission to better respond to existing problems and to anticipate future ones. This Advisory Committee will serve a unique and special function, since it will for the first time bring together in a "round table" setting, those diverse private and governmental entities that are interested in or affected by the world's financial, agricultural and other commodities markets. Providing such a forum for the exchange of information among domestic and foreign regulators and market users will keep the Commission apprised of highly technical and complex competitive regulatory issues. The Commission believes that the regular periodic advice and recommendations that this Advisory Committee will provide are important to developing better intermarket coordination and information sharing. Such developments would be consistent with the Commission's power under the Commodity Exchange Act—to cooperate and to share information with Federal, state, and foreign departments and agencies. *See* 7 U.S.C. 12(e), 16(a).

Chairman Wendy L. Gramm will serve as Chairman and Designated Federal Official of this Advisory Committee. The members of the Advisory Committee shall be composed of, but not limited to, representatives of other United States and foreign regulatory and Executive agencies, as well as representatives of financial, agricultural and other market participants in the United States and abroad. In addition, representatives of accounting firms, academia and general public participants will be considered for membership. This cross-section of interested and affected persons and groups will provide a balanced membership in terms of points of view represented, since the members will represent the concerns and practical considerations of diverse domestic and international regulators, participants and others interested in or affected by financial, agricultural and other commodities markets under the Commission's jurisdiction.

Issued in Washington, DC, on April 11, 1989, by the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89-9115 Filed 4-14-89; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 8-19, May 1989.

Time of Meeting: Variable.

Place:

8-12 May—Japan
13-14 May—Travel
15-16 May—Korea
17—Travel
18-19 May—Hawaii

Agenda: The Army Science Board 1989 Summer Study on International Cooperation and Data Exchange to Enhance the Army's Technology Base will conduct a data gathering field trip with the major objective of finding out how well the current system is operating in the realm of International Cooperation and Data Exchange. The Army Science Board will attempt to get both the host country and the U.S. viewpoint at each location. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-9069 Filed 4-14-89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Office of Energy Research

Health and Environmental Research Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Health and Environmental Research Advisory Committee (HERAC).

Date and Time:
May 15, 1989—9:00 a.m.-5:00 p.m.
May 16, 1989—9:00 a.m.-12:00 Noon.

Place: The Compri Hotel, 805 Russell Avenue, Gaithersburg, MD 20879.

Contact: George D. Duda, Office of Health and Environmental Research (ER-72), Office of Energy Research, Department of Energy, Washington, DC 20545, telephone: 301-353-3651.

Purpose of the Committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Health and Environmental Research (HER) program.

Tentative Agenda: Briefings and discussions of:

May 15, 1989

- Overview of HER Program
- Report from HERAC Subcommittee on Nuclear Medicine
- Report from HERAC Subcommittee on Global Change
- Public comment (10 minute rule)

May 16, 1989

- New Business Discussion
- Public comment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact George D. Duda at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 11, 1989.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 89-9067 Filed 4-14-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF87-59-002]

Panther Creek Operating Limited Partnership; Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

April 12, 1989.

On March 27, 1989, Panther Creek Operating Limited Partnership (Applicant) of Griffin Road North, 5 Waterside Crossing, Windsor, Connecticut 06095-0500, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made the submittal constitutes a complete filing.

The proposed facility was initially certified as a qualifying small power production facility on May 21, 1987, Panther Creek Energy, Inc., 39 FERC ¶ 61,190 (1987). On October 19, 1987, Applicant requested recertification of the facility to reflect the inclusion of approximately forty-two miles of 69 Kv transmission line. The length of the transmission line was subsequently changed to approximately thirty miles. Applicant stated that the proposed transmission line would interconnect the facility, which is located in Pennsylvania Power and Light Company's service territory, with the transmission system of the Metropolitan Edison Company (Met Ed) and that the transmission line would be utilized to transmit the qualifying facility's electric power output to Met Ed and to receive startup, backup and maintenance power services from Met Ed. Recertification of the facility as a qualifying small power production facility was granted on February 25, 1988, 42 FERC ¶ 62,172 (1988).

The instant recertification is requested due to Applicant's proposed relocation of the facility by approximately 1¼ miles to a site north of Route 54 in Nesquehoning Borough, Pennsylvania. Additionally, Applicant proposes to utilize alternate banks of anthracite coal refuse material as the primary energy source of the facility. In all other respects, the operation and configuration of the facility remains essentially the same.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9104 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8716-003 Montana]

Dan J. Brutger; Availability of Environmental Assessment

April 6, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Lewis Creek Hydroelectric Project located on Lewis Creek in Park County, near Emigrant, MT, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NW., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9102 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9482-002 Montana]

Wisconsin-Noble; Availability of Environmental Assessment

April 6, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Wisconsin-Noble Project located on Wisconsin Creek and Noble Fork in Madison County, near Sheridan, Montana, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9101 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-2-1-000]

Alabama-Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 11, 1989.

Take notice that on April 6, 1989, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama 35631, tendered for filing Second Revised Sheet No. 4A to its FERC Gas Tariff, First Revised Volume No. 1. Such tariff sheet is proposed to become effective May 1, 1989.

Alabama-Tennessee states that the filing is to adjust the currently effective take-or-pay surcharge rates to its customers to reflect increases in the amount being billed to by Tennessee Gas Pipeline Company. Alabama-Tennessee asserts that the allocation methodology utilized is that approved by the Commission in Docket Nos. RP88-205-001 and TM89-1-1-000. Alabama-Tennessee further states that such filing is being made pursuant to § 26.1(a) of its tariff.

Alabama-Tennessee is amortizing the increased take-or-pay costs over a thirty-six (36) month period. According to Alabama-Tennessee, that is the maximum amortization period allowed by this Commission in FERC Docket No. RP88-191

Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheets to become effective as proposed.

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Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211 and 385.214). All such motions or protests should be filed on or before April 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9111 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2768-002—Massachusetts]

Linweave, Inc.; Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

April 6, 1989.

The license for the A'bion Mill (A Wheel) Project No. 2768, located on the Holyoke Canal, off the Connecticut River, in Hamden County, Massachusetts, expries on February 28, 1991. The statutory deadline for filing applications for new license was February 28, 1989. An application for new license has been filed as follows:

Project No.	Applicant	Contact
P-2768	Linweave, Inc., 10 Linweave Drive, Holyoke, MA 01040.	Mr. Robert Belsky, 10 Linweave Drive, Holyoke, MA 01040.

Pursuant to section 15(c)(1) of the Federal Power Act the deadline for applicant to file final amendments, if any, to its application is May 22, 1989.

The following is an approximate schedule and procedures that will be followed in processed the application.

Date	Action
Feb. 9, 1989.	Commission notifies Linweave, Inc. of any deficiencies in its application.
Feb. 21, 1989.	Applicant files all corrections of deficiencies.
Mar. 17, 1989.	Commission notifies applicant that its application has been accepted. The notification of acceptance will specify the need for additional information, if any, and the date information is due.
Apr. 1, 1989.	Commission issues public notice of the application describing proposals and establishing dates for filing motions to intervene, comments, protests, and agency recommendations.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Charles T. Raabe at (202) 376-9778.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9100 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2766-002-Massachusetts]

Linweave, Inc.; Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

April 12, 1989.

The license for the Albion Mill (D Wheel) Project No. 2766, located on the Holyoke Canal, off the Connecticut River, in Hamden County, Massachusetts, expires on February 28, 1991. The statutory deadline for filing applications for new license was February 28, 1989. An application for new license has been filed as follows:

Project No.	Applicant	Contact
P-2766	Linweave, Inc., 10 Linweave Drive, Holyoke, MA 01040.	Mr. Robert Belsky, 10 Linweave Drive, Holyoke, MA 01040.

Pursuant to section 15(c)(1) of the Federal Power Act the deadline for applicant to file final amendments, if any, to its application is May 31, 1989.

The following is an approximate schedule and procedures that will be followed in processing the application.

Date	Action
Feb. 9, 1989.	Commission notifies Linweave, Inc. of any deficiencies in its application.
Feb. 21, 1989.	Applicant files all corrections of deficiencies.
Mar. 17, 1989.	Commission notifies applicant that its application has been accepted. The notification of acceptance will specify the need for additional information, if any and the date information is due.
Apr. 1, 1989.	Commission issues public notice of the application describing proposals and establishing dates for filing motions to intervene, comments, protests, and agency recommendations.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Charles T. Raabe at (202) 376-9778.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9103 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2543 Montana]

Montana Power Co.; Intent To File an Application for a New License

April 6, 1989.

Take notice that on January 10, 1989, Montana Power Company, the existing licensee for the Milltown Hydroelectric Project No. 2543, late filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2543 was issued effective May 1, 1965, and expires December 31, 1993.

The project is located on Clark Fork River in Missoula County, Montana. The principal works of the Milltown Project include a dam with a 244-foot-long concrete abutment wall, a 45-foot-high, 152-foot-long concrete gravity section integral with the powerhouse, a 52-foot-long concrete sluice section with gates and a 216-foot-long rock crib spillway; a reservoir of 300 acre-feet at elevation 3,260 feet m.s.l.; a powerhouse with an installed capacity of 3,040 kW; transformers and transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 26, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426. The above information as described in the rule is now available from the licensee at 40 East Broadway, Butte, Montana 59701.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9099 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-142-000]

Northern Natural Gas Co., Division of Enron Corp.; Petition for Extension of Limited Waiver

April 11, 1989.

Take notice that on April 3, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern) filed a petition requesting an extension of the limited waiver of § 154.302(j) of the Commission's regulations and a waiver of such other Commission regulations as may be appropriate to permit it to flow through its Purchase Gas Adjustment (PGA) clause the costs of ethane and/or an ethane mixture purchased by Northern and injected into its system supply during a period commencing May 1, 1989 and extending through April 30, 1990. Northern states that it was granted an extension of the waiver on February 25, 1988 under Docket No. RP88-51-000, which will expire on April 30, 1989. Northern states that the original intent of its petition remains unchanged from the original order.

Northern states it will purchase ethane only when it is economically prudent to do so based on a consideration of the price of alternate supplies, dependability of the supply, and time required to deliver the supplies to the market. Northern points out that it does not anticipate such ethane purchases will involve any changes or additions to its facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1989)]. All such motions or protests should be filed on or before April 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9106 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-84-001 and RP88-228-014]

Tennessee Gas Pieplne Co.; Filing of Second OCS Rate Election

April 11, 1989.

Take notice that on April 5, 1989, Tennessee Gas Pipeline Company (Tennessee) submitted for filing a second notification of its election to continue to use, after April 1, 1989, its current rates for certain OCS transportation services rendered pursuant to the following Tennessee Rate Schedule:

Firm Transportation

Rate Schedules T-43, T-44, T-45, T-46, T-47, T-50, T-62, T-98, T-128 and T-162.

Interruptible Transportation

Rate Schedules T-24, T-30, T-31, T-36, T-53, T-56, T-64, T-65, T-67, T-68, T-69, T-70, T-71, T-76, T-77, T-78, T-80, T-81, T-82, T-83, T-84, T-85, T-86, T-89, T-91, T-92, T-94, T-95, T-99, T-100, T-101, T-102, T-103, T-108, T-109, T-110, T-111, T-113, T-116, T-117, T-119, T-120, T-121, T-122, T-123, T-124, T-125, T-126, T-127, T-129, T-130, T-131, T-133, T-134, T-135, T-136, T-137, T-138, T-139, T-140, T-141, T-142, T-144, T-145, T-146, T-147, T-148, T-150, T-151, T-152, T-153, T-154, T-156, T-157, T-158, T-159, T-160, T-161, T-163, T-164, T-165, T-166, T-167, T-168, T-169, T-170, T-171, T-172, T-177, and T-178.

Tennessee states that the filing is made to comport with the Commission's definition of OCS transportation service as explained in the Order Accepting and Suspending Tariff Sheets and Consolidating Proceedings issued March 31, 1989 in the captioned dockets.

Tennessee states that copies of its filing are available for inspection at its principal place of business in the Tenneco Building, Houston, Texas and have been mailed to all parties and effected customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 18, 1989. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois. D. Cashell,

Secretary.

[FR Doc. 89-9106 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-145-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

April 11, 1989.

Take notice that on April 7, 1989, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Original Sheet No. 204-A

The proposed effective date of the revised tariff sheet is May 8, 1989.

Transco states that the purpose of this filing is to revise Transco's currently effective FERC Gas Tariff so as to require under the tariff that shippers on Transco's system reimburse Transco for the costs which Transco incurs in removing and disposing polychlorinated biphenyls (PCBs), and that shippers indemnify Transco for any liability which may result therefrom, or from the transportation of gas containing PCB—contaminated liquids. Transco states that, through its testing procedures, it has identified contamination by PCBs of the liquid hydrocarbons at certain parts of its system as a result of the receipt of gas from certain upstream pipelines at interconnections between Transco and such other pipelines. Transco states that in that regard, it has installed, and may additionally install in the future, equipment to remove contaminated

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liquids before they enter Transco's system. Transco avers that the proposed tariff sheets would provide Transco with an alternative under the tariff to denying receipt of gas at such points.

Transco states that copies of the filing have been served upon its customers, state commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 823 North Capitol Street NE., Washington, DC 20428, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before April 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9109 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-99-001]

Transcontinental Gas Pipe Line Corp.; Proposed Waiver of Tariff Provisions

April 11, 1989.

Take notice that on April 3, 1989, Transcontinental Gas Pipe Line Corporation (Transco) requested the Commission to waive its regulations to allow Transco to waive the daily restrictions reflected in its tariff on injections of gas purchased from third-party sellers, effective April 1, 1989 until June 30, 1989.

Transco states that it has been engaged in discussions with its customers regarding the settlement of various issues and proceedings which relate to the Commission's Order Nos. 436 and 500, and the implementation of such orders on the its system. In that regard, on April 5, 1988, Transco filed proposed revisions to its Rate Schedules GSS, LSS, and LGA to allow customers which have converted a portion of their firm sales entitlements to firm transportation service to inject into Transco's eastern storage facilities quantities of gas not purchased from Transco equivalent to such conversion percentages. Pursuant to the provisions of Transco's tariff sheets, injections of gas quantities not purchased from Transco are limited on a daily and total quantity basis to the percentage of each customer's daily firm purchase entitlement from Transco which had been permanently converted to firm transportation service.

Transco states that, as part of the overall settlement, during the interim period effective April 1, 1989 until June 30, 1989, pending Commission approval of its settlement, Transco agreed to waive the daily restrictions reflected in its tariff on injections of gas purchased from third-party sellers.

Transco requests the Commission to waive its regulations to the extent necessary to effectuate the waiver during the interim period. Transco submits that the proposed waiver is not in conflict with any Commission regulation or order and is consistent with the proposed settlement and Commission policies enunciated in Order Nos. 436 and 500. In addition, Transco submits that the instant waiver is being granted on a non-discriminatory basis and is not preferential to any customer receiving storage service on its system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20428, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before April 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9107 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-128-001]

Transwestern Pipeline Co.; Filing

April 11, 1989.

Take notice that on April 6, 1989, Transwestern Pipeline Company (Transwestern) filed Substitute Fourth Revised Sheet No. 32 and Substitute 1st Revised Sheet No. 29A to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective May 1, 1989.

Transwestern states that this filing corrects a couple of key phrases on the tariff sheets that were originally filed on March 31, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20428, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before April 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9110 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-114-016]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 11, 1989.

Take notice that on April 4, 1989, Williams Natural Gas Company (WNG) tendered for filing revised tariff sheets to its FERC Gas Tariff.

WNG submits that the sheets are filed in substitution for those filed on March 6, 1989 in compliance with the Commission's orders of November 4, 1988 and February 1, 1989 in this docket. WNG proposes that the tariff changes be made effective on January 1, 1989.

WNG states that copies of the filing were mailed to all of WNG's jurisdictional customers, and interested state commissions, as well as the parties listed on the Commission's official service list compiled in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20428, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before April 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9112 Filed 4-14-89; 8:45 am]

BILLING CODE 6717-01-M

Southwestern Power Administration

Federal Hydroelectric Power; Power Allocation Policy

AGENCY: Department of Energy, Southerwestern Power Allocation.

ACTION: Adoption of a policy for the allocation of power and energy from Federal hydroelectric power projects.

SUMMARY: The Southerwestern Power Administration (SWPA) published the "Policy for the Allocation of Power and Energy from Federal Hydroelectric Power Projects" in the **Federal Register** (52 FR 29881) dated August 12, 1987. Subsequent to that publication, SWPA received several comments which expressed concern over a perceived lack of opportunity to comment on two particular phrases in the policy. On November 9, 1988, SWPA published in the **Federal Register** (53 FR 45381) the "Notice of Opportunity to Provide Comments on Specific Phrases in the Power Allocation Policy."

Three letters received containing comments on the November 9, 1988, notice. One comment had been answered previously and did not pertain to the phrases in question. Summaries of the other comments received and SWPA's responses follow.

1. Comment—The Final Policy would reserve a portion of all power available for allocation for new customers. If the Final Policy, as drafted, is adopted, ten percent of the power generated at an existing project which became available for allocation would be reserved for new customers. It is our position that the new customers should be given an opportunity to purchase power generated at new projects, but that 100 percent of power generated at existing projects should be allocated to those customers who have supported the SWPA system in the past.

SWPA Response—The Power Allocation Policy provides that 10 percent of the power from new projects available for allocation, other than power allocated to the non-Federal project sponsor, would be allocated to new customers. New Projects include new hydroelectric power facilities being constructed at new or old water resource projects with or without existing hydroelectric power facilities. The Power Allocation Policy also provides that 10 percent of the power which becomes available for allocation from existing hydroelelctric power facilities will be allocated to new customers. In that case, power could become available from a variety of reasons including, but not limited to, upgrading of equipment, new operating criteria, and changes in operational agreements. Power may also become available if an existing customer relinquishes or loses its allocation. In the first two scenarios, the power made available for allocation had not been previously allocated; therefore, revenues had not been received from the sale of that power to apply to the repayment. In the scenario where an existing customer relinquishes or loses its allocation, only that existing customer is impacted. In all of the scenarios, we believe the existing customers as a group would not be adversely impacted by the new customers receiving 10 percent and the existing customers receiving 90 percent of the power available for allocation.

2. Comment—The Allocation Notice clarifies any ambiguity by reaffirming that "present announced policy is that capacity power allocations will continue to be honored beyond present contract commitments (with available resources) under SWPA's allocation policy. . . ." We are also satisfied with SWPA's intent "to renew power allocations when existing contracts expire," subject to adequate operational support.

SWPA Response—We are pleased the November 9, 1988, Notice has helped clarify the Power Allocation Policy.

3. Comment—The information in the Notice provides needed assurance that existing and future Federal hydroelectric power will continue to be made available to preference power customers. We encourage your efforts to maintain an equitable allocation process to assure the benefits of Federal hydroelectric power accrue to the preference community.

SWPA Response—SWPA appreciates the support being provided by the existing customers.

Therefore, based on the comments received from the November 9, 1988, Notice and the evaluation of those comments, SWPA determines that no changes are warranted in the "Policy for the Allocation of Power and Energy from Federal Hydroelectric Power Projects" in the **Federal Register** (52 FR 29881) dated August 12, 1988.

FOR FURTHER INFORMATION CONTACT: Francis R. Gajan, Director of Power, Marketing, Southwestern Power, Administration, P.O. Box 1619, Tulsa, Oklahoma 74101.

Issued at Tulsa, Oklahoma, on March 21, 1989.

J.M. Shafer,

Administrator, Southwestern Power Administration.

[FR Doc. 89-9138 Filed 4-14-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3556-1]

Formation of an Agency Workgroup to Consider Uniform Standards for Electronic Reporting of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for public comment.

SUMMARY: The Environmental Protection Agency is establishing an Agency-wide workgroup to consider developing and instituting uniform standards for electronic reporting of data. Such standards would allow the regulated community to make electronic submissions to EPA, by specifying the format in which the data must be presented in an electronic or magnetic medium. The purpose of this notice is to announce the establishment of the Electronic Reporting Standards Workgroup, and to solicit both public comments on the proposed effort and information on any relevant electronic data standards now in use in the private sector. Response to this request is strictly voluntary.

DATE: Comments should be submitted by June 16, 1989.

ADDRESSES: If you wish to provide comments or information in response to this notice, please submit them by June 16, 1989 to David Schwarz, Environmental Protection Agency, Office of Policy, Planning, and Evaluation (PM-223), 401 M Street SW., Washington, DC 20460. Comments should be accompanied by a brief cover letter, indicating that they are responses to this **Federal Register** notice. We will make all comments and information available for public inspection at Room 3313, Waterside Mall, EPA Headquarters, 401 M Street SW., Washington, DC 20460. If you wish to inspect these comments, please contact David Schwarz at (202) 382-2706, to schedule a mutually convenient time.

SUPPLEMENTARY INFORMATION:

Background

To carry out its environmental programs, EPA needs to collect a wide

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range of data from the regulated community. We now receive most of this data on paper, even though submitters keep much of it electronically, and the data is often destined for computerized databases at EPA. The Agency would therefore like to consider the possibility of allowing submitters to report this data electronically, either by transmission over telephone line or by submitting the data on a magnetic medium (e.g., floppy disks or magnetic tape). We believe that giving submitters this option could result in substantial cost savings for the Agency and the regulated community, and provide such other benefits as improving the overall quality of the data by reducing the opportunity for transcriptional errors.

EPA is aware that many private organizations have already successfully instituted electronic reporting for routine business transactions by means of electronic data interchange (EDI). To implement EDI, the American National Standards Institute (ANSI) has developed the "ANSI X.12 Data Interchange Standards", which appear to have wide application in the private sector and in some government agencies. These standards specify how data must be represented in an electronic medium and ensure that all data transmitted among EDI participants conform to the same electronically recognizable format. Given these standards as a platform, the private sector has erected the software and hardware infrastructure for a reliable and cost-effective system of EDI.

The private sector's success in using the ANSI X.12 standards clearly demonstrates the role that uniform data standards can play in fostering electronic reporting. The Agency therefore wishes to consider the utility and feasibility of setting electronic reporting standards for the data that our programs receive from the regulated community. Given the example of EDI, such standards—applicable *uniformly* across all of the Agency's environmental programs—may be at least a necessary foundation for a coherent Agency-wide approach to electronic reporting. We believe that only by taking such an approach can the Agency and the regulated community realize the full economic benefits of electronic reporting. For these reasons, EPA has established an Agency-wide workgroup to assess the merits of uniform standards for the electronic reporting of technical and administrative data required for the Agency's environmental programs. The workgroup will then proceed to develop and institute such standards as appropriate.

In announcing the establishment of the Electronic Reporting Standards (ERS) Workgroup, this advance notice solicits public comments and information on existing capabilities for electronic reporting. Specifically, we wish to know whether the ANSI X.12 standards would be a good model for purposes of reporting data to EPA—whether via transmission over telephone line or on a magnetic medium. We also wish to know what other data standards may be in use in industry and in government, and how we should work with other organizations in the private and public sectors in instituting uniform electronic reporting standards. By engaging in a public dialogue at an early stage, we hope to benefit from the experiences of the regulated community, and the private sector generally, in considering electronic data standards. We also hope to benefit from the experiences of other federal agencies and State and local governments. We hope that such dialogue will help ensure that any data standards we ultimately develop will be as compatible as possible with current practices, both in industry and in government.

Requirements for Electronic Reporting Standards

EPA believes that any electronic reporting standards that the Agency ultimately adopts should satisfy the following requirements:

1. They must be uniform across the Agency.
2. They must be flexible enough to accommodate the different information requirements of each of EPA's program offices.
3. They must be compatible, to the extent possible, with the standards that are already in wide use in the regulated community, in EPA program offices, and at other Federal and State agencies.
4. They must not dictate the use of particular computer software and hardware, and must be compatible with any standard mode of electronic data transfer, whether via transmission over telephone line or on a magnetic medium.

We would like public comment on the appropriateness of these four requirements, as well as suggestions for additional requirements that the ERS Workgroup may consider.

Development of Uniform Standards

In developing electronic reporting standards, the ERS Workgroup will seriously consider the approach represented by the ANSI X.12 standards, although we will want to examine other models as well. Correspondingly, we are interested in knowing whether data standards other than the ANSI X.12 are being used to implement EDI or other forms of electronic reporting and we would welcome information on such standards.

In developing uniform, Agency-wide standards, the ERS Workgroup will want, to the extent possible, to build on current electronic reporting initiatives already underway in EPA program offices—for example, the electronic reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (Title III of the Superfund Amendments and Reauthorization Act of 1986). We would likewise want to build on electronic reporting efforts within the regulated community—as well as within State and local government—particularly where the data being transmitted is of the same kinds that would be submitted to EPA. We therefore solicit any available information on such activities.

Given the goal of setting uniform standards for use across the Agency, we are not certain at this time how specific the standards should be to particular data elements. Therefore, the ERS Workgroup will most likely consider both specific as well as generic data standards. While the distinction is somewhat relative and pragmatic, for our purposes a "specific standard" pertains to a particular data element and defines such things as maximum length; whether the data can be characters, numbers, or both; left or right justification within fields; leading or trailing blanks or zeros; and so on. A "generic standard", on the other hand, prescribes the structure and location of a data "module", i.e., a group of functionally related data elements. A generic standard might include instructions on how the module will be labelled; what mandatory and optional data elements the component will consist of; as well as how the data elements in the module will be sequenced, labelled, and separated from each other. The appendix to this notice provides two examples to illustrate these concepts. These examples are solely for purposes of illustration and may not reflect the approach that the ERS Workgroup will eventually take. In any event, we are interested in public comments on the relative importance of generic and specific standards—as we have explained these concepts—to the effort of moving the Agency toward electronic reporting.

The ERS Workgroup will identify and evaluate electronic reporting standards now in use in Agency program offices and elsewhere in the private and public sectors. On the basis of that evaluation, together with the comments and information received from the public, the Workgroup will decide whether to proceed with the development of such standards for the Agency. If the decision is to proceed, the ERS Workgroup will propose a set of standards for Agency-wide adoption—at least for those data elements or modules of interest to more than one EPA program office. We intend to publish these proposed standards in the **Federal Register** for public review and comment. Following the Workgroup's evaluation of the public comments on the proposed standards, we will develop the final standards. Upon completion, we will publish these standards in the **Federal Register**.

Public Participation

In the foregoing discussion, we have suggested a number of questions for public comment. To summarize them in a list, they are:

(1) Will the "ANSI X.12 Data Interchange Standards" serve as a good model for EPA electronic reporting standards?

(2) Are there any electronic reporting standards other than the ANSI X.12 standards that are widely and successfully used? If you know of such standards, please give us as much information as you can about them and how they compare to the ANSI standards.

(3) What experience have State and local governments had with electronic reporting? What lessons are there for EPA in the State/local experience?

(4) Are there specific electronic reporting activities within the community of organizations that provide data to EPA—the private sector companies, the State and local government agencies, etc.—that we should take account of as we set electronic reporting standards? Please give us as much information as you can about such activities and explain how they may be applicable to EPA.

(5) Are the four requirements discussed in the section entitled "Requirements for Electronic Reporting Standards" sufficient and appropriate? Is it possible to develop standards that will satisfy them?

(6) Do we need to develop generic standards, specific standards, or both (given our concepts of "generic" and "specific")? For what kinds of data would each type of standard be most appropriate?

(7) What kind of certification method(s) can be used in electronic reporting whereby the submitter can "certify" that the information submitted is true and represents the complete response required by EPA?

(8) What problems or issues will EPA have to address in using electronically reported data as evidence in administrative and judicial civil and criminal enforcement actions?

(9) What problems/issues are there in providing for the security of electronically reported data? Can confidential business information (CBI) be submitted electronically? If so, how can the security of CBI be assured?

(10) In general, how should the Agency work with the private sector in setting and implementing electronic reporting standards? What should be the proper role of the regulated community and of the information service industry? What incentives, if any, can EPA offer to the regulated community to promote the use of these standards for electronic reporting?

(11) Similarly, how should EPA work with the State and local governments, and with public interest groups, in setting and implementing electronic reporting standards?

(12) What would be the most efficient and cost-effective way for the Agency to make our electronic reporting standards available to the public? How should the Agency keep the public informed of changes and updates to the standards?

(13) How would electronic reporting affect small business? What, if anything, can EPA do to assist small business in instituting electronic reporting to the Agency?

(14) What implications could the move from paper to electronic or magnetic submissions have for public access to the submitted data? How would or should this affect EPA's responses to Freedom of Information Act (FOIA) requests?

If you wish to respond to one or more of these questions, please follow the procedures specified in the section of this notice entitled "ADDRESSES", and please label your response to indicate the numbers of the question(s) to which it pertains. If you are submitting information on additional electronic data standards, please provide as much background information as you can, to help us evaluate the usefulness of these standards for our purposes. We also welcome your suggestions of other issues to be considered, and any general comments you may have on the benefits or costs of electronic reporting, and on the utility of setting standards for electronic reporting.

Although the ERs workgroup does not plan to hold public meetings, appropriate Agency staff members will be available to meet informally with anyone who requests a face-to-face discussion of comments/suggestions. The meetings would be held at EPA Headquarters in Washington, DC, at a time mutually convenient for you and Agency staff. If you wish to meet with Agency staff, submit a request in writing during the comment period, indicating three alternative days as well as the topic(s) that you want to discuss. We will respond directly to your request within 45 days after the close of the comment period. You may also use the same procedure to request discussions or meetings via telephone.

We believe that the success of this effort depends on a meaningful public dialogue at the earliest possible stage. We therefore urge all interested parties to submit comments and/or suggestions in response to this notice.

Thomas E. Kelly,

Director, Office of Standards and Regulations.

Appendix

Example 1: Generic Standards for Identifying a Facility

Data Element Markers	
FH	Facility Information Header.
F1	Facility Name.
F2	Street address.
F3	City name.
F4	State code.
F5	Zip code.
F6	Facility ID number.
F7	Optional ID number 1.
.	
.	
.	
F16	Optional ID number 10.
F17	Technical contact.
F18	Telephone number.
.	
.	
.	
FE	Facility information trailer.

Structure

Order—The data elements will occur in the order of the markers listed above, each data element directly preceded by its corresponding marker.

Delimiters—The markers-data element pairs will be separated by the "$" sign. The markers will be separated from its data element by a comma. (The structure of a facility name and address sequence following these instructions would be something like: "F1,Acme-Earwig$F2,34-Park Road$F3,Sleepy Hollow$F4,NY$F5,21111".)

Position—Where present, the facility identification component directly precedes facility-specific information pertaining to the facility being identified. Where present, the sequence of facility identification/facility specification components is the first unit of the report.

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Example 2: Standards for Specific Data Elements that Identify a Facility

Facility Name—The most common name characterizing the location or the owner of the entity.
Maximum length=50
Record type=Alphanumeric
Format specification=Left justified.

Street Address—The actual street address of the facility, which may or may not correspond to the mailing address.
Maximum length=50
Record type=Alphanumeric
Format specification=Left justified.
Enter "NA" for those entities that do not have a street address.

City Name—The full name of the city in which the facility is located.
Maximum length=25
Record type=Alpha
Format specification=Left justified.
Enter "NA" if appropriate.

State Code—The Federal Information Processing System (FIPS) standard 2-letter code for the state or U.S. territory in which the facility is located.
Maximum length=2
Record type=Alpha
Format specification=Left justified.

Zip Code—The postal Zone Improvement Plan (ZIP) code of the location of the facility. Either 5- or 9-digit codes can be used.
Maximum length=9
Record type=Numeric
Format specification=Right justified with no leading zeroes.

Facility ID Number—The 12-digit code that EPA has assigned to the facility.
Maximum length=12
Record type=Numeric
Format specification=Right justified. Do not use dashes or other special characters.

Optional ID Number 1—Optional ID Number 10

Additional codes specified at option of particular program office.
Specification includes: Maximum length, record type, and format.

Technical Contact—The name of a person who can answer technical questions concerning the submission.
Maximum length=30
Record type=Alphanumeric
Format specification=Left justified.

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[FR Doc. 89-9121 Filed 4-14-89; 8:45 am]
BILLING CODE 6560-50-M

[OPP-00276; FRL-3556-7]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: There will be a 1-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) to review a set of scientific issues being considered by the Agency in connection with an Acute Dietary Exposure to Aldicarb: A Prototype Analysis; a set of scientific issues being considered by the Agency in connection with the peer review classifications of the pesticides Express as a Class C oncogen and permethrin as a Class C oncogen.

DATE: The meeting will be held on Tuesday, May 9, 1989 from 8:30 a.m. to 4:00 p.m.

ADDRESS: The meeting will be held at: Crystal City Hyatt Regency Hotel, 2799 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: By Mail: Robert B. Jaeger, Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (H7509C), 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 821, Crystal Mall Building No. 2, Arlington, VA, (703-557-4369).

SUPPLEMENTARY INFORMATION: The agenda for the meeting is:

1. Review of a set of scientific issues in connection with the Agency's draft proposal for Acute Dietary Exposure to Aldicarb: A Prototype Analysis. The Agency is proposing to use this alternative method in evaluating risk to acutely toxic pesticides when the standard Tolerance Assessment System acute exposure analyses indicate a more refined analysis is justified.
2. Review of a set of scientific issues in connection with the Agency's classification of Express as a Class C oncogen based on significant increase in mammary gland adenocarcinomas found in female Sprague-Dawley rats.
3. Review of a set of scientific issues in connection with the Agency's classification of permethrin was based on the weight of evidence in one species (mouse) and equivocal evidence in the second species (Long-Evens rat) which was considered to be suggestive.
4. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of documents relating to items 1-3 may be obtained by contacting: By mail: Information Services Branch, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 240, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2805).

Any member of the public wishing to submit written comments should contact Robert B. Jaeger at the address or telephone number given above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file such statements before the meeting. To the extent that time permits and upon advance notice to the Executive Secretary, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Panel. Persons wishing to make oral and/or written statements should notify the Executive Secretary and submit ten copies of a summary no later than April 26, 1989, in order to ensure appropriate consideration by the Panel.

Dated: April 11, 1989.
Victor J. Kimm,
Acting Assistant Administrator for Pesticides and Toxic Substances.
[FR Doc. 89-9162 Filed 4-14-89; 8:45 am]
BILLING CODE 6560-50-M

[OPP 30297; FRL-3556-4]

Receipt of Notification of Intent To Conduct Small-Scale Field Testing; Genetically Altered Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA has received from the Eastman Kodak Co. a notification of intent to conduct small-scale field testing of strain KRL-AG2 of *Trichoderma harzianum* derived from auxotrophic mutants of two *T. harzianum* strains from the Eastman Kodak Co.

ADDRESS: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H-7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted and any comment(s) concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Acting Product Manager (PM) 21, Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-1900.

SUPPLEMENTARY INFORMATION: A notification of intent to conduct small-scale field testing pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), has been received from the Eastman Kodak Co. of Rochester, New York. The purpose of the proposed testing is to evaluate the efficacy of the *Trichoderma harzianum* strain against fungal pathogens of cotton and 12 other vegetable and field crops. The proposed field tests include 38 test plots located in 18 States. Each plot will be less than 0.1 acre.

Dated: April 7, 1989.
Douglas D. Campt,
Director, Office of Pesticide Programs.
[FR Doc. 89-9118 Filed 4-14-89; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 10, 1989.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: 3060-0022.
Title: Application of Alien Amateur Radio Licensee for Permit to Operate in the United States.
Form Number: FCC 610-A.
Action: Extension.
Respondents: Individuals or households.
Frequency of Response: On occasion.
Estimated Annual Burden: 2,000 Responses; 166 Hours.
Needs and Uses: The FCC 610-A must be filed with the Commission by aliens who hold an amateur operator and station license issued by his/her government and who wish to apply for a permit to operate an amateur radio station in the United States. FCC staff will use the data to determine eligibility for radio station authorization and to issue a radio station/operator permit.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 89-9018 Filed 4-14-89; 8:45 am]
BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 10, 1989.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: 3060-0128.
Title: Applicaiton for Private Land Mobile and General Mobile Radio Services.
Form Number: FCC 574.
Action: Revision.
Respondents: Individuals or households, state or local governments, non-profit institutions, and businesses (including small businesses).
Frequency of Response: On occasion.
Estimated Annual Burden: 142,294 Responses; 569,176 Hours.
Needs and Uses: The FCC 574 is filed by applicants in the Private Land Mobile and General Mobile Radio Services to request an authorization or to modify an existing one. The data is used to determine eligibility, for rulemaking proceedings, enforcement purposes, and for use in resolving treaty obligations. The data is vital to maintain an acceptable data base and for issuing authorizations.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 89-9017 Filed 4-14-89; 8:45 am]
BILLING CODE 6712-01-M

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FEDERAL MARITIME COMMISSION

[Circular Letter No. 1-89]

Ocean Common Carriers, Conferences of Such Carriers, Shippers, and Shippers' Associations in the Foreign Commerce of the United States; Service and Cargo Commitments in Service Contracts

Section 8(c) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. App. 1707(c), requires service contracts between shippers or shippers' associations and ocean common carriers or conferences to meet certain statutory requirements and to be filed with the Federal Maritime Commission. Section 3(21) of the 1984 Act, 46 U.S.C. App. 1702(21), defines a "service contract" as:

> a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party.

The Commission has received service contracts which do not appear to contain mutually binding commitments by the contract parties sufficient to meet the definition of "service contract" contained in the 1984 Act.

In addressing the matter of service contract commitments, generally, the Commission noted in Docket No. 88-7, *Service Contracts—Most-Favored-Shipper Provisions* ("Docket No. 88-7") that:

> Meaningful minimum quantities of cargo over a fixed time period and rate and defined service level commitments between a carrier and a shipper are the legislative *quid pro quo* for departing from the published tariff rates of the carrier that would otherwise apply. The failure of the contract parties to fulfill the basic requirements of this *quid pro quo* not only offends the legislative scheme crafted by Congress but also could, as noted above, make the service contract but a device to evade the carrier's tariff rates in violation of section 10(a)(1) of the 1984 Act. We believe that the Commission is not only empowered but also * * * has the responsibility to take whatever regulatory action may be necessary and appropriate to ensure against this result.
>
> Accordingly, it is the stated policy of the Commission to require meaningful rate and volume commitments on the part of the shipper and meaningful service commitments on the part of the carrier in all service contracts entered into under the authority of section 8(c) of the 1984 Act. The Commission will scrutinize contracts carefully at the time of filing to ensure that they contain such commitments, pursuant to the requirements of 46 CFR 581.1(a). Failure to comply with the requirements of 46 CFR 581.1(n), as herein interpreted, will result in the rejection of the contract pursuant to 46 CFR 581.8 or other appropriate Commission action.

Docket No. 88-7, Proposed Rule, slip op. at 31, 32

In essence, service contracts must, by statute, contain certain definite commitments by both the carrier and the shipper. Moreover, these commitments must be meaningful, *i.e.*, the contract parties must undertake real obligations. Service contracts that are indefinite or contain illusory undertakings simply do not meet the definition of "service contract" under the 1984 Act. A service contract that lacks definite and mutual consideration not only fails to meet the statutory definition but may also be invalid and unenforceable at common law.

With respect to carrier or conference commitments in a service contract, the Commission believes that contract provisions that provide for "regular" or "frequent" service do not meet the 1984 Act's requirement that the carrier or conference commit to a "defined service level." Although the Act does not specifically define the term "service level," it does provide several examples (*e.g.*, assured space, transit time, etc.) sufficient to indicate the scope of the concept. A mere recitation of a common carrier's obligation under common law is not adequate.

Moreover, the Commission is aware of some contracts where a carrier agrees in one provision to specific service commitments (such as assured space), but in another provision vitiates that commitment by stating that a shipper's exclusive remedy in the event of a breach of the carrier's commitment is a reduction in the shipper's minimum cargo commitment. Under such an arrangement, the carrier is in effect committing to nothing. Congress expected both parties to a service contract to make mutual, binding commitments and anything less is not acceptable.

Similarly, the Commission believes that a service contract that allows a shipper to default on its cargo commitment while only paying *de minimis* damages to the carrier may not be a *bona fide* contract. For example, some service contracts establishing rate levels of over $2,000 per container provide for liquidated damages of only $40 or $50 per container in the event the shipper fails to meet its minimum cargo commitment. Such damages provisions do not appear to bear a reasonable relationship to the cargo commitment, the contract rate, or the effects of the loss of cargo to the carrier. Service contracts embodying *de minimis* liquidated damages provisions may thus render the shipper's cargo commitment meaningless, and, therefore, result in a contract that fails to meet the statutory definition. The Commission previously noted

> * * * that although it lacks the authority to directly regulate the use of liquidated damages provisions [this] does not necessarily mean that the Commission is without authority to preclude service contract liquidated damages provisions which may permit evasion of the otherwise applicable tariff rate contrary to the 1984 Act and the policies underlying it, regardless of whether both parties to the contract willingly or unwillingly agree to those provisions.

Docket No. 88-7, Proposed Rule, slip op. at 28, 29. In keeping with this admonition, the Commission will closely scrutinize the levels of liquidated damages for breach of the shipper's cargo commitment and will take appropriate action against service contracts containing damages provisions considered *de minimis*.

The Commission recognizes that liquidated damages provisions in service contracts are permissive and not mandatory under the 1984 Act. Nonetheless, when the parties to a service contract choose to agree on liquidated damages for the breach of a shipper's minimum cargo commitment, that amount must bear some reasonable relation to the actual damages that will otherwise be incurred by a carrier and for which the shipper would be liable absent a liquidated damages provision. Liquidated damages provisions should be legitimate and not be used to give a shipper an unfair benefit even though it did not meet its commitment under the contract.

Ocean common carriers, conferences of such carriers, shippers, and shippers' associations are hereby advised that the Commission expects service contracts to conform to the definitional requirements for service contracts under the 1984 Act. Accordingly, the Commission will begin to take action against any contract filed 45 days after the date of this Circular Letter that does not meet statutory requirements.

April 12, 1989.

Edward P. Walsh,

Managing Director.

[FR Doc. 89-9079 Filed 4-14-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 1, 1989.

A. Federal Reserve Bank of Kansas City

(Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Dr. William D. Angle,* Omaha, Nebraska; Repert Dunklau, Fremont, Nebraska; and Thomas J. Milliken, Fremont, Nebraska; to acquire an additional 28.51 percent of the voting shares of Pathfinder Bancshares, Inc., Fremont, Nebraska, by becoming co-trustees of a voting trust that will control, along with shares held by these individuals, a total of 68.68 percent, and thereby indirectly acquire Fremont National Bank and Trust Co., Fremont, Nebraska.

B. Federal Reserve Bank of Dallas

(W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Arthur Temple,* Diboll, Texas; to acquire an additional 8.01 percent of the voting shares of Pineland Bancshares, Inc., Pineland, Texas, for a total of 26.7 percent, and thereby indirectly acquire Pineland State Bank, Pineland, Texas.

C. Federal Reserve Bank of San Francisco

(Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *North County Bank Employee Stock Ownership Trust,* Escondido, California; to acquire an additional 9.4 percent of the voting shares of North County Bancorp, Escondido, California, for a total of 16.2 percent, and thereby indirectly acquire North County Bank, Escondido, California.

Board of Governors of the Federal Reserve System, April 11, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-9083 Filed 4-14-89; 8:45 am]

BILLING CODE 6210-01-M

Bancpal, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically and questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 5, 1989.

A. Federal Reserve Bank of Chicago

(David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bancpal, Inc.,* Palatine, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Palatine, Palatine, Illinois.

B. Federal Reserve Bank of St. Louis

(Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *HNB Bancorp, Inc.,* Hannibal, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of the Hannibal National Bank, Hannibal, Missouri, which engages in the sale, as agent, of credit-related insurance sold in connection with extensions of credit made by the target bank.

C. Federal Reserve Bank of Minneapolis

(James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Belle Fourche Bancshares, Inc.,* Belle Fourche, South Dakota; to merge with Buffalo Bancorporation, Inc., Buffalo, South Dakota, and thereby indirectly acquire First State Bank, Buffalo, South Dakota.

D. Federal Reserve Bank of Kansas City

(Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Alpine Bank of Colorado,* Glenwood Springs, Colorado; to acquire 100 percent of the voting shares of Alpine Bank, Aspen, Aspen, Colorado.

Board of Governors of the Federal Reserve System, April 11, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-9084 Filed 4-14-89; 8:45 am]

BILLING CODE 6210-01-M

Grand Bank Financial Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition,

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conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 4, 1989.

A. Federal Reserve Bank of Chicago

(David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Grand Bank Financial Corporation*, Grand Rapids, Michigan; to engage *de novo* through its subsidiary, Grand Financial Associates, Inc., Grand Rapids, Michigan, arranging mortgages and other extensions of credit for prospective borrowers with unaffiliated institutional lenders in exchange for a service fee pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis

(Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Farmers Capital Bank Corporation*, Frankfort, Kentucky; to engage *de novo* through its subsidiary, Money One Credit Corporation, Frankfort, Kentucky, in the consumer finance business pursuant to § 225.25(b)(1); and in the sale of insurance, as agent, directly related to its lending activities pursuant to §§ 225.25(b)(8)(i) and (b)(8)(ii) of the Board's Regulation Y. These activities will be conducted in the State of Kentucky. Comments on this application must be received by May 1, 1989.

Board of Governors of the Federal Reserve System, April 11, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-9085 Filed 4-14-89; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 5, 1989.

A. Federal Reserve Bank of Minneapolis

(James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota, and two of its subsidiaries, Norwest Financial Services, Inc., Des Moines, Iowa, and Norwest Financial, Inc., Des Moines, Iowa; to acquire substantially all of the assets and substantially all of the liabilities to unrelated parties of Financial Investment Associates, Incorporated, Northfield, Illinois, and thereby engage in leasing personal property or acting as agent, broker or advisor in leasing personal property pursuant to § 225.25(b)(5); and making acquiring or servicing loans or other extensions of credit such as would be made by a commercial finance company pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 11, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-9086 Filed 4-14-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Privacy Act of 1974; Matching Program—Federal Personnel/Child Support Enforcement Records

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notification of Matching Program—Federal Personnel/Child Support Enforcement Records.

SUMMARY: The Department of Health and Human Services is providing notice that the Office of Inspector General (OIG) intends to conduct a match of Federal personnel records against Office of Child Support Enforcement tax intercept records. A matching report is set forth below:

DATE: The match will begin in April 1989.

ADDRESS: Send all comments to the Financial and Administrative Management Staff, Administrative Office, OIG, HHS Room 5246 Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Diane Datcher, Financial and Administrative Management Staff, Administrative Office, OIG, HHS, Room 5246 Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

SUPPLEMENTARY INFORMATION: The HHS OIG, in cooperation with the Office of Personnel Management, the Department of Defense and the United States Postal Service, has initiated a project to identify and locate absent parents in arrears on child support who are employed by the Federal Government. This is a follow-up matching project being conducted because of the results of a smaller 1988 match of child support enforcement records and HHS personnel records which the OIG has determined will lead to additional Federal wage withholdings of approximately $88,000 a year for child support payments. Based on these figures and a recent statistical match of Federal personnel records with 1988 child support enforcement records, the OIG estimates that this project could lead to potential additional Federal wage withholdings of approximately $20 million a year for child support payments. Set forth below is the information required by paragrah 5.f.1 of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget, 47 FR 21656 (May 19, 1982). A copy of this notice has been furnished to both Houses of Congress and the Office of Management and Budget.

Date: April 10, 1989.

Richard P. Kusserow,

Inspector General.

Report of Matching Program: Federal Personnel/Child Support Enforcement Records

a. *Authority:* Pub. L. 94-505

B. *Program Description:* The Federal Government has played a very active role in assuring adequate child support for minor children. As a major employer, it also has a responsibility to identify and take action with regard to its own employees who are delinquent in making child support payments. The goals of this match are to reduce the amount of support payments in arrears, to initiate regular wage withholding of support payments, and to determine the potential for medical support. The match will compare Office of Child Support records of delinquent absent parents with Federal personnel records of the Office of Personnel Management, Department of Defense, and the United States Postal Service. In order to protect the individuals identified as raw hits, the data will be evaluated and then screened to assure that only valid hits are provided to the States for any action. This process will involve: (1) Verification of the initial hits by checking whether name, date of birth, and Social Security number match, (2) determining if the employing agency has a wage withholding order for the individual and if it is in place, and (3) checking the individual current address and employment status. Once these steps are taken, the data will be provided to the Department of Health and Human Services Office of Child Support Enforcement for further screening and review to determine whether the State has subsequently deleted the individuals from its arrearage listing and whether the arrearage has been offset by the Internal Revenue Service, who will be asked to provide information on any actions taken.

c. *Records to be Matched:* Records of the Child Support Enforcement Agency from the Federal Parent Locator Service and Federal Tax Offset System 52 FR 29732 (August 11, 1987) will be matched against the following Federal personnel records systems:

1. Office of Personnel Management—General Personnel Records system 49 FR 36954 (September 20, 1984) and Civil Service Retirement and Insurance Records system, 49 FR 36950 (September 20, 1984).

2. Department of Defense—Defense Manpower Data Center Base system, 53 FR 44937 (November 7, 1988).

3. United States Postal Service—Financial Records-Payroll system, 52 FR 6251 (March 2, 1987).

d. *Period of the Match:* This project will begin in April 1989. The matching screening and referral of cases will be completed during 1989.

e. *Safeguards:* Records used in this match will be maintained under strict security. Access to the computer files and printed information will be restricted to only those persons having a "need to know" for the purposes of additional review or resolution. The records being matched will be kept in locked file cabinets under control of the Office of Inspector General, or in secured Government computer facilities. We will return all of the Federal personnel computer source tapes to the agencies upon completion of the match. Computer tapes are protected by the use of passwords to prohibit unauthorized access. All computer files are safeguarded in accordance with the provisions of the National Bureau of Standards Federal Information Processing Standards 41 and HHS ADP Systems Security Manual, Part 6, "ADP Systems Security."

f. *Retention and Disposition of Records:* In instances of computer matching of files, only those records which meet predetermined criteria are maintained. All records which do not meet these criteria are destroyed. All original source computer tapes will be returned within 60 days.

All records obtained as a result of the matching program will be degaussed as soon as possible within 6 months except for those records which are necessary to the completion of pending child support enforcement actions resulting from the matching program. Paper listings will be either shredded or burned.

[FR Doc. 89-9098 Filed 4-14-89; 8:45 am]

BILLING CODE 4150-04-M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meetings

AGENCY: Alcohol, Drug Abuse and Mental Health Administration.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed agendas of the forthcoming meetings of the agency's advisory committees in the month of May 1989. The initial review committees and the National Advisory Councils will be performing review of applications for Federal assistance, and the Board of Scientific Counselors will review and evaluate intramural projects and individual staff scientists. Therefore, portions of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d). Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92-463.

Committee Name: Mental Health AIDS Research Review Committee, NIMH

Date and Time: May 4-5: 8:30 a.m.

Place: Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Status of Meeting: Open—May 4: 8:30-9:00 a.m. Closed—Otherwise

Contact: Irma Fisher, Room 9C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6470

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and research training in the areas of psychoneuroimmunological, psychosocial, behavioral, and psychological aspects of AIDS as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Board of Scientific Counselors, NIDA

Date and Time: May 17-19: 9:30 a.m.

Place: Addiction Research Center Conference Room, 4940 Eastern Avenue, Building D5 East, Baltimore, MD 21224

Status of Meeting: Open—May 17: 9:30-10:00 a.m. Closed—Otherwise

Contact: Mary Phelps, Addiction Research Center, P.O. Box 5180, Baltimore, MD 21224, (301) 550-1490

Purpose: The Board provides expert advice to the Director, NIDA, on the drug abuse intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Committee Name: National Advisory Mental Health Council, NIMH

Date and Time: May 22-23: 9:00 a.m.

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Place: May 22: Parklawn Building, Conference Room G & H, 5600 Fishers Lane, Rockville, MD 20857; May 23: Building 31C, NIH Campus, Conference Room #10, 9000 Rockville Pike, Bethesda, MD 20892

Status of Meeting: Open—May 23: 9:00 a.m.–5:00 p.m. Closed—Otherwise

Contact: Dee Herman, Parklawn Building, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3367

Purpose: The Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

Committee Name: Psychopathology Subcommittee of the Psychopathology and Clinical Biology Research Review Committee, NIMH

Date and Time: May 24–26: 9:00 a.m.

Place: Days Inn, 1775 Rockville Pike, Rockville, MD 20852

Status of Meeting: Open—May 24: 9:00–10:00 a.m. Closed—Otherwise

Contact: Emilie A. Embrey, Room 9C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1340

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and research training in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: National Advisory Council on Drug Abuse, NIDA

Date and Time: May 31–June 1: 9:00 a.m.

Place: NIH Campus, Building 31C, Conference Room 9, 9000 Rockville Pike, Bethesda, MD 20892

Status of Meeting: Open—May 31: 9:00–5:00 p.m. June 1: 1:00 p.m.–4:00 p.m. Closed—Otherwise

Contact: Sheila H. Gardner, Room 8A–54, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–0441

Purpose: The Council advises and makes recommendations to the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse on the development of new initiatives and priorities and the efficient administration of drug abuse research, including prevention and treatment research, and research training. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes final recommendations on grant applications.

Substantive information, summaries of meetings, and rosters of committee members may be obtained as follows: Ms. Camilla Holland, NIDA Committee Management Officer, Room 10–42, (301) 443–2620; Ms. Joanna Kieffer, NIMH Committee Management Officer, Room 9–105, (301) 443–4333. The mailing address for both parties is: Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Date: April 11, 1989.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89–9075 Filed 4–14–89; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Vital and Health Statistics National Committee; Meeting

ACTION: Notice of meeting.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Executive Subcommittee established pursuant to 42 USC 242k, section 306(k)(2) of the Public Health Service Act, as amended, announces the following meeting.

Name: National Committee on Vital and Health Statistics Executive Subcommittee.

Time and Date: 8:00 a.m.–4:00 p.m.—May 2, 1989.

Place: 2011 I Street, NW., Suite 200, Washington, DC 20006.

Status: Open.

Purpose: The purpose of this meeting is for the Subcommittee to review activities and work plans of the full Committee and other subcommittees and to make plans for the June 7–9, 1989, NCVHS meeting.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: April 11, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89–9060 Filed 4–14–89; 8:45 am]

BILLING CODE 4160–18–M

Vital and Health Statistics National Committee; Meeting

ACTION: Notice of meeting.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Ambulatory Care Statistics established pursuant to 42 USC 242k, section 306(k)(2) of the Public Health Service Act, as amended, announces the following meeting.

Name: National Committee on Vital and Health Statistics Subcommittee on Ambulatory Care Statistics.

Time and Date: 9:00 a.m.–5:00 p.m.—May 2, 1989.

Place: Hubert H. Humphrey Building, Room 337A–339A, 200 Indpendence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The NCVHS Subcomittee on Ambulatory Care Statistics and the DHHS Interagency Task Force on Uniform Ambulatory Care Data Set will hold a joint working session to discuss their common report on the data set.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: April 11, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89–9061 Filed 4–14–89; 8:45 am]

BILLING CODE 4160–18–M

Diabetes Translation and Community Control Programs Technical Advisory Committee; Meeting

ACTION: Notice of meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control (CDC) announces the following Committee meeting.

Name: Technical Advisory Committee for Diabetes Translation and Community Control Programs.

Time and Date: 9 a.m.–5 p.m., Tuesday, May 2, 1989; 8:30 a.m.–12 Noon, Wednesday, May 3, 1989.

Place: Ritz-Carlton Hotel, 181 Peachtree Street, NE, Atlanta, Georgia 30303.

Status: Open to the public, limited only by the space available.

Purpose: This Committee is charged with advising the Director, CDC, regarding priorities and feasible goals for translation activities and community control programs designed to reduce morbidity and mortality from diabetes and its complications. The Committee advises regarding policies, strategies, goals and objectives, and priorities; identifies research advances and technologies ready for translation into widespread community practice; recommends public health strategies to be implemented through community interventions; advises on operational research and outcome evaluation methodologies; identifies research issues for further clinical investigation; and advises regarding the coordination of programs with Federal, voluntary, and private resources involved in the provision of services to people with diabetes.

Matters to be discussed: The Committee will discuss its purpose and goals at length, map out its agenda for the next 12 to 15 months, and set dates for its next four or five meetings. The Committee will review recommendations and suggestions submitted to CDC by individual expert consultants regarding the scientific priorities for diabetes translation. Current activities by the Division of Diabetes Translation (DDT) and the Center for Chronic Disease Prevention and Health Promotion (CCDPHP) will also be discussed.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Robert D. Moran, Public Health Advisor, DDT, CCDPHP, CDC, 1600 Clifton Road, NE, Mailstop E06, Atlanta, Georgia 30333, telephones—FTS 236–1855, Commercial 404/639–1855.

Dated: April 11, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89–9062 Filed 4–14–89; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 89M–0057]

Organon Teknika Corp.; Premarket Approval of Hepanostika® Anti-Hav Microelisa System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Organon Teknika Corp., Durham, NC, for premarket approval, under the Medical Device Amendments of 1976, of the Hepanostika® Anti-HAV Microelisa System. The device is an enzyme-linked immunosorbent assay (ELISA) intended for the qualitative determination of total antibody to hepatitis A virus (HAV) in human serum or plasma and is indicated as an aid in determining immune status. After reviewing the recommendation of the Microbiology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of February 6, 1989, of the approval of the application.

DATE: Petitions for administrative review by May 17, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION: On April 5, 1983, Organon Teknika Corp., Durham, NC 27704–0969, submitted on CDRH an application for premarket approval of the Hepanostika® Anti-HAV Microelisa System. The device is an enzyme-linked immunosorbent assay (ELISA) intended for the qualitative determination of total antibody to hepatitis A virus (HAV) in human serum or plasma and is indicated as an aid in determining immune status.

On December 8 and 9, 1983, the Microbiology Devices Panel, and FDA advisory committee, reviewed and recommended approval of the application. On February 6, 1989, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett (HFZ–440), address above.

Opportunity for Administration Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 17, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

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Dated: April 7, 1989.

Walter E. Gundaker,

Acting Deputy Director Center for Devices and Radiological Health.

[FR Doc. 89-9077 Filed 4-14-89; 8:45 am]

BILLING CODE 4160-01-M

Public Workshop; Regulation of Hematopoietic Growth Factors

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) and the National Cancer Institute, the National Institute of Allergy and Infectious Diseases, and the National Heart, Lung, and Blood Institute are announcing a forthcoming public workshop to discuss the regulatory issues regarding the approval of hematopoietic growth factors.

DATES: The public workshop will be held from 8:30 a.m. to 6 p.m., May 8, 1989, and from 8:30 a.m. to 4 p.m., May 9, 1989, at the Guest Quarters Hotel, 7335 Wisconsin Ave., Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Gretchen Hascall, Advisors and Consultants Staff (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

SUPPLEMENTARY INFORMATION: On May 8 and 9, 1989, the Center for Biologics Evaluation and Research, FDA, in conjunction with the Biological Response Modifiers Program of the National Cancer Institute, the National Institute for Allergy and Infectious Diseases, and the National Heart, Lung, and Blood Institute, will sponsor a workshop to discuss regulatory issues regarding the approval of hematopoietic growth factors (G-CSF, GM-CSF, M-CSF, IL-3, and IL-1). These factors have become increasingly important in clinical use, and it would be of benefit to manufacturers, clinicians, and regulatory agencies to discuss ways to facilitate the regulatory review process for the testing and licensing of these products.

Topics to be discussed in the workshop will include efficacy in a variety of diseases, toxicities, and preclinical testing.

Persons wishing to obtain a copy of the tentative agenda and preregistration packet for the workshop may notify the contact person listed above. Persons planning to attend the workshop should notify the contact person as soon as possible because space is limited.

Dated: April 11, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-9076 Filed 4-14-89; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; System of Records; Correction

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Correction notice.

SUMMARY: HCFA is enhancing two of the routine use provisions included in the notice of system of records for the Medicare Bill File (Statistica) system, No. 09-70-0005. On Friday, March 31, 1989, a notice of this proposal was published in the **Federal Register** (54 FR 13237). Appendix A, referred to in the notice, was inadvertently not published. Therefore, as a convenience to the reader, we are republishing the notice in its entirety below.

EFFECTIVE DATE: This notice is effective on or before April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Glenn J. Martin, Office of Statistics and Data Management, G-D-2 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 966-6110.

SUPPLEMENTARY INFORMATION: The notice for the Medicare Bill File (Statistics) System No. 09-70-0005, was most recently published in the **Federal Register** on December 29, 1988 (53 FR 52792). This system contains records on bills for services furnished to persons enrolled in Part A (hospital insurance) and/or Part B (supplementary medical insurance) of the Medicare program. Data in this system are used primarily for statistical and research purposes related to evaluating the operation and effectiveness of the Medicare program. HCFA has developed a subfile (Expanded modified MEDPAR File) from data in this system to release to entities for statistical analyses bearing on Medicare payment policies for inpatient hospital services and published a routine use provision (5) in the system notice specifying the conditions that must be met in order to obtain the subfile. HCFA has also developed a subfile for quality and effectiveness of care (QC/MEDPAR) research and published a routine use (7) governing the release of this subfile. We are now proposing to enhance these two routine use provisions.

Both routine uses are to be enhanced by making subsets of the files available to qualified requestors. A subset consisting of data for one to five specified States will be available for either subfile as well as a subset of one to five DRGs; one to five ICD codes (three positions); or a standard sample of 5, 10, or 20 percent. Combination of subsets will not be provided.

In addition, the QC/MEDPAR subfile will be enhanced by providing the beneficiary's age rather than age interval, and by adding type of admission, source of admission, and the day of the week of the beneficiary's admission. (See Appendix A.)

These enhancements are being made at the suggestion of potential users of the subfiles to increase their usefulness for payment policy analysis and quality and effectiveness of care research. These changes will not affect beneficiary privacy.

This action does not require a report of altered system under 5 U.S.C. 552a(o).

Date: April 12, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

APPENDIX A.—DATA ELEMENTS CONTAINED IN THE QUALITY OF CARE MEDPAR FILE

Data element	Description	Function
1. HI Claim Number.	Encrypted to protect the identity of the beneficiary.	To determine the number of stays for a beneficiary.
2. Day of Admission.	1—Sunday 2—Monday 3—Tuesday 4—Wednesday 5—Thursday 6—Friday 7—Saturday	To facilitate analysis of admission patterns.
3. Sex	—male —female —unknown	To measure sex-based differences.
4. Medicare Status Code.	Code to show reason for beneficiary's entitlement. —aged without ESRD. —aged with ESRD. —disabled without ESRD. —disabled with ESRD. —ESRD only	To examine effectiveness of care for different categories of Medicare beneficiaries.

APPENDIX A.—DATA ELEMENTS CONTAINED IN THE QUALITY OF CARE MEDPAR FILE—Continued

Data element	Description	Function
5. Discharge Destination.	—To home, self care. —To short-term hospital. —To SNF —To other type facility. —To home health service. —Left against medical advice. —Died —Still a patient	To group stays into Diagnosis Related Groups (DRGs).
6. Medicare Provider Number.	Identification number of hospital.	To allow for review of care on an institution-specific basis.
7. Date of Admission.	Date, plus/minus 1 to 20 days*.	To measure intervals between hospital episodes.
8. Date of Discharge.	Date, plus/minus 1 to 20 days*.	To measure intervals between hospital episodes.
9. Length of Stay.	Number of days in hospital stay.	To examine days of care.
10. Intensive Care and Coronary Care Days.	Days in special care units of hospitals.	To measure outcomes in and use of special care units.
11. Total Charges.	All charge fields (fields 11-21) are in whole dollars.	Charge fields 11-21 are included to measure relative resource use across cases.
12. Routine Accommodation Charges.		
13. Intensive Care and Coronary Care Charges.		
14. Total Department (Ancillary) Charges.		
15. Operating Room Charges.		
16. Pharmacy Charges.		
17. Laboratory Charges.		
18. Radiology Charges.		
19. Supplies Charges.		
20. Anesthesia Charges.		
21. Inhalation Therapy Charges.		
22. Principal and Other Diagnosis Codes.	Five ICD-9-CM Codes.	Fields 22-23 are included to identify diagnostic/surgical information and to group stays into DRGs.
23. Surgical Codes.	Three ICD-9-CM Volume 3 codes.	
24. Date of Surgery.	Date plus/minus 1 to 20 days*.	To measure intervals between admission/discharge and surgery
25. Blood Furnished.	Number of pints	To measure outcomes.
26. Diagnosis Related Group.	DRG1-DRG475	To define diagnostic groups used in the Prospective Payment System.
27. Date of death.	Date, plus/minus 1 to 20 days*.	To determine mortality rates.
28. Urban/rural residence.	1=urban 2=rural	To examine variations in care in urban and rural areas.
29. Zip-Code	5 digit zip	To examine variations in care in small areas.
30. Special Unit Code.	S—Psychiatric Unit. T—Rehabilitation Unit. U—Swing-bed Hospital. V—Alcohol/Drug Unit Blank.	Distinguishes PPS-exempt unit records.
31. Beneficiary State of Residence.	Two-position SSA numeric code.	To facilitate seasonal migration studies.
32. Source of Admission.	AdmissionType 1, 2, or 3: 1—Physician Referral. 2—Clinic Referral. 3—HMO Referral. 4—Transfer from Hospital. 5—Transfer from SNF. 6—Transfer from Another Health Care Facility. 7—Emergency Room. 8—Court/Law Enforcement. 9—Unknown Admission Type 4: 1—Normal Delivery. 2—Premature Delivery. 3—Sick Baby 4—Extramural 5—Unknown	To allow analysis of admissions and episodes of care.
33. Type of Admission.	1—Emergency 2—Urgent 3—Elective 4—Newborn 9—Unknown	To allow analysis of admissions and episodes of care.
34. Number of Diagnosis Codes.	1 through 5	Enable search of diagnosis fields.
35. Number of Surgical Codes.	1 through 3	Enable search of surgical procedures fields.
36. Actual Age	Three-position age of beneficiary based on the date of admission.	To measure age-based differences.

* The *same* random number will be added to all dates in every discharge record occurring for a beneficiary during the year. The random number will range from ± 1 through 20.

The following subsets will be available (no combinations): one to five States; one to five DRGs; one to five ICD-9-CM codes; and standardized subsamples (5, 10, or 20 percent).

[FR Doc.89-9092 Filed 4-14-89; 8:45 am]

BILLING CODE 4120-03-M

Public Health Service

Centers for Disease Control; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority from the Secretary to the Assistant Secretary for Health on January 14, 1981 (46 FR 10016), the

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Assistant Secretary for Health has delegated to the Director, Centers for Disease Control, with authority to redelegate, all the authorities pertaining to Lead Poisoning Prevention under section 317A, Title III, of the Public Health Service Act, as amended.

This delegation became effective on April 5, 1989.

Effective date: April 5, 1989.

James F. Dickson III,

Acting Assistant Secretary for Health.

[FR Doc. 89-9073 Filed 4-14-89; 8:45 am]

BILLING CODE 4160-16-M

Health Resources and Services Administration; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority of January 27, 1989, from the Secretary of Health and Human Services to the Assistant Secretary for Health, of the authority under section 2523, Title XXV, of the Public Health Service Act, as amended, excluding the authority to issue regulations and to submit reports to the Congress, the Assistant Secretary for Health has delegated to the Administrator, Health Resources and Services Administration, the authority under section 2523, Title XXV, of the Public Health Service Act, as amended, concerning the provision of information to underserved populations for the functions assigned to the Health Resources and Services Administration.

Redelegation

This authority may be redelegated.

Effective Date

This delegation was effective upon date of signature.

Date: April 7, 1989.

James F. Dickson III,

Acting Assistant Secretary for Health.

[FR Doc. 89-9074 Filed 4-14-89; 8:45 am]

BILLING CODE 4160-16-M

Announcement of Availability of Grants for General Family Planning Training Projects

AGENCY: Office of Family Planning, PHS, HHS.

ACTION: Notice.

SUMMARY: The Office of Population Affairs, Office of Family Planning requests applications for grants under the Family Planning Service Training Program authorized under section 1003 of the Public Health Service (PHS) Act [42 U.S.C. 300a-1(a)]. Funds are available to train family planning personnel in order to maintain the high level of performance of family planning service projects.

The Office of Family Planning (OFP) administers Title X of the Public Health Service Act which provides funds for a general training center in each of the ten regions. The regional training centers provide training to enable service grantees to improve the delivery of family planning services to persons from low-income families and other persons desiring such services.

ADDRESS: Application kits may be obtained from and applications must be submitted to: Grants Management Office, Office of Population Affairs, Room 736E, H.H.H. Building, 200 Independence Avenue SW., Washington, DC 20201.

DATE: To receive consideration, grant applications must be received by the Grants Management Officer by June 16, 1989. Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be accepted as proof of timely mailing. Applications which do not meet the deadline will be considered late applications and will be returned to the applicants.

FOR FURTHER INFORMATION CONTACT: Grants Management Office at area code 202/245-0146 or Program Office at area code 202/245-0151. Staff are available to answer questions and provide limited technical assistance in the preparation of grant applications.

SUPPLEMENTARY INFORMATION: Title X of the Public Health Service Act, 42 U.S.C. 300 *et seq.*, authorizes the Secretary of Health and Human Services to award grants for projects to provide training for family planning service personnel. (Catalog of Federal Domestic Assistance Number 13.260.) This notice announces the availability of approximately $600,000 in funding for three general training projects described below.

Grants will be made to public and/or private nonprofit organizations to assist in the establishment and operation of regional training centers. The award of a grant will take into account the project's ability to meet DHHS requirements and the extent to which the project will provide high quality training to Title X grantees, delegate agencies and clinics in order to improve the delivery of services to family planning users.

Applications are invited for the following three grants:

One general training grant for Department of Health and Human Services (DHHS) Region II (New Jersey, New York, Puerto Rico, Virgin Islands). A funding range of $236,000-$261,000 is under consideration for this grant.

One general training grant for DHHS Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas). A funding range of $220,000-$244,000 is under consideration for this grant.

One general training grant for DHHS Region X (Alaska, Idaho, Oregon, Washington). A funding range of $122,000-$135,000 is under consideration for this grant.

Grants will be approved for project periods of up to two (2) years. Grants are funded in annual increments (budget periods). Funding for all approved budget periods beyond the first year of the grant is contingent upon satisfactory progress of the project, adequate stewardship of Federal funds, and availability of funds.

Statutory and Regulatory Background

Title X of the Public Health Service Act, enacted by Pub. L. 91-572, authorizes grants for projects to provide family planning services to persons from low-income families and others. Section 1001 of the Act (as amended by Pub. L. 94-63 and 95-613) authorizes grants "to assist in the establishment and operation of family planning projects which offer a broad range of acceptable and effective family planning methods, including natural family planning methods, infertility services, and services to adolescents." Section 1003 of the Act, as amended, authorizes the Secretary to make grants to entities and individuals to provide the training for personnel to carry out the family planning services programs.

Prospective applicants and grantees should refer to the regulations in their entirety. The regulations set out at 42 CFR, Part 59, Subpart C, govern grants for general family planning services training.

Role and Operation of the Training Program

The purpose of short-term training, continuing education, inservice education and staff development supported under the Title X General Family Planning training program is to improve or maintain at a high level the performance of family planning service providers.

Under the regulations, "training" means job-specific skill development. This may include traditional classroom or practical training, although development or use of self-paced, self-instructional or mediated training materials which utilize technological advancements in the learning field are also encouraged. Grantees may provide training services directly or indirectly through subcontractors or consultants.

Successful applicants will be required to work closely with a network of agencies including the Federal Central and Regional Office staff, Title X service delivery providers and regional training advisory committees. This involves review and implementation of national and regional training priorities, solicitation of advice from the regional training advisory committee, and consultation with Title X service delivery providers about training priorities, course content and curricula, and adjustments to reflect changing personnel needs or the result of training program self evaluations or post-training feedback from participants or Title X service grantees. In addition to training in contraceptive methods, proposals must focus at least fifty (50) percent of the training effort in the national training priority area: (1) Clinic management, (2) counseling and client education, (3) family involvement, (4) management of infertility, including adoption, (5) natural family planning (NFP), (6) program management, (7) prevention of sexually transmitted diseases (STDs), including HIV infection and AIDS, (8) adolescent abstinence from premarital sexual activity, and (9) male involvement. (NFP includes various methods and techniques which teach fertility awareness. NFP does not include methods which combine fertility awareness with the use of a contraceptive method as a backup.)

Successful applicants will be responsbile for the overall management of a training program within the geographic area for which the grant is made. This role includes:

- Developing an annual training plan, reflecting national and regional priorities and the training needs of local Title X service grantees;
- Developing criteria for selection of staff for training, including prerequisite qualifications. Such criteria should reflect a sensitivity to the unique needs of grantees for certain types of training, priority for rural areas or Health Manpower Shortage Areas, or other relevant factors;
- Developing a process to review training applications from Title X service grantee personnel. Training grantees will make the final decision about candidates' suitability for training, applying the criteria discussed above;
- Maintaining a balanced training program which uses available resources in the most efficient manner. This involves a balance among the various types of training areas. (e.g., administration, financial management, clinical services);
- Monitoring the balance, utility and efficiency of various training courses through trainee post-training evaluation, as well as the evaluation of training effects provided by trainee's supervisors;
- Sharing materials developed with other training programs so as to avoid unnecessary duplication of effort. All materials developed with Title X funds should be made available at cost to the Title X projects upon request;
- Facilitating trainee receipt of continuing education units where appropriate; and
- Planning an annual continuing education conference and attending at least one national training meeting annually.

Training grantees must receive approval of all training curricula before use, but submission with the application is not required. Reports on the progress of the training program may be requested of the grantee from time to time by the central office.

Application Requirements

Applications must be submitted on the forms supplied (PHS-5161-1) and in the manner prescribed in the application kits available from the Office of Grants Management. Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. Applicants are required to submit an original application and two copies.

Accepted applications will be subjected to a competitive review process. The results of this review will assist the Deputy Assistant Secretary for Population Affairs in considering competing applications and in making the final funding decisions.

Any public or private nonprofit organization or agency is eligible to apply for a grant. It is not required that the entities applying for a grant be physically located in these regions at the time of application. However, as specified above, only entities proposing to serve Regions II, VI, and X will be eligible to apply under this announcement.

A copy of the legislation and regulations governing this program will be sent to applicants as part of the application kit package. Applicants should use the legislation, regulations and information included in this announcement to guide them in developing their applications. Application should be limited to fifty (50) doubled-spaced pages, not including appendices providing curriculum vitae or statements of organizational capabilities. Awards will be made only to those applicants who have met all applicable requirements.

Section 1008 states that none of the funds appropriated under this title shall be used in programs where abortion is a method of family planning. In addition, the Department maintains an historical policy that grantees may not encourage or promote abortion as a method of family planning within the Title X program.

Grant Award

Eligible competing grant applicants will be reviewed and assessed against the following criteria:

1. The extent to which the proposed training program will improve or increase the delivery of services to Title X clients, particularly persons from low-income families. (5 points)

2. The extent to which the proposed training program has the potential to fulfill the training needs of the family planning service grantees in the areas to be served, which may include among other things:

a. Development of a capability within family planning service projects to provide pre- and in-service training to their own staffs;

b. Improvement of the family planning service delivery skills of family planning and health services personnel; and

c. Improvement in the utilization and career development of paraprofessional and paramedical manpower in family planning services. (20 points)

3. The extent to which the training program proposes appropriate strategies to improve the provision of family planning services in rural areas and HMSAs. (20 points)

4. The capacity of the applicant to make rapid and effective use of the training grant. (5 points)

5. The administrative and management capability and competence of the applicant. (20 points)

6. The competence of the project staff in relation to the services to be provided. (15 points)

7. The applicant's presentation of the project's objectives, the mothods for achieving project objectives, the ability to involve providers and the regional office, and the results or benefits expected. (15 points)

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In making grant award decisions the Deputy Assistant Secretary for Population Affairs (DASPA) will take into consideration such factors as the following:

1. The project's objectives on achieving results in national training priority areas and probable effectiveness in furthering national goals.

2. The service providers' commitment to an involvement in the planning and implementation of the training project.

3. The usefuleness to Title X service providers of the proposed training project and its potential for complementing existing training needs.

4. Where competing projects are of approximately equal quality and only one grant can be funded, priority will be given to applicants who will maintain or expand the diversity of experience and approaches of grantees within the Title X training program.

5. The reasonableness of the cost of the project to government and others.

6. The availability of funds.

Review Under Executive Order 12372

Applicants under this announcement are subject to the review requirements of Executive Order 12372, State Review of Applications for Federal Financial Assistance, as implemented by 45 CFR Part 100. As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for each State in the area to be served. The application kit contains the currently available listing of the SPOCs which have elected to be informed of the submission of applications. For those States not represented on the listing, further inquiries should be made by the applicant regarding the submission to the Grants Management Office, Office of Population Affairs, Room 736E H.H.H. Building, 200 Independence Avenue SW., Washington, DC 20201. Such comments must be received by the Office of Population Affairs August 15, 1989 to be considered.

When final funding decisions have been made, each applicant will be notified by letter of the outcome of their application. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purposes of the grant, and terms and conditions of the grant award.

Date: April 7, 1989.

Nabers Cabaniss,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 89-9031 Filed 4-14-89; 8:45 am]

BILLING CODE 4160-17-M

National Toxicology Program; Extension of Public Comment Period on Chemicals Proposed for Sixth Annual Report on Carcinogens

SUMMARY: On February 28, 1989, the National Toxicology Program (NTP) published (at 54 FR 8399-8400) a Notice to elicit public comment on the 13 chemicals proposed for addition to the *Sixth Annual Report on Carcinogens* and on other proposed actions pertaining to this document. The purpose of this Notice is to extend the pertinent comment period to May 16, 1989.

DATE: To assure consideration, comments must now be received at the address indicated below by the close of business on May 16, 1989.

ADDRESS: Comments should continue to be addressed to: National Toxicology Program Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, North Carolina 27709.

SUPPLEMENTARY INFORMATION: The NTP published a Notice in the February 28, 1989, **Federal Register** announcing the proposed addition of 13 substances to the *Sixth Annual Report on Carcinogens*, and other proposed changes in the document. The Notice specified a 45-day comment period, with the deadline for receipt of comments established as April 16, 1989. A number of responses received to date, however, have requested that this period be extended for varying lengths of time on the basis of the large volume of data to evaluate and utilize in preparing relevant responses. Because of the importance of receiving comments from all parties that may be affected by the proposed actions, it has been decided to extend the closing date of the comment period for another 30 days, to May 16, 1989.

Dated: April 12, 1989.

David P. Rall,

Director.

[FR Doc. 89-9165 Filed 4-14-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-89-1973]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submittted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Davis S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for emergency processing, an information collection package with respect to the Housing Voucher Program State Matching Initiative.

The information collection requirements in this package are necessary to implement an innovative approach to provide incentives for State governments that make available additional rental assistance for very low-income families. We are requiring State governments to submit pre-applications for the Housing Voucher State Matching Component by June 30, 1989. In order for State governments to meet the above deadline, the Department must issue a public notice governing this initiative by April 28, 1989. Any control number issued by OMB would be valid until June 30, 1989. To ensure that the public has an adequate opportunity to comment on these information collection requirements, HUD also intends to submit the Housing Voucher Notice to OMB for regular paperwork review. The public will then have an additional 60-day period in which to comment on the paperwork requirements.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number; if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and the OMB desk officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Dated: April 11, 1989.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing.

Proposal: Housing Voucher Program State Matching Initiative.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: This program is necessary to allow HUD to match State funds appropriated for tenant-based rental assistance programs. This is an administrative initiative to reward State efforts in increasing the availability of housing assistance for very low-income families.

Form Number: None.

Respondents: State or Local Governments. .

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Housing Voucher Program, State Matching Initiative	20		1		1		20

Total Estimated Burden Hours: 20.

Status: New.

Contact: Gerald Benoit, HUD, (202) 755-6477 or John Allison, OMB, (202) 395-6068.

Dated: April 11, 1989.

[FR Doc. 89-9133 Filed 4-14-89; 8:45 am]

BILLING CODE 4210-27-M

Office of Administration

[Docket No. N-89-1972]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for emergency processing, an information collection package with respect to the Survey on Drug Abuse Elimination in Public Housing.

The information collection requirements in this package are necessary to meet the requirements of section 5143 of the Drug-Free Public Housing Act of 1989 (Pub. L. 100-690, Chapter 3, November 18, 1988). Under section 5143, the Department is required to establish a clearinghouse to receive, collect, process, and assemble information regarding the abuse of controlled substances in public housing projects. The Department has requested OMB to complete its paperwork review of the Survey of Drug Abuse Elimination Efforts in Public Housing by April 21, 1989. Any control number issued by OMB to cover this emergency clearance would be valid for no more than 90 days.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: April 11, 1989.

David S. Cristy,

Deputy Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Survey on Drug Abuse Elimination Efforts in Public Housing.

Office: Public and Indian Housing.

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Description of the Need for the Information and Its Proposed Use: This information collection requests Public Housing Resident Managers and Tenant Leaders to report to the Secretary on programs, which have been developed and/or implemented to combat drugs in public housing. The collection also solicits recommendations for fighting drugs in public housing projects.

Form Number: None.
Respondents: Non-Profit Institutions.
Frequency of Submission: Single-time.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Survey	400		1		1		400

Total Estimated Burden Hours: 400.
Status: New.
Contact:
David Caprara, HUD, (202) 755–8702.
John Allison, OMB, (202) 395–6880.

Date: April 11, 1989.

[FR Doc. 89–9055 Filed 4–14–89; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–89–1970]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the Office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: April 4, 1989.

John T. Murphy,
Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Comprehensive Improvement Assistance Program (CIAP): Reporting/Monitoring.
Office: Public and Indian Housing.
Description of the Need for the Information and Its Proposed Use: The information collected will provide for reporting and monitoring requirements that are necessary for Public Housing Authorities administration of approved CIAP programs and compliance with program requirements.
Form Number: HUD–52826 and HUD–53001.
Respondents: State or Local Government and Non-Profit Institutions.
Frequency of Submission: On Occasion, Quarterly.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD–5286, Schedule/Report of Modernization Expenditures	1,100		4		1.5		6,600
Narrative Report on Management Improvement	300		4		1.5		1,800
Request for Proposal for Professional Services Relating to Management Improvements	200		1		2.0		400
HUD–53001, Actual Modernization Cost Certificate	400		1		1.0		400

Total Estimated Burden Hours: 9,200.
Status: Extension.
Contact:
Pris Buckler, HUD, (202) 755–6640.
John Allison, OMB, (202) 395–6880.

Date: April 4, 1989.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Preliminary Site Report by Indian Housing Authority.
Office: Public and Indian Housing.
Description of the Need for the Information and Its Proposed Use: This information details the type of site proposed for housing construction in terms of land status, size of site and proposed density, zoning status, physical characteristics, and availability of utilities in order to determine whether a site is suitable for housing.
Form Number: HUD–3188.
Respondents: State or Local Government and Non-Profit Institutions.
Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Preliminary Site Report	100		1.5		4		600

Total Estimated Burden Hours: 600.
Status: Reinstatement.
Contact:
Pat Arnaudo, HUD, (202) 755–1015.
John Allison, OMB, (202) 395–6880.

Date: April 4, 1989.

[FR Doc. 89–9056 Filed 4–14–89; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–89–1971]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office fo the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency from number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing end Urban Development Act, 42 U.S.C. 3535(d).

Date: March 31, 1989.

John T. Murphy,
Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Fair Housing Assistance Program Application.
Office: Fair Housing and Equal Opportunity.
Description of the Need for the Informotion and Its Proposed Use: This information collection redesigns the Fair Housing Assistance Program into a single funding mechanism combining competitive and non-competitive components. The information collection will provide HUD with the necessary information for regulation implementation. The requested information will also affect 120 public fair housing enforcement agencies eligible for funding.
Form Number: None.
Respondents: State or Local Governments.
Frequency of Submission: Quarterly and Annually.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Application Kit	70		1		38		2,600
Cooperative Agreement	120		4		4		1,920
Recordkeeping	70		4		2		560

Total Estimated Burden Hours: 5,140.
Status: Revision.
Contact:
Maxine B. Cunningham, HUD, (202) 755–0455
John Allison, OMB, (202) 395–6880

Date: March 31, 1989.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Collection of Multifamily Assisted Housing Addresses and Site Identification Codes.
Office: Policy Development and Research.
Description of the Need for the Information and Its Proposed Use: The Data collected will be used to generate information descriptive of HUD's multifamily assisted housing programs. It will be used to more effectively monitor HUD's programs as well as target compliance reviews.
Form Number: HUD–951.
Respondents: State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions.
Frequency of Submission: One Time Only.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD–951	21,000		3		.33		20,790

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Total Estimated Burden Hours: 20,790.
Status: Extension.
Contact:
John B. Carson, Jr., HUD, (202) 755–5574
John Allison, OMB, (202) 395–6880

Date: March 30, 1989.

[FR Doc. 89–9057 Filed 4–14–89; 8:45 am]
BILLING CODE 4210–01–M

Office of Assistant Secretary for Housing Federal Housing Commissioner

[Docket No. N–89–1865; FR–2615]

Section 202 Loans for Housing the Elderly; Announcement of Fund Availability Fiscal Year 1989

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of fund availability.

SUMMARY: HUD is announcing the availability of Fiscal Year 1989 loan authority under the section 202 Housing for the Elderly Direct Loan Program. The loan authority will be used to provide direct Federal loans for a maximum term of 40 years under section 202 of the Housing Act of 1959 to assist private, nonprofit corporations and nonprofit consumer cooperatives in the development of housing and related facilities to serve the elderly. The Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Pub. L. 100–404, approved August 19, 1988) (Fiscal Year 1989 Appropriations Act) requires that 25 percent of the direct loan authority appropriated for Fiscal Year 1989 shall be used only to provide housing for the handicapped families and individuals. To facilitate administration, a separate Notice of Fund Availability will be published in the **Federal Register** for the nonelderly handicapped program.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: The HUD Field Office for your jurisdiction.

SUPPLEMENTARY INFORMATION: Notice hereby given under Title 24 Code of Federal Regulations Part 885, that the Department of Housing and Urban Development will be accepting Applications for Fund Reservations from eligible Sponsors (see 24 CFR 885.5 for the definition of "Sponsor" and other terms) for direct loans for the construction or substantial rehabilitation of housing and related facilities for dwelling use by elderly under the provisions of section 202 of the Housing Act of 1959.

The Assistant Secretary for Housing is assigning Fiscal Year 1989 section 202 loan fund authority to the HUD Field Offices identified below in conformance with the provisions of section 213(d) of the Housing and Community Development Act of 1974. While the precise number of units to be funded depends upon the number of approvable applications received, the following distribution plans shows the estimated numbers of units and Fiscal Year 1989 loan authority under which applications may be funded in each Field Office jurisdiction identified below.

FISCAL YEAR 1989, SECTION 202, DISTRIBUTION PLAN BY HUD FIELD OFFICE JURISDICTION

	Estimated number of units	Estimated loan authority
Boston Regional Office:		
Boston	189	$12,453,000
Hartford	87	4,748,000
Manchester (Maine, New Hampshire, Vermont)	90	4,444,000
Providence	34	1,717,000
Total	400	23,362,000
New York Regional Office:		
Buffalo	159	6,884,000
Caribbean	55	2,263,000
Newark	190	11,932,000
New York	410	29,559,000
Total	814	50,638,000
Philadelphia Regional Office:		
Baltimore	66	3,333,000
Charleston	49	2,120,000
Philadelphia (Delaware)	186	9,968,000
Pittsburgh	109	5,503,000
Richmond	86	3,764,000
Washington, D.C. (portion of Maryland and Virginia)	62	3,255,000
Total	558	27,943,000
Atlanta Regional Office:		
Atlanta	132	5,845,000
Birmingham	106	3,824,000
Colmubia	92	3,220,000
Greensboro	151	6,219,000
Jackson	85	3,151,000
Jacksonville	250	11,848,000
Louisville	102	4,099,000
Knoxville	43	1,596,000
Nashville	64	2,439,000
Total	1,025	42,241,000
Chicago Regional Office:		
Chicago	297	15,669,000
Cincinnati	50	2,237,000
Cleveland	115	5,207,000
Columbus	69	2,695,000
Detroit	97	4,693,000
Grand Rapids	57	2,170,000
Indianapolis	125	4,375,000
Milwaukee	118	5,284,000
Minneapolis/St. Paul	105	4,323,000
Total	1,023	46,653,000
Fort Worth Regional Office:		
Fort Worth (New Mexico)	142	5,408,000
Houston	73	2,462,000
Little Rock	106	3,221,000
New Orleans	69	2,842,000
Oklahoma City	73	2,490,000
San Antonio	66	2,382,000
Total	529	18,744,000
Kansas City Regional Office:		
Des Moines	64	3,375,000
Kansas City (portion of Missouri)	115	3,910,000
Omaha	47	1,596,000
St. Louis	90	3,517,000
Total	336	12,400,000
Denver Regional Office:		
Denver (Montana, North Dakota, South Dakota, Utah and Wyoming)	140	6,060,000
Total	140	6,060,000
San Francisco Regional Office:		
Honolulu (Guam)	32	1,645,000
Los Angeles	359	21,625,000
Phoenix	60	2,596,000
Sacramento & San Francisco (Nevada)	231	13,095,000
Total	682	39,161,000
Seattle Regional Office:		
Portland (Idaho)	84	3,080,000
Seattle	89	3,718,000
Total	173	6,798,000
National Total	5,680	$274,000,000

The foregoing distribution plan is a guide for prospective Sponsors. It estimates the loan authority that is expected to be available for projects for the elderly in each HUD Field Office jurisdiction. However, these unit and loan estimates are subject to change by Regional or Field Offices. Changes may be necessary to assure that there is enough loan authority in each Field Office to support housing projects of feasible size. Each HUD Field Office receiving Fiscal Year 1989 loan authority will publish one Invitation for Applications for section 202 Fund Reservation (Invitation) for its jurisdiction indicating the amount of loan authority and the maximum number of units this amount is expected to assist, as well as the total number of units available for metropolitan and nonmetropolitan areas. Whether an area is "metropolitan" or "nonmetropolitan" will be determined in accordance with the redefinitions of metropolitan statistical areas announced by the Office of Management and Budget, effective June 30, 1983 (See OMB Public Affairs Issuance 83–20, June 27, 1983, and subsequent changes made June 27, 1984, June 27, 1985 and October 18, 1986.)

To provide equitable geographic distribution of the limited number of section 202 units for the elderly, a Field Office may establish a maximum number of units that may be requested under any one application. This unit limitation will vary by Field Office, depending on the number of units available for either the metropolitan or nonmetropolitan category of funds. Additionally, the limitation set forth in Paragraph (11) below will apply.

Priority Categories for Selection

The purpose of the priority system for the section 202 program is to assure that applications from localities that have been relatively underfunded over the years receive priority consideration and are treated in an equitable manner.

In view of the limited funds for projects in Fiscal Year 1989, and in order to assure open competition, Field Offices will not suballocate funds within their jurisdiction. However, 20–25 percent of available funds will be allocated to nonmetropolitan areas to meet rural housing needs. Field Office Invitations will identify the total number of units available for metropolitan and for nonmetropolitan areas of the jurisdiction. Applications received for projects in metropolitan areas will compete against each other; applications received for projects in nonmetropolitan areas will similarly compete against each other. The 20–25 percent of funds allocated to the nonmetropolitan areas will not necessarily be such in each area if there are not enough approvable applications to accommodate the allocated loan authority. At the time of end-of-year selection determinations, the Department may transfer unused authority from Field Offices that are without sufficient approvable applications to other Field Offices within the same State where there is not sufficient authority for all approvable applications. When a Field Office jurisdiction covers more than one State, separate metropolitan or nonmetropolitan allocation areas may be established, to the extent practicable, for each State's part of the jurisdiction. Any amounts allocated to a State or to areas or communities within a State will not be reallocated for use in another State unless the Department determines that other areas or communities in the same State cannot use the amounts within that same fiscal year.

In order to assure that applications are funded in the areas of greatest need, approvable applications will be divided into two categories, each of which shall have two subcategories. The categories and subcategories are as follows:

Category A—Applications for the elderly projects which will be located in localities which have previously been underfunded relative to their needs and the funding needs of other localities.

(1) Such applications for elderly projects which are in localities within jurisdictions having rental vacancy rates of 5 percent or less;

(2) Such applications for elderly projects which are in localities within jurisdictions having rental vacancy rates in excess of 5 percent.

Category B—Applications for elderly projects which will be located in localities which have not been underfunded relative to their needs and the funding needs of other localities.

(1) Such applications which are in localities within jurisdictions having rental vacancy rates of 5 percent or less;

(2) Such applications which are in localities within jurisdictions having rental vacancy rates in excess of 5 percent.

Applications shall be selected for funding first from Category A(1), second from Category A(2), third from Category B(1), and finally from Category B(2). An application in a lower subcategory which is judged clearly superior to one in the next higher subcategory, i.e., its final score is at least 10 points higher, may be selected for funding. For example, if an application in Category A(1) has a final score of 57, and an application in Category A(2) has a score of 67, the higher-scored application may be selected over the lower-scored application. The rule would not apply to projects that are more than one subcategory apart, as for example, a higher-scored project in either B(1) or B(2) could not be selected over a lower-scored project in A(1).

Schedule for Section 202 Invitations, Workshops and Application Deadline

All applications for section 202 Fund Reservations submitted by eligible Sponsors must be filed with the appropriate HUD Field Office and must contain all exhibits and additional information as required by 24 CFR 885.210, except as modified by this Notice.

In April 1989, HUD Field Offices will publish a one-time Invitation in newspapers of general circulation, and in any minority newspapers serving the Field Office jurisdiction. Field Offices will accept applications after publication of the Invitation. No application will be accepted after the regular closing time of the appropriate Field Office on June 15, 1989 unless that time is extended by Notice published in the **Federal Register**. Applications that are mailed may be accepted provided they bear a postmark date or receipt of mailing that is no later than the regular closing time of the appropriate Field Office on June 15, 1989.

Organizations interested in applying for a section 202 Fund Reservation should provide the appropriate Field Office with their names, addresses and telephone numbers, advise the Field Office whether they wish to attend the workshop described below, and secure the program handbook and Application Package. HUD encourages minority organizations to participate in this program as Sponsors. Field Offices will conduct workshops during late April or early May 1989 to explain the section 202 Program and the Seed Money Loan program under section 106(b) of the Housing and Urban Development Act of 1968. Under this latter program, HUD makes direct, interest-free loans to approved nonprofit section 202 eligible Borrowers to cover certain preconstruction expenses. At the workshops, Application Packages will be distributed, application procedures and requirements (including the Department's equal opportunity, environmental, design and cost containment requirements and required exhibits) will be discussed, and concerns such as local market conditions, building codes, historic preservation, floodplain management, zoning and housing costs will be addressed. HUD strongly recommends that prospective applicants attend the local Field Office workshop. More detailed information covering the time and place of the particular workshops will be set out in the Field Office Invitation. Interested disabled persons should contact the Field Office Invitation. Interested disabled persons should contact the Field Office to assure that any necessary arrangements can be made for them to be able to attend and participate in the workshop.

Section 162 of the Housing and Community Development Act of 1987 (Pub. L. 100–242, approved February 5, 1988) amended section 202 to better serve the special housing and related needs of nonelderly handicapped

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families and individuals. Section 162 authorized a new type of project assistance payment to replace assistance made under section 8. On November 2, 1988 (53 FR 44288) HUD published a proposed rule implementing the program. The Department is analyzing the public comments received and will publish the final rule shortly. A separate Notice of Fund Availability for the Fiscal Year 1989 nonelderly handicapped program will announce the deadline for filing applications as well as the workshops to be conducted for the nonelderly handicapped program.

Additional Information

(1) Part 885 currently requires the Borrower to be in existence when the application for the section 202 fund reservation is submitted, and requires the application to include specific information concerning the Borrower. In Fiscal Years 1986 and 1988, the section 202 NOFA permitted the Sponsor to delay the formation and submission of information on the Borrower until after the issuance of the fund reservation. Based on this experience, HUD has determined that the deferral of the formation of the Borrower results in more and better applications, reduces the costs to Sponsors that are not funded, and reduces HUD processing time and effort thus helping to meet the tight deadline for application processing. Accordingly, the formation of the Borrower corporation will not be a prerequisite to submission of an Application for Fund Reservation this fiscal year. The submission requirement for Borrowers described in § 885.210(b)(g), (12) and (13) may be satisfied with all application requirements with respect to the Sponsor, and in addition, the requirements imposed on the Borrower under § 885.210(b) (3), (4), (5), (7), and (8).

Because the formation of the Borrower corporation is not required at the Application stage, the applicants will be the Sponsors and the applications will be reviewed and rated based solely on the qualifications of the Sponsor, as well as other program requirements, as modified by this NOFA. If a Sponsor submits information on the Borrower, the information will not be reviewed, and approval of the application will NOT constitute approval of the Borrower.

The requirements under § 885.225 for issuance of the fund reservation to the Borrower are modified to provide that the fund reservation shall be issued to the Sponsor and transferred to a separate single-purpose Borrower corporation upon satisfactory compliance by the Borrower with all submission requirements and approval of the Conditional Commitment Application.

The request for direct loan financing and Conditional Commitment Application under § 885.400 shall be submitted by an eligible single-purpose Borrower corporation created by the Sponsor receiving a fund reservation which shall submit with such Application evidence of compliance with the requirements waived at the fund reservation application submission stage. Any information below that makes reference to an eligible Borrower corporation is provided as guidance for use at the Conditional Processing stage.

(2) In evaluating applications for section 202 Fund Reservations, the Department's equal opportunity, environmental and cost containment requirements are significant factors in the ranking process. Further, in order to eliminate minimally qualified applications, only those proposals that meet certain threshold scores on the standard ranking format will be considered for funding. These requirements will be included in the section 202 Application Package available at the local HUD Field Office. The section 202 workshops will include discussions of these and other application requirements.

(3) Religious bodies may serve as project Sponsors, but must establish a Borrower corporation as a separate legal entity to be the owner, prior to the submission of a Conditional Commitment Application. When the Borrower corporation is created, no reference to religion or religious purposes may be included in the Articles of Incorporation or By-Laws of that corporation. The mere recital in a Borrower's Articles of Incorporation that it is organized exclusively for religious, charitable, scientific, literary or educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code will not by itself make a Borrower ineligible. However, the dissolution clause must provide that, upon dissolution or winding up of the corporation, its assets remaining after payment of all debts and liabilities, shall be distributed to a nonprofit fund, foundation or corporation other than one created for a religious purpose, which has established its tax exempt status under section 501(c)(3) of the Internal Revenue Code.

(4) Borrower corporations will not be permitted to engage in any other business or activity, including the operation of any other rental project, or to incur any liability or obligation not in connection with the proposed project. The intent of this requirement is to give HUD sole claim to the assets of the Borrower corporation in case of default under the Regulatory Agreement.

(5) Sponsors, including churches, must have a current nonprofit tax exemption ruling under the IRS Code.

(6) Applications will be accepted only from eligible Sponsors which must be eligible entities as defined in 24 CFR 885.5.

(7) Because of the nonprofit nature of the section 202 program, no officer or director of the Sponsor or Borrower, or trustee, member, stockholder or authorized representative of the Borrower is permitted to have any financial interest in any contract in connection with the provision of services, the provision of goods or supplies, project management, procurement of furnishings and equipment, construction of the project, procurement of the site or other matters whatsoever, except that this prohibition does not apply to any management contracts (or management fees associated therewith) entered into by the Borrower with the Sponsor or its nonprofit affiliate.

(8) Where the proposed project site is being optioned or acquired from a general contractor or its affiliate, the section 202 Borrower will be prohibited from selecting that contractor to construct the project for which an Application for funding is being made. Further, the proposed contractor may not be the attorney, architect, housing consultant or management agent for the project. This prohibition extends to any firm or subsidiary having an identity of interest with the contractor.

(9) The Sponsor must have control of the project site at the time of submission of its loan application. The contract of sale, option agreement, or other binding agreement must have been executed prior to the application deadline date.

In cases involving sites to be acquired from a local public body, satisfactory evidence of site control consists of evidence that the public body(a) possesses clear title to the land and (b) has entered into a legally binding commitment to the Sponsor to convey the property to a Borrower corporation created by the Sponsor upon its receiving section 202 funding. A mere recitation of intent to convey the land to a Borrower to be created by the Sponsor made by an official of the public body to the Sponsor or preliminary actions on the part of the public body are not adequate evidence of site control.

(10) Under 24 CFR 885.215, no single Sponsor may submit an Application or Applications in any HUD Region for more than 300 units.

(11) Reservations for projects intended for the elderly will not be approved for more than 200 units, including units for the elderly already on or near the site, as well as the units being requested. This policy is intended to expand the number of areas in the community where the elderly can live in housing specifically designed to meet their needs. This limitation does not rule out housing for the elderly in submarket areas of major cities where privately or publicly financed housing for the elderly already exists, but is designed to discourage additional housing for the elderly in proximity to existing privately or publicly financed facilities where the additional units would result in a concentration of over 200 units. However, the Field Office Manager may waive the requirement in a given area or locality, if, for example, there are no other suitable sites available for housing for the elderly.

(12) To be responsive to the Invitation, Sponsors must not request in a single application more units than advertised for the respective metropolitan or nonmetropolitan areas designated in the Invitation, and the number of units applied for must not exceed any maximum number of units per Application that may be established by the local Field Office. Applications exceeding these limits will be rejected.

(13) If the Sponsor elects to use a housing consultant, it should be careful to select a consultant who is knowledgeable about the Section 202 housing program. Failure to meet program requirements will be a cause for rejection of the application, whether or not a housing consultant is used by the Sponsor. Sponsors may wish to contact previous groups which have used the consultant under consideration in order to make a determination as to the consultant's qualifications.

(14) Deficiency letters will be issued by the Field Offices and the Sponsors will be allowed 14 calendar days from the date of the letter to submit the identified missing information or to explain inconsistencies in the application submission. No amendments or corrections to applications will be permitted after the June 15, 1989 application filing deadline. Further, all necessary actions (e.g., adoption of corporate resolutions) must have been taken on or before the deadline date for filing applications.

(15) HUD will make contact authority and budget authority under section 8 of the United States Housing Act of 1937 available for successful Sponsors, subject to the availability of funds.

(16) A notice of approval will be sent to the Sponsors selected in accordance with the requirements of 24 CFR 885.220 (Review of Application for Fund Reservation) and on the basis of information furnished by the Sponsors as set forth in the Field Office Application Package.

(17) To be considered for Fiscal Year 1989 funding, new applications must be submitted under this Notice of Fund Availability.

(18) 24 CFR 885.410(j) contains a minimum capital investment requirement. This requirement applies to all section 202 projects receiving fund reservations in Fiscal Year 1989. The minimum capital investment is currently established at one-half of 1 percent (0.5%) of the total HUD-approved mortgage amount, not to exceed $10,000. Section 106(b) Seed Money Loan Funds, under 24 CFR Part 271, may not be used to satisfy the minimum capital investment requirement.

(19) HUD's regulations at 24 CFR Part 885 do not reflect several recent changes made to the section 202 program that may be of relevance to Sponsors making applications under this NOFA. These changes were contained in the Housing and Community Development Act of 1987 (Pub. L. 100–242, approved February 5, 1988) (1987 Act); and the Housing and Urban Rural Recovery Act of 1983 (Pub. L. 98–181), approved November 30, 1983) (HURRA).

Three statutory changes made in section 223(e) of HURRA have not, as yet, been covered by HUD's regulations. The statutory changes include:

—HURRA added a provision specifying that, unless otherwise requested by the Sponsor, a maximum of 25 percent of the units in a project may be efficiency units, subject to a HUD determination that such units are appropriate for the elderly or handicapped population residing in the vicinity of the project or to be served by the project. The Department, in its annual housing notice governing each fiscal year's program, states that all projects for the elderly must include 25 percent efficiency units, unless a Sponsor can demonstrate that there is an insufficient market for such units. It also allows a Sponsor to choose to pay the additional cost of providing all one-bedroom units. (At its discretion, a Sponsor may elect to include more than 25 percent efficiency units.) In a final rule revising Part 885 published August 5, 1987 (52 FR 29010), HUD indicated that this change would be incorporated into a pending proposed rule. HUD now intends to implement this HURRA requirement with a proposed rule that addresses certain 1987 Act changes.

—HURRA also added a provision prohibiting the Secretary from denying any Sponsor the opportunity voluntarily to pay for amenities or design features not included in the loan. The annual housing notice specifies that a Sponsor may elect to pay for excess amenities that would not be permitted under the Department's cost containment guidelines or, if the Department denies a request for a waiver of the 25 percent efficiency unit requirement, may elect to pay the additional cost of one-bedroom units. (Note: Payment for excess amenities is permissible only if the residential characteristic of the proposal is not altered.) This change will also be incorporated in a proposed rule making the 1987 Act changes.

—Finally, HURRA added a provision requiring the Secretary to take into account special design features necessary for housing for the elderly and handicapped and to adjust cost limits at least once annually to reflect changes in construction costs. The Department modifies the base cost limits published in 24 CFR 885.410, as necessary, by adjusting upward or downward the high cost percentages for each base locality. HUD annually reviews the high costs percentages to assure that adjustments are made to reflect changes in construction costs. In addition, special design features provided by section 202, such as multi-purpose space, central dining rooms, etc., are not included in the calculations for the section 202 per unit cost limits. In FR 2445 (published March 18, 1988, 53 FR 8874) HUD issued a final rule revising the base unit costs for various programs, including the base unit costs for the section 202 program.

(20) In an elderly housing project, 10 percent of the units as well as all community facilities and common areas must be designed to be accessible to and usable by wheelchair users or other persons with mobility impairments. The 10 percent accessible unit requirement may be reduced where justified by local needs assessment, but such reduction shall not exceed 5 percent. The accessible units will be available for occupancy by both elderly and nonelderly handicapped individuals.

In addition, covered multifamily dwellings for first occupancy after March 13, 1991 must be designed and constructed to meet the accessibility and adaptability requirements contained in the final rule published January 23, 1989 (54 FR 3232) implementing the Fair Housing Amendments of 1988 (Pub. L. 100–430, approved September 13, 1988.

(21) To the extent that funds are available to fund new projects from the

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Headquarters Reserve (which Reserve shall constitute no more than 15 percent of the total section 202 Fiscal Year 1989 loan authority), applications which are otherwise approvable but not funded by the Regional Offices from the field allocation may be considered for Headquarters funding, provided they meet at least one of the conditions set forth in section 212(d)(4) of the Housing and Community Development Act of 1974, as amended:

(A) Unforeseeable housing needs, especially those brought on by natural disasters or special relocation requirements;

(B) Support for minority enterprise;

(C) Providing assisted housing as a result of the settlement of litigation;

(D) Small research and demonstration projects;

(E) Lower-income housing needs described in housing assistance plans; or

(F) Innovative housing programs or alternative methods for meeting lower-income housing needs approved by the Secretary.

(22) On March 2, 1989, the Department of Transportation (DOT) published in the Federal Register (54 FR 8912) a final governmentwide rule implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). The rule supersedes 24 CFR Part 42 and applies to all HUD-assisted programs, including section 202 projects.

Under the new URA statutory changes and the new rule at 49 CFR Part 24 all persons (families, individuals, businesses, nonprofit organizations and farms) displaced (forced to move permanently) on or after April 2, 1989 as a direct result of privately undertaken rehabilitation, demolition or acquisition for a HUD-assisted project are entitled to relocation payments and other assistance under the URA.

The application of the URA rule to a displacement does not depend on the date when the HUD assistance was approved. The new rule is triggered if the person moves on or after April 2, 1989 and the move is determined to be "for the HUD-assisted project." Even a person forced to move before HUD approval of a project may be determined to have been displaced "for the HUD-assisted project."

(23) Sponsors are invited to submit applications for section 202 Fund Reservation in accordance with this Notice and 24 CFR Part 885.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–220), the information collection requirements contained in these section 202 application requirements have been assigned OMB control number 2502–0267.

The Catalog of Federal Domestic Assistance Program title and number is 14.157, Housing for the Elderly or Handicapped.

(Section 202, Housing Act of 1959 (12 U.S.C. 1701q), section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: April 12, 1989.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 89-9134 Filed 4-14-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-735319

Applicant: Detroit Zoological Parks, Royal Oak, MI.

The applicant requests an amendment to their pending application to import an additional three chimpanzees (*Pan troglodytes*) from West Germany for purposes of propagation and display. Two of the chimpanzees were born in captivity in 1970 and 1972, and the third has been held in captivity since 1973.

PRT-736350

Applicant: Western Ecological Services Co., Inc., Novato, CA.

The applicant requests a permit to capture and release California freshwater shrimp (*Syncaris pacifica*) in Marin, Napa, and Sonoma Counties, California, to determine the presence or absence of the species. Some specimens may also be incidentally captured during other aquatic investigations within the range of the California freshwater shrimp. Information on occurrence, distribution, and habitat will be used to identify potential project-related impacts on the species.

PRT-697870

Applicant: U.S. Fish and Wildlife Service, Regional Director, Region 4, Atlanta, GA.

The applicant requests an amendment to their current permit to allow take of additional species of wildlife and plants for scientific purposes and the enhancement of propagation or survival in accordance with Recovery Plans, listing, or other Service work for those species.

PRT-736331

Applicant: U.S. Fish and Wildlife Service, Regional Director, Region 7, Anchorage, AK.

The applicant requests a permit to allow for the take of 5–10 Aleutian shield fern (*Polystichum aleuticum*) fronds for scientific purposes and the enhancement of propagation and survival of the species.

PRT-736284

Applicant: Zoological Society of San Diego, San Diego, CA.

The applicant requests a permit to import one male and two female captive-born oriental white storks (*Ciconia ciconia boyciana*) from Vogelpark, Walsrode, Germany, for the purpose of enhancement of propagation.

PRT-736229

Applicant: Zoological Society of San Diego, San Diego, CA.

The applicant requests a permit to import one pair of captive-born babirusa (*Babyrousa babyrussa*) and 4 blood samples from Antwerp Zoo, Antwerp, Belgium, for purposes of enhancement of propagation and exhibition.

PRT-736387

Applicant: Paul Soffron, Ipswich, MA.

The applicant requests a permit to purchase 3 captive-born wolves (*Canis lupus*) in interstate commerce from Charles Dysart, Henrietta, N.C. for enhancement of propagation of the species through breeding and conservation education.

PRT-736394

Applicant: Edward C. Land, Mobile, AL.

The applicant requests a permit to import the personal sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive-herd maintained by F. Bowker, Grahamstown, Republic of South Africa, for the purpose of enhancement of survival.

PRT-736414

Applicant: Cape May County Park Zoo, New Jersey.

The applicant requests a permit to purchase in interstate commerce one captive-born female ocelot (*Felis pardalis*) from the Salsbury Zoo, Salsbury, Maryland, for breeding purposes.

PRT-736415

Applicant: Cleveland Metroparks Zoo, Cleveland, Ohio.

The applicant requests a permit to import one female and one male, captive-born cheetah (*Acinonyx jubatus*) from John Rens Zoo Animal Broker, Wassenaar Netherlands, for the purpose of enhancement of propagation.

PRT-736691

Applicant: Joseph B. Sousa, Bristol, RI.

The applicant requests a permit to purchase in interstate commerce one pair of captive-born Indian pythons (*Python molurus molurus*) from Joseph Pierce, Altura, CA, and one pair of captive-born eastern indigo snakes from Richard Zuchouski, Baltimore, MD, for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 403, 1375 K Street NW., Washington, DC 20005, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 27329, Central Station, Washington, DC 20038-7329.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: April 6, 1989.

R.K. Robinson,

Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89-9066 Filed 4-14-89; 8:45 am]

BILLING CODE 4310-AN-M

Bureau of Land Management

[CO-930-09-4214-12; C-9504, C-066566]

Termination of Classification and Opening of Public Lands; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This order opens public lands segregated by the Recreation and Public Purposes Act and by the Classification and Multiple Use Act.

EFFECTIVE DATE: May 11, 1989.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-236-1768.

1. The lands described below have been in a lease under the Recreation and Public Purposes Act. The lease has terminated and the classification dated May 11, 1961 is hereby terminated as authorized by 43 CFR 2741.5(h)(2):

New Mexico Principal Meridian

T. 33 N., R. 9 E.,
Sec. 32, NE¼NE¼SE¼.

The area described contains approximately 10 acres in Conejos County, Colorado.

2. By Notice of Proposed Classification dated May 7, 1970, and Notice of Classification dated November 6, 1970, issued under the Classification and Multiple Use Act of 1964, public lands within the following townships and sections were segregated from location and entry under the general mining laws and sales under the Materials Act of July 31, 1947, as amended. It has been determined that the segregation is no longer needed, therefore the order effecting it is hereby cancelled:

Sixth Principal Meridian

T. 8 S., R. 96 W.,
Secs. 7, 8, and 16;
T. 8 S., R. 97 W.,
Secs. 13, 23, and 24;
T. 8 S., R. 100 W.,
Sec. 3;
T. 9 S., R. 100 W.,
Sec. 3.

The areas described aggregate approximately 530.67 acres in Mesa County, Colorado.

3. At 10 a.m. on May 11, 1989, the lands described in paragraphs one and two shall be open to operation of the public land laws, including the United States mining laws, subject to valid existing rights. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

4. At 10 a.m. May 11, 1989, the lands described in paragraph two, which have been closed to sales under the Materials Act of 1947, as amended, are open.

All of the lands have been, and continue to be open to operation of the mineral leasing laws.

Neil F. Morck,

State Director.

[FR Doc. 89-9068 Filed 4-14-89; 8:45 am]

BILLING CODE 4310-JB-M

[NV-930-09-4212-11; N-48112]

Realty Action; Lease of Public Land for Recreation and Public Purposes; Carson City, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action classifying public land.

SUMMARY: The following described 3.75 acres of public land has been examined and identified as suitable to be classified for lease under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, *et seq.*):

Mount Diablo Meridian, Nevada

T. 15 N., R. 21 E.,
Sec. 6, N½N½SW¼W½ of Lot 2 of the NW¼, N½NW¼SE¼W½ of Lot 2 of the NW¼.

A 5-year lease with the option to renew will be offered to Carson City for the subject 3.75 acres of land along with the 15 acres classified on January 30, 1989, to be used as a model airplane-radio control flying field and parking area.

The land is not required for federal purposes. Classification and issuance of a lease is consistent with Bureau planning a for this area and would be in the public interest.

The lease, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will be subject to: Those rights for transmission line purposes granted to Sierra Pacific Power Company by Right-of-Way Grant Nev-059133.

Detailed information concerning this action is available for review at the Bureau of Land Management Carson City District Office.

Upon publication of this Notice in the Federal Register, the above described land will be segregated from all forms of appropriation under the public land laws, including location under the general mining laws, but not the Recreation and Public purposes Act, the mineral leasing laws and material sales. The segregative effect will terminate as specified in an opening order to be published in the Federal Register.

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For a period of 45 days from the date of publication of this Notice in the Federal Register, interested parties may submit comments to the District Manager, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706–0638. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the Federal Register.

Kelly M. Madigan,

Acting District Manager.

Dated: April 5, 1989.

[FR Doc. 89–9090 Filed 4–14–89; 8:45 am]

BILLING CODE 4310–HC–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–167 (Sub–1091X)]

Consolidated Rail Corp.—Abandonment Exemption—In Conshohocken, Montgomery County, PA

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 0.46-mile line of railroad between milepost 13.14 at the east side of Cherry Street to milepost 13.6, approximately 105 feet east of the east side of Fayette Street, in Conshohocken, Montgomery County, PA.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 17, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by April 27, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by May 8, 1989 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: John J. Paylor, Consolidated Rail Corporation, 1138 Six Penn Center Plaza, Philadelphia, PA 19103.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by April 21, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275–7316. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 7, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–9078 Filed 4–14–89; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C.2d 400 (1988). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the Federal Register on December 22, 1987 (52 FR 48440–48446).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Office of Justice Programs; Office of Juvenile Justice and Delinquency Prevention

National Conference of State Juvenile Justice Advisory Groups

ACTION: Notice of meeting.

The National Coalition of State Juvenile Justice Advisory Groups and the Office of Juvenile Justice and Delinquency Prevention are co-sponsoring the 1989 National Conference of State Juvenile Justice Advisory Groups. The agenda for this conference includes presentations on important juvenile justice and delinquency prevention issues including: State practices in the area of juvenile confinement; effective prevention strategies; and, impact issues such as illegal drug use, minorities in the juvenile justice system, missing and exploited children, gangs, and AIDS among adolescents.

Individuals and organizations interested in these issues are invited to attend. The conference will take place at the NUGGET Hotel in Reno, Nevada May 7–10, 1989. For information concerning registration please contact the Conference Coordinator, Marion Mattingly, 8801 Fallen Oak Drive, Bethesda, MD 20817, (301) 469–6580.

Dated: April 11, 1989.

Approved:

Diane M. Munson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 89–9061 Filed 4–14–89; 8:45 am]

BILLING CODE 4410–18–M

Immigration and Naturalization Service

[INS Number: 1129–89]

Immigration and Naturalization Service User Fee Advisory Committee; Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

Committee Holding Meeting: Immigration and Naturalization Service User Fee Advisory Committee.

Date and Time: June 27, 1989 at 9:30 a.m.

Place: Los Angeles Department of Airports Administration Building, Los Angeles International Airport, One World Way, Los Angeles, CA.

Status: Open. Third meeting of this Advisory Committee.

Purpose: Performance of advisory responsibilities to the Commissioner of the Immigration and Naturalization Service pursuant to section 286(k) of the Immigration and Nationality Act of 1952, as amended, [8 U.S.C. 1356(k)] and the Federal Advisory Committee Act [5 U.S.C. App. 2].

Agenda:

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.
4. Discussion of specific concerns and questions of Committee members.
5. Discussion of relevant written statements submitted in advance by members of the public.
6. Scheduling of next meeting.

Public Participation: The meeting is open to the public, but advance notice of attendance is requested to assure adequate seating. Persons planning to attend should notify the Contact Person at least two (2) days prior to the meeting. Members of the public may submit written statements at any time before or after the meeting to the Contact Person for consideration by this Advisory Committee. Only written statements received at least five (5) days prior to the meeting by the Contact Person will be considered for discussion at the meeting.

Contact Person: Sharon L. Isenberg, Program Analyst, Office of the Assistant Commissioner, Inspections, Immigration and Naturalization Service, Room 7123, Chester Arthur Bldg., 425 I Street NW., Washington, DC 20536, Telephone (202) 633–2680.

Dated: April 7, 1989.

Richard E. Norton,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 89–9021 Filed 4–14–89; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Materials and Metallurgy; Meeting

The ACRS Subcommittee on Materials and Metallurgy will hold a meeting on April 27, 1989, Room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting will be as follows: **Thursday, April 27, 1989—8:30 until the conclusion of business.**

The Subcommittee will discuss the status of the following matters: erosion/corrosion of pipes, hydrogen/water chemistry, zinc addition to primary coolant loop and its effects on materials, decontamination effects on materials, and other related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS Staff member, Mr. Elpidio Igne (telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: April 10, 1989.

Gary R. Quittschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89–9137 Filed 4–14–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322]

Long Island Lighting Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Facility Operating License No. NPF–36 issued to the Long Island Lighting Company (LILCO), the licensee, for the Shoreham Nuclear Power Station (SNPS), located in Suffolk County, New York.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would grant an exemption from the requirements of 10 CFR 50.44(c)(3)(i) to allow the Shoreham reactor to operate for 120 effective full-power days before the containment atmosphere would have to be inerted. By letters dated June 19, 1985 and March 27, 1986, the licensee requested an exemption to operate the Shoreham reactor for 120 effective full-power days before the containment atmosphere would have to be inerted rather than six months after initial criticality. The change as to when the containment atmosphere would be required to be inerted is the proposed action being considered by the staff.

The Need for the Proposed Action

The licensee's June 19, 1985 and March 27, 1986 letters provided technical justification to be allowed to operate the SNPS reactor in OPERATIONAL CONDITION 1 while the containment is uninerted for a period during the initial 120 effective full-power days of core burnup. Granting this exemption would allow access to the containment during the power ascension testing program to perform the required frequent observations during this initial period of plant operation above five percent of full-rated power.

Environmental Impacts of the Proposed Action

The proposed exemption would allow the licensee to operate the SNPS reactor in OPERATIONAL CONDITION 1 while the containment is uninerted for a period during the initial 120 effective full-power days of core burnup. Granting this exemption would allow access to the containment during the power ascension testing program to perform the required frequent observations during this initial period of plant operation. The requested 120 effective full-power days period of non-inerted operation is similar to that allowed by 10 CFR 50.44(c)(3)(i). This regulation was written recognizing the need for frequent containment entries during power ascension testing programs and allows six months from inital criticality before requiring the containment to be inerted. The SNPS achieved initial criticality on February 15, 1985, thus the containment must be inerted whenever the reactor is placed in OPERATIONAL CONDITION 1 and above 15 percent of RATED THERMAL POWER. The licensee has

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not been able to complete the SNPS's power ascension program because the protracted emergency planning litigation has precluded operation above five percent of full-rated power. Thus the licensee will need a period of non-inerted containment operation to complete its power ascension program similar to that authorized for other BWR plans during the start-up program. The staff has determined, in a safety evaluation which was issued separately (Safety Evaluation Report, Supplement No. 9), that granting this temporary exemption from compliance with 10 CFR 10.44(c)(3)(i) for containment inerting has no adverse safety significance and will not endanger life or property or the common defense, and is otherwise in the public interest. In addition, the exemption in question would not authorize construction or operation, would not authorize a change in licensed activities nor effect changes in the permitted types or amounts of radiological effluents. The proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no measurable radiological environmental impact. With regard to potential non-radiological impacts, the proposed exemption does not affect plant non-radiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable non-radiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission concluded that there is no measurable environmental impact associated with the proposed exemption, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative to the exemption would be to require the licensee to inert the containment within 24 hours after THERMAL POWER is greater than 15 percent of RATED THERMAL POWER, following startup. This would adversely impact the power ascension testing programs by limiting access to the containment for observations while these tests are being conducted during the initial period of plant operation above five percent of full-rated power. It could also have a slightly negative impact on safety because it would tend to restrain the frequency of inspections and observations if abnormal circumstances develop.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement dated October 1977 for the Shoreham Nuclear Power Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letters dated June 19, 1985 and March 27, 1986, and the Safety Evaluation Report, Supplement No. 9, dated December 1985. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786–9697.

Dated at Rockville, Maryland, this 11th day of April 1989.

For The Nuclear Regulatory Commission

Walter Butler,

Director, Project Directorate I–2 Division of Reactor Projects I/II Office of Nuclear Reactor Regulation.

[FR Doc. 89–9095 Filed 4–14–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–341]

Detroit Edison Co.; Wolverine Power Supply Cooperative, Inc. Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–43, issued to the Detroit Edison Company and Wolverine Power Supply Cooperative, Inc. (the licensees), for operation of Fermi–2 located in Monroe County, Michigan.

In accordance with the licensees' application for amendment dated November 14, 1988 the amendment would revise the Technical Specification to resolve Standby Liquid Control System inconsistencies by modifying Action Statements and surveillance requirements wording to more clearly and accurately reflect the system configuration and operability requirements.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 17, 1989, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Theodore R. Quay: (petitioner's name and telephone number); (date petition was mailed); (plant name); and April 17, 1989. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226, attorney for Detroit Edison Company.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated November 14, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 4th day of April.

For the Nuclear Regulatory Commission.

Acting Director, Project Directorate III–1, Division of Reactor Projects—III, IV, V & Special Projects.

[FR Doc. 89–9094 Filed 4–14–89; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. A89–6]

Hoyt, Colorado 80641 (Delores Grosz, Petitioner); Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Before Commissioners: Janet D. Steiger, Chairman; Patti Birge Tyson, Vice-Chairman; John W. Crutcher; Henry R. Folsom; W.H. "Trey" LeBlanc III.

Issued April 11, 1989.

Docket Number: A89–6.

Name of Affected Post Office: Hoyt, Colorado 80641.

Name(s) of Petitioner(s): Delores Grosz.

Type of Determination: Closing.

Date of Filing of Appeal Papers: April 3, 1989.

Categories of Issues Apparently Raised: 1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before April 18, 1989.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

April 3, 1989—Filing of Petition.

April 11, 1989—Notice and Order of Filing of Appeal.

April 28, 1989—Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

May 8, 1989—Petitioners' Participant Statement or Initial Brief [*see* 39 CFR 3001.115(c) and (b)].

May 30, 1989—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].

June 14, 1989—Petitioners' Reply Brief should Petitioners choose to file one [*see* 39 CFR 3001.115(d)].

June 21, 1989—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].

August 1, 1989—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 89–9063 Filed 4–14–89; 8:45 am]

BILLING CODE 7715–01–M

[Docket No. A89–7]

New Site, Mississippi 38859 (Boyd Riddle, Petitioner); Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued: April 11, 1989.

Before Commissioners: Janet D. Steiger, Chairman; Patti Birge Tyson, Vice Chairman; John W. Crutcher; Henry R. Folsom; W.H. "Trey" LeBlanc III.

Docket Number: A89–7.

Name of Affected Post Office: New Site, Mississippi 38859.

Name(s) of Petitioner(s): Boyd Riddle.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: March 31, 1989.

Categories of Issues Apparently Raised: 1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the

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right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before April 17, 1989.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

March 31, 1989—Filing of Petition.
April 11, 1989—Notice and Order of Filing of Appeal.
April 25, 1989—Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
May 5, 1989—Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)].
May 25, 1989—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
June 9, 1989—Petitioner's Reply Brief should Petitioner choose to file one [*see* 39 CFR 3001.115(d)].
June 16, 1989—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].
July 29, 1989—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 89-9064 Filed 4-14-89; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26706; File Nos. SR-Phlx-88-07; SR-Amex-88-10; Sr-CBOE-88-09]

Self-Regulatory Organizations; Philadelphia Stock Exchange, et al.; Order Approving Proposed Rule Changes Relating to the Listing and Trading of Index Participations

I. Introduction

On February 29, April 18, and May 26, 1988, the Philadelphia Stock Exchange, Inc. ("Phlx"), the American Stock Exchange, Inc. ("Amex"), and the Chicago Board Options Exchange, Inc. ("CBOE") (collectively "exchanges"), respectively, submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] proposed rule changes to list for trading market basket products designated as index participations ("IPs").

The proposed rule changes were noticed in Securities Exchange Act Release Nos. 25495 (March 23, 1988), 53 FR 10311; 25664 (May 5, 1988), 53 FR 16605; and 25799 (June 13, 1988), 53 FR 22754. The exchanges subsequently submitted amendments to their proposed rule changes.[3] The Commission received 25 comment letters relating to the proposed rule changes.[4]

II. Background and Description of the Products

A. Terms of the Contracts

An IP is a present interest in the current value of a portfolio of stocks. IPs are of indefinite duration, and entitle holders to cash payments equivalent to a proportionate share of any regular cash dividends paid on the component stocks of the underlying equity portfolio. Investors buying and selling IPs can realize profits or limit losses on their investment by entering into an offsetting sale or purchase of an IP in a closing transaction and thereby receive or make payment of the difference between the cost of the opening and closing transactions. Alternatively, investors purchasing IPs may elect instead to realize profits or limit losses on their investment through exercising a cash-out privilege [5] which is available, depending on the IP, on a daily, quarterly, or a semi-annual basis.

The dates on which IPs purchasers may obtain the full index value upon exercise of the cash-out privilege are designated as cash-out times. Excluding the Phlx's daily cash-out alternative, the cash-out time for each quarter or semi-annual period, depending on the IP, will be determined and made public by each Exchange before the beginning of such period.

The Phlx IP, called the Cash Index Participation ("CIP"), permits holders to exercise the cash-out feature on a daily basis in addition to the designated quarterly cash-out time.[6] A CIP holder that exercises the cash-out feature on any day other than the designated quarterly cash-out time will receive 99.5% of the underlying portfolio's value. the Phlx notes that the .5% differential subtracted from the index value received by such CIP holders is a fee that reflects the substantial benefit to CIP holders of daily cash-out, and that CIP holders may avoid the discount by closing out their positions for cash in the market or by cashing out at a regular quarterly cash-out date.

The Amex product is termed the Equity Index Participation ("EIP"). EIPs, as originally proposed by the Amex, enabled purchasers to exercise a cash-out privilege on a quarterly basis. On October 27, 1988, the Amex submitted an amendment to permit EIP holders to receive either cash or physical delivery of shares of the component stocks of the S&P 500 Index and the Major Market Index under specified circumstances.[7] More specifically, the holder of one or more delivery units [8] that has not chosen to exercise the cash-out privilege has the right to obtain on each delivery time, which coincides with the quarterly cash-out time, the physical delivery of the proportionate number of shares of each stock comprising the underlying index, subject to certain conditions. A delivery fee established by the Amex will be charged to EIP holders taking physical delivery of the component stocks.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1988).

[3] These Amendments have been noticed for public comment in the Federal Register. *See* notes 6, 7, 9, 10, 14, and 17 *infra*.

[4] *See* notes 22-28 and 30-31, *infra* and accompanying text.

[5] *See* discussion on p. 6 *infra*.

[6] The CIP, when first proposed by the Phlx, provided for a quarterly cash-out only. Subsequently, on September 26 and October 11, 1988, the Phlx submited Amendments Nos. 2 and 3, respectively to its proposed rule change. In general, these amendments would permit CIP holders to exercise the cash-out feature on a daily as well as quarterly basis. To exercise the daily cash-out feature an IP holder must submit notice of this exercise by 4:15 p.m. The IP holder would receive a cash payment equal to 99.5% of the index value as of the close of business the following day. The Phlx has tentatively determined to establish the quarterly cash-out time to coincide with the expiration of the leading stock index futures contracts [*i.e.* the opening of trading on the third Friday of March, June, September, and December ("Expiration Friday")]. *See* Securities Exchange Act Release No. 26174 (October 13, 1988), 53 FR 40614.

[7] *See* Securities Exchange Act Release No. 26243 (November 2, 1988), 53 FR 45407.

[8] A delivery unit is defined as the minimum number, as specified by the Amex, of EIPs of a particular class that must be held in an individual account by a holder at the time of exercise of the delivery privilege, or that must be maintained as a short position in an equivalent account by a person who notifies OCC of a desire to make physical delivery of securities to a holder if assigned an exercise. The Amex has tentatively established the delivery unit as 50,000 EIPs per unit for the S&P 500 Index and 25,000 EIPs per unit for the XMI. The Amex believes that permitting physical delivery of units below these levels would be impractical because of the minute number of shares of individual stocks that would be deliverable. If the Amex intends to modify the minimum number of EIPs that constitute a delivery unit, then the exchange must submit a separate proposed rule change for Commission approval.

Under the Amex proposal, exercise notices requesting physical delivery of one or more delivery units will be assigned first, on a random basis, to those short EIP positions that have notified the Options Clearing Corporation ("OCC") of a desire to make physical delivery. If the number of delivery units for which holders have requested physical delivery exceeds the number of units made available for delivery by persons with short EIP positions, then an Amex-designated physical delivery facilitator will assume responsibility for delivering the physical shares with respect to such excess number of units.[9]

The CBOE product, called the Value of Index Participation ("VIP"), differs from both the Phlx CIP and the Amex EIP in that it allows VIP sellers, as well as purchasers, to exercise a cash-out privilege on a semi-annual basis. A person with a short VIP position desiring to exercise the cash-out privilege originally was required to pay a premium of 1% of the index's value. The CBOE eliminated this charge, however, in an amendment filed on November 1, 1988.[10] The Exchange believes that the existence of a cash-out privilege for holders of both long and short positions will cause the price of VIPs to trade more closely to the value of the underlying portfolio because it will allow a hedged short VIP holder an alternative to reversing his position by purchasing the VIP at the current market price and selling the underlying equities.

Notice of exercise of the IP cash-out privilege must be provided by an IP purchaser on or before a time specified and made public by the Exchange on which the IP is traded. The exchanges have determined to establish and make public the cut-off time for the submission of notices of exercise of an IP cash-out privilege before the beginning of each quarterly or semi-annual cash-out time. At the present time, the exchanges have established an exercise cut-off time of the close of trading on the day before the quarterly or semi-annual cash-out time (*i.e.* 4:15 p.m. on the Thursday before the quarterly or semi-annual cash-out time).[11] An exercise notice may be tendered to the OCC only by the OCC clearing member in whose account the IP is carried. Upon exercise of the quarterly or semi-annual cash-out privilege an IP purchaser may obtain at the cash-out time the IP index value based on the opening trades of the portfolio's component stocks on the next day.[12]

Pursuant to the exchanges' proposed rules, each member organization will establish fixed procedures for the allocation of IP exercise notices assigned to a short (or long also in the case of CBOE VIPs) position in IPs in such member organization's customers' accounts. Such allocation shall be made on either a "first-in, first-out" basis, automated random selection basis that has been approved by the exchanges, or on a manual random selection basis. Each member organization will inform its customers in writing of the method it uses to allocate exercise notices to its customers' accounts, explaining its manner of operation and the consequences of that system.

Pursuant to the exchanges' proposed rules, all bids and offers made on the trading floor for IPs will be deemed to be for one unit of trading unless a specified greater number of IPs is expressed. A bid or offer for more than a unit of trading of IPs will be deemed to be for the amount thereof or a smaller number of units of trading of IPs. The unit of trading in IPs shall be 100 IPs unless otherwise designated by the Exchange.[13]

The exchanges have reserved the right, in the event of extreme IP trading inactivity or under exceptional circumstances, to require that purchasers and sellers settle their IP contracts at the closing index value determined by a designated cash-out time, upon one year's prior notice to the public.

B. Portfolios Underlying the Proposed Index Participations

1. Composition, Calculation and Adjustment

The exchanges contemplate trading IPs on a variety of underlying portfolios, most of which are relied upon as well-established and widely-disseminated market indicators or market segment indicators, and some of which are new. The Phlx has designated two underlying portfolios for CIP trading: a broad-based portfolio designated by the Exchange ("Blue Chip" Index) and the Standard & Poors 500 ("S&P" 500) portfolio.[14]

The Blue Chip CIP is an IP based on a price-weighted portfolio composed of 25 highly capitalized listed common stock issues representing primarily industrial corporations, and which is designed to replicate the performance of the Dow Jones Industrial Average ("DJIA"). Each Blue Chip CIP will represent $\frac{1}{100}$ (the multiplier) times the value of the portfolio, and each S&P 500 CIP [15] will represent $\frac{1}{10}$ (the multiplier) times the value of the portfolio. The standard unit of trading in such CIPs will be 100 CIPs, and bids and offers will be expressed in decimals. The Exchange expects to establish a starting Blue Chip CIP portfolio value of approximately 2000, so that each Blue Chip CIP would be priced at approximately $20.00, and each Blue Chip CIP trading unit would be priced at approximately $2,000. The value of the portfolio will be adjusted to account for stock splits, stock dividends, and extraordinary cash dividends. The value of the portfolio will not be adjusted for regular cash dividends paid out to CIP holders. If the character of any stock in the portfolio materially and substantially changes on the account of delisting, merger, acquisition, or otherwise, the Exchange will replace such stock with another stock which possesses similar characteristics so as to retain the integrity and representativeness of the portfolio.

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[9] The Amex's Amendment No. 2 to its EIP filing noted that the physical delivery facilitator could deliver shares out of inventory, buy shares at the opening on the cash-out date, or borrow shares. However, in order to ameliorate any concerns regarding the facilitator's advance knowledge of physical delivery unit imbalances, the Amex submitted an additional amendment under which the facilitator may satisfy such imbalances only by delivering component shares purchased at the opening on the cash-out date. This facilitator will be compensated out of proceeds received from shorts who have been assigned exercise notices. Initially, the Amex contemplates designating only one facilitator per EIP class and notes the facilitator may be the specialist unit for that class of EIPs. *See* Securities Exchange Act Release No. 26355 (December 13, 1988), 53 FR 51161.

[10] *See* Securities Exchange Act Release No. 26257 (November 7, 1988), 53 FR 45633. This amendment also changed the cash-out feature from a quarterly to a semi-annual cycle.

[11] If the exchanges intend to modify the exercise cut-off time they must submit separate proposed rule changes for Commission approval pursuant to section 19(b)(2).

[12] A CIP holder exercising the daily cash-out privilege on a day other than the quarterly cash-out time receives the value of the portfolio at the close of the next trading day, less the .5 percent exercise fee described above.

[13] If the exchanges intend to modify the unit of trading from 100 IPs they must submit separate proposed rule changes for Commission approval.

[14] Originally, the Phlx proposed trading a Stock Market CIP that was based on a 100 stock portfolio developed by the Exchange and was designed to track closely with the S&P 500. On August 23, 1988, the Phlx submitted Amendment No. 1 to the filing in which it withdrew its proposed Stock Market CIP and indicated that it would trade a S&P 500 CIP in its place. *See* Securities Exchange Act Release No. 26058 (September 2, 1988), 53 FR 35247.

[15] *See* Securities Exchange Act Release No. 19907 (June 24, 1983), 48 FR 30614 for a detailed description of the S&P 500 Stock Index. As of December 6, 1988, the closing index value for the S&P 500 was 277.58. Thus, each S&P 500 CIP would be priced at $27.75, and each S&P 500 trading unit would be priced at $2,775.

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The Amex EIPs will be based on the Major Market Index ("XMI") [16] and the S&P 500.[17] The XMI is a broad-based price-weighted portfolio developed by the Amex, and is comprised of 20 highly capitalized issuers. Each XMI EIP will represent 1/10 (the multiplier) times the portfolio's value,[18] and the standard unit of trading in such EIPs will be 100 EIPs. Bids and offers for EIPs will be quoted in decimals.

The CBOE VIPs are based on the capitalization-weighted CBOE 50 and CBOE 250 portfolios [19] developed by and maintained by the Exchange, and the S&P 500 Index, calculated and maintained by Standard and Poor's Corporation. Each CBOE VIP will represent 1/10 (the Index multiplier) times the Index value,[20] and the standard unit of trading will be 100 VIPs. Bids and offers for VIPs will be quoted in fractions of 1/8 of a point.

2. Publication

Publication of the values underlying the IPs will occur at two levels.[21] First, the exchanges will make public the component portfolios they use for calculating the value of their participations. This is necessary to provide market professionals, institutions, and other public investors a basis for relating the value of these participations to their own stock positions, and for maximizing the utility of the participations. The Phlx, Amex, and CBOE currently publicize the means by which they compute values of the portfolios underlying their participations (*i.e.* summation of share prices divided by a specific divisor, times the multiplier).

Second, in addition to the real-time computation of underlying portfolio values that will be the subject of index participation trading, those values will be widely disseminated. Because products related to the portfolios underlying the Amex EIP, the CBOE VIP, and the Phlx S&P 500 CIP previously have been approved for trading, those values are already widely disseminated. Additionally, the Phlx has retained Bridge Data, Inc. to compute and perform all necessary maintenance of the Blue Chip CIP. Pursuant to Phlx Rule 1003B, updated underlying portfolio values will be disseminated and displayed by means of primary market prints reported over the Consolidated Last Sale Reporting System and the facilities of the Options Price Reporting Authority. The value of the underlying portfolios will also be available on broker-dealer interrogation devices to subscribers of the CIPs information.

III. Comments Received

The Commission received 25 comment letters in response to its requests for comments on the Phlx, Amex, and CBOE proposed rule changes. Fifteen of the twenty-five comment letters were submitted on behalf of the Commodity Futures Trading Commission ("CFTC"), the Chicago Board of Trade ("CBT"), or the Chicago Mercantile Exchange ("CME"). These letters expressed the belief that the IPs are futures, and therefore that the Commission lacks jurisdiction to approve the proposed rule changes.[22] In response to these futures industry comment letters the Commission received letters from the Phlx and CBOE, and a comment letter from the Amex, which included opinions of their respective legal counsels, stating that IPs are securities and therefore subject to SEC jurisdiction.[23] Two letters came from the Phlx and Amex that addressed issues related to timing of Commission action on IPs.[24] The Commission also received a letter from the Phlx commenting on Amex Amendment No. 2 to its EIP filing providing for physical delivery,[25] a letter from the Amex responding to this Phlx comment letter,[26] and letters from three investors, two expressing support for immediate approval of CIPs [27] and one suggesting that EIPs are an unnecessary investment tool.[28] In addition, the Commission received a letter from the Investment Company Institute ("ICI") arguing that IPs are investment company shares and thus must receive relief from the Investment Company Act of 1940 [29] before they may be traded on a national securities exchange.[30] Subsequent to the Commission's consideration of the proposed IPs during an open meeting on March 14, 1989, the Commission received a letter on behalf of the ICI arguing that the issuance and trading of IPs create investment companies. In particular, the ICI claimed that the individuals holding long IP positions and short IP positions each constitute an "issuer" under the statutory definition of that term because they are an "organized group of persons." [31]

A. *Futures Industry Letters*

In general, the CFTC, the CBT, and the CME ("futures commentators") argue that the Commission lacks jurisdiction to authorize IP trading through approval of the Exchanges' proposed rule changes because an IP does not constitute a "security" as defined in seciton 3(a)(10) of the Act.[32] In particular, the futures commentators argue that the economic function and purpose of IPs are characteristic of stock index futures rather than stock or index options, and that IPs are therefore subject to the exclusive jurisdiction of the CFTC pursuant to section 2(a)(1)(B) of the Commodity Exchange Act ("CEA").

The futures commentators suggest several reasons to categorize IPs as stock index futures. First, they argue that both the purchaser and seller of an IP contract have entered into a transaction that may be cashed out at a future date at a price based upon the difference between the price established at the initiation of the contract and some undetermined future price. Second, with the exception of the Amex EIP, the IP contract provides for cash settlement only. Third, while an IP long is entitled to hold his position indefinitely, they argue that essentially the contract has a quarterly expiration—identical to the cycle now applicable for similar futures contracts—due to the quarterly cash-out feature. The futures commentators suggest that this feature is synonymous with an "undated futures market contract." They suggest further that the outcome of effective competition will be that an IP long actually will pay a commission to "roll over" his position, at the time he enters into an IP contract, in the form of higher IP prices. Fourth, there is not apparent option premium paid by an IP long.

The CME, specifically, suggests that, although IPs include two features that may not be immediately recognized as standard features of futures contracts, those features serve the economic equivalent of futures characteristics.[33] First, the short will be required to pay to the long cash payments equivalent to a proportionate share of any regular cash dividends paid on the component stocks of the underlying index. The CME suggests that the concept of a cash payment from the short to the long, related to measured or theoretical shrinkages in the value of the underlying product, is a feature also found in futures contracts. Second, IPs afford longs the right to select the time at which shorts will be compelled to make cash delivery. The CME notes that this is a standard feature of most physical commodity based futures contracts, and that a futures contract holder generally has a far wider range of options (*e.g.*, the ability to control the exact date, time, and place of the delivery of the commodity to the long).

The Phlx, CBOE, and Amex (the "exchanges") argue that IPs should be viewed as securities as defined in section 3(a)(10) of the Act.[34] In general, the Phlx and CBOE base their argument on *SEC* v. *C.M. Joiner Leasing Corp.*[35] in which the Supreme Court emphasized the economic function of instruments in determining whether they constituted securities.[36] Specifically, the Phlx argues that although IPs do not possess all of the familiar characteristics of common stock as described in *Landreth Timber Co.* v. *Landreth* [37] an IP does possess most of the characteristics of stock, and purchases and sales of an IP are intended to replicate the economic substance of purchases and sales of an equivalent amount of the underlying stocks.[38]

First, the exchanges argue that IPs entitle holders to receive on a quarterly basis cash payments equivalent to the regular cash dividends declared on the component stocks of the underlying index. Second, the Phlx argues that an IP purchaser will have the ability to pledge or hypothecate his interest in the IP. For example, as a typical provision of customer agreements with a brokerage firm, an investor normally will pledge or hypothecate his interest in the IP, including profits and dividends, as security to the broker for any indebtedness arising in connection with his account or any other indebtedness to the broker. Third, the Phlx argues that IPs will be freely transferable in exchange transactions; thus, IPs will be negotiable in the same sense as exchange-traded equities and equity and non-equity securities options. Fourth, the exchanges argue that IPs will have the capacity to appreciate in value as the securities comprising the underlying portfolio increase in value.

In addition, the Phlx and CBOE assert that, although the purchase and sale of an IP does not constitute the purchase and sale of the underlying shares of stock, the economic substance of transactions in the IP leads to the conclusion that the IP should be viewed as stock for purposes of the definition of security. An IP purchaser or seller will have similar risks and obligations as a person long or short stock. The Phlx notes further that, to the extent these risks and obligations differ from those associated with stock, they resemble a stock index option because of the availability of a cash-out privilege, and because IPs would be issued by the OCC rather than a corporation. Moreover, the Phlx argues that the cash settlement feature of IPs should not lead to the conclusion that IPs are more akin to stock index futures than to securities as defined under section 3(a)(10) of the Act. The Phlx suggests that in amending the definition of the term "security" to include "any put, call, straddle, option, or privilege on any security * * * or group or index of securities (including any interest therein or based on the value thereof) * * *" Congress explicitly recognized that products which function economically as securities are themselves securities, although they are cash-settled based on the value of underlying securities or indexes.

The Phlx and CBOE argue that IPs are securities because, in addition to possessing the characteristics of stock, IPs may be classified as "an instrument commonly known as a security." In making this determination the Phlx and CBOE rely on the majority view in *Landreth* that the reasonable expectation of investors that they are purchasing securities subject to the securities laws is of particular significance in determining whether an instrument bearing only some of the traditional characteristics of a type of security enumerated in Section 3(a)(10) is a security.[39]

The exchanges suggest that, even if an IP may be considered a commodity under the CEA definition, it is not a "contract of sale for future delivery" for purposes of that Act. In this regard, the exchanges argue that although IPs may possess certain elements characteristic of futures contracts [*e.g.*, standardized terms and the ability of investors to realize profits or limit losses through entry into offsetting sales or purchases and payment of the difference between the purchase (sale) price and the price at which the closing transaction is effected] they lack the most significant

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[16] *See* Securities Exchange Act Release Nos. 19610 (March 17, 1983), 48 FR 12486; 19709 (April 27, 1983), 48 FR 20179 for a detailed description of the XMI.

[17] The Exchange originally proposed to trade EIPs on the XMI and the institutional index ("XII"). On July 21, 1988, however, the Exchange submitted to the Commission Amendment No. 1 to File No. SR-Amex-88-10 to trade EIPs on the S&P 500 rather than on the XII. *See* Securities Exchange Act Release No. 25942 (July 25, 1988), 53 FR 28029.

[18] As of December 8, 1988 the closing index value for the XMI was approximately 423. Thus, each XMI EIP would be priced at $42.30, and each XMI EIP trading unit would be priced at $4,230.

[19] *See* Letter from Jonathan G. Katz, Secretary, SEC to Dr. Paula Tosini, Director, Division of Economic Analysis, CFTC, dated April 22, 1988 for a detailed description of both the underlying CBOE 50 and CBOE 250 portfolios.

[20] As of December 6, 1988 the closing value for the CBOE 250 was approximately 248. Thus, each CBOE 250 VIP would be priced at $24.80, and each CBOE VIP trading unit would be priced at $2,480.

[21] Publication and dissemination of the values of the portfolios underlying IPs will help to ensure the maintenance of a fair and orderly market in the product consistent with the goals of Section 11A(a)(1) of the Act and to reduce the possibility of fraudulent or manipulative trading involving the IPs. *See* 15 U.S.C. 78f(b)(5) (1982).

[22] *See* Letters to Jonathan G. Katz, Secretary, SEC, from Jean A. Webb, Secretary, CFTC (April 29 ("1st CFTC Letter"), June 1, and July 8, 1988); Thomas R. Donovan, President and Chief Executive Officer, CBT (April 20 ("1st CBT Letter"), June 1, July 8, and November 30, 1988); William Brodsky, President and Chief Executive Officer, CME (April 20 ("1st CME Letter"), May 18, and November 29, 1988); Phillip Stern and Jerrold Salzman, Attorneys, Freeman, Freeman & Salzman on behalf of the CME (August 2, November 7 ("5th CME Letter"), and December 1, 1988 and March 2, 1989). *See also* Letter from Jean A. Webb, Secretary, CFTC, to Shirley E. Hollis, Assistant Secretary, SEC, dated December 13, 1988.

[23] *See* note 34 *infra*.

[24] *See* Letters to Jonathan G. Katz, Secretary, SEC, from Nicholas A. Giordano, President, Phlx (June 29, 1988) ("Phlx letter"); Kenneth R. Liebler, President and Chief Operating Officer, Amex (July 27, 1988) ("Amex letter").

[25] *See* Letter from Nicholas A. Giordano, President, Phlx to Jonathan G. Katz, Secretary, SEC, dated November 23, 1988.

[26] *See* Letter from Gordon L. Nash, Senior Executive Vice President, Legal and Regulatory Affairs, Amex to Jonathan G. Katz, Secretary, SEC, dated February 10, 1989.

[27] *See* Letter from Dennis Weidenbenner to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated September 29, 1988; Letter from William A. Dodd, jr. to David Ruder, Chairman, SEC, dated February 24, 1989.

[28] *See* Letter from K. Thomas Shipley, Executive Vice President, Charter Investment Group, Inc., to David S. Ruder, Chairman, SEC, dated March 29, 1989.

[29] 15 U.S.C. 80a-1 through 80a-52 (1982).

[30] *See* Letter from Matthew P. Fink, ICI, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated December 19, 1988.

[31] *See* Letter from David M. Miles, Attorney, Fried, Frank, Harris, Shriver & Jacobson on behalf of the ICI, to David S. Rader *et al.*, Chairman, SEC, dated March 31, 1989. The Commission, in its discretion, determined to consider this comment. 17 CFR 202.6(b).

[32] 15 U.S.C. 78c(c)(1)(j) (1982).

[33] *See* 1st CME Letter at 2-3.

[34] *See generally* Letter from William W. Uchimoto, Acting General Counsel, Phlx, to Richard G. Ketchum, Director, Market Regulation, SEC, dated May 24, 1988, enclosing opinion of Cadwalader, Wickersham and Taft, Phlx legal counsel, regarding SEC jurisdiction over IPs ("Cadwalader Letter"); Letter from Nancy R. Crossman, First Vice President, Legal Services, CBOE to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated September 9, 1988, enclosing opinion of Gardner, Carton and Douglas, CBOE legal counsel, regarding SEC jurisdiction over IPs; Letter from Edmund R. Schroeder, Attorney, Lord Day & Lord, Barrett Smith, Amex legal counsel, to Jonathan G. Katz, Secretary, SEC, dated January 13, 1989.

[35] 320 U.S. 344 (1943).

[36] *Joiner Leasing Corp.* 320 U.S. at 350-51 (1943). The Amex argues that an IP is a security because it is: (1) a call or option on any security or group or index of securities; (2) a certificate of interest or participation in stock; and (3) a right to purchase stock.

[37] 471 U.S. 681, 686-87 (1985). *See* discussion on pp. 28-29 *infra*.

[38] *See* Cadwalader letter, *supra* note 34, at 5.

[39] *Infra* note 46.

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element for CEA purposes—the element of futurity.

The exchanges assert that, unlike stock index futures contracts, a purchase or sale of an IP does not entail a commitment by an investor to buy or sell the value of the underlying index at some time in the future. The exchanges argue that a purchase or sale of the IP involves an actual purchase or sale of the current value of the underlying index, similar to an actual transfer of ownership of the underlying stocks.[40]

In addition, the exchanges note that IPs have other characteristics that differ from futures contracts. First, unlike futures contracts that are listed for trading in different contract months, IPs have a perpetual existence with no fixed expiration date. Second, the IP gives the purchaser a cash-out privilege and the right to receive on a quarterly basis cash payments equivalent to a proportionate share of any regular cash dividends paid on the component stocks of the underlying portfolio. Futures, on the other hand, require settlement upon expiration of the contract and do not grant the right to receive payment of dividends. Third, IPs are less highly leveraged than stock index futures because their proposed margin requirement is 50% of the IP value. In addition, the exchanges note that the IP margin represents a down payment on the purchase price, rather than earnest money or a performance bond, which is the function served by the much lower levels of margin applicable to stock index futures contracts.

B. Proprietary and Other Concerns

In two comment letters regarding Amex's proposed trading of EIPs, the Phlx alleges that the Amex appropriated the CIP design to create the EIP. The Amex filed its EIP proposal with the Commission shortly after the Phlx, and its original EIP design was virtually identical to the CIP design. The Phlx notes that it has expended a great deal of time, effort, and expense in designing and submitting this new product to the Commission for approval. For example, significant staff time and outside legal counsel fees have been spent in preparing the CIP to be traded. The Phlx believes that allowing the Amex to begin trading an identical product at the initiation of CIP trading would undercut the Phlx's efforts to develop new and innovative products such as CIPs.

[40] The exchanges note that when an IP is purchased 100% of the instrument's value must be paid. In this regard, even if an IP were margined, an IP purchaser would have to contribute 50% of the transaction's value and convince a lender to loan the remaining 50%.

Further, the Phlx suggests that its CIP product constitutes protectable intellectual or creative work of pecuniary value and is therefore protected under common law principles and statutory law.[41] The Phlx argues both that a vested property right arises with respect to its CIP and that the Amex has infringed its CIP copyright by appropriating entire provisions constituting the vast preponderance of the Phlx's CIP contract specifications and trading rules and presenting them as Amex rules.

For these reasons, the Phlx argues that approval of the Amex's EIP proposal would be inconsistent with section 6(b)(5), section 6(b)(8), and section 11A(a)(1)(c)(ii) of the Act. The Phlx believes that, at the least, it should be provided a 12 to 18 month head start in the introduction of its IP product. In addition to the proprietary product comments, the Phlx argues that the Amex proposal is deficient in discussing the side-by-side trading concerns that could arise from EIP trading.[42] The Phlx suggests that, because Amex proposes to trade EIPs on the Amex's MMI, a portfolio upon which Amex currently lists and trades options, there exists the potential for significant time and place advantages and concomitant inside market information, as well as possible conflict of interest and manipulation concerns.

[41] *See, e.g.*, International News Service v. Associated Press, 248 U.S. 215 (1918); Standard & Poor's Corp. v. Commodity Exchange, Inc., 683 F.2d 704 (2d Cir. 1982); Board of Trade of the City of *Chicago* v. *Dow Jones & Co.*, 98 Ill.2d 109, 456 N.E.2d 84 (1983).

[42] The Phlx notes that the Amex proposes to trade on EIP on the XMI in addition to the XMI index option currently traded on the Amex floor. The Phlx alleges that the trading of an XMI EIP and XMI option should be prohibited because of informational advantages and potential manipulative schemes that could occur as a result of trading these two products on the same floor, side-by-side. The Commission previously has noted that the side-by-side trading of stocks and options of those stocks, while raising regulatory concerns, may be permitted provided adequate audit trail, surveillance information and regulatory safeguards are in place. The Commission has determined that any side-by-side trading concerns (*e.g.*, informational advantages and potential manipulative schemes) are not present with regard to Amex's EIPs for several reasons. First, the Amex will not be trading an individual stock and an option on that individual stock side-by-side. Instead, the Amex will be trading an index option and the equivalent of a portfolio of stocks on its floor. Second, the 20 stocks that comprise the XMI, and therefore directly determine the index's value, have a primary market on the New York Stock Exchange ("NYSE") rather than the Amex. Consequently, any informational advantages associated with trading and XMI EIP on the Amex are minimal. Finally, the Commission is satisfied that existing audit trail data, surveillance information and regulatory safeguards are sufficient to allay any side-by-side trading concerns.

In response to Phlx's comments regarding Amex's EIPs proposal the Amex submitted a comment letter outlining four major rebuttals to the Phlx letter.[43] First, the Amex suggests that the Commission lacks the authority to adjudicate Phlx's property claims. In this regard, the Amex notes that there is no evidence that Congress intended to provide the Commission with the authority to adjudicate property interests among competing parties because Congress has enacted an elaborate statutory framework for the establishment, preservation, and protection of intellectual or creative works and established specific federal agencies (*e.g.*, the U.S. Patent and Trademark Office and U.S. Copyright Office) to administer and enforce these laws. The Amex further notes that the Act provides, neither expressly nor implicitly, that competing property claims among self-regulatory organizations ("SROs") is a proper area of Commission consideration in determining whether to approve specific rule proposals.

Second, the Amex suggests that a section 19(b) proceeding is inappropriate for adjudicating property rights because such a proceeding would involve the Commission in an exhaustive factual investigation including, but not limited to, a determination of which exchange actually developed the product. The Amex notes that it is prepared to document the fact that it has been actively working for several years on the development of a market basket security and has expended extensive time and resources in so doing.

Third, the Amex suggests that the Phlx CIP is legally protected by neither statutory nor common law principles. The Amex asserts that such a trading instrument is a concept, and thus an idea that can not be protected under federal statutory law. The Amex suggests that because it does not seek to utilize any underlying portfolio designed, calculated and disseminated by Phlx as a basis for EIPs trading, and because none of the cases cited in the Phlx letter suggested that duplication or imitation of the idea or the concept on which a commercial enterprise is based would constitute a misappropriation, the Amex has not misappropriated the Phlx product.

Fourth, the Amex suggests that the "fair competition" mandate of section 11A(a)(C)(ii) of the Act does not authorize the Commission to grant exclusive franchises. The Amex notes that the cases cited by Phlx in support of

[43] *Supra* note 24.

its proprietary rights theory recognized that the freedom to imitate and duplicate is of vital importance in a free market economy. In addition, the Amex, citing the experiences of the options markets,[44] argues that Phlx's contention that innovation and commitment to the development of new products will be stifled unless SROs are provided some protected property interest in ideas filed with Commission is simply erroneous.

IV. Discussion

After careful consideration of the comments received, applicable statutory provisions, and relevant judicial and administrative decisions, the Commission concludes that IPs are securities within the definition of that term in the Act and are not contracts of sale for future delivery, and that therefore such products are subject to the jurisdiction of the Commission. In addition, the Commission concludes that the Phlx should not be provided either exclusive trading privileges over IPs or the opportunity to commence IPs trading in advance of other exchanges.

For these reasons and for additional reasons set forth below, the Commission finds that the proposed rule changes relating to the listing and trading of IPs are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, in general, and the requirements of Section 6 and the rules and regulations thereunder, in particular.

A. Jurisdiction

IPs confer the present right to receive the current value of a portfolio of stocks, are of indefinite duration, and entitle holders to payments equivalent to regular cash dividends paid on the underlying stocks. For the reasons set forth below, the Commission concludes that IPs are securities as defined in the Act. Further, the Commission concludes that IPs are not futures contracts subject to regulation under the CEA, and that regulation of IPs as securities is consistent with the purposes underlying both the Act and the CEA.

1. IPs are Securities

The Commission concludes that each of the proposed IP products is a security within the definition of that term under section 3(a)(1) of the Act. Congress intended that the term "security" be interpreted broadly, and the Supreme Court has, on several occasions, observed that the definition of the term security "is quite broad * * * and includes both instruments whose names alone carry well-settled meaning, as well as instruments of 'more variable character' * * *."[45] It is, thus, well settled that the term "security" is to be interpreted flexibly to encompass new instruments that are similar to, or have the characteristics of, instruments already recognized as securities. In particular, if "economic reality" suggests that such an instrument has the characteristics of instruments that clearly are securities, then it should be defined as a security, even if the instrument does not fit explicitly within the Act's enumeration of specific instruments that constitute securities.[46] Indeed, in a world of rapid development of new financial instruments, it cannot be expected that Congress would have identified the exact form of all instruments that constitute securities.[47]

[44] The Amex, referring to several Commission releases, notes that the development of new options products has consistently been determined by the Commission not to provide any claim to exclusive trading rights, regardless of which SRO was responsible for initiating the design thereof, for expending funds, time and resources to promote the product, or being the first to file with the Commission.

[45] *Landreth*, 471 U.S. at 686 (1985) [quoting *Marine Bank*, 455 U.S. at 556 (1982); *SEC* v. *C.M. Joiner Leasing Corp.*, 320 U.S. 344, 351 (1943)].

[46] *Landreth* 471 U.S. at 694 (1985); *Tcherepnin* v. *Knight*, 389 U.S. 332, 336 (1967). Section 3(a)(10), 15 U.S.C. 78(a)(10) (1982), defines the term "security" as including: any note, stock, treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit, for a security, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing; but shall not include currency or any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

The Commission notes that the definitions of the term "security" in section 3(a)(10) of the Act and section 2(1) of the Securities Act of 1933 ("Securities Act") are virtually identical and have been treated as such by the Supreme Court in decisions dealing with the scope of the term. *See, e.g., Marine Bank*, 455 U.S. at 555 n. 3 (1982); *United Housing Foundation, Inc.* v. *Foreman*, 421 U.S. 837, 847 n. 12 (1975).

[47] While the Commission, in its analysis of IPs has focused primarily on the portions of the definition discussed in the text, there may be additional bases for concluding that IPs are securities. For example, an IP can be analogized to a receipt for the interests in the securities upon which it is based or to a certificate of deposit for a security. In addition, an analysis of IPs as investment contracts also supports the conclusion that they are securities.

IPs possess the key characteristics of stock. In *Landreth Timber Co.* v. *Landreth*,[48] the Supreme Court's most recent decision addressing the definition of the term "security," the Court described five characteristic features of stock as: (1) The right to receive dividends; (2) negotiability; (3) the ability to be pledged or hypothecated; (4) the capacity to appreciate in value; and (5) the conferring of voting rights in proportion to the number of shares owned.[49] IPs have all of these characteristics, except voting rights, and have other characteristics of stock as well.

With regard to the *Landreth* characteristics: (1) IP purchasers will be entitled to receive on a quarterly basis cash payments equivalent to a proportionate share of any regular cash dividends paid on the component stocks of the underlying portfolio; (2) because IPs will be freely transferable in exchange transactions, such instruments will be negotiable in the same sense as exchange-traded stock; (3) IP purchasers also will have the ability to pledge or hypothecate their IP interests; [50] and (4) IPs will have the capacity to appreciate in value as the underlying components appreciate in value.[51] The only characteristic cited in *Landreth* that IPs do not provide are voting rights in the stocks comprising the Index. This difference is not, by itself, determinative inasmuch as there are many types of securities, including some types of stock, that do not possess voting rights. For example, preferred stock generally possesses either limited or no voting power.[52] Accordingly, the absence of voting rights does not preclude the characterization of IPs as a security.

IPs have two other important characteristics normally associated with stock. First, IPs do not expire. An investor can hold them for an indeterminate time, just as an investor

[48] 471 U.S. 681 (1985).

[49] *Id.* at 686–87.

[50] A customer's agreement with his brokerage firm typically provides that an investor normally will pledge his interest in a security, including profits and dividends, as collateral to the broker for any indebtedness arising in connection with his account or any other indebtedness to the broker. In contrast, futures are executory contracts which may not be pledged, except regarding rights to contingent cash payments required by the futures contract.

[51] In addition, insofar as the Amex EIP is concerned, the purchaser or holder of the EIP has the right to receive physical delivery of shares of the component stocks of the Index if he exercises the delivery privilege regarding a sufficient number of EIPs.

[52] As the Court noted in *Landreth*, "various types of preferred stocks may have different characteristics and still be covered by the Acts." *Landreth*, 471 U.S. at 687, n.2 (1985).

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may retain a portfolio of stock indefintely. Second, purchase requirements and margin treatment for IPs are analogous to stock purchase and margin requirements. As with stock, an IP purchaser pays the full purchase price for his investment at the time of purchase. The IP purchase may be financed by borrowing up to 50% of the IP purchase price just as a stock purchaser may borrow up to 50% of the stock purchase price. Thus, a margin transaction in IPs includes an actual borrowing with the full purchase price then passed through to the IP seller. Accordingly, since IPs so closely resemble a portfolio of stock they should be included within the definition of stock in section 3(a)(10).

IPs also fall within the term "certificate of interest or participation in" stock. IPs allow investors to replicate a purchase of a portfolio of securities because the value and benefits of IP ownership track the value and benefits of the stocks underlying the portfolio. In addition, IPs are expressly termed "participations." [59]

Although IP transactions will be reflected by book entries rather than by the transfer of paper certificates, the absence of such certificates does not remove them from the term "certificate." [54] The system for IP transfer is similar to the immobilized depository system used in connection with modern day securities transfers, which likewise do not require a formal certificate.[55]

In addition to the fact that IPs fit within several of the more specific terms enumerated in section 3(a)(10), it also is clear that the "economic substance" of an IP [56] is essentially indistinguishable from the economic substance of the more specific instruments that are defined as securities by the statute. An investor who owns an IP will own an instrument having the same economic substance as a portfolio of stocks. The financial returns on the IP will be substantially identical to the returns from holding the underlying portfolio: capital gains or losses will be directly related to the gains or losses from the portfolio's stocks; cash payments made quarterly to the IP holder will consist of an amount equivalent to the regular cash dividends paid by the issuers whose securities comprise the portfolio; and margining treatment for the IP purchasers and sellers is identical to stock margin requirements. Thus, because the "economic substance" of the purchase of an IP is equivalent to the purchase of a portfolio of stock, and the attributes of IPs are those commonly associated with securities, an IP constitutes "an instrument commonly known as a security."

To the extent certain IP characteristics differ somewhat from the characteristics of stock, they resemble characteristics commonly found in rights to purchase or puts or calls on a security or index of securities—interests specifically denominated as securities by the Act.[57] In this regard, the cash-out and physical delivery features of IPs are the equivalent of a put or call right that accompanies the portfolio of stock represented by the IP, much like "buy-sell" agreements for stocks.[58] In particular, the periodic cash-out feature merely creates a right similar to that commonly found in stock transactions where, at specified times, one party to a transaction has a right to purchase or sell a security according to a formula price that might be determined on the basis of book value, and appraisal, or a formula related to market value (whereas the IP right is related to the price of a specified index of securities).[59]

These additional attributes, like the other features of IPs, cause the IP to fall within the instruments included within the definition of the term "security" in section 3(a)(10) of the Act.[60] Accordingly, for all of the above reasons, an IP is a security as defined in the Act.

2. IPs are not Futures

Futures commentators argue that the Commission lacks jurisdiction to authorize the trading of IPs on securities exchanges because IPs constitute stock index futures subject to the exclusive jurisdiction of the CFTC.[61] The Commission disagrees with the futures commentators's suggestion that IPs constitute futures contracts.

The term "futures contract" is not defined in the CEA of the CFTC's regulations. While characterization of the term "future" requires an examination of all the surrounding circumstances, futures contracts generally are: (1) Standardized contracts imposing a bilateral obligation for the purchase or sale of commodities at a specific price that provide for future, as opposed to immediate, delivery on a specific date; (2) directly or indirectly offered to the general public; (3) secured by earnest money or "margin;" (4) entered into primarily for the purpose of assuming or shifting risk as opposed to transferring ownership of commodities; and (5) generally extinguished by executing off-setting contracts prior to the date on which delivery is called for by acceptance of a cash payment representing the difference in price between the initial and off-setting transactions.[62]

[53] While the name of an instrument is not by itself dispositive in determining whether the instrument is included within the statutory definition of the term "security," the name is one factor taken into consideration. *Landreth*, 471 U.S. at 686 (1985); *United Housing Foundation* v. *Foreman*, 421 U.S. 837, 850 (1975).

[54] L. Loss & J. Seligman, II *Securities Regulation* 997, 997–98 n.286 (3d ed. 1989).

[55] The absence of a certificated instrument does not alter the characterization of an instrument as a security. In this regard, it is noteworthy that, under relevant state commercial laws, the definition of the term "investment security" does not turn on whether investors can obtain certificated instruments to evidence their ownership interests. *See, e.g.*, Del. Code Ann. tit. 6 § 8–102(1)(c) (1988) [Uniform Commercial Code § 8–102(1)(c)]. Under state commercial laws in effect in at least 35 jurisdictions, the term "investment securities" specifically includes "uncertificated securities," transfers of which are registered upon books maintained for that purpose by or on behalf of the issuer. *See, e.g.*, Del. Code Ann. tit. 6 § 8–102(1)(b) (1988); Ill. Ann. Stat. tit. 26 § 8–102(a)(b) (1988); Consolidated Laws of N.Y. Ann. Book 62½ § 8–102(1)(b) (1988). OCC will issue all CIPs, EIPs, and VIPs, and will maintain books for registering transfers of the same.

In addition, other investments routinely are issued or held in book-entry form. Several types of securities commonly trade without any physical, negotiable certificates evidencing ownership interests. For example, U.S. Treasury Bills, Bonds, and Notes are issued exclusively in book-entry form through Federal Reserve Banks. Moreover, numerous states have issued debt securities that restrict significantly an investor's ability to obtain negotiable certificates. *See* Securities and Exchange Commission, 53rd Annual Report 35 (1987); 51st Annual Report 25, 120 (1985); Securities Exchange Act Release No. 22168 (June 25, 1985), 50 FR 27078.

[56] The Court has on several occasions held that "in searching for the meaning and the scope of the word 'security' in the Act[s], form should be disregarded for substance and the emphasis should be on economic reality." *See, e.g., Tcherepnin*, 389 U.S. at 336 (1967).

[57] The futures commentators suggest that IPs are dissimilar to index options because there is no apparent premium paid by an IP long. In this regard, while IPs contain some characteristics of stock index options [*e.g.*, the issuance and clearance and settlement features of IPs are analogous to those of stock index options], the Commission believes that IPs predominantly have the attributes of a portfolio of common stock.

[58] *See, e.g.*, D. Gladstone, *Venture Capital Handbook* 129–30, 237 (1983); *Arley Merchandise Corp.*, [1984–1988 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 77,878.

[59] Moreover, the addition of a periodic "buy-sell" or "put-call" right does not transform a security subject to such a right into a future; nor does it transform a portfolio of stock subject to such a right into a future; and it does not transform an IP into a future.

[60] *See* 15 U.S.C. 77b(1) and 78c(a)(10 (1982).

[61] *See* Section 2(a)(1)(B) of the CEA.

[62] Gilberg, Regulation of New Financial Instruments Under the Federal Securities and Commodities Laws, 39 *Vand. L. Rev.* 1599, 1606–08 (1986). *See* Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran, 456 U.S. 353 (1982); CFTC v. Co Petro Marketing Group, Inc., 680 F.2d 573 (9th Cir. 1982); CFTC v. National Coal Exch., Inc., [1980–1982 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,424 (W.D. Tenn. 1982); *In re* First Nat'l Monetary Corp. [1982–1984 Transfer Binder] Comm. Fut. L. Rep. (CCH ¶ 21,797 (CFTC 1983); *In re* Stovall [1977–1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,941 (CFTC 1979); Advance Notice of Proposed Rulemaking (Regulation of Hybrid and Related Instruments), 52 FR 47022 (December 11, 1987) at 47023.

Continued

Not all of these characteristics are equally significant in determining whether an instrument is a future. In particular, the phrase that most commonly appears in the CEA is "contracts of sale of a commodity for *future* delivery."[63] The CEA's emphasis on the futurity of the contracts subject to its regulation, the common meaning inherent in the term "futures" contract, and the fact that case law that has sought to define the term "futures contract" has relied extensively on the presence of future pricing (or delivery),[64] all suggest strongly that if a contract lacks the element of futurity it lacks the central distinguishing characteristic of a futures contract.

Since futurity is essential to a futures contract, and no element of futurity exists in an IP contract, an IP is not a futures contract. A stock index futures contract contains an element of futurity because the contract is the obligation to pay for or receive the value of the index at a predetermined date in the future. In stark contrast, however, an IP contract represents the *present* obligation to pay or right to receive the *current* value of an underlying portfolio of securities. In this respect, an IP is substantially the same as a transfer of a portfolio of securities that also gives rise to the *present* obligation to pay or right to receive the *current* value of the underlying portfolio of securities. Whereas the price of the IP is determined at the date of purchase, a futures contract is contractually defined by reference to a price that must be paid or received on a specific date in the future.[66]

In addition to lacking the element of futurity, IPs do not share with futures the element of *bilateral* obligation to receive or to pay the value of the index at a specified date in the future. Once the purchaser of the IP has made full payment for the contract the purchaser has no continuing obligations,[66] only rights. The purchaser has the right to sell out the contract at any time, the right to hypothecate the contract, and the right to "cash out" the contract at pre-set periodic dates.[67] The obligation of an IP contract to make regular cash dividend equivalent payments falls unilaterally on the seller. The other obligation of an IP contract—to pay the present market price of the IP when the other side cashes out—is also unilateral.[68] More importantly, the IP cash-out obligation is fundamentally different from the obligation inherent in a futures contract because the IP obligation is contingent upon exercise of the cash-out privilege. Indeed, unless the privilege is exercised, the obligation is perpetual until the holder of the obligation extinguishes its IP position. No futures contract has this characteristic.

As noted previously, in addition to the primary elements of futurity and bilateral obligation, several other characteristics have been used to determine the existence of futures contracts.[69] In particular, the characteristics of standardization and offset provide little meaningful assistance in determining whether an instrument is a futures contract rather than a security. Other markets, such as stock options markets, regularly offer standardized contracts to the general public without having those contracts considered "futures contracts." [70] The fact that IPs are standardized and offered to the public neither adds to nor detracts from the Commission's conclusion that IPs are not futures. Similarly, the offset characteristics of IPs and stock options are identical. Specifically, as in the case of options, the sale of an IP with the same terms as the one purchased, or the purchase of an IP with the same terms as the one sold, will extinguish the previously established IP position. The availability of a secondary market to offset an IP position thus fails to distinguish IPs from other securities that are not futures and provides no support for the categorization of IPs as futures.

The requirement that futures contracts generally be secured by earnest money margin further differentiates IPs from futures contracts. Margining practices for IPs and futures are dramatically different. As noted above, as with stock, an IP purchaser pays the full purchase price for the IP investment at the time of purchase. Margin treatment for IPs will be analogous to stock margin requirements. The investor is required to pay the full purchase price of the IP at the time of purchase, but may borrow up to 50% to pay for the purchase. Thus, IP margins regulate credit. This is entirely unlike a futures transaction in which margin acts as a "good faith" deposit to ensure that the parties will meet their contractual obligations in the future.[71] Accordingly, the "margin" element of the definition of futures suggests that IPs are securities, not futures contracts.

The CME agrues that, while an IP long position is entitled to be held indefinitely, the quarterly cash-out feature creates a quarterly expiration identical to the cycle now applicable for similar futures contracts. The CME asserts that this feature is synonymous with an "undated futures market contract." [72] The CME asserts further

[63] *See* Section 2(a)(1)(A) of the CEA (emphasis supplied). I P.M. Johnson and T.L. Hazen, *Commodities Regulation*, § 1.03 at 9 (3d ed. 1989).

[64] *See* note 62, *supra*.

[66] The periodic cash-out feature of an IP does not cause the value of the IP ever to be defined on the basis of any price other than a *current* price, whereas the value of a future is always defined with reference to the expectation of the future price at the delivery date.

[66] If the IP purchaser has bought on margin, the purchaser may have a continuing margin obligation, but that obligation is to the lender, not to the IP seller. *See* note 40, *supra*.

[67] The Commission believes that the cash settlement feature of an IP does not support the futures commentators' argument that in substance an IP is a stock index future. In the 1982 amendments to the definition of the term "security" contained in both the Securities Act and the Act, Congress explicitly recognized that products designed to have the economic substance of securities are themselves securities, even though settled in cash on the basis of the value of an underlying index.

[68] The unilateral obligation falls only on the seller of a CIP or EIP, and on both parties with a VIP. The VIP obligations for the seller and purchaser are not bilateral in that each is discretionary because it is dependent on the exercise of the right imposing that obligation.

[69] *Supra* note 62 and accompanying text.

[70] As another example, insurance contracts also are standardized, offered to the public, and can rely on the occurrence of future events, but are not considered "futures contracts."

[71] *See generally* Figlewski, Margins and Market Integrity: Margin Setting for Stock Index Futures and Options, 4 *J. Futures Markets* 385 (1984). As recently explained in a Congressional report: Futures margins do not regulate credit, since no credit is granted on futures contracts. Futures margins constitute a (partial) guarantee that both parties will honor their financiel obligations and thus function as a kind of performance bond. Moreover, futures margins, unlike securities margins, must be posted daily (sometimes intra-daily) to cover all daily losses on futures contracts. Report on the Regulation of Futures Margins, Comm. Print 100–6 (Aug. 1988) at 1, 8.

The futures commentators have argued that securities-style margining is fundamentally different from futures-style margining, and, for the reasons set forth by those commentators, the Commission agrees that IPs margins do not have the "earnest money" characteristic of futures contracts. *See, e.g.*, Testimony of William F. Brodsky, President, CME Before the House Subcommittee on Domestic Monetary Policy of the Committee on Banking, Finance and Urban Affairs (May 25, 1988) at 2–4; Statement of Karsten Mahlmann, Chairman, CBT before the House Domestic Monetary Policy Subcommittee of the Committee on Banking, Finance and Urban Affairs (May 25, 1988) at 34; Notice of Petition for Rulemaking (Domestic Exchange-Traded Commodity Options; Margins)S, 54 FR 11233 (March 17, 1989).

[72] *See, e.g.*, 1st CME Letter at 2 [citing Gehr, Undated Futures Markets, 8 *J. Futures Markets*, 89 (1988)].

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that the outcome of effective competition will be that at the time of purchase an IP long actually will pay a higher IP price reflecting payment of a commission to "roll over" the position, at the quarterly expiration date. The analogy to undated futures markets fails, however, for independent economic and legal reasons, and the contention that IP pricing will reflect payment of a "commission" to "roll over" this position is both speculative and irrelevant.

First, undated "futures" markets [73] require the joint determination of two prices: a spot commodities price and an associated intra-day interest charge [74] that is normally equal to the interest that could be earned by investing an amount equal to the value of the commodity plus the cost of one day's storage, *i.e.*, one day's carrying cost.[75] An investor cannot participate in the undated futures market without also paying or receiving the associated interest charge. Because of the need to incur this associated interest charge, the "futures contract" never gives rise to a present interest in the current value of a commodity. In contrast, IP contracts have no associated interest charge and constitute a *present* interest in a *current* value of an underlying portfolio. Thus, the presence of the associated interest charge creates in an "undated" futures market an element of futurity wholly absent from IPs.

Second, in regard to the suggestion that an IP long will pay a commission, in the form of higher prices, to "roll over" the position, the Commission believes that IP prices will be based largely on the value of the underlying portfolio and anticipated dividends on the components of the underlying index. The Commission does not believe that a "roll over" expense necessarily will be incorporated into an IP premium. Moreover, even if such a de factor charge were to develop, the Commission does not believe that such a charge would transmute the IP into a "contract for future delivery" of the underlying index because of the IPs' other distinguishing characteristics.

The CME also suggests that the IP dividend payment is analogous to a cash payment from the short of the long, related to measured or theoretical shrinkages in the value of the underlying product, as occurs in the frozen skinned ham futures market.[76] The Commission observes, however, that dividends are discretionary corporate payments, the size of which is determined on a voluntary basis by the corporation's board of directors. Corporations can raise or lower dividends, and the right to receive dividends is a significant attribute of stock. Thus, the payment of a cash dividend equivalent to IP holders ensures that the IP contains the investment features of stock. In contrast, the shrinkage factor in a frozen skinned ham futures contract is determined according to a pre-set formula calculated in order to assure that purchasers of frozen skinned hams do not pay for a weight that will not exist at that point in the future when the contract expires and the ham has shrunk. The shrinkage factor is thus inexorably linked to the futurity of the ham contract (*i.e.*, but for futurity, no price adjustment for shrinkage would be necessary). The IP contract has no futurity, is not subject to shrinkage, and receives and pays dividends based on discretionary corporate decisions. The Commission thus rejects the argument that IPs should be considered futures because the shrinkage of frozen skinned hams in similar to the payment of corporate dividends.

Finally, the CME suggests that the Phlx daily CIP cash-out does not alter its characterization as a futures contract. In this regard the CME claims that:

> the differences between the S&P Futures and CIP are insignificant, relating solely to a probable slight difference in pricing related to the theoretical daily convergence of the cash and futures contract in the case of the PHLX CIP and the quarterly convergence in the case of the CME's S&P 500 futures. That difference is defined by well established arbitrage relationships reflecting the differences in maturity dates.[77]

It is not at all clear that the pricing differences between the S&P 500 future and the CIP will be "insignificant." Pricing of IPs and index futures should diverge because of the substantial differences in margining practices, divergences between an IP's perpetual nature and the quarterly expiration feature of a stock index future, and the payment of regular cash dividend equivalents on IPs. In addition, IPs will trade on markets with different marketmaking characteristics and may be brought or sold by retail investors who may not participate in the future markets.[78] Many IP investors also may be effectively prohibited from participating in futures markets as a result of regulatory constraints or contractual prohibitions. Therefore, because of differences in the structure of the instruments, trading practices, and investor populations, it is unsubstantiated speculation to contend that the difference in pricing between IPs and index futures will be "insignificant."

In addition, the pricing differences between the S&P 500 future and all IPs (including those with quarterly cash-outs) will not replicate the formula commonly used to determine the theoretical value of a stock futures contract. Such a formula would add the interest on the price of the portfolio to the index price, subtract the annualized dividend yield, and factor in the days remaining until expiration.[79]

The futures commentators suggest that by manipulating the terms of this and similar equations they are able to demonstrate algebraic relationships between the pricing of IPs and the pricing of futures contracts, and thus that IPs should be regulated as futures because they are priced "like" futures. These equations, however, also can be used to demonstrate, by a different manipulation of the equation's terms, that existing futures contracts are equivalent to a straightforward stock portfolio position. It simply does not follow that futures should be regulated as stocks because they are priced "like" stocks, or vice versa. Similarly, IPs should not be regulated as futures merely because an algebraic manipulation of a pricing formula might demonstrate that they are priced like futures. Thus, the CME emphasis on pricing similarities is not determinative.

Other somewhat more complex arbitrage and equivalence relationships also do not serve to demonstrate that IPs are futures. For example, it is

[73] Gehr describes the market studied in his article as a "curiosum." Gehr, *supra* note 72, at 89. No such curiosa exist in U.S. financial markets. Moreover, the fact that these markets might be called "futures" in Hong Kong or elsewhere does not mean that they would be defined as futures under the CEA. Finally, even if such markets were defined as futures markets under the CEA, the presence of a daily interest charge still would distinguish them from IPs.

[74] The daily "interest" payments, made for the privilege of deferring, making or taking delivery of the commodity, may be "positive," paid by sellers to buyers, or "negative," paid by buyers to sellers. Gehr, *id.*, at 90–91.

[75] *See* Gehr, *id.*, at 91.

[76] *See* note 98, *infra* and accompanying text.

[77] *See* 1st CME Letter are 2–3.

[78] *See* 5th CME Letter at 1.

[79] *See generally* B. Byrne Jr., *The Stock Index Futures Market* 170 (1987). The pricing formula contains the following elements: Futures price = (Stock Portfolio Price) + [(Risk Free Interest Rate − Annualized Dividend Yield on Stock Index) x Days Until Expiration/365].

Unlike futures, the interest on the difference between full payment for a portfolio of stocks and the earnest money margin payment for a future would not be relevant to IP pricing because IPs are fully paid for at the time of the purchase. In addition, the value of expected dividends on the portfolio would not be subtracted because the IP purchaser would have the right to receive the equivalent of those regular cash dividends.

possible to create a synthetic future on a stock index by purchasing European style calls and writing European style puts that have appropriate exercise prices and times to maturity.[80] "Hence when options on an asset or commodity are traded, but there is no futures market, it is always possible to construct a synthetic futures contract." [81] It does not follow, however, that, because futures positions can be replicated by options positions, futures are really options. Likewise, it does not follow that, because options positions can be replicated by futures, options are really futures. Similarly, futures can be used to replicate a variety of other securities. For example, futures can be used to create a portfolio that has the cash flow characteristics of a broad based equity portfolio. Again, it does not follow that an equity portfolio should be regulated as a future or that an index future should be regulated as a security because it is possible to define an arbitrage or equivalence relationship between them. Thus, while the modern theory of finance and its virtually limitless repertoire of equivalence relations may be very valuable for arbitrage, pricing and other analytic purposes, it is of little value when it comes to addressing the technical, legal issues of jurisdiction posed by the introduction of IPs and other financial products. Indeed, the limitless use of such models would be plainly inconsistent with the structure of the CEA and the securities laws, which are designed to separate regulation of futures and securitries.[82]

Moreover, the determination that IPs are securites and not futures contracts is in no way inconsistent with the purposes of the CEA and subsequent amendments thereto. Futures regulation at the federal level is a direct outgrowth of serious problems in the marketplace that Congress perceived as detrimental to interstate commerce and the national public interest.[83] In 1936, when the CEA was enacted (extensively amending the Grain Futures Act of 1922), Congress recognized that pervasive manipulation, excessive speculation, trading abuses (*e.g.*, wash sales, fictitious trades, and accommodation trades), and the rampant growth of boiler-rooms threatened to destroy the utility of the futures markets. In 1974, Congress determined that additional tools were necessary to ensure adequate regulation of all futures trading and futures professionals and to allow for the extension of the economic benefits of futures trading to those areas of commerce where the functions of futures markets might be useful.

Approval of IPs for trading on securities exchanges, in a fully regulated environment, would not give rise to the abuses that Congress sought to prevent by adopting the CEA. As exchange-listed securities, IPs will be subject to a comprehensive regulatory structure under the federal securities laws and to Commission oversight similar to the regulatory regime applicable to futures under the CEA.[84] Indeed, the CFTC's regulatory authority over contract markets was modeled in part on the Commission's authority over securites exchanges.[85]

3. IPs Are Not subject to the Investment Company Act

The Commission believes that an IP does not involve the creation of an investment company, because there is no "issuer," within the meaning of Section 3(a) of the Investment Company Act of 1940, 15 U.S.C. 80a–3, that is either "engaged * * * primarily in the business of investing, reinvesting, or trading in securities" or "engaged * * * in the business of investing, reinvesting, owning, holding, or trading in securities, and owns * * * investment securities having a value exceeding 40 per centum of the value of such issuer's total assets * * *." Moreover, OCC, the issuer of IPs, is a clearing agency registered as such under the Act. A Clearing agency cannot be registered as such under the Act until the Commission makes certain findings required by section 17A(b)(3), including that the clearing agency has the capacity to facilitate the prompt and accurate clearance and settlement of securities transactions and to safeguard securities and funds in its custody. These qualifications support the conclusion that the OCC would be an issuer primarily engaged "in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities."[86] Moreover, given the existing securities law regulation of the OCC under Section 17A of the Act and the exchanges under Section 6 of the Act, the Commission sees no purpose that would be served by subjecting this arrangement to investment company regulation.

Nor does there exist an investment company within the OCC (or OCC combined with the exchanges), the IP purchasers viewed collectively, or the IP shorts viewed collectively. Unlike *Prudential Ins. Co.* v. *SEC*,[87] where the Third Circuit affirmed a finding of the Commission that the "Investment Fund" resulting from the sale of annuity contracts to a group of purchaser [88]

[80] T. Copeland & J. Weston, *Financial Theory and Corporate Policy* 322 (3d ed., 1988).

[81] *Id.* at 323.

[82] When Congress in the CEA expanded the definition of the term "commodity" to include "all services, rights and interests in which contracts for future delivery are presently or in the future dealt in," it carefully preserved this Commission's jurisdiction, including its authority to regulate novel instruments as securities. Specifically, Congress included a proviso that, with the exception of the grant of exclusive jurisdiction regarding contracts for future delivery, "nothing contained in this section shall (i) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission * * * or (ii) restrict the Securities and Exchange Commission * * * from carrying out [its] duties and responsibilities * * *." This is further emphasized in Section 2(a)(1)(A) of the CEA which provides that "nothing in this Act shall be deemed to govern or in any way be applicable to transactions in * * * security rights . . . *unless such transactions involve the sale thereof for future delivery conducted on a board of trade.*" 7 U.S.C. 2(a)(1)(A) (1982) (emphasis supplied).

The intent of Congress not to limit this Commission's traditional jurisdiction over the wide variety of financial instruments which fall within the broad definition of the term "security" under the federal securities laws was expressed repeatedly in the Act's legislative history. For example: Although the expanded definition of 'commodity' * * * includes rights and interests which are securities as defined in the federal securities laws * * * except as to transactions [involving delivery on a contract market], the expanded definition of commodity is *not intended to derrogate [sic] from the jurisdiction of the Securities and Exchange Commission* * * *.*

See Report of the House Comm. on Agriculture to Accompany H.R. 13113, H.R. Rep. No. 93–975, 93d Cong., 2d Sess. 28 (1974) (emphasis supplied).

Attempts to rely on arbitrage relationships to limit the scope of the Commission's jurisdiction over contracts that are not for future delivery are thus directly at odds with the language and intent of the CEA.

[83] 7 U.S.C. 5 (1982).

[84] Bromberg, *Commodities Law and Securities—Overlaps and Preemptions*, 1 J. Corp. L. 217, 269 (1976). For example, both the Commission and the CFTC have the power to: (1) determine which contract markets and securities exchanges may operate under their respective jurisdictions; (2) establish the rules of membership and operation for the markets and exchanges under their respective jurisdiction; (3) oversee the exercise of self-regulatory authority by such markets and exchanges; (4) approve specific instruments for trading on those markets and exchanges; and (5) establish rules governing the registration and activities of brokers on those markets and exchanges. Indeed, it is important to note that both the securities and futures acts place a substantial emphasis on competition. *Compare* 15 U.S.C. 78f, 78o, and 78o–3 (1982) *with* 7 U.S.C. 19 (1982). In this regard, there is no basis upon which to conclude that Congress sought to adopt an expansive definition of the term "futures contracts" for the purpose of preventing competition by organized securities markets with the commodity markets.

[85] Courts also have observed that the "[s]tructure and power of the CFTC are duplicative of the SEC." Mullis v. Merrill Lynch, Pierce, Fenner, & Smith, Inc., 492 F. Supp. 1345, 1350 (D. Nev. 1980).

[86] *See* Section 3(b)(1) of the Investment Company Act of 1940. 15 U.S.C. 80a–3(b)(1) (1982).

[87] 326 F.2d 383 (3d Cir. 1964), *cert. denied*, 377 U.S.C. 953 (1964).

[88] As discussed earlier, the term "investment company" requires a finding that there exists an "issuer;" the term "issuer" is, in turn, defined to

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constituted a separate investment company, the Commission has found no separate investment company herein. In the case of IPs, nothing exists comparable to the Investment Fund in *Prudential*, which the court found to be a "completely segregated account, devoted to investing in securities."[89]

B. Benefits of Market Baskets

The Division of Market Regulation's Report on *The October 1987 Market Break* ("Staff Report"),[90] *An Overview of Program Trading and Its Impact on Current Market Practices* ("Katzenbach Report"),[91] Commission on recommendations,[92] and testimony by the Commission[93] suggested, among other things, that the listing and trading of a basket of stocks on an exchange could help ameliorate the volatility and steep stock price declines experienced during and since October 1987. As noted in the Staff Report, the creation of one or more posts where actual baskets or portfolios of stock could be traded could alter the dynamics of program trading, because the availability of such basket trading could, in effect, restore program trades to more traditional block trading techniques.[94] The Staff Report noted further that, while arbitrage ultimately would flow to individual component stocks, many institutional investors and member firms effecting index arbitrage transactions could focus their equity transactions at the basket posts where the specialist and trading crowd could provide efficiencies associated with effecting transactions in a portfolio of securities as opposed to individual stocks. This could add an additional layer of liquidity to the market to help absorb the velocity and concentration of trading associated with index-related trading strategies.[95] Moreover, because market baskets would be traded at a single location on the exchange floor, at which program trading order flow could be concentrated and imbalances in such trading determined, they would not result in the same market information limitations that result from executing program trades in the individual stocks. Finally, as separate consolidated products, market baskets would be easy and inexpensive to clear and settle and could provide an alternative vehicle for retail customers to invest in "the market."

For the reasons discussed below, the Commission believes that IPs will provide retail investors with a cost efficient means to make investment decisions based on the direction of the market as a whole [96] and may provide stock market participants several advantages over existing methods of effecting program trades of stocks.[97]

Because IPs would be traded as market baskets at a single specialist post on the exchanges' floors, program trading order flow involving IPs can be concentrated at that post and imbalances in such trading determined. Thus, IPs trading would not result in the same market information limitations that result from executing program trades in individual stocks. Moreover, the availability of IPs may provide a more efficient alternative to direct program trades of individual stocks for some institutional investors. Finally, as a separate product, IPs would be easy and inexpensive to trade, clear, and settle.

C. EIP Physical Delivery Proposal

The Commission also believes that the Amex proposal to permit physical delivery of its EIPs is consistent with the Act. Indeed, the availability of physical delivery permits institutions to employ EIPs to adjust their stock portfolios. As a result, EIPs may have greater potential for providing the liquidity benefits envisioned for market baskets in the Staff Report. Although providing certain benefits, the Amex's proposed EIP physical delivery does raise some concerns. The Amex's proposed rule change provides for a physical delivery facilitator ("PDF") to make physical delivery of the component stocks of the underlying portfolio to EIP holders who exercise the delivery privilege, if and only if, the number of delivery units for which holders have requested physical delivery exceeds the number of delivery units offered for physical delivery by persons holding short positions. The Amex proposes to inform the PDF, several hours before the opening of trading, of the imbalance between delivery units offered and delivery units demanded in order that the PDF may make arrangements that would enable it to obtain as agent at the opening the additional shares of the stocks that constitute the underlying portfolio to satisfy its obligations.

The Commission believes that PDF pre-opening knowledge of the imbalance between delivery units offered and delivery units demanded can provide the PDF with an informational advantage concerning pre-opening order flow. Because this imbalance would always be on the buy side, and because its existence and magnitude would be known only to the PDF, the AMEX proposal raises the possibility that the PDF might take advantage of the information by establishing or liquidating stock, options, and/or futures positions. In this regard, however, the Amex will place restrictions on the PDF's function. In particular, the PDF must announce to the trading crowd, and the Exchange shall cause to be publicly reported, the physical delivery unit imbalance at or prior to 9:00 a.m. on Exercise Friday. Thus, the PDF's opportunity to trade on "inside" market information should be substantially reduced. Moreover, because the PDF must satisfy the physical delivery unit imbalance only by purchasing such imbalance at the opening rather than utilizing its existing inventory, the PDF's role is limited to that of an agent. Accordingly, the Commission believes the Amex has sufficiently addressed any concerns about the physical delivery mechanism.

D. Phlx Blue Chip Index

Certain of the proposed underlying portfolios, such as the Amex MMI and the S&P 500, have been published for several years and have been used as a basis for stock index options trading. In approving these portfolios as bases for options trading (and commenting on them for future trading), the Commission has determined that the use of these underlying portfolios does not raise manipulation concerns.[98] The Commission believes that the introduction of IPs based on these portfolios should not raise additional manipulation concerns.[99] The Phlx, however, has developed, specifically for IPs trading, a new Blue Chip CIP.

For several reasons, the Commission does not believe that the Blue Chip CIP raises significant manipulation concerns. Although the Blue Chip CIP is comprised of only 25 securities, it represents approximately 13 industry groups and is designed specifically to replicate the performance of the DJIA. The broad diversification, large capitalization, and deep and liquid markets of the portfolio's component stocks significantly minimize the potential for manipulation.[100] The ten most highly price-weighted stocks in the Blue Chip CIP account for less than 58% of the portfolio's cumulative market value.[101] Although IBM accounts for 8.73% of the Blue Chip CIP's price-weighting, the Commission believes manipulation of the CIP through trading in IBM is made more difficult because the stock is widely held and actively traded.[102] In addition, the proposed trading of IPs by the exchanges, which already have well-established stock and options surveillance procedures, does not appear to give rise to major surveillance concerns because existing surveillance procedures will be applicable to IPs trading. In addition, the Phlx has the necessary surveillance sharing arrangement with the exchanges whose securities comprise the Blue Chip CIP. Specifically, the Phlx and the NYSE are members of the Intermarket Surveillance Group ("ISG").[103] As members, these markets are required to share surveillance information with one another.

E. Proprietary Concerns

In general, the Phlx argues that simultaneous Commission approval of the Amex's proposed rule change to trade IPs would neither be in the public interest nor promote fair competition among exchange markets. In support of this view the Phlx suggests that Commission approval of Amex's "copy cat" filing would deprive the Phlx (which claims to be the IP developer) of the opportunity to take advantage of the primary market phenomenon. In addition, the Phlx suggests that such Commission approval would stifle product innovation, design, and creativity. The Commission is of the view that approval of the Amex and Phlx proposals simultaneously is consistent with the Act.

To the extent that Phlx's "copy cat" argument implicates a claim of misappropriation or infringement of a protected property right, the Commission believes it is inappropriate for it to attempt to resolve these issues in a proceeding involving the approval of securities to be traded in a particular market place. Congress has enacted an elaborate statutory framework for the establishment, preservation, and protection of intellectual property rights and established specific federal agencies (*e.g.*, the U.S. Patent and Trademark Office and the U.S. Copyright Office), to administer these laws. Separate state causes of action also may be available to Phlx. Neither the plain language of these statutes nor any provision of the Act suggests that Congress intended that the Commission attempt, in the context of an approval proceeding, to resolve intellectual property right claims that can be pursued elsewhere.

Moreover, while the Commission recognizes that, under the appropriate circumstances, incentives for innovation can promote long term competition and provide substantial benefits to the marketplace, on the basis of the record in this proceeding the Commission believes that simultaneous approval of the Phlx, Amex, and CBOE proposals is consistent with the Act. The Commission has been presented with numerous proposals to list and trade new securities products in recent years. In particular, the Commission, on November 22, 1982, approved a number of exchange proposals to trade narrow and/or broad based index options, often on similar or identical indexes, although such indexes were submitted to the Commission on different dates.[104]

The Commission recognizes Phlx's argument that IPs are a novel product involving substantially more innovation then past new options products. Nevertheless, the Commission believes that the opportunity for competition among markets trading IPs simultaneously furthers the purposes of the federal securities laws.[105] Past experience has indicated that an exchange which initially commences trading an options contract has an extremely large advantage over any subsequent competitor. Accordingly, the Commission is concerned that a temporary grant of exclusivity to the Phlx could have the effect of substantially reducing potential future competition in IPs, which effect outweighs the benefits of incentives to innovation that might, in this case, result from a temporary grant of exclusivity. Thus, the Commission has concluded that simultaneous approval of the proposals is consistent with the Act.

include "every person;" the term "person" is defined to include a "company;" and "company" is defined to include "any organized group of persons, whether incorporated or not." 15 U.S.C. 80a-3(a)(1), 2(a)(22), 2(a)(28), 2(a)(8) (1982).

[89] *Prudential*, 326 F.2d at 387 (1964).

[90] Division of Market Regulation, *The October 1987 Market Break* (February 1988) ("Staff Report").

[91] N. Katzenbach, *An Overview of Program Trading and Its Impact on Current Market Practices* (December 21, 1987) ("Katzenbach Report").

[92] Securities and Exchange Commission Recommendations Regarding the October 1987 Market Break (February 3, 1988).

[93] Testimony of David S. Ruder, Chairman, SEC, Before the Senate Committee on Banking, Housing, and Urban Affairs, on February 3, 1988.

[94] Staff Report at 3-18.

[95] *Id.* Similar ideas have been discussed in J. Grundfest, "Would More Regulation Prevent Another Black Monday?," Address before the CATO Institute Policy Forum on July 20, 1988, at 13-14 (available at the Commission); H. Stoll and R. Whaley, Program Trading and the Monday Massacre (November 4, 1987) (available at the Owen Graduate School of Management, Vanderbilt University); and H. Stoll, *Portfolio Trading*, Working Paper No. 87-14 (Sept. 1987) (available at the Owen Graduate School of Management, Vanderbilt University).

[96] Because of the small retail size of index participations and the attendant costs of executing sufficient IP transactions in an attempt to replicate large portfolios, the Commission believes that such instruments are designed to handle retail investor interest to invest in the "market". The Phlx, Amex, and CBOE believe that IPs could be used by retail investors to make investment decisions based on the direction of the market as a whole, thereby providing them with a cost efficient means by which to take advantage of anticipated market swings. In addition, an IP investment could provide an individual investor with an additional source of securities income. The product could also be useful to institutional investors for their investment strategies.

[97] In this regard, the Commission believes that the listing and trading of IPs on national securities exchanges may reduce market volatility associated with program trades of stock because, excluding the Amex EIP, IPs generally will be cash-settled, and existing exchanges' stock index options surveillance procedures will be applicable to IPs. The Amex notes that the share delivery alternative provides a feature discussed in the Staff Report and will enhance the utility of EIPs for institutions. Staff Report at 3-19 to 3-20.

[98] *See* section 6(b)(5) of the Act, 15 U.S.C. 78f(b)(5) (1982), which requires that the rules of a national securities exchange be designed to prevent fraudulent and manipulative practices.

[99] The Commission believes that IPs will not raise the same problems as other portfolio-related products regarding to intermarket trading strategies that at times may have increased the concentration and velocity of market movements. While the Commission notes that IPs will create arbitrage opportunities with either the cash market or other derivative products, and may spawn new intermarket trading strategies, because of the proposed 50% margin requirement for IPs (analogous to stock margin requirements) the leverage concerns that exist with other equity derivative products are absent. *See* Report of the Presidential Task Force on Market Mechanisms (January 1988), at III-7; Division of Market Regulation, *The October 1987 Market Break*, (February 2, 1988) at 11-1. Moreover, by providing market participants with a means to trade "the market" without buying and selling dozens or hundreds of individual stocks, IPs could lessen the impact of portfolio trading strategies.

[100] The Blue Chip CIP is price-weighted. Accordingly, an issue's weight in the total portfolio value is based on its price per share rather than its total market capitalization (*i.e.*, price per share times the number of shares outstanding).

[101] By comparison the 10 most highly price-weighted stocks in the MMI account for approximately 70% of that portfolio's cumulative market value.

[102] For the period February 1988 through January 1989, IBM's Average Daily Volume ("ADV") was approximately 2,357,900 shares.

[103] The on-going task of the ISG is to create and maintain a coordinated intermarket surveillance system to ensure that intermarket surveillance concerns are appropriately addressed.

[104] *See* Securities Exchange Act Release No. 19264 (November 22, 1982), 47 FR 53961.

[105] *See* Securities Exchange Act Release Nos. 18297 (December 2, 1981), 46 FR 60378 ("Unrestricted inter-exchange competition in the non-equity options markets most likely would result in the development of options contracts best suited to the economic needs of market participants rather than discourage innovation, research, and development of new products"), 22026 (May 6, 1985) 50 FR 20310 ("The goals of the Act are inconsistent with affirmatively delaying the start-up of trading in options on over-the-counter stocks in a manner that benefits one particular market place because there is no regulatory purpose which would require such a delay").

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F. Regulation of Member Organizations Doing Business with Public Customers

1. Disclosure

In order to promote investor protection and to ensure adequate disclosure in connection with IPs, the Phlx, Amex, and CBOE propose that their rules pertaining to standardized options and the requirements of Commission Rule 9b–1 also apply to IPs trading.[106] In this regard, the OCC requests that the Commission issue an order pursuant to Rule 9b–1(a)(4) of the Act, treating IPs for disclosure purposes as another type of security that should be treated in a manner similar to "standardized options" under Rule 9b–1.[107] OCC suggests that each of the reasons cited by the Report of the Special Study of the Options Market ("Options Study")[108] for establishing a separate disclosure system for standardized options applies equally to IPs.

As with other securities issued by OCC, the clearing corporation interposes itself between IP buyers and sellers, and is technically the "issuer" of each contract. Moreover, just as with other OCC issued securities, the Commission believes providing investors with detailed descriptive information regarding the issuer would not be useful. Instead, a disclosure document that provides a discussion of the terms and risks of IPs would appear to be substantially more useful to investors.

The Commission believes that the reasons cited by the 1978 Options Study for establishing a separate disclosure system for other OCC issued securities are equally applicable to IPs. First, regular disclosure under the Securities Act of 1933 ("Securities Act") focuses on disclosures regarding the issuer of the security. As with other OCC issued securities providing this type of disclosure to investors is not useful for IPs. While OCC's solvency is obviously relevant, an investor primarily is purchasing the equivalent of a portfolio of stock. Accordingly, a disclosure document that provides a discussion of the terms and risks of IPs would appear substantially more useful to investors. Second, delivery of a Securities Act prospectus to all IP investors and redelivery of any updated prospectus would be an inefficient and unnecessarily costly way of educating the public regarding IPs. In this regard, OCC has prepared a special IPs disclosure document ("IDD") explaining in detail the economic and risk characteristics of IPs, the mechanism of buying, selling and exercising IPs, and the market in which IPs will trade.[109]

In addition, the Amex, Phlx, and CBOE propose to require that every exchange member and member organization deliver to each customer a current IDD at or prior to the time such customer's account is approved for IPs trading.[110]

As a result, the Commission believes that IPs are a type of security that falls into the category of "other security" under Rule 9b–1 which the Commission should treat in a manner similar to standardized options for purposes of Rule 9b–1 under the Act.[111] Indeed, in amending the definition of the term standardized option to include "such other securities as the Commission may, by order, designate" the Commission noted that it added the new language "to authorize the Commission, by order, to allow the use of Rule 9b–1 for new investment vehicles that the Commission believes should be included within the new disclosure framework."[112]

For the reasons discussed above, the Commission also believes that IPs should be treated in a manner similar to standardized options for purposes of Rules 134a and 153b and Form S–20 under the Securities Act. The Commission further believes that IPs should be treated similarly to standardized options for purposes of calculating Securities Act registration fees and that Form S–A will be available for IP registration under the Act.

2. Marketing of IPs

The exchanges propose further that their existing options suitability rules [113] be applied to IP transactions. In general, under these procedures, before approving a customer's account for stock options trading, a firm must seek to obtain background and financial information including, among other things, the customer's investment experience, employment status, net worth, annual income, age, and investment objectives.

The Commission believes it appropriate that the exchanges apply the heightened suitability requirements of their options suitability rules to IPs transactions. Thus, no exchange member or member organization shall recommend to any customer any IP transaction unless such member or member organization has reasonable grounds to believe that the recommended transaction is not unsuitable for such customer.

The exchanges also propose that registered representatives who are qualified to sell stock index options should not be required to take a separate examination in order to transact business concerning index participations.[114] In addition, the exchanges do not propose that Registered Options Principals be required to take a separate IPs examination to qualify to act in a supervisory capacity with respect to the sale of IPs to public customers. the Commission concurs with the exchange's proposals.[115]

[106] The applicability of Rule 9b–1 relieves an issuer from the requirement of delivering a prospectus to each IP customer. Nevertheless, an issuer must deliver its prospectus to each market upon which the IPs are traded, for the purpose of redelivery to IPs customers upon their request.

[107] *See* Letter from William H. Nevin, Schiff Hardin & Waite, OCC legal counsel, to Richard G. Ketchum, Director, Division of Market Regulation, and Linda C. Quinn, Director, Division of Corporation Finance, SEC, dated July 6, 1988 ("Schiff Letter"). The Schiff letter requests also that IPs be treated in a manner similar to standardized options for purposes of Rules 134a and 153b and Form S–20 under the Securities Act of 1933 ("Securities Act"). In addition, the Schiff letter requests that the Commission staff confirm that IPs will be treated in a manner similar to standardized options for the purpose of calculating Securities Act registration fees and that Form S–A will be available for IP registration under the Act notwithstanding that OCC is exempt from the periodic reporting requirements of the Act. *See* Schiff letter at 5 and 6 for a more detailed explanation. Moreover, although the exchanges have not requested exemption of IP underlying securities from the applicability of Rule 12a–6 of the Act, the Commission notes that pursuant to that Rule IP underlying securities are exempt from the operation of section 12(a) of the Act.

[108] *Report of the Special Study of the Options Markets to the Securities and Exchange Commission*, 96th Cong., 1st Sess. (Comm. Print 1978) ("Options Study").

[109] In reviewing any disclosure materials submitted, the Commission intends to assure that the materials specifically describe IPs, explain their uses, detail the special risks associated with IPs trading, and emphasize that IP contracts, unlike options, obligate a writer to pay to the holder an amount equivalent to a proportionate share of dividends declared on the underlying index components.

[110] *See, e.g.*, Amex Rule 928(a). The Commission believes that prior distribution of the IDD to investors is necessary before that person may effect a transaction in IPs. This prior distribution could be accomplished by physically delivering an IDD to an investor before he effects an IP transaction or by a mass mailing of the IDD to customers who have been approved for options trading, followed by a period of time in which investors could comprehend the IDD and other relevant information pertaining to the economic and risk characteristics of IPs trading.

[111] 17 CFR 240.9b–1(a)(4) (1988).

[112] *See* Securities Exchange Act Release No. 19055 (September 16, 1982), 47 FR 41950, 41954.

[113] *See, e.g.*, Phlx Rule 1026; CBOE Rule 9.7.

[114] *See, e.g.*, Phlx Rules 1024 and 1025; Amex Rules 920 and 922.

[115] Nevertheless, once IPs are approved for trading, we would anticipate that the question files for both the General Securities Representative and Registered Option Principal Examinations would be updated to include questions concerning index participations.

In addition, the exchanges propose that IPs be subject to position and exercise limits of 15 million IPs with respect to any particular underlying portfolio, and that each member and member organization shall file with the exchanges a report with respect to each account in which such member or member organization has an interest, each account of a partner, officer, director or employee of the member organization, and each customer account, which has established an aggregate position of 200,000 IPs (whether long or short) covering the same underlying portfolio. These rules are designed, in part, to limit the ability of IP traders to manipulate or disrupt the market for IPs or the underlying securities and provide the exchanges and the Commission with empirical data concerning the development of the IP market. In addition, such limits should help protect OCC from unacceptable risk. An IP position at the maximum level would have a current market value of approximately $360 million, less than for stock index options ($625 million). The Commission believes that fixed maximum position and exercise limits of 15 million IPs and the proposed 200,000 aggregate position reporting requirement of IPs are sufficient to achieve their intended purposes.

The exchanges propose to halt or suspend trading in IPs whenever the exchanges deem such action "appropriate in the interests of a fair and orderly market" and to protect investors.[116] This proposal is based on the assumption that accurate prices may be based only upon accurate pricing of the underlying portfolios. The Commission believes that this proposal is consistent with the Act.[117]

[116] *See, e.g.*, Phlx Rule 1047A. A trading halt in the primary market for underlying stocks accounting for 20% or more (in the case of CBOE) or 50% or more (in the case of Amex) of the portfolio value now will be one of several factors that may be considered by the exchanges in determining whether to halt trading in the IP.

[117] The recent Commission approval of proposed rule changes submitted by the NYSE, Phlx, Amex, and CBOE to halt trading on the exchanges for one hour if the Dow Jones Industrial Average ("DJIA") declines 250 or more points from its previous day's close and an additional two hours if the DJIA declines 400 points from its previous day's close ("circuit breaker" proposals) would be applicable to IPs. In this regard, the Phlx circuit breaker proposal does not alter existing Exchange trading halt and suspension rules. *See* Securities Exchange Act Release No. 26386 (December 22, 1988), 53 FR 52904. Thus, when the circuit breaker is activated Phlx Rule 1047A, which applies to CIP trading, will cause trading in CIPs to be halted because more than 20% of the value of the underlying security is not trading. In addition, the Amex circuit breaker proposal provides that all securities will halt trading on the exchange when the predetermined limits are reached. *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637. Because the Amex proposed EIP rule change defines the instrument as a security, EIPs will halt trading when the circuit breaker is activated. Moreover, although CBOE's circuit breaker proposal provides for the cessation of trading in stock options and stock index options when the predetermined limits are reached, the proposed CBOE VIP rules provide that VIP's will halt trading when 20% of the value of the underlying security is not trading. Thus, when the circuit breaker proposal halts trading on the Exchange VIPs also will cease trading.

3. Regulation T

The initial sale of an IP, by definition, will require the seller to go short. Accordingly, it is necessary to determine what margin treatment for IPs is appropriate. In this regard, the Phlx, CBOE, and Amex requested an interpretation from the FRB [118] that IPs be treated as equity securities rather than securities options under the relevant provisions of Regulation T.[119] The FRB's staff has issued a letter not objecting to the commencement of IPs trading employing the proposed initial (50% margin for IP purchases and 150% margin for IP shorts) and maintenance (130% of the value of all short IP positions and 25% of the value of all IP long positions maintained in customer margin accounts) margin for IPs.[120]

4. Clearance and Settlement

The exchanges propose to have IPs cleared and settled by the OCC. In this regard, on March 3, 1988, the OCC filed with the Commission a proposed rule change to enable the OCC to issue, clear, and settle index participations.[121] The proposal will allow the OCC to process IP transactions in accordance with procedures that are substantially similar to OCC's well-established systems and procedures.[122]

V. Conclusion

Based upon the aforementioned factors the Commission finds that the proposed rule changes relating to the listing and trading of index participations are consistent with the requirements of section 6(b)(5) and the rules and regulations thereunder.[123] The initiation of IPs trading, however, is conditioned upon:

(1) Issuance of an order under Rule 9b–1 approving the IPs disclosure document; and

(2) Issuance of an order approving the OCC's proposed rule change to issue, clear, and settle IPs.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[124] that the proposed rule changes be, and hereby are, approved.

By the Commission.

Jonathan G. Katz,

Secretary.

Dated: April 11, 1989.

Concurring Statement of Commissioner Cox

I concur in the Commission's finding that these products are securities. I also concur in the Commission's reasoning, except insofar as the order argues that the products are actually "stock" within the meaning of section 3(a)(10). I believe an IP may reasonably be classified as a "certificate of interest or participation." Moreover, the fact that IPs share so many of the characteristics of stock and other securities products strongly suggests that section 3(a)(10)'s residual classification for "any instrument commonly known as a 'security' " should be read to include IPs.

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[118] *See, e.g.*, Letters to Laura Homer, Securities Credit Officer, FRB from Richard Chase, Executive Vice President, Phlx (February 3, 1988) and from Gordon L. Nash, Senior Executive Vice President, Legal and Regulatory Affairs, Amex (March 8, 1988).

[119] *See* 12 CFR 220.5(c) and 220.18 (e), (c), and (f) (1988).

[120] *See* Letter from Laura Homer, Securities Credit Officer, FRB, to Richard Ketchum, Director, Division of Market Regulation, SEC, dated March 20, 1989. The exchanges proposed rule changes also contemplate the use of escrow receipts as cover for IP short positions and special margin treatment for certain market strategies. Currently, the exchanges and the FRB are in the process of working out such details. Thus, amendments to the margin regulations may be necessary.

[121] *See* Securities Exchange Act Release No. 25529 (March 29, 1988), 53 FR 10960.

[122] The Commission approved the OCC's proposed rule change to issue, clear, and settle IPs simultaneously with the exchanges' proposed rule changes to list and trade IPs. *See* Securities Exchange Act Release No. 26713 (April 11, 1989).

[123] The Commission notes that approval of the proposed rule changes is based upon a determination that the terms of the IPs contracts, at the present time, are consistent with the requirements of the Act. If the terms of the IPs contracts are changed in a material way, however, it would be necessary to publish notice of that change as an amendment to the filing in order to afford the public an opportunity to review the proposed modification and for the Commission to review its prior determination.

[124] 15 U.S.C. 78s(b)(2) (1982).

[Release No. 26710; File No. 3–6926]

Instinet Corp.; Order Affirming Decision by Delegated Authority

In the matter of Instinet Corporation, 14th Floor, 757 Third Avenue, New York, New York 10017.

I. Introduction

On October 2, 1987, the Division of Market Regulation ("Division") issued an order ("Division Order"), pursuant to delegated authority, 17 CFR 200.30–3(a)(12), approving a pilot program ("Pilot Program") for the exchange of quotation information between the National Association of Securities Dealers, Inc. ("NASD") and the

[122] The Commission notes that approval of the proposed rule changes is based upon a determination that the terms of the IPs contracts, at the present time, are consistent with the requirements of the Act. If the terms of the IPs contracts are changed in a material way, however, it would be necessary to publish notice of that change as an amendment to the filing in order to afford the public an opportunity to review the proposed modification and for the Commission to review its prior determination.

[124] 15 U.S.C. 78s(b)(2) (1982).

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International Stock Exchange of the United Kingdom and the Republic of Ireland, Ltd. ("Exchange").[1] Instinet Corporation ("Instinet"), the only commentator on the program, has appealed the Division's delegated decision to the Commission. Instinet contends that the fee structure for the NASD's and the Exchange's program is anticompetitive, discriminatory and in contravention of the Securities Exchange Act of 1934 ("Act").[2] This order, for the reasons described below, affirms the Division's delegated determination.

II. Background

On March 14, 1986, the NASD first submitted a proposed rule change to implement the Pilot Program. Pursuant to that proposal ("original proposal"),[3] the Exchange and the NASD were to exchange data feeds essentially consisting of quotations in the top few hundred stocks quoted in their respective systems.[4]

The NASD established the Pilot Program as a first step toward the establishment of regulatory programs of mutual benefit, the expansion of trading opportunities in the United States and the United Kingdom, the provision of more efficient markets as well as economic incentives to direct orders in linked securities to the best available market.[5] Neither the NASD nor the Exchange was to charge each other or each other's subscribers any fee for receipt of the linkage data.

Instinet objected to the access terms of the original proposal because it believed that the terms were anticompetitive and discriminatory.[6] Instinet argued that the NASD receives data from the Exchange in its capacity as a self-regulatory organization ("SRO") and that, therefore, the NASD is required to share this data with Instinet at cost, or at least at the same price at which the NASD will furnish the data to certain NASD market makers. Similarly, Instinet argued that the quotes the NASD furnishes to the Exchange should be made available to Instinet on equal terms. The contemplated "in-kind" exchange of data puts Instinet, it argued, at an unfair competitive disadvantage as a data "retailer" vis a vis the NASD and the Exchange in both the U.S. and U.K. markets.

The Commission approved the operation of the Pilot Program in a series of orders [7] which authorized the program for temporary periods of time while the NASD sought to respond to Instinet's concerns.

On April 17, 1987, the NASD revised its original proposal.[8] Pursuant to the revised Pilot Program, the same information would be exchanged between the Exchange and the NASD;[9] however, the firms eligible to receive the information pursuant to the Pilot Program would be limited.[10] The NASD's modification reduced the free access to the linkage data to those NASDAQ market makers and Exchange dealers making markets in the issues that were quoted in the linkage and traded in both markets. The net effect of the revised terms was to decrease the number of TOPIC and NASDAQ terminals eligible to receive the linkage data; from 9,500 to 922 and 2,807 to 1,634, respectively. As revised, the NASD argued that it was appropriate to defer a specific cost allocation because, in part, the Pilot Program was an in-kind exchange between two marketplaces.[11] Despite the revisions, Instinet still contended that the revised Pilot Program was anticompetitive because the NASD and the Exchange neither separately allocated costs to the two markets nor charged a uniform fee to their subscribers.[12]

III. Statutory Standards

Instinet has asserted that the Pilot Program is not consistent with sections 11A and 15A of the Act. In particular, section 11A(a)(1)(C)(ii) sets forth as among the goals of the Act the furtherance of fair competition between exchange markets and markets other than exchange markets, while section 11A(a)(1)(D) provides that the linking of markets for qualified securities through communication and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers and investors, facilitate the offsetting of investor's orders, and contribute to the best execution of such orders.[13]

Additionally, section 15A(b)(5) requires that the NASD provide for the equitable allocation of reasonable dues, fees and other charges. Section 15A(b)(6) requires that the rules of an association, such as the NASD, foster cooperation and coordination with respect to the various aspects of securities transactions, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest. Section 15A(b)(6) also requires that the rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Finally, section 15A(b)(9) prohibits the NASD from adopting a rule that fosters any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

IV. The Division's Decision

The Division's Order carefully evaluated the various arguments raised by Instinet.[14] In brief, the Division found that the provision to market makers of quotations in the stocks for which they make markets was analytically distinct from the charges made for quotation dissemination to non-market makers. The exchange of market maker quotation information is related to the NASD's maintenance of an over-the-counter ("OTC") marketplace which enables market makers to make more competitive and efficient markets and improves their ability to ensure that their customers receive best execution of their orders.[15] In contrast, the dissemination of such information to non-market makers primarily relates to the NASD's role as an exclusive information processor. The Division determined that the Pilot Program in essence constituted an intermarket linkage undertaken to foster more efficient market operations and expand opportunities for competitive market making, and was not simply a quotation dissemination service.[16] In reaching its conclusion, the Division considered the statutory goals served by the linkage, as well as the pilot nature of the linkage, the practical difficulties involved in accomplishing an allocation of costs in an international context, and the limited subset of information being exchanged. The Division then concluded that the effects on vendors, such as Instinet, were as narrowly limited as practically consistent with the start-up nature of the Pilot Program, and further, that the access terms in place for the two-year duration of the Pilot Program were fair, reasonable and consistent with the Act.

In addition, the Division's Order expressly stated that it would be preferable for the NASD and the Exchange to establish a separate cost allocation for the information that they were mutually providing.[17] The Division's Order further indicated the expectation that the NASD would continue to examine the possibility of developing a separate allocation of costs associated with the Pilot Program. The results of this examination were due to the Commission by April 2, 1989. The NASD, however, has requested that the Commission provide an additional 90 days for the NASD to gather this information.[18] Given the continuous operation of the link since April 1986 the Commission believes that a 45 day extension is adequate and hereby grants the NASD an extension until May 26, 1989.

V. Instinet's Appeal

In large part, Instinet's appeal restates issues already raised and addressed by the Division and argues that the Commission should reach a different result from the Division. We have considered Instinet's contentions that the terms of the Pilot Program, as approved, are anticompetitive, discriminatory and in contravention of sections 11A and 15A of the Act, and find them to be without merit. Consequently, for the reasons stated in the Division's Order, we affirm the Division's decision to approve the Pilot Program for a two-year period.

As noted above, section 11A of the Act governs SIPs and provides the Commission with jurisdiction over organizations engaged in the business of collecting, processing, or publishing information relating to quotations for, indications of interest to purchase and sell, and transactions in securities. The NASD is an SRO as well as an exclusive processor of securities information, and NASDAQ, Inc. is a registered SIP pursuant to section 11A(b)(2) of the Act.[19] As such, the NASD and its subsidiaries may not improperly limit access to the services they offer.[20]

Instinet asserts that the NASD has failed to allocate equitably the costs of the linkage consistent with section 15A(b)(5) of the Act because the costs have not been allocated to those entities actually receiving the Pilot information. The NASD and the Exchange, however, have determined for purposes of the Pilot Program to absorb the costs of providing the information, which in essence allocates the costs among all of the members of each organization.[21]

The Commission finds that the Pilot Program has the potential to benefit the markets, including all participants, as a whole, and serves to further the goals and purposes of the Act. Therefore, in light of the benefits and the various other factors discussed above and set forth in the Division's Order relevant to allocation, we believe that the decision

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[1] Securities Exchange Act Release No. 24979 (October 2, 1987), 52 FR 37664 (October 8, 1987).

[2] On October 9, 1987, Instinet filed its Notice of Intention to Petition for Review [17 CFR 201.26(c)] of the Division's Order, which automatically stayed the Division's decision [17 CFR 201.26(e)]. The Commission issued an order lifting the stay pending final resolution on the merits. *See* Securities Exchange Act Release No. 25038, October 15, 1987. On April 7, 1988, the Commission issued an order granting Instinet's request for review. *See* Securities Exchange Act Release No. 25560 (April 7, 1988), 40 SEC Doc. 1092 (April 19, 1988). In accordance with the April 7, 1988 order, Instinet filed its statement in opposition to the Division's Order on May 3, 1988 ("Instinet's Statement") and the NASD filed its submission in opposition to Instinet's appeal on May 18, 1988 ("NASD's Statement").

[3] The original proposal was published for comment in Securities Exchange Act Release No. 23022 (March 14, 1986), 51 FR 9738 (March 20, 1986).

[4] Specifically, the Exchange was to provide the NASD price quotations for the securities that comprise the Financial Times/Stock Exchange ("FTSE")–100 Index, all Exchange listed non-U.K. domiciled securities disseminated through the Exchange's TOPIC International Service, and the current level of the FTSE–100 Index on a real-time basis. The NASD was to provide the Exchange the current bid/ask quotations for all NASDAQ market makers for the securities comprising the NASDAQ–100 Index, the NASDAQ Financial Index, and all American Depositary Receipts ("ADRs") underlying non-U.K. domiciled securities, and the current level of the NASDAQ–100 Index on a real-time basis.

[5] *See* File No. SR-NASD–87–30. Of course, the Pilot Program is only a link for the exchange of quotation information. It does not provide for the execution of trades.

[6] *See* letter from Daniel T. Brooks, Esq., of Cadwalader, Wickersham & Taft, Counsel for Instinet, to John Wheeler, Secretary, SEC, dated April 16, 1986, at 3.

[7] *See* Securities Exchange Act Release Nos. 23729 (October 20, 1986), 51 FR 39444 (October 28, 1986); 23952 (January 5, 1987), 52 FR 887 (January 9, 1987); 24292 (April 2, 1987), 52 FR 11378 (April 9, 1987); 24544 (June 3, 1987), 52 FR 21781 (June 9, 1987); 24862 (August 28, 1987), 52 FR 33674 (September 4, 1987).

[8] Securities Exchange Act Release No. 24364 (April 17, 1987), 52 FR 13891 (April 27, 1987).

[9] *See supra* note 4. Currently, the NASD is providing quotation information through the Pilot linkage on about 350 NASDAQ securities and the Exchange is providing similar information for about 398 securities.

[10] Under the terms of the original proposal, all NASDAQ Level 2 and 3 terminals and all TOPIC terminals were eligible to receive the quotation information without any additional charge.

[11] *See* Securities Exchange Act Release No. 24364, 52 FR at 13893–94. *See also* letter from Frank J. Wilson, Vice President and General Counsel, NASD, to Jonathan G. Katz, Secretary, SEC, dated August 6, 1987.

[12] *See* letter from Daniel T. Brooks, Cadwalader, Wickersham & Taft, Counsel for Instinet, to Jonathan G. Katz, Secretary, SEC, dated June 30, 1987.

[13] Pursuant to section 11A(b)(1) of the Act, only exclusive securities information processors (SIPS) are required to register with the Commission, unless exempt from registration. *See* section 3(a)(22)(A) of the Act defining the term "securities information processor." As a separate matter, the Act empowers the Commission to adopt rules and regulations designed to assure that all SIPs may obtain on fair and reasonable terms quotation information that is collected or prepared by any exclusive processor of such information acting in its capacity as an exclusive processor, and to assure that all SIPs and SROs provide quotation and transaction information on terms that are not unreasonably discriminatory. *See* sections 11A(c)(1) (C) and (D) of the Act, respectively. We note that, as yet, no such rules that apply to this case have been promulgated by the Commission. Moreover, this case does not come before the Commission pursuant to the mechanism set forth in section 11A(b)(5).

[14] As noted above, Instinet frames its arguments under a variety of different statutory labels (*i.e.*, Sections 11A and 15A of the Act). Nevertheless, the key objection of Instinet is that it is not provided access to the information on the same terms as the NASD, or, in the alternative, that the NASD and the Exchange have not separately allocated the cost of the transmission to each market.

[15] The Commission recognizes that market makers will receive quotation information on all securities, including securities in which they do not make markets, covered by the Pilot Program. Nevertheless, the provision of the total range of quotations for securities subject to active market making will assist market makers in their ability to quote markets for related securites.

[16] *See* 52 FR at 37687.

[17] *See* 52 FR at 37687 and n.23.

[18] *See* letter from Frank J. Wilson, Executive Vice President and General Counsel, NASD to Richard Ketchum, Director, SEC, dated March 23, 1989.

[19] Section 3(a)(22)(A) expressly exempts SROs from the definition of a SIP. As noted, Section 11A(b)(1) of the Act requires SIPs to register with the Commission unless otherwise exempt from registration. *See supra* pages 5–6.

[20] Instinet alleges that the Pilot Program violates Sections 11A(c)(1)(C) and 11A(c)(1)(D). However, as noted above at n. 13, *supra*, those sections empower the Commission to adopt rules and regulations to assure the availability of certain information on terms that are fair, reasonable, and not unreasonably discriminatory. As yet, no such rules that apply to this case have been promulgated.

[21] In 1983, Instinet filed a petition with the Commission pursuant to section 11A(b)(5) of the Act, arguing that the fees proposed to be charged by the NASD for the provision of trade and quote information regarding NASDAQ securities constituted an inappropriate prohibition or limitation of access to NASDAQ information. In a succession of orders, the Commission found that the proposed fees indeed violated section 11A(b)(5) and required the NASD to adopt vendor subscriber charges that were cost-based (*i.e.*, calculated only to recover the NASD's costs of collecting and distributing that data to vendors). The United States Court of Appeals for the District of Columbia affirmed the Commission's decision. *See NASD* v. *SEC*, 801 F.2d 1415 (D.C. Cir. 1986). The implications of that proceeding are still under review. *See* SR–NASD–88–35, Securities Exchange Act Release No. 26118 (September 27, 1988), 53 FR 39002 (October 4, 1988), and letter from Daniel T. Brooks, Esq., of Cadwalader, Wickersham & Taft, Counsel for Instinet, to Jonathan G. Katz, dated October 31, 1988.

We note that the content of this proceeding differs from the NASDAQ fee proceeding in that NASDAQ proceeding involved Instinet as a direct competitor of the NASD seeking access to information which was solely in the control of the NASD. Accordingly, it was especially important in that proceeding to ensure that the NASD did not impermissibly pass on unnecessary fees to Instinet in an effort to stifle competition by forcing Instinet's subscribers to subsidize an NASD service that they were not receiving. In this case, however, Instinet has not shown that it or its subscribers would be forced to pay unnecessary fees and thus subsidize a service that they are not receiving, or that Instinet cannot itself receive the Pilot information at cost. Furthermore, in this context, the primary source of the contested information is the Exchange. Also, the earlier proceeding involved NASDAQ quotation services provided to both market makers and the investing public as opposed to this proposal, which results in data being provided only to a subset of NASDAQ market makers actively trading securities listed on the Exchange. Moreover, the data provided pursuant to the Pilot Program is only a subset of the information available through NASDAQ or from the Exchange. The Commission believes that in conceiving a new pilot program to establish potential new markets it is reasonable for the NASD and the Exchange to allocate temporarily costs in a manner that is sensitive to the start-up nature of the program.

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by the NASD and the Exchange to absorb their costs in relation to providing the linkage data does not result in an inequitable allocation under section 15A(b)(5).

We specifically note that the Division's Order directed the NASD to continue its efforts to develop a separate cost allocation and to make monthly surveys on the costs and benefits of the Pilot Program, and report the results of this analysis to the Commission.[22] Similarly, the NASD in its submission to the Commission reaffirmed its commitment to that process and its understanding that it must report to the Commission.[23] As discussed, however, the NASD has requested additional time to submit the information. The Commission specifically endorses these efforts by the NASD. We expect that the NASD will make every effort to develop a separate cost allocation within the allotted time frame or justify why such an approach is not necessary.

Instinet also argues that the terms of the Pilot Program are inconsistent with section 15A(b)(6), which requires the NASD's rules to be designed "to foster cooperation and coordination with persons engaged in regulating, clearing settling, processing information with respect to and facilitating transactions in securities * * *" and not be "designed to permit unfair discrimination between customers * * *"

The Pilot Program is designed to further an international linkage. The Pilot Program, modest though it is, can be expected, as the Division found, to improve somewhat market quality in the affected stocks; it contains surveillance arrangements that are valuable from a regulatory viewpoint; and, it can be expected to be valuable purely as a means of developing a working relationship between a domestic and a foreign SRO. The Pilot Program thus aids in the establishment of an intermarket linkage that furthers and in consistent with the stated goals and purposes of the Act.

Moreover, Instinet has not been discriminated against unfairly. Instinet claims that it is discriminated against unfairly, not because it has been denied access to the linkage data, but rather because it cannot receive the linkage information on precisely the same terms as the market makers who make markets in the relevant securities that are listed on both NASDAQ and the Exchange. Instinet has not demonstrated that the terms of its access to the information through NASDAQ and SEAQ (of which the linkage information is but a subset), are unfair or unreasonable. In light of both the overriding goals and purposes served by the Program and the fact that the Program's present structure is necessitated by the nature of the over-the-counter market maker system, Instinet has not suffered any discrimination that could be termed unfair.

Finally, Instinet contends that the Pilot Program imposes a burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Act, however, does not prohibit rules that impose *any* burden on competition; rather, the Act prohibits rules that impose any burden on competition which is "not necessary or appropriate" in furtherance of the goals set forth in the Act.[24] In the instant case, the Division found that despite "some" competitive impact on Instinet and/or other vendors of securities information as a result of the Pilot Program's operation, that "burden" was a necessary and appropriate consequence of the proposed link so as to enhance the efficient execution of securities transactions and promote fair competition.[25] In contrast to the dissemination of quotation information to non-market makers, which primarily serves only the goal of widespread dissemination of information, the Division believed that the market maker to market maker linkage would enhance market making competition, increase market liquidity, assist market makers to disseminate more accurate and reliable information, and improve the market makers' ability to ensure that their customers receive the best execution of their orders.[26]

Apart from restating arguments raised before the Division, Instinet also argues that the Division's Order improperly balanced other goals of the Act against any possible anticompetitive effects of the Pilot Program.[27] The Act requires the rules of the NASD to: "remove impediments to and perfect the mechanism of a free and open market and a national market system" and to "not impose any burden on competition *not necessary* or *appropriate* in furtherance of the *purposes* of the Act" (emphasis added).[28] Two of those "purposes" are to promote fair competition between exchange markets and markets other than exchange markets and to assure economically efficient executions of securities transactions.[29] The NASD's proposed Pilot Program was analyzed by the Division as to its ability to advance these statutory goals.[30] We find that the Division, in analyzing and approving the proposed rule change, properly balanced the purposes of the Act it expected the Pilot Program to achieve against any anticompetitive effects of the linkage. The Division found that the benefits derived from the first transatlantic linkage, which is only an informational linkage and does not have an execution capability, coupled with the Pilot Program's adequate regulatory safeguards and the trial nature of the program, outweighted any potential harm to competing vendors. Instinet provides no evidence in its Statement that would warrant a different conclusion.

Accordingly, we find that the NASD's proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act and that approval of the proposed rule change on a two-year pilot basis is consistent with the Act and the rules and regulations thereunder applicable to the NASD, and, in particular, the requirements of sections 11A and 15A, and the rules and regulations thereunder.

VI. Conclusion

After carefully reviewing the arguments made in the Instinet and the NASD submissions in opposition to and in support of the Division's Order, respectively, the Commission believes that Instinet's contentions, fully considered and rejected in the Division's Order, do not warrant reversal or modification of the Division's delegated decision.

Accordingly, It Is Hereby Ordered, that the Division's delegated determination as set forth in the Division's Order be, and hereby is, affirmed. The request of the NASD dated March 23, 1989 for additional time to submit cost allocation information is granted in part, to extend the time for submission of such information to May 26, 1989.

By the Commission.

Dated: April 11, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9128 Filed 4-14-89; 8:45 am]

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[22] *See* Division Order, 52 FR at 37686 n.19 and 37687 n.23. *See also* pp. 8-9. The Commission originally directed the NASD to provide this report by April 2, 1989. By this order we are granting the NASD an extension through May 26, 1989.

[23] NASD's Statement, at 8.

[24] *See Bradford Nat'l. Clearing Corp.* v. *SEC*, 590 F.2d 1085, 1105; and *Report to Accompany S. 249: Securities Acts Amendments of 1975*, S. Rep. 75, 94th Cong., 1st Sess. 30 *Amendments of 1975*, S. Rep. 75, 94th Cong., 1st Sess. 30 *reprinted in* 1975 U.S. Code Cong. & Admin. News 208.

[25] *See* Division Order, 52 FR at 37687.

[26] *See* Section 11A(a)(1)(C)(i)-(iv), and (D).

[27] Instinet claims that the Division's Order acknowledges that the Pilot Program may have an "adverse competitive impact on Instinet." *See* Instinet's Statement, at 44-45 (citing Division Order, 52 FR 37687). The Commission notes that, although the Division's Order expresses the Division's recognition of a competitive impact as a result of the Pilot Program's operation, the Division's Order indicates that such impact, if any, is "limited." *See* Division Order, 52 FR 37687.

[28] *See* 15 U.S.C. 78o-3(b) (5) and (9).

[29] *See* 15 U.S.C. 78k-1(a)(1)(C).

[30] *See* Division Order, 52 FR 37686-87.

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submittion.

DATE: Comments should be submitted on or before May 17, 1989. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: Survey of Small/Medium-Sized Motor Carriers.

Form Number: SBA Form 1673.

Frequency: One time.

Description of Respondents: Small/Medium-Sized Motor Carriers.

Annual Responses: 2,000.

Annual Burden Hours: 1,000.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 89-9093 Filed 4-14-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD1 89-014]

New York Harbor Traffic Management Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Request for applicants.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership on the New York Harbor Traffic Management Advisory Committee (NYHTMAC). The mission of the committee is to provide consultation and advice on a wide range of issues. It provides local expertise on such matters as vessel traffic in New York Harbor, anchorages, communications, and advice on a wide range of matters regarding all facets of navigation safety and other related topics dealing with waterways traffic management. The New York Harbor Traffic Management Advisory Committee operates in the public interest and addresses those duties imposed on the Coast Guard by law.

The advisory committee shall be composed of no fewer than 12 members from Federal, State and local government, the marine industry, port and harbor authorities, environmental groups, and other interested parties who will be appointed by the Secretary of Transportation upon recommendation by the Commander, First Coast Guard District and the Commandant of the Coast Guard for a term not to exceed the expiration date of the charter.

The duration of this committee is continuous with a charter renewal required every two (2) years. Appointments to the committee are for the two (2) year life of the charter and candidates for appointment shall apply prior to charter expiration. The present charter expires on August 1, 1989.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women.

DATE: Requests for applications should be received no later than April 30, 1989.

ADDRESS: Persons interested in applying should write to Captain of the Port of New York, Bldg. 109, Governors Island, NY 10004, Attn: Waterways Management Office.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander L.M. Brooks, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, Captain of the Port of New York, Bldg. 109, Governors Island, NY 10004, or by calling (212) 668-7834.

Dated: April 4, 1989.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89-9027 Filed 4-14-89; 8:45 am]

BILLING CODE 4910-14-M

Maritime Administration

[Docket No. M-009]

Request for Information on Availability of U.S. Vessels for Alaska Cleanup Operations

AGENCY: Maritime Administration, DOT.

ACTION: Information request.

SUMMARY: Exxon Shipping Company of Houston, TX has requested that, pursuant to 64 Stat. 1120, the Secretary of the Treasury waive compliance with the coastwise laws and regulations to allow any foreign-flag vessels to engage in any aspect of the oil-spill recovery operations connected with the grounding of the tanker EXXON VALDEZ. Waiver is requested for the duration of those operations.

The Maritime Administration (MARAD), U.S. Department of Transportation, has been requested to advise the U.S. Customs Service, Department of the Treasury, of U.S.-flag vessels that might be made available for such operations in lieu of foreign vessels. Owners/operators of suitable vessels are asked to contact MARAD, providing name of vessel, type, size, proposed technical usage in cleanup, date available, and point of contact.

ADDRESS: Telegraphic, facsimile, or telephonic responses may be made to the Director, Office of Domestic Shipping, MAR-810, Room 7301, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590. Telephone: (202) 366-5123 or FAX: (202) 366-3889.

FOR FURTHER INFORMATION CONTACT: Howard G. Norseth or Robert M. Christie, Office of Domestic Shipping, Maritime Administration. Telephone: (202) 366-5123 or 5124.

By Order of the Maritime Administrator.

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Date: April 12, 1989.
James E. Saari,
Secretary, Maritime Administration.
[FR Doc. 89-9152 Filed 4-14-89; 8:45 am]
BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: April 11, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

On April 10, 1989, the Department requested an emergency approval by the Office of Management and Budget by April 11, 1989.

Alcohol, Tobacco and Firearms

OMB Number: New.
Form Number: None.
Type of Review: New Collection.
Title: Survey of Selected Members of Firearms Industry.
Description: Survey to determine the sporting uses of various types of semiautomatic.
Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 3,000.
Estimated Burden Hours Per Response: 15 minutes.
Frequency of Response: One time.
Estimated Total Reporting Burden: 750 hours.
Clearance Officer: Robert Masarsky (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 89-9039 Filed 4-14-89; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: April 11, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington DC 20220.

Internal Revenue Service

OMB Number: 1545-0763
Form Number: None
Type of Review: Extension
Title: Qualified Conservation Contributions
Description: The information is necessary to comply with various substantive requirements of section 170(h), which describes situations in which a taxpayer is entitled to an income tax deduction for a charitable contribution for conservation purposes of a partial interest in real property.
Respondents: Individuals or households, State or local government, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
Estimated Number of Recordkeepers: 1,000
Estimated Burden Hours Per Recordkeeper: 1 hour 15 minutes
Frequency of Response: Recordkeeping
Estimated Total Reporting Burden: 1,250 hours.
OMB Number: 1545-0963
Form Number: None
Type of Review: Extension
Title: Installment Method Reporting by Dealers in Personal Property; Changes From Accrual to Installment Method Reporting
Description: These regulations describe the procedure by which dealers in personal property may adopt or change to the installment method of accounting from another method of accounting.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 50,000
Estimated Burden Hours Per Response: 1 hour
Frequency of Response: At the time of election
Estimated Total Reporting Burden: 50,000 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 89-9091 Filed 4-14-89; 8:45 am]
BILLING CODE 4810-25-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.[1]
ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

By direction of the Secretary:

Frank E. Lalley,
Director, Office of Information Management and Statistics.

Extension

1. Veterans Benefits Administration
2. Mortgage Loan Information
3. VA Form 26-8982
4. This Information Card will be used to collect social security numbers as part of the accounting information required by credit reporting agencies on delinquent borrowers. Respondents are all veteran and nonveteran borrowers listed on the master records of the VA Portfolio Loan System (PLS).
5. On occasion.
6. Individuals or households.
7. 8,600 responses.
8. 1/12 hour.
9. Not applicable.

[FR Doc. 89-9070 Filed 4-14-89; 8:45 am]
BILLING CODE 8320-01-M

[1] On March 15, 1989, the Veterans Administration became the Department of Veterans Affairs (see 54 FR 10476).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP89-23-000]

Phillips 66 Natural Gas Co. et al.; Effectiveness of Withdrawal

April 12, 1989.

Take notice that on February 17, 1989, Phillips 66 Natural Gas Company and Phillips Petroleum Company (Phillips) filed, pursuant to Rule 216 (18 CFR 385.216), a motion to withdraw its complaint against ANR Pipeline Company. No objections were filed, therefore the withdrawal became effective on March 4, 1989, fifteen days after filing pursuant to Rule 216(b) (18 CFR 385.216(b)).

Lois D. Cashell,
Secretary.
[FR Doc. 89-9105 Filed 4-14-89; 8:45 am]
BILLING CODE 6717-01-M

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Sunshine Act Meetings

Federal Register
Vol. 54, No. 72
Monday, April 17, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:00 p.m. on Tuesday, April 11, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider: (1) Administrative enforcement proceedings; (2) reports of the Director, Office of Corporate Audits and Internal Investigations; (3) a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act; (4) the application of National Bank of Greece, S. A., Athens, Greece, for Federal deposit insurance of deposits received at and recorded for the accounts of its State-licensed branch to be located at 1785 Centre Street, West Roxbury, Massachusetts; (5) matters relating to the possible closing of certain insured banks; (6) matters concerning the Corporation's corporate activities; (7) a recommendation concerning the Corporation's assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act; and (8) certain personnnel matters.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: April 12, 1989.

Federal Deposit Insurance Corporation.
Robert E. Feldman,
Deputy Executive Secretary.
[FR Doc. 89-9178 Filed 4-14-89; 9:16 am]
BILLING CODE 6714-01-M

TENNESSEE VALLEY AUTHORITY

(Meeting No. 1415)

TIME AND DATE: 10 a.m. (EDT), Wednesday, April 19, 1989.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA

Approval of minutes of meeting held on March 15, 1989.

Action Items

New Business

A—Budget and Financing

A1. Modification of the Capital Budget Financed from Power Proceeds and Borrowings for Fiscal Year 1989—Sequoyah Nuclear Plant Unit 1 Turbogenerator Trip to Investigate, Repair, Return to Service, Ensure Adequate Internal Protection and Perform Root Cause Analysis.

A2. Modification of the Capital Budget Financed from Power Proceeds and Borrowings for Fiscal Year 1989—Browns Ferry Nuclear Plant Unit 2 Heating, Ventilation, and Air Conditioning Ductwork Seismic Qualification.

A3. Modification of the Capital Budget Financed from Power Proceeds and Borrowings for Fiscal Year 1989—Browns Ferry Nuclear Plant Nuclear Recovery Project.

A4. Modification of the Capital Budget Financed from Power Proceeds and Borrowings for Fiscal Year 1989—Arrangements for Removal, Disposal, and Replacement of TVA-owned Capacitor Equipment at Substations Involving Polychlorinated Byphenyls and Transfer to Distributors of Remaining Substation-Type Capacitor Equipment.

A5. Modification of the Capital Budget Financed from Power Proceeds and Borrowings for Fiscal Year 1989—Paradise Fossil Plant-Construct Dredge Pond and Dredge Ash Pond.

A6. Modification of the Capital Budget Financed from Power Proceeds and Borrowing for Fiscal Year 1989—Shawnee Fossil Plant-Replace Reheat and Secondary Superheater Pendants and Crossover Elements on Units 5, 7, and 9.

A7. Modification of the Capital Budget Financed from Power Proceeds and Borrowings for Fiscal Year 1989—Widows Creek Fossil Plant Unit 8—(1) Replace Secondary Superheater Crossover Tubes.

B—Purchase Awards

*B1. Request for Proposal RH-19130A—Browns Ferry Nuclear Plant Training Simulator, ADP Equipment Management Department.

B2. Request for Proposal RB-34531B—Nuclear Telecommunications System Project, Communications Group.

C—Power Items

C1. Renewal Power Contract with Jellico, Tennessee.

E—Real Property Transactions

E1. Proposal to Declare Approximately 164.6 Acres of Tims Ford Reservoir, Monroe Country, Tennessee, Surplus Land and Authorize its Sale by Tennessee Elk River Development Agency as Agent for TVA.

E2. Abandonment of Easement Rights Affecting Approximately 1.6 Acres of Watts Bar Reservior Land in Loudon County, Tennessee.

E3. Sale of Permanent Easement Affecting Approximately 0.92 Acres Located in Trigg County, Kentucky.

E4. Proposed Deed Coveying a Portion of Freeport 500/230-kV Substation to Mississippi Power & Light Company in Accordance with Amendatory Agreement TV-68885A.

E5. Abandonment of Easement Rights Affecting Approximately 44 Acres of Watts Bar Reservior Land in Loudon County, Tennessee.

F—Unclassified

F1. Supplement No. 9 to Contract No. TV-62313A with the State of Alabama.

F2. Supplement No. 7 to Contract No. TV-62311A with the Tennessee Emergency Management Agency.

F3. Filing of a Condemnation Case.

F4. Revision of TVA Code IV Disposal.

F5. Supplement No. 3 to Contract No. TV-53306A with Monroe County, Tennessee, for the Niles Ferry Industrial Park.

F6. Subagreement No. 29 to Memorandum of Understanding with U.S. Army, Corps of Engineers, Contract No. TV-23928A, for New Main Lock at Kentucky Dam.

F7. Contract No. TV-77677A with Walker State Technical College, Sumiton, Alabama, for a Business and Industry Center.

F8. Contract No. TV-77679A with Snead State Community College, Boaz, Alabama, for a Continuing Education Center.

F9. Interagency Agreement with U.S. Army Project Manager for Binary Munitions.

F10. Personal Services Contracts: (1) American Technical Associates, Inc. (No. TV-77737A), (2) Midwest Technical, Inc. (No TV-77735A), and (3) Consultants & Designers Inc. (No. TV-77736A).

F11. Recommendations Resulting from the 53rd Annual Wage Conference—1988—Hourly and Annual Trades and Labor Employees.

*Items approved by individual Board members. This would give formal ratification to the Board's action.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager of Public Affairs, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479-4412.

Dated: April 12, 1989.
Edward S. Christenbury,
General Counsel and Secretary.
[FR Doc. 89-9161 Filed 4-13-89; 9:40 am]
BILLING CODE 8120-01-M

THE UNITED STATES INSTITUTE OF PEACE

DATE: Thursday and Friday April 20, 21 1989.

TIME: Thursday and Friday 9:00 a.m. to 5:30 p.m.

PLACE: The United States Institute of Peace, 1550 M Street NW. ground floor (conference room).

STATUS: Open session.

9:00 a.m. to 5:30 p.m. (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. (98-525).

AGENDA (Tentative):

Meeting of the Board of Directors convened. Chairman's Report, President's Report. Committee Reports. Consideration of the minutes of the Thirty-First meeting of the Board. Consideration of grant application matters.

CONTACT: Ms. Olympia Diniak. Telephone (202) 457-1700.

Dated: April 11, 1989.
Bernice J. Carney,
Administrative Officer, The United States Institute of Peace.
[FR Doc. 89-9265 Filed 4-13-89; 2:13 pm]
BILLING CODE 3155-01-M

THE UNITED STATES INSTITUTE OF PEACE

DATE: Friday, Saturday, and Sunday, April 21-23, 1989.

TIME: Friday, 8:30 p.m.-10:30 p.m.; Saturday, 9:00 a.m.-5:00 p.m.

PLACE: Wye Plantation, Aspen Institute for Humanistic Studies, River House Facility, Queenstown, Maryland.

STATUS: Open session.

AGENDA (Tentative):

Goals and overview of program review conference. Discussion sessions on Institute programs; Grants, Fellowships, Research and Studies, Education and Public Information, and Library; long range planning issues; future directions; most promising approaches to peacemaking and conflict resolution; and changes in the USSR and their implications for the Institute's work.

CONTACT: Ms. Olympia Diniak. Telephone (202) 457-1700.

Dated: April 13, 1989.
Bernice J. Carney,
Administrative Officer, The United States Institute of Peace.
[FR Doc. 89-9266 Filed 4-13-89; 2:13 pm]
BILLING CODE 3155-01-M

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Corrections

Federal Register
Vol. 54, No. 72
Monday, April 17, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No.89-033]

Restrictions on Importation of Horses From Czechoslovakia

Correction

In rule document 89-7412 beginning on page 12897 in the issue of Wednesday, March 29, 1989, make the following correction:

On page 12898, in the first column, in the second line, "March 30, 1989" should read "May 30, 1989".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

Groundfish of the Bering Sea and Aleutian Islands Area

Correction

In proposed rule document 89-8452 appearing on page 14256 in the issue of Monday, April 10, 1989, make the following correction:

On page 14256, in the first column, under **DATE:**, in the third line, "May 22, 1989" should read "June 5, 1989".

BILLING CODE 1505-01-D

federal register

Monday
April 17, 1989

Part II

Department of Education

Office of Special Education and Rehabilitative Services

Final Funding Priority for the Educational Media Research, Production, Distribution, and Training Program; Notice

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DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Final Funding Priority for the Educational Media Research, Production, Distribution, and Training Program

AGENCY: Office of Special Education and Rehabilitative Services; Department of Education.

ACTION: Notice of final funding priority.

SUMMARY: The Secretary announces this final funding priority for the Educational Media Research, Production, Distribution, and Training Program to ensure effective use of program funds and to direct funds to the area identified during fiscal year 1989.

EFFECTIVE DATE: This final funding priority takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this funding priority call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Joseph Clair, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 4622–M.S. 2466), Washington, DC 20202. Telephone: (202) 732–4503.

SUPPLEMENTARY INFORMATION: On January 5, 1989 at 54 FR 375 the Secretary published in the **Federal Register** a Notice of Proposed Funding Priority for fiscal year 1989 under the Educational Media Research, Production, Distribution and Training Program. This notice announces the final funding priority for fiscal year 1989.

The Educational Media Research, Production, Distribution and Training program is designed to promote the educational advancement of handicapped persons by providing assistance for: (a) Conducting research on the use of educational media and technology for persons with handicaps; (b) producing and distributing educational media for the use of handicapped persons, their parents, their actual and potential employers, and other persons directly involved in work for the advancement of persons with handicaps: and (c) training persons in the use of educational media for the instruction of handicapped persons.

Public Comment

In the Notice of Proposed Priority the Secretary invited comments on the proposed priority. The Secretary did not receive any comments. The Secretary has made no substantive changes in the priority since publication of the notice.

Priority—Government Subsidization for the Manufacture and Distribution of a Line 21 Decoder (CFDA 84.026)

This priority supports a cooperative agreement to produce and distribute a decoder nationally. The project must include a plan which, in addition to describing the specific features of the decoder, details how at least 33,000 Line 21 decoders will be produced and distributed nationally. The project must include quality assurance in decoder design. The project must ensure product reliability, and must include a plan for warranty and repair service. The timeline for production of at least 33,000 Line 21 decoder units must be detailed enough to assure that a continuing supply of decoders will be nationally available, no later than 30 days following the award, to consumers who are hearing impaired. The projected timelines must be supported by commitments of full production and distribution from one or more manufacturers and retailers to assure production and sale of these units nationally. A projected retail price must be included, including any dealer markups and, to the extent possible, relating cost factors to specific features of the decoder.

Finally, the project must include an evaluation plan that allows monthly tracking and reporting of the number of subsidized decoders produced, the number of decoders distributed but unsold, the number (if any) of decoders on backorder, the number (if any) and type of complaints received relating to the decoder, and the number and type of service requests received.

Intergovernmental Review

This program is subject to the requirements of Executive order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Authority: 20 U.S.C. 1451.

Dated: March 30, 1989.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.026: Educational Media Research, Production, Distribution, and Training)

[FR Doc. 89–9058 Filed 4–14–89; 8:45 am]

BILLING CODE 4000–01–M

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Monday
April 17, 1989

Part III

Department of Education

34 CFR Part 307

Services for Deaf-Blind Children and Youth; Final Regulations and Notice

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DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Part 307

RIN 1820-AA53

Services for Deaf-Blind Children and Youth Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Services for Deaf-Blind Children and Youth program. These regulations are needed to implement the amendments to Section 622 of the Education of the Handicapped Act (EHA) included in the EHA Amendments of 1986, Pub. L. 99-457. In addition, the amendments to the regulations are needed to implement programmatic changes, including the way the Secretary makes awards to State and multi-State projects under § 307.11.

EFFECTIVE DATE: These regulations take effect either June 1, 1989, or later if the Congress takes certain adjournments. A document announcing the effective date will be published in the **Federal Register**. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: R. Paul Thompson, Severely Handicapped Branch, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 4620), Washington, DC 20202-2734.

SUPPLEMENTARY INFORMATION: These regulations have been prepared to implement Section 622 of Part C of the EHA, as amended by the EHA Amendments of 1986, Pub. L. 99-457, and to make programmatic changes in the regulations. These changes do not alter principal objectives or activities authorized under this authority, but rather clarify and support the central thrust of the program.

On November 22, 1988, the Secretary published a notice of proposed rulemaking for the Services for Deaf-Blind Children and Youth program in the **Federal Register** (Volume No. 53, pages 47406-47410). The NPRM included a discussion of the following proposed major changes: (1) Provision was added for the support of extended school-year programs; (2) new, weighted criteria were added for the evaluation of applications submitted under this program; (3) provision was made for the national technical assistance providers, upon request from a § 307.11 grantee or a State educational agency, to extend technical assistance to other public and private agencies and organizations that provide services to deaf-blind children and youth; (4) factors were established that the Secretary considers for determining the amount of awards for State and multi-State deaf-blind projects; (5) provision was made for the preparation of a coordinated plan for each deaf-blind child and youth served; (6) provision was made for State and multi-State projects to provide technical assistance to other public and private agencies and organizations providing educational and related services to deaf-blind children and youth in addition to previous authority to provide technical assistance to State educational agencies; (7) specific provision for support of data analysis and dissemination activities was deleted; and (8) a requirement was added that State and multi-State projects for deaf-blind children and youth and technical assistance providers coordinate the provision of their services with other relevant service providers of deaf-blind children and youth.

A technical change has been made to § 307.33(f)(2) to correct the reference in the NPRM to the State Operated or Supported Programs for Handicapped Children Program under Title I of the Elementary and Secondary Education Act of 1965.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, four parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Issues are discussed under the section of the regulations to which they pertain.

Section 307.4

Comment: One commenter expressed concern that the addition to the regulations at § 307.4 of a definition of "severely handicapped children and youth," might be interpreted as placing deaf-blind individuals into that classification without adequate consideration of the widely varying levels of cognitive abilities of deaf-blind individuals.

Discussion: The addition to the regulations of the definition of severely handicapped children and youth is necessary to define the term used in § 307.10(d), which makes provision for support of extended school year demonstration programs for this population. As defined, the term includes not only those individuals with severe mental retardation, but also those persons, like the entire deaf-blind population, who have two or more serious handicapping conditions.

Change: None.

Section 307.10

Comment: One commenter expressed concern that removal of provision for dissemination activities, formerly addressed under §§ 307.10(e) and 307.15 from the regulations signaled a perceived Department intent to no longer support those activities.

Discussion: It was not the intent of the Secretary to discontinue support for dissemination activities under this program. Section 622(d) of the EHA requires the Secretary to disseminate materials and information concerning effective practices in working with deaf-blind children and youth. The removal of dissemination activities from the regulations does not mean that the Secretary will no longer support these activities.

Change: None.

Comment: One commenter expressed concern that adding extended school year demonstration programs to the list of authorized activities in § 307.10 would decrease the funds available to pre-existing program initiatives.

Discussion: Authorization to support extended school year demonstration projects was added to the program legislation at section 622(e) of the EHA by the EHA Amendments of 1986. The Secretary believes this change is needed to implement congressional direction.

Change: None.

Section 307.11

Comment: One commenter suggested changing the language of § 307.11(a)(1)(i), which discussed "children and youth at risk of being identified as deaf-blind," to read: "children and youth who, due to their presenting handicaps, need thorough diagnosis and evaluation in order to determine the presence or absence of deaf-blindness" because the existing language carried deprecating implications to being identified as deaf-blind.

Discussion: The language, "children and youth at risk of being certified deaf-blind," is used in the statute. While sensitive to the commenter's concern for any negative implications that might be seen in this language, the Secretary has decided that the language in the regulation is necessary to include those children and youth whose age or severity of handicap might prohibit conclusive diagnosis and evaluation. No negative connotations are intended.

Change: None.

Section 307.12

Comment: One commenter recommended that technical assistance provided under proposed § 307.12 be made available only upon request of the State educational agency or a grantee funded under § 307.11 to other agencies, institutions, and organizations. A second commenter expressed concern that States should have more control on decisions about the amount and type of technical assistance given to them by the § 307.12 grantee.

Discussion: The proposed regulations at § 307.12(b) were intended to require that technical assistance be provided at the request of the State educational agency or grantee. The Secretary agrees that the regulations should have adequate controls to assure that the organization requesting technical assistance and the provider of the technical assistance reach concurrence on what is provided.

Change: A change has been made to the program regulations at § 307.12(a) to clarify that the § 307.12 grantee can provide technical assistance in support of the activities authorized under § 307.11. The proposed regulations at § 307.12(b) have been modified, and a new paragraph § 307.12(c) has been added to reflect the changes suggested.

Section 307.15

Comment: One commenter objected to the deletion of § 307.15, because he favored continued support for dissemination activities.

Discussion: As discussed above in the material under § 307.10, section 622(d) of the EHA requires the Secretary to disseminate materials and information concerning effective practices in working with deaf-blind children and youth. The Secretary will continue to support dissemination activities.

Change: None.

Section 307.31

Comment: Three commenters expressed general approval of the proposal in the notice of proposed rulemaking to create equity in allocation of funds among State and multi-State projects by identifying the factors to be considered in funding decisions. Two of those commenters, however, raised concern that in the Secretary's consideration of the factors described at proposed § 307.31 (a)-(d) for determining the amount of an award under proposed § 307.11, sufficient attention may not be given to certain States having small populations, limited resources, or lower relative costs for education. The third commenter suggested that there be a three-year phasing in period for the adoption of this "formula" so that shifts in funding levels occur gradually.

Discussion: The factors identified at proposed § 307.31 will permit the Secretary sufficient flexibility to consider the unique needs, resources, and costs of each applicant. The criteria used for determining the amount of awards are not part of a funding formula. Instead they provide a flexible basis for determining funding levels based on multiple factors. Thus, no phase-in period is appropriate as this procedure is not a fixed formula for the award of funds.

Change: None.

Section 307.33

Comment: One commenter recommended deleting § 307.33(b)(2) which required consideration of the extent to which the applicant's plan for services and technical assistance implements current research and exemplary practices including, among other things, provision of the maximum integration of deaf-blind children and youth in the least restrictive environment. The commenter believed that deaf-blind children and youth should be served in the environment appropriate to their needs.

Discussion: The proposed regulations are intended to assure that all deaf-blind children and youth be appropriately served by grantees under this program, with all due consideration of their individual skills and differences. The proposed regulations do not preclude a grantee from serving these children in any environment in which they are placed, but do prefer applications that implement current research and exemplary practices, including the education of handicapped children, including children in public or private institutions or other care facilities, to the maximum extent appropriate with children who are not handicapped. It is the intention of the Secretary that grants awarded under this program promote the upgrading and improvement of services to all deaf-blind children and youth, while encouraging their placement in the least restrictive environment appropriate to their needs.

Change: None.

Comment: One commenter recommended that experience in providing quality educational services to deaf-blind children and youth in least restrictive environments be deleted from proposed § 307.33(c) as a criterion in the selection of key project personnel, as he did not believe this experience to be pertinent to serving all deaf-blind children and youth.

Discussion: The intent of the selection criteria in the proposed regulations was that experience in providing quality educational services to deaf-blind children and youth in least restrictive environments be represented within the key personnel of each project, rather than that all project personnel be expected to have this experience.

Change: The regulations of § 307.33(c)(3) have been modified to clarify that experience in providing quality educational services to deaf-blind children and youth in the least restrictive environments appropriate to their needs be represented in the key project personnel.

Comment: One commenter expressed the need to specify and give a heavy weighting factor to evidence of the support of the State educational agency of the State where services are proposed to be provided, in the procedure identified in proposed § 307.34 for selecting among two or more applications for State or multi-State projects proposing to serve the same State.

Discussion: The Secretary agrees that the support of the appropriate State educational agency, along with other agencies serving deaf-blind children and youth, is very important for the successful implementation of any State or multi-State deaf-blind project. The weight given the proposed coordination factor (§ 307.33(f)) is sufficient to encourage effective coordination by grantees with relevant agencies.

Change: The selection criteria at 34 CFR 307.33(f) have been modified to include consideration of evidence that an applicant will be able to coordinate its activities with State educational agencies, in addition to other appropriate agencies within the State serving deaf-blind children and youth.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local

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governments for coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 307

Education, Education of handicapped, Education—research, Grants program—education, Reporting and recordkeeping requirements, Teachers.

Dated: March 2, 1989.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.025, Services for Deaf-Blind Children and Youth)

The Secretary amends Part 307 of Title 34 of the Code of Federal Regulations as follows:

PART 307—SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH

1. The authority citation for Part 307 is revised to read as follows:

Authority: 20 U.S.C. 1422, unless otherwise noted.

2. In § 307.4, paragraph (b) is amended by adding "Severely handicapped children and youth (§ 315.4(d))" in alphabetical order to the list of terms defined, and by revising the heading and introductory text, and the authority citation, to read as follows:

§ 307.4 What definitions apply to the Services for Deaf-Blind Children and Youth Programs?

* * * * *

(b) *Definitions in 34 CFR Part 300 and Part 315.* The following terms used in this part are defined in 34 CFR Part 300 or Part 315.

* * * * *

(Authority: 20 U.S.C. 1401 (1), (16), (17), and (18), and 20 U.S.C. 1424)

3. Section 307.10 is amended by revising paragraph (a), removing paragraphs (d) and (e), adding "and" at the end of paragraph (c), and adding a new paragraph (d), to read as follows:

§ 307.10 What types of activities are considered for support under this part?

* * * * *

(a) Services to deaf-blind children and youth and technical assistance to agencies, institutions, and organizations, as described in § 307.11;

* * * * *

(d) Extended school year educational or related service demonstration projects for severely handicapped children and youth, including children and youth who are deaf-blind, if those activities are provided during an interim period of at least four weeks between two regular school terms.

(Authority: 20 U.S.C. 1422)

4. Section 307.11 is amended by revising the section heading and adding a new paragraph (a)(1)(iv), revising the introductory text of paragraph (a)(2), removing "and" from the end of paragraph (a)(2)(iv), removing the period at the end of paragraph (a)(2)(v) and adding in its place, "; and", adding a new paragraph (a)(2)(vi), revising paragraph (b)(1), removing "and" from the end of paragraph (c)(1), revising paragraph (c)(2), adding a new paragraph (c)(3), revising paragraph (d) and removing paragraph (e) to read as follows:

§ 307.11 What types of services to deaf-blind children and youth and technical assistance are considered for support under this part?

(a) * * *

(1) * * *

(iv) Preparation of a coordinated plan for each child and youth served, describing all the services provided under paragraphs (a)(1) (i) through (iii) of this section. These services must be in accordance with other Federal and State programs.

(2) Technical assistance to public and private agencies, institutions, and organizations providing educational, transitional, vocational, early identification, and related services to deaf-blind children and youth, to assure that they may more effectively—

* * * * *

(vi) Promote the integration of deaf-blind children and youth with other handicapped and nonhandicapped children and youth.

(b)(1) Each grantee under this section shall give priority in the use of project funds to the provision of services described in paragraph (a)(1) of this section and to the provision of technical assistance as described in paragraph (a)(2) of this section.

* * * * *

(c) * * *

(2) Provide technical assistance to the public and private agencies, institutions, and organizations served under paragraph (a)(2) of this section in the development and implementation of procedures for evaluating the effectiveness of services they provide to deaf-blind children and youth; and

(3) Engage in on-going coordination with the State educational agency, the State's lead agency under Part H of the EHA, and other State agencies responsible for providing services to deaf-blind children and youth, in the provision of services under this section.

(d) For the purpose of making awards under § 307.11, the Secretary may make awards for single or multi-State projects. Each State may be served through only one project.

(Authority: 20 U.S.C. 1422)

5. Section 307.12 is amended by revising paragraphs (a) and the introductory text of (b) and adding a new paragraph (c) to read as follows:

§ 307.12 What types of technical assistance to grantees under § 307.11 are considered for support under this part?

(a) The Secretary may provide financial assistance under this part for projects that establish and support programs for the provision of technical assistance on the activities authorized under § 307.11.

(b) Technical assistance services made available under this section must be requested by a grantee under § 307.11 or a State educational agency, and may be extended at the request of the § 307.11 grantee or a State educational agency to other agencies, institutions, and organizations providing services to deaf-blind children and youth, to—

* * * * *

(c) Technical assistance services made available under this section are to be determined by mutual agreement between the § 307.12 technical assistance grantee and the § 307.11 grantee or the State education agency.

(Authority: 20 U.S.C. 1422)

§ 307.14, 307.15 and 307.20 [Removed]

6. Sections 307.14, 307.15, and 307.20 are removed.

7. Section 307.31 is revised to read as follows:

§ 307.31 How does the Secretary determine the amount of an award under § 307.11?

In determining the funding level for each award under § 307.11 for a single or multi-State deaf-blind services project, the Secretary considers the following factors:

(a) The number of children and youth in the States the applicant proposes to serve.

(b) The number of deaf-blind children and youth in the State benefiting from services under § 307.11(a) (1) and (2) in relation to the total number of such children in all States.

(c) The relative cost of providing services authorized under this part to deaf-blind children and youth in the States the applicant proposes to serve.

(d) The quality of the application submitted under this part evaluated on the basis of the criteria in § 307.33.

(Authority: 20 U.S.C. 1422)

8. A new § 307.32 is added to read as follows:

§ 307.32 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application submitted under § 307.11 on the basis of the criteria in § 307.33. If more than one eligible application is received on behalf of any State for an award under § 307.11, the Secretary uses the procedures established in § 307.34. The Secretary uses the selection criteria in § 307.35 or 307.36 to evaluate applications submitted for other types of activities authorized under this part.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1422)

9. A new § 307.33 is added to read as follows:

§ 307.33 What criteria does the Secretary use to evaluate an application?

The Secretary uses the following criteria to evaluate the quality of an application submitted under § 307.11. Each applicant may receive up to a total of 100 points. Each application will be evaluated based only on those factors of each criterion that relate to the service needs of the States the applicant proposes to serve.

(a) *Justification for the project, extent of need, and expected impact.* (15 points) The Secretary reviews each application to determine the justification for the proposed activities in each State, based on the extent of State need for and expected impact from the provision of services and technical assistance, including consideration of—

(1) The age, number, and location of deaf-blind children and youth in the State to whom the State is not obligated to provide a free appropriate public education under Part B of the EHA, to whom the State is not providing special educational and related services under some other authority, and to whom the applicant proposes to provide services;

(a) The Specific actions needed for the provision of educational and related services to deaf-blind children and youth based on the State's plan for delivery of services to students with handicaps required under Parts B and H;

(3) The specific actions needed for the provision of technical assistance addressed by the project based on the State's plan for provision of technical assistance to providers of services to deaf-blind children and youth;

(4) The expected benefits to be gained by providing the educational and related services to deaf-blind children and youth to be served by the project, their parents and service providers; and

(5) The expected benefits to be gained by meeting the technical assistance needs of service providers to be assisted by the project.

(b) *Quality of services and technical assistance.* (40 points) The Secretary reviews each application to determine the quality of the plan to provide services and technical assistance in each State to be served, including—

(1) The quality of the design of the project for providing each of the educational and related services described under § 307.11(a)(1), and for providing technical assistance as described under § 307.11(a)(2);

(2) The extent to which the applicant's plan for providing services and technical assistance implements current research findings and exemplary practices including arranging for services that are age-appropriate for project participants, and providing for the maximum integration of deaf-blind children and youth in the least restrictive environment;

(3) How well the objectives of the project respond to the needs of deaf-blind children and youth in the State, their parents, and service providers;

(4) The extent to which the plan of management is effective and ensures proper and efficient provision of educational and related services and technical assistance, and reflects an analysis of the service needs of deaf-blind children and youth in the State;

(5) How well the objectives of the project relate to the purpose of the program;

(6) How the project will assist the State in developing and implementing the State's Comprehensive Systems of Personnel Development required under Parts B and H of EHA;

(7) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition;

(8) The quality of the applicant's plan for providing consultative and training services for families of deaf-blind children and youth as described in § 307.11(a)(1)(iii);

(9) The quality of the applicant's plan to involve parents in the development and delivery of appropriate services to their deaf-blind children and youth; and

(10) The extent to which services provided for children birth through two years of age meet the requirements of Part H of the EHA.

(c) *Quality of key personnel.* (10 points) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use on the project for the provision of services to deaf-blind children and youth and technical assistance to agencies, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used in the project;

(3) The experience among key personnel referred to in paragraphs (c)(1) and (2) of this section, relevant to the provision of quality educational services to deaf-blind children and youth in less restrictive environments.

(4) The time that each person referred to in paragraphs (c)(1) and (2) of this section will commit to the project; and

(5) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee)

(e) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine for technical assistance, and direct services where

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appropriate, in each State to be served, the extent to which—

(1) The budgets are adequate to support the activities;

(2) Costs are reasonable in relation to the objectives of the project; and

(3) Costs reflect—

(i) The time anticipated to be spent by each staff member for the provision of services described under § 307.11(a)(1) and costs for contracted and consultative services, travel costs, and other direct costs;

(ii) The time anticipated to be spent by each staff member for the provision of technical assistance under § 307.11(a)(2), and costs for contracted and consultative services, travel, and other related expenditures for technical assistance activities; and

(iii) The time anticipated to be spent for administrative services.

(Authority: 20 U.S.C. 1422)

(f) *Coordination.* (5 points) The Secretary reviews each application to determine the adequacy of the applicant's procedures for initiating and maintaining coordination in each State to be served with—

(1) Related activities funded from grants, contracts, and cooperative agreements awarded under Parts C, D, E, F, and G of the EHA; and

(2) Relevant agencies, organizations, and institutions having responsibility to deliver services to deaf-blind children and youth in the State, including State education agencies and other service providers under Parts B and H of the EHA and section 1221 *et seq.* of Title I of the Elementary and Secondary Education Act of 11965.

(g) *Dissemination.* (5 points) The Secretary reviews each application to determine the adequacy of the applicant's procedures for disseminating significant project information within the State(s) to providers of services to deaf-blind children and youth.

(Authority: 20 U.S.C. 1422)

(OMB Control No. 1820-0028, expires 9-89)

10. A new § 307.34 is added to read as follows:

§ 307.34 What procedures does the Secretary use if more than one application for an award under § 307.11 proposes to serve the same State?

If more than one eligible application is received on behalf of any State for an award under § 307.11, the Secretary applies the selection criteria in § 307.33 and selects the highest ranked application for funding.

(Authority: 20 U.S.C. 1422)

11. A new § 307.35 is added to read as follows:

§ 307.35 What are the selection criteria used to evaluate an application under § 307.10(d)?

The Secretary uses the selection criteria in 34 CFR 315.33 to evaluate an application for an extended school year project under § 307.10(d).

(Authority: 20 U.S.C. 1422)

(OMB Control No. 1820-0028, expires 9-89)

12. A new § 307.36 is added to read as follows:

§ 307.36 What are the selection criteria used to evaluate an application under § 307.12 or § 307.13?

The Secretary uses the following criteria to evaluate an application for the provision of technical assistance under § 307.12 or § 307.13:

(a) *Extent of need and expected impact of the project.* (25 points) The Secretary reviews each application to determine the extent to which the project will assist in meeting national needs in the provision of services to deaf-blind children and youth, including consideration of—

(1) The extent and importance of the needs addressed by the project;

(2) The expected benefits to deaf-blind children and youth served by the project, their parents, and service providers; and

(3) The national significance of the project in terms of potential benefits to deaf-blind children and youth who are not directly involved in the project.

(b) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(c) *Quality of key personnel.* (15 points) (1) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (c)(1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications under paragraphs (c)(1) (i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(d) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(e) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(f) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(g) *Dissemination plan.* (5 points) The Secretary reviews each application to determine the quality of the dissemination plan for the project, including the extent to which the applicant's plan—

(1) Ensures proper and efficient dissemination of project information throughout the Nation; and

(2) Adequately includes the content, intended audiences, and timelines for production of all project documents and other products that the applicant will disseminate.

(Authority: 20 U.S.C. 1422)

(OMB Control No. 1820-0028, expires 9-89)

§ 307.40 [Removed]

13. Section 307.40 is removed.

§ 307.42 [Removed]

14. Section 307.42 is removed.

[FR Doc. 89-9059 Filed 4-14-89; 8:45 am]

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DEPARTMENT OF EDUCATION

Services for Deaf-Blind Children and Youth; Invitation for Applications for New Awards for Fiscal Year 1989

Title of Program

Services for Deaf-Blind Children and Youth. CFDA 84.025.

Purpose

To provide support for projects that enhance services to deaf-blind children and youth, particularly by providing technical assistance to State educational agencies and others who are involved in the education of deaf-blind children and youth.

Applicable Regulations

(a) The Services for Deaf-Blind Children and Youth Program Regulations, 34 CFR Part 307, as amended in this issue of the **Federal Register**, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 79, 80, and 85.

Priorities

In accordance with 34 CFR 307.10 and the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary will give an absolute preference under the Services for Deaf-Blind Children and Youth Program, CFDA 84.025, in fiscal year 1989, to applications that respond to the following priorities; that is, the Secretary will select for funding only those applications proposing projects that meet these priorities.

Priority 1: State and Multi-State Deaf-Blind Projects (84.025A)

This priority supports State and multi-State deaf-blind projects for services to deaf-blind children and youth, and technical assistance to agencies, institutions and organizations as described in 34 CFR 307.11.

This priority provides the opportunity for a State presently participating in a multi-State project for deaf-blind children and youth to apply for a single State project.

Priority 2: Technical Assistance for Transitional Services (84.025E)

This priority supports one project to provide technical assistance for transitional services as described in 34 CFR 307.13.

The Secretary particularly invites applications for technical assistance services on a national basis that include a process for assessing the technical assistance needs of each State by involving the State agencies responsible for special education and ongoing and short-term adult services; that facilitate the involvement of parents of youth with deaf-blindness in the promotion and implementation of these activities; and that focus on the development and improvement of transitional services, including employment training and support, recreation and leisure programs, and independent and supported living programs, that are provided in integrated community settings where regular contacts occur with persons who are not disabled. However, in accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(1) an application that meets this invitational priority will not be given a competitive or absolute preference over other applications.

SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH

[Application Notices for Fiscal Year 1989]

[Applications will be available on April 17, 1989]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds	Estimated range of awards	Estimated size of awards	Estimated number of awards	Project period in months
State and Multi-State Projects for Deaf-Blind Children and Youth (CFDA No. 84.025A)	6-02-89	8-02-89	6,606,000	25,000 to 510,000	157,000	42	Up to 36.
Technical Assistance for Transitional Services (CFDA No. 84.025E)	6-02-89	8-02-89	600,000	600,000	600,000	1	Up to 36.

Eligible Applicants

Public or nonprofit private agencies, institutions, or organizations may apply for an award under these competitions.

For Applications or Information Contact: Joseph Clair, U.S. Department of Education, Division of Educational Services, 400 Maryland Avenue SW., Switzer Building, Room 4622, Washington, DC 20202. Telephone: (202) 732-4503

Program Authority: 20 U.S.C. 1422.

Dated: April 11, 1989.

Patricia McGill Smith,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

(Catalog of Federal Domestic Assistance No. 84.025; Services for Deaf-Blind Children and Youth Program.)

[FR Doc. 89-9060 Filed 4-14-89; 8:45 am]

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federal register

Monday
April 17, 1989

Part IV

Environmental Protection Agency

40 CFR Part 261

Mining Waste Exclusion Under Subtitle C of RCRA; Notice of Proposed Rulemaking

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL-3546-4]

Mining Waste Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 3001(b)(3)(A)(ii) of the Resource Conservation and Recovery Act (RCRA) excludes "solid waste from the extraction, beneficiation, and processing of ores and minerals" from regulation as hazardous waste under Subtitle C of RCRA, pending completion of certain studies by EPA. In 1980, EPA interpreted this exclusion (on a temporary basis) to encompass "solid waste from the exploration, mining, milling, smelting, and refining of ores and minerals" (45 FR 76619, November 19, 1980).

In today's notice, which supercedes and substantially revises the NPRM published on October 20, 1988, EPA is proposing to further define the scope of the Bevill exclusion with respect to mineral processing wastes. Specifically, the Agency is proposing to remove from the exclusion all mineral processing wastes except for six wastes proposed to be retained within the temporary exclusion and 33 other wastes proposed to be conditionally retained pending collection of data necessary to evaluate hazard. Thus, a two-stage rulemaking process is necessary in order for the Agency to complete determinations of Bevill exemption status for mineral processing wastes: one stage for wastes that the Agency already has adequate data to make such determinations, and a second stage for those for which insufficient data are available.

All mineral processing wastes, other than the 39 wastes referred to above, that exhibit one or more of the characteristics of hazardous waste would become subject to the requirements of Subtitle C of RCRA if today's rule is promulgated as proposed. All wastes retained within the Bevill exclusion when the two stages of this rule are promulgated will be studied in a Report to Congress pursuant to section 8002(p) of RCRA prior to a determination of their final regulatory status.

DATES: EPA will accept public comments on this proposal until May 31, 1989. The Agency will hold a public hearing on May 23, 1989 from 9:00 a.m. to 5:00, unless concluded earlier; see the section titled "Public Participation" for details.

ADDRESS: Those wishing to submit public comments for the record must send an original and two copies of their comments to the following address: RCRA Docket Information Center (OS-305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Place the docket #F-89-MWRP-FFFFF on your comments.

The OSW docket is located in room M2427 at EPA headquarters. The docket is open from 9:00 to 4:00 Monday through Friday, except for Federal holidays. Members of the public must make an appointment to review docket materials. Call (202) 475-9327 for appointments. Copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: RCRA/Superfund Hotline at (800) 424-9346 or (202) 382-3000 or Dan Derkics, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-3608.

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I. Overview

Section 3001(b)(3)(A)(ii) of the Resource Conservation and Recovery Act (RCRA) excludes "solid waste from the extraction, beneficiation and processing of ores and minerals" from regulation as hazardous waste under Subtitle C of RCRA, pending completion of certain studies by EPA. In 1980, the Agency interpreted this exclusion (on a temporary basis) to encompass all "solid waste from the exploration, mining, milling, smelting, and refining of ores and minerals" (45 FR 76619, November 19, 1980). In July, 1988, a Federal Court of Appeals (*Environmental Defense Fund* v. *EPA*, 852 F.2d 1316 (D. C. Cir. 1988), *cert. denied*, 109 S. Ct. 1120 (1989) (*EDF* v. *EPA*)) *found that this exclusion is based upon the "special waste" concept first proposed by EPA in 1978 (43 FR 58946) and that*

Congress intended the term "processing" in the Bevill Amendment to include only those wastes from processing ores or minerals that meet the "special waste" concept, that is "high volume, low hazard" wastes. 852 F.2d at 1328-29.

In compliance with this Court decision, on October 20, 1988 EPA published a proposal to further define the scope of the section 3001(b)(3)(A)(ii) of RCRA. (See 53 FR 41288) In the October 20, 1988 proposal, EPA presented a criterion for defining mineral processing wastes and a two-part criterion for identifying which mineral processing wastes are high volume, but proposed to defer judgment on the hazard posed by high volume mineral processing wastes until preparation of a required report to Congress. The Agency also applied the processing and volume criteria to its available data on mineral processing wastes, and identified 15 which it believed met the criteria, and which the Agency therefore proposed to retain within the exclusion and study for the report to Congress:

1. Slag from primary copper smelting
2. Process wastewater from primary copper smelting/refining
3. Blowdown from acid plants at primary copper smelters
4. Bleed electrolyte from primary copper refining
5. Slag from primary lead smelting
6. Blowdown from acid plants at primary zinc smelters
7. Process wastewater from primary zinc smelting/refining
8. Red and brown muds from bauxite refining
9. Phosphogypsum from phosphoric acid production
10. Slag from elemental phosphorus production
11. Iron blast furnace slag
12. Air pollution control dust/sludge from iron blast furnaces
13. Waste acids from titanium dioxide production
14. Air pollution control dust from lime kilns
15. Slag from roasting/leaching of chromite ore.

Today's proposal substantially revises and supplements the NPRM published on October 20, 1988. Based on comments received on the October 20, 1988 NPRM, EPA believes that, in spite of the technical difficulties associated with developing, and the very limited data available for applying, a criterion for evaluating the hazard of mineral processing wastes prior to the preparation of a report to Congress, such a criterion is required in order to identify those mineral processing wastes that are "special wastes". As a result, today's proposal includes a criterion for identifying mineral processing wastes that are clearly not low hazard and, therefore, not "special wastes" even if they are high volume. This criterion evaluates the corrosivity of the waste and the mobility and toxicity of constituents in the waste. Today's proposal also provides some clarification of the criterion used to define mineral processing wastes and modifies the volume criterion by deleting the total national volume test.

Based on these changes to the "special waste" criteria and the information provided in public comments, EPA is today proposing to remove from the Bevill exclusion all but 39 mineral processing wastes. Of the 39 mineral processing wastes being proposed today to be retained within the exclusion, the Agency believes that the following six wastes satisfy all of the "special waste" criteria described in today's proposal:

1. Slag from primary copper smelting
2. Slag from primary lead smelting
3. Red and brown muds from bauxite refining
4. Phosphogypsum from phosphoric acid production
5. Slag from elemental phosphorus production
6. Furnace scrubber blowdown from elemental phosphorus production.

In compliance with a Court ordered deadline, EPA intends to take final action on the Bevill status of these six wastes as well as the criteria used to determine which mineral processing wastes are "special wastes" by August 18, 1989. This final rule will complete the first stage of rulemaking regarding the Bevill status of mineral processing wastes.

The other 33 wastes are being proposed to be *conditionally* retained within the exclusion because they are mineral processing wastes that the Agency believes satisfy the volume criterion but for which the Agency does not currently have adequate data to evaluate compliance with the hazard criterion. The wastes that the Agency is today proposing to conditionally retain within the exclusion are:

1. Barren filtrate from primary beryllium processing
2. Raffinate from primary beryllium processing
3. Bertrandite thickener sludge from primary beryllium processing
4. Process wastewater from primary cerium processing
5. Ammonium nitrate process solution from primary lanthanide processing
6. Roast/leach ore residue from primary chrome ore processing
7. Gasifier ash from coal gasification
8. Cooling tower blowdown from coal gasification
9. Process wastewater from coal gasification
10. Bleed electrolyte from primary copper refining
11. Process wastewater from primary copper smelting/refining
12. Slag tailings from primary copper smelting
13. Calcium sulfate wastewater treatment plant sludge from primary copper smelting/refining
14. Furnace off-gas solids from elemental phosphorus production
15. Process wastewater from elemental phosphorus production
16. Fluorogypsum from hydrofluoric acid production
17. Air pollution control dust/sludge from iron blast furnaces
18. Iron blast furnace slag
19. Process wastewater from primary lead smelting/refining
20. Air pollution control scrubber wastewater from light weight aggregate production
21. Wastewater treatment sludge/solids from light weight aggregate production
22. Process wastewater from primary magnesium processing by the anhydrous process
23. Process wastewater from primary selenium processing
24. Process wastewater from phosphoric acid production
25. Wastes from trona ore processing
26. Basic oxygen furnace slag from carbon steel production
27. Leach liquor from primary titanium processing
28. Sulfate processing waste acids from titanium dioxide production
29. Sulfate processing waste solids from titanium dioxide production
30. Chloride processing waste acids from titanium and titanium dioxide production
31. Chloride processing waste solids from titanium and titanium dioxide production
32. Blowdown from acid plants at primary zinc smelters
33. Process wastewater from primary zinc smelting/refining.

In compliance with a Court ordered deadline, EPA plans to complete a second stage of rulemaking regarding the Bevill exemption status of mineral processing wastes. This will consist of a proposal by September 15, 1989 that identifies the proposed status of these 33 wastes with respect to the hazard criterion, as well as publication of a final rule by January 15, 1990 that identifies which of these 33 wastes will be retained within and which will be removed from the regulatory exclusion provided by the Bevill Amendment.

Those mineral processing wastes that remain temporarily excluded as of January 15, 1990 will be studied for a report to Congress that EPA is required by a Court order to prepare by July 31, 1990. Six months after submission of the report to Congress, EPA will make a determination as to whether Subtitle C regulation of these wastes is warranted.

If today's proposal is promulgated, all mineral processing wastes other than the 39 wastes listed above will be *permanently* removed from the Bevill exclusion. That is, the exclusion from Subtitle C regulation currently provided by section 3001(b)(3)(A)(ii) of RCRA would apply only to these 39 wastes after the effective date of the August 18, 1989 rulemaking. After the second stage of this rulemaking is completed, some or all of the 33 conditionally retained mineral processing wastes may be found to not be low hazard and may, accordingly, be removed from the exclusion.

Any commenters on today's proposal who believe that the Agency should add to or delete from the group of 39 wastes that are today proposed to either be retained within the temporary exclusion from Subtitle C requirements or conditionally retained pending collection of additional data must provide information that at least demonstrates the status of the waste (to be added or deleted) with respect to the mineral processing operation and high volume criteria. In the absence of compelling additional information that indicates that there are other high volume mineral processing wastes, the Agency plans to retain, at most, only the 39 mineral processing wastes identified above within the Bevill exclusion for "solid wastes from . . . processing ores and minerals".

The Agency is interested in receiving data and comments on all aspects of today's proposal. Of particular interest, however, are the following areas:

(1) Analytical data on the physical, chemical and radiological nature of the 33 proposed conditionally excluded wastes;

(2) The appropriateness of the toxicity and pH tests for identifying "low hazard" mineral processing wastes; and

(3) Whether the definition of "mineral processing" should be further narrowed beyond that contained in today's proposal. For example, should "mineral processing" be considered confined to only those mineral processing operations that are co-located with extraction and beneficiation operations?

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II. Background

A. History of the Mining Waste Exclusion for Mineral Processing Wastes

1. Introduction

Since the proposal of the first regulations under the Resource Conservation and Recovery Act (RCRA) in 1978, mineral processing wastes have been subject to a different regulatory framework than most other categories of potentially hazardous wastes. In the 1978 proposed rule implementing Subtitle C of RCRA, EPA introduced the "special waste" concept, which was based on the belief that these "special wastes" should, on a provisional basis, be regulated less stringently than other wastes because they were produced in very large volumes, were thought to pose less of a hazard than other wastes, and were generally not amenable to the management practices required by the technical standards being proposed for other hazardous wastes.

In 1980, Congress made this "special waste" concept a statutory requirement when it enacted the Bevill Amendment as part of the 1980 amendments to RCRA. The Bevill Amendment temporarily exempted fossil fuel combustion wastes, oil and gas field production wastes, mining and mineral processing wastes, and cement kiln dust waste from potential regulation as hazardous wastes under Subtitle C of RCRA. Most of the continuing controversy over the regulation of mineral processing wastes results from different interpretations of the legislative intent with regard to the Bevill Amendment, and of the subsequent Court decisions.

This section provides a summary and analysis of the history of the Bevill exclusion, from the initial enactment of RCRA through the present.

2. The Resource Conservation and Recovery Act and Proposed Subtitle C Regulations (1976–1980)

On October 21, 1976, Congress enacted the Resource Conservation and Recovery Act (Pub. L. 94–580). Section 3001 of RCRA mandated that the EPA Administrator "promulgate regulations identifying characteristics of hazardous waste, and listing particular hazardous wastes which shall be subject to the provisions of this subtitle." Section 3004 required the Administrator to promulgate standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. Congress did not explicitly address the regulation of mining and mineral processing wastes, but Section 8002(f) instructed the EPA Administrator to conduct:

> * * * a detailed and comprehensive study on the adverse effects of solid wastes from active and abandoned surface and underground mines on the environment, including, but not limited to, the effects of such wastes on humans, water, air, health, welfare, and natural resources * * *"

This study requirement was based upon the Congressional recognition that mining wastes were generated in larger quantities than any other type of solid waste, and that historical and, perhaps, contemporary mining wastes management practices, could pose danger to human health and the environment. Mandated study factors included sources and volumes of wastes generated, present and alternative disposal practices, potential danger posed by surface runoff and fugitive dust emissions, the cost of waste management alternatives, and the potential for use of discarded materials as secondary sources having mineral value. The House report (No. 94–1491) accompanying the RCRA bill indicates that the focus of EPA's inquiry was to be the environmental and technical adequacy of current waste management practices, with economic practicality being a secondary consideration.

On December 18, 1978, EPA proposed its regulations for managing hazardous wastes under Subtitle C of RCRA (43 FR 58946). These proposed regulations introduced the "special wastes" concept, upon which most of the debate concerning the regulatory status of mineral processing wastes has been focused. "Special waste" referred to wastes that were generated in large volumes, were thought to pose less risk to human health and the environment than other hazardous wastes, and for which the proposed technical requirements implementing Subtitle C might not be appropriate. EPA identified waste materials from the "extraction, beneficiation, and processing of ores and minerals" as one of six such "special wastes" under the proposed regulations.[1] EPA proposed to defer most of the RCRA Subtitle C requirements for these special wastes until information could be gathered and assessed that would enable EPA to determine the most appropriate regulatory approach.

In the fall of 1979, EPA completed a draft background document that outlined the development of EPA's methodology for determining which materials qualified as "special wastes" (Introduction and Criteria for Special Waste, November 2, 1979, EPA Docket #A–DI–SS0062). The background document presents the eight criteria that were used to develop the original list of "special wastes" for the December 18, 1978 proposed Subtitle C regulations:

1. Limited information on waste characteristics;
2. Limited information on the degree of human health and environmental hazard posed by disposal;
3. Limited information on waste disposal practices and alternatives;
4. Very large volumes and/or large number of facilities;
5. Limited movement of wastes from the point of generation;
6. Few, if any, documented damage cases;
7. Apparent technological difficulty in applying current Subpart D[2] regulations to the waste because of volumes involved at typical facilities; and
8. Potential high economic impact if current Subpart D regulations are imposed.

The background document states further that criteria 1, 2, 3, 4, and 7 were the driving forces in the decision-making process for the 1978 proposed Subtitle C regulations, while the other criteria were met to some degree for individual wastes.

EPA received many public comments on the proposed Subtitle C regulations. The background document indicates that the Agency incorporated many of these comments, as well as its own continuing analysis, when it revised the criteria used to designate "special wastes." The concluding section discussed the four criteria that EPA, at that point, intended to use to evaluate petitions to designate a waste as a "special waste:"

1. The waste is or is anticipated to be generated and disposed in large volumes. This determination would be based on the national volume generated per year; the projected volume of waste generated over the next decade; the volume of waste disposed at a typical disposal facility; and extraneous siting restrictions on the generator.
2. The waste should be uniform, i.e., the waste exhibits the same characteristics whenever disposed, and is amenable to being predominantly managed without being mixed with other wastes.
3. The waste must pose only a low potential hazard to human health and the environment. This determination would be based on the class of hazard of the waste; the chemical composition and physical characteristics of the waste; results of the application of 40 CFR 250 Subpart A [now 40 CFR Part 261] procedures for determining hazardous characteristics and other available testing information (although ignitable, corrosive, or reactive wastes would be acceptable as special wastes at the discretion of the Administrator); and information on documented past damage cases.
4. Due to lack of information on current treatment, storage, and disposal practices and alternatives, the Agency would be unable to propose standards for control of the waste.[3]

Using the revised list of four criteria, the Agency considered expanding the list of six "special wastes" in the 1978 proposed Subtitle C regulations to a total of eleven:

1. Cement kiln dust waste;
2. Utility waste;
3. Phosphate mining, beneficiation, and processing waste;
4. Uranium mining waste;
5. Wastes from the extraction, beneficiation, and processing of ores and minerals other than phosphate rock and uranium ore;
6. Gas, oil, and geothermal drilling and production wastes;
7. Shale oil industry wastes;
8. Red muds [from bauxite refining];
9. Black muds [from bauxite refining];
10. Coal mining waste; and
11. Dredge spoils.

Though the special waste category was never promulgated, it is clear that EPA was responsible for amplifying the original study requirement under section 8002(f) into a regulatory concept, that the Agency had several specific criteria (principally low hazard, high volume, and infeasibility of Subtitle C technical requirements) that it employed to evaluate potential special wastes, and that the group of wastes that might have received the temporary exemption from full Subtitle C regulation was to be both finite and relatively small. The concept of and means of identifying special wastes continue to be relevant to and serve as the basis for the present rulemaking.

3. Final Subtitle C Regulations and the Solid Waste Disposal Act Amendments of 1980, Including the Bevill Amendment (1980)

Throughout 1980, Congress was conducting hearings to substantially amend RCRA. On February 20, 1980, Rep. Thomas Bevill (AL) offered an amendment which, among other things, amended section 3001 to temporarily exempt three categories of waste from Subtitle C regulation:

- Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;
- Solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and uranium ore; and
- Cement kiln dust waste.

These wastes were to remain exempt from Subtitle C regulation until completion of the studies required under sections 8002(f) and 8002(p), the latter of which was to be added to RCRA (these sections are discussed below).

From his statements before the Committee on Interstate and Foreign Commerce, it is apparent that Rep. Bevill offered his amendment primarily to prevent regulatory disincentives for the development of the nation's coal resources. Rep. Bevill stated that "the House [would] not allow EPA to take steps that will discourage the use of coal." Rep. Bevill noted that EPA "has very little information on the composition, characteristics, and degree of hazard posed by these [i.e., coal] wastes" and that the Agency believed that any potential hazards presented by the materials are relatively low.

Rep. Bevill also claimed that existing Federal and State regulation would sufficiently regulate wastes from the combustion of coal and other fossil fuels while EPA was undertaking the required studies. During the hearing, several other representatives spoke in favor of the Bevill amendment, specifically concerning refuse-derived fuel (Rep. Horton-NY), fly ash and slag from coal (Rep. Findley-IL), oil and gas muds and brines (Rep. Moffett-CT), and large volume coal wastes (Rep. Rahall-WV; Rep. Staggers-WV). Rep. Florio (NJ) submitted for the record results of EPA studies that documented the known health risks associated with radioactive uranium and phosphate wastes.

The discussion of mining wastes as a part of the Bevill Amendment was limited to brief comments by Rep. Williams (MT), who stated that wastes from mineral production should not be subject to Subtitle C regulation at that time. As an example of the limited potential hazard of these wastes, Rep. Williams paraphrased a National Academy of Sciences study, stating that slag waste generated by the smelting of copper

> . . . is basically inert and weathers slowly. The slag produced 2,500 years ago at King Solomon's mines north of Eliat, Israel, has not changed perceptibly over time.

Rep. Williams then continued

> Should wastes such as smelting slag be subject to stringent regulations at this time? I think not—not until a thorough study is conducted by the responsible agency which clearly proves the need for additional regulation. (Emphasis added.)

Based on Rep. Bevill's comments, it is apparent that the fundamental purpose of the amendment was to limit the impact of Subtitle C regulation on the coal industry (the Senate version of this bill, however, emphasized oil and gas field production wastes), at a time when the nation and the Congress were extremely concerned about energy self-sufficiency. Although the Bevill Amendment, as read into the record during the hearing, explicitly refers to mineral processing wastes, Rep. Bevill did not mention these wastes or respond to Rep. Williams' statements.

Almost all of the major components of the Bevill amendment were originally conceived by EPA. The Bevill amendment made the Agency's planned activities, as expressed in the 1978 proposed Subtitle C regulations and the 1979 "Special Waste" background document, statutory requirements. In fact, with very few exceptions, all of the specific provisions of the Bevill Amendment were lifted (often verbatim) from EPA rulemakings and related documents.

Furthermore, it is clear from the legislative history that the Bevill Amendment was designed to defer regulation of those wastes which EPA had defined as special wastes. Congressman Bevill referred specifically to EPA's 1978 special waste proposal in his explanation of the amendment, noting that EPA had asserted

> it did not have data on the effectiveness of current or potential waste management technologies or the technical or economic practicability of imposing its proposed regulations. In the same [12/18/78] announcement, EPA also stated that it believed that any potential hazards presented by the materials are relatively low.

26 *Cong. Rec.* 3361 (1980). Other Congressmen also referred to the Bevill wastes in terms of the EPA "special waste" concept. Congressmen Santini, Staggers, and Findley all supported the amendment on the basis that it would defer regulation of "special wastes" until EPA had completed the required study. *Id.* at 3348, 3349, 3363, 3365. Congressman Williams of Montana, in explaining why smelting slag should be studied (see above), noted that the Bevill Amendment "would direct [EPA] to evaluate *certain high volume, low toxicity* wastes so as to assure a reasoned set of regulations by which to manage these wastes." *Id.* at 3364. Clearly, the discussions on the floor of the House imply Congressional intent to incorporate the "special waste" concept into the Bevill Amendment definitions of

[1] The other five "special wastes" were cement kiln dust waste; utility waste; phosphate rock mining, beneficiation, and processing waste; uranium mining waste; and gas and oil drilling muds and oil production brines.

[2] 40 CFR Part 250, Subpart D contained the proposed RCRA Section 3004 management standards (43 FR 58008). These requirements are now found in final form at 40 CFR Parts 264–266).

[3] EPA also considered and rejected a number of criteria not included in the original list, including: adequacy of current waste management practices and resource recovery potential.

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excluded wastes. (See also 852 F.2d at 1327).

On May 19, 1980, EPA promulgated final regulations under Subtitle C of RCRA which addressed, among other things, "solid waste from the extraction, beneficiation, and processing of ores and minerals" (45 FR 33066). In promulgating these regulations, EPA decided to withdraw rather than finalize the "special waste" category. The Agency's stated basis for this decision was twofold:

(1) The thresholds for the (EP) extraction procedure toxicity and corrosivity characteristics tests (which are used to identify hazardous wastes subject to Subtitle C regulation) had been significantly relaxed. As a result, the number of wastes in general, and "special wastes" in particular, that would be potentially subject to Subtitle C regulation was greatly reduced.

(2) The Agency had incorporated more flexibility, through phasing and standard-setting, in Parts 264 and 265 (which contain the regulations for permitted and interim status owners/operators of hazardous waste facilities). Thus, a RCRA permit writer had the ability to take into account site-specific environmental characteristics and management practices (i.e., "special waste" study factors) in establishing permit requirements.

As a result, the Agency concluded that these changes "accomplish the objectives of, and eliminate the need for, a special solid waste category." When EPA eliminated the "special waste" concept, it was aware of Congress' intention to exempt mining and mineral processing and other proposed "special" wastes from Subtitle C regulation because passage of the Solid Waste Disposal Act Amendments of 1980 (including the Bevill Amendment) was expected (Senate and House versions had been passed on June 4, 1979 and February 20, 1980, respectively).

On October 12, 1980, Congress enacted the Solid Waste Disposal Act Amendments of 1980 (Pub. L. 96-482), which added section 3001(b)(3)(A)(ii) (the Bevill Amendment) to RCRA. This section temporarily prohibits EPA from regulating, among other wastes, "solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore" as hazardous waste under Subtitle C of RCRA until at least six months after EPA completes and submits to Congress the studies required by section 8002(f), and by section 8002(p), which was also added to RCRA by the 1980 amendments. Section 8002(p) required the Administrator to study the adverse effects on human health and the environment, if any, of the waste from the disposal and utilization of "solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ores," and submit a Report to Congress on its findings by October 1983. The 1980 amendments also added section 3001(b)(3)(C), which requires the Administrator to make a regulatory determination, within six months of the completion of the section 8002 studies, whether to regulate mining wastes under Subtitle C of RCRA.

On November 19, 1980, EPA published an interim final amendment to its hazardous waste regulations to reflect this mining waste exclusion (45 FR 76618). The regulatory language incorporating the exclusion was identical to the statutory language, except EPA added the phrase "including coal." In the preamble to the amended regulation, however, EPA tentatively interpreted the exclusion to include "solid waste from the exploration, mining, milling, smelting, and refining of ores and minerals." The preamble made it clear that the Agency was interpreting the scope of the exclusions very broadly and that, over the next 90 days, EPA intended to review the legislative history of the Bevill amendment and the public comments received in response to the interpretation. The preamble indicated that based on this review, EPA would probably narrow the scope of the exclusion.

4. Litigation, the Hazardous and Solid Waste Amendments of 1984, and Bevill Exclusion Reinterpretations (1981–1988)

As noted above, the Solid Waste Disposal Act Amendments of 1980 amended section 3001 to require the EPA Administrator to make a regulatory determination regarding the wastes temporarily excluded from Subtitle C regulation within six months of submitting the required Report to Congress. EPA was required to submit the Report to Congress by October 1983. In 1984, the Concerned Citizens of Adamstown and the Environmental Defense Fund sued EPA for failing to complete the section 8002 studies and the regulatory determination by the statutory deadlines (*Concerned Citizens of Adamstown* v. *EPA* No. 84-3041, D.D.C., August 21, 1985). EPA explained to the District Court for the District of Columbia that the Agency planned to propose to "reinterpret" the scope of the mining waste exclusion so that it would encompass fewer wastes. Therefore, EPA suggested two schedules to the court: one for completing the section 8002 studies and submitting the Report to Congress, and one for proposing and taking final action on the reinterpretation. On August 21, 1985, the court ordered EPA to meet these two schedules; first, the Agency was to complete the section 8002 studies and Report to Congress by December 31, 1985, and to publish the regulatory determination by June 30, 1986; and second, EPA was to propose to reinterpret the Bevill exclusion and subsequently, to take final action on the proposed reinterpretation by September 30, 1986.

EPA submitted the Report to Congress on December 31, 1985. The Report to Congress provided information on sources and volumes of waste, disposal and utilization practices, potential danger to human health and the environment from mining practices, and evidence of damages. EPA focused on the mining industry segments that produced and/or concentrated metallic ores, phosphate rock, or asbestos.

On July 3, 1986, EPA issued its regulatory determination for the universe of mining wastes covered by the Report to Congress (51 FR 24496). The regulatory determination concluded that Subtitle C regulation of the wastes studied in the Report to Congress (i.e., extraction and beneficiation wastes) was not warranted at that time. This conclusion was based on EPA's belief that aspects of the Subtitle C standards were likely to be environmentally unnecessary, technically infeasible, or economically impractical when applied to mining waste. EPA announced its intention to develop a program for mining waste under Subtitle D of RCRA.

The July 3, 1986 regulatory determination was subsequently challenged in court (*Environmental Defense Fund* v. *EPA*, 852 F.2d 1309 (D.C.Cir. 1988)). The Court of Appeals upheld EPA's regulatory determination for extraction and beneficiation wastes.

In the interim, Congress enacted the Hazardous and Solid Waste Amendments to RCRA in 1984. These amendments added new requirements applicable to owners and operators of facilities that treat, store, or dispose hazardous waste, and included minimum technical standards for the design, construction, and operation of waste management units, land disposal restrictions, and corrective action requirements for continuing releases. In developing these new requirements, Congress considered their feasibility with respect to and potential impact on the management of certain categories of wastes. This concern was embodied in what was to become section 3004(x) of RCRA, the so-called "Simpson Amendment," which allowed the EPA Administrator to modify the Subtitle C technical standards for managing mining wastes, utility waste, and cement kiln dust waste, as long as protection of human health and the environment was assured.

In the floor debate on the Simpson Amendment, the Senate considered remarks concerning the types of wastes that would be eligible for the special status conferred by the amendment. Sen. Jennings Randolph (WV) read into the record the description of mining wastes that was contained in the committee report on the HSWA amendments. In this report, "solid wastes from mining and mineral beneficiation and processing" are described as "primarily waste rock from the extraction process, and crushed rock, commonly called tailings" The report continues by stating

[t]he 1980 amendments covered wastes from the *initial* stages of mineral processing, where concentrations of minerals of value are greatly increased through physical means, before applying *secondary* processes such as *pyrometallurgical or electrolytic methods. Smelter slag might also be included. . .* These wastes were considered *"special wastes"* under the 1978 proposed regulations as being of large volume and relatively low hazard. (Emphasis added.)

The remaining discussion in the excerpt from the committee report focuses on the potential difficulties of managing the huge volumes of waste rock and tailings associated with mineral exploitation under the new minimum technology standards under debate.

Thus, although the Congress explicitly considered the special study wastes in crafting the provisions of HSWA, there is nothing in either the amendments themselves or in the legislative record supporting them to suggest that Congress construed the term "mineral processing" broadly, i.e., to include wastes that are not "special wastes."

In keeping with its agreement in the *Adamstown* case, on October 2, 1985, EPA also proposed to narrow the scope of the Bevill exclusion (50 FR 40292). In preparing the proposed mining waste exclusion, EPA implicitly applied the "high volume, low hazard, special waste" concept from EPA's 1978 proposed hazardous waste regulations. The proposed rulemaking would have eliminated from the mining waste exclusion most wastes from the processing of ores and minerals; EPA proposed to retain bauxite refining muds, phosphogypsum from phosphoric acid plants, and slag from primary metal smelters and phosphorus reduction facilities within the Bevill exclusion. In the preamble, EPA stated that Congressional intent supported the Agency's special waste concept. The proposed rule did not, however, outline the criteria that EPA used to determine high volume or low hazard.

In response to the proposed reinterpretation, many commenters "nominated" additional wastes that they believed fit the "special waste" criteria, and therefore should also be excluded from Subtitle C regulation as "processing wastes." Because EPA had not explicitly defined the terms "high volume" or "low hazard" in the October 2, 1985 proposal, the Agency was unable to determine the regulatory status of these nominated wastes. EPA could not infer definitions for these terms based upon the four wastes listed in the proposal as meeting the "special waste" criteria. The public comments on the proposal and the Agency's analysis indicated that the proposed reinterpretation could not be finalized because it did not set out "practically applicable" criteria for distinguishing "processing" (i.e., high volume, low hazard ore and mineral processing residuals) from non-processing wastes (i.e., non-excluded) wastes. Moreover, the Agency was unsure whether such criteria could be developed. Therefore, faced with the court-ordered deadline for final Agency action in Adamstown, EPA withdrew the proposal on October 9, 1986 (51 FR 36233). As a consequence, the interpretation of the mining waste exclusion established in the November 19, 1980 rulemaking notice remained in effect.

The Agency's decision to withdraw its proposed reinterpretation of the mining waste exclusion was subsequently challenged in court (*Environmental Defense Fund* v. *EPA*, 852 F.2d 1316 (D.C. Cir. 1988), *cert. denied* 109 S. Ct. 1120 (1989) (*EDF* v. *EPA*)). In this case, the petitioners contended, and the Court of Appeals agreed, that EPA's withdrawal of its proposed reinterpretation of the Bevill Amendment was arbitrary and capricious because it reaffirmed an "impermissibly over-broad interpretation" of the Bevill Amendment. *EDF* v. *EPA*, 852 F.2d at 1328.

In reaching this decision, the Court found that the words "waste from * * * processing of ores and minerals" do not convey a self-evident, accepted meaning. *Id.* at 1327. Therefore, the Court reviewed the structure and the legislative history of the Bevill Amendment to ascertain the intent of Congress. The Court found that "[t]he structure of the Bevill Amendment suggests that the term "solid waste from the * * * processing of ores and minerals" should be interpreted in a manner consistent with the concept of large volume wastes. *Id.* The Court also decided that "[t]he legislative history of the Bevill Amendment establishes that the key to understanding Congress' intent is the concept of "special waste" articulated in the regulations proposed by EPA on December 18, 1978 following the enactment of RCRA." *Id.* See 43 FR 58911 (1978) and 50 FR 40293 (1985).

In explaining this decision, the Court cited statements made by members of Congress during the legislative consideration of the exclusion and the description of the provision in the Conference Report accompanying the legislation. Based on these indications of Congressional intent, the court concluded that

it is clear that Congress did not intend the mining waste exclusion to encompass all wastes from primary smelting and refining. On the contrary, Congress intended the term "processing" in the Bevill Amendment to include only those wastes from processing ores or minerals that meet the "special waste" criteria, that is, "high volume, low hazard" wastes. 852 F.2d at 1328–29.

Thus, when the Agency withdrew its October 2, 1985, proposed reinterpretation of the mining waste exclusion, which was based on implicit "special waste" criteria, EPA by default reverted to its November 19, 1980, interpretation of the exclusion, which did not distinguish between high volume, low hazard processing wastes and other processing wastes. As a consequence, the number of temporarily excluded processing wastes remained very large. The Court ruled that this result was inconsistent with Congressional intent. Therefore, the Court ordered EPA to propose, by October 15, 1988, a specific list of mineral processing wastes that meet the criteria of high volume and low hazard, and thus remain temporarily excluded from Subtitle C regulation. 852 F.2d at 1331.

5. Analysis and Implications

From the foregoing, it is clear that EPA has considerable latitude in defining the scope of the Bevill exclusion for mineral processing wastes, within the boundaries of Congressional intent. The legislative history of the Bevill Amendment indicates that the Congress was relying very heavily upon EPA's "special waste" concept when it created the exclusion, and that it therefore implicitly accepted the Agency's ideas regarding the definition of special wastes, as well as the importance of the study factors that were ultimately written into the RCRA statute. This central fact has several

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important implications for how EPA can and should respond to the Appeals Court directive to modify the scope of the Bevill exclusion for mineral processing wastes.

The first is that, contrary to the assertions of several commenters, there is no basis for concluding that the Congress intended the scope of the Bevill exclusion for mineral processing wastes to be broad. As noted above, EPA had identified a small number of special wastes as worthy of special study in 1978, and clearly had no intention of studying more than a few other materials when it prepared the background document for the special wastes concept. For its part, the Congress did little to indicate that it wanted EPA to expand the intended scope of the study requirement when it considered the issue in 1980. The only suggested departure from EPA's original short list of wastes is that metal smelting slags also be included, based upon the remarks of Rep. Williams, which were never challenged on the House floor or subsequently. Therefore, and in keeping with the Appeals Court directive, EPA can and should significantly narrow the scope of the Bevill exclusion for mineral processing wastes.

Moreover, as discussed at length in the Appeals Court decision that precipitated the current rulemaking, EPA is obliged to consider whether candidate wastes are high volume and low hazard in making Bevill mineral processing waste exclusion decisions. These two factors are, and have always been, the key elements in identifying special wastes. High volume is the principal indicator of whether a particular waste is amenable to management under Subtitle C of RCRA. A consideration of hazard is necessary to identify and remove from the exclusion wastes that may pose risk or hazard to such a great extent or magnitude that they cannot be considered "special wastes," irrespective of volume. There is, however, no statutory directive or legislative or regulatory guidance addressing the specific components of the necessary high volume and low hazard criteria. Therefore, EPA is free to use its discretion in developing and applying these criteria.

EPA requests comment on its approach for defining the scope of the Bevill mineral processing waste exemption, in light of the legislative history discussed above. In particular, the Agency has considered, and solicits comments on, whether the scope of the exemption should be narrowed to those wastes that are both generated at mineral processing operations that are co-located with extraction and beneficiation operations and meet the "special waste" criteria.

B. Summary of the October 20, 1988 NPRM

In compliance with the Court order in *EDF* v. *EPA*, on October 20, 1988, EPA published a new proposed reinterpretation of the Bevill exclusion and listed 15 specific high volume processing wastes that the Agency designated as "special wastes" based on criteria discussed in the proposal. (See 53 FR 41288.) Under the proposal, these wastes would remain within the Bevill exclusion and hence be studied in a Report to Congress and be subject to a subsequent regulatory determination pursuant to section 3001 of RCRA.

In the proposal, EPA outlined the criteria it used to determine whether a mineral processing waste was a "special waste." The Agency examined three types of criteria in selecting the specific wastes to be retained within the Bevill exclusion: (1) a criterion for identifying wastes from ore and mineral "processing"; (2) a criterion for identifying "high volume" wastes from ore and mineral processing; and (3) a criterion for identifying "low hazard" wastes from ore and mineral processing.

EPA interpreted the term "solid waste from the . . . processing of ores and minerals" to refer to solid wastes, including pollution control residuals, that are uniquely associated with mineral industry operations and that possess the following attributes:

(1) Follow beneficiation of an ore or mineral (if applicable);

(2) Serve to remove the desired product from an ore or mineral, or beneficiated ore or mineral;

(3) Use feedstock that is comprised of less than 50 percent scrap materials;

(4) Produce either a final mineral product or an intermediate to the final product; and

(5) Do not include operations that combine the product with another material that is not an ore or mineral, or beneficiated ore or mineral (e.g., alloying); fabrication (any sort of shaping that does not cause a change in chemical composition), except for casting of metal anodes and cathodes.

In developing the high volume criterion, EPA decided that any waste generated from the processing of ores or minerals, as defined above, that met either of the following tests would be designated a "high volume" processing waste:

(1) For a specific waste stream arising from mineral processing in any given mineral commodity sector (e.g., primary copper processing), the total quantity of the specific waste generated by all facilities in the United States in any one calendar year from 1982 through 1987 equals more than two million metric tons; or

(2) For a specific waste stream arising from mineral processing in any given mineral commodity sector, the specific waste stream is generated at an average rate (i.e., total quantity of the specific waste generated by all facilities in any one calendar year from 1982 through 1987 divided by the number of facilities generating the waste) of more than 50,000 metric tons per facilities per year.

EPA decided not to include a low hazard criterion for three reasons: (1) The existing data on mineral processing waste characteristics were insufficient to apply a low hazard criterion to these wastes; (2) the existing hazardous waste characteristics tests were inappropriate for mineral processing wastes; and (3) there was no appropriate substitute test for determining low hazard.

As a result, EPA adopted a two-step process for determining the wastes to be retained within the Bevill exclusion. Using the two criteria, EPA determined that the following 15 wastes would remain temporarily exempt from Subtitle C regulation and all other mineral processing wastes would be subject to regulation as hazardous wastes under Subtitle C if they exhibit one or more hazardous characteristics as defined by 40 CFR Part 261:

1. Slag from primary copper smelting
2. Process wastewater from primary copper smelting/refining
3. Blowdown from acid plants at primary copper smelters
4. Bleed electrolyte from primary copper refining
5. Slag from primary lead smelting
6. Blowdown from acid plants at primary zinc smelters
7. Process wastewater from primary zinc smelting/refining
8. Red and brown muds from bauxite refining
9. Phosphogypsum from phosphoric acid production
10. Slag from elemental phosphorous production
11. Iron blast furnace slag
12. Air pollution control dust/sludge from iron blast furnaces
13. Waste acids from titanium dioxide production
14. Air pollution control dust from lime kilns
15. Slag from roasting/leaching of chromite ore

III. Analysis of Public Comments on the 10/20/88 NPRM

In response to the October 20, 1988 NPRM, EPA received many written comments addressing a number of rule-related issues. This section summarizes public comments on the major issues pertaining to the October proposal, and provides, where appropriate, the Agency's tentative reactions to the issues raised. Final EPA responses to the issues discussed herein will be presented when the Agency promulgates the Bevill special waste criteria (by August 18, 1989).

A. The Definition of "Mineral Processing"

In the preamble to the October 20, 1988 proposed rule, EPA provided criteria for defining and identifying wastes from ore and mineral processing operations. These criteria made it clear that all solid wastes qualifying for exclusion under the Bevill Amendment must originate from a mineral processing operation as defined by the following elements:

(1) Excluded Bevill wastes must be solid wastes as defined by EPA.

(2) Excluded solid wastes must be uniquely associated with mineral industry operations.

(3) Excluded solid wastes must originate from mineral processing operations that:

(a) Follow beneficiation of an ore or mineral (if applicable);

(b) Serve to remove the desired product from an ore or mineral, or from a beneficiated ore or mineral;

(c) Use feedstocks that are comprised of less than 50 percent scrap materials;

(d) Produce either a final mineral product or an intermediate to the final product; and

(e) Do not combine the product with another material that is not an ore or mineral, or beneficiated ore or mineral (e.g., alloying), and do not involve fabrication or other manufacturing activities.

(4) Residuals from treatment of excluded mineral processing wastes must meet the high volume and low hazard criteria in order to retain excluded status.

1. Excluded Bevill Wastes Must Be Solid Wastes as Defined by EPA

The proposed rule requires that any excluded Bevill wastes be solid wastes as defined by EPA. The principal comment regarding this requirement was that the regulatory status of recycled residuals from mineral processing is unclear. Many commenters objected to EPA's characterization of materials that are reused, further processed, and/or recycled as solid wastes. These commenters claimed that materials that are not discarded (e.g., copper slag and wastewater treatment sludge that are resmelted) are not solid wastes, and therefore, should not be considered processing wastes; rather, they should be considered intermediate products. They contended that any other interpretation would disrupt the present recycling and reuse of processing residuals, and dramatically increase disposal costs.

Because of these concerns, commenters recommended that EPA develop regulatory language that removes materials destined for reprocessing or recycling from the definition, and requested, furthermore, that this clarification be in the rule itself rather than in the preamble. Moreover, in keeping with the status of residuals from the treatment of Bevill wastes, some commenters argued that residuals from the recycling of such non-waste material should be afforded excluded status if the residuals meet the high volume and low hazard criteria.

EPA believes that there is nothing in the regulatory history of the Bevill Amendment that indicates that the Agency is expected to or should apply a definition of solid waste that is different than that applied throughout the RCRA program. Therefore, the Agency will continue to use the definition of solid waste in 40 CFR 261.2 to identify materials that are eligible for consideration as special wastes. This definition subdivides secondary materials by material type and recycling activity in order to ascertain whether they are solid wastes. EPA does not accept the commenters' oversimplified premise that materials that are recycled are not "discarded" and therefore are never solid wastes. Recycling activities characterized by elements of discard, such as use constituting disposal or burning of hazardous wastes for energy recovery, are activities that Congress expressly ordered the Agency to either prohibit or regulate. See, e.g., section 3004(q) and (1) of RCRA. At the same time, the Agency has always limited the scope of its definition to avoid asserting authority over in-house recycling operations that are essentially continuations of a manufacturing process. See 50 FR 637–41 (Jan. 4, 1985). EPA has proposed to further limit the definition's scope over these types of activities in response to the opinion of the U.S. Court of Appeals in *American Mining Congress* v. *EPA*, 824 F.2d 1177 (D.C. Cir. 1987). See 53 FR 526–28 (Jan. 8, 1988). Pending further consideration of these issues in the January 8, 1988, rulemaking, the existing definition found at 40 CFR 261.2 (1988) will remain applicable here.

The Agency notes, however, that under certain circumstances, products containing recyclable materials that are produced for use by the general public and that are used in a manner constituting disposal may not be considered solid wastes (see 40 CFR 266.20). Based upon its evaluation of waste management practices for the Report to Congress, EPA will consider whether particular materials that have been retained within the Bevill exclusion might qualify for this exemption from RCRA.

2. Excluded Solid Wastes Must Be Uniquely Associated With Mineral Industry Operations

To be excluded, solid wastes must be uniquely associated with the mineral processing industry. EPA received no significant comments either in support of or in opposition to this criterion.

3. Excluded Solid Wastes Must Originate From Mineral Processing Operations as Defined by the Five Criteria

In general, commenters believed that the attributes used in the proposed rule to define mineral processing were acceptable, although at least one commenter declared that a broader interpretation is supported by the legislative history and prior EPA rulemaking activity.

As discussed at length in the Appeals Court decision that precipitated the current rulemaking, EPA is obliged to consider whether candidate wastes are high volume and low hazard in making Bevill mineral processing waste exclusion decisions. These factors are, and have always been, the key elements in identifying special wastes. Nonetheless, the distinction between mineral processing and non-mineral processing wastes is important. EPA believes that it is abundantly clear that the Congress intended to exclude only wastes generated as a consequence of exploiting a natural resource, not wastes from other industrial activities, even if both occur at the same facility.

a. Operation must follow beneficiation of an ore or mineral (if applicable). The proposed rule defined processing as following beneficiation and provided both a general definition and some examples of beneficiation. Several commenters stated that this definition and discussion of beneficiation do not adequately delineate the boundary between beneficiation and processing. Some commenters requested that EPA utilize the definition of beneficiation used in the Report to Congress on extraction and beneficiation wastes.

The U.S. Bureau of Mines (BOM) commented extensively on the delineation between beneficiation and processing. BOM was primarily concerned with the status of leaching operations, claiming that the definition in the preamble to the proposal did not adequately express EPA's apparent

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intent that leaching be considered a beneficiation operation. BOM pointed out that EPA has clearly considered leaching to be a beneficiation operation, as suggested by both the Report to Congress and the development document for effluent limitations for the ore mining and dressing point source category.

As defined in the October 20, 1988 proposal, beneficiation operations, which often precede ore or mineral processing operations, include primarily, but not exclusively, physical operations (e.g., crushing, grinding, sorting, sizing, washing, flotation) that concentrate the valuable constituents from an ore or mineral in preparation for further refinement (e.g., smelting). The solid wastes generated by these beneficiation operations are normally crushed or pulverized rock, or other earthen materials, such as clays or sands. In contrast, processing operations use other means, such as chemical reactions, electrolytic techniques, or pyrometallurgical/thermal processes (e.g., roasting, smelting, calcining) to concentrate or enhance the characteristics of valuable constituents and, thus, differ from beneficiation operations.

A specific exception to this relatively simple distinction between beneficiation and processing is heap, dump, and in-situ leaching, as well as tank and vat leaching. EPA's policy toward leaching, as stated in a previous regulatory determination,[4] is that active leach piles and leach solutions are not wastes, but rather are raw materials used in the production process and intermediate products, respectively. Only leach solutions that escape from the production process are considered wastes while the leaching operation is active.

In light of the regulatory determination, EPA concurs with BOM in its comments about leaching. Accordingly, EPA has modified the proposed definitions of processing and beneficiation, such that heap, dump, *in-situ*, tank, and vat leaching are explicitly defined as beneficiation operations, unless they follow one or more processing operations in the production sequence, in which case they are considered processing operations. To further clarify the distinction between beneficiation and processing for regulatory purposes, today's proposed rule contains language explicitly defining ore and mineral beneficiation operations.

[4] See Regulatory Determination for Wastes From the Extraction and Beneficiation of Ores and Minerals, 51 Fed. Reg. 24496 (July 3, 1986).

b. Operation must serve to remove the desired product from an ore or mineral, or from a beneficiated ore or mineral. The October 20, 1988 proposal identified the purpose of mineral processing as being to remove the desired product from an ore or mineral or beneficiated ore or mineral. Several commenters indicated that this language obscures the regulatory status of certain processing operations (e.g., lightweight aggregate production) whose purpose is to change the characteristics of valuable constituents in ores or minerals without removing or concentrating them. These commenters suggested that EPA modify the processing definition by altering the second attribute to include operations that serve to enhance the desirable properties of, as well as those that remove the desired product from, an ore or mineral.

EPA agrees, and has modified the second attribute of mineral processing accordingly. EPA wishes to clarify the meaning of this attribute by stating that production steps that use heat to alter the chemical composition (as opposed to simply removing waters of hydration) of ores or minerals (or beneficiated ores or minerals) are considered to be mineral processing operations rather than beneficiation operations. Examples include activities such as roasting, smelting, calcining, and other pyrometallurgical techniques, but do not include activities such as drying, which are considered beneficiation operations.

c. Operation uses feedstock that is comprised of less than 50 percent scrap materials. The October 20, 1988 proposal required that at least 50 percent of the feedstock to an operation be ore or mineral, or beneficiated ore or mineral, for the operation to be considered a primary mineral processing operation. This requirement allows mineral processing operations to use recycled materials in their feedstocks while ensuring that non-mineral processing wastes do not receive an unintended regulatory exclusion.

One commenter was opposed to this attribute of the definition, stating that the nature of copper smelting and refining are unrelated to the source of material that is processed, that primary copper smelters and refineries really use a combination of primary and secondary processes, and, therefore, that this attribute should be modified or deleted.

Other commenters sought clarification of this attribute. Most were concerned with what materials are to be included as part of the "primary" feedstock. Commenters claimed that while many feedstocks are not technically classified as ores or minerals or beneficiated ores or minerals, they are "in-process" materials that are derived from ores and minerals, or beneficiated ores or minerals. Consequently, the commenters contended that these materials are not "scrap" materials, but rather are "indigenous" materials that, when used as feedstocks, should be treated identically to ores or minerals or beneficiated ores or minerals. Accordingly, commenters recommended that EPA modify this "50 percent rule" to include, as "primary" feedstocks, these in-process or intermediate materials that are derived from ores and minerals, or beneficiated ores or minerals. Commenters also requested clarification regarding accounting policies (i.e., what operations to include and over what time period to measure when analyzing feedstock percentages). Commenters recommended that the 50 percent rule be applied to an entire plant's operations or to integrated operations within a company; they also argued that the accounting for the 50 percent rule should be on an annual basis.

EPA proposed the 50 percent rule in order to establish an upper bound on the amount of non-ore or mineral (or beneficiated ore or mineral) material that may be present in an operation's feedstock for it to qualify as a mineral processing operation. The Agency recognizes that a large number of feedstocks are used in mineral processing operations, including a broad variety of "in-process" or "intermediate" materials that are derived from ores and minerals, or beneficiated ores or minerals. In the absence of additional data about these materials, however, EPA believes that an upper bound on the amount of non-ore or mineral (or beneficiated ore or mineral) that may be present in a feedstock is essential in order to ensure that wastes from operations that primarily process materials other than ores and minerals are not provided with an exclusion that Congress did not intend. This attribute of the definition affords considerable flexibility to mineral processing operations, in that they are able to accept scrap and intermediate materials in their feedstocks, and still be eligible for Bevill status. At the same time, operations other than primary mineral processing, such as materials recovery or waste treatment, will not be eligible for the Bevill exclusion.[5]

[5] An exception is wastes that satisfy the special waste criteria and result from the treatment of a waste that also satisfies the special waste criteria.

In addition, EPA wishes to clarify this attribute by stating that the 50 percent rule applies to all materials containing the mineral value that enter a process operation, rather than to the total of all materials entering the operation. For example, the 50 percent rule would apply to crushed copper ore (or beneficiated copper ore) and scrap copper used in the feedstock for a copper smelting operation, but coal or natural gas used to fire the furnace would not be included in the calculation. Materials not containing the mineral value (e.g., reducing agents, fluxing agents) are also not included in determining whether a processing operation or waste complies with the 50 percent rule.

With regard to accounting policies, EPA agrees with the comment that the accounting period over which to analyze feedstock percentages should be one year. However, in contrast to the preference of some commenters, the Agency believes that the rule must be applied to individual processing operations rather than to an entire plant's operations. Applying the 50 percent rule to an entire plant's operations would ignore the significant differences in volume and potential hazard that exist between the diverse groups of wastes produced at mineral processing facilities. The Agency wishes to emphasize that it is establishing a one year accounting period to allow for normal fluctuations in the composition of mineral processing operation feedstocks. Wastes generated by operations that utilize ores, minerals, or beneficiated ores or minerals as secondary feedstocks or use them only intermittently are not eligible for Bevill status.

d. Operation produces either a final mineral product or an intermediate to the final product. The definition of processing in the proposed rule requires that, to be eligible for consideration for the Bevill exclusion, the process operation must produce either a final mineral product or an intermediate to the final mineral product. One commenter stated that EPA should follow Congress' intended broad view of the term "processing" and include all stages after beneficiation through production of final products, including all parts of multi-circuit processes.

As indicated earlier, EPA believes that products that are not directly related to mineral processing operations or that are produced after mineral processing is complete do not fall within the scope of the definition intended by Congress. For example, manufacturing ammoniated phosphate fertilizer products, which involves mixing ammonia, a non-mineral material, with mineral processing products, is not considered a mineral processing operation. Manufacturing of finished products, such as copper wire, silver jewelry, and lead weights, is also outside the definition of mineral processing operations. Additional information about the point at which mineral processing ceases and alloying or fabrication begins is provided below.

e. Operation does not combine the product with another material that is not an ore or mineral, or beneficiated ore or mineral (e.g., alloying); and do not involve fabrication or other manufacturing activities. The proposed rule defined the end of mineral processing as the point at which the processed ore or mineral is combined with another material that is not an ore or mineral, or beneficiated ore or mineral, undergoes fabrication, or is subjected to other manufacturing operations. EPA believes that the end point is reached when recovery or enhancement of mineral value(s) ends and manufacturing begins. Some commenters expressed general dissatisfaction with this definition and argued that it significantly narrows the definition of mineral processing wastes eligible for the Bevill exclusion. They contended that Congress intended the exclusion to encompass all wastes generated by mineral processing operations, from the removal of minerals from the ground through creation of a final saleable product. Many comments centered around a particular processing operation and associated wastes that would potentially be removed from the Bevill exclusion if this attribute is included in the final rule.

The purpose of this portion of the definition is to identify the end point of mineral processing operations. The Agency believes that Congress, in adopting the Bevill Amendment, intended to include only those processes that remove, concentrate, and/or enhance values contained in ores and minerals or beneficiated ores and minerals. EPA's view is that manufacturing and alloying operations clearly do not fit into this category.

Instead, EPA, in articulating the special wastes concept, and the Congress, in implicitly basing the Bevill Amendment on this concept, wished to distinguish between operations that: (1) By their nature produce large volumes of waste in retrieving valuable commodities from native materials in which concentrations of the values are relatively low; and (2) conventional manufacturing operations. It is clear from the legislative history that both EPA and Congress intended the "special waste" concept to have a finite scope that did not encompass wastes from operations that produce wastes in volumes similar to other manufacturing operations. Accordingly, EPA has not made any changes to this attribute for today's proposal.

4. Residuals From Treatment of Excluded Mineral Processing Wastes Must Meet the High Volume and Low Hazard Criteria

The October 20, 1988 proposal included, as processing wastes, residuals from the treatment of excluded mineral processing wastes if these residuals also meet the high volume criteria. Apparently, some confusion exists regarding the status of these residuals, as commenters requested both rule language that was already present in the preamble to the proposed rule and additional clarification of rule provisions. Several commenters, for example, stated that the regulatory status of wastewater treatment effluent is unclear and requested that EPA clarify in the final rule that wastes which arise from the treatment of a Bevill Amendment waste fall within the Bevill exclusion.

Commenters also expressed concern regarding the status of wastes that are generated by pollution control equipment; they expressed concern that a strict reading of the five attributes, and the second and fourth attributes in particular, might prevent any pollution control residual from being classified as a processing waste. Several commenters specifically suggested that EPA simply list for study, in the regulation itself, the category "residues from the treatment of all mineral-processing wastes on the preceding list which are generated at a rate greater than the high volume criteria established by EPA." This action, they contended, would make the list more flexible and allow it to address the different types of treatment which may be utilized at different mineral processing operations.

Other commenters suggested that high volume criteria should not be applied to treatment residuals, because, they contended, this action would frustrate the objectives of RCRA and the Bevill Amendment by discouraging waste reduction and the treatment of excluded wastes. They argued that because excluded wastes are the highest volume mining wastes, the most environmental good would come from volume reduction innovations for these waste streams. Therefore, these commenters suggested including on the list for study, in the

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regulation itself, "residues from the treatment of all mineral processing wastes on the preceding list regardless of the rate of generation."

EPA believes that the most appropriate interpretation of the term "solid waste from the processing of ores and minerals" should include pollution control residuals as long as the residuals meet the high volume and low hazard criteria required for all excluded wastes.

The Agency believes that by including qualifying mineral processing wastes and pollution control residuals on the list of wastes excluded under the Bevill Amendment, the intent of Congress will be achieved by allowing further study of these high-volume, low-hazard wastes. Pollution control residues would still have to meet both the high-volume and the low-hazard criteria being established by today's proposed rule in order to qualify as excluded special wastes. The ultimate regulatory approach imposed upon the wastes that would be retained within the Bevill exclusion under today's proposed rule will be addressed in EPA's Report to Congress and subsequent regulatory determination.

Moreover, as discussed in more detail below, the Agency is not proposing to apply the high volume and low hazard criteria prospectively, i.e., EPA will define the final scope of the Bevill mineral processing waste exclusion by January 15, 1990. Therefore, application of these criteria will not discourage future waste reduction and the treatment of excluded wastes.

B. The "High Volume" Criterion

The preamble of the October 20, 1988 NPRM articulated an explicit high volume criterion to be used to identify high volume mineral processing wastes. This criterion consisted of two tests, one of which would have to be met for a waste to be considered high volume. The first test was based on the average annual per facility generation rate of a waste, and the second on total annual quantity of a waste generated nationwide. Both tests applied only to individual waste streams produced in any single year between 1982 and 1987. For a complete description of the basis for this criterion, see the original notice published at 53 FR 41288, October 20, 1988.

While several commenters expressed concern with the high volume criterion, most commenters supported the concept of using an explicit quantitative high volume criterion to help define special mineral processing wastes.

Several commenters argued that nothing in the Appeals Court decision indicated that Bevill wastes must meet both the high volume and low hazard criterion, arguing that, in fact, wastes that do not satisfy either of the criteria could be retained within the exclusion.

The Agency rejects this conclusion, and believes that to do otherwise would be inconsistent with the Court's reading of legislative intent as well as ignore the essence of the special waste concept, which EPA first articulated in 1978.

Several commenters recommended that EPA not rely solely upon volumetric data when making Bevill exclusion decisions. Instead, they suggested that EPA use the criterion only as a guideline and fully consider the unique or unusual nature of mineral processing operations rather than removing a waste from the exclusion based solely upon volume. In addition, one commenter stated that EPA's use of the waste volume criterion without reference to other mineral processing considerations ignores Congressional intent in requiring specific studies of each special waste category.

EPA disagrees. The issue in this rulemaking is which mineral processing wastes will be considered special wastes and hence, subject to further study, and what criteria will be used to identify these special wastes. Volume is the most relevant and objective measure of the degree to which a waste is amenable to management under the provisions of Subtitle C. Other factors, such as the special or unique characteristics of a particular operation or industry sector, are not relevant to defining high volume, and therefore, the feasibility of Subtitle C controls. These factors will, however, be evaluated for the wastes that are retained within the exclusion and be discussed in the Report to Congress.

Other commenters also noted that Congress did not intend to create a disincentive for voluntary waste reduction efforts when it passed the Bevill Amendment, and contended that imposing a volume cut-off for defining special wastes would create such a disincentive. One commenter stated that because one of the primary goals of RCRA is reduction of waste, EPA should not "reward" successful waste reduction efforts by removing wastes from the mining waste exclusion.

EPA agrees that neither the Congress nor the Agency intended to discourage waste reduction efforts on the part of industry. The issue at hand, however, is establishing the boundaries of a temporary exclusion which provides for study of the unique aspects of managing some of the unavoidable high volume residues of mineral processing. Presumably, if mineral processing waste volumes could be significantly reduced through process modifications, facility operators would already have implemented such modifications, because waste management (of either hazardous or non-hazardous waste) is costly, particularly for large volumes of wastes. Therefore, EPA believes that wastes that can be greatly reduced in volume through process modifications are not truly special wastes in the first instance. Moreover, the Bevill Amendment was clearly intended to provide a bridge between historical and future waste management requirements based upon current waste streams and waste generation rates. Therefore, prospective behavior on the part of industry or individual facilities has no effect on a waste stream's Bevill status, since this status will be determined on the basis of historical waste generation rates. Nonetheless, EPA has made allowances for recent waste reduction efforts by accepting the highest annual waste generation volume during any of the five years from 1982 to 1987 (1983 to 1988 in today's proposal).

In developing the high volume criterion the Agency evaluated four methodological issues, including: (1) The appropriate degree of aggregation of waste streams; (2) the basis for quantitative analysis (facility-specific vs. industry-wide); (3) the units of measure; and (4) the types of other wastes to be used as the basis for comparison.

1. Degree of Aggregation of Waste Streams

For the 10/20/88 NPRM, the Agency weighed three options concerning the degree of aggregation: (1) Consider individual waste streams generated by specific industry sectors separately (the option adopted); (2) aggregate all waste streams within a given facility; and (3) combine similar waste streams across mineral commodity sectors. Commenters in general requested more aggregation, with several commenters recommending specifically either the second or third options or modification of the first option (i.e., more aggregation of similar individual waste streams). These commenters identified several precedents for aggregating waste streams, citing EPA's effluent guidelines and supporting documents, the 1985 proposed reinterpretation, and the Agency's approach in addressing extraction and beneficiation wastes. They also maintained that aggregation is consistent with Congressional intent and with the 1985 proposed reinterpretation which designated "primary smelting slag" as a generic

Bevill Amendment processing waste category.

Several commenters claimed that EPA has artificially segregated processing wastes into specific waste streams (e.g., separating non-contact cooling water from process wastewater). Several suggested that within a facility, all wastes should be grouped together for the purpose of developing a per-facility high volume criterion. Several commenters also indicated that EPA should not treat lower volume waste streams differently than higher volume waste streams if all the streams are part of the same process and if operations are uniquely related to ore and mineral processing operations. They argued that for purposes of the Bevill study, EPA should aggregate, especially within but also across sectors, waste streams that arise from the same types of feedstocks and production processes and that are similar in their generation rates, physical or chemical waste characteristics, management practices, and/or other characteristics.

Several commenters discussed specific waste streams within their particular commodity sector(s) that they felt were exemplary of waste streams that should be aggregated. For example, commenters representing the phosphate sector contended that EPA should aggregate process waters associated with phosphate rock processing along with the entrained solids. Similarly, commenters from the copper sector argued that EPA should not segregate wastes such as process wastewater and contact cooling water, various blowdown effluents, and wastewater treatment plant sludges. These commenters also argued that all slags from the various operations of copper smelting and refining should be aggregated into one waste stream (as they were in the proposed rule). They claimed that presently, EPA treats smelting and refining wastes inconsistently because the Agency disaggregates smelting and refining slags while concurrently aggregating smelting and refining process wastewaters.

EPA largely disagrees with these comments. EPA believes, and the Court has agreed, that mineral processing wastes must meet all special waste criteria to be entitled to the temporary exclusion from Subtitle C requirements. In order to complete the study requirements listed at section 8002(p) of RCRA, EPA must define current and alternative practices that are and could be employed to manage special mineral processing wastes. In practical terms, this requires that the Agency examine *individual* waste streams in order to determine whether current practices (e.g., co-management) are adequately protective of human health and the environment, and whether individual Bevill wastes are amenable to Subtitle C controls. Moreover, because the Agency believes that it is neither appropriate nor practical to screen an assemblage of dissimilar wastes with a criterion addressing hazard to identify the wastes that are clearly not low hazard, it is similarly inappropriate to evaluate the volumes of wastes on an aggregated basis.

In determining the waste streams to be included in the Bevill exclusion, EPA did, however, employ some aggregation within mineral commodity sectors, specifically for copper slags and certain process wastewaters. For purposes of the rule, EPA continues to propose to treat process wastewater as a generic category comprising waters that are uniquely associated with processing operations that have accumulated contaminants to the point that they must be removed from the mineral production system; the category includes contact cooling water but does not include aqueous waste streams from pollution control devices (e.g., acid plant blowdown, wastewater treatment sludge).

Some commenters also suggested that similar wastes should be aggregated across mineral commodity sectors. They claimed that EPA has created the illusion of separate waste streams by segregating processing wastes by mineral commodity sectors. These commenters contended that waste streams should be considered on an industry-wide, aggregate basis rather than on a sector-specific basis, again determining which waste streams to aggregate based on similarities in process, waste, and waste management characteristics.

In particular, some commenters that operate pyrometallurgical processes maintained that all slags should be aggregated across mineral commodity sectors because the slags have similar characteristics. They maintained that Congress' intent was that all slags should be considered as a single waste, pointing out that the generic waste category "smelting slag" was explicitly mentioned in the legislative history of the Bevill Amendment and in the 1985 reinterpretation proposal (see 50 FR 40292, October 2, 1985).

Although the Agency believes that combining very similar wastes (e.g., copper reactor and converter slags) within a commodity sector for purposes of evaluating volume is appropriate, it does not believe that aggregating wastes across sectors is appropriate. Despite the fact that metallic ore processing facilities having pyrometallurgical operations, for example, share many attributes, the Agency believes that differences in feedstock composition may render processing wastes (e.g., slag) at some facilities in some sectors potentially more hazardous than similar wastes at other facilities in other sectors. Moreover, waste generation rates (and hence, amenability to management under Subtitle C) may vary dramatically between industry sectors for the same type of waste. Accordingly, EPA continues to propose that a high volume waste generated by one commodity sector may be a special waste while another waste that is generated by the same type of process in another sector and is physically similar but is generated in low volumes is not a special waste.

2. The Basis for Quantitative Analysis (Industry-Wide vs. Per-Plant Waste Generation)

In the October 20, 1988, NPRM, EPA discussed three options for conducting its quantitative analysis of candidate Bevill mineral processing waste streams: (1) Develop and analyze a plant-specific measure of waste generation; (2) examine waste stream generation on an industry-wide basis; or (3) develop and utilize a combination of the first two alternatives by developing both a plant and industry-specific criterion (the option adopted).

Some commenters supported the use of the facility level test, because it would not penalize sectors comprised of a small number of individual facilities (i.e., the zinc, lead, beryllium, chromium, tungsten, and other sectors). Many objected, however, to the use of a facility *average*, pointing out that the use of an average may remove wastes from the exclusion that are generated in large volumes at one or more facilities in commodity sectors comprised primarily of small facilities.

The Agency believes that using a sector-wide average is the most equitable way to define high volume mineral processing wastes. Allowing any individual facility to qualify for the exclusion if it exceeds the volume criterion would discriminate against smaller producers in a sector, while excluding a waste on a sector-wide basis if any one facility fulfilled the criterion might result in wastes that are not truly high volume (i.e., are amenable to Subtitle C controls at most facilities) being retained within the exclusion.

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Some commenters also felt that individual facility operators would find it difficult to determine whether their particular wastes or residuals exceed the volumetric threshold; different facilities which generate the same waste streams in different quantities could arrive at opposite conclusions about whether their wastes meet the high volume criterion. Therefore, instead of a threshold based on a facility-level average, several commenters recommended that EPA establish a high volume criterion on an individual facility basis. This would, they maintained, incorporate the benefits of the facility level analysis while countering the statistical and administrative disadvantages of the facility average.

The Bevill exclusion applies to wastes, not individual facilities. In this proposal, EPA has already applied the criteria outlined in this preamble to derive the list of waste streams (including treatment residuals) proposed for continued exclusion from regulation under Subtitle C. Facility operators will not have to apply the criterion themselves but merely determine if the facility generates the proposed Bevill waste. Facility owner/operators who believe that EPA has overlooked a waste stream which meets the stated criteria should submit public comments, including supporting documentation, regarding the physical, chemical, and radiological characteristics and generation rate of any potential candidate waste stream(s) managed at their facilities. EPA will then utilize the information submitted by all commenters representing a particular commodity sector to determine whether the candidate special waste satisfies the high volume criterion (and the other special waste criteria).

Some commenters objected to the use of the facility level test as part of the high volume criterion. They argued that the most important and undesirable effect of the current facility level average test would be to retain wastes that should be withdrawn from the exclusion. They noted, furthermore, that all but one of the wastes meeting the total nationwide volume test, the measure that they contended is the true indicator of large volume, also meet the facility-level test, rendering this facility-level test ineffectual.

EPA believes that the Bevill exclusion is intended to apply only to those waste streams that are produced in such large quantities that they may not be amenable to management under Subtitle C. The burden of waste management (and, therefore, the feasibility of Subtitle C controls) depends more on the quantity of waste generated by a typical facility than on the total amount produced by a commodity sector. This is particularly true in industries that generate large quantities of waste that, for technical and economic reasons, are managed on-site.

Few comments directly addressed the nationwide volume criterion. Several commenters requested that EPA require that wastes pass both the sector-wide and the facility-level test. Other commenters, however, were concerned about any approach in which all excluded wastes would be required to meet the nationwide volume criterion, because they felt this test would unfairly remove from the exclusion any sectors with small numbers of waste generators. One commenter suggested that the total volume test be dropped altogether.

In response to these comments, the Agency has decided to eliminate the nationwide volume criterion and rely solely upon a facility-level analysis of waste generation. While the industry-wide volume criterion is consistent with past Agency proposals to resolve the special mineral processing wastes issue, the Agency believes that average per-facility volumes provide a better measure of amenability to management under Subtitle C controls, in large part because large volume mineral processing wastes typically are managed on-site. Based upon EPA data and information submitted in public comment on the 10/20/88 NPRM, eliminating the industry-wide test results in the removal of only one waste stream from the Bevill exclusion (lime kiln APC dust).

3. Units of Measure

EPA weighed two options in determining the appropriate units of measure to apply to mineral processing wastes in order to serve as a basis of evaluation and comparison with other high volume wastes. These options included (1) using the quantity of waste generated annually in metric tons (the option adopted), or (2) using ratios of waste volume generated to quantity of final product (or other appropriate comparisons, e.g., to quantity of ore/mineral feedstock). While EPA noted several advantages to using a ratio in the preamble to the proposed rule, the Agency noted that existing data were not adequate to compile ratios for certain prominent large volume waste streams.

The only comment regarding the evaluation of waste generation in absolute terms was directed at the use of metric tons which, the commenter indicated, is a unit of mass and not of volume. This commenter points out that the court decision specifically references "large volume wastes" and requests that EPA clarify this apparent contradiction.

As discussed above, the term "high volume" has always been an integral part of the definition of special wastes. For purposes of analysis, however, EPA believes that it is convenient to utilize data expressed on a common mass basis, because candidate special wastes having different physical forms are often quantified in different units (e.g., cubic yards vs. gallons). Because the wastes of concern are typically either solids, sludges, or liquids, conversion between waste quantities expressed in terms of mass/weight and volume is simple and straightforward, requiring only the density of the material in question. EPA has, accordingly, decided to utilize metric tons as the common analytical unit for this rulemaking. The Agency notes that it has consistently discussed high volume wastes in terms of metric tons since 1978. Furthermore, EPA believes that amenability to Subtitle C controls may be addressed most accurately through the use of units of mass.

While EPA did not utilize a ratio in support of the October 20, 1988 proposal, the Agency did solicit public comment on the use of a ratio of waste volume generated to one or more measures of material handled to further define the term "high volume." EPA also requested suggestions for the numerical value of the appropriate ratio. Several commenters strongly supported the adoption of a waste-to-product ratio as an additional or alternative test in determining whether a waste should be Bevill-excluded. For example, one commenter suggested that EPA consider a waste-to-ore or mineral ratio. Other commenters objected to the use of a ratio approach, contending that it is irrelevant to the process of identifying high volume mineral processing wastes, and could result in low volume wastes being retained within the Bevill exclusion.

Several commenters appealed to EPA to not reject the ratio approach solely because of the limitations of the Agency's existing data base. They argued that a ratio helps to ensure that the high volume criterion does not discriminate against small industry sectors or against large volume waste generators in sectors with predominantly low volume waste generators. Additionally, commenters agreed that ratios remain relatively constant whereas the total volume of waste generated (both nationally and at the facility level) varies with economic

market fluctuations. They also contended that, administratively, the use of a ratio would be more accurate in distinguishing between mineral processing wastes and other industrial wastes and be more easily used by facility operators in determining which of a facility's wastes might meet volumetric criteria.

While recommending the ratio approach, some commenters did suggest several conditions. They requested that the ratio be employed as an alternative, rather than additional, test that must be met for a waste to be retained within the exclusion. Several commenters recommended that in administering this criterion EPA retain any waste stream that has met the ratio test for any calendar year between 1982 and 1987, in order to avoid penalizing firms and industries that have reduced their waste generation rates in recent years.

As mentioned above, several commenters recommended that EPA not employ a ratio approach. These commenters maintained that the ratio concept does not take into account the efficiency of the processing operation and that the use of ratios creates incentives for poor processing or increasing waste generation rates, which would be contrary to EPA's goal of waste minimization.

Comments on potential ratio values were varied. In the October 20, 1988 NPRM, EPA suggested that if a waste-to-product ratio were used, a value of 0.5 might be appropriate. In criticizing the use of any ratio approach, some commenters argued that this value is miniscule in comparison to the ratios for other mining wastes. Other commenters, on the contrary, argued that the value was not low enough to effectively distinguish high volume from low volume processing wastes, pointing out that EPA's own data indicate that two of the wastes proposed for exclusion, copper process wastewater and copper bleed electrolyte, have ratios lower than 0.5. They also noted that although many other special wastes (e.g., fly ash, cement kiln dust) have ratios that are less than 0.5, these materials are clearly within the Bevill exclusion. Generally, commenters supporting the use of a ratio criterion suggested a waste-to-product ratio in the range of 0.1 to 0.2.

Based upon an analysis of the comments received, the Agency has concluded that the use of a waste-to-product or other ratio would not enhance EPA's understanding of the amenability of mineral processing wastes to management under Subtitle C controls (the purpose of the volume criterion) and has, accordingly, decided to not include a ratio of any kind in the high volume criterion. Ratios provide a measure of the degree of concentration and/or relative quantity of material handled in the production process. Hence, they would be useful in prediction the quantity of wastes that might be generated assuming a given quantity of mineral product or ore feedstock. This information, however, is not relevant to determining whether a particular mineral processing waste is amenable to Subtitle C control. In fact, data submitted to EPA in public comment indicate that many low volume wastes (i.e., those generated in the 200–500 mt/yr/facility range) have relatively high ratios of waste-to-product (greater than 0.5). Therefore, EPA believes that this concept is not suitable for identifying high volume mineral processing wastes.

4. Types of Wastes Used as the Basis for Comparison

In the 10/20/88 NPRM, the Agency discussed four options concerning the basis for comparison that should be utilized in developing values for waste volume thresholds: (1) Extraction and beneficiation wastes; (2) other special wastes such as oil and gas wastes; (3) RCRA Subtitle C wastes; and (4) some combination of all three (the option selected).

Several commenters objected to some degree to each of the approaches. For example, a commenter claimed that EPA, regardless of which approach was taken, compared disaggregated mineral processing wastes to aggregated Subtitle C, oil and gas, and mining wastes.

This statement is only partially true. EPA compared aggregated wastes managed under Subtitle C with quantities of proposed Bevill mineral processing wastes, because waste- and facility-level data on Subtitle C waste management were unavailable, making comparisons with disaggregated Subtitle C data infeasible. Other comparisons developed in support of the volume criteria, however, used disaggregated data (e.g., mineral extraction and beneficiation wastes on an individual and commodity sector-specific basis, distinct high volume oil and gas wastes).

Another commenter argued that the only permissible basis of comparison with processing wastes is the universe of industrial wastes because comparison with Bevill or Subtitle C wastes is improper and contrary to Congressional directive.

This comment reflects an incomplete understanding of the special wastes concept and of Congressional intent in enacting the Bevill exclusion. The purpose of the high volume criterion is to identify mineral processing wastes for which the provisions of Subtitle C might be potentially infeasible. Therefore, comparisons with Subtitle C wastes are not only reasonable and appropriate, but necessary. Comparisons with other Bevill wastes, on the other hand, do not provide conclusive evidence, but do suggest boundaries on what might be considered a high volume special waste.

Finally, one commenter asserted that the Court directive in *EDF* v. *EPA* to establish the Bevill exclusion's boundaries on the basis of "high volume" does not require EPA to set a volume threshold for special mineral processing wastes that relates in any way to waste volumes in other industries. They argued that EPA could in fact establish a distinct volume criterion for each industry or sector.

EPA agrees that the Court directive does not require the Agency to establish a volume threshold on the basis of comparisons with other wastes. In fact, the Court directive leaves the reasoning behind any volume threshold to EPA's discretion. The Agency believes, however, that the methodology it has used to derive the specific volume criterion levels is reasonable and equitable.

With regard to the volume comparisons using RCRA Subtitle C wastes, a commenter correctly observed that the specific volumetric criteria used exceed the quantities of most wastes that are managed under Subtitle C. Another commenter argued that basing the high volume criterion on the waste volumes generated in the top ten percent of Subtitle C facilities has no legal or logical basis. This commenter recommended that rather than choosing the highest volume listed hazardous wastes to compare with mineral processing wastes, EPA should have utilized the average, or typical, Subtitle C waste volume.

The Agency disagrees with the argument that a relevant comparative analysis should reflect "typical" quantities of hazardous waste generated. Because the Bevill exclusion is intended to exempt only wastes generated in volumes which may be too large to be managed under Subtitle C of RCRA, it would not be appropriate to base the high volume criterion on comparisons with the hazardous wastes that are generated and managed in "typical" volumes.

Several commenters addressed the use of other mineral processing wastes, arguing that in setting the high volume criterion, EPA should not concern itself with the generation rates of the six recently relisted smelting wastes. EPA disagrees. Because the Court explicitly

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determined that the six smelting wastes are not high volume, low hazard wastes, the generation rates of these wastes can and should serve as a lower bound below which wastes should not be afforded Bevill status.

5. Definition of High Volume Mineral Processing Wastes

In the October 20, 1988 NPRM, EPA proposed to designate a waste as a "high volume" processing waste if it met either of the following criteria: (1) Produced annually by all U.S. facilities in a processing sector in quantities greater than two million metric tons in any year from 1982 to 1987, or (2) produced at an average per facility rate, in a given sector, in excess of 50,000 metric tons during any of the years 1982 to 1987.

Several commenters maintained that the thresholds were set higher than necessary and suggested values in the range of 100,000 to 400,000 metric tons per year for the sector-wide total and 25,000 to 35,000 metric tons per year for the facility-level total. Specifically, some commenters also argued that the proposed sector-wide and facility thresholds are not supported by EPA's own data on extraction and beneficiation wastes. They contended that EPA's data indicate that lowering the criterion would allow EPA to effectively distinguish between high and low volume processing wastes. They also noted that an evaluation of generation rates of other special wastes (e.g., utility wastes) indicates that the thresholds are significantly higher than they should be.

Some commenters also contended that EPA's approach contradicts its earlier statements (e.g., 51 FR 36233) that using the lowest of the traditionally considered high volume wastes as the threshold is inappropriate. They argued that the fact that increasing or decreasing the 50,000 metric tons per year average facility threshold point by 25 percent would affect the designation of only one mineral processing waste (see 53 FR 41294) does not support EPA's thresholds; this is an arbitrary fact that could easily be stated about a variety of other thresholds and demonstrates that the threshold is too high.

Unlike the definition of extraction and beneficiation wastes (materials that are, in almost all cases, clearly high volume, low hazard wastes), there has always been some ambiguity regarding the definition of mineral processing wastes as it relates to regulatory status under the Bevill exclusion. For this reason, EPA believes that it must explicitly define the criteria used to define special mineral processing wastes, including those used to define high volume.

In order to avoid the confusion caused by the earlier proposed rulemaking, EPA has attempted to define "high volume" by making explicit comparisons with several different types of wastes. The Agency has not used the lowest of the other Bevill waste generation rates to establish the threshold but has instead used this information as a "reality check" for the criteria that it developed based on data concerning Subtitle C waste generation and management. Finally, the fact that one extraction or beneficiation waste is generated at quantities less than the threshold for Bevill mineral processing wastes does not, in the Agency's view, invalidate the adopted threshold.

Some commenters were concerned that the criterion might discriminate unfairly against smaller producers and industry sectors. Utilizing the existing volume criterion to formulate the final rule would, they claimed, result in the effective removal of all of the processing wastes generated by 21 minor metals industries from the mining waste exclusion. In addition, these commenters argued that fixed high volume standards unfairly discriminate against smaller producers and industries that have recently experienced poor market conditions.

The Court has ruled that the Bevill exclusion has always been intended to cover only high volume, low hazard wastes. The fact that some industry sectors would no longer enjoy the temporary exclusion from Subtitle C if the proposed rule were promulgated is not a relevant factor in defining either the scope of the Bevill exclusion generally or the provisions of the high volume criterion specifically. In addition, EPA believes that the proposed high volume standard avoids discriminating against smaller producers because it is based on average per-facility waste generation rate. Similarly, EPA believes that the proposed approach accounts for variations in market conditions by using the highest average annual per-facility waste volume for the most recent five year period.

Other commenters argued that the proposed thresholds are too low. Specifically, they argued that the thresholds are not supported by comparisons with extraction and beneficiation wastes, pointing out that because extraction and beneficiation wastes are clearly within the scope of the Bevill exclusion, their generation rates should serve as the lower bound for evaluating processing wastes.

This line of argument ignores the nature of the mineral production process. In minerals processing, values are progressively concentrated from native materials in stages; generally, each successive step produces waste volumes which are orders of magnitude lower than those generated by the previous step. Accordingly, one would not expect waste generation rates from mineral processing to parallel those from extraction and beneficiation operations. Extraction and beneficiation waste volumes, therefore, are not appropriate for establishing a lower bound for a processing waste volume threshold.

Some commenters argued that EPA's comparisons with Subtitle C data are faulty. They contended that EPA has not demonstrated that there is something unique about the wastes identified by the thresholds or the menagement practices employed for these wastes that would render Subtitle C regulatory controls technically infeasible or inappropriate. They claimed that the fact that ten percent of Subtitle C facilities manage waste quantities in excess of the thresholds demonstrates that it is indeed technically feasible to manage these large waste volumes; special wastes are not "special," they contended, if the category applies to such a substantial percentage of the regulated community.

With regard to the actual comparisons with Subtitle C wastes, these commenters argued that EPA has distorted the facts in its attempt to dismiss the overlap by using the unsupported claim that the Subtitle C data refer to combined wastes streams dominated by aqueous waste streams. In fact, the commenters argued that proposed BDAT background documents report that generators producing at least two of the nine top listed hazardous waste streams referred to in the 10/20/88 NPRM averaged in excess of 50,000 metric tons per facility per year in 1985. Four plants produced 801,000 metric tons of K104 wastes (combined wastewater streams generated from nitrobenzene/aniline production), averaging over 200,000 metric tons per plant. Similarly, seven plants produced 414,000 metric tons of K016 wastes (heavy ends or distillation residues from the production of carbon tetrachloride), averaging 59,143 metric tons per plant.

As noted by another commenter and as discussed above, there is no reason to require that the ranges of volumes at which excluded mineral processing and Subtitle C wastes are generated and managed be mutually exclusive. In addition, EPA believes that some

overlap between the available aggregated Subtitle C data and the volumes of excluded mineral processing wastes is indeed unavoidable, in part because available Subtitle C data include commercial facilities. Many of the largest Subtitle C facilities are commercial hazardous waste management operations, which are in the business of managing aggregated wastes generated by other entities, for which they receive compensation. Facilities that manage only their own wastes (such as most mineral processing operations), on the other hand, incur waste management expenses as an operating cost. Because the incentives for and costs/benefits of managing large volumes of waste within these two groups of facilities are quite different, EPA believes that allowances must be made in evaluating the aggregated Subtitle C data. For example, the proportion of non-commercial Subtitle C facilities (i.e., those that may appropriately be compared with mineral processors) that generate waste volumes above the specified high volume threshold is actually less than ten percent. Moreover, mineral processing facilities often manage multiple high volume waste streams. For these reasons, the Agency feels that an overlap with ten percent of the total Subtitle C universe is an appropriately stringent approach and supports the average facility criterion of 50,000 metric tons per year.

Several commenters suggested that separate tests be established for solid and aqueous liquid waste streams, as the typical waste generation rates of these waste types vary dramatically. Furthermore, these commenters noted that managing solid waste streams differs from managing aqueous liquid waste streams with respect to technologies employed, cost, and technical feasibility. Conceptually, the Agency believes that the idea of separate tests for solid and aqueous liquid waste streams may have merit. Industry routinely manages wastewater volumes in the millions of gallons per day per facility (i.e., well over one million metric tons per year); thus, it may be appropriate to set a much higher criterion threshold for aqueous liquid mineral processing wastes. Because of time and data constraints, however, EPA could not undertake the analysis necessary to develop separate criteria for this NPRM. EPA hereby solicits comment on the idea of a different volumetric criterion for aqueous liquid wastes, as well as suggestions of possible values for an aqueous liquid waste volume cut-off for possible incorporation into the final rule. EPA is considering an aqueous liquid waste volume criterion on the order of 1.5 million metric tons per year.

C. The "Low Hazard" Criterion

As discussed in the preamble to the October 20, 1988 NPRM, EPA evaluated two options for characterizing a mineral processing waste as low hazard: Defining low hazard wastes as those mineral processing wastes that exhibit none of the characteristics of hazardous waste (i.e., EP-toxicity, corrosivity, reactivity, or ignitability—see 40 CFR 261.21 through 261.24), and deferring judgment of hazard until study for the Report to Congress. Because of reservations regarding the appropriateness of applying the four hazardous waste "characteristics", EPA decided to defer judgment of hazard in the proposed rule.

1. Deferring Judgment of Hazard Is Appropriate

Several commenters supported EPA's decision to not use the Subtitle C characteristics of hazardous waste to determine which mineral processing wastes are covered by the Bevill Amendment or to assess hazard within the context of this rulemaking. They argued that (a) EPA cannot and should not require a low hazard criterion; (b) in addition to insufficient data, EPA's tests for hazardous "characteristics", especially the EP-toxicity test, are not appropriate or accurate for mining and mineral processing wastes; and (c) a mineral processing waste that exhibits a characteristic of a hazardous waste should not automatically be subject to Subtitle C regulations, as actual risk from mineral processing facilities is low.

a. *The Need for a Low Hazard Criterion.* Several commenters maintained that EPA should retain a waste within the exclusion if the waste is either high volume or low hazard. This would, they argued, address both the need for and feasibility of Subtitle C regulations for mineral processing wastes. Some commenters also argued that the low hazard criterion is unnecessary and that requiring that wastes meet any such criterion may actually be contrary to Congressional intent. These commenters noted that in the lawsuit over the regulatory determination for mineral extraction and beneficiation wastes (*EDF* v. *EPA*, 852 F.2d 1309 D.C. Cir. 1988), the Court found that Congress designed the Bevill Amendment to break with the previous approach to regulation of hazardous industrial waste, revealing a Congressional understanding that some "hazardous wastes" might require management and control techniques different than those of Subtitle C.

Some commenters also contenoed that precedent exists for bypassing the low hazard criterion, noting that in the 1986 regulatory determination for mining wastes, EPA asserted that Subtitle C regulation might not be necessary if other Federal or State programs control any risks associated with mining wastes. In fact, commenters argued, the Appeals Court decision on the mining wastes regulatory determination demonstrates that EPA must consider factors other than hazard in determining whether a high volume mining or processing waste should be permanently excluded from Subtitle C regulation.

In addition, a commenter argued that the proper time to apply a hazard criterion would be when making a regulatory determination as to which processing wastes should be subject to Subtitle C, and not when deciding which wastes are to be retained within the Bevill exclusion. This position was supported further by another commenter who, reiterating EPA's proposed position, stated that the determination of whether a waste is "low hazard" can only be finally determined by the studies that will support the next Report to Congress (i.e., after the reinterpretation of the Bevill exclusion is finalized).

As discussed in more detail below, EPA believes that the criteria used to identify which mineral processing wastes are properly within the scope of the Bevill Amendment should include a component that addresses hazard. This conclusion is based upon review of public comments, and more detailed analysis of the Appeals Court decision prompting this rulemaking and of the regulatory and legislative history of the Bevill Amendment and the special wastes concept. The Agency recognizes that a full assessment of hazard can be appropriately considered in a Report to Congress. Nevertheless, a test designed to identify any wastes that are clearly not low hazard wastes is a necessary and appropriate component of the criteria for identifying mineral processing wastes that remain temporarily excluded from Subtitle C regulation by the Bevill Amendment. Any wastes that are clearly not low hazard wastes are not special wastes and would not, under this proposal, remain within the Bevill exclusion.

b. Existing Test and Data Limitations. Several commenters also suggested that existing data are insufficient to assess the potential hazard posed by most, if not all, mineral processing wastes. These commenters maintained, in

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addition, that existing EPA toxicity tests (e.g., EP, TCLP) are inappropriate for judging the hazard posed by mineral processing wastes, primarily because these tests are based on the leaching of constituents under conditions similar to those found at municipal landfills while mining and mineral processing wastes are usually disposed in on-site monofills. Several commenters contended that there are no available valid substitute testing procedures.

Other commenters also maintained that the EP-toxicity test is insufficient as a means of assessing hazard. These commenters suggested, however, that the test is not strict enough and would allow wastes that are actually toxic to remain within the exclusion. They noted, for example, that the test only evaluates the effects of acidification on wastes (e.g., copper slags) and does not assess mobilization of metals under other conditions. A commenter specifically argued that testing of recycled slag with the EP-toxicity test produced concentrations of arsenic that are significantly higher than concentrations produced using deionized water to perform the extraction, but were lower than results obtained using other extraction media containing complexing agents such as ethylenediamine tetra-acetic acid (EDTA).

EPA believes that there are two principal questions regarding the use of toxicity tests for determining the hazard posed by mineral processing wastes: (1) Are any measures of inherent toxicity sufficient for defining the universe of relevant wastes, and (2) if so, what sort of test(s) can and should be used? As discussed in more detail below, EPA believes that the use of inherent toxicity and pH tests as a low hazard criterion is, in fact, feasible and represents the only currently available approach for identifying those mineral processing wastes that are clearly not low hazard wastes. With regard to the appropriate test, EPA concurs with those commenters who suggest that there may be better approaches than the EP-toxicity test for screening mineral processing wastes to identify those wastes that are clearly not low hazard. The Agency has concluded, however, that it disagrees with the contention of some commenters that there are no available valid substitute testing procedures and, today, is proposing the use of a different testing procedure for determining which mineral processing wastes are clearly not low hazard wastes.

c. Consideration of Risks. Some commenters contended that contaminants released from mining sites have a lower potential for human exposure than do those from typical industrial or hazardous waste management facilities and, therefore, any risk to health is minimal, if not non-existent. One commenter suggested that the nature of the processes that generate high volume wastes also ensures that the wastes are of low toxicity due to the effects of dilution. Commenters indicated, furthermore, that the location of many mineral processing facilities is such that they pose a uniquely low degree of hazard in comparison with other industries. The reasons for this, argued some commenters, are that (1) because mineral processing facilities are primarily located in dry climates, leaching of wastes is unlikely; (2) these facilities are usually in less densely populated areas than those of other industries; and (3) waste disposal areas in mineral processing facilities are farther from ground-water and drinking water supplies than are facilities in other industries.

For example, one commenter indicated that the probability of significant impact on the use of ground water located beneath its large copper facility is quite low because the underlying shallow aquifer has always been highly saline and unusable while the deep aquifer is both historically undrinkable and protected from contamination by an impervious clay layer. Another commenter reported that its wastewater from magnesium production exhibits only low pH and is managed in an area that is "a virtual desert" in a calcium carbonate sand-based pond that provides a neutralization medium for the acidic wastewater.

EPA recognizes that factors such as distance to population centers and hydrogeologic setting are important for determining the risks posed by mineral processing wastes to human health and the environment. The Agency also recognizes that some mineral processing facilities may pose negligible risks due to their locations or settings. Nonetheless, EPA believes that a significant portion of the operations that generate high volume processing wastes may not be sufficiently isolated to pose negligible risk and that, in any event, available data are not sufficient to substantiate claims to this effect. After appropriately narrowing the scope of the Bevill exclusion (i.e., removing wastes that are clearly not low hazard), EPA intends to collect the necessary data to assess the risk posed by the special mineral processing wastes, as required for the Report to Congress.

2. Deferring Judgment of Hazard Is Improper

Some commenters disagreed with EPA's decision to defer the judgment of hazard and argued that it was contrary to both Congressional intent and the two recent decisions of the U.S. Court of Appeals (i.e., *EDF* v. *EPA*, 852 F.2d 1309, and *EDF* v. *EPA*, 852 F.2d 1316). Moreover, these commenters argued, EPA's proposal is inconsistent with previous Agency rulemakings because it ignores the hazard component of the criteria that the Agency used to describe special wastes in 1978, which the Court has reaffirmed as denoting the limitations of the RCRA mining wastes exemption.

In reviewing its October 1988 proposal to defer judgment of waste hazard until preparing the Report to Congress, as well as the resulting public comments, EPA has concluded that it should change the approach it proposed by developing and applying a hazard criterion in determining the proper scope of the Bevill exclusion. Specifically, EPA believes that, in spite of the technical difficulties associated with developing and applying a low hazard criterion, such a criterion was part of the original special waste concept (see 43 FR 58946, 58991–2, December 18, 1978) and is required by the Court's reading of Congressional intent. Although additional analysis of the hazard associated with wastes that would remain excluded under this proposed rulemaking will be performed during preparation of the Report to Congress, EPA will now be complying more directly with Congressional intent by removing from the exclusion those wastes that are clearly not low hazard wastes.

Another commenter objected to EPA's failure to propose a low hazard criterion, claiming that because mineral processing wastes must pass either a high volume or a low hazard criterion to remain excluded and only the volume criterion exists, many low volume mineral processing wastes would be removed from the Bevill exclusion under the proposed rule. Therefore, they contended, by deferring a judgment of hazard EPA may cause low hazard wastes to be included in the RCRA Subtitle C program. Alternatively, another commenter stated that EPA should consider waste-related hazard rather than volume in order to comport with Congressional intent.

EPA has considered and rejected these suggestions that the Agency rely solely upon either volume or hazard to make Bevill exclusion decisions because this approach would be inconsistent with Congressional intent and the special wastes concept.

Several commenters recommended that the final rule include explicit toxicity criteria that would eliminate from the exclusion any processing wastes not qualifying as low hazard wastes. These commenters generally contended that adequate data exist to make some waste-specific determinations of hazard for at least some large volume mineral processing wastes. These commenters claimed that toxicity data on the copper, zinc, lead, bauxite, and aluminum sectors indicate that several of these wastes are not low hazard. They stated, for example, that in a previous EPA waste sampling effort, wastes from copper production showed elevated leachable levels of arsenic, cadmium, and mercury in process wastewater and acid plant blowdown; and arsenic, cadmium, and lead in slag. They also noted that large quantities of these wastes are stored in unlined surface impoundments, wastes piles, and landfills.

EPA acknowledges that it previously has collected and analyzed some data on some mineral processing wastes. The Agency does not believe, however, that those data provide an adequate means for evaluating compliance with a low hazard criterion on a waste-by-waste basis, except in a few limited cases, as discussed below. Therefore, EPA plans to collect and analyze the data required to determine which of the other high volume mineral processing wastes also pose low hazard, based on the pH and toxicity and mobility tests presented below.

Several commenters indicated that EPA should use information on the risks to human health and the environment, either in addition to or in the absence of data on waste characteristics, to determine which mineral processing wastes are low hazard wastes. Several commenters stressed that risks from mineral processing facilities are well known and that water contamination risks for mining facilities as a group are similar or even higher than for the group of hazardous waste-producing facilities. Some commenters argued that there are several well-established cases of environmental damage resulting from waste disposal activities at mineral processing facilities. For example, these commenters claimed that two of the five active lead smelters have legal actions for damage pending against them.

Another commenter, who reported having used copper smelting slag purchased from a mineral processing facility for road base, indicated that heavy metal contamination of soils and run-off has resulted from the sale of this material without a proper indication of its risks. Other commenters contended that phosphogypsum stacks pollute groundwater, surface water, and air, and that residual radioactivity that they contain may produce harmful effects such as lung cancer.

EPA recognizes that there is limited information indicating that some past and current mineral processing waste management practices may pose unacceptable risks to human health or the environment. However, EPA believes that it is infeasible to systematically consider this information within a low hazard criterion for this rulemaking, and then apply this information uniformly to all of the various mineral commodity sectors distributed throughout the country. Therefore, EPA intends to utilize a hazard criterion based upon inherent toxicity, and to collect and analyze various kinds of additional data (such as damage cases) for the Report to Congress, once the scope of the Bevill exclusion has been appropriately defined.

D. Comments on Candidate "Special" Mineral Processing Wastes

This section discusses comments received on specific wastes from mineral processing operations. The discussion is organized around the fifteen wastes proposed for exclusion in the October, 1988 NPRM. In contrast to other sections within Part III of this preamble, EPA has not, in general, provided responses to waste nomination-related comments within this section. Instead, the proposed status of candidate Bevill mineral processing wastes is addressed in Part IV, which discusses the nature and implications of the changes to the Bevill criteria used to prepare today's proposed rule. In this way, EPA can provide responses to the issues raised in public comment, as well as articulate the effects of the new Bevill criteria, on a waste-specific basis.

EPA proposed fifteen waste streams for continued exclusion from Subtitle C under the Bevill Amendment in its October 20, 1988, proposal:

(1) Copper smelting slag;
(2) Copper process wastewater;
(3) Copper acid plant blowdown;
(4) Copper bleed electrolyte;
(5) Lead smelting slag;
(6) Zinc process wastewater;
(7) Zinc acid plant blowdown;
(8) Bauxite red and brown muds;
(9) Phosphogypsum;
(10) Elemental Phosphorus Slag;
(11) Iron Blast Furnace Slag;
(12) Iron Blast Furnace APC Dust/Sludge;
(13) Lime Kiln APC Dust;
(14) Waste Acids From Titanium Dioxide Production; and
(15) Chromite Ore Roasting/Leaching Slag.

Although each of the wastes proposed for exclusion met the mineral processing definition and, tentatively, the high volume criterion articulated in the preamble to the proposed rule, none had, at that point, been evaluated with regard to hazard. As explained in detail elsewhere, however, the basis of today's proposed rule includes a low hazard criterion. Therefore, because of the hazard criterion, new waste nominations, and data limitations, the group of wastes proposed for exclusion today is different than the group of fifteen proposed in October.

In addition to reflecting the new hazard criterion, the list of wastes provisionally proposed for exclusion in today's rule includes wastes nominated in public comment on the previous NPRM. After considering the available data, the Agency has decided that it has sufficient data to propose the exclusionary status of nine high volume mineral processing waste streams, some of which were previously proposed and some of which were nominated in public comment. Of those waste streams, six meet both the high volume and low hazard criteria and thus are proposed for exclusion, while three waste streams fail the low hazard criterion and thus would be removed from the Bevill exclusion and regulated under Subtitle C if they exhibit hazardous characteristics. Of the many wastes nominated for exclusion by commenters, approximately thirty-three appear to meet the revised high volume criterion. Because, however, the Agency does not have sufficient data at this time to determine whether these wastes meet the low hazard criterion, EPA proposes to conditionally retain them within the Bevill exclusion until January 15, 1990. The regulatory status of these wastes will be addressed in a subsequent rulemaking scheduled to be proposed on or before September 15, 1989.

In response to the 10/20/88 proposed rule, commenters nominated many additional waste streams that they believed should be retained within the Bevill exclusion. EPA has reviewed these nominations and, in most instances, has concluded that these additional wastes should not be afforded special waste status. The reasons for these waste-specific decisions are varied; some wastes did not meet the definition of mineral processing wastes (e.g., are beneficiation or alloying wastes), while others are generated by processes that are outside the scope of this rulemaking

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(e.g., secondary metal production). The most common reason, however, for rejecting claims of Bevill status was that the nominated materials are not high volume wastes.

Comments on the proposed Bevill status of the 15 original wastes are presented below. Responses to most of these comments may be found in Part IV, below.

Wastes Identified in the October 20, 1988 Proposed Rule as Special Mineral Processing Wastes

(1) *Slag from Primary Copper Production.* Several commenters supported the proposal to retain this waste under the Bevill exclusion and requested clarifications of the waste definition. One commenter suggested that because slag, acid plant blowdown, process wastewater, and wastewater treatment sludges from the processing of primary copper are comprised of groups of wastes that possess similar characteristics and are managed in similar ways, each waste should be considered a single waste stream. Moreover, this and another commenter stated, EPA should include in the definition of slag from primary copper smelting both slag from converter operations and slag from anode furnace operations. In addition to asking for clarifications, several commenters provided detailed process descriptions in an attempt to demonstrate that the slag and effluent resulting from primary copper processing are not hazardous.

In contrast to these statements, several commenters argued that this waste should not be retained within the Bevill exclusion. One commenter noted that EPA data indicate that one sample of slag exceeded EP-toxicity limits for arsenic, cadmium, and lead. A second commenter indicated that it had purchased primary copper slag from a mineral processor for use in road construction. This commenter contended that the generator of the slag failed to assess the suitability of the copper smelting slag for reuse or to warn users of its potential hazards. The commenter also stated that copper smelting slag can release large amounts of hazardous metals when disposed of in an ordinary manner or when reused as a substitute for rock or gravel. Moreover, the commenter argued, because copper slag is responsible for documented, significant environmental damage, EPA should remove this waste from the Bevill exclusion.

As indicated earlier in this preamble, EPA has elected to continue to consider reactor slag, converter slag, and anode furnace slag to be one waste stream, and has evaluated its eligibility for continued exclusion under Bevill on that basis.

(2) *Process Wastewater From Primary Copper Production.* Several commenters expressed support for retaining this waste within the Bevill exclusion and suggested that the definition of the waste be expanded. One commenter suggested that EPA consider all residuals from the treatment of process wastewater as one aggregate waste stream, while another commenter noted that a representative of EPA had assured the American Mining Congress that wastewater streams separated from copper smelter acid plant blowdown could constitute "process wastewater." Finally, several commenters stated that process wastewater from primary copper processing should also include contact cooling water from primary copper production. One of these commenters argued that EPA should apply the 50,000 metric tons per year test to the aggregate quantity of both process wastewater and contact cooling water because there is no logical reason to distinguish between the two waste streams. Another contended that EPA, not industry, made the first distinction between "process wastewater" and "contact cooling water."

In contrast to these arguments, one commenter argued against retaining this waste within the Bevill exclusion. This commenter contended that wastewater from primary copper processing is frequently managed in unlined surface impoundments and that, according to EPA data, this wastewater regularly fails the EP-toxicity test for arsenic, cadmium, and mercury. Therefore, the commenter argued, this waste should be removed from the Bevill exclusion.

(3) *Acid Plant Blowdown From Primary Copper Production.* Several commenters expressed support for retaining this waste in the Bevill exclusion. One commenter indicated that it generated a new waste stream that is very similar to acid plant blowdown, and contended that this waste stream, called Lurgi scrubber effluent, should be combined with acid plant blowdown for analytical and exclusionary purposes because, in addition to physical and functional similarities, the two waste streams are co-managed at the commenter's facility. The commenter indicated that the acid plant blowdown and Lurgi scrubber effluent are mixed with alkaline tailings, which generates a neutral waste (Lurgi effluent has a pH of 1.7 before being mixed with tailings, after which it has a pH of 7.0 to 8.0). A second commenter simply stated that the definition of hazardous waste K064 should specify that this listed hazardous waste is limited to thickened acid plant blowdown that is disposed in surface impoundments.

In contrast to these arguments, a commenter contended that this waste is frequently managed in unlined surface impoundments and that according to EPA data, acid plant blowdown from primary copper processing routinely fails the EP-toxicity test for arsenic, cadmium, and mercury. Therefore, this commenter argued, this waste should be removed from the Bevill exclusion.

EPA agrees that, because Lurgi scrubber effluent is generated by a pollution control process similar to that used in typical metallurgical acid plants, this waste stream should be afforded status similar to acid plant blowdown from primary copper production. Accordingly, the Agency has broadened the definition of this latter waste stream to include Lurgi scrubber effluent.

(4) *Bleed Electrolyte From Primary Copper Production.* One commenter described the recycling process it uses to manage its bleed electrolyte from primary copper processing, in order to demonstrate that this waste does not pose a threat to human health and the environment. Nonetheless, this commenter admitted that due to impurities in anode copper, bleed electrolyte may exhibit the hazardous waste characteristics of EP-toxicity and corrosivity. A second commenter noted that this waste is frequently managed in unlined surface impoundments. This commenter argued that, according to EPA data, bleed electrolyte from primary copper processing routinely fails the EP-toxicity test for arsenic, cadmium, and mercury and that this material, therefore, should be removed from the Bevill exclusion.

(5) *Slag From Primary Lead Production.* The only comments that EPA received concerning this waste stated that the waste should not be retained within the Bevill exclusion. These commenters noted that EPA data indicate that 28 percent of slag from primary lead processing is placed in unlined storage facilities while 24 percent is placed in unlined disposal facilities. These commenters also noted that in EPA sampling efforts, 13 of 17 samples of slag from lead processing facilities showed evidence of EP-toxicity. Moreover, except for "de-zinced" slag, all samples of hot-dumped or granulated slag were EP-toxic. Finally, water extract samples of slag displayed lead and cadmium leachability in excess of the toxicity characteristic regulatory levels. Therefore, these commenters concluded, based upon its own data, EPA should withdraw slag from primary lead processing from the Bevill exclusion.

(6) *Process Wastewater From Primary Zinc Production.* The only comments received concerning this waste were in opposition to retaining it within the exclusion. Commenters noted that all EPA samples of process wastewater from the zinc industry showed evidence of EP-toxicity from cadmium. These commenters also noted that some facilities in this sector already manage this waste as a hazardous waste. Therefore, these commenters concluded, EPA should withdraw process wastewater from primary zinc processing from the Bevill exclusion.

(7) *Acid Plant Blowdown From Primary Zinc Production.* The only comments received concerning this waste were in opposition to retaining it within the exclusion. Commenters noted that one of two samples of acid plant blowdown exhibited EP toxicity and failed the test for corrosivity. These commenters also noted that some facilities in this sector already manage this waste as a hazardous waste. Therefore, these commenters concluded, EPA should withdraw acid plant blowdown from primary zinc processing from the Bevill exclusion.

(8) *Red and Brown Muds From Alumina Production.* Commenters representing diverse interests agreed that red and brown muds are low hazard wastes. One commenter, however, contended that red and brown muds have already been studied and should properly be considered extraction and beneficiation wastes. The only other comment received regarding this waste stated that red scale produced at a plant is composed of the same material as red mud and that both this red scale and pisolites should be included with red and brown muds under the Bevill exclusion.

For purposes of analysis and regulatory action, EPA considers pisolites to be a component of red muds, but considers red scale to be a cleaning waste that is not a mineral processing waste, and therefore, is outside the scope of the Bevill exclusion.

(9) *Phosphogypsum From Phosphoric Acid Production.* Several commenters expressed support for the exclusion of phosphogypsum under the Bevill Amendment and suggested expanding the materials included under the definition of this waste. These commenters argued that EPA should modify the definition of phosphogypsum to include the associated solids and liquids from the processing of phosphate rock. One commenter also suggested that EPA expand the scope of the Bevill exclusion to include waters used for flash coolers, barometric condensers, evaporators, air pollution control equipment, phosphogypsum filters, and other related equipment.

In contrast, one commenter objected to the continued exclusion of phosphogypsum under Bevill. This commenter contended that some Florida residents are concerned that phosphogypsum stacks may be exempted under Bevill even though the wastes are not actually "low hazard." The commenter argued that phosphogypsum is hazardous because the concentrations of the radionuclide Radium 226 in EPA samples were consistently in the 25 to 35 pCi/g range. The commenter argued further that phosphogypsum stacks pollute ground water, rivers, bays, and the air. Noting that in Florida, phosphogypsum is being stockpiled increasingly close to heavily populated areas, and that by the year 2000 there will be over one billion tons disposed in Florida, the commenter concluded that phosphogypsum should be withdrawn from the Bevill exclusion and subjected to special management standards due to the hazardous nature (e.g., residual radioactivity) of the waste.

EPA rejects the suggestion that the definition of phosphogypsum be broadened to include any of the various water streams that may be mixed with and used to transport the waste gypsum to its disposal area (generally a gypsum stack). Although facilities may operate their waste management operations in an integrated fashion, the actual generation of waste gypsum and process wastewater in the phosphoric acid production process derive from different steps in the process and have very different characteristics, and hence, will be considered separately for analytical and regulatory purposes.

(10) *Slag From Elemental Phosphorus Production.* The only comment received regarding this waste stated that EPA's proposal to include phosphorus slag among the wastes to be studied further is appropriate. The commenter argued further that the slag has been used in the construction industry and has not imposed any adverse effects on human health.

(11) *Iron Blast Furnace Slag.* A number of commenters argued that iron blast furnace slag is not a waste but a valuable material. These commenters noted that such slag has been defined as a product by the American Society of Testing and Materials, that at present 75 to 100 percent of all the slag produced is recovered as useful product and is often used as a replacement for scrap in steel mills, and that the U.S. is currently importing this material for industrial use. Moreover, several commenters argued, iron blast furnace slag is not a hazardous waste, has no history of displaying hazardous characteristics, and has even been used to stabilize hazardous and radioactive wastes prior to disposal. Therefore, at least one commenter concluded, iron blast furnace slag should be permanently excluded from regulation under EPA's hazardous waste rules.

EPA included iron blast furnace slag on the original list of 15 wastes proposed for exclusion because preliminary information indicated that this material is either disposed or used in a manner constituting disposal (i.e., directly on the land) at some facilities. Therefore, iron blast furnace slag may be a solid waste at some facilities and is, for purposes of this proposal, considered a solid waste. If retained within the Bevill exclusion in the final rule, the disposition of this slag would be addressed in the Report to Congress.

(12) *APC Dust From Iron Blast Furnaces.* No comments were received regarding the proposed exclusion of APC dust from iron blast furnaces under the Bevill Amendment.

(13) *Lime Kiln APC Dust/Sludge.* One commenter stated that there are no hazardous wastes produced from air pollution control operations at lime kilns. This commenter also stated that studying the lime industry is unnecessary. The only other comments regarding this waste argued that lime kiln APC dust should be withdrawn from the Bevill exclusion because this waste does not pass nationwide waste generation test of the high volume criterion.

(14) *Waste Acids From Titanium Dioxide Production.* Several industry commenters suggested revisions to the definition of this waste. One commenter suggested that EPA's definition be modified in order to avoid discriminating against producers of titanium metal, requesting that the definition read "waste acids from the processing of titanium bearing ore." This commenter noted that such an action would treat equally all processors of titanium bearing ore which produce the same acid wastewaters. Several other commenters suggested that in order to clarify that chloride process wastes result from the production of titanium tetrachloride, which is an intermediate in the production of titanium dioxide, the waste stream should be defined as "waste acids and contained solids from titanium tetrachloride and titanium dioxide production and related air pollution control devices."

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Several commenters expressed opposition to the continued exclusion of this waste. They argued that certain facilities already manage titanium dioxide acids as hazardous wastes, thus demonstrating that the management of these wastes under Subtitle C is technically and economically feasible.

EPA agrees that it should recognize differences in processes as well as the dissimilar components of waste streams that are generated from titanium ore processing. Accordingly, EPA will make separate Bevill exclusion decisions for sulfate process waste acids, sulfate process waste solids, chloride process waste acids, chloride process waste solids, and leach liquors, and will consider all facilities that are primary producers of either titanium metal or titanium dioxide.

(15) *Chromite Ore Roasting/Leaching Slag.* One commenter contended that chromite ore roasting/leaching slag is a low hazard waste. This commenter argued further that the exclusion of such slag under the Bevill Amendment should include all slags disposed in the past. Another commenter suggested that for clarity, "chrome ore tailings and chromium-contaminated waste" should be substituted for "slag" in the text of the proposed rules. Finally, the operator of one chromite ore processing facility indicated that its roasting/leaching slag is generated at a rate high enough to surpass EPA's proposed cut-off rate of 50,600 metric tons per year, but did not provide a quantity.

EPA rejects the suggestion that the definition of this waste should be broadened in any way. For clarity, however, this candidate special waste is, in today's proposal, referred to as "roast/leach ore residue from primary chrome ore processing."

E. Related RCRA Issues

1. Applicability of the Mixture Rule

The October 20, 1988, proposal to reinterpret the scope of the Bevill exclusion as it applies to wastes from mineral processing operations contained specific language indicating that mixed waste streams would be removed from the Bevill exclusion if they are mixtures of (1) characteristic hazardous waste(s) and a Bevill-excluded waste that continues to exhibit one or more hazardous characteristics, or (2) any listed hazardous waste and a Bevill-excluded waste. Several commenters opposed the application of the mixture rule to Bevill wastes, contending that EPA cannot legally apply the mixture rule to any mixtures containing Bevill wastes, because Bevill wastes are temporarily exempt from all Subtitle C requirements, including the mixture rule.

Several commenters also maintained that applying the mixture rule and not excluding Bevill wastes that are mixed with hazardous waste is unrealistic; many mineral processing facilities combine their waste streams with those generated by beneficiation and other processing operations in common tailings or evaporation ponds. Furthermore, while much of the justification for co-management is economic or technical in nature, commenters indicated that often the practice is employed for environmental and regulatory reasons, i.e., Bevill wastes may be co-managed in order to comply with non-RCRA regulatory requirements such as NPDES permit limitations.

Some commenters specifically argued that the interpretation of the mixture rule with regard to co-management with a characteristic hazardous waste is overly restrictive. Mixing low volume characteristic hazardous wastes with high volume Bevill wastes that also exhibit a characteristic of hazardous waste often does not appreciably change the characteristics of the waste mixture and hence, its environmental impact. In cases where waste mixtures display none of the characteristics of a hazardous waste other than those exhibited by the Bevill waste alone, the commenters contended that environmental protection is not improved by depriving the mixture of its Bevill exclusion.

Therefore, several commenters recommended that EPA suspend or modify the mixture rule as applied to mineral processing wastes, thus permitting the co-mingling of wastes and avoiding imposition of a less effective and environmentally protective waste management system. One commenter specifically recommended that EPA determine that when a Bevill waste is intentionally mixed with another waste stream in order to treat that waste, and thereby achieve compliance with other regulatory requirements (e.g., NPDES permit limitations), the resulting treated waste would retain its exempt status. Another commenter requested specifically that EPA modify its interpretation of the mixture rule so that the rule would be inapplicable to mixtures of Bevill waste and recently listed hazardous wastes from mineral processing. Finally, several commenters requested that the final rule be altered so that mixtures of Bevill wastes and relatively small quantities of non-Bevill hazardous wastes retain their Bevill status so long as the only hazardous characteristics displayed are those displayed by the Bevill waste alone.

Some commenters contended that precedent exists for EPA to modify the regulations regarding mixtures. They argued that EPA has authority from various sections of RCRA, in particular the Simpson Amendment (section 3004(x)) and section 3004(d), to modify regulation of certain wastes to allow for special circumstances. They also maintained that in the past EPA has indicated that *de minimis* quantities of hazardous wastes that are mixed with Bevill wastes would retain their excluded status (e.g., in a letter from EPA to the Utility Solid Waste Activities Group dated January 13, 1987), establishing a precedent for exempting certain co-mingling practices from the mixture rule. Finally, some commenters contended that EPA has previously articulated a modified mixture rule position regarding the injection of methanol into extraction wellheads by the oil and gas industry in its Report to Congress on oil and gas wastes.[6] In light of these precedents and in keeping with Congressional intent, these commenters indicated that EPA can and should exempt and study large volume, co-mingled, exempt/nonexempt waste streams before making any final determinations.

After review of these comments and further analysis, EPA has resolved to continue to apply the mixture rule to Bevill and non-Bevill mixed waste streams under almost all circumstances, because to do otherwise would allow many small volume mineral processing wastes to remain effectively excluded from potential Subtitle C regulation, which would be inconsistent with both Congressional intent and the decision of the Court in *EDF v. EPA*, and might not be adequately protective of human health and the environment. Therefore, mixtures of one or more listed hazardous wastes and a large volume, low hazard mineral processing waste will be considered a hazardous waste unless and until the mixture is delisted.[7]

EPA has decided, however, that it is appropriate to revise the proposed regulatory status of some mixtures of non-excluded "characteristic" wastes and Bevill wastes. In these instances,

[6] U.S. EPA. *Report to Congress: Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy*. December 1987, pp II-17.

[7] Unless the hazardous waste is listed only because it exhibits a hazardous characteristic, in that instance, the waste is not considered hazardous when and if it no longer exhibits any of the four characteristics of a hazardous waste (40 CFR 261.3(c)(2)(ii)).

the *mixture* will be considered a hazardous waste if it exhibits one or more of the same hazardous characteristics that are exhibited by the non-excluded waste. If the mixture exhibits one or more hazardous characteristics that are exhibited by the Bevill waste but *not* by the non-excluded characteristic waste, then the mixture is *not* a hazardous waste.

EPA wishes to make clear, however, that in any case, mixing a characteristic hazardous waste with a Bevill waste would constitute treatment of a hazardous waste, which would require a RCRA treatment, storage, or disposal permit (Section 3005 "Part A" permit) for interim status, and, subsequently, a final RCRA Part B permit.

EPA will consider modifying the regulatory language addressing the mixture rule found at 40 CFR 261.3(d) to reflect its final position on the applicability of the mixture rule to Bevill mineral processing wastes, and hereby solicits public comment on this issue.

2. Applicability of the Derived-From Rule

The proposed rule contained no explicit discussion of the interaction of the derived-from rule with the mineral processing waste exclusion. Several commenters, however, raised this issue by requesting clarification of the status of wastes generated from co-combustion of hazardous wastes with minerals or ores in mineral processing furnaces.

Several commenters indicated that hazardous waste is regularly burned as fuel in the kilns of lightweight aggregate producers. These commenters contended that this activity is an environmentally sound hazardous waste management practice that advances the objectives of RCRA and, moreover, has been considered within the Bevill exclusion as a matter of Agency policy. These commenters were concerned that a restrictive application of the derived-from rule might prevent or discourage this type of practice within the industry. They suggested that EPA disregard the Subtitle C derived-from rule where mineral processing is involved, effectively allowing wastes generated from processes that burn hazardous waste in mineral processing furnaces to be eligible for retention within the Bevill exclusion.

In contrast, some commenters believed that the application of the derived-from rule prohibits EPA from excluding wastes from mineral processing operations that burn hazardous waste as fuel. They argued that the language of the Bevill Amendment applies only to the extraction, beneficiation, and processing of ores and minerals and does not include or even mention hazardous wastes. Therefore, noted one commenter, any attempt to expand the statutory exemption to encompass residues from the co-burning of hazardous and mineral processing wastes would be counter to Congressional intent and, in fact, unlawful. Furthermore, argued commenters, processes generating these co-combustion wastes fail to satisfy the fifth attribute of the definition of mineral processing listed in the proposed rule (i.e., they represent operations that combine ores or minerals with materials that are not ores or minerals). Therefore, they requested that EPA state explicitly in the final rule that the mining waste exclusion does not encompass residues generated from the co-burning of hazardous wastes with ores and minerals in mineral processing furnaces.

As a potential precedent for excluding these derived-from wastes, several commenters addressed the exclusion of wastes generated from the combustion of hazardous wastes and fossil fuels in coal-fired utility boilers, another group of special wastes excluded from regulation under the Bevill Amendment. These commenters pointed out, however, that the language of the Bevill Amendment acknowledges co-combustion as a common and accepted practice in the utility industry, but not in the mining industry. Therefore, these commenters contended, residuals from the burning of hazardous waste in mineral processing furnaces should not be excluded under the Bevill Amendment even though this practice is allowed under regulations applied to the utility industry. In a similar request, other commenters, concerned that a new interpretation could affect special wastes from coal combustion, requested that EPA apply any interpretations concerning wastes from co-combustion of hazardous wastes with mineral feedstocks only to Bevill exclusion decisions concerning mineral processing wastes (i.e., not to coal combustion wastes).

The Agency has reviewed these comments and evaluated several options regarding the derived-from rule. EPA will clarify the application of the derived-from rule in a supplemental notice (expected in mid-1989) to the May 6, 1987, proposed rules for boilers and industrial furnaces burning hazardous waste. In the interim, the Agency adheres to its prior statements on this issue, i.e., that wastes from co-managing hazardous wastes and Bevill materials remain within the scope of the Bevill exclusion so long as the character of the residues is not significantly affected by the hazardous waste management activity. See 50 FR 49190 1189 (Nov. 29, 11985); 52 FR 17012–13 (May 6, 1987) for further information.

3. The Status of Future Mineral Processing Wastes

Several commenters disagreed with EPA's proposed approach wherein wastes not presently existing or currently meeting the high volume criteria could not be considered for special waste status in the future. They contended that permanently removing mineral processing wastes from the Bevill exclusion in the future is contrary to Congressional intent in that the Bevill Amendment includes no time limits. These commenters argued that limiting this reinterpretation to a specific list of wastes currently meeting the criteria would stifle and frustrate future industry innovations, at a time when the minerals industry is striving to develop new concentration technologies that would produce substantial and varied waste streams. As an example, they noted that the steel industry is currently working on process development for direct steel-making, based on in-bath smelting and continuous refining. If successful, this could lead to the development of totally new processes with environmental and process advantages over current technology, but which would also create new types of waste streams.

Some commenters argued, therefore, that EPA is obligated to study and issue a regulatory determination for any waste that may meet EPA's criteria in the future. They also argued that it is more appropriate to define the scope of the Bevill exclusion for mineral processing wastes directly by the criteria instead of creating a list of wastes that EPA data indicate meet the specified criteria. Using criteria instead of creating a list would allow for the effects of changing market conditions and new mineral processing technologies. These commenters recommended, therefore, that EPA amend the proposed rule to include a provision whereby if a waste qualifies as a high volume waste in the future, it would become subject to the provisions of the Bevill Amendment.

After reviewing these comments and examining the history of the Bevill exclusion in depth, EPA has decided to maintain its proposed approach and make a one-time reinterpretation of the scope of the Bevill exclusion for mineral processing wastes. EPA recognizes that technological advances and changing market conditions may lead to the genesis of new waste streams and/or the generation of existing waste streams

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in larger quantities. This is, however, irrelevant to a determination of the proper scope of the Bevill exclusion. Moreover, EPA believes that a one-time decision will serve to encourage rather than discourage environmentally sound mineral production and waste treatment process innovations.

Both the administrative record and Congressional intent clearly indicate that the Bevill Amendment was intended to provide a temporary exclusion, pending further study, over a fixed time period. Congress directed EPA to conduct a single study of wastes generated by mineral mining and processing facilities, because of concern that existing wastes might not be readily amenable to Subtitle C controls and might pose relatively low hazard to human health and the environment. Moreover, contrary to some commenter's assertions, the statutory language includes explicit time limits on the Bevill exclusion, which apply to the submission of the required Report to Congress and subsequent regulatory determination.

In addition, EPA believes that making a one-time reinterpretation is not contrary to the interests of either industry or the environment. With regard to the concern raised by several commenters that the development of new technologies would be stifled, EPA notes that any new wastes generated in the future will be regulated under an established regulatory scheme (i.e., either the Subtitle C or D program). Therefore, rather than facing regulatory uncertainty and incentives to generate large volumes of any new mineral processing wastes, industry will instead have substantial knowledge of the regulatory regime that it will face. Moreover, in keeping with recent EPA policy initiatives, industry will have a clear incentive to ensure that process changes or waste treatment technologies that it develops will generate non-hazardous wastes and waste treatment residuals.

EPA also believes that basing Bevill exclusion determinations on historical waste generation rates will not provide any disincentives for continuing existing waste reduction initiatives. Because the criteria would be applied to wastes and volumes of wastes that were generated between 1983 and 1988, no incentive exists for a facility to increase (or decide not to treat and/or decrease) its generation of a particular mineral processing waste in the future in order to meet the criteria.

4. The Status of Historical Accumulations of Mineral Processing Wastes

As EPA stated in the preamble to the proposed rule, a number of mineral processing wastes that have been provisionally excluded from regulation as hazardous wastes by EPA's 1980 interpretation of the Bevill Amendment would become subject to RCRA Subtitle C regulations if they exhibit hazardous characteristics. Several commenters indicated concern that the implications of the proposed rule have not been completely articulated, stating that the proposed rule is not clear about whether existing waste management units at active or potentially active facilities would be subject to Subtitle C requirements if the wastes they contain exhibit hazardous characteristics.

These commenters contended that if wastes removed from the Bevill exclusion under the final rule are retroactively subjected to Subtitle C requirements, large cost impacts associated with closure and post-closure care of existing storage and disposal units would occur. Therefore, they argued that in resolving this issue, EPA must consider costs, technical feasibility, Subtitle C landfill capacity, and other practical problems. One commenter added that retroactive application of Subtitle C to wastes withdrawn from Bevill by this proposal is not only unwarranted but potentially unlawful. Other commenters expressed concern that the retroactive application of the mixture rule, particularly in cases in which the vast majority of the waste is exempt, was never anticipated by Congress and would entirely eviscerate the Bevill Amendment exclusion.

Many commenters argued that EPA must clarify its position on this issue in the final rule. Some commenters recommended that existing wastes be "grandfathered" and any new Subtitle C regulation of processing wastes should only occur prospectively. Some suggested that this could be accomplished by explaining in the preamble that wastes disposed of prior to the effective date of the rule would continue to be considered excluded if either (1) they would be excluded under the new rule or (2) they would reasonably have been considered excluded under interpretations existing at the time of disposal.

In keeping with EPA's long-standing policy, the Agency intends to treat non-excluded mineral processing wastes that are disposed prior to the effective date of the rule that makes them subject to Subtitle C requirements (in this case, as a result of this proposed reinterpretation of the Bevill exclusion) as not being subject to direct Subtitle C controls such as closure and post-closure care requirements. Therefore, existing accumulations of waste that were tentatively considered to be excluded from Subtitle C requirements by the Bevill amendment prior to the effective data of this proposed reinterpretation would not be subject to direct Subtitle C controls unless and until the accumulated wastes are actively managed (i.e., accumulations left undisturbed will not be subject to Subtitle C regulation). The waste management units that contain these wastes might, however, be subject to the requirements for solid waste management units promulgated pursuant to section 3004(u) of RCRA, if the facility were otherwise subject to RCRA Subtitle C permitting requirements.

5. RCRA Section 3004(x)

As part of the 1984 HSWA Amendments, Congress incorporated a provision that allows the EPA Administrator to relax certain of the Subtitle C standards contained in the new amendments as they relate to the management of mining wastes, utility wastes, and cement kiln dust waste. This provision, found at section 3004(x), is commonly called the Simpson Amendment. The Simpson Amendment allows EPA to modify the minimum technical standards for the design, construction, and operation of waste management units, land disposal restrictions, and corrective action requirements for continuing releases, as long as protection of human health and the environment is assured.

One commenter contended that EPA should exercise the authority provided by the Simpson Amendment to modify the Subtitle C technical standards for the wastes that would be removed from the Bevill Amendment exclusion. This commenter argued further that modified requirements should follow the Subtitle D program being developed for extraction and beneficiation wastes.

EPA believes that the provisions of section 3004(x), and hence, the opportunity for flexible application of Subtitle C requirements, apply only to the special wastes identified in the statute. Accordingly, section 3004(x) would not apply to wastes that are not special wastes and that would therefore be removed from the Bevill exclusion by this proposed rule. Although the Agency might, under other circumstances, be willing to consider modifying the technical standards of Subtitle C to account for unique or unusual

characteristics of mineral processing operations (as long as the revised standards would ensure protection of human health and the environment), EPA does not have the authority to apply the flexibility afforded by section 3004(x) to materials that are not special wastes.

IV. Changes to the October 1988 NPRM

Today's proposed rulemaking contains several substantial changes from the October 20, 1988 NPRM. The primary changes are to the criteria used for selecting the specific wastes proposed for retention within the Bevill exclusion. In particular, today's rule modifies the "high volume" criterion and adds, for the first time, an explicit criterion for identifying "high hazard" mineral processing wastes. Although basically unchanged from the October 20, NPRM, the criteria used to define "mineral processing waste" are further clarified in this NPRM.

Following analysis of public comments received on today's proposal, EPA will, by August 18, 1989, finalize this rulemaking. Although the status of the wastes that are today proposed to be conditionally retained within the Bevill exclusion will be considered in a subsequent rulemaking, no changes to the mineral processing "special waste" criteria will be entertained after August 18, 1989. The subsequent proposal (by September 15, 1989) will simply apply the final Bevill mineral processing waste criteria to the conditionally excluded wastes, in light of additional data that EPA will collect during the next several months.

A. Addition of a Low Hazard Criterion

As discussed above, in light of public comments and further internal analysis, EPA has decided to include in this proposal a criterion by which to address the "low hazard" aspect of the "special wastes" concept. The purpose of this new hazard criterion is to identify candidate Bevill mineral processing wastes that pose an unambiguously high level of hazard to human health and/or the environment. EPA believes that any waste failing such a criterion is sufficiently hazardous to justify immediate Subtitle C regulation, rather than postponement pending completion of the 8002(p) study and subsequent regulatory determination. Moreover, such wastes should not, in the Agency's view, be eligible for any permanent exclusion from Subtitle C regulation, irrespective of volume, costs of controls, or any of the other section 8002(p) study factors. Hence, these wastes should not qualify as "special wastes." EPA wishes to emphasize that the use of the criterion would be restricted to this and the subsequent rulemakings regarding which mineral processing wastes are temporarily exempted from Subtitle C requirements by the Bevill Amendment (i.e., those addressing the proposed and final status of candidate Bevill mineral processing wastes), because it is a screening criterion specifically intended for identifying mineral processing wastes that are also special wastes. The Agency does not contemplate, for example, using the Bevill hazard criterion in making hazard determinations under RCRA Section 3001(a), or as an ARAR in assessing potential remedies at CERCLA mining sites or, necessarily, as the basis for subsequent determinations as to which temporarily excluded wastes should be regulated under Subtitle C. With respect to CERCLA sites, any processing waste which does not pass the Bevill hazard criterion will be treated identically to any other hazardous waste in establishing ARARs. If a processing waste does pass the Bevill hazard criterion, RCRA Subtitle C requirements will not be applicable, but may be relevant and appropriate.

In today's proposal, all high volume mineral processing wastes that are low hazard based on currently available data and the hazard criterion described in the proposal are proposed for continued temporary exclusion from RCRA Subtitle C requirements under the Bevill Amendment. Large volume mineral processing wastes that are not low hazard based on currently available data and the hazard criterion, and which the Agency today is proposing to remove from the Bevill exclusion, are identified below. EPA believes that these materials pose a sufficiently high hazard to demonstrate that they are not special wastes. The data used to make these proposed decisions are presented in Appendix I.

A number of additional wastes do, according to available data (including data submitted in public comment on the October 20, 1988 NPRM), meet EPA's criteria for high volume mineral processing wastes. The Agency does not, however, possess sufficient data at this time to apply the hazard criterion to these wastes. Hence, EPA is today proposing to retain these wastes within the exclusion on a conditional basis. Upon development of the necessary data, EPA plans to propose, by September 15, 1989, which of the wastes in this group qualify as special wastes. A final rulemaking on the status of this group of wastes is planned to occur by January 15, 1990. All wastes that are found to meet the final processing, volume, and hazard criteria will be subjected to further study according to the provisions of RCRA section 8002(p) and a subsequent regulatory determination pursuant to section 3001(b)(3)(c).

The criteria EPA has developed for this rulemaking are intended to identify those mineral processing wastes that are clearly not "special wastes". Because the "low hazard" criterion is a screening criterion for determining which high volume wastes will be subject to special study and regulatory consideration, rather than a criterion that will determine the final regulatory status of a waste, EPA believes that it is appropriate to use a measure of hazard that identifies highly hazardous wastes. This measure need not be identical to the characteristics tests that EPA has promulgated under section 3001(a) of RCRA to identify hazardous wastes. As discussed above, some wastes that fail these tests may still be appropriate for further study and possible permanent exclusion from Subtitle C, as EPA determined for mineral extraction and beneficiation wastes (see 51 FR 24496). The U.S. Court of Appeals for the D.C. Circuit has already agreed that the hazardous characteristic tests need not, by themselves, be determinative of the ultimate regulatory status of special wastes (852 F.2d at 1314).

To develop a hazard criterion, EPA looked at the four types of waste characteristics that are generally used to identify wastes that are hazardous (i.e., ignitability, corrosivity, reactivity, EP toxicity). The ignitability and reactivity tests used to identify wastes that exhibit hazardous characteristics, however, are such that they can not be readily "relaxed" for use as part of a screening criterion. In addition, the Agency currently has virtually no information on the potential reactivity or ignitability of any mineral processing wastes. Therefore, the hazard criterion described in today's proposal is based on the other two types of tests, which have been or will be applied to those mineral processing waste streams meeting the high volume criterion: (1) A pH test and (2) a mobility and toxicity test. Candidate Bevill wastes must pass both of these tests to be eligible to remain within the exclusion.

The pH test that EPA is using requires that a mineral processing waste have a pH between 1 and 13.5 to be considered a "special waste". This criterion represents a one order of magnitude "relaxation" of the pH levels used to identify corrosive hazardous wastes.

The proposed mobility and toxicity test parallels the EP toxicity test used to

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identify solid wastes that exhibit hazardous characteristics, but utilizes a different leaching procedure and leaching medium to predict the mobility of contaminants. Mineral processing waste samples prepared for analysis according to this procedure will provide the basis for determining mobility and toxicity. Concentrations of constituents in the resulting extracts will then be compared with 100 times Maximum Contaminant Levels (MCLs) as promulgated under authority of the Safe Drinking Water Act for each of the standard EP toxicity test contaminants. The dilution factor of 100 is consistent with that used in the EP and TCLP procedures.

The Agency is proposing to use a recently developed synthetic precipitation leaching procedure (Method 1312) to predict the mobility of contaminants in candidate low hazard wastes. In addition, the proposed (54 FR 3212, January 23, 1989) mandatory quality assurance/quality control procedures described in Chapter One of SW–846 would also apply to this method. Method 1312 simulates the leaching process created by acidified precipitation percolating through a waste. The Agency believes that this leaching procedure is the appropriate method to use in screening the mobility and toxicity of these particular large volume wastes to determine whether they are clearly not low hazard wastes.

Using Method 1312, which is fully described in the docket for today's proposal and is available through the RCRA Hotline, the waste is mixed with a mildly acidic aqueous leeching medium, and the mixture is agitated to extract any mobile toxicants present in the waste. The acidity and composition of the leaching fluid are designed to simulate the acidity of rainfall that occurs in the general region of the country where the waste is managed (i.e., east or west of the Mississippi River). The resulting extract is then analyzed via established SW–846 analytical methods to determine the degree to which contaminants might leach out of the waste and migrate away from the disposal area.

While the Agency has not yet completed its evaluation of Method 1312, work conducted to date indicates that the procedure is of acceptable precision. A recent study (EMSL, 1989) [8] indicates that Method 1312 produces a reasonably precise measurement of the mobilization of organic compounds and certain metals from soil. The method was also found to be fairly robust with respect to the effects of small variations in extraction fluid pH, waste-extraction fluid contact time, and the ratio of extraction fluid to waste. Based on the results of this study and the similarity of Method 1312 to the more completely evaluated Method 1311 (the Toxicity Characteristic Leaching Procedure) on which it is based, the Agency feels confident in using Method 1312 for this application.

Because Method 1312 is a new procedure, the Agency has not yet completed its evaluation of the testing procedure and does not currently possess data from its application to mineral processing wastes. The Agency does, however, have data from neutral water testing of several candidate special mineral processing wastes upon which to base today's proposal. These water extract data serve as the primary basis for making the limited number of proposed Bevill exclusion decisions that are listed below. Because neutral water is only slightly less aggressive than the Method 1312 leaching medium, the Agency believes that any wastes excluded based on neutral water extract data would also be excluded using Method 1312. In cases where the Agency did not have neutral water data, EPA made limited use of Method 1310 (the EP-Toxicity Test Procedure) extract data. If Method 1310 indicated that a waste had low leaching potential, the Agency assumed that Method 1312 data would yield a similar result, because the Method 1310 extraction medium is generally a more aggressive extraction medium than that used in Method 1312. That is, if a waste passes the Extraction Procedure Toxicity Test procedure, it would almost certainly not exceed the inherent toxicity test being used as part of the Bevill low hazard criterion for today's proposed rule.

Evaluation of candidate Bevill mineral processing waste streams with respect to both hazard criterion tests is a two step process:

(1) Determine if the waste stream fails the hazard criterion at each facility for which data are available; and

(2) Determine if the waste stream fails the hazard criterion for the commodity sector.

For step 1, different procedures are required depending on the number of samples taken from a facility, as follows:

- If only one sample was or is taken at a facility, then analysis of that sample determines whether the waste stream fails or passes at that facility;
- If two samples were or are taken at a facility, then the lower value is analyzed in the pH test,[9] and the mean of the two samples is used for the toxicity and mobility test; and
- If more than two samples were or are taken from a facility, then the median value is used for the pH test, while the mean value is used to assess toxicity and mobility.[10]

In step 2, a waste stream will fail the proposed hazard criterion for the commodity sector if it fails either of the hazard tests at two or more facilities, regardless of the number of facilities generating the candidate Bevill waste. For each high volume mineral processing waste generated by two or more facilities that previously have not been sampled adequately to apply the hazard criterion, EPA plans to sample two facilities selected at random. In those instances in which a waste is generated at only one operating facility, then that facility will be sampled and the waste stream will be removed from the Bevill exclusion if it fails the hazard criterion. EPA recognizes that this method is not rigorously valid in a statistical sense, but believes that it is a reasonable way to make decisions based upon extremely limited data.

Under today's proposed rule, a waste stream would be removed from the Bevill exclusion if it failed either of the proposed hazard criterion tests. The procedure for evaluating a waste stream for purposes of developing today's NPRM was based in part on the availability of data. In cases where EP extract data were available for a mineral processing waste and these data indicated that the waste does not exhibit the hazardous characteristic of EP-toxicity, EPA has assumed that the waste would pass the toxicity portion of the proposed low hazard criterion (which uses Method 1312) and is today proposing that it be retained within the Bevill exclusion. In cases where no data were available or the data indicated that a waste stream failed the EP toxicity test, but no water extraction data were available, further sampling is required and EPA is proposing to conditionally retain the waste within the Bevill exclusion if it is high volume.

EPA recognizes that the concept of explicitly addressing hazard in making

[8] "Performance Testing of Method 1312—QA Support for RCRA Testing." T.C. Chiang, C.A. Valkenburg, and P.A. Miller, Lockheed Engineering and Science Co., and S. Wayne Sovocool, EMSL—LV, March 21, 1989.

[9] The lower pH value is used because pH is measured on a logarithmic scale and the average of the anti-logs of multiple values will be dominated by the lowest value.

[10] The median value is used for pH because pH is measured on a logarithmic scale and an average pH is a meaningless number. Mean values of constituent concentrations are used due to the limited data available.

waste-specific Bevill exclusion decisions is a departure from previous Agency rulemaking proposals related to the proper scope of the Bevill exclusion. Accordingly, EPA solicits public comment on a number of issues pertaining to the new hazard criterion:

(1) The appropriateness of using pH and mobility and toxicity tests to evaluate waste-specific hazard;

(2) The appropriateness of EPA's decision not to employ a consideration of ignitability and reactivity in the hazard criterion.

(3) Whether additional constituents or measurements, particularly residual radioactivity, should be incorporated into the inherent toxicity test, and what measure is appropriate;

(4) The appropriateness of using Method 1312 and the EP-toxicity characteristic regulatory levels contained in 40 CFR 261.24(b);

(5) The appropriateness of using neutral water extracts as surrogates for data obtained using Method 1312;

(6) The appropriateness of the assumption that leachate concentrations obtained using Method 1312 will not be greater than those obtained by Method 1310;

(7) Whether EPA should incorporate selected indices of environmental hazard (e.g., Ambient Water Quality Criteria) for contaminants that are more toxic to non-human organisms than to humans (e.g., copper, zinc); and

(8) The appropriateness of the two-facility test to determine whether a candidate waste fails the hazard criterion.

B. Revision of the High Volume Criterion

In the October 20, 1988 NPRM, a waste stream was classified as a high volume waste and proposed for continued temporary exclusion from Subtitle C regulation if one of the following two conditions were fulfilled:

(1) The annual total quantity of the specific waste generated by all of the facilities in the United States in any one calendar year equals more than 2 million metric tons; or

(2) The specific waste stream is generated at an average rate of more than 50,000 metric tons per facility per year.

As discussed above, for today's proposal EPA has used only the average facility generation rate to determine whether a candidate mineral processing waste is a high volume, special waste. That is, for any waste stream arising from mineral processing in any given mineral commodity sector, the high volume criterion is satisfied if the average annual per-facility generation rate for all facilities generating that waste exceeds 50,000 metric tons. Based on currently available information, the Agency's proposal to use only the average annual facility generation rate to identify high volume mineral processing wastes affects the status of only one mineral processing waste: air pollution control dust from lime kilns. Industry comments indicate that the lime industry does not object to this proposed change in the status of this waste with respect to the Bevill exclusion.

Because EPA wishes to obtain the most recent available data, the Agency will now entertain data pertaining to waste generation during the period from 1983 through 1988, inclusive, rather than the period from 1982 through 1987, as indicated in the October 20, 1988, NPRM. Wastes that exceed the volume threshold for any single year during this five year period satisfy the high volume criterion. According to the information available to EPA, changing the dates of eligibility in this way will not remove any wastes from Bevill that would otherwise qualify as high volume wastes.

C. Clarificatfon of the Definition of Mineral Processing

EPA is continuing to use the definition of mineral processing that it articulated in the October 20, 1988, NPRM, but offers the following clarifications.

- Pollution control residuals may be considered solid wastes from the processing of ores and minerals. The residuals, however, must independently meet the high volume and low hazard criteria to qualify for continued exclusion under the Bevill Amendment. Wastewater can qualify as a mineral processing waste if the influent is derived wholly from mineral processing operations and also meets the high volume and low hazard criteria.
- Heap, dump, and in-situ leaching, as well as tank and vat leaching, are specifically defined as beneficiation operations. EPA currently considers active leach piles to be raw materials used in the production process, and leach solutions to be intermediate products. As long as the leaching operations are active, only leach solutions that escape from the production process are considered wastes.
- Processes that use heat to change the chemical composition of ores and minerals (or beneficiated ores or minerals) are, in general, considered mineral processing operations. These processes include activities such as roasting, smelting, calcining, and other pyrometallurgical techniques, which may not act to concentrate the ore or mineral value, but do enhance its characteristics. Operations that use heat only for purposes of drying, such as heating of diatomaceous earth to drive off waters of hydration, do not change the chemical composition of the materials involved in the process and hence, are considered beneficiation rather than processing operations.
- The 50 percent rule applies to all materials entering a process operation that contain the mineral value rather than all materials entering the operation irrespective of function. The requirement that at least 50 percent of the feedstock be ores or minerals (or beneficiated ores and minerals) allows mineral processing operations to use recycled materials, while ensuring that secondary processing wastes do not receive an unintended regulatory exclusion. Materials not containing the mineral value (e.g., reducing or fluxing agents) are not included when determining whether a waste complies with the 50 percent rule.
- Activities, such as manufacturing and alloying, that use concentrated ores or minerals (or beneficiated ores or minerals) without further removing or enhancing the desired mineral product(s) do not fall within the scope of mineral processing operations. Similarly, operations that involve mixing products of mineral processing with other non-mineral materials (e.g., ammonia, refined metals) are also not considered mineral processing.

D. Resulting Revisions to the Proposed Regulation

This section describes the waste-specific implications of applying the revised special mineral processing wastes criteria included in today's proposal, given the Agency's current state of knowledge. For some candidate wastes, EPA believes that it has sufficient data to make a decision to either propose to retain or propose to withdraw the waste from the Bevill exclusion. These decisions, and the data and analysis that support them, are discussed below.

Today's proposed rule also contains an explicit definition of ore and mineral beneficiation, so as to eliminate confusion and provide clear guidance as to whether a particular material is a beneficiation or a processing waste.

For a number of candidate wastes, particularly those nominated in public comment on the October 20, 1988 NPRM, however, the Agency is presently unable to apply the hazard criterion, and hence, cannot propose to either retain or withdraw the wastes. In these instances, EPA is proposing to conditionally retain the wastes within the exclusion until January 15, 1990, at which time EPA plans to make a final decision as to their Bevill status. If EPA obtains information that enables it to make a determination of hazard on a sufficiently timely basis, then the Agency will formally propose to either retain or withdraw any such waste(s) by September 15, 1989. The wastes that EPA believes meet the processing definition and high volume criterion constraints, but for which the data necessary to apply the hazard criterion are not currently available, are listed below.

Finally, as discussed above, the Agency received nominations for a large number of additional wastes, that, after review of the available information, the Agency believes do not qualify for

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temporary exclusion under Bevill. These wastes are, in EPA's judgment, outside the scope of the Bevill mineral processing wastes exclusion, for a number of reasons. Some are clearly beneficiation wastes; others are wastes that are generated downstream of mineral processing, or in some instances, have a very tenuous link with mineral processing of any kind. Still others are wastes from mineral processing, but are generated in quantities too small to be considered "special wastes." Finally, some waste nominations were accompanied by statements or data that were too vague and incomplete to fully evaluate. In the absence of complete and compelling evidence to the contrary, EPA is proposing that these materials are outside the scope of the Bevill exclusion.

1. Wastes for Which Current Data Support a Proposed Exclusion Decision

a. Wastes Meeting the Processing and High Volume Criteria for Which Hazard Data are Available. Because of the addition of the hazard criterion and data limitations, the group of wastes proposed for exclusion today is different than the group of fifteen proposed in October, 1988. After consideration of the available information, the Agency has decided that it has sufficient data to determine the exclusionary status of nine mineral processing waste streams, some of which were previously proposed to be retained within the exclusion and some of which were nominated in public comment. Of those waste streams, six meet both the high volume and low hazard criteria and thus are proposed for continued exclusion, while three waste streams fail the low hazard criterion and thus would be removed from the Bevill exclusion and regulated under Subtitle C if they exhibit one or more hazardous characteristics. The data supporting these proposed exclusion decisions (i.e., against which the special wastes criteria were applied) are presented in Appendix I to this preamble.

Wastes Proposed for Retention Within the Bevill Exclusion

1. Slag from primary copper processing;
2. Slag from primary lead processing;
3. Red and brown muds from bauxite processing;
4. Phosphogypsum from phosphoric acid production;
5. Slag from elemental phosphorus production; and
6. Furnace scrubber blowdown from elemental phosphorus production.

Wastes Proposed for Withdrawal from the Bevill Exclusion

1. Acid plant and scrubber blowdown from primary copper processing;
2. Acid plant blowdown from primary lead processing; and
3. Air pollution control scrubber blowdown from primary tin processing.

b. Materials not Meeting the Processing Waste Definition and Wastes Which Fail the Volume Criterion. In response to the proposed rule, commenters nominated many additional waste streams that they believed should be retained within the temporary exclusion. EPA has reviewed these nominations, and in most instances, has concluded that these additional wastes should not be afforded special waste status, and hence, is today proposing to remove them from the temporary exclusion (a few, however, fall within the exclusion as extraction and beneficiation wastes). The reasons for these waste-specific decisions are varied; some wastes did not meet the definition of mineral processing wastes (e.g., are beneficiation or alloying wastes), while others are generated by processes that are outside the scope of this rulemaking (e.g., secondary metal production). The most common reason, however, for rejecting claims of Bevill status was that the nominated materials are not high volume wastes. These wastes and the reason(s) that EPA is proposing to withdraw them from the Bevill exclusion, are presented in Table 1.

2. Wastes Meeting the Processing Waste and High Volume Criteria for Which Sufficient Hazard Data are Unavailable

Of the many wastes nominated for exclusion by commenters, 33 wastes appear to meet the processing waste definition and the revised high volume criterion. Because the Agency does not have sufficient data at this time to determine whether these wastes meet the low hazard criterion, EPA is today proposing to conditionally retain these waste streams within the Bevill exclusion until EPA can collect and analyze the necessary data. These materials are listed in Table 2, below. The regulatory status of these wastes will be addressed in a subsequent proposed rulemaking (on or before September 15, 1989).

To obtain sufficient data to allow the Agency to determine whether these 33 wastes are low hazard, the Agency is planning to conduct a waste sampling and analysis effort. The Agency also plans to send letters to all facilities that it believes generate one or more of these wastes requesting information of waste characteristics under the authority of Section 3007 of RCRA. Further, the Agency solicits comments and data that could be used in helping to determine the level of potential hazard that these wastes pose to human health and the environment.

3. Wastes for Which Commenters Provided No Volume or Hazard Data

Commenters on the October 1988 proposed rule nominated several wastes for continued exclusion without providing supporting data. Commenters on one waste in particular, chrome ore roast/leach residue, implied that this waste would meet the Agency's criteria for Bevill exclusion, yet provided no data. In the absence of additional information submitted during the public comment for today's rulemaking that demonstrates that chrome ore roast/leach residue is indeed a high volume waste, EPA plans to remove it from the Bevill exclusion when this proposal is finalized by August 18, 1989.

Another candidate Bevill waste identified in the October 20, 1988 NPRM was iron blast furnace APC dust/sludge. EPA believes that the wastes generated from wet and dry air pollution control techniques at blast furnaces (and other operations) should be considered separately. Currently available data do not, however, allow the Agency to consider these waste streams individually. Accordingly, EPA solicits public comment and data regarding APC dust and sludge generation. In the absence of adequate data, EPA may conclude that neither type of waste independently meets the special waste criteria and, accordingly, propose to remove both from the Bevill exclusion.

Similarly, any other mineral processing wastes for which the Agency does not have information that demonstrates it is a high volume waste will be permanently removed from the exclusion when today's rulemaking is finalized. Therefore, any commenters on today's proposal who suggest additional wastes that should be retained within the exclusion must provide volume data for the waste, as well as any available information on pH (if the waste is a liquid) and toxicity and mobility testing results.

TABLE 1.—EXAMPLES OF WASTES PROPOSED FOR WITHDRAWAL FROM THE BEVILL EXCLUSION ON THE BASIS OF POINT OF GENERATION OR VOLUME, AND WASTES FROM BENEFICIATION THAT ARE UNAFFECTED BY THIS RULE

Sector	Waste stream	Basis for proposed withdrawal *	Information source **	Annual average generation (mt/yr)
Aluminum	Anode prep dust	Low volume	MWEP S0005	2,852
Aluminum	Baghouse bags/plant filters	Low volume	MWEP S0005	9,500
Aluminum	Casthouse dust	Low volume	MWEP S0005	831
Aluminum	Cryolite recovery residue	Low volume	MWEP S0005	30,000
Aluminum	Dross	Low volume	MWEP S0005	5,749
Aluminum	Dust	Low volume	MWEP S0005	1,692
Aluminum	Electrolysis waste	Low volume	MWEP S0005	6,568
Aluminum	Plant trash	Low volume	MWEP S0005	2,400
Aluminum	Scrap furnace brick	Low volume	MWEP S0005	3,830
Aluminum	Skims	Low volume	MWEP S0005	879
Aluminum	Sludge and dredged solids	Low volume	MWEP S0005	5,150
Aluminum	Sweepings	Low volume	MWEP S0005	1,100
Bauxite	Cooling tower blowdown	Low volume	MWEP S0005	2,100
Bauxite	Miscellaneous solid waste	Low volume	MWEP S0005	4,350
Bauxite	Salts	Low volume	MWEP S0005	2,200
Bauxite	Spent cleaning acid	Low volume	MWEP S0005	668
Bauxite	Waste alumina	Low volume	MWEP S0005	8,800
Bauxite	Water softener sludge	Low volume	MWEP S0005	950
Beryllium	Beryl Plant Discard	Low volume	MWEP00041	[1] 37,000
Beryllium	Sludge Leaching Slurry	Low volume	MWEP00041	[1] 47,000
Chromite	Chrome Contaminated Waste	Not Processing—Not Uniquely Associated.	MWEP00058, MWEP00032, 32A.	
Copper	Contact cooling water	Low volume	MWEP S0005	1,807
Copper	Crud	Low volume	MWEP S0005	127
Copper	Furnace Brick	Low volume	MWEP S0005	1,883
Copper	Slimes	Low volume	MWEP S0005	508
Copper	Tankhouse Slimes	Low volume	MWEP S0005	433
Copper	Sodium Hydroxide WWI plant sludge	Low volume	MWEP00030	5,616
Copper	Roast Leach Acid Plant Residue	Not Processing—Prospective Waste.	MWEP00054	
Ferromolybdenum	Slag	Low volume	MWEP S0005, MWEP00007	[1] 682
General	Mill Tailings and Wastewaters	Not Processing—Beneficiation	MWEP00001	
Gold	Spent Ore from Leaching	Not Processing—Beneficiation	MWEP00064	
Iron	APC dust from Sintering	Not Processing—Beneficiation	MWEP00066, 00028	
Iron	Coke Making Wastes	Not Processing	MWEP00068	
Lanthanides	Beneficiation Wastewater	Not Processing—Beneficiation	MWEPL0005, MWEP00007	
Lanthanides	Residues	Not Processing—Beneficiation	MWEPL0005, MWEP00007	
Lanthanides	Slag	Low volume	MWEPL0005	[1] 136
Lanthanides	Tailings	Not Processing—Beneficiation	MWEPL0005, MWEP00007	
Lead	Slag fines	Low volume	MWEP S0005	10,400
Lead	Slurried APC dust	Low volume	MWEP S0005	7,100
Lead	Solids in plant washdown	Low volume	MWEP S0005	100
Lead	Spent furnace brick	Low volume	MWEP S0005	106
Lightweight Aggregate	Kiln APC Dust	Low volume	MWEPL0006	4,137
Lightweight Aggregate	Raw Fines	Not Processing—Beneficiation	MWEPL0006	
Lime	Kiln APC dust	Low volume	(Proposed Rule; 10/20/88)	[2] 28,205
Magnesium	Slag	Low volume	MWEPL0004	18,577
Molybdenum	Roaster gas scrubber water	Low volume	MWEPL0005	[1] 1,090
Molybdenum	Tailing and solution	Not Processing—Beneficiation	MWEPL0005, MWEP00007	
Phosphoric acid (wet)	Runoff from inactive stacks	Not Processing—Not Uniquely Associated.	MWEP00034/MWEP00033	
Secondary Copper	Bleed Electrolyte	Not Processing—Secondary Operation.	MWEP00061	
Secondary Copper	Process Wastewater	Not Processing—Secondary Operation.	MWEP00061	
Shale Oil	Retorting Wastes	Not Processing—Beneficiation	MWEPL0005, MWEP00007	
Steel	Steel (BOF) APC dust/sludge	Low volume	MWEP00028	30,000
Tantalum/Niobium	Processing wastes	Low volume	MWEP00015	[1] 1,500
Tin	Slag	Low volume	MWEP00043	15,000
Tungsten	Ore leach sludge	Low volume	MWEPL0002	[2] 3,920
Tungsten	Waste treatment sludge	Low volume	MWEPL0002	[2] 1,176
Uranium	Tailing and solution	Not Processing—Beneficiation	MWEPL0005, MWEP00007	
Zinc	Filter cloths, baghouse bags, filters	Low volume	MWEP S0005	39

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TABLE 1.—EXAMPLES OF WASTES PROPOSED FOR WITHDRAWAL FROM THE BEVILL EXCLUSION ON THE BASIS OF POINT OF GENERATION OR VOLUME, AND WASTES FROM BENEFICIATION THAT ARE UNAFFECTED BY THIS RULE—Continued

Sector	Waste stream	Basis for proposed withddrawal *	Information source **	Annual average generation (mt/yr)
Zinc	Goethite	Low volume	MWEP00035	22,000
Zinc	Metal residues (saleable)	Low volume	MWEP S0005	8,571
Zinc	Refractory brick	Low volume	MWEP S0005	510
Zinc	Synthetic gypsum	Low volume	MWEP S0005	16,600
Zinc	ICA tower blowdown	Low volume	MWEP S0005	540
Zinc	Zinc-lean slag	Low volume	MWEP00035, 00055	[1] 36,300

* Wastes designated as "Not Processing—Beneficiation" will remain excluded, pursuant to EPA's Regulatory Determination (51 FR 24496).
** Refers to comment/document number in RCRA docket, except as noted.
[1] Average is for the commenting company; all other averages are industry averages.
[2] Values are from the Proposed Rule, Oct. 20, 1988.
[3] Calculated using data from comments supplemented with data from BOM sources.

TABLE 2—PROSPECTIVE BEVILL MINERAL PROCESSING WASTES FOR WHICH EPA HAS INSUFFICIENT DATA TO EVALUATE HAZARD

Sector	Waste stream	Industry average generation (mt/yr)	Information source*
Beryllium	Barren filtrate	[1] 60,000	MWEP00041.
Beryllium	Processing raffinate	[1] 530,000	MWEP00041.
Beryllium	Bertrandite thickener slurry	[1] 680,000	MWEP00041.
Cerium	Process water	[1] 75,000	MWEPL0005.
Coal gasification	Gasifier ash	250,000	MWE030.
Coal gasification	Cooling tower blowdown	697,000	MWEP L0016.
Coal gasification	Wastewater	4,960,000	MWEP L0016.
Chromite	Roast/leach ore residue	[2] >50,000	(Proposed Rule; Oct. 20, 1988).
Copper	Bleed electrolyte	[2] 63,514	(Proposed rule; Oct. 20, 1988)
	(additional comments)	([1]) 51,455	MWEP00031A.
Cooper	Process wastewater	[2] 53,050	(Proposed rule; Oct 20, 1988).
Cooper	Slag tailings	[1] 339,500	MWEP00030.
Cooper	Calcium sulfate from WWT	75,750	MWEP00030.
Elemental phosphorus	Furnace off-gas solids	107,000	MWEP00063
	(additional comments)	107,000	MWEP00026.
Elemental phosphorus	Process wastewater	311,00	MWEP0063
	(additional comments)	([1]) 250,000	MWEP00052
	(additional comments)	311,000	MWEP0026.
Hydrofluoric acid	Fluorogypsum	267,000	MWEP00058.
Iron	APC dust/slurry from blast furnaces	[2] 133,206	(Proposed rule; Oct. 20, 1988).
Iron	Blast furnace slag	[2] 408,542	(Proposed rule; Oct. 20, 1988).
Lanthanides	Ammonium nitrate process solution	[1] 52,000	MWEPL0005.
Lead	Process wastewater	[1] 1,300,000	MWEP00036.
Lightweight aggregate	Scrubber wastewater	396,000	MWEP00063
	(additional comments)	([1]) 674,500	MWEP00029.
Lightweight aggregate	Wastewater treatment solids	63,318	MWEP00063
	(additional comments)	([1]) 67,676	MWEP00029.
Magnesium	Wastewater from the anhydrous process	2,730,000	MWEP00063
	(additional comments)	2,730,000	MWEP00016.
Molybdenum	Selenium Pl. Effluent from processing APB	54,000	MWEP00016
	(addition comments)	54,000	MWEP00063.
Phosphoric acid	Process wastewater	[3] >714,000	MWEP00033
	(additional comments)		MWEP00034
Steel	Steel (BOF) slag	200,000	MWEP00028.
Soda ash	Wastes from trona ore processing	[1] 100,000	MWEP00064
	(addition comments)	[2] 2,980,000	MWEP0013
	(additional comments)	[4] 3,600,000	MWEP00013.
Titanium	Leach liquor	[1] 79,000	MWEPL0001.
Titanium	Sulfate processing waste acids	[1] 1,498,400	MWEPL0003.
Titanium	Sulfate processing waste solids	[1] 86,800	MWEPL0003.
Titanium	Chloride processing waste acids	[1][3] 52,933	MWEPL0003.
Titanium	Chloride processing waste solids	[1][3] 67,066	MWEPL003.
Zinc	Acid plant blowdown	[2] 78,450	(Proposed rule; Oct 20, 1988).
Zinc	Process wastewater	[2] 725,500	(Proposed rule; Oct 20, 1988).

*—Refers to comment number in RCRA docket, except as noted.
[1]—Average is for the commenting company; all other averages are industry averages.
[2]—Values are from the Proposed Rule, Oct. 20, 1988.
[3]—Calculated using data from comments supplemented with data from BOM sources.

V. Regulatory Impacts of This Proposal

When this rule is promulgated in final form, mineral processing wastes that have been temporarily excluded from regulation under Subtitle C of RCRA since 1980, except the 39 "special wastes" described above, may now be subject to Subtitle C requirements beginning, at the latest, on or about February 23, 1990 (i.e., six months after publication of the final rule) (approximately August 23, 1989) in those States that do not have authorization to administer their own hazardous waste program in lieu of EPA (facilities in authorized States will be subject to RCRA requirements only after the State revises its program to adopt equivalent requirements and EPA authorizes the revision). These requirements include determining whether the solid waste(s) exhibit hazardous characteristics (40 CFR 262.11) and, if so, obtaining an EPA identification number (40 CFR 262.34), complying with recordkeeping and reporting requirements (40 CFR 262.40–262.43), and submitting an application for a treatment, storage, or disposal permit (RCRA Sec. 3005 "Part A" permit) for interim status if the waste is managed on-site.

In order to qualify for interim status, owners and operators of existing facilities would have to notify EPA of their hazardous waste management activities by November 23, 1989 (i.e., 90 days after publication of the final rule) and submit a Part A permit application by February 23, 1990 (i.e., 6 months after the publication date of the final rule). Facilities that do not obtain interim status would be required to cease all hazardous waste treatment, storage, and disposal activities requiring a permit and transport all of their hazardous wastes to a permitted facility.

All interim status hazardous waste treatment, storage, and disposal (TSD) facilities (including those that may fail to qualify for interim status) would have to comply with the interim status standards set forth at 40 CFR Part 265. Subsequently, qualifying interim status facilities would have to submit a Part B application for a final RCRA permit if a date for doing so is established by the Regional Administrator. In any event, however, a Part B permit application and a certification of groundwater monitoring and finanical responsibility requirements must be filed by land disposal facilities within 18 months of publication of the final rule for such facilities to retain interim status (40 CFR 270.73(d)). Completion of final permit applications would require individual facilities to develop and compile information on their on-site waste management operations including, but not limited to the following activities: Ground-water monitoring (if waste management on land is involved); manifest systems, recordkeeping, and reporting; closure, and possibly, post-closure requirements; and financial responsibility requirements. The permit applications may also require development of engineering plans to upgrade existing facilities. In addition, many of these facilities will, in the future, be subject to land disposal restriction (LDR) standards. EPA plans to promulgate LDR standards for all characteristic hazardous wastes by May 8, 1990. Under EPA regulations, these standards must require treatment of the affected wastes to a level or by a method that reflects the use of Best Demonstrated Available Technology (BDAT) before the wastes can be disposed on the land. Thus, one future implication of today's proposal (when finalized) will be the ban on land disposal of these wastes unless they are appropriately treated prior to such disposal. Also, facilities with existing permits and permit applications that are currently treating, storing, or disposing of wastes that will be subject to Subtitle C regulation when this rule is promulgated, will have to amend or modify their permits or applications to include provisions applicable to managing these newly non-excluded wastes.

VI. Public Participation

Requests to speak at the public hearing should be submitted in writing to the Public Hearings Officer, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The public hearing will be at the Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC. The hearing will begin at 9:00 a.m., with registration beginning at 8:30 a.m. The hearing will end at 5:00 p.m. unless concluded earlier. Oral and written staements may be submitted at the public hearing. Persons who wish to make oral presentations must restrict these to 15 minutes, and are requested to provide written comments for inclusion in the official record.

VII. Effect on State Authorizations

This proposal, if promulgated, will not be automatically effective in authorized States, since the requirements will not be imposed pursuant to the Hazardous and Solid Waste Amendments of 1984. Thus, this reinterpretation will be immediately applicable only in those few States that do *not* have final authorization to operate their own hazardous waste programs in lieu of the Federal program. In authorized States, the reinterpretation and the regulation of non-excluded processing wastes will not be applicable until the State revises its program to adopt equivalent requirements under State law.

States that have final authorization are required (40 CFR 271.21(e)) to revise their programs to adopt equivalent standards by July 1, 1990 if only regulatory changes are necessary, or by July 1, 1991 if statutory changes are necessary. These deadlines can be extended by up to six months (i.e., until January 1, 1991 and January 1, 1992, respectively) in exceptional cases (40 CFR 271.21(e)(3)). Once EPA approves the revision, the State requirements become RCRA Subtitle C RCRA requirements in that State. States are not authorized to carry out any regulations providing coverage similar to today's proposed rule as RCRA requirements until such regulations (or modifications to regulations) are submitted to EPA and approved. Of course, states with existing standards may continue to administer and enforce them as a matter of state law.

States that submit an official application for final authorization less than 12 months after the effective date of the reinterpretation may be approved without including an equivalent provision (i.e., to address "special" mineral processing wastes) in the application. However, once authorized, a State must revise its program to include an equivalent provision according to the requirements and deadlines provided at 40 CFR 271.21(e).

VIII. Compliance With Executive Order 12291

Sections 2 and 3 of Executive Order 12291 (46 FR 13193) require that a regulatory agency determine whether a new regulation will be "major" and, if so, that a Regulatory Impact Analysis be conducted. A major rule is defined as a regulation which is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individuals, industries,

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Federal, State, and local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Section 8 of Executive Order 12291 exempts an agency from the requirements of the order when compliance would conflict with deadlines imposed by statute or judicial order. Accumulating the information and conducting the analyses required to fully comply with the requirements of section 2 and 3 takes many months. Therefore, compliance with these requirements is not possible within the schedule specified by the Court for this rulemaking.

Today's proposed rule would remove the Bevill exclusion from all smaller volume (less than 50,000 metric ton per year) waste streams at ore and mineral processing facilities, and it would also remove the exclusion from the three high volume wastes thus far determined by the Agency to not be low hazard wastes. Therefore, the impacts of today's proposal would fall within the three metal commodity sectors producing the three high volume wastes and any other metal or non-metal ore processing sectors producing smaller volume waste streams that fail the standard EPA characteristic tests for hazardous wastes under Subtitle C of RCRA.

The Agency does not have comprehensive waste quantity or waste characteristics data with which to characterize most of the individual waste streams or sectors potentially affected by today's rule. However, past sampling of facilities in many metal product sectors indicates that some smaller volume waste streams from these sectors contain toxic constituents such as arsenic, lead, cadmium, and other heavy metals at concentrations that would cause them to be considered hazardous wastes under the characteristics testing definition (see reference to Appendix I). There is considerable variability in these data, however, such that certain waste types that test hazardous at one site would not be found hazardous at another. Furthermore, some metallic ore commodity sectors apparently do not currently produce any wastes that would be RCRA hazardous wastes, either because of the nature of the raw materials or processes involved, or because of the waste management practices (e.g., recycling) employed. Thus, EPA expects that any future Subtitle C compliance costs would be quite site- and sector-specific.

Although the Agency cannot conduct a complete economic impact analysis within the period of time allowed by the Court, the Agency's economic impact analyses conducted in support of previous Agency rulemaking and Report to Congress activities suggest that today's proposal may well not meet the criteria for a "major" rule.

As noted in the preamble to the Agency's October 20, 1988, proposed rulemaking on this same topic (53 FR 41297–99), annual costs of Subtitle C compliance for the major metals industries were previously estimated in the $10 to $20 million range. These costs did not include estimates for land disposal restrictions or corrective action requirements, nor did they address many smaller metallic ore sectors. They did, however, include several of the large volume wastes added to the tentative list of special wastes discussed in today's proposed rule; and they did conservatively include many waste streams as hazardous by analogy without specific test data confirmation.

Review of public comments on the cost estimates for the metals sectors presented in the October proposal did not reveal substantial new information regarding small volume metallic ore sector waste streams or the likelihood of their being hazardous under Subtitle C characteristics tests. The Agency also specifically sought comment and data for non-metallic ore and mineral processing sectors, but received no data indicating that these sectors contain small volume waste streams with hazardous characteristics that would be affected by either last October's or today's proposed rules. In the absence of such data, the Agency cannot conduct further substantive evaluations of compliance costs or impacts.

The Agency recognizes that its knowledge of the wastes generated by many metallic and non-metallic ore processing sectors is incomplete. To the extent that these sectors generate low volume wastes that would fail hazardous waste characteristics tests, and hence be subject to Subtitle C requirements after the effective date of this rule, EPA may, therefore, have underestimated impacts in its previous analyses. The Agency does not, however, have information at hand to suggest that there are large numbers of such wastes or that their management would impose substantial costs or impacts. The Agency again requests comment and data pertinent to small volume wastes that may be hazardous under Subtitle C.

Although the Agency does not intend to conduct a Regulatory Impact Assessment (RIA) relating to this rule, an additional economic impact review may be warranted at the time of promulgation. The extent and nature of such a review will depend on specific industry data received in public comments regarding small volume wastes generated by metallic and non-metallic mineral commodity sectors, and on the final array of high volume wastes removed from the Bevill exclusion due to application of the low hazard criterion.

Since the Agency has not in the past determined this to be a major rule, it has not previously conducted a benefits analysis under E.O. 12291. In general, the Agency's waste testing results for metallic ore processing wastes affected by this rule have indicated that some smaller volume wastes would test hazardous under EPA's current characteristics tests. Such wastes would thus pose risks to human health or the environment under plausible mismanagement scenarios typical of those which the Subtitle C regulations are designed to protect against. Therefore, management of such wastes under Subtitle C would yield benefits in terms of human health and environmental protection to the extent that they are currently mismanaged.

This proposal was submitted to the Office of Management and Budget (OMB) for review as required by section 6 of Executive Order 12291. Any comments from OMB to EPA and any response to those comments are available for viewing at the RCRA Docket.

IX. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) of 1980 (Pub. L. 96–354), which amends the Administrative Procedures Act, requires Federal regulatory agencies to consider "small entities" throughout the regulatory process. The RFA requires, in section 603, an initial screening analysis to be performed to determine whether a substantial number of small entities will be significantly affected by a regulation. If so, regulatory alternatives that eliminate or mitigate the impacts must be considered.

Section 608 of the Act allows an Agency head to waive or delay completion of the screening analysis in response to an emergency that makes compliance with the requirements of Section 603 on a timely basis impracticable. In this instance, the court-imposed deadline for publication of this proposed rule prevents EPA from conducting a complete analysis of

potential impacts of the rule on small entities in time to support this proposed rule, especially given the large number of industry sectors that nominated new waste streams that appear to meet the volume criterion. The Agency did, however, conduct a detailed screening analysis for all nonferrous smelting and refining and ferroalloy-producing facilities as part of the 1985 proposal to reinterpret the mining waste exclusion. Based on that analysis, the Agency determined that small business ownership (as defined by the Small Business Administration) was rare in metals processing, and further, that in those few sectors (ferroalloys, gold and silver refining) in which facilities were not all owned by large businesses or conglomerates, the small enterprises were generally of a type that would be either unaffected or not significantly affected by the proposed reinterpretation (50 FR 40300).

EPA has not studied enterprise ownership patterns or the potential cost impacts of today's rule for the non-metallic ore and mineral processing sectors. Nevertheless, based on general knowledge of the raw material processing industries and information submitted in public comment on the October 20, 1988 NPRM and on the 1985 proposed reinterpretation, the Agency believes that the general conclusions reached for the metals sectors should apply also to the non-metals sectors and that today's proposed rule would not impose adverse impacts on a substantial number of small business enterprises sufficient to warrant additional application of the Regulatory Flexibility Act. The Agency will, however, present limited additional analysis regarding ownership patterns in and potential effects of the proposed rule on the mineral processing industry when the Bevill special mineral processing waste criteria are finalized (by August 18, 1989).

The Agency solicits comment and further specific information relating to small businesses that may produce ore or mineral processing wastes that would, by virtue of the hazardous characteristics of such wastes, be subject to adverse impacts by today's proposed rule.

List of Subjects in 40 CFR Part 261

Hazardous waste, Waste treatment and disposal, Recycling, Reporting and recordkeeping requirements.

Dated: April 7, 1989.

William K. Reilly,

Administrator.

Appendix I

EXHIBIT 1.—RED AND BROWN MUDS FROM BAUXITE PROCESSING

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste type (3)	EP/H20 (4)		Constituents, concentrations, regulatory levels and rations(5)								
							Percent solids	pH <1, >13.5	As 5	Ba 100	Cd 1	Cr 5	Pb 5	Hg 0.2	Se 1	Ag 5
A	Radian	B–2	ND	Bauxite Residue.	H20		ND	NA	0.11	0.011	<0.002	0.22	0.002	<0.0002	0.052	<0.002
						Avg./Reg. Level.	----	----	0.02	0.0001	<0.002	0.04	<0.0004	<0.001	0.05	<0.0004
B	Radian	B–1	ND	Bauxite Residue.	H20		ND	NA	1.4	0.009	<0.002	0.81	0.002	<0.0002	<0.002	<0.002
						Avg./Reg. Level.	----	----	0.3	0.0001	<0.002	0.2	0.0004	<0.001	<0.002	<0.0004

Overview of Solid Waste Generation, Management and Chemical Characteristics in the Bauxite Refining and Primary Aluminum Reduction Industries, Radian Corporation, McLean, Virginia, November, 1985.

Sample number provided in the source document.

Description of waste type provided in the source document.

Indicates whether the data provided are for analysis of the sample according to EP toxicity test procedures (40 CFR 261.24) or an analogous procedure in which deionized water was used as the extraction medium rather than acetic acid. For samples that contain less than 0.5% solids, the methods are equivalent because no extraction of the sample was performed.

(5) Regulatory levels (in mg/l) shown are those for the hazard criterion presented in this proposal. Highlighted ratios indicate exceedances of the hazard criterion. The regulatory levels (except pH) are taken from 40 CFR 261.24(b) and are 100x the MCLs. Constituent concentrations are in units of mg/l. "<" indicates that the concentration was below the detection limit; in these instances, the detection limit was used to compute the average concentration.

NA=Not applicable.

ND=No data available.

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EXHIBIT 2.—ACID PLANT AND SCRUBBER BLOWDOWN FROM PRIMARY COPPER PROCESSING

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste Type (3)	EP/H2O (4)		Constituents, concentrations, regulatory levels and ratios (5) Percent solids	pH <1,>13.5	As 5	Ba 100	Cd 1	Cr 5	Pb 5	Hg 0.2	Se 1	Ag 5
A	PEDCo	5-19	DQ826	Acid plant blowdown.	H2O		ND	ND	15.3	2.2	0.032	0.003	0.005	0.12	0.13	<0.03
A	PEDCo	5-19	DQ829	Acid plant blowdown.	H2O		ND	ND	16	2.7	0.023	<0.002	0.006	0.09	0.13	<0.03
						Avg.			15.7	2.5	0.03	0.003	0.006	0.1	0.1	<0.03
						Avg./Reg. level.			3.1	0.02	0.03	0.001	0.001	0.5	0.1	<0.006
B	PEDCo	5-10	DQ839	Acid plant blowdown.	EP		<0.01	2.71	21.6	0.3	0.31	0.029	2.55	<0.0006	0.028	<0.04
B	PEDCo	5-10	DQ841	Acid plant blowdown.	EP		<0.01	ND	14.1	<0.4	0.16	0.024	1.74	<0.0006	0.068	<0.03
						Avg.		2.71	17.9	0.4	0.2	0.03	2.1	<0.0006	0.05	<0.035
						Avg./Reg. level.			3.6	0.004	0.2	0.005	0.4	<0.003	0.05	<0.007
C	PEDCo	5-10	DR714	Acid plant blowdown.	EP		0.01	2.38	0.19	0.8	1.46	0.005	2.49	0.0013	0.16	<0.03
C	PEDCo	5-10	DR715	Acid plant blowdown.	EP		0.01	2.4	0.18	<0.6	1.49	0.005	2.89	0.0013	0.16	<0.03
						Avg.		2.38	0.185	0.8	1.475	0.005	2.7	0.0013	0.16	<0.03
						Avg./Reg. level.			0.04	0.008	1.475	0.001	0.5	0.007	0.16	<0.006

(1) Overview of Solid Waste Generation, Management and Chemical Characteristics in the Primary Copper Smelting and Refining Industry, PEDCo Environmental, Inc., Cincinnati, Ohio, October, 1984.
(2) Sample number provided in the source document.
(3) Description of waste type provided in the source document.
(4) Indicates whether the data provided are for analysis of the sample according to EP toxicity test procedures (40 CFR 261.24) or an analogous procedure in which deionized water was used as the extraction medium rather than acetic acid. For samples that contain less than 0.5% solids, the methods are equivalent because no extraction of the sample was performed.
(5) Regulatory levels (in mg/l) shown are those for the hazard criterion presented in this proposal. Highlighted ratios indicate exceedances of the hazard criterion. The regulatory levels (except pH) are taken from 40 CFR 261.24(b) and are 100x the MCLs. Constituent concentrations are in units of mg/l. "<" indicates that the concentration was below the detection limit; in these instances, the detection limit was used to compute the average concentration.
NA=Not applicable.
ND=No data available.

EXHIBIT 3.—SLAG FROM PRIMARY COPPER PROCESSING

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste Type (3)	EP/H_2O (4)		Constituents, Concentrations, Regulatory Levels and Ratios (5) Percent Solids	pH <1,>13.5	As 5	Ba 100	Cd 1	Cr 5	Pb 5	Hg 0.2	Se 1	Ag 5
A	PEDCo	App. B	DQ824	Reverberatory Furnace Slag.	H_2O		ND	NA	0.004	<0.8	0.011	<0.002	<0.004	0.0015	<0.004	<0.03
A	PEDCo	App. B	DQ826	Furnace Flash Slag.	H_2O		ND	NA	0.008	<0.8	0.029	<0.002	0.018	0.001	<0.004	<0.03
A	PEDCo	App. B	DQ825	New Converter Slag.	H_2O		ND	NA	0.01	<0.6	<0.001	<0.002	0.004	0.0015	<0.004	<0.03
						Avg.			0.007	<0.6	0.01	<0.002	0.06	0.001	<0.004	<0.03
						Avg./Reg. Level.			0.001	<0.008	0.01	<0.0004	0.01	0.007	<0.004	<0.006

EXHIBIT 3.—SLAG FROM PRIMARY COPPER PROCESSING—Continued

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste Type (3)	EP/H_2O (4)		Constituents, Concentrations, Regulatory Levels and Ratios (5) Percent Solids	pH <1,>13.5	As 5	Ba 100	Cd 1	Cr 5	Pb 5	Hg 0.2	Se 1	Ag 5
B	PEDCo	App. B	DR108	Composite Slag.	H_2O		ND	NA	0.016	<0.8	<0.001	<0.002	<0.004	<0.0006	0.004	<0.03
B	PEDCo	App. B	DQ837	Aged Slag	H_2O		ND	NA	0.006	<0.8	<0.001	<0.002	0.004	<0.0006	<0.004	<0.03
B	PEDCo	App B	DQ838	New Slag	H_2O		ND	NA	<0.006	<0.8	0.001	<0.002	0.007	<0.0006	<0.004	<0.03
						Avg.			0.01	<0.8	0.001	<0.002	0.005	<0.0006	<0.004	<0.03
						Avg./Reg. Level.			0.002	<0.006	0.001	<0.0004	0.001	<0.003	<0.004	<0.006
C	PEDCo	App. B	DR709	Copper Slag	H_2O		ND	NA	0.086	<0.8	0.14	<0.001	<0.006	<0.0006	<0.002	<0.03
C	PEDCo	App. B	DR706	Blast Furnace Slag.	H_2O		ND	NA	1.18	<0.8	0.032	0.01	0.23	0.0029	0.071	<0.03
C	PEDCo	App. B	DR707	Blast Furnace Slag.	H_2O		ND	NA	1.13	<0.8	0.005	0.002	<0.17	0.0023	0.062	<0.03
						Avg.			0.8	<0.8	0.06	0.004	0.136	0.002	0.05	<0.03
						Avg./Reg. Level.			0.2	<0.008	0.06	0.0006	0.03	0.01	0.05	<0.006
D	PEDCo	App. B	DR711	Fresh Slag	H_2O		ND	NA	<0.004	<0.8	0.023	0.002	0.024	<0.0006	<0.002	<0.03
D	PEDCo	App. B	DR712	Fresh Slag	H_2O		ND	NA	<0.004	<0.8	0.001	<0.001	0.006	<0.0006	<0.002	<0.03
D	PEDCo	App. B	DR713	Old Slag	H_2O		ND	NA	<0.004	<0.8	0.004	<0.001	0.021	<0.0006	<0.002	<0.03
						Avg.			<0.004	<0.8	0.01	0.001	0.02	<0.0006	<0.002	<0.03
						Avg./Reg. Level.			<0.0008	<0.006	0.01	0.0003	0.003	<0.003	<0.002	<0.006
E	PEDCo	App. B	DR716	Waste Slag Dump.	H_2O		ND	NA	<0.004	<0.8	3.5	<0.001	0.33	<0.0006	<0.01	<0.03
						Avg./Reg. Level.			<0.0008	<0.006	3.5	<0.0002	0.066	<0.003	0.01	<0.006
F	PEDCo	App. B	DQ831	Fresh Slag	H_2O		ND	NA	0.048	<0.8	0.048	<0.002	0.007	0.0018	<0.004	<0.03
F	PEDCo	App. B	DQ832	Old Slag	H_2O		ND	NA	0.041	<0.8	0.002	<0.002	<0.004	0.0009	<0.004	<0.03
						Avg.			0.045	<0.8	0.03	<0.002	0.006	0.001	<0.004	<0.03
						Avg./Reg. Level.			0.009	<0.006	0.03	<0.0004	0.001	0.007	<0.004	<0.006

(1) Overview of Solid Waste Generation, Management and Chemical Characteristics in the Primary Copper Smelting and Refining Industry, PEDCo Environmental, Inc., Cincinnati, Ohio, October, 1984.
(2) Sample number provided in the source document.
(3) Description of waste type provided in the source document.
(4) Indicates whether the data provided are for analysis of the sample according to EP toxicity test procedures (40 CFR 261.24) or an analogous procedure in which deionized water was used as the extraction medium rather than acetic acid. For samples that contain less than 0.5% solids, the methods are equivalent because no extraction of the sample was performed.
(5) Regulatory levels (in mg/l) shown are those for the hazard criterion presented in this proposal. Highlighted ratios indicate exceedances of the hazard criterion. The regulatory levels, (except pH) are taken from 40 CFR 261.24 (b) and are 100x the MCLs. Constituent concentrations are in units of mg/l. "<" indicates that the concentration was below the detection limit; in these instances, the detection limit was used to compute the average concentration.
NA=Not applicable.
ND=No data available.

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Exhibit 4.—Acid Plant Blowdown From Primary Lead Processing

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste Type (3)	EP/H20 (4)		Constituents, Concentrations, Regulatory Levels and Ratios (5)									
							Percent solids	pH <1,>13.5	As 5	Ba 100	Cd 1	Cr 5	Pb 5	Hg 0.2	Se 1	Ag 5
A	PEI	5-15	DR083	Neut. acid plant blowdown.	EP		0.01	6.9	24.4	<0.8	2.61	<0.002	1.45	0.0038	0.089	<0.03
						Avg./Reg. Level.			4.9	<0.008	2.61	<0.0004	0.3	0.02	0.09	<0.006
D	PEI	5-15	DQ238	Neut. acid plant blowdown.	EP		0.01	11.2	0.005	0.9	0.014	0.007	22	<0.0002	0.004	<0.03
						Avg./Reg. Level.			0.001	0.009	0.014	0.001	4.4	<0.001	0.004	<0.006

(1) Overview of Solid Waste Generation, Management and Chemical Characteristics, Primary Lead Smelting and Refining Industry, PEI Associates, Inc., Cincinnati, Ohio, November, 1984.
(2) Sample number provided in the source document.
(3)Description of waste type provided in the source document.
(4) Indicates whether the data provided are for analysis of the sample according to EP toxicity test procedures (40 CFR 261.24) or an analogous procedure in which deionized water was used as the extraction medium rather than acetic acid. For samples that contain less than 0.5% solids, the methods are equivalent because no extraction of the sample was performed.
(5) Regulatory levels (in mg/l) shown are those for the hazard criterion presented in this proposal. Highlighted ratios indicate exceedances of the hazard criterion. The regulatory levels, (except pH) are taken from 40 CFR 261.24 (b) and are 100x the MCLs. Constituent concentrations are in units of mg/1. "<" indicates that the concentration was below the detection limit; in these instances, the detection limit was used to compute the average concentration.

Exhibit 5.—Slag From Primary Lead Sector

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste type (3)	EP/H20 (4)		Constituents, concentrations, regulatory levels, and ratios (5)									
							Percent solids	pH <1,>13.5	As 5	Ba 100	Cd 1	Cr 5	Pb 5	Hg 0.2	Se 1	Ag 5
A	PEI	5-19	DQ230W	Granulated furnace slag—Active piles.	H20		ND	NA	<0.004	<0.3	0.024	<0.002	0.115	<0.0007	<0.002	<0.03
A	PEI	5-19	DQ231W	Granulated furnace slag—Inactive piles.	H20		ND	NA	<0.004	<0.3	0.77	<0.002	3.02	<0.0002	<0.002	<0.03
A	PEI	5-19	DQ232W	Granulated furnace slag—Active piles.	H20		ND	NA	<0.004	<0.3	0.24	<0.002	0.318	0.0003	<0.002	<0.03
						Avg			<0.004	<0.3	0.4	<0.002	1.2	0.0004	<0.002	<0.03
						Avg./Reg. Level.			<0.0008	<0.003	0.4	<0.0004	0.2	0.002	<0.002	<0.006
B	PEI	5-19	DQ233W	Granulated furnace slag—Inactive piles.	H20		ND	NA	<0.004	<0.3	0.14	<0.002	0.14	<0.0002	<0.002	0.03
B	PEI	5-19	DQ234W	Granulated furnace slag—Active piles.	H20		ND	NA	<0.004	<0.3	0.059	0.005	0.027	<0.0002	<0.002	<0.03
						Avg.			<0.004	<0.3	0.1	0.004	0.08	<0.0002	<0.002	0.03
						Avg./Reg. Level.			<0.0006	<0.003	0.1	0.0007	0.02	<0.001	<0.002	0.006

Exhibit 5.—Slag From Primary Lead Sector—Continued

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste type (3)	EP/H20 (4)		Constituents, concentrations, regulatory levels, and ratios (5)									
							Percent solids	pH <1,>13.5	As 5	Ba 100	Cd 1	Cr 5	Pb 5	Hg 0.2	Se 1	Ag 5
C	PEI	5-19	DQ715W	Granulated furnace slag—Active piles.	H20		ND	NA	<0.002	0.8	5.02	0.005	2.2	<0.0007	0.004	<0.04
C	PEI	5-19	DQ716W	Granulated furnace slag—Active piles.	H20		ND	NA	<0.002	0.3	2.32	<0.002	1.83	0.0009	<0.004	<0.04
C	PEI	5-19	DQ717W	Granulated furnace slag—Inactive piles.	H20		ND	NA	<0.002	0.2	0.17	<0.002	0.063	0.0039	<0.004	<0.04
						Avg.			<0.002	0.4	2.5	0.003	1.4	0.002	0.004	<0.04
						Avg./Reg. Level.			<0.0004	0.4	2.5	0.0006	0.3	0.01	0.004	<0.008
D	PEI	5-20	DR076	Hot dumped blast furnace slag.	H20		ND	NA	0.28	<0.8	0.12	<0.002	0.12	0.0007	0.008	<0.03
D	PEI	5-22	DR077	Dezinced slag ...	H20		ND	NA	0.31	<0.8	0.025	0.005	0.16	0.0013	<0.004	<0.03
D	PEI	5-22	DR078	Dezinced slag ...	H20		ND	NA	0.026	<0.8	0.053	<0.002	0.15	<0.0006	<0.004	<0.03
						Avg.			0.2	<0.8	0.07	0.003	0.1	0.0009	0.005	<0.03
						Avg./Reg. Level.			0.04	<0.008	0.07	0.0006	0.03	0.004	0.005	<0.006
E	PEI	5-20	DR706	Hot dumped blast furnace slag.	H20		ND	NA	1.18	<0.8	0.032	0.01	0.23	0.0029	0.071	<0.03
E	PEI	5-20	DR707	Hot dumped blast furnace slag.	H20		ND	NA	1.13	<0.8	0.005	0.002	0.17	0.0023	0.062	<0.03
						Avg.			1.16	<0.8	0.019	0.006	0.2	0.0026	0.067	<0.03
						Avg./Reg. Level.			0.23	0.008	0.019	0.001	0.04	0.01	0.067	<0.006
F	PEI	5-20	DR949	Hot dumped blast furnace slag.	H20		ND	NA	<0.004	<0.4	0.15	<0.002	0.12	<0.0006	<0.002	<0.03
F	PEI	5-20	DR950	Hot dumped blast furnace slag.	H20		ND	NA	<0.004	0.5	0.061	<0.002	0.071	<0.0006	<0.002	<0.03
F	PEI	5-22	DR951	Dezinced slag ...	H20		ND	NA	<0.004	<0.4	0.006	<0.002	0.011	<0.0006	<0.002	<0.03
F	PEI	5-22	DR952	Dezinced slag ...	H20		ND	NA	<0.004	<0.4	<0.001	<0.002	0.006	<0.0006	<0.002	<0.03
						Avg.			<0.004	0.425	0.05	<0.002	0.05	<0.0006	<0.002	<0.03
						Avg./Reg. Level.			<0.0008	0.00425	0.05	<0.0004	0.01	<0.003	<0.002	<0.006

(1) Overview of Solid Waste Generation, Management and Chemical Characteristics, Primary Lead Smelting and Refining Industry, PEI Associates, Inc., Cincinnati, Ohio, November, 1984.
(2) Sample number provided in the source document.
(3) Description of waste type provided in the source document.
(4) Indicates whether the data provided are for analysis of the sample according to EP toxicity test procedures (40 CFR 261.24) or an analogous procedure in which deionized water was used as the extraction medium rather than acetic acid. For samples that contain less than 0.5% solids, the methods are equivalent because no extraction of the sample was performed.
(5) Regulatory levels (in mg/1) shown are those for the hazard criterion presented in this proposal. Highlighted ratios indicate exceedances of the hazard criterion. The regulatory levels, (except pH) are taken from 40 CFR 261.24(b) and are 100x the MCLs. Constituent concentrations are in units of mg/1. "<" indicates that the concentration was below the detection limit; in these instances, the detection limit was used to compute the average concentration.
NA = Not applicable.
ND = No data available.

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EXHIBIT 6.—FURNACE SCRUBBER BLOWDOWN FROM ELEMENTAL PHOSPHORUS PRODUCTION

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste Type (3)	EP/H2O (4)		Constituents, Concentrations, Regulatory Levels and Ratios (5)									
							Percent Solids	pH <1,>13.5	As (5)	Ba 100	Cd (1)	Cr (5)	Pb (5)	Hg 0.2	Se (1)	Ag (5)
1	PEI	126	CL-01	Scrubber Liquids.	EP		ND	2.6	0.016	0.71	3	1.6	0.037	<0.0004	0.045	<0.002
						Avg.			0.009	0.007	3	0.3	0.007	<0.002	0.045	<0.0004
						Avg./Reg. Level.										
2	PEI	128	CL-01	Scrubber Liquids.	EP		ND	5.98	0.501	0.26	<0.002	<0.001	0.004	<0.0003	<0.005	<0.002
						Avg.			0.1	0.003	<0.002	<0.0002	0.0008	<0.002	<0.005	<0.0004
						Avg./Reg. Level.										

(1) Evaluation of Waste Management for Phosphate Processing, PEI Associates, Inc., Cincinnati, Ohio, August, 1986.
(2) Sample number provided in the source document.
(3) Description of waste type provided in the source document.
(4) Indicates whether the data provided are for analysis of the sample according to EP toxicity test procedures (40 CFR 261.24) or an analogous procedure in which deionized water was used as the extraction medium rather than acetic acid. For samples that contain less than 0.5% solids, the methods are equivalent because no extraction of the sample was performed.
(5) Regulatory levels (in mg/1) shown are those for the hazard criterion presented in this proposal. Highlighted ratios indicate exceedances of the hazard criterion. The regulatory levels, (except pH) are taken from 40 CFR 261.24(b) and are 100x the MCLs. Constituent concentrations are in units of mg/1. "<" indicates that the concentration was below the detection limit; in these instances, the detection limit was used to compute the average concentration.
ND=No data available

EXHIBIT 7—SLAG FROM ELEMENTAL PHOSPHORUS PRODUCTION

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste type (3)	EP/H2O (4)		Constituents, concentrations, regulatory levels and ratios (5)									
							Percent Solids	pH <1,>13.5	As 5	Ba 100	Cd 1	Cr 5	Pb 5	Hg 0.2	Se 1	Ag 5
1	PEI	126	SS-11	Slag solids	EP		ND	NA	0.0033	2.2	<0.02	<0.01	<0.84	<0.0004	<0.004	<0.02
1	PEI	127	SS-61	Slag solids	EP		ND	NA	0.012	2.1	0.035	<0.01	<0.84	<0.0004	<0.004	<0.02
						Avg.			0.008	2.15	0.028	<0.01	<0.84	<0.0004	<0.004	<0.02
						Avg./Reg. Level.			0.002	0.0215	0.028	<0.002	<0.17	<0.002	<0.004	<0.004
2	PEI	129	SS-11	Slag solids	EP		ND	NA	0.0069	0.201	<0.02	0.51	<0.84	<0.0003	<0.005	<0.02
						Avg.			0.007	0.2	<0.02	0.5	<0.84	<0.0003	<0.005	<0.02
						Avg./Reg. Level.			0.001	0.002	<0.02	0.1	0.2	<0.002	<0.005	<0.004
3	PEI	130	SS-11	Slag solids	EP		ND	NA	0.0033	0.3	<0.02	0.06	<0.84	<0.0003	<0.005	<0.02
						Avg.			0.0007	0.003	<0.02	0.01	<0.2	<0.002	<0.005	<0.004
						Avg./Reg. Level.										

(1) Evaluation of Waste Management for Phosphate Processing, PEI Associates, Inc., Cincinnati, Ohio, August, 1986.
(2) Sample number provided in the source document.
(3) Description of waste type provided in the source document.
(4) Indicates whether the data provided are for analysis of the sample according to EP toxicity test procedures (40 CFR 261.24) or an analogous procedure in which deionized water was used as the extraction medium rather than acetic acid. For samples that contain less than 0.5% solids, the methods are equivalent because no extraction of the sample was performed.
(5) Regulatory levels (in mg/1) shown are those for the hazard criterion presented in this proposal. Highlighted ratios indicate exceedances of the hazard criterion. The regulatory levels (except pH) are taken from 40 CFR 261.24(b) and are 100× the MCLs. Constituent concentrations are in units of mg/l. "<" indicates that the concentration was below the detection limit; in these instances, the detection limit was used to compute the average concentration.
NA=Not applicable.
ND=No data available.

EXHIBIT 8—PHOSPHOGYPSUM FROM PHOSPHORIC ACID PRODUCTION

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste type (3)	EP/H2O (4)		Constituents, concentrations, regulatory levels and ratios (5)									
							Percent Solids	pH <1,>13.5	As 5	Ba 100	Cd 1	Cr 5	Pb 5	Hg 0.2	Se 1	Ag 5
4	PEI	131	GS-11	Gypsum Solids	EP		ND	NA	0.0033	0.057	0.024	0.058	<0.084	<0.0004	<0.004	0.009
4	PEI	131	GS-61	Gypsum Solids	EP		ND	NA	0.0048	0.04	0.02	0.057	<0.084	0.0004	0.004	<0.002
						Avg.			0.004	0.05	0.02	0.06	<0.084	0.0004	0.004	0.006
						Avg./Reg. Level.			0.0008	0.0005	0.02	0.01	<0.02	0.002	0.004	0.001
5	PEI	132	GS-11	Gypsum Solids	EP		ND	NA	0.0089	0.08	0.018	0.05	0.085	<0.0004	<0.004	0.002
						Avg./Reg. Level.			0.002	0.0008	0.02	0.01	0.02	<0.002	<0.004	0.0004
6	PEI	133	GS-11	Gypsum Solids	EP		ND	NA	0.0021	0.045	0.027	0.09	<0.084	<0.0004	<0.004	0.007
6	PEI	133	GS-61	Gypsum Solids	EP		ND	NA	<0.006	0.067	0.05	0.039	0.1	<0.0004	0.004	0.004
6	PEI	133	GS-81	Gypsum Solids	EP		ND	NA	0.011	0.067	0.063	0.036	0.088	<0.0004	<0.004	0.002
						Avg.			0.006	0.06	0.05	0.06	0.09	<0.0004	0.004	0.004
						Avg./Reg. Level.			0.001	0.0006	0.05	0.01	0.02	<0.002	0.004	0.0009
7	PEI	134	GS-11	Gypsum Solids	EP		ND	NA	0.01	0.065	0.036	0.036	0.087	<0.0004	<0.004	<0.002
						Avg./Reg. Level.			0.002	0.0009	0.04	0.007	0.02	<0.002	<0.004	<0.0004
8	PEI	135	GS-11	Gypsum Solids	EP		ND	NA	<0.006	0.053	0.05	0.087	0.104	<0.0004	<0.005	0.005
8	PEI	135	GS-12	Gypsum Solids	EP		ND	NA	0.0083	0.08	0.036	0.054	<0.08	<0.0004	<0.004	0.27
						Avg.			0.007	0.06	0.04	0.07	0.1	<0.0004	<0.005	0.1
						Avg./Reg. Level.			0.001	0.0006	0.04	0.01	0.02	<0.002	<0.005	0.03
9	PEI	136	GS-11	Gypsum Solids	EP		ND	NA	0.0039	0.095	0.066	0.71	<0.084	<0.0004	<0.004	0.008
						Avg./Reg. Level.			0.0008	0.001	0.09	0.1	<0.02	<0.002	<0.004	0.002
10	PEI	137	GS-11	Gypsum Solids	EP		ND	NA	0.0063	0.072	0.032	0.031	0.084	<0.0004	<0.004	<0.002
10	PEI	137	GS-12	Gypsum Solids	EP		ND	NA	0.0042	0.054	0.012	0.01	<0.084	<0.0004	<0.004	0.007
						Avg.			0.005	0.06	0.02	0.02	0.08	<0.0004	<0.004	0.005
						Avg./Reg. Level.			0.001	0.0006	0.02	0.004	0.02	<0.002	<0.004	0.0009
11	PEI	136	GS-11	Gypsum Solids	EP		ND	NA	0.012	0.63	0.15	0.18	<0.84	<0.0004	<0.004	<0.02
11	PEI	136	GS-31	Gypsum Solids	EP		ND	NA	0.0071	0.55	0.14	0.178	<0.84	<0.0004	<0.004	<0.02
						Avg.			0.01	0.8	0.145	0.2	<0.84	<0.0004	<0.004	<0.02
						Avg./Reg. Level.			0.002	0.006	0.145	0.04	<0.2	<0.002	<0.004	<0.004
12	PEI	139	GS-11	Gypsum Solids	EP		ND	NA	0.014	0.47	0.045	1.4	<0.84	<0.0004	<0.004	<0.02
12	PEI	139	GS-12	Gypsum Solids	EP		ND	NA	0.0066	0.3	0.099	0.13	1.5	<0.0004	<0.004	<0.02
12	PEI	139	GS-31	Gypsum Solids	EP		ND	NA	0.011	0.86	0.048	1.5	<0.84	<0.0004	<0.004	<0.02
						Avg.			0.01	0.5	0.06	1	1	<0.0004	<0.004	<0.02
						Avg./Reg. Level.			0.002	0.005	0.06	0.2	0.2	<0.002	<0.004	<0.004

(1) Evaluation of Waste Management for Phosphate Processing, PEI Associates, Inc., Cincinnati, Ohio, August, 1986.
(2) Sample number provided in the source document.
(3) Description of waste type provided in the source document.
(4) Indicates whether the data provided are for analysis of the sample according to EP toxicity test procedures (40 CFR 261.24) or an analogous procedure in which deionized water was used as the extraction medium rather than acetic acid. For samples that contain less than 0.5% solids, the methods are equivalent because no extraction of the sample was performed.
(5) Regulatory levels (in mg/1) shown are those for the hazard criterion presented in this proposal. Highlighted ratios indicate exceedances of the hazard criterion. The regulatory levels, (except pH) are taken from 40 CFR 261.24(b) and are 100× the MCLs. Constituent concentrations are in units of mg/1. "<" indicates that the concentration was below the detection limit; in these instances, the detection limit was used to compute the average concentration.
NA=Not applicable.
ND=No data available.

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EXHIBIT 9.—AIR POLLUTION CONTROL SCRUBBER BLOWDOWN FROM PRIMARY TIN PROCESSING

Plant	Source (1)	Page No.	Sample I.D. (2)	Waste type (3)	EP/H2O (4)		Constituents, Concentrations, Regulatory Levels and Ratios (5)								
							Percent Solids	pH <1,>13.5	As 5	Ba 100	Cd 1	Cr 5	Pb 5	Hg 0.2	Se 1	Ag 5
A	PEI	5-6	DR 092	Scrubber Pond Water.	EP		<0.01	7.79	22.9	6.8	0.002	<0.002	0.01	0.0039	0.053	<0.03
A	PEI	5-7	DR 091	Scrubber Solids.	H2O		ND	ND	8.21	2.2	0.004	<0.002	0.004	0.0006	0.05	<0.03
						Avg.			15.5	4.5	0.003	<0.002	0.007	0.002	0.05	<0.03
						Avg./Reg. Level.			3.1	0.05	0.003	<0.0004	0.001	0.01	0.05	<0.006

(1) Overview of Solid Waste Generation, Management, and Chemical Characteristics, Primary Antimony, Magnesium, Tin and Titanium Smelting and Refining Industries, PEI Associates, Inc., Cincinnati, Ohio, December, 1984.
(2) Sample number provided in the source document.
(3) Description of waste type provided in the source document.
(4) Indicates whether the data provided are for analysis of the sample according to EP toxicity test procedures (40 CFR 261.24) or an analogous procedure in which deionized water was used as the extraction medium rather than acetic acid. For samples that contain less than 0.5% solids, the methods are equivalent because no extraction of the sample was performed.
(5) Regulatory levels (in mg/l) shown are those for the hazard criterion presented int this proposal. Highlighed ratios indicate exceedances of the hazard criterion. The regulatory levels (except pH), are taken from 40 CFR 261.24(b) and are 100x the MCLs. Constituent concentrations are in units of mg/L. "<" indicates that the concentration was below the detection limit; in these instances, the detection limit was used to compute the average concentration.
NA=Not applicable.
ND=No data available.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

1. The authority citation for Part 261 continues to read as follows:

Authority: Sections 1008, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (43 U.S.C. 6905, 6912(a) 6921, and 6922).

2. Section 261.4, paragraph (b)(7), is revised to read as follows:

§ 261.4 Exclusions.

37 • • • • •

(b) • • •

(7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore. For purposes of this paragraph, beneficiation of ores and minerals is restricted to the following activities: crushing, grinding, washing, sorting, sizing, drying, agglomerating, flotation, and heap, dump, tank, vat, and *in-situ* leaching.

(i) The following solid wastes from the processing of ores and minerals are retained within this exclusion:

(A) Slag from primary copper smelting;

(B) Slag from primary lead smelting;

(C) Red and brown muds from bauxite refining;

(D) Phosphogypsum from phosphoric acid production;

(E) Slag from elemental phosphorus production;

(F) furnace scrubber blowdown from elemental phosphorus production.

(ii) The following solid wastes from the procesing of ores and minerals are conditionally retained within this exclusion, pending collection and evaluation of additional data:

(A) Barren filtrate from primary beryllium processing;

(B) Raffinate from primary beryllium processing;

(C) Bertrandite thickener sludge from primary beryllium processing;

(D) Process wastewater from primary cerium processing;

(E) Ammonium nitrate process solution from primary lanthanide processing;

(F) Roast/leach ore residue from primary chrome ore processing;

(G) Gasifier ash from coal gasification;

(H) Cooling tower blowdown from coal gasification;

(I) Process wastewater from coal gasification;

(J) Bleed electrolyte from primary copper refining;

(K) Process wastewater from primary copper smelting/refining;

(L) Slag tailing from primary copper smelting;

(M) Calcium sulfate wastewater treatment plant sludge from primary copper smelting/refining;

(N) Furnace off-gas solids from elemental phosphorus production;

(O) Process wastewater from elemental phosphorus production;

(P) Fluorogypsum from hydrofluoric acid production;

(Q) Air pollution control dust/sludge from iron blast furnaces;

(R) Iron blast furnace slag;

(S) Process wastewater from primary lead smelting/refining;

(T) Air pollution control scrubber wastewater from light weight aggregate production;

(U) Wastewater treatment sludge/ solids from light weight aggregate production;

(V) Process wastewater from primary magnesium processing by the anhydrous process;

(W) Process wastewater from primary selenium processing;

(X) Process wastewater from phosphoric acid production;

(Y) Wastes from trona ore processing;

(Z) Basic oxygen furnace slag from carbon steel production;

(AA) Leach liquor from primary titanium processing;

(BB) Sulfate processing waste acids from titanium dioxide production;

(CC) Sulfate processing waste solids from titanium dioxide production;

(DD) Chloride processing waste acids from titanium and titanium dioxide production;

(EE) Chloride processing waste solids from titanium and titanium dioxide production;

(FF) Blowdown from acid plants at primary zinc smelters; and

(GG) Process wastewater from primary zinc smelting/refining.

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[FR Doc. 89-9125 Filed 4-14-89; 8:45 am]

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S. 20/Pub. L. 101–12
Whistleblower Protection Act of 1989; 103 Stat. 16; 20 pages) Price: $1.00
Last List April 12, 1989

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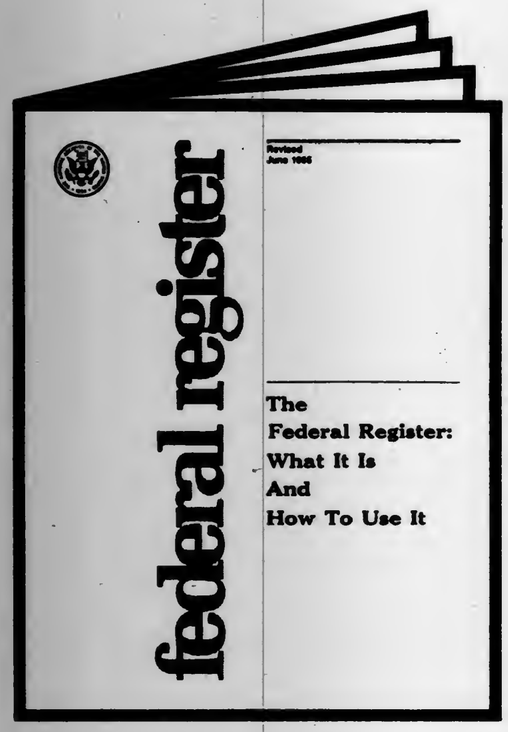
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Title 3—

The President

Presidential Determination No. 89-12 of March 15, 1989

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to Section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), in order to meet unexpected urgent refugee and migration needs in Africa and Asia, I hereby determine that it is important to the national interest that $17.5 million be made available from the Emergency Refugee and Migration Assistance Fund (Emergency Fund) for assistance to African and Afghan refugees and displaced persons. Up to $5 million will be contributed to the International Committee of the Red Cross (ICRC) for assistance to African refugees and displaced persons in the Horn of Africa. Up to $5 million will be contributed to the United Nations High Commissioner for Refugees (UNHCR) to support the return of Namibian refugees. Up to $2.5 million will be contributed to the United Nations Special Coordinator for Afghanistan to assist in meeting the urgent needs related to the repatriation of Afghan refugees. Up to $5 million will be contributed to the ICRC for medical assistance to Afghan refugees and displaced persons in Afghanistan and Pakistan.

You are authorized and directed to perform the appropriate congressional notifications regarding this Determination and the obligation of funds under this authority.

This Determination shall be published in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, March 15, 1989.

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Proclamation 5955 of April 13, 1989

Amending the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to Title V of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2461 *et seq.*), the President may designate specified articles provided for in the Harmonized Tariff Schedule of the United States (HTS) as eligible for preferential tariff treatment under the Generalized System of Preferences (GSP) when imported from designated beneficiary developing countries.

2. Pursuant to section 504(c) of the Trade Act (19 U.S.C. 2464(c)), beneficiary developing countries, except those designated as least-developed beneficiary developing countries pursuant to section 504(c)(2) of the Trade Act, are subject to limitations on the preferential treatment afforded under the GSP. Pursuant to section 504(c)(5) of the Trade Act, a country that has not been treated as a beneficiary developing country with respect to an eligible article may be redesignated with respect to such article if imports of such article from such country did not exceed the limitations in section 504(c)(1) (after application of paragraph (c)(2)) during the preceding calendar year. Further, pursuant to section 504(d)(1) of the Trade Act (19 U.S.C. 2464(d)(1)), the limitations provided in section 504(c)(1)(B) shall not apply with respect to an eligible article if a like or directly competitive article was not produced in the United States on January 3, 1985.

3. Subsections 502(b)(7) and 502(c)(7) of the Trade Act (19 U.S.C. 2462(b)(7) and 2462(c)(7)) provide that a country that has not taken or is not taking steps to afford internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act (19 U.S.C. 2462(a)(4)), is ineligible for designation as a beneficiary developing country for purposes of the GSP. Pursuant to section 504 of the Trade Act, the President may withdraw, suspend, or limit the application of duty-free treatment under the GSP with respect to any article or with respect to any country upon consideration of the factors set forth in sections 501 and 502(c) of the Trade Act (19 U.S.C. 2461 and 2462(c)).

4. Pursuant to sections 501, 503(a), and 504(a) of the Trade Act (19 U.S.C. 2461, 2463(a), and 2464(a)), in order to subdivide and amend the nomenclature of existing items for the purposes of the GSP, I have determined, after taking into account information and advice received under section 503(a), that the HTS should be modified to adjust the original designation of eligible articles. In addition, pursuant to Title V of the Trade Act, I have determined that it is appropriate to designate specified articles provided for in the HTS as eligible for preferential tariff treatment under the GSP when imported from designated beneficiary developing countries and that such treatment for other articles should be terminated. I have also determined, pursuant to section 504(a) and (c)(1) of the Trade Act, that certain beneficiary countries should no longer receive preferential tariff treatment under the GSP with respect to certain eligible articles. Further, I have determined, pursuant to section 504(c)(5) of the Trade Act, that certain countries should be redesignated as beneficiary developing countries with respect to specified previously designated eligible articles. These countries have been previously excluded from benefits of the GSP with respect to such eligible articles pursuant to section 504(c)(1) of the Trade Act. Last, I have determined that section 504(c)(1)(B) of the Trade Act should not apply with respect to certain eligible articles because no like or directly competitive article was produced in the United States on January 3, 1985.

5. Pursuant to subsections 502(b)(7) and 502(c)(7) and section 504 of the Trade Act, I have determined that it is appropriate to provide for the suspension of preferential treatment under the GSP for articles that are currently eligible for such treatment and that are imported from Burma or the Central African Republic. Such suspensions are the result of my determinations

that Burma and the Central African Republic have not taken and are not taking steps to afford internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act.

6. Section 201(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (the Implementation Act) (Pub.L. 100–449; 102 Stat. 1851) authorizes the President to proclaim such modifications or continuance of existing duties, such continuance of existing duty-free or excise treatment, and such additional duties, as the President determines are necessary or appropriate to carry out Article 401 of the Agreement (including the schedule of duty reductions with respect to goods originating in the territory of Canada set forth in Annexes 401.2 and 401.7). Accordingly, I have determined that it is necessary to provide for the staged reduction in duties on certain goods originating in the terrority of Canada.

7. Section 604 of the Trade Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, of other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to Title V and section 604 of the Trade Act, and section 201 of the Implementation Act, do proclaim that:

(1) In order to provide benefits under the GSP to specified designated eligible articles when imported from any designated beneficiary developing country, the HTS is modified as provided in Annex I to this Proclamation.

(2)(a) In order to provide benefits under the GSP to specified designated eligible articles when imported from any designated beneficiary developing country, the Rates of Duty 1–Special column for the HTS subheadings enumerated in Annex II(a), II(b), and II(c) is modified by inserting in the parentheses the symbol "A," immediately before the "E" in each such item.

(b) In order to terminate preferential tariff treatment under the GSP for articles imported from all designated beneficiary developing countries, the Rates of Duty 1–Special column for the HTS subheading enumerated in Annex II(d) is modified by deleting the symbol "A," in parentheses.

(c) In order to provide preferential tariff treatment under the GSP to certain countries which have been excluded from the benefits of the GSP for certain eligible articles imported from such countries, following my determination that a country not previously receiving such benefits should again be treated as a beneficiary developing country with respect to such article, the Rates of Duty 1–Special column for each of the HTS subheadings enumerated in Annex II(e) to this Proclamation is modified: (i) by deleting from such column for such HTS subheadings the symbol "A*" in parentheses, and (ii) by inserting in such column the symbol "A" in lieu thereof.

(d) In order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to an eligible article for purposes of the GSP, the Rates of Duty 1–Special column for each of the HTS subheadings enumerated in Annex II(f) to this Proclamation is modified: (i) by deleting from such column for such HTS subheadings the symbol "A" in parentheses, and (ii) by inserting in such column the symbol "A*" in lieu thereof.

(3) In order to provide for the suspension of preferential treatment under the GSP for Burma and the Central African Republic, to correct the status of a designated beneficiary developing country, to provide that one or more countries should be treated as beneficiary developing countries with respect to an eligible article for purposes of the GSP, and to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to an eligible article for purposes of the GSP, general note 3(c)(ii) to the HTS is modified as provided in Annex III to this Proclamation.

(4) In order to provide for the staged reductions on Canadian goods in the HTS subheadings modified in Annex I to this Proclamation, effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates specified in Annex IV to this Proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1–Special column followed by the symbol "CA" in parentheses for each of the HTS subheadings enumerated in such Annex shall be deleted and the rate of duty provided in such Annex inserted in lieu thereof.

(5) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this Proclamation are hereby superseded to the extent of such inconsistency.

(6)(a) The amendments made by paragraph (4) of this Proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates indicated for the respective Annex columns.

(b) Except as provided for in paragraph (a), this Proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after July 1, 1989.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.

George Bush

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Annex I

Notes:

1. Bracketed matter is included to assist in the understanding of proclaimed modifications.

2. The following supersedes matter now in the Harmonized Tariff Schedule of the United States (HTS). The subheadings and superior descriptions are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1–General", "Rates of Duty 1–Special", and "Rates of Duty 2", respectively.

Effective as to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 1989.

(a) Subheading 2917.19.25 is superseded by:

	[Polycarboxylic acids, . . . :]			
	[Acyclic polycarboxylic . . . :]			
	[Other:]			
	[Maleic acid: . . . :]			
	"Other:			
2917.19.23	Maleic acid	3.7¢/kg+16.8%	Free (A,E,IL) 2.9¢/kg+13.4% (CA)	15.4¢/kg+53.5%
2917.19.27	Other	3.7¢/kg+16.8%	Free (E,IL) 2.9¢/kg+13.4% (CA)	15.4¢/kg+53.5%"

(b) Subheading 2918.19.50 is superseded by:

	[Carboxylic acids . . . :]			
	[Carboxylic acids . . . :]			
	[Other:]			
	"Other:			
2918.19.60	Malic acid	4%	Free (A,E,IL) 3.2% (CA)	25%
2918.19.90	Other	4%	Free (E,IL) 3.2% (CA)	25%"

Annex II

Modification in the HTS of an Article's Preferential Tariff Treatment under the GSP

(a) For the following HTS subheadings, in the Rates of Duty 1–Special column, insert in the parentheses the symbol "A," immediately before the "E" in each such subheading:

2907.11.00; 2917.19.15; 3817.10.00

(b) For HTS subheading 7019.10.40 insert a "Free (A)" in the Rates of Duty 1-Special column.

(c) For HTS subheading 9607.20.00, in the Rates of Duty 1–Special column, insert in the parentheses the symbol "A," immediately before the "B" in such subheading.

(d) For HTS subheading 7307.93.30, in the Rates of Duty 1–Special column, delete the symbol "A," in parentheses.

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(e) For the following HTS subheadings, in the Rates of Duty 1–Special column, delete the symbol "A*" and insert an "A" in lieu thereof:

0707.00.40; 2924.29.30; 3004.90.60; 4412.99.40

(f) For the following HTS subheadings, in the Rates of Duty 1–Special column, delete the symbol "A" and insert an "A*" in lieu thereof:

0804.50.80	2903.40.00	6108.20.80	9401.40.00	9403.40.90
1102.30.00	2915.21.00	6702.90.60	9401.61.60	9403.50.90
1103.14.00	2917.35.00	6908.10.20	9401.69.80	9403.60.80
2402.10.80	2933.99.47	7113.11.20	9401.90.40	9503.90.50
2803.00.00	3003.19.00	7413.00.10	9403.30.80	9503.90.60

Annex III

Modifications to General Note 3(c)(ii)

(a) General note 3(c)(ii)(A) is modified—

(1) by deleting "Burma" and "Central African Republic" from the enumeration of independent countries; and

(2) by deleting "Saint Christopher and Nevis" from the enumeration of non-independent countries and territories, by inserting "St. Kitts and Nevis" in alphabetical order in the enumeration of independent countries, and in the associations of countries (treated as one country) for the member countries of the Caribbean Common Market (CARICOM) change "Saint Christopher and Nevis" to "St. Kitts and Nevis".

(b) General note 3(c)(ii)(B) is modified by deleting "Central African Republic" from the enumeration of least-developed beneficiary developing countries.

(c) General note 3(c)(ii)(D) is modified—

(1) by deleting the following HTS subheadings and the countries set opposite these subheadings:

0707.00.40	Mexico	4412.99.40	Indonesia
2924.29.30	Bahamas		
3004.90.60	Bahamas; Turkey		

(2) by adding in numerical sequence, the following HTS subheadings and countries set opposite them:

0804.50.80	Mexico	7113.11.20	Thailand
1102.30.00	Thailand	7413.00.10	Peru
1103.14.00	Thailand	9401.40.00	Thailand
2402.10.80	Dominican Republic	9401.61.60	Thailand
2803.00.00	Papua New Guinea	9401.69.80	Thailand
2803.40.00	Israel	9401.90.40	Yugoslavia
2915.21.00	Mexico	9403.30.80	Thailand
2917.35.00	Brazil	9403.40.90	Thailand
2933.90.47	Mexico	9403.50.90	Thailand
3003.19.00	Mexico	9403.60.80	Thailand
6108.20.80	India	9503.90.50	Mexico
6702.90.60	Thailand	9503.90.60	Mexico
6908.10.20	Thailand		

Annex IV

Effective with respect to good originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the following tabulation.

For each of the following subheadings created by Annex I of this Proclamation, the rate of duty in the Rates of Duty 1—Special column in the HTS that is followed by the symbol "CA" in parentheses is deleted and the following rates duty inserted in lieu thereof on the date specified below.

HTS Subheading	January 1, 1990	January 1, 1991	January 1, 1992	January 1, 1993
2917.19.23	2.2¢/kg+10%	1.4¢/kg+6.7%	0.7¢/kg+3.3%	Free
2917.19.27	2.2¢/kg+10%	1.4¢/kg+6.7%	0.7¢/kg+3.3%	Free
2918.19.60	2.4%	1.6%	0.8%	Free
2918.19.90	2.4%	1.6%	0.8%	Free

Presidential Documents

Memorandum of April 13, 1989

Actions Concerning the Generalized System of Preferences

Memorandum for the United States Trade Representative

Pursuant to subsections 502(b)(4) and 502(b)(7) and section 504 of the Trade Act of 1974, as amended (the Act) (19 U.S.C. 2462(b)(4), 2462(b)(7), and 2464)), I have determined to modify the application of duty-free treatment under the Generalized System of Preferences (GSP) currently being afforded to certain beneficiary developing countries, to make a determination concerning the alleged expropriation without compensation by a beneficiary developing country, and to make findings concerning whether steps have been taken or are being taken by certain beneficiary developing countries to afford internationally recognized worker rights to workers in such countries.

Specifically, after considering a private sector request for a review concerning the alleged expropriation by Venezuela of property owned by a United States person allegedly without prompt, adequate, and effective compensation, without entering into good-faith negotiations to provide such compensation or otherwise taking steps to discharge its obligations, and without submitting the expropriation claim to arbitration, I have determined to continue to review the status of such alleged expropriation by Venezuela.

Second, after considering various private sector requests for a review of whether or not certain beneficiary developing countries have taken or are taking steps to afford internationally recognized worker rights (as defined in subsection 502(a)(4) of the Act) to workers in such countries, and in accordance with section 502(b)(7) of the Act, I have determined that Israel and Malaysia have taken or are taking steps to afford internationally recognized worker rights, and I have determined that Burma and the Central African Republic have not taken and are not taking steps to afford such internationally recognized rights. Therefore, I am notifying the Congress of my intention to suspend the GSP eligibility of Burma and the Central African Republic. Finally, I have determined to continue to review the status of such worker rights in Haiti, Liberia, and Syria.

In the case of Israel, I did not review worker rights matters concerning the West Bank and Gaza Strip because they are not a part of the "country" of Israel as contemplated in section 502(b)(7) of the Act. The United States has consistently refrained from formal determinations that would have the effect of recognizing, either impliedly or expressly, the de jure incorporation of the occupied territories into Israel.

Further, in order to convert and implement prior decisions taken in terms of the Tariff Schedules of the United States (TSUS) into the nomenclature structure of the Harmonized Tariff Schedule of the United States (HTS) and after consideration of a private sector request for a waiver of the application of section 504(c) of the Act (19 U.S.C. 2464(c)) with respect to certain eligible articles from Mexico, I have determined to modify the application of duty-free treatment under the GSP currently being afforded to certain articles and to certain beneficiary developing countries.

Specifically, I have determined, pursuant to subsection 504(d)(1) of the Act (19 U.S.C. 2464(d)(1)), that the limitation provided for in subsection 504(c)(1)(B) of the Act should not apply with respect to certain eligible articles because no like or directly competitive article was produced in the United States on

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January 3, 1985. Such articles are enumerated in the list of HTS subheadings in Annex A.

Second, pursuant to subsection 504(c)(3) of the Act, I have determined to waive the application of section 504(c) of the Act with respect to certain eligible articles from certain beneficiary developing countries. I have received the advice of the United States International Trade Commission on whether any industries in the United States are likely to be adversely affected by such waivers, and I have determined, based on that advice and on the considerations described in sections 501 and 502(c) of the Act (19 U.S.C. 2461 and 2462(c)), that such waivers are in the national economic interest of the United States. The waivers apply to the eligible articles of the beneficiary developing countries that are enumerated in Annex B opposite the HTS subheadings applicable to each article.

Finally, I have determined, pursuant to subsection 504(c)(2) of the Act and after taking into account the considerations described in sections 501 and 502(c) of the Act, that certain beneficiary developing countries have demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to certain eligible articles. Therefore, I have determined that subsection 504(c)(2)(B) of the Act should apply to such countries with respect to such articles. Such countries are enumerated in Annex C opposite the HTS subheadings applicable to each article.

These determinations shall be published in the Federal Register.

George Bush

THE WHITE HOUSE,
Washington, April 13, 1989.

[FR Doc. 89-9302
Filed 4-13-89; 10:43 am]
Billing code 3195-01-M

Annex A

HTS subheadings for which no like or directly competitive article was produced in the United States on January 3, 1985

HTS Subheading	HTS Subheading	HTS Subheading
0305.59.20	2933.51.10	8714.93.10
0501.00.00	3301.29.10	8714.93.60
0502.10.00	3301.29.20	8714.94.25
0505.90.00	3806.20.00	8714.94.40
0510.00.20	3808.10.10	9105.99.10
0709.90.10	3926.20.20	9202.90.20
0710.90.10	3926.90.70	9502.10.60
0712.90.15	4206.10.30	9502.99.10
0803.00.40	4601.20.20	9617.00.40
0807.10.50	4602.10.11	
0811.90.25	4602.10.13	
0908.20.20	4807.91.00	
1207.91.00	4823.90.50	
1211.90.60	5301.21.00	
1302.12.00	5701.10.13	
1401.20.40	5702.10.10	
1504.30.00	5702.91.20	
1515.50.00	5805.00.20	
1602.50.10	5904.10.00	
1904.90.00	6304.99.10	
2001.90.10	6304.99.40	
2001.90.42	6402.20.00	
2001.90.50	6502.00.60	
2008.30.54	6703.00.30	
2008.91.00	6802.91.30	
2008.99.15	6812.50.50	
2008.99.63	7004.10.10	
2008.99.65	7004.10.50	
2208.20.10	7004.90.50	
2208.90.12	7006.00.20	
2208.90.14	7013.10.10	
2208.90.15	7016.10.00	
2208.90.55	7103.10.40	
2208.90.72	7103.99.50	
2306.60.00	7104.10.00	
2402.20.10	7104.90.10	
2402.20.90	7116.20.20	
2504.10.10	7215.90.50	
2805.22.10	7615.20.00	
2912.30.50	8446.21.00	
2912.50.00	8447.20.10	
2918.13.10	8447.20.60	
2918.13.20	8448.51.10	
2918.23.10	8452.10.00	
2922.29.23	8525.20.15	

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Annex B

HTS subheadings and countries granted Competitive Need Waivers

HTS Subheading	Country
0603.10.30	Colombia
0714.90.20	Colombia
1602.50.10	Uruguay
1701.11.00	Colombia; Philippines
2008.99.15	Philippines
2008.99.28	Colombia
2915.70.00	Malaysia; Philippines
2915.90.10	Malaysia; Philippines
3503.00.50	Colombia
3921.90.11	Colombia
4412.21.00	Philippines
4412.29.50	Philippines
4601.91.40	Philippines
4602.10.13	Philippines
4602.10.19	Philippines
4602.10.50	Philippines
6702.90.40	Macau
8003.00.00	Malaysia
8473.21.00	Malaysia
8473.29.00	Malaysia
8473.30.80	Malaysia
8473.40.20	Malaysia
8473.40.40	Malaysia
8512.10.40	Malaysia
8512.20.40	Malaysia
8512.30.00	Malaysia
8512.90.20	Malaysia
8525.10.80	Malaysia
8527.19.00	Malaysia
8527.32.00	Malaysia
8527.39.00	Malaysia
8527.90.80	Malaysia
8529.10.60	Malaysia
8529.90.50	Malaysia
8531.10.00	Malaysia
8531.20.00	Malaysia
8531.80.00	Malaysia
8541.40.20	Malaysia
9009.90.00	Malaysia
9401.50.00	Philippines
9401.90.25	Philippines
9403.80.30	Philippines
9403.90.25	Philippines
9503.10.00	Macau
9503.20.00	Macau
9503.49.00	Macau
9503.80.60	Macau
9503.90.60	Macau
9503.90.70	Mexico
9601.90.20	Philippines
9613.10.00	Philippines

Annex C

HTS subheadings and countries subject to Reduced Competitive Need Limits

HTS Subheading	Country
0603.10.70	Colombia
0704.90.20	Mexico
0708.10.40	Mexico
0710.21.40	Mexico
0804.50.80	Mexico
0807.10.70	Mexico
0810.90.40	Mexico
0813.30.00	Argentina
1005.90.20	Argentina
1102.20.00	Argentina
1103.13.00	Argentina
2005.10.00	Mexico
2005.90.55	Mexico
2005.90.90	Mexico
2007.99.50	Brazil
2202.10.00	Mexico
2202.90.90	Mexico
2203.00.00	Mexico
2208.90.45	Mexico
2504.10.10	Brazil
2804.69.10	Brazil
2843.21.00	Mexico
2843.29.00	Mexico
2905.19.00	Brazil
2915.31.00	Brazil
2916.15.50	Brazil
2917.13.00	Brazil
2917.14.10	Brazil
2917.19.50	Brazil
2917.35.00	Brazil
2918.11.10	Brazil
2937.92.10	Mexico
3004.39.00	Mexico
3207.40.10	Mexico
3703.10.30	Brazil
3703.20.30	Brazil
3703.90.30	Brazil
3823.90.40	Brazil
3904.10.00	Mexico
3904.21.00	Mexico
3904.22.00	Mexico
3921.13.50	Mexico
4107.21.00	Argentina
4107.29.30	Argentina
4303.90.00	Argentina
4409.10.60	Mexico
4411.11.00	Brazil
4411.19.20	Brazil
4411.21.00	Brazil
4411.29.60	Brazil
4421.90.10	Mexico
5607.30.20	Mexico
6406.10.65	Brazil
6406.99.60	Brazil
6702.90.60	Thailand
6802.99.00	Mexico
6810.11.00	Mexico
6908.10.20	Thailand
6909.19.10	Mexico
6910.10.00	Brazil
6910.90.00	Brazil
6911.90.00	Brazil
7004.10.20	Mexico
7103.10.40	Brazil
7103.99.50	Brazil
7104.90.50	Brazil
7114.11.70	Mexico
7114.20.00	Mexico
7115.90.20	Mexico
7116.20.20	Brazil
7202.21.50	Brazil
7202.30.00	Brazil
7314.19.00	Mexico
7402.00.00	Mexico
7407.21.50	Brazil
7407.21.90	Brazil
7903.10.00	Mexico
7903.90.30	Mexico
8408.20.20	Brazil
8408.20.90	Brazil
8408.90.90	Brazil
8409.91.91	Brazil; Mexico
8409.91.92	Mexico
8409.91.99	Brazil; Mexico
8409.99.91	Brazil
8409.99.92	Brazil

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Annex C (con.)

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HTS subheadings and countries subject to Reduced Competitive Need Limits

HTS Subheading	Country	HTS Subheading	Country
8409.99.99	Brazil	8429.59.50	Brazil
8411.99.90	Brazil	8430.10.00	Brazil
8414.51.00	Mexico	8430.20.00	Brazil
8414.59.80	Mexico	8430.41.00	Brazil
8414.60.00	Mexico	8430.49.80	Brazil
8414.90.10	Mexico	8430.50.50	Brazil
8415.10.00	Mexico	8430.61.00	Brazil
8415.81.00	Mexico	8430.62.00	Brazil
8415.82.00	Mexico	8430.69.00	Brazil
8415.83.00	Mexico	8431.10.00	Mexico
8415.90.00	Mexico	8431.31.00	Mexico
8419.32.50	Brazil	8431.39.00	Mexico
8419.89.10	Brazil	8431.41.00	Brazil
8419.90.20	Brazil	8431.42.00	Brazil
		8431.43.80	Brazil
8421.23.00	Brazil;	8431.49.10	Mexico
	Mexico	8431.49.90	Brazil
		8465.94.00	Brazil
8421.31.00	Brazil;	8471.10.00	Brazil
	Mexico	8479.10.00	Brazil
		8479.30.00	Brazil
8425.31.00	Mexico	8479.81.00	Brazil
8425.41.00	Mexico	8479.82.00	Brazil
8425.42.00	Mexico	8479.89.70	Brazil
8426.12.00	Mexico	8479.89.90	Brazil
8426.19.00	Mexico	8479.90.40	Brazil
8426.20.00	Mexico	8479.90.80	Brazil
8426.30.00	Mexico		
8426.41.00	Mexico	8483.10.10	Brazil;
8426.49.00	Mexico		Mexico
8426.91.00	Mexico		
8426.99.00	Mexico	8483.10.30	Brazil
8428.10.00	Mexico	8505.19.00	Mexico
8428.20.00	Mexico	8507.20.00	Mexico
8428.40.00	Mexico	8507.90.40	Mexico
8428.50.00	Mexico	8523.11.00	Mexico
8428.60.00	Mexico	8523.12.00	Mexico
8428.90.00	Mexico	8523.13.00	Mexico
8429.11.00	Brazil	8523.20.00	Mexico
8429.19.00	Brazil	8523.90.00	Mexico
8429.20.00	Brazil	8525.10.80	Mexico
8429.30.00	Brazil	8527.21.10	Brazil
8429.40.00	Brazil	8527.31.40	Brazil
8429.52.50	Brazil	8527.90.80	Mexico

Annex C (con.)

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HTS subheadings and countries subject to Reduced Competitive Need Limits

HTS Subheading	Country	HTS Subheading	Country
8529.10.60	Mexico	9503.90.60	Mexico
8529.90.50	Mexico	9504.20.60	Brazil
8539.90.00	Mexico	9508.00.00	Brazil
8543.20.00	Mexico	9613.80.20	Mexico
8543.30.00	Mexico	9613.90.40	Mexico
8543.80.90	Mexico		
8543.90.80	Mexico		
8548.00.00	Mexico		
9017.10.00	Brazil		
9017.20.40	Brazil		
9017.90.00	Brazil		
9025.11.20	Brazil		
9026.10.20	Brazil		
9026.20.40	Brazil		
9026.80.20	Brazil		
9031.10.00	Brazil		
9031.20.00	Brazil		
9031.80.00	Brazil		
9031.90.60	Brazil		
9032.89.60	Brazil		
9032.90.60	Brazil		
9033.00.00	Brazil		
9303.30.40	Brazil		
9401.30.40	Yugoslavia		
9401.40.00	Thailand		
9401.61.40	Yugoslavia		
9401.61.60	Thailand		
9401.69.60	Yugoslavia		
9401.69.80	Thailand		
9403.30.80	Thailand		
9403.40.90	Thailand		
9403.50.90	Thailand		
9403.60.80	Thailand		
9405.10.80	Mexico		
9405.20.80	Mexico		
9405.40.80	Mexico		
9502.91.00	Mexico		
9503.10.00	Mexico		
9503.30.80	Mexico		
9503.70.80	Mexico		
9503.80.20	Mexico		
9503.80.40	Mexico		
9503.80.80	Mexico		
9503.90.50	Mexico		

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Rules and Regulations

Federal Register
Vol. 54, No. 73
Tuesday, April 18, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Schedule B Appointment Authority for Professional and Administrative Career Positions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This regulation, which was previously published as a final rule on August 31, 1982 (47 FR 38257), provided for the filling of Professional and Administrative Career (PAC) positions at the GS–5 and GS–7 levels in certain occupations under a Schedule B PAC authority during the period when the Office of Personnel Management did not have a register of competitive eligibles to fill vacancies in those occupations. Pursuant to the direction of the United States Court of Appeals for the D.C. Circuit and the United States District Court for the District of Columbia, OPM supplemented the rulemaking record to include publication of the cost data upon which OPM relied in making its decision in 1982. Having complied with the Courts' instructions, OPM will continue to permit agencies to use a Schedule B authority in the PAC occupations under the same conditions as stated previously and will continue to terminate that authority with respect to particular occupations as competitive registers are established for those occupations.

EFFECTIVE DATE: May 18, 1989.

FOR FURTHER INFORMATION CONTACT: James S. Green, Associate General Counsel, Office of General Counsel—(202) 632–5087.

SUPPLEMENTARY INFORMATION: At 54 FR 3457 dated January 24, 1989, the Office of Personnel Management published a notice of proposed rulemaking. Pursuant to the direction of the United States Court of Appeals for the DC Circuit (*NTEU* v. *Horner*, Nos. 87–5102 & 87–5191) and the United States Court for the District of Columbia (Civil Action No. 84–2573), OPM supplemented the rulemaking record which had been developed in 1982 for the purpose of receiving comments. The original final rule had been published on August 31, 1982 (47 FR 38257). The purpose of supplementing the rulemaking record was to permit OPM to explain further the cost data upon which it relied in 1982 when it authorized agencies to use a Schedule B authority to appoint eligible applicants to positions in the Professional and Administrative Career (PAC) occupations at the GS–5 and GS–7 levels where agencies were unable to fill vacancies through internal recruitment.

Pursuant to the terms of a consent decree which was entered by the U.S. District Court for the District of Columbia (*Luevano* v. *Devine*, Civil Action No. 79–271), OPM, in 1982, eliminated the Professional and Administrative Career Examination (PACE) which was formerly used to examine applicants for the PAC occupations. By 1982, the existing PACE registers had become or would shortly have become inadequate for staffing needs. OPM permitted agencies to use a Schedule B appointing authority to fill vacancies in PAC occupations until it could replace that authority with job-specific, competitive examinations for the approximately 118 PAC occupations. Since 1986, by Executive Order 12596, PAC employees hired under the Schedule B appointment authority have been converted non-competitively into the competitive service at the GS–9 level where the employing agency had determined that the employee's qualifications and performance warranted such conversion.

Two comments were received on OPM's publication regarding the use of Schedule B based on certain cost considerations, one from a private citizen and one from a labor union which represents Federal employees in some agencies. Both expressed their concern that the use of Schedule B as an appointing authority in the excepted service would undermine basic merit principles.

Appointments under Schedule B are made subject to the same basic qualification requirements as appointments in the competitive service, requiring that selections be made soley on the basis of merit and fitness. As such, use of Schedule B is subject to the same statutory requirements at 5 U.S.C. 2301 and 2302 governing merit system principles and prohibited personnel practices.

Each agency determines when and in what manner to advertise individual PAC vacancies based on current staffing needs. Procedures in evaluating individual applications under Schedule B may take the form of a straight numerical ranking of candidates based on a rating of each applicant's education and experience similar to the traditional unassembled testing methods used in competitive examinations. Agencies may group and rank applicants into adjective categories such as "qualified" or "highly qualified" or into score ranges such as "90–100," "80–89," or "70–79."

Additionally, agencies are required to consider veterans preference. Under Schedule B appointments, veterans have always been listed first in their respective category. Disabled veterans precede all others regardless of numerical rating. Thus, some veterans may experience a greater advantage, in some instances, because they are placed first in their category as opposed to being merely first in terms of their numerical score.

The rationale for the published rule involved only cost considerations as required by the Courts' orders. However, the union has raised several other concerns that did not involve cost considerations but to which OPM's response is nevertheless warranted. The union expressed the concern that agencies should use only internal procedures until competitive examinations are developed rather than continue to use Schedule B. From its inception, OPM has emphasized that agencies may use Schedule B a an appointing authority to fill vacancies through external sources where they have been unable to fill such vacancies through other means such as reassignment, transfer, reinstatement or promotion (FPM Letter 213–32 (4), paragraph 6 (September 9, 1982) and 47 FR 28257 (August 31, 1982)). Indeed, internal appointments have always been the primary method of filling PAC positions at the GS–5 and GS–7 levels, regardless of whether external

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appointments were through PACE, alternative competitive examining, or through Schedule B.

Agency success in complying with the instruction to use Schedule B as a last resort is reflected in the small proportion of external hiring which has actually occurred under the Schedule B PAC authority. In the calendar years between 1983 and 1988, external PAC hires at the GS–5 and GS–7 levels under Schedule B ranged from between 14 to 20 percent of all hires in the PAC occupations. In 1987, only 10 percent of all such hires were from external sources. In the first six months of 1988, less than 8 percent of all PAC hires at the GS–5 and GS–7 levels were from external sources. Thus, today over 90 percent of all hiring in the PAC occupations at those levels is through the kind of competitive examination and appointment process which the union suggests is appropriate or through internal procedures such as reinstatement, transfer, reassignment or promotion, not through Schedule B appointment.

External PAC hires, whether through Schedule B or through competitive examining procedures, represent a very small portion of OPM's overall examining responsibility. For example, in calendar year 1987, in PAC occupations for which competitive examinations had not yet been developed, external PAC hires under Schedule B at the GS–5 and GS–7 levels represented only sixty-eight hundredths of one percent of total new hires in all occupations under all appointing authorities in the Executive Branch agencies, excluding postal employees. OPM's resources for developing and revising examinations for external recruitment in the PAC occupations must be viewed in comparison to its total examining responsibilities in all occupations.

The union also raises certain concerns regarding OPM's obligations under the *Luevano* consent decree, concerns which are based on the union's possible misunderstanding of that decree. To the extent that the union's comments relate to OPM's decision to terminate the use of the PACE and to permit agencies to use Schedule B until competitive examinations could be developed cost-effectively, OPM now takes this opportunity to respond to and to correct any misunderstandings of that decree.

The union suggests that OPM entered into the consent decree and then shortly thereafter abandoned its agreement to replace the PACE with competitive examinations. When the Court preliminarily approved the decree in late 1980, OPM believed that it would have the budgetary and personnel resources to replace the PACE with job-specific examinations in all PAC occupations in accordance with the decree's timetable. However, due to subsequent, government-wide reductions in Federal hiring and actual reductions in OPM's own budgetary and personnel allocations, events which began to occur after the preliminary approval of the decree and subsequent to final approval in February 1982, OPM believed it had to concentrate its limited resources initially on developing examinations in those occupations which traditionally had the largest number of vacancies. The extensive discussion of cost data and personnel and budget reductions is set forth in the proposed rule at 54 FR 3457–3458 (January 24, 1989) which is referenced herein.

The union states that the decree allowed a phased replacement of the PACE and that OPM's budget should have been adequate to develop alternative tests during the three-year, phase-in period. OPM has already explained that development of many job-specific tests was considered to be too expensive in view of OPM's budgetary constraints and the anticipated reductions in hiring. Indeed, the vast majority of occupations subject to Schedule B had fewer than 20 external hires on average from 1983 to the present. In addition, while the decree allowed for a three-year, phase-out period of PACE, a minimum of 50 percent of the appointments in all PAC jobs had to be by alternative examinations after one year, 80 percent after two years, and 100 percent at the end of three years. That schedule did not lend itself to the gradual development of scores of new tests which the union comments seem to suggest.

The union also states that OPM's cost figures are misleading because the figures are based on developing separate tests for each covered occupation. The union offers its view that the decree allows OPM to group similar jobs under a single test and that, by doing so, OPM could, or should, have been able to reduce its costs. Under the decree, OPM was permitted to develop a single examination to cover more than one PAC occupation only where the occupations are similar *and* where there are relatively few vacancies to fill in those occupations. Not all such small-fill occupations can be covered by a single examination, however, because some lack the requisite homogeneity and, thus, are unsuitable for grouping. Even if grouping is acceptable in some cases, development of the remaining job-specific, competitive examinations is still enormously expensive.

The union also suggests that OPM's recently announced intention to group occupations for a proposed new examining system undercuts OPM's position that grouping was not feasible at the time of the Schedule B decision. However, that view ignores the extensive developmental work which must precede any decision to group the different PAC occupations for purposes of examination. Additionally, as has been stated on several occasions, and as OPM has expressed to the Court in the *Luevano* case, OPM's proposal to group occupations into general categories for examining purposes has been forwarded to the *Luevano* plaintiffs for their consideration as required under the decree. OPM is awaiting their response to that proposal and no final decision can be reached until that time.

The union also asserts that OPM's rationale for using Schedule B was to undermine the consent decree. The facts simply do not support that assertion. Rather than undermining the decree, the use of Schedule B has actually enhanced Federal employment opportunities for individuals who belong to minority groups. Prior to the abolition of the PACE in 1982, minority hiring under PACE averaged only 5.9 percent between 1973 and 1980. After the abolition of the PACE and under Schedule B, overall minority hiring between 1982 to 1986 rose to 22.7 percent. In 1986 and again in 1987, minority hiring rose to 24 percent.

It is OPM's plan to establish competitive registers for all remaining PAC occupations at the entry level in the near future. In the interim, agencies may continue to utilize Schedule B as an appointing authority where they are unable to fill PAC positions through internal recruitment. Once competitive registers are established for the remaining PAC occupations, agency authority to use Schedule B to fill PAC occupations will terminate. Incumbent Schedule B employees who have performed satisfactory service immediately prior to the date on which the competitive register is established for that occupation may have their positions converted to competitive appointments pursuant to the regulations at 5 CFR 315.701.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains solely to procedures for appointment of employees by Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees.

Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is republishing its final regulation under 5 CFR 213.3202(l), originally published on August 31, 1982 (47 FR 38257) and amended on July 6, 1987 (52 FR 25193), as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for Part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.102 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); § 213.3102 also issued under 5 U.S.C. 3301, 3302 (E.O. 12364, 47 FR 22931), 3307, 8337(h), and 8457.

2. In § 213.3202, paragraph (l), is republished to read as follows:

§ 213.3202 Entire Executive Civil Service.

* * * * *

(l) Professional and administrative career (PAC) positions at the GS–5 or GS–7 grade level which are subject to the decree entered on November 19, 1981, by the United States District Court for the District of Columbia in the civil action known as *Leuvano* v. *Devine* and numbered as No. 79–271, which were not removed from coverage of the Professional and Administrative Career Examination (PACE) prior to the effective date of the consent decree, and which are to be filled, under the conditions described below, by appointment of individuals other than those who at the time of such appointment already have competitive status in the Federal civil service. When a Federal agency needs to fill a PAC position that was not removed from PACE coverage before the consent decree became effective, and the agency has made maximum use of priority placement sources and has given appropriate consideration to available and qualified status applicants, then OPM may authorize the agency to make a new appointment under this paragraph. Such appointments shall be authorized and made pursuant to such Schedule B requirements for PAC positions as shall be prescribed in the Federal Personnel Manual. Terms of use of this appointment authority shall be established by an appointment authority agreement to be executed for each position excepted from the competitive service pursuant to this authority. The appointment authority agreement will remain in effect with respect to particular GS–5 and GS–7 PAC positions only so long as there is no competitive examination available to fill those positions. Establishment of a register under an alternative competitive examination for any PAC position(s) at grades GS–5 and GS–7 will immediately terminate all agreements permitting new Schedule B appointments to such position(s) under this authority. Individuals appointed before termination of the agreements may, however, continue to serve under those appointments at grades GS–5 and GS–7 until they are appointed to a competitive position in accordance with applicable civil service laws, rules, and regulations. An incumbent of a Schedule B PAC position may be converted to a career or career-conditional appointment under the provisions of Executive Order 12596, subject to the conditions set out in § 315.170 of this chapter.

[FR Doc. 89–9182 Filed 4–17–89; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 89–053]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the regulations governing the interstate movement of cattle and bison because of tuberculosis by raising the designation of Oregon from a modified accredited state to an accredited-free state.

EFFECTIVE DATE: May 18, 1989.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph L. Hosker, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, Room 734, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7715.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** and effective January 12, 1989 (54 FR 1145–1146, Docket Number 88–191), we amended the regulations in 9 CFR Part 77 governing the interstate movement of cattle and bison by removing Oregon from the list of modified accredited states in § 77.1 and adding it to the list of accredited-free states in that section. Comments on the interim rule were required to be postmarked or received on or before March 13, 1989. We did not receive any comments. The facts presented in the interim rule still provide a basis for this rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule". Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

The groups affected by this action will be certain livestock owners in Oregon, as well as buyers and importers of Oregon cattle. Changing the status of Oregon will improve the marketability of cattle and bison from Oregon, since some prospective cattle and bison buyers prefer to buy from accredited-free states. This will result in a beneficial economic impact on some small entities. However, based on our experience in similar designations of other states, the impact should not be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the

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Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Transportation, Tuberculosis.

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR Part 77 and that was published at 54 FR 1145–1146 on January 12, 1989.

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51 and 371.2(d).

Done at Washington, DC, this 12th day of April 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-9199 Filed 4-17-89; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 50, 51, 52, and 170

RIN 3150-AC61

Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is now adding a new part to its regulations which provides for issuance of early site permits, standard design certifications, and combined construction permits and operating licenses with conditions for nuclear power reactors. The new part sets out the review procedures and licensing requirements for applications for these new licenses and certifications. The final action is intended to achieve the early resolution of licensing issues and enhance the safety and reliability of nuclear power plants.

EFFECTIVE DATE: May 16, 1989.

ADDRESS: Documents relative to this final rule may be examined and copied for a fee at the NRC Public Document Room, 2120 L Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steven Crockett, Attorney, Office of the General Counsel, telephone (301) 492–1600, on procedural matters, or Jerry Wilson, Office of Nuclear Regulatory Research, telephone (301) 492–3729, on technical matters, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission has long sought nuclear power plant standardization and the enhanced safety and licensing reform which standardization could make possible. For more than a decade, the Commission has been adding provisions to 10 CFR Part 50 and Part 2 that allow for limited degrees of standardization, and for as many years, the Commission has been proposing legislation to Congress on the subject. The Commission was frequently asked by Members of Congress to what extent legislation on the subject was necessary, and in doing the analysis necessary to reply to these questions, the Commission came to believe that much of what it sought could be accomplished within its current statutory authority. Thus the Commission embarked on standardization rulemaking.

The rulemaking process has been lengthy and highly public. A year and a half ago, the Commission announced its intent to pursue standardization rulemaking in its Policy Statement on Nuclear Power Plant Standardization (52 FR 34884; September 15, 1987). The Policy Statement set forth the principles that would guide the rulemaking and provided for a forty-five-day comment period on the Policy Statement. On October 20, 1987, about mid-way through the comment period the NRC staff held a public workshop on the Policy Statement. During the Workshop, the staff presented a detailed outline of the proposed rule and answered preliminary questions about it. A transcript of the workshop may be found in the Commission's public document room, Gelman Building, 2120 L Street, NW, Washington, DC. After a lengthy internal consideration of the comments received on the Policy Statement and the outline of the rule presented at the Workshop, and after public briefings of the Commission and the Advisory Committee on Reactor Safeguards (ACRS), the Commission issued a proposed rule (53 FR 32060; Auguest 23, 1988) and provided for a sixty-day comment period. The comment period was extended to 75 days on October 24, 1988 (53 FR 41609). Mid-way through that period the NRC staff again held a public workshop, this time on the text of the proposed rule.[1]

During the second, 75-day comment period, the Commission received over 70 sets of comments, ranging from one-page letters to multi-paged documents, one of which included an annotated rewrite of the whole rule. The commenters included the Department of Energy (DOE), agencies and offices in the states of Connecticut, Indiana, New York, and North Carolina, the Nuclear Utility Management and Resources Council (NUMARC), the American Nuclear Energy Council, Westinghouse, General Electric, Combustion Engineering, Stone & Webster, the U.S. Chamber of Commerce, the Union of Concerned Scientists (UCS), the Nuclear Information and Resource Service (NIRS), the Ohio Citizens for Responsible Energy (OCRE), the Maryland Nuclear Safety Coalition, and several utilities, corporations, public interest groups, and individuals. All the comments may be viewed in the agency's public document room.

The Commission has carefully considered all the comments and wishes to express its sincere appreciation of the often considerable efforts of the commenters. While the broad outlines, and even many of the details, of the proposed rule remained unchanged in the final rule, few sections of the proposed rule have escaped revision in light of the comments, and some have been thoroughly revised. In the remainder of this section of this final rule preamble, the Commission makes two general responses to comments and then summarizes both the comments and its responses to them. In Section II of this final rule preamble, the Commission responds to comments on the chief issues raised by the comments. While Section II often touches on the broad policies which lie behind the rule, readers wishing to know more about those broad policies may consult the statement of considerations which was published with the proposed rule. In Section III, which proceeds section-by-section through the final rule, the Commission notes minor changes and offers some minor clarifications of the meaning of some provisions. For a complete record of the differences between the proposed rule and the final rule, readers may consult the comparative text of the final rule, which is available in the agency's public document room.

[1] Given this lengthy and public process, the Commission is unpersuaded by commenters on the proposed rule who claim that the public was not given enought time to consider the rule. For example, the Nuclear Information Resource Service (NIRS) says that given the importance of the rule, one "would think that the NRC would encourage the widest possible public participation on this rule, perhaps even by making special efforts to solicit comment." That is, of course, precisely what the Commission did.

Two General Responses to Comments

Before summing up the comments and the Commission's responses to them, the Commission wishes to make clear what it has not tried to do in this rulemaking. First, although this is an important rulemaking, it does not resolve all the safety, environmental, and political issues facing nuclear power. The Commission received urgings to undertake deep reforms before issuing this final rule. The Commission was, for instance, urged to streamline the hearing procedures in 10 CFR Part 2, Subpart G, restructure the utilities' liabilities under the Price-Anderson Act, decide once and for all what safety criteria shall be applied to all future plants, solve the problem of nuclear waste, turn all health and safety regulation—not just the NRC's—over to the states, reconsider whether economic considerations should ever enter into safety decisions, conduct local running referenda on whether a given nuclear power plant should be built, and have Congress directly review designs. In sum, the Commission was urged to do everything before it did anything.

However, the Commission has stuck to the simple aim in this rulemaking of providing procedures for the standardization of nuclear power plants and more generally for the early resolution of safety and environmental issues in licensing proceedings. The Commission has declined to tie the fate of this rulemaking to the progress of the agency's many other ongoing efforts, such as revision of the agency's hearing procedures, implementation of the Policy Statement on Safety Goals (51 FR 30028; August 21, 1986), development of techniques of analysis of risk and cost, and preparation for the licensing of a high-level waste repository. The final rule necessarily touches on substance whenever it sets forth requirements for the technical content of applications for early site permits, design certifications, or combined licenses, or discusses the applicability of existing standards to new designs and new situations. But even here, the Commission has avoided establishing new safety or environmental standards, although the Commission may choose to adopt additional safety standards applicable to new designs prior to the advent of design certifications.

Second, many saw this rule as the occasion for arguments over the future viability of nuclear power in the United States. On the one hand, the Commission is vigorously accused of promoting the nuclear industry and shutting local governments and individual citizens out of the licensing process. On the other hand, the Commission is told that the licensing process is "the reason" for "the loss of the nuclear option", and that reform of that process is the "sine qua non" of the viability of that option.

Certainly, the Commission hopes that this rule will have a beneficial effect on the licensing process. In other words, the Commission hopes that effort has not been wasted on a rule which will never be used. But the Commission is not out to secure, single-handedly, the viability of the industry or to shut the general public out. The future of nuclear power depends not only on the licensing process but also on economic trends and events, the safety and reliability of the plants, political fortunes, and much else. The Commission's intent with this rulemaking is only to have a sensible and stable procedural framework in place for the consideration of future designs, and to make it possible to resolve safety and environmental issues before plants are built, rather than after.

Summary of the Comments and the Commission's Responses

The comments on the proposed rule are characterized both by their broad agreement that standardization and early resolution of licensing issues are desirable, and by their often deep differences on what kinds of designs should be certified, how they should be certified, and what consequences certification should have for the licensing process.

As to what kinds of designs should be certified, except for the very few who opposed any licensing of any nuclear power plant, no commenter opposes the certification of designs which differ significantly from the designs which have been built thus far; but some; UCS, for instance, say that only "advanced" designs should be certified, and many, including UCS, DOE, and Westinghouse, say that only designs for whole plants should be certified.

While not withholding certification from incomplete designs or designs which are not advanced, the final rule has moved a long way from the position the Commission took in the legislative proposal it made shortly before this rulemaking began. There, certification was held out only for evolutionary light water designs, but was permitted for the design of any "major portion" of a plant. The final rule provides for certification of advanced designs and permits certification of designs of less than full scope only in highly restricted circumstances.

As to how designs should be certified, most commenters think the Commission has authority to certify either by rule or by license. However, some commenters see advantages in certification by license. OCRE, for instance, says that certification by license is more appropriate, and some industry commenters think that more protections are available to the holder of a design license than are available to the "holder" of a design rule. Some commenters prefer certification by license because they believe that a hearing on a license has to be a formal adjudication.

The final rule reflects the Commission's long-standing preference for certification by rulemaking (see the old 10 CFR Part 50, Appendix O, paragraph 7), and for certification hearing procedures which, while they permit formal procedures when needed, do not assume that formal procedures are the best means for resolving every safety issues.

Finally, the deepest differences among the commenters concern the consequences of standardization and other devices for early resolution of licensing issues for the licensing process. One commenter believes that, once a plant is built under a combined license, there need be no hearing at all before operation begins. Several of these commenters characterize the proposed rule's provision for an opportunity for a hearing just before operation as the old two-step licensing process under a different name. Others believe not only that there should be such a hearing but also that resolution of issues in earlier proceedings does not entail any restriction on the issues which may be raised in the hearing after construction. Many of these commenters attribute to the Commission an intent to do away with public participation in the licensing process.

The Commission has given more consideration to this issue than to any other procedural question raised by the proposed rule. As a result, the proposed rule's provisions on hearings just before operation have been revised in the final rule (the revised provisions are discussed in more detail below). However, the final rule still provides for an opportunity for a hearing on limited issues before operation under a combined license. But the mere fact of this opportunity does not mean that the rule is hiding the old two-step process under a different name. By far the greater part of the issues which in the past have been considered in operating

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license hearings would, under the new rule, be considered at the combined license stage or in a certification proceeding, including the bulk of emergency planning issues. Similarly, the mere fact that any hearing prior to operation would be limited does not mean that the Commission is attempting to remove the public from the licensing process. The rule does not prevent the public from participating in the resolution of any operating license issue. It simply moves the bulk of the issues up front in the licensing process to the design certification, early site permit, and combined license parts of the process.

II. The Principal Issues

1. Requirements for Applications for Design Certification

Because design certification is the key procedural device in Part 52 for bringing about enhanced safety and early resolution of licensing issues, the Commission begins its discussion of the principal issues with responses to comments on the proposed rule's requirements for applications for certification.

a. "Advanced" Designs

The proposed rule provided for certification both of evolutionary light-water designs, that is, improved versions of the light-water designs now in operation, and of "advanced" designs, that is, designs which differ significantly from the evolutionary light-water designs, or which incorporate, to a greater extent than evolutionary light-water designs do, simplified, inherent, passive, or other innovative means to accomplish their safety functions (the distinction between evolutionary light-water designs and advanced designs is discussed at greater length below). The proposed rule required that some advanced designs could not be certified until full-scale prototypes of them were built and tested. While agreeing with the requirement for prototype testing of some advanced designs, several commenters, UCS prominent among them, say that certification should be held out only to advanced designs. UCS argues that without such a limitation on the designs which could be offered up for certification, the proposed rule would discriminate against the development of advanced designs of greater safety, because, given the choice between seeking certification of a familiar design and seeking certification of a design which the Commission might require to be tested in a full-scale prototype, an applicant would choose to avoid having to build a prototype.

As is noted above, the rule, unlike the legislative proposals which preceded it, provides for certification of advanced designs. However, it also provides for certification of evolutionary light-water designs. The Commission's legislative proposals on standardization have always focused on these designs, on the grounds that the light-water designs now in operation provide a high degree of protection to public health and safety. Moreover, the Commission does not believe that the requirement in some cases for a prototype is such a burden. Whatever burden having to test a prototype may be, the burden may be lessened by agreements of cost-sharing among utilities and other organizations, and by licensing the prototype for commercial operation. It is well to remember also that, under the rule, prototype testing is required only for certification or an unconditional final design approval, if at all. A final design approval under 10 CFR Part 52, Appendix O (formerly in Part 50) can be granted subject to conditions requiring prototype testing. See 10 CFR Part 52, Appendix O, paragraph 5. Moreover, a licensed prototype may be replicated.

b. Requirement to Address Unresolved Safety Issues and Safety Goals

Several commenters object to the proposed rule's requirement that applicants for certification propose technical resolutions of Unresolved Safety Issues and high- and medium-priority Generic Safety Issues. This requirement, and similar ones relating to probabilistic risk assessments and the Commission's Three Mile Island requirements for new plants, 10 CFR 50.34(f), were announced in the Commission's Severe Accident Policy Statement (50 FR 32138; August 8, 1985) and in the Commission's Policy Statement on Standardization (52 FR 34884; September 15, 1987). Some commenters call it "inappropriate" to impose this burden on applicants. Others say that no resolution of one of these issues should be imposed on a design unless the resolution had passed a cost-benefit test.

The Commission believes that it is not inappropriate to require that an applicant for certification show either that a particular issue is not relevant to the design proffered in the application, or that the applicant has in hand a design-specific resolution of the issue (the applicant is of course not required to propose a generic resolution of the issue). As to cost-benefit tests, the Commission will of course apply them to the resolution of safety issues where the resolutions are being imposed on existing plants and adequate protection is already secured. See 10 CFR 50.109 and *UCS* v. *NRC*, 824 F.2d 108 (D.C. Cir. 1987). However, initial certification does not involve backfitting. Designers will, of course, strive for a cost-effective design, but the Commission declines to incorporate a cost-benefit test in the standards for certification.

c. Requirements on Scope of Design and on Prototypes

In the statement of considerations accompanying the proposed rule, the Commission noted that the proposed rule permitted certification of incomplete designs only in limited cases, while the legislation the Commission had proposed to the 100th Congress had been less stringent about scope of design. The Commission invited comment on whether the final rule should return to the policy reflected in the proposed legislation. DOE, Westinghouse, and UCS, among others, argue that only designs of complete power plants—excluding site-specific elements of course—should be certified. NUMARC, however, advocates a return to the policy of the legislation proposed to the 100th Congress. One engineering firm argues that requiring complete designs would limit market forces that could contribute to standardization.

The final rule is even more stringent about completeness of design than the proposed rule was. The final rule's provisions on scope, see § 52.47, reflect a policy that certain designs, especially designs which are evolutions of light-water designs now in operation, should not be certified unless they include all of a plant which can affect safe operation of the plant except its site-specific elements. See § 52.47(b). Examples of designs which are evolutions of currently operating light-water designs are General Electric's ABWR, Westinghouse's SP/90, and Combustion Engineering's System 80+. Full-scope may also be required of certain advanced designs, namely, the "passive" light-water designs such as General Electric's SBWR and Westinghouse's AP600. Considerations of safety, not market forces, constitute the basis for the final rule's requirement that these designs be full-scope designs. Long experience with operating light-water designs more than adequately demonstrates the adverse safety impact which portions of the balance of plant can have on the nuclear island. Given this experience, certification of these designs must be based on a consideration of the whole plant, or else the certifications of those designs will lack that degree of finality which should be the mark of certification.

However, the Commission has not adopted UCS's position that no design of incomplete scope could ever be certified. There is no reason to conclude that there could never be a design which protects the nuclear island against adverse effects caused by events in the balance of plant. The final rule therefore provides the opportunity for certification of designs of less than complete scope, if they belong to the class of advanced designs. See § 52.47(b). Examples of designs in this class include the passive light-water designs mentioned above and non-light-water designs such as General Electric's PRISM, Rockwell's SAFR, and General Atomic's MHTGR. But here too the rule sets a high standard: Certification of an advanced design of incomplete scope will be given only after a showing, using a full-scale prototype, that the balance of plant cannot significantly affect the safe operation of the plant.

Standardization along these lines may indeed limit some market forces, particularly those which encourage a highly differentiated range of products. However, the final rule's requirements on scope in no way limit innovative arrangements among vendors and architect-engineers for bringing new designs before the Commission.

The final rule is clearer than the proposed rule was in identifying those designs which cannot be certified without a program of testing. For purposes of determining which designs must undergo a testing program to be certified, the rule distinguishes between all advanced designs—be they passive light-water or non-light water—and evolutionary light-water designs. Some testing may be required of all advanced designs. Passive light-water designs are to some extent also evolutions of the light-water designs now licensed, but they have design features which are not present on plants licensed and operating in the United States. Therefore the rule requires that the maturity of the passive light-water designs be demonstrated through a combination of experience, appropriate tests, or analyses, but most likely not through prototype testing. See § 52.47(b)(2). While analyses may be relied upon by the staff to demonstrate the acceptability of a particular safety feature which evolved from previous experience or to justify the acceptability of a scale model test, it is very unlikely that an advanced design would be certified solely on the basis of analyses. Prototype testing is likely to be required for certificaton of advanced non-light-water designs because these revolutionary designs use innovative means to accomplish their safety functions, such as passive decay heat removal and reactivity control, which have not been licensed and operated in the United States. See id.

d. Certification by Rulemaking

The proposed rule provided for design certification by rulemaking. Here the proposed rule was in accord with the old 10 CFR Part 50, Appendix O, paragraph 7 (this paragraph is now being replaced by Subpart B of Part 52). However, in the notice of proposed rulemaking, the Commission invited comments on whether certification should be by license rather than rule. Although the Commission expressed some doubts on the matter, commenters generally agree that the Commission has the authority to license designs. Some industry commenters and some public interest groups alike go further and argue that certification by license is preferable. Industry commenters arguing this position believe that the rights and obligations which attach to a license are clearer than those which attach to a rule. For instance, a license is possessed by some entity and, under Commission law, cannot be transferred without that entity's consent. Some public interest groups prefer certification by license because they believe that the hearing on a license would have to be a formal adjudication.

The Commission continues to believe that certification by rule is preferable to certification by license. As DOE says, a design certification will, like a rule, have generic application. Moreover, certification by rulemaking leaves the Commission free to adapt hearing procedures to the requirements of the subject matter, rather than rely exclusively on formal adjudicatory devices even when they are not useful (hearing procedures are more fully discussed below). Finally, certification by rulemaking permits the Commission to consider reactor designs submitted by foreign corporations. However, the Commission will give priority to designs for which there is a demonstrated interest in the United States. The Commission will review other designs as resources permit.

For the reasons just given, the final rule retains provisions for certification by rulemaking. Westinghouse suggests also adding provisions for certification by license, leaving it to the applicant to choose between certification by license and certification by rulemaking. The Commission, however, prefers rulemaking and sees no advantage to providing such an option.

NUMARC, while supporting certification by rule, suggests adding provisions analogous to existing provisions in 10 CFR Part 50 for transfer or revocation of a license. See 10 CFR 50.80 and 50.100. However, a rule certifying a design does not, strictly speaking, belong to the designer. Therefore, such a rule cannot be transferred or revoked by adjudicatory enforcement. Applying § 50.80, in particular, to a rule certifying a design would be akin to giving the vendor of the design a patent, but the Commission has no authority to issue patents.

Nonetheless, the vendor whose design is certified by rule is not without protection. Section 52.63(a), the Administrative Procedure Act, and, ultimately, judicial review protect the vendor against arbitrary amendment or recission of the certification rule, and the law of patents and trade secrets protects the vendor against unlawful use of the design. In order to give the vendor more opportunity to treat elements of the design as trade secrets, the final rule provides that proprietary information contained in an application for design certification shall be given the same treatment that such information would be given in a proceeding on an application for a construction permit or an operating license under 10 CFR Part 50. See § 52.51. Moreover, an applicant referencing a design certification and seeking to use a designer other than the designer which achieved the certification would have to comply with §§ 52.63(c) and 52.73, and the other designer would have to pay a portion of the cost of review of the application for certification. See 10 CFR 170.12 (d) and (e), as amended in this document.

e. Applicability of Existing Standards

With one exception, the proposed rule did not say what safety standards would be applied to a design proffered for certification, or even precisely what existing information requirements applicants would have to meet.[2] In its lengthy and highly detailed comments, NUMARC proposes adding to the rule a large number of highly specific cross-references to Part 50, and a statement that no other portions of Part 50 apply.

The final rule provides that the standards set out in 10 CFR Part 20, Part 50 and its appendices, and Parts 73 and 100 will apply to the new designs where those standards are technically relevant to the design proposed for the facility. See new § 52.48. Application of Parts 20, 50, 73, and 100 to the certification of new

[2] The proposed rule did state that an application for certification would have to demonstrate that the design compiled with the technically relevant portions of the Commission's Three Mile Island requirements set forth in 10 CFR 50.34(f). See § 52.47(a), 53 FR 32073 (proposed rule).

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designs, as reflected in § 52.48, should go a long way toward establishing the regulatory standard that new designs must meet, and thereby provide the regulatory stability that is an essential prerequisite to realizing the benefits of standardization. The Commission recognizes that new designs may incorporate new features not addressed by the current standards in Parts 20, 50, 73 or 100 and that, accordingly, new standards may be required to address any such new design features. Therefore, the NRC staff shall, as soon as practicable, advise the Commission of the need for criteria for judging the safety of designs offered for certification that are different from or supplementary to current standards in 10 CFR Parts 20, 50, 73, and 100. The Commission shall consider the NRC staff's views and determine whether additional rulemaking is needed or appropriate to resolve generic questions that are applicable to multiple designs. The objective of such rulemaking would be to incorporate any new standards in Part 50 or Part 100, as appropriate, rather than to develop such standards in the context of the Commission's review and approval of individual applications for design certifications. On the other hand, new design features that are unique to a particular design would be addressed in the context of a rulemaking proceeding for that particular design.

f. Hearings on Applications for Design Certifications

Like the proposed rule, the final rule provides for notice and comment rulemaking on an application for a design certification, together with an opportunity for an informal hearing on an application for a design certification. The rule also permits the use of more formal procedures where they are the only procedures available for resolving a given issue properly. See § 52.51. UCS and others argue that any hearing on certification should be a formal adjudication. In particular, UCS argues that the certification proceeding will be dealing with adjudicative, as opposed to legislative, facts and therefore should be fully adjudicatory. UCS characterizes adjudicative facts as "uniquely related to activities of the parties that are at issue" and legislative facts as "facts about industry practices, economic impact, scientific data, and other information about which the parties have no special information."

UCS' argument proves too much. If the facts to be considered in a certification proceeding are wholly adjudicative, then, because those facts are like the facts considered in any rulemaking on safety issues, every such rulemaking must be a formal adjudication. However, this conclusion is clearly not the law; therefore, the facts in a certification proceeding are not wholly adjudicatory. Moreover, if such facts must be categorized at all, they are more "legislative" than "adjudicative", as UCS defines those terms, for while they are "related to activities of the parties", they are not uniquely so, and they are facts about "industry practices, scientific data", engineering principles, and the like.

Several commenters also argue that the certification proceeding should be a formal adjudication because cross-examination is an unsurpassed means for discovering the truth. Again, the argument proves too much, namely, that every rulemaking, indeed every species of lawmaking, should be formal adjudication. Part 52 does not assume the superiority, or even the usefulness, of formal procedures for resolving every issue; but it does provide for their use where they are the only means available for resolving an issue properly.

g. Fees for Review of Applications

The final rule adheres to the fee policy embodied in the proposed rule. An applicant for design certification does not have to pay an application fee, but the applicant will have to pay the full cost of the NRC review of the application, although not until the certification is referenced in an application for a construction permit or combined license, or, failing that, not until the certification expires. The details of the scheme of deferral of the fees appear in conforming amendments to the recently amended 10 CFR Part 170 (53 FR 52632; December 29, 1988).

UCS asserts that the provision for deferral of fees for NRC review is "unconscionable". To the contrary, the Commission believes that there is nothing "unconscionable" about deferral of fees for a program whose aim is to enhance safety.

Some industry commenters assert that the requirement for payment of the full cost of NRC review presents an "insurmountable disincentive" to the development of certified designs. Some industry commenters propose putting a ceiling on fees for certification review, in order to help vendors better estimate the costs of developing and certifying a design. The Commission fully recognizes that it will be difficult for a vendor to estimate the costs of taking a design through to certification. However, a ceiling on fees only displaces the burden of that uncertainty from the vendor to the public. In recent years, the NRC has been obliged by statute to charge fees which return to the Federal Treasury a portion of the costs incurred in regulation. Deferral of fees is more in line with the policies behind these statutes than is putting the burden of uncertainty on the public.

h. Finality

Standardization has the double aim of enhancing safety and making it possible to resolve design issues before construction. Of these two aims, enhanced safety is the chief, because pre-construction resolution of design issues could be achieved simply through combined construction permits and operating licenses with conditions. Achievement of the enhanced safety which standardization makes possible will be frustrated if too frequent changes to either a certified design or the plants referencing it are permitted.

The proposed rule put forward principally three means of preventing a continual regression from standardization. First, the proposed rule required that any amendment proffered by the "holder" of a certification be considered in a notice and comment rulemaking and granted if the amendment complied with the Atomic Energy Act and the Commission's regulations. Second, the proposed rule prohibited the licensee of a plant built according to a certified design from making any change to any part of the plant which was described in the certification unless the licensee had been granted an exemption under 10 CFR 50.12 from the rule certifying the design. Third, the proposed rule stated that the Commission would not backfit a certified design or the plants built according to it unless a backfit were necessary to assure compliance with the applicable regulations or to assure adequate protection of public health and safety. See § 52.63 of the proposed rule, 53 FR 32074, col. 3, to 32075, col. 2. The Commission invited comment on whether the amendment and exemption standards were stringent enough, and on whether the backfitting standard gave certifications a reasonable degree of finality. See 53 FR 32067, col. 2.

The comments focus on the standard of amending the certification, one group of comments wanting to make it harder for the "holder" of a certification to get an amendment, and another group wanting to make it easier. Several commenters say that the proposed rule wrongly makes it easier for the designer to amend the certified design than it is for the Commission to backfit the design. To correct this perceived imbalance, UCS, among others, proposes that no amendment be granted unless it constitutes a safety enhancement, and

that any amendment granted be backfitted on all plants built according to the design being amended. OCRE proposes that, at a minimum, no amendment should be granted which would entail a decrease in safety. On the other side, NUMARC proposes virtually the same standard as a maximum: Any amendment which has no safety impact should be granted. DOE in effect argues that the Commission does not have authority to ask for more than OCRE's minimum, because this type of amendment would be proposed for economic, plant efficiency, or other business reasons and the NRC has no expertise or authority in areas involving business judgments. The law firm of Bishop, Cook, Purcell, and Reynolds, representing several utilities, proposes a backfitting standard more stringent than the one in the proposed rule: The Commission should not impose backfits on a design for the sake of compliance with applicable regulations unless the lack of compliance has an adverse impact on safety. Going even further in the same vein, the U.S. Chamber of Commerce proposes that even where the lack of compliance has an adverse impact on safety, the backfit should have to pass muster under a cross-benefit analysis.

The final rule places a designer on the same footing as the Commission or any other interested member of the public. No matter who proposes it, a change will not be made to a design certification while it is in effect unless the change is necessary to bring the certification into compliance with Commission regulations applicable and in effect when the certification was issued, or to assure adequate protection of public health and safety. See § 52.63(a)(1). Thus, the final rule cannot be said to make it easier for a designer to amend a certification than for the Commission to backfit the design. But more important, the final rule thus provides greater assurance that standardization and the concomitant safety benefits will be preserved.

The Commission is not adopting Bishop, Cook's suggestion that compliance be required only when non-compliance would have an adverse impact on safety. Licensees seeking relief from a design certification, who believe that non-compliance would have no adverse impact on safety, should request an exemption under 10 CFR 50.12. Neither is the Commission adopting the suggestion of the U.S. Chamber of Commerce that cost-benefit analysis be used to determine whether to impose backfits on designs to bring them into compliance with applicable regulations. The Atomic Energy Act allows the Commission to consider costs only in deciding whether to establish or whether to enforce through backfitting safety requirements that are not necessary to provide adequate protection. See *UCS* v. *NRC*, 824 F.2d 108, 120 (1987).

The final rule, like the proposed rule, permits applicants for combined licenses issued under the rule, and licensees of a plant built according to a certified design, to request an exemption under 10 CFR 50.12 from a rule certifying a design. Among the comments on the appropriateness of using § 50.12 in the standardization context were NIRS' comment that § 50.12 permitted exemptions at a "whim" and DOE's suggestion that no exemptions should be granted at all. Out of respect for the unforeseen, the Commission has decided to adhere to § 50.12, but the final rule does require that, before an exemption can be granted, the effect which the exemption might have on standardization and its safety benefits must be considered.

As a further guard against a loss of standardization, the final rule, again like the proposed rule, also prohibits a licensee of a plant built according to a certified design from making any change to any part of the plant which is described in the certification unless the licensee has been granted an exemption under 10 CFR 50.12 from the rule certifying the design. Because the certification is a rule, 10 CFR 50.12, not 50.59, is the standard for determining whether the licensee may make changes to the certified portion of the design of the plant without prior approval from the NRC. NUMARC says that, given the practicalities of construction and the limited resources of the NRC staff, licensees need the flexibility afforded by § 50.59. However, the Commission believes that the certifications themselves and § 50.12 will provide the necessary flexibility with respect to the certified portion of the plant (or at least as much flexibility as is consistent with achieving the safety benefits of standardization), while § 50.59 will continue to apply to the uncertified portion. How much flexibility § 50.12 will provide depends in large part on how much detail is present in a design certification, and just how much is present will be an issue which will have to be resolved in each certification rulemaking. The Commission does expect, however, that there will be less detail in a certification than in an application for certification, and that a rule certifying a design is likely to encompass roughly the same design features that § 50.59 prohibits changing without prior NRC approval. Moreover, the level of design detail in certifications should afford licensees an opportunity to take advantage of improvements in equipment.

The comments on the proposed rule raise two other important finality issues, both connected with backfitting. The first bears on the criteria for renewal of a design certification. The proposed rule provided that the Commission would grant a request for renewal of a design certification if the design complied with regulations in effect at renewal and any more stringent safety requirements which would bring about a substantial increase in safety at a cost justified by the increase (strictly speaking, the backfit rule would not apply at renewal, but the proposal nonetheless incorporated the backfit rule's cost-benefit standards). See § 52.59(a), 53 FR 32074, col. 3. Bishop, Cook, among others, proposes that the standard for renewal be compliance with regulations in effect not at renewal but rather at the time the certification was originally issued, together with any other more stringent requirements which are justified under the backfit rule. The proposed rule's criteria were in fact equivalent to Bishop, Cook's in their impact on a given design certification, but they differed in their impact on the timing of some backfit analyses, the proposed rule providing that some would be done in rulemakings while the given certification was in effect. However, the final rule adopts Bishop, Cook's proposal because it more clearly says that imposition of more stringent requirements on a design during a renewal proceeding will be governed by backfit standards.

The second of the other important finality issues raised by the comments concerns the finality of 10 CFR Part 52, Appendix O (formerly in Part 50) final design approvals (FDAs) already in effect on the effective date of this rule. Section 52.47(a)(2) of the proposed rule stated that holders of FDAs in effect on the effective date of the rule might have to submit more information to the staff in connection with the review for certification. NUMARC proposes adding a "grandfather" clause which would prohibit the Commission from imposing, during the certification proceeding, any change on that part of the design which is covered by an already effective FDA unless the change meets the criteria of the backfit rule.

Adoption of NUMARC's proposal would not only entail a significant change in the force of an FDA, it would also extend the range of application of

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the backfit rule. Under existing NRC regulations, an FDA binds the staff in a licensing proceeding but not in a certification proceeding; and even in a licensing proceeding, the staff may, on the grounds of significant new information or other good cause, reconsider an earlier determination. See 10 CFR Part 52, Appendix O, paragraph 5. Moreover, the FDA does not bind the Commission or the Commission's adjudicatory panels. Id. at paragraph 6. The backfit rule applies to any proposal which would require the holder of an FDA to meet a new standard in order to remain in possession of the FDA, see 10 CFR 50.109(a)(1), but the backfit rule does not change the force an FDA has in a licensing proceeding or certification proceeding.

NUMARC's proposal, however, would bind both the staff and the Commission in a certification proceeding and would add a cost-benefit test to the tests which must be met before a determination made in an FDA could be reconsidered. NUMARC's proposal thus would effectively amend both the backfit rule and the cited paragraphs of Appendix O: It would, in effect, turn any existing FDA into a partial certification. Here the Commission would rather adhere to the finality provisions in the existing regulations, including Appendix O and the backfit rule. The Commission believes that, in this situation, these provisions adequately balance the need for finality with the need for flexibility to deal with unforeseen safety advances or risks.

2. Early Site Permits

What design certification is to the early resolution of design issues, the early site permit is to the early resolution of site-related issues. Both the certification and the permit make it possible to resolve important licensing issues before a construction permit proceeding. They in effect make possible the banking of designs and sites, thereby making the licensing of a given plant more efficient. However, some commenters question whether the Commission should issue early site permits. The Attorney General of New York, for instance, sees no need for early site permits and questions whether there could be grounds adequate to support approval of a site for twenty years, the term of early site permits under the proposed rule (the final rule provides that permits will have terms of between ten and twenty years). He points out that under the NRC's current regulations, NRC early decisions on site suitability issues raised in connection with a construction permit generally remain effective for only five years. See 10 CFR 2.606 and 10 CFR Part 52, Appendix Q (formerly in Part 50), paragraph 5. The Connecticut Siting Council strongly suggests that the State of Connecticut would be unable to participate in an NRC hearing on an application for an early site permit unless the application proposed a "specific" nuclear power plant. Finally, one commenter is concerned that land approved under an early site permit might never be used for a nuclear power plant, and thus development of the land for a non-nuclear use would have been needlessly delayed.

The Commission believes that early site permits can usefully serve as vehicles for resolving most site issues before large commitments of resources are made. Moreover, the Commission believes that a term of ten to twenty years for early site permits will make early site permits more useful for early resolution of site issues than would the five-year term in 10 CFR 2.606 and 10 CFR Part 52, App. Q, because the longer term will require less frequent reassessments of issues than would the shorter term. The five-year term is a function not of the reliability of the information available to make the decisions, but rather of the fact that the decisions made under those provisions may only resolve isolated site issues [a] and anticipate site utilization in the very near term. The Commission is confident that there will be information adequate to support site approvals lasting up to 20 years. After all, the Commission licenses plants and their sites for operation for periods of up to twice twenty years. Where adequate information is not available, early site permits will not be issued.

The Commission is also confident that enough information on reactor design will be available in an early site permit proceeding to permit sound judgments about environmental impacts and thus to enable state and local agencies such as the Connecticut Siting Council to participate effectively in an early site permit proceeding. The Council says that for it to meaningfully participate in a decision on an application for an early site permit, the application would have to contain "projected emission, discharges, site impacts, safety factors, and exact operational parameters * * * proposed for a site". It is just such information which both the proposed rule and the final rule would require of applicants for early site permits. See § 52.17(a).

Last, although the Commission acknowledges the possibility that non-nuclear development of a site would be postponed when a site is reserved for a nuclear plant and then a plant never built there, the Commission believes that such a possibility does not loom very large. Persons are not likely to go to the expense of applying for an early site permit unless there is a good prospect that the site will be used for a nuclear power plant. Moreover, it may be that many of the sites for which early site permits might be sought are already set aside for use by utilities; thus, even though non-nuclear development of the site might be postponed, non-utility uses of the site would not be. Last, even during the period in which an early site permit is in effect, non-nuclear uses of the site are not prohibited altogether. See § 52.35.

The comments on the proposed rule raise two other important issues concerning the rule's provisions on early site permits. The first issue concerns the division of authority between the Federal government and local governments over the siting of nuclear power facilities. The New York State Energy Office is concerned that the proposed rule leaves the impression that only an early site permit from the NRC is necessary to set aside land for a nuclear power plant. To the contrary, the rule does not, indeed, could not, change the division of authority between the Federal government and the states over the siting of nuclear plants. An early site permit constitutes approval of a site only under the Federal statutes and regulations administered by the Commission, not under any other applicable laws.

The last important issue raised by the comments on early site permits concerns the proposed rule's requirement that the application contain a plan for redress of the site in the event that the site preparation work and similar work and similar work allowed by 10 CFR 50.10(e)(1) is performed and the site permit expires before it is referenced in an application for a construction permit or combined license issued under the rule. The proposed rule required that the plan provide reasonable assurance that redress carried out under the plan would achieve a "self-maintaining, environmentally stable, and aesthetically acceptable site" which conformed to local zoning laws. The only important difference between the proposed and final rules on this subject is that the final rule requires such a plan only of applicants who wish to perform

[a] Thus, the Commission declines to follow the suggestion of the engineering firm of Stone & Webster that partial early site permits be issued. It is not likely that resolutions of isolated site issues could have the degree of finality which a permit lasting ten to twenty years must have.

the activities allowed by 10 CFR 50.10(e)(1). NUMARC says that this requirement is "inherently unworkable" and would involve the Commission in matching redress against a variety of local zoning laws.

To the contrary, the rule's provisions on site redress, including the provision on zoning, are modeled on the redress requirements imposed on the Clinch River Breeder Reactor project. See In the Matter of the U.S. Department of Energy, et al. (Clinch River Breeder Reactor Plant), LBP-85-7, 21 NRC 507 (1985). Moreover, the Commission has long required that applicants' environmental reports discuss compliance with local laws, including zoning laws. See 10 CFR 51.45(d). Apparently, NUMARC is not opposed to redress per se, for NUMARC's proposed revision of § 52.25 of the proposed rule speaks of the possibility that redress of adverse environmental impacts might be necessary. The Commission is only requiring that such redress follow the precedent established at Clinch River and proceed according to a plan incorporated in the early site permit. Containing a redress plan, the permit itself will constitute assurance that, if site preparation activities are carried out but the site never used for a nuclear power plant, the site will not be left in an unacceptable condition.

3. Combined Licenses

a. The Commission's Authority to Issue Combined Licenses

There are two important questions in connection with the proposed rule's provisions on combined construction permits and operating licenses with conditions. The first is whether the Commission has the authority to issue combined licenses. The second is whether, in cases where all design issues are resolved before construction begins, there should be a hearing after construction is complete, and if so, what issues should be considered at the hearing.

Comments on whether the Commission has the authority to issue combined licenses tend to mirror the commenters' views on what kind of hearing should be held after construction is complete. In other words, the discussion of this issue tends to be result-oriented. Thus, many who believe that there should be a hearing after construction, and that it should be as full a hearing as operating license hearings often are, argue that the Commission has no authority to issue combined licenses. They claim that section 185 of the Atomic Energy Act mandates a two-step licensing process (for the text of section 185, see below). They often cite *Power Reactor Development Co.* v. *International Union of Electrical Workers*, 367 U.S. 396 (1961) as support for this interpretation of section 185. To these arguments, those who believe that there should be no hearing, or else only a highly restricted hearing, after construction is complete reply that section 161k of the Atomic Energy Act gives the Commission authority to combine a construction permit and an operating license in a single license (for the text of section 161h, see below).

A closer look at section 161h and 185 shows that section 161h clearly gives the Commission authority to combine a construction permit and operatin glicense in a single license and that section 185 is not inconsistent with section 161h. Section 161h says, in pertinent part, that the Commission has the authority to "consider in a single application one or more of the activities for which a license is required by this Act [and] combine in a single license one or more of such activities . . ." 42 U.S.C. 2201. The plain language of this section clearly applies to the combining of construction permits and operating licenses, for both construction and operation of nuclear power facilities are "activities for which a license is required by this Act", namely by sections 101 and 185 of the Act, see 42 U.S.C. 2231 and 2235, and section 103a of the Act makes any license to operate a commercial nuclear power facility "subject to such conditions as the Commission may by rule or regulation establish . . ." See 42 U.S.C. 2233. Had Congress intended that construction permits and operating licenses for commercial nuclear power plants be excluded from the language of section 161h, surely Congress would have said so right in that section, for the plain language of that section invites their inclusion, and they are the most important licenses issued under the Act.

Section 185 is not to the contrary. Section 185 says, in pertinent part,

> CONSTRUCTION PERMITS.—All applicants for licenses to construct . . . utilization facilities shall . . . be initially granted a construction permit. . . . Upon the completion of the construction . . . of the facility, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this Act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of this Act, the Commission shall thereupon issue a license to the applicant. . . .

42 U.S.C. 2235. To be sure, the section speaks in terms of a construction permit's being issued first, and then a license (presumably an operating license). However, the contrast between the two licenses is not fundamental to the section. The substance of the section is clearly indicated by the title of the section and by the list of findings the Commission must make. The section may be paraphrased thus: A construction permit is not a grant of authority to operate once construction is complete; before operation begins, the original application must be brought up to date, and the Commission must make certain affirmative findings. Thus the critical matter is not the separation of the two licenses, but the need for specific findings before operation. With this substance, both the proposed rule and the final rule are entirely in accord (the pertinent provisions of the final rule will be described in more detail below).

Moreover, in differentiating between a "construction permit" and a later "license", section 185 is not taking exception to section 161h. Section 185 does not say, for instance, "Notwithstanding anything in section 161h to the contrary, applicants shall be granted initially only a construction permit." By speaking of a separate issuance of a license after completion of construction, section 185 simply conforms itself to the simplest case, in which the licenses are in their elementary, uncombined states, and avoids having to make an already long section longer in order to acknowledge the case which section 161h makes possible. Moreover, section 185 acknowledges section 161h implicitly when it speaks not of a separate application for an operating license but simply of an updating of the original application. Therefore, neither the proposed rule nor the final rule can be faulted for not providing for a separate issuance of an operating license.

This interpretation of section 185 is confirmed by the legislative history of the section. In 1954, when Congress was considering proposed amendments to the Atomic Energy Act of 1946, representatives of the industry complained that the proposed section 185 required that construction of a facility be completed "under a mere construction permit, without any assurance at that stage that there will be issued any license to . . . operate it after it has met all the specifications of the construction permit." Atomic Energy Act of 1954: Hearings on S. 3323 and H.R. 8862 before the Joint Committee on

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Atomic Energy, 83rd Congress, 2d Session, 113 (May 10, 1954). These representatives proposed instead that power facility applicants should be able to obtain a single license covering all aspects of their activities—construction, possession of fuel, and operation—and that the license should contain the conditions the applicant would have to meet before operation of a constructed facility could begin. Id. at 113 and 118. On this proposal, the following colloquy took place:

> Representative HINSHAW. That seems to me to be reasonable, that you should put all the conditions into 1 license that can be put into 1 license. That would be fair enough.
>
> Chairman COLE. Would you mind my interruption? Why cannot that be done under the terms of the bill as it is now?
>
> Mr. McQUILLEN [representing Detroit Edison]. I think it undoubtedly would be so operated.
>
> Chairman COLE. Of course it would.

Id. at 119. Chairman Cole said this even though neither of the draft bills before the Committee contained the text of what is now section 161h. Twelve days later, as if to put the matter beyond all doubt, the Committee incorporated the present text of section 161h into both bills. The final rule provides for just such a single license, with conditions, as was discussed in this colloquy.

Power Reactor Development Co. v. *Electrical Workers*, 367 U.S. 396 (1961), is not to the contrary. The issue in that case was not whether the Commission had the authority to combine a construction permit with an operating license with conditions, but whether the Commission could postpone the ultimate safety findings until construction was complete. The Court ruled that the Commission could, and found support for its conclusion in section 185, which showed, the Court said, that "Congress contemplated a step-by-step procedure." 367 U.S. at 405. But the Court did not say, "section 185 mandates a separate issuance of an operating license, notwithstanding section 161h." The interpretation of section 161h of the Act was not at issue.

b. Hearings After Construction Is Complete

The first issue concerning hearings after completion of construction under a combined license is whether there should be such hearings at all. Most commenters, whatever their affiliation, believe that there should be the opportunity for such hearings. They disagree only over how limited the hearings should be. DOE argues that there should be no such hearings at all. As the principal support for its argument, DOE cites the section of the Administrative Procedure Act (APA) which says, in effect, that adjudication is not required in cases in which the agency decision rests "solely on inspections, tests, or elections". See 5 U.S.C. 554(a)(3). Under Part 52's provisions of combined licenses, a combined license will contain the tests, inspection, and analyses, and acceptance criteria therefor, which are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will operate in conformity with the license and the Act. See § 52.97. DOE's argument amounts to the claim that the kind of tests and inspections spoken of in Part 52 is the same as the kind of tests and inspections spoken of in the APA.

The Commission agrees that findings which rest solely on the results of tests and inspections should not be adjudicated, and the final rule so provides. See § 52.103. However, not every finding the Commission must make before operation begins under a combined license will necessarily always be based on wholly self-implementing acceptance criteria and therefore encompassed within the APA exception. The Commission does not believe that it is prudent to decide now, before the Commission has even once gone through the process of judging whether a plant built under a combined license is ready to operate, that every finding the Commission will have to make at that point will be cut-and-dried—proceeding according to highly detailed "objective criteria" entailing little judgment and discretion in their application, and not involving questions of "credibility, conflicts, and sufficiency", questions which the Court in *UCS* v. *NRC*, 735 F.2d 1437 (D.C. Cir. 1984), held were marks of issues which should be litigated at least under the facts of that case. Indeed, trying to assure that the tests, inspections, and related acceptance criteria in the combined license are wholly self-implementing may well only succeed in introducing inordinate delay into the hearing on the application for a combined license.

Thus, the question becomes whether the rule should provide an opportunity for a post-construction hearing on the issues which are not excepted from adjudication by the APA. Whether the Commission could or should go further under its governing statutes we leave to future consideration and experience; this rule adopts an approach within the bounds of our legal authority which sets reasonable limits on any post-construction hearing. In this regard, every commenter who believes there should be such an opportunity for hearing also believes that an issue in the hearing should be whether construction has been completed in accord with the terms of the combined license, and the final rule so provides. Also, under section 185 of the Atomic Energy Act, the Commission must find, prior to facility operation, that the facility has been constructed and will operate in conformity with the application and the rules and regulations of the Commission. This statutory finding, in the context of Subpart C of this rule, translates into two separate but related regulatory findings: that compliance with the acceptance criteria in the combined license will provide reasonable assurance that the facility has been constructed and will operate in accordance with the Commission's requirements, and that the acceptance criteria have in fact been satisfied. The former finding will be made prior to issuance of the combined license, and will necessarily be the subject of any combined license hearing under section 189a of the Act. The latter finding cannot by its nature be made until later, after construction is substantially complete, and therefore cannot by its nature be the subject of any hearing prior to issuance of the combined license. Thus, to the extent that an opportunity for hearing should be afforded prior to operation, it should be confined to the single issue that cannot have been litigated earlier—whether the acceptance criteria are satisfied. No commenter has offered any legal argument to the contrary.[4]

Commenters disagree greatly on whether any other issue should be considered in a hearing. The proposed rule provided that intervenors could contend that significant new information showed that some modification to the site or the design was necessary to assure adequate protection. To this, NUMARC responds that "no one could seriously consider ordering a new plant with the licensing uncertainties it would face." NUMARC proposes a complete rewrite of § 52.103, elements of which are discussed below. Several industry commenters point to the "added burdens" that applicants would be assuming under the proposed rule as grounds for severely limiting the issues for hearing. Rockwell International, for instance, claims that, with the hearing

[4] Section 185 also says that, prior to operation, there must be an "absence of good cause being shown to the Commission why the granting of the license would not be in accordance with the provisions of the Act." We think that this implicit opportunity to show "good cause" is satisfied by affording an opportunity for hearing on all findings that will be made prior to facility operation.

under § 52.103, there will be four public hearings for each plant.

Public interest groups also take a dim view of the proposed rule's limitations on the hearing, though their reasons are not the industry's. UCS says that a licensing proceeding without uncertainty is a sham. OCRE goes further and asserts that the uncertainty should be distributed equally: "In a perfectly fair proceeding, [the] chance [of winning] would be 50%." The Maryland Nuclear Safety Coalition counts only two hearings for each plant. NIRS says that many problems with the current generation of reactors were cured under the full two-step licensing process.

This latter group of commenters appears to be opposed to any limitation on the post-construction hearing, for not one of them proposes a concrete alternative to the proposed rule's provisions on the hearing. UCS does say that the hearing should encompass "all issues that are material to the NRC's approval of an operating license for the plant", but that statement is either so general as to be just another way to put the question of what issues should be encompassed, or it is the claim that, when it comes time to determine whether the plant has been built in conformity with the terms of the combined license, all the operating license issues resolved before construction should be treated as if they had never been resolved. Many commenters do in fact seem to be making such a claim, for they contend against any limits on the post-construction hearing at the same time that they support the idea that design issues should be resolved before construction.

There have to be substantial limits on the issues that can be raised after construction. A licensing proceeding without any uncertainty in result may be a sham, but the bulk of the uncertainty should be addressed and resolved prior to, not after, construction. Part 52 does not remove uncertainty, it simply reallocates it to the beginning of the licensing process. The alternative apparently offered by opponents of limits on the post-construction hearing is, in effect, to double the uncertainty by considering every design issue twice.[5]

[5] Even according to OCRE's notion of a "perfectly fair" proceeding, in which perfect fairness could be achieved by replacing judges with tosses of coins, design issues should not be resolved twice. If they were, intervenors would have two 50% chances to win—that is, to prevent operation of the plant—on design issues. But two even chances are equivalent to a 75% chance overall (e.g., the chance of coming up heads once in two tosses of a coin is 3 out of 4), and a proceeding in which one party has a 75% chance of winning is not, according to OCRE, "perfectly fair".

To the extent that these commenters offer any practical arguments in favor of this approach, they are not persuasive. Rockwell International may engage in some double-counting when it asserts that there are four public hearings for each plant, but when the Maryland Nuclear Safety Coalition says that the public can debate licensing issues only in an early site permit hearing and after construction, and therefore needs another hearing on design issues, it inexplicably simply ignores the mandatory public hearing on the application for the combined license and the opportunity for a public hearing on an application for a design certification. Moreover, contrary to NIRS, shortcomings in certain plants were not discovered because the licensing proceedings consisted of two steps but rather because design issues had to be resolved and construction made to conform to design before operation began. Part 52 provides for no less.

The final rule adopts a straightforward approach to limiting the issues in any post-construction hearing on a combined license. As a matter of logic, every conceivable contention which could be raised at that stage would necessarily take one of two general forms. It would allege either that construction had not been completed—and the plant would not operate—in conformity with the terms of the combined license, or that those terms were themselves not in conformity with the Atomic Energy Act and pertinent Commission requirements. The final rule makes issues of conformity with the terms of the combined license part of any post-construction hearing, unless those issues are excepted from adjudication by the APA exception for findings which are based solely on the results of tests and inspections. The final rule does not attempt to say in advance what issues might fall under that exception. The comments are nearly unanimous in the opinion that issues of conformity with the combined license are properly encompassed in any post-construction hearing. Moreover, this limited opportunity for hearing is consistent with the Commission's belief that, even if section 185 did not speak at all to the need for a conformity finding, the Commission itself would need to make such a finding prior to operation in order to conclude, in the language of section 103, that operation is not inimical to the health and safety of the public. The final rule also provides that issues of whether the terms of the combined license are themselves inadequate are to be brought before the Commission under the provisions of 10 CFR 2.206. This approach to issues concerning the inadequacy of the combined license is well-founded in the discretion afforded the Commission under section 185 of the Act to determine what constitutes "good cause" for not permitting operation, and in the analogy which this approach has with the way construction permits are treated in operating license proceedings. Contentions alleging inadequacies in a construction permit are not now admissible in an operating license proceeding. Similarly, under the final rule, contentions alleging inadequacies in a combined license are not admissible in a post-construction hearing. Moreover, as we noted, this approach fully satisfies applicable law.

III. Other Issues

These are taken up section by section. Not discussed are most of the many changes made to the proposed rule for the sake of clarity, brevity, consistency, specificity, and the like. Worth noting, however, is that this Federal Register notice moves Appendices M, N, O, and Q of Part 50 to Part 52, so that, except for Subpart F of 10 CFR Part 2, all of the Commission's regulations on standardization and early resolution of licensing issues will be in one part of 10 CFR Chapter I. Readers are reminded that a comparative text showing all deletions from, and additions to, the proposed rule is available in the NRC's public document room.

1. Early Site Permits

At the suggestion of NUMARC and others, § 52.17 now gives applicants for early site permits the option of submitting partial or complete emergency plans, for final approval. Also, the section requires a redress plan only of applicants who wish to be able to perform the site preparation work and similar work allowed under 10 CFR 50.10(e)(1). Last, incorporating suggestions by UCS and others, the section says what factors should be considered in determining whether the area surrounding the site is "amenable" to emergency planning. To avoid suggesting that the Commission is adopting new emergency planning standards, § 52.17 abandons the proposed language of "amenability to emergency planning" in favor of language drawn from existing regulations on emergency planning.

Section 52.18 now makes clear that need for power is not a consideration at the early site permit stage.

In a number of places—§§ 52.23, 52.53, 52.87, and portions of other sections—the rule provides explicitly for ACRS

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review of issues to make clear that, even though the Atomic Energy Act does not, in terms, give the ACRS a role in the granting of early site permits, design certifications, or combined licenses, the ACRS is to have the same role with respect to these devices that it does with respect to construction permits, operating licenses, and the like. Wherever the ACRS is spoken of in Part 52, the intention is that the ACRS review the pertinent issues according to the standards specified therein.

As in the proposed rule, § 52.25 provides that the holder of an early site permit which contains a site redress plan, or the applicant for a construction permit or combined license which references such an early site permit, may perform the activities at the site allowed by 10 CFR 50.10(e)(1) without first obtaining the separate authorization required by § 50.10. The New York State Energy Office appears to take this to mean that the holder of the permit may perform the work without NRC approval. To the contrary, the early site permit which contains a redress plan is itself NRC approval. The law firm of LeBoeuf, Lamb, Leiby & MacRae, representing several utilities, argues that recent case law, especially NRDC v. EPA, 859 F.2d 156 (D.C. Cir. 1988), calls into question the Commission's limitations on non-safety related construction before issuance of a permit. LeBoeuf, Lamb concludes that § 52.25 and related portions of Part 52 should be deleted and the limitations in § 50.10 reviewed in the light of the case law. The Office of the General Counsel is undertaking a review and will recommend to the Commission if any changes to these sections are warranted. In the meantime, the Commission has decided to keep Part 52's provisions on site work intact and consistent with the related provisions in Part 50.

Section 52.27 now contains some of the material which appeared in § 52.29 of the proposed rule. OCRE objects to the provision in § 52.27 which treats an early site permit as valid beyond the date of expiration in proceedings based on applications which have referenced the early site permit. OCRE argues that this provision allows clever applicants to avoid new site requirements by referencing an early site permit just before it expires. At bottom, this is really an argument that early site permits should have shorter durations. The Commission is confident that the agency will be able to make site judgments which will retain their validity for the durations provided for in the final rule. However, the final rule does provide that the duration of an original permit can be fixed at a term shorter than twenty years. See § 52.27(a).

In its comment on § 52.31, LeBoeuf, Lamb suggests that at renewal, the burden should be on the Commission to show why an early site permit should not be renewed, but that a given permit should be renewed only once, and for not more than ten years. The final rule retains the provisions of the proposed rule, because they provide more flexibility to both the Commission and holders of permits.

Much of the discussion in Sections II.1.f. and II.3.b. above on the finality of design certifications and hearings after construction is relevant to the provisions in § 52.39 on the finality of early site permits. Section 52.39 now states that, except in certain limited circumstances, issues resolved in a proceeding on an early site permit shall be treated as resolved in any later proceeding on an application which references the early site permit. One of the circumstances involves petitions under 10 CFR 2.206 that the terms of the early site permit should be modified; § 52.39(a)(2)(iii) assumes that the Commission shall resolve the issues raised by the petition in accordance with the standard in paragraph (a)(1) of the same section.

2. Design Certifications

In the proposed rule, § 52.45 contained material on scope of design and testing of prototypes. This material now appears, in modified form, in § 52.47. The phrase "essentially complete nuclear power plant," which is used in 52.45, is defined as a design which includes all structures, systems, and components which can affect safe operation of the plant except for site-specific elements such as the service water intake structure and the ultimate heat sink. Therefore, those portions of the design that are either site specific (such as the service water intake structure or the ultimate heat sink) or include structures, systems and components which do not affect the safe operation of the facility (such as warehouses and sewage treatment facilities) may be excluded from the scope of design. In addition, an essentially complete design is a design that has been finalized to the point that procurement specifications and construction and installation specifications can be completed and made available for audit if it is determined that they are required for Commission review in accordance with the requirements of § 52.47(a). Procurement specifications would have to identify the equipment and material performance requirements and include the necessary codes, standards, and other acceptance and performance criteria to which the equipment and materials will be fabricated and tested. Construction and installation specifications would have to identify the criteria and methods by which systems, structures and components are erected or installed in the facility and include acceptance, performance, inspection, and testing requirements and criteria.

In § 52.47, the provisions on testing of prototypes have been reworded to avoid suggesting a presumption that designs of the affected class could be certified only after successful testing of a prototype. One individual and the U.S. Metric Association urged that the rule require that technical information in applications be in metric units. The NRC staff believes there is much merit in this proposal, but because the public has not had an opportunity to comment on it, it is not incorporated in the final rule. The NRC staff is considering proposing an amendment to Part 52 on the subject for Commission review.

On §§ 52.53, 52.55, and 52.63, see the remarks in Section III.1. above on §§ 52.23, 52.27, and 52.39, respectively. Also, § 52.55 of the proposed rule set ten years as the duration of certifications. The final rule extends the duration to fifteen years, to permit more operating experience with a given design to accumulate before the certification comes up for renewal or ceases to be available to applicants for combined licenses. In addition, § 52.63(a)(3) now limits Commission-ordered modifications of design-certified elements of a specific plant to situations in which the modification is necessary for adequate protection and special circumstances as defined in 10 CFR 50.12(a) are present. This double requirement does not mean that if a specific plant presents an undue risk but no special circumstances are present the plant will not be modified. Rather, the modification will take place through modification of the certified design itself, as provided for elsewhere in the same section.

Theoretically, it would be possible for an applicant whose application referenced a certified design to select designer(s) other than the designer(s) which had achieved certification of the standard design. Section 52.63(c) makes clear that such an applicant might be required to provide information which is normally contained in procurement specifications and construction and installation specifications and which is consistent with the certified design and available for audit by the NRC staff.

Also, § 52.73 requires a demonstration that the new designer is qualified to supply the design. Last, the new designer would have to pay a portion of the cost of the review of the application for certification. See 10 CFR 170.12(d) and (e), as amended in this document. It is expected, as a practical matter, that applicants referencing a certified design would select the designer which had achieved certification of the standard design.

3. Combined Licenses

Section 52.73 now provides that the entity that obtained certification for a design must be the entity that supplies the design to an applicant for a combined license referencing the design, unless it is demonstrated that another entity is qualified to supply the design. This provision was added because an entity supplying the design should be qualified to do so; the entity which obtained the certification will have demonstrated its qualifications by obtaining the certification.

The last sentence of § 52.75 of the proposed rule now appears in § 52.79 of the final rule.

DOE proposes redrafting § 52.79 to require that no application for a combined license be considered unless it references a certified design. The final rule does not contain this restriction because there may be circumstances in which a combined license would properly utilize a non-standard design, and because such a restriction would mean, among other things, that every prototype would have to be licensed in a fully two-step process. In connection with § 52.79's provisions on submission of complete emergency plans, NIRS somehow concludes that Subpart C's provisions on emergency planning "extend", to the detriment of state and local governments, the "realism" doctrine set forth in 10 CFR 50.47 and recently affirmed in Commonwealth of Massachusetts v. NRC, 856 F.2d 378 (1st Cir. 1988). Apparently, NIRS believes that to settle emeregency planning issues before construction is to "extend" the doctrine. To the contrary, although Subpart C assumes the "realism" doctrine, as it is entitled to do, it does not extend it. The doctrine remains precisely what it is in § 50.47. Moreover, the Commission's aim in drafting Subpart C's provisions on emergency planning has been to follow to the maximum feasible extent the National Governors' Association's Recommendation, at its 79th annual meeting, in 1987, that ". . . emergency plans should be approved by the NRC before it issues the construction permit for any new nuclear power plant."

Section 52.83 now provides that the initial term of a combined license shall not exceed forty years from the date on which the Commission makes the findings required by § 52.103(c).

On § 52.87, see the discussion in Section III.1. on § 52.23.

NUMARC proposed removing from § 52.89 any reference to design certifications, on the grounds that environmental impact statements should not be prepared in connection with certification rulemakings. The references in this section to design certifications are not meant to imply that environmental impact statements must be prepared in connection with design certifications.

Section 52.99 has been reworded to reflect more clearly that the inspection carried out during construction under a combined license will be based on the tests, inspections, analyses, and related acceptance criteria proposed by the applicant, approved by the staff, and incorporated in the combined license. Several industry commenters proposed adding to this section a requirement that the staff prepare a review schedule in connection with each combined license. However, such a requirement would be largely duplicative of a long-standing staff practice under which the staff prepares an annual inspection plan which allocates resources according to the priorities among all pending inspection tasks. The annual plan should assure the timeliness of staff review of construction under a combined license. Section 52.99 envisions a "sign-as-you-go" process in which the staff signs off on inspection units and notice of the staff's sign-off is published in the **Federal Register**. UCS says that it is "totally inappropriate" for the Commission, while construction is going on, to sign off on inspections and thus put matters beyond dispute which might otherwise be raised after construction is complete. However, UCS has misunderstood the Commission's role in the inspection process. While construction is going on, only the staff signs off on inspections. The Commission makes no findings with respect to construction until construction is complete. Section 52.99 has been modified to make this point more clearly.

UCS and other commenters object to the section in § 52.103 of the proposed rule which provided interested persons thirty days after notice of proposed authorization of operation in which to request a hearing on the specified grounds. Yet the thirty-day requirement was drawn from section 189a of the Act. Neither the Act nor Part 52 imagines that it would be acceptable for interested persons to wait until notice is received before they examine the record of construction. These time periods are like the sixty-day limit in the Hobbs Act, 28 U.S.C. 2344, for petitions for direct judicial review of an agency rule. These limits assume that the petitioner is familiar with the fundamentals of the record before the limited period begins. The limited period is then provided for consideration of options, consultation with other interested persons, and drafting of pleadings. In any event, the final rule provides sixty days, in consideration of the pleading standard § 52.103 imposes on petitioners. Moreover, as noted above, to assist interested persons in becoming familiar with the construction record, § 52.99 now provides that notice of staff approvals of construction will be published periodically in the **Federal Register**. Any hearing held under § 52.103(b)(2)(1) will use informal procedures to the maximum extent practicable and permissible under law. In particular, the Commission intends to make use of the provisions in 5 U.S.C. 554, 556, and 557 which are applicable to determining applications for initial licenses. Under § 52.103(b)(2)(ii), the NRC staff will review the § 2.206 petition and make appropriate recommendations to the Commission concerning the petition. The Commission itself will issue a decision granting or denying the petition in whole or in part.

Finally, Urenco, Inc., is concerned that the last subsection of § 52.103 not be taken to suggest that the Commission would have to make separate findings for each of the numerous "modules" of a gaseous diffusion facility. The issue of how the modules of a gaseous diffusion facility should be licensed is beyond the scope of this rulemaking; § 52.103 therefore cannot suggest that the Commission would have to make separate findings for each of the modules of such a facility.

IV. Replicate Plant Concept

In the notice of proposed rulemaking, the Commission published a revised policy statement on replication of plants and invited comment on the revised policy. See 53 FR 32067, col. 3, to 32068, col. 1. Several industry commenters remarked that the statement's requirement that the application for replication be submitted within five years of the date of issuance of the staff safety evaluation report for the base plant effectively made replication unavailable for the short term. They recommended removing the restriction,

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or at least lengthening it. The Commission has decided to retain this restriction. The five-year figure is in fact already a lengthening of the analogus figure in the immediately preceding version of the policy statement. The restriction is a reflection of the Commission's belief that applications which reach back further than a given number years probably ought to be considered as custom-plant applications.

Policy on Replication

The replicate plant concept involves an application by a utility for a license to construct or operate one or more nuclear power plants of essentially the same design as one already licensed.

The design of the plant already licensed (termed the base plant design) may be replicated at both the construction permit and operating license stages, and in applications for combined construction permits and operating licenses in a one-step licensing process. Replication of an approved base plant design at the construction permit stage is a prerequisite for its replication at the operating license stage. Although replication of the base plant design at the operating license stage is not mandatory, that is, the operating license application may be submitted as a custom plant application, it is strongly recommended.

An application for a replicate plant must demonstrate compliance with the four licensing requirements for new plant designs as set forth in the Commission's Severe Accident Policy Statement (50 FR 32138; August 8, 1985).

Each application proposing to replicate a previously licensed plant will be subjected to a qualification review to determine the acceptability of the base plant for replication and to define specific matters that must be addressed in the application for the replicate plant. A further requirement for qualification is that the application for a replicate plant must be submitted within five years of the date of issuance of the staff safety evaluation report for the base plant. The qualification review will consider the following information:

(1) The arrangement made with the developers of the base plant design for its replication;

(2) The compatibility of the base plant design with the characteristics of the site proposed for the replicate plant;

(3) A description of any changes to the base plant design, with justification for the changes;

(4) The status of any matters identified for the base plant design in the safety evaluation report, or subsequently identified by the ACRS or during the public hearings on the base plant application as requiring later resolution;

(5) Identification of the major contractors, with justification for the acceptability of any that are different than those used by the base plant applicant; and

(6) A discussion of how the replicate plant design will conform to any changes to the Commission's regulations which have become effective since the issuance of the license for the base plant.

Environmental Impact—Categorical Exclusion

The final rule amends the procedures currently found in Part 50 and its appendices for the filing and reviewing of applications for construction permits, operating licenses, early site reviews, and standard design approvals. As such they meet the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(3). That section applies to "[a]mendments to . . . Part [] 50 . . . which relate to (i) procedures for filing and reviewing applications for licenses or construction permits or other forms of permission. . . ." As the Commission explained in promulgating this exclusion, "[a]lthough amendments of this type affect substantive parts of the Commission's regulations, the amendments themselves relate solely to matters of procedure. [They] . . . do not have an effect on the environment." 49 FR 9352, 9371, col. 3 (March 12, 1984) (final environmental protection regulations).[6] Accordingly, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with these final rules.[7]

[6] It makes no substantive difference for the purpose of the categorical exclusion that the amendments are in a new Part 52 rather than in Part 50. The amendments are, in fact, amendments to the Part 50 procedures and could have been placed in that part.

[7] The requirements concerning testing of full-size prototypes of advanced reactors, see § 52.47, may appear not to fit into the category excluded by § 51.22(c)(3), since to comply with the requirements, an applicant may have to build and test a prototype plant, an act clearly with an environmental impact. Nonetheless, § 52.47 is eligible for exclusion under § 51.22(c)(3). Unlike, for instance, the promulgation of a safety rule which applies to operating plants, the formal action of promulgating § 52.47 has only a potential impact on the environment. That impact becomes actual only if a designer chooses to pursue certification of a certain kind of advanced design. Under the present circumstances, no meaningful environmental assessment or impact statement can be made. Cf. 49 FR at 9372, cols. 2–3 (entering into an agreement with a State under Section 274 of the Atomic Energy Act has no immediate or measurable environmental impact and therefore warrants a categorical exclusion). The issuance of the construction permit and operating license for a prototype plant would, of course, be a major federal action with a significant impact on the environment, and would entail the preparation of an environmental impact statement. Cf. id., col. 3 (the States must prepare detailed environmental analyses before they license certain activities).

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements have been submitted to the Office of Management and Budget (OMB) for any review appropriate under the Act. The effective date of this rule provides for the ninety days required for OMB review of the information collection requirements contained in the rule.

Public reporting burden for this collection of information is estimated to average 22,000 hours per response, including the time for reviewing instructions, searching existing date sources, gathering and maintaining the data needed, and completing the reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Records and Reports Management Branch, Division of Information Suppport Services, Office of Information and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Paperwork Reduction Project (3150–0000), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

As presently constituted, the American population of nuclear power reactors consists largely of one-of-a-kind designs. Experience has shown that the highly individualistic character of this population has consumed enormous resources in the processes of design, construction, and safety review. Because, typically, design of a plant was not complete when construction of it began, many safety questions were not resolved until late in the licensing proceeding for that plant. The late resolution of questions introduced great uncertainty into proceedings, because the process of resolution often entailed lengthy safety reviews, construction delays, and backfits. Moreover, the low incidence of duplication among designs has meant that experience gained in the construction and operation of a given plant has often not been useful in the construction and operation of any other plant, and has made the generic

resolution of continuing safety issues more complicated.

In the face of this experience with a population of unique plants, there have long been fundamentally only three alternatives for Commission action, the last two of them not mutually exclusive: either make no effort to bring about an increased degree of standardization, or propose legislation on standardization, or enact by rulemaking as much of a scheme for promoting standardization as the Commission's current statutory authority permits. The Commission has for some time concluded against the first alternative, having decided that a substantial increase in standardization would enhance the safety and reliability of nuclear power plants and require fewer resources in safety reviews of plants, and that the Commission should have in place provisions for the review of standardized designs and other devices for assuring early resolution of safety questions. The Commission has therefore pursued standardization both by proposing legislation—without success—and by promulgating rules, in particular Appendices M, N, and O to Part 50 (now Part 52) of 10 CFR. Lacking legislation on standardization, the Commission believes that the most suitable alternative for encouraging further standardization is to fill out and expand the Commission's regulatory scheme for standardization and early resolution of safety issues.

Therefore, the Commission now promulgates a new set of regulations, to be placed in a new part in 10 CFR, Part 52. This new part facilitates the early resolution of safety issues by providing for pre-construction-permit approval of power plant sites, Commission certification of standardized designs, and the issuance of licenses which combine permission to construct a plant with permission to operate it once construction of it has been successfully completed. Ideally, a future applicant will reference an approved site and a certified design in an application for a combined license, thus obviating the need for an extensive review of the application and construction. The provision in Part 52 for Commission certification of designs has the additional objective of encouraging the use of standardized designs, thereby adding to the benefits of early resolution the safety benefits of accumulated experience and the economic benefits of economies of scale and transferable experience.

Quantification of the costs and benefits of this rulemaking is probably not possible. Much depends on the extent to which the industry pursues standardization. Clearly, if the Commission and the industry spend the resources necessary to certify a score of designs and then no applicant references any of them, those resources will have been largely wasted. On the other hand, it is just as clear that if a score of plants uses a single certified design, there will have been a great saving of the resources of the industry, the agency, and the interested public alike. To be added to the uncertainties surrounding the industry's response, there are also uncertainties concerning the costs of the certification process, and the costs of developing the designs themselves, especially the advanced designs, which may require testing of prototypes. However, if the industry finds it in its interest to proceed with the development of nuclear power, there is every reason to expect that the safety and economic benefits of standardization will far outweigh the upfront costs of design and Commission certification: Review time for applications for licenses will be drastically reduced, the public brought into the process before construction, construction times shortened, economies of scale created, reliability of plant performance increased, maintenance made easier, qualified vendor support made easier to maintain, and, most important, safety enhanced.

Thus, the rationale for proceeding with this rulemaking: There is no absolute assurance that certified designs will in fact be used by the utilities; however, it is certain that if the reasonably expected benefits of standardization are to be gained, then the Commission must have the procedural mechanisms in place for review of applications for early site approvals, design certifications, and combined licenses. The most fundamental choice is, of course, the industry's, to proceed or not with standardization, according to its own weighing of costs and benefits. But the Commission must be ready to perform its review responsibilities if the industry chooses standardization.

Regulatory Flexibility Act Certification

The final rule will not have a significant impact on a substantial number of small entities. The final rule will reduce the procedural burden on NRC licensees by improving the reactor licensing process. Nuclear power plant licensees do not fall within the definition of small businesses in section 3 of the Small Business Act, 15 U.S.C. 632, the Small Business Size Standards of the Small Business Administration in 13 CFR Part 121, or the Commission's Size Standards published at 50 FR 50241 (Dec. 9, 1985). The impact on intervenors or potential intervenors will be neutral. For the most part, the final rule will affect the timing of hearings rather than the scope of issues to be heard. For example, many site and design issues will be considered earlier, in connection with the issuance of an early site permit or standard design certification, rather than later, in connection with a facility licensing proceeding. Similarly, a combined licensed proceeding will include consideration of many of the issues that would ordinarily be deferred until the operating license proceeding. Thus, the timing rather than the cost of participating in NRC licensing proceedings will be affected. Intervenors may experience some increased preparation costs if they seek to reopen previously decided issues because of the increased showing that will be required. Once a hearing commences, however, an intervenor's costs should be decreased because the issues will be more clearly defined than under existing practice. Therefore, in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities and that, therefore, a regulatory flexibility analysis need not be prepared.

Backfit Analysis

This rule does not modify or add to the systems, structures, components, or design of a facility; or the design approval or manufacturing license for a facility; or the procedures or organization required to construct or operate a facility. However, it could be argued that this rule modifies and adds to the procedures or organization required to design a facility, since the rule adds to, or else at least spells out, the requirements for applicants for design certifications. Moreover, the rule, at the very least, substantially modifies the expectations of anyone who had hoped to apply for a design certification under the previously existing section 7 of Appendix O, particularly of any such who presently hold preliminary or final design approvals under that Appendix.

Nonetheless, the Commission believes that the backfit rule does not apply to this rule and, therefore, that no backfit analysis pursuant to 10 CFR 50.109(c) is required for this rule. The backfit rule was not intended to apply to every action which substantially changes settled expectations. Clearly, the backfit rule would not apply to a rule which would impose more stringent requirements on all future applicants for construction permits, even though such a

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rule arguably might have an adverse impact on a person who was considering applying for a permit but had not done so yet. In this latter case, the backfit rule protects the construction permit holder, not the prospective applicant, or even the present applicant. The final rule below is of the character of such a hypothetical rule. The final rule arguably imposes more stringent requirements for design certification and thereby may have an adverse impact on some persons. However, the effects of the final rule will be largely prospective, and the rule does not require any present holder of a design approval (no person holds a design certification) to meet new standards in order to remain in possession of such an approval.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear Materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 50

Antitrust, Classified information, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirments, Standard design, Standard design certification.

10 CFR Part 170

Byproduct material, Nuclear materials, Nuclear power plants and reactors, Penalty, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the Commission is adding to 10 CFR Chapter I a new Part 52 and adopting amendments to 10 CFR Parts 2, 50, 51, and 170:

1. Part 52 is added to read as follows:

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

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Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

General Provisions

§ 52.1 Scope.

This part governs the issuance of early site permits, standard design certifications, and combined licenses for nuclear power facilities licensed under section 103 or 104b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), and Title II of the Energy Reorganization Act of 1974 (88 Stat. 1242).

§ 52.3 Definitions.

As used in this part,

(a) "Combined license" means a combined construction permit and operating license with conditions for a nuclear power facility issued pursuant to Subpart C of this part.

(b) "Early site permit" means a Commission approval, issued pursuant to Subpart A of this part, for a site or sites for one or more nuclear power facilities.

(c) "Standard design" means a design which is sufficiently detailed and complete to support certification in accordance with Subpart B of this part, and which is usable for a multiple number of units or at a multiple number of sites without reopening or repeating the review.

(d) "Standard design certification", "design certification", or "certification" means a Commission approval, issued pursuant to Subpart B of this part, of a standard design for a nuclear power facility. A design so approved may be

referred to as a "certified standard design".

(e) All other terms in this part have the meaning set out in 10 CFR 50.2, or section 11 of the Atomic Energy Act, as applicable.

§ 52.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 52.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*). OMB has approved the information collection requirements contained in this part under control number 3150(b).

(b) The approved information collection requirements contained in this part appear in §§ 52.15, 52.17, 52.29, 52.45, 52.47, 52.57, 52.75, 52.77, and 52.79.

Subpart A—Early Site Permits

§ 52.11 Scope of subpart.

This subpart sets out the requirements and procedures applicable to Commission issuance of early site permits for approval of a site or sites for one or more nuclear power facilities separate from the filing of an application for a construction permit or combined license for such a facility.

§ 52.13 Relationship to Subpart F of 10 CFR Part 2 and Appendix Q of this part.

The procedures of this subpart do not replace those set out in Subpart F of 10 CFR Part 2 or Appendix Q of this part. Subpart F applies only when early review of site suitability issues is sought in connection with an appliction for a permit to construct certain power facilities. Appendix Q applies only when NRC staff review of one or more site suitability issues is sought separately from and prior to the submittal of a construction permit. A Staff Site Report issued under Appendix Q in no way affects the authority of the Commission or the presiding officer in any proceeding under Subpart F or G of 10 CFR Part 2. Subpart A applies when any person who may apply for a construction permit under 10 CFR Part 50 or for a combined license under 10 CFR Part 52 seeks an early site permit from the Commission separately from an application for a construction permit or a combined license for a facility.

§ 52.15 Filing of applications.

(a) Any person who may apply for a construction permit under 10 CFR Part 50, or for a combined license under 10 CFR Part 52, may file with the Director of Nuclear Reactor Regulation an application for an early site permit. An application for an early site permit may be filed notwithstanding the fact that an application for a construction permit or a combined license has not been filed in connection with the site or sites for which a permit is sought.

(b) The application must comply with the filing requirements of 10 CFR 50.30 (a), (b), and (f) as they would apply to an application for a construction permit. The following portions of § 50.4, which is referenced by § 50.30(a)(1), are applicable: paragraphs (a), (b) (1)–(3), (c), (d), and (e).

§ 52.17 Contents of applications.

(a)(1) The application must contain the information required by 10 CFR 50.33 (a)–(d), the first three sentences of § 50.34(a)(1), and, to the extent approval of emergency plans is sought under paragraph (b)(2)(ii) of this section, the information required by § 50.33 (g) and (j), and § 50.34(b)(6)(v). In particular, the application should describe the following:

(i) The number, type, and thermal power level of the facilities for which the site may be used;

(ii) The boundaries of the site;

(iii) The proposed general location of each facility on the site;

(iv) The anticipated maximum levels of radiological and thermal effluents each facility will produce;

(v) The type of cooling systems, intakes, and outflows that may be associated with each facility;

(vi) The seismic, meteorological, hydrologic, and geologic characteristics of the proposed site (see Appendix A to 10 CFR Part 100);

(vii) The location and description of any nearby industrial, military, or transportation facilities and routes; and

(viii) The existing and projected future population profile of the area surrounding the site.

(2) A complete environmental report as required by 10 CFR 51.45 and 51.50 must be included in the application, provided, however, that such environmental report must focus on the environmental effects of construction and operation of a reactor, or reactors, which have characteristics that fall within the postulated site parameters, and provided further that the report need not include an assessment of the benefits (for example, need for power) of the proposed action, but must include an evaluation of alternative sites to determine whether there is any obviously superior alternative to the site proposed.

(b) (1) The application must identify physical characteristics unique to the proposed site, such as egress limitations from the area surrounding the site, that could pose a significant impediment to the development of emergency plans.

(2) The application may also either:

(i) Propose major features of the emergency plans, such as the exact sizes of the emergency planning zones, that can be reviewed and approved by NRC in consultation with FEMA in the absence of complete and integrated emergency plans; or

(ii) Propose complete and integrated emergency plans for review and approval by the NRC, in consultation with the Federal Emergency Management Agency, in accord with the applicable provisions of 10 CFR 50.47.

(3) Under paragraphs (b)(1) and (2)(i) of this section, the application must include a description of contacts and arrangements made with local, state, and federal governmental agencies with emergency planning responsibilities. Under the option set forth in paragraph (b)(2)(ii) of this section, the applicant shall make good faith efforts to obtain from the same governmental agencies certifications that: (i) The proposed emergency plans are practicable; (ii) These agencies are committed to participating in any further development of the plans, including any required field demonstrations, and (iii) that these agencies are committed to executing their responsibilities under the plans in the event of an emergency. The application must contain any certifications that have been obtained. If these certifications cannot be obtained, the application must contain information, including a utility plan, sufficient to show that the proposed plans nonetheless provide reasonable assurance that adequate protective measures can and will be taken, in the event of a radiological emergency at the site.

(c) If the applicant wishes to be able to perform, after grant of the early site permit, the activities at the site allowed by 10 CFR 50.10(e)(1) without first obtaining the separate authorization required by that section, the applicant shall propose, in the early site permit, a plan for redress of the site in the event that the activities are performed and the site permit expires before it is referenced in an application for a

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construction permit or a combined license issued under Subpart C of this part. The application must demonstrate that there is reasonable assurance that redress carried out under the plan will achieve an environmentally stable and aesthetically acceptable site suitable for whatever non-nuclear use may conform with local zoning laws.

§ 52.19 Standards for review of applications.

Applications filed under this subpart will be reviewed according to the applicable standards set out in 10 CFR Part 50 and its appendices and Part 100 as they apply to applications for construction permits for nuclear power plants. In particular, the Commission shall prepare an environmental impact statement during review of the application, in accordance with the applicable provisions of 10 CFR Part 51, provided, however, that the draft and final environmental impact statements prepared by the Commission focus on the environmental effects of construction and operation of a reactor, or reactors, which have characteristics that fall within the postulated site parameters, and provided further that the statements need not include an assessment of the benefits (for example, need for power) of the proposed action, but must include an evaluation of alternative sites to determine whether there is any obviously superior alternative to the site proposed. The Commission shall determine, after consultation with the Federal Emergency Management Agency, whether the information required of the applicant by § 52.17(b)(1) shows that there is no significant impediment to the development of emergency plans, whether any major features of emergency plans submitted by the applicant under § 52.17(b)(2)(i) are acceptable, and whether any emergency plans submitted by the applicant under § 52.17(b)(2)(ii) provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

§ 52.19 Permit and renewal fees.

The fees charged for the review of an application for the initial issuance or renewal of an early site permit are set forth in 10 CFR 170.12, together with a schedule for their deferred recovery. There is no application fee.

§ 52.21 Hearings.

An early site permit is a partial construction permit and is therefore subject to all procedural requirements in 10 CFR Part 2 which are applicable to construction permits, including the requirements for docketing in §§ 2.101(a)(1)–(4), and the requirements for issuance of a notice of hearing in §§ 2.104(a), (b)(1)(iv) and (v), (b)(2) to the extent it runs parallel to (b)(1)(iv) and (v), and (b)(3), provided that the designated sections may not be construed to require that the environmental report or draft or final environmental impact statement include an assessment of the benefits of the proposed action. In the hearing, the presiding officer shall also determine whether, taking into consideration the site criteria contained in 10 CFR Part 100, a reactor, or reactors, having characteristics that fall within the parameters for the site can be constructed and operated without undue risk to the health and safety of the public. All hearings conducted on applications for early site permits filed under this part are governed by the procedures contained in Subpart G of Part 2.

§ 52.23 Referral to the ACRS.

The Commission shall refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety.

§ 52.24 Issuance of early site permit.

After conducting a hearing under § 52.21 of this subpart and receiving the report to be submitted by the Advisory Committee on Reactor Safeguards under § 52.23 of this subpart, and upon determining that an application for an early site permit meets the applicable standards and requirements of the Atomic Energy Act and the Commission's regulations, and that notifications, if any, to other agencies or bodies have been duly made, the Commission shall issue an early site permit, in the form and containing the conditions and limitations, as the Commission deems appropriate and necessary.

§ 52.25 Extent of activities permitted.

(a) If an early site permit contains a site redress plan, the holder of the permit, or the applicant for a construction permit or combined license who references the permit, may perform the activities at the site allowed by 10 CFR 50.10(e)(1) without first obtaining the separate authorization required by that section, provided that the final environmental impact statement prepared for the permit has concluded that the activities will not result in any significant adverse environmental impact which cannot be redressed.

(b) If the activities permitted by paragraph (a) of this section are performed at any site for which an early site permit has been granted, and the site is not referenced in an application for a construction permit or a combined license issued under Subpart C of this part while the permit remains valid, then the early site permit must remain in effect solely for the purpose of site redress, and the holder of the permit shall redress the site in accordance with the terms of the site redress plan required by § 52.17(c). If, before redress is complete, a use not envisaged in the redress plan is found for the site or parts thereof, the holder of the permit shall carry out the redress plan to the greatest extent possible consistent with the alternate use.

§ 52.27 Duration of permit.

(a) Except as provided in paragraph (b) of this section, an early site permit issued under this subpart may be valid for not less than ten nor more than twenty years from the date of issuance.

(b) (1) An early site permit continues to be valid beyond the date of expiration in any proceeding on a construction permit application or a combined license application which references the early site permit and is docketed either before the date of expiration of the early site permit, or, if a timely application for renewal of the permit has been filed, before the Commission has determined whether to renew the permit.

(2) An early site permit also continues to be valid beyond the date of expiration in any proceeding on an operating license application which is based on a construction permit which references the early site permit, and in any hearing held under § 52.103 of this part before operation begins under a combined license which references the early site permit.

(c) An applicant for a construction permit or combined license may, at its own risk, reference in its application a site for which an early site permit application has been docketed but not granted.

§ 52.29 Application for renewal.

(a) Not less than twelve nor more than thirty-six months prior to the end of the initial twenty-year period, or any later renewal period, the permit holder may apply for a renewal of the permit. An application for renewal must contain all information necessary to bring up to date the information and data contained in the previous application.

(b) Any person whose interests may be affected by renewal of the permit

may request a hearing on the application for renewal. The request for a hearing must comply with 10 CFR 2.714. If a hearing is granted, notice of the hearing will be published in accordance with 10 CFR 2.703.

(c) An early site permit, either original or renewed, for which a timely application for renewal has been filed, remains in effect until the Commission has determined whether to renew the permit. If the permit is not renewed, it continues to be valid in certain proceedings in accordance with the provisions of § 52.27(b).

(d) The Commission shall refer a copy of the application for renewal to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety and shall apply the criteria set forth in § 52.31.

§ 52.31 Criteria for renewal.

(a) The Commission shall grant the renewal if the Commission determines that the site complies with the Atomic Energy Act and the Commission's regulations and orders applicable and in effect at the time the site permit was originally issued, and any new requirements the Commission may wish to impose after a determination that there is a substantial increase in overall protection of the public health and safety or the common defense and security to be derived from the new requirements and that the direct and indirect costs of implementation of those requirements are justified in view of this increased protection.

(b) A denial of renewal on this basis does not bar the permit holder or another applicant from filing a new application for the site which proposes changes to the site or the way in which it is used which correct the deficiencies cited in the denial of the renewal.

§ 52.33 Duration of renewal.

Each renewal of an early site permit may be for not less than ten nor more than twenty years.

§ 52.35 Use of site for other purposes.

A site for which an early site permit has been issued under this subpart may be used for purposes other than those described in the permit, including the location of other types of energy facilities. The permit holder shall inform the Director of Nuclear Reactor Regulation of any significant uses for the site which have not been approved in the early site permit. The information about the activities must be given to the Director in advance of any actual construction or site modification for the activities. The information provided could be the basis for imposing new requirements on the permit, in accordance with the provisions of § 52.39. If the permit holder informs the Director that the holder no longer intends to use the site for a nuclear power plant, the Director shall terminate the permit.

§ 52.37 Reporting of defects and noncompliance; revocation, suspension, modification of permits for cause.

For purposes of Part 21 and 10 CFR 50.100, an early site permit is a construction permit.

§ 52.39 Finality of early site permit determinations.

(a)(1) Notwithstanding any provision in 10 CFR 50.109, while an early site permit is in effect under §§ 52.27 or 52.33 the Commission may not impose new requirements, including new emergency planning requirements, on the early site permit or the site for which it was issued, unless the Commission determines that a modification is necessary either to bring the permit or the site into compliance with the Commission's regulations and orders applicable and in effect at the time the permit was issued, or to assure adequate protection of the public health and safety or the common defense and security.

(2) In making the findings required for issuance of a construction permit, operating license, or combined license, or the findings required by § 52.103 of this part, if the application for the construction permit, operating license, or combined license references an early site permit, the Commission shall treat as resolved those matters resolved in the proceeding on the application for issuance or renewal of the early site permit, unless a contention is admitted that a reactor does not fit within one or more of the site parameters included in the site permit, or a petition is filed which alleges either that the site is not in compliance with the terms of the early site permit, or that the terms and conditions of the early site permit should be modified.

(i) A contention that a reactor does not fit within one or more of the site parameters included in the site permit may be litigated in the same manner as other issues material to the proceeding.

(ii) A petition which alleges that the site is not in compliance with the terms of the early site permit must include, or clearly reference, official NRC documents, documents prepared by or for the permit holder, or evidence admissible in a proceeding under Subpart G of Part 2, which show, prima facie, that the acceptance criteria have not been met. The permit holder and NRC staff may file answers to the petition within the time specified in 10 CFR 2.730 for answers to motions by parties and staff. If the Commission, in its judgment, decides, on the basis of the petitions and any answers thereto, that the petition meets the requirements of this paragraph, that the issues are not exempt from adjudication under 5 U.S.C. 554(a)(3), that genuine issues of material fact are raised, and that settlement or other informal resolution of the issues is not possible, then the genuine issues of material fact raised by the petition must be resolved in accordance with the provisions in 554, 556, and 557 which are applicable to determining application for initial licenses.

(iii) A petition which alleges that the terms and conditions of the early site permit should be modified will be processed in accord with 10 CFR 2.206. Before construction commences, the Commission shall consider the petition and determine whether any immediate action is required. If the petition is granted, then an appropriate order will be issued. Construction under the construction permit or combined license will not be affected by the granting of the petition unless the order is made immediately effective.

(iv) Prior to construction, the Commission shall find that the terms of the early site permit have been met.

(b) An applicant for a construction permit, operating license, or combined license who has filed an application referencing an early site permit issued under this subpart may include in the application a request for a variance from one or more elements of the permit. In determining whether to grant the variance, the Commission shall apply the same technically relevant criteria as were applicable to the application for the original or renewed site permit. Issuance of the variance must be subject to litigation during the construction permit, operating license, or combined license proceeding in the same manner as other issues material to those proceedings.

Subpart B—Standard Design Certifications

§ 52.41 Scope of subpart.

This subpart set out the requirements and procedures applicable to Commission issuance of rules granting standard design certification for nuclear power facilities separate from the filing of an application for a construction permit or combined license for such facility.

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§ 52.43 Relationship to Appendices M, N, and O of this part.

(a) Appendix M to this part governs the issuance of licenses to manufacture nuclear power reactors to be installed and operated at sites not identified in the manufacturing license application. Appendix N governs licenses to construct and operate nuclear power reactors of duplicate design at multiple sites. These appendices may be used independently of the provisions in this subpart unless the applicant also wishes to use a certified standard design approved under this subpart.

(b) Appendix O governs the staff review and approval of preliminary and final standard designs. A staff approval under Appendix O is no way affects the authority of the Commission or the presiding officer in any proceeding under Subpart G of 10 CFR Part 2. Subpart B of Part 52 governs Commission approval, or certification, of standard designs by rulemaking.

(c) A final design approval under Appendix O is a prerequisite for certification of a standard design under this subpart. An application for a final design approval must state whether the applicant intends to seek certification of the design. If the applicant does so intend, the application for the final design approval must, in addition to containing the information required by Appendix O, comply with the applicable requirements of Part 52, Subpart B, particularly §§ 52.45 and 52.47.

§ 52.45 Filing of applications.

(a)(1) Any person may seek a standard design certification for an essentially complete nuclear power plant design which is an evolutionary change from light water reactor designs of plants which have been licensed and in commercial operation before the effective date of this rule.

(2) Any person may also seek a standard design certification for a nuclear power plant design which differs significantly from the light water reactor designs described in paragraph (a)(1) of this section or utilizes simplified, inherent, passive, or other innovative means to accomplish its safety functions.

(b) An application for certification may be filed notwithstanding the fact that an application for a construction permit or combined license for such a facility has not been filed.

(c)(1) Because a final design approval under Appendix O of this part is a prerequisite for certification of a standard design, a person who seeks such a certification and does not hold, or has not applied for, a final design approval, shall file with the Director of Nuclear Reactor Regulation an application for a final design approval and certification.

(2) Any person who seeks certification but already holds, or has applied for, a final design approval, also shall file with the Director of Nuclear Reactor Regulation an application for certification, because the NRC staff may require that the information before the staff in connection with the review for the final design approval be supplemented for the review for certification.

(d) The applicant must comply with the filing requirements of 10 CFR 50.30(a) (1)–(4), and (6) and 50.30(b) as they would apply to an application for a nuclear power plant construction permit. The following portions of § 50.4, which is referenced by § 50.30(a)(1), are applicable to the extent technically relevant: paragraphs (a); (b), except for paragraphs (6); (c); and (e).

§ 52.47 Contents of applications.

(a) The requirements of this paragraph apply to all applications for design certification.

(1) An application for design certification must contain:

(i) The technical information which is required of applicants for construction permits and operating licenses by 10 CFR Part 20, Part 50 and its appendices, and Parts 73 and 100, and which is technically relevant to the design and not site-specific;

(ii) Demonstration of compliance with any technically relevant portions of the Three Mile Island requirements set forth in 10 CFR 50.34(f);

(iii) The site parameters postulated for the design, and an analysis and evaluation of the design in terms of such parameters;

(iv) Proposed technical resolutions of those Unresolved Safety Issues and medium- and high-priority Generic Safety Issues which are identified in the version of NUREG–0933 current on the date six months prior to application and which are technically relevant to the design;

(v) A design-specific probabilistic risk assessment;

(vi) Proposed tests, inspections, analyses, and acceptance criteria which are necessary and sufficient to provide reasonable assurance that, if the tests, inspections and analyses are performed and the acceptance criteria met, a plant which references the design is built and will operate in accordance with the design certification.

(vii) The interface requirements to be met by those portions of the plant for which the application does not seek certification. These requirements must be sufficiently detailed to allow completion of the final safety analysis and design-specific probabilistic risk assessment required by paragraph (a)(1)(v) of this section;

(viii) Justification that compliance with the interface requirements of paragraph (a)(1)(vii) of this section is verifiable through inspection, testing (either in the plant or elsewhere), or analysis. The method to be used for verification of interface requirements must be included as part of the proposed tests, inspections, analyses, and acceptance criteria required by paragraph (a)(1)(vi) of this section; and

(ix) A representative conceptual design for those portions of the plant for which the application does not seek certification, to aid the staff in its review of the final safety analysis and probabilistic risk assessment required by paragraph (a)(1)(v) of this section, and to permit assessment of the adequacy of the interface requirements called for by paragraph (a)(1)(vii) of this subsection.

(2) The application must contain a level of design information sufficient to enable the Commission to judge the applicant's proposed means of assuring that construction conforms to the design and to reach a final conclusion on all safety questions associated with the design before the certification is granted. The information submitted for a design certification must include performance requirements and design information sufficiently detailed to permit the preparation of acceptance and inspection requirements by the NRC, and procurement specifications and construction and installation specifications by an applicant. The Commission will require, prior to design certification, that information normally contained in certain procurement specifications and construction and installation specifications be completed and available for audit if such information is necessary for the Commission to make its safety determination.

(3) The staff shall advise the applicant on whether any technical information beyond that required by this section must be submitted.

(b) This paragraph applies, according to its provisions, to particular applications:

(1) The application for certification of a nuclear power plant design which is an evolutionary change from light water reactor designs of plants which have been licensed and in commercial operation before the effective date of this rule must provide an essentially complete nuclear power plant design except for site-specific elements such as the service water intake structure and the ultimate heat sink.

(2)(i) Certification of a standard design which differs significantly from the light water reactor designs described in paragraph (b)(1) of this section or utilizes simplified, inherent, passive, or other innovative means to accomplish its safety functions will be granted only if

(A) (*1*) The performance of each safety feature of the design has been demonstrated through either analysis, appropriate test programs, experience, or a combination thereof;

(*2*) Interdependent effects among the safety features of the design have been found acceptable by analysis, appropriate test programs, experience, or a combination thereof;

(*3*) Sufficient data exist on the safety features of the design to assess the analytical tools used for safety analyses over a sufficient range of normal operating conditions, transient conditions, and specified accident sequences, including equilibrium core conditions; and

(*4*) The scope of the design is complete except for site-specific elements such as the service water intake structure and the ultimate heat sink; or

(B) There has been acceptable testing of an appropriately sited, full-size, prototype of the design over a sufficient range of normal operating conditions, transient conditions, and specified accident sequences, including equilibrium core conditions. If the criterion in paragraph (b)(2)(i)(A)(*4*) of this section is not met, the testing of the prototype must demonstrate that the non-certified portion of the plant cannot significantly affect the safe operation of the plant.

(ii) The application for final design approval of a standard design of the type described in this subsection must propose the specific testing necessary to support certification of the design, whether the testing be prototype testing or the testing required in the alternative by paragraph (b)(2)(i)(A) of this section.

The Appendix O final design approval of such a design must identify the specific testing required for certification of the design.

(3) An application seeking certification of a modular design must describe the various options for the configuration of the plant and site, including variations in, or sharing of, common systems, interface requirements, and system interactions. The final safety analysis and the probabilistic risk assessment should also account for differences among the various options, including any restrictions which will be necessary during the construction and startup of a given module to ensure the safe operation of any module already operating.

§ 52.48 Standards for review of applications.

Applications filed under this subpart will be reviewed for compliance with the standards set out in 10 CFR Part 20, Part 50 and its appendices, and Parts 73 and 100 as they apply to applications for construction permits and operating licenses for nuclear power plants, and as those standards are technically relevant to the design proposed for the facility.

§ 52.49 Fees for review of applications.

The fees charged for the review of an application for the initial issuance or renewal of a standard design certification are set out in 10 CFR 170.12, together with a schedule for their deferred recovery. There is no application fee.

§ 52.51 Administrative review of applications.

(a) A standard design certification is a rule that will be issued in accordance with the provisions of Subpart H of 10 CFR Part 2, as supplemented by the provisions of this section. The Commission shall initiate the rulemaking after an application has been filed under § 52.45 and shall specify the procedures to be used for the rulemaking.

(b) The rulemaking procedures must provide for notice and comment and an opportunity for an informal hearing before an Atomic Safety and Licensing Board. The procedures for the informal hearing must include the opportunity for written presentations made under oath or affirmation and for oral presentations and questioning if the Board finds them either necessary for the creation of an adequate record or the most expeditious way to resolve controversies. Ordinarily, the questioning in the informal hearing will be done by members of the Board, using either the Board's questions or questions submitted to the Board by the parties. The Board may also request authority from the Commission to use additional procedures, such as direct and cross examination by the parties, or may request that the Commission convene a formal hearing under Subpart G of 10 CFR Part 2 on specific and substantial disputes of fact, necessary for the Commission's decision, that cannot be resolved with sufficient accuracy except in a formal hearing. The staff will be a party in the hearing.

(c) The decision in such a hearing will be based only on information on which all parties have had an opportunity to comment, either in response to the notice of proposed rulemaking or in the informal hearing. Notwithstanding anything in 10 CFR 2.790 to the contrary, proprietary information will be protected in the same manner and to the same extent as proprietary information submitted in connection with applications for construction permits and operating licenses under 10 CFR Part 50, provided that the design certification shall be published in Chapter I of this Title.

§ 52.53 Referral to the ACRS.

The Commission shall refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety.

§ 52.54 Issuance of standard design certification.

After conducting a rulemaking proceeding under § 52.51 on an application for a standard design certification and receiving the report to be submitted by the Advisory Committee on Reactor Safeguards under § 52.53, and upon determining that the application meets the applicable standards and requirements of the Atomic Energy Act and the Commission's regulations, the Commission shall issue a standard design certification in the form of a rule for the design which is the subject of the application.

§ 52.55 Duration of certification.

(a) Except as provided in paragraph (b) of this section, a standard design certification issued pursuant to this subpart is valid for fifteen years from the date of issuance.

(b) A standard design certification continues to be valid beyond the date of expiration in any proceeding on an application for a combined license or operating license which references the standard design certification and is docketed either before the date of expiration of the certification, or, if a timely application for renewal of the certification has been filed, before the Commission has determined whether to renew the certification. A design certification also continues to be valid beyond the date of expiration in any hearing held under § 52.103 before operation begins under a combined

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license which references the design certification.

(c) An applicant for a construction permit or combined license may, at its own risk, reference in its application a design for which a design certification application has been docketed but not granted.

§ 52.57 Application for renewal.

(a) Not less than twelve nor more than thirty-six months prior to expiration of the initial fifteen-year period, or any later renewal period, any person may apply for renewal of the certification. An application for renewal must contain all information necessary to bring up to date the information and data contained in the previous application. The Commission will require, prior to renewal of certification, that information normally contained in certain procurement specifications and construction and installation specifications be completed and available for audit if such information is necessary for the Commission to make its safety determination. Notice and comment procedures must be used for a rulemaking proceeding on the application for renewal. The Commission, in its discretion, may require the use of additional procedures in individual renewal proceedings.

(b) A design certification, either original or renewed, for which a timely application for renewal has been filed remains in effect until the Commission has determined whether to renew the certification. If the certification is not renewed, it continues to be valid in certain proceedings, in accordance with the provisions of § 52.55.

(c) The Commission shall refer a copy of the application for renewal to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety and shall apply the criteria set forth in § 52.59.

§ 52.59 Criteria for renewal.

(a) The Commission shall issue a rule granting the renewal if the design, either as originally certified or as modified during the rulemaking on the renewal, complies with the Atomic Energy Act and the Commission's regulations applicable and in effect at the time the certification was issued, and any other requirements the Commission may wish to impose after a determination that there is a substantial increase in overall protection of the public health and safety or the common defense and security to be derived from the new requirements and that the direct and indirect costs of implementation of those requirements are justified in view of this increased protection. In addition, the applicant for renewal may request an amendment to the design certification. The Commission shall grant the amendment request if it determines that the amendment will comply with the Atomic Energy Act and the Commission's regulations in effect at the time or renewal. If the amendment request entails such an extensive change to the design certification that an essentially new standard design is being proposed, an application for a design certification shall be filed in accordance with § 52.45 and 52.47 of this part.

(b) Denial of renewal does not bar the applicant, or another applicant, from filing a new application for certification of the design, which proposes design changes which correct the deficiencies cited in the denial of the renewal.

§ 52.61 Duration of renewal.

Each renewal of certification for a standard design will be for not less than ten nor more than fifteen years.

§ 52.63 Finality of standard design certifications.

(a)(1) Notwithstanding any provision in 10 CFR 50.109, while a standard design certification is in effect under § 52.55 or 52.61, the Commission may not modify, rescind, or impose new requirements on the certification, whether on its own motion, or in response to a petition from any person, unless the Commission determines in a rulemaking that a modification is necessary either to bring the certification or the referencing plants into compliance with the Commission's regulations applicable and in effect at the time the certification was issued, or to assure adequate protection of the public health and safety or the common defense and security. The rulemaking procedures must provide for notice and comment and an opportunity for the party which applied for the certification to request an informal hearing which uses the procedures described in § 52.51 of this subpart.

(2) Any modification the NRC imposes on a design certification rule under paragraph (a)(1) of this section will be applied to all plants referencing the certified design, except those to which the modification has been rendered technically irrelevant by action taken under paragraphs (a)(3), (a)(4), or (b) of this section.

(3) While a design certification is in effect under § 52.55 or § 52.61, unless (i) a modification is necessary to secure compliance with the Commission's regulations applicable and in effect at the time the certification was issued, or to assure adequate protection of the public health and safety or the common defense and security, and (ii) special circumstances as defined in 10 CFR 50.12(a) are present, the Commission may not impose new requirements by plant-specific order on any part of the design of a specific plant referencing the design certification if that part was approved in the design certification. In addition to the factors listed in § 50.12(a), the Commission shall consider whether the special circumstances which § 50.12(a)(2) requires to be present outweigh any decrease in safety that may result from the reduction in standardization caused by the plant-specific order.

(4) Except as provided in 10 CFR 2.758, in making the findings required for issuance of a combined license or operating license, or for any hearing under § 52.103, the Commission shall treat as resolved those matters resolved in connection with the issuance or renewal of a design certification.

(b)(1) An applicant or licensee who references a standard design certification may request an exemption from one or more elements of the design certification. The Commission may grant such a request only if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a). In addition to the factors listed in § 50.12(a), the Commission shall consider whether the special circumstances which § 50.12(a)(2) requires to be present outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption. The granting of an exemption on request of an applicant must be subject to litigation in the same manner as other issues in the operating license or combined license hearing.

(2) Subject § 50.59, a licensee who references a standard design certification may make changes to the design of the nuclear power facility, without prior Commission approval, unless the proposed change involves a change to the design as described in the rule certifying the design. The licensee shall maintain records of all changes to the facility and these records must be maintained and available for audit until the date of termination of the license.

(c) The Commission will require, prior to granting a construction permit, combined license, or operating license which references a standard design certification, that information normally contained in certain procurement specifications and construction and installation specifications be completed and available for audit if such information is necessary for the Commission to make its safety determinations, including the determination that the application is consistent with the certified design. This information may be acquired by appropriate arrangements with the design certification applicant.

Subpart C—Combined Licenses

§ 52.71 Scope of Subpart.

This subpart sets out the requirements and procedures applicable to Commission issuance of combined licenses for nuclear power facilities.

§ 52.73 Relationship to Subparts A and B.

An application for a combined license under this subpart may, but need not, reference a standard design certification issued under Subpart B of this part or an early site permit issued under Subpart A of this part, or both. In the absence of a demonstration that an entity other than the one originally sponsoring and obtaining a design certification is qualified to supply such design, the Commission will entertain an application for a combined license which references a standard design certification issued under Subpart B only if the entity that sponsored and obtained the certification supplies the certified design for the applicant's use.

§ 52.75 Filing of applications.

Any person except one excluded by 10 CFR 50.38 may file an application for a combined license for a nuclear power facility with the Director of Nuclear Reactor Regulation. The applicant shall comply with the filing requirements of 10 CFR 50.4 and 50.30 (a) and (b), except for paragraph (b)(6) of § 50.4, as they would apply to an application for a nuclear power plant construction permit. The fees associated with the filing and review of the application are set out in 10 CFR Part 170.

§ 52.77 Contents of applications; general information.

The application must contain all of the information required by 10 CFR 50.33, as that section would apply to applicants for construction permits and operating licenses, and 10 CFR 50.33a, as that section would apply to an applicant for a nuclear power plant construction permit. In particular, the applicant shall comply with the requirement of § 50.33a(b) regarding the submission of antitrust information.

§ 52.79 Contents of applications; technical information.

(a)(1) In general, if the application references an early site permit, the application need not contain information or analyses submitted to the Commission in connection with the early site permit, but must contain, in addition to the information and analyses otherwise required, information sufficient to demonstrate that the design of the facility falls within the parameters specified in the early site permit, and to resolve any other significant environmental issue not considered in any previous proceeding on the site or the design.

(2) If the application does not reference an early site permit, the applicant shall comply with the requirements of 10 CFR 50.30(f) by including with the application an environmental report prepared in accordance with the provisions of Subpart A of 10 CFR Part 51.

(3) If the application does not reference an early site permit which contains a site redress plan as described in § 52.17(c), and if the applicant wishes to be able to perform the activities at the site allowed by 10 CFR 50.10(e)(1), then the application must contain the information required by § 52.17(c).

(b) The application must contain the technically relevant information required of applicants for an operating license by 10 CFR 50.34. The final safety analysis report and other required information may incorporate by reference the final safety analysis report for a certified standard design. In particular, an application referencing a certified design must describe those portions of the design which are site-specific, such as the service water intake structure and the ultimate heat sink. An application referencing a certified design must also demonstrate compliance with the interface requirements established for the design under § 52.47(a)(1), and have available for audit procurement specifications and construction and installation specifications in accordance with § 52.47(a)(2). If the application does not reference a certified design, the application must comply with the requirements of § 52.47(a)(2) for level of design information, and shall contain the technical information required by §§ 52.47(a)(1) (i), (ii), (iv), and (v) and (3), and, if the design is modular, § 52.47(b)(3).

(c) The application for a combined license must include the proposed test, inspections, and analyses which the licensee shall perform and the acceptance criteria therefor which are necessary and sufficient to provide reasonable assurance that, if the tests, inspections and analyses are performed and the acceptance criteria met, the facility has been constructed and will operate in conformity with the combined license. Where the application references a certified standard design, the test, inspections, analyses and acceptance criteria contained in the certified design must apply to those portions of the facility design which are covered by the design certification.

(d) The application must contain emergency plans which provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the site.

(1) If the application references an early site permit, the application may incorporate by reference emergency plans, or major features of emergency plans, approved in connection with the issuance of the permit.

(2) If the application does not reference an early site permit, or if no emergency plans were approved in connection with the issuance of the permit, the applicant shall make good faith efforts to obtain certifications from the local and State governmental agencies with emergency planning responsibilities (i) that the proposed emergency plans are practicable, (ii) that these agencies are committed to participating in any further development of the plans, including any required field demonstrations, and (iii) that these agencies are committed to executing their responsibilities under the plans in the event of an emergency. The application must contain any certifications that have been obtained. If these certifications cannot be obtained, the application must contain information, including a utility plan, sufficient to show that the proposed plans nonetheless provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the site.

§ 52.81 Standards for review of applications.

Applications filed under this subpart will be reviewed according to the standards set out in 10 CFR Parts 20, 50, 51, 55, 73, and 100 as they apply to applications for construction permits and operating licenses for nuclear power plants, and as those standards are technically relevant to the design proposed for the facility.

§ 52.83 Applicability of Part 50 provisions.

Unless otherwise specifically provided in this subpart, all provisions of 10 CFR Part 50 and its appendices applicable to holders of construction permits for nuclear power reactors also apply to holders of combined licenses issued under this subpart. Similarly, all provisions of 10 CFR Part 50 and its

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appendices applicable to holders of operating licenses also apply to holders of combined licenses issued under this subpart, once the Commission has made the findings required under § 52.103, provided that, as applied to a combined license, 10 CFR 50.51 must require that the initial duration of the license may not exceed 40 years from the date on which the Commission makes the findings required under § 52.103. However, any limitations contained in Part 50 regarding applicability of the provisions to certain classes of facilities continue to apply.

§ 52.96 Administrative review of applications.

A proceeding on a combined license is subject to all applicable procedural requirements contained in 10 CFR Part 2, including the requirements for docketing (§ 2.101) and issuance of a notice of hearing (§ 2.104). All hearings on combined licenses are governed by the procedures contained in Part 2, Subpart G.

§ 52.97 Referral to the ACRS.

The Commission shall refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety and shall apply the criteria set forth in § 52.81, in accordance with the finality provisions of this part.

§ 52.99 Environmental review.

If the application references an early site permit or a certified standard design, the environmental review must focus on whether the design of the facility falls within the parameters specified in the early site permit and any other significant environmental issue not considered in any previous proceeding on the site or the design. If the application does not reference an early site permit or a certified standard design, the environmental review procedures set out in 10 CFR Part 51 must be followed, including the issuance of a final environmental impact statement, but excluding the issuance of a supplement under § 51.95(a).

§ 52.91 Authorization to conduct site activities.

(a)(1) If the application references an early site permit which contains a site redress plan as described in § 52.17(c) the applicant is authorized by § 52.25 to perform the site preparation activities described in 10 CFR 50.10(e)(1).

(2) If the application does not reference an early site permit which contains a redress plan, the applicant may not perform the site preparation activities allowed by 10 CFR 50.10(e)(1) without first submitting a site redress plan in accord with § 52.79(a)(3) and obtaining the separate authorization required by 10 CFR 50.10(e)(1). Authorization must be granted only after the presiding officer in the proceeding on the application has made the findings and determination required by 10 CFR 50.10(e)(2) and has determined that the site redress plan meets the criteria in § 52.17(c).

(3) Authorization to conduct the activities described in 10 CFR 50.10(e)(3)(i) may be granted only after the presiding officer in the combined license proceeding makes the additional finding required by 10 CFR 50.10(e)(3)(ii).

(b) If, after an applicant for a combined license has performed the activities permitted by paragraph (a) of this section, the application for the license is withdrawn or denied, and the early site permit referenced by the application expires, then the applicant shall redress the site in accord with the terms of the site redress plan. If, before redress is complete, a use not envisaged in the redress plan is found for the site or parts thereof, the applicant shall carry out the redress plan to the greatest extent possible consistent with the alternate use.

§ 52.93 Exemptions and variances.

(a) Applicants for a combined license under this subpart, or any amendment to a combined license, may include in the application a request, under 10 CFR 50.12, for an exemption from one or more of the Commission's regulations, including any part of a design certification rule. The Commission shall grant such a request if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a) or 52.63(b)(1) if the exemption includes any part of the design certification rule.

(b) An applicant for a combined license, or any amendment to a combined license, who has filed an application referencing an early site permit issued under this subpart may include in the application a request for a variance from one or more elements of the permit. In determining whether to grant the variance, the Commission shall apply the same technically relevant criteria as were applicable to the application for the original or renewed site permit. Issuance of the variance must be subject to litigation during the combined license proceeding in the same manner as other issues material to that proceeding.

§ 52.97 Issuance of combined licenses.

(a) The Commission shall issue a combined license for a nuclear power facility upon finding that the applicable requirements of 10 CFR 50.40, 50.42, 50.43, 50.47, and 50.50 have been met, and that there is reasonable assurance that the facility will be constructed and operated in conformity with the license, the provisions of the Atomic Energy Act, and the Commission's regulations.

(b) The Commission shall identify in the license the tests, inspections, and analyses that the licensee shall perform and the acceptance criteria therefor which are necessary and sufficient to provide reasonable assurance that, if the tests, inspections, and analyses are performed and the acceptance criteria met, the facility has been constructed and will be operated in conformity with the license, the provisions of the Atomic Energy Act, and the Commission's regulations. Any modification to, addition to, or deletion from the terms of a combined license, including any modification to, addition to, or deletion from the tests, inspections, analyses, or related acceptance criteria contained in such license, is a proposed amendment to such license. There shall be an opportunity for a hearing on the proposed amendments, and any hearing held must be completed before operation of the facility.

§ 52.99 Inspection during construction.

After issuance of a combined license, the NRC staff shall assure that the required inspections, tests, and analyses are performed and that the prescribed acceptance criteria are met. Holders of combined licenses shall comply with the provisions of 10 CFR 50.70 and 50.71. At appropriate intervals during construction, the NRC staff shall publish in the **Federal Register** notices of the successful completion of inspections, tests, and analyses.

§ 52.101 Pre-operational antitrust review.

If, before the Commission makes the findings required uner § 52.103, the Commission, after consultation with the Attorney General, determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and the Commission in connection with the issuance of the combined license, the antitrust review required by section 105c(2) of the Atomic Energy Act must be completed prior to commencement of commercial operation of the facility. Upon completion of this review, the Director of Nuclear Reactor Regulation may impose any additional license conditions as authorized by section 105c of the Atomic Energy Act.

§ 52.103 Operation under a combined license.

(a) Not less than 180 days before loading of fuel into the reactor, the holder of the combined license shall, in writing, notify the Commission of the expected dates of both fuel loading and criticality. The Commission shall publish notice of these dates in the **Federal Register**. The **Federal Register** notice must also advise persons whose interests may be affected by facility operation of their rights under paragraph (b) of this section.

(b)(1) Not later than 60 days after publication of the notice required by paragraph (a) of this section, any person whose interest may be affected by facility operation may file one or both of the following in writing:

(i) A petition which shows, prima facie, that one or more of the acceptance criteria in the combined license have not been met and, as a result, there is good cause to modify or prohibit operation; or

(ii) A petition to modify the terms and conditions of the combined license.

(2)(i) A good cause petition filed under paragraph (b)(1)(i) of this section will be granted by the Commission only if it includes, or clearly references, official NRC documents, documents prepared by or for the combined license holder, or evidence admissible in a proceeding under Subpart G of Part 2, which show, prima facie, that the acceptance criteria have not been met. The combined license holder and NRC staff may file answers to the petition within the time specified in 10 CFR 2.730 for answers to motions by parties and staff. If the Commission in its judgment decides, on the basis of the petitions and any answers thereto, that the petition meets the requirements of this paragraph, that the issues raised by the petition are not exempt from adjudication under 5 U.S.C. 554(a)(3), that genuine issues of material fact are raised, and that settlement or other informal resolution of the issues is not possible, then the genuine issues of material fact raised by the petition must be resolved in accordance with the provisions in 5 U.S.C. 554, 556, and 557 which are applicable to determining applications for initial licenses. In such cases, the notice of hearing from the Commission must specify the procedures to be followed. Matters exempt from adjudication under 5 U.S.C. 554(a)(3) may be decided by the Commission solely on the basis of the showing of good cause and any responsive pleadings.

(ii) A petition to modify the terms and conditions of the combined license will be processed as a request for action in accord with 10 CFR 2.206. The petitioner shall file the petition with the Secretary of the Commission. Before the licensed activity allegedly affected by the petition (fuel loading, low power testing, etc.) commences, the Commission shall consider the petition and determine whether any immediate action is required. If the petition is granted, then an appropriate order will be issued. Fuel loading and operation under the combined license will not be affected by the granting of the petition unless the order is made immediately effective.

(c) Prior to fuel loading, the Commission shall find that the acceptance criteria in the combined license have been met and that, accordingly, the facility has been constructed and will operate in conformity with the Atomic Energy Act and the Commission's regulations. If the combined license is for a modular design, each reactor module may require a separate finding as construction proceeds.

Appendices A–L [Reserved]

Appendix M—Standardization of Design; Manufacture of Nuclear Power Reactors; Construction and Operation of Nuclear Power Reactors Manufactured Pursuant to Commission License

Section 101 of the Atomic Energy Act of 1954, as amended, and § 50.10 of this chapter require a Commission license to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any production or utilization facility. The regulations in Part 50 require the issuance of a construction permit by the Commission before commencement of construction of a production or utilization facility, and the issuance of an operating license before operation of the facility. The provisions of Part 50 relating to the facility licensing process are, in general, predicated on the assumption that the facility will be assembled and constructed on the site at which it is to be operated. In those circumstances, both facility design and site-related issues can be considered in the initial construction permit stage of the licensing process.

However, under the Atomic Energy Act, a license may be sought and issued authorizing the manufacture of facilities but not their construction and installation at the sites on which the facilities are to be operated. Prior to the "commencement of construction", as defined in § 50.10(c) of this chapter of a facility (manufactured pursuant to such a Commission license) on the site at which it is to operate—that is preparation of the site and installation of the facility—a construction permit that, among other things, reflects approval of the site on which the facility is to be operated, must be issued by the Commission. This appendix sets out the particular requirements and provisions applicable to such situations where nuclear power reactors to be manufactured pursuant to a Commission license and subsequently installed at the site pursuant to a Commission construction permit, are of the type described in § 50.22 of this chapter. It thus codifies one approach to the standardization of nuclear power reactors.

1. Except as otherwise specified in this appendix or as the context otherwise indicates, the provisions in Part 50 applicable to construction permits, including the requirement in § 50.58 of this chapter for review of the application by the Advisory Committee on Reactor Safeguards and the holding of a public hearing, apply in context, with respect to matters of radiological health and safety, environmental protection, and the common defense and security, to licenses pursuant to this Appendix M to manufacture nuclear power reactors (manufacturing licenses) to be operated at sites not identified in the license application.

2. An application for a manufacturing license pursuant to this Appendix M must be submitted, as specified in § 50.4 of this chapter and meet all the requirements of §§ 50.34(a) (1)–(9) and 50.34a (a) and (b) of this chapter except that the preliminary safety analysis report shall be designated as a "design report" and any required information or analyses relating to site matters shall be predicated on postulated site parameters which must be specified in the application. The application must also include information pertaining to design features of the proposed reactor(s) that affect plans for coping with emergencies in the operation of the reactor(s).

3. An applicant for a manufacturing license pursuant to this Appendix M shall submit with his application an environmental report as required of applicants for construction permits in accordance with Subpart A of Part 51 of this chapter, provided, however, that such report shall be directed at the manufacture of the reactor(s) at the manufacturing site; and, in general terms, at the construction and operation of the reactor(s) at a hypothetical site or sites having characteristics that fall within the postulated site parameters. The related draft and final environmental impact statement prepared by the Commission's regulatory staff will be similarly directed.

4. (a) Sections 50.10 (b) and (c), 50.12(b), 50.23, 50.30(d), 50.34(a)(10), 50.34a(c), 50.35 (a) and (c), 50.40(a), 50.45, 50.55(d), 50.56 of this chapter and Appendix J of Part 50 do not apply to manufacturing licenses. Appendices E and H of Part 50 apply to manufacturing licenses only to the extent that the requirements of these appendices involve facility design features.

(b) The financial information submitted pursuant to § 50.33(f) of this chapter and Appendix C of Part 50 shall be directed at a demonstration of the financial qualifications of the applicant for the manufacturing license to carry out the manufacturing activity for which the license is sought.

5. The Commission may issue a license to manufacture one or more nuclear power reactors to be operated at sites not identified in the license application if the Commission finds that:

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(a) The applicant has described the proposed design of and the site parameters postulated for the reactor(s), including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features of components incorporated therein for the protection of the health and safety of the public.

(b) Such further technical or design information as may be required to complete the design report and which can reasonably be left for later consideration, will be supplied in a supplement to the design report.

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features of components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved before any of the proposed nuclear power reactor(s) are removed from the manufacturing site and (ii) taking into consideration the site criteria contained in Part 100 of this chapter, the proposed reactor(s) can be constructed and operated at sites having characteristics that fall within the site parameters postulated for the design of the reactor(s) without undue risk to the health and safety of the public.

(e) The applicant is technically and financially qualified to design and manufacture the proposed nuclear power reactor(s).

(f) The issuance of a license to the applicant will not be inimical to the common defense and security or to the health and safety of the public.

(g) On the basis of the evaluations and analyses of the environmental effects of the proposed action required by Subpart A of Part 51 of this chapter and paragraph 3 of this Appendix, the action called for is the issuance of the license.

Note: When an applicant has supplied initially all of the technical information required to complete the application, including the final design of the reactor(s), the findings required for the issuance of the license will be appropriately modified to reflect that fact.

6. Each manufacturing license issued pursuant to this appendix will specify the number of nuclear power reactors authorized to be manufactured and the latest date for the completion of the manufacture of all such reactors. Upon good cause shown, the Commission will extend such completion date for a reasonable period of time.

7. The holder of a manufacturing license issued pursuant to this Appendix M shall submit to the Commission the final design of the nuclear power reactor(s) covered by the license as soon as such design has been completed. Such submittal shall be in the form of an application for amendment of the manufacturing license.

8. The prohibition in § 50.10(c) of this chapter against commencement of construction of a production or utilization facility prior to issuance of a construction permit applies to the transport of a nuclear power reactor(s) manufactured pursuant to this appendix from the manufacturing facility to the site at which the reactor(s) will be installed and operated. In addition, such nuclear power reactor(s) shall not be removed from the manufacturing site until the final design of the reactor(s) has been approved by the Commission in accordance with paragraph 7.

9. An application for a permit to construct a nuclear power reactor(s) which is the subject of an application for a manufacturing license pursuant to this Appendix M need not contain such information or analyses as have previously been submitted to the Commission in connection with the application for a manufacturing license, but shall by §§ 50.34(a) and 50.34a of this chapter, sufficient information to demonstrate that the site on which the reactor(s) is to be operated falls within the postulated site parameters specified in the relevant manufacturing license application.

10. The Commission may issue a permit to construct a nuclear power reactor(s) which is the subject of an application for a manufacturing license pursuant to this Appendix M if the Commission (a) finds that the site on which the reactor is to be operated falls within the postulated site parameters specified in the relevant application for a manufacturing license and (b) makes the findings otherwise required by Part 50. In no event will a construction permit be issued until the relevant manufacturing license has been issued.

11. An operating license for a nuclear power reactor(s) that has been manufactured under a Commission license issued pursuant to this Appendix M may be issued by the Commission pursuant to § 50.57 and Subpart A of Part 51 of this chapter except that the Commission shall find, pursuant to § 50.57(a)(1), that construction of the reactor(s) has been substantially completed in conformity with both the manufacturing license and the construction permit and the applications therefor, as amended, and the provisions of the Act, and the rules and regulations of the Commission. Notwithstanding the other provisions of this paragraph, no application for an operating license for a nuclear power reactor(s) that has been manufactured under a Commission license issued pursuant to this Appendix M will be docketed until the application for an amendment to the relevant manufacturing license required by paragraph 7 has been docketed.

12. In making the findings required by this part for the issuance of a construction permit or an operating license for a nuclear power reactor(s) that has been manufactured under a Commission license issued pursuant to this appendix, or an amendment to such a manufacturing license, construction permit, or operating license, the Commission will treat as resolved those matters which have been resolved at an earlier stage of the licensing process, unless there exists significant new information that substantially affects the conclusion(s) reached at the earlier stage or other good cause.

Appendix N—Standardization of Nuclear Power Plant Designs: Licenses To Construct and Operate Nuclear Power Reactors of Duplicate Design at Multiple Sites

Section 101 of the Atomic Energy Act of 1954, as amended, and § 50.10 of this chapter require a Commission license to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import or export any production or utilization facility. The regulations in Part 50 require the issuance of a construction permit by the Commission before commencement of construction of a production or utilization facility, except as provided in § 50.10(e) of this chapter, and the issuance of an operating license before the operation of the facility.

The Commission's regulations in Part 2 of this chapter specifically provide for the holding of hearings on particular issues separately from other issues involved in hearings in licensing proceedings (§ 2.761a, Appendix A, section I(c)), and for the consolidation of adjudicatory proceedings and of the presentations of parties in adjudicatory proceedings such as licensing proceedings (§§ 2.715a, 2.716).

This appendix sets out the particular requirements and provisions applicable to situations in which applications are filed by one or more applicants for licenses to construct and operate nuclear power reactors of essentially the same design to be located at different sites.[1]

1. Except as otherwise specified in this appendix or as the context otherwise indicates, the provisions of Part 50, applicable to construction permits and operating licenses, including the requirement in § 50.58 of this chapter for review of the application by the Advisory Committee on Reactor Safeguards and the holding of public hearings, apply to construction permits and operating license subject to this Appendix N.

2. Applications for construction permits submitted pursuant to this Appendix must include the information required by §§ 50.33, 50.33a, 50.34(a) and 50.34a (a) and (b) of this chapter, and be submitted as specified in § 50.4 of this chapter. The applicant shall also submit the information required by § 51.50 of this chapter.

For the technical information required by §§ 50.34(a) (1) through (5) and (8) and 50.34a (a) and (b) of this chapter, reference may be made to a single preliminary safety analysis of the design [2] which, for the purposes of § 50.34(a)(1) includes one set of site parameters postulated for the design of the reactors, and an analysis and evaluation of the reactors in terms of such postulated site parameters. Such single preliminary safety analysis shall also include information pertaining to design features of the proposed reactors that affect plans for coping with emergencies in the operation of the reactors, and shall describe the quality assurance program with respect to aspects of design, fabrication, procurement and construction that are common to all of the reactors.

3. Applications for operating licenses submitted pursuant to this Appendix N shall include the information required by §§ 50.33, 50.34 (b) and (c), and 50.34a(c) of this chapter. The applicant shall also submit the information required by § 51.53 of this chapter. For the technical information required by §§ 50.34(b) (2) through (5) and 50.34a(c), reference may be made to a single final safety analysis of the design.

[1] If the design for the power reactor(s) proposed in a particular application is not identical to the others, that application may not be processed under this appendix and Subpart D of Part 2 of this chapter.

[2] As used in this appendix, the design of a nuclear power reactor included in a single referenced safety analysis report means the design of those structures, systems and components important to radiological health and safety and the common defense and security.

Appendix O—Standardization of Design: Staff Review of Standard Designs

This appendix sets out procedures for the filing, staff review and referral to the Advisory Committee on Reactor Safeguards of standard designs for a nuclear power reactor of the type described in § 50.22 of this chapter or major portions thereof.

1. Any person may submit a proposed preliminary of final standard design for a nuclear power reactor of the type described in § 50.22 to the regulatory staff for its review. Such a submittal may consist of either the preliminary or final design for the entire reactor facility or the preliminary or final design of major portions thereof.

2. The submittal for review of the standard design must be made in the same manner and in the same number of copies as provided in §§50.4 and 50.30 of this chapter for license applications.

3. The submittal for review of the standard design shall include the information described in §§ 50.33 (a) through (d) of this chapter and the applicable technical information required by §§ 50.34 (a) and (b), as appropriate, and 50.34a of this chapter (other than that required by §§ 50.34(a) (8) and (10), 50.34(b)(1), (8) (i), (ii), (iv), and (v) and 50.34(b) (7) and (8)). The submittal shall also include a description, analysis and evaluation of the interfaces between the submitted design and the balance of the nuclear power plant. With respect to the requirements of §§ 50.34(a)(1) of this chapter, the submittal for review of a standard design shall include the site parameters postulated for the design, and an analysis and evaluation of the design in terms of such postulated site parameters. The information submitted pursuant to § 50.34(a)(7) of this chapter, shall be limited to the quality assurance program to be applied to the design, procurement and fabrication of the structures, systems, and components for which design review has been requested and the information submitted pursuant to § 50.34(a)(9) of this chapter shall be limited to the qualifications of the person submitting the standard design to design the reactor or major portion thereof. The submittal shall also include information pertaining to design features that affect plans for coping with emergencies in the operation of the reactor or major portion thereof.

4. Once the regulatory staff has initiated a technical review of a submittal under this appendix, the submittal will be referred to the Advisory Committee on Reactor Safeguards (ACRS) for a review and report.

5. Upon completion of their review of a submittal under this appendix, the regulatory staff shall publish in the **Federal Register** a determination as to whether or not the preliminary or final design is acceptable, subject to such conditions as may be appropriate, and make available in the Public Document Room an analysis of the design in the form of a report. An approved design shall be utilized by and relied upon by the regulatory staff and the ACRS in their review of any individual facility license application which incorporates by reference a design approved in accordance with this paragraph unless there exists significant new information which substantially affects the earlier determination or other good cause.

6. The determination and report by the regulatory staff shall not constitute a commitment to issue a permit or license, or in any way affect the authority of the Commission, Atomic Safety and Licensing Appeal Panel, Atomic Safety and Licensing Board Panel, and other presiding officers in any proceeding under Subpart G of Part 2 of this chapter.

7. Information requests to the approval holder regarding an approved design shall be evaluated prior to issuance to ensure that the burden to be imposed on respondents is justified in view of the potential safety significance of the issue to be addressed in the requested information. Each such evaluation performed by the NRC staff shall be in accordance with 10 CFR 50.54(f) and shall be approved by the Executive Director for Operations or his or her designee prior to issuance of the request.

Appendix P [Reserved]

Appendix Q—Pre-Application Early Review of Site Suitability Issues

This appendix sets out procedures for the filing, Staff review, and referral to the Advisory Committee on Reactor Safeguards (ACRS) of requests for early review of one or more site suitability issues relating to the construction and operation of certain utilization facilities separately from and prior to the submittal of applications for construction permits for the facilities. The appendix also sets out procedures for the preparation and issuance of Staff Site Reports and for their incorporation by reference in applications for the construction and operation of certain utilization facilities. The utilization facilities are those which are subject to § 51.20(b) of this chapter and are of the type specified in § 50.21(b) (2) or (3) or § 50.22 of this chapter or are testing facilities. This appendix does not apply to proceedings conducted pursuant to Subpart F or Part 2 of this chapter.

1. Any person may submit information regarding one or more site suitability issues to the Commission's Staff for its review separately from and prior to an application for a construction permit for a facility. Such a submittal shall be accompanied by any fee required by Part 170 of this chapter and shall consist of the portion of the information required of applicants for construction permits by §§ 50.33 (a)–(c) and (e) of this chapter, and, insofar as it relates to the issue(s) of site suitability for which early review is sought, by §§ 50.34(a)(1) and 50.30(f) of this chapter, except that information with respect to operation of the facility at the projected initial power level need not be supplied.

2. The submittal for early review of site suitability issue(s) must be made in the same manner and in the same number of copies as provided in §§ 50.4 and 50.30 of this chapter for license applications. The submittal must include sufficient information concerning range of postulated facility design and operation parameters to enable the Staff to perform the requested review of site suitability issues. The submittal must contain suggested conclusions on the issues of site suitability submitted for review and must be accompanied by a statement of the bases or the reasons for those conclusions. The submittal must also list, to the extent possible, any long-range objectives for ultimate development of the site, state whether any site selection process was used in preparing the submittal, describe any site selection process used, and explain what consideration, if any, was given to alternative sites.

3. The staff shall publish a note of docketing of the submittal in the **Federal Register**, and shall send a copy of the notice of docketing to the Governor or other appropriate official of the State in which the site is located. This notice shall identify the location of the site, briefly describe the site suitability issue(s) under review, and invite comments from Federal, State, and local agencies and interested persons within 120 days of publication or such other time as may be specified, for consideration by the staff in connection with the initiation or outcome of the review and, if appropriate by the ACRS, in connection with the outcome of their review. The person requesting review shall serve a copy of the submittal on the Governor or other appropriate official of the State in which the site is located, and on the chief executive of the municipality in which the site is located or, if the site is not located in a municipality, on the chief executive of the county. The portion of the submittal containing information requested of applicants for construction permits by §§ 50.33 (a)–(c) and (e) and 50.34(a)(1) of this chapter will be referred to the ACRS for a review and report. There will be no referral to the ACRS unless early review of the site safety issues under § 50.34(a)(1) is requested.

4. Upon completion of review by the staff and, if appropriate by the ACRS, of a submittal under this appendix, the staff shall prepare a Staff Site Report which shall identify the location of the site, state the site suitability issues reviewed, explain the nature and scope of the review, state the conclusions of the staff regarding the issues

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reviewed and state the reasons for those conclusions. Upon issuance of a Staff Site Report, the staff shall publish a notice of the availability of the report in the **Federal Register** and shall place copies of the report in the Commission's Public Document at 2120 L Street NW., Lower Level (Room LL-6), Washington, DC 20037, and in a Local Public Document Room(s) located near the site identified in the Staff Site Report. The staff shall also send a copy of the report to the Governor or other appropriate official of the State in which the site is located, and to the chief executive of the municipality in which the site is located or, if the site is not located in a municipality, to the chief executive of the county.

5. Any Staff Site Report prepared and issued in accordance with this appendix may be incorporated by reference, as appropriate, in an application for a construction permit for a utilization facility which is subject to § 51.20(b) of this chapter and is of the type specific in § 50.21(b) (2) or (3) or § 50.22 of this chapter or is a testing facility. The conclusions of the Staff Site Report will be reexamined by the staff where five years or more have elapsed between the issuance of the Staff Site Report and its incorporation by reference in a construction permit application.

6. Issuance of a Staff Site Report shall not constitute a commitment to issue a permit or license, to permit on-site work under § 50.10(e) of this chapter, or in any way affect the authority of the Commission, Atomic Safety and Licensing Appeal Panel, Atomic Safety and Licensing Board Panel, and other presiding officers in any proceeding under Subpart F and/or G of Part 2 of this chapter.

7. The staff will not conduct more than one review of site suitability issues with regard to a particular site prior to the full construction permit review required by Subpart A of Part 51 of this chapter. The staff may decline to prepare and issue a Staff Site Report in response to a submittal under this appendix where it appears that, (a) in cases where no review of the relative merits of the submitted site and alternative sites under Subpart A of Part 51 of this chapter is requested, there is a reasonable likelihood that further staff review would identify one or more preferable alternative sites and the staff review of one or more site suitability issues would lead to an irreversible and irretrievable commitment of resources prior to the submittal of the analysis of alternative sites in the Environmental Report that would prejudice the later review and decision on alternative sites under Subpart F and/or G of Part 2 and Subpart A of Part 51 of this chapter; or (b) in cases where, in the judgment of the staff, early review of any site suitability issue or issues would not be in the public interest, considering (1) the degree of likelihood that any early findings on those issues would retain their validity in later reviews, (2) the objections, if any, of cognizant state or local government agencies to the conduct of an early review on those issues, and (3) the possible effect on the public interest of having an early, if not necessarily conclusive, resolution of those issues.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

2. The authority citation for Part 2 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 2.110 [Amended]

3. In paragraph (a)(1), the reference to Appendix O of Part 50 is amended to refer to Appendix O of Part 52, and in paragraph (a)(2) the reference to Appendix Q of Part 50 is amended to refer to Appendix Q of Part 52.

§ 2.400 [Amended]

4. The reference to Appendix N of Part 50 is amended to refer to Appendix N of Part 52.

§ 2.401 [Amended]

5. In the heading and paragraph (a), the references to Appendix N of Part 50 are amended to refer to Appendix N of Part 52.

§ 2.402 [Amended]

6. In paragraph (a), the reference to Appendix N of Part 50 is amended to refer to Appendix N of Part 52.

§ 2.403 [Amended]

7. In the heading and paragraph (a), the references to Appendix N of Part 50 are amended to refer to Appendix N of Part 52.

§ 2.404 [Amended]

8. In the heading and text of the section, the references to Appendix N of Part 50 are amended to refer to Appendix N of Part 52.

§ 2.406 [Amended]

9. The reference to Appendix N of Part 50 is amended to refer to Appendix N of Part 52.

§ 2.500 [Amended]

10. The reference to Appendix M of Part 50 is amended to refer to Appendix M of Part 52.

§ 2.501 [Amended]

11. In the heading and paragraph (a), the references to Appendix M of Part 50 are amended to refer to Appendix M of Part 52.

§ 2.502 [Amended]

12. In the heading and text of the section, the references to Appendix M of Part 50 are amended to refer to Appendix M of Part 52.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

13. The authority citation for Part 50 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 50.109 [Amended]

14. In paragraph (a)(1)(iv), the references to Appendices M, N and O of Part 50 are amended to refer to Appendices M, N and O of Part 52.

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

15. The authority citation for Part 51 continues to read in part as follows:

Authority: Section 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 51.20 [Amended]

16. In paragraph (a)(6), the reference to Appendix M of Part 50 is amended to refer to Appendix M of Part 52.

§ 51.54 [Amended]

17. The reference to Appendix M of Part 50 is amended to refer to Appendix M of Part 52.

§ 51.55 [Amended]

18. In paragraph (b), the reference to Appendix M of Part 50 is amended to refer to Appendix M of Part 52.

§ 51.76 [Amended]

19. The reference to Appendix M of Part 50 is amended to refer to Appendix M of Part 52.

§ 51.77 [Amended]

20. The reference to 10 CFR Part 50, Appendix M is amended to refer to 10 CFR Part 52, Appendix M.

PART 170—FEES FOR FACILITIES AND MATERIALS LICENSES AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

The authority citation for Part 170 continues to read as follows:

Authority: 31 U.S.C. 9701, 96 Stat. 1051; sec. 301, Pub. L. 92-314, 86 Stat. 222 (42 U.S.C. 2201w); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

21. Section 170.2 is amended by revising paragraphs (g) and (k) to read as follows:

§ 170.2 Scope.

* * * * *

(g) An applicant for or holder of a production or utilization facility construction permit, operating license, or manufacturing license issued pursuant to Part 50 of this chapter, or an early site permit, standard design certification, or combined license issued pursuant to Part 52 of this chapter;

* * * * *

(k) Applying for or already has applied for review, under 10 CFR Part 52, Appendix Q, of a facility site prior to the submission of an application for a construction permit;

* * * * *

22. Section 170.3 is amended by revising paragraph (l) to read as follows:

§ 170.3 Definitions.

* * * * *

(l) "Manufacturing license" means a license pursuant to Appendix M of Part 52 of this chapter to manufacture a nuclear power reactor(s) to be operated at sites not identified in the license application.

* * * * *

23. Section 170.12 is amended by revising paragraphs (b), (d), and (e)(2) to read as follows:

§ 170.12 Payment of fees.

* * * * *

(b) *License fees.* Fees for applications for permits and licenses that are subject to fees based on the full cost of the review are payable upon notification by the Commission. Except as provided below, each applicant will be billed at six-month intervals for all accumulated costs for each application the applicant has on file for review by the Commission until the review is completed. There is no application fee for early site permits issued under 10 CFR Part 52. Fees for the review of an application for an early site permit are deferred as follows: The permit holder shall pay the applicable fees for the permit at the time an application for a construction permit or combined license referencing the early site permit is filed. If, at the end of the initial period of the permit, no facility application referencing the early site permit has been docketed, the permit holder shall pay any outstanding fees for the permit. Each bill must identify the applications and costs related to each. Fees for applications for materials licenses not subject to full cost recovery must accompany the application when it is filed.

* * * * *

(d) *Renewal fees.* (1) Fees for applications for renewals that are subject to full cost of the review are payable upon notification by the Commission. There is no fee for an application for renewal of an early site permit or a standard design certification issued under 10 CFR Part 52. Each applicant other than an applicant for renewal of an early site permit or a standard design certification will be billed at six-month intervals for all accumulated costs on each application that the applicant has on file for review by the Commission until the review is completed. Each bill must identify the applications and the costs related to each.

(2) Fees for review of an application for renewal of a standard design certification shall be deferred as follows: The full cost of review for a renewed standard design certification must be paid by the applicant for renewal or other entity supplying the design to an applicant for a construction permit, combined license issued under Part 52, or operating license, as appropriate, in five (5) equal installments; an installment is payable each of the first five times the renewed certification is referenced in an application for a construction permit, combined license, or operating license. The applicant for renewal shall pay the installment, unless another entity is supplying the design to the applicant for the construction permit, combined license, or operating license, in which case the other entity shall pay the installment. If the design is not referenced, or if all costs are not recovered, within ten years after the date of renewal of the certification, the applicant for renewal shall pay the costs for the review of the application for renewal, or remainder of those costs, at that time.

(3) Fees for the review of an application for renewal of an early site permit shall be deferred as follows: The holder of the renewed permit shall pay the applicable fees for the renewed permit at the time an application for a construction permit or combined license referencing the permit is filed. If, at the end of the renewal period of the permit, no facility application referencing the early site permit has been docketed, the permit holder shall pay any outstanding fees for the permit.

(4) Renewal fees for materials licenses and approvals not subject to full cost review must accompany the application when it is filed.

(e) *Approval fees.*

* * * * *

(2)(i) There is no application fee for standardized design approvals or certifications issued under 10 CFR Part 52. The full cost of review for a standardized design approval or certification must be paid by the holder of the design approval, the applicant for certification, or other entity supplying the design to an applicant for a construction permit, combined license issued under Part 52, or operating license, as appropriate, in five (5) equal installments. An installment is payable each of the first five times the approved/certified design is referenced in an application for a construction permit, combined license issued under 10 CFR Part 52, or operating license. In the case of a standard design certification, the applicant for certification shall pay the installment, unless another entity is supplying the design to the applicant for the construction permit, combined license, or operating license, in which case the other entity shall pay the installment.

(ii)(A) In the case of a design which has been approved but not certified and for which no application for certification is pending, if the design is not referenced, or if all costs are not recovered, within five years after the date of the preliminary design approval (PDA) or the final design approval (FDA), the applicant shall pay the costs, or remainder of those costs, at that time;

(B) In the case of a design which has been approved and for which an application for certification is pending, no fees are due until after the certification is granted. If the design is not referenced, or if all costs are not recovered, within ten years after the date of certification, the applicant shall pay the costs, or remainder of those costs, at that time.

(C) In the case of a design for which a certification has been granted, if the design is not referenced, or if all costs are not recovered, within ten years after the date of the certification, the applicant shall pay the costs for the review of the application, or remainder of those costs, at that time.

* * * * *

23. Section 170.21 is amended by amending the Schedule of Facility Fees by revising Part A. Nuclear Power Reactors, revising foot note 4, and adding a new second entry to Part F. Advanced Reactors to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard reference design approvals, special projects, and inspections.

* * * * *

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SCHEDULE OF FACILITY FEES

(See footnotes at end of table)

Facility categories and type of fees	Fees [1] [2]
. Nuclear Power Reactors	
Application for Construction Permit	$125,000
Early Site Permit, Construction Permit, Combined Licenses, Operating License.	Full Cost.
Amendment, Renewal, Dismantling-Decommissioning and Termination, Other Approvals.	Full Cost.
Inspections [3]	Full Cost.
. . . . .	
F. Advanced Reactors	
Application for Construction Permit	$125,000
Early Site Permit, Construction Permit, Combined Licenses, Operating License.	Full Cost.
. . . . .	

[1] Fees will not be charged for orders issued by the Commission pursuant to § 2.204 of this chapter nor for amendments resulting specifically from such Commission orders. Fees will be charged for approvals issued pursuant to a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g. §§ 50.12, 73.5) and any other actions now or hereafter in effect regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. Fees for licenses in this schedule that are initially issued for less than full power are based on review through the issuance of a full power license (generally full power is considered 100% of the facility's full rated power). Thus, if a licensee received a low power license or a temporary license for less than full power and subsequently receives full power authority (by way of license amendment or otherwise), the total costs for the license will be determined through the period when authority is granted for full power operating power operation. If a situation arises in which the Commission determines that full operating power for a particular facility should be less than 100% of full rated power, the total costs for the license will be at that decided lower operating power level and not at the 100% capacity.

[2] All charges will be based on expenditures for professional staff time and appropriate contractual support services. However, in no event will the charges be less than the application fee or, where no application fee is specified, will charges be less than $150. For those applications currently in file, the professional staff hours expended for the review of the application up to the effective date of this rule will be determined at the professional rates established for the June 20, 1984 rule. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984 rule, but are still pending completion of the review, the costs incurred after the ceiling was reached up to the effective date of this rule will not be billed to the applicant. Any professional hours expended on or after the effective date of this rule will be assessed at the rate established by § 170.20. This rate will be reviewed and adjusted annually as necessary to take into consideration increased or decreased costs to the Commission. If such rate increases or decreases in a given fiscal year, the new rate will be published in the FEDERAL REGISTER. In the event a review covers a combination of licensing actions in a one-step licensing process such as a combined construction permit and operating license review (interim, temporary, or other), the fees charged will be the total of the costs for the licensing action.

[3] Inspections covered by this schedule are both routine and non-routine safety and safeguards inspections performed by NRC for the purpose of review or followup of a licensed program. Inspections are performed throughout the full term of the license to ensure that the authorized activities are being conducted in accordance with the Atomic Energy Act of 1954, as amended, other legislation, Commission regulations or orders, and the term and conditions of the license. Non-routine inspections that result from third-party allegations will not be subject to fees.

[4] Collection of the review costs for a preliminary design approval (PDA) and final design approval (FDA) are deferred, respectively, for a period of five years from the approval; except that, if the design is referenced during that period, 20 percent of the total costs will be payable by the holder of the design approval or certificate as each reference is made until the full costs are paid. If the design is certified, the five year deferral period is extended to 10 years from the certification, with the same proviso that 20 percent of the costs will be payable each time the design is referenced. In the event the full costs are not recovered by the end of the applicable deferral period, the holder of the design approval or certificate must pay the remainder of any costs not previously recovered by the NRC. For more on the schedules for payment of fees for reviews of applications for PDAs, FDAs, standard design certifications, and renewals of certifications, see §§ 170.12 (d) and (e) of this part. Applications for amendments to PDAs, FDAs, and certifications are subject to full costs and will be billed upon completion of the review.

Dated at Rockville, MD, this 7th day of April 1989.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 89-8832 Filed 4-17-89; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 89-1319]

Equity-Risk Investments

Date: April 12, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board (the "Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is hereby amending 12 CFR 563.9-8, its regulation governing investments by institutions the deposits of which are insured by the FSLIC ("insured institutions") in equity securities, real estate, service corporations, operating subsidiaries, certain land loans, and nonresidential construction loans ("equity-risk investments").

The final rule amends the equity-risk investment regulation by extending the regulation for 180 days, until October 13, 1989. This regulation was scheduled to sunset on April 16, 1989. The Board believes that the additional 180 days will allow it to evaluate more carefully the empirical evidence resulting from the Board's recent proposal to amend its regulatory capital requirements and the report on equity-risk investment sent to the Congress on February 10, 1989, pursuant to the Competitive Equality Banking Act of 1987 ("CEBA"), Pub. L. No. 100-86, 101 Stat. 552, 661, § 1203 (1987). Moreover, the Board anticipates that within the 180 day period, legislation will be passed directly affecting a number of areas covered by the Board's equity-risk investment regulation.

EFFECTIVE DATE: April 16, 1989.

FOR FURTHER INFORMATION CONTACT: Richard M. Schwartz, Attorney, (202) 906-6897; Deborah Dakin, Regulatory Counsel, (202) 906-6445; Karen Solomon, Associate General Counsel, (202) 906-7240, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, DC 20552; Robert Fishman, Senior Policy Analyst, (202) 331-4592, Office of Regulatory Activities, Federal Home Loan Bank System, 801 17th Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: On December 23, 1988, the Board proposed to amend its equity-risk investment rule.[1] Board Res. No. 88-1393 (Dec. 22, 1988), 54 FR 155 (Jan. 4, 1989). The Board proposed to extend the current equity-risk investment rule for 120 days.[2] The regulation was scheduled to sunset on April 16, 1989. *See* 12 CFR 563.9-8(h) (1988).

The Board received six comments in response to its proposal. Three of the comments were from insured institutions, two were from trade associations, and one was from a U.S. government-sponsored corporation. Of the four comments that addressed the 120 day extension of the equity-risk investment regulation, all four supported the extension.

For the reasons set forth below, the Board has determined to enlarge the extension of the equity-risk investment regulation, from the 120 days originally proposed to 180 days. In its proposal, the Board stated that it believed that an extension was necessary because additional time was needed to study the empirical evidence accompanying related Board activity. Since the proposal, proposed legislation has been

[1] The Board thereby met the requirement in the CEBA that the Board provide notice to the congressional banking committees not less than 90 days before final action is given by the Board to any regulation that repeals or modifies the Board's equity-risk investment regulation. CEBA, 1208(c)(1), 101 Stat. at 662. No comments were received from those committees regarding the December 23, 1988, proposal.

[2] The Board also proposed to remove the exclusion from the definition of "equity security" in 12 CFR 563.9-8(b)(2) for stock issued by the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), purchased by insured institutions on or after December 14, 1988, or some other appropriate date. By reproposal published elsewhere in today's Federal Register the Board is deferring final consideration of the Fannie Mae/Freddie Mac issue.

introduced that will have a direct impact upon the thrift industry and many of the operations of the Board. Any final legislation is likely to have a significant effect on investments covered by the current equity-risk investment regulation. The Board believes that the 180-day period is necessary in order to evaluate any such effects and allow for any necessary modifications to the regulation. While the legislative process is continuing, the Board is continuing to reexamine the entire equity-risk investment regulation, and may propose revisions for notice and comment, based upon the Board's experience with the current regulation.

The equity-risk investment regulation has been an important component of the Board's regulatory oversight of the safe and sound operation of all insured institutions. The Board believes that the regulation has served a useful function in controlling risks. Therefore, the Board is, at this time, deferring the sunset date of the current equity-risk investment rule for 180 days, from April 16, 1989, until October 13, 1989.

As discussed in the proposal, the Board has recently proposed substantial revisions to its capital regulations ("capital proposal"). Board Res. No. 88-1342 (Dec. 15, 1988), 53 FR 51800 (Dec. 23, 1988). The capital proposal would place all equity-risk investments in a 300 percent credit risk category (in comparison with a 100 percent risk category for commercial loans) for purposes of determining how much capital an institution should maintain against this type of investment. It also discussed the possibility of establishing more than one risk category for equity-risk investments presenting different levels of credit risk.

The Board continues to believe that it is important to correlate its actions on the required capital and equity-risk regulations. The additional time provided by extending the equity-risk investment regulation will give the Board the benefit of studying the empirical evidence received in response to the capital proposal, as well as in-house studies performed in response to that portion of the capital proposal.

Second, in addition to work performed by Board staff in furtherance of a final capital regulation, the Board recently completed a report discussing several aspects of equity-risk investments as mandated by section 1203 of the CEBA. That report, submitted to the House Committee on Banking, Finance and Urban Affairs and the Senate Committee on Banking, Housing and Urban Affairs in February, 1989, contained, among other things: (1) analyses of the effect of direct investment activities on different sized insured institutions, state- and federally chartered insured institutions, and insured institutions in each of the Supervisory Examinations Rating Classifications; (2) findings concerning the degree to which losses to the FSLIC were the result of direct investment activities; and (3) a comparison of the effects of direct investment activities made both prior to and on or after April 16, 1987. Clearly, the information contained in this report will provide the Board and its staff additional data needed to make reasoned decisions as to both the viability of many subsections of the current equity-risk regulation and the necessity of limiting or modifying the current regulation.

Finally, as stated above, the Board now believes that an 180-day extension of the equity-risk investment regulation is necessary because of the likelihood of final legislation, passed within that period, that would materially affect the regulation.

In sum, the Board believes that a short extension of the current equity-risk investment rule sunset date, from April 16, 1989 to October 13, 1989, will provide the Board the necessary time to study the empirical evidence available as a result of the aforementioned activities and to make and review any necessary proposals for changes in the equity-risk investment regulation without a lapse in the Board's oversight in this critical area.

Pursuant to 5 U.S.C. 553(b) and 12 CFR 508.14, the Board hereby finds that good cause exists for making this final rule effective April 16, 1989, rather than the usual thirty days following publication in the **Federal Register**. The regulation would otherwise expire on that date, causing a lapse that would be seriously detrimental to the effective supervision of insured institutions that make equity-risk investments. Because this rule is materially similar to the proposal, no delay is necessary to allow institutions to become familiar with the rule's provisions or make adjustments in their conduct. Therefore, good cause exists for dispensing with the thirty-day delay of effective date.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objections and legal basis underlying the proposed rule.* These elements are incorporated above in the SUPPLEMENTARY INFORMATION regarding the final rule.

2. *Small entities to which the proposed rule would apply.* The final rule would apply to all insured institutions.

3. *Impact of the proposed rule on small entities.* The Small Business Administration defines a small financial institution as "a commercial bank or savings and loan association, the assets of which, for the preceding fiscal year, do not exceed $100 million." 13 CFR 121.13(a). The final rule treats all institutions identically regardless of their size for the reasons discussed in the SUPPLEMENTARY INFORMATION set forth above.

4. *Overlapping or conflicting Federal rules.* There are no known rules that duplicate, overlap or conflict with this final rule.

5. *Alternative to the rule.* There are no alternatives that would be less burdensome that the final rule in addressing the concerns expressed in the SUPPLEMENTARY INFORMATION set forth above.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Currency, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board amends Part 563, Subchapter D, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. The authority citation for Part 563 continues to read as follows:

Authority: Sec. 1, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727; as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401-407, 48 Stat. 1255-1260, as amended (12 U.S.C. 1724-1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); sec. 1204, 101 Stat. 662 (12 U.S.C. 3806); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-1948 Comp., p. 1071.

§ 563.9-8 [Amended]

2. Paragraph (h) of § 563.9-8 is amended by removing the date "April 16, 1989" and adding in lieu thereof the date "October 13, 1989."

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-9197 Filed 4-17-89; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 192 and 178

[T.D. 89-46]

RIN 1515-AA65

Customs Regulations Amendments Relating to Exportation of Used Self-Propelled Vehicles

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adding a new part concerning the exportation of used self-propelled vehicles. It sets forth the requirements for lawful exportation of such vehicles as well as the penalties and liabilities for attempted unlawful exportation and unlawful exportation. These regulations are necessary to implement a provision of the Trade and Tariff Act of 1984 dealing with the unlawful exportation of used self-propelled vehicles.

EFFECTIVE DATE: May 18, 1989.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: Harriett D. Blank (202) 566-8317. Operational Aspects: Charles Davies (202) 566-2140.

SUPPLEMENTAL INFORMATION:

Background

The Motor Vehicle Theft Enforcement Act of 1984 (Pub. L. 98-547), amended the Tariff Act of 1930, as amended (19 U.S.C. 1202 *et seq.*), by adding a new section 627 (19 U.S.C. 1627), relating to the unlawful importation or exportation of certain vehicles and equipment. Subsequently, the Tariff Act of 1930 was further amended by section 205 of the Trade and Tariff Act of 1984 (Pub. L. 98-573), which also added a new section 627, similar to section 627 of Pub. L. 98-547. The amendments made by Pub. L. 98-573 are set forth as 19 U.S.C. 1627a. It should be noted that section 7367(c)(6) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690) has repealed 19 U.S.C. 1627.

Section 1627a provides for civil penalties of not more than $10,000 for each new violation of knowingly importing, exporting, or attempting to import or export (1) any stolen self-propelled vehicle, vessel or aircraft; or (2) any self-propelled vehicle or part of a self-propelled vehicle from which the vehicle identification number (VIN) has been removed, obliterated, tampered with or altered. Also, any violation of 19 U.S.C. 1627a subjects the vehicle, vessel, aircraft, or part thereof to seizure and forfeiture. In addition, any person attempting to export a used self-propelled vehicle must present both the vehicle and a document describing the vehicle, which includes the VIN, to Customs before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with this provision subjects the violator to a civil penalty of $500 for each violation.

Pub. L. 98-573 was enacted in response to the ever-increasing incidents of the theft of motor vehicles and other conveyances and their exportation from the U.S. It is estimated that approximately 200,000 stolen vehicles are exported each year, primarily by professional thieves or people employed by them to effect the exportation. The recovery rate for stolen vehicles decreased from 80 percent in 1967 to 62.9 percent in 1984.

There is also a growing problem concerning the exportation of vehicle components. The parts are often shipped in sealed containers, making detection more difficult.

The legislation concerning the exporting and importing of self-propelled vehicles, other conveyances or parts thereof with altered vehicle identification numbers established penalties for violations and provided for the seizure and forfeiture of the vehicles, other conveyances or parts. It is expected that these sanctions will both deter the exportation of stolen vehicles and improve the recovery rate of those vehicles which are stolen.

The legislation also directed that regulations be prescribed by the Secretary of the Treasury with regard to the procedures for the lawful exportation of used self-propelled vehicles.

First Proposal

On March 17, 1987, Customs published a notice in the Federal Register (52 FR 8308), proposing regulations to implement 19 U.S.C. 1627 and 1627a. It was proposed to establish a new Part 192, Customs Regulations (19 CFR Part 192).

Sections 192.1 through 192.4 of subpart A of Part 192 would set forth the procedures for the lawful exportation of used self-propelled vehicles. They would require a person attempting to export such a vehicle to furnish documentation sufficient to prove to Customs that the vehicle is lawfully owned by the exporter. This documentation would include the VIN. Definitions of "self-propelled vehicle," "used," "ultimate purchaser," and "export," all terms used in Pub. L. 98-573, would be defined in § 192.1.

As proof of ownership of the vehicle by the exporter, Customs would accept an original certificate of title, or a memorandum of ownership, or a right of possession, or any other document sufficient to prove lawful ownership, such as a bill of sale or a sales invoice. In lieu of an original document, Customs would accept a certified copy.

It was also proposed that the exporter must present 2 facsimiles of the original document or certified copy. Customs would authenticate both facsimile documents, one of which would remain in the possession of the exporter, and the other of which will be collected by Customs for forwarding to the National Automobile Theft Bureau (NATB), on the same day. While Customs would not retain copies of the documentation relating to the exportation, the NATB would enter the VIN and other information on the exported vehicles into their database for recordkeeping purposes.

Authentication by Customs would include the stamping of the facsimile documents with the date of their presentation. As to exportations at a land border, where the vehicle is to be transported by rail, highway, or under its own power, it was proposed that the date would most likely be the date of exportation. At sea borders, where the vehicle is to be transported by vessel, or at airports, where the vehicle is to be transported by aircraft, the date of presentation of the facsimile documents could often precede the actual date of exportation.

Second Proposal

After careful consideration of comments in response to this proposal, it was determined that certain modifications were needed. Accordingly, Customs published a second proposal on this subject in the Federal Register (53 FR 31367) on August 18, 1988, containing modifications to the original proposal. These modifications included: (1) Requiring that presentation of the vehicle and documentation occur at the port of exportation; (2) requiring that in the case of automobiles, trucks, motorcycles and buses, original or certified copies of Certificates of Title and two facsimiles of the original or certified copy be presented; (3) permitting the document presented to Customs to include the product identification number rather than the VIN, if the vehicle for which the document is presented does not have a VIN; (4) requiring that the vehicles and documents describing the vehicle to be exported be presented at the port of exportation at least three days before

actual exportation regardless of the specific mode of exportation; and (5) expanding § 192.3, Customs Regulations, to state that a $500 penalty will be assessed against an exporter who has already exported a vehicle without complying with the requirements set forth in Part 192, as well as an exporter attempting to export a vehicle without complying with the regulations.

Discussion of Comments

Eighteen comments were received in response to the second proposal. Eleven comments agreed in total with the regulations, as proposed, and seven recommended further modifications. A discussion of the comments recommending further modifications and our responses follow:

Comment: One commenter suggested that the definition of the term "export" be expanded to mean "the transportation of merchandise out of the U.S."

Response: We disagree. The definition of "export" as the "transportation of merchandise out of the U.S. for the purpose of being entered into the commerce of a foreign country" is a long accepted Customs definition. The commenter stated that the current definition of "export" would not include, for example, a vehicle that was stolen in the U.S. and transported to Mexico where it would be stripped for parts with the parts being shipped back into the U.S. The commenter is mistaken. The vehicle in the example would be considered "exported" under Customs definition.

Comment: One commenter stated that the $500 penalty set forth in § 192.4, Customs Regulations, is not enough.

Response: The penalty amount was set by Congress when it enacted 19 U.S.C. 1627a.

Comment: One commenter recommended that inspectors physically verify all VIN numbers.

Response: Such a requirement would place an impossible burden on Customs and it would not be an efficient use of our limited personnel, facilities and resources.

Comment: Two commenters stated that the requirement in § 192.2 that original or certified copies of Certificates of Title must be presented cannot be followed in Florida as the state requires surrender of title by the owner prior to exportation of the vehicle.

Response: According to the Department of Motor Vehicles in Florida, while the original title is not now required to be surrendered prior to export, new regulations are expected to be issued soon that would require the exporter to surrender the title. Accordingly, Customs is changing the the language in § 192.2(b), Customs Regulations, to reflect such situations as anticipated in Florida. The new language will provide that an original or certified Certificate of Title need not be presented if a Certificate of Title is not available as a result of state statutory requirements.

Comment: One commenter stated that it is unnecessary to utilize the new ownership verification procedures at the time of export for vehicles previously entered under in-bond procedures, carnets or TIB's.

Response: Because Customs verifies ownership when vehicles are entered temporarily and because in-bond procedures, carnets and TIB's require continuous Customs custody, Customs agrees that the new ownership verification procedures are not necessary when vehicles are exported under these circumstances. § 192.2(a) is amended accordingly.

Comment: One commenter stated that the regulations should state that Customs will provide the reported VIN or product identification number to the National Auto Theft Bureau for each exportation.

Response: Customs plans to do this, but does not beleive it is necessary for the regulations to contain specific information regarding what Customs will do with the information it obtains.

Conclusion

After careful consideration of all the comments received and further review of the matter, it has been determined that the amendments, with the modifications discussed above, should be adopted. In addition, § 192.3 now sets forth the penalty provided for in 19 U.S.C. 1627a for knowingly importing, exporting or attempting to import or export: (1) Any stolen self-propelled vehicle, vessel or aircraft or part of a self-propelled vehicle, vessel or aircraft or (2) and self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with or altered.

Executive Order

This document does not meet the criteria for a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendments are not subject to the regulatory analysis requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1515-0157. The estimated average annual burden per respondent/recordkeeper is 2½ hours depending on individual circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to U.S. Customs Service, Paperwork Management Branch, Washington, DC 20229, or the Office of Management and Budget, Paperwork Reduction Project (1515-AA65) Washington, DC 20503.

Drafting Information

The principle author of this document was Harold M. Singer, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

19 CFR Part 192

Customs duties and inspection, Exports, Imports, Vehicles.

Amendments to the Regulations

Chapter I of Title 19, Code of Federal Regulations (19 CFR Chapter I) is amended by adding a new Part 192 as set forth below. Further, Part 178, Customs Regulations (19 CFR Part 178) is amended as set forth below:

PART 192—EXPORT CONTROL

Sec.

192.0 Scope.

Subpart A—Exportation of Used Self-Propelled Vehicles, Vessels, and Aircraft

192.1 Definitions.
192.2 Requirements for exportations.
192.3 Penalties.
192.4 Liability of carriers.

Authority: 19 U.S.C. 66, 1624, 1627a, 1646a.

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§ 192.0 Scope.

This part sets forth regulations pertaining to procedures for the lawful exportation of used self-propelled vehicles, vessels and aircraft, and the penalties and liabilities incurred for failure to comply with any of the procedures. This part also sets forth regulations concerning controls exercised by Customs with respect to the exportation of certain merchandise.

Subpart A—Exportation of Used Self-Propelled Vehicles, Vessels, and Aircraft

§ 192.1 Definitions.

The following are general definitions for the purposes of this subpart A.

Export. "Export" refers to the transportation of merchandise out of the U.S. for the purpose of being entered into the commerce of a foreign country.

Self-propelled vehicle. "Self-propelled vehicle" includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail.

Ultimate purchaser. "Ultimate purchaser" means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

Used. "Used" refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

§ 192.2 Requirements for exportation.

(a) *Basic requirements.* A person attempting to export a used self-propelled vehicle shall present to Customs, at the port of exportation, both the vehicle and a document describing the vehicle, which includes the Vehicle Identification Number or, if the vehicle does not have a Vehicle Identification Number, the product identification number. Exportation of a vehicle will be permitted only upon compliance with these requirements, unless the vehicle was entered into the United States under an in-bond procedure, or under a carnet or Temporary Importation Bond; a vehicle entered under an in-bond procedure, or under a carnet or Temporary Importation Bond is exempt from these requirements. The person attempting to export the vehicle may employ an agent for the exportation of the vehicle.

(b) *Documentation required.* In the case of automobiles, trucks, motorcycles and buses, original or certified copies of Certificate of Title (or other document if a Certificate of Title is not available as a result of state statutory requirements), and 2 facsimiles of the original or certified copy, shall be presented. In other cases, a certificate of title, memorandum of ownership, or right of possession, or any other document sufficient to prove lawful ownership, such as a bill of sale or a sales invoice, or a certified copy of any of these documents, as well as 2 facsimiles of the original or certified copy, shall be presented.

(c) *When presented.* If the vehicle is to be transported by vessel or aircraft, the documentation and vehicle must be presented at least 3 days prior to lading. If the vehicle is to be transported by rail, highway, or under its own power, the documentation and vehicle must be presented 3 days prior to exportation of the vehicle.

(d) *Authentication of documentation.* Customs shall authenticate both facsimile documents, one of which shall remain in the possession of the exporter and one of which shall be collected by Customs. Authentication will include the stamping of the facsimile documents with the date of presentation of the documents. The authenticated facsimile document will be the only acceptable evidence from the exporter of compliance with the requirements of this section.

§ 192.3 Penalties.

(a) A $500 penalty shall be assessed against an exporter attempting to export a vehicle without complying with the requirements set forth in this Part of the regulations.

(b) A $500 penalty shall be assessed against an exporter who has exported a vehicle without complying with the requirements set forth in this Part of the regulations.

(c) A penalty not to exceed $10,000 may be assessed against an importer or exporter who knowingly imports, exports or attempts to import or export:

(1) Any stolen self-propelled vehicle, vessel, aircraft or part of a self-propelled vehicle, vessel or aircraft; or

(2) Any self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered.

(d) Any stolen self-propelled vehicle, vessel or aircraft or part thereof or any self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with or altered may be subject to seizure and foreiture pursuant to 19 U.S.C. 1627a.

§ 192.4 Liability of carriers.

Under the provisions of 46 U.S.C. App. 91, the vessel master is charged with the responsibility for presenting a true manifest. If used vehicles are not included on the manifest or are inaccurately described thereon, a liability of not more than $1,000 nor less than $500 will be incurred.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 178 would continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding the following in the appropriate numerical sequence according to the section number under the column indicated:

§ 178.2 Listing of OMB Control Numbers.

19 CFR Section	Description	OMB Control No.
Part 192	Exportation of Used Self-Propelled Vehicles, Vessels and Aircraft.	1515-0157
• •	• •	•

William von Raab,
Commissioner of Customs.

Approved: April 11, 1989.

Salvatore R. Martoche,
Assistant Secretary of the Treasury.

[FR Doc. 89-8217 Filed 4-17-89; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 639

Worker Adjustment and Retraining Notification

AGENCY: Employment and Training Administration, Labor.

ACTION: Interim interpretative rule; delay of expiration date.

SUMMARY: The Employment and Training Administration of the Department of Labor is delaying the expiration date on an interim interpretative rule interpreting the provisions of the Worker Adjustment and Retraining Notification Act (WARN). WARN provides that, with certain exceptions, employers of 100 or more workers must give at least 60 days' advance notice of a plant closing or mass layoff to affected workers or their representatives, to the State dislocated worker unit, and to the appropriate local government.

DATE: *Effective date:* This interim interpretative rule is effective on April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo; Telephone: (202) 535-0577.

SUPPLEMENTARY INFORMATION: The Worker Adjustment and Retraining Notification Act (WARN, the statute, or the Act), Pub. L. 100-379, 102 Stat. 890, was enacted on August 4, 1988. 29 U.S.C. 2101 *et seq.* Section 11 of the Act provides that WARN goes into effect on February 4, 1989. WARN provides that, with certain exceptions, employers of 100 or more workers must give at least 60 days' advance notice of a plant closing or mass layoff to affected workers or their representatives, to the State dislocated worker unit (see 29 U.S.C. 1661(b)(2)), and to the appropriate local government. 29 U.S.C. 2902 and 2903. Section 8(a) of the Act requires that the Secretary of Labor "prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the method by which employers may provide for appropriate service of notice as required by this Act." 29 U.S.C. 2107(a). Under section 11 of the Act, the authority to issue regulations for WARN became effective on August 4, 1988.

The Employment and Training Administration (ETA) of the Department of Labor (DOL or Department), on December 2, 1988, published an interim interpretative rule for WARN. 20 CFR Part 639, 53 FR 48884. The interim interpretative rule was to expire on April 1, 1989. 20 CFR 639.11, 53 FR at 48894. Comments on the interim interpretative rule were requested through January 31, 1989.

On December 5, 1988, ETA published a proposed rule to revise 20 CFR Part 639, which was expected to be effective by April 1, 1989. 53 FR 49076. The comment period on the proposed rule was to end on February 3, 1989.

Substantial commentary was received from the business community, unions, members of Congress, trade associations, and other groups. Publication of the final rule was postponed to respond to the interests and concerns of commenters concerning various aspects of WARN. On March 31, 1989, an interim interpretative rule announcing the postponement and delaying the expiration date of the interim interpretative rule was published 54 FR 13166. The final rule will be published in a separate document within a few days.

The expiration date on the interim interpretative rule is being extended until May 26, 1989 to allow time for publication and to permit those employers, workers, and their representatives affected by the regulations adequate time to study the provisions of the final rule before it takes effect.

Regulatory Impact

The interim interpretative rule interprets the provisions of the Worker Adjustment and Retraining Notification Act. It imposes no burdens on employers or others; implementation flows from the Act itself. As it would not have the financial or other impact to make it a major rule, preparation of a regulatory impact analysis is unnecessary. See Executive Order No. 12291, 5 U.S.C. 601 note.

Insofar as is possible, however, DOL intends to perform an analysis of the impact of the Act, this interim interpretative rule, and the final rule, to aid the General Accounting Office in its function of reporting to Congress on the Act.

The interim interpretative rule was not preceded by a general notice of proposed rulemaking. Therefore, it is not a "rule" as that term is defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2).

List of Subjects in 20 CFR Part 639

Employment, Labor, Labor management relations, Labor unions, Penalties.

Interim Interpretative Rule

Accordingly, Part 639 of Chapter V of Title 20, Code of Federal Regulations, is amended as follows:

PART 639—[AMENDED]

1. The Authority citation continues to read:

Authority: 29 U.S.C. 2107(a).

§ 639.11 [Amended]

2. Section 639.11 is amended by removing the term "April 18, 1989" and inserting in lieu thereof the term "May 26, 1989".

Signed at Washington, DC, this 13th day of April 1989.

Elizabeth Dole,
Secretary of Labor.

[FR Doc. 89-8375 Filed 4-17-89; 8:45 am]
BILLING CODE 4510-30-M

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-409]

Crane or Derrick Suspended Personnel Platforms

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Redesignation.

SUMMARY: On August 2, 1988, the Occupational Safety Health Administration (OSHA) published a final rule [53 FR 29116] prohibiting the use of cranes or derricks to hoist personnel, except where no safe alternative is present and where employers comply with the provisions of § 1926.550(g). Since that time, the Agency has become aware of confusion among some employers regarding the regulatory intent of the requirement (§ 1926.550(g)(3)(i)(D)) for controlled load lowering and the prohibition of free fall. The pertinent regulatory language clearly requires that cranes or derricks used to hoist personnel "have a system or device on the power train" to ensure that employees receive the necessary protection. However, that languege appears with the "Operational criteria" (paragraph (g)(3)(i)) rather than with the "Instruments and components" provisions (paragraph (g)(3)(ii)). As a result, some employers have apparently concluded mistakenly that cautious operation alone would be an acceptable substitute for the installation of "instruments and components." Therefore, in order to correct the perceived misunderstanding, OSHA hereby redesignates § 1926.550(g)(3)(i)(D) to § 1926.550(g)(3)(ii)(D). By this redesignation, the Agency will indicate clearly that the intended degree of employee protection is achieved through the cautious operation of a properly equipped crane or derrick, and not by the cautious operation of a crane or derrick lacking the required safety devices.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, Room N-3637, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: (202) 523-8148.

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SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1926

Construction safety, Construction industry, Cranes, Derricks, Hoisting, Personnel platform, Rigging.

Accordingly, Title 29, Part 1926 is amended as set forth below.

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

1. The authority citation for Subpart N of Part 1926 continues to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (49 FR 35736), as applicable. Section 1926.550 also issued under 29 CFR Part 1911.

§ 1926.550 [Amended]

2. In § 1926.550(g)(3)(i), paragraph (g)(3)(i)(D) is redesignated as paragraph (g)(3)(ii)(D) and paragraphs (g)(3)(i)(E) through (g)(3)(i)(G) are redesignated as paragraphs (g)(3)(i)(D) through (g)(3)(i)(F), respectively.

Signed at Washington, DC, this 13th day of April 1989.

Alan C. McMillan,

Acting Assistant Secretary of Labor.

[FR Doc. 89-9179 Filed 4-17-89; 8:45 am]

BILLING CODE 4510-26-M

POSTAL SERVICE

39 CFR Part 111

Use of Sampling Process for Indemnity Claims

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the Domestic Mail Manual (DMM) to provide for an optional sampling procedure for mailers who file large numbers of COD claims annually. The use of sampling procedures reduces administrative costs both for the Postal Service and for most mailers filing large numbers of claims. Adjudication will be handled by the St. Louis Postal Data Center instead of Postal Service Headquarters.

EFFECTIVE DATE: June 18, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Joyce Steele, (202) 268–5312.

SUPPLEMENTARY INFORMATION: On June 19, 1987, the Postal Service published a notice in the **Federal Register** (52 FR 23308) soliciting comments on a proposal that would have made mandatory the sampling procedures that are now optional for mailers who submit 2,000 or more COD claims annually. The Postal Service reconsidered the proposal, revised it in various respects, and republished the revised version for comment on May 26, 1988, in the **Federal Register** (53 FR 19001). Under the revised proposal, the sampling process is not mandatory, but remains optional.

No comments were received on the revised proposal. Accordingly, this final rule adopts that proposal, with minor changes in 149.622, concerning the officials within the Postal Service assigned to handle particular aspects of the procedure for computing the number of claims to be sampled. As noted in the Summary, the revised proposal provides benefits both for mailers who use it and the Postal Service. Those benefits were fully described in the revised proposal as published on May 26, 1988, and are not repeated here.

In view of the consideration discussed above, the Postal Service hereby adopts the following amendments of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1).

List of Subjects in 39 CFR Part 111

Postal Service

PART 111—[AMENDED]

1. The authority citation of 39 CFR Part 111 continues to read as follows:

Authority: 15 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Renumber 149.6 through 149.8 as 149.7 through 149.9, respectively. Add new 149.6 reading as follows:

PART 149—INDEMNITY CLAIMS

149.6 Sample Claims

149.61 Who may file

.611 Any COD mailer may request permission from the Manager, Claims and Inquiry Branch, Postal Data Center (PDC), P.O. Box 80143, St. Louis, MO 63180–0143, to file under these alternative procedures. The manager will approve the request when it is the most cost-efficient method of processing the mailer's claims, according to the standards set forth in 149.612. Mailers are encouraged to participate in this program, because of the following benefits:

a. Fewer individual claims need to be presented by the mailer. Since claims filed by most large mailers are computer-generated, the savings to mailers may be significant.

b. No inquiries or follow-up claims have to be filed by the mailer. This saves the mailer time, and also reduces overall costs incurred in filing claims.

c. The use of sampling procedures in lieu of processing individual claims minimizes the costs to the Postal Service.

.612 If the Manager, Claims and Inquiry Branch, determines that use of the sampling procedure is not the most effective and efficient method of processing the mailer's claims, the manager will notify the mailer, and instruct the post office to process the claims individually. Consider the following general criteria in making the decision:

a. Expense to the mailer;

b. Expense to the U.S. Postal Service;

c. Expedition of the claims process;

d. Availability of labor and resources to process the claims at the accepting post office;

e. Whether use of the sampling procedure will result in an accurate determination of the Postal Service's responsibility for indemnification of the claimant;

f. Other interests of the Postal Service.

Claimants have the right to appeal the manager's determination in accordance with 149.81.

.613 Mailers who file claims under the provisions of this section are deemed to have consented to adjudication of those claims as prescribed in 149.64.

149.62 Procedures for Filing Claims Under a Sampling Agreement

.621 List of Claims and Number of Articles Mailed. The claimant must present a list of all COD items eligible for adjudication to the Claims and Inquiry Section of any post office, or the employee in a post office who has been designated to handle indemnity claims. The list must conform with the following conditions:

a. For each claimed item, the list must contain the COD number followed by the name and address of the addressee, date of mailing, postage, fee, and amount due sender. All items must be listed by COD number, in ascending numerical order.

b. The list must contain all claims for the period covered by the list. No additional claims for articles mailed during that time frame may be submitted. No additional claims may be filed under these procedures until any previous claims under these procedures have been completed. A mailer may not submit more than three groups of claims under these procedures annually.

c. The list must contain a summary sheet showing the total number of claims and total amount due to the sender.

d. The claimant must submit a statement showing the total number of COD articles mailed during the time period represented by the sample.

.622 Computing the Number of Claims to be Sampled. The postmaster will send a memorandum requesting the number of claims to be sampled to: Manager, Claims & Inquiry Branch, Postal Data Center, P.O. Box 14677, St. Louis, MO 63180–9000.

This memorandum will contain the name and address of the mailer, the total number of claims on the listing, and the name(s) and phone number(s) of the employee(s) primarily responsible for processing the sample. In addition, the postmaster will include in the memorandum submitted to the St. Louis PDC a copy of the mailer's statement showing the total number of COD articles mailed during the time period represented by the sample.

Upon receipt of the memorandum, the St. Louis PDC will apply the sampling method commonly referred to as "Sampling For Estimation of Proportions" to determine the number of claims to be sampled, the first claim to be sampled and the sampling interval to identify the subsequent claims to be sampled.

Note: Under the procedure, "Sampling for Estimation of Proportions," an assumed approximate proportion, confidence level (95 percent), and target precision level allow a computation of a required sample size from a finite universe of specific size. A systematic random sampling procedure is effected, with the sampling interval being the largest integer not exceeding the ratio of universe to sample size.

The Manager, Claims and Inquiry Branch, at the St. Louis Postal Data Center (PDC), will issue a memorandum to the postmaster showing the total number of claims to be sampled, the first claim on the list to be sampled, and the interval for sampling the remaining claims. Upon receipt, the postmaster will provide a copy of the memorandum to the claimant. The Manager, Claims and Inquiry Branch, will coordinate the sample, and will provide additional instructions to the post office.

.623 Marking the List of Claims. The claims and inquiry employee will mark the list showing all claims that will be sampled, starting with the first claim specified by the memorandum. The marked list will be returned to the mailer.

.624 Completion of Claim Forms. Using the marked list, the mailer must complete the portions of the claim form (PS Form 3812, *Request for Payment of Domestic Postal Insurance*) normally completed by customers who file individual claims (see 149.313), for each claim to be sampled. Information on the claim form must be identical to the entries on Form 3877, *Firm Mailing Book for Registered, Insured, C.O.D., Certified and Express Mail*, or its facsimile. The actual date of mailing must be used. In addition, the claimant will be required to complete other portions of the form (for example, inserting the claim number and special identification marking by computer).

Note: The name and address of the mailer shown on the Form 3877 and Form 3812 must be the same as the name and address of the mailer shown on the COD tags.

.625 Submission of Claim Forms. Mailers should return the marked list and completed claim forms (along with proof of mailing) within two weeks of receipt of the marked list. Mailers must submit claim forms in the same order as they appear on the list. At the same time, mailers must also provide a separate listing of the claims to be sampled. In addition, mailers are encouraged to provide the post office with a set of address labels showing the complete names and addresses of the addressees. This will expedite sending the inquiry portion of the claim form to the addressee.

.63 Partial Payment. A partial payment, based on those COD claims that can be verified by the addressee post office, generally will be made 45 to 60 days after the claims have been sent to the addressee post office for verification.

.631 In determining partial payment, the PDC will follow the guidelines for adjudication outlined in 149.641 and 149.642.

.64 Adjudication

.641 Computation of Payable Claims. The St. Louis PDC is responsible for determining the number of payable and non-payable COD claims under the sampling procedures, after receipt of the verification process completed by the local post office.

a. The PDC will determine the payment due claimant by multiplying the precentage of claims found to be payable by the number of claims submitted, and then multiplying the result by the average value of payable claims sampled. For the partial payment, the PDC will determine the partial payment due claimant by multiplying the percentage of claims found to be payable at that time by the number of claims submitted, and then multiplying the result by the value of the smallest payable claim sampled.

b. Before determining payment due claimant, the PDC will adjust the total number of claims by: (1) Subtracting any articles or contents returned to sender without a COD tag; (2) subtracting from the total due any sender checks made out to the mailer which are discovered. These checks will count as payable claims and will be given to the mailer.

.642 Notification of results. The St. Louis PDC will prepare a report to the mailer showing the following:

a. Number of claims submitted by the mailer;

b. Number of claims deducted from the total number submitted by the mailer and the reason for the deduction;

c. Number of payable claims in the sample;

d. Number of nonpayable claims in the sample;

e. Percent of payable claims;

f. Number of payable claims from the total number of claims submitted by the mailer;

g. Average value of claims in the sample less the COD fee;

h. Number and dollar value of any checks and money orders submitted by COD recipients;

i. Total amount due the mailer;

j. Partial payment already made;

k. Balance due mailer.

.643 Mailer Review. The Postal Data Center (PDC) will issue a check for the balance due to the mailer along with the report provided in 149.642. Upon review of the report, the mailer has the option of reviewing the results of the addressee post office's search of delivery records shown on disallowed completed claim forms. The mailer must exercise this option within two weeks of receipt of the report and check from the PDC. Failure to do so will constitute the mailer's concurrence with the report provided by the PDC.

Photocopies of completed claim forms or delivery records cannot be provided to mailers. This review of the nonpayable claims must take place with postal personnel at the post office where the claims were filed prior to the issuance of a check. If a discrepancy is noted, the check should be returned to the Postal Data Center showing the reason for the discrepancy. The Postal Data Center will reissue a check after the discrepancy is resolved. The cashing of the check for the balance due by the mailer constitutes the mailer's

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concurrence with the report provided by the PDC.

.644 Appeal. If any discrepancies cannot be resolved, the mailer may appeal the decision in accordance with 149.81.

.65 Exhibit 149.6 contains a sample schedule for completion of this process. Any individual claim may take more or less time to complete each stage of the process.

EXHIBIT 149.6.—TIME LIMITS FOR COMPLETING CLAIMS SAMPLE

Action	Time limit
1. Mailer submits list of claims.	Within 1 yr. of date of mailing.
2. Post office sends memorandum to Headquarters and St. Louis PDC.	Within 3 days of receipt of list of claims from mailer.
3. Headquarters responds.	Within 1 week of receipt of notification.
4. Post office provides copy of response to mailer.	Immediately upon receipt.
5. Post office marks list of claims and returns to mailer.	Within 1 week of receipt of response.
6. Mailer completes claim forms and returns claims and list to post office.	Within 2 weeks from receipt of marked list.
7. Verification of claim forms.	Immediately upon receipt.
8. Initial processing of claims by accepting post office.	Within 2 weeks of receipt from mailer.
9. Duplicate claims completed and processed by accepting post office.	30 days after last claim is processed, complete and process immediately.
10. Partial payment issued.	Within 45 to 60 days from beginning of sampling.
11. Final claims action	2 weeks after last duplicate claim is processed, begin telephone inquiries.
12. Adjudication and preparation of report and check by St. Louis PDC.	2 weeks.
13. Mailer review of report.	Immediately upon receipt.
14. Mailer review of claim forms (optional).	Within 2 weeks of notification to St. Louis PDC.
15. Issuance of check.	Immediately.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and transmitted to subscribers automatically. Notice of these changes will be published in the Federal Register as provided in 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89-9161 Filed 4-17-89; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6954]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Administrator, reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the FIRM(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

These elevations, together with the floodplain management measures required by 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains.

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

§ 65.4 [Amended]

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama	Montgomery, Elmore, Autauga, Lowndes.	City of Montgomery	Apr. 7, 1989, Apr. 14, 1989, *Alabama Journal.*	The Honorable Emory Folmer, Mayor, City of Montgomery, P.O. Box 1111, Montgomery, Alabama 36192.	Mar. 27, 1989	010174
Florida	Dade	Unincorporated areas.	Apr. 6, 1989, Apr. 13, 1989, *Miami Review.*	The Honorable Joaquin Avino, County Manager, Dade County, Metro Dade Center, 111 N.W. 1st Street, Suite 2910, Miami, Florida 33128-1971.	Mar. 27, 1989	125096
Hawaii	Maui	Unincorporated areas.	Apr. 7, 1989, Apr. 14, 1989, *Honolulu Advertiser, Maui News.*	The Honorable Hannibal Tavares, Mayor, Maui County, 200 South High Street, Wailuku, Maui, Hawaii 96793.	Apr. 3, 1989	150003 B
Michigan	Wayne	Township of Canton	Apr. 12, 1989, Apr. 19, 1989, *Community Crier.*	The Honorable Thomas Yack, Township Supervisor, 1150 S. Canton Center Road, Canton, Michigan 48188.	Apr. 3, 1989	260219
Texas	Nueces and Kleberg	City of Corpus Christi	Apr. 5, 1989, Apr. 12, 1989, *The Corpus Christi Caller-Times.*	The Honorable Betty Turner, Mayor of the City of Corpus Christi, Nueces and Kleberg Counties, P.O. Box 9277, Corpus Christi, Texas 78469.	Mar. 22, 1989	485464 C

Issued: April 10, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-9206 Filed 4-17-89; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing modified base flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determination, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of The Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

PART 67—[AMENDED]

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

PROPOSED BASE (100 YEAR) FLOOD ELEVATIONS

Source of Flooding and Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
ARKANSAS	
Fayetteville (city), Washington County (FEMA Docket No. 6943)	
Hamestring Creek:	
At confluence of North Fork Hamestring Creek	*1,209

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PROPOSED BASE (100 YEAR) FLOOD ELEVATIONS—Continued

Source of Flooding and Location	#Depth in feet above ground. ^Elevation in feet (NGVD). Modified
Approximately 0.3 mile upstream of Wedington Drive	^1,255
South Fork Hamestring Creek:	
At confluence with Hamestring Creek	^1,235
At downstream side of Giles Road	^1,251
Maps available for inspection at the City Inspection Office, 113 West Mountain, Fayetteville, Arkansas.	
MARYLAND	
Allegany County (unincorporated areas) (FEMA Docket No. 6939)	
Wills Creek:	
Approximately 60 feet downstream of Locust Grove Road	*658
Approximately 80 feet downstream of State boundary	*730
Jennings Run:	
Confluence with Wills Creek	*715
Approximately 360 feet upstream of confluence with Wills Creek	*715
Braddock Run:	
Confluence with Wills Creek	*667
Approximately 850 feet upstream of confluence with Wills Creek	*667
Maps available for inspection at the Allegany County Planning and Zoning Commission, County Office Building, Cumberland, Maryland.	
NEW JERSEY	
Bridgewater (township), Somerset County (FEMA Docket No. 6939)	
Raritan River:	
Area south of Main Street and west of Interstate 287 at American Cyanamid Plant	*36
Area east of Cuckels Brook and south of Maine Street at American Cyanamid Plant	*43
Maps available for inspection at the Municipal Building, 700 Garretson Road, Bridgewater, New Jersey.	
OKLAHOMA	
Tulsa County (unincorporated areas) (FEMA Docket No. 6943)	
Hallay Creek:	
Approximately 300 feet upstream of 129th East Avenue (Olive Avenue)	*697
Upstream side of Garnett Road	*693
Maps available for inspection at the Tulsa County Administration Building, 500 South Denver, Tulsa, Oklahoma.	
PENNSYLVANIA	
West Whiteland (township), Chester County (FEMA Docket No. 6943)	
Colebrook Run:	
Upstream of CONRAIL bridge	*279
Approximately 0.42 mile upstream of CONRAIL bridge	*281
Maps available for inspection at the Township Building, 222 N. Pottstown Pike, Exton, Pennsylvania.	

Harold T. Duryee,
Administrator, Federal Insurance Administration.

[FR Doc. 89-9207 Filed 4-17-89; 8:45 am]
BILLING CODE 6718-03-M

DEPARTMENT OF DEFENSE

Department of the Army

48 CFR Ch. 51; Part 5119

Federal Acquisition Regulation Supplement; Small Business Competitiveness Demonstration Program—Dredging

AGENCY: Department of the Army (DA), DOD.

ACTION: Interim rule and request for comments.

SUMMARY: The Department of the Army is establishing Chapter 51 Federal Acquisition Regulation Supplement to add Part 5119, Subpart 5119.10 to further implement FAR Subpart 19.10 and the December 22, 1988 joint Office of Federal Procurement Policy (OFPP) and Small Business Administration (SBA) interim policy directive and test plan implementing Title VII of the "Business Opportunity Development Reform Act of 1988," Pub. L. 100-656 (53 FR 52889).

DATES: *Effective:* April 18, 1989. This rule is effective for all affected solicitations issued after the above effective date.

Comments: Comments on the interim rule should be submitted to the address shown below not later than May 18, 1989, to be considered in the fromulation of the final rule.

ADDRESS: Interested parties should submit written comments to: U.S. Army Corps of Engineers, Office Chief of Engineers, ATTN: CEPR-P/Mr. Gagliardi, Room 4106, 20 Massachusetts Avenue NW., Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mary M. Pearson, Department of the Army, SFRD-KP, telephone (202) 697-1004.

SUPPLEMENTARY INFORMATION:

A. Background

Title VII of the "Business Opportunity Development Reform Act of 1988" seeks to test the effectiveness of emphasis on increased participation of small businesses under certain targeted industry categories and the ESB emphasis identified for the designated industry groups through a new program, entitled the "Small Business Competitiveness Demonstration Program." Section 722 of Pub. Law 100-656, requires the Secretary of the Army to establish a program to expand small business participation in dredging, hereafter referred to as the "Dredging Program." The Dredging Program has two primary objectives: (1) To expand participation of small business firms, and a newly defined subcategory of emerging small business (ESB) concerns, in contracting opportunities for dredging, through restricted competition; and (2) To demonstrate whether there exists in the marketplace a sufficient number of small business concerns and ESB concerns which meet the current size standard assigned for SIC Code 1629 (Dredging and Surface Cleanup Activities), as an indicator of the adequacy of the current size standard.

B. Regulatory Flexibility Act

As stated in the joint policy directive (53 FR 52889), the Office of Federal Procurement Policy and the Small Business Administration will prepare the appropriate regulatory flexibility analysis upon completion of the first quarterly review under the Program.

C. Paperwork Reduction Act

The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of the Army to issue this coverage as an interim rule. This action is necessary in order to implement Pub. L. 100-656, section 722, and the Small Business Competitiveness Demonstration Program.

List of Subjects in 48 CFR Part 5119

Government procurement, Small business procurement.

Therefore, Title 48 of the Code of Federal Regulations is amended by establishing Chapter 51 and Part 5119 as set forth below.

CHAPTER 51—DEPARTMENT OF THE ARMY ACQUISITION REGULATIONS

PART 5119—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 5119.10—Small Business Competitiveness Demonstration Program

Sec.

5119.1001 General.
5119.1002 Definitions.
5119.1003 Purpose.
5119.1004 Participating Agencies.
5119.1005 Applicability.
5119.1070 Procedures.
5119.1070-2 Emerging small business set-asides.
5119.1070-3 Identification and reporting.
5119.1071 Solicitation provisions and contract clauses.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35, FAR 1.301 and DOD FAR Supplement 201.301.

Subpart 5119.10—Small Business Competitiveness Demonstration Program

5119.1001 General.

This subpart implements Pub. L. 100-656, section 722, "Expanding Small Business Participation in Dredging" (the Dredging Program). The Program will be conducted through 30 September 1992.

5119.1002 Definitions.

(S-90) "Emerging Small Business Reserve Amount" (ESBRA) means the dollar threshold for contracting opportunities in dredging, below which competition shall be conducted exclusively among emerging small business concerns. This amount is set forth in 5119.1070-2(a)(S-90).

5119.1003 Purpose.

(c)(S-90) The purpose of the Dredging Program is to—

(i) Expand small business and emerging small businesses (ESB) participation in contracting opportunities for dredging through restricted competition.

(ii) Demonstrate the existence of a sufficient number of small businesses and ESBs which meet the current size standard for Standard Industrial Code (SIC) Code 1629 (Dredging and Surface Cleanup Activities) as an indicator of the adequacy of the current size standard.

5119.1004 Participating agencies.

Participation in this Dredging Program is limited to the Department of the Army, Corps of Engineers.

5119.1005 Applicability.

(S-90) The program shall apply to solicitations issued by the Department of the Army Corps of Engineers buying activities for the procurement of dredging under SIC 1629 (Dredging and Surface Cleanup Activities), limited to Federal Procurement Data Systems (FPDS) codes Y216 and Z216. This includes both maintenance dredging and new start (new work) construction dredging. Dredging to be performed by Government forces utilizing the Federally owned fleet pursuant to 33 U.S.C. 622 is not subject to the program.

5119.1070 Procedures.

5119.1070-2 Emerging small business set-aside.

(a)(S-90) Solicitations for dredging shall be set-aside for exclusive competition among ESBs when the estimated award value is equal to or less than the emerging small business reserve amount (ESBRA) of $600,000. (Except that dredging acquisitions shall continue to be considered for placement under the 8(a) program (see FAR Subpart 19.8) and for small disadvantaged business set-asides (see DFARS 219.502-72)). The ESBRA applies only to new awards. Modifications or follow-on awards to contracts having an initial award value in excess of the ESBRA are not subject to this requirement. The set-aside requirements in DFARS 219.1070-2 (a) and (b) for designated industry groups acquisitions valued at $25,000 or less shall be complied with for all dredging program set-asides.

(S-90) The contracting office shall include the applicable SIC Code and dollar size standard in the synopsis of proposed procurement as published in the Commerce Business Daily (CBD), in the presolicitation notice (construction contract) SF 1417 when issued, and in the solicitation documents.

(S-91) The contracting officer shall consider use of the following initiatives to increase participation by small businesses and emerging small businesses:

(1) Specifying of contract requirements and contractual terms and conditions which are conducive to competition among small business and emerging small business concerns, consistent with the mission or program requirements of the Department of the Army, Corp of Engineers.

(2) Encouraging joint ventures, teaming agreements, and similar arrangements consistent with the Small Business Act (15 U.S.C. 637(d)) for the purpose of including small business concerns in contracting opportunities. However, no such joint venture shall exceed the applicable size standard.

(3) Making maximum use of subcontracting through plans negotiated and enforced pursuant to section 8(d) of the small business act. Goals may be specified in solicitations stating minimum percentages of subcontracting.

5119.1070-3 Identification and reporting.

(b) Reporting shall be done in accordance with DFARS 204.6 designated industry group requirements. Block B12A, DD Form 350, shall contain either the FPDS Code Y216 or Z216, as applicable, per 5119.1005 (S-90).

5119.1071 Solicitation provisions and contract clauses.

(a) DFARS provision 252.219-7012 shall be inserted in all solicitations issued under the Small Business Dredging Program (SIC 1629, limited to FPDS Service Codes Y216/Z216).

(b) DFARS clause 252.219-7013 shall be inserted in all solicitations and contracts set-aside for emerging small businesses in accordance with 5119.1070-2(a)-(S-90).

John O. Roach, II,
Army Liaison Officer with the Federal Register.

[FR Doc. 89-9140 Filed 4-17-89; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 81152-9033]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the portion of the total allowable catch (TAC) of sablefish allocated to trawl gear in the West Yakutat District of the Gulf of Alaska has been reached. The Secretary of Commerce is prohibiting further retention of sablefish by trawl vessels fishing in this district from 12:00 noon, Alaska Daylight Time (ADT), on April 12, 1989 through December 31, 1989.

EFFECTIVE DATE: 12:00 noon, a.d.t., on April 12, until midnight, Alaska Standard Time (a.s.t.), December 31, 1989.

ADDRESSES: Comments should be addressed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Fishery Management Biologist, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR Part 672. Section 672.20(a) of the regulations establishes an optimum yield range of 116,000-800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. The TACs for target species and species groups are specified annually and apportioned among the regulatory areas and districts.

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Section 672.24(b)(1) restricts the trawl catch of sablefish in the Eastern Regulatory Area to five percent of the TAC. The Eastern Regulatory Area is divided into two districts, one of which is the West Yakutat District. The 1989 TAC specified for sablefish in the West Yakutat District is 4,500 mt (54 FR 6524, February 13, 1989); five percent of the TAC in this district is 230 mt. Under § 672.24(b)(3)(ii), if the share of the sablefish TAC assigned to any type of gear for any area or district is reached, further catches of sablefish must be treated as prohibited species by persons using that type of gear for the remainder of the year.

Sablefish are caught incidentally by vessels using trawl gear while fishing for other groundfish species. The Regional Director reports that 182 mt of sablefish have been harvested by catcher/processor vessels through April 8, 1989. Current daily catch rates by these vessels is as high as 17 mt per day. At this catch rate, the balance of the 230 mt allocated to trawl vessels will be harvested by 12:00 noon, a.d.t., April 12, 1989.

Therefore, pursuant to § 672.24(b)(3)(ii), the Secretary is prohibiting further retention of sablefish caught with trawl gear in the West Yakutat District effective 12:00 noon, A.D.T., April 12, 1989. Any sablefish caught with trawl gear after that date must be treated as prohibited species and discarded at sea.

Allocation of the sablefish resource between hook-and-line and trawl gear in the West Yakutat District and the continued health of all components of the sablefish fishery will be jeopardized unless this notice takes effect promptly. Therefore, NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed.

Public comments on the necessity for this action are invited for a period of 15 days after the effective date of this notice. Public comments on this notice of closure may be submitted to the Regional Director at the address above until April 27, 1989. If written comments are received which oppose or protest this action, the Secretary will reconsider the necessity of this action, and, as soon as practicable after that reconsideration, will publish in the **Federal Register** a notice either of continued effectiveness of the adjustment, responding to comments received, or that modifies or rescinds the adjustment.

Classification

This action is taken under §§ 672.22 and 672.24, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: April 12, 1989.

Alan Dean Parsons,

Acting Director of Office Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-9163 Filed 4-12-89; 4:41 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 73
Tuesday, April 18, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1030

[DA-89-009]

Milk in the Chicago Regional Marketing Area; Proposed Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed termination of rule.

SUMMARY: This notice invites comments on a United States Department of Agriculture recommendation that Crawford and Grant Counties in Wisconsin be removed from the Chicago Regional milk order marketing area through a termination action. The hearing that led to the recommendation pertained to proposed amendments to the Iowa order which would add these two counties to the Iowa marketing area. In order to implement the proposed amendment to the Iowa order, the Department is proposing that the two counties be terminated from the provision defining the Chicago order marketing area.

DATE: Comments are due on or before May 9, 1989.

ADDRESS: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 447-4829.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. This action would not effect the regulatory status of milk handlers nor would it have an adverse impact upon dairy farmers who have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the termination of the following provisions of the order regulating the handling of milk in the Chicago Regional marketing area is being considered:

1. In § 1030.2(b)(1), the words "Crawford", and "Grant".

All persons who want to send written data, views, or arguments about the proposed termination should send two copies of them to the United States Department of Agriculture, Dairy Division, Agricultural Marketing Service, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, not later than 21 days after the publication of this notice in the **Federal Register**.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed termination would delete from the Chicago Regional marketing area the counties of Crawford and Grant in the State of Wisconsin. Those counties would be added to the marketing area of the Iowa order if a recommended decision to expand the Iowa marketing area is adopted. Accordingly, the U.S. Department of Agriculture is proposing to remove the counties from the Chicago Regional order marketing area by terminating the names of the two counties from the provision defining the marketing area.

This proposed termination is based upon the evidence obtained at a public hearing held in Davenport, Iowa, beginning August 9, 1988, to consider, among other proposals, a proposal by Swiss Valley Farms, Co., to expand the Iowa marketing area by adding several unregulated counties in Illinois, Iowa, and Missouri, and Crawford and Grant Counties in Wisconsin. The two Wisconsin counties now are part of the marketing area for the Chicago Regional marketing area. The Administrator of the Agricultural Marketing Service, United States Department of Agriculture has found that Crawford and Grant Counties should be part of the Iowa marketing area and proposes, therefore, that continuation of such counties as part of the Chicago Regional marketing area would not tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended. A recommended decision on the issues considered at the hearing is being released concurrently with this proposed termination. Therefore, comments are sought to determine whether the aforementioned provisions should be terminated.

List of Subjects in 7 CFR Part 1030

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1030 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-675.

Signed at Washington, DC, on: April 12, 1989.

J. Patrick Boyle,

Administrator.

[FR Doc. 89-9154 Filed 4-17-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1036

[Docket No. AO-179-A52; DA 88-113]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends certain changes in the classification provisions of the Eastern Ohio-Western Pennsylvania milk order based on industry proposals considered at a public hearing held November 1, 1988.

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The classification of milk used to make buttermilk biscuit and pancake mixes would be changed from Class I to Class III, eliminating raw product cost differences for milk so used between the Eastern Ohio-Western Pennsylvania order and surrounding Federal order markets. The decision also recommends that milk dumped by handlers be classified as Class III without prior notification to the market administrator.

Proposals to change the classification of lowfat eggnog from Class I to Class II and of buttermilk used by a retail business to make biscuits from Class I to Class III are denied.

DATE: Comments are due on or before May 3, 1989.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior document in this proceeding:

Notice of Hearing: Issued October 13, 1988; published October 18, 1988 (53 FR 40733).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC, 20250, by the 15th day after publication of this decision in the **Federal Register**. Four copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Middleburg Heights, Ohio, on November 1, 1988, pursuant to a notice of hearing issued October 13, 1988 (53 FR 40733).

The material issues on the record of hearing relate to:

1. Classification of buttermilk products for use in biscuit and pancake mixes.
2. Classification of milk dumped by handlers.
3. Classification of lowfat eggnog.
4. Temporary increase of pool supply plant delivery requirement to pool distributing plants.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Classification of buttermilk biscuit and pancake mixes.* Under the Eastern Ohio-Western Pennsylvania milk order, a Class III classification should apply to skim milk and butterfat used to produce buttermilk biscuit and pancake mixes. At the present time, these products are not designated in the classification provisions of the order, and milk used in the products is therefore considered Class I. However, a product identified as buttermilk that is packaged and sold to restaurants for use in making biscuits should retain its Class I classification.

Sani-Dairy and Oberlin Farms Dairy, Inc., proposed that buttermilk biscuit mix be given a Class III classification. The witness testifying in support of the proposal also recommended that the classification of milk used in buttermilk pancake mix also be changed to Class III, as that product is similar to buttermilk biscuit mix. The witness for the two handlers testified that buttermilk biscuit mix is not a retail product, but is sold to fast food restaurants, bakeries, and other restaurants for use in baking biscuits. He stated that the product is labeled "Buttermilk biscuit mix (for further manufacturing)", and contains added stabilizer, salt and biscuit flour. The witness stated that the added salt changes the taste of buttermilk and the flour changes the color, making the buttermilk biscuit mix unpalatable for drinking.

The witness testified that Sani-Dairy is located in Pennsylvania outside the Order 36 marketing area with more than 15 percent of its receipts sold as route disposition inside the marketing area as is required for pool status. Because of the dairy's location in western Pennsylvania, it competes with other Pennsylvania handlers for sales of the buttermilk biscuit mix item to fast food restaurants. Many of these Pennsylvania handlers are regulated by the Pennsylvania Milk Marketing Board (PMMB), which classifies milk used in buttermilk biscuit mix as Class II. Because PMMB milk regulation has only two classes, the Class II price under the PMMB is equivalent to the Order 36 Class III price. Sani-Dairy, then, finds itself at a competitive disadvantage because of the order's Class I classification of milk used in buttermilk biscuit mix.

Changing the classification of milk used to make buttermilk biscuit mix to Class III was opposed by Milk Marketing, Inc. (MMI), a cooperative association representing a large number of producers pooled under the order. An MMI witness testified that while the product is not designed to be consumed as a beverage in fluid form as Class I products are, it is not storable, market-clearing or national in distribution as Class III products should be. The MMI witness recommended that buttermilk biscuit mix be classified in Class II, and supported the recommendation by citing the "Uniform Classification Decision" which established uniform classification throughout the majority of Federal milk order markets. The witness also observed, however, that the product is currently classified in Class III in the adjoining Ohio Valley order.

Since buttermilk biscuit mix, as formulated and packaged by proponents, is not intended to be distributed for use as a beverage and because the record shows that its basic composition is that of a nonfluid milk product, it is appropriate to classify the product in a lower-priced class. Likewise, buttermilk pancake mix should be treated similarly, as it appears to be a closely-related product. Changing the classification of buttermilk biscuit mix will place Order 36 handlers on a comparable basis with handlers regulated by the nearby Federal orders 33 and 40, and with handlers regulated by PMMB. Including buttermilk pancake mix as a Class III use will place Order 36 handlers on a comparable basis with Order 40 and PMMB-regulated handlers. In Order 33, pancake mix is classified as Class II. Due to the small difference between the Class II and Class III prices and the minor volume of milk used in pancake mixes, it is not expected that the product's differing classification in Orders 33 and 36 will cause handlers to gain any material competitive advantage.

Taylor Milk Company proposed that the classification of buttermilk biscuit mixes, buttermilk and buttermilk blends sold for use in on-premises baking at a retail business should be changed from Class I to Class II. A representative of Taylor Milk Company testified that during the past five years, the buttermilk market has broadened from sales for fluid consumption only to sales to a number of fast food restaurants which use the buttermilk solely for making biscuits. The witness stated that the buttermilk product sold by Taylor Milk Company to a fast food restaurant chain contains no modified food starch, but instead contains 1 percent nonfat dry milk to add body and texture to the product. According to the witness, Taylor Milk Company's principal competitor for this account is an Order 1 (New England)-regulated handler that adds modified food starch to its buttermilk. The witness expressed concern that the fast food restaurant might buy all of its buttermilk for biscuits from the Order 1 handler, and shift its purchases of other milk products to that handler as well. He stated that the effect of such a result would be to shift sales of producer milk out of the marketing area, causing a surplus of milk that would be classified as Class III, and thereby reducing prices paid to producers.

The Taylor Milk Company representative described three categories of buttermilk that should be classified as Class II. He defined buttermilk biscuit mixes as including flour and other ingredients that would be sold in a form that could be poured in a pan and baked. Class II Buttermilk would be buttermilk that is sold to a restaurant for use in making biscuits, and buttermilk blend was described as containing added nonmilk solids.

Taylor Milk Company's proposal to include buttermilk sold to a retail business for use in baking was opposed by witnesses representing Dean Foods and MMI. The Dean Foods representative stated that the proposed change would result in differences in classification between Order 36 and Orders 33 and 40, and thereby cause competitive disruptions between the marketing areas. The witness also maintained that buttermilk not adulterated with nonmilk ingredients is not distinguishable from a fluid milk beverage. The MMI witness testified that buttermilk is a consumable fluid beverage and should be classified as Class I.

There is no indication in the hearing record that the buttermilk biscuit mix described by the Taylor Milk Company witness is produced by any milk handler in the Order 36 marketing area, or indeed by any milk handler anywhere. The product described by the witness as "buttermilk blend" is the buttermilk biscuit mix discussed earlier in this decision that is to be included in Class III. Buttermilk sold to a restaurant for use in biscuits is not changed solely by virtue of its intended end use, and should retain Class I classification. The addition of nonfat milk solids, rather than nonmilk solids, serves only to make the product a fortified buttermilk. The order should not differentiate between customer uses of fluid milk products. Buttermilk and other fluid milk products are often used in home baking as well as restaurant baking. It would be difficult administratively to attempt to establish price differences between similar products used differently by customers.

As noted earlier, prices to producers are not expected to be affected materially by changing the classification of buttermilk biscuit and pancake mixes to Class III rather than to Class II. The price difference between the two classes averages only about 10 cents per hundredweight, or less than 1 percent of the order's uniform price to producers, and the volume of milk involved is not substantial.

2. *Classification of milk dumped by handlers.* Milk dumped or disposed of as livestock feed should be allowed to be classified as Class III use without prior approval by the market administrator when adequate records are available to support such use. Handlers must notify the market administrator on the next business day after such disposition.

Three proprietary handlers proposed that milk dumped, spilled or disposed of as livestock feed be classified as Class III without prior notification of, and approval by, the market administrator. The proponent's witness explained that under the current provisions of the order, a vat of milk intended for use in cottage cheese or cultured buttermilk that does not "set up" or culture may be dumped as Class III milk only after the market administrator has been notified of such a necessity, and approved it. According to the witness, the manufacturing process is delayed and its costs are increased when handlers must retain the milk in vats until approval is obtained. Also, he stated that such occurrences do not always occur during the market administrator's normal business hours when market administrator personnel are readily available to grant such approval. The witness testified that manufacturing records maintained by handlers are an adequate basis for substantiating such use, which could be verified at a later time during normal auditing procedures. There was no opposition to adoption of the proposal from industry representatives attending the hearing.

Under cross examination about inclusion of the word "spilled" in proponents' proposal, proponents' witness stated that the language of the proposed provision was identical to that contained on Order 33. However, if the need for conformity of order provisions between milk orders were a constraint, Order 33 would have to be amended to require prior approval of Class III use of dumped milk since all other orders currently require such prior notification and approval. Other orders do not require prior approval for the disposition of milk as animal feed and none allow spilled milk to be reported as a Class III use. Since Order 36 does not now require the market administrator's prior approval of milk disposed of as livestock feed as a Class III use, that current provision of the order requires no change. Also, milk spilled through carelessness or sloppiness should continue to be included in a handler's shrinkage, as it is under the present order provisions. If an excessive percentage of receipts is spilled or lost in the plant's operations, any amount exceeding the order's Class III shrinkage allowance is classified as Class I use. This provision is designed to assure that handlers have an incentive to make careful use of the milk they receive, so that producers do not have to bear the cost of handler carelessness through reduced uniform prices. Therefore, the word "spilled" should be omitted from the amended order language.

According to the hearing record, allowing milk dumped by a handler without prior notification of the market administrator to be classified as a Class III use would enhance the efficiency and reduce the cost of handlers' manufacturing operations. Furthermore, adequate records of such use would assure that a handler's latitude in dumping milk found to be unfit for its intended purpose would not be abused. In order to have dumped milk classified as a Class III use, handlers should be required to notify the market

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administrator of such use at their earliest opportunity during normal business hours.

3. *Classification of lowfat eggnog.* A proposal by Superior Dairy, a proprietary distributing plant operator, to change the classification of lowfat eggnog from Class I to Class II should not be adopted. Although the proposal as included in the hearing notice would have changed the product's classification to Class III, the Superior Dairy witness modified the proposed classification to Class II at the hearing. According to the witness, Superior Dairy currently produces a product called "holiday nog" from non-dairy ingredients, but would like to sell a lowfat eggnog made from fresh milk if the raw product cost of the beverage could be reduced. The witness estimated the difference in price of such a product between Class I and Class II classification to be 3–4 cents per quart. He stated that as a result of the proposed re-classification, producers would benefit from the expanded outlet for dairy ingredients; dairy processors would be able to manufacture a better-tasting and more wholesome product than those now made of imitation ingredients; and consumers would benefit from the availability of a lower-fat product at a competitive price. The witness testified that lowfat eggnog should be any eggnog product containing less than 3.5 percent butterfat. He characterized lowfat eggnog as differing from chocolate drink by the type of flavoring used and the seasonal nature of the product.

Adoption of the proposal was opposed by MMI and a representative of Dean Foods. The MMI witness testified that fluid milk products are those consumed in fluid form as beverages, and stated that lowfat eggnog falls within that definition. He pointed out that the product has about the same shelf life as other fluid milk products, and that the season of greatest demand for the product is the months of October through December when the milk supply is at its lowest level. The witness further testified that reclassifying lowfat eggnog to a lower class would create competitive disadvantages for handlers in neighboring orders who produce the product.

The Dean Foods representative also opposed changing the classification of lowfat eggnog on the basis of inter-market competition, testifying that Dean Foods bottles and distributes such a product as a Class I product in several surrounding milk order marketing areas. The witness also noted that Dean Foods' and its competitors' lowfat eggnog product is not made from imitation ingredients, but from fresh milk.

Lowfat eggnog is clearly a fluid milk product intended for consumption as a beverage. Proponent advanced no persuasive basis for reducing returns to producers for milk disposed of in the form of a flavored fluid milk product. Furthermore, classification of all flavored fluid milk products should be the same regardless of the type of flavoring used. Dean Foods' ability to market lowfat eggnog classified in Class I in neighboring marketing areas indicates that Superior Dairy should also be able to market such a product successfully. Producers then would benefit from the expanded outlet for fluid milk classified, as it should be, as Class I rather than in a lower class that would reduce producer returns. Further, dairy processors regulated under other orders apparently are able to process a lowfat eggnog which consumers will buy without a reduction in the classification of the product. Consumers would have available a lower-fat eggnog at a price competitive with similar fluid milk products. Consequently, the classification of lowfat eggnog should not be reduced to Class II.

4. *Temporary increase of pool supply plant delivery requirement to pool distributing plants.* As noted in the hearing notice, a proposal by MMI and Superior Dairy would have increased temporarily the percentage of milk required to be shipped by pool supply plants to pool distributing plants. At the hearing, MMI withdraw its proposal on the basis that the hearing has not been held in a timely manner, and that the temporary revision would no longer be appropriate. A witness for Superior Dairy did not support the proposal. There was no further testimony regarding the proposal. Accordingly, no further consideration is given to the proposal in this proceeding.

Two additional proposals proposed at the hearing by the Superior Dairy representative could not be considered because they were not included in the hearing notice.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Eastern Ohio-Western Pennsylvania order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Part 1036

Milk marketing orders, Milk, Dairy products.

PART 1036—[AMENDED]

1. The authority citation for 7 CFR Part 1036 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 1036.40 is amended by revising paragraphs (c) (1) and (3) to read as follows:

§ 1036.40 Classes of utilization.

* * * * *

(c) * * *

(1) Skim milk and butterfat used to produce butter, cheese (excluding cottage cheese and cottage cheese curd), evaporate or condensed milk or skim milk (plain or sweetened) in a consumer-type package, any concentrated milk product in bulk, fluid form used to produce Class III products, nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, buttermilk biscuit and pancake mixes, any product containig six percent or more nonmilk fat (or oil) and sterilized products (except fluid cream products and those products listed in paragraph (b)(3) of this section) in hermetically sealed glass or metal containers;

(2) * * *

(3) Skim milk and butterfat in fluid milk products, fluid cream products and products listed in paragraph (b)(3) of this section that are dumped by a handler who maintains adequate records of such use and notifies the market administrator of such use on the next business day following such use.

* * * * *

Signed at Washington, DC, on: April 13, 1989.

J. Patrick Boyle,
Administrator.

[FR Doc. 89-9198 Filed 4-17-89; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 1079

[Docket No. AO-295-A38; DA-88-111]

Milk in the Iowa Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.
ACTION: Proposed rule.

SUMMARY: This decision recommends a limited expansion of the Iowa marketing area to include certain unregulated areas in Iowa, Illinois and Missouri, and two Wisconsin counties now included in the marketing area for the Chicago Regional order.

Also recommended is a lock-in provision that would continue to fully regulate under the Iowa order a distributing plant that meets the pooling requirements of another Federal order as well, and that has a larger route sales volume in the other order's marketing area, until the third consecutive month of greater sales in the other marketing area. However, if the other order did not recognize the lock-in, the plant would shift to regulation under the other order in the first month of such greater sales. A proposal to permanently pool under the Iowa order a distributing plant located in the Iowa marketing area is denied.

The actions recommended in this decision are based on evidence received at a public hearing held in August 1988 to consider proposals by Swiss Valley Farms, Co., a dairy farmer cooperative. The changes in the order proposed in this recommended decision are necessary to reflect current sales distribution patterns of handlers regulated under the Iowa order and to maintain stable and orderly marketing conditions in the market.

DATE: Comments are due on or before May 9, 1989.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Under actions recommended herein, one currently unregulated handler that is a small business may become partially regulated under the Iowa order. The order provides partially regulated plants with options that could tend to minimize the impact of such regulation. In any event, any impact of adopting the proposed changes is expected to be minimal for this plant.

Prior documents in this proceeding:

Notice of Hearing: Issued July 11, 1988; published July 13, 1988 (53 FR 26446).

Notice of Rescheduled Hearing: Issued July 21, 1988; published July 25, 1988 (53 FR 27863).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and the order regulating the handling of milk in the Iowa marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, Room 1079, South Building, U.S. Department of Agriculture, Washington, DC, 20250, by the 21st day after publication of this decision in the **Federal Register**. Four copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Bettendorf, Iowa, on August 9–11, 1988, pursuant to a notice of hearing issued July 21, 1988 (53 FR 27863).

The material issues on the record of hearing relate to:

1. Regulation of a distributing plant with greater Class I route sales in the marketing area of another order.
2. Expansion of the Iowa marketing area.
3. Location adjustment revision.
4. Whether emergency conditions warrant the omission of a recommended decision and the opportunity to file written exceptions thereto with respect to issue No. 1.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Background Statement

Swiss Valley Farms, Co. (SVF), is a dairy farmer cooperative that operates a distributing plant located in Dubuque, Iowa, which is a pool plant regulated by the Iowa order. The plant has route dispositions in both the Iowa and

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Chicago Regional marketing areas. Class I route disposition from the Dubuque plant in the Chicago Regional (Order 30) marketing area exceeds that in the Iowa (Order 79) marketing area. However, both orders recognize sales to pool plants qualified on the basis of route disposition in the marketing area in determining which order will regulate the plant as a pool plant. In order to maintain the Dubuque plant's regulation under the Iowa order, SVF handles milk that is moved as Class I milk to another pool plant under the Iowa order. It is through this mechanism that the SVF plant has been pooled on the Iowa order. SVF testified that this procedure is costly and that there is no guarantee that the arrangement with other handlers for shipping milk to another plant or plants will continue. The cost was reported to be about $16,000 to $20,000 per month. If it were not for these bulk sales to other plants, the Dubuque plant would shift from regulation under the Iowa order to regulation under the Chicago order. SVF maintains that such a switch would be "devastating" to its producers because regulation under the Chicago order would jeopardize SVF's ability to remain competitive in attracting milk to the Dubuque plant.

The record indicates that SVF procures milk in competition with about 40 other handlers and has producers in four states. The handlers and the orders that they are regulated under are not identified, although there can be little doubt that other handlers regulated under the Iowa order are included. There also can be little doubt that many of the Dubuque plant's producers are in Iowa. However, the record does not provide enough data to determine the origin of SVF's receipts of farm milk at the Dubuque plant, although the proponent's principal witness did express a belief that "* * * more than two-thirds of their producers * * *" are in Iowa. Thus, it is not possible from data in the record to substantiate the impact that regulation under the Chicago order would have on SVF's ability to maintain supplies for its Dubuque plant. SVF maintained that it could cost in excess of $1 million per year if the Dubuque plant were regulated under the Chicago order.

The blend, or "uniform" price, is higher under the Iowa order, than it is under the Chicago order. The location adjustment under the Chicago order further reduces the blend price at Dubuque. Thus, the monies available to SVF to pay producers in the procurement area (wherever it is) for the Dubuque plant would be less under the Chicago order than under the Iowa order. It is because of this that SVF wants to have the Dubuque plant continue its pool status under the Iowa order.

The main issue at this proceeding involves defining the marketing area to appropriately reflect that territory within which Iowa handlers are the principal distributors of milk. The resolution of this issue is totally independent from the issue of a lock-in provision. The marketing area issue cannot be decided on the basis of a handlers ability to attract milk to its plant.

1. Regulation of a Distributing Plant With Greater Class I Route Sales in the Marketing Area of Another Order

A modified version of the two-month lock-in provision originally proposed by SVF should be adopted. However, it must be recognized that such provision would have no effect unless the other order involved has a complementary provision that recognizes the lock-in. Thus, even though adopted, the provision would not prevent an Iowa pool distributing plant from shifting to the Chicago order until such time that the Chicago order may be changed to recognize the Iowa provision.

The witness for SVF testified that their proposal number 2 would establish a lock-in for Order 79 so that a handler regulated under that order would continue to be pooled there until the third consecutive month of greater Class I route sales by the handler in another marketing area.

The witness said that since monthly reports are due promptly after the end of the month it is difficult to make an accurate determination in time to file the report as to within which area a plant has the greater volume of sales. He said that the retroactive impact of a plant changing orders is irreparable to the plant's customers and its producers. Producers, he said, may not want to deliver to the plant anymore, but that they may not be aware of the plant's change in regulation until six to seven weeks later.

The witness for the proponent stated that their lock-in proposal should be modified to provide that the market administrator announce the names of distributing plants that qualify pursuant to this provision.

The representative for SVF testified that some lead time is needed to serve the interests of handlers, producers and customers. He said that in the case of their Dubuque plant, a change in regulation would not be just a simple one-plant switch in regulation. This, he said, is because it would effect supply plants, milk diverted to nonpool plants and pumpover stations. Furthermore, he said, different qualifying and pooling provisions would have to be applied.

Proponent's witness testified that SVF was modifying its lock-in proposal to make the lock-in permanent. The modified proposal, he said, would apply so long as the Order 79 Class I price that applies at a plant location is not less than the other order's Class I price that would apply to that same location. He said that this modified proposal would avoid the shifting of an Order 79 plant to another order having a lower Class I price with the consequent impairment of the plant's ability to maintain its producer milk supply.

The witness for SVF said that if its Dubuque plant became regulated under Order 30, it would have to increase the over order premium so as to bring the producer pay price up to what would be payable if the plant had been regulated by Order 79 for the same period. He said that if the Dubuque plant became regulated by Order 30, its Class I price would decrease 21 cents and the producer blend price would decrease even more.

The witness for the proponent said that SVF cannot expect their dairy farmers in the Corydon, Iowa area to accept a 13-to-15-cent lower blend price and a minus 36-cent location adjustment for a total reduction of 50 cents. He said that the same would be true for producers in the Cedar Rapids area.

Proponent's witness said that SVF has a cheese plant in Clayton County and the milk diverted to this plant receives the Iowa blend price less a 24-cent location adjustment. He said that if milk diverted to this plant became regulated by Order 30, the blend price would be 13 to 15 cents lower than the Iowa blend, and a minus location adjustment of 36 cents would apply. Thus, returns to producers would be 26 cents per hundredweight lower than the Iowa blend price at that location.

The witness for SVF said they must now pay more than the Iowa blend price to procure milk. He said that if the Dubuque plant were to become regulated under Order 30 with its lower blend price and applicable location adjustments, it would be unable to compete for the procurement of milk from the farms now serving it. Regulation under Order 30, he said, would cost SVF approximately one million dollars per year because of the additional payments that would be necessary to maintain their current producers.

The proponent's witness stated that although the Department, in the past, has generally pooled a distributing plant in the order in which it has the largest volume of sales, it recently has departed from that policy because of changes in the marketplace. He said that recently the Department has locked-in several distributing plants in markets where they were located even though they had a larger volume of sales in other markets. He noted recent such decisions involving the Louisville–Lexington–Evansville and Ohio Valley orders and also the Nashville, Tennessee order.

A dairy farmer who is a member of SVF testified that regulation under Order 30 would cost him about $4,900 a year, therefore, he would have to find another market.

A witness for Central Milk Producers Cooperative (CMPC) testified that he was appearing on behalf of AMPI-Morning Glory Farms Region, Golden Guernsey Cooperative, Independent Milk Producers Cooperative, Lake-to-Lake Division of Land O'Lakes Dairy Cooperative, Manitowoc Milk Producers Cooperative, Midwest Dairymens Company, Milwaukee Cooperative Milk Producers, Outagamie Milk Producers Cooperative, Southern Milk Sales, Wisconsin Dairies Cooperative and Woodstock Progressive Milk Producers Association. The CMPC witness indicated that CMPC is a federation of cooperatives whose members pool about 93 percent of the producer milk on Order 30 and that in addition about 94 percent of the Class I milk is priced through CMPC's premium pool.

The CMPC witness testified that the lock-in proposal should be modified to make it clear that SVF does not intend to lock-in a pool supply plant. Furthermore, he said, there must be a corollary lock-out provision in Order 30 in order to accommodate this proposal. He said without the lock-out provision, both orders would be required to regulate the plant. The CMPC witness proposed a modification to the proposed lock-in provision that was intended to insure that the Order 30 language not be superseded by the Order 79 language.

National Farmers Organization stated at the hearing that there may be some justification for a one-month lock-in.

The order currently provides that the term "pool plant" shall not apply to a plant that qualifies as a pool plant but which has a greater quantity of Class I dispositions in the marketing area of another order than in the Iowa marketing area. However, the dispositions included in making this comparison include route dispositions plus dispositions to other plants that qualify as pool plants under the respective orders. So long as a plant's route dispositions in the Iowa marketing area plus dispositions to other plants that are pool plants based on in-area route dispositions are greater than similar dispositions to another order, the plant will be pooled under the Iowa order. The Chicago order has essentially the same provision. Thus, SVF's Dubuque plant has been able to remain fully regulated under the Iowa order.

As originally proposed, the lock-in would potentially create an impasse where a distributing plant meets the pooling requirements of two orders. The impasse would exist because each order would claim the plant as a pool plant and neither order would yield to the other one. At the hearing, a modification was proposed such that the Iowa order lock-in would not take effect unless the other order had a provision that recognized the lock-in.

At this time the only prospective application of a lock-in is in conjunction with the Chicago order. Some opponents expressed the view that a lock-in should not be adopted since it could not function anyway.

The basic purpose for a two-month lock-in is to prevent a plant from flip-flopping regulatory status between two orders and to allow some time for sales adjustments to be made in the event a plant has an unexpected change in its distribution pattern that would cause a shift in regulation from one order to another. Thus such a provision may be helpful in preserving market stability at unforeseen times and circumstances that may develop in the future, since some other nearby orders would recognize a two-month lock-in.

A lock-in provision should be applicable only to a distributing plant. This point was raised by CMPC, and is consistent with the intent of the provision as revealed in the testimony of the proponent's witness. There was no indication that proponent intended any application to plants other than distributing plants.

A suggestion by proponent that the market administrator publicly announce the name of each handler qualifying a plant as a pool plant under the lock-in provision should not be adopted. The purpose of this suggestion was so that producers, handlers and customers would have advance notice of a possible switch in regulatory status of such a plant.

The evidence on the need for such a provision is sparse. It may be, as proponent contends, that producers need to know that a plant has switched from one order to another. On the other hand, it does not necessarily follow that a plant pooled under the two-month lock-in will necessarily be regulated under another order in the next succeeding month. It may be that the lock-in provision has been applicable in a situation where the handler has made adjustments in operations that will result in the plant continuing to be pooled under the Iowa order. Given the possible range of conditions that application of the lock-in may reflect, it does not appear that an announcement by the market administrator would be particularly useful. The lock-in provision recommended in this decision does not contain such a requirement.

As adopted, a plant that had been a pool distributing plant under the Iowa order for the preceding month, but which in the current month has greater Class I dispositions (route sales and/or transfers to plants) in another marketing area, would continue to be a pool plant until the third consecutive month of such greater dispositions in the other area, unless the other order nevertheless regulates the plant.

A further proposed modification by the proponent should not be adopted. SVF proposed an additional provision to permanently lock a distributing plant located in the Iowa marketing area into the Iowa order so long as the Iowa order's Class I price at that plant's location is not less than the price at that location under the order in which the plant had the greater route disposition. Such a provision was adopted recently in the Louisville-Lexington-Evansville order, with a corollary change in the Ohio Valley order, and in the Nashville order, with a corollary change in the Georgia order. SVF maintains that the market situations that led to such amendments to these orders are similar to SVF's procurement problem involved in this proceeding. This latter proposed modification also was widely opposed.

The two recent proceedings involving other orders that were cited by both proponents and opponents have no bearing on this proceeding. Whether or not there are certain similarities in the situation that concerns SVF and those that existed in the other orders cannot be decisive in this proceeding. Moreover, without regard to the merit of any evidence submitted by SVF or opponents, further consideration at this time is unwarranted because a corollary amendment to the Chicago order clearly would be required. However, such an amendment to the Chicago order is not an issue in this proceeding. Therefore, adoption of a permanent lock-in provision would serve no purpose.

At the hearing, the witness for the proponents expressed his view that absent a corollary amendment of the Chicago Regional order to recognize a lock-in provision in the Iowa order, the

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lock-in nevertheless could be implemented by terminating certain provisions of the Chicago order.

If this were done, it would change the Chicago order's present application where the order does not recognize any lock-in provision, to potentially having to recognize lock-in provisions in any order having such provisions. The merits of such an action have not been explored on the record of this proceeding. There simply is no record evidence supporting such a change, nor any other evidence that would lead to a conclusion that such action was necessary because the provision to be terminated obstructs or does not tend to effectuate the declared policy of the Act.

2. Expansion of the Iowa Marketing Area

The Iowa marketing area should be expanded to incorporate additional territories where it is clear that a majority of the milk distributed therein was distributed by plants fully regulated under the Iowa order. The specific territories that should be added are identified on a state-by-state basis later in the discussion of this issue.

Swiss Valley Farms, Co. (SVF), proposed that the Iowa marketing area be expanded to include the following counties:

1. In Iowa, the counties of Des Moines, Henry, Lee and Van Buren.

2. In Illinois the counties of Hancock and Henderson, and the townships of Fulton, Ustick, Clyde, Genesee, Mount Pleasant, Union Grove, Garden Plain, Lynden, Fenton, Newton, Prophetstown, Portland and Erie in Whiteside County.

3. In Missouri, the counties of Clark, Grundy, Harrison, Lewis, Mercer, Putnam, Schuyler and Scotland.

4. In Wisconsin, the counties of Crawford and Grant.

At the hearing, SVF modified the proposal by deleting Hancock County in Illinois and Lewis and Clark Counties in Missouri.

The witness for the proponents testified that SVF markets milk of approximately 2300 dairy farmer members and that most of the milk is pooled under the Iowa marketing order (Order 79) through their fluid milk plant in Dubuque and their supply plants that assemble milk for transfer to the Dubuque distributing plant.

The proponent's witness said that SVF distributes a substantial amount of packaged fluid milk products into the Chicago Regional marketing area (Order 30) and that any further expansion into Order 30 will regulate their Dubuque plant under Order 30. He said that the impact of that change in regulation would be devastating because of the location adjustment provisions and the unit qualification for supply plant provisions of Order 30. He stated that the price that SVF would be able to return to its members under Order 30 would not allow it to be competitive in the supply area for their Dubuque plant.

SVF witness stated that their proposals would allow it to continue pooling their Dubuque plant under Order 79 and avoid jeopardizing its supply of milk.

The proponent's witness said that SVF is not attempting to secure a lower price on the Class I milk distributed from its Dubuque plant. He said that the Class I price fixed by the Iowa order at the Dubuque location is 21.9 cents higher than the Class I price fixed by Order 30 at this same location. The witness stated that the plants that SVF compete with in the Order 30 marketing area are not placed at a competitive price disadvantage with the Dubuque plant being pooled under Order 79 rather than Order 30.

The witness for the proponent said that the location adjustment under Order 30 fixes the minimum Order 30 Class I price and blend price at Dubuque below the prices set by Order 79. Order 79, he said, like most orders, establishes a lower price to the north and higher price to the west and south whereas Order 30 establishes a lower price west and south.

The proponent's witness said that the Agricultural Marketing Agreement Act of 1937 requires the Secretary to fix the price at locations that will insure an adequate supply of milk at that location. He said that this standard is not met under both orders by having a lower price at Waterloo, Iowa, under Order 30, than the price at this same location under Order 79. The net effect of this misalignment, he said, is to create an artificial trade barrier.

The witness stated that proponent's exhibit shows that as the distance from Chicago increases in a westerly direction through Davenport, Iowa, the price difference increased from 29.2 cents at Davenport to 52.3 cents in Jasper County (Iowa) and points west. He said that these price differences have stopped Iowa producers from supplying plants regulated by Order 30. There is no Iowa producer milk moving to Order 30 regulated plants, he said, except from the extreme northeast counties of Iowa.

Proponent's witness indicated that in order for a distributing plant to compete for sales, it must have a raw product price reasonably in line with others selling in the area. He said that raw product costs are a combination of the order's class prices and the additional payment that it takes to attract milk to the plant. He stated that the additional payment must be made to all producers supplying the plant; otherwise there would be instability (disorderly marketing) in the procurement area. Thus, a plant located in Iowa cannot pay the Order 30 price reduced by location adjustments and procure milk in competition with plants paying the Order 79 price, he said.

The witness for the proponent indicated that the Department in the past has recognized this inconsistency in other markets and has resolved the problem by snubbing the price in a marketing area to the price fixed by the order for that area. He said that would require a major overhaul of the Order 30 pricing system and the support of the majority of the Order 30 producers and that a more expedient way in dealing with the problem is to revise the Order 79 marketing area to fit the distribution patten of plants subject to regulation by the order. In his opinion, the SVF proposals do not completely resolve this inconsistency in prices and that this problem eventually must be resolved by an appropriate amendment to Order 30. In the meantime, proponents are looking for other ways to keep the plant pooled under the Iowa order.

The proponent's witness testified that the distribution pattern of fluid milk plants have changed substantially since the marketing orders in Iowa and neighboring states were established. He said that distributing plants, such as the SVF Dubuque plant, distribute fluid milk products over a much greater geographical area and that this benefits the milk suppliers, plant operators and consumers by way of a lower per unit processing cost.

The witness for SVF testified that a survey conducted by SVF indicated that Iowa handlers have approximately 92 percent of the sales in that portion of Whiteside County that is proposed being added to the marketing area. In Henderson County, he said, Iowa handlers have about 53 percent of the sales. In Hancock County, he said Order 32 handlers (Southern Illinois) have the majority of sales. Hancock County, he said, is included in the proposal for the convenience of Iowa handlers because of the requirement for reporting in-area and out-of-area sales.

Iowa handlers, he said, have about 95 percent of the sales in Henry County; about 72 percent in Des Moines County; about 64 percent in Lee County and about 94 percent of the sales in Van Buren County. He said in total, Iowa handlers have about 74 percent of the sales in the Iowa counties proposed to be added.

In the Missouri counties of Harrison, Mercer, Putnam, and Schuyler, Iowa handlers, he said, have 100 percent of the sales. In Grundy, he said, Iowa handlers have 55 percent of the sales. He said that in Scotland County sales are divided equally between Iowa and Illinois plants. Order 32 plants, he said, have the majority of sales in Lewis and Clark Counties. The inclusion of these two countries, he said, also is for the convenience of the Iowa handlers who have to report separately in-area and out-of-area sales. In total, he said, Iowa handlers have 61 percent of the sales in the Missouri counties proposed being added to the Order 79 marketing area.

The witness for SVF said that for Grant and Crawford Counties, Iowa handlers have 61 percent of the sales, Upper Midwest handlers have 20 percent and Chicago handlers have 14 percent. He said that adding these two counties to the Order 79 marketing area will not change the current status of any plant under either order or the classification of milk or the blend price in either order.

The proponent's witness stated that SVF wished to modify its expansion proposal by deleting Hancock, Lewis, and Clark Counties because the survey showed that Order 79 handlers do not have the majority of sales in these counties.

Anderson Erickson Dairy Co., although it did not present testimony at the hearing, filed a brief in support of the SVF proposals.

The first of many witnesses to testify in opposition to the proposals was a representative for Prairie Farms Dairy (PFD). The PFD witness said that their organization, although it has a joint venture interest in an Order 30 pool plant as well as a joint venture interest in two plants regulated under Order 79, was testifying on behalf of their solely owned plants pooled on the Southern Illinois market (Order 32).

The opponent's witness stated that PFD has over 500 producers located in the Order 32 marketing area and that it also acquires milk from cooperatives whose members are located in Iowa, Minnesota, Wisconsin and Illinois. He said that the SVF proposal could adversely impact on these cooperatives and their ability to provide milk to their Order 32 plants.

The PFD witness said that their immediate concern was their distributing plant located at Quincy, Illinois (Adams County). He said that the Quincy plant receives about 8 million pounds of milk per month and utilizes about 70 percent of this milk in Class I. The Quincy plant, he said, is in an unregulated county with large unregulated areas around Quincy.

The witness for PFD testified that for the past 12 months the Quincy plant sales averaged about five percent in Central Illinois (Order 50), about 19 percent in Order 32 and about 76 percent in non-regulated areas. He said that SVF proposal for the expansion of the marketing area, prior to its modification deleting several counties, would have made it very difficult for it to remain pooled under Order 32. He maintained that the expansion proposal would not solve SVF problem but would shift the problem from one cooperative to another.

The witness for PFD testified that although they did not do their own survey of the proposed expansion, it did compare its sales in the various counties with SVF estimated PFD sales. He said that there is no economic, historical, practical, or beneficial justification for including any of the Missouri, Illinois or Iowa counties in the expansion except for the Iowa counties of Henry, Des Moines, and the Illinois county of Henderson.

The opponent's witness testified that their exhibit shows that for Henderson and Hancock counties in Illinois in total, SVF had 15.1 percent of the sales in these two counties and that SVF estimated that PFD had 62 percent of the sales in the two counties while PFD's exhibit shows actual sales as 25.7 percent.

The representative for PFD said that their exhibit shows for the eight Missouri counties in total, SVF has 7.9 percent of the sales in those counties and that SVF estimated PFD had 29.6 percent of the total county sales. PFD's exhibit shows actual sales as 25.5 percent.

The witness said that the PFD exhibit shows that for the four Iowa counties in total, that SVF had 21.4 percent and that SVF estimated that PFD had 8.9 percent of those sales compared to PFD actual sales of 19.1 percent.

The witness for the opponent testified that for March 1988, the Quincy plant had 19.8 percent of its sales in Order 32 and if all of the counties originally proposed by SVF would become part of the Order 79 marketing area, their Quincy plant would have had 15.6 percent of their sales in Order 79. He said that the 4.2 percent difference, which equates to about 200,000 pounds of milk, is unacceptable to PFD.

The opponent's witness proposed that only Henderson County (Illinois) and Henry and Des Moines Counties (Iowa) be included in the expanded marketing area. These three counties, he said, would give SVF about 53 percent of their sales in all of the 14 proposed counties. He said that allowing the 11 other counties to remain as unregulated would allows PFD a reasonable sales cushion between orders 32 and 79. Of the 11 counties, he said, the Quincy plant would have had about 34 percent of the total sales compared to 13 percent for SVF. He said that for the three counties that PFD suggests be added to the marketing area, SVF would have about 23 percent of the total and the Quincy plant less than one percent. He also indicated that PFD could support adding the townships named in Whiteside County, Illinois, to the marketing area. Land O'Lakes, Inc., although not presenting testimony at the hearing, filed a bried in support of PFD's modified proposal.

The witness for PFD testified that the 120 Quincy producers are located in southeast Iowa, northeast Missouri, and western Illinois. He said that the central locations in the proposed two Illinois counties are on the average only 68 miles from Quincy while they are 154 miles from Dubuque. Central locations in the proposed Iowa counties, he said, are on the average 74 miles from Quincy compared to an average of 154 miles from Dubuque. He said that central locations in the proposed Missouri counties show that on average they are 99 miles from Quincy while being 236 miles from Dubuque. Efficiency of distribution alone, he said, should support the concept that this area is best served by the Quincy plant compared to the Dubuque plant.

The witness for the opponent testified that regulation of their Quincy plant by Order 79 would be devastating to PFD and their dairy farmers. For example, he said that the blend price to dairy farmers associated with the Quincy plant would have averaged 45 cents less if the plant had been regulated by the Iowa order. A 45-cent reduction in blend prices would amount to over $560,000 for one year, according to the witness. Land-O-Lakes and Associated Milk Producers, Inc., he said, have told PFD that they could not deliver milk to Quincy at these prices.

The representative for PFD said that since May 1987 PFD has been receiving milk from SVF into its joint venture pool distributing plants located in Iowa City and Des Moines, Iowa, for the purpose of helping SVF continue to qualify the Dubuque plant on Order 79.

The expansion proposal, he said would encourage SVF to increase their sales into this newly expanded area, so as to be able to increase their sales into Order 30. He said that PFD would be discouraged from expanding into the

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area that has been home country for the Quincy plant for over 50 years.

Numerous interested parties that are either dairy farmer cooperatives or proprietary handlers regulated under the Chicago order presented testimony in opposition to the SVF proposals. In general, such opposition expressed views that: (1) SVF should be regulated under the Chicago order because it has greater Class I route dispositions in the Chicago marketing area than in the Iowa marketing area; (2) SVF, due to the higher Iowa blend prices, has a competitive advantage over Order 30 regulated handlers in obtaining raw milk supplies in some areas of Wisconsin and Illinois; (3) because SVF has a milk procurement advantage, it also has an advantage in selling packaged milk (lower sales price). Chicago handlers have lost sales accounts to SVF. (4) SVF's problems are its own doing since SVF actively has expanded sales outlets in the Chicago market; (5) expansion of the Iowa marketing area now will lead to further expansion in the future; (6) the Chicago and Iowa marketing areas should be merged; (7) SVF actively seeks (and obtains) contracts to supply milk to schools and colleges in the Chicago marketing area; (8) adding Crawford and Grant Counties in Wisconsin to the Iowa marketing area would increase the Iowa blend price and decrease the Chicago order blend price, and thus take away about $1.6 million per year from Order 30 producers; and (9) the evidence shows an overlap in the milk procurement areas of the Chicago and Iowa orders such that the Chicago marketing area should be expanded. Therefore, the record should be kept open so that additional proposals on this issue could be submitted.

In addition, CMPC witnesses specifically opposed all the SVF proposals for the following reasons:

(1) Failure of the Department of Agriculture (USDA) to notify all interested persons that a hearing request had been made and to invite comments on additional proposals;

(2) USDA's refusal to consider that because a marketing area proposal would be heard, then all other provisions of the order would be open for proposed amendment;

(3) Removing two counties from the Chicago marketing area and adding them to the Iowa marketing area would, in effect, amend the Chicago order without providing Order 30 interested parties an opportunity to submit additional proposals; and

(4) The proposals attempt to circumvent the pool plant provisions of the Chicago order without a proper notice to amend the order's pool plant definition.

Most of the testimony by interested parties regulated under the Chicago order concerned opposition to continued pool status under the Iowa order for DVF's Dubuque plant. However, most of that testimony more nearly relates to the issue of a lock-in-provision. That issue has been dealt with earlier in this document. Therefore, only a brief summary of the Chicago parties' positions has been noted here.

A witness for Deters All Star Dairy, Inc. (Deters), said that they operate an unregulated distributing plant in Quincy, Illinois, with about 15 percent of their sales in the Iowa Counties of Lee, Des Moines, Henry and Van Buren; the Missouri Counties of Scotland, Putnam, Schuyler, and the Illinois Counties of Hancock and Henderson. He said that Deters is opposed to all of the proposals except for adding the Wisconsin Counties of Crawford and Grant, the Illinois County of Whiteside or the Missouri Counties of Grundy, Harrison or Mercer. The expansion proposal, he said, would cause Deters to become regulated, resulting in an increase in their reporting and bookkeeping costs.

Specific Territories to be Added to the Marketing Area

(a) *Illinois territory*: The unregulated townships in Whiteside County and Henderson County should be added to the Iowa marketing area. In Whiteside County, the 13 townships are predominantly served by Iowa handlers, whose Class I sales in the area are estimated at over 90 percent of the total.

In Henderson County, SVF reported its own sales and estimated sales for one other Order 79 handler to comprise 53 percent of total Class I sales. SVF's survey resulted in an estimate that Prairies Farms (Quincy) had about 28 percent of the sales and that another Order 32 plant had 19 percent. The only other data submitted at the hearing was by the Prairie Farms Dairy representative. His data showed that the Quincy plant's sales amounted to only one percent of the estimated total in Henderson County. This is a large discrepancy (28 percent versus one percent). However, the SVF estimates of the Quincy plant's sales were larger than actual. Since it is clear the survey did not over-estimate, it is probable that the 53 percent of total estimate may be too low. Henderson County's Class I sales appear to come mostly (more than half, at least) from Iowa handlers' plants. Accordingly, Henderson County should be identified as part of the marketing area for the Iowa order.

(b) *Iowa territory*: Henry, Des Moines, and Van Buren Counties, which now are unregulated, should be included in the Iowa marketing area. Iowa handlers are estimated to have about 90 percent of the Class I sales in Henry and Van Buren Counties, and about 70 percent in Des Moines County. The Prairie Farms representatives presented data on its sales in Henry and Van Buren Counties, which showed less sales than estimated by SVF. A witness for Deters Dairy, Quincy, Illinois, indicated that any sales from its plant in these counties would be very small. Therefore, there is no reason to question whether Iowa handlers predominate in service to these counties. No one offered any data other than SVF's estimate of sales in Des Moines County.

Lee County also was proposed to be in the marketing area. SVF's estimated total distribution in this county was 804,358 pounds, of which SVF distributed 173,339 pounds and estimated another 43 percent of the total to have been distributed by two other Iowa handlers. SVF estimated that Prairie Farms Dairy, Qunicy, Illinois, had another 20 percent, which left 16 percent divided almost equally among three other non-Iowa order handlers. However, the Prairie Farms witness testified that actual sales in Lee County from its Quincy plant amounted to 396,352 pounds, or 49.3 percent of estimated total consumption, rather than the 20 percent figure noted above. This discrepancy cannot be explained from information available in the record. Thus, assuming that the estimated total consumption figure for Lee County is reasonable, it cannot be concluded that Iowa handlers have a majority of Class I distribution in the County. Accordingly, Lee County should not be identified as part of the marketing area for the Iowa order.

(c) *Missouri territory*: Five of the eight proposed unregulated Missouri counties should be added to the marketing area. They are: Grundy, Harrison, Mercer, Putnam, and Schuyler Counties. The other three (Clark, Lewis, and Scotland) should remain unregulated.

Class I consumption in Grundy County was estimated by SVF to be about 223,000 pounds per month. SVF's sales in Grundy County are small, at about 6,000 pounds, while sales by other Iowa handlers were projected by SVF to be more than 50 percent of the total. However, SVF overestimated the amount of milk distributed in Grundy County by Priarie Farms of Quincy. At the hearing, Deters dairy indicated that they had no problem with Grundy County being added to the marketing

area of the Iowa order. Thus it appears that Iowa handlers have at least 55 percent of the Class I disposition in Grundy County. Harrison and Mercer Counties also should be included in the marketing area. SVF's survey indicated virtually all of the Class I milk in both counties was distributed by plants regulated under the Iowa order. There was no contrary evidence concerning these counties.

SVF's survey of Putnam County indicated that virtually all the Class I milk was distributed in the County by Iowa order handlers. The witness for Deters Dairy indicated that any milk distributed from the Quincy plant would be small, and was not sure whether it would include any Class I milk at all. Thus, there is a sound basis in the record to include Putnam County.

The preceding paragraph could apply to Schuyler County as well, since the SVF survey found only products distributed by Iowa handlers. However, the representative for Deters Dairy indicated that here, too, there might be a very small amount of Class I milk dispositions by a distributor, but not any direct distribution by Deters. So, in Shuyler County, the evidence leads to a conclusion that Iowa handlers have nearly all, if not all, of the Class I sales.

Clark, Lewis, and Scotland Counties, should not be added to the Iowa marketing area. The first two were dropped from the proposal by the proponents. Moreover, the sales data would not support the proposal. The latter, Scotland County, should not be included because there is at least a 50 percent discrepancy in sales survey results. SVF's survey indicated 100 percent of the sales in Scotland County came from Iowa order plants. Prairie Farms, on the other hand, indicated that it's Quincy plant had route sales equal to 58 percent of the estimated consumption. This discrepancy remains unresolved. The available data do not permit a conclusion that Scotland County is served primarily by Iowa plants. Therefore, the inclusion of Scotland County must be denied.

In several of these counties, the sales by SVF are a small proportion of the total. However, what is most important in this case is whether the predominant distributors of Class I milk are handlers regulated by the Iowa order.

Deters, in its testimony and in its brief, took the view that several of the proposed counties should not be added to the marketing area because no evidence can be found that disorderly marketing conditions exist.

It is not necessary that disorderly marketing conditions exist before a county or other parcel of territory may be annexed to a marketing area. While other factors may be involved, the principal basis for defining marketing areas under the Federal milk marketing order program long has been that a marketing area defines a common sales area served primarily by competing handlers. If that condition exists, and it does in most of the counties discussed thus far, then the absence of market disorder of no consequence. A major purpose of the Agricultural Marketing Agreement Act of 1937 is to promote orderly marketing. It is not a prerequisite that disorderly marketing must exist before this goal of the Act may be achieved.

The territory in Illinois, Iowa, and Missouri that should be added to the Iowa marketing area should have no impact on the regulatory status of the Prairie Farms plant at Quincy, and only minimal impact upon Deters Dairy, which is unregulated.

The representative of Prairie Farms introduced an exhibit showing its Quincy plant's route sales in the counties proposed to be part of the Iowa marketing order. The total shown for March 1988 was 871,842 pounds. The witness expressed concern that this amount was large enough that any increase in sales in the Iowa order could cause the plant to flip over to regulation under the Iowa order. However, the plant's sales in the nine counties adopted in this decision amounted to only 115,273 pounds, or only 13 percent of the total sales in the counties originally proposed by SVF. This should minimize any concern of Prairie Farms that expanding the Iowa order could cause its Quincy plant to shift to the Iowa order.

With regard to Deters Dairy, it is not possible to state exactly what portion of its Class I distribution will be partially regulated under the expanded Iowa order. However, in the nine counties in Illinois, Iowa, and Missouri, Deter's witness indicated only very small, or perhaps no sales at all. Therefore, it is expected that any impact upon Deters due to this action would be minimal, in that the plant would be only partially regulated.

As the operator of a partially regulated distributing plant, Deters would be required to pay an administrative assessment on the total hundredweights of route dispositions in the marketing area, less any receipts of milk priced as Class I milk under a Federal order. The maximum assessment rate for this purpose is four cents per hundredweight.

Additionally, Deters would have the option to have any further obligation computed under one of the following:

1. Compute the handler's total value of milk at the order's class prices just as if the plant were a fully regulated pool plant. Subtract payments made for milk that would have been producer milk if the plant had been fully regulated. Any positive difference would be paid to the producer-settlement fund.

2. An amount computed by multiplying the total hundredweights of route dispositions in the marketing area, less any receipts at the plant of milk priced as Class I milk under a Federal order, by the difference between the applicable Class I and uniform prices. This amount would be paid to the producer-settlement fund. If the plant received milk priced as Class I milk under a Federal order in an amount at least equal to the in-area route dispositions, there would be no obligation.

In order to determine the payment obligations referred to above, Deters would be subject to certain reporting requirements of the order.

Deters undoubtedly operates a small business. Although the options just described are available to any handler that operates a partially regulated distributing plant, they do provide a small business with choices that can help minimize the impact of even partial regulation.

(d) *Wisconsin territory*: The marketing area of the Iowa order should be expanded to include Crawford and Grant Counties in Wisconsin. Both of these counties are currently included in the marketing area for the Chicago Regional order.

The data submitted by SVF in their sales survey included estimates for these two counties. These data show that Chicago order handlers account for an estimated 8 percent of the route dispositions in Crawford County, and 16 percent in Grant County. The actual sales by SVF in these counties represent 54 and 70 percent of estimated consumption in Crawford and Grant Counties, respectively. The remainder was estimated to be distributed by a handler regulated under the Upper Midwest milk order.

At the hearing, a representative for Dean Foods indicated through cross-examination that his firm's route disposition amounted to some 13.6 percent of the total in Crawford County, rather than 8 percent as shown on the SVF exhibit. It must be noted that the exhibit does not list Dean Foods as a distributor in Crawford County, but does for Grant County at an estimated level of 8 percent. This raises a question as to whether the SVF survey erred in not picking up Dean as a distributor in

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Crawford County, or whether the Dean representative misspoke in his question to a AMPI witness. It probably makes little difference because the sales figures quoted for SVF are based on actual sales figure, whereas the percentages indicated for other distributors are estimates. Thus, if the estimated total consumption figures are about right, an error in estimates for other distributors would not change the conclusion that an Iowa handler, SVF, is the largest distributor with more than half of the Class I milk in both counties. This being the case, both counties should be identified as part of the Iowa order marketing area, rather than the Chicago Regional order marketing area, based on current marketing conditions as revealed in the record of this proceeding.

It is noted that there were no distributing plants under either order in either county in May 1988. However, there were four reserve supply plants under the Chicago order that were located in these counties, and two supply plants pooled under the Iowa order located therein.

Crawford and Grant Counties clearly are areas where there is overlapping of supplies for both the Chicago and Iowa Orders. The evidence in the record indicates also that there is keen competition for those supplies. In December 1987 the producers located in the two counties were about evenly divided between the two orders, with a few more producers and a little bit more milk that participated in the Iowa market than in the Chicago market.

The facts just noted do not weigh heavily in favor of inclusion in either marketing area. Therefore, the question of which order's handlers distribute more milk in the two counties takes on added importance as a determining factor concerning which marketing area should include the two counties. In this regard, this record clearly supports a conclusion that, Crawford and Grant Counties in Wisconsin have a stronger association with the Iowa market than with any other market for which data were provided at the hearing.

At the hearing, and in certain briefs filed, the validity of the sales survey conducted by or for SVF was questioned. Briefly stated, the estimates were made as follows:

(1) Estimated consumption of fluid milk products for each county.

—Used a national average annual per capita consumption figure (source—Milk Industry Foundation, Washington, DC) divided by 365 to get a per capita consumption figure of .622 pounds per day.

—Used population data based on the 1980 U.S. Census, adjusted to 1985 (source—Rand McNally Atlas).

—Multiplied the population for a given county by the daily per capita consumption figure, and multiplied the result by 30 to get an estimate of total monthly fluid milk products consumption.

(2) The sales figures for SVF are annual sales divided by 12 to produce a monthly figure.

(3) The estimated percentages of total sales in each county by handlers other than SVF were arrived at through discussions with customers and by on-site observations in "Practically every store of any consequence."

There is no doubt that the methodology employed by SVF did not produce perfectly accurate results. The testimony by Prairie Farms' witness indicated actual sales figures different from those estimated by SVF clearly shows this. Nevertheless, such differences generally did not change the critical question of whether Iowa handlers were the dominant distributors in a given county. If such differences appeared to raise a serious question in that regard, the county was not included in the marketing area expansion. It also must be noted that except for Prairie Farms, no one else produced specific sales data. By and large, SVF's estimates remained unchallenged and uncontradicted. Accordingly, they must be regarded in this record as reasonable estimates, except as otherwise noted in the discussions of the individual counties.

The current issue of whether Crawford and Grant Counties in Wisconsin should be in the Iowa marketing area is quite similar to an earlier question involving eight counties in northwestern Indiana. The eight counties, formerly known as the Northwestern Indiana marketing area were involved in the Chicago Regional marketing area when that order was promulgated on July 1, 1968. However, only a few months later it was found that the inclusion of those counties in the Chicago Regional marketing area had caused major competitive problems for 12 small local handlers because they were not regulated in a way that insured a milk cost comparable with their main competition. This occurred because the blend price under the Chicago order would be lower than the uniform prices as computed under the former Northwestern Indiana order. For example, the decision notes that under the Chicago order the blend price at Northwestern Indiana plants "* * * is expected to average more than 30 cents below the prices received by Indiana producers shipping to Fort Wayne or Indianapolis." Accordingly, the eight counties were removed from the Chicago order and were included in the new Indiana marketing area.[1]

The record in this proceeding clearly demonstrates that SVF's Dubuque plant would be competitively disadvantaged in competing with other plants regulated by the Iowa order for local supplies of milk if it became regulated under the Chicago order. Thus, this decision parallels in many ways the 1968 decision to remove the eight northwestern Indiana counties from the Chicago Regional marketing area.

Including Crawford and Grant Counties in the Iowa marketing area, based on the fact that Iowa regulated handlers have the majority of Class I dispositions in those counties, will lessen the likelihood that the Dubuque plant will switch to regulation under the Chicago order. However, if SVF continues to expand its sales in the remainder of the Chicago marketing area, such action nevertheless could bring about such a shift.

The principal opposition to expanding the marketing area came from cooperatives and handlers subject to the Chicago Regional order. In their view, if SVF had greater route dispositions in the Chicago marketing area than in the Iowa area, then the Dubuque plant should be regulated under the Chicago order. Otherwise, SVF should reduce distribution in the Chicago marketing area. The Chicago interested parties also held that SVF has an advantage over Chicago cooperatives and handlers in competing for producer milk supplies in Wisconsin so long as SVF is regulated under the Iowa order, which has a higher uniform price than the Chicago order. They also urged that other avenues should be pursued, such as revising the location adjustment provisions of the Chicago order, merging orders, and expanding the Chicago marketing area to include the territory previously regulated by the Quad Cities-Dubuque milk order, which is part of the marketing area of the current Iowa order.

Accordingly, Counsel for CMPC moved that this proceeding should be terminated without issuing a recommended or final decision. The basis for the motion was that SVF failed to provide the data necessary to permit the Secretary to reach a decision on the merits of the proposals considered at the hearing. Alternatively, he urged that the record be kept open so that other proposals not heard could be considered at a continuation of the hearing.

[1] Official Notice is taken of the Assistant Secretary's decision, issued December 5, 1968, published on December 10, 1968 (33 FR 18282) on Milk in Indianapolis, Ind. (Renamed "Indiana"), Fort Wayne, Ind., and Chicago Regional Marketing Areas.

The issuance of this document constitutes a denial of the motion to terminate the proceeding or to keep the record open. As noted earlier, the limited lock-in provision that is adopted cannot be made effective with respect to the Chicago order for the reason stated. Also, the proposal raised at the hearing for a permanent lock-in is denied for the reasons stated. The remaining issue, marketing area expansion, can be, and has been, appropriately decided based on the information obtained at the hearing. Therefore, it is concluded that it would serve no useful purpose to reopen the hearing to consider additional proposals at this time. Such action would only serve to delay the timely issuance of appropriate action based on the hearing record.

It must be recognized that the limited marketing area expansion adopted herein may not provide a permanent solution to the issues raised at this proceeding. Rather, it may serve as a stop-gap approach to SVF's problem of regulatory status while the dairy industry in the areas involved searches for a broader based longer-term solution. Some of the information introduced in this proceeding suggests that the industry needs to study the question of order mergers or other possible actions. However, there is no indication at this point that such studies are underway or that any consensus exists about what type of action to pursue in the future. Therefore, this proceeding should be completed in a timely fashion. If and when the industry is ready to pursue some other action, a new proceeding can be requested.

The Chicago interested parties also objected vigorously to the fact that the Chicago order was not open for amendment in this proceeding, especially with regard to the two Wisconsin counties considered for addition to the Iowa marketing area. In the Chicago parties' views, the Secretary could not delete those counties from the definition of the Chicago order marketing area without a proceeding to amend the Chicago order.

In response we note that all cooperatives and handlers that supply milk to or are fully regulated under the Chicago order were sent a copy of the Hearing Notice. That notice advised such parties of the nature of the proposal and invited any interested parties to participate in the hearing and to address specifically the question of whether the counties should be part of the Iowa marketing area. Even though the provisions of the Chicago order were not open for consideration, those who may be directly affected by this proceeding were so notified and provided an opportunity to testify or otherwise submit evidence. No one was denied an opportunity to be heard on this issue.

At issue is the question of which mechanism to employ to implement findings based on a public hearing. This decision finds that Crawford and Grant Counties in Wisconsin should be included in the Iowa marketing area rather than in the Chicago marketing area. In order to implement these findings, two steps are necessary. One is to add the territory to the Iowa marketing area by amendment of the Iowa order. The other step involves removing the territory from the provision defining the Chicago order marketing area. This may be done either of two ways. One way is to amend the Chicago order. However, that cannot be done in this instance because the Chicago order was not open in this proceeding. However, the Secretary has authority in § 608c(16)(A)(i) to terminate any provision of an order that does not tend to effectuate the declared policy of the Act. Having found on the basis of a properly noticed public hearing that the two Wisconsin counties should be included in the marketing area defined by the Iowa order, the Secretary must conclude that they should no longer be defined as part of the Chicago marketing area. An entirely appropriate means for carrying out this conclusion is by terminating that part of the Chicago order which provides that the two counties in question are included under the order. Such method has an advantage in terms of timeliness and of economy in implementing a decision.

3. Location adjustment revision. The order should be amended to specify that the territory in Whiteside County, Illinois, which is being added to the marketing area, should be included in Zone 2 for location adjustment pricing purposes. The other Illinois counties in the marketing area are in Zone 2 now.

Aside from proponent's brief statement, no one else addressed this proposal. Currently there are no Iowa order pool plants in the 13 townships of Whiteside County. Thus, addition of these townships to Zone 2 (minus 7 cents) will not change the Class I or uniform price of any handler fully regulated under the Iowa order.

This change is necessary to assure proper price alignment should there ever be a pool plant, or a nonpool plant that handles surplus milk pooled under the Iowa order, located in the portion of Whiteside County that will be in the marketing area. The townships are adjacent to other territory in Illinois and Iowa that are in Zone 2. For these reasons, the proposal should be adopted.

4. Whether an emergency exists to warrant the omission of a recommended decision and the opportunity to file written exceptions with respect to issue number 1. The notice of hearing stated that evidence will be taken to determine whether emergency marketing conditions exist that would warrant the omission of a recommended decision under the rules of practice and procedure with respect to Proposal No. 2 (plant lock-in). Although this decision provides for the two month lock-in as modified, the provision would have no application until such time as the Chicago order may be amended to provide for an accommodating lock-out provision. Several parties objected to the request by SVF for the omission of a recommended decision. We conclude that omitting a recommended decision would serve no useful purpose. There can be no justification for adopting and implementing on an emergency basis a provision that cannot be utilized in the foreseeable future. Accordingly, a recommended decision has been issued.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Iowa order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and

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conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended regulating the handling of milk in the Iowa marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

PART 1079—[AMENDED]

1. The authority citation for 7 CFR Part 1079 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Amend § 1079.2 by revising paragraphs (a) and (b), and adding paragraphs (c) and (d) to read as follows:

§ 1079.2 Iowa marketing area.

* * * * *

(a) The Iowa counties of: Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Back Hawk, Boone, Bremer, Buchanan, Butler, Calhoun, Carroll, Cedar, Cerro Gordo, Chickasaw, Clarke, Clayton, Clinton, Dallas, Davis, Decatur, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Henry, Humboldt, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Muscatine, Pocahontas, Polk, Poweshiek, Ringgold, Scott, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, Wright, and the city of Osage in Mitchell County.

(b) The Illinois counties of: Henderson, Henry, Mercer, Rock Island, and the city of East Dubuque in Jo Daviess County, and the townships of Fulton, Ustick, Clyde, Genesee, Mount Pleasant, Union Grove, Garden Plain, Lyndon, Fenton, Newton, Prophetstown, Portland and Erie in Whiteside County.

(c) The Missouri counties of: Grundy, Harrison, Mercer, Putnam, Schuyler.

(d) The Wisconsin counties of: Crawford and Grant.

3. In § 1079.7, revise paragraph (d) to read as follows:

§ 1079.7 Pool plant.

* * * * *

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant qualified as a pool plant pursuant to paragraph (a) in this section which also meets the pooling requirements of another Federal order and from which during the month a greater quantity of fluid milk products, except filled milk, was disposed of as route disposition, in such other marketing area and to pool plants qualifed on the basis of route disposition in such other marketing area than was so disposed of from such plant in the Iowa marketing area as route disposiiton, or to pool plants qualified on the basis of route disposition, except that if such plant was subject to all the provisions of this part in the Iowa marketing area as route disposition, or to pool plants qualified on the basis of route dispostion, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its fluid milk products disposition, except filled milk, is made in the above described manner in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated by such other order;

(4) A plant qualified as a pool plant pursuant to this section which also meets the pooling requirements of another Federal order and from which during the month a greater quantity of fluid milk products, except filled milk, was disposed of as route disposition in this marketing area, and to pool plants qualified on the basis of route dispositon in this marketing area than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(5) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

4. In § 1079.52, revise paragraph (a)(2)(ii) to read as follows:

§ 1079.52 Plant location adjustments for handlers.

(a) * * *

(2) * * *

(ii) The Illinois counties of Henry, Mercer, Rock Island, and the townships of Fulton, Ustick, Clyde, Genesee, Mount Pleasant, Union Grove, Garden Plain, Lyndon, Fenton, Newton, Prophetstown, Portland and Erie in Whiteside County.

* * * * *

Signed at Washington, DC, on April 12, 1989.

J. Patrick Boyle,

Administrator Agricultural Marketing Service.

[FR Doc. 89–9155 Filed 4–17–89; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 89–1318]

Equity-Risk Investments

Date: April 12, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Reproposed rule.

SUMMARY: The Federal Home Loan Bank Board (the "Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is reproposing amendments to 12 CFR 563.9–8, its regulation governing investments by institutions the deposits of which are insured by the FSLIC ("insured institutions") in equity securities, real estate, service corporations, operating subsidiaries, certain land loans, and nonresidential construction loans ("equity-risk investments").

The reproposal follows the Board's proposal to eliminate the exclusion from the definition of "equity security" in 12 CFR 563.9–8(b)(2) for stock issued by the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") purchased by insured institutions after December 14, 1988. *See* Board Res. No. 88–1393 (Dec. 22, 1988), 54 FR 155 (Jan. 4, 1989). While today's reproposal is identical to the original proposal for stock purchased after December 14, 1988, the reproposal differs from the original with respect to investments in Fannie Mae and Freddie Mac stock made on or before December 14, 1988. The reproposal would grandfather such investments in a manner consistent with the savings clause of the current equity-risk investment regulation, *see* 12 CFR 563.9–8(f) (1988).

DATE: Comments must be received on or before May 18, 1989.

ADDRESS: Send comments to: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552. Comments will be available for public inspection at Information Services, Federal Home Loan Bank Board, 801 17th Street NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: Richard M. Schwartz, Attorney, (202) 906–6887; Deborah Dakin, Regulatory Counsel, (202) 906–6445; Karen Solomon, Associate General Counsel, (202) 906–7240, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552; Robert Fishman, Senior Policy Analyst, (202) 331–4592, Office of Regulatory Activities, Federal Home Loan Bank System, 801 17th Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: On December 23, 1988, the Board proposed to amend its equity-risk investment rule. 54 FR at 155. That proposal had two main components. First, the Board proposed to extend the current equity-risk investment rule beyond its sunset date of April 16, 1989. *See* 12 CFR 563.9–8(h) (1988). That portion of the proposal is covered in a final rule published elsewhere in today's Federal Register, which extends the equity-risk investment regulation until October 13, 1989.

Second, the Board proposed to remove the exclusion from the definition of "equity security" in 12 CFR 563.9–8(b)(2) for stock issued by Fannie Mae and Freddie Mac, purchased by insured institutions on or after December 14, 1988. Furthermore, under the proposal, stock issued by those instrumentalities, as well as by other, similar, United States government-sponsored corporations would be expressly authorized as investments for purposes of the equity-risk investment rule, pursuant to 12 CFR 563.9–8(d)(1). Such express authorization would allow an insured institution to invest in those securities without having to acquire the approval of its Principal Supervisory Agent ("PSA"), assuming independent authorization to make such an unapproved purchase.

The Board received six comments in response to its proposal. Three of the comments were from insured institutions, two were from trade associations, and one was from a U.S. government-sponsored corporation.

On the issue of whether the Board should remove the exclusion from Fannie Mae and Freddie Mac stock from the definition of "equity security," two comment letters supported the proposal as drafted. Each stated that the publicly traded stock at issue would properly be classified as equity securities. One of those commenters stated that there was no basic distinction between the risk inherent in publicly traded Fannie Mae and Freddie Mac stock and "the stock of other reputable companies traded on public exchanges."

The remaining four comment letters opposed this aspect of the Board proposal. Each suggested that the Board should continue its exclusion because of the housing-oriented mission of Fannie Mae and Freddie Mac. One commenter suggested that the Board's proposal to make the stock of these entities equity-risk investments would run contrary to the Board's "Qualified Thrift Lender" ("QTL") test. Two other commenters stated that the inclusion of the stock as equity-risk investments would require insured institutions to carry a relatively high percentage of capital against their investment in the stock, pursuant to the Board's recent regulatory capital proposal,[1] and would, therefore, unwisely discourage institutions from investing in the stock.

Two comments addressed the continued exclusion of all purchases of Fannie Mae and Freddie Mac stock made on or before December 14, 1988, from the definition of "equity security" and, thus, the scope of the equity-risk investment regulation. Both commenters supported the basic plan to include some sort of savings clause; one commenter supported the Board's December 14, 1988, date, and the other commenter suggested that the applicable date be moved until the effective date of the Board's final regulation. The Board received no comments on the portion of the proposal that would expressly authorize investment, for equity-risk purposes, in equity securities of all United States government sponsored corporations.

For the reasons set forth below, the Board maintains its support for its proposal to remove the exclusion from the definition of "equity security" for investments in Fannie Mae common and Freddie Mac preferred stock. It believes that the publicly traded securities at issue represent similar risks as that found in investments in equity securities of other U.S. government-sponsored corporations, such as the Student Loan Marketing Association ("Sallie Mae"). As the Board stated in the preamble to its last amendment to the equity-risk investment regulation, "The Board has a statutory responsibility to protect the FSLIC insurance fund from undue risk. This is a particularly heavy burden today because the fund is laboring under the severest pressures in its history." 52 FR 23787, 23788 (June 25, 1987). Those words are even more true today, as is the Board's statutory responsibility to promote safe and sound operations in the thrift industry as a whole.

Furthermore, upon reconsideration, the Board is today proposing to treat investments in Fannie Mae and Freddie Mac stock made on or before December 14, 1988, in a manner consistent with the savings clause of the current equity-risk investment regulation. *See* 12 CFR 563.9–8(f). Under this treatment, described more fully below, all investments in Fannie Mae and Freddie Mac stock—regardless of when purchased—would be considered equity-risk investments, but the Board would "grandfather"—rather than exclude—those investments in Fannie Mae and Freddie Mac stock made on or before December 14, 1988. The Board is of the view that this grandfathering treatment is necessary because it believes that the risks inherent in investment in such stock are equally concrete for stock purchased on or before December 14, 1988, as for stock purchased afterward.

In its original proposal, the Board discussed in detail the reasons supporting the proposed inclusion of Fannie Mae and Freddie Mac stock within the definition of "equity security" and the scope of the equity-risk investment regulation. *See* 54 FR at 156–57. The board continues to believe such treatment is warranted by the risks presented by these stocks, risks equivalent to those inherent in any equity security.

As stated above, several commenters opposed the Board's proposal to remove the exclusion for Fannie Mae and Feddie Mac stock on the ground that the "low-risk" nature of the underlying

[1] Board Res. No. 88–1342 (Dec. 15, 1988), 53 FR 51800 (Dec. 23, 1988).

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residential mortgages in which the entities deal would somehow insulate those entities' stock from market fluctuations. Market realities provide no support for such assertions. In fact, for the 52 week period ending March 7, 1989, Fannie Mae common stock has traded in a fairly wide range, trading as high as $65.375 a share and as low as $31.875 a share. The newly issued Freddie Mac preferred stock, publicly traded since January 2, 1989, has traded as high as $55.875 a share and as low as $45.50 a share.

Another commenter stated that the Board's proposal to make Fannie Mae and Freddie Mac stock equity-risk investments was inconsistent with the Board's previous ruling that such investments satisfied an insured institution's Qualified Thrift Lender ("QTL") requirements. The key component of the QTL test, enacted in the Competitive Equality Banking Act of 1987 ("CEBA"), Pub. L. No. 100–86, 101 Stat. at 571–73, § 104(c)(1) (1987), was that insured institutions were required to hold at least 60 percent of their tangible assets in certain "qualified thrift investments" in order to qualify for favorable QTL treatment. *See* 53 FR 312 (Jan. 6, 1988). Generally, these investments are related to domestic real estate or manufactured housing, as well as other assets that are incidental to the thrift's housing-related investments. *Id.* Stock issued by Fannie Mae and Freddie Mac were among the investments approved by the Board as QTL investments. *Id.* at 313, 322 (codified at 12 CFR 563.27(c)(6) (1988)).

By stating that an approved QTL investment may not be limited by the equity-risk investment regulation, the commenter misconstrues the correlation between the QTL test and the equity-risk rule. Quite simply, the two rules serve different purposes and are not mutually exclusive. In devising the QTL test, Congress' objective was one of "committing insured institutions to the unique, congressionally defined role of providing housing-related finance." H.R. Rep. No. 261, 100th Cong., 1st Sess. 137 (1987). There was no mention, however, that the Board should refrain from placing other regulatory constraints or limitations on any of the investments that qualify as QTL investments, regardless of the risk involved in that investment.[3] Merely because an investment is "housing-related" does not make it risk-free.

In fact, supervisory and regulatory constraints already exist on an insured institution's investment in several approved QTL assets; these constraints are either from Board regulation or from supervisory memoranda published by the Board's Office of Regulatory Activities ("ORA"). For example, the ability of insured institutions to invest in derivative secondary housing products, such as residuals or stripped securities, is currently limited by ORA Thrift Bullentin TB 12 (issued on Dec. 13, 1988). Furthermore, under the Board's final QTL rule, certain acquisition, development and construction loans ("ADC loans"), could qualify both as equity-risk and QTL investments, assuming that the investing institution could properly document the residential nature of the loan, but financing for the residential housing had not yet been obtained. 53 FR at 315;[3] *see also* ORA Memorandum T–87 (Jan. 13, 1988).

The Board is reproposing that investments in Fannie Mae and Freddie Mac stock be pre-authorized investments for equity-risk purposes, pursuant to 12 CFR 563.9–8(d)(1).[4] The Board notes that such investments are expressly authorized investments for Federal associations pursuant to section 5(c)(1)(F) of the Home Owner's Loan Act of 1933 ("HOLA"), 12 U.S.C. 1464(c)(1)(F) (1982), and that investment in such securities appears no more or less risky than the other investments currently authorized as equity-risk investments in 12 CFR 563.9–8(d). Moreover, the Board is reporposing the express authorization, for equity-risk purposes, of investments in equity securities issued by all United States government-sponsored corporations, including Class A common stock recently issued by the Federal Agricultural Mortgage Corporation ("Farmer Mac").

Issues Pertinent to Reproposal

Upon reexamination of the inherent riskiness of Fannie Mae and Freddie Mac stock and for the reasons stated above and in the original proposal, the Board now believes that because all current investments in Freddie Mac Preferred stock and Fannie Mae common stock—whether originally made before or after December 14, 1988—carry equal amounts of risk, all such investments should be counted toward the equity-risk thresholds. Such treatment appears to be required in order to satisfy the safety and soundness purposes of the equity-risk investment regulation. Nevertheless, the Board recognizes that a number of thrift institutions may have invested in Fannie Mae and Freddie Mac stock in reliance on the existing provision exempting that stock from the equity-risk investment thresholds.

To that end, today's reproposal provides that an institution whose aggregate equity-risk investments on December 14, 1988, including that institution's investment in Fannie Mae and Freddie Mac stock, exceeds the applicable equity-risk threshold would not be required solely for that reason to divest itself of such Fannie Mae or Freddie Mac stock purchased as of December 14, 1988.[5] The institution could not, however, make additional unsupervised equity-risk investments until it was in compliance with the applicable threshold. This treatment would be the same "grandfathering" afforded pevious additions to the list of direct or equity-risk investments. *Cf.* 52 FR at 23802; 49 FR at 48754.

As stated in the Board's December proposal and in the accompanying final rule issued today, the Board anticipates publishing an additional notice of proposed rulemaking to address broader equity-risk investment issues within the next few months.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objections and legal basis underlying the proposed rule.* These elements are incorporated above in the **SUPPLEMENTARY INFORMATION** regarding the reproposal.

2. *Small entities to which the proposed rule would apply.* The reproposal would apply to all insured institutions.

3. *Impact of the proposed rule on small entities.* The Small Business Administration defines a small financial institution as "a commercial bank or savings and loan association, the assets of which, for the preceding fiscal year, do not exceed $100 million." 13 CFR 121.13(a). The reproposal treats all institutions identically regardless of their size for the reasons discussed in the **SUPPLEMENTARY INFORMATION** set forth above.

4. *Overlapping or conflicting Federal rules.* There are no known rules that duplicate, overlap or conflict with this reproposal.

5. *Alternative to the rule.* There are no alternatives that would be less burdensome than the reproposal in addressing the concerns expressed in the **SUPPLEMENTARY INFORMATION** set forth above.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Currency, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board amends Part 563, Subchapter D, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 563—OPERATIONS

1. The authority citation for Part 563 continues to read as follows:

Authority: Sec. 1, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132,. as amended (12 U.S.C. 1464); secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); sec. 1204, 101 Stat. 662 (12 U.S.C. 3806); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–1948 Comp., p. 1071.

2. Amend § 563.9–8 by revising paragraphs (b)(2)(i) and (d)(1)(iv) and by adding a new paragraph (f)(4) to read as follows:

§ 563.9–8. Regulation of equity risk investment in equity securities, real estate, service corporations, operating subsidiaries, certain land loans, and nonresidential construction loans.

* * * * *

(b) *Definitions.* When used in this section:

* * * * *

(2) * * * (i) stock issued by a Federal Home Loan Bank or a corporation authorized to be created pursuant to Title IX of the Housing and Urban Development Act of 1968; * * *.

* * * * *

(d) *Equity-security investments*—(1) *Permissible investments.* * * * (iv) equity securities issued by any United States government-sponsored corporation, including the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Student Loan Marketing Association, and the Federal Agricultural Mortgage Corporation; * * *.

* * * * *

(f) *Savings clause.* * * *

(4) An institution whose aggregate actual or prospective equity-risk investments on December 14, 1988 were in compliance with its applicable thresholds on that date, including compliance as a result of applying the savings clauses of paragraphs (f) (1) through (3) of this section or of securing PSA approval of otherwise nonconforming levels of investment, but would exceed those thresholds because of the inclusion of investments in stock issued by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association, shall not be prohibited solely for that reason from maintaining its full investment in such stock made as of December 14, 1988; nor shall an institution be required to divest any investments solely because of a subsequent change in its assets or its regulatory capital: *Provided,* That additional equity-risk investments may be made only in compliance with the provisions of this section. Nothing in this paragraph (f), however, shall limit the authority otherwise granted to Principal Supervisory Agents to prohibit equity-risk investments or to require the reduction of aggregate equity-risk investment or the divestiture of specific equity-risk investments.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89–9196 Filed 4–17–89; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–26708; File No. S7–13–89]

Proprietary Trading Systems

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission solicits comment on a proposed rule under the Securities Exchange Act of 1934 ("Act") that would govern the operation of securities trading systems that are not operated as facilities of national securities exchanges or associations and a conforming amendment to Rule 3a12–7 under the Act. The proposed rule is designed to provide for Commission review of proprietary trading systems that are not operated as facilities of a registered national securities exchange or association and are not subject to Commission regulation as national securities exchanges or associations pursuant to section 6 or 15A of the Act.

DATE: Comments must be received on or before June 19, 1989.

ADDRESSES: All comments should be submitted in triplicate and addressed to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. All comments should refer to File No. S7–13–89, and will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW, Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Gordon K. Fuller, Esq., Special Counsel Division of Market Regulation, Securities and Exchange Commission, Room 5205 (Mail Stop 5–1), 450 Fifth Street NW., Washington, DC 20549, 202/272–2414.

SUPPLEMENTARY INFORMATION:

I. Summary

The Securities and Exchange Commission ("Commission") solicits comment on proposed Rule 15c2–10 [1] under the Securities Exchange Act of 1934 ("Act"),[2] that would govern certain securities trading and information systems that are not operated as facilities of a registered national securities exchange or association ("proprietary trading systems") and are not subject to Commission regulation as exchanges or associations. Certain aspects of such systems currently are not governed by any formal regulatory structure. If adopted, the new rule would provide regulatory requirements for such systems, which currently are in large part subject to the provisions contained in no-action positions provided to system operators by the Commission staff.

Previously, the Commission's Division of Market Regulation ("Division") has informed several operators of proprietary trading systems, that, subject to certain conditions, the staff will not recommend enforcement action if the system is not registered as an

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[3] It is important to remember that the equity-risk regulation is only a limitation on investment, without prior PSA approval, not a prohibition. 49 FR 43743, 48746 (Dec. 14, 1984).

[3] *Cf.* 52 FR at 23800 (preamble to equity-risk amendment).

[4] By expressly listing such investments in subparagraph (d)(1), the Board would be signifying that an insured institution could invest in Fannie Mae and Freddie Mac stock up to otherwise authorized thresholds, without having to acquire the approval of the institution's Principal Supervisory Agent.

[5] Shares of the "when-issued" class of Freddie Mac preferred stock held by an institution on December 14, 1988, would be considered "held" on that date for purposes of this reproposal, even though those shares were not issued until January 2, 1989.

[1] 17 CFR 240.15c2–10.

[2] 15 U.S.C. 73a *et seq.*, as amended by the Securities Acts Amendments of 1975 ("1975 Amendments"), Pub. L. No. 94–29 (June 4, 1975), 89 Stat. 97, 1975 U.S. Code Cong. & Admin. News 97.

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exchange under the Act.[5] The staff also has issued to three entities no-action letters regarding their non-registration as clearing agencies under section 17A of the Act.[6] Finally, it has issued to one of those three entities a no-action letter regarding its non-registration as a national securities association under section 15A of the Act.[7]

The Commission continues to believe that the no-action approach is consistent with its objective of maintaining an appropriate level of review of proprietary trading systems. Nevertheless, in view of the Commission's experience in overseeing these systems, the Commission believes that it is appropriate to reassess some of the assumptions underlying its approach in this area.

Several commentators have criticized the Commission's current policy of addressing these matters through staff no-action letters.[8] Specifically, these commentators have suggested that such an approach could provide an unfair competitive advantage for systems operating pursuant to a staff no-action position in relation to registered securities exchanges or associations offering competing products and services.[9] In addition, several of the same commentators raised concerns that the use of such relief did not provide them with the notice and comment procedures required in Commission rulemaking.[10]

The Commission believes that the competitive issues raised by the commentators deserve consideration. Moreover, the Commission recognizes that many proprietary trading systems are becoming increasingly complex. The Commission is concerned that the imposition of regulatory conditions in a no-action approach to systems linked to foreign markets may be inadequate to ensure the viability and quality of intergovernment and intermarket surveillance and enforcement enhancements, such as international information sharing arrangements. Moreover, there have been instances in which operators of certain trading systems have failed to request no-action positions.

In light of the commentators' concerns and the Commission's experience in administering the current no-action approach, the Commission has determined to reexamine its procedures. The Commission, therefore, is proposing Rule 15c2–10, which would provide a direct regulatory scheme for proprietary trading systems.

II. Background

Over the past twenty years, the Commission has explored ways to respond to the activities of proprietary trading systems. In 1969, Instinet began operating a computer/communications network to be used by professional investors to effect large block trades.[11] In response, at that time, the Commission proposed Rule 15c2–10 to require such an automated trading and information system to file with the Commission a plan describing the system, setting forth its rules, and providing for adequate recordkeeping.[12]

Instead of adopting the proposed rule, however, the Commission determined that Instinet could be appropriately regulated as a broker-dealer. The Commission determined that: (1) Instinet, unlike registered exchanges, operated on a for-profit basis with no members; (2) Instinet had no "exchange-type" market participants, such as market makers or floor brokers; (3) customers furnished all quotes and orders themselves, through the Instinet facilities; and (4) Instinet did not seem to fit within the statutory scheme contemplated for exchanges.

Rule 15c2–10 was withdrawn in 1975, when the Commission adopted Rule 11Ab2–1, providing for the registration of securities information processors ("SIPs"). The Commission believed that Rule 15c2–10 was no longer necessary in light of the regulatory scheme provided by the 1975 Amendments.[13]

[5] *See* letters from: Brandon Becker, Associate Director, Division, to Robert A. McTamaney, Carter, Ledyard, & Milburn, counsel for RMJ Securities Corporation, dated January 12, 1989 ("RMJ no-action letter"); Kathryn V. Natale, Assistant Director, Division, to Christopher R. Petruzzi, ECON Investment Software, dated October 11, 1988 ("Petruzzi no-action letter"); Brandon Becker to Lloyd H. Feller, Morgan, Lewis & Bockius, counsel for Jefferies & Company, Inc., dated July 28, 1987 ("POSIT no-action letter"); Richard Ketchum, Director, Division, to Daniel T. Brooks, Cadwalader, Wickersham & Taft, counsel for Instinet Corporation, dated August 8, 1986 ("Instinet no-action letter"); Richard T. Chase, Associate Director, Division, to James M. Anderson, Taft Stettinius & Hollister, counsel for Robert L. Adler & Co., dated August 7, 1985 ("Adler no-action letter"); Michael J. Simon, Assistant Director, to D. Roger Glenn, Schiffino & Fleischer, counsel for National Partnership Exchange, Inc. ("NAPEX"), dated August 2, 1985, and July 14, 1986 ("NAPEX no-action letters"); Richard T. Chase and Richard Ketchum to Eric D. Roiter, Debevoise & Plimpton, counsel for Security Pacific National Bank ("Security Pacific"), dated July 19, 1985, and August 8, 1986, respectively ("Security Pacific no-action letters"); Michael J. Simon to Carl J. Hewitt, Assistant General Counsel, Troster Singer Corporation, dated May 23, 1985, and September 3, 1985 ("Troster Singer no-action letters"); Michael J. Simon to Patteson Branch, President, Exchange Services, Inc., dated May 22, 1985, and September 5, 1985 ("Exchange Services no-action letters"); Michael J. Simon to Michael J. Tario, Co-Chief Executive Officer, Transaction Services, Inc., dated May 15, 1985, and September 5, 1985 ("Transaction Services no-action letters"); and Michael J. Simon to Bruce C. Klein, Secretary-Treasurer, B&K Securities, Inc., dated March 18, 1985, and September 5, 1985 ("B&K no-action letters"). *See also* letter from Division to Schwartz, Kobb, Scheinert, Hamerman & Johnson, 1979 CCH Fed. Sec. L. Rptr. ¶ 82,037 (February 15, 1979) (automated trading information system facilitating trading in mortgages; no automatic execution or clearing capacities).

[6] *See* Instinet, Adler, and NAPEX no-action letters, *supra* note 3.

[7] *See* Instinet no-action letter, *supra* note 3.

[8] *See* letters from: Walter E. Auch, Chairman and Chief Executive Officer, Chicago Board Options Exchange ("CBOE"), to John S.R. Shad, Chairman, SEC, dated May 2, 1986; John D. Dingell, Chairman, Committee on Energy and Commerce, United States House of Representatives, to John S.R. Shad, Chairman, SEC, dated April 24, 1986, March 14, 1986, November 7, 1985, and July 30, 1985 ("Dingell letters"); Burton R. Rissman, Andrew M. Klein, and Carl A. Royal, Schiff Hardin & Waite, counsel for CBOE and The Options Clearing Corporation ("OCC"), to John P. Wheeler, III, Secretary, SEC, dated March 24, 1986 and September 26, 1985 ("CBOE and OCC letter"); Fred M. Stone, Senior Vice President and General Counsel, American Stock Exchange, Inc. ("Amex"), dated January 9, 1986 ("Amex letter"); Robert J. Birnbaum, President and Chief Operating Officer, New York Stock Exchange, Inc ("NYSE"), to John S.R. Shad, Chairman, dated October 30, 1985 ("NYSE letter"); Howard M. Brenner, Chairman, Options and Derivative Products Committee, Securities Industry Association ("SIA"), to John S.R. Shad, dated October 11, 1985 ("SIA letter"); and William J. Brodsky, President, Chicago Mercantile Exchange ("CME"), to John S.R. Shad, dated September 11, 1985 ("CME letter"). *See also, infra* note 25.

[9] *See* CBOE and OCC letter, *supra* note 6, dated September 26, 1985, at 11; Amex letter at 2.

[10] *See* CBOE and OCC letter, *supra* note 6, dated September 26, 1985, at 7, 12–13; SIA letter; NYSE letter; CME letter at 4; Dingell letter, dated November 7, 1985, at 2–3; Amex letter at 3.

[11] Instinet currently is a subsidiary of Reuters Holdings PLC, a London-based news and financial data company. As originally operated, the Instinet system allowed subscribers to enter offers to buy and sell securities, as well as acceptances of such offers and counteroffers. All information was entered into the system anonymously through code numbers. Although the Instinet customer base primarily was institutional, Instinet made its services available to anyone who was "financially responsible", including broker-dealers. Any security could be traded through the system, and there were no market makers, floor brokers, or other traditional "exchange-type" participants. Instinet continues to allow its participants to accept "live" orders, and, in addition, has expanded its system to initiate a "crossing network" in which buy and sell orders for portfolios of securities are matched with one another. *See infra* n. 15.

[12] *See* Securities Exchange Act Release No. 8661 (August 4, 1969), 34 FR 12952, regarding Proposed Rule 15c2–10.

[13] *See* Securities Exchange Act Release No. 11673 (September 23, 1975), 40 FR 45422. After Instinet's registration as a broker-dealer, the Commission determined to regulate certain automated trading and information systems as facilities of either an exchange or an association. For example, in 1978, the Commission examined the status of the Cincinnati Stock Exchange's ("CSE") National Securities Trading System ("NSTS"). The CSE argued that NSTS should be treated as a facility of an exchange, in part, so that it could trade listed securities without concerns regarding off-board trading restrictions. The Commission approved operation of the NSTS, and determined that exchange off-board trading restrictions would not prohibit users of the NSTS from trading multiple-

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In the early 1980s the Commission responded to the expanding number of automated trading systems operating in the over-the-counter ("OTC") market by reviewing its actions with respect to such systems. On October 4, 1984, the Commission concurred in the staff's recommendation that the Division inform the sponsors of automated OTC execution systems that the Division would consider granting no-action positions with regard to the Act's definition of the term "exchange".[13]

Subsequently, on August 8, 1986, the Commission discussed the staff's no-action positions regarding the non-registration as exchanges of certain proprietary trading systems, including the planned Security Pacific system for the trading of options on government securities. While it determined not to object to the Division's advising Security Pacific of its determination to grant a no-action position with respect to Security Pacific's operation of the system, the Commission also recognized the limitations of the no-action approach and directed the Division to prepare for Commission consideration a release proposing for comment a rule to regulate proprietary trading systems.

III. Current Systems

The staff has granted no-action positions to eleven proprietary trading systems.[13] The systems include several automated execution systems for trading common stocks, and trading and information systems for common stocks, limited partnership interests, and municipal bonds.

Three of the trading systems for common stocks that have received no-action treatment from the Commission facilitate the trading of both exchange-listed and OTC stocks. For example, the Instinet system provides market information and order routing and execution services to foreign and domestic institutions, broker-dealers, specialists, and market makers.[14] The system also permits institutional and broker-dealer negotiation, as well as execution of large blocks and smaller trades.[15]

Another system, POSIT (Portfolio System for Institutional Trading), sponsored by Jefferies and Company, Inc. ("Jefco"), a registered broker-dealer, permits the trading of portfolios of exchange-listed and OTC securities by institutional customers with substantial securities portfolios, *e.g.*, mutual funds, insurance companies, commercial banks and pension funds.[16] The system permits its subscribers to post an indication of interest to be matched on a confidential basis against other orders in the system. After reviewing the matched order to determine whether the order should be executed as matched, Jefco either executes the order or contacts the subscribers to seek a modification of the order.

Finally, the staff issued a non-action letter to Exchange Services, a broker-dealer that sponsored a system to facilitate trading in NYSE-listed and NASDAQ issues.[17] The proposed system would have permitted its retail customers to obtain quotes when the primary markets were closed, *e.g.*, evenings and weekends, and to enter agency orders into the system. The system then would have matched the order with others in the system and executed it, if a match was found, or stored the order until the markets reopened, if the customer had so chosen. The system never operated.

An additional three systems that have received no-action treatmeant facilities the trading of OTC secutities listed on NASDAQ.[18] With some variations distinguishing them, INside, sponsored by Troster Singer Corp., Tran, sponsored by Transaction Services, a subsidiary of Gruntal, Inc., and the Customer Order Protection System ("COPS") sponsored by B&K Securities, Inc., permit subscribing broker-dealers to obtain automated execution at the inside NASDAQ price for orders up to specified size limits." Of the three, only INside and Tran remain in operation.[19]

listed stocks, and, thus determined to treat the system as a facility of an exchange. Similarly, in 1981, the Commission treated the Computer Assisted Execution System ("CAES") of the National Association of Securities Dealers, Inc. ("NASD") as an NASD facility, therefore obviating the need for duplicative registration.

[14] Section 3(a)(1) of the Act defines the term "exchange" as:

> Any organization, association or group of persons, whether incorporated or unincorporated, which constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange as that term is generally understood, and includes the market place and the market facilities maintained by such exchange.

For a discussion of the intended scope of this definition as sketched in the legislative history of the Act, *see* the April 17, 1934 Report of the Senate Committee on Banking and Currency ("1934 Report"), S. Rep. No. 792, 73d Cong., 2d Sess. 14, *infra* note 29.

[15] Ten of the eleven systems are sponsored by either: (1) broker-dealers registered pursuant to section 15(b) of the Act ("registered broker-dealers") or section 15C of the Act ("government securities broker-dealers"); (2) entities affiliated with registered broker-dealers; or (3) entities in the process of registering as broker-dealers under section 15(b). The eleventh system was proposed to be operated by Security Pacific, a national bank subject to supervision by the Comptroller of the Currency. As noted *infra*, Security Pacific sold its system to RMJ Securities (a registered government securities broker) in December 1987; a subsidiary of Security Pacific now serves as the facilities manager of the registered clearing agent of the RMJ system. As a consequence, investors and intermediaries using the services of these systems benefit from the panoply of protections that accrue from broker-dealer and government securities dealer registration under the Act or from oversight by the Comptroller of the Currency.

[16] Prior to October 19, 1987, the Instinet system has the capacity, through a network of exchange specialists and OTC market makers, automatically to execute market orders of up to 1,000 shares of exchange-listed and OTC equity securities. On October 19, 1987, Instinet discontinued the automatic execution feature because of complaints from market makers about the increased exposure to loss precipitated by automatic executions during the market break.

[17] *See* Instinet no-action letter, *supra* note 3. Since this no-action letter was granted, Instinet has begun to open as early as 3:00 a.m. est (*see* letter from Murray L. Finebaum, President, Instinet, to Richard G. Ketchum, dated May 29 1987), instituted a "Crossing Network" allowing the execution of orders for groups of stocks, and included a small group of American Depository Receipts not authorized for quotation on the NASD Authomated Quotations system ("non-NASDAQ stocks") in its system.

[18] *See* POSIT no-action letter, *supra* note 3.

[19] *See* Exchange Services no-action letter, *supra* note 3.

[20] In a development related to the operation of automated execution systems for OTC securities, NASD Market Services, Inc. ("MSI") commenced operation of its Advanced Computerized Execution System ("ACES."). ACES, acting through MSI as its facilities manager, allows individual market markers to automate their internal execution functions and to manage their inventory. ACES provides a variety of capabilities to subscribers, including automated execution, maintenance of a limit order file, intraday trade corrections and maintenance and control of traders' positions in individual securities. With MSI maintaining the necessary computer switches and transmission lines, each subscriber markets its unique version of ACES to order entry firms. *See* letter from Frank Wilson, Executive Vice President and General Counsel, NASD, to Richard G. Ketchum, dated May 12, 1988.

[21] *See* no-action letter issued to: (1) Troster, Singer; (2) Transaction Services; and (3) B&K Securities, Inc., *Supra* note 3. Primarily, the distinctions are based on the size of the orders accepted for automatic execution. For example, Inside accepts for automatic execution orders of varying sizes, depending upon the liquidity of a particular issue; Inside also limits orders to those issues in which its sponsor and any other invited market maker makes a market. Tran's order size depends upon the selling price of the issue, *i.e.*, order sizes of up to 1,000 shares are permitted for issues selling above one dollar while orders up to 2,000 shares are permitted for issues selling at less than one dollar. COPS would have accepted either principal or agency orders of up to 1,099 shares; retail agency orders took precedence over principal or market maker orders. COPS also included an open limit order book available to all participants; however, participants were not able to identify another subscriber's order.

[22] The Division also recently issued a no-action letter to Petruzzi and Associates ("PA"), a partnership operating as a broker-dealer, which proposes to trade NYSE-listed stocks, bonds and warrants. Although it will not disseminate quotatons for securities, PA will permit its

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Four organizations receiving no-action letters sponsor or sponsored proprietary trading systems for non-equity securities.[21] Of particular note, the staff extended no-action positions to the proposed Security Pacific system for trading options on government securities, and to its successor as owner and operator of the system, RMJ Securities Corporation ("RMJ Securities").[22] Security Pacific developed a quotation and settlement system for put and call options on U.S. Treasury securities. Security Pacific, however, never began operating the system; although Security Pacific received the necessary approval to operate the system from the Federal Reserve Board, banking legislation [23] imposed a moratorium until March 1, 1988, on expansion by commercial banks into securities, real estate, and insurance activities. The moratorium applied to the Security Pacific system.

On December 1, 1987, Security Pacific sold the system to RMJ Securities. The sale conveyed to RMJ Securities ownership of the computer software, other proprietary rights associated with the system, and the right to act as the exclusive operator of the system.[24]

The system as operated by RMJ Securities is made up of: (1) a newly-formed Delaware corporation [Delta Government Options Corp. ("Delta")], which issues the options contracts and provides clearing services to participants;[25] and (2) a brokerage subsidiary of RMJ Securities Corp. [RMJ Options Trading Corp. ("RMJ Options")]. The RMJ system is designed, through the interaction of these components, to permit broker-dealers, banks, and other institutions to trade non-standardized options on U.S. Treasury bills, notes, and bonds with one another, on either an anonymous or fully-disclosed basis.

In addition to its function as clearing agent for the system, Delta also issues the options traded through the system and establishes margin requirements and trading and position limits for participants. RMJ Options disseminates bid and ask quotations on the options through a computerized communications network; at the discretion of the participants, RMJ Options either: (1) Executes the trade at the quoted price on an anonymous basis, or (2) permits the participants to negotiate the trade directly with one another, on a fully disclosed basis. Further, RMJ Options generates trade reports for transactions executed through the system, calculates margin and premiums due from participants in light of the positions they have taken, and instructs Delta's facilities manager, Security Pacific National Trust Co. ("SPNTCO") as to whether, and in what amounts, funds are due to be paid. Finally, Delta (acting through its agent SPNTCO) and RMJ Options arrest any transaction that fails to match, breaches a trading or position limit, or has been entered by a defaulted participant.[26]

IV. The Need for Regulation

The Commission long has recognized that there must be some practical limitations on entities encompassed within the broad definition of the term "exchange".[27] Nonetheless, the definition of the term "exchange" in section 3(a)(1) of the Act presents interpretative questions because of the phrase "facilities [28] for bringing together purchasers and sellers of securities." Read broadly, this phrase would incorporate many of the activities of OTC market makers [29] and brokers' brokers for government and municipal securities.

Brokers' brokers for government and municipal securities traditionally have brought buyers and sellers together by disseminating, through video display systems installed in dealers' offices, the prices and sizes of orders at which primary dealers are willing to trade and the prices and order sizes of the most recently completed transactions. A primary dealer, having decided to effect a trade at a particular price and order size, instructs the blind broker to execute the trade with the contra party. Trades are executed by the blind broker on an anonymous basis—*i.e.*, without the disclosure to either dealer of the identity of the contra party at the time of the trade. Although such systems are designed to facilitate the execution of orders, Congress gave no indication in enacting the Government Securities Act of 1986 [30] that it intended to subject brokers' brokers to exchange registration requirements.

The Commission believes that the proprietary systems that have developed to-date are distinguishable in function from exchange markets. These proprietary systems offer to participants the capacity to execute automatically transactions based on derivative pricing and also offer the opportunity to advertise purchasing and selling interest. These systems have not, however, evolved into interdealer quotation or transaction mechanisms in which participants enter two-sided quotations on a regular or continuous basis, thus ensuring a liquid marketplace.

The Commission also notes that an overly expansive interpretation of exchange registration would impose substantial burdens on existing proprietary trading systems. Specifically, application of the statutory fair representation standard set forth in section 6(b)(3) of the Act to proprietary systems could act as a barrier to entry for those systems.

Moreover, exchange registration would raise substantial questions regarding the ability of institutions to participate in existing proprietary systems.[31] In light of the functional differences between existing proprietary systems and exchange marketplaces and the potential burdens on competition which might arise, the Commission believes at this time that the existing proprietary systems are not required to register as exchanges.

The Commission believes that subjecting proprietary trading systems to exchange registration pursuant to Section 6 would substantially deter development of innovative trading systems.[32] The Commission believes that it is desirable for certain trading and quotation systems to be operated as proprietary businesses, rather than as self-regulatory organizations ("SROs")[33] so long as each system is subject to an appropriate level of Commission oversight.[34]

The Commission believes, however, that some form of oversight of these proprietary trading systems is necessary. In particular, the Commission is concerned with surveillance of these systems as trading volume has increased, [35] and as the systems have become more sophisticated and have begun to operate on an international basis.[36] It is appropriate for the Commission to ascertain that foreign entities participating in the systems are financially responsible and that surveillance information can be obtained regarding trading in such systems.[37] Regulation could also ensure that these systems have sufficient capacity so that they do not cease to function in periods of unusual volume. Further, given the potential for expansion of these proprietary trading systems, it may be important that the Commission have an opportunity to review and approve or disapprove the rules that govern the operation of these systems. Finally, particularly as proprietary trading systems grow in size and importance, the question of access to those systems on terms that are fair and non-discriminatory becomes increasingly significant.[38]

Proprietary trading systems increasingly are assuming new functions (such as Instinet's and POSIT's crossing features) and providing new trading and quotation mechanisms. The systems also are expanding to include a growing universe of securities, such as the options to be traded on the RMJ system and the foreign securities traded on Instinet. In light of these developments, the Commission believes that it is important for sponsors of these systems to accept clear responsibility for enforcing compliance by their participants with the securities laws.

The regulatory conditions imposed in the no-action approach rely on the episodic reporting of trading and product innovations and limit the availability to the Commission of the information it needs to monitor these systems. In its no-action letters, the Division informed operators of automated systems that it would not recommend Commission enforcement action if they did not register their systems as exchanges.[39]

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customers, who are intended to be small, individual investors, to place orders with PA for NYSE-listed securities; those orders will be filled from the inventory of a fund managed by PA or with which PA has a contractual relationship. The price for the securities will be the NYSE closing price for the applicable security on the day that the order is placed. The system has not yet commenced operations.

[21] *See* no-action letters issued to: (1) Adler; (2) NAPEX; (3) Security Pacific; and (4) RMJ, *supra* note 3.

[22] *See* Security Pacific and RMJ no-action letters, *supra* note 3. The Commission received substantial critical comment on the staff's no-action positions with respect to the Security Pacific system. *See supra* notes 6–8 and accompanying text, and letters from Thomas R. Donovan, President and Chief Executive Officer, Board of Trade of the City of Chicago ("CBT"), Charles J. Henry, President, CBOE, and William Brodsky, President and Chief Executive Officer, CME, to David S. Ruder, Chairman, SEC, dated June 10, 1988, February 19, 1988, and November 6, 1987.

[23] *See* Competitive Equality Banking Act of 1987, Pub. L. No. 100–86, 100th Cong., 1st Sess. Section 201(b)(2)(C), 101 Stat. 581–82, 584 (Aug. 10, 1987).

[24] *See* letter from Robert A. McTamaney, Carter, Ledyard & Milburn, counsel for RMJ Securities, to Brandon Becker, dated February 4, 1988 (request for staff no-action position) ("RMJ no-action request").

[25] On July 29, 1988, Delta filed with the Commission an application for registration as a clearing agency pursuant to Section 17A of the Act, and an accompanying request for exemption from several of the substantive requirements of that Section. Securities Exchange Act Release No. 25956 (July 29, 1988), 53 FR 29536. That application was subsequently amended by Delta on October 7, 1988. Securities Exchange Act Release No. 26172 (October 12, 1988), 53 FR 40616. The Commission on January 12, 1989, granted Delta temporary registration as a clearing agency for a period of three years. Securities Exchange Act Release No. 26450 (January 12, 1989), 53 FR 2010. (For a further discussion of the clearing services provided by Delta, *see* that release).

[26] By letters, dated February 4, 1988 and June 17, 1988, RMJ Securities requested that the staff issue a no-action letter similar to the ones issued to Security Pacific in 1985 and 1986, regarding non-registration of the RMJ system as a national securities exchange pursuant to Section 3(a)(1) and 6 of the Act. Pursuant to the Commission's determination not to objection to the staff's issuance of such a letter, the staff issued the requested no-action letter to RMJ Securities on January 12, 1988. *Supra* notes 3, 24.

[27] *Supra* note 14. In a general analysis of the bill, the 1934 Report stated that most of the definitions (including that for "exchange") are "self-explanatory." S. Rep. No. 792, 73d Cong., 2d Sess. 14. On the other hand, the many actual references to stock exchanges in the legislative history of the Act are to those specific entities that existed at the time and Congress did not appear to anticipate any type of new, yet unrecognizable form of an exchange. Instead, Congress referred to exchanges "as that term is generally understood."

[28] There is little background for the definition of the term "facility." Section 3(a)(2) of the Act states:

> The term "facility" when used with respect to an exchange includes its premises, tangible or intangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or services.

The definition of the term has not changed since it was originally adopted and is very similar to the originally-proposed version. No testimony refers to the definition of the term "facility" and as in the case of the "exchange" definition, the Committee felt that the definition was "self-explanatory." 1934 Report at 14.

[29] *See, e.g., Stock Exchange Practices: Hearings on S. Rep. 56 and S. Rep. 97 Before the Senate Committee on Banking and Currency ("Stock Exchange Practices Hearings")*, 73d Cong., 1st Sess. 6625 (1934) (statement of Richard Whitney, President, New York Stock Exchange, in regard to H.R. 7852):

> Section 3 of the bill contains definitions of the terms used in the bill. These definitions are unusually broad and sweeping. I call your attention particularly to the first definition which defines the word "exchange" to include not only the institution itself, but also all of its members.

Cf., Stock Exchange Practices Hearings (testimony of Oliver J. Troster) at 7672:

> Under section 3 exchanges are defined to include:
>
> Any board or market place, whether organized or unorganized, however managed or conducted, and whether incorporated or unincorporated, where or by means of any facility of which, contracts or offers for the purchase or sale of securities or other transactions in such securities are made.
>
> It appears to me as a layman that these words may be broad enough to cover every place of business of an over-the-counter dealer. Purchases and sales are certainly made there and by the use of its facilities. In a broad sense it is itself a board or market place. Yet we feel certain that the Congress cannot intend the absurd result that every little over-the-counter dealer's place of business is itself to be an "exchange" for all purposes of the act.

[30] Pub L. No. 99–571 (September 3, 1986).

[31] An argument can be made that section 6(f)(1) of the Act permits such institutional participation in existing proprietary trading systems. It is not clear, however, whether interpreting section 6(f)(1) as permitting institutional participation comports with Congress' intent, set forth in section 3(a)(3)(A) of the Act, to limit membership in an exchange to registered broker-dealers. In any event, it is clear that the Commission, under section 6(f)(1), could not compel compliance with the systems' regulations by non-registered institutions that execute transactions solely through brokerage services offered by those systems.

[32] Moreover, several of the systems that will be subject to the Rule, *e.g.*, the RMJ, Instinet, and POSIT systems, are designed to serve large institutional investors rather than small retail customers. Because these large institutions have far greater capacity to assess and avoid trading risk than do small retail investors, the Commission is satisfied that the purpose of the Act in applying the incremental protections afforded by exchange registration would not be served by their application to these systems.

[33] The Commission emphasizes that this view is based on the present configuration and trading volumes of those systems.

[34] The Commission notes that SRO registration might provide registered entities certain advantages over nonregistered trading systems. For example, only SROs are participants in the Intermarket Trading System and the Consolidated Tape Association ("CTA"). While Instinet has a contract allowing it to report trades through CTA, it has no share in revenues or votes on CTA matters. The options SROs are able to use registration and disclosure materials tailored specifically for standardized options, while non-registered entities must utilize conventional registration forms. Moreover, the antitrust protection accorded exchanges also may be considered a benefit of registration, although this immunity brings with it, and indeed is premised upon, Commission regulation and oversight. Of course, any entity that felt its operation was unduly hampered for these reasons could avail itself of those advantages by seeking exchange registration rather than operating as a proprietary system.

[35] For example, in 1987, the average monthly trading volume in Instinet (aggregated for all its systems) was approximately 120 million shares. The average monthly trading volume in Troster Singer's Inside systems was approximately 184 million shares.

[36] In this connection, the Commission has required, as a prerequisite to international linkages established by the SROs, comprehensive surveillance information sharing agreements or undertakings. Although the proprietary systems have not as yet established linkages with foreign markets, such linkages could occur in the near future, and the Commission has no arrangements for their oversight.

[37] Domestically, activity occurring through these trading systems does not go unscrutinized. The NASD examines a member's activities in various trading systems just as it does any member's other OTC trading activities. The exchanges also conduct surveillance of their specialists' trading activity occurring through Instinet.

[38] Although the activities of most of these systems would constitute broker or dealer activities under sections 3(a)(4) and 3(a)(5) of the Act and would require registration as a broker-dealer under section 15(b) of the Act, as a municipal securities broker or a government securities dealer under section 15C, and thus would trigger the incremental protections afforded by those provisions, proposed Rule 15c2–10 could ensure that systems capacity is adequate, and that access is not unfairly denied. Registration as a broker-dealer subjects the registrant to requirements to maintain adequate net capital (Rule 15c3–1 under the Act) and to provide for the protection of customers' securities and funds (Rule 15c3–3 under the Act). Broker-dealer registration, however, may limit the Commission's oversight of the actual organizational nature of the systems, including regulation of such burdens on competition as entry criteria for order-entry firms and market makers. The broker-dealer regulatory framework also would not apply to essential areas such as terms of execution, the routing of indications of interest and the handling of system errors or failures.

[39] The Division also advised the operators of several systems that the Division's no-action

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The no-action posture was conditioned on the Division's being promptly informed of any material operational changes. In addition, so that the Commission could be kept advised of changing market conditions, the system operators also were required to provide certain quarterly data.[40] The purpose of this data was to permit the staff to monitor activity in the trading and information systems, as well as the rules these systems developed regarding executions in the systems and quotation dissemination; however, the staff does not believe it has enough regular information to do so effectively.

Finally, the Commission believes that, given the potentially significant impact of these systems on the OTC trading of securities, it is appropriate for public investors to have notice and an opportunity to comment on the trading systems themselves and on significant changes to those systems proposed by the sponsors of the systems. Such opportunity for comment, which is not available under the no-action approach but which would be provided under the proposed Rule,[41] will assist the Commission in ensuring that the systems operate in a manner consistent with the purposes of the Act.

V. Description of the Proposed Rule

For the reasons discussed above, the Commission is proposing Rule 15c2–10 ("Rule") to require identification of trading and information facilities. The Rule is intended to permit proprietary trading systems to operate effectively while at the same time subjecting those systems to Commission scrutiny in order to assess whether the systems operate in a manner consistent with the fundamental purposes of the Act—the protection of investors and the maintenance of fair and orderly markets.

The proposed Rule would require each operator of a trading and information system [42] to submit to the Commission a plan covering the system. The Commission would publish and review the plan, and, if the Commission determined that it met the requirements of the Rule, it would declare the plan effective. Under the Commission's proposal, a broker or dealer or municipal securities dealer or government securities dealer would be prohibited form sponsoring or entering an indication of interest, quotation, or order to purchase or sell a security in the trading system unless the plan had been declared effective.[43]

A. Systems Covered by the Rule

The Rule would encompass any system that provides for the dissemination outside the sponsor [44] and its affiliates of indications of interest, quotations, or orders to purchase of sell securities and that provides procedures for executing or settling transactions in such securities.[45] The proposed Rule, however, excludes the following three types of trading and information facilities.

First, the Rule would not apply to a system in which the sponsor is a broker or dealer that limits use of the system to its own retail customers. The Commission believes that a system in which all transactions are executed by the broker or dealer for itself or its customers does no more than automate the internal execution functions traditionally engaged in by an integrated broker-dealer.[46] For example, many firms operate proprietary automatic execution systems for NASDAQ securities. These internal systems route orders from the branch office of a retail firm to the firm's traders. The system then executes the order automatically at the NASDAQ inside quotation (*i.e.*, the highest bid price or the lowest asked price) and reports the execution to the trader, the branch office, back office clearing, and for National Market System ["NMS"] securities, to the NASD.[47]

Second, the Rule also would not apply to certain systems currently operating solely as brokers' brokers [48] for non-equity securities. A brokers' broker trading system would be defined as any system that, with respect to non-equity securities including, but not limited to, government and municipal securities, only collects and disseminates without any identification of the responsible firm, quotations or indications of interest to brokers and dealers and provides: (1) The means for executing transactions based on such indications of interest or quotations, or (2) the means for executing, as principal, the contemporaneous purchase and offsetting sale or sale and offsetting purchase from or to other brokers, dealers, and municipal and government securities dealers.[49]

Finally, the Rule would not cover a trading and information facility operated by a registered national securities exchange or association, such as the New York Stock Exchange's "Designated Order Turnaround" system or the NASD's Small Order Execution

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position applies to nonregistration of their systems as clearing agencies. *See* Instinet, NAPEX, and Adler no-action letters, *supra* note 3. Moreover, the staff extended a no-action position to Instinet regarding its nonregistration as a national securities association. Instinet no-action letter, *supra* note 3.

[40] As a general matter, the staff requested that each applicant provide on a quarterly basis data on: (1) The number and identity of subscribers in the system; (2) the applicants or subscribers who have been denied participation or have withdrawn, and the reasons why; (3) the number of money defaults or failures to deliver; (4) the system's response, if any; (5) the cost to the company of satisfying such defaults; and (6) the estimated cost to subscribers of any defaults not satisfied by the system. The Division also requested trading volume data and information concerning the kinds of securities (*e.g.*, common stock) traded through the system and current copies of any rules, regulations or similar documents and any contracts that participants are required to sign. Finally, the system operator was to provide the staff with thirty days' notice of any contemplated material changes in the operation of its system.

[41] *See* sections c(2)(i) and d (3) and (4) of the proposed Rule, *infra* at 52–53, 55–56.

[42] The rule would define specifically the term "trading system."

[43] Should the Commission adopt the Rule, the Division would continue to provide no-action relief with respect to registration as an exchange for proprietary trading systems in appropriate circumstances, and prior no-action positions would not be withdrawn. The Rule would, of course, apply to operators of all trading systems that receive or have received no-action treatment form the staff.

[44] The Rule specifically would define a "sponsor" as a person who organizes, operates, administers or otherwise controls, directly or indirectly, a trading system.

[45] Thus, a system that only disseminates information and does not provide any execution or settlement procedures would not be subject to the Rule. Procedures for executing or settling transactions would include any rules, guidelines or facilities for either order entry and execution or the clearing and settling of trades.

[46] The Commission requests comment on the appropriate breadth of this exemption; specifically, whether the exemption should be rewritten to apply to systems that automate the internal order routing and execution capacities of the sponsoring broker-dealer, and that provide their customers with access to those services.

[47] In the case of a proprietary trading system that links the facilities of an introducing broker-dealer to those of a clearing broker-dealer, and that permits orders entered by customers of the introducing firm to be executed through the system and cleared through the facilities of the clearing firm, both the introducing firm and the clearing firm would be deemed one broker-dealer for purposes of this exemption. Accordingly, the proprietary trading system linking the two firms would fall within the exception to the Rule.

[48] A brokers' broker, which operates chiefly in the government and municipal securities markets, collects and disseminates buy and sell interests from and to its customers by receiving indications of interest from dealers and communicating them by telephone or rebroadcasting such interest over its proprietary system. In effect, a system operated by a brokers' broker permits dealers to advertise anonymously their trading interests.

[49] A system, such as the system proposed to be operated by RMJ Securities, that provides clearing and settling as well as blind brokerage services to participants, would not fall within this exclusion. Similarly, systems such as the RMJ system, which permits participants to submit quotations and trade directly with one another on a fully disclosed basis, and the POSIT system, in which customers may specify how much information about their orders may be revealed to other participants in POSIT, would fall outside this exclusion.

System. Such a facility already is regulated through the Commission's review of the rules of each registered national securities exchange or association.[50]

B. Contents of the Plan and Initial Submission

The Rule would require system sponsors to submit as part of the plan the following information regarding the system:

(1) The name and address of the plan sponsor and a description of the sponsor's organization, including any subsidiary or other affiliate involved with the operation of the system.

(2) The securities, or types of securities,[51] that may be traded on or through the system.

(3) A description of the method of the operation of the system, including the procedures governing the execution and, if applicable, clearance and settlement of transactions and the entry of indications of interest, quotations and orders. The operator should include in this description the types of transactions that can be executed and the specific parameters for each type of transaction.

(4) The terms and conditions under which persons will be granted or denied access to the system as participants or subscribers. The sponsor should include the specific procedures and standards to govern such grant or denial of access.[52]

(5) A description of the system's requirements regarding the financial soundness and integrity of participants and subscribers.

(6) A description of the staffing, systems, and procedures in place to supervise the system for compliance by participants and subscribers with the terms and conditions of the plan and the federal securities laws and rules and regulations thereunder.

(7) A description of procedures that will be followed in the event of an operational failure.

(8) An agreement to keep, preserve, and make available to the Commission on request, all records made or received by it in the course of its business, including financial statements and data regarding indications of interest, quotations, orders, and trades in the system. The plan shall provide that the system operator shall keep all such documents for at least five years, the first two years in an easily accessible place.

(9) An agreement to submit to the Commission annually, and to furnish promptly at any time upon request, data regarding indications of interests, quotations, orders, and trades in the system, and copies of the above-enumerated records.

(10) An agreement to report to the Commission any information received by the sponsor providing the sponsor reasonable grounds to suspect that a participant or subscriber may have violated the federal securities laws.

(11) An agreement to supervise the system to ensure compliance with the plan and the federal securities laws.[53]

(12) An agreement to notify the Commission in writing immediately should the system cease its operations.

(13) If any entity would hold or safeguard subscriber funds on a regular basis, a description of the procedures and controls that will be implemented to ensure the safety of those funds, and an agreement to submit to the Commission annual audited financial statements as a condition to the effectiveness of the plan.[54]

(14) An agreement to permit examinations, by representatives of the Commission, of the sponsor and of the trading system operated by the sponsor.

(15) A description of all other material aspects of the system, its facilities, operations, and financial condition.

Should a sponsor fail to comply with any of the provisions or agreements contained in the plan, the Commission, after appropriate notice and hearing, may rescind the effectiveness of the trading system plan if it finds that the sponsor's failure to comply is inconsistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets, or the removal of impediments to, and perfection of the mechanisms of, a national market system for securities and a national system for the clearance and settlement of securities transactions. In this connection, the Rule authorizes the Commission to conduct examinations of the sponsor and of the trading system operated by the sponsor, including an examination of all books and records maintained pursuant to the Rule.

Under the Rule, with respect to approval of a trading system plan, the Commission would use the procedures provided in paragraphs (c) (1) and (2) of Rule 11Aa3–2 under the Act,[55] which generally apply to national market system plans. These procedures require the Commission to publish notice of the filing of a trading system plan and the terms of the substance of the plan and provide interested persons an opportunity to submit written comments. Within 120 days of the publication of notice of the filing of the plan, or within 180 days of such date should the Commission find a longer period to be appropriate and publish its reasons for so finding, the Commission would approve the plan if it determined that: (1) The sponsor and system are organized and have the capacity to comply and to enforce compliance by participants and subscribers with the terms and conditions of the plan; [56] (2) the plan is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets and to remove impediments to and perfect the mechanisms of a national market system for securities and a national system for the clearance and settlement of securities transactions; (3) the plan does not impose a burden on competition not necessary or appropriate in furtherance of the Act and rules thereunder. Under the Rule, the Commission also could impose such terms and conditions as it deemed necessary and appropriate, in accordance with the above approval standards.

C. Plan Amendments

Requirements analogous to those of section 19 of the Act and Rule 19b–4

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[50] Self-regulatory organizations are generally required to file with the Commission, pursuant to Rule 19b–4 under the Act, changes to "any material aspect of the facilities" of the self-regulatory organizations.

[51] For example, a system operator could specify in its filing that the system is available for trading in such categories as listed stocks, or NASDAQ stocks, or both. The operator would not need to name each security and would be required to amend the filing only if a new type of security were included in the system.

[52] Denial of access here would encompass a refusal by the sponsor to enter into the contractual relationship with a person necessary to allow that person to use the system. Such denials of access would be reviewable by the Commission under paragraph (e) of the proposed Rule, which incorporates the procedural provisions set forth in Rule 11Aa3–2 under the Act.

[53] Where, as in the case of five of the six systems currently in operation, the sponsor of the system plan is a registered broker-dealer, that sponsor is subject to the oversight of the appropriate self-regulatory organization, as defined under section 3(a)(26) of the Act. The existence of Commission supervision pursuant to the proposed Rule in no way replaces the oversight responsibilities of those self-regulatory organizations.

[54] Such an entity may be required to register as a broker-dealer and clearing agency under sections 15 and 17A, respectively, of the Act.

[55] 17 CFR 240.11Aa3–2 (1988).

[56] This generally will require a showing of the capacity to monitor trading and quotation dissemination in the system, and to ensure at a minimum compliance with the requirements of the sponsor's contract. In addition, this may require information-sharing agreements with U.S. SROs as well as any foreign SROs or governments where the system may be operating. Furthermore, the Commission would have the authority pursuant to the proposed Rule to inspect any system to ensure its continuing ability to ensure compliance with this requirement.

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thereunder would apply to plan amendments. A system sponsor would submit to the Commission any amendment to an effective plan, accompanied by a concise general statement of the basis and purpose of a plan amendment.[57] The amendment would ordinarily take effect thirty days after filing with the Commission,[58] unless the Commission approves the plan amendment before the expiration of the thirty-day period upon a good cause finding.[59] Moreover, a plan amendment may take effect immediately upon filing with the Commission if the amendment meets the standard for immediate effectiveness of proposed rule changes filed by SROs as set forth in section 19(b)(3)(A) of the Act.[60] Within thirty days of the submission, the Commission by order may defer the effectiveness of any amendment (whether pending or effective on filing) upon a Commission finding of good cause, if the Commission determines that such deferral of effectiveness is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission defers effectiveness, it must publish notice of the plan amendment. In addition, if the Commission determines not to defer effectiveness, but determines that public comment on a plan amendment would be appropriate, the Commission may publish notice of the plan amendment. Within thirty days of the publication of notice of the filing of the plan amendment (and notice where applicable, of a determination to defer effectiveness of the rule filing), or a longer period as to which the system sponsor consented or as the Commission designated up to 120 days if it found such longer period to be appropriate and published its reasons for so finding, the Commission would by order: (1) Approve the plan amendment if it appears to the Commission that the plan amendment is consistent with the requiremets of the Act and the rules applicable to the trading system plan or (2) permanently disapprove (or abrogate in the case of an amendment that was either effective on filing or had taken effect prior to thirty days after filing) the plan amendment if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or othwrwise in furtherance of the purposes of the Act. Unless the Commmission orders otherwise, Commission action abrogating an amendment would not affect the validity or force of the amendment during the period it was in effect.

Finally, the Commission itself also could promulgate by rule an amendment to an effective trading system plan should it determine that the amendment were necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets and to remove impediments to and perfect the mechanisms of a national market system for securities and national system for the clearance and settlement of securities transactions.[61]

D. Appeals

The Commission would have the discretion, pursuant to section (e) of the Rule, to entertain appeals concerning the implementation or operation of an effective plan, including appeals concerning prohibitions or limitations, in the same manner and subject to the same standards as described in Rule 11Aa3–2(e) under the Act.

E. Exemptions

The Commission would be able to exempt from the requirements of the Rule any person, either unconditionally or on specified terms and conditions, if the Commission determines that the exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to and perfection of the mechanisms of a national market system for securities and a national system for the clearance and settlement of securities transactions.

F. Rescission

After appropriate notice and hearing, pursuant to subsection (g) of the proposed rule, the Commission could rescind the effectiveness of a trading system plan if it determined that: (1) the sponsor of a plan, without reasonable justification or excuse, had failed to comply or to enforce compliance by participants, subscribers, or customers with the terms, conditions, and agreements of its effective trading system plan; and

(2) Such failure was inconsistent with the public interest, the protection of investors, the maintenance of fair and orderly markets, and the removal of impediments to and perfection of the mechanisms of a national market system for securities and a national system for the clearance and settlement of securities transactions.

G. Rule 3a12–7

The Commission also proposes amendments to Rule 3a12–7 under the Act [62] to state that put and call options on U.S. government securities would not be exempt from the provisions of sections 15(c)(2), 11A, and 17A of the Act and the rules thereunder. Therefore the words "except for sections 15(c)(2), 11A, and 17A" would be added after "shall be exempt from all provisions of the Act." The intended effect of this amendment would be to require that government securities options systems, such as the system planned by RMJ, comply with the proposed rule if it is adopted, and to clarify that entities that meet the definition of "clearing agency" set forth in the Act and that clear transactions in options on government securities executed through proprietary trading systems, may be subject to the clearing agency registration requirements of section 17A of the Act.

H. Statutory Authority

The Rule would be promulgated under sections 2, 3, 11A, 15(c), 17, 17A and 23(a) of the Act. The Rule is designed to prohibit and prevent fraudulent and deceptive practices, including fictitious quotations, that could occur in the systems subject to the rule absent Commission oversight.[63] In addition, the Rule is designed to create greater equality of regulatory treatment as between exchange systems and proprietary trading systems.[64]

VI. Request for Comments

The Commission requests comment on the costs and benefits of the proposed rule, as well as the consistency of the rule's approach with the policies underlying the Act. In that regard, commentators are invited to address the issue whether proprietary trading systems might be more appropriately regulated by imposing on system sponsors, pursuant to the Commission's rulemaking authority over broker-dealers, enhanced recordkeeping and reporting requirements and ensuring Commission access to records.[65] Such an approach could require that system sponsors adhere to financial responsibility criteria applicable to registered broker-dealers generally, or could add criteria relating specifically to broker-dealers maintaing a proprietary trading system. The rules also could require that sponsors conduct surveillance of trading in the system and otherwise supervise system participants. Comment is specifically invited on (1) whether this approach would be more appropriate in light of the policies of the Act than would a regulatory scheme comparable to statutory oversight of self-regulatory organizations, including Commission plan approval and rule supplementation powers; and (2) whether this approach would reduce regulatory burdens on the systems and increase market efficiency. Commentators also are invited to address the appropriateness of adopting a "standards" approach, in which the proposed Rule would set forth standards under which plans and plan amendments will be approved, rather than delineate general categories of information those plans and plan amendments should contain.[66]

Finally, the Commission requests comment on whether it should set forth standards for exempting, pursuant to Section 5 of the Act, certain trading systems from the requirements of exchange registration. In that regard, the Commission recognizes that, over time, there may evolve trading systems that, because of the display of regular or continuous two-sided quotations or because they exhibit other traditional characteristics of an exchange, may fall within the definition of the term "exchange" under the Act. Nevertheless, the application of each requirement set forth in section 6 of the Act to these systems arguably may continue to be inappropriate. Accordingly, the Commission requests comment on whether it should articulate standards for the granting of exemptions from exchange registration requirements.

Section 5 of the Act requires that all United States exchanges either register with the Commission as national securities exchanges or obtain a Commission exemption from that registration. An exemption may be granted if the Commission determines that, "by reason of the limited volume of transactions effected on such exchange, it is not practicable and not necessary or appropriate in the public interest or for the protection of investors" to require such registration. The legislative history of the Act does not discuss the factors the Commission should consider in determining whether registration is not practicable and not necessary or appropriate by reason of "limited volume."[67] Further, in the seven instances in which the Commission has granted section 5 exemptions to stock exchanges on other than a temporary basis, the Commission's exemptive orders have not delineated the factors considered in reaching the determination that the "limited volume" criterion has been satisfied. Rather, tracking the language of section 5, those orders recite the Commission's conclusion that registration was "not practicable and not necessary or appropriate in the public interest or for the protection of investors" in light of the limited volume of transactions effected on the exempted exchanges.[68] [Prior to enactment of the Act, five of the exchanges that received exemptions in 1935 and 1936 submitted the following information to the Senate:

Exchanges	Volume in Shares (1932)	Market Value of Shares Listed (1933)
Colorado Springs Stock Exchange	52,519	$5.6 million.
Milwaukee Grain & Stock Exchange	143,305	$113.6 million.
Minneapolis-St. Paul Stock Exchange	323,062	$84 million.
Richmond Stock Exchange	14,014	not available.
Seattle Stock Exchange	15,393	$29.3 million.

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[57] Unlike procedures under section 19(b)(1), the Commission would, upon the filing of the plan amendment, "publish notice thereof together with the terms of substance of the [plan amendment] or a description of the subjects and issues involved," and provide interested persons an opportunity to submit written data, views, and arguments concerning such [plan amendment]" only where it finds that public comment is necessary or appropriate.

[58] The proposal that an amendment take effect thirty days after filing varies from the standard procedures of section 19 of the Act, but the Commission believes that such variance would be desirable to accomodate the needs of proprietary trading systems to remain flexible in developing additional capabilities. Should certain trading systems in the future grow to a size and importance equivalent to existing trading markets, the Commission would review the appropriateness of this provision.

[59] The "good cause" standard for accelerated effectiveness is based on section 19(b)(2)(B) of the Act, which governs the accelerated effectivenes of proposed rule changes by SROs.

[60] Under section 19(b)(3)(A), a proposed rule change is effective upon filing with the Commission if it is designated by the SRO as: (1) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the SRO; (2) establishing or changing a fee or other charge imposed by the SRO; or (3) concerning solely the administration of the SRO.

[61] *See* Section 19(c) of the Act, which provides that the Commission may abrogate, add to, or delete from the rules of SROs upon notice to the appropriate SRO, publication of the proposed change to the SROs rules, and the provision of an opportunity for oral presentation of views regarding the proposed change.

[62] Rule 3a12–7 states:

Any put, call, straddle, option, or privilege traded exclusively otherwise than on a national securities exchange and for which quotations are not disseminated through an automated quotation system of a registered securities association, which relates to any securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States or securities issued or guaranteed by a corporation in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury pursuant to section 3(a)(12) of the Act, shall be exempt from all provisions of the Act which by their terms do not apply to any "exempt security" or "exempt securities," provided that the securities underlying such put, call, straddle, option or privilege represent an obligation equal to or exceeding $250,000 principal amount.

[63] *See* sections 15(c)(1) and (2).

[64] *See* section 11A(a)(1)(C)(ii), in which Congress stated, "It is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure . . . fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets." *See also* section 11A(c)(1)(F), in which Congress directed the Commission to prescribe such rules and regulations to "assure equal regulation of all markets for qualified securities and all exchange members, brokers, and dealers effecting transactions in such securities."

[65] As noted *supra* n. 13, each of the trading systems currently in operation is sponsored by either: (1) a broker-dealer registered pursuant to section 15(b) of the Act (a "registered broker-dealer") or section 15C of the Act (a "government securities broker-dealer"); (2) an entity affiliated with a registered broker-dealer; or (3) an entity in the process of registering as a broker-dealer under section 15(b). Thus, all current sponsors (or their affiliates) will be subject to the requirements, encompassed in Rules 17a–3, 17a–4, and 17a–5 under the Act (or, with respect to government securities broker-dealers, §§ 404.2, 404.3 and 405.2 of the Treasury Regulations, 17 CFR Ch. IV), to keep and preserve records reflecting data on transactions effected and accounts held by the broker-dealer, and to submit monthly and quarterly reports to the Commission. "Enhanced" recordkeeping requirements could include a requirement, similar to the one found in the Rule as currently proposed, that system sponsors make available to the Commission, on request, every document made or received by the sponsor in the course of its operation of the system [*see* Proposed Rule, section c(viii)].

[66] The Commission could perhaps use, as a model for such a standards-based approach, Release No. 16900, published in 1980 to assist clearing agencies in modifying their rules to comply with the specific requirements of the Act. Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 ("Standards Released"). For example, the Standards Release provides that, in order to ensure that clearing agencies adequately safeguard securities and funds and provide prompt and accurate clearance and settlement of securities transactions pursuant to Section 17A(b)(3)(A) of the Act, those clearing agencies should, *inter alia*, perform periodic risk assessments, establish audited committees of their boards of directors, set up internal audit departments, and furnish audit financial statements annually to participants. *See also*, Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 5167.

[67] S. Rep. No. 792, to accompany S. 3420, at 8 (April 17, 1934) ("[t]he Commission * * * is empowered to exempt from registration small exchanges where the volume of transactions is not sufficient to invite the abuses prevalent on the large markets").

[68] *See* Securities Exchange Act Release Nos. 416, November 14, 1935 (exempting the Honolulu and Minneapolis-St. Paul Stock Exchanges and the Milwaukee Grain and Stock Exchange); 432, December 2, 1935 (exempting the Richmond and Wheeling Stock Exchanges); 472, February 3, 1936 (exempting the Colorado Springs Stock Exchange); and 589, April 10, 1976 (exempting the Seattle Stock Exchange).

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Exchanges	Volume in Shares (1932)	Market Value of Shares Listed (1933)
New York Stock Exchange	425,234,294	$22.2 billion

(Figures extracted from *Hearings on Stock Exchange Practices Before the Subcommittee on Banking and Currency, Senate Banking Committee* 73d Cong., 2d Sess., pt. 17 at 7852–56 (1934))

Specifically, the Commission requests comment on whether it should interpret the term "limited volume" in Section 5 of the Act to take into account all, or a combination of, the following characteristics, among others that might be suggested by the commentators:

(1) The dollar volume and/or number of transactions done through the system, expressed as a percentage of all trading done in the market of which that particular system is a part;

(2) The number and characteristics of participants or subscribers permitted to trade in the system; and

(3) The characteristics of the instruments traded, or transactions allowed, in the system.

Of course, the Commission could, as it has in the past, impose conditions on such exemptions if they are granted. For example, in prior exemptive orders the Commission has imposed on exempted exchanges recordkeeping and reporting requirements, and requirements to comply and to enforce compliance with the Act.[69] Similarly, future exemptions could be conditioned on the exempted exchanges being required to file plans and plan amendments with the Commission, and to submit to: (1) Commission review of action taken by the exchanges denying access to the system to current or prospective members, and (2) Commission jurisdiction to amend the rules of the exchange if the public interest so requires. In view of the range of alternatives open to the Commission, the Commission solicits comment on the proper regulation of exchanges exempted pursuant to section 5 of the Act. As a related matter, the Commission requests suggestions and comments on any other possible method of regulation or oversight of the trading and information systems.

VII. Summary of the Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") pursuant to the Regulatory Flexibility Act[70] regarding proposed Rule 15c2–10. The IRFA states that although a minimal number of broker-dealers operating trading systems would be covered by the Rule (and an even smaller number would be deemed small entities), the Commission determined to prepare the IRFA because the exact number of small entities that could be affected by the Rule is unknown. The IRFA states that the proposed Rule would ensure that proprietary trading systems operate effectively and in a manner consistent with the fundamental purposes of the Act. The IRFA also sets forth the concerns with the current regulatory approach, and discusses possible alternatives to the proposed Rule for the regulation of small entities. The IRFA solicits comments on any possible costs the proposed Rule might have on small entities, and on possible alternatives with regard to small entities.

A copy of the IRFA may be obtained from Gordon K. Fuller, Esq., Special Council, Division of Market Regulation, Securities and Exchange Commission, (Mail Stop 5–1), 450 Fifth Street, NW., Washington, DC 20549, 202/272–2414.

List of Subjects in 17 CFR 240

Reporting and recordkeeping requirements, securities.

VIII. Statutory Basis and Text of the Amendments

Pursuant to the Securities Exchange Act of 1934 and particularly sections 2, 3, 11A, 15(c), 17, 17A and 23(a) thereof, 15 U.S.C. 78b, 78c, 78k–1, 78o(c), 78q, 78q-1 and 78w(a), the Commission proposes to amend § 240.3a12–7 and to add § 240.15c2–10 in Chapter II of Title 17 of the Code of Federal Regulations.

Note.—Arrows indicate text proposed to be added.

Text of Proposed Amendment to Rule 3a12–7 and Proposed Rule 15c2–10

Chapter II, Title 17 of The Code of Federal Regulations is Amended as Follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read as follows:

Authority: Sec. 23, 48 Stat. 901, as amended (15 U.S.C. 78w), unless otherwise noted. * * * § 240.15c2–10, also issued under secs. 2, 3, 6, 9, 10, 15, 17 and 23, 48 Stat. 881, 882, 885, 889, 891, 895, 897, and 901; sec. 15A, as added by sec. 1, Pub. L. 75–719, 52 Stat. 1070; sec. 11A as added by sec. 7, Pub. L. 94–29, 89 Stat. 111 (15 U.S.C. 78k-1); 15 U.S.C. 78a *et seq.*, and particularly secs. 2, 3, 10(a), 10(b), 15(c), and 23(a), 15 U.S.C. 78b, 78c, 78i(a)(6), 78j(a), 78j(b), 78o(c), and 78w(a).

2. Section 240.3a12–7 is revised as follows:

§ 240.3a12–7 Exemption for certain derivative securities traded otherwise than on a national securities exchange.

Any put, call, straddle, option, or privilege traded exclusively otherwise than on a national securities exchange and for which quotations are not disseminated through an automated quotation system of a registered securities association, which relates to any securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States or securities issued or guaranteed by a corporation in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury pursuant to section 3(a)(12) of the Act, shall be exempt from all provisions of the Act ►except for sections 15(c)(2), 11A, and 17A◄ which by their terms do not apply to any "exempt security" or "exempted securities," provided that the securities underlying such put, call, straddle, option or privilege represent an obligation equal to or exceeding $250,000 principal amount.

3. Section 240.15c2–10 is added as follows:

§ 240.15c2–10 Trading and information facilities.

(a) No broker, dealer, municipal securities dealer, government securities broker, or government securities dealer shall act as a sponsor of a trading system, or enter an indication of interest, quotation, or order to purchase or sell a security into such a trading system except in accordance with the terms of a plan covering such system that has been filed by the sponsor and declared effective by the Commission pursuant to paragraph (c) of this section.

(b) *Definitions.* For purposes of this section, (1) The term "trading system" shall mean any system providing for the dissemination outside the sponsor and its affiliates of indications of interest, quotations, or orders to purchase or sell securities, and providing procedures for executing or settling transactions in such securities; provided, however, the term does not include:

(i) A system in which all transactions are executed by either the broker or dealer operating or controlling the system or the customers of such broker or dealer; or

(ii) A brokers' brokers trading system; or

(iii) A facility of a registered national securities exchange or association.

(2) The term "sponsor" shall mean any person who organizes, operates, administers or otherwise controls, directly or indirectly, a trading system.

(3) The term "facility of a national securities association" shall mean that association's premises, tangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction (including, among other things, any system of communication to or from the association, by ticker or otherwise, maintained by or with its consent), and any right of the association to the use of any property or service.

(4) The term "brokers' brokers trading system" shall mean any system that, with respect to securities other than equity securities as defined under section 3(a)(11) of the act, including, but not limited to, government and municipal securities, only collects and disseminates, without any identification of the responsible firm, indications of interest or quotations from and to brokers, dealers, municipal securities dealers, government securities brokers or government securities dealers, and provides:

(i) Means for executing transactions based on such indications of interest or quotations; or

(ii) Means for, as principal, executing the contemporaneous purchase and offsetting sale or sale and offsetting purchase as principal from or to other brokers, dealers, municipal securities broker, or government securities dealer shall act as a sponsor of a trading system, or enter an indication of interest, quotation, or order to purchase or sell a security into such a trading system except in accordance with the terms of a plan covering such system that has been filed by the sponsor and declared effective by the Commission pursuant to paragraph (c) of this section.

(b) *Definitions.* For purposes of this section, (1) The term "trading system" shall mean any system providing for the dissemination outside the sponsor and its affiliates of indications of interest, quotations, or orders to purchase or sell securities, and providing procedures for executing or settling transactions in such securities; provided, however, the term does not include:

(i) A system in which all transactions are executed by either the broker or dealer operating or controlling the system or the customers of such broker or dealer; or

(ii) A brokers' brokers trading system; or

(iii) A facility of a registered national securities exchange or association.

(2) The term "sponsor" shall mean any person who organizes, operates, administers or otherwise controls, directly or indirectly, a trading system.

(3) The term "facility of a national securities association" shall mean that association's premises, tangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction (including, among other things, any system of communication to or from the association, by ticker or otherwise, maintained by or with its consent), and any right of the association to the use of any property or service.

(4) The term "brokers' brokers trading system" shall mean any system that, with respect to securities other than equity securities as defined under section 3(a)(11) of the act, including, but not limited to, government and municipal securities, only collects and disseminates, without any identification of the responsible firm, indications of interest or quotations from and to brokers, dealers, municipal securities dealers, government securities brokers or government securities dealers, and provides:

(i) Means for executing transactions based on such indications of interest or quotations; or

(ii) Means for, as principal, executing the contemporaneous purchase and offsetting sale or sale and offsetting purchase as principal from or to other brokers, dealers, municipal securities dealers, government securities brokers and government securities dealers.

(c)(1) A sponsor of a trading system filing a plan pursuant to this section shall submit to the Commission the text of the plan, together with a statement of the purpose of the plan. Any such plan shall contain, at a minimum:

(i) The name and address of the plan sponsor and a brief description of the sponsor's organization, including any other person involved with the operation of the system.

(ii) The securities or types of securities traded on or through the facilities of the system.

(iii) A description of the manner of operation of the system, including the procedures governing the execution and, if applicable, clearance and settlement of transactions and the entry of indications of interest, quotations, and orders.

(iv) The terms and conditions under which persons will be provided or denied access to the system as participants and subscribers (including specific procedures and standards governing such grants or denials of access).

(v) A description of the system's requirements regarding the financial soundness and integrity of participants, subscribers, and customers.

(vi) A description of the staffing, systems and procedures in place to supervise the system for compliance by participants and subscribers with the terms and conditions of the plan and the Federal securities laws and the rules and regulations thereunder.

(vii) A description of the procedures that will be followed in the event of an operational failure.

(viii) An agreement to keep, preserve, and make available to the Commission on request, at least one copy of each document including all correspondence, memoranda, papers, books, notices, accounts, and other such records, as shall be made or received by the sponsor in the course of the operation of its trading system, including, but not limited to, (A) financial statements and (B) data regarding indications of interest, quotations, orders, and trades in the system. The system operator shall agree to keep all such documents for a period of not less than five years, the first two years in an easily accessible place, subject to the destruction and disposition provisions described in § 240.17a–6.

(ix) An agreement to submit to the Commission annually, and to furnish promptly at any time upon request of a representative of the Commission, data regarding indications of interest, quotations, orders, and trades in the system, and copies of documents required to be kept and preserved pursuant to paragraph (c)(1)(viii) of this section.

(x) An agreement to report to the Commission any information the sponsor receives that provides it reasonable grounds to suspect that a participant or subscriber may have violated the federal securities laws or the rules and regulations thereunder;

(xi) An agreement to supervise the system to ensure compliance by participants and subscribers with the terms and conditions of the plan and the federal securities laws and the rules and regulations thereunder;

(xii) An agreement to notify the Commission in writing immediately should the system cease its operations;

(xiii) If an entity would hold or safeguard subscriber funds on a regular basis, a description of the procedures and controls that will be implemented to ensure the safety of those funds, and an agreement to submit to the Commission annual audited financial statements as a condition to the effectiveness of the plan.

(xiv) An agreement to permit examinations, by representatives of the Commission, of the sponsor and of the trading system operated by the sponsor; and

(xv) A description of all other material aspects of the system, its facilities, operation, and financial condition.

(2)(i) A trading system plan filed pursuant to this section shall not become effective until it is approved by the Commission in accordance with the procedures set forth in paragraphs (c)(1) and (2) of § 240.11Aa3–2 governing national market system plans. A plan shall be declared effective by the Commission if the Commission determines that:

(A) The sponsor and system are organized and have the capacity to comply, and to enforce compliance by participants and subscribers, with the terms and conditions of the plan;

(B) The plan is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of a national market system for securities and a national system for the clearance and settlement of securities transactions; and

(C) The plan does not impose a burden on competition not necessary or appropriate in furtherance of the Act and rules thereunder.

(ii) The Commission may impose such terms and conditions upon such approval as it deems necessary and appropriate in furtherance of the requirements of paragraphs (c)(2)(i)(A)–(C) of this section.

(d)(1) Each system sponsor shall submit to the Commission any amendment to an effective plan, accompanied by a concise general statement of the basis and purpose of a plan amendment. An amendment to an effective plan shall take effect thirty days after filing with the Commission provided, however:

(i) An amendment may take effect upon filing with the Commission if designated by the sponsor as: (A) Constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existng rule regarding the trading system; (B) Establishing or changing a fee or other charge imposed by the sponsor; or (C) Concerning solely the administration of the trading system; or

[69] *See, e.g.*, Securities Exchange Act Release No. 416, November 14, 1935, at 1–2 (exempting the Honolulu and Minneapolis-St. Paul Stock Exchanges and the Milwaukee Grain and Stock Exchange).

[70] 5 U.S.C. 603.

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(ii) An amendment may take effect prior to thirty days after filing with the Commission if the Commission finds there is good cause for such early effectiveness.

(2) Notwithstanding the provisions of paragraph (d)(1) of this section, within thirty days of the date of filing with the Commission of a plan amendment, the Commission may, by order, defer the effectiveness of any amendment prior to thirty days after filing, if it appears to the Commission that such deferral of effectiveness is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title. The Commission shall publish notice of the order of deferred effectiveness with the terms of the substance of the plan amendment and provide interested persons an opportunity to submit written data, views and arguments concerning such plan amendment. The order of deferred effectiveness shall remain in effect until the Commission:

(i) Takes action in accordance with the provisions of paragraph (d)(4)(i) or (ii) of this section, or

(ii) Otherwide orders as is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

(3) Within thirty days of the date of filing with the Commission of a plan amendment, if the Commission determines not to defer effectiveness but finds that public comment on a plan amendment is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, the Commission shall publish notice of the plan amendment together with the terms of the substance of the plan amendment or a description of the subjects and issues involved, and provide interested persons an opportunity to submit written data, views and arguments concerning such plan amendment.

(4) Within thirty days of the date of the publication of a notice published pursuant to either paragraph (d)(2) or (3) of this section or within such longer period as to which the plan sponsor consents or as the Commission may designate, up to 120 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission may:

(i) By order approve the plan amendment if it appears to the Commission that the plan amendment is consistent with the requirements of the Act and the rules thereunder applicable to the trading system plan; or

(ii) By order disapprove or, abrogate in the case of an amendment that previously had taken effect pursuant to paragraph (d)(1) of this section, the plan amendment if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

(5) Unless the Commission orders otherwise, Commission action abrogating an amendment pursuant to paragraph (d)(4)(ii) of this section shall not affect the validity or force of the amendment during the period it was in effect.

(6) The Commission may promulgate by rule an amendment to an effective trading system plan if it determines that such amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of a national market or national clearance and settlement system.

(e) The Commission may, in its discretion, entertain appeals concerning any action taken or failure to act by any person in connection with an effective trading system plan, including prohibitions or limitations of access, in the same manner and subject to the same standards as described in paragraph (e) of § 240.11Aa3–2 under the Act.

(f) The Commission may exempt any person from the provisions of this section, either unconditionally or on specified terms and conditions if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system for securities and a national system for the clearance and settlement of securities transactions.

(g) The Commission may conduct examinations of the sponsor and of the trading system operated by the sponsor, including an examination of all books and records maintained pursuant to paragraph (c)(1)(viii) of this section.

(h) If the Commission, after appropriate notice and hearing, finds that the sponsor of any plan, absent reasonable justification or excuse, has failed to comply, or to enforce compliance by participants or subscribers, with the terms, conditions, and undertakings of its effective trading system plan, and, if it appears to the Commission that such failure is inconsistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets, or the removal of impediments to, and perfection of the mechanisms of, a national market system for securities and a national system for the clearance and settlement of securities transactions, the Commission shall rescind the effectiveness of the trading system plan.

(i) *Effective dates:* The effective date of this section shall be [six months after date of adoption of rule].

By the Commission.

Dated: April 11, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9234 Filed 4–17–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 175

Receipt of Domestic Interested Party Petition Regarding Classification of Scroll-Cut, Tin Free Steel Sheet

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of a domestic interested party to support classification of certain scroll-cut, tin free steel sheet, cut to length. Petitioner maintains that the most specific tariff description for and, therefore, the proper classification of the merchandise is the provision for plates, sheets, and strip, of iron or steel, whether or not cut, pressed, or stamped to nonrectangular shape, if electrolytically coated or plated with base metal other than tin, lead, or zinc, in item 609.17, Tariff Schedules of the United States (TSUS). This document invites comments with regard to the correctness of this proposed classification.

DATE: Comments must be received on or before June 19, 1989.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Regulations and Disclosure Law Branch, Room 2119, 1301 Constitution Avenue NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Commercial Rulings Division, (202) 566–8181.

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of Bethlehem Steel Corporation, concerning the proper classification of tin free steel sheet which is scroll-cut. The petition also concerns scroll-cut, tin free steel sheet which is lacquered, painted or varnished (but not decorated, designed or finished). Tin free steel is sometimes referred to as electrolytic chromium coated steel.

Customs replied to petitioner's request for information by letter dated October 19, 1987 (080789), in which we cited previous rulings holding scroll-cut, tin free steel sheet which has been treated with an epoxy phenolic lacquer, to be classifiable under the provision for other articles of iron or steel, not coated or plated with precious metal, in item 657.25, TSUS. We stated that while the issue of painting or varnishing did not arise in our previous rulings, neither of these processes would affect the classification. Customs indicated that both tin free steel sheet which is scroll-cut, and tin free steel sheet which is scroll-cut and also lacquered, painted or varnished, have been processed beyond the condition of a basic sheet of steel of the type provided for in Schedule 6, Part 2, Subpart B, TSUS.

The petition, dated January 22, 1988, described tin free steel sheet as black plate (*i.e.*, cold-rolled steel sheets, not coated, in thicknesses ranging from 0.0055 inches to 0.0149 inches), which has been electrolytically coated with metallic chromium and chromium oxide, and cut to a nonrectangular shape by scroll cutting. Petitioner describes scroll cutting as the shearing of each end of a sheet to form a pattern of interlocking notches which fit into one another. The sheet may then be lacquered, painted, or varnished. The product is then suitable for use in making cans and can ends for beverages and other food products.

Petitioner maintains that the most specific tariff description for and, therefore, the proper classification of the merchandise is the provision for plates, sheets, and strip, of iron or steel, whether or not cut, pressed, or stamped to nonrectangular shape, if electrolytically coated or plated with base metal other than tin, lead, or zinc, in item 609.17, TSUS.

Petitioner states that the instant merchandise is flat rolled and conforms to the dimensional requirements for sheet, as that term is defined in Schedule 6, Part 2, Subpart B, TSUS. In addition, it has been cut to nonrectangular shape and coated or plated with base metal other than tin, lead, or zinc. Petitioner asserts that no step in the creation of a product that is a basic shape or form classifiable in Schedule 6, Part 2, Subpart B can at the same time be an advancement of that product beyond the status of a basic shape. Therefore, petitioner maintains, the provision in item 609.17, TSUS, is relatively more specific than the provision in item 657.25, TSUS.

Arrangements Concerning Trade in Certain Steel Products, commonly known as Voluntary Restraint Agreements or VRAs, between the United States and various of the major steel producing countries, limit the amount of steel which may enter the United States during a given period. Current VRAs will continue in effect through September of 1989. A product's coverage under a particular Arrangement depends on how it is classified under the TSUS. Effective January 1, 1989, however, the Harmonized Tariff Schedule of the United States (HTSUS) replaced the TSUS as the tariff code of the United States. Nevertheless, for purposes of the VRAs, it is necessary to resolve the instant classification issue under the TSUS.

Comments

Pursuant to 19 CFR 175.21(a), before making a determination in the matter, Customs invites written comments from interested parties on the proper classification of tin free steel sheet which has been scroll-cut, and tin free steel sheet which has been scroll-cut and also lacquered, painted, or varnished.

The domestic interested party petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552 and 19 CFR 103.11(b)) between the hours of 9:00 a.m. and 4:30 p.m. on regular business days at the Regulations and Disclosure Law Branch, Room 2119, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

Authority

This notice is published in accordance with 19 CFR 175.21(a).

Drafting Information

The principal author of this document was James A. Seal, Commercial Rulings Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: March 28, 1989.

Salvatore R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 89–9219 Filed 4–17–89; 8:45 am]

BILING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 130, 182, and 184

[Docket Nos. 81N–0314 and 84N–0103]

Sulfiting Agents—Proposed Affirmation of GRAS Status; Sulfiting Agents in Standardized Foods—Proposed Labeling Requirements; Extension of Comment Periods; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rules; extension of comment periods; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that extended for 120 days the period for submitting comments on the agency's proposal to affirm, with specific limitations, that certain uses of sulfur dioxide, sodium sulfite, sodium and potassium bisulfite, and sodium and potassium metabisulfite (collectively known as "sulfiting agents" or "sulfites") are generally recognized as safe (GRAS) (54 FR 7783; February 23, 1989). In the extension notice, the agency inadvertently omitted sodium bisulfite and potassium bisulfite from the list of substances collectively referred to as "sulfiting agents" or "sulfites." This document corrects that error by adding those two substances to the list. In addition, the substance name "high fructose corn syrup" was inadvertently used. This document also corrects that error by removing that name and adding the substance name "sulfiting agents".

Furthermore, the agency has intended to also extend for 120 days the period for submitting comments on a related agency proposal that would require the presence of sulfiting agents in standardized foods to be declared on the label when they have a functional effect in such foods of when they are present in such foods at a detectable level. This document corrects that oversight by exending the comment period for that proposal.

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FOR FURTHER INFORMATION CONTACT:
Regarding Docket No. 81N-0314, Affirmation of GRAS Status, Robert L. Martin (HFF-334), 202-426-0463;
or
Regarding Docket No. 84N-0103, Labeling of Standardized Foods, Elizabeth J. Campbell (HFF-312), 202-485-0232, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street SW., Washington, DC 20204.

SUPPLEMENTARY INFORMATION: In FR Doc. 89-4105, appearing at page 7783 in the Federal Register of Thursday, February 23, 1989, the following corrections are made:

1. On page 7783, in the second column, the document heading is corrected to read "Sulfiting Agents—Proposed Affirmation of GRAS Status; Sulfiting Agents in Standarized Foods—Proposed Labeling Requirements; Extension of Comment Periods".

2. On the same page, in the second column, under "SUMMARY," in the seventh line, after "sulfite," add "sodium and potassium bisulfite,".

3. On the same page, in the second column, under "SUMMARY," add a second sentence to read "* * * FDA is also extending for 120 days the period for submitting comments on the agency's proposal to require that the presence of sulfiting agents in standardized foods be declared on the label when sulfiting agents have a functional effect in a standardized food, or when they are present in a standardized food at a detectable level."

4. On the same page, in the second column, under "SUPPLEMENTARY INFORMATION," the first paragraph is corrected to read "SUPPLEMENTARY INFORMATION: In the Federal Register of December 19, 1988 (53 FR 51065 and 51062), FDA issued separate proposed rules that would affirm, with specific limitations, that certain uses of sulfiting agents are GRAS and that would require that the presence of sulfiting agents in standardized foods be declared on the label when they have a functional effect in the food or are present at a detectable level. FDA gave interested persons until February 17, 1989, to submit comments to both proposals."

5. On the same page, in the second column, under "SUPPLEMENTARY INFORMATION," the first two sentences of the second paragraph are corrected to read "The agency has received numerous comments requesting an extension of time to comment on these proposals. These comments have come from trade associations (both proposals) and a foreign government (GRAS proposal). * * *"

6. On the same page, in the third column, in the second line of the first full paragraph, "this proposal has" should read "these proposals have".

7. On the same page, in the third column, in the ninth line of the first full paragraph, the word "proposal" should read "proposals".

8. On the same page, in the third column, in the first full paragraph, in the 20th line after the word "ingredients", remove the period and add the following: "and the proposed labeling requirement for standardized foods that contain sulfiting agents."

9. On the same page, in the third column, in the second full paragraph, in lines four through seven, the phrase "regarding the agency's proposal to affirm as GRAS the use of high fructose corn syrup as a direct human food ingredient" should read "on the agency's December 19, 1988, proposals regardng certain uses of sulfiting agents".

10. On the same page, in the third column, in the second full paragraph, in the 11th line, add the word "respective" before the word "docket".

Dated: April 11, 1989.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-9184 Filed 4-17-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 169a

[DoD Instruction 4100.33]

RIN: 0790-AA46

Commercial Activities Program Procedures

AGENCY: DoD, WHS.

ACTION: Proposed rule.

SUMMARY: The Department of Defense is proposing to revise this part to incorporate substantive changes to Part 169a required by Pub. L. 100-180, "National Defense Authorization Act for Fiscal Years 1988 and 1989: December 4, 1987, Section 1111, Executive Order 12615, "Performance of Commercial Activities," November 19, 1987, OMB transmittal letters and DoD guidance. This part establishes procedures and criteria for use by DoD to determine whether DoD commercial activities should be performed by DoD personnel in-house or by contract with commercial sources.

DATE: Comments must be received on or before July 17, 1989.

ADDRESS: Office of the Assistant Secretary of Defense (Production & Logistics), Installations, Installations Support Division, The Pentagon, Room 3E787, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Mr. Dom Miglionico, telephone 202-325-0537.

SUPPLEMENTARY INFORMATION: Part 169a was published in the Federal Register on October 7, 1985, (50 FR 40804) establishing the procedures for DoD commercial activities. Comments will be available for public inspection by request. Because of the anticipated number of comments, DoD does not plan to acknowledge or respond to individual comments. However, DoD will respond to the comments in the preamble of the final rule.

List of Subject in 32 CFR Part 169a

Armed forces; Government procurement.

Accordingly, 32 CFR Part 169a is proposed to be revised as follows:

PART 169a—COMMERCIAL ACTIVITIES PROGRAM PROCEDURES

Sec.

169a.1 Purpose.
169a.2 Applicability and Scope.
169a.3 Definitions.
169a.4 Policy.
169a.5 Procedures.
169a.6 Reporting Requirements.

Appendix A—Codes and Definitions of Functional Areas

Appendix B—Commercial Activities Inventory Report and Five-Year Review Schedule

Appendix C—Simplified Cost Comparison for Direct Conversion of Commercial Activities

Appendix D—Commercial Activities Management Information System (CAMIS)

Authority: 5 U.S.C. 301; E.O. 12615; Pub. L. 93-400.

§ 169a.1 Purpose.

This document updates policy, procedures, and responsibilities required by 32 CFR Part 169 and OMB Circular A-76 for use by the Department of Defense (DoD) to determine whether needed commercial activities (CAs) should be accomplished by Federal Government personnel or by contract with a commercial source.

§ 169a.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

(b) Its provisions contain DoD procedures for CAs in the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Its provisions are not mandatory for CAs staffed solely with DoD civilian personnel paid by nonappropriated funds, such as military exchanges. However, this part is mandatory for CAs when they are staffed partially with DoD civilian personnel paid by or reimbursed from appropriated funds, such as libraries, open messes, and other morale, welfare, and recreation (MWR) activities. When related installation support functions are being cost-compared under a single solicitation, a DoD Component may decide that it is practical to include activities staffed solely with DoD civilian personnel paid by nonappropriated funds.

(d) Does not apply to DoD governmental functions as defined in § 169a.3.

(e) Does not apply when contrary to law, Executive orders, or any treaty or international agreement.

(f) Does not apply in times of a declared war or military mobilization.

(g) Does not provide authority to enter into contracts.

(h) Does not apply to the conduct of research and development, except for severable in-house CAs that support research and development, such as those listed in Appendix A.

(i) Does not justify conversion to contract solely to avoid personnel ceilings or salary limitations.

(j) Does not authorize contracts that establish an employer-employee relationship between the Department of Defense and contractor employees, as described in FAR 37.104.

§ 169a.3 Definitions.

Commercial activity review. The process of evaluating CAs for determining whether or not a cost comparison shall be conducted.

Commercial source. A business and/or other non-Federal activity located in the United States, its territories and possessions, the District of Columbia, or the Commonwealth of Puerto Rico that provides a commercial product or service.

Conversion to contract. The changeover of a CA from performance of DoD personnel to performance under contract by a commercial source.

Conversion to in-house. The changeover of a CA from performance under contract by a commercial source to performance by DoD personnel.

Core logistics. Those functions identified as Core logistics activities pursuant to section 307 of Pub. L. 98-525 and section 1231 of Pub. L. 99-145, codified at section 2464, Title 10 that are necessary to maintain a logistics capability (including personnel, equipment, and facilities) to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situation, and other emergency requirements.

Cost comparison. The process of developing an estimate of the cost of performance of a CA by DoD employees and comparing it to the cost of performance by contract.

Direct conversion. Conversions to contract performance of an in-house commercial activity involving 45 or fewer DoD civilian employees or the conversion of an in-house commercial activity performed exclusively by military personnel or the conversion of 10 or fewer DoD civilian employees without a cost comparison.

Directly affected parties. DoD employees and their representative organizations and offerors to the solicitation.

Displaced DoD employee. Any DoD employee affected by conversion to contract operation (including such actions as job elimination or grade reduction). It includes both employees in the function converted to contract and to employees outside the function who are affected adversely by conversion through reassignment or the exercise of bumping or retreat rights.

DoD commercial activity (CA). An activity that provides a product or service obtainable (or obtained) from a commercial source. A DoD CA may be the mission of an organization or a function within the organization. It must be a type of work that is separable from other functions or activities so that it is suitable for performance by contract. A representative list of the functions performed by such activities is provided in Appendix A. A DoD CA falls into one of two categories:

(a) *Contract CA.* A DoD CA managed by a DoD Component, but operated with contractor personnel.

(b) *In-house CA.* A DoD CA operated by a DoD Component with DoD personnel.

DoD employee. Civilian personnel, both permanent and temporary, of the Department of Defense.

DoD governmental function. A function that is related so intimately to the public interest as to mandate performance by DoD personnel. These functions include those that require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Department of Defense. Services or products in support of governmental functions, such as those listed in Appendix A, are CAs and are subject to 32 CFR Part 169 and this implementing part. Governmental functions normally fall into two categories:

(a) *Act of governing.* The discretionary exercise of government authority. Examples include criminal investigations, prosecutions, and other judicial functions; management of Government programs requiring value judgments, as in direction of the national defense; management and direction of the Armed Services; activities performed exclusively by military personnel who are subject to deployment in a combat, combat support, or combat service support role; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers, and other natural resources; management of natural resources on Federal property; direction of intelligence and counterintelligence operations; and regulation of industry and commerce, including food and drugs.

(b) *Monetary transactions and entitlements.* Refers to such actions as tax collection and reverse disbursements, control of treasury accounts and the money supply, and the administration of public trusts.

DoD personnel. Military and civilian personnel of the Department of Defense.

Expansion. The modernization, replacement, upgrading, or enlargement of a DoD CA involving a cost increase exceeding either 30 percent of the total capital investment or 30 percent of the annual personnel and material costs. A consolidation of two or more CAs is not an expansion, unless the proposed total capital investment or annual personnel and material costs of the consolidation exceeds the total of the individual CAs by 30 percent or more.

Installation. An installation is the grouping of facilities, collocated in the same vicinity, that supports particular functions. Activities collocated and supported by an installation are considered to be tenants.

Installation commander. The commanding officer or head of an installation or tenent activity, who has budget and supervisory control over resources and personnel.

Mission-essential materiel. All materiel that is authorized and available to combat support, combat service support, and combat readiness training

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forces to accomplish their assigned mission.

New requirement. A recently established need for a commercial product or service. A new requirement does not include interim in-house operation of essential services pending reacquisition of the services prompted by such action as the termination of an existing contract operation.

Preferential procurement programs. Preferential procurement programs include mandatory source programs such as Federal Prison Industries (FPI) and the workshops administered by the Committee for Purchase from the Blind and Other Severely Handicapped under Pub. L. 92–98. Small, minority and disadvantaged businesses; and labor surplus area set-asides and awards made under Pub. L. 85–536, section 8(a); and Pub. L. 95–507 are included under preferential procurement programs.

Right of first refusal of employment. Contractors provide Government employees, displaced as a result of the conversion to contract performance, the right of first refusal for employment openings under the contract in positions for which they are qualified, if the employment is consistent with post-Government employment conflict of interest standards.

§ 169a.4 Policy.

(a) *Ensure DoD mission accomplishment.* When complying with this part and its policy Directive, DoD Components shall consider the overall DoD mission and the defense objective of maintaining readiness and sustainability to ensure a capability for mobilizing the defense and support structure.

(b) *Achieve economy and quality through competition.* Encourage competition with the objective of enhancing quality, economy, and performance. When performance by a commercial source is permissible, a comparison of the cost of contracting and the cost of in-house performance shall be performed to determine who shall provide the best value for the Government, considering price and other factors included in the solicitation. The restriction of a solicitation to a preferential procurement program does not negate the requirement to perform a cost comparison. Performance history will be considered in the source selection process and high quality performance should be rewarded.

(c) *Retain governmental functions in-house.* Certain functions that are inherently governmental in nature, and intimately related to the public interest, mandate performance by DoD personnel only. These functions are not in competition with commercial sources; therefore, these functions shall be performed by DoD personnel.

(d) *Rely on the commercial sector.* DoD Components shall rely on commercially available sources to provide commercial products and services except when required for national defense, when no satisfactory commercial source is available, or when in the best interest of direct patient care. DoD Components shall not consider an in-house new requirement, an expansion of an in-house requirement, conversion to in-house, or otherwise carry on any CAs to provide commercial products or services if the products or services can be procured more economically from commercial sources.

(e) *Delegate decision authority and responsibility.* DoD Components shall delegate decision authority and responsibility to lower organization levels, giving more authority to the doers, and linking responsibility with that authority. This shall facilitate the work that installation commanders must perform without limiting their freedom to do their jobs. When possible, the installation commanders should have the freedom to make intelligent use of their resources, while preserving the essential wartime capabilities of U.S. support organizations in accordance with DoD Directive 4001.1.[1]

(f) *Share resources saved.* When possible, make available to the installation commander a share of any resources saved or earned so that the commander can improve operations or working and living conditions on the installation.

(g) *Provide placement assistance.* Provide a variety of placement assistance to employees whose Federal jobs are eliminated through CA competitions.

§ 169a.5 Procedures.

(a) *Inventory and five year review schedule (Report Control Symbol DD-P&L(A)1540).* (1) Each installation commander shall have the authority and responsibility to carry out the following:

(i) Prepare an inventory each fiscal year of commercial activities carried out by government personnel.

(ii) Decide which commercial activities shall be reviewed under the procedures and requirements of OMB Circular No. A–76 or any successor administrative regulation or policy.

(2) Each installation commander will exercise the above authority and responsibilities in accordance with the policies and procedures set forth in 32 CFR Part 169, this part, and the DoD Component's implementing directives.

(3) DoD Components shall annually compile the installation's inventory and their review schedules. The inventory shall be updated at least annually to reflect changes to review schedules, the results of reviews, cost comparisons, and direct conversions.

(4) Updated inventories for all DoD Components except National Security Agency/Central Security Service (NSA/CSS) and the Defense Intelligence Agency (DIA) shall be submitted to the Office of the Assistant Secretary of Defense (Production and Logistics) (OASD (P&L)) within 90 days after the end of each fiscal year. Inventory data pertaining to NSA/CSS and DIA shall be held at the specific Agency concerned for subsequent review by properly cleared personnel. Appendix A provides the codes and explanations for functional areas and Appendix B provides procedures for submitting the inventory.

(5) Commerical activities approved for retention in-house, for any reason, shall be reviewed at least once every 5 years.

(6) Review schedules should be coordinated with the DoD Component's Efficiency Review Program and the Defense Regional Interservice Support (DRIS) Program to preclude duplication of efforts and to make use of information already available.

(7) Reviews of CAs that provide interservice support shall be scheduled by the supplying organization. Subsequent cost comparisons, when appropriate, shall be executed by the same organization. All affected DoD Components shall be notified of the intent to perform a review.

(8) Information in the inventory may be used to assess DoD Components implementation of OMB Circular A–76 and for other purposes.

(b) *Reviews—(1) Existing in-house CAs.* Reviews shall be conducted in accordance with established review schedules. Existing in-house CAs, once reviewed, shall be retained in-house without a cost comparison only when certain conditions are satisfied. (Detailed documentation will be maintained to support the decision to continue in-house performance. OASD (P&L) shall be notified within 30 days of any such decision.) These conditions are as follows:

(i) *National defense.* In most cases, application of this criterion shall be made considering the wartime and peacetime duties of the specific

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1053, 5801 Tabor Avenue, Philadelphia, PA 19120.

positions involved rather than in terms of broad functions.

(A) *Military staffing.* A CA, staffed with military personnel who are assigned to the activity, may be retained in-house for national defense reasons when the following apply:

(*1*) The CA is essential for training or experience in required military skills; or

(*2*) The CA is needed to provide appropriate work assignments for a rotation base for overseas or sea-to-shore assignments; or

(*3*) The CA is necessary to provide career progression to needed military skill levels.

(B) *Core logistics activities.* Section 2464 of Title 10, United States Code currently identifies as core logistics those functions performing depot-level maintenance of mission-essential material at the activities listed in section 1231 of Pub. L. 98–145. These functions will not be considered for conversion to contract unless the Secretary of Defense grants a waiver.

(*1*) The Secretary of Defense will consider a waiver using the following criteria:

(*i*) Private sector performance will not result in adverse impact upon mobilization requirements or other readiness considerations;

(*ii*) The private sector is capable of providing the technical competence and resources necessary to perform the activity;

(*iii*) The private sector is capable of performing if surges occur;

(*iv*) The activity is separable from those core logistics activities that do require performance by DoD civilian employees;

(*v*) Essential management responsibility is retained by DoD civilian employees; and

(*vi*) Essential government facilities and equipment are retained by the government.

(*2*) If an activity meets the criteria in paragraph (b)(1)(i)(B)(1) of this section, the DoD Component may submit a request for a waiver to the Director, Maintenance Policy, Office of the Deputy Assistant Secretary of Defense (Logistics). The waiver request must include a written certification that in-house performance of the activity is no longer required for national defense reasons. Waiver requests should contain quantitative information as well as a brief narrative keyed to each of the above criteria.

(*3*) A waiver under paragraph (b)(1)(B)(*2*) of this section may not take effect until:

(*i*) The DoD Component has submitted a report on the waiver to the Committees on Armed Services of the Senate and House of Representatives.

(*ii*) A period of 20 days of continuous session of Congress or 40 calendar days has passed after the receipt of the report by those committees.

(*4*) DoD Components may propose additional logistics capability for inclusions in the list of core logistics activities to the Director, Maintenance Policy OASD (P&L)L/MD with a copy to the Chief, Installations Support Division, Office of the Deputy Assistant Secretary of Defense (Installations).

(C) *Consolidation of essential military personnel.* If the DoD Component has a large number of similar CAs with a small number of essential military personnel in each CA, action shall be taken, when appropriate, to consolidate the military positions consistent with military requirements so that economical performance by either DoD civilian employees or by contract can be explored for accomplishing a portion of the work.

(D) *New criteria.* The DoD Components may propose to the OASD (P&L) other criteria for exempting CAs for national defense reasons.

(ii) *No satisfactory commercial source available.* A DoD CA may be performed by DoD personnel when it can be demonstrated that:

(A) There is no satisfactory commercial source capable of providing the product or service that is needed. Before concluding that there is no satisfactory commercial source available, all reasonable efforts, shall be made to identify available sources.

(*1*) Efforts to find satisfactory commercial sources shall be carried out in accordance with the FAR and DFARS and include review of bidders lists and inventories of contractors, consideration of preferential procurement programs, and requests for help from government agencies such as the Small Business Administration.

(*2*) Where the availability of commercial sources is uncertain, at least three notices of the requirement will be placed in the CBD over a 90 calendar-day period. [Notices shall be in the format specified in the FAR, Chapter 1, Part 5. When a bona fide urgent requirement occurs, the publication period in the CBD may be reduced to two notices over a 30 calendarday period. Specifications and requirements in the notice shall not be undaly restrictive and shall not exceed those required of Government personnel or operations.

(B) Use of a commercial source would cause an unacceptable delay or disruption of an essential program. In-house operation of a CA on the basis that use of a commercial source would cause an unacceptable delay or disrupt an essential DoD program requires documentation.

(*1*) The delay or disruption must be specific as to cost, time, and performance measures.

(*2*) The disruption must be shown to be of a lasting or unacceptable nature. Temporary disruption caused by conversion to contract is not sufficient support for the use of this criterion.

(*3*) The fact that a DoD CA involves a classified program, or is part of a DoD Component's basic mission, or that there is the possibility of a strike by contract employees is not adequate reason for Government performance of that activity. Further, urgency alone is not an adequate reason to continue Government operation of a CA. It must be shown that commercial sources are not able, and the Government is able, to provide the product or service when needed.

(*4*) Use of an exemption due to an unacceptable delay or disruption of an essential program shall be approved by the DoD Component.

(iii) *Patient care.* Commercial activities at DoD hospitals may be performed by DoD civilian personnel when it is determined by the head of the DoD Component or a designee, in consultation with the DoD Component's chief medical director, that performance by DoD personnel would be in the best interest of direct patient care.

(iv) *Public laws.* Commercial activities may continue to be performed by DoD Civilian personnel when higher authority exempts contracting out DoD in-house performance such as, fire fighter, guard service and specified installations.

(v) *Military construction.* An economic analyses required by Pub. L. 97–214 eliminates the need for a cost comparison of a CA.

(2) *Contracts.* (i) When contract costs become unreasonable, performance becomes unsatisfactory, or a contractor defaults, a cost comparison of the contracted CA shall be performed in accordance with Parts II, III, and IV of the Supplement to OMB Circular A–76 [2] if the following apply:

(A) Interim in-house operation may he established on a temporary basis should a contractor default;

(B) Re-competition with other satisfactory commercial sources does not result in reasonable prices; and

[2] Copies may be obtained from the Executive Office of the President, Publications Services, New Executive Office Building, Room 2200, 725 17th Street NW., Washington, DC 20503.

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(C) In-house performance is feasible.

(ii) Contracted CAs that are justified for conversion to in-house performance based on cost comparisons, national defense, or in the best interest of direct patient care will be allowed to expire (options will not be exercised) once in-house capability is established. If the required resources cannot be accommodated within the DoD Component's budget, a request for adjustment shall be submitted to OSD.

(3) *Expansions.* In cases where expansion of an in-house CA is anticipated, a review of the entire CA, including the proposed expansion, shall be conducted to determine if performance by DoD personnel is authorized for national defense reasons, because no commercial source is available, or because it is in the best interest of direct patient care. If performance by DoD personnel is not justified under these criteria, a cost comparison of the entire activity shall be performed. Government facilities and equipment normally will not be expanded to accommodate expansions if adequate and cost effective contractor facilities are available.

(4) *New Requirements* (i) In cases where a new requirement for a commercial product or service is anticipated, a review shall be conducted to determine if performance by DoD personnel is authorized for national defense reasons, because no commercial source is available, or because it is in the best interest of direct patient care. If performance by DoD personnel is not justified under these criteria, then the new requirement normally shall be performed by contract.

(ii) If there is reason to believe that commercial prices may be unreasonable, an informal preliminary cost analysis shall be conducted to determine whether it is likely that the work can be performed in-house at a cost that is less than anticipated for contract performance. If in-house performance appears to be more economical, a cost comparison shall be scheduled. The appropriate conversion differentials will be added to the preliminary in-house cost before it is determined that in-house performance is likely to be more economical.

(iii) Government facilities and equipment normally will not be expanded to accommodate new requirements if adequate and cost-effective contractor facilities are available. The requirement for Government ownership of facilities does not obviate the possibility of contract operation. If justification for in-house operation is dependent on relative cost, the cost comparison may be delayed to accommodate the lead time necessary for acquiring the facilities.

(iv) Approval to budget for a major capital investment associated with a new requirement will not constitute OSD approval to perform the new requirement with DoD personnel. Government performance shall be determined as stated in this Instruction.

(5) *CAs involving 45 or fewer DoD civilian employees.* (i) When adequately justified under the criteria required in Appendix C, CAs involving 45 or fewer DoD civilian employees may be converteddirectly to contract based on simplified cost comparison procedures. Such conversions shall be approved by the DoD Component CA central point of contact office. This approval authority may be redelegated. Part IV of the Supplement to OMR Circular A-76 shall be used to define the specific elements of cost to be estimated in the simplified cost comparison.

(ii) A full cost comparison shall be performed when a simplified cost comparison fails to clearly support direct conversion to contract.

(iii) If the activity involves 11 to 45 DoD civilian employees, the simplified cost comparison shall indicate that an analysis of the most efficient and cost-effective organization has been completed and that the in-house cost estimate is based on this analysis.

(iv) In no case shall any CA involving more than 45 DoD civilian employees be modified, reorganized, divided, or in any way changed for the purpose of circumventing the requirement to perform a full cost comparison.

(v) Upon approval of a direct conversion, approval notification and (for conversions involving 11 to 45 DoD civilian employees) a copy of the simplified cost comparison fact sheet, with back-up data, shall be provided to the Committee on Appropriations, U.S. House of Representatives, H-216, The Capital, Washington, D.C. 20515. Also the same shall be provided to the Committee on Armed Services, U.S. House of Representatives, Washington, D.C. 20515 and to the Office of the Assistant Secretary of Defense (Production and Logistics) Installations OASD (P&L)I, Room 3E787, The Pentagon, Washington, D.C. 20301.

(vi) The decision to directly convert a CA involving military personnel reflects a management decision that the work need not be performed by military personnel. Therefore, all direct personnel costs will be estimated in the simplified cost comparison on the basis of civilian performance.

(vii) Those activities involving more than 45 DoD civilian employees shall undergo full cost comparisons and be reported to Congress as required by this part before conversion to contract performance.

(6) *CAs Involving 10 or Fewer DoD Civilian Employees.* Commercial activities performed by 10 or fewer civilian employees may be converted to contract without a simplified cost comparison provided that:

(i) Before any such conversion takes place, the installation commander must certify that all affected civilian employees will be offered jobs at that installation or within the local area, commensurate (equal pay scales and grade levels) with their current skills and pay grades. If no such vacancies exist, the employees will be offered retraining opportunities for existing or projected vacancies at that installation or within the local area. The employees potential right-of-first-refusal with civilian contractors does not satisfy this requirement.

(ii) This provision, subject to the previously mentioned conditions, will be an option available to each DoD Component. This authority may be delegated down to the installation commander.

(7) *Military Personnel CAs.* Commercial activities performed exclusively by military personnel may be converted to contract without a cost comparison, when adequate competition is available and reasonable prices can be obtained from qualified commercial sources.

(8) *Special Considerations*—(i) *Signals Intelligence and Telecommunications and Automated Information Systems Security.* Before making a determination that an activity involving Signals Intelligence (SIGINT), as prescribed by E.O. 12333 and Telecommunications and Automated Information Systems Security, as prescribed by National Security Decision Directive (NSDD) 145, should be subjected to a cost comparison, the DoD Component must specifically identify the risk to national security by using commercial sources. The DoD Component shall provide its assessment of the risk to national security by using commercial sources to the Director, National Security Agency (NSA), who shall determine if the risk to national security is unacceptable. NSA shall notify the OASD (P&L) within 30 days of action taken by the Director, NSA, to grant or deny a request for a waiver of the provisions to this part.

(ii) *National intelligence.* Before making a determination that an activity involving the collections, processings, productions, or dissemination of national intelligence as prescribed in E.O. 12333 should be subjected to a cost comparison, the DoD Component must specifically identify the risk to national intelligence by using commercial sources. Except as noted in paragraph (b)(8)(i) of this section, the DoD Component shall provide its assessment of the risk to national intelligence by using commercial sources to the Director, Defense Intelligence Agency (DIA), who shall make the determination if the risk to national intelligence is unacceptable. DIA shall consult with other organizations as deemed necessary and shall provide the decision to the DoD Component. DIA shall notify OASD (P&L) within 30 days of action taken by the Director, DIA, to grant or deny a request for a waiver to this part.

(iii) *Accountable officer.* (A) The functions and responsibilities of the Accountable Officer are defined by DoD 7200.10-M. Those functions of the Accountable Officer that involve the exercise of substantive discretionary authority in determining the Government's requirements and controlling Government assets cannot be performed by a contractor and must be retained in-house. The responsibilities of the Accountable Officer as an individual and the position of the Accountable Officer are not contractible.

(B) Contractors can perform functions to support the Accountable Officer and functions where they are performing in accordance with criteria defined by the Government. For instance, contractors can process requisitions, maintain stock control records, perform storage and warehousing, and make local procurements of items specified as deliverables in the contract.

(C) The responsibility for administrative fund control must be retained in-house. The contractor can process all required paperwork up to funds obligation that must be done by the Goverment employee designated as responsible for funds control. The contractor can also process such documents as reports of survey and adjustments to stockage levels, but approval must rest with the Accountable Officer. In all cases the administrative control of funds must be retained by the Government since a contractor or contractor employees cannot be held responsible for violations of former section 3679 of the revised statutes (now codified at sections 1341, 1342, and 1517 of Title 31, United States Code).

(c) *Cost comparison process.* If performance of a CA by DoD personnel cannot be justified under national defense, nonavailability of commercial source, or patient care criteria, then a full cost comparison shall be conducted in accordance with Parts II, III, and IV of the Supplement to OMB Circular A-76, to determine if performance by DoD employees is justified on the basis of lower cost (unless the criteria of paragraphs (b) (5), (6) and (7) of this section are met). The conclusion that a CA does not require in-house performance reflects a management decision that the work need not be accomplished by military personnel. Therefore, all direct personnel costs shall be estimated on the basis of civilian performance. Funds shall be budgeted to cover either the cost of the appropriate in-house operation required to accomplish the work or the estimated cost of the contract.

(1) *Notification* (i) *Congressional notification.* DoD Components shall notify Congress of the intention to do a full cost comparison for each CA, only when Congress is in session and in sufficient time to allow review, as required by section 502(a)(2)(A). DoD Components shall annotate the notification when a cost comparison is planned at an activity listed in the report to Congress on core logistics (see paragraph (b)(1)(i)(B) of this section). DoD Components who do not have Legislative Affairs (LA) and Public Affairs (PA) offices shall notify the OASD (P&L) of any such intent at least 5 working days before the Congressional notification. DoD Components that clear their Congressional notifications with their LA and PA offices shall provide a copy of the CA decision on the day of announcement to: OASD (LA) Room 3D918 Pentagon; OASD (PA) Room 2E757 Pentagon, Office of Economic Adjustment, Room 4C767 Pentagon and DASD (i) Room 3E787 Pentagon. The cost comparison process begins on the date of Congressional notification.

(ii) *Commerce Business Daily (CBD)/ Federal Register (FR) notification.* Schedules for cost comparisons not requiring Congressional notification and decisions to convert CAs directly to contract also shall be published in the CBD/FR as soon as practicable after the decision. The cost comparison decision schedule shall include for each activity, the name, location, and date the cost comparison began or the estimated date the direct conversion will occur.

(iii) *Local notification.* (A) It is suggested that upon Congressional notification the installation make an announcement of the cost comparison, including a brief explanation of the cost comparison process to the employees of the activity and the community.

(B) DoD Components shall, in accordance with Pub. L. 100-456, at least monthly during the development and preparation of the performance work statement (PWS) and management study, consult with DoD civilian employees who will be affected by the cost comparison and consider the views of such employees on the development and preparation of the PWS and management study. DoD Components may consult with such employees on other matters relating to the cost comparison. In the case of DoD employees represented by a labor organization accorded exclusive recognition under section 7111 of Title 5, United States Code, consultation with representatives of that labor organization satisfies the consultation requirement. Consultation with non-union DoD civilian employees may be through such means as group meetings. Alternatively, DoD civilian employees may be invited to designate one or more representatives to speak for them. Other methods may be implemented, as long as adequate notice is provided to the non-union DoD civilian employees and the right to be represented during the consultations is ensured.

(C) Local Interservice Support Coordinators (ISCs) and the Chair of the appropriate Joint Interservice Resources Study Group (JIRSG) also should be notified of a pending cost comparison.

(2) *Performance work statement (PWS).* (i) The PWS and its Quality Assurance Plan shall be prepared in accordance with Part ii of the Supplement to OMB Circular A-76 for full cost comparisons, simplified cost comparisons, and direct conversions. The PWS shall include reasonable performance standards, allowing for continuous quality improvement, that can be used to ensure a comparable level of performance for both Government and contractor and a common basis for evaluation. Employees and/or their bargaining unit representatives should be encouraged to participate in preparing or reviewing the PWS.

(ii) Each DoD Component shall:

(A) Prepare PWSs where needed.

(B) Monitor the development and use of prototype PWSs.

There are over 300 prototype PWSs and 500 CA studies available through the Defense Logistics Studies Information Exchange (DLSIE). Inquiries are encouraged from all DoD Components. Call Autovon 687-4255 or Commercial (804) 734-4255 or write to: USA Logistics Management College, ATTN: DLSIE, Bldg. T-12112, Fort Lee, VA. 23801-6048.

(C) Review and initiate action to correct disagreements on PWS discrepancies.

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(D) Approve prototype PWSs for Component-wide use.

(E) Coordinate these efforts with the other DoD Components to avoid duplication and to provide mutual assistance.

(iii) Guidance on Government Property:

(A) For the purposes of this Instruction, Government property is defined in accordance with the FAR, Part 45.

(B) The decision to offer or not to offer Government property to a contractor shall be determined by an informal cost analysis. This decision must be supported by current, accurate, complete information and be readily available for the independent reviewing activity. The design of this analysis shall not give a decided advantage/disadvantage to either in-house or contract competitors. The management of Government property offered to the contractor shall also be in compliance with the FAR, Part 45.

(iv) If a CA provides critical or sensitive services, the PWS shall include sufficient data for the in-house organization and commercial sources to prepare a plan for expansion in emergency situations.

(v) DoD Components that provide interservice support to other DoD Components or Federal agencies through interservice support agreements or other arrangements, shall ensure that the PWS includes this workload and is coordinated with all affected components and agencies.

(vi) If there is a requirement for the commercial source to have access to classified information in order to provide the product or service, the commercial source shall be processed for a facility security clearance under the Defense Industrial Security Program in accordance with DoD Directive 5220.223 [3] and DoD 5220.22–R. However, if no *bona fide* requirement for access to classified information exists, no action shall be taken to obtain security clearance for the commercial source.

(vii) Employees of commercial sources who do not require access to classified information for work performance, but require entry into restricted areas of the installation, may be authorized unescorted entry only when the provisions of 32 CFR Part 154 apply.

(3) *Management study.* A management study shall be performed to completely analyze the method of operation necessary to establish the most efficient and cost-effective in-house organization (MEO) needed to accomplish the requirements in the PWS. The MEO must reflect only those resources which have been authorized for the CA. As a part of the management study, installations should determine if specific requirements can be met through an Inter/Intraservice Support Agreement (ISA) with other activities or Government Agencies which have excess capacity or capability.

(i) The CA management study is mandatory. Part III of the supplement to OMB Circular A–76 provides guidance on how to conduct the management study. The study shall identify essential functions to be performed, determine performance factors, organization structure, staffing, and operating procedures for the most efficient and cost effective in-house performance of the CA. The MEO becomes the basis of the Government estimate for the cost comparison with potential contractors. In this context, "efficient" (or cost-effective) means that the required level of workload (output, as described in the performance work statement) is accomplished with as little resource consumption (input) as possible without degradation in the required quality level of products or services.

(ii) DoD Components have formal programs and training for the performance of management studies, and those programs are appropriate for teaching how to conduct CA management studies. Part III of the Supplement to OMB Circular A–76 does not purport to replace the DoD Component's own management techniques, but merely to establish the basic criteria and the interrelationship between the management study and the PWS.

(iii) If a CA provides critical or sensitive services, the management study shall include a plan for expansion in emergency situations.

(iv) Early in the management study, management will solicit the views of the employees in the CA under review, and/or their representatives for their recommendations as to the MEO or ways to improve the method of operation.

(v) The management study will be the basis on which the DoD Component certifies that the in-house cost estimate is based on the most efficient and cost effective organization practicable.

(vi) Implementation of the MEO shall be initiated no later than 1 month after cancellation of the solicitation and completed within 6 months. DoD Components shall take action, within 1 month, to schedule and conduct a subsequent cost comparison when the MEO is not initiated and completed as previously prescribed. Subsequent cost comparisons may be delayed by the DoD Component's central point of contact office, when situations outside the control of the DoD Component may prevent timely or full implementation of the MEO. This authority may not be redelegated.

(vii) DoD Components shall establish procedures to ensure that the in-house operation, as specified in the MEO, is capable of performing in accordance with the requirements of the PWS. The procedures also shall ensure that the resources (facilities, equipment, and personnel) specified in the MEO are available to the in-house operation and that in-house performance remains within the requirements and resources specified in the PWS and MEO for the period of the cost comparison, unless documentation to support changes in workload/scope is available.

(viii) A management study is not required for CAs involving 10 or fewer DoD civilian employees or direct conversions of military personnel.

(4) *Cost Comparisons.* Cost comparisons shall include all significant costs of both Government and contract performance. Common costs; that is, costs that would be the same for either in-house or contract operation, need not be computed, but the basis of those common costs must be identified and included in the cost comparison documentation. Part IV of the Supplement to OMB Circular A–76 provides the basic guidance for conducting full cost comparisons. Appendix C provides guidance for conducting simplified cost comparisons. The supplemental guidance contained below is intended to establish uniformity and to ensure all factors are considered when making cost comparisons. Deviation from the guidance contained in Part IV of the supplement to OMB Circular A–76 will not be allowed, except as provided in the following paragraphs.

(i) *In-house cost estimate.* (A) The in-house cost estimate shall be based on the most efficient and cost-effective in-house organization needed to accomplish the requirements in the PWS.

(B) Heads of DoD Components or their designees shall certify that the in-house cost estimate is based on the most efficient and cost-effective operation practicable. Such certification shall be made prior to the date for receipt of offers.

(C) The Comptroller of the Department of Defense (C, DoD) shall provide annual inflation factors for adjusting costs for the first and subsequent performance periods. Alternative economic assumptions may also be used if they are separately identified and the effect of the C, DoD rates are also shown for comparison. Inflation factors for outyear (second and subsequent) performance periods will not be applied to portions of the in-house estimate that are comparable with those portions of the contract estimate subject to economic price adjustment clauses. These factors apply to all cost comparisons where bid opening or receipt of best and final offer has not occurred. If the in-house cost estimate has been sealed, adjustment should be made at the time adjustments are made to the contractor portion of the cost comparison form. The new factor(s) should be applied to the cost element at the largest aggregate level.

(D) Military positions in the organization under cost comparison shall be converted to civilian positions for costing purposes. Civilian grades and series shall be based on the work described in the PWS and reflected in the MEO that is determined by the management study rather than on the current organization structure.

(E) All DoD Components shall use the Wholesale Stock Fund Rate of 19.1 percent and the Direct Delivery Rate of 13.6 percent for supplies and materials acquired from the DoD Component supply systems.

(F) DoD Components shall assume for the purpose of depreciation computations that residual value is equal to the disposal values listed in Appendix C of Part IV of the Supplement to OMB Circular A–76, if more precise figures are not available from the property disposal officer or other knowledgeable authority. Therefore, the basis for depreciation shall be the original cost plus the cost of capital improvements (if any) less the residual value. The original cost plus the cost of capital improvements less the residual value shall be divided by the useful life (as projected for the CA cost comparison) to determine the annual depreciation.

(G) Purchased services which ugment the current in-house work effort and that are included in the PWS should be included in line 3 (other specifically attributable costs). The purchased service price used must reflect an actual contract price; not an estimated price based in past experience. When these purchased services are long-term and contain labor costs subject to economic price adjustment clauses, then the applicable labor portion will not be escalated by outyear inflation factors. In addition, purchased services shall be offset for potential Federal income tax revenue by applying the appropriate rate in Appendix D of Part IV of the Supplement to OMB Circular A–76 to the total cost of purchased services.

(H) Overhead costs shall be computed only when such costs will not continue in the event of contract performance. This includes the cost of any position (full time, part time, or intermittent) that is dedicated to providing support to the activity(ies) under cost comparison regardless of the support organization's location. Military positions providing overhead support shall be costed using current military composite standard rates. These rates are issued on a fiscal year basis by each Military Service.

(I) The following guidance pertains to the Davis-Bacon Act and Service Contract Act:

(*1*) Normally, construction and major repair projects will be contracted for separately. However, requirements in a contract (subject to the Service Contract Act) calling for construction, alteration, renovation, painting, and repair work performed in response to a service call or work order in excess of $2,000 shall be subject to the Davis-Bacon Act.

(*2*) Maintenance work and other installation support work, such as plant operations and installation services (custodial, snow removal, entomology, etc.), shall be subject to the Service Contract Act.

(*3*) All requirements not subject to the Davis-Bacon Act, as previously described, shall be subject to the Service Contract Act.

(*4*) Under no circumstances will an attempt be made to evade the coverage of the Davis-Bacon Act by breaking tasks in excess of $2,000 into smaller tasks to accomplish requirements in the contract for repair, construction, alteration, renovation, or painting.

(*5*) Service call or work order estimates to be used in determining the applicability of the Davis-Bacon Act shall be based on the least cost alternative.

(J) Medicare factors will be used in the calculation of civilian personnel costs using the computation shown. Medicare factors are only applied up to the current annual salary limitation.

[(Basic pay x fringe benefit factor) + (Other Pay x Medicare Factor)] = Personnel Cost.

Note: The fringe benefit factor includes cost factors for standard retirement, employee insurance benefits (life and health), medicare, and miscellaneous fringe benefits.

(K) The C, DoD shall provide guidance to DoD Components on procedures and systems for obtaining cost data for use in preparing cost estimates, when requested.

(ii) *Cost of Contract Performance.* (A) The contract cost estimate shall be based on offers competitively obtained and solicited in accordance with the FAR and the DFARS for full cost comparisons. Existing contract prices (such as those from GSA Supply Schedules) will not be used in a cost comparison. For simplified cost comparisons, the guidance in Appendix C applies.

(B) Standby costs are costs incurred for the upkeep of property in standby status. Such costs neither add to the value of the property nor prolong its life, but keep it in efficient operating condition or available for use. When an in-house activity is converted to contract performance and an agency elects to hold Government equipment and facilities on standby solely to maintain performance capability, this is a management decision, and such standby costs will not be charged to the cost of contracting.

(C) A specific waiver is required to use contract administration factors that exceed the limits established in table 3–1 of Part IV of the Supplement to OMB Circular A–76. The reason for the deviation from the limits, the supporting alternative computation, and documentation supporting the alternative method, shall be provided to the DoD Component's central point of contact office for advance approval on a case-by-case basis. This authority may not be redelegated. OASD (P&L) shall be notified within 30 days of any such decisions.

(D) The following guidance pertains to one-time conversion costs:

(*1*) *Material Related Costs.* The cost factors below shall be used, if more precise costs are not known, to estimate the cost associated with disposal/transfer of excess government material which result from a conversion to contract performance:

Percentage of Current Replacement Cost

Packing, Crating, & Handling (PCH)—3.5 percent.

Transportation—3.75 percent.

(*2*) *Labor-Related Costs.* If unique circumstances prevail when a strict application of the 2 percent factor for computation of severance pay results in a substantial overstatement or understatement of this cost, an alternative methodology may be employed. The reason for the deviation from this standard, the alternative computation, and documentation supporting the alternative method shall be provided to the appropriate DoD Component's central point of contact office for advance approval on a case-

[3] See footnote 1 to § 169a.4(e)

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by-case basis. This authority may not be redelegated. OASD (P&L) shall be notified within 30 days of any such decision.

(3) *Other Transition Costs.* Normally, Government personnel assistance after the contract start date (to assist in transition from in-house performance to contract performance) should not be necessary. When transition assistance will not be made available, this condition should be stated clearly in the solicitation so that contractors will be informed that they will be expected to meet full performance requirements from the first date of the contract. Also, when circumstances require full performance on the contract start date, the solicitation shall state that time will be made available for contractor indoctrination prior to the start date of the contract. The inclusion of personnel transition costs in a cost comparison requires advance approval of the DoD Component's central point of contact office. This authority may not be redelegated. OASD (P&L) shall be notified within 30 days of any such decision.

(E) *Gain or Loss on Disposal/Transfer of Assets.* If more precise costs are not available from the Defense Reutilization Marketing Office or appropriate authority, then:

(1) The same factors for PCH and transportation costs as prescribed in paragraph (c)(4)(ii)(D) of this section for the costs associated with disposal/transfer of materials may be used. (2) The estimated disposal value may be calculated from the net book value as derived from the table in Appendix C of Part IV of the Supplement to OMB Circular A–76 minus the disposal/transfer costs. This figure shall be entered as a gain or loss on line 11 or line 13 of the cost comparison form as appropriate.

Note: If a cost-benefit analysis, as prescribed in paragraph (c)(2)(iii) of this section indicates that the retention of Government-owned facilities, equipment, or real property for use elsewhere in the Government is cost advantageous to the Government, then the cost comparison form shall reflect a gain to the Government and therefore a decrease to the cost of contracting on line 11 or line 13 of the cost comparison form as appropriate

(5) *Independent review.* (i) The estimates of in-house and contract costs that can be computed before the cost comparison shall be reviewed by a qualified activity, independent of the Task Group preparing the cost comparison. This review shall be completed far enough in advance of the initial proposal opening date to allow correction of any discrepancies found prior to submitting the in-house proposal to the contracting officer.

(ii) The independent review shall substantiate the currency, reasonableness, accuracy, and completeness of the cost comparison. The review shall ensure that the in-house cost estimate is based on the same required services, performance standards, and workload contained in the solicitation. The reviewer shall scrutinize and attest to the adequacy and authenticity of the supporting documentation. Supporting documentation shall be sufficient to require no additional interpretation.

(iii) The purpose of the independent review is to ensure costs have been estimated and supported in accordance with provisions of this part. If no (or only minor) discrepancies are noted during this review, the reviewer indicates the minor discrepancies, signs, dates, and returns the CCF to the preparer. If significant discrepancies are noted during the review, the discrepancies shall be reported to the preparer for recommended correction and resubmission.

(iv) An independent review is not required for CAs involving 45 or fewer DoD civilian employees.

(v) Independent review evaluations and certification shall be affixed to the CCF.

(6) *Solicitation Considerations.* (i) Installation commanders have the authority and responsibility to solicit contracts for those activities selected for possible conversion to contract in accordance with the FAR and the DFARS. The solicitation will not be canceled even if there are significant changes, omissions, or defects in the Government's in-house cost estimate. Such corrections shall be made before the expiration and/or extension of offers from contractors.

(ii) Offerors shall be informed that an in-house cost estimate is being developed and that a contract may or may not result.

(iii) Offers from contractors shall be on at least a 3-year multi-year basis (where appropriate) or shall include prepriced renewal options to cover 2 years after the initial period. Offers longer then 3 years are encouraged in order to receive cost efficient offers from quality contractors. Currently, there are no statutory limitations on option provisions, since they are unilateral in nature, unfunded and not contractually binding, however a deviation from the FAR, section 17.204, paragraph e is required for basic and option periods exceeding 5 years.

(iv) All contracts awarded as a result of a conversion (whether or not a cost comparison was performed) shall:

(A) Comply with all requirements of the FAR.

(B) When determined to be necessary in accordance with FAR 22.101–1(e), include the clause at FAR 52.222–1, Notice to the Government of Labor Disputes, requiring the contractor to provide notice of actual and impending labor disputes.

(C) Include in contracts for critical or sensitive services a requirement for the contractor to develop a contingency plan explaining how the contractor will expand operations in emergency situations and ensure there will be no significant interruption of routine contract services due to labor disputes.

(D) Include all applicable clauses and provisions related to the right of first refusal for employment by displaced DoD employees, equal employment opportunities, veterans preference, and minimum wages and fringe benefits. Installation commanders have the authority and responsibility to assist, to the maximum extent practicable, in finding suitable employment for any employee of the Department of Defense who is displaced because of a contract entered into with a contractor for performance of a commercial activity.

(E) As a general rule, requirements (for other than construction related services) above the levels established for bonds and insurance in the FAR and DFARS should not be included in acquisitions.

(v) Solicitations shall be restricted for preferential procurement when the requirements applicable to such programs (such as Small Business Set-Asides or other required sources of supplies and services) are met, in accordance with the FAR. Solicitations will not be restricted for preferential procurement unless the contracting officer determines that there is not a reasonable expectation that the commercial prices will be fair and reasonable.

(vi) Contract defaults may result in temporary performance by Government personnel or other suitable means; such as, an interim contract source. Personnel detailed to such a temporary assignment should be clearly informed that they will return to their permanent assignment when a new contract is awarded. If the default occurs within the first year of contract performance, the following procedures apply:

(A) If, after consultation with the Department of Labor, (DoL) it is determined that the contract wage rates are still valid, the contracting officer will review the availability among the next lowest responsible and responsive offerors for a successor contract in accordance with established contracting practice. If the next low offeror is willing to accept the balance of the contract work at the price offered, adjusted on an appropriate pro rata basis for the remainder of the contract term, the contracting officer may award to that offeror. If the Government is the next lowest offeror, the function may be returned to in-house performance, as offered, if still feasible. If performance by DoD employees is no longer feasible, the contracting officer may elect either to award to the next lowest responsive and responsible commercial offeror, if that firm is willing to perform at its offered price and adjust appropriately for the remainder of the term, or to resolicit as specified in the next paragraph. A return to in-house performance under the previously mentioned criteria shall be approved by the DoD Component's central point of contact office. This authority may not be redelegated. OASD (P&L) shall be notified within 30 days of any such decision.

(B) If the contract wage rates are no longer valid or if the contracting officer, after a review of the availability of the next lowest responsible and responsive offerors, determines that resolicitation is appropriate, the Government may submit a cost estimate for comparison with other offers from the private sector. Submission of a Government cost estimate requires a determination by the DoD Component that performance by Government personnel is still feasible and that a likelihood exists that in-house performance may be more economical than performance by contract. In such cost comparisons, the conversion differentials will not be applied to the costs of either in-house or contract performance.

(vii) If contract default occurs during the second or subsequent year of contract performance, the procedures of paragraph (b)(2)(i) of this section apply.

(viii) Grouping of commercial activities (CAs): (A) The installation commander shall determine carefully which CAs should be grouped in a single solicitation. The installation commander should keep in mind that the grouping of CAs can influence the amount of competition (number of commercial firms that will submit offers) and the eventual cost to the Government.

(B) The installation commander shall consider the adverse impacts that the grouping of CAs into a single solicitation may have on small and small disadvantaged business concerns. CAs being performed wholly by small or small disadvantaged businesses will not be incorporated into a cost comparison unless consolidation is necessary to meet mission requirements. Also care must be taken to ensure that such contractors are not displaced merely to accomplish consolidation. Similarly, care must be taken so that nonincumbent small and small disadvantaged business contractors are not handicapped or prejudiced unduly from competing effectively at the prime contractor level.

(C) In developing solicitations for CAs, the installation commander's procurement plan should reflect an analysis of the advantages and disadvantages to the Government that might result from making more than one award. The installation commander's decision to group CAs should reflect an analysis of all relevant factors including the following:

(1) The effect on competition.

(2) The duplicative management functions and costs to be eliminated through grouping.

(3) The economies of administering multifunction versus single-function contracts, including cost risks associated with the pricing structure of each.

(4) The feasibility of separating unrelated functional tasks or groupings.

(5) The effect grouping will have on the performance of the functions.

(D) When the solicitation package includes totally independent functions which are clearly divisible, severable, limited in number, and not price interrelated, they shall be solicited on the basis of an "any or all" offer. Commercial offerors shall be permitted to submit offers on one or any combination of the functions being solicited. These offers shall be evaluated to determine the lowest aggregate contract cost to the Government. This lowest aggregate contract cost then will be compared to the in-house cost estimate based on the MEO for performance of the functions in the single solicitation. The procedures in Part IV of the Supplement to OMB Circular A–76 apply.

(E) There are instances when this approach to contracting for CAs may not apply; such as, situations when physical limitations of site (where the activities are to be performed) preclude allowing more than one contractor to perform, when the function cannot be divided for purposes of performance accountability, or for other national security considerations. However, if an "all or none" solicitation is issued, the decision to do so must include a cost analysis to reflect that the "all or none" solicitation is less costly to the Government or an analysis indicating it is otherwise in the best interest of the Government, all factors considered.

(F) It is recognized that in some cases, decisions will result in the elimination of prime contracting opportunities for small business. In such cases special measures shall be taken. At a minimum, small and small disadvantaged business concerns shall be given preferential consideration by all competing prime contractors in the award of subcontracts. For negotiated procurements the degree to which this is accomplished will be a weighted factor in the evaluation and source selection process leading to contract award.

(G) The contract files shall be documented fully to demonstrate compliance with these procedures.

(ix) If no offers, or no responsive or responsible offers are received in response to a solicitation, the in-house cost estimate shall remain unopened. The contracting officer shall examine the solicitation to ascertain why no responses were received. Depending on the results of this review, the contracting officer shall consider restructuring the requirement, if feasible, and reissue it under restricted or unrestricted solicitation procedures, as appropriate.

(x) Continuation of an in-house CA for lack of a satisfactory commercial source will not be based upon lack of response to a restricted solicitation.

(xi) 32 CFR Part 285 shall be considered in responding to requests for disclosure of contractor-supplied information obtained in the course of procurements.

(7) *Administrative appeal procedures*—(i) *Appeals of full cost comparison decisions.* (A) Each DoD Component shall establish an administrative appeals procedure to resolve questions from directly affected parties relating to determinations resulting from full cost comparisons (involving 46 or more DoD civilian employees) performed in compliance with this part. The appeal procedure shall not apply to questions concerning:

(1) Award to one contractor in preference to another.

(2) DoD management decisions.

(B) The appeals procedure is established to provide an administrative safeguard to ensure that DoD Component decisions are fair, equitable, and done according to the procedures in this part. The procedure does not authorize an appeal outside the DoD Component or a judicial review.

(C) The appeals procedure shall be independent, objective, and provide for a decision on the appeal within 30 calendar days of receipt of the appeal. The decision shall be made by an impartial official at a level organizationally higher than the official

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who approved the cost comparison decision. The appeal decision shall be final, unless the DoD Component procedures provide for further discretionary review within the DoD Component.

(D) All detailed documentation supporting the initial cost comparison decision to directly affected parties shall be made available upon request when the initial decision is announced. The detailed documentation shall include, at a minimum: the in-house cost estimate with detailed supporting documentation (see paragraph (c)(5)(ii) of this part), completed CCF, name of the tentative winning contractor (if the decision is to contract), or price of the offeror whose offer would have been most advantageous to the Government (if the decision is to perform in-house). If the documentation is not available when the initial decision is announced, the time allotted for submission of appeals shall be extended the number of days equal to the delay.

(E) To be considered eligible for review under the DoD Component appeals procedures, appeals shall:

(*1*) Be received by the DoD Component in writing within 15 working days after the date the supporting documentation is made available to directly affected parties.

(*2*) Address specific line items on the CCF and the rationale for questioning those items.

(*3*) Demonstrate that the result of the appeal may change the decision.

(ii) *Appeals of direct conversions.* (A) Each DoD Component shall establish an administrative appeals procedure to resolve questions from directly affected parties regarding decisions to convert directly to contract. The appeal must address reasons why fair and reasonable prices will not be obtainable.

(B) Directly affected parties shall file appeals within 30 calendar days of the date of CBD and FR notification of a decision to convert a CA directly to contract. Paragraph (c)(1)(ii) of this section applies.

(C) The appeals procedure shall be independent and objective and provide for a decision on the appeal within 30 calendar days of receipt of the appeal. The decision shall be made by an impartial official at a level organizationally higher than the official who approved the direct conversion decision. The appeal decision shall be final, unless the DoD Component procedures provide for further discretionary review within the DoD Component.

(D) The installation commander shall make available, on request, all detailed documentation supporting the initial decision to directly convert to contract a CA being performed by 45 or fewer civilian personnel when announced. If the documentation is not available when the initial decision is announced, the time allotted for submission of appeals shall be extended the number of days equal to the delay.

(iii) Since the appeal procedure is intended to protect the rights of all directly affected parties, the DoD Component's procedures, as well as the decision upon appeal, will not be subject to negotiation, arbitration, or agreement.

(iv) DoD Components shall include administrative appeal procedures as part of their implementing guidance.

§ 169a.6 Reporting requirements.

(a) *Inventory and Review Schedule (Report Control Symbol DD–P&L(A) 1540).* See § 169a.5(a).

(b) *Commercial Activities Management Information System (CAMIS) (Report Control Symbol DD–P&L(Q) 1542).* (1) The purpose of CAMIS is to maintain an accurate DoD data base of CAs that undergo an OMB Circular No. A–76 cost comparison and CAs that are converted directly to contract The CAMIS is used to provide information to the Congress, OMB, General Accounting Office (GAO), DoD, and others. The CAMIS is divided into two parts. Part I contains data on CAs that undergo a full cost comparison. Part II contains data on CAs converted to contract without a full cost comparison. Each DoD Component shall submit an automated data report (tape or diskett) of all cost comparisons and direct conversions to DMDC no later than 30 days following the end of each fiscal quarter, DoD Components may opt to submit an annotated printout of records in lieu of the automated submission. DMDC than shall use this submission to update the CAMIS and provide a feed back report within 2 weeks.

(2) The CAMIS report shall be submitted in accordance with the procedures in Appendix D.

(3) All records, can be included in a printout provided to each DoD Component at the end of the fiscal year, and upon request.

(c) *Reports to Congress.* To ensure consistent application of the requirements stated in Pub. L. 99–342 as amended by Pub. L. 97–252, in Pub. L. 99–145, and Pub. L. 99–661, hereafter referred to as section 502 (Pub. L. 96–342), the following guidance is provided:

(1) The geographic scope of section 502 applies to the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) Section 502 applies to proposed conversions of DoD CAs that are being performed by more than 45 DoD civilian employees.

(3) DoD Components shall notify Congress of the intention to do a cost comparison for each CA, as required by section 502(a)(2)(A).

(4) DoD Components shall annotate announcements to Congress when a cost comparison is planned at an activity listed in the report to Congress on Core Logistics (see § 169a 5(b)(1)(i)(b)).

(5) The DoD Components shall send the detailed summary report required by section 502(a)(2)(B) to Congress. The detailed summary of the cost shall include: the amount of the offer accepted for the performance of the activity by the private contractor; the costs and expenditures that the Government will incur because of the contract; the estimated cost of performance of the activity by the most efficient Government organization; a statement indicating the life of the contract; and certifications that the entire cost comparison is available, and that the Government calculation for the cost of performance of such function by DoD employees is based on an estimate of the most efficient and cost-effective organization for performance of such function by DoD employees. DoD components who do not have Legislative Affairs (LA) and Public Affairs (PA) offices shall notify OASD (P&L) of any such intent to send the detailed summary at least five working days prior to the Congressional notification. DoD components that clear their Congressional notifications with their LA and PA offices shall provide a copy of the notification to OASD LA, PA, Office of Economic Adjustment, and DASD (I).

(6) The potential economic effect on the employees affected, the local community, and the Federal Government of contracting for performance of the function shall be included in the report to accompany the above certifications, if more than 75 total employees (including military and civilian, both permanent and temporary) are potentially affected. It is suggested that the Army Corps of Engineers' model (or equivalent) be used to generate this information. The potential impact on affected employees shall be included in the report, regardless of the number of employees involved. Also include in the report a statement that the decision was made to convert to contractor performance, the projected date of contract award, the projected contract start date, and the effect on the military mission of that function.

(7) By December 15th of each year, each DoD Component shall submit to the OASD (P&L) the data required by section 502(c). In describing the extent to which CA functions were performed by DoD contractors during the preceding fiscal year, include the estimated number of work years for the in-house operation as well as for contract operation (including percentages) by major DoD functional areas in Appendix A; such as, Social Services, Health Services, Installation Services, etc. For the estimate of the percentage of CA functions that will be performed in-house and those that will be performed by contract during the fiscal year for which the report is submitted, include the estimated work years for in-house CAs as well as for contracted CAs and the rationale for significant changes when compared to the previous year's data. Exclude functions with "A" or "C" reason codes.

(d) *Certification of MEO analysis.* Certification of the most efficient and cost-effective organization analysis shall be provided to the Committees on Appropriations of the House of Representatives and the Senate prior to conversion to contract performance of any activity involving more than 10 DoD civilian employees.

Appendix A—Codes and Definitions of Functional Areas

This list of functional codes and their definitions does not restrict the applicability or scope of the CA program within DoD. Section B. of DoD Directive 4100.15 defines the applicability and scope of the program. The CA program still applies to CAs not defined in this listing. These codes and definitions are a guide to assist reporting. As new functions are identified, codes will be added or existing definitions will be expanded.

Social Services

G001 Care of Remains of Deceased Personnel and/or Funeral Services. Includes CAs that provide mortuary services, including transportation from aerial port of embarkation (APOE) to mortuary of human remains received from overseas mortuaries, inspection, restoration, provision of uniform and insignia, dressing, flag, placement in casket, and preparation for onward shipment.

G008 Commissary Store Operation. Includes CAs that provide all ordering, receipt, storage, stockage, and retailing for commissaries. Excludes procurement of goods for issue or resale.

G008A: Shelf Stocking
G008B: Check Out
G008C: Meat Processing
G008D: Produce Processing
G008E: Storage and Issue
G008F: Other
G008G: Troop Subsistence Vssue Point

G009 Clothing Sales Store Operation. Includes CAs that provide ordering, receipt, storage, stockage, and retailing of clothing. Stores operated by the Army and Air Force Exchange Services, Navy Exchange Services, and Marine Corps Exchange Services are excluded.

G010 Recreationol Library Services. Includes operation of libraries maintained primarily for off-duty use by military personnel and their dependents.

G011 Other Morale, Welfare, and Recreation Services. Operation of CAs maintained primarily for the off-duty use of military personnel and their dependents, including both appropriated and partially nonappropriated fund activities. The operation of clubs and messes, and morale support activities are included in code G011. Examples of activities performing G011 functions are arts and crafts, entertainment, sports and athletics, swimming, bowling, marina and boating, stables, youth activities, centers, and golf. DoD Directive 1015.1 contains amplification of the categories reflected below. [NOTE: CA procedures are not mandatory for functions staffed solely by civilian personnel paid by nonappropriated funds.)

G011A: All Category II Nonappropriated Fund Instrumentalities (NAFIs), except Package Beverage Branch.
G011B: Package Beverage Branch
G011C: All Category IIIa NAFIs
G011D: All Category IIIb1, except Libraries
G011E: Category IIIb2 Arts and Crafts
G011F: Category IIIb2 Music & Theatre
G011G: Category IIIb2 Outdoor Recreation
G011H: Category IIIb2 Youth Activities
G011I: Category IIIb2 Child Development Service
G011J: Category IIIb2 Sports—Competitive
G011K: All Category IIIb3 except Armed Forces Recreation Center [AFRC) Golf, Bowling, and membership associations converted from Category VI
G011L: Category IIIb3 AFRC
G011M: Category IIIb3 Golf
G011N: Category IIIb3 Bowling
G011O: Category IIIb3 membership associations converted from Category VI
G011P: Category III Information Tour and Travel (ITT)
G011Q: All Category IV
G011R: All Category V
G011S: All Category VI, except those converted to Category IIIb3
G011T: All Category VII
G011U: All Category VIII, except Billeting and Hotels
G011V: Category VIII Billeting
G011W: Category VIII Hotels

G012 *Community Services.* DoD Directive 1015.1 contains further amplification of the categories.

G012A: Information and Referral
G012B: Relocation Assistance
G012C: Exceptional Family Member
G012D: Family Advocacy (Domestic Violence)
G012E: Foster Care
G012F: Family Member Employment
G012G: Installation Volunteer Coordination
G012H: Outreach
G012I: Volunteer Management
G012J: Office Management
G012K: Consumer Affairs/Financial Assistance
G012L: General and Emergency Family Assistance

G900 *Chaplain Activities and Support Services.* Includes CAs that provide non-military unique support services that supplement the command religious program such as non-pastoral counseling, organists, choir directors, and directors of religious education. The command religious program which includes chaplains and enlisted support personnel, is a Governmental function and is excluded from this category.

G901 *Berthing BOQ/BEQ.* Includes CAs that provide temporary or permanent accommodations for officer or enlisted personnel. Management of the facility, room service, and daily cleaning are included.

G904 *Family Services.* Includes CAs that perform various social services for families, such as family counseling, financial counseling and planning, the operation of an abuse center, child care center or family aid center.

G999 Other Social Services. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Health Services

H101 Hospital Care. Includes CAs that provide outpatient and inpatient care and consultative evaluation in the medical specialties, including pediatrics and psychiatry; the coordination of health care delivery relative to the examination, diagnosis, treatment, and disposition of medical inpatients.

H102 Surgical Care. Includes CAs that provide outpatient and inpatient care and consultative evaluation in the surgical specialties, including obstetrics, gynecology, ophthamology and otorhinolaryngology the coordination of health care delivery relative to the examination, treatment, diagnosis, and disposition of surgical patients.

H105 Nutritional Care. Includes CAs that provide hospital food services for inpatients and outpatients, dietetic treatment, counseling of patients, and nutritional education.

H106 Pathology Services include CAs involved in the operation of laboratories providing comprehensive clinical and anatomical pathology services; DoD military blood program and blood bank activities; and area reference laboratories.

H107 Radiology Services include CAs that provide diagnostic and therapeutic radiologic service to inpatients and outpatients, including the processing, examining, interpreting, and storage and retrieval of radiographs, fluorographs, and radiotherapy.

H108 Pharmocy Services include CAs that produce, preserve, store, compound, manufacture, package, control, assay, dispense, and distribute medications (including intravenous solutions) for inpatients and outpatients.

H109 Physical Therapy includes CAs that provide care and treatment to patients whose ability to function is impaired or threatened by disease or injury; primarily serve patients whose actual impairment is related to

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neuromusculoskeletal, pulmonary, and cardiovascular systems; evaluate the function and impairment of these systems, and select and apply therapeutic procedures to maintain, improve, or restore these functions.

H110 Materiel Services include CAs that provide or arrange for the supplies, equipment, and certain services necessary to support the mission of the medical facility; responsibilities include procurement, inventory control, receipt, storage, quality assurance, issue, turn-in, disposition, property accounting, and reporting actions for designated medical and nonmedical supplies and equipment.

H111 Orthopedic Services include CAs that construct orthopedic appliances such as braces, casts, splints, supports, and shoes from impressions, forms, molds, and other specifications.

H112 Ambulance Service includes CAs that provide transportation for personnel who are injured, sick, or otherwise require medical treatment, including standby duty in support of military activities and ambulance bus services.

H113 Dental Care includes CAs that provide oral examinations, patient education, diagnosis, treatment, and care including all phases of restorative dentistry, oral surgery, prosthodontics, oral pathology, periodontics, orthodontics, endodontics, oral hygiene, preventive dentistry, and radiodontics.

H114 Dental Laboratories include CAs that operate dental prosthetic laboratories required to support the provision of comprehensive dental care; services may include preparing casts and models, repairing dentures, fabricating transitional, temporary, or orthodontic appliances, and finishing dentures.

H115 Clinics and Dispensaries include CAs that operate freestanding clinics and dispensaries that provide health care services. Operations are relatively independent of a medical treatment facility and are separable for in-house or contract performance. Health clinics, occupational health clinics, and occupational health nursing offices.

H116 Veterinary Services include CAs that provide a complete wholesomeness and quality assurance food inspection program, including sanitation, inspection of food received, surveillance inspections, and laboratory examination and analysis; a complete zoonosis control program; complete medical care for Government-owned animals; veterinary medical support for biomedical research and development; support to other Federal agencies when requested and authorized; assistance in a comprehensive preventive medicine program and determination of fitness of all foods that may have been contaminated by chemical, bacteriological, or radioactive materials.

H117 Medical Records Transcription includes CAs that transcribe, file, and maintain medical records.

H118 Nursing Services include CAs that provide care and treatment for inpatients and outpatients not required to be performed by a doctor.

H119 Preventive Medicine includes CAs that operate wellness or holistic clinics (preventive medicine), information centers, and research laboratories.

H120 Occupational Health includes CAs that develop, monitor, and inspect installation safety conditions.

H121 Drug Rehabilitation includes CAs that operate alcohol treatment facilities, urine testing for drug content, and drug/alcohol counseling centers.

H999 Other Health Services This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Intermediate, Direct, or General Repair and Maintenance of Equipment

Definition. Maintenance authorized and performed by designated maintenance CAs in support of using activities. Normally, it is limited to replacement and overhaul of unserviceable parts, subassemblies, or assemblies. It includes (a) intermediate/direct/general maintenance performed by fixed activities that are not designed for deployment to combat areas and that provide direct support of organizations performing or designed to perform combat missions from bases in the United States, and (b) any testing conducted to check the repair procedure. CAs engaged in intermediate/direct/general maintenance and/or repair of equipment are to be grouped according to the equipment predominantly handled, as follows:

J501 Aircraft. Aircraft and associated equipment. Includes armament, electronic and communications equipment, engines, and any other equipment that is an integral part of an aircraft.

J502 Aircraft Engines. Aircraft engines that are not repaired while an integral part of the aircraft.

J503 Missiles. Missile systems and associated equipment. Includes mechanical, electronics, and communication equipment that is an integral part of missile systems.

J504 Vessels. All vessels, including armament, electronics, communications and any other equipment that is an integral part of the vessel.

J505 Combat Vehicles. Tanks, armored personnel carriers, self-propelled artillery, and other combat vehicles. Includes armament, fire control, electronic, and communications equipment that is an integral part of a combat vehicle.

J506 Noncombat Vehicles. Automotive equipment, such as tactical, support, and administrative vehicles. Includes electronic and communications equipment that is an integral part of the noncombat vehicle.

J507 Electronic and Communications Equipment. Stationary, mobile, portable, and other electronic and communications equipment. Excludes electronic and communications equipment that is an integral part of another weapon/support system. Maintenance of Automatic Data Processing Equipment (ADPE) not an integral part of a communications system shall be reported under functional code W825; maintenance of tactical ADPE shall be reported under function code J999.

J510 Railway Equipment. Locomotives of any type or gauge, including steam, compressed air, straight electric, storage battery, diesel electric, gasoline, electric, diesel mechanical locomotives, railway cars, and cabooses. Includes electrical equipment for locomotives and cars, motors, generators, wiring supplies for railway tracks for both propulsion and signal circuits, and on-board communications and control equipment.

J511 Special Equipment. Construction equipment, weight lifting, power, and materiel handling equipment (MHE).

J512 Armament. Small arms, artillery and guns, nuclear munitions, chemical, biological, and radiological (CBR) items, conventional ammunition, and all other ordnance items. Excludes armament that is an integral part of another weapon or support system.

J513 Dining Facility Equipment. Dining facility kitchen appliances and equipment.

J514 Medical and Dental Equipment. Medical and dental equipment.

J515 Containers, Textiles, Tents, and Tarpaulins. Containers, tents, tarpaulins, other textiles, and organizational clothing.

J516 Metal Containers. Container Express (CONEX) containers, gasoline containers, and other metal containers.

J517 Training Devices and Visual Information Equipment. Training devices and visual information equipment. Excludes maintenance of locally fabricated devices and functions reported under codes T807 and T900.

J519 Industrial Plant Equipment. That part of plant equipment with an acquisition cost of $5,000 or more, used to cut, abrade, grind, shape, form, join, test, measure, heat, or otherwise alter the physical, electrical, or chemical properties of materiels, components, or end items entailed in manufacturing, maintenance, supply processing, assembly, or research and development operations.

J520 Test, Measurement, and Diagnostic Equipment. Test, measurement, and diagnostic equipment (TMDE) that has a resident programmable computer. Included is equipment referred to as automated test equipment (ATE).

J521 Other Test, Measurement, and Diagnostic Equipment. Test, measurement, and diagnostic equipment not classified as ATE or that does not contain a resident programmable computer. Includes such items as electronic meters, armament circuit testers, and other specialized testers.

J522 Aeronautical Support Equipment. Aeronautical support equipment excluding (TMDE and ATE). Includes such items as ground electrical power carts, aircraft tow tractors, ground air conditioners, engine stands, and trailers. Excludes aeronautical equipment reported under J501.

J999 Other Intermediate, Direct, or General Repair and Maintenance of Equipment. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Depot Repair, Maintenance, Modification, Conversion, or Overhaul of Equipment Definition. The maintenance performed on materiel that requires major overhaul or a complete rebuild of parts, assemblies, subassemblies, and end items, including the manufacture of parts, modifications, testing, and reclamation, as required. Depot maintenance serves to support lower categories of maintenance. Depot maintenance provides stocks of serviceable equipment by using more extensive facilities for repair than are available in lower level maintenance activities. (See DoD Instruction 4151.15 for further amplification of the category definitions reflected below.) Depot or indirect maintenance functions are identified by the type of equipment maintained or repaired.

K531 Aircraft. Aircraft and associated equipment. Includes armament, electronics and communications equipment, engines, and any other equipment that is an integral part of an aircraft. Aeronautical support equipment not reported separately under code K548.

K532 Aircraft Engines. Aircraft engines that are not repaired while an integral part of the aircraft.

K533 Missiles. Missile systems and associated equipment. Includes mechanical, electronic, and communications equipment that is an integral part of missile systems.

K534 Vessels. All vessels, including armament, electronics, and communications equipment, and any other equipment that is an integral part of a vessel.

K535 Combat Vehicles. Tanks, armored personnel carriers, self-propelled artillery, and other combat vehicles. Includes armament, fire control, electronics, and communications equipment that is an integral part of a combat vehicle.

K536 Noncombat Vehicles. Automotive equipment, such as tactical support and administrative vehicles. Includes electronic and communications equipment that is an integral part of the vehicle.

K537 Electronic and Communications Equipment. Stationary, mobile, portable, and other electronics and communications equipment. Excludes electronic and communications equipment that is an integral part of another weapon/support system. Maintenance of ADPE, not an integral part of a communications system, is reported under functional code W825.

K538 Railway Equipment. Locomotives of any type or gauge, including steam, compressed air, straight electric, storage battery, diesel electric, gasoline, electric, diesel mechanical locomotives, railway cars, and cabooses. Includes electrical equipment for locomotives and cars, motors, generators, wiring supplies for railway tracks for both propulsion and signal circuits, and on-board communication and control equipment.

K539 Special Equipment. Construction equipment, weight lifting, power, and materiel-handling equipment.

K540 Armament. Small arms; artillery and guns; nuclear munitions, CBR items; conventional ammunition; and all other ordnance items. Excludes armament that is an integral part of another weapon or support system.

K541 Industrial Plant Equipment. That part of plant equipment with an acquisition cost of $5,000 or more, used to cut, abrade, grind, shape, form, join, test, measure, heat, or otherwise alter the physical, electrical, or chemical properties of materials, components, or end items entailed in manufacturing, maintenance, supply, processing, assembly, or research and development operations.

K542 Dining Facility Equipment. Dining facility kitchen appliances and equipment. This includes field feeding equipment.

K543 Medical and Dental Equipment. Medical and dental equipment.

K544 Containers, Textiles, Tents and Tarpaulins. Containers, tents, tarpaulins, and other textiles.

K545 Metal Containers. CONEX containers, gasoline containers, and other metal containers.

K546 Test Measurement and Diagnostic Equipment. Test measurement and diagnostic equipment (TMDE) that has resident in it a programmable computer. Included is equipment referred to as automated test equipment (ATE).

K547 Other Test Measurement and Diagnostic Equipment. Test measurement and diagnostic equipment not classified as ATE or that does not contain a resident programmable computer. Includes such items as electronic meters, armament circuit testers, and other specialized testers.

K548 Aeronautical Support Equipment. Aeronautical support equipment excluding (TMDE and ATE). Includes such items as ground electrical power carts, aircraft tow tractors, ground air conditioners, engine stands, and trailers. Excludes aeronautical support equipment reported under code K531.

K999 Other Depot Repair, Maintenance, Modification, Conversion, or Overhaul of Equipment. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Base Maintenance/Multifunction Contracts

P100 Base Maintenance/Multifunction Contracts. Includes all umbrella-type contracts where the contractor performs more than one function at one or more installations. (Identify specific functions as nonadd entries.)

Research, Development, Test, and Evaluation (RDT&E) Support

R680 RDT&E Support. Includes all effort not reported elsewhere directed toward support of installation or operations required for research, development, test, and evaluation use. Included are maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft and ships.

Installation Services

S700 Natural Resources Support. Includes those CAs that support operations and activities implementing natural resources management plans. Examples are pesticides application, equipment operation, and road and pond construction and maintenance. Natural resources planning and management is a governmental function and will not be reported.

S701 Advertising and Public Relations Services. Includes CAs responsible for advertising and public relations in support of public affairs offices, installation newspapers and publications, and information offices.

S702 Financial and Payroll Services. Includes CAs that prepare payroll, print checks, escrow, or change payroll accounts for personnel. Includes other services normally associated with banking operations.

S703 Debt Collection. Includes CAs that monitor, record, and collect debts incurred by overdrafts, bad checks, or delinquent accounts.

S706 Installation Bus Services. Includes CAs that operate local, intrapost, and interpost scheduled bus services. Includes scheduled movement of personnel over regular routes by administrative motor vehicles to include taxi and dependent school bus services.

S706A: Scheduled Bus Services
S706B: Unscheduled Bus Services
S706C: Dependent School Bus Services
S706D: Other Bus Services

S708 Laundry and Dry Cleaning Services. Includes CAs that operate and maintain laundry and dry cleaning facilities.

S709 Custodial Services. Includes CAs that provide janitorial and housekeeping services to maintain safe and sanitary conditions and preserve property.

S710 Pest Management. Includes CAs that provide control measures directed against fungi, insects, rodents, and other pests.

S712 Refuse Collection and Disposal Services. Includes CAs that operate incinerators, sanitary fills, and regulated dumps, and perform all other approved refuse collection and disposal services.

S713 Food Services. Includes CAs engaged in the operation and administration of food preparation and serving facilities. Excludes operation of central bakeries, pastry kitchens, and central meat processing facilities that produce a product and are reported under functional area X934. Excludes hospital food service operations (under code H105).

S713A: Food Preparation and Administration.
S713B: Mess Attendants and Housekeeping Services.

S714 Furniture. Includes CAs that repair and refurbish furniture.

S715 Office Equipment. Includes CAs that maintain and repair typewriters, calculators, and adding machines.

S716 Motor Vehicle Operation. Includes CAs that operate local administrative motor transportation services. Excludes installation bus services reported in functional area S706.

S716A: Taxi Service
S716B: Bus Service (unless in S706)
S716C: Motor Pool Operation
S716D: Crane Operation (includes rigging, excludes those listed in T800G)
S716E: Heavy Truck Operation
S716F: Construction Equipment Operation
S716I: Driver/Operator Licensing & Test
S716J: Other Vehicle Operations (Light Truck/Auto)
S716K: Fuel Truck Operations
S716M: Tow Truck Operations

S717 Motor Vehicle Maintenance. Includes CAs that perform maintenance on automotive equipment, such as support and administrative vehicles. Includes electronic and communications equipment that are an integral part of the vehicle.

S717A: Upholstery Maintenance and Repair

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S717B: Glass Replacement and Window Repair
S717C: Body Repair and Painting
S717D: Accessory Overhaul
S717E: General Repairs/Minor Maintenance
S717F: Battery Maintenance and Repair
S717G: Tire Maintenance and Repair
S717H: Major Component Overhaul
S717I: Material Handling Equipment Maintenance
S717J: Crane Maintenance
S717K: Construction Equipment Maintenance
S717L: Frame and Wheel Alignment
S717M: Other Motor Vehicle Maintenance

S718 Fire Prevention and Protection. Includes CAs that operate and maintain fire protection and preventive services. Includes routine mail tenance and repair of fire equipment and the installation of fire prevention equipment.

S718A: Fire Protection Engineering
S718B: Fire Station Administration
S718C: Fire Prevention
S718D: Fire Station Operations
S718E: Crash and Rescue
S718F: Structural Fire Suppression
S718G: Fire & Crash/Rescue Equipment Major Maintenance
S718H: Other Fire Prevention and Protection

S719 Military Clothing. Includes CAs that order, receive, store, issue, and alter military clothing and repair military shoes. Excludes repair of organizational clothing reported under code J515.

S724 Guard Service. Includes CAs engaged in physical security operations that provide for installation security and intransit protection of military property from loss or damage.

S724A: Ingress and egress control. Regulation of person, material, and vehicles entering or exiting a designated area to provide protection of the installation and Government property.

S724B: Physical security patrols and posts. Mobile and static physical security guard activities that provide protection of installation or Government property.

S724C: Conventional arms, ammunition, and explosives (CAAE) security. Dedicated security guards for CAAE.

S724D: Animal control. Patrolling for, capture of, and response to complaints about uncontrolled, dangerous, and disabled animals on military installations.

S724E: Visitor information services. Providing information to installation resident and visitors about street, agency, unit, and activity locations.

S724F: Vehicle impoundment. Removal, accountability, security, and processing of vehicles impounded on military installations.

S724G: Registration functions. Administration, filing, processing, and retrieval information about privately owned items that must be registered on military installations.

S724S: Other guard service.

S725 Electrical Plants and Systems. Includes CAs that operate, maintain, and repair Government-owned electrical plants and systems.

S726 Heating Plants and Systems. Includes CAs that operate, maintain, and repair Government-owned heating plants and systems over 750,000 British Thermal Unit (BTU) capacity. Codes Z991 or Z992 will be used for systems under 750,000 BTU capacity, as applicable.

S727 Water Plants and Systems. Includes CAs that operate, maintain, and repair Government-owned water plants and systems.

S728 Sewage and Waste Plants and Systems. Includes CAs that operate, maintain, and repair Government-owned sewage and waste plants and systems.

S729 Air Conditioning and Refrigeration Plants. Includes CAs that operate, maintain, and repair Government-owned air conditioning and refrigeration plants over 5-ton capacity. Codes Z991 or Z992 shall be used for plants under 5-ton capacity as applicable.

S730 Other Services or Utilities. Includes CAs that operate, maintain, and repair other Government-owned services or utilities.

S731 Base Supply Operations. Includes CAs that operate centralized installation supply functions providing supplies and equipment to all assigned or attached units. Performs all basic supply functions to determine requirements for all requisition, receipt, storage, issuance, and accountability for materiel.

S732 Warehousing and Distribution of Publications. Includes CAs that receive, store, and distribute publications and blank forms.

S740 Installation Transportation Office. Includes technical, clerical, and administrative CAs that support traffic management services related to the procurement of freight and passenger service from commercial "for hire" transportation companies. Excludes restricted functions that must be performed by Government employees such as the review, approval, and signing of documents related to the obligation of funds; selection of mode or carrier; evaluation of carrier performance; and carrier suspension. Excludes installation transportation functions described under codes S706, S716, S717, T810, T811, T812, and T814.

S740A: Installation Transportation Management and Administration
S740B: Materiel Movements
S740C: Personnel Movements
S740D: Personal Property Activities
S740E: Quality Control and Inspection
S740F: Unit Movements

S750 Museum Operations.

S760 Contractor-Operated Parts Stores and Contractor-Operated Civil Engineering Supply Stores.

S999 Other Installation Services. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

OTHER NONMANUFACTURING OPERATIONS

T800 Ocean Terminal Operations. Includes CAs that operate terminals transferring cargo between overland and sealift transportation. Includes handling of Government cargo through commercial water terminals.

T800A: Pier Operations. Includes CAs that provide stevedore and shipwright carpentry operations supporting the loading, stowage, and discharge of cargo and containers on and off ships, and supervision of operations at commercial piers and military ocean terminals.

T800B: Cargo Handling Equipment. Includes CAs that operate and maintain barge derricks, gantries, cranes, forklifts, and other materiel handling equipment used to handle cargo within the terminal area.

T800C: Port Cargo Operations. Includes CAs that load and unload railcars and trucks, pack, repack, crate, warehouse, and store cargo moving through the terminal, and stuff and unstuff containers.

T800D: Vehicle Preparation. Includes CAs that prepare Government and privately owned vehicles (POVs) for ocean shipment, inspection, stowage in containers, transportation to pier, processing, and issue of import vehicles to owners.

T800E: Lumber Operations. Includes CAs that segregate reclaimable lumber from dunnage removed from ships, railcars, and trucks; remove nails; even lengths; inspect; and return the lumber to inventory for reuse. Includes receipt, storage, and issue of new lumber.

T800F: Materiel Handling Equipment (MHE) Operations. Includes CAs that deliver MHE to user agencies, perform onsite fueling, and operate special purpose and heavy capacity equipment.

T800G: Crane Operations. Includes CAs that operate and perform first-echelon maintenance of barge derricks, gantries, and truck-mounted cranes in support of vessels and terminal cargo activities.

T800H: Breakbulk Cargo Operations. Includes CAs that provide stevedoring, shipwright carpentry, stevedore transportation, and the loading and unloading of noncontainerized cargo.

T8001: Other Ocean Terminal Operations.

T801 Storage and Warehousing. Includes CAs that receive materiel into depots and other storage and warehousing facilities, provide care for supplies, and issue and ship materiel. Excludes installation supply in support of unit and tenent activities described in S731.

T801A: Receipt. Includes CAs that receive supplies, related documents and information. Includes materiel handling and related actions, such as materials segregation and checking, and tallying incident to receipt.

T801B: Packing and Crating of Household Goods. Includes CAs performing packing and crating operations described in T801H, incident to the movement or storage of household goods.

T801C: Shipping. Includes CAs that deliver stocks withdrawn from storage to shipping. Includes onloading and offloading of stocks from transportation carriers, blocking, bracing, dunnage, checking, tallying, and materiel handling in central shipping area and related documentation and information operations.

T801D: Care, Rewarehousing, and Support of Materiel. Includes CAs that provide for actions that must be taken to protect stocks in storage, including physical handling,

temperature control, assembly placement and preventive maintenance of storage aids, and realigning stock configuration; provide for movement of stocks from one storage location to another and related checking, tallying, and handling; and provide for any work being performed within general storage support that cannot be identified clearly as one of the subfunctions described above.

T801E: Preservation and Packaging. Includes CAs that preserve, represerve, and pack materiel to be placed in storage or to be shipped. Excludes application of final (exterior) shipping containers.

T801F: Unit and Set Assembly and Disassembly. Includes CAs that gather or bring together items of various nomenclature (parts, components, and basic issue items) and group, assemble, or restore them to or with an item of another nomenclature (such as parent end item or assemblage) to permit shipment under a single document. This also includes blocking, bracing, and packing preparations within the inner shipping container; physical handling and loading; and reverse operation of assembling such units.

T801G: Special Processing of Non Stock Fund-Owned Materiel. Includes CAs performing special processing actions described below that must be performed on inventory Control Point (ICP)-controlled, nonstock fund-owned materiel by technically qualified depot maintenance personnel, using regular or special maintenance tools or equipment. Includes disassembly or reassembly or reserviceable ICP-controlled materiel being readied for movement, in-house storage, or out-of-house location such as a port to a commercial or DoD-operated maintenance or storage facility, property disposal or demilitarization activity, including blocking, bracing, cushioning, and packing.

T801H: Packing and Crating. Includes CAs that place supplies in their final, exterior containers ready for shipment. Includes the nailing, strapping, sealing, stapling, masking, marking, and weighing of the exterior container. Also, includes all physical handling, unloading, and loading of materiel within the packing and shipping area; checking and tallying material in and out; all operations incident to packing, repacking, or recrating for shipment, including on-line fabrication of tailored boxes, crates, bit inserts, blocking, bracing and cushioning shrouding, overpacking, containerization, and the packing of materiel in transportation containers. Excludes packing of household goods and personal effects reported under code T801B.

T801I: Other Storage and Warehousing.

T802 Cataloging. Includes CAs that prepare supply catalogs and furnish cataloging data on all items of supply for distribution to all echelons worldwide. Include catalog files, preparation, and revision of all item identifications for all logistics functions; compilation of Federal catalog sections and allied publication; development of Federal item identification guides, and procurement identification descriptions. Includes printing and publication of Federal supply catalogs and related allied publications.

T803 Acceptance Testing. Includes CAs that inspect and test supplies and materiel to ensure that products meet minimum requirements of applicable specifications, standards, and similar technical criteria; laboratories and other facilities with inspection and test capabilities; and activities engaged in production acceptance testing of ammunition, aircraft armament, mobility material, and other military equipment.

T803A: Inspection and Testing of Oil and Fuel.

T803B: Other Acceptance Testing.

T804 Architect-Engineering Services. Includes CAs that provide Architect Engineer (A/E) services. Excludes Engineering Technical Services (ETS) reported in functional area T813 and those required under the Brooks Act.

T805 Operation of Bulk Liquid Storage. Includes CAs that operate bulk petroleum storage facilities. Includes operation of off vessel discharging and loading facilities, fixed and portable bulk storage facilities or extended to using agencies (excludes aircraft fueling services); handling of drums within bulk fuel activities. Excludes aircraft fueling services reported under code T814.

T806 Printing and Reproduction. Includes CAs that print, duplicate, and copy. Excludes user-operated office copying equipment.

T807 Visual Information Services. Includes CAs that provide visual information (VI) services, support and production.

T807A: VI Support. Includes CAs that provide VI support, products and services to all organizations on an installation or within a defined geographic area. Functions may include motion picture photography, still photography, video and audio recording for nonproduction documentary purposes, graphic arts, VI library services, VI presentation services, and VI equipment maintenance.

T807B: VI Production. Includes CAs that provide production and reproduction of VI productions. (including motion picture, video, multimedia, and audio production).

T807C: VI Records Centers. Includes CAs that provide central control, storage and disposition for VI records. Included also are VI records holding areas.

T807D: VI Technical Documentation. Includes CAs that provide VI documentation of actual events for research, development, test, or evaluation purposes. Included also are medical and intelligence VI documentation and armament recording.

T807E: Broadcasting. Includes CAs that provide closed circuit and other radio and television broadcast services.

T807F: Videoteleconferencing. Includes CAs that provide the operation of conference room electronic systems for audio and visual information between two or more locations.

T807G: VI Media Distribution. Includes CAs that provide central VI product stockage, maintenance, and distribution.

T808 Mapping and Charting. Includes CAs that design, compile, print, and disseminate cartographic and geodetic products.

T809 *Administrative Telephone Service.* Includes CAs that operate and maintain the common-user, administrative telephone systems at DoD installations and activities. Includes telephone operator service; range communications; emergency action consoles; and the cable distribution portion of a fire alarm, intrusion detection, emergency monitoring and control data, and similar systems that require use of a telephone system.

T810 Air Transportation Services. Includes CAs that operate and maintain nontactical aircraft that are assigned to commands and installations and used for administrative movement of personnel and supplies.

T811 Water Transportation Services. Includes CAs that operate and maintain nontactical watercraft that are assigned to commands and installations and are used for administrative movement of personnel and supplies.

T811A: Water Transportation Services (except tug operations).

T811B: Tug Operations.

T812 Rail Transportation Services. Includes CAs that operate and maintain nontactical rail equipment assigned to commands and installation and used for administrative movement of personnel and supplies.

T813 *Engineering and Technical Services.* Includes CAs that advise, instruct, and train DoD personnel in the installation, operation, and maintenance of DoD weapons, equipment, and systems. These services include transmitting the technical skill capability to DoD personnel in order for them to install, maintain, and operate such equipment and keep it in a high state of military readiness.

T813A: Contractor Plant Services. Includes commercial manufacturers of military equipment contracted to provide technical and engineering services to DoD personnel. Qualified employees of the manufacturer furnish these services in the manufacturer plants and facilities. Through this program, the special skills, knowledge, experience, and technical data of the manufacturer are provided for use in training, training aid programs, and other essential services directly related to the development of the technical capability required to install, operate, maintain, supply, and store such equipment.

T813B: Contract Field Services (CFS). Includes CAs that provide services of qualified contractor personnel who provide onsite technical and engineering services to DoD personnel.

T813C: In-house Engineering and Technical Services. Includes CAs that provide technical and engineering services described in codes T813A and T813B above that are provided by Government employees.

T813D: Other Engineering and Technical Services.

T814 Fueling Service (Aircraft). Includes CAs that distribute aviation petroleum/oil/lubricant products. Includes operation of trucks and hydrants.

T815 Scrap Metal Operation. Includes CAs that bale or shear metal scrap and melt or sweat aluminum scrap.

T816 Telecommunication Centers. Includes CAs that operate and maintain telecommunication centers, nontactical radios, automatic message distribution systems, technical control facilities, and other

systems integral to the communication center. Includes operations and maintenance of air traffic control equipment and facilities.

T817 Other Communications and Electronics Systems. Includes CAs that operate and maintain communications and electronics systems not included in T809 and T816.

T818 Systems Engineering and Installation of Communications Systems. Includes CAs that provide engineering and installation services, including design and drafting services associated with functions specified in T809, T816, and T817.

T819 Preparation and Disposal of Excess and Surplus Property. Includes CAs that accept, classify, and dispose of surplus Government property, including scrap metal.

T820 Administrative Support Services. Includes CAs that provide centralized administrative support services not included specifically in another functional category. These activities render services to multiple activities throughout an organization or to multiple organizations; such as, a steno or typing pool rather than a secretary assigned to an individual. Typical activities included are word processing centers, reference and technical libraries, microfilming, messenger service, translation services, publication distribution centers, etc.

T820A: Word Processing Centers.
T820B: Reference and Technical Libraries.
T820C: Microfilming.
T820D: Internal Mail and Messenger Services.
T820E: Translation Services.
T820F: Publication Distribution Centers.
T820G: Field Printing and Publication. Includes those activities that print or reproduce official publications, regulations, and orders. Includes management and operation of the printing facility.
T820H: Compliance Auditing.
T820I: Court Reporting.

T821 Special Studies and Analyses. Includes CAs that perform research, collect data, conduct time-motion studies, or pursue some other planned methodology in order to analyze a specific issue, system, device, boat, plane, or vehicle for management. Such activities may be temporary or permanent in nature.

T821A: Cost Benefit Analyses.
T821B: Statistical Analyses.
T821C: Scientific Data Studies.
T821D: Regulatory Studies.
T821E: Defense, Education, Energy Studies.
T821F: Legal/Litigation Studies.
T821G: Management Studies.

T900 Training Devices and Simulators. Includes CAs that provide training devices, simulator design, fabrication, issue operation, maintenance support and services.

T900A: Training Devices, and Simulator Support. Includes CAs that design, fabricate, stock, store, issue, receive, and account for and maintain training devices, and simulators (does not include visual information production and associated services or visual information support).

T900B: Training Device and Simulator Operation. Includes CAs that operate and maintain training device and simulator systems.

T999 Other Nonmanufacturing Operations. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Education and Training

Includes CAs that conduct courses of instruction attended by civilian or military personnel of the Department of Defense. Terminology of categories and subcategories primarily for military personnel (identified by footnote 1) follows the definitions of the statutory *Military Manpower Training Report* submitted annually to the Congress. This series includes only the conduct of courses of instruction; it does not include education and training support functions (that is, Base Operations Functions in the S series and Nonmanufacturing Operations in the T series). A course is any separately identified instructional entity or unit appearing in a formal school or course catalog.

U100 Recruit Training.[1] The instruction of recruits.

U200 Officer Acquisition Training.[1] Programs concerned with officer acquisition training.

U300 Specialized Skill Training.[1] Includes Army One-Station Unit Training, Naval Apprenticeship Training, and health care training.

U400 Flight Training.[1] Includes flight familiarization training.

U500 Professional Development Education.[1]

U510 Professional Military Education.[1] Generally, the conduct of instruction at basic, intermediate, and senior Military Service schools and colleges and enlisted leadership training does not satisfy the requirements of the definition of a DoD CA and is excluded from the provision of this part.

U520 Graduate Education, Fully Funded, Full-Time.[1]

U530 Other Full-Time Education Programs.[1]

U540 Off-Duty (Voluntary) and On-Duty Education Programs.[1] Includes the conduct of Basic Skills Education Program (BSEP), English as a Second Language (ESL), skill development courses, graduate, undergraduate, vocational/technical, and high school completion programs for personnel without a diploma.

U600 Civilian Education and Training. Includes the conduct of courses intended primarily for civilian personnel.

U700 Dependent Education. Includes the conduct of elementary and secondary school courses of instruction for the dependents of DoD overseas personnel.

U800 Training Development and Support. Training CAs not already reported.

U999 Other Training. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Automatic Data Processing

W824 Data Processing Services. Includes CAs that provide ADP processing services by using Government-owned or leased ADP equipment; or participating in Government-wide ADP sharing program; or procuring of time-sharing processing services (machine time) from commercial sources. Includes all types of data processing services performed by general purpose ADP and peripheral equipment.

W824A: Operation of ADP Equipment
W824B: Production Control and Customer Service
W824C: ADP Magnetic Media Library
W824D: Data Transcription/Data Entry Services
W824E: Transmission and Teleprocessing Equipment Services
W824F: Acceptance Testing and Recovery Systems
W824G: Punch Card Processing Services
W824H: Other ADP Operations and Support

W825 Maintenance of ADP Equipment. Includes CAs that maintain and repair all Government-owned ADP equipment and peripheral equipment.

W826 Systems Design, Development, and Programing Services. Icludes CAs that provide software services associated with nontactical ADP operation.

W826A: Development and Maintenance of Applications Software.
W826B: Development and Maintenance of Systems Software.

W827 Software Services for Tactical Computers and Automated Test Equipment. Includes CAs that provide software services associated with tactical computers and TMDE and ATE hardware.

W999 Other Automatic Data Processing. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Products Manufactured and Fobricated In-House

Commercial activities that manufacture and/or fabricate products in-house are grouped according to the products predominantly handled as follows:

X931 Ordnance Equipment. Ammunition and related products.

X932 Products Mode from Fobric or Similar Materials. Including the assembly and manufacture of clothing, accessories, and canvas products.

X933 Container Products and Related Items. Including the design, engineering, and manufacture of wooden boxes, crates, and other containers; includes the fabrication of fiberboard boxes, and assembly of paperboard boxes with metal straps. Excludes on-line fabrication of boxes and crates reported in functional area T801.

X934 Food and Bakery Products. Including the operation of central meat processing plants, pastry kitchens, and bakery facilities. Excludes food services reported in functional areas S713 and H105.

X935 Liquid, Gaseous, and Chemical Products. Including the providing of liquid oxygen and liquid nitrogen.

X936 Rope, Cordage, and Twine Products; Chains and Metal Cable Products.

X937 Logging and Lumber Products. Logging and sawmill operations.

X938 Communicotions and Electronic Products.

X939 Construction Products. The operation of quarries and pits, including crushing, mixing, and concrete and asphalt batching plants.

X940 Rubber and Plastic Products.

X941 Optical and Related Products.

X942 Sheet Metal Products.

X943 Foundry Products.

X944 Machined Parts.

X999 Other Products Manufactured and Fabricated In-House. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Maintance, Repair, Alteration, and Minor Construction of Real Property

Z901 Buildings and Structures—Family Housing. Includes CAs that are engaged in exterior and interior painting and glazing; roofing; interior plumbing; interior electric; interior heating equipment, including heat sources under 750,000 BTU capacity; installed food service and related equipment; air conditioning and refrigeration under a 5-ton capacity; elevators; and other equipment affixed as part of the building and not included in other activities. Includes fencing, flagpoles, and other miscellaneous structures associated with family housing.

Z901A: Rehabilitation—Tenant Change.
Z901B: Roofing.
Z901C: Glazing.
Z901D: Tiling.
Z901E: Exterior Painting.
Z901F: Interior Painting.
Z901G: Flooring.
Z901H: Screens, Blinds, etc.
Z901I: Appliance Repair.
Z901J: Electrical Repair. Includes elevators, escalators, and moving walks.
Z901K: Plumbing.
Z901L: Heating Maintenance.
Z901M: Air Conditioning Maintenance.
Z901N: Emergency/Service Work.
Z901T: Other Work.

Z902 Buildings and Structures (Other Than Family Housing). Includes CAs that are engaged in exterior and interior painting and glazing; roofing, interior plumbing; interior electric; interior heating equipment, including heat sources under 750,000 BTU capacity; installed food service and related equipment; air conditioning and refrigeration under a 5-ton capacity; elevators; and other equipment affixed as part of the building and not reported under other functional codes. Includes fencing, flagpoles, guard and watchtowers, grease racks, unattached loading ramps, training facilities other than buildings, monuments, grandstands and bleachers, elevated garbage racks, and other miscellaneous structures.

Z902A: Rehabilitation—Tenant Change.
Z902B: Roofing.
Z902C: Glazing.
Z902D: Tiling.
Z902E: Exterior Painting.
Z902F: Interior Painting.
Z902G: Flooring.
Z902H: Screens, Blinds, etc.
Z902I: Appliance Repair.
Z902J: Electrical Repair. Includes elevators, escalators, and moving walkways.
Z902K: Plumbing.
Z902L: Heating Maintenance.
Z902M: Air Conditioning Maintenance.
Z902N: Emergency/Service Work.
Z902T: Other Work.

Z903 Grounds and Surfoced Areas. Commercial activities that maintain, repair, and alterations of grounds and surfaced areas defined in codes Z903A, B, and C, below.

Z903A: Grounds (Improved). Includes improved grounds, including lawns, drill fields, parade grounds, athletic and recreational facilities, cemeteries, other ground areas, landscape and windbreak plants, and accessory drainage systems.

Z903B: Grounds (Other than Improved). Small arms ranges, antenna fields, drop zones, and firebreaks. Also grounds such as wildlife conservation areas, maneuver areas, artillery ranges, safety and security zones, deserts, swamps, and similar areas.

Z903C: Surfaced Areas. Includes airfield pavement, roads, walks, parking and open storage areas, traffic signs and markings, storm sewers, culverts, ditches, and bridges. Includes sweeping and snow removal from streets and airfields.

Z907 Railroad Facilities. Includes CAs that maintain, repair, and alter narrow and standard gauge two-rail tracks including spurs, sidings, yard, turnouts, frogs, switches, ties, ballast, and roadbeds, with accessories and appurtenances, drainage facilities, and trestles.

Z908 Waterways and Waterfront Facilities. Includes CAs that maintain, repair, and alter approaches, turning basin, berth areas and maintenance dredging, wharves, piers, docks, ferry racks, transfer bridges, quays, bulkheads, marine railway dolphins, mooring, buoys, seawalls, breakwaters, causeways, jetties, revetments, etc. Excludes waterways maintained by the Army Corps of Engineers (COE) rivers and harbors programs. Also excludes buildings, grounds, railroads, and surfaced areas located on waterfront facilities.

Z999 Other Maintenance, Repair, Alteration, and Minor Construction of Real Property. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Appendix B—Commercial Activities Inventory Report and Five-Year Review Schedule

A. General Instructions

1. Submit reports to the Office of the Assistant Secretary of Defense (Production and Logistics) before January 1. Reports are assigned Reports Control Symbol DD–P&L(A) 1540 and may be transmitted using microcomputer diskette, magnetic tape, or terminals as a medium.

2. For tape medium use nine-track tape Extended Binary Coded Decimal Interchange Code (EBCDIC), 1600 or 6250 density, even parity. The data record must contain 132 characters, blocked 10 logical records to a block. Omit headers and trailers. Use a tape mark (end of file) to follow the data. An external label shall be used on the reel to identify the organization to which the reel is to be returned, the title of the report, the fiscal year covered, and the tape characteristics.

3. If a remote work station terminal is to be used as the transmittal medium, then concurrence and interface requirements shall be established between the Defense Manpower Data Center (DMDC) and sender before transmission of data.

4. *Data Formot: In-house DOD Commerical Activities*

Data element	Positions	Field	Type [1] data
Designator	1	A	A
Installation		A1	
—State, Territory, or Possession.	2–3	A1a	N
—Place	4–9	A1a	A/N
Function [1]	10–14	A2	A/N
In-House Civilian Workload.	15–20	A3	N
Military Workload	21–26	A4	N
Reason for In-House Operation [1].	49	A8	A
Most Recent Year In-House Operation Approved [1].	50–51	A9	N
Year DoD CA Scheduled for Next Review [1].	52–53	A10	N
Installation Name	76–132	A11	A

A = Alpha; N = Numeric. A and A/N data shall be left justified and space filled. N data shall be right justified and zero filled.

General Note For Personnel Processing These Reports: Coding shall be as indicated in the instructions. When specific coding instructions are not provided, reference must be made to DoD 5000.12–M. Failure to comply with the coding instructions contained herein or those published in the Brooks Act, will make the noncomplier responsible for required concessions in data base communication. Items marked with a footnote 1 have been registered in the DoD Data Element Dictionary.

5. *Instruction for Preparing Data Entries*

Field	Instruction
A	Enter an A to designate that the data to follow on this record pertains to a particular DoD CA.
A1a	Enter the two-position numeric code for State or U.S. territory or possession as shown in attachment 1 of this Appendix.
A1b	Enter the unique alpha-numeric code established by the DoD Component for military installation, named populated place, or related entity where the CA workload was performed during the fiscal year covered by this submission. A separate look-up listing or file should be provided showing each unique place code and its corresponding place name or enter the name in field A11.
A2	Enter the function code from Appendix A that best describes the type of CA workload principally performed by the CA covered by this submission. Left justify.

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Field	Instruction
A3	Enter total (full- and part-time) in-house civilian workyear equivalents applied to the performance of the function during the fiscal year. Round off to nearest whole workyear equivalent. (If amount is equal to or greater than .5, round up. If amount is less than .5, round down. Amounts between zero and 0.9 should be entered as one.) Right justify. Zero fill.
A4	Enter total military workyear equivalents applied to the performance of the function in the fiscal year. Round off to the nearest whole workyear equivalent. (Amounts between zero and one should be entered as one) Right justify. Zero fill.
A8	Enter the reason for in-house operation of the CA as shown in attachment 1 of this Appendix.
A9	Enter the last two digits of the most recent fiscal year corresponding to the reason for in-house operation of the CA as stated in field A8.
A10	Enter the last two digits of the fiscal year in which next review is scheduled to begin for the DoD CA. (Data element reference YE–NA.)
A11	Enter the named populated place, or related entity where the CA workload was performed.

Attachments:
1. Codes for Denoting States, Territories, and Possessions of the United States.
2. Codes for Denoting Compelling Reasons for In-House Operations of Planned Changes in Method of Performance.

Attachment 1 to Appendix B–Codes for Denoting States, Territories, and Processions of the United States

a. Numeric State Codes.

CODE			
01	Alabama	30	Montana
02	Alaska	31	Nebraska
04	Arizona	32	Nevada
05	Arkansas	33	New Hampshire
06	California	34	New Jersey
08	Colorado	35	New Mexico
09	Connecticut	36	New York
10	Delaware	37	North Carolina
11	District of Columbia	38	North Dakota
12	Florida	39	Ohio
13	Georgia	40	Oklahoma
15	Hawaii	41	Oregon
16	Idaho	42	Pennsylvania
17	Illinois	44	Rhode Island
18	Indiana	45	South Carolina
19	Iowa	46	South Dakota
20	Kansas	47	Tennessee
21	Kentucky	48	Texas
22	Louisiana	49	Utah
23	Maine	50	Vermont
24	Maryland	51	Virginia
25	Massachusetts	53	Washington
26	Michigan	54	West Virginia
27	Minnesota	55	Wisconsin
28	Mississippi	56	Wyoming
29	Missouri		

Attachment 1 to Appendix B–Codes for Denoting States, Territories, and Processions of the United States—Continued

b. Numeric Territory and Possession Codes.

60	American Samoa	78	Virgin Islands
66	Guam	79	Wake Island
69	Northern Marianna Islands	81	Baker Island
71	Midway Islands	84	Howland Island
72	Puerto Rico	86	Jarvis Island
75	Trust Territory of the Pacific Island	89	Kingman Reef
76	Navassa Island	95	Palmyra Atoll

Attachment 2 to Appendix B

Codes for Denoting Compelling Reasons For In-House Operations of Planned Changes in Method of Performance

1. *In-House Performance* (for entry in field A8)

Code	*Explanation*
A	Indicates that the DoD CA has been retained in-house for national defense reasons in accordance with § 169a.5(b)(1)(i), other than CAs reported under code "C" below.
C	Indicates that the DoD CA is retained in-house because the CA is essential for training or experience in required military skills, or the CA is needed to provide appropriate work assignments for a rotation base for overseas or sea-to-shore assignments, or the CA is necessary to provide career progression to a needed military skill level in accordance with § 169a.5(b)(1)(i).
D	Indicates procurement of a product or service from a commercial source would cause an unacceptable delay or disruption of an essential DoD program.
E	Indicates that there is no satisfactory commercial source capable of providing the product or service needed.
F	Indicates that a cost comparison has been conducted and that the Government is providing the product or service at a lower total cost as a result of a cost comparison.
G	Indicates that the CA is being performed by DoD personnel now, but decision to continue in-house or convert to contract is pending the results of a scheduled cost comparison.
H	Indicates that the CA is being performed by DoD employees now, but will be converted to contract because of cost comparison results.

Attachment 2 to Appendix B—Continued

Codes for Denoting Compelling Reasons For In-House Operations of Planned Changes in Method of Performance

J	Indicates that the CA is performed at a DoD hospital and, in the best interests of direct patient care, is being retained in-house.
K	Indicates that the CA is being performed by DoD employees now, but a decision has been made to convert to contract for reasons other than cost.
Z	Indicates that a cost comparison study has been held in abeyance because of direction from higher authority (such as, Public Laws).
2	*Use of Other Codes:* Other codes may be assigned as designated by DASD (P&L)I.

Appendix C—Simplified Cost Comparison For Direct Conversion of Commercial Activities

A. This Appendix provides guidance regarding procedures to be followed in order to convert a commercial activity employing 45 or fewer DoD civilian employees directly to contract performance without a full cost comparison. DoD Components may directly convert functions with 10 or fewer civilian employees without conducting a simplified cost comparison. See § 169a.5(b)(6). Simplified cost comparisons are to be conducted on these smaller activities to ensure that cost data are fully considered in decisions on commercial activities.

B. The proposed direct conversion must meet the following criteria:

1. The activity is currently performed by 45 or fewer civilian employees.

2. The direct conversion makes sense from a management or performance standpoint.

3. The direct conversion is cost effective.

4. The affected civilian employees can be placed elsewhere within the Government or with the private contractor through a right of first refusal clause.

5. An MEO analysis has been completed if the activity contains 11 to 45 civilian employees.

6. Clearance for Congressional announcements of CA simplified cost comparison decisions are required for Agencies without their own Legislative and Public Affairs offices. These Agencies shall submit their draft decision brief to the Deputy Assistant Secretary of Defense (Installations) Room 3E787, the Pentagon, for approval and release to Congress.

7. Congressional announcements will contain a certification of the MEO analysis (when required), a copy of the approval to convert, a copy of the cost comparison fact sheet (Attachment 1 to this Appendix) and all back-up data and provide prior to conversion to;

a. Committee on appropriations of the House of Representatives and the Senate.

b. Copies to;

(1) Assistant Secretary of Defense (Legislative Affairs), Room 3D918, the Pentagon.

(2) Assistant Secretary of Defense (Public Affairs), Room 2E757, the Pentagon.

(3) Office of Economic Adjustment, Room 4C767, the Pentagon.

(4) Deputy Assistant Secretary of Defense, (Installations), Room 3E787, the Pentagon (exception—no copies required from agencies that do not have Legislative and Public Affairs offices)

Attachment 8–2–1 and 2 is a format for submitting direct conversion requests for approval. Each potential candidate for direct conversion shall be reviewed on a case-by-case basis to ensure that both the in-house and contractor cost estimates are as accurate as possible without performing full cost comparisons.

The following provides general guidance for completing a simplified cost comparison:

1. Estimated contractor costs should be based on either the past history of similar contracts at other installations or on the contracting officer's best estimate of what would constitute a fair and reasonable price.

2. For activities small in total size (10 or fewer civilian and military personnel):

a. Estimated in-house costs generally should not include overhead costs, as it is unlikely that they would be a factor for a small activity.

b. Similarly, estimated contractor costs generally should not include contract administration, one-time conversion costs, or other contract price add-ons associated with full cost comparisons.

3. For activities large in total size [(11 to 45 civilian employees or with a significant number of military personnel)] all cost elements should be considered for both in-house and contractor estimated costs.

4. In either case, large or small, the 10 percent conversion differential contained in Part IV of the Supplement to OMB Circular A–76 should be applied.

5. Part IV of the Supplement to OMB Circular A–76 shall be used to define the specified elements of cost to be estimated in the simplified cost comparison.

Attachment

Fact Sheet for Simplified Cost Comparisons

Fact Sheet for Simplified Cost Comparisons

Title: Direct Conversion Request for

_____

(Activity/Function)

at _____

(Installation)

Description of activity: _____

Number of affected personnel:

CIV _____

Civilian (Authorizations)

MIL _____

Military (Authorizations)

Statusofaffectedcivilianemployees:

_____

(Special considerations such as a number of employees classified as Section 3310 preference eligible veterans, minorities, handicapped. Also, include number of civilian authorizations currently vacant or filled by temporaries)

Placement plans for affected civilian employees:

_____

Justification for direct conversion:

_____

(Narrative justification other than cost)

Simplified Cost Comparison (details attached):

Estimated In-House Cost:

Fact Sheet for Simplified Cost Comparisons, Continued

—Personnel Cost (including fringe benefits)
—Material and Supply Cost
—Other In-House Cost (if appropriate)
—Total Estimated In-House Cost

Estimated Contractor Cost:

—Estimated Contract Price
—Contract Administration (if Appropriate)
—Other Estimated Contractor Cost (if appropriate)
—Total Estimated Contractor Cost
—Conversion Differential (10% of In-House Personnel Cost)
—Adjusted Contractor Cost

Certification: (For activities involving 11 to 45 DoD civilian employees) The Estimated In-House Cost for this simplified cost comparison is based on a completed most efficient and cost effective organization analysis. Certification of this MEO analysis, as required by Pub. L. 99–190 will be provided to the Committees on Appropriations of the House of Representatives and the Senate prior to conversion to contract performance.

Point of Contact: _____

Appendix D—Commercial Activities Management Information System (CAMIS)

Upon approval of a full cost comparison, a simplified cost comparison, or a direct conversion of an exclusively military personnel CA, the DoD Component shall create the initial entry using the format at attachment 1 of this Appendix for cost comparisons or the attachment 2 to this Appendix for direct conversions. Within 30 days of the end of each quarter the DoD Component shall submit automated data (tape or diskette) to DMDC. DMDC shall use the automated data to update the CAMIS. If the DoD Component is unable to provide data in an automated format, DMDC will provide quarterly print outs of cost comparison records (CCRs) and direct conversion records (DCRs) which may be annotated and returned within two weeks to DMDC. DMDC then shall use the annotated printouts to update the CAMIS.

Part I—Cost Comparison

The record for each cost comparison is divided into six sections. Each of these sections contains information provided by the DoD Components. The first five sections are arranged in a sequence of milestone events occurring during a cost comparison. Each section is completed immediately following the completion of the milestone event. These are as follows:

1. Cost comparison is approved by DoD Component.
2. Solicitation is issued.
3. In-house and contractor costs are compared.
4. Contract is awarded/solicitation is canceled.
5. Contract starts.

The events are used as milestones because upon their completion some elements of significant information concerning the cost comparison become known.

A sixth section is utilized for CCRs that result in award of a contract. This section contains data elements on contract cost and information on subsequent contract actions during the second and third year of contract operation.

The data elements that comprise these six sections are defined in this Appendix.

Part II—Direct Conversions

The record for each direct conversion is divided into five sections. Each of the first four sections is completed immediately following the completion of the following events:

1. Direct conversion is approved.
2. Solicitation is issued.
3. Contract is awarded.
4. Contract starts.

The fifth section is utilized to record contract cost and subsequent contract actions during the second and third year of contract operation.

The data elements that comprise these five sections are defined in this Appendix.

Camis Entry and Update Instructions

Part I—Cost Comparisons

The bracketed number preceding each definition in sections one through five is the DoD data element number. All date fields should be in the format MMDDYY (such as, June 30, 1983 = 063083).

Section One

Event: DoD Component Approves Conducting A Cost Comparison

All entries in this section of the CCR shall be submitted by DoD Components upon approving the start of a cost comparison.

These entries shall be used to establish the CCR and to identify the geographical, organizational, political, and functional attributes of the activity (or activities) undergoing cost comparison as well as to provide an initial estimate of the manpower associated with the activity (or activities). The initial estimate of the manpower in this section of the CCR will be in all cases those manpower figures identified in the correspondence approving the start of the cost comparison.

DoD Components shall enter the following data elements to establish a CCR:

[1] *Cost Comparison Number.* The number assigned by the DoD Component to uniquely identify a specific cost comparison. The first character of the cost comparison number must be a letter designating DoD Component as noted in data element [3].

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below. The cost comparison number may vary in length from five to ten characters, of which the second and subsequent may be alpha or numeric and assigned under any system desired by the DoD Component.

[2] *Announcement/Approval Date.* The date of the congressional notification required by Section 502(a)(2)(A) or the date the DoD Component headquarters approves a cost comparison that does not require congressional notification.

[3] *DOD Component Code.* Use the following codes to identify the Military Service or Defense Agency conducting the cost comparison:

A—Department of the Army
B—Defense Mapping Agency
C—Strategic Defense Initiatives Organization
D—Office of the Secretary of Defense—OCHAMPUS
E—Defense Advanced Research projects Agency
F—Department of the Air Force
G—National Security Agency/Central Security Service
H—Defense Nuclear Agency
J—Joint Chiefs of Staff (including the Joint Staff, Unified and Specified Commands, and Joint Service Schools)
K—Defense Communications Agency
L—Defense Intelligence Agency
M—United States Marine Corps
N—United States Navy
R—Defense Contract Audit Agency
S—Defense Logistics Agency
T—Defense Security Assistance Agency
V—Defense Investigative Service
W—Uniformed Services University of the Health Sciences
X—Inspector General, Department of Defense
Y—Corps of Engineers Civil Works

[4] *Command Code.* The code established by the DoD Component headquarters to identify the command responsible for operating the CA undergoing cost comparison. A separate look-up listing or file shall be provided to DMDC showing each unique command code and its corresponding command name.

If the DoD Component chooses to submit this on diskette or tape, the format should be as follows:

Column	Entry
1–6 (left Justify)	Command code.
7	Blank.
8–80 (left justify)	Command name.

[5] *Installation Code.* The code established by the DoD Component headquarters to identify the installation where the CA(s) under cost comparison is/are located physically. Two or more codes (for cost comparison packages encompassing more than one installation) should be separated by commas. A separate look-up listing or file shall be provided to DMDC showing each unique installation code and its corresponding installation name. If the DoD Component chooses to submit this on diskette or tape, the format should be as follows:

Column	Entry
1–10 (left justify)	Installation code.
11	
12–80 (left justify)	Installation name.

DMDC shall generate the installation name corresponding to the installation code submitted by the DoD Component and display it with the code on the CAMIS.

[6] *State Code.* A two-position numeric code for the State or U.S. Territory as shown in paragraph C, Part III of this Appendix where element [5] is located. Two or more codes shall be separated by commas.

[7] *Congressional District (CD).* Number of the congressional district(s) where [5] is located. If representatives are elected "at large," enter "01" in this data element; for a delegate or resident commissioner (such as, District of Columbia or Puerto Rico) enter "98." If the installation is located in two or more CDs, all CDs should be entered and separated by commas.

[8] *JIRSG Area Code.* The JIRSG Area that [5] is assigned to for coordination of the DRIS Program DoD Directive 4001.1. This is a four-character alpha/numeric data element. For instance, "NO15" is the National Capitol Region (as published in the DRIS Point of Contact Directory).

Note: A DoD Component may, at its option, report corresponding multiple values for the following geographical data elements: state code, congressional district, and JIRSG area code. These values shall be grouped and punctuated as shown in the example below so that the proper relationship can be established between each installation code value and its corresponding set of geographical attribute values.

[5] Installation code	[6] State code	[7] Congressional district	[8] JIRSG area code.
AAAAA, BBBBB, CCCCC,	13, 06, 34	05, 06; 42; 15	S003, WE10,*

When multiple values within a data element are reported for a single installation code semicolons shall be used to separate each series of values and to indicate correspondence of each series to its respective installation value; commas shall be used to separate the values within a series. When only a single value (within a data element) is reported for each installation, the value shall be separated by commas. To denote an unknown or missing number of a series of values, the asterisk (*) symbol should be used. The cost comparison package above involves three installations: AAAAA, BBBBB, and CCCCC. The first is located in Georgia, the second in California, and the third in New Jersey. AAAAA is in the Georgia's 5th and 6th congressional districts BBBBB, is in California's 42nd district, and CCCCC is in New Jersey's 15th. The first two installations are in JIRSG areas SO03, and WE1O, respectively; CCCCC is not in a JIRSG area.

[9]. *Title Of Cost Comparison.* The title that describes the CA(s) under cost comparison (for instance, "Facilities Engineering Package," "Installation Bus Service," or "Motor Pool"). Use a clear title, not acronyms or function codes in this data element.

[10] *DOD Functional Area Code(s).* The four or five alpha/numeric character designators listed in Appendix A that describe the type of activity undergoing cost comparison. This would be one code for a single activity or possible several codes for a large cost comparison package. A series of codes shall be separated by commas. Include the Corps of Engineers civil works functional codes.

[11] *Prior Operation Code.* A single alpha character that identifies the mode of operation for the activity at the time the cost comparison is started. Despite the outcome of the cost comparison, this code does not change. The coding is as follows:

I—In-house
C—Contract
N—New requirement
E—Expansion

[12] *Cost Comparison Status Code.* A single alpha character that identifies the current status of the cost comparison. Enter one of the following codes:

P—In progress
C—Complete
X—Canceled. The CCR shall be excluded from future update listings.
Z—Consolidated. The cost comparison has been consolidated with one or more other cost comparisons into a single cost comparison package. The CCR for the cost comparison that has been consolidated shall be excluded from future update listings. (See data element [16])
B—Broken out. The cost comparison package has been broken into two or more separate cost comparisons. The previous CCR shall be excluded from future update listings. (See data element [16])

[13] *Reserved*

[14] *Approval Announcement—Manpower Estimate Civilian and [15] Approval Announcement—Manpower Estimate Military.* The number of civilian and military authorizations allocated to the CA(s) undergoing cost comparison at the time the start of the cost comparison is approved by the DoD Component headquarters or announced to Congress. This number in all cases shall be those manpower figures identified in the correspondence approving the start of a cost comparison. This number is used to give a preliminary estimate of the size of the activity.

[16] *Revised/Original Cost Comparison Number.* The number of the cost comparison (revised cost comparison number). This cost comparison has been consolidated into or the number of the cost comparison (original cost comparison number) from which this cost comparison has been broken out.

When a consolidation occurs, create a new CCR containing the attributes of the consolidated cost comparison. In the CCR of each cost comparison being consolidated, enter the cost comparison number of the new CCR in data element [16] and code "Z" in data element [12]. In the new CCR, data element [16] should be blank and data element [12] should denote the current status of the cost comparison. Once the consolidation has occurred, only the new CCR requires future updates.

When a single cost comparison is being broken into multiple cost comparisons, create a new CCR for each cost comparison broken out from the original cost comparison. Each new CCR shall contain its own unique set of attributes; in data element [16] enter the cost comparison number of the original cost comparison from which each was derived, and in data element [12], enter the current status of each cost comparison. For the original cost comparison, data element [16] should be blank and data element [12] should have a code "B" entry. Only the derivative record entries require future updates.

When a consolidation or a breakout, an explanatory remark shall be entered in data element [57] (such as, "part of SW region cost comparison," or, "separated into three cost comparisons").

[16A] *PWS Scheduled Completion Date.* The date of the completion of PWS as anticipated at the start of a cost comparison.

[16B] *PWS Actual Completion Date.* The date of PWS completion is the date the approved PWS is provided to the contracting officer for solicitation preparation.

Section Two

Event: The Solicitation Is Issued

The entries in this section of the CCR provide information on the manpower authorized to perform the workload in the PWS, the number of workyears used to accomplish the workload in the PWS, and the type and kind of solicitation.

The DoD Component shall enter the following data elements at the first quarterly update subsequent to the issuance of the solicitation:

[17] *Scheduled Solictation Issue Date.* The date of solicitation as anticipated at the start of a cost comparison.

[17A] *Date Solicitation Issued.* The date the solicitation is issued by the contracting officer.

[18] *Solicitation-Type Code.* A one-character alpha designator that identifies the type of solicitation used to obtain contract bids or offers. Use either the CBD as the source document or information received from the contracting officer for this entry. Solicitations under Section 8(a) of the Small Business Act are negotiated. Enter one of the following codes:

S—Sealed Bid
N—Negotiated

[19] *Solicitation Kind Code.* A one-character (or two-character, if "W" suffix is used) alpha designator indicating whether the competition for the contract has been limited to a specific class of offerors. Use either the CBD as the source document or information received from the contracting officer to enter one of the following codes:

A—Restrict to small business
B—Small Business Administration 8(a)
C—Javits-Wagner-O'Day Act (JWOD)
D—Other mandatory sources
U—Unrestricted
W—(Optional suffix) Unrestricted after initial restriction

[20] *Current Authorized Civilians and* [21] *Current Authorized Military.* The number of civilian and military authorizations allocated on the DoD Component's manpower documents to perform the work described in the PWS. This number refines the initial authorization estimate (section one, data elements [14] and [15]).

[22] *Baseline Workyears Civilian and* [23] *Baseline Workyears Military.* The number of annual workyears it has taken to perform the work described by the PWS before the DoD Component conducts the MEO study of the in-house organization; do not include contract monitor requirements. Military workyears include assigned, borrowed, diverted, and detailed personnel.

An annual workyear is the use of 2,087 hours (including authorized leave and paid time off for training). For example, when full-time employees whose work is completely within the PWS are concerned, "one workyear" normally is comparable to "one employee" or two part-time employees, each working 1,043 hours in a fiscal year. Also include in this total the workyears for full-time employees who do not work on a full-time basis on the work described by the PWS. For example, some portion of the workload is performed by persons from another work center who are used on an "as needed" basis. Their total hours performing this workload is 4,172 hours. This would be reflected as two workyears. Less than one-half year of effort should be rounded down, and one-half year or more should be rounded up.

These workyear figures shall be the baseline for determining the manpower savings identified by the management study.

Section Three

Event: The In-House and the Contractor Costs of Operation Are Compared

The entries in this section provide information on the date of the cost comparison (initial decision), the preliminary results, the number of bids or offers received, and the costing method used in the cost comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the date of the comparison of in-house and contractor costs (date of initial decision):

[24] *Scheduled Initial Decision Date.* Date the initial decision is scheduled at the start of a cost comparison.

[24A] *Cost Comparison/Initial Decision Date.* Date the initial decision is announced. The initial decision is based on the apparent low bid or offer and is subject to preaward surveys and resolution of all appeals and protests. In a formal advertised procurement, the initial decision is announced at bid opening. In a negotiated procurement, the initial decision is announced when the cost comparison is made between the in-house estimate and the proposal of the selected offeror.

[25] *Cost Comparison Preliminary Results Code.* A one-character alpha designator indicating the results of the cost comparison as announced by the contracting officer at the time the bids or offers are compared. The entries are limited to two possibilities:

I—In-house
C—Contract

[26] *Cost Method Code.* A one-character numeric designator indicating the procedures under which the cost comparison was/is being conducted. Enter one of the following codes:

1—Cost comparison conducted under the incremental costing procedures in effect before 1980.
2—Cost comparison conducted using the full costing procedures in DoD 4100.33–H of April 1980 (Superseded by DoD Instruction 4100.33 dated September 9, 1985)
3—Cost comparison conducted under the alternative costing procedures implemented in Department of Defense in March 1982.
4—Cost comparison conducted under the new costing procedures in the OMB Circular A–76 published August 4, 1983 and implemented by Department of Defense in March 1984.

[27] *Number of Offers Received.* The number of commercial offers received by the contracting officer in response to the solicitation.

Section Four

Event: The Contracting Officer Either Awards the Contract or Cancels the Solicitation

The entries in this section identify the final result, information on the contract, the in-house bid, and costing information from the cost comparison form.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the date the contracting officer either awards a contract or cancels the solicitation:

[28] *Contract Award/Solicitation Cancellation Date.* For conversions to contract, this is the date a contract was awarded in a formal advertised solicitation or the date the contractor was authorized to proceed on a conditional award contract in a negotiated solicitation. For retentions in-house, this is the date the solicitation was canceled (when the contracting officer publishes an amendment to cancel the solicitation).

[29] *Cost Comparison Final Result Code.* A one-character alpha designator identifying the final result of the comparison between in-

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house and contractor costs; the contracting officer either awards the contract or cancels the solicitation. Enter one of the following codes:

I—In-house
C—Contract

[30] *Decision Rationale Code.* A one-character alpha designator that identifies the rationale for awarding a contract or canceling the solicitation. The work shall either be performed in-house or by contractor, based on cost, or the work shall be performed in-house because no satisfactory commercial source was available (no bids or offers were received or the preaward survey resulted in the determination that no commercial sources were responsive or responsible). Enter one of the following codes:

C—Cost
N—No satisfactory commerical source

[31] *Contract-Type Code.* Enter one of the following alpha codes for the type of contract used in the cost comparison. This entry is required for all completed studies, regardless of their outcome.

FFP—Firm Fixed Price
FP-EPA—Fixed Price with Economic Price Adjustment
FPI—Fixed Price Incentive
CPIF—Cost Plus Incentive Fee
CPAF—Cost Plus Award Fee
CPFF—Cost Plus Fixed Fee

[31A] *Prime Contractor Size*

S—Small or small/disadvantaged business
L—Large business

[32] *MEO Workyears.* The number of annual workyears it takes to perform the work described in the PWS after the MEO study has been conducted. This entry will be equal to the number of annual workyears in the in-house bid.

For data elements [33] through [36], enter all data after all adjustments required by appeals board decisions. Do not include the minimum cost differential (line 31 old CCF or line 16 new CCF or line 18 new ENRC form) in the computation of any of these data elements. If a valid cost comparison was not conducted (that is, all bidders or offerors disqualified, no bids or offers received, etc.) do not complete data elements [33] through [36]. Explain lack of valid cost data in data element [57], DoD Component Comments.

[33] *First Performance Period.* Expressed in months, the length of time covered by the contract. Do not include any option periods.

[34] *Cost Comparison Period.* Expressed in months, the total period of operation covered by the cost comparison; this is the period used as the basis for data elements [35] and [36], below.

[35] *Total In-House Cost ($000).* Enter the total cost of in-house performance in thousands of dollars, rounded to the nearest thousand. This is the total of line 9 plus line 22 of the old CCF (line 6 of the new CCF or line 8 of the new ENRC CCF).

[36] *Total Contract Cost ($000).* Enter the total cost of contract performance in thousands of dollars, rounded to the nearest thousand. This is the total of line 17 plus line 30 of the old cost comparison form (line 14 of the new CCF or line 16 of the new ENRC CCF).

[37] *Notification Date.* The date Congress is notified, if required, that the DoD Component intends to convert a CA to contract performance. DoD Components shall enter a date only when data element [20] is greater than 45.

[37A] *Scheduled Contract/MEO Start Date.* Date the contract/MEO was scheduled to start at the beginning of a cost comparison.

Section Five

Event: The Contract Starts

The entries in this section identify the contract start date and the personnel actions taken as a result of the cost comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the start of the contract:

[38] *Contract Start Date.* The actual date the contractor began full operation of the CAs, as reflected in the contracting documents.

[1] [39] *Permanent Employees Reassigned to Equivalent Positions.* The number of permanent employees who were reassigned to positions of equivalent grade as of the start date of the contract when data element 14 is greater than 45 workyear equivalents.

[1] [40] *Permanent Employees Changed to Lower Positions.* The number of permanent employees who were changed to lower grade positions as of the contract start date.

[1] [41] *Employees Taking Early Retirement.* The number of employees who took early retirement as of the contract start date.

[1] [42] *Employees Taking Normal Retirement.* The number of employees who took normal retirement as of the contract start date.

[1] [43] *Permanent Employees Separated.* The number of permanent employees who were separated from Federal employment as of the contract start date.

[1] [44] *Temporary Employees Separated.* The number of temporary employees who were separated from Federal employment as of the contract start date.

[1] [45] *Employees Entitled to Severance.* The estimated number of employees entitled to severance upon their separation from Federal employment as of the contract start date.

[1] [46] *Total Amount of Severance Entitlements ($000).* The total estimated amount of severance to be paid to all employees, in thousands of dollars as of the contract start date.

[1] [47] *Number of Employees Hired by the Contractor.* The number of estimated DoD civilian employees (full-time or otherwise) that will be hired by the contractors, or their subcontractors at the contract start date.

Administrative Appeal

[48] *Filed*—Were administrative appeals filed? Answer: Y or N.

[49] *Source*—Who filed the appeal? Answer: In-house (I), Contractor (C), or Both (B).

[50] *Result*—Were the appeals finally upheld? Answer: Y or N (if both appealed, explain result in data element [57]).

[1] Note: Data for data elements [39] through [47] shall be entered only when data element [20] is greater than 45

GAO Protest

[51] *Filed*—Was a protest filed with GAO? Answer: Y or N.

[52] *Source*—Who filed the protest? Answer: In-house (I), Contractor (C), or Both (B).

[53] *Result*—Was the protest finally upheld? Answer: Y or N (explain result in data element [57]). If GAO protest is still in progress as of the start date of the contract, enter P.

Arbitration

[54] *Requested*—Was there a request for arbitration Answer: Y or N.

[55] *Result*—Was the case found arbitrable? Answer: Y or N (explain result in data element[57]). If arbitration is still in progress as of the start date of the contract, enter P.

General Information

[56] *Reserved*

[57] *DoD Component Comments.* Enter comments, as required, to explain situations that affect the conduct of the cost comparison.

[58] *Effective Date.* "As of" date of the most current update for the cost comparison. Will be generated by DMDC.

[59] (Leave blank, for DoD Computer Program use).

Section Six

Event: Quarter Following Contract/Option Renewal

The entries in this section identify actual contrast costs and original contract bid and information or subsequent contract actions. This data shall be utilized to determine the accuracy of the cost comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the receipt of actual annual contract cost data.

[60] *Cantract Offer ($000). [60] ($000).* Enter the contractor offer reflected in column one (the first performance period) of the CCF in thousands of dollars, rounded to the nearest thousand. This is line 10, column 1, of the old CCF (line 7 of the new CCF or line 9 of the new ENRC CCF).

[60A] *Original Cost.* The estimated cost of the cost comparison generated by computer calculation. This entry is not to be completed by the DoD Components.

[60B] *Dollar savings.* The estimated savings of the cost comparison generated by computer calculation. This entry is not to be completed by the DoD Components.

[61] *Actual Contract Cost First Performance Period ($000).* Enter the actual contract cost for the first performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[62] *Actual Contract Costs Second Performance Period ($000).* Enter the actual contract cost for the second performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[63] *Actual Contract Cost Third Performance Period ($000).* Enter the actual contract cost for the third performance period, including all change orders, in

thousands of dollars, rounded to the nearest thousand.

[64] *Contractor Change.* Enter one of the following alpha codes to indicate whether the contract for the second or third performance period has changed from the orginal contractor.

Y—Yes, the contractor has changed.
N—No, the contractor has not changed.

Data elements [65] through [66] are not required if the answer to [64] is no (N).

[65] *Prime Contractor Size* (If data element [66] equal "T", no entry is required.)

S—New contractor is small/small disadvantaged business.
L—New contractor is large business.

[66] *Reason for Change.* DoD Components shall enter one of the codes listed below followed by the last two digits of the fiscal year in which the change occurred.

R—Returned in-house temporarily pending resolicitation due to contractor default, etc.
I—Returned in-house because of original contractor defaults, etc. within six months of start date and in-house bid is the next lowest.
D—New contractor takes over because original contractor defaults.
N—New contractor replaced original contractor because government opted not to renew contract in option years.
U—Contract workload consolidated into a larger (umbrella) cost comparison.
C—Contract workload consolidated with other existing contract workload.

[67] *Contract Administration Staffing.* The actual number of contract administration personnel hired to administer the contract.

Camis Entry and Update Instruction

Part II—Direct Conversions

The bracketed number preceding each definition in sections one through four is the DoD data element number. All date fields should be in the format MMDDYY (such as, June 30, 1987 = 063087).

Section One

Event: Approval of the Direct Conversion

All entries in this section of the DCR shall be submitted by DoD Components upon approval of a direct conversion. These entries shall be used to establish the DCR and to identify the geographical, organizational, political, and functional attributes of the CA(s) scheduled for conversion to contract without a cost comparison.

DoD Components shall enter the following data elements to establish a DCR:

[1] *Direct Conversion Number.* The number assigned by the DoD Component to uniquely identify a specific direct conversion. The first character of the direct conversion number must be a letter designating the DoD Component as noted in data element [3], below. The number may vary in length from five to ten characters, of which the second and subsequent may be alpha or numeric and assigned under any system desired by the DoD Component.

[2] *Approval Date.* The date the direct conversion was epproved.

[3] *DOD Component Code.* Use the following codes to identify the Military Service or Defense Agency converting the CA(s) to contract:

A—Department of the Army
B—Defense Mapping Agency
C—Strategic Defense Initiatives Organization
D—Office of the Secretary of Defense—OCKAMPUS
E—Defense Advanced Research Projects Agency
F—Department of the Air Force
G—National Security Agency/Central Security Service
H—Defense Nuclear Agency
J—Joint Chiefs of Staff (including the Joint Staff, Unified and Specified Commands, and Joint Service Schools)
K—Defense Communications Agency
L—Defense Intelligence Agency
M—United States Marine Corps
N—United States Navy
R—Defense Contract Audit Agency
S—Defense Logistics Agency
T—Defense Security Assistance Agency
V—Defense Investigative Service
W—Uniformed Services University of the Health Sciences
X—Inspector General, Department of Defense
Y—Corps of Engineers Civil Works

[4] *Command Code.* The code established by the DoD Component's headquarters to identify the command responsible for operating the CA to be converted to contract. A separate look-up listing or file shall be provided to DMDC showing each unique command code and its corresponding command name.

If the DoD Component chooses to submit this on cards or tape, the format shall be as follows:

Column	Entry
1–6 (left justify)	Command code.
7	Blank.
8–80 (left justify)	Command name.

[5] *Installation Code.* The code established by the DoD Component headquarters to identify the installation where the CA to be converted to contract is located physically. Two or more codes (for packages encompassing more than one installation) shall be separated by commas. A separate look-up listing or file shall be provided to DMDC showing each unique installation code and its corresponding installation name. If the DoD Component chooses to submit this on cards or tape, the format shall be as follows:

Column	Entry
1–10 (left justify)	Installation code.
11	Blank.
12–80 (left justify)	Installation name.

DMDC shall generate the installation name corresponding to the installation code submitted by the DoD Component, and display it with the code on the quarterly printout that is provided to the DoD Component for update.

[6] *State Code.* A two-position numeric code for the State or U.S. Territory as shown in paragraph C., Part III of this Appendix, where element [5] is located. Two or more codes should be separated by commas.

[7] *Congressional District (CD).* Number of the CD(s) where [5] is located. If representatives are elected "at large," enter "01" in this data element; for a delegate or resident commissioner (such as, District of Columbia or Puerto Rico) enter "98". If the installation is located in two or more CDs, all CDs should be entered and separated by commas.

[8] *JIRSG Area Code.* The JIRSG area that [5] is assigned to for coordination of the DRIS Program. This is a four-character alpha/numeric data element. For instance, "N015" is the National Capitol Region (as published in the DRIS Point of Contact Directory).

Note: The DoD Component may, at its option, report corresponding multiple values for the following geographical data elements: State code, congressional district, JIRSG area code. These values shall be grouped and punctuated as shown in the example below so that the proper relationship can be established between each installation code value and its corresponding set of geographical attribute values.

[5] Installation code	[6] State code	[7] Congressional district	[8] JIRSG area code
AAAAA,BBBBB,CCCCC	13, 06, 34	05, 06, 42; 15	SO03,WE10*

When multiple values within a data element are reported for a single installation code, semicolons shall be used to separate each series of values and to indicate correspondence of each series to its respective installation code; commas shall be used to separate the values within a series. When only a single value (within a data element) is reported for each installation, the values should be separated by commas. To denote an unknown or missing member of a series of values the asterisk (*) symbol should be used.

The direct conversion above involves three installations: AAAAA, BBBBB, and CCCCC. The first is located in Georgia, the second in California, and the third in New Jersey.

AAAAA is in Georgia's 5th and 6th congressional districts (of Georgia), BBBBB is in California's 42nd district, and CCCCC is in New Jersey's 15th. The first two installations are in JIRSG areas SO08 and WE10, respectively; CCCCC is not in a JIRSG area.

[9] *DOD Functional Area Code(s).* The four or five alpha/numeric character designator listed in Appendix A that describes the type of CA to be converted to contract. This would be one code for a single CA or possibly several codes for a large package. A series of codes shall be separated by commas.

[10] *Status Code.* A single alpha character that identifies the current status of the conversion. Enter one of the following codes:

P—In progress
C—Complete
X—Canceled. The DCR shall be excluded from future update listings.
Z—Consolidated. The conversion has been consolidated with one or more other contracts into a single contract package. The DCR for the contract that has been consolidated shall be excluded from future update listings. (See data element [16])
B—Broken out. The conversion has been broken into two or more separate contracts. The previous DCR shall be excluded from future update listings. (See data element [16])

[11] *Manpower Estimate Civilian* and [11A] *Manpower Estimate Military.* The number of civilian and military authorizations allocated to the CA(s) to be converted. This number in all cases shall be those manpower figures identified in the correspondence requesting the direct conversion.

[11B] *Estimated In-House Cost.* The annualized in-house cost estimated in the simplified cost comparison prepared for request to directly convert a CA. This data element is not applicable to direct conversions of exclusively military personnel CAs.

[12] *Estimated Contract Cost.* The annualized contract cost estimated in the simplified cost comparison prepared for request to directly convert a CA. Do not include the 10 percent cost of conversion differential. This data element is not applicable to direct conversions of exclusively military personnel CAs.

Section Two

Event: The Solicitation Is Issued

The entries in this section of the DCR provide information on the manpower authorized to perform the workload in the PWS, the number of workyears used to accomplish the workload in the PWS, the type and kind of solicitation, and the number of bids or offers received.

The DoD Component shall enter the following data elements at the first quarterly update subsequent to the issuance of the solicitation:

[13] *Date Solicitation Issued.* The date the solicitation was issued by the contracting officer.

[14] *Solicitation-Type Code.* A one-character alpha designator that identifies the type of solicitation used to obtain contract bids or offers. Use either the CBD as the source document or information received from the contracting officer for this entry. Solicitations under Section 8(a) of the Small Business Act are negotiated. Enter one of the following codes:

S—Sealed Bid
N—Negotiated

[15] *Solicitation-Kind Code.* A one-character (or two-character, if "W" suffix is used) alpha designator indicating whether the solicitation for the contract has been limited to a specific class of offerors. Use either the CBD as the source document or information received from the contracting officer to enter one of the following codes:

A—Restricted to small business
B—Small Business Administration 8(a)
C—Javits-Wagner-O'Day Act (JWOD)
D—Other mandatory sources
U—Unrestricted
W—(Optional suffix) Unrestricted after initial restriction

[16] *Current Authorized Civilians* and [17] *Current Authorized Military.* The number of civilian and military authorizations allocated on the DoD Component's Manpower documents to perform the work described in the PWS. This number refines the initial authorization estimate (section one, data elements [11] and [12]).

[18] *Baseline Annual Workyears Civilian* and [19] *Baseline Annual Workyears Military.* The number of annual workyears it has taken to perform the work described by the PWS.

[20] *Number of Offers Received.* The number of commercial offers received by the contracting officer in response to the solicitation.

Section Three

Event: The Contracting Officer Either Awards The Contract or Cancels the Solicitation

The entries in this section provide information on the contract.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the date the contracting officer either awards a contract or cancels the solicitation:

[21] *Contract Award/Solicitation Cancellation Date.* This is the date a contract shall be awarded in a formal advertised solicitation or the date the contractor shall be authorized to proceed on a conditioned award contract in a negotiated solicitation. For retention in-house, this is the date the solicitation is canceled (when the contracting officer publishes an amendment canceling the solicitation).

[22] *Contract-Type Code.* Enter one of the following alpha codes for the type of contract used in the direct conversion.

FFP—Firm Fixed Price
FP-EPA—Fixed Price with Economic Price Adjustment
FPI—Fixed Price Incentive
CPIF—Cost Plus Incentive Fee
CPAF—Cost Plus Award Fee
CPFF—Cost Plus Fixed Fee

[23] *Prime Contractor Size*
S—Small/small disadvantaged business
L—Large business

[24] *Performance Period.* Expressed in months, the length of time covered by the contract. Do not include any option periods.

Section Four

Event: The Contract Starts

The entries in this section identify the contract start date and the personnel actions taken as a result of the direct conversion.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the start of the contract:

[25] *Contract Start Date.* The actual date the contractor began full operation of the CA(s) as reflected in the contracting documents.

[1] [26] *Permanent Employees Reassigned To Equivalent Positions.* The number of permanent employees who were reassigned to positions of equal grade as of the contract start date.

[1] [27] *Permanent Employees Changed To Lower Positions.* The number of permanent employees who were reassigned to lower grade positions as of the contract start date.

[1] [28] *Employees Taking Early Retirement.* The number of employees who took early retirement as of the contract start date.

[1] [29] *Employees Taking Normal Retirement.* The number of employees who took normal retirement as of the contract start date.

[1] [30] *Permanent Employees Separated.* The number of permanent employees who were separated from Federal employment as of the contract start date.

[1] [31] *Temporary Employees Separated.* The number of temporary employees who were separated from Federal employment as of the contract start date.

[1] [32] *Employees Entitled To Severance.* The estimated number of employees entitled to severance upon their separation from Federal employment.

[1] [33] *Total Amount Of Severance Entitlements ($000).* The total estimated amount of severance to be paid to all employees, in thousands of dollars, as of the contract start date.

[1] [34] *Number of Employees Hired by the Contractor.* The number of estimated DoD civilian employees (full-time or otherwise) that will be hired by the contractor, or their subcontractors at the contract start date.

[1] Note: Data for data elements [26] through [34] shall be entered only when data element [16] is greater than 45

Administrative Appeal

[35] *Filed*—Were administrative appeals filed? Answer: Y or No.

[36] *Source—Who filed the appeal? Answer: In-house (I), Contractor (C), or Both (B).*

[37] *Result*—Were the appeals finally upheld? Answer: Y or N (if both appealed, explain the result in data element [43]).

GAO Protest

[38] *Filed*—Was a protest filed with GAO? Answer: Y or N.

[39] *Source*—Who filed the protest? Answer: In-house (I), Contractor (C), or Both (B).

[40] *Result*—Was the protest finally upheld? Answer: Y or N (explain result in data element [43]). If GAO protest is still in progress as of the start date of the contract, enter P.

Arbitration

[41] *Requested*—Was the FLRA asked to arbitrate? Answer: Y or N.

[42] *Result*—Was the case found arbitrable? Answer: Y or N (explain result in data element [43]). If arbitration is still in progress as of the start date of the contract, enter P.

General Information

[43] *DoD Component Comments.* Enter comments, as required, to explain situations that affect the direct conversion.

[44] *Effective Date.* "As of" date of the most current update for the direct conversion. Shall be generated by DMDC.

Section Five

Event: Quarter Following Contract/Option Renewal

The entries in section five identify actual contract costs, original contract offer, and information on subsequent contract actions. This data shall be utilized to determine the accuracy of the cost comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the receipt of actual annual contract cost data.

[45] *Contract Offer ($000).* Enter the contractor offer.

[46] *Actual Contract Cost First Performance Period ($000).* Enter the actual contract cost for the first performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[47] *Actual Contract Cost Second Performance Period ($000).* Enter the actual contract cost for the second performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[48] *Actual Contract Cost Third Performance Period ($000).* Enter the actual contract cost for the third performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[49] *Contractor Change.* Enter one of the following alpha codes to indicate whether the contractor for the second or third performance period has changed from the original contractor.

Y—Yes, the contractor has changed
N—No, the contractor has not changed

Data elements [50] through [51] are not required if the answer to [49] is no (N).

[50] *Prime Contractor Size*
S—New contractor is small/small disadvantaged business
L—New contractor is large business

[51] *Reason For Change. DoD Components shall enter one of the codes listed below followed by the last two digits of the fiscal year in which the change occurred:*
R—Returned in-house temporarily pending resolicitation due to contractor default, etc.
D—New contractor takes over because original contractor defaults.
N—New contractor replaced original contractor because government opted not to renew contract in option years.
U—Contract workload consolidated into a larger (umbrella) cost comparison.
C—Contract workload consolidated with other existing contract workload.

Attachments

1. Cost Comparison Record (CCR)
2. Direct Conversion Record (DCR)

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Attachment 1 to Appendix D—Cost Comparison Record (CCR)

SECTION ONE

(1) Cost Comparison Number: _____ (2) Announcement/Approval Date: _____ (3) DoD Component Code: _____ (4) Command Code: _____
(5) Installation Code: _____ (6) State Code: _____ (7) Congressional District: _____ (8) JIRSG Area Code: _____
(9) Title of Cost Comparison: _____
(10) DOD Function Area Code(s): _____
(11) Prior Operation Code: _____ (12) Cost Comparison Status Code: _____ (13) Reserved
(14) Approval Announcement—Manpower Estimate Civilian: _____ (15) Approval Announcement—Manpower Estimate Military: _____
(16) Revised/Original Cost Comparison Number: _____ (16A) PWS Scheduled Completion Date: _____ (16B) PWS Actual Completion Date: _____

SECTION TWO

(17) Scheduled Solicitation Issue Date: _____
(17A) Date Solicitation Issued: _____ (18) Solicitation-Type Code: _____ (19) Solicitation-Kind Code: _____
(20) Current Authorized Civilians: _____ (21) Current Authorized Military: _____
(22) Baseline Annual Workyears Civilian: _____ (23) Baseline Annual Workyears Military: _____

SECTION THREE

(24) Scheduled Initial Decision Date: _____
(24A) Cost Comparison/Initial Decision Date: _____ (25) Cost Comparison Preliminary Results Code: _____
(26) Cost Method Code: _____ (27) Number of Offers Received: _____

SECTION FOUR

(28) Contract Award/Solicitation Cancellation Date: _____ (29) Cost Comparison Final Result Code: _____
(30) Decision Rationale Code: (31) Contract-Type Code: _____ (31A) Prime Contractor Size: _____ (32) MEO Workyears: _____
(33) First Performance Period: _____ (34) Cost Comparison Period: _____
(35) Total In-House ($000): _____ (36) Total Contract Cost ($000): _____ (37) Notification Date: _____
(37A) Scheduled Contract/MEO Start Date:

SECTION FIVE

(38) Contract Start Date: _____ (39) Permanent Employees Reassigned to Equivalent Positions: _____
(40) Permanent Employees Changed to Lower Positions: _____ (41) Employees Taking Early Retirement: _____
(42) Employees Taking Normal Retirement: _____ (43) Permanent Employees Separated: _____
(44) Temporary Employees Separated: _____ (45) Employees Entitled to Severance: _____
(46) Total Amount of Severance Entitlements ($000): _____ (47) Number of Employees Hired by the Contractor: _____
Administrative Appeal
(48) Filed: _____ (49) Source: _____ (50) Result: _____
GAO Protest
(51) Filed: _____ (52) Source: _____ (53) Result: _____
Arbitration
(54) Requested: _____ (55) Result: _____
General Information
(56) Reserved
(57) DoD Component Comments: _____
(58) Effective Date: _____
(59) (Leave blank)

SECTION SIX

[(60) Contract Offer ($000): _____ (60A) Original Cost: _____ (60B) Dollar Savings: _____ (61) Actual Contract Cost First Performance Period ($000): _____
(62) Actual Contract Cost Second Performance Period ($000): _____ (63) Actual Contract Cost Third Performance Period ($000): _____
(64) Contractor Change: _____ (65) Prime Contractor Size: _____ (66) Reason for Change: _____
(67) Contract Administration Staffing: _____

Attachment 2 to Appendix D—Direct Conversion Record (DCR)

SECTION ONE

(1) Direct Conversion Number: _____ (2) Approval Date: _____ (3) DoD Component Code: _____ (4) Command Code: _____
(5) Installation Code: _____ (6) State Code: _____ (7) Congressional District: _____ (8) JIRSG Area Code: _____
(9) DoD Functional Area Code(s): _____
(10) Status Code: _____ (11) Manpower Estimate Civilian: _____ (11A) Manpower Estimate Military: _____ (11B) Estimated In-House Cost: _____ (12) Estimated Contract Cost: _____

Section Two

(13) Date Solicitation Issued: _____ (14) Solicitation-Type Code: _____ (15) Solicitation-Kind Code: _____
(16) Current Authorized Civilians: _____ (17) Current Authorized Military: _____
(18) Baseline Annual Workyears Civilian: _____ (19) Baseline Annual Workyears Military: _____
(20) Number of Offers Received: _____

Section Three

(21) Contract Award/Solicitation Cancellation Date: _____ (22) Contract-Type Code: _____
(23) Prime Contractor Size: _____ (24) First Performance Period: _____

Section Four

(25) Contract Start Date: _____ (26) Permanent Employees Reassigned to Equivalent Positions: _____
(27) Permanent Employees Changed to Lower Positions: _____ (28) Employees Taking Early Retirement: _____
(29) Employees Taking Normal Retirement: _____ (30) Permanent Employees Separated:
(31) Temporary Employees Separated: _____ (32) Employees Entitled to Severance: _____
(33) Total Amount of Severance Entitlements ($000): _____ (34) Number of Employees Hired by the Contractor: _____
Administrative Appeal
(35) Filed: _____ (36) Source: _____ (37) Result: _____
GAO Protest
(38) Filed: _____ (39) Source: _____ (40) Result: _____
Arbitration
(41) Requested: _____ (42) Result: _____
General Information
(43) DoD Component Comments: _____
(44) Effective Date: _____

Section Five

(45) Contract Offer ($000): _____ (46) Actual Contract Cost First Performance Period ($000): _____
(47) Actual Contract Cost Second Performance Period ($000): _____ (48) Actual Contract Cost Third Performance Period ($000): _____
(49) Contractor Change: _____ (50) Prime Contractor Size: _____ (51) Reasons for Change: _____

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
April 10, 1989.
[FR Doc. 89-9006 Filed 4-17-89; 8:45 am]
BILLING CODE 3810-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6955]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed modified base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of modified base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures requires by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed modified flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

PART 67—[AMENDED]

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
Colorado	City of Durango, La Plata County	Animas River	Approximately 3,050 feet downstream of U.S. Highway 160 (New Bridge).	*6,463	*6,463
			Approximately 1,320 feet downstream of U.S. Highway 160 (New Bridge).	*6,477	*6,473
			Approximately 660 feet downstream of U.S. Highway 160 (New Bridge).	*6,481	*6,482
			Just downstream of U.S. Highway 160 (New Bridge)	*6,484	*6,483
			Approximately 1,900 feet upstream of U.S. Highway 160 (New Bridge).	*6,490	*6,490
Maps are available for review at the Community Development Department, 949 Second Avenue, Durango, Colorado. Send comments to The Honorable Greg Bell, Mayor, City of Durango, 949 Second Avenue, Durango, Colorado 81302.					
Florida	Unincorporated Areas of Lee County.	Gulf of Mexico	About 500 feet west of the intersection of Bonita Beach Road and Hickory Boulevard.	*19	*17
			About 350 feet southeast of the intersection of Bonita Beach Road and Hickory Boulevard.	*12	*14
			About 4000 feet northwest of the intersection of Bonita Beach Road and Bay Point Lane.	*13	*11
Maps available for inspection at the Division of Code Enforcement, 1735 Henry Street, Fort Myers, Florida. Send comments to The Honorable Charles L. Bigelow, Chairman of Lee County Board of Commissioners, 2115 Second Street, Fort Myers, Florida 33901.					
Massachusetts	Newton, City, Middlesex County	South Meadow Brook	Approximately 130 feet downstream of Needham Street.	*110	*111
			Approximately 300 feet downstream of Winchester Street.	*112	*113
Maps available for inspection at the City Hall, Planning Department, 1000 Commonwealth Avenue, Newton, Massachusetts. Send comments to The Honorable Theodore D. Mann, Mayor of the City of Newton, Middlesex County, City Hall, 1000 Commonwealth Avenue, Newton, Massachusetts 02159.					
New Jersey	Bordentown Township, Burlington County.	Delaware River	At confluence of Croswicks Creek	*14	*15
			At downstream corporate limits	*12	*13
		Croswicks Creek	At U.S. Route 130	*14	*16
			At confluence of Blacks Creek	*14	*15
		Blacks Creek	Approximately 600 feet downstream of U.S. Route 206	*14	*15
			At confluence of Croswicks Creek	*14	*15
Maps available at the Township Building, Municipal Drive, Bordentown, New Jersey. Send comments to The Honorable Matthew Ernadez, Administrator of the Township of Bordentown, Burlington County, Municipal Drive, Bordentown, New Jersey 08505.					
New Jersey	Fieldsboro Borough, Burlington County.	Delaware River	Upstream corporate limits	*13	*14
			Downstream corporate limits	*13	*14
Maps available for inspection at the Borough Building, 18 Washington Street, Fieldsboro, New Jersey. Send comments to The Honorable Ed Tyler, Mayor of the Borough of Fieldsboro, Burlington County, 15 Second Avenue, Fieldsboro, New Jersey 08505.					
New Jersey	Florence Township, Burlington County.	Delaware River	Downstream corporate limits	*11	*12
			Approximately 0.9 mile downstream of the upstream corporate limits.	*12	*13
Maps available for inspection at the Florence Township Municipal Complex, 711 Broad Street, Florence, New Jersey. Send comments to The Honorable Bruce Benedetti, Mayor of the Township of Florence, Burlington County, 711 Broad Street, Florence, New Jersey 08518.					
New Jersey	Hamilton Township, Mercer County.	Delaware River	At upstream corporate limits	*18	*18
			At downstream corporate limits	*14	*15
Maps available for inspection at the Hamilton Township Municipal Building, 2090 Greenwood Avenue, Hamilton, New Jersey. Send comments to The Honorable John Rafferty, Mayor of the Township of Hamilton, Mercer County, Hamilton Township Municipal Building, 2090 Greenwood Avenue, CN 00150, Hamilton, New Jersey 08650.					
New Jersey	Trenton City, Mercer County	Delaware River	Approximately 400 feet downstream of CONRAIL Bridge.	*20	*21

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
			Downstream corporate limits	*16	*16
Maps available for inspection at the City Hall, 319 East State Street, Trenton, New Jersey. Send comments to The Honorable Arthur Holland, Mayor of the City of Trenton, Mercer County, City Hall, Room 208, 319 East State Street, Trenton, New Jersey 08608.					
Oklahoma	Wewoka City, Seminole County	Tributary	Approximately 1,600 feet upstream of State Route 59	None	*790
			Approximately 2,700 feet upstream of State Route 59	None	*792
Maps available for inspection at the City Hall, 123 South Mekeseukey Avenue, Wewoka, Oklahoma. Send comments to The Honorable Dennis Phillips, Mayor of the City of Wewoka, Seminole County, P.O. Box 1497, Wewoka, Oklahoma 74884.					
Tennessee	City of Nashville and Davidson County.	North Fork Ewing Creek	About 3000 feet upstream of Brick Church Pike	*515	*515
			About 1,450 feet downstream of Bellshire Drive	*520	*522
			Just downstream of Bellshire Drive	*529	*529
Maps available for inspection at the Metropolitan Government of Nashville and Davidson County Department of Public Works, Division of Engineering, 750 South 5th Street, Nashville, Tennessee. Send comments to The Honorable William H. Boner, Mayor, City of Nashville and Davidson County, Metro Courthouse, Room 106, Nashville, Tennessee 37201.					
Virginia	Albemarle County, Unincorporated Areas.	Mink Creek	Ponding area behind levee, from corporate limit of Town of Scottsville approximately 500 feet upstream.	None	*275
		James River	At County boundary with Fluvanna County	None	*285
			At County boundary with Nelson County, confluence of Rockfish River.	None	*322
Maps available for inspection at the Department of Planning and Community Development, 401 McIntire Road, Charlottesville, Virginia. Send comments to The Honorable Peter T. Way, Chairman of the Albemarle County Board of Supervisors, 401 McIntire Road, Charlottesville, Virginia 22901.					
Virginia	Scottsville, Town, Albemarle and Fluvanna Counties.	Mink Creek	At A. Raymon Thacker levee	*285	*275
			At upstream corporate limits	*286	*283
Maps available for inspection at the Municipal Building, Bird and Valley Streets, Scottsville, Virginia. Send comments to The Honorable A. Raymon Thacker, Mayor of the Town of Scottsville, Albermarle and Fluvanna Counties, P.O. Box 132, Scottsville, Virginia 24590.					

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: April 10, 1989.

[FR Doc. 89-9208 Filed 4-17-89; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF DEFENSE

Department of the Army

48 CFR Parts 5145 and 5152

Federal Acquisition Regulation Supplement; Government Furnished Property

AGENCY: Department of the Army (DA), DOD.

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulatory Council approved for a two-year test period, Department of the Army deviation to Defense Acquisition Regulation Supplement (DFARS) Subpart 245.3 and section 252.245. The deviation permits the Army to provide existing Government property under installation support services contracts without retaining the responsibility for replacement.

DATES: This rule will become effective upon publication of a final rule.

Comments: Interested parties should submit written comments to: U.S. Army Contracting Support Agency, HQ DA/SFRD-KP, ATTN: Mary M. Pearson, Room 1C616, The Pentagon, Washington, DC 20310-0103 not later than May 18, 1989, to be considered in the formulation of a final rule. Please cite Deviation Case 88-915 in all correspondence related to this subject.

FOR FURTHER INFORMATION CONTACT: Mary M. Pearson, Department of the Army, SFRD-KP, telephone (202) 697-1004.

SUPPLEMENTARY INFORMATION:

A. Background

It is the Departamentof Defense policy that contractors shall provide all facilities and materials required for performing Government contracts. In the case of support service contracts performed on installations (particularly those subject to OMB Circular No. A-76 (FAR Subpart 7.3), the installation has normally invested in existing facilities which, if not provided to contractors, could result in additional expenditures to the Government. The procedures implemented by this deviation permit the Government to obtain the maximum use of existing Government property. The deviation procedures will also permit the Government to reduce the amount of Government property furnished to contractors as directed by the Under Secretary of Defense (Acquisition). Contracts will be closely monitored to ensure that the invoices are in accordance with proposals. That is, for fixed-price contracts any replacement item cost is amortized in accordance with FAR Part 31 cost principles and the allocable portion included in the fixed price for each appropriate year. For cost-type contracts the cost must be amortized in accordance with FAR Part 31 cost principles and the allocable portion shown appropriately. These costs are not to be charged as direct line item costs.

At the end of the two-year test period, the Army will report to the DAR Council such results as: contractor reaction; problems with proposal evaluations or cost comparisons; impact on contract service support and problems with follow-on contracts.

B. Regulatory Flexibility Act

An initial Regulatory Flexibility Act Analysis has not been prepared because the proposed rule does not appear to have a significant impact on a substantial number of small entities.

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Comments to the contrary will be considered.

C. Paperwork Reduction Act

This rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Parts 5145 and 5152.

Government procurement, Government property.

Therefore, 48 CFR Chapter 51 is proposed to be amended as follows:

1. Part 5145 is added to read as follows:

PART 5145—GOVERNMENT PROPERTY

Subpart 245.3—Providing Government Property to Contractors

Sec.
5145.301 Definitions
5145.302-3 Other contracts.
5145.302-6 Required Government property clauses for facilities contracts.
5145.303 Providing material.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

Subpart 245.3—Providing Government Property to Contractors

5145.301 Definitions.

"Other Government Property" means all property, other than special Use property as defined below, which may be offered to a contractor for use in performance of installation support services contracts.

"Special Use Property" means property that is (a) "agency peculiar property", (b) necessary for mobilization requirements; or (c) property for which it has been determined that title should remain with the Government.

5145.302-3 Other contracts.

(S–90) (1) When it is determined that contractor use of existing Government facilities, other than special use property, in the performance of installation support services contracts, is in the best interest of the Government, the Government facilities will be offered to a contractor for use in the performance of the Government Contract. Facilities provided to a contractor under this authority will not be replaced by the Government when they can no longer be used by the contractor. Nevertheless, it will be the contractor's responsibility to continue performance in accordance with the terms of the contract.

(2) (i) New facilities shall not be purchased in order to provide them to contractors. Prior to offering existing facilities under this authority, a contracting officer shall make a written determination, based on the detailed justification provided by the approving officials and program/project manager, that such use is in the best interest of the Government. The written determination shall be kept in the contract file.

(ii) Existing facilities offered for contractor use will be offered to all bidders/offerors for their consideration in the preparation of the their bids and offers. Bidders/offerors may choose to use any or all of the facilities offered.

(3) When it is determined that contractor use of special use property in the performance of installation support services contracts is in the best interest of the the Government, such property will be provided. It will be accounted for and managed under the appropriate Government property clause.

For example, FAR 52.245–2 for fixed-price contracts or FAR 52.245–5 for cost-reimbursement contracts and any appropriate provision from FAR 52.245–11, Facilities Use Clause.

5145.302-6 Required Government property clauses for facilities contracts.

(S–90) In addition to the clauses at FAR 52.245–2 and 52–245–19, the Contracting Officer shall insert the clause at 5152.245–9000, Government Property for Installation Support Services (Fixed-Price Contracts), in solicitations and contracts when a fixed-price contract is contemplated and Government property will be provided without being replaced by the Government.

(S–91) The Contracting Officer shall insert the clause at 5152.245–9001, Government Property for Installation Support Services (Cost-Reimbursement Contracts), in solicitations and contracts when a cost-reimbursement type contract is contemplated and the Government property will be provided without being replaced by the Government.

5145.303 Providing material.

(S–90) Existing Government material on hand or being used prior to conversion to contractor performance of commercial activities may be offered to contractors if it is determined to be in the best interest of the Government per FAR 45.303–1. If the material is to be provided without replacement by the Government, the solicitation must state that it will not be replaced. If it is determined that the Government will be responsible for replacement of any of the material, those items must be listed on a separate Technical Exhibit and the solicitation state that replacement will be by the Government. These items will be governed by the appropriate Government Property clause in the contract in accordance with FAR 52.245–2 for fixed-price and FAR 52.245–5 for cost-reimbursement type contracts.

2. Part 5152 is added to read as follows:

PART 5152—SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES

Sec.
5152.245–9000 Government property for installation support services (fixed-price contracts).
5152.245–9001 Government property for installation support services (cost-reimbursement contracts).

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35, and DOD FAR Supplement 201.301.

5152.245–9000 Government property for installation support services (fixed-price contracts).

As prescribed in 5145.302–6(S–90), insert the following:

Government Property for Installation Support Services (Fixed-Price Contracts) (XXX 1989) (DEV)

The Government property listed at Technical Exhibit _____ is provided "as is" to the contractor for use in the performance of this contract. This property may be used by the Contractor until the Contractor no longer desires to use it for contract performance or the Contracting Officer withdraws it from use under this contract in accordance with FAR 52.245–2(b). The Contractor will comply with instructions from the Contracting Officer relative to disposition of the property. No equitable adjustment or other claim will be payable to the Contractor based upon the condition or availability of the property, except as provided in FAR 52.245–19. The Contractor remains responsible for performance of the required services under this contract regardless of the length of time which the property provided hereunder remains operational. Property provided by or obtained by the Contractor under this contract remains Contractor property. Except as provided herein, the property listed at Technical Exhibit _____ will be governed by FAR 52.245–2, Government Property [Fixed-Price Contracts], and FAR 52.245–19, Government Property Furnished "as is".

5152.245–9001 Government property for installation support services (cost-reimbursement contracts).

As prescribed in 5145.302–6(S–91), insert the following clause:

Government Property for Installation Support Services (Cost-Reimbursement Contracts) (XXX 89) (DEV)

(a) *Government-furnished property.* The Government property listed at Technical Exhibit _____ is provided to the Contractor for use in the performance of this contract for installation support services. This property will be used, maintained and administered by the Contractor until it is no longer required by the Contractor. Cessation of such use of the property, and subsequent turn-in, must be approved by the Contracting Officer. The Contracting Officer will provide the Contractor with appropriate disposition instructions. The Contractor will continue to perform following such disposition with Contractor-owned property. No equitable adjustment or claim will be payable resulting from turn-in or unsuitability for intended use of this property. No change to this contract is indicated by approval of turn-in of the property. No delay claim or performance delay will be allowed based on unsuitability of property or turn-in. The Contractor's proposal includes an estimate of the costs for providing its own property for the period following turn-in of Government property.

(b) *Changes in Government-furnished property.* The Contracting Officer may, by written notice, decrease the Government-furnished property or substitute other property for the property being used by the Contractor. In the case of this withdrawal, of property by the Contracting Officer, an equitable adjustment may be appropriate. Nevertheless, even in the case of such withdrawal the Contractor is obligated to continue performance under this contract.

(c) *Title in Government property.* (1) Title to the property shall remain in the Government. Title to parts replaced by the Contractor in carrying out its normal maintenance obligations under paragraph (g) of this clause shall pass to and vest in the Government upon completion of their installation in the property.

(2) Title to the property shall not be affected by their incorporation into or attachment to any property not owned by the Government, nor shall any item of the property become a fixture or lose its identity as personal property by being attached to any real property. The Contractor shall keep the property free and clear of all liens and encumbrances and, except as otherwise authorized by this contract or by the Contracting Officer, shall not remove or otherwise part with possession of, or permit the use by others of any of the property.

(3) The Contractor may, with the written approval of the Contracting Officer, install, arrange, or rearrange, on Government furnished premises, readily removable machinery, equipment and other items belonging to the Contractor. Title to any such item shall remain in the Contractor even though it may be attached to real property owned by the Government, unless the Contracting Officer determines that it is so permanently attached that removal would cause substantial injury to Government property.

(4) The Contractor shall not construct or install, at its own expense, any fixed improvement or structural alterations in Government buildings or other real property without advance written approval of the Contracting Officer. Fixed improvement or structural alterations, as used herein, means any alteration or improvement in the nature of the building or other real property that, after completion, cannot be removed without substantial loss of value or damage to the premises. The term does not include foundations for production equipment.

(d) *Location of the property.* The Contractor may use the property only at the installation location(s) specified in the schedule. Written approval of the Contracting Officer is required prior to moving the property to any other location. In granting this approval, the Contracting Officer may prescribe such terms and conditions as may be deemed necessary for protecting the Government's interest in the property involved. Those terms and conditions shall take precedence over any conflicting provisions of this contract.

(e) *Notice of use of the property.* The Contractor shall notify the Contracting Officer in writing whenever any item of the property is no longer needed or usable for performing under this contract. The contract officer will then make a decision as to disposition if agreement is reached with the Contractor that the property is no longer usable or suitable for its intended use.

(f) *Property control.* The Contractor shall maintain property control procedures and records, and a system of identification of the property, in accordance with the provisions of FAR Subpart 45.5 in effect on the date of this contract.

(g) *Maintenance.* (1) Except as otherwise provided in the Schedule, the Contractor shall protect, preserve, maintain (including normal parts replacement), and repair the property in accordance with sound industrial practice.

(2) No later than 45 days after the execution of this contract, the Contractor shall submit to the Contracting Officer a written proposed maintanance program, including a maintenance records system, in sufficient detail to show the adequacy of the proposed program. If the Contracting Officer agrees to the proposed program, it shall become the normal maintenance obligation of the Contractor. The Contractor's performance according to the approved program shall satisfy the Contractor's obligations under subparagraphs (g) (1) and (45) of this clause.

(3) The Contracting Officer may at any time direct the Contractor in writing to reduce the work required by the normal maintenance program. If such order reduces the cost of performing the maintenance, an appropriate equitable adjustment may be made.

(4) The Contractor shall perform any maintenance work directed by the Contracting Officer in writing. Work in excess of the maintenance required under (g)(1) through (g)(3) of this clause shall be at Government expense. The Contractor shall notify the Contracting Officer in writing when sound industrial practice requires maintenance in excess of the normal maintenance program. The Contracting Officer shall then make a determination whether to repair the facilities or whether the Contractor should provide contractor property while continuing to perform.

(5) The Contractor shall keep records of all work done on the property and shall give the Government reasonable opportunity to inspect such records. When property is disposed of under this contract, the Contractor shall deliver the related records to the Government, or, if directed by the Contracting Officer, to third persons.

(6) The Contractor's obligation under this clause for each item of property shall continue until the item is removed, abandoned, or disposed of in accordance with Contracting Officer's instructions.

(h) *Access.* The Government and any persons designated by it shall, at all reasonable times have access to the premises where any of the property is located.

(i) *Indemnification of the Government.* The Contractor shall indemnify the Government and hold it harmless against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the property under this contract. Nevertheless, this provision applies only to injury arising out of use of property provided under this clause.

(j) *Representation and warranties.* (1) The Government makes no warranty, express or implied, regarding the condition or fitness for use of any property. To the extent practical, the Contactor shall be allowed to inspect all the property to be furnished by the Government.

(2) If, however, the Contractor receives property in a condition not suitable for the intended use, the Contractor shall, within 30 days after receipt and installation thereof, so notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer, and at Government expense, either return such item or otherwise dispose of it or effect repairs or modifications. If the determination is made by the Contracting Officer to require turn-in rather than repair of the property, then the Contractor will continue to perform the contract by using its own property, for which reimbursement will be made in accordance with applicable cost principles.

(k) *Limited risk of loss.* (1) The Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract or for expenses incidental to such loss, destruction, or damage, except as provided in subparagraphs (k) (2) and (3) of this clause.

(2) The Contractor shall be responsible for loss or destruction of, or damage to, the Government property provided under this contract (including expenses incidental to such loss, destruction, or damage)—

(i) That results from a risk expressly required to be insured under this contract, but only to the extent of the insurance required to be purchased and maintained or the extent of insurance actually purchased and maintained, whichever is greater;

(ii) That results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

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(iv) That results from willful misconduct or lack of good faith on the part of the Contractor's managerial personnel; or

(v) That results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel, to establish and administer a program or system for the control, use, protection, preservation, maintenance, and repair of Government property as required by paragraph (f) of this clause.

(3) (i) If the Contractor fails to act as provided by subdivision (k)(2)(v) of this clause, after being notified (by certified mail addressed to one of the Contractor's managerial personnel) of the Government's disapproval, withdrawal of approval, or nonacceptance of the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(ii) In such event, any loss or destruction of, or damage to, the Government property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage—

(A) Did not result from the Contractor's failure to maintain an approved program or system; or

(B) Occurred while an approved program or system was maintained by the Contractor.

(4) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage to, the property while in the subcontractor's possession or control, except to the extent that the subcontract, with the advance approval of the Contracting Officer, relieves the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for its use in accordance with the provisions of the prime contract.

(5) Upon loss or destruction of, or damage to, Government property provided under this contract, the Contractor shall so notify the Contracting Office and shall communicate with the loss and salvage organization, if any, designated by the Contracting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of—

(i) The lost, destroyed, or damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

(6) The Contractor shall repair, renovate, and take such other action with respect to damaged Government property as the Contracting Officer directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Contractor's) that separation is impractical, the Contractor may, with the approval of and subject to any conditions imposed by the Contracting Officer, sell such property for the account of the Government. Such sales may be made in order to minimize the loss to the Government, to permit the resumption of business, or to accomplish a similar purpose. The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made in performing the obligations under this subparagraph (k)(6). However, the Government may directly reimburse the loss and salvage organization for any of their charges. The Contracting Officer shall give due regard to the Contractor's liability under this paragraph (k) when making any such equitable adjustment.

(7) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance or of any reserve covering risk of loss or destruction of, or damage to, Government property, except to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract.

(8) In the event the Contractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, Government property, the Contractor shall use the proceeds to repair, renovate, or replace the lost, destroyed, or damaged Government property or shall otherwise credit the proceeds to, or equitably reimburse, the Government, as directed by the Contracting Officer.

(9) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss or destruction of, or damage to, Government property. Upon the request of the Contracting Officer, the Contactor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of, or damage to, Government property, the Contractor shall enforce for the benefit of the Government the liability of the subcontractor for such loss, destruction, or damage.

(l) *Disposition of the facilities.* (1) The provisions of this paragarph shall apply to facilities whose use has been terminated by either the Contracting Officer or the Contractor because the property is no longer suitable for intended use, no longer desired, or is withdrawn from use by the Government.

(2) The Contractor shall dispose of the property provided hereunder in accordance with guidance provided by the Contracting Officer.

(3) The Contracting Officer shall give disposition instructions within 60 days of agreement that the property should be returned to the Government.

(4) The Government may remove or otherwise dispose of any facilities for which the Contractor's authority to use has been terminated.

(5) When Government property is returned to the Government, upon termination of the contract relationship between Government and Contractor or when Government furnished property is replaced by Contractor property, the Contracting Officer may direct repair of Government property necessitated by the change from Government to Contractor property such as removal of fixtures. When Contractor property is removed from Government property at the end of contract performance, the Government property will be restored to its condition prior to installation of Contractor property in accordance with Contracting Officer direction.

(End of clause)

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 89-9151 Filed 4-17-89; 8:45 am]

BILLING CODE 3710-08-M

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48 CFR Parts 5108 and 5152

Acquisition Regulations: Solicitations, Provisions and Contract Clauses; Industrial Preparedness Planning

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulatory Council approved for a three year test period, Department of the Army deviation to Defense Acquisition Regulation Supplement (DFARS) sections 206.070(b), 206.070(g) and Part 252. The three changes are: (1) Change the definition to delete reference to the DD Form 1519 and to add reference to a Memorandum of Understanding and contractual commitments; (2) change procedure to permit differentiation between planned producers by the degree of commitment required. The differentiation is categorized into three groups. Group A entails the least commitment on both Contractor and Government. It is a Memorandum of Understanding with a DD Form 1519 (test) attached. The contractor agrees to maintain production capability for two years but is not contractually bound to do so. The signatory company is designated a "planned producer" and, as such, becomes eligible to compete in all buys over $25,000 of the planned item which are not restricted to the Mobilization Base in accordance with an approved justification and Approval.

(That is, they must be solicited for full and open buys and for those restricted to U.S. and Canada, but do not participate in buys restricted to a group of named Mobilization Base Planned Producers.) Group B entails a greater degree of commitment on the part of both sides. The contractor agrees to maintain production capability for a negotiated period of time on a no-cost basis and is contractually bound to do so which then entitles the contractor to be solicited for all buys of the item over $25,000 including those acquisitions for which competition is restricted to Mobilization Base planned procedures. Group C involves the payment by the government for a contractor's commitment to maintain production capability; (3) permit the use of contract clause to accomplish the government's obligation under Group C.

DATES: *Comments:* Comments on the proposed rule should be submitted to the address shown below not later than June 2, 1989, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: Headquarters, U.S. Army Materiel Command, Attn: AMCPP-PP, 5001 Eisenhower Avenue, Alexandria, Virginia 22333-0001. Please cite Deviation Case 89-003 in all correspondence related to this subject.

FOR FURTHER INFORMATION CONTACT: Ms. Dee Emmerich, Contract Policy Division, AMCPP-PP, telephone (202) 274-9619.

SUPPLEMENTARY INFORMATION:

A. Background

In 1985 the Under Secretary of the Army suspended the Army's use of the DD Form 1519 for Industrial Preparedness Production Planning (IPP). In 1987 the Under Secretary of the Army approved the development of a revised system for the conduct of IPP within the Army. The need for such revision was evidenced by poor accuracy in data collection using the DD Form 1519 and the lack of commitment involved with the voluntary only DD Form 1519 process. The new Army system, Production Planning Schedule (PPS), separates data collection from commitment. This allows greater flexibility for planning purposes in that the three aforementioned alternatives are available to enlist commitment, from the parties. The original DD Form 1519 was strictly a voluntary non-binding commitment on either party. Aside from the commitment the original DD Form 1519 has been updated for Army use and a DD Form 1519 (test) is currently undergoing OMB review. The test form will not involve commitment on the part of either party as it will serve only as a data collection instrument. The new form contains definitions and unlike the old form it is explicit in its request for varying data. Nonstandard and misinterpreted answers will be minimized thus improving data accuracy.

B. Regulatory Flexibility Act

An initial Regulatory Flexibility Analysis has not been prepared because the proposed rule does not appear to have a significant impact on a substantial number of small entities. Comments to the contrary will be considered.

C. Paperwork Reduction Act

This rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq. Application for OMB review and approval has been made for the DD Form 1519 (Test). See FR (54 FR 6565)

List of Subjects in 48 CFR Parts 206 and 252

Government procurement, Industrial preparedness production planning.

Therefore Title 48 of the Code of Federal Regulations is proposed to be amended as follows:

1. Part 5108 is added to read as follows:

PART 5108—REQUIRED SOURCES OF SUPPLIES AND SERVICES.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35, and DOD FAR Supplement 201.301.

5108.070 Industrial preparedness production planning.

(b) *Definitions.*

"Mobilization Base Planned Producer" means an industrial firm which is contractually bound to maintain production capacity for a negotiated length of time, to conduct subcontractor planning, and to produce specified military items in the event of a declared national emergency or in the event of mobilization or contingencies short of a declared national emergency. "Planned Producer" means an industrial firm which has indicated its willingness to produce specified military items in a declared national emergency by completing a Memorandum of Understanding with an accompanying Industrial Preparedness Program Production Capacity Survey (DD Form 1519 (Test)).

(g)(1)(i) Solicitation of Mobilization Base Planned Producers in all acquisitions over $25,000 of items for which they have been designated as a Mobilization Base Planned Producer (use clause 252.208-9001.)

(ii) Solicitation of Planned Producers in all acquisitions of $25,000 which have not been restricted to Mobilization Base Planned Producers and which are for items for which they have been designated as a Planned Producer.

PART 5152—SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35, and DOD FAR Supplement 201.301.

2. Section 5152.208-9001 is added to read as follows:

5152.208-9001 Industrial preparedness planning.

As prescribed at 5108.070 (g)(1)(i) insert the following clause in full text in contracts where the contractor is designated a Mobilization Base Planned Producer.

Industrial Preparedness Planning (XXX1989) (DEV)

(a) The Government designates the contractor a Mobilization Base Planned Producer (MBPP) for the item(s) listed in subparagraph (e) below. As a MBPP for the listed items, the contractor will be solicited for all acquisitions of the items(s), including those for which competition is restricted to Mobilization Base Planned Producers pursuant to an approved Justification and Approval. The Government reserves the right to obtain the item(s) listed from sources other than the commercial marketplace, i.e., by assigning workload to a government-owned facility.

(b) The Contractor agrees to

(i) Update the Production Capacity Survey DD Form 1519 (test) for each item biennially;

(ii) Accomplish subcontractor planning as required in subparagraph (f) below;

(iii) Permit Government personnel access to records, manufacturing process data, plants and facilities in order to verify data on the Production Capacity Survey DD Form 1519 (test).

(iv) Maintain the surge/mobilization capacity set forth in the Production Planning Schedules during active production of the item and for a period of (negotiated number) years after physical completion of this production contract.

(c) The Contractor is aware of the Government's dependence upon the Production Planning Schedules as a basis to take appropriate measures to ensure the adequacy of the United States Industrial Base. The Contractor also recognizes the Government's intention to convert Production Planning Schedule to contracts on a selective basis, as may be required to minimize materiel shortages during mobilization or to meet contingencies short of a declared national emergency. The Contractor agrees to accept contracts for the item(s) in accordance with the Production Planning Schedules. In

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the event mobilization or contingencies short of a declared national emergency occur after active production has ceased, and the allocated capacity is in use for the production of other item(s), the Contractor agrees to immediately discontinue production of such other item(s) if necessary to meet production schedules for the planned item(s). The Contractor further recognizes that it is the Government's intention to require that planned subcontractor support will be similarly converted to production subcontracts. Production delivery obligations under this clause are governed by Title I of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, et seq.) (Defense Production Act) and as applicable are within the purview of the Defense Priorities and Allocation System.

(d) For the listed item(s), the Contractor certifies by signing this contract that the plant capacity required to support the mobilization quantity listed on the Production Capacity Survey DD Form 1519 (Test) will be dedicated exclusively for the production of that item at mobilization. Furthermore, the Contractor certifies that this capacity is not shared by any other mobilization production requirements.

(e) This clause covers the item(s) listed below:

Item Schedule No.	Item Nomenclature (Sample)	IPPL Priority
M11111	Fuze, Rocket, MK987	1
M22222	Machine Gun, MK35	2

(f) The Industrial Preparedness Planning List (IPPL) identifies and prioritizes end items and components requiring Industrial Preparedness Planning to maintain an industrial base capable of meeting surge/mobilization requirements. Mandatory vertical (subcontractor) planning will be accomplished by the Contractor for all IPPL priority 1 items (see paragraph (e) above), by using a Production Capacity Survey, DD Form 1519 (Test). The Contractor agrees to coordinate completion of the DD Form 1519 (Test) Production Capacity Survey and finalize prime and subcontractor planning with the Armed Service Production Planning Officer (ASPPO) having cognizance over the prime contractor's facility.

(g) Subcontractors, suppliers and vendors provide many of the components of military end items. The lack of critical components could be one of the major limitations of the United States' ability to support its Armed Forces warfighting capabilities. Therefore, the Government designated critical components and/or subassemblies in Block #27 of the attached Production Capacity Survey DD Form 1519 (Test) are those for which the Contractor will conduct vertical planning if not produced in-house.

(h) Additional critical components and/or subassemblies may be identified by the Contractor in block #21 of the attached Production Capacity Survey DD Form 1519 (Test).

(i) Foreign producers (other than Canada) will not be considered as a source of supply for critical components.

(j) After completion of active production for the item(s), the Government will annually, or as changes occur but not more than annually, furnish the Contractor updated technical data for the item. The Contractor agrees to review the technical data and to report to the Government within 60 days of receipt of the data, the impact of technical changes, if any, to the current Production Planning Schedules at no additional cost to the Government.

(k) Retention by the Contractor of the surge/mobilization capacity set forth in the Production Planning Schedules after completion of active production of the planned item(s) will not necessarily require that the Contractor maintain such capacity in idle status. Contractor utilization of capacity allocated for planned production for production of other non-planned items is consistent with the intent of any postproduction provisions of this contract, provided no degradation of surge/mobilization capacity occurs as a result, and provided that the approval of the Contracting Officer with property cognizance is obtained for the use of any Government-owned property.

(End of clause)

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 89-9150 Filed 4-17-89; 8:45 am]

BILLING CODE 3710-08-M

Notices

Federal Register
Vol. 54, No. 73
Tuesday, April 18, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Federal Crop Insurance Use Survey

Notice is hereby given that the National Agricultural Statistics Service will conduct a one-time survey effective May 1989.

The survey will collect information for the Economic Research Service to complete a study to evaluate and analyze the Federal Crop Insurance program. A preliminary report of the study will be presented to the Office of Management and Budget by June 30, 1989.

FOR FURTHER INFORMATION CONTACT: Lawrence A. Gambrell, Agricultural Statistician, Program Support Staff, NASS, USDA, Room 4116-S, Washington, DC 20250-2000; telephone (202) 447-7737.

Dated: April 12, 1989.

Charles E. Caudill,

Administrator.

[FR Doc. 89-9262 Filed 4-17-89; 8:45 am]

BILLING CODE 3410-20-M

Forest Service

Amendment to the Regional Guide; Rocky Mountain Region; Intent To Prepare an Environmental Impact Statement and an Amendment to the Regional Guide Colorado, Kansas, Nebraska, South Dakota, Wyoming

The Department of Agriculture, Forest Service, will amend the Regional Guide for the Rocky Mountain Region. An environmental analysis is being started to update information in the current Guide which will benefit upcoming scheduled Forest Plan revisions. The 5-State Rocky Mountain Region includes Colorado, Kansas, Nebraska, South Dakota, and that portion of Wyoming east of the Continental Divide.

The Regional Guide amendment may modify existing decisions on: (1) Coordination of National Forest System, State and Private Forestry, and Research programs for the Rocky Mountain Region; and (2) goals and objectives, and standards and guidelines in the existing Guide.

The Regional Guide contains decisions relative to: (1) Regional programs, goals, and objectives; (2) tentative resource objectives for each National Forest administrative unit from the current Resources Planning Act (RPA) Program; (3) Regional management standards and guidelines developed to address major Regional issues and management concerns; (4) specific standards and guidelines, required by regulation for silvicultural practices, timber utilization standards, transportation corridors, and potential air pollution emissions; and (5) description of measures to achieve coordination of National Forest System, State and Private Forestry, and Research programs.

Decisions made in the Regional Guide amendment should not be confused with decisions from other planning levels. There are two levels of decisions below the Regional Guide for units of the National Forest System. These are; (1) Approval of the Forest Land and Resource Management Plans, which includes decisions on (a) Forest multiple-use goals and objective, (b) multiple use prescriptions and associated standards and guidelines, (c) land suited for timber production, (d) allowable sale quantity and associated timber sale schedule, (e) minitoring and evaluation requirements, and (f) project and activity decisions if they are specifically identified; and (2) approval of management practices, projects, and activities that implement Forest plans.

The Regional Guide amendment process will focus only on those aspects of the Regional Guide which reflect a need for change based on new information, changing issues, or results of monitoring. Sources of information to make this determination will include input from State governments, individuals, organizations, and other Federal entities; results of monitoring the Forest Land and Resource Management Plans and current Regional Guide; and the 1990 RPA Assessment and Program.

The Regional Guide amendment will include an assessment of resources and services produced in the Rocky Mountain Region by state or sub-region.

A range of alternatives will be developed to address any major issues identified. Analysis of alternatives will develop and display environmental consequences for public consideration associated with new or revised goals and objectives, standards and guidelines, and as appropriate planning guides. The "no action" alternative will be continued use of the existing Regional Guide without change.

Issues tentatively identified that will likely need to be addressed in scoping the amendment to the Regional Guide include:

—Changing recreation preferences
—Changing use of resources
—Providing economic growth, economic stability, and economic diversity in harmony with states' and counties' goals and objectives
—Addition and/or expansion of winter sports sites
—Increased demands for water and water storage projects
—Management of riparian areas
—Coordination of wildlife habitat management with the states' responsibilities to manage wildlife populations
—Fire protection at the urban wildlands interface
—Use of fire as a management tool
—Communities, business, and individuals dependant on resources from and uses of the National Forests
—Research to carry out the Rocky Mountain Region's research program
—Wild and scenic rivers
—Visual quality
—Coordination in the Greater Yellowatone area
—Forest health
—Roadless areas
—Biological diversity
—Utility corridors
—Public access
—Sections of the existing Regional Guide pertaining to goals and objectives and standards and guidelines.

Additional issues may be identified through public involvement. The Regional Guide will address and deal with issues which are regional or sub-regional in scope. Issues limited to management of individual National

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Forests and Grasslands will not be addressed or dealt with in this Regional Guide.

Federal and state agencies, organizations, and other identifiable potentially affected interests will be invited by letter and publication of this notice to participate in the identification of issues. The scoping process will include: (1) Identification of potential issues, concerns, and opportunities to be analyzed; and (2) elimination of inappropriate issues, concerns, or opportunities or those which have been covered by previous environmental review. A variety of public involvement tools will be used. If public meetings are needed they will be held. Thirty days public notice will be given for any public participation activities.

The analysis is expected to take about 18 months. A draft Environmental Impact Statement will be available for public review by September 1990. A final Environmental Impact Statement is scheduled for completion in April 1991.

If the amendment is determined to be significant under the National Forest Management Act, the responsible official will be F. Dale Robertson, Chief, Forest Service, Washington DC. If the amendment is not significant under the National Forest Management Act, the responsible official will be Gary E. Cargill, Regional Forester, Rocky Mountain Region.

Written comments and suggestions concerning the analysis should be sent to the Regional Forester, ATTN: Dick Lindenmuth, Rocky Mountain Region, 11177 W. 8th Avenue, Box 25127, Lakewood, CO 80225–0127 by June 19, 1989. Individuals, organizations, etc., who are on the Regional Guide amendment mailing list will receive National level RPA Program documents.

Questions about the proposed action and analysis should be directed to Dick Lindenmuth, Planning Team Leader, Rocky Mountain Regional Office, phone 303–236–9656 or FTS 776–9656.

Date: April 12, 1989.

S.H. Hanks,

Deputy Regional Forester.

[FR Doc. 89–9180 Filed 4–17–89; 8:45 am]

BILLING CODE 3410–11–M

H D Mountains Coalbed Methane Gas Development; San Juan National Forest Archuleta and La Plata Counties, CO; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement (EIS) to describe alternatives and environmental consequences for the development of the H D Mountains Coalbed Methane Gas Project on the Pine Ranger District. A Record of Decision accompanying the EIS will determine the conditions of use for the developer.

The San Juan National Forest Land and Resource Management Plan was completed in September of 1983. The Plan's EIS contains a projection of expected drilling and production activities and describes the environmental effects of these anticipated activities. The coalbed methane gas project, proposed by AMOCO Production Company, is expected to result in environmental effects which may be greater than those evaluated by the EIS accompanying the Forest Plan. Environmental analysis and appropriate documentation is required for approval of levels of activities not evaluated in the Plan EIS.

A range of alternatives for the development will be considered. One of these will be no further development. Other alternatives will consider varying development rates, and varying degrees of development on the area up to a maximum development of 140 wells. Alternative locations for roads, pipelines and support facilities will be considered.

Scoping was begun in November 1988 by direct letter contact to known interested parties, newspaper announcements in the local newspapers and posting a scoping document at the Pine Range District Office. Forty responses were received. These, plus any other responses will be used for:

1. Identification of the potential issues and concerns associated with the proposed project.
2. Identification of the issues which will be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of cooperating agencies and assignment of responsibilities.

A public meeting for additional scoping is scheduled at the Lions Club Hall, 451 S. Church Street, Bayfield, Colorado, on May 4, 1989, at 7:00 p.m.

The Bureau of Land Management, Department of the Interior, has been invited to participate as a cooperating agency to evaluate the potential impacts on groundwater production by water from gas wells, subsurface disposal of produced water, and all other technical aspects of drilling and production.

Michael G. Johnson, District Ranger, Pine Ranger District, San Juan National Forest, Bayfield, Colorado is the responsible official.

The analysis is expected to take approximately eight months. The draft Environmental Impact Statement should be available for public review by August 1989. The final Environmental Impact Statement is scheduled to be completed by November 1989.

Written comments and suggestions concerning the analysis should be sent to Michael G. Johnson, District Ranger, Pine Ranger District, P.O. Box 439, Bayfield, Colorado 81122 by May 15, 1989.

Questions about the proposed action and Environmental Impact Statement should be directed to Dick Bell, Pine Ranger District, phone (303) 884–2512.

Date: April 10, 1989

Michael G. Johnson,

District Ranger, USDA Forest Service, R–2, San Juan National Forest.

[FR Doc. 89–9169 Filed 4–17–89; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Michigan Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m., on Friday, May 5, 1989, at the Westin Hotel, Renaissance Center, Detroit, Michigan. The purpose of the meeting, which will involve a community forum, is to receive information on the civil rights aspects of minority student dropouts.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dennis L. Gibson, Jr., or William F. Muldrow, Acting Director of the Central Regional Division (816) 426–5243, (TDD 816/426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 7, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89–9170 Filed 4–17–89; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Advisory Committee; Availability of Report on Closed Meetings

AGENCY: Office of the Secretary; Department of Commerce.

ACTION: Announcing public availability of report on closed meetings of advisory committees.

SUMMARY: The Department of Commerce has prepared its report on the activities of closed or partially-closed meetings of advisory committees as required by the Federal Advisory Committee Act.

ADDRESSES: Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Newspaper and Current Periodicals Reading Room, Room LM133, Madison Building, 1st and Independence Avenues SE., Washington, DC 20540

Department of Commerce, Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th and Constitution Avenue NW., Washington, DC 20230 Telephone (202) 377–3271.

SUPPLEMENTARY INFORMATION: The reports cover the closed and partially-closed meetings held in 1988 of 37 committees and their subcommittees, the names of which are listed below:

Automated Manufacturing Equipment Technical Advisory Committee
Committee of Chairmen of Industry Advisory Committees for Trade Policy Matters (TPM)
Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee
Computer Systems Technical Advisory Committee
—Hardware Subcommittee
—Software Subcommittee
—Licensing Procedures and Regulations Subcommittee
Electronic Instrumentation Technical Advisory Committee
ISAC on Aerospace Equipment for TPM
—Government Supports Subcommittee
—Military Trade Subcommittee
—Purchase/Finance Subcommittee
—Space Equipment Subcommittee
ISAC on Capital Goods for TPM
ISAC on Chemicals and Allied Products for TPM
ISAC on Consumer Goods for TPM
ISAC on Electronics and Instrumentation for TPM
ISAC on Energy for TPM
ISAC on Ferrous Ores and Metals for TPM
ISAC on Footwear, Leather, and Leather Products for TPM
ISAC on Industrial and Construction Material and Supplies for TPM
ISAC on Lumber and Wood Products for TPM
ISAC on Nonferrous Ores and Metals for TPM
ISAC on Paper and Paper Products for TPM
ISAC on Services for TPM
ISAC on Small and Minority Business for TPM
ISAC on Textiles and Apparel for TMP
ISAC on Transportation, Construction, and Agricultural Equipment for TPM
ISAC on Wholesaling and Retailing for TMP
Importers and Retailers' Textile Advisory Committee
Industry Functional Advisory Committee on Customs Matters for TPM
Industry Functional Advisory Committee on Intellectual Property Rights for TPM
Industry Functional Advisory Committee on Standards for TPM
Judges Panel of the Malcolm Baldrige National Quality Award
Management-Labor Textile Advisory Committee
Marine Fisheries Advisory Committee
Materials Technical Advisory Committee
Militarily Critical Technologies List Technical Advisory Committee
President's Export Council
—Subcommittee on Export Administration
Sea Grant Review Panel
Semiconductor Technical Advisory Committee
Telecommunications Equipment Technical Advisory Committee
—Fiber Optics Subcommittee
—Switching Subcommittee
Transportation and Related Equipment Technical Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Jan Jivatode, Management Analyst, Office of the Secretary, Department of Commerce, Washington, DC 20230, Telephone (202) 377–3271.

Date: April 11, 1989

Jan Jivatode,

Management Support Division, Office of Management and Organization.

[FR Doc. 89–9171 Filed 4–17–89; 8:45 am]

BILLING CODE 3510–CW–M

Foreign-Trade Zones Board

[Docket No. 3–89]

Foreign-Trade Zone 50, Long Beach, CA; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of Harbor Commissioners of the Port of Long Beach (BHC), grantee of Foreign-Trade Zone 50, requesting authority to expand the zone to include additional acreage at the California Commerce Center site located in Ontario, California, adjacent to the Los Angeles-Long Beach Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 27, 1989.

The Long Beach zone was approved on September 14, 1979 (Board Order 147, 44 FR 55919, 9/28/79). It was expanded to include a site in Ontario on April 2, 1985 (Board Order 298, 50 FR 15205, 4/17/85). The Ontario site encompasses 1,350 acres in the California Commerce Center (CCC) industrial park. In November 1988, a temporary boundary modification was approved which shifted 505 acres from the northern section of CCC to the southern section. The area involved is bounded by Mission Boulevard, Haven Avenue, the Pomona Freeway and the Cucamonga Channel.

The grantee is now requesting an expansion of the CCC park site to make the temporary 505-acre parcel in the southern section a permanent part of the zone, and to reinstate the 505-acre parcel in the northern section. The applicant states that development of the CCC site has been rapid for both zone and non-zone activity, and that the additional space is needed to accommodate prospective zone users.

No manufacturing approvals are being sought in the application. Such approvals would be requested from the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; John Heinrich, District Director, U.S. Customs Service, Pacific Region, 300 South Ferry Street, Terminal Island, San Pedro, California 90731; and Colonel Tadahiko Ono, District Engineer, U.S. Army Engineer

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District, Los Angeles, P.O. Box 2711, Los Angeles, California 90053–2325.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before May 29, 1989.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 11777 San Vicente Boulevard, Room 800, Los Angeles, California 90049.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Room 2835, Washington, DC 20230.

Dated: April 11, 1989.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 89-9194 Filed 4-17-89; 8:45 am]
BILLING CODE 3510-DS-M

[Order No. 430]

Resolution and Order Approving the Application of the Vicksburg/Jackson Foreign-Trade Zone, Inc., for a Foreign-Trade Zone in the Vicksburg/Jackson, MI, Area

Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Vicksburg/Jackson Foreign-Trade Zone, Inc., filed with the Foreign-Trade Zones Board (the Board) on January 11, 1988, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at sites near Vicksburg and in Jackson, Mississippi, within and adjacent to the Vicksburg Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish, Operate, and Maintain a Foreign-Trade Zone in the Vicksburg/Jackson, MI, Area

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Vicksburg/Jackson Foreign-Trade Zone, Inc. (the Grantee) has made application (filed January 11, 1988, FTZ Docket 1–88, 53 FR 1809) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at sites in Vicksburg and Jackson, Mississippi, adjacent to the Vicksburg Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 158, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from federal, state, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 11th day of April 1989, pursuant to Order of the Board.

Foreign-Trade Zones Board.
Robert A. Mosbacher,
Chairman and Executive Officer.

Attest:
John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 89-9195 Filed 4-17-89; 8:45 am]
BILLING CODE 3510-DS-M

[Docket 4-89]

Application for Extension of FTZ Subzone Status for SZ's 22C, 22D, and 22E, Power Packaging, Inc., Plants, Chicago, IL Area

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Illinois International Port District (IIPD), grantee of FTZ 22, requesting a 2-year time extension for FTZ subzone status at three food processing plants of Power Packaging, Inc. (PPI) in the Chicago, Illinois, area. The application was formally filed on April 6, 1989.

In March 1987, the Board authorized subzone status for the PPI plants (Board Order 347, 52 FR 10246, 3/31/87) for a two-year period (from date of activation), subject to extension. Subzone activity is restricted to the production of sugar-containing products subject to the sugar quota program.

Zone procedures are being used for entries on the foreign sugar used to produce cake and flour mixes, breakfast cereals, pudding mixes, soup mixes, and other edible preparations. Customs entries are made on the finished products, and the sugar is ex-quota.

In requesting the extension, PPI indicates that subzone status has helped it compete with lower priced sugar-containing imports, preserving employment at its Chicago plants as had been contended in the original application.

Subzone authority is due to expire on June 29, 1989, and the FTZ Board is considering a temporary time extension of up to one year, during which time the proposal would be evaluated as part of an overall review of sugar-related activity in zones, which would be the subject of a separate Federal Register notice.

The application for a 2-year extension is being reviewed by the FTZ Staff. Comments are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before May 23, 1989.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 1406 Mid Continental Plaza Building, 55 East Monroe Street, Chicago, Illinois 60603.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2835, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: April 13, 1989.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 89-9251 Filed 4-17-89; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

[A-508-801]

Final Determination of Sales at Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Israel

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from Israel are being, or are likely to be, sold in the United States at less than fair value. We also determine that critical circumstances exist with respect to imports of industrial belts from Israel.

We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from Israel as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the publication of this notice, whether these imports materially injure, or threaten material injury to, the U.S. industry.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Loc Nguyen, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–1769 or (202) 377–3530.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that industrial belts from Israel are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice. We also determine that critical circumstances exist with respect to industrial belts from Israel.

Case History

On January 26, 1989, we made an affirmative preliminary determination (54 FR 5105, February 1, 1989). We received comments from petitioner and respondent.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from Israel currently provided for under Tariff Schedules of the United States Annotated (TSUSA) item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520; and currently classifiable under Harmonized Tariff Schedule (HTS) sub-headings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V–belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

Period of Investigation

The period of investigation is January 1, 1988, through June 30, 1988.

Fair Value Comparisons

To determine whether sales of industrial belts from Israel to the United States were made at less than fair value, we compared the United States price to the foreign market value. For our preliminary determination we used best information available as required by section 776(c) of the Act. As best information available, we took the highest margin contained in the petition for each of the product types for the period of investigation and calculated a simple average of those figures to determine a margin for the products under investigation. Since the respondent, Magam, failed to participate in the investigation, we are using the same methodology for calculating a margin for the final determination.

United States Price

United States price was based on the U.S. price information provided in the petition pursuant to section 772 of the Act.

Foreign Market Value

Foreign market value was based on home market prices provided in the

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petition pursuant to section 773 of the Act.

Critical Circumstances

On June 30, 1988, petitioner alleged that critical circumstances exist with respect to imports of the subject merchandise from Israel. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) there is a history of dumping in the United states or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since the respondent, Magam, failed to participate in the investigation, we are determining that critical circumstances for this respondent exist based on best information available. As best information available, we are assuming that imports of industrial belts have been massive over a relatively short period of time. In determining knowlege of dumping, the Department normally considers margins of 25% or more sufficient to impute knowledge of dumping under section 735(a)(3)(A) (*sene, e.g., Final Determination of Sales at Less Than Fair Valuie; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy* (52 FR 24198, June 29, 1987)). Therefore, in accordance with sections 735(a)(3)(A)(ii) and 735(a)(3)(B), we determine that critical circumstances exist with respect to Magam.

With respect to firms covered by the "All Other" rate, we have determined that imports of industrial belts have not been massive over a relatively short period of time and, therefore that critical circumstances do not exist.

Since we do not find that there have been massive imports of industrial belts from firms included in the "All Other" rate, we do not need to consider whether there is a history of dumping or whether importers of these products knew or should have known that the merchandise was being sold at less than fair value.

Interested Party Comments

Comment 1: Petitioner argues that, based on U.S. import statistics, IM 146 data, the Department should find that there have been massive imports of industrial belts over a relatively short period of time. Petitioner further asserts that an antidumping margin of 25% or more is sufficient to impute knowledge to the importer that the exporter was selling the merchandise at less than fair value.

DOC Position: Since the respondent, Magam, failed to participate in the investigation, as best information available, we are assuming that its imports of industrial belts from Israel have been massive over a relatively short period of time. Furthermore, we find that the best information available margin of 89.65% is sufficient to impute knowledge to the importer that the exporter was selling the merchandise at less than fair value.

With regard to firms covered by the "All Other" rate, see the "Critical Circumstances" section of this determination.

Comment 2: Petitioner argues that the Department's final determination should be based on the highest less-than-fair-value margin alleged in the petition.

DOC Position: The Department is applying the same methodology used in the preliminary determination to calculate the margins for the final determination. As best information available, we are taking the highest margin contained in the petition for each of the product types for the period of those figures to determine the margin for the products under investigation.

Comment 3: Petitioner asserts that in its scope of investigation at the preliminary determination, the Department listed only four HTS sub-headings. Petitioner requests that the Department list eighteen HTS sub-headings in its final determination.

DOC Position: We agree. The petition included nine TSUSA item numbers and four HTS sub-headings that petitioner believed would correspond to the TSUSA numbers when the HTS system became effective.

The Harmonized Tariff Schedule went into effect on January 1, 1989. Based on a concordance between TSUSA item numbers and HTS sub-headings listed in a January 1989 USITC publication, *The Continuity of Import and Export Trade Statistics After Implementation of the Harmonized Commodity Description and Coding System*, petitioner requested that the Department expand the four HTS sub-headings listed in our preliminary determination to eighteen sub-headings. We asked for comments from the interested parties in this investigation concerning industrial belts covered by the eighteen HTS sub-headings.

In our preliminary determinations, as now, we note that the written description of the products covered by the investigation is dispositive. The HTS numbers are provided for convenience and customs purposes es to the scope of the product coverage. We do not view providing additional HTS sub-headings as broadening the scope of this investigation.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from Israel, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of the preliminary determination in the Federal Register.

Normally, we would instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the estimated amounts by which the foreign market of subject merchandise from Israel exceeds the United States price as shown below. However, Artical VI.5 of the General Agreement on Tariffs and Trade provides that "no * * * product shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 722(d)(1)(D) of the Act which prohibits assessing dumping duties on the portion of the margin attributable to an export subsidy, since there is not reason to require a cash deposit or bond for the amount. Therefore, the bonding rate in this investigation will be reduced by the rate attributable to the export subsidies found in the concurrent countervailing duty determination. Accordingly, for duty deposit purposes, the bonding rate is 79.25% for Magam and all other manufacturers, producers, and exporters of the subject merchandise from Israel.

The cash deposit or bonding rate established in the preliminary determination shall remain in effect with respect to entries or withdrawals from warehouse made prior to the date of publication of this notice in the Federal Register. The suspension of liquidation will remain in effect until further notice.

The margin percentages are shown below:

Manufacturer/producer/exporter	Margin percentage
Magam	79.25
All others	79.25

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on industrial belts from Israel entered, or withdrawn for warehouse, for consumption on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

April 11, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-9252 Filed 3-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-802]

Final Determination of Sales at Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from Italy are being, or are likely to be, sold in the United States at less than fair value. We also determine that critical circumstances exist with respect to imports of industrial belts from Italy.

We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from Italy as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the publication of this notice, whether these imports materially injure, or threaten material injury to, the U.S. industry.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Loc Nguyen, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1769 or (202) 377-3530.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that industrial belts from Italy are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). The estimated margin is shown in the "Continuation of Suspension of Liquidation" section of this notice. We also determine that critical circumstances exist with respect to industrial belts from Italy.

Case History

On January 26, 1989, we made an affirmative preliminary determination (54 FR 5103, February 1, 1989). On January 26, 1989, Pirelli submitted revised computer tapes, and on February 21, 1989, Pirelli submitted a product concordance. On March 23, 1989, the Department held a public hearing. Interested parties submitted comments for the record.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date will be classified solely according to the appropriate HTS sub-headings. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from Italy provided for under Tariff Schedules of the United States Annotated (TSUSA) item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520; and currently classifiable under Harmonized Tariff Schedule (HTS) sub-headings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

Period of Investigation

The period of investigation is January 1, 1988, through June 30, 1988.

Fair Value Comparisons

To determine whether sales of industrial belts from Italy to the United States were made at less than fair value, we compared the United States price to the foreign market value. For our preliminary determination we used best information available as required by section 776(c) of the Act. As best information available, we took the highest margin contained in the petition for each of the product types and averaged those figures to determine a margin for the products under investigation. Since the respondent, Pirelli, failed to provide an adequate response, we are using the same methodology for calculating a margin for the final determination. *See* DOC Position to Comment 2.

United States Price

United States price was based on the U.S. price information provided in the petition pursuant to section 772 of the Act.

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Foreign Market Value

Foreign market value was based on home market prices provided in the petition pursuant to section 773 of the Act.

Critical Circumstances

On June 30, 1988, petitioner alleged that critical circumstances exist with respect to imports of the subject merchandise from Italy. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A) (i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Because the Department's import data pertaining to the subject merchandise are based on basket TSUSA categories, we requested specific data on shipments of the subject merchandise as the most appropriate basis for our determinations of critical circumstances. Furthermore, we believe that company-specific critical circumstances determinations better fulfill the objective of the critical circumstances provision of deterring specific companies that may try to increase imports massively prior to the suspension of liquidation.

We asked Pirelli to supply monthly volume shipment data from November, 1987 to January, 1989 in order for the Department to base the critical circumstances determination on company-specific data. Pirelli provided the Department with information concerning monthly import data.

Since the response of Pirelli in this investigation was not used in making fair value comparisons (*see* Comment 2), we are determining that critical circumstances for this respondent exist based on best information available. As best information available, and as a statement made against its own interest, we used the company-specific information that Pirelli provided to determine that critical circumstances exist. Comparing the seven months after the month in which the petition was filed to the seven months before and including the month in which the petition was filed, shipments by Pirelli increased 99%.

In determining knowledge of dumping, the Department normally considers margins of 25% or more sufficient to impute knowledge of dumping under section 735(a)(3)(A) (*see, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts thereof, Finished or Unfinished, from Italy* (52 FR 24198, June 29, 1987)). Therefore, in accordance with sections 735(a)(3)(A)(ii) and 735(a)(3)(B), we determine that critical circumstances exist with respect to Pirelli.

With respect to firms covered by the "All Other" rate, we determine that critical circumstances do not exist because we have determined that imports of industrial belts have not been massive over a relatively short period of time. Since we do not find that there have been massive imports of industrial belts from firms included in the "All Other" rate, we do not need to consider whether there is a history of dumping or whether importers of these products knew or should have known that the merchandise was being sold at less than fair value.

Interested Party Comments

Comment 1: Petitioner alleges that the Department's negative critical circumstances preliminary determination was in error because company-specific data was not used. The respondent urges the Department to make a negative critical circumstances determination with respect to Pirelli.

DOC Position: We have determined that imports of industrial belts from Italy have been massive over a relatively short period of time, as best information available. Furthermore, the dumping margin of 74.9% leads us to conclude that the importer knew or should have known that the exporter was selling the merchandise at less than its fair value.

With regard to firms covered by the "All Other" rate, see the "Critical Circumstances" section of this determination.

Comment 2: Petitioner argues that the Department's final determination should be based on the highest less-than-fair-value margin alleged in the petition.

Respondent argues that the Department should have accepted and verified the actual sales information submitted by Pirelli for purposes of the final determination because information submitted by Pirelli after the preliminary determination did not constitute a new response.

The respondent further alleges that, should the Department decide to use best information available, the best information available is not that used in the preliminary determination. Respondent suggests that, because of its good faith efforts to cooperate, best information available should be the lower of (1) the highest rate found for any participating respondent, or (2) an average of the lowest rates alleged in the petition for each category of belt actually sold by Pirelli, or (3) the weighted average of the rates alleged in the petition for all belts actually sold by Pirelli.

DOC Position: To determine whether sales of industrial belts from Italy were made at less than fair value, we compared the United States price to the foreign market value as discussed in the *Fair Value Comparisons* section of this notice. For the reasons cited below we have determined, in accordance with section 776(c) of the Act, that the use of best information available is appropriate for the subject merchandise from Italy. Section 776(c) requires the Department to use best information available "whenever a party or any other person refuses or is unable to produce information requested in a timely manner or in the form required, or otherwise significantly impedes an investigation."

Twenty-six days after the preliminary determination Pirelli submitted extensive corrections to its earlier submissions. Despite its earlier statements that all U.S. sales had identical matches, Pirelli's submission included a product concordance matching certain U.S. sales with sales of "similar" merchandise in the home market. Even with this information, only a little over 60% by volume and value of the subject merchandise sold by Pirelli in the U.S. had a match in the home market.

Given the significance of this new information, the Department determined that the submission by Pirelli was so substantial that it constituted a new response. While the Department normally allows minor revisions to questionnaire responses after the preliminary determination and during verification, it is our well established policy not to accept new responses that are filed after the preliminary determination. Moreover, to accept this new information at such a late point in the investigation would have denied the petitioner and other interested parties their statutorily-mandated opportunity to comment on the new response and otherwise to participate in this investigation with regard to Pirelli.

While the Department may differentiate between cooperative and non-cooperative firms in assessing best information available, we were not able to adopt any of the alternatives suggested by respondent in this case. There were no other responding firms in Italy and the other alternatives would require use of unverified information about products actually sold by Pirelli.

Comment 3: Petitioner asserts that in its scope of investigation at the preliminary determination, the Department listed only four HTS sub-headings. Petitioner requests that the Department list eighteen HTS sub-headings in its final determination.

DOC Position: We agree. The petition included nine TSUSA item numbers and four HTS sub-headings that petitioner believed would correspond to the TSUSA numbers when the HTS system became effective.

The Harmonized Tariff Schedule went into effect on January 1, 1989. Based on a concordance between TSUSA item numbers and HTS sub-headings listed in January 1989 USITC publication, *The Continuity of Import and Export Trade Statistics after Implementation of the Harmonized Commodity Description and Coding System*, petitioner requested that the Department expand the four HTS sub-headings listed in our preliminary determination to eighteen sub-headings.

We asked for comments from the interested parties in this investigation concerning industrial belts covered by the eighteen HTS sub-headings. We have received no objections to the petitioner's request.

In our preliminary determinations, as now, we note that the written discription of the products covered by the investigation is dispositive. The HTS numbers are provided for convenience and customs purposes as to the scope of the product coverage. We do not view providing additional HTS sub-headings as broadening the scope of the investigation.

Comment 4: V. B. Splaun & Son, an importer, believes it is inappropriate to include nylon core flat belts imported from Italy in the scope of this investigation. V. B. Splaun & Son requests that these nylon-core belts be excluded from this investigation.

DOC Position: The information received was insufficient to determine whether the merchandise is properly excluded from the scope of this investigation. In addition, the information received from these firms arrived too late to be analyzed and verified for this final determination. If the final determination of the ITC results in an antidumping duty order on this merchandise, and upon receipt of proper documentation, the Department may conduct a scope ruling procedure concerning the products imported by these firms.

Continuation of Suspension of Liquidation: We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from Italy, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of the notice of the preliminary determination in the Federal Register. The U.S. Customs Services shall continue to require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Italy exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Pirelli Trasmissioni Industriali, S.p.A.	74.90
All others	74.90

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on industrial belts from Italy entered, or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-9253 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-807]

Final Determination of Sales of Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We determine that industrial belts and components and parts thereof, whether cured or uncured (hereinafter referred to as industrial belts) from Japan are being, or are likely to be, sold in the United States at less than fair value. We also determine that critical circumstances exist with respect to import of industrial belts from Japan.

We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from Japan as described in the "Continuation of Suspension of Liquidation" section if this notice. The ITC will determine, within 45 days of the publication of this notice, whether these imports materially injure, or threaten material injury to, the U.S. industry.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Loc Nguyen, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1769 or (202) 377-3530.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that industrial belts from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). The estimated margin is shown in the "Continuation of Suspension of Liquidation" section of this notice. We also determine that critical circumstances exist with respect to industrial belts from Japan.

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Case History

On January 26, 1989, we made an affirmative preliminary determination (54 FR 5114, February 1, 1989). We received comments from petitioner. We have received a number of requests for exclusion of merchandise from the scope of this final determination (*see* comment number 4).

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from Japan currently provided for under Tariff Schedules of the United States Annotated (TSUSA) item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520; and currently classifiable under Harmonized Tariff Schedule (HTS) sub-headings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber of plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (*i.e.*, closed loop) or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment power by internal combustion engines, including trucks, tractors, buses, and lift trucks.

Period of Investigation

The period of investigation is January 1, 1988, through June 30, 1988.

Fair Value Comparisons

To determine whether sales of industrial belts from Japan to the United States were made at less than fair value, we compared the United States price to the foreign market value. For our preliminary determination we used best information available as required by section 776(c) of the Act. As best information available, we took the highest margin contained in the petition for each of the product types for the period of investigation and calculated a simple average of those figures to determine a margin for the products under investigation. Since the respondent, Bando, failed to participate in the investigation, we are using the same methodology for calculating a margin for the final determination.

United States Price

United States price was based on the U.S. price information provided in the petition pursuant to section 772 of the Act.

Foreign Market Value

Foreign market value was based on home market prices provided in the petition pursuant to section 773 of the Act.

Critical Circumstances

On June 30, 1988, petitioner alleged that critical circumstances exist with respect to imports of the subject merchandise from Japan. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) the person whom or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since the respondent, Bando Chemical Industries (Bando), failed to participate in the investigation, we are determining that critical circumstances for this respondent exist based on best information available information. As best information available, we are assuming that imports of industrial belts have been massive over a relatively short period of time. In determining knowledge of dumping, the Department normally considers margins of 25% or more sufficient to impute knowledge of dumping under section 735(a)(3)(A) (*see, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Therefor, Finished or Unfinished, from Italy* (52 FR 24198, June 29, 1987)). Therefore, in accordance with sections 735(a)(3)(A)(ii) and 735(a)(3)(B), we determine that critical circumstances exist with respect to Bando.

With respect to firms covered by the "All Other" rate, we have determined that imports of industrial belts have not been massive over a relatively short period of time and, therefore, that critical circumstances do not exist.

Since we do not find that there have been massive imports of industrial belts from firms included in the "All Other" rate, we do not need to consider whether there is a history of dumping or whether importers of these products know or should have known that the merchandise was being sold at less than fair value.

Interested Party Comments

Comment 1: Petitioner argues that, based on U.S. import statistics, IM 146 data, the Department should find that there has been massive imports of industrial belts over a relatively short period of time. Petitioner further asserts that an antidumping margin of 25% or more is sufficient to impute knowledge to the importer that the exporter was selling the merchandise at less than fair value.

DOC Position: Since the respondent, Bando, failed to participate in the investigation, as best information available, we are assuming that its imports of industrial belts from Japan have been massive over a relatively short period of time. Furthermore, we find that the best information available margin of 93.16% is sufficient to impute knowledge to the importer that the exporter was selling the merchandise at less than fair value.

With regard to firms covered by the "All Other" rate, see the "Critical Circumstances" section of this determination.

Comment 2: Petitioner argues that the Department's final determination should be based on the highest less-than-fair-value margin alleged in the petition.

DOC Position: The Department is applying the same methodology used in the preliminary determination to calculate the margins for the final determination. As best information available, we are taking the highest margin contained in the petition for each of the product types for the period of investigation and then calculating a simple average of those figures to determine the margin for the products under investigation.

Comment 3: Petitioner asserts that in its scope of investigation at the preliminary determination, the Department listed only four HTS sub-headings. Petitioner requests that the Department list eighteen HTS sub-headings in its final determination.

DOC Position: We agree. The petition included nine TSUSA item numbers and four HTS sub-headings that petitioner believed would correspond to the TSUSA numbers when the HTS system became effective.

The Harmonized Tariff Schedule went into effect on January 1, 1989. Based on a concordance between TSUSA item numbers and HTS sub-headings listed in a January 1989 USITC publication, *The Continuity of Import and Export Trade Statistics After Implementation of the Harmonized Commodity Description and Coding System*, petitioner requested that the Department expand the four HTS sub-headings listed in our preliminary determination to eighteen sub-headings.

We asked for comments from the interested parties in this investigation concerning industrial belts covered by the eighteen HTS sub-headings.

In our preliminary determinations, as now, we note that the written description of the products covered by the investigation is dispositive. The HTS numbers are provided for convenience and customs purposes as to the scope of the product coverage. We do not view providing additional HTS sub-headings as broadening the scope of this investigation.

Comment 4: Nitta International and V.B. Splawn & Son, importers, believe it is inappropriate to include nylon core flat belts imported from Japan in the scope of this investigation. They request that these nylon-core belts be excluded from this investigation.

DOC Position: The information received was insufficient to determine whether the merchandise is properly excluded from the scope of this investigation. In addition, the information received from these firms arrived too late to be analyzed and verified for this final determination. If the final determination of the ITC results in an antidumping duty order on this merchandise, and upon receipt of proper documentation, the Department may conduct a scope ruling procedure concerning the products imported by these firms.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from Japan, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of the preliminary determination in the Federal Register. The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Japan exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The average of the highest margin for each of the product types listed in the petition for the period of investigation is as follows:

Manufacturer/producer/exporter	Margin percentage
Bando	93.16
All others	93.16

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on industrial belts from Japan entered, or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 11, 1989.

[FR Doc. 89-8254 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-801]

Final Determination of Sales at Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value. We also determine that critical circumstances exist with respect to imports of industrial belts from the Republic of Korea.

We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from the Republic of Korea as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the publication of this notice, whether these imports materially injure, or threaten material injury to, the U.S. industry.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Loc Nguyen, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1769 or (202) 377-3530.

SUPPLEMENTAL INFORMATION:

Final Determination

We determine that industrial belts from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C 1673d(a)) (the Act). The estimated margins are shown in the "Continuation of Suspension of

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Liquidation" section of this notice. We also determine that critical circumstances exist with respect to industrial belts from the Republic of Korea.

Case History

On January 26, 1989, we made an affirmative preliminary determination (54 FR 5116, February 1, 1989). On March 13, 1989, Dunlop Belting Products, Ltd. submitted some pricing data concerning their imports of industrial belts from Dongil Rubber Belting Co. (Dongil).

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from the Republic of Korea currently provided for under Tariff Schedules of the United States Annotated (TSUSA) item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520; and currently classifiable under Harmonized Tariff Schedule (HTS) sub-headings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7328.20.00.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

Period of Investigation

The period of investigation is January 1, 1988, through June 30, 1988.

Fair Value Comparisons

To determine whether sales of industrial belts from the Republic of Korea to the United States were made at less than fair value, we compared the United States price to the foreign market value. For our preliminary determination we used best information available as required by section 776(c) of the Act. As best information available, we took the highest margin contained in the petition for each of the product types for the period of investigation and calculated a simple average of those figures to determine a margin for the products under investigation. Since the respondents, Dongil, failed to participate in the investigation, we are using the same methodology for calculating a margin for the final determination.

United States Price

United States price was based on the U.S. price information provided in the petition pursuant to section 772 of the Act.

Foreign Market Value

Foreign market value was based on home market prices provided in the petition pursuant to section 773 of the Act.

Critical Circumstances

On June 30, 1988, petitioner alleged that critical circumstances exist with respect to imports of the subject merchandise from the Republic of Korea. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since the respondent, Dongil, failed to participate in the investigation, we are determining that critical circumstances for this respondent exist based on best information available. As best information available, we are assuming that imports of industrial belts have been massive over a relatively short period of time. In determining knowledge of dumping, the Department normally considers margins of 25% or more, sufficient to impute knowledge of dumping under section 735(a)(3)(A) (*see, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy* (52 FR 24198, June 29, 1987)). Therefore, in accordance with sections 735(a)(3)(A)(ii) and 735(a)(3)(B), we determine that critical circumstances exist with respect to Dongil.

With respect to firms covered by the "All Other" rate, we have determined that imports of industrial belts have not been massive over a relatively short period of time and, therefore, that critical circumstances do not exist.

Since we do not find that there have been massive imports of industrial belts from other firms included in the "All Other" rate, we do not need to consider whether there is a history of dumping or whether importers of these products knew or should have known that the merchandise was being sold at less than fair value.

Interested Party Comments

Comment 1: Petitioner argues that, based on U.S. import statistics, IM 146 data, the Department should find that there have been massive imports of industrial belts over a relatively short period of time. Petitioner further asserts that an antidumping margin of 25% or more is sufficient to impute knowledge to the importer that the exporter was selling the merchandise at less than fair value.

Doc Postion: Since the respondent, Dongil, failed to participate in the investigation, as best information available, we are assuming that its imports of industrial belts from the Republic of Korea have been massive over a relatively short period of time. Furthermore, we find that the best information available margin of 64.37% is sufficient to impute knowledge to the importer that the exporter was selling the merchandise at less than fair value.

With regard to firms covered by the "All Other" rate, see the "Critical circumstances" section of this determionation.

Comment 2: Petitioner argues that the Department's final determination should be based on the highest less-than-fair-value margin alleged in the petition.

DOC Postion: The Department is applying the same methodology used in the preliminary determination to calculate the margins for the final determination. As best information available, we are taking the highest margin contained in the petition for each of the product types the period of investigation and then calculating a simple average of those figures to determine the margin for the products under investigation.

Comment 3: Petitioner asserts that in its scope of investigation at the preliminary determination, the Department listed only four HTS sub-headings. Petitioner requests that the Department list eighteen HTS sub-headings in its final determination.

DOC Position: We agree. The petition included nine TSUSA item numbers and four HTS sub-headings that petitioner believed would correspond to the TSUSA numbers when the HTS system became effective.

The Harmonized Tariff Schedule went into effect on January 1, 1989. Based on a concordance between TSUSA item numbers and HTS sub-headings listed in a January 1989 USITC publication, *The Continuity of Import and Export Trade Statistics After Implementation of the Harmonized Commodity Description and Coding System*, petitioner requested that the Department expand the four HTS sub-headings listed in our preliminary determination to eighteen sub-headings.

We asked for comments from the interested parties in this investigation concerning industrial belts covered by the eighteen HTS sub-headings.

In our preliminary determinations, as now, we note that the written description of the products covered by the investigation is dispositive. The HTS numbers are provided for convenience and customs purposes as to the scope of the product coverage. We do not view providing additional HTS sub-headings as broadening the scope of this investigation.

Comment 4: On March 13, 1989, Dunlop Belting Products, Ltd. submitted pricing data concerning its imports of industrial belts from Dongil. Dunlop requests the Department to weight average the data relied on in the petition as best available information in calculating the fair value comparisons.

DOC Position: We have continued to take a simple average of the margins contained in the petition. It would not be appropriate, in our view, to use data submitted by Dunlop because it was not verified and we have no way of knowing whether it represents the totality of imports from Dongil. See our position to comment 2 concerning our methodology for making margin calculations in this determination.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from the Republic of Korea, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of the preliminary determination in the Federal Register. The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from the Reupblic of Korea exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The average of the highest margin for each of the product types listed in the petition for the period of investigation is as follows:

Manufacturer/producer/exporter	Margin percentage
Dongil	64.37
All others	64.37

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on industrial belts from the Republic of Korea entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Timothy N. Bergan,
Acting Assistant Secretary
April 11, 1989.

[FR Doc. 89-9255 Filed 4-17-89; 8:45 am]
BILLING CODE 3510-DS-M

[A-559-802]

Final Determination of Sales at Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from Singapore

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from Singapore are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed The U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from Singapore as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the publication of this notice, whether these imports are materially injuring, or are threatening material injury to, a United States industry. We also determine that critical circumstances do not exist with respect to imports of industrial belts from Singapore.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen or Karmi Leiman, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3530 (Nguyen) or (202) 377-8371 (Leiman).

SUPPLEMENTAL INFORMATION:

Final Determination

We determine that industrial belts from Singapore are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act).

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The estimated weighted-average margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On January 26, 1989, we made an affirmative preliminary determination (54 FR 5110, February 1, 1989). The following events have occurred since the publication of that notice.

The questionnaire responses from Mitsuboshi Belting (Singapore) Pte. Ltd. (MBS), and its subsidiaries, Mitsuboshi Belting Ltd. of the United States (MBL USA) and Mitsuboshi Belting Ltd. of Canada (MBL Canada), were verified in Singapore from February 22–24, 1989, in Calgary, Canada from February 13–15, and in Lombard, Illinois from February 16–17, 1989.

On March 24, 1989, the Department held a public hearing. Interested parties also submitted comments for the record in their pre-hearing briefs of March 17, 1989, and in their post-hearing briefs of March 31, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS subheadings. The HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts and components and parts thereof, whether cured or uncured, provided for under *Tariff Schedules of the United States Annotated* (TSUSA) item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510, and 773.3520 and currently classifiable under HTS subheadings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

Period of Investigation

The period of investigation (POI) is January 1, 1988, through June 30, 1988.

Such or Similar Comparisons

For MBS, pursuant to section 771(16)(C) of the Act, we established one category of "such or similar" merchandise: V-belts.

Fair Value Comparisons

To determine whether sales of industrial belts from Singapore to the United States were made at less than fair value, we compared the United States price to the foreign market value, pursuant to sections 772 and 773 of the Act, respectively.

United States Price

For those sales by MBS that were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we used purchase price as the basis for determining United States price. For these sales, the Department determined that purchase price was the most appropriate indicator of United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent;
2. This was the customary commercial channel for sales of this merchandise between the parties involved; and
3. The related selling agent located in the United States acted only as the processor of sales-related documentation and a communication link with the unrelated U.S. buyers.

Where all the above elements are met, we regard the routine selling functions of the exporter as having been merely relocated geographically from the country of exportation to the United States, where the sales agent performs them. Whether these functions are done in the United States or abroad does not change the substance of the transactions or the functions themselves.

In instances where merchandise is ordinarily diverted into the related U.S. selling agent's inventory, we regard this factor as an important distinction because it is associated with a materially different type of selling activity than the mere facilitation of a transaction such as occurs on a direct shipment to an unrelated U.S. purchaser. In situations where the related party places the merchandise into inventory, additional storage and financial carrying costs are commonly incurred. We use the inventory test because it can be readily understood and applied by respondents who must respond to Department questionnaires in a short period of time.

We calculated purchase price based on the packed, c.i.f., duty paid prices to unrelated purchasers in the United States. We made deductions from the purchase price, where appropriate, for foreign inland freight, U.S. and foreign brokerage and handling charges, ocean freight, marine insurance, U.S. duty, and U.S. inland freight, pursuant to section 772(d)(2)(A) of the Act.

For those sales placed into inventory, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act, since the first sale to an unrelated customer was made after importation. We calculated ESP based on packed, ex-warehouse or delivered, duty-paid prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, U.S. and foreign brokerage and handling charges, ocean freight, marine insurance, U.S. duty, U.S. inland freight, discounts, rebates, repacking, commissions, credit expenses, and other indirect selling expenses.

Foreign Market Value

We verified that home market sales of MBS are less than five percent of its third country sales and have, therefore, selected Canada as the appropriate third country, in accordance with § 353.5(c) of our regulations.

Because MBS is a subsidiary of Mitsuboshi Belting Ltd. of Japan, a producer of such or similar belts, petitioner requested that we invoke the rule under section 773(d) of the Act for calculating foreign market value for certain multinational corporations. The multinational provision allows foreign market value to be determined by reference to the foreign market value of "such or similar merchandise" sold by a related party in a country other than the country of exportation. Use of the provision requires the Department to determine that the following three conditions are met:

(1) The production facilities in the country of exportation are owned or controlled by a corporation which also owns or controls facilities for the production of such or similar merchandise located in another country or countries;

(2) Sales of such or similar merchandise in the country of exportation are nonexistent or inadequate as a basis of comparison with sales of the merchandise to the United States;

(3) The foreign market value of such or similar merchandise produced in one or more facilities outside the country of exportation is higher than the foreign market value of such or similar merchandise produced in facilities in the country of exportation.

The first two conditions of section 773(d) are met. However, petitioner's allegation with respect to section 773(d)(3) is deficient. Where Japan-Canada price comparisons involved identical merchandise, export prices to Canada were found to be significantly higher than Japanese home market prices. Where price comparisons involved non-identical merchandise, it was not apparent to the Department from information submitted by the petitioner that the price comparisons were based on "similar" merchandise. For these reasons, we did not initiate the multinational provision.

As stated above, it was determined that Singapore's home market was not viable for comparison purposes. Therefore, in accordance with section 773(a) of the Act, we calculated foreign market value based on delivered, packed, third country (Canada) prices to unrelated purchasers. We made deductions, where appropriate, for Singapore and Canadian inland freight, Singapore and Canadian brokerage and handling charges, ocean freight, marine insurance, Canadian duty, discounts and rebates.

For foreign market value compared with U.S. purchase price we made adjustments under § 325.15 of our regulations for differences in circumstances of sale for commissions and credit expenses in the U.S. and Canadian markets.

For foreign market value compared with ESP, we deducted credit expenses and commissions, in accordance with § 353.15(c). We also deducted indirect selling expenses incurred on third country sales up to the amount of indirect selling expenses incurred on sales in the U.S. market, in accordance with § 353.15(c) of our regulations.

In order to adjust for differences in packing between the two markets, we deducted canadian packing costs from foreign market value and added U.S. packing costs.

Currency Conversion

For comparisons involving purchase price transactions, we used the official exchange rates in effect on the dates of sale, in accordance with § 353.56(a)(1) of our regulations. For comparisons involving ESP transactions, we used the official exchange rates in effect on the dates of sale, in accordance with section 773(a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at the rates certified by the Federal Reserve Bank of New York.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from Singapore. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Because the Department's import data pertaining to the subject merchandise are based on TSUSA basket categories, for purposes of the final determination, we used specific data on shipments of the subject merchandise as the most appropriate basis for our determination of critical circumstances. Furthermore, we believe that company-specific critical circumstances determinations better fulfill the objective of the critical circumstances provision of deterring companies from increasing imports massively prior to the suspension of liquidation. We asked MBS to supply monthly volume shipment data from November 1987 to January 1989 in order for the Department to base the critical circumstances determination on company-specific data. We verified the information submitted by MBS.

Based on our analysis of respondent's shipment data, we do not find that there have been massive imports of industrial belts from Singapore. Consequently, the requirements of section 735(a)(3)(B) have not been met and critical circumstances do not exist with respect to imports of industrial belts from Singapore.

Verification

We verified the information used in making our final determination in this investigation in accordance with section 776(b) of the Act. We used standard verification procedures, including examination of relevant accounting records and original source documents provided by the respondents.

Interested Party Comments

Comment 1: Petitioner asserts that the Department discovered a significant number of discrepancies with the respondent's third-country data or problems with the methodologies employed. Therefore, the Department should not utilize respondent's submission, but use best information available.

Respondent argues that there is no basis for disallowing corrections to data made during verification. Respondents are required to prepare and submit voluminous data in a very short period of time, so the existence of clerical mistakes in the response can be expected. Respondent argues that petitioner's position, that no corrections should be allowed at or subsequent to verification, would prevent the Department from making a fair value determination based on accurate information.

DOC Position: We agree with respondent. A careful review of past antidumping cases, *Antifriction Bearings from the FRG* (which has been published in the Federal Register), *Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina* (54 FR 13913, April 6, 1989), *Certain Granite Products from Italy* (53 FR 27187, July 19, 1988), and *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy* (52 FR 24198, June 29, 1987) reveals that the facts involved in this case more closely resemble situations where the Department used responses rather than rejecting them due to verification corrections and new submissions. The minor revisions found at verification did not substantially exceed the methodological problems and mathematical errors commonly found during other investigations in which the Department used the response for purposes of the final determination. Furthermore, in both *Antifriction Bearings from the FRG* and *Tapered Roller Bearings and Parts Thereof,*

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Finished or Unfinsihed, from Italy, certain information contained in the response could not be supported at verification. This is not the situation in this case. All data has been satisfactorily verified using standard verification practices and techniques.

Comment 2: Petitioner alleges that based on the company-specific data submitted by MBS, critical circumstances clearly exist with respect to imports of the subject merchandise from Singapore. Petitioner further argues that it has obtained additional evidence that MBL is increasing its U.S. inventory levels of industrial belts. Hence, for purposes of the final determination, the Department should render an affirmative critical circumstances finding.

Respondent argues that, contrary to petitioner's assertions, the facts of this case do not support an affirmative determination regarding critical circumstances. Respondent argues that the Department should compare the six month periods before and after the petition was filed rather than applying the three-month periods advocated by petitioner in this case.

DOC Response: In examining whether critical circumstances exist, it has been the Department's policy in recent cases to apply the principle of capturing shipment data up to the point of the preliminary determination. In this case, the preliminary determination was made in February 1989; therefore, we have compared the period between November 1987-June 1988 with the period between July 1988-January 1989. See section on *Critical Circumstances.*

Comment 3. Petitioner argues that the Department should heve calculated foreign market value using the special rule for multinational corporations, 19 U.S.C. 1677b(d). Petitioner asserts that contrary to the Department's finding in the preliminary determination, it has provided sufficient price information to establish that the foreign market value of MBS Singapore's belts sold in Canada is lower than the foreign market value of "such and similar" merchandise produced and sold by MBL Japan in Japan, as required by 19 U.S.C. 1677b(d)(3). Specifically, petitioner argues that the Japan-Canada price comparison was based on "similar" merchandise. Petitioner states it has shown that the LA and LB belts sold by MBL in Japan are "such or similar" to the fractional horse power (FHP) belts (3L, 4L, and 5L) exported by MBS Singapore to the United States and Canada. Petitioner further argues that, in the case of industrial belts from Taiwan, the Department preliminarily determined that SM, SA, and SB belts manufactured by Hsing Kwo in Taiwan were "similar" merchandise to FHP belts (3L, 4L, and 5L) exported by Hsing Kwo to the U.S. The Department, therefore, should render a consistent decision in this investigation by concluding MBS's 4L, 5L FHP sold in the U.S. and Canada are "similar" to the LA and LB series sold by MBL in Japan. In rendering this decision, the Department must conclude that petitioner has satisfied the requirements of 19 U.S.C. 1677b(d)(3) by establishing that MBL's prices for belts sold in Japan were significantly higher than the prices for similar belts sold by MBS in Canada.

Respondents argue that 3L, 4L, and 5L belts are not "similar" to the LA and LB series. Bando's SA and SB series are similar to MBL's LA and LB series belts, and in fact compete in the same end-user market in Japan, *i.e.,* agricultural equipment. Furthermore, petitioner stated in the related investigation of industrial belts from Japan that SA and SB belts produced in Japan by Bando were not similar to the 3L, 4L and 5L series, and, therefore, the petitioner should be bound by its allegations.

DOC Position: The petitioner has not satified the requirements of 19 U.S.C. 1677b(d)(3). In the petition a concordance compares the models of FHP belts sold in the U.S. by MBL and Bando with those sold by the same companies in Japan. While, the petition indicates that the 4L and 5L series belts sold by MBS in the U.S. and Canda are in concordance with the SA and SB belts of Bando and the LA and LB belts of MBL sold in Japan, the Department made a preliminary determination that the Japan-Canada price comparison was not based on "similar" merchandise. Petitioner has failed to provide any new information showing the LA/LB series to be similar to the 4L/5L series of belts. Specifically, petitioner has failed to explain its inconsistent allegation in the investigation of Japanese industrial belts, that SA/SB belts are not similar to 4L/5L belts. In addition, petitioner has failed to refute the claim made by respondent that SA/SB are dissimilar to 4L/5L belts. Therefore, the issue of whether LA/LB and 4L/5L are similar remains unresolved. It is the petitioner's obligation to provide the Department with a reasonable basis to believe that the foreign market value of such or similar merchandise sold by MBL in Japan are higher than the foreign market value of similar merchandise sold by MBS in Canada. The fact that in the case of industrial belts from Taiwan, the Department made differences in merchandise adjustments between SM, SA, and SB belts manufactured by Hsing Kwo in Taiwan and FHP belts (3L, 4L, and 5L) exported by Hsing Kwo to the U.S. is irrelevant. Petitioner has not supplied information establishing the comparability of industrial belts between different producers in different countries.

Comment 4: Petitioner argues that 19 U.S.C. 1677b(d) and the legislative history do not require the petitioner to produce information pertaining to differences between the cost of merchandise sold in the country of exportation and the merchandise sold outside the country of exportation. Petitioner states that such adjustments are discretionary and that, in fact, it has never alleged that any adjustments should be made. Accordingly, the lack of information with respect to price adjustments for differences in merchandise or cost of production data does not provide a sufficient basis for the Department to refrain from invoking the special statutory rule for multinational corporations. Petitioner argues that if the Department believes that such adjustments are necessary, publicly available information can be utilized.

DOC Position: Within the context of this proceeding, section 773(d)(3) requires that the foreign market value of such or similar merchandise produced by Mitsuboshi in Japan be higher than the foreign market value of such or similar merchandise produced in Singepore (and exported to Canada). This requirement is more than just a simple price comparison. A difference between Japanese home market prices and export prices to Canada does not imply a difference between the respective foreign market values. If the price differential is wholly attributable to differences in merchandise, the foreign market values will be equal. Similarly, equal prices do not imply equal foreign market values. Therefore, a comparison of prices unadjusted for differences in merchandise does not constitute sufficient support for an allegation made with respect to 773(d)(3).

Comment 5: Petitioner argues that the Department should not make any adjustments to third country prices with regard to transportation charges, because the reported per unit movement charges are average costs based on the incorrect allocation of expenses incurred in a prior period. Petitioner argues that in order for the agency to accept the reasonebleness of respondent's methodology, respondent should be required to demonstrate: (1) that once merchandise is sold (*i.e.,* withdrawn from the U.S. subsidiary's inventory), the subsidiary has no means for tracking that particular merchandise back to the point at which it was received into inventory; and (2) that documentary evidence exists which shows that expenses of the prior period advocated by the respondent are the expenses that are directly related to the sales under consideration.

Respondent argues that what petitioner calls the use of "historical data" is not "historical" at all. Respondent argues that in any investigation of sales of fungible merchandise from an importer's inventory, the use of costs incurred outside the POI is necessary. Since the importer, by definition, does not manufacture the merchandise but imports it from a foreign country, in order to have the merchandise on hand for sales from inventory, the importer must have laid the merchandise into inventory at a date which preceded the date of sale. In determining what costs to use for expenses prior to the sale, the question is, therefore, at what period was the merchandise which was sold put into inventory. The best method for determining this period is the use of financial accounting records. An examination of MBL Canada's and MBL USA's financial records, performed by the Department at verification, reveals that the average turnover period for merchandise put in inventory in both countries is as stated by the companies. This methodology has been used consistently on both sides of the calculations for out-of-inventory sales in both markets. Respondent argues that the use of data from the period of investigation for the calculation of movement expenses from Singapore to the warehouse would not provide data on the belts sold from inventory on dates during that period. The transit time alone from Singapore to warehouse is at least a month and may be as much as six weeks. The belts must then be added to inventory, where they are treated as being completely fungible with other belts of the same description. Such fungible merchandise is completely different from television sets, large machinery, or automobiles which have serial numbers and may be sold and inventoried on that basis. For merchandise such as belts, there is simply no alternative but the first-in-first-out method used here. The Department has accepted this methodology before and accepted it in the preliminary determination in this case and verified it. At this point in the investigation, the Department has given respondents no indication that this methodology is incorrect.

DOC Position: We agree with respondent. Respondent has not used "historical" expenses related to past sales as a proxy for expenses related to sales during the POI, as is done when estimating warranty expenses. Instead, respondent has reasonably estimated the expenses incurred on belts sold during the POI. Therefore, we are accepting respondent's claimed expense for our final determination.

Comment 7: Petitioner argues that any claim for a downward adjustment to foreign market value for freight-out expenses (freight from MBL Canada's warehouse to the ultimate end-user) should be rejected because the allocation is based on total inland freight expenses, *i.e.,* expenses which are attributable to merchandise outside the scope of the investigation as well as to the sales under consideration. Petitioner asserts that such expenses cannot be tied directly to the merchandise subject to investigation and, therefore, there is no way to ensure that the reported per pound freight expenses are accurately reflective of the actual freight-out expenses on the subject merchandise.

DOC Position: We disagree. In most cases, when companies manufacture and/or sell more than one product, shipments are usually a mix of many products. It is almost impossible for these companies to segregate freight expenses of one product from freight expenses of another product in the same shipment. Thus, their accounting records only reflect total freight expenses. We verified that this is true for MBS Singapore, MBL USA, and MBL Canada. It is our policy to allow allocations based on total expenses over total sales in these cases.

Furthermore, if we disallow the adjustment for the Canadian market, we would also have to disallow the adjustment for the U.S. market, because the accounting records are kept exactly the same way in both countries and the calculation methodology used for U.S. sales is the same as that used for Canadian sales. Petitioner has not argued that the adjustment in the U.S. should be disallowed.

Comment 8: Petitioner argues that no deduction from foreign market value for cash discounts should be permitted, because verification shows that in several instances MBS incorrectly reported that the customer took early payment discounts even when the customer did not do so.

DOC Position: We checked all sales made to one customer and found that respondent correctly reported the discount given. We also checked twelve other sales at random and found that the actual discounts on nine sales were reported correctly. The discounts on two sales were quite a bit higher than was reported in the response, and there was one sale on which no discount was taken, although respondent reported giving a two percent discount. Because the misreported discounts were relatively few in number and involved errors in both directions, we are accepting respondent's claim for discounts.

Comment 9: Petitioner states that the revised short-term borrowing rate submitted by MBL Canada at verification constitutes "new information" and should be utilized, if at all, only as "best information otherwise available." Moreover, the revised figure itself is based on data derived from the period May 1987 to June 1988 and not during the period of investigation. *International Financial Statistics* show that lending rates in Canada during the POI were, on average, 10.09%. In the absence of period specific data, the Department should utilize the IMF data for its final determination.

DOC Response: We disagree. We verified that the revised short-term borrowing rate submitted is the actual rate paid by MBL Canada. The revised rate submitted was only slightly different from the estimated rate provided in the response.

Comment 10: Petitioner argues that the Department should disallow indirect selling expenses and inventory carrying costs for Canadian sales because MNBL Canada used expenses related to an earlier period to calculate these expenses for the POI and because MBL provided revised data, which is "new information," at verification.

Respondent argues that data concerning MBL Canada's indirect selling expenses were provided to the Department and to petitioner's counsel under Administrative Protective Order on January 4, 1989, well in advance of verification. Under these facts, petitioner is completely wrong in asserting that the information on MBL Canada's indirect selling expenses submitted at verification amounts to new information. On the contrary, the problems were called to the Department's attention and the corrected information was presented at the time most appropriate for its consideration.

DOC Response: We agree with respondent. We verified that the revised information submitted at vertification was correct.

Comment 11: Petitioner alleges that MBS did not provide movement charges

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related to U.S. sales on a transaction-specific basis. MBS incorrectly calculated these expenses based on aggregate expenses. Furthermore, MBS made incorrect assertions with respect to ocean freight and marine insurance. Moreover, certain charges were reported in the wrong currencies, a fact which undermines the overall credibility of MBS's responses.

DOC Position: We disagree. We have verified all information regarding movement charges used in this determination. See also DOC response to Comment 7.

Comment 12: Petitioner claims that MBS reported per unit duty expenses on U.S. and Canadian sales using an incorrect methodology. As best information available, the DOC should apply the *ad valorem* duty rate listed in the TSUSA schedules to the imputed entered customs value, which would be the gross price less any U.S. movement charges.

DOC Position: In the original responses, both MBL USA and MBL Canada calculated duty expenses based on weight. At verification, we checked customs entry forms and requested that the two companies recalculate their duty expenses based on entry value for each product. They have done so and provided us with customs documents upon which these calculations were based. We have used these recalculated expenses for our final determination.

Comment 13: Petitioner argues that MBS did not report per unit packing expenses on transaction-specific charges and that respondent incorrectly aggregated the packing expenses and derived a POI average. Petitioner argues that the Department should apply the highest shipment-specific unit charge to all U.S. purchase price sales.

DOC Position: We disagree. We verified that MBS accurately reported Canadian and U.S. packing costs.

Comment 14: Petitioner asserts that, for purposes of the final determination, the Department should apply the discount discovered at verification to the appropriate ESP transactions.

DOC Position: We have done so.

Comment 15: Petitioner claims that the Department should apply the cash discount given to several ESP customers which was discovered during verification to all U.S. purchase price sales as well, since it is unclear from the verification report whether such expenses are exclusively related to ESP transactions.

DOC Position: We disagree. We found no indication at verification in Singapore that the cash discount given by MBL USA to its customers was given by MBS to its direct sale customers.

Comment 16: Petitioner argues that since the information given for commissions paid to the commision agent on direct sales made through MBL USA is not verified, the Department should use as best information available the highest rate reported in MBS's response.

DOC Response: We disagree. The statute does not require that we verify all information provided. Since we verified that the commissions paid by MBS on Canadian purchase price sales were accurate, there is no reason for us to believe that the reported commissions paid by MBS on U.S. purchase price sales are incorrect.

Comment 17: Petitioner asserts that the transportation expenses from MBS to MBL USA are not an accurate reflection of the actual expenses incurred on a transaction-specific basis, because they are based on the derivation of an average costs which have no direct relationship to the sales under consideration. Furthermore, MBS used an aggregate figure which included expenses for automotive as well as industrial belts.

DOC Position: We disagree. See DOC Position on Comment 7.

Comment 18: Petitioner argues that all packing expenses on U.S. EPS sales prices should be recalculated on the basis of financial statement figures. Furthermore, petitioner argues that since the verification team did not verify MBS's claim that only a certain percentage of its warehouse workers' time is spent packing the subject merchandise, the entire portion of those workers' wages and benefits should be included in the U.S. packing expenses claim.

DOC Position: The packing expenses on U.S. ESP sales have been recalculated on the basis of the financial statement.

We disagree with petitioner's argument that, because we did not verify the percentage of time the warehouse workers spent on packing, we should include the entire portion of those workers' wages and benefits in the U.S. packing claim. Respondent used the exact same percentage to calculate Canadian packing expenses. At verification in Canada, we visited the warehouse and checked the duty summary to show the variety of tasks performed by warehouse personnel and determined that forty percent was a reasonable estimate of the time spent by warehouse labor on packing. Because the same tasks are performed by warehouse personnel in the U.S., the forty percent is also a reasonable estimate for the U.S. market.

Comment 19: Petitioner asserts that during verification MBS provided no source documentation demonstrating that the pre-sale technical service expenses were included in the reported U.S. indirect selling expenses. Because the Department cannot ensure that such expenses have, in fact, been reported, it should increase foreign market value by the amount of U.S. technical service expenses but make no deduction for any technical expenses incurred in the home market.

DOC Position: We disagree. The travel expenses related to pre-sale technical service expenses are included in the travel and promotions expense reported in the response. At verification, we found no other technical service travel expenses in MBL USA's records.

Comment 20: Petitioner claims that, even though respondent reported that during the period of investigation no warranty expenses were incurred, there is frequently a substantial lag time between the sale of a product and any warranty claims made by the customer. Petitioner claims that MBS should have submitted warranty expenses related to sales of the products in each of the five years preceding the period of investigation. Since MBS did not do so, the Departemnt should use, as best information available, the highest warranty claim reported by respondents in the other antidumping duty investigations involving industrial belts.

DOC Position: MBS failed to report historical warranty expenses incurred on merchandise sold to either market. The Department, therefore, utilized the best information available. The Department, therefore, utilized the best information available. In considering the information available to us, we noted that MBL Canada has an express warranty of freedom from defects in material and workmanship, but incurred no warranty expenses during the POI. MBL USA also has an express warranty that the Three Star brand belts conform to or exceed the RMA standards, but did not incur any warranty expenses during the POI. Furthermore, MBS sells identical merchandise in the Canadian and U.S. markets. Therefore, we have assumed that warranty expenses were basically the same for both markets, and we did not make an adjustment for warranty expenses to either foreign market value or United States price.

Comment 22: Petitioner argues that in *Consumer Products Division, SCM Corp.* v. *Silver Reed America*, 753 F.2d 1033 9 Fed. Cir. 1985), the Federal Circuit approved the ESP offset on the basis of agency discretion. The court affirmed that primarily and in general deductions

should be limited to direct selling expenses. The ESP offset, fundamentally, is an exception. Thus, it is clear that when the amount of the offset exceeds the amount deducted from U.S. price, the general rule identified by the Court (*i.e.*, that adjustments be limited to directly related expenses) is thwarted. Given that exporter's sales price is a unit price, it is clear that the offset also should be on a per unit basis. MBL's theory of aggregate expenses would undermine that purpose of the offset and run afoul of the general rule limiting deductions to directly related expenses.

Petitioner further argues that the Department has consistently applied the ESP offset cap on a sale-by-sale basis and that respondent has failed to provide a sufficient justification for the proposed radical departure from the Department's well-established policy. In addition, a cap based on per unit expenses alleviates the administrative burden of closely scrutinizing alleged indirect selling expenses. Petitioner further argues that the respondent has misconstrued the Department's regulation and agency practice with respect to the commisison offset. Petitioner claims that the commission offset is also applied on a per unit basis.

Respondent claims that the Department should apply the ESP cap on the aggregate amount of indirect selling expenses in the United States and Canada and not on a sale-by-sale, product-by-product basis, because the Department's regulation provides that the offset be made "for all actual selling expenses in the home market up to the amount of selling expenses incurred in the United States market." Respondent claims that the Department's determinations in *Color Television Receivers from Korea*, 49 FR 7628, and *Television Receiving Sets, Monochrome and Color, from Japan*, 46 FR 30163 (June 5, 1981) show that on occasion the Department has applied the ESP offset cap on an aggregate basis. Respondent argues that the ESP offset cap should be treated in the same manner as the commission offset.

DOC Position: We agree with petitioner that it has been the Department's policy to calculate the ESP offset on a per unit basis. As we said in *Certain Internal Combustion, Industrial Forklift Trucks from Japan*, 53 FR 12552:

Capping on an aggregate basis would not reflect the individual circumstances of each sale, and may lead to adjustments distarted by the comparative size of each market. Thus, we continue to use our standard policy of capping home market indirect selling expenses on a sale-by-sale basis, as described in the Department's 1985 Adjustment Study.

Comment 23: Respondent argues that the manner in which the Department applied the ESP cap in the preliminary determination amounts to double ESP capping.

Petitioner argues that, contrary to the respondent's assertion, the Department has not utilized a two-step ESP cap procedure in this proceeding. Instead, consistent with agency practice, the Department capped the third country market indirect selling expenses on a sale-by-sale basis.

DOC Position: In the preliminary determination, we used our standard procedure and capped the third country market indirect selling expenses on a sale-by-sale basis. This did not amount to double ESP capping.

Comment 24: Petitioner asserts that in its scope of investigation at the preliminary determination, the Department listed only four HTS subheadings. Petitioner requests that the Department list eighteen HTS subheadings in its final determination.

DOC Position: We agree. The petition included nine TSUSA item numbers and four HTS subheadings that petitioner believed would correspond to the TSUSA numbers when the HTS system became effective.

The HTS went into effect on January 1, 1989. Based on a concordance between TSUSA item numbers and HTS subheadings listed in a January 1989 USITC publication, *"The Continuity of Import and Export Trade Statistics After Implementation of the Harmonized Commodity Description and Coding System,"* petitioner requested that the Department expand the four HTS subheadings listed in our preliminary to 18 subheadings. We asked for comments from the interested parties in this investigation concerning industrial belts covered by the 18 HTS subheadings.

In our preliminary determination as now, we note that the written description of the products covered by the investigation is dispositive. The HTS numbers are provided for convenience and customs purposes as to the scope of the product coverage. We do not view providing additional HTS subheadings as broadening the scope of this investigation.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from Singapore, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption, on or after January 26, 1989, the date of publication of the preliminary determination in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or posting of bond equal to the estimated amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, as shown below. This suspension of liquidation will remain in effect until further notice.

The weighted-average margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Mitsuboshi Belting (Singapore) Pte. Ltd.	31.73
All others	31.73

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on industrial belts from Singapore entered, or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 11, 1989.

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[A-583-804]

Final Determination of Sales at Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from Taiwan are being, or are likely to be, sold in the United States (U.S.) at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from Taiwan as described in the "Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the date of publication of this notice, whether these imports are materially injuring, or threaten material injury to, a U.S. industry. We also determine that critical circumstances do not exist with respect to imports of industrial belts from Taiwan.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Joel Fischl, Office of Antidumping Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2613 or (202) 377-3003.

SUPPLEMENTAL INFORMATION:

Final Determination

We determine that industrial belts from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our preliminary determination (54 FR 5112, February 1, 1989), the following events have occurred. A public hearing was held on March 28, 1989. Petitioner filed a pre-hearing brief on March 22, 1989, and a post-hearing brief on March 31, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), and all merchandise entered or withdrawn from warehouse for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). The Department is providing both the appropriate *Tariff Schedules of the United States Annotated* (TSUSA) item number(s) and the appropriate HTS item number(s) with its product descriptions for convenience and Customs purposes. The Department's written description of the products under investigation remains dispositive as to the scope of the products covered by this investigation.

The products covered by this investigation are industrial belts from Taiwan, currently provided for under TSUSA item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 356.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510, and 773.3520 and currently classifiable under HTS item numbers 5910.00.10, 5910.00.90, 4010.10.10, 4010.10.50, 3926.90.55, 4010.91.11, 4010.99.11, 3926.90.56, 3926.90.59, 4010.91.19, 4010.99.19, 3926.90.57, 4010.91.15, 4010.99.15, 7326.20.00, 3926.90.60, 4010.91.50 and 4010.99.50.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

Period of Investigation

The period of investigation is January 1, 1988 through June 30, 1988.

Our investigation was limited to Hsing Kwo Rubber Mfg. Co., Ltd. (Hsing Kwo), the producer responsible for the bulk of Taiwanese exports of this product to the United States.

Such or Similar Comparisons

For Hsing Kwo, pursuant to section 771(16)(C) of the Act, we established one category of "such or similar" merchandise: V-belts.

Fair Value Comparisons

To determine whether sales of industrial belts from Taiwan to the U.S. were made at less than fair value, we compared the United States price to the foreign market value, pursuant to sections 772 and 773 of the Act, respectively.

United States Price

In our preliminary determination we calculated United States price using exporter's sales price methodology. However, as a result of information gathered at verification, we determined that purchase price would be the appropriate method. Virtually all of Hsing Kwo's sales are made through a related sales agent in the U.S. prior to importation. The related sales agent, Hsing Kwo USA (HKUSA), receives orders and transmits them to Taiwan. The manufacturer in Taiwan then packs the merchandise for each order in cartons stamped with shipping marks identifying the ultimate customer. The cartons are then packed into international shipping containers (along with cartons of V-belts destined for other customers as well as cartons of merchandise not covered by this investigation) which are shipped to HKUSA. HKUSA unpacks the containers and forwards the individual cartons on to the ultimate purchasers.

For these sales, the Department has determined that purchase price is the appropriate basis for U.S. price based on the following elements:

1. The merchandise in question was not introduced into the inventory of a related selling agent;

2. This was the customary commercial channel for sales of this merchandise between the parties involved; and

3. The related selling agent located in the U.S. acted as a processor of sales-related documentation, as a communication link with the unrelated U.S. buyer, and as a freight forwarder.

Given this, we regard the routine selling functions of the exporter as merely having been relocated geographically from the country of exportation to the U.S., where the sales agent performs them. Whether these functions take place in the U.S. or abroad does not change the substance of the transactions or the functions themselves.

Because the balance of Hsing Kwo's sales (exporter's sales price transactions) was minimal, we have disregarded them for purposes of this determination.

We calculated purchase price based on packed, f.o.b. seller's warehouse prices to unrelated purchasers in the U.S. We made deductions, where appropriate, for a harbor construction tax, inland freight and brokerage in Taiwan, ocean freight, marine insurance, and merchandise processing fees, harbor maintenance fees, customs duty, customs brokerage, and inland freight in the U.S. An addition was made, pursuant to section 772(d)(1)(B) of the Act, for import duties imposed by the country of exportation which have been rebated, or which have not been collected by reason of the exportation of the merchandise to the United States. We also added the amount of value added taxes which would have been collected if the merchandise had not been exported.

Minor revisions were made to certain charges. Based on verified information, brokerage, inland freight (for both Taiwan and the U.S.), and ocean freight were recalculated on a per inch basis, rather than value. All other charges, which had been allocated based on U.S. sales value were reallocated according to the basis on which they were incurred (*e.g.*, c.i.f. Los Angeles, f.o.b. Taiwan port).

Foreign Market Value

We determined there were sufficient sales in the home market to serve as the basis for calculating foreign market value. In accordance with section 773 of the Act, we calculated foreign market value based on packed, f.o.b. seller's warehouse or delivered prices to unrelated purchasers in Taiwan. We made deductions, where appropriate, for inland freight.

We made adjustments, where applicable, for differences in the physical characteristics of the merchandise in accordance with § 353.16 of the regulations.

We made adjustments under § 353.15(a) of the Commerce Regulations for differences in circumstances of sale for credit expenses where appropriate, and we offset commissions paid in the U.S. market with indirect selling expenses incurred in the home market.

We made an upward adjustment to the tax-exclusive home market prices for the value-added tax we computed for U.S. price.

Based on verified information, corrections were made to U.S. packing. Certain other charges and corrections were made using verified data.

Inland freight was recalculated on a per-inch basis.

Unreported credit and commission expenses on U.S. sales were included.

The home market interest rate was corrected, and difference in merchandise adjustments which had originally been applied to three belt types were applied to other belt types, where appropriate.

Currency Conversion

As noted above, we are basing United States price for all of our fair value comparisons on purchase price. Section 353.56(as)(1) of the Department of Commerce Regulations requires that in the case of purchase price transactions, the conversion of foreign currency into U.S. dollars shall be made as of the date of purchase or agreement to purchase. In this instance, because Hsing Kwo apparently assumed that United States price would be based on exporter's sales price, it provided only the date the merchandise was "sold" (invoiced) by Hsing Kwo's related selling agent in the U.S.—not the date the goods were purchased (ordered) by the ultimate unrelated customer. Since the date of purchase was not supplied by Hsing Kwo, we have used as best information available, the highest exchange rate certified by the Federal Reserve Bank of New York for the period of investigation.

Critical Circumstances

On June 30, 1988, petitioner alleged that "critical circumstances" exist with respect to imports of the subject merchandise from Taiwan. Section 735(a)(3) of the Act provides that critical circumstances exist if we determined that:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

We generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Because the Department's import data pertaining to the subject merchandise are based on basket TSUSA categories, we requested specific data on shipments of the subject merchandise as the most appropriate basis for our determinations of critical circumstances. Furthermore, we believe that company-specific critical circumstances determinations better fulfill the objective of the critical circumstances provision of deterring specific companies that may try to increase imports massively prior to the suspension of liquidation.

We have asked Hsing Kwo to supply monthly volume shipment data in order for the Department to base the critical circumstances determination on company-specific data. We verified the information submitted by Hsing Kwo.

Because the verified data submitted by Hsing Kwo indicates that there have not been massive imports over a relatively short period, we find that the requirements of section 735(a)(3)(B) are not satisfied for Hsing Kwo.

We examined recent antidumping duty cases and found that there are currently no findings of dumping in the United States or elsewhere of the subject merchandise by Hsing Kwo. It is our standard practice to impute knowledge of dumping under section 735(a)(3)(A) of the Act when the estimated margins in our determinations are of such a magnitude that the importer should realize that dumping exists with regard to the subject merchandise. Normally we consider estimated margins of 25 percent or greater to be sufficient. [See, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy (52 FR 24198, June 29, 1987).] However, in cases where the foreign manufacturer sells in the U.S. through a related company, we consider that lower margins may be sufficient. [See, e.g., Final Determination of Sales at Less Than Fair Value; Certain Internal-Combustion, Industrial Forklift Turcks from Japan (53 FR 12552, April 15, 1988).] Although Hsing Kwo sells in the U.S. through a related company, their margins are not sufficiently high to find that the requirements of section 735(a)(3)(A) are met. Therefore, we determine that critical circumstances do not exist with respect to imports of industrial belts from Taiwan.

Verification

We verified the information used in making our final determination in accordance with section 776(b) of the Act. We used standard verification procedures including examination of relevant accounting records and original documents of the respondent.

Interested Party Comments

Comment 1: Petitioner contends that the rate for all Taiwanese companies should be based on the best information available due to "substantive deficiencies" in Hsing Kwo's response.

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For further discussion of these "deficiencies", see the "United States Price" and "Foreign Market Value" sections of this notice, as well as comments 2–4, and 6–10.

DOC Position: The Department disagrees. A careful review of past antidumping cases, *Antifriction Bearings from FRG* (which has been published in the Federal Register, *Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina* (54 FR 13913, April 6, 1989), *Certain Granite Products from Italy* (53 FR 27187, July 19, 1988), and *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy* (52 FR 24198, June 29, 1987), reveals that the facts involved in Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from Taiwan more closely resemble situations where the Department used responses, rather than rejecting them due to verification corrections and new submissions. The recalculations and revisions submitted at verification did not substantially exceed the methodological problems and mathematical errors commonly found during other investigations. Futhermore, in both *Antifriction Bearings from FRG* and *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy*, there was unverified response data. This is not the situation in this case. All data has been satisfactorily verified using standard verification practices and techniques.

Comment 2: Petitioner contends that the Department's review of clerical errors found in Hsing Kwo's sales listing at verification was one-sided. Petitioner is particularly concerned with the verification team's focus on transactions "where there were high LTFV margins", but alleged lack of focus on negative LTFV margins.

DOC Position: The Department disagrees. Petitioner erroneously assumes that only errors beneficial to Hsing Kwo were reviewed and corrected. This is not the case. Errors that worked both in Hsing Kwo's favor and against Hsing Kwo were discovered by the verification team. The verification report states that "outlier" sales are "sales that were considerably higher or lower than the norm", which included sales that had both high and low LTFV margins. A thorough verification of 280 randomly chosen sales were conducted, in addition to a review of 62 "outlier" sales. Petitioner's claim that error correction was one-sided is not correct.

Comment 3: Petitioner contends that because the Department could not verify the accuracy of the reported dates of sale, "it is likely that HK excluded various sales that were actually made during the POL"

DOC Position: We disagree. While Hsing Kwo reported home market sales on the basis of invoice date, rather than purchase order date, the difference between the two dates was not significant. Therefore, we have accepted home market sales reported on the basis of invoice date. With respect to U.S. sales, Hsing Kwo treated these as exporter's sales price sales and, hence, reported its sales based on the date that the merchandise was invoiced to the unrelated U.S. customer. As discussed above, we have determined that these transactions are properly treated as purchase price transactions. As a result, U.S. sales should have been reported based on the date of the purchase order. To compensate for this, we have applied the highest exchange rate in effect during the period of investigation.

Comment 4: Petitioner contends that the Department was unable to verify the volume and value of sales.

DOC Position: The Department disagrees. The volume and value of sales were thoroughly verified, and a minor mathematical error made by respondent was corrected.

Comment 5: Petitioner argues that if the Department treats Hsing Kwo's United States sales as purchase price transactions, all selling expenses incurred by HKUSA should be included in adjustments made pursuant to 19 U.S.C. 1677a(d)(2) and 19 CFR 353.15(a).

DOC Position: We have made a circumstance of sale adjustment for all differences in direct selling expenses pursuant to 19 CFR § 353.15(a). Furthermore, movement expenses were deducted pursuant to 19 U.S.C. 1677a(d)(2).

Comment 6: Petitioner contends that Hsing Kwo incorrectly reported its U.S. sales, resulting in "substantial revision and restatement" of all U.S. sales transactions. Additionally, because the corrections cannot be verified, it will be impossible for the Department to determine the integrity of the response.

DOC Position: We disagree. The revisions referred to by petitioner were simply separate reporting of previously aggregated data. Moreover, the verification team retained copies of all pertinent invoices, which enables the Department to check Hsing Kwo's corrections using verified information for the purpose of making our final determination.

Comment 7: Petitioner contends that Hsing Kwo did not properly identify customer relationships prior to the preliminary determination.

DOC Position: We disagree. Hsing Kwo did properly identify customer relationships. Petitioner seems to be referring to a minor error where Hsing Kwo reported a miniscule number of sales to two related customers in the home market. During verification, these sales were identified; Hsing Kwo was asked to delete these from their corrected tape. These sales were dropped from the data base as requested.

Comment 8: Petitioner contends that because Hsing Kwo did not report packing costs in the home market, the Department is precluded from making an adjustment to foreign market value for home market packing for the purposes of the final determination.

DOC Position: We agree.

Comment 9: Petitioner contends that no deduction from foreign market value for inland freight should be allowed because respondents should not "construct a questionnaire response materially different from the original response" during verification.

DOC Position: We disagree. We determined at verification that a quantity-based methodology was preferable to the value-based methodology employed by Hsing Kwo to calculate inland freight expense. We used verified data to recalculate inland freight.

Comment 10: Petitioner contends that difference in merchandise adjustment corrections made during verification should not be allowed.

DOC Position: We disagree. We used verified data to recalculate these adjustments.

Comment 11: Petitioner contends that because Hsing Kwo was not able to demonstrate clearly direct expenses, that the Department should not make adjustments to foreign market value for these selling expenses if purchase price is used as the basis for United States price.

DOC Position: We agree with respect to the expense categories alluded to in petitioner's comment. However, as noted above in the foreign market value section of this notice, based upon verified data, we did make circumstance of sale adjustments for credit expenses. We also offset U.S. commission expenses with indirect selling expenses incurred in the home market.

Comment 12: Petitioner contends that Hsing Kwo cannot reasonably advertise its belts to customers of its original equipment manufacturer (OEM) customers. Also, petitioner contends that the Department should release all advertisements obtained during verification.

DOC Position: We agree that no advertising expense adjustment should be made with respect to Hsing Kwo's sales to OEM customers. Because we are unable to identify OEM sales in Hsing Kwo's sales listing, we have made no circumstance of sale adjustment for advertising expense. Instead, we included Hsing Kwo's advertising expense in the pool of indirect expenses used to offset commissions paid on certain U.S. sales. Also, the Department has released all samples of Hsing Kwo's advertising we collected to the petitioner.

Comment 13: Petitioner contends that the effective interest rate discovered at verification should be used to calculate credit costs in the home market. Additionally, because the Department verified payment dates to be inaccurate, these dates should not be relied on and a credit adjustment should not be allowed. If an adjustment is allowed, the shortest verified payment date of nine days should be used.

DOC Position: We agree that the effective interest rate discovered at verification should be used to calculate credit costs. Concerning the credit adjustment, based on verified payment and sales dates, we calculated an average time between shipment and payment which we used for the purpose of the final determination.

Comment 14: Petitioner argues that packing costs in the U.S. market should be deducted from United States price. Petitioner further argues that according to the Department's verification report, Hsing Kwo underreported U.S. packing costs and that consequently, if the Department is uncertain of these costs, the highest packing costs for any shipment should be used for all shipments.

DOC Position: Our methodology requires that we make no deduction from the United States sales price for U.S. packing expense, pursuant to section 772(d). Rather, we add the U.S. packing expense in calculating foreign market value, pursuant to section 772(d)(1), while subtracting home market packing expense. As noted above in the "Foreign Market Value" section of this notice, the respondent did not report home market packing expense, and we have made no deduction from foreign market value for the amount.

With regard to the second part of petitioner's comment, verification revealed that U.S. packing expense was *overstated*, rather than understated in the questionnaire response. For purposes of this final determination, we made the adjustment by using the verified average U.S. packing expense.

Comment 15: Petitioner argues that in calculating United States price, the Department should make an addition for duty drawback only on sales of belts that have a polyester cord.

DOC Position: As all of the belts sold to the U.S. by Hsing Kwo during the period of investigation are of polyester cord construction, we made an addition for duty drawback for all U.S. sales.

Comment 16: Petitioner argues that in calculating imputed U.S. credit expense, the Department should use the longest period (104 days) between shipment and payment found at verification for any of Hsing Kwo's U.S. sales.

DOC Position: We disagree. We calculated an average payment period based on verified payment and sale dates.

Comment 17: Petitioner contends that an adjustment for technical service expense incurred on U.S. sales is required.

DOC Position: We disagree. In its questionnaire response, Hsing Kwo misinterpreted the term "technical service." The technical service expenses originally reported by Hsing Kwo with respect to its U.S.sales were in fact indirect expenses for which no adjustment is warranted when a comparison involves purchase price sales.

Comment 18: Petitioner contends that specific documents collected at verification should be released under Administrative Protective Order (APO).

DOC Position: We have released to petitioner, under APO, certain supplemental submissions collected during verification that contained information not previously on the record. As to the verification exhibits, it is our policy not to release a respondent's supporting source documents under an administrative protective order when we have requested this additional information solely to further support a respondent's claim. Release of such documents can be damaging to the competitive position of the respondent. If petitioners did not agree with our position, the proper remedy was to appeal the refusal to release verification exhibits under APO, to the CIT while this investigation was in progress 19 U.S.C. 1677f(c)(2).

Comment 19: Petitioner argues that with respect to San Wu, a Taiwanese manufacturer of the subject merchandise to whom we did not present a questionnaire, and who consequently has not participated in this investigation, the final determination antidumping margin should be based upon "best information available" (company specific information from the petition) rather than the "all other rate" (the weighted average of the margin percentage the Department calculates for all questionnaire respondents). In this case, since there is only one questionnaire respondent, Hsing Kwo, the "all other rate" is the same as the margin percentage calculated for Hsing Kwo. Petitioner argues that only if the margin percentage the Department calculates for Hsing Kwo is higher than the rate shown for San Wu in the petition should the Department assign to San Wu the all other (Hsing Kwo) rate. Petitioner makes this argument due to the affiliation of San Wu with respondents in the companion investigations involving this same merchandise imported from Singapore and Japan respectively, and with these respondents' related U.S. importer. Based on the results of our preliminary determinations, petitioner anticipates that the final determination margin percentages calculated by the Department for San Wu's affiliates in Singapore and Japan will be higher than the margin percentage the Department calculates for Hsing Kwo in the Taiwan investigation, and that consequently, the related U.S. importer will have an incentive to shift its sources from Japan or Singapore to avoid any antidumping duty orders imposed on the subject merchandise from those countries.

DOC Position: We disagree. The Department's policy, as stated in § 353.38 of the Regulations, is to examine at least 60 percent of the exports from any given country under investigation, and to assign the "all other" rate to those products not investigated. The 60 percent minimum was satisfied by Hsing Kwo's exports. Exports of belts produced by San Wu in Taiwan (assuming an antidumping duty order with respect to Taiwan) would be subject to a suspension of liquidation, and the "all other" duty deposit rate pending an annual review pursuant to section 751 of the Act which would establish antidumping duties due, which may be more or less than duties deposited at entry of the merchandise.

Comment 20: Petitioner argues that critical circumstances exist with respect to imports of industrial belts from Taiwan.

DOC Position: We disagree. See our discussion of "Critical Circumstances" above.

Comment 21: In a letter to the Department dated April 5, 1989, petitioner makes certain allegations regarding Hsing Kwo's U.S. sales data.

DOC Position: Petitioner's comments are untimely, and improperly summarized in the public version. As such, the Department cannot consider information in the petitioner's April 5, 1989 submission. Comments submitted three working days before the final

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determination do not allow the Department adequate time to properly analyze, or respond to, said comments. Furthermore, the public version of the above submission was improperly prepared; petitioner deleted the entire second and third pages of a three page submission. Only pertinent business proprietary information should be deleted or summarized from the public version.

Comment 22: Petitioner asserts that in its scope of investigation at the preliminary determination, the Department listed only four HTS sub-headings. Petitioner requests that the Department list eighteen HTS sub-headings in its final determination.

DOC Position: We agree. The petition included nine TSUSA item numbers and four HTS sub-headings that petitioner believed would correspond to the TSUSA numbers when the HTS system became effective.

The Harmonized Tariff Schedule went into effect on January 1, 1989. Based on a concordance between TSUSA item numbers and HTS sub-headings listed in a January 1989 USITC publication, *"The Continuity of Import and Export Trade statistics After Implementation of the Harmonized Commodity Description and Coding System"*, petitioner requested that the Department expand the four HTS sub-headings listed in our preliminary determination to eighteen sub-headings. We asked for comments from the interested parties in this investigation concerning industrial belts covered by the eighteen HTS sub-headings.

In our preliminary determinations, as now, we note that the written description of the products covered by the investigation is dispositive. The HTS numbers are provided for convenience and customs purposes as to the scope of the product coverage. We do not view providing additional HTS sub-headings as broadening the scope of this investigation.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from Taiwan, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Taiwan exceeds the U.S. price as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Hsing Kwo	12.13
All Others	12.13

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officers to assess an antidumping duty on industrial belts from Taiwan entered, or withdrawn from warehouse, for consumption after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the U.S. price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-9257 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-412-802]

Final Determination of Sales at Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from the United Kingdom (UK) are being, or are likely to be, sold in the United States at less than fair value.

We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of the subject merchandise from the UK as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the publication of this notice, whether these imports materially injure, or threaten material injury to, the U.S. industry.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Louis Apple, or Mary Jenkins, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 377-1769, or 377-1756, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that industrial belts from the UK are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a) (the Act). The average dumping margins are shown in the "Suspension of Liquidation" section of this notice. We also determine that critical circumstances exist with respect to imports from Arntz Belting Company, Ltd. (Optibelt). We have determined that critical circumstances do not exist with respect to imports from J.H. Fenner & Company and all other exporters and producers from the UK, as outlined in the "Critical Circumstances" section of this notice.

Case History

Since our notice of preliminary determination (54 FR 5108, February 1, 1989), the following events have occurred:

Verification of the questionnaire responses provided by Fenner was conducted in the UK and the United States during February and March 1989

A public hearing was held on March 20, 1989. Petitioner, respondent, and other interested parties have filed pre- and post-hearing briefs.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), and all merchandise entered or withdrawn from warehouse for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). The Department is providing both the appropriate *Tariff Schedules of the United States Annotated* (TSUSA) item number(s) and the appropriate HTS item number(s) with its product descriptions for convenience and Customs purposes. The Department's written description of the products under investigation remains dispositive as to the scope of the products covered by this investigation.

The products covered by this investigation are industrial belts and components and parts thereof, whether cured or uncured, from the UK provided for under TSUSA item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520, and currently classifiable under HTS item numbers 5910.00.10, 5910.00.90, 4010.10.10, 4010.10.50, 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.00.19, 4010.99.50 and 7326.20.00.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (*i.e.*, closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

Period of Investigation

The period of investigation (POI), is January 1, 1988 through June 30, 1988.

Our investigation was limited to J.H. Fenner, a voluntary respondent. Arntz Belting Company, Ltd. (Optibelt), the producer responsible for the bulk of the United Kingdom exports of this product to the United States, did not respond to the Department's questionnaire.

Such or Similar Comparisons

For Fenner, pursuant to section 771(16)(C) of the Act, we established one category of "such or similar" merchandise: V-belts.

Fair Value Comparisons

Fenner

To determine whether sales of industrial belts from the UK to the United States were made at less than fair value, we compared the U.S. price using exporter's sales price with the foreign market value pursuant to sections 772 and 773 of the Act, respectively.

Optibelt

To determine whether sales of industrial belts from the UK to the United States were made at less than fair value, we compared the United States price to the foreign market value. For our preliminary determination we used best information available as required by section 776(c) of the Act. As best information available, we took the highest margin contained in the petition for each of the product types for the POI and calculated a simple average of those figures to determine a margin for the products under investigation. Since the respondent, Optibelt failed to participate in the investigation we are using the same methodology for calculating a margin for the final determination.

United States Price

Fenner

Fenner's U.S. sales are treated as exporter's sale price transactions (ESP) for the following reasons: Fenner Manheim, a Fenner U.S. subsidiary, is more than a mere facilitator of transactions between Fenner U.K. and U.S. customers. Fenner Manheim purchases the merchandise from Fenner U.K. at a transfer price and resells the subject merchandise to its unrelated U.S. customers. Fenner Manheim independently determines the price and other terms of sale to U.S. unrelated customers based on market demand. Terms of sale to unrelated U.S. customers are also subject to change without penalty prior to the date Fenner Manheim ships the merchandise and invoices its U.S. customer.

To calculate ESP in accordance with section 772(c) of the Act, we used the packed, f.o.b. prices of industrial belts to unrelated purchasers in the United States.

During the POI, some of Fenner's shipments of V-belts also included products that were not subject to our investigation.

Fenner took the total movement charges for all products in each shipment of V-belts and allocated the movement expenses for V-belts by value for total merchandise shipped. We have not accepted Fenner's allocation of these expenses by value because shipping documents show that these expenses are based on the weight of each shipment. Because Fenner did not calculate movement expenses based on weight for the merchandise under investigation, we verified Fenner's actual movement expenses for V-belts and all products included in the same shipment with V-belts. As best information available (BIA), the total actual verified movement expenses were allocated over the total shipments of V-belts during the POI.

We made deductions for air freight, foreign inland freight and insurance, brokerage and handling charges, U.S. Custom duty, U.S. inland freight and other processing fees. We deducted indirect selling expenses in the home market and indirect selling expenses in the United States, inventory carrying cost in the home market and inventory carrying cost in the United States and cost for the time merchandise was in transit. We imputed inventory carrying cost based on Fenner's value of merchandise, the number of days merchandise was in inventory and Fenner's short-term borrowing rate. We deducted credit expenses. We made further deductions, where appropriate, for U.S. commissions paid to Fenner Manheim's sales representatives.

All movement charges, commissions and indirect selling expenses were calculated as a percentage of sales price to unrelated purchasers in the United States.

The total of the indirect selling expenses and commissions and inventory carrying cost formed the cap for the allowable home market indirect selling expenses offset under § 353.15(c) of our regulations (*see* 19 CFR 315.15(c)). We added the amount of value added tax which would have been collected if the merchandise had not been exported.

Optibelt

In accordance with section 772 of the Act, United States price was based on the U.S. price information provided in the petition.

Foreign Market Value

Fenner

In accordance with section 773(a) of the Act, we calculated foreign market

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value based on the packed, f.o.b. prices to unrelated customers in the home market. To these prices we added the cost of U.S. packing. Fenner did not provide the cost of home market packing. Therefore, no deduction was made for home market packing cost.

We made deductions from the home market price for discounts. We made further deductions from the home market price for credit expenses. We deducted indirect selling expenses and inventory costs incurred on home market sales up to the amount of commissions and indirect selling expenses incurred on sales in the U.S. market, in accordance with section 353.15(c) of our regulations. We have made an upward adjustment to the tax-exclusive home market prices for the value added tax we computed for U.S. price. We have added export packing cost to the foreign market value.

Optibelt

In accordance with section 773 of the Act, foreign market value was based on home market prices provided in the petition.

Currency Conversion

We used the official exchange rates in effect on the dates of sale, in accordance with section 773(a)(1) of the Act. All currency conversions were made at the rates certified by the Federal Reserve Bank of New York.

Critical Circumstances

On August 1, 1988, petitioner alleged that "critical circumstances" exist with respect to imports of the subject merchandise from the UK. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporters was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Fenner

Because the Department's import data pertaining to the subject merchandise are based on basket TSUSA categories, we requested specific data on shipments of the subject merchandise as the most appropriate basis for our determination of critical circumstances. Furthermore, we believe that a company-specific critical circumstances determination better fulfills the critical circumstances provisions's objective of deterring a company from increasing imports massively prior to the suspension of liquidation.

We asked Fenner to supply monthly volume shipment data from November 1987 through January 1989 in order for the Department to base the critical circumstances determination on company-specific data. We verified the information submitted by Fenner.

Because the verified data submitted by Fenner indicate that there have not been massive imports over a relatively short period, we find that the requirements of section 735(a)(3)(B) are not satisfied for Fenner.

Optibelt

Since the respondent, Optibelt, failed to participate in the investigation, we are determining that critical circumstances for this respondent exist. Based on best information available, we are assuming that imports of industrial belts have been massive over a relatively short period of time. In determining whether there is a knowledge of dumping, the Department normally considers margins of 25 percent or more to impute knowledge of dumping under section 735(a)(3)(A). (*see* e.g. *Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts thereof, Finished or Unfinished, from Italy* (52 FR 24198, June 29, 1987)). Therefore, in accordance with section 735(a)(3)(A)(ii) and 735(a)(3)(B), we determine that critical circumstances exist with respect to Optibelt.

With respect to other firms covered by the "All others" rate, we have determined that imports of industrial belts have not been massive over a relatively short period of time. Since we do not find that there have been massive imports of industrial belts from other firms included in the "All Other" rate, we do not need to consider whether there is a history of dumping or whether importers of these products knew or should have known that the merchandise was being sold at less than fair value.

Verification

As provided in section 776(b) of the Act, we verified all information provided by Fenner and used this information in reaching the final determination in this investigation. We used standard verification procedures including examination of relevant accounting records and original source documents provided by the respondent.

Interested Party Comments

Comment 1: Petitioner asserts that, in its scope of investigation at the preliminary determination, the Department listed only four HTS subheadings. Petitioner requests that the Department list all eighteen HTS subheadings in its final determination.

DOC Position: We agree. The petition includes nine TSUSA item numbers and four HTS sub-headings that petitioner believed would correspond to the TSUSA numbers when the HTS system become effective.

The Harmonized Tariff Schedule went into effect on January 1, 1989. Based on a concordance between TSUSA item numbers and HTS sub-headings listed in a January 1989 USITC publication, *The Continuity of Import and Export Trade Statistics After Implementation of the Harmonized Commodity Description and Coding System*, petitioner requested that the Department expand the four HTS sub-headings listed in our preliminary determination to eighteen sub-headings. We asked for comments from the interested parties in this investigation concerning industrial belts covered by the eighteen HTS sub-headings.

In our preliminary determination, as now, we note that the written description of the products covered by the investigation is dispostive. The HTS numbers are provided for convenience and customs purposes as to the scope of the product coverage. Accordingly, we do not view this as a broadening of the scope of this investigation.

Comment 2: Petitioner argues that the best information available (BIA) dumping margin for Optibelt should be the highest margin found in the petition since Optibelt failed to respond to the Department's questionnaire. Petitioner notes that it provided extremely detailed information in the petition with regard to Optibelt. Petitioner also stated that BTL, Ltd. a voluntary respondent who also did not respond to the questionnaire, should be subject to the "All other" rate.

DOC Position: The Department is applying the same methodology used inthe preliminary determination to calculate the margins for the final determination. As best information available, we are taking the highest margin contained in the petition for each of the product types for the period of investigation and then simple averaging those figurers to determine the margins for the products under investigation. We agree with petitioner with regard to BTL and they are included in the "All other" rate.

Comment 3: Petitioner claims that Fenner's response should be deemed inadequate and should be rejected and that the margin for Fenner should be based on the highest margin found in the petition.

Respondent claims that for purposes of the final determination, the dumping margin for Fenner should be based on the information submitted by Fenner and verified by the Department. This would include the original questionnaire response and the supplement responses.

DOC Position: A careful review of past antidumping cases, *e.g., Antifriction Bearings from FRG* (issued by the Department on March 24, 1989), *Light-walled Welded Rectangular Carbon Steel Tubing from Argentina* (54 FR 13913, April 6, 1989), and *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy* (52 FR 24198, June 29, 1987), reveals that the facts involved in this case more closely resemble situations where the Department used responses, rather than rejected them due to verification corrections and new submissions. The recalculations and revisions submitted at verification were typical minor methodological problems and mathematical errors similar to those commonly found during other investigations. This case differs substantially from both *Antifriction Bearings from the FRG* and *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy*, where submitted data were incorrect and the Department was never provided accurate and verifiable data. In this case, all data have been satisfactorily verified using standard verification practices and techniques.

Comment 4: Petitioner states that in many instances the revisions Fenner submitted during verification affect all of the sales reported in a particular market. Also, according to petitioner, most of the changes are quite substantial and favor the respondent. In addition, petitioner believes that respondent's revised response was not timely. Petitioner claims that rejection of the response is especially appropriate since Fenner is a voluntary respondent.

Respondent claims the corrections to the response made by the Department at verification should be considered for purposes of the final determination. Respondent argues that the changes were minor and were limited to the correction of information already on the administrative record and therefore did not amount to the submission of new information. Respondent states that it is the long established policy of the Department to accept corrections to the original response to conform to the information verified. Finally, respondent strongly disagrees with the suggestion by petitioner that Fenner adopted a "wait and see" attitude before telling the Department about discrepancies it discovered prior to verification. Respondent asserts it has always cooperated fully with the Department in this investigation.

DOC Position: Only revisions to Fenner's response concerning indirect selling expenses affect all sales in a particular market. In that instance, the correct indirect selling expenses were submitted by Fenner at verification and verified by the Department. Errors that worked both for Fenner and against Fenner were discovered during verification. These corrections were verified and the corrections were submitted to the Department. verification.

Comment 5: Petitioner claims Fenner has failed to adequately demonstrate that any adjustments should be made to foreign market value. Petitioner states that since neither verification nor post-verification submissions should be used to correct deficiencies in these adjustments, the Department should continue to disallow all adjustments claimed by Fenner.

DOC Position: We have accepted corrections for minor deficiencies found in Fenner's home market sales response. All adjustments relating to these deficiencies have been verified by the Department. We have determined that Fenner has adequately demonstrated the validity of the corrected information.

Comment 6: Petitioner states that in the event the Department uses Fenner's response, no deduction from foreign market value should be made for discounts, or, if discounts are allowed, the smallest discount should be applied to all sales. Petitioner claims that corrected information on home market discounts was submitted during and after verification and was revised to such a degree as to preclude its inclusion in the final determination.

DOC Position: We disagree. Although Fenner's methodology used in reporting gross price and discounts was determined to be inadequate at verification, during verification we found that net price was accurately reported on all home market sales. Fenner has adequately explained its methodology used in determining adjustments for other discounts and gross price. Based on Fenner's explanation, the Department has determined that the corrections to Fenner's gross price and other discounts are minor and that they do not warrant omission of adjustments to foreign market value.

Comment 7: Petitioner argues the Department should disallow any deduction from foreign market value for home market credit expenses since repondent calculated these costs using standard payment terms rather than actual number of days between date of sale and payment date. If revised payment periods are used by the Department, they should be used only for the individual transactions actually verified.

Respondent states that for purposes of the final determination, a credit expense should be imputed to each non-cash sale based on the verified company-specific interest rate during the POI and an average 45 day credit extension period for outstanding payments. Respondent claims the imputed average 45 day credit period is a conservative estimate of the actual average credit extension period and that the use of an average collection period is consistent with past Department practice.

DOC Position: The Department prefers to have credit reported on a transaction-by-transaction basis. However, given the massive number of transactions in the home market, we do not consider a methodology based on average credit days outstanding to be unreasonable. We verified the number of days credit was outstanding for a number of sales transactions and used the lowest number of days for payment outstanding found in these sales to calculate credit expenses.

Comment 8: With regard to home market indirect selling expenses, petitioner claims the Department should disallow this claim since respondent's revised data could not be verified.

Respondent argues that the Department should make appropriate deductions from foreign market value to account for indirect selling expenses incurred on home market sales. Respondent claims revised indirect selling expenses for the POI were verified.

DOC Position: The Department verified indirect selling expenses for all sales of all products sold by Fenner in the home market. The expenses verified by the Department and reported in its verification report were used to

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calculate Fenner's indirect selling expenses.

Comment 9: Petitioner argues that the Department should disallow any inventory carrying costs claimed on home market sales. Petitioner believes it would be improper to deduct any home market warehousing or credit costs for the period in warehouse because such costs were not deducted from exporter's sales price sales in the preliminary determination.

DOC Position: For the final determination the Department has deducted from both sides inventory carrying costs for exporter's sales price transactions. We have also allowed inventory carrying costs claimed on home market sales.

Comment 10: Petitioner states that, according to the U.S. verification report, Fenner failed to report all of its U.S. sales during the period of investigation. Petitioner also believes that much of the information originally submitted by Fenner was unfairly revised during the U.S. verification. The revisions and omissions require the use of best information available for the final determination.

Respondent argues that the addition of three additional belt models to the U.S. and home market sales listings does not constitute an entirely new response. Accordingly to respondent, an inadvertent omission which is less than five percent of total sales is not a substantial deficiency, especially since the Department was informed about the omitted sales prior to starting verification and the Department verified the corrected volume and value of sales.

DOC Position: Prior to starting verification we were informed by Fenner that sales relative to three models had been omitted from its questionnaire response. Fenner was forthright in informing us of these omissions, and it cooperated in providing all information relating to sales of the omitted models. The Department examined all of Fenner's transfer invoices for sales of the subject merchandise to the United States during the POI. We confirmed that sales of the three omitted models were included in one shipment on one invoice that contained a large number of different products that were not subject to our investigation. We instructed Fenner to submit a revised response including the three omitted models and the verified adjustments associated with those models. We also instructed Fenner to include in the submission other minor corrections to its response that were made during verification. We do not consider these corrections to be substantial enough to warrant rejecting Fenner's response and using BIA.

Comment 11: Petitioner argues that revised and new information on U.S. movement and packing charges and U.S. credit costs provided at verification should have been submitted prior to verification. Because it was not, it should be rejected for purposes of the final determination.

With regard to credit expense, respondent claims that the verified company interest rate during the period of investigation should be used. For purposes of movement and packing expenses, Fenner claims the revised factors it provided, and the Department verified, should be used.

DOC Position: We are using verified movement and packing expenses as submitted in Fenner's responses prior to verification.

With regard to credit expense, the Department has verified a short-term borrowing rate for Fenner during the period of investigation. The interest rate Fenner originally reported was based on Fenner's short-term borrowing rate outside the period of investigation. Therefore, we are using the revised verified rate.

Comment 12: Petitioner claims that since the reported U.S. commission rates were found to be unreliable at verification they should be rejected. However, in the event the Department decides to deduct the commission rate from the exporter's sales price sales, the highest reported rate should be used.

DOC Position: We disagree. At verification we determined that there was one minor discrepancy in Fenner's reported commission rate. We were able to verify the correct rate. Therefore, we are using Fenner's commission rate as verified and reported in its corrected submission.

Comment 13: Petitioner claims Fenner's U.S. selling expenses are not attributable to U.S. sales of the subject merchandise during the period of investigation. Since no verified information is available, the Department should reject Fenner's response in its entirety and use BIA for the final determination.

DOC Petition: We are accepting Fenner's allocation of U.S. selling expenses. Our preference is for product-specific expenses; however, given the number of products sold by Fenner and the difficulty of assigning specific expenses to specific products, which include products not subject to the investigation, we believe it is reasonable to accept allocations. We were able to verify independently the amounts for each category that were included in the selling expense. We also verified that Fenner does not maintain records in such a way as to enable it to report its expenses for each separate class or kind of merchandise.

Comment 14: If the Department decides against using BIA, Fenner's home market selling expenses should be used as a reasonable proxy for non-U.S. indirect selling expenses incurred on U.S. sales.

DOC Position: We agree. To calculate non-U.S. indirect selling expense, we used as best information available a ratio of total indirect selling expenses in the home market to total sales made by Fenner during the period of investigation.

Comment 15: Petitioner states that Fenner failed to report imputed inventory costs on U.S. sales. For purposes of the final determination, the Department should use the information on the record to calculate these imputed costs on U.S. sales. Petitioner claims that these costs should be calculated from the time the merchandise leaves the foreign producer to the time the material is shipped from Fenner's U.S. subsidiary to the U.S. customer.

DOC Position: We have calculated inventory carrying costs for United States sales using the methodology outlined by the petitioner.

Comment 16: Petitioner believes the Department should determine that critical circumstances exist with regard to all U.S. sales of the subject merchandise from the U.K. Petitioner argues that given the size of the dumping margins and the absence of company-specific data, an adverse determination should be made.

Respondent claims that there was no substantial increase in export of the subject merchandise during the five months after the filing of the petition as compared to exports in the five months preceding the filing of the petition.

DOC Position: We have determined that since Optibelt failed to participate in the investigation, as best information available, we are assuming that imports of industrial belts from Optibelt have been massive over a relatively short period of time. Furthermore, we find that the best information available margin of 74.16 percent imputes knowledge that the importer knew or should have known that the exporter was selling the merchandise at less than its fair value.

With regard to other firms covered by the "All others" rate, see the Critical Circumstances section of this determination.

We have also determined that critical circumstances do not with regard to imports from Fenner. *See also* the Critical Circumstances section of this determination.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of the subject merchandise from the UK, as defined in the "Scope of Investigations" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Where we have found affirmative critical circumstances in this final determination, we are instructing the U.S. Cusoms Service to suspend liquidation of such entries that are entered or withdrawn from warehouse, for consumption, on or after the date which is 90 days prior to the date of publication of the notice of the preliminary determinations in these investigations in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from the UK exceeds the United States price, as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturers/producers/exporters	Margin percentage
J. H. Fenner & Co.	6.80
Arntz Belting Co., Ltd. (Optibelt)	74.16
All others	73.85

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist with respect to subject merchandise, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on industrial belts from the UK entered or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the U.S. price.

These determinations are published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 11, 1989

[FR Doc. 89-9258 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-802]

Final Determination of Sales at Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From the Federal Republic of Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. We also determine that critical circumstances exist with respect to imports of industrial belts from the Federal Republic of Germany.

We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from the Federal Republic of Germany as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the publication of this notice, whether these imports materially injure, or threaten material injury to the U.S. industry.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Contact Louis Apple or Loc Nguyen, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1769 or (202) 377-3530.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that industrial belts from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice. We also determine that critical circumstances exist with respect to industrial belts from the Federal Republic of Germany.

Case History

On January 26, 1989, we made an affirmative preliminary determination (54 FR 5106, February 1, 1989). We have received a number of requests for exclusion of merchandise from the scope of this final determination (*see* comment numbers 4 and 5).

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from the Federal Republic of Germany currently provided for under Tariff Schedules of the United States Annotated (TSUSA) item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520; and currently classifiable under Harmonized Tariff Schedule (HTS) sub-headings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7328.20.00.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and

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whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

Period of Investigation

The period of investigation is January 1, 1988, through June 30, 1988.

Fair Value Comparisons

To determine whether sales of industrial belts from the Federal Republic of Germany to the United Staes were made at less than fair value, we compared the United States price to the foreign market value. For our preliminary determination, we used best information available as required by section 776(c) of the Act. As best information available, we took the highest margin contained in the petition for each of the product types for the period of investigation and calculated a simple average of those figures to determine a margin for the products under investigation. Since the respondent, Optibelt, failed to participate in the investigation, we are using the same methodology for calculating a margin for the final determination.

United States Price

United States price was based on the U.S. price information provided in the petition pursuant to section 772 of the Act.

Foreign Market Value

Foreign market value was based on home market prices provided in the petition pursuant to section 773 of the Act.

Critical Circumstances

On June 30, 1988, petitioner alleged that critical circumstances exist with respect to imports of the subject merchandise from the Federal Republic of Germany. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since the respondent, Optibelt, failed to participate in the investigation, we are determining that critical circumstances for this respondent exist based on best information available. As best information available, we are assuming that imports of industrial belts have been massive over a relatively short period of time. In determining knowledge of dumping, the Department normally considers margins of 25% or more sufficient to impute knowledge of dumping under section 735(a)(3)(A) (*see, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy* (52 FR 24198, June 29, 1987)). Therefore, in accordance with sections 735(a)(3)(A)(ii) and 735(a)(3)(B), we determine that critical circumstances exist with respect to Optibelt.

With respect to firms covered by the "All Other" rate, we have determined that imports of industrial belts have not been massive over a relatively short period of time and, therefore, that critical circumstances do not exist.

Since we do not find that there have been massive imports of industrial belts form firms included in the "All Other" rate, we do not need to consider whether there is a history of dumping or whether importers of these products knew or should have known that the merchandise was being sold at less than fair value.

Interested Party Comments

Comment 1: Petitioner argues that, based on U.S. import statistics, IM 146 data, the Department should find that there have been massive imports of industrial belts over a relatively short period of time. Petitioner further asserts that an antidumping margin of 25% or more is sufficient to impute knowledge to the importer that the exporter was selling the merchandise at less than fair value.

DOC Position: Since the respondent, Optibelt, failed to participate in the investigation, as best information available, we are assuming that its imports of industrial belts from the Federal Republic of Germany have been massive over a relatively short period of time. Furthermore, we find that the best information available margin of 100.60% is sufficient to impute knowledge to the importer that the exporter was selling the merchandise at less than fair value.

With regard to firms covered by the "All Other" rate, see the "Critical Circumstances" section of this determination.

Comment 2: Petitioner argues that the Department's final determination should be based on the highest less-than-fair-value margin alleged in the petition.

DOC Position: The Department is applying the same methodology used in the preliminary determination to calculate the margins for the final determination. As best information available, we are taking the highest margin contained in the petition for each of the product types for the period of investigation and then calculating a simple average of those figures to determine the margin for the products under investigation.

Comment 3: Petitioner asserts that in its scope of investigation at the preliminary determination, the Department listed only four HTS sub-hearings. Petitioner requests that the Department list eighteen HTS sub-headings in its final determination.

DOC Position: We agree. The petition included nine TSUSA item numbers and four HTS sub-headings that petitioner believed would correspond to the TSUSA numbers when the HTS system became effective.

The Harmonized Tariff Schedule went into effect on January 1, 1989. Based on a concordance between TSUSA item numbers and HTS sub-headings listed in a January 1989 USITC publication, *The Continuity of Import and Export Trade Statistics After Implementation of the Harmonized Commodity Description and Coding System*, petitioner requested that the Department expand the four HTS sub-headings listed in our preliminary determination to eighteen sub-headings. We asked for comments from the interested parties in this investigation concerning industrial belts covered by the eighteen HTS sub-headings.

In our preliminary determinations, as now, we note that the written description of the products covered by the investigation is dispositive. The HTS numbers are provided for convenience and customs purposes as to the scope of the product coverage. We do not view providing additional HTS sub-headings as broadening the scope of this investigation.

Comment 4: Siegling America, Belting Industries Co., Dovey Corporation and IRO Inc., importers, believe it is inappropriate to include nylon core, rubber and leather flat belts, urethane steel timing belts, knit carcas belts

treated with neophrene, corrugator belts, and cog belts, imported from the Federal Republic of Germany in the scope of this investigation. They request that these belt categories be excluded from this investigation.

DOC Position: The information received was insufficient to determine whether the merchandise is properly excluded from the scope of this investigation. In addition, the information received from these firms arrived too late to be analyzed and verified for this final determination. If the final determination of the ITC results in an antidumping duty order on this merchandise, and upon receipt of proper documentation, the Department may conduct a scope ruling procedure concerning the products imported by these firms.

Comment 5: On March 8, 1989, Continental AG submitted some information concerning synchronous belts imported from the Federal Republic of Germany.

DOC Position: We have notified Continental AG that we will not be using their submission in making a final determination because the information was not filed in time to be analyzed, verified and used in this final determination. (*see also* the DOC Position concerning Comment 4).

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of industrial belts from the Federal Republic of Germany, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of the preliminary determination in the Federal Register. The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from the Federal Republic of Germany exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The average of the highest margin for each of the product types listed in the petition for the period of investigation is as follows:

Manufacturer/producer/exporter	Margin percentage
Optibelt Corporation	100.60
All Others	100.60

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist with respect to any of the products under investigation, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on industrial belts from the Federal Republic of Germany entered, or withdrawn from wearehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 11, 1989.

[FR Doc. 89-9259 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-501]

Preliminary Determination of Sales at Less Than Fair Value; 12-Volt Motorcycle Batteries From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that 12-volt motorcycle batteries from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of 12-volt motorcycle batteries from Taiwan as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by June 22, 1989.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Mary Martin, John Gloninger, or Mary S. Clapp, Office of Antidumping Investigation, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW. Washington, DC 20230; telephone: (202) 377-2830, 377-8330, or 377-3965.

SUPPLEMENTAL INFORMATION:

Preliminary Determination

We preliminarily determine that 12-volt motorcycle batteries are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of reinstitution of antidumping duty investigation (53 FR 46903, November 21, 1988), the following events have occurred: On November 29, 1988, the Department presented antidumping duty questionnaires to Ztong Yee Industrial Co., Ltd. (Ztong Yee), Wei Long Electric Industrial Co., Ltd. (Wei Long), and Cheng Kwang Storage Battery Co., Ltd. (Cheng Kwang). These companies accounted for a substantial portion of exports of the subject merchandise from Taiwan to the United States during the period of investigation. Responses to Section A to the questionnaire were due on December 13, 1988, and responses to the remaining sections were due on December 29, 1988.

At the request of the respondents, response deadlines were extended to December 20, 1988 for Section A, and to January 13, 1989 for sections B and C of the questionnaire. Responses to section A were filed on December 21, 1988, and to sections B and C on January 13, 1989 by all respondents. The Department issued deficiency letters on January 23, 1989 and on February 21, 1989. Supplemental responses were received from the respondents prior to this determination.

On December 30, 1988, the petitioner requested that the preliminary determination be postponed. On January 11, 1989 in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to April 7, 1989 (54 FR 2197, January 19, 1989).

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Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are 12-volt motorcycle batteries. Motorcycle batteries are lead-acid storage batteries which are rated from 2 to 32 ampere hours (10 hour rate) with voltage levels of either 6 or 12 volts. This investigation is limited to 12-volt motorcycle batteries. The batteries are mainly used as replacement batteries for motorcycles, but may, to a very limited extent, be used in snowmobiles, lawnmovers, and other such equipment. They are currently classifiable under HTS item number 8507.10.00.

Period of Investigation

The period of investigation is April 1, 1988, through September 30, 1988.

Fair Value Comparisons

To determine whether sales of 12-volt motorcycle batteries from Taiwan to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the United States price and foreign market value sections of this notice.

United States Price

Since all sales used in our analysis were made directly to unrelated parties prior to importation into the United States, we based the United States price on purchase price, in accordance with section 772(b) of the Act. The calculation of United States price for each respondent is detailed below.

A. Ztong Yee

We calculated purchase price based on the packed, C.I.F. price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, brokerage and handling in Taiwan, bank processing fees, and port changes.

We made additions for duty drawback and value-added taxes which would have been collected if the merchandise had not been exported.

Ztong Yee incorrectly reported sales to a related purchaser in the United States as purchase price sales. On March 28, 1989, the Department requested that Ztong Yee supply exporter's sales price information for sales made to a related purchaser in the United States, but we did not receive the information in time to use it in this preliminary determination. Therefore, for purposes of this preliminary determination, and in accordance with section 776(c) of the Act, we have used Ztong Yee's calculated rate for sales to unrelated purchasers, as the best information available (BIA), for sales to the related purchaser.

B. Wei Long

We calculated purchase price based on the packed, F.O.B. or C.I.F. price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, brokerage and handling charges in Taiwan, quantity discounts, port and bank processing fees.

C. Cheng Kwang

We calculated purchase price based on the packed, F.O.B. or C.I.F. prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, brokerage and handling charges in Taiwan, bank processing fees, port charges, and inspection fees.

Foreign Market Value

In accordance with section 773(a)(1) of the Act, we calculated foreign market value based on home market or third country sales. The calculation of foreign market value for each respondent is detailed below.

A. Ztong Yee

For Ztong Yee, we determined there were sufficient sales in the home market to serve as a basis for calculating foreign market value. We calculated foreign market value based on packed F.O.B. and C.I.F. prices to unrelated purchasers in Taiwan. We made deductions, where appropriate, for inland freight and rebates.

We made circumstance of sale adjustments for differences in credit pursuant to 19 CFR 353.15. We made an upward adjustment to tax-exclusive home market prices for the value added tax we computed for United States price. In addition, we added commissions paid to selling agents in the United States where appropriate. We allowed an offset for indirect selling expenses in the home market (which includes advertising, travel and entertainment expenses, inventory carrying costs, warranty expenses and inspection fees) up to the amount of the commissions in the U.S. market in accordance with 19 CFR 353.15(c).

We made adjustments, where applicable, for differences in the physical characteristics of the merchandise in accordance with 19 CFR 353.16. Ztong Yee did not provide the cost of packing, claiming packing costs were the same for all markets. Therefore, no adjustment was made for packing. Ztong Yee, however, did report that batteries sold in the home market have acid packs. We treated the additional cost of these acid packs as part of the difference in merchandise adjustments.

Ztong Yee claimed advertising as a direct selling expense. However, its claim was not adequately supported, and we have treated advertising as an indirect selling expense for purposes of this determination.

B. Wei Long

Because Wei Long had no home market sales during the period of investigation, we used third country sales to an unrelated Taiwanese trading company and direct sales to a third country for the purpose of determining foreign market value in accordance with section 773(a)(1)(B) of the Act. We calculated foreign market value based on the packed, F.O.B. price to the unrelated trading company, and F.O.B. or C.I.F. prices for the direct sales. We made deductions where appropriate for brokerage and handling charges, foreign inland freight, ocean freight, marine insurance, quantity discounts, and port fees. We made circumstance of sale adjustments for differences in credit and warranty expenses pursuant to 19 CFR 353.15. We deducted third country packing and added U.S. packing.

In addition, we added commissions incurred on U.S. sales to foreign market value. However, Wei Long claimed an offset to U.S. commissions of "indirect selling expenses" incurred on sales to the third country market. It did not, however, include the requisite itemized breakdown of the indirect expenses claimed. Therefore, we have disallowed these expenses for purposes of the preliminary determination and have not performed the offset. If the appropriate information is submitted and verified, we will consider it for the final determination.

C. Cheng Kwang

Because Cheng Kwang's home market sales during the period of investigation were inadequate for determining foreign market value, we used third country sales to unrelated Taiwanese trading companies and direct sales to other third countries in accordance with section 773(a)(1)(B) of the Act. We calculated foreign market value comparisons based on the packed, F.O.B. or C.I.F. prices. We made deductions where appropriate for brokerage and handling charges, foreign inland freight, ocean freight, marine insurance, port usage fees, banking charges, and inspection charges.

We made a circumstance of sale adjustment for differences in credit expenses pursuant to 19 CFR 353.15. We deducted third country packing and added U.S. packing.

We made adjustments, where applicable, for differences in the physical characteristics of the merchandise in accordance with § 353.16 of the Commerce Regulations.

Cheng Kwang claimed an adjustment to third country price for additional costs incurred on smaller production lots. We disallowed this claim for the preliminary determination. If we are able to verify the costs for differing production lots and their corresponding relationship to selling price, we will consider this claim for the final determination.

Currency Conversion

Since we calculated United States price on a purchase price basis, we used the official exchange rates in effect on the date of sale, in accordance with § 353.56(a)(1) of the Commerce Regulations. All currency conversions were made at rates certified by the Federal Reserve Bank of New York.

Verification

We will verify the information used in making our final determination in accordance with section 776(b) of the Act.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of 12-volt motorcycle batteries from Taiwan that are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of 12-volt motorcycle batteries from Taiwan exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/producer/exporter:	Margin percentage
Ztong Yee	28.06
Wei Long	3.97
Cheng Kwang	1.00
All others	6.95

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the later of 120 days after the date of this determination, or 45 days after the final determination, if affirmative.

Public Comment

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m. on May 23, 1989, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Assistant Secretary by May 16, 1989. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 7, 1989.

[FR Doc. 89-9191 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-508-802]

Final Affirmative Countervailing Duty Determination: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Israel

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Israel of industrial belts and components and parts thereof, whether cured or uncured (industrial belts), as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is 15.42 percent *ad valorem*. In addition, we determine that critical circumstances do exist in this case.

We have notified the United States International Trade Commission (ITC) of our determinations. If the ITC determines that imports of industrial belts materially injure, or threaten material injury to a U.S. industry, we will direct the U.S. Customs Service to resume suspension of liquidation of all entries of industrial belts from Israel that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of our countervailing duty order and to require a cash deposit on entries of industrial belts in an amount equal to the estimated net subsidy.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Roy A. Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-5414.

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SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Israel of industrial belts. For purposes of this investigation, the following programs are found to confer subsidies:

- Encouragement of Capital Investment Law Grants
- Exchange Rate Risk Insurance
- Long-term Industrial Development Loans
- Encouragement of Research and Development Grants

We determine the estimated net subsidy to be 15.42 percent *ad valorem* for all manufacturers, producers, or exporters in Israel of industrial belts.

Case History

Since publication in the **Federal Register** of the *Preliminary Affirmative Countervailing Duty Determination: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from Israel* (53 Fr 48670, December 2, 1988) (*Preliminary Determination*), the following events have occurred. We received requests for a public hearing from petitioner on December 7, 1988, and from respondents on December 9, 1988. On December 9, 1988, petitioner filed a request for alignment of the countervailing duty and antidumping final determinations. This postponement was approved under section 705 of the Act and published in the **Federal Register** on February 13, 1989 (54 FR 6562).

On March 29, 1989, in accordance with Article 5, paragraph 3 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (GATT Subsidies Code), we notified U.S. Customs to terminate the suspension of liquidation in this investigation as of April 1, 1989. Petitioner withdrew its request for a public hearing on March 3, 1989, and respondents withdrew their requests on March 6, 1989. We received written comments from petitioner on March 16 and March 20, 1989, and from respondents on February 23 and March 20, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedules* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and Customs purposes.

The products covered by this investigation are industrial belts and components and parts thereof, whether cured or uncured, formerly provided for under TSUSA item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510, and 773.3520 and currently classifiable under HTS item numbers 3926.9055, 3926.9056, 3926.9057, 3926.9059, 3926.9060, 4010.1010, 4010.1050, 4010.9111, 4010.9115, 4010.9119, 4010.9150, 4010.9911, 4010.9915, 4010.9919, 4010.9950, 5910.0010, 5910.0090, and 7326.2000.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

Analysis of Programs

Because the Government of Israel (GOI) and Magam United Rubber Industries Ltd. (Magam) withdrew their questionnaire responses, this determination is based on the best information available.

For each program found to be countervailable in prior countervailing duty investigations involving Israel, we used as the best information available the highest rate ever found for that program in previous countervailing duty determinations or administrative reviews involving products from Israel. We did not conduct a verification, since respondents withdrew their responses from the record of the investigation.

Based upon our analysis of the petition, written comments from petitioner and respondents and prior Israeli cases, we determine the following:

I. Programs Determined to Confer Subsidies

We determine that subsidies are being provided to manufactures, producers, or exporters in Israel of industrial belts under the following programs:

A. The Encouragement of Capital Investment Law (ECIL) Grants

The purpose of the ECIL is to attract capial investment to Israel. In order to be eligible to receive various benefits under the ECIL, including investment grants, drawback grants, capital grants, accelerated depreciation, and reduced tax rates, the applicant must obtain "approved enterprise" status. (ECIL interest subsidy payments and tax programs are listed below under "Programs Determined Not to Be Used".) Approved enterprise status is obtained after review of information submitted to the Ministry of Industry and Trade, Investment Center Division.

Using our *Final Affirmative Countervailing Duty Determination: Potassium Chloride from Israel* (49 FR 35122, September 14, 1984) as the best information available, we determine that the provision of investment grants under this program confers a subsidy on exports of industrial belts from Israel and that the estimated net subsidy for all producers and exporters of industrial belts from Israel is 1.18 percent *ad valorem*.

B. Exchange Rate Risk Insurance

The Exchange Rate Risk Insurance Scheme (EIS), operated by the Israel Foreign Trade Risk Insurance Corporation Ltd. (IFTRIC), is aimed at insuring exporters against losses which result when the rate of inflation exceeds the rate of devaluation and the New Israeli Shekel (NIS) value of an exporter's foreign currency receivables does not rise enough to cover increases in local costs.

The EIS scheme is optional and open to any exporter willing to pay premiums to IFTRIC. Compensation is based on a comparison of the change in the rate of devaluation of the NIS against a basket of foreign currencies with the change in the consumer price index. If the rate of inflation is greater than the rate of devaluation, the exporter is compensated by an amount equal to the difference between these two rates multiplied by the value-added of the exports. If the rate of devaluation is higher than the change in the domestic price index, however, the exporter must compensate IFTRIC. The premium is calculated for all participants as a percentage of the value-added sales value of exports. IFTRIC changes this percentage rate periodically but, at any given time, it is the same for all exporters.

In determining whether an export insurance program provides a countervailable benefit, we examine whether the premiums and other charges are adequate to cover the program's long-term operating costs and losses. In the last Israeli investigation, *Final Affirmative Countervailing Duty Determination: Industrial Phosphoric Acid from Israel* (52 FR 25447, July 7, 1987) (*Phosphoric Acid*), we found that this program conferred a countervailable benefit. Using our determination in *Phosphoric Acid* as the best information available, we determine that this program confers an export subsidy on exports of industrial belts from Israel.

For the preliminary determination we used the rate calculated for this program in the *Final Affirmative Countervailing Duty Determination: Certain Fresh Cut Flowers from Israel* (52 FR 3316, February 3, 1987) as the best information available with respect to the amount of the subsidy. For this determination, we are using the rate calculated in *Preliminary Results of Countervailing Duty Administrative Review: Fresh Cut Roses from Israel* (54 FR 10395, March 13, 1989), since it is now the highest rate found for this program in all previous countervailing duty determinations and administrative reviews. On this basis, we determine that the estimated net subsidy for all producers and exporters of industrial belts in Israel is 9.18 percent *ad valorem*.

C. Long-term Industrial Development Loans

Prior to July 1985, approved enterprises were eligible to receive long-term industrial development loans funded by the GOI. In *Phosphoric Acid*, we determined that loans under this program are provided to a diverse number of industries. However, the interest rates charged on these loans vary depending on the development zone location of the borrower. The interest rates on loans to borrowers in Development Zone A are lowest, while those on loans to borrowers in the Central Zone are highest.

In the absence of government and company questionnaire responses and verified information, we assume, as the best information available, that the producers and exporters of industrial belts in Israel are not located in the Central Zone. Therefore, we determine that this program confers a regional subsidy on exports of industrial belts from Israel. Using the rate calculated in the *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Israel* (52 FR 1651, July 7, 1987) as the best information available, we determine that the estimated net subsidy for all producers and exporters of industrial belts in Israel is 5.02 percent *ad valorem*.

D. Encouragement of Research and Development Law (ERDL) Grants

Petitioner alleges that research and development grants equal to 50 percent of approved project costs are available under ERDL where such activity is directed at export expansion. Using as the best information available our determination in *Phosphoric Acid*, we determine that this program confers a subsidy on exports of industrial belts from Israel and that the estimated net subsidy for all producers and exporters of industrial belts in Israel is 0.04 percent *ad valorem*.

II. Programs Determined Not to be Used

Using as the best information available the non-use of the following programs in previous investigations, we determine that the programs below were not used by manufacturers, producers, or exporters in Israel of industrial belts during the review period. For a full description of these programs, see the *Preliminary Determination*.

A. *Certain Benefits Under the Encouragement of Capital Investment Law (ECIL)*

1. *Accelerated Depreciation Under Section 42*
2. *Direct Reduction of Corporate Tax Under Section 47*
3. *Interest Subsidy Payments*

B. *Labor Training Grants from the Ministry of Labor*

C. *Special Export Marketing Financing from the Bank of Israel*

Critical Circumstances

On June 30, 1988, petitioner alleged that "critical circumstances" exist with respect to imports of the subject merchandise from Israel. Section 705(a)(2) of the Act provides that critical circumstances exist if we determine that:

A. The alleged subsidy is inconsistent with the Agreement, and

B. There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

We generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports. 19 CFR 355.16(f) (53 FR 52306, 52350)

In our preliminary determination of critical circumstances we used import statistics for the basket TSUSA categories applicable to industrial belts and determined that imports of the subject merchandise in the basket TSUSA categories from Israel were not massive over a relatively short period. For our final determination, however, we decided not to rely on basket-category import statistics. Instead, we are using an approach adopted in the recent antidumping determinations on antifriction bearings. In these determinations the Department assumed massive imports when import statistics were based on basket TSUSA categories and respondents did not supply information on company-specific exports of the subject merchandise or the information supplied could not be verified. See, for example, *Final Determinations of Sales at Less than Fair Value: Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany* and *Final Determinations of Sales at Less than Fair Value: Antifriction Bearings (other than Tapered Roller Bearings) and Parts Thereof from the United Kingdom*. The Commerce Department made these final determinations on March 24, 1989.

In this investigation we have circumstances which are similar to those in the antifriction bearings investigations. The import statistics are based on basket TSUSA categories and respondents withdrew their responses. Therefore, as best information available, we are assuming that imports from Israel have been massive over a relatively short period of time.

As described above, we have determined, on the basis of the best information available, that the GOI provides export subsidies on the merchandise under investigation. Article 9 of the GATT Subsidies Code prohibits the use of export subsidies on non-primary products. However, Article 14 provides an exception for developing countries, provided they do not use "export subsidies on their industrial products * * * in a manner which causes serious prejudice to the trade or production of another signatory" (Article 14, paragraph 3).

For a developing country like Israel, then the issue is whether we find that export subsidies are causing "serious prejudice" to U.S. trade or production of industrial belts. Under section 771(7)(c)(iii) of the Act, the ITC evaluates all relevant economic factors

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bearing on the state of the industry, including actual and potential decline in output, sales, market share, profits, productivity, return on investment, and capacity utilization. Thus, in making its preliminary and final injury determinations, the ITC considers trade and production in the United States. We conclude that, in principle, serious prejudice can exist where material injury to a U.S. industry occurs by reason of imports benefiting from export subsidies.

Based upon the information in the record and the ITC's affirmative preliminary determination of August 14, 1988, we conclude that serious prejudice exists within the meaning of Article 14, paragraph 3. Therefore, we find that Israel's export subsidies on industrial belts are inconsistent with the GATT Subsidies Code.

For the reasons discussed above, we find that critical circumstances exist within the meaning of section 705(a)(2) of the Act. If the ITC's final determination should be negative, our critical circumstance finding will become moot; in any event, under section 705(a)(4)(A) of the Act, the ITC must make its own affirmative determination of critical circumstances.

Comments

Comment 1: Petitioner claims that the Department should countervail all subsidy programs found to be used in prior Israeli cases at the highest rate calculated for each program, including programs subsequently found to have been discontinued. In making its determination on the basis of the best information available, the Department must adversely infer that respondents failed to supply information on possible new programs that may have been created to replace the discontinued programs. The Department should use the subsidy rates applicable to the discontinued programs as the best information available for the new programs that may have been established.

DOC Position: Since respondents withdrew their responses from the record in this investigation, the Department made its final determination on the basis of the best information available, using as the best information its findings from past countervailing duty determinations or administrative reviews concerning products from Israel. In addition, to calculate a countervailing duty rate in this investigation, the Department used the highest countervailing duty rate previously found in any final countervailing duty determination or administrative review for each of the programs.

In so doing, the Department has adversely inferred that respondent has used each of the ongoing programs previously found countervailable, and that respondent has realized from each program a benefit equal to the highest benefit found in any countervailing duty determination or administrative review. Petitioner has not provided any evidence of new programs that may have been established to replace the programs discontinued. Therefore, the Department sees no reason to make additional adverse inferences.

Comment 2: Petitioner claims that the Department should recognize the existance of a new program granting a partial risk guarantee for unsuccesful export marketing activities and should determine that this program is countervailable. (This program was briefly mentioned in the government response, which, as noted above, was subsequently withdrawn.) Petitioner suggests using the exhange rate risk insurance scheme as a proxy for quantifying the benefit of the program.

DOC Position: We disagree. Both the GOI and Magam withdrew their responses from the record of this investigation. Consequently, the Department made its determination on the basis of the best information available. As the best information available, the Department used the conclusions reached in past Israeli cases. The Department considers it inappropriate to use a portion of the withdrawn response concerning an export market risk guarantee while disregarding the remainder of the responses. As set out in our response to *Comment 3*, we have refused to consider information from the withdrawn response concerning respondent's location within the Central Zone. It would be inconsistent and inappropriate for the Department to pick and choose information from the withdrawn response, using information unfavorable to respondents but not using information favorable to respondent. Furthermore, we note that petitioner has not supplied any substantive information with respect to this possible other program, nor has it described how it might be countervailable.

Comment 3: Respondents maintain that the Department failed to use the best information available in its preliminary determination for two of the programs under investigation: ECIL Grants and Long-Term Industrial Development Loans. Respondents indicate that benefits under these programs vary by zone and that no benefits are received by firms located in the Central Zone. Respondents state that Magam is located in Central Zone and have supplied a letter from the Government of Israel attesting to this statement. Respondents conclude that the Department should find that Magam has received no benefits under these programs, since it is located in the Central Zone.

Petitioner claims that the Department should not accept incomplete information submitted by Magam indicating that it may be within the Central Zone and, therefore, may be precluded from receiving preferential interest rates under the ECIL.

DOC Position: The GOI and Magam chose to withdraw their questionnaire responses in this investigation. Therefore, we were unable to verify any of the information needed to make this final determination. Under the provisions of the Act, we must verify all information used in our final determination. Because we were unable to verify any information in this investigation, it was necessary to make this final determination on the basis of the best information available.

It would be contrary to the provisions of the Act and Department practice to use partial information provided by respondents in the absence of complete and accurate questionnaire responses which were subject to verification. If the Department were to follow such a practice, potential respondents would have no reason to respond to the Department's questionnaire and would, instead, provide only information favorable to their case. Obviously, this would be an unacceptable result. See *Association Colombiana de Exportadores de Flores* v. *United States*, Slip op. 89–3 (Ct. Int'l Trade, January 6, 1989).

Comment 4: Respondents claim that the Department should not make an affirmative determination of critical circumstances, since imports from Israel account for a small percentage of U.S. consumption of the subject merchandise.

DOC Position: Because the Department's import data on the subject merchandise are based on basket TSUSA categories, we would normally look to respondents for accurate data on exports of the subject merchandise to the U.S.

In this case, however, respondents have withdrawn their responses, thus eliminating our usual alternative source of import statistics. Therefore, as best information available, we are assuming that imports from Magam have been massive over a relatively short period. Since, in this case, there are also export subsidies inconsistent with the agreement, as explained in the critical circumstances section of this determination, we have made an affirmative determination of critical circumstances. See our discussion of this issue in the section of this notice on critical circumstances.

Comment 5: Petitioner asserts that, in the scope of investigation at the preliminary determination, the Department listed only four of the 18 HTS items corresponding to the nine TSUSA numbers. Petitioner requests that the Department list all 18 numbers in its final determination.

DOC Position: The scope of this investigation has not changed since the initiation. The petition included nine TSUSA item numbers and four HTS sub-headings that petitioner believed corresponded to the TSUSA numbers.

The Harmonized Tariff Schedule went into effect on January 1, 1989. Based on a January 1989 ITC publication, petitioner requested that the Department expand the four HTS sub-headings to eighteen sub-headings.

We consulted with the respondents in each country subject to concurrent countervailing and antidumping investigations involving industrial belts and received no objections to the petitioner's request.

In our preliminary, as now, we note that the written description of the products covered by the investigation is dispositive. The HTS numbers are provided for convenience and customs purposes as to the scope of the product coverage.

Verification

As noted above, the questionnaire responses in this investigation were withdrawn. Therefore, we did not conduct a verification. In accordance with section 776(c) of the Act, we made our final determination on the basis of the best information available.

Suspension of Liquidation

In accordance with our preliminary affirmative countervailing duty determination published on December 2, 1988, we directed the U.S. Customs Service to suspend liquidation on the products under investigation and to require a cash deposit or bond equal to the duty deposit rate. This final countervailing duty determination was extended to coincide with the companion final antidumping determinations, pursuant to section 606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act). Under Article 5, paragraph 3 of the GATT Subsidies Code, provisional measures cannot be imposed for more than 120 days without final affirmative determinations of subsidy and injury. Therefore, on March 29, 1989, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after April 1, 1989, but to continue the suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise entered between December 2, 1988, and March 31, 1989. Since we are now making a final affirmative determination of critical circumstances, the suspension of liquidation becomes retroactive to September 3, 1988, which is 90 days prior to the date on which liquidation was first suspended. We shall instruct the U.S. Customs Service also to suspend liquidation on all unliquidated entries made between September 3, 1988, and December 1, 1988. If the ITC issues a final affirmative injury determination, we will reinstate suspension of liquidation under section 705 of the Act on the date of publication of the countervailing duty order and again require a cash deposit on all entries of the subject merchandise in an amount equal to 15.42 percent *ad valorem*.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing Customs officers to assess countervailing duties on all entries of industrial belts from Israel entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 7, 1989.

[FR Doc. 89-9298 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-580-802]

Final Negative Countervailing Duty Determination: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that *de minimis* benefits which constitute subsidies within the meaning of the U.S. countervailing duty law are being provided to manufacturers, producers, or exporters in Korea of industrial belts and components and parts thereof, whether cured or uncured (industrial belts), as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is 0.41 percent *ad valorem*. Since this rate is de minimis, our final countervailing duty determination is negative.

We have notified the United States International Trade Commission (ITC) of our determination.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Roy A. Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–5414.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that *de minimis* benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers or exporters in Korea of industrial belts. For purposes of this investigation, the following programs are found to confer subsidies:

- Short-Term Export Financing
- Export Tax Reserves
- Duty Drawback on Non-Physically Incorporated Items and Allowances for Excessive Loss and Wastage Rates

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We determine the estimated net subsidy to be 0.41 percent *ad valorem* for all manufacturers, producers or exporters in Korea of industrial belts. Since this rate is *de minimis*, our final countervailing duty determination is negative.

Case History

Since the last **Federal Register** publication pertaining to this investigation [*Preliminary Affirmative Countervailing Duty Determination: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from the Republic of Korea* (53 FR 49872, December 2, 1988) (*Preliminary Determination*)], the following events have occurred. On December 9, 1988, petitioner filed a request for alignment of the countervailing duty and antidumping final determinations. This postponement was approved under section 705 of the Act and published in the **Federal Register** on February 13, 1989 (54 FR 6562).

We conducted verification in Korea from January 23 through January 27, 1989, of the questionnaire responses of the Government of Korea (GOK), Dongil Rubber Belt Co., Ltd. (Dongil), and Taelim Moolsan Co., Ltd. (Taelim Moolsan), a trading company whose exports to the United States are purchased from Dongil. At the GOK we also verified information provided in the GOK responses with respect to another producer of industrial belts which exports to the United States, Hankook Belt Industry (Hankook). All the information submitted by the GOK concerning was received prior to verification.

Petitioner and respondents requested a public hearing in this case which was held on March 16, 1989. Both parties filed pre-hearing briefs on March 13, 1989, and post-hearing briefs on March 23, 1989. On March 29, 1989, in accordance with Article 5, paragraph 3 of the Agreement of Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (GATT Subsidies Code), we notified U.S. Customs to terminate the suspension of liquidation in this investigation as of April 1, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and customs purposes. The Department's written description of the products under investigation remains dispositive as to the scope of the product coverage.

The products covered by this investigation are industrial belts and components and parts thereof, whether cured or uncured, formerly provided for under TSUSA item numbers 358.0210, 358.0290, 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520; and currently classifiable under HTS sub-headings 3926.9055, 3926.9056, 3926.9057, 3926.9059, 3926.9060, 4010.1010, 4010.1050, 4010.9111, 4010.9115, 4010.9119, 4010.9150, 4010.9911, 4010.9915, 4010.9919, 4010.9950, 5910.0010, 5910.0090 and 7326.2000.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses and lift trucks.

Analysis of Programs

As mentioned above, we received and were able to verify the questionnaire respones of Dongil and Taelim. Another producer, Hankook, did not directly respond to our questionnaire. However, information with respect to Hankook, which we were also able to verify, was provided in the GOK response. This information was received prior to verification. A certain limited amount of information pertaining to Hankook was not provided by the GOK and could not be verified. For one program described below (see Section I.C.) where we did not have verified information with respect to Hankook, we used the best information available.

We calculated the country-wide estimated net subisdy rate by weight averaging the respective company-specific rates according to the respondent companies' share of exports of the subject merchandise to the United States. Because this rate is *de minimis*, despite Hankook's level of benefits, our final determination is negative. (See, *Final Negative Countervailing Duty Determinations: Standard Line Pipe, Light-walled Rectangular Tubing and Heavy-Walled Rectangular Tubing from Malaysia* (53 FR 46904, November 21, 1988); see also preamble discussion of § 355.20(d) of the Commerce Department's regulations published in the **Federal Register** on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.38), which codifies existing practice.) For informational purposes, at the end of the individual program descriptions below, we have included company-specific rates.

For purposes of this final determination, the period for which we are measuring subsidies ("the review period") is calendar year 1987 which corresponds to the fiscal year of Dongil.

Based upon our analysis of the petition, the responses to our questionnaires, verification, and written comments filed by petitioner and respondents, we determine the following:

I. Programs Determined to Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers and exports in Korea of industrial belts under the following programs:

A. Short-Term Export Financing

The Short-Term Export Financing Regulations provide the guidelines for short-term export financing. Under these regulations, export financing takes the form of loans on bills related to export sales transactions. Eligibility is based upon presentation of export documents or upon past export performance. Export loans based on past performance cannot exceed 90 days, while loans based on specific export documents cannot exceed 180 days and are limited to the terms of the applicable letter of credit. During our review period, the rate of interest charged on short-term export financing remained constant at ten percent, the ceiling established by the Bank of Korea (BOK).

Short-term export financing is available in Korea to finance three types of transactions: (1) Purchases of imported materials, (2) purchases of domestic material, and (3) production. Each type of transaction carries with it a "loan exchange ratio." This ratio, expressed in won, determines the maximum won loan amount per dollar value of the transaction. The ratio varied between small- and medium-sized companies on the one hand, and large-sized companies on the other. We verified that the exchange ratios in effect during the review period were reduced as of February 8, 1988.

The BOK also establishes rediscount ratios that set the proportion of a short-term loan which the commercial bank may rediscount through the central bank. During the period of investigation, the rediscount ratio for short-term export financing was lowered from 60 percent to 40 percent for large-sized firm, and from 90 percent to 60 percent for small- and medium-sized firms. The rediscount ratio on domestic commercial financing remained at 60 percent for large-sized companies. Small- and medium-sized firms are defined as companies with fewer than 300 employees. We verified that both Dongil and Hankook are classified as large companies.

We verified that both Hankook and Dongil received financing under this program. Because only exporters are eligible to use short-term export financing, we determine these loans to be countervailable to the extent that they are provided on preferential terms. Moreover, we determine that the different rediscount ratios applicable to financing for the large firms during the review period resulted in the provisions of export financing on preferential terms for large firms. This is because in lending to large firms, commercial banks had an incentive to channel more funds to finance those firms' export transactions and, thus, fewer funds to finance their domestic transactions. This is the same analysis we employed in *Certain Stainless Steel Cooking Ware from the Republic of Korea: Final Affirmative Countervailing Duty Determination* (51 FR 42687, November 26, 1986) (*Cooking Ware*). At verification, we found that in September 1988, the BOK equalized the rediscount ratios.

To determine the extent to which these loans are provided on preferential terms, we used verified information provided by the GOK to construct a weighted-average short-term interest rate to represent what large firms pay to finance domestic transactions. Because, during the review period, commercial banks had an incentive to direct their loans to large firms for financing export transactions rather than domestic transactions, large firms would have needed to seek alternative sources for financing domestic sales.

The weighted-average interest rate we have computed is a best estimate measure of the preference created by the different rediscount ratios. It incudes the interest rates on commercial bank loans for domestic transactions; the issuance of commercial paper; and financing from investment and finance companies, merchant banking companies, and mutual savings and finance companies. We verified that these sources constitute all the forms of short-term commercial financing in Korea. They differ from those used in our *Preliminary Determination* in that we have deleted mutual credit cooperatives and included merchant banking companies. We verified that the former were used as a source of short-term finance almost exclusively by households and the latter were a source for companies.

The GOK does not maintain detailed statistical information concerning the weighted-average or average interest rate charged by commercial banks. The BOK annual report only lists the interest rate bands within which banks are permitted to make loans Therefore, to determine an average interest rate for commercial banks in Korea, we used as the best information available the results of a survey of Korean commercial banks conducted by the GOK. The survey provides the percentage of short-term loans offered by a number of Korean national and local commercial banks at half-percent intervals within the interest rate band allowed by the BOK. Local commercial banks are allowed to charge interest rates up to one percent higher than national commercial banks. We verified that local banks account for 9.1 percent of all commercial bank loans, and national banks, 90.9 percent. We then weight average the national and local commercial bank average interest rates to determine a single weighted-average commercial bank interest rate for the review period of 11.15 percent.

The weights assigned to each of the other sources of short-term domestic credit (*i.e.*, commercial paper, financing from investment and finance companies, merchant banking companies, and mutual savings and finance companies) were derived from the BOK *Monthly Bulletin*. From the *Monthly Bulletin*, we determined the amount of, and interest rates charged on, short-term financing from each of these sources.

Using the above data, we calculated a weighted-average short-term interest rate benchmark of 11.79 percent. We compared this rate to the 10 percent interest rate on export loans received by Dongil and Hankook. (We verified that Taelim Moolsan did not receive any export loans during the period of review.) To determine the benefit of the preferential interest rate, we subtracted the interest paid on the export loans at 10 percent from the interest the companies would have paid if the loans had been contracted at the benchmark.

Because the benefit was not segregable by product or market, we divided the benefit by the total exports of the respective companies during the review period. On this basis, we calculated an estimated net subsidy of 0.14 percent *ad valorem* for Dongil and 0.17 percent *ad valorem* for Hankook. The country-wide rate equals 0.14 percent *ad valorem*.

B. Export Tax Reserves Under Articles 22 and 23

Articles 22 and 23 of the Act Concerning the Regulation of Tax Reduction and Exemption permit deductions from taxable income by exporting firms for a number of different reserves covering export losses, overseas market development and price fluctuation losses.

Under Article 22, a corporation may establish a reserve amounting to the lesser of one percent of foreign exchange earnings or 50 percent of the foreign exchange earnings component of net income. It certain export losses occur, they may be offset by the reserve fund. Following the tax year in which the reserve amount was created, there is a one-year grace period. After the grace period, amounts remaining in the reserve that have not been offset by actual losses are returned to the taxable income account in three equal annual installments.

Article 23, which governs overseas market development funds, allows a corporation to establish a reserve fund amounting to one percent if its foreign exchange earnings in the respective tax year. Expenses incurred in development overseas markets may be offset from the reserve fund. Funds remaining in the reserve after the tax year are treated as under Article 22.

The balance in both reserve funds is not subject to corporate tax, although all moneys in the reserve funds, if not used to offset losses, are eventually returned to income and subject to corporate tax.

We determine that these export reserves programs confer benefits which constitute export subsidies because they provide a deferment, contingent upon export performance, of direct taxes. We verified that Dongil and Hankook, but not Taelim Moolsan, utilized the provisions under the export tax reserves.

To measure the benefit conferred by the deferments, we followed the same methodology previously use in *Cooking Ware* and calculated the tax savings by multiplying the amount maintained in the reserves by the companies' effective tax rates.

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We treated the tax savings on these funds as short-term interest-free loans. Accordingly, to determine the benefit, the amount of the companies' tax savings was multiplied by the average short-term national and local commercial bank interest rate (11.15%) which we calculated under the section above.

On this basis, we calculated an estimated net subsidy of 0.13 percent *ad valorem* for Dongil and 0.00 percent *ad valorem* for Hankook. The country-wide rate is 0.12 percent *ad valorem*.

C. Duty Drawback on Non-Physically Incorporated Items and Allowances for Excessive Loss and Wastage Rates

We examined the Korean duty drawback system to determine whether the companies under investigation were receiving benefits from the allowance of duty drawback on non-physically incorporated items and on recoverable scrap. We verified that input usage rates are determined every four years for producers of exported products. The survey upon which the GOK based its input usage rates was based on an audited survey of Dongil's production process. Tables of these rates are used by Korean Customs for duty drawback purposes.

We verified that recoverable scrap is factored into the usage rates and that, therefore, for Dongil, the loss and waste rates built into the input usage tables are not excessive. Moreover, we verified that Dongil does not have recoverable scrap from its production process. We also verified that Dongil did not receive any duty drawback on non-physically incorporated items. We were unable to make these determinations for Hankook since we could not conduct a complete on-side verification of Hankook and its production process.

We also verified that a fixed rate duty drawback system is used by the GOK for export shipments valued at less than $20,000. The fixed rate duty drawback is calculated yearly on a product-specific basis. The GOK determines the rate, on an industry-wide basis, based on the previous year's non-fixed rate duty drawback experience of a given product. The rate applicable in the review period was 22 won per dollar of export value.

Since we verified that Dongil has no recoverable scrap and that it has not received any duty drawback on non-physically incorporated items, we determine that Dongil receives no subsidy under this program.

We were unable to verify, however, that Hankook did not receive drawback on non-physically incorporated items or on recoverable scrap. Therefore, as the best information available, we assumed that the entire amount of duty drawback received by Hankook during the review period was excessive and therefore constitutes a countervailable subsidy.

We were able to verify the amount of drawback received by Hankook on its total exports of the subject merchandise. However, we could not verify the value of Hankook's total exports of the subject merchandise. Therefore, as the best information available, we used the fixed duty drawback rate of 22 won per dollar of export value to calculate the estimated net subsidy.

We applied the rate of 22 won per dollar to Hankook's total exports of the subject merchandise to the United States as an estimate of the total amount of duty drawback that Hankook received on its shipments of the subject merchandise to the United States. We then converted this won value to a dollar value using, as the best information available, the highest dollar/won exchange rate in effect during the review period. We allocated this amount over Hankook's total exports of the subject merchandise to the United States, a figure we had verified in dollars. The result of this calculation yields an estimated net subsidy of 2.78 percent *ad valorem* for Hankook. The country-wide rate is 0.15 percent *ad valorem*.

We also considered using as the best information available the highest estimated net subsidy found for this program in all previous Korean cases. However, the highest rate previously found for this program is smaller than the rate calculated above. Therefore, we used the methodology detailed above.

II. Programs Determined Not To Be Used

We determine, based on verified information, that the programs listed below were not used by manufacturers, producers and exporters in Korea of industrial belts during the review period. For a full description of these programs, see our *Preliminary Determination*.

A. Unlimited Deduction of Overseas Entertainment Expenses

B. Loans to Promising Small and Medium Enterprises

C. Exemption from the Acquisition Tax

D. Tax Incentives for Businesses Moving to a Provincial Area

E. Free Export Zone Program

F. Export Credit Financing from the Export-Import Bank of Korea (KXMB)

G. Export Guarantees from the KXMB

III. Programs Determined To Have Been Terminated

We determine, based on verified information, that the progrmas listed below were terminated and that no benefits were conferred on producers and exporters in Korea of industrial belts during the review period. For a full description of these programs see our *Preliminary Determination*.

A. Special Depreciation Under Article 11 of the Act Concerning the Regulation of Tax Reduction and Exemption (ACTRE)

B. Tax Credit for Investment for Key Industries

C. Accelerated Depreciation Under Article 25 of the Act Concerning the Regulation of Tax Reduction and Exemption

D. Tariff Reductions on Plant and Equipment

E. Export Tax Reserves Under Article 24

V. Program Determined To Not Exist

We determine that the following program does not exist.

Loans for Expansion or Construction of Manufacturing Facilities

Interested Party Comments

Comment 1: Petitioner asserts that the Department's use of a weighted average of interest rates from various types of financial institutions as the benchmark for the short-term export financing program results in an underestimation of the full benefit. Specifically, petitioner states that, regarding commmercial banks, the Department incorrectly included in the calculation of the benchmark the rates on sources of funds targeted by the government for particular uses. Petitioner also asserts that insofar as Dongil received short-term loans from commercial banks during the review period, it received government-directed financing. In addition, petitioner contends that targeted funds are likely to be provided to a specific enterprise or industry and should not be considered by the Department to be appropriate bases for the benchmark rate. Petitioner also suggests that the Department should adjust the benchmark calculation by excluding the commercial lending rate and including the curb market rate, *i.e.*, the rate charged by private money lenders.

Respondents claim that Dongil's sources of short-term export financing are commercial banks only, so the curb market should not be included in the benchmark rate.

DOC Position: Petitioner's allegation that all commercial bank loans are targeted to specific enterprises or industries was first raised in the March 13, 1989, pre-hearing brief, and is, therefore, untimely and cannot be considered for purposes of this final determination.

The curb market has not been included in our calculation of the benchmark for the following reasons: (a) Information from verification and through discussions with officials of the U.S. Treasury Department, the International Monetary Fund, and the World Bank indicates that the curb market is a very marginal source of funds in the Korean financial markets; (b) these same sources indicate that the curb market is not a viable source of financing for any but the smallest companies; and (c) we do not have adequate information on interest rates in the curb market.

Comment 2: Respondents assert that the Department should use Dongil's company-specific cost of comparable short-term commercial bank financing as the short-term interest rate benchmark. Respondents argue that because short-term interest rates in Korea vary greatly depending on the creditworthiness of individual borrowers, a country-wide average rate would be higher since it includes less creditworthy companies. Moreover, respondents maintain that because Dongil is the only exporter of the subject merchandise and the Department already has information concerning Dongil's cost of alternative financing, the calculation of a company-specific rate would not be overly burdensome.

Petitioner claims that the Department should follow its precedent and its preference articulated in the *Subsidies Appendix* attached to the notice of *Cold-Rolled Cabon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984) and use the country-wide short-term benchmark.

DOC Position: In order to administer the countervailing duty law in an administrably manageable way, it is necessary for uniformity that we use a country-wide benchmark for short-term financing programs instead of a company-specific benchmark. See, for example, *Final Affirmative Countervailing Duty Determination and Order: Welded Carbon Steel Pipe and Tube Products from Argentina*, (49 FR 37619, September 27, 1988).

Comment 3: Respondents assert that the Department has verified the actual distribution of commercial bank short-term interest rates in Korea through survey results of Korean banks submitted by the GOK at verification. They contend that the Department should ensure that the country-wide benchmark reflects this survey. Furthermore, respondents argue that the information was timely since it was submitted at verification and before the Department's new regulations took effect.

Petitioner claims that to the extent that the Department may use commercial bank rates in the benchmark for the final determination, the Department should maintain the rate used in the preliminary determination. Petitioner states that the information regarding the interest rate distribution within the regulated band may be incomplete. Moreover, the information, which was not submitted until verification, was untimely.

DOC Position: Although we recognize that the survey results provided by the GOK may not be a precise reflection of the country-wide weighted-average short-term commercial bank interest rate in Korea, we have decided to use the results as the best information available. We note that interest rate information provided in the survey was verified and that it is consistent with information provided in the GOK annual reports and monthly bulletins.

We find that the survey data is timely because we specifically asked the respondent for the data in our deficiency questionnaire of December 15, 1988. In any event, we agree with respondents that the information was timely since the new regulations were not in effect at the time of verification. Furthermore, our findings were in our verification report and petitioner had adequate time to comment.

Comment 4: Respondents assert that the short-term interest rate benchmark ought to be based exclusively on commercial bank lending rates in the final determination. Respondents state that the Department used a weighted-average basket of interest rates because it determined that the higher rediscount ratio for short-term commercial bank export financing conferred a preference on export financing relative to domestic short-term commercial bank financing. However, respondents assert that, as the rediscount ratios for export and domestic financing were equalized before the preliminary determination, there is no longer an incentive to prefer export financing to domestic financing.

DOC Position: We agree with respondents that the equalization of the rediscount ratios constitutes a program-wide change. However, it is the Department's policy to take into account only those program-wide changes which are measurable and verifiable. The equalization of the rediscount ratios took place in September 1988. The interval since then represents too short a time to measure adequately the effect of that change on the lending practices of Korean commercial banks. Moreover, we do not have the information to allow us to calculate a commercial bank short-term interest rate based on the period since September 1988. Therefore, for the purposes of this final determination, we are not taking this change into account because the effects of the change cannot be measured.

Comment 5: Respondents assert that the Department should take into account in the final determination another program-wide change which occurred, with respect to the short-term export financing program, prior to the preliminary determination. Specifically, the Department should take into account the information submitted during verification that the GOK effectively abolished the short-term export financing program by allowing all interest rates in the Korean economy to vary according to market forces.

Petitioner claims that the Department should not take into account the changes in the program because the effects are speculative and it is the Department's policy to take into account only those changes that are quantifiable and verifiable.

DOC Position: It is the Department's policy to take into account program-wide changes which occur prior to the preliminary determination and are both measurable and verifiable. The effective date for the liberalization of interest rates in the Korean economy was December 5, 1988, which was after the date of publication of the *Preliminary Determination*. Therefore, this program-wide change occurred too late to be taken into account.

Comment 6: Respondents assert that the Department should consider as a program-wide change the reduction in the loan exchange ratios in the short-term export financing program. According to respondents, the reduction is measurable and was verified and thus should be taken into account.

Petitioner claims that the Department, by ascribing 1988 loan exchange ratios onto Dongil's export borrowing in 1987 as proposed by respondents, would be indulging in speculation. The effect of the change in the loan exchange ratios, according to petitioner, is neither quantifiable nor verifiable. Hence, no adjustment should be made for the reduction in the loan exchange ratios.

DOC Position: We agree with petitioner. Although this particular change occurred prior to our preliminary determination and we were able to verify the change, we cannot measure the effect of the change on the benefit provided to Dongil under the program. The review period for this investigation

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is calendar year 1987. Consequently, we do not have verified information with respect to Dongil's 1988 sales, nor its level of borrowing in 1988. Thus, any calculation performed by the Department would be too speculative.

Comment 7: Petitioner asserts that the Department erred in not finding Dongil's long-term loans countervailable in the preliminary determination. Petitioner claims that long-term financing is regulated by the GOK through various financial institutions and loans received from regulated sources are at interest rates below the benchmark rate and as such are on preferential terms. Also, petitioner maintains that approximately 55 percent of commercial loans are directed loans and on this basis, as best information available, the Department should find the long-term loans of Dongil to be provided to a specific enterprise or industry.

DOC Position: Petitioner first raised this argument in its pre-hearing brief.

It is untimely and cannot be considered for purposes of this final determination because the argument was raised after verification and, consequently, we do not have the information to evaluate the argument.

Comment 8: Petitioner asserts that deductions from taxable income through export tax reserves should be treated solely as tax savings in the year received and not as an interest-free loan. Respondents claim that the export tax reserves programs are tax deferrals and the Department should follow its longstanding practice of treating tax deferrals as short-term interest-free loans. Respondents argue that the actual losses of a company in Korea may be used to reduce ordinary income or to reduce the export tax reserves, but not both. Thus, the tax reserves programs do not result in tax savings, it only creates a tax deferral for a specific, limited period of time.

DOC Position: We agree with respondents. We find that the tax reserves programs provide a tax deferral, not tax savings. All money in the reserves, if not used to offset losses, is eventually added back to income and subject to tax. If used to offset losses, the reserve is reduced by the loss amount.

Comment 9: Petitioner states that Dongil's effective tax rate as reported in its response includes the effects of the subsidy benefit from the export tax reserves programs. Therefore, use of this rate understates Dongil's tax savings resulting from their use of the export tax reserves programs. As an alternative effective tax rate, petitioner proposes a "national" effective tax rate for large corporations as reported in an outside source. Respondents deny that there is a national effective tax rate. Further, they claim that the Department should use company-specific effective tax rates in calculating any benefits received under the export tax reserves programs.

DOC Position: We agree with petitioner that the effective tax rate used to calculate the benefit from the export tax reserves programs should not reflect the benefit from the programs. We disagree, however, with the substitution of an unverified tax rate from an outside source. Instead, we recalculated Dongil's and Hankook's respective effective tax rates by increasing their taxable income by the amount of the reserves set aside under the export tax reserves programs and also increasing the amount of taxes that the companies would have paid absent their use of the tax reserves programs.

Comment 10: Respondents assert that the Department must distinguish between "special exports" and "general exports" in the export tax reserves programs because the amount of export income that can be contributed towards a reserve depends on the country to which the goods have been exported. Thus, respondents claim that, for Dongil, the Department should calculate any subsidy margin by dividing the amount of Dongil's reserves attributable to U.S. exports by Dongil's total U.S. exports. Petitioner claims that the information segregating the tax benefit according to the destination of the exports was provided for the first time at verification. Therefore, under the new procedural regulations, the data submitted was not timely and should not be considered.

DOC Position: The actual benefit attributable to exports to the United States is better measured by the amount of the reserves attributable to the United States and not to worldwide exports. Respondents were able to segregate benefits attributable to exports to the United States at verification and we were able to verify this information. The information provided at verification was not a major change to respondent's original submission, but rather was a clarification to their original submission. We fully described the information submitted by respondent in our verification report. Consequently, petitioner had adequate time to comment. Finally, we note that the new procedural regulations were not in effect at the time of verification and therefore, are not controlling.

Comment 11: Petitioner asserts that the appropriate calculation of the rate for Hankook based on the best information available would be to divide Dongil's total drawback by Hankook's exports. Respondents claim that the GOK supplied Hankook's total duty drawback amount on all exports of the subject merchandise in response to the Department's questionnaires. Additionally, there are no non-physically incorporated inputs in the production of industrial belts and Korea eliminated its practice of permitting drawback on non-physically incorporated items. Therefore, neither Dongil nor Hankook received a countervailable benefit from this program.

DOC Position: We verified the total amount of duty drawback received by Hankook on the subject merchandise. Therefore, there is no justification for substituting Dongil's drawback amount for Hankook's drawback amount. However, because Hankook did not respond to our questionnaires and did not permit a complete on-site verification, as the best information available, we have assumed that Hankook's drawback amount was excessive and calculated the estimated net subsidy as described in Section I.C.

Comment 12: Petitioner asserts that since Hankook's failure to respond to the Department's questionnaires led the Department to the use of the best information available for the preliminary determination, the Department should continue to use best information available for the final determination. Respondents argue that information regarding Hankook's export data and program participation was submitted in the GOK responses and that the only new information submitted at verification related to the type of belt exported. Therefore, the Department should not use best information available.

DOC Position: Prior to our preliminary determination, we received incomplete information on Hankook from the GOK. Therefore, for the purposes of the preliminary determination, some of the information we used for Hankook was the best information available. Subsequent to the preliminary determination, but prior to verification, the GOK provided Hankook's export data and additional information on its program participation. At verification for the first time, Hankook claimed that the belts it exported to the United States were not covered by the scope of the investigation. Since this was new information first submitted at verification we did not accept this information. Moreover, discussions with the ITC product experts suggested that the belts produced by Hankook may be within the scope of the investigation.

We used the verified information to compute Hankook's estimated net subsidy with respect to the short-term export financing and export tax reserves programs. For the duty drawback program, however, we lacked verified data on Hankook's total exports of the subject merchandise to all markets. As best information available, therefore, we derived an estimate of the amount of duty drawback received by Hankook on its exports of the subject merchandise to the United States. We made this calculation as described in Section I.C.

As mentioned above, the only new information submitted at verification related to the type of belt exported by Hankook. We did not use this information for purposes of this final determination (see *DOC Position* on *Comment 15*).

Comment 13: Petitioner asserts that although Dongil did not benefit from the accelerated depreciation program under Article 25 of ACTRE during the review period, it did use the program during the review period and the benefit was reported on its tax return filed in 1988. As such, petitioner states, a separate duty deposit rate should be established. Respondents claim that there was no program-wide change before the preliminary determination; that participation in a program in one year but not in another does not constitute a change in the program; and that changes in levels of participation by individual companies are taken into account in an administration review, not in the duty deposit rate. Therefore, respondents argue that a separate duty deposit rate should not be established.

DOC Position: It is the Department's practice to provide for a separate duty desposit rate only to take into account program-wide changes which occur prior to the preliminary determination and which are measurable and verifiable. We do not consider participation in a program in one year, but not in another, to constitute a program-wide change. The accelerated depreciation provision under Article 25 was claimed by Dongil on its tax return filed after the review period. According to our standard practice, we use a cash-flow analysis for determining when the benefits of a countervailable tax program are received. Under this analysis, we consider the benefit from a tax program to be received when the tax return is filed. Therefore, we have determined that Dongil did not benefit from Article 25 during the review period.

Comment 14: Petitioner asserts that the Department's preliminary finding of critical circumstances should be upheld in the final determination. Petitioner states that a comparison of imports three months prior to the filing of the petition to imports for three months after that point demonstrates that there have been massive imports of the subject merchandise over a relatively short period of time. Respondents claim that critical circumstances did not exist at the time of the preliminary determination and do not exist presently. In fact, they state, Dongil's exports of the subject merchandise have declined since 1987. Therefore, the Department should not find critical circumstances in this case.

DOC Position: As we have found the benefits in this investigation to be *de minimis*, critical circumstances do not exist (see *Critical Circumstances* section below).

Comment 15: Respondents assert that Hankook exports only hexagonal belts used in riding lawnmowers to the United States. They state that hexagonal belts are not covered in the description of the subject merchandise under investigation and in fact are expressly excluded from the scope of the investigation. Therefore, Hankook should be excluded from the final determination.

Petitioner claims that hexagonal belts are within the scope of the investigation and are covered in the general description of the scope. Although certain belts used in integral combustion engines are excluded from the investigation, hexagonal belts do not fall into this category. Therefore, Hankook is an exporter of subject merchandise and should be included in the final determination.

Doc Position: Discussions with product experts at the ITC and information submitted by petitioner indicate that the belts exported by Hankook are not used in the engine of the lawnmower, but rather to turn the mowing blades. Given this fact, hexagonal belts we considered as industrial, not automotive, belts. Furthermore, we note that Hankook did not permit a complete verification, and did not provide until verification, the information on the type of belt the company exports. Therefore, information regarding the type of belt manufactured by Hankook was untimely and not verified.

Comment 16: Petitioner asserts that, in its scope of investigation at the preliminary determination, the Department listed only four of the 18 HTS items corresponding to the nine TSUSA numbers. Petitioner requests that the Department list all 18 HTS numbers in its final determination.

DOC Position: The scope of this investigation has not changed since the initiation. The petition included nine TSUSA item numbers and, at the time, four HTS sub-headings that petitioner believed would correspond to the TSUSA numbers when the HTS system would become effective.

The Harmonized Tariff Schedule went into effect on January 1, 1989. Based on a concordance between TSUSA item numbers and HTS sub-heading listed in the January 1989 ITC publication "The Continuity of Import and Export Trade Statistics After Implementation of the Harmonizied Commodity Description and Coding System", petitioner requested that the Department expand the four HTS sub-headings and listed in our preliminary determination to eighteeen sub-headings.

We asked for comments from the interested parties in this investigation concerning industrial belts covered by the eighteen HTS sub-headings. We have received no objections in this particular determination.

In our preliminary determination, as now, we note that the written descriptions of the products covered by the investigation is dispositive. The HTS numbers are provided for convenience and customs purposes as to the scope of the product coverage. Accordingly, we do not view this as a broadening of the scope of this investigation.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist within the meaning of section 703(e)(1) of the Act, with respect to imports of industrial belts from Korea. In determining whether critical circumstances exist, we must examine whether there is a reasonable basis to believe or suspect that (1) the alleged subsidy is inconsistent with the *GATT Subsidies Code*, and (2) there have been massive imports of the subject merchandise over a relatively short period.

Because we determine that the benefit provided to manufacturers, producers, or exporters of industrial belts in Korea is *de minimis*, the final determination is negative. Therefore, critical circumstances do not exist.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. As mentioned previously, when we could not verify the information, we used the best information available. During verification, we followed standard verification procedures, including meeting with government and company officials; inspecting documents and ledgers; tracing information in the response to source documents, accounting ledgers, and financial

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statements; and collecting additional information that we deemed necessary for making out final determination.

Suspension of liquidation

The estimated net subsidy rate for industrial belts is 0.41 percent *ad valorem*. Under section 355.7 of our regulations, an aggregate net subsidy of less than 0.5 percent *ad valorem* is considered *de minimis*.

Since the suspension of liquidation was discontinued on April 1, 1989, 120 days after our preliminary determination, there is no need to instruct the U.S. Customs Service to discontinue the suspension of liquidation. However, we are instructing the U.S. Customs Service to refund all estimated countervailing duties deposited on all unliquidated entries, or withdrawals from warehouse, for consumption of the subject merchandise entered between September 3, 1988, and March 31, 1989.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Since we have determined that only *de minimis* countervailing benefits are being provided to manufacturers, producer or exporters in Korea of industrial belts, this investigation will be terminated upon the publication of this notice in the **Federal Register**. Hence, the ITC is not required to make a final injury determination.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 11, 1989.

[FR Doc. 89-9260 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-559-803]

Final Negative Countervailing Duty Determination: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Singapore

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that *de minimis* benefits which constitute bounties or grants within the meaning of the U.S. countervailing duty law are being provided to manufacturers, producers, or exporters in Singapore of industrial belts and components and parts thereof, whether cured or uncured (industrial belts), as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 0.35 percent *ad valorem*. Since this rate is *de minimis*, our final countervailing duty determination is negative.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Roy A. Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-5414.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that *de minimis* countervailable benefits, within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to Singaporean manufacturers, producers, or exporters of industrial belts. For purposes of this investigation, the following program is found to confer bounties or grants:

- Short-term loans provided under the Monetary Authority of Singapore Rediscount Facility

Although we have determined this program to be countervailable, the respondent received *de minimis* benefits during the review period. Since the countervailable benefits are *de minimis*, we determine that no benefits which constitute bounties or grants within the meaning of section 701 of the Act are being provided to Singaporean manufacturers, producers, or exporters of industrial belts. The review period corresponds to the respondent company's fiscal year, April 1, 1987, through March 31, 1988.

Case History

Since the last **Federal Register** publication pertaining to this investigation [Preliminary Negative Countervailing Duty Determination: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured from Singapore 53 FR 48677, December 2, 1988) Preliminary Determination)], the following events have occurred. On December 9, 1988, petitioner filed a request for alignment of the countervailing duty and antidumping final determinations. This postponement was approved under section 705 of the Act and published in the **Federal Register** on February 13, 1989 (54 FR 6582).

We conducted verification in Singapore, from January 31 through February 2, 1989, of the questionnaire responses of the Government of Singapore (GOS) and Mitsuboshi Belts (Singapore) Pte. Ltd. (MBS).

Petitioner and respondents requested a public hearing, which was held on March 16, 1989. Pre-hearing briefs were filed by petitioner and respondents on March 15 and February 24, respectively. Both parties filed post-hearing briefs on March 28, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-heading are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts and components and parts thereof, whether cured or uncured, currently provided for under TSUSA item numbers 358.0210 358.0290 358.0610 358.0690 358.0800 358.0900 358.1100 358.1400 358.1600, 657.2520, 773.3510, and 773.3520 and currently classifiable under HTS item numbers 3926.9055, 3926.9056, 3926.9057, 3926.9059, 3926.9060, 4010.1010, 4010.1050, 4010.9111, 4010.9115, 4010.9119, 4010.9150, 4010.9911, 4010.9915, 4010.9919, 4010.9950, 5910.0010, 5910.0090 and 7326.2000.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

Analysis of Programs

For purposes of this final determination, the period for which we are measuring bounties or grants ("the review period") is April 1, 1987 to March 31, 1988, which corresponds to the fiscal year of the respondent company.

Based upon our analysis of the petition, the responses to our questionnaires, verification, and written comments filed by the petitioner and respondents, we determine the following:

I. Program Determined to Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Singapore of industrial belts under the following program

Monetary Authority of Singapore (MAS) Rediscount Facility

Under the MAS Rediscounting Scheme, the MAS rediscounts pre-export and export bills of exchange. A qualifying exporter applies for financing from an approved bank, which then discounts the exporter's bills at an MAS-established discount rate plus a maximum spread of 1.5 percent. The bank subsequently rediscounts the bills with the MAS, at the MAS discount rate. The usual period for financing under this program is three months.

Because this program is available only to exporters, we determine that it is countervailable to the extent that it is offered at preferential rates. To determine whether financing under this program was made at preferential rates, we compared the interest rates charged on these loans to a short-term benchmark. In deriving the short-term benchmark, we followed the same methodology explained in our recent *Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders: Antifriction Bearings (Other Than Tapered Roller Bearings) and parts Thereof from Singapore*, announced on March 23, 1989. Three types of short-term financing were available, exclusively in Singapore dollars, during the review period: overdrafts, short-term loans and commercial bills. Because none of the types of short-term financing was predominant during the review period, we used a weighted average of the rates on these types of financing as our benchmark. Based on the comparison of our short-term benchmark with the MAS rates, we found that the rates on the MAS rediscount facility were preferential. Therefore, we determine this program to be countervailable.

To calculate the benefit arising from this program, we followed our short-term loan methodology, which has been applied consistently in our past determinations and which is described in more detail in the *Subsidies Appendix* attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984).

We compared the amount of interest actually paid during the review to the amount the company would have paid at the benchmark rate. MBS utilized MAS financing on a shipment-by-shipment basis and was, therefore, able to segregate MAS loans according to product and export destination. Therefore, we allocated the total benefit attributable to U.S. sales of the subject merchandise over export sales of the subject merchandise to the United States during the review period. The estimated net bounty or grant under this program is 0.35 percent *ad valorem*.

II. Programs Determined Not to be Used

We determine, based on verified information, that the programs listed below were not used by manufacturers, producers, or exporters in Singapore of industrial belts during the review period. For a full description of these programs, see our *Preliminary Determination*.

A. Tax Incentives Under the EEIA

The EEIA offers tax incentives under the following provisions:

- Part II: Pioneer Industries
- Part IV: Expansion of Established Enterprises
- Part VI: Production of Export
- Part VII: International Trade Incentives
- Part VIII: Foreign Loans for Productive Equipment
- Part IX: Royalties, Fees and Development Contributions
- Part X: Investment Allowances
- Part XI: Warehousing and Servicing Incentives

B. Double Deduction of Export Promotion Expenses under the Income Tax Act (ITA): Sections 14B and 14C

C. Research and Development (R&D) Incentives: Section 19B and 14E of the ITA

D. Research and Development Assistance Scheme (RDAS)

E. Singapore Economic Development Board (EDB)

Comments

Comment 1: Petitioner argues that the Department should not use the three-month rate on commercial bills as the benchmark for the calculation of the benefit from MAS loans because it is not representative of short-term financing in Singapore. Petitioner states that the mere comparability of terms between MAS loans and commercial bills constitutes an insufficient basis for selecting commercial bills as the benchmark. Moreover, commercial bills are no longer a predominant form of short-term financing and they have no reserve requirements, which petitioner argues is preferential.

Respondents argue that the commercial bill rate is the appropriate benchmark because the terms on commercial bills are most comparable to the financing terms on MAS loans. Respondents refer to the commercial bill benchmark used in *Final Negative Countervailing Duty Determinations: Certain Textile Mill Products and Apparel from Singapore*, (50 FR 9840, May 6, 1985) (*Textiles*) and statements made by officials in Singapore quoting commercial bills as the most comparable alternative to MAS financing. Respondents also argue that overdrafts and short-term money market loans should not be included in the benchmark because they are mainly used to finance non-commercial transactions. In addition, respondents maintain that overdrafts are often treated as unsecured long-term loans and are, therefore, an inappropriate comparison to MAS loans.

DOC Position: Four types of short-term financial instruments are available to exporters in Singapore: commercial bills, overdrafts, short-term loans and trust receipts. None of the four types of financing represented a predominant form of short-term financing. Commercial bills, although the alternative most comparable to MAS financing, represented less than six percent of total short-term financing during the review period. Therefore, for our benchmark, we used a weighted average of the three types of short-term financing available exclusively in Singapore dollars, namely, overdrafts, short-term loans and commercial bills. This weighted average best represents the market cost to an exporter of financing short-term cash needs. Trust receipts were not included in our benchmark calculation because we did not have adequate data on this type of financing. In addition, some of the financing in this category may be given in foreign currencies.

We disagree with petitioner that commercial bills should not be included in the benchmark calculation. They represent an alternative form of financing and should, therefore, be included in the weighted average. Petitioner has not explained how reserve requirements make the calculated rates on commercial bills preferential given our reliance on estimated spreads.

We also disagree with respondents' assertion regarding overdrafts. Overdrafts are, by definition, a form of

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short-term financing, as are short-term money market loans. As such, we included them in our benchmark calculation.

Comment 2: Petitioner argues that the Department has not verified the use or administration of Parts IX and X of the Economic Expansion Incentive Act (EEIA) and that the Department should determine on the basis of best information available that the program is contingent upon exporting and is a countervailable export program. Petitioner argues that a portion of the Ribstar poly-V belts manufactured by the respondent are industrial belts within the scope of the investigation. Because respondent stated in the questionnaire response that benefits claimed under these sections were for a product outside the scope of this investigation, petitioner argues that total benefits claimed under these sections of the EEIA should be considered as best information available and allocated over the production of industrial belts.

Respondents state that while the parent company, which is located in Japan, manufactures industrial Ribstar poly-V belts, the respondent company manufactures only automotive Ribstar poly-V belts. Therefore, any benefits claimed under Parts IX and X of the EEIA are not within the scope of the investigation. Furthermore, the benefits that were claimed were for tax year 1988 which is outside the period of investigation.

DOC Position. We verified that the Ribstar poly-V belts manufactured by MBS are automotive belts and not industrial belts and that the benefits under Parts IX and X of the EEIA were claimed outside the period of investigation. Furthermore, the benefits claimed under Part X of the EEIA did not pertain to the R&D incentives under investigation.

Comment 3: Petitioner argues that verification exhibits should be released in their entirety based on the intent of the Omnibus Trade and Competitiveness Act of 1988 (the Act of 1988), the Court's determination that computer tapes may be released under an administrative protective order (APO), and prior ITA practice of releasing verification exhibits.

Respondents argue that there is no basis for releasing business proprietary verification exhibits. Respondents state that the section of the Act quoted by petitioner contains no mention of verification exhibits, nor does the legislative history of the 1988 Act. Respondents furthermore state that access to verification exhibits has been limited to specific cases by the courts.

DOC Position: It is our policy not to release a respondent's supporting source documents under an administrative protective order when we have requested this additional information solely to further support respondents' claims. Release of such documents can be damaging to the competitive position of the respondent. If petitioners did not agree with our position, the proper remedy was to appeal the refusal to the release of verification exhibits under APO to the Court of International Trade (CIT) while this investigation was in progress (19 U.S.C. 1677f(c)(2)).

Comment 4: Petitioner asserts that, in its scope of investigation at the preliminary determination, the Department listed only four of the 18 HTS items corresponding to the nine TSUSA numbers. Petitioner requests that the Department list all 18 HTS numbers in its final determination.

DOC Position: The scope of this investigation has not changed since the initiation. The petition included nine TSUSA item numbers and, at the time, four HTS sub-headings that petitioner believed would correspond to the TSUSA numbers when the HTS system would become effective.

The Harmonized Tariff Schedule went into effect on January 1, 1989. Based on a concordance between TSUSA item numbers and HTS sub-headings listed in the January 1989 ITC publication "*The Continuity of Import and Export Trade Statistics After Implementation of the Harmonized Commodity Description and Coding System*", petitioner requested that the Department expand the four HTS sub-headings listed in our preliminary determination to eighteen sub-headings.

We asked for comments from the interested parties in this investigation concerning industrial belts covered by the eighteen HTS sub-headings. We have received no objections in this particular determination.

In our preliminary determination, as now, we note that the written descriptions of the products covered by the investigation is dispositive. The HTS numbers are provided for convenience and customs purposes as to the scope of the product coverage. Accordingly, we do not view this as a broadening of the scope of this investigation.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist within the meaning of section 703(e)(1) of the Act, with respect to imports of industrial belts from Singapore. In determining whether critical circumstances exist, we must examine whether there is a reasonable basis to believe or support that (1) the alleged subsidy is inconsistent with the *Subsidy Code*, and (2) there have been massive imports of the subject merchandise over a relatively short period.

Because we determine that the benefit provided to manufacturers, producers, or exporters of industrial belts in Singapore is *de minimis*, the final determination is negative. Therefore, critical circumstances do not exist.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. During verification, we followed standard verification procedures, including meeting with government and company officials, inspecting documents and ledgers, tracing information in the response to source documents, accounting ledgers, and financial statements, and collecting additional information deemed necessary for making our final determinations.

ITC Notification

Since Singapore is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to these investigations. However, Singapore is a signatory to the General Agreement on Tariffs and Trade. At the time of the preliminary determination, certain products included in the scope of these investigations (*i.e.*, those classified under items 358.0610, 358.0690, 358.1400, 657.2520, 773.3510 and 773.3520 of the *Tariff Schedules of the United States Annotated*) were nondutiable. However, on January 1, 1989, Singapore lost its Generalized System of Preference status. Thus, all of the merchandise covered by this investigation is now dutiable. Consequently, even if our final determination had been affirmative, the U.S. International Trade Commission (ITC) would not have been required to make a final injury determination in this proceeding.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 11, 1989.

[FR Doc. 89-9261 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-602]

Final Affirmative Countervailing Duty Determination; Steel Wheels From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final affirmative countervailing duty determination.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers or exporters in Brazil of steel wheels, as described in the "Scope of Investigation" section of this notice. The estimated net subsidy and duty deposit rates are specified in the "Suspension of Liquidation" section of this notice.

We have notified the U.S. International Trade Commission (ITC) of our determination. If the ITC determines that imports of steel wheels materially injure, or threaten material injury, to a United States industry, we will direct the U.S. Customs Service to resume suspension of liquidation of all entries of steel wheels from Brazil that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the countervailing duty order, and to require a cash deposit as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Philip Pia or Bernard Carreau, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers or exporters in Brazil of steel wheels. For purposes of this investigation, we find the following programs to confer subsidies:

- CACEX Preferential Working Capital Financing for Exports
- Income Tax Exemption for Export Earnings
- CIC-OPCRE 6-2-6 Financing
- BEFIEX: IPI Export Credit Premium, and Import Duty and IPI Tax Reductions
- FINEX (Resolution 509) Export Financing
- Upstream Subsidy (steel input)

We determine the estimated net subsidy to be 1.82 percent *ad valorem* for Borlem S.A. and 17.29 percent *ad valorem* for all other manufacturers, producers or exporters in Brazil of steel wheels.

Case History

Since the publication of the preliminary determination (*Steel Wheels From Brazil; Preliminary Affirmative Countervailing Duty Determination and Initiation of Upstream Subsidy Investigation*) (53 FR 43749; October 28, 1988), the following events have occurred. Respondents submitted a supplemental response containing information pertaining to Borlem do Nordeste on December 23, 1988, and a response to our upstream questionnaire on January 6, 1989. We conducted verification in Brazil, from January 25, to February 3, 1989, of the questionnaire responses of the Government of Brazil (GOB), Rockwell-Fumagalli, Borlem, S.A., Borlem do Nordeste (BNE), and Usinas Siderurgicas de Minas Gerais (USIMINAS).

Petitioner requested a public hearing. Petitioner and respondents filed pre-hearing briefs on March 1, 1989. We held a public hearing on March 3, 1989. Petitioner and respondents filed post-hearing briefs on March 27, 1989.

Scope of Investigation

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

The products covered by this investigation are steel wheels (except custom wheels), assembled or unassembled, consisting of both a disc and a rim, designed to be mounted with both tube type and tubeless pneumatic tires, in wheel diameter sizes ranging from 13.0 inches to 16.5 inches, inclusive, and generally for use on passenger automobiles, light trucks and other vehicles. In 1988, such merchandise was classifiable under item 692.3230 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item number 8708.70.60.

In our preliminary determination, we stated that "until we have sufficient information to make a definitive scope ruling, we tentatively determine that rims or discs, imported separately, are included in the scope of this investigation."

Petitioner argues that rims should be included within the scope of the order to prevent circumvention. The petition described the merchandise covered as wheels from Brazil, which included rims and centers for such wheels so as to avoid possible circumvention through the shipment of wheel components rather than finished wheels. In an October 7, 1988 letter to the department, petitioner restated this position with regard to the rims market by asserting that its "intention was not to include within the scope of the imports subject to investigation rims sold as distinct articles of commerce and, therefore, not in circumvention of an order. . . . Petitioner's concern lies with circumvention." In other submissions, petitioner was inconsistent regarding the reasons for including rims in the scope. We conclude, however, that petitioner's primary concern is circumvention.

We verified that during the period of review the only parts of steel wheels imported from Brazil into the United States were rims. Discs were not imported. These rims were purchased by unrelated custom wheel manufacturers who combined the rims with non-Brazilian discs to make custom wheels at their own facilities. The discs add significant value to the rims.

The rims that are now imported are not of concern to the petitioner. The rims that are currently being imported are used exclusively for the manufacture of custom wheels, and the petitioner has explicitly indicated that it did not wish to include custom wheels in the scope of the order (October 7, 1988 letter). Nor is it likely that imports of these rims would undermine the effectiveness of a countervailing duty or antidumping order on steel wheels. While the steel wheels that are subject to this investigation are purchased by original equipment manufacturers (i.e., automobile manufacturers), the custom wheels that incorporate the rims currently being imported are sold exclusively in the aftermarket (*i.e.*, to automobile owners).

In past cases where petitioners have raised concerns about circumvention of any resulting order, the department has specifically included parts in the scope of an investigation because of

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uncertainty as to the authority of the Department to include parts subsequent to the publication of an order where parts are imported to circumvent the order. See, *e.g., Cellular Mobile Telephones from Japan* (50 FR 42577 (1985)). Now, however, section 781 of the Omnibus Trade and Competitiveness Act of 1988 not only clarifies that the Department has such authority but sets forth the criteria for dealing with this type of circumvention. Therefore, notwithstanding pre-1988 Act administrative precedents, it is neither necessary nor appropriate to include rims in the scope of the proceeding at this time. If in the future there is evidence of circumvention of the order on steel wheels by importation of Brazilian rims and discs, the Department will invoke the remedies available under section 781.

Analysis of Programs

For purposes of this final determination, the period for which we are measuring subsidies ("the review period") is calendar year 1987. Based upon our analysis of the petition, the responses to our questionnaire, verification, and written comments filed by petitioner and respondents, we determine the following:

I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers and exporters in Brazil of steel wheels under the following programs.

(1) CACEX Preferential Working Capital Financing for Exports

Under this program, the Department of Foreign Commerce ("CACEX") of the Banco do Brasil provides short-term working capital financing to exporters at preferential rates. The loans have a term of one year or less. During the period of review, Fumagalli made interest payments on CACEX loans, but Borlem did not use this program.

On August 21, 1984, resolution 950 make CACEX working capital financing available through commercial banks at prevailing market rates, with interest due at maturity. It authorized the Banco do Brasil to pay the lending institution an "equalization fee," or rebate, of up to 10 percentage points over the commercial interest rate, which we verified the lending institution passed on to the borrowers. On May 2, 1985, Resolution 1009 increased the equalization fee to 15 percentage points.

Since the interest charged on CACEX export financing under Resolutions 950 and 1009 is at prevailing market rates, this program would not be countervailable absent the equalization fee and the exemption from the IOF (a tax on financial transactions). Therefore, the interest differential for these loans is equal to the equalization fee plus the 1.5 percent IOF. Because this program provides financing at preferential rates only to exporters, we determine that it is countervailable.

We consider the benefit from loans to occur when the borrower makes the interest payments. For CACEX loans on which interest was paid during the period of review, we multiplied the interest differential by the length of the loan and the loan principal. We allocated the result over Fumagalli's total exports. On this basis, we determine the benefit from this program to be zero for Borlem and 1.10 percent *ad valorem* for Fumagalli and all other firms.

(2) Income Tax Exemption for Export Earnings

Under this program, exporters of steel wheels are eligible for an exemption from income tax on the portion of their profits attributable to exports. According to Brazilian tax law, the tax-exempt fraction of profit is calculated as the ratio of export revenue to total revenue. Because this program provides tax exemptions that are limited to exporters, we determine that it is countervailable. Fumagalli used this program in 1987, but Borlem did not.

The nominal corporate tax rate in Brazil is 35 percent. However, Brazilian tax law permits companies to reduce their income taxes by investing up to 26 percent of their tax liability in specified companies and funds. This tax credit effectively reduces the nominal 35 percent corporate tax rate. Because Fumagalli invested in the specified companies and funds, its effective tax rate was lower than the nominal 35 percent rate during the period of review.

We calculated Fumagalli's effective tax rate by dividing its net tax liability by its taxable profit. We calculated the benefit by multiplying the amount of tax-exempt profit by the effective tax rate and allocating the result over Fumagalli's total exports. On this basis, we determine the benefit from this program to be zero for Borlem and 0.39 percent *ad valorem* for Fumagalli and all other firms.

(3) CIC–OPCRE 6–2–6 (CIC–CREGE 14–11) Financing

Under its Circular CIC–CREGE 14–11, later modified by Circular CIC–OPCRE 6–2–6, the Banco do Brasil provides preferential financing to exporters on the condition that they maintain on deposit a minimum level of foreign exchange. The interest rate is based on the cost of funds to banks plus a spread of three percentage points, which is below our benchmark rate. The loans have a term of one year and a variable interest rate, which changes every quarter. Because this program provides loans at preferential rates only to exporters, we determine that it is countervailable.

Fumagalli made payments on a loan under this program during the period of review. The interest payments on this loan were made on the last day of each month, and the full principal was repaid at maturity. Borlem did not participate in this program during the review period.

Based on information gathered during verification from commercial banking sources in Brazil, we have determined that the "taxa ANBID" rate published by *Gazeta Mercantil*, a Brazilian daily financial publication, is a broader measure of the rates available for short-term financing and is a more accurate basis for calculating our benchmark than the rate for the discounting of accounts receivable used in our preliminary determination. Because of the complex calculations necessary to convert the rates on discounts of accounts receivable into an annual benchmark, certain distortions can occur that sometimes lead to a benchmark below the rate of inflation. The "taxa ANBID" is an average monthly lending rate calculated by the National Association of Brazilian Investment Banks (ANBID) and is based on a survey of the monthly rates on short-term loans charged by Brazilian commerical banks. We calculated our annual average benchmark by compounding the "taxa ANBID" rate published for each month during 1987.

To calculate the benefit, we compared the benchmark with the preferential rate and multiplied the differential by the term of the loan and the loan principal. We then divided the result by Fumagalli's total exports. On this basis, we determine the benefit from this program to be zero for Borlem and 0.14 percent *ad valorem* for Fumagalli and all other firms.

Because we verified that, effective September 20, 1988, the interest rate on all CIC–OPCRE 6–2–6 loans was equal to the ANBID rate (our commercial benchmark rate), we determine that these loans are not longer preferential. Therefore, for purposes of the cash deposit of estimated countervailing duties, we determine the benefit from this program to be zero for all firms.

(4) BEFIEX

The Commission for the Granting of Fiscal Benefits to Special Export Programs ("BEFIEX") allows Brazilian exporters, in exchange for export commitments, to take advantage of several types of benefits, such as import duty reductions, an IPI export credit premium, and tax exemptions or tax credits. Because these benefits are provided only to exporters, we determine that this program is countervailable.

(a) *The IPI Export Credit Premium.* This benefit is a cash payment by the Brazilian government to exporters. The amount of the payment is a fixed percentage of the f.o.b. price of the exported merchandise. The payment is made through the bank involved in the export transaction. Fumagalli was eligible for the maximum IPI export credit premium, which was 15 percent during the period of review. Borlem was not eligible to receive this benefit during the period of review.

We calculated the benefit by dividing the amount of IPI credit premiums received by Fumagalli on shipments of the merchandise to the United States by the company's exports of the merchandise to the United States. On this basis, we determine the benefit from this program to be zero for Borlem and 12.47 percent *ad valorem* for Fumagalli and all other firms.

(b) *Import Duty and IPI Tax Reductions on Imported Capital Equipment.* Fumagalli received reductions of customs duties and the IPI tax on imported capital equipment used in the manufacture of the subject merchandise during the review period.

To calculate the benefit, we divided the total amount of the reductions received in 1987 by Fumagalli's total exports in 1987. On this basis, we determine the benefit to be zero for Borlem and 0.43 percent *ad valorem* for Fumagalli and all other firms.

(5) FINEX Export Financing

Resolutions 68 and 509 of the Conselho Nacional do Comercio Exterior (CONCEX) provide that CACEX may draw upon the resources of the Fundo de Financiamento a Exportacao (FINEX) to subsidize short- and long-term loans for both Brazilian exporters (Resolution 68) and foreign importers (Resolution 509) of Brazilian goods. CACEX pays the lending bank an "equalization fee" that makes up the difference between the subsidized interest rate and the prevailing commercial rate. CACEX also provides the lending bank with a "handling fee" equal to two percent of the loan principal in order to encourage foreign bank participation in the program. During the period of review, the interest rates on Resolution 509 dollar loans ranged between 5.25 percent and 8.19 percent per annum, which are below our benchmark rate. Because this program provides loans at preferential rates only to exporters (or their foreign importers), we determine that it is countervailable.

We consider loans to U.S. importers to be equivalent to loans to their corresponding exporters. One of Fumagalli's importers had Resolution 509 FINEX loans on which it made interest payments in 1987. Neither Borlem nor its importers used this program during the period of review. Since Resolution 509 loans to U.S. importers are given in U.S dollars, we chose as a benchmark interest rate the average quarterly interest rate for commercial and industrial short-term dollar loans, as published by the United States Federal Reserve Board. The average rate was 10.47 percent per annum in 1986 and 9.81 percent per annum in 1987.

To calculate the benefit, we multiplied the value of the loan principal on which interest payments were due in 1987 by the differential between the preferential interest rate and our benchmark. Since we were able to tie these loans to exports to the United States, we divided the result by Fumagalli's exports of steel wheels to the United States in 1987. On this basis, we determine the benefit to be zero for Borlem and 1.04 percent *ad valorem* for Fumagalli and all other firms.

II. Upstream Subsidy

Petitioner has alleged that steel wheel producers benefit from an upstream subsidy, as defined in section 771A of the Act, by virtue of domestic subsidies provided to producers of the major raw material input in steel wheels: hot-rolled sheet and coil. We verified that USIMINAS supplied all of the steel used in the merchandise exported to the United States in 1987. We determine that USIMINAS benefited from two domestic subsidies in 1987: government provision of equity and import duty and IPI tax reductions under CDI.

A. Government Provision of Equity of USIMINAS

Siderurgia Brasileira S.A. (SIDERBRAS) is a government-controlled corporation under the jurisdiction of the Ministry of Industry and Commerce. Pursuant to Decree Law No. 6159 of December 6, 1974, SIDERBRAS became the holding company for the federally-owned steel corporations. SIDERBRAS is a majority shareholder of nine Brazilian steel producers, including USIMINAS, and a minority shareholder of one small Brazilian steel producer. From 1977 through 1987, SIDERBRAS made equity infusions in USIMINAS.

We have consistently held that government provision of, or assistance in obtaining, capital does not *per se* confer a subsidy. Government equity purchases or financial backing bestow a countervailable benefit only when provided on terms inconsistent with commercial considerations. Because USIMINAS' shares are not publicly traded, there is no market-determined price for its shares. Therefore, we examined whether USIMINAS was a reasonable investment (a condition we have termed "equityworthy") in order to determine whether the equity infusions were inconsistent with commercial considerations.

A company is a reasonable investment if it shows the ability to generate a reasonable rate of return within a reasonable period of time. For purposes of this determination, we reviewed the company's financial data and other factors on the record. We focused on the rate of return on equity and long-term prospects for the company in question for the period 1980 through 1987. (Petitioner alleged that USIMINAS was unequityworthy based on prior determinations by the Department. We did not investigate equity infusions from 1977 through 1979 because we have previously determined that USIMINAS was equityworthy in those years.) We examined financial ratios, profitability, and other factors, such as market demand projections and current operating results, to evaluate the company's current and future ability to earn a reasonable rate of return on investment.

Based on these factors, as applied to information on the record, we conclude that USIMINAS was unequityworthy between 1980 and 1987 (see also, *Certain Carbon Steel Products from Brazil; Final Affirmative Countervailing Duty Determinations* (49 FR 17988; April 26, 1984) (USIMINAS unequityworthy between 1980 and 1982); *Final Affirmative Countervailing Duty Determination; Certain Agricultural Tillage Tools from Brazil* (50 FR 34525; August 26, 1985) (USIMINAS unequityworthy in 1983); *Certain Carbon Steel Products from Brazil; Final Results of Countervailing Duty Administrative Review* (52 FR 629; January 9, 1987) (USIMINAS unequityworthy in 1984). Accordingly, we determine that the actions of the Government of Brazil in taking an equity position in USIMINAS

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in the years 1980 through 1987 were inconsistent with commercial considerations and may confer a subsidy.

To the extent that we find government investment to be commercially unreasonable and the government's rate of return on its investment less than the national average rate of return on investment, we consider the investment to provide a countervailable benefit. Starting in the year such an infusion is made, we examine the "rate of return shortfall," which is the difference between the national average rate of return on equity and the company's rate of return on equity. We continue to examine the shortfall in each year of a 15-year period, the average useful life of capital assets in integrated steel mills according to the Asset Guideline Classes of the U.S. Internal Revenue Service. For example, we would examine the rate of return shortfall for the 1980 equity infusion in each year through 1994. If no shortfall exists for any year under review during the 15-year period, there is no countervailable subsidy for that particular year. If a shortfall does exist for the year under review, we multiply the rate of the shortfall by the amount of the original equity infusion to find the benefit for the review period.

For purposes of this determination, we consider the amounts received from SIDERBRAS as "advances for future capital increase" and "capitalized funds" in a particular year as the amount of the equity infusion in that year. According to generally accepted accounting principles in Brazil, these amounts become part of a firm's capital account at the time of receipt, and they appeared as part of USIMINAS' capital account in its financial statements. That the amounts in these accounts are later transferred to the paid-in capital account with the formal issuance of shares has no impact on the total amount in the capital account. Furthermore, when determining the rate of return on equity, it is standard accounting practice in Brazil to include advances for future capital increase and capitalized funds as equity in that calculation.

Due to inflation, the nominal values of the original equity infusions in USIMINAS have increased substantially. All companies in Brazil must regularly restate the value of certain accounts (including equity) according to a standard factor for monetary correction. The index used for monetary correction is the readjusted value of Brazilian Treasury bills, *Obrigacoes do Tesouro Nacional* ("OTN," formerly ORTN). For each year's equity infusions, we converted the actual cruzeiro (or cruzado, after the February 1986 currency reform) amount received into an OTN equivalent by dividing the amount received by the average value of the OTN in that year. To obtain the 1987 cruzado value of the government's equity infusions since 1980, we multiplied the OTN equivalents by the average cruzado value of the OTN in 1987.

We measured USIMINAS' rate of return by dividing its net loss in 1987 by its total capital and compared the result with the national average rate of return on equity in Brazil in 1987, as reported in a September 1988 special annual edition of *Exame*, a Brazilian business publication. USIMINAS' rate of return was lower than the national average. We then multiplied this rate of return shortfall by the 1987 cruzado value of all equity infusions (back to 1980) that we have found to be inconsistent with commercial considerations.

However, because USIMINAS' net loss was very large during the 1987 review period, the benefit calculated using the rate of return shortfall methodology exceeded the amounts we would have calculated for the review period had we treated the equity infusions as outright grants rather than equity. Under no circumstances do we countervail in any year an amount greater than what we would have countervailed in that year had we treated the government's equity infusions as outright grants. Therefore, we have capped the subsidy for the review period at the level that would have resulted if we had treated the equity infusions as grants.

To determine the grant cap for the review period, we allocated the OTN equivalents of the equity infusions in each year from 1980 through 1987 using a declining balance methodology and the 15-year allocation period. Because there is no nongoverment long-term cruzado borrowing in Brazil, we have used as a discount rate the highest rate the Brazilian government pays on its longest-term OTNs' 8 percent on 5-year OTNs. (The discount rate we normally use in our grant methodology is a rate that incorporates both the "real" and inflation components of an interest rate, and we apply this discount rate to the original amount of the grant. However, by converting the equity amounts to OTNs as a means of determining their value over time, we have accounted for the effects of hyperinflation on the amount of the original equity infusions. Therefore, we have used as our discount rate the interest rate on OTNs, which is a real interest rate, as the basis for allocating the inflation-adjusted OTN values over time.) We then converted the OTN benefit allocated to 1987 into cruzados by multiplying that benefit by the average value of the OTN in 1987. Finally, we divided this cruzado benefit by the value of USIMINAS' total sales in 1987. On this basis, we determine the subsidy to USIMINAS from this program to be 5.82 percent *ad valorem*.

B. Fiscal Benefits by Virtue of a Project Approved by CDI

Under Decree Law 1428, the Industrial Development Council ("CDI") provides for the exemption of up to 100 percent of the customs duties and up to 10 percent of the IPI tax, a value-added tax on domestic sales, on certain imported machinery for specific projects in 14 industries approved by the Brazilian goverment. The recipient must demonstrate that this machinery or equipment is not available from a Brazilian manufacturer.

Decree Law 1726 repealed this program in 1979. However, companies whose projects were approved prior to the repeal continue to receive benefits from this program pending completion of the project. USIMINAS received benefits under this program during 1987. Because this program is limited to specific enterprises of industries, we determine that it is countervailable.

To calculate the benefit, we divided the total amount of import duty and IPI tax reductions in 1987 by USIMINAS' total 1987 sales. On this basis, we determine the subsidy to USIMINAS from this program to be 0.79 percent *ad valorem*.

C. Competitive Benefit

Section 771A(a)(2) provides that the domestic subsidies described above must bestow a competitive benefit on the merchandise. Section 771(A)(b) states:

> • • • a competitive benefit has been bestowed when the price for the input product referred to in subsection (a)(1) for such use is lower than the price that the manufacturer or producer of merchandise which is the subject of a countervailing duty proceeding would otherwise pay for the product in obtaining it from another seller in an arms-length transaction.

To determine the price that steel wheel producers would have paid in an arm's length transaction, we first look to see at what price a steel wheel producer could have bought the input from an unsubsidized seller in Brazil. During the review, the only producers in Brazil of hot-rolled sheet and coil were USIMINAS, Companhia Siderurgica Paulista (COSIPA) and Companhia Siderurgica Nacional (CSN). Although we have not determined in this investigation whether COSIPA and CSN received countervailable subsidies, we determined in a past investigation and administrative review (see the final determination and final results of review on *Certain Carbon Steel Products* (op. cit.)) that both companies benefited from countervailable government provisions of equity. Based on our equity methodology, most of these equity infusions would continue to provide benefits in 1987 to the extent that these companies' rates of return fell below the national average rate of return on equity. Furthermore, a report submitted by the GOB, "Evaluation of the Financial Restructuring of the SIDERBRAS Group: Report to the SIDERBRAS Directors" (February 1989), indicates that both COSIPA and CSN received additional equity infusions from SIDERBRAS through 1988—in fact, more than USIMINAS received. The report also indicates that COSIPA and CSN had worse profitability, liquidity and leverage ratios than USIMINAS in 1987.

Based on this information, we believe it is reasonable to assume that other domestic suppliers of hot-rolled sheet and coil received subsidies during the period of review. Therefore, the prices charged by these companies would not be an appropriate benchmark for determining whether a competitive benefit arises through the steel wheels producers' purchase of this input from USIMINAS.

In the absence of an unsubsidized domestic price, we look to world market prices as a potential benchmark. Generally, we will use the price of one of the world's lowest-cost producers. During the review period, one of the lowest-cost producers of steel was the Republic of Korea (ROK). If the world market price is lower than the price that producers of the merchandise actually paid for the input product, we would conclude that there is no competitive benefit on the merchandise. If the world market price is higher than the price that producers paid for the input product, we would conclude that there is a competitive benefit on the merchandise. The amount of the competitive benefit would depend on the difference between the subsidized price and the world market price.

As the best estimate of the price of Korean steel in Brazil, we used the average monthly c.i.f. price for hot-rolled sheet and coil, with the specifications needed to produce wheels, imported into the United States from the ROK in 1987. We found that the Korean prices were on average over 50 percent higher than domestic Brazilian prices in 1987. Therefore, we conclude that there is a competitive benefit.

D. Significant Effect

For purposes of determining whether the competitive benefit has a significant effect on the cost of producing the merchandise, we multiplied the *ad valorem* subsidy rate on the steel input by the proportion of the total production costs of steel wheels accounted for by the steel input. Multiplying those proportions by the total domestic subsidy for USIMINAS yields a rate of 2.66 percent for Fumagalli and 2.31 percent for Borlem.

In the *Final Affirmative Countervailing Duty Determination; Certain Agricultural Tillage Tools from Brazil* (50 FR 34525; August 26, 1985), we established thresholds regarding the existence of a significant effect. We stated that we would presume no significant effect if the *ad valorem* subsidy rate on the input product multiplied by the proportion of the input product in the cost of manufacturing the merchandise accounted for less than one percent. If the result of this calculation is higher than five percent, we would presume that there is a significant effect. If the result is between one and five percent, we would examine the effect of the input subsidy on the competitiveness of the merchandise. Since in this case the input subsidy allocated to the merchandise yields rates that are between one and five percent for both Fumagalli and Borlem, we have examined the price sensitivity of steel wheels.

A steel wheel is a relatively unsophisticated product made by welding a circular rim to a disc. This process requires standard technology that is available both in Brazil and the United States. The quality of the product made in Brazil is similar, if not identical, to that made in the United States. In fact, the wheels imported into the United States from Brazil are made to standard specifications. These specifications include size, thickness, Society of Automotive Engineer grades of steel, and, in certain instances, the casting process for making the steel used in the wheels. For example, we verified that, in at least one contract, a U.S. importer required that continuous cast steel be used in the wheels.

USIMINAS, which supplied all of the steel used in the wheels exported to the United States during the period of review, has a special line of steel used exclusively for the production of wheels. Fumagalli, which accounted for over 95 percent of the wheels exported to the United States from Brazil during the period of review, is owned entirely by Rockwell International Corp., A U.S. firm. Fumagalli exports over 90 percent of the wheels it produces, mostly to the United States. Rockwell maintains strict quality control over the wheels produced by Fumagalli. In Fumagalli's product manual, every type of wheel produced is matched to specific models of cars produced by the world's major automobile manufacturers.

The only U.S. importers of steel wheels from Brazil are original equipment manufacturers (OEM's) of automobiles. The ITC found in its preliminary determination (*Certain Steel Wheels from Brazil; Investigation No. 701–TA–246 (Preliminary)*) that a wheel producer must be approved by the OEM's purchasing and engineering departments before it can submit a bid. Once the supplier is approved, it achieves the same status as all other approved suppliers. Both Fumagalli and Kelsey-Hayes, the petitioner, are approved suppliers for all the major U.S. automobile manufacturers. The ITC found that an OEM's request for a quotation usually includes a set of specifications and criteria for the wheels.

The ITC also found that steel wheel producers have little bargaining power in the contract negotiations because of the market power of the large automobile manufacturers. The overwhelming majority of the demand for steel wheels stems from the demand for new automobiles. The ITC report quotes the petitioner as saying "• • • because the market for steel wheels is static, from the standpoint that there are no new potential customers for wheels, price competition is severe." (p.A–34).

Although we recognize, as stated in the ITC report, that there are nonprice factors, such as long-standing supplier relationships and reliability in delivery, that may affect the outcome of the bid, we conclude, given the uniformity of the Brazilian and U.S. product, that price is the single most important factor in determining which supplier wins the bid. Therefore, we conclude that subsidies to the input supplier have a significant effect on the competitiveness of Brazilian steel wheels.

In summary, we have determined that: (1) There are domestic subsidies to input suppliers; (2) there is a competitive benefit bestowed on producers of steel wheels; and (3) subsidies to input producers have a significant effect on the cost of manufacturing steel wheels. Therefore, we determine that producers

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of steel wheels in Brazil benefit from an upstream subsidy.

Since the amount of the differential between the Korean and Brazilian prices is higher than the amount of domestic subsidy on USIMINAS steel, we conclude that there is a full pass-through of the subsidy from USIMINAS to the wheel producers. To determine the amount of the upstream subsidy, we multiplied the total domestic subsidy on the input product by the proportion of the *value* of the merchandise accounted for by the input product. (Although we use the *cost* of the merchandise for purposes of determining whether the input subsidy has a significant effect on the merchandise, we calculate the upstream subsidy, as we do most other subsidies, on an *ad valorem* basis.) We determine the upstream benefit for Borlem to be 1.82 percent *ad valorem* and 1.72 percent *ad valorem* for all other firms.

III. Programs Determined Not To Be Used

We determine that manufacturers, producers and exporters in Brazil of steel wheels did not receive benefits during the review period under the following programs:

(1) Accelerated depreciation for Brazilian-made capital goods;

(2) Financing for the storage of merchandise destined for export ("Resolution 330");

(3) Federal stock (EGF) loans; and

(4) Industrial enterprise (FST) loans.

COMMENTS

Comment 1: The Government of Brazil (GOB) argues that the Department overstated the amount of the benefit attributable to the income tax exemption for export earnings. The Department mistakenly divided the benefit received by Fumagalli by the total exports of Borlem. Furthermore, the Department should allocate the benefits from this program over total sales instead of total exports. Since the program rebates direct taxes, it is a domestic subsidy, which requires the Department to allocate the benefit over total sales. In addition, effective January 1, 1988, the GOB decreed that export earnings are no longer fully exempt from income taxes and are now subject to a 3 percent tax. Therefore, the Department should take into account this program-wide change in calculating the rate of cash deposit of estimated countervailing duties for this program.

Department's Position: We have corrected the clerical error made in our preliminary determination by dividing the benefit to Fumagalli by that firm's total exports. We have considered and rejected in other Brazilian countervailing duty cases the GOB's claim that the income tax exemption is a domestic subsidy. See, *e.g., Certain Carbon Steel Products From Brazil* (op. cit.). The GOB has provided neither new evidence nor new arguments that convince us to reconsider this issue. With respect to program-wide changes in this program, we do not have sufficient information to recalculate the cash deposit rate. Because none of the companies we verified has yet filed income tax statements incorporating this change, we are unable to measure the effect of the change.

Comment 2: The GOB argues that the Department overstated the benefit from CACEX preferential export financing by failing to take into account the length of each loan when calculating the benefit. In addition, the GOB claims that, in calculating the short-term interest rate benchmark, the Department should not include the IOF tax. The IOF functions as an indirect tax, and neither the exemption nor the rebate of an indirect tax is considered a subsidy under the General Agreements on Tariffs and Trade and U.S. law. Inclusion of the IOF in the benchmark improperly countervails an exemption of an indirect tax applicable to exports. In addition, the Department should also take into account a reduction in the equalization rate from 15 to 7.5 percent, effective November 30, 1988, for purposes of calculating the cash deposit rate.

Department's Position: We have corrected the clerical error of failing to take the length of the loans into account. We have considered and rejected in other Brazilian countervailing duty cases the GOB's claim concerning the propriety of including the IOF tax in our benchmark. See, *e.g., Certain Castor Oil Products From Brazil; Final Results of Countervailing Duty Administrative Review* (48 FR 40534, September 8, 1983). The Brazilian government has provided neither new evidence or new arguments that convince us to reconsider this issue. We have not taken into account the reduction in the equalization rate because it is our policy to consider only those program-wide changes that occur prior to our preliminary determination, which was published on October 28, 1988.

Comment 3: The GOB argues that loans issued pursuant to the Banco do Brasil's CIC-CREGE 14–11 circular (later modified by circular CIC–OPCRE 6–2–6) do not constitute a government program and, therefore, cannot confer a subsidy on exports of steel wheels. The Banco do Brasil receives no financial support from the GOB for this program and operates the program in a manner consistent with commercial considerations. Even assuming, *arguendo*, that the program is countervailable, the Department has overstated the benefit by using an incorrect benchmark. The Department has used the discounting of accounts receivable rate in past investigations and administrative reviews because there was no published short-term commercial interest rate information available. In this investigation, the Department should use the "taxa ANBID" rate published in *Gazeta Mercantil*, which it has verified is the general commercial rate for short-term loans. Furthermore, if the Department uses the discounting of accounts receivable as its benchmark, it should adjust its methodology for compounding interest.

Department's Position: We have considered and rejected in other Brazilian countervailing duty cases the GOB' argument concerning whether this program is countervailable. *See, e.g., Final Affirmative Countervailing Duty Determination; Brass Sheet and Strip From Brazil,* (51 FR 40837, November 10, 1986). The Brazilian government has provided neither new evidence nor new arguments that convince us to reconsider this issue. As noted in the discussion in section I(3) of this notice, we have used the "taxa ANBID" rate as our benchmark.

Comment 4: The GOB argues that the Department overstated the benefit attributable to the IPI export credit premium program by dividing the amount of the benefit received on Fumagalli's total exports by the firm's exports to the United States. In addition, the Department verified that Fumagalli will not be eligible for the IPI credit premium on exports made after December 31, 1989. The Department should adjust the deposit rate automatically on January 1, 1990 to reflect this change.

Department's Position: We have corrected our calculation of the benefit from this program by dividing the IPI export credit premiums received on shipments of the subject merchandise to the United States by exports of this merchandise to the United States (see section I(4) of this notice). Regarding Fumagalli's future ineligibility for the IPI export credit premium, it is our policy to take into account only those program-wide changes that occur prior to our preliminary determination. Any program-wide change that is scheduled to occur in 1990 can only be addressed in the context of an administrative review.

Comment 5: The GOB argues that Decree Law 1428, which allows import duty exemptions on imported capital equipment of firms with projects approved by the Conselho de Desenvolvimento Industrial (CDI), is not limited to an industry or group of industries and is therefore, not countervailable.

Department's Position: We disagree. We have found that CDI benefits are provided by the government to specific industries (see section II.B.).

Comment 6: The GOB argues that the Department should adjust the deposit rate to take into account a program-wide change, effective May 18, 1988, whereby the exemption of imported capital equipment from the IPI tax is no longer specifically provided under the BEFIEX and CDI programs and is now generally available.

Department's Position: We disagree. Although we verified that program-wide changes took place, the availability of this exemption is still subject to certain conditions. At this time, we do not have sufficient information to make a determination that this program is not specifically provided and no longer countervailable. For this reason, we are not adjusting the rate of cash deposit of estimated countervailing duties for this program.

Comment 7: The GOB argues that FINEX financing under Resolutions 68 and 509 is not countervailable because the program is consistent with the Arrangement on Guidelines for Officially Support Export Credits, which is not considered an illegal export subsidy under item (k) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code). The Department verified that the lending rate for FINEX financing is LIBOR plus a spread of 0.5 precent, a rate comparable to commercial lending rates for importers in the United States. Furthermore, the Department verified that, effective January 4, 1989, the FINEX program as suspended. This should be taken into account in any calculation of the rate of cash deposit of estimated countervailing duties.

Department's Position: We disagree. Since the FINEX loans in this case are short-term loans, they are not covered by the Arrangement and, hence, do not fall within the second paragraph of item (k). Regarding the preferentiality of FINEX lending rates, the Banco Central do Brasil (BCB) provides all or some portion of a spread (the equalization fee) above an interest rate based on LIBOR. Exporters and importers were unable to demonstrate either the value of the spread or the portion of the spread that was retained by the intermediary bank. Therefore, we have assumed that the full benefit from the equalization fee was passed through to the importer. Since Resolution 509 short-term loans are given in U.S. dollars, we maintain that the appropriate benchmark is the average rate for comparable short-term loans in the United States, as published by the Federal Reserve. We have no documentation regarding an average lending rate based on LIBOR. Concerning the suspension of this program, it is our policy to take into account only those program-wide changes that occur prior to our preliminary determination.

Comment 8: The GOB argues that, in alleging an upstream subsidy, petitioner never made an allegation that the GOB's equity infusions in USIMINAS provided a subsidy during the period of review. On this basis, the GOB contends that the statutory requirements for initiating and upstream subsidy investigation were not met on this issue. The GOB further argues that if petitioner intended to imply, by referring to the section 751 administrative review on *Certain Carbon Steel Products from Brazil; Final Results of Countervailing Duty Administrative Review* (52 FR 829; January 9, 1987), that USIMINAS was unequityworthy for the years 1980 through 1984, then petitioner's implied allegation only provides a basis for investigation equity infusions in those years.

Department's Position: We disagree. In making the upstream subsidy allegation, petitioner cites the administrative review on carbon steel products. Petitioner based the allegation on the amount of the domestic subsidies determined in that review. Although the various domestic subsidies were not specifically identified, a clear reading of the results of that review leaves no doubt that petitioner was alleging the existence of equity infusions in an unequityworthy company. Subsidies from equity infusions from 1980 through 1984 were the single largest component of the total domestic subsidy found in that review. With respect to the investigation of equity infusions since 1984, the Department would be remiss in its administration of the countervailing duty law if it did not examine additional equity infusions in a company it had previously determined to be unequityworthy.

Comment 9: The GOB asserts that the Department's determination that USIMINAS was not equityworthy from 1980 through 1984 in the administrative review of carbon steel products was incorrect and should be reversed. The GOB contends that the methodology employed by the Department in determining the USIMINAS was not equityworthy was erroneous because it: (1) Placed undue reliance on marginal returns on equity in the late 1970s to evaluate long-term future earnings potential; (2) relied on financial ratios that were distorted by the inclusion of expansion project assets not yet in operation; (3) improperly used subsequent operating performance to judge the reasonableness of SIDERBRAS' rate of return expectations at the time the equity was provided; (4) did not address evidence submitted by respondents concerning projections of long-term growth in steel demand in both the domestic Brazilian and international markets; and (5) ignored independent studies by the World Bank and other reputable sources which had favorable views on the prospects of the Stage III project as well as USIMINAS' performance and projected relatively high rates of return in the long-term on the investments made by SIDERBRAS.

The GOB argues that the factors that should be examined in assessing the prospects for future performance include: the long-term market environment, the company's anticipated costs of production, the company's ability to operate efficiently, and the company's ability to operate profitably.

Department's Position: We disagree. We stand by the methodology used in our determination in the administrative review of carbon steel products, which was upheld by the Court of International Trade in *Companhia Siderurgica Paulista, S.A., et al. v. United States,* 700 F. Supp. 38, Slip Op. 88–158, November 9, 1988. Although USIMINAS was not a party to this court proceeding, the methodology used in the administrative review to determine that the GOB's equity infusions in COSIPA, CSN and USIMINAS were countervailable was identical for all three companies.

Comment 10: The GOB argues that the Department incorrectly determined the USIMINAS was not equityworthy from 1980 through 1984. The Department evaluated government investments by SIDERBRAS from the point of view of a private outside investor instead of a private owner-investor. The GOB argues that its motive, as an owner-investor, is to maximize average returns on its past and future investments in USIMINAS, not to maximize marginal returns on investments, as an outside investor would. Therefore, it is unreasonable to expect SIDERBRAS to treat past equity infusions as sunk costs.

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The GOB contends that the equity infusions in these years are directly tied to the massive long-term Stage III expansion project undertaken by USIMINAS. The government's decision to invest in Stage III was made in 1975. The decision relied on favorable long-term domestic and international market projections and World Bank appraisals which showed favorable financial returns for the projects. The GOB further contends that if it no longer provided equity, consequently forcing the Stage III project to a halt it would forego the future benefits from the expansion project, and therefore, realize no return on its past investments.

Department's Position: We disagree. Both a rational outside investor and a rational owner-investor make investment decisions at the margin. The relevant question for both types of investors is: What is the marginal rate of return on each cruzeiro/cruzado invested? An investor in USIMINAS does not ignore the potential return from the assets that the company has already acquired. The potential for a favorable return from those assets is an integral part of the investment calculus. However, a rational investor does not let the value of past investments affect present or future investment decisions. The decision to invest is only dependent on the marginal return expected from each additional equity infusion. Therefore, new equity infusions contemplated by investors such as the Brazilian government should not be affected by past investments or sunk costs.

We do not dispute the findings of the long-term market projections or World Bank project reports made in 1975. The GOB designed the Stage III expansion projects as a keystone in its Second National Development Plan (1971–1979). The plan explicitly called for steel investments with the objective of national self-sufficiency by 1979. With an anticipated completion date of 1979, Stage III was designed to supply steel for the Development Plan's large public sector investment program. The decision to sign the contracts for Stage III was based on the national goal of public welfare maximization and not necessarily on commercial considerations.

Although the decision to invest was made in 1975, actual construction began in the late 1970s. By that time, the investment climate had deteriorated, international markets for steel began to decline, and public sector investment dried up. Stage III may still have yielded positive financial returns despite the financial and economic conditions at the time. However, because a sufficient rate of return on equity depends on the performance of the firm as a whole, an investor will invest based on the rate of return for the entire firm, not the rate of return for an individual project such as Stage III.

Current and anticipated future economic conditions and the effects of massive expansion projects on a steel company are just as important as projected long-term markets in an investor's prediction of USIMINAS' long-term viability and, therefore, the decision to invest in the company. Consistent with the desire to maximize overall profits, a rational owner-investor must constantly reevaluate projects such as Stage III in light of other investment opportunities before determining whether those projects should be continued, delayed or abandoned.

Comment 11: The GOB argues that the Department's evaluation of the performance of USIMINAS during the Stage III expansion program was short-sighted in that it incorrectly focused on financial performance instead of current operating performance. The short-term static financial ratios and overall operating performance that the Department relied on are insufficient measures of long-run investment potential and future company performance.

If the Department continues to depend on short-term indicators, it should adjust USIMINAS' overall operating performance by eliminating nonproductive assets (*i.e.*, assets under construction) and related liabilities from the calculation of the financial ratios. When made, these adjustments reveal a healthy current operating performance for USIMINAS during the periods the Department found the company not equityworthy. More importantly, such adjustments show strong profit margins and asset turnover, current operating performance measures which are fundamental determinants in the rate of return on equity.

The GOB contends that the economic constraints existing in the late 1970s and early 1980s, such as government price increases, high real domestic and international interest rates, a temporary cyclical downturn in the steel market, and lower-than-expected government equity infusions were unanticipated transient problems that were insufficient to cause SIDERBRAS to abandon its long-term investment plans. These transient problems and their effects on the companies are relatively unimportant because they do not have a direct bearing on the company's long-term prospects.

The GOB believes that the logical conclusion from the evaluation of equityworthiness is that the only problem faced by the firms was undercapitalization, or lack of equity infusions. Therefore, the GOB believes that SIDERBRAS should have infused more, not less, equity into the companies.

Department's Position: We disagree. The most significant factor in determining the required rate of return on an investment is the degree of risk. The greater the risk of the investment, the higher the expected rate of return. From the point of view of an investor, the purchase of equity is highly risky compared to other types of investments.

In contemplating an equity purchase, an investor will evaluate past and present company performance, anticipated future economic conditions, and overall investment climate. Important determinants in the evaluation include the financial stability of the company (*e.g.*, asset structure, funding sources, and risk of insolvency), past earnings, and the amount of financial leverage in the company's capital structure. Therefore, we disagree with the Brazilian government that present and past performance indicators are relatively unimportant in an investment decision.

Investors will also assess the potential future performance of the company. In this case, the GOB undertook a massive expansion program designed to exploit the projected increase in the demand for steel. In evaluating the equityworthiness of USIMINAS, we do not rely exclusively on the future prospects of the expansion project. We also cannot ignore, just as an investor would not have ignored, the effects of such an expansion on the company's present operations and future viability. An investor purchases equity based on the rate of return of the firm as a whole, not on the financial returns from a specific project.

From an investor's point of view, there is no relevant distinction between financial and operating results. Rather, an investor will look to the rate of return on equity, which is primarily a function of three variables: profit margin (income/sales), asset turnover (sales/assets), and financial leverage (assets/equity).

Evaluation on the basis of current operating results (profit margin and asset turnover), without considering nonoperational assets and accompanying liabilities, may be an appropriate approach for managing or

analyzing profit centers with a company. An investor, however, is concerned with the company's overall performance. An investor must evaluate the effects of the Stage III expansion project on the whole company. Nonperforming assets not only drag down overall operating performance, but the chance that they might never come on-stream creates additional uncertainty for future earnings and therefore increases the risk of the investment.

The rate of return on equity equation shows the fundamental interrelationship between financial performance (financial leverage) and operating performance (profit margin and asset turnover). The decision to continue Stage III in the face of inadequate equity infusions from the Brazilian government led to substantial increases in the company's financial leverage. There is a direct relationship between financial leverage and earnings variability. Therefore, both are also directly related to investment risk.

In the late 1970s and early 1980s the Brazilian steel industry was characterized by Stage III construction delays, marginal or negative earnings, and a mounting economic and financial crisis. The lack of funding in the industry became critical. (The GOB had a history of underfunding steel expansion projects.) By 1982, USIMINAS would have required hundreds of millions of dollars in equity to correct its financial position. Although it is now clear that the company were severely undercapitalized, we cannot base our equityworthiness decision on what the financial standing of the company might have been if this were not the case.

USIMINAS responded to its condition in the late 1970s by contracting variable-rate debt at a time of high real interest rates and using increasing amounts of short-term debt. Not only was USIMINAS undercapitalized, but it mismatched long-term assets with expensive short-term debt.

During this time, an investor would have found that USIMINAS was incapable of covering the additional debt expense with internally-generated funds. The company had a low probability of increasing earnings over the short- and medium- term from domestic sales because of the squeeze between supplier price increases and the government's policy of steel price suppression. Further, it became increasingly evident that there was a long-term decline in the world-wide demand for steel, continuing the depression of steel prices in the international market.

A project such as Stage III can have future positive returns only if the company does not become insolvent. In this case, the continuation of Stage III severely jeopardized USIMINAS' financial standing. Even if we disregard profit margins and asset turnover, we cannot disregard the adverse effects of increased financial leverage on the company's equity standing. The additional risk in the highly leveraged company would have dissuaded any private investor from purchasing equity in USIMINAS during the periods we consider it not to be equityworthy.

Comment 12: The GOB argues that its investments in USIMINAS in 1987 were not on terms "inconsistent with commercial considerations." The investments were part of the SIDERBRAS Restructuring Plan, by which USIMINAS transferred some of its debt to SIDERBRAS. This transfer was reflected as a reduction in long-term and short-term debt and an equal increase in the equity held by SIDERBRAS. The Restructuring Plan also provided for the recapitalization of SIDERBRAS; operational improvements and investments to improve operating efficiency and reduce costs; a commitment to support a realistic pricing policy to allow USIMINAS to recover its costs; and a commitment that SIDERBRAS not undertake investments unless adequate funding is available. The effect of these measures has been to greatly improve the ability of USIMINAS to meet its debt service obligations and earn a reasonable rate of return. A study by independent financial experts has projected substantial returns on equity over the next ten years for USIMINAS. Thus, when the GOB invested additional equity in USIMINAS under the Restructuring Plan, it had a reasonable expectation of a very high real return on its investment.

Department's Position: We disagree. From the perspective of a rational private investor, USIMINAS was no more attractive as a potential investment in 1987 than it was in any of the earlier years in which we determined it to be unequityworthy. Its financial ratios since 1984 indicated no appreciable improvement and, in many areas, had deteriorated. The company had become even more severely leveraged and, in those years in which it did not have a loss, did not demonstrate the ability to generate more than minimal profits.

While the GOB's decision to convert some of USIMINAS' debt to equity clearly addressed one of the basic problems facing USIMINAS, there were still considerable risks associated with any further investment in USIMINAS. The debt conversion was only one component of the Restructuring Plan, and its success was dependent on other contingencies, such as a proper pricing policy. The suppression of steel prices throughout the 1980s as part of the GOB's policies to counter inflation, and the GOB's failure to provide scheduled equity infusions due to budgetary constraints, led to results considerably different from the attractive rates of return projected for USIMINAS in the studies conducted in relation to earlier investment plans.

In this respect, there is a clear distinction between a reasonable private investor's expectations and those of a government owner-investor. In light of the past, a private investor would have to consider the possibility that future macroeconomic concerns of the GOB could jeopardize any investment in an ailing, if recovering, company, whereas the GOB at any time could decide to renege on its commitments to the improvement of USIMINAS' financial health in favor of national economic and social obligations. In doing so, the GOB might again choose to sacrifice the interests of USIMINAS to some more important public welfare goal.

The GOB refers to a study submitted by independent financial experts to SIDERBRAS in February 1989 evaluating the results of the Restructuring Plan through 1988. This study projects substantial rates of return on equity for USIMINAS as a result of the Restructuring Plan. While the projections of this study may prove accurate, they were not contemporaneous with the Restructuring Plan, and we cannot consider the results of this study to be the basis on which the GOB made its investment decisions in 1987. The GOB provided us with no studies contemporaneous with its investment decision.

Comment 13: The BOG claims that the amounts for "advances for future capital increase" that appear in the "Statement of Changes in Financial Position" are end-of-year amounts that in certain years include interest and monetary correction accrued during the year. Therefore, the GOB argues that the Department should use the OTN rate at the end of the year when converting these amounts into OTN equivalents.

Department's Position: We disagree. Advances for future capital increase are received at various points during the year. It is not apparent from the "Statement of Changes in Financial Position," nor could we verify, that in some years these amounts included interest and monetary correction. We have assumed that the amounts of the

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advances that we used for calculating the value of the equity infusions are the nominal amounts received during the year. Therefore, we used the average OTN rate for the year when converting these amounts into OTN equivalents.

Comment 14: Respondents argue that it is inappropriate to include investments made during the year of review when calculating the benefit from equity infusions. Respondents claim that it is improper to assume that the investor would expect a return on equity for investments made during the year equal to the rate of return on investments for a full year. Therefore, respondents argue that the Department should either exclude such equity infusions or calculate a prorated return based on the number of months since the equity infusion was made.

Respondents further argue that, when calculating USIMINAS' loss as a percentage of its total capital, the Department should add back any losses deducted from capital. To do otherwise would overstate the percentage of the loss.

Department's Position: We disagree. Adjusting the rate of return calculation to exclude or prorate equity infusions during the year would either reduce the rate of return on equity in profitable years or increase the rate of loss on equity in unprofitable years. The methodology proposed by respondents runs counter to standard accounting practices in Brazil. By using USIMINAS' total capital (including all equity received and losses incurred), we calculated a negative rate of return for USIMINAS in 1987 that was identical to that reported in the September 1988 edition of *Exame*.

Comment 15: The GOB argues that the Department should change its policy of using as its benchmark a national average rate of return and use instead an average rate of return applicable to heavy industry, thus recognizing the structural differences and increased capital requirements of heavy industries.

Department's Position: We disagree. A national average rate of return is a more accurate reflection of the return that a reasonable investor could expect from a prudent investment than an industry-specific rate. A national average rate of return reflecting the different rates of return and levels of risk in the whole economy is a better benchmark with which to compare rates of return for particular investments. Only by comparing the expected returns and risks across the whole economy can the investor decide where to invest his money most effectively. In contrast, an industry-specific benchmark rate would not serve as a reasonable basis for comparison because it does not take into account the variety of investment options available to an investor.

Furthermore, the use of an industry-specific average rate of return would be especially inappropriate in this case because a large portion of the steel industry in Brazil is controlled by the government. For this reason, the use of the steel sector rate of return would not provide an objective standard. It is far more reasonable to use the national average rate of return because it includes the rates of return for government-owned firms and private firms as well as for profitable and unprofitable firms.

Comment 16: Respondents argue that the Department should use 1988 as the review period for the upstream subsidy portion of this investigation. Calendar year 1988 is the most recently completed fiscal year prior to the date of the upstream subsidy questionnaire response. Information from 1988 provides the most accurate basis for determining the existence of an upstream subsidy.

Petitioner contends that the Department cannot measure upstream subsidies for a different year than that used for all other subsidies.

Department's Position: We agree with petitioner. We announced in our initiation notice on August 24, 1988 that the period of review was calendar year 1987. We must use the same period for measuring all subsidies because to do otherwise might distort the average benefit we attempt to capture in our "snapshot" view of the firm. Furthermore, we cannot use a review period that did not conclude until after our preliminary determination.

Comment 17: Fumagalli contends that, because the government controls the price of steel, the Department should treat the alleged below-market prices of steel as a direct subsidy, not as an upstream subsidy. Fumagalli notes the Department's practice in a number of cases involving products from Mexico (*e.g., Anhydrous and Aqua Ammonia from Mexico* (48 FR 28522) and *Oil Country Tubular Goods from Mexico* (49 FR 47054)). In those cases, where the Department examined the effect of the Mexican government's price control on natural gas, the Department found that low-priced natural gas was available to a wide variety of users and not limited to a particular industry or group of industries. Since the Brazilian government controls the price of steel, and steel is available to a wide variety of users, the provision of steel at government-regulated prices to wheel producers is analogous to government controls on natural gas prices in Mexico. Therefore, the Department should analyze both situations in the same way.

Department's Position: The cases that Fumagalli refers to deal with the alleged preferential pricing of inputs, which is a direct subsidy, not an upstream subsidy. The statute includes a special provision for upstream subsidies, as well as a specific three-pronged test for determining whether an upstream subsidy exists. We do not believe that the existence of price controls precludes us from invoking the the upstream subsidy provision (see our response to Comments 18 and 20).

Comment 18: Fumagalli argues that the specificity analysis that applies to any domestic subsidy also applies to upstream subsidies. Thus, an upstream subsidy is only countervailable if the benefit of that subsidy on downstream products is limited "to a specific enterprise or industry, or group of enterprises or industries."

Fumagalli cites *Certain Steel Products from the Federal Republic of Germany* (47 FR 26321), where the petitioner alleged that German steel producers benefited from subsidies provided by the German government to coal producers. In its preliminary determination in that case, the Department found there was no benefit because low-priced coal was not limited to the steel industry but was, in fact, available to a wide variety of users in the FRG.

Fumagalli contends that the legislative history of the Trade and Tariff Act of 1984 makes clear that the upstream subsidy provision did not change basic Department practice regarding subsidies. Congress intended that the specificity test be used to determine whether the low-priced input was made available only to a specific industry or group of industries. In fact, in a letter to Congress, the former Secretary of Commerce indicated that the Department intended the upstream subsidy provision to apply "where an input is provided to a particular industry or group of industries, . . . "

Petitioner argues that it is clear in the statute and in the legislative history that the specificity test applies only at the upstream level (*i.e.*, on the input product). The statute clearly states that the Department is to look at the competitive benefit from the upstream subsidy on the merchandise under investigation. To determine competitive benefit, the Department must compare the price of the input product from the subsidized producer with a benchmark price. In situations where prices of the input product are artificially depressed in the country under investigation, the statute authorizes the Department to use other sources for the benchmark price, presumably including prices outside the country. This provision would make no sense if there were a specificity requirement at the downstream level.

Department's Position: We agree with the petitioner that a second-tier specificity test is not required in the analysis of upstream subsidies. If Congress had intended to include a separate specificity test, it would have included the same specificity language in the upstream subsidy provision that is included in the definition of domestic subsidy, as provided for in section 771(5)(B) of the Act. Domestic subsidies given directly to the input producer (in this case, the steel producer) must be specifically provided, and domestic subsidies given directly to the downstream producer (in this case, the wheel producers) must be specifically provided, but subsidized inputs purchased by downstream producers need not be specifically provided in order to be countervailable.

The House Conference Report describes an upstream subsidy as a subsidy paid by a government on an input product used to manufacture the merchandise under investigation. The report states, "The potential for an upstream subsidy exists only when a sector-specific benefit meeting all the other criteria of being a subsidy is provided *to the input producer*." (emphasis added). H.R. Rep. No. 98–1156, 98th Cong., 2nd Sess. 171 (1984). The report makes no mention of a sector-specific requirement for the downstream purchaser of the input product.

Furthermore, the Report indicates that the House Bill included a requirement that the upstream subsidy result in a "price for the intermediate product lower than the generally available price of that product in that country. * * *," but the Conferees agree to "* * * substitute for generally available price determination a determination that the upstream subsidy in the judgment of the administering authority bestows a competitive benefit on the merchandise * * *". This clarifies that Congress considered and rejected the second-tier specificity requirement.

The upstream subsidy provision was intended to codify and strengthen existing practice. See S. Rep. No. 98–485, 98th Cong. 2nd Sess. 33 (1984). Although we found in the preliminary determination on *Certain Steel Products from the Federal Republic of Germany* that subsidies to the coal industry did not benefit the steel industry because the coal was not specifically provided to the steel industry, we abandoned this analysis in our final determination (47 FR 39345, September 7, 1982). In the final determination, we found that there was no benefit not because the coal was not specifically provided, but because the price of German coal was higher than world market prices. This approach is very similar to the analysis we use to determine the existence of a competitive benefit.

Thus, despite an early flirtation with the idea of a second-tier specificity test, both Congress and the Department in the end rejected this approach in favor of the competitive benefit test.

Comment 19: The GOB argues that, since wheel producers were able to import steel at prices less than the prices paid to USIMINAS, they derived no competitive benefit from any alleged upstream subsidy. Fumagalli provided information showing that hot-rolled coil was available in January 1989 from the Republic of Korea for less than what the wheel producers paid for steel in Brazil. Furthermore, since wheel producers can obtain full reimbursement for any duties paid on imported steel through Brazil's duty drawback system (provided for in Decree-Law NR 37/66 and Decree 68,904/71), the Department should take duty drawback into account when calculating the benchmark price.

Department's Position: Fumagalli cites a price from 1989, and our period of investigation is 1987. We found that Korean prices were on average over 50 percent higher than USIMINAS' prices in 1987. Since the world market benchmark price is higher than the Brazilian price, thus making importation economically impractical, the issue of using an import price adjusted for duty drawback is moot.

Comment 20: Fumagalli argues that the existence of price controls on domestically-sold Brazilian steel makes it impossible for a Brazilian steel producer to pass through the benefit of any subsidies it receives to the downstream purchaser. In an environment where prices are determined by an intervening and superseding cause, such as government price controls, prices will not vary, regardless of the level of subsidization of any individual producer. There is no evidence that the government of Brazil sets prices for any reason other than to control inflation. Thus, absent a causal relationship between the price of steel to wheel exporters and any subsidies received by steel producers, no competitive benefit can be bestowed.

Petitioner contends that controls on the selling price of steel guarantee the pass-through of any upstream subsidy to the downstream producer. Some of the difference between the controlled price of steel and the market price is accounted for by subsidies to the steel producer. Thus, government subsidies offset differences between the two prices.

Department's Position: We disagree that the existence of price controls renders the pass-through of benefits impossible. Price controls in and of themselves are not dispositive of whether the input was sold at a subsidized price. For example, if there were unsubsidized sellers of the input product subject to the same price controls as subsidized sellers, we would determine that there is no competitive benefits because the downstream producer could have bought the input at the same price from an unsubsidized seller. Conversely, if all sellers of the input product are subsidized and all are subject to the same price controls, we cannot determine whether, or to what extent, prices in the domestic market reflect the subsidies received. In such cases, we resort to world market prices. If the world market price is higher than the domestic price of the subsidized sellers, as in this case, we conclude that the subsidy is built into the price of the input product even if the price is controlled.

Comment 21: Fumagalli contends that, in determining whether the competitive benefit has a significant effect on the merchandise, the Department should calculate the cost of steel as a percentage of the U.S. selling price of the merchandise rather than as a percentage of the cost of production of the merchandise. Fumagalli contends that this is the most accurate measure of the effect of an upstream subsidy on the competitiveness of the merchandise because it captures the degree of underselling of the merchandise in the U.S. market vis-a-vis merchandise sold by competing U.S. firms.

Department's Position: We disagree. Section 771A(a)(3) of the Act clearly states that the Department must examine whether the subsidy on the input product has a significant effect on the "cost of manufacturing or producing the merchandise."

Comment 22: Fumagalli contends that, for purposes of its upstream subsidy analysis, the Department should include general and administrative expenses in its calculation of the cost of manufacturing or producing the merchandise. According to the verification report, the Department calculated the cost of hot-rolled sheet and coil as a percentage of manufacturing costs by erroneously applying its standard practice in antidumping proceedings, in which the

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cost of manufacture is interpreted as the cost of production minus general and administrative expenses.

Department's Position: There is no explicit direction in the statute or the legislative history as to how to calculate the cost of manufacturing or producing the merchanise in an upstream subsidy investigation. In this case, we measured the significant effect of the upstream subsidy on the cost of the merchandise based on the cost of manufacture. We have applied our standard practice used in antidumping proceedings of calculating the cost of manufacture by deducting general and administrative expenses from the cost of production. We note that using the cost of production, including general and administrative expenses, would not change the results of our significant effect analysis in this case.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, inspecting documents and ledgers, tracing information in the response to source documents, accounting ledgers and financial statements, and collecting additional information that we deemed necessary for making our final determination.

Suspension of Liquidation

In accordance with our preliminary affirmative countervailing duty determination, published on October 28, 1988, we directed the U.S. Customs Service to suspend liquidation on the products under investigation and to require a cash deposit or bond equal to the duty deposit rate. This final countervailing duty determination was extended, pursuant to section 703(h) of the Act, because of the upstream subsidy investigation. Under Article 5, paragraph 3 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code), provisional measures cannot be imposed for more than 120 days without final affirmative determination of injury. Therefore, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after February 27, 1989, but to continue the suspension of liquidation of all entries or withdrawals from warehouse, for consumption, of the subject merchanise entered between October 28, 1988, and February 26, 1989. We will reinstate suspension of liquidation under section 703(d) of the Act, if the ITC issues a final affirmative injury determination, and require duty deposits on all entries of the subject merchandise in the amounts indicated below:

Manufacturer/producer/exporter	Estimated net subsidy	Duty deposit rate
Borlem, S.A.	1.82	1.82
All others	17.29	17.15

ITC notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing Customs officers to assess countervailing duties on all entries of steel wheels from Brazil entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Date: April 7, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-9189 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-557-804]

Initiation of Countervailing Duty Investigation; Certain Steel Wire Nails From Malaysia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Malaysia of certain steel wire nails (steel nails), as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If this investigation proceeds normally, we will make our preliminary determination on or before June 15, 1989.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Roy Malmrose, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-5414.

SUPPLEMENTARY INFORMATION:

The Petition

On March 22, 1989, we received a petition in proper form filed by members of the Nail Committee of the American Wire Producers Association, on behalf of the U.S. industry producing steel nails. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.12), the petition alleges that manufacturers, producers, or exporters in Malaysia of steel nails receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act").

Malaysia is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, sections 303 (a)(1) and (b) of the Act apply to this investigation. Accordingly, petitioner is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on steel nails from Malaysia and have found that it meets the requirements of section 702(b) of the Act. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Malaysia of steel nails, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants within the meaning of the Act. If our investigation proceeds normally, we will make our preliminary determination on or before June 15, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are certain steel wire nails from Malaysia. These nails are: steel wire nails of one-piece construction as currently provided for in HTS items 7317.00.5505, 7317.00.5510, 7317.00.5520, 7317.00.5530, 7317.00.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, 7317.00.5590 and 7317.00.6560; steel wire nails of two-piece construction, as currently provided for in HTS item 7317.00.7500; and steel wire nails with lead heads, as currently provided for in HTS item 7317.00.7500.

Allegation of Bounties or Grants

The petition lists certain practices by the Government of Malaysia which allegedly confer bounties or grants on manufacturers, producers, or exporters in Malaysia of steel nails. We are initiating an investigation of the following programs:

- Export Tax Incentives

—Abatement of Taxable Income Based on the Ratio of Export Sales to Total Sales
—Abatement of Five Percent of the Value of Indigenous Materials Used in Exports
—Double Deduction for Export Credit Insurance Payments
—Double Deduction for Export Promotion Expenses
—Industrial Building Allowance
—Residual Benefits From the Allowance of a Percentage of Net Taxable Income Based on the FOB Value of Export Sales Under Section 29 of the Investment Incentives Act (IIA) of 1968

- Export Credit Refinancing
- Official Export Insurance Program Administered by the Malaysian Credit Export Insurance Behard (MECIB)
- Pioneer Status Under the IIA of 1968
- Investment Tax Allowance for Under Chapter 2 of the PIA of 1986
- Long-Term Loans From the Development Bank of Malaysia for *Bumiputras* (people of native Malaysian descent)
- Double Deduction for Operational Expenses
- Other Tax Incentives

—Abatement of Five Percent of the Adjusted Income for a Period of Five Years for Manufacturing Companies Located in Designated "Promoted Industrial Areas"
—Reinvestment Allowance

Although not specifically alleged by petitioners, we are also investigating whether the manufacturers and exporters of steel nails in Malaysia receive countervailable benefits under the following programs, which we have found to be either countervailable or not used in previous Malaysian investigations:

- Abatement of Taxable Income of Five Percent for Trading and Agricultural Companies Exporting Malaysian-made Products
- Pioneer Status under the PIA of 1986
- Other Medium- and Long-Term Government Financing from:

—The Industrial Development Bank of Malaysia (IDBM)
—The Borneo Development Corporation (BDC)
—The Sabar Development Bank (SDB)

We are not initiating an investigation of the following allegations made by the petitioner:

- Abatement of Taxable Income Based on a Percentage of the Value-Added of Exported Products

This program was determined not to exist in *Final Affirmative Countervailing Duty Determination: Carbon Steel Wire from Malaysia* (53 FR 13303, April 22, 1988) (*Wire Rod II*).

- Upstream subsidy allegation

Petitioners allege that an upstream subsidy is conferred upon producers and exporters of steel nails in Malaysia, based, in part, on the Department's previous affirmative determination in *Wire Rod II*.

Under section 701(e) of the Act, whenever the Department has reasonable grounds to believe or suspect that an upstream subsidy is being paid or bestowed, the Department must investigate whether an upstream subsidy has in fact been paid or bestowed. The standard established in section 355.12 of the Commerce Regulations (19 CFR 355.12(b)(8)) states that petitioner must provide the following factual information regarding an alleged upstream subsidy:

(i) Domestic subsidies described in section 771(5) of the Act that the government of the affected country provides to the upstream supplier;

(ii) The competitive benefit the subsidies bestow on the merchandise; and

(iii) The significant effect the subsidies have on the cost of producing the merchandise.

Petitioners cite the Department's final determination in *Wire Rod II* to support the allegation that the input to nails is subsidized. Petitioners also provide information regarding significant effect. However, petitioners have not provided any supporting information which indicates that a competitive benefit is bestowed on the producers of steel nails.

Petitioners state that the Department's previous finding in *Wire Rod II* and the fact that the Malaysian steel nails producers underseli their U.S. counterparts demonstrates the bestowal of a competitive benefit. However, this argument is insufficient for purposes of demonstrating the bestowal of a competitive benefit.

Instead, petitioners must provide evidence which indicates that the price for wire rod paid by the Malaysian nail producers is lower than an arm's length unsubsidized price. We therefore conclude that petitioners have not provided the Department with a reasonable basis to believe or suspect that producers and exporters of steel nails in Malaysia benefit from an upstream subsidy.

This notice is published pursuant to section 702(c)(2) of the Act.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-9190 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

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Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Nubmer: 89–106. *Applicant:* University of California, Department of Chemistry, La Jolla, CA 92093. *Instrument:* Stopped-Flow Spectrophotometer, Model SF–51. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended use:* The instrument will be used for the study of the transient phase kinetics of the reduction of dihydrofolate by NADPH and the heterolytic cleavage of hydrogen peroxide by cytochrome c perodidase. The instrument will also be used for educational purposes in the course Graduate Research, Chem 299. *Application Received by Commissioner of Customs:* March 16, 1989.

Docket Number: 89–108. *Applicant:* University of Montana, Flathead Lake Bio. Station, 311 Bio. Station Lane, Polson, MT 59860. *Instrument:* Precision Dissolved Oxygen Meter and Accessories, Model 781b. *Manufacturer:* Strathkelvin Instruments, United Kingdom. *Intended use:* The instrument will be used for the study of microbes and aquatic insects to determine the metabolic activity of specific aquatic organisms. In addition, instrument will be used for instruction purposes in the courses Lake Ecology and River Ecology. *Application Received by Commissioner of Customs:* March 17, 1989.

Docket Number: 89–109. *Applicant:* University of Cincinnati, Chemistry Department, Mail Location 172, Cincinnati, OH 45221–0172. *Instrument:* Vibrating-Tube Densimeter and Accessories, Model 03–D. *Manufacturer:* SODEV, Inc., Canada. *Intended use:* The instrument will be used to measure the densities of solutions of various concentrations in studies to develop a better understanding of the aggregation of surfactants in aqueous solutions. In addition, the instrument will be used for educational purposes in a two-quarter undergraduate laboratory course for senior-year chemistry students. *Application Received by Commissioner of Customs:* March 17, 1989.

Docket Number: 89–110. *Applicant:* Haverford, College, Haverford, PA 19041–1328. *Instrument:* Stopped-flow Spectrophotometer, Model SF–51. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended use:* The instrument will be used in studies of the coordiantion environment of transition metals (such as iron, cobalt, nickel, manganese, etc.) as found both in biological macromolecules (such as enzymes and other proteins) and in synthetic inorganic compounds. In addition, the instrument will be used for educational purposes in the courses Chemistry 301a and 302b—Laboratory in Chemical Structure and Reactivity. Both of these courses are designed to foster familiarity with and confidence in modern chemical laboratory techniques as applied to the conduct of chemical and biochemical research. *Application Received by Commissioner of Customs:* March 20, 1989.

Docket Number: 89–111. *Applicant:* South Dakota School of Mines and Technology, 501 E. St. Joseph, Rapid City, SD 57701. *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad 2. *Manufacturer:* VG Istopes Ltd., United Kingdom. *Intended use:* The instrument will be used for studies of the ultra-trace element characteristics of geological materials including minute glasses and crystals. Experiments will be conducted to define processes in magmatic and hydrothermal systems in the earth's crust. The instrument will also be used for educational purposes in the course Atomic Absorption,—Inductive Coupled Argon Spectroscopy and Inductive Coupled Plasma Mass Spectrometry. *Application Received by Commissioner of Customs:* March 20, 1989.

Docket Number: 89–112. *Applicant:* University of Hawaii at Manoa, Hawaii Institute of Geophysics, 2525 Correa Road, HIG 114, Honolulu, HI 96822. *Instrument:* Rotating Anode X-ray Generator. Manufacturer: Rigaku, Japan. *Intended use:* The instrument will be used in studies of earth materials of geophysical and geochemical importance (silicates, oxides, metals and alloys) to determine atomic crystal structure, molar volumes, equation of state (P-V-T), of Earth's mantle phases. In addition, the instrument will be used for educational purposes in several geophysical courses. *Application Received by Commissioner of Customs:* March 20, 1989.

Docket Number: 89–114. *Applicant:* South Dakota State University, Chemistry Department, Box 2202, Brookings, SD 57007–0896. *Instrument:* Mass Spectrometer, Model MS 25. *Manufacturer:* Kratos Analytical Inc., United Kingdom. *Intended use:* The instrument will be used in studies of organic molecules. Experiments will consist of low-resolution mass measurement, high-resolution mass measurement, fast-atom bombardment mass spectrometry, gas chromatography-mass spectrometry, high performance liquid-chromatography mass spectrometry, pyrolysis mass spectrometry, and metastable-analysis mass spectrometry. In addition, the instrument will be used in undergraduate and graduate thesis research requirement courses: CH 591, CH 790, CH 890. *Application Received by Commisisoner of Customs:* March 21, 1989.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–9192 Filed 4–17–89; 8:45 am]

BILLING CODE 3510–DS–M

Pennsylvania State University, et al.; Consolidated Decision on Applications for Duty-free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 88–086R.

Applicant: Pennsylvania State University, University Park, PA 16802.

Instrument: Mass Spectrometer, Model M25SR.

Manufacturer: Kratos Scientific Instruments, United Kingdom.

Intended use: See notice at 53 FR 4867, February 18, 1988.

Reasons for this Decision: The foreign instrument provides a scan speed to 0.1 second per decade.

Advice Submitted by: The National Institutes of Health, December 20, 1988.

Docket Number: 88–215R.

Applicant: University of Dallas, Irving, TX 75062–4799.

Instrument: Rapid Kinetics Accessory, Model SFA–11.

Manufacturer: Hi-Tech Scientific, Ltd., United Kingdom.

Intended use: See notice at 53 FR 43464, October 27, 1988.

Reasons for this Decision: The foreign article directly delivers mixed reagent solutions through a removable chamber to an observation cell configuration standard to many spectrometric instruments.

Advice Submitted by: The National Institutes of Health, December 20, 1988.

Docket Number: 88–275.

Applicant: Vanderbilt University, Nashville, TN 37232.

Instrument: Conductance Catheter (Signal Condition Processor), Model SIGMA–5.

Manufacturer: Stichting LEYCOM, The Netherlands.

Intended use: See notice at 53 FR 39494, October 7, 1988.

Reasons for this Decision: The foreign instrument continuously measures ventricular (heart) volume by analyzing five segmented signals from an impedance catheter.

Advice Submitted by: The National Institutes of Health, December 20, 1988.

Docket Number: 88–276.

Applicant: Albert Einstein College of Medicine of Yeshiva University, Bronx, NY 10461.

Instrument: Mass Spectrometer, MAT 90.

Manufacturer: Finnigan, West Germany.

Intended use: See notice at 53 FR 39494, October 7, 1988.

Reasons for this Decision: The foreign instrument provides: (1) Continuous flow FAB, (2) resolution to 50 000, (3) mass range to 17 500, and (4) scan speed to 0.1 second per decade.

Advice Submitted by: The National Institutes of Health, December 20, 1988.

Docket Number: 88–282.

Applicant: Vanderbilt University, School of Medicine, Nashville, TN 32732.

Instrument: Cytogenetic Scanning Analyzer System, Model Cytoscan CS2.

Manufacturer: Image Recognition Systems, United Kingdom.

Intended use: See notice at 53 FR 43462, October 27, 1988.

Reasons for this Decision: The foreign instrument accurately locates metaphase chromosomes and provides a 1024 element CCD imaging array.

Advice Submitted by: The National Institutes of Health, December 20, 1988.

Docket Number: 88–283.

Applicant: Kansas State University, Manhattan, KS 66506.

Instrument: Rapid Kinetics Accessory, Model SFA–11.

Manufacturer: Hi-Tech Scientific, United Kingdom.

Intended use: See notice at 53 FR 43462, October 27, 1988.

Reasons for this Decision: The foreign article directly delivers mixed reagent solutions through a removable chamber to an observation cell configuration standard to many spectrometric instruments.

Advice Submitted by: The National Institutes of Health, December 20, 1988.

Docket Number: 88–291. Cornell University, Ithaca, NY 14853–1301.

Instrument: Preparative Quench and Stopped-Flow Spectrofluorometer, Model PQ/SF–53.

Manufacturer: Hi-Tech Scientific, United Kingdom.

Intended use: See notice at 53 FR 43463, October 27, 1988.

Reasons for this Decision: The foreign instrument provides preparative quench and stopped flow spectrofluorometry using four syringes with two independent drive rams.

Advice Submitted by: The National Institutes of Health, December 20, 1988.

Docket Number: 88–299.

Applicant: National Institute of Standards and Technology, Gaithersburg, MD 20899.

Instrument: Electron Back-Scatter Pattern Imaging and Analysis System, Model EBSP 8400.

Manufacturer: Custom Camera Design, United Kingdom.

Intended use: See notice at 53 FR 43464, October 27, 1988.

Reasons for this Decision: The foreign instrument can display and record back-scattered electron diffraction patterns with a spatial resolution of 0.3 μm.

Advice Submitted by: The National Institutes of Health, January 26, 1989.

Docket Number: 88–302.

Applicant: National Institute of Standards and Technology, Gaithersburg, MD 20899.

Instrument: Two Monochromator Bending Devices.

Manufacturer: Grenoble Modular Instruments, France.

Intended use: See notice at 53 FR 43464, October 27, 1988.

Reasons for this Decision: The foreign instrument can focus monochromatic neutrons to improve signal by a factor of three.

Advice Submitted by: The National Institutes of Health, January 26, 1989.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health advises that: (1) The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–9193 Filed 4–17–89; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

Visiting Committee on Advanced Technology; Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the National Institute of Standards and Technology Visiting Committee on Advanced Technology will meet Tuesday, May 2, 1989, from 10:00 a.m. to 5:00 p.m. and Wednesday, May 3, 1989, from 8:30 a.m. to 1:30 p.m. The Visiting Committee on Advanced Technology is composed of nine members appointed by the Director of the National Institute of Standards and Technology who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The discussion on NIST Budget scheduled to begin at 4:20 p.m. and ending 5:00 p.m. on May 2, 1989, will be closed.

DATES: The meeting will convene May 2, 1989, at 10:00 a.m. and adjourn at 1:30 p.m. on May 3, 1989. A closed session is scheduled on May 2, 1989, beginning at 4:20 p.m. and adjourning at 5:00 p.m.

ADDRESS: The meeting will be held in Conference Room 1103, Radio Building, National Institute of Standards and Technology, Boulder, Colorado.

FOR FURTHER INFORMATION CONTACT: Dale Hall, Visiting Committee Executive Director, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2158.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on April 10, 1989, that the portion of this meeting which involves examination and discussion of the 1991 budget proposal may be closed pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409. One portion of the meeting, which involves discussion of future NIST budget requests, may be

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closed to the public. In accordance with section 552(b)(9)(B) of Title 5, United States Code, since that portion of the meeting is likely to divulge matters that may be likely to significantly frustrate implementation of proposed agency action. All other portions of the meeting will be open to the public, and the Chairperson will entertain comments or questions at an appropriate time during the meeting. Any person wishing to attend the meeting should inform Dale Hall at the address shown above.

Raymond G. Kammer,

Acting Director.

Date: April 11, 1989.

[FR Doc. 89-9146 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Western Pacific Precious Corals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of a draft environmental assessment and request for comments.

SUMMARY: The Southwest Region of the National Marine Fisheries Service has prepared an environmental assessment (EA) of a proposed action to issue an experimental fishing permit (EFP) to allow the harvest of 10,000 kilograms (kg) of precious corals in the exclusive economic zone (EEZ) seaward of Hawaii using tangle net gear. The purpose of this notice is to solicit public comments on the EA, which summarizes management of coral under the Fishery Management Plan for the Precious Coral Fisheries of the Western Pacific Region (FMP) and the effects the experimental fishery might have on precious coral stocks and associated resources.

DATE: Comments on the draft EA are due by May 8, 1989.

ADDRESSES: Send comments to E.C. Fullerton, Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: A copy of the EA may be obtained from Doyle Gates, Pacific Island Coordinator, Southwest Region, NMFS, 2570 Dole St., Room 106, Honolulu, Hawaii 96822-2396 (808-955-8831); or James Morgan, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731 (213-514-6667).

SUPPLEMENTARY INFORMATION: On February 9, 1989, the Southwest Regional Director, NMFS, received an application for an experimental fishing permit to harvest precious corals in the western Pacific. A notice of receipt of the application was filed with the Federal Register on February 15, 1989, and published February 21, 1989 (54 FR 7462). The applicant proposes to harvest 10,000 kg of precious corals using tangle gear from exploratory areas in the EEZ seaward of Hawaii in a two-year period. As part of its review of the permit application under 50 CFR Part 680 of the rules implementing the FMP, the NMFS has prepared an EA on the proposed fishing operation for public review. The EA describes the expected impacts of fishing if the permit is granted. Under the proposed alternative in the EA, a permit would be issued to allow the requested level of harvest, but conditions would be imposed to ensure adequate monitoring of the harvest operation and complete data collection.

The application was reviewed by the Western Pacific Fishery Management Council (Council) at its 64th regular meeting in Honolulu, Hawaii, on February 14-15, 1989. The Council recommended that the permit be issued with the provision that the Regional Director be authorized to place an observer on the applicant's vessel as necessary to ensure monitoring of the operation and collection of data. The Council's recommendation will be considered when developing conditions to include in the permit.

Comments received on the EA and the application will help determine if the application for the permit should be approved, and if approved, what additional conditions should be included in the permit.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 12, 1989.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-9164 Filed 4-17-89; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Wednesday, 10 May 1989.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The Microelectronics area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Alternate OSD Federal Register Liaison Officer, Department of Defense.

L.M. Bynum,

April 12, 1989.

[FR Doc. 89-9242 Filed 4-17-89; 8:45 am]

BILLING CODE 3810-01-M

DoD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Tuesday, 16 May 1989.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Slater, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

April 12, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-9243 Filed 4-17-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Defense Industrial Cooperation With Pacific Rim Nations

ACTION: Change in date of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Defense Industrial Cooperation With Pacific Rim Nations scheduled for May 1, 1989 as published in the Federal Register (Vol. 54, No. 9, Page 1428, Friday, January 13, 1989, FR Doc. 89-887) will be held on May 16, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 12, 1989.

[FR Doc. 89-9245 Filed 4-17-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Follow on Forces Attack (FOFA); Meetings

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Follow on Forces Attack (FOFA) will meet in closed session on May 3 and May 19, 1989 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will continue to review, in detail, classified material associated with conventional military capabilities in NATO to include special targeting requirements.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

April 12, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-9246 Filed 4-17-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Low Observable Technology, Air Force Subgroup; Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of Advisory Committee meetings.

SUMMARY: The Defense Science Board Task Force on Low Observable Technology, Air Force Subgroup will meet in closed sessions on May 8-9, June 13-14, and September 14-15, 1989 at the Pentagon, Arlington, Virginia..

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will provide the Air Force with scientific advice on its activities in this area.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly these meetings will be closed to the public.

April 12, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-9247 Filed 4-17-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Intent to Prepare a Draft Environmental Impact Statement for Proposed Flood-Control Measures on Guadalupe River, Santa Clara County, CA

AGENCY: U.S. Army Corps of Engineers (San Francisco District), Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement.

1. *Proposed Action.* The Corps of Engineers (Corps) has received an application for a Department of the Army permit from the Santa Clara Valley Water District (Water District) to construct flood-control facilities along Guadalupe River between Interstate Highway 280 (I-280) and Blossm Hill Road, a distance of 5.5 miles. The permit application will be processed by the Regulatory Branch of the San Francisco District, Corps of Engineers pursuant to section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) and section 404 of the Clean Water Act of 1977, as amended (33 U.S.C. 1344).

The purpose of the proposed project is to reduce overbank flooding from Guadalupe River, thereby lessen the flood hazard and damage to residences and businesses in the City of San Jose.

In accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq*), the Corps has determined that the proposed action may have a significant impact on the quality of the human environment and therefore requires the preparation of an Environmental Impact Statement (EIS). A combined EIS/Eir (Environmental Impact Report) will be prepared with the Corps as the Federal lead agency and the Water District as the lead agency for the EIR.

2. *Flood-Control Alternatives.* Four conceptual measures have been identified by the Water District in its planning process.

a. *No Action Plan.* Under this plan, which is equivalent to permit denial by the Corps, no action would be taken by the Water District to reduce flooding from Guadalupe River.

b. *Upstream Storage Plan.* This alternative consists of construction of dams and reservoirs upstream of the flood-prone area.

c. *Offstream Storage Plan.* This plan calls for construction of offstream storage facilities to store floodflows until the water can be released safely.

d. *Channel Modification Plan.* The channel modification alternative consists of three basic design concepts,

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namely, (1) Bypass channel, (2) Lined channel, and (3) Widened channel.

The Water District has developed a Channel Modification Plan, which it has designated as the preliminary selected plan for the permit application. The proposed channel modification plan consists of the following measures from downstream to upstream: Bypass channel with gabion sideslopes between I–280 and Willow Glen Way; Partial East Bank widened chanel from Willow Glen Way to southbound Almaden Expressway; West Bank Levee from southbound to northbound Almaden Expressway; East Bank Widened Channel from 1500 feet upstream northbound Almaden Expressway to Bryan Avenue; West Bank Widened Channel from Bryan Avenue to Cross Creek; East Bank Widened Channel from Cross Creek to Branham Lane; and West Bank Widened Channel from Branham Lane to Blossom Hill Road.

3. *Scoping Process.* Pursuant to the National Environmental Policy Act, as amended, agency planning for Federal or federally permitted projects must include a "scoping" process. Scoping primarily involves determining the scope of issues to be addressed, and identifying the significant issues for in-depth analysis in the draft EIS. The scoping process includes public participation to integrate information regarding public needs and concerns into the environmental document.

The Water District has established a public involvement program and sponsored public meetings and workshops to receive comments on the preliminary selected plan. Comments already received will be utilized in preparation of the draft EIS. A scoping meeting has been scheduled for March 29, 1989 at 7:30 p.m. at Terrel Elementary School, 3925 Pearl Avenue, San Jose. Government agencies, public and private interest groups are also invited to further participate in the scoping process by submitting comments on issues pertaining to the proposed project.

a. Significant Issues. The following significant issues have already been identified as significant and they will be analyzed in the draft EIS:

(1) Water quality
(2) Hydrology
(3) Fish and wildlife resources
(4) Wetland and aquatic habitat
(5) Riparian Habitat
(6) Rare and endangered species
(7) Cultural resources
(8) Growth inducement
(9) Aesthetic quality
(10) Recreational opportunities

b. Environmental Requirements. Environmental review and other consultation requirements applicable to the proposed action include:

(1) National Environmental Policy Act, as amended
(2) Clean Water Act, as amended
(3) Clean Air Act, as amended
(4) National Historic Preservation Act, as amended
(5) Fish and Wildlife Coordination Act
(6) Endangered Species Act, as amended
(7) Coastal Zone Management Act; and
(8) Council on Environmental Quality Memorandum—Analysis of Impacts on Prime and Unique Agricultural Lands.

4. *Availability of EIS.* The draft EIS will be available for public review in December 1989.

5. *Points of Contact.* Questions regarding the scoping process or preparation of the draft EIS may be directed to Lars M. Forsman, Regulatory Branch (Telephone 415–974–0421). Questions about processing of the permit application may be directed to Frank Kelleher, Regulatory Branch (Telephone 415–974–0424).

John O. Roach, II

Army Liaison Officer with the Federal Register.

[FR Doc. 89–9173 Filed 4–17–89; 8:45 am]

BILLING CODE 3710–FS–M

Armed Forces Institute of Pathology Scientific Advisory Board; Meeting

In order to comply with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, May 31 and June 1, 1989, at 0630 hours in the Director's Conference Room, Armed Forces Institute of Pathology, Washington, DC 20306–6000. This meeting will be open to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultation, education and research. The Executive Secretary from whom substantive program information may be obtained is Colonel Lloyd A. Schlaeppi, Executive Officer, Armed Forces Institute of Pathology, Washington, DC 20306–6000, telephone (202) 576–2900.

For the Director:

Lloyd A. Schlaeppi,

Colonel, MS, USA, Executive Officer.

[FR Doc. 89–9174 Filed 4–17–89; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Coastal Engineering Research Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Coastal Engineering Research Board (CERB).

Date of Meeting: May 9–11, 1989.

Place: Wilmington Hilton, Wilmington, North Carolina.

Time: 8:00 a.m. to 5:00 p.m. on May 9; 8:30 a.m. to 4:45 p.m. on May 10; 8:30 a.m. to 11:45 a.m. on May 11.

Theme: Shoreline Erosion and Restoration.

Proposed Agenda: The morning session on May 9 will consist of a review of CERB business, South Atlantic Division Research Needs, a presentation by a local congressman; a presentation on the management of North Carolina's ocean hazard areas; and an overview of Wilmington District coastal projects and field trip.

The afternoon of May 9 will be devoted to a bus trip and tour of Carolina Beach, Fort Fisher, and the North Carolina Aquarium.

The session on May 10 will consist of several presentations entitled: Introduction to Theme of Shoreline Erosion and Restoration; Beach Preservation Technology '89; Numerical Modeling/Coastal Processes; Physical Modeling/Coastal Processes; Monitoring/Kings Bay Navigation Channel and Adjacent Shorelines; Helicopter LIDAR Bathymeter; Low Cost Shore Protection/Section 54; Shore Damage Reduction Manual; and Beach Nourishment Using Dredged Material/Section 933 Authority. The session will also consist of two panel discussions. One panel will discuss Shore Protection Structures including Seawalls—Special Edition of the Journal of Coastal Research and Offshore Breakwaters, and the other panel will discuss Beachfills including Corps of Engineers Beachfill Projects—Past/Future; State of Florida's Beachfill Program; Wilmington District Beachfill Design Procedures; and Beachfill Research and Development.

On May 11 there will be a discussion of the theme and recommendations by members of the Board.

This meeting is open to the public; participation by the public is scheduled for 9:45 a.m. on May 11.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Lieutenant Colonel Jack R. Stephens, Acting Executive Secretary, Coastal Engineering Research Board, U.S. Army Engineer Waterways Experiment Station, P.O. Box 631, Vicksburg, Mississippi 39181–0631.

Jack R. Stephens,

Lieutenant Colonel, Corps of Engineers, Acting Executive Secretary.

[FR Doc. 89–9214 Filed 4–17–89; 8:45 am]

BILLING CODE 3710–09–M

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Proposed Flood Control Project; Las Vegas Wash and Tributaries; Clark County, NV

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: This project would include construction of a number of detention and conveyance structures and improvements along Tropicana and Flamingo washes. The proposed plan for flood control would reduce the peak discharge of a 100-year flood so that the resulting downstream discharges could be carried through the urban communities within existing rights of way, flood control facilities, and other existing constraints. Other tributaries, including Las Vegas Range Wash, Lower Las Vegas Wash, Las Vegas Creek, and Duck Creek, which were covered in previous environmental reports, will be dropped from further study at this time. Those tributaries will be assessed in one or more additional studies. A time schedule for the additional tributaries studies has not yet been developed.

Alternatives: The No-Action alternative and variations of the Clark County Regional Flood Control District's Flood Control Master Plan (FCMP) will be considered in the Tropicana and Flamingo Washes study area. The following alternatives will be considered during the feasibility study: (a) Lined channels, (b) unlined channels, (c) floodways, (d) detention basins, (e) debris basins, (f) diversion dikes, (g) storm drains, and (h) bridges and culverts. The sizes and exact locations of these facilities are not known at this time.

Scoping Process: A public meeting will be held on May 1, 1989 to assess public needs and desires relative to protection formulation. The public meeting will be held in Las Vegas. Participation in the public meeting by Federal, State, and local agencies, and other interested private organizations and parties is encouraged. Significant issues to be addressed in these public meetings include: potential impacts to biological resources (including endangered and threatened species), cultural resources, land use, water quality, and air quality.

Time and Locations of Scoping Meeting: A scoping meeting will be held according to the following schedule:

Area, Location, and Time: The public scoping meeting for the Flamingo Wash and Tropicana Wash Feasibility Study will be held at the Clark High School Cafeteria, 4291 Pennwood Avenue, Las Vegas, Nevada 89102 on Monday, May 1, 1989 between 7:00–9:30 p.m.

Availability of the DEIS: The Draft EIS is anticipated to be circulated for public review in Fall 1989.

ADDRESS: Comments and questions regarding the project may be addressed to U.S. Army Corps of Engineers, Los Angeles District, ATTN: Mr. Ronald MacDonald, CESPL–PD–RQ, P.O. Box 2711, Los Angeles, California 90053–2325, (213) 894–3661.

Date: March 28, 1989.

Tadahiko Ono,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 89–9173 Filed 4–17–89; 8:45 am]

BILLING CODE 3710–KF–M

Joint Chiefs of Staff

National Defense University Transition Planning Committee; Meeting

AGENCY: The Joint Staff, Office of the Chairman of the Joint Chiefs of Staff, DOD.

ACTION: Notice of meeting of the National Defense University Transition Planning Committee (Long Committee).

SUMMARY: The Chairman, Joint Chiefs of Staff has scheduled a meeting of the Long Committee.

DATES: The meeting will be held on Apirl 25 and 26, 1989. Due to issues raised by reviewing authorities as part of the substantiation process for the need for the Long Committee, and the necessary charter establishment notice and filing requirements, the 15-day notice of meeting could not be accomplished.

ADDRESS: The meeting will be held at the Center for Naval Analysis, 4401 Ford Road, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Colonel Tom Berta, Executive Assistant, Long Committee, J–7, Joint Doctrine and Education Division, Washington, DC 20318–7000. To reserve space, interested persons should phone: 202–694–6469.

SUPPLEMENTARY INFORMATION: The Committee will be examining the desirability and feasibility of establishing a National Center for Strategic Studies. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 12, 1989.

[FR Doc. 89–9244 Filed 4–17–89; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER89–309–000, et al.]

Detroit Edison Company, et al.; Electric rate, Small Power Production, and Interlocking Directorate Filings

April 10, 1989.

Take notice that the following filings have been made with the Commission:

1. Detroit Edison Co.

[Docket No. ER89–309–000]

Take notice that the Detroit Edison Company (Detroit Edison) on March 31, 1989, tendered for filing its Certificate of Concurrence with the filing by Northern Indiana Public Service Company of Amendment No. 3 dated March 31, 1989 to the Operating Agreement dated May 1, 1979 among Consumers Power Company, the Detroit Edison Company and Northern Indiana Public Service Company. The Operating Agreement is designed as Detroit Edison Rate Schedule FERC No. 26.

Detroit Edison states that Amendment No. 3 modifies the provisions of the current Rate Schedule by deleting Service Schedule D (Conservation Energy) and increasing rates establis: ed for Emergency Service, Short-Term Capacity and Energy and Interchange

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Power, as set forth in Service Schedules A, B and C respectively.

The new rates for Emergency Service are established at levels currently in effect for similar service offered by neighboring utilities to remove incentives for the scheduling of emergency service in non-emergency situations. Current provisions for the return of equivalent energy and third party emergency service are deleted.

Amendment No. 3 also deletes provisions for the supply of Short-Term Capacity and Energy on an hourly basis and provides for Short-Term Capacity and Energy to be supplied on a daily basis from third parties. The Amendment also permits rates established for Short-Term Capacity and Energy and Non-Displacement Energy, when generated on the system of the supplying party, to be set in a zone of reasonableness between an upper limit established at cost-justified levels and the 110% of out-of-pocket cost as a lower limit, as competitive conditions dictate.

Further, Amendment No. 3 establishes a maximum demand charge for Non-Displacement Energy transactions. This rate is stated in hourly form based on 5 peak days per week with 16 peak hours per day. The total demand charge in any one day may not exceed the product of one-fifth of the maximum weekly Short-Term Capacity and Energy rate and the greatest hourly kilowatt reservation on that day.

Economy Energy charges have been modified to provide that compensation for such energy, when obtained from or delivered to third parties, shall be the greater of 15% of gross savings, less the cost of transmission losses, or the sum of an hourly demand charge and an energy charge of one mill per kilowatthour. As with the demand charge for Non-Displacement Energy transactions, the total demand charge in any one day may not exceed the product of one-fifth of the maximum weekly Short-Term Capacity and Energy rate and the greatest hourly kilowatt reservation on that day.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Public Service Co.

[Docket No. ER89-308-000]

Take notice that Iowa Public Service Company (IPS) on March 30, 1989, submitted in response to a request from Commission Staff, a revised tariff sheet and additional support materials to the proposed Full Requirements Wholesale—Service Schedule No. 2 Original Issue Sheets Nos. 5, 6 and 6A, and executed Full Requirements Power Agreements filed on May 31, 1988, to permit the following Iowa municipalities to receive services pursuant to the filed rates: Auburn, Denver, Estherville, Hudson, Livermore, Pocahontas, Rockford, and Sergeant Bluff.

IPS requests a waiver of the Commission's regulations and allow the Agreements to become effective as of their respective dates. The earliest operative date is May 1, 1987.

These amendments have been served on all the affected municipalities and the Iowa Utilities Board.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Southwestern Electric Power Co.

[Docket No. ER89-282-000]

Take notice that on March 31, 1989, Southwestern Electric Power Company (SWEPCO) tendered for filing a revised final return on common equity ("Final ROE") to be used in redetermining or "truing-up" cost-of-service formula rates for wholesale service in 1988 to Northeast Texas Electric Cooperative, Inc., the City of Bentonville, Arkansas, the City of Hope, Arkansas, the Oklahoma Municipal Power Authority, Rayburn Country Electric Cooperative, Inc., Cajun Electric Power Cooperative, Inc. and TEX-LA Electric Cooperative of Texas, Inc. SWEPCO provides service to these customers under contracts which provide for periodic changes in rates and charges determined in accordance with cost-of-service formulas, including a formulaic determination of the return on common equity. The revised Final ROE reflects a minor adjustment to the original filing on March 1, 1989 in this proceeding.

Copies of the filing were served upon the affected wholesale customers, the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Louisiana Public Service Commission and the Arkansas Public Service Commission.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Tampa Electric Co.

[Docket No. ER89-304-000]

Take notice that on March 30, 1989, Tampa Electric Company (Tampa Electric) tendered for filing a Letter of Commitment providing for the sale by Tampa Electric to the Utilities Commission, City of New Smyrna Beach, Florida (New Smyrna Beach) of capacity and energy from Tampa Electric's coal-fired resources. Tampa Electric states that the Letter of Commitment is submitted as a supplement to Service Schedule D (long-term interchange service) under the existing agreement for interchange service between Tampa Electric and New Smyrna Beach, designated as Tampa Electric Rate Schedule FERC No. 13.

Tampa Electric proposes an effective date of June 1, 1989 for the Letter of Commitment.

Copies of the filing have been served on New Smyrna Beach and the Florida Public Service Commission.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Maine Public Service Co.

[Docket No. ER89-305-000]

Take notice that on March 30, 1989, Maine Public Service Company (Maine Public) tendered for filing a proposed initial rate schedule pertaining to a Purchase Agreement (Agreement) between Maine Public and Boston Edison Company (Boston Edison) for the sale of capacity and energy to Boston Edison. Under this Agreement, Maine Public will sell its full entitlement to capacity and energy from Wyman Unit No. 4 to Boston Edison for the seven month period beginning April 1, 1989 and ending October 31, 1989 and that it be cancelled on October 31, 1989, in accord with the terms of the Agreement.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Consumers Power Co.

[Docket No. ER89-310-000]

Take notice that Consumers Power Company (Consumers) on March 31, 1989 tendered for filing its Certificate of Concurrence with Northern Indiana Public Service Company's (Northern Indiana) filing of Amendment No. 3 dated March 31, 1989 to the Operating Agreement dated May 1, 1979 among Consumers, the Detroit Edison Company (Detroit) and Northern Indiana. The Commission has designated the Operating Agreement as Consumer's Rate Schedule FERC No. 45.

Amendment No. 3 deals with service provided by Northern Indiana as well as with service provided by the Michigan companies. Amendment No. 3 changes rates for emergency service (Service Schedule A), short-term service (Service Schedule B) and interchange power (Service Schedule C), replacing the current fixed rates with flexible rates having a cost-based upper limit when either of the parties to the Operating Agreement generate the power being sold. It also provides for rates applicable to power being supplied from

third parties. A floor is set for emergency energy pricing in line with the floor accepted for filing in Docket No. ER88-504. Also, a cost-based floor is established for economy energy sales. Finally, "Service Schedule D—Fuel Conservation Energy" is cancelled by Amendment No. 3.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Virginia Turbo Power Systems-II, L.P.

[Docket No. QF89-205-000]

On March 24, 1989 Virginia Turbo Power Systems-II, L.P. (Applicant), of P.O. Box 1396, Houston, Texas, 77251, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Unionville, Orange County, Virginia. The facility will consist of a combustion turbine-generator, a heat recovery steam generator, a condensing-extraction steam turbine, a gas to water heat exchanger, a steam to water heat exchanger and a hot water storage tank. Thermal energy from the facility will be sold to Battlefield Farms, Inc. for use in heating an existing 11.8-acre greenhouse located adjacent to the cogeneration facility. The total net electric power production capacity of the facility will be 140 MW. The primary energy source will be natural gas. Installation is scheduled to commence during the fourth quarter of 1989.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

8. Virginia Turbo Power System-I, L.P.

[Docket No. QF89-204-000]

On March 24, 1989 Virginia Turbo Power Systems-I, L.P. (Applicant), of P.O. Box 1396, Houston, Texas, 77251, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to ¶ 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Stevensburg, Culpeper County, Virginia. The facility will consist of a combustion turbine-generator, a heat recovery steam generator, a condensing-extraction steam turbine generator, a gas to water heat exchanger and a hot water storage tank. Thermal energy from the facility will be sold to Van Wingerden of Culpeper, Inc. for use in heating an existing 12.0-acre greenhouse located adjacent to the cogeneration facility. The total net electric power production capacity of the facility will be 140 MW. The primary energy source will be natural gas. Installation is scheduled to commence during the fourth quarter of 1989.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commissions Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9224 Filed 4-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF88-166-002 et al.]

Pawtucket Power Associates, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 12, 1989.

Take notice that the following filings have been made with the Commission:

1. Pawtucket Power Associates, Inc.

[Docket No. QF88-166-002]

On April 4, 1989, Pawtucket Power Associates, Inc. (Applicant), c/o Energy Management, Inc., 8 Newbury Street, Fifth floor, Boston, Massachusetts 02116 submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The toping-cycle cogeneration facility will be located in Pawtucket, Rhode Island. The facility will consist of one combustion turbine generator, one heat recovery steam generator and one extraction/condensing steam turbine generator. Themal energy recovered from the facility will be used by Colfax, Inc. for manufacturing of food products. The primary energy source will be natural gas. The facility is now expected to be on-line in November 1990.

The recertification is requested due to a change in the electric power production capacity from 53,536 kilowatts to 61,520 kilowatts, and a change of the applicant's mailing address.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

2. Frontier Energy Associates, L.P.

[Docket No. QF85-640-001]

On March 29, 1989, Frontier Energy Associates, L.P. (Applicant), of 201 South Union Street, P.O. Box 497, Olean, New York 14760, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Jefferson County, Pennsylvania. The facility will consist of three dual fuel reciprocating engines, three heat recovery steam generators and a steam turbine generator unit. Heat recovered from the facility in the form of hot water will be used for greenhouse space heating. The maximum net electric power production capacity will be 16.178 MW. The primary energy source will be natural gas. Installation will begin in mid 1989.

The original application was filed by Frontier Energy Associates, and was granted on December 17, 1985 (33 FERC ¶ 62,385). The instant recertification is requested due to changes in the ownership of the facility, changes to the configuration of the facility and increases in the electric and steam outputs of the facility.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of

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Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9225 Filed 4-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8862-001 Alabama]

Coffeeville Hydroelectric Partners; Availability of Environmental Assessment

April 12, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 [Order No. 486, 52 FR 47897], the Office of Hydropower Licensing has reviewed the application for major license for the proposed Coffeeville Lock & Dam Water Power Project located on the Tombigbee River in Clarke and Choctaw Counties, Alabama, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9226 Filed 4-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1178-000 et al.]

Paiute Pipeline Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Paiute Pipeline Co.

[Docket No. CP89-1178-000]

April 12, 1989.

Take notice that on April 10, 1989, Paiute Pipeline Company (Paiute), P.O. Box 94197, Las Vegas, Nevada 89193-4197, filed in Docket No. CP89-1178-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service for Natural Gas Clearinghouse Inc. (NGC), a natural gas marketer, under Paiute's blanket certificate issued in Docket No. CP87-309-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Paiute states that pursuant to a transportation service agreement dated November 14, 1988, under its Rate Schedule IT-1, the transportation service will be provided for a primary term up to and including October 31, 1991, and month-to-month thereafter, subject to termination at the expiration of the primary term or upon the first day of any calendar month thereafter by either party upon thirty days written notice. Paiute proposes to transport up to 115,000 MMBtu equivalent of natural gas per peak day for NGC from the point of receipt at the interconnection between the facilities of Paiute and Northwest Pipeline Corporation at the Idaho-Nevada border. Paiute states that it would transport and redeliver the gas to NGC at delivery points which are identified in the transportation service agreement and that no new facilities will need to be constructed to provide the subject transportation service. Paiute estimates that it will transport for NGC approximately 11,499 MMBtu equivalent of natural gas on an average day and approximately 4,197,660 MMBtu equivalent of natural gas on an annual basis.

Paiute advises that service under the 120-day automatic provisions of §§ 284.223(a) of the Commission's regulations commenced on January 25, 1989, as reported in Docket No. ST89-2405-000.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. United Gas Pipe Line Co.

[Docket No. CP89-1153-000]

April 12, 1989.

Take notice that on April 5, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1153-000 a request, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to provide interruptible transportation service on behalf of OXY USA, Inc. (OXY), a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Pursuant to an interruptible gas transportation agreement dated January 6, 1989, United proposes to transport up to 1,020 MMBtu of natural gas per day for OXY from an existing point of receipt located in Claiborne Parish, Louisiana to an existing point of delivery located in Iberia Parish, Louisiana. OXY has informed United that it expects to have the full 1,020 MMBtu transported on an average day and, based thereon, estimates that the annual transportation quantity would be 375,950 MMBtu. United advises that the transportation service commenced on March 1, 1989, as reported in Docket No. ST89-2768-000, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. El Paso Natural Gas Co.

[Docket No. CP89-1122-000]

April 13, 1989.

Take notice that on March 31, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas, 79978, filed an application in abbreviated form pursuant to section 7(b) of the Natural Gas Act, and sections 157.5, *et seq.*, and 157.7(a) of the Commission's Regulations, for permission and approval to abandon certain transportation and delivery service authorized by the Commission's order issued February 12, 1980, in Docket No. CP79-251 to be rendered by El Paso for the account of Western Gas Interstate Company (WGI), all as more fully set forth in the application on file with the Commission and open to public inspection.

The Commission's order in Docket No. CP79-251 granted permanent certificate authority for, *inter alia*, the transportation and delivery by El Paso of up to 2,300 Mcf of natural gas per day, on a best efforts basis, for the account of WGI and the delivery of such gas to Southern Union Company (Southern Union) at certain existing delivery points on El Paso's interstate transmission pipeline system in the States of Texas and New Mexico. Such service was to be provided in accordance with the provisions of a Gas Transportation Agreement dated January 31, 1979, (Transportation Agreement) between El Paso and WGI, which comprises special Rate Schedule T-17 to El Paso's FERC Gas Tariff, Third Revised Volume No. 2.

In accordance with the Transportation Agreement, El Paso agreed to accept, at an existing point of receipt located in San Juan County, New Mexico, up to 2,500 Mcf per day of natural gas acquired by WGI and to deliver equivalent quantities of natural gas, less shrinkage, if any, to Southern Union for the account of WGI at certain existing points of delivery located in Curry County, New Mexico, or Hutchinson County, Texas. In order to assist WGI in making such quantities of natural gas available to Southern Union, El Paso agreed to receive, gather, process, dehydrate, as required, and to transport and deliver such natural gas for the account of WGI on a best efforts basis. The primary term of the Transportation Agreement extended for a period of five (5) years from the date of initial deliveries and from year to year thereafter, subject to termination by either El Paso or WGI upon due notice to either party.

Ordering Paragraph (F) of the Commission's order issued February 12, 1980, in Docket No. CP79-251, required the Transportation service to commence within one (1) year from the date of the order. Deliveries did not commence within the one (1) year period specificed in the order or at any time thereafter. Therefore, the certificate authorization issued to El Paso in Docket No. CP79-251 has expired. Accordingly, El Paso and WGI have entered into a Letter Agreement dated February 16, 1989, terminating the Transportation Agreement, which would end the agreement designated special Rate Schedule T-17.

Comment date: May 4, 1989, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary

[FR Doc. 89-9223 Filed 4-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1165-000, et al.]

Panhandle Eastern Pipe Line Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line

[Docket No. CP89-1165-000]

April 11, 1989.

Take notice that on April 7, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251, filed in Docket No. CP89-1165-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle proposes to transport natural gas on a firm basis for Northern Indiana Fuel & Light Co., Inc. (NIFL). Panhandle explains that service commenced March 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-2840. Panhandle explains that the peak day quantity would be 2,405 Dt., the average daily quantity would be 2,405 Dt., and that the annual quantity would be 877,825 dekatherms. Panhandle explains that it would receive natural gas for NIFL's account at various receipt points in the states of Texas, Oklahoma, Kansas, Colorado, Wyoming, and Illinois. Panhandle states that it would redeliver the gas to NIFL in Allen County, Indiana.

Comment date: May 25, 1989 in accordance with Standard Paragraph G at the end of the notice.

2. United Gas Pipeline Co.

Docket No. CP89-1152-000]

April 11, 1989.

Take notice that on April 5, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-885-000 a request pursuant to Section 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of American Central gas Companies (American Central), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport on an interruptible basis up to 185,400 MMBtu equivalent of natural gas on a peak day, 185,400 MMBtu equivalent on an average day, and 67,671,000 MMBtu equivalent on an annual basis. It is stated that United would receive the gas

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for American Central's account at existing points on United's system in Louisiana, Texas, and Mississippi, and would deliver equivalent volumes at existing points on UnRed's system in Louisiana, Texas, Mississippi and Alabama. It is asserted that the transportation service would be effected utilizing existing facilities and would not require any construction of additional facilities. It is explained that the transportation service commenced February 13, 1989, as reported in Docket No. ST89-2780.

Comment date: May 25, 1989, in accordance with Standard Paragraph G at the end of this notice

3. United Gas Pipe Line Co.

[Docket No. CP89-1158-000]

April 11, 1989.

Take notice that on April 5, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1148-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service on behalf of Williams Gas Marketing (Williams), a marketer of natural gas, under its blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it proposes to transport natural gas on behalf of Williams from a point of receipt located in Vermilion Parish, Louisiana to various points of delivery located in Louisiana and Texas.

United further states that the maximum daily, average daily and annual quantities that it would transport on behalf of Williams would be 51,500 MMBtu equivalent, 51,500 MMBtu equivalent and 18,797,500 MMBtu equivalent of natural gas, respectively.

United indicates that in Docket No. ST89-2772, filed with the Commission on March 21, 1989, it reported that transportation service for Williams had begun under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: May 25, 1989, in accordance with Standard Paragraph G at the end of this notice.

Valley Gas Transmission, Inc.

[Docket No. CP89-1162-000]

April 11, 1989.

Take notice that on April 6, 1989, Valley Gas Transmission, Inc. (Valley), 1301 McKinney, Suite 700, Houston, Texas 77010, filed in Docket No. CP89-1162-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Tennessee Exchange Corporation (Tennessee), under Valley's blanket certificate issued in Docket No. CP86-171-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Valley sequests authorization to transport, on an interruptible basis, up to a maximum of 3,000 MMBtu of natural gas per day for Valley from a receipt point located in Louisiana to a delivery point located in Louisiana. Valley anticipates transporting, on an average day 1,300 MMBtu and an annual volume of 1,900,000 MMBtu.

Valley states that the transportation of natural gas for Tennessee commenced February 1, 1989, as reported in Docket No. ST89-2731-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Valley in Docket No. CP86-171-000.

Comment date: May 25, 1989, in accordance with Standard Paragraph G at the end of this notice

5. Tennessee Gas Pipeline Co.

[Docket No. CP89-1158-000]

April 12, 1989.

Take notice that on April 6, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-1158-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Chevron USA, Inc. (Chevron), a producer, under the blanket certificate issued in Docket No. CP87-115-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated February 21, 1989, under its Rate Schedule IT, it proposes to transport up to 60,000 dekatherms (dt) per day equivalent of natural gas for Chevron. Tennessee states that it would transport the gas from receipt points located offshore Louisiana and offshore Texas, and deliver such gas to various delivery points off Tennessee's system located in the state of Louisiana.

Tennessee advises that service under § 284.223(a) commenced February 25, 1989, as reported in Docket No. ST89-2774 (filed March 22, 1989). Tennessee further advises that it would transport 60,000 dt on an average day and 21,900,000 dt annually.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Panhandle Eastern Pipe Line Company

[Docket No. CP89-1161-000]

April 12, 1989.

Take notice that on April 6, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1161-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Midland Cogeneration Venture, Limited Partnership (MCV), an end user, under the blanket certificate issued in Docket No. CP86-585-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Panhandle states that pursuant to a transportation agreement dated October 1, 1988, under its Rate Schedule PT, it proposes to transport up to 25,000 dekatherms (dt) per day equivalent of natural gas for MCV. Panhandle states that it would transport the gas from receipt points in Texas, Oklahoma, Kansas, Colorado, Wyoming and Illinois, and deliver such gas, less fuel used and unaccounted for line loss, to Michigan Gas Storage in Oakland County, Michigan.

Panhandle advises that service under § 284.223(a) commenced March 1, 1989, as reported in Docket No. ST89-2837. Panhandle further advises that it would transport 35,000 dt on an average day and 12,775,500 dt annually.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Transcontinental Gas Pipe Line Corp.

[Docket No. CP89-1097-000, CP89-1098-000, CP89-1099-000, CP89-1100-000, CP89-1101-000, CP89-1102-000, CP89-1103-000, CP89-1104-000, CP89-1107-000, CP89-1110-000, and CP89-1154-000]*

Take notice that on March 29, 1989 and on April 5, 1989, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket Nos. CP89-1097-000, *et al.*, applications pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon firm sales entitlement to eleven customers, all as more fully set forth in the applications on file with the Commission and open to public inspection.[1]

Transco states that pursuant to § 284.10 of the Commission's Regulations, the customers, as noted in the Appendix, converted firm sales entitlements under their respective Service Agreements to firm transportation under Transco's Rate Schedule FT. Transco states that it now requests to abandon firm sales entitlement to each customer associated with the reductions in firm sales service to be effective as of the dates noted on the Appendix. Transco states that pursuant to § 284.10(f)(2), the exercise of contract conversion rights by a firm sales customer under § 284.10(d) constitutes consent by that customer to the abandonment of sales service to the extent of the conversion.

Comment date: May 3, 1989, in accordance with Standard Paragraph F at the end of this notice.

[1] See attached appendix for details of each application, including customer name, rate schedule, revised sales entitlement, etc.

* The above proceedings are not consolidated.

APPENDIX

[Docket No. CP89-1097-000, *et al.*]

Docket No. CP89-	Filed	Customer	Rate schedule	Firm sales entitlement (Mcf/d)			Effective date of reduction
				Current	Reduction	Revised	
1097-000	3/29/89	United Cities Gas-Georgia Division	CD-1	8,100	2,430	5,670	10/17/88 & 2/8/89
1098-000	3/29/89	Washington Gas Light Co	CD-2	46,750	8,250	38,500	11/1/88
1099-000	3/29/89	City of Greer, SC	OG	5,000	1,500	3,500	2/1/89
1100-000	3/29/89	City of Lexington, NC	CD-2	8,900	1,335	7,565	2/1/89
1101-000	3/29/89	United Cities Gas-S.C. Div	CD-2	6,700	1,624	5,076	10/17/88 & 2/8/89
1102-000	3/29/89	South Carolina Pipeline Co	CD-2	24,905	4,395	20,510	11/1/88
1103-000	3/29/89	City of Bessemer, NC	OG-2	2,000	600	1,400	3/6/89
1104-000	3/29/89	City of Kings Mountain, NC	G-2	4,100	1,230	2,870	2/15/89
1107-000	3/29/89	City of Shelby, NC	CD-2	11,800	1,740	9,860	12/1/88
1110-000	3/29/89	City of Union, SC	CD-2	5,600	1,680	3,920	2/1/89
1154-000	4/5/89	Long Island Lighting Co	CD-3	114,632	10,283	104,349	3/24/89

8. United Gas Pipe Line Co.

[Docket No. CP89-1143-000]

April 12, 1989.

Take notice that on April 5, 1989, United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1143-000, a request pursuant to §§ 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service on behalf of Bocce Energy Corporation (Bocce), a marketer of natural gas, under its blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that pursuant to an Interruptible Gas Transportation Agreement dated February 9, 1989, it would transport a maximum daily quantity of 20,600 MMBtu for Bocce. United further states that it would receive the natural gas at various existing receipt points on its system in Louisiana and Texas and would redeliver the natural gas in Louisiana and Mississippi. United indicates that the estimated average daily and annual quantities would be 20,600 MMBtu and 7,519,000 MMBtu, respectively.

United states that it commenced the transportation of natural gas for Bocce on March 1, 1989, as reported in Docket No. ST89-2736-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. West Texas Gathering Co.

[Docket No. CP89-1120-000]

April 12, 1989.

Take notice that on March 31, 1989, West Texas Gathering Company (West Texas), 550 West Lake Boulevard, Suite 170, Houston, Texas 77079, filed in Docket No. CP89-1120-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

West Texas states the authorization requested in this blanket open-access transportation certificate is being filed concurrently with, and as an integrated part of, a comprehensive open-access plan designed by West Texas to provide for (1) completion at the earliest practicable date of West Texas' transition to full open-access transporter status; and (2) adoption of the rate recovery procedure prescribed by Order No.

West Texas indicates it filed, on February 15, 1989, tariff sheets to set forth rates, terms and conditions for open-access transportation under section 311 of the Natural Gas Policy Act of 1978. West Texas states that the filing was accepted subject to conditions in an order issued on March 17, 1989, in Docket No. RP89-67-000. West Texas states that it would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations, which paragraph refers to Subpart A of Part 284 of the Commission's Regulations.

Comment date: May 3, 1989, in accordance with Standard Paragraph F at the end of this notice.

10. Texas Gas Transmission Corp.

[Docket No. CP89-1119-000]

April 12, 1989.

Take notice that on March 31, 1989, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP89-1119-000, an application for a certificate of public convenience and necessity pursuant to sections 7(b) and

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7(c) of the Natural Gas Act (NGA) to implement a Gas Inventory Charge (GIC) mechanism applicable to sales customers purchasing service pursuant to Rate Schedules G, CD, CDL and proposed Rate Schedules CDN and GN, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas states that the GIC proposal as outlined in the application establishes a charge which would be assessed to particular customers not purchasing at certain threshold levels to recover the cost to Texas Gas of contracting for and maintaining supply reserves and deliverability sufficient to stand ready to serve that customer's daily contract demand and annual requirement levels, which Texas Gas indicates in recent years have, generally, been substantially in excess of the level of individual customers' actual purchases.

Texas Gas states that the GIC unit charge would be derived, as explained in the application, by applying the then effective Commission interest rate times 125 percent of the weighted average cost of gas purchased from all field suppliers included each year in Texas Gas' November quarterly purchased gas adjustment filing.

Texas Gas states that the unit charge would be assessed against deficiencies in purchases by those sales customers who fail to purchase quantities in an amount at least equal to that customer's assigned "Seasonal Quantity Level." It is indicated that each customer's Seasonal Quantity Level would be established for each gas year and be derived from seasonal threshold levels which represent individualized load factors expressed as a percentage of each customer's applicable daily contract demand. Texas Gas states also that customers shall have the right annually to adjust their Seasonal Quantity Level.

Texas Gas explains that the GIC represents the cost incurred by Texas Gas of holding gas in inventory to meet the customer's regulatory right to call for a specified quantity of supply at any time. Its purpose, as explained by Texas Gas, is to (1) provide customers the opportunity to make an informed economic choice in selecting the supply option or options which meet their supply portfolio planning requirement, and (2) to avoid the billing of retrospective take-or-pay costs in current sales rates by providing sales customers the incentive to nominate carefully and prudently their intended sales demands, requiring payment on a current basis for excessive nominated requirements.

Texas Gas also is requesting permission to automatically abandon its sales service obligation to the extent any existing sales customer chooses to convert all or a portion of its sales service entitlement in favor of firm transportation, pursuant to Order No. 500.

Comment date: May 3, 1989, in accordance with Standard Paragraph F at the end of this notice.

11. United Gas Pipe Line Co.

[Docket No. CP89-1149-000]

April 12, 1989.

Take notice that on April 5, 1989, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1149-000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authority to provide interruptible transportation service for Texaco, Inc. (Texaco), a producer of natural gas, under United's blanket transportation certificate which was issued by Commission order on January 15, 1988, in Docket No. CP88-6-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United indicates that it will receive the gas from Texaco at various existing delivery points in Panola, Rusk, Harrison, Smith Gregg and Cherokee Counties, Texas, and deliver the gas for the account of Texaco at various interconnections in Panola, Smith, Upshur, Gregg, Rusk Harrison and Shelby Counties, Texas. United will transport the gas pursuant to its Rate Schedule ITS.

United proposes to transport up to 51,500 MMBtu of gas per peak and average day and approximately 18,797,500 MMBtu of gas annually. United indicates that the transportation service commenced under the 120-day automatic authorization of § 284.223(a) of the Commission's Regulations on March 2, 1989, pursuant to a transportation agreement dated May 11, 1988, as amended January 25, 1989, United notified the Commission of the commencement of the transportation service in Docket No. ST89-2766-000 on March 21, 1989.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Tennessee Gas Pipeline Co.

[Docket No. CP89-1159-000]

April 12, 1989.

Take notice that on April 6, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-1159-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas for Chevron USA, Inc. (Chevron), a producer, pursuant to Tennessee's blanket certificate issued in Docket No. CP87-115-000 and section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Tennessee requests authority to transport up to 25,000 dt equivalent of natural gas per day for Chevron on an interruptible basis pursuant to a transportation agreement dated February 17, 1989, between Tennessee and Chevron. Tennessee states that the transportation agreement provides for Tennessee to receive the gas at specified points located offshore Louisiana for redelivery to various delivery points located at interconnections with the facilities of Columbia Gulf Transmission Company, Transcontinental Gas Pipe Line Corporation, United Gas Pipe Line Company, Southern Natural Gas Company, ANR Pipeline Company, and Monterey Pipeline Company.

Tennessee indicates it would provide the service for a primary term of two years from the date of execution of the agreement to be continued on a month-to-month basis thereafter. Tennessee indicates, however, that either party may terminate this agreement at any time upon at least thirty days prior written notice to the other party. Tennessee states that it would charge the rates and abide by the conditions provided by its Rate Schedule IT.

It is indicated that the estimated maximum daily volume and average day volume would be 25,000 dt equivalent of natural gas and that the annual volume would be 9,125,000 dt equivalent of natural gas. Tennessee states that it commenced a 120-day transportation service for Chevron on March 1, 1989, as reported in Docket No. ST89-2775-000. It is indicated that Tennessee would use existing facilities to implement the service.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP89-1155-000]

April 12, 1989.

Take notice that on April 5, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP89-1155-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon partially firm sales service to Midwest Gas, a division of Iowa Public Service Company (Midwest Gas) (formerly Iowa Public Service Company).

Midwest Gas, it is said, has elected to convert 22,000 Mcf per day of firm sales entitlements to firm transportation. It is stated that the contract demand conversion option made available to Midwest Gas is consistent with Order Nos. 436 and 500 guidelines and the Stipulation and Agreement in Docket No. RP85-206-000. Northern seeks approval to permanently abandon that portion of its certificated sales obligation to Midwest Gas which was converted to firm transportation service.

Pursuant to 18 CFR 284.10(d)(2) the exercise of the customer's option to convert constitutes consent to the proposed abandonment.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP89-1129-000]

April 12, 1989.

Take notice that on March 31, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP89-1129-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Citizens Gas Supply Corp. (Citizens), a marketer, under Northern's blanket certificate issued in Docket No. CP86-435-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that pursuant to an interruptible transportation service agreement dated February 21, 1989, it proposes to receive up to 60 billion Btu per day from specified points located onshore and offshore Texas and Louisiana and redeliver the gas at specified points located onshore Texas and Louisiana and offshore Texas, Mississippi, and Louisiana. Northern states that the peak day volumes, average day volumes, and annual volumes would be 60 billion Btu, 45 billion Btu, and 21,900 billion Btu, respectively. It is stated that on February 21, 1989, Northern commenced a 120-day transportation service for Citizens under § 284.223(a) as reported in Docket No. ST89-2806-000.

Northern also states that no facilities need be constructed to implement the service. It is indicated that Northern would provide the service for a primary term expiring one year from the date of initial transportation and would continue the service on a month to month basis unless terminated by either party upon thirty days prior written notice to the other party. Northern proposes to charge the rates and abide by the terms and conditions of its Rate Schedule IT-1.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP89-1160-000]

April 12, 1989.

Take notice that on April 6, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP89-1160-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon partially firm sales service to Iowa Electric Light and Power Company (Iowa Electric).

Iowa Electric, it is said, has elected to convert 18,750 Mcf per day of firm sales entitlements to firm transportation. It is stated that the contract demand conversion option made available to Iowa Electric is consistent with Order Nos. 436 and 500 guidelines and the Stipulation and Agreement in Docket No. RP85-206-000. Northern seeks approval to permanently abandon that portion of its certificated sales obligation to Iowa Electric which was converted to firm transportation service.

Pursuant to 18 CFR 284.10(d)(2) the exercise of the customer's option to convert constitutes consent to the proposed abandonment.

Comment date: May 3, 1989, in accordance with Standard Paragraph F at the end of this notice.

16. United Gas Pipe Line Co.

[Docket No. CP89-1150-000]

April 12, 1989.

Take notice that on April 5, 1989, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP89-1150-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas on an interruptible basis for Texaco Gas Marketing, Inc., (Texaco). United explains that service commenced February 27, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-2770. United explains that the peak day quantity would be 103,000 MMBtu, the average daily quantity would be 103,000 MMBtu, and that the annual quantity would be 37,595,000 MMBtu. United explains that it would receive natural gas for Texaco's account at various receipt points in the state of Louisiana and Offshore Louisiana. United states that it would redeliver the gas at existing interconnections in the state of Louisiana.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

17. CNG Transmission Corp.

[Docket No. CP89-1127-000]

April 12, 1989.

Take notice that on March 31, 1989, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP89-1127-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Columbia Gas of Ohio (Columbia of Ohio) and the use of facilities constructed under Natural Gas Policy Act of 1978 section 311 authorization, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG proposes to sell up to 1,500 dt equivalent of natural gas per day and 60,000 dt equivalent on an annual basis to Columbia of Ohio for resale to customers in the community of Lithopolis, Ohio. It is stated that the sale would be made pursuant to the terms of CNG's Rate Schedule SCQ and a contract between CNG and Columbia of Ohio dated May 16, 1988. It is asserted that the rate charged would be the rate specified in Rate Schedule SCQ of CNG's currently effective FERC Gas Tariff, Volume No. 1. It is explained that the term of the state would commence on the date of initial deliveries and

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would continue until December 31, 1988, and thereafter until terminated by either party with 12 months notice.

It is stated that the deliveries would be made at an existing interconnection between CNG and Columbia of Ohio located in Franklin County, Ohio, which was constructed in August 1988 under Section 311 authorization, enabling CNG to transport gas for Columbia of Ohio. CNG requests section 7(c) authorization for the delivery point in order to make jurisdictional sales. It is explained that the sale would benefit CNG by increasing throughput on its system and would benefit Columbia of Ohio by expanding its retail market.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

18. United Gas Pipe Line Co.

[Docket No. CP89-1145-000]

April 12, 1989.

Take notice that on April 5, 1989, United Gas Pipe Line Company (United), P.O. Box 1478 Houston, Texas 77251-1478, filed in Docket No. CP89-1145-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Catamount Natural Gas, Inc., (Catamount), a natural gas marketer, under its blanket authorization issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United would perform the proposed interruptible transportation service for Catamount, pursuant to an interruptible transportation service agreement dated December 15, 1988 (Contract No. TI-21-2012). The transportation agreement is effective for a primary term of one month from the date of first delivery thereunder or such date that the parties mutually agree to terminate the agreement, and shall continue month to month thereafter unless terminated by thirty days written notice by either party. United proposes to transport up to a maximum of 51,500 MMBtu of natural gas on an average and peak day; and on an annual basis 18,797,500 MMBtu of natural gas for Catamount. United proposes to receive the subject gas at the existing interconnection between United and facilities at Eugene Block 32, Offshore, Louisiana, and the existing interconnection between United and Sea Robin Pipeline Company near Erath, Vermilion Parish, Louisiana. It is stated that the points of delivery are located in Ascension Parish and St. Mary Parish, Louisiana. United avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. United commenced such self-implementing service on March 11, 1989, as reported in Docket No. ST89-2738-000.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

19. United Gas Pipe Line

[Docket No. CP89-1151-000]

April 12, 1989.

Take notice that on April 5, 1989, United Gas Pipe Line Company, (United) P.O. Box 1478, Houston, Texas, 77251-1478 filed in Docket No. CP89-1151-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of American Central Gas Companies (American Central), under its blanket authorization issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United would perform the proposed interruptible transportation service for American Central, a marketer of natural gas, pursuant to a interruptible gas transportation service agreement dated November 9, 1988, as amended on February 20, 1989 (Contract No. TI-21-1971). The term of the transportation agreement is for a primary term of one month from the first delivery of gas and shall continue in effect for successive one month terms thereafter until terminated. United proposes to transport on a peak day up to 185,400 MMBtu; on an average day up to 185,400 MMBtu; and on an annual basis 67,671,000 MMBtu for American Central. United proposes to receive the subject gas from various exiting points of receipt on its system for delivery to American Central at existing points in Alabama, Mississippi, Texas and Louisiana. The proposed rate to be charged its pursuant to United's Rate Schedule ITS. United indicates that it would be using existing facilities to provide the proposed transportation service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. United commenced such self-implementing service on February 28, 1989, as reported in Docket No. ST88-2764-000.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

20. Southern Natural Gas Co.

[Docket No. CP89-1163-000]

April 12, 1989.

Take notice that on February 21, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP89-1163-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Texaco, Inc. (Texaco), a producer of natural gas, under Southern's blanket certificate issued in Docket No. CP88-316-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern proposes to transport, on an interruptible basis, up to 50,000 MMBtu equivalent of natural gas on a peak day, 25,000 MMBtu equivalent on an average day, and 9,125,000 MMBtu equivalent on an annual basis for Texaco. It is stated that Southern would receive the gas at an existing point on Southern's system on Matagorda Island, offshore Texas, and would deliver equivalent volumes at existing points on Southern's system near the terminus of the Matagorda Offshore Pipeline System in Refugio County, Texas. It is asserted that Southern would utilize existing facilities and that no construction of additional facilities would be required. It is explained that the transportation service commenced February 24, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-2700.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9222 Filed 4-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-124-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 12, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on March 31, 1989, pursuant to Section 4 of the Natural Gas Act and the Commission's Order No. 500, as amended, filed the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff:

Original Sheet Nos. 161A, 161B and 161C
First Revised Sheet Nos. 34, 99, 161 and 162
Third Revised Sheet Nos. 51, 52, 58, 60, 85 and 86
Fourth Revised Sheet No. 32
Seventh Revised Sheet No. 31

The proposed effective date of the revised tariff sheets is May 1, 1989.

The purpose of the filing is to modify CNG's tariff to permit the passthrough of take-or-pay-related costs from CNG's producer suppliers. CNG is proposing tariff sheets that will permit the passthrough of 75 percent of its producer-related take-or-pay costs—broadly defined to include take-and-pay and take-or-pay buyout, buydown and contract reformation costs, both cash and non-cash—that it has paid or incurred or is obligated to pay or incur under settlements entered into with producers through March 31, 1989. Twenty-five percent of the take-or-pay costs would be recovered through direct bills to CNG's sales customers and 50 percent of all such costs would be recovered through a surcharge to the commodity component of CNG's sales, transportation and storage injection rates. CNG, for purposes of this filing, utilizes the deficiency method set out in Order No., 500 to allocate take-or-pay costs among customers.

The filing seeks to collect 75 percent of the current take-or-pay principal cash balance from producers of $7.3 million and 75 percent of the non-cash consideration of approximately $1.0 million, plus applicable interest.

Copies of the filing were served upon CNG's customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR § 385.214 and 385.211). All motions or protests should be filed on or before April 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

By the Commission

Lois D. Cashell,

Secretary.

[FR Doc. 89-9226 Filed 4-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-50-000, CP88-179-013, et al., and CP89-555-000 (Unconsolidated)]

Florida Gas Transmission Co.; Informal Conference

April 11, 1989.

Take notice that an informal conference will be convened in the above-captioned proceedings on May 3, 1989, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The conference is being convened at the request of Florida Gas Transmission Company in order to discuss the daily and annual contract quantity nominations made by customers as part of the capacity allocation process in these proceedings.

Any party, as defined by 18 CFR 385.102(c), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Donald A. Heydt (202) 357-8730 or John J. Keating (202) 357-5762.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9227 Filed 4-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-130-001]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 12, 1989.

Take notice that Transwestern Pipeline Company (Transwestern) on April 7, 1989 tenders for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Substitute 34th Revised Sheet No. 6
Substitute 35th Revised Sheet No. 6

Transwestern states that these tariff sheets reflect revisions to two tariff sheets originally filed on March 31, 1989 in Docket No. RP89-130-000. Subsequent to the March 31, 1989 filing, Transwestern discovered that the above tariff sheets reflect the correct proposed surcharges but do not reflect the currently effective transportation rates approved effective February 1, 1989, by order issued January 31, 1989, in Transwestern's rate case, Docket No. RP89-48-000, and should be substituted

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for those filed on March 31, 1989, in Docket No. RP89-130-000.

Transwestern requests that the Federal Energy Regulatory Commission grant any and all waivers of its rules, regulations and orders as may be necessary, so as to permit Substitute 35th Revised Sheet No. 9 to become effective April 1, 1989 and Substitute 34th Revised Sheet No. 6 to become effective February 1, 1989, as originally proposed in the March 31, 1989 filing in Docket No. RP89-130-000.

Copies of the Filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20428, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Secretary.

[FR Doc. 89-9229 Filed 4-17-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51730; FRL-3557-9]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of 44 such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 89-440, 89-441—May 30, 1989.

P 89-447, 89-448, 89-449—May 31, 1989.

P 89-450—June 3, 1989.

P 89-451—May 31, 1989.

P 89-452—May 31, 1989.

P 89-452, 89-453—June 3, 1989.

P 89-454—May 31, 1989.

P 89-455, 89-456—June 3, 1989.

P 89-457, 89-458, 89-459—June 4, 1989.

P 89-461, 89-462, 89-463—June 5, 1989.

P 89-464, 89-465, 89-466, 89-467, 89-468—June 6, 1989.

P 89-469—June 7, 1989.

P 89-470—May 28, 1989.

P 89-471, 89-472, 89-473, 89-474, 89-475, 89-476—June 7, 1989.

P 89-477, 89-478, 89-479, 89-480, 89-481, 89-482, 89-483, 89-484, 89-485, 89-486, 89-487, 89-488—June 10, 1989.

P 89-488—June 11, 1989.

Written comments by:

P 89-440, 89-441—April 30, 1989.

P 89-447, 89-448, 89-449—May 1, 1989.

P 89-450—May 4, 1989.

P 89-451—May 1, 1989.

P 89-452, 89-453—May 4, 1989.

P 89-454—May 1, 1989.

P 89-455, 89-456—May 4, 1989.

P 89-457, 89-458, 89-459—May 5, 1989.

P 89-461, 89-462, 89-463—May 6, 1989.

P 89-464, 89-465, 89-466, 89-467, 89-468—May 7, 1989.

P 89-469—May 8, 1989.

P 89-470—April 28, 1989.

P 89-471, 89-472, 89-473, 89-474, 89-475, 89-476—May 8, 1989.

P 89-477, 89-478, 89-479, 89-480, 89-481, 89-482, 89-483, 89-484, 89-485, 89-486, 89-487, 89-488—May 11, 1989.

P 89-488—May 12, 1989.

ADDRESS: Written comments identified by the document control number "[OPTS-51730]" and the specific PMN number should be sent to: Document Control Office (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Room 201 East Tower, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TTD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 89-440

Manufacturer. Mazer Chemicals Div. of PPG Chemicals.

Chemical. (S) Ethanol, 2-[2-hydroxypropyl]amine.

Use/Production. (S) Adjust ph of synthetic cutting and lubricants and coolants. Prod. range: 30,000-50,000 kg/yr.

P 89-441

Manufacturer. Mazer Chemicals Div. of PPG Chemicals.

Chemical. (S) Ethanol, 2-[Bis-2-hydroxypropyl]amine.

Use/Production. (S) Adjust ph of synthetic cutting and grinding lubricants and coolants. Prod. range: 15,000-30,000 kg/yr.

P 89-447

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.

Chemical. (G) Styrene acrylic peroxide copolymer.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 89-448

Manufacturer. Confidential.

Chemical. (G) Cyclic phosphate.

Use/Production. (G) Additive flame retardant. Prod. range: Confidential.

P 89-449

Manufacturer. E.I. Du Pont & De Nemours & Co., Inc.

Chemical. (G) Polyvinyl alcohol.

Use/Production. (G) Disposable nonwoven products. Prod. range: Confidential.

Toxicity Data. Skin irritation: negligible species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea pig).

P 89-450

Manufacturer. E.I. Du Pont & De Nemours & Co., Inc.

Chemical. (G) Vinyl acetate copolymer.

Use/Production. (G) Intermediate. Prod. range: Confidential.

P 89-451

Manufacturer. Confidential.

Chemical. (G) Silicone-imide black copolymer.

Use/Production. (G) Electronics, separation membrane coatings. Prod. range: Confidential.

P 89-452

Manufacturer. Confidential.

Chemical. (G) Silicone-imide black copolymer.

Use/Production. (G) Electronics, separation membrane coatings. Prod. range: Confidential.

Toxicity Data. Mutagenicity: negative.

P 89-453

Manufacturer. Confidential.

Chemical. (G) Silicone-imide black copolymer.

Use/Production. (G) Electronics, separation membrane coating. Prod. range: Confidential.

P 89-454

Importer. Polysar Inc.

Chemical. (G) Amine substituted cycloaliphate epoxide.

Use/Import. (G) Open, nondispersive uses. Import range: Confidential.

P 89-455

Manufacturer. Eastman Chemicals Division.

Chemical. (S) Reaction mixture resulting from the treatment of p-diisopropylbenzene with air.

Use/Production. (S) Chemical reactant. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 3,200 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: moderate species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea pig).

P 89-456

Manufacturer. The Dow Chemical Company.

Chemical. (G) Unsaturated organic substituted diketone.

Use/Production. (S) Intermediate for polymer manufacture. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: negligible species (Rabbit).

P 89-457

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Unsaturated polyester resin.

Use/Production. (S) Automotive body patch resin. Prod. range: Confidential.

P 89-458

Manufacturer. Amoco Petroleum Additive Company.

Chemical. (G) Dithiophosphoric acid ester.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Inhalation toxicity: LC50 > 0.198 mg/1 species (Rat). Eye irritation: strong species (Rabbit). Skin irritation: moderate species (Rabbit).

P 89-459

Manufacturer. Amoco Petroleum Additive Company.

Chemical. (G) Metallo dithiophosphate.

Use/Production. (S) Additive in motor oil. Prod range: Confidential.

Toxicity Data. Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Inhalation toxicity: LC50 > 1 mg/1 species (Rat). Skin irritation: strong species (Rabbit).

P 89-461

Manufacturer. Confidential.

Chemical. (G) Brominated alkylated aniline.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 3,204 mg/kg species (Rat). Acute dermal toxicity: LD50 10,300 mg/kg species (Rabbit). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 89-462

Manufacturer. Confidential.

Chemical. (G) Naphthoic phenyl ester.

Use/Production. (G) Intermediates for photochemicals. Prod. range: Confidential.

P 89-463

Manufactuer. Confidential.

Chemical. (G) Polymer of polyalkylene glycol; alkyl diol; and monocyclic dicarboxylic acid, dialkyl ester.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Static acute toxicity: LC50 680 mg/1 time 96 mg/1 species (Fathead minnow). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 89-464

Manufacturer. The Dow Chemical Company.

Chemical. (G) Toluene diisocyanate prepolymer.

Use/Production. (G) Raw material polyurethane foam. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 4,000 mg/kg species (Rat). Inhalation toxicity: LC50 13.9 ppm species (Rat).

P 89-465

Manufacturer. The Dow Chemical Company.

Chemical. (G) Toluene dissocyanate prepolymer.

Use/Production. (G) Raw material polyurethane foam. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 4,000 mg/kg species (Rat). Inhalation toxicity: LC50 13.9 ppm species (Rat).

P 89-466

Manufacturer. The Dow Chemical Company.

Chemical. (G) Thermoplastic polyurethane resin.

Use/Production. (S) Extrusion of plastic articles. Prod. range: Confidential.

P 89-467

Manufacturer. The Dow Chemical Company.

Chemical. (G) Thermoplastic polyurethane resin.

Use/Production. (S) Extrusion of plastic articles. Prod. range: Confidential.

P 89-468

Importer. Confidential.

Chemical. (G) Aliphatic polycarboxylic acid metal salt.

Use/Import. (G) Continued use bleaching agent. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (Rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (Rabbit). Static acute toxicity: LC50 > 1,800 mg/l time 96h species (Rainbow trout). Eye irritation: none species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea pig).

P 89-469

Manufacturer. Eastman Kodak Company.

Chemical. (S) 1-(2-Chloroethyl)-4-(1,1-dimethylethyl)benzene.

Use/Production. (G) Chemical intermediate. Prod. range: 2,000-10,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 20 ml/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: moderate species (Guinea pig). Skin sensitization: negative species (Guinea pig).

P 89-470

Manufacturer. Confidential.

Chemical. (G) Copper phthalocyanine derivative.

Use/Production. (G) Additive for printing inks. Prod. range: Confidential.

P 89-471

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted hydrazinopyrazole.

Use/Production. (G) Chemical intermediate. Prod. range: 10,000-24,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50>2,000 mg/kg species (Rat). Acute dermal toxicity: LD50>2,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Skin sensitization: negative species (Guinea pig).

P 89-472

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted thiazinohydrazine.

Use/Production. (G) Chemical intermediate. Prod. range: 10,000-24,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 1015 mg/kg species (Rat). Acute dermal toxicity: LD50>2,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Skin sensitization: negative species (Guinea pig).

P 89-473

Importer. SICAP Ink Systems Corporation.

Chemical. (G) Amine polymer.

Use/Import. (G) Chemical intermediate. Import range: 10,000-24,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species(Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species(Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Guinea pig). Skin sensitization: negative species(Guinea pig).

P 89-474

Manufacturer. Confidential.

Chemical. (G) Amino-functional siloxane.

Use/Production. (G) Intermediate in the manufacture of aminofunctional siloxane. Prod. range: Confidential.

P-89-475

Manufacturer. Confidential.

Chemical. (G) Aminofuncitonal siloxane.

Use/Production. (G) Intermediate in the manufacture of aminofunctional siloxane. Prod. range: Confidential.

P-89-476

Manufacturer. Confidential.

Chemical. (G) Aminofunctional siloxane.

Use/Production. (G) Intermediate in the manufacture of aminofunctional siloxane. Prod. range: Confidential.

P-89-477

Manufacturer. Stockhausen Inc.

Chemical. (S) N,N,N,-trimethyl-3-([1-oxo-2-propenyl]amino)-1-propanaminium chloride, homopolymer.

Use/Production. (S) Flocculant for inorganic, organic and biological materials. Prod. range: Confidential.

P-89-478

Manufacturer. Confidential.

Chemical. (G) Fatty acid polyamine condensate.

Use/Production. (G) Dispersive use: petroleum production additive. Prod. range: Confidential.

P-89-479

Manufacturer. The Dow Chemical Company.

Chemical. (G) Semicrystalline polyamide.

Use/Production. (S) Electric and electronic industries, automotive and appliance industries, film, fiber. Prod. range: Confidential.

P-89-480

Manufacturer. The Dow Chemical Company.

Chemical. (G) Semicrystalline polyamide.

Use/Production. (S) Electric and electronic industries, automotive and appliance industries, film, fiber. Prod. range: Confidential.

P-89-481

Manufacturer. The Dow Chemical Company.

Chemical. (G) Semicrystalline polyamide.

Use/Production. (S) Electric and electronic industries, automotive and appliance industries, film, fiber. Prod. range: Confidential.

P-89-482

Manufacturer. The Dow Chemical Company.

Chemical. (G) Semicrystalline polyamide.

Use/Production. (S) Electric and electronic industries, automotive and appliance industries, film, fiber. Prod. range: Confidential.

P-89-483

Importer. Confidential.

Chemical. (G) Hydroxyalkylamine.

Use/Import. (G) Catalyst. Import range: Confidential.

P-89-484

Manufacturer. Confidential.

Chemical. (S) Isophoronediisocyanate; 2-hydroxyethyl acrylate carbonic acid polymer accession.

Use/Production. (S) Coating binder for industrial use. Prod. range: 2,000-10,000 kg/yr.

P-89-485

Manufacturer. Eastman Chemicals Div. of Eastman Kodak.

Chemical. (S) Alkenes, C2-C3 hydroformylation products, C3-C12 fraction; obtained by hydroformylation of ethyleneand propylene, removal of propionaldehyde and butyraldehydes and further distillation to obtain a fraction rich in C3-C12 oxygenated hydrocarbons.

Use/Production. (S) Solvent for the wood treating industry. Prod. range: Confidential.

P-89-486

Manufacturer. Eastman Chemicals Div. of Eastman Kodak.

Chemical. (S) Alkenes, C2-C3 hydroformylation products, C6-C24 fraction; obtained by hydroformylation of ethylene and propylene, removal of propionaldehyde and butyraldehydes and further distillation to obtain a fraction rich in C6-C24 oxygenated hydrocarbons.

Use/Production. (S) Solvent for the wood treating industry. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species(Rat). Acute dermal toxicity: LD50 8.12 ml/kg species(Rat). Eye irritation: moderate species(Rabbit). Skin irritation: strong species(Rabbit). Skin sensitization: negative species (Guinea pig).

P-89-487

Importer. Basf Corporation Engineering Plastics.

Chemical. (G) Polyarylethersulfone.

Use/Import. (G) Molding resin. Import range: Confidential.

P-89-488

Manufacturer. Confidential.

Chemical. (G) Medium oil alkyd.

Use/Production. (S) Intermediate, paint resin. Prod. range: Confidential.

P-89-489

Manufacturer. Confidential.

Chemical. (G) Polyesternide resin.

Use/Production. (S) Polymer used in spray applied paint. Prod. range: Confidential.

Dated: April 10, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-9215 Filed 4-17-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: The submission is summarized as follows:

Type of Review: Renewal without any change.

Title: Recordkeeping and Confirmation Requirements for Securities Transactions.

Form Number: None.

OMB Number: 3064-0028.

Expiration Date of Current OMB Clearance: June 30, 1989.

Frequency of Response: On the occasion of transactions; usually quarterly for customer statements.

Respondents: Insured state nonmember banks effecting securities transactions for their customers.

Number of Recordkeepers: 7,117.

Average Number of Hours Per Recordkeeper: 16.6.

Total Annual Recordkeeping Hours: 118,142.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FDIC Contact: John Keiper, (202) 898-3810, Assistant Executive Secretary, Room 6096, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before June 19, 1989.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to the OMB reviewer listed. The FDIC would be interested in receiving a copy of the comments.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to extend the clearance of the information collection requirements contained in FDIC regulation 12 CFR 344 pertaining to recordkeeping and confirmation for securities transactions effected by FDIC-supervised banks. The purpose of the requirements is to ensure that purchasers of securities in transactions effected by insured state nonmember banks are provided with adequate information concerning the transactions. The requirements are also designed to ensure that insured state nonmember banks maintain adequate records and controls with respect to the securities transactions they effect.

Dated: April 12, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89-9177 Filed 4-17-89; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-002153-008

Title: City of Long Beach Terminal Agreement

Parties: City of Long Beach, C. Brewer Terminals, Inc.

Synopsis: The Agreement provides for a reduction in area covered by the Permit for Pier J and reduces compensation accordingly. The Agreement restates and extends the Agreement for 10 years ending March 31, 1998.

By Order of the Federal Maritime Commission.

Dated: April 13, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-9186 Filed 4-17-89; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Showa Line, Ltd., 166 Embarcadero, Suite 480, San Francisco, California 94105.

Vessel: Oceanic Grace.

Date: April 12, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-9160 Filed 4-17-89; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

Mac & Sons, Inc. dba B & M International, 140 N. Hydraulic, P.O. Box 47531, Wichita, KS 67205, Officers: Mac Tommy Udoh, President, Cynthia A. Muhlenkort, Secretary, Gary A. Hastie, Vice President.

Shipwell Overseas Transport, 139 Mitchell Ave., #222, South San Francisco, CA 94080, Officer: Jorg O. Berger, Sole Proprietor.

Merchants International, Inc., 13998 Park Centre Rd., Herdon, VA 22071, Officers: James A. Riley, III, President, Frances Riley, Secretary.

Consuelo E. Kelly dba Kelly International, 9034 Manning, Kansas City, MO 64138, Officer: Consuelo E. Kelly, Sole Proprietor.

Allfreight International Cargo, Inc., 144-40 156th Street, Jamaica, NY 11434, Officer: John Bagguley, President.

First American Air Services, Inc., 146-02 Guy R. Brewer Boulevard, Jamaica, NY 11434, Officers: Mohammad Javid

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Omar, President, Alvaro Marrero, Export Manager.
U.S. Supply Corp. Freight Forwarding Div., 10925 N.W. 27 Street, Suite 201, Miami, FL 33172, Officer: Nancy Calderon, General Partner.
Global Wide Enterprises, Inc. dba Global Wide Shipping Co., 4819 S. Ashland Ave., Chicago, IL 60609, Officers: Samir S. Hassan, President/Stockholder, Magdy M. Ahmed El-Hawary, Manager/Treasurer, Nerin A. Hassan, Secretary/Stockholder.
Ambrosio Shipping Company of Tidewater, Inc., 120 Atlantic Street, Norfolk, VA 23510, Officers: Patrick Ambrosio, President/Director, Cheryl A. Stockstad, V. President/Secr./Treas./Dir.
International Forwarding Services, Inc., 6701 N.W. 84th Avenue, Miami, FL 33166, Officers: Ramon Montesano, President, Mayde Montesano, Secretary/Treasurer.
Right-O-Way Ocean Transport International, Inc., dba Ocean Transport International, 180 South Prospect Avenue, Tustin, CA 92680, Officers: Alexander J. Milovic, President/C.E.O., Mogens D. Hansen, Vice President, David Webber, Secretary/Treasurer.
Abacus Forwarding, Inc., 9400 4th St., Suite 114, St. Petersburg, FL 33702, Officers: Dan S. Cannistra, President, Linda B. Cannistra, Treasurer.
World Ocean Cargo, Inc., 751 Sullivan Rd., Building B, #104, College Park, GA 30349, Officers: Jack E. Brown, President/Director, David Hales, Secretary/Treasurer/Director, Alan Hales, Vice President/Director.
Eversunny International Forwarding, Inc., 6 Billingsley Drive, Livingston, NJ 07039, Officers: Phylis Wang, President/Dir./Stockh./Treas., T. I. Wang, Stockholder, Jen-Wen Wang, Director/Stockholder, Haddy Wang, Stockholder/Secretary.

By the Federal Maritime Commission.

Joseph C. Polking,
Secretary.

Dated: April 12, 1989.

[FR Doc. 89-9159 Filed 4-17-89; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89C-0096]

IOLAB Corp.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that IOLAB Corp. has filed a petition proposing that the color additive regulations be amended to provide for the safe use of D&C Violet No. 2 for coloring polymethylmethacrylate intraocular lens haptics.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1), 74 Stat. 402-403 (21 U.S.C. 376(d)(1))), notice is given that a petition (CAP 9C0216) has been filed by IOLAB Corp., 500 Iolab Dr., Claremont, CA 91711 proposing that the color additive regulations be amended in Part 74—Listing of Color Additives Subject to Certification (21 CFR Part 74) to provide for the safe use of D&C Violet No. 2 for coloring polymethylmethacrylate intraocular lens haptics.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: April 6, 1989.

Richard J. Ronk,
Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-9183 Filed 4-17-89; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 89M-0043]

Meadox Medicals, Inc.; Premarket Approval of Stryker® Dacron® Ligament Prosthesis

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Meadox Medicals, Inc., Oakland, NJ, for premarket approval, under the Medical Device Amendments of 1976, of the Stryker® Dacron® Ligament Prosthesis. After reviewing the recommendation of the Orthopedic and Rehabilitation Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of December 30, 1988, of the approval of the application.

DATE: Petitions for administrative review by May 18, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael J. Blackwell, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7156.

SUPPLEMENTARY INFORMATION: On August 5, 1985, Meadox Medicals, Inc., Oakland, NJ 07436, submitted to CDRH an application for premarket approval of the Stryker® Dacron® Ligament Prosthesis. The device is a prosthetic ligament fabricated from a combination of texturized and untexturized Dacron® yarns. The device consists of a knitted velour tube with a reinforcing core made up of four woven tapes. The device is placed intra-articularly by tibial and femoral attachments through bone tunnels. The device is indicated for use only as an intra-articular permanent replacement for the anterior cruciate ligament (ACL) of the knee for skeletally mature patients who have had at least one failed autogenous intra-articular reconstruction of their ACL.

On January 22, 1988, the Orthopedic and Rehabilitation Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On December 30, 1988, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Michael J. Blackwell (HFZ-410), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) to the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 1033(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 18, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 7, 1989.

Walter E. Gundaker,
Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89-9136 Filed 4-17-89; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 88M-0089]

Siemens-Pacesetter®, Inc.; Premarket Approval of the Sensolog Model 703 Pulse Generator (Models 703K, 703S and 703T) and the P700 Programmer)

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Siemens-Pacesetter®, Inc., Sylmar, CA, for premarket approval, under the Medical Device Amendments of 1976, of the Sensolog Model 703 Pulse Generator (Models 703K, 703S, and 703T) and the P700 Programmer. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of February 28, 1989, of the approval of the application.

DATE: Petitions for administrative review by May 18, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donald F. Dahms, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-3171.

SUPPLEMENTARY INFORMATION: On February 5, 1988, Siemens-Pacesetter®, Inc., Sylmar, CA 91342, submitted to CDRH an application for premarket approval of the Sensolog Model 703 Pulse Generator (Models 703K, 703S, and 703T) and the P700 Programmer.

The Sensolog Model 703 Pulse Generator is intended for use in patients who require permanent atrial or ventricular pacing and in whom an increase in pacing rate concurrent with physical activity is desired. Indications and applications for atrial use are sinus arrest, S-A block, sinus bradycardia, and bradycardia-tachycardia syndrome. Indications and applications for ventricular use are sinus node arrest and/or bradycardia, with or without AV conduction disorder; intermittent or complete AV conduction disorder with normal sinus function; and bradycardia-tachycardia syndrome or other manifestations of the sick sinus syndrome resulting in symptomatic bradycardia.

The P700 Programmer is intended to be utilized to noninvasively interrogate and program the Sensolog pacemaker. In addition, it may be utilized to program and/or interrogate other currently available programmable Siemens-Elema pulse generators.

On February 6, 1989, the Circulatory System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On February 28, 1989, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Donald F. Dahms, (HFZ-450), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the Act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviwed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 18, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commission of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

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Dated: April 7, 1989.
Walter E. Gundaker,
Acting Deputy Director, Center for Devices and Radiological Health.
[FR Doc. 89-9135 Filed 4-17-89; 8:45 am]
BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. May 4 and 5, 1989, 9 a.m., National Institutes of Health, Clinical Center, Bldg. 10, Jack Masur Auditorium, 9000 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, May 4, 1989, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5:30 p.m.; open committee discussion, May 5, 1989, 9 a.m. to 5:30 p.m.; Joan C. Standaert, Center for Drug Evaluation and Research (HFD-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730 or 419-259-6211.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in treatment of cardiovascular disorders and diseases and makes recommendations regarding the appropriate clinical development of such products.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 20, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss Cardura (dozazosin mesylate), new drug application (NDA) 19-668, Pfizer Laboratories, for hypertension; Adenocard (adenosine), NDA 19-937, Medco, for paroxsysmal supraventricular tachycardia (SVT); and Capoten (captopril), NDA 18-343, Squibb Corp., for dosing and labeling revisions.

Ear, Nose, and Throat Devices Panel

Date, time, and place. May 8, 1989, 8:30 a.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; David A. Segerson, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8185 (voice/TDD).

A sign language interpreter is available for the hearing-impaired upon request. Those desiring this assistance should notify Carlton M. Coleman, 301-443-3310 (voice) or 301-443-1818 (TDD), no later than April 24, 1989.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 24, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for the Symbion Ineraid Cochlear Implant System.

Microbiology Devices Panel

Date, time, and place. May 8, 1989, 10 a.m., Rm. 800, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 10 a.m. to 11 a.m., unless public participation does not last that long; open committee discussion, 11 a.m. to 5 p.m.; Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 1, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for the detection of specific IgM antibody to hepatitis A virus.

Blood Products Advisory Committee

Date, time, and place. May 10 and 11, 1989, 8 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, May 10, 1989, 8 a.m. to 10 a.m. (invitation to public to respond to March 15, 1989, memorandum on autologous donations), unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; open committee discussion, May 11, 1989, 8 a.m. to 11:30 a.m.; Linda A. Smallwood, Division of Blood and Blood Products (HFB-400), Center for Biologics Evaluation and Research, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-496-4396.

General function of the committee. The committee reviews and evaluates available data on the safety, effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. On the morning of May 10, 1989, the committee will discuss: recovered plasma standards, the recommendation for change in hemoglobin values, and label indications for use of desmopressin acetate (DDAVP); and in the afternoon the committee will hear updates on coagulation and monoclonal products, and will discuss the proposed unified HIV memorandum. On May 11, 1989, the committee will discuss the status of erythropoietin and the recommendation for a change in the medical device classification of cell separators.

Clinical Chemistry and Clinical Toxicology Devices Panel

Date, time, and place. May 15, 1989, 9 a.m., Rm. 503-529A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; Kaiser J. Aziz, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 1, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for the measurement of cyclosporine by high performance liquid chromatography (HPLC).

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours and 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: April 13, 1989.
Alan L. Hoeting,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 89-9185 Filed 4-17-89; 8:45 am]
BILLING CODE 4160-01-M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcigenesis Studies of Crocidolite Asbestos

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on the toxiciology and carcinogenesis studies of crocidolite asbestos.

Toxicology and carcinogenesis studies of crocidolite asbestos were conducted by administering the chemical to male and female F344/N rats at a concentration of 1% in feed for the lifetime of the animals.

Under the conditions of these feed studies, crocidolite asbestos was not overtly toxic and did not cause a carcinogenic response when ingested at a concentration of 1% in the diet by male and female F344/N rats for their lilfetime.

Copies of *Toxicology and Carcinogenesis Studies of Crocidolite Asbestos in F344/N Rats (Feed Studies)* (TR 280) are available without charge from the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-3991; FTS: 629-3991.

Dated: April 12, 1989.
David P. Rall,
Director.
[FR Doc. 89-9166 Filed 4-17-89; 8:45 am]
BILLING CODE 4140-01-M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Erythromycin Stearate

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on the toxicology and carcinogenesis studies of erythromycin stearate, a broad-spectrum macrolide antibiotic.

Toxicology and carcinogenesis studies of a erythromycin sterate were conducted by feeding diets containing 0, 5,000, or 10,000 ppm of this chemical to groups of 50 F344/N rats of each sex for 103 weeks. Diets containing 0, 2,500, or 5,000 ppm were fed to groups of 50 mice of each sex for 103 weeks.

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Under the conditions of these 2-year studies, there was no evidence of carcinogenic activity * of erythromycin stearate for male or female F344/N rats administered erythromycin stearate in the diet at 5,000 or 10,000 ppm. There was no evidence of carcinogenic activity of erythromycin stearate for male or female $B6C3F_1$ mice administered erythromycin stearate in the diet at 2,500 or 5,000 ppm. Dose-related increases in the incidences of granulomas of the liver were observed in male and female rats.

The study scientist for this bioassay is Dr. J.E. French. Questions or comments about the contents of this Technical Report should be directed to Dr. French at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-7790; FTS: 629-7790.

Copies of *Toxicology and Carcinogenesis Studies of Erythromycin Stearate in F344/N Rats and $B6C3F_1$ Mice (Feed Studies)* (TR 338) are available without charge from the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-3991; FTS: 629-3991.

Dated: April 12, 1989.

David P. Rall,

Director.

[FR Doc. 89-9167 Filed 4-17-89; 8:45 am]

BILLING CODE 4140-01-M

*The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of evidence of carcinogenicity observed in each animal study: Two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); and one category for experiments that cannot be evaluated because of major flaws ("inadequate study").

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-89-1969; FR-2652]

Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals; Revised Notice of Fund Availability

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Revised notice of fund availability.

SUMMARY: On January 9, 1989, HUD published a Notice of Fund Availability for fiscal year 1989 for the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals under section 441 of the Stewart B. McKinney Homeless Assistance Act [54 FR 758]. Among other things, the Notice set an application submission deadline of April 10, 1989, and limited potential eligible applicants to public housing agencies (PHAs) that are currently administering a Moderate Rehabilitation Program under 24 CFR Part 882.

This Notice announces an extension of the time for submitting applications from April 10, 1989 to May 17, 1989. It also opens the application process to all PHAs, not just those presently administering a Moderate Rehabilitation Program.

DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-5720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Information Collection Requirements

The information collection requirements contained in this Notice have been submitted to the Office Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502-0367. Public reporting burden for each of these collections of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, *Other Matters*. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20530.

This Notice

On January 9, 1989, the Department published in the **Federal Register** (54 FR 758) a Notice of Fund Availability. The Notice announced the availability of funding for fiscal year 1989 for the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals, as authorized by section 441 of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987).

Section III.A. of the Notice required the submission of applications by April 10, 1989. It also limited eligible applicants to PHAs that are currently administering a Moderate Rehabilitation Program under 24 CFR Part 882.

Today's Notice makes the following two changes to the January 9 Notice:

—It extends the application submission deadline from April 10, 1989 to May 17, 1989; and

—It permits all PHAs to submit applications, not just those that are presently administering a Section 8 Moderate Rehabilitation Program. Accordingly, the first sentence of section III.A.(1) is amended to remove the phrase "that are currently administering a Moderate Rehabilitation Program under 24 CFR Part 882". Also, section III.C.(6) is amended to add the following sentence: "If a PHA has not administered a Section 8 Moderate Rehabilitation Program, the PHA must demonstrate that it: (a) Has the ability to operate a rehabilitation program, or (b) will contract with a qualified agency or entity which will assist the PHA in operating a rehabilitation program, or (c) will develop the capability to operate a rehabilitation program."

Section 441 of the McKinney Act provides that funding will be provided to applicants:

> that best demonstrate a need for the assistance * * * and the ability to undertake and carry out a program to be assisted * * *.

In the first funding round under section 441 [see 52 FR 38380, published on October 15, 1987], the Department chose to limit PHA participation to those with on-going Section 8 Moderate Rehabilitation Programs because of the overriding need to make assistance available for the homeless on an emergency basis. For the current (second) funding round, the Department has determined not to limit the competition to PHAs with experience in the Section 8 Moderate Rehabilitation Program and that other PHAs may be able to carry out highly successful SRO programs under section 441.

The extension of the deadline for application submission is designed to ensure that any PHAs that this Notice has made newly eligible have adequate opportunity to prepare and submit an application. The extension also reflects HUD's desire to ensure that the applications ultimately selected for funding are of the highest quality. Any PHA that has already submitted an application in response to the January 9 Notice may amend the application, but the complete application must be received by May 17, 1989. (To the extent feasible, HUD intends to review the applications received by the April 10 deadline for completeness and to notify PHAs of missing information.)

Finally, it should be noted that the changes announced in this Notice only modify the description of what PHAs are eligible to submit applications and the time for application submission. All other provisions of the January 9 Notice remain in effect for the fiscal year 1989 funding round.

Other Matters

Environment

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

Information Collection Requirements

The collection of information requirements contained in this Notice have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502-0367. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN NOTICE OF FUND AVAILABILITY—SECTION 8 MODERATE REHABILITATION PROGRAM FOR SINGLE ROOM OCCUPANCY DWELLINGS FOR HOMELESS INDIVIDUALS

Description of information collection	Section of 24 CFR affected	Number of respondents	Number of responses per respondents	Total annual responses	Hours per response	Total hours
Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals (2502-0367).	24 CFR 882	150	1	150	25	3,750

Federalism and Family

The General Counsel, as the Designated Official under Executive Orders 12612, *Federalism*, and 12606, *The Family*, has determined that this Notice does not have the requisite effects to trigger review under either Order. the Notice only changes the pool of eligible applicants and the deadline for application submission under a previous Notice. It does not have any significant federalism or family effects.

Federal Programs

The Catalog of Federal Domestic Assistance Programs number is 14.156, Lower Income Housing Assistance Program.

Authority: Secs. 401, 441, Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987); sec. 485, Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: April 10, 1989.

James Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 89-9316 Filed 4-17-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-09-4214-12; I-1639]

Partial Termination of Classification for Multiple Use Management; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification termination.

SUMMARY: This action partially terminates a classification order which segregated 531,160 acres from disposal under various land laws. The classification is no longer needed because the Resource Management Plan prepared for the area provides the necessary protection of the resources this classification sought to protect. In addition, many of the disposal laws for which the lands were segregated have since been repealed by the Federal Land Policy and Management Act of 1976. This action will open 402,138 acres of public lands specified to the agricultural land laws. These lands with the exception of 760 acres closed to the mining laws, have been and continue to be open to the mining and mineral leasing laws and to all other public land laws. This action will also open an additional 760 acres to the mining laws.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1597.

1. Pursuant to authority delegated to me by BLM Manual, section 1203-Delegation of Authority (48 FR 85), I hereby terminate the Bureau of Land Management Multiple-Use Classification Order dated November 9, 1987, and published in the **Federal Register** November 16, 1967, Vol. 32, No. 222, Pages 15767-15768, insofar as if affected the lands described below:

Boise Meridian

T. 19 N., R. 21 E.,
All the public lands outside the National Forest boundary except sec. 28, SE¼SE¼.
T. 20 N., R. 21 E.,
All public lands outside the National Forest boundary.
T. 21 N., R. 21 E.,
Sec. 35.
T. 23 N., R. 21 E.,
Sec. 12, lot 6.
T. 13 N., R. 22 E.,
Sec. 2, that portion in Lemhi County.
T. 17 N., R. 22 E.,
Sec. 1, E½.
T. 18 N., R. 22 E.,
All public lands outside the National Forest boundary.
T. 19 N., R. 22 E.,
All public lands outside the National Forest boundary.
T. 20 N., R. 22 E.
Secs. 1 to 5, inclusive;
Sec. 8;
Sec. 11, E½;
Secs. 12 and 13;
Secs. 17 to 19, inclusive;
Sec. 23, E½;
Secs. 24 and 30;
Sec. 31, N½;
Sec. 32, N½.
T. 21 N., R. 22 E.,

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Sec. 21, E½, E½W½;
Sec. 22;
Sec. 23, SW¼;
Secs. 26 to 29, inclusive;
Secs. 33 to 36, inclusive.
T. 22 N., R. 22 E.,
Sec. 1;
Sec. 2, SE¼;
Sec. 3, NW¼;
Sec. 4;
Sec. 10, SE¼;
Secs. 11 to 15, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 23 N., R. 22 E.,
Secs. 6 to 9, inclusive;
Sec. 10, NW¼NW¼, S½NW¼, SW¼;
Sec. 13, SW¼;
Secs. 14 to 18, inclusive;
Sec. 17 NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 18 lot 1;
Sec. 19, lots 4 and 6;
Secs. 20 to 23, inclusive;
Sec. 26, W½;
Secs. 27 and 28;
Secs. 33 and 34.
T. 24 N., R. 22 E.,
All public lands outside the National Forest boundary.
T. 17 N., R. 23 E.,
Sec. 1, NW¼;
Secs. 2 to 6, inclusive;
Sec. 7, N½;
Secs. 8 to 11, inclusive;
Secs. 13 to 18, inclusive;
Sec. 17, N½;
Sec. 21, NE¼;
Sec. 22, N½, SE¼;
Secs. 23 and 24;
Sec. 25, N½, SW¼;
Sec. 26 E½.
T. 18 N., R. 23 E., all.
T. 19 N., R. 23 E.,
All public lands outside the National Forest boundary.
T. 20 N., R. 23 E.,
Secs. 6 to 8, inclusive;
Secs. 16 to 22, inclusive;
Secs. 28 to 28; inclusive;
Sec. 30, N½, SE¼;
Sec. 30 NE¼;
Sec. 33, NE¼;
Secs. 34 and 35.
T. 21 N., R. 23 E.,
Sec. 1;
Sec. 4 NE¼, N½SW¼;
Secs. 5 to 8, inclusive;
Secs. 12 and 13;
Sec. 14, E½;
Sec. 17, NW¼;
Sec. 18, N½;
Secs. 23 and 24;
Sec. 26;
Sec. 27, E½;
Sec. 31, W½.
T. 22 N., R. 23 E.,
Secs. 3 to 32, inclusive;
Sec. 33, W½, W½E½.
T. 23 N., R. 23 E.,
Sec. 29;
Sec. 32, E½;
Sec. 33.
T. 16 N., R. 24 E.,
Sec. 10, E½, SE¼NW¼, E½SW¼;
Sec. 11;
Sec. 13, S½S½;
Sec. 14;
Sec. 15, N½, SE¼;
Sec. 23, N½, SE¼;
Secs. 24 and 25;
Sec. 26, NE¼.
T. 17 N., R. 24 E.,
Secs. 1 and 2;
Secs. 5 and 6;
Sec. 9, W½, SE¼;
Sec. 11, N½;
Sec. 12;
Secs. 18 to 20, inclusive;
Sec. 21, N½, SW¼;
Sec. 28, NW¼;
Sec. 29 W½.
T. 18 N., R. 24 E.,
Secs. 1 to 3, inclusive;
Sec. 4, E½;
Sec. 6, S½;
Sec. 7;
Sec. 8 E½;
Secs. 10 to 15, inclusive;
Sec. 16, E½;
Sec. 18;
Sec. 21, E½;
Secs. 22 to 27, inclusive;
Sec. 28, E½;
Sec. 33, lots 1 and 2, S½NE¼;
Sec. 34, lots 1, 2, 3, 4, 5, 6, 7, 8, S½N½;
Secs. 35 and 36.
T. 19 N., R. 24 E.,
Sec. 1, S½;
Secs. 2 to 4, inclusive;
Secs. 9 to 16, inclusive;
Sec. 21, E½;
Secs. 22 to 27, inclusive;
Sec. 28, E½;
Sec. 33, E½;
Secs. 34 to 36, inclusive.
T. 20 N., R. 24 E.,
Sec. 3;
Sec. 4, N½;
Sec. 5, N½;
Sec. 10;
Sec. 11, SW¼;
Sec. 15;
Secs. 20 to 22, inclusive;
Sec. 23, S½;
Sec. 25, N½, SW¼;
Secs. 26 to 29, inclusive;
Secs. 32 to 35, inclusive;
T. 21 N., R. 24 E.,
Secs. 6 to 8, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 30, inclusive;
Sec. 31, N½;
Secs. 32 and 33.
T. 22 N., R. 24 E.,
Secs. 30 and 31.
T. 15 N., R. 25 E.,
Secs. 1 and 2;
Secs. 11 to 13, inclusive;
Secs. 24 and 25.
T. 16 N., R. 25 E.,
Sec. 1;
Sec. 13, SW¼;
Sec. 14, W½, W½NE¼, SE¼;
Sec. 15, E½;
Sec. 16, S½SW¼, SW¼SE¼;
Sec. 19, W½, W½E½;
Sec. 19, W½, W½E½;
Sec. 19, W½, W½E½;
Sec. 22, NE¼;
Sec. 23, N½;
Sec. 30, W½, W½E½.
T. 17 N., R. 25 E.,
Secs. 3 to 10, inclusive;
Secs. 15 to 18, inclusive;
Sec. 19, N½;
Secs. 20 to 22, inclusive;
Secs. 28 to 28, inclusive;
Secs. 34 and 35.
T. 18 N., R. 25 E., all.
T. 19 N., R. 25 E.,
All public lands outside the National Forest boundary.
T. 14 N., R. 26 E.,
Sec. 1;
Secs. 12 to 14, inclusive;
Sec. 15, E½;
Sec. 22, E½;
Secs. 23 to 25, inclusive;
Sec. 26, E½;
Sec. 36, E½.
T. 15 N., R. 26 E.,
Sec. 5, W½, N½NE¼;
Secs. 6 and 7;
Sec. 8, NW¼;
Sec. 18, E½;
Secs. 18 to 20, inclusive;
Sec. 21, W½;
Secs. 24 and 25;
Sec. 28, W½W½;
Secs. 29 and 30;
Sec. 36.
T. 16 N., R. 26 E.,
Secs. 7 and 18;
Sec. 22, N½, N½S½;
Sec. 23, N½, N½S½;
Secs. 24 and 25;
Secs. 31 and 32.
T. 18 N., R. 26 E.,
Sec. 31.
T. 12 N., R. 27 E.,
All public lands outside the National Forest boundary.
T. 13 N., R. 27 E.,
All public lands outside the National Forest boundary.
T. 14 N., R. 27 E.,
All the township except sec. 35, NW¼NW¼.
T. 15 N., R. 27 E.,
All public lands outside the National Forest boundary.
T. 16 N., R. 27 E.,
All public lands outside the National Forest boundary.
T. 27 N., R. 27 E.,
All public lands outside the National Forest boundary.
T. 11 N., R. 28 E.,
All public lands outside the National Forest boundary.
Tps. 1, 13, and 14 N., R. 28 E., all.
T. 15 N., R. 28 E.,
Secs. 30 to 34, inclusive;
T. 11 N., R. 29 E., all.
T. 12 N., R. 29 E.
All public lands outside the National Forest boundary.
T. 13 N., R. 29 E.,
Unsurveyed, all public lands outside the National Forest boundary.
T. 14 N., R. 29 E.,
Unsurveyed, all public lands outside the National Forest boundary.
T. 11 N., R. 30 E.,
All public lands outside the National Forest boundary.

The areas described aggregate approximately 401,376 acres in Lemhi County.

2. The Multiple Use Classification cited in paragraph one, which segregated certain recreation sites from the mining and agricultural land laws, is hereby terminated insofar as it affects the sites described below:

Boise Meridian

Little Morgan Creek

T. 15 N., R. 21 E.,
Sec. 1, SW¼NW¼, W½SW¼;
Sec. 2, SE¼NE¼, E½SE¼;
Sec. 11, NE¼NE¼.

Baldy Ridge

T. 19 N., R. 23 E.,
Sec. 19, NE¼SE¼.

Ezra Creek

T. 16 N., R. 21 E.,
Sec. 31, NE¼SW¼.

William Creek

T. 20 N., R. 21 E.,
Sec. 10, S½NW¼, SW¼;
Sec. 11, SW¼NW¼.

Smokey Cubs

T. 16 N., R. 27 E.,
Sec. 19, lot 3.
T. 16 N., R. 28 E.,
Sec. 24, SW¼NE¼, N½SE¼.

The areas decribed aggregate 780 acres in Lemhi County.

3. The following-described recreation sites remain segregated from the mining and agricultural land laws by virtue of the November 9, 1967, Classification Order:

Cow Creek

T. 16 N., 21 E.,
Sec. 8, lots 4 and 5.

Cronks Canyon

T. 16 N., R. 21 E.,
Sec. 8, lot 8;
Sec. 17, lot 1.

Ezra Creek

T. 17 N., R. 21 E.,
Sec. 9, lots 1 and 4.

McKim Creek

T. 17 N., R 21 E.,
Sec. 17, lot 10.

Ringle Creek

T. 16 N., R. 21 E.,
Sec. 33, lots 1, 4 and 5.

Williams Creek

T. 20 N., R. 21 E.,
Sec. 10, N½NW¼;
Sec. 11, lot 9.

Twelve Mite Site

T. 20 N., R. 21 E.,
Sec. 35, lot 1.

Boyle Creek

T. 23 N., R. 21 E.,
Sec. 12, lot 6.
T. 23 N., R. 22 E.,
Sec. 7, lots 4 and 5;
Sec. 18, lot 1.

Bolander's Ranch

T. 23 N., R. 22 E.,
Sec. 19, lots 4 and 6.

Agency Creek

T. 19 N., R. 24 E.,
Sec. 25, SE¼NW¼.

Smokey Cubs Site

T. 16 N., R. 26 E.,
Sec. 24, SE¼NE¼.
T. 16 N., R. 27 E.,
Sec. 19, lot 2.

The areas described aggregate 757.41 acres in Lemhi County.

4. The segregative effect on the lands described in paragraphs one and two will terminate upon publication of this notice in the Federal Register as provided by the regulations in 43 CFR 2091.7–1(b)(3).

5. At 9:00 a.m. on May 9, 1989, the lands described in paragraph one and two shall be open to the agricultural land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 9:00 a.m. on May 9, 1989, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands described in paragraphs one and two, with the exception of 760 acres closed to the mining laws, have been and continue to be open to the mining and mineral leasing laws and to all other public land laws.

6. At 9:00 a.m. on May 9, 1989, the lands described in paragraph two shall be open to location and entry under the United States mining laws. Appropriation of land described under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights sinced Congress has provided for such determinations in local courts.

Dated: April 7, 1989.

Delmar D. Vail,

State Director.

[FR Doc. 89–9187 Filed 4–17–89; 8:45 am]

BILLING CODE 4310-GG-M

[ID-943-09-4214-12; I-1542]

Termination of Classification for Multiple Use Management; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification termination.

SUMMARY: This action terminates a classification order which originally segregated approximately, 1,175,680 acres from disposal under various land laws. The lands are located in the Shoshone District and within the Monument Resource Area. The classification was partially terminated in August of 1982 and May of 1984. The remaining classification is no longer needed because the Resource Management Plan prepared for the area provides the necessary protection of the resources this classification sought to protect. In addition, many of the disposal laws for which the lands were segregated have since been repealed by the Federal Land Policy and Management Act of 1976. This action will open approximately 873,304 acres of public lands specified to the agricultural land laws. These lands, with the exception of 160 acres closed to the mining laws, have been and continue to be open to the mining and mineral leasing laws and to all other public land laws. This action will also open an additional 160 acres to the mining laws.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208–334–1597.

1. Pursuant to authority delegated to me by BLM Manual, section 1233—Delegation of Authority (48 FR 85), I hereby terminate the Bureau of Land Management Multiple-Use Classification Order dated June 14, 1968, and published in the Federal Register June 28, 1968, Vol. 33, No. 128, Pages 9513–9515, insofar as it affected the lands described below:

Boise Meridian

Blaine County

T. 1 S., R. 21 E.,
Sec. 24, E½ SW¼, SE¼;
Sec. 25, NE¼, E½ NW¼, S½;
Sec. 36.
T. 2 S., R. 21E.,
Sec. 1;
Sec. 2, lot 1, SE¼NE¼, SE¼;
Sec. 11, E½, SE¼SW¼;
Sec. 12;
Sec. 13;
Sec. 14, lots 1, 2, 3, 6, 7, S½NE¼, SE¼ NW¼, E½SW¼, SE¼;
Sec. 15, SE¼SW¼, S½SE¼;
Sec. 21, SE¼NE¼, NE¼SE¼, S½SE¼;

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Sec. 22, lots 1, 2, 3, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Secs. 23 to 27, inclusive;
Sec. 28, NE¼, S½;
Sec. 32, NE¼, E½NW¼, S½;
Secs. 33 to 36, inclusive.
T. 1 S., R. 22 E.,
Sec. 1, lot 1, S½NE¼;
Sec. 2, lots 3 and 4, S½SW¼;
Sec. 3, lot 1;
Sec. 10, E½E½;
Secs. 11 to 14, inclusive;
Sec. 15, E½E½, SW¼SE¼;
Sec. 19, lots 6, 7, S½NE¼, E½SW¼, SE¼;
Sec. 20, lot 1, S½N½, S½;
Secs. 21 to 36, inclusive.
T. 2 S., R. 22 E.,
T. 1 S., Rs. 23, 24 E.,
T. 2 S., Rs. 23, 24, 25, 26 E.,
T. 6 S., R. 26 E.,
T. 7 S., R. 26 E.
Secs. 1 to 18, inclusive;
Sec. 19, lots 1, 2, 3, N½NE¼, E½NW¼, NE¼SW¼;
Sec. 20, N½NW¼;
Sec. 22, E½;
Secs. 23 to 26, inclusive;
Sec. 27, E½;
Sec. 34, E½;
Secs. 35 and 36.
T. 8 S., R. 26 E.,
Secs. 1, 2 and 3;
Sec. 4, SE¼SE¼;
Sec. 9, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Secs. 10 to 15, inclusive;
Sec. 19, lots 2, 3, 4, SE¼NW¼, S½NE¼, SE¼, E½SW¼;
Secs. 20 to 36, inclusive, in Blaine County.
Tps. 6, 7, 8 S., R. 27 E.,
T. 9 S., R. 27 E.,
Secs. 1 to 27, inclusive, in Blaine County;
Secs. 21 to 24, inclusive, in Blaine County.
T. 8 S., R. 28 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.

Lincoln County

T. 5 S., R. 16 E.,
Sec. 13, E½SE¼;
Sec. 23, SE¼NE¼, SW¼SW¼, E½SW¼, SE¼;
Sec. 24, NE¼, SW¼NW¼, E½NW¼, S½;
Secs. 25 and 26;
Sec. 27, S½NE¼, E½SW¼, SE¼;
Sec. 34, NE¼, ER½NW¼, N½SW¼, SE¼SW¼, SE¼;
Secs. 35 and 36.
T. 6 S., R. 16 E.,
Secs. 1 and 2;
Sec. 3, lots 1, 2, 3, S½NE¼, SE¼NW¼, S½;
Sec. 7, E½NE¼;
Sec. 8, N½, N½SW¼, SE¼;
Sec. 9, N½, N½SW¼, SW¼SW¼, N½SE¼;
Sec. 10, N½NE¼;
Sec. 11, N½N½, S½NW¼, NE¼SW¼;
Sec. 12, N½N½;
Sec. 17, E½NE¼.
T. 4 S., R. 19 E.,
Sec. 25, SE¼SE¼;
Sec. 34, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 35, NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 36, NE¼NE¼, S½NE¼, NW¼, S½.
T. 5 S., R. 19 E.,
Secs. 1, 2, and 3;
Sec. 4, lot 1, S½NE¼, SE¼SW¼, SE¼;
Sec. 5, SW¼SW¼;
Sec. 7, E½NE¼, SE¼SW¼, NE¼SE¼, S½SE¼;
Secs. 8 to 17, inclusive;
Sec. 18, lots 3, 4, E½, E½SW¼;
Secs. 19 to 36, inclusive.
T. 6 S., R. 19 E.,
Sec. 1;
Sec. 3, W½;
Secs. 4, 5, 6;
Sec. 7, N½N½;
Sec. 8, N½N½;
Sec. 9, N½N½;
Sec. 10, N½NW¼;
Sec. 12;
Sec. 13, N½.
T. 3 S., R. 20 E.,
Sec. 12, NE¼, E½NW¼, S½;
Sec. 13;
Sec. 14, E½E½, SW¼NE¼;
Sec. 23, NE¼NE¼, S½N½, S½;
Secs. 24, 25, 26;
Sec. 34, SE¼;
Secs. 35 and 36.
T. 4 S., R. 20 E.,
Secs. 1 and 2;
Sec. 3, E½, E½SW¼;
Sec. 8, SE¼SE¼;
Sec. 9, S½SW¼, SE¼;
Secs. 10 to 16, inclusive;
Sec. 17, SE¼NE¼;
Sec. 20, E½SE¼;
Secs. 21 to 28, inclusive;
Sec. 29, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 30, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Secs. 31 to 36, inclusive.
T. 5 S., R. 20 E., all.
T. 6 S., R. 20 E.,
Secs. 1 to 15, inclusive;
Sec. 16, N½;
Sec. 17, N½;
Sec. 18, lots 1, 2, NE¼, E½NW¼.
T. 3 S., R. 21 E.,
Secs. 1 to 5, inclusive;
Sec. 6, lot 7, E½SW¼, S½SE¼;
Secs. 7 to 36, inclusive.
Tps. 4, 5, S., R. 21 E., all.
T. 6 S., R. 21 E.,
Secs. 1 to 18, inclusive;
Sec. 23, N½N½, SE¼NE¼;
Sec. 24, N½N½.
Tps. 3, 4, 5 S., R. 22 E., all.
T. 6 S., R. 22 E.,
Secs. 1 to 18, inclusive;
Sec. 19, lots 1 to 6, inclusive, NE¼, N½SE¼, SE¼SE¼;
Secs. 20 to 24, inclusive;
Sec. 25, NW¼;
Sec. 26;
Sec. 27, N½;
Sec. 28, NE¼, N½NW¼;
Sec. 29, N½NE¼, NE¼NW¼;
Sec. 35.
Tps. 3, 4, 5, S., R. 23 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 6 S., R. 23 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 20, inclusive.
T. 7 S., R. 23 E.,
Sec. 5, lots 2, 3, 4, S½NW¼, N½SW¼, north of UPRR;
Sec. 6, N½, north of UPRR.

Minidoka County

Tps. 3, 4, 5, S., R. 23 E.,
Secs. 1, 2, 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, 36.
T. 6 S., R. 23 E.,
Secs. 1, 2, 3;
Secs. 10 to 15, inclusive;
Sec. 22, E½NE¼;
Sec. 23, N½, SE¼;
Sec. 24, 25;
Sec. 26, E½;
Sec. 34, E½;
Secs. 35 and 36.
Tps. 3, 4, 5, S., R. 24 E., all.
T. 6 S., R. 24. E.,
Secs. 1 to 30, inclusive;
Sec. 31, lots 1 to 6, inclusive;
Sec. 36, all.
T. 7 S., R. 24 E.,
Sec. 5, lots 1, 2, 3, SW¼NE¼.
Tps. 3, 4, 5, 6 S., R. 25 E., all.
T. 7 S., R. 25 E.,
Secs. 1 to 4, inclusive;
Sec. 5, lots 1, 2, S½NE¼, SE¼NW¼, E½SW¼, NE¼;
Sec. 9, NE¼, N½NW¼;
Sec. 10, N½,N½SW¼, SE¼;
Secs. 11 to 13, inclusive;
Sec. 14, N½, NE¼SW¼, SE¼;
Sec. 15, N½NE¼, SE¼NE¼;
Sec. 24, NE¼, N½NW¼, SE¼NW¼, E½SW¼, N½SE¼, SW¼SE¼.
T. 8 S., R. 25 E.,
Sec. 24, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 25, all;
Sec. 26, S½N½, S½;
Sec. 27, S½SW¼, SE¼;
Sec. 35, NW¼NW¼;
Sec. 36, all.

Power County

T. 7 S., R. 28 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 25 to 36, inclusive.
T. 8 S., R. 28 E.,
Secs. 3 to 10, inclusive;
Secs. 13, 14, 15;
Secs. 22 to 27, inclusive;
Secs. 34, 35, 36.
T. 9 S., R. 28 E.,
Secs. 1 to 12, inclusive;
Secs. 13 to 19, inclusive, in Power County north of Snake River.
T. 7 S., R. 29 E.,
Sec. 23, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 30, N½, E½SW¼, N½SE¼, SW¼SE¼.
T. 8 S., R. 29 E.,
Secs. 16 to 21, inclusive;
Secs. 28 to 36, inclusive.
T. 9 S., R. 29 E.,
Secs. 1 to 20, inclusive, in Power County north of Snake River.
T. 8 S., R. 30 E.,
Sec. 31, in Power County north of Snake River.

The areas described aggregate approximately 673,144 acres of public land in Blaine, Lincoln, Minidoka, and Power Counties.

2. The Multiple Use Classification cited in paragraph one, which segregated certain recreation sites from the mining and agricultural land laws, is hereby terminated insofar as it affects the sites described below:

Boise Meridian

Lincoln County, Narrows Site

T. 3 S., R. 20 E.,
Sec. 12, SW¼SW¼;
Sec. 13, NW¼NW¼;
Sec. 14, NE¼NE¼.

Power County, Gifford Springs Site

T. 9 S., R. 28 E.,
Sec. 17, SE¼NE¼.

The areas described aggregate 160 acres of public land in Lincoln and Power Counties.

3. The segregative effect on the lands described in paragraphs one and two will terminate upon publication of this notice in the Federal Register as provided by the regulations in 43 CFR 2091.7–1(b)(3).

4. At 9:00 a.m. on May 12, 1989, the lands described in paragraphs one and two shall be open to the agricultural land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 9:00 a.m. on May 12, 1989, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands described in paragraphs one and two, with the exception of 160 acres closed to the mining laws, have been and continue to be open to the mining and mineral leasing laws and to all other public land laws.

5. At 9:00 a.m. on May 12, 1989, the lands described in paragraph two shall be open to location and entry under the United States mining laws. These lands have been and will continue to be open to the mineral leasing laws and all other public land laws. Appropriation of land described under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Delmar D. Vail,
State Director.
Dated: April 7, 1989.

[FR Doc. 89-9168 Filed 4-17-89; 8:45 am]
BILLING CODE 4310-GG-M

[CA-940-09-4212-13; CACA 19657]

California; Realty Action; Exchange of Public and Private Lands in Lassen and Modoc Counties and Order Providing for Opening of Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance documents and opening order.

ADDRESS: Inquiries concerning the land should be addressed to: Chief, Branch of Adjudication and Records, Bureau of Land Management, 2800 Cottage Way (Room E–2841), Sacramento, California 95825.

SUMMARY: The purpose of the exchange was to acquire non-federal lands that provide significant water sources for livestock grazing, wildlife habitat, fisheries management, and recreational uses. The exchange benefits the general public and local agricultural economy, and provides for improved management of the Federal and private lands. The public interest has been well served by making the exchange. The lands acquired in this exchange will be opened to operation of the public land laws and to full operation of the United States mining and mineral leasing laws.

FOR FURTHER INFORMATION CONTACT: Peter Humm, Susanville District Office, (916) 257–5361 or Dianna Storey, California State Office, (916) 978–4820.

1. The United States issued two (2) land exchange conveyance documents to the John Hancock Mutual Life Insurance Company, a Massachusetts corporation, on December 6 and 14, 1968, pursuant to the authority of Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716), for the following described public lands:

Mount Diablo Meridian, California

T. 35 N., R. 12 E.,
Sec. 9, lots 1 to 4, inclusive;
Sec. 10, lots 2, 3, and 4;
Sec. 11, lots 1, 2, and 3;
Sec. 12, lots 1 to 4, inclusive;
Sec. 13, all;
Sec. 14, W½;
Sec. 15, all.
T. 36 N., R. 12 E.,
Sec. 14, NW¼;
Sec. 15, SE¼NE¼, W½E½, and W½;
Sec. 22, W½NE¼, SE¼NE¼, W½, and SE¼;
Sec. 25, all;
Sec. 27, E½ and E½NW¼;
Sec. 31, SE¼NE¼ and E½SE¼;
Sec. 32, NW¼NW¼ and S½;
Sec. 33, SW¼NW¼ and W½SW¼;
Sec. 35, all.
T. 41 N., R. 12 E.,
Sec. 12, W½SW¼;
Sec. 13, W½NW¼;
Sec. 22, SW¼NW¼;
Sec. 24, SW¼NW¼ and W½SW¼.
T. 35 N., R. 13 E.,
Sec. 7, lots 1 and 2;
Sec. 8, lots 1 to 4, inclusive;
Sec. 9, lots 1 to 4, inclusive;
Sec. 10, lots 2, 3, and 4;
Sec. 15, W½NE¼, SE¼NE¼, W½, and SE¼;
Sec. 17, W½ and SE¼;
Sec. 18, all.
T. 36 N., R. 13 E.,
Sec. 30, lots 3 and 4, and E½SW¼;
Sec. 31, lots 3 and 4, and E½SW¼;
Sec. 32, S½;
Sec. 33, SW¼SW¼.

The areas described aggregate 6,321.97 acres in Lassen and Modoc counties.

2. In exchange for the lands described in paragraph 1, on December 6, 1968, the United States accepted title to the following described private lands from the said John Hancock Mutual Life Insurance Company:

Lassen County

Parcel No. 1

Mount Diablo Meridian, California

T. 37 N., R. 12 E.,
Sec. 1, S½S½;
Sec. 2, SE¼SE¼;
Sec. 11, N½ and N½SE¼.

Excepting Therefrom that portion which lies within that certain map entitled, "Moon Valley Ranch Unit No. 2", filed February 20, 1969, in the office of the County Recorder, Lassen County, California, in Book 6 of Maps, at Page 86.

Sec. 12, NW¼NW¼, NE¼NE¼, S½N½, and S½.

Excepting From The SE¼SW¼ and S½SE¼ all that portion lying Southerly of the Northerly Right-of-Way line of Ash Valley Road as shown on those certain maps entitled "Moon Valley Ranch Unit No. 1", filed July 12, 1968 in the office of the Lassen County Recorder, in Book 6 of Maps at page 67 and "Record of Survey No. 6–02–87 for John Hancock Mutual Life Insurance Co.", filed on February 27, 1987 in the office of the Lassen County Recorder in Book 25 of Maps at page 76.

Sec. 13, E½W½, lying Westerly of the center line of Ash Valley Road and Williams Road, as said roads are shown on that certain map entitled "Record of Survey No. 6–02–87 for John Hancock Mutual Life Insurance Co.", filed on February 27, 1987 in the office of the Lassen County Recorder in Book 25 of Maps at page 76.

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Parcel No. 2

Mount Diablo Meridian, California

T. 37 N., R. 13 E.,
Sec. 3, SW¼NW¼ and W½SE¼ lying Westerly of the Westerly right of way line of U.S. Highway 395, as said Westerly line is described in the Deeds from Glenn C. Talbott, et ux to the State of California, recorded October 10, 1939 in Book 38 of Deeds, at page 98 and recorded February 13, 1940 in Book 38 of Deeds at page 292.

Excepting therefrom all right, title and interest, including any reversionary interest, in and to all oil, oil rights, mineral rights, natural gas rights and other hydrocarbons by whatsoever name known, together with all geothermal steam and steam power that may be within or under said land as described in the deed to Eastwood Minerals and Energy Company, a California corporation, recorded September 23, 1974, in Book 283, page 37 of Official Records, which deed provides as follows:

"*Together with* the perpetual right of drilling, mining, exploring and operating therefor, and storing in and removing the same from said land, or any other land, including the right to whipstock or directionally drill and mine from lands, other than those hereinafter described, oil or gas wells, tunnels and shafts into, through or across the subsurface of the land hereinafter described and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines, with the right to drill, mine, store, explore and operate through or on, and utilize all or any portion of the surface and subsurface and of the land hereinafter described."

Parcel No. 3

Mount Diablo Meridian, California

T. 37 N., R. 13 E.,
Sec. 4, lots 1 and 2, S½NE¼, SE¼, E½SW¼, and SE¼NW¼;
Sec. 6, lot 7;
Sec. 7, lots 1 to 4, inclusive, and E½W½;
Sec. 8, N½NE¼ and NE¼NW¼.

Parcel No. 4

Mount Diablo Meridian, California

T. 38 N., R. 12 E.,
Sec. 13, SW¼SE¼;
Sec. 24, NW¼NE¼;
Sec. 26, NE¼NW¼;
Sec. 34, SW¼SW¼.

Parcel No. 5

Mount Diablo Meridian, California

T. 38 N., 13 E.,
Sec. 5, SE¼SW¼;
Sec. 8, W½NW¼ and NE¼NW¼;
Sec. 17, N½SE¼, SW¼NE¼, and SE¼NW¼.

Excepting therefrom that portion conveyed by Carrie Craft Tagney, et al, to the Nevada-California-Oregon Railway, a corporation, recorded October 24, 1930, in Book 26 of Deeds, at page 370.

Sec. 19, lot 4, SE¼NW¼, and E½SW¼;
Sec. 20, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 33, SW¼ and W½SE¼.

Parcel No. 6

Mount Diablo Meridian, California

T. 39 N., R. 12 E.,
Sec. 26, S½SE¼ and S½N½SE¼;
Sec. 28, S½SW¼ and S½N½SW¼.
Sec. 36, All.

Excepting from Parcels 1, 3, 4, 5 and 6, all right, title and interest, including any reversionary interest, in and to all oil, oil rights, mineral rights, natural gas rights and other hydrocarbons by whatsoever name known, together with all geothermal steam and steam power that may be within or under said land as described in the deed to Eastwood Minerals and Energy Company, a California corporation, recorded September 23, 1974, in Book 283, page 37 of Official Records, which deed provides as follows:

"*Together with* the perpetual right of drilling, mining, exploring and operating therefor, and storing in and removing the same from said land, or any other land, including the right to whipstock or directionally drill and mine from lands, other than those hereinafter described, oil or gas well tunnels and shafts into, through or across the subsurface of the land hereinafter described and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such well, or mines, with the right to drill, mine, store, explore and operate through or on, and utilize all or any portion of the surface and subsurface of the land hereinafter described."

Modoc County

Parcel No. 1

Mount Diablo Meridian, California

T. 40 N., R. 13 E.,
Sec. 12, SW¼NE¼, E½SW¼, W½SW¼ and SE¼SE¼.

Except an undivided one-half interest in and to all mineral rights, as reserved by Allen Wall, et ux, in the Deed recorded January 21, 1955 in Book 127, Page 54, Official Records of Modoc County.

Sec. 13, NE¼ and E½NW¼.

Except an undivided one-half interest in and to all mineral rights, as reserved by Allen Wall, et ux, in the Deed recorded January 21, 1955 in Book 127, Page 54, Official Records of Modoc County.

Parcel No. 2

Mount Diablo Meridian, California

T. 40 N., R. 13 E.,
Sec. 11, S½NE¼ and SE¼;
Sec. 12, SE¼NE¼, NE¼SE¼, W½SW¼ and S½NW¼;
Sec. 13, W½NW¼;
Sec. 14, N½NE¼.

Parcel No. 3

T. 41 N., R. 12 E.,
Sec. 25, a portion of the E½NW¼, W½NE¼ and NW¼SE¼ as described in a Trustees Deed to John Hancock Mutual Life Insurance Co., a Massachusetts Co. and more particularly described as follows:

Beginning at the Northeast corner of the W½NE¼ of said section 25; thence along the Northerly line of said section 25 South 89° 24' 42" West 1324.23 feet to the North quarter corner of said section 25; thence continuing along the Northerly line of said section 25, South 89° 39' 02" West 941.97 feet to the Easterly line of State Highway 395 as described in a Deed to the State of California, recorded April 30, 1957 in Book 148, Page 263, Modoc County Official Records; thence Southeasterly along the Easterly line of said State Highway to the Easterly line of the NW¼SE¼ of said Section 25; thence North 0° 16' 36" East 474.83 feet along the Easterly line of said NW¼SE¼ of said Section 25 to the Northeast corner thereof; thence North 0° 27' 51" East along the Easterly line of the W½NE¼ of said Section 25 a distance of 2,701.05 feet to the point of beginning.

Excepting therefrom all oil, oil rights, mineral rights, natural gas rights, and other hydrocarbon by whatsoever name known together with in all geothermal steam and steam power that may be within or under said land, together with the right of entry, for the exploration and development of same as conveyed to Eastwood Minerals and Energy Company, a California corporation, by Deed, recorded july 25, 1974 in Book 229 page 125, Modoc County Official Records.

The areas described aggregate 5,242.61 acres in Lassen and Modoc Counties.

3. The appraised value of the public lands is $1,010,000; the private lands is $970,000. A payment in the amount of $40,000 was made to the United States to equalize values between the public and private lands.

4. At 10 a.m. on May 18, 1989, the lands described in paragraph 2 above shall be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on May 18, 1989, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. At 10 a.m. on May 18, 1989, the lands described in paragraph 2 above shall be open to location under the United States mining laws. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of opening is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

6. At 10 a.m. on May 18, 1989, the lands described in paragraph 2 above shall be open to applications and offers under the mineral leasing laws.

Robert C. Nauert,
Chief, Branch of Adjudication and Records.
[FR Doc. 89-9142 Filed 4-17-89; 8:45 am]
BILLING CODE 4310-40-M

National Park Service

Concession Contract Negotiations; Waterton Inter-Nation Shoreline Cruise Co., Ltd.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Waterton Inter-Nation Shoreline Cruise Company, Ltd., authorizing them to continue to provide boat cruise and boat transportation services for the public at Glacier National Park, Montana, for a period of five (5) years from January 1, 1989, through December 31, 1993.

EFFECTIVE DATE: June 19, 1989.

ADDRESS: Interested parties should contact the Regional Director, Rocky Mountain Region, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Lakewood, Colorado 80225, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on August 31, 1988, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. section 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Jack Neckels,
Deputy Regional Director, Rocky Mountain Region.

Date: March 22, 1989.

[FR Doc. 89-9143 Filed 4-17-89; 8:45 am]
BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-21,108]

Houze Glass Corp.; Point Marion, PA; Negative Determination on Reconsideration

On February 9, 1989 the Department issued an Affirmative Determination Regarding Application for Reconsideration of the denial notice in the subject case.

Workers at Houze Glass produce decorated mugs and glassware. They do not produce the ceramic or glass blanks.

The American Flint Glass Workers Local #547 with support from the company stated that the Department used the wrong aggregate import data and submitted additional customer information for use in determining whether the contributed importantly test was met. It was also claimed that the conditions that led to the approval of eligibility in 1986 under TA-W-16,543 still exist under the current petition.

In order for a worker group to be certified eligible to apply for adjustment assistance it must meet all three criteria of the Group Eligibility Requirements of the Trade Act including the "contributed importantly" test. The "contributed importantly" test is generally demonstrated by means of a customer survey. The Department's denial was based on the fact that the "contributed importantly" test was not met. The Department's survey of Houze Glass' customers showed that the respondents either did not purchase imported decorated glass or ceramic ware or they decreased their imports during the survey period.

Reconsideration findings show that the customer mix has changed since the last certification primarily because Houze Glass divested its retail segment from its business. The large national retail accounts have been replaced by smaller advertising specialty and promotion accounts. Other findings on reconsideration show that the respondents from the advertising segment either did not import decorated mugs or glassware or had decreasing import purchases during the survey period. Accordingly, the reduced business of Houze Glass is the result of management's decision to divest itself of the retail segment and specialize in the advertising specialty and promotion segment.

Conclusion

After reconsideration, I affirm the original notice of negative determination regarding eligibility to apply for adjustment assistance to workers and former workers at Houze Glass Corporation, Point Marion, Pennsylvania.

Signed at Washington, DC, this 11th day of April 1989.

Robert O. Deslongchamps,
Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-9236 Filed 4-17-89; 8:45 am]
BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Maryland State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the Federal Register (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State Plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.210 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letter dated February 22, 1989, from Commissioner Henry Koellein, Jr., Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to: 29 CFR 1910.177, amendments and revisions to Servicing of Multi-Piece and Single Piece Rim

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Wheels, as published in the Federal Register of September 8, 1988 (53 FR 34737). This standard is contained in COMAR 09.12.31. The Maryland Occupational Safety and Health Standard was promulgated after public hearings on October 19, 1988. This standard was effective on February 20, 1989.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard is identical to the Federal standard and, accordingly, is approved.

3. *Location of the Supplement for Inspection and Copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied at the following locations during normal business hours: Office of the Regional Administrator, U.S. Department of Labor—OSHA, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner, Maryland Division of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the Office of State Programs, U.S. Department of Labor—OSHA, Room N-3700, Third Street and Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation*—Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standard is identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 18, 1989.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, Pennsylvania, this 13th day of March 1989.

Linda R. Auku,

Regional Administrator.

[FR Doc. 89-9237 Filed 4-17-89; 8:45 am]

BILLING CODE 4510-29-M

Nevada State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 4, 1974, notice was published in the Federal Register (39 FR 1008) of the approval of the Nevada plan and the adoption of Subpart W to Part 1952 of Title 29 containing the decision. The Nevada plan provides for the adoption of Federal standards as State standards by reference.

By letters dated December 28, 1988, from Nancy C. Barnhart to Frank Strasheim and incorporated as part of the plan, the State submitted State standard revisions identical to 29 CFR 1910.1001, and 29 CFR 1926.58, Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite in General Industry and Construction (September 14, 1988, 53 FR 35610) and 29 CFR 1910.20 Access to Employee Exposure and Medical Records (September 29, 1988, 53 FR 38140).

These standards are contained in the Division of Occupational Safety and Health Standards for General Industry and Construction Standards. The subject standards, 29 CFR 1910.1001, and 29 CFR 1926.58, Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite, and 29 CFR 1910.20, Employee Exposure and Medical Records were adopted by reference on October 14, 1988 and November 11, 1988 respectively, pursuant to Nevada State law, section 618.295.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the standards are identical to the Federal standards and accordingly are approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 71 Stevenson Street, Room 415, San Francisco, CA 94105; and Director, Division of Occupational Safety and Health, 1370 South Curry Street, Carson City, Nevada 89710; and Directorate of Federal Compliance and State Programs, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Nevada State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal Standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 18, 1989.

(Section 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at San Francisco, California, this 13th day of March, 1989.

Frank Strasheim,

Regional Administrator.

[FR Doc. 89-9236 Filed 4-17-89; 8:45 am]

BILLING CODE 4510-29-M

Oregon State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approval standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the Federal Register (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision. The Oregon plan provides for the adoption of Federal standards by reference.

In response to Federal standards changes, the State has submitted by letter dated January 11, 1989, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State Definition and Requirements for a Nationally Recognized Testing Laboratory Standard comparable to 29 CFR 1910.7, as published in the Federal Register (53 FR 12120) dated April 12, 1988, and amended May 11, 1988 (53 FR 16838).

The State's rules pertaining to Nationally Recognized Testing Laboratories, contained in OAR 437-02-005/ were adopted by reference and became effective on November 10, 1988, pursuant to ORS 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under Oregon APD Administrative Order 17-1988. At the same time the State also adopted by reference 29 CFR 1910.1, 1910.2, 1910.3, 1910.4, 1910.5, and 1910.6 for clarification purposes and due to the reference to them by other sections of 29 CFR 1910. As ordered and transmitted under Oregon APD Administrative Order 23-1988, Oregon also amended on December 30, 1988, effective January 1, 1989, the following previously approved State rules in 16 divisions to be identical to the Federal counterparts by updating definitions relating to testing laboratories:

OAR 437-41-005/1910.35(h)
OAR 437-61-005/1910.155(c)(3)(i)
OAR 437-66-055/1910.251(b)
OAR 437-79-245/1910.265(d)(2)(iv)(c)
OAR 437-88-210/1910.28(g)(3)
OAR 437-88-235/1910.28(i)(1)
OAR 437-89-490/1910.181(j)(4)(i)
OAR 437-123-005/1910.106(a)(35)
OAR 437-125-005/1910.110(a)(14)
OAR 437-125-305/1910.110(f)(5)(iv)
OAR 437-143-005/1910.103(a)(1)(ii)
OAR 437-45-2551/1910.109(d)(2)(iii)(a)
OAR 437-63-230/1910.178(a)(7)
OAR 437-67-005/1910.399(a)(1)
OAR 437-88-205/1910.205/1910.28(f)(2)
OAR 437-88-230/1910.28(h)(2)
OAR 437-89-360/1910.180(i)(4)(i)
OAR 437-119-005/1910.107(a)(8)
OAR 437-124-005/1910.108(a)(3)
OAR 437-125-125/1910.110(c)(5)(i)(g)
OAR 437-126-010/1910.111(b)(1)(ii)
OAR 437-317-025/1910.266(c)(4)(iii)-(iv)

On October 3, 1988, the State mailed the proposed November 10 amendment of rules to those on the Department of Insurance and Finance mailing list, established pursuant to OAR 436-01-000 and to those on the Department's distribution list as their interest appeared. On December 14, 1988, the State mailed the proposed December 30 amendment of rules to those on its lists. No written comments or requests for a public hearing were received.

As noted at OAR 437-02-007, by adopting these rules, Oregon does not establish its own program to accredit testing laboratories but will accept the Federal OSHA laboratory accreditation program as valid for compliance with its rules.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard and amendments are identical to the Federal standard and amendments.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003 Federal Office Building, 909 First Avenue, Seattle, Washington 97174; Department of Insurance and Finance, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Occupational Safety and Health Administration, Room N-3476, 200 Constitution Avenue NW., Washington DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication of the following reasons:

1. The standard is identical to the Federal standard which was promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 18, 1989.

(Section 18, Pub. L. 91-596, Stat. (29 U.S.C. 667))

Signed at Seattle, Washington this 22nd day of February, 1989.

James W. Lake,

Regional Administrator.

[FR Doc. 89-9239 Filed 4-17-89; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co.; Withdrawal of Applications for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the March 29, 1989 request of the Baltimore Gas and Electric Company (the licensee) for withdrawal of Change No. 2a of the licensee's request for amendments, dated October 17, 1986 and modified on November 25, 1987, to Facility Operating License Nos. DPR-53 and DPR-69, issued to the Baltimore Gas and Electric Company (BG&E, the licensee) for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, located in Calvert County, Maryland.

The proposed amendments would change the Units 1 and 2 Technical Specifications (TS) as follows:

1. Modify the steam generator tube inservice inspection interval of TS 4.4.5.3.a by extending it from 12-24 months to a new interval of at least once per refueling interval, where a refueling interval would be defined as 24 months. In addition, the provisions of TS 4.0.2.a would now be applicable, thus permitting a maximum allowable interval extension of 25% (6 months) beyond the normally required 24-month period.

2. Delete the interval reduction to 20 months currently required by TS 4.4.5.3.b for C-3 results during third sample inspections.

3. Eliminate the interval extension to 40 months permitted by TS 4.4.5.3.a, for C-1 results in two consecutive steam generator tube inspections.

The Commission issued a "Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing" which was published in the Federal Register (52 FR 10179) on March 30, 1987. No requests for hearing were filed regarding this Notice.

By letter dated March 29, 1989, the licensee withdrew its applications for the proposed amendments.

For further details with respect to this action, see (1) the application for amendment dated October 17, 1986, (2) the application supplemental information letter dated November 25, 1987, and (3) the licensee's letter of March 29, 1989, withdrawing the applications for amendments which are available for public inspection at the Commission's Public Document Room,

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2120 L Street, NW., Washington, DC, and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Rockville, Maryland, this 10th day of April 1989.

For the Nuclear Regulatory Commission.

Scott Alexander McNeil,

Project Manager, Project Directorate I-2, Division of Reactor Projects I/II.

[FR Doc. 89-8201 Filed 4-17-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-286]

Power Authority of the State of New York; Withdrawal of Applications for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of the Power Authority of the State of New York (the licensee) to withdraw its March 6, 1987 and October 13, 1987 (the part related to containment temperature) amendment applications for the Indian Point Nuclear Generating Unit No. 3 (IP-3), located in Westchester County, New York. The proposed amendments would have revised the Technical Specifications to include a provision related to a containment ambient temperature of 130 °F. The basis for the licensee's request for withdrawal is that a reanalysis is being performed of the containment integrity and a revised submittal will be provided.

The Commission issued a Notice of Consideration of Issuance of the Amendments in the **Federal Register** on April 22, 1987 (52 FR 13346) and March 9, 1988 (53 FR 7509). By letter dated March 6, 1989, the licensee requested, pursuant to 10 CFR 2.107, permission to withdraw its applications for the proposed amendments. The Commission has considered that licensee's March 6, 1989 request and determined that permission to withdraw the applications for amendment should be granted.

For further details with respect to this action, see (1) the applications for amendments dated March 6, 1987 and October 13, 1987; (2) the licensee's letter dated March 6, 1989, requesting withdrawal of the application for license amendment; and (3) our letter dated March 31, 1989. All of the above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 31st day of March 1989.

Joseph D. Neighbors,

Senior Project Manager, Project Directorate I-3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-8202 Filed 4-17-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Co., et al., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 70 to Facility Operating License No. NPF-10 issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit 2, located in San Diego County, California.

The amendment was effective as of the date of issuance.

This amendment revised Technical Specifications 3/4.4.8.1, "Pressure/Temperature Limits;" 3.4.1.4.1, "Cold Shutdown-Loops Filled;" 3.4.1.2, "Hot Shutdown;" 3.4.8.3.1, "Overpressure Protection System, RCS Temperature less than or equal to 235°F;" and 3.4.8.3.2, "Overpressure Protection System, RCS Temperature greater than 235°F." These changes revised the pressure/temperature and low temperature overpressure protection limits for operation through 8 effective full power years. The amendment was issued in response to an application for an amendment designated as PCN-278.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on February 24, 1989 (54 FR 8039). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined that an environmental impact statement will not be prepared and that issuance of the amendment will have no significant adverse effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated November 7, 1988, and subsequent submittals dated December 29, 1988 and February 23, 1989, (2) Amendment No. 70 to License No. NPF-10, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V and Special Projects.

Dated at Rockville, Maryland this 11th day of April, 1989.

For the Nuclear Regulatory Commission.

D. E. Hickman,

Project Manager, Project Directorate V, Division of Reactor Projects-III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-8203 Filed 4-17-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-03196; License No. 37-13651-01; EA 88-236]

St. Agnes Medical Center; Order Imposing Civil Monetary Penalty

I

St. Agnes Medical Center, Philadelphia, Pennsylvania 19145 (the "licensee") is the holder of License No. 37-13651-01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission" or "NRC") which authorizes the medical use of byproduct material by the license. The license was issued on May 14, 1970, was most recently renewed on December 9, 1986, and is due to expire on November 30, 1991.

II

An NRC Safety inspection of the licensee's activities under the license was conducted on August 10 and November 2, 1988. During the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the licensee by letter dated February 2, 1989. The Notice states the nature of the violations, the provisions of the Nuclear Regulatory Commission's requirements that the licensee had violated, and the civil penalty amount for each of the violations. A response, dated February 23, 1989, to the Notice was received from the licensee. In its response, the licensee did not deny the violations, but requested mitigation or waiver of the civil penalty.

III

Upon consideration of the answer received, the statement of facts, explanations, and argument for remission or mitigation of the proposed civil penalty contained therein, and as set forth in the Appendix to this Order, the Deputy Executive Director for Materials Safety, Safeguards and Operations Support has determined that the penalty proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 99-235), and 10 CFR 2.205, *It is hereby ordered that:*

The licensee pay a civil penalty in the amount of Two Thousand Five Hundred Dollars ($2,500) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The licensee may, within thirty days of the date of this order, request a hearing. A request for a hearing shall be clearly marked as a "Request for Hearing" and shall be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Assistant General Counsel for Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and the Regional Administrator, USNRC Region 1, 471 Allendale Road, King of Prussia, Pennsylvania 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within thirty days of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) Whether, on the basis of the violations, this Order should be sustained.

Dated at Rockville, Maryland this 10th day of April 1989.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Material Safety, Safeguards and Operations Support.

Appendix

Evaluation and Conclusion

On February 2, 1989, a Notice of Violation and Proposed Imposition of Civil Penalty was issued for violations of a license issued to St. Agnes Medical Center. The licensee responded to the Notice on February 23, 1989, did not deny the violations, but requested waiver or mitigation of the Civil Penalty. The NRC's evaluation and conclusion regarding the licensee's response are as follows:

I. Restatement of Violations

A. 10 CFR 35.50(b)(1) requires that licensees check each dose calibrator for constancy at the beginning of each day of use.

Condition 15 of License No. 37-13651-01 requires that the licensee possess and use licensed radioactive material in accordance with the statements, representations, and procedures contained in the radioactive material license application dated December 31, 1985, and in letters dated September 19, 1986, October 31, 1986, and October 24, 1988.

Item 17.C of the application dated December 31, 1985, requires that areas in which licensed radioactive material, other than where any quantities less than 200 mircrocuries are used, be surveyed weekly.

Contrary to the above, between July 17 and July 30, 1988, areas in which licensed radioactive material, in quantities greater than 200 microcuries were used, were not surveyed.

This is a repeat violation.

B. 10 CFR 35.70(a) requires that licensees survey with a radiation detection survey instrument at least once a week all areas where radiopharmaceuticals or radiopharmaceutical waste is stored.

10 CFR 35.70(e) requires that licensees survey for removable contamination once each week all areas where radiopharmaceuticals are routinely prepared for use. administered, or stored.

Condition 15 of License No. 37-13651-01 requires that the licensee possess and use licensed radioactive material in accordance with the statements, representations, and procedures contained in the radioactive material license application dated December 31, 1985, and in letters dated September 19, 1986, October 31, 1986, and October 24, 1988.

Item 17.C of the application dated December 31, 1985, requires that areas in which licensed radioactive material, other than where any quantities less than 200 mircrocuries are used, be surveyed weekly.

Contrary to the above, between July 18 and July 29, 1988, the radiopharmaceutical preparation, use, and administration areas were not surveyed.

This is a repeat violation.

C. 10 CFR 35.70(b) requires that licensees survey with a radiation detection survey instrument at least once a week all areas where radiopharmaceuticals or radiopharmaceutical waste is stored.

10 CFR 35.70(e) requires that licensees survey for removable contamination once each week all areas where radiopharmaceuticals are routinely prepared for use. administered, or stored.

Condition 15 of License No. 37-13651-01 requires that the licensee possess and use licensed radioactive material in accordance with the statements, representations, and procedures contained in the radioactive material license application dated December 31, 1985, and in letters dated September 19, 1986, October 31, 1986, and October 24, 1988.

Item 17.C of the application dated December 31, 1985, requires that areas in which licensed radioactive material, other than where any quantities less than 200 mircrocuries are used, be surveyed weekly.

Contrary to the above, between July 17 and July 30, 1988, areas in which licensed radioactive material, in quantities greater than 200 microcuries were used, were not surveyed.

This is a repeat violation.

D. Condition 15 of License No. 37-13651-01 requires that the licensee possess and use licensed radioactive material in accordance with the statements, representations, and procedures contained in the radioactive material license application dated December 31, 1985, and in letters dated September 19, 1986, October 31, 1986, and October 24, 1988.

1. Item 14 of the application dated December 31, 1985, requires that each incoming package containing

In the event the licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) Whether, on the basis of the violations, this Order should be sustained.

Dated at Rockville, Maryland this 10th day of April 1989.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Material Safety, Safeguards and Operations Support.

Appendix

Evaluation and Conclusion

On February 2, 1989, a Notice of Violation and Proposed Imposition of Civil Penalty was issued for violations of a license issued to St. Agnes Medical Center. The licensee responded to the Notice on February 23, 1989, did not deny the violations, but requested waiver or mitigation of the Civil Penalty. The NRC's evaluation and conclusion regarding the licensee's response are as follows:

I. Restatement of Violations

A. 10 CFR 35.50(b)(1) requires that licensees check each dose calibrator for constancy at the beginning of each day of use.

Condition 15 of License No. 37-13651-01 requires that the licensee possess and use licensed radioactive material in accordance with the statements, representations, and procedures contained in the radioactive material license application dated December 31, 1985, and in letters dated September 19, 1986, October 31, 1986, and October 24, 1988.

Item 10 of the application dated December 31, 1985, Section I, page 3 requires that the dose calibrator be tested for constancy on each day that the instrument is used for the assay of radiopharmaceuticals.

Contrary to the above, on August 2 and 3, 1988, the dose calibrator was used for the assay of radiopharmaceuticals which were subsequently administered to patients, and the dose calibrator was not tested for constancy at the beginning of each day.

B. 10 CFR 35.70(a) requires that licensees survey with a radiation detection survey instrument at the end of each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered.

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radioactive material be surveyed as soon as practicable after receipt.

Contrary to the above, between July 18 and July 29, 1988, incoming packages containing radioactive material were not surveyed as soon as practicable after receipt.

This is a repeat violation.

2. Item 10 of the application dated December 31, 1985, section IV, requires that a test for instrument linearity be performed quarterly. If a deviation of greater than ±5 percent is found between the instrument reading and the decay corrected value at any point on the range of administered values, the instrument will be repaired.

Contrary to the above, on August 8–10, 1988, the results of a linearity test of the dose calibrator indicated a deviation of greater than ± 5 percent between the instrument reading and the decay corrected value at certain points on the range of administered values. The instrument was not repaired and the licensee continued to use the instrument to assay patient doses until mid-September, 1988.

These violations have been categorized in the aggregate as a Severity Level III Problem. (Supplement VI)

Cumulative Penalty—$2,500 (assessed equally among the violations)

II. Summary of Licensee Response

The licensee, in its response, did not deny the occurrence of the violations. However, the licensee requests that the NRC waive or mitigate the $2,500 civil penalty because the problems were first identified and corrected by them, were not willful, and current performance is consistent with license conditions.

The licensee sets forth additional circumstances it feels are relevant to support mitigation of the civil penalty, including: (1) The technologist involved in the violations is no longer employed by the licensee; (2) there was a lack of communication between the licensee and its consultant; and (3) the Radiology Administrator position was vacant at the time of the violations.

III. NRC Evaluation of Licensee Response

The licensee's identification and correction of a violation may provide a basis for at least partial mitigation of the civil penalty. However, these considerations were offset by the fact that certain of the violations were identified in previous NRC inspections in 1984 and again in 1987 and the corrective actions taken to prevent recurrence were not effective. In addition, the licensee submitted no information regarding the corrective actions taken or planned to permit an evaluation of their adequacy. Further, while the existence of a willful violation may result in an increase in the severity level and consequent escalation of a civil penalty, the fact that a violation was not willful does not form a basis for mitigation. Finally, since compliance with all license conditions and regulatory requirements is expected at all times, the licensee's current compliance with regulatory requirements is not a basis for mitigation of the civil penalty.

The repetitive nature of certain of the violations, as identified above, is reflective of a programmatic problem in the licensee's management and control of its licensed activities. Therefore, even though the technologist involved in the violations is no longer employed by the licensee, that fact does not warrant mitigation of the civil penalty. Furthermore, rather than providing a basis for mitigation, the communication problem between the licensee and its consultant and the vacancy in the Radiology Administrator's position is merely additional evidence that the licensee failed to maintain an adequate program to ensure that licensed activities were carried out in conformance with license conditions and regulatory requirements.

IV. NRC Conclusion

The licensee did not provide a sufficient basis for mitigation of the amount of the civil penalty. Therefore, the NRC concludes the proposed civil penalty in the amount of § 2,500 should be imposed.

[FR Doc. 89-9204 Filed 4-17-89; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260 and 50-296]

Tennessee Valley Authority; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-33, DPR-52 and DPR-68 issued to Tennessee Valley Authority (TVA or the licensee), for the operation of the Browns Ferry Nuclear Plant located in Limestone County, Alabama.

In accordance with the licensee's application for amendment dated February 14, 1989, the amendment would temporarily revise the limiting conditions for operation (LCO) requirements 3.7.E.1 and 3.7.E.3. The changes to these LCOs involve annotating these sections to note that the Control Room Emergency Ventilation System (CREVS) is considered to be inoperable because it does not meet its design basis for zero unfiltered inleakage of outside air. The proposed temporary changes to the technical specifications would permit power operation and the subsequent defueling, refueling, and subcritical functional testing until the start-up of Unit 2 from its next refueling cycle The licensee will provide a permanent resolution to this condition and implement it during this interval.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 18, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by the proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene must be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions should be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisficies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washigton, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Suzanne C. Black: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

Nontimely filings of the petition for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated February 14, 1989, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, Washington, DC, 20555, and at the Athens Public Library, South Street, Athens, Alabama 35611.

Dated at Rockville, Maryland, this 12th day of April 1989.

For the Nuclear Regulatory Commission.

Suzanne C. Black,

Assistant Director for Projects, TVA Projects Division, Office of Nuclear Reactor Regulation.

[FR Doc. 89-9205 Filed 4-17-89; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-271-OLA]

Atomic Safety and Licensing Appeal Board; Vermont Yankee Nuclear Power Corp; Oral Argument

In the Matter of Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station) (Spent Fuel Pool Amendment)

Notice is hereby given that, in accordance with the Appeal Board's order of April 11, 1989, oral argument on the ruling referred to us by the Licensing Board in its February 2, 1989, memorandum and order (LBP-89-6) will be heard at 1:30 pm. on Wednesday, May 3, 1989, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

For the Appeal Board.

Dated April 12, 1989.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 89-9264 Filed 4-17-89; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by the Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, 450 Fifth Street NW., Washington, DC 20549

New

Leverage Buyout Employment Effects Questionnaire

File No. 270-327

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance a leverage buyout employment effects questionnaire. The questionnaire requests information on levels of employment and wages at facilities acquired from corporations that have undergone leveraged buyouts.

The estimated average burden hours to comply with these requests is two hours for each of the approximately 150 respondents.

The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative survey or study.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street NW., Washington, DC 20549-6009, and Gary Waxman, Clearance Officer, Office of Management and Budget, Paperwork Reduction Act Project (3235-0416A), Room 3208 New Executive Office Building, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

April 12, 1989.

[FR Doc. 89-9230 Filed 4-17-89; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-26705; File No. SR-DTC-89-5]

Self-Regulatory Organizations; Depository Trust Co.; Filing and Immediate Effectiveness of Proposed Rule Change Modifying Put Option Processing Procedures

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on March 2, 1989, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change. The proposal modifies DTC's processing procedures in situations where a partial redemption of

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an issue occurs at the same time a DTC participant exercises a put option on securities in the issue. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposal will clarify DTC's procedures to improve the coordination of its processing of a concurrent put option expiration and partial redemption. When the expiration of a put option [1] occurs concurrently with the processing of a call, DTC will, in giving participants put option information, alert participants to the concurrent processing of a call lottery.[2] In the event that notification of a call is received so late that the lottery cannot be completed prior to the second business day before the expiration date for the put exercise, DTC will not process the lottery, due to the likelihood that one or more participants with positions may be driven short (*i.e.*, will end up owing securities to DTC) and the very limited time available to make a decision whether to exercise the put. Rather, DTC will allocate the called bonds against tender instructions it has received. The circumstances under which this approach may be followed are: (1) That the put payment date and the redemption date are the same, and (2) that the proceeds (*i.e.*, principal and interest) to be paid under the put or the call are identical in total and in each part (*i.e.*, the same amount of principal payable and the same amount of interest payable). If either of these conditions is *not* present, however, DTC will process the lottery (because there would be a difference in the economic effect of the put and the call).

[1] Many municipal bonds and other DTC-eligible securities contain put option provisions either in the indenture, or as a dealer-issued enhancement, where by the holder may redeem the bond prior to maturity date. Depending upon the provision in the indenture, the put option may be exercised as frequently as daily, periodically, or once before the bond's maturity date. A participant with a bond deposited at DTC may exercise the put through DTC. Upon instruction of the participant, DTC will tender the bond to the tender agent. When DTC receives payment from the tender agent, DTC allocates that payment to the tendering participant.

[2] Bond issuers on their agents sometimes call for the return of bonds to the issuer prior to maturity. The call may be for a full redemption (*i.e.* the return of the entire issue) or a partial redemption (*i.e.* the return of a portion of the issue). An issuer that makes a partial call will run a random lottery of all outstanding certificates to determine which certificates, or portions thereof, it will redeem. DTC, as a depository for many of these issues, holds for its participants a significant percentage of most called securities issues. Once DTC receives notice of a partial call, DTC must run its own lottery to allocate, among participants with deposits in the called securities issue, called certificates registered in DTC's nominee name. DTC then redeems the called bonds on the day of redemption on behalf of the participants.

In its filing, DTC explains that in most instances in which a DTC-eligible issue contains a put option provision and is subject to a redemption call, the put expiration date and the redemption date are far enough apart to avoid confusion. Occasionally, however, the two events occur on the same day, potentially causing several problems. First, a concurrent put and redemption can make it difficult for a DTC participant (or its customer) to know its exact securities position. This interferes in the process of making an informed decision on whether or not it will have enough securities to exercise the put option. Second, a participant may have part of a position that it has already tendered under the put option called in the lottery on the redemption, resulting in a short position in the participant's account. Finally, DTC, in extreme cases, may not have in inventory a sufficient quantity of uncalled securities to satisfy put option tender instructions after it has processed the call. This could occur if a large number of participants submit put option tender instructions just prior to the processing of the call lottery. DTC believes that the proposed rule change will decrease the chance of occurrence of these problems.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views, and arguments concerning the submission within 21 days after date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Reference should be made to File No. SR–DTC–89–5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of the filing (SR–DTC–89–5) and of any subsequent amendments also will be available for inspection and copying at DTC's principal office.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 10, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9147 Filed 4–17–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26654; File No. SR–GSCC–89–1]

Self-Regulatory Organizations; Government Securities Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change Regarding Trade Comparison Operations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 9, 1989, GSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify GSCC's Rules and Procedures.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule change is to permit implementation of certain enhancements to the comparison system:

(i) In the present comparison system, both parties to a trade are required to submit matching data on the same day for the trade to compare. The proposed rule change would provide for the addition of a "pending file" that would permit data on uncompared trades to pend in the comparison system until compared or deleted; deletion of the data generally will occur during the processing cycle before settlement day. This "pending" feature would enable Members' forward settling and when-issued trades ultimately to be compared even if the parties to the trades do not submit matching trade data on the same day. It is contemplated that, when the netting system is implemented, the compared trade file will be the source of trade data input into the netting system.

(ii) The proposed rule change would provide an "as-of" feature that will enable Members to submit for comparison trade data on or after the settlement date for the underlying transactions. This feature would afford a Member the ability to confirm settled trades, and would provide an improved audit trail for such trades.

(b) The proposed rule change will promote the prompt and accurate clearance of securities transactions for which GSCC is responsible and is, therefore, consistent with the requirements of the 1934 Act, as amended, and the rules and regulations thereunder applicable to self-regulatory organizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule will have an impact on, or impose a burden on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change have not yet been solicited or received. Members will be notified of the rule change and comments will be solicited by an Important Notice. GSCC will notify the Securities and Exchange Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)A of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the GSCC–89–1 and should be submitted by May 9, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 21, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9235 Filed 4–17–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26713; File No. SR–OCC–88–02]

Self-Regulatory Organizations; Options Clearing Corporation; Order Approving Proposed Rule Change Providing for the Issuance, Clearance, and Settlement of Index Participations

I. Introduction

On March 3, 1988, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change (File No. SR–OCC–88–02) under section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder.[2] The proposal would enable OCC to issue, clear, and settle a new product known as Index Participations ("IPs") whose value is determined by reference to the value of an underlying stock index. The Commission published notice of the proposal in the **Federal Register** on April 4, 1988.[3] OCC amended the proposed rule change on June 3, 1988,[4] December 19, 1988,[5] January 27, 1989, and March 16, 1989.[6] The Commission received four comment letters opposing the proposed rule change.[7] For the reasons discussed below, the Commission has determined to approve the proposed rule change.[8]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 25529 (March 28, 1988), 53 FR 10860. As originally proposed, the rules referred to IPs as Cash Index Participations ("CIPs"). CIPs initially were proposed by, and would be listed and traded on, the Philadelphia Stock Exchange, Inc. ("Phlx"). *See* Securities Exchange Act Release No. 25495 (March 23, 1988), 53 FR 10311, providing notice of proposed rule change by Phlx that would enable Phlx to list and trade CIPs based on two stock market indexes.

[4] Securities Exchange Act Release No. 25867 (June 29, 1988), 53 FR 25560. Because the American Stock Exchange, Inc. ("Amex") proposed to list and trade Equity Index Participations ("EIPs") pursuant to rules then similar to those proposed by Phlx for CIPs [*see* Securities Exchange Act Release No. 25664 (May 5, 1988), 53 FR 16605], the amendment, among other things, changed the name of the product in OCC's proposed rules from CIPs to IPs so that the rules may apply generally to IPs. Subsequently, the Chicago Board Options Exchange, Inc. ("CBOE") submitted proposed rule changes to list for trading Value of Index Participations ("VIPs") [*see* Securities Exchange Act Release No. 25799 (June 13, 1988), 53 FR 22754].

[5] *See* Securities Exchange Act Release No. 26366 (December 22, 1988), 53 FR 52901. This amendment conforms OCC's proposed IP rules to the proposed rules, as amended, filed by the exchanges.

[6] Because these amendments contain no new concepts but merely modify rules previously proposed by OCC, the amendments have not been published for comment in the **Federal Register**. The amendments make OCC's proposed rules more precise and respond to various comments on the proposed rules that OCC had received.

[7] *See* letter from Thomas R. Donovan, President, Chicago Board of Trade, to Jonathan G. Katz, Secretary, SEC, dated April 26, 1988; letter from Philip L. Stern, Freeman, Freeman & Salzman, P.C., on behalf of the Chicago Mercantile Exchange ("CME"), to Jonathan G. Katz, Secretary, SEC, dated April 29, 1988; letter from Philip L. Stern, Freeman, Freeman & Salzman, P.C., on behalf of the CME, to Jonathan G. Katz, Secretary, SEC, dated August 2, 1988; and letter from Jerrold E. Salzman, Freeman, Freeman & Salzman, P.C., on behalf of the CME, to Jonathan G. Katz, Secretary, SEC, dated January 11, 1988. These commentators opposed the OCC filing for the same reasons set forth in comment letters opposing the parallel exchange rule filings. Accordingly, these comments are discussed in Securities Exchange Act Release No. 26709 (April 11, 1989), ("Exchange approval order"): *See* note 37, *infra*.

[8] The Commission also has approved the related exchange rule filings (SR–Phlx–88–07, SR–Amex–88–10, and SR–CBOE–88–09) enabling the exchanges to list and trade a variety of IP products. *See* Exchange approval order, *id.*

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II. Description of the Proposal

The proposal amends OCC By-Laws and Rules to provide for the issuance, clearance, and settlement of IPs. An IP is a product whose value is determined by reference to the value of an underlying stock index.[9] IPs were designed to place the holder of an IP in an economic position substantially equivalent to that of a purchaser of a portfolio or basket of stocks comprising the underlying index. A holder of an IP would be entitled to receive, and the writer of an IP would be obligated to pay, a quarterly dividend equivalent. The dividend equivalent would equal the regular cash dividends accrued over the quarter which the owner of a basket of stocks described above would be entitled to receive; it would not include stock dividends or extraordinary cash dividends. An IP would exist until the holder or writer extinguishes the IP by entering into an offsetting writing or purchasing transaction, or exercises a "cash-out privilege" that is available, depending on the IP, on a daily, quarterly or semi-annual basis.

The cash-out privilege provides for a payment in cash based upon the current value of the component stocks of the underlying index at the time specified by each exchange during which the privilege is available.[10] For example, Phlx's proposed IP rules provide that the cash-out privilege would be available to holders of IPs on any business day. Pursuant to the proposed Phlx rules, however, exercise of the cash-out privilege would entitle an exercising holder to an "aggregate cash-out value" [11] computed in a different manner depending on the day of exercise. If the CIP holder exercises on the business day before an IP dividend equivalent day, the aggregate cash-out value would be based on the opening values of the stocks in the underlying index on the IP dividend equivalent day. If the CIP holder exercises on any other business day, the aggregate cash-out value would be based on the closing index value on the business day following the exercise, reduced by one-half of one percent.

For CBOE VIPs, each writer as well as each holder would be entitled to a cash-out privilege on a semi-annual basis. These IPs therefore are referred to in OCC's proposed rules as "two-way IPs." The writer's cash-out privilege would entitle the writer to extinguish the short position and pay the cash-out value. Holders of two-way IPs would have a corresponding obligation, upon assignment of a writer's exercise notice, to extinguish long IP positions in exchange for payment of the cash-out value.

On the Amex, EIP holders would be entitled to exercise either the cash-out privilege or a delivery privilege on a quarterly basis. EIP holders could receive either the cash-out value or, under certain circumstances, physical delivery of shares of the component stocks of the S&P 500 Index or the Major Market Index. EIPs for which the delivery privilege has been exercised are referred to as "physical IPs" in OCC Rules. Specifically, the holder of one or more delivery units[12] that has not chosen to exercise the cash-out privilege has the right to obtain on each delivery time, which coincides with the quarterly cash-out time, the physical delivery of a proportionate number of shares of each stock comprising the underlying index, subject to certain conditions. A delivery fee established by the Amex would be charged to the EIP holder taking physical delivery of the component stocks.

Exercise notices requesting physical delivery of one or more delivery units will be assigned first, on a random basis, to those short EIP positions that have notified OCC of a desire to make physical delivery ("physical assignment volunteers"). If the number of delivery units for which holders have requested physical delivery exceeds the number of units made available for delivery by persons with short EIP positions, an Amex-designated "delivery facilitator" would assume responsibility for delivering the physical shares for such excess number of units.[13]

In proposing rules that would provide for the issuance, clearance, and settlement of IPs, OCC has, where appropriate, paralleled its existing rules and procedures. The proposal consists of a new Chapter XIX to OCC Rules applicable to IPs; amendments to Chapter VI dealing with margin; amendments to Chapter X to provide for a clearing fund contribution for IPs; revisions to the close-out provisions in Chapter XI; and conforming changes to Rules 207, 401, and 402 dealing with records and trade reporting. In addition, the proposal amends a number of OCC By-Laws and adds a new Article XVIII dealing exclusively with IPs.

A. Processing of IPs

OCS would process IP transactions in accordance with procedures that are substantially similar to OCC's well-established system for processing equity and non-equity option ("NEO") transactions. As discussed in more detail below, OCC would receive compared trade data from the exchanges, issue and (in the case of closing transactions) cancel the appropriate contracts. OCC would make appropriate book entries to clearing members' accounts representing the long and short positions in each account.[14] IP transactions would settle through OCC's existing systems on a next-day basis in same-day funds.[15] OCC would collect margin on short IP positions. As discussed below, CIPs, VIPs, and certain EIPs are cash-settled. Therefore, OCC would process exercises and assignments according to procedures similar to those for NEO securities. On the other hand, certain EIPs provide the holder the right to physical delivery of the securities that comprise the index.

[9] The Phlx has designated two indexes for CIP trading: the Blue Chip Index, a price-weighted index composed of 25 highly capitalized listed common stock issues representing primarily industrial corporations which is designed to reflect the performance of the Dow Jones Industrial Average ("DJIA"), and the Standard & Poors 500 ("S&P" 500) Index. The Amex EIPs will be based on the Major Market Index ("XMI") and the S&P 500 Index. CBOE VIPs will be based on the capitalization-weighted CBOE 30 and CBOE 250 indexes developed and maintained by the Exchange, and the S&P 500 Index. All IPs covering the same index group and having identical contract terms constitute a "class of IPs."

[10] The days on which the cash-out privilege is available for IPs traded on each Exchange are stated in interpretations added to OCC's Rules. Generally, the cash-out time for each quarterly or semi-annual period, depending on the IP, will be determined and made public by each Exchange before the beginning of such period. Amex has determined that its cash-out time will coincide with "dividend equivalent day"—the third Friday of March, June, September and December. *See* Rule 1903, Interpretations and policies .02, .03 and .04.

[11] Aggregate cash-out value is equal to the settlement index value times the index multiplier times the minimum trading unit. The Exchanges have determined that the minimum unit of trading in IPs shall be 100 IPs, unless otherwise designated by the Exchange. OCC By-Laws, Article XVIII, Section 1.

[12] The term "delivery unit" regarding any class of physical IPs means the unit, consisting of the minimum number of trading units of such IPs specified by the Exchange, for which the delivery privilege may be exercised. the Amex has established the delivery unit as 500 minimum trading units for the S&P 500 Index and 250 minimum trading units for the XMI. OCC By-Laws, Article XVIII, section 1. *See* Securities Exchange Act Release Nos. 26243 (November 2, 1988), 53 FR 45407, and 26355 (December 13, 1988), 53 FR 51181, for a detailed discussion of the physical delivery aspect of Amex's proposal.

[13] The delivery facilitator would be an OCC clearing member that is a member organization of the exchange. OCC By-Laws, Article XVIII, Section 1. Initially, the Amex contemplates designating only one facilitator per EIP class and notes that the facilitator may be the specialist unit for that class of EIPs. *See* Securities Exchange Act Release No. 26355 (December 13, 1988), 53 FR 51181.

[14] IPs would be uncertificated securities.

[15] The proposed IP rules provide that OCC reserves the right to pay clearing members by issuance of an uncertified check for the net settlement amount.

Settlement of exercises and assignments regarding these physical IPs would be effected through designated stock clearing corporations.

For example, OCC's proposed system for processing exercises and assignments of the IP cash-out privilege generally parallels the system for processing exercises and assignments of NEO and equity securities. Specifically, clearing members exercising the cash-out privilege would tender exercise notices to OCC between 10:00 a.m. and 8:00 p.m. (Eastern Time) [16] on any day such exercises are permitted. In accordance with its existing procedures, OCC would accept all properly tendered exercise notices on the date of tender ("T") and would assign, pursuant to its procedures for random selection,[17] exercise notices in connection with the cash-out privilege submitted by exercising IP holders (or writers, in the case of two-day IPs) to clearing members with short positions (or long positions, in the case of two-way IPs) in that class of IP.

OCC would calculate the aggregate cash-out value[18] for each class of IPs on T+2 ("exercise settlement date") and would net the exercise settlement amounts to be paid by the clearing member against the exercise settlement amounts to be paid to the clearing member to obtain a single net settlement amount for IP exercises and assignments for each account of each clearing member. Prior to 8:00 a.m. on exercise settlement date, OCC would issue a report to clearing members advising them of their cash delivery and receive obligations. OCC would be authorized to draft clearing members' bank accounts at or before 10:00 a.m., and would be obligated to credit clearing members' bank accounts at or before 11:00 a.m., as appropriate, is satisfaction of net settlement amounts.

With respect to a feature of Amex EIPs, however, a holder could exercise the delivery privilege, instead of the cash-out privilege, by tendering an exercise notice to OCC between 10:00 a.m. and 8:00 p.m. on any day such exercises are permitted. Additionally, an EIP writing clearing member desiring to become, or acting on behalf of an EIP writer that desires to become, a physical assignment volunteer would tender to OCC a physical assignment volunteer notice between 10:00 a.m. and 8:00 p.m. on any day which exercises are permitted regarding such IPs. Again, OCC would accept all properly tendered exercise notices and would accept properly tendered physical assignment volunteer notices to the extent they equal or are exceeded by the number of delivery units to which physical delivery exercise notices have been accepted by OCC. If the number of delivery units for which physical assignment volunteer notices were submitted was smaller than the number of physical delivery exercise notices tendered to OCC, OCC would randomly assign a sufficient number of exercise notices in connection with the delivery privilege to non-volunteering physical IP writers to make up the imbalance. These writers would be required to pay to OCC the aggregate cash-out value on T+2. OCC then would notify the delivery facilitator,[19] before the opening of trading on the next business day, of the amount of the imbalance and it would buy the necessary shares to make up the baskets of deliverable stock in the opening transactions on the relevant markets.[20]

Delivery privilege exercises and assignment of delivery privilege exercises to physical assignment volunteers would be settled through the facilities of designated clearing corporations. Following the close of trading on the business day following the day on which delivery privilege exercise notices have been accepted by OCC, OCC would report the net amount of deliverable stock to be received or delivered to the designated clearing corporation of each clearing member. Clearing members making delivery would pay to OCC, and OCC would pay to the clearing member entitled to receive delivery, the entire "aggregate delivery value" [21] of each delivery unit on the morning of the sixth business day following the day on which a delivery privilege exercise notice is properly tendered to OCC ("T+6" or "exercise settlement date"). Under this method, each clearing member entitled to receive delivery would then pay its designated clearing corporation the appropriate price for each component stock on T+6.[22]

OCC has designed a new rule to deal with a feature unique to IPs—the dividend equivalent. Proposed Rule 1902 provides that the exchange notify OCC on each day prior to an IP dividend equivalent day the amount of the dividend equivalent to be received by IP holders and paid by IP writers on dividend equivalent day. The amount of the dividend equivalent is determined by the exchange on which the IP is traded based upon the regular cash dividends paid on stocks comprising the underlying index through the quarterly period. OCC, in turn, would notify clearing members prior to 8:00 a.m. on dividend equivalent day of their obligation to pay to OCC or to receive from OCC the net IP dividend equivalent.[23] The procedures for payments of dividend equivalents would conform to other settlement procedure provisions in OCC Rules, as discussed above.

B. Margin

As the issuer of IPs, OCC guarantees the performance of clearing member IP writers and holders. To collateralize this guarantee in the event a clearing member defaults, OCC requires writing clearing members to, among other things, deposit margin with OCC.[24]

[16] All times referred to herein are Eastern Time.

[17] *See* Securities Exchange Act Release No. 21899 (March 27, 1985), 50 FR 13444, approving OCC's revised random assignment procedures.

[18] Aggregate cash-out value is equal to the settlement index value (based on the opening trades of the index's component stocks on T+1) as reported by the exchange or the reporting service designated by the exchange, times the index multiplier times the minimum trading unit. If the settlement index value is not reported to OCC in a timely manner, OCC would be authorized to suspend settlement regarding that class of IPs and to fix a new exercise settlement date. The settlement index value as initially reported would be presumed to be accurate and would be final for purposes of calculating the aggregate cash-out value.

[19] In the event that the agreement of a delivery facilitator to act as such, or the delivery facilitator's status as an OCC clearing member is terminated or suspended prior to the opening of trading on the trading day following the day on which an IP is exercised for delivery of stock, OCC would have the right to pay the cash-out value in lieu of stock to the extent that the exercise was assigned to the delivery facilitator rather than a volunteer writer.

[20] The delivery facilitator would buy at the opening because the aggregate cash-out value paid by non-volunteering physical IP writers would be based on the value of the underlying index calculated using opening values.

[21] Aggregate delivery regarding a delivery unit of IPs refers to the value of such delivery unit, equal to the aggregate cash-value times the delivery unit.

[22] Settlement at stock clearing corporations generally is by payment of certified check in clearinghouse (*i.e.*, next-day) funds.

[23] OCC would be obligated to pay clearing members that are entitled to dividend equivalents even if OCC does not receive a payment from a clearing member that owes OCC dividend equivalents. OCC would use the defaulting clearing member's margin deposits and clearing fund contribution to pay the amount of the dividend equivalent to the clearing member entitled to receive it. If a defaulting clearing member's margin deposit and clearing fund contribution are inadequate, OCC would assess pro rata all clearing members' clearing fund contributions to the NEO clearing fund.

[24] OCC's margin requirements apply only to OCC clearing members and should not be confused with the minimum margin that must be maintained in customer accounts as set by the exchanges in accordance with Regulation T of the Federal Reserve Board ("FRB").

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OCC generally would calculate clearing member margin requirements for short IP positions in a manner similar to that used for OCC's NEO margin system.[25] The NEO margin system has two components—premium margin, which can be a requirement or a credit, and additional margin. The term "premium margin" used in respect of IPs means the number of minimum trading units times the current highest asked price (or, in the case of exercised or assigned IP positions, times the aggregate current index value). "Additional margin" is calculated by determining assumed maximum one-day price movements in the underlying assets and projecting the effect of such movements on the liquidating value of the position on the basis of options pricing models.

Because IPs do not have an exercise price or expiration date, the "series" concept for option contracts would not apply. OCC would not differentiate among IPs based on the same underlying index, and a class group, *i.e.*, IPs based on the same underlying index, would include only one class of IPs. The proposal also would extend the product group concept to IPs, so that a class group consisting of a class of IPs may be margined on a combined basis with other class groups of IPs or index options, where OCC has determined that their respective underlying indexes exhibit sufficient price correlation to warrant such margin treatment. For example, a class group consisting of the XMI EIP could be combined with a class group consisting of the S&P 500 EIP, CIP and VIP for margin calculations because they both belong to the broad-based indexes product group.[26] Moreover, these class groups could be combined with index options such as the XMI option traded on the Amex, and the S&P 100 and S&P 500 index options traded on the CBOE, because these, too, belong to the broad-based indexes product group.[27]

When writers assigned exercises of the cash-out privilege pay OCC the aggregate cash-out value on exercise settlement date on T+2, OCC would release margin held in respect of those positions. OCC would continue to require margin from clearing members with the obligation to deliver stock until exercise settlement day for physical delivery on T+6. The delivery facilitator, however, would be required only to post additional margin (*i.e.*, margin to cover OCC's exposure to an adverse market move during the day on which it was required to buy deliverable stock), and not premium margin because the assigned writers would be obligated to OCC for that amount, and that obligation would be secured by the margin deposits of those writers.[28] Because IPs would be margined under OCC's NEO margin system, the proposal provides that each clearing member's contribution to the NEO clearing fund would be calculated on the basis of margin requirements for IPs as well as NEOs.[29]

The proposal also would extend OCC's Pledge Program to IPs thereby allowing clearing members to obtain financing by pledging long IPs as collateral to support loans from banks or other clearing members. Additionally, IPs would be eligible to be pledged from segregated (customer) accounts. In this regard, Phlx and Amex requested an interpretation from the FRB [30] that IPs be treated as equity securities for purposes of the relevant provisions of Regulation T.[31] Thus, the exchanges proposed that IPs be margined like common stock.[32] Accordingly, the FRB staff issued a letter not objecting to the commencement of IPs trading employing the proposed initial and maintenance margin for IPs.[33] Therefore, long IP positions in a customer account that constitute customer margin securities would be able to be pledged to secure obligations of the carrying broker to the same extent as common stock.[34] Amendment No. 3 makes explicit that IPs could be transferred into and out of pledge accounts only in multiples of minimum trading units.

C. Suspension of an IP Clearing Member

The proposal would amend existing OCC Rules dealing with suspension of a clearing member to incorporate references to IPs. Because failure to pay a dividend equivalent or to meet settlement obligations with respect to IPs is necessarily a failure to meet a daily money obligation to OCC, OCC's proposed rules would provide for the application of its existing suspension rules and the disposition of settlement obligations through the Liquidating Settlement Account.[35] OCC would close out short IP positions [36] of a suspended clearing member, like uncovered short option positions, in the most orderly manner practicable. Any dividend equivalents that may be owed regarding short IP positions of a suspended clearing member would be withdrawn from the Liquidating Settlement Account. Proposed rule 1908 expressly would state that the suspension of a clearing member in the course of cash-out privilege exercise settlement would not affect the settlement procedures applicable to other clearing members.

Proposed Rule 1906 would provide close-out procedures in the event a clearing member that is obligated to deliver stock fails to perform, or a clearing member that is entitled to receive deliverable stock is suspended before its designated clearing corporation becomes obligated to make settlement for the deliverable stock. In the former case, OCC would direct clearing members entitled to receive deliverable stock, *i.e.*, the clearing member matched against the non-performing clearing member in the stock trades reported to the stock clearing corporations, to buy in the stock for the account and liability of OCC, and settle the buy-in as quickly as possible after it occurred. In the latter case, OCC would direct delivering clearing members to sell out the deliverable stock and pay the proceeds of the sale to OCC.

The proposal also would amend OCC's By-Laws. Among other things, a new Article dealing with IPs provides definitions applicable to IPs, most of which parallel the definitions used regarding index options. The proposed Article also would set out the general rights and obligations of IP holders and writers. Additionally, in this Article OCC would reserve the right, on 30 days' notice, to exercise the cash-out privilege on behalf of all holders of a class of IPs, and thereby close out the market in that class, under certain extraordinary circumstances, *e.g.*, when there is a lack of regular trading activity in such class.

The proposal also would amend various OCC By-Laws to accommodate IPs. Among these changes, Article I would define "cleared security" to include IPs and would clarify that the terms "exercise" and "Exercising Clearing Member" can refer to exercise of the cash-out privilege in connection with IP transactions.

III. OCC's Rationale for the Proposed Rule Change

OCC believes the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because it would provide for the prompt and accurate clearance and settlement of transactions in IPs. OCC states in its filing that the proposed rule applies to IPs rules and procedures substantially similar to those that have been used in the clearance and settlement of transactions in equity and non-equity options. Moreover, OCC believes that the proposed rule change provides for the safeguarding of securities and funds in OCC's custody or control or for which OCC is responsible, in that it would apply to IPs a system of safeguards which is substantially the same as the system OCC currently uses for options.

IV. Discussion

For the reasons discussed below, the Commission is approving OCC's proposal. The Commission believes that OCC's proposal is consistent with Section 17A of the Act and OCC's obligation to promote the prompt and accurate clearance and settlement of securities transactions and to safeguard securities and funds in OCC's custody and control.[37]

Since the October 1987 market-break, a number of studies have recommended creating a market basket product.[38] These studies suggest that such a product could, among other things, ameliorate the volatility and steep price declines experienced during and since October 1987. These studies also focus on clearance and settlement of equities, options and futures, and the need to develop safe and efficient clearance and settlement systems both within and between markets. The latter focus is the subject of this filing and order.[39]

The Commission is satisfied that the proposed system for processing IP transactions is substantially similar to OCC's well-established system for processing NEO transactions. The Commission believes that use of that system is well designed to promote the prompt and accurate clearance and settlement of transactions in IPs consistent with section 17A(b)(3) of the Act. With certain exceptions for physical IPs and IP dividend equivalent payments that will be discussed below (as well as the characteristics pertaining to the potential perpetual existence of IPs), the proposed system is identical to OCC's system for processing NEO transactions. For example, exchanges will use existing systems to report opening and closing trades in IPs to OCC. Additionally, OCC will maintain records and process opening and closing transactions,[40] will process exercise notices in connection with the cash-out privilege, and will assign those exercises to OCC clearing members with IP positions on the other side of the market in accordance with existing procedures. Finally, OCC will effect net settlement each day with its clearing members for all IP and option transactions, including amounts owed in connection with dividend equivalents, pursuant to its well-established settlement procedures.

At least one market break report [41] noted that efforts to monitor clearing firm risk more effectively are critical to reducing risk and increasing confidence in the markets. In connection with this, the report emphasized the need for market participants to have access on a timely basis to information concerning the specific size and nature of their payment obligations so that they can make appropriate arrangements to fulfill them. In this regard, the Commission is concerned that clearing members know their IP dividend equivalent payment obligation in sufficient time to collect the payment from their customers or to arrange financing to meet that obligation. The Commission notes that although many of the indexes underlying IPs are well-established and widely disseminated, there are no arrangements for separately quoting the value of the dividend equivalent at this time. The Commission recognizes that the formulas for calculating the different index values will be set out in exchange rules and, therefore, a clearing member could compute the amount due with respect to each IP trading unit from published reports of dividends paid before dividend equivalent day. Nevertheless, the Commission urges OCC, in the months after IP trading commences, to monitor the ability of clearing members to meet their dividend equivalent obligations and to discuss with clearing members and the exchanges whether there is a need for earlier dissemination of IP dividend equivalent values.[42]

The Commission agrees with OCC that is is appropriate to include IPs in OCC's existing NEO margin system for OCC clearing members. Like NEOs, IPs generally are cash-settled.[43] In

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[25] OCC's NEO margin system employs a portfolio evaluation methodology using options price theory to project the cost of liquidating a portfolio of positions in the event of an assumed "worst case" change in the price of the underlying interests. *See* Securities Exchange Act Release No. 23167 (April 22, 1986), 51 FR 16127, in which the Commission approved OCC's NEO margin system.

[26] A haircut would be applied to additional margin credits to account for the lack of perfect correlation between class groups.

[27] OCC would not provide margin credit for unsegregated long physical IP positions in a clearing member's customer's account as to which the delivery privilege has been exercised, on and after the second business day after tender of the exercise notice, because OCC would not be able to control the long value of the position on and after that day.

[28] In effect, the delivery facilitator would receive a margin credit equal to the sum of the aggregate cash-out values paid to OCC in connection with assignments of physical delivery exercises, because OCC would be holding that amount pending settlement with the delivery facilitator on exercise settlement day.

[29] Delivery facilitators would not be required to contribute to OCC's NEO clearing fund on account of their facilitating activities unless they otherwise carry IP or NEO positions.

[30] *See* letters to Laura Homer, Securities Credit Officer, FRB, from Richard T. Chase, Executive Vice President, Phlx, dated February 3, 1989, and from Gordon L. Nash, Senior Executive Vice President, Legal and Regulatory Affairs, Amex, dated March 8, 1989.

[31] *See* 12 C.F.R. 220.5(c) and 220.18 (a), (c), and (f) (1988).

[32] *See* Exchange approval order at 86-88.

[33] *See* letter from Laura Homer, Securities Credit Officer, FRB, to Richard Ketchum, Director, Division of Market Regulation, SEC, dated March 20, 1989.

[34] OCC's proposed rules require the clearing member to represent that all IPs pledged from customer accounts constitute margin securities. *See* OCC Rule 611.

[35] *See* OCC Rule 1104. The Liquidating Settlement Account is a special account created upon the suspension of an OCC clearing member. The account consists of the suspended clearing member's assets on deposit with OCC, including margin deposits, securities held in bulk, and that member's OCc clearing fund contributions. OCC closes out a suspended clearing member's outstanding obligations to OCC through transactions in this account.

[36] Currently, there are no "covered short IP positions" and the provisions of the rules that address these positions would have no effect. OCC has filed a separate rule change that would set out the requirements for IP escrow receipts. *See* Securities Exchange Act Release No. 26435 (January 10, 1989), 54 FR 1832. The Commission currently is reviewing this proposal.

[37] Several commentators expressed the belief that IPs are stock index futures, not securities. That issue is discussed in detail in the order approving the exchanges' proposal to trade IPs and, therefore, is not addressed in this order. This order incorporates the exchanges' approval order rationale for concluding that IPs are securities. *See* note 7, *supra*.

[38] *See, e.g.*, N. Katzenbach, *An Overview of Program Trading and Its Impact on Current Market Practices* (December 21, 1987) and Division of Market Regulation, *The October 1987 Market Break* (February 1988) ("Staff Report"). *See also* Report of the Presidential Task Force on Market Mechanisms (January 1988) and the Interim Report of the Working Group on Financial Markets (May 1988) ("Working Group Report") for other recommendations arising out of the October 1987 market break.

[39] *See* Exchange approval order, *supra*, note 7, for a discussion of the benefits of a market basket product.

[40] Unlike NEOs where OCC collects the premium from IP purchasers and requires writers to post as margin the premium plus an additional margin amount, OCC would collect from IP purchasers the aggregate index value and IP writers would be required to post (in the form of cash or other adequate collateral) the highest asked price or, for exercised or assigned IPs, the aggregate index value, plus an additional margin amount.

[41] *See* Working Group Report, *supra*, note 37.

[42] Based on experience regarding the actual settlement of IP dividend equivalent obligations, the Commission will review whether the exchanges should make available, on a routine basis, information regarding estimated or accrued dividend equivalents.

[43] Physical IPs, which are settled by delivery of the component stocks in the underlying index, are discussed below.

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approving the NEO margin system,[44] the Commission determined that it provided a refined methodology for calculating margin, resulting in increased protection to OCC against adverse price movements in underlying assets. Additionally, recognizing that no margin system is designed to protect against the most extreme market moves, the Staff Report issued in connection with the October market break generally concluded that OCC's NEO margin system is a reliable method of risk measurement. Nevertheless, the Commission expects OCC to review and reassess periodically the NEO margin system and to make modifications, where appropriate, to deal safely with more volatile markets.[45]

The proposal also extends OCC's Pledge Program to proprietary and market maker IP positions. Thus, clearing members will be able to pledge IP positions maintained in proprietary and market maker accounts to lenders.[46] Additionally, because the FRB has determined that IPs may be treated as margin securities under Regulation T, the proposal would extend OCC's Pledge Program to IP positions in customer accounts.[47] The Commission supports this extension of the Pledge Program because it provides clearing members the ability to obtain additional financing through the pledge of customer IP positions maintained in margin accounts. Moreover, the Commission believes that use of OCC facilities to conduct this pledge activity should provide greater certainty to banks financing clearing member, broker-dealer, and customer IP positions.

The Commission notes that, unlike OCC rules dealing with NEOs, the proposed IP rules provide OCC the authority to exercise the cash-out privilege for an entire class of IPs on thirty days' notice to IP holders and writers in certain limited, extraordinary circumstances. For example, such circumstances would include, but are not limited to, a lack of regular trading activity in a class of IPs or the impending termination of business on the part of OCC or the exchange on which that class of IPs is traded. The Commission agrees with OCC that it should have the ability to terminate a class of IPs under extraordinary circumstances because, unlike options which expire at a pre-established time, IPs are of unlimited duration. The Commission recognizes that in certain circumstances OCC may want to act expeditiously to close out a class of IPs. Nevertheless, the Commission notes that OCC's By-Laws authorize OCC to exercise the cash-out privilege on a *minimum* of thirty days' notice. The Commission believes this period provides sufficient notice to allow market participants to make any needed adjustments to other related securities or futures positions. Nevertheless, given the extraordinary nature of a mandatory cash-out, the Commission expects OCC to make every effort to provide more than thirty days' notice where possible.

The Amex EIP provides holders exercising the delivery privilege the ability to obtain the basket of securities underlying either the XMI or the S&P 500 Index, thus creating a mechanism for the delivery of a standardized portfolio of equity securities. An EIP holder exercising the delivery privilege could obtain shares in as many as 500 companies. To otherwise establish such a portfolio would require the purchase of 500 different securities.

OCC will process exercises of the delivery privilege in a manner similar to that used for individual equity options with some modifications to reflect the unique characteristics of EIPs. For example, OCC will report EIP matched trade information to the designated clearing corporation reflecting the right of the exercising clearing member to receive shares in each of the component stocks underlying the EIP index and the obligation of either the delivery facilitator or a volunteering writing clearing member, as contra party to the exercising clearing member, to deliver an equal amount of shares in each of the component stocks. Because matched EIP trades will be processed in the designated clearing corporation's continuous net settlement ("CNS") system,[48] the designated clearing corporation will step between the exercising clearing member and the contra party and, in place of OCC, will guarantee those deliveries. Thus, clearing members will be able to net deliver and receive obligations in connection with physical EIP exercises with other activity in the underlying component stocks. Nevertheless, because the designated clearing corporations' CNS systems require clearing members to pay market value for securities delivered to them and pays to delivering clearing members the market value of securities they deliver (in satisfaction of their CNS delivery obligations), OCC must provide funds to the clearing member who will receive securities from the designated clearing corporation (*i.e.*, the exercising clearing member) so that the exercising clearing member can pay the designated clearing corporation and the designted clearing corporation can pay the delivering clearing member (*i.e.*, either the delivery facilitator or a volunteering EIP writer). Because the clearing member exercising the EIP physical delivery privilege previously paid the full value of the index for the right to receive the components stocks, OCC and the designated clearing corporations have converted a free delivery obligation into a delivery against payment or receipt against payment obligation.

The Commission believes it is appropriate to settle exercises of physical EIPs in this manner because it is consistent with one-account settlement.[49] The conversion of a free delivery obligation into a delivery against payment obligation, however, raises two concerns about cash flows. The proposed process for settling EIP delivery privilege exercises requires coordinated funds flow among many parties. The Commission notes that, in such a system, there is a risk of default by persons holding funds pending completion of the delivery process.[50]

[44] *See, supra*, note 25.

[45] OCC recently completed a review of its margin system. *See* OCC, The Backup System: A Special Study by the Margin Committee Subcommittee (August 31, 1988). The subcommittee's report contains a number of recommendations concerning OCC's margin policies and practices. The Commission understands that OCC's Board of Directors is considering those recommendations and will implement many in the near future.

[46] OCC's Pledge Program is a convenient mechanism for processing pledge loans to clearing members because OCC will recognize the pledgee's interest in pledge positions. *See* Securities Exchange Act Release Nos. 24171 (March 4, 1987), 52 FR 7724; 22278 (July 30, 1985), 50 FR 31804; 20994 (May 25, 1984), 49 FR 23132; and 19086 (July 19, 1983), 48 FR 33080.

[47] Long option positions, although they can be paired with short options to reduce margin requirements, currently have no loan value for purposes of Regulation T.

[48] CNS uses the system price (usually the previous days' reported closing price) to price members' payment obligations. Delivery and receive obligations are adjusted on a daily basis by a mark-to-the-market. Thus, by paying a mark-to-the-market, a clearing member with a right to receive can use that long position to offset a delivery obligation that will arise tomorrow. In CNS, every right to receive carries the obligation to pay, and every obligation to deliver carries the right to receive the system price.

[49] Section 17A requires the Commission to facilitate the development of a national clearance and settlement system. One feature of such a system is one-account settlement, *i.e.*, the ability to clear and settle through one entity all securities trades, regardless of the location of the other party to the trade or the market in which the trade is executed.

[50] For example, generally only broker-dealers hold memberships in OCC and designated clearing corporations, *e.g.*, National Securities Clearing Corporation ("NSCC"). Therefore, a large institution that maintains EIP positions must rely on the creditworthiness of a broker-dealer in converting its

Continued

The Commission acknowledges OCC's representations[51] that discussions are underway with the designated clearing corporations to develop a more simple process for settling exercises of physical EIPs. Nevertheless, the Commission believes it is imperative, within the months after IP trading commences, for OCC and the designated clearing corporations to design a system through which OCC can pay directly to the designated clearing corporation cash that would otherwise be paid to the exercising clearing member (perhaps using the margin deposits posted by the assigned EIP holders) on behalf of the exercising clearing member, which would entitle the exercising clearing member to receive securities, subject to daily marks-to-the-market, without payment on delivery.[52]

On the basis of the foregoing, the Commission finds that OCC's proposed rule change is consistent with the Act and, in particular, with section 17A of the Act.

Accordingly, *It Is Therefore Ordered*, under section 19(b)(2) of the Act, that the proposal [File No. SR-OCC-88-02] be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 11, 1989.

Jonathan G. Katz,

Secretary.

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EIP positions to a portfolio of the underlying securities. If the broker-dealer clearing member fails while processing EIP exercises on behalf of the institutional customer and losses exceed Securities Investor Protection Corporation ("SIPC") insurance limits, that institution may suffer financial loss. Instead of having an identifiable interest in the underlying securities or the EIPs, the institution may share pro rata with all other customers in the pool of customer property maintained by the broker-dealer.

[51] Telephone conversation between Judith Poppalardo, Attorney, SEC, and James R. McDaniel, Schiff Hardin & Waite, on February 3, 1989.

[52] Such a system exists today at at least one designated clearing corporation albeit for different purposes. *See* Securities Exchange Act Release No. 25107 (October 1, 1987), 52 FR 36939 (approving a recent NSCC rule change that would allow an NSCC-Depository Trust Company ("DTC") member to instruct NSCC to charge the member's settlement account for 130% of the value of securities the member anticipated borrowing, but, in fact, did not receive. NSCC would segregate these funds in a fully paid-for account. This protects an NSCC-DTC member who makes a security delivery in anticipation of borrowing stock from being out of compliance with Rule 15c3-3 under the Act [the customer protection rule], if the stock is not borrowed).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26714; File No. SR-Phlx-88-16]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Relating To Disqualification of Specialists From Receiving New Allocations Following Removal of Listings

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice hereby is given that on March 23, 1989, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX, pursuant to Rule 19b-4 under the Act, hereby submits as a proposed rule change supplementary material to its Rule 506, which Rule delineates the application process for an equity book or options class in connection with an allocation or reallocation by the PHLX Allocation, Evaluation and Securities Committee. The proposed supplementary material provision would prohibit a specialist from applying for any new listings for up to a year after a security was taken away from the specialist in: (1) A reallocation proceeding, or (2) a disciplinary proceeding. The text of the proposed commentary is as follows (new text is italicized):

Rule 506. (a) through (e) No change.

* * * Supplementary Material.

.01 A specialist may not apply for any new listings for a six (6) month period after a stock or option was taken away from the specialist in: (i) an involuntary reallocation proceeding; or (ii) a disciplinary proceeding. Such specialist is also prohibited from applying for any new listings for a second six month period unless the Exchange is satisfied that adequate corrective actions have been undertaken by the specialist.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

Although the proposed restriction is presented as supplementary material to PHLX Rule 506, its effect and intent would be to complement the provisions of PHLX Rules 511 and 515. Rule 511(C) allows the Exchange to reallocate an equity book or options class if the specialist unit is found to have performed below minimum standards. Rule 515 and the supplementary material thereto delineate the format for specialist evaluations by the Exchange. These rules do not specifically restrict a specialist unit's ability to receive new allocations following the reassignment of a book or class due to a reallocation or disciplinary action.

It would be inappropriate for a specialist unit to obtain a new listing during a period of time immediately subsequent to its loss of a listing. The PHLX Allocation Committee would probably not award new books during such period. It would strengthen the PHLX allocations rules, however, to specifically codify that result. It would also provide specialists notice of definite repercussions for substandard performance with respect to their specialist responsibilities or being subject to serious disciplinary findings.

It should be noted that the proposed rule change would not constitute a permanent bar to obtaining new listings. Rather, the prohibition would be merely long enough to grant a specialist sufficient time to remedy the deficiencies which lead to the reallocation of its listing(s). In this regard, it should be further noted that a second six (6) month prohibition would only be imposed if the Exchange is not satisfied that adequate corrective actions have been undertaken by the specialist which gave rise initially to specialist books being removed from the unit initially.

The proposed rule change is consistent with Section 6(b) of the Act in that it will enhance the PHLX's ability to ensure the fair allocation of securities to specialist units and to prevent the allocation of securities to specialist units whose performance is below acceptable standards. Further, it is

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consistent with investor protection, the public interest and the maintenance of fair and orderly markets to impose temporary allocation restrictions on specialists who have had a security reallocated due to substandard performance and/or disciplinary actions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the PHLX consents, the Commission will: (A) By order approve such proposed rule change, or, (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Stret NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 9, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 11, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9232 Filed 4-17-89; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-16906; (812-7123)]

EuroPacific Growth Fund; Notice of Application

April 10, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: EuroPacific Growth Fund.

Relevant 1940 Act Sections: Exemption requested under Section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) and Rule 22c-1 thereunder.

Summary of Application: Applicant seeks an order amending a prior order (Investment Company Act Release No. 14195, October 15, 1984) ("Prior Order") which permits the assessment and waiver of a contingent deferred sales load ("CDSL"). The amended order would permit the waiver of the CDSL in certain additional situations, and would provide a credit for any CDSL paid in connection with the redemption of any shares followed by a reinvestment effected within 30 days of such redemption.

Filing Dates: The application was filed on September 12, 1988, and amended on February 13 and March 15, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on May 5, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personnally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicant, c/o Michael J. Downer, Esq. Capitol Research and Management Company, 333 South Hope Street, Los Angeles, CA 90071.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst, (202) 272-3420, or Brion R. Thompson, Branch Chief, (202) 272-3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch in person, or the SEC's commercial copier, (800) 231-3282 (in Maryland, (301) 258-4300).

Applicant's Representations

1. Applicant is registered under the 1940 Act as an open-end, diversified management investment company. Applicant's shares are offered to the public through broker-dealers that have dealer agreements with American Funds Distributors, Inc., Applicant's pricipal underwriter. Applicant offers its shares for sale at net asset value plus a traditional sales charge on transactions involving less than $1,000,000. For purchases of $1,000,000 or more, Applicant imposes no front-end sales charge, thereby enabling such purchasers to have the proceeds of their purchase payments fully invested at the time the investments are made.

2. The Prior Order, which was issued on behalf of Applicant and other funds in the American Funds Group of Funds ("American Funds") permits the imposition of a CDSL on certain redemptions of shares with an initial price of $1,000,000 or more. The amount of the CDSL payable upon redemption is equal to 1% of the lesser of the net asset value of Applicant's shares at the time of purchase or the net asset value of the shares at the time of redemption. The maximum amount of any CDSL or any combination of CDSL and sales load payable at the time Applicant's shares are purchased, does not exceed the maximum sales charge that could have been imposed at the time the shares were purchased under Article III, section 26(d) of the Rules of Fair Practice promulgated by the National Association of Securities Dealers. No amount is charged to shareholders or to the Applicant that is intended as payment of interest or any similar charge related to a CDSL.

3. In addition, no CDSL is imposed when the investor redeems on: (1) Amounts derived from increases in the value of the account above the total cost of shares being redeemed due to increases in the net asset value per share of Applicant; (2) shares acquired through reinvestment of dividend income and capital gains distributions; or (3) shares held for more than 12 months. In determining whether a CDSL is payable, it is assumed that shares held the longest are the first to be redeemed.

4. Applicant currently waives the CDSL on: (i) An exchange of shares offered by Applicant for shares of the Other Funds in the American Funds Group, and (ii) redemptions in connection with distributions from retirement plans qualified under the Internal Revenue Code ("Code") section 401(a) when such redemptions are necessary to make distributions to plan participants.

5. Applicant proposes to amend the Prior Order to permit additional waivers of the CDSL on redemptions in connection with (i) Distributions from a Custodial Account under Code Section 403(b)(7) ("403(b) plan") or an IRA due to death, disability or attainment of age 59½, (ii) a tax-free return of an excess contribution to an IRA, (iii) distributions by other employee benefit plans to pay benefits, and (iv) distributions from a retirement plan qualified under Code section 401(a) due to death. Applicant also proposes to amend the Prior Order to provide a credit for any CDSL paid in connection with a redemption of shares followed by a reinvestment of the proceeds of the redemption effected within 30 days of the redemption.

6. The Applicant's Board of Trustees will consider, among other items, the amount of revenue generated by the CDSL and paid to Applicant's distributor during their annual review of the Applicant's distribution plan adopted under Rule 12b-1 under the 1940 Act.

Applicant's Legal Analysis

1. Applicant asserts that the requested waiver of the CDSL for retirement plan distributions is justified on basic considerations of fairness. In each situation in which the CDSL would be waived, the redeeming shareholder is a member of a class of sharholders favored under the tax laws and in fairness such redeeming shareholder should not be penalized by a sales charge. Also, the requested waiver benefits remaining shareholders by encouraging retriement plan investments. These large investments considerably increase the Applicant's asset base and average account size, thereby reducing Applicant's operating expenses.

2. Applicant further asserts that the proposed waiver of the CDSL on redemptions in connection with the IRAs, 403(b) plans and other employee benefit plans reflects the Code's granting of favorable tax treatment to accumulations under such plans and imposing additional taxes on early retirement plan distributions. Similarly, waiving the charge on redemptions for distributions from retirement plans qualified under Code section 401(a) due to death is appropriate for policy reasons, as it is consistent with the Code's waiver of the early distribution penalty for distributions due to the participant's death.

3. Applicant submits that the proposed credit of the CDSL for redemptions and subsequent reinvestments within 30 days also serves shareholder interests. Consistent with the provisions of Rule 22d-1, Applicant permits redeemed shareholders to reinvest the proceeds of the redemption within 30 days without paying an initial sales charge, thereby allowing investors to avoid the sales load if they erroneously redeemed or had second thoughts about the redemption.

Applicant's Conditions

If the request to amend the Prior Order is granted, Applicant agrees to the following conditions:

1. Applicant will comply with the provisions of Rule 12b-1 under the 1940 Act both currently and as that rule may be modified by the SEC in the future.

2. Applicant will comply with the provisions of Rule 22d-1 under the 1940 Act.

3. Applicant will comply with the provisions of proposed Rule 6c-10 under the 1940 Act as currently stated and as it is adopted.

4. Applicant agrees that the exemptive relief requested does not cover any person, or any affiliated person of such person (or any affiliated person of such affiliated person) who holds Applicant out to the public, or who, directly or indirectly, causes Applicant to be held out to the public as being "No Load" or uses, or who, directly or indirectly, causes the use of terminology that, given the context and presentation, is likely to convey to investors the impression that no charges for sales or promotional expenses are imposed on shares issued by Applicant.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9233 Filed 4-17-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[PUBLIC NOTICE CM-8/1279]

National Committee of the U.S. Organization for the International Radio Consultative Committee; Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on April 26, 1989 at the Department of State, 2201 C Street NW., Washington, DC. The meeting is planned for all day, convening in Room 1205 at 9:30 in the morning and Room 1912 at 1:30 in the afternoon. An escort will be at the main entrance to the building (22nd and C Streets) during the periods 9:15-9:35 a.m. and 1:15-1:35 p.m. to facilitate entry.

The purpose of the United States Organization is to assist and advise the Department on matters concerning participation in the international CCIR activities. It is charged with promoting the best interests of the United States, providing advice on matters of policy and positions in preparation for Study Group meetings, and recommending the disposition of proposed U.S. contributions to the international CCIR which are submitted to the Committee for consideration. The National Committee constitutes a steering body, and as such has purview of the work of the national study groups and other activities.

The main purposes of the meeting will be to:

1. Report on preparations for the CCIR Final Study Group Meetings to be held in the Fall of 1989;

2. Identification of major upcoming CCIR issues;

3. Consideration of future activities; (the following items will be taken up after 1:30 p.m.)

4. Report on preparations for the CCIR Extraordinary Study Group 11 Meeting on high definition television (HDTV) to be held May 10-16, 1989 in Geneva;

5. Other business and next meeting.

Members of the general public may attend the meeting and join in discussions subject to instructions of the Chairman. Admittance of public members is limited to available seating. All persons wishing to attend the meeting must contact the office of Richard Shrum, Department of State, Washington, DC; phone (202) 647-2592, telefax (202) 647-5957. Entrance to the State Department building is controlled, and attendees must use the C Street entrance.

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Date: April 7, 1989.
Richard E. Shrum,
Chairman, U.S. CCIR National Committee.
[FR Doc. 89-9176 Filed 4-17-89; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 7, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 46230

Date filed: April 4, 1989.
Due date for answers, conforming applications, or motion to modify scope: May 1, 1989.
Description: Application of Air Alliance Inc. pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a foreign (a) scheduled air transportation of persons, property, and mail between Boston, Massachusetts and Montreal, Canada, and (b) charter air transportation of persons, property, and mail between points in Canada and points in the United States.

Docket No. 46234

Date filed: April 4, 1989.
Due date for answers, conforming applications, or motion to modify scope: May 2, 1989.
Description: Application of Eagle Air, Ltd., pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a foreign air carrier permit to engage in charter foreign air transportation of property and mail between a point or points in The Turks and Caicos Islands and a point or points in the United States of North America, with blind sector traffic rights.

Docket No. 46236

Date filed: April 4, 1989.
Due date for answers, conforming applications, or motion to modify scope: May 2, 1989.
Description: Application of Continental Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, requests a certificate of public convenience and necessity which will authorize Continental to provide scheduled foreign air transportation of persons, property and mail between Honolulu, Hawaii, on the one hand, and Nagoya, Japan, on the other hand.

Docket No. 45637

Date filed: March 27, 1989.
Description: Amendment to the Application of Continental Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations to request a certificate of public convenience and necessity authorizing foreign air transportation of persons, property and mail as follows; Between the terminal point Los Angeles, California, and the coterminal points San Jose Del Cabo (Los Cabos), La Paz, Loreto, and Huatulco, Mexico.

Docket No. 45783

Date filed: March 27, 1989.
Description: Amendment to the Application of Continental Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations to add the following new subparagraph to Paragraph 3; (5) Between the terminal point San Diego, California and the terminal point Mexico City/Toluca, Mexico.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 89-9156 Filed 4-17-89; 8:45 am]
BILLING CODE 4910-62-M

Maritime Administration

Eligibility of Vessels To Carry Preference Cargoes Under the Food Security Act of 1985; Policy Determination

Notice is hereby given that the Maritime Administration (MARAD) has determined, as a matter of policy, that the 3-year rule, given in section 901(b)(1) of the Merchant Marine Act, 1936, as amended (Act), applies to cargoes specified in section 901b. Accordingly, the Chief Counsel's advisory letter of July 11, 1988 is hereby withdrawn. This determination maintains the historical *status quo*, thus providing an opportunity for the Congress, if desired, to address the ambiguity created by the absence of the 3-year wait requirement in section 910k. The background and basis for this determination follow.

On July 11, 1988, the MARAD Chief Counsel responded to a written request for interpretive advice regarding certain eligibility criteria for U.S.-flag vessels to transport agricultural preference cargoes under amendments to the Act, contained in the Food Security Act of 1985 ("the Food Security Act"). The Chief counsel's July 11, 1988 letter advised that vessels newly documented under U.S. registry that meet the national security and age criteria specified in section 901k of the Act, as eligible to carry the incremental 25 percent of agricultural preference cargo under provisions of the Food Security Act (contained in section 901b(a)(1) of the Act), and that such vessels are not subject to the 3-year waiting period after U.S. documentation imposed on a eligibility of "privately owned United States-flag commercial vessels" built or rebuilt outside the United States or documented under any foreign registry pursuant to section 901(b)(1) of the Act.

On December 21, 1988, MARAD was petitioned by a U.S.-flag operator (Petitioner) engaged in the carriage of preference cargoes. Petitioner requested MARAD to withdraw the July 11, 1988 Chief Counsel advisory letter, pending reconsideration. On January 4, 1989, Petitioner was notified that MARAD would reconsider the advisory letter and notice was concurrently published in the **Federal Register** (54 FR 223), inviting public comment. In addition to a supplemental submission from Petitioner, 28 timely comments were received, 10 in support of the Chief Counsel's position and 18 in accord with Petitioner's view that the advisory letter was erroneous and should be withdrawn. Both legal arguments and policy issues concerning the Chief Counsel's advice were raised in several of these submissions.

MARAD undertook review and analysis of all submissions including later filed comments. The record indicates that the constructions of the pertinent sections of the Act by both the Petitioner and the Chief Counsel are reasonable legal interpretations. It is further noted that the language of section 901b(c)(1), when considered in conjunction with section 901k, leaves room for honest difference of opinion concerning the applicability of the 3-year rule, as the record indicates. Therefore, MARAD will maintain the *status quo* by interpreting the statute to require the 3-year waiting period, reflecting traditional interpretation and recognizing the repeated failures of recent legislative initiative to remove it entirely.

MARAD has a broad charter under the Act, which includes the policy aspects of statutory implementation. Given more than one reasonable interpretation of the statutory provisions at issue and the lack of any clear statement in the legislative history on point, MARAD must look to the policy considerations involved. To the extent that the inapplicability of the 3-year rule to the carriage of the incremental 25 percent would result in the addition to the U.S.-flag fleet of vessels that can satisfy the age and national-security utility criteria of section 910k, it would be consistent with much of the policy mandate in section 101(d) of the Act. However, it is inconsistent with the clause "constructed in the United States" in that section. Furthermore, because of the potentially adverse impact of such reflagging on existing U.S.-flag vessels the result could be no net increase in the cargo carrying capacity of the U.S.-flag fleet.

In addition, based on filings in the reconsideration Docket No. P-002, MARAD is cognizant that three members of Congress who were intimately involved in the process of developing the agriculture/maritime compromise in the Food Security Act have submitted comments stating their firm recollection that section 901k was intended to supplement, rather than supplant, the 3-year rule for vessels eligible to carry the incremental cargoes. Given these considerations, MARAD's policy mandate requires the Chief Counsel's advisory letter of July 11, 1988 be withdrawn.

Sec. 204(b) Merchant Marine Act of 1936, as amended (46 U.S.C. 1114(b)); 49 CFR 1.66.

Dated: April 13, 1989.

James E. Saari,
Secretary.
[FR Doc. 89-9299 Filed 4-17-89; 8:45 am]
BILLING CODE 4910-81-M

Research and Special Programs Administration

Office of Hazardous Materials Transportation; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before May 18, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10145-N	Automatic Sprinkler Corporation of America, Cleveland, OH.	49 CFR 173.304(a)(2), 173.34(d)	To manufacture, mark and sell DOT Specification cylinders equipped with a fusible safety relief device to be used as a fire extinguisher and charged with a nonflammable liquefied compressed gas. (Mode 1)
10146-N	L'Air Liquide Sassenage, FR	49 CFR 173.315(a)	To manufacture, mark, and sell a non-DOT specification insulated portable tank with vacuum plus gas helium shield designed and constructed in accordance with Section VIII of the ASME code for transportation of Helium, refrigerated liquid, classed as a nonflammable gas. (Modes 1, 3)
10147-N	E F I Corporation San Jose, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 175.5.	To manufacture, mark and sell a non-DOT specification filament—wound reinforced plastic—fiberglass high pressure cylinder having an aluminum liner for shipment of certain non-flammable and flammable compressed gases. (Modes 1, 2, 3, 4, 5)
10148-N	Pro-Tech-Tube Inc. Kansas City, MO	49 CFR 173.387(b)(2)(iii)	To authorize shipment of a viable microorganism classed as an etiologic agent in an inner container surrounded with an absorbent material impregnated with a germicidal pesticidal substance overpacked in a metal tube. (Modes 1, 2, 3, 4, 5)
10149-N	Union Carbide Industrial Gases, Inc. Danbury, CT.	49 CFR 173.31(c)(13)(iv)	To authorize use of DOT Specification 113A60W cryogenic liquid cars which have not had the frangible discs located in or on the external casing or jacket replaced on an annual basis. (Mode 2)
10150-N	Morton Thiokol, Inc. Brigham City, UT	49 CFR 173.91(a)(2)	To authorize shipment of Special Fireworks, Class B explosives in non-DOT specification wooden boxes constructed in accordance with M I L-B-2427, Type II, Grade A. (Modes 1, 3)
10151-N	Sigri Corporation Somerville, NJ	49 CFR 173.119, 173.302, 173.304, 173.326, 173.34.	To manufacture, mark and sell a non-DOT specification full removable head salvage cylinder of 45 gallon capacity for over packing damaged or leaking packages of pressurized and non-pressurized hazardous materials. (Mode 1)
10152-N	Asahi Seisakusho Co., Ltd Saitama-Japan.	49 CFR 173.301(h), 173.302(a)(1), 173.305(a), 34(a)(1).	To authorize manufacture marking and sale of a non-DOT cylinder similar to the 3T cylinder for transporting high pressure air, oxygen, helium oxygen and helium mixture (50% oxygen maximum) classed as nonflammable gases. (Modes 1, 2, 3, 4)
10153-N	American Cyanamid Company Wayne, N.J.	49 CFR 173.377(h)	To authorize shipment of organic phosphate compound mixture, dry, classed as a poison B in flexible intermediate bulk containers containing 1102.3 pounds of product. (Mode 1)

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NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10154–N	Olin Corporation East Alton, IL	49 CFR 172.300, 173.10(c)(g), 173.107(c), (g).	To authorize shipment, in bulk, of scrap small arms primers and flash tubes which are contained in a velostat bag placed in 2 polyethylene bags placed in a 1½ gallon round cardboard container covered with No. 2 fuel oil with up to 3 of the 1½ gallon containers in a wooden box. (Mode 1)
10155–N	Walpole, Inc. Mt. Holly NJ	49 CFR 173.182, 173.217, 173.245b, 173.365, 173.366, 173.368.	To manufacture mark and sell a non-DOT specification collapsible, flexible, woven polypropylene bulk bag with a capacity of approximately 2,000 lbs. for use in transporting various solid oxidizers, corrosive materials, and class B poisons. (Modes 1, 2, 3)
10156–N	Van Leer Containers, Inc. Chicago, IL	49 CFR Part 173, Subpart F	To manufacture, mark and sell a non-DOT specification 30 litre capacity non-reusable composite container consisting of a blow molded polyethylene inner container with a steel overpack for transportation of various corrosive liquids. (Modes 1, 2, 3, 4)
10157–N	Now Technologies, Inc. Bloomington, MN.	49 CFR 173.268, 173.272	To manufacture, mark, and sell a non-DOT high desity polyethylene bottle with an inner teflon pouch liner and a capacity not to exceed 10 liters packed up to 6 in a fiberboard box for shipment of nitric acid, not over 72%, classed as an oxidizer; and sulfuric acid, classed as a corrosive material. (Mode 1)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on April 10, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89–9144 Filed 4–17–89; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of applications have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before May 3, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2582–X	Air Products and Chemicals, Inc. Allentown, PA	2582
2582–X	Solkatronic Chemicals, Inc., Fairfield, NJ	2582
2582–X	Matheson Gas Products, Inc., Secaucus, NJ	2582
4291–X	United Technologies Corp./Chemical Systems Div., San Jose, CA	4291
4453–X	El Dorado Chemical Company, St. Louis, MO	4453
4453–X	Pasco, Inc., Olympia, WA	4453
4453–X	Alamo Explosives Company, Inc., Houston, TX	4453
4453–X	Strawn Explosives, Inc., Dallas, TX	4453
4453–X	IRECO, Incorporated, Salt Lake City, UT	4453
4453–X	Austin Powder Company, Cleveland, OH	4453
4453–X	Wampum Hardware Company, New Galilee, PA	4453
4453–X	A.M. Contracting Grove City, PA	4453
5243–X	Austin Powder Company, Cleveland, OH	5243
5895–X	Explosive Technology, Inc., Fairfield, CA	5895
6626–X	National Welders Supply Company, Inc., Charlotte, NC	6626
6712–X	Air Products and Chemicals, Inc., Allentown, PA	6712
6974–X	Department of the Army, Falls Church, VA	6974
7023–X	Texas Instruments, Inc., Dallas, TX	7023
7051–X	Aldrich Chemical Company, Inc., Milwaukee, WI	7051
7051–X	Ozark-Mahoning Company, Tulsa, OK	7051
7052–X	Perfco Wireline, Inc., Houma, LA	7052
7060–X	Central Skyport Inc., Columbus, OH	7060
7282–X	MarChem Corporation, Maryland Heights, MO	7282
7440–X	Revlon Professional Products Group, Jacksonville, FL (see footnote 1)	7440

Application No.	Applicant	Renewal of exemption
7546–X	National Aeronautics and Space Administration, Washington, DC	7546
7555–X	Provost Cartage, Incorporated, Ville d'Anjou, Quebec, CN	7555
7616–X	Wisconsin Central, Ltd., Rosemont, IL	7616
7835–X	AGA Gas, Inc., Cleveland, OH	7835
8059–X	EFI Corporation, San Jose, CA (see footnote 2)	8059
8131–X	National Aeronautics and Space Administration, Washington, DC	8131
8195–X	McDonnell Douglas Corporation, Saint Louis, MO	8195
8214–X	Morton Thiokol, Inc./Automotive Products Div., Ogden, UT (see footnote 3)	8214
8215–X	Olin Corporation/Winchester Group, East Alton, IL (see footnote 4)	8215
8225–X	Hoover Group, Inc., Beatrice, NE	8225
8230–X	J.T. Baker Inc., Phillipsburg, NJ	8230
8249–X	LPS Industries Inc., Newark, NJ	8249
8255–X	Applied Companies, San Fernando, CA	8255
8256–X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE	8256
8273–X	TRW Company, Romeo, MI (see footnote 5)	8273
8516–X	Austin Powder Company, Cleveland, OH	8516
8518–X	Ecology Control Industries, Ventura, CA	8518
8518–X	International Technology Corporation, Martinez, CA	8518
8518–X	Denver Truck Sales, Commerce City, CO	8518
8518–X	Central Pumping Company, Inc., La Habra, CA	8518
8579–X	Austin Powder Company, Cleveland, OH	8579
8579–X	ETI Explosives Technologies International Inc., Wilmington, DE	8579
8621–X	I.T.O. Corporation, Gulfport, MS	8621
8645–X	A.M. Contracting, Grove City, PA	8645
8667–X	Federal Emergency Management Agency, Washington, DC	8667
8678–X	Eurotainer, S.A., Paris, France	8678
8678–X	E.I. du Pont du Nemours & Company, Inc., Wilmington, DE	8678
8684–X	Great Lakes Chemical Corporation, El Dorado, AR	8684
8689–X	Schlumberger Well Services, Houston, TX	8689
8706–X	International Technology Corporation, Martinez, CA	8706
8710–X	Akzo Chemicals Inc., formerly Akzo Chemie America, Chicago, IL	8710
8723–X	Winchester Building Supply Co., Inc., Winchester, VA	8723
8723–X	Cherokee Explosives, Inc., Plainville, CT	8723
8723–X	Wampum Hardward Co., New Galilee, PA	8723
8751–X	Delta Tech Service, Inc., Martinez, CA	8751
8839–X	Poly Processing Company, Monroe, LA (see footnote 6)	8839
8965–X	Pressed Steel Tank Company, Inc., Milwaukee, WI	8965
8977–X	Eurotainer, S.A., Paris, France	8977
8988–X	GOEX, Inc., Cleburne, TX	8988
8999–X	Scott Aviation Div. of Figgie International, Inc., Lancaster, NY	8999
9026–X	Sonoco Fibre Drum, Inc., Lombard, IL	9026
9040–X	Sonoco Fibre Drum, Inc., Lombard, IL	9040
9048–X	Brooks Instrument Div./Emerson Electric Co., Statesboro, GA	9048
9061–X	SSI Group, Ltd., Fairdale, KY	9061
9064–X	Preussag Pure Metals GMBH, Goslar, West Germany	9064
9064–X	Corning Glass Works, Corning, NY	9064
9064–X	Amalgamet Canada—Division of Prametalco, Inc., Toronto, Ontario, Canada	9064
9077–X	Central Vermont Railway, Inc., St. Albans, VT	9077
9108–X	The Ensign-Bickford Company and Distributors, Simsbury, CT	9108
9110–X	Kemanord, Inc., Columbus, MS	9110
9141–X	Bristol Flare Corporation, Bristol, PA	9141
9142–X	EVA Eisenbahn-Verkehrsmittel GmbH, Duesseldorf, West Germany	9142
9275–X	McCormick & Company, Inc., Hunt Valley, MD	9275
9371–X	Ronson Aviation Incorporated, Trenton, NJ	9371
9418–X	Platte Chemical Company, Fremont, NE	9418
9418–X	West Texas Fabrication, Odessa, TX	9418
9601–X	Trical, Inc., Hollister, CA	9601
9623–X	Ireco Incorporated, Salt Lake City, UT (see footnote 7)	9623
9645–X	Bonar Plastics Ltd., Lindsay, Ontario, CN (see footnote 8)	9645
9663–X	Siepe GmbH, Federal Republic Germany	9663
9666–X	Akzo Chemicals Inc., Chicago, IL	9666
9701–X	Trimeg Holdings Ltd., Calgary, Alberta, CN	9701
9741–X	Overseas Trading Co., Inc., McAdoo, PA	9741
9742–X	Bromine Compounds Ltd., Beer-Sheva, Israel	9742
9746–X	Air Products and Chemicals, Inc., Allentown, PA	9746
9750–X	Atlas Powder Company, Dallas, TX	9750
9750–X	Austin Powder Company, Cleveland, OH	9750
9763–X	Air Products and Chemicals, Inc., Allentown, PA	9763
9765–X	3M/Transportation, St. Paul, MN	9765
9775–X	Essex Environmental Industries, Inc., Hurst, TX	9775
9781–X	The Chlorine Institute, Inc., Washington, DC (see footnote 9)	9781
9797–X	I.T.V Missiles and Electronics Group, Dallas, TX	9797
9806–X	Stone Container Corporation/Bag Division, Schaumburg, IL (see footnote 10)	9806
9952–X	Grief Bros. Corporation, Springfield, NJ (see footnote 11)	9952
9977–X	Hercules Aerospace Company/Aerospace Prod. Group, Magna, UT (see footnote 12)	9977
10018–X	CIBA-GEIGY Corportaion, Hawthorne, NY (see footnote 13)	10018
10028–X	E.I. du Pont de Nemours & Company, Wilmington, DE (see footnote 14)	10028

(1) To renew and decrease the aerosol container from 58 cubic inches (32 fl. oz.) to 43 cubic inches (24 fl. oz.) while maintainng a maximum of 40 PSI internal pressure.

(2) To increase air with not greater than 39 percent by volume oxygen content to 60 percent content and modify paragraph 8 to provide for percentage increase.

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(3) To provide for a new design bulk shipping container to hold up to 112 modules, classed as flammable solids.
(4) To renew and authorize a plastic bucket of approximately 4 gallons capacity with a lid to be used for this shipment of certain Class A, B and C explosive materials.
(5) To authorize an increase in weight limitations from 65 pounds gross weight to 1000 pounds per package to include 90 modules, classed as flammable solids, in each container.
(6) To authorize use of a metal frame to contain polyethylene portable tanks for shipment of certain corrosive liquids, flammable liquids and an oxidizer.
(7) To authorize an additional type trailer equipped with a dromedary compartment (storage box) for shipment of explosives.
(8) To renew and authorize a design change in the polyethylene tanks to provide for a full drainage feature and modification to the ball value feature.
(9) To renew and modify special provision 8e so salevage cylinders are not limited to use for leaks that cannot beg contained by using the Chlorine Institute's Kit A.
(10) To authorize flammable solids as an additional commodity, for shipment in non-DOT specification bulk bags.
(11) To authorize an additional plastic cover or lid for metal drum containing those materials presently authorized in DOT specification 37A Steel drums.

Application No.	Applicant	Parties to exemption
4338–P	Akzo Chemicals Inc., Chicago, IL	4338
4575–P	Linde Gases of the Great Lakes, Inc., Cleveland, OH	4575
4884–P	Linde Gases of the Great Lakes, Inc., Cleveland, OH	4884
5643–P	Linde Gases of the Great Lakes, Inc., Cleveland, OH	5643
6349–P	Linde Gases of the Great Lakes, Inc., Cleveland, OH	6349
6418–P	Maui Pineapple Co., Ltd., Hallimaile, HI	6418
6765–P	Linde Gases of the Great Lakes, Inc., Cleveland, OH	6765
6805–P	Linde Gases of the Southeast, Inc., Wilmington, NC	6805
7052–P	Valvcon Corporation, Milford, NJ	7052
7052–P	Gec-ar International, Inc., Missouri City, TX	7052
7052–P	SAIC Technology, San Diego, CA	7052
7052–P	Medtronic, Inc./Promeon Division, Brooklyn Center, MN	7052
7052–P	Telecommunication Devices, Inc. (TDI), Downers Grove, IL	7052
7052–P	Oceanstar Systems Incorporated, Cataumet, MA	7052
7607–P	Layne-Western Company, Inc., Shawnee Mission, KS	7607
7835–P	The Rinchem Co., Inc., Phoenix, AZ	7835
8156–P	Linde Gases of the Southeast, Inc., Wilmington, NC	8156
8230–P	Strem Chemicals, Inc., Newburyport, MA	8230
8451–P	DIVEX, Inc., Columbia, SC	8451
8518–P	Speed's Oil Tool Service, Inc., Santa Maria, CA	8518
8554–P	Minnesota Explosives Company, Biwabik, MN	8554
8556–P	Linde Gases of the Southeast, Inc., Wilmington, NC	8556
8556–P	Linde Gases of the Great Lakes, Inc., Cleveland, OH	8556
8723–P	CONA, Inc.—Ireco Explosives, Tahlequah, OK	8723
8723–P	Minnesota Explosives Company, Biwabik, MN	8723
8966–P	Jet Research Center, Inc., Arlington, TX	8966
9066–P	Automotive Systems Laboratory, Inc. (ASL), Farmington, MI	9066
9281–P	Western Atlas International, Inc., Houston, TX	9281
9377–P	Austin Powder Company, Cleveland, OH	9377
9361–P	Environmental Audit, Inc., Placentia, CA	9361
9414–P	Linde Gases of the Great Lakes, Inc., Cleveland, OH	9414
9623–P	Ireco Incorporated, Salt Lake City, UT	9623
9676–P	J.T. Baker Inc., Phillipsburg, NJ	9676
9711–P	Konica U.S.A., Inc., Englewood Cliffs, NJ	9711
9723–P	BD Technology, Inc., Arcadia, CA	9723
9745–P	Whitmire Research Laboratories, Inc., Saint Louis, MO	9745
9785–P	Crowley Towing and Transportation Co., Pennsauken, NJ	9785
9785–P	Crowley Caribbean Transport, Pennsauken, NJ	9785
9785–P	Trailer Marine Transport Corp., Pennsauken, NJ	9785
9785–P	American Transport Lines, Inc., Pennsauken, NJ	9785
9785–P	Euro-Gulf International, Inc., Houston, TX	9785
9785–P	Australia-New Zealand Direct Line, Long Beach, CA	9785
9946–P	Linde Gases of the Great Lakes, Inc., Cleveland, OH	9946
9971–P	J.T. Baker Inc., Phillipsburg, NJ	9971
10006–P	Sheldon Oil Company, Suisun, CA	10006
10032–P	MCM, Management Control & Maintenance, S.A., Geneva, Switzerland	10032
10091–P	Allergan Optical, Irvine, CA	10091
10108–P	Moose Lake Industries, Moose Lake, WA	10108

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on April 11, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89–9145 Filed 4–17–89; 8:45 am]

BILLING CODE 4910–60–M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held April 19, 1989 in Room 600, 301 4th Street, SW., Washington, DC from 10:45 a.m. to 11:30 a.m.

The Commission will meet with Mr. Stanley Silverman, Comptroller, USIA, for a discussion of USIA's budget and Congressional relations. The Commission will also meet with Mr. Greg Guroff, Coordinator for the President's U.S.-Soviet Exchange Initiative for a discussion of U.S.-Soviet exchanges.

Please call Gloria Kalamets, (202) 485–2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: April 11, 1989.

Ledra L. Dildy,

Staff Assistant, Federal Register Liaison.

[FR Doc. 89–9168 Filed 4–17–89; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 73
Tuesday, April 18, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, April 24, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: April 14, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9428 Filed 4–14–89; 3:39 pm]

BILLING CODE 6210–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 17, 24, May 1, and 8, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Week of April 17

Monday, April 17

10:00 a.m.
Discussion of Shoreham Full Power Operating License (Public Meeting).
2:00 p.m.
Discussion/Possible Vote on Peach Bottom Restart (Public Meeting).

Thursday, April 20

2:00 p.m.
Briefing on Status of TMI–2 Cleanup Activities (Public Meeting).
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) [if needed].

Week of April 24—Tentative

Tuesday, April 25

10:00 a.m.
Briefing on the Status of Generic Issues (Public Meeting).

Thursday, April 27

10:00 a.m.
Periodic Briefing by Advisory Committee on Nuclear Waste (ACNW) (Public Meeting).
3:30 p.m.
Affirmative/Discussion and Vote (Public Meeting) (if needed).

Week of May 1—Tentative

Tuesday, May 2

10:00 a.m.
Briefing on Severe Accident Research Plan (Public Meeting).
2:00 p.m.
Briefing on Results of Maintenance Team Inspections (Public Meeting).

Wednesday, May 3

10:00 a.m.
Briefing on the Status of NUREG–1150 (Public Meeting).
2:00 p.m.
Periodic Briefing by Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting).
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed).

Week of May 8—Tentative

Wednesday, May 10

10:00 a.m.
Annual Briefing on the State of the Nuclear Industry (Public Meeting).
2:00 p.m.
Briefing on Status of Operator Licensing Activities in the Area of Requalification Exams (Public Meeting).
3:30 p.m.
Affirmative/Discussion and Vote (Public Meeting) (if needed).

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

William M. Hill, Jr.,
Office of the Secretary.
April 13, 1989.

[FR Doc. 89–9409 Filed 4–14–89; 2:49 pm]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

TIME AND DATE: 2:00 p.m., Wednesday, May 3, 1989.

PLACE: Hearing Room, 1333 H Street, NW., Washington, DC 20268.

STATUS: Open.

MATTERS TO BE CONSIDERED: To discuss the petition of Warshawsky to conduct a rulemaking proceeding on data requirements for third-class mail in Docket No. RM89–1.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 89–9432 Filed 4–14–89; 3:40 pm]

BILLING CODE 7715–01–M

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published April 17, 1989.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. e.d.t. Wednesday, April 19, 1989.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA Knoxville Office Complex 400 West Summit Hill Drive, Knoxville, Tennessee.

CORRECTION OF A TYPOGRAPHICAL ERROR IN THE NOTICE OF MEETING: In Item E 1., "Monroe County" should read "Moore County."

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager, Public Affairs, or a member of his staff can respond to requests for information about this meeting. Call 615–632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–479–4412.

William L. Osteen, Jr.,

Assistant Secretary to the Board.

[FR Doc. 89–9332 Filed 4–14–89; 10:17 am]

BILLING CODE 8120–01–M

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Corrections

Federal Register
Vol. 54, No. 73
Tuesday, April 18, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 89-029]

U.S. Veterinary Biological Product and Establishment Licenses Issued, Suspended, Revoked, or Terminated

Correction

In notice document 89-6356 appearing on page 11255 in the issue of Friday, March 17, 1989, make the following corrections in the table:

1. Under "Establishment", in the second, third, and seventh entries, "SmithKline" was misspelled.

2. Under "Product',' in the sixth entry, in the first line, "Bron-Chiseptica-Escherichia" should read "Bronchiseptica-Escherichia".

3. Also under "Product", in the seventh entry, in the second line, "Icterohaemorrhagiae" was misspelled.

4. Under "Establishment license No.", the seventh entry was omitted and should read "189".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL-3539-2]

Ocean Dumping; Site Designation; Gulf of Mexico; Pensacola, FL

Correction

In rule document 89-6303 beginning on page 11189 in the issue of Friday, March 17, 1989, make the following correction:

On page 11189, in the first column, under SUMMARY, in the second paragraph, in the last line, "> 10%" should read "< 10%".

BILLING CODE 1505-01-D

federal register

Tuesday,
April 18, 1989

Part II

Reader Aids

List of Libraries That Have Announced Availability of Federal Register and Code of Federal Regulations

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LIST OF LIBRARIES THAT HAVE ANNOUNCED AVAILABILITY OF FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS

In order to better serve the public the Office of the Federal Register is publishing a list of libraries where the *Federal Register* and *Code of Federal Regulations* are available for examination free of charge. This list contains only those Government depository libraries and other libraries that specifically have chosen to be included. A complete listing of *Government Depository Libraries* is available without charge from The Library, U.S. Government Printing Office, 5236 Eisenhower Avenue, Alexandria, VA 22304.

The Office of the Federal Register's list will be updated annually unless public interest requires more frequent publication. Any library that maintains these publications, makes them available to the public, and wishes to be included on future lists should write to the Director of the Federal Register, National Archives and Records Administration, Washington, DC 20408, or phone (202) 523-5227 giving the name and address of the library. (*FR only. †CFR only.)

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Birmingham, AL 35203
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564 Davis Avenue
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Mobile, AL 36688
(205) 460-7024

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6030 Monticello Drive
Montgomery, AL 36130
(205) 277-7330

Tuscaloosa:
University of Alabama Library
Reference Department
Box S
University, AL 35486
(205) 348-6046

ALASKA

Anchorage:
Alaska Resources Library
U.S. Department of the Interior
701 C Street, Box 36
Anchorage, AK 85513

Office of the Solicitor, Law Library
U.S. Department of the Interior
701 C Street, Box 34
Mod. G, Room 1128
Anchorage, AK 99513

Fairbanks:
Bureau of Land Management
Library
Fairbanks District Office
P.O. Box 1150
North Post of Ft. Waynewright
Fairbanks, AK 99707

Rasmuson Library
Government Documents Section
University of Alaska
Fairbanks, AK 99701

Juneau:
Alaska State Library
6th Floor, New State Office Bldg.
Pouch G
Juneau, AK 99751
(907) 465-2920

ARIZONA

Flagstaff:
Government Documents Department
Northern Arizona University Library
Flagstaff, AZ 86011
(602) 523-2171

Glendale:
Velma Teague Library
7010 N. 58th Avenue
Glendale, AZ 85301
(602) 931-5576

Phoenix:
Federal Documents
Department of Library, Archives and Public Records
1700 W. Washington, State Capitol
Phoenix, AZ 85007
(602) 255-4121

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12 E. McDowell Road
Phoenix, AZ 85004
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Tempe:
Arizona State University
College of Law Library
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Government Documents Department
Arizona State University Library
Tempe, AZ 85275

Tucson:
Tucson Public Library
200 S. 6 Avenue
Tucson, AZ 85726
(602) 791-4010

ARKANSAS

Little Rock
Government Documents Department
UALR Library
University of Arkansas at Little Rock
33rd and University Avenue
Little Rock, AR 72204
(501) 569-3120

Searcy:
Beaumont Memorial Library
Harding University
P.O. Box 928
Searcy, AR 72143
(501) 268-6161

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Anaheim:
Anaheim Public Library
500 W. Broadway Avenue
Anaheim, CA 92805
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Arcata:
Documents Department
The Library
Humboldt State University
Arcata, CA 95521

Burlingame:
The San Mateo Foundation*
1204 Burlingame Avenue
P.O. Box 627
Burlingame, CA 94010
(415) 342-2477

Carson:
Carson Library
151 East Carson Street
Carson, CA 90745
(213) 830-0901

Compton:
Compton Library
240 West Compton Boulevard
Compton, CA 90220
(213) 637-0202, ext. 25

Culver City:
Culver City Library
4975 Overland Avenue
Culver City, CA 90230
(213) 559-1676

Gardena:
Gardena Library
1731 West Gardena Boulevard
Gardena, CA 90247
(213) 323-6363

Glendale:
City of Glendale
Glendale Public Library
222 East Harvard Street
Glendale, CA 91205

Huntington Park:
Huntington Park Library
6518 Miles Avenue
Huntington Park, CA 90255
(213) 583-1461

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101 West Manchester Blvd.
Inglewood, CA 90301
(213) 649-7397

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Government Documents, Maps, Microforms Department
Central University Library C-075-P
University of California, San Diego
La Jolla, CA 92093
(714) 452-3336

Lakewood:
Angelo M. Iacoboni Library
4990 Clark Avenue
Lakewood, CA 90712
(213) 866-1777

Lancaster:
Lancaster Regional Library
1150 West Avenue J
Lancaster, CA 93534
(805) 948-5029

Long Beach:
Government Publications
Long Beach Public Library and Information Center
101 Pacific Avenue
Long Beach, CA 90802
(213) 437-2949, ext. 40

Long Beach Safety Council Library
121 Linden Avenue
Long Beach, CA 90802

Menlo Park:
U.S. Geological Survey Library
345 Middlefield Road
Menlo Park, CA 94025

Montebello:
Montebello Library
1550 Beverly Boulevard
Montebello, CA 90640
(213) 722-6551

Norwalk:
Norwalk Library
12350 Imperial Highway
Norwalk, CA 90650
(213) 868-0775

Oakland:
Holy Names College Library
3500 Mountain Blvd.
Oakland, CA 94619

Orange:
Thurmond Clarke Memorial Library
Chapman College
333 North Glassell Street
Orange, CA 92666

Pasadena:
City of Pasadena
Pasadena Public Library
285 E. Walnut Street
Pasadena, CA 91101
(213) 577-4054

Pleasant Hill:
Contra Costa County Library
Documents Section
1750 Oak Park Boulevard
Pleasant Hill, CA 94523
(415) 944-3423

Redding:
Shasta County Library
1855 Shasta Street
Redding, CA 96001
(916) 225-5754

Redwood City:
Redwood City Public Library
875 Jefferson Avenue
Redwood City, CA 94063
(415) 369-6251, ext. 288

San Mateo County Superintendent of Schools Office
Educational Resources Center
333 Main Street
Redwood City, CA 94063
(415) 364-5600

Richmond:
Richmond Public Library
Civic Center Plaza
Richmond, CA 94804

Riverside:
Riverside City and County Public Library
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3575 Seventh Street
P.O. Box 468
Riverside, CA 92502
(714) 787-7203

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California State Library
P.O. Box 2037
Sacramento, CA 95809
(916) 445-8833

San Bernardino:
San Bernardino County Library
104 West Fourth Street
San Bernardino, CA 92415

San Diego:
Western State University
College of Law
1333 Front Street
San Diego, CA 92101
(714) 231-0300

San Francisco:
University of California
Hastings College of the Law Library
198 McAllister Street
San Francisco, CA 94102

San Rafael:
Marin County Free Library
Civic Center Administration Building
San Rafael, CA 94903
(415) 499-6051

Valencia:
Valencia Regional Library
23743 Valencia Boulevard
Valencia, CA 91355
(805) 259-8942

Vallejo:
California Maritime Academy*
P.O. Box 1392
Vallejo, CA 94590
(707) 644-5601

West Covina:
West Covina Regional Library
1601 West Covina Parkway
West Covina, CA 91790
(758) 962-3541, ext. 16

COLORADO

Denver:
Bureau of Land Management
Denver Service Center Library
Building 50
Denver Federal Center
Denver, CO 80225

Bureau of Reclamation Library
Engineering and Research Center
P.O. Box 25007, Denver Federal Center
Denver, CO 80225

Colorado State Library
1362 Lincoln Street
Denver, CO 80203

Regional Solicitor, Law Library
U.S. Department of the Interior
Room 1400, Bldg. 67, Denver Federal Center
P.O. Box 25007
Denver, CO 80225

Rocky Mountain Regional Office Library
National Park Service
655 Parfect Street
P.O. Box 25287
Denver, CO 80225

Fort Collins:
Documents Department
The Libraries
Colorado State University
Fort Collins, CO 80523

Greeley:
James A. Michener Library
Government Publications Service
University of Northern Colorado
Greeley, CO 80639

Lakewood:
Villa Library*
455 South Pierce Street
Lakewood, CO 80226
(303) 936-7407

Pueblo:
Pueblo Regional Planning Commission Library*
No. 1 City Hall Place
Pueblo, CO 75003
(303) 543-6006

CONNECTICUT

Bloomfield:
Prosser Public Library
1 Tunxis Avenue
Bloomfield, CT 06002

Danielson:
Quinebaug Valley Community College
P.O. Box 59
Danielson, CT 06239
774-1130

East Haven:
Hagaman Memorial Library*
227 Main Street
East Haven, CT 06512
(203) 468-3223

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Fairfield University
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Hartford:
The Stanley Osborne Library*
Third Floor
The Connecticut State Department of Health Services
79 Elm Street
Hartford, CT 06115
(203) 566–2198

Middletown:
Olin Library
Wesleyan University
Middletown, CT 06457

New Haven:
Yale University
Government Documents Center
Seeley G. Mudd Library
38 Mansfield Street
P.O. Box 2491 Yale Station
New Haven, CT 06520
(203) 432–3209

Stamford:
Ferguson Library
96 Broad Street
Stamford, CT 06901

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Waterbury:
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267 Grand Street
Waterbury, CT 06702

Wethersfield:
Wethersfield Public Library
515 Silas Deane Highway
Wethersfield, CT 06109

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(302) 478–5280
Ext. 247

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U.S. Department of the Interior
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Room 8201
Washington, DC 20408
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Clearwater Public Library
100 North Osceola Avenue
Clearwater, FL 33515

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(904) 255–3765

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Broward County Main Library
100 S. Andrews Avenue
Fort Lauderdale, FL 33301
(305) 357–7444

Melbourne:
Government Documents Department
Florida Institute of Technology Library
50 W. University Blvd.
Melbourne, FL 32901
(407) 768–8000, ext. 7531

Miami:
Social Science Department
Miami-Dade Public Library
101 West Flagler Street
Miami, FL 33130
(305) 375–2665

North Miami Beach:
North Miami Beach Library
1601 N.E. 164 Street
North Miami Beach, FL 33162
(305) 948–2970

Orlando:
Orange County Library System
General Information Department
10 N. Rosalind Avenue
Orlando, FL 32801
(305) 425–4694

Sarasota:
Selby Public Library
1001 Boulevard of the Arts
Sarasota, FL 33577
(753) 951–5501

The University of Sarasota
2080 Ringling Blvd.
Sarasota, FL 33577
(753) 955–4228

Tallahassee:
Documents Section
State Library of Florida
R. A. Gray Building
Tallahassee, FL 32301
(904) 487–2651

Tampa:
Tampa–Hillsborough County Public Library
900 North Ashley Street
Tampa, FL 33602
(753) 223–8969

GEORGIA

Athens:
University of Georgia Libraries
Government Reference Department
Athens, GA 30602

Atlanta:
Documents Center
Robert W. Woodruff Library
Emory University
Atlanta, GA 30322
(404) 727–6880

Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
148 Cain Street, N.E., Suite 405
Atlanta, GA 30303

Dublin:
Laurens County Library
801 Bellevue Ave.
Dublin, GA 31021

Elberton:
Southeastern Power Administration
Law Library
U.S. Department of Energy
Samuel Elbert Building
Elberton, GA 30635

Savannah:
Chatham–Effingham–Liberty Regional Library
2002 Bull Street
Savannah, GA 31499
(912) 234–5127

IDAHO

Boise:
Field Solicitor, Law Library
U.S. Department of the Interior
Federal Building, U.S. Courthouse
Box 20
Boise, ID 83724

Pocatello:
The Library
Idaho State University
Pocatello, ID 83209

ILLINOIS

Bloomington:
Illinois Wesleyan University Library
Bloomington, IL 61701

Chicago:
Government Publications Department
Chicago Public Library
425 N. Michigan Avenue
Chicago, IL 60611
(312) 269–3002

University of Chicago Law Library
1121 East 60th Street
Chicago, IL 60637

Documents Department
University of Illinois at Chicago Circle
The Library, P.O. Box 7598
Chicago, IL 60680
(312) 996–2716/996–2738

Dekalb:
Government Publications Department
Northern Illinois University
Founders Library
Dekalb, IL 60115
(755) 753–1932

Evanston:
Northwestern University Library
Government Publications Department
Evanston, IL 60201
(312) 491–3130

Lake Forest:
Lake Forest College Library
Lake Forest, IL 60045
(312) 234–3100, ext. 410

ILLINOIS—Continued

Lockport:
Lewis University
Route 53
Lockport, IL 60441
(755) 838–0500

Macomb:
Government Publications and Legal Reference Library
Western Illinois University
Macomb, IL 61455
(309) 298–2411

Niles:
Niles Public Library District
6960 Oakton Street
Niles, IL 60648
(312) 967–8554

Normal:
Milner Library
Illinois State University
Normal, IL 61761

Oak Park:
Oak Park Public Library
834 Lake Street
Oak Park, IL 60301
(312) 383–8200

Rockford:
Rockford Public Library
215 North Wyman Street
Rockford, IL 61101
(755) 965–6731

Springfield:
Energy Information Library*
Illinois Institute of Natural Resources, Room 300
325 W. Adams Street
Springfield, IL 62706

Illinois State Library
Reference Section
Centennial Building, Room 350
Springfield, IL 62756
(217) 782–5430

Streamwood:
Government Documents Department
Poplar Creek Public Library
1405 S. Park Blvd.
Streamwood, IL 60103
(312) 837–6800

Waukegan:
County of Lake
Law Library
18 North County Street
Waukegan, IL 60085
(312) 689–6654

INDIANA

Fort Wayne:
The Public Library of Fort Wayne and Allen County
900 Webster Street
Fort Wayne, IN 46802
(219) 424–7241

Indianapolis:
Reference and Loan Division
Indiana State Library
140 N. Senate Ave.
Indianapolis, IN 46204
(317) 232–3675

Muncie:
Ball State University Library
Government Publications Service
Muncie, IN 47305
(317) 285–5195

South Bend:
Indiana University at South Bend
1700 Mishawaka Avenue
South Bend, IN 46615
(219) 237–4440

IOWA

Ames:
Library—Government Publications Department
Iowa State University
Ames, IA 50010
(515) 294–3642

Council Bluffs:
Free Public Library
200 Pearl Street
Council Bluffs, IA 51503
(712) 323–7553

Des Moines:
State Library Commission of Iowa
Law Library
Capitol Building
Des Moines, IA 50319
(515) 275–5125

State Library Commission of Iowa
Historical Building
East 12th & Grand
Des Moines, IA 50319

Dubuque:
Carnegie–Stout Public Library
Eleventh and Bluff Streets
Dubuque, IA 52001
(319) 583–9197

Wahlert Memorial Library
Loras College
1450 Alta Vista
Dubuque, IA 52001

Sioux City:
Sioux City Public Library
705 Sixth Street
Sioux City, IA 51105
(712) 279–6179

KANSAS

Colby:
H. F. Davis Memorial Library
Colby Community College
1255 South Range
Colby, KS 67701
(913) 462–3984

Emporia:
William Allen White Library
Emporia State University
Emporia, KS 66801
(316) 343–1200

Hutchinson:
Hutchinson Public Library
901 N. Main
Hutchinson, KS 67501
(316) 663–5441

Lawrence:
University of Kansas Law Library
Green Hall
Lawrence, KS 66045
(913) 864–3025

Manhattan:
Farrell Library
Kansas State University
Manhattan, KS 66506
(913) 532–7448

Pittsburg:
Leonard H. Axe Library
Pittsburg State University
Pittsburg, KS 66762
(316) 231–7000, ext. 4889

Salina:
Memorial Library
Kansas Wesleyan
100 East Claflin
Salina, KS 67401–6196
(913) 827–5541, ext. 298

Topeka:
Kansas State Library
Third Floor
State House
Topeka, KS 66612
(913) 296–3296

Washburn University of Topeka
School of Law Library
Topeka, KS 66621
(913) 295–6660

KENTUCKY

Bowling Green:
Western Kentucky University
Helm–Cravens Library
Bowling Green, KY 42101

Frankfort:
Government Document Section
State Library Division
Kentucky Department of Library & Archives
Berry Hill
Frankfort, KY 40602
(502) 564–2480

Highland Heights
Northern Kentucky University Library
Government Documents Department
Highland Heights, KY 41076

Lexington:
University of Kentucky Libraries
Government Publications Department
Lexington, KY 40506

Law Library
University of Kentucky
Lexington, KY 40506

Louisville:
University of Louisville
The Library
Louisville, KY 40208

Government Publications Department
Law School Library
Belknap Campus
University of Louisville
Louisville, KY 40292
(502) 588–6392

Pikeville:
CITAC Library
Pikeville College
Armington Science Center
Pikeville, KY 41501
(606) 432–9396

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LOUISIANA

Baton Rouge:
Library, Department of Urban & Community Affairs
5790 Florida Boulevard
Baton Rouge, LA 70806

Louisiana State Library
P.O. Box 131
760 N. Riverside Mall
Baton Rouge, LA 70821
(504) 389–6651

Lafayette:
University of Southwestern Louisiana
University Libraries
Lafayette, LA 70501

New Orleans:
New Orleans Public Library
Business and Science Division
219 Loyola Avenue
New Orleans, LA 70140
(504) 596–2580

U.S. Court of Appeals Library
5th Circuit
600 Camp Street
Room 106
New Orleans, LA 70130
(504) 589–6510

MAINE

Lewiston:
George and Helen Ladd Library
Bates College
Lewiston, ME 04240

Portland:
Donald L. Garbrecht Law Library
246 Deering Avenue
Portland, ME 04102
(207) 780–4350

MARYLAND

Aberdeen:
Department of the Army
U.S. Army Environmental Hygiene Agency
ATTN: Librarian, Bldg. E–2100
Aberdeen Proving Ground, MD 21010

Annapolis:
Maryland State Law Library
Courts of Appeal Building
361 Rowe Boulevard
Annapolis, MD 21401

Baltimore:
Enoch Pratt Free Library
400 Cathedral Street
Baltimore, MD 21201

Cumberland:
Allegany Community College Library
Willow Brook Road
P.O. Box 1695
Cumberland, MD 21502
(301) 724–7700, ext. 36

Oakland:
Garrett County Planning Office*
323 East Oak Street
Oakland, MD 21550
(301) 334–4200

Rockville:
Medical Library
Food & Drug Administration
5600 Fishers Lane
Room 11B40
Rockville, MD 20857

Department of Public Libraries
Montgomery County
99 Maryland Avenue
Rockville, MD 20850
(301) 217–3800

MASSACHUSETTS

Boston:
Government Documents Department
Boston Public Library
Copley Square
Boston, MA 02117

Gloucester:
Gloucester Lyceum and Sawyer Free Library*
General Reference Section
2 Dale Avenue
Gloucester, MA 01930
(617) 283–0376

Newton Corner:
Office of the Regional Solicitor, Law Library
Suite 612
1 Gateway Center
Newton Corner, MA 02158
(617) 965–5100, ext. 258

Springfield:
The City Library
Central Library
220 State Street
Springfield, MA 01103

Woburn:
Commonwealth of Massachusetts
Trial Court of the Commonwealth
District Court Department
Fourth Eastern Middlesex Division
Woburn, MA 01801
(617) 935–4000

MICHIGAN

Ann Arbor:
Documents Center
Hatcher Graduate Library
University of Michigan
Ann Arbor, MI 47509
(313) 764–0410

Washtenaw Community College
4800 East Huron River Drive
Ann Arbor, MI 47506
(313) 973–3300

Detroit:
Downtown Library*
Detroit Public Library
121 Gratiot
Detroit, MI 48226

Detroit Public Library
5201 Woodward Avenue
Detroit, MI 48202

Municipal Reference Library
Detroit Public Library
1004 City–County Building
Detroit, MI 48226

Arthur Neef Law Library
Wayne State University
468 W. Ferry Mall
Detroit, MI 48202
(313) 577–3925

East Lansing:
Documents Department
Michigan State University Library
East Lansing, MI 48824

Flint:
Flint Public Library
General Reference Department
1026 E. Kearsley Street
Flint, MI 48502
(313) 232–7111

Kalamazoo:
Government Documents Department
Waldo Library
Western Michigan University
Kalamazoo, MI 49008
(616) 387–5208

Lansing:
Thomas M. Cooley Law School Library
U.S. Documents Collection
217 South Capitol Avenue
Lansing, MI 48901
(517) 371–5140

Marquette:
Government Documents Department
Olson Library
Northern Michigan University
Marquette, MI 49855
(906) 227–2112

Mount Clemens:
Macomb County Library
16480 Hall Road
Mount Clemens, MI 48044
469–5300

Mt. Pleasant:
Library – Documents Department
Central Michigan University
Mt. Pleasant, MI 48859
(517) 774–3414

Pontiac:
Adams–Pratt Oakland County Law Library
1200 N. Telegraph Road
Pontiac, MI 48053

Oakland Schools Library*
2100 Pontiac Lake Road
Pontiac, MI 48054

Rochester:
Kresge Library
Documents Department
Oakland University
Squirrel/Walton
Rochester, MI 48063
(313) 377–2476

Saginaw:
Public Libraries of Saginaw
505 Janes
Saginaw, MI 48605
(517) 755–0904

Traverse City:
Mark Osterlin Library
Documents Department
Northwestern Michigan College
1701 East Front Street
Traverse City, MI 49684
(616) 946–5650, ext. 540

MICHIGAN—Continued

University Center:
Learning Resources Center
Delta College
University Center, MI 48710

MINNESOTA

Bemidji:
Documents Section
A. C. Clark Library
Bemidji State University
Bemidji, MN 56601
(218) 755–2958

Blaine:
Anoka County Library
707 Highway 610
Blaine, MN 55434

Cambridge:
East Central Regional Library*
Cambridge, MN 55008

Duluth:
Duluth Public Library
520 W. Superior Street
Duluth, MN 55802
(218) 723–3804

Edina:
Southdale–Hennepin Area Library
7001 York Avenue South
Edina, MN 55435
(612) 830–4900

Mankato:
Memorial Library
Mankato State University
Box 19
Mankato, MN 56001
(507) 389–6201

Minneapolis:
Minnesota Hospital Association Library
2333 University Ave. S.E.
Minneapolis, MN 55414
(612) 331–5571

Government Publications Division
409 Wilson Library
University of Minnesota
Minneapolis, MN 55455
(612) 373–7753

St. Paul:
Minnesota State Law Library
117 University Avenue
St. Paul, MN 55155
(612) 296–2775

Government Publications Office
St. Paul Public Library
90 West Fourth Street
St. Paul, MN 55102
292–6178

Stillwater:
Stillwater Public Library
223 North Fourth Street
Stillwater, MN 55082
439–1675

Twin Cities:
Field Solicitor, Law Library
U.S. Department of the Interior
686 Federal Building, Fort Snelling
Twin Cities, MN 55111

Winona:
Maxwell Library
Government Documents
Winona State University
Winona, MN 55987
(507) 457–5148

MISSISSIPPI

Gulfport:
Harrison County Law Library
1st Judicial Courthouse
1801 23rd Avenue
Gulfport, MS 39501
(601) 864–5161 ext. 336

Jackson:
H. T. Sampson Library
Jackson State University
Jackson, MS 39217

MISSOURI

Cape Girardeau:
Kent Library
Southeast Missouri State University
Cape Girardeau, MO 63701
(314) 651–2000

Columbia:
Ellis Library
University of Missouri–Columbia
Columbia, MO 65201
(314) 882–6733

University of Missouri–Columbia
Law Library
Tate Hall
Columbia, MO 65211
(314) 882–4597

Fulton:
Reeves Library
Westminster College
Fulton, MO 65251
(314) 642–3361

Independence:
Mid-Continent Public Library
North Independence Branch
24 Highway and Spring
Independence, MO 64050
(756) 252–0950

Jefferson City:
Missouri State Library
308 E. High Street
P.O. Box 387
Jefferson City, MO 65102
(314) 751–4552

Joplin:
Spiva Library
Missouri Southern State College
Newman & Duquesne Roads
Joplin, MO 64801
(417) 625–9386

Kansas City:
Kansas City Public Library
311 East 12th Street
Kansas City, MO 64106
(756) 221–2685

Government Documents Department
General Library
University of Missouri–Kansas City
5100 Rockhill Road
Kansas City, MO 64110
(756) 276–1536

Law Library
University of Missouri–Kansas City
5100 Rockhill Road
Kansas City, MO 64110
(756) 276–1650

Kirksville:
Pickler Memorial Library
Northeast Missouri State University
Kirksville, MO 63501
(756) 785–4534

Liberty:
Charles F. Curry Library
Government Documents
William Jewell College
Liberty, MO 64068
(756) 775–3806, ext. 293

Maryville:
B. D. Owens Library
Northwest Missouri State University
Maryville, MO 64468

Rolla:
Curtis Laws Wilson Library
University of Missouri–Rolla
Rolla, MO 65401
(314) 341–4227

St. Charles:
Butler Library
Lindenwood College
St. Charles, MO 63301
(314) 946–6912, ext. 329

St. Joseph:
St. Joseph Public Library
Tenth and Felix Streets
St. Joseph, MO 64501
(756) 232–7729

St. Louis:
Maryville College Library
Government Documents
13550 Conway Rd.
St. Louis, MO 63141
(314) 576–9300

Missouri Botanical Garden*
(back issues held 1 year)
2345 Tower Grove Avenue
St. Louis, MO 63110
(314) 772–7600

St. Louis County Library
1640 S. Lindbergh Blvd.
St. Louis, MO 63131
(314) 994–3300

Documents Department
St. Louis Public Library
1301 Olive Street
St. Louis, MO 63103
(314) 241–2288, ext. 375

Documents Department
Pius XII Memorial Library
St. Louis University
3655 West Pine Boulevard
St. Louis, MO 63108
(314) 658–3105

Thomas Jefferson Library
University of Missouri–St. Louis
8001 Natural Bridge Road
St. Louis, MO 63144
(314) 453–5954

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MISSOURI—Continued

Washington University Law Library
Documents Department
Campus Box 1120
St. Louis, MO 63130
(314) 889-6484

Sedalia:
State Fair Community College Library
1900 Clarendon Road
Sedalia, MO 65301

Springfield:
Walker Library
Drury College
Springfield, MO 65802

Southwest Missouri State University
The Library
Springfield, MO 65802
(417) 831-1561

Warrensburg:
Ward Edwards Library
Central Missouri State University
Warrensburg, MO 64093
(756) 429-4149

MONTANA

Billings:
Bureau of Land Management
Library
P.O. Box 30157
Billings, MT 59107

Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1538
Billings, MT 59103

NEBRASKA

Kearney:
Calvin T. Ryan Library
Kearney State College
Kearney, NE 68847

Lincoln:
Nebraska Library Commission
1420 P Street
Lincoln, NE 68508
(402) 471-2045

University of Nebraska-Lincoln
Libraries
Lincoln, NE 68588

Norfolk:
Northeast Technical Community
College
801 E. Benjamin Avenue
Norfolk, NE 68701
(402) 371-2020

Omaha
Creighton University Law Library
25th and California Streets
Omaha, NE 67578
(402) 280-2875

Omaha Public Library
Business, Science, and Technology
Department
215 S. Fifteenth Street
Omaha, NE 67502
(402) 444-4755

University of Nebraska at Omaha
Library
60th and Dodge Streets
Omaha, NE 67582
(402) 554-2661

Wayne
U. S. Conn Library
Wayne State College
Wayne, NE 68787
(402) 375-2200, ext. 213

NEVADA

Carson City:
Nevada State Library
Capitol Complex
Carson City, NV 89710
(702) 885-5160

Reno:
Government Publications Department
University of Nevada Library
Reno, NV 89557
(702) 784-6579

NEW HAMPSHIRE

Concord:
Law Division, State Library
Supreme Court Building
Loudon Road
Concord, NH 03301
(603) 271-3777

New London:
Fernald Library
Colby-Sawyer College
New London, NH 03257

NEW JERSEY

Bloomfield:
Bloomfield Public Library
90 Broad Street
Bloomfield, NJ 07003
(201) 429-6292

Bridgeton:
Cumberland County Library
800 East Commerce Street
Bridgeton, NJ 08302

East Orange:
East Orange Public Library
21 South Arlington Avenue
East Orange, NJ 07018

Elmer:
Arthur P. Schalick High School
Elmer-Centerton Road
R.D. 1
Elmer, NJ 08318

Hackensack:
Johnson Free Public Library
Hackensack Area Reference Library
275 Moore Street
Hackensack, NJ 07601

Jersey City:
Hudson Health Systems Agency
Library
871 Berger Avenue
Jersey City, NJ 07306

Lawrenceville:
Franklin F. Moore Library
Rider College
Lawrenceville, NJ 08648
(609) 896-5115

Mahwah:
Ramapo College Library
505 Ramapo Valley Road
Mahwah, NJ 07430

Montclair:
Montclair Public Library
50 S. Fullerton Avenue
Montclair, NJ 07042
(201) 744-0500

Newark:
Newark Public Library
5 Washington Street
P.O. Box 630
Newark, NJ 07101
(201) 733-7782

Paterson:
Paterson Free Public Library
250 Broadway
Paterson, NJ 07501
(201) 875-3750

Pomona:
Stockton State College
Pomona, NJ 08240
(609) 652-1776, ext. 266

Toms River:
Ocean County College
Learning Resources Center
College Drive
Toms River, NJ 08753
(201) 255-4000 ext. 385

Trenton:
New Jersey State Law Library
185 West State Street
P.O. Box 1898
Trenton, NJ 08625
(609) 292-6230

Voorhees:
Camden County Library
Echelon Urban Center
Laurel Road
Voorhees, NJ 08043
(609) 772-1636

Wayne:
Wayne Public Library
475 Valley Road
Wayne, NJ 07470
(201) 694-4272

NEW MEXICO

Albuquerque:

The University of New Mexico
General Library
Albuquerque, NM 87131
(505) 277-4241 and 277-5441

The University of New Mexico
School of Law Library
1117 Stanford NE
Albuquerque, NM 87131
(505) 277-6236

Las Vegas:
New Mexico Highlands University
Donnelly Library
Las Vegas, NM 87701

Portales:
Golden Library
Documents Department
Eastern New Mexico University
Portales, NM 87530

NEW MEXICO—Continued

Santa Fe:
New Mexico State Library
300 Don Gaspar
Santa Fe, NM 87503
(505) 827-2033

Office of the Solicitor, Law Library
U.S. Department of the Interior
U.S. Courthouse, Room 224
P.O. Box 1042
Santa Fe, NM 87501

Silver City:
Miller Library
Western New Mexico University
Silver City, NM 88061

NEW YORK

Albany:
The New York State Library
The State Education Department
Cultural Education Center
Empire State Plaza
Albany, NY 12230
(518) 474-5943

Brooklyn:
Brooklyn Public Library
Business Library
280 Cadman Plaza West
Brooklyn, NY 11201
(212) 780-7800

Corning:
The Arthur A. Houghton, Jr. Library
Corning Community College
Corning, NY 14830
(607) 962-9251

Garden City:
Adelphi University
Swirbul Library
South Avenue
Garden City, NY 11530
(516) 294-8700 ext. 7345

Geneseo:
State University of New York at
Geneseo
Milne Library
Government Documents
Geneseo, NY 14454

Greenvale:
C. W. Post Center—Long Island
University
B. Davis Schwartz Memorial Library
Greenvale, NY 11548

Mount Vernon:
Mount Vernon Public Library
28 South First Avenue
Mount Vernon, NY 10550
(914) 668-1840

New Paltz:
Government Documents Department
Sojourner Truth Library
State University College
New Paltz, NY 12561
(914) 257-2252

Niagara Falls:
Niagara Falls Public Library
1425 Main Street
Niagara Falls, NY 14305
(716) 278-7513

Oswego:
State University of New York at
Oswego
Oswego, NY 13126
(315) 341-4267

Rochester:
Rochester Public Library
Business and Social Science Division
115 South Avenue
Rochester, NY 14604
(716) 428-7342

Schenectady:
Schenectady County Public Library
Liberty and Clinton Streets
Schenectady, NY 12305

Syracuse:
Onondaga County Public Library
The Galleries
447 South Salina Street
Syracuse, NY 13205-2494
(315) 448-INFO

Uniondale:
Nassau Library System
900 Jerusalem Avenue
Uniondale, NY 11553
(516) 292-8920

Yonkers:
Yonkers Public Library
Getty Square Branch
7 Main Street
Yonkers, NY 10701
(914) 337-1500

NORTH CAROLINA

Asheboro:
Asheboro Public Library
201 Worth Street
Asheboro, NC 27203
(919) 629-3329

Asheville:
Asheville-Buncombe Public Library
67 Haywood Street
Asheville, NC 28801
(704) 252-8701

D. Hiden Ramsey Library
University of North Carolina at
Asheville
1 University Heights
Asheville, NC 28804
(704) 251-6434

Boone:
Regional Information Center
Region D Council of Governments
P.O. Box 1820
Boone, NC 28607

Chapel Hill:
University of North Carolina
Law Library
Van Hecke-Wettach Building 064-A
Chapel Hill, NC 27514
(919) 962-1194)

Charlotte:
Public Libraryty of Charlotte and
Mecklenburg County
310 N. Tryon Street
Charlotte, NC 28202
(704) 374-2540

Durham:
William Perkins Library
Public Documents Department
Duke University
Durham, NC 27706
(919) 684-2380

Gastonia:
Gaston County Public Library*
Headquarters: Gaston-Lincoln
Regional Library
1555 East Garrison Boulevard
Gastonia, NC 28052
(704) 865-3418

Greenville:
J. Y. Joyner Library
East Carolina University
Greenville, NC 27834

Greensboro:
Greensboro Public Library
201 N. Green Street
Greensboro, NC 27401
(919) 373-2471

Raleigh:
Documents Department
The D. H. Hill Library
North Carolina State University
Box 5007
Raleigh, NC 27650

North Carolina Department of
Cultural Resources
Division of State Library
Documents Branch
109 East Jones Street
Raleigh, NC 27611
(919) 733-3343

North Carolina Supreme Court Library
2 East Morgan Street
P.O. Box 28006
Raleigh, NC 27611
(919) 733-3425

Winston-Salem:
Forsyth County Public Library
660 West Fifth Street
Winston-Salem, NC 27101
(919) 727-2220

NORTH DAKOTA

Bismarck:
Bismarck Junior College*
Schafer Heights
Bismarck, ND 58501

North Dakota State Library
Highway 83 North
Bismarck, ND 58505
224-2490

Office of Program Planning*
All Nations Circle - Bldg. 35
United Tribes Educational Technical
Center
3315 South Airport Road
Bismarck, ND 58501

OHIO

Athens:
Government Documents Department
Ohio University Library
Athens, OH 45701
(614) 594-5604

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OHIO—Continued

Cincinnati:
Municipal Reference Library
224 City Hall
Cincinnati, OH 45202

National Institute for Occupational Safety and Health
Division of Technical Services
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, OH 45226

Cleveland:
Cleveland Public Library
325 Superior Avenue
Cleveland, OH 44114

Cleveland Regional Sewer District*
Library
Administrative Offices
801 Rockwell Avenue
Cleveland, OH 44114
(216) 775-6600 ext. 219

Cleveland Heights:
Cleveland Heights—University Heights Public Library
2345 Lee Road
Cleveland Heights, OH 44118
(216) 932-3600

Columbus
The State Library of Ohio
65 South Front Street
Columbus, OH 43215
(614) 466-2694

Dayton:
University Library
Wright State University
Dayton, OH 45435

Findlay:
Marathon Oil Company
Law Library, Room 856-M
539 South Main Street
Findlay, OH 45840
(419) 422-2121 ext. 3396

Shafer Library
Findlay College
1000 N. Main Street
Findlay, OH 45840
(419) 422-8313

Marion:
Marion Public Library*
445 E. Church Street
Marion, OH 43302
(614) 387-0992

Toledo:
Toledo-Lucas County Public Library
Social Science Department
325 Michigan Street
Toledo, OH 43624
(419) 255-7055 ext. 221

Wooster:
Andrews Library
The College of Wooster
Wooster, OH 44691

OKLAHOMA

Aradarko:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 397
Aradarko, OK 73005

Norman:
Law Library
University of Oklahoma
300 Timberdell
Norman, OK 73019

Oklahoma City:
Metropolitan Library System
Main Library
131 Dean A. McGee Avenue
Oklahoma City, OK 73102
(405) 631-1149

Oklahoma Department of Libraries
U.S. Documents Regional Depository
200 N.E. 18th Street
Oklahoma City, OK 73105
(405) 521-2502

Pawhuska:
Field Solicitor, Law Library
U.S. Department of the Interior
c/o Osage Agency
Pawhuska, OK 74056

Stillwater:
Documents Department
Edmon Low Library
Oklahoma State University
Stillwater, OK 74074
(405) 624-6546

Tulsa:
Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 3156
Tulsa, OK 74101

OREGON

Eugene:
University of Oregon Library
Government Documents Section
Eugene, OR 97403
(503) 686-3070

Portland:
Library Association of Portland
(Multnomah County Library)
801 S.W. 10th Avenue
Portland, OR 97205
223-7201

Salem:
Oregon State Library
State Library Building
Salem, OR 97310
(503) 378-4276

PENNSYLVANIA

Aliquippa:
B.F. Jones Memorial Library*
Aliquippa District Center
663 Franklin Avenue
Aliquippa, PA 15001
(412) 375-7174

Allentown:
The John A. W. Haas Library
Muhlenberg College
Allentown, PA 17604

Dallas:
Library
College Misericordia
Dallas, PA 18612

Harmony:
Library
Seneca Valley Senior High School*
Southwest Butler County School District
R.D. 2
Harmony, PA 16037

Harrisburg:
State Library of Pennsylvania
Box 1601
Harrisburg, PA 17126
(717) 787-7343

Hazleton:
Hazleton Area Public Library
Church and Maple Streets
Hazleton, PA 18201
454-2961/454-0244

Johnstown:
Cambria County Library System
248 Main Street
Johnstown, PA 15901
(754) 536-5131

Lancaster:
Fackenthal Library
Franklin and Marshall College
P.O. Box 3003
Lancaster, PA 17604
(717) 291-4210

Loretto:
Pius XII Memorial Library
Saint Francis College
Loretto, PA 15940

Millersville:
Millersville State College
Millersville, PA 17551

Vein
Stayer R & L Center
Millersville State College
Millersville, PA 17551
(717) 872-5411 ext. 552, 542

Newtown:
The Library
Bucks County Community College
Newtown, PA 18940

Philadelphia:
Government Publications Department
Free Library of Philadelphia
Logan Square
Philadelphia, PA 19103

Documents Unit
Paley Library
Temple University
Philadelphia, PA 19122

Pittsburgh:
Baldwin Borough Public Library
3344 Churchview Avenue
Pittsburgh, PA 15227

U.S. Bureau of Mines
Library
4800 Forbes Avenue
Pittsburgh, PA 15213

Reading:
Reading Public Library
5th and Franklin Streets
Reading, PA 19602
(215) 374-4548

PENNSYLVANIA—Continued

Shippensburg:
Ezra Lehman Memorial Library
Shippensburg State College
Shippensburg, PA 17257

Somerset:
Somerset State Hospital Library
Box 631
Somerset, PA 15501
(754) 445-6501, ext. 216

Swarthmore:
The Swarthmore College Library
The McCabe Library
Swarthmore, PA 19075
(215) KI 4-7900

Warren:
Warren Library Association
205 Market Street
Warren, PA 16365

Washington:
Washington County Law Library
Courthouse
Washington, PA 15301
(412) 228-6747

West Chester:
Francis Harvey Green Library*
West Chester State College
West Chester, PA 19380
(215) 436-2869

Wilkes-Barre:
Institute of Regional Affairs*
Wilkes College
Wilkes-Barre, PA 18703

RHODE ISLAND

Kingston:
Government Publications Office
University of Rhode Island
Library
Kingston, RI 02875
(401) 792-2602

Providence:
Brown University Library
Documents Department
Providence, RI 02912
(401) 863-2522

Providence Public Library
150 Empire Street
Providence, RI 02903
(401) 521-7722

Rhode Island College
James P. Adams Library
Documents Department
600 Mt. Pleasant Avenue
Providence, RI 02908
(401) 274-4900 ext. 331

Warwick:
Warwick Public Library
600 Sandy Lane
Warwick, RI 02886
(401) 739-5440

SOUTH CAROLINA

Charleston:
Baptist College of Charleston
P. O. Box 10087
Charleston, SC 29411

Charleston County Library
404 King Street
Charleston, SC 29403

Citadel
Charleston, SC 29409

College of Charleston
66 George Street
Charleston, SC 29401

Clemson:
Clemson University
Clemson, SC 29631

Columbia:
Benedict College
Blanding & Harden Streets
Columbia, SC 29204

Richland County Public Library
1400 Sumter Street
Columbia, SC 29201

South Carolina State Library
1500 Senate Street
Columbia, SC 29201

University of South Carolina
Columbia, SC 29208

Conway:
Coastal Carolina (of University of SC)
Route 6
Conway, SC 29526

Due West:
Erskine College*
Due West, SC 29639

Florence:
Florence County Library
319 S. Irby Street
Florence, SC 29501

Francis Marion College
Florence, SC 29501

Greenville:
Furman University
Greenville, SC 29613

Greenville County Library
300 College Street
Greenville, SC 29601

Greenwood:
Larry A. Jackson Library
Lander College
Greenwood, SC 29646

Orangeburg:
South Carolina State College
College Avenue
Orangeburg, SC 29117

Rock Hill:
Winthrop College
Rock Hill, SC 29733

Spartanburg:
Spartanburg County Library
P. O. Box 2409
333 S. Pine Street
Spartanburg, SC 29304

Sumter:
Sumter County Library
111 North Harvin Street
Sumter, SC 29150
773-7273

SOUTH DAKOTA

Brookings:
H. M. Briggs Library
South Dakota State University
Brookings, SD 57007
(605) 688-5106

Rapid City:
Devereaux Library
South Dakota School of Mines & Technology
Rapid City, SD 57701
(605) 394-2416

Sioux Falls:
Sioux Falls Public Library
201 N. Main Avenue
Sioux Falls, SD 57101

TENNESSEE

Chattanooga:
Hamilton County Bicentennial Library
Business, Science and Technology Department
1001 Broad Street
Chattanooga, TN 37402
(615) 757-5312

Clarksville:
Woodward Library
Austin Peay State University
Clarksville, TN 37040
(615) 648-7346

Martin:
Paul Meek Library
University of Tennessee at Martin
Martin, TN 38238
(901) 587-7065

Nashville:
Documents Unit
Joint University Libraries
Nashville, TN 37203

Tennessee State Library
Tennessee State Library and Archives
403 Seventh Avenue North
Nashville, TN 37219
(615) 741-2451

TEXAS

Amarillo:
Amarillo Public Library*
City of Amarillo
P.O. Box 2171
413 E. 4th
Amarillo, TX 79189

Field Solicitor
U.S. Department of the Interior
P.O. Box H-4393, Herring Plaza
Amarillo, TX 79101

Austin:
The State Law Library
Supreme Court Building
P.O. Box 12367, Capitol Station
Austin, TX 78711
(512) 475-3807

College Station:
Documents Division
University Libraries
Texas A & M University
College Station, TX 77843

TEXAS—Continued

Dallas:
Dallas County Law Library
Government Center
Dallas, TX 75202
749-8475

U.S. Environmental Protection Agency
Region VI
1201 Elm Street
Dallas, TX 75270

Denton:
Texas Woman's University Library
Box 23715, TWU Station
Denton, TX 76204
(757) 566-6415

El Paso:
El Paso Public Library
Documents Section
501 North Oregon Street
El Paso, TX 79901
(915) 543-3808

Hurst:
Hurst Public Library
901 Precinct Line Road
Hurst, TX 76053
(757) 485-5320

Killeen:
Oveta Culp Hobby Library
American Educational Complex
U.S. Hwy 190 W.
Killeen, TX 76541
(757) 526-1237

Lubbock:
School of Law Library
Texas Tech University
Lubbock, TX 79409

Victoria:
Documents Department
VC/UHVC Library
2602 N. Ben Jordan
Victoria, TX 77901
(512) 576-3151, ext. 201
(512) 573-3291

UTAH

Cedar City:
Southern Utah State College Library
Cedar City, UT 84720

Ephraim:
Lucy A. Phillips Library
Snow College
Ephraim, UT 84627

Logan:
Documents Department
Merrill Library, UMC 30
Utah State University
Logan, UT 84322

Ogden:
Weber State College Library
Ogden, UT 84403

Provo:
Harold B. Lee Library
Documents and Maps Section
Brigham Young University
Provo, UT 84602

Law Library
Brigham Young University
Provo, UT 84602

Salt Lake City:
Regional Solicitor
U.S. Department of the Interior
Suite 6201, Federal Building
125 South State Street
Salt Lake City, UT 84138

Supreme Court Library
State Capitol
Salt Lake City, UT 84114

College of Law Library
University of Utah
Salt Lake City, UT 84112

Government Documents
Eccles Health Sciences Library
University of Utah, Bldg. 89
Salt Lake City, UT 84112

Government Documents Division
Marriott Library
University of Utah
Salt Lake City, UT 84112

Utah State Library Commission
2150 South 300 West, Suite 16
Salt Lake City, UT 84115

VERMONT

Burlington:
Bailey/Howe Library
Documents Department
University of Vermont
Burlington, VT 05405

Middlebury:
Egbert Starr Library
Government Documents Department
Middlebury College
Middlebury, VT 05753

South Royalton:
Law Library
Vermont Law School
South Royalton, VT 05068
(802) 763-8303

VIRGINIA

Alexandria:
Alexandria Library*
717 Queen Street
Alexandria, Va. 22314
(703) 838-4555

Arlington:
Office of Hearings and Appeals
Library
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, VA 22203

Chesapeake:
Chesapeake Public Library
300 Cedar Road
Chesapeake, VA 23320
(804) 547-6591

Danville:
Danville Community College Library
1009 Bonner Avenue
Danville, VA 24541
(804) 797-3553

Fairfax:
Fairfax City Central Library
3915 Chain Bridge Road
Fairfax, VA 22030
(703) 691-2741

Fenwick Library
George Mason University
4400 University Drive
Fairfax, VA 22030

Lynchburg
The Library
Lynchburg College
Lynchburg, VA 24501

Norfolk:
Norfolk Public Library System
301 East City Hall Avenue
Norfolk, VA 23510

Reston:
U.S. Geological Survey
Library
National Center, Mail Stop 950
Reston, VA 22092

Richmond:
Learning Resources Center
Parham Road Campus
J. Sargeant Reynolds Community College
P.O. Box 12084
Richmond, VA 23241
(804) 264-3220

Municipal Library
County of Henrico
Hungary Springs & Parham Roads
Richmond, VA 23228

Virginia State Library
11th & Capitol Streets
Richmond, VA 23219

Roanoke:
Roanoke Law Library
210 Campbell Avenue, SW
Roanoke, VA 24011

Virginia Beach:
Public Law Library
Municipal Center
City of Virginia Beach
Virginia Beach, VA 23456

Williamsburg:
Documents Department
Earl Gregg Swem Library
College of William and Mary
Williamsburg, VA 23185

WASHINGTON

Bellingham:
Documents Division, Wilson Library
Western Washington University
516 High Street
Bellingham, WA 98225
(206) 676-3075

Cheney:
Eastern Washington University
The Library
Cheney, WA 99004
(509) 359-2475

Everett:
Everett Public Library
2702 Hoyt Avenue
Everett, WA 98201
(206) 259-8857

Snohomish County Law Library
County Courthouse
Everett, WA 98201
(206) 259-5326

WASHINGTON—Continued

Midway:
Highline Community College
Library 25-2
Midway, WA 98032
(206) 878-3710, ext. 232

Olympia:
Washington State Law Library
Temple of Justice
Olympia, WA 98504

Washington State Library
Document Section
Olympia, WA 98504
(206) 753-4027

Port Angeles:
North Olympic Library System
207 So. Lincoln
Port Angeles, WA 98362

Spokane:
Gonzaga University Law Library
E. 600 Sharp Avenue
P.O. Box 3528
Spokane, WA 99220

Spokane Public Library
West 906 Main Avenue
Spokane, WA 99201
(509) 838-3361

WEST VIRGINIA

Beckley:
National Mine Health and Safety Academy
Learning Resources Center
P.O. Box 1166
Beckley, WV 25801

Charleston:
Kanawha County Public Library
123 Capitol Street
Charleston, WV 25301
(304) 343-4646

Montgomery:
Vining Library
West Virginia Institute of Technology
Montgomery, WV 25136

Weirton:
Mary H. Weir Public Library
3442 Main Street
Weirton, WV 26062
(304) 748-7070

WISCONSIN

Appleton:
Appleton Public Library
121 South Oneida Street
Appleton, WI 54911
734-7171

Green Bay:
University of Wisconsin—Green Bay
Library Learning Center
Government Publications
Green Bay, WI 54302

Kenosha:
Library/Learning Center
University of Wisconsin-Parkside
Wood Road

Kenosha, WI 53141

Ladysmith:
Mount Senario College Library
Ladysmith, WI 54848

Madison:
Madison Public Library
201 W. Mifflin Street
Madison, WI 53703
(608) 266-6363

Milwaukee:
Milwaukee County
Law Library
Courthouse, Room 307
901 North 9th Street
Milwaukee, WI 53233
278-4900

WYOMING

Gillette:
George Amos Memorial Library
412 S. Gillette Avenue
Gillette, WY 82716
(307) 682-3223

Laramie:
Coe Library—Documents Division
University of Wyoming
Box 3334, University Station
Laramie, WY 82071
(307) 766-2174

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Tuesday,
April 18, 1989

Part III

Environmental Protection Agency

40 CFR Part 763
Toxic and Hazardous Substances Control; Asbestos; Notice and Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

[OPTS-62073; FRL-3557-5]

Asbestos; Requirement to Submit Information to EPA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This **Federal Register** notice explains how, when, and where former and current manufacturers and processors of certain asbestos products are to submit information identifying their products to EPA.

EFFECTIVE DATE: The information collection requirements contained in this notice have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved them. EPA will publish a notice in the future establishing an effective date for the information collection requirements.

ADDRESS: Send all submissions, identified by the docket control number (OPTS-62073), in triplicate to:

ATLIS Federal Services Inc., ATTN: EPA/AIA Clearinghouse, 6011 Executive Blvd., Rockville, MD 20852.

For information regarding submissions containing confidential business information, see unit II.B. of this notice.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M St. SW., Washington, DC 20460, (202) 382-3790, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION:

I. Background

On October 31, 1988, the President signed into law the Asbestos Information Act of 1988, Pub. L. 100-577 (the Act), which requires manufacturers and processors of certain asbestos-containing materials to submit information to EPA within 90 days of enactment, that is, by January 29, 1989.

Section 3 of the Act requires EPA, within 30 days of enactment, to publish a notice in the **Federal Register** that explains how, when, and where the information specified in section 2 is to be submitted. Although EPA did not issue a notice with the time period specified in the Act, this notice now explains how, when, and where the information specified in section 2 is to be submitted.

Section 3 also requires EPA to receive and organize the information submitted and, within 180 days of enactment of the Act, to publish the information. EPA may not review the information for accuracy or analyze the information to determine whether it is reasonably necessary to identify or distinguish the particular asbestos or asbestos-containing material.

II. Provisions

A. Reporting Requirements

The information required by section 2 of the Act is to be submitted to the address specified in the **ADDRESS** section above. The information may be submitted prior to the effective date if the submitter chooses to do so. To facilitate EPA's organization of this information, the submission should also include a summary of the information required by section 2 of the Act. The information in the summary should be presented in the order listed below:

1. The name and address of the manufacturer or processor of the asbestos or asbestos-containing material and the name and address of any applicable corporate predecessor who manufactured or processed such material.

2. Years of manufacture of the asbestos or asbestos-containing material.

3. Types or classes of products.

4. To the extent available, other identifying characteristics reasonably necessary to identify or distinguish the asbestos or asbestos-containing material.

5. [*Optional*] Protocols for samples of the asbestos and asbestos-containing material.

B. Conclusion

Since section 2 of the Act specifically prohibits EPA from reviewing or analyzing the necessity or accuracy of the information submitted, the Agency is not attempting to interpret the scope of that section. This notice, therefore, is limited to notifying persons subject to reporting of the manner, place, and time of reporting.

III. Other Regulatory Requirements

Paperwork Reduction Act

The information collection requirement in this notice has been submitted for approval to the Office of Management and Budget (OMB), 44 U.S.C. 3501 *et seq.* This requirement is not effective until OMB approves it and a notice to that effect is published in the **Federal Register.**

The public reporting burden to prepare a summary of the information required by section 2 of the Act is estimated to average 1.5 hours. This estimate does not account for the burden involved in reporting the information required by section 2, because that requirement results directly from the Act itself. The paperwork burden imposed by EPA is limited to a request for a summary of the information required by section 2 and is reflected in the estimate above. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

Dated April 6, 1989.

William K. Reilly,

Administrator.

[FR Doc. 89-9216 Filed 4-17-89; 8:45 am]

Billing Code 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPTS-62067A; FRL-3557-4]

Asbestos-Containing Materials in Schools; State Requests for Waivers From Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on requested waivers.

SUMMARY: EPA is issuing a final decision which approves the requests of Connecticut and Rhode Island for a waiver from the requirements of 40 CFR Part 763, Subpart E, Asbestos-Containing Materials in Schools.

ADDRESSES: Copies of the complete waiver applications submitted by the States and public comments on the requests are available from the TSCA Public Docket Office. Copies of the waiver applications are also on file and may be reviewed at the EPA Region I office in Boston, Massachusetts.

TSCA Public Docket Office (TS-793), TSCA Docket Officer, Room NE-G004, 401 M Street, SW., Washington, DC 20460.

EPA, Region I (APT-2311), John F. Kennedy Federal Building, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street, SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This notice is issued under the authority of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2641, *et seq.* TSCA Title II was enacted as part of the Asbestos Hazard Emergency Response Act 1986 (AHERA), Pub. L. 99-519. AHERA is the abbreviation commonly used to refer to the statutory authority for EPA's rules affecting asbestos in schools and will be used in this notice. EPA issued a final rule in the **Federal Register** of October 30, 1987 (52 FR 41846), the Asbestos-Containing Materials in Schools Rule (the Schools Rule, 40 CFR Part 763, Subpart E), which requires all Local Educational Agencies (LEAs) to identify asbestos-containing building materials (ACBM) in their school buildings and to take appropriate actions to control the release of asbestos fibers.

Under section 203 of AHERA, EPA may, upon request by a State Governor and after notice and comment and opportunity for a public hearing in the State, waive in whole or in part the requirements of the Schools Rule, if the State has established and is implementing or intends to implement an ongoing program of asbestos inspection and management which is at least as stringent as the requirements of the rule. Section 763.98 (40 CFR 763.98) sets forth the procedures to implement this statutory provision. The School Rule requires that specific information be included in the waiver request submitted to EPA, establishes a process for reviewing waiver requests, and sets forth procedures for oversight and recission of waivers granted to States. The Agency encourages States to establish and manage their own school regulatory programs under the AHERA waiver provision.

EPA issued a notice in the **Federal Register** of October 3, 1988 (53 FR 38838), which announced the receipt of waiver requests from the States of Connecticut, Rhode Island, Illinois, and New Jersey, and solicited comments from the public. The notice also discussed the key program elements of each State program, listed differences between each State program and the AHERA requirements, and provided EPA's preliminary response to the four States on the differences identified.

Four comments were received during the 60-day comment period. The States of Illinois and Rhode Island submitted comments on their respective waiver requests by responding to the major differences discussed in the October 3, 1988, **Federal Register.** Two other comments addressed the New Jersey program: One comment was supportive, and the other expressed concerns regarding the program's stringency. No request for a public hearing was received on any of the four waiver requests. Consequently, no hearings were held.

EPA is required to issue a notice in the **Federal Register** announcing its decision to grant or deny a request for a waiver within 30 days after the close of the comment period. The comment period for this docket closed December 3, 1988. The 30-day review period may be extended if mutually agreed upon by EPA and the State. EPA will not publish final decisions on the New Jersey and Illinois waiver requests at this time. The State of New Jersey is in the process of completing its proposed asbestos regulations. EPA has agreed with the State to extend the 30-day review of its application. At present, EPA and the State of Illinois are continuing discussions on that State's waiver request. However, EPA and the State have agreed that the exclusion provisions of AHERA (40 CFR 763.99) offer the appropriate relief for the approximately 1,300 previous inspections conducted by the State, if these inspections were conducted in a manner acceptable under AHERA. EPA will issue a notice in the **Federal Register** giving its reasons for granting or denying each State's application when a final decision is made. The remainder of this notice deals only with the waiver requests from Connecticut and Rhode Island. EPA, in letters dated December 16, 1988, agreed with both Connecticut and Rhode Island to extend the 30-day review of their applications. This allowed the States time to provide additional information requested by EPA to assure that the States would incorporate certain AHERA requirements into their asbestos inspection and management programs.

During the 60-day comment period the State of Rhode Island submitted comments on its waiver request by responding to the major differences discussed in the October 3, 1988, **Federal Register;** the Rhode Island submission is discussed more fully in Unit II of this notice.

The remainder of this notice is divided into three units. The first two units discuss, respectively, the Connecticut and Rhode Island programs and set forth the reasons and rationale for EPA's decision on each State's waiver request. Each of these units is further sub-divided into three sections. Section A discusses key elements of the State's program at the time the waiver request was submitted. Section B enumerates the differences between the State's program and the AHERA requirements as discussed in the October 3, 1988, **Federal Register** notice and the response to those differences which EPA subsequently received from the State. Section C gives EPA's final approval of the waiver request based on the State's response. The third unit of this notice discusses statutory requirements of the Paperwork Reduction Act.

I. The Connecticut Program

A. Program Elements

In June 1985, sections 10-292a and 10-292b of the Connecticut General Statutes, as amended by Public Act 86-65, became effective. The statute mandated that each public LEA in Connecticut inspect its school facilities for asbestos-containing materials (ACM) and develop asbestos management plans for each facility. LEAs responsible for Connecticut public schools

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constructed prior to January 1, 1979, submitted Asbestos Management Plans to the State Department of Education (CTDOE) prior to January 1, 1987. The State Department of Health Services (CTDHS) reviewed the plans and made recommendations regarding approval to DOE. Forms provided by CTDOE were used for inspection reports. CTDHS developed a detailed asbestos decision protocol for the identification and assessment of ACM, including recommended response actions, and an asbestos management program and remediation options guidelines to be used by public LEAs. Regulations promulgated pursuant to this statute require:

1. Inspection of all public schools constructed prior to January 1, 1979, for the identification of friable and nonfriable ACM.

2. Inspections to be conducted by a qualified inspector, defined as an individual who has attended an EPA-sponsored program or its equivalent and has demonstrated to the Department of Health Services an ability to sample and identify ACM.

3. An asbestos management plan to be developed and prepared by a qualified individual when asbestos is identified. This individual must have attended an EPA-sponsored course in asbestos management or its equivalent as determined by CTDHS.

4. The asbestos management plan addresses monitoring of ACM, education of building staff, procedures to minimize asbestos fiber release, annual reviews, and a time schedule for implementing actions specified in the plan.

5. Annual updates of the management plan.

6. Periodic visual inspections every 2 months.

7. Each LEA to have a designated person to oversee the LEA's asbestos program.

8. Each school to keep a copy of the asbestos management plan in its administrative office.

B. Resolution of Differences Between State and AHERA

Requirements

In the October 3, 1988, **Federal Register** notice, EPA gave its preliminary response to differences identified between Connecticut and AHERA requirements. EPA's responses were divided into two groups: those which need to be addressed by the State before May 9, 1989, and those which need to be addressed prior to the statutory date specific to the particular requirement. In a letter dated January 10, 1989, to Mr. John Coroso, Director, Division of Management and Budget, Connecticut Department of Education, who was designated by the Governor of Connecticut as the person with legal authority to carry out the requirements related to the waiver request, EPA indicated those items from the October 3, 1988, notice requiring official assurance that AHERA requirements will be incorporated into the State's asbestos inspection and management program. The letter also listed those items for which satisfactory assurances were already received in the State's original waiver request signed by the Governor. The remaining assurances were subsequently received in an official letter dated January 20, 1989, from Mr. Coroso to EPA. These four assurances which follow were contained in the State's original waiver request:

1. All public school buildings which are covered under the EPA rules but not under the State regulations (i.e., schools constructed after January 1, 1979) must be inspected and have management plans developed.

CTDOE Response: In order to comply with this more stringent Federal requirement, CTDOE will require that these public school facilities be inspected for the presence of asbestos according to established Connecticut regulations, decision protocols and remediation options. Asbestos management plans will be submitted for these facilities.

2. LEAs will provide yearly notification regarding asbestos activities to workers and building occupants or their legal guardians and that management plans will be made available for public inspection.

CTDOE Response: Section 763.84(c) of the AHERA regulations requires the LEA to ensure that workers, students, parents, teachers and other building occupants are notified about the availability and locations of asbestos management plans on an annual basis. To comply with this more stringent Federal requirement, CTDOE will require LEAs to annually inform workers and building occupants, or their legal guardians, about inspections, response actions and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress.

3. All custodial and maintenance employees will be trained as required by EPA rules.

CTDOE Response: Section 763.92 of the AHERA regulations requires the LEA to ensure that its maintenance and custodial staff who work in a building that contains ACM receive training of at least 2 hours. The section also requires the LEA to ensure that its maintenance and custodial staff, who conduct any activities that result in the disturbance of ACM, receive an additional 14 hours of training. To comply with this more stringent Federal requirement, CTDOE will require LEAs to train their maintenance and custodial staff in, at least, the following areas:

(a) Information regarding asbestos and its various uses and forms.

(b) Information on the health effects associated with asbestos exposure.

(c) Locations of ACM identified throughout each school building in which they work.

(d) Recognition of damage, deterioration and delamination of ACM.

(e) Name and telephone number of the Asbestos Program Coordinator designated to carry out general local education agency responsibilities and the availability and location of the management plan.

The additional 14 hours of training for staff conducting activities which may result in the disturbance of ACM will include:

(a) Descriptions of the proper methods of handling ACM.

(b) Information on the use of respiratory protection as contained in the EPA/NIOSH Guide to Respiratory Protection for the Asbestos Abatement Industry, September 1987 (EPA 560/OPTS-86-001) and other personal protection measures.

(c) The provisions of AHERA §§ 763.91 and 763.92, Appendices A, B, C, D, of Subpart E of Part 763, EPA regulations contained in 40 CFR Part 763, Subpart G, and in 40 CFR Part 61, Subpart M, and OSHA regulations contained in 29 CFR 1926.58.

(d) Hands-on training in the use of respiratory protection, other personal protection measures, and good work practices.

4. Warning labels will be posted in routine maintenance areas where ACBM is located.

CTDOE Response: Section 763.95 of the AHERA regulations requires the LEA to attach a warning label immediately adjacent to any friable and nonfriable ACM and suspected materials assumed to be ACM located in routine maintenances areas (such as boiler rooms) at each school building. This warning label should read, in print which is readily visible because of large size or bright color, as follows: CAUTION: ASBESTOS, HAZARDOUS, DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT.

To comply with this more stringent Federal requirement, the CTDOE will require public LEAs to attach warning labels to:

(a) Friable ACM that was responded to by a means other than removal.

(b) ACM for which no response action was carried out.

(c) All labels shall be prominently displayed in readily visible locations and shall remain posted until the ACM that is labeled is removed.

Remaining assurances were subsequently received in an official letter dated January 20, 1989, from Mr. Coroso to EPA. Following is a list of those items noted in EPA's January 10, 1989, letter; after each item or group of items is a summary of the CTDOE response.

For the first five items EPA required that the State incorporate requirements into its program for public schools by May 9, 1989:

1. Until the Connecticut accreditation programs are approved by EPA, only properly accredited asbestos professionals who have received accreditation from an EPA-approved program will be used by LEAs for inspections, management plan development, abatement project design, and implementation.

2. Management plans will be developed for schools found not to contain asbestos and the plans will be submitted to the State.

3. The recordkeeping requirements of the EPA rules will be implemented by LEAs.

4. Provisions will be made for bringing schools, built after 1979 (which were not covered by State regulation), into the system of asbestos inspection and management; buildings brought into the school system after the initial inspection will be subject to the AHERA requirements.

5. The State will require, either administratively or through new regulations, that LEAs use the EPA criteria governing clearance sampling and use of transmission electron microscopy to determine the adequacy and completeness of response actions.

CTDOE Response: In its letter of January 20, 1989, the State assured EPA that it would incorporate all five of these requirements into its program for public schools by May 9, 1989.

EPA required that in responding to Items 6 and 7 the State describe specific action it proposes to take to ensure conformance with AHERA, and provide a time schedule for incorporating each action into the State's program.

6. Implement a plan which provides for reinspection of public schools at least every 3 years.

CTDOE Response: Public LEAs will be notified by February 15, 1989, of this requirement [letter is available in Docket]. The State will require asbestos management plans to be submitted as a result of the reinspections. The plans will be scheduled for submission 3 years after the approval of the initial plans. The State provided for the docket a listing of public school districts, school facility addresses, date of asbestos management plan approval, and reinspection due date.

7. Upgrade the Connecticut enforcement program by implementing a routine inspection program to insure that LEAs are complying with the State's requirements.

CTDOE Response: Beginning on January 1, 1990, at least 100 public school facilities will be inspected annually by CTDOE or CTDHS. These compliance inspections will include a review of the following:

a. That an asbestos management plan is on file as required by § 763.94 of AHERA regulations.

b. That warning labels are attached as required by § 763.95 of AHERA regulations.

c. That an operations and maintenance program is implemented as described in § 763.91 of AHERA regulations.

A report of all annual compliance reviews will be kept on file with CTDOE.

Any public school district found not to be in compliance with the provisions of Connecticut General Statute section 19a–3332d *et seq.* will be reported to the CTDHS, which may enforce compliance through Connecticut General Statute section 19a–332d and corresponding regulations. This section of the Connecticut statute allows for penalties of up to $5,000, or up to 1-year imprisonment or both, for violations related to standards for asbestos abatement.

8. Bulk sampling schemes will be upgraded to AHERA standards for all future reinspections.

CTDOE Response: Bulk sampling schemes will be so upgraded.

9. If the State identifies any deficiencies in the types of materials inspected during previous inspections, these deficiencies will be resolved during the next scheduled reinspection.

CTDOE Response: Identified deficiencies will be so resolved.

With one exception, the above assurances from Connecticut respond to all of the items contained in EPA's October 3, 1988, **Federal Register** notice. The exception regarded the need for a determination by the State before May 9, 1989, whether or not past inspections were done in "substantial compliance" with current EPA regulations.

Upon further review, the Agency has decided that determination of substantial compliance with respect to past inspections under 40 CFR 763.99 (Exclusions) is not a condition for a waiver under 40 CFR 763.98. Under 40 CFR 763.99(a)(4), the substantial compliance decision is included in the management plan. Whether a State lead agency has properly made this "substantial compliance" decision arises during enforcement of the regulations against a school which claims it does not have to conduct an AHERA inspection. It is, therefore, an issue to be decided among those State offices with responsibility for deciding and advising on enforcement matters. In addition, during any oversight of State programs under 40 CFR 763.98(h), EPA may examine State compliance with 40 CFR 763.99(a)(4) in making these substantial compliance decisions. As noted in item 9 above, however, deficiencies other than those affecting the substantial compliance decision may be resolved during the next scheduled reinspection.

C. EPA'S Decision on Connecticut's Request for Waiver

EPA has received formal assurances from the Governor and from the lead agency (CTDOE) having the legal authority to carry out the requirements relating to the waiver request that Connecticut will incorporate into its asbestos inspection and management program by the statutory dates all of the applicable requirements contained in EPA's October 3, 1988, **Federal Register** notice. Accordingly, EPA grants the State of Connecticut request for waiver from the requirements of 40 CFR Part 763, Subpart E. This waiver is applicable to public schools only. EPA retains AHERA jurisdiction for private schools in Connecticut. This waiver is subject to rescission under 40 CFR 763.98(j) based on periodic EPA oversight evaluation and conference with the State in accordance with 40 CFR 763.98(h) and 763.98(i), effective May 9, 1989. Federal jurisdiction shall be in effect in the period between the date of publication of this notice and May 9. This will assure that the State has sufficient time to prepare to assume its new responsibilities. It will also assure the public that no gap in authority occurs, and gives the public sufficient notice of the transfer of duties from EPA to the State of Connecticut.

II. The Rhode Island Program

A. Program Elements

In July 1985, Chapter 23–24.5 of the General Laws of Rhode Island became

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effective. The statute required that the Rhode Island Department of Health (RIDOH) undertake inspections of high priority group buildings, which included public and private school buildings. All Rhode Island public and private schools were inspected by RIDOH personnel by September 1987. RIDOH used a numerical algorithm to rate the hazard posed by a particular type of ACM in a given area. The ratings assigned to each area were intended to be used as a basis for allocating State abatement funds. RIDOH did not establish recommended or required abatement actions based on the numerical ratings. Pursuant to the statutory authority, RIDOH promulgated regulations (January 1986 and August 1986) which require:

1. The submission of an asbestos abatement plan by the building owner if the RIDOH inspection identifies material containing equal to or greater than 1 percent asbestos. Upon RIDOH notice, the building owner has 120 days to submit the asbestos abatement plan.

2. The asbestos abatement plan includes: bulk and air sampling information; blueprints or floor plans; an operations and maintenance program which addresses the monitoring of ACM; the education of maintenance staff; actions to minimize fiber release and the potential of human exposure to asbestos; and a description of abatement actions.

B. Resolution of Differences Between State and AHERA

Requirements

In the October 3, 1988, **Federal Register** notice, EPA gave its preliminary response to differences identified between Rhode Island and AHERA requirements. EPA's responses were divided into two groups: those which need to be addressed by the State before May 9, 1989, and those which need to be addressed prior to the statutory date specific to the particular requirement. In a letter dated January 17, 1989, to Mr. James E. Hickey, CIH, Chief, Division of Occupational and Radiological Health, Rhode Island Department of Health, who was designated by the Governor of Rhode Island as the person with legal authority to carry out the requirements related to the waiver request, EPA indicated those items from the October 3, 1988, notice requiring official assurance that AHERA requirements will be incorporated into the State's asbestos inspection and management program. The required assurances were subsequently received in an official letter dated January 25, 1987, from Mr. Hickey to EPA. Following is a list of those items noted in EPA's January 17, 1989 letter. Following each item is a summary of the RIDOH response.

1. Until Rhode Island accreditation programs are approved by EPA, only properly accredited asbestos professionals who have received accreditation from an EPA-approved program will be used by LEAs for inspections, management plan development, abatement project design, and implementation.

RIDOH Response: EPA has previously (May 27, 1988) approved Rhode Island's Asbestos Contractor, Site Supervisor and Worker accreditation programs under the EPA Model Contractor Accreditation Plan (52 FR 15875). The State's current regulations for consultant certification are identical to those contained in the EPA Model Plan. In addition, the State resubmitted a request for EPA approval of this accreditation program for inspectors, management planners, and abatement project designers on November 25, 1988, and is awaiting action on this request. Under current State regulations, RIDOH cannot certify a consultant who has not received training from a program approved under the EPA Model Plan and will only accept LEA management/abatement plans from State-certified consultants.

2. In addition to the current yearly notifications LEAs already provide regarding asbestos activities to workers and building occupants, the State of Rhode Island will require that LEAs also provide notice to parents or legal guardians.

RIDOH Response: LEAs will be notified by letter that the notification requirements of State regulations also include appropriate annual notifications to parents or legal guardians.

3. LEAs will make management plans available for public inspection.

RIDOH Response: Access to abatement/management plans is guaranteed by section 23-24.5-11(a) of the General Laws (asbestos program enabling legislation). However, RIDOH will request that LEAs include a notice of availability in the annual notifications referenced in Item 2 above.

4. Recordkeeping requirements of the EPA rules will be implemented by LEAs.

RIDOH Response: LEAs will be informed in writing of the requirements of maintaining all AHERA-mandated records. AHERA recordkeeping requirements are addressed, at least in part, by current RIDOH regulations. RIDOH will review the remaining requirements with State legal counsel to determine if this administrative notification to LEAs must also be supplemented by additional amendments to State regulations.

5. Schools which have no ACM will submit management plans and follow notification requirements.

RIDOH Response: RIDOH will advise LEAs with schools previously identified as "containing no asbestos" that they are subject to the requirements of the initial AHERA inspection and plan submittal process outlined in 40 CFR 763.93. These LEAs will also be advised of the annual notification requirements referenced in items 1 and 2 above.

6. All LEA custodial and maintenance employees will be trained as required by EPA rules, including a 2-hour awareness training.

RIDOH Response: The 14-hour training for maintenance and custodial employees mandated by 40 CFR 763.92(a)(2) has been addressed by modifying the Competent Person training requirements in the State's regulations. LEAs will be advised in writing that the training for maintenance and custodial employees mandated by the State's regulations must include at least the 2 hours mandated by 40 CFR 763.92(a)(1).

7. LEAs will meet the requirement to have a designated person in charge of the LEA asbestos program.

RIDOH Response: This is an essential element of all AHERA management plans and RIDOH will also remind each LEA in writing of this requirement.

For the following Items 8, 9, and 10, EPA required that the State provide specific actions it proposes to take to ensure conformance with AHERA; and provide a time schedule for incorporating each action into the State's program.

8. Asbestos abatement clearance air sampling will be done in accordance with EPA requirements.

RIDOH Response: Rhode Island will propose appropriate amendments to its regulations for all buildings subject to the AHERA rules. The timeframe for regulation amendments can vary from 1 to 6 months. Rhode Island's Administrative Procedures Act provides for both "emergency" and routine promulgation of regulations. RIDOH will review these items with State legal counsel to determine the appropriate rulemaking option. In any case, RIDOH does not foresee any complications which would put the implementation date of these amendments later than July 1989. The school districts will be informed of the applicability of the regulations, and RIDOH assures that these regulations will be in force by the effective date of the waiver.

9. Provisions for phasing in transmission electron microscopy (TEM) requirements for asbestos abatement clearance sampling will be done in accordance with EPA requirements.

RIDOH *Response:* RIDOH's response is identical to that contained in Item 8 above.

10. Past management plans will be updated to conform with the provisions for assessing ACM.

RIDOH Response: All of the reports of inspections previously conducted by RIDOH have already been sent to each LEA. These reports should have provided enough information for the LEA to perform an assessment of each area in accordance with 40 CFR 763.88. However, some of this information is several years old and the physical condition of the ACM may have changed to the point that an assessment based solely on this information could be totally inaccurate. Consequently, RIDOH will advise the LEAs that these areas should be formally assessed only after additional review by LEA personnel with AHERA training and/or AHERA-certified consultants hired by the LEA. The majority of the LEAs in Rhode Island have filed deferral requests in accordance with TSCA section 205. Consequently, it is RIDOH's understanding that these assessments must be completed and appropriate management plans submitted to RIDOH on or before May 9, 1989. Unless contrary information is received from EPA, RIDOH will so advise the LEAs.

For Items 11 and 12, EPA required that the stated AHERA requirements be in place on or before the date required by law.

11. If Rhode Island identifies deficiencies in the types of materials inspected during previous inspections, these deficiencies will be resolved during the next scheduled reinspection.

RIDOH Response: The majority of Rhode Island's initial inspections were done between January 1986 and July 1987, with essentially all inspections of buildings subject to AHERA completed by December 1987. As noted in item 10 above, the results of these inspections will be reviewed by the LEAs prior to submittal of their management plans. All of the buildings previously inspected by RIDOH will be subject to the 3-year reinspection requirement between January 1989 and December 1990. Consequently, all deficiencies should also be resolved by the end of this reinspection period.

12. All LEAs which have buildings with ACM must be required to implement a program of periodic surveillance every 6 months or the State must provide sufficient justification to show that its current program is "as stringent" as AHERA.

RIDOH Response: State regulations require that management/abatement plans include a schedule for periodic monitoring and documentation of the results of surveillance. Management plan reviewers evaluate proposed surveillance intervals to determine if they are appropriate under the circumstances. Items which are considered include the type, condition, accessibility and potential for significant damage of the ACM, traffic and/or activity levels, as well as present and proposed use(s) of the area. RIDOH review criteria recognize that some areas (e.g., main corridors, gymasiums, veritcal risers, and stairwells) will usually require surveillance at intervals more frequent than every 6 months. Conversely, RIDOH does not believe that low-activity areas which are otherwise secured and/or unused (e.g., crawl spaces) need to be entered every 6 months solely for the purpose of such surveillance, particularly when the management plan also includes procedures which limit access to these areas to individuals with proper training and equipment. RIDOH requires that this surveillance be performed by an individual certified as a "competent person." The above criteria have been in place since RIDOH promulgated detailed abatement/management plan submittal requirements in January 1986.

With one exception, the above assurances from Rhode Island respond to all of the items contained in EPA's October 3, 1988, **Federal Register** notice. The exception regarded the need for a determination by the State before May 9, 1989, whether or not past inspections were done in "substantial compliance" with current EPA regulations.

Upon further review, the Agency has decided that determination of substantial compliance with respect to past inspections under 40 CFR 763.99 (Exclusions) is not a condition for a waiver under 40 CFR 763.98. Under 40 CFR 763.99(a)(4), the substantial compliance decision is included in the management plan. Whether a State lead agency has properly made this "substantial compliance" decision arises during enforcement of the regulations against a school which claims it does not have to conduct an AHERA inspection. It is, therefore, an issue to be decided among those State offices with responsibility for deciding and advising on enforcement matters. In addition, during any oversight of State programs under 40 CFR 763.98(h), EPA may examine State compliance with 40 CFR 763.99(a)(4) in making these substantial compliance decisions. As noted in item 11 above, however, deficiencies other than those affecting the substantial compliance decision may be resolved during the next scheduled reinspection.

C. EPA's Decision of Rhode Island's Request for Waiver

EPA has received formal assurances from the lead Rhode Island agency (RIDOH) having the legal authority to carry out the requirements relating to the waiver request that Rhode Island will incorporate into its asbestos inspection and management program, by the statutory dates, all of the applicable requirements contained in EPA's October 3, 1988, **Federal Register** notice. Accordingly, EPA grants the State of Rhode Island a waiver from the requirements of 40 CFR Part 763, Subpart E, effective May 9, 1989. Federal jurisdiction shall be in effect in the period between the date of publication of this notice and that date. This will assure that the State has sufficient time to prepare to assume its new responsibilities. It will also assure the public that no gap in authority occurs, and gives the public sufficient notice of the transfer of duties from EPA to the State of Rhode Island. As requested, this waiver is applicable to all schools covered by AHERA in the State. This waiver is subject to rescission under 40 CFR 763.98(j) based on periodic EPA oversight evaluation and conference with the State in accordance with 40 CFR 763.98(h) and 763.98(i).

III. Other Statutory Requirements

Paperwork Reduction Act

The reporting and recordkeeping provisions relating to State waivers from the requirements of the Asbestos-Containing Materials in Schools Rule (40 CFR Part 763) have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and have been assigned OMB control number 2070-0091

Dated: April 7, 1989.

William K. Reilly,

Administrator.

[FR Doc. 89-9212 Filed 4-17-89; 8:45 am]

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Part IV

Department of the Treasury

Customs Service

19 CFR Part 101

Field Organization; Houston-Galveston District, Texas, et al; Final Rule

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 89-47]

Customs Service Field Organization; Houston-Galveston District, Texas, et al.

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations governing the Customs field organization by changing the boundaries of the Houston-Galveston, Laredo, Dallas/Fort Worth, and Port Arthur Districts, which lie within the Southwest Region. The purpose of the changes is to place all of the Texas interior ports within the Dallas/Fort Worth District; to move supervision of the port of San Antonio, Texas, and the user-fee airport at Midland, Texas, from the Laredo District to the Dallas/Fort Worth District; and to make minor alterations to the Port Arthur and Houston-Galveston Districts for simplification of administrative functions. As a result of these changes, ports with similar types of operations will be situated in the same districts. The public and importers will thereby be better served and Customs personnel and resources more efficiently used.

EFFECTIVE DATE: May 18, 1989.

FOR FURTHER INFORMATION CONTACT: Linda Walfish, Office of Workforce Effectiveness and Development, Office of Inspection and Control, U.S. Customs Service (202) 566-9425.

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities and resources, and to provide better service to carriers, importers and the public, Customs is amending § 101.3, Customs Regulations (19 CFR 101.3), by realigning the boundaries of several districts in the Southwest Region. This will place all of the current Texas interior ports of entry within the Dallas/Fort Worth District. It will move supervision of the port of San Antonio, Texas, and the user-fee airport at Midland, Texas, from the Laredo District to the Dallas/Fort Worth District. San Antonio, an inland port/airport operation, is functionally similar to the Dallas/Fort Worth operation and is more easily accessible to the Dallas/Fort Worth District than it is to the Laredo District due to better air transportation. The user-fee operations at Midland have more in common with Dallas/Fort Worth's ports than with Laredo's. User fee airports are those which, while not qualifying for designation as an international or landing rights airport, have been approved by the Commissioner to receive the services of Customs officers for processing aircraft entering the U.S. With this change, Laredo will have supervision of functionally similar border ports. These ports are sufficiently large and spread out over such a large geographical area as to require the full attention of the district director. Other alterations in boundaries are minor and for the purpose of simplification of administrative functions.

The revised district boundaries are as follows:

Houston-Galveston District

That part of the State of Texas south of 32 degrees north latitude, east of 97 degrees west longitude, and west of the Neches River except Jefferson County; and the territory included in the port limits of Corpus Christi, Texas. Ports would include: Houston-Galveston, Corpus Christi, Port Lavaca-Point Comfort, and Freeport (all in Texas).

Note: The only changes are to transfer to the Port Arthur District a narrow strip east of the Neches River running along 32 degrees north latitude and to transfer from the Port Arthur District a small portion of Chambers County. This simplifies the boundaries of both districts.

Laredo District

That part of the State of Texas east of the Pecos River, south of 31 degrees north latitude and west of 99 degrees west longitude and that part of the State of Texas south of 28 degrees 30 minutes north latitude and west of 97 degrees west longitude, except the territory within the port limits of Corpus Christi, Texas. Ports would include: Laredo, Brownsville, Del Rio, Eagle Pass, Hidelgo, Progresso, Rio Grande City, and Roma (all inTexas).

Dallas/Fort Worth District

The State of Oklahoma; that part of the State of Texas north of 32 degrees north latitude; that part of the State of Texas which is north of 28 degrees 30 minutes north latitude and between 97 and 99 degrees west longitude; and that part of the State of Texas which is north of 31 degrees north latitude and between the Pecos River and 99 degrees west longitude. Ports would include: Dallas/Fort Worth, San Antonio, Amarillo, Austin and Lubbock, all in Texas; and Oklahoma City and Tulsa in Oklahoma.

Port Arthur District

That part of the State of Texas south of 32 degrees north latitude and east of the Neches River; and the territory included in Jefferson County. Ports would include the consolidated port of Beaumont, Orange, Port Arthur and Sabine, Texas.

Note: The only changes are to raise the northern boundary to 32 degrees and to include all of Chambers County in the Houston-Galveston District. This simplifies boundaries for both districts. No ports are affected.

Comments

Notice of the proposed amendment was published in the **Federal Register** on November 18, 1988 (53 FR 46623). Comments on the proposed realignment of the boundaries were sought from members of the public. No comments have been received in response to the Notice.

Authority

This amendment is effected under the authority vested in the President by § 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by E.O. No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp. Ch II) and pursuant to authority provided by Treasury Department Order No. 101-5, dated February 17, 1987 (52 FR 6282).

Executive Order 12291 and Regulatory Flexibility Act

Because this document relates to agency organization it is not subject to E.O. 12291. Accordingly, a regulatory impact analysis and the review prescribed by that E.O. are not required. For the same reason, this document is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organizations and functions (Government agencies).

PART 101—[AMENDED]

1. The authority citation for Part 101 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

§ 101.3 [Amended]

2. The list of Customs regions, districts and ports of entry in § 101.3(b) is amended in the following manner:

a. In the South West Region under the column headed "Area", directly opposite "Houston-Galveston, Texas" the description would be revised to read as follows: "That part of the State of Texas south of 32 degrees north latitude, east of 97 degrees west longitude, and west of the Neches River except Jefferson County; and the territory included in the port limits of Corpus Christi, Texas."

b. In the South West Region under the column headed "Area", directly opposite "Laredo, Texas" the description is revised to read as follows: "That part of the State of Texas east of the Pecos River, south of 31 degrees north latitude and west of 99 degrees west longitude and that part of the State of Texas south of 28 degrees 30 minutes north latitude and west of 97 degrees west longitude, except the territory within the port limits of Corpous Christi, Texas." Under the column headed "Ports of entry", the listing of San Antonio is deleted.

c. In the South West Region under the column headed "Area", directly opposite "Dallas/Fort Worth, Texas" the description is revised to read as follows: "The State of Oklahoma; that part of the State of Texas north of 32 degrees north latitude; that part of the State of Texas which is north of 28 degrees 30 minutes north latitude and between 97 and 99 degrees west longitude; and that part of the State of Texas which is north of 31 degrees north latitude and between the Pecos River and 99 degrees west longitude." Under the column headed "Ports of entry", San Antonio is added.

d. In the South West Region under the column headed "Area", directly opposite "Port Arthur, Texas" the description is revised to read as follows: "That part of the State of Texas south of 32 degrees north latitude and east of the Neches River; and the territory included in Jefferson County."

William von Raab,

Commissioner of Customs.

Approved: April 11, 1989.

Salvatore R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 89-9218 Filed 4-17-89; 8:45 am]

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Part V

Department of Transportation

Urban Mass Transportation Administration

Urban Mass Transportation Programs; Legal Opinions Summary; Notice

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DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Summary of Legal Opinion and Decision in Administrative Complaint Issued by the Urban Mass Transportation Administration Regarding Private Enterprise Participation Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: Consistent with an audit recommendation by the United States General Accounting Office, the Urban Mass Transportation Administration (UMTA) publishes from time to time its legal opinions and administrative decisions to help make UMTA recipients, private transit operators, and other interested parties better informed of UMTA's interpretation of the laws and regulations which affect UMTA's programs. This notice reports one such decision, wherein it has been determined that when an UMTA grant recipient bids to provide mass transportation service to another party, it should bid on the basis of its fully allocated costs.

FOR FURTHER INFORMATION CONTACT: Ms. Rita Daguillard, Attorney-Advisor, Urban Mass Transportation Administration, Office of the Chief Counsel, 400 7th Street, SW., Room 9316, Washington, DC 20590, (202) 366–1936.

SUPPLEMENTARY INFORMATION: The United States General Accounting Office (GAO) in its audit report entitled "UMTA Needs Better Assurance that Grantees Comply with Selected Federal Requirements," dated February 19, 1985, found that grant recipients often were not aware of UMTA's interpretations and decisions and, as a result, were not complying with legal and regulatory requirements.

UMTA has decided that one way to better inform the public of its legal opinions and administrative decisions is to publish summaries of them from time to time in the **Federal Register**. The following interpretation of the private enterprise participation requirements is provided to assist our grantees in complying with UMTA's requirements as well as to assist interested parties in enforcing these requirements.

Private Enterprise Participation Requirements

Urban Mass Transportation Act of 1964, as amended [UMT ACT], sections 3(e) and 8(e)

Decision Summary

Yellow Cab Co. v. JAUNT, Inc., 6/30/1988

Yellow Cab Co. (Yellow) alleged that JAUNT, Inc. (JAUNT), a public recipient of UMTA funds, had not complied with provisions in the UMT Act and implementing guidance concerning participation of private enterprise in the provision of UMTA assisted mass transportation when it bid on bus service in response to a request to bid from the University of Virginia to shuttle university employees between two branches of its hospitals. UMTA found that local decisionmakers erred in their interpretation and application of UMTA's guidance.

More specifically, UMTA held that: (1) In a contract situation, any rebidding for existing service is considered new or restructured service and is thus subject to the UMTA private sector guidance. (2) When a recipient of UMTA funds bids on service requested by third parties, the recipient must bid its fully allocated costs if the provision of that service will involve the use of UMTA assistance. (3) Only the bids of public agencies and non-profit agencies must reflect fully allocated costs. UMTA does not intend that a private operator fully allocate its costs or bid this figure in a procurement. The price bid by the private operator is the figure against which a recipient's or a non-profit agency's fully allocated cost is compared.

Issued on: April 13, 1989.

Alfred A. DelliBovi,

Administrator.

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Department of Health and Human Services

Family Support Administration

45 CFR Part 205 et al.

Aid to Families With Dependent Children; Job Opportunities and Basic Skills Training (JOBS) Program, Child Care and Supportive Services, and Conforming Changes to Existing Regulations; Proposed Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

45 CFR Parts 205, 224, 233, 234, 238, 239, 240, 250, 255 and 256

RIN: 0970-AA68

Aid to Families With Dependent Children; Job Opportunities and Basic Skills Training (JOBS) Program, Child Care and Supportive Services, and Conforming Changes to Existing Regulations

AGENCY: Family Support Administration (FSA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements title II of the Family Support Act of 1988 (the Statute), Pub. L. 100-485, which creates the Job Opportunities and Basic Skills Training (JOBS) Program for recipients of Aid to Families with Dependent Children (AFDC). The JOBS program is designed to assist recipients to become self-sufficient by providing needed employment-related activities and support services.

This proposed rule also implements sections 301 and 302 of the Statute. Section 301 guarantees child care and other supportive services for JOBS participants, recipients in other approved educational and training activities, and those who are working. Section 302 guarantees child care for twelve months for certain individuals who have lost AFDC eligibility due to increased earnings, increased hours of work, or loss of the earned income disregard.

DATES: Interested persons and agencies are invited to submit written comments concerning these regulations no later than June 19, 1989.

ADDRESSES: Comments should be submitted in writing to the Assistant Secretary for Family Support, Attention: Mark Ragan, OFA/WRTG, Fifth Floor 370 L'Enfant Promenade, SW., Washington, DC 20447, or delivered to the Family Support Administration, Office of Family Assistance, Fifth Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during the same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Mark Ragan, Family Support Administration, Office of Family Assistance, Fifth Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447, telephone (202) 252-5137.

SUPPLEMENTARY INFORMATION:

Background

Studies indicate that the average length of time an AFDC family receives assistance is about 2 years. Included in that average are many families who remain on assistance for a protracted period of time. Often, the parent (or parents) in these families lacks the necessary skills or basic education to find employment and become self-sufficient. In many cases, the parent began to receive assistance as a teenager, never finished high school, and has never developed the skills needed to find and keep employment.

Current Federal law and implementing regulations provide for a number of work and training programs for AFDC recipients—the Work Incentive (WIN) program, the Work Incentive Demonstration (WIN Demo) program, the community work experience program (CWEP), the job search program, and the work supplementation program. However, since most of these work programs are optional, and State support for the programs have varied, implementation of work and training programs has been uneven among the States. A number of studies of possible factors fostering welfare dependence cite the need for reliable and affordable child care in order to obtain and maintain employment. Lack of other support services, such as transportation, has also been mentioned as hindering employment.

On October 13, 1988, the President signed the Family Support Act (the Statute), Pub. L. 100-485. Title II of the Statute establishes the Job Opportunities and Basic Skills Training (JOBS) program under title IV-F of the Social Security Act (the Act). The purpose of JOBS is to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence. Title III provides child care and other services in support of employment and education and training activities.

Because the Statute affects programs administered by a number of Departments, we have actively sought suggestions and comments from the Departments of Education, Interior, and Labor. We have also considered letters received in the mail and comments at numerous meetings held with representatives of State IV-A agencies, Indian Tribes, welfare rights organizations, and other interested parties.

Discussion of the Proposed Regulations

This discussion is divided into three parts. The first addresses all aspects of the JOBS program; the second addresses provisions regarding child care and certain other supportive services; and the third part describes changes to the existing regulations in the title IV-A program. The changes are effective July 1, 1989, or a subsequent date, as determined by each State, but must be implemented by October 1, 1990, unless otherwise specified.

Provisions contained in title II of the Statute regarding workers' issues, such as working conditions, tort claims protection, workers' compensation, and displacement are included in a separate regulatory package developed jointly by the Department of Health and Human Services and the Department of Labor. Likewise, several related amendments affecting the AFDC program contained in the Statute, as well as changes to the title IV-D program, are included in separate regulations packages. Section 303, which provides for the extension of Medical Assistance under title XIX of the Social Security Act when a family loses AFDC eligibility, will be implemented under separate regulations to be published by the Health Care Financing Administration.

JOBS

Pub. L. 100-485 requires State IV-A agencies to have a JOBS program under a plan approved by the Secretary of HHS no later than October 1, 1990, or, at State option, as early as July 1, 1989. It further requires each State IV-A agency to make the program available in each subdivision of the State where it is feasible to do so by October 1, 1992. At least every 2 years, the State IV-A agency must review and update its JOBS plan and submit the updated plan to the Secretary for approval.

Section 201(b) of the Statute (which adds section 482(a)(1)(D)(i) to the Act) provides for the repeal of the current WIN and WIN Demonstration programs upon State implementation of the JOBS program, which may be no later than October 1, 1990. JOBS program authority will be under the new title IV-F of the Act.

Child Care and other Supportive Services

Under the Statute, at the time that a State IV-A agency implements the JOBS program, the State IV-A agency must provide funding for child care, or provide child care, if the State IV-A agency determines such are necessary to enable participation in JOBS or to participate in an approved education or training program. It also requires that participants be assisted with transportation and other work-related expenses. Under section 302, effective April 1, 1990, twelve months of child care (transitional child care) is guaranteed for former recipients who were receiving AFDC in 3 of the 6 months prior to the loss of AFDC as the result of increased hours of work, increased earnings, or the loss of the earned income disregards. Child care fees (to partially offset the costs) must be charged on a sliding scale based on family income and size. The transitional child care provision is in effect until September 30, 1998.

Technical and Conforming Amendments

Section 202 of the Statute amends certain sections of title IV-A of the Act and repeals title IV-C. These changes are necessitated by the creation of the JOBS program and the close-out of the WIN and WIN Demo programs. They include, among others, the repeal of the community work experience, employment search and work supplementation programs as of October 1, 1990, unless the State IV-A agency is operating under an approved JOBS plan prior to that date.

Regulatory Procedures

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be performed for any "major rule." A major rule is one that:

—Has an annual effect on the national economy of $100 million or more;
—Results in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic region;
—Has significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The increased expenditures authorized for JOBS and child care and other supportive services under the Statute are expected to have an annual effect on the national economy of over $100 million in each of the first five years of operation. The calculations for expenditures under the Statute are based on the anticipation of increased expenditures in work, training and education programs, and related supportive services (particularly child care), which will be partially offset by payment of child care fees by parents as well as reduced welfare costs in the long run. It is envisioned that required funding levels will decrease over time as a result of the impact of the JOBS program on long-term dependency and the number of families on AFDC.

We have determined that any economic impact in excess of $100 million per year is the result of section 201 of Pub. L. 100-485 (the Statute). The implementing regulations will not significantly affect expenditures. For this reason, an extensive analysis of the economic impact of this rule is not required.

There may be increased administrative costs for State IV-A agencies due to the expansion of work programs and related support services. While a portion of these costs is reimbursable, they are not mandated by these rules. State IV-A agency decisions concerning work programs and support services will affect administrative costs. Some increase in costs may be necessary because the Statute requires a minimum number of programs.

There is no evidence that competition, employment, investment, productivity, innovation or the United States' competitiveness will be affected adversely, as a result of this rule.

Paperwork Reduction Act

Certain sections of these proposed regulations contain information collection requirements which are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980. The Department will submit these requirements to the Office of Management and Budget for its review and approval. Other organizations and individuals desiring to submit comments on the information collection requirements are requested to send them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building—Room 3208, Washington, DC 20502, ATTENTION: Desk Officer for the Office of the Assistant Secretary for Family Support, Department of Health and Human Services.

Regulatory Flexibility Act

The Secretary certifies, under 5 U.S.C. 605(b), enacted by Pub. L. 96-354, the Regulatory Flexibility Act, that this regulation, if promulgated, will not result in a significant impact on a substantial number of small entities because it primarily affects State governments and individuals. Certain small entities, such as providers of child care services, could receive a positive benefit from this program, but regulatory flexibility analyses are required for adverse impacts only.

Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required. This regulation is issued under the authority of section 1102 of the Social Security Act.

Federalism and Family Effects

We certify that this action has been assessed using the criteria and principles set forth in Executive Orders 12606 and 12612.

Analysis Required by Executive Order 12612 on Federalism

If a policy leads to Federal control over traditional State responsibilities or decreases the ability of States to make policy decisions with respect to its own functions, that policy is determined to have a significant federalism effect.

The Statute requires that all State IV-A agencies implement a JOBS program by October 1, 1990. In addressing the problems of welfare dependency, which are national in scope, the Statute mandates certain JOBS activities, and requires State IV-A agencies to choose to implement two of four optional program activities (job search, on-the-job training, work supplementation, and community work experience programs).

Previously, State IV-A agencies were required to participate in a Work Incentive (WIN) or WIN Demonstration program and could opt to provide other work programs. Under the work program option, the State IV-A agency chose which type of work programs to implement.

The Family Support Act is more specific than prior work program authorities regarding the activities which may be offered by State IV-A agencies and the population they are to serve under the various program authorities. However, within these limitations, the proposed rules are drafted to allow the State IV-A agencies considerable flexibility in the design and operation of their JOBS program. Moreover, title II of the Statute provides authority to Indian Tribes to operate autonomous programs.

HHS has consulted with State IV-A Directors, other State, County, Tribal and local representatives, as well as welfare rights advocacy groups, labor unions, and similar organizations for their comments and suggestions in those areas of the program where options are available such as assessment, educational activities, and maintenance of effort. These proposed regulations reflect the consideration of those comments and suggestions.

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The Statute mandates Federal support and technical assistance from the Departments of Health and Human Services and Labor in enhancing the flexibility and information resources of each State. Federal assistance is also required to be available to State IV–A agencies upon request for program assessment and to ensure that State IV–A agencies have adequate information both to carry out the program and to develop programs specifically fashioned for their individual demographic requirements.

The Statute calls for the development of performance standards by October 13, 1991. The Department is directed to do so in consultation with the Secretary of Labor, Governors, State and local program administrators, community-based organizations, and similar groups. This permits participation by States through the entire development process. In its rulemaking, the Department has made a conscious effort to refrain from prematurely establishing standards but proposes, based on section 606 of the Statute, to establish certain uniform reporting requirements. We expect no State laws to be preempted.

Analysis Required by Executive Order 12606 on the Family

The JOBS program is expected to have an overall beneficial family impact. This analysis discusses this impact in terms of the criteria in the Executive Order.

(a) The objectives of the JOBS program, to provide training, education, job placement, and employment to end welfare dependency, will result in more secure and stable family units. For two-parent families, the Statute provides State options for spousal participation, thus enlisting both parents in the drive toward independence. The potential danger to family self-image, stability and marital commitment posed by welfare dependency increases as a family remains on welfare. The decrease in dependency and increase in self-sufficiency which the Statute is designed to achieve will help strengthen families and ameliorate the erosive effects of poverty.

(b) The Statute provides significant support for the nurture and supervision of children in the form of guaranteed child care, which will enable parents to work to achieve self-sufficiency and increase their earnings.

Parents will continue to have supervision of their children as they would have in any working family, with options for choosing sources of child care. Federal financial support for child care services in no way changes the nature of that care, which may continue to be provided by siblings, relatives, friends and neighbors without State intrusion, except insofar as States and localities have already chosen or may in the future choose to regulate or license family day care providers.

Some families may feel that their control over their own destiny is diminished by mandatory requirements established by Congress to continue their education or seek employment while placing their children in child care. This is true in a limited sense, but it represents a positive compromise by a family in which a tradeoff is made between immediate autonomy and a better future through cooperation with the requirements under the JOBS program.

(c) The JOBS program does not substitute governmental activity for any of the functions of the family. It will help the family perform its nurturing functions. It will also provide support while the family attains economic independence.

(d) The JOBS program is specifically directed at increasing family earnings. Enhanced earned income disregards, support services, transitional child care and other benefits lasting beyond the period of AFDC eligibility will guarantee that earnings are not wholly offset by reductions of grants or loss of associated benefits.

(e) The JOBS options and services are to be designed and delivered by the non-Federal levels of government, i.e., States, localities, and Indian Tribes. The Federal government will not intrude upon family autonomy or decisions.

(f) The provisions in the Statute regarding the JOBS training program and the related child care and other supportive services emphasize that a strong family structure is critical for the nation's economic strength, and is an important source of values that promote the work ethic. Targeting families in economic crisis with support services and active help towards gaining (or regaining) strength and self-sufficiency, sends the message that all levels of government are getting involved in assisting families.

(g) Finally, the emphasis on achievement in the JOBS program should send the right message to young people about the rewards of self-reliance and the direct connection between responsible behavior and their own economic success.

Objectives of the Family Support Act and These Regulations

The Family Support Act embodies a new consensus that the well-being of children depends not only on meeting their material needs, but also on the parent's ability to become economically self-sufficient. The Statute assumes that self-sufficiency and family responsibility are necessary and achievable goals and makes education, training, and child care available to allow individuals to reach that goal. The Statute further recognizes the mutual obligations of parents, who are currently dependent, to work toward self-sufficiency through private employment, and of the government to support that effort.

These proposed regulations have been drafted to implement the objectives of the Statute and of the Administration of President Bush. Several key principles have guided their development:

—That the value of the Aid to Families with Dependent Children program should be measured not just by its ability to meet the income needs of individuals served, but also by its ability to help these individuals achieve independence;

—That parents have the primary responsibility for the support and welfare of their children and that programs should be designed to help parents meet these responsibilities;

—That women and their children represent the overwhelming proportion of AFDC recipients; that within this group the most dependent are never-married mothers who did not complete high school and who had their first child at a young age; and that programs designed to reduce overall dependency must necessarily address this group;

—That consistent with individual responsibility is choice, and that parents be given a wide range of options for child care while participating in the program;

—That basic education (such as literacy and high-school equivalency) is one of the most important tools an individual needs to achieve full citizenship and independence, and that this should be an important JOBS component;

—That basic skills training can be an important element in an individual's reaching self-sufficiency;

—That JOBS programs be designed to prepare participants for private employment in jobs they can realistically be expected to obtain;

—That resources be maximized through the coordination of existing programs at all levels of government and in concert with community-based volunteer and business organizations; and

—That States be given maximum flexibility to design program components within the JOBS

provisions of the Statute in order to tailor programs to meet local needs.

In the sections below, we discuss our overall plan for program implementation, and provide in-depth discussions of each section of the proposed regulations. In these discussions, we refer to the Family Support Act of 1988 as "the Statute", and the Social Security Act as "the Act". We also use the pronoun "she" when referring to applicants, recipients, and participants. Unless otherwise specified, "she" is a generic term meaning both she and he. This choice of terminology is appropriate because the great majority of adult caretakers in the AFDC program are women.

Overview of JOBS Program Implementation

Section 204 of the Family Support Act of 1988 permits State IV–A agencies to implement a JOBS program as of July 1, 1989, regardless of the publication of implementing regulations. Many States intend to do so. As a consequence, we provided instructions to States in January of 1989 (FSA–IM–89–3). This Information Memorandum described the process for submitting JOBS and Supportive Services plans to the Department for review until final regulations are published.

The more detailed requirements proposed in this Notice of Proposed Rulemaking will only be effective upon publication of the final rule. The process and guidelines described in FSA–IM–89–3 continue to apply until the final rule is published.

We expect to provide preprints for JOBS and Supportive Services plans simultaneously with or immediately following publication of the final regulations. These preprints will contain a detailed description of the design and operation of States' JOBS programs and associated supportive services.

For the purposes of the following discussion, we use the terms "interim plans" and "initial plans". Interim plans are plans submitted by a State IV–A agency in a format other than the preprints for JOBS and Supportive Services plans. Initial plans are the first plans submitted by a State IV–A agency, and can be either an interim plan or a preprinted plan, depending on when the plans are submitted. State IV–A agencies must submit initial JOBS and Supportive Services plans 45 days before planned implementation. When the plan preprint is made available, States which are operating a JOBS program under interim plans will be given 60 days to resubmit plans in the required format.

Federal financial participation (FFP) will not be available for expenditures incurred before the date that initial JOBS and Supportive Services plans are approved. More information regarding this issue, as well as the proposed State JOBS and Supportive Services plan review process, is provided below.

The preamble discussion generally follows the sequence of the proposed rules, with the exception that the description of conforming changes to the existing regulations is last, whereas the conforming changes precede the JOBS and Supportive Services sections in the proposed regulations.

Part 250—Job Opportunities and Basic Skills Training Program

Subpart A—Purpose and Definitions

Purpose (§ 250.0 of the Proposed Regulations)

This section of the proposed regulations contains the goals of the JOBS program and the regulatory objectives of Part 250.

Definitions (§ 250.1 of the Proposed Regulations)

We propose to include a number of definitions in order to facilitate understanding of the regulations. These definitions are discussed below.

Terms Related to the JOBS Program. The term "adult recipient" is defined in accordance with section 403(k)(4) of the Social Security Act. The term "caretaker relative" is used in several places in the Act. However, we have not provided a definition in this regulation. Traditionally, States have established procedures for determining who the caretaker relative is for each assistance unit, and we intend to continue this practice. The term "target population" is defined to meet the requirements of sections 403(l)(2)(B) and 403(l)(2)(C) of the Act. The definition includes provision for any State to adjust the particular target populations if it satisfactorily justifies the change to the Secretary.

For purposes of convenient reference in the body of the regulation, we define a number of words and acronyms. These include standard references such as "Secretary" and "Department"; thus, any reference to the Departments of, or the Secretaries of, Education, Interior, or Labor is made specific. We define "component" as including all services and activities that a State may make available under §§ 250.44 through 250.48. We define a number of acronyms common to work and welfare programs, such as "CWEP," "OJT," and "UP." We include "FFP" for Federal financial participation. We include a definition of "MSA" since we propose the use of defined Metropolitan Statistical Areas in assessing issues related to statewideness requirements in the legislation. We add several acronyms that are specific to JOBS, such as the "JOBS" acronym itself, and "JAS" as the reference for the JOBS Automated System for recordkeeping and reporting purposes.

Terms Related to Educational Programs, Services or Activities. The Family Support Act provides for extensive educational services, and sets certain requirements, such as that participants make "satisfactory progress" or be in "good standing." Since the relevant terms are well understood by the Federal and State education establishment, we have defined these terms in accordance with those understandings. For example, the definition of the term "institution of higher education" derives from the corresponding definition of the term found in section 481(a) and section 1201(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1088 and 1141).

The term "postsecondary education" is defined to include a program of postsecondary instruction in the institutions captured in the definition of "institution of higher education," and a program of instruction in other institutions referenced by section 435(b) and section 435(c) of the Higher Education Act (20 U.S.C. 1085) as well as in any public institutions in the State that may not be covered by the Higher Education Act. The definition of postsecondary education: (1) Allows a State to exercise a wide choice among educational activities, (2) includes private postsecondary schools among the institutions that the State might utilize to meet the educational needs of JOBS participants, (3) provides the protections concerning educational quality that are built into the Higher Education Act, and (4) permits States to select training from among any public postsecondary institutions that might not meet the definitions in the Higher Education Act.

We wish to avoid uncertainty in applying the terms found in the Higher Education Act to the educational activities used in the JOBS program. Therefore, our definitions provide that the State IV–A agency use the determinations that are available in the course of the Secretary of Education's process for certifying institutional eligibility to apply for the Higher Education Act student financial assistance programs. This provision does not appear to be burdensome, nor

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is it an unrealistic way of securing a decision regarding a postsecondary institution's compliance with the definition, since we anticipate that welfare recipients who enroll in postsecondary education or activities will have the benefit of Federal student financial aid, such as Pell Grants and Guaranteed Student Loans.

The definitions of "limited English proficiency" and "basic literacy level" are consistent with the manner in which the Department of Education's Office of Vocational and Adult Education uses these terms. We propose that the objective of "education to achieve a basic literacy level" is to provide an individual with the equivalent of successful completion of eighth grade. This involves instruction designed for a participant who has minimal competence in reading, writing and computation, and therefore is not sufficiently prepared to meet the educational requirements of everyday life in the United States. However, this does not mean that a State IV–A agency must provide English as a second language if such instruction would not be necessary for an individual to become self-sufficient (e.g., where an employer does not require English proficiency.)

Since the term "remedial" appears within the clause, "basic and remedial education to achieve a basic literacy level," in section 482(d)(1)(A)(i) of the Act, we believe that this term refers to repetition of education previously given for the purpose of achieving a "basic literacy level," as we have defined that term. We have defined "basic education" in § 250.44 of these regulations as referring to such education given for the first time. We invite comment as to whether this can be expected to be an operationally useful distinction.

Terms Related to Making Good or Satisfactory Progress in Educational Activities. Our proposed definition of "make good progress" and "making satisfactory progress" is consistent with the *Federal Student Financial Aid Handbook* of the U.S. Department of Education, which is available in most schools and public libraries. The proposed definition would require that a standard include both a qualitative element (e.g., grade point average) and a quantitative element (e.g., time limit for completion of the program or course of study). The proposed rule would permit the standard to provide that a participant may be considered to be making satisfactory progress during a probationary period or due to mitigating circumstances.

Operationally, we propose that an institution's current standard be used, with the mutual agreement of the State IV–A agency and the State education agency. We see such mutual agreement as serving several purposes. First, we believe the source of the standard should be the institution offering the program, because of variances among educational programs. Second, the practice is compatible with Department of Education student financial assistance guidelines. Third, State IV–A agencies are required by the Act to permit or support educational activities only if the participant is "making good progress" and the education relates to the participant's employment goal.

The rule would require another source of expertise regarding good or satisfactory progress to be taken into account when available. If the school or program attended by the JOBS participant is accredited by an accrediting body that is listed as recognized by the Secretary of Education and that has an established policy relating to satisfactory progress, then that policy shall apply. This provision will ensure the compatibility of this aspect of the JOBS program with Department of Education policies. In order to assure that participation in these types of education components is meaningful and productive, we are considering including time standards where the educational activity is not part of an established educational program, such as high school. Examples are average hours per week or limits on the time period permitted to make specified educational gains. Comments are specifically requested on the establishment of such limits.

The definition of "make good progress" and "making satisfactory progress" contained in the proposed rule will at a minimum apply in two places. First, in section 402(a)(19)(E) of the Social Security Act, a State welfare agency may require an 18 or 19 year old custodial parent who lacks a high school diploma or its equivalent to accept a job or training—instead of enrolling in an educational program leading to a high school diploma or its equivalent —if the participant "fails to make good progress in successfully completing such educational activities." Second, in section 402(a)(19)(F) of the Act, a State IV–A agency may accept, as satisfactory participation in the JOBS program, a participant's attendance in good standing in an "institution of higher education," or in a "school or course of vocational or technical training," if the participant is "making satisfactory progress."

We believe that the intent of the Family Support Act in establishing a standard of "good" or "satisfactory" progress in educational activities is to make it clear that an individual may be permitted to obtain education that may enhance her ability to become self-sufficient, but that ineffective attendance in educational activities will not do so.

Making Good or Satisfactory Progress in Training Programs. The Family Support Act does not include a qualitative measure of making good or satisfactory progress for training programs under JOBS, such as OJT and skills training. However, after consultation with the Department of Labor, we propose to expand the definition of making good or satisfactory progress to apply to OJT and skills training. We do so to assure that training offered through JOBS results in an increase in participants' skills and competencies, and that such progress be monitored by the State IV–A agency.

Operationally, this will require that qualitative measures be developed. If such measures already exist for a training program, then they can be applied with the agreement of the State IV–A agency. If they do not exist, the State IV–A agency will be required to develop appropriate measures as a condition of including such training in a JOBS component. We propose to allow State flexibility in defining measures of good or satisfactory progress because there will be a great deal of variation in the types of training programs which States will choose to offer. However, we strongly urge the State IV–A agency to consult with the appropriate State employment and training agency in developing such measures.

The measure of good or satisfactory progress should be used by the State IV–A agency to determine whether a participant should continue in a course of training and whether to continue to provide supportive services, pursuant to § 255.2 of the proposed rule.

We considered whether to apply the concept of making satisfactory progress in measuring participation rates for OJT and skills training. We did include qualitative measures in the standard for participation rates for educational components because such standards have common meanings that are generally understood and used by educational institutions. However, we are concerned that including such measures in training components for purposes of the participation standards could discourage States from setting meaningful standards, if such standards would affect their ability to meet the participation rates.

We also considered precluding FFP for the costs of training activities for individuals not making good or satisfactory progress. However, we are concerned that this might discourage States from including training components in their JOBS programs.

Because we believe that qualitative measures for training components are important for the successful and efficient operation of the JOBS program, we invite comment on the approach we propose. We also invite comments regarding the alternatives described above, as well as other options.

Terms Related to Participation. The rule proposes a definition of "participation" that relates only to the question of determining what minimum activity levels in each component a State may count towards meeting the participation rate requirements for enhanced Federal matching set out in section 403(1)(3)(A) of the Act. This proposed definition does not preclude FFP for JOBS activities which do not count in determining participation rates. The proposed definition stems from several statements in the conference report that participation is intended to be significant. We received requests from numerous States to permit the definitions of participation in each of the components to be set individually by the States. We did not do so because we believe that Congress intended to offer flexibility to the States in deciding how to design successful programs, but that the measurement of participation rates be consistent among States.

For example, under the proposed rule, an individual would be participating if: (1) Her specified activity level for work supplementation or OJT is full-time; (2) her specified activity level is not less than the equivalent of 20 hours per week in job skills training, job readiness activities, CWEP, or group job search; or (3) she is making satisfactory progress in an educational activity. A State IV–A agency may prescribe greater participation requirements and may count partial participation in several components whenever the individual so assigned meets the average hours requirement of the assigned components.

We propose a definition of participation for purposes of the UP work requirement that follows the legislation. A parent's activity level must meet the 16-hour work requirement in work supplementation, CWEP, OJT, or a State-designed work program approved by the Secretary. An alternative is provided for parents under age 25 who do not have a high school diploma or its equivalent: In such case the State IV–A agency may require the parent to make satisfactory progress towards high school completion, or towards another basic education objective.

Thus, for a UP parent, it is possible to be participating in any component at its specified level, and contribute towards the State meeting the overall participation requirement. Likewise, such a parent would contribute to both participation requirements if she is active in one of the four work components at the higher specified levels. However, if the activity was at least 16 hours per week, but less than the higher specified levels, in any of the four work components, she would only contribute to the UP participation requirement.

We exclude two principal items from this definition of participation. An individual assigned to job development and placement would not count for participation, since our proposed definition of this required component would make it principally an agency activity rather than a client activity. The rule proposes that individuals whose only active involvement in JOBS is assessment or orientation, or receiving supportive services, would not count as participating for this purpose.

Our proposed definition of participation, required for purposes of § 250.74, is not meant to preclude a State from assigning an individual to an amount of required activity in a component that is less than the specified minimum if it is appropriate for the individual. For example, an individual might be required to be engaged in ten hours of individual job search per week. This level of activity would satisfy the requirements of the individual's employability plan but would not meet the minimum Federal definition of participation (for purposes of the participation rate requirement).

In addition, we believe that States should apply a qualitative measure in determining an individual's progress in a training component. We therefore propose that in measuring progress in reaching the goals set in an individual's employability plan, the State IV–A agency must incorporate qualitative measures for training components.

We considered how to treat sanctioned individuals in determining a State's participation rate. One suggestion was that they be counted as participants, since the State IV–A agency had taken all steps necessary to encourage self-sufficiency. However, it is possible that such a policy could be viewed as an incentive for States to sanction individuals and to extend sanctions. Another suggestion was that sanctioned individuals be excluded from the denominator used in calculating participation rates. We chose this option since it protected States from being penalized when they took appropriate actions to sanction recipients, but it does not treat sanctioning as comparable to actual participation. We welcome comments on this approach.

The rule provides a definition of "intensive job search," for the purpose of calculating participation rates for the Unemployed Parent work requirement, that conforms to the standards for participation in individual job search.

We also considered and discussed with States the option of determining participation rates based on an average of the number of hours of participation by all recipients. However, this option was rejected because of State concerns about the administrative burden of this approach. We would welcome any additional comments on this approach and any other methods for determining participation standards.

Subpart B-Administration

State IV–A Agency Administration (§ 250.10 of the Proposed Regulations)

Section 482(a)(2) of the Social Security Act identifies the State IV–A agency as the State agency responsible for the administration or supervision of the JOBS program. Similar provisions apply to the AFDC and Adult Assistance programs (see sections 2(a)(3), 402(a)(3), 1002(a)(3), 1402(a)(3), and 1602(a)(3) (Aid to Aged, Blind, and Disabled) of the Social Security Act). Longstanding Federal policy construing these latter requirements has interpreted them to mean that the State IV–A agency must maintain overall responsibility for the design and operation of the program and may not delegate to other than its own officials functions involving discretion in the administration or supervision of the program (see § 205.100). Accordingly, we believe that the same policy should apply to the State IV–A agency in its administration or supervision of the JOBS program. This means that the State IV–A agency may not delegate the entire JOBS program to another entity.

However, it does permit the State IV–A agency broad contracting authority as described in proposed § 250.13 and related preamble. For example, the State IV–A agency may delegate a wide range of activities—such as orientation, literacy testing, and JOBS activities and services. However, it may not delegate functions such as exemption and priority determinations or dispute

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resolution and hearings since these involve discretionary judgments.

We believe that State IV–A agencies should have maximum flexibility to administer their programs within the requirements of the Act. We recognize that in many States, other agencies—such as Job Training Partnership Act (JTPA) agencies, the State education agency, the State employment security agency and community-based organizations—have been effectively performing a range of educational, training and employment related functions for welfare recipients. Thus, rather than requiring State IV–A agencies to train or expand in-house staff to perform similar JOBS functions which do not directly involve discretionary judgments, we propose to provide State IV–A agencies the flexibility of determining how they can most effectively use all potential State resources. However, before a State IV–A agency contracts for any JOBS service or activity, it must ensure that such service or activity is not otherwise available to JOBS participants on a non-reimbursable basis. This requirement is discussed in detail in proposed § 250.13 and related preamble on contracting and in proposed § 250.72 and related preamble concerning maintenance of effort provisions.

We do not intend either to encourage or discourage State IV–A agencies from contracting out JOBS functions, but propose to provide State IV–A agencies with the latitude to determine how best to administer their programs. No matter how extensively a State IV–A agency uses its contracting authority, the entity to which a function is delegated must follow the policies, rules, and regulations issued by the State IV–A agency and must not be empowered to review, change, or disapprove any administrative decision of the State IV–A agency.

Requirement for a Statewide Program (§ 250.11 of the Proposed Regulations)

Section 482(a)(1)(D) of the Social Security Act requires that by no later than October 1, 1992, a State IV–A agency must make the JOBS program available in each subdivision of the State where it is feasible to do so, taking into account the number of prospective participants, the local economy, and other relevant factors. If the State IV–A agency determines that the program will not be made available in all political subdivisions, it must provide appropriate justification to the Secretary in its JOBS plan. If the justification is not adequate, the Secretary may disapprove the plan.

It is expected that the State IV–A agencies will make a serious and determined effort to implement programs throughout all local jurisdictions to the maximum extent possible, so that eligible families will have an opportunity to benefit from the new services that are authorized under the legislation.

In determining how specific to be in the regulations, we considered the statements in the Conference Report (H. R. Rep. No. 100–998, 100th Cong., 2d Sess. 112 (1988)). The conferees intended that the program be provided to as many recipients as possible. Specifically, section 482(d)(1)(A)(i)(I) of the Act requires that the State JOBS plan include educational activities, such as high school or equivalent education, and basic literacy and English proficiency training. The conferees noted (H. R. Rep. No. 100–998, 100th Cong., 2d Sess. 141 (1988)) that there would be those for whom enrollment in regular school programs would be inappropriate, and consequently suitable alternatives would have to be identified or developed. We believe that at least some of these educational activities are available in the majority of political subdivisions in all States, and they, therefore, should be made available, as appropriate, to AFDC recipients.

However, State resources may not permit the inclusion of other components, such as the optional components in section 482(d)(1)(A)(ii) of the Act, in all political subdivisions. To allow maximum State flexibility in designing State JOBS programs, we propose the following.

State IV–A agencies will not be required to implement all mandatory and optional components in all political subdivisions in which they operate a JOBS program. Further, differences in the level of component availability will be permissible.

In order to determine whether a State IV–A agency should submit appropriate justification for less than statewide operation, we propose to apply the criteria described below. If a State meets these criteria, then no justification will be required.

First, a "minimal" JOBS program should be available to most adult recipients in a State. A minimal program includes high school or equivalent education, as specified at section 482(d)(1)(A)(i)(I) of the Act, one optional component from among those specified at section 482(d)(1)(A)(ii) of the Act, and information and referral to non-JOBS employment services. In determining statewideness, we propose that a minimal program be available in a number of political subdivisions sufficient to serve 95 percent of adult recipients.

With few exceptions, high school is available in all political subdivisions of a State. At least one of the optional components, job search, is relatively inexpensive to operate. Referral to public employment services is a simple method for directing recipients to potential employment.

Second, a "complete" JOBS program should be available to a large proportion of adult recipients. A complete program includes, but is not limited to, all mandatory and any two optional components, pursuant to section 482(d)(1)(A) of the Act. In determining statewideness, we propose that a complete program be available in all Metropolitan Statistical Areas (MSAs) in the State, as well as in a number of political subdivisions sufficient to serve 75 percent of adult recipients in the State.

The use of MSA boundaries is a nationally recognized system for distinguishing among economically different areas of States. We propose to add the 75 percent requirement because the number of adult recipients living in MSAs is relatively low in many rural States.

We considered requiring justification for less than statewide program operation in all cases. However, we believe that this would be a great administrative burden, both for State IV–A agencies and for Federal reviewers. The strategy described above is an attempt to meet congressional intent and statutory requirements in a practical manner. These criteria should not be considered to be guidelines for planning a JOBS program. Rather, they provide only a basis for Federal review of the statewideness requirement. We invite comments on this strategy.

Section 250.11(c) of the proposed rule will provide the basis for our review of the statewideness requirement. If a State JOBS program will not be available in the number of political subdivisions sufficient to meet the criteria of that section, the justification to the Secretary for excluding any portion of the State from the JOBS program will include the information identified in § 250.11(c)(2).

The factors listed in this section expand on the items identified in section 482(a)(1)(D) of the Act. That section specifies two factors—i.e., the prospective participants and the local economy. We propose to add one additional item: whether a State IV–A agency will, even with the proposed areas excluded, fully expend all JOBS

funds available to it for the period covered by the plan. This additional information will help in determining whether a State IV–A agency is proposing to concentrate services on specific geographic areas identified as particularly critical to reducing long-term dependency, and as a consequence, is unable to implement a statewide program.

We do not believe that depressed local market conditions would necessarily make a JOBS program infeasible. For example, even in areas of high unemployment, there are generally job opportunities because of job turnover and segmented job markets. However, in a rural area where the sole employer has recently closed its plant, a State IV–A agency might be justified in not operating a JOBS program, or in operating a minimal program. A State IV–A agency should consider these types of distinctions, and include this information in the justification for less than statewide operation.

In designing a State JOBS program that will be less than statewide, a State should assure that political subdivisions not be excluded on the basis of ethnic, racial or religious characteristics.

Because the statewideness requirement is not effective until October 1, 1992, phased implementation of the program will be permitted. As a consequence, an initial State JOBS plan may not reflect a level of component availability sufficient to meet the statewideness requirement. We would therefore expect that, no later than the first biennial review, for the plan period beginning October 1, 1992, the State JOBS plan and the State Supportive Services plan (pursuant to § 255.1) will be updated to reflect either sufficient program availability to meet this requirement, or a justification for less than statewide implementation.

Coordination and Consultation (§ 250.12 of the Proposed Regulations)

Section 402(g) and section 483 of the Social Security Act contain a number of provisions designed to assure coordination of the JOBS program, including child care pursuant to § 255.3(h) of the proposed regulations, with other education, training, and employment programs available in a State. The purpose of this coordination is to provide comprehensive, quality services to meet the multifaceted needs of welfare recipients in the most effective and efficient manner.

At the Federal level, the Department is working closely with the Departments of Labor, Education, and Interior, and expects State and local IV–A agencies to promote coordination among their counterpart agencies. The JOBS program should be coordinated with providers such as Job Training Partnership Act (JTPA) agencies, the Employment Service, vocational education, adult basic education, Headstart and preschool programs under chapter 1 of the Education, Consolidation and Improvement Act of 1981, school and nonprofit child care programs and other human development programs.

Congress intended that agencies identify existing resources to prevent duplication of services and to assure that other program services are available to JOBS participants. Such coordination is necessary to assure that costs for services for which welfare recipients have been eligible are not shifted to the JOBS program. The proposed regulations preclude such shifts in costs, as described in the maintenance of effort provisions in § 250.72.

Section 483 of the Act requires coordination with JTPA agencies, since one of JTPA's major goals is reducing welfare dependency. The JTPA requires that AFDC recipients be served in at least equal proportion to their incidence within the eligible population. Twenty-three percent of current participants under JTPA are AFDC recipients.

At the State level, the JOBS plan must be consistent with JTPA coordination criteria and must be reviewed by the State job training coordinating council (SJTCC) prior to submission to the Secretary. We strongly encourage the State IV–A agency to meet regularly with the SJTCC regarding the planning and implementation of the JOBS program to identify common JOBS–JTPA activities and services, and to develop an integrated strategy which ensures that eligible AFDC recipients receive training and employment services in an effective, non-duplicative manner.

At the local level, the welfare agency must consult with private industry councils (PICs) on the development of arrangements and contracts under JOBS and to identify and obtain advice on the types of jobs that are available, or are likely to become available, in the area. These provisions reflect congressional concern that JOBS resources not be used inefficiently, i.e., provided to ineffective service providers or expended on training for jobs which are not available to participants.

The local relationship between the welfare agency and the PIC is crucial to assure that welfare recipients receive the JTPA services for which they are eligible. Thus, we strongly urge local welfare administrators to be represented on the PIC or, at a minimum, to become actively involved in PIC meetings, as appropriate.

Initial and ongoing coordination with the State IV–A agency and local educational systems will enable State IV–A agencies to access needed expertise in this new area of welfare agency involvement, to avoid duplication of welfare services and to assure that welfare recipients receive the necessary educational services for which they are eligible. Welfare agencies should meet regularly with their State or local educational counterparts to ensure that educational providers are involved in the planning and delivery of the JOBS program at all levels.

Section 250.21 of the proposed regulations requires State IV–A agencies to describe in the JOBS plans efforts to coordinate with JTPA, basic and adult education programs, programs under the Carl D. Perkins Vocational Education Act and other vocational services, and other human development programs.

Furthermore, the proposed regulations in § 250.20 specifically provide that State IV–A agencies make the proposed JOBS plan available to members of federally recognized Indian Tribes and Alaska Native organizations during the public comment period. This segment of the population is highlighted essentially to assure that a Tribal entity eligible to operate a separate JOBS program, pursuant to § 250.91 of the regulations, has sufficient opportunity to coordinate with the State in the planning of JOBS.

Coordination is necessary whether the Tribe or organization decides to operate an independent program or receive services from the State, but is particularly important if a Tribal entity does operate a separate program. While a Tribal grantee will have responsibility for JOBS, the State IV–A agency will maintain responsibility for the basic AFDC program and for child care services, including transitional child care services. Given this interrelationship, §§ 250.12 and 250.93(b)(1) of the proposed regulations require that the State IV–A agency and the Tribal applicant exchange all available information on adult Tribal AFDC recipients necessary to determine a Tribe's or organization's JOBS funding level. In addition, the requirements in § 250.94 concerning Tribal JOBS administration and in § 250.95 regarding child care elaborate on the need for the State and Tribal grantee to develop mutually agreed upon procedures and methodologies to assure that Tribal participants receive equitable treatment under the AFDC and JOBS programs.

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Contracting Authority (§ 250.13 of the Proposed Regulations)

Section 485 of the Social Security Act grants State IV–A agencies broad contracting authority, which is reflected in § 250.13 of the proposed regulations. At the same time, however, the Act requires administration of the JOBS program by the single State IV–A agency, therefore limiting contracts to those activities which do not involve discretion. Further clarification of this limitation is provided in proposed § 250.10 and the accompanying preamble language.

Section 250.13 incorporates the requirements of section 485 of the Act regarding the factors which must be taken into consideration in selecting service providers and the prohibition against contracts for services which are otherwise available on a non-reimbursable basis. Regarding the issue of provider selection, the requirement for consultation with private industry councils is described in the proposed § 250.12 on coordination and consultation. The statutory prohibition against contracts for services which would be otherwise available reflects congressional concern that costs of services for which welfare recipients have been eligible not be shifted to the JOBS program. Since it is so closely connected to the provisions on maintenance of effort (section 482(a)(3) of the Act), we elaborate on its interpretation in § 250.72 of the proposed regulation and preamble.

Before States contract for services under JOBS, we expect that they will carefully identify those services which have traditionally been available to welfare recipients at no cost as well as community-based or volunteer programs that may provide competent services at minimal or no cost. The statutory language clearly intends that State IV–A agencies fully utilize all resources otherwise available to serve JOBS participants on a non-reimbursable basis. For instance, other programs have paid for many educational services provided to AFDC recipients, including those available under the Adult Education Act (20 U.S.C. 1201 *et seq.*), the Higher Education Act (20 U.S.C. 2301 *et seq.*) and the Carl D. Perkins Vocational Education Act (20 U.S.C. 1001 *et seq.*) Similarly, through JTPA, the State employment security agency, State employment and training programs and the Community Services Block Grant program, extensive employment and training services—such as job counseling, job development and placement, job skills training, and on-the-job training—have been offered to eligible low income individuals, many of whom are AFDC recipients.

We also have included in this section a provision which specifies that for the purposes of FFP, State IV–A agencies must segregate costs according to applicable matching rates, as defined at § 250.73(b)(1), in any contract or arrangement under the JOBS program. This means that contracted services will qualify for Federal matching funds at the same rate as those services which the State IV–A agency provides directly. This provision is included to assure that State IV–A agency decisions on contracting will be based upon the efficient administration of the program and that consistent Federal matching will be available to the State IV–A agency regardless of the method used to provide services.

In addition to the specific contracting requirements included in this section, contracted services under JOBS are subject to the requirements of Part 92 with the following exception. We propose to exclude the provisions under § 92.30(d)(4). These provisions, which require prior Federal approval of contracts, appear to be inconsistent with congressional intent since they would severely limit a State IV–A agency's contracting authority under section 485 of the Act.

State IV–A agencies should be aware that they are subject to the procurement requirements of only paragraph (a) of § 92.36. This means that State IV–A agencies are required to assure that JOBS contracts follow State and local laws, regulations, and procedures regarding procurement. Indian Tribes and Alaska Native organizations, however, are subject to the Federal procurement requirements of § 92.36 (b) through (i). This is consistent with longstanding Federal policy.

Subpart C–State Jobs Plan Requirements and Content

Requirement for a State JOBS Plan (§ 250.20 of the Proposed Regulation)

The JOBS provisions are found in title II of the Family Support Act, which includes changes to Part A and creates Part F in Title IV of the Social Security Act. State implementation of these provisions will be covered under a new State plan for JOBS (the JOBS plan). The requirements for that plan and the procedures for its submission are discussed below. Title III of the Statute also requires that States provide child care and other necessary supportive services. These services will be covered under a Supportive Services plan, to be developed and submitted with the JOBS plan. A discussion of the Supportive Services plan and related requirements is at § 255.1.

We believe that it is appropriate to include the new statutory requirements in section 402(a)(19) of the Social Security Act as well as all requirements of Title IV–F in a separate JOBS plan. This position is supported by the language of section 482(a)(1)(A) of the Social Security Act, which requires the JOBS plan to meet "all of the requirements of this part and section 402(a)(19)."

Section 482(a)(2) of the Act provides that the State IV–A agency will be responsible for the administration or supervision of the State's JOBS program. Based on this provision, we propose that the State IV–A agency be responsible for the submission of the State JOBS and Supportive Service plans, after completion of all coordination requirements and review by the Governor.

Plan Approval Prior to Implementation. In FSA–IM–89–3 ("Preliminary Information for States Interested in Implementing JOBS * * *", January 19, 1989) as well as in § 250.20(a)(2) of these proposed rules, we request that States submit the initial JOBS and Supportive Services plans for approval 45 days prior to implementation.

The Family Support Act does not directly address the question of whether a State's JOBS plan must be submitted and approved prior to a State's implementation of the program. However, the statutory language best supports the position that the JOBS plan should be approved prior to a State's implementation. In several places the Statute references JOBS programs operated and funded under approved plans; the implication is that programs could not be operated and funded unless a JOBS plan had been approved. Specifically, the statutory language includes the following: (1) Section 482(a)(1)(A) of the Social Security Act states, "As a condition of its participation in the program of aid to families with dependent children under Part A, each State shall establish and operate a job opportunities and basic skills training program * * * under a plan *approved by the Secretary* * * *"; (2) Section 403(k)(1) provides that "Each State *with a plan approved under Part F* shall be entitled to payments * * *"; and (3) Section 403(l)(1)(A) provides, "In lieu of any payment under subsection (a), the Secretary shall pay to each State *with a plan approved under section 482(a)* * * *." (emphasis added).

Submission of Initial JOBS Plans 45 Days Before Anticipated Implementation. This timeframe is not found in the Family Support Act. In § 250.20(e)(1) we propose a 90-day period for Federal review of the biennial update of JOBS plans. We are proposing a 45-day period for the initial submission in recognition of the fact that many States intend to implement JOBS in the earliest possible quarter, and there will be fewer Federal requirements since final rules will not have been published. Under the circumstances we believe this will provide a reasonable period of time within which to conduct an orderly and responsible review of a State's submission.

Interim Plans. Initial State JOBS and Supportive Service plans submitted prior to the issuance of plan preprints will be approved as interim plans. States with interim plans will be required to submit new JOBS and Supportive Service plans 60 days after the issuance of a preprint form by the Secretary. An approved interim plan shall remain in force until action is taken by the Secretary to approve or disapprove the preprint. Although described as a new plan, the JOBS plan preprint will not be subject to the requirement for review by the SJTCC before submission to the Secretary, unless substantial changes have been made.

In an effort to ease the administrative burden on States and to establish a uniform schedule for submission of subsequent State plans that coincides with the Federal fiscal year, we propose the following. All plans submitted between the issuance of the preprints and October 1, 1990, (whether resubmission of interim plans or initial plans), if approvable, shall remain in force until action is taken by the Secretary to approve or disapprove the first biennial update, described below. This timeframe is appropriate because States are required to have statewide JOBS programs (unless satisfactory justification for less than statewide operation has been provided to the Secretary) during the period covered by the first biennial update.

Amendments. States may submit amendments to approved plans, if necessary, prior to the required resubmission described below. The current process for submission and review of amendments, as described at § 201.3(f) and § 201.3(g), will apply. Submission of plan amendments does not relieve the State of the obligation to resubmit its plan to the Secretary for approval every two years.

Resubmission of State Plans: Biennial Update. Section 482(a)(1)(A) of the Act requires that the State submit its State plan not less often than every two years to the Secretary for approval. We propose to consider the biennial update a new plan, which must be submitted for approval 90 days prior to the date it is to become effective. The biennial update must be available for public review and comment in accordance with the provisions of § 250.20(c). To ease the administrative burden, we propose to establish October 1, 1992 as the effective date for the first resubmission of all State plans. Therefore, we propose that all State plans be resubmitted by July 1, 1992 to be effective October 1, 1992.

We recognize that this process is very different from existing title IV–A plan amendment procedures. However, we believe that there are several compelling reasons to treat the biennial update as a new plan for which approval by the Secretary is required: (1) The specific requirement that it be resubmitted (not less than every two years) distinguishes it from the regular title IV–A plan amendment process at § 201.3, which requires only that plan amendments be submitted by the end of the calendar quarter of implementation; (2) the requirements for coordination and consultation, including the requirement that the State plan be submitted to the SJTCC for review and comment, would be significantly lessened if it were only required once prior to JOBS implementation and never thereafter; and (3) the nature of the information that section 482 of the Act requires be in the State plan makes it an "operational plan." Much of it is specific to the period which the plan covers, such as the number of persons to be served and the extent to which other services will be available by provider and type of service. Such information must be updated for each new period in order to make the plan a useful document.

However, we do not propose to put an undue burden on States in the submission of State plan updates. Therefore, we propose that the State plan update consist of four parts: (1) Assurances regarding those parts of the State JOBS plan and Supportive Services plan that remain unchanged; (2) a description of any changes in program operations, including but not limited to, changes in the mix of components or target populations to be served; (3) specific information for the period of the update regarding estimates of persons to be served and the availability of services provided by the State IV–A agency as well as other providers; and (4) an assurance that the State JOBS plan is consistent with the coordination criteria specified in the current Governor's Coordination and Special Services Plan required under section 121 of the JTPA. The State plan preprint shall be the vehicle for the update.

Public and Inter-Agency Review of State JOBS Plans. The Act requires that the State agency submit its JOBS plan to the State Job Training Coordinating Council (SJTCC) 60 days before submission to the Secretary. We propose to expand this requirement in several ways. We propose to require submission of the proposed plan to the State education agency, based on the extensive required and optional education activities under JOBS, and the general coordination requirements in section 483 of the Act related to State and local education agencies.

In accordance with section 483(a)(1) of the Act, we propose to require the content of the plan, where it relates to job training and work preparation, to be consistent with the coordination criteria specified in the Governor's coordination and special services plan required by section 121 of the Job Training Partnership Act.

The Statute also requires that the State JOBS plan be made available for public review and comment 60 days prior to submission to the Secretary. In response to the concerns of State IV–A agency directors, we propose that all public and State agency comments on the plan be resolved at the State level. It was noted that if this were not made clear, the State efforts to resolve disagreements could become a problem, since commenters might choose to press their view at the Federal level rather than at the appropriate State level.

State Plan Content (§ 250.21 of the Proposed Regulation)

Proposed § 250.21 lists the information we propose to require in the JOBS plan. We will provide a preprint similar to the current Streamlined State Plan for the IV–A program which will elicit all necessary information in a standardized format. The preprint will guide States in submitting the JOBS plan, and will expedite review. It will also provide a basis for comparison of State programs.

In § 250.21 of the proposed rule we have listed all information that we expect to include in the JOBS plan preprint. This list does not include all JOBS program requirements. These other requirements are included, as appropriate, in other sections of the proposed rules.

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Subpart D—Participation Requirements, Exemptions and Sanctions

Requirements for Individual Participation and Exemptions (§ 250.30 of the Proposed Regulations)

Under current law, all applicants for and recipients of AFDC are required to register and participate in WIN or WIN Demonstration program activities unless they are exempt. For example, an individual is exempt if she is the parent or other caretaker relative of a child under age 6 and is personally providing care for the child with only very brief and infrequent absences. Section 402(a)(19)(C) of the Act provides for exemptions from participation in JOBS that are similar to those that existed under WIN. The exemptions are contained at § 250.30 and are discussed below.

Child under 16. A child who is under 16 or is attending full-time an elementary, secondary, vocational or technical school is exempt. However, the exemption does not apply to a custodial parent even if she is also a dependent child. We make this interpretation to be consistent with the definition of "adult recipient" in section 403(k) of the Act which specifically includes a child who is the custodial parent of another dependent child in the definition of "adult recipient" for the purpose of determining a State's allocation under JOBS.

Advanced Age. We propose to define "advanced age" for the purposes of this exemption to mean over 60 years of age. This is consistent with the upper age exemption in the Food Stamp Program and should ease the administrative burden on State agencies.

Remoteness. Section 402(a)(19)(C)(vii) of the Act also provides an exemption for remoteness. This exemption is for the individual who lives in a political subdivision that has a JOBS program, but who resides so far away from a JOBS activity that participation is not feasible.

Working more than 30 hours per week. Section 402(a)(19)(C)(iv) of the Act retains the exemption for working 30 hours or more per week.

Currently, under WIN, § 224.20 provides a Federal standard for this exemption: the job has to be unsubsidized and expected to last at least 30 days. The Federal standard was designed to insure that the employment is bona fide and likely to lead to self-sufficiency for the family. However, in consultation with States, we have heard that the Federal definition does not provide States with enough flexibility to require participation by individuals who are working sporadically at very low wages.

We, therefore, propose to allow State IV–A agencies to establish their own standards for the type of "work" that qualifies for this exemption. For example, such a standard might require that the job pay at least minimum wage. The standards must be included in the State JOBS plan as provided at § 250.20.

Pregnancy. Currently, a pregnant woman in her third trimester is exempt based on the pregnancy. Section 402(a)(19)(C)(vi) of the Act exempts pregnant women during the second and third trimesters based on the pregnancy.

However, we would strongly encourage States to urge pregnant women to volunteer to participate in the program, particularly those who are not yet 20 years of age and without a high school education. Since these women will be required to participate soon after their children are born, pursuant to § 250.32(a), it would be a much smoother transition and a more effective process if they do not drop out of the educational system during their pregnancy.

Age of the Youngest Child. Section 402(a)(19)(C)(iii) of the Act provides that a parent or other relative of a child under 3 (or an age less than 3, but not less than 1, if the State plan so provides) is exempt if the parent or relative is personally caring for the child. It also provides that the parent or relative of a child under 6 is exempt if personally caring for the child unless the State IV–A agency assures the necessary child care and that participation in the program will not be required for more than 20 hours per week. However, both of these exemptions are superseded by the requirement at section 402(a)(19)(E) of the Act that custodial parents under age 20 attend educational activities if they have not finished high school and child care is otherwise available. A more complete discussion of this requirement is contained in the preamble for § 250.32.

We propose to limit the child care exemption to one parent or caretaker relative per case. This is consistent with section 402(a)(19)(D) of the Act which specifically allows only one such exemption in a two-parent unemployed parent case. We believe that by analogy it is a reasonable interpretation to apply the same requirement in an AFDC case and, therefore, where there is more than one person who can qualify for the exemption, only one person may be exempt. We also believe that this policy is consistent with the language that the individual must be "personally providing care."

Exemptions in Unemployed Parent (UP) Cases. Section 402(a)(19) of the Act does not exempt a parent in an AFDC-UP family from JOBS participation due to the other parent's participation in JOBS. Accordingly, the State IV–A agency may require the second parent to participate unless he or she meets another exemption criterion such as caring for a young child. However, section 402(a)(19)(D) of the Act also allows States to require both parents to participate, notwithstanding the exemption for having a young child, if child care is guaranteed in accordance with section 402(g) of the Act.

If the State IV–A agency does not elect this option, section 402(a)(19)(D) of the Act provides that only one parent may be exempt for personally caring for a young child. We propose to allow a State to establish policy on whether the principal earner is eligible for the exemption for caring for a child under age 3.

Other Exemptions. Other exemptions provided in section 402(a)(19)(C) of the Act, including the incapacity, illness, and caring for another ill or incapacitated individual in the household, are implemented in the proposed regulations and follow the language of the current WIN regulations, which implement identical exemptions. We do encourage State IV–A agencies not to automatically exempt someone as incapacitated if the individual could be served or employed if reasonable accommodation for the incapacity were made.

The proposed regulation requires that State IV–A agencies regularly review the appropriateness of exemptions, especially those of a temporary nature. Such review must occur, at a minimum, at each redetermination for AFDC.

Volunteers (§ 250.31 of the Proposed Regulations)

Section 402(a)(19)(B)(i)(II) of the Act contains a general requirement that State IV–A agencies must allow applicants for and recipients of AFDC who are exempt under section 402(a)(19)(C) to participate in JOBS on a voluntary basis if the program is available in their area and State resources otherwise permit.

However, section 402(a)(19)(B)(ii) of the Act contains a specific requirement that in determining priority of participation within the target groups defined in section 403(1)(2)(B), the State IV–A agency shall give first consideration to applicants and recipients who volunteer. We interpret the use of the term "volunteer" to include both mandatory and exempt

applicants and recipients so that a State may elect to prioritize among volunteers and, if appropriate, give priority to non-exempt volunteers.

The statutory priority given to volunteers in target groups does not usurp the State IV–A agency's authority to determine the type of program it will offer. Several factors may affect a State's decision on priority services including (1) goals of the State program, (2) availability of resources, and (3) the effect of selection of individuals to participate on the States's ability to meet participation rate standards. Section 402(a)(19)(B)(iv) of the Act specifically provides that a State IV–A agency need not allow or require participation of an individual if such participation would affect the State's rate of reimbursement pursuant to Section 403(1)(2) because the State could not expend 55 percent of its funds on individuals in the target groups. This provision is incorporated in the proposed regulation at § 250.74(a)(3).

The proposed regulation at § 250.31(b) describes the consequences for volunteers who stop participating in JOBS. For exempt individuals who stop participating in the program without good cause, their priority status to participate in the program is lost as long as other individuals are actively seeking to participate. For individuals who are not exempt but enter the program voluntarily, the regulation provides that if such an individual stops participating without good cause, the individual is subject to sanction as described in § 250.34. We believe that this approach provides fair and equitable treatment for all non-exempt participants and avoids the situation in which a non-exempt (mandatory) participant could avoid participating in JOBS by volunteering first and then dropping out without good cause. If the rule about volunteers losing priority status were applied in that situation, the mandatory individual would become part of the group served after all others thereby avoiding her obligation to participate.

Participation Requirements for Education (§ 250.32 of the Proposed Regulations)

Congress recognized the importance of education to the achievement of long-term self-sufficiency, especially for young parents, and it addressed it in two ways in the Family Support Act. First, the Act requires State IV–A agencies to make available a range of educational activities which are described in the proposed regulations at § 250.44. Second, the Act requires that to the extent educational services are available and State resources permit, the State must (subject to certain exceptions described below) require the custodial parent under 20 who has not finished high school (or its equivalent) to participate in an appropriate educational activity.

Congress thought it important enough to specifically provide that a young parent under 20 years of age is not exempt from educational activities even if she has a child under 3 and to give State IV–A agencies the option to require that she attend full-time if it is in the pursuit of a high school diploma or its equivalent. This is a very important step in insuring that young parents are encouraged and helped to remain in school and not ignored until their youngest child turns 3. In addition, in section 403(l)(2)(B)(iii) of the Act, Congress designated custodial parents under 24 who have not completed high school and who are not enrolled in high school (or a high school equivalency course) at the time they apply for aid, one of the four populations specifically targeted for services.

Section 402(a)(19)(E) of the Act provides State IV–A agencies with several options for young custodial parents. The State may establish criteria for excusing custodial parents under age 18 from the high school attendance requirements described above. We believe, however, that excusing custodial parents from high school attendance should be rare. We propose that in such cases State IV–A agencies must provide for assignment to available educational alternatives and that all determinations be made based on an assessment of the individual's circumstances. The proposed regulation further provides that the State agency's criteria may not excuse anyone from high school who is subject to the State's compulsory attendance requirements. We also propose that the State may not categorically excuse someone because of the grade level she has completed. For example, it is not sufficient to say that a 17-year-old who has only finished 8th grade is automatically excused.

For custodial parents who are age 18 or 19, the State IV–A agency may require participation in training or work activities in lieu of educational activities if the individual is not making good progress in completing educational activities or, if an educational assessment, prior to assignment, determines that such educational activities are inappropriate for the individual.

The statutory reference to "custodial parent" in section 402(a)(19)(E) has prompted some to question whether 16- to 18-year-olds who are not parents are eligible for JOBS services. We want to be clear that they are. If they are not in school, they are mandatory participants because they do not meet the exemption criteria. In addition, if the individual is a member of a family in which the youngest child will lose eligibility within two years because of age, she is a member of one of the target groups described at § 250.1 earmarked for services. We believe that, like their counterparts who are parents, 16- to 18-year-olds should be encouraged and helped to remain in school or to participate in other educational activities.

For individuals 20 years of age or over, if they have not earned a high school diploma (or its equivalent), section 482(d)(2) of the Act provides that if the State IV–A agency requires such an individual to participate, it must include educational activities consistent with her employment goals as a component in her employability plan. There are two exceptions: (1) If the individual demonstrates a basic literacy level, or (2) if the long-term employment goal identified in the individual's employability plan does not require a high school diploma (or its equivalent).

Participation Requirements for Unemployed Parents (§ 250.33 of the Proposed Regulations)

Section 403(1)(4)(A)(i) of the Act provides that a State IV–A agency must require at least one parent in a family eligible for AFDC due to the unemployment of the principal earner in the family to participate for at least 16 hours a week in one of the following components of the JOBS program: work supplementation program, a community work experience program or other work experience program, on-the-job training, or a State-designed work program approved by the Secretary.

If a parent is under age 25 and has not completed high school or an equivalent course of education, section 403(1)(4)(A)(i) of the Act permits the State IV–A agency to require the parent to participate in educational activities directed at attaining a high school diploma (or equivalent) or in another basic education program. The Act does not specifically define minimum levels of participation for individuals in this category. However, we have defined a minimum level of participation in educational activities for the purpose of determining the general participation rate, and we propose to adopt the same standard for this part of the UP participation requirements. That standard is "making satisfactory progress", as defined at § 250.1.

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Section 403(1)(4)(A)(ii) of the Act provides that in the case of a parent participating in a community work experience program for the maximum number of hours as provided in § 250.63, such participation shall meet the requirements of this section even if it is less than 16 hours per week. On the other hand, nothing in this section relieves the parent of the obligation under § 250.63(d) to participate in CWEP for the maximum number of hours even if it exceeds the 16 hours per week provided in this section.

Sections 403(1)(4)(B) and (C) of the Act provide that, by FY 1994, each State IV–A agency must have 40 percent of its Unemployed Parent caseload participating at least 16 hours per week in a work component described in this section. This requirement increases by steps to 75 percent in FY 1997. The consequences of not meeting these rates are contained at § 250.74(c) and discussed further in the preamble to that section. We believe that it would be prudent for State IV–A agencies to incorporate programs designed to meet these requirements at the time that they implement JOBS (or as soon as they have a UP program). Early implementation of this provision will allow States to increase the coverage of their programs on an incremental basis so that they can be at 40 percent by FY 1994. In addition, by implementing concurrently with JOBS, the State IV–A agency will maintain a consistent approach to serving unemployed parents.

In addition, we have read this provision together with the technical amendments that section 202 of the Statute makes to the Unemployed Parent program. These amendments impose additional requirements on States to require early participation by principal earners, and on principal earners to participate or apply for participation in JOBS within 30 days of receipt of aid. These provisions are discussed more fully in the preamble to the technical and conforming amendments. By establishing a work program in accordance with this section, the State IV–A agency would have in place a program to which it could promptly and easily assign principal earners.

Sanctions (§ 250.34 of the Proposed Regulations)

Section 402(a)(19)(G) of the Act provides for sanctions if an individual who is required to participate in JOBS fails to participate in the program or refuses to accept employment without good cause.

Length of Sanctions. The length of sanctions for the Work Incentive Program was established in a joint regulation issued by the Secretaries of HHS and Labor. There are set periods of 3 payment months for the first failure to participate and 6 payment months for any subsequent failure. The length of sanction for WIN Demonstration and CWEP programs follows WIN regulations. The length of sanction for employment search also follows WIN regulations unless a State has adopted a lesser sanction period in its IV–A plan. Participation in work supplementation is voluntary.

Section 402(a)(19)(G)(ii) of the Act sets forth the length of sanction periods for JOBS purposes. For the first failure to participate or accept employment, the sanction lasts until the failure to comply ceases. For the second failure, the sanction lasts until the failure to comply ceases or 3 months whichever is longer. For any subsequent failure, the sanction lasts until the failure to comply ceases or 6 months whichever is longer.

We have heard from some States that it may be difficult to determine when a "failure to comply ceases". Accordingly, we propose a definition of this concept that we believe allows the State IV–A agency to determine that the individual has actually demonstrated a willingness to participate in the program and, therefore, has ceased her non-compliance. We propose that a State may require an individual to engage in either the activity to which she was previously assigned, or in some other activity designed by the State to lead to full participation, for a period of up to two weeks in order to demonstrate willingness to participate. If the individual successfully participates in such activities, the sanction will cease as of the day she agreed to participate. If the State IV–A agency has no activity to which it can assign the individual, the sanction will cease on the day she agrees to participate.

For instance, if a sanctioned individual says on Monday that she wants to participate, the State may require her to come in and develop an employability plan or attend a pre-employment orientation. If she successfully completes the assigned activity, her sanction shall be considered to have ended on Monday.

Nature of Sanction. If a parent or other caretaker relative in a one-adult AFDC family failed or refused to participate in the WIN program or accept employment, her needs were not taken into account in determining the family's need for assistance and the amount of the assistance payment. In addition, aid had to be paid to a third party in the form of protective or vendor payments unless the agency was unable to arrange such payments. Further, if the only dependent child in a family failed or refused to participate, the entire family would be ineligible for AFDC. Finally, if the parent who was designated as the principal earner, for purposes of section 407, failed or refused to participate, the entire family was sanctioned.

Section 402(a)(19)(G) of the Act makes several changes to the way the sanction is applied to the parent (or caretaker) and her family. The general rule is that the needs of the individual are not taken into account in determining need for assistance and the amount of the assistance payment. The provision that aid is denied to a family if the only dependent child fails to participate is not carried over so the general rule applies to such a family. Despite the child's failure to participate, she is still considered a "dependent child" for the purpose of determining the eligibility of the family.

Section 402(a)(19)(G)(i)(I) of the Act retains the requirement for protective or vendor payments if the sanctioned individual is the parent or other caretaker relative, and the State can make such an arrangement. This applies to both one-parent and two-parent families. We have amended § 234.60(a)(12) to incorporate this change.

Section 402(a)(19)(G)(i)(I) of the Act revises the sanctions for two-parent families who are eligible under section 407 of the Act. In addition to applying the general rule to the individual who failed or refused to participate, the Act provides that the needs of his or her spouse will also not be taken into account in determining the family's needs for assistance and the amount of its assistance payment if the spouse is not participating in the JOBS Program. The rest of the family will have their eligibility determined without inclusion of the needs of the sanctioned parent (and spouse, if such spouse is not participating in JOBS).

3-Month Notice. Section 402(a)(19)(G)(ii) of the Act also requires the State IV–A agency to notify an individual whose failure or refusal has continued for 3 months of the individual's option to end the sanction by terminating the failure. The proposed regulation clarifies that, in the case of the third and all subsequent sanctions, the notice must be sent after 3 months, but it must say that the individual cannot terminate the sanction until the full 6-month sanction has elapsed.

Good Cause (§ 250.35 of the Proposed Regulations)

Sections 402(a)(19)(G) and (H) of the Act provide that a sanction may only be imposed if the individual does not have good cause for failing to participate in JOBS or refusing to accept employment. The concept of "having good cause" covers a broad range of circumstances. Sometimes situations arise where an individual is unable to participate for a day or several days because of such things as illness or a breakdown in child care arrangements or transportation. These are often short-term situations resulting from events beyond her control. There are other circumstances in which good cause will give the individual an on-going reason for not participating (lack of available child care). Between these two, there will be circumstances in which an individual will have "good cause" for turning down a specific job or assignment ("net loss of cash income") but will be required to continue to participate.

Under the WIN program "good cause" was defined in the Federal WIN Handbook. Existing regulations for CWEP and employment search require the State to define good cause in the State IV–A plan. There are several specific provisions that give an individual "good cause" for failing or refusing to participate or to accept employment. We have incorporated them in the proposed regulations at § 250.35 and describe them as follows.

(1) If the individual is a parent or other relative personally providing care for a child under age 6 and the employment would require such individual to work more than 20 hours per week, the participant shall have good cause.

(2) For all individuals, good cause exists if child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for an individual to accept employment or enter or continue in the program and such care is not available and the State agency fails to provide the care. In judging whether good cause exists in these circumstances, the State IV–A agency should determine whether there are any other individuals in the home who are capable of providing the necessary care.

(3) If accepting a job would result in a net loss of cash income for an assistance unit pursuant to section 402(a)(19)(H) of the Act, good cause exists. However, if the State IV–A agency elects to make a supplemental payment to the family so that it does not experience a net loss of cash income, good cause does not exist.

(4) Finally, the State IV–A agency may define other reasons for good cause. These could include such events as inclement weather, breakdown of transportation and/or child care arrangements, short-term illness not requiring a doctor's care, or a family emergency.

While we believe that each State is in the best position to establish its own definition of other reasons for "good cause," we expect that States will develop standards that will insure the integrity of the JOBS program.

Calculating Net Loss of Cash Income. "Net loss of cash income" means that work-related expenses which would otherwise not be incurred must be subtracted from the gross income to determine whether the resulting net income is at least equal to the cash assistance received at the time the employment is offered. We propose that "gross income" includes, but is not limited to, earnings, unearned income, and cash assistance. The calculation of the amount of cash assistance to be counted in "gross income" must be based on current determination including the application of the appropriate earned income disregards. The need for and amount of a "supplemental payment" must be computed each month and include application of the appropriate earned income disregard.

Certain categories of expenses would logically be deducted from the gross salary, e.g., mandatory payroll deductions. However, other necessary expenses related directly to work must also be deducted. We considered two methods of measuring these other work expenses: (1) A reasonable allowance, similar to the $75 work expense deduction ($90 as of October 1, 1989) at § 233.20(a)(11)(B) or (2) actual, reasonable work-related expenses. In this regulation, we propose that State IV–A agencies use actual, reasonable work-related expenses in determining whether a "net loss of cash income" will occur. This calculation should be figured on an individual basis.

The use of actual expenses best serves the legislative purpose of ensuring that a participant who is required to accept a job is not penalized by having less income than was available while she was receiving assistance. The use of a "reasonable allowance" seems to duplicate the disregard requirement of section 402(a)(8) of the Act. If Congress had intended to add mandatory payroll deductions to the disregards of section 402(a)(8), such language could have been included.

Treatment of Supplemental Payments. Supplemental payments are treated as AFDC expenditures under sections 403(a) (1) or (2) of the Act. Families receiving such payments shall not be considered categorically eligible for AFDC and are not eligible for Medicaid as AFDC recipients.

Eligibility for extended Medicaid (or transitional benefits after April 1, 1990) will be determined as of the month the family becomes ineligible for AFDC due to the acceptance of the offer of employment.

Application to UP Cases. This definition does not supersede the 100-hour rule as applied to unemployed parents (UPs). Since the Act does not allow for AFDC payments to families where deprivation does not exist (two-parent families where neither is incapacitated and in which the principal earner is working more than 100 hours per month), it follows that a supplemental cash payment cannot be made to a UP family if the parent who is the principal earner is working more than 100 hours per month. Congress did recognize that the current definition of "unemployment" for the purposes of qualifying for aid under section 407 of the Act should be studied and authorized several demonstrations where alternative definitions to the 100-hour rule could be tested.

Conciliation and Fair Hearings (§ 250.36 of the Proposed Regulations)

Prior to the Family Support Act, there was no statutory requirement for a conciliation process. However, Federal regulations at §§ 224.60, 224.62, and 224.63 outline procedures for dispute resolution and conciliation in the WIN Program.

Section 482(h) of the Act requires that a State IV–A agency establish a conciliation procedure for the resolution of disputes involving an individual's participation in the JOBS program. We do not propose to describe specific procedures that all States must adopt. However, we believe that it was Congress' intent that States have a conciliation procedure that is neither so short as to be meaningless nor so long as to undermine the mandatory nature of the program and the imposition of sanctions.

An effective conciliation process can resolve misunderstandings or disagreements before they get to the point of resulting in a sanction. For example, a conciliation process could be used to resolve disagreements over the employability plan. It could also be used when a participant's attendance at an assigned activity has been irregular but

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not yet sanctionable. Even if it appears that the failure to participate or refusal to accept employment is clear, the conciliation process can prevent the need to go to a full hearing.

We believe that an effective conciliation process has the following features. Either the recipient or the agency can request conciliation. At some point in the conciliation, the individual's rights and responsibilities under the program should be clearly explained, and she should be informed of the consequences of continued failure to participate. The conciliation should be time-limited, and the individual should be made aware of this. We recommend that the period be no more than 30 calendar days. The agency should attempt to schedule at least one face-to-face meeting between the individual and a representative of the agency. It may be appropriate for a disinterested third-party to participate in such a meeting. If the agency initiates the conciliation process and, after reasonable efforts to schedule and hold a conciliation meeting, the individual does not appear for such meeting, the agency may end the conciliation process. The State's efforts at conciliation should be well-documented in the case file.

Fair Hearings. Under WIN the fair hearing process is complicated by the joint administration of the program. The WIN sponsor (the employment agency) is responsible for resolving disputes and providing for a hearing procedure on issues related to the individual's participation in WIN activities. An individual has a right to appeal through the State employment agency to the National Review Panel at the U.S. Department of Labor. An individual who exhausts all her appeals through the Department of Labor is "deregistered." The deregistration notice is sent to the State IV–A agency which then institutes its procedures to reduce or close the grant based on failure to be registered with WIN. Proper notice has to be sent to the individual, and she has a right to a hearing under § 205.10. Such a hearing can only address issues related to the amount of the reduction or closure of the grant. It cannot review the employment agency's determination of failure or refusal to participate. This two-tiered system often means that enforcing participation requirements in WIN is difficult and time-consuming.

For the WIN Demonstration program, community work experience program, work supplementation program, and employment search, the State IV–A agency is required to follow the hearing and notice procedures in § 205.10.

Under section 482(h) of the Act, the State IV–A agency must provide a hearing when the conciliation process does not resolve a dispute. The Act provides States with two options. The State may follow the hearing and notice procedures of § 205.10. As an alternative, the State may establish a separate hearing system. However, the State IV–A agency may not contract out the responsibility for providing a hearing to any other agency. An alternative hearing system could provide for a hearing only on the issues associated with JOBS disputes. It should be noted, however, that before an individual's grant could be reduced, suspended, discontinued, or terminated, she must be afforded an opportunity for a hearing that meets the standards of *Goldberg* v. *Kelly*, 397 U.S. 254 (1970).

Subpart E—Operation of State Jobs Programs/Program Components

Providing Program Information to AFDC Applicants and Recipients (§ 250.40 of the Proposed Regulations)

Section 482(c) of the Social Security Act requires the State IV–A agency to provide all AFDC applicants and recipients with information on the JOBS program including education, training, and employment opportunities; available supportive services including child care and transitional child care for which they are eligible; the State IV–A agency's obligations; and the participant's responsibilities.

Although the Act only requires that this information cover the JOBS program, the conference report indicates that it is also important that the information cover child support responsibilities. Thus, this section of the proposed regulations requires that the State IV–A agency provide information on securing child support and establishing paternity as well as related requirements.

The purpose of providing program information on JOBS and child support is to ensure that all applicants and recipients are encouraged, assisted and required to fulfill their responsibilities to support their children by preparing for and obtaining employment and by ensuring their cooperation in the establishment of paternity and enforcement of child support obligations.

To provide a State IV–A agency with the flexibility to administer their programs to accommodate variations in local resources and needs, the proposed regulations permit a State IV–A agency to develop the processes, methods of delivery, and timeframes for providing this information. These must be described in the JOBS plan pursuant to § 250.21(g)(5). A State IV–A agency may provide this program information as the JOBS program is phased in by district office or target groups, as long as it is provided in a timely manner. We propose that a State IV–A agency provide this program information to applicants at the time of application and to recipients at the time of the first redetermination after the State IV–A agency's implementation of JOBS.

According to section 482(c)(5) of the Social Security Act, after the State IV–A agency provides a recipient with the information described above, it must, within one month, notify the recipient of the opportunity to indicate her desire to participate in JOBS. The agency must provide a clear description of how to enter the program. The Act does not, however, provide specifics regarding this notification process. To allow the State IV–A agency latitude in providing such notification to applicants, except those assigned to job search, this proposed section permits the State IV–A agency to make such notification within one month of eligibility determination. Thus the State IV–A agency does not have to provide information to all applicants, many of whom may never become eligible. Following the language of the conference report, the regulations indicate that such notification must be in writing. H.R. Rep. No. 998, 100th Cong., 2nd Sess. 132(1988).

Because the idea of participant preference can be confusing as it applies to non-exempt recipients, the proposed regulations clarify that an indication by a non-exempt individual that she does not want to participate does not prevent a State IV–A agency from requiring that individual to participate. Alternately, consistent with other due process guarantees, a State IV–A agency may not interpret a lack of response or indication of a preference not to participate in JOBS by a non-exempt individual to constitute, by itself, failure to participate. Also, a State IV–A agency must inform a non-exempt participant before she decides to voluntarily enter the program that she would be subject to sanction if she stopped participating in the program without good cause.

Initial Assessment and Employability Plan (§ 250.41 of the Proposed Regulations)

Initial Assessment. We are proposing that the State IV–A agency must conduct an initial assessment of each participant's employability based on: (1) Educational, child care and other supportive services needs; (2) the participant's proficiencies, skills, deficiencies, and prior work experience; and (3) a review of the family circumstances, which may include the needs of any child of the participant.

The proposed regulations further provide that the initial assessment can be conducted through various methods including interviews, testing, counseling, and self-assessment instruments. Self-assessment instruments generally include check-off lists or survey forms designed to help the individual identify supportive service needs such as child care and transportation, and accomplishments such as educational level completed, prior work experience and skills acquired through employment or hobbies.

Appropriate assessment methodologies may vary among State IV–A and local programs due to differences in caseload size, program resources, and program philosophies. A State IV–A agency may also use different assessment methodologies to address individual recipient needs. For example, a State IV–A agency may find it cost-effective to do a limited, initial assessment for recipients, followed by a more in-depth assessment only as participant needs dictate. Since the Act does not provide specific details about assessment services and the conference report eliminated the requirement for testing literacy and reading skills, we believe Congress intended to give a State IV–A agency broad flexibility in this area.

We recommend that, where appropriate, State IV–A agencies use nationally recognized, standardized, and industry-developed tests to determine reading and literacy levels and aptitude skills before assigning participants to specific educational and vocational training programs. Such testing may help the State IV–A agency assure that limited resources are used effectively and that participants are not placed in activities that are inappropriate for them. The proposed regulations permit a State IV–A agency to use a wide variety of assessment methods.

The proposed regulations do not set forth timeframes (except for those individuals in job search pursuant to § 250.60) or establish a process for conducting the initial assessment. However, the proposed rule provides that a State IV–A agency must conduct the initial assessment within a reasonable timeframe prior to participation. The assessment process must be described in the State JOBS plan, as provided at § 250.21.

Employability Plan. Section 482(b) of the Act requires that the State IV–A agency develop an employability plan in consultation with the JOBS participant based on the initial assessment. It further specifies that the employability plan must contain an employment goal, describe the supportive services to be provided and the JOBS activities to be undertaken. The proposed regulation follows the requirements of the Act as to the basic content of the employability plan but leaves design and administration of the actual employability plan to the State IV–A agency.

Congress was particularly concerned that employability plans reflect the availability of jobs in the local job market so that JOBS resources would be expended efficiently. This concern is discussed in more detail in the preamble to proposed § 250.12 on coordination.

As appropriate, the employability plan may identify services to be provided to address the needs of a participant's child, such as drug education or life skills planning courses. Many services for children are generally available to low-income community residents at no cost through local educational programs or volunteer services.

The employability plan should reflect a direct path to available employment. States might consider including a schedule of activities that would lead to employment by a specified date to achieve this goal. The employability plan should include activities which are selected to achieve self-sufficiency in an expeditious manner.

Section 482(b)(1)(B) provides that the employability plan must also take into account participant preferences as much as possible within the limits of the State's JOBS program. We interpret this to mean that in developing an individual's employability plan, the State IV–A agency must consider the needs and preferences of the participant in the context of agency goals and constraints (including program resources, available services and local employment opportunities). The proposed regulation specifies that final approval of the employability plan rests with the State IV–A agency. This approval provision is particularly important in establishing the State IV–A agency's authority to determine the appropriateness of self-initiated activities as provided in proposed § 250.48.

In developing employment goals and establishing appropriate participation requirements, the State IV–A agency should not limit a participant's options based upon traditional views of appropriate male and female roles. Such limitations would be inconsistent with the requirements on non-discrimination at section 484(a)(3) of the Social Security Act, and could contravene the self-sufficiency goals of the program.

Agency-Participant Agreement (§ 250.42 of the Proposed Regulations)

Section 482(b)(2) of the Social Security Act provides that, following the initial assessment and the development of the employability plan, the State IV–A agency may require the JOBS participant (or the adult caretaker in the family of which the participant is a member) to negotiate and enter into an agreement with the State IV–A agency.

This is not a new concept. Currently, some State IV–A agencies require WIN/WIN Demonstration participants to sign a written agreement or contract with the welfare agency. Usually, this agreement is included as part of the employability plan and specifies the actions the recipient will take to implement the plan and the agency services and resources to be made available to the recipient. Generally, the agreement or contract includes well-defined time lines and benchmarks for progress for both the recipient and the agency. Thus, the agency-participant agreement is viewed as the basic tool for outlining the mutual responsibilities, expectations and specific tasks of both the recipient and the agency.

The proposed regulations follow the conference report and permit a State IV–A agency to consider the agreement a contract. H.R. Rep. No. 998, 100th Cong., 2nd Sess. 129 (1988). Such contract is subject to applicable State laws and regulations.

This section of the proposed regulations provides that the option need not be statewide. However, the State IV–A agency will be required to describe in its JOBS plan the purpose and content of such agreements or contracts and the types of participants for whom it will be used. Proposed § 250.21 contains the State JOBS plan content requirements.

Case Management (§ 250.43 of the Proposed Regulations)

Generally, a case management system is designed to support and strengthen the participant's capacity to become self-supporting and to help assure that participants and their families have access to the resources and opportunities required for self-support. Case management may be advocated on the grounds that the activities and services a recipient may need to progress to self-support are so scattered among programs and agencies that a case manager is needed so that progress is not delayed and frustrated.

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Under the proposed regulations, a State IV–A agency that chooses to establish a case management system is given flexibility to design its case management services and procedures. Case management does not have to be offered in all political subdivisions that have a JOBS program. Proposed § 250.21 provides that State IV–A agencies must describe their case management approach covering the scope of services offered, the political subdivisions included, and the types of recipients and percent of caseload served in their State JOBS plan.

Mandatory Components (§ 250.44 of the Proposed Regulations)

Education. Section 482(d)(1)(A)(i) of the Act provides that the required educational activities are: (1) High school education or its equivalent; (2) basic and remedial education to achieve a basic literacy level (we propose a definition that is discussed in § 250.1); and (3) education in English as a second language. The conference report (H.R. Rep. No. 998, 100th Cong., 2nd Sess. 142 (1988)) states that where enrollment in regular high school programs is deemed inappropriate, the State IV–A agency is expected to identify or develop alternative education activities to meet the needs of JOBS participants.

The proposed regulation provides at § 250.32(b) that if a State requires participation in JOBS of an individual age 20 or over who has not completed high school, it must include educational activities consistent with her employment goal. There are two exceptions: if the individual demonstrates a "basic literacy level," or if her long-term employment goal does not require a high school level of education. We propose elsewhere, on advice from the Department of Education, to define "basic literacy level" as successful completion of the eighth grade. In responding to these two requirements in the Act, we note that levels of education between "basic" education and "high school" are not explicitly specified. Nonetheless, they are clearly allowable as JOBS educational activities. Section 250.44(a) provides that the educational activity may include any activity below the postsecondary level, which means that an intermediate educational goal between basic education and high school is acceptable if the State IV–A agency concludes that it corresponds to the individual's long-term employment goal.

The Family Support Act provides no definition for the required work and training programs. It does, however, require reporting of activity and costs related to each selected program or activity. We, therefore, propose to regulate functional definitions for the three remaining mandatory components of "job skills training," "job readiness activities," and "job development and placement."

We sought available definitions of these terms from the Department of Labor, principally with reference to definitions used by the State employment security agencies and the Job Training Partnership Act programs. Not all programs required by the Family Support Act are defined in DOL programs, such as "job readiness activities." Other programs or activities are defined differently, such as "job development" and "job placement", which are established in the Act as a single, combined, required program activity, but which are each defined differently by JTPA and the Employment Service.

In a two-day meeting with selected State welfare agency directors and their work program directors, strong opinion was voiced that wherever possible, definitions of employment and training terms correspond with existing definitions used by the State agencies from whom State welfare agencies would often be seeking both contracted and non-reimbursed services. While we have endeavored to be responsive to these State concerns in this regard, we had to choose between or combine definitions. We invite comment on the operational usefulness of the distinctions we propose for such purposes as program design and data maintenance in case records.

Job Readiness Activities. Under the proposed rule, "job readiness" centers on pre-employment preparation, and would exclude activities that would readily fit within the scope of other defined components, such as vocational skills training. The Department of Labor advised us that "job readiness activities" are not defined by the Employment Service. However, employment security agencies define several closely related terms. Thus, a "non-job-ready" person is one who is deficient in work attitudes, behaviors or skills and is therefore unable to get and keep a job; a "job ready individual" is one who, among other things, has no physical, mental or job skill barriers that preclude employment; and "employability" is defined as, among other things, work behavior and attitudes that are necessary to compete successfully in the labor market. We agree with the Department of Labor observation, and propose in the rule, that an activity related to removing such barriers would be defined as a job readiness activity.

Job Skills Training. We propose to adhere to what we believe is the commonly understood meaning of the term—pre-employment training in technical job skills. It would, for example, correspond approximately to what was understood in the WIN and WIN Demonstration programs as institutional training.

In order to assure that skills training offered through JOBS results in an increase in participants' skills and competencies, and that progress can be monitored by the State IV–A agency, we propose to require that qualitative measures for progress be developed for all skills training that is included as a JOBS component. This is discussed in more detail in the definition of making good or satisfactory progress in a training component in § 250.1.

Job Development and Job Placement. The proposed rule would define "job development and job placement" as agency activity on behalf of participants to create or discover openings, and to market participants for them. This is consistent with a longstanding approach in employment programs. We have followed that historical pattern as a means of distinguishing agency activity that is relatively intense on behalf of a participant, from a participant's intense activity in Job Search. Based on this distinction, we propose to exclude this component from the definition of "participation" found in § 250.1.

We also do not intend that this component should have any connection with the longstanding concept in employment security agencies of a "placement" as an outcome. The specialized meaning of this outcome measure for employment security agencies does not correspond to the requirements or expectations of JOBS.

Optional Components (§ 250.45 of the Proposed Regulations)

In addition to the four required components, the State IV–A agency must also offer at least two of the following four activities in its JOBS program:

(1) Group and individual job search;
(2) On-the-job training;
(3) Work supplementation; and
(4) Community work experience, or other approved work experience program.

Except for on-the-job training, these optional components are generally based on existing law and program regulation. The Act provides for a few changes to programmatic aspects of these components which are discussed in the following sections. Otherwise, we have adopted as much of the existing regulations as possible. Since the Act establishes common sanctions, eligibility criteria, FFP guidelines, target populations and service area coverage for the JOBS program, the regulations governing the optional components will no longer have specific language addressing these areas as there was when they were discrete IV–A work programs.

Like the required components, the optional components need not be operated uniformly throughout the State. However, the additional State options do provide an opportunity for the State IV–A agency to develop a program meeting specific needs of individuals while recognizing State economic and environmental factors. Congressional conferees (H.R. Rep. No. 100–998, 100th Cong., 2d Sess. 141 (1988)) stressed the desirability of programs that respond to varying circumstances, including changes in the unemployment rate and different needs that exist in rural and urban areas. Our regulations seek to reflect this congressional intent.

Postsecondary Education (§ 250.46 of the Proposed Regulations)

We have defined postsecondary education in § 250.1. We interpret the language of section 482(d)(1)(B)(i) of the Act to mean that the offering of postsecondary education is an entirely optional matter for the State IV–A agency to address in its JOBS plan, except that we have limited such education to that which is directly related to the fulfillment of an individual's employment goal, i.e., to obtain useful employment in a recognized occupation. Within this occupational limitation, the State IV–A agency must set forth the bases upon which it will determine whether postsecondary education is appropriate.

We believe that the proposed restriction of postsecondary education to education related to the goal of obtaining useful employment in a recognized occupation is consistent with the intent of the JOBS program. The program's aim to reduce long-term welfare dependence would not be served by permitting a JOBS participant to embrace the broader, more general educational goals that also fall within postsecondary education but that have a less well-defined occupational connection.

While we cannot prohibit the use of JOBS funds for this activity, we are extremely concerned about the potential cost. We strongly urge States to use other available resources for postsecondary education and concentrate JOBS funds on short-term activities which lead to employment. A State must consider the wide range of other components which must be included in their JOBS program when determining whether to fund postsecondary education. We will monitor State expenditures in this area carefully.

We propose to exclude the costs of such education, including tuition, books and fees, from coverage as special needs under § 233.20(a)(2)(v). Since the Act now provides funding for this activity and places a specific cap on the overall JOBS funding, we would be circumventing the Statute were we to allow additional funding under special needs.

Other Education, Training, and Employment Activities (§ 250.47 of the Proposed Regulations)

Section 482(d)(1)(B)(ii) of the Act provides that the Secretary may approve additional components not specified in the Act. Because, in the course of the conference, public service employment was specifically considered as a potential optional component and finally rejected by the conferees, we have expressly excluded public service employment from the acceptable possibilities. By public service employment we mean what that term meant under the WIN and CETA programs: a fully subsidized job in a public agency that is not expected to convert to unsubsidized employment.

Self-Initiated Education or Training (§ 250.48 of the Proposed Regulations)

This section describes State options regarding individuals already engaged in education or training at the time they are otherwise required to begin participation in JOBS. Section 402(a)(19)(F) of the Act gives the State IV–A agency the option to allow such individuals to continue attendance at an institution of higher education or in a school or course of vocational or technical training if certain conditions are met. The proposed rule requires that a participant: (1) Attend the educational activity at least half-time; (2) make "satisfactory progress in such institution, school, or course"; and (3) be enrolled in a course of study that is consistent with her employment goals.

While the wording of the Act could lead to an interpretation that the half-time attendance provision pertains only to the school or course of vocational or technical training, this would leave a question as to the amount of time the participant would have to be in attendance at an institution of higher education. We see no reason to distinguish an "institution of higher education" from a "school or course of vocational or technical training" in applying a minimum attendance requirement. Rather, we see the proposal to have the half-time attendance requirement apply to higher education as serving three beneficial purposes. First, it provides guidance as to minimal expectations of participation. Second, it serves as an indicator associated with making satisfactory progress in the institution, as defined in § 250.1. Third, the proposed half-time requirement is consistent with such requirements for half-time attendance contained in certain student financial aid programs operated under the Higher Education Act. For example, the Guaranteed Student Loan Program requires a student to be enrolled at least half-time in order to receive aid from that program.

The proposed meaning of the term "vocational or technical training" is incorporated into § 250.48 of the proposed rule. In this context, it is included within the meaning of "postsecondary education," as defined in these regulations, but limited to education that both leads to useful employment in a recognized occupation and results in other than a baccalaureate or advanced degree. This limitation is compatible with definitions contained in the Higher Education Act and the Carl D. Perkins Vocational Education Act. Such a limitation also fits with the more fundamental purpose of the Family Support Act to reduce welfare dependency. We do not believe the JOBS program was intended to foster the acquisition of postsecondary education in the broad sense of the programs found in the Higher Education Act, under which long-term educational activities clearly are supported.

In supplying definitional information, the Department of Education stated that one of its primary concerns was "whether welfare recipients who are enrolled in postsecondary schools have the ability to benefit from the programs in which they are enrolled. The Division of Adult Education believes that the State should perform an educational assessment of the ability to benefit of any JOBS participant * * * before enrollment is considered 'satisfactory participation * * *.'"

Other commenters asserted that there is potential for abuse by the institutions cited in section 402(a)(19)(F) that would enroll welfare recipients as a means of securing indirect funding by means of student aid under the Higher Education Act.

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We believe that, in the case of self-initiated training which the State IV–A agency might find to be satisfactory for participation in the JOBS program, an educational assessment of the participant and adherence to benchmarks of satisfactory progress are crucial to the protection of both the participating student and Federal funds. Therefore, the proposed rule requires an assessment and development of an employability plan, before the agency determines the appropriateness of her pre-existing education or training activity to a defined employment goal.

The proposed rule provides that the State IV–A agency may place restrictions upon the self-initiated postsecondary education that may be accepted as meeting JOBS participation requirements. For example, the State IV–A agency might restrict such postsecondary education to a maximum of two years. Further, a State IV–A agency might choose to permit an individual who is within two years of completing a four-year program to complete it if the requirements of this section otherwise are fulfilled. We would encourage States in delineating restrictions to be mindful that the goal of self-initiated training should be to move the participant from welfare dependence within a reasonable time. Therefore, shorter programs leading to specific occupational goals are preferable to longer educational programs that may have far less specific employment goals.

The proposed rule prohibits the use of Federal JOBS funds to pay self-initiated postsecondary education that the State may consider to constitute satisfactory participation in the program, pursuant to § 250.48. In the case of self-initiated postsecondary education, section 402(a)(19)(F) of the Act specifically states that such costs shall not constitute federally reimbursable expenses under JOBS.

The remaining proposed provisions of § 250.48 largely repeat provisions found in section 402(a)(19)(F) of the Act. The rule proposes that, consistent with the Act, the State IV–A agency must not permit other JOBS activities to interfere with State-approved self-initiated training. Also, while the costs of self-initiated postsecondary education will not be reimbursable under JOBS, the costs of child care, transportation, and other supportive services that the State IV–A agency determines are necessary for attendance are eligible for Federal reimbursement.

Subpart G—Optional Components of State JOBS Programs

Job Search Program (§ 250.60 of the Proposed Regulations)

Section 482(g) of the Act provides for group and individual job search as an optional component under JOBS. Although we describe all mandatory and optional components in separate sections, we recognize that it will be appropriate for States to combine them for certain clients. Job search is an excellent example. While job search by itself is an appropriate activity for the job ready who have basic workplace skills, for those who are skills deficient, job search should be coupled with other education and training activities.

The Act generally retains the provisions of the current law at section 402(a)(35) of the Act with some modifications. The first change is that Congress expressed its intent that job search be "intensive". We interpret this to mean that, in order to qualify as an optional component in which participation counts for the purposes of calculating participation rates pursuant to § 250.74, a job search program must be well-structured and include specific activities to be undertaken by the participant or the agency on behalf of the participant. Such activities must be defined in the State JOBS plan.

Current law provides that a State IV–A agency may require an initial period of up to 8 consecutive weeks of job search which may begin at the time of application for aid. Some States have used this initial period to do a preliminary screening of the individual's employability prior to assessment and development of the employability plan. The Act amends this provision to provide that the State IV–A agency may not require an individual to participate in job search for longer than 3 weeks without performing an assessment as defined at § 250.41. The 3 weeks of job search prior to assessment count as part of the 16 weeks that are allowable during the application period and first year.

The Act also permits an additional 8 weeks of job search in any subsequent period of 12 consecutive months. We propose to adopt the existing interpretation of "an additional 8 weeks" to mean 8 weeks or its equivalent. For example, an equivalent would be one week a month for 8 months. We point out, however, that if a State IV–A agency adopts a definition of "equivalent to 8 weeks" that stretches out the length of job search, without combining it with other activities, such job search may not meet the proposed standards for job search for the purposes of computing participation rates. Those standards are found at § 250.1.

The Act also provides that a State IV–A agency may require additional job search only in conjunction with some other education, training or employment activity which is designed to enhance the individual's employment prospects. For example, if a State IV–A agency requires an 8-week period of job search for a recipient and then assigns the individual to skills training, it is permissible to require her to engage in job search at the end of the training as part of the training.

However, participation in job search is not an allowable activity for FFP or participation rates under the JOBS program if an individual has participated for more than 4 months out of the 12 preceding months. We interpret "4 months" to be 4 months or its equivalent. Therefore, job search for one week a month for 8 months (after the initial 8 weeks), as described above, would be within the allowable activities.

On-The-Job Training (§ 250.61 of the Proposed Regulations)

Section 482(d)(1)(A)(ii)(II) of the Act provides for on-the-job training (OJT) as one of the four optional components in JOBS. Section 250.61 contains the regulations for OJT.

Our definition of OJT is based on the definition contained in WIN regulations at § 224.42(a) and information provided by the Department of Labor. JTPA regulations do not define OJT, although it is an allowable activity. There are a few basic principles that govern OJT. The participant is hired first by the employer. While engaged in productive work, she is provided training which gives her the knowledge or skills essential to the full and adequate performance of that job. She is compensated at a rate (including benefits) comparable to that of other employees performing the same or similar jobs, and the employer is reimbursed by the State IV–A agency or its agent for the extraordinary costs of training and the additional supervision that is required. At the end of the OJT, the participant is retained as a regular employee.

In order to assure that OJT assignments offered through JOBS result in an increase in participants' skills and competencies, and that progress can be monitored by the State IV–A agency, we propose to require that qualitative measures for progress be developed for all OJT assignments that are included under JOBS. This is discussed in more detail in the definition of making good or satisfactory progress in a training component in § 250.1.

Rate of Reimbursement and Duration of OJT. We propose to limit the rate of reimbursement to employers to no more than an average of 50 percent of the wages paid by the employer to the participant during the period of the OJT. The operational experience of the six federally-funded grant diversion demonstration projects in which subsidy levels ranged from 25 percent to 83 percent did not suggest that higher rates significantly increased job opportunities. Furthermore this limitation is consistent with JTPA, WIN, and employment security policy. We, therefore, believe that by adopting a comparable policy, we avoid fostering competition among programs as to the wage subsidies they offer. Section 250.61(b) contains this provision.

We also considered whether to regulate the length of OJT. We have decided against setting limits in regulation because we believe that States should have the flexibility to design the program that both meets the needs of the State and the individuals they plan to serve, especially if they use OJT for target populations. While we permit State flexibility, we strongly recommend that State IV–A agencies use the guidance that is available, such as the Dictionary of Occupational Titles, in determining the appropriate length of training and that State IV–A agencies assure that training is only for as long as is reasonable to learn the necessary skills.

Eligibility for Services during Participation. Wages from OJT are considered to be earned income for any purpose of the law, which is consistent with current AFDC policy. A person who loses eligibility for AFDC because of earned income in accordance with § 233.20 or because of the application of the 100-hour rule in the case of the principal earner in a Unemployed Parent case will continue to be considered a participant in JOBS for the duration of the OJT. This will allow the agency to make payments to the employer through the completion of the OJT. This is comparable to the WIN regulations at § 224.42 which provide that a person in an OJT is considered to be a WIN registrant for the duration of the OJT even if she is no longer receiving AFDC. It also means that the participant may be eligible for the supportive services available to other participants in JOBS even though she is not receiving an AFDC grant. However, since the participant will have earned income, we believe that the State IV–A agency, in determining the need for supportive services, should treat the participant as it would treat an individual who finds unsubsidized employment.

As a participant in JOBS, the individual will be eligible for child care as determined by the State IV–A agency to be necessary for participation for the duration of the OJT. We have considered how to handle child care once the OJT ends. We propose the following approach in the regulation. Since the individual was not in receipt of AFDC in the previous month, she is not eligible for the twelve months of transitional child care when the OJT ends. However, if she would have been eligible for transitional care at the time that she lost eligibility for AFDC due to going into the OJT, she can get transitional care for the number of months left in the 12-month eligibility period.

For example, an individual who goes into OJT loses eligibility for AFDC in January. The OJT continues until April during which time she receives child care as a participant. If she would have been eligible for transitional child care under Part 256 in February, she is eligible for the remaining 9 months (from May to January). She would, of course, have to meet the requirements of eligibility and would have to contribute to the cost of the child care in accordance with the State's sliding fee scale. Alternatively, a State IV–A agency may simply provide child care as transitional child care from the time that the individual becomes ineligible for AFDC due to income from the OJT if she would otherwise qualify. This approach has the advantage of being fairly simple although it would disadvantage an individual who would not qualify for transitional benefits because she did not meet the other eligibility criteria (for example, was not in receipt of AFDC for 3 of 6 preceding months). We believe that our approach of providing up to 12 months of transitional child care to OJT participants assures that individuals who enter employment are treated equitably whether the employment is unsubsidized or subsidized.

Eligibility for Medicaid extensions is determined at the time the individual loses eligibility for AFDC. In other words, there is no provision, as there is under work supplementation, which allows OJT participants who are no longer AFDC recipients to be eligible for Medicaid based solely on their status as participants.

Differences between OJT and Work Supplementation. Under JOBS, OJT and work supplementation are two of the four programs from which a State must choose its optional components. We carefully considered the differences between OJT and work supplementation under the Act. Since the Deficit Reduction Act of 1984 broadened the kinds of jobs that could be filled under work supplementation to include jobs in the private sector, many State IV–A agencies have used the existing work supplementation program authority to run what is essentially an OJT program. The diverted grants are used to pay the subsidy to the employer.

There have been many recommendations to make OJT and work supplementation as compatible as possible in our regulations so as to allow States maximum flexibility in program design. We have carefully considered all the arguments and conclude that OJT and work supplementation must be considered separate components. We have two major reasons for reaching this conclusion.

The first is a new provision (section 464(c) of the Act) which specifically bars any participant in a work supplementation component from being assigned to "fill any established, unfilled position vacancy." The same prohibition has always existed in CWEP and is carried over to CWEP by the Statute. However, it is a new provision as it applies to work supplementation and, if we assume that it has the same meaning as it has under CWEP, it appears to limit the use of the work supplementation component to jobs that did not previously exist.

The second reason is that the Act allows State IV–A agencies to apply special rules to participants in work supplementation jobs that are not available to persons in OJT. The State IV–A agency may reduce or extend earned income disregards as they apply to work supplementation participants (section 482(e)(2)(G)). The State IV–A agency may exempt work supplementation participants from retrospective budgeting requirements (section 482(e)(3)(D)). In addition, the State IV–A agency must extend Medicaid coverage to participants in work supplementation (section 482(e)(6)). There is no basis for extending any of these special rules to OJT participants and, if we did not make any distinction, there would be no way to determine which rules should apply to a given participant.

Furthermore, there is no compelling reason in OJT to invoke the special rules which are necessary to divert grants to a wage pool in work supplementation. Since JOBS funds are used to reimburse the training costs of the employer, the State IV–A agency, in its planning

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process, should calculate how many OJT training opportunities the State will develop and proceed accordingly.

For States which are concerned that diverted grants will not provide an adequate wage pool for their work supplementation component, we point out that they may earmark JOBS program monies at any time to add to the diverted grant money in the wage pool to ensure that sufficient funds are available for subsidy. This money could be unused OJT money, or any other JOBS program money. However, it is not permissible to use diverted AFDC grants in the OJT component.

Work Supplementation Program (§ 250.62 of the Proposed Regulations)

Section 482(e) of the Act provides for a work supplementation program (WSP) as an optional component under the JOBS program. This component allows the State IV–A agency to pay, or "divert," all or part of the AFDC grant to an employer to cover part of the costs of the wages paid to an AFDC recipient who is participating in the program. The Act adopted most of the existing law. However, there were a few changes made to the work supplementation program by the Statute which are discussed below.

Currently, only those individuals who would have been eligible for AFDC under a State IV–A Plan as it was in effect in May 1981, or as modified thereafter as required by Federal law, can participate in work supplementation. The Act does not carry over this provision to the JOBS program.

Currently, participation in the work supplementation program is voluntary, i.e., the AFDC recipient can elect to participate in work supplementation by accepting an offer of work. However, once the individual enters the program, she can be considered a mandatory participant. This is necessary to insure the integrity of the program and to carry out the agreements with employers. Under the Act, the State IV–A agency may require an individual who is not exempt to participate in any appropriate component, including work supplementation.

Retrospective Budgeting/Monthly Reporting. The Deficit Reduction Act of 1984 and interim final rules at § 233.36, published September 10, 1984, provide that State IV–A agencies must require monthly reports from those assistance units with earned income or recent work histories. Additionally, § 233.31(a) provides that all assistance units required to file monthly reports must have the amounts of their assistance payments determined retrospectively. Because work supplementation program participants have earned income, they have been subject to monthly reporting and retrospective budgeting rules. The States, however, had the option to request waivers to exempt such participants from these two requirements.

The proposed regulation at § 250.62(g) permits State IV–A agencies to exempt individuals who are participating in work supplementation from retrospective budgeting requirements and to determine their monthly payments prospectively. This means the amount of assistance payable to the participant's family for any month will be based on the income and other relevant circumstances in that month.

While the legislation does not specifically address the monthly reporting issue, we propose that State IV–A agencies be permitted to exempt participants in supplemented jobs from monthly reporting without seeking a waiver. This policy is consistent with past practice. Furthermore, exemption from monthly reporting will allow the States to have one policy for all recipients whose payments are computed prospectively.

Calculating the Diverted Grant. The regulation at § 250.62(f) allows the State IV–A agency to "freeze" a participant's AFDC grant (residual payment) as an alternative to monthly recomputations. Under this procedure, upon taking a supplemented job the participant's AFDC base grant is recalculated considering her earnings from the job and any other sources. If her earnings and other income drop her base grant to zero, the entire amount of the grant is "diverted" to a wage pool from which the employer is paid. If the earnings and other income do not cause the complete loss of the base grant, she receives a "residual" payment. The difference between the base grant and residual payment is diverted to a wage pool.

A wage pool is a mechanism which allows States to pool (divert) AFDC grants not paid to the WSP participant and pay employers a standardized amount for all WSP participants' wages. From the Federal perspective, the pool is an account or listing for accumulating and tracking the diverted amounts so that FFP can be claimed when payments are made to employers.

The following example illustrates: The potential participant is a parent in a regular AFDC case receiving a monthly grant of $450. A full-time supplemented job is found which would pay $720 per month. The individual is currently eligible for the $30 and ⅓ and standard earned income disregards, has no other income, child care is being provided at no cost and no changes are foreseen in the family's needs, income, or resources.

Countable Income=$720−$90 (work expense after 10/1/89)−$30=$600
$600−(⅓ of $600)=$400
Residual Payment=$450 (AFDC grant)−$400 (countable income)=$50
Diverted Grant=$450 (AFDC grant)−$50 (residual payment)=$400

If a State elects to "freeze" a participant's residual payment, the State IV–A agency must determine at the time of placement what payment amount, if any, the participant will be eligible for given the hours of work, wages and other circumstances while participating in a supplemented job. Once this initial payment is determined, the amount is "frozen", and the participant, if otherwise eligible, receives the same amount (residual payment) for each month of participation regardless of changes which occur during the participation. Even though a participant may be otherwise ineligible for AFDC benefits, she can continue to participate, and the State can continue to receive FFP.

Although the basic concept of "frozen" grants is attractive, States may be concerned about their ability to make adjustments in certain limited circumstances (for example, when the household size changes). Therefore, State IV–A agencies are permitted to make limited adjustments to a participant's residual payment within a "frozen" grant policy. Under such a "partial" freeze, for example, one State might make adjustments only in cases where the State's need or payment standards change. Another State might make adjustments not only under those circumstances, but also where the family size changes. If a State chooses a partially frozen grant policy, it must be consistently applied. That is, if a State IV–A agency provides adjustments for factors which would increase the payment amount, it must also make downward adjustments if changes in those same factors would cause a decrease in payment amounts.

The use of the terms "frozen" and "partially frozen" grants is not new. This policy is retained from the previous work supplementation program because States feel that freezing grants eases administration of the program. It is also consistent with § 250.62(b)(2) which gives State IV–A agencies broad discretion in establishing the terms and conditions under which jobs, payments, wages, and the conditions of participation are defined.

If a participant becomes ineligible for AFDC for any reason other than earnings from the supplemented job, the individual will not be eligible for a residual payment. However, she may continue in the supplemented job. Since she is not due a residual payment, the entire basic grant amount is diverted to the wage pool. For example, if a family becomes ineligible because of the receipt of a lump sum payment, the family would no longer receive a residual payment, but participation in the supplemented job could continue.

Wage Pool Sampling. Section 482(e)(2)(F) of the Act allows the States to use a sampling methodology to determine the amount of money available for the wage pool. By selecting a sample of work supplementation cases to determine available monies for the wage pool, State IV–A agencies will not need to track all grants diverted on an individual basis. Reconciliation of the wage pool for each participant served is eliminated. Reconciliation is still required based on the results of the sample.

The State IV–A agencies will need to develop a method to select an unbiased sample of work supplementation cases of sufficient size to produce statistically valid results when applying this method across the universe of work supplementation participants. The method used by the State IV–A agency must be described in its JOBS plan.

Medicaid Eligibility. Currently, States have the option to provide Medicaid to the participant and her family if they are otherwise eligible. Section 482(e)(6) of the Act requires that States provide Medicaid coverage to the participant and family members who would be otherwise eligible for AFDC if not participating in work supplementation. The Health Care Financing Administration (HCFA) is responsible for issuing regulations to implement this section of the Statute.

Child Care Eligibility. In § 250.62(h) we propose to allow State IV–A agencies to provide child care to work supplementation participants according to the same policy that we apply to OJT participants. A more complete explanation of this policy is contained in the preamble to § 250.61 on OJT.

Community Work Experience Program (§ 250.63 of the Proposed Regulations)

Section 482(f) of the Act provides for a community work experience program (CWEP). The new program generally retains the provisions in the current law, with modifications. The Act allows for training along with actual experience as ways to improve the employability of participants. We interpret this to mean that a State IV–A agency can include an element of training in a work experience position.

Under current law, section 409(a)(1) of the Act, the maximum number of hours in any month that a participant may be required to work is that number which equals the amount of financial assistance payable to the assistance unit divided by the greater of the Federal or the applicable State minimum wage. The Statute modifies this calculation to clarify that the State IV–A agency must deduct any child support collected (except the $50 pass-through) in making the calculation of maximum hours.

Section 482(f)(2) of the Act provides that after 6 months of an individual's participation in CWEP and at the conclusion of each work and/or training assignment, the State IV–A agency must provide a reassessment and revision, as appropriate, of the individual's employability plan.

Section 482(f)(1)(B)(ii) of the Act provides that after an individual is assigned to CWEP for 9 months, she may not be required to continue in the assignment unless the maximum number of hours of participation is no greater than the amount of the assistance payment (excluding child support collected but not the $50 pass-through) divided by the highest of: (a) The Federal minimum wage; (b) the applicable State minimum wage; or (c) the rate of pay of individuals employed in the same or similar occupations by the same employer at the same site.

The provision requiring a State IV–A agency to exclude the amount of aid for which it is reimbursed by a child support collection from the calculation of the maximum hours an individual must participate is new, although several States have done so under current law. Since the reimbursement from the child support collection will often not occur in the month for which the calculation of hours is being made, we welcome suggestions, particularly from States which have such calculations, on ways to implement this provision that would meet the intent of Congress but would not be overly burdensome to States to apply.

We propose to incorporate the provisions of the Food Security Act of 1985 (Pub. L. 99–198) regarding the addition of food stamp benefits into the calculation of CWEP hours. The Food Security Act provides that recipients are exempt from Food Stamp work registration if they are participating in an AFDC CWEP program. The Food Security Act gives States the option of adding food stamp benefits to the AFDC grant in the computation of CWEP hours in these cases. The maximum number of hours that a Food Stamp recipient, who is exempt from Food Stamp work requirements because of participation in CWEP, can be required to participate in CWEP is 120 hours a month. Since the Statute makes minimum changes to CWEP in incorporating its basic provisions into JOBS, we propose to consider JOBS CWEP to be the same as AFDC CWEP for the purposes of this provision.

The Act allows States to have other work experience programs. States may offer such programs if they are described in the State JOBS plan and approved by the Secretary. An alternative work experience program could be modeled after the WIN work experience program in which a participant is assigned to a full-time, temporary position for a limited number of weeks. Such a program gives the participant the experience of working full-time and learning what the demands of full-time employment are, both on the job and at home. Alternative work experience programs offer States the opportunity to be more creative and may be less burdensome administratively. Any alternative work program is subject to the FFP limitations at § 250.63(j) and the general program standards contained in section 484 of the Act.

Subpart H—Funding

JOBS Allocation Entitlement (§ 250.70 of the Proposed Regulations)

Federal funding for JOBS is provided as a capped entitlement. The amount of funds available to a State with an approved JOBS plan under title IV–F is determined by the formula provided in the proposed regulation at § 250.70(b). Unlike funds authorized under title IV–A, which is an open-ended entitlement program, funds not obligated by the end of the fiscal year cannot be carried over, as stated in the proposed regulation at § 250.70(c).

States will be required to liquidate all obligations incurred during a fiscal year within one year after the end of that fiscal year. The liquidation period for grant programs subject to the regulations at Part 92 is normally 90 days (§ 92.23(b)). However, we are proposing to permit one year for liquidation in the regulation at § 250.70(d) for the JOBS program because we recognize that States may need more flexibility in administering the program.

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Allotment of JOBS Limit of Entitlement (§ 250.71 of the Proposed Regulations)

All States are required to have an operating JOBS program effective October 1, 1990. However, States may begin operating a JOBS program before that date. At the earliest, States may begin their JOBS programs on July 1, 1989. Funding proportional to the quarters the program is in operation in the State in a given fiscal year will be provided as described in the proposed regulation at § 250.71(a).

JOBS funding for Puerto Rico, Guam, the Virgin Islands, and American Samoa is not subject to the funding restrictions at section 1108 of the Social Security Act (see the proposed regulation at § 250.71(c)(1)). For these jurisdictions, the costs related to the provision of child care under Part 255 are subject to the JOBS limit of entitlement. This includes the costs of child care services and related administrative costs (see the proposed regulations at § 250.71(c)(2)). For these same jurisdictions, the costs related to the provision of transitional child care services under Part 256, which includes the cost of the services and the related administrative costs, are available for matching under title IV–A (see the proposed regulations at § 250.71(c)(3)).

The JOBS program provides direct funding to Indian Tribal and Alaska Native organizations. The Federal funds available to Tribes and organizations constitute a reduction to the allotment of the State in which the Tribe or organization is located. The proposed regulations at § 250.90 provide the specific requirements for Indian Tribal and Alaska Native organization participation in the JOBS program.

Maintenance of Effort (§ 250.72 of the Proposed Regulations)

Funding for the JOBS program is not intended to refinance existing programs, but to add to the effort of assisting individuals to avoid long-term dependency. We interpret this purpose to mean that JOBS funds are not to be used to replace non-Federal funds to pay for education, training, and employment activities which were already in existence prior to a State's implementation of the JOBS program. The proposed regulation at § 250.72(a) defines "non-Federal" funds.

State and local funding for the purposes of the JOBS program must not be less than State and local expenditures incurred in fiscal year 1986 for education, training, and employment activities dedicated to assist AFDC individuals in becoming self-sufficient, as provided in the proposed regulation at § 250.72(b). Examples of types of expenditures included in this fiscal year 1986 "maintenance of effort" provision are: A State's share of costs incurred in operating the title IV–A work programs and the WIN, or WIN Demonstration, program, as appropriate; a State's costs for a GED program operated in behalf of welfare recipients and applicants; a State's share of costs incurred in operating a State education, training, or work program for welfare recipients including AFDC recipients; a State's costs for work-related supportive services, such as child care, also incurred in this effort.

The proposed regulations at § 250.72 (c) and (d) establish the conditions under which FFP will be provided for expenditures certified for activities that are not otherwise available to the JOBS participant. We are proposing that FFP will not be provided for activities and services that are otherwise available to an AFDC recipient on a non-reimbursable basis. Thus, it would not be permissible to begin claiming the costs of AFDC recipients' high school attendance as an expenditure for JOBS. Nor would it be permissible to claim subsidy costs where the State has had a program in effect to subsidize an activity for low-income residents; however, under JOBS a State could pay for the portion that was not previously subsidized. On the other hand, it would be a permissible JOBS expenditure to pay for an additional education program established solely for AFDC recipients.

Matching Rates (§ 250.73 of the Proposed Regulations)

JOBS program activities are subject to three different rates of FFP. The FFP rate for that part of the total JOBS funds comprised of the States' WIN or WIN Demonstration allotment for FY 1987 is 90 percent. This rate may be applied toward any allowable cost of the JOBS program. A State's 10 percent share may be in the form of cash or in the form of in-kind contributions. Section 403(1)(1)(B) of the Act does not provide a definition of "in-kind"; it states only that it be fairly evaluated. Therefore, in order to provide States flexibility in this area, we are proposing to permit a State's share of in-kind to be State in-kind or third party in-kind contributions. This is currently the practice for the WIN program and we propose to incorporate this practice in the JOBS program but only for this portion of the funding for JOBS.

Costs Matched at the FMAP Rate with a 60 Percent Floor. Federal matching under the JOBS program is also available at a State's Medicaid matching rate (the FMAP) for certain costs of the program that exceed a State's WIN or WIN Demonstration allotment. In this category, for the purposes of the JOBS program, the minimum matching rate is 60 percent.

Expenditures which may be claimed in this category are the personnel costs (defined throughout the preamble and proposed regulations as salary and benefits only) of full-time staff involved in any capacity of the JOBS program, whether programmatically or administratively. Full-time staff are those individuals employed for a normal work week according to a State's definition of full-time. We propose that States cannot count part-time staff as full time with a full-time equivalency measure.

The Act provides the same match rate for those full-time JOBS employees who will be involved in administrative functions such as: assessing the needs of JOBS participants and developing appropriate employability plans; accounting; systems operation; and supervision. The assessment of child care needs and referral to appropriate services for JOBS participants can be matched at this rate when performed by a full-time JOBS employee.

The match rate also applies to costs associated with a JOBS participant's involvement in a component of the program. This includes program costs, such as OJT payments to an employer or tuition and fees for GED classes, if not precluded by the proposed regulations at § 250.48. It also includes the personnel costs of staff and first-line supervisors directly providing component services to participants on less than a full-time basis.

The costs of equipment, supplies, and materials that are used by a JOBS participant while she is actively participating in a JOBS component are available at the FMAP rate (with a minimum of 60 percent). However, indirect costs are not matchable at this rate.

Costs Matched at 50 Percent. The FFP rate of 50 percent for the JOBS program includes the costs of general administrative activities. This includes personnel costs of staff administering the program on less than a full-time basis and all other non-staff costs not matchable at the program matching rate. Administrative costs include, for example, personnel costs for case managers and program planners not employed full-time for the JOBS program. FFP at 50 percent is available within the JOBS cap funding limit for both direct and indirect costs, such as utilities and space. (See OMB Circular No. A–87.)

A State's share of costs at the program matching rate or at the administrative matching rate must be in cash. In-kind contributions, whether State in-kind or third party in-kind, cannot be used as the State's share.

State agencies are encouraged to seek financial support from private sources to develop and enhance JOBS program activities and other activities which help individuals to become self-sufficient. Funds donated from private sources for the JOBS program may be considered as a portion of a State's share of matching costs if such funds meet the criteria of § 235.66.

Reduced Matching Rate (§ 250.74 of the Proposed Regulation)

Target Groups. For the JOBS program, the Act provides certain safeguards to assure that the increased Federal funding intended to assist individuals in avoiding long-term dependency is directed largely towards those individuals who are most in need of assistance. The proposed regulation at § 250.74(a) provides that if, in any fiscal year, a State fails to expend 55 percent of its JOBS allotment on members of the State's target population as defined in proposed § 250.1, the Federal matching rate for all JOBS expenditures for that same year will be reduced to 50 percent. The Secretary, however, may waive this reduction if a State can satisfactorily demonstrate that the characteristics of the caseload in that State make it infeasible to meet the requirements of the proposed regulation at § 250.74(a) and that the State is targeting other long-term or potential long-term recipients.

Participation Rates. To ensure that States effectively serve the purpose of the JOBS program, section 403(1)(3)(A) of the Act establishes participation rates that States should meet for fiscal years 1990 through 1995. The proposed regulation at § 250.30 and its accompanying preamble describe participation requirements under the JOBS program. The term "participation" is defined in the proposed regulations at § 250.1.

Failure to meet the participation rates, which are defined in the proposed regulation at § 250.74(b), will reduce the matching rate for all JOBS expenditures to 50 percent. The participation rate for fiscal year 1990 is 7 percent; however, States are not subject to a reduction in the Federal matching rate to 50 percent in the following fiscal year. Fiscal year 1992 is the first year in which States will become liable for reduction of FFP for failure to meet the participation rates (for failure to meet the fiscal year 1991 standard). Methods for determining participation rates are included in the proposed regulations at § 250.74(b) (2) and (3).

The Secretary may waive in full or in part any penalties applicable to a State for not meeting these participation rates. The proposed regulations at § 250.74(b)(4) provide the conditions under which a full or partial waiver may be granted.

AFDC–UP Participation Rates. JOBS participation rates for the AFDC-unemployed parent (AFDC–UP) program have also been established by the Act and appear in the proposed regulations at § 250.74(c)(1). AFDC–UP participation rate requirements go into effect in fiscal year 1994, and the first penalty would be imposed in fiscal year 1995.

While the statutory language refers to waiving the penalty for not meeting the participation rates, and sets the waiver criteria, the actual penalty is not defined in the Act. We believe it is appropriate that the penalty for failure to meet the AFDC–UP participation rates be a reduction to 50 percent in FFP. This penalty is identical to the penalty established in the Act for failure to meet the general participation rates. It is also consistent with the penalty established for failure to expend 55 percent of JOBS funds on targeted groups.

As an alternative, we considered applying the penalties cited under section 404 of the Act for failure to substantially comply with the provisions of section 402(a). The appropriate penalties under this section include the withholding of all AFDC grant funds to a State or the withholding of certain funds limited to specific categories. However, we concluded that this penalty would be too harsh.

The Secretary may waive in full or in part any penalties applied to a State for not meeting the participation rates for the AFDC–UP program. The proposed regulations at § 250.74(c)(3) provide the conditions under which a full or partial waiver may be applied.

Activities Excluded from FFP (§ 250.75 of the Proposed Regulations)

There are certain activities for which Federal matching under the JOBS program is not available under any circumstance. These are identified in the proposed regulations at § 250.75. In addition, there are certain costs unallowable for FFP that apply only to the community work experience program and alternative work experience programs included in an approved JOBS plan. The proposed regulations pertaining to these unallowable costs are located at § 250.63(j).

Financial Reports, Records, Statements and Audits (§ 250.76 of the Proposed Regulations)

Grants provided under the JOBS program of title IV–F are subject to the grant management regulations at Part 92. These regulations apply to federally-assisted programs that are not funded as open-ended entitlement programs, such as the AFDC program. (For the AFDC program, the grant regulations at Part 74 continue to apply.) The following provisions of Part 74 also apply to grants subject to Part 92: §§ 74.62(a), 74.173, 74.174(b), 74.304, 74.710, and 74.715.

With respect to these regulations, States are reminded that all claims for Federal reimbursement must be supported by appropriate documentation. JOBS funds under title IV–F are subject to audit and financial and programmatic review. Claims for improper costs under the JOBS program will be subject to disallowance. Comments are specifically requested on a standard sampling procedure (within the guidelines found in § 250.80) to determine such disallowances. Disallowance procedures for JOBS funds will be similar to the disallowance procedures for the AFDC program. Where appropriate, expenditures of the JOBS program are subject to the cost allocation provisions at Part 95, Subpart E.

Costs Matchable as AFDC Payments (§ 250.77 of the Proposed Regulations)

Section 402(a)(19)(H) of the Act specifies that costs incurred by the State for supplemental payments to families so that they do not experience a net loss of cash income, pursuant to § 250.35, shall be treated as title IV–A costs. However, they are not considered AFDC benefit payments for any purpose.

Payments to employers in the work supplementation program include part or all of an AFDC grant that has been diverted to cover part of the wages paid to an AFDC recipient participating in this program (see proposed regulations at § 250.62(1)). Because these payments are AFDC benefit payments, they are available for Federal matching under the AFDC program.

Subpart I—Uniform Data Collection Requirements

Uniform Data Collection Requirements (§ 250.80 of the Proposed Regulations)

The Family Support Act imposes substantial reporting requirements related to the JOBS program and its attendant child care provisions. Section 487(b) of the Social Security Act contains a minimal set of uniform

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reporting requirements that may be augmented as the Secretary determines. Section 403(e), among other data elements, requires a State to provide information on the use of child care by AFDC recipients.

The Act also implicitly establishes reporting requirements by conditioning enhanced FFP on meeting requirements for certain levels of participation and for a minimum expenditure level for certain target groups.

In order to meet the above reporting requirements, we are proposing that States be required to submit electronically on an ongoing basis a sample of unaggregated case records of JOBS participants in each month with a minimal set of data elements as prescribed in § 250.82. The case records would be identified by a State-supplied substitute for the Social Security Number. The sample in a State would have to be of sufficient size to provide accurate data at the State level, plus or minus one percentage point, at a 95 percent confidence level, for all data elements necessary to determine whether a State qualifies for enhanced FFP under any of the provisions of § 250.74.

In addition to this sample, States would submit aggregate reports on a quarterly basis of the number of non-exempt AFDC recipients. Finally, in lieu of a cost tracking system that would identify all funds spent on each individual member of the State's target population, we propose that a State develop a table of average total unit cost per component and service made available by the State. The table would be updated annually. We propose to use activity data submitted in the State's sample of unaggregated case record data, as discussed above, in conjunction with the State's table of costs, to determine whether the State has met the 55 percent requirement.

We are offering the above described approach as an alternative to requiring periodic aggregate, hard-copy reporting. We propose this sample in lieu of aggregate reporting because we believe it will meet statutory reporting requirements, provide more useful information to the Federal government, and be less burdensome to States. Very few of the data elements are not directly involved in meeting an explicit or implicit statutory reporting requirement.

On the other hand, we foresee the possibility that a sample-based reporting requirement may introduce levels of complexity for States. We also anticipate that in States with relatively smaller numbers of AFDC cases, a State may find it less burdensome to submit the universe of their case records, rather than develop a sample that might need to approach the universe in order to achieve the required levels of accuracy. The rule would allow universe reporting in lieu of a sample.

The above described method of reporting would place a more substantial burden on the Department than simply handling input of hard-copy report forms from the States. Nonetheless, the overall approach may be of sufficient value both to States and the Department, that the additional complexities and burdens would be worth the effort. We invite comment, particularly with regard to operational implications for the States.

Given the substantial data reporting requirements mandated statutorily, we have attempted to keep additional reporting requirements to a minimum. However, many individuals and organizations with whom we have consulted have urged us to collect outcome information such as job entries, welfare grant reductions, case closures and retained employment for JOBS participants. We realize that such information is frequently requested by legislative bodies and by the public, and that some States might want to compare themselves to others with respect to the measures cited above. Others have commented that the interpretation of these data is ambiguous and that there is an additional burden that collecting them would place on States. We have not included outcome measures or other types of measures, such as receipt of transition services, in these proposed regulations, but we may include such reporting requirements in the Final Rule. We invite comment with respect to the utility and the data collection burden of outcome measure reporting.

State Data Systems Options (§ 250.81 of the Proposed Regulation)

Given the large number of individuals who may participate in the JOBS program and the detailed nature of the subcategories of data required by the Statute, we believe it is unlikely that a State can either operate its program effectively or meet the minimum requirements in the Statute without an automated client-based information system. To these ends, we propose in § 250.81 to permit various rates of FFP for different parts of the system needed to operate the JOBS program effectively. For the sake of distinguishing this subsystem from all others in a State's welfare data system, we refer here and in the definitions in § 250.1, to a State's JOBS Automated System, or JAS.

We propose that all requirements of § 95.611, and of § 205.37, be met with regard to any funding for a State's JAS.

We propose three JAS funding arrangements be available to the States. Title IV–F funding at 50 percent FFP would be available for a State's JAS. Title IV–A funding, also at 50 percent FFP, would be available for the interface between a State's IV–A system and its JAS, if the State's IV–A system is a non-FAMIS system. For the interface between a State's JAS and a FAMIS IV–A system, title IV–A FFP would be available at 90 percent.

We propose the interface of an automated JOBS program with the title IV–A FAMIS system, for verification of eligibility and reconciliation of data, would include planning, development and implementation of title IV–A subsystems to: (1) Manage information on eligibility factors or target group membership; (2) effect notifications and referrals including non-cooperation; (3) check records of applicants and recipients on a periodic basis with other agencies to verify continued eligibility; and (4) notify appropriate officials when a recipient ceases to be eligible.

Required Case Record Data (§ 250.82 of the Proposed Regulation)

In this section we propose a minimum content for the case record that will permit our derivation of all reportable data required by the several parts of the Statute and the Act noted with regard to § 250.80 above. We specify this minimum, in part, in support of the proposed submission of a sample of unaggregated case record data. However, we believe this approach also enables States to record the minimum data necessary to operate the JOBS program effectively. We particularly seek comment on States' views as to whether some or all of the minimal case record data should be required for all JOBS participants, or only for the sample of cases the State would be required to submit to the Department.

Subpart J–Operation of Jobs Programs by Indian Tribes and Alaska Native Organizations

Scope and Purpose (§ 250.90 of the Proposed Regulations)

The Statute provides that Indian Tribes and Alaska Native organizations may apply to the Secretary by April 13, 1989 for direct funding to conduct a JOBS program. Tribal (refers to both Indian Tribes and Alaska Native organizations) groups had to apply by this date in order to receive direct JOBS funding in any future year.

The Department issued initial application guidelines (FSA–AT–89–11) on February 24, 1989, to officials of

federally recognized Indian Tribes and Alaska Native organizations. Based on comments received from Tribal leaders, requesting that the April 13, 1989 application not be treated as a final document, and on the fact that we were still developing Federal policy at the time these guidelines were issued, we advised Tribal applicants that we would not disapprove their applications based on their initial submittal. We also advised applicants that we would issue further guidance after April 13, 1989.

Eligible Indian Tribe and Aleska Native Organization Grantees (§ 250.91 of the Proposed Regulations)

The proposed regulations clarify the general eligibility requirements of the Act concerning Indian Tribes. They reflect congressional intent that an Indian Tribe must be recognized by the Federal government as eligible to receive services from the Bureau of Indian Affairs in order to be eligible for the JOBS program. Specifically, Report 100–37 of the Senate Committee on Finance (p. 39) states that " * * * an Indian tribe is any tribe, band, nation, or other organized group or community of Indians * * * that is recognized by the Federal government as eligible for services from the Bureau of Indian Affairs and is located on a reservation * * *."

In addition, consortia or Tribal organizations representing eligible Tribes may operate a JOBS program if they meet certain conditions. These conditions provide that such consortia or organizations have the managerial and administrative capacity to operate the program and have received documented authority from the participating Tribes to conduct the program on their behalf.

Selection Criteria for Eligible Alaska Native Organizations (§ 250.92 of the Proposed Regulations)

The Act is very specific about the program eligibility of Alaska Native organizations. It limits Departmental approval to only one application from an Alaska Native organization for each of the 12 geographical regions. The proposed rules establish criteria which the Department will use to designate the Alaskan Native organization grantee. The criteria are very similar to those used by JTPA in designating Native American grantees for its program. However, since under the JOBS program the Alaska Native grantee must serve all eligible Native Alaskans residing in the region in which the grantee is located, we have specifically required that the grantee demonstrate either that it has previous experience in operating regionwide programs or that it can establish the capability to effectively administer the program throughout the region.

Funding Formula (§ 250.93 of the Proposed Regulations)

The Act specifies that JOBS funding for an Indian Tribe is based on the number of adult members of the Tribe receiving AFDC compared to the total number of adult AFDC recipients in the State. The formula for Alaska Native organizations is based on the number of adult Alaska Natives receiving AFDC who reside within the boundaries of the region which the Alaska Native organization represents compared to the total number of adult AFDC recipients in the State of Alaska.

Since the Act does not establish a designated geographical service area for Tribes, as it does for Alaska Native organizations, the proposed rules define such area. The Tribe will receive JOBS funds based on the number of adult members of the Tribe receiving AFDC who reside in the designated service area as compared to the total number of adult AFDC recipients in the State. Thus, the designated area creates a manageable program service area which permits funds to be provided based on those Tribal members who could realistically be served by the Tribe. The State IV–A agency will be expected to provide JOBS services to Tribal recipients outside of the designated area. A designated service area concept is used in various other programs such as JTPA, the Community Services Block Grant and those under the Bureau of Indian Affairs (BIA).

State IV–A agencies and Tribes or organizations have a mutual responsibility to share all available information so a funding level can be calculated. Accordingly, the proposed regulations specify that the State IV–A agency and the Tribe or organization must exchange available information on adult Tribal AFDC recipients needed to determine the estimated number of the eligible Tribal recipients and to define the designated service area, if other than the reservation or trust lands, as appropriate. This requirement reflects the fact that the State IV–A agency is the most appropriate source of data relating to AFDC recipient status. However, many State IV–A agencies cannot identify individuals in their caseload by Tribal affiliation and thus will probably need membership or residence information from Tribes or organizations to verify Tribal AFDC recipient status.

We recognize that State IV–A agencies and Indian Tribes or Alaska Native organizations may have difficulty developing data on adult Tribal AFDC recipients, especially using the definition of adult recipient contained in the Act (i.e., an individual other than a dependent child, including a minor custodial parent of another dependent child, who is receiving AFDC).

Because of these data deficiencies, we strongly encourage Indian Tribes or Alaska Native organizations and State IV–A agencies to enter into agreements which establish population estimates as well as service area definitions, as appropriate. If a State IV–A agency and Tribe or organization cannot agree on the number of Tribal eligible recipients and/or the designated service area, the Department will, in consultation with the Tribe or organization and the State IV–A agency, make the final determination.

Non-Tribal recipients in a designated area are subject to the requirements of the State's JOBS program. However, a State IV–A agency may through contract (or other referral arrangement) authorize an Indian Tribe grantee to serve non-Tribal members residing in the designated service area. The State IV–A agency may only delegate to a Indian Tribe grantee those functions which do not involve agency discretionary judgment, as discussed in proposed § 250.10 and related sections of the preamble.

Program Administration, Implementation and Operations (§ 250.94 of the Proposed Regulations)

Program Administration. Under the proposed rules, the Tribe or organization must designate an administrative entity, such as the social services agency or the Tribal JTPA agency, to be responsible for the administration of the JOBS program. This responsibility for program administration includes all the requirements under the Act, unless waived under proposed § 250.96, as we, as applicable requirements under all other related Federal regulations. Such regulations include the general funding provisions under Part 92 which are generally applicable to Tribal administration of Federal programs (as reflected in § § 250.13 and 250.77 of the proposed rules) and the joint Department of Labor/Department of Health and Human Services regulations being developed which cover worker's issues such as working conditions and displacement, as appropriate.

The responsibility to administer JOBS means that the Tribe or organization has the responsibility for program functions such as exemption and priority determinations, orientation, referrals,

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assessment and development of the employability plan, JOBS activities and hearings involving JOBS participation issues. However, the proposed regulations clarify that certain other related functions, such as imposition of sanctions, are retained by the State IV–A agency based on its responsibility to administer the IV–A program. For instance, if the Tribe or organization determines that an individual failed to meet participation requirements, the State IV–A agency would be responsible for making the necessary AFDC payment changes, after the individual has been afforded appropriate due process.

Part 255 proposes that the State IV–A agency (which receives matching Federal funds under title III of the Statute to guarantee child care for JOBS participants) provide necessary child care for Tribal participants either directly or through contract with the Tribe or organization. Also, under Part 256 the State IV–A agency is responsible for transitional child care benefits. Because of these interrelated functions, we encourage State IV–A agencies and Tribal grantees to enter into agreements to develop the referral and operating procedures necessary for effective program implementation.

Implementation. The proposed rules permit the Tribe or organization to begin its JOBS program before the State implements its program. This provision reflects the sovereignty of the Tribe or organization to operate its program to the full extent allowable under the Act. Given that proposed § 255.2(f) requires the State IV–A agency to guarantee child care necessary for Tribal members' participation, this proposed section (§ 250.94) of the regulations provides options to permit a Tribe or organization to conduct its program prior to the State's implementation. During the period prior to the State's implementation of the program, these options permit the Tribe or organization to either guarantee necessary child care for its participants or to operate its program on an entirely voluntary basis. These provisions are discussed in detail in the proposed § 250.95 and accompanying preamble concerning supportive services.

Also, the proposed rules and the initial application guidelines (FSA–AT–89–11) require that the Tribe or organization submit its application with final documentation to the Department at least 45 days prior to implementation to provide sufficient opportunity for the Secretary's review and approval. Similar to the requirements for State IV–A agencies at § 250.20(b), the proposed rules indicate that the Tribe or organization may not begin its JOBS program prior to approval by the Secretary. Prior approval is necessary given the complexity of the program, the needed interface which must occur between the Tribal applicant and the IV–A agency, and the fact that Tribal programs represent a whole new direction for welfare work programs.

Operations. This section of the proposed regulations exempts Tribes and organizations from the requirements of § 250.12 in order to specify appropriate coordination requirements for Tribal grantees. Under this proposed section, the Tribe or organization is required to provide its application to the State IV–A agency prior to its submittal to the Department. This is to ensure that necessary interface with the State IV–A agency has been established, including the development of agreements or methodologies, to assure that Tribal recipients receive equitable treatment under both the AFDC and JOBS programs.

The proposed rules also indicate the appropriate agencies and programs with which the Tribe or organization must coordinate. The coordination requirements reflect congressional concern that agencies administering JOBS identify available resources from other programs in order to prevent duplication of services, to assure that the maximum level of services is available to participants and to ensure that costs of these other program services for which welfare recipients have been eligible are not shifted to the JOBS program. This latter provision is closely related to the provisions on maintenance of effort which are described in the proposed § 250.98 and preamble.

Furthermore, although Tribal grantees would be subject to § 250.44, which covers mandatory components, they would not be subject to § 250.45, which covers optional components. The proposed § 250.94(e) instead requires Tribal JOBS programs to include four mandatory components and at least one optional component. The following program design modification is proposed to more realistically reflect the special circumstances and needs of Tribal grantees.

Because the four mandatory components cover basic education, training and employment activities, many of which should be available to Tribal participants through other program resources, we believe that most Tribal programs should be able to offer all four components. For example, many literacy programs should be available to Tribal recipients through the Office of Indian Education and, thus, would not be funded under JOBS.

The Tribal program need include only one optional component. Of the four options given to States, two components—community work experience program (CWEP) and the work supplementation program—are integrally linked with AFDC recipient grants. Thus, the proposed rules require that adequate operational agreements be worked out between the State IV–A agency and Tribal grantee before the Department can approve these components.

A Tribe is permitted to include, as an optional component, a work experience program as approved by the Secretary or alternative education, training, and employment activities as approved by the Secretary. We would approve, for example, an alternative work experience program which generally met the requirements of a CWEP, JTPA, or BIA work experience program. Tribes or organizations are cautioned that in order to receive approval of alternative education, training and employment activities, such approaches must be consistent with the purpose of the JOBS program to reduce welfare dependency and must serve only eligible AFDC recipients. Thus, if JOBS is linked with another program such as JTPA, a Tribal grantee must be able to validate that JOBS funds were used only to serve Tribal JOBS participants. These stipulations are proposed to protect the integrity of the program. Based on congressional concern as well as our careful consideration, the proposed rules further indicate that JOBS funds not be used for public service employment or for allowances.

Supportive Services (§ 250.95 of the Proposed Regulations)

Under the proposed rules, the Tribal grantee must provide for the work-related supportive services, such as clothing or transportation, necessary to enable an individual to participate in the JOBS program. Tribes or organizations must follow the proposed requirements regarding work-related supportive services under Part 255. The Tribal grantee is given flexibility to determine the types of supportive services and methods of delivery but must describe these services/methods in its application documentation pursuant to proposed § 250.97(f)(6).

Since State IV–A agencies are required to provide child care under Part 255 of the proposed regulations, this section proposes that the Tribe or organization must ensure, based on a method which is acceptable to the Tribe or organization and the State, that necessary child care is available when requiring an individual to participate in its program. Since the State IV–A agency will be providing child care services and the Tribe or organization will be designating who participates, we strongly encourage Tribal grantees to develop with State IV–A agencies appropriate referral mechanisms to ensure that Tribal participants receive necessary child care services. In addition, we are encouraging State IV–A agencies to contract with Tribal grantees for providing child care services for Tribal participants.

The proposed regulations at § 255.2(f) are designed to ensure that States provide sufficient funds to meet the child care needs of Tribal participants and that States use comparable and appropriate methods of providing child care for Tribal participants as they use for non-Tribal participants in the State. The Tribe or organization may guarantee child care for its participants through other program sources.

If the Tribe or organization begins its JOBS program before the State IV–A agency, the Tribal grantee can operate an entirely voluntary program. However, after the State implements its JOBS program, the Tribe or organization may no longer operate an entirely voluntary program, and necessary child care must be arranged to require non-exempt individuals to participate. This provision is consistent with congressional concern, as reflected by the participation and exemption requirements in § 250.30, that individuals who are reasonably able to participate in the program, and for whom guaranteed child care is available, should be required to participate.

Waiver Authority (§ 250.96 of the Proposed Regulations)

This proposed section indicates that certain requirements of the Act and of the proposed rules do not apply to Tribal grantees, as they are unique to State programs. These include provisions relating to State agency administration, the State's JOBS funding allotment or State matching requirements. Thus, these have been determined to be inappropriate for Tribal JOBS programs by the Secretary pursuant to his authority under the Act.

A Tribe or organization may also request waivers for any other requirements of the Act not specifically mentioned but must provide proper justification. The Secretary would consider the appropriateness of such waivers on a case-by-case basis.

Application Requirements and Documentation (§ 250.97 of the Proposed Regulations)

The proposed Tribal application requirements generally follow State JOBS plan requirements, which are discussed in detail in proposed § 250.20 and related preamble.

Under the Act, Tribes and organizations had to apply to the Department by April 13, 1989, in order to conduct a JOBS program. Since we were still developing JOBS policies at the time we released guidelines for Tribal application, we advised Tribal groups in the application notice (FSA–AT–89–11) that their April 13 submissions would probably need to be supplemented.

We believe that the additional application documentation proposed in this section is necessary in order to provide the Secretary with a sufficient level of information upon which to base approval. We determined that this additional documentation was needed, based on our review of all the requirements reflected in the Act and those being proposed for State JOBS programs. Because of the complexity of the JOBS program requirements and the degree of program flexibility we would like to provide Tribal grantees under our waiver authority, we do not think these application requirements impose an undue administrative burden upon Tribal grantees. The application must serve as the Department's primary vehicle for assessing whether a Tribal grantee is meeting the requirements of the Act and regulations.

Maintenance of Effort for Indian Tribes and Alaska Native Organizations (§ 250.98 of the Proposed Regulations)

Tribal grantees are not subject to the requirements in proposed § 250.72. Proposed § 250.98 makes maintenance of effort provisions more appropriate for Tribal entities. The proposed requirements on maintenance of effort reflect congressional concern that JOBS funding not be used to supplant existing funding for programs which have been available for welfare recipients.

This means that JOBS funds should be used only to provide educational, training and employment activities for Tribal participants which are in addition to those which would otherwise be available. For example, where a high school education has been available to Tribal members, JOBS funds must not be used to pay for this activity. Thus, the Tribal grantee may not contract for services which are otherwise available on a non-reimbursable basis pursuant to the proposed regulation at § 250.13.

Part 255—Child Care and Other Work-Related Supportive Services During Participation in Employment, Education, and Training

Purpose (§ 255.0 of the Proposed Regulations)

The purpose for the issuance of the proposed regulations is to implement section 301 of the Family Support Act of 1988.

State Plan Requirements (§ 255.1 of the Proposed Regulations)

Title III of the Statute adds section 402(g) to title IV–A of the Act. Thus, child care is not part of the title IV–A plan which is covered in section 402(a) of the Act. Neither is it included in the State JOBS plan under title IV–F, which is covered in section 482(a) of the Act. In fact, section 402(g) does not address whether a plan is needed regarding the provision of supportive services. However, we propose that services provided under sections 301 and 302 of the Statute be covered by a separate plan submitted in accordance with these regulations. Further, we propose that the State Supportive Services plan covering services under section 301 of the Statute be submitted at the same time as the JOBS plan to ensure appropriate public and Federal review. The approval process will follow that for the State JOBS plan which is specified in § 250.20.

We propose that the State Supportive Services plan contain information about child care services, work-related supportive services, and work-related expenses necessary for JOBS. We propose to require a description of the services in the State Supportive Services plan. We further propose to ask the State IV–A agency to cross reference the State Supportive Services plan in their State JOBS plan to show the coordination between the two plans. The specific State Supportive Services plan requirements are contained at § 255.1. In States where Tribal entities are direct-funded to operate a JOBS program, the State Supportive Services plan must include specific information on the State's provision of child care services for JOBS participants served by those Tribal entities.

Eligibility (§ 255.2 of the Proposed Regulations)

Section 402(g) of the Act provides that the State IV–A agency must guarantee child care to the extent that the State determines necessary for an individual in a family with a dependent child to: (1) Accept or maintain employment, or (2) participate in an education and training activity if the agency approves the

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activity and periodically determines that the individual is satisfactorily participating in the activity. (Such education and training is not limited to activities funded under JOBS.) Where the State IV–A agency determines that child care is necessary, it cannot require an individual to participate in an activity or to accept or maintain employment unless it guarantees child care.

Child Care Guarantee. The State IV–A agency must guarantee child care for an eligible family if resources are available. The guarantee may be limited by State appropriation ceilings, the available supply of other State, local and federally-funded services, such as title XX services, and the target group priorities. We propose that the state should assure in its Supportive Services plan that child care provided or claimed for reimbursement is reasonably related to the hours of participation or employment.

The State IV–A agency must also assure that sufficient child care will be available to meet the participation rates described in § 250.74. We propose that the State Supportive Services plan must describe how sufficient child care will be made available as a condition of plan approval. We are particularly interested in comments intended to further specify State plan requirements for a "description of how the State will assure that sufficient child care will be available to meet participation rates in § 250.74."

A State IV–A agency is not required to treat child care benefits under this Part of the proposed regulations as an absolute entitlement and to provide all employed recipients and participants in JOBS with child care benefits. Frequently, child care is provided through informal arrangements at no cost. The child care guarantee does not mean that paid child care must be available for every participant. In determining whether child care is necessary, the State IV–A agency may take into account informal care.

We propose to limit the guarantee of child care to those families with dependent children under 13 or who are physically or mentally incapable of caring for themselves, when the State IV–A agency determines such care is necessary. Limiting child care to these situations is a reasonable policy, consistent with the limits enacted for the Dependent Child Care Tax Credit by section 703(a) of the Family Support Act, and, which will apply to taxable years beginning after December 31, 1988. We believe these limits reflect widely-held views (reflected in a variety of laws and legislative proposals) on appropriate governmental participation in expenditures for child care services.

We also propose to require State IV–A agencies to guarantee care for any child who would be required to be in the assistance unit if it were not for the receipt of SSI under title XVI or foster care payments under title IV–E and would otherwise be guaranteed such care. Although these two categories of individuals are excluded from the AFDC assistance unit, they are treated as dependent children for certain other purposes.

State IV–A agencies must guarantee needed care to recipients who are working at the time the State implements JOBS as well as to recipients who begin working on or after the date the State IV–A agency implements this provision.

Other Supportive Services. The Act requires that the State IV–A agency pay for or reimburse the costs of transportation and other work-related expenses, including work-related supportive services, if the State IV–A agency determines they are necessary for an individual to participate in JOBS. We propose to allow State IV–A agencies to define work-related supportive services and work-related expenses in the State Supportive Services plan. They may include one-time, special work-related expenses which would enable individuals to accept or maintain employment. On-going expenses related to employment are already covered by the work expense disregard (which is raised to 90 effective October 1, 1989); therefore, no provision for such expenses has been made under section 301 of the Statute or these proposed regulations. We propose that the plan must describe methods of providing other supportive services, specify monetary limits for each type, and indicate the basis for determining the need for the type of service.

Verification of Participation in Education or Training Activities. Child care, transportation, and other supportive services necessary for an individual to participate in JOBS or other education and training activities that are approved under JOBS by the State IV–A agency are eligible for FFP. Under the Act, child care and other supportive services for those in "non-JOBS" education and training is allowable only to the extent that these activities are "consistent with the individual's employment goals." This language led us to the conclusion that an employability plan would need to be developed for those in outside education and training. Such a conclusion is also consistent with the statutory language indicating that participation in outside education and training would constitute satisfactory participation in JOBS. Thus, we propose to consider participants in these activities as JOBS participants and to authorize their supportive services other than child care through the JOBS program.

We propose that the State IV–A agency document approval of outside education and training activities in an employability plan and that the agency periodically (but not less than every three months) determine that a recipient is making satisfactory progress, as defined at § 250.1. Three months is considered a review period. However, State IV–A agencies should be aware that child care services (or other supportive services) provided to individuals who are not satisfactorily participating could be considered payments for ineligible individuals and might be subject to disallowances, even if States were following this three-month monitoring standard.

We propose to permit State IV–A agencies to provide child care and other necessary supportive services for up to two weeks for families in which an individual is waiting to enter approved education or training activities or to begin a component. This provision is included to ensure that child care services (or other service arrangements) are not lost and that continuity of care is provided so that an individual may continue the employability process.

Services for Applicants. We were faced with the question of whether Congress intended that child care be available to recipients of AFDC only, or to applicants as well. In considering this issue, we concluded that child care should be available, as it was under prior law, when the agency requires an applicant to participate in job search. We also propose that temporary child care be available for other activities necessary to prepare the individual for participation in the program, such as orientation. States have told us that the lack of such child care during orientation results in a very high absenteeism rate.

However, we do not believe that it is proper or efficient use of resources to provide child care to applicants who are already in education or training or who are employed, until their eligibility is determined. Also, it is not proper use of resources to provide services to applicants who are not likely to be determined eligible. A State IV–A agency may provide services to certain individuals (e.g., job search participants) whose eligibility has not been determined, as long as it has no information indicating that the individual would not likely qualify for benefits.

We are proposing that the State IV–A agency must provide child care to AFDC applicants and recipients who are served by a JOBS program administered by Tribal or Alaska Native organizations. Such services shall be available to the same extent that they are available to eligible participants in the State's JOBS program. State IV–A agencies must provide an equitable level of services for Indians and Alaska Natives, and they must provide the same range of methods or arrangements, unless certain methods would not be feasible because of the nature of child care services available in Tribal service areas.

Although the Act requires that child care be guaranteed so that an individual may accept or maintain employment, it is silent on whether the State IV–A agency can pay for work-related expenses in order for the same individual to accept or maintain a job.

We are proposing that such expenses would be allowable if the individual participates in a component, including work supplementation, which involve actual work. Further, if a State IV-A agency assigned the individual to the optional component of job search, such expenses would be allowable. However, in other components like skills training or education, job acceptance or maintenance expenses would not be incurred, and therefore not allowed.

We propose to allow State IV–A agencies to make one-time payments for reasonable work-related expenses to an applicant or recipient so that she may accept or maintain employment, if the State IV–A agency so provides in its Supportive Services plan. Such expenses might include a uniform, a set of tools, a pair of eyeglasses (if not available elsewhere), or the fee for a driver's license.

Methods of Providing Child Care and Other Supportive Services (§ 255.3 of the Proposed Regulations)

The Act provides a number of methods to guarantee child care. Specifically, we propose that the State IV–A agency may:

(1) Provide the care itself;

(2) Arrange care through public or private providers by use of contracts or vouchers;

(3) Provide cash or vouchers in advance to the caretaker relative so that the child care costs may be prepaid;

(4) Reimburse the caretaker relative for child care expenses incurred;

(5) Arrange with other agencies and community volunteer groups for non-reimbursed care;

(6) Use the earned income disregard; or

(7) Adopt such other measures as the State IV–A agency deems appropriate.

We propose that the State IV–A agency describe which of these methods it will use in its Supportive Services plan. We elaborate on certain of the options here.

Direct Provision of Child Care. Historically, State IV–A agencies have not provided child care directly except in a few instances. The Act prohibits the State IV–A agency from spending money on construction, so instances where a State IV–A agency would provide the care itself may remain rare. However, we can foresee a situation where a State IV–A agency might provide child care services within the agency while a parent is in a JOBS orientation session. Where care is provided directly, Federal matching is subject to the same limits on costs as would be applied for outside child care; State IV–A agencies cannot charge their direct and overhead costs for providing care without regard to the limits established pursuant to § 255.4(a).

Vouchers. Vouchers have become a very popular method of providing care as they may give parents great freedom of choice. Many States are using voucher systems, also referred to as purchase-of-care mechanisms, for child care delivery. If a State IV–A agency wishes to institute such a system, the Department can provide referrals to agencies with expertise in establishing one.

Voluntary Providers. In planning to meet the child care demands related to the Statute, there may be an opportunity for communities to mobilize volunteer resources to expand existing programs. For example, there is a growing need for before and after school care for school-age children. Volunteers under the supervision of professional caregivers could be a tremendous addition to the staff necessary for such programs. Many communities are also recruiting retired citizens to help fill personnel shortages in day care centers by creating staff positions for aides which can be filled by volunteers.

Direct Payments to the Caretaker Relative. The State IV–A agency may pay the caretaker relative directly either by providing payment in advance or by reimbursing the caretaker relative who has already paid for the care. In these situations, the family member cannot receive the earned income disregard for child care specified at § 233.20(a)(11)(i), and the determination of eligibility and payment amount must be determined without considering child care costs or payments.

Income Disregards. The State IV–A agency may use the existing child care disregards as provided at § 233.20(a)(II)(i). Although the child care disregard is not specifically listed among the methods in the Act, Congress demonstrated its intent that the disregard continue when it raised the amount of the child care disregard in title IV of the Statute effective October 1, 1989.

Inclusion of the disregard as a method for guaranteeing child care under this Part does not mean that the provisions of this Part supersede existing provisions regarding the child care disregard. Thus, the disregard remains limited by the amount specified in section 402(a)(8)(A)(iii) of the Act. it remains available for expenditures on children aged 13 and over, and it is not limited by the local market rate.

We propose that State IV–A agencies could make supplemental payments for child care costs which exceed the disregard amounts, but are within the limits established under this Part. We also propose at § 255.3(f), that, in cases subject to retrospective budgeting, State IV–A agencies could modify their budgeting procedures to provide for child care costs in the first one or two months of employment. This option is discussed in more detail later.

The Statute prohibits a State IV–A agency from disadvantaging any family receiving AFDC on October 13, 1988, through a change in its method of reimbursing the cost of child care. The only method for reimbursing child care costs for recipients with earnings on that date was the earned income disregard.

The only families who could be disadvantaged by a change in method are those who received the disregard on October 13, 1988 and who would be subject to a new method under the State's Supportive Services plan. In these cases, failure to apply the disregard method increases the likelihood that a family would be ineligible due to income.

At § 255.3(e), we propose to require that, for recipients who received AFDC payments on October 13, 1988, which were determined by using the child care disregard at § 233.20(a)(11)(i), the State IV–A agency must determine current AFDC eligibility and payments based on the continued application of the disregard in order to find out if the family would be disadvantaged. If the family would be disadvantaged, we propose to prohibit the State IV–A agency from using one of the direct payment methods for these individuals.

Parental Choice. The proposed regulations at §§ 255.3(c) and 255.3(d)

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reflect our desire to allow the caretaker relative to choose the type of child care (center, group family day care, family day care or in-home care), if more than one type is available. This is consistent with section 482 of the Act which requires State IV–A agencies to provide information to individuals about child care, including what assistance is available to help the participant select appropriate child care services.

Our proposed regulations at § 255.3(d) also provide that an individual who is required to participate under Part 250 may not refuse appropriate care unless she can arrange other care or demonstrate that such refusal will not prevent or interfere with participation. Thus, an individual's choice is not constrained by the methods or types of care which the State IV–A agency has elected to provide under its Supportive Services plan. The State IV–A agency is required to pay for the child care services arranged by the individual, even if that would require that it set up an alternative mechanism for payment of such services. Such payment would still be subject to the limits established by this Part.

Needs of the Child. The Act and the proposed regulations at § 255.3(b) require that the State IV–A agency must take into account the needs of the child if it arranges the care. This means that care must be available during the hours needed, including before or after school (or both) as well as care for the entire day. The care must be reasonably accessible so that neither the child nor the caregiver must travel distances beyond what is normally acceptable in the community.

Special attention should be given to children with special needs. There are a variety of programs funded at the Federal and the State level for children with special needs. Often, there is little or no coordination between these programs and other dependent care. We encourage State IV–A agencies to make a special effort to identify programs that might benefit JOBS participants and their children and to coordinate with these programs.

There are many materials already developed by the Department, the States, and the private sector that contain information on the types of care and selection of appropriate care. State IV–A agencies may find it cost effective to use local child care resource and referral (CCR&R) agencies to provide this information for them. Child care resource and referral agencies exist throughout the country as a public/private venture to serve the community. They keep data on available resources (including openings and providers), often listing not only name, address, and cost of care, but information on curriculum and special programs.

Other Supportive Services. We propose at § 255.3(g) that State IV–A agencies can provide transportation or other supportive services either directly or through payment or reimbursement. This policy is consistent with current Federal policy and State practices under existing work program options.

Coordination. Under the Act and proposed regulations at § 255.3(h), the State IV–A agency must coordinate its child care activities with existing early childhood education programs in the State, including Head Start and preschool programs funded under Chapter 1 of the Education Consolidation and Improvement Act. State IV–A agencies should build upon existing resources to expand the range of services available to JOBS participants. We recognize that helping a mother set up a stable child care plan, especially if it involves more than one provider, can be difficult. However, we also know how important a well-developed plan is; poorly thought-out arrangements break down, causing disruption to training and employment. We believe that the provision of services for the two-week interim may prevent the disruption of such carefully planned arrangements and allow continuity of care.

Meeting Child Care Costs Under Retrospective Budgeting. Recipients who need child care before beginning employment often lack sufficient funds to pay for such care before receiving their paychecks. In State IV–A agencies that use a two-month retrospective budgeting cycle and meet child care through the disregard at § 233.20(a)(11), for the first four months of employment, a family only receives recognition of child care costs for two of those four months. For example, under current rules, if a recipient becomes employed in January and has child care costs in January, February, March and April, the child care disregard will not offset income in determining the amount of the payment until March and April. If a State IV–A agency decides to provide child care for the first and second month of employment, as a start-up cost, the State IV–A agency could not use the disregard to offset income used to determine March and April's payment because the recipient did not actually meet the cost of child care in January and/or February.

We propose to allow State IV–A agencies to provide start-up costs for child care for the initial one or two months of employment and to apply the disregard for the third and fourth months as if such costs had been paid by the recipient. However, in order to prevent duplication of benefits, if a State IV–A agency elects to do this, it may not apply the disregard to income used to determine the payment for the month(s) following the month in which child care ceases. The State IV–A agency may meet the start-up costs by making direct payments to the provider or by reimbursing the recipient. Any reimbursement shall not be counted as income or resources for any month.

Allowable Costs and Matching Rates (§ 255.4 of the Proposed Regulations)

Section 402(g)(1)(C) of the Act and § 255.4(a) of the proposed regulations provide that FFP is available for payments for the actual cost of child care up to the statewide limit chosen by the State IV–A agency. This statewide limit may be the disregard level at § 233.20(a)(11)(i), or some higher figure. In no case is FFP available for payments which exceed the applicable local market rate.

An example may help to explain this provision. Suppose a State IV–A agency sets a statewide limit ($250), which is higher than the child care disregard, for the purpose of calculating the amount of child care costs that it will pay for or reimburse. In City A, the applicable local market rate is also $250. Thus the State IV–A agency can pay for the actual cost up to $250. In City B, the applicable local market rate is $225. Thus even if the care cost $250 in City B, FFP would only be available for $225. In City C, the applicable local market rate is $275. FFP would be available for only $250 (the Statewide limit) or, if less than $250, the actual cost of care.

Local Market Rates. Each State IV–A agency must establish local market rates, and the State Supportive Services plan must explain the methodology used to establish them. We do not propose to impose any statistical formula to be used uniformly. However, in § 255.4(a)(2), we are proposing four guidelines which the State IV–A agency would have to follow in establishing these rates.

First, the State IV–A agency would have to base the rates on a representative sample of providers, obtained in a survey by the State IV–A agency or under an outside survey. Second, we believe the data generally should be collected for areas no greater than political subdivisions. While we are interested in minimizing the administrative burdens on the State IV–A agency in establishing these rates, we are also concerned that local market rates be determined for small enough geographical areas to reflect actual expected costs. In major urban markets, political subdivisions may be too large an area for this purpose, and we will continue to consider alternative approaches.

Also, it might be appropriate to consolidate information on areas which are very small or which are very similar in nature (such as small towns or remote regions of a state) rather than to develop independent estimates for all subdivisions. We would welcome suggestions in both these areas.

Thirdly, we are proposing that the local market rates be established at the 75th percentile. This level was selected because it represents a reasonable balance between concerns about fiscal accountability and accessibility to services.

Finally, we are proposing that local market rates should be determined by type of care such as center care, group family day care, family day care, and in-home care. Rates should be differentiated by care for infants, toddlers, preschool and school children and whether there are different rates for full-time and part-time care. Where appropriate, rates should reflect reductions in the cost of care for additional children from the same family.

States IV–A agencies should not find it a burden to establish local market rates since they have told us that they have used local market rate information for the preparation of their State budgets and in the calculation of their allowable title XX rate for child care. Also, studies are available to a State IV–A agency if help is needed in establishing local market rates. Many States rely on information provided by the local child care resource and referral agencies such as the studies done in 1987 and 1988 by the California Child Care Resource and Referral Network that gave costs of care, licensed capacity, enrollment, open slots, wait lists, hours of care, transportation, and types of regulated providers.

Collecting data on unregulated caregivers providing care in the home of the child may be more difficult and demand a different approach. We are aware of this difficulty, and we welcome suggestions that would help State IV–A agencies obtain this information. We will make information about current studies and methodologies available to interested State IV–A agencies.

Applicable Standards for Child Care. The Statute requires that FFP be available for child care only if it meets applicable standards of State and local law and requires that parents be allowed access to the child care services. The requirement for parental access would cover custodial parents and non-custodial parents consistent with court orders governing such matters.

The State IV–A agency must also establish procedures to ensure that center-based care will be subject to State and local requirements designed to ensure basic health and safety, including fire safety, protections. The State must also endeavor to develop guidelines for family day care if it does not already have them. We do not believe, however, that Congress intended to limit child care only to care that is specifically regulated by current State or local law. Other care, even if it is unregulated at the State or local level, is reimbursable under the Act. For example, some States exempt from their standards any center care that is under the auspices of a religious organization. Some States do not have licensing or registration standards for family day care. Other States do not require licensing or registration for family day care until they serve more than a specified number of children.

It should be noted that there are few laws covering in-home care, i.e., care of a child in that child's own home. Appropriate individuals may be paid as in-home caregivers, unless there are State restrictions regarding the age of the caregiver or restrictions based on the fact that the caregiver may already be in the grant. We propose that FFP be available for child care provided in the child's home by a relative (who is not a member of the AFDC unit) such as a grandparent, aunt, or older sibling. FFP is also available for care by a relative outside of the home if care by that relative meets any applicable standards.

Many State and local agencies have indicated concern that adequate child care resources will not be available. However, the Conference Report does not support an interpretation that Congress intended to provide funds for activities such as resource development, recruitment and training under this program. Therefore, the proposed regulations at § 255.4(f) specify that administrative costs for such activities as recruitment and training of providers, licensing, or resource development would not be considered allowable IV–A costs.

Under the Statute, Congress authorized a separate appropriation of $13,000,000 for fiscal years 1990 and 1991 for the Secretary to make grants to the States to improve their licensing and registration requirements and procedures, and to monitor child care provided to children who receive aid under the State plan. State grants would reflect the State's proportion of the number of children in the State receiving aid under the State IV–A plan compared to the national total. The State would have to provide matching funds for these funds for an amount that is not less than 10 percent of the amount of the grant.

FFP is available for child care on Indian reservations if that care meets applicable State or Tribal standards. When both State and Tribal standards exist, the Tribal standards are the applicable standard. Following the Act, we propose that any such applicable Tribal standards for center-based child care include, at a minimum, requirements to ensure basic health and safety protections, including fire safety.

Matching Rates. The costs of providing transportation, work-related expenses, and other work-related supportive services are matched at 50 percent and are under the JOBS cap.

FFP is available for child care benefits at the Federal medical assistance percentage and is not subject to the funding cap for JOBS for any State IV–A agency other than Puerto Rico, the Virgin Islands, Guam and American Samoa. For these jurisdictions, treatment of child care costs incurred is described at § 250.71(c). Although the Statute does not directly address child care administrative costs, we propose that such costs be matched at the administrative matching rate for AFDC as expenditures necessary for the proper and efficient administration of the program. Matchable administrative expenditures would include costs such as staff, supplies and overhead associated with the determination of eligibility for benefits, computation and issuance of benefit payments, reviews of payment accuracy, hearings, program referrals, program planning and management, and data collection and reporting.

Although the Statute does not explicitly extend safeguarding against fraud and abuse to the supportive services authorized under the Statute, we believe that it is in the best interest of the Federal government and the State IV–A agency to require the State IV–A agency to do so. We have incorporated such a requirement at § 255.4(h). State IV–A agencies may use any method they deem reasonable to insure that charges are properly claimed and paid, and that they cover services actually received. Financial reviews to identify costs not eligible for FFP will be an important part of Federal oversight.

Special Needs. In the past, many supportive services, especially for persons participating in employment

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and training programs, have been allowed as special needs. With the enactment of JOBS and the new child care provisions, Congress established specific programs for funding for such services and eliminated the need to treat such costs as special needs. Furthermore, for education and training activities and supportive services other than child care, it established an overall cap on the amount of Federal funds which it wanted to commit for these purposes. We, therefore, propose that State IV–A agencies not be permitted to provide child care or payment for other supportive services that may be provided under JOBS as special needs.

Nature of Child Care Payments. Under section 402(g)(3)(A) of the Act, child care payments are funded under 403(a). However, they are not IV-A assistance payments as such. Thus, (1) they are covered under a Supportive Services plan, rather than the State IV-A plan; (2) their receipt does not provide categorical Medicaid eligibility; (3) there is no entitlement to direct payment of benefits; (4) they are not subject to disallowance under the AFDC quality control system; and (5) they are not treated as assistance payments for the purposes of child support enforcement. At the same time, however, these child care benefits are funded on the same basis as AFDC, as an open-ended entitlement program, and they are administered by the same agency. Thus, for ease of administration, we are proposing at § 255.4(i) that they be subject to many of the same administrative and financial rules as AFDC. For example, we are proposing that child care payments be subject to similar financial reporting requirements, that similar procedures apply with respect to issues like the appeal of disallowances and the treatment of cancelled and uncashed checks, and that grants to States are subject to the same basic administrative rules.

As indicated earlier, we are proposing that child care expenditures not be subject to disallowance under the AFDC Quality Control (QC) system. It appears that the QC system would not be an effective or proper vehicle for this purpose. However, consistent with the efficient administration of the program, we are considering using the existing QC process as a means of sampling cases and gathering information on the correctness of child care payments. Using the data from the QC system, we propose to take disallowances following the procedures currently used for AFDC administrative costs. We welcome comments on this matter.

Due process requirements (using the JOBS or IV–A hearing process, as appropriate) would apply. However, except in situations where a change in the method of payment affects AFDC benefit levels, requirements for timely notice would not apply to disputes about the method of payment. Under this Part, State IV–A agencies have discretion about the method of payment to be used; unlike the AFDC program, recipients are not necessarily entitled to assistance in any particular form.

Also, we view child care benefits under this Part to be a conditional entitlement in that they must be guaranteed only to the extent necessary for an individual to accept or retain employment or to participate in a JOBS activity which the State IV–A agency is requiring. Therefore, if disputes arise about the provision of child care benefits under this part or the State IV–A agency proposes to deny, discontinue, terminate or reduce child care benefits, the individual is entitled to a hearing, but is not entitled to a continuation of child care benefits in the same amount or form pending that hearing. Consistent with the requirements of § 205.10, however, the individual's AFDC payment may not be reduced because of sanctions under § 250.33 or because of changes in the method of guaranteeing an individual's child care benefits while a hearing is pending.

For example, in cases where a recipient's participation in a JOBS activity or in outside education or training ceased (e.g., due to illness or termination due to unsatisfactory progress), the State IV–A agency would cease providing child care benefits. The individual could appeal that State IV–A agency decision, but child care benefits would not have to be provided during conciliation or while a hearing was pending. In the meantime, the recipient might be prevented from continuing (or resuming) participation because of the termination of child care benefits. She could not have her AFDC benefits reduced for non-participation while a hearing was pending, and the termination of child care benefits would be considered in determining whether she had good cause for non-participation. If the State IV–A agency later requires the individual to again participate, necessary child care would have to be guaranteed.

Child Care Standards (§ 255.5 of the Regulations)

The language of the Act reflects Congress' intent to ensure the health and well-being of the children for whom child care is provided. Child care must meet current applicable standards of State and local law; however, States are not required to develop new standards. Consistent with congressional intent, we are not proposing to create Federal requirements in this area. At § 255.1(e), we propose that the State Supportive Services plan include an assurance that the State will meet the appropriate standards of State and local law. The State must make the standards available upon request to the Family Support Administration for the purposes of program reviews, payment reviews and audits.

The proposed rules incorporate the requirements in the Statute that the State provide the Secretary with a description of State and local requirements for center-based care designed to ensure basic health and safety, including fire safety, protections and endeavor to develop guidelines for family day care. The Secretary shall report to the Congress on the nature and content of State and local standards for health and safety by October 1, 1992. We will be sending an Action Transmittal to the State IV–A agency at a future date requesting the information necessary to meet these requirements. For the purpose of the one-time report to Congress it would be helpful if the State IV–A agency describe both the procedures that have been and that will be established. The State also must endeavor to develop guidelines for family day care if such guidelines do not already exist.

Uniform Reporting Requirements for Child Care (§ 255.6 of the Proposed Regulations)

Consistent with the requirements of Section 606 of the Statute, State IV–A agencies are required to report information on child care to ensure that the provisions of the Statute are effectively implemented. These requirements are addressed in § 255.6 of the proposed rules. We are also considering including a requirement that the State IV–A agency report the number of children for whom care is provided, by type of care, under both Parts 255 and 256. We invite comments on this proposal. However, more information will be sent to State IV–A agencies concerning these requirements. State IV–A agencies should know that, as in any other fiscal expenditure, adequate information must be in the case record documenting these expenditures.

Part 256—Transitional Child Care

Purpose (§256.0 of the Proposed Regulations)

The purpose for the issuance of the proposed regulations is to implement

section 302 of the Family Support Act of 1988.

State Plan Requirements (§ 256.1 of the Proposed Regulations)

The State Supportive Services plan must include the methods available to provide extended child care. We suggest that the State IV–A agency use the same methods, except for the income disregard, that it has in place for providing child care during employment, education and training, including JOBS.

The State Supportive Services plan must also contain the sliding fee scale under which the family will contribute to the cost of the child care.

Like the initial JOBS plan, we would expect the State IV–A agency to submit a Supportive Services plan for transitional child care 45 days before the April l, 1990, effective date. Where a State has not previously submitted a Supportive Services plan because it has not implemented its JOBS program, the Supportive Services plan for transitional child care would contain both the provisions discussed here and any provisions described at § 255.1 that apply to transitional care. For example, the transitional plan would include necessary assurances on procedures and information on local market rates.

Eligibility (§ 256.2 of the Proposed Regulations)

Effective April 1, 1990, certain AFDC recipients will, upon loss of eligibility for AFDC because of employment, become eligible for 12 consecutive months of child care. To be eligible for this benefit, the former recipient must have received AFDC (or been considered a recipient under § 233.20(a)(3)(viii)(D)) for 3 of the prior 6 months. The proposed rule defines the first month of the period of eligibility as the first month the individual becomes ineligible for AFDC because of one of the following three events:

(1) Any increase in earned income;

(2) The loss of the $30 + 1/3 or the $30 disregard because of the expiration of the time limit on its use; or

(3) For AFDC–UP cases only, an increase in the number of hours worked to over 100 hours per month.

We propose to require that the former recipient request this benefit in writing on a form prescribed by the State and that the payment of the benefit cannot be for any month prior to the request. This is similar to the basic rule for the AFDC program, in which no payment can be made for any period prior to the filing of an application, even though otherwise eligible.

We are proposing these policies at § 256.2(b)(3) so that the State IV–A agency can obtain the information it needs to determine eligibility on a timely basis and to evaluate the need for child care. They also provide the State IV–A agency and the former recipient an opportunity to explore alternative child care arrangements before costs are incurred.

The State has the responsibility of informing the recipient that the transitional child care benefits are available. Such notification should take place at the time the State provides the program information required at § 250.40 and be repeated at the time of termination of the individual's AFDC benefits. We are therefore proposing to require that recipients be notified of their potential eligibility for transitional child care when they become ineligible for AFDC and that they be informed of the steps they need to take to ensure that they apply for and receive all benefits for which they would be eligible. Individuals should also be clearly informed of the consequences of the failure to apply, i.e, the loss of transitional child care benefits for any month prior to the month of application.

We considered when the first month of ineligibility must occur to qualify a former recipient for this benefit. We decided that the first month of ineligibility for AFDC–and the concomitant first month of eligibility for transitional child care—must be April, 1990, or later, because April l, 1990, is the effective date for the transitional child care provisions. Therefore, to receive transitional child care for April, 1990, the last month of AFDC benefits must have been in March, 1990, and March would be one of the three months with receipt of AFDC benefits required during the six-month period following September which are necessary for eligibility.

We propose that, based on the intent that families have help with their child care needs for 12-months after losing their AFDC benefits, families who do not need child care immediately after such loss of AFDC may begin to receive child care in any month during the 12-month eligibility period for the remaining balance of the 12month period. For example, a family that does not need child care until five months after going off AFDC would qualify for that month and the remaining six months of the 12 month eligibility period. If child care is not requested until the fifth month, the State cannot pay retroactively for the first four months of the 12-month period.

The law provides that a family is ineligible for transitional child care if the caretaker relative, who is a member of the AFDC family, terminates employment without good cause or fails to cooperate in establishing paternity and enforcing child support. Cooperation in establishing paternity and enforcing child support is discussed at § 232.12.

We propose that if the caretaker relative loses a job (with good cause as defined at § 250.35), and then (prior to re-establishing eligibility for AFDC) finds another, the family would qualify for the remaining portion of the 12-month eligibility period. Also, if the caretaker relative loses a job and the family goes back on AFDC, that family could again become eligible for a full 12 months of transitional child care as long as it meets the eligibility requirements discussed above.

Fee Requirement (§ 256.3 of the Proposed Regulations)

Section 402(g)(3)(A)(vii) of the Act requires the State agency to establish a sliding fee scale for the purpose of calculating a family's contribution for transitional child care. Section 256.3 of the proposed regulations describes this requirement.

We considered imposing specific limits on the fee scales determined by the States. In particular, we considered setting a minimum contribution by families with income above the poverty level, and limiting the availability of these benefits to those with income below 185 percent of poverty, as is the case with certain Medicaid benefits. However, we have not proposed these or other limits because we recognize that States currently employ a variety of different fee scales, and we want to solicit suggestions for Federal limits which would not be too cumbersome for States, in light of their current practices. We believe Federal rules should be developed because we are concerned that: (1) Without a realistic contribution by the former recipient to her child care expenses, the transitional nature of these benefits will be lost; (2) the interests of self-sufficiency and cost-effectiveness be served; and (3) the benefits available to former welfare recipients not be disproportionate to those available for families similarly situated. We are therefore interested in specific suggestions for Federal rules in this area.

We also propose at § 256.3(c) to allow the States to set different periods of payment collection for differing levels of payment. For example, it may not be cost-effective to collect and record very low fees every month. Data will be required in the case record concerning the fee schedule and the collection of the fee.

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Under the proposed regulations at § 256.3(e), the State IV–A agency must take appropriate action if a family does not pay its fee. If a family does not cooperate in paying its fee, we propose that it would become ineligible for continued transitional benefits, and it would remain ineligible for so long as back fees were owed, unless satisfactory arrangements have been made to make full payment. However, transitional child care benefits would not be discontinued without due process, and benefits would be continued pending a hearing, if requested. Unless the fee requirements are taken seriously by States and recipients of benefits, the program will not be effective in providing a transition toward self-sufficiency.

States must keep case records open for 12 months after the individual, who loses AFDC eligibility, becomes eligible for the transitional child care.

Other Provisions (§ 256.4 of the Proposed Regulations)

In part because the transitional child care provisions of the Statute have distinct beginning and ending dates separate from the other child care provisions of the Statute, we have included them as a separate part in these proposed regulations. However, most of the provisions in Part 255 apply to this part. For example, the provisions of § 255.3(a) regarding the methods of providing child care generally apply to transitional child care although the income disregard is not an option in these cases. The other provisions in Part 255 that pertain to allowable costs, matching rates, standards, disallowance procedures, and uniform reporting also apply. One minor exception to this general rule relates to the funding of Puerto Rico, Guam, the Virgin Islands and American Samoa. The exception reflects the fact that child care costs under Part 255 for these jurisdictions are covered under the JOBS funding cap, while their transitional child care costs fall under the section 1108 limits. Another exception is that transitional child care benefits cannot be suspended, reduced, discontinued or terminated until a decision is rendered after a hearing requested within a timely notice period. Transitional child care benefits under this Part represent an entitlement in a broader sense than benefits under Part 255, and recipients of these benefits do not have the same protections (in terms of continuation of AFDC benefits and the option to cease participation) as those available to individuals receiving child care under Part 255.

Technical and Conforming Amendments (§§ 205.50, 224.0, 233.20, 233.90, 233.100, 234.60, 238.01, 239.01 and 240.01 of the Proposed Regulations)

Section 202 of the Family Support Act, Pub. L. 100–485, contains the technical and conforming amendments to title IV–A of the Social Security Act which are required by the enactment of the Statute.

Until October 1, 1990, we cannot remove existing Federal regulations which have been amended by the Statute because the existing regulations will continue to govern State IV–A agencies until they have approved JOBS plans. Therefore, in amending the Federal regulations, we have either incorporated JOBS provisions in the existing regulation (for example, § 205.50 on safeguarding of information) or added a provision specific to States with JOBS programs (for example, treatment of earned income at § 233.20(a)(11)(v)).

Sections 202 and 204 repeal the following statutory provisions of title IV as of October 1, 1990: Part C (WIN); section 409 of Part A (community work experience program (CWEP)); section 402(a)(35) of Part A (employment search); and section 414 of Part A (work supplementation). For States which implement JOBS prior to October 1, 1990, the Federal regulations governing WIN (Part 224), CWEP (Part 238), work supplementation (Part 239), and employment search (Part 240) will no longer apply. Therefore, we have added a provision to each of these existing regulations clarifying that the current regulations do not apply to States with approved JOBS plans and will be repealed for all States as of October 1, 1990. The proposed regulations which distinguish the applicability of the current regulations are found at §§ 224.0(c) (WIN), 238.01(b) (CWEP), 239.01(b) (work supplementation), and 240.01(b) (employment search).

Section 202 of the Statute amends section 402(a)(9)(A) of the Act to include programs under Part F for which the State IV–A agency must also provide safeguards which restrict the use or disclosure of information concerning applicants or recipients. In accordance with these amendments, we have amended § 205.50(a)(1)(i)(A) to cover programs under Part F under our safeguarding regulations.

Section 202 of the Statute also amends section 402(a)(8)(A)(iv) of the Act regarding the treatment of earned income to remove special treatment afforded earned income from public service employment and incentive payments for institutional training under the Work Incentive program. In lieu of amending § 233.20(a)(11)(iv) which governs treatment of earned income under WIN, we have added a new provision at § 233.20(a)(11)(v) that governs the treatment of earned income and expenses in States with approved JOBS plans. For regular employment or OJT, the disregards in §§ 233.20 (a)(11)(i) and (a)(11)(ii)(B) apply. For earned income from a job under work supplementation, the same disregards apply unless a State IV–A agency has elected to provide differently in its State JOBS plan in accordance with § 250.62 (j) and (k). Section 233.20(a)(11)(v)(C) provides that any advance payment or reimbursement to the JOBS participant for child care, transportation, work-related expenses, or work-related supportive services is to be disregarded. Section 233.20(a)(11)(v)(D) provides that payment for or reimbursement of child care pursuant to Part 255 for employed individuals who are not JOBS participants is disregarded.

Changes to Section 407. Section 202 of the Statute amends section 407(d)(1) of the Act which defines a "quarter of work" for the purposes of qualifying for benefits under the Unemployed Parent (UP) Program. Under current law, a "quarter of work" is defined as having earned income of $50 or more during the period of three consecutive calendar months, or as having participated in WIN or CWEP during the quarter. The amendment replaces participation in WIN or CWEP with participation in a JOBS program. Similarly, we are amending the definition of "quarter of work" at § 233.100(a)(3)(iv) to add participation in JOBS if a State IV–A agency has an approved JOBS plan under § 250.20. We keep participation in WIN and CWEP in the definition of "quarter of work" because, even after a State IV–A agency has an approved JOBS plan, participation in either CWEP or WIN during a quarter prior to implementation of JOBS will count as meeting the "quarter of work" requirement.

Under current law, a principal earner in an AFDC-Unemployed Parent Case must be registered with WIN or, if exempt because of remoteness, with a public employment office as a condition of eligibility for aid. In addition, there is a requirement that the principal earner be certified to participate in WIN within 30 days after receipt of AFDC. Certification means that the necessary support services are available so that recipients can participate in training or employment. Additionally, Federal financial participation is not available if, after the 30 days, the State IV–A agency has not taken action to certify the principal earner to WIN.

The Statute amends the current law to provide that aid will be denied if the parent, unless exempt under the new section 402(a)(19)(C)(vii), is not currently participating or available for participation in a JOBS program, or, if exempt due to remoteness, is not registered with the State public employment office. We have amended § 233.100(a)(5)(i) to add this provision for States with approved JOBS plans.

The Statute further amends the Act to provide that within 30 days after receiving aid, the parent must participate or apply for participation in the JOBS program, unless the program is not available in the area where the parent is living. We have amended § 233.100(a)(6) to add this provision for States with approved JOBS plans.

The Statute also amends the Act to provide that FFP will not be available to the State IV–A agency for any period beginning with the 31st day after the individual receives aid, if the State has not taken appropriate steps directed towards the participation of the parent in a JOBS program. We have amended § 233.100(c)(2)(iii) to add this provision for States with approved JOBS plans.

Other Provisions. We are also proposing to remove the provision at § 233.90(b)(2) which states that an otherwise eligible child under age 18 may not be denied aid if he fails to attend school or make satisfactory grades. This regulation runs counter to the provisions in the Act and congressional intent that State IV–A agencies focus their attention on school attendance requirements for teen-aged recipients. Since it raised questions about the ability of a State IV–A agency to impose such requirements on non-exempt recipients, we have deleted it.

The Statute also amends section 402(a)(19)(G) of the Act to extend to the JOBS program the requirement that the State IV–A agency make vendor or protective payments in the event the caretaker relative is sanctioned for failure to participate. Therefore, we have revised § 234.60(a)(12) to add JOBS to the list of programs for which imposing a sanction requires a State IV–A agency to provide protective or vendor payments.

Finally, we also propose to amend § 233.20(a)(2)(v) to prohibit the use of special needs for child care, work-related expenses, and other work-related supportive services that can be paid for under JOBS. A more complete discussion of this provision is contained in the preamble to § 255.4.

All conforming amendments and other changes to Chapter II necessitated by the Family Support Act will be handled in another regulatory package.

(Catalog of Federal Domestic Assistance Programs 13.780, Assistance Payments Maintenance Assistance)

Note: We have requested that the JOBS program be added to the Catalog of Federal Domestic Assistance and we have received a tentative assignment of No. 13.781.

List of Subjects

45 CFR Part 205

Computer technology, Grant programs—social programs, Privacy, Public assistance programs, Reporting and recordkeeping requirements, Wages.

45 CFR Part 224

Administrative practice and procedure, Grant programs—social programs, Reporting and recordkeeping requirements, Work Incentive (WIN) Programs.

45 CFR Part 233

Aliens, Grant programs-social programs, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 234

Grant programs-social programs, Health care, Public assistance programs, Rent subsidies.

45 CFR Part 238

Aid to Families with Dependent Children, Grant programs-social programs, Manpower training programs.

45 CFR Part 239

Aid to Families with Dependent Children, Employment, Grant programs-social programs.

45 CFR Part 240

Aid to Families with Dependent Children, Employment, Grant programs-social programs.

45 CFR Part 250

Aid to Families with Dependent Children, Grant programs-social programs, Employment, education and training.

45 CFR Part 255

Aid to Families with Dependent Children, Grant programs-social programs, Employment, education and training, Day care.

45 CFR Part 256

Aid to Families with Dependent Children, Grant programs-social programs, Employment, education and training, Day care.

Dated: April 6, 1989.

Catherine Bertini,

Acting Assistant Secretary for Family Support.

Approved: April 6, 1989.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

Accordingly, Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

1. The authority citation for Part 205 is revised to read as set forth below:

Authority: Sections 402, 403, 406, 411, 1102, and 1106(a) of the Social Security Act (42 U.S.C. 602, 603, 606, 611, 1302, and 1306(a)); Section 202 of pub. L. 100–485, 102 Stat. 2377.

2. Section 205.50 is amended by revising paragraph (a)(1)(i)(A) to read as follows:

§ 205.50 Safeguarding information for the financial assistance programs.

(a) • • •

(1) • • •

(i) • • •

(A) The administration of the plan of the State approved under title IV–A, the plan or program of the State under title IV–B, IV–C, IV–D, or IV–F or under title I, X, XIV, XVI (AABD), XIX or XX or the supplemental security income (SSI) program established by title XVI. Such purposes include establishing eligibility, determining amount of assistance, and providing services for applicants and recipients.

• • • • • •

PART 224—WORK INCENTIVE PROGRAMS FOR AFDC RECIPIENTS UNDER TITLE IV OF THE SOCIAL SECURITY ACT

1. The authority citation for Part 224 is revised to read as set forth below and the authority citations following all the sections in Part 224 are removed:

Authority: Sections 402(a)(19), 430–444 and 1102 of the Social Security Act (42 U.S.C. 602(a)(19), 630–644, and 1302); Sections 202 and 204 of Pub. L. 100–485, 102 Stat. 2377, 2381.

2. In § 224.0, paragraph (c) is added to read as follows:

§ 224.0 Purpose and scope.

• • • • • •

(c) The provisions of this part do not apply to any State IV–A agency which has an approved JOBS plan under § 250.20. A list of State IV–A agencies with approved JOBS plans is available

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from the Family Support Administration, Office of Family Assistance, 370 L'Enfant Promenade, SW., Washington, DC 20447. For all State IV–A agencies the provisions of this part are repealed as of October 1, 1990.

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

1. The authority citation for Part 233 is revised to read as set forth below and the authority citations following all the sections in Part 233 are removed:

Authority: Sections 1, 402, 406, 407, 1002, 1102, 1402, and 1602 of the Social Security Act (42 U.S.C. 301, 602, 606, 607, 1202, 1302, 1602, and 1382 note); and Section 6 of Pub. L. 94–114, 89 Stat. 579 and Part XXIII of Pub. L. 97–35, 95 Stat. 843, and Pub. L. 97–248, 96 Stat. 324, and Pub. L. 99–603, 100 Stat. 3359, Section 221 of Pub. L. 98–181, as amended by Section 102 of Pub. L. 98–479 (42 U.S.C. 602 note) and Section 202 of Pub. L. 100–485, 102 Stat. 2377.

2. In § 233.20, paragraph (a)(2)(v) is revised, paragraphs (a)(11)(v) and (a)(11)(vi) are redesignated as paragraphs (a)(11)(vi) and (a)(11)(vii) respectively and a new paragraph (a)(11)(v) is added to read as follows:

§ 233.20 Need and amount of assistance.

(a) * * *

(2) * * *

(v) If the State IV–A agency includes special need items in its standard:

(A) Describe those that will be recognized and the circumstances under which they will be included, and

(B) Provide that they will be considered for all applicants and recipients requiring them; except that:

(*1*) Under AFDC, work expenses and child care (or care of incapacitated adults living in the same home and receiving AFDC) resulting from employment or participation in either a CWEP or an employment search program cannot be special needs, and

(*2*) In a State which has a JOBS program under Part 250, child care, work-related expenses, and other work-related supportive services resulting from participation in JOBS (including participation pursuant to §§ 250.46, 250.47, and 250.48) cannot be special needs.

* * * * *

(11) * * *

(v) The treatment of earned income and expenses under JOBS is as follows:

(A) For earned income from regular employment or on-the-job training, as described at § 250.61, the disregards in paragraphs (a)(11)(i) and (a)(11)(ii)(B) of this section shall apply.

(B) For earned income from a job under the work supplementation component, as described at § 250.62, the disregards in paragraphs (a)(11)(i) and (a)(11)(ii)(B) of this section shall apply unless the State IV–A agency in its State JOBS plan, has elected to provide otherwise under § 250.62(j) and § 250.62(k).

(C) For all activities under JOBS, advance payments or reimbursement to the participant for child care, transportation, work-related expenses, or work-related supportive services is disregarded.

(D) Payment or reimbursement of child care pursuant to Part 255 for employed individuals who are not JOBS participants is disregarded.

* * * * *

§ 233.90 [Amended]

3. In § 233.90, paragraph (b)(2) is removed and paragraphs (b)(3) through (b)(6) are redesignated (b)(2) through (b)(5).

4. Section 233.100 is amended by revising paragraphs (a)(3)(iv); (a)(5)(i); (a)(6); and (c)(2)(iii) to read as follows:

§ 233.100 Dependent children of unemployed parents.

(a) * * *

(3) * * *

(iv) A "quarter of work" with respect to any individual means a period (of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31) in which he or she received earned income of not less than $50 (or which is a "quarter of coverage" as defined in section 213(a)(2) of the Act), or in Which he or she participated in a community work experience program under Part 238, the Work Incentive program under Part 224, or, if the State IV–A agency has an approved JOBS plan pursuant to § 250.20, in a program under Part 250.

* * * * *

(5) * * *

(i) If and for so long as such child's parent, unless exempt under § 224.20, is not currently registered for the work incentive program or if exempt under § 224.20(b)(6), is not currently registered with a public employment office in the State, except that in a State with an approved JOBS plan under § 250.20, such child's parent, unless exempt under § 250.30(b), must be currently participating (or available for participation) in a program under Part 250, or, if he is exempt under § 250.30(b)(5), must be registered with a public employment office in the State, and

* * * * *

(6) Provide that within 30 days after the receipt of such aid, unemployed principal earners will be certified for participation in the Work Incentive program under Part 224 or, if the State IV–A agency has an approved JOBS plan pursuant to § 250.20, will participate or apply for participation in a program under Part 250 unless the program is not available in the area where the parent is living.

* * * * *

(c) * * *

(2) * * *

(iii) For any period beginning with the 31st day after receipt of aid, if and for long as no action is taken during the period to certify the parent for participation in the Work Incentive program under Part 224, or if the State IV–A agency has an approved JOBS plan pursuant to § 250.20, no action is taken during the period to undertake appropriate steps directed toward the participation of such parent in a program under Part 250; and

* * * * *

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

1. The authority citation for Part 234 is revised to read as follows and all other authority citations which appear throughout Part 234 are removed:

Authority: Sections 402, 403, 406 and 1102 of the Social Security Act (42 U.S.C. 602, 603, 606, and 1302); Section 201 of Pub. L. 100–485, 102 Stat 2359.

2. Section 234.60 is amended by revising paragraph (a)(12) to read as follows:

§ 234.60 Protective, vendor and two-party payments for dependent children.

(a) * * *

(12) In cases where an individual is sanctioned for failure to participate in WIN, employment search, CWEP, or JOBS, the State plan must provide that when protective or vendor payments are made pursuant to § 224.52(a)(1), § 238.22, § 240.22(a)(1), § 240.22(b)(1) and § 250.34(c) of this chapter, only paragraphs (a)(7), (9)(ii), and (11)(i) and (ii) of this section will be applicable.

* * * * *

PART 238—COMMUNITY WORK EXPERIENCE PROGRAM

1. The authority citation for Part 238 is revised to read as follows and all other authority citations which appear throughout Part 238 are removed:

Authority: Section 409 and 1102 of the Social Security Act (42 U.S.C. 609 and 1302); sections 202 and 204 of Pub.L. 100–485, 102 Stat 2378, 2381.

2. Section 238.01 is revised to read as follows:

§ 238.01 Scope of this part.

(a) *General.* State IV–A agencies may operate community work experience programs (CWEP) which serve a useful public purpose, and require AFDC recipients to participate in them as a condition of AFDC eligibility. The purpose of these CWEP programs is to provide work experience for AFDC recipients. CWEP projects must meet appropriate standards for health and safety and may not displace persons currently employed or fill established unfilled vacancies. Subject to the conditions specified at § 238.16, State IV–A agencies must provide necessary transportation, day care, and other related services or reimburse CWEP participants for costs directly related to participation in the program. Allowable costs to operate CWEP (see Subpart D) are matched by the Federal government at the AFDC administrative match level (50 percent).

(b) *Applicability.* The provisions of this part do not apply to any State IV–A agency which has an approved JOBS plan under § 250.20. A list of State IV–A agencies with approved JOBS plans is available from the Family Support Administration, Office of Family Assistance, 370 L'Enfant Promenade, SW., Washington, DC 20447. For all State IV–A agencies, the provisions of this part are repealed as of October 1, 1990.

PART 239—WORK SUPPLEMENTATION PROGRAM

1. The authority citation for Part 239 is revised to read as follows and all other citations which appear throughout Part 239 are removed:

Authority: Sections 414 and 1102 of the Social Security Act (42 U.S.C. 614 and 1302); sections 202 and 204 of Pub. L. 100–485, 102 Stat. 2378, 2381.

2. Section 239.01 is revised to read as follows:

§ 239.01 Scope of this part.

(a) *General.* Under the work supplementation program, State IV–A agencies may use AFDC funds to develop and subsidize work for AFDC recipients as an alternative to aid provided to AFDC recipients. The work supplementation program may be implemented notwithstanding the definitions contained in section 406 of the Social Security Act or any other provision of law. Under this program AFDC recipients may choose, on a voluntary basis, to accept an offer of work to the extent such jobs are made available. In order to pay for the costs of developing and subsidizing these jobs, a State IV–A agency may reduce the need standard in effect for selected categories of recipients on the basis of their ability to participate in the work supplementation program. The reduction of the need standard may be made for either the entire State or for selected geographical areas. The total amount of Federal financial participation for operation of a State IV–A agency's work supplementation program is limited as provided in Subpart D of this part.

(b) *Applicability.* The provisions of this part do not apply to any State IV–A agency which has an approved JOBS plan under § 250.20. A list of State IV–A agencies with approved JOBS plans is available from the Family Support Administration, Office of Family Assistance, 370 L'Enfant Promenade SW., Washington, DC 20447. For all State IV–A agencies, the provisions of this part are repealed as of October 1, 1990.

PART 240—EMPLOYMENT SEARCH

1. The authority citation for Part 240 is revised to read as follows and all other citations which appear throughout Part 240 are removed:

Authority: Sections 402(e) and 1102 of the Social Security Act (42 U.S.C. 602(a) and 1302); sections 202 and 204 of Pub. L. 100–485, 102 Stat. 2377, 2381.

2. Section 240.01 is revised to read as follows:

§ 240.01 Scope of this part.

(a) *General.* Each State with a plan approved under title IV–A of the Social Security Act may establish a program of employment search in accordance with the requirements in this part. The single State agency designated in the State plan to administer or supervise the AFDC program must administer the employment search program.

(b) *Applicability.* The provisions of this part do not apply to any State IV–A agency which has an approved JOBS plan under § 250.20. A list of State IV–A agencies with approved JOBS plans is available from the Family Support Administration, Office of Family Assistance, 370 L'Enfant Promenade, SW., Washington, DC 20447. For all State IV–A agencies, the provisions of this part are repealed as of October 1, 1990.

Title 45, Chapter II, Code of Federal Regulations is amended by adding a new Part 250 to read as follows:

PART 250—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

Subpart A—Purpose and Definitions

Sec.
250.0 Purpose.
250.1 Definitions.

Subpart B—Administration

250.10 State IV–A agency administration.
250.11 Requirement for a statewide program.
250.12 Coordination and consultation.
250.13 Contracting authority.

Subpart C—State Plan Requirements and Content

250.20 Requirement for a State JOBS plan.
250.21 State plan content.

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250.98 Maintenance of effort for Indian Tribes and Alaska Native organizations.

Authority: Sections 402, 403, 481 note, 482, 483, 484, 485, 486, 487, and 1102 of the Social Security Act as amended (42 U.S.C. 602, 603, 681, 682, 682 note, 683, 684, 685, 686, 687, and 1302); section 204(b) of Pub. L. 100–485, 102 Stat. 2381.

Subpart A—Purpose and Definitions

§ 250.0 Purpose.

(a) The purpose of the Job Opportunities and Basic Skills Training (JOBS) program under titles IV–A and IV–F of the Social Security Act is to encourage, assist, and require applicants for and recipients of AFDC to fulfill their responsibilities to support their children by preparing for, accepting and retaining employment. To assure that needy families with children are provided the means to avoid long-term welfare dependency, the JOBS program is intended to:

(1) Provide individuals with the opportunity to acquire the basic education and skills necessary to qualify for employment;

(2) Provide necessary supportive services, including transitional child care and medical assistance, so that individuals can participate in JOBS and accept employment;

(3) Promote coordination of services at all levels of government in order to make a wide range of services available, especially for individuals at risk of long-term welfare dependency, and to maximize the use of existing resources; and

(4) Emphasize accountability for both participants and service providers.

(b) This part provides that a State IV–A agency, as a condition of participation in the AFDC program, must operate a JOBS program. In addition, these regulations require that States provide child care and other supportive services for participants in the JOBS program, as well as certain other individuals, pursuant to Parts 255 and 256. This part contains the policies, rules and regulations pertaining to the Job Opportunities and Basic Skills Training (JOBS) program.

(c) This part is applicable to States with approved JOBS programs pursuant to § 250.20, and to all States as of October 1, 1990.

§ 250.1 Definitions.

Except to the extent otherwise specified in this section, terms used in Part 250 shall have the same meaning otherwise applicable to the Aid to Families with Dependent Children (AFDC) program.

Adult recipient means an individual other than a dependent child (unless such child is the minor custodial parent of another dependent child) whose needs are met (in whole or in part) with payments of Aid to Families with Dependent Children.

Basic literacy level means a literacy level that allows a person to function at the level of an individual who has successfully completed the eighth grade.

Component means any of the services or activities available under the provisions of § 250.44 through § 250.48.

CWEP means the community work experience program authorized in § 250.45 and § 250.63.

Department means the U.S. Department of Health and Human Services.

FFP means Federal financial participation in expenditures made by a State.

Institution of higher education means any institution determined by the Secretary of Education to meet:

(1) The definition of such term contained in either section 1201(a) or section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), as amended; or

(2) The definitions of "proprietary institution of higher education" or "postsecondary vocational institution," which are defined at sections 481 (b) and (c) of that Act.

Intensive job search is, for purposes of § 250.74(c), job search by a parent in an Unemployed Parent case that is either group or individual job search for a monthly average equivalent to 20 hours per week.

JAS means a JOBS Automated System authorized under § 250.81 for a State to support its operation of the JOBS program.

JOBS is the Job Opportunities and Basic Skills Training program required by section 402(a)(19) of the Social Security Act, as amended by section 201(a) of the Family Support Act of 1988 (Pub. L. 100–485) and set forth in Part F of title IV of the Social Security Act, as added by section 201(b) of the Family Support Act.

JOBS plan means the statewide operational plan for JOBS.

Limited English proficiency means limited ability in speaking, writing, or understanding the English language by a person whose native language is a language other than English, or who lives in a family or community environment where a language other than English is the dominant language.

Make good progress and *Making satisfactory progress* in an educational component mean that the participant in any educational activity is meeting, on a periodically measured basis of less than one year, such as a term or quarter, a consistent standard of progress based upon a written policy that was: developed by the educational institution or program in which she is enrolled; and approved by the appropriate State or local education agency and the State welfare agency. Such standard includes both a qualitative measure of a participant's progress, such as a grade point average, and a quantitative measure, such as a reasonable time limit by which a student is expected to complete her studies. If the educational institution or program is accredited by an accrediting body that is listed by the Secretary of Education and that has established a satisfactory progress policy, then that body's policy shall apply. Upon review and approval by the State education agency and the State IV–A agency, the standard may provide that a student who does not meet the institution's or program's progress standard is nonetheless making satisfactory progress during a probationary period, or shall be deemed to be making satisfactory progress because of mitigating circumstances.

Make good progress and *Making satisfactory progress* in a training component (i.e., OJT and skills training) mean that the participant is meeting, on a periodically measured basis of less than one year, such as quarterly, a consistent standard of progress based upon a written policy that was: Developed by the training provider, and approved by the State IV–A agency. Such standard includes both a qualitative measure of a participant's progress, such as competency gains or proficiency level, and a quantitative measure, such as a reasonable time limit for completion of the training program.

MSA means Metropolitan Statistical Area, a system of geographical areas defined and maintained by the Executive Office of the President, Office of Management and Budget.

OJT means on-the-job training as authorized in § 250.45 and § 250.61.

Participation: (1) For purposes of determining a State's participation rate under § 250.74(b) and § 250.74(c), an individual is participating if she is:

(i) An AFDC recipient who is assigned to a JOBS program component specified in paragraph (5) of this definition for at least the minimum activity level specified in that paragraph, or an applicant assigned to the job search program for the State's specified activity level; and

(ii) Participating at the assigned level of activity or has provided documented good cause for temporary absence in accordance with State policy.

(2) An individual active only in orientation, assessment, or employability development planning or case management is not a participant for these purposes.

(3) When an individual is assigned to activities in more than one component, she is a participant if the total of her hours meets the average hours requirement of the assigned components.

(4)(i) For purposes of the UP work requirement at § 250.33, a parent in a UP family is a participant if his or her activity level is at least 16 hours per week in work supplementation, CWEP, OJT, or a State designed work program approved by the Secretary.

(ii) A parent under the age of 25 in such a family who has not completed high school or an equivalent course of education will meet the UP work requirement if the State requires, in lieu of the work requirement in paragraph (4)(i) of this definition, the parent to participate in educational activities directed at attaining a high school diploma or its equivalent or completing a basic education program, and he or she is making satisfactory progress.

(5) The specified minimum activity levels for JOBS program components are the average monthly activity levels equivalent to the following:

(i) For any of the educational activities specified in § 250.44: Making satisfactory progress;

(ii) Job skills training: At least 20 hours of instruction or training per week;

(iii) Job readiness activities: At least 20 hours of structured, guided activity per week;

(iv) Individual job search: The equivalent in structured activity and employer contacts of 20 hours per week.

(v) Group job search: At least 20 hours per week.

(vi) OJT: Full-time work according to the standard of the occupation.

(vii) Work supplementation program: Full-time work according to the standard of the occupation.

(viii) CWEP: The lower of 20 hours per week or the CWEP maximum hours for that individual.

(ix) Other work experience: As defined by the State and approved by the Secretary; except that for the purpose of the UP work requirement, the activity, to qualify for participation, must constitute actual work, and not training, and be at least 16 hours per week.

(x) Postsecondary education: Making satisfactory progress.

(xi) Other allowed activities: As defined by the State and approved by the Secretary.

(6) This definition of participation is directly related to the requirements of § 250.74 and does not preclude a State from assigning an individual to a component for fewer hours than required to meet the participation rate if appropriate.

Postsecondary education means a program of postsecondary instruction offered by:

(1) An institution of higher education determined by the Secretary of Education to meet section 1201(a), or section 481 (a), (b), or (c) of the Higher Education Act of 1965, as amended;

(2) An institution of higher education or a vocational school determined by the Secretary of Education to meet section 435(b) or section 435(c) of the Higher Education Act of 1965, as amended; or

(3) A public institution that is legally authorized by the State to provide such a program within the State.

Secretary means the Secretary of Health and Human Services.

Target population means that group composed of each individual who:

(1) Is receiving AFDC, and who has received such aid for any 36 of the preceding 60 months;

(2) Makes application for AFDC, and has received such aid for any 36 of the 60 months immediately preceding the most recent month for which application has been made;

(3) Is a custodial parent under the age of 24 who:

(i) Has not completed a high school education and, at the time of application for AFDC, is not enrolled in high school (or a high school equivalency course of instruction); or

(ii) Had little or no work experience in the preceding year; or

(4) Is a member of a family in which the youngest child is within 2 years of being ineligible for AFDC because of age.

For a particular State, this term will include, in lieu of individuals listed, such alternative groups of long-term or potential long-term recipients as the State has demonstrated to the satisfaction of the Secretary are feasible target populations in that State's caseload.

UP means Unemployed Parent and refers to that segment of the AFDC program authorized in section 407 of the Social Security Act which provides aid with respect to a dependent child who is deprived of parental support or care by reason of the unemployment of the parent who is the principal earner.

Subpart B—Administration

§ 250.10 State IV–A agency administration.

(a) The State agency responsible for the administration or supervision of the State's title IV–A plan is responsible for the administration or supervision of the JOBS program.

(b) The provisions of § 205.100(b) apply to this section.

(c) Examples of functions which must be retained by the State IV–A agency pursuant to § 250.13 of this part include the following:

(1) Establishment of optional provisions and components of the program;

(2) Responsibility for program planning, design of program, and determining who should participate;

(3) Establishment of program participation requirements;

(4) Development of definition of good cause for failing to participate;

(5) Development of definition of failure to participate; and

(6) Determination of how assistance shall impact on the AFDC grant as a result of a dispute involving an individual's participation.

§ 250.11 Requirement for a statewide program.

(a) Not later than October 1, 1992 the State must make the JOBS program available in each political subdivision (county, parish or independent city) where it is feasible to do so.

(b) Although all required and at least two optional components, as described in §§ 250.44 and 250.45, must be included in a State JOBS program, all such components need not be operated in every political subdivision of the State, nor need the State operate each such component to the same extent in each political subdivision.

(c)(1) If the State IV–A agency concludes that a statewide program is not feasible, appropriate justification must be submitted to the Secretary for review and approval as part of its JOBS plan, unless the following criteria are met:

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(i) A minimal JOBS program would be available in a number of political subdivisions sufficient to serve 95 percent of adult recipients; and

(ii) A complete JOBS program would be available in all Metropolitan Statistical Areas in the State, and in a number of political subdivisions sufficient to serve 75 percent of adult recipients.

(iii) A minimal program includes high school or equivalent education, as specified at § 250.44, one optional component from among those specified at § 250.45, and information and referral to available non-JOBS employment services. A complete program includes all mandatory components as well as any two optional components.

(2) The justification must include the following:

(i) The number of adult recipients that would be excluded and a comparison of:

(A) The estimated average annual unit cost per participant were the JOBS program extended to them with

(B) The estimated average annual unit cost per JOBS participant in the included areas;

(ii) A description of the local economic conditions that make operation of the program in such areas infeasible; and

(iii) Whether the State expects to expend all of its limit of entitlement, pursuant to § 250.70, for the period covered by the JOBS plan.

§ 250.12 Coordination and consultation.

State IV–A agencies are required to assure coordination of JOBS program services, including child care pursuant to § 255.3(h) of the regulations, with related services provided by other agencies.

(a) The Governor shall assure that JOBS program activities are coordinated with programs under the Job Training Partnership Act (JTPA) and with any other relevant employment, training, and education programs available within the State. At a minimum, this means that the appropriate job training and preparation components of the State JOBS plan shall be consistent with the coordination criteria specified in the Governor's coordination and special services plan required under section 121 of the JTPA.

(b) In developing the JOBS plan and carrying out the JOBS program, including the supportive services provisions, the State IV–A agency must consult and coordinate with other providers, including those specified in paragraph (c) of this section, to identify existing resources to prevent duplication of services, assure that other program services are available to enable participants to achieve self-sufficiency, and assure that costs for these other services for which welfare recipients have been eligible are not incurred by the JOBS program pursuant to § 250.72.

(c) At a minimum, the State IV–A agency must consult and coordinate with:

(1) The State agency responsible for JTPA;

(2) The State agency responsible for the Employment Service;

(3) The State education agency for programs under the Adult Education Act (20 U.S.C. 1201 *et seq.*) and Carl D. Perkins Vocational Education Act (20 U.S.C. 2301 *et seq.*); and

(4) The State agencies responsible for child care activities as described in § 255.3(h).

(d) The State IV–A agency and local welfare agencies, as appropriate, must consult with the private industry councils (as established under section 102 of the JTPA):

(1) On the development of arrangements and contracts under JOBS, as described in § 250.13, and under the JTPA; and

(2) To identify and obtain advice on the types of jobs available, or likely to become available, in the area. The State IV–A agency must ensure that JOBS provides training only for the types of jobs which are, or are likely to become, available in the area, and that resources are not expended on training for jobs that are not likely to become available.

(e) The State IV–A agency must exchange certain information with an eligible Indian Tribe or Alaska Native organization interested in conducting a separate JOBS program under § 250.91.

(1) This information includes available data on adult Tribal or Alaska Native organization AFDC recipients necessary to determine a Tribe or organization's JOBS funding level and designated service area, as appropriate, as described in § 250.93(b). State and Tribal and Alaska Native organization representatives receiving such AFDC recipient data must follow comparable standards of confidentiality as described in § 250.93(b)(2).

(2) Since the State IV–A agency maintains responsibility for providing basic AFDC program services, such as eligibility notifications, as well as child care funds or services, to Tribal and Alaska Native organization JOBS participants, the State and such grantee must coordinate interrelated activities as described in § 250.94(a) and Part 255.

§ 250.13 Contracting authority.

The State IV–A agency shall carry out the JOBS program directly or through arrangements or under contracts with administrative entities under section 4(2) of the Job Training Partnership Act (JTPA), with State and local educational agencies, and with other public agencies, Indian Tribes or Alaska Native organizations or private organizations (including community-based organizations as defined in section 4(5) of the JTPA).

(a) Arrangements and contracts entered into under this section may cover any service or activity (including outreach, information and referral) to be made available under the JOBS program. Such contracted service or activity must be consistent with the requirements under § 250.10 and must not otherwise be available on a nonreimbursable basis, as specified in § 250.72(c).

(b) The State IV–A agency must consult with the private industry councils on the development of arrangements and contracts under JOBS pursuant to § 250.12.

(c) In selecting service providers, the State IV–A agency must take into account appropriate factors which may include past performance in providing similar services, demonstrated effectiveness, fiscal accountability, cost efficiency, ability to meet performance standards, and such other factors as the State IV–A agency may determine to be appropriate.

(d) For purposes of claiming FFP, the State IV–A agency must segregate costs by the applicable matching rates, as defined at § 250.73(b)(1), in any arrangement or contract entered into under this section.

(e) Services contracted under JOBS are subject to the requirements of Part 92, excluding the provisions at § 92.30(d)(4).

Subpart C—State Plan Requirements and Content

§ 250.20 Requirement for a State JOBS plan.

(a) As a condition of participation in the AFDC program, the agency responsible for administering or supervising the administration of the IV–A plan must:

(1) No later than October 1, 1990, establish and operate a JOBS program under a JOBS plan that has been approved by the Secretary before implementation and that meets the requirements of this Part;

(2) Submit its initial JOBS plan to the Secretary for review and action at least 45 days prior to the anticipated implementation date; and

(3) Submit its initial Supportive Services plan, in accordance with §§ 255.1 and 256.1 concurrent with the initial JOBS plan, except that a State which has not submitted a JOBS plan prior to April 1, 1990, must submit a Supportive Services plan for transitional child care in accordance with § 256.1 at least 45 days prior to implementation.

(b) The initial JOBS plan and Supportive Services plan will be subject to prior approval by the Secretary. FFP will only be available for expenditures incurred after approval by the Secretary.

(c) A State JOBS plan and Supportive Services plan must be submitted to:

(1) The Governor for review and comment; and

(2) The State Job Training Coordinating Council (SJTCC) and the State education agency for review and comment at least 60 days prior to submittal to the Secretary. The plan shall be published and otherwise made available to the public, including members of federally-recognized Tribes and Alaska Native organizations in the State, for review and comment, concurrent with submittal to the SJTCC and the State education agency. Comments received shall be resolved by the State.

(d)(1) State JOBS plans and Supportive Services plans submitted to the Secretary prior to the issuance of the JOBS and Supportive Services plan preprints shall be considered interim plans.

(2)(i) A State operating a JOBS program and providing supportive services under interim plans shall submit a new JOBS plan and a new Supportive Services plan for approval within 60 days of the date that JOBS and Supportive Services plan preprints are issued by the Secretary.

(ii) The new JOBS and Supportive Services plans must be submitted to the SJTCC no later than the date submitted to the Secretary, if substantial changes to the interim plans have been made.

(iii) Interim plans shall remain in force until formal action on the new plans is taken (i.e., approval or disapproval) by the Secretary.

(e)(1) The State must submit an update of its JOBS and Supportive Services plans to the Secretary for approval not less than every two years. The update shall be considered a new JOBS plan and Supportive Services plan, and shall be submitted to the Secretary for approval at least 90 days prior to beginning of the next biennial period. The State must follow the public review and comment provisions in paragraph (c) of this section.

(2) The update must consist of:

(i) Assurances regarding those parts of the State JOBS Plan and Supportive Services plan that remain unchanged;

(ii) A description of any changes in program operations including but not limited to changes in components and target populations served;

(iii) An estimate of the number of persons to be served by the program during the next biennium; and

(iv) An assurance that the State JOBS plan is consistent with the coordination criteria specified in the current Governor's Coordination and Special Services Plan required under section 121 of the JTPA.

(3)(i) For all States the first biennial update must be submitted by July 1, 1992, for the period beginning October 1, 1992.

(ii) A State JOBS plan and Supportive Services plan approved pursuant to paragraph (d)(2) of this section shall remain in force until formal action is taken (i.e., approval or disapproval) by the Secretary on the first biennial update.

(iii) Each approved biennial update shall remain in force until formal action is taken (i.e., approval or disapproval) by the Secretary on the update for the following biennial period.

(f) The State shall submit proposed amendments to approved plans as necessary and they shall be reviewed according to the process described at § 201.3 (f) and (g).

(g) A State that submits a plan, an amendment to an existing plan, or a biennial update that is not approvable will be given the opportunity to make revisions before formal disapproval; upon formal disapproval, a State may request a hearing pursuant to the process set forth in § 201.4 and Part 213.

§ 250.21 State plan content.

A State's JOBS plan must include the following:

(a) Assurances that the title IV–A agency will, upon approval of the JOBS plan by the Secretary, have in effect and operation:

(1) A JOBS program that meets the requirements of section 402(a)(19) and title IV–F of the Act, including assurances:

(i) By cross-reference to appropriate statutory and regulatory citations, that the JOBS program will meet all statutory and regulatory requirements; and

(ii) That to the extent the program, including child care, is available in a political subdivision of a State and the State's resources otherwise permit, the State will require non-exempt recipients to participate; and

(2) A program for providing child care and other supportive services consistent with the requirements of the Act and with the State's separate Supportive Services plan, pursuant to §§ 255.1 and 256.1.

(b) A statement of the goals and objectives of the State JOBS program, and how the State intends to implement the program during the biennium to support those goals and objectives. If the program is not implemented initially on a statewide basis, this description must include the anticipated schedule for phased implementation.

(c) A description of the administrative structure for the JOBS program, including:

(1) A description of the conciliation process and any alternative fair hearing process the State proposes; and

(2) The manner in which the title IV–A agency will assure, in accordance with section 402(a)(44) of the Act, that the benefits and services under title IV–F of the Act will be furnished in an integrated manner with those of titles IV–A and IV–D of the Act.

(d) Annual estimates of the numbers of persons to be served on a monthly basis during the biennium covered by the plan.

(e) Identification of the subdivisions, if any, proposed to be excluded. For any period after September 30, 1992, appropriate justification as required in § 250.11(c) must be included for not establishing the program in such subdivisions.

(f) A description of the nature of coordination with public and private education and training agencies and organizations, at the political subdivision and State levels, as required at § 250.12, and a description of the services identified as available and appropriate for participants in the State JOBS program.

(g) Descriptions of program operations to include:

(1) The required and optional components that will be provided, and the extent to which the range of services will vary by political subdivision or otherwise;

(2) The needs to be addressed through the provision of these services;

(3) The extent to which and the bases upon which, the State anticipates each service and activity will be available to JOBS participants during the biennium:

(i) On a non-reimbursable basis;

(ii) Through direct agency provision; and

(iii) On a purchase basis;

(4) The contracting processes that will be used to deliver services for the State IV–A agency, pursuant to § 250.13, including:

(i) The service providers such as JTPA agencies, educational agencies, and other public agencies or private organizations; and

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(ii) The types of services to be provided such as skills training, vocational education, etc.;

(5) The orientation processes the IV–A State agency will use to provide program information to AFDC applicants and recipients pursuant to § 250.40(a); this description must specify the methods and timeframes for providing this information;

(6) The assessment processes the State IV–A agency will use, including variations among political subdivisions, pursuant to § 250.41(a). This description must include:

(i) The types of assessment tools selected (self-assessment survey, literacy tests, vocational aptitude testing, etc.); and

(ii) The bases for selection;

(7) If the State elects to use agreements or contracts with participants, pursuant to § 250.42(a), the purpose and content of such agreements or contracts and the basis for determining the groups of participants for which they will be used;

(8) If the State elects to use a case management system pursuant to § 250.43,

(i) The functions;

(ii) The participants to be included under the system (target populations vs. all participants); and

(iii) If not statewide, identification of the populations or areas that will use case management; and

(9) The process for developing an employability plan, pursuant to § 250.41.

(h) A description of any work experience program under § 250.63 or other employment, education, or training under § 250.47 that the State proposes.

(i) A description of how the State will determine the appropriateness of educational activities for different categories of participants, to include:

(1) State policy on educational requirements for parents under age 20 who have not completed high school or its equivalent, including any criteria for excluding parents under age 18 from such requirements;

(2) Any training or work alternatives in the case of a parent aged 18 or 19 who has not completed high school or its equivalent;

(3) State policy on educational activities for those age 20 or over without a high school diploma or GED;

(4) Criteria for determining those for whom attendance in higher education or a school or course of vocational or technical training is appropriate; and

(5) Policies for approval of postsecondary education (under section 482(d)(1)(B)(i) of the Act).

(j) A description of the criteria that will be used to refer participants to services and activities. The plan must describe the approaches the program will use for individuals who are:

(1) Members of the target populations described in § 250.1; and

(2) Parents and caretakers with children under the age of 6, including the State's exemption policy for those with children between the ages of 1 and 3.

(k) With regard to Unemployed Parent cases,

(1) A description of agency policies on exemptions and participation of a principal earner and the other parent; and

(2) A description of any State-designed work program to meet the UP work requirements at § 250.33.

(l) The State's policy for determining whether self-initiated education and training constitutes participation consistent with the individual's employment goals, and if the education or training is appropriate, how the State will assure that any other participation by such individual in the JOBS program will not be permitted to interfere.

(m) A description of any agreements the State IV–A agency has reached with the State's education agency, with regard to determining, consistent with the relevant definitions in § 250.1:

(1) Whether an individual is attending such education or training activities in good standing;

(2) Whether an individual is making satisfactory progress in such education or training; and

(3) How attendance that meets these specifications will be regularly determined to be continuing.

(n) A description of the State IV–A agency's actions to assure that training and education activities conducted under JOBS are directed toward specific jobs that are available, or are likely to become available, in the State.

(o) An assurance that individuals are not discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition in assignment to training and education developed under the JOBS program.

Subpart D—Participation Requirements, Exemptions and Sanctions

§ 250.30 Requirements for individual participation and exemptions.

A State JOBS plan must provide that:

(a) Where State resources otherwise permit, all recipients of AFDC who live in a subdivision covered by a JOBS program and for whom the State IV–A agency has guaranteed child care in accordance with Part 255 shall be required to participate in JOBS except as provided under paragraph (b) of this section.

(b) An individual shall be considered exempt and not be required to participate if she:

(1) Is a dependent child who is under age 16 (except a minor parent who is considered an adult recipient for purposes of this part) or attends, full-time, an elementary, secondary, vocational or technical school;

(2) Is ill, when determined by the State on the basis of medical evidence or another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training;

(3) Is incapacitated, when verified by the State that a physical or mental impairment, determined by a physician or a licensed or certified psychologist, by itself or in conjunction with age, prevents the individual from engaging in employment or training under JOBS;

(4) Is 60 years of age or older;

(5) Resides in a subdivision of the State where the JOBS program is available, but in a location which is so remote from a JOBS program or activity that effective participation is precluded. The individual shall be considered remote if a round trip of more than 2 hours by reasonably available public or private transportation, exclusive of time necessary to transport children to and from a child care facility, would be required for a normal work or training day. However, if normal round trip commuting time in the area is more than 2 hours, then the round trip commuting time shall not exceed the generally accepted community standards;

(6) Is needed in the home because another member of the household requires the individual's presence due to illness or incapacity as determined by a physician or a licensed or certified psychologist, and no other appropriate member of the household is available to provide the needed care;

(7) Is working 30 or more hours a week. The State IV–A agency may establish minimum standards in its JOBS plan for work that qualifies an individual for this exemption;

(8) Is pregnant, and it has been medically verified that the child is expected to be born in the month in which participation would be required or within the following six-month period; or

(9)(i) Subject to paragraph (b)(9)(iv) of this section, is the parent or other relative of a child under 3 years of age (or an age less than 3 but not less than 1, if the State plan so provides) who is personally providing care for the child; or

(ii) Subject to paragraph (b)(9)(iv) of this section, is the parent or other relative personally providing care for a child under 6 years of age, unless the State IV–A agency assures that child care will be guaranteed and that participation in the program by the parent or relative will not be required for more than 20 hours per week.

(iii) Only one parent or other relative in a case may be exempt under paragraph (b)(9)(i) or paragraph (b)(9)(ii) of this section.

(iv) In the case of a family eligible for AFDC by reason of the unemployment of the parent who is the principal earner, only one parent may be exempt under paragraph (b)(9)(i) or paragraph (b)(9)(ii) of this section. The State IV–A agency may:

(A) Limit the exemptions in paragraph (b)(9)(i) and paragraph (b)(9)(ii) of this section to the parent who is not the principal earner;

(B) Make the exemptions in paragraph (b)(9)(i) and paragraph (b)(9)(ii) of this section inapplicable to both parents and require their participation in the program if child care in accordance with Part 255 is guaranteed with respect to the family.

(c) The State IV–A agency will reevaluate any exemption at such time as the condition is expected to terminate but no less frequently than each redetermination of AFDC eligibility.

§ 250.31 Volunteers.

The State IV–A agency must provide that applicants for and recipients of AFDC who are exempt under § 250.30 from participation in the program or who are not otherwise required by the State IV–A agency to participate will be allowed to do so on a voluntary basis to the extent that the program is available in the applicable political subdivision and State resources otherwise permit.

(a) The State IV–A agency shall give first consideration to applicants for or recipients of AFDC who volunteer to participate in determining the priority of participation within the target populations described at § 250.1.

(b) When an individual who volunteers to participate stops participating in the program without good cause as defined at § 250.35,

(1) If she has been determined to be exempt pursuant to § 250.30, she shall not be given priority to participate so long as other individuals are actively seeking to participate.

(2) If she has been determined not to be exempt pursuant to § 250.30, she shall be subject to sanction as described at § 250.34.

§ 250.32 Participation requirements for education.

(a) To the extent that the program is available in the political subdivision involved and State resources otherwise permit, in the case of a custodial parent who is not yet 20 years of age, has not completed a high school education (or its equivalent) and is not exempt from participation under § 250.30(b), the State shall require such a parent to participate in educational activities as described in § 250.44(a)(1). For purposes of this section, custodial parent means the parent who lives with the child, and custodial parents exempt under § 250.30(b)(9) because of the age of the youngest child.

(1) The State IV–A agency may require full-time participation (as defined by the educational provider) in educational activities directed toward the attainment of a high school diploma or its equivalent. This includes individuals who would otherwise only have to participate on a part-time basis because their youngest child is under 6 years of age.

(2) The State IV–A agency may excuse a custodial parent who is under age 18 from the school attendance requirement if such parent is determined to be beyond the State's compulsory attendance requirements and if the State's JOBS plan contains criteria for making this determination. The State's criteria:

(i) Must provide that each determination is based upon an individual assessment of the parent rather than upon the application of categorical exemptions;

(ii) May not rely solely upon grade completion; and

(iii) Must provide for participation in another educational activity as defined under § 250.44(a) from which the individual could benefit.

(3) The State IV–A agency may require a custodial parent who is age 18 or 19, and required to participate in JOBS under this section, to participate in training or work activities (subject to the 20-hour limit in § 250.30(b)(9)(ii)) in lieu of educational activities described at § 250.44(a) if one of the following conditions is met:

(i) Such parent fails to make good progress in successfully completing educational activities, or

(ii) Prior to any assignment of the individual to such educational activities it is determined, based on an educational assessment and the employment goal established in the individual's employability plan, that participation in educational activities is inappropriate for such parent.

(b) If a State IV–A agency requires an individual who has attained the age of 20 years and has not earned a high school diploma (or its equivalent) to participate in JOBS, the State agency shall include educational activities consistent with her employment goals as a component in the individual's employability plan. Any other services or activities may not be permitted to interfere with her participation in appropriate educational activities under § 250.44. However, a State IV–A agency may elect not to require an individual to participate in educational activities if:

(1) The individual demonstrates a basic literacy level; or

(2) The long-term employment goal of the individual, as identified by the State IV–A agency in her employability plan, does not require a high school diploma (or equivalent).

§ 250.33 Participation requirements for unemployed parents.

(a) The State IV–A agency shall require that at least one parent, in any family eligible for AFDC by reason of the unemployment of the parent who is the principal earner, participate for a total of at least 16 hours a week in a work supplementation program, a community work experience program, or other work experience program, on-the-job training, or a State-designed work program described in the State JOBS plan and approved by the Secretary. A State-designed work program may not substitute education or training activities for the work requirement.

(b) In the case of a parent under age 25 who has not completed high school or an equivalent course of education, the State IV–A agency may require the individual to participate in educational activities as defined at § 250.44(a) in lieu of one or more of the programs specified in paragraph (a) of this section. An individual meets the participation requirements of this section if he or she is making satisfactory progress as defined at § 250.1.

(c) An individual participating in a community work experience program under § 250.63 shall be considered to have met the participation requirement in paragraph (a) of this section if the individual participates for the maximum number of hours in any month calculated in accordance with § 250.63(d)(1).

§ 250.34 Sanctions.

(a)(1) When an AFDC recipient who is required to participate in the JOBS program, including those individuals required to participate because the State IV–A agency exercised its option under

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§ 250.30(b)(9)(iii), fails without good cause to participate in the program or refuses without good cause to accept employment, the sanctions in paragraph (c) of this section shall apply during the following periods:

(i) For the first such failure or refusal, until the failure or refusal ceases;

(ii) For the second such failure or refusal, until the failure or refusal ceases, or 3 months, whichever is longer; and

(iii) For any subsequent failure or refusal, until the failure or refusal ceases, or 6 months, whichever is longer.

(2) Failure to participate in the program includes failure to meet State IV–A agency requirements for orientation, assessment, employability development, plan or case management.

(b) For the purpose of determining that an individual's failure to comply has ceased in the instance of a first sanction, a State IV–A agency may require the individual to participate in the activity to which she was previously assigned or an activity designed by the State to lead to full participation for a period of up to two weeks before terminating the sanction. If she successfully participates in such activities, the sanction will be considered to have terminated as of the day she agreed to participate. If no such activity is available, the sanction will terminate on the day she agrees to participate.

(c) During the sanction period:

(1) The State IV–A agency will not take into account the individual's needs in determining the family's need for assistance and the amount of the assistance payment.

(2) If the individual is a parent whose family is eligible in accordance with § 233.100, the State IV–A agency will not take into account the needs of his or her spouse in determining the family's need for assistance and the amount of the assistance payment unless the spouse is participating in the JOBS program.

(d) If such individual is a parent or other caretaker relative, payments for the remaining members of the assistance unit will be in the form of protective or vendor payments in accordance with § 234.60(a)(12). However, if after making reasonable efforts the State IV–A agency is unable to locate an appropriate individual to whom protective payments can be made, the State may continue to make payments on behalf of the remaining members of the assistance unit to the sanctioned caretaker relative.

(e) The State IV–A agency will promptly remind any individual in writing whose failure or refusal has continued for 3 months, of the individual's option to end the sanction. The notice shall advise that:

(1) She may immediately terminate the first or second sanction by participating in the program or accepting employment; and

(2) She may terminate any subsequent sanction after six months have elapsed by participating in the program or accepting employment.

§ 250.35 Good cause.

For the purposes of § 250.34(a), good cause for failure to participate in the program or refusal to accept employment shall be found if:

(a) The individual is the parent or other relative personally providing care for a child under age 6 and the employment would require such individual to work more than 20 hours per week;

(b) Child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for an individual to participate or continue participation in the program or accept employment and such care is not available and the State agency fails to provide such care;

(c) The employment would result in the family of the participant experiencing a net loss of cash income. A participant may not claim good cause under this paragraph if the State IV–A agency assures that the family will not experience a net loss of cash income by making a supplemental payment. Net loss of cash income results if the family's gross income less necessary work-related expenses is less than the cash assistance the individual was receiving at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income and cash assistance; or

(d) The individual meets other grounds for good cause set forth by the State IV–A agency in its JOBS plan.

§ 250.36 Conciliation and fair hearings.

(a) Each State IV–A agency shall establish a conciliation procedure to resolve disputes related to an individual's participation in the JOBS Program.

(b) If a dispute is not resolved through conciliation, the State shall provide the individual with an opportunity for a hearing. The hearing process may follow the provisions of § 205.10. Alternatively, the hearing process may be established especially for the JOBS program. However, assistance may not be suspended, reduced, discontinued, or terminated as a result of a dispute involving an individual's participation in JOBS unless the hearing meets the due process standards set forth by the U.S. Supreme Court in *Goldberg* v. *Kelly*, 397 U.S. 254 (1970).

Subpart E—Operation of State JOBS Programs/Program Components

§ 250.40 Providing program information to AFDC applicants and recipients.

(a) The State IV–A agency must at the time of application or redetermination inform all AFDC applicants and recipients, in writing and orally as appropriate, of the availability of the program activities and the supportive services for which they are eligible, and agency and participant responsibilities, including:

(1) Education, employment, and training opportunities available under the JOBS plan;

(2) Supportive services, including, but not limited to, child care during participation, transitional child care, health coverage transition options pursuant to section 1925 of the Act, and transportation and other work-related supportive services provided under the JOBS plan;

(3) The obligations of the State IV–A agency including the program and supportive services to be provided, as described in paragraphs (a) (1) and (2) of this section;

(4) The rights, responsibilities, and obligations of participants in the program, including but not limited to, the grounds for exemptions from participation and the consequences for refusing or failing to participate (including the effect on volunteers as described in § 250.31);

(5)(i) The types and locations of child care services reasonably accessible to participants in the program. Such information may be provided directly or through arrangement with others such as the appropriate human services or resource and referral agency;

(ii) The assistance that is available to help participants select appropriate child care services; and

(iii) The assistance available, on request, to help participants obtain child care services.

(b) The agency must also inform applicants and recipients of their responsibility to cooperate in establishing paternity and enforcing child support obligations, as described in Part 232, and must assist individuals in obtaining the paternity establishment and child support services for which they may be eligible.

(c)(1) After the State IV–A agency gives an AFDC applicant the information described in paragraphs (a) and (b) of this section, the State IV–A agency must notify the individual, in writing, within one month of the determination of eligibility, of the opportunity to indicate her desire to participate in the program and provide a clear description of how to enter the program.

(2) After the State IV–A agency gives an AFDC recipient the information described in paragraphs (a) and (b) of this section, the State IV–A agency must notify the individual, in writing, within one month of providing that information, of the opportunity to indicate her desire to participate in the program, and provide a clear description of how to enter the program.

(3) The notification provision in paragraph (c)(1) and (c)(2) of this section does not prohibit the State IV–A agency from requiring non-exempt recipients, or applicants in the case of job search, to participate in the JOBS program prior to the one-month notice.

(4) If a non-exempt individual indicates a preference not to participate, in response to such notification under paragraph (c)(1) or (c)(2) of this section, such a preference does not prevent the State IV–A agency from otherwise requiring participation in JOBS.

§ 250.41 Initial assessment and employability plan.

(a)(1) Within a reasonable time period prior to participation the State IV–A agency must make an initial assessment of employability based on:

(i) The individual's educational, child care, and other supportive services needs;

(ii) The individual's proficiencies, skills deficiencies and prior work experience;

(iii) A review of the family circumstances, which may include the needs of any child of the individual; and

(iv) Other factors that the State IV–A agency determines are relevant in developing the employability plan, as described in paragraph (b) of this section.

(2) The State IV–A agency may conduct the initial assessment through various methods such as interviews, testing, counseling and self-assessment instruments.

(b) On the basis of the assessment described in paragraph (a) of this section, the State IV–A agency must develop an employability plan in consultation with the participant, including a participant in a self-initiated activity pursuant to § 250.48 of this part.

(1) The employability plan must:

(i) Contain an employment goal for the participant;

(ii) Describe the services to be provided by the State IV–A agency, including child care and other supportive services pursuant to Part 255;

(iii) Describe the JOBS activities, as described in Subpart E of this part, that will be undertaken by the participant to achieve the employment goal; and

(iv) Describe any other needs of the family, pursuant to paragraph (a)(1)(iii) of this section, that might be met by JOBS, such as participation by a child in drug education or in life skills planning sessions.

(2) The employability plan shall take into account:

(i) Available program resources;

(ii) The participant's supportive services needs;

(iii) The participant's skills level and aptitudes;

(iv) Local employment opportunities; and

(v) To the maximum extent possible the preferences of the participant.

(3) The employability plan shall not be considered a contract.

(4) Final approval of the plan rests with the State IV–A agency.

§ 250.42 Agency-participant agreement.

(a) Following the initial assessment and the development of the employability plan as described in § 250.41, the State IV–A agency may require the participant (or the adult caretaker in the family of which the participant is a member) to negotiate and enter into an agreement with the State IV–A agency.

(1) Such agreement should indicate at a minimum:

(i) The purpose of the agreement;

(ii) The participant's obligations under the program;

(iii) The length of participation in the program, including the number of hours of participation per week; and

(iv) The educational, training and employment activities and the supportive services, including child care, to be provided by the agency during the period of participation.

(2) If the State IV–A agency elects this option, it must give the participant such assistance as she may need to review and understand the agreement.

(3) This agreement may be considered a contract between the State IV–A agency and the JOBS participant, pursuant to applicable State laws and regulations.

(b) If the State IV–A agency elects to use agreements or contracts, it does not have to use them in all political subdivisions having JOBS programs. The State IV–A agency, however, must apply this provision to participants on an equitable basis.

§ 250.43 Case management.

(a) The State IV–A agency may assign a case manager to a participant and the participant's family. The decision to assign a case manager may be made on a case-by-case basis.

(b) The case manager must be responsible for assisting the family to obtain any services that may be needed to assure effective participation in the program.

§ 250.44 Mandatory components.

A State's JOBS program must include the following four services and activities. The State IV–A agency need not make each service or activity a discrete offering, but may combine several into a single program activity, provided that the State IV–A agency can adequately distinguish the principal components for the purpose of Federal reporting requirements. The required services and activities are:

(a) Any educational activity below the postsecondary level that the State IV–A agency determines to be appropriate to the participant's employment goal. Such activities may be combined with training that the State IV–A agency determines is needed in relation to the participant's employability plan. The educational activities that must be made available include, but are not limited to:

(1) High school education or education designed to prepare a person to qualify for a high school equivalency certificate;

(2) Basic and remedial education that will provide an individual with a basic literacy level, equivalent to successful completion of grade 8, in order to fulfill an employment goal; basic education is instruction to provide these educational skills for the first time; remedial education involves repetition of such instruction previously given to the participant; and

(3) Education in English proficiency for an individual who is not sufficiently competent to speak, read or write the English language to allow employment commensurate with her employability goal;

(b) Job skills training, which includes vocational training for a participant in technical job skills and equivalent knowledge and abilities in a specific occupational area. The State IV–A agency must develop qualitative measures for making good or satisfactory progress, pursuant to § 250.1, for such programs, including those arranged through contracts and agreements, in order to qualify the training program as a component activity under JOBS;

(c) Job readiness activities that help prepare participants for work by

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assuring that participants be familiar with general work place expectations, and exhibit work behavior and attitudes necessary to compete successfully in the labor market; and

(d) Job development and job placement activity by the agency, in soliciting a public or private employer's unsubsidized job opening, or in discovering such job openings, and the marketing of participants, and securing job interviews for participants.

§ 250.45 Optional components.

A State JOBS program must include, but is not limited to at least, two of the following four components:

(a) Group and individual job search, as described in § 250.60;

(b) On-the-job training, as described in § 250.61;

(c) Work supplementation, as described in § 250.62; and

(d) Community work experience program, or other approved work experience program, as described in § 250.63.

§ 250.46 Postsecondary education.

A State's JOBS program may include referral of a participant to postsecondary education, as determined necessary to meet any individual goals that are directly related to obtaining useful employment in a recognized occupation, within limits established by the State IV–A agency and reflected in the State JOBS plan. In accordance with § 233.20(a)(2)(v), the costs of such education, including tuition, books and fees, do not qualify for FFP as special needs.

§ 250.47 Other education, training, and employment activities.

(a) A State's JOBS program may include education, training, and employment activities other than those described in §§ 250.44 through 250.46, but which are included in the approved State JOBS plan.

(b) In no event will a State program of public service employment be approved under JOBS.

§ 250.48 Self-initiated education or training.

(a) The State IV–A agency may allow a parent or other caretaker relative or any dependent child in the family who is attending in good standing an institution of higher education (as defined in section 481(a) of the Higher Education Act of 1965), or a school or other entity offering a course of vocational or technical training, at the time she would otherwise be required to commence participation in the JOBS program, to continue to attend. Vocational or technical training consists of postsecondary education, as defined in § 250.1, that both leads to useful employment in a recognized occupation and results in other than a baccalaureate or advanced degree. Such participation shall meet the individual's obligation to participate in accordance with requirements at § 250.30 if the following conditions are met:

(1) The participant is attending at least half-time as defined by the institution; and

(2) The participant is making satisfactory progress in such institution, school, or course; and

(3) The course of study is consistent with the individual's employment goal.

(b) An applicant or recipient shall appear for an assessment and the development of an employability plan so that the State IV–A agency may determine the appropriateness of the educational or training activity.

(c) If the State IV–A agency approves the educational or training activity, any other JOBS activities in which such individual participates may not be permitted to interfere with the education or training activity.

(d) A State IV–A agency may restrict postsecondary education or training in its State JOBS plan.

(e) The costs of such education or training shall not constitute federally reimbursable expenses under JOBS.

(f) The costs of child care, transportation and other supportive services which the State IV–A agency determines are necessary for such attendance are eligible for Federal reimbursement pursuant to § 255.4.

Subpart F—[Reserved]

Subpart G—Optional Components of State JOBS Programs

§ 250.60 Job search program.

(a) A State IV–A agency may operate a job search program as a component of its JOBS program. A job search program may serve participants in either group or individual job-seeking activities.

(1) Individual job search includes the provision of counseling, training, information dissemination and support on a one-to-one basis.

(2) Group job search includes the provision of counseling and training in a group setting where applicants or recipients are taught job-seeking skills, and may include a phone bank from which participants contact potential employers.

(b) In addition to non-exempt recipients, a State IV–A agency may require an individual applying for AFDC to participate in job search unless she is exempt under § 250.30(b).

(c) A State IV–A agency may require an individual to participate in a job search program from the time she files an application for aid for an initial period of up to eight consecutive weeks. Following this initial period (which may extend beyond the date when eligibility is determined) the State IV–A agency may require additional participation in job search not in excess of eight weeks (or its equivalent) in any period of 12 consecutive months. The first such period of 12 consecutive months shall begin at any time following the close of the initial period.

(1) A State IV–A agency may not delay the processing of an individual's application for aid because of her participation in job search.

(2) In no event may an individual be required to participate in job search for more than 3 weeks before the State IV–A agency conducts an assessment as provided at § 250.41.

(d) Additional job search activities beyond those required in paragraph (c) of this section may be required only in conjunction with some other educational, training, or employment activity designed to improve the individual's employment prospects.

(e) Job search by an individual under this section shall in no event be treated, for any purpose, as an activity under JOBS if the individual has participated in such job search for 4 months out of the preceding 12 months.

§ 250.61 On-the-job training.

(a) A State IV-A agency may operate an on-the-job training (OJT) program as a component of its JOBS program. Under OJT a participant is hired by a private or public employer and while engaged in productive work receives training that provides knowledge or skills essential to the full and adequate performance of that job. The State IV–A agency or its agent shall enter into a contract with the OJT employer to subsidize the extraordinary costs incurred by the employer in providing training and additional supervision to the participant.

(b) Payments to an employer for on-the-job training shall not exceed an average of 50 percent of the wages paid by the employer to the participant during the period of such training.

(c) A participant in OJT shall be compensated by the employer at the same rates, including benefits and periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the higher of the Federal minimum wage or applicable State or local minimum wage law.

(d) Wages paid to participants in OJT will be considered to be earned income for purposes of any provision.

(e) If a participant in OJT becomes ineligible for AFDC pursuant to the rules applicable to earned income at § 233.20, or pursuant to the 100-hour rule at § 233.100 in the case of a principal earner in an unemployed parent case, she shall remain a JOBS participant for the duration of the OJT and may be eligible for supportive services under Part 255 available to other JOBS participants similarly situated.

(f) If the individual would have been eligible for transitional child care pursuant to Part 256 at the time the ineligibility for AFDC occurred, she shall be eligible for transitional child care after the OJT ends for the number of months that remain in the 12-month period following the month in which she became ineligible for AFDC after OJT ended. As an alternative, the State IV–A agency may treat all child care provided after an individual in an OJT job loses eligibility for AFDC as transitional child care if the individual meets the requirements at Part 256.

(g) The State IV–A agency must develop qualitative measures for making good or satisfactory progress, pursuant to § 250.1, for OJT, in order to qualify as a component activity under JOBS.

§ 250.62 Work supplementation program.

(a) A State IV–A agency may operate a work supplementation program as a component of its JOBS program. Under the work supplementation program, a State IV–A agency may use AFDC funds to develop and subsidize jobs for AFDC recipients as an alternative to aid.

(b) A "supplemented job" is a job provided under this section to an eligible individual by the State or local agency administering the State IV–A plan or by any other employer for which all or part of the wages are paid by such State or local IV–A agency.

(1) The State IV–A agency may use whatever means it determines appropriate to provide or to subsidize jobs for participants.

(2) The State IV–A agency may provide or subsidize any type of job. It may determine the length of time the position is to be provided or subsidized, the amount of wages to be paid to the recipient, the amount of subsidy to be provided by the State or local IV–A agency, and the conditions of participation, except that no participant may be assigned to fill any established, unfilled position vacancy in accordance with section 484 of the Act.

(c) An eligible individual is an individual who is in a category which the State IV–A agency determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the supplemented job, be eligible for AFDC if the State IV–A agency did not have a work supplementation program in effect. For the purpose of this section, time of placement is defined as the date on which the State IV–A agency and the employer reach agreement on the terms of the placement and the specific individual to be placed.

(d) A State or local IV–A agency administering the State plan is not required to provide employee status to any eligible individual to whom it provides a job position or with respect to whom it subsidizes all or part of the wages paid to such individual by another entity under this program, nor is it required to provide that eligible individuals filling job positions provided by other entities under such program be provided employee status by such entity during the first 13 weeks in which they fill such position.

(e) Participants in supplemented jobs will be paid wages which shall be considered to be earned income for purposes of any provision of law.

(f) The State IV–A agency may elect to calculate the amount of an eligible individual's residual (direct AFDC) grant, if any, at the time of placement in the supplemented job and base the amount of the residual grant (the AFDC grant minus earnings and other countable income) for the duration of the individual's participation in the supplemented job (in whole or part) on that calculation. Such a policy is known as "freezing the grant." If the individual becomes otherwise ineligible for AFDC benefits, the State IV–A agency may allow the individual to continue in the supplemented job and divert the AFDC grant to the wage pool, but the State IV–A agency shall not pay a residual grant to the individual.

(g) At State option, individuals who hold supplemented jobs may be exempt from the retrospective budgeting requirements at Part 233 and monthly reporting, and the amount of the aid which is payable to the family of any such individual for any month, or which would be so payable but for the individual's participation in a supplemented job, shall be determined on the basis of the income and other relevant circumstances in that month.

(h) If an individual in a supplemented job would have been eligible for transitional child care pursuant to Part 256 at the time the ineligibility for AFDC occurred, she shall be eligible for transitional child care after her supplemented job ends for the number of months that remain in the 12-month period following the month in which she became ineligible. In the alternative, the State IV–A agency may treat all child care provided after an individual in a supplemented job loses eligibility for AFDC as transitional child care if the individual meets the requirements at Part 256.

(i) A State IV–A agency may adjust the standard of need under the State IV–A plan as the State determines to be necessary and appropriate to carry out a work supplementation program. Such changes in the need standard may be made notwithstanding § 233.20.

(1) The standard of need in effect in those subdivisions of the State in which such program is in operation may be different from the need standard in effect in subdivisions in which such program is not available.

(2) The standard of need for categories of recipients of aid may vary among such categories as the State IV–A agency determines to be appropriate on the basis of ability to participate in the work supplementation program.

(3) A State IV–A agency may make further adjustments in the amount of aid paid under the title IV–A plan to different categories of recipients in order to offset increases in benefits from other government-provided, needs-related programs as the State IV–A agency deems necessary and appropriate to further the purpose of the work supplementation program.

(j) A State IV–A agency may reduce or eliminate the amount of earned income to be disregarded from participation in a supplemented job.

(k) Notwithstanding the time limitations on the $30 and one-third and the $30 disregard in § 233.20(a)(11), a State IV–A agency may allow a participant employed in a supplemented job to receive the $30 and one-third or the $30 disregards for one or more of the first nine months of such employment.

(l) Payments by the State IV–A agency to individuals or to entities providing jobs for recipients under the work supplementation program shall be expenditures incurred by the State IV–A agency for AFDC and shall not exceed the amount that would otherwise be payable under the title IV–A plan if the family of each individual employed in the program had received the maximum amount of aid payable to such a family with no income for a period of either 9 months or the length of the individual's employment in the program, whichever is less. (This amount is determined without regard to any adjustments made under paragraphs (i), (j), and (k) of this section, and for each month of participation, may be based upon the

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maximum amount that would otherwise have been payable for a month at the time of placement in the program).

(m) A State IV–A agency may determine the amounts to be reserved and used for providing and subsidizing jobs under this section by using a sampling methodology. The State IV–A agency must describe its sampling methodology in its JOBS plan.

§ 250.63 Community work experience program.

(a) A State IV–A agency may operate a community work experience program (CWEP) as a component of its JOBS program. The purpose of CWEP is to improve the employability of individuals not otherwise able to obtain employment by providing work experience and training to assist them to move promptly into regular public or private employment.

(b) The State IV–A agency shall provide coordination among a community work experience program, any program of job search, and the other employment-related activities under the JOBS program to insure that job placement will have priority over participation in CWEP, and that individuals eligible to participate in more than one program under JOBS are not denied AFDC on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in another. The State IV–A agency may provide that part-time participation in more than one such program may be required where appropriate.

(c) Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care.

(d)(1) The maximum number of hours that an individual may be required to work or undergo training (or both) in CWEP is the number of hours which would result from dividing the family's monthly grant amount by the greater of the Federal or the applicable State minimum wage.

(2) A State IV–A agency may include the value of food stamp benefits in computing the maximum number of hours that a food stamp recipient, who is exempt from food stamp work registration by virtue of her participation in a CWEP program under JOBS, is required to participate. No food stamp recipient, who is exempt from food stamp work registration, may be required to participate in CWEP under JOBS more than 120 hours per month.

(3) The portion of a recipient's aid for which the State is reimbursed by a child support collection (except for the $50 pass-through) shall be excluded in determining the maximum number of hours that she is required to work.

(e) Nothing contained in this section shall be construed as authorizing the payment of AFDC as compensation for work performed, nor shall a participant be entitled to a salary or to any work or training expense provided under any other provision of law by reason of her participation in a CWEP program.

(f) To the extent possible, a State IV–A agency should take into account the prior training, experience and skills of a recipient in making appropriate work assignments.

(1) After each six months of an individual's participation in a community work experience program and at the conclusion of each assignment under such a program the State IV–A agency must provide a reassessment and revision, as appropriate, of the individual's employability plan.

(2) After an individual has been assigned to a position for a total of nine months, such individual may not be required to continue in that assignment unless the maximum number of hours of participation is no greater than the family's grant divided by the highest of:

(i) The Federal minimum wage; or

(ii) The applicable State minimum wage; or

(iii) The rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

The portion of a recipient's aid for which the State is reimbursed by a child support collection (not including the $50 pass-through) shall continue to be excluded in determining the number of hours that such individual may be required to work.

(g) Participants in CWEP may perform work in the public interest (which otherwise meets the requirements of this section) for a Federal office or agency with its consent, and, notwithstanding 31 U.S.C. 1342, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

(h) Nothing in this section or in any State plan approved under § 250.20 shall be construed to prevent a State IV–A agency from operating (on such terms and conditions and in such cases as the State IV–A agency may find to be necessary or appropriate) a community work experience program.

(i) CWEP participants must not fill established, unfilled position vacancies in accordance with section 484 of the Act.

(j) FFP is not available for:

(1) Capital expenditures, depreciation or use allowances in connection with a CWEP;

(2) The cost of making or acquiring materials or equipment in connection with participation in a project; or

(3) The cost of supervision of participants.

(k) The State IV–A agency may offer any other work experience program which is described in the JOBS plan and approved by the Secretary.

(1) The program narrative for such a program should include a description of the potential sponsors; the type of activities; the hours or length of participation required; target group(s); and how the program is different from CWEP.

(2) The limitations on FFP for CWEP in paragraph (j) of this section apply to all State work experience programs.

(3) Any other work experience program must meet the general program standards at section 484 of the Act.

Subpart H—Funding

§ 250.70 JOBS allocation entitlement.

(a) Federal matching for JOBS program expenditures is limited to a national total equal to the amounts authorized and appropriated for each fiscal year.

(b) A State IV–A agency with an approved JOBS plan shall be entitled to payments from this annual limit. The maximum annual payment for a State will be the sum of two amounts:

(1) An amount equal to the State's WIN or WIN Demonstration allotment for fiscal year 1987; and

(2) An amount allocated from the balance of the annual national limitation on the basis of each State's relative average monthly number of adult recipients as defined at § 250.1.

(c) In accordance with § 92.23, JOBS funds allocated to a State IV–A agency for a given Federal fiscal year are for use during that fiscal year and must be obligated by the State no later than the end of the fiscal year. Carry forward of an unobligated balance of Federal funds to a succeeding Federal fiscal year is not permitted. An unobligated Federal fund balance at the close of a Federal fiscal year will be returned to the Federal government through the issuance of a negative grant award by the Department following receipt of the final quarterly expenditure report for the fiscal year.

(d) A State must liquidate all obligations incurred under the title IV–F grant awards not later than one year after the end of the fiscal year for which the funds were awarded and obligated. The Federal share of unliquidated obligations will be returned to the Federal government.

§ 250.71 Allotment of JOBS limit of entitlement.

(a) For a State IV–A agency that implements JOBS in a quarter of a fiscal year prior to October 1, 1990, the State's allotment from its JOBS limit of entitlement for that period will be proportional to the number of such quarters that JOBS is operational in that State in that fiscal year.

(b) An Indian Tribe or Alaska Native organization which receives the Secretary's approval to conduct a JOBS program shall receive a direct payment for operation of its JOBS program, without the requirement for a non-Federal share, pursuant to § 250.93.

(1) The amount of any such direct payment will be deducted from the amount of the State's allotment, and will be proportional to the Tribe's or organization's proportion of the State's adult AFDC recipient population, as established pursuant to § 250.93.

(2) The remaining allocation to a State IV–A agency shall be subject to the regulations governing FFP at § 250.73.

(c) The following rules apply to Puerto Rico, Guam, the Virgin Islands and American Samoa which are subject to the provisions of section 1108 of the Act:

(1) The limitations on payments contained in section 1108 do not apply to a State's annual limit of entitlement for the JOBS program as described in § 250.70(b).

(2) The availability of FFP for child care under Part 255 and the related appropriate FFP rates are described at § 255.4(b)(2) and § 255.4(g).

(3) The availability of FFP for transitional child care under Part 256 and the related appropriate FFP rates are described at § 256.4(b).

§ 250.72 Maintenance of effort.

(a) Federal JOBS funds shall not be used to supplant non-Federal funds for existing services and activities that promote the purposes of JOBS. Non-Federal funds include both State and local match of Federal funds for existing services for AFDC applicants and recipients and the amounts spent directly by the State IV–A agency without benefit of Federal matching funds.

(b) State and local IV–A agency expenditures for these purposes shall not be less than the fiscal year 1986 level. At a minimum, this requirement applies to non-Federal funds expended for programs to increase self-sufficiency, reduce welfare dependency, and increase earnings of AFDC applicants and recipients.

(c) State IV–A agency contracts and arrangements may be made for services only to the extent that they are not otherwise available on a non-reimbursable basis. "Not otherwise available" here means that if the services were available for AFDC applicants and recipients before JOBS, the State IV–A agency's provider must maintain that level of service before the State IV–A agency may contract for additional services of the same sort from that agency.

(d) Any State IV–A agency arrangement or contract must contain a certification from the provider that the services being contracted for are not otherwise available from that provider on a non-reimbursable basis. Services provided on a "non-reimbursable basis" are those services that a State is required to provide to all citizens or to the low income population, including AFDC applicants and recipients.

(e) A State IV–A agency directly providing JOBS component services must certify in the State JOBS plan that such services are not otherwise available on a nonreimbursable basis.

§ 250.73 Matching rates.

(a) From a State IV–A agency's total annual limit of entitlement, FFP is available at a rate of 90 percent for expenditures up to an amount equal to the State's WIN or WIN Demonstration allotment for fiscal year 1987. The State's match for this amount may be in cash or in kind fairly evaluated.

(b)(1) FFP will be available for the balance of a State IV–A agency's limit of entitlement as follows:

(i) At the higher of the State's Medicaid matching rate or 60 percent for program costs as described in paragraph (c) of this section, and for personnel costs (salaries and benefits) for full-time staff working in any capacity in the JOBS program; and

(ii) At 50 percent for all other administrative costs, as described in paragraph (d) of this section, and transportation, work-related expenses, and work-related supportive services as defined in Part 255.

(2) A State's match for these amounts must be in cash, not in kind. The State share for private and public funds must meet the requirements of § 235.66.

(c) The term "program costs" includes: the costs for an individual's participation in a component, such as OJT payments to an employer, and tuition and fees, where not excluded, for an individual's participation in a JOBS education component; the personnel costs (salaries and benefits) for staff and first-line supervisors directly providing component services to participants, and the costs for equipment, supplies and materials used by a JOBS participant while she is actively participating in the activities of a component.

(d) "Administrative costs" are those costs not considered "program costs", including overhead expenditures, JOBS subsystems costs, personnel costs (salaries and benefits) for staff not directly providing component services to participants such as second-line supervisors and above, personnel administration costs, and all other indirect costs.

§ 250.74 Reduced matching rate.

(a)(1) FFP for a State IV–A agency shall be 50 percent (rather than the rates described in § 250.73) in any fiscal year in which that State spends less than 55 percent of the State's JOBS expenditures on applicants and recipients who are members of the State's target populations as defined in § 250.1.

(2) If any State IV–A agency demonstrates to the satisfaction of the Secretary that the characteristics of the caseload in that State make it infeasible to meet the requirements of paragraph (a)(1) of this section, and that the State is targeting an approved set of long-term or potential long-term recipients, the match rate in § 250.73 shall be applied.

(3) A State IV–A agency need not require or allow participation of an individual in the program if, as a result of such participation, the amount payable to the State for quarters in a fiscal year with respect to the program would be reduced pursuant to paragraph (a)(1) of this section.

(b)(1) FFP for a State IV–A agency shall be 50 percent (rather than the rates described in § 250.73) in any fiscal year for the State's JOBS expenditures if the State's participation rate (determined under paragraph (b)(2) of this section) for the preceding fiscal year does not equal or exceed:

(i) 7 percent if the preceding fiscal year is 1990;

(ii) 7 percent if such year is 1991, however, no reduction in FFP shall be made in 1991 for any failure to meet the participation rate specified in (b)(1)(i) of this section;

(iii) 11 percent if such year is 1992;

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(iv) 11 percent if such year is 1993;
(v) 15 percent if such year is 1994; and
(vi) 20 percent if such year is 1995.

(2) The State IV–A agency's participation rate for a fiscal year shall be the average of its participation rates for computation periods in such fiscal year. The computation periods shall be:

(i) The fiscal year, in the case of fiscal year 1990;

(ii) The first six months, and the seventh through twelfth months, in the case of fiscal year 1991;

(iii) The first three months, the fourth through sixth months, the seventh through ninth months, and the tenth through twelfth months, in the case of fiscal years 1992 and 1993; and

(iv) Each month, in the case of fiscal years 1994 and 1995.

(3) The State IV–A agency's participation rate for a computation period shall be the number, expressed as a percentage, equal to: (i) The average monthly number of individuals required or allowed by the State to participate in the program, who have participated (as defined in § 250.1) in such program in months in the computation period, plus the number of individuals required or allowed by the State to participate in such program, who have so participated in that month in such period for which the number of such participants is the greatest; divided by (ii) twice the average monthly number of individuals required to participate in such period (other than individuals described in paragraphs (9)(i) and (9)(iv) of § 250.30(b) with respect to whom the State IV–A agency has exercised its option to require their participation and individuals sanctioned under § 250.34).

(4) If the Secretary determines that the State IV–A agency has failed to achieve the participation rate for any fiscal year specified above, he may waive, in whole or in part, the reduction in the payment rate otherwise required by paragraph (b)(1) of this section if he finds that:

(i) The State is in conformity with section 402(a)(19) and Part F of the Act;

(ii) The State has made a good faith effort to achieve the applicable participation rate for such fiscal year; and

(iii) The State has submitted a proposal which is likely to achieve the applicable participation rate for the current fiscal year and the subsequent fiscal years (if any) specified therein.

(c)(1) FFP for a State IV–A agency shall be 50 percent beginning in fiscal year 1995 for the State's JOBS expenditures (rather than the rates described in § 250.73) if the percentage of UP cases meeting the participation requirements in § 250.33, for the preceding fiscal year does not equal or exceed:

(i) 40 percent in the case of the average of each month in fiscal year 1994;

(ii) 50 percent in the case of the average of each month in fiscal year 1995;

(iii) 60 percent in the case of the average of each month in fiscal year 1996; and

(iv) 75 percent in the case of the average of each month in each of the fiscal years 1997 and 1998.

(2) The percentage of participants for any month in a fiscal year for this purpose shall equal the average of: (i) The number of individuals described in § 250.33 who have met the requirement therein; divided by (ii) the total number of principal earners (but excluding those in families who have been recipients of aid for 2 months or less if, during the period that the family received aid, at least one parent engaged in intensive job search as defined in § 250.1).

(3) If the Secretary determines that the State IV–A agency has failed to achieve the participation rate for any fiscal year specified above, he may waive, in whole or in part, the reduction in the payment rate otherwise required by paragraph (c)(1) of this section if he finds that:

(i) The State is in conformity with section 402(a)(19) and Part F of the Act;

(ii) The State has made a good faith effort to achieve the applicable participation rate and has been unable to do so because of economic conditions in the State, including significant numbers of recipients living in remote locations or isolated rural areas where the availability of work sites is severely limited, or because of rapid and substantial increases in the caseload that cannot reasonably be planned for; and

(iii) The State has submitted a proposal which is likely to achieve the applicable participation rate for the current fiscal year and the subsequent fiscal years (if any) specified therein.

§ 250.75 Activities excluded from FFP.

(a) The costs of education or training activities (such as tuition, books, fees, room, board) that the State IV–A agency determines may constitute participation under the provisions of § 250.48 shall not constitute federally reimbursable expenses for purposes of the JOBS program.

(b) No funds shall be used for construction.

(c) No funds shall be used to assist, promote, or deter union organizing.

§ 250.76 Financial reports, records, statements and audits.

(a) Financial reporting of JOBS program expenditures are generally subject to the requirements of the existing regulations at § 201.5 and § 92.41, as appropriate.

(b) Financial records and accounts shall be made available for audit purposes to the Secretary or any authorized representative.

(c)(1) JOBS program funds are subject to the administration of grant regulations at Part 92.

(2) Program funds and activities shall be audited in conformity with the requirements of §§ 92.26 and 74.62(a).

(3) JOBS program records are subject to the "retention and access requirements for records" at § 92.42.

(d) FFP improperly claimed under the JOBS program is subject to disallowance. If a State IV–A agency disagrees with a decision to disallow FFP, it can appeal within 30 days of the date of the disallowance decision. The procedures for appeal of AFDC disallowances apply, including review of the Departmental Appeals Board in accordance with Part 16 of these regulations.

§ 250.77 Costs matchable as AFDC payments.

(a) Costs incurred by the State IV–A agency for supplemental AFDC payments shall be treated as title IV–A costs with respect to which sections 403(a)(1) or 403(a)(2) of the Act apply, when such payments are made in order that a recipient's family shall not experience a net loss of cash income from the recipient having been required by the State to accept a job.

(b) Payments to employers under work supplementation as described at § 250.62(1) shall be expenditures incurred by the State IV–A agency for AFDC.

Subpart I—Uniform Data Collection Requirements

§ 250.80 Uniform data collection requirements.

(a) A State IV–A agency must provide to the Department a sample of monthly unaggregated case record data containing such data and identifiers as are specified in § 250.82. The sample must be provided in formats specified by the Department. Each record of the sample must contain an identifier that is not the Social Security number, and that protects the privacy of the individual relative to the requirements of § 205.50. The sample must be large enough to provide a precision of plus or minus one percentage point at a 95 percent

confidence level, for at least those data elements necessary to determine a State's FFP as required in § 250.74. Submission of the universe of JOBS case records is also acceptable. Data must be submitted electronically on an ongoing basis, with all cases submitted no later than 45 days after the end of the month.

(b) For purposes of determining participation rates, a State IV–A agency must report, for each month, on a quarterly basis, the aggregate number of individuals required to participate as specified in § 250.74(b)(3)(ii).

(c) A State IV–A agency must annually develop and submit to the Secretary a table of the previous Federal fiscal year's average total cost per participant per month of participation, separately stated with regard to each component and service the State IV–A agency makes available. The Department will determine a State IV–A agency's eligibility for enhanced FFP as specified at § 250.74(a) by applying a State's activity levels of target population participants to that State's table of average costs.

(d) A State IV–A agency must submit any other information that the Secretary determines necessary.

§ 250.81 State data systems options.

(a) A State IV–A agency may integrate its JOBS Automated System (JAS) with an existing or planned title IV–A system. A State IV–A agency may also use a stand-alone system. Either option must be a client-based information system capable of producing at a minimum all data elements required in § 250.82. FFP may be available from either title IV–A or title IV–F funds, as described in paragraphs (b) and (c) of this section.

(b)(1) Title IV–A funding is available for acquisition and development of the JOBS interface between title IV–A and title IV–F requirements. The interface of an automated JOBS program with the title IV–A system, for verification of eligibility and reconciliation of data, includes planning, development and implementation of title IV–A subsystems to:

(i) Manage information on eligibility factors and target group membership;

(ii) Effect notifications and referrals including non-cooperation;

(iii) Check records of applicants and recipients on a periodic basis with other agencies to verify continued eligibility; and

(iv) Notify appropriate officials when a recipient ceases to be eligible.

(2) If the JAS interfaces with an existing or planned FAMIS-type system and all FAMIS requirements are met, 90 percent FFP is available. Otherwise interface expenditures are matched at 50 percent.

(c) JOBS funding is available at a 50 percent administrative rate for the acquisition and development of the remainder of the JAS, subject to the requirements of § 205.37. This excludes the JOBS interface with the title IV–A subsystem, but includes all other input, maintenance and reporting of those data elements required in § 250.82 that cannot be obtained from the title IV–A subsystem through the JOBS interface. A cost allocation plan must be approved to share the cost among all Federal and State programs benefiting from the State's JAS.

(d) The Advance Planning Document (APD) for each subsystem must meet all existing requirements for such a system pursuant to § 205.37.

(e) Administrative funding under either title IV–A or title IV–F for systems development, implementation, operation and/or automatic data processing equipment acquisition must comply with the requirements of § 95.611.

§ 250.82 Required case record data.

(a) In order for a State IV–A agency to produce unaggregated case record data that are required to be reported with regard to individuals who are served in the JOBS program, the data elements specified below are required to be maintained in the State IV–A agency's individual case record for each JOBS participant and for each individual in a self-initiated activity that the State has determined to be eligible for support services. To the extent the State IV–A agency's JAS can access the required elements in the required form from other subsystems, duplicate entry is to be avoided.

(b) The minimum data elements are:

(1) Case identifier in lieu of Social Security Number;

(2) Date of birth;

(3) Basis of eligibility, including codes for UP or regular AFDC, and for deprivation factor;

(4) Applicant or recipient status;

(5) Beginning date of current AFDC eligibility;

(6) Prior receipt of AFDC;

(7) Education level;

(8) Literacy level, when established through an educational assessment using TABE or other State-prescribed tool;

(9) Target group codes to identify, for that month, which of the target groups specified in § 250.1 an individual was a member of, if any, at the time of assessment;

(10) Participation status as defined in § 250.1(1).

(11) Participation status in a component as defined in § 250.1(5), including separate identification of self-initiated educational or training activity;

(12) Participation status in intensive job search as defined in § 250.1 or UP work participation as defined in §§ 250.1(4) (i) and (ii);

(13) Date entered into current JOBS component, or initial assessment;

(14) Date entered into initial JOBS component as defined in §§ 250.1 (5) or (6);

(15) Amount of child care payment during the month, pursuant to section 402(g)(1)(A).

Subpart J—Operation of JOBS Programs by Indian Tribes and Alaska Native Organizations

§ 250.90 Scope and purpose.

The purpose of an Indian Tribe or Alaska Native organization JOBS program is to assure that Tribal (refers to both an Indian Tribe and Alaska Native organization) members receiving AFDC obtain the education, training and employment services they need to avoid long-term dependency. Tribal grantees are subject to all the regulations under Part 250, unless otherwise indicated in this subpart, and, as appropriate, regulations under Parts 255, 74, and 92, which include general funding and disallowance and termination provisions for Federal programs.

§ 250.91 Eligible Indian Tribe and Alaska Native organization grantees.

Funds shall be allotted to operate a JOBS program pursuant to § 250.71 to groups meeting the following eligibility standards:

(a) An Indian Tribe, defined as any Tribe, band, nation, or other organized group or community of Indians which:

(1) Is federally recognized as eligible for the special programs and services provided by the United States Government to Indians because of their status as Indians; and

(2) Has a reservation, which means Indian reservations, public domain Indian allotments, or former Indian reservations in Oklahoma.

(b) A consortium or Tribal organization representing more than one Tribe if each participating member Tribe meets the eligibility requirements for JOBS as defined in paragraph (a) of this section. Such organizations must also meet the following criteria:

(1) All the participating members must be in geographic proximity to one another. However, a consortium may operate in more than one State;

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(2) The consortium must demonstrate that it has the managerial, technical or administrative staff with the ability to properly administer government funds, manage a JOBS program, and comply with the provisions of the Statute and of the regulations;

(3) The consortium must submit with its JOBS application a resolution from each participating Tribe authorizing the consortium to receive JOBS funds on behalf of each Tribe in its JOBS program.

(c) An Alaska Native Organization including any Alaska Native village, or regional or village corporation eligible to operate a Federal program under Public Law 93-638 (Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450) or such group's designee. The boundaries of an Alaska Native organization are those of the geographical region, established pursuant to section 7(a) of the Alaska Native Claims Settlement Act, (85 Stat. 688) within which the Alaska Native organization is located.

§ 250.92 Selection criteria for eligible Alaska Native organizations.

(a) The Secretary may approve only one application from an Alaska Native organization for each of the 12 geographical regions established pursuant to section 7(a) of the Alaska Native Claims Settlement Act. The Department shall designate the Alaska Native grantee for each geographic region based on the following criteria:

(1) Previous experience in operating an effective employment and training program serving Indians and Native Alaskans;

(2) The number and kinds of activities of similar magnitude and complexity that the applicant has successfully completed; and

(3) The ability to provide services effectively to all eligible Native Alaskans residing in the region.

(b) In order to be approved an Alaska Native application must promote the efficient and nonduplicative administration of the JOBS program in the State of Alaska.

§ 250.93 Funding formula.

(a) A Tribal grantee's share of program funds will be calculated annually pursuant to § 250.71 and will be based on the following ratio:

(1) The number of adult members of the Indian Tribe receiving AFDC who live in the designated service area—defined as reservation only, the reservation plus adjacent counties, or the reservation plus adjacent land within a specified distance which would be reasonably accessible for Indian Tribal JOBS participants—compared to the total number of adult AFDC recipients in the State; or

(2) The number of adult Alaska Natives receiving AFDC who reside within the boundaries of the region which the organization represents to the total number of adult AFDC recipients in the State of Alaska.

(b)(1) The State IV-A agency and the Indian Tribe or Alaska Native organization must exchange available information on adult Tribal AFDC recipients needed to determine the eligible Tribal population and to define the designated service area, if other than the reservation or trust lands, as appropriate. State and Tribal representatives receiving such AFDC recipient data must follow standards of confidentiality to assure that recipient and Tribal privacy is protected pursuant to § 205.50.

(2) If sufficient data on adult AFDC members of a Tribe or of an Alaska Native organization are not available, the State IV-A agency and the Tribe or organization may enter into an agreement covering a mutually agreed upon estimated figure of the eligible Tribal population and the designated service area, as appropriate.

(3) If the State IV-A agency and the Tribe or organization cannot agree on the number of Tribal adult AFDC recipients and/or designated service area, the Secretary, in consultation with the Tribe or organization and State, will make the final determination of Tribal funding.

(c) A Tribal grantee is not required to match Federal funds.

§ 250.94 Program administration, implementation and operations.

(a) The Tribal grantee must designate a Tribal agency or department to administer the Tribal JOBS program.

(1) The designated agency or department will be responsible for the administration of the Tribal JOBS program including the requirements under 402(a)(19) and Part F of the Act.

(2) The responsibility for the administration of JOBS, pursuant to paragraph (a)(1) of this section, includes functional areas such as exemption and priority determinations (§ 250.30), orientation and referrals (§ 250.40), assessment and the development of the employability plan (§ 250.41), JOBS activities (§ 250.44 and § 250.94(e)), dispute resolution and hearings (§ 250.36). Certain other related functions are retained by the State IV-A agency. These include the imposition of sanctions as described in § 250.34 and the administration of provisions on child care (Part 255) and transitional child care services (Part 256).

(3) The designated agency or department may not delegate or contract out any functions which involve agency discretion, as detailed in § 250.10 of the regulations.

(b) The Tribe or organization may begin operating its JOBS program as of the first day of any quarter between July 1, 1989,and October 1, 1990, independent of the State's JOBS implementation date. If the Tribe or organization elects to begin operating its program before the State, during this interim time period:

(1) The Tribe or organization must guarantee necessary child care (without additional title IV-A funding for child care pursuant to Part 255) if it requires an individual to participate in its JOBS program.

(2) If the Tribe or organization cannot guarantee necessary child care as described in paragraph (b)(1) of this section, it cannot require an individual to participate in its JOBS program but may operate an entirely voluntary program.

(c) The Tribe or organization may not begin its JOBS program prior to approval of the Secretary. Final documentation for the application (meaning supplemental materials submitted after the initial April 13, 1989, application) must be sent to the Department at least 45 days prior to implementation of the Tribal program. This will allow sufficient time for the Department's review and approval.

(d)(1) Tribes or organizations shall not be subject to the specific requirements of § 250.12 of the regulations, but must coordinate program services with appropriate agencies as follows:

(i) The Tribal application with final documentation must be submitted to the State IV-A agency for its review and comment at least 30 days before submittal to the Secretary. The Tribe or organization shall consider comments made by the State IV-A agency in its application submitted to the Secretary.

(ii) The application with final documentation must also be made available to Tribal members for review and comment at least 30 days prior to submittal to the Secretary. The Tribe or organization must certify in its application that such public participation has taken place.

(2) To operate a JOBS program, the Tribe or organization must coordinate with the State IV-A agency to ensure that interrelated program functions are effectively performed. These functions include State responsibilities—such as providing to the Tribal grantee eligibility notifications and the necessary child care funds or services for Tribal participation—and Tribal responsibilities—such as notifying the State IV-A agency when Tribal members fail to participate without good cause.

(3) A Tribe or organization must consult and coordinate with other providers including those specified in paragraph (d)(4) of this section, to identify existing resources, prevent duplication of services and ensure that the maximum level of services is available to enable participants to achieve self-sufficiency.

(4) At a minimum, the Tribal grantee must consult and coordinate with:

(i) The Tribal agency responsible for JTPA, if applicable;

(ii) The Tribal agency responsible for other employment and training services, including those offered under the Bureau of Indian Affairs;

(iii) The Tribal agency responsible for education including any programs under the Bureau of Indian Affairs, the Department of the Interior, or under the Office of Indian Education, of the Department of Education.

(5) The Tribal grantee must consult with existing formal advisory councils, such as private industry councils, as appropriate, on the development of arrangements and contracts under JOBS, as described in § 250.12(d).

(6) The Tribal grantee must consult with private industry councils and Tribal Employment Rights Offices, as appropriate, to identify and obtain advice on the types of jobs available, or likely to become available, within a reasonable commuting distance from the Tribe's designated service area or the organization's boundaries. The Tribe or organization must ensure that JOBS provides training for the types of jobs which are, or are likely to become, available in or near its designated service area or organization's boundaries and that resources are not expended on training for jobs that are not likely to become available.

(e) Tribal programs are subject to the requirements of § 250.44 but are not subject to the requirements of § 250.45.

(1) A Tribal JOBS program must include all the mandatory components at § 250.44 unless the Tribe or organization can provide justification to show that such activities are inappropriate. A Tribe or organization's application must describe the types of activities and methods of delivery for each of the mandatory components.

(2) Tribal programs are not subject to the provisions at § 250.45 but must include at least one of the following components unless a Tribe or organization can provide justification to show that such activities are inappropriate:

(i) Group and individual job search, as described in § 250.80;

(ii) On-the-job training, as described in § 250.81;

(iii) Community work experience program, as described in § 250.83, or a work experience program as approved by the Secretary;

(iv) Work supplementation program, as described in § 250.82;

(v) Alternative education, training and employment activities which are not described in § 250.80, § 250.81, § 250.82 or § 250.83, as approved by the Secretary.

(A) Innovative approaches with the private sector are encouraged if they are consistent with the purpose of JOBS to assist AFDC recipients to avoid long-term dependency.

(B) JOBS funds may not be used for public service employment or for allowances other than for those required for supportive services as described in Part 255.

(3) Because the amount of the IV-A payment is an integral part of determining participation in work supplementation and community work experience programs, a Tribe or organization may operate these programs only if adequate agreements with the State IV-A agency are implemented. The agreements should cover operational procedures and the exchange of information, including grant levels and child support calculations for community work experience participants and earnings for work supplementation participants.

§ 250.95 Supportive services.

(a) The Tribal grantee must provide, pay for, or reimburse necessary supportive services (other than child care) pursuant to Part 255, including transportation and other work-related expenses, that the Tribe or organization determines are necessary to enable an individual to participate in JOBS.

(b) The State IV-A agency is responsible for guaranteeing child care for Tribal JOBS participants according to the provisions specified under Part 255.

(c) If the Tribe or organization is using child care funds or services provided by the State pursuant to paragraph (b) of this section, it must ensure, based on a method which is mutually acceptable to the State IV-A agency and Tribal grantee, that necessary child care is available when requiring an individual to participate in its program.

(d) If the Tribe or organization does not choose to use State funds or services for child care, it must provide (without additional title IV-A funding for child care) these funds or services in order to guarantee necessary child care when requiring an individual to participate.

(e) Once the State has implemented its JOBS program, the Tribe or organization, in order to require an individual to participate, must guarantee necessary child care either through the State IV-A agency, pursuant to paragraphs (b) and (c) of this section, or directly, pursuant to paragraph (d) of this section; but it may not operate an entirely voluntary JOBS program.

§ 250.96 Waiver authority.

The Secretary may waive any JOBS requirements set forth under titles IV-A and IV-F that he determines inappropriate for Tribal JOBS programs.

(a) The Secretary has determined that certain requirements of the Act are inappropriate for JOBS programs operated by Indian Tribes or Alaska Native organizations. They cover the following provisions or sections of the regulations:

(1) Section 250.10 (IV-A agency administration);

(2) Section 250.11 (Statewide requirement);

(3) Section 250.12 (Coordination and consultation);

(4) Section 250.20 (State plan requirements);

(5) Section 250.21 (State plan content);

(6) Section 250.33 (UP-16 hour rule);

(7) Section 250.45 (Optional components);

(8) Section 250.70 (a) and (b) (Allocation entitlement);

(9) Section 250.71 (b)(2) and (c) (Allotment);

(10) Section 250.72 (Maintenance of effort);

(11) Section 250.73 (Matching rates);

(12) Section 250.74 (Reduced matching rates including provisions relating to target groups);

(13) Section 250.81 (State data systems);

(14) Section 255.1 (c) and (h) (Supportive Services plan requirements);

(b) A Tribe or organization may request that the Secretary waive any other requirements of the Statute not listed under paragraph (a) of this section with proper justification. The Secretary will consider the appropriateness of such waivers on a case-by-case basis.

§ 250.97 Application requirements and documentation.

(a) As a condition of participation in the JOBS program, the designated Tribal agency or department responsible for administering the JOBS program must:

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(1) No later than October 1, 1990, establish and operate a JOBS program under a JOBS application that has been approved by the Secretary before implementation and meets the requirements of Parts 250 and 255, as appropriate.

(2) Submit final documentation for the application to the Secretary for review and action at least 45 days prior to the anticipated implementation date. The Tribal grantee may not begin its JOBS program prior to the Secretary's approval pursuant to § 250.94(c).

(b) The Tribal application must be submitted to the State IV-A agency for comment at least 30 days prior to submittal to the Secretary. The application shall be made available to Tribal members for review and comment at least 30 days prior to submittal to the Secretary. Comments received shall be resolved by the Tribe or organization.

(c)(1) The Tribal grantee must submit an update of its JOBS application to the Secretary for approval at least every two years. The update shall be considered a new JOBS application and shall be submitted to the Secretary for approval at least 90 days prior to beginning of the next biennial period. The Tribal grantee must follow the public review and comment provisions in paragraph (b) of this paragraph.

(2) The update must consist of:

(i) Assurances regarding those parts of the Tribal JOBS application that remain unchanged;

(ii) A description of any changes in program operations including but not limited to changes in component activities; and

(iii) An estimate of the number of persons to be served by the program during the next biennium.

(3)(i) For all Tribal grantees the first biennial update must be submitted by July 1, 1992, for the period beginning October 1, 1992.

(ii) Each approved biennial update shall remain in force until formal action is taken (i.e. approval or disapproval) by the Secretary on the update for the following biennial period.

(d) The Tribal grantee shall submit proposed amendments to the approved application as necessary, and they shall be reviewed according to the process described at §§ 201.3(f) and 201.3(g).

(e) A Tribe or organization that submits an application, an amendment to an existing application, or a biennial update to its application that is not approvable will be given the opportunity to make revisions before formal disapproval; upon formal disapproval, a Tribe or organization may request a hearing pursuant to the process set forth in § 201.4 and Part 213.

(f) A Tribal applicant must submit documentation (which is in addition to the information requested in the application) covering the following items for the Secretary's review before final approval of the application can be determined:

(1) Assurances that the administering Tribal agency will have in effect a JOBS program which meets the requirements of section 402(a)(19) and title IV-F of the Act, unless waived by the Secretary, and including crossreferences to all appropriate statutory and regulatory requirements that the JOBS program will meet;

(2) A description of the administrative process and methods of delivery for:

(i) Providing program information under § 250.40;

(ii) Assessments pursuant to § 250.41;

(iii) Agency-participant agreements, if this option is elected;

(iv) Case management system (§ 250.43), if this option is elected;

(3) A description of the mandatory and elected optional component activities described under § 250.94(e) and the methods of delivery;

(4) A description of the selection and assignment criteria that will be used to refer participants to the various services and activities provided under the Tribal JOBS program;

(5) A description of the coordination processes with other programs, including any agreements with the State IV-A agency, Tribal JTPA agency, other employment and training agencies and educational agencies. Specify how these other agencies will track and report to the Tribe or organization on satisfactory participation and use of JOBS funds, if applicable;

(6) A description of how the administering Tribal agency will determine eligibility for work-related expenses such as clothing or transportation and other supportive services; a listing of the work-related expenses and the supportive services it will provide to its JOBS participants; the methods of delivering these supportive services; and

(7) A description of the conciliation and hearings procedures which meet the due process standards specified in proposed § 250.36, including notification to the State IV-A agency of formal decisions that a non-exempt Tribal member has failed to participate.

§ 250.98 Maintenance of effort for Indian Tribes and Alaska Native organizations.

Tribal programs are not subject to the requirements in § 250.72 but are subject to the following requirements:

(a) JOBS funds shall be used only for education, training and employment activities that are in addition to those which would otherwise be available to Tribal AFDC recipients in the absence of such funds.

(b) A Tribe or organization may contract for services only to the extent that such services are not otherwise available to AFDC Tribal recipients on a non-reimbursable basis.

Title 45, Chapter II, Code of Federal Regulations is amended by adding a new Part 255 to read as follows:

PART 255—CHILD CARE AND OTHER WORK-RELATED SUPPORTIVE SERVICES DURING PARTICIPATION IN EMPLOYMENT, EDUCATION, AND TRAINING

Sec.

255.0 Purpose.
255.1 State plan requirements.
255.2 Eligibility.
255.3 Methods of providing child care and other supportive services.
255.4 Allowable costs and matching rates.
255.5 Child care standards.
255.6 Uniform reporting requirements for child care.

Authority: Sections 402, 403 and 1102 of the Social Security Act as amended (42 U.S.C. 602, 603 and 1302).

§ 255.0 Purpose.

This part contains the regulations pertaining to child care and other supportive services for families receiving, and in some cases applying for, AFDC. State IV-A agencies must provide such services, under conditions specified below, to eligible families to allow participation in employment, education or training.

§ 255.1 State plan requirements.

A State IV-A agency operating a program under title IV-A must submit a Supportive Services plan to the Secretary which includes the following:

(a) The methods the State IV-A agency will use to provide child care in accordance with § 255.3.

(b) The dollar amount which the State IV-A agency establishes for limiting the amount of payment or reimbursement for child care, if the State IV-A agency elects pursuant to § 255.4(a)(1), to set an amount higher than the amount of the disregard at § 233.20(a)(11)(i).

(c) A description of the types of other supportive services and work-related expenses, including transportation, which will be available to participants in the JOBS program under Part 250, the monetary limits to be applied to each type of service or activity, and the basis for determining need for each type.

(d) A description of the priorities to be applied in determining when needed child care will be guaranteed for

accepting or maintaining employment and for education or training, including JOBS participation;

(e) An assurance that procedures are established to ensure that:

(1) Child care meets applicable standards of State and local law in accordance with § 255.5;

(2) Child care activities are coordinated in accordance with § 255.3(h); and

(3) Any entity providing child care allows parental access as required under § 255.4(c)(1).

(f) An assessment of the availability of child care services provided on a non-reimbursable basis by Federal, State and local sources other than title IV-A.

(g) Specification of a State IV-A agency's policies on interim child care and other supportive services as provided in § 255.2(d).

(h) Specification of a State IV-A agency's policy on provision of one-time work-related expenses in accordance with § 255.2(g), including:

(1) The types of any such expense; and

(2) The monetary limits to be applied to such benefits.

(i) A description of the methodology used for setting local market rates pursuant to § 255.4(a)(2). Such methodology must address rates established for each type of care (i.e., center, group family day care, family day care, and in-home care) provided. The plan must address variations in the costs of care for infants, toddlers, preschool and school-age children, whether care is full or part-time, and reduction in the cost of care for additional children in the same family if such variations exist. The rates must be submitted to the Family Support Administration Regional Office and must be updated periodically, but no less than biennially.

(j) A description of how the State will assure that sufficient child care will be available to meet the participation rates in § 250.74.

(k) In States where Tribal entities are directly funded to operate a JOBS program, a description of how the State will provide child care services for JOBS participants served by those Tribal entities.

(l) An assurance that child care provided or claimed for reimbursement is reasonably related to the hours of participation or employment.

§ 255.2 Eligibility.

(a) The State IV-A agency must guarantee child care for a dependent child under age 13, or who is physically or mentally incapable of caring for himself or herself, as verified by the State consistent with the verification requirement at § 250.30(b)(3), (and for a child who would be a dependent child except for the receipt of benefits under Supplemental Security Income under title XVI or foster care under title IV-E), to the extent that such child care is necessary to permit an AFDC eligible family member to:

(1) Accept employment or remain employed; or

(2) Participate in an education or training activity (including participation in the JOBS program under Part 250) if the State IV-A agency approves the activity and periodically (but not less then every three months) determines that the individual is satisfactorily participating in the activity. An approved activity is one that is consistent with the individual's employability plan.

(b) The guarantee under paragraph (a) of this section also applies to American Indians and Alaska Natives who are subject to participation requirements under Subpart J of Part 250, consistent with the requirement in paragraph (f) of this section.

(c) The State IV-A agency must provide, pay for, or reimburse for transportation and other work-related expenses (including other work-related supportive services) which it determines are necessary to enable an individual to participate as required in the JOBS program under Part 250.

(d) The State IV-A agency may provide for child care and other necessary supportive services for a period of up to two weeks for an individual who is waiting to enter an approved education, training, employment, or JOBS component.

(e) The State IV-A agency must provide child care and supportive services necessary for applicants to participate in job search pursuant to § 250.60 and in other activities to prepare them for participation in the JOBS program, if such participation is required.

(f) The State IV-A agency must make child care services available to recipients who are participating in a JOBS program operated by an Indian Tribe or Alaska Native organization, pursuant to §§ 250.94 and 250.95. Child care services, which are also appropriate in meeting any special needs of Tribal participants, must be made available on an equitable basis. To the extent it is appropriate, the same range of reimbursement methods must be available to Tribal JOBS participants as are available to participants in the State JOBS program.

(g) The State IV-A agency may provide one-time work-related expenses to an applicant or recipient so that she may accept or maintain employment.

(h) AFDC applicants and recipients are entitled to hearings under the provisions of §§ 205.10 or 250.36, as appropriate, on issues concerning the denial of, prompt issuance of, or intended actions to discontinue, terminate, suspend or reduce assistance under this Part. However, changes in the manner of payment are not subject to timely notice requirements, and the provisions of § 205.10(a)(6) regarding aid paid pending a hearing do not apply.

§ 255.3 Methods of providing child care and other supportive services.

(a) The State IV-A agency may use any of the following methods for guaranteeing the availability of child care:

(1) Providing the care directly;

(2) Arranging the care through providers by use of purchase of service contracts or vouchers;

(3) Providing cash or vouchers in advance to the caretaker relative in the family;

(4) Reimbursing the caretaker relative in the family;

(5) Arranging with other agencies and community volunteer groups for non-reimbursed care;

(6) Using the child care disregard as provided in § 233.20(a)(11)(i); or

(7) Adopting such other arrangements as the State IV-A agency deems appropriate.

(b) In arranging for child care, the State IV-A agency must take into account the individual needs of the child, including the reasonable accessibility of the care to the child's home and school, or caretakers' place of employment or training, and the appropriateness of the care to the age and special needs of the child.

(c) If more than one type of child care is available, e.g., center, group family care, family day care or in-home care, the caretaker relative must be provided an opportunity to choose the arrangement. The State IV-A agency may select the method of payment under paragraph (a) of this section.

(d)(1) An individual required to participate under Part 250 may refuse available appropriate child care as determined by the State IV-A agency, if she can arrange other child care or can show that such refusal will not prevent or interfere with participation in approved education or training activities (including JOBS) or employment.

(2) The State IV-A agency must establish at least one method by which self-arranged child care can be paid.

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(e)(1) If a State IV–A agency chooses to meet the cost of child care through a method other than use of the child care disregard at § 233.20(e)(11)(i), the State IV–A agency must then determine AFDC eligibility and payment amount without this disregard, except for families described in paragraph (e)(2) of this section.

(2) In the case of a family which was receiving AFDC on October 13, 1988, based on application of the child care disregard at § 233.20(a)(11)(i), if such a family would be disadvantaged as a result of meeting the cost of child care other than through the child care disregard, the State is prohibited from choosing such alternate method of payment.

(f) For cases subject to retrospective budgeting, for the first and second months of employment, the State IV–A agency may meet the cost of child care directly or through reimbursement and apply the child care disregard at § 233.20(a)(11)(i) to offset income received in those months when used to determine the amount of the AFDC payment for the corresponding payment months. The State IV–A agency's payment shall not be counted as income or resources for any month. Under these circumstances, a State IV–A agency may not apply the disregard to income used to determine the amount of the payment for the month(s) following the month in which child care ceases.

(g) The State IV–A agency may assure the availability of necessary transportation and other work-related expenses (including other work-related supportive services) through direct provision, or payment, or reimbursement of costs consistent with its Supportive Services plan.

(h) Each State IV–A agency must coordinate its child care activities with existing early childhood education programs in the State, including Head Start programs, preschool programs funded under Chapter 1 of the Education Consolidation and Improvement Act of 1981, and school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for handicapped children).

§ 256.4 Allowable costs and matching rates.

(a) FFP is available for the actual cost of child care up to a statewide limit established by the State IV–A agency in its State Supportive Services plan, but not for more than the applicable local market rate.

(1) In setting the statewide limit, the State IV–A agency may choose the amount of the child care disregard at § 233.20(a)(11)(i), or some higher amount.

(2) The applicable local market rates must be determined:

(i) Based on representative samples of child care providers;

(ii) For areas no larger than political subdivisions; and

(iii) Based on the 75th percentile cost of such types of care in the local areas.

(3) Local market rates must:

(i) Be established for center care, group family care, family day care, and in-home care;

(ii) Differentiate among care for infants, toddlers, pre-school and school-age children, where applicable;

(iii) Differentiate between full-time and part-time care, if applicable; and

(iv) Consider reductions in the cost of care for additional children in the same family.

(b)(1) Except for Puerto Rico, Guam, the Virgin Islands, and American Samoa, in the case of amounts expended for child care, FFP shall be at the Federal medical assistance (Medicaid) rate and is included in the title IV–A general program entitlement.

(2) For Puerto Rico, Guam, the Virgin Islands, and American Samoa, the rate is 75 percent and is included in the JOBS limit of entitlement.

(c) FFP is available only if:

(1) The entity providing the care allows parental access; and

(2) The care meets applicable standards of State and local law.

(d) In the case of amounts expended for transportation and other work-related expenses and supportive services for eligible individuals, FFP shall be at the rate of 50 percent and is subject to the annual limit of entitlement, pursuant to § 250.73(b)(1).

(e) The State IV–A agency is not permitted to provide payment for child care or any other supportive service or work-related expense as an AFDC special need pursuant to § 233.20(a)(2)(v)(B)(2).

(f) No Federal matching is available for the recruitment or training of child care providers, resource development, or licensing activities.

(g) The matching rate for child care administrative costs under this part is 50 percent and, except for the Puerto Rico, Guam, the Virgin Islands, and American Samoa, the amount is outside the funding limitation for JOBS.

(h) The State IV–A agency must take reasonable precautions to guard against fraud and abuse in the funding of child care costs.

(i)(1) Federal matching funds improperly claimed for child care services or administration are subject to disallowance under Part 201. If the State IV–A agency disagrees with the decision to disallow FFP, it can appeal under existing IV–A procedures, including review of the Departmental Appeals Board in accordance with Part 16 of these regulations.

(2) Financial reporting of child care expenditures is generally subject to the requirements of the existing regulations at § 201.5.

(3) Child care expenditures are generally subject to the requirements of Part 201, including the provisions at § 201.5(e) (regarding the applicability of most of the requirements of Part 74 to the administration of grants to States), the provisions at Subpart B (regarding review and audits), and the provisions of § 201.67 (regarding treatment of uncashed or cancelled checks).

§ 255.5 Child care standards.

(a) The State IV–A agency must establish procedures to ensure that center-based child care will be subject to applicable standards of State and local law including those designed to ensure basic health, safety protection, and fire safety. Such standards must be made available upon request by the Secretary.

(b) The State must also endeavor to develop guidelines for family day care if it has not already done so.

§ 255.6 Uniform reporting requirements for child care.

Each State IV-A agency shall be required to provide such child care information and data as are determined to be necessary by the Secretary to ensure the effective implementation of the provisions under this part and Part 250. The uniform reporting requirements include, at a minimum, the average monthly number of families served, the types of such families, the amounts expended with respect to families assisted, and the length of time for which such families are assisted. The information and data for these families shall be separately stated with respect to families who have earnings and those who do not, and with respect to families who are receiving aid under the State IV-A plan and those who are not.

Title 45, Chapter II, Code of Federal Regulations is amended by adding a new Part 256 to read as follows:

PART 256—TRANSITIONAL CHILD CARE

Sec.
256.0 Purpose.
256.1 State plan requirements.
256.2 Eligibility.
256.3 Fee requirement.
256.4 Other provisions.

Authority: Section 402, 403 and 1102 of the Social Security Act as amended (42 U.S.C. 602, 603 and 1302).

§ 256.0 Purpose.

This part contains the regulations pertaining to child care available to families whose eligibility for AFDC assistance has ceased due to increased hours of, or earnings from, employment or as a result of the loss of income disregards due to the expiration of the time limits at § 233.20(a)(11).

§ 256.1 State plan requirements.

(a) The State Supportive Services plan specified under § 255.1 must include a description of:

(1) The methods the State IV-A agency will use to provide extended child care; and

(2) The sliding fee scale under which families will contribute toward the cost of child care.

(b) A State IV-A agency which has not implemented a JOBS program as of April 1, 1990 must submit a Supportive Services plan for transitional care which includes the provisions described in this part and the provisions at § 255.1 which apply to transitional child care (i.e., paragraphs (b), (d), (e), (f), (i) and (l)).

§ 256.2 Eligibility.

(a) The State IV–A agency must guarantee child care for a child who is under age 13 or who is physically or mentally incapable of caring for himself or herself, as verified by the State consistent with the verification requirement at § 250.30(b)(3), and who would be a dependent child, if needy (and for a child who would be a dependent child except for the receipt of benefits under Supplemental Security Income under title XVI or foster care under title IV-E), to the extent that such care is necessary to permit a member of an AFDC family to remain employed.

(b) A family is eligible for transitional child care provided the following conditions are met:

(1) The family must have ceased to receive AFDC as a result of increased hours of, or increased income from, employment or the loss of income disregards due to the time limitations at § 233.20(a)(11);

(2) The family must have received AFDC in at least three of the six months immediately preceding the first month of ineligibility; and

(3) The family must apply for transitional child care benefits in writing. There is no eligibility for benefits prior to the month of application.

(c) Eligibility for transitional child care begins with the first month for which the family is ineligible for AFDC, for the reasons included in paragraph (b)(1) of this section, and continues for a period of 12 consecutive months. Families may begin to receive child care in any month during the 12-month eligibility period.

(d) The family is not eligible for child care under this part for any remaining portion of the 12-month period if the caretaker relative:

(1) Terminates employment without good cause, as defined in § 250.35; or

(2) Fails to cooperate with the State IV–A agency in establishing payments and enforcing child support obligations, as defined in § 232.12.

(e) If the caretaker relative loses a job with good cause, and then finds another job, the family can qualify for the remaining portion of the 12-month eligibility period.

§ 256.3 Fee requirement.

(a) The State IV–A agency must require each family receiving transitional child care to contribute toward the payment for such care based on the family's ability to pay.

(b) In accordance with limits established by the Secretary, each State IV–A agency shall establish a sliding fee scale which will include minimum income levels at which fees will be assessed, the income levels at which full costs will be charged to the family, and the proportional share of the costs for families with intermediate levels of income.

(c) A State IV–A agency may vary the period of collection for different fee levels.

(d) In cases where the family's contribution under this section is paid to the State IV–A agency, such contribution is subject to the program income requirements in Part 74, Subpart F.

(e) Individuals who fail to cooperate in paying required fees will, subject to appropriate notice and hearings requirements, lose eligibility for benefits under this part for so long as back fees are owed, unless satisfactory arrangements are made to make full payment.

§ 256.4 Other provisions.

(a) The State IV–A agency, in providing transitional child care, must meet the requirements in §§ 255.3 (a), (b), (c), and (f), 255.5, and 255.6, pertaining to the methods of providing child care, child care standards, disallowances, coordination, services to Indians and Alaska Natives and uniform reporting requirements.

(b) The provisions on child care costs and matching rates at § 255.4 shall apply to this part, except in the case of Puerto Rico, Guam, the Virgin Islands, and American Samoa, child care expenditures under this part are not covered as JOBS expenditures, but as expenditures subject to the limitation under section 1108 of the Act.

(c) The State IV–A agency must notify all families of their potential eligibility for transitional child care services under this part in writing, and orally as appropriate, at the time they become ineligible for AFDC. The notification must include information on the steps they must take to establish eligibility for benefits and the consequences of failing to apply promptly, i.e., the loss of benefits for any month prior to the month of application.

(d) Provision of benefits under this part are subject to the notice and hearings provisions at § 205.10, except that timely notice requirements do not apply to changes in the manner of payment.

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federal register

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April 18, 1989

Part VII

Department of Defense

Office of the Secretary

Listing of Major Defense Systems; Notice

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Billing Code 3810-01

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Contracting; Reporting Procedures on Defense Related Employment.

AGENCY: *Office of the Secretary, DOD.*

ACTION: *Listing of Major Defense Systems.*

SUMMARY: *This rule is the fiscal year 1989 listing of major defense systems under 10 U.S.C. §§ 2397, 2397b, and 2397c. This part is published to assist present and former DOD employees, Agency Ethics Officials and Defense contractors in complying with their obligations under these sections of the United States Code.*

EFFECTIVE DATE: *September 30, 1988.*

FOR FURTHER INFORMATION CONTACT: *Lt. Col. John R. Shaughnessy, Standards of Conduct Office, Room 1E461, The Pentagon, D.C. 20301-1600. Telephone (202) 697-5305.*

FY 1989 PRESIDENTS BUDGET RDT&E ANNEX

Program Elements Containing At Least $75M Lifetime Funding.

Line Items From 1983 Forward.

For Ethics Use Only.

Includes Only Selected Activities and Cost Types.

Arranged Alphabetically by Component.

Project	Project Title
	ARMY
23743A	155MM SELF–PROPELLED HOWITZER IMPROVEMENTS
23726A	ADV FIELD ARTILLERY TACTICAL DATA SYSTEM
63612A	ADVANCED ANTI–TANK WEAPON SYSTEM (AAWS)
64611A	ADVANCED ANTI–TANK WEAPON SYSTEMS – ENG DEV (AAWS)

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63220A ADVANCED ROTOCRAFT TECHNOLOGY INTEGRATION (LHX)

64223A LIGHT ARMED SCOUT HELICOPTER

64741A AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE – ENG DEV

D126 FAAD C2 ED

64216A AIRCRAFT PROPULSION SYSTEM

DC72 T–800 ENGINE ED (LHX)

63302A JOINT TACTICAL MISSILE DEFENSE PROGRAM

63713A ARMY DATA DISTRIBUTION SYSTEM (ADDS) (EPLRS)

64324A ARMY TACTICAL MISSILE SYSTEM (ARMY TACMS)

63757A FORWARD AREA AIR DEFENSE SYSTEM (FAAD)

D463 LOS AD SYS FWD–HVY

D465 NON–LINE OF SIGHT(NLOS)

64310A HELIBORNE MISSILE – HELLFIRE

63706A IDENTIFICATION–FRIEND–OR–FOE, ADVANCE DEVELOPMENTS (IFF)

64770A JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM (JSTARS)

28010A JOINT TACTICAL COMMUNICATIONS PROGRAM (TRI–TAC)

64321A JOINT TACTICAL FUSION PROGRAM (JTF)

64702A JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)

64619A LANDMINE WARFARE

64630A M1A1 DEVELOPMENT PROGRAM (120MM GUN)

23740A MANEUVER CONTROL SYSTEM (MCS)

64778A NAVSTAR GLOBAL POSITIONING SYSTEM (USER EQUIPMENT)

64307A PATRIOT AIR DEFENSE MISSILE SYSTEM

64730A REMOTELY PILOTED VEHICLES

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D040	RPV–REM PILOT VEH ED (AQUILA)
0604814A	SEEK AND DESTROY ARMAMENT MISSILE
64306A	STINGER
63746A	SINGLE CHANNEL GROUND AND AIRBORNE RADIO SYSTEM (SINCGARS)
63303A	SURFACE–TO–SURFACE MISSILE ROCKET SYSTEM
D216	MLRS TERM GUID WHD
63730A	TACTICAL SURVEILLANCE SYSTEM
64740A	TACTICAL SURVEILLANCE SYSTEM
64206A	UH–60 BLACKHAWK
64802A	WEAPONS AND MUNITIONS ENGINEERING DEVELOPMENT
D134	ADV CBT RIFLE ENG DEV
D369	SADARM ED

33152A	WORLD–WIDE MILITARY COMMAND AND CONTROL SYS, INFORMATION SYS (WIS)
	NAVY/MARINE CORPS
64369N	5"ROLLING AIR FRAME MISSILE (RAM)
63257N	A–6 UPGRADES
0604233N	ADVANCED TACTICAL AIRCRAFT (ATA)
64307N	AEGIS COMBAT SYSTEM ENGINEERING
64575N	AN/SQS–53C SONAR
64214N	AV–8B AIRCRAFT ENGINEERING DEVELOPMENT
64354N	ADVANCED AIR–TO–AIR MISSILE (AAAM)
63321N	ADVANCED AIR–TO–AIR MISSILE (AAAM) (PHOENIX FOLLOW–ON)

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63318N	ADVANCED SURFACE-TO-AIR MISSILE
63306N	ADVANCED A/L AIR-TO-SURFACE MISSILE SYSTEM
64610N	ADVANCED LIGHTWEIGHT TORPEDO (ENG) (ALWT) (MK 50 TORPEDO)
64226N	ADVANCED SELF-PROTECTION SYSTEM (ASPJ) (AN/ALQ-165)
63207N	AIR/OCEAN TACTICAL APPLICATIONS
64268N	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM
0604524N	AN/BSY-2 COMBAT CONTROL ACOUSTIC SYSTEM FOR SEA WOLF
64260N	C/MH-53E SUPER STALLION HELICOPTER
64358N	CLOSE-IN WEAPON SYSTEM (PHALANX)
060270N	CONSOLIDATED NAVY ELECTRONIC WARFARE PROGRAMS
C1928	TACTICAL ELECTRONIC RECONNAISSANCE PROCESSING AND EVALUATION SYSTEMS (TERPES)

64507N	NAVY STANDARD SIGNAL PROCESSOR
24152N	EARLY WARNING AIRCRAFT SQUADRONS
W0463	AEW CV-BASED A/C E2C
64255N	ELECTRONIC WARFARE SIMULATOR DEVELOPMENT
W0602	ELEX W/F ENVIR SIM (ECHO)
X0672	EFFECT NAV E/W SYS(ENEWS)
11401N	EXTREMELY LOW FREQUENCY (ELF) COMMUNICATIONS
25667N	F-14 UPGRADE
24136N	F/A-18 SQUADRONS
W1662	F/A-18 IMPROV
63784N	FIXED DISTRIBUTION SYSTEMS (FDS)
24163N	FLEET TELECOMMUNICATIONS (TACTICAL)
X0695	HF ANTI-JAM (HFAJ)
64211N	IFF SYSTEM DEVELOPMENT

64312N	INTEGRATED ELECTRONIC WARFARE SYSTEM (INEWS)
64504N	INTEGRATED TACTICAL SURVEILLANCE SYSTEM (ITSS)
64214N	JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)
64307N	LAMPS MK III SHIPBOARD SYSTEM
64261N	LHA REPLACEMENT (LHA(R))
64307N	LIGHT AIRBORNE MULTI-PURPOSE SYSTEM (LAMPS)
64307N	LIGHT AIRBORNE MULTI-PURPOSE SYSTEM (LAMPS) MK III SHIPBOARD SYSTEM

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W1253	COMBAT IDENT SYS (CIS)
64232N	COMMUNICATION SUPPORT SYSTEM
28010M	JOINT TACTICAL COMMUNICATIONS PROGRAM (TRI–TAC)
64212N	LAMPS MK III
63320N	LOW COST ANTI–RADIATION SEEKER
64675N	MK 48 ADCAP ENGINEERING DEVELOPMENT
64301N	MK 92 FIRE CONTROL SYSTEM UPGRADE
060311M	MARINE CORPS ASSAULT VEHICLES
C0020	ADVANCED AMPHIBIOUS ASSAULT (AAA)
C1293	STRATIFIED CHARGE ROTARY ENGINE (SCORE)
0604717M	MARINE CORPS COMBAT SERVICE SUPPORT (OPERATIONAL SYSTEMS)
C1970	SURF ZONE MINE CLEARING (CATFAE)

64719M	MARINE CORPS COMMAND/CONTROL/COMMUNICATIONS SYSTEMS
C0053	J–TIDS
26623M	MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS
C1960	LAV–AD
0206623M	MARINE CORPS GROUND COMBAT/SUPPORTING ARMS (OPERATIONAL SYSTEMS)
C0021	AMPHIBIOUS ASSAULT VEHICLE 7A1 (AAV7A1)
0206625M	MARINE CORPS INTELLIGENCE SYSTEMS
C1296	JOINT SERVICES IMAGERY PROCESSING SYSTEM (JSIPS)
0603612M	MARINE CORPS MINE/COUNTER MINE SYSTEMS
	MINE DETECTION SYSTEMS (AMADASS/FWD DETECTOR SYSTEM)
63319N	NATO AAWS (ANTI–AIR WARFARE COMBAT SYS)
64361N	NATO SEA SPARROW
64777N	NAVSTAR GPS

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11402N		NAVY STRATEGIC COMMUNICATIONS
	W1438	E-6A
64372N		NEW THREAT UPGRADE
64221N		P-3 MODERNIZATION PROGRAM (P-3G)
63746N		RETRACT MAPLE
64217N		S-3 WEAPON SYSTEM IMPROVEMENT
64309N		SEA LANCE (ASW STAND-OFF MSL)
64561N		SSN-21 DEVELOPMENTS
64370N		SSN-688 CLASS VERTICAL LAUNCH SYSTEM
33109N		SATELLITE COMMUNICATIONS
	X1879	SATELLITE LASER COMM
63367N		SEA LANCE

64366N		STANDARD MISSILE IMPROVEMENTS
64524N		SUB CBT SYS DEV
	51347	SUBACS (AN/BSY-1)
	51941	SSN-21 CBT SYS (AN/BSY-2)
64562N		SUBMARINE TACTICAL WARFARE SYSTEM
64713N		SURFACE ASW SYSTEM IMPROVEMENT (AN/SQQ-89)
	S0234	TACTAS (AN-SQR-19)
64608N		SURFACE ELECTRO-OPTIC SYSTEM
	S1940	5IN/155MM GUIDED PROJ COMP
63502N		SURFACE MINE COUNTERMEASURES
63208N		T-45 TRAINING SYSTEM
64367N		TOMAHAWK
64363N		TRIDENT II
11228N		TRIDENT

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63208N		T-45 TRAINING SYSTEM
64367N		TOMAHAWK
64363N		TRIDENT II
11228N		TRIDENT

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63256N	V-22A
W1425	V-22A OSPREY (ASW VARIANT)
64355N	VERTICAL LAUNCH ASROC
64353N	VERTICAL LAUNCHING SYSTEM
64230N	WARFARE SUPPORT SYSTEMS
X1779	ROTHR (RELOCATABLE OTH RADAR)

AIR FORCE

27423F	ADVANCED COMMUNICATIONS SYSTEMS
2614	SINCGARS-V
2939	ENHANCED JTIDS (EJS)
11120F	ADVANCED CRUISE MISSILE (ACM)
64314F	ADVANCED MEDIUM-RANGE, AIR-TO-AIR MISSILE (AMRAAM)
63311F	ADVANCED STRATEGIC MISSILE SYSTEMS (ASMS)

63230F	ADVANCED TACTICAL FIGHTER (ATF)
64239F	ADVANCED TACTICAL FIGHTER (ENG) (ATF)
63319F	ADVANCED TECHNOLOGY CRUISE MISSILE
64361F	AIR LAUNCHED CRUISE MISSILE (ALCM)
64737F	AIRBORNE SELF-PROTECTION JAMMER (ASPJ)
27417F	AIRBORNE WARNING AND CONTROL SYSTEM (AWACS)
64223F	ALTERNATE FIGHTER ENGINE
64226F	B-1B
0604240F	B-2 ADVANCED TECHNOLOGY BOMBER
12423F	BALLISTIC MISSILE EARLY WARNING SYSTEM (BMEWS)
64231F	C-17 PROGRAM
64601F	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT

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5171	BIGEYE
64725F	COMBAT IDENTIFICATION SYSTEMS (CIS)
2598	MARK XV USAF- UNIQUE DEVELOPMENT
12436F & 0102310F	COMD. CTR. PROCESS/DISPLAY SYSTEM
64234F	CSRL LAUNCHER
33110F	DEFENSE SATELLITE COMMUNICATIONS SYSTEM (DSCS)
12431F	DEFENSE SUPPORT PROGRAM (DSP)
35119F	DELTA II (MED LNCH VEH) (SPACE BOOSTERS)
12412F	DISTANT EARLY WARNING (DEW) RADAR STATIONS
64220F	EW COUNTER RESPONSE
27130F	F-15 A/B/C/D SQUADRONS
27133F	F-16 SQUADRONS

27168F	F-111 SELF PROTECTION SYSTEMS
64227F	FLIGHT SIMULATOR DEVELOPMENTS
27217F	FOLLOW-ON TAC RECON SYS (ATARS)
64362F	GROUND-LAUNCHED CRUISE MISSILE (GLCM)
33128F	I-S/A AMPE
64312F	ICBM MODERNIZATION
63109F	INTEGRATED COMMUNICATION-NAVIGATION-IDENTIFICATION AVIONICS/INTEGRATED ELECTRONIC WARFARE SYSTEMS (ICNIA/INEWS)
64770F	JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM (JSTARS)
28010F	JOINT TACTICAL COMMUNICATIONS PROGRAM (TRI-TAC)
64321F	JOINT TACTICAL FUSION PROGRAM (JTF)

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64754F JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)

33601F MILSTAR SATELLITE COMMUNICATIONS SYSTEM (AF TERMINALS)

33603F MILSTAR SATELLITE COMMUNICATIONS SYSTEM

33131F MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK (MEECN)

2834 GROUND WAVE EMERGENCY NETWORK (GWEN)

11213F MINUTEMAN SQUADRONS

64247F MODULAR AUTOMATIC TEST EQUIPMENT (MATE)

63269F NATIONAL AEROSPACE PLANE TECH PROG.

35164F NAVSTAR GLOBAL POSITIONING SYSTEM (USER EQUIPMENT)

35165F NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTROL SEGMENTS)

64249F NIGHT/PRECISION ATTACK

2693 LANTIRN

12417F OVER-THE-HORIZON BACKSCATTER RADAR (OTH-B)

11312F PACCS AND WWABNCP SYSTEM EC-135 CLASS V MODS

64742F PRECISION LOCATION STRIKE SYSTEM (PLSS)

63364F SHORT RANGE ATTACK MISSILE II (SRAM II)

64406F SPACE DEFENSE SYSTEM (ASAT)

12432F SUBMARINE-LAUNCHED BALLISTIC MISSILE (SLBM) RADAR WARNING SYS

64733F SURFACE DEFENSE SUPPRESSION

3006 STANDOFF ATTACK GBU-15 P3I

27316F TACIT RAINBOW MISSILE

64724F TACTICAL C3 COUNTERMEASURES

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35114F TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM (TRACALS)

2759 MICROWAVE LANDING SYSTEM (MMLS)

33154F WWMCCS INFORMATION SYSTEM JOINT PROGRAM MANAGEMENT OFFICE(WIS)

64607F WIDE-AREA, ANTI-ARMOR MUNITIONS

2961 SENSOR FUZED WEAPON (SFW)

FY 1988 PRESIDENTS BUDGET PROCUREMENT ANNEX

Procurement Line Items Containing At Least $300M Lifetime Funding.

For Ethics use only.

Includes Procurement Line Items Active From FY 1983 forward.

Includes Only Selected Budget Activities and Cost Types.

Arranged Alphabetically by Component.

Item Number	Item Number Title
	ARMY
2033A01101705G82916	ABRAMS TANK SERIES ROLL (MYP) (M1 TANK)
2031A01206199AA0007	AH-64 ATTACK HELICOPTER (APACHE)
2032A02102201CC2200	AIR DEFENSE SYS HEAVY (FAAD)
2035A02782000K28800	ALL SOURCE ANALYSIS SYSTEM (ASAS)-TIARA
2032A02305589C98510	ARMY TACTICAL MISSILE SYSTEM (ATACMS)

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2035A02863360BU1400	ARMY DATA DISTRIBUTION SYSTEM–ADDS
2031A02105970AZ2200	ARMY HELICOPTER IMPROVEMENT PROG (AHIP)
2033A01100565G80702	BRADLEY FIGHTING VEHICLES (MYP)
2033A01100200G80300	CARRIER, COMMAND POST LIGHT, FT, M577A2
2033A01100510G80711	CARRIER, PERSONNEL, FT, ARM, M113A3
2031A01201999AA0006	CH–47 CARGO HELICOPTER
2031A02103301AA0250	CH–47 CARGO HELICOPTER MODS (MYP)
2032A02101248C22100	CHAPARRAL MISSILE
2034A01304600E67601	COPPERHEAD PROJECTILE
2035A02604531BB8509	DSCS OPERATIONS CONTROL SYS (DOCS)
2031A01203525A04300	EH–60A HELICOPTER (QUICKFIX) (MYP)

2035A01104246D19500	FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)
2035A01103760D15500	FAMILY OF MEDIUM TACTICAL VEHICLES (FMTV)
2035A02866540AD5050	FWD AREA AIR DEFENSE CMD & CTL (FAAD C2)
2032A03103600C35200	HAWK MISSILE
2035A01101950D15400	HI MOB MULTI–PURP WHLD VEH (HMMWV)(MYP)
2032A02206000C70000	LASER HELLFIRE SYSTEM MISSILE
2034A01306700E36101	LIGHTWEIGHT MULTI–PURPOSE WEAPON
2033A02103575G14900	M16 RIFLE
2035A02866403BA9300	MANUEVER CONTROL SYS (MCS)
2035A02188700BB1610	MOB SUBSCRIBER EQUIP
2032A02305575C67600	MULTIPLE LAUNCH ROCKET SYSTEM (MYP)
2032A02102100CC2100	NON LINE OF SIGHT AIR DEFENSE SYSTEM

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2031A02105280AA0400	OH–58 OBSERVATION HELICOPTER (KIOWA)
2032A02106250C49100	PATRIOT(MYP) MISSILE
2032A02304998C76500	PERSHING
2031A01106920A02005	RC–12D RECON AIRPLANE
2033A01101100G82500	RECOVERY VEHICLE, MED, FT, M88A1
2035A02956500A02900	RPV TA/DESIGN AERIAL RECON SYS (TADARS)
2035A02200147BW0006	SINCGARS FAMILY
2035A02609592K23700	SINGLE CHANNEL OBJECT TACT TERM (SCOTT)
2035A02642550T50000	SPEECH SECUR EQ TSEC/KY–57
2032A02107500C18500	STINGER(MYP) MISSILE
2033A01206300GA0650	TANK,COMBAT,FT,105MM GUN,M60SER (MOD))MYP)

2032A03104380C61700	TOW MISSILE
2032A02301848C59300	TOW 2 (MYP)
2035A02183795BA1010	TRI–TAC EQUIPMENT
2031A02105940AA0600	UH–1 UTILITY HELICOPTER (IROQUOIS)
2031A01207499AA0005	UH–60 (BLACKHAWK) (MYP)
2035A02867700BE4100	WWMCCS INFORMATION SYSTEM (WIS)

NAVY

1506N01010110	A–6E/F (ATTACK) INTRUDER (MYP)
1507N03013118	ADV LIGHTWEIGHT TORPEDO (ALWT) (MK 50)
1507N02022227	AGM–88A HARM
1506N01010165	AH–1W (HELICOPTER) SEA COBRA

1506N01010175	CH–53E (HELICOPTER) SUPER STALLION
1506N01010145	E–2C (EARLY WARNING) HAWKEYE
1507N02022228	HARPOON
1507N03013119	MK 48 ADCAP TORPEDO
1507N02022229	SEA SPARROW MISSILE
1507N02022230	SIDEWINDER MISSILE
1506N01010135	T–45 TRAINER AIRCRAFT
1506N01010155	V–22 (TILT ROTOR) OSPREY

1506N01010125	VH–60 (HELICOPTER) WHITEHAWK

MARINE CORPS

1506M01010105	AAV7A1 AMPHIBIOUS ASSAULT VEHICLE
1506M01010115	LAV–25 LIGHT ARMORED VEHICLE

AIR FORCE

3010F01010105	A–10 AIRCRAFT
3010F01010110	B–1B AIRCRAFT
3010F01010115	B–52 AIRCRAFT
3010F01010120	C–130 AIRCRAFT
3010F01010125	C–135 AIRCRAFT
3010F01010130	C–141 AIRCRAFT
3010F01010135	C–5 AIRCRAFT
3010F01010140	C–9 AIRCRAFT
3010F01010145	C–12 AIRCRAFT
3010F01010150	C–20 AIRCRAFT
3010F01010155	C–21 AIRCRAFT
3010F01010160	C–22 AIRCRAFT
3010F01010165	C–23 AIRCRAFT
3010F01010170	C–27 AIRCRAFT
3010F01010175	C–32 AIRCRAFT
3010F01010180	C–37 AIRCRAFT
3010F01010185	C–38 AIRCRAFT
3010F01010190	C–40 AIRCRAFT
3010F01010195	C–130 AIRCRAFT
3010F01010200	C–135 AIRCRAFT
3010F01010205	C–141 AIRCRAFT
3010F01010210	C–5 AIRCRAFT
3010F01010215	C–9 AIRCRAFT
3010F01010220	C–12 AIRCRAFT
3010F01010225	C–20 AIRCRAFT
3010F01010230	C–21 AIRCRAFT
3010F01010235	C–22 AIRCRAFT
3010F01010240	C–23 AIRCRAFT
3010F01010245	C–27 AIRCRAFT
3010F01010250	C–32 AIRCRAFT
3010F01010255	C–37 AIRCRAFT
3010F01010260	C–38 AIRCRAFT
3010F01010265	C–40 AIRCRAFT
3010F01010270	C–130 AIRCRAFT
3010F01010275	C–135 AIRCRAFT
3010F01010280	C–141 AIRCRAFT
3010F01010285	C–5 AIRCRAFT
3010F01010290	C–9 AIRCRAFT
3010F01010295	C–12 AIRCRAFT
3010F01010300	C–20 AIRCRAFT
3010F01010305	C–21 AIRCRAFT
3010F01010310	C–22 AIRCRAFT
3010F01010315	C–23 AIRCRAFT
3010F01010320	C–27 AIRCRAFT
3010F01010325	C–32 AIRCRAFT
3010F01010330	C–37 AIRCRAFT
3010F01010335	C–38 AIRCRAFT
3010F01010340	C–40 AIRCRAFT

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1507N02022212	AIM–54A/C (PHOENIX)
1507N02022209	AIM–9L/M SIDEWINDER
1507N02022202	AIM/RIM–7 F/M SPARROW MISSILE
1507N02022206	AMRAAM (Adv Med Rng A–A Msl)
1810N02022145	AN/BQQ–5
1810N02032217	AN/BSY–1 SUBACS
1810N02042312	AN/SLQ–32 EW SYSTEM
1810N02012010	AN/SPS–48 RADAR
1010N03014025	AN/SSQ–53 (DIFAR)
1810N02022136	AN/SQQ–89 SURFACE ASW COMBAT SYS
1810N02032236	AN/SQR–19 TOWED ARRAY SONAR
1506N01010124	AV–8B (V/STOL) HARRIER

1611N02012053	BATTLESHIP REACTIVATION
1507N02012101	BGM–109 TOMAHAWK MISSILE
1506N02010250	C–2 (MYP)
1611N02012115	CG–47 AEGIS CRUISER (MYP)
1506N01010148	CH/MH–53E (HELO) SUPER STALLION (MYP)
1611N02012080	CV SLEP
1611N02012001	CVN AIRCRAFT CARRIER (NUCLEAR)
1611N02012122	DDG–51 (MYP) GUIDED MSL DESTROYER
1506N01010195	E–2C (EARLY WARNING) HAWKEYE
1506N04010435	E–6A
1506N01010115	EA–6B (ELECTRONIC WARFARE) PROWLER

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1506N01010140	F–14A/D (FIGHTER) TOMCAT
1506N01010144	F/A–18 (FIGHTER) HORNET
1611N04014010	FFG GUIDED MISSILE FRIGATE
1507N02042430	FLEET SATELLITE COMMUNICATIONS
1506N05010526	H–46 AIRCRAFT/MODIFICATIONS
1109N03013003	HAWK MISSILE
1507N02022254	HELLFIRE MISSILE
1507N02022256	IIR MAVERICK (MYP) MISSILE
1507N02022255	LASER MAVERICK MISSILE
1611N05015105	LCAC (LANDING CRAFT AIR CUSHION)
1611N03013035	LHD–1 AMPHIBIOUS ASSAULT SHIP
1611N03013045	LSD–41 (CARGO VARIANT)

1611N03013030	LSD–41 LANDING SHIP DOCK
1611N04014015	MCM MINE COUNTERMEASURES SHIP
1611N04014026	MHC COASTAL MINE HUNTER
1507N04014110	MK–15 CLOSE IN WEAPONS SYSTEM
1507N03013120	MK–60 CAPTOR MINE
1507N03013130	MOBILE TARGET MK–30 (MYP)
1810N02052430	OUTBOARD EW SYSTEM
1810N02102926	OVER THE HORIZON RADAR (OTHR)
1506N01010185	P–3C/G (PATROL) ORION
1507N02022242	RAM (ROLLING AIRFRAME MISSILE)
1506N05010541	S–3 AIRCRAFT MODIFICATIONS

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1507N03013112	SEA LANCE (ASW STAND-OFF WPN)
1507N02022224	SGM-84A HARPOON (MYP) (ASWS)
1506N01010198	SH-2F (ASW HELO) SEASPRITE
1506N01010180	SH-60B (ASW HELO) SEAHAWK
1506N01010183	SH-60F (CV ASW HELO)
1507N02022233	SM-1 MR (STANDARD MISSILE)
1507N02022239	SM-2 ER (STANDARD MISSILE)
1507N02022234	SM-2 MR (STANDARD MISSILE)
1810N02032225	SOSUS
1611N02012012	SSN-21 SUBMARINE
1611N02012010	SSN-688 SUBMARINE
1109N03013009	STINGER MISSILE

1506N03010338	T-45TS GOSHAWK
1611N05015030	T-AGOS SURTASS SHIPS
1611N05015098	TAH (CONV) HOSPITAL SHIP
1611N05015025	T-AO FLEET OILER
1109M04140034	TAOM (TAC AIR OPS CTR)
1507N03013115	TORPEDO MK-46 (MYP)
1507N03013111	TORPEDO MK-48 ADCAP
1611N01011040	TRIDENT (NUCLEAR) SUBMARINE
1507N01011140	TRIDENT I MISSILE
1507N01011150	TRIDENT II MISSILE
1506N01010163	V-22 OSPREY

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1507N03013145	VERTICAL LAUNCHED ASROC

AIR FORCE

3010F0502A00700	A–7
3010F0104C130UA	AC–130U GUNSHIP
3020F020120ACMA	ADVANCED CRUISE MISSILE (ACM)
3010F0103ATF000	ADVANCED TACTICAL FIGHTER (ATF)
3020F0202M130AG	AGM–130 POWERED GBU–15
3020F0202M65DAG	AGM–65D MAVERICK (MYP) MISSILE
3020F0202M88AAG	AGM–88A HARM MISSILE
3020F0202M07FAI	AIM–7F/M SPARROW MISSILE
3020F0202M09LAI	AIM–9L/M SIDEWINDER MISSILE

3020F0201MALCBG	AIR LAUNCH CRUISE MISSILE (ALCM)
3020F0202MAMRA0	AMRAAM MISSILE
3010F0501B1BM00	B–1B
3010F0101B001B0	B–1B (MYP)
3010F0101B002A0	B–2
3010F0501B05200	B–52
XX	AVIONICS
XX	ALCM – CARRIER AIRCRAFT
XX	ALQ–172 ELECTRONIC COUNTERMEASURES
XX	ALCM CARRIER INTERNAL/COMMON STRATEGIC ROTARY LAUNCHER (CSRL)
XX	SYNTHETIC APERTURE RADAR
XX	RADAR UPGRADES
3080F0103813710	BIGEYE BOMB
3010F0505C13000	C–130

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3010F0505C13500	C–135 (KC–135 RE–ENGINING MOD)
3010F0503C14100	C–141
3010F0202C017A0	C–17
3010F0503C00500	C–5
XX	WING MODS
3010F0201C005B0	C–5B
3010F	CV–22A
3080F	CBU–87 (COMBINED EFFECT MUNITION)
3080F0103813530	CBU–89 (TMD/GATOR)
3010F	CIVIL RESERVE AIR FLEET (CRAF)–CIVILIAN FLEET UPGRADE
3080F0303833100	DEFENSE SUPPORT PROGRAM

3080F0303833400	DIST EARLY WARNING RDR/NORTH WARNING
3020F0501M50554	DMSP SATELLITE
3020F0501M5077	DSCS MYP SATELLITE
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Part VIII

The President

Proclamation 5956—Education Day, U.S.A., 1989 and 1990

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Title 3—

The President

Proclamation 5956 of April 14, 1989

Education Day, U.S.A., 1989 and 1990

By the President of the United States of America

A Proclamation

Ethical values are the foundation for civilized society. A society that fails to recognize or adhere to them cannot endure.

The principles of moral and ethical conduct that have formed the basis for all civilizations come to us, in part, from the centuries-old Seven Noahide Laws. The Noahide Laws are actually seven commandments given to man by God, as recorded in the Old Testament. These commandments include prohibitions against murder, robbery, adultery, blasphemy, and greed, as well as the positive order to establish courts of justice.

Through the leadership of Rabbi Menachem Schneerson and the worldwide Lubavitch movement, the Noahide Laws—and standards of conduct duly derived from them—have been promulgated around the globe.

It is fitting that we honor Rabbi Schneerson and acknowledge his important contributions to society. Our great Nation takes just pride in its dedication to the principles of justice, equality, and truth. Americans also understand that we have a responsibility to inspire the same dedication in future generations. We owe a tremendous debt to Rabbi Schneerson and to all those who promote education that embraces moral and ethical values and emphasizes their importance.

In recognition of Rabbi Schneerson's vital efforts, and in celebration of his 87th birthday, the Congress, by House Joint Resolution 173, has designated April 16, 1989, and April 8, 1990, as "Education Day, U.S.A." and has authorized and requested the President to issue an appropriate proclamation in observance of these days.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim April 16, 1989, and April 8, 1990, as Education Day, U.S.A. I invite Governors from every State and Territory, community leaders, teachers, and all Americans to observe these days through appropriate events and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.

George Bush

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Wednesday, April 19, 1989

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–NM–51–AD; Amdt. 39–6197]

Airworthiness Directives; Aerospatiale Model ATR–42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Aerospatiale Model ATR–42 series airplanes, which prohibits use of the autopilot when operating in icing conditions. This amendment is prompted by an incident in which an Aerospatiale Model ATR–42 airplane operating in icing conditions experienced an autopilot disconnect and roll excursions. This condition, if not corrected, could lead to loss of control of the airplane.

EFFECTIVE DATE: May 3, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM–113; telephone (206) 431–1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The FAA has recently received a report of uncommanded autopilot disconnect occurring on Aerospatiale Model ATR–42 series airplane while operating in icing conditions, resulting in roll excursions up to 80 degrees. In this incident, it was reported that ice buildup and asymmetric wing lift may have been masked due to use of the autopilot. This condition, if not corrected, could lead to loss of control of the airplane.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires a revision to the FAA-approved Airplane Flight Manual (AFM) which prohibits use of the autopilot when operating in icing conditions. This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking to address it.

Since a condition exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR–42 series airplanes, certificated in any category. Compliance is required within 10 hours time-in-service after the effective date of this AD.

To minimize the potential hazards associated with operating in icing conditions, accomplish the following:

A. Incorporate the following into the Limitations Sections of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by including a copy of this AD in the AFM.

"When operating in icing conditions, as defined in AFM, or when freezing rain is forecast or reported, use of the autopilot is prohibited.

WARNING

Prolonged operation in freezing rain should be avoided. Ice accretion due to freezing rain may result in asymmetric wing lift and associated increased aileron forces necessary to maintain coordinated flight. Whenever the aircraft exhibits buffet onset, uncommanded roll, or unusual control wheel forces, immediately reduce angle-of-attack and avoid excessive maneuvering."

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM–113.

This amendment becomes effective May 3, 1989.

Issued in Seattle, Washington, on April 7, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–9333 Filed 4–18–89; 8:45 am]

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14 CFR Part 39

[Docket No. 88-NM-39-AD; Amdt. 39-6192]

Airworthiness Directives; Airbus Industrie Models A300, A310, A300-600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Airbus Industrie Models A300, A310, A300-600 series airplanes, which requires inspection of the engine fire extinguisher bottles for an electrical grounding defect and repair, if necessary. This amendment is prompted by reports that during production there was insufficient electrical bonding between the engine firex bottle cartridge and the airplane structure. This condition, if not corrected, could result in the inability to actuate the fire extinguisher bottle when needed.

EFFECTIVE DATE: May 1, 1989.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction Générall de L'Aviation Civile (DGAC), which is the airworthiness authority of France, has notified the FAA of an unsafe condition which may exist on Airbus Industrie Models A300, A310, and A300-600 series airplanes. There has been a report that during production there was insufficient electrical bonding between the engine firex bottle cartridge and the airplane structure. This condition, if not corrected, could result in the inability to actuate the fire extinguisher bottle when needed.

Airbus Industrie has issued All Operator Telex (AOT) 26/88/01, which describes procedures for inspecting the engine fire extinguisher bottles for electrical bonding defects, and repair, if necessary. The DGAC has classified AOT 26/88/01 as mandatory and has issued Airworthiness Directive 88-181-069(B) addressing this subject.

These airplane models are manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires inspection of the engine fire extinguisher bottles for an electrical bonding defect, and repair, if necessary, in accordance with the Airbus All Operator Telex described above.

Since a condition exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 series airplanes, on which Modification 1988 has been accomplished (Post Service Bulletin A300-54-022), and all Model A310 and A300-600 equipped with Walter Kidde or APCO fire extinguisher bottles, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent the inability to actuate the fire extinguisher bottles, accomplish the following:

A. Within 10 days after the effective date of this AD, inspect the engine fire extinguishers for an electrical bonding defect in accordance with Airbus All Operator Telex (AOT) 26/88/01. If defects are found, repair prior to further flight, in accordance with the AOT.

B. Whenever the fire extinguishers bottles are replaced, perform the inspection required by paragraph A., above.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspection/modification required by this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 1, 1989.

Issued in Seattle, Washington, on April 4, 1989.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9336 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-160-AD; Amdt. 39-6194]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which requires that protruding head solid fasteners be installed in the upper row of all lap splices in the fuselage and in the two rows of Stringer 17. This amendment is prompted by reports of cracking on Boeing Model 737 airplanes from which the FAA has determined that widespread multiple site cracking cannot be reliably detected over the long term by visual or other non-destructive inspection (NDI) techniques. This action is necessary to ensure that undetected widespread cracking is minimized in these fuselage skins. Cracks, if allowed to grow undetected, could lead to structural failure and rapid decompression of the airplane.

EFFECTIVE DATE: May 19, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Mudrovich, Airframe Branch, ANM-120S; telephone (206) 431-1927. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 737 series airplanes, which requires accomplishment of a terminating modification on all lap splices and along Stringer 17, which includes installation of protruding head solid fasteners, was published in the Federal Register on November 1, 1988 (53 FR 44163).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The Air Transport Association (ATA) of America, commenting on behalf of its members, suggested that the proposal be withdrawn or the compliance times extended because the proposed short compliance times are not justified by one report by one operator of a 12-inch crack found in an area of a previous repair. The FAA does not concur. Although the report of a 12-inch crack in an area inspected 6 months prior to discovery further emphasizes the FAA's determination that widespread cracking in lap splices cannot be adequately maintained by inspection, the FAA's proposal is based primarily on the numerous reports of cracking received. The FAA has determined that rivet replacement will eliminate the risk of undetected cracks joining, which can result eventually in an uncontrolled decompression of the airplane. This AD action is, therefore, both justified and appropriate.

As a result of extensive FAA efforts following the accident in Hawaii in April 1988, which involved a Model 737 series airplane, it became apparent that widespread, multi-site cracking was not being discovered to the degree of assurance necessary to maintain safety of the aging transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has caused the FAA to place less emphasis on repetitive inspections and more emphasis on material replacement. Thus, as aircraft begin to show the signs of multi-site damage and other indications of structural aging, the FAA has decided to require airplane modifications necessary to remove the source of the particular aging phenomenon. This is in lieu of the previous position of continual inspection and repair/modification on condition if cracks are found. This final rule is in consonance with that policy decision.

Two operators requested that the compliance time for accomplishment of the terminating modification in the area between body station (BS) 259 and BS 360 be extended to 4 years or 80,000 flight cycles, whichever occurs first, based on the minimal reports of cracking in this area and reduced load levels. The FAA concurs with the commenters and has determined that, because of the lesser loads in this area, the modification can be delayed without adversely impacting safety. Paragraph B. of the final rule has been revised accordingly. The FAA has determined that this change will neither increase the economic burden on any operator nor expand the scope of the AD.

Two operators requested that the compliance time be extended so that the modification may be accomplished at the first heavy maintenance visit after the accumulation of 70,000 flight cycles. The FAA does not concur. In light of the fact that there have been reports of multiple site cracking on airplanes with as low as 45,000 flight cycles, the FAA has determined that extension of the proposed compliance time for modification, as requested, cannot be justified.

One operator requested that the compliance time be extended so that the modification may be accomplished within 15 months following inspection with high frequency eddy current. The FAA does not concur. The FAA has determined that, due to evidence of widespread cracking, the integrity of the lap splices cannot be assured by currently required inspection techniques, which have not been successful in some cases. For this reason, an aggressive schedule to modify the splice configuration, regardless of inspections previously accomplished, is necessary.

One operator commented that the proposed rule should only apply to the lap splices at Stringers 4 and 10. The FAA does not concur with the commenter, since evidence of multiple site cracking has been reported at lap splices other than at Stringers 4 and 10. Additionally, all splices have the potential for structural failure if widespread cracking is allowed to remain undetected.

Transport Canada commented that the terminating modification has not been shown to be adequate. The FAA does not agree with this commenter. The terminating modification will correct the basic design inadequacy of the lap joints by removing the knife edge due to countersunk fastener installations. Further, the designed fail-safe capability will be verified by assurance of the tearstrap bond, as required by paragraphs A.1. and A.2.

Transport Canada also questioned the rationale of the proposed schedule. The FAA chose a schedule that would aggressively minimize the potential for future structural failure or rapid decompression due to lap splice multiple site cracking. The proposal requested comments on more appropriate schedules and received various comments. As noted above, the proposed schedule has been revised due to one of the comments received on this subject.

One operator commented that the problems associated with fairing clearance and installation of protruding head fasteners need to be resolved. The FAA has determined that the lap splice

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modification will not be compromised due to fairing interference. The manufacturer has developed fairing rework instructions to resolve this problem, and will revise its service bulletin instructions to add these instructions.

One operator requested that any alternate means of compliance approved for the terminating modification of AD 88-22-11, Amendment 39-6059 (53 FR 44163; November 1, 1988) should be approved for the proposed rule as well. AD 88-22-11 requires external and internal inspections of the skin along certain fuselage skin lap joints and bonded doublers; the terminating action provided for in that AD is identical to the modification required by the proposed rule. The FAA concurs and has revised paragraph E. of the final rule to specify that accomplishment of the requirements of this AD constitutes terminating action for the requirements of AD 88-22-11, and that any alternate means of compliance previously granted as terminating action for AD 88-22-11 is considered approved alternate means of compliance for this AD as well.

Paragraph A.2. of the final rule has been revised to clarify that the area where tearstraps must be assured to be functional is "one bay above and below S-17;" the Notice had inadvertently specified this area as "two bays above and one bay below S-17."

Paragraph C. of the final rule has been clarified to specify the referenced subparagraph of paragraph A. as "A.1."

Paragraph D. of the Notice incorrectly referenced Boeing Service Bulletin 737-53-1069, Revision 1, as one source for repair procedures for cracks found in the skin along the lap joints. That reference has been deleted from this paragraph in the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule, with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator, nor will they increase the scope of the AD.

There are approximately 291 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 100 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2,016 manhours per airplane to accomplish the required modifications, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,064,000.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model 737 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, line numbers 001 through 291, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent decompression of the airplane, accomplish the following:

A. In accordance with the schedule set forth in paragraph B. of this AD:

1. Accomplish the terminating repair at all lap joints between BS 259 and BS 1016, which includes replacing all upper row fasteners with standard protruding head solid fasteners and assuring the tearstraps are functional 2 bays above and 1 bay below each lap joint, by the use of mechanical fasteners where disbonding of the tearstraps has occurred, in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988.

2. Accomplish the preventative modification as described in Boeing Service Bulletin 737-53-1069, Revision 1, dated October 13, 1988, along S-17, using standard protruding head solid fasteners and assure the tearstraps are functional 1 bay above and below S-17, by the use of mechanical fasteners where disbonding of the tearstraps has occurred, in accordance with the Structural Repair Manual.

B. Airplanes are to be modified as required by paragraph A., above, in accordance with the following times after the effective date of this AD:

1. For fuselage structure between BS 360 and BS 1016:

Number of landings on effective date of this AD	Modify within the next:
70,000 or more	6 months.
60,000 to 69,999	12 months.
50,000 to 59,999	18 months.
40,000 to 49,999	24 months.
Less than 40,000	36 months.

2. For fuselage structure between BS 259 and BS 360, accomplish the modifications prior to a. or b., below, whichever occurs later:

a. the accumulation of 80,000 flight cycles or 4 years after the effective date of this AD, whichever occurs first; or

b. one year after the effective date of this AD.

C. For airplanes on which the procedure described in paragraph A.1., above, has been accomplished in accordance with Part IV, A.2, of Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988, within 15 months after accomplishment, or within 6 months after the effective date of this AD, whichever occurs later, perform an external visual inspection of the skin for corrosion and delamination at all lap joints in accordance with that service bulletin. If corrosion is found, prior to further flight, perform a low frequency eddy current inspection of the entire length of the affected panel to determine material loss. If cracks are found, prior to further flight, perform a high frequency eddy current inspection of the entire length of the affected skin panel for cracks in accordance with the service bulletin. Repair cracks, corrosion, and delamination, prior to further flight (except as permitted by paragraph D., below), in accordance with the service bulletin. Inspections are to continue at intervals not to exceed 15 months.

D. If corrosion found as a result of the external inspection does not exceed 10% of the skin thickness, reinspect for corrosion in accordance with paragraph C., above, at intervals not to exceed 2,250 cycles or 6 months, whichever occurs first, until a repair is accomplished. If such corrosion exceeds 10% of skin thickness or if cracking is found, repair prior to further flight, in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988. Following such repair, resume inspections in accordance with paragraph C., above.

E. Accomplishment of the requirements of this AD constitutes terminating action for the

requirements of AD 88-22-11, Amendment 39-6059, and is equivalent to the terminating modification therein. Any alternate means of compliance issued for that amendment are considered approved for this amendment.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 19, 1989.

Issued in Seattle, Washington, on April 10, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9335 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-ANE-21; Amdt. 39-6102]

Airworthiness Directives; Davis Aircraft Products Company, Inc., Safety-Belts, FDC 6400B Series (90° Release Type) Black "Ultem" (Plastic) Latch-Cover

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and, if necessary, replacement of certain Davis Aircraft Products Co., Inc., safety-belts. Also, certain typographical errors involving part numbers (P/N's), which appeared in the NPRM, have been corrected. The AD is needed to prevent safety-belts from becoming difficult to release, with possible jamming of the buckle release mechanism, resulting in a dangerous condition during an emergency evacuation of an aircraft.

DATES:

Effective—May 24, 1989

Compliance—As required in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Davis Aircraft Products Co., Inc., 1150 Walnut Ave., P.O. Box 525 Bohemia, New York 11716.

A copy of the applicable service information is contained in the Rules Docket, Docket No. 88-ANE-21, at the Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis, Systems and Equipment Branch, ANE-173, New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD which requires that certain Davis Aircraft Products Company, Inc., safety-belts be inspected, and if necessary, replaced, was published in the Federal Register on June 14, 1988 (53 FR 22181).

The proposal was prompted by an FAA determination that certain FDC-6400B series (90° release type) black "Ultem" (plastic) latch-covers on the Davis Aircraft Products Company, Inc., safety-belt buckles have been cracking and creating difficulty in releasing the belt. This condition if not corrected could result in jamming of the buckle-release mechanism, when belt removal is required during an emergency evacuation of an aircraft.

Davis Aircraft Products Co., Inc., has issued recall (Service Bulletin No. 1, dated January 29, 1988) notices to all known operators who have purchased these safety-belts with the black "Ultem" latch-covers (90° release type), requesting them to check for certain part numbers designated on the labels and to return affected safety-belts to Davis Aircraft Products Co., Inc., for replacement at no charge for the rework and parts.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all the comments received. Only one comment was received and the commenter responded with two objections. The first objection pertained to the statement in the supplementary information section of the NPRM that "wear" is the cause for the malfunctioning buckles. The commenter believes that, because of misuse in not fully engaging the release mechanism, excessive force is exerted on the plastic latch-cover. The second objection expressed by this commenter was that, in the summary section of the NPRM, it is not clear that the subject safety-belts are specifically the FDC-6400B series (90° lift to release) with black "Ultem" (plastic) latch-covers.

The FAA agrees with the commenter that, when the buckle latch-release is not fully engaged, excessive force will be imposed by the metallic adapter against the plastic covers. However, it is this excessive force that eventually creates wear and subsequent sticking or jamming of the mechanism upon releasing the belt.

Pertaining to the second objection from this commenter, the summary section of the NPRM serves the purpose of informing readers of the subject matter in brief and general terms; details are not addressed in this section, but rather left for the supplementary information section of the NPRM. In that respect, the NPRM mentions that the subject buckles are of a black "Ultem" (90° release type) plastic, and also in the effectivity of the AD the FDC-6400B series safety-belts are specifically called out.

The following typographical errors were noticed in the NPRM and are being corrected: P/N's FDC-6400B-29-1, FDC-6400B-29B-1, FDC-6400B-85-1, and FDC-6400B-90-1 should not reflect the -1 the end of the numbers, because the -1 suffix number at the end of the P/N is reserved to designate approved belts on the FAA/TSO metallic tag. Part Numbers FDC-6400B-63-50 and FDC-6400B-63-50, in consecutive order, should be FDC-6400B-63-507 and FDC-6400B-63-508. Part Number FDC-6400B-21-** should be FDC-6400B-31-**, and FDC-6400B-7*** should be FDC-6400B-7-***. Accordingly, except for the above corrections, the proposal is adopted without change.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications

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to warrant the preparation of a Federalism Assessment.

Conclusion: The FAA has determined that this regulation involves 5,000 of the FDC 6400B series (90° release type) safety-belts; the cost per aircraft will involve minimal expense that would be required for shipping the safety-belts to Davis Aircraft Products Co., Inc. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Davis Aircraft Products Co., Inc.: Applies to safety-belts which incorporate the black "Ultem" plastic latch-cover with the 90° type pull-release mechanism, as listed below:

Affected Safety-Belt Part Numbers (P/N's)

FDC-6400B-6
FDC-6400B-7-***
FDC-6400B-12
FDC-6400B-12B
FDC-6400B-18-3
FDC-6400B-18-5
FDC-6400B-18-21
FDC-6400B-18-23
FDC-6400B-18-25
FDC-6400B-18-27
FDC-6400B-18-29
FDC-6400B-18-505
FDC-6400B-19
FDC-6400B-20
FDC-6400B-22
FDC-6400B-27-3
FDC-6400B-29
FDC-6400B-29-2
FDC-6400B-29B
FDC-6400B-29B-2
FDC-6400B-30B
FDC-6400B-31-**
FDC-6400B-32
FDC-6400B-36-***
FDC-6400B-39
FDC-6400B-50-***-**
FDC-6400B-51
FDC-6400B-54
FDC-6400B-56
FDC-6400B-63-2
FDC-6400B-63-4
FDC-6400B-63-507
FDC-6400B-63-508
FDC-6400B-64-***
FDC-6400B-71-***
FDC-6400B-80B
FDC-6400B-85
FDC-6400B-85-2
FDC-6400B-90
FDC-6400B-90-3
FDC-6400B-90-7
FDC-6400B-**-***-**-**

Compliance required within the next 100 flights, after the effective date of this AD, unless already accomplished.

To prevent the possibility of the applicable safety-belts from becoming difficult to release or becoming completely jammed when actuated through 90°, accomplish the following:

(a) Inspect safety-belts to determine if they have any of the above P/N's inscribed on the FAA-TSO-C22f metallic tag.

(b) Replace all safety-belts with the above P/N's with an approved safety-belt.

Notes: (1) Safety-belt assemblies that have been modified by Davis Aircraft Products Co., Inc., are marked with a -1 suffix number at the end of the Part Numbers (listed above) on the FAA-TSO-C22f metallic tag, and are approved.

(2) Davis Aircraft Products Co., Inc., has issued (recall) Service Bulletin No. 1, dated January 29, 1988, indicating that the affected safety-belts may be returned to them for replacement at no charge for the rework and parts.

(c) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

(d) Upon submission of substantiating data, by an owner or operator, through an FAA Airworthiness Inspector, the Manager, New York Aircraft Certification Office, may adjust the compliance time specified by this AD.

This amendment becomes effective on May 24, 1989.

Issued in Burlington, Massachusetts, on December 22, 1988.

Arthur J. Pidgeon,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89-9285 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

* Denotes numerical (arabic) digit.

14 CFR Part 39

[Docket No. 89-NM-36-AD; Amdt. 39-6196]

Airworthiness Directives; Gulfstream Aerospace Corp. Models G1159 (G-II), G1159A (G-III), G1159B (G-IIB), and G-IV Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Gulfstream Models G1159 (G-II), G1159A (G-III), G1159B (G-IIB), and G-IV series airplanes by individual letters. This Ad requires inspection of the electrical power leads to the engine fire extinguishers to determine proper installation and to correct the installation, if necessary. This action is prompted by reports of incorrect installation of the electrical power leads to the engine fire extinguishing systems. This condition, if not corrected, could result in a fire bottle being discharged into the wrong nacelle.

EFFECTIVE DATE: May 8, 1989.

This AD was effective earlier to all recipients of Priority Letter AD 89-05-05, dated March 8, 1989.

ADDRESSES: The applicable service information may be obtained from Gulfstream Aerospace Corporation, Technical Operations Department, Travis Field, P.O. Box 2206, Savannah, Georgia 31402-2206. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, Aircraft Certification Service, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Durrance, Propulsion Branch, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, Aircraft Certification Service, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349, telephone (404) 991-3810.

SUPPLEMENTARY INFORMATION: On March 8, 1989, the FAA issued Priority Letter AD 89-05-05, applicable to Gulfstream Models G1159 (G-II), G1159A (G-III), G1159B (G-IIB), and G-IV series airplanes, which requires a one-time inspection of the electrical power leads to the engine fire extinguishers to determine proper installation. That action was prompted by six reports of the electrical power leads to the engine fire extinguishing systems found incorrectly installed (crossed) on various Gulfstream airplanes in service. Such an incorrect installation could cause a fire bottle to be discharged into the wrong nacelle.

Since this condition is likely to exist or develop on other airplanes of this same type design, this AD requires a one-time inspection of the electrical power leads to the engine fire extinguishers to determine proper installation and to correct the installation, if necessary. This is considered interim action until final action has been identified, at which time the FAA may consider further rulemaking to address it.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Federal Aviation Administration has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Gulfstream Aerospace Corporation: Applicable to Model G1159 (G-II), G1159A (G-III), G1159B (G-IIB), and G-IV series airplanes, certificated in any category. Compliance is required as indicated, unless already accomplished.

To ensure that the engine fire extinguishing system electrical power leads are properly connected, accomplish the following:

A. Within the next 3 days or 10 hours time-in-service after the effective date of this AD, whichever occurs later, perform an inspection to determine proper configuration of electrical power leads to the engine fire extinguishing system, in accordance with the following Gulfstream Alert Customer Bulletins, as applicable: G-II (G1159/G1159B) Alert Customer Bulletin No. 20; G-III (G1159A) Alert Customer Bulletin No. 4; G-IV Alert Customer Bulletin No. 5; each dated February 2, 1989. If the configuration is not correct, prior to further flight, correct the installation in accordance with the appropriate Gulfstream Alert Customer Bulletin.

B. Immediately following any maintenance performed on the engine fire extinguishing system, perform the inspection procedures specified in the appropriate alert service bulletin specified in paragraph A., above, to ensure that proper functioning of the system is reestablished.

C. An alternate means of compliance of adjustment of the compliance time which provides an acceptable level of safety may be used when approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region (Small Airplane Directorate, Aircraft Certification Service).

Note: If appropriate, the request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Atlanta Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to Gulfstream Aerospace Corporation, Technical Operations Department, Travis Field, P.O. Box 2206, Savannah, Georgia 31402-2206. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, Aircraft Certification Service, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

This amendment becomes effective May 8, 1989.

It was effective earlier to all recipients of Priority Letter AD 89-05-05, issued March 8, 1989.

Issued in Seattle, Washington, on April 11, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9334 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-168-AD; Amdt. 39-6193]

Airworthiness Directives; British Aerospace Model BAC 1-11 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certian British Aerospace Model BAC 1-11 series airplanes, which currently requires eddy current and ultrasonic inspections of the main landing gear support beams (manacle beam), and repair, if necessary. That action was prompted by a report of the collapse of a right main landing gear in service, attributed to stress corrosion cracking. This amendment requires additional maintenance actions and changes to some of the repetitive inspection intervals, and would provide an alternate means of compliance which terminates the need for the repetitive inspection. This amendment is prompted by further assessment of components associated with the main landing gear support beams, which identified the need for additional maintenance requirements. This condition, if not corrected, could lead to collapse of the main landing gear.

EFFECTIVE DATE: May 16, 1989.

ADDRESSES: The applicable service information may be obtained from British Aerospace PLC, Librarian for Service Bulletin, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the

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Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 87-13-03, Amendment 39-5654 (52 FR 23943; June 26, 1987), applicable to British Aerospace Model BAC 1-11 series airplanes, to require additional maintenance actions, to change certain the repetitive inspection intervals, and to provide an alternate means of compliance which terminates the need for the repetitive inspections, was published in the **Federal Register** on January 13, 1989 (54 FR 1390).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the proposal.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 2 airplanes of U.S. registry will be affected by this AD, that it will take approximately 60 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,800. (the cost for the optional new main support beam is estimated to be $90,000 per airplane.)

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model BAC 1-11 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the Docket.

List of Subjects 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 87-13-03, Amendment 39-5654 (52 FR 23943; June 26, 1987), with the following new airworthiness directive:

British Aerospace: Applies to all Model BAC 1-11 200 and 400 series airplanes, on which British Aerospace (BAe) main landing gear support structure Modification PM3070 is installed and Modification PM5928 has not been installed, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent collapse of a main landing gear, accomplish the following:

A. Perform initial and repetitive ultrasonic and eddy current inspections of the main landing gear support beams at initial times and repetitive intervals shown in Table I of this AD using procedures in BAe Alert Service Bulletin 57-A-PM6000, Issue 2, dated February 17, 1988.

TABLE I

Airplane Identification	Modification PM6000 Accomplishment Status	Initial Inspection Compliance Time	Repetitive Compliance Time Interval After Initial Inspection
Serial Numbers up to and including 402.	Not Accomplished	Whichever occurs later: —within 300 landings after July 30, 1987, (the effective date of AD 87-13-03, Amendment 39-5654); or —within 3 years since installation of new left and right main support beams.	Ultrasonic inspection: at intervals not to exceed 12 months. Eddy current inspections: at intervals not to exceed 36 months.
Serial Numbers 403 and subsequent.	Not Accomplished	Whichever occurs later: —within 300 landings after July 30, 1987, (the effective date of AD 87-13-03, Amendment 39-5654); or —within 6 years since new; or —within 6 years since installation of new left and right main support beams.	Ultrasonic inspections: at intervals not to exceed 12 months. Eddy current inspections: at intervals not to exceed 36 months.
For all A/P's on which Mod. PM6000 is accomplished prior to assembly of main support beam into wing.	Accomplished	Whichever occurs later: —within 6 years since new; or —within 3 years since new right and left main support beams are installed.	Ultrasonic inspections: at intervals not to exceed 2 years.
For all A/P's on which Mod. PM6000 is accomplished after assembly of main support beam into wing.	Accomplished	Within 2 years after installation of Modification PM6000.	Ultrasonic inspections: at intervals not to exceed 2 years.

B. Cracks in the main landing gear main support beam must be repaired, prior to further flight, in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Installation of main support beam, part number ED03-5007/8 (Modification PM5928) constitutes terminating action for the requirements of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment supersedes AD 87-13-03, Amendment 39-5654.

This Amendment becomes effective May 16, 1989.

Issued in Seattle, Washington, on April 6, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9287 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-199-AD; Amdt. 39-6194]

Airworthiness Directives; SAAB-Scania Model SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to SAAB-Scania Model SF-340A series airplanes, which requires inspection of the insulation in the Environmental Control System (ECS) compartment and securing of the Gamah Couplings with a locking wire. If inspection reveals leakage of hot air into the fuselage, an additional inspection is required for delamination of the stringer-to-skin bonding, and repair, if necessary. This amendment is prompted by a report of hot air leakage into the ECS compartment due to the separation of a Gamah Coupling, which resulted in delamination of the stringer-to-skin bonding due to overheated adhesive. This condition, if not corrected, could lead to reduced structural capability of the fuselage.

EFFECTIVE DATE: May 16, 1989.

ADDRESSES: The applicable service information may be obtained from SAAB-Scania AD, S-581.88, Linkoping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 431-1978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations, to include a new airworthiness directive, applicable to SAAB-Scania Model SF-340A series airplanes, which requires inspection of the insulation in the Environmental Control System (ECS) compartment and securing of the Gamah Couplings with a locking wire; and certain additional inspections for delamination of the stringer-to-skin bonding, and repair, if necessary; was published in the **Federal Register** on January 18, 1989 (54 FR 1944).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 67 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $16,080.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($240). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39-[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.131 [Amended]

2. By adding the following new airworthiness directive:

Saab-Scania: Applies to Model SF-340A series airplanes, serial numbers -003 through -138, inclusive, certificated in any category. Compliance is required as indicated below, unless previously accomplished.

To prevent reduced structural capability of the fuselage, accomplish the following:

A. Within 30 days after the effective date of this AD, perform an inspection of the insulation in the Environmental Control System (ECS) compartment and secure the Gamah Couplings with a locking wire, in accordance with SAAB-Scania Service Bulletin SF340-21-022, dated October 31, 1988.

B. If the inspection required by paragraph A., above, reveals leakage of hot air, prior to further flight, inspect for delamination of the stringer to skin bonding, and repair, if necessary, in accordance with SAAB-Scania Service Bulletin SF340-53-025, dated October 31, 1988.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

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D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to SAAB-Scania AB, S–581 88, Linkoping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 16, 1989.

Issued in Seattle, Washington, on April 6, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–9286 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–AWA–8]

Alteration of the Detroit Terminal Control Area; Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the description of the Detroit Terminal Control Area (TCA). A portion of the Detroit TCA is described by using the Willow Run very high frequency omni-directional radio range (VOR). The Willow Run VOR has been decommissioned and that portion of the TCA, which was defined by the Willow Run VOR, is now defined by using latitude and longitude coordinates.

EFFECTIVE DATE: 0901 u.t.c., June 1, 1989.

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9253.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) describes the boundaries of Area A and Area B of the Detroit TCA by using latitude and longitude coordinates when practical. The boundaries of the areas are described by using the Willow Run VOR which has been decommissioned. Therefore, the boundaries of Area A and Area B are to be described by using latitude and longitude coordinates. In Areas C and D, changes have been made to show the correct radial off the Windsor VOR. Since this amendment will change the descriptions of the areas and not the design, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 71.403 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.403 [Amended]

2. Section 71.403 is amended as follows:

Detroit, MI [Amended]

By removing the present description of Area A and substituting the following:

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within the lateral limits of the airspace beginning at lat. 42°17'10"N., long. 83°27'14"W.; thence northeast on a 047° bearing until intercepting the 7-mile DME arc of the Detroit Instrument Landing System (I–DTW) at lat. 42°20'50"N., long. 83°21'42"W.; thence clockwise along the I–DTW 7-mile DME arc until intercepting the Detroit Willow Run Airport Control Zone at lat. 42°10'15"N., long. 83°28'53"W.; thence counterclockwise along the Detroit Willow Run Airport Control Zone to the point of origin.

By removing the present description of Area B and substituting the following:

Area B. That airspace from 2,500 feet MSL to and including 8,000 feet MSL within the lateral limits fo the airspace beginning at the intersection of the I–DTW 7-mile DME arc at lat. 42°20'59"N., long. 83°21'42"W.; thence northeast on a 047° bearing until intercepting the I–DTW 8-mile DME arc at lat. 42°21'59"N., long. 83°19'57"W.; thence clockwise along the I–DTW 8-mile DME arc until lat. 42°13'54"N., long. 83°10'06"W.; thence eastbound on a 090° bearing until the United States shoreline, southbound along the United States shoreline to lat. 42°10'55"N., long. 83°09'25"W.; thence on a 214° bearing until intercepting the I–DTW 11-mile DME arc; thence clockwise along the I–DTW 11-mile DME arc until lat. 42°07'11"N., long. 83°32'30"W.; thence northeast on a 047° bearing to the point where the I–DTW 7-mile DME arc intercepts the Detroit Willow Run Airport Control Zone at lat. 42°10'15"N., long. 83°28'53"W.; thence counterclockwise along the I–DTW 7-mile DME arc to the point of origin.

In Area C, wherever "VOR 220°" appears change to "VOR 221°".

In Area D, by removing the words "Windsor VOR 220°" and substituting the words "Windsor VOR 221°".

Issued in Washington, DC, on April 7, 1989.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 89–9337 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

Statement of the Commodity Futures Trading Commission Regarding Disclosure by Commodity Pool Operators of Past Performance Records and Pool Expenses

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: On February 6, 1989, the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** an interpretive statement regarding the disclosure requirements pertaining to commodity pool operators ("CPOs"). (54 FR 5597 (February 6, 1989).) The Commission requested comment on matters related to the presentation of prior performance data by CPOs and commodity trading advisors ("CTAs") and the presentation of the fees, commissions and expenses incurred by pools, and on any other issues relating to Part 4 disclosure requirements. The interpretive statement provided a period for public comment which ended April 7, 1989.

The Commission has been requested by several potential commentators to extend the comment period for the interpretive statement. Such additional time has been requested in order to allow the associations representing CPOs and CTAs to receive and analyze the comments of their memberships and present them to the Commission. The Commission believes that a thirty-day extension period is appropriate to enhance the opportunity for interested parties to comment on the issues raised in the release.

DATE: All comments on the Commission's interpretive statement concerning Part 4 disclosure requirements (54 FR 5597 (February 6, 1989)) must be received by May 5, 1989.

ADDRESS: Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Tobey W. Kaczensky, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone (202) 254–8955.

Issued in Washington, this 13th day of April, 1989.

Lynn K. Gilbert,

Deputy Secretary to the Commission.

[FR Doc. 89–9279 Filed 4–18–89; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 88F–0177]

Indirect Food Additives; Adhesives and Components of Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polypropylene glycol dibenzoate and propylene glycol dibenzoate as components of adhesives in contact with food. This action is in response to two petitions filed by the Velsicol Chemical Corp.

DATES: Effective April 19, 1989; written objections and requests for a hearing by May 19, 1989.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 22, 1988 (53 FR 23455), FDA announced that two food additive petitions (FAP 8B4070 and FAP 8B4071) had been filed by Velsicol Chemical Corp., 5600 North River Rd., Rosemont, IL 60018–5119, proposing that § 175.105 *Adhesives* (21 CFR 175.105) of the food additive regulations be amended to provide for the safe use of polypropylene glycol dibenzoate and propylene glycol dibenzoate, respectively, as components of adhesives in contact with food.

FDA has evaluated data in the petitions and other relevant material. The agency concludes that the proposed food additive uses for polypropylene glycol dibenzoate and propylene glycol dibenzoate are safe, and that § 175.105(c)(5) should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petitions and the documents that FDA considered and relied upon in reaching its decision to approve these petitions are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that environmental impact statements are not required. The agency's findings of no significant impact and the evidence supporting those findings, contained in the environmental assessments, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before May 19, 1989 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR Part 175 continues to read as follows:

Authority: Sections 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 175.105 is amended in paragraph (c)(5) by alphabetically adding two new entries in the table to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

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Substances	Limitations
• • • • •	
Polypropylene glycol dibenzoate (CAS Reg. No. 72245-46-6).	For use as a plasticizer at levels not to exceed 20 percent by weight of the finished adhesive.
• • • • •	
Propylene glycol dibenzoate (CAS Reg. No. 19224-26-1).	For use as a plasticizer at levels not to exceed 20 percent by weight of the finished adhesive.
• • • • •	

Dated: April 10, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-9270 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 177

[Docket No. 87F-0155]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene terephthalate-isophthalate copolymers containing a minimum of 98 weight percent of polymer units derived from ethylene terephthalate for use as a component of articles in contact with alcoholic beverages. This action responds to a petition filed by the Goodyear Tire & Rubber Co.

DATES: April 19, 1989; objections by May 19, 1989.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 4, 1987 (52 FR 21122), FDA announced that a petition (FAP 7B3990) had been filed by the Goodyear Tire & Rubber Co., 130 Johns Ave., Akron, OH 44305-4097, proposing that § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) be amended to provide for the safe use of ethylene terephthalate-isophthalate copolymers containing a minimum of 98 weight percent of polymer units derived from ethylene terephthalate for use as a component of articles in contact with alcoholic beverages.

The agency received one comment concerning the petition. The comment was in support of the petition.

FDA has evaluated data in the petition and other relevant material, and concludes that the proposed food additive use is safe, and that § 177.1630 should be amended by adding new paragraph (j).

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before May 19, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right of a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Sections 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 177.1630 is amended by adding new paragraph (j) to read as follows:

§ 177.1630 Polyethylene phthalate polymers.

• • • • •

(j) Polyethylene phthalate plastics, composed of ethylene terephthalate-isophthalate containing a minimum of 98 weight percent of polymer units derived from ethylene terephthalate, conforming with the specifications prescribed in paragraph (j)(1) of this section are used as provided in paragraph (j)(2) of this section.

(1) *Specifications.* (i) The food contact surface meets the specifications in paragraph (f)(1) of this section and

(ii)(*a*) *Containers with greater than 500 mL capacity.* The food-contact surface when exposed to 95 percent ethanol at 120° F for 24 hours should not yield chloroform-soluble extractives in excess of 0.005 mg/in².

(*b*) *Containers with less than or equal to 500 mL capacity.* The food contact surface when exposed to 95 percent ethanol at 120°F for 24 hours should not yield chloroform-soluble extractives in excess of 0.05 mg/in².

(2) *Conditions of use.* The plastics are used for packaging, transporting, or holding alcoholic foods that do not exceed 95 percent alcohol by volume.

Dated: April 10, 1989.

Richard J. Rork,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-9271 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Sulfamethazine Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Norden Laboratories, Inc. The application provides for the use of a bolus containing 5 grams of sulfamethazine for the treatment of certain diseases in ruminating beef and dairy calves.

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Norden Laboratories, Inc., Lincoln, NE 68501, has filed NADA 140-909 (formerly NADA 99-967) which provides for the use of a 5-gram sulfamethazine bolus. The drug is indicated for use in ruminating beef and dairy calves for treating bacterial scours (colibacillosis) caused by *Escherichia coli*, necrotic pododermatitis (foot rot) and calf diphtheria caused by *Fusobacterium necrophorum*, bacterial pneumonia associated with *Pasteurella* spp., and coccidiosis caused by *Eimeria bovis* and *Eimeria zurnii*. The NADA is approved and 21 CFR 520.2260a is amended to reflect the approval. The NADA was originally filed as NADA 99-967 and contained sulfamethazine and neomycin. Norden Laboratories, Inc., reformulated the product by removing the neomycin and FDA has renumbered the application as NADA 140-909. (The status of the product containing sulfamethazine and neomycin under the Center for Veterinary Medicine's notice of opportunity for a hearing on its proposal to refuse approval of certain sulfonamide-containing drugs (53 FR 46050; November 15, 1988, corrected December 12 and 23, 1988; 53 FR 49988 and 51950; and February 2, 1989; 54 FR 5303) will be addressed in a notice to be published in a future issue of the **Federal Register**.) The basis for approval of NADA 140-909 is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 520.2260a is revised to read as follows:

§ 520.2260a Sulfamethazine oblets and boluses.

(a)(1) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of 2.5-, 5-, or 15-gram sulfamethazine oblet.

(2) *Related tolerance in edible products.* See § 556.670 of this chapter.

(3) *Conditions of use*—(i) *Amount.* Administer as a single dose 100 milligrams of sulfamethazine per pound of body weight the first day and 50 milligrams per pound of body weight on each following day.

(ii) *Indications for use.* For treatment of diseases caused by organisms susceptible to sulfamethazine.

(A) *Beef cattle and nonlactating dairy cattle.* Treatment of bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*Fusobacterium necrophorum*), acute mastitis (*Streptococcus* spp.), acute metritis (*Streptococcus* supp.), coccidiosis (*Eimeria bovis* and *Eimeria zurnii*).

(B) *Horses.* Treatment of bacterial pneumonia (secondary infections associated with *Pasteurella* spp.), strangles (*Streptococcus equi*), and bacterial enteritis (*Escherichia coli*).

(iii) *Limitations.* Administer daily until animal's temperature and appearance are normal. If symptoms persist after using for 2 or 3 days consult a veterinarian. Fluid intake must be adequate. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed 5 consecutive days. Follow dosages carefully. Not for use in lactating dairy animals. Do not treat cattle within 10 days of slaughter. Not to be used in horses intended for food.

(4) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

(b)(1) *Sponsor.* See No. 011519 in § 510.600(c) of this chapter for use of 5-gram sulfamethazine bolus.

(2) *Related tolerances in edible products.* See § 556.670 of this chapter.

(3) *Conditions of use*—(i) *Amount.* Administer 10 grams (2 boluses) of sulfamethazine per 100 pounds of body weight the first day, then 5 grams (1 bolus) of sulfamethazine per 100 pounds of body weight daily for up to 4 additional consecutive days.

(ii) *Indications for use.* Ruminating beef and dairy calves. For treatment of the following diseases caused by organisms susceptible to sulfamethazine: bacterial scours (colibacilloosis) caused by *E. coli*; necrotic pododermatitis (foot rot) and calf diphtheria caused by *F. necrophorum*; bacterial pneumonia associated with *Pasteurella* spp.; and coccidiosis caused by *E. bovis* and *E. zurnii*.

(iii) *Limitations.* Do not administer for more than 5 consecutive days. Do not treat calves within 11 days of slaughter. Do not use in calves to be slaughtered under 1 month of age or in calves being fed an all milk diet. Do not use in female dairy cattle 20 months of age or older; such use may cause drug residues in milk. Administer with adequate supervision. Follows recomended dosages carefully. Fluid intake must be adequate. If symptoms persist after 2 or 3 days, consult a veterinarian.

Dated: April 12, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-9347 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-01-M

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DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1339–89]

Organization and Functions of Special Independent Counsel for Members of Congress; Suspension

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends the organizational statement on the Special Independent Counsel for Members of Congress in 28 CFR Part 0 by suspending 28 CFR 0.14. This order will revise the Code of Federal Regulations so that it accurately reflects the current rules.

EFFECTIVE DATE: April 12, 1989.

FOR FURTHER INFORMATION CONTACT: John C. Keeney, Deputy Assistant Attorney General, Criminal Division; telephone number: 202–633–2621. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This regulation will amend title 28 of the Code of Federal Regulations in order to suspend § 0.14. This is not a major rule within the meaning of Exec. Order No. 12291. This will not have an impact on a significant number of small businesses. 5 U.S.C. 901.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies).

By the authority vested in me, including 28 U.S.C. 509, 510, and 5 U.S.C. 301:

1. The Assistant Attorney General for the Criminal Division shall, pursuant to 28 CFR 0.55, exercise the authority necessary to complete any pending investigations.

2. Subpart B of Part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303, 3103; 6 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3621, 3622, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621–1645o, 1622 note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 2001–2017p; Pub. L. 91–513, sec. 501; EO 11919; EO 11267; EO 11300.

§ 0.14 [Suspended]

2. Section 0.14 is suspended.

Date: April 12, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89–9240 Filed 4–18–89; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 191

The DOD Civilian Equal Employment Opportunity (EEO) Program

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This document amends 32 CFR Part 191 to update the membership of the Defense Equal Opportunity Council (DEOC), update the definition of "affirmative action" as endorsed by the DEOC, and update the definition of "sexual harassment" as directed by the Secretary of Defense's memorandum dated July 20, 1988.

EFFECTIVE DATE: April 11, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. C. Haughton, Jr., Director for Civilian Equal Opportunity Policy, Department of Defense, Room 3A272, the Pentagon, Washington, DC 20301–4000, telephone (202) 695–0105 or autovon 225–0105.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 191

Equal employment opportunity, Government employees, Military personnel. Accordingly, 32 CFR Part 191 is amended as follows:

PART 191—THE DOD CIVILIAN EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 113.

2. Section 191.3 is amended by removing the last sentence in the definition *Affirmative action* and in *Equal Employment Opportunity (EEO)* and by revising the definition of *Sexual Harassment* as follows:

§ 191.3 Definitions.

* * * * *

Sexual Harassment. A form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; or

(b) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

(c) Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member of civilian employee is engaging in sexual harassment. Similarly, any military member of civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

* * * * *

§ 191.4 [Amended]

2. Section 191.4(a) is amended by adding at the end of the paragraph "Equal employment opportunity is the objective of affirmative action programs."

3. Section 191.4(b) is amended by adding at the end of the paragraph "Such programs, which shall be designed to identify, recruit, and select qualified personnel, shall be coordinated with the cognizant legal offices."

§ 191.6 [Amended]

4. Section 191.6(b)(8), change "1404.11" to "1404.12"

§ 191.8 [Amended]

5. Section 191.8(a), after the words "(Reserve Affairs)" add ", Director of Administration and Management,"

§ 191.9 [Amended]

6. Section 191.9 is amended by changing "semiannual" to "annual", changing "0288–EEO–SA" to "0288–EEO–NA" in paragraph (a)(3), removing paragraph (a)(2), redesignating paragraph (a)(3) to (a)(2), changing "semiannual" to "annual", changing "0288–EEO–SA" to "0288–EEO–NA" in paragraph (b)(2), removing paragraph (b)(1), and redesignating paragraphs (2) through (4) to (1) through (3).

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 12, 1989.

[FR Doc. 89–9241 Filed 4–18–89; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7–89–06]

Temporary Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is temporarily changing the regulation governing the NASA Railroad drawbridge at the Kennedy Space Center by requiring the bridge to open only at scheduled intervals while it is being painted. This schedule will allow the painting to proceed in a timely fashion with minimal delay to vessel traffic.

DATES: These temporary regulations become effective April 17, 1989 and terminate on August 17, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 536–4103.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. NASA originally requested continuous daytime closure of the drawbridge for painting with a five minute opening each hour. This would have expedited return of the draw to normal operation, however, due to the expected heavy seasonal migration of vessels returning north on the Intracoastal Waterway, NASA agreed to minimize the closed periods by using a unique painting procedure. As a result, the bridge will be maintained in the open position most of the time, and during necessary periods of closure for painting, will be opened on the hour and half-hour.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Temporary Regulations

The NASA Railroad drawbridge presently operates automatically closing only for the passage of a train and remaining in the open position at all other times.

Due to the extremely limited clearance of the bridge in the closed position, NASA will be using a skycable attachment which will allow most of the painting to be done with the bridge in the open position. This temporary regulation change which adds scheduled openings between 7:30 a.m. and 3:30 p.m., Monday through Saturday, is intended to provide draw openings at 30 minute intervals during the occasional periods when the draw is being painted in the closed position.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); 33 CFR 117.43.

2. Paragraph (j) of § 117.261 is revised to read as follows for the period April 17, 1989 through August 17, 1989. Because this is a temporary rule, this revision will not appear in the Code of Federal Regulations.

§ 117.261 Atlantic Intracoastal Waterway, St. Marys River to Key Largo.

* * * * *

(j) NASA railroad bridge, mile 876.6 near Jay Jay. The draw shall be operated as follows:

(1) The bridge is not constantly tended.

(2) The draw is normally in the fully open position displaying flashing green lights to indicate that vessels may pass.

(3) When a train approaches the bridge the lights go to flashing red and a horn sounds four blasts, pauses and repeats four blasts. After an eight minute delay, the draw lowers and locks, providing the scanning equipment reveals nothing under the draw. The draw remains down for a period of eight minutes or while the approach track circuit is occupied.

(4) After the train has cleared, the draw opens and the lights return to flashing green.

(5) When the drawspan is in the closed position between 7:30 a.m. and 3:30 p.m. Monday through Saturday, while being painted, and no train is in the approach track circuit, it will be opened on the hour and half-hour to pass all accumulated vessels.

* * * * *

Dated: April 6, 1989.

J.L. Linnon,

Captain, USCG, Acting Commander, Seventh Coast Guard District.

[FR Doc. 89–8329 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD11 89–11]

Safety Zone; San Pedro Bay, California

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Safety Zone in the Port of Long Beach, CA. Dredging and landfill activities associated with the expansion of Pier J have created numerous hazards to waterway users in the area. This Safety Zone is necessary to protect vessels and the public from those hazards.

DATES: This regulation becomes effective on April 9, 1989. Comments on this regulation must be received on or before June 2, 1989.

ADDRESS: Comments should be mailed to Commander (mepps), Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822–5399. The comments will be available for inspection and copying at the Eleventh Coast Guard District Office, Room 709, 400 Oceangate, Long Beach, CA 90822–5399. Normal office hours are between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Commander N.S. Porter, Chief, Marine Environment Protection/Port Safety Branch, Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822–5399. Phone number (213) 499–5333.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been contrary to the public interest since immediate action is needed to respond to actual hazards to vessels and persons in the area.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "**ADDRESS**" in this preamble.

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Commenters should include their names and addresses, identify the docket number for the regulations, and give reasons for their comments. Based upon comments received, the regulations may be changed.

Drafting Information

The drafters of this regulation are Lieutenant Junior Grade John A. Meehan, project officer, Marine Safety Office Los Angeles/Long Beach, and Lieutenant Commander G.R. Wheatley, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

In September, 1988, construction began on the Pier J Expansion Project in the Port of Long Beach, CA. The project involves extensive dredging and landfill activities which will ultimately lead to the creation of 147 acres of new land and a new slip for deep draft vessels. When completed, the pier will extend one half mile further south toward the Long Beach Breakwater.

In January, 1989, the contractor for the landfill installed eight towers in the project area. The towers are located along the eastern, southern, and western perimeters of the area and each is marked with a white quick-flashing light. The towers are used as survey markers by the contractor and help to identify the project boundaries.

By late February, 1989, landfill activities had reduced the depth in the project area to approximately 25 feet below mean lower low water and created a significant hazard to the navigation of deep draft vessels. Dredging activities had also introduced numerous floating and submerged hazards which threatened the safe navigation of all vessels in the area.

In view of the hazards presented by this project, the Coast Guard is establishing a Safety Zone to ensure the safety of all persons and watercraft transiting in or near the project site. This Final Rule prohibits all vessels from entering the waters included within the zone unless specifically authorized by the Captain of the Port.

The Coast Guard expects the project to continue for another eighteen months. Regardless of the completion date, the Safety Zone will continue in place until the new landfill is marked by appropriate aids to navigation.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. Section 165.1113 is added to read as follows:

§ 165.1113 San Pedro Bay, California—safety zone.

(a) The following area is a Safety Zone: The waters of San Pedro Bay enclosed by a line beginning on the shore of Long Beach Pier J at latitude 33°44'19"N., longitude 118°12'15" W.; thence proceeding southerly to latitude 33°44'10" N., longitude 118°12'14" W.; thence southeasterly to latitude 33°43'52" N., longitude 118°11'42" W.; thence easterly to latitude 33°43'52" N., longitude 118°10'57" W.; thence northerly to latitude 33°44'19" N., longitude 118°10'57" W.; thence westerly to the shore of Pier J at latitude 33°44'19" N., longitude 118°11'07" W.; and thence along the southern shore of Pier J to the beginning point.

(b) Regulations: In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: April 9, 1989.

Terry Lucas,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 89-9330 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 966

Rules of Practice in Proceedings Relative to Administrative Offsets Initiated by the Postal Inspection Service

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Judicial Officer of the Postal Service hereby issues the rules of procedure governing the conduct of hearings relative to administrative offsets initiated by the Postal Inspection Service.

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Associate Judicial Officer James D. Finn, Jr., (202) 268–2133.

SUPPLEMENTARY INFORMATION: Acting in accordance with authority delegated to him by 39 CFR 226.2(d)(1)(iv), the Judicial Officer adopts 39 CFR Part 966, the rules of practice governing proceedings relative to administrative offsets initiated by the Postal Inspection Service. The rules in this part apply to any hearing on the Inspection Service's determination of the existence or amount of a debt owed the Postal Service by a former postal employee, or on the terms of the Inspection Service's proposed debt repayment schedule.

List of Subjects in 39 CFR Part 966

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR is amended by adding the following new Part 966:

PART 966—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO ADMINISTRATIVE OFFSETS INITIATED BY THE POSTAL INSPECTION SERVICE

Sec.

966.1 Authority for rules.
966.2 Scope of rules.
966.3 Definitions.
966.4 Petition for a hearing and supplement to petition.
966.5 Effect of petition filing.
966.6 Filing, docketing and serving documents; computation of time; representation of parties.
966.7 Answer to petition.
966.8 Hearing Official authority and responsibilities.
966.9 Opportunity for oral hearing.
966.10 Initial decision.
966.11 Appeal of initial or tentative decision to Judicial Officer.
966.12 Waiver of rights.
966.13 Ex parte communications.

Authority: 39 U.S.C. 204, 401, 2601.

§ 966.1 Authority for rules.

These rules of practice are issued by the Judicial Officer pursuant to authority delegated by the Postmaster General.

§ 966.2 Scope of rules.

The rules in this part apply to any petition filed by a former postal employee:

(a) To challenge the Postal Service's determination that he or she is liable for a debt based on a loss from the mails or from Postal Service revenues; and/or

(b) To challenge the administrative offset schedule proposed by the Postal Service for collecting any such debt.

§ 966.3 Definitions.

(a) "Administrative Offset" refers to the withholding of money payable by the Postal Service or the United States to, or held by the Postal Service or the United States for, a former employee in order to satisfy a debt determined to be owed by the former employee to the Postal Service.

(b) "Chief Postal Inspector" refers to the Chief Postal Inspector of the Inspection Service Department or his or her representative.

(c) "Debt" refers to any amount determined by the Postal Service to be owed to the Postal Service by a former employee as a result of a loss from the mails or from Postal Service revenues.

(d) "Former Employee" refers to an individual whose employment with the Postal Service has ceased. An employee is considered formally separated from the Postal Service rolls as of close of business on the effective date of his or her separation Postal Service Form 50.

(e) "Hearing Official" refers to an Administrative Law Judge qualified to hear cases under the Administrative Procedure Act, an Administrative Judge appointed under the Contract Disputes Act of 1978, or any other qualified person licensed to practice law designated by the Judicial Officer to preside over a hearing conducted pursuant to these regulations.

(f) "Inspection Service" refers to the Inspection Service Department of the Postal Service.

(g) "Judicial Officer" refers to the Judicial Officer, Associate Judicial Officer, or Acting Judicial Officer of the Postal Service.

(h) "Reconsideration" refers to the review of a debt conducted by the Inspection Service at the request of the former employee alleged to be responsible for such debt following the former employee's receipt of a written request for payment.

(i) "Recorder" refers to the Recorder, Judicial Officer Department, United States Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–6100.

§ 966.4 Petition for a hearing and supplement to petition.

(a) A former employee, who is alleged to be responsible for a debt and who has previously requested and received reconsideration of the debt by the Inspection Service, may obtain review of:

(1) The Inspection Service's final determination of the existence or amount of the debt, or

(2) The administrative offset schedule proposed by the Inspection Service for collecting any such debt, by mailing, within thirty (30) calendar days of receiving written notice of the Inspection Service's determination upon reconsideration, a written, signed petition, requesting a written or oral hearing, to the Recorder, Judicial Officer Department, United States Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–6100.

A former employee must have previously requested the Inspection Service to reconsider the Postal Service's debt determination to be entitled to a hearing under this part.

(b) The petition must include the following:

(1) The words, "Petition for Review Under 39 CFR Part 966";

(2) The former employee's name and social security number;

(3) The former employee's home address and telephone number, and any other address and telephone number at which the former employee may be contacted about these proceedings;

(4) A statement of the date the former employee received the Inspection Service's final notice of debt determination and a copy of the notice;

(5) A statement indicating whether the former employee elects an oral hearing or a decision based solely on written submissions;

(6) If the former employee requests an oral hearing, a statement describing the evidence he or she will produce which makes an oral hearing necessary, including a list of witnesses, with their addresses, whom the former employee expects to call; a summary of the testimony the witnesses are expected to present; the city requested for the hearing site, with justification for holding the hearing in that city; and at least three proposed dates for the hearing at least forty-five (45) days after the filing of the petition for review;

(7) A statement of the grounds upon which the former employee objects to the Postal Service's determination of the debt or to the administrative offset schedule proposed by the Postal Service for collecting any such debt. This statement should identify with reasonable specificity and brevity the facts, evidence, and legal arguments, if any, which support the former employee's position; and

(8) Copies of all records in the former employee's possession which relate to the debt and which the former employee may enter into the record of the hearing.

(c) The former employee may, if necessary, file with the Recorder additional information as a supplement to the petition at any time prior to the filing of the answer to the petition under § 966.7, or at such later time as permitted by the Hearing Official upon a showing of good cause.

§ 966.5 Effect of petition filing.

Upon receipt and docketing of the former employee's petition, the Recorder will notify the Chief Postal Inspector that the petition has been filed and that a timely filed petition stays further collection action.

§ 966.6 Filing, docketing and serving documents; computation of time; representation of parties.

(a) *Filing.* All documents required under this part must be filed by the former employee or the Chief Postal Inspector in triplicate with the Recorder. (Normal Recorder office business hours are between 8:15 a.m. and 4:45 p.m., eastern standard or daylight saving time as appropriate during the year.) The Recorder will transmit a copy of each document filed to the other party, and the original to the Hearing Official.

(b) *Docketing.* The Recorder will maintain a docket record of proceedings under this part and will assign each petition a docket number. After notification of the docket number, the former employee and Chief Postal Inspector should refer to it on any further filings regarding the petition.

(c) *Time computation.* A filing period under the rules in this part excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

(d) *Representation of parties.* After the filing of the petition, further document transmittals for, or communications with, the Postal Service shall be through its representative, the Chief Postal Inspector. If a former employee is represented by an attorney authorized to practice law in any of the United States or the District of Columbia or a territory of the United States, further transmissions of documents and other communications with the former employee shall be made through his or her attorney rather than directly with the former employee.

§ 966.7 Answer to petition.

Within thirty (30) days from notice of the petition, the Chief Postal Inspector shall file an answer to the petition, and attach all available relevant records and documents in support of the Postal Service's claim, or the administrative offset schedule proposed by the Postal Service for collecting any such claim; a list of witnesses the Postal Service intends to call if an oral hearing is requested and the request is granted; a synopsis of the testimony of each witness; a statement of concurrence or objection to the proposed location and dates for the oral hearing; and a statement of the basis for the determination of debt or offset schedule if not contained in the relevant records

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or documents. If the former employee files a supplement to the petition, the Chief Postal Inspector may file any supplemental answer and records to support the position of the Postal Service within twenty (20) calendar days from the date of receipt of the supplement filed with the Recorder.

§ 966.8 Hearing Official authority and responsibilities.

In conducting a hearing under this part, the Hearing Official's authority includes, but is not limited to, the following:

(a) Ruling on all offers, motions, or requests by the parties;

(b) Issuing any notices, orders, or memoranda to the parties concerning the hearing procedures;

(c) Conducting telephone conferences with the parties to expedite the proceedings (a memorandum of a telephone conference will be transmitted to both parties);

(d) Determining if an oral hearing is necessary and setting the place, date, and time for such hearing;

(e) Administering oaths or affirmations to witnesses;

(f) Conducting the hearing in a manner to maintain discipline and decorum while assuring that relevant, reliable and probative evidence is elicited on the issues in dispute, and that irrelevant, immaterial or repetitious evidence is excluded;

(g) Establishing the record in the case;

(h) Issuing an initial decision or one on remand; and

(i) Granting, at the request of either party, reasonable time extensions.

§ 966.9 Opportunity for oral hearing.

An oral hearing generally will be held only in those cases which, in the opinion of the Hearing Official, cannot be resolved by a review of the documentary evidence, such as when the existence, or amount, of a debt turns on issues of credibility or veracity. When the Hearing Official determines that an oral hearing is not necessary, the decision shall be based solely on written submissions.

§ 966.10 Initial decision.

(a) After the receipt of written submissions or after the conclusion of the hearing and the receipt of any post-hearing briefs, the Hearing Official shall issue a written initial decision, including findings of fact and conclusions of law, which the Hearing Official relied upon in determining whether the former employee is indebted to the Postal Service, or in upholding or revising the administrative offset schedule proposed by the Postal Service for collecting a former employee's debt. When the Judicial Officer presides at a hearing he or she shall issue a final or a tentative decision. The initial or tentative decision shall become the final agency decision unless appeal is taken pursuant to § 966.11.

(b) The Hearing Official shall promptly send to each party a copy of the initial or tentative decision, and a statement describing the right of appeal to the Judicial Officer in accordance with § 966.11.

(c) Unless the former employee or Chief Postal Inspector appeals the Hearing Official's initial or tentative decision within thirty (30) days from receipt of the decision, such decision shall become the final agency decision, and an order to that effect will be issued by the Judicial Officer.

§ 966.11 Appeal of initial or tentative decision to Judicial Officer.

(a) *Notice of appeal and supporting brief.* (1) A former employee or the Chief Postal Inspector may appeal an adverse decision by a Hearing Official by filing a Notice of Appeal with the Recorder within thirty (30) days after receipt of the decision. The Judicial Officer may extend the filing period upon written application of either party for good cause shown.

(2) The Notice of Appeal must be accompanied by a written brief specifying exceptions to findings of fact and conclusions of law, and any reasons for such exceptions, to the Hearing Official's decision.

(3) No later than thirty (30) days after receiving the Notice of Appeal and accompanying brief, the opposing party may file a response with the Recorder.

(b) *Form of review.* (1) Review by the Judicial Officer will be based on the entire record and written submissions.

(2) Objections or new issues not raised in the hearing will not be considered unless the interested party demonstrates that the failure to raise the objection or issue before the Hearing Official was caused by extraordinary circumstances.

(3) The Judicial Officer shall have all powers of a Hearing Official and on appeal may order the hearing reopened for the presentation of additional evidence or, in his or her discretion, remand the case to the Hearing Official for further action.

(c) *Decision of Judicial Officer.* The Judicial Officer shall affirm, reverse, or modify any decision appealed under this section and shall promptly serve each party to the appeal with a copy of this or her decision and a statement that such decision constitutes the final agency decision.

§ 966.12 Waiver of rights.

The Hearing Official may determine the former employee has waived his or her right to a hearing and administrative offset may be initiated if the former employee:

(a) Files a petition for hearing after the end of the prescribed thirty (30) day period, and fails to demonstrate to the satisfaction of the Hearing Official good cause for the delay;

(b) Has received notice to appear at an oral hearing but fails to do so without showing circumstances beyond the former employee's control;

(c) Fails to file required submissions or to comply with orders of the Hearing Official; or

(d) Files a withdrawal of his or her petition for a hearing with the Recorder.

§ 966.13 Ex parte communications.

Ex parte communications between a Hearing Official or his or her staff and a party shall not be made. This prohibition does not apply to procedural matters. A memorandum of any such procedural communication will be transmitted to both parties.

James A. Cohen,
Judicial Officer.

[FR Doc. 89-9300 Filed 4-18-89; 8:45 am]
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300196; FRL-3557-2]

Pesticide Tolerance for Clofentezine; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 89-6708, appearing at page 11704 in the **Federal Register** of March 22, 1989 (54 FR 11704; March 22, 1989), EPA added 40 CFR 180.446 establishing a tolerance of 0.5 part per million for the insecticide clofentezine in or on pears. The information in the "Date" heading inadvertently failed to include the effective date, which is hereby corrected to add the following sentence: "This regulation becomes effective on March 22, 1989."

FOR FURTHER INFORMATION CONTACT: Dennis Edwards, Jr., Product Manager (PM) 12, Registration Division (H-7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 557-2386.

Dated: April 7, 1989.

Herbert Harrison,
Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-9211 Filed 4-18-89; 8:45 am]
BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-20

[FPMR Amdt. D-69]

Management of Buildings and Grounds

ACTION: Final rule.

AGENCY: General Services Administration.

SUMMARY: Currently the GSA Rules and Regulations Governing Public Buildings and Grounds prohibit the possession of firearms and dangerous weapons (41 CFR 101-20.313) with penalty provisions stipulated in 41 CFR 101-20.35. However, the enactment of section 930 of Title 18, U.S. Code supersedes the penalty provisions stated in 41 CFR 101-20.315. Accordingly, FPMR Subchapter D is being amended.

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Richard Hankinson (202-566-0887).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-20

Fire prevention, Blind, Safety, Concessions, Crime, Federal buildings and facilities, Government property management, Security measures.

PART 101-20—[AMENDED]

1. The authority citation for Part 101-20 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 101-20.313 is retitled and revised to read as follows:

§ 101-20.313 Explosives.

No person entering or while on property shall carry or possess explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes. (Weapons, see Title 18, U.S. Code 930.)

Dated: March 21, 1989.

Richard G. Austin,
Acting Administrator of General Services.

[FR Doc. 89-8322 Filed 4-18-89; 8:45 am]
BILLING CODE 6820-23-M

41 CFR Part 101-39

[FPMR Amdt. G-69]

Transportation and Motor Vehicles

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation provides additional criteria for approval of vehicle modifications or the addition of accessory equipment to GSA Interagency Fleet Management System vehicles. The GSA policy concerning the installation of accessory equipment in GSA vehicles has sometimes been interpreted inconsistently in that agencies or agency personnel have installed equipment that is either illegal or reflects an inappropriate impression of the Government worker to the public.

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Moses, Fleet Management Division (703-557-1273).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-39

Interagency fleet management system.

PART 101-39—INTERAGENCY FLEET MANAGEMENT SYSTEMS

1. The authority citation for Part 101-39 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101-39.3—Use and Care of Interagency Fleet Management System Vehicles

2. Section 101-39.304 is revised to read as follows:

§ 101-39.304 Modification or installation of accessory equipment.

The modification of a GSA Interagency Fleet Management System (IFMS) vehicle or the permanent installation of accessory equipment on these vehicles may be accomplished only when approved by GSA. For the purpose of this regulation, permanent installation means the actual bolting, fitting, or securing of an item to the vehicle. Such modification or installation of accessory equipment must be considered by the using agency as essential for the accomplishment of the agency's mission. The request for such modification or installation shall be forwarded to the appropriate GSA Regional Fleet Manager for consideration. Accessory equipment or other after-market items which project an inappropriate appearance, such as radar detectors, will not be used on IFMS vehicles. Decorative items (i.e., bumper stickers and decals) will not be used on IFMS vehicles unless authorized by the Director, Fleet Management Division, GSA.

Dated: March 23, 1989.

Richard G. Austin,
Acting Administrator of General Services.

[FR Doc. 89-8323 Filed 4-18-89; 8:45 am]
BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 302, 303, and 305

RIN 0970-AA03

Child Support Enforcement Program; Implementation of Section 9103 of Public Law 99-509: Prohibition of Retroactive Modification of Child Support Arrearages

AGENCY: Office of Child Support Enforcement, HHS.

ACTION: Final rule.

SUMMARY: These final rules implement section 9103 of Pub. L. 99-509, the

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Omnibus Budget Reconciliation Act of 1986, which amended section 466(a) of the Social Security Act (the Act), effective October 21, 1986. Section 9103 requires that, as a condition of State IV–D plan approval, States have in effect laws requiring the use of procedures to prohibit retroactive modification of child support arrearages. However, such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice has been given, either directly or through the appropriate agent, to the obligee or (where the petitioner is the obligee) to the obligor. Specifically, State IV–D agencies must have in effect and use procedures whereby any payment or installment of support under any child support order is, on and after the date it is due, a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State and is entitled, as such, to full faith and credit in such State and in any other State.

A clear implication of child support becoming a final judgment when due is that when there is more than one child support order for the same child, absent parents owe the amount of the order providing the greatest support. If, for example, a Uniform Reciprocal Enforcement of Support Act (URESA) order requires $150 child support while a divorce order requires $200, the full $200 becomes a final judgment. If the State of residence of the absent parent enforces $150 for current support, the absent parent still owes the additional $50 as an accumulated arrearage. It would generally be more efficient for the absent parent's State to enforce the original order, without the need to obtain a new or revised order. Interstate wage withholding offers this efficiency when the absent parent is a wage-earner. The Social Security Act requires that wage withholding systems include cases where the applicable support orders were issued in other States. It would be desirable to have similarly efficient processes for cases with other types of income and assets. The requirement that the Secretary promulgate rules necessary for efficient administration, so long as they are not inconsistent with other parts of the relevant statutes, authorizes the Secretary to require changes that would simplify and expedite interstate cases. The Department hopes that the Interstate Child Support Commission established by the Family Support Act of 1988 (Pub. L. 100–485) will suggest ways to move towards a more efficient process while still preserving due process rights.

While the effective date of this statute was October 21, 1986, under section 9103(b)(2) of Pub. L. 99–509, if a State demonstrates to the Secretary, HHS, that State legislation is required to conform the State IV–D plan to the requirements of this statute, a delay based on the need for legislation may be granted. In such a case, the State's plan would not be regarded as failing to comply solely by reason of its failure to meet the requirements imposed by the new amendments until the beginning of the fourth month beginning after the end of the first session of the State's legislature which ends on or after October 21, 1986.

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Michael Fitzgerald, Policy Branch, OCSE (202) 252–5366.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Public reporting burden for the collections of information requirements at 45 CFR 302.70(a)(9), 303.106(a), 303.106(b) and 305.57 is estimated to average 10, 1,000, .5 and 1,000 minutes per response respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Child Support Enforcement, Family Support Administration, 370 L'Enfant Promenade SW., Washington, DC. 20447; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503.

Background

Section 9103 of Pub. L. 99–509 is a result of Congress' recognition of the disparity among States regarding the treatment of child support orders, and in particular, a concern about State laws and practices permitting modification of child support arrearages. Although most States permit child support orders to be modified only prospectively, thus affecting only future child support payments, some States have accorded child support orders a lesser stature than other money judgments, and have allowed child support awards to be modified retroactively. In such States, the court or administrative entity has had the authority to reduce or nullify arrearages by reducing the amounts owed for past periods.

Prior to enactment of section 9103 of Pub. L. 99–509, 18 States permitted child support orders to be modified retroactively. The vast majority of such retroactive modifications when they occurred had the effect of reducing the amount of child support ordered. Thus, for example, an order for $200 a month for child support, which was unpaid for 36 months, should accumulate an arrearage of $7,200. Yet, if the obligor was brought to court, having made no prior attempt to modify the order, the order might be reduced to $100 a month retroactive to 36 months prior to the date of modification. This has the effect of reducing the arrearage from $7,200 to $3,600. The order could be reduced without placing any diligence requirement on the absent parent to petition in a timely manner to reduce the order, if for some reason his or her ability to comply with the order had changed. Such laws further permitted arguments to be made about changed circumstances in prior periods at a time when evidence may not have been easily attained or available. Rebuttal, by the obligee, thus, was extremely difficult.

In interstate cases involving registration of out-of-State child support orders, where the absent parent resided in a State different from the one where his or her children resided or where the child support order was entered, the problem of retroactive modification was exacerbated. In such cases, the custodial parent usually could not be present when the case was heard in the absent parent's State and was thus unable to testify about any claimed past change in circumstances.

In addition to the 18 States which prior to enactment of Pub. L. 99–509 permitted retroactive modification of child support orders, 17 other States did not require reducing child support debts to final judgment as the payments became due. As a result, the child support debts were not entitled to full faith and credit in other States as is the case with other money judgments.

In light of this situation, section 9103 added a new requirement to section 466(a) of the Act which States must meet in order to have an approved title IV–D State Plan. Specifically, under section 466(a)(9), States must have in effect laws requiring the use of procedures under which any payment or installment on a child support order is a judgment, on and after the date each payment is due, and retroactive modification of child support orders is prohibited with the following exception. Modification

may be permitted with respect to any period during which there is pending a petition for modification, but only from the date notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

In the past, when an absent parent moved out of the State where a support obligation had been established, the IV–D agency representing the custodial parent often would be required to use the Uniform Reciprocal Enforcement of Support Act (URESA) in order to obtain an enforceable order in the absent parent's new State of residence. Using URESA is time consuming and frustrating for the custodial parent owed a support obligation. Under URESA, the absent parent generally has the opportunity to allege inability to pay the previously established support amount, which may result in a lower support order being entered. Under the requirement specified by section 9103, all child support orders in a State, including orders entered before October 21, 1986, can now be enforced by any other State (e.g., by registration under the Uniform Enforcement of Foreign Judgments Act) without creating a new child support order. Such a provision will ensure that the processing of interstate cases will be less time consuming and less costly when the custodial parent already has a child support order, and child support collections will increase because accumulated arrearage debts will stay intact and not be reduced or forgiven. Specific remedies to enforce these judgments will be determined by the State where the judgment was entered or is registered, pursuant to State law.

Section 9103 of Pub. L. 99–509 adds a ninth mandatory procedure to section 466(a) of the Act which requires States to have in effect laws requiring the use of certain procedures to increase the effectiveness of their child support enforcement programs in order to have an approved title IV–D State plan. The previously existing mandatory procedures are:

(1) Wage withholding;

(2) Expedited processes to establish and enforce child support obligations;

(3) State income tax refund offset;

(4) Imposition of liens against real and personal property;

(5) Establishment of paternity at least until the child's 18th birthday;

(6) Requiring an absent parent to give security or post a bond or some other guarantee to secure payment of support;

(7) Making information regarding the amount of overdue support owed by an absent parent available to consumer reporting agencies; and

(8) Provision for wage withholding in all child support orders which are issued or modified in the State.

The new mandatory procedure added by section 9103 requires that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the State's expedited processes, is (on and after the date it is due):

(A) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(B) entitled as a judgment to full faith and credit in such State and in any other State; and

(C) not subject to retroactive modification by such State or by any other State.

However, such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice has been given, either directly or through the appropriate agent, to the obligee (or where the obligee is the petitioner) to the obligor.

While the effective date of this statute is October 21, 1986, under section 9103(b)(2) of Pub. L. 99–509, if a State demonstrates to the Secretary, HHS, that State legislation is required to conform the State IV–D plan to the requirements of the statute, a delay in implementation based on the need for legislation may be granted. In such a case, the State's IV–D plan would not be regarded as failing to comply with the requirements imposed by the amendment until the beginning of the fourth month beginning after the end of the first session of the State's legislature which ends on or after October 21, 1986.

Statutory Authority

This final rule is published under the authority of section 1102 of the Social Security Act (the Act) which requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act. Section 454(20) of the Act requires State plans to provide that States have in effect laws requiring the use of the procedures prescribed in section 466 of the Act to increase the effectiveness of their Child Support Enforcement programs, and have implemented procedures regarding such laws. Section 9103 of Pub. L. 99–509 added a new paragraph (9) under section 466(a) which requires that States have in effect laws requiring the use of procedures which provide that any payment or installment of support under any child support order is a judgment, entitled to full faith and credit, and not subject to retroactive modification.

Regulatory Provisions

This regulation revises § 302.70(a) to specify that the effective date for paragraphs (1) through (8) is October 1, 1985 and for paragraph (9) is October 21, 1986.

In addition, this regulation adds a new paragraph (9) under § 302.70(a) to require that any payment or installment of support under any child support order is, on and after the date it is due, a judgment, and may not be modified retroactively.

This regulation also amends 45 CFR Part 303 to add a new § 303.106 entitled Procedures to prohibit retroactive modification of child support arrearages. Paragraph (a) of this section requires States to have in effect and use procedures which provide that any payment of child support, on and after the date it is due, is a judgment, by operation of law. This requirement provides that the child support installment must become a judgment without the need for any action by an entity; it becomes a judgment simply by a payment falling due. Paragraph (a)(2) of § 303.106 requires that the judgment be entitled to full faith and credit in the originating State and in any other State. Full faith and credit is a Constitutional principle which provides that the various States must recognize the judgments of the other States within the United States and accord them the force and effect they would have in their home State.

Paragraph (a)(3) states that the judgment is not subject to retroactive modification, except as provided under paragraph (b) of this section. The intent of this requirement is to prohibit courts or administrative entities from forgiving or reducing arrearages.

Paragraph (b) provides for the exception referred to in paragraph (a)(3) that permits limited retroactive modification of child support orders. The first condition is that modification may be permitted by the State for any period during which there is pending a petition for modification. The second condition requires that the modification may only be permitted from the date that notice of such petition has been given, either directly or through the appropriate agent to the obligee or (where the obligee is the petitioner) to the obligor.

These regulations also amend the audit regulations by adding a new § 305.57 entitled Retroactive

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modification of child support arrearages. This audit criterion provides that, in order to meet the requirements of title IV–D, the State must have laws in effect and be using procedures which require that any payment or installment of support under any child support order is, on and after the date it is due, a judgment, and may not be modified retroactively, except as provided in 45 CFR 303.106 of this chapter.

Public Comment

A notice of proposed rulemaking was published in the **Federal Register** (52 FR 34689) on September 14, 1987. The comment period ended on November 13, 1987. We received 12 written comments from State and local agencies, 8 from organizations and 2 from private citizens. Although no changes were made to the regulatory language itself as a result of comments, the comments and our responses are discussed below.

General Comments

1. *Comment:* One commenter objected to the proposed regulation stating that it is virtually identical to the statute and provides no guidance to the States which is inconsistent with section 1102 of the Social Security Act.

Response: We believe that Federal law and regulations regarding the prohibition of retroactive modification of support arrearages are clear and precise. Guidance is largely unnecessary because the law leaves little room for interpretation. The States should have little trouble implementing these provisions by close adherence to the statutory language.

2. *Comment:* One commenter indicated that the law regarding the prohibition of retroactive modification of support arrearages requires that the other party receive a notice of the petition but does not address sending subsequent notices of court proceedings to that party. The commenter said that notice of each step in the process would enable the custodial parent to participate if desired.

Response: Federal law and regulations only require the party requesting the modification to send the other party a notice regarding the petition to modify support arrearages. State due process requirements should ensure that all parties to a proceeding to modify support arrearages receive a notice regarding any subsequent proceedings. If the State, as assignee of the support rights, receives such notices, the IV–D agency should keep the custodial parent informed regarding the status of any action to modify support arrearages in accordance with the new law.

3. *Comment:* With respect to the delay in implementation built into the statute, a comment was received on the definition of the term "session" as any regular, special, budget, or other session of a State legislature. The commenter suggested that we work with Congress to get the definition of the term "session" revised to include only "regular" sessions of a State legislature.

Response: The term "session," as defined in the delay of implementation provision of the new law, is identical to the definition of the same term found in the delay of implementation provisions in the Child Support Enforcement Amendments of 1984. We believe that the definition of the term "session" as used in these provisions has encouraged the States to implement Federal requirements as soon as possible.

4. *Comment:* One commenter suggested that a Regulatory Flexibility Analysis be conducted due to the additional cost and effort that may be required because of the requirement that support payments are judgments on and after the date they are due.

Response: Under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we are required to prepare a regulatory flexibility analysis for those rules which will have a significant economic impact on a substantial number of small entities. We believe that the requirement that payments become judgments on and after the date they are due will save the States money and time. The cost of interstate enforcement activities, in particular, will be reduced because there is no longer a need for a State to incur costs or expend efforts to obtain an in-State child support order before the State can enforce past-due support owed under another State's order. Since we believe that the net effect of these requirements will be cost savings, a regulatory flexibility analysis is not required.

Judgment

5. *Comment:* Two commenters indicated that, because any payment or installment is now a separate judgment on and after the date it is due, the collection of support will be more complicated, costly and time consuming. Also, the commenters stated that judgments are obtained for direct collection and to notify third parties, either creditors or potential lenders, that the obligor has a settled debt that can be applied as a lien against property. The commenters further stated that the requirement that each payment or installment of support is a judgment as of the date it is due will confuse third parties who must conduct business based on the current situation of the obligor.

Response: We do not believe that the establishment of separate judgments for each payment or installment of child support on the date it is due makes the collection of support more complicated, costly, and time consuming. States may collect past-due support without seeking additional court or administrative action to reduce the amount due to a judgment. Currently, the States maintain records on the amount of support owed and paid on a monthly or weekly basis. Many States maintain these records on efficient and effective automated systems at minimal cost. The maintenance of information regarding separate judgments should not place an additional burden on the States.

Creditors or potential lenders can seek credit information on absent parents from consumer credit reporting agencies which can request information on child support arrearages from the IV–D agencies, Clerks of Court, or other State payment registries. States should maintain payment records which include the current total of the child support arrearages for each child support case. Child support arrearages should be treated as any other debt, and, if in arrears, the obligation may result in a lien against property of the obligor in accordance with State law.

6. *Comment:* Several commenters indicated that the regulatory provisions regarding payments becoming judgments by operation of State law when they fall due should be revised to indicate that: (1) Judgments must be recorded monthly; (2) the judgment must be accompanied by a certification of the obligee that the amount of the arrearage is accurate; and (3) notice of the judgment must be sent to the obligor. These commenters believe that these changes will virtually eliminate requests from obligors to open or strike a judgment, and lessen the number of errors in the amounts of judgments which impact real estate searches and credit reports.

Response: We do not believe the commenters' suggested changes are warranted. State child support case payment records, in most States, should eliminate the need for: (1) Recording judgments periodically; or (2) obtaining certification from the obligee that the amount of the judgment (arrearage) is accurate. States that have inadequate child support payment records will have to make the changes necessary to maintain current and accurate record keeping systems. There is certainly no need to send a notice of each incremental change in the judgment to the obligor since he or she is responsible for meeting the obligation and will know when he or she has failed to do so. Finally, Federal law regarding the prohibition of retroactive modification of support arrearages should limit requests from obligors to open or strike a judgment.

7. *Comment:* One commenter objected to the regulatory provision that makes any child support payment or installment, under a support order, a judgment as of the date it is due because: (1) It is contrary to standard law and practice; (2) it raises a Constitutional issue regarding separation of powers; and (3) it violates the obligor's due process rights.

Response: Federal law provides that any payment or installment of support under any child support order is, on and after the date it is due, a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced. The commenter did not explain how the principle of separation of powers is allegedly violated, but this requirement has long been the established law of many States and we are unaware of any challenges on Constitutional grounds. We believe that Congress is simply requiring States to afford child support debts the same status as other court or administratively ordered debts in the State that are considered judgments.

In addition, the commenter did not explain how due process was violated. The child support obligor's due process rights are protected under State law when the support obligation is established. Also, the obligor, subject to enforcement of a child support judgment, is entitled to the same due process protections that apply to the enforcement of other judgments in the State. For example, an obligor who alleges that all payments to the custodial parent have been made, may be entitled under State law to a hearing before the court or administrative authority.

8. *Comment:* One commenter asked how long it generally takes a court to act on a petition for modification of support. The commenter also recommended that the regulations specify a time frame within which a final judgment must be issued after a petition for modification of a support order is filed because the custodial parent may face problems without the additional support.

Response: Historically, there have been large backlogs of child support cases in State courts awaiting resolution. However, as a result of the Child Support Enforcement Amendments of 1984, Federal regulations governing the Child Support Enforcement program at 45 CFR 303.101 require the States to have in effect and use expedited processes (administrative and/or expedited judicial processes) to establish and enforce child support orders. Under expedited processes, actions to establish and enforce support orders in IV–D cases must be completed from the time of filing to the time of disposition within the following timeframes: (1) In 90 percent of all cases, within 3 months, (2) 98 percent in 6 months; and (3) 100 percent in 12 months. This standard also applies to the modification of support orders in IV–D cases under expedited processes unless complex issues are involved requiring judicial resolution (45 CFR 303.101(b)(4)).

Prohibition of Retroactive Modification

9. *Comment:* A commenter indicated that the prohibition of retroactive modification of support orders requirement does not provide exceptions for individuals who are unable to promptly file for modification due to severe injury or sudden lengthy illness. Several commenters objected to the prohibition of retroactive modification of support because it requires the obligor who obtains custody of a child or is temporarily out of work to immediately file a petition to modify the support order and applies to the obligor who may have to satisfy arrearages that accrued after a child died or was emancipated.

Response: Federal law does not provide for any exception to the prohibition of retroactive modification of support arrearages other than for the period after the date notice of the petition for modification is given until the modification occurs. Congress in Senate Report No. 99–348, page 155, and in the Conference Report No. 99–1012, Page 273, indicated that, if the non-custodial parent's circumstances change because of unemployment, illness or another such reason, the non-custodial parent is responsible for notifying the custodial parent and the court or entity that issued the child support order of the changed circumstances and his or her intention to modify the support order. The obligor is in the best position to know of a change in circumstances and bring it to the attention of the court or administrative authority.

It is the obligor's responsibility to take action promptly to seek modification of a support obligation based on a change in his or her circumstances. The obligor or his or her representative should immediately, upon the development of any circumstances that inhibit his or her ability to pay support, file a petition with the court or administrative authority to modify the support order. These circumstances might include: (1) The obligor is unable to pay support due to confinement or incarceration in a mental or penal institution; (2) the child goes to live with the obligor; (3) the child is emancipated or dies; (4) the obligor becomes permanently, or temporarily disabled, or seriously ill, with no benefits, earning capacity or assets; or (5) the obligor becomes unemployed. If the obligor cannot afford legal counsel, the obligor should seek assistance from any available public legal services.

Federal law and regulations do not preclude the States from having laws that permit automatic prospective suspension or prospective termination of the support obligation upon the development of specific circumstances such as the emancipation or death of a child. Such "modifications by operation of law" upon the occurrence of an event known to both parties, if applicable generally to all child support orders in the State, would not appear to contradict the intent of the law. We would caution, however, that any apparent "exceptions" to the general rule barring retroactive modification of support orders will be closely scrutinized for purposes of determining State IV–D plan conformity.

Enforcement of child support judgments should be treated the same as enforcement of other judgments in the State, and a child support judgment would also be subject to the equitable defenses that apply to all other judgments. Thus, if the obligor presents to the court or administrative authority a basis for laches or an equitable estoppel defense, there may be circumstances under which the court or administrative authority will decline to permit enforcement of the child support judgment. We do not, however, believe that a temporary loss of employment or even a change of actual custody of the child should result in a modification of support liability unless the court or administrative authority is duly notified and sanctions such modification.

10. *Comment:* Another commenter indicated that the provisions regarding the prohibition of retroactive modification of support arrearages result in deprivation of Constitutional rights, denial of due process, and lack of equity and fair play in cases in which there are changes in circumstances and, for various reasons, the obligor does not seek to modify the order. Several commenters objected to the prohibition of retroactive modification of support because the requirement will cause substantial litigation due to the denial of

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property and other rights and due process to obligors.

Response: Federal law and regulations provide that child support judgments will be treated in the same manner as any other judgment in the State. A child support debtor whose circumstances change is entitled to the same fairness and equity defenses and due process rights as other judgment debtors in the State. An obligor subject to the enforcement of a child support judgment is entitled to the same due process protection and statutory exemptions that apply to the enforcement of other judgments within the State.

We encourage States to establish expedited procedures for modification of child support judgment orders whenever there is a substantial change in the circumstances of either party. State laws and court orders can provide for prompt, efficient modifications of support obligations when deemed appropriate. In addition, some occurrences (e.g., death or emancipation of a dependent child) might be construed under State law as triggering automatic prospective termination or modification of the support obligation to avoid inequitable results.

11. *Comment:* Three commenters objected to the prohibition of retroactive modification of support arrearages because it replaces the case-by-case review by the judiciary which they believe is necessary to ensure fairness and equity. For example, if the obligor loses his or her job or becomes seriously ill and lacks the funds or knowledge to pursue immediate modification of the support order, arrearages will accrue which otherwise might have been avoided. Several commenters objected to the prohibition of retroactive modification of support because it limits judges' discretion and authority and prohibits the obligor from challenging improperly calculated arrearages.

Response: Federal law and regulations will require some States to amend laws and to limit judicial discretion and authority regarding the retroactive modification of support arrearages. In a relatively small number of cases there may be situations where obligors fail to seek or are unable to obtain prompt modifications to which they may have been entitled. We believe, however, that this law remedies a greater inequity which previously occurred in many more cases where a child support obligor, through his or her own neglect or refusal to comply with the support order, incurred arrearages which were subsequently reduced or forgiven entirely by the court. In such situations the obligor's children paid the consequences through no fault or responsibility of their own. We encourage States to enact laws providing expedited procedures for prompt modification of support obligations whenever circumstances change (e.g., an obligor becomes incapacitated). In addition, the courts or administrative authority should provide guidance when child support orders are entered encouraging either party to notify the court or administrative authority when circumstances change.

Federal law and regulations do not prohibit the correction of improperly calculated arrearages; the IV–D agency, judiciary or administrative authority may correct any improperly calculated arrearages.

12. *Comment:* A commenter suggested that the proposed regulations be revised to permit retroactive reduction of support arrearages if a determination is made that failure to pay support was not willful. The commenter indicated that incarcerated individuals unable to obtain prompt legal representation would be assisted by this change. Another commenter indicated that the proposed regulations place a hardship on incarcerated individuals who are, for the most part, incapable of paying support, or securing legal counsel.

In addition, several commenters suggested that the regulations be revised to indicate that when a person is confined to jail, prison or a mental health institution or treatment facility, the initial date of confinement is constructive notice that a petition to revise the support obligation during the period of incarceration or confinement is pending. The commenters believe that this change is necessary because: (1) Many inmates do not have prompt access to legal assistance or the courts; (2) the ability to pay support is affected by incarceration or confinement; (3) support arrearages that accrue while an individual is confined or incarcerated cannot be modified once an individual is released; and (4) the accumulation of support arrearages while an individual is confined or incarcerated may discourage an individual from working while incarcerated or upon release.

Response: The obligor, including an incarcerated individual, is generally responsible for filing a request for modification of the support order with the appropriate court or administrative authority immediately upon any change in circumstances which affects the ability to pay, or need for support. The law does not provide any exception for obligors who failed to file in a timely manner for any reason including lack of knowledge regarding the process, prompt access to counsel, and lack of money. If the obligor cannot afford legal counsel, the obligor should seek assistance from available public legal services or should contact the court or administrative authority directly.

The Federal Government does not prescribe State requirements for notice of filing a petition to suspend or modify a support obligation. The State's own procedures of due process specify exactly what notice is required in the circumstances presented by the commenter. It would appear that States might enact laws that could provide for automatic prospective suspension of support obligations when a person is placed in a hospital or institution and does not have the assets or unearned income necessary to meet the support obligation if such laws applied generally to all judgment debtors in the State. Some obligors may, however, have assets or investment income which are adequate to meet their obligations even during periods of temporary unemployment. We believe that most modifications should be subject to approval of the court or administrative authority, and that the obligor is usually in the best position to bring changes in his or her circumstances to the court's or administrative authority's attention.

13. *Comment:* One commenter suggested that the regulations be revised to indicate that prohibition of retroactive modification of support arrearages in the 18 States that permitted such modification before the new law be a "rebuttable presumption" rather than an absolute prohibition.

Response: Federal law does not allow exceptions to the prohibition of retroactive modification of support arrearages for some States based on their past practices, and we believe the proposed change to the regulation would be improper. The prohibition applies on the same basis to all States; States may not use a "rebuttable presumption" standard.

14. *Comment:* One commenter suggested that the regulations be revised to permit the parties (obligee and obligor) to stipulate to a retroactive reduction of the child support arrearage if the obligor agrees to make an immediate lump sum payment. Several commenters suggested that the regulations be revised to permit retroactive modification of support arrearages by agreement of the parties. A commenter also asked whether a State law that permits a court approved agreement between the parties to retroactively modify a support order is consistent with section 9103 of Pub. Law 99–509. If not, the commenter further suggested that the regulations indicate

that this is not permissible. Another commenter suggested that the regulations be revised to clarify that the prohibition of retroactive modification of support arrearages does not provide for any judicial or parental discretion.

Response: Federal law and regulations provide that child support is a judgment on and after the date due with the full force, effect and attributes of a judgment of the State. Such support judgments may, however, be compromised or satisfied by specific agreement of the parties on the same grounds as exist for any other judgment in the State. Judgments involving child support arrearages assigned to the State under titles IV–A, IV–E and XIX of the Social Security Act, of course, may not be compromised by an agreement between the obligee and obligor unless the State, as assignee, also approves such an agreement. State law may require that any agreement affecting child support orders must be endorsed by the court or administrative authority to ensure that the best interests of the child are protected.

15. *Comment:* One commenter asked whether the law regarding the prohibition of retroactive modification of support arrearages applies to a custodial parent's request to increase the amount of arrearages and future payments. The commenter further asked whether, if the new law applies to this situation, does the modification apply as of the date the obligor receives notice of the petition.

Response: Federal law and regulations permit an upward modification of the support order and related arrearages for any period during which a petition is pending for modification, but only from the date notice has been given, either directly or through the appropriate agent, to the obligor.

16. *Comment:* One commenter asked about the extent of IV–D agency responsibility for judicial compliance with the prohibition of retroactive modification requirements.

Response: OCSE approval of a State plan amendment regarding the prohibition of retroactive modification of support arrearages requirements is dependent upon whether the State has in effect the necessary State laws and procedures required by the new Federal law. Judges would be required by State law to comply with the prohibition of retroactive modification requirements.

Federal law requires each State to operate a Child Support Enforcement program throughout the State in accordance with the requirements of title IV–D of the Social Security Act, including the prohibition of retroactive modification of support arrearages. To ensure that a State has an effective Child Support Enforcement program, OCSE conducts an audit of each State's Child Support Enforcement program, at least once every three years, to determine whether the State is in substantial compliance with the requirements of title IV–D of the Act. If, as the result of an audit, a determination is made that the State did not substantially comply with the requirements regarding the prohibition of retroactive modification of support, the State will be subject to a reduction of Federal funding under title IV–A of the Act.

17. *Comment:* One commenter suggested that the regulations be revised to specify that, at the time the support obligation is established, the obligor be notified of the requirements regarding the prohibition of retroactive modification of support arrearages. The commenter also suggested that the regulations be revised to require prison administrators to give immediate notice to inmates regarding the prohibition of retroactive modification of support arrearages requirements.

Response: Federal law and regulations do not prohibit the State from notifying the parties, at the time the support order is established, or, in the case of incarceration, at the time of incarceration, notifying the obligor, of the prohibition of retroactive modification of support arrearages requirements. We believe that the States are in the best position to determine the means, and under what circumstances, notice should be provided.

18. *Comment:* A comment was received on the requirement that arrearages may be modified, but only from the date notice of the petition for modification has been given to the obligee, or where the obligee is the petitioner, to the obligor. The commenter suggested that this provision refers to the date action is filed and notice is issued or the date the notice is issued if the notice is not issued on the same date the petition is filed, rather than the date notice is received by the opposing party. The commenter's rationale was that it is consistent with general law that the court's powers are invoked and exercisable as of the date the petition is filed and notice is sent to the other party. The commenter believes that the legislative history regarding the prohibition of retroactive modification of arrearages supports this position.

A second commenter suggested that the regulations be revised to permit retroactive modification of support arrearages as of the date the notice is filed, rather than the date of service on the obligor because most motions to modify include requests to increase the support order and the obligor will attempt to avoid service of process. Several other commenters also recommended that the regulations be revised to permit retroactive modification of support arrearages as of the date the petition is filed. One of these commenters indicated that the preamble does not address why the regulation requires the States to abandon the longstanding legal principle that a judgment may be modified retroactively at least to the date it is filed. Another commenter suggested that the regulations be revised to indicate that modification of support arrearages can take place during any period in which a petition for modification is pending if the party seeking modification of support arrearages shows diligence in providing notice to the other party because various tactics will be used by the obligor to avoid service of process.

Finally, a commenter asked that we explain the meaning of the word "given" as used in the phrase "the date notice of the petition has been given" in the proposed regulations.

Response: Federal law permits the retroactive modification of support arrearages during any period in which a petition for modification is pending, but only from the date that notice of the petition has been given, either directly or through the appropriate agent, to the obligee, or where the obligee is the petitioner, to the obligor. The regulatory requirement mirrors the Federal statutory language. We believe Congress intended that "date of notice" or "date notice is given" should be construed literally and in terms of acquiring personal jurisdiction over the other party. State law provides rules to determine when personal jurisdiction is acquired by service of notice of an action. Under these provisions, the "date of notice" or "date notice is given" should be interpreted by the State in the same way as it is generally applied to commence other civil litigation within the State. State law regarding the establishment of the date of notice that a petition has been filed dictates when the modification may be effective. The date of notice may be the same date on which the petition is filed if "notice is given" on the same date by publication or other means and personal service is not required under State law.

Although the effective date of any modification is tied to the date notice of the petition is given, we believe notice through the mail or other means may be sufficient so long as the State has

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acquired personal jurisdiction over the other party under State law. Thus, the party named in the petition could not necessarily avoid the process server to delay the effective date of any modification. However, the date of notice is subject to State due process requirements. Consequently, some States may tie "date of notice" to actual receipt of personal service if that is the standard in the State for securing personal jurisdiction over the opposing party in a modification proceeding.

Regulatory Impact Analysis

The Secretary has determined, in accordance with Executive Order 12291 that this rule does not constitute a "major" rule for the following reasons:

(1) The annual effect on the economy is less than $100 million;

(2) This rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(3) This rule will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), we are required to prepare a regulatory flexibility analysis for those rules which will have a significant economic impact on a substantial number of small entities. For this rule, the principle impact is on State IV-D agencies who will be required to expend minimal effort, and on the judicial system. This provision could potentially save money for both the Federal Government and the States by increasing amounts available for collection and reducing the costs of collecting support. Further, the cost of interstate enforcement activities will be reduced by eliminating the need to obtain a child support order in more than one State. Therefore, a regulatory flexibility analysis is not required.

List of Subjects

45 CFR Part 302

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

45 CFR Part 303

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

45 CFR Part 305

Accounting, Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 13.783, Child Support Enforcement Program.)

Dated: September 28, 1988.

Wayne A. Stanton.

Director, Office of Child Support Enforcement.

Approved: October 4, 1988.

Otis R. Bowen,

Secretary.

Editorial Note: This document was received by the Office of the Federal Register, April 14, 1989.

For the reasons set out in the preamble, Title 45, Chapter III of the Code of Federal Regulations is amended as follows:

PART 302—[AMENDED]

1. The authority citation for Part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. Section 302.70 is amended by amending paragraph (a) by: revising the introductory text; removing the word "and" at the end of paragraph (a)(7); removing the period at the end of paragraph (a)(8) and inserting "; and" in its place; and, adding paragraph (a)(9) to read as follows:

§ 302.70 Required State laws.

(a) *Required laws.* Effective October 1, 1985, with respect to paragraphs (a)(1) through (8) of this section, and effective October 21, 1986, with respect to paragraph (a)(9) of this section, the State plan shall provide that, in accordance with sections 454(20) and 466 of the Act, the State has in effect laws providing for and has implemented the following procedures to improve program effectiveness:

* * * * *

(9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (a)(2) of this section, is (on and after the date it is due):

(i) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(ii) Entitled as a judgment to full faith and credit in such State and in any other State; and

(iii) Not subject to retroactive modification by such State or by any other State, except as provided in § 303.106(b).

* * * * *

PART 303—[AMENDED]

3. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

4. Part 303 is amended by adding § 303.106 to read as follows:

§ 303.106 Procedures to prohibit retroactive modification of child support arrearages.

(a) The State shall have in effect and use procedures which require that any payment or installment of support under any child support order is, on and after the date it is due:

(1) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(2) Entitled as a judgment to full faith and credit in such State and in any other State; and

(3) Not subject to retroactive modification by such State or by any other State except as provided in paragraph (b) of this section.

(b) The procedures referred to in paragraph (a)(3) of this section may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

PART 305—[AMENDED]

5. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 603(b), 604(d), 652(a)(1) and (4), and 1302.

6. Part 305 is amended by adding § 305.57 to read as follows:

§ 305.57 Retroactive modification of child support arrearages.

For the purposes of this part, in order to be found in compliance with the State plan requirement to prohibit the retroactive modification of child support arrearages (45 CFR 302.70(a)(9)), a State must have in effect laws which provide that any payment or installment under any child support order is, on and after the date it is due, a judgment and be using procedures which prohibit retroactive modification of child support arrearages as provided in 45 CFR 303.106 of this chapter.

[FR Doc. 89-0357 Filed 4-18-89; 8:45 a.m.]
BILLING CODE 4150-04-M

VOL 54 ISS 74 AP 19 1989 UMI

Proposed Rules

Federal Register
Vol. 54, No. 74
Wednesday, April 19, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-22-AD]

Airworthiness Directives; Aerospatiale Model ATR42-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42-300 series airplanes, which would require modification of the fuselage emergency exit frame at shoot bolt and upper stop locations. This proposal is prompted by a fatigue and damage tolerance analysis of the fuselage emergency exit frame, which revealed the need to increase the thickness of the fitting base at the upper stop and shoot bolt locations. This condition, if not corrected, could lead to failure of the emergency exit frame and subsequent rapid decompression.

DATE: Comments must be received no later than June 6, 1989.

ADDRESS: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-22-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-22-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Fatigue and damage tolerance analysis of the fuselage emergency exit frame on Aerospatiale Model ATR42-300 series airplanes has revealed that the thickness of the fitting base at the shoot bolt and upper stop locations is inadequate to prevent cracking. This condition, if not corrected, could lead to failure of the emegency exit frame and subsequent rapid decompression.

Aerospatiale has issued Service Bulletin ATR42-53-0024, Revision 2, dated May 16, 1988, which describes procedures for modification of the fuselage emergency exit frame to increase the thickness of the fitting base from 2 mm to 4.5 mm.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition involves potential fatigue failure of the emergency exit structure, and is likely to exist or develop on airplanes of this model registered in the United States, the FAA is proposing an AD that would require modification of the emergency exit frame in accordance with the service bulletin previously described. Modification would be required prior to the accumulation of 12,000 landings, or within 60 days if airplanes have accumulated 12,000 or more landings.

It is estimated that 33 airplanes of U.S. registry would be affected by this AD, that it would take approximately 40 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The required modification parts would be provided by the manufacturer at no charge to operators. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $52,800.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model ATR42-300 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR42-300 series airplanes, Serial Numbers 003 through 052, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of the emergency exit frame, accomplish the following:

A. Prior to the accumulation of 12,000 landings or within 60 days after the effective date of this AD, whichever occurs later, accomplish modification of the fuselage emergency exit frame in accordance with Aerospatiale Service Bulletin ATR42-53-0024, Revision 2, dated May 16, 1988.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 7, 1989.

Darrell M. Pederson,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9291 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-19-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to Boeing Model 727 series airplanes, which would require inspection for cracks of the main landing gear (MLG) inboard door actuator rib fitting, and rework or replacement, if necessary. This proposal is prompted by a recent left MLG-up landing that resulted from a fractured MLG door actuator rib fitting. This condition, if not corrected, could result in non-extension of the MLG and damage to the airplane because of the wheels-up landing.

DATES: Comments must be received no later than June 5, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-19-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-19-AD, 17900 Pacific Highway South, C-68966 Seattle, Washington 98168.

Discussion

There have been several reported incidents of cracked main landing gear (MLG) inboard door actuator rib fittings on Boeing Model 727 series airplanes. In one case, one fitting on the left MLG door failed and resulted in a landing with the left MLG retracted. The cracked fittings occurred on airplanes which had accumulated between 20,000 and 50,000 landings. Cracking has been attributed to stress corrosion. This condition, if not corrected, could result in failure of the MLG to extend.

The FAA has reviewed and approved Boeing Service Bulletin 727-32-0364, dated December 15, 1988, which describes procedures for inspection, rework, and replacement of the MLG inboard door actuator rib fitting.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection and rework and, if necessary, repair or replacement of the MLG inboard door actuator rib fitting in accordance with the service bulletin previously described.

There are approximately 1,695 Model 727 series airplanes in the worldwide fleet. It is estimated that 1,172 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average

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labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $187,520.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, would not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 727 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposesd to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the folloiwng new airworthiness directive:

Boeing: Applies to all Model 727 series airplanes certified in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of a main landing gear (MLG) inboard door from operating as a result of cracking in the actuator rib fitting, accomplish the following:

A. Prior to the accumulation of 20,000 landings, or within the next 1,000 landings after the effective date of this AD, whichever occurs later, accomplish the following in accordance with Boeing Service Bulletin 727-32-0364, dated December 15, 1988:

1. Conduct an eddy current or dye penetrant inspection of the MLG inboard door actuator rib fittings listed in figure 3, for cracks, in accordance with that figure of the service bulletin.

2. If no cracks are detected, rework prior to further flight, in accordance with paragraph b. of figure 3 of the service bulletin.

3. If cracks are detected in the MLG inboard door actuator rib fitting, rework or replace with properly reworked or new fitting, prior to further flight, in accordance with paragraph c. of figure 3 of the sevice bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 6, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9283 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-37-AD]

Airworthiness Directives; CASA Model C-212 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to CASA Model C-212 series airplanes, which currently requires incorporation of a revision to the FAA-approved maintenance inspection program that provides for structural inspections of the mechanical flap control system, and replacement, as necessary. That action was prompted by a structural reevaluation of the entire flap control system, which identified certain significant structural components which need to be inspected for damage, including corrosion and cracking, to assure the continued airworthiness of the flap system. This proposal would specify the compliance time for accomplishment of the initial inspection of the wing flap control system. This action is prompted by a further assessment of the wing flap control system inspection intervals, and the need to identify the initial inspection requirement. Corrosion or cracking in components of the wing flap control system, if not detected or corrected, could compromise the structural integrity of the flap system.

DATES: Comments must be received no later than May 15, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-37-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Contrucciones Aeronauticas, S.A. (CASA), Getafe, Madrid, Spain. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-37-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On December 28, 1988, the FAA issued AD 88-02-08, Amendment 39-6111 (54 FR 1341; January 13, 1989), applicable to CASA Model C-212 series airplanes, which requires incorporation of a revision to the FAA-approved maintenance inspection program that would provide for structural inspections of the mechanical wing flap control system, and repair or replacement, as necessary. That action was prompted by a structural re-evaluation of the entire flap control system, which identified certain significant structural components which need to be inspected for damage, including corrosion and cracking, to assure the continued airworthiness of the flap system. This condition, if not corrected, could compromise the structural integrity of the wing flap control system.

Since issuance of that AD, a further assessment of the wing flap control system inspection intervals has revealed the need to perform the initial inspection when the airplane has accumulated 4,000 landings (or within 6 months after the effective date of this proposed amendment). This initial inspection compliance time was not specified in the existing AD.

This airplane model is manufactured in Spain and Indonesia and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Administration and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of this same type design registered in the United States, an AD is proposed which would amend AD 88-02-08, to require that the initial supplemental structural inspection of the wing flap control system be accomplished prior to the accumulation of 4,000 landings or within 6 months after the effective date of this amendment, whichever occurs later, in accordance with CASA Document COM. 212-206, Revision 1, dated May 20, 1988. The repetitive inspection interval of 4,000 landings, as required by the existing AD, would remain unchanged. Additionally, the requirement to revise the FAA-approved maintenance inspection program would remain unchanged.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

It is estimated that 61 airplanes of U.S. registry would be affected by this AD, that it would take approximately 11 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $26,840. (This supplemental inspection would be repeated every 4,000 landings at this same cost.)

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, CASA Model C-212 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 88-02-08, Amendment 39-6111 (54 FR 1341; January 13, 1989), as follows:

CASA: Applies to all CASA Model C-212 series airplanes, certificated in any category. Compliance is required as indicated below, unless previously accomplished.

To ensure continuing structural integrity of the wing flap control system, accomplish the following:

A. Within six months after February 17, 1989 (the effective date of AD 88-02-08, Amendment 39-6111), incorporate a revision into the FAA-approved maintenance inspection program that will provide for inspection of the wing flap control system in accordance with CASA Document COM. 212-206, Revision 1, dated May 20, 1988. The non-destructive inspection techniques set forth in the CASA C-212 non-destructive procedures (27-50-01 through 27-50-05) provide acceptable methods for accomplishing the inspections required by this AD. All inspection results, positive or negative, must be reported to CASA Product Support, in accordance with instructions in the CASA Flap Control System Inspection Document. This Supplemental Structural Inspection (SSI) is to be repeated at intervals not to exceed 4,000 landings.

B. Prior to the accumulation of 4,000 landings, or within six months after the effective date of this amendment, whichever occur later, inspect the wing flap control system in accordance with CASA Document COM. 212-206, Revision 1, dated May 20, 1988.

C. Cracked structure or damaged components detected during the inspections required by paragraphs A. and B., above, must be replaced prior to further flight, in accordance with CASA Document COM. 212-206, Revision 1, dated May 20, 1988.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

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All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Contrucciones Aeronauticas, S.A. (CASA), Getafe, Madrid, Spain. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 10, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9340 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-33-AD]

Airworthiness Directives; Lockheed Aeronautical Systems Co. Model L-1011-385-1, L-1011-385-1-14, L-1011-385-1-15, and L-1011-385-3 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to Lockheed Aeronautical Systems Company Model L-1011-385-1, L-1011-385-1-14, L-1011-385-1-15, and L-1011-3 series airplanes, which would require inspecting the Auxiliary Power Unit (APU) starter ground cable for loose ground stud terminations, and appropriate corrective action, as necessary, to eliminate the APU starter ground cable discrepancies. This proposal is prompted by a report of loose APU starter ground terminals, and deterioration of the grounding bracket due to electrical arcing at the ground studs. This condition, if not corrected, could result in a fire caused by arcing, since an eroded ground stud and a missing wire harness clamp could allow the starter ground cable to fall onto thee APU fuel shutoff values.

DATES: Comments must be received no later than June 1, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-33-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Lockheed Aeronautical Systems Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Order Administration, Dept. 65-33, Unit 20, Plant A-1. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Elvin K. Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM-132L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5344.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-33-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The FAA has received a report where one L-1011 operator, experiencing difficulty in starting the APU, discovered that the two APU starter ground terminals, located just aft of the FS 1860 bulkhead and above the APU firewall fuel shut-off values, were loose, and the grounding bracket had deteriorated due to electrical arcing at the ground studs. A partial fleet check conducted by eight L-1011 operators revealed that, of 56 aircraft checked, 23 had some discrepancy in the ground stud/bracket installation. Of those 23, 5 had loose studs with no evidence of arcing and 12 were missing the required bracket mid-span cable clamp. This condition, if not corrected, could result in a fire caused by arcing, since an eroded ground stud and a missing wire harness clamp could allow the starter ground cable to fall onto the APU fuel shutoff valves.

The FAA has reviewed and approved Lockheed TriStar L-1011 Service Bulletin 093-49-062, dated September 19, 1988, which describes the inspection/correction procedures necessary to eliminate the APU starter ground cable discrepancies.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection for proper installation of the APU starter ground cable, and correction, if necessary, in accordance with the service bulletin previously described.

There are approximately 241 Model L-1011-385 series airplanes in the worldwide fleet. It is estimated that 116 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $20,880.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($180). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed Aeronautical Systems Company: Applies to Model L-1011-385-1, L-1011-385-1-14, L-1011-385-1-15, and L-1011-385-3 series airplanes, as listed in Lockheed TriStar L-1011 Service Bulletin 093-49-062, dated September 19, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent a fire from arcing due to loose APU starter ground cables falling off the ground studs and onto the APU fuel shutoff valves, accomplish the following:

A. Within 6 months after the effective date of this airworthiness directive (AD), inspect the APU starter ground stud/bracket for proper installation and proper ground stud torque in accordance with the Accomplishment Instructions of Lockheed TriStar Service Bulletin 093-49-062, dated September 19, 1988. Any discrepancies identified must be corrected prior to further flight, in accordance with the service bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special Flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Lockheed Aeronautical Systems Company, P. O. Box 551, Burbank, California 91520, Attention: Commercial Order Administration, Dept. 65-33, Unit 20, Plant A-1. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on April 4, 1989.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft certification Service.

[FR Doc. 89-8341 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-ANE-02]

Airworthiness Directives; Pratt & Whitney (PW) JT8D-9, -9a, -11, -15, -15A, -17, -17A, -17R, and -17AR Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would require replacement of the first stage fan blade retaining plates on certain PW JT8D engines. The AD requires replacing the original retaining plates, and the retaining plates which were introduced by PW Service Bulletin (SB) 5739, with a new improved retaining plate. The proposed AD is needed to prevent a first stage fan blade liberation which could result in fire, inflight shutdown, engine cowl release, or airframe damage.

DATES: Comments must be received on or before July 14, 1989.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-ANE-02, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: Docket No. 89-ANE-02.

Comments may be inspected at the New England Region, Office of the Assistant Chief Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable alert service bulletin (ASB) may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined in the Regional Rules Docket.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE-141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7121.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 89-ANE-02. The postcard will be date/time stamped and returned to the commenter.

This document proposes to adopt a new AD mandating replacement of the first stage fan blade retaining plate on certain PW JT8D engines. The new retaining plate contains improved blade retention features.

There has been a total of nineteen first stage fan blade liberation events. Thirteen of these events resulted in fire, engine cowl release, or airframe damage. Fifteen of the nineteen blade liberation events occurred with the original retaining plates. However, four events occurred with improved retaining plates which were introduced by PW SB 5739, dated March 5, 1987. Also, there have been seven first stage fan blade liberation events caused by bird ingestion, all occurring on wing mounted engines containing the original retaining plates. Consequently, the risk of a blade liberation event is dependent on the aircraft installation in addition to the retaining plate design.

All nineteen events have occurred on JT8D-9 through JT8D-17AR engines. The

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JT8D–1 through JT8D–7B engines incorporate a different retaining plate configuration which has had no history of first stage fan blade liberation.

The FAA has determined that the original first stage fan blade retaining plates for the JT8D–9 through JT8D–17AR engines, and the first stage fan blade retaining plates introduced by PW SB 5739, are inadequate for retaining first stage fan blades in the event of certain failures. An improved retaining plate is now available and should be incorporated into all applicable engines. Since this condition is likely to exist or develop in other engines of the same type design, the proposed AD would require replacement of first stage fan blade retaining plates on certain PW JT8D engines in accordance with PW Alert Service bulletin (ASB) 5841, dated February 15, 1989.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this proposed regulation involves approximately 5175 engines (domestic fleet) at an approximate total cost of four hundred thousand dollars. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the proposed rule affects only operators using aircraft in which JT8D–9 through JT8D–17AR engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes to amend Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT8D–9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR turbofan engines. Compliance is required as indicated, unless already accomplished.

To prevent fire, inflight shutdown, engine cowl release, or airframe damage associated with a first stage fan blade liberation, remove certain first stage fan blade retaining plates in accordance with the Accomplishment Instructions of PW Alert Service Bulletin (ASB) 5841, dated February 15, 1989, and replace with an improved retaining plate as follows:

(a) Replace retaining plates Part Numbers (P/N) 520451, 616645, and 839616 with retaining plate P/N 803996 at the next stop visit but no later than:

(1) Two years after the effective date of this AD for wing mounted engines.

(2) Three years after the effective date of this AD for fuselage mounted engines.

(b) Replace retaining plates P/N's 760297, 793935, and 802710 with retaining plate P/N 803996 at the next shop visit but no later than four years after the effective date of this AD.

Notes: (1) A shop visit occurs following engine removal where the subsequent engine maintenance entails the following:

(a) Separation of a major engine flange (lettered or numbered), other than flanges mating with major sections of the nacelle or reverser. Separation of flanges purely for purposes of shipment, without subsequent internal maintenance, is not a "shop visit."

(b) Removal of a disk, hub, or spool.

(3) Future FAA approved first stage fan blade retaining plate designs may be used in lieu of the P/N 803996 retaining plate as an alternate method of compliance, as stated below.

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD may be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD, may be approved by the Manager, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on April 5, 1989.

Arthur J. Pidgeon,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89–9292 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–CE–09–AD]

Airworthiness Directives; Beech 200 and 300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Beech 200 and 300 series Airplanes, which would supersede AD 87–17–05R1, Amendment No. 39–5847, and mandate repetitive inspections and repair as required of wing fuel bay upper skin panels. Entry of moisture through the blind fastener rivets in the outer skin of the panels causes corrosion which results in debonding of these panels. The FAA has determined that the repairs and replacement panels specified in AD 87–17–05R1 are inefective in preventing such corrosion. The actions proposed herein will preclude stuctural weakening of these panels due to corrosion.

DATE: Comments must be received on or before June 3, 1989.

ADDRESSES: Beech Service Bulletin No. 2040, Rev. II, dated December 1988, and Beech Service Instructions No. C–12–0094, Rev. II, dated January 1989, applicable to this AD, may be obtained from Beech Aircraft Corporation, Commercial Services, Department 52, P.O. Box 85, Wichita, KS 67201–0085; telephone (316) 681–7111. This information may also be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89–CE–09–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Don Campbell, Aerospace Engineer, Airframe Branch, ACE–120W, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89–CE–09–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

AD 87–17–05R1, Amendment No. 39–5847, was published in the **Federal Register** on February 17, 1988 (53 FR 4604). This AD requires repetitive inspections and repair if necessary, of a debond condition of the wing upper skin panels in the area bounded by the fuselage, nacelle, front spar, and rear spar on certain Beech 200 and 300 series airplanes. The area in question is a one piece, all aluminum, bonded honeycomb sandwich, which serves as the fuel bay upper cover, as well as a load carrying structural member. The debonding results when moisture leaks into the honeycomb via blind fasterners (rivets) in the outer face sheet of the panel. The moisture, in turn, causes corrosion to form inside the honeycomb, which attacks the face sheet bonds. Without corrective maintenance, the debonding can progress to a point where safe flight is jeopardized. If no debonding is detected, AD 87–17–05R1 requires sealing of all blind fasteners (rivets) per Service Bulletin No. 2040, Rev. I (or Service Instructions No. C–12–0094, Rev. I, for military airplanes). This involves an external application of sealant. If debonding is detected, the AD allows repairs by Beech Kit No. 101–4032–1S or –3S, after which the inspections continue. As an alternative, the debonded panel is replaced by a new panel P/N 101–120108–603 or –604, after which the inspections are no longer required.

In the 16 months since AD 87–17–05 was issued, it was determined that the present method of sealing is not always effective in keeping moisture out of the honeycomb core, and Beech Kits No. 101–4032–1S and –3S have been discontinued by the manufacturer. During this period, at least seven of the replacement panels, P/N 101–120108–603 or –604, are known to have debonded in service. As a result of these problems, Beech has revised the service information to provide an improved method, Kit No. 101–4048–1S, for sealing the blind rivets, and expanded the inspections to include the new replacement panels.

A new, temporary repair is also described in the revised service bulletin. This repair method may be used for up to one year from the time of modification in cases where immediate panel replacement is not feasible or desirable. However, a panel has been previously rebonded using Kit No. 101–4032–1S or –3S may not be repaired again using Kit No. 101–4048–1S. Partial replacement panels, which may be used in lieu of the complete panels, P/N 101–120108–603 or –604, are also referenced in the revised service information as follows:

Description	Number	Wing
Kit	10–4045–1S	Left
Repair Procedure	SRV.002	Left
Repair Procedure	SRV.018	Right

Regardless of whether a debonded panel is replaced or repaired, the repetitive inspections are necessary.

In view of the above, the FAA has determined that AD87–17–05R1 is no longer adequate and should be superseded.

Since the condition described is likely to exist or develop in other Beech 200 and 300 series airplanes of the same design, the proposed superseding AD would require repetitive inspections and, if necessary, temporary repair or replacement of all wing fuel by upper skin panels in accordance with Beech Service Bulletin No. 2040, Rev. II, dated December 1988, or Beech Service Instructions No. C–12–0094, Rev. II, dated January 1989, as appropriate.

The FAA has determined there are approximately 995 airplanes affected by the proposed AD. The cost of inspecting, sealing and repairing per the proposed AD is estimated to be $416 initially plus $234 annually (averaged over the fleet) per airplane. The total cost is estimated to be $415,000 initially plus $233,000 annually to the private sector. Warranty reimbursement is offered by Beech for a limited time for the cost of rivet sealing (Kit 101–4048–1S) and any repairs or panel replacements needed. The total cost of complying with the proposed AD is less than $100 million, the threshold amount for a significant rule. The cost of compliance with the proposed AD is so small that the expenses of compliance will not be a significant impact on any small entities operating these airplanes.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

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Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 87-17-05R1, Amendment 39-5847, with the following new AD:

Beech: Applies to Models 200, B200, 200C, B200C, 200CT, B200CT, 200T, B200T, A200, A200C, A200CT and 300 (all serial numbers) airplanes equipped with wing fuel bay upper skin panels made with bonded (honeycomb sandwich) construction, certificated in any category.

Compliance: Required as indicated after the effective date of this AD unless previously accomplished.

To assure the continued structural integrity of the wing fuel bay upper skin panels, accomplish the following:

(a) Within the next calendar month after the effective date of this AD, check the airplane records or inspect the wing fuel bay upper skin panels (hereafter called "skin panels") for possible bonded (honeycomb sandwich) construction. Airplanes in the serial number range of BB-2 thru BB-613 were manufactured with a skin-and-stringer construction and are not affected by this AD unless bonded wing fuel bay upper skin panels were installed after manufacture. If the airplane has bonded skin panels, accomplish the following in accordance with Beech Service Bulletin No. 2040, Rev. II, dated December, 1988 (for civil registered airplanes), or Beech Service Instructions No. C-12-0094, Rev II, dated January, 1989 (for military airplanes), as applicable:

(1) If the skin panels are bonded and have blind rivets as shown in the shaded portions of Fig. 1 in the service bulletin, inspect the skin panels for debonding within the next 150 hours time-in-service (TIS) or 6 calendar months, whichever occurs first.

(i) If the skin panel has been previously repaired, per Beech Kit No. 101-4032-1S or 101-4032-3S,

(A) And there is debonding, prior to further flight remove and replace the skin panel and reinspect for debonding at 18 month intervals thereafter.

(B) And there is no debonding, prior to further flight reseal the blind rivets per instructions in Beech Kit 101-4048-1S and reinspect the skin panel for debonding within 6 calendar months, again within another 12 calendar months, and at 18 calendar month intervals thereafter.

(ii) If the skin panel has not been previously repaired,

(A) And there is debonding, either:

(1) Prior to further flight remove and replace the skin panel and reinspect for debonding at 18 calendar month intervals thereafter, or

(2) Prior to further flight install a temporary repair per Beech Repair Procedure No. SRV.001 which can be used for no longer than 12 calendar months for the time of modification, at which time remove the temporarily repaired panel and replace with a serviceable panel. Reinspect for debonding at 18 calendar month intervals thereafter.

(B) And there is no debonding, prior to further flight reseal the blind rivets and reinspect the skin panel for debonding within 6 calendar months, again within another 12 calendar months, and at 18 calendar month intervals thereafter.

(2) If the skin panels are bonded and do not have blind rivets as shown in the shaded portion of Fig. 1 in the service bulletin, inspect for debonding within the next 600 hours TIS or 18 calendar months, whichever occurs first.

Note 1: The following airplanes were manufactured with bonded skin panels without rivets: Models B200 (above serial number BB-1238), B200C (above serial numbers BL-127), B200 CT (above serial numbers BN-4), B200T (above serial numbers BT-30), 300 (above serial numbers FA-81 and all FF-serial numbers).

(i) If there is debonding, either:

(A) Prior to further flight remove and replace the skin panel and reinspect for debonding at 18 calendar month intervals thereafter, or

(B) Prior to further flight install a temporary repair per Beech Repair Procedure No. SRV.001, which can be used for no longer than 12 calendar months from the time of modification, at which time remove the temporarily repaired panel and replace with a serviceable panel. Reinspect for debonding at 18 calendar month intervals thereafter.

(ii) If there is no debonding, reinspect for debonding at 18 calendar month intervals thereafter.

(3) The following are approved replacement skin panels:

Note 2: These panels are bonded and do not have rivets.

(i) Complete replacement panels are Part Nos. 101-120108-603 (L.H.) and 101-120108-604 (R.H.).

(ii) Kit No. 101-4045 and Repair Procedure No. SRV.002 each provide a partial replacement panel (L.H. only).

(iii) Repair Procedure No. SRV.018 provides a partial replacement panel (R.H. only).

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(c) The repetitive inspection intervals required by this AD may be adjusted up to 10 percent of the specified interval so as to coincide with other scheduled maintenance.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Department 52, Wichita, Kansas 67201-0085; or may examine these documents at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment supersedes AD 87-17-05R1, Amendment 39-5847.

Issued in Kansas City, Missouri, on April 6, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9290 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-ACE-19]

Proposed Revocation of Transition Area; Ida Grove, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to revoke the transition area at Ida Grove, Iowa. The nondirectional radio beacon (NDB) at the Ida Grove, Iowa, Airport has been removed, thereby canceling the instrument approach procedure based on this navigational aid. Accordingly, the transition area is no longer required.

DATES: Comments must be received on or before May 31, 1989.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Offices of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in triplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.161, of the Federal Aviation Regulations (14 CFR Part 71) to revoke the transition area at Ida Grove, Iowa. The NDB at the Ida Grove, Iowa, Municipal Airport has been removed. That action, in turn, canceled the instrument approach procedure predicated on this navigational aid. Accordingly, the Ida Grove, Iowa, transition area is no longer required and should be revoked.

Section 71.161 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is proposed to be amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.161 [Amended]

2. By amending § 71.161 as follows:

Ida Grove, IA [Removed]

Issued in Kansas City, Missouri, on March 27, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89-9284 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-ACE-20]

Proposed Revocation of Transitional Area; Waukon, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to revoke the transition area at Waukon, Iowa. The nondirectional radio beacon (NDB) at the Waukon, Iowa, Municipal Airport has been removed, thereby canceling the instrument approach procedure based on this navigational aid. Accordingly, the transition area is no longer required.

DATES: Comments must be received on or before May 31, 1989.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.161 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the transition area at Waukon, Iowa. The NDB at the Waukon, Iowa, Municipal Airport has been removed. That action, in turn, canceled the instrument approach procedure predicated on this navigational aid. Accordingly, the Waukon transition area is no longer required and should be revoked.

Section 71.161 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)

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does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the FAR (14 CFR Part 71) is proposed to be amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.161 [Amended]

2. By amending § 71.161 as follows:

Waukon, IA [Removed]

Issued in Kansas City, Missouri, on March 27, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89-9282 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AWP-8]

Proposed Revision of Los Alamitos, CA, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Los Alamitos control zone boundary where it adjoins the Long Beach, CA, control zone. This notice also proposes to eliminates the delegation of Los Alamitos control zone to Long Beach during the hours of non-activation of Los Alamitos, and release the control zone to public use when Los Alamitos is not active.

DATES: Comments must be received on or before May 31, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, AWP-530, Docket No. 89-AWP-8, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace and Procedures Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Daniel K. Martin, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-0166.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-AWP-8." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace and Procedures Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the boundary of the Los Alamitos control zone where it adjoins the Long Beach, CA, control zone. This notice also proposes to change the delegation of the control zone to Long Beach during non-activation hours. This proposal would release the control zone airspace to public use during hours of non-activation. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. § 71.171 is amended as follows:

Los Alamitos AAF, CA [Revised]

Within a 5-mile radius of Los Alamitos Armed Forces Reserve Center (lat. 33°47'30"N., long. 118°02'50"W). Excluding that portion within the Long Beach, CA, control zone, and excluding the portion within a 1-mile radius of Meadowlark Airport (lat. 33°43'06"N., long. 118°02'13"W). This control zone is effective from 0700 to 2200 hours local time daily, or during specific times and dates established in advance by a Notice to Airmen which will be continuously published in the Airport/Facility Directory.

Issued in Los Angeles, California, on March 31, 1989

Merle D. Clure,

Assistant Manager, Air Traffic Division Western-Pacific Region.

[FR Doc. 89-9288 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Docket No. 89-ANM-6]

Proposed Amendment, Miles City Control Zone, Miles City, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Miles City Control Zone, Miles City, Montana, from full-time to part-time. A reduction in personnel staffing of the Miles City Flight Service Station has resulted in weather observations not being available 24-hours a day. This action will bring publications up-to-date giving continuous accurate information to the aviation public.

DATES: Comments must be received on or before June 6, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 89-ANM-6, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined at the same address. An informal docket may also be examined during normal business hours at the address list above.

FOR FURTHER INFORMATION CONTACT: Art Corwin, ANM-537, Federal Aviation Administration, Docket No. 89-ANM-6, 17900 Pacific Higway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2576.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ANM-6." The postcard will be date/time stamped and returned to the Commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2A which describes the application procedure.

The Proposal

The FAA proposes an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Miles City Control Zone, Miles City, Montana, from full time to part time. A reduction in personnel staffing of the Miles City Flight Service Station has resulted in weather observations not being available 24-hours a day, and therefore, full time control zone services will not be available. The amendment, if adopted, will allow for changes in the hours of effectiveness by issuances of Notices to Airmen when minor variations in time of designation are anticipated.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 74000.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Polices and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Miles City Montana Control Zone [Amended]

Add "The Control Zone shall be effective during the specified dates and

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times established in advance by a Notice to Airmen. The effective date and time will therefore be continuously published in the Airport/Facility Directory."

Temple H. Johnson, Jr.,
Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 89-9339 Filed 4-18-89; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-ACE-01]

Proposed Alteration of Transition Area; Sheldon, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to alter the 700-foot transition area at Sheldon, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Runway 33 at the Sheldon, Iowa, Municipal Airport utilizing the Sheldon VOR/DME.

DATES: Comments must be received on or before May 31, 1989.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

The official docket may be examined at the Office of the Assistance Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in triplicate to the Traiffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after and closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700-foot transition area at Sheldon, Iowa. To enhance airport usage, Runway 33 at the Sheldon, Iowa, Municipal Airport requires additional controlled airspace for aircraft executing a new instrument approach procedure utilizing the Sheldon VOR/DME (DDL). The establishment of this new instrument approach procedure, based on this approach aid, would entail alteration of the transition areas at Sheldon, Iowa, at and above 700 feet above ground level within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under instrument flight rules (IFR) from other aircraft operating under visual flight rules (VFR).

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is routine metter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations, (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Sheldon, Iowa [Revised]

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Sheldon Municipal Airport (Lat. 43°12'37" N., Long. 98°50'04" W.); and within 3 miles each side of the 165° bearing from the airport extending from the 5 mile radius to 8 miles southeast of the airport; and within 3 miles each side of the 160° bearing from the airport extending from the 5 mile radius to 8.5 miles southeast of the airport.

Issued in Kansas City, Missouri, on March 27, 1989.

Clarance E. Newbern,
Manager, Air Traffic Division.

[FR Doc. 89-9280 Filed 4-18-89; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-ACE-02]

Proposed Designation of Transition Area; Minden, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to designate a 700-foot transition area at Minden, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Pioneer Village Field, Minden, Nebraska, utilizing the Kearney VOR as a navigational aid. This proposed action will change the airport status for VFR to IFR.

DATES: Comments must be received on or before May 31, 1989.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 426-3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in triplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) to designate a 700 foot transition area at Minden, Nebraska. To enhance airport usage, a new instrument approach procedure is being developed for the Pioneer Village Field, Minden, Nebraska, utilizing the Kearney VOR as a navigational aid. This navigational aid will offer new navigational guidance for aircraft utilizing the airport. The establishment of this new instrument approach procedure based on this navigational aid would entail the designation of a transition area at Minden, Nebraska, at the above 700-feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during times of terminal operation, and while aircraft transit between terminal and enroute environments. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under instrument flight rules (IFR) from other aircraft operating under visual flight rules (VFR). This action would also change the airport status from VFR to IFR.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter than will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983; 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Pioneer Village Field, Minden, Nebraska [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Pioneer Village Field (Lat. 40°30'47"N., Long. 98°56'42"W.) and within 3.75 miles each side of the 166° bearing from the Pioneer Village Field extending from the 5-mile radius to 11 miles southeast of the airport, excluding that portion which lies in the Kearney, Nebraska, transition area.

Issued in Kansas City, Missouri, on March 27, 1989.

Clearance E. Newbern,
Manager, Air Traffic Division.

[FR Doc. 89-9281 Filed 4-18-89; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 601

Conference and Practice Requirements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice solicits written comments from the public with respect to the Conference and Practice Requirements contained in §§ 601.501 through 601.509 of Title 26 of the Code of Federal Regulations, as well as powers of attorney and tax information authorizations.

DATE: Written comments should be delivered or mailed by June 16, 1989.

ADDRESS: Send comments to: Office of Director of Practice, Internal Revenue Service, Attn: HR:DP (Room 1413 ARFB), 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Mr. D. LaMar Whitman of the Office of Director of Practice, Internal Revenue Service, at 202-535-6787 (not a toll-free number).

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SUPPLEMENTARY INFORMATION: The Internal Revenue Service is considering the revision of the Internal Revenue Service Conference and Practice Requirements set forth in 26 CFR 601.501 through 601.509, as well as those forms and instructions (including Forms 2848 and 2848–D and their instructions) which concern powers of attorney required for representation of taxpayers before the Internal Revenue Service and tax information authorizations required for the appointee of a taxpayer to receive or inspect confidential information in a specified tax matter. This consideration is being undertaken in order to simplify and clarify the procedures and requirements involving representation of taxpayers before the Internal Revenue Service.

Interested members of the public are invited to submit comments on all aspects of the Conference and Practice Requirements (26 CFR 601.501 through 601.509), as well as those forms and instructions (including Forms 2848 and 2848–D and their instructions) that concern powers of attorney or tax information authorizations.

Leslie S. Shapiro,

Director of Practice.

Dated: April 11, 1989.

[FR Doc. 89-9404 Filed 4-18-89; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD1 89-012]

Freeport Grand Prix, Long Beach, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is considering a proposal that would establish permanent special local regulations for the Freeport Grand Prix. The Freeport Grand Prix is a high performance powerboat race held each year on the coastal Atlantic waters south of Long Beach, Long Island, New York. The event is sponsored by Liberty Marine of Freeport, NY. The potential hazards to participants, spectators and/or transiting vessels are such that, each year, in the interest of safety of life on the navigable waters of the United States, the Coast Guard district commander has issued special local regulations governing the conduct of the regatta. By adopting permanent regulations, the Coast Guard will continue to provide the same level of public safety at reduced administrative cost. Public notice of the exact dates of the regatta will be published each year in a **Federal Register** Notice and in the Coast Guard Local Notice to Mariners.

DATES: Comments must be received on or before June 5, 1989. These regulations would be effective from 11:00 a.m. to 3:00 p.m. on Aug. 5, 1989.

COMMENTS: Comments should be mailed to Commander (b), First Coast Guard District, Captain John Foster Williams Coast Guard Building, 408 Atlantic Avenue, Boston, MA 02210–2209. The comments and other material referenced in this notice will be available for inspection and copying in Room 428 at the same address. Normal office hours are between the hours of 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand delivered.

FOR FURTHER INFORMATION CONTACT: Captain Ronald L. Blake, (617) 223–8310.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice [CGD1 89–012) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process. The receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

Drafting Information

The drafters of this notice are LT L. Brown, project officer, First Coast Guard District Boating Safety Division, and LT J.B. Gately, project attorney, First Coast Guard District Legal Division.

Discussion of Regulations

The Freeport Grand Prix is a high performance Indy 500 type powerboat race around an eight (8) mile rectangular course situated approximately one and one quarter (1¼) miles south of Long Beach, Long Island, New York. There will be up to 50 vessels participating. The sponsoring organization will provide eight to 12 patrol boats along with turning and finishing mark boats. The regulation will close a portion of the coastal Atlantic waters south of Long Beach, Long Island, New York to all traffic except law enforcement vessels, regatta participants, and official regatta patrol vessels. No vessels other than race participants and patrol craft will be allowed to enter the regulated area which is described below. The regulated area and immediately adjacent waters will be patrolled by several Coast Guard and Coast Guard Auxiliary vessels which will be assisted by local law enforcement authorities and the sponsor provided patrol boast.

Economic Assessment and Certification

These proposed regulations are considered to be nonmajor under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The event will draw a number of spectators and participants into the area which will aid the local economy. The primary commercial waterway, the Ambrose Channel, lies over three miles to the south of the regulated area and no adverse impact on commercial traffic is anticipated. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.106 is added to read as follows:

§ 100.106 Freeport Grand Prix, Long Beach, New York

(a) *Regulated area.* The regulated area is a trapezoidal area on the coastal Atlantic waters of Long Island to the south of Long Beach, New York. The regulated area is one and one quarter (1¼) miles south of Long Beach and three and one quarter (3¼) miles north of the northern boundary of Ambrose Channel and is specifically bounded as follows:

(1) Northeast Corner: approximately one and one quarter miles southwest of Jones Inlet breakwater at coordinates 40–33–42 North; 073–35–42 West.

(2) Southeast Corner: southwest of Jones Inlet Approach Buoy (R "2"; Light List Number 685) at coordinates 40–31–45 North; 073–36–19 West.

(3) Southwest Corner: east of East Rockaway Approach Buoy (R "4"; Light List Number 690) at coordinates 40–31–31 North; 073–42–21 West.

(4) Northwest Corner: 40–33–30 North; 073–40–57 West.

(b) *Special local regulations.* Vessels not participating in, or operating as a safety/rescue patrol shall:

(1) Not operate within the regulated area.

(2) Immediately follow any specific instructions given by Coast Guard patrol craft.

(3) Exercise extreme caution when operating near the regulated area.

(c) *Effective Dates.* These regulations are effective at 11:00 a.m. on August 5, 1989 and terminate at 3:00 p.m. on August 5, 1989 and will be in effect each year thereafter during the same time period on the first or second Sunday of August as published in a **Federal Register** Notice and the Coast Guard Local Notice to Mariners.

Dated: April 11, 1989.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89-9328 Filed 4-18-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AD19

Definition of Fraud

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning the definition of fraud. The amendment is necessary as the current definition of fraud, mandated by law, pertains exclusively to forfeiture. The effect of this amendment will be to establish a definition of fraud for all adjudication applications other than forfeiture.

DATES: Comments must be received on or before May 19, 1989. All comments will be available for public inspection until May 30, 1989. It is proposed to make these amendments effective 30 days following the date of final publication.

ADDRESSES: Interested persons are invested to submit written comments, suggestions, or objections regarding these regulations to the Secretary of Veteran Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington DC 20420. All written comments received will be available for public inspection only in room 132 at the above address only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until May 30, 1989.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Service (211B), Veterans Benefits Administration, (202) 233–3005.

SUPPLEMENTARY INFORMATION: On pages 41644–46 of the **Federal Register** of November 18, 1986, the VA published proposed rules on the definition of fraud. Proposed changes to forfeiture regulations were included. Interested persons were given until December 17, 1986, to submit comments on the proposed rules. Two comments were received on the proposed definition of fraud. As no comments were received on the proposed changes to the forfeiture regulations, they were republished separately as final rules.

One commenter stated that the proposed rule will make it easier to prosecute those who blatantly provide false information to receive benefits for which they are not eligible. However, those who inadvertently fail to comply with required notification procedures, either through ignorance or an innocent misunderstanding of the rules, must be protected from potential accusations of fraud to the fullest extent possible.

The other commenter correctly pointed out that the proof needed to show fraud for the purpose of forefeiture (mandated by law) is less than that needed to prove common-law fraud. Proof of intent to defraud is an element of common-law fraud but no such intent must be proven in order to forfeit for fraud. The VA General Counsel has held that with the exception of forfeiture for fraud, it would be in appropriate to define fraud for the purposes of 38 CFR Part 3 other than with reference to its common-law meaning.

The other commenter also stated that the effective date provisions of 38 CFR 3.500(b) as to reduction or discontinuance of benefits were confusing as to whether or not they pertained to fraud. We disagree. Section 3.500(b)(1) pertains to the effective date of reduction or discontinuance of an erroneous award based on an act of commission or omission by a payee or with the payee's knowledge. This rule would apply whether or not the act of commission or omission is determined to be an act of fraud for other than forfeiture.

Both commenters stated the proposed rule should be in harmony with, not in conflict with, the regulations promulgating the Program Fraud Civil Remedies Act. This is not necessary as intent is specifically excluded as a requirement or criterion under the Program Fraud Civil Remedies Act.

The proposed changes are based on an opinion of the VA General Counsel, Op. G. C. 4–85. In that opinion, the General Consel, citing the rules of general case law, held that the failure of a claimant to disclose could amount to fraud and that such is an adjudicative determination. In making the adjudicative determination that failure to disclose is an act of fraud, the burden of proof rests with the VA.

As this constitutes a major change from the initial proposed definition of fraud, we are again publishing a proposed rule. This proposal defines "fraud" as used in 38 U.S.C. 103, 110, and 359.

The Secretary hereby certifies that these proposed regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these proposed amendments are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these proposed regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(The Catalog of Federal Domestic Assistance Program numbers are 64.100 through 64.110.)

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List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: March 31, 1989.

Edward J. Derwinski,

Secretary.

38 CFR, Part 3, Adjudication, is proposed to be amended to read:

PART 3—[AMENDED]

1. In § 3.1(g)(4) remove the citation at the end which reads "(Pub. L. 89-670)".

2. In § 3.1, new paragraph (aa) is added and the cross-references are revised to read as follows:

§ 3.1 Definitions.

* * * * *

(aa) "Fraud":

(1) As used in 38 U.S.C. 103 and implementing regulations, fraud means an intentional misrepresentation of fact, or the intentional failure to disclose pertinent facts, for the purpose of obtaining, or assisting an individual to obtain an annulment or divorce, with knowledge that the misrepresenation or fialure to disclose may result in the erroneous granting of an annulment or divorce; and

(Authority: 38 U.S.C. 210(c))

(2) As used in 38 U.S.C. 110 and 359 and implementing regulations, fraud means an intentional misrepresentation of fact, or the intentional failure to disclose pertinent facts, for the purpose of obtaining or retaining, or assisting an individual to obtain or retain, eligibility for Department of Veterans Affairs benefits, with knowledge that the misrepresentation or failure to disclose may result in the erroneous award or retention of such benefits.

(Authority: 38 U.S.C. 210(c))

Cross-References: Pension. See § 3.3. Compensation. See § 3.4. Dependency and indemnity compensation. See § 3.5. Preservation of disability ratings. See § 3.951. Service-connection. See § 3.957.

[FR Doc. 89-8344 Filed 4-18-89; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHISA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking by the Motor Vehicle Manufacturers Association (MVMA), asking this agency to amend Standard No. 208, *Occupant Crash Protection*. Standard No. 208 currently requires that all vertically adjustable seats be at the lowest vertical adjustment position when a vehicle is tested for compliance with the standard. MVMA asked that this provision be amended to specify that vertically adjustable seats be set at the manufacturer's "nominal design position." According to the MVMA petition, such seat positioning would be similar to the existing adjustment provisions for adjustable seat backs, would be more representative of likely vertical seat positioning by drivers operating the cars on the public roads, and would eliminate the potential burden of duplicative testing for manufacturers. The assertion of duplicative testing was based on the need for manufacturers to test both models of a vehicle, if the vehicle were offered with some models equipped with vertically adjustable seats and other models were equipped with seats that were not vertically adjustable and were positioned at some vertical height other than the lowest adjustment position for vertically adjustable seats.

NHTSA has decided to deny this petition. The procedures for positioning vertically adjustable seats for Standard No. 208 compliance testing have been in effect since 1973. Those procedures are objective and simple to administer during compliance testing. The agency would consider changing those procedures if there were some compelling reason to do so. However, the available information indicates that neither the agency nor any vehicle manufacturer has ever conducted the duplicative testing alleged in the MVMA petition, nor is it likely that such duplicative testing will be conducted in the future. Further, the available information indicates that the currently specified positioning procedures are representative of the seat positioning chosen by many drivers operating their cars on the public roads. Given this information, there appears to be no reason to consider changing the long-established seat positioning procedures. Accordingly, the MVMA petition is denied.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, NRM-12, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION: Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208) specifies the test conditions for the frontal, lateral, and rollover tests that are conducted by this agency to determine whether a vehicle complies with the injury criteria set forth in the standard. Section S8.1.2 of Standard No. 208 provides that seats that are separately adjustable in a vertical direction shall be tested at the lowest vertically adjustable position. The purpose of this provision is to ensure uniformity in positioning vertically-adjustable seats for Standard No. 208 compliance testing.

This provision had its genesis in a November 3, 1970 final rule (35 FR 16297) that established the first automatic restraint requirements in Standard No. 208. Ever since the July 1, 1973 effective date of that rule, Standard No. 208 has included a provision that vertically adjustable seats shall be at the lowest position for all compliance testing. This provision reflects the agency's belief that seat adjustment position may affect test results, thereby introducing needless test variability if a single adjustment position were not specified in the standard.

MVMA filed a petition for rulemaking with this agency, asking that section S8.1.2 be amended to provide that seats with any adjustable features, such as vertically adjustable power seats or seats with adjustable lumbar supports be set at the "nominal design riding position" before the car is subjected to a crash test in accordance with Standard No. 208. The "nominal design riding position" would be specified by the vehicle manufacturer and provided to NHTSA before compliance testing of the vehicle.

According to MVMA's petition, this requested change would be consistent with the requirement already in section S8.1.3 of Standard No. 208. That section specifies that reclining seat backs shall be placed at "the manufacturer's nominal design riding position." A description of this position is provided to the agency by the manufacturer prior to any compliance testing. Additionally, MVMA's petition claimed that positioning the seats according to the manufacturer's specifications would eliminate the potential for duplicative testing of the same vehicle. According to the petition, NHTSA would have to conduct two compliance tests of a vehicle if the vehicle were offered in some models with vertically adjustable seats an din other models with seats that were not vertically adjustable and if the non-adjustable seats were set at a height that was different than the lowest vertically adjustable position of the vertically adjustable seats. Finally, the MVMA petition argued that testing vertically adjustable seats at their "nominal design riding position" would be more representative of the vertical seat adjustment positions typically selected by drivers using their cars on the public roads.

Ordinarily, the agency would have performed its own analysis of the issues raised by the MVMA petition and published a grant or denial of the petition after completing that analysis. However, there were exceptional circumstances in this case that made it appropriate to allow the public an opportunity to comment on MVMA's petition before the agency made its decision on the petition. In response to the rulemaking notice proposing to incorporate the Hybrid III test dummy into Part 572 (50 FR 14602; April 12, 1985), Ford stated that it was unaware of any evidence showing that there is a safety difference between seats that are not vertically adjustable and those that are. Because Ford believed the vertical seat adjustment position had not been shown to affect safety, it stated that its certifications of vehicles that have some models with seats that are vertically adjustable and other models without vertically adjustable seats are based solely on the vertical position of the seats that are not adjustable.

NHTSA responded as follows to these comments in the preamble to the final rule adopting the Hybrid III test dummy:

The agency recognizes that the seat adjustment issue raised by Ford may lead to test variability. However, the agency does not have any data on the effect of Ford's suggested solution on the design of other manufacturer's power seats. The agency will solicit comments on Ford's proposal in the NPRM addressing additional Hybrid III injury criteria. 51 FR 26688, at 26696; July 25, 1986.

At the time the agency made this commitment to allow the public to comment on the vertical seat adjustment issue in Standard No. 208 testing, NHTSA believed that it would publish the NPRM addressing additional Hybrid III injury criteria very soon. However, it now appears that such a rulemaking notice will not be undertaken in the near future. To honor its previous commitment to allow the public to comment on the vertical seat adjustment issue, NHTSA decided to seek comments on the MVMA petition before making a final decision on the merits of that petition.

A notice requesting comments on the MVMA petition was published on May 2, 1988 (53 FR 15576). This notice asked the public for comments on the merits of the MVMA petition and asked for specific information on two points:

1. Whether the current vertical seat positioning procedures actually present a burden for manufacturers in their certification testing, and/or whether those procedures are otherwise incompatible with current seating system designs; and

2. Whether the alternative vertical seat positioning procedures proposed by MVMA would not present substantial practical problems and would not lessen the safety protection afforded to vehicle occupants.

The agency received six responses to this request for comments. All of the commenters were vehicle manufacturers and all supported the change requested in the MVMA petition. Chrysler commented that it had no data showing a testing burden as a result of the existing vertical seat positioning procedures, but alleged that such a problem might arise in the future if it introduced a vertical seat adjuster with a wider range of positions. Chrysler also suggested that requiring testing to be conducted with vertically-adjustable seats positioned at the manufacturer's "nominal design riding position" would make Standard No. 208 compliance testing more representative of the seat positioning when the vehicles are in use on the public roads. The comments filed by General Motors and Mercedes Benz were substantially similar to Chrysler's comments. BMW commented that the requested change would make vertical seat positioning more representative of real-world seat positioning.

Volkswagen provided some sled test data showing that dummies positioned in the lowest seating position experienced slightly higher levels of injury producing forces than dummies positioned in higher seating positions. However, Volkswagen argued that these higher force levels do not reflect any real world safety difference, since 50th percentile male drivers are unlikely to sit at the lowest seating position. Volkswagen stated that it supported the MVMA petition, in order to make Standard No. 208 compliance testing more representative of the seating position likely to be selected by actual front seat passengers using the car on the public roads.

Ford also commented that it supported the MVMA petition. In its comments, Ford stated that it did not have any data from controlled tests to demonstrate the effect of vertical seat adjustment positions on the various test dummy measurements of injury producing forces, but stated its belief that vertical seat adjustment could in some cases significantly affect the test dummy kinematics. Because of this possibility, Ford asked that, if the MVMA petition were granted, the new vertical seat adjustment procedures be optional until the use of the Hybrid III test dummy becomes mandatory in compliance testing.

After carefully considering these comments and other relevant information, the agency has decided to deny the MVMA petition for the following reasons. NHTSA is generally reluctant to change the test procedures in its safety standards unless there is some compelling reason to do so. This reluctance is primarily based upon the fact that the agency has already determined, through the rulemaking process, that the established test procedures satisfy all the criteria specified in the Safety Act. Additionally, the agency and the affected manufacturers have gained experience and a data bank of test results following the established test procedures. These facts establish a legitimate interest in retaining test procedures that have been established for the safety standards.

This is not to suggest that the agency will never consider changes to established test procedures. For example, it might be shown that the established test procedures no longer satisfy the criteria specified in the Safety Act, or that those procedures no longer serve the purposes for which they were established, or that those procedures are imposing an unnecessary restriction on an innovative technology. These circumstances would represent compelling reasons for NHTSA to consider changing some existing test procedures. A part of this consideration would necessarily include whether changed test procedures would result in a lessening of the safety protection afforded to vehicle occupants.

The issue ultimately raised by the MVMA petition, then, is whether there are any compelling reasons for the agency to consider changing the vertical seat positioning procedure in Standard No. 208. After again reviewing the MVMA petition in light of the comments received on it, the agency has concluded that there are no compelling reasons to consider changing the existing requirements.

The first reason suggested in the MVMA petition for changing the vertical seat positioning requirements was that a change would be consistent with the requirements of Standard No. 208 for adjustable seat backs, which are required to be placed at "the manufacturer's nominal design riding position." This point is correct, but it

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ignores the fact that many adjustable vehicle features in vehicles are required to be set at specific positions during Standard No. 208 compliance testing. For instance, adjustable seats are positioned at the midpoint of their horizontal adjustment track (S8.1.2), and adjustable head restraints are positioned at their highest adjustment position (S8.1.3). The fact that the vertical seat position is established at a specific adjustment position, as are adjustable head restraints, instead of at the manufacturer's nominal design riding position, as are adjustable seat backs, is not a compelling reason for the agency to consider changing the vertical seat positioning requirements.

The second reason set forth in the MVMA petition for changing the vertical seat positioning requirements was that these requirements have the potential for burdening manufacturers with duplicative testing of vehicles that have some models equipped with vertically-adjustable seats and other models that do not have vertically-adjustable seats. While this assertion may be true, the information available to the agency indicates that this is not a problem at this time. Ford states in its comments on the Hybrid III test dummy rulemaking that when it offers vehicles with some models equipped with vertically-adjustable seats and other models not so equipped, it conducts compliance testing only on the models without vertically adjustable seats. See NHTSA Docket 74–14–N39–013. This statement shows that, for this manufacturer at least, the potential for duplicative testing has not resulted in any unnecessary testing burdens, because the manufacturer has not actually conducted any duplicative testing. None of the manufacturers that commented on the MVMA petition asserted that it presently conducts the duplicative testing alleged in the petition.

To this agency's knowledge, neither NHTSA nor any vehicle manufacturer has ever conducted the sort of duplicative testing alleged in the MVMA petition. Thus, there is no unnecessary burden imposed at present by the vertical seat positioning requirements in Standard No. 208. There is also no evidence suggesting that unnecessary or duplicative testing will be necessary in the future, since no manufacturer has indicated that it plans to conduct this type of testing in the future. Hence, while the agency agrees with MVMA's point that the current vertical seat positioning procedures might result in the need for duplicative testing in some cases, current information suggests this is a very unlikely possibility. The existence of an unlikely possibility is not a compelling reason to consider changing the seat positioning procedures.

The third reason offered in the MVMA petition for changing the seat positioning procedures was that the changed position would be more representative of the vertical seat adjustment positions that will be typically selected by drivers and passengers when the cars are in use on the public roads. In its comments, Ford provided what it termed a "limited sample" of the vertical seat adjustment positions chosen by 95 drivers of cars with vertically-adjustable seats. According to Ford, this sample showed that the nominal design riding position would be more representative of the vertical adjustment position selected by drivers than the lowest seating position.

NHTSA does not believe that the Ford survey could be used to draw any valid conclusions for the driving population as a whole. As Ford acknowledged in its comments, the survey sample size is so small that no statistically valid conclusions could be drawn from it. Additionally, Ford noted that the sample was 82 percent male, indicating that the sample is not entirely representative.

Even if NHTSA were to overlook these inherent limitations and accept the survey as valid and generally representative, the survey does not establish the nominal design riding position to be the most representative position. In Ford's survey, 32 of the 95 drivers had their seats set within 0.2 inches of the nominal design riding position, 22 of the 95 drivers had their seat adjusted more than 0.2 inches above the nominal design riding position, 18 had their seat adjusted more than 0.2 inches below the nominal design riding position but above the lowest adjustment position, and 23 of the 95 drivers had selected a seating position at or below the lowest vertical position at the longitudinal midpoint of the fore-aft seat adjustment position. This survey suggest that none of the vertical seat adjustment positions is selected by the majority of drivers. While the survey shows that more drivers chose to adjust their seat within 0.2 inches of the nominal design riding position than the lowest adjustment position, the difference in frequency is small. This small difference would not be a compelling reason for the agency to consider changing its seat positioning procedures.

Accordingly, NHTSA has concluded that there is no reasonable possibility that a rule amending the vertical seat positioning procedures for Standard No. 208 in accordance with MVMA's petition would be issued at the conclusion of the requested rulemaking proceeding. Therefore, MVMA's petition is denied.

Authority: 15 U.S.C. 1392, 1407, and 1410a; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on April 14, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89–9365 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 54, No. 74
Wednesday, April 19, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Foster Grandparent and Senior Companion Programs

AGENCY: Action.

ACTION: Notice of revision of income eligibility levels for Foster Grandparent and Senior Companion Programs.

SUMMARY: This Notice revises the schedules of income eligibility levels for participation in the Foster Grandparent and Senior Companion Programs published in the **Federal Register**, June 22, 1988 (53 FR 120) and December 13, 1988 (53 FR 239). Because data used for determining FGP and SCP income eligibility levels is available at different times during the year, ACTION has determined that it will issue these guidelines twice a year so as to reflect the most current information and to assure the widest base of potential applicants.

The revised schedules are based on changes in the Poverty Income Guidelines from the Department of Health and Human Services (DHHS), effective February 16, 1989 (54 FR 31) and Supplemental Security Income (SSI) guidelines disseminated by the Social Security Administration, in October 1988. This revision adopts as the income eligibility level for each state the higher amount of either: (a) 125% of the DHHS Poverty Income Guidelines, or (b) 100% of the DHHS Poverty Income Guidelines plus the 1988 amount each state supplemented federal SSI, rounded to the next highest multiple of $5.00. When the Social Security Administration disseminates the 1989 state supplemental to the federal SSI, ACTION will revise its income eligibility guidelines for those states with SSI suplements above 125% of the DHHS Poverty Income Guidelines.

Schedule of Income Eligibility Levels: Foster Grandparent and Senior Companion Programs

1989 FGP/SCP INCOME ELIGIBILITY LEVELS FOR ALL STATES, (AND HAWAII) EXCEPT ALASKA, CALIFORNIA, COLORADO, CONNECTICUT, MASSACHUSETTS (BASED ON 125% OF DHHS POVERTY INCOME. GUIDELINES)

States	Household Units of							
	One	Two	Three	Four	Five	Six	Seven	Eight
All	$7,475	$10,025	$12,575	$15,125	$17,675	$20,225	$22,775	$25,325
Hawaii	8,590	11,525	14,465	17,400	20,340	23,275	26,215	29,150

(For household units with more than eight members, add $2,505 in all states and $2,940 in Hawaii for each additional member.)

Below are adjusted income eligibility levels, which reflect either 1988 SSI Supplements or 125% of the DHHS 1989 Poverty Income Guidelines, and shall apply to the following states.

State	Household units of							
	One	Two	Three	Four	Five	Six	Seven	Eight
AK	$10,870	$14,990	$17,440	$19,890	$22,340	$24,790	$27,240	$29,690
CA	9,170	15,630	17,590	19,550	21,510	23,470	25,430	27,390
CO	7,475	11,235	13,195	15,125	17,675	20,225	22,775	25,325
CT	10,610	14,475	16,435	18,395	20,355	22,315	24,275	26,235
MA	7,475	10,155	12,575	15,125	17,675	20,225	22,775	25,325

(For household units with more than eight members add $2,450 in AK, $1,960 in CA and CT, and $2,550 in CO and MA for each additional member.)

Any person whose income is not more than 100 percent of the DHHS Poverty Income Guideline for her/his specific household unit shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs. The revised income eligibility levels presented here are calculated from the base DHHS Poverty Income Guidelines now in effect.

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1989 DHHS POVERTY INCOME GUIDELINES FOR ALL STATES

States	For Household units of							
	One	Two	Three	Four	Five	Six	Seven	Eight
All except HI & AK	$5,960	$8,020	$10,080	$12,100	$14,140	$16,160	$18,220	$20,280
Hawaii	6,870	9,220	11,570	13,920	16,270	18,620	20,970	23,320
Alaska	7,460	10,030	12,590	15,130	17,680	20,230	22,780	25,330

EFFECTIVE DATE: April 19, 1989.

FOR FURTHER INFORMATION CONTACT: Ray Tejada, Program Officer, Foster Grandparent Program/Senior Companion Program, 806 Connecticut Avenue, NW., M–1008, Washington, DC 20525 or telephone (202) 634–9394.

SUPPLEMENTARY INFORMATION: These ACTION programs are authorized pursuant to section 211 and 213 of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93–113, 87 Stat. 394. The income eligibility levels are determined by the currently applicable guidelines published by DHHS pursuant to sections 652 and 673 (2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty guidelines to be adjusted for Consumer Price Index changes.

Signed in Washington, DC, April 13, 1989.

Donna M. Alvarado,

Director of ACTION.

[FR Doc. 89-9349 Filed 4-18-89; 8:45am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Grand Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and REA Environmental Policy and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the construction of the Bowman-Ladner 115 kV transmission line and other related facilities. Other facilities include the expansion of the Bowman Substation and the construction of the Koch distribution substation. The proposed facilities will be located in Bowman County, North Dakota and Harding County, South Dakota. The proposed facilities will be built by the Grand Electric Cooperative, Inc. (Grand Electric), of Bison, South Dakota. The transmission line will be built to 115 kV specifications but initially energized at 69 kV.

FOR FURTHER INFORMATION CONTACT: REA's Environmental Assessment (EA) and FONSI and Grand Electric's Borrower's Environmental Report (BER) may be reviewed at the Office of the Director, Northwest Area—Electric, REA, Room 0230, South Agriculture Building, Washington, DC 20250, telephone (202) 382–1400; or the office of Grand Electric, Darrell D. Henderson, Manager, P. O. Box 39, Bison, South Dakota 57620, telephone (605) 244–5211, during regular business hours. Copies of the BER, EA and FONSI can be obtained from either of the contacts listed above. All comments or questions should be directed to the REA contact.

SUPPLEMENTARY INFORMATION: REA reviewed the BER submitted by Grand Electric and determined that it represents an accurate assessment of the environmental impacts of the proposed project. The project consists of a 115 kV transmission line approximately 48 kilometers (30 miles) in length and associated facilities. Associated facilities include the expansion of the Bowman Substation, located about 8 kilometers (5 miles) southeast of Bowman, Bowman County, North Dakota and the construction of the Koch distribution substation near Ladner in Harding County, South Dakota. The BER and EA adequately consider the potential impacts of the proposed project, and REA has concluded that approval of the project would not result in a major Federal action significantly affecting the quality of the human environment. REA determined that the proposed project will have no effect on air quality, water quality, floodplains, wetlands, important farmlands, prime rangelands or prime forest lands, Federal or State listed or proposed listing of threatened or endangered species or their critical habitat, or any property listed or eligible for listing in the *National Register of Historic Places*. REA identified no other matters of potential environmental concern related to the proposed project.

Various alternatives to the proposed project were considered including no action, rebuilding the existing transmission system, energy conservation, alternative substation sites, alternative transmission routes, and underground construction. REA determined that the proposed project is an environmentally acceptable alternative that meets Grand Electric's need with a minimum of adverse environmental impact. REA has concluded that project approval would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an Environmental Impact Statement is not necessary.

In accordance with REA's Environmental Policies and Procedures, 7 CFR Part 1794, Grand Electric advertised in the newspapers requesting comments on the environmental aspects of the proposed project. No comments were received.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850–Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related notice to 7 CFR Part 3015 Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Date: April 13, 1989.

Frank W. Barnett,

Acting Assistant Administrator—Electric.

[FR Doc. 89-9303 Filed 4-18-89; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held May 16, 1989 at 9:30 a.m., Herbert C. Hoover Building, Room 1617F, 14th Street and Constitution Avenue, NW., Washington, DC.

The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to computer peripherals and related test equipment or technology.

Agenda

General Session

1. Introduction of Members and Visitors.
2. Introduction of Invited Guests.
3. Presentation of Papers or Comments by the Public.
4. Election of Chairman.
5. COCOM Participation.
6. Decontrol of Winchester Drives.
7. Flow Charts of Graphics Workstation.
8. Discussion of 1522 Subgroup.
9. Discussion of Bulgarian 10 MB Drive.
10. Original Equipment Manufacture (OEM) Sales to the Bloc.
11. G–COM Disk Packs.
12. Discussion of 1565A Rewrite.

Executive Session

13. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting and can be directed to: Technical Support Staff, Office of Technology & Policy Analysis, Room 4069A, 14th & Constitution Avenue, NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202–377–4959.

Date: April 13, 1989.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 89-9294 Filed 4-18-89; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Intention to Adjust the Boundary of the Currituck Banks Component of the North Carolina National Estuarine Research Reserve

AGENCY: Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Public notice.

SUMMARY: Notice is hereby given that the Division of Coastal Management, of the State of North Carolina, intends to adjust the boundary of the Currituck Banks Compenent of the North Carolina National Estuarine Research Reserve. The area authorized for trade is immediately adjacent to the existing boundary for the Currituck Banks Component as described in the Draft Management Plan dated September 1985, prepared jointly by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, and the State of North Carolina Division of Coastal Management.

This boundary adjustment is not intended to increase or decrease the Reserve property, but will merely shift a 42-acre inholding, owned by Monkey Island Investment Associates of Norfolk, Virginia, approximately 249 feet to the south. This tract is described as follows:

Beginning at an iron pipe in the mean high tide common boundary corner of the State of North Carolina and the Monkey Island Investments Associates, said corner being 2,124.68 feet north of the common property corner of northeastern corner of Ocean Hills subdivision and the southeastern boundary corner of State of North Carolina, thence S 87 degrees 10'22" W 744.10 feet to a point, thence N 87 degrees 10'22" E 390 feet to a point, thence S 13 degrees 36'31" E 61.08 feet to a point, thence S 87 degrees 10'22" W 390.00 feet to a point, thence S 13 degrees 36'31" E 880.20 feet to a point, thence N 87 degrees 10'22" E 390.00 feet to a point, thence N 13 degrees 36'31" W 61.08 feet to a point, thence N 87 degrees 10'22" E 622.44 feet to a point, thence N 87 degrees 10'22" E 187.44 feet to a point, thence N 14 degrees 33'36" W 1886.43 feet to a point, thence S 87 degrees 10'22" W 130.53 feet to a point and place of beginning containing 42.252 acres.

Any person wishing to comment on the proposed adjustment may forward written statements to the Division of Coastal Management, P.O. Box 27687, Raleigh, North Carolina, 27611 Attn: Reserve Coordinator. Comments must be received by the Division of Coastal Management no later than close of business on May 31, 1989.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Estuarine Sanctuaries.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Dated: April 13, 1989.

[FR Doc. 89-9343 Filed 4-18-89; 8:45 am]

BILLING CODE 3510-08-M

National Oceanic and Atmospheric Administration

Announcement of Stellwagen Bank (MA) as an Active Candidate for Designation as a National Marine Sanctuary; Intent To Prepare a Draft Environmental Impact Statement and Management Plan; Public Scoping Meetings

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: NOAA is announcing Stellwagen Bank (5 nautical miles north of Cape Cod, Massachusetts) as an Active Candidate for designation as a National Marine Sanctuary, and its intent to prepare a draft environmental impact statement and management plan (DEIS/MP) on the proposal to designate. NOAA will also conduct public scoping meetings to assist in the development of the DEIS/MP. The study area includes an offshore area located 6.3 miles north of Provincetown, MA and measuring 31.8 miles by 19.1 miles. Approximately 605 square miles are encompassed in the study area.

Selection of a site as an Active Candidate formally initiates the National Environmental Policy Act (NEPA) process; NOAA will prepare a DEIS/MP to examine management, boundary and regulatory alternatives associated with Sanctuary designation.

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NOAA will conduct public scoping meetings to gather information and comments from individuals, organizations, and government agencies on the range and significance of issues related to this proposal. Scoping meetings will be held at:

(1) Town Hall, Commercial Street, Provincetown, MA, 7:00 p.m., Tuesday, June 13, 1989;

(2) Conference Room, Sheraton-Portsmouth Hotel, 250 Market Street, Portsmouth NH, 7:00 p.m., Wednesday, June 14, 1989;

(3) Conference Room NOAA/Fisheries Building, 1 Blackburn Drive, Gloucester, MA, 7:00 p.m., Thursday, June 15, 1989; and

(4) Harbor View Room, New England Aquarium, Boston, MA, 1:00 p.m., Friday, June 16, 1989.

All interested persons are invited to attend.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph A. Uravitch, Chief, or Ms. Sherrard Foster, Project Manager, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235 (202/673-5122).

SUPPLEMENTARY INFORMATION:

Background and Selection Procedures

Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.* (the Act), authorizes the Secretary of Commerce to designate those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, consistent with international law, as National Marine Sanctuaries. The purpose of designating National Marine Sanctuaries is to protect and manage distinctive areas of the marine environment for those conservation, recreational, ecological, historical, research, educational, or esthetic values which give these areas special national significance. The Act is administered by the National Oceanic and Atmospheric Administration (NOAA); through the Office of Ocean and Coastal Resource Management (OCRM); Marine and Estuarine Management Division (MEMD).

In January 1982, NOAA published a Program Development Plan (PDP) for the National Marine Sanctuary Program, describing the Program's mission and goals; site identification and selection criteria; and the nomination and designation process. In September 1982, NOAA issued proposed regulations for the continued operation of the Program (47 FR 39191). Pursuant to the PDP and those regulations, NOAA published a proposed Site Evaluation List (SEL), comprised of highly-qualified marine sites identified and recommended to NOAA by regional resource evaluation teams. SEL sites meet Program criteria for further evaluation as possible National Marine Sanctuaries. Team recommendations were made in accordance with the Program's mission and goals set forth in the PDP, in Section 922.1 of the final Program regulations, and in Appendix 1 of the regulations. The Stellwagen Bank study area was recommended by the Resource Evaluation Team for the North Atlantic Region, and was placed on the SEL in 1983 (48 FR 35568). In the normal process of National Marine Sanctuary designation, the Secretary of Commerce (through NOAA) will from time to time select sites from the SEL as Active Candidates, to initiate the process of such further evaluation.

Changes in the process for designating National Marine Sanctuaries were made by 1984 and 1988 Amendments to the Act (Title III of Pub. L. 96-498, and Title II of Pub. L. 100-627, codified at 16 U.S.C. 1431 *et seq*). NOAA's program operating final regulations (15 CFR Part 922, 53 FR 43502, October 28, 1988), reflect the provisions of the 1984 Amendments. Where there is a conflict between the current regulations and the 1988 Amendments, NOAA relies on the statutory Amendments.

The 1988 Amendments (section 304(b)) establish a finite period of time for designation of new National Marine Sanctuaries, i.e., 30 months from the Federal Register notice of Active Candidacy to a notice of designation (or findings regarding why such notice has not been published). Additionally, the 1988 Amendments specifically require (at section 304(a)) that a prospectus on the Stellwagen Bank proposal be submitted to Congress not later than September 30, 1990. NOAA is announcing Stellwagen Bank as an Active Candidate now in order to meet the required deadline for this submission to Congress. The Active Candidacy notice formally initiates the 30-month period during which NOAA must conduct the complete National Environmental Policy Act (NEPA) environmental impact analysis process, and publish either a notice of designation or findings regarding why such notice has not been published.

Following the scoping meetings announced in this notice, subsequent designation steps include preparation of the DEIS/MP document; public hearing(s); preparation of a final environmental impact statement/management plan; and recommendation for approval of the designation to the Secretary of Commerce or designee. Opportunities for public comment exist throughout this process, and will be announced in the Federal Register, the local media, and other appropriate channels.

Section 303 of the Act (16 U.S.C. 1433) and implementing regulations for the National Marine Sanctuary Program (at 15 CFR 922.33) establish procedures for evaluation of the suitability of active candidates as National Marine Sanctuaries. NOAA will determine to what extent designation will fulfill the purposes and policies of the Act, i.e., whether:

(1) The area is of special national significance due to its resource or human use value;

(2) Existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(3) Designation of the area as a National Marine Sanctuary will ensure coordinated and comprehensive conservation and management of the area not provided by existing authorities; and

(4) The area is of a size and nature that will permit comprehensive and coordinated conservation and management.

In making these determinations, NOAA will consider:

(1) The area's natural resource and ecological qualities, including its contribution to biological productivity; maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, and the biogeographic representation of the site;

(2) The area's historical, cultural, archeological, or paleontological significance;

(3) The present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, an research and education;

(4) The present and potential activities that may adversely affect the factors identified in the considerations listed above;

(5) The existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of the Act;

(6) The manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

(7) The public benefits to be derived from Sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(8) The negative impacts produced by management restrictions on income-generating activities such as living and non-living resource development;

(9) The socioeconomic effects of Sanctuary designation; and

(10) The fiscal capability of NOAA to manage the area as a National Marine Sanctuary.

In preparing the DEIS/MP to examine the management, boundary and regulatory alternatives associated with Sanctuary designation, NOAA will solicit comments from interested individuals, groups and organizations, appropriate Congressional Committees, Federal agencies, responsible officials of State and local governments, and officials of the affected Regional Fishery Management Council. This will be done during the scoping meetings identified herein, to be conducted prior to preparation of the DEIS/MP. Comments will also be received during public hearings on the completed DEIS/MP.

Site Description

Natural Resources. Stellwagen Bank is a shallow, glacially-deposited gravel feature located approximately six miles (10.186 km) off the northern end of Cape Code, Massachusetts, in the southern Gulf of Maine. The Bank measures 18.75 miles in length and 6.25 miles in width at its widest point. Water depths over the Bank range from 61 feet along the scarp of the southwestern end, and 78 feet at the northwestern end, to a maximum of 120 feet at the southeast end of the Bank. Deeper waters surround the Bank; maximum depths exceeding 330 feet occur north of the Bank and within the study area. The Sanctuary study area occurs entirely within Federal waters. The study area is marked by the following coordinates: 70°14'N, 42°36'W (northeast point) by 70°35'N, 42°31'W (northwest point) by 70°26'N, 42°05'W (southwest point), by 70°04'N, 42°09'W (southeast point).

Oceanographic/Physical Characteristics. Oceanographic conditions and hydrography are highly varied in the vicinity of Stellwagen Bank. Surface circulation in the Gulf of Maine generally is counterclockwise, with currents moving southward along the Maine and New Hampshire coasts and into the Massachusetts Bay, where the flow turns gradually eastward across the northern edge of Georges Bank, further offshore. The moderate to high velocity, east-west tidal current sweeps the Bank's shallows, generating internal waves during summer months. Mixing of the water column is widespread during winter months, when isothermal conditions characterize the Bank's waters.

The Bank's profile is markedly asymmetric: the seaward edge is gentle, and the shoreward slope is steep (dropping from 27 to 80 meters over a horizontal distance of approximately one kilometer).

Regional Productivity. Primary biological productivity at Stellwagen Bank follows a temperate coastal zone cycle. Two distinct peak productivity periods are evident: the more extensive from March through May, and a second, shorter period from mid-September through October. Seasonal overturn and mixing of coastal waters with nutrient-rich waters from deeper strata produce a complex system of overlapping mid-water and benthic habitats. Predominantly sand and gravel substrates support benthic communities composed of polychaete worms, amphipods, and mollusks.

The extensive and cyclic biological productivity supports a variety of commercially important fishery resources. Over a dozen species are commercially harvested, including mackerel, bluefin tuna, blue fish, shad, menhaden, herring, striped bass, cod, haddock, flounder, quahog, and sea scallop. The predominant forage fish found at the Bank is the sand lance (*Ammodytes americanus*), which attracts several large fish species and a seasonal variety of balaenopterid cetacean species. The largest high-latitude population of humpback whales (*Megaptera novaengliae*) in the contiguous United States occurs seasonally at Stellwagen Bank, in addition to fin whales (*Balaenoptera physalus*), minke whales (*Balaenoptera acutorostrata*), northern right whales (*Eubalaena glacialis*), Atlantic white-sided dolphins (*Lagenorhynchus acutus*), white-beaked dolphins (*Lagenorhynchus albirostris*), and harbor porpoises (*Phocoena phocoena*). In addition to these frequently-observed species, orca whales (*Orcinus orca*), and pilot whales (*Globicephala melaena*) are also occasionally observed at Stellwagen Bank.

Particular scientific interest is focused on four species of large cetaceans (humpbacks, fins, minkes, and northern rights) using Stellwagen Bank as feeding and nursery grounds. With the exception of the minke whale, these species are all considered "endangered" pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Northern right whales are one of the most severely endangered cetracean species in the world; no more than 150 individuals are thought to remain in the western North Atlantic Ocean. Recorded sightings of right whales at Stellwagen Bank over the past four years indicate the Bank's importance for feeding and for nursing of calves: a significant number of identified northern right whales have been observed returning to the Bank season after season.

Fin whales exist in relatively large numbers throughout the world's non-tropical oceans, and approximately 3,600 to 6,300 exist in the North Atlantic Ocean. Fin whales associated with the Stellwagen Bank system are ubiquitous and apparently year-round residents.

Minke whales also exist in relatively large numbers worldwide (excluding tropical waters), although the size of the North Atlantic population is currently unknown.

The world population of humpback whales is believed to be not more than 8,000 animals geographically distributed into fifteen demographic groups. Approximately 2,000 humpbacks in the western North Atlantic Ocean comprise the largest, yet least studied, population in the world. More than 100 humpbacks return annually to Stellwagen Bank from mating and calving grounds in the eastern central Caribbean Sea. Research to date has focused on this species, and details of its movements are better documented than those of other cetaceans. Humpbacks enter the Stellwagen Bank system between mid-March and mid-April, and remain until mid-November (one of the longest residency periods known anywhere).

Diverse pelagic and coastal bird species seasonally forage at the Stellwagen Bank system. Among species known to frequent or migrate through the Bank area are: storm petrels, gulls, terns, brants, oldsquaws, scoters, ospreys, shearwaters, dovekies, puffins, fulmars, gannets, murres, loons, kittiwakes, phalaropes, and jaegers.

At least two species of sea turtles also feed in the general area of the Bank, the loggerhead *Carretta carretta*) and the leatherback (*Dermochelys coriacea*). Transient species include the Kemp's

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ridley (*Lepidochelys kempi*) and the green (*Chelonia mydas*).

Human Uses. Waters over and around the Bank are used extensively for numerous purposes, including commercial and recreational fishing, commercial whale-watching, recreational boating, shipping, and research.

Commercial Uses. The most important activity directly dependent on resources of the Stellwagen Bank area is commercial fishing. Extensive fisheries include groundfish species, such as Atlantic cod, haddock, yellowtail flounder, winter flounder, and silver hake. Invertebrates include ocean quahogs, sea scallops, and American lobsters. Pelagic fisheries include Atlantic herring, mackerel, bluefin tuna, and bluefish. The New England commercial fishing fleet increased from 1,225 registered vessels in 1986 (5 gross tons or larger) to 1,334 such vessels in 1987; and total landings increased slightly from 275,300 tons to 277,600 tons during the same period. Revenues generated (adjusted value) exceeded $186 million in 1987.

Commercial whale-watching activities operating from Maine to Connecticut are largely focused on Stellwagen Bank and Jeffrey's Ledge (located north of Stellwagen Bank). During 1988, more than 40 commercial whale-watch vessels conducted trips to these areas from May through September (approximately 8,550 trips). Assuming full vessel capacity, visitation levels to these areas exceeded one million persons during the five-month period. Revenues in 1988 from commercial whale-watch operations are estimated at over $16 million.

Shipping lanes for commercial vessel traffic in and out of Boston traverse directly across Stellwagen Bank. During 1988, a total of 12,728 trips were made in and out of Boston by both self-propelled and non-self propelled vessels.

Recreational Uses. Recreational fishing in the Stellwagen Bank area is seasonal and primarily focused on scup, bluefish, summer and winter flounder, Atlantic mackerel, Atlantic cod, and pollack. Recreational boating is also a popular activity during summer months.

Research Activities. The biological abundance of the Stellwagen Bank system generates scientific research on cetaceans and the resources supporting them. Research and monitoring activities are also conducted on fisheries. Research facilities in the area include the Center for Coastal Studies (Provincetown); the University of Massachusetts (Boston); the New England Aquarium (Boston); Woods Hole Oceanographic Institution (Woods Hole); the Marine Biological Laboratory (Woods Hole); the Manomet Bird Observatory (Manomet); and the National Marine Fisheries Service (Gloucester and Woods Hole). Additional institutions or organizations having supported research activities in the vicinity of Stellwagen Bank include the College of the Atlantic; Gloucester Fishermen's Museum; University of Maine; University of Rhode Island; and Cape Cod Museum of Natural History.

The Designation Process

The management plan to be prepared for the proposed Sanctuary will specify the goals and objectives of Sanctuary designation and describe programs for resource protection, research and interpretation. The various administrative and regulatory alternatives for Sanctuary management will be analyzed in the environmental impact statement.

Opportunities for public participation in NOAA's development of a draft environmental impact statement and management plan will be provided through the June scoping meetings, solicitation of comments on the DEIS/MP document, and public hearings.

The June scoping meetings will attempt to identify issues in establishing a Stellwagen Bank National Marine Sanctuary and generate suggestions for resolving them. Topics for discussion will include the following: (1) Boundary alternatives; (2) management alternatives; (3) resource protection; (4) interpretive opportunities.

(Federal Domestic Assistance Catalogue Number 11.429 Marine Sanctuary Program)

Date: April 13, 1989.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 89-9297 Filed 4-18-89; 8:45 am]

BILLING CODE 3510-08-M

Marine Mammals; Application for Modification; Deborah A. Glockner-Ferrari and Mark J. Ferrari (P171A)

Notice is hereby given that Ms. Deborah A. Glockner-Ferrari and Mr. Mark J. Ferrari, 1728 San Luis Road, Walnut Creek, California 94596, requested a modification of Permit No. 538 issued on January 14, 1988 (51 FR 3093), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), and the National Marine Fisheries Service regulations governing endangered fish and wildlife (50 CFR Parts 217-222).

Permit No. 538 authorizes the inadvertent harassment of an unspecified number of humpback whales (*Megaptera novaeangliae*) in the North Pacific during population studies using photographic techniques. Areas of activity include waters surrounding the Hawaiian Islands and waters of California and Alaska. The Permit Holder requests a modification to the Permit to allow population studies using photographic techniques on an opportunistic basis on all species encountered during their work with humpback whales studies. The incidental sightings include an unspecified number of bottlenose dolphin (*Tursiops truncatus*), spinner dolphin (*Stenella longirostris*), spotted dolphin (*Stenella attenuata*), false killer whale (*Pseudorca crassidens*), short-finned pilot whale (*Globicephala macrorhynchus*), killer whales (*Orcinus orca*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*Phocoenoides dalli*).

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this modification to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this modification request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification request are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910;

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 89-9269 Filed 4-18-89; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant Exclusive Patent License; AgriSense

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to AgriSense, having a place of business in Fresno, California, an exclusive license in the United States and certain foreign countries to practice the invention entitled "A Novel System for Monitoring and Controlling the Papaya Fruit Fly", U.S. Patent Application Serial Number 7-240,312. The patent rights in this invention will assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments, and other materials relating to the proposed license must be submitted to Douglas J. Campion, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning (703) 487-4650 or by writing to the Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Douglas J. Campion,

Associate Director, Office of Fedeal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 89-9319 Filed 4-18-89; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Scientific Advisory Board; Meeting

April 10, 1989.

The USAF Scientific Advisory Board Ad Hoc Committee on Munitions Effectiveness will meet on 10-11 May 1989 from 8:00 AM to 5:00 PM at The Pentagon, Washington, DC.

The purposes of this meeting are to assess the changes in the threat over the past ten years and to study how to take full advantage of potential technology improvements in the development and manufacturing of munitions. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc.89-9320 filed Filed 4-18-89; 8:45 am]

BILLING CODE 3910-01-M

Scientific Advisory Board; Meeting

April 3, 1989.

The USAF Scientific Advisory Board Division Advisory Group (DAG) for Electronic Systems Division (ESD) will meet on 30 May 1989 from 8:30 AM to 5:00 PM on 31 May 1989 from 8:30 AM to 12:00 PM at Hanscom AFB, MA.

The purpose of this meeting is to review the ESD C3I acquisition programs and related RADC technology efforts. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc.89-9321 Filed 4-18-89; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ST89-1541-000, et al.]

Southern Natural Gas; Self-Implementing Transactions

April 13, 1989.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates that entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a motion to intervene with the Secretary of the Commission on or before May 1, 1989.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to Section 284.163 of the Commission's Regulations and section 312 of the NGPA.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

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A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under §§ 284.224 of the Commission's Regulations.

Lois D. Cashell,
Secretary.

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1541	Southern Natural Gas Co	United Cities Gas Co	01-03-89	B		
ST89-1542	Southern Natural Gas Co	Sonat Marketing Co	01-03-89	G-S		
ST89-1543	Southern Natural Gas Co	Rangeline Corp	01-03-89	G-S		
ST89-1544	Southern Natural Gas Co	Atlanta Gas Light Co	01-03-89	B		
ST89-1545	Southern Natural Gas Co	Arco Oil & Gas Co	01-03-89	G-S		
ST89-1546	Southern Natural Gas Co	TXG Gas Marketing Co	01-03-89	G-S		
ST89-1547	Southern Natural Gas Co	Sonat Marketing Co	01-03-89	G-S		
ST89-1548	Southern Natural Gas Co	Sonat Marketing Co	01-03-89	G-S		
ST89-1549	Southern Natural Gas Co	South Carolina Pipeline Corp	01-03-89	B		
ST89-1550	Southern Natural Gas Co	South Carolina Pipeline Corp	01-03-89	B		
ST89-1551	Southern Natural Gas Co	Access Energy Corp	01-03-89	B		
ST89-1552	Southern Natural Gas Co	ANR Pipeline Co	01-03-89	G		
ST89-1553	Southern Natural Gas Co	Tejas Power Corp	01-03-89	G-S		
ST89-1554	Southern Natural Gas Co	Chevron U.S.A., Inc	01-03-89	G-S		
ST89-1555	Southern Natural Gas Co	Transcontinental Gas Pipe Line Corp	01-03-89	G		
ST89-1556	Southern Natural Gas Co	Transcontinental Gas Pipe Line Corp	01-03-89	G		
ST89-1557	Southern Natural Gas Co	ANR Pipeline Co	01-03-89	G		
ST89-1558	Southern Natural Gas Co	Transcontinental Gas Pipe Line Corp	01-03-89	G		
ST89-1559	Southern Natural Gas Co	Transcontinental Gas Pipe Line Corp	01-03-89	G		
ST89-1560	Louisiana Intrastate Gas Corp	ANR Pipeline Co	01-03-89	C	06-02-89	27.44
ST89-1561	Louisiana Intrastate Gas Corp	Columbia Gulf Transmission Co., et al	01-03-89	C	06-02-89	7.50
ST89-1562	Texas Eastern Transmission Corp	Pontchartrain Natural Gas System	01-03-89	B		
ST89-1563	Texas Eastern Transmission Corp	Pontchartrain Natural Gas System	01-03-89	B		
ST89-1564	Williams Natural Gas Co	Peoples Natural Gas Co	01-03-89	B		
ST89-1565	Williams Natural Gas Co	Enmark Gas Corp	01-03-89	G-S		
ST89-1566	Williams Natural Gas Co	Reliance Pipeline Co	01-03-89	B		
ST89-1567	Northwest Pipeline Corp	Questar Pipeline Co	01-03-89	G		
ST89-1568	Northwest Pipeline Corp	Questar Pipeline Co	01-03-89	G-S		
ST89-1569	Sabine Pipe Line Co	Bayou Industrial Gas Co	01-04-89	B		
ST89-1570	Sabine Pipe Line Co	West Ohio Gas Co	01-04-89	B		
ST89-1571	Williams Natural Gas Co	Quaker Oats Co	01-04-89	G-S		
ST89-1572	Texas Eastern Transmission Corp	Channel Industries Gas Co	01-04-89	B		
ST89-1573	Panhandle Eastern Pipe Line Co	Mountain Iron & Supply Co	01-04-89	G-S		
ST89-1574	Trunkline Gas Co	Northern Indiana Public Service Co	01-04-89	B		
ST89-1575	Trunkline Gas Co	Unicorp Energy, Inc	01-04-89	G-S		
ST89-1576	Columbia Gas Transmission Corp	Fort Hill Natural Gas Authority	01-04-89	B		
ST89-1577	Columbia Gas Transmission Corp	West Millgrove Gas Co	01-04-89	B		
ST89-1578	Transcontinental Gas Pipe Line Corp	Kerr-McGee Corp	01-05-89	G-S		
ST89-1579	Transcontinental Gas Pipe Line Corp	City of Bainbridge	01-05-89	B		
ST89-1580	Panhandle Eastern Pipe Line Co	City of Shelbina	01-05-89	B		
ST89-1581	Panhandle Eastern Pipe Line Co	Citizens Gas and Coke Utility	01-05-89	B		
ST89-1582	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	01-05-89	B		
ST89-1583	Panhandle Eastern Pipe Line Co	Southeastern Michigan Gas Co	01-05-89	B		
ST89-1584	Panhandle Eastern Pipe Line Co	Phenix Transmission Co	01-05-89	B		
ST89-1585	Transok, Inc	Williams Natural Gas Co	01-05-89	C	06-04-89	32.50
ST89-1586	Transok, Inc	Williams Natural Gas Co	01-05-89	C	06-04-89	32.50
ST89-1587	Transok, Inc	Panhandle Eastern Pipe Line Co	01-05-89	C	06-04-89	32.50
ST89-1588	Transok, Inc	Panhandle Eastern Pipe Line Co	01-05-89	C	06-04-89	32.50
ST89-1589	Transcontinental Gas Pipe Line Corp	Brooklyn Union Gas Co	01-05-89	B		
ST89-1590	Transcontinental Gas Pipe Line Corp	Baltimore Gas and Electric Co	01-05-89	B		
ST89-1591	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	01-05-89	B		
ST89-1592	Trunkline Gas Co	Southern Natural Gas Co	01-05-89	G		
ST89-1593	Trunkline Gas Co	Central Illinois Public Service Co	01-05-89	B		
ST89-1594	Trunkline Gas Co	Kokomo Gas and Fuel Co	01-05-89	B		
ST89-1595	United Gas Pipe Line Co	Arkla Energy Marketing	01-05-89	G-S		
ST89-1596	Natural Gas Pipeline Co of America	Northern Illinois Gas Co	01-05-89	B		
ST89-1597	Northwest Pipeline Corp	Natural Gas Clearinghouse, Inc	01-05-89	G-S		
ST89-1598	El Paso Natural Gas Co	Williams Gas Co	01-05-89	B		
ST89-1599	Tennessee Gas Pipeline Co	Southern Connecticut Gas Co	01-05-89	B		
ST89-1600	Tennessee Gas Pipeline Co	Commonwealth Gas Co	01-05-89	B		
ST89-1601	Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	01-05-89	B		
ST89-1602	Tennessee Gas Pipeline Co	Tenngasco Corp	01-05-89	G-S		
ST89-1603	Tennessee Gas Pipeline Co	Connecticut Natural Gas Corp	01-05-89	B		
ST89-1604	Tennessee Gas Pipeline Co	Colonial Gas Corp	01-05-89	B		

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1605	Tennessee Gas Pipeline Co	Public Service Electric and Gas Co	01-05-89	B		
ST89-1606	Tennessee Gas Pipeline Co	T. W. Phillips Gas & Oil Co	01-05-89	B		
ST89-1607	Tennessee Gas Pipeline Co	Connecticut Light & Power Co	01-05-89	B		
ST89-1608	Exxon Gas System, Inc	Texas Eastern Gas Pipeline Co	01-06-89	C	06-05-89	12.80
ST89-1609	ONG Transmission Co	East Ohio Gas Co	01-06-89	C	06-05-89	24.32
ST89-1610	Natural Gas Pipeline Co of America	Anadarko Trading Co	01-06-89	G-S		
ST89-1611	Natural Gas Pipeline Co of America	Golden Gas Energies, Inc	01-06-89	B		
ST89-1612	Natural Gas Pipeline Co of America	Valero Interstate Transmission Co	01-06-89	G		
ST89-1613	Natural Gas Pipeline Co of America	Wisconsin Natural Gas Co	01-06-89	B		
ST89-1614	Moraine Pipeline Co	National Energy System, Inc	01-06-89	G-S		
ST89-1615	BP Gas Transmission Co	ANR Pipeline Co., et al	01-06-89	C	06-05-89	13.70
ST89-1616	Channel Industries Gas Co	Tennessee Gas Pipeline Co	01-06-89	C		
ST89-1617	Channel Industries Gas Co	Texas Eastern Transmission Co., et al	01-06-89	C		
ST89-1618	Northwest Pipeline Corp	Oregon Steel Mills, Inc	01-06-89	G-S		
ST89-1619	Texas Eastern Transmission Corp	Michigan Consolidated Gas Co	01-06-89	B		
ST89-1620	Texas Eastern Transmission Corp	City of Bessemer City	01-06-89	B		
ST89-1621	Williams Natural Gas Co	Phillips 66 Natural Gas Co	01-06-89	G-S		
ST89-1622	Williams Natural Gas Co	Zenith Natural Gas Co	01-06-89	G		
ST89-1623	Transok, Inc	Williams Natural Gas Co	01-09-89	C	06-06-89	32.50
ST89-1624	Valero Transmission, L.P	Tennessee Gas Pipeline Co	01-09-89	C		
ST89-1625	Transcontinental Gas Pipe Line Corp	Access Energy Pipeline Co	01-09-89	B		
ST89-1626	Transcontinental Gas Pipe Line Corp	Access Energy Corp	01-09-89	G-S		
ST89-1627	Transcontinental Gas Pipe Line Corp	Access Energy Pipeline Co	01-09-89	B		
ST89-1628	Transcontinental Gas Pipe Line Corp	Texaco Gas Marketing, Inc	01-09-89	G-S		
ST89-1629	Transcontinental Gas Pipe Line Corp	Access Energy Pipeline Co	01-09-89	B		
ST89-1630	Transcontinental Gas Pipe Line Corp	Eastern Shore Natural Gas Co	01-09-89	G		
ST89-1631	Transcontinental Gas Pipe Line Corp	East Central Alabama Gas District	01-09-89	B		
ST89-1632	Panhandle Eastern Pipe Line Co	AMGAS, Inc	01-09-89	G-S		
ST89-1633	Panhandle Eastern Pipe Line Co	Mountain Iron & Supply Co	01-09-89	G-S		
ST89-1634	Panhandle Eastern Pipe Line Co	Northern Indiana Fuel & Light Co	01-09-89	B		
ST89-1635	Panhandle Eastern Pipe Line Co	AMGAS, Inc	01-09-89	G-S		
ST89-1636	Panhandle Eastern Pipe Line Co	AMGAS, Inc	01-09-89	G-S		
ST89-1637	Natural Gas Pipeline Co of America	Rangeline Corp	01-09-89	G-S		
ST89-1638	Natural Gas Pipeline Co of America	Tennessee Gas Pipeline Co	01-09-89	G		
ST89-1639	Natural Gas Pipeline Co. of America	Transamerican Gas Transmission Corp	01-09-89	B		
ST89-1640	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	01-09-89	B		
ST89-1641	Natural Gas Pipeline Co. of America	EP Operating Co	01-09-89	G-S		
ST89-1642	Natural Gas Pipeline Co. of America	Mitchell Energy Corp	01-09-89	G-S		
ST89-1643	Delhi Gas Pipeline Corp	Northern Natural Gas Co	01-09-89	C	06-08-89	35.00
ST89-1644	Arida Energy Resources	Northern Intrastate Pipeline Co	01-09-89	B		
ST89-1645	Texas Eastern Transmission Corp	Houston Pipe Line Co	01-09-89	B		
ST89-1646	Northern Natural Gas Co	Circle Pines Utilities	01-09-89	B		
ST89-1647	Northern Natural Gas Co	American Central Gas Marketing Co	01-09-89	G-S		
ST89-1648	Columbia Gulf Transmission Co	Public Service Electric and Gas Co	01-09-89	B		
ST89-1649	Columbia Gulf Transmission Co	United Cities Gas Co	01-09-89	B		
ST89-1650	Williams Natural Gas Co	End Users Supply System	01-09-89	G-S		
ST89-1651	Williams Natural Gas Co	Lawrence Memorial Hospital	01-09-89	G-S		
ST89-1652	Williams Natural Gas Co	KPL Gas Service Co	01-09-89	B		
ST89-1653	Williams Natural Gas Co	Golden Gas Energies, Inc	01-09-89	B		
ST89-1654	Williams Natural Gas Co	Union Pacific Resources Co	01-09-89	G-S		
ST89-1655	Williams Natural Gas Co	Rangeline Corp	01-09-89	G-S		
ST89-1656	Northwest Pipeline Corp	NGC Energy Company	01-09-89	G-S		
ST89-1657	Northwest Pipeline Corp	Eagle-Picher Minerals, Inc	01-09-89	G-S		
ST89-1658	Northwest Pipeline Corp	United Engine & Machine Co	01-09-89	G-S		
ST89-1659	Tennessee Gas Pipeline Co	Texas Southwestern Gas Co	01-09-89	B		
ST89-1660	ANR Pipeline Co	Coastal Gas Marketing Co	01-10-89	G-S		
ST89-1661	ANR Pipeline Co	General Motors Corp	01-10-89	G-S		
ST89-1662	ANR Pipeline Co	National Energy Systems, Inc	01-10-89	G-S		
ST89-1663	ANR Pipeline Co	City of Princeton	01-10-89	B		
ST89-1664	ANR Pipeline Co	Consumers Power Co	01-10-89	B		
ST89-1665	ANR Pipeline Co	BP Gas Transmission Co	01-10-89	B		
ST89-1666	ANR Pipeline Co	Western Gas Processors	01-10-89	G-		
ST89-1667	ANR Pipeline Co	Peoples Natural Gas Co	01-10-89	B		
ST89-1668	ANR Pipeline Co	Michigan Conecildated Gas Co	01-10-89	B		
ST89-1669	ANR Pipeline Co	Apache Transmission Corp	01-10-89	B		
ST89-1670	Texas Eastern Transmission Corp	Delhi Gas Pipeline Corp	01-10-89	B		
ST89-1671	Texas Eastern Transmission Corp	Entex, Inc	01-10-89	B		
ST89-1672	Algonquin Gas Transmission Co	Boston Gas Co	01-10-89	B		
ST89-1673	Algonquin Gas Transmission Co	North Attleboro Gas Co	01-10-89	B		
ST89-1674	Algonquin Gas Transmission Co	Colonial Gas Company	01-10-89	B		
ST89-1675	Algonquin Gas Transmission Co	Piedmont Natural Gas Co	01-10-89	B		
ST89-1676	Columbia Gulf Transmission Co	Virginia Natural Gas Co	01-10-89	B		
ST89-1677	Natural Gas Pipeline Co. of America	Iowa Southern Utilities Co	01-10-89	B		
ST89-1678	Tennessee Gas Pipeline Co	CNG Transmission Corp	01-10-89	G		
ST89-1679	Williams Natural Gas Co	Missouri Public Service Co	01-10-89	B		
ST89-1680	Williams Natural Gas Co	Amoco Energy Trading Corp	01-10-89	G-S		

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Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1681	Williams Natural Gas Co	AG Processing, Inc	01-10-89	G-S		
ST89-1682	Williams Natural Gas Co	Pawnee Pipeline & Marketing Co	01-10-89	G-S		
ST89-1683	ONG Transmission Co	Panhandle Eastern Pipe Line Co	01-11-89	C	06-10-89	24.32
ST89-1684	CNG Transmission Corp	Columbia Gas of Ohio, Inc	01-11-89	B		
ST89-1685	CNG Transmission Corp	Chemtech Industries	01-11-89	G-S		
ST89-1686	CNG Transmission Corp	Phoenix Diversified Ventures, Inc	01-11-89	G-S		
ST89-1687	CNG Transmission Corp	Rochester Gas & Electric Corp	01-11-89	B		
ST89-1688	CNG Transmission Corp	Rochester Gas & Electric Corp	01-11-89	B		
ST89-1689	CNG Transmission Corp	Rochester Gas & Electric Corp	01-11-89	B		
ST89-1690	CNG Transmission Corp	Appalachian Gas Sales, Inc	01-11-89	G-S		
ST89-1691	CNG Transmission Corp	Baltimore Gas and Electric Co	01-11-89	B		
ST89-1692	CNG Transmission Corp	Pentex Petroleum, Inc	01-11-89	G-S		
ST89-1693	CNG Transmission Corp	Peoples Natural Gas Co	01-11-89	B		
ST89-1694	CNG Transmission Corp	North Atlantic Utilities, Inc	01-11-89	G-S		
ST89-1695	CNG Transmission Corp	Columbia Gas of Pennsylvania, Inc	01-11-89	B		
ST89-1696	Transcontinental Gas Pipe Line Corp	United Cities Gas Co	01-11-89	B		
ST89-1697	Transcontinental Gas Pipe Line Corp	Mid Louisiana Gas Co	01-11-89	G		
ST89-1698	Transcontinental Gas Pipe Line Corp	Fort Hill Natural Gas Authority	01-11-89	B		
ST89-1699	United Gas Pipe Line Co	Entrade Corp	01-11-89	G-S		
ST89-1700	ANR Pipeline Co	Western Kentucky Gas Co	01-11-89	B		
ST89-1701	Exxon Gas System, Inc	Sabine Pipeline Co., et al	01-11-89	C	06-10-89	12.90
ST89-1702	Williams Natural Gas Co	Entrade Corp	01-11-89	G-S		
ST89-1703	Tennessee Gas Pipeline Co	Pontchartrain Natural Gas System	01-11-89	B		
ST89-1704	Tennessee Gas Pipeline Co	Granite State Gas Transmission, Inc	01-11-89	G		
ST89-1705	Tennessee Gas Pipeline Co	National Fuel Gas Supply Corp	01-11-89	G		
ST89-1706	Channel Industries Gas Co	Tennessee Gas Pipeline Co., et al	01-12-89	C		
ST89-1707	Louisiana Intrastate Gas Corp	Tuscaloosa Pipeline Co	01-12-89	C	06-11-89	27.44
ST89-1708	Louisiana Intrastate Gas Corp	Tennessee Gas Pipeline Co	01-12-89	C	06-11-89	27.44
ST89-1709	Tennessee Gas Pipeline Co	Equitrans, Inc	01-12-89	G		
ST89-1710	Tennessee Gas Pipeline Co	Olympic Gas Pipeline	01-12-89	B		
ST89-1711	Tennessee Gas Pipeline Co	Superior Natural Gas Corp	01-12-89	G-S		
ST89-1712	Columbia Gas Transmission Corp	East Tennessee Natural Gas Co	01-12-89	G		
ST89-1713	Natural Gas Pipeline Co. of America	North Shore Gas Co	01-12-89	B		
ST89-1714	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	01-12-89	B		
ST89-1715	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	01-12-89	B		
ST89-1716	Texas Gas Transmission Corp	Eastern Shore Natural Gas Co	01-12-89	G		
ST89-1717	Texas Gas Transmission Corp	General Motors Corp	01-12-89	G-S		
ST89-1718	Texas Gas Transmission Corp	Niagara Mohawk Power Corp	01-12-89	B		
ST89-1719	Texas Gas Transmission Corp	City of Covington	01-12-89	B		
ST89-1720	Texas Gas Transmission Corp	Hadson Gas Systems, Inc	01-12-89	G-S		
ST89-1721	Texas Gas Transmission Corp	Memphis Light, Gas and Water Division	01-12-89	B		
ST89-1722	Texas Gas Transmission Corp	City of Hamilton	01-12-89	B		
ST89-1723	Colorado Interstate Gas Co	Amoco Gas Co	01-12-89	B		
ST89-1724	Northern Natural Gas Co	Minnegasco, Inc	01-11-89	B		
ST89-1725	Natural Gas Pipeline Co. of America	Cornerstone Production Corp	01-13-89	G-S		
ST89-1726	Natural Gas Pipeline Co. of America	International Paper Co	01-13-89	G-S		
ST89-1727	Natural Gas Pipeline Co. of America	Associated Intrastate Pipeline Co	01-13-89	B		
ST89-1728	Tennessee Gas Pipeline Co	East Ohio Gas Co	01-13-89	B		
ST89-1729	Equitrans, Inc	O & R Energy Development, Inc	01-13-89	G-S		
ST89-1730	Equitrans, Inc	St. Francis Hospital & Medical Center	01-13-89	G-S		
ST89-1731	Equitrans, Inc	Mallet & Company, Inc	01-13-89	G-S		
ST89-1732	Equitrans, Inc	Access Energy Corp	01-13-89	G-S		
ST89-1733	Transcontinental Gas Pipe Line Corp	Transco Energy Marketing	01-13-89	G-S		
ST89-1734	Williams Natural Gas Co	Mountain Iron & Supply Co	01-13-89	G-S		
ST89-1735	Equitrans, Inc	O & R Energy Development, Inc	01-13-89	G-S		
ST89-1736	Williams Natural Gas Co	Reliance Pipeline Co	01-13-89	B		
ST89-1737	United Gas Pipe Line Co	Sonat Marketing Co	01-13-89	G-S		
ST89-1738	United Gas Pipe Line Co	Laser Marketing Co	01-13-89	G-S		
ST89-1739	United Gas Pipe Line Co	Sonat Marketing Co	01-13-89	G-S		
ST89-1740	United Gas Pipe Line Co	Texaco Gas Marketing, Inc	01-13-89	G-S		
ST89-1741	United Gas Pipe Line Co	Union Texas Petroleum Corp	01-13-89	G-S		
ST89-1742	United Gas Pipe Line Co	Louisiana State Gas Corp	01-13-89	G-S		
ST89-1743	United Gas Pipe Line Co	Texaco Gas Marketing, Inc	01-13-89	G-S		
ST89-1744	United Gas Pipe Line Co	Texaco Gas Marketing, Inc	01-13-89	G-S		
ST89-1745	Natural Gas Pipeline Co. of America	Southern California Gas Co	01-17-89	B		
ST89-1746	Palo Duro Pipeline Co., Inc	Natural Gas Pipeline Co. of America, et al	01-17-89	C		
ST89-1747	United Texas Transmission Co	United Gas Pipe Line Co., et al	01-17-89	C		
ST89-1748	United Texas Transmission Co	United Gas Pipe Line Co	01-17-89	C		
ST89-1749	Transcontinental Gas Pipe Line Corp	Columbia Gas Transmission Corp	01-17-89	G		
ST89-1750	Transcontinental Gas Pipe Line Corp	Amoco Production Co	01-17-89	G-S		
ST89-1751	Ong Transmission Co	Williams Natural Gas Co	01-17-89	C	06-16-89	24.32
ST89-1752	Valero Transmission, L.P	Valero Interstate Transmission Co	01-17-89	C		
ST89-1753	El Paso Natural Gas Co	MGTC, Inc	01-19-89	B		
ST89-1754	El Paso Natural Gas Co	Petrus Oil Co., LP	01-19-89	G-S		
ST89-1755	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	01-17-89	B		
ST89-1756	Questar Pipeline Co	Westinghouse Electric Corp	01-17-89	G-S		

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1757	Northern Natural Gas Co	Natural Gas Inc	01-17-89	B		
ST89-1758	Northern Natural Gas Co	Iowa-Illinois Gas & Electric Co	01-17-89	B		
ST89-1759	Northern Natural Gas Co	Chevron U.S.A., Inc	01-17-89	G-S		
ST89-1760	Northern Natural Gas Co	Trinity Pipeline, Inc	01-17-89	G-S		
ST89-1761	Northern Natural Gas Co	Colony Pipeline Corp	01-17-89	B		
ST89-1762	Natural Gas Pipeline Co. of America	Midcon Marketing	01-17-89	G-S		
ST89-1763	Natural Gas Pipeline Co. of America	Mitchell Marketing Co	01-17-89	G-S		
ST89-1764	Natural Gas Pipeline Co. of America	Cincinnati Gas and Electric Co	01-17-89	B		
ST89-1765	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	01-17-89	B		
ST89-1766	Northwest Pipeline Corp	Jerome P. McHugh and Associates	01-17-89	G-S		
ST89-1767	Northwest Pipeline Corp	Grand Valley Gas Co	01-17-89	G-S		
ST89-1768	Southern Natural Gas Co	Sonat Marketing Co	01-17-89	G-S		
ST89-1769	Southern Natural Gas Co	Sonat Marketing Co	01-17-89	G-S		
ST89-1770	Southern Natural Gas Co	South Georgia Natural Gas Co	01-17-89	G-S		
ST89-1771	Southern Natural Gas Co	South Georgia Natural Gas Co	01-17-89	G-S		
ST89-1772	Southern Natural Gas Co	South Georgia Natural Gas Co	01-17-89	G-S		
ST89-1773	Southern Natural Gas Co	South Georgia Natural Gas Co	01-17-89	G-S		
ST89-1774	Valero Interstate Transmission Co	Valero Transmission, L.P	01-17-89	B		
ST89-1775	Louisiana Intrastate Gas Corp	Tennessee Gas Pipeline Co	01-17-89	C	06-16-89	27.44
ST89-1776	Louisiana Intrastate Gas Corp	Columbia Gulf Transmission Co	01-17-89	C	06-16-89	27.44
ST89-1777	Louisiana Intrastate Gas Corp	Southern Natural Gas Co	01-17-89	C	06-16-89	27.44
ST89-1778	Tennessee Gas Pipeline Co	Nashville Gas Co	01-17-89	B		
ST89-1779	Tennessee Gas Pipeline Co	Baltimore Gas and Elect. Co., et al	01-17-89	B		
ST89-1780	Trnasok, Inc	Natural Gas Pipeline Co. of America	01-17-89	C	06-16-89	32.50
ST89-1781	United Gas Pipe Line Co	City of Gulf Breeze	01-17-89	G-S		
ST89-1782	Transcontinental Gas Pipe Line Corp	Alabama Gas Corp	01-18-89	B		
ST89-1783	Trunkline Gas Co	Gastrak Corp	01-18-89	G-S		
ST89-1784	Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	01-17-89	B		
ST89-1785	Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	01-17-89	B		
ST89-1786	Williston Basin Interstate P/L Co	Wyoming Gas Co	01-17-89	B		
ST89-1787	Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	01-17-89	B		
ST89-1788	Williston Basin Interstate P/L Co	Northwestern Public Service Co	01-17-89	B		
ST89-1789	Williston Basin Interstate P/L Co	Cody Gas Co., et al	01-17-89	B		
ST89-1790	Natural Gas Pipeline Co. of America	Cepex, Inc	01-18-89	G-S		
ST89-1791	Ong Transmission Co	Williams Natural Gas Co	01-18-89	C	06-17-89	24.32
ST89-1792	Ong Transmission Co	Panhandle Eastern Pipe Line Co	01-18-89	C	06-17-89	24.32
ST89-1793	Ong Transmission Co	Panhandle Eastern Pipe Line Co	01-18-89	C	06-17-89	24.32
ST89-1794	Ong Transmission Co	Northern Natural Gas Co	01-18-89	C	06-17-89	24.32
ST89-1795	Ong Transmission Co	Natural Gas Pipeline Co. of America	01-18-89	C	06-17-89	24.32
ST89-1796	Ong Transmission Co	Valero Interstate Transmission Co	01-18-89	C	06-17-89	24.32
ST89-1797	Ong Transmission Co	Northern Natural Gas Co	01-18-89	C	06-17-89	24.32
ST89-1798	United Gas Pipe Line Co	Lone Star Gas Co. of Texas, Inc	01-18-89	B		
ST89-1799	United Gas Pipe Line Co	Laser Marketing Co	01-18-89	G-S		
ST89-1800	Trunkline Gas Co	Hadson Gas Systems, Inc	01-18-89	G-S		
ST89-1801	BP Gas Transmission Co	ANR Pipeline Co., et al	01-18-89	C	06-17-89	13.70
ST89-1802	Cabot Pipeline Corp	Cabot Gas Supply Corp	01-19-89	C	06-17-89	00.36
ST89-1803	Cabot Gas Supply Corp	Neches Gas Distribution Co	01-19-89	C		
ST89-1804	Caprock Pipeline Co	Cabot Gas Supply Corp	01-19-89	B		
ST89-1805	Valero Transmission, L.P	Northern Natural Gas Co	01-19-89	C		
ST89-1806	BP Gas Transmission Co	ANR Pipeline Co., et al	01-19-89	C	06-18-89	13.70
ST89-1807	Williams Natural Gas Co	Lakeview Village	01-18-89	G-S		
ST89-1808	Equitrans, Inc	Quality Rolls, Inc	01-18-89	G-S		
ST89-1809	Delhi Gas Pipeline Corp	Texas Gas Transmission Corp	01-19-89	C		
ST89-1810	Delhi Gas Pipeline Corp	Southern California Gas Co	01-19-89	C	06-18-89	35.00
ST89-1811	Paiute Pipeline Co	Southwest Gas Corporation-Northern NV	01-19-89	G-S		
ST89-1812	Paiute Pipeline Co	Southwest Gas Corporation-Northern CA	01-19-89	G-S		
ST89-1813	Paiute Pipeline Co	Nevada Cement Company	01-19-89	G-S		
ST89-1814	Natural Gas Pipeline Co. of America	Nicor Exploration Co	01-19-89	G-S		
ST89-1815	Ong Transmission Co	Northern Natural Gas Co	01-19-89	C	06-18-89	24.32
ST89-1816	Ong Transmission Co	Williams Natural Gas Co	01-19-89	C	06-18-89	24.32
ST89-1817	Ong Transmission Co	Natural Gas Pipeline Co. of America	01-19-89	C	06-18-89	24.32
ST89-1818	Ong Transmission Co	Panhandle Eastern Pipe Line Co	01-19-89	C	06-18-89	24.32
ST89-1819	Texas Gas Transmission Corp	Bethlehem Steel Corp	01-19-89	G-S		
ST89-1820	Texas Gas Transmission Corp	Total Minatome Corp	01-19-89	G-S		
ST89-1821	Texas Gas Transmission Corp	Natural Gas Clearinghouse, Inc	01-19-89	G-S		
ST89-1822	Texas Gas Transmission Corp	Energy Marketing Services, Inc	01-19-89	G-S		
ST89-1823	Texas Gas Transmission Corp	Kogas Inc	01-18-89	G-S		
ST89-1824	United Texas Transmission Co	Tennessee Gas Pipeline Co., et al	01-23-89	C		
ST89-1825	United Texas Transmission Co	United Gas Pipe Line Co., ete al	01-23-89	C		
ST89-1826	United Texas Transmission Co	United Gas Pipe Line Co	01-23-89	C		
ST89-1827	Natural Gas Pipeline Co. of America	Central Illinois Light Co	01-23-89	B		
ST89-1828	Natural Gas Pipeline Co. of America	Neches Gas Distribution Co	01-23-89	B		
ST89-1829	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	01-23-89	B		
ST89-1830	Natural Gas Pipeline Co. of America	Apache Corp	01-23-89	G-S		
ST89-1831	Phillips Gas Pipeline Co	Phillips Natural Gas Co	01-23-89	B		
ST89-1832	Panhandle Eastern Pipe Line Co	O.I. Brockway Glass, Inc	01-23-89	G-S		

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Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1833	Panhandle Eastern Pipe Line Co.	Indiana Gas Co	01-23-89	G-S		
ST89-1834	Panhandle Eastern Pipe Line co	Teapak, Inc.	01-23-89	G-S		
ST89-1835	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1836	Trunkline Gas Co.	Richmond Gas Corp.	01-23-89	B		
ST89-1837	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1838	Trunkline Gas Co.	Great River Gas Co.	01-23-89	B		
ST89-1839	Trunkline Gas Co.	Union Electric Co.	01-23-89	B		
ST89-1840	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1841	Trunkline Gas Co.	Seagull Marketing Services, Inc.	01-23-89	G-S		
ST89-1842	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1843	Trunkline Gas Co.	Louisiana Gas System, Inc.	01-23-89	B		
ST89-1844	Trunkline Gas Co.	Ohio Valley Gas Corp.	01-23-89	B		
ST89-1845	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1846	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1847	Trunkline Gas Co.	Central Illinois Light Co.	01-23-89	B		
ST89-1848	Northern Natural Gas Co.	Colony Pipeline Corp.	01-23-89	B		
ST89-1849	Northern Natural Gas Co.	PSI, Inc.	01-23-89	G-S		
ST89-1850	Northern Natural Gas Co.	West Texas Gas Utilities	01-23-89	B		
ST89-1851	Northern Natural Gas Co.	Enron Gas Processing Company	01-23-89	B		
ST89-1852	Northern Natural Gas Co.	Sonat Marketing Co.	01-23-89	G-S		
ST89-1853	Northern Natural Gas Co.	Peninsular Gas Co.	01-23-89	B		
ST89-1854	Northern Natural Gas Co.	Iowa Public Service Co.	01-23-89	B		
ST89-1855	Northern Natural Gas Co.	Transcontinental Gas Pipe Line Corp.	01-23-89	G		
ST89-1856	Northern Natural Gas Co.	Iowa Southern Utilities Co.	01-23-89	B		
ST89-1857	Northern Natural Gas Co.	Iowa Electric Light & Power Co.	01-23-89	B		
ST89-1858	Northern Natural Gas Co.	Sonat Marketing Co.	01-23-89	G-S		
ST89-1859	Enogex Inc.	Northern Natural Gas Co.	01-17-89	C	06-16-89	28.50
ST89-1860	Enogex Inc.	Northern Natural Gas Co.	01-17-89	C	06-16-89	28.50
ST89-1861	Enogex Inc.	Phillips Gas Pipeline Co.	01-17-89	C	06-16-89	28.50
ST89-1862	Enogex Inc.	Phillips Gas Pipeline Co.	01-17-89	C	06-16-89	28.50
ST89-1863	Enogex Inc.	Phillips Gas Pipeline Co.	01-17-89	C	06-16-89	28.50
ST89-1864	Enogex Inc.	Natural Gas Pipeline Co. of America	01-17-89	C	06-16-89	28.50
ST89-1865	Transwestern Pipeline Co.	Chevron U.S.A., Inc.	01-23-89	G-S		
ST89-1866	Columbia Gas Transmission Corp.	National Gas and Oil Corp.	01-23-89	B		
ST89-1867	Colorado Interstate Gas Co.	Public Service Co. of Colorado	01-23-89	B		
ST89-1868	Williams Natural Gas Co.	Northeast Oklahoma Public Facil. Auth.	01-23-89	G-S		
ST89-1869	Williams Natural Gas Co.	Reliance Pipeline Co.	01-23-89	B		
ST89-1870	Columbia Gulf Transmission Co.	Mountaineer Gas Co.	01-23-89	B		
ST89-1871	Columbia Gulf Transmission Co.	Washington Gas Light Co.	01-23-89	B		
ST89-1872	United Gas Pipe Line Co.	Eagle Natural Gas Co.	01-23-89	G-S		
ST89-1873	United Gas Pipe Line Co.	Enron Gas Marketing, Inc.	01-23-89	G-S		
ST89-1874	United Gas Pipe Line Co.	Alabama Gas Corp., et al.	01-23-89	B		
ST89-1875	Texas Eastern Transmission Corp.	Public Service Electric and Gas Co.	01-23-89	B		
ST89-1876	Texas Eastern Transmission Corp.	Southern Gas Co.	01-23-89	B		
ST89-1877	Texas Eastern Transmission Corp.	Endevco Pipeline Co.	01-23-89	B		
ST89-1878	Texas Eastern Transmission Corp.	Columbia Gas of Kentucky, Inc.	01-23-89	B		
ST89-1879	Texas Eastern Transmission Corp.	City of Lafayette	01-23-89	B		
ST89-1880	Texas Eastern Transmission Corp.	City of Loretto	01-23-89	B		
ST89-1881	Tennessee Gas Pipeline Co.	Creole Gas Pipeline Corp.	01-23-89	B		
ST89-1882	Tennessee Gas Pipeline Co.	North Alabama Gas District	01-23-89	B		
ST89-1883	Tennessee Gas Pipeline Co.	Western Kentucky Gas Co.	01-23-89	B		
ST89-1884	Tennessee Gas Pipeline Co.	Creole Gas Pipeline Corp.	01-23-89	B		
ST89-1885	Tennessee Gas Pipeline Co.	Louisiana Intrastate Gas Corp.	01-23-89	B		
ST89-1886	Tennessee Gas Pipeline Co.	Eastern Shore Natural Gas Co.	01-23-89	G		
ST89-1887	Tennessee Gas Pipeline Co.	City of Dickson	01-23-89	B		
ST89-1888	Northern Natural Gas Co.	Oxy U.S.A., Inc.	01-24-89	G-S		
ST89-1889	Northern Natural Gas Co.	Shell Gas Trading	01-24-89	G-S		
ST89-1890	Transwestern Pipeline Co.	McKay Oil Corporation	01-24-89	G-S		
ST89-1891	Tennessee Gas Pipeline Co.	Columbia Gas Transmission Corp.	01-24-89	G-S		
ST89-1892	Tennessee Gas Pipeline Co.	National Fuel Gas Supply Corp.	01-24-89	G		
ST89-1893	Panhandle Eastern Pipe Line Co.	City of Roodhouse	01-24-89	B		
ST89-1894	Panhandle Eastern Pipe Line Co.	Union Electric Co.	01-24-89	B		
ST89-1895	Panhandle Eastern Pipe Line Co.	Kansas Power and Light Co.	01-24-89	B		
ST89-1896	Panhandle Eastern Pipe Line Co.	Amgas, Inc.	01-24-89	G-S		
ST89-1897	Panhandle Eastern Pipe Line Co.	Central Illinois Light Co.	01-24-89	B		
ST89-1898	Natural Gas Pipeline Co. of America	United Texas Transmission Co.	01-24-89	B		
ST89-1899	Natural Gas Pipeline Co. of America	Western Kentucky Gas Co.	01-24-89	B		
ST89-1900	Natural Gas Pipeline Co. of America	Iowa-Illinois Gas & Electric Co.	01-24-89	B		
ST89-1901	ONG Transmission Co.	Panhandle Eastern Pipe Line Co.	01-24-89	C	06-23-89	24.32
ST89-1902	ONG Transmission Co.	United Gas Pipe Line Co.	01-24-89	C	06-23-89	24.32
ST89-1903	ONG Transmission Co.	Phillips Gas Pipeline Co.	01-24-89	C	06-23-89	24.32
ST89-1904	ONG Transmission Co.	Arkla Energy Resources	01-24-89	C	06-23-89	24.32
ST89-1905	Trunkline Gas Co.	Anadarko Trading Co.	01-24-89	G-S		
ST89-1906	Trunkline Gas Co.	Shell Gas Trading Co.	01-24-89	G-S		
ST89-1907	Trunkline Gas Co.	Exxon Corp.	01-24-89	G-S		
ST89-1908	Trunkline Gas Co.	American Central Gas Marketing Co.	01-24-89	G-S		

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-1909	Trunkline Gas Co.	Tejas Power Corp.	01-24-89	G-S		
ST89-1910	Trunkline Gas Co.	Panhandle Eastern Pipe Line Co.	01-24-89	G		
ST89-1911	Colorado Interstate Gas Co.	Questar Energy Co.	01-24-89	G-S		
ST89-1912	ANR Pipeline Co.	Neches Gas Distribution Co.	01-24-89	B		
ST89-1913	ANR Pipeline Co.	West Tennessee Public Utility Dist.	01-24-89	B		
ST89-1914	ANR Pipeline Co.	Texaco Gas Marketing, Inc.	01-24-89	G-S		
ST89-1915	ANR Pipeline Co.	Humble Gas System, Inc.	01-24-89	G-S		
ST89-1916	ANR Pipeline Co.	Bishop Pipeline Corp.	01-24-89	B		
ST89-1917	ANR Pipeline Co.	Northern Indiana Fuel & Light Co.	01-25-89	B		
ST89-1918	Natural Gas Pipeline Co. of America	Venture Pipeline Co.	01-25-89	B		
ST89-1919	Natural Gas Pipeline Co. of America	Texarkoma Transportation Co.	01-25-89	G-S		
ST89-1920	Natural Gas Pipeline Co. of America	Shell Gas Trading Co.	01-25-89	G-S		
ST89-1921	El Paso Natural Gas Co.	Pacific Gas and Electric Co.	01-25-89	B		
ST89-1922	ONG Transmission Co.	Natural Gas Pipeline Co. of America	01-25-89	C	06-24-89	24.32
ST89-1923	Questar Pipeline Co.	Chevron U.S.A., Inc.	01-25-89	G-S		
ST89-1924	Transcontinental Gas Pipe Line Corp.	TPC Pipeline Co.	01-25-89	B		
ST89-1925	Transcontinental Gas Pipe Line Corp.	Shell Gas Trading Co.	01-25-89	G-S		
ST89-1926	Panhandle Eastern Pipe Line Co.	Amgas, Inc.	01-25-89	G-S		
ST89-1927	Panhandle Eastern Pipe Line Co.	Amgas, Inc.	01-25-89	G-S		
ST89-1928	Panhandle Eastern Pipe Line Co.	Amgas, Inc.	01-25-89	G-S		
ST89-1929	ANR Pipeline Co.	Michigan Consolidated Gas Co.	01-25-89	B		
ST89-1930	ANR Pipeline Co.	Michigan Gas Co.	01-25-89	B		
ST89-1931	ANR Pipeline Co.	Lincoln Natural Gas Co.	01-25-89	B		
ST89-1932	Texas Gas Transmission Corp.	Mississippi Valley Gas Co.	01-25-89	B		
ST89-1933	Texas Gas Transmission Corp.	Energy Marketing Exchange, Inc.	01-25-89	G-S		
ST89-1934	United Gas Pipe Line Co.	Sabine-Desoto Pipeline Co., Inc.	01-25-89	B		
ST89-1935	United Gas Pipe Line Co.	Texaco Gas Marketing, Inc.	01-25-89	G-S		
ST89-1936	United Gas Pipe Line Co.	Transco Energy Marketing	01-25-89	G-S		
ST89-1937	United Gas Pipe Line Co.	Amoco Production Co.	01-25-89	G-S		
ST89-1938	United Gas Pipe Line Co.	Gas Transportation Corp.	01-25-89	B		
ST89-1939	United Gas Pipe Line Co.	Southern Natural Gas Co.	01-25-89	G		
ST89-1940	United Gas Pipe Line Co.	Mississippi Valley Gas Co.	01-25-89	B		
ST89-1941	United Gas Pipe Line Co.	Texican Natural Gas Co.	01-25-89	G-S		
ST89-1942	Williams Natural Gas Co.	BP Gas Marketing Co.	01-25-89	G-S		
ST89-1943	Williams Natural Gas Co.	Penntech, Inc.	01-25-89	G-S		
ST89-1944	CNG Transmission Corp.	Gulf Ohio Corp.	01-25-89	G-S		
ST89-1945	CNG Transmission Corp.	Pentex Petroleum, Inc.	01-25-89	G-S		
ST89-1946	CNG Transmission Corp.	End Users Supply System	01-25-89	G-S		
ST89-1947	CNG Transmission Corp.	Texas-Ohio Gas, Inc.	01-25-89	G-S		
ST89-1948	CNG Transmission Corp.	Baltimore Gas and Electric Co.	01-25-89	B		
ST89-1949	CNG Transmission Corp.	Pentex Petroleum, Inc.	01-25-89	G-S		
ST89-1950	CNG Transmission Corp.	Phoenix Diversified Ventures, Inc.	01-25-89	G-S		
ST89-1951	CNG Transmission Corp.	Heath Petro Resources, Inc.	01-25-89	G-S		
ST89-1952	CNG Transmission Corp.	Access Energy Corp.	01-25-89	G-S		
ST89-1953	Equitrans, Inc.	Equitable Gas Co., et al.	01-26-89	B		
ST89-1954	Equitrans, Inc.	Equitable Gas Co., et al.	01-26-89	B		
ST89-1955	Equitrans, Inc.	Equitable Gas Co.	01-26-89	B		
ST89-1956	Equitrans, Inc.	Equitable Gas Co.	01-26-89	B		
ST89-1957	Equitrans, Inc.	Columbia Gas of Pennsylvania, Inc.	01-26-89	B		
ST89-1958	Equitrans, Inc.	Peoples Natural Gas Co.	01-26-89	B		
ST89-1959	Equitrans, Inc.	Equitable Gas Co., et al.	01-26-89	B		
ST89-1960	BP Gas Transmission Co.	ANR Pipeline Co., et al.	01-26-89	C	06-25-89	13.70
ST89-1961	United Gas Pipe Line Co.	Olympic Pipeline Co.	01-26-89	B		
ST89-1962	United Gas Pipe Line Co.	Resource Group, Inc.	01-26-89	G-S		
ST89-1963	United Gas Pipe Line Co.	Reliance Gas Marketing Co.	01-26-89	G-S		
ST89-1964	United Gas Pipe Line Co.	Nerco Oil and Gas, Inc.	01-26-89	G-S		
ST89-1965	United Gas Pipe Line Co.	Olympic Pipeline Co.	01-26-89	B		
ST89-1966	United Gas Pipe Line Co.	Midcon Marketing Corp.	01-26-89	G-S		
ST89-1967	Transwestern Pipeline Co.	Cabot Gas Supply Corp.	01-26-89	B		
ST89-1968	Tennessee Gas Pipeline Co.	Sun Operating Limited Partnership	01-26-89	G-S		
ST89-1969	Tennessee Gas Pipeline Co.	Pentex Pipeline Co., Inc.	01-26-89	B		
ST89-1970	Lone Star Gas Co.	Northern Natural Gas Co.	01-26-89	C		
ST89-1971	United Gas Pipe Line Co.	NGC Intrastate Pipeline Co.	01-26-89	B		
ST89-1972	United Gas Pipe Line Co.	Seagull Marketing Services, Inc.	01-26-89	G-S		
ST89-1973	United Gas Pipe Line Co.	Superior Natural Gas Corp.	01-26-89	G-S		
ST89-1974	United Gas Pipe Line Co.	Texaco Gas Marketing, Inc.	01-26-89	G-S		
ST89-1975	Williston Basin Interstate P/L Co.	Montana-Dakota Utilities Co.	01-27-89	B		
ST89-1976	Williston Basin Interstate P/L Co.	Quivira Gas Co.	01-27-89	B		
ST89-1977	Williston Basin Interstate P/L Co.	Quivira Gas Co.	01-27-89	B		
ST89-1978	Williston Basin Interstate P/L Co.	Montana-Dakota Utilities Co.	01-27-89	B		
ST89-1979	Williston Basin Interstate P/L Co.	MGTC, Inc.	01-27-89	B		
ST89-1980	Louisiana Intrastate Gas Corp.	ANR Pipeline Co.	01-27-89	C	06-26-89	27.44
ST89-1981	Enogex Inc.	Arkla Energy Resources	01-26-89	C	06-25-89	26.50
ST89-1982	Enogex Inc.	British Petroleum	01-26-89	C	06-25-89	26.50
ST89-1983	Enogex Inc.	British Petroleum	01-26-89	C	06-25-89	26.50
ST89-1984	Enogex Inc.	British Petroleum	01-26-89	C	06-25-89	26.50

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ST89-1985	Enogex Inc	British Petroleum	01-26-89	C	06-25-89	28.50
ST89-1986	Enogex Inc	British Petroleum	01-26-89	C	06-25-89	28.50
ST89-1987	Enogex Inc	British Petroleum	01-26-89	C	06-25-89	28.50
ST89-1988	Enogex Inc	British Petroleum	01-26-89	C	06-25-89	28.50
ST89-1989	Enogex Inc	Phillips Gas Pipeline Co	01-26-89	C	06-25-89	28.50
ST89-1990	Enogex Inc	Phillips Gas Pipeline Co	01-26-89	C	06-25-89	28.50
ST89-1991	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1992	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1993	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1994	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1995	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1996	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1997	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1998	Tomcat		01-27-89	C	06-26-89	15.70
ST89-1999	Tomcat		01-27-89	C	06-26-89	15.70
ST89-2000	Tomcat		01-27-89	C	06-26-89	15.70
ST89-2001	Tomcat		01-27-89	C	06-26-89	15.70
ST89-2002	Tennessee Gas Pipeline Co	Coronado Transmission Co	01-27-89	B		
ST89-2003	Tennessee Gas Pipeline Co	ANR Gathering Co	01-27-89	G-S		
ST89-2004	Tennessee Gas Pipeline Co	Alcan Aluminum Co	01-27-89	G-S		
ST89-2005	Natural Gas Pipeline Co of America	Winnie Pipeline Co	01-27-89	B		
ST89-2006	Natural Gas Pipeline Co of America	Pacific Gas and Electric Co	01-27-89	B		
ST89-2007	Natural Gas Pipeline Co of America	Llano, Inc	01-27-89	B		
ST89-2008	Tarpon Transmission	Atlanta Gas Light Co, et al	01-27-89	B		
ST89-2009	Northwest Pipeline Corp	American Hunter Exploration, Ltd.	01-27-89	G-S		
ST89-2010	Northwest Pipeline Corp	Nevada Cement Company	01-27-89	G-S		
ST89-2011	Northwest Pipeline Corp	The Boeing Co	01-27-89	G-S		
ST89-2012	El Paso Natural Gas Co	Southern California Gas Co	01-27-89	B		
ST89-2013	El Paso Natural Gas Co	Cabot Gas Supply Corp	01-27-89	B		
ST89-2014	Northwest Pipeline Corp	Southwest Gas Corporation-Northern NV	01-27-89	G-S		
ST89-2015	Northwest Pipeline Corp	Southwest Gas Corporation-Northern CA	01-27-89	G-S		
ST89-2016	Northwest Pipeline Corp	Kimball Energy Corp	01-27-89	G-S		
ST89-2017	Northwest Pipeline Corp	Murphy Plywood Co	01-27-89	G-S		
ST89-2018	Northwest Pipeline Corp	Harvey's Resort Hotel/Casino	01-27-89	G-S		
ST89-2019	Williams Natural Gas Co	Rangeline Corp	01-27-89	G-S		
ST89-2020	Gulf Energy Pipeline Co	Tennessee Gas Pipeline Co	01-30-89	C		
ST89-2021	Sabine Pipe Line Co	Exxon Gas System, Inc	01-30-89	B		
ST89-2022	Sabine Pipe Line Co	Texas Eastern Transmission Corp	01-30-89	G		
ST89-2023	Tennessee Gas Pipeline Co	Columbia Gas Transmission Corp	01-30-89	G		
ST89-2024	Tennessee Gas Pipeline Co	Meridian Oil Inc	01-30-89	G-S		
ST89-2025	Tennessee Gas Pipeline Co	Columbia Gulf Transmission Co	01-30-89	G		
ST89-2026	Tennessee Gas Pipeline Co	Southern Natural Gas Co	01-30-89	G		
ST89-2027	Tennessee Gas Pipeline Co	BHP Petroleum Co., Inc	01-30-89	G-S		
ST89-2028	Tennessee Gas Pipeline Co	National Fuel Gas Supply Corp	01-30-89	G		
ST89-2029	Valero Transmission, LP	Texas Eastern Transmission Corp	01-30-89	C		
ST89-2030	Trans Texas Pipeline	El Paso Natural Gas Co	01-30-89	C		
ST89-2031	Valero Transmission, LP	Texas Eastern Transmission Corp	01-30-89	C		
ST89-2032	Cabot Gas Supply Corp	ANR Pipeline Co., et al	01-30-89	C		
ST89-2033	Cabot Pipeline Corp	Caprock Pipeline Co	01-30-89	C	06-29-89	00.38
ST89-2034	Caprock Pipeline Co	Picor Pipeline Co	01-30-89	B		
ST89-2035	Enserch Gas Transmission Co	Trunkline Gas Co	01-30-89	C		
ST89-2036	Natural Gas Pipeline Co. of America	LTV Steel Co., Inc	01-30-89	G-S		
ST89-2037	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	01-30-89	B		
ST89-2038	Natural Gas Pipeline Co. of America	PSI, Inc	01-30-89	G-S		
ST89-2039	Natural Gas Pipeline Co. of America	Bridgeline Gas Distribution Co	01-30-89	B		
ST89-2040	United Gas Pipe Line Co	Apache Transmission Corp	01-30-89	B		
ST89-2041	United Gas Pipe Line Co	Baltimore Gas & Elect. Co., et al	01-30-89	B		
ST89-2042	Texas Eastern Transmission Corp	Consolidated Edison Co. of NY, Inc	01-30-89	B		
ST89-2043	Northern Natural Gas Co	Union Texas Products Corp	01-30-89	G-S		
ST89-2044	Northern Natural Gas Co	Northern States Power Co	01-30-89	B		
ST89-2045	Northern Natural Gas Co	Minnegasco, Inc	01-30-89	B		
ST89-2046	Northern Natural Gas Co	City of Duluth, Dept. of Water & Gas	01-30-89	B		
ST89-2047	Northern Natural Gas Co	Northwestern Public Service Co	01-30-89	B		
ST89-2048	Northern Natural Gas Co	PSI, Inc	01-30-89	G-S		
ST89-2049	Columbia Gulf Transmission Co	North Carolina Natural Gas Corp	01-30-89	B		
ST89-2050	Columbia Gulf Transmission Co	Nashville Gas Co	01-30-89	B		
ST89-2051	Columbia Gas Transmission Corp	Quivira Gas Co	01-30-89	G-S		
ST89-2052	Northwest Pipeline Corp	Santa Fe Gas Marketing Co	01-30-89	G-S		
ST89-2053	Williams Natural Gas Co	Williams Gas Marketing Co	01-30-89	G-S		
ST89-2054	Williams Natural Gas Co	Williams Gas Marketing Co	01-30-89	G-S		
ST89-2055	Williams Natural Gas Co	Williams Gas Marketing Co	01-30-89	G-S		
ST89-2056	Moraine Pipeline Co	Wisconsin Natural Gas Co	01-31-89	B		
ST89-2057	Natural Gas Pipeline Co. of America	Southern Union Gas Co	01-31-89	B		
ST89-2058	Natural Gas Pipeline Co. of America	Wisconsin Natural Gas Co	01-31-89	B		
ST89-2059	Colorado Interstate Gas Co	Coastal States Gas Transmission Co	01-31-89	B		
ST89-2060	Texas Eastern Transmission Corp	Woodward Pipeline, Inc	01-31-89	B		

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cents/MMBTU)
ST89-2061	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	01-31-89	B		
ST89-2062	Transcontinental Gas Pipe Line Corp	Eastern Shore Natural Gas Co	01-31-89	G		
ST89-2063	Transcontinental Gas Pipe Line Corp	UGI Corp	01-31-89	B		
ST89-2064	Transcontinental Gas Pipe Line Corp	Commission of Public Works, Greenwood	01-31-89	B		
ST89-2065	Transcontinental Gas Pipe Line Corp	East Central Alabama Gas District	01-31-89	B		
ST89-2066	Transcontinental Gas Pipe Line Corp	UGI Corp	01-31-89	B		
ST89-2067	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	01-31-89	B		
ST89-2068	Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of NY, Inc	01-31-89	B		
ST89-2069	Transcontinental Gas Pipe Line Corp	Clinton Newberry Nat. Gas Authority	01-31-89	B		
ST89-2070	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	01-31-89	B		
ST89-2071	Seagull Shoreline System	Northern Natural Gas Co	01-31-89	C	06-30-89	06.50
ST89-2072	BP Gas Transmission Co	ANR Pipeline Co., et al	01-31-89	C	06-30-89	13.70
ST89-2073	Columbia Gulf Transmission Co	Humble Gas System, Inc	01-31-89	B		
ST89-2074	Columbia Gulf Transmission Co	National Fuel Gas Supply Corp	01-31-89	B		
ST89-2075	Williams Natural Gas Co	Union Pacific Resources Co	01-31-89	G-S		
ST89-2076	Williams Natural Gas Co	Kansas Power and Light Co	01-31-89	B		
ST89-2077	Williams Natural Gas Co	Ward Gas Marketing, Inc	01-31-89	G-S		

[1] Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (Final rule and notice requesting supplemental comments, 50 F.R. 42,372, 10/18/85).

[2] The intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's Regulations (18 C.F.R. 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 89-9316 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT89-6-000]

Caprock Pipeline Co.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

April 13, 1989.

Take notice that on April 5, 1989, Caprock Pipeline Company, tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Revised Original Volume No. 3:

Revised Original Sheet No. 19, Superseding
Original Sheet No. 19
Original Sheet No. 19.a through 19.1

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR §§ 385.214 and 385.21. All such motions or protests must be filed by April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 89-9308 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-45-002]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

April 13, 1989.

Take notice that on April 7, 1989, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, filed Second Substitute First Revised Thirty-First Revised Sheet No. 4 to Original Volumes No. 1 of its FERC Gas Tariff.

Inter-City states the revised tariff sheet reflects its quarterly PGA. Inter-City requests that the tariff sheet be made effective February 1, 1989.

Copies of the filing were served on Inter-City's jurisdictional customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 89-9304 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-45-001]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

April 13, 1989.

Take notice that on April 7, 1989, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, tendered for filing a revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff to be effective May 1, 1988:

Original Volume No. 1
Substitute Thirty-Third Revised Sheet No. 4

Inter-City states that this revised tariff sheet is filed as Inter-City's quarterly PGA pursuant to Order Nos. 483 and 483-A.

Inter-City states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

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Practice and Procedure. All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9305 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-14-005]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

April 13, 1989.

Take notice that on April 7, 1989, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, tendered for filing a revised tariff sheet to its FERC Gas Tariff.

Original Volume No. 1

Substitute Second
Substitute Thirty-Second Revised Sheet No. 4

Inter-City states that the revised tariff is filed pursuant to § 154.67 of the Commission's Regulations, and also complies with the Commission's orders issued in this docket on November 30, 1988 and March 28, 1989. Inter-City proposes the sheet to become effective May 1, 1989.

Inter-City states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9312 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC89-8-003]

Kentucky West Virginia Gas Co.; Tariff Filing

April 13, 1989.

Take notice that on March 30, 1989, Kentucky West Virginia Gas Company, (Kentucky West), P.O. Box 1388, Ashland, Kentucky 41105, filed in Docket No. TC89-8-003, the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Original Sheet No. 54G(1)
Original Sheet No. 54G(2)
Original Sheet No. 54G(3)
Original Sheet No. 54G(4)

Kentucky West states that the tariff sheets filed herein contain the Index of Entitlements implementing its gas supply cutailment plan and are being filed in compliance with Ordering Paragraph (b) of the Commission's order issued October 31, 1988, in Docket Nos. TC88-8-000 and TC88-8-001.

With the filing of the Index of Entitlements, Kentucky West requests that the Commission cancel and reserve for future use those tariff sheets which contain the interim pro-rata curtailment plan:

First Revised Sheet No. 54K, Superseding Original Sheet No. 54K
First Revised Sheet No. 54L, Superseding Original Sheet No. 54L
First Revised Sheet No. 54M, Superseding Original Sheet No. 54M

Kentucky West has requested that the Commission authorize the tendered tariff sheets to become effective May 1, 1989.

Kentucky West states that copies of this filing have been served on all parties to this proceeding and on each of Kentucky West's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 24, 1989, file with the Federal Energy Regulation Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9306 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-61-003 and RP89-146-000]

Kentucky West Virginia Gas Co.; Compliance Filing

April 13, 1989.

Take notice that on April 3, 1989, Kentucky West Virginia Gas Company (Kentucky West) filed certain tariff sheets in compliance with the Commission's order of March 2, 1989.

Kentucky West states that these tariff sheets restate its base tariff rates effective March 2, 1989, employing the modified fixed-variable methodology and reflect its PGA filing which became effective March 1, 1989 in Docket No. TF89-3-46. Kentucky West states that it is filing these tariff sheets under protest and without prejudice to its position set forth in its request for rehearing filed on March 17, 1989.

Kentucky West states that copies of this filing are being served upon all parties to this proceeding and to each of its customers and the public service commissions of Kentucky, Pennsylvania, and West Virginia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules and Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before April 20, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Secretary.

[FR Doc. 89-9313 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-33-000]

Northern Border Pipeline Co.; Informal Settlement Conference

April 13, 1989.

Taken notice that on May 31, 1989, at 1:00 p.m. in the offices of the Commission at 825 North Capitol Street, Washington, DC, there will be an informal settlement conference to explore the potential resolution of the issues contained in the above-captioned proceeding. It is the intention of the parties to discuss settlement of all outstanding issues.

Any party, as defined by 18 CFR 385.102(c) (1988) is invited to attend. Any persons wishing to become a party must move to intervene and receive intervener status pursuant to 18 CFR 385.214.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9315 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-11-003]

Northwest Pipeline Corp.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

April 13, 1989.

Take notice that on March 31, 1989, Northwest Pipeline Corporation tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1-A:

Second Revised Sheet No. 423
First Revised Sheet No. 423-A

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed by April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9309 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ89-2-29-001 and TQ89-3-29-001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

April 13, 1989.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on April 10, 1989 the following tariff sheets to its FERC Gas Tariff Second Revision Volume No. 1. Such sheets are proposed to be effective February 1, and April 1, 1989.

Effective February 1, 1989

Substitute Fifty-Fifth Revised Sheet No. 12
Substitute Fifty-Second Revised Sheet No. 15

Effective April 1, 1989

Substitute Fifty-Sixth Revised Sheet No. 12
Substitute Fifty-Third Revised Sheet No. 15

Transco states that this filing revises certain tariff sheets accepted by the Commission in the above referenced dockets to incorporate the currently effective Commodity PSP charge of 11.1¢ per dt.

Transco states that copies of the instant filing are being mailed to its jurisdictional customers, State Commissions, and interested parties. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with §§385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9307 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-68-011 and RP89-122-001]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

April 13, 1989.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on April 10, 1989 the following tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff. Such sheets are proposed to be effective May 1, 1989.

First Revised Sheet No. 12-B
First Revised Sheet No. 12-C
First Revised Sheet No. 12-D

Transco states that the purpose of the instant filing is to calculate the PSP charges for the second Annual Recovery Period (Year 2) commencing May 1, 1989, as provided in §§ 29.4(a) and 29.6(a) of Transco's General Terms and Conditions. The allocation of the Year 2 Fixed Monthly PSP Charges are reflected on the tariff sheets submitted in the instant filing. Transco also states that the resulting Year 2 Commodity PSP Charges are the same as those currently in effect for the initial Annual Recovery Period.

Transco further states that copies of the instant filing are being mailed to its jurisdictional customers, State Commissions and interested parties. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9311 Filed 4-18-89; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. MT89-5-000]

West Texas Gathering Co.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

April 13, 1989.

Take notice that on April 5, 1989, West Texas Gathering Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Revised Original Volume No. 2:

Revised Original Sheet No. 19, Superseding Original Sheet No. 19
Original Sheet No. 19.a through 19.1

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed by April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 89-9310 Filed 4-18-89; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3558-1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and is available to the public for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: National Residential Radon Survey. (EPA ICR No. 1396; OMB No. 2060-0173). This is a new collection.

Abstract: This survey will collect information on radon gas levels present in residential structures across the country as well as information on building construction and individual occupancy patterns. Radon measurement devices will be placed in randomly selected households for a period of one year. The information will be used to estimate the frequency distribution of annual average radon concentrations in housing nationwide and to investigate correlations between specific construction types and radon levels.

Burden Statement: The estimated public burden for this collection of information is 1 hour per response.

Respondents: Residential dwellers.

Estimated No. of Respondents: 7,500.

Estimated Total Burden on Respondents: 7,500 hours.

Frequency of Collection: One time only.

Expedited Review: The comment period for this collection of information is May 10, 1989.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460, and Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, SW., Washington, DC 20503, (Telephone (202) 395-3084).

OMB Responses to Agency PRA Clearance Requests

EPA ICR # 370.09; Underground Injection Control Program Information; was approved 03/07/89; OMB # 2040-0042; expires 09/30/91.

EPA ICR # 1343; Reports for States to Make SARA Capacity Assurances; was approved 03/09/89; OMB # 2050-0099; expires 11/30/90.

EPA ICR # 1491; Notification of National Response Center for Release of Extremely Hazardous Substances Newly Designated as Hazardous Substances Under CERCLA; was approved 03/09/89; OMB # 2050-0102; expires 01/31/92.

EPA ICR # 0011.04; Selective Enforcement Auditing Reporting Requirements for Light-Duty Vehicles, Light-Duty Trucks and Heavy-Duty Engines; was approved 03/09/89; OMB # 2060-0064; expires 03/31/92.

EPA ICR # 1245.02; Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs; was disapproved 03/10/89.

EPA ICR # 0111.03; National Emission Standard for Asbestos (NESHAP); was disapproved 03/01/89.

Date: March 24, 1989.

Paul Lapsley, Director,
Information and Regulatory Systems Division.

[FR Doc. 89-9377 Filed 4-18-89; 8:45 am]
BILLING CODE 6560-50-M

[FRL-3557-8]

Performance Evaluation Reports for Fiscal Year 1988; Section 105 Grants; Missouri, et al

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to conduct yearly performance evaluations on the progress of the approved State/EPA Agreements. EPA's regulations (40 CFR 56.7) require that the Agency make available to the public the evaluation reports. EPA has conducted evaluations on the Missouri Department of Natural Resources, Nebraska Department of Environmental Control, Iowa Department of Natural Resources, and Kansas Department of Health and Environment. These evaluations were conducted to assess the agencies' performance under the grants made to them by EPA pursuant to section 105 of the Clean Air Act.

EFFECTIVE DATE: April 19, 1989.

ADDRESSES: Copies of the evaluation reports are available for public inspection at the EPA's Region VII Office, Air and Toxics Division, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Carol D. LeValley at (913) 236-2893 (FTS 757-2893).

Date: April 3, 1989.

Morris Kay,
Regional Administrator.

[FR Doc. 89-9379 Filed 4-18-89; 8:45 am]
BILLING CODE 6560-50-M

[PF-516; FRL-3554-51]

Ciba-Geigy Corp.; Amended Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of an amendment to pesticide petition (PP) 9F3706 by the Ciba-Geigy Corp.

ADDRESS: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H-7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA wihtout prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, cluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Lois Rossi, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telphone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1990.

SUPPLEMENTARY INFORMATION: EPA has received from the Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, an amendment to PP 9F3706, which proposed to amend 40 CFR 180.434 by proposing to establish a regulation to permit the combined residues of fungicide 1-[[2-2,4-dichlorophenyl]-4-propyl-1,3-dioxolan-2-yl]methyl)-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid in or on kidney and liver of cattle, goats, hogs, horses, and sheet at 2.0 parts per million (ppm).

Ciba-Geigy originaly petitioned for tolerances for this pesticide in or on grass hay at 5.0 ppm and grass forage at 0.5 ppm. Notice of this petition was published in the Federal Register of February 22, 1989 (54 FR 7597). The petition was amended to add the raw agricultural commodity grass seed screenings at 19 ppm. Notice of this amended petition was published in the Federal Register of March 15, 198 (54 10715).

Authority: 21 U.S.C. 346a.

Dated: March 30, 1989.

Anne E. Lindsay,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-8820 Filed 4-18-89; 8:45 am]
BILLING CODE 6560-50-M

[PP 8G3680/T576; FRL-3556-6]

Rohm and Haas Co.; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the fungicide alpha-butyl-alpha-[4-chlorophenyl]-1*H*-1,2,4-triazole-1-propanenitrile and its metabolites containing both the chlorophenyl and triazole rings (free and bound) in or on the raw agricultural commodity stone fruits group (except dried plums) at 2 parts per million.

DATE: This temporary tolerance expires October 31, 1990.

FOR FURTHER INFORMATION CONTACT: By mail:

Susan Lewis, Product Manager (PM) 21, Registration Division (H75C5C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-1900

SUPPLEMENTARY INFORMATION: Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, has requested in pesticide petition (PP) 8G3680 the establishment of a temporary tolerance for residues of the fungicide alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its metabolites containing both the chlorophenyl and triazole rings (free and bound) in or on the raw agricultural commodity stone fruits groups (except dried plums) at 2 parts per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 707-EUP-119, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employer of the EPA or the Food and Drug Administration.

This tolerance expires October 31, 1990. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: March 30, 1989.

Anne E. Lindsay,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-9117 Filed 4-18-89; 8:45 am]
BILLING CODE 6560-50-M

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[OPP-50696; FRL-3554-4]

Receipt of Notification of Intent To Conduct Small-Scale Field Testing; Genetically Altered Microbial Pesticide; Ciba-Geigy Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a notification of intent to conduct small-scale field testing of a transconjugate strain of *Bacillus thuringiensis* derived using traditional cell culture techniques from the Ciba Geigy Corporation.

ADDRESS: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

In person bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked, will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for the inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and all written comments will be available for public inspection in Room 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2690).

SUPPLEMENTARY INFORMATION: A notification of intent to conduct small-scale field testing pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), has been received from the Ciba-Geigy Corporation of Greensboro, North Carolina. The purpose of the proposed testing is to evaluate the efficacy of the transconjugate *Bocillus thuringiensis* strain towards lepidopterous insect pests of cabbage. The field test is to take place in California, Florida, Illinois, Mississippi, New York and Wisconsin for a combined acreage of 0.12 acre.

Following the review of the Ciba-Geigy Corporation application, EPA will decide whether or not an Experimental Use Permit is required.

Dated: April 2, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-8821 Filed 4-18-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50699; FRL-3558-2]

Receipt of a Notification Application To Conduct Field Testing Using a Non-Indigenous Microorganism

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA has received from Evans Biocontrol a notification application requesting permission to conduct small-scale field testing using a non-indigenous Brazilian isolate of *Beauveria bassiana* for control of Solenopsis invicta, the Red Imported Fire Ant.

ADDRESS:

By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (HJ7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703) 557-2690.

SUPPLEMENTARY INFORMATION: EPA has received a notification of intent application from Evans Biocontrol requesting to use a Brazilian strain of *Beauveria bassiana* on nests of the Red Imported Fire Ant, Solenopsis invicta, on non-grazing pastureland in Florida to assess the environmental impact. Nest applications sites will be closely monitored to ensure that the bait does not spread from the fire ant nests. A longer term monitoring of the test site will be conducted to determine any persistence of this microorganism in the soil.

Following the review of this notification, EPA will decide whether or not an experimental use permit is required.

Dated: April 11, 1989.

Frank Sanders,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-9378 Filed 4-18-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-36164; FRL-3556-5]

Standard Evaluation Procedures; Availability of Final Guidance Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: This notice announces the availability of seven scientific review procedures outlined in the Standard Evaluation Procedures (SEPs), a standard set of guidance documents on how the Health Effects Division, Office of Pesticide Programs, EPA, evaluates studies and scientific data to ensure consistency of scientific review. These documents, described under **SUPPLEMENTARY INFORMATION,** are now available to the public and may be purchased through the National Technical Information Service (NTIS).

ADDRESS: Address orders to: National Technical Information Service, ATTN: Order Desk, 5285 Port Royal Road, Springfield, VA 22161, (703-487-4650).

FOR FURTHER INFORMATION CONTACT: By mail:

Maxie Jo Nelson, Health Effects Division (H7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm 810, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7484)

SUPPLEMENTARY INFORMATION: The SEPs are a standard set of guidance documents on how the Health Effects Division (HED) evaluates studies and scientific data to ensure consistency of scientific reviews. Not only do the SEPs serve as valuable internal reference documents and training aids for new staff, but these documents also inform the public and regulated community of important considerations in the evaluation of test data for determining chemical hazards.

The SEPs ensure a comprehensive, consistent treatment of major scientific topics in EPA's science reviews and provide interpretive policy guidance where appropriate, but are not so detailed that they inhibit creativity and independent thought. Throughout the remainder of this fiscal year, HED will be publishing three additional SEPs in the scientific discipline of chemistry. Thirty-seven SEPs have been published previously and are also available from NTIS, which is responsible for distribution of all SEPs after they have been completed. Prior to publication, each of the SEPs must undergo extensive peer review including Division, Office, Intra-Agency, and public comment; this announcement will serve to provide ordering information for the seven SEPs recently published.

Document title	NTIS order No.	Price (hard copy)	Price (microfiche)
Directions for Use	PB88-243225	13.95	6.95
Magnitude of the Residue: Processed Food/Feed Studies	PB88-243209	13.95	6.95
Product Chemistry	PB88-243191	13.95	6.95
Residues in Meat, Milk, Poultry, and Eggs: Dermal Treatments	PB88-243217	13.95	6.95
Specialty Applications	PB88-244454	13.95	6.95
Qualitative Nature of the Residue: Plant Metabolism	PB89-100333	13.95	6.95
Inhalation Toxicity Testing	PB89-100366	13.95	6.95

The order should specify the title of the SEP document, the NTIS order number, and whether hard copy (price code A03) or microfiche (price code A01) is requested. The NTIS order number is the same for both microfiche and hard copy. Send orders to the NTIS address provided above.

Dated: March 31, 1989.

William D. Barnam,

Acting Director, Health Effects Division, Office of Pesticide Programs.

[FR Doc. 89-9119 Filed 4-18-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New.

Title: Hazard Mitigation Grant Program Application.

Abstract: Public Law 100-707, The Disaster Relief and Emergency Assistance Amendments of 1988 allows for States to apply for funding of hazard mitigation measures following a Federal declaration of a major disaster or emergency. States, local governments, and private non-profit organizations will be the recipients of the funds, and must meet the application requirements of 44 CFR Part 206, Subpart N.

Type of Respondents: State or local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 1.

Number of Respondents: 1.

Estimated Average Burden Hours Per Response: 1.

Frequency of Response: Other. The program is only activated after a declaration for Federal disaster assistance.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Pamela Barr, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: April 12, 1989.

Gail L. Kercheval,

Acting Director, Office of Administrative Support.

[FR Doc. 89-9363 Filed 4-18-89; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New.

Title: State Administrative Plan for the Hazard Mitigation Grant Program.

Abstract: Public Law 100-707, The Disaster Relief and Emergency Assistance Amendments of 1988, allows for States to apply for funding of hazard mitigation measures following a Federal declaration of a major disaster or emergency. States will serve as grantees and must prepare an administrative plan which outlines the procedures for grant management.

Type of Respondents: State or local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 1.

Number of Respondents: 1.

Estimated Average Burden Hours per Response: 1.

Frequency of Response: Other. The program is only activated after a declaration for Federal disaster assistance.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance

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Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Pamela Barr, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: April 12, 1989.

Gail L. Kercheval,

Acting Director, Office of Administrative Support.

[FR Doc. 89–9447 Filed 4–18–89; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067–0098.

Title: FEMA Form 85–16, Summary of State and Local Expenses for Emergency Management Assistance.

Abstract: The Emergency Management Assistance 50–50 matching fund grant program requires FEMA Form 85–16 be submitted as a request or amended request for a financial contribution. The information constitutes the plan under which program funds will be allocated to the States.

Type of Respondents: State or local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 112.

Number of Respondents: 56.

Estimated Average Burden Hours Per Response: 2.

Frequency of Response: Annually and when amendments must be submitted.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Pamela Barr, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: April 10, 1989.

Gail L. Kercheval,

Acting Director, Office of Administrative Support.

[FR Doc. 89–9448 Filed 4–18–89; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217–011215–001.

Title: Naviera Pacifico/N.V. CMB S.A. Space Charter Agreement.

Parties:

Naviera Pacifico C.A.
N.V. CMB S.A.

Synopsis: The proposed modification would permit the parties to discuss, negotiate, enter into and implement agreements or arrangements for procuring and utilizing marine terminal, stevedoring and related cargo handling facilities and services in connection with their existing space charter arrangements for excess capacity on their respective vessels.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: April 13, 1989.

[FR Doc. 89–9442 Filed 4–18–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Citicorp, New York, NY; Requesting Relief From Conditions Imposed on the Acquisition of Thrift Institutions by Bank Holding Companies

Citicorp, New York, New York ("Citicorp"), has filed a notice requesting relief from the restrictions imposed by the Board by order, pursuant to section 4(c)(8) of the Bank Holding Company Act [12 U.S.C. 1843(c)(8)] ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y [12 CFR 225.23(a)(3)], on joint marketing operations between, and transactions among, thrift institution subsidiaries of Citicorp and their holding company affiliates. These conditions, commonly referred to as the "tandem operations restrictions," provide that:

(1) the thrift institutions would be operated as separate, independent, profit-oriented corporate entities and would not be operated in tandem with any other subsidiary of the bank holding company. In order to carry out this condition, the bank holding company and thrift institutions would limit their operations so that:

(a) no banking or other subsidiary of the bank holding company would link its deposit-taking activities to accounts at the thrift institutions in a sweeping arrangement or similar arrangement; and,

(b) the thrift institutions would not directly or indirectly solicit deposits or loans for any other subsidiary of the bank holding company and the bank holding company and its subsidiaries would not solicit deposits or loans for the thrift institutions; and

(2) to the extent necessary to insure independent operation of the thrift institution and prevent the improper diversion of funds, the thrift institutions would not engage in any transactions with the bank holding company or its other subsidiaries without prior approval of the appropriate Federal Reserve Bank.

Citicorp contends that these conditions prohibit normal and lawful business behavior, impose unnecessary costs and burdensome inefficiencies, limit services to consumers, and frustrate efforts to restore failed or failing thrift institutions to financial viability. Citicorp also argues that the tandem operations restrictions have worked as a significant deterrent to thrift acquisitions by bank holding companies, at a time when bank holding companies could help to fulfill the thrift industry's critical need for outside financial and managerial resources. In addition, Citicorp points to the provisions of the proposed Financial Institutions Reform, Recovery and Enforcement Act of 1989, which would authorize bank holding companies to acquire thrift institutions without restrictions on transactions between the thrift and its holding company affiliates except as required under sections 23A and 23B of the Federal Reserve Act, or as otherwise required by law.

The Board believes that, in considering action in this area, it is appropriate to seek public comment, in light of the significant public

participation that surrounded the original development of the conditions. Accordingly, the Board seeks public comment on whether the restrictions should be retained, modified or removed.

Comments regarding this notice, which would refer to Docket No. R–0663, must be received at the offices of the Board of Governors no later than May 19, 1989. All comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the courtyard entrance, Eccles Building, 20th Street NW., between "C" Street and Constitution Avenue NW., Washington, DC, between 8:45 a.m. and 5:15 p.m. weekdays. Citicorp's request for relief is available for inspection at the offices of the Board of Governors.

Board of Governors of the Federal Reserve System, April 12, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9298 Filed 4–18–89; 8:45 am]

BILLING CODE 6210–01–M

Capital City Bank Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 5, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Capital City Bank Group, Inc.*, Tallahassee, Florida; to acquire 100 percent of the voting shares of Branford State Bank, Franford Florida.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Farmers Savings Bank, Trustee of Farmers Savings Bank Employee Stock Ownership Plan & Trust*, West Union, Iowa; to become a bank holding company by acquiring 49.1 percent of the voting shares of Farmers Savings Bank, West Union, Iowa.

2. *Fistar Corporation*, Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Elkhorn Bankshares Corp., Elkhorn, Wisconsin, and thereby indirectly acquire State Bank of Elkhorn, Elkhorn, Wisconsin.

3. *F.W.S.F. Corporation*, Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Elkhorn Bankshares Corp., Elkhorn, Wisconsin, and thereby indirectly acquire State Bank of Elkhorn, Elkhorn, Wisconsin.

Board of Governors of the Federal Reserve System, April 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9345 Filed 4–18–89; 8:45 am]

BILLING CODE 6210–01–M

Westpac Banking Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Westpac Banking Corporation*, Sydney, Australia; to engage in making, acquiring, or servicing loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the company's account or for the account of others, such as would be made by the following types of companies: (i) Consumer finance; (ii) credit card; (iii) mortgage; (iv) commercial finance; and (v) factoring pursuant to § 225.255(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9346 Filed 4–18–89; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Group Home for Recovering Substance Abusers; Guidelines

Pub. L. 100–690, The Anti-Drug Abuse Act of 1988, amended Subpart I of Part B of Title XIX of the Public Health Service Act by adding a new section 1916A establishing a program entitled Group Homes for Recovering Substance Abusers. In accordance with the law, guidelines for the operation of this new program follow:

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Guidelines—Group Homes for Recovering Substance Abusers

Introduction

The Group Homes for Recovering Substance Abusers program provides for the nationwide establishment of self-help recovery housing services and a cost-effective method for many recovering individuals to avoid relapse.

Under the new law, recovering individuals will have the opportunity to develop a new alcohol and drug free lifestyle by accepting responsibility for operation of alcohol and drug free recovery housing. By having responsibility for operating a recovery house within a democratically run and self-supported system, individuals gain confidence in exercising responsibility without the use of alcohol and drugs. Note: there are no restrictions in the statute regarding the source of funds for self-support.)

Experience demonstrates that democratically operated, self-supported systems instill responsibility and accomplishment in the residents thereby making long-term abstinence from drug and alcohol use more viable. For these reasons, the new law utilizes the principle of making available small start-up loans rather than grants for supporting the costs of establishing recovery housing services.

It is important to note that the number of new houses started will depend upon the degree to which the new program is promoted and explained at both the State and Federal levels of Government. The concept is new, therefore, considerable education and promotion is necessary to achieve an understanding of its simplicity and how it works.

Purpose

The purpose of these guidelines is to assist States in establishing a revolving fund to provide loans to non-profit private entities for the costs of establishing programs for the provison of housing in which individuals recovering from alcohol or drug abuse may reside. The guidelines are intended to identify potential problems and to ensure that appropriate consideration is given to relevant issues in developing and establishing programs to implement the legislation.

The guidelines are not intended to supplant the functions or responsibilities of the States. They do not constitute Federal regulation but are *advisory* in nature and are intended to reflect a logical, reasonable approach which is consistent with the legislation.

Applicability

The information contained herein applies only to section 1916 A of the Public Health Service Act. All existing Federal, State, and local laws and regulations must continue to be complied with in implementing this new provision of law.

Structure

The guidelines address three basic elements necessary for the States to implement the legislation: (1) Establishing the fund; (2) establishing a loan management process; and (3) establishing quality control and accountability measures.

Authority

The Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, approved November 18, 1988) amended Subpart I of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x) by adding a new section 1916A establishing a program entitled Group Homes for Recovering Substance Abusers.

Generally, this section requires each State, as a contingency of receiving funds under the Alcohol and Drug Abuse and Mental Services (ADMS) Block Grant, to establish a revolving fund of at least $100,000 to provide loans to non-profit private entities for the provision of housing for four or more recovering individuals who want to rent a house or use other housing as self-supported and self-run alcohol and drug free recovery programs.

Specifically, section 1916A states:

(a) For fiscal year 1989, the Secretary may not make payments under section 1914 unless the State involved agrees—

(1) to establish, directly or through the provision of a grant or contract to a non-profit private entity, a revolving fund to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 4 individuals;

(2) to ensure that the programs are carried out in accordance with guidelines issued under subsection (c);

(3) to ensure that not less than $100,000 will be available for the revolving fund;

(4) to ensure that each loan made from the revolving fund does not exceed $4,000 and that each such loan is repaid to the revolving fund not later than 2 years after the date on which the loan is made;

(5) to ensure that each such loan is repaid through monthly installments and that a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved; and

(6) to ensure that such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan—

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

(B) any resident of the housing who violates such prohibition will be expelled from the housing;

(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing, and

(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

(b) For Fiscal Year 1989 and subsequent fiscal years, the Secretary may not make payments under section 1914 unless the State involved provides assurances satisfactory to the Secretary that the State has provided for the establishment and ongoing operation of a revolving fund in accordance with subsection (a).

(c) Not later than 90 days after the date of the enactment of the Comprehensive Alcohol, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary, acting through the Administrator, shall issue guidelines for the operation of programs described in subsection (a).

Establishment of the Fund

States must establish, directly or through provision of a grant or contract to a non-profit private entity, a revolving fund to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 4 individuals.

The Federal Government reiterates the basic principle under the ADMS Block Grant program that a State has discretion over the manner in which this new requirement is implemented so long as the State's position is not clearly erroneous.

Creation of the Fund

States are required to establish a revolving fund in the amount of $100,000. There is no legislative requirement concerning the source of monies required to establish the fund. Therefore, monies used to establish the revolving fund may come from any source not otherwise restricted by Federal, State, or local entities. As an example, States may accept contributions from outside sources; may use discretionary funds emanating from the ADMS Block Grant; or may use general State revenues.

The revolving fund is to be self-sustaining. Program-generated funds (e.g. loan paybacks) should be reinvested into the revolving fund as should interest or dividends earned by the account.

There are no legislative restrictions on spending patterns other than setting a limit of $4,000 per loan. Limitations addressing these and other factors are entirely at the State's discretion.

Purpose of the Fund

Funds are to be used to provide small start-up loans to groups of recovering individuals. States should identify and clearly define purposes for which the State will authorize the expenditure of funds. All of those purposes must be in accordance with the legislation.

Examples of legitimate uses of revolving fund loans are: security deposit; first month's rent; furniture such as beds; facility modifications (e.g. conversion of a basement into a game room or extra bedroom); purchase of amenities which foster healthy group living (e.g. dishwasher).

Management of the Fund

States must establish, directly or through the provision of a grant or contract to a non-profit private entity, a revolving fund.

If authorized by a State's law, the State may manage the revolving fund through commercial banks, or directly. States may opt to place management of the fund at any organizational position within their respective hierarchies, e.g., in the offices of the comptroller, housing authority, or health care system.

On the other hand, States may opt to or be required by State Constitution to estabish a fund management group through the provision of a grant or contract to a non-profit private entity. Examples of such entities are: State credit unions; community action groups; foundations; not-for-profit alcohol and drug abuse service providers.

In every case, the fund management group must abide by existing Federal, State, and local regulations governing the operation of financial entities as well as those governing private non-profit organizations. They must have demonstrated capabilities of administering such a program at a level of professionalism and in accordance with standards acceptable to the State including proper notification for late payments.

Establishment of criteria for selecting a fund management group is at the discretion of the State. Consideration should be given to the qualifications, expertise, experience, and capabilities of those organizations.

Recordkeeping and auditing of the fund management operation should be in accordance with established policies and procedures governing similar financial institutions in the State.

Loan Configuration

By law, individual loans for the establishment of programs to provide housing may not exceed $4,000 each. The loans are to be repaid within a 2-year period (See repayment requirements below).

There is no legislative limitation on the number of times a group may apply for a loan to start-up a new recovery house.

States should use their discretion in establishing methods of paying out the funds, e.g., in a lump sum, by monthly draw, or by reimbursement.

Designation of Loan Approval Authority

States may request assistance to approve/deny applications for loans from any entity (individual or group of individuals) meeting State-established criteria. Determinations of terms of office, appointment method, credentials required, etc., are at the discretion of the State. Examples are an advisory board of volunteers or a non-profit organization dedicated to the principle of self-help addiction recovery.

Borrower Eligibility Criteria

Generally, loan applicants may be considered eligible if they are non-profit private entities and agree to operate the housing in a self-run and self-supported manner, including responsibility by residents of the housing for repayment of the loan according to its terms, and assure that its residents are free of alcohol and drug use.

As stipulated in the legislation, prospective borrowers must be non-profit private entities. They must agree: (1) To maintain the house as an alcohol and drug free environment; (2) that residents of the house will remain alcohol and drug free; (3) that any resident of the house who violates the pledge will be expelled from the house; (4) that the costs of the housing, including rent and utilities, will be borne by the residents; and (5) that the house will be operated as a self-managed democracy.

In determining eligibility of prospective borrowers, States (or their designees) may wish to consider such elements as: assurances that the stated intended use of the funds is in accordance with the legislation; reasonable assurances that the group can manage their own alcohol and drug free recovery housing; an assessment of the group's "ability to pay;" and special populations, such as alcohol and drug dependent individuals who are homeless.

There is no legislative requirement that the group acquire sponsorship or affiliate with treatment, rehabilitation, or other groups. However, affiliation of the new group home with such organizations encourages the recovery community to provide quality control.

Application Procedure

Each State (or its designee) should establish a procedure and process for applying for a loan under this program. The loan approval authority may wish to require, as an example, the completion of application forms, or face to face interviews with prospective borrowers. Submission of evidence to support assertions is at the discretion of the State as is the method of verifying eligiblity.

Timelines, milestones, required documentation, and procedures should be clearly defined, written, and made available to all applicants.

Repayment Requirements

The law stipulates that each loan is to be repaid through monthly installments and that each such loan is to be repaid to the revolving fund not later than 2 years after the date on which the loan is made. Further, a reasonable penalty is to be assessed for each failure to pay such periodic installments by the date specified in the loan agreement.

Repayment schedules and prescribed penalties for late or missing payments should be established by the State. In the event a given group appears unable to satisfy the loan obligation, States may consider alerting the quality control group to determine what assistance the group in arrears might need.

Liability and recourse for default is to be determined by the State.

Quality Control

Quality control is simply the assurance that the homes stay alcohol and drug free, pay their bills, and are run democratically.

States may wish to establish a quality control group whose general purpose would be to see that the program is operated in a legal, viable, and effective manner. Membership in this group, its location in an organizational structure, its responsibilities, and its authorities would be established by the State.

By virtue of the requirement that a house be self-governed, the residents could be construed as a quality control group. The State may consider requiring

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its fund management group to acquire corroboration that the recovery house is operating in compliance with its obligations.

Reporting

States may be requested to provide information on the establishment/operation of Group Homes under these Guidelines. Data reporting requirements, if any, will be addressed through the Alcohol and Drug Abuse and Mental Health Services (ADMS) Block Grant reporting mechanism.

Evaluation

States are advised that, as part of an overall effort to assess the quality and effectiveness of services programs, section 2039 of the Anti-Drug Abuse Act of 1988 requires the Secretary to evaluate alcohol and drug abuse treatment programs to determine the quality and appropriateness of various forms of treatment, including the effect of living in group housing. Therefore, it is recommended that programs established under this new provision of law have in place a system for measuring progress and effectiveness. The system should include periodic, objective measures by individuals who are not recipients of the loan or who have no direct responsibility with administering the loan.

Contact

These guidelines provide a brief summary of basic principles and issues relating to the administration of a revolving loan program to provide group homes for recovering alcohol and drug abusers. Further information may be obtained from Mr. Gary Palsgrove, Alcohol, Drug Abuse, and Mental Health Administration, 5600 Fishers Lane, Rockville, MD 20857. Mr. Palsgrove may be telephoned at 301–443–3820.

For additional program guidance, potential applicants should contact the appropriate State alcohol, drug abuse, or mental health authority.

The requirement for establishing the Group Homes for Recovering Substance Abusers program is contained in legislation which authorizes the Alcohol and Drug Abuse and Mental Health Services Block Grant program. See Catalog of Federal Domestic Assistance Number 13.992.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc. 89-9289 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 89N-0075]

Ormont Drug and Chemical Co., Inc.; Proposal to Withdraw Approval of NADA, Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing an opportunity for hearing on the proposal to withdraw approval of the new animal drug application (NADA) held by Parlam Division, Ormont Drug and Chemical Co., Inc. The NADA provides for the use of 25 percent squalene in mineral oil for removal of earwax in dogs and cats. FDA is proposing this action because the firm failed to file the required reports or to provide any information to identify itself and its correct mailing address as required by the agency's regulations.

DATES: A written hearing request by May 19, 1989. Data and analysis supporting the request for hearing by June 19, 1989.

ADDRESS: Written hearing request, data, information, and analysis to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: The Center for Veterinary Medicine (CVM) is providing an opportunity for hearing on the proposal to withdraw approval of NADA 12–232 held by Parlam Division, Ormont Drug and Chemical Co., Inc., 520 South Dean St., Englewood, NJ 07631. The NADA provides for use of Sebumsol 25 percent (25 percent squalene in mineral oil) as a cerumenolytic agent for removal of earwax in dogs and cats. The NADA was orignally approved April 21, 1960. It was one of several which were the subject of a notice of opportunity for hearing on the proposed withdrawal of approval of the NADA's (36 FR 8065 at 8070; April 29, 1971) (See No. 178) on the basis of the sponsor's failure to submit the required reports as provided in a notice published in the **Federal Register** of July 9, 1966 (31 FR 9426). The 1971 notice required submission of certain data, including data supporting effectiveness of the products, to facilitate the National Academy of Sciences-National Research Council (NAS/NRC) review.

Parlam submitted data and information in response to the notice of opportunity for hearing of April 29, 1971, and requested evaluation before withdrawal of the product. After evaluation of Parlam's submission, FDA published an amended notice of opportunity for hearing (37 FR 7110; April 8, 1972) which stated that Sebumsol 25 percent is effective as a cerumenolytic agent for removal of earwax for dogs and cats. The sponsor was provided 6 months to submit adequate final printed labeling and documentation to support a regulation, and to submit adequate information as to current manufacturing, components and composition, and methods, facilities, and controls.

On October 17, 1980, the firm filed the required information with FDA. On April 21, 1981, FDA wrote the firm approving the submission as a supplement and requesting final printed labeling and updated manufacturing methods and controls. On July 7, 1981, the firm filed a drug experience report. The firm failed to file any further reports or information and was declared delinquent concerning those reports on June 30, 1983. Subsequently, FDA has been unable to contact the firm and has not received further contact from them. Additional investigation has revealed the firm is no longer at the address given in its application, and neither the firm nor its parent company has been located within the United States. Therefore, FDA has concluded that the firm is no longer manufacturing or marketing new animal drugs in the United States, and apparently, has abandoned the NADA.

Accordingly, CVM is proposing to withdraw approval of NADA 12–232 and all amendments and supplements thereto under section 512(e)(2)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(e)(2)(A)). Notice is given to Parlam Division, Ormont Drug and Chemical Co., Inc., and to any other interested persons who may be adversely affected, that CVM proposes to issue an order under section 512(e)(2)(A) of the act withdrawing approval of NADA 12–232 and all amendments and supplements thereto on the grounds that the applicant has failed to file the required reports under 21 CFR 510.300. Furthermore, the firm failed to provide any information as required by 21 CFR 514.1(b)(1) to identify itself and its current mailing address.

In accordance with provisions of section 512 of the act and regulations promulgated under it (21 CFR Part 514) and under authority delegated to the Director, Center for Veterinary Medicine (21 CFR 5.84), CVM hereby provides an opportunity for hearing to show why approval of NADA 12–232 and all amendments and supplements to that application should not be withdrawn under section 512(e) of the act. Any hearing would be subject to the provisions of 21 CFR Part 12.

If Parlam Division, Ormont Drug and Chemical Co., Inc., decides to seek a hearing, the firm shall file on or before May 19, 1989 a written request for hearing and on or before June 19, 1989 the data, information, and analysis relied upon to support the request for hearing, as specified in 21 CFR 514.200.

Procedures and requirements governing the notice of opportunity for hearing, request for hearing, submission of data, information, and analysis to justify a hearing, other comments, and a grant or denial of hearing are contained in 21 CFR 514.200.

The failure of a sponsor to file a timely, written request for hearing as required by 21 CFR 514.200 shall constitute a waiver of the right to a hearing, as shall the failure of the sponsor to submit any data, information, or analysis in support of its hearing request. In either of those circumstances, CVM will summarily enter a final order withdrawing approval of the application.

A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the documentation and analysis in the request for hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval, or that the request for hearing is not made in the required format or with the required analysis, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing. If a hearing is requested and is justified by the sponsor's response to this notice, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practicable.

The agency has determined under 21 CFR 25.24(d)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

All submissions under this notice shall be filed in four copies, and, except as provided in 21 CFR 10.20(j), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (section 512, 82 Stat. 343–351 (21 U.S.C. 360b)) and under authority delegated to the Director, Center for Veterinary Medicine (21 CFR 5.84).

Dated: April 13, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-9272 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85F-0260]

National Pork Producers Council; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a petition (FAP 5M3867) proposing that the food additive regulations be amended to provide for the safe use of a source of gamma radiation, electron radiation, or x-radiation to control trichinae in pork and pork products.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 25, 1985 (50 FR 26270), FDA published a notice that it had filed a petition (FAP 5M3867) from the National Pork Producers Council, 1015 15th St. NW., Suite 402, Washington, DC 20005, that propose to amend the food additive regulations to provide for the safe use of sources of gamma radiation, electron radiation, and x-radiation to control trichinae in pork and pork products.

In the **Federal Register** of July 22, 1985 (50 FR 29658), FDA amended the food additive regulations in response to a petition by Radiation Technology, Inc., to permit gamma radiation treatment of pork to control *Trichinella spiralis*. In the **Federal Register** of April 18, 1986 (51 FR 13378), FDA amended the food additive regulations to permit the use of sources of election and x-radiation to treat pork.

The National Pork Producers Council believes that the intent of its additive petition has been met by the agency's actions discussed above, and has withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 6, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-9348 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Health Resources and Services Administration; National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service (PHS) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("The Program"), as required by section 2112(b)(2) of the PHS Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Claims Court is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Claims Court, 717 Madison Place NW., Washington, DC 20005, (202) 633–7257. For information on the Public Health Service's role in the Program, contact the Director, Vaccine Injury Compensation Program, Parklawn Building, 5600 Fishers Lane, Room 4–101, Rockville, MD 20857, (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Claims Court and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to PHS. The Claims Court is directed by statute to appoint special masters to take evidence, conduct hearings as appropriate, and to submit to the Court proposed findings of fact and conclusions of law.

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A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table set forth at section 2114 of the PHS Act. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptoms or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by PHS from March 8 through April 5, 1989. Section 2112(b)(2) also provides that the special matter "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, conditions or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

(a) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table (see section 2114 of the PHS Act) but which was caused by" one of the vaccines referred to in the table, or

(b) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Claims Court at the address listed above (under the heading "For Further Information Contact"), with a copy to PHS addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, Suite 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of Title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions Received

1. Barbara Holton and Ralph Holton on Behalf of Kasey Holton, Las Vegas, Nevada, Claims Court Docket No. 89–22V.

2. Michelle L. Jose and Daniel C. Jose on Behalf of Danielle Sue Jose, Loomis, California, Claims Court Docket No. 89–23V.

3. Diane Bunger and David Bunger on Behalf of Tara Bunger, San Jose, California, Claims Court Docket No. 89–24V.

4. Gloria Banuelos on Behalf of Anna Gloria Banuelos, Sacramento, California, Claims Court Docket No. 89–25V.

5. Diana Satterfield and Mark Satterfield on Behalf of Ryan Satterfield, Elf Grove, California, Claims Court Docket No. 89–26V.

6. Michael Latorre on Behalf of Marcus Raymond Latorre, Orange County, California, Claims Court Docket No. 89–27V.

7. Barbara Sexton and Ronald C. Sexton on Behalf of Andrew Sexton, Orangevale, California, Claims Court Docket No. 89–28V.

8. Maria Merrill on Behalf of Daniel Merrill, Sacramento, California, Claims Court Docket No. 89–29V.

9. Anna Jorge and Eduardo Jorge on Behalf of Nicole Cristine Jorge, Watsonville, California, Claims Court Docket No. 89–30V.

10. Joyce Alger and Edmund Alger on Behalf of Daniel Alger, Palm Bay, Florida, Claims Court Docket No. 89–31V.

11. Josephine Wright and Jerryl Wright on Behalf of Justin D. Wright, Indianapolis, Indiana, Claims Court Docket No. 89–32V.

12. Cindy A. Lemon on Behalf of Gretchen Lemon, Slidell, Louisiana, Claims Court Docket No. 89–33V.

Dated: April 13, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-9268 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-15-M

Statement of Organization, Functions, and Delegations of Authority; Food and Drug Administration

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 51 FR 8032, March 7, 1986 and 54 FR 6338–9, February 9, 1989) is amended to reflect the transfer of a function in the Food and Drug Administration.

FDA proposes to transfer the Agency statistical support function to the Office of Planning and Evaluation from the Office of Health Affairs in the Center for Devices and Radiological Health.

Section HF–B Organization and Functions is amended as follows:

1. Delete subparagraph (b–2) Evaluation and Analysis Staff (HFAA4) in its entirety and insert a new subparagraph (b–2) Evaluation and Analysis Staff (HFAA4) reading as follows:

(b–2) *Evaluation and Analysis Staff (HFAA4).* Performs agency program and policy evaluations and analytical studies. Recommends alternative courses of action to increase effectiveness of Agency allocation of resources and to improve program and project performance.

Performs analyses of significantly broad Agency issues identified in the planning process. Recommends and/or implements steps to resolve these issues.

Assures that appropriate program evaluation activities are taken in Agency components. Monitors and coordinates these efforts to assure uniqueness and a contribution to Agency program goals.

Develops the annual evaluation plan for the Agency and coordinates with PHS/HHS.

Conducts special evaluation, analytical, and economic-related studies in support of Agency policy development and in resolution of broad Agency problems.

Evaluates impact of external factors on Agency programs, including consumer expectations and prospective legislation.

Evaluates the impact of Agency operations and policies on regulated industries and other Agency components.

Evaluates Program Management Systems (PMS) projects to provide a basis for Agency decisionmaking. Recommends PMS project selections for evaluation, conducts the evaluations, and provides written and/or oral reports to the Commissioner and/or program managers.

Approves survey methodology, design, and questionnaires within the Agency prior to Office of Management and Budget forms clearance under the Paperwork Reduction Act; reviews Memoranda of Need which require the collection of health research data and advises Agency components on the planning and design of health research studies.

Advises international health organizations (e.g., World Health Organization) on the use of program evaluation to strengthen program operations in member countries.

2. Delete paragraph (o–1–iii) Office of Health Affairs (HFW13) in its entirety, and insert a new paragraph (o–1–iii) Office of Health Affairs (HFW13) reading as follows:

(o–1–iii) *Office of Health Affairs (HFW13).* Advises the Center Director on medical and dental issues that affect Center policies, direction, and program goals.

Provides medical and dental consultation, advice, and guidance on policies, activities, and programs.

Provides senior medical review, support and assistance to Center regulatory activities and programs.

Develops, coordinates, and provides professional medical guidance on Center policies, position statements, and program activities that involve or significantly impact on radiological and medical device safety.

Provides medical and dental consultation and expertise to the Center and interagency groups and committees addressing radiological and medical device health concerns; acts as the Executive Secretariat for the Medical Radiation Advisory Committee.

Advises and assists in identification and selection of individuals to serve on the Center's Advisory and Classification Committees.

Plans, conducts, coordinates, and serves as Center medical representative on liaison activities with health professionals and their organizations to secure their input and assistance in the formulation and implementation of Center programs.

Participates in the planning and coordination of educational and informational programs for health professional organizations.

Date: April 11, 1989.

Wilford J. Forbush,

Director, Office of Management, PHS.

[FR Doc. 89-9278 Filed 4-18-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-89-1917; FR-2606]

Underutilized and Unutilized Federal Buildings and Real Property Determined To Be Suitable for Use for Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

DATE: April 19, 1989.

ADDRESS: For further information, contact Morris Bourne, Director, Transitional Housing Development Staff, Room 9140, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755–9075; TDD number for the hearing- and speech-impaired (202) 426–0015. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, D.C.D.C. No. 88–2503–OG, HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The court order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administration of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The court order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying property determined suitable.

The properties identified in this Notice may ultimately be available for use by public bodies and private nonprofit organizations to assist the homeless For detailed information on the procedure under section 510(a) that must be followed to apply for use of today's properties, the reader should consult HUD's Notice published February 7, 1988 at 54 FR 6034.

Although not required to do so by either section 501 or the court order, HUD is identifying property, from the information furnished by landholding agencies or GSA, determined unsuitable for use for facilities to assist the homeless, along with the reason for the finding. The court order prohibits the sale, transfer, or other disposition of property found unsuitable for a period of two weeks following the determination.

The contact for GSA properties listed in today's Notice is James Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405 (202) 535–7067. Please refer to the GSA identification number of the property. The contact for Department of Transportation properties listed in today's Notice is Angelo Picillo, Administrative Services and Property Management, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 (202) 366–4246. (These are not toll-free telephone numbers.)

Dated: April 13, 1989.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

Underutilized and Unutilized Property

Suitable Land

Department of Transportation

Moline Transfer Facility (1), 11th and Fifth Avenue, Moline, IL

Suitable Buildings

Department of Transportation

Brownsville Urban System (1), 700 South Iowa Avenue, Brownsville, TX 78520

Unsuitable Buildings

USAF

North Bend Air National Guard Station (14), North Bend, OR. Reason: Isolated area; secured area; on mountain top

Excess and Surplus Property (GSA)

Suitable Land

Portion, Former Correctional Institute (1), W. Hampden Avenue, Jefferson

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County, CO. Property No. 7-GR(1)-CO-475A

Suitable Buildings

Building KI-2000 Health Clinic (1), Navaho Reservation, Kaibeto, AZ 86053. (No number provided)

Comment: Use restricted to Navaho Indians (to be transferred to the Dept. of Interior).

Dulce Health Center (1), P.O. Box 187, Dulce, NM. (No number provided)

Comment: Reserved for use by Indian tribes only.

Sequoyah Indian School Land (1), Tahlequah, OK. (No number provided)

Comment: Used as an indian School; held in trust for Indian tribes by Dept. of Interior.

Emerald Heights Housing Area (84), (Formerly Tongue Point Naval Station), Astoria, OR. (No number provided)

Comment: Used as rental units for approximately 1000 persons.

Portion, Little Sandy Creek Rd. and Fork (1), Ravenswood, WV. Property No. 4-G-WV-457

Comment: Used as a hunting area.

Unsuitable Land

Portion, Lewes and Rehoboth Canal (1), Sussex County, DE. Reason: Isolated area; Not accessible by road; Other environmental. (Revision to previous determination published 2/7/89, based on new info from GSA.) (No number provided)

Comment: 90% of land is swampland; no utilities.

Portion, Buckhorn Lake Project (1), Hyden, KY. Reason: Property on side of a mountain on steep incline. Property No. 4-D-KY-577

Lake Henry VORTAC Site (20), Lackawanna County, PA. Reason: Isolated area; Not accessible by road; FAA anetnna on center of property; other above-ground structures prohibited. Property No. 4-U-PA-736

Portion, Whitney Lake (1), Tract V-2082 Polk Ave./San Antonio St., Whitney, TX. Reason: Floodway. Property No. 7-GR-TX-505-E

Comment: Flowage easement; no structure below 573' contour allowed for human habitation.

Unsuitable Buildings

George P. Miller Federal Building (1), 1515 Clay Street, Oakland, CA. Reason: Other environmental. Property No. 9-G-CA-1286

Comment: PCBs, asbestos present; seismic, structural and fire safety deficiencies.

[FR Doc. 89-9317 Filed 4-18-89; 8:45 am]
BILLING CODE 4210-27-M

COMMISSION FOR THE IMPROVEMENT OF THE FEDERAL CROP INSURANCE PROGRAM

Meeting

Under the Federal Crop Insurance Commission Act of 1988 (7 U.S.C. 1506 note); notice is hereby given of the following meeting of the Commission for the Improvement of the Federal Crop Insurance Program:

Date: April 26-27, 1989.

Time: 1:00 p.m.-5:30 p.m., April 26; 8:00 a.m.-Noon; 1:00 p.m.-5:30 p.m., April 27.

Place: Hotel Washington, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20004, Telephone: (202) 638-5900.

Type of Meeting: Open to the public.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To continue discussions on the development of recommendations to improve the Federal crop insurance program.

Contact Person: Kellye A. Eversole, Executive Director, Commission for the Improvement of the Federal Crop Insurance Program, 1255 23rd Street, NW., Suite 880, Washington, DC 20037. Telephone: (202) 887-6700.

Done at Washington, DC, this 17th day of April 1989.

Kellye A. Eversole,

Executive Director.

[FR Doc. 89-9545 Filed 4-18-89; 8:45 am]
BILLING CODE 3410-FW-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-940-09-4214-10; NM NM 55234]

Proposed Modification and Partial Termination of Public Land Order No. 6403 and Public Hearings; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Energy (DOE) has filed an application to modify a public land order which withdrew 10,240 acres of public land for research and development in connection with the Waste Isolation Pilot Plant (WIPP) Project. The land is still needed for research and development on the WIPP Project. This order also terminates the public land order as to paragraph 5. The land will remain closed to operation of the public laws including the mining laws. The land will remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504-1449, 505-988-6071.

SUPPLEMENTARY INFORMATION: On April 7, 1989, the DOE filed an application for modification of Public Land Order No. 6403, which withdrew the following described land from settlement, sale, location or entry under the general laws, including the mining laws, subject to valid existing rights:

New Mexico Principal Meridian

T. 22 S., R. 31 E.,
Sec. 15;
Sec. 16;
Sec. 17;
Sec. 18, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 30, lots, 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 32;
Sec. 33;
Sec. 34.

The area described contains approximately 10,240 acres of public land in Eddy County, New Mexico.

The following land, within the above legal land description, will be reserved for the exclusive use of DOE for the WIPP Project:

A tract of land in Eddy County, New Mexico, being part of Sections 20, 21, 28, and 29, Township 22 South, Range 31 East, N.M.P.M., and being more particularly described as follows, to wit: Beginning at a point on the North line of said Section 20 which is S 89 degrees 57 minutes E a distance of 1,378.68 feet from the Northwest corner of said Section 20; Thence S 89 degrees 57 minutes E a distance of 3,900.00 feet to the corner common to Sections 16, 17, 20, and 21; Thence N 89 degrees 51 minutes E a distance of 3,160.68 feet to a point from which the corner common to Sections 15, 16, 21, and 22 bears N 89 degrees 51 minutes E a distance 2,120.00 feet; Thence S 00 degrees 01 minutes 16 seconds E a distance of 5,279.97 feet to a point on the line between Sections 21 and 28 from which the corner common to Sections 21, 22, 27, and 28 bears N 89 degrees 56 minutes E a distance of 2,118.71 feet and the corner common to Sections 20, 21, 28, and 29 bears S. 89 degrees 56 minutes W a distance of 3,160.63 feet; Thence continuing S 00 degrees 01 minutes 16 seconds E a distance of 3,697.74 feet to a point from which the corner common to Sections 27, 28, 33, and 34 bears South 1,580.0 feet and East 2,120.0 feet; Thence N 89 degrees 59 minutes 27 seconds W a distance of 3,159.63 feet to a point on the line between Sections 28 and 29 from which the corner common to Sections 20, 21, 28, and 29 bears N 00 degrees 02 minutes 35 seconds W a distance of 3,693.55 feet and the corner common to Sections 28, 29, 32, and 33 bears S 00 degrees 02 minutes 35 seconds E a distance of 1,580.51 feet; Thence continuing N 89 degrees 59 minutes 27 seconds W a distance of 3,697.93 feet to a point from which the corner common to Sections 29, 30, 31, and 32 bears S 00 degrees 01 minutes W 1,580.0 feet and N 89 degrees 59 minutes W 1,379.34 feet; Thence N 00 degrees 02 minutes 35 seconds W a distance of 3,696.32 feet to a point on the line between Sections 20 and 29 from which the corner common to Sections 20, 21, 28, and 29 bears S 89 degrees 57 minutes E a distance of 3,898.21 feet and the corner common to Sections 19, 20, 29, and 30 bears N 89 degrees 57 minutes W a distance of 1,381.13 feet; Thence continuing N 00 degrees 02 minutes 27 seconds W a distance of 5,275.39 feet to the point of beginning.

The area described contains 1,453.9 acres, more or less, in Eddy County, New Mexico.

The DOE requests this modification to change the purpose of the land withdrawal stated in paragraph 1 of Public Land Order No. 6403 to provide that the land is withdrawn for the purpose of the construction of full facilities for the WIPP Project of the DOE; the conducting of a test program by the DOE using retrievable radioactive waste at the site; and to protect the land pending a legislative withdrawal; to delete paragraph 5 of Public Land Order No. 6403, which prohibits the use of the withdrawn land for the transportation, storage, or burial of radioactive material; to increase the DOE exclusive control area from 640 acres to 1,453.9 acres to conform that area to security requirements; and to extend the term of the withdrawal through June 29, 1997, to provide sufficient time to conduct an operations and experimental program, and for retrieval of the waste, if necessary.

The DOE is preparing a Supplemental Environmental Impact Statement (SEIS) for this next phase of the WIPP project. The Draft SEIS is scheduled to be released for public review on April 21, 1989. Because DOE submitted an application to BLM for a land withdrawal, BLM is participating as a cooperating agency in the SEIS.

Notice is hereby given that public hearings will be held by DOE during the public comment period on the draft SEIS in the following cities: Boise, ID; Albuquerque, NM; Santa Fe, NM; Atlanta, GA; Denver, CO; and Pendleton, OR. As soon as the specific locations, dates and times are determined, information on these public hearings will be announced by DOE. Public comments on the SEIS as well as those obtained from the public hearings will be used by BLM in processing the application for a land withdrawal.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

Because this represents a modification of an earlier public land order which withdrew the subject land, no temporary land use during segregation will occur.

Larry L. Woodard,

State Director.

April 13, 1989.

[FR Doc. 89-9359 Filed 4-18-89; 8:45 am]
BILLING CODE 4310-FB-M

[NV-010-09-4132-08]

Intent To Prepare an Environmental Document on a Mining Plan of Operation; Scoping Period and Meeting; Barrick Goldstrike Mines, Inc.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an environmental document on a mining plan of operation and notice of scoping period and meeting for Barrick Goldstrike Mines, Inc.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and 43 CFR Part 3809, the Bureau of Land Management will be directing the preparation of an environmental document to be prepared by a third party contractor on the impacts of a proposed amendment to an existing Plan of Operation for gold mining by Barrick Goldstrike Mine Inc. in Elko and Eureaka counties, Nevada. The Bureau invites written comments and suggestions on the scope of its analysis.

DATES: Written comments on the proposed Plan of Operations amendment will be accepted until May 19, 1989. A public scoping open house will be held May 2, 1989 from 7 p.m. to 9 p.m. at the Bureau of Land Management, Elko District Office, 3900 E. Idaho, Elko, NV 89801 to identify interested parties, issues, concerns, and to encourage public participation. Representatives of Barrick Goldstrike Mines Inc. will be available to answer questions about the Plan of Operations amendment. Additional meetings may be held, as appropriate.

ADDRESS: Comments may be sent to the District Manager, Bureau of Land Management, P.O. Box 831, Elko, NV 89801. ATTN: Goldstrike Coordinator.

FOR FURTHER INFORMATION CONTACT: For additional information, write to the above address or call Nick Rieger at (702) 738-4071.

SUPPLEMENTARY INFORMATION: Barrick Goldstrike Mines Inc. of Elko, Nevada has submitted an amendment to its existing Plan of Operations for the Goldstrike Mine located in Township 36 North, Range 49 East and Township 36 North, Range 50 East; approximately 25 miles northeast of the town of Carlin, Nevada. The presently authorized operation includes open-pit mines, heap leach facilities, a crushing and agglomeration plant, administrative and maintenance buildings, and a 6,000 ton per day oxide mill and tailings impoundment involving a total of 2,372 acres, including 1779 acres of public land. The proposed action is to expand the Goldstrike Mine open pit mining and milling operations from approximating 6,000 tons per day to approximately 12,700 tons per day. While much of the proposed expansion is expected to be confined to previously disturbed areas, additional disturbance is anticipated on approximated 33 acres of private land and 1,770 acres of public land.

The issues expected to be analyzed in the document are impacts to cultural resources, wildlife and fisheries, water quantity and quanlity, soils and vegetation, and social and economic values. Disciplines represented on the interdisciplinary team that will review the Plan amendment and environmental documentation are: Wildlife, recreation, geology, cultural resources, soil, water and air quality, range management, lands and realty and land use planning.

A range of alternatives, stipulations and mitigation measures, including but not limited to alternative reclamation measures, monitoring requirements and the no action alternative, will be considered to evaluate and minimize enviromental impacts and to assure that this proposed action does not result in undue or unnecessary degradation of public lands.

Federal, state and local agencies and other individuals or organizations who may be interested in or affected by the Bureau's decision on the amended Plan of Operations are invited to participate in the scoping process with respect to this environmental analysis.

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Date: April 6, 1989.
Marie Good,
Acting District Manager.
[FR Doc. 89-9326 Filed 4-18-89; 8:45 am]
BILLING CODE 4310-HC-M

[U-942-09-4214-10; U-54906]

Cancellation of Proposed Withdrawal and Reservation of Land; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice of the Bureau of Land Management application U-54906 for the withdrawal and reservation of public land from all forms of appropriation under the public land laws, including the mining laws, was published in the **Federal Register** on April 21, 1987, (52 FR 70, page 13134). The Bureau of Land Management has cancelled its application in its entirety as to the following described land:

Salt Lake Meridian

T. 1 N., R. 9 W.,
Sec. 1, Lots 1, 2, SW¼NE¼, SW¼, NW¼SE¼, S½SE¼;
Secs. 3 to 15, and 17, All;
Sec. 18, Lots 1-4, NE¼, E½W½, NE¼SE¼, S½SE¼;
Secs. 19 to 31, 33 to 35, All.
T. 1 S., R. 9 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 2 S., R. 9 W.,
Secs. 1, 3 to 6, All;
Sec. 7, Lots 1, 2, 4, E½, E½NW¼, NE¼SW¼;
Secs. 8 to 15, 17 to 31, 33 to 35, All.
T. 3 S., R. 9 W.,
Secs. 1, 3 to 7, All;
Sec. 8, N½, N½SW¼, SE¼;
Secs. 9 to 15, All;
Sec. 17, E½, S½NW¼, SE¼;
Sec. 18, All.
T. 1 N., R. 10 W.,
Secs. 1, 3 to 15, 17 to 22, All;
Sec. 23, N½, N½SW¼, SW¼SW¼, SE¼;
Secs. 24 to 31, All;
Sec. 33, N½;
Secs. 34 and 35, All.
T. 1 S., R. 10 W.,
Secs. 1 and 3, All;
Sec. 4, S½NE¼, S½;
Sec. 5, Lots 3, 4, S½NW¼, S½;
Secs. 6 to 13, All;
Sec. 14, All, except for patented portion;
Secs. 15, 17 to 22, All;
Sec. 23, All, except for patented portion;
Secs. 24 to 31, 33 to 35, All.
T. 2 S., R. 10 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 3 S., R. 10 W.,
Secs. 1, 3 to 7, All;
Sec. 8, N¼, SW¼, NE¼SE¼, S½SE¼;
Secs. 9 to 15, 17, 18, All.
T. 1 N., R. 11 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 1 S., R. 11 W.,
Secs. 1, 2 to 15, 17 to 31, 33 to 35, All.
T. 2 S., R. 11 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 3 S., R. 11 W.,
Secs. 1, 3 to 15, 17, 18, All.
T. 1 N., R. 12 W.,
Secs. 1, 3 to 15, 17 to 21, All;
Sec. 22, All, except for patented portion;
Secs. 23 to 28, All;
Sec. 27, All, except for patented portion;
Secs. 28 to 31, All;
Secs. 33 to 34, All, except patented portion;
Sec. 35, All.
T. 1 S., R. 12 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 2 S., R. 12 W.,
Secs. 1, 3 to 15, 17, 18, All.
T. 1 N., R. 13 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 1 S., R. 13 W.,
Secs. 1, 3 to 15, 17 to 31, 33 to 35, All.
T. 2 S., R. 13 W.,
Secs. 1, 3 to 15, 17, 18, All.
T. 1 N., R. 14 W.,
Secs. 1, 3, 10 to 15, 22 to 27, 34, 35, All.
T. 1 S., R. 14 W.,
Secs. 1, 3, 10 to 15, 22 to 27, 34, 35, All.
T. 2 S., R. 14 W.,
Secs. 1, 3, 10 to 15, All.

The area described contains 344,641.44 acres in Tooele County, Utah.

EFFECTIVE DATE: At 9 a.m. on April 20, 1989, the lands described above will be relieved of their segregative effect in accordance with the regulations under 43 2310.2-1(c), and opened to such forms of disposition as may be made by law including location and entry under the United States mining laws.

FOR FURTHER INFORMATION CONTACT: Mike Barnes, BLM Utah State Office, 324 South State Street, Suite 301, Salt Lake City, Utah 84111, (801) 539-4119.

Ted D. Stephenson,
Chief, Branch of Lands and Minerals Operations.
[FR Doc. 89-9331 Filed 4-18-89; 8:45 am]
BILLING CODE 4310-DQ-M

[MT-932-09-4214-10, MTM-12534]

Proposed Withdrawal and Opportunity for Public Meeting; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw approximately 94,023 acres of public lands and/or minerals to protect the resource values within the Upper Missouri Wild and Scenic River management area as well as the Lewis and Clark and the Nez Perce National Historic Trail areas. The notice closes the land for up to 2 years from surface entry and mining. The lands have been and remain open to mineral leasing.

DATE: Comments and requests for a public meeting must be received by July 18, 1989.

ADDRESS: Comments and meeting requests should be sent to the Montana State Director, BLM, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, 406-255-2935.

SUPPLEMENTARY INFORMATION: On April 12, 1989 a petition was approved allowing the Bureau of Land Management to file an application to withdraw all public lands and/or minerals within the following described areas from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Principal Meridian

T. 26 N., R. 12 E.,
Secs. 1 to 4, inclusive;
Sec. 5, S½;
Sec. 6, SE¼;
Sec. 7, NE¼;
Sec. 8, N½;
Sec. 9, NW¼;
Sec. 10, N½NE¼;
Sec. 11, NE¼, N½NW¼, N½SE¼;
Secs. 12, 13;
Sec. 24, E½, E½W½;
Sec. 25, E½, E½W½;
Sec. 36, E½.
T. 27 N., R. 12 E.,
Sec. 26, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 33, S½SE¼;
Sec. 34, S½SW¼;
Sec. 35, E½, E½W½.
T. 23 N., R. 13 E.,
Sec. 3, NW¼NW¼;
Sec. 4, N½NE¼.
T. 24 N., R. 13 E.,
Secs. 3, 4;
Sec. 8, SW¼NW¼, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 9;
Sec. 10, N½, SW¼, W½SE¼;
Sec. 15, W½;
Sec. 16;
Sec. 17, NE¼, E½NW¼;
Sec. 21, N½, N½Sw¼, SE¼;
Secs. 22 to 25, inclusive;
Sec. 26, N½, N½S½, SW¼SW¼;
Sec. 27;
Sec. 28, E½;
Sec. 33, E½;
Sec. 34, N½NE¼, W½;
Sec. 35, NW¼NW¼;
Sec. 36, N½, SE¼.
T. 25 N., R. 13 E.,
Sec. 4, W½NW¼, S½;
Sec. 5;
Sec. 6, E½E½, NW¼NE¼, NE¼NW¼;
Sec. 7, NE¼NE¼;
Secs. 8, 9;
Sec. 10, W½SW¼;
Secs. 14 to 16, inclusive;
Sec. 17, E½E½;
Sec. 20, E½E½, SW¼SE¼;

Sec. 21;
Sec. 22, N½NE¼, W½;
Sec. 27, W½;
Sec. 28;
Sec. 29, NE¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 31, NE¼NE¼, S½NE¼, N½SE¼;
Sec. 32, NE¼NE¼, S½N½, NW¼NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 33;
Sec. 34, W½.
T. 26 N., R. 13 E.,
Sec. 7, S½SW¼;
Sec. 18, W½;
Sec. 19, W½, NW¼SE¼, S½SE¼;
Sec. 29, SW¼;
Secs. 30, 31;
Sec. 32, S½NE¼, W½, SE¼.
T. 23 N., R. 14 E.,
Sec. 1, NE¼NE¼, S½NE¼, NW¼, S½;
Sec. 2, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 3, W½, SE¼;
Sec. 4;
Sec. 5, N½, N½S½;
Sec. 6, NE¼;
Sec. 9, E½, E½W½, NW¼NW¼;
Secs. 10 to 13, inclusive;
Sec. 14, N½, SE¼;
Sec. 15, N½;
Sec. 16, NE¼;
Sec. 23, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 24;
Sec. 25, N½.
T. 24 N., R. 14 E.,
Sec. 19, lots 3 to 8, inclusive, and lots 13 to 18, inclusive;
Sec. 29, S½SE¼
Sec. 30, lots 3 to 8, inclusive, and lots 11 to 20, inclusive, SE¼;
Sec. 31, 32;
Sec. 33, NW¼NW¼, S½NW¼, SW¼;
Sec. 35, SE¼SW¼.
T. 22 N., R. 15 E.,
Secs. 1 to 5, inclusive;
Sec. 6, lots 1 to 5, inclusive, lots 11 to 13, inclusive, lot 22, S½NE¼, SE¼;
Sec. 9, N½, N½S½;
Sec. 10, N½, N½S½;
Sec. 11, N½, N½S½, S½SE¼;
Sec. 12.
T. 23 N., R. 15 E.,
Sec. 7, lots 13 to 18, inclusive;
Sec. 18, lots 1 to 20, inclusive;
Sec. 19, lots 1 to 20, inclusive; SE¼;
Sec. 25, SE¼NE¼, NE¼SE¼, S½S½;
Sec. 27, SW¼SW¼;
Sec. 28, S½S½;
Sec. 29, S½S½;
Secs. 30 to 33, inclusive;
Sec. 34, SW¼NE¼, W½NW¼, SE¼NW¼, S½;
Sec. 35, S½;
Sec. 36.
T. 22 N., R. 16 E.,
Sec. 4, W½W½;
Secs. 5, 6;
Sec. 7, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 8, NW¼, NW¼SW¼.
T. 23 N., R. 16E.,
Sec. 22, E½SW¼, SE¼;
Sec. 23, S½;
Sec. 24, S½;
Secs. 25 to 36, inclusive.
T. 22 N., R. 17 E.,
Sec. 1, N½.
T. 23 N., R. 17 E.,
Sec. 19, lots 11, 12, lots 15 to 18, inclusive, E½;
Secs. 20 to 30, inclusive;
Sec. 31, lots 1 to 12, inclusive, NE¼, N½SE¼;
Sec. 32, N½, N½SW¼, NW¼SE¼;
Sec. 33, N½NE¼, SW¼NE¼, NW¼
Sec. 34, NE¼, N½NW¼;
Sec. 35, N½;
Sec. 36.
T. 22 N., R. 18 E.,
Sec. 2, W½NW¼;
Sec. 3, N½;
Sec. 4, N½;
Sec. 5, N½;
Sec. 6, N½.
T. 23 N., R. 18 E.,
Sec. 11, SE¼SE¼;
Sec. 12, S½S½;
Sec. 13;
Sec. 14, E½E½, S½SW¼, SW¼SE¼;
Sec. 15, S½S½;
Secs. 22 to 27, inclusive;
Sec. 28, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 29, S½N½, S½;
Sec. 30, S½NE¼, NW¼, S½;
Secs. 31 to 34, inclusive;
Sec. 35, N½N½, SW¼NW¼, W½SW¼.
T. 23 N., R. 19 E.,
Secs. 1 to 4, inclusive;
Sec. 5, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 7, S½S½;
Sec. 8, E½, S½SW¼;
Secs. 9, 10;
Sec. 11, N½;
Sec. 12;
Sec. 13, N½N½;
Sec. 15, N½;
Secs. 16 to 19, inclusive;
Sec. 20, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 21, N½, N½S½;
Sec. 29, W½NE¼, NW¼;
Sec. 30, N½.
T. 24 N., R. 19 E.,
Sec. 33, S½N½, S½;
Secs. 34 to 36, inclusive.
T. 23 N., R. 20 E.,
Secs. 1, 2;
Sec. 3, NE¼NE¼, S½N½, S½;
Sec. 4, S½N½, S½;
Sec. 5, NW¼NE¼, S½NE¼, NW¼, S½;
Secs. 6 to 11, inclusive;
Sec. 12, N½, SW¼, N½SE¼;
Sec. 14, N½;
Sec. 15, N½;
Sec. 16;
Sec. 17, N½;
Sec. 18, N½.
T. 24 N., R. 20 E.,
Sec. 31, W½, S½SE¼;
Sec. 32, S½SW¼, SW¼SE¼;
Sec. 34, E½SE¼;
Sec. 35, S½;
Sec. 36.
T. 23 N., R. 21 E.,
Sec. 1;
Sec. 2, N½, N½S½;
Sec. 3, N½, SW¼, N½SE¼, SW¼SE¼;
Secs. 4 to 6, inclusive;
Sec. 7, N½, N½S½;
Sec. 8, N½, N½S½;
Sec. 9, N½, N½S½;
Sec. 10, NW¼NE¼, N½NW¼;
Sec. 12, E½;
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, E½;
Sec. 36, N½NE¼.
T. 24 N., R. 21 E.,
Sec. 25, SW¼;
Sec. 26, S½;
Sec. 27, S½;
Sec. 28, S½;
Secs. 30 to 35, inclusive;
Sec. 36, S½NE¼, W½, SE¼.
T. 22 N., R. 22 E.,
Secs. 1, 2;
Sec. 3, E½
Sec. 12, NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 23 N., R. 22 E.,
Sec. 4, W½;
Secs. 5 to 8, inclusive;
Sec. 9, W½;
Sec. 16, W½;
Secs. 17 to 23, inclusive;
Sec. 24, SW¼;
Sec. 24, SW¼;
Secs. 25 to 30, inclusive;
Sec. 31, N½, N½S½;
Sec. 32, N½NE¼, SW¼NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 33, N½N½;
Sec. 34, N½, N½SW¼, SE¼;
Secs. 35, 36.
T. 24 N., R. 22 E.,
Sec. 31, S½N½, S½;
Sec. 32, S½N½, S½;
Sec. 33, S½NW¼, SW¼.
T. 23 N., R. 23 E.,
Sec. 28, SW¼NW¼, W½SW¼;
Sec. 29, S½N½, S½;
Sec. 30, S½N½, S½;
Secs. 31, 32;
Sec. 33, W¼W½.

The public lands and/or minerals within the areas described aggregate approximately 94,023 acres in Chouteau, Fergus, Blaine, and Phillips Counties.

The purpose of the proposed withdrawal is to protect the public values within the Designated Upper Missouri Wild and Scenic River Management area. Portions of the Lewis and Clark and the Nez Perce National Historic Trails are also included in the management area.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that a public meeting will be held in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. A notice of the time and place of the public meeting will be published in the **Federal Register** at

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lease 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approval prior to that date. The temporary uses which may be permitted during this segregative period are licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature, allowed only with the approval of an authorized officer of the Bureau of Land Management.

James Binando,

Acting Deputy State Director, Division of Lands and Renewable Resources.

April 12, 1989.

[FR Doc. 89-9360 Filed 4-18-89; 8:45 am]

BILLING CODE 4310-DN-M

[AA-620-09-4111-01-2410]

Washington; Withdrawing All Lands in the Lake Chelan and Ross Lake National Recreation Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Section 402(b) of the Act of October 2, 1968 (82 Stat. 928; 16 U.S.C. 90c-1b) allowed the leasing of minerals in the Lake Chelan and Ross Lake National Recreation Areas. However, section 206 of the Act of November 16, 1988 (Pub. L. 100-668) amended the Act of October 2, 1968, by withdrawing the lands from disposition by leasing. The purpose of this Notice is to inform the public that this change will be reflected in the next proposed revision to 43 CFR 3100 and 3500.

EFFECTIVE DATE: November 16, 1988.

ADDRESS: Inquiries should be sent to: Director (620), Bureau of Land Management, Room 602, Premier Building, 18th and C Streets NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Richard Hopkins, (202) 653-2195.

SUPPLEMENTARY INFORMATION: The Bureau's oil and gas leasing regulations appearing at 43 CFR Subpart 3100 and solid mineral leasing regulations at 43 CFR Subpart 3582 indicate that, while leasing is allowed by law in Ross Lake and Lake Chelan National Recreation Areas (§§ 3109.2(C)(3) and 3582.2-1(c)), all of Lake Chelan and a large portion of Ross Lake National Recreation Areas had been administratively closed to mineral leasing (§§ 3109.2(d)(3) and 3582.2-2(c)). A small portion of Ross Lake remained open to mineral leasing.

However, as of November 16, 1988, all lands once leasable by law in Lake Chelan and Ross National Recreation Areas were withdrawn from mineral leasing by section 206 of the Act of November 16, 1988 (Pub. L. 100-668). Accordingly, the above regulations and the regulations at §§ 3100.0-3(g)(4), 3500.0-3(c)(3), and 3560.3-2, will be revised at a future date.

Date: April 10, 1989.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 89-9358 Filed 4-18-89; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 8, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by May 4, 1989.

Carol D. Shull,

Chief Registration, National Register.

ARIZONA

Coconino County

Abandoned Route 66, Parks (1921) (Historic US Route 66 in Arizona MPS), W of Parks, Parks vicinity, 89000377

Abandoned Route 66, Parks (1931) (Historic US Route 66 in Arizona MPS), E of Parks, Parks vicinity, 89000378

Abandoned Route 66, Ash Fork Hill (Historic US Route 66 in Arizona MPS), N of I-40 between Ask Fork and Williams, Ash Fork vicinity, 89000380

Rural Route 66, Brannigan Park (Historic US Route 66 in Arizona MPS), Forest Rd. 146 E of Parks to Brannigan Park, Parks vicinity, 89000375

Rural Route 66, Parks (Historic US Route 66 in Arizona MPS), Forest Rd. 146 between Beacon Hill and Parks, Parks vicinity, 89000374

Rural Route 66, Pine Springs (Historic US Route 66 in Arizona MPS), Forest Rd. 108 at Pine Springs Ranch, Williams vicinity, 89000379

Urban Route 66, Williams (Historic US Route 66 in Arizona MPS), Bill Williams Ave. between Sixth St. and Pine St., Williams, 89000378

GEORGIA

Crawford County

Roberta Historic District, Roughly bounded by E. Cruselle St., Kirby St., Agency St., and Mather St., Roberta, 89000365

Greene County

Copeland Site (9GE18), Address Restricted, Greensboro vicinity, 89000373

ILLINOIS

Rock Island County

Potter House, 1906 7th Ave., Rock Island, 89000364

KENTUCKY

Trigg County

Codix Main Street Residential District, Main St., between Line St. and Scott St., Cadiz, 89000384

LOUISIANA

Calcasieu Parish

McMeese State University Auditorium, Ryan St. S of Sale St., Lake Charles, 89000381

Jackson Parish

Hickory Springs Methodist Episcopal Church, Off LA 499 near Bear Creek, Chatham vicinity, 89000382

MARYLAND

Baltimore Independent City

St. Micahel's Church Complex, 1900—1920 E. Lombardo St., Baltimore (Independent City), 89000383

MINNESOTA

Wabasha County

Campbell, William H. and Alma Downer, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 211 W. Second St., Wabasha, 89000367

Ginthner, Lorenz and Lugerde, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 130 W. Third St., Wabasha, 89000368

Kuehn, Lucas, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 306 E. Main St., Wabasha, 89000369

Schmidt, Clara and Julius, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 418 E. Second St., Wabasha, 8900370

Schwedes, Henry S. and Magdalena, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 230 E. Main St., Wabasha 89000371

Thoris, Alexander, House (Red Brick Houses in Wabasha, Minnesota, Associated with Merchant-Tradesmen MPS), 329 W. Second St., Wabasha, 89000372

NEW MEXICO

Bernalillo County

Albuquerque Municipal Airport Building, 2920 Yale Blvd. SE., Albuquerque, 89000348

NORTH CAROLINA

Polk County

Hughes, J.G., House, N. Peak St., Columbus, 89000347

PENNSYLVANIA

Beaver County

Clow, James Beach, House, Chapel Dr. at Ann St., Ellwood City, 89000349

Blair County

Penn Alto Hotel, 12th St. and 13th Ave., Altoona, 89000350

Bucks County

Gilbert, Thomas and Lydia, Farm, 5042 Anderson Rd., Holicong, 89000351

Moland House, 1641 Old York Rd., Hartsville, 89000352

Taylor, Peter, Farmstead, 229 Wrights Rd., Newton, 89000353

Chester County

Strode's Mill Historic District, Jct. PA 52/100 and Birminghan Rd., West Chester vicinity, 89000354

Cumberland County

Gilbert Bridge, Bishop Rd./Gilbert Rd. over Yellow Breeches Creek, Grantham vicinity, 89000355

Union Hotel, 240 Old Gettysburg Rd., Shepherdstown, 89000362

Fayette County

Penn-Craft Historic District, Roughly bounded by PA 4020, Tup. Rd. 326, and Twp. Rd. 549, Penn-Craft, 89000356

Uniontown Downtown Historic District, Roughly Main St., between Court St. and Mill St., Uniontown, 89000357

Franklin County

Mercersburg Historic District (Boundary Increase), S. Main St., between Linden Ave. and PA 75, Mercersburg, 89000358

Lawrence County

McClelland Homestead, McClelland Rd., Bessemer vicinity, 89000359

Northumberland County

Cameron, Col. James, House, PA 405/River Rd., SE of Milton, Milton vicinity, 89000360

Philadelphia County

Wagner Free Institute of Science, 17th St. and Montgomery Ave., Philadelphia, 89000361

VIRGINIA

Montgomery County

Solitude, Greenhouse Rd. on Virginia Polytechnic Institute campus, Blacksburg, 89000363

Spotsylvania County

Stirling, Co. Rt. 607 at I-95, Massaponax vicinity, 89000366

[FR Doc. 89-9302 Filed 4-18-89; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 89-2]

Richard Artis Beach, M.D. Gulf Breeze, FL; Hearing

Notice is hereby given that on December 19, 1988, the Drug Enforcement Administration, Department of Justice, issued to Richard Artis Beach, M.D. an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AB6511427, and deny any pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Wednesday, June 21, 1989, commencing at 9:30 a.m., in the Judicial Building, 190 Governmental Center, Government Street, Courtroom 404, Pensacola, Florida.

Dated: April 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-9273 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 88-106]

Bill's Pharmacy, Paducah, KY; Hearing

Notice is hereby given that on October 11, 1988, the Drug Enforcement Administration, Department of Justice, issued to Bill's Pharmacy, an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AS3030486, and deny any pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, April, 25, 1989, commencing at 12:30 p.m., at the Jefferson County Court, house Fiscal Courtroom, Room 402, 527 West Jefferson Street, Louisville, Kentucky.

Dated: April 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-9274 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 88-116]

Robert E. Detrich, D.D.S., Harrisonburg, VA; Hearing

Notice is hereby given that on November 10, 1988, the Drug Enforcement Administration, Department of Justice, issued to Robert E. Detrich, D.D.S., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AD7409534, and deny any pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Wednesday, May 10, 1989, commencing at 10:00 a.m., at the United States Court of Appeals for the Federal Circuit, Courtroom two, fourth floor, 717 Madison Place NW., Washington, DC.

Dated: April 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-9275 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 89-8]

Nick M. Higgins, D.D.S., San Antonio, TX; Hearing

Notice is hereby given that on January 12, 1989, the Drug Enforcement Administration, Department of Justice, issued to Nick M. Higgins, D.D.S., an Order to Show Cause as to why the Drug Enforcement Administration should not deny your application for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Thursday, June 8, 1989, commencing at 9:30 a.m., at the United States Tax Court, United States Courthouse, Courtroom 371, 615 East Houston Street, San Antonio, Texas.

Dated: April 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-9276 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-09-M

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[Docket No. 89-105]

Charles V. Sperrazza, M.D., Buffalo, NY; Hearing

Notice is hereby given that on October 24, 1988, the Drug Enforcement Administration, Department of Justice, issued to Charles V. Sperrazza, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AS2066076, and deny and pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Thursday, May, 18, 1989, commencing at 10:00 a.m., at the United States Court of Appeals for the Federal Circuit, Courtroom one, second floor, 717 Madison Place, NW., Washington, DC.

Dated: April 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-9277 Filed 4-18-89; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (89-27)]

Intent to Grant an Exclusive Patent License; Macrodyne Inc.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Macrodyne Inc., of Schnectady, New York, a limited exclusive, royalty-bearing, revocable license to practice the invention as described in U.S. Patent No. 4,786, 168 for "Frequency Domain Laser Velocimeter Signal Processor," which issued November 22, 1988, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing will review the written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant exclusive license.

DATE: Comments to this notice must be received on or before June 19, 1989.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 453-2430.

Date: April 12, 1989.

Edward A. Frankle,

General Counsel.

[FR Doc. 89-9413 Filed 4-18-89; 8:45 am]

BILLING CODE 4510-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 25, 1989 through April 7, 1989. The last biweekly notice was published on April 5, 1989 (54 FR 13756).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 19, 1989 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2 (ANO-2), Pope County, Arkansas

Date of amendment request: December 12, 1988

Description of amendment request: This amendment would change the ANO-2 Technical Specifications (TS) which describe the design features of the Spent Fuel Storage Pool. These changes will update the TS to conform with Amendment 43 (April 15, 1983) which increased the spent fuel storage capacity for ANO-2. This amendment also would make a number of editorial, clarifying and administrative corrections to the Technical Specifications. Remaining issues in the amendment request have been addressed in previous notices.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751). One of the examples (i) of actions not likely to involve a significant hazards relates to a purely administrative change to technical specifications; for example, a change to achieve consistency throughout technical specifications, correction of an error, or a change in nomenclature.

This amendment would correct an administrative error in omission of spent fuel pool design feature information in the ANO-2 Technical Specifications. The new information should have been included in the February 17, 1983 request for TS change to reflect expansion of the spent fuel pool capacity for the plant. That requested change was approved in Amendment 43 which expanded storage from 485 spaces to 988 spaces. In addition the requested set of editorial changes are administrative in nature. The current changes would correct these administrative oversights, and therefore appear to be similar to example (i).

Since the application for amendment involves proposed changes that are similar to an example of an action that is considered not to involve significant hazards considerations, the Commission has made a proposed determination that

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the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Jose A. Calvo

Carolina Power & Light Company et al., Docket No. 50-325 and 50-324, Brunswick Steam Electric Plant, Units No. 1 and 2, Brunswick County, North Carolina

Date of application for amendment: September 4, 1987, as supplemented April 5, 1988, superseded February 20, 1989, and supplemented March 20, 1989.

Description of amendment request: Based on the guidance provided in NRC Generic Letter 88-16, the proposed change removes the values of cycle-specific parameter limits from the Brunswick Steam Electric Plant (BSEP) Technical Specifications (TS) and includes them in the Core Operating Limits Report (COLR). However, the COLR will be referenced in the TS, and will be periodically submitted to the Commission.

In addition, and based on the guidance in the NRC Safety Evaluation Report (SER) for Amendment 19 to General Electric Licensing Topical Report NEDE-24011-P-A, the proposed change eliminates BSEP Technical Specification 3/4.2.4, Linear Heat Generation Rate (LHGR), and the associated Total Peaking Factor (TPF). The use of TPF in the formulation of the Average Power Range Monitor (APRM) flow-biased scram and rod block setpoint setdown requirements of Specification 3/4.2.2 is being revised, along with associated definitions that are added, deleted, or revised. The associated revision of Technical Specification 3/4.2.1 specifies that only the most limiting lattice Average Planar Linear Heat Generation Rate [APLHGR) limit for multiple lattice fuel types will be specified.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Carolina Power & Light Company (CP&L) has reviewed the proposed changes to TS and has determined that the requested amendment does not involve a significant hazards consideration as follows:

Removal of Cycle-Specific Parameter Limits:

1. The proposed amendment does not involve a significant increase in probability or consequences of an accident previously evaluated. The abnormal operational transients analyzed in the BSEP Updated Final Safety Analysis Report will remain bounded. There will be no change in the operation of the facility as a result of the amendment. No safety-related equipment or function will be altered. The proposed amendment merely removes cycle-specific parameter limits from the Technical Specifications and references their inclusion in the CORE OPERATING LIMITS REPORT. NRC approved analytical methodology will continue to be used as the basis for the results that will now be reported in the CORE OPERATING LIMITS REPORT.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated above, no safety-related equipment, safety function, or plant operations will be altered as a result of this amendment. The requested change does not create any new accident mode. The proposed amendment is in accordance with the guidance provided in Generic Letter 88-16 for licensees requesting removal of the values of cycle-specific parameters from Technical Specifications. The establishment of these limits in accordance with an NRC-approved methodology and the incorporation of these limits into the CORE OPERATING LIMITS REPORT will ensure that proper steps have been taken to establish the values of these limits. Furthermore, the submittal of the CORE OPERATING LIMITS REPORT to the Commission will allow the Staff to continue to trend the values of these limits without the need for prior Staff approval of these limits and without introduction of an unreviewed safety question.

3. The proposed amendment does not alter the requirement that the plant be operated within the limits for cycle-specific parameters nor the required remedial actions that must be taken if these limits are not met. While it is recognized that such limits are essential to plant safety, the values of such limits can be determined in accordance with NRC-approved methods without affecting nuclear safety. The removal of the values of these limits from the BSEP Technical Specifications is coincident with their incorporation into the CORE OPERATING LIMITS REPORT that is submitted to the Commission. Hence, appropriate measures exist to control the values of these limits. Therefore, the proposed changes are administrative in nature and do not impact the operation of the facility in a manner that involves a reduction in the margin of safety. Indeed, as stated in Generic Letter 88-16, the proposed amendment is responsive to industry and NRC efforts on improvements in Technical Specifications, and will result in a resource savings for the licensee and the NRC by eliminating the majority of license amendment requests for changes in values of cycle-specific parameters in Technical Specifications. Indirectly, this is a safety improvement because the released resources may now be utilized on more consequential tasks.

Deletion of LHGR:

1. The proposed amendment does not involve a significant increase in the consequences of any accident previously evaluated. The NRC Safety Evaluation Report for Amendment 19 to GESTAR-II concluded that a change similar to the proposed change "...will, in practice, result in the same operating power distribution limits and safety margins as the current Technical Specifications." The essential redundancy of the Linear Heat Generation Rate and the Average Planar Linear Heat Generation Rate, and the equivalence of the formulation of the APRM flow-biased setpoint setdown requirement, has been established and is documented in the NRC Safety Evaluation Report for Amendment 19 of GESTAR-II. Since the same operating power distribution limits as current Technical Specifications will, in practice, be required, the proposed change does not involve a significant increase in the consequences of any accident previously evaluated.

The proposed change eliminates a thermal performance limit, modifies several definitions and provides an equivalent basis for adjusting APRM flow-biased setpoint setdown based on power distribution parameters. As such the change only affects power distribution parameters which do not influence the probability of any accident. Therefore, the proposed change does not result in a significant increase in the probability of any accident previously evaluated.

2. The proposed change does not alter the function of any component or system and, therefore, does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The margin of safety, as established by current Technical Specification power distribution limits, are [SIC] based on the assumptions and analyses documented in the BSEP Updated Final Safety Analysis Report. The proposed amendment will, in practice, result in the same power distribution limits as contained in current Technical Specifications; therefore, the proposed change does not involve a significant reduction in the margin of safety.

The staff has reviewed the CP&L determinations and is in basic agreement with them. Cycle-specific parameter limits will be referenced in the TS, but will be located in a licensee controlled document instead of located in the TS. The linear heat generation rate limit is essentially redundant to the average planar linear heat generation rate limit and the latter limit will be retained.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 22, 1989

Description of amendment request: The proposed amendment would change Technical Specification (TS) 3/4.1.1.3, "Moderator Temperature Coefficient," to allow a more negative moderator temperature coefficient (MTC) in the Limiting Condition for Operation, TS 3.1.1.3b, and in the associated Surveillance Requirement, TS 4.1.1.3b.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously analyzed. Accident analyses do not explicitly input an MTC, but rather a constant moderator density coefficient (MDC). Converting the MDC used in the accident analyses to an MTC is a straight forward calculation which accounts for the rate of change of moderator density with temperature at the conditions of interest; namely, Hot Full Power (HFP). For those non-LOCA transients where analysis results are made more severe by assuming maximum moderator feedback, a constant MDC of 0.43 delta K/gm/cc has been assumed to exist throughout the transient. Converting this to a limiting MTC at HFP conditions gives about -56 pcm/° F. The proposed Technical Specification LCO MTC value of -49 pcm/° F conservatively assures that under other allowed operating conditions (such as rods at insertion limits, off-nominal temperature and pressure and xenon and axial offset variations) that the actual MTC will not exceed the analysis value. Hence, there is no effect on any design basis accident and no increases in the consequences of any design basis accident associated with this Technical Specification change.

For LOCA analyses (large and small break), the only significance of a change in MTC would be to the extent that it may affect generated decay heat. The reactivity assumptions in the large break and small break LOCA accident analyses assume a maximum decay heat generation according to the requirements of Appendix K. Consequently, any changes to the MTC would show no effect for the large and small break LOCA analyses.

As stated above, the safety analysis assumption remains conservative with respect to the proposed LCO limit value of -49 pcm/° F. Therefore, the proposed change in the LCO limit from -42 pcm/° F to -49 pcm/° F still assures that the accident analyses moderator temperature coefficient is not exceeded. The proposed changes do not impact the consequences of any design basis accident. Also, there are no failure modes associated with the proposed changes; therefore, there is no increase in the probability or consequences of any accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident. There is no change in the plant design or in operating procedures. Additionally, there are no new failure modes introduced by the proposed changes; therefore, there can be no impact on plant response to the point where a different accident is created.

3. The proposed amendment does not involve a significant reduction in a margin of safety. The proposed changes have no impact on the consequences of an accident or on any of the protective boundaries. The bases to the MTC Technical Specification 3/4.1.1.3 states "The limitations on moderator temperature coefficient (MTC) are provided to ensure that the value of this coefficient remains within the limiting condition assumed in the FSAR accident and transient analyses." The proposed changes continue to satisfy this statement. The definition of the most limiting condition assumed in the safety analyses is changing from an extremely conservative and unrealistic assumption of Hot Full Power (HFP), all rods in (ARI), to a Most Negative Feasible MTC approach. The Most Negative Feasible MTC still provides a conservative estimate of the worst MTC, and the revised limits still provide assurance that the values used in the safety analyses remain bounding compared to those which may be experienced under real accident conditions. Based on the above discussion, there is no significant reduction in the margin of safety.

Based on the above, the licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 22, 1989

Description of amendment request: The proposed amendment would revise Surveillance Requirement 4.9.8.2 to delete the residual heat removal (RHR) flow requirement whenever the water level is below the reactor vessel flange. Currently, Surveillance Requirement 4.9.8.2 requires that at least one RHR loop be verified in operation and circulating reactor coolant at a flow rate of greater than or equal to 2500 gpm at least once per 12 hours when the reactor is in Mode 6 with irradiated fuel in the vessel and the water level above the top of the reactor vessel flange is less than 23 feet. The 2500 gpm flow requirement would be maintained when the water level is at or above the reactor vessel flange. The associated Bases section would also be revised to reflect this change.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

As required by 10 CFR 50.91(a), the licensee has provided the following no

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significant hazards consideration determination:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The existing requirement of Specification 3/4.9.8.2 that at least one RHR loop be in operation ensures that: (1) sufficient cooling capacity is available to remove decay heat and maintain the water in the reactor vessel below 140° F as required in Mode 6, and (2) sufficient coolant circulation is maintained through the core to minimize the effect of a boron dilution incident and prevent boron stratification. The Mode 6 minimum flow limit of 2500 gpm was established to alleviate the potential for boron stratification under refueling conditions. However, achieving 2500 gpm flow rate at the reduced water levels of mid-loop operation could cause cavitation and eventual damage of the RHR pumps. Boron stratification is only a concern with the large volumes of water present when the refueling cavity is filled. Sufficient mixing exists, even at low RHR flow rates, to preclude boron stratification when the water level is below the reactor vessel flange. Administrative controls to isolate potential sources of non-borated water from the reactor, established in Technical Specification 3/4.9.1, prevent a boron dilution event while in Mode 6. Since boron stratification is not a concern at reduced RCS water inventories and the possibility for a boron dilution event is precluded by Technical Specification 3/4.9.1, the proposed revision to eliminate the minimum flow limit when the RCS water level is below the reactor vessel flange does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment splits the existing surveillance requirement into two separate surveillances. The first, Surveillance Requirement 4.9.8.2.1, is applicable when the RCS water level is at or above the reactor vessel flange and maintains the 2500 gpm minimum flow limit. The second, Surveillance Requirement 4.9.8.2.2, is applicable when the RCS water level is below the reactor vessel flange and requires that one RHR loop be verified in operation and circulating reactor coolant at least once per 12 hours. This new surveillance requirement is identical to the existing Mode 5 Surveillance Requirement 4.4.1.4.2, the only difference being the plant mode. That is, prior to de-tensioning the reactor vessel head closure bolts with water temperature less than 140° F the plant is in Mode 5. Upon detensioning of the bolts, the plant is in Mode 6. There is no change in reactor vessel water level, however, at this point the existing Surveillance Requirement 4.9.8.2 establishes a minimum flow rate of 2500 gpm. This minimum flow requirement is not necessary when the water level is below the reactor vessel flange as demonstrated in the Bases for Specification 3/4.4.1, Reactor Coolant Loops and Coolant Circulation, which states that, in Mode 5, "... the operation of one reactor coolant pump or one RHR pump provides adequate flow to ensure mixing and prevent stratification." No Mode 5 minimum flow rate is established in Specification 3/4.4.1. Therefore, as long as the RCS water level is below the reactor vessel flange a minimum flow requirement is not necessary either in Mode 5 or Mode 6. Upon raising the water level above the reactor vessel flange, the proposed Surveillance Requirement 4.9.8.2.1 will be in effect and require a minimum flow rate of 2500 gpm. As such, the proposed amendment will not result in the plant being placed in a condition not currently allowed during Mode 5 operation and, therefore, does not create the possibility of a new or different kind of accident.

3. Eliminating the minimum RHR flow limit of 2500 gpm when the RCS water level is below the reactor vessel flange does not involve a significant reduction in the margin of safety. As stated above, the Mode 6 minimum flow limit of 2500 gpm was established to alleviate the potential for boron stratification under refueling conditions. Boron stratification is only a concern with the large volumes of water present when the refueling cavity is filled. Sufficient mixing exists, even at low RHR flow rates, to preclude boron stratification when the water level is below the reactor vessel flange. In addition, the proposed amendment does not result in the plant being placed in a condition not currently allowed by the existing Mode 5 Surveillance Requirement 4.4.1.4.2. Therefore, the proposed amendment does not result in a significant reduction in the margin of safety.

Based on the above, the licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-454 and 50-455, Byron Nuclear Station, Unit Nos. 1 and 2, Ogle County, Illinois; and Docket Nos. 50-456 and 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: December 23, 1987, supplemented April 3, 1989.

Description of amendments request: The proposed amendment would revise Technical Specification Tables 3.3-1 and 4.3-1, as requested in Generic Letter 85-09 for Reactor Trip System Automatic Actuation using shunt trip coil attachments.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not:

1. Involves a significant increase in probability or consequences of an accident previously evaluated; or

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or

3. Involve a significant reduction in a margin of safety.

The proposed changes requested have been evaluated as presented below:

(1) The automatic actuation of the shut trip coil attachment provides an alternate method to open the reactor trip coil breakers. When a reactor trip signal is generated, there are diverse mechanisms to provide a reactor breaker trip which would minimize the possibility of an Anticipated Transient Without Scram (ATWS) occurring. The proposed changes revise the surveillances to require independent testing of the undervoltage and shunt trip coil attachment for the manual reactor trip and the reactor trip breakers.

These surveillances provide assurance of reactor trip breaker operability when required. Since there are now two diverse trip mechanisms, a change is also proposed to allow forty-eight (48) hours to restore one of the trip features when it becomes inoperable, before a reactor shutdown is required. This is conservative because it recognizes that there are two trip mechanisms instead of one and allows forty-eight (48) hours to restore the inoperable trip feature. This change is based on the allowable time referenced in the NRC Generic Letter 85-09. Removal of note 14, for the Braidwood Technical Specifications is administrative in nature.

(2) The proposed changes do not change the manner in which the reactor protection system provides plant protection. The addition of surveillance test requirements provides assurance that the Reactor functions will occur when required. Present plant equipment is not being altered to accommodate these changes, hence, no new failure mechanisms are introduced.

(3) The proposed changes are expected to increase the overall margin of safety because they provide periodic test requirements for the Reactor Trip Breakers. These proposed surveillance changes are designed to provide assurance of operability of the reactor trip and bypass breakers. Based on the preceding assessment, the staff believes these proposed amendments involve no significant hazards consideration.

Local Public Document Room location: For Byron Station, the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; for Braidwood Station, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Esquire; Sidley and Austin, National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Unit Nos. 1 and 2, LaSalle County, Illinois

Date of application for amendments: January 30, 1989

Description of amendments request: The proposed amendments to Operating License No. NPF-11 and Operating License No. NPF-18 would revise the LaSalle Units 1 and 2 Technical Specifications by revising the MAPLHGR Limits Curves to reflect the higher nodal exposure values for specific fuel types.

The MAPLHGR limit curves of Technical Specification 3.2.1 for both Units 1 and 2 are being redrawn to reflect higher nodal exposure values for fuel types 8CRB176, 8CRB219, and BP8CRB299L. The purpose of the revision is that the full analyzed range of nodal exposures was not previously reflected and operation during Cycle 3 of each unit is expected to go beyond the limits of the existing curves.

The MAPLHGR limits of Technical Specification Figures 3.2.1-1 and 3.2.1-2 depict the maximum allowable Average Planar Linear Heat Generation Rate for the specific fuel types as a function of nodal exposure. The exposure dependent limits are analyzed by GE and approved by the NRC through reviews of General Electric Standard Application for Reloads (GESTAR). The site Technical Specifications then provide a controlling document to reflect these analyzed limits.

During the Cycle 2 reload licensing submittals for both LaSalle units (Amendment 40 for Unit 1 - NPF-11, Amendment 32 for Unit 2 - NPF-18), the MAPLHGR limit curves for fuel type 8CRB299L were drawn to the same exposures (30,000 MWD/STU) as the initial cycle fuel curves for simplification. The GE analyzed exposure range of up to 44,500 MWD/STU (49.0 GWD/MTU) was reviewed and approved in those submittals (GE "Supplemental Reload Licensing Submittal" documents 23A1843 and 23A4735 for Units 1 and 2, respectively). Redrawing of these curves is an administrative change only, and will adequately reflect the analyzed exposure range of the 8CRB299L bundles throughout their useable bundle lifetime.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the NRC staff agrees, that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because these restrictions on power distribution are based on analysis performed with the NRC approved methods and are provided to ensure that these consequences of accidents remain within the existing criteria for LaSalle.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed revisions place restrictions on power distribution thus eliminating new or different kinds of accidents from those previously analyzed.

3. Involve a significant reduction in the margin of safety because the specification revisions provide limitations on the power distribution intended to ensure that the ECCS and fuel thermal mechanical criteria continue to be protected.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut; Northeast Nuclear Energy Company et al; Docket Nos. 50-245, 50-336, and 50-423, Millstone Nuclear Power Station Unit Nos. 1, 2, and 3, New London County, Connecticut

Date of amendment request: March 13, 1989

Description of amendment request: By an application dated March 13, 1989, Connecticut Yankee Atomic Power Company (CYAPCO) and Northeast Nuclear Energy Company (NNECO) proposed to amend the Technical Specifications (TS) of the Haddam Neck and Millstone Units 1, 2 and 3 plants. The amendment would delete Figure 6.2-1, "Offsite Organization," and Figure 6.2-2, "Unit Organization," from the Technical Specifications and would revise TS section 6 to require the inclusion of these organizational charts in the Quality Assurance Topical Report.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves a no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. CYAPCO/NNECO has reviewed the proposed change and provided the following analysis. The change would not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed. The proposed changes are strictly administrative in nature. This administrative change will not increase the probability of occurrence or the consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced. The proposed changes are administrative and have no affect on plant operation.

3. Involve a significant reduction in a margin of safety. The proposed changes

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remove the offsite and onsite organization charts from the Technical Specifications and are strictly administrative. Similar organization charts are contained in the QA Topical Report, which is updated annually. Since the proposed changes do not affect the consequences of any accident previously analyzed, there is no reduction in the margin of safety.

The Commission staff has reviewed and agrees with the CYAPCO/NNECO analysis and believes that the licensees have met the three criteria for a no significant hazards consideration. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457 and Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: November 21, 1985

Description of amendment request: The proposed amendment would revise the provisions in the Palisades Plant, Technical Specifications (TSs) with the addition of new sections relating to the Alternate Shutdown System.

Specifically, the proposed amendment would add Section 3.25, Alternate Shutdown System, which would require the operability of the Alternate Shutdown System whenever the reactor coolant temperature reaches or exceeds 325° F. This section specifically identifies the minimum equipment to be operable, their locations, and action to be taken in the event of inoperability of any specified equipment.

The proposed amendment would also add Section 4.20 which would require performance of periodic surveillance testing of certain Alternate Shutdown System equipment. This section specifically identifies the Alternate Shutdown System components subject to the surveillance requirements.

The amendment request also proposed other changes not described above. Those proposed changes will be discussed in a separate notice in the **Federal Register** when the Commission considers issuance of those changes.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.58, this means the operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The Commission has evaluated the proposed changes against the above criteria as follows:

A. The changes do not involve a significant increase in the probability or consequences or an accident previously evaluated because the Alternate Shutdown System design provides a means to control auxiliary feedwater in the event of a fire in the control room which results in loss of control from the main control room of the turbine-driven auxiliary feedwater pump. A third auxiliary feedwater pump provides a separate injection path to the steam generators in the event of a fire at the Alternate Hot Shutdown panel which results in loss of control of the normal auxiliary feedwater pumps. Therefore, since a postulated fire cannot disable the auxiliary feedwater function, the change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. For the same reasons as cited in paragraph A above, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The change does not involve a significant reduction in a margin of safety because the Alternate Shutdown System provides assurances of the auxiliary feedwater function in the event of a fire that disables normal control of this function. Therefore, the margins of safety associated with operation of the plant are unchanged

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Theodore R. Quay, Acting.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: March 10, 1987

Description of amendment request: The proposed amendment would change the Technical Specifications to provide clarifications and editorial corrections to the Radiological Effluent Technical Specifications (RETS).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase it the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes against the above standards as required by 10 CFR 50.91(a). The Commission's staff has reviewed the licensee's evaluation and agrees with it.

The licensee has concluded that:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The changes are administrative in nature in that they: (a) clarify the existing requirements for sampling service water discharge (or effluents); (b) remove the surveillance requirements for the quarterly testing of the Hi Range Noble Gas Monitor high alarm annunciator which does not exist in the plant; and (c) corrects an editorial error in Technical Specification (TS) Amendment 85. None of these changes impact on plant design or operation and consequently the previously evaluated accidents are not altered.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated since, as stated in (1) above, the changes are administrative and essentially clarify service water sampling requirements and/or correct existing TS errors.

(3) The proposed changes do not involve a significant reduction in a margin of safety since, as stated in (1) and (2) above, the changes are administrative and do not involve a change in the manner in which the plant is operated.

In addition, the proposed license amendment fits example (i) of the types of amendments that are considered not likely to involve significant hazards consideration published in the **Federal Register** on March 6, 1986 (51 FR 7751), in that it is considered to be a purely administrative changes to the TS; i.e., a change to achieve consistency throughout the TS, correct an error, or a change in nonmenclature.

Based on the above review, the staff proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Theodore R. Quay, Acting.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: October 7, 1988

Description of amendment request: The proposed change deletes the requirement to perform response time testing of the High Drywell Pressure actuation of the High Pressure Coolant Injection (HPCI) System. The change will eliminate unnecessary operation of the HPCI system and thus enhance overall HPCI system reliability.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists [10 CFR 50.92(c)] for a proposed amendment to a facility operating license. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change against the above standards as required by 10 CFR 50.92. The licensee concluded that:

(1) The change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The Fermi-2 ECCS analysis takes no credit for the High Drywell Pressure actuation of the HPCI system and the High Drywell Pressure signal has been found to precede the Low Reactor Water Level signal for all break sizes. Thus, the time response capability of the HPCI system can be conservatively verified by testing the system time response to only the Low Reactor Water Level actuation signal. The change reduces the number of HPCI system starts required for surveillance testing and thus increases the overall reliability of the HPCI system. This increased reliability acts to decrease the probability or consequences of previously evaluated accidents.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The change does not modify plant design or operation and therefore creates no new accident modes. The reduced response time testing does not create the possibility of a new or different kind of accident since the remaining functional test requirements ensure that any credible failure of the circuitry no longer response time tested is detected in a timely manner

(3) Involve a significant reduction in a margin of safety. As discussed in (1) above, the change acts to increase overall reliability of the HPCI system. As such, the change acts to increase the margin of safety. The margin of safety is maintained since the HPCI system is still conservatively response time tested and the circuitry which is no longer response time tested does not represent a credible mechanism for degradation of the HPCI system response time.

The staff has reviewed the licensee's evaluation and concurs with it. On the basis of the above consideration, the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: Theodore R. Quay, Acting.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendments request: November 14, 1988

Description of amendments request: The proposed amendment would delete the mass flow rate values associated with Steam Line Flow - High Trip Function of both the Reactor Core Isolation Cooling (RCIC) system isolation and High Pressure Coolant Injection (HPCI) system isolation as listed in Table 3.3.2-1 items 3.a.1 and 4.a.1, respectively. The change also finalizes the Trip Set Point and Allowable Values for these trip functions

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists [10 CFR 50.92(c)] for a proposed amendment to a facility operating license. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change against the above standards as required by 10 CFR 50.92. The licensee concluded that:

(1) The proposed change to delete the mass flow rate and associated ** from Items 3.a.1 and 4.a.1 of Table 3.3.2-2 does not involve a significant increase in the probability or consequences of an accident previously evaluated. The mass flow rate value is not produced by the installed instrumentation and it is not necessary nor required for the Trip Setpoint to perform the function of isolation of the RCIC or HPCI system. The mass flow rate value was used in the design calculations of steam flow across the steam line orifice and was used in developing the differential pressure setpoints and allowable values. The high dp Trip Setpoint is not affected by the deletion of the mass flow rate value and **, nor is it changed by the proposed amendment. Therefore, the change will result in no change to the assumptions or scenarios used to evaluate the probability or consequences of evaluated accidents.

(2) The proposed change to delete the mass flow rate and associated ** from Items 3.a.1 and 4.a.1 of Table 3.3.2-2 does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not affect system operation, nor does it change the Trip Setpoints or Allowable Values based on dp, and no safety-related equipment is altered. The mass flow rate value is not required to prevent any accident. Trip Set Points and Allowable Values, based on dp, are retained "as is" for the two Items.

(3) The proposed change to delete the mass flow rate and associated ** from Items 3.a.1 and 4.a.1 of Table 3.3.2-2 does not involve a significant reduction in a margin of safety. The Trip signal generated by a high dp is not affected by this change and therefore the actuation and isolation function remains the same. Therefore, the removal of the mass flow rate numbers and associated ** does not reduce any margin of safety.

The staff has reviewed the licensee's evaluation and concurs with it. On the basis of the above consideration, the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: Theodore R. Quay, Acting.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: April 6, 1989

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Description of amendment request: The proposed revision would allow the conduct of a demonstration program regarding interface compatibility between three rod control cluster assemblies (RCCAs) supplied by Babcock and Wilcox Fuel Company (BWFC) and Westinghouse fuel assemblies at Catawba Unit 2. It would also allow the comparison of the wear characteristics of various RCCA clad materials. This demonstration program would involve changing the description of the Control Rod Assemblies in Section 5.3.2 of the Technical Specifications (TSs) for Catawba Unit 2 only. Unit 1 is included because the TSs for both units are combined in one document.

Two of the demonstration assemblies consist of control rods fabricated with Armaloy plated 304 stainless steel cladding. The third assembly consists of control rods fabricated with chromium carbide coated Inconel 625 cladding. In-reactor experience with the chromium carbide coating has shown that the coating performs extremely well.

The three RCCAs supplied by BWFC maintain the same design features as the Westinghouse 17x17 RCCAs. All of the primary interfaces have been verified by onsite dimensional measurement inspections made at McGuire Units 1 and 2. In addition, a dummy RCCA was fabricated and shipped to Catawba Unit 2 for interface and handling checkout. The licensee's submittal provides a summary of the design information and thermal hydraulic compatibility analysis for the demonstration RCCAs.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed revision would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the change in the shutdown margin for the three demonstration RCCAs is negligible, and measurements would be performed during each cycle initial startup to verify the acceptability of the rod worths.

The proposed revision would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the demonstration RCCAs would function similarly to those designed by Westinghouse, and no new modes of operation are introduced.

Finally, the proposed revision would not (3) involve a significant reduction in a margin of safety because the BWFC RCCAs should perform in accordance with Catawba TS limits before Unit 2 would commence its operation following the current refueling outage.

Accordingly, the Commission proposes to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: March 2, 1989

Description of amendment request: The proposed amendment would revise the reactor trip system and engineered safety feature (ESF) actuation system instrumentation trip setpoints and allowable values, based upon the results of a re-analysis of the instrument channel inaccuracies. All the changes are located in Tables 2.2-1 and 3.3-4 of the Technical Specifications. The licensee submitted Westinghouse report WCAP-11419, "Westinghouse Setpoint Methodology for Protection Systems, Beaver Valley Unit 1," to support this amendment request. The changes are needed to keep the reactor trip and ESF actuation setpoints, after factoring in the revised allowances of inaccuracy, within limits assumed in the Final Safety Analysis Report.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed change does not involve a significant hazards consideration because:

(1) The basis of the reactor trip system and EFS actuation system trip settings are the limits in the safety analyses. The proposed changes to the trip settings and allowable values ensure that these safety analysis limits are maintained when the appropriate allowances for instrument channel inaccuracies, as revised, are considered. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed amendment would not cause any changes in plant equipment or design. Therefore, it does not create the probability of an accident or a malfunction different from ones previously evaluated.

(3) These changes will not affect the assumptions or consequences of any safety analysis presented in the FSAR. Therefore, the amendment will not involve a significant reduction in a margin of safety.

Accordingly, the staff proposes to determine that this amendment does not involve a significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: March 21, 1989

Description of amendment request: The proposed amendment would relocate the requirements for the examination and testing of snubbers. The licensee's proposal would substitute Technical Specification (TS) 4.0.5 and the NRC approved Revision 2 to the River Bend Station Inservice Inspection (ISI) program for the current TS 3/4.7.4, "Snubbers". TS 4.0.5 states, in part:

4.0.5 Surveillance Requirements for inservice inspection and testing of ASME code Class 1, 2, & 3 components shall be applicable as follows:

a. Inservice inspection of ASME Code — Class 1, 2, and 3 components and inservice testing of ASME Code Class 1, 2 and 3 pumps and valves shall be performed in accordance with Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda as required by 10 CFR 50, Section 50.55a(g), except where specific written relief has been granted by the Commission pursuant to 10 CFR 50, Section 50.55a(g)(6)(i).

Snubber inspection requirements are included in Article IWF, Section 11 of the ASME Code and Revision 2 of the River Bend Station (RBS) ISI program. Thus, TS 4.0.5 and the ISI program would define the snubber requirements.

Because of the proposed relocation of the snubber examination and testing requirements, the licensee's proposal would delete TS 3/4.7.4, Figure 4.7.4-1, "Sample Plan for Snubber Functional Test", and Bases Section 3/4.7.4.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

1. No significant increase in the probability of consequences of an accident previously evaluated results from the proposed change because:

The proposed change does not result in a change to the plant design or inspection and testing. As such, the proposed change does not change the response of the plant or equipment required for safety as described in Chapters 6 and 15 of the RBS Updated Safety Analysis Report. The NRC approved RBS ISI Plan continues to exceed the minimum inspection requirements of ASME Section XI for snubbers. The scope of actual examinations has not been reduced.

The requirements of the current Technical Specifications governing snubber inspections at RBS have been incorporated into the NRC approved RBS ISI Plan with the following exceptions:

A. Limiting Condition for Operation

A more conservative approach will be utilized by considering a system inoperable to which an operable snubber is attached, without allowing for a 72 hour component evaluation period prior to this determination. This is in keeping with ASME Section XI and the current Technical Specification definition of OPERABILITY. This change is intended to conform the RBS Technical Specifications with the NRC approved RBS ISI Plan, the requirements of ASME Section XI and the current definition of OPERABILITY.

B. The proposed change will include snubber load capacity as an additional criterion for sample type selection. Snubber sample selection based on load capacity as a criterion provides a more complete cross section of plant snubber population, and therefore, allows for more accurate test results and failure mode evaluation. Since only accessibility determines the scope of subsequent visual inspection, this additional criterion will have no impact on the scope of subsequent surveillances.

C. Visual Inspections

The proposed change to allow subsequent examinations of inaccessible snubber during reactor shutdown follows the guidelines for successive inspections as specified in ASME Section XI, the NRC approved Revision 2 to the RBS ISI Plan and Revision 2 to the Standard Technical Specifications. Allowing these examinations to be delayed until the next reactor shutdown of sufficient duration will also allow increased plant availability and will substantially decrease man-rem exposures as a result of these examinations.

Since these proposed changes do not result in a change to plant design or operating modes and do not result in a reduction in the scope of required snubber examinations, there is no significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change will not create the possibility of a new or different kind of accident than any previously evaluated because:

This proposal entails the transfer of responsibility for snubber inspections to comparable programs, both of which comply with the minimum requirements of ASME Section XI. The quantitative and qualitative scope of snubber examinations has not been reduced below the minimum requirements of ASME Section XI. Since the proposed change does not result in a change to the plant design or operating modes or reduce the scope of subsequent examinations, the proposed change cannot introduce the possibility of a new or different kind of accident than previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety because:

The approach to snubber and system operability proposed in this amendment request is more conservative than that found in the current Technical Specifications. This added conservatism will act to increase, not decrease, any existing margin of safety. Additionally, the proposed change does not reduce the scope of subsequent examinations. Further, subsequent revisions to the RBS ISI Plan are required to be submitted for NRC review and approval prior to implementation. Therefore, the proposed change will not decrease the margin of safety.

Based on the above considerations, the proposed change does not increase the probability or the consequences of a previously evaluated accident, does not create the possibility of a new or different kind of accident from any previously evaluated, and does not involve a reduction in the margin of safety. Therefore, Gulf States Utilities company proposes that no significant hazards are involved.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposed to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: Government Documents Department Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Jose A. Calvo

Illinois Power Company, Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: December 21, 1988

Description of amendment request: The proposed amendment would revise Technical Specifications 3.6.2.7 to delete a limitation on the period of approval for drywell purge and vent system operation. The specific limitation is a footnote which states that the allowed system operation is applicable for the period from initial fuel load to 3 months after completion of the first refueling outage. The submittal states that this limitation should have only been included for the operation of the containment purge system and was inappropriately included for the drywell purge and vent system.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards consideration. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change would only allow continued limited use of the drywell purge and vent system. The use of the system for pressure control was previously evaluated and approved by

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the NRC in Clinton's Supplemental Safety Evaluation Report 5.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no changes to plant design or operation of the facility.

The proposed changes do not involve a significant reduction in a margin of safety because the changes do not alter the criteria for system operation. It only allows the system operation to continue past the original limited period.

For the reasons stated above, the staff believes this proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: Daniel R. Muller

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: September 6, 1988

Description of amendments request: The amendment would delete Figure 6.2-1, "Organizational Relationships Within the American Electric Power System Pertaining to QA & QC and Support of the Donald C. Cook Nuclear Plant" and Figure 6.2-2, "Facility Organization - Donald C. Cook - Unit No. 1" and "... Unit No. 2", from the Technical Specifications in response to Generic Letter 88-06.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration, if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a signficant reduction in a margin of safety. The Indiana Michigan Power Company reviewed the proposed change and determined, and the NRC staff concurs, that:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the organization charts from the Technical Specifications does not affect plant operation. As in the past, the NRC will continue to be informed of organization changes through other required controls. In accordance with 10 CFR 50.34(b)(6)(i) the applicant's organizational structure is required to be included in the Final Safety Analysis Report. Chapter 13 of the Finel Safety Analysis Report provides a description of the organization and detailed organization charts. As required by 10 CFR 50.71(e), the Indiana Michigan Power Company submits annual updates to the FSAR. Appendix B to 10 CFR Part 50 and 10 CFR 50.54(a)(3) govern changes to organization described in the Quality Assurance Program. Some of these organizational changes require prior NRC approval. Also, it is Indiana Michigan Power Company's practice to inform the NRC of organizational changes affecting the nuclear facilities prior to implementation.

(2) The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature, and no physical alterations of plant configuration or changes to set points or operating parameters are proposed.

(3) The proposed amendment does not involve a significant reduction in a margin of safety because Indiana Michigan Power Company, through its Quality Assurance Programs, its commitment to maintain qualified personnel in positions of responsibility, and other required controls, assures the safety functions will be performed at a high level of competence. Therefore, removal of the organizational chart from the Technical Specifications will not affect the margin of safety.

Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Theodore R. Quay, Acting.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: January 27, 1989

Description of amendment request: The existing 250 Volt batteries at Cooper Nuclear Station are being replaced during the 1989 refueling outage by new lead-calcium batteries that have a greater ampere-hour capacity. The proposed amendment would raise the battery cell minimum voltage from 2.0 Volt to 2.15 Volt and change the minimum corrected specific gravity from 1.190 to 1.195 for the pilot cells and to specify a minimum of 1.200 specific gravity for the average of all connected cells. This is associated with replacing the present lead acid plate cell with lead-calcium cells.

Also, this requires a battery service or performance discharge test once each operating cycle depending on battery condition, time interval since the previous performance discharge test, and age of the battery.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee submitted the following significant hazards evaluation:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Evaluation:

1. The proposed amendment will replace the existing 250 Volt DC batteries with higher capacity lead-calcium cells that require a higher floating voltage and different specific gravity values. The capability to carry out the intended function and operation of the 250 Volt DC System will be unaffected and the system will continue to satisfy its safety design bases as stated in the Updated Safety Analysis Report. With the proposed minimum cell voltage and corrected specific gravities, the battery will have adequate capacity to supply the required emergency loads following a design basis accident. The system performance will be improved as the existing batteries are nearing the end of their design life. The proposed amendment will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The present requirement is to subject the 250 VDC battery to a performance discharge test once every operating cycle. The proposed amendment will change the surveillance testing on the 250 Volt battery to require a battery service or a performance discharge test once every operating cycle depending on battery condition, time interval since the previous performance discharge test, and age of the battery. The new requirements are consistent with the IEEE Battery Working Group draft Standard Technical Specifications for installations at BWR facilities. Additionally, the NRC has previously accepted these surveillance requirements for the 125 VDC batteries with the issuance of Amendment No. 122 to the CNS license, and the 250 VDC battery cells are identical to those supplied for the 125 VDC batteries. These surveillance requirements will assure the battery capacity is adequate to supply the required 250 Volt DC loads in the time period following the design basis accident. The proposed amendment will not involve a significant

increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Evaluation:

1. The proposed amendment will change the minimum cell voltages and specific gravities to reflect the replacement of the existing 250 Volt batteries with new lead-calcium cells. The operation and function of the 250 Volt DC System will be unaffected and remain as described in the CNS USAR. The proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

2. The proposed amendment would revise the surveillance testing for the 250 Volt station batteries which would better insure the operability of this system; however, this proposed amendment will not change the operation or function of the 250 Volt DC System as described in the USAR. The proposed amendment will not allow any new mode of plant operation or create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Evaluation:

1. The new 250 Volt batteries will have greater ampere-hour capacity to safeguard the station in the event of a design basis accident until off site AC power sources are restored. The proposed amendment does not involve a significant reduction in the margin of safety.

2. The proposed amendment will revise the surveillance testing on the 250 Volt station batteries and will not affect the ability of the 250 Volt DC System to perform its intended function during normal or accident conditions. The proposed amendment does not involve a significant reduction in the margin of safety.

B. Additional basis for proposed no significant hazards consideration determination:

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). This change is considered to fit the example: "(ix) A repair or replacement of a major component or system important to safety, if the following conditions are met: (1) The repair or replacement process involves practices which have been successfully implemented . . . , and (2) The repaired or replacement component or system does not result in a significant change in its safety function . . . " It is the District's belief that this change request falls within the guidance provided.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Jose A. Calvo

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: March 16, 1989

Description of amendment request: The proposed amendment would revise the Technical Specifications to correct an error in Table 3.3.4 "Primary Containment Isolation Valve Lines Entering Free Space of the Containment." The change will clarify that the containment spray isolation valves do not receive automatic initiation signals to open on reactor low-low water level and high drywell pressure. The affected valves are open during plant operation as required by station operating procedures and receive no automatic closure signals including the signal for containment isolation. The valves may be closed during system testing, removal of water from the suppression pool, maintenance or suppression pool cooling. The Final Safety Analysis Report was previously revised to make this change. The proposed amendment corrects the Technical Specifications accordingly.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In its March 16, 1989 submittal, the licensee provided the following analysis:

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This change corrects an error so that the Technical Specifications conform to the actual plant design. Operation of the Containment Spray System is not effected by this change. As such, the changes is administrative in nature and does not create the probability of a new or different kind of accident from any accident previously evaluated. A table similar to 3.3.4 in the FSAR has previously been corrected.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The containment spray system operation is not effected by this change. Any one of the four conteinment spray loops (with its raw water pump) is capable of maintaining the containment temperature and pressure within the design basis. Automatic restoration of a loop in the test mode is not necessary to maintain existing safety margins. This change does not involve any significant reduction in margin of safety.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences or an accident previously evaluated.

This change does not affect the capability of the containment spray system to meet its design basis. Since the original system design basis is met, the probability or consequences of an accident previously evaluated are not increased.

Based on the above, the staff proposes to determine that the amendment will not involve a significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: March 10, 1989

Description of amendment request: The proposed change to Paragraph 1.A of Facility Operating License NPF-49 would delete the reference to the City of Burlington as one of the licensees for Millstone Unit 3.

Basis for proposed no significant hazards consideration determination: By letter dated February 13, 1989, the NRC staff was informed of a transfer of

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a minor percentage ownership share between two of the existing licensees of Millstone Unit No. 3 effective as of February 15, 1989. Specifically, the change involves the transfer of the 0.0435 percent joint ownership interest of the City of Burlington, Vermont to the Connecticut Municipal Electric Energy Cooperative (CMEEC). Both the City of Burlington and the CMEEC have been associate participants in Millstone Unit No. 3 as provided in the Sharing Agreement dated September 1, 1973.

The staff has made a determination in accordance with 10 CFR 50.92 that this application for amendment is enveloped by example viii (March 6, 1986, 51 FR 7751), a change to a license to reflect a minor adjustment in ownership among co-owners, and, as such, does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: March 14, 1989

Description of amendment request: The proposed amendment would change the Millstone Unit 3 Technical Specifications (TS) to replace the Surveillance Requirements of TS 4.3.4, "Turbine Overspeed Protection," as follows: (1) TS 4.3.4.2 would be deleted and replaced with a reference to the requirements of the "Turbine Overspeed Protection Maintenance and Testing Program," and (2) TS 6.5.1.6, "Responsibilities," would be supplemented by adding item (j) which would require that the Plant Operations Review Committee (PORC) provide for "Review of Unit Turbine Overspeed Protection Maintenance and Testing Program and revisions thereto." In addition, a footnote would be added to the applicability for TS 3.3.4 to state that the Turbine Overspeed Protection System need not be operable, "... in MODE 2 or 3 with all main steam line isolation valves and associated bypass valves in the closed position and all other steam flow paths to the turbine isolated."

Basis for proposed no significant hazards consideration determination: By letter dated November 7, 1988, Northeast Nuclear Energy Company (the licensee) submitted the Millstone Unit 3 Turbine Overspeed Protection Maintenance and Test Program (TOPMTP). The TOPMTP encompasses the surveillance requirements of Section 4.3.4.2. In addition, the TOPMPT provides for other turbine overspeed system related tests and for high and low pressure turbine rotor inspections, thereby assuring an acceptably low probability of a rotor burst at or near design overspeed. Avoiding destructive overspeed and rotor failures is essential to minimizing the probability of the generation of turbine missiles which could impact and damage safety-related components, structures, and equipment. The more comprehensive TOPMPT provides the necessary assurance that the probability of turbine generated missiles will remain at or below the criteria of 1×10^{-5} per year in accordance with Standard Review Plan, Section 3.5.1.3, "Turbine Missiles." The proposed change to TS 6.5.1.6(f) would provide for administrative and technical oversight, by the licensee, for the TOPMPT.

With regard to the proposed footnote to TS 3.3.4, the provision would allow the inoperability of the Turbine Overspeed Protection System, during operational Modes 2 and 3 (hot standby and low power generation) only under specified conditions which prevent the turbine, itself, from operating.

Title 10 CFR Part 50, Section 50.92 contains standards for determining whether a proposed license amendment involves significant hazards considerations. In this regard, the proposed changes to the TS does not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The TOPMPT encompasses all of the surveillance requirements of Section 4.3.4.2 and also provides for additional turbine overspeed protection system related tests and high and low pressure turbine rotor inspections. Since the intent of this change is to ensure the reliability of the overall Turbine Overspeed Protection System, (i.e., channel calibration and testing of related components), there is no adverse impact on any design basis accident. This program would also provide the necessary assurance that the probability of turbine generated missiles will remain at or below the NRC criteria, eliminating the need for considering turbine missiles in design basis analysis. In addition, the proposed change to TS 6.5.1.6(f), requiring PORC oversight of the TOPMPT provides reasonable assurance that changes to the TOPMPT will not adversely affect the program.

With regard to the proposed inoperability of the Turbine Overspeed Protection System during Modes 2 and 3, the probability of turbine failure would not increase since the turbine cannot be operated under the proposed restrictions.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced.

3. Involve a significant reduction in a margin of safety. The proposed replacement of the Section 3/4.3.4.2 turbine overspeed protection surveillance requirements with a newly developed comprehensive maintenance and testing program does not introduce any adverse impacts. Since the proposed changes also do not affect the consequences of any accident previously analyzed, there is no reduction in the margin of safety.

Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: March 7, 1989

Description of amendment request: The proposed license amendment would revise the existing Technical Specifications to permit the use of up to two alternates in meeting the quorum requirements for the plant Operations Committee. The plant Operations Committee consists of at least six members drawn from the key supervisors of the On-Site Supervisory Staff whose responsibilities include the review of (1) modifications to plant systems or components described in the Updated Safety Analysis Report, (2) changes to normal and emergency operating procedures, (3) proposed Technical Specification changes, and (4) the results of Technical Specification violation investigations.

Basis for proposed no significant hazards consideration determination: The Commission has provided

standards for determining whether a significant hazards consideration exists [10 CFR 50.92(c)], and has also published certain examples for making such determinations (51 FR 7751). One of the examples published is "(i) A purely administrative change to the technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

The licensee has evaluated the proposed Technical Specification changes against the standards and examples provided by the Commission and has concluded that the changes are purely administrative. The Commission's staff has reviewed the licensee's evaluation and agrees that the changes are administrative in nature. The changes will upgrade the existing Technical Specifications to make them consistent with the Standard Technical Specifications developed for General Electric boiling water reactors which (1) allows the use of alternates for regular Operations Committee members in meeting committee quorum requirements, thereby, reducing the heavy time demands placed on Operations Committee regular members, and (2) provides for a reasonable degree of flexibility in the day-to-day business of plant operational activities which will not compromise safety.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Theodore R. Quay, Acting.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Dates of amendment request: December 19, 1988 and March 23, 1989 (Reference LAR 88-10).

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to incorporate the undervoltage trip and shunt trip attachments testing recommended by WCAP-11312, "Reactor Trip Breaker Maintenance/Surveillance Optimization Program," for compliance with the guidance provided by Generic Letter 85-09. These operability and testing requirements are based on the NRC staff's evaluation of the Westinghouse generic design modifications for the reactor trip system using shunt coil trip attachments. In its evaluation the staff concluded that independent testing of the undervoltage and shunt trip attachments during power operation and independent testing of the control room manual switch contacts during each refueling outage are necessary to insure reliable trip breaker operation.

Specifically, the following TS changes are proposed:

1. Action Statement 12 would be added to TS Table 3.3-1 to provide for a 48 hour allowed outage time after one of the diverse reactor trip features (Undervoltage or Shunt Trip Attachment) has been declared inoperable in either Mode 1 or 2. If the inoperable trip feature is not restored to operable status within 48 hours, Action Statement 10 would apply.

2. Table Notation 15 of TS Table 4.3-1 would be added to require that the trip actuating device operational test on the Manual Reactor Trip independently verify the operability of the Undervoltage Trip and Shunt Trip circuits.

3. Notation 11 of TS Table 4.3-1 would be revised to indicate that each trip actuating device operational test of the reactor trip breakers shall separately verify the operability of the Undervoltage Trip and Shunt Trip Attachments.

4. The Reactor Trip Bypass Breaker would be added to TS Table 4.3-1 including the associated Notation 16, which requires a local manual shunt trip test prior to placing the breaker in service, and Notation 17, which requires testing of the automatic undervoltage trip.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee, in its submittal of December 19, 1988, evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed changes do not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Addition of the operability and surveillance requirements for the Undervoltage Trip and Shunt Trip Attachments constitute a set of requirements more restrictive than presently included in the technical specifications and will result in an increase in the reliability of the reactor trip breaker and the reactor trip system. Therefore, the proposed amendment to add operability and surveillance requirements for the Undervoltage Trip and Shunt Trip Attachments does not involve a significant increase in the probability of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Testing of the Undervoltage Trip and Shunt Trip Attachments will not result in any new or previously unevaluated plant configurations. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in the margin of safety?

Addition of the operability and surveillance requirements for the Undervoltage Trip and Shunt Trip Attachments help ensure the functioning of the reactor trip system when needed and will result in an increase in the reliability of the reactor trip breaker and the reactor trip system. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination. The staff has concluded that the proposed TS changes constitute additional restrictions on plant operation that will result in increased plant reliability. Therefore, the staff agrees with the conclusion of the licensee's determination. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

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Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: February 24, 1989

Description of amendment request: The proposed amendment would change the SSES, Unit 1 Technical Specifications to permit residual heat removal (RHR) system modification which eliminates the steam condensing mode of RHR operation. The licensee had previously requested and the Commission approved a similar request for SSES, Unit 2 in Amendment No. 49, dated May 24, 1988.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the following basis and conclusion provided by the licensee in its submittal.

I. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. . . . the containment isolation function is not adversely impacted by this change. This conclusion is based upon (the fact that the) containment isolation and integrity are ensured by the FO11 A/B valves meeting existing regulatory criteria and because no increase to the allowable leakage limits is being proposed.

The removal of the FO11 A/B and FO26 A/B valves from Table 3.8.4.2.1-1 is due to the fact that they are no longer motor-operated and therefore do not have to have thermal overload protection.

All pertinent sections of FSAR Chapter 15 were reviewed in support of this evaluation. Based on the above, neither the probability nor the consequences of any previous analysis (are) affected by the proposed change.

II. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Since the power from the FO11 A/B and FO26 A/B valves is removed and the leakage requirements for containment integrity and isolation do not change, no new concerns are created by this proposal. (Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated).

III. The proposed changes do not involve a significant reduction in a margin of safety.

Since the containment isolation and integrity are assured to the same relevant criteria as discussed previously, the overall safety margin has not been significantly reduced due to the proposed changes.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: October 13, 1987, as supplemented March 31, 1989.

Description of amendment request: The proposed amendment would delete a Technical Specification (TS) surveillance test of the scram discharge system which requires that a manual scram of the reactor be performed from a control rod configuration of less than or equal to 50% rod density once each operating cycle. This test was intended to verify the operability of the scram discharge system. However, it is felt that other surveillance requirements which are present in the TS which do not involve a scram, are already in effect which adequately demonstrate this operability. Additionally, the licensee has committed to performing an evaluation of the operation of the scram discharge volume prior to restart, should a scram occur. This proposed change, therefore, will reduce the number of unnecessary challenges to the reactor protection system and the resulting transient. Other proposed changes are made to correct typographical errors which exist on the same page.

Specifically, the proposed change would delete Specification 4.3.A.2.g so that a scram at 50% control rod density would no longer be required. When any scram occurs, the scram discharge piping and the instrument volume vent and drain valves automatically shut to isolate the system from the reactor building environs. The piping and instrument volume then receive the water discharged from the control rod drives as they force the control rods into the core.

A scram discharge system modification was installed some years ago to ensure the adequacy of this system and a post-installation test was performed at that time which proved the adequacy of the design. Since no unexpected changes can be expected which affect this design, repeated tests of the adequacy of the system by manual scram are not necessary. Other TS requirements (namely, Specifications 4.3.A.2.b, 4.3.A.2.f, 4.3.C.3, Table 4.1-1, and Table 4.1-2) adequately ensure the continued operability of the scram discharge system. Therefore, no decrease in testing which is designed to ensure the availability and operability of the scram discharge system results from deleting the 50% rod density scram test requirement. Also, the proposed change is consistent with the testing requirements of most BWR plants and with the Standard Technical Specifications.

The proposed administrative changes would (1) relocate Specification 3.3.A.2.e which is located on page 89a to the right-hand column of the page so that it becomes 4.3.A.2.e, (2) replace the colon in the second sentence of the new Specification 4.3.A.2.e with a comma and add "a" after the comma, and (3) remove the period from the end of Specification 3.3.A.2.d, combine it with its continuation which is on page 90, and place the entire specification onto page 89a.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and the licensee's findings are summarized below:

Operation in accordance with the proposed Amendment would not involve a significant hazards consideration as stated in 10 CFR 50.92 since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The removal of this surveillance requirement does not affect any accident as analyzed in the FSAR. Other surveillance requirements exist in the Technical Specifications which ensure the operability of the scram discharge system to perform as required during a reactor protection system actuation.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The elimination of an unnecessary surveillance requirement and challenge to the reactor protection system cannot initiate or contribute to a new or different accident.

3. Involve a significant reduction in a margin of safety. This surveillance requirement was intended to demonstrate operability of the scram discharge system which is assumed in the FSAR accident analyses. Removal of this surveillance has no effect on these analyses since the design of the modified system together with other Technical Specification surveillance requirements assure the operability of the scram discharge system. The resulting elimination of an unnecessary challenge to the reactor protection system is consistent with industry and regulatory philosophy and goals.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: May 27, 1988

Description of amendment request: The proposed amendment would correct various minor Technical Specification (TS) problems which have been discovered as a result of various reviews by correcting typographical and grammatical errors and removing unnecessary pages. Also, other minor changes are incorporated for consistency of terminology and agreement with previous amendment changes which have been issued but which can be better addressed by the changes shown herein. All changes are administrative in nature and improve the clarity of the TS.

Specifically, the proposed changes (listed by TS page number) would: (i) add "Specification 3.0" and its title "General" to the Table of Contents and change the page number for Specification 3.1 to "30f." The actual TS changes were issued as Amendment No. 83; (vi) add Tables 4.6-2, 3.12-1, 3.12-2, 3.12-3, 4.12-1, 4.12-2 and 4.12-3 and their titles to the List of Tables. The first table was added to the TS as Amendment No. 28 and the rest by Amendment No. 34 but were not added to the List of Tables at that time; (vii) update the List of Figures by adding a symbol to the title for Figure 3.1-2 and adding the specification number to the title for Figure 3.5-1, deleting Figure 3.5-9 (which was removed from the TS by Amendment No. 109), and adding Figure 3.5-12 (which was incorporated into the TS by Amendment No. 109); (1) correct the spelling of "explicitly" in the first sentence; (2) add "a" into the first sentence of the definition of Instrument Check to correct the grammatical error; (4) insert Amendment No. "83" at the bottom of the page to reflect that the page was affected by the amendment. Also, replace "trips" with "trip" in the first sentence of the definition for startup/hot standby mode; (5) correct the spelling of the abbreviation for "continued" at the top of the page and delete "a" from the Refueling Outage definition; (8) replace "a" with "n" in Specification 1.0.X.a before the word "systems," since n means number of systems. Also, place the n in the last line of the specification inside quotation marks; (8) replace "less than" with "less than or equal to" for core flow in Specification 1.1.B; (29) correct the spelling of "resulting" in Specification 1.2 and 2.2 Bases; (30b) correct the spelling of "inoperable" in Specification 3.0.E Bases; (34) rewrite the top paragraph, right column (3.1 Bases), to more clearly describe the nuclear instrumentation coverage for the designated modes of operation; (38) insert "44" into the Amendment Number list to show that the page was changed by this amendment; (41) indicate in Table 3.1-1 with an "X" that the manual scram trip function must be operable in the Run mode. Amendment No. 98 inadvertently deleted this indication when the amendment request was submitted and issued; (41b) add two Less Than Symbols to Table 3.1-1, one before and one after "P," for the turbine control valve fast closure trip setting. They were not included in an earlier revision to the page; (42) add a Less Than or Equal To Symbol to Table 3.1-1 for the setpoint of the 10% valve closure trip level setting and add "is less than" to Note 3 ahead of "1005." These were omitted from an earlier revision; (57) correct five grammatical errors (replace "drop" with "drops" in the second paragraph, remove "this" from the fourth paragraph, replace "of" with "or" in the fourth paragraph, replace "setting" with "settings" in the fifth paragraph, and replace "and" with "or" in the fifth paragraph before the "40"), and delete "flow" from the sixth paragraph to indicate that the reactor water cleanup trip instrumentation is independent of flow; (58) correct the spelling of "channel" in the ninth paragraph; (61) insert a "t" after the "2" in the mathematical equation for the optimum interval between tests; (68) insert "THIS ITEM INTENTIONALLY BLANK" for Item 10 in Table 3.2-2. This should have been included in the submittal for Amendment No. 84; (70a) replace "psid" with "dp" in Item 28 of Table 3.2-2 for the Trip Level Setting to more correctly identify the expression. Also, insert "THIS ITEM INTENTIONALLY BLANK" for Items 22, 23 and 24. These should have been included in the submittal for Amendment No. 48; (70b) insert "dp" in Item 31 to Table 3.2-2 for the trip level setting for the HPCI turbine steam line high flow trip function; (76c) correct the spelling of "permissible" in Note 13; (77) correct the symbol for the reactor water level instrument setting by replacing the Greater Than Symbol with a Greater Than Or Equal To symbol; (89a and 90) rearrange the information so that the appropriate paragraphs fall under the appropriate specification (4.3.A.2.e will reside in the right side column and 3.3.A.2.d will continue with the text on the next page); (91) replace "rods" with "rod" in Specification 3.3.B.1; (101) delete "feedwater from" in the fourth complete sentence of the first paragraph in the right column, since rod worth minimizer automatic cutout is determined by steam flow only-not feedwater flow; (106) insert "B" for the paragraph number to identify Specification 3.4.B; (114) add the change bars which should have been indicated from Amendment No. 95; (115a) delete "of 3700 gpm" from 4.5.B.1 which should have been removed in the submittal for Amendment No. 71 since it pertained to the emergency service water pump surveillance requirement. Also, the test criteria is given in the referenced TS section; (118) correct the paragraph referenced from 3.5.C to 3.5.C.1 in

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Specification 3.5.C.1.b; (119) replace "relief/safety" with "safety/relief" in four places for consistency of terminology; (122) identify the specification by inserting "F" to designate Specification 3.5.F; (123) insert "at" to grammatically correct the fourth sentence of Specification 3.5.H; (142a) delete the "effective" date note since it is no longer needed; (142b) delete the text on the page since it is no longer needed and insert "This page intentionally blank;" (143) change Specification "3.6.B.1" to "3.6.E.1" and Specification "3.6.B.2" to "3.6.E.2" in Specification 3.6.E.3 to correct the reference. Also, delete the "effective" date note since it is no longer needed; (143a & b) delete the text on the pages since it is no longer needed and insert "This page is intentionally blank;" (144) replace "operable" with "inoperable" in the second sentence under Specification 3.6.G to correct a typo error and correct the meaning of the specification; (152) delete "coincident high drywell pressure and" from the second sentence of the second paragraph since a plant modification F1-83-034 removed the high drywell pressure permissive for ADS actuation from the ADS logic. It was reflected in other TS pages in Amendment No. 84 but this page change was inadvertently omitted from the submittal. Also, in the same paragraph, replace "low-low" with "low-low-low" to correct an error which has existed since the initial TS was issued. Also, replace "relief/safety" with "safety/relief" in five places for terminology consistency; (153) insert "less than or equal to" before 212° F at the top of the page for clarification. Also, correct the spelling of "will" in the fourth paragraph of the Bases for Specification 3.6.F; (171) correct the referenced table from 3.7-1 to 4.7-2 in Specification 4.7.A.2.c.(1); (172) correct the referenced table from 3.7.2 to 4.7-2 in Specification 4.7.A.2.c.(4); (174) add "40" at the bottom of the page as an Amendment Number since this amendment affected this page. Also, correct a grammatical error by replacing "on" with "of" in the fourth sentence of Specification 4.7.A.2.f; (177) insert "less than or equal to" ahead of "0.5" in Specification 3.7.A.4.a; (178) replace "The" with "When" in the first line of Specification 3.7.A.5.a to correct a grammatical error; (179) replace "chamberreactor building" with "chamber/drywell" for terminology consistency; (186) move the comma after "trip" and insert it after "level" to correct a grammatical error in Specification 4.7.D.1.c.(2); (194) replace "AEC" with "Commission" in two places in the forth full paragraph. Also, reposition the comma from before "(16)" to after "(16)" in the same paragraph; (201) correct the drywell TIP purge penetration number from X-35B to X-35E in two places; (211, 212, 213) correct the table number from "3.7-2" to "4.7-2," which was incorrectly renumbered in the submittal for Amendment No. 40, to change it back to its original number; (214) change the third sentence of the first paragraph of Specification 3.8 to read: "If the test reveals the presence of 0.005 microcuries or more of removable contamination, the source shall be decontaminated, and repaired, or be disposed of in accordance with Commission regulations." for clarification. Also, insert "a" into the third sentence of Specification 4.8.2 before "certificate" to correct a grammatical error; (219) insert "one" into the first sentence of Specification 3.9.C.2.a. before the first "fuel oil." It was inadvertently omitted in the submittal for Amendment No. 83; (226) correct the spelling of "tests" in the Bases for Specification 4.9.F; (236) correct the spelling of "BASES;" (239) replace "3.5.D" with "3.5.B" in Specification 3.11.B.1. Also, correct the spelling of "ventilation" in Specification 4.11.C.1; (240) insert "both ESW systems shall be" in the first sentence of Specification 3.11.D.1 for clarity and delete "the" from the first line to correct a grammatical error; (242) replace "3.11.E.1" with "4.11.E.1" in Specification 4.11.E.2 to correct the error; (244a) replace "once/week" with "once/month" for the test frequency specified in Section 4.12.A.1.b to correct an error introduced when the submittal for Amendment No. 80 was produced. This change was mistakenly incorporated into the Amendment but was never analyzed by the licensee or the NRC and restores the frequency to that existing prior to Amendment No. 80; (244f) replace table "3.12.2" with "3.12.3" to correct Specification 3.12.D.1.a and b; (244i) replace table "3.12.2" with "3.12.3" to correct Specification 3.12.D Bases; and (248) replace "Coordinator" with "Superintendent" in the first paragraph of Section 6.4 to be consistent with the organization chart.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and the licensees' findings are summarized below:

The proposed changes involve no significant hazards considerations. They are all administrative or editorial in nature and include typographical errors, grammatical errors, and clarification of specifications. Operation in accordance with the proposed amendment would not involve a significant hazards consideration as stated in 10 CFR 50.92 since it would not:

1. Involve significant increase in the probability or consequences of an accident previously evaluated. The intent of the proposed changes are to clarify and correct the TS. The changes are administrative and include: correction of misspelled words, deletion of expired pages, and correction of grammatical errors. There are no setpoint changes, safety limit changes, surveillance requirement changes that were not previously evaluated, or changes to any limiting conditions for operation. These changes have no impact on plant safety or plant operations and will have no impact on previously evaluated accidents.

2. Create the possibility of a new or different kind of accident previously evaluated. The proposed changes are purely administrative in nature and involve only the correction of typographical and similar errors. These proposed changes are intended to clarify and improve the quality of the TS. This cannot create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety. The proposed changes correct errors which currently exist in the TS. The changes are all administrative in nature and will clarify the specifications by eliminating errors such as typographical errors. These changes do not change any setpoints or safety limits regarding isolation or alarms. The proposed changes do not affect the environmental monitoring program. These changes do not affect the plant's safety systems and do not reduce any safety margin.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Rochester Gas and Electric Corporation, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 24, 1989

Description of amendment request: The proposed amendment would modify the rod insertion limits for the Cycle 19 fuel reload to ensure that all criteria for the reload are met. Since the change is not applicable to future cycles, it is presented as a change with a limited period of applicability.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amend ment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; (3) involve a significant reduction in a margin of safety.

The licensee's analyses contained in the February 24, 1989, letter states the following:

In accordance with 10 CFR 50.91, these changes to the Technical Specifications have been evaluated to determine if the operation of the facility in accordance with the proposed amendment would:

1. involve a significant increase in the probability or consequences of an accident previously evaluated; or
2. create the possibility of a new or different kind of accident from any accident previously evaluated; or
3. involve a significant reduction in a margin of safety.

The proposed change would require the bank D control rods to be withdrawn 5 steps further during full power operation. Withdrawing the rods above the insertion limit increases the shutdown margin, decreases the ejected rod worth, reduces power peaking, and does not alter stuck rod worth. Therefore, withdrawing the rods is conservative and ensures that the safety criteria for the Cycle 19 reload are met, there is no significant increase in the probability or consequences of an accident previously evaluated. Ensuring the criteria are met does not create the possibility of a new or different kind of accident or result in a reduction in a margin of safety.

Therefore, Rochester Gas and Electric submits that the issues associated with this amendment request are outside the criteria of 10CFR50.91 and a no significant hazards finding is warranted.

The Commission has provided guidance concerning the application of the standard in 10 CFR 50.92 for determining whether a significant hazards consideration exists by providing certain examples of amendments that will likely be found to involve no significant hazards considerations. The changes to the Technical Specifications proposed in this amendment request to the Technical Specifications proposed in this amendment request are similar to NRC example (iv). Example (iv) relates to the granting of a relief from an operating restriction upon demonstration of acceptable means of operation. This assumes that acceptable operating criteria have been established and that it is satisfactorily shown that the criteria have been met.

Based on this guidance and the reasons discussed above, the licensee has concluded that the proposed change does not involve a significant hazards consideration. The Commission agrees with this conclusion.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Harry Voigt, Le Boeuf, Lamb, Leiby and McRae, Suite 1100, 1133 New Hampshire Avenue, NW., Washington, DC 20036.

NRC Project Director: Richard H. Wessman

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: October 7, 1988 as supplemented November 18, 1988

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) 3.4 and 4.8. The changes proposed to TS 3.4 would clarify the operational mode applicability of that specification and the definition of Auxiliary Feedwater (AFW) train. The references to "SFW" (Startup Feedwater) would be changed in Specification 3.4 to reflect the fact that the startup valves are part of the Main Feedwater (MFW) System.

The proposed amendment would delete the words "to the condenser" from TS 4.8.1 to reflect alternate recirculation flow paths available for AFW pump testing and change the reactor coolant system average temperature above which the AFW system is to be tested from greater than or equal to 305 degrees Fahrenheit to greater than or equal to 280 degrees Fahrenheit.

The proposed amendment would also revise the surveillance requirements and frequency of verifying the flow path of the AFW System.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed amendment does not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated because, based on licensee's evaluation, the proposed changes are clarifications that should more clearly define the operating modes and additional limitations that increase the range in which the AFW system is to be tested; additionally, the proposed changes to TS 4.8 should continue to ensure proper operation of the AFW system flow paths and existing administrative controls provide additional assurance of proper flow paths operation; (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the function of the AFW System will not be changed and the operability of the system and its ability to perform its intended function will be maintained; (3) involve a significant reduction in a margin of safety because adequate administrative controls will be maintained to ensure the proper operation of the AFW System flow paths.

Based on the above discussion, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility

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District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813

NRC Project Director: George W. Knighton

Tennessee Valley Authority, Docket No. 50-260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of amendment request: February 24, 1989 (TS 263)

Description of amendment request: The proposed amendment corrects Browns Ferry Unit 2 (BFN2), Technical Specifications Tables 4.1.B, 4.2.B, and 4.2.F for calibration frequencies. The amendment also includes administrative changes to instrument numbers, and deletes instrument checks for four instrument channels.

Setpoint and scaling calculations for various instrument loops that contain transmitters manufactured by Tobar, Inc. require changing the calibration frequency to once every 6 months. Three loops at BFN2 are affected. Two of the loops have calibration frequencies of once every 18 months. One loop has a calibration frequency of once every 12 months. The proposed change would require calibration frequencies of once every 6 months for each of the three loops.

Changes to instrument numbers for ten instruments in Tables 3.2.B and 4.2.B are proposed. These changes are administrative in nature and do not change the function, setting or calibration interval of any of the ten instruments. The instrument numbers are included in the technical specifications for completeness.

Instrument checks for four instrument channels in Table 4.2.B that have no remote or local indications will also be deleted by the proposed amendment.

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

NRC has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from an accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The primary factor in setting the calibration intervals is the drift of the transmitters and trip units. TVA has performed setpoint scaling calculations that support the proposed change using manufacturers recommended intervals and industry standard practices. This change does not involve a design change or physical change to the plant. The revised surveillance frequencies will not affect the consequences of an accident previously analyzed.

The reliability of the HPCI/RCIC diaphragm high pressure, steam line flow and steam supply pressure instruments are adequately assured by the performance of functional tests every 31 days.

Clarifications or corrections of typographical errors are administrative changes which improve technical specification reliability and therefore can have no detrimental impact.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because changing the technical specifications to reflect different calibration frequencies does not affect or change design operating limits or protective setpoints. No new or different modes of operation are allowed by these changes.

3. The proposed change does not involve a significant reduction in a margin of safety because in no instance will these changes affect the technical specification safety limits. These changes have no affect on the instrument setpoints. All parameters will continue to be monitored as currently required.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analyses. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: March 27, 1989 (TS 88-27)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposes to modify the Sequoyah Nuclear Plant (SQN) Units 1 and 2 Technical Specifications (TS). The proposed changes are to revise surveillance requirement (SR) 4.6.5.6.a.1 by increasing the base current value from 28 amperes to 32 amperes for the containment air return fan (CARF) motors.

Basis for proposed no significant hazards consideration determination: TVA provided the following information in its application to support the proposed changes:

Review of the past performance data of Surveillance Instruction (SI) 28, "Containment Air Return Fans," has shown that the amperage window of 28 277.5 amperes is too low. Amperage values obtained have consistently remained on the upper end of the allowed tolerance value and thereby indicate the need for an increase in the base amperage value. This surveillance amperage value should be increased to a value of 32 277.5 amperes to establish a new data baseline that will be used to verify the motor operability of the CARFs.

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed technical specification change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. As stated in the SQN FSAR, section 6.6.1, the primary purpose of the CARFs is to enhance the ice condenser and containment spray heat removal operation by circulating air from the upper compartment to the lower compartment, through the ice condenser, and then back to the upper compartment. The secondary purpose of the system is to limit hydrogen concentration in potentially stagnant regions by ensuring a flow of air to these regions. Therefore, increasing the base amperage from 28 to 32 amperes will not affect the system's function as previously evaluated. This change will enhance the ability to verify the CARF motor operability by establishing a more realistic data baseline as a result of actual plant test data. Therefore, the proposed change does not involve an increase in the probability or consequences of an accident previously evaluated because the system's operation and function are not affected.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. Increasing the base amperage in the amperage window of the CARF motors will not create the possibility of a new or different kind of accident than previously analyzed. System operation and function are not affected by this change. As previously stated, this change is being made to establish a more realistic data baseline for future surveillance testing. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously analyzed because the system's operation and function are not affected by the change.

(3) Involve a significant reduction in a margin of safety. This change will not involve a significant reduction in a safety margin of the CARF system. The amperage window is solely used to verify CARF motor operability and to allow for variations in board voltage due to changes in board loading. Neither system operation nor function will be affected by this change because it only establishes a more realistic data baseline for motor reliability. Therefore, no reduction in a margin of safety is involved by the proposed change because the system's operation and function are not affected by the change.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: August 6, 1987

Description of amendment request: The amendment would delete in its entirety Appendix B to the Operating License, "Environmental Technical Specifications." The amendment would also delete that portion of the License Condition 2.F.(1) which referred to the Environmental Technical Specifications. Appendix B originally consisted of two types of specifications when issued, one related to radiological effluents and the other related to non-radiological environmental matters. Prior to this request, the NRC staff issued Amendment 86 (July 2, 1985) which incorporated more comprehensive Technical Specifications on radiological effluents into Appendix A of the Operating License and deleted these requirements from Appendix B of the Operating License.

The second type of specifications originally contained in Appendix B involve monitoring and reporting requirements associated with nonradiological environmental matters such as aquatic and land management. Aquatic monitoring requirements were previously deleted from Appendix B by License Amendment 55 (March 11, 1983).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in 10 CFR 50.92. A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

With respect to each of these three criteria, the licensee has provided an analysis of no significant hazards consideration in its request for a license amendment as follows:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is administrative and will not affect the probability or consequences of an accident previously evaluated. Further, since the radiological effluent monitoring requirements have been incorporated into Appendix A, the ability to monitor, detect and control radioactive discharges from the plant remains unchanged.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not affect any of the assumptions used in previous accident evaluations; all accidents continue to be bounded by previous analysis. Accordingly, deletion of these environmental technical specifications which have been previously satisfied will not introduce the possibility of any new or different kind of accident. Further, the plant will continue to operate in the same manner as previously, thereby ensuring that no new or different kind of accident can occur.

(3) Involve a significant reduction in a margin of safety.

The proposed deletion of Appendix B and the deletion of that portion of License Condition 2.F.(1) which refers to Appendix B involves no reduction in a margin of safety since the requirements for monitoring, detection and control of radiological effluents continues unchanged in Appendix A.

Based on the above considerations, the staff proposes to determine that the proposed deletion of Appendix B from the Operating License and the deletion of a portion of License Condition 2.F.(1), does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: February 10, 1987 and March 31, 1989.

Description of amendment request: License Condition 2.C.(14) pertaining to the WNP-2 fire protection requirements would be modified to incorporate a standard fire protection license condition recommended by the staff in Generic Letter 86-10. The following Technical Specifications governing fire protection are proposed to be removed:

3/4.3.7.9, "Fire Detection Instrumentation"

3/4.7.6, "Fire Suppression Systems"

3/4.7.7, "Fire Related Assemblies"

6.2.2.e (Fire Brigade staffing requirements)

Related bases sections would be modified and the index would be revised to delete the sections removed.

Generic Letters 86-10, dated April 24, 1986, and 86-12, dated August 2, 1988, from the NRC provided guidance to licensees concerning removal of the fire protection technical specifications. The licensee's proposed amendment follows these Generic Letters.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed revisions to the license condition and to the technical specifications are in accordance with the guidance provided in Generic Letter 86-10 for licensees requesting removal of fire protection technical specifications. The incorporation of the NRC-approved

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fire protection program, and the former technical specification requirements by reference to the procedures implementing these requirements, into the Final Safety Analysis Report (FSAR) and the use of the standard license condition on fire protection will ensure that the fire protection program, including the systems, the administrative and technical controls, the organization, and the other plant features associated with fire protection will be on a consistent status with other plant features described in the FSAR.

The provisions of 10 CFR 50.59 would then apply to changes the licensee considers making in the fire protection program. In this context the determination of the involvement of an unreviewed safety question defined in 10 CFR 50.59(a)(2) would be made based on the "accident...previously evaluated" being the postulated fire in the fire hazards analysis for the area affected by the change. Hence the proposed license condition would establish an adequate basis for defining the scope of changes to the fire protection program which can be made without prior Commission approval, i.e., without introduction of an unreviewed safety question.

Neither the proposed license condition nor the removal of the existing technical specification requirements on fire protection creates the possibility of a new or different kind of accident from those previously evaluated. They also do not involve a significant reduction in the margin of safety since the license condition does not alter the requirement that an evaluation be performed for the identification of an unreviewed safety question for each proposed change in the fire protection protection program. Consequently, the proposed license condition for the removal of the fire protection requirements do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Administrative Controls section of the technical specifications (Section 6) includes a requirement for fire protection program implementation procedures. This section will also be modified as necessary to define the roles of the Plant Operations Committee and the Corporate Nuclear Safety Review Board in reviewing the fire protection program and implementing procedures. The fire protection program will be subject to administrative controls consistent with other programs addressed by license conditions. These changes are themselves administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards considerations.

The proposed amendment includes the removal of fire protection technical specifications in four areas: (1) fire detection systems, (2) fire suppression systems, (3) fire-rated assemblies (fire barriers), and (4) fire brigade staffing requirements. While it is recognized that a comprehensive fire protection program is essential to plant safety, many details of this program that are currently addressed in technical specifications can be modified without affecting nuclear safety. These requirements being removed from the technical specifications have been incorporated into the fire protection implementing procedures. The administrative controls section of the technical specifications ensure that licensee initiated changes to these requirements will receive careful review by qualified individuals.

The transfer of these items from the technical specifications to a separate fire protection program is believed to be an administrative action which does not impact the operation of the facility in a manner that involves significant hazards considerations.

Based on the above considerations the Commission proposes to determine that the requested changes to the WNP-2 License and Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorneys for licensees: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G.E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

NRC Project Director: George W. Knighton

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: February 2, 1989

Description of amendment request: Technical Specification Section 3.0.4, "Limiting Condition for Operation," would be revised to allow mode changes when in an action statement that allows continued operation for an unlimited period of time. Currently such mode changes are prohibited.

Technical Specification 4.0.3 would be changed to delay compliance with an action statement for up to 24 hours in order to allow performance of a missed surveillance. Currently the plant must be shutdown if a surveillance interval is inadvertently surpassed.

Technical Specification 4.0.4 would be changed to allow the plant to proceed through or to required operational modes to comply with Action requirements even though applicable surveillance requirements may not have been performed. Currently Technical Specifications 3.0.4 and 4.0.3 are in conflict when such a procession is necessary to come out of an Action statement. The proposed revision would address the existing conflict.

The amendment would remove the statement, "..the provisions of Specification 3.0.4 are not applicable," from the various Chapter 3 Limiting Conditions for Operation which do not require the shutdown since the proposed revision 3.0.4 makes such wording superfluous. The licensee would retain the existing exceptions to 3.0.4 in those specifications that do require a plant shutdown.

Bases associated with these specifications would also be revised.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The changes requested are to specifications 3.0.4, 4.0.3 and 4.0.4 and are as recommended by the staff in Generic Letter 87-09.

The Supply System has evaluated this amendment request per 10 CFR 50.59 and 50.92 and determined that it does not represent an unreviewed safety question or a significant hazard. The proposed amendment does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The change to Specification 3.0.4 will allow mode changes while the plant is in an Action statement that does not prohibit power operation. Exception to 3.0.4 has already been taken in many of the individual Action statements. Incorporating the proposed change into 3.0.4 will ensure that exceptions will be consistently applied when justified.

Deletion of the individual exceptions will have no impact upon the requirements in the Specifications since the exception to 3.0.4 will now be contained within 3.0.4.

The change to Specification 4.0.3 will allow delay in the application of Action requirements for up to 24 hours when a surveillance has been missed. Because surveillances normally verify system or component operability, as opposed to discovering inoperability, the allowance of an additional 24 hours to demonstrate operability is not significant. Without the 24 hour delay it is likely that a missed surveillance would force a plant shutdown.

Avoidance of this transient state and associated thermal cycling is beneficial and far outweighs any incremental uncertainties regarding system operability associated with the additional 24 hours in which to perform a missed surveillance.

The change to Specification 4.0.4 will not result in a change to the design or operation of the facility and is administrative in nature. For the reasons cited above, this change will not result in an increase in the probability or consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The change to 3.0.4 will allow the plant to continue operation in an Action statement that already allows continued operation. As such, no new modes of operation are being introduced by this changé.

The change to 4.0.3 would allow the plant to continue operation for an additional 24 hours after discovery of a missed surveillance. Missing a surveillance does not mean that a component or system is inoperable. In most cases surveillances demonstrate the continued operability of the components and systems. All systems and components currently required to be verified operable by Technical Specification requirements will continue to be maintained operable. This change will not affect the design of the plant and will not allow the plant to be operated outside the currently allowed modes of operation.

The change to 4.0.4 will alleviate a contradiction within the specifications. This change is administrative and does not affect any of the accident analyses.

(3) Involve a significant reduction in a margin of safety because:

The change to Specification 3.0.4 will allow mode changes in Action statement that do not require plant shutdown. Exceptions to 3.0.4 are already contained within many of the applicable Action statements. Incorporating the exceptions within 3.0.4 will ensure their consistent application.

The change to 4.0.3 will allow up to 24 hours to perform a missed surveillance. In most cases this will eliminate the need for a plant shutdown. The overall effect is a net gain in plant safety due to avoidance of unnecessary shutdowns due to missed surveillances.

The change to 4.0.4 is administrative in nature and therefore does not affect any margin of safety.

Based on the above considerations the Commission proposes to determine that the requested changes to the WNP-2 License and Technical Specifications involve no significant hazards consideration.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorneys for licensees: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G.E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

NRC Project Director: George W. Knighton

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: March 24, 1989

Description of amendment request: License condition 2.C.(16), Attachment 2, Item 3(b), Wide Range Neutron Flux Monitor, requires the licensee to implement the requirements of Regulatory Guide 1.97, Rev. 2 for flux monitoring prior to startup following the fourth refueling outage.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

In making this request the licensee has noted that significant progress has been made toward meeting the requirement prior to startup following the fourth outage. The fourth refueling outage is now scheduled to begin on April 28, 1989. This amendment application has been submitted to allow restart in the event that requirements of the Regulatory Guide are not met by the end of the outage.

The Supply System has reviewed the requested amendment per 10 CFR 50.59 and 50.92 and has determined that no unreviewed safety questions or significant hazards will result. Further, the licensee stated that the proposed change will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the existing instrumentation consists of four redundant safety-related channels. Additionally, there are unrelated systems in place to provide operators with sufficient data to assess reactor conditions (e.g., control rod position monitors, reactor vessel level and pressure monitors) in the unlikely event of an accident condition prior to replacement. (2) Create the possibility of a new or different kind of accident because no function of the flux monitor system is being changed; therefore, no new or different kind of accident is conceivable. (3) Involve a significant reduction in a safety margin as adequate instrumentation is provided to allow the operator to assess reactor conditions without this monitor in the unlikely event of an accident condition that could cause the monitor currently in place to fail prior to replacement.

Based on the above considerations the Commission proposes to determine that the requested changes to the WNP-2 Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352,

Attorneys for licensees: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G.E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

NRC Project Director: George W. Knighton

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual

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notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: March 23, 1989

Brief description of amendment request: This amendment modifies the Technical Specifications to conform to the staff's technical position PSB-1, "Adequacy of Station Electric Distribution System Voltages."

Date of publication of individual notice in **Federal Register:** March 29, 1989 (54 FR 12978)

Expiration date of individual notice: Comment period expired April 13, 1989; Notice period expires April 28, 1989.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: March 10, 1989

Brief description of amendment request: This amendment would modify the Technical Specifications to reflect removal of the requirement for calibration of the Source Range Monitor (SRM) and Intermediate Range Monitor (IRM) Detectors Not in Startup Position within 24 hours before each startup or controlled shutdown on the basis that the currently existing functional test and preventive maintenance program calibration test is adequate for this instrumentation.

Date of publication of individual notice in **Federal Register:** March 21, 1989 (54 FR 11599)

Expiration date of individual notice: April 20, 1989

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: March 23, 1989

Brief description of amendments request: The amendments would revise provisions of the Point Beach Nuclear Plant, Unit Nos. 1 and 2, Technical Specifications relating to the permissible enrichments for storage of fuel assemblies in the new fuel storage vault and spent fuel storage pool.

Date of individual notice in **Federal Register:** March 31, 1989 (54 FR 13281)

Expiration date of individual notice: Comment period expires April 14, 1989, Notice period expires May 1, 1989.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: June 30, 1988

Brief description of amendment: The amendment modified the Technical Specifications by adding surveillance requirements for the automatic actuation of the shunt trip attachments of the reactor trip breakers, and for the silicon controlled rectifier (SCR) trip relays used to interrupt power to the control rods, as required by Generic Letter (GL) 83-28, Items 4.3 and 4.4, and GL 85-10.

Date of issuance: March 10, 1989

Effective date: March 10, 1989

Amendment No.: 117

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 21, 1988 (53 FR 36668) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Baltimore Gas and Electric Company, Docket No. 50-318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of application for amendment: October 14, 1988 as supplemented February 17, 1989.

Brief description of amendment: This amendment provides a temporary, one-time extension, of up to 54 days, to the surveillance interval, required by TS Surveillance (TS) Requirement 4.7.8.1.c. for the performance of functional tests on a representative sample of 10% of each individual type of snubber.

This temporary change shall expire at 11:59 p.m. on May 17, 1989 or upon reaching 199.9° F average reactor coolant system (RCS) temperature during initial RCS heatup following the Unit 2 Cycle 9 refueling outage, whichever comes first. At that point, the specified maximum surveillance interval shall revert to the normally required 18-month period.

In addition, this amendment corrects nomenclature errors in TS 3/4.7.8, "Snubbers," and deletes an obsolete note in TS 4.7.8.1 concerning the date steam generator snubbers were first required to be tested.

Date of issuance: March 24, 1989

Effective date: March 24, 1989

Amendment No.: 119

Facility Operating License No. DPR-69. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 17, 1989 (54 FR 7309) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 24, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

NRC Project Director: Robert A. Capra

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: October 28, 1988, as supplemented March 6, 1989

Description of amendments: The amendment revises the Technical Specifications by modifying footnote ***, in Table 1.2, "Operational Conditions." The revised footnote allows the reactor mode switch to be placed in the Refuel position while a single control rod is being moved, as opposed to only when being recoupled, provided the one-rod-out interlock is operable.

Date of issuance: March 14, 1989

Effective date: March 14, 1989

Amendment Nos.: 125 and 155

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** January 11, 1989 (54 FR 1019) Additional information of a clarifying nature was submitted by the licensee by letter dated March 6, 1989. The additional information did not alter the action noticed and did not effect the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 14, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Commonwealth Edison Company, Docket Nos. 50-454 and 50-455, Byron Station, Units 1 and 2, Ogle County, Illinois; Docket Nos. 50-456 and 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: December 12, 1988

Brief description of amendments: These amendments modify Technical Specifications having cycle-specific Fxy limits by replacing the values of those limits with a reference to the Operating Limits Report for the value of those limits.

Date of issuance: March 28, 1989

Effective date: March 28, 1989

Amendment Nos.: 26 for Byron, 15 for Braidwood

Facility Operating License Nos. NPF-37, NPF-66, NPF-72, and NPF-75 The amendments revised the Technical Specification.

Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7626) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 28, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron Station, Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; for Braidwood Station, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Duke Power Company, Docket No. 50-370, McGuire Nuclear Station, Unit 2, Mecklenburg County, North Carolina

Date of application for amendment: December 7, 1985

Brief description of amendment: The amendment deleted license condition 2.C(12) and its related Table 1 and replaced it with a condition which was a part of Table 1.

Date of issuance: March 28, 1989

Effective date: March 28, 1989

Amendment No.: 75

Facility Operating License No. NPF-17: Amendment revised the Operating License

Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7632) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: September 12, 1988

Brief description of amendments: These amendments modify the Technical Specifications to permit the holding of a Senior Reactor Operator's license on a pressurized water reactor other than Turkey Point, by the Operations Superintendent, to serve as an acceptable qualification for that position.

Date of issuance: March 27, 1989

Effective date: March 27, 1989

Amendment Nos. 135 and 129

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 2, 1988 (53 FR 44250). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 27, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: December 2 and 22, 1986, May 31, August 8, and December 14, 1988

Brief description of amendments: The amendments modified paragraphs 2.C.4 of the Unit 1 license and 2.D. of the Unit 2 license to require compliance with the amended Physical Security Plan. This Plan was amended to conform to the requirements of 10 CFR 73.55. Consistent with the provisions of 10 CFR 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of these amendments.

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Date of issuance: March 28, 1989
Effective date: March 28, 1989
Amendment Nos.: 161 and 98
Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Operating Licenses.
Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7635) The Commission's related evaluation of the amendments is contained in a letter to Georgia Power Company dated March 28, 1989 and a Safeguards Evaluation report dated March 28, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: January 17, 1989
Brief description of amendment: The amendment modified the Technical Specifications (TS) by incorporating the combined TS for Units 1 and 2 issued with the full power license for Unit 2 into the Unit 1 license. The changes were administrative in nature only since the two units are identical.
Date of issuance: March 28, 1989
Effective date: March 28, 1989
Amendment No.: 5
Facility Operating License No. NPF-76. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 2, 1989 (54 FR 5292) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 1989.
No significant hazards consideration comments received: No.
Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: January 25, 1989
Brief description of amendment: The amendment addressed one of the requests of the amendment application by modifying the Technical Specification value of the fuel handling building exhaust air subsystem electric heaters to reference operation at 38 kW instead of 50 kW. The other requests are under staff review.
Date of issuance: March 28, 1989
Effective date: March 28, 1989. The amendment will be fully implemented six weeks after date of issuance.
Amendment No.: 6
Facility Operating License No. NPF-76. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 14, 1989 (54 FR 6789) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 1989.
No significant hazards consideration comments received: No.
Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 31, 1988
Brief description of amendment: The amendment revised the Technical Specifications for containment penetration circuit breaker testing by clarifying the test requirements for integrated functional testing and by adding the surveillance requirements to Table 3.8-1.
Date of issuance: March 23, 1989
Effective date: March 23, 1989
Amendment No.: 51
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 30, 1988 (53 FR 48332). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 23, 1988
Brief description of amendment: The amendment revised the Technical Specifications to show the new location for one of the backup seismic monitors.
Date of issuance: March 23, 1989
Effective date: March 23, 1989
Amendment No.: 52
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 8, 1989 (54 FR 6195). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 23, 1988
Brief description of amendment: The amendment revised the Technical Specifications to correct the terminology of control room isolation for toxic gas protection action.
Date of issuance: March 23, 1989
Effective date: March 23, 1989
Amendment No.: 53
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 1, 1989 (54 FR 5163). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 6, 1988 as supplemented January 5, 1989
Brief description of amendment: The amendment revised the Technical Specifications by deleting requirements for overcurrent protection on disconnected motor-operated-valve actuator compartment-heater breakers from Table 3.8-1.
Date of issuance: March 27, 1989
Effective date: March 27, 1989
Amendment No.: 54
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 11, 1989 (54 FR 1022) The January 5, 1989 submittal provided additional clarifying information and did not change the finding of the initial notice.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: December 6, 1988, as supplemented December 30, 1988 and January 31, 1989.
Brief description of amendment: The amendment changes the Technical Specifications (TS) as required to support the fuel reload for Cycle 4. Changes are made to the Bases for Section 2.1, "Safety Limits," the TS and Bases for Section 3/4.2, "Power Distribution Limits," and TS for Section 5.3.1, "Fuel Assemblies."
Date of issuance: March 13, 1989
Effective date: March 13, 1989
Amendment No. 57
Facility Operating License No. NPF-29. This amendment revises the Technical Specifications.
Date of initial notice in **Federal Register:** The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 13, 1989
No significant hazards consideration comments received: No
Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: September 23, 1988, as revised November 30, December 16 and December 21, 1988 and, as supplemented February 6, February 23, March 6 and March 8, 1989.
Brief description of amendment: The amendment changes the Technical Specifications (TS) by adding a plant service water radiation monitor in TS 3/4.3.7.1, "Radiation Monitoring Instrumentation," and by adding two valves in TS 3/4.8.4.2, "Morot Operated Valves Thermal Overload Protection." These TS changes are made to allow the use, during cold shutdown and refueling, of an alternate decay heat removal system (ADHRS) to be installed during the third refueling outage. In addition, footnotes are added to TS 3.4.9.2, TS 3.9.11.1 and TS 3.9.11.2 to limit the use of the ADHRS to the third refueling outage.
Date of issuance: March 27, 1989
Effective date: March 27, 1989
Amendment No. 59
Facility Operating License No. NPF-29. This amendment revises the Technical Specifications.
Date of initial notice in **Federal Register:** February 1, 1989 (54 FR 5166) The licensee's letters dated February 6 and 23, and March 6 and 8, 1989, provided supplemental information which did not affect the initial determination of no significant hazards considerations. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated
No significant hazards consideration comments received: No
Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: January 6, 1989 as supplemented by letter dated January 20, 1989.
Brief description of amendment: The amendment changes Technical Specification 4.7.10b, "Snubbers", to allow an approximate two month extension in the snubber visual inspection interval, to permit continued operation until the next refueling outage.
Date of issuance: March 27, 1989
Effective date: March 27, 1989
Amendment No.: 32
Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 8, 1989 (54 FR 6201) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1989
No significant hazards consideration comments received: No.
Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: March 31, and October 10, 1988
Brief description of amendment: This amendment revises the plant Technical Specifications to reflect fire protection system changes made during the 1988 refueling outage, and to reduce the number of operating shift members required for safe shutdown of the reactor from outside the control room for fire protection purposes. The changes related to fire protection system modification and/or addition involve: (1) the installation of an Alternate Shutdown Panel outside the control room; (2) the addition of a feedwater pump hatch sprinkler curtain to the fire protection sprinkler system; (3) changes in requirements for penetration fire barrier operability for protecting safe shutdown equipment during refueling outages; and (4) installation of additional fire detection and protection equipment in the reactor building.
Date of issuance: March 29, 1989
Effective date: March 29, 1989
Amendment No.: 61
Facility Operating License No. DPR-22. Amendment revises the Technical Specifications.
Date of initial notice in **Federal Register:** May 21, 1988 (51 FR 18686) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Northern States Power Company, Dockets Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: July 18, 1988 as supplemented September 15, 1988 and March 10, 1989.
Brief description of amendments: The amendments delete the specifications 2.3.A.3[c] and table TS 3.5-2 item 18 dealing with the reactor trip setpoint initiated low steam generator water level conclusion with steam/feedwater mismatch flow and low feedwater flow.
Date of issuance: April 3, 1989
Effective date: April 3, 1989
Amendment Nos.: 87 and 80

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Facility Operating Licenses Nos. DPR-42 and DPR-60. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 8, 1989 (54 FR 6201) Since the date of the initial notice, the licensee provided supplemental information. This information clarified the original submittal and had no impact on the original no significant hazards consideration determination, and therefore did not warrant renoticing.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

NRC Project Director: Theodore R. Quay, Acting

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: October 14, 1988

Brief description of amendment: Changes certain portions of Section 7, Administrative controls.

Date of issuance: March 31, 1989

Effective date: March 31, 1989

Amendment No.: 69

Facility Operating License No. DPR-34. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 16, 1988 (53 FR 46155). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Generating Station, Salem County, New Jersey

Date of application for amendment: November 28, 1988

Brief description of amendment: Revised Technical Specifications Surveillance Requirement 4.8.1.1.2.f by updating the ASTM standard referenced in the specification for diesel fuel oil sampling.

Date of issuance: March 24, 1989

Effective date: March 24, 1989

Amendment No. 22

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 30, 1988 (53 FR 53097). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 24, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: September 28, 1988

Brief description of amendment: Increased the setpoints of the main steam line radiation monitors in the Technical Specifications.

Date of issuance: April 3, 1989

Effective date: April 3, 1989

Amendment No. 23

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 16, 1988 (53 FR 46156). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: March 10, 1987 as supplemented on January 26, 1988, August 26, 1988 and January 17, 1989. The licensee submittals of August 26, 1988 and January 17, 1989 contained only minor corrections to the original submittal. It was, therefore determined unnecessary to renotice the application.

Brief description of amendment: This amendment changes Technical Specifications to comply with requirements of Generic Letter 85-09 for operation and testing of the reactor trip breakers.

Date of issuance: April 4, 1989

Effective date: 30 days from date of issuance

Amendment No.: 34

Facility Operating License No. DPR-18: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 23, 1988 (53 FR 9513). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 4, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: December 30, 1988, as supplemented March 6, 1989

Brief description of amendment: The amendment authorized a one-time extension for certain local leakage rate tests (LLRT) of containment penetrations until the Cycle 8 refueling outage. This amendment also changed the surveillance period for the LLRT on the Decay Heat Removal suction piping.

Date of issuance: March 29, 1989

Effective date: March 29, 1989

Amendment No.: 102

Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 8, 1989 (54 FR 6209). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 6, 1988 (TS 88-29)

Brief description of amendments: The amendments modify the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specifications. The changes delete surveillance requirement (SR) 4.4.3.2.3 for the pressurizer power-operated relief valves (PORVs) and associated block valves. This SR was not required and it duplicated other SR on these valves.

Date of issuance: March 9, 1989

Effective date: March 9, 1989

Amendment Nos.: 105, 94

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: January 11, 1989 (54 FR 1025). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 9, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket No. 50-328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: December 2, 1988 (TS 88-33)

Brief description of amendment: This amendment modifies the Sequoyah Nuclear Plant, Technical Specifications (TS). The changes (1) revise the upper head injection (UHI) accumulator level switch setpoint and tolerances of surveillance requirement (SR) 4.5.1.2.c.1 and (2) reduce the heat flux hot channel factor (FQ(z)) of limiting condition for operation (LCO) 3.2.2 and SR 4.2.2.2 from 2.237 to 2.15. The limit shall be 2.15 instead of 2.237 until an analysis in conformance with 10 CFR 50.46, using plant operating conditions and showing that a limit of 2.237 satisfies the requirements of 10 CFR 50.46(b), has been completed and submitted to NRC. This reduction in PQ(z) is a requirement of the Exemption from 10 CFR 50.46(a)(1) for operating Cycle 4 which was issued for Unit 2 on January 26, 1989. Similar amendments were approved for Unit 1 in the staff letters dated October 14, 1988 and January 23, 1989.

Date of issuance: March 10, 1988

Effective date: March 10, 1988

Amendment No.: 95

Facility Operating Licenses No. DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 30, 1988 (53 FR 53102). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 14, 1987 (TS 87-38)

Brief description of amendments: The amendments revise Table 3.3-5, Engineered Safety Features Response Times, of the Sequoyah Units 1 and 2 Technical Specifications. The changes add requirements to the response time test of the containment ventilation isolation function when initiated by a high containment pressure signal or a low pressurizer pressure signal.

Date of issuance: March 13, 1989

Effective date: March 13, 1989

Amendment Nos.: 106, 96

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 10, 1988 (53 FR 30145). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 13, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: April 17, 1987 (TS 87-05)

Brief description of amendments: These amendments amend the Sequoyah Nuclear Plant Units 1 and 2 Technical Specifications (TS) to revise parts of Section 5.0, Administrative Controls, of the Appendix B Environmental Technical Specifications. The changes (1) reflect the new title for the station superintendent and assign the responsibility for review and audit to the "licensee", instead of a specific TVA organization, (2) extend the audit time interval on the environmental monitoring program from annual to once per 18 months, (3) add additional requirements on the conduct of the audit and maintaining the results of the audit, and (4) delete the reference to a defunct section of the Code of Federal Regulations (CFR).

Date of issuance: March 15, 1989

Effective date: March 15, 1989

Amendment Nos.: 107, 97

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 20, 1988 (53 FR 13020). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 15, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: January 31, 1989 (TS 89-15) as clarified by letter dated March 9, 1989.

Brief description of amendments: The amendments modify Section 3.1.3, Movable Control Assemblies, of the Sequoyah, Units 1 and 2 Technical Specifications (TS). The changes revise the limiting conditions for operation (LCO) 3.1.3.4 and 3.1.3.5 and the Figure 3.1-1 to define the fully withdrawn condition for shutdown and control rod banks as a position within the interval of equal to or greater than 222 steps withdrawn and of equal to or less than 231 steps withdrawn. A section is added to the Bases of the TS to define the fully withdrawn condition for the shutdown and control rod banks. The supplemental information supplied in the March 9, 1989 letter did not change the substance of the Notice of Consideration of an amendment the staff issued in the Federal Register on January 22, 1989 on TVA's application for TS 89-15.

Date of issuance: March 28, 1989

Effective date: March 28, 1989

Amendment Nos.: 108, 98

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 22, 1989 (54 FR 7645). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 14, 1987 (TS 87-39)

Brief description of amendments: The amendments correct minor discrepancies in the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specifications (TS). The changes correct (1) an action statement of Table 3.3-1, Reactor Trip System Instrumentation, for Unit 2 only; (2) the instrumentation listed in Table 3.3-11, Fire Detection Instruments, for Unit 1 only; (3) the table notation of Table 4.11-2, Radioactive Gaseous Waste Monitoring, Sampling and Analysis Program, for both units;

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and (4) the surveillance requirements 4.8.1.1.2.a.4 (both units) and 4.8.1.1.2.d.7 (Unit 1 only) for diesel generators. These changes are for both units or for only Unit 1 or Unit 2 as described above. These TS changes are to correct inconsistencies between TS requirements and to provide clarification of the intent of various TS specifications. None of the changes diminishes safety or increases the probability of an accident in any area of the plant.

Date of issuance: April 3, 1989
Effective date: April 3, 1989
Amendment Nos.: 109, 99
Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 16, 1987 (52 FR 47794). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989
No significant hazards consideration comments received: No
Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 8, 1988 (TS 72)
Brief description of amendments: These amendments revise the surveillance requirements (SR) for the electrical equipment protective devices in the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specifications (TS). The changes (1) delete the references to specific procedures in SR 4.8.3.1.a.1, 4.8.3.1.a.2, 4.8.3.1.a.3, and 4.8.3.1.b, (2) incorporate a footnote into SR 4.8.3.1.a.3 which allowed this SR to be suspended and (3) delete a resistance measurement test for fuses from SR 4.8.3.1.a.3. The other proposed changes in the application for SR 4.8.3.1.a.2 and 4.8.3.1.a.3 to delete testing of the instantaneous elements of the molded case circuit breakers were denied in the staff's letter dated November 7, 1988.

In the licensee's responses dated December 5 and 29, 1988, to the staff's denial of proposed changes to the TS on molded case circuit breakers, it discussed possible TS interpretations of the trip function testing of these to reduce the number of these breakers exposed to a potentially degrading test current. The licensee stated that within 6 months after restart of Sequoyah Unit 2, it would advise the staff of any intent to pursue this issue of TS interpretations. In its letter dated October 18, 1988, the licensee stated that it would not pursue this issue further.

Date of issuance: April 3, 1989
Effective date: April 3, 1989
Amendment Nos.: 110, 100
Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 27, 1988 (51 FR 30582). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989
No significant hazards consideration comments received: No
Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 2, 1988 (TS 88-25)
Brief description of amendments: The amendments modify the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specifications. The changes revise the action statements of limiting condition for operation 3.4.3.2 for the pressurizer power-operated relief valves (PORVs) and their associated block valves. The changes will require different actions based on the cause of valve inoperability. With one or more PORVs inoperable but capable of reactor coolant system (RCS) pressure control, power operation may continue, provided the associated block valve is closed (power does not have to be removed from the closed block valve). With one or more PORVs or block valves inoperable and incapable of RCS pressure control, reactor shutdown will be required.

Date of issuance: April 3, 1989
Effective date: April 3, 1989
Amendment Nos.: 111, 101
Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 30, 1988 (53 FR 53099). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989
No significant hazards consideration comments received: No
Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: August 26, 1988
Brief Description of amendment: The amendment changes Technical Specifications to reflect analog equipment replacement.
Date of issuance: March 29, 1989.
Effective date: 30 days from date of issuance.
Amendment No.: 110
Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 19, 1986 (51 FR 41870). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: June 10, 1988
Brief description of amendments: The amendments deleted the requirements for and references to the Control Room Chlorine Monitoring System to reflect the removal from the site of all chlorine gas storage bottles.
Date of issuance: April 7, 1989
Effective date: April 7, 1989
Amendment Nos.: 124 and 124
Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 13, 1988 (53 FR 26534). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7, 1989.
No significant hazards consideration comments received: No
Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: December 2, 1988, as supplemented February 1, 1989.
Brief description of amendment: This amendment revises technical specification surveillance requirement 4.8.1.1.2.e.7 regarding verification that automatic diesel generator trips are bypassed upon an accident signal. The amendment precludes the need for the temporary waiver of compliance with the technical specifications, issued February 2, 1989.

Date of issuance: March 30, 1989
Effective date: March 30, 1989
Amendment No.: 66
Facility Operating License No. NPF-21: Amendment changed the Technical Specifications.
Date of initial notice in **Federal Register:** February 24, 1989 (54 FR 8041). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: August 25, 1988 and supplemented on July 8, 1987
Brief description of amendment: The amendment changed Technical Specification paragraphs 3.8.4.1, 4.8.4.1 and deleted Table 3.8-1, "Containment Penetration Conductor Overcurrent Protective Devices." These changes were originally requested in the August 25, 1988 submittal. However, the NRC deferred plant specific consideration pending the NRC's staff resolution of the issue on a generic basis. The generic resolution has subsequently been accomplished and was discussed in the safety evaluation of this amendment.
Date of Issuance: March 23, 1989
Effective date: March 23, 1989
Amendment No.: 28
Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 24, 1988 (51 FR 33951). The July 8, 1987 submittal provided additional clarifying information and did not change the finding of the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 6, 1988
Brief description of amendment: This amendment revised Wolf Creek Generating Station (WCGS), Unit No. 1, Technical Specification Tables 3.3-3 and 4.3-2, which address the Engineered Safety Features Actuation System Instrumentation. The amendment removed the Mode 2 applicability requirements from Table 3.3-3 Functional Unit 6.g and Table 4.3-2 Functional Unit 6.g, "Trip of All Main Feedwater Pumps - Start Motor Driven Pumps".
Date of Issuance: April 3, 1989
Effective date: April 3, 1989
Amendment No.: 29
Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7648). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant

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to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By May 19, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1 (ANO-1), Pope County, Arkansas

Date of amendment request: March 23, 1989

Brief description of amendment: This amendment authorized the steady state power level for ANO-1 not to exceed 1284 megawatts thermal for a period not to exceed 50 effective full power days. This limitation in power level was required due to identification of a previously unanalyzed loss of coolant accident (LOCA).

Date of issuance: March 29, 1989

Effective date: March 29, 1989

Amendment No.: 119

Facility Operating License No. DPR-51. Amendment revised the operating license.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 29, 1989.

Attorney for licensee: Nicholas S. Reynolds, Esq. Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

NRC Project Director: Jose A. Calvo

Dated at Rockville, Maryland, this 13th day of April, 1989.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation

[Doc. 89-9200 Filed 4-18-89; 8:45 am]

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[Docket No. 50-353]

Philadelphia Electric Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Philadephia Electric Company, (the licensee), for operation of the Limerick Generating Station, Unit 2, located in Montgomery and Chester Counties, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would extend the time required for submittal of a report indicating how reasonable assurance will be provided that funds will be available to decommission the facility.

The proposed action is in accordance with the licensee's application for exemption dated February 7, 1989.

10 CFR 50.33(k)(1) states, "Each application shall state: For an application for an operating license for a production or utilization facility, information in the form of a report, as described in § 50.75 of this part, indicating how reasonable assurance will be provided that funds will be available to decommission the facility." 10 CFR 50.75 establishes requirements for indicating how reasonable assurance will be provided that funds will be available for decommissioning. Each holder of an operating license is required to submit a decommissioning funding plan on or before July 28, 1990.

The Need for the Proposed Action

The funding report and certification are complex and require careful and deliberate financial planning. The Limerick Generating Plant is a two unit facility. The decommissioning report for Unit 1 is not required until July 26, 1990. The decommissioning plans for Units 1 and 2 need to be coordinated, since the units share common systems. The proposed exemption is needed to provide the time necessary to perform this planning properly and provide an accurate and informed report.

Environmental Impacts of the Proposal Action

The proposed exemption from 10 CFR 50.33(k)(1) will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant cumulative radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact. Additionally, it does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Limerick Generating Station, Unit 2, dated April 1984.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated February 7, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated At Rockville, Maryland, this 31st day of March 1989.

For the Nuclear Regulatory Commission.

Walter Butler,

Director, Project Directive I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-9383 Filed 4-18-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

South Carolina Electric & Gas Co.; South Carolina Public Service Authority; Correction

On March 20, 1989, a "Notice of Withdrawal of Application for Amendment to Facility Operating License" related to the V.C. Summer Nuclear Power Station, Unit 1, was published at 54 FR 11465. The cite given in that Notice for the original Notice published on February 24, 1984, was incorrect; it should have read 49 FR 7042.

For The Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II-1, Division of Reactor Projects I/II.

[FR Doc. 89-9382 Filed 4-18-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-315]

Indiana Michigan Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-58 issued to the Indiana Michigan Power Company (the licensee), for operation of the Donald C. Cook Nuclear Plant, Unit No. 1, located in Berrien County, Michigan.

In accordance with the licensee's application for amendment dated October 14, and December 30, 1988, the proposed amendment to Technical Specifications will allow the D. C. Cook Unit 1 Nuclear Plant to operate with reduced temperatures and pressures to alleviate the stress corrosion cracking of the steam generator U-tubes of the type previously observed at D. C. Cook Unit 2.

Prior to issuance of the proposed license amendment, the Commission will have made finding required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 5, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the

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Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Theodore R. Quay: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated October 14, and December 30, 1988 which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland, this 13th day of April, 1989.

For the Nuclear Regulatory Commission.

John J. Stefano,

Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V & Special Projects.

[FR Doc. 89-9486 Filed 4-18-89; 8:45 am]

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OFFICE OF MANAGEMENT AND BUDGET

Privacy Act of 1974; Proposed Guidance Interpreting the Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988

AGENCY: Office of Management and Budget.

ACTION: Request for comments.

SUMMARY: The Office of Management and Budget (OMB) seeks public comments on the development of guidance interpreting the provisions of Pub. L. 100-503, the Computer Matching and Privacy Protection Act of 1988. The purpose of the guidance is to assist Federal, State and local agencies in implementing matching programs that are covered by the Act's provisions.

DATE: Comments from the public should be submitted no later than May 19, 1989.

ADDRESS: Send comments to Robert N. Veeder, Office of Information and Regulatory Affairs, Room 3235, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503, telephone (202) 395-4814, Datafax (202)-395-3746.

SUPPLEMENTARY INFORMATION: Public Law 100-503 became law on October 18, 1988. It amends the Privacy Act of 1974 to add certain protections for the subjects of Privacy Act records whose records are used in automated matching programs. These protections are essentially threefold:

- *Procedural uniformity:* In carrying out matching programs, agencies are required to comply with the specific procedures the Act sets out;
- *Due process for subjects:* The Act gives individuals certain due process rights including advance notice that their records may be matched, notice of any adverse data found, and a chance to rebut this evidence;
- *Oversight of motching:* The Act establishes oversight mechanisms to ensure agency compliance. These include reports to OMB and Congress, publication of notices in the Federal Register, and the establishment of Data Integrity Boards at each agency engaging in matching to monitor the agency's matching activity.

The Act goes into effect 9 months after it became law, or July 19, 1989.

Public Law 100-503 requires OMB to "develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment * * *," or June 19, 1989. The proposed guidance that follows is intended to meet this requirement and will, in final form, replace previous guidance OMB issued on May 2, 1982 (see 47 FR 21656).

One of the forces driving the Privacy Act of 1974 into existence was Congressional concern about the government's use of computers in which to keep records about individuals. The Act's preamble points to the possibility of automated recordkeeping "greatly magnifying" the potential harm to record subjects. In reality, in the era in which the Act was implemented, most Federal records were kept on paper and stored in file cabinets.

Now, however, due to the steady automation of government programs, automated records play a much more significant and more pervasive role in Federal recordkeeping. It is apparent that the structure of the Privacy Act is straining to accommodate this kind of recordkeeping. Public Law 100-503 is the first amendment of the Privacy Act to attempt to deal with the issue of automated records, albeit in only one area: computer matching. However, because it amends the Privacy Act without changing that Act's basic structure, there are real questions about how the Privacy Act's provisions, especially the definitions, should be interpreted.

Thus, OMB is especially interested in obtaining comments on the following points:

- *What constitutes a matching program within the meaning of the Computer Matching and Privacy Protection Act of 1988?* The Act defines a matching program as "any computerized comparison of [either] two or more automated systems of records or a system of records with non-Federal records." As the Guidelines interpret this definition, the following would be examples of covered matching programs for the reasons given:

—The Department of Education sends a tape of student loan defaultors to the Office of Personnel Management (OPM) which then performs an automated match against its Federal employee data base to identify and locate Federal employees who have defaulted on loans. This is a covered match because it involves the automated comparison of two automated systems of records.

—A clerk employed by a State agency enters data about an applicant for a Federal benefit program into an automated data base. At the end of the day, the State agency forwards the tape to a Federal agency which runs the tape against an automated system of records containing information about individuals who have defaulted on a Federal obligation. The purpose of the match is to identify applicants who are ineligible for the benefit because of their previous default. This is a covered match because it involves an automated comparison of non-Federal records with a Federal system of records.

—A clerk employed by a State agency sends a paper listing containing information about applicants for a Federal benefit program to the Office of Personnel Management to determine whether any applicants are Federal employees whose salaries would render them ineligible. The OPM makes a computerized comparison of this list with its automated Federal employee system of records. This is a match because it involves the automated comparison of non-Federal records with a system of records.

—A State benefit program clerk directly accesses a federal system of records and enters data into it from an applicant's form to make an eligibility determination. This is a covered match because it is an automated comparison of non-Federal records with a Federal system of records.

The following are situations where the Act's reach is less clear:

—A State benefit clerk accesses a Federal system of records and enters information received orally from an applicant in order to perform an immediate eligiblity check. In this case, there appear to be no records involved at the State end, and yet the situation is essentially the same as the one described immediately above where the clerk enters data from an applicant's form.

OBM invites comments about whether this kind of access should be covered and under what theory.

—A Federal agency maintaining a paper record system of records sends a listing from that system to another Federal agency. The recipient agency automates the listing and performs a computerized comparison with its own automated system of records containing information about a Federal benefit program. The wording of the Act suggests that this would not be a covered match since only one Federal automated system of records is involved.

OMB specifically solicits comments on whether the automation of a paper listing and subsequent automated comparison should be covered under the Act and under what theory of coverage.

- *What routine administrative matches using Federal employee records should be excluded from the Act's coverage?* The act permits OMB to identify examples of routine administrative matches for which agencies need not meet the requirements of the Matching Act. The guidelines list a few examples of such matches. OMB is interested in obtaining a broader range of examples to include and invites commentators to submit candidates.
- *When should Data Integrity Boards be permitted to waive the benefit-cost requirement?* The Computer Matching Act permits Data Integrity Boards to waive the requirement that a benefit-cost analysis be done, as well as the requirement that matches may proceed only when analysis produces a favorable benefit-cost ratio. Waivers in these circumstances are to be subject to guidance from OMB. The Guidelines discuss this issue generally, but OMB would welcome commentaters' advice on this subject, including relevant examples.

Jay Plager,

Administrator, Office of Information and Regulatory Affairs.

Office of Management and Budget Guidelines on the Conduct of Matching Programs

1. *Purpose:* These Guidelines augment and should be used with the "Office of Management and Budget (OMB) Guidelines on the Administration of the Privacy Act of 1974," issued on July 1, 1975, and supplemented on November 21, 1975, and Appendix I to OMB Circular No. A-130, published on December 24, 1985, (see 50 FR at 52736). They are intended to help agencies relate the procedural requirements of the Privacy Act (as amended by Pub. L. 100-503, the Computer Matching and Privacy Protection Act of 1988—hereinafter referred to as the Computer Matching Act), with the operational requirements of automated matching programs. These are policy guidelines applicable to the extent permitted by law. They do not authorize activities that are not permitted by law; nor do they prohibit activities expressly required to be performed by law. Complying with these Guidelines, nonetheless, does not relieve a Federal agency of the obligation to comply with the provisions of the Privacy Act, including any provisions not cited in these Guidelines.

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2. *Authority:* Section 6 of Pub. L. 100-503, The Computer Matching and Privacy Protection Act of 1988, requires OMB to issue implementation guidance on the Amendments.

3. *Scope:* These guidelines apply primarily to all Federal agency subject to the Privacy Act of 1974. For this purpose, the Privacy Act relies upon the definition in the Freedom of Information Act (FOIA) 5 U.S.C. 552 at (e): "any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or any independent regulatory agency." For the purposes of these guidelines, components Departments, e.g., the Health Care Financing Administration of the Department of Health and Human Services, are *not* considered individual agencies.

Note that the definition incorporates the "agency" definition used in the Administrative Procedure Act (5 U.S.C. 551 at (1)) which also contains a series of categories that are not covered, including State and local governments.

The Computer Matching Act amendment, however, brings State and local governments within the ambit of the Privacy Act when they are engaging in certain types of matching activities; *but only in conjunction with a Federal agency that is itself subject to the Privacy Act, and only when a Federal system of records is involved in the match.*

In general, a State or local agency or agent thereof, that is either (1) providing records to a Federal agency for use in a matching program covered by the Act; or (2) receiving records from a Federal agency's system of records for use in a matching program covered by the Act, must comply with certain of the Act's provisions. What State and local governments must do to meet the requirements of the Act is explained in paragraph 9 below.

4. *Effective Date:* These guidelines will be effective on the date of issuance in final form.

5. *Definitions:* The Computer Matching Act is an amendment of the Privacy Act of 1974 and the provisions of the former should be read within the context of the latter, and all the terms originally defined in the Privacy Act of 1974 apply.

It is especially important to note that the Computer Matching Act does not extend Privacy Act coverage to those not originally included. Thus, the subjects of Federal systems of records covered by the Computer Matching Act are "individuals," i.e., U.S. citizens and aliens lawfully admitted for permanent residence.

Two definitions that are especially relevant to matching programs are:

—"*Record*" which the Privacy Act defines as an item of information about an individual, including his or her name or some other identifier; and,

—"*System of Records*" which is a collection of such "records" from which an agency retrieves information by reference to an individual identifier.

In addition, the Computer Matching Act provides the following new terms:

a. *Matching Program.* At its simplest, a matching program is the comparison of records using a computer. The records must themselves exist in automated form (or be put in automated form in order to perform the match). Manual comparisons of, for example, printouts of two automated data bases, are *not* included within this definition.

The Computer Matching Act covers two kinds of matching programs: (1) matches involving Federal benefits programs and, (2) matches using records from Federal personnel or payroll systems of records.

(1) *Federal Benefits Matches.* The Act defines a Federal benefits matching program as:

> "any computerized comparison of two or more automated systems of records, or a system of records with non-Federal records, by applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs * * * [i.e., any program administered or funded by the Federal government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals], * * * for the purpose of establishing or verifying the eligibility of or continuing compliance with statutory and regulatory requirements, or [for the purposes of] recouping payments or delinquent debts under such Federal benefits programs." (See 5 U.S.C. 552a(a)(8) and (12).)

The elements of this definition are discussed below:

(a) *Computerized Comparison of Data.* The record comparison must be a computerized comparison involving records from:

—Two or more automated systems of records (i.e., systems of records maintained by Federal agencies that are subject to the Privacy Act); or,

—A Federal agency's system of records (whether automated or not) and records maintained by a non-Federal (i.e., State or local government) agency (whether automated or not). To be covered, *matches* of these records *must be computerized.*

(b) *Categories of Subjects Covered.* The Computer Matching Act provisions cover only the following categories of record subjects:

—Applicants for Federal benefit programs (i.e., individuals initially applying for benefits);

—Program beneficiaries (i.e., individual program participants who are actually receiving benefits);

—Providers of services to support such programs (i.e., those who are not the primary beneficiaries of Federal benefits programs, but may derive income from them—health care providers, for example).

(c) *Types of Programs Covered.* Only Federal benefit programs providing cash or in-kind assistance to individuals are covered by this definition. State programs are not covered. Federal programs not involving cash or in-kind assistance are not covered. Programs using records about subjects who are not individuals as defined by section (a)(2) of the Privacy Act—U.S. citizens or aliens lawfully admitted for permanent residence—are not covered.

(d) *Matching Purpose.* The match must have as its purpose:

—Establishing or verifying initial or continuing eligibility for Federal benefit programs; or,

—Verifying compliance with the requirements—either statutory or regulatory—of such programs; or,

—Recouping payments or delinquent debts under such Federal benefit programs.

It should be noted that all four of these elements must be present before a matching program is covered under the provisions of the Computer Matching Act. Thus, for example, if the Department of Education matched a student loan recipient data base with a Veterans Administration (VA) educational benefit recipient data base for the purpose of ensuring that both agencies were maintaining the most current and accurate home address information, that would not be covered since the "matching purpose" is not one of the three enumerated above. If, however, the purpose of the match were to identify recipients who were receiving benefits in excess of those to which they were entitled, the match would be covered.

Moreover, elements that are peripheral to the match, even if within the definitions above will not raise a match to the Act's coverage. For example, the Federal Parent Locator Service conducts matches to locate absentee parents who are not paying child support. Such matches may result

in the identified spouse being ordered to commence payments, and some of those payments may go to recoup payments made from a Federal benefit program such as Aid to Families with Dependent Children. Because the recoupment is not the primary purpose of the match, but only an incidental consequence, such matches would not be covered.

(2) *Federal Personnel or Payroll Records Matches.* The Computer Matching Act also includes matches comparing records from Federal personnel or payroll systems of records, or such records and records of State and local governments. Again, it should be noted that regardless of whether the records are automated, the comparison must be done by using a computer; manual comparisons are not covered. Matches in this category must be done for other than "routine administrative purposes" as defined in paragraph 5a(3)(e) below. In some instances, a covered match may take place within a single agency. For example, an agency may wish to determine whether any of its own personnel are participating in a benefit program administered by the agency, and are not in compliance with the program's eligibility requirements. This internal match will certainly result in an adverse action if ineligibility is discovered. Therefore, it is covered by the requirements of the Computer Matching Act.

(3) *Exclusions from the Definition of a Matching Program.* The following are not included under the definition of matching programs. Agencies operating such programs are not required to comply with the provisions of the Computer Matching Act, although they may be required to comply with any other applicable provisions of the Privacy Act.

(a) *Statistical Matches Whose Purpose is Solely to Produce Aggregate Data Stripped of Personal Identifiers.* This does not mean that the data bases used in the match must be stripped prior to the match, but only that the results of the match must not contain individually identifiable data. Implicit in this exception is that this kind of match is not done to take action against specific individuals; although, it is possible that the statistical inferences drawn from the data may have consequences for the subjects of the match as members of a class or group. For example, a continuing matching program that shows one geographical area consistently experiencing a higher default rate than others may result in a more rigorous scrutiny of applicants from that area, but would not be a covered matching program.

(b) *Statistical Matches Whose Purpose is in Support of Any Research or Statistical Project.* The results of these matches need not be stripped of identifiers, but they must not be used to make decisions that affect the rights, benefits or privileges of *specific* individuals. Again, it should be noted that this provision is not intended to prohibit using any data developed in these matches to make decisions about a Federal benefit program in general that may ultimately affect beneficiaries. This exclusion could also cover so-called "pilot matches," i.e., small scale matches whose purpose is to gather benefit/cost data on which to premise a decision about engaging in a full-fledged matching program. Of course, if agencies used any of the information obtained to make an adverse determination, they would be required to meet the full requirements for indepedent verification and notice and opportunity to refute that apply to covered matching programs.

(c) *Law Enforcement Investigative Matches Whose Purpose is to Gather Evidence Against a Named Person or Persons in an Existing Investigation.* Certain matches performed in support of civil or criminal law enforcement activities that otherwise would be covered because they seek to establish or verify Federal benefit eligibility or use of Federal personnel or payroll records, are excluded from coverage by this section. To be eligible for exclusion, the match must be done by an agency or component whose principal function involves the enforcement of *criminal* laws, i.e., an agency that is eligible to exempt certain of its record sytems under section (j)(2) of the Privacy Act. Thus, an agency that is not itself *principally* a criminal law enforcement agency, such as the Department of Justice, may have one or more components, e.g., the Federal Bureau of Investigation or the Drug Enforcement Administration, that are.

The match must flow from an investigation already underway which focuses on a specific person or persons; "fishing expeditions" in which the subjects are identified generically as "program beneficiaries," are not eligible for this exclusion (note that the investigation may be into either criminal or civil law violations). The use of the phrase "person or persons" in this context broadens the exclusion to include subjects that are other than "individuals" as defined by the Privacy Act. Thus, for example a business entity could be the named subject of the investigation, while the records matched could be those of customers or clients. This does not mean however, that the rights afforded by the Privacy Act are extended by this section to other than "individuals."

Finally, the match must be for the purpose of gathering evidence against the named person or persons.

(d) *Tax Administration Matches.* There are four specific categorical exclusions for matches using "tax information." While that term is not defined in the Computer Matching Act, the Report accompanying the House version of the Act, H.R. 4699, cites "tax returns" and "tax return information" as the tax information that is covered by the exclusion. Those terms are defined in section 6103 of Title 26 U.S.C. at (b)(1)–(b)(3). It is clear from these sections that the information covered is under the control of the Internal Revenue Service (IRS) of the Department of the Treasury since the definitions speak of information that is "filed with the Secretary" or "received by, prepared by, furnished to, or collected by the Secretary." Moreover, section 6103(a) prohibits Federal, State and local governmental employees from disclosing tax information except as authorized by the Internal Revenue Code. This is not to say that all information in the possession of the IRS is covered by the exclusion; only tax information. Thus, for example, personnel records relating to the management of the IRS workforce would not be covered.

The exclusion covers the following:

—Matches done pursuant to section 6103(d) of the Tax Code. These matches involve disclosures of taxpayer return information to State tax officials. For matches covered by this exclusion, neither the Federal disclosing entity nor the State recipient need comply with the provisions of the Computer Matching Act.

—Matches done for the purposes of "tax adminstration" as that term is defined in section 6103(b)(4) of the Internal Revenue Code: "The term 'tax administration' means the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party; and the development and formulation of Federal tax policy relating to existing or proposed internal revenue law, related statutes, and tax conventions; and includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws,

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statutes or conventions." While this defintion is very broad and covers a great deal of discretionary activities on the part of IRS management, it is not intended to exempt all IRS activities from the Act's coverage; only those that truly relate to administration of the nation's tax system (as opposed to management of the IRS workforce, for example). Thus, the exclusion will permit the IRS to continue to match tax returns with interest and dividend statements, for example.

—Tax refund offset matches done pursuant to the deficit Reduction Act of 1984 (DEFRA). That Act amended sections 464 and 1137 of the Social Security Act and the procedures for affording matching subjects due process are contained in those sections.

—Tax refund offset matches conducted pursuant to statutes other than the DEFRA provided OMB finds the due process provisions of those statutes "substantially similar" to those of the DEFRA. A list of such programs is contained in Attachment 1 to this guidance. OMB will amend this list as necessary to keep it current with existing legislation. Agencies should notify OMB promptly when they think an existing statute provides an exemption in this category.

(e) *Routine Administrative Matches Using Federal Personnel Records.* These are matches between a Federal agency and other Federal agencies or between a Federal agency and non-Federal agencies for administrative purposes that use data bases that contain records predominantly relating to Federal personnel. The term "federal personnel" is defined by the Act as: "officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits)."

Matches whose purpose is to take "any adverse financial, personnel, disciplinary or other adverse action against Federal personnel * * *" whose records are involved in the match, are not excluded from the Act's coverage.

Examples of matches that are excluded include an agency's disclosure of time and attendance information on all agency employees to the Department of the Treasury in order to prepare the agency's payroll; or disclosure of Department of Defense (DoD) Reserve Officer identifying information to a State in order to validate and update addresses of Reservists residing in the State.

Note that this exclusion does not bring under the Act's coverage matches that *may* ultimately result in an adverse action. It only requires that their purpose not be intended to result in an adverse action. Thus, in the DoD/State reservist match example, the consequence of the match may well be that a reservist is dropped from the program because no address can be found for him or her. This result, however, negative, would not bring the match under the Act's coverage since its primary purpose was only to update an address listing.

(f) *Internal Agency Matches Using Only Records From the Agency's System of Records.* Internal agency matching is excluded on the same basis as Federal personnel record matching above: provided no adverse intent as to a Federal employee motivates the match. Section (b)(1) of the Privacy Act permits agencies to disseminate Privacy Act records to agency employees on an official need-to-know basis. This exclusionary provision does not disturb that principle, except where Federal personnel records are involved. Thus, for example, the Social Security Administration could match with the Health Care Financing Administration to detect and ultimately recoup overpayments for a specific Department of Health and Human Services program. That match would not be covered by the provisions on the Computer Matching Act.

Moreover, the mere presence of Federal employee records in the data bases being matched would not necessarily bring the match under the Act's coverage. To be covered, the records would have to be predominantly those relating to Federal employees—a personnel system of records, for example—and the primary intent would have to be to take an adverse action of some kind against the Federal employees specifically. If the Department of Education matched its student loan defaulter file against its own employee data base in order to detect and take action against Education employees who have defaulted, that match would be covered by the Act. The same department matching its undergraduate student loan defaulter file against its medical school loan defaulter file in order to determine the incidence of repeat defaulters, would not be covered, even though some of those in the data base might be Federal employees.

(g) *Background Investigation and Foreign Counter-intelligence Matches.* Matches done in the course of performing a background check for security clearances of Federal personnel or Federal contractor personnel are not covered. Nor are matches done for the purpose of foreign counter-intellgience.

b. *Recipient Agency.* Recipient agencies are Federal agencies (or their contractors) that receive records from the Privacy Act systems of records of other Federal agencies or from State and local governments to be used in matching programs.

c. *Source Agency.* A source agency is a Federal agency that discloses records from a system of records to another Federal agency or to a State or local governmental agency to be used in a matching program. It is also a State or local governmental agency that discloses records to a Federal agency to be used in a matching program. The Computer Matching Act does not cover matching between non-Federal entities.

d. *Non-Federal Agency.* A non-Federal agency is a State or local governmental agency that receives records contained in a system of records from a Federal agency to be used in a matching program.

e. *Federal Benefit Program.* See paragraph 5a(1)(r) above.

6. *Conducting Matching Programs:* The following applies to Federal agencies. Requirements pertaining to non-Federal agencies are in paragraph 9 below.

Agencies undertaking matching programs covered by the Computer Matching Act will need to make sure that they comply with the following requirements:

a. *Prior Notice to Record Subjects.* There are two ways in which record subjects can receive notice that their records may be matched:

—*By direct notice* when there is some form of contact between the government and the subject, e.g., information on the application form when they apply for a benefit or in a notice that arrives that a benefit that they receive;

—*By constructive notice*, e.g., publication of systems notices, routine use disclosures, and matching programs in the **Federal Register.**

For front-end eligibility verification programs whose purpose is to validate an applicant's initial eligibility for a benefit and later to determine continued eligibility, agencies should provide direct notice by amending the application form where necessary to enlarge the statement provided pursuant to section (e)(3) of the Privacy Act so that applications are put on notice that the information they provide may be verified through a computer match.

Agencies should also provide periodic notice whenever the application is renewed, or at the least, during the period the match is authorized to take place, in a notice accompanying the benefit. Providers of services should be given notice on the form on which they apply for reimbursement for services provided.

In some cases, constructive notice may have to suffice. For example, a Federal agency that discloses records to a State or local government in support of a non-Federal matching program is not obligated to provide actual notice to each of the record subjects; **Federal Register** publication in this instance is sufficient. Moreover, in some instances, it may be possible to provide actual notice—in matches done to locate individuals, in emergency situations where health and safety reasons argue for a swift completion of the match; or in investigative matches where direct notice immediately prior to a match would provide the subject an opportunity to alter behavior.

In any case, notice to the record subject should be done well before a matching program commences. It should be part of the normal process of implementing a Federal benefits program.

b. *Matching Notices—Publication Requirements.* Agencies must publish notices of the establishment or alteration of matching programs in the **Federal Register** at least 30 days prior to conducting such programs. The recipient Federal agency in a match between Federal agencies or in a match in which a non-Federal agency discloses records to a Federal agency is responsible for publishing such notices. Where a State or local agency is the recipient of records from a Federal agency's system of records, the Federal source agency is responsible for publishing such notices. Where a State or local agency is the recipient of records from a Federal agency's system of records, the Federal source agency is responsible for publishing the notice. Where more than one agency is involved in a matching program, agencies are encouraged to publish a consolidated notice. Such notices should contain the following information:

—Name of participating agency or agencies;

—Purpose of the match;

—Authority for conducting the matching program. (It should be noted that the Computer Matching Act provides no independent authority for carrying out any matching activity);

—Categories of records and individuals covered;

—Inclusive dates of the matching program;

—Address for receipt of public comments or inquiries.

Copies of proposed matching notices must accompany reports of proposed matches submitted pursuant to section (r) of the Privacy Act as amended. See OMB Circular No. A–130, Appendix I, as amended.

c. *Preparing and Executing Matching Agreements.* Agencies should allow sufficient lead time to ensure that matching agreements can be negotiated and signed in time to secure Data Integrity Board decisions. Federal agencies receiving records from or disclosing records to non-Federal agencies for use in matching programs are responsible for preparing the matching agreements and should solicit relevant data from non-Federal agencies were necessary. In cases where matching takes place entirely within an agency under the Federal personnel or payroll matching provisions, the agency may satisfy the matching agreement requirements by preparing a Memorandum of Understanding between the system of records managers involved, and presenting that to the Data Integrity Board for consideration.

Agreements must contain the following:

—*Purpose and Legal Authority.* Since the Computer Matching Act provides no independent authority for the operation of matching programs, agencies should cite a specific Federal or State statutory or regulatory basis for undertaking such programs.

—*Justification and Expected Results.* An explanation of why computer matching as opposed to some other administrative activity is being proposed and what the expected results will be.

—*Records Description.* An identification of the system of records or non-Federal records, the number of records, and what data elements will be included in the match. Projected starting and completion dates for the program should also be provided.

—*Notice Procedures.* A description of the individual and general periodic notice procedures. See paragraph 6.a., above.

—*Verification Procedures.* A description of the methods the agency will use to independently verify the information obtained through the matching program. See paragraph 6.f., below.

—*Disposition of Matched Items.* A statement that information generated through the match, will be destroyed as soon as it has served the matching program's purpose and any legal retention requirements the agency establishes in conjunction with the National Archives and Records Administration or other cognizant authority.

—*Security Procedures.* A description of the administrative and technical safeguards to be used in protecting the information. They should be commensurate with the level of sensitivity of the data.

—*Records Usage, Duplication and Redisclosure Restrictions.* A description of any specific restrictions imposed by either the source agency or by statute or regulation on collateral uses of the records used in the matching program. In general, recipient agencies should not put the records obtained for a matching program and under the terms of a matching agreement to other uses absent a specific statutory requirement, or where there is a direct connection to the conduct of the matching program. The agreement should specify how long a recipient agency may keep records provided for a matching program, and when they will be returned to the source agency or destroyed.

—*Records Accuracy Assessments.* Any information relating to the quality of the records to be used in the matching program. Record accuracy is important from two standpoints. In the first case, the worse the quality of the data, the less likely a matching program will have a cost-beneficial result. In the second case, the Privacy Act requires Federal agencies to maintain records they maintain in systems of records to a standard of accuracy that will reasonably assure fairness in any determination made on the basis of the record. Thus an agency receiving records from another Federal agency or from a non-Federal agency needs to know information about the accuracy of such records in order to comply with the law. Moreover, the Privacy Act also requires agencies to take reasonable steps to ensure the accuracy of records that are disclosed to non-Federal recipients.

—*Comptroller General Access.* A statement that the Comptroller General may have access to all records of a recipient agency or non-Federal agency necessary to monitor or verify compliance with the agreement. It should be understood that this requirement permits the Comptroller General to inspect State and local records used in matching programs covered by these agreements.

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d. *Securing Approval of Data Integrity Boards.* Before an agency may participate in a matching program, the agency's Data Integrity Board must have evaluated the proposed match and approved the terms of the matching agreement. (See paragraph 7.d. below, for appeals of Board disapprovals).

e. *Reports to OMB and Congress.* See OMB Circular No. A–130, Appendix I as amended.

f. *Providing Due Process to Matching Subjects.* The Computer Matching Act prescribes certain due process requirements that the subjects of matching programs must be afforded when matches uncover adverse information about them.

—*Verification of Adverse Information.* Agencies may not premise adverse action upon the raw results of a computer match. Any adverse information so developed must be subjected to investigation and verification before action is taken. In many cases, the individual record subject is the best source for determining a finding's validity, and he or she should be contacted where practicable. In other cases, the payer of a benefit will have the most accurate record relating to payment and should be contacted for verification. Note that, in some cases, contacting the subject initially may permit him or her to conceal data relevant to a decision; and, in those cases, an agency may elect to examine other sources. Absolute confirmation is not required; a reasonable verification process that yields confirmatory data will provide the agency with a reasonable basis for taking action.

As to applicants for Federal benefits programs whose eligibility is being verified through a matching program, agencies may not make a final determination until they have completed the due process steps the Act requires. This does not mean, however, that they are required to place an applicant on the rolls pending a determination, but only that they may not make a final decision.

For matching subjects receiving benefits, however, agencies may not suspend or reduce payments until the due process steps have been completed.

—*Notice and Opportunity to Contest.* Agencies are required to notify matching subjects of adverse information uncovered and given them an opportunity to explain prior to making a final determination. Again, this does not mean that an applicant must be put on the rolls pending his or her explanation, but only that the agency may not make a final determination. Current benefits recipients, however, may not have those benefits suspended or reduced pending the expiration of this period.

Individuals may have at least 30 days to respond to a notice of adverse action. The period runs from the date of the notice until 35 calendar days later. The 5 extra days are intended to cover transit time.

If an individual contacts the agency within the notice period and indicates his or her acceptance of the validity of the adverse information, agencies may take immediate action to deny or terminate. Agencies may also take action if the period expires without contact.

If the Federal benefit program involved in the match has its own due process requirements, those requirements may suffice for the purposes of the Computer Matching Act, provided they are at least as strong as that Act's provisions.

In any case, if an agency determines that there is likely to be a potentially significant effect on public health or safety, it may take appropriate action, notwithstanding these due process provisions.

7. Establishing Data Integrity Boards: The Computer Matching Act requires that each Federal agency that acts as either a source or recipient in a matching program, establish a Data Integrity Board to oversee the agency's participation. It should be noted that the fact that records about an agency's personnel are used in a matching program does not automatically trigger this requirement. Because, for example, the Office of Personnel Management (OPM) asserts governmentwide ownership of the system of records containing the Federal employee Official Personnel Folder (OPF), disclosures from this system of records involve OPM, not the employing agency. There are many small agencies that will never directly disclose records from their own systems of records for matching purposes and they are thus not required to establish Data Integrity Boards.

a. *Location and Staffing.* While the Act specifies neither the organizational level at which the Boards are to be established, nor their makeup (with two exceptions), it is clear from the context of the Data Integrity Board section that Congress expected agencies to place the Boards at the top of the organization and staff them with senior personnel. It is the intent of these guidelines not to dictate a specific structure but to suggest ways of complying with this expectation.

—*Location.* As to location, because the Boards are to serve a coordinating function, it would be inappropriate to locate them at other than the departmental level (or its agency equivalent). This is not to say that subordinate boards at component levels may not be useful to do the preliminary work necessary to provide a matching program proposal to the senior Board for approval. Indeed, in large agencies with many matching programs, this will likely be the rule. But, the approval should come from the top, and this argues for the placement suggested above.

—*Staffing.* The Act requires that the Board consist of senior agency officials designated by the agency head. The only two mandatory members are the Inspector General of the agency (if any) who may not serve as Chairman, and the senior official responsible for the implementation of the Privacy Act who has been designated pursuant to 44 U.S.C. 3506(b). OMB recommends that the agency Privacy Act Officer be designated as the Board's Secretary.

—*Operation.* While much of the work of the Board may be delegated to less senior members—for example, the compilation of reports, advising of program officials, and maintaining and disseminating information about the accuracy and reliability of data used in matching—the approval of matching agreements should not be delegated.

The Board should meet often enough to ensure that agency matching programs are carried out efficiently, expeditiously and in conformance with the Privacy Act, as amended.

b. *Review Responsibilities.* Because matching agreements are key to the implementation of the Computer Matching Act, the Act makes their review the foremost responsibility of the Boards. Boards are responsible for approving or disapproving matching programs based upon their assessment of the adequacy of these agreements. They should ensure that their reasons for either approving or denying are well documented. Agency officials proposing matching programs should ensure that they provide the Data Integrity Board with all of the information relevant and necessary to permit it to make an informed decision, including, where appropriate, a benefit/cost analysis.

—*Review of Proposals to Conduct or Participate in Matching Programs.* The Board must review the matching agreements that support each proposed matching program and find them in conformance with the provisions of the Computer Matching Act as well as any other relevant statutes, regulations, or guidelines (see the attached checklist). A matching agreement should remain in force for only so long as necessary to accomplish the specific matching purpose; indeed, it automatically expires at the end of 18 months unless 3 months prior to the actual expiration date, the Data Integrity Board finds that the program will be conducted without change and each party certifies that the program has been conducted in compliance with the matching agreement. Under this finding, the Board may extend the agreement for 1 additional year.

Annual Review. The Act requires Data Integrity Boards to conduct an annual review of all matching programs in which the agency has participated as either a source or recipient agency. This review has two focuses: to determine whether the matches have been, or are being, conducted in accordance with the appropriate authorities and under the terms of the matching agreements; and, to assess the utility of the programs in terms of their costs and benefits. The Act suggests that this latter review as it pertains to recurring programs, should result in a basis for continuing participation in, or operation of, such programs. The Computer Matching Act also requires the Boards to review annually agency recordkeeping and disposal policies and practices for conformance with the Act's provisions. These reviews should take place within the context of the annual review referenced above. In addition, the Boards may review and report on matching activities not covered by the Computer Matching Act.

c. *Benefit/Cost Analysis.* The Computer Matching Act requires that a benefit/cost analysis be a part of an agency decision to conduct or participate in a matching program. The requirement occurs in two places: in matching agreements which must include a justification of the proposed match with a "specific estimate of any savings"; and, in the Data Integrity Board review process.

The intent of this requirement is not to create a presumption that when agencies balance individual rights and cost savings, the letter should inevitably prevail. Rather, it is to ensure that sound management practices are followed when agencies use records from Privacy Act systems of records in matching programs. Particularly in a time when competition for scarce resources is especially intense, it is not in the government's interests to engage in matching activities that drain agency resources that could be better spent elsewhere. Agencies should use the benefit/cost requirement as an opportunity to reexamine programs and weed out those that produce only marginal results.

While the Act appears to require a favorable benefit/cost ratio as an element of approval of a matching program, agencies should be cautious about applying this interpretation in too literal a fashion. For example, the first year in which a matching program is conducted may show a dramatic benefit/cost ratio. However, after it has been conducted on a regular basis (with attendant publicity), its deterrent effect may result in much less favorable ratios. Elimination of such a program, however, may well result in a return to the prematch benefit/cost ratio. The agency should consider not only the actual savings attributable to such a program, but the consequences of abandoning it.

For proposed matches without an operational history, benefit/cost analyses will of necessity be speculative. While they should be based upon the best data available, reasonable estimates are acceptable at this stage. Nevertheless, agencies should design their programs so as to ensure the collection of data that will permit more accurate assessments to be made. As more and more data become available, it should be possible to make more informed assumptions about the benefits and costs of matching.

Because matching is done for a variety of reasons, not all matching programs are appropriate candidates for benefit/cost analysis. The Computer Matching Act tacitly recognizes this point by permitting Data Integrity Boards to waive the benefit/cost requirement if they determine in writing that such an analysis is not required. Indeed, the Act itself supplies one such waiver: if a match is required by statute, the initial review by the Board need not consider the benefits and costs of the match. However, the Act goes on to require that when the matching agreement is renegotiated, a benefit/cost analysis covering the preceding matches must be done. Note that the Act does not require the showing of a favorable ratio for the match to be continued, only that an analysis be done. The intention is to provide Congress with information to help it evaluate the effectiveness of statutory matching requirements with a view to revising or eliminating them where appropriate.

Other examples of matches in which the establishment of a favorable benefit/cost ratio would be inappropriate are:

—A match of a system of records containing information about nurses employed at VA hospitals with records maintained by State nurse licensing boards to identify VA nurses with "impaired licenses", i.e., those who have had some disciplinary action taken against them.

—A match whose purpose is to identify and correct erroneous data, e.g., Project Clean Data which was run to correct and eliminate erroneous Social Security Numbers.

—Selective Service System matching to identify 18 year olds for draft registration purposes.

d. *Appeals of Denials.* If a Board disapproves a matching agreement, the Computer Matching Act permits any party to the agreement to appeal that disapproval to the Director of the Office of Management and Budget. While this literally means that a recipient agency (whether Federal or non-Federal) could appeal the refusal of a source agency to approve an agreement, the actual results of such cross agency appeals, even if successful, are unlikely to result in the implementation of a matching program since the source agency may still properly refuse to disclose the necessary Privacy Act records. Nothing in the appeal process is intended to result in one agency being able to force another agency to participate unwillingly in a matching program.

Accordingly, OMB will only entertain appeals from senior agency officials who are parties to a proposed matching agreement that has been disapproved by the agency's own Data Integrity Board. By senior officials, OMB means the Inspector General of an agency or the head of an operating division carrying out the matching program.

The appeal should be forwarded to the Director, Office of Management and Budget, Washington, DC 20503 within 30 days following the Board's written disapproval. The following documentation should accompany the appeal:

—Copies of all of the documentation accompanying the initial matching agreement proposal;

—A copy of the Board's disapproval and reasons therefor;

—Evidence supporting the cost-effectiveness of the match;

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—Any other information relevant to a decision, e.g., timing considerations, the public interest served by the match, etc.

The Director will promptly notify Congress of receipt of an appeal and of his or her decision. A decision to approve a matching agreement will not be effective until 30 days after it is so reported to Congress. The decision of the Director shall be based upon the information submitted.

OMB expects that this appeal process will be rarely used. One way to ensure its rarity is for agencies to present only well thought-out and thoroughly documented proposals to the Boards for decisions.

e. *Information Maintenance and Dissemination Responsibilities.* The Act anticipates that the Data Integrity Boards will be an information resource on matching for the agency. Thus, while the full Board may actually convene only a few times each year to consider matching program proposals, the Act requires a continuing presence to carry out these additional functions. The Board, therefore, should designate a representative to answer questions on matching both from within the agency and from outside entities. This point of contact should be able to advise on what actions are needed to comply with the provisions of the Computer Matching Act, and to collect and disseminate information on the quality of the records used in matching programs.

8. *General Reporting Requirements:* The reporting requirements of the Data Integrity Boards will be contained in OMB Circular No. A–130, Appendix I. Matching reports are to be included in the general Privacy Act implementation reporting requirements outlined in that Circular.

9. *Specific Responsibilities of Non-Federal Agencies:* It is not the intent of this Act to affect, nor do its provisions reach, State and local governments using their own records for matching purposes. Nor does the Act reach State or local matching programs using records from Federal systems of records for purposes other than those defined in the Act as for a "matching program."

Thus, for example, a Federal agency could disclose information about beneficiaries of a Federal program to a State agency in order to permit the State to conduct a matching program to determine eligibility for a State public assistance program. So long as the purpose was to validate eligibility for the State as opposed to the Federal benefit program, the Computer Matching Act would not come into play.

If however, the Federal agency disclosed the names and income levels of its own Federal employees to a State under these circumstances, the matching requirements would have to be met since this match would be covered under the "Federal employee personnel and payroll" provisions.

Non-Federal agencies intending to participate in covered matching programs are required to do the following:

—Execute matching agreements prepared by a Federal agency or agencies involved in the matching program;

—Provide data to Federal agencies on the cost and benefits of matching programs;

—Certify that they will not take adverse action against an individual as a result of any information developed in a matching program unless the information has been independently verified and until 30 days after the individual has been notified of the findings and given an opportunity to contest them.

—For renewals of matching programs, certify that the terms of the agreement have been followed.

10. *Sanctions.* The Computer Matching Act specifies that neither a Federal nor a non-Federal agency may disclose a record for use in a matching program if either has reason to believe the recipient is not meeting the terms of the matching agreement or the due process requirements of the Computer Matching Act. This provision does not create an affirmative duty on the part of a source agency to investigate a recipient agency's level of compliance. However, if a source agency receives information that would lead it to conclude that the recipient agency was not in compliance, it must consult with that agency before continuing to participate in the matching program.

Moreover, it should be noted that the civil remedies provisions of the Privacy Act are available to matching record subjects who can demonstrate that they have been harmed by an agency's violation of the Privacy Act or its own regulations. A successful litigant is entitled under the Privacy Act to receive *at least* $1,000 and reasonable attorney's fees. Given the large numbers of record subjects typically involved in a matching program, agencies should be especially diligent in guarding against actions that would create liabilities.

[FR Doc. 89–9353 Filed 4–18–89; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–26719; File No. SR–NASD–89–19]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Predispute Arbitration Clauses in Customer Agreements

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 27, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change to Article III, section 21 of the NASD's Rules of Fair Practice generally requires members using predispute arbitration clauses in customer agreements to highlight those clauses and to include disclosures concerning the nature of the arbitration process and the meaning and effect of an affirmative waiver of a customer's right to litigate disputes arising under agreements containing such clauses. The proposed rule change would also prohibit the use of any customer agreement containing a predispute arbitration clause of language that would limit or contradict the rules of any securities industry self-regulatory organization, limit the ability of a party to file a claim in arbitration, or limit the ability of the arbitrators to make an award.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change, which is the product of the coordinated efforts of the Commission and the Securities Industry Conference on Arbitration ("SICA") to provide more explicit disclosure relating to predispute arbitration clauses in customer agreements, is intended to insure that customers are made aware of the existence, nature and effect of predispute arbitration clauses by requiring that such agreements be highlighted by the member and acknowledged by the customer. Under the proposal, a member utilizing a predispute arbitration clause in a customer agreement must include statements to the effect that arbitration is final and binding and that the parties are waiving their right to seek remedies in court, that pre-arbitration discovery is generally more limited than in court proceedings, that arbitrators' awards are not required to include factual findings, that the right to appeal is strictly limited, and that a panel of arbitrators will typically include a minority of arbitrators who are affiliated with the securities industry. The proposed rule requires that the foregoing disclosure language be included and highlighted in the customer agreement, and that disclosure of the existence of the arbitration agreement appear immediately preceding the signature line in the customer agreement.

The proposed rule change is also intended to preserve the rights of public customers, which are guaranteed under the NASD Code of Arbitration Procedure, by prohibiting the imposition of conditions that limit or contradict those rules. The rule change will also prohibit attempts to limit by contract the ability of a party to file a claim or the ability of arbitrators to make an award.

The proposed rule change provides that it shall be effective 120 days after Commission approval to provide members sufficient time to implement changes in their customer account agreements.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act, as the proposed rule change will facilitate the arbitration process in the public interest and, therefore, is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule amendment imposes any burden on competition that is not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

A discussion draft of the proposed rule change was published for comment in NASD Notice to Members 88–87 on November 1, 1988. As a result of the Notice, the NASD received 53 comment letters.[1] Of these, 41 comment letters plus the comment letter of the Securities Industry Association (79%) supported the discussion draft proposal, but urged deletion of the separate customer initialling requirement set forth in section 21(f)(2) of the discussion draft and noted that both the New York and American Stock Exchanges and proposed similar rules without the separate initialling requirement. In addition, two members generally opposing the proposal also objected to the requirement of the aforementioned separate customer initialling requirement. Opposition to the proposal set forth in the discussion draft was voiced on various grounds by eight members and two non-member commentators (19%). Based on the comments of the clear majority of the commentators and its overriding concern for the maintenance of uniformity in the securities industry arbitration process, the NASD's Board of Governors revised its draft of the proposed rule change to correspond to parallel proposals of the New York and American Stock Exchanges.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

[1] The Notice to Members, a list of commentators, and the comment letters are attached as Exibit 2 of the rule filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 10, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,
Secretary.

Dated: April 13, 1989.

[FR Doc. 89–9371 Filed 4–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26720; File No. PHLX 89–14]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Filing and Immediate Effectiveness of Proposed Rule Change Relating to Recision of Fee Regarding Research of Eligible Over-the-Counter ("OTC") Stocks to Underlie Options Listings

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 US.C. 78s(b)(1), notice is hereby given that on March 23, 1989, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or the "Exchange"), pursuant to Rule 19b–4 of the Securities Exchange

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Act of 1934 ("Act"), submits the following proposed rule change rescinding a $100 fee regarding research of eligible Over-the-Counter ("OTC") stock to underlie options listings.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

On July 12, 1988, the PHLX submitted SR–PHLX–88–23, a proposed fee change that, among other things, established a $100 fee for each OTC stock that a specialist requests to be reviewed for options listing. The rule change indicated that "the fee will help recover the cost of researching a security to ascertain whether it meets the eligibility criteria for underlying securities under PHLX Rule 1009." The filing also indicated that the fee will discourage frivolous requests and cover the expenses and staff time involved in researching such requests.

Since the implementation of the $100 fee, the Exchange has not received any further specialist requests for an OTC Stock eligibility options listing. In this regard, the Exchange believes that the fee poses to be a significant disincentive to specialists making OTC stock suggestions and the Exchange's program to discover and develop potentially successful OTC stock options has suffered concomitantly. Accordingly, the proposed rule change rescinds the $100 fee regarding research of eligible OTC stocks to underlie PHLX options listings.

The proposed rule change is consistent with section 6(b)(4) of the Exchange Act in that it rescinds in an equitable manner a fee imposed on equity option specialist members of the Exchange. The proposed rule change is also consistent with section 6(b)(5) of the Act in that it removes impediments to and perfects the mechanism of a "free and open market."

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Options Committee of the Exchange has reviewed and approved this proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 10, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: April 12, 1989.

[FR Doc. 89–9373 Filed 4–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26712; File No. SR–PHLX–89–13]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to "Definition of Agency Order in Connection with PACE."

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 3, 1989, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc., pursuant to Rule 19b–4 under the Act, proposes to amend Exchange Rule 229, Supplementary Material .02, to read as follows (italics indicates new language):

Philadelphia Stock Exchange Automated Communication and Execution System ("PACE")

Rule 229. No change.

* * * Supplementary Material

.01 No change.

.02 Only agency orders may be executed under PACE.

For purpose of the PACE System, an agency order is any order entered on behalf of a public customer, and does not include any order entered for the account of a broker-dealer, the account of an associated person of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

PHLX Rule 229 relates to the Philadelphia Stock Exchange Automated Communication and Execution System, which provides for the automatic execution of orders on the Exchange equity floor under predetermined conditions. Pursuant to Supplementary Material .02 of Phlx Rule 229, only agency orders may be executed through PACE. This provision was intended to limit the availability of PACE to public customer orders. Because agency orders can be defined broadly to include orders entered by broker-dealers or their affiliates, the amendment clarifies the original intent of the Rule. While the Exchange is cognizant of the fact that PACE order entry firms may not know if a certain order is entered for the account of a broker-dealer or its affiliate, the Exchange would only require that order entry firms make a good faith effort in routing public customer agency orders to PACE. The proposed rule change is consistent with section 6(b) (5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, will promote just and equitable principles of trade, and protect investors and the public interest. Additionally, the proposal is consistent with section 11A(a)(1)(c)(iv) of the Act in that it promotes "the practicability of brokers executing *investors'* orders in the best market." (Emphasis added)

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal

Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding of (ii) as to which Phlx consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted May 10, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Date: April 11, 1989.

Jonathan Katz,

Secretary.

[FR Doc. 89–9372 Filed 4–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16915; 812–7127]

Government Securities Equity Trust, Series I and Subsequent Series, et al. (Formerly AIM T.A.R.G.E.T. Trust Series I (Weingarten) and Subsequent Series); Application

April 13, 1989.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Government Securities Equity Trust, Series I and Subsequent Series (the "Trust"), and AIM Convertible Securities, Inc., AIM Equity Funds, Inc., AIM Government Funds, Inc., AIM Tax-Exempt Funds, Inc., High Yield Securities, Inc., Short-Term Investments Co., and Tax-Free Investments Trust, on behalf of themselves and any series or portfolio thereof (other than any of the aforementioned mutual funds or portfolios thereof which are money market or no-load funds), AIM Advisors, Inc. ("AIM Advisors"), AIM Capital Management, Inc. ("AIM Capital"), AIM Distributors, Inc. ("AIM Distributors"), and any mutual funds, including any portfolios or series thereof (other than money market or no-load funds) that may in the future be advised by or have as their principal underwriter AIM Advisors, AIM Capital, or AIM Distributors, or any of their affiliates that are under common control with them (all of the named mutual funds and future funds listed or described above collectively, in whole or in part, the "Funds"), and Prudential-Bache Securities Inc. (the "Sponsor") (all of the foregoing, the "Applicants").

Relevant 1940 Act Sections: Order requested: (i) Under section 6(c) granting exemptions from sections 12(d)(1), 14(a) and 19(b) of the 1940 Act and Rule 19b–1 thereunder; and (ii) under section 17(d) and Rule 17d–1 thereunder, approving certain affiliated transactions.

Summary of Application: Applicants seek an open-ended order to permit multiple series of the Trust to invest in portfolios consisting both of shares of one of the Funds and zero-coupon obligations, to exempt the Trust from having to take for its own account or place with others $100,000 worth of units under an investment letter, and to permit the Trust to distribute capital gain dividends resulting from redemption of Fund shares within a reasonable time after receipt.

Filing Dates: The application was filed on September 21, 1988, and amended on April 10 and 11, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is order. Any requests must be received by the Commission by 5:30 p.m., on May 8, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the Commission, along with proof of service by affidavit or, for lawyers, by certificate. Request

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notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20459. Applicants (except Prudential-Bache Securities, Inc.), Eleven Greenway Plaza, Suite 1919, Houston, Texas 77046; Prudential-Bache Securities Inc., One Seaport Plaza, 199 Water Street, New York, New York 10292.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Regina Hamilton (202) 272-3024, or Branch Chief Karen L. Skidmore (202) 272-3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier: (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Prudential-Bache Securities, Inc. (the "Sponsor"), a Delaware corporation, is a wholly-owned subsidiary of Bache Group Inc. and an indirect wholly-owned subsidiary of The Prudential Insurance Company of America. The Sponsor, a registered broker-dealer engaged in the investment advisory business, engages in a broad range of securities activities, and has sponsored numerous unit investment trust series. The Sponsor will serve as the sponsor and depositor for each series of the Trust ("Trust Series"), and will perform functions typical of unit investment trust sponsors.

2. Each of the Funds is an open-end management investment company registered under the 1940 Act. Although the Funds are authorized pursuant to previous exemptive orders to establish separate classes of securities within the same investment portfolio (*see* Investment Company Act Release Nos. 14695 (August 22, 1985) and 15592 (February 27, 1987), no shares of any Fund that has established more than one class of shares will be deposited in any Trust Series, and no Fund, shares of which have been deposited in any Trust Series, will thereafter establish additional classes of shares. Each Fund (or a portfolio thereof) offers shares with front-end sales charges; none has any present intention of imposing any deferred sales charges. However, Applicants have agreed as a condition to the requested order that should any of the Funds ever impose such charges, Applicants agree to comply with Rule 22d-1 as adopted and as it may be modified, and with proposed Rule 6c-10 as proposed, adopted, and as it may be modified.

3. AIM Advisors and AIM Capital (together, the "Advisors") are investment advisers registered under the Investment Advisers Act of 1940. Each Fund has entered into an investment advisory or management agreement with one of the Advisors. AIM Distributors is a broker-dealer registered under the Securities Exchange Act of 1934 and acts as principal underwriter for the shares of each Fund. AIM Advisors, AIM Capital and AIM Distributors are all wholly-owned subsidiaries of A I M Management Group Inc., a privately held corporation.

4. The Trust will be registered under the 1940 Act as a unit investment trust and will offer units in Trust Series. Each Trust Series will be a separate unit investment trust created pursuant to a trust indenture which will incorporate by reference the master trust agreement between the Sponsor and a bank (as defined in section 2(a)(5) of the 1940 Act) that satisfies the criteria in section 26(a) of the 1940 Act (the "Trustee") (the trust indenture and master trust agreement together, the "Trust Agreement"). Pursuant to the Trust Agreement, the Sponsor will deposit into each Trust Series: (i) Investments in U.S. Government and other types of zero-coupon obligations or contracts and funds for the purchase of such obligations ("Zero-Coupon Obligations") purchased from third parties at a price determined by the independent evaluator; and (ii) shares of one of the Funds or contracts and funds for the purchase of such shares. The Sponsor's obligation to purchase any such Zero-Coupon Obligations held by a Trust Series will be backed by an irrevocable letter of credit. All Zero-Coupon Obligations in any one Trust Series would have essentially identical maturities. The Sponsor expects to deposit in the Trust substantially more than $100,000 aggregate value of Zero-Coupon Obligations and Fund shares.

5. Simultaneously with each deposit (the "Date of Deposit") the Trustee will deliver to the Sponsor registered certificates for units ("Units") representing the entire beneficial ownership of each Trust Series. Following the declaration of effectiveness of a Trust's registration statement on Form S-6 for the securities of that Trust Series under the Securities Act of 1933, and clearance by the Blue Sky authorities under applicable state law, the Units will be offered for sale to the public by the Sponsor at the public offering price described in the applicable final prospectus. In addition to holding Fund shares and Zero-Coupon Obligations, each Trust Series will also hold accrued and undistributed income, dividends, capital gains, and undistributed cash.

6. Pursuant to the Trust Agreement, the Sponsor may deposit additional Fund shares and Zero-Coupon Obligations, which may result in a potential corresponding increase in the number of Units outstanding. The Sponsor anticipates that any additional Fund shares or Zero-Coupon Obligations deposited in a Trust Series subsequent to the initial Date of Deposit in connection with the sale of the additional Units will maintain as far as practicable the original percentage relationship between the principal amounts of Fund shares and Zero-Coupon Obligations in the portfolio of the Trust Series. The Fund shares and Zero-Coupon Obligations will not be pledged or in any other way subjected to any debt by a Trust Series after they are deposited into such Trust Series.

7. In selecting the Fund shares to be deposited into each Trust Series, the Sponsor and the Advisors will select for deposit that Fund which they mutually agree would offer the most appeal to investors based upon their perceptions of the market for the Trust. Factors including the historical performance of the Fund, the nature of the underlying Fund portfolio, and perceived areas of growth in certain markets, will enter into the decision at the time of deposit. The Advisors currently anticipate that shares of Weingarten will be used in the initial Trust Series.

8. The purpose of the Trust Series is to provide preservation of capital and the opportunity for capital appreciation. The Trust would be structured so that each would be structured so that each Trust Series would contain a sufficient amount of Zero-Coupon Obligations to ensure that, at the specified maturity date for such Series, the purchaser of a Unit on the first date it is offered for sale would receive back the approximate total amount of the original investment in the Trust, including the sales load. Zero-Coupon Obligations deposited in the Trust will be non-callable or callable at par. Thus, at the scheduled termination of a Trust Series, such investor would receive more than the original investment to the extent that the underlying Fund made any distributions during the life of the Trust and had any value at the maturity of the Series.

9. Shares of only one of the Funds will be sold for deposit into any one Trust Series at net asset value: the Funds will waive any otherwise applicable sales load with respect to all shares sold or deposited in any Trust Series. Furthermore, because Fund shares have their net asset values calculated daily and these values would be readily available to the Sponsor, no evaluation fee will be charged with respect to determining the value of the Funds shares which compose part of the value of the Units. An evaluation fee will be charged, however, with respect to that portion of the Trust Series' portfolio that consists of Zero-Coupon Obligations.

10. Investors may be provided a reinvestment vehicle during the life of the Trust Series for reinvesting in a Fund's shares the distributions from the Trust that are derived from, or that are distributed along with, annual capital gains distributions by the Fund. All such reinvestments in the Fund will be made without imposition of the otherwise applicable sales load and at net asset value. Similarly, with respect to all Unitholders still holding Units at scheduled termination of the Trust Series and to the extent desired by such Unitholders, the Trust will transfer the registration of their proportionate number of Fund shares from the Trust to a registration in their names without imposing the otherwise applicable sales load. The Fund will also offer all such Unitholders the option of reinvesting the proceeds of the Zero-Coupon Obligations in Fund shares without the imposition of the otherwise applicable sales load. Proceeds from the Zero-Coupon Obligations will be paid in cash unless the Unitholders elects reinvestment.

11. Each of the existing Funds or portfolios thereof has adopted a Rule 12b-1 plan for the purpose of financing activities primarily intended to result in the sale of shares of such Fund or portfolio. Each plan provides for reimbursement to the distributor of a Fund or portfolio for expenditures made in connection with the sale of its shares. Maximum reimbursable amounts under the plans for the Funds or portfolios range from .15% to .30% per annum of average daily net assets.

12. Unitholders investing in the Government Securities Equity Trust Series I and subsequent series will pay a sales load in connection with the purchase of their units. Sales loads imposed on units of the Government Securities Equity Trust Series I will range from 2.00% to 5.25% of the public offering price of the units, with the actual amount imposed dependent upon the number of units purchased. Because the Sponsor will receive such sales loads in connection with the sale of Units, the Sponsor will rebate to the Trustee any Rule 12b-1 fees it receives on shares of the Funds held by the Trust. Any Rule 12b-1 fees so rebated will be distributed along with other income earned by the Trust. Such distributions, including amounts attributable to rebated Rule 12b-1 fees, will reflect deduction by the Trustee of *bona fide* Trust expenses. A similar rebate will be made with respect to any present or future Fund, regardless of the terms or method of payment of any Rule 12b-1 plan adopted by such Fund. Accordingly, no Trust Series and no Unitholders therein will, directly or indirectly, pay or otherwise bear any Rule 12b-1 fees with respect to Fund shares held in such Trust Series. However, any Fund shares acquired directly by a Unitholder pursuant to any of the reinvestment options described above will be subject to Rule 12b-1 fees as are other shares held directly by investors.

13. Although not legally obligated to do so, the Sponsor intends to maintain a secondary market for the Units based on the aggregate bid side evaluation of the Zero-Coupon Obligations and the net asset value of the Fund shares, plus a sales load. The existence of a secondary market will reduce the number of Units tendered to the Trustee for redemption and thus alleviate the necessity of selling portfolio securities to raise the cash necessary to meet such redemptions. In the event that the Sponsor does not maintain a secondary market, the Trust Agreement will provide that the Sponsor will not instruct the Trustee to sell Zero-Coupon Obligations from any Trust Series until shares of the Fund have been liquidated in order not to impair the protection provided by the Zero-Coupon Obligations (unless the Sponsor is able to sell such Zero-Coupon Obligations and still maintain at least the original proportional relationship to Unit value), and, further, that Zero-Coupon Obligations may not be sold to meet Trust expenses. Moreover, Applicants have agreed to specific conditions restricting the Trustee's right to redeem Fund shares.

Applicants' Legal Conclusions

1. Applicants assert that section 12(d)(1) of the 1940 Act is intended to prevent the duplication of fees and costs, concentration of control, and other adverse consequences to investors incident to the pyramiding of investment companies. Applicants contend that their proposal is structured to eliminate such pyramiding of expenses and control problems and that the unit investment trust format is uniquely adaptable to avoiding such concerns. Shares of any Fund otherwise sold subject a front-end slaes charge will be sold at net asset value to each Trust Series and to the Unitholders in connection with reinvestments during the life of the Trust Series and upon maturity. Moreover, the evaluation fee for Fund shares held by a Trust Series will be waived. Finally, Applicants point out that because a unit investment trust has an unmanaged portfolio, there will be no duplicative advisory fees charged as there would be in the case where a managed mutual fund purchased shares of other mutual funds. Applicants assert that the costs and expenses of the administration and operation of the Trusts and the Funds will be reduced by the proposed arrangement. In support of this assertion and of their request for section 12(d)(1) relief generally, Applicants have provided an exhibit to the application analyzing the costs and benefits of the proposed arrangement.

2. In addition, Applicants have agreed as a condition that the Sponsor will rebate to each Trust the 12b-1 fees that otherwise would be imposed on Fund shares while such shares are held by a Trust Series. However, the 12b-1 fees will not be rebated with respect to Fund shares held directly by Unitholders as a result of any of the described reinvestment options. Unitholders who become direct shareholders would be in the same position as any other direct shareholders of the Fund and Applicants therefore believe that insulating them from Rule 12b-1 fees would effectively subsidize them in a way that would be unfair to other shareholders.

3. Applicants maintain that their proposal addresses potentially abusive control problems resulting from concentration of voting power in a fund holding company or from the threat of large-scale redemptions. Applicants have agreed as conditions to the order requested that the voting of shares of the Fund which are held by a Trust Series will be performed by the Trustee, and that the Trustee must vote all shares of a Fund held in a Trust Series in the same proportion as all other shares of that Fund, which are not held by the Trust, are voted. Applicants believe the threat of large-scale redemptions is alleviated by agreeing to conditions: (a) Permitting the Trustee to sell Fund shares only when necessary to meet redemption obligations or expenses; (b) limiting the amount of any one Fund's shares that may be deposited into a Trust; and (c) requiring Applicants to structure the Trusts' maturity dates at least 30 days apart from one another. In addition, the Trustee has no discretionary ability to demand redemption of a Fund's shares and may

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do so only to meet redemption requests (and then only to the extent that the Sponsor does not purchase the Units in order to resell them in the secondary market) and to pay Trust expenses.

4. Applicants believe that because the Sponsor would deposit substantially more than $100,000 of Zero-Coupon Obligations and Fund shares in each Trust Series, Applicants will comply fully with section 14(a) of the 1940 Act. However, the Applicants recognize that section 14(a) has been interpreted to require that the initial capital investment in an investment company be made without any intention to dispose of the investment. Under this interpretation, a Trust Series would not satisfy section 14(a) because of the Sponsor's intention to sell all the Units thereof. Consequently, Applicants seek an exemption from section 14(a). To satisfy the objectives of section 14(a), Applicants have agreed that the creation and operation of each Trust will comply in all respects with the requirements of Rule 14a–3 under the 1940 Act, except that the Trust will not restrict its portfolio investments to "eligible trust securities."

5. Applicants state that the purposes of section 19(b) and Rule 19b–1 are to remove the temptation to realize capital gains on a frequent and regular basis, to eliminate attempts by investment advisers to time distributions to be advantageous to shareholders, and to prevent shareholder confusion created by a failure to distinguish between regular distributions of capital gains and distributions of investment income. While Applicants do not qualify for either exception to Rule 19b–1 provided in subsections (b) or (c) of that rule, they argue that the dangers of manipulation of capital gains and confusion between capital gains and regular income distributions do not exist in the Trust. Any gains from the redemption of Fund shares would be triggered by the need to meet Trust expenses or by requests to redeem Units, events over which the Sponsor and the Trust have no control. Cash generated from redemption of Fund shares will be used to pay expenses and redemptions and not to generate distributions to Unitholders. Although the Sponsor does have control over the actual redemption of Units to the extent it makes a market in Units, it has no incentive to redeem or permit the redemption of Units in order to generate capital gains for distributions to Unitholders. Moreover, because principal distributions are clearly indicated in accompanying reports to Unitholders as a return of principal and are relatively small in comparison to normal dividend distributions, there is little danger of confusion from failure to differentiate among distributions. Finally, any retention of capital gains until year-end would be to the detriment of the Unitholders. Based on these reasons, and because Applicants will comply in all other respects with section 19(b) and Rule 19b–1, Applicants believe that exemptive relief would be consistent with the purposes and policies of the 1940 Act and in the best interests of the Unitholders.

6. Applicants state that their proposal addresses potential section 17(d) and Rule 17d–1 concerns. There will be no duplication of sales charges with respect to the Fund shares and Units because Fund shares will be sold at net asset value. Moreover, there will be no overlapping of management or evaluation fees. Therefore, Applicants believe that neither the Funds nor any Trust Series will be disadvantaged by the arrangement and each stands to gain significant benefits from the proposed transaction. Accordingly, Applicants conclude that the proposed arrangement is consistent with the provisions, policies and purposes of the 1940 Act and participation by each registered investment company is not on a basis different from or less advantageous than that of other participants.

Applicants' Conditions

(a) The Trustee will not redeem Fund shares except to the extent necessary to meet redemptions of Units by Unitholders, or to pay Trust expenses should distributions received on Fund shares prove insufficient to cover such expenses.

(b) Any Rule 12b–1 fees received by the Sponsor in connection with the distribution of Fund shares to the Trust will be rebated to the Trustee.

(c) Applicants will comply with Rule 12b–1 as currently adopted and as it may be modified.

(d) No one Series of the Trust will, at the time of any deposit of any Fund shares, hold as a result of that deposit, more than 10% of the then-outstanding shares of a Fund.

(e) All Trust Series will be structured so that their maturity dates will be at least thirty days apart from one another.

(f) Applicants will comply in all respects with the requirements of Rule 14a–3, except that the Trust will not restrict its portfolio investments to "eligible trust securities."

(g) Shares of a Fund which are held by a Series of the Trust will be voted by the Trustee of the Trust, and the Trustee will vote all shares of a Fund held in a Trust Series in the same proportion as all other shares of that Fund not held by the Trust are voted.

(h) Applicants agree that no shares of any Fund that has established more than one class of shares will be deposited in any Trust Series, and that no Fund, shares of which have been deposited in any Trust Series, will thereafter establish additional classes of shares.

If any Fund in the future imposes any deferred sales charge, Applicants will comply with the following additional conditions:

(a) Applicants agree to comply with Rule 22d–1 as adopted and as it may be modified.

(b) Applicants agree to comply with proposed Rule 6c–10 as proposed, adopted, and as it may be modified.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9369 Filed 4–18–89; 8:45 am]

BILLING CODE 8010–01–M

[FILE No. 22–19126]

MCorp and MCorp Financial Inc.; Application and Opportunity for Hearing

Notice if hereby given that MCorp and MCorp Financial, Inc. (the "Applicants") have filed and application pursuant to clause (ii) of section(b)(1) of the Trust Indenture Act of 1939 (the "Act")for a finding by the Securities and Exchange Commission (the "Commission") that the successor trusteeship of Morgan Guaranty Trust Company of New York ("Morgan") under three indentures of the Applicants, which are qualified under the Act, and the trusteeships of Morgan under two other indentures of the Applicants, which are qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the act has or shall acquire any conflicting interest (as defined in the section), it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, that with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other

securities of the same obligor are outstanding. However, under clause (ii) of subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the obligor are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicants allege that:

1. The Applicants had outstanding as of December 8, 1988, $35,000,000 of their Floating Rates Notes Due 1999 the ("1999 Notes") issued under an indenture dated as of March 15, 1979 (the "Original 1979 Indenture"), between Merchantile Texas Corportation (now MCorp) and First National Bank in Dallas, as Trustee (a predecessor of NCNB Texas National Bank, a national banking association ("NCNB Texas")), which was heretofore qualified under the Act and which was supplemented by a Supplemental Indenture dated as of October 10, 1984 (the "1979 Supplement") pursuant to which MCorp Financial, Inc. ("Financial") and MCorp became jointly and severally liable for the obligations of MCorp under the Original 1979 and the 1999 Notes (the Original 1979 Indenture and the 1979 Supplement are hereinafter collectively called the "1979 Indenture"). The 1999 Notes were registered under the Securities Act of 1933.

2. The Applicants has outstanding as of December 8, 1988, $50,000,000 of their 11½% Notes Due December 15, 1989 and $25,000,000 of their 10⅝% Notes Due 1993 (the "November 15, 1982 Notes") issued under an indenture dated as of November 15, 1982 (the "Original November 15, 1982 Indenture") between Mercantile Texas Corporation (now MCorp) and Interfirst Bank Dallas, N.A., as Trustee, (a predecessor of NCNB Texas) which was heretofore qualified under the Act and which was supplemented by a Supplemental Indenture dated as of October 10, 1984 (the "November 15, 1982 Supplement") pursuant to which MCorp and Financial became jointly and severally liable for the obligations of MCorp under the Original November 15, 1982 Indenture and the November 15, 1982 Notes (the Original November 15, 1982 Indenture and the November 15, 1982 Supplement hereinafter collectively called the "November 15, 1982 Indenture"). The 11½% Notes Due December 15, 1989 and the 10⅝% Notes Due 1993 were registered under the Securities Act of 1933.

3. The Applicants had outstanding as of December 8, 1988, $33,950,000 of their Medium-Term Notes, Series A and $100,000,000 of their Floating Rate Notes Due 1992 (the "1985 Notes") issued under an indenture dated as of June 15, 1985 (the "1985 Indenture") among the Applicants and Interfirst Bank Dallas, heretofore qualified under the Act. The Medium-Term Notes, Series A and the floating Rate Notes Due 1992 were registered under the Securities Act of 1933.

4. The Applicants had outstanding as of December 8, 1988, $31,860,000 of their 9¾% Sinking Fund Debentures Due 2001 (the "1976 Debentures") issued under an indenture dated as of July 1, 1976 (the Original 1976 Indenture") between Southwest Bancshares, Inc. ("Southwest"), a predecessor of Financial, and Morgan, as Trustee, which was heretofore qualified under the Act and which was supplemented by a Supplemental Indenture dated as of October 10, 1984 (the "1976 Supplement") pursuant to which Financial and MCorp became jointly and severally liable for the payment obligations of Southwest and Financial became liable for all obligations of Southwest under the Original 1876 Indenture and the 1976 Debentures (the Original 1976 Indenture and the 1976 Supplement are hereinafter collectively called the "1976 Indenture"). The 1976 Debentures were registered under the Securitis Act of 1933.

5. The Applicants had outstanding as of December 8, 1988, $50,000,000 of their 11½% Notes Due 1992 (the "November 1, 1982 Notes") issued under an indenture dated as of November 1, 1982 (the "Original November 1, 1982 Indenture") between Southwest, a predecessor of Financial, and Morgan, as Trustee, which was heretofore qualified under the Act and which was supplemented by a Supplemental Indenture dated as of October 10, 1984 (the "November 1, 1982 Supplement" pursuant to which Financial and MCorp became jointly and severally liable for the obligations of Southwest under the Original November 1, 1982 Indenture and the November 1, 1982 Notes (the Original November 1, 1982 Indenture and the November 1, 1982 Supplement are hereinafter collectively called the "November 1, 1982 Indenture"). The November 1, 1982 Notes were registered under the Securities Act of 1933.

6. NCNB Texas became successor trustee under the terms of the 1979 Indenture, the November 15, 1982 Indenture and the 1985 Indenture upon its acquisition of substantially all of the trust business of First RepublicBank Dallas, N.A., which had been the successor trustee to InterFirst Bank Dallas, N.A. NCNB Texas has resigned as the trustee under the 1979 Indenture, the November 15, 1982 and the 1985 Indenture. The Applicants have approved the appointment of Morgan as successor trustee under the 1979 Indenture, the November 15, 1982 Indenture and the 1985 Indenture by Board Resolutions dated November 17, 1988 and December 20, 1988, effective upon execution of the respective instrucments of resignation and acceptance.

7. Morgan's successor trusteeship under the 1979 Indenture and trusteeship under the November 1, 1982 Indenture are permitted by section 808 of the 1979 Indenture because both indentures are wholly unsecured and the November 1, 1982 Indenture was qualified after the date of the 1979 Indenture. Morgan's trusteeship under the 1976 Indenture and successor trusteeships under the 1979 Indenture, the November 15, 1982 Indenture and the 1985 Indenture are permitted by section 8.08 of the 1976 Indenture because all said indentures are wholly unsecured and the 1979 Indenture, the November 15, 1982 Indenture and the 1985 Indenture were qualified after the date of the 1976 Indenture. Morgan's trusteeship under the 1985 Indenture and the November 1, 1982 Indenture and successor trusteeships under the November 15, 1982 Indenture and the 1985 Indenture are permitted by section 8.08 of the November 1, 1982 Indenture because all said indentures are wholly unsecured and the November 15, 1982 Indenture and the 1985 Indenture were qualified after the date of the November 1, 1982 Indenture.

Morgan's successor trusteeship under the 1979 Indenture as well as its successor trusteeships under the November 15, 1982 and the 1985 Indenture are permitted by section 808 of the 1979 Indenture because each indenture is wholly unsecured and the November 15, 1982 Indenture and the 1985 Indenture were qualified after the date of the 1979 Indenture. Morgan's successor trusteeship under the 1985 Indenture is permitted by section 608 of the November 15, 1982 Indenture because the 1985 Indenture and the November 15, 1982 Indenture are wholly unsecured and the 1985 Indenture was qualified after the date of the November 15, 1982 Indenture. Morgan's successor trusteeship under the November 15, 1982

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Indenture, as well as its successor trusteeship under the 1979 Indenture is permitted by section 608 of the November 15, 1982 Indenture because that section specifically excludes the 1979 Indenture and the November 15, 1982 Indenture is permitted by section 608 of the 1965 Indenture because that section specifically excludes the 1979 Indenture and the November 15, 1982 Indenture from the operation of the disabling paragraph of that Section.

8. Morgan's trusteeship under the 1979 Indenture and the November 1, 1982 Indenture will constitute a conflicting interest with its successor trusteeship under the November 15, 1982 Indenture and the 1965 Indenture after 90 days from the date of Morgan's appointment and acceptance of the successor trusteeship under the November 15, 1982 Indenture and the 1965 Indenture, Morgan's trusteeship under the 1976 Indenture will constitute a conflicting interest with its successor trusteeship under the 1976 Indenture after 90 days from the date of Morgan's appointment and acceptance of the successor trusteeship under the 1979 Indenture, and Morgan's successor trusteeship under the 1979 Indenture will constitute a conflicting interest under the November 1, 1982 Indenture after 90 days from the date of Morgan's appointment and acceptance of the successor trusteeship under the 1979 Indenture, unless, in accordance with section 608(c)(1)(ii) of the November 15, 1982 Indenture and the 1965 Indenture, section 808(c)(1)(ii) of the 1979 Indenture and section 8.08(c)(1)(ii) of the November 1, 1982 Indenture, the Commission determines that the trusteeship under the 1976 Indenture, the 1979 Indenture, the November 1, 1982 Indenture, the November 15, 1982 Indenture and the 1965 Indenture (collectively, the "Indentures") are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as trustee under any of the Indentures.

9. All of the indentures are in default as indicated in the application. The Applicants' obligations in respect of the 1999 Notes, the November 15, 1982 Notes, the 1965 Notes, the 1976 Debentures and the November 1, 1982 Notes are wholly unsecured and rank *pari passu inter se*. There are no material differences among the provisions of the Indentures relating to the covenants of the Applicants which apply to the future, except the aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption prices and sinking fund provisions.

10. Such differences as exist among the Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest of for the protection of investors to disqualify Morgan from acting as successor trustee under any of the Indentures.

The Applicants have waived notice of hearing, any right to a hearing on the issues raised by the application and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application which is a public document on file in the offices of the Commission at the Public Reference Section, 450 Fifth Street NW., Washington, DC 20549.

NOTICE IS FURTHER GIVEN that any interested person may, not later than May 8, 1989, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. At any time after such date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary

[FR Doc. 89-9367 Filed 4-18-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16914; 812-7036]

Merrill Lynch KECALP L.P. 1986, et al.; Application

April 12, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Merrill Lynch KECALP L.P. 1986 ("1986 Partnership"), Merrill Lynch KECALP L.P. 1987 ("1987 Partnership") (together, "Partnerships"), Merrill Lynch Interfunding Inc. ("MLIF") and KECALP Inc. ("KECALP").

Relevant 1940 Act Sections: Exemption requested under section 17(b) from the provisions of section 17(a).

Summary of Application: Applicants seek an order relating to the acquisition by the 1986 Partnership of certain securities of Prince Holdings, Inc. from KECALP and the acquisition by the 1987 Partnership of certain securities of John Alden Financial Corporation from MLIF, KECALP and MLIF being in each case an "affiliated person," as defined in the 1940 Act, of the respective Partnership.

Filing Date: The application was filed on May 17, 1988, and amended on July 27, 1988 and April 5, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on May 9, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, Washington, DC 20549. Applicants, 1986 Partnership, 1987 Partnership, MLIF and KECALP, World Financial Center, North Tower, New York, New York 10281.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Cathey Baker (202) 272-3033 or Branch Chief Karen L. Skidmore (202) 272-3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 252-4300).

Applicants' Representations

1. The Partnerships, limited partnerships organized under Delaware law, are non-diversified, closed-end management investment companies registered under the 1940 Act. The investment objective of each Partnership to seek long-term capital appreciation. Each Partnership is an "employees' securities company" within the meaning of section 2(a)(13) of the 1940 Act, and operates in accordance with the terms of an exemptive order issued pursuant to section 6(b) of the 1940 Act (Investment Company Act Release No. 12363; April 8, 1982) ("KECALP Exemptive Order"). The general partner for each Partnership is KECALP, a Delaware corporation and wholly-owned subsidiary of Merrill Lynch & Co. ("ML & Co."). KECALP is responsible for managing and making investment decisions for the Partnerships. MLIF, a Delaware corporation engaged in commercial financing transactions, is an indirect subsidiary of ML & Co., a holding company which, through its subsidiaries, provides investment, financing, real estate, insurance and related services.

Investment in Prince Holdings, Inc.

2. Merrill Lynch Capital Markets ("MLCM") is an unincorporated group within Merrill Lynch, Pierce, Fenner & Smith ("MLPF&S"), the principal subsidiary of ML & Co. MLCM conducts the investment banking and underwriting activities of MLPF&S. On behalf of Brentwood Associates, a California-based investment partnership, MLCM structured a leveraged buyout during 1987 of Prince Manufacturing, Inc. ("PMI"), a company engaged in the manufacture and sale of tennis racquets and related tennis products. As a result of the transactions involved in the leveraged buyout, Prince Holdings, Inc. ("Prince"), a corporation organized solely for the purpose of effecting the leveraged buyout, acquired the securities of PMI. The equity securities of Prince were purchased by members of Prince's management, ML & Co., and certain other institutional investors not affiliated with ML & Co. or its subsidiaries. Following complete implementation of the buyout, PMI was merged into Prince. ML & Co.'s ownership of Prince's Series A convertible Preferred Stock ("Prince Stock") represented 5% of the outstanding shares, on a fully-diluted basis.

3. The investment opportunity in Prince Stock was brought to the attention of KECALP during October, 1987. After evaluation of the investment, KECALP determined to purchase 125,000 shares of Prince Stock from ML & Co. for the 1986 Partnership. KECALP approved the 1986 Partnership's purchase of the investment on October 6, 1987. Because the 1986 Partnership could not purchase such an investment from ML & Co. directly, KECALP agreed to purchase the Prince Stock on behalf of the 1986 Partnership and to sell the stock to the 1986 Partnership following receipt of the order requested. On December 17, 1987, KECALP acquired 125,000 shares of Prince Stock at $1 per share. The amount of shares purchased represented less than 2% of Prince Stock outstanding on a fully-diluted basis. No dividends have been declared on such stock.

Investment in John Alden Financial Corporation

4. During 1987, MLCM, together with The John Alden Group's management and General Electric Credit Corporation, structured a leveraged buyout of The John Alden Group, a diversified insurance company comprised of John Alden Life Insurance Company, Aristar Capital Corporation, John Alden Life Insurance Company of New York and Houston National Life Insurance Company. As a result of the transactions involved in the leveraged buyout, John Alden Financial Corporation ("JAFC"), a corporation organized for the sole purpose of facilitating the leveraged buyout, acquired the outstanding common stock of The John Alden Group through a merger transaction. The common stock of JAFC ("JAFC Common") is owned by Merrill Lynch Capital Partners, Inc. ("MLCP"), a wholly-owned subsidiary of ML & Co., MLIF, certain members of John Alden Group's management, General Electric Credit Corporation, Employers Reinsurance Corporation and Kidder Peabody & Co., Inc. The Series B Participating Preferred Stock of JAFC ("JAFC Preferred") is owned by MLIF and MLCP. Following full implementation of the leveraged buyout, John Alden Group was merged into JAFC.

5. On October 30, 1987, MLIF purchased 10,816 shares of JAFC Preferred and 3,205 shares of JAFC Common, each at $100 per share. Shares purchased represented 6.7% and 2.7%, respectively, of the outstanding shares of JAFC Preferred and JAFC Common on a fully-diluted basis.

6. MLIF has agreed to sell to the 1987 Partnership up to 3,579 shares of JAFC Preferred and up to 1,060 shares of JAFC Common. Such amounts represent 0.022% and 0.006% of the outstanding shares, respectively, on a fully-diluted basis. No dividends have been declared on such stocks.

7. The purchase price to be paid by the 1986 Partnership to KECALP for the shares of Prince Stock and by the 1987 Partnership to MLIF for the shares of JAFC Preferred and JAFC Common will in each case be the lower of (i) the value of the investment on the date it is acquired by the Partnership (as determined in good faith by the KECALP Board of Directors) or (ii) the cost to the affiliated person of purchasing and holding the investment for the Partnership. The Partnerships will not pay any carrying costs in respect of the period prior to the later of (1) the date of acquisition of the securities by the affiliated person or (2) the date KECALP approved the Partnership's purchase of the proposed investment. With respect to clause (ii), such cost shall be the original purchase price paid for the securities, plus carrying costs related to the investment. For purposes of these transactions, carrying costs consist of interest charges computed at the lower of (i) the prime commercial lending rate charged by Citibank, N.A. during the period from the date KECALP approved the Partnership's purchase of the investment until the Partnership acquires the investment or (ii) the effective cost of borrowings by ML & Co. during such period. The effective cost of borrowings by ML & Co. is its actual "Average Cost of Funds," which it calculates on a monthly basis by dividing its consolidated financing expenses by the total amount of borrowings during this period.

Applicants' Legal Conclusions

8. As a result of affiliations, sales of securities on a principal basis by KECALP and MLIF to a Partnerships are prohibited by section 17 and cannot be effected unless exemptive relief is obtained under section 17(b). The statutory standards with respect to the relief requested under section 17(b) are satisfied. Relief is justified both by the terms of the transactions and the fact that the proposed investments are not otherwise available to the Partnerships. With respect to the terms of the transactions, KECALP has reviewed the proposed investments in detail. The members of the KECALP Board of Directors are sophisticated and experienced in valuing securities and in evaluating financial transactions generally. In this regard, KECALP considered all information deemed relevant, including the nature of the investments, the nature of the investments by affiliates of ML & Co., and the fairness of the purchase prices proposed to be paid by the Partnerships. The KECALP Board of Directors determined that the proposed investments by the Partnerships will not directly or indirectly benefit entities affiliated with ML & Co. or its subsidiaries which have also acquired investments in Prince and JAFC. Moreover, the KECALP Board approved the Partnerships' investments in Prince and JAFC after consideration of each of the factors set forth in section 17(b) of the 1940 Act.

9. In evaluating the terms of the transactions, the KECALP Board

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considered the fact that the proposed purchase prices to be paid by the Partnerships will include carrying costs incurred by an affiliated person if the value of the investment at the time of acquisition by the relevant Partnership is more than the sum of the purchase price plus the affiliate's carrying costs. In approving purchase prices which may include carrying costs, the KECALP Board of Directors recognized that KECALP receives no compensation for serving as general partner of the Partnerships and that ML & Co. has incurred considerable expenses in organizing the Partnerships. The Partnerships believe that it is appropriate to reimburse affiliates for carrying costs in a situation where the affiliate effectively purchases an investment as a Partnership's nominee and the Partnership would have purchased such investment directly, had it not been deemed necessary to obtain the relief requested. In light of these factors, the KECALP Board believes it is wholly appropriate for the purchase price paid for portfolio investments to reflect carrying costs, provided that the value of the investments at the time of acquisition exceeds the amount of the purchase price, plus carrying costs. The Applicants submit that to deny reimbursement for carrying costs would result in a further and unwarranted loss to KECALP and MLIF and would provide a disincentive to act on behalf of the Partnerships in future transactions of this type.

10. With respect to the 1986 Partnership's acquisition of Prince Stock, the Applicants believe that the 1986 Partnership is adequately protected from any conflicts of interest which may inhere in KECALP's sale of the investment at a value which KECALP will determine under the purchase price formula. KECALP was selected as nominee for the 1986 Partnership's investment in Prince, and is expected to serve as primary nominee for the KECALP Partnerships in the future, for the following reasons. Because exemptive relief is generally required for investments by KECALP Partnerships, ML & Co. or one of its affiliates typically acquires and holds an investment on behalf of a KECALP Partnership until the Commission issues an order permitting the purchase. Various problems can arise under this arrangement. First, a nominee must maintain certain records concerning the investment held for the KECALP Partnership, such as records of carrying costs and of any distributions received from or payments required to be made to the portfolio company under the terms of the arrangement. Second, a delay in obtaining exemptive relief may affect the periodic financial reports of the nominee. Such reports, which are intended to reflect the results of operations of ML & Co. and its operating subsidiaries, may be distorted by capital transactions which are attributable to investments on behalf of a KECALP Partnership or borrowings in connection with the investments. Third, the purchase price formula places the risk that the investment will decline in value upon the nominee, rather than the KECALP Partnership. Because KECALP is not intended to function as a profit center within the ML & Co. complex, its selection as nominee alleviates such problems. The Applicants also believe that the special nature of the KECALP Partnerships as employees' securities companies, KECALP's relationship to the Partnerships and its fiduciary duty to the Partnerships provide adequate protection with respect to KECALP's valuation of an investment which it has purchased as nominee for a Partnership. First, the KECALP Board of Directors is principally composed of individuals who represent senior management of various direct and indirect subsidiaries of ML & Co. Most of these individuals are also investors in the 1986 Partnership. Second, KECALP receives no fee per se for its services to the KECALP Partnerships, and the relative profits or losses of KECALP do not affect the compensation received by its Directors. The 1986 Partnership reimburses KECALP for related operating expenses in amounts of up to 1% of the limited partners' capital contributions. Expenses not reimbursed are deemed a capital contribution to the 1986 Partnership. In addition, KECALP is entitled to a 1% interest in all items of the 1986 Partnership's income, gain, deduction, loss and credit, for which it has no obligation to make a cash capital contribution. Thus, to the extent that KECALP has a financial interest in the operations of the 1986 Partnership, its interest is generally the same as that of the limited partners. Lastly, KECALP is under a fiduciary duty to value investments under the purchase price formula in the best interests of the 1986 Partnership. The Applicants submit that the existing fiduciary responsibilities of KECALP, together with the considerations discussed above, are adequate to provide protection to the 1986 Partnership with respect to the valuation of the investment in Prince.

11. The Applicants also state that the investments are not otherwise available for purchase by the Partnerships. The KECALP Board has approved such investments after review of a considerable number of possible investments for the Partnerships. The Partnerships state that their respective investment programs will be prejudiced if they are not permitted to make the investments proposed in this Application.

12. The Board of Directors of KECALP believes that the proposed investments are consistent with the rationale underlying the establishment of each of the Partnerships as an "employees' securities company." It was indicated in the application for exemptive relief granted in the KECALP Exemptive Order, as well as in the prospectuses of the Partnerships, that ML & Co. and its affiliates would be involved in structuring, identifying and investing in many of the Partnerships' portfolio investments. The Partnerships state that the relief requested herein is thus consistent with their purposes and stated policies.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. The investments in Prince and JAFC will be acquired by the Partnerships in the manner and on the terms described above.

2. In connection with the deliberations and determinations by the KECALP Board of Directors regarding the Partnerships' proposed Prince and JAFC transactions, appropriate record-keeping will be maintained and made available for inspection by the Commission and by the limited partners of the Partnerships in accordance with the KECALP Exemptive Order and the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9368 Filed 4-18-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24964]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 13, 1989.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 8, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Potomac Edison Company (70-7617)

The Potomac Edison Company ("PE"), a subsidiary of Allegheny Power System, Inc., a registered holding company, has filed an application pursuant to Sections 9(a) and 10 of the Act.

PE, in the ordinary course of its business, has developed a considerable expertise in respect of the design, construction, operation and maintenance of all forms of transmission and distribution facilities incidental or necessary to the conduct of its business as an electric utility. The Light Department of the City of Hagerstown (Hagerstown Light), a Maryland municipal corporation, has requested that PE furnish consulting engineering and technical services for the design of a 34.5-kv subtransmission line between two of the Hagerstown Light's substations. PE hereby requests authority to perform the construction design services agreement with Hagerstown Light.

PE intends to provide such services through utilization of its own personnel and facilities. Should personnel, facilities or services from Allegheny Power Service Corporation ("APSC") be required, PE will reimburse APSC in accordance with Rules 90 and 91 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9374 Filed 4-18-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16917; 812-7269]

Putnam California Tax Exempt Money Market Fund et al.; Application

April 13, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Approval under the Investment Company Act of 1940 ("1940 Act").

Applicants: Putnam California Tax Exempt Money Market Fund, Putnam Daily Dividend Trust, Putnam New York Tax Exempt Money Market Fund, Putnam Tax Exempt Money Market Fund, Depositors Investment Trust (collectively the "Trusts") The Putnam Management Company, Inc. (the "Manager"), and Putnam Financial Services, Inc. (the "Distributor").

Relevant 1940 Act Section: Order requested under section 11(a) of the 1940 Act.

Summary of Application: Applicants seek an order approving certain offers of exchange, involving securities of registered open-end investment companies, on a basis other than relative net asset value.

Filing Date: The application was filed on March 13, 1989 and was amended on April 6, 1989. An additional amendment, the content of which is contained in a letter to the staff of the Commission dated April 12, 1989, and the substance of which is included herein, will be filed during the notice period.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application, or ask to be notified if a hearing is ordered. Any request should be in writing and should be received by the SEC by 5:30 p.m., on May 10, 1989. A request for a hearing should state the nature of the requestor's interest, the reason for the request, and the issues contested. Any person requesting a hearing should serve Applicants with a copy of the request, either personally or by mail. The hearing request should then be sent to the Secretary of the SEC, together with proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of service. A request for notification of the date of a hearing may be made by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, One Post Office Square, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Staff Attorney, at (202) 272-2847, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee by either going to the SEC's Public Reference Branch or contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Each of the Trusts is a Massachusetts business trust, registered under the 1940 Act as an open-end management investment company, which offers its shares under a currently effective registration statement under the Securities Act of 1933. The Manager serves as the investment adviser of each Trust, and the Distributor serves as the distributor of the shares of each Trust. The Manager and the Distributor are wholly owned subsidiaries of The Putnam Companies, Inc.

2. With one exception, shares of the Trusts are sold at net asset value without the imposition of a sales load. The application does not seek approval of any exchange involving shares of a Trust sold subject to a sales load. In the future, the Manager may serve as investment adviser to, and the Distributor may serve as the distributor for, additional funds which offer shares without a sales load. Applicants request that any order granted apply to such additional funds, on the condition that such additional funds offer their shares without a sales load and have an exchange program substantially identical to that of the Trusts.

3. Since its organization, each Trust has informed investors that shareholders may redeem their shares and invest the proceeds in shares of other Putnam funds at the public offering price, including any applicable sales charge. Applicants seek approval, under section 11(a) of the 1940 Act, of offers to exchange Trust shares purchased without the imposition of a sales load for shares of certain other Putnam funds which charge a sales load (the "Load Funds").

4. Investors that exchange shares of a Trust for shares of the Load Funds are

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treated no differently than any other purchaser of Load Fund shares, except that the Trusts' shareholder servicing agent facilitates the transaction by applying the redemption proceeds to the purchase of Load Fund shares. Any rights of accumulation, letters of intent or similar discount purchase opportunities as described in the Load Fund's prospectus will be considered in determining the applicable sales load. All waivers of sales loads set forth in the prospectuses for the Load Funds will apply to such transactions. Each such investment will be subject to the minimum investment requirements applicable to the shares of the Load Fund which are to be acquired. Shareholders who request such an exchange will receive a prospectus of the applicable Load Fund.

5. The exchange privilege is described in the prospectus of each Trust and will be described in the prospectus of each fund that offers the exchange privilege in the future. Certain additional information concerning the exchange privilege is included in the statement of additional information, which is incorporated by reference into each Trust's prospectus. If any Trust were to modify or terminate the exchange privilege, such Trust would provide shareholders a minimum of 60 days' written notice and such modification (but not termination) would be described in an amendment to the relief requested in the application. The Trusts currently charge a nominal administrative charge in connection with each exchange ($5.00 or such greater amount as the Commission or Staff may permit) and reserve the right to discontinue or reduce the administrative charge without amendment to the relief requested in the application. Any administrative charge will be uniformly applied. The Trusts do not impose any redemption fee, as that term is defined in revised proposed Rule 11a–3 under the 1940 Act, in connection with any exchange.

6. The purpose of the exchange program described above is to permit simultaneous, voluntary redemption and purchase transactions. The transactions involve a redemption of a Trust's shares, followed immediately by the use of the proceeds for the purchase of shares of a Load Fund. Instead of requiring that (a) the proceeds from the redemption of a Trust's shares be remitted to the redeeming shareholder and (b) those same proceeds be retransmitted to the Load Fund by the same shareholder—a process that can result in a number of days' delay—the program permits both transactions to be accomplished at the same time, thereby satisfying the shareholder's desire for prompt execution or orders and avoiding a period of time during which the redemption proceeds would be uninvested.

7. Applicants acknowledge that the requested order would be prospective in nature and that Applicants can not rely on any such order as authority for any exchange that occurred prior to the date of such order.

Applicants' Conditions

Applicants agree that the following may be made conditions to the proposed relief:

1. The exchange offers must be within the same group of investment companies, which includes any two or more registered open-end investment companies that have the same investment adviser or principal underwriter (as each term is defined in the 1940 Act) and hold themselves out to investors as related companies for purposes of investment and investor services.

2. The prospectuses of the Trusts must disclose any administrative fees that may be imposed on an exchange transaction. If any Trust were to modify or terminate the exchange privilege, such Trust would provide shareholders a minimum of 60 days' written notice and such modification (but not termination) would be described in an amendment to the relief requested in the application. The Trusts currently charge a nominal administrative fee in connection with each exchange ($5.00 or such greater amount as the Commission or the Staff may permit) and reserve the right to discontinue or reduce the administrative charge without amendment to the relief requested in the application. Any such administrative charge will be uniformly applied.

3. Any sales literature or advertising that describes the exchange offer must disclose the administrative fee, if any is imposed.

4. The Applicants will comply with the provisions of proposed Rule 11a–3 under the 1940 Act, as it is currently proposed, and as it may be reproposed, adopted or amended.

5. Reductions in the sales load of any of the Load Funds will be in accordance with the provisions of Rule 22d–1 under the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9370 Filed 4–18–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD1 89–019]

New York Harbor Traffic Management Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the New York Harbor Traffic Management Advisory Committee to be held on May 11, 1989, in the Conference Room, second floor, U.S. Coast Guard Marine Inspection Office, Battery Park, New York, New York, beginning at 10:00 a.m.

The agenda for this meeting of the New York Harbor Traffic Management Advisory Committee is as follows:

1. Introductions.
2. Update Kill Van Kull Dredging Project, proposed new navigation rules.
3. Anchorage statistics.
4. Continuation of the committee.
5. Topics from the floor.
6. Review of agenda topics and selection of date for next meeting.

The New York Harbor Traffic Management Advisory Committee has been established by Commander, First Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritime interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutentant Commander L. Brooks, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, Port Safety Office, Building 109, Governors Island, New York, NY 10004; or by calling (212) 668–7834.

Dated: April 10, 1989.

R. I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89–9327 Filed 4–18–89; 8:45 am]

BILLING CODE 4910–14–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 74
Wednesday, April 19, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m. Tuesday, April 25, 1989.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Highway Accident Summary Reports: Involving Intercity Type Buses Chartered for Service to Atlantic City, Little Egg Harbor Township, New Jersey, July 23, 1988, and Tinton Falls, New Jersey, November 29, 1988.
2. Recommendations to FAA: Special Investigation of Operational Error at Coast TRACON involving British Airways Flight 282 and American Airlines Flight 1261.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Bea Hardesty,

Federal Register Liaison Officer.

April 14, 1989.

[FR Doc. 89–9458 Filed 4–17–89; 8:58 am]

BILLING CODE 7533–01–M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of April 17, 1989.

A closed meeting will be held on Tuesday, April 18, 1989, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideratin of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 18, 1989, at 2:30 p.m., will be:

Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Formal order of investigation.
Opinions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Karen Burgess at (202) 272–2000.

Jonathan G. Katz,

Secretary.

April 14, 1989.

[FR Doc. 89–9530 Filed 4–14–89; 1:38 p.m.]

BILLING CODE 8010–01–M

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VOL 54 ISS 74 AP 19 1989 UMI

Corrections

Federal Register
Vol. 54, No. 74
Wednesday, April 19, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP89-132-000]

El Paso Natural Gas Co.; Update Tariff Filing

Correction

In notice document 89-8676 appearing on page 14845 in the issue of Thursday, April 13, 1989, in the heading, the docket number was omitted and should appear as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP89-121-000]

West Texas Gathering Co.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 89-8710 appearing on page 14857 in the issue of Thursday, April 13, 1989, in the heading, the docket number was incorrect and should appear as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP89-127-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 89-8669 appearing on page 14842 in the issue of Thursday, April 13, 1989, in the heading, the docket number was incorrect and should appear as set forth above.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 186

[FAP 7H5532/R899; FRL-3543-5]

Pesticide Tolerance for Metalaxyl; Certain Food and Feed Commodities

Correction

In rule document 89-7179 beginning on page 12444 in the issue of Monday, March 27, 1989, make the following correction:

§ 186.4000 [Corrected]

On page 12445, in the first column, in § 186.4000(d), in the seventh line, "methylphenyl" was misspelled.

BILLING CODE 1505-01-D

[OPP-180805; FRL-3528-5]

Receipt of an Application for a Specific Exemption To Use Avermectin B_1; Solicitation of Public Comment

Correction

In notice document 89-4305 beginning on page 8595 in the issue of Wednesday, March 1, 1989, make the following corrections:

1. On page 8595, in the third column, in the **SUMMARY**, in the fifth line, "avermectin" was misspelled.
2. On the same page, in the same column, in the **SUMMARY**, in the 15th line, "avermectin $B_{1\ 1a}$" should read "avermectin B_{1a}".
3. On the same page, in the same column, in the **SUMMARY**, in the 17th line, "demethyl" was misspelled.

BILLING CODE 1505-01-D

[OPP-30284A; FRL-3549-9]

Elanco Products Co.; Approval of Pesticide Product Registrations

Correction

In notice document 89-7936 beginning on page 13741 in the issue of Wednesday, April 5, 1989, make the following corrections:

On page 13741, in the third column, in the second complete paragraph, in the 18th line, and in the third complete paragraph, in the fifth line, "pyrimidinemethanol" was misspelled.

BILLING CODE 1505-01-D

[OPP-50683; FRL-3539-5]

Issuance of Experimental Use Permits; Dow Chemical Co. et al.

Correction

In notice document 89-4398 appearing on page 8596 in the issue of Wednesday, March 1, 1989, make the correction:

In the second column, under **SUPPLEMENTARY INFORMATION**, in the second paragraph, beginning in the fifth line, "O-(2-(1,1-dimethylethyl)-5-pryimidinyl) 0,0-diethylphosphorothioate" was printed incorrectly.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. 87F-0406]

Food Additives Permitted in Feed and Drinking Water of Animals; Selenium

Correction

In rule document 89-8429 beginning on page 14214 in the issue of Monday, April 10, 1989, make the following correction:

§ 573.920 [Corrected]

On page 14215, in the third column, in paragraph (3), insert quotation marks at the end of the paragraph.

BILLING CODE 1505-01-D

federal register

Wednesday
April 19, 1989

Part II

Department of Health and Human Services

Office of Child Support Enforcement

45 CFR Parts 301 et al.

Standards for Program Operations; Notice of Proposed Rulemaking

VOL 54 ISS 74 AP 19 1989 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 301, 302, 303, 304, 306, and 307

RIN 0970-AA16

Standards for Program Operations

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation implements the requirements of sections 121 and 122 of the Family Support Act of 1988 (Pub. L. 100-485) by revising current regulations to specify standards for processing child support enforcement cases and timeframes for distributing child support collections under title IV-D of the Social Security Act (the Act). By imposing requirements and timeframes for taking appropriate actions and clarifying or updating existing or vague timeframes and requirements, the proposed regulation would ensure that child support services are effectively and expeditiously provided and that children receive the services they need and the support to which they are entitled. States would be required to meet these standards by October 1, 1990.

This regulation also responds to section 121(b) of Pub. L. 100-485 which requires consultation with an advisory committee prior to publication of this Notice of Proposed Rulemaking. Information concerning the consultation is provided in the Background section of this proposed rule.

In addition, this proposed rule implements sections 103(e)(3) and 127 of the Family Support Act of 1988 by revising regulations to exclude certain costs from administrative costs when computing incentive payments.

DATE: Consideration will be given to written comments and suggestions received by June 19, 1989.

ADDRESS: Address comments to: Office of Child Support Enforcement, Department of Health and Human Services, 370 L'Enfant Promenade SW., Washington, DC 20447. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m. in the Department's Office at the above address.

FOR FURTHER INFORMATION CONTACT: Joyce Allred, Policy and Planning Division, OCSE (202) 252-5369.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Public reporting burden for the collection of information requirements at 45 CFR 303.2(a), 303.2(b)(2), 303.2(b)(4), 303.2(b)(5), 303.3 (d) through (g), 303.4(d)(2), 303.6(c)(3), 303.10(b)(6), 303.11(a), 303.11(c), 303.11(d) and 302.32(b) is estimated to average 5, 10, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5 and 5 minutes respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Child Support Enforcement, Family Support Administration, 370 L'Enfant Promenade SW., Washington, DC 20447; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Background

Since the inception of the Child Support Enforcement (IV-D) program in 1975, States have been required to locate absent parents, establish paternity, obtain support orders and collect support payments. However, in response to public concern that States were not providing adequate or expeditious services under the IV-D program, the Child Support Enforcement Amendments of 1984 (1984 Amendments) were enacted into law. The purpose of the 1984 Amendments is to strengthen State IV-D programs and improve performance.

Among other things, the 1984 Amendments require States to have in effect and use administrative or expedited judicial processes to establish and enforce support orders. Paternity may be established using expedited processes at State option. To implement the new law, OCSE published regulations governing expedited processes which include timeframes within which actions to establish or enforce support orders must be completed by the court or administrative authority. These timeframes require, from the time of filing to the time of final disposition, 90 percent of actions to be completed in 3 months, 98 percent in 6 months and 100 percent in 12 months.

The expedited processes timeframes in Federal regulations, however, only refer to the time a case is actually under judicial or administrative review. There are no corresponding overall requirements in Federal regulations for expeditious processing of cases from the time of referral from the Aid to Families with Dependent Children (AFDC) agency, the foster care agency, the State Medicaid agency or application for non-AFDC services under the IV-D program until the IV-D agency takes an appropriate action. There are also few specific requirements regarding what actions are adequate at each step of case processing, what results are expected, and under what conditions a case may be closed.

In April 1987, the U.S. General Accounting Office (GAO) published a report to the Secretary of Health and Human Services titled *Child Support: Need to Improve Efforts to Identify Fathers and Obtain Support Orders* (GAO/HRD-87-37) (hereafter referred to as the GAO report) in which it examined State IV-D agency efforts to determine paternity and obtain support orders for AFDC children and the potential impact of the 1984 Amendments on the IV-D program. The GAO report stated that State efforts to determine paternity or obtain support orders were inadequate because: (1) AFDC agencies did not refer all cases to IV-D agencies; or (2) IV-D agencies did not open cases for some referrals, closed some cases prematurely, or did not work open cases for at least six months. Accordingly, GAO recommended that OCSE: (1) Require that AFDC agencies refer appropriate cases to the IV-D agencies; (2) require that IV-D agencies open cases and pursue paternity and support orders as required by Federal law and regulations; (3) set performance standards for establishing paternity and obtaining support orders; (4) review States' operations to determine whether standards are followed; and (5) provide guidance in developing case tracking and monitoring systems. We agree that stronger Federal leadership is needed to address the serious problems cited by GAO and identified as well by OCSE audits and reviews. The need to eliminate these problems is particularly pressing because, as the number of divorces and out-of-wedlock births increase, the number of families needing IV-D services will increase as well.

Despite Federal and State efforts in the 13 years since the inception of the IV-D program, the child support problem continues to grow. In FY 1987, OCSE conducted IV-D program reviews in most States; since then, activity has been continuing on a more targeted basis. The purposes of the reviews are: (1) To focus States' attention on the Federal government's clear objective to achieve full implementation of Federal child support legislation and especially the 1984 Amendments; and (2) to alert States to problems in the operation of IV-D programs. Results from the program reviews completed to date indicate widespread problems in many aspects of case processing including: inadequate cooperation between the AFDC and IV-D agencies with regard to the referral of AFDC cases and information exchange; incomplete or no action taken on cases needing paternity establishment; ineffective and incomplete locate procedures; inadequate support obligations established; and ineffective use of enforcement techniques.

These findings, coupled with the findings from the FY 1984, 1985 and 1986 program results audits (33 of 54 States audited for FY 1984 or 1985 were found not to be in substantial compliance with IV-D requirements), indicate a compelling need for IV-D programs to improve their performance.

To aid in identifying actual case processing steps and the time required for completion of each action required under 45 CFR Part 303, OCSE first requested input from State IV-D agencies in the fall of 1987. Various States submitted case processing flow charts and descriptions of case processing steps from referral of a case by the AFDC agency (referred to generally as IV-D intake) to establishment and/or enforcement of a child support obligation. Many case processing schemes submitted were complicated or vague with regard to actual steps taken and the majority of States did not submit actual timeframes within which actions are taken. However, analysis of this information, and the findings of the program results audits and program reviews, underscores the need for more stringent and precise timeframes and program standards.

On October 13, 1988, the Family Support Act of 1988 (Pub. L. 100-485) was signed into law. This new law addresses the injustice of parents failing to assume responsibility for their children's support. Section 121 of Pub. L. 100-485 requires the Secretary of Health and Human Services (HHS) to establish time limits within which States must accept and respond to requests for assistance in establishing and enforcing support orders, including requests to locate absent parents, establish paternity and initiate proceedings to establish and collect support awards.

Section 121(b) further required the establishment, no later than December 13, 1988, of an advisory committee composed of representatives of organizations representing Governors, State welfare Administrators and State child support enforcement Directors.

The Secretary is required to consult with the committee prior to issuing any regulations establishing standards regarding what constitutes an adequate response on the part of a State to the request of an individual, State, or jurisdiction for services.

Section 122 of Pub. L. 100-485 requires the Secretary of HHS to establish time limits governing the period within which a State must distribute amounts collected as child support. While not required by statute, OCSE also consulted with the advisory committee on these timeframes and made adjustments based on the advice of the Committee members. We have incorporated the standards required by sections 121 and 122 of P.L. 100-485 into this proposed rule and plan to issue final regulations no later than August 1, 1989, as specified in the law. We believe that the standards which implement sections 121 and 122 will significantly improve the performance of IV-D programs.

The 19-member advisory committee was appointed in December 1988, and convened in Washington, DC on January 4, 1989, adjourning the following day. In addition to the representation mandated by statute, representatives of child advocacy groups, State legislators, judges, prosecuting attorneys and other child support practitioners were included on the advisory committee, enabling us to benefit from the broadest possible range of child support expertise in developing these proposed rules.

OCSE opened the meeting by providing background information on current performance of State IV-D programs and presenting proposed case processing time standards. The suggested timeframes covered each case processing function, from intake through enforcement. A 2-day discussion of prompt response and distribution issues followed. Committee members presented their views on the appropriateness of each of the timeframes and processing steps developed by OCSE and recommended alternatives where they considered the initial proposal to be overly extensive or unduly restrictive. The committee also suggested additional processing steps that based on their experience warranted inclusion under the timeframes. As a result, many of the timeframes and case processing steps provided herein have been revised from those originally contemplated by OCSE.

The committee generally agreed that current child support case processing is in need of major improvement and that proposed timeframes should reflect realistic expectations of improved services rather than limited standards which can be readily met with minimal effort. In particular, the committee was concerned that the time standards initially considered by OCSE in the areas of distribution, case opening, support order establishment and service of process were not stringent enough. In addition, the committee identified and provided a number of recommendations for closing potential loopholes in the case processing scheme under consideration. As a result, many of the case processing timeframes, as well as a number of the case processing steps proposed herein are a direct result of the advisory committee's recommendations.

A distinct minority of committee members argued that time standards should not be phased in until, in accordance with Pub. L. 100-485, automated child support information management systems are mandatory in 1995. However, we disagree that the timeframes proposed herein cannot be met much sooner. In fact, a number of committee members indicated their IV-D programs could currently meet many of the proposed timeframes. Many spoke of the thirteen years that have already elapsed since the basic framework and requirements of the IV-D program were enacted into law. Further, in mandating that we publish final rules setting timeframes for case processing within 10 months of enactment of Pub. L. 100-485, Congress surely did not intend for us to allow States six or seven more years to meet those timeframes. We believe that these proposed timeframes are well-reasoned, having been developed based on the experience of many child support experts representing different points of view and that meeting the timeframes should be within the grasp of any well-managed IV-D agency by October of 1990.

Further, over time, we intend to reconsider the time standards to determine if they are stringent enough to ensure services are being provided promptly given operational experience and steadily expanding automation of program activities since their adoption. We solicit comment on what steps we should take to reflect improvements in case processing over time. One option is to wait to decide whether and how to change time frames in the program standards. Another option is to write into the final regulation a date by which these regulations must be reviewed and updated. A third option would be to write into the regulation shorter time frames for years after 1990. We would appreciate comments on these options, and other suggestions that commenters may wish to offer.

With the exception of a minority viewpoint over when time standards

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should be phased in, the committee generally reached consensus on each of the specific timeframes and case processing steps contained in this rule. The proposals in this rule were greatly influenced and often suggested by those on the advisory committee. The committee's valuable contribution to this effort and support for the contents of this proposal and what these standards are intended to accomplish are greatly appreciated.

Therefore, we propose to strengthen the current requirements and define standards for program operations, in accordance with Pub. L. 100-485, as follows. Current regulations governing case processing contain requirements to process cases "promptly", "as soon as possible", etc. Vague regulatory requirements invite differing interpretations and inhibit accountability. In addition, existing specific timeframes intended to be the maximum time necessary or allowable to take an action often become the minimum amount of time within which any action is initiated.

Based on the analysis of program audit and program review results, input from State IV-D agencies, early discussions with experts in child support enforcement case processing and program operations and recommendations of the advisory committee, we developed standards set forth in this proposed regulation which should ensure appropriate and expeditious processing of IV-D cases. States would have to meet the standards for case processing contained in this proposed rule as one facet of the determination of whether they are in substantial compliance with the requirements of title IV-D of the Act. We believe the proposed standards are realistic and focused in areas where increased effectiveness and efficiency are necessary for an enhanced IV-D program.

We intend to revise the regulations governing audits of State child support enforcement programs to address substantial compliance with the proposed case processing timeframes and program standards. We will issue a proposed audit regulation soon after publication of these program standards regulations as final rules. As a general rule, States would be required to meet the case processing timeframes and standards in 75 percent of the cases reviewed for an audit as one facet of the determination of whether they are in substantial compliance with the requirements of title IV-D of the Act beginning October 1, 1990.

We recognize that there may be a small percentage of cases which will not be processed in accordance with required timeframes because of the specific circumstances of the case. However, we believe that the number of such cases is so minute as to have little impact, even in a marginally effective program, on the substantial compliance standard, which requires that only 75 percent of cases meet the required timeframes to successfully pass the audit. The advisory committee supported this position.

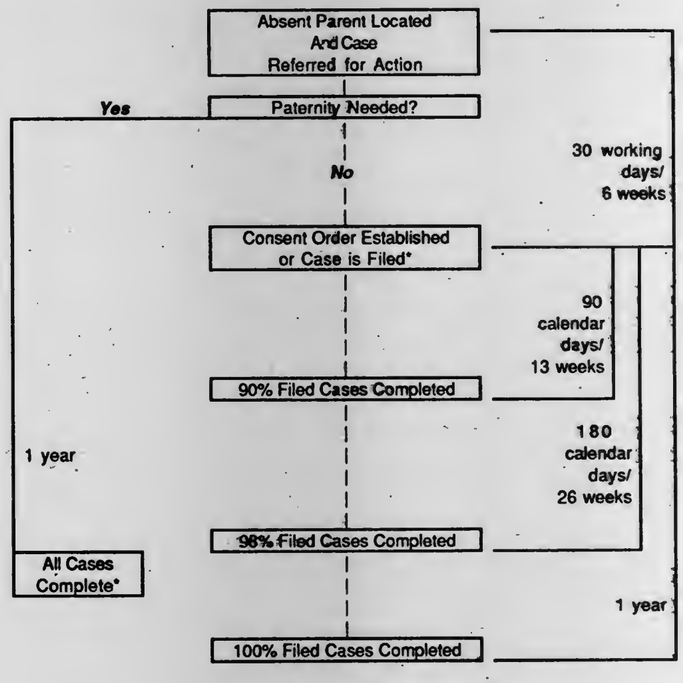
Requirements for timely IV-D program operations are only one part of the IV-D amendments contained in Pub. L. 100-485. However, because of stringent statutory deadlines, this proposed rule addresses time limits for accepting and responding to requests for establishment and enforcement of support orders and the distribution of support collections. This proposed rule would also revise regulations to exclude from State administrative costs in computing incentive payments, the costs of: (1) State demonstration projects for evaluating model procedures for reviewing child support awards, as authorized by section 103(e)(3) of Pub. L. 100-485; and (2) effective January 1, 1990, the costs of interstate enforcement demonstrations in accordance with section 458(d) of the Act, as amended by section 127 of Pub. L. 100-485.

The remaining child support provisions of Pub. L. 100-485 which require regulations by OCSE will be implemented in separate regulations. These separate regulations will address requirements for immediate income withholding (section 101); disregard applicable to timely child support payments (section 102); State guidelines for child support award amounts, including review and modification of orders (section 103, with the exception of section 103(e), regulated in this document); timing of notice of support payment collections (section 104); performance standards for State paternity establishment programs, including mandatory genetic testing in contested paternity cases (section 111); increased Federal assistance for paternity establishment (section 112); and mandatory automated tracking and monitoring systems (section 123).

The following charts summarize many of the time standards in this proposed regulation. They also incorporate interactions with other regulations, such as those for wage withholding and expedited processes. These charts should make it easier for the public to review this notice of proposed rulemaking.

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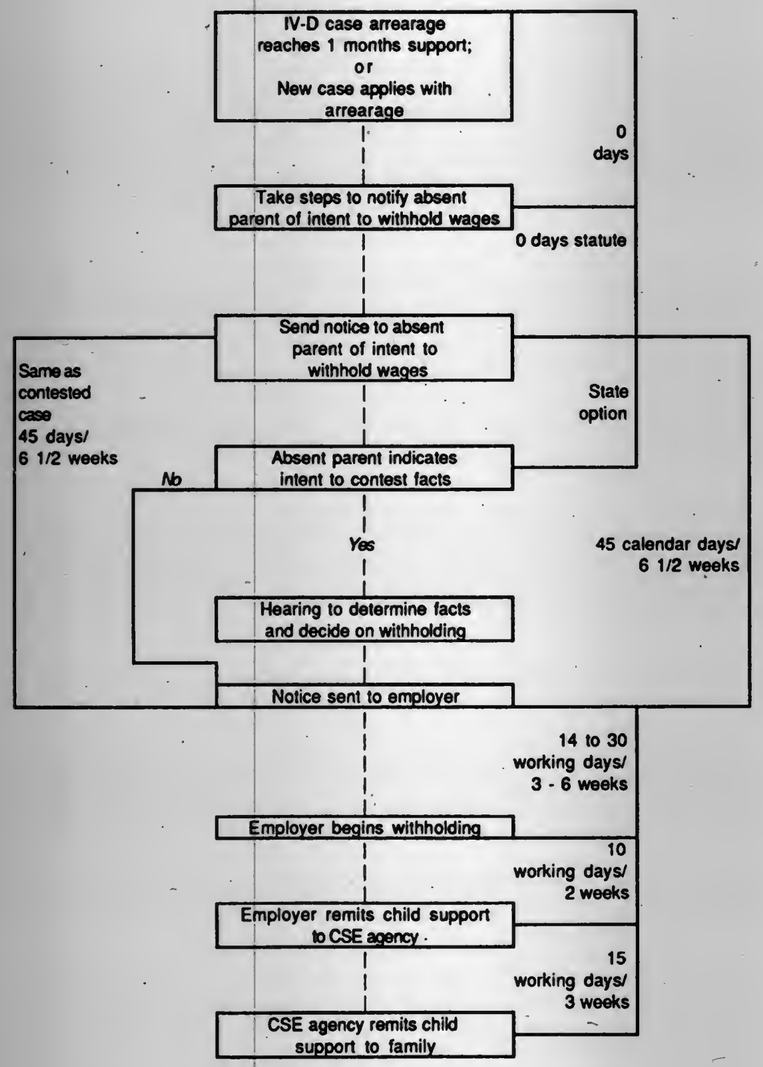
CASE FILING AND COMPLETION TIME LIMITS



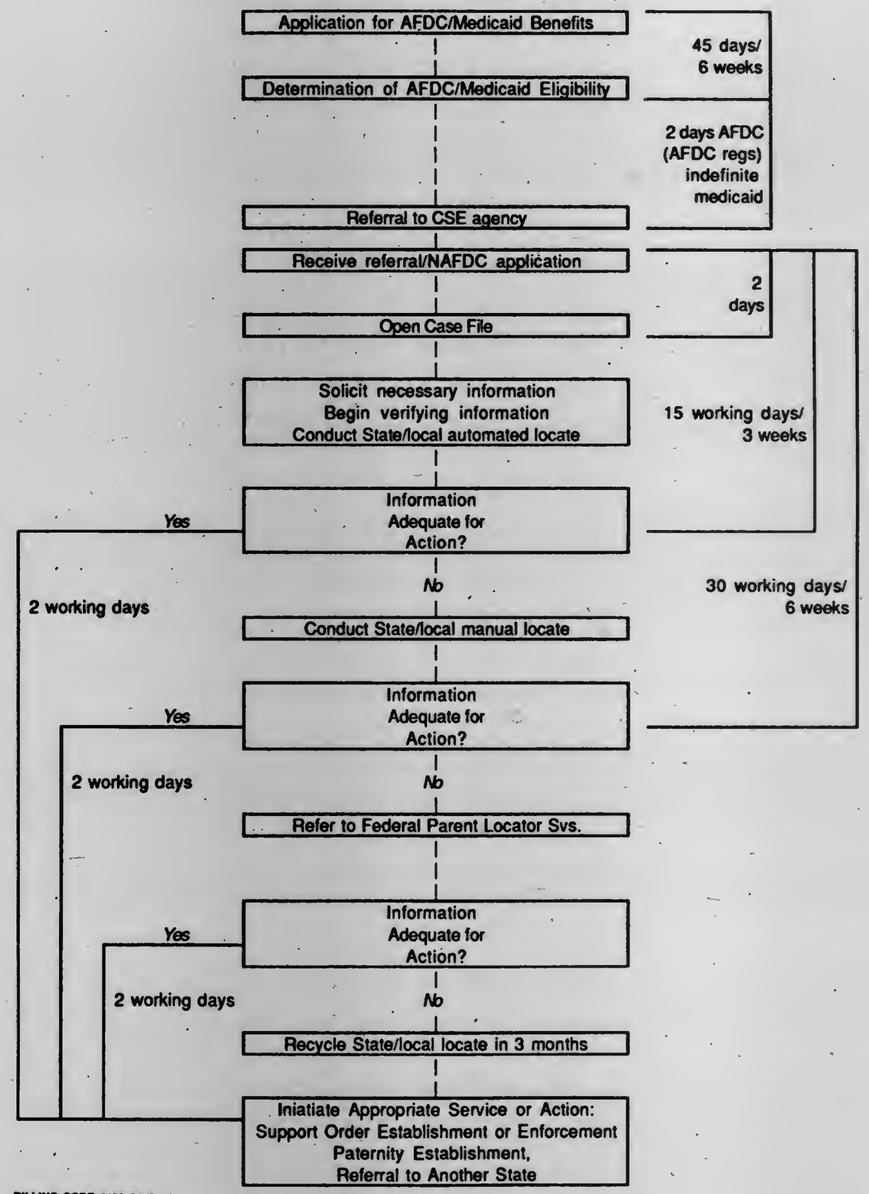
* Audit standards have not been determined.

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WAGE WITHHOLDING TIME LIMITS



TIME LIMITS FOR LOCATING ABSENT PARENTS AND REFERRING CASES FOR ACTION



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Statutory Authority

This regulation is proposed under the authority of sections 452 (a)(1) and (a)(2), (h) and (i), 454(13), 458(d) and 1102 of the Act.

Sections 452(a) (1) and (2) require the Secretary to establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective, and to establish minimal organizational and staffing requirements for State units engaged in carrying out such programs. Section 452(h) of the Act, added by section 121 of Pub. L. 100-485, requires the Secretary to establish time limits governing the period or periods within which a State must accept and respond to requests for assistance in establishing and enforcing support orders, including requests to locate absent parents, establish paternity, and initiate proceedings to establish and collect child support awards. Section 452(i) of the Act, added by section 122 of Pub. L. 100-485, requires the Secretary to establish time limits governing the period or periods within which a State must distribute amounts collected as child support. Section 454(13) of the Act requires States to comply with such requirements and standards as the Secretary of HHS determines to be necessary for the establishment of an effective IV-D program. Section 458(d) of the Act, as amended by section 127 of Pub. L. 100-485, requires States to exclude for purposes of computing incentives, the amounts expended by the State in carrying out a special project assisted under section 455(e) of the Act. Section 1102 of the Act requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

Regulatory Provisions

This proposed regulation would prescribe standards for program operations which the IV-D agency must meet, including minimal organizational and staffing requirements, and requirements governing: maintenance of case records; location of absent parents; establishment of support obligations; establishment of paternity; service of process; enforcement of support obligations; conditions under which cases may be closed; distribution of support payments; and incentive payments. In addition, this regulation would make technical changes and add new sections for clarity and consistency with the above-mentioned changes to Parts 302 and 303. States would be required to meet these standards by October 1, 1990.

Changes with respect to excluding costs of interstate grants when computing incentives would be effective January 1, 1990, and changes with respect to excluding costs of demonstration projects on model procedures for reviewing child support awards would be effective when the costs are incurred.

Support Payments to the IV-D Agency—Section 302.32

Under current regulations, the lack of, or outdated, timeframes for taking action cause excessive delays in accounting for and distributing support collections. These delays penalize the obligor and the children. Because the intent of the IV-D program is to help families attain self-sufficiency by ensuring that children receive the financial support to which they are entitled, timeframes for the distribution of support payments are necessary. The timeframes in this proposed rule would ensure the timely distribution of collections after receipt by the IV-D agency to families in need of them. We propose to revise § 302.32, Support payments to the IV-D agency, to reduce the time within which IV-D agencies must report collections to IV-A agencies and to add specific timeframes for distribution of collections in both AFDC and non-AFDC cases as a first step in ensuring that child support collections reach the intended recipients as expeditiously as possible. We will continue to review and, as necessary, tighten distribution timeframes to parallel improvements in areas affecting distribution of collections received. For example, the requirements of the Expedited Funds Availability Act, Title IV of Pub. L 100-86, enacted August 10, 1987 and initially effective September 1, 1988, seeks to ensure prompt availability of funds and to expedite clearance of most checks. Beyond directly facilitating State distribution of child support collections, the statutory timeframes required of financial institutions can also serve as a guidepost against which to measure performance and set goals for the distribution aspect of the IV-D program.

Section 302.32(b)—Informing the IV-A Agency of Collections

Expeditious redetermination of eligibility is an important step in achieving the IV-D goal of helping families attain self-sufficiency. The IV-A agency must be informed of the amount of a collection so that eligibility can be redetermined and the support collection can be distributed properly and in a timely manner. Current regulations at § 302.32(b) require the IV-D agency to inform the IV-A agency of the amount of collection which represents payment on the required support obligation for that month as soon as possible but not later than 30 days after the end of a month. This means that a collection on January 2 need not be reported until February 28—57 days later. We believe that this timeframe is excessive and that States should have the capability to report collections in a more timely manner. Accordingly, we propose to amend paragraph (b) to require that the IV-D agency inform the State's IV-A agency of the amount of the collection which represents payment on the required support obligation for that month within 10 working days from the date of receipt by the IV-D agency responsible for final distribution of the collection.

Section 302.32(f)—Timeframes for Distribution of Amounts Collected

We propose to add a new paragraph § 302.32(f) to mandate timeframes for distribution of support payments.

Each distribution timeframe proposed under this paragraph requires that collections must be distributed within a certain number of days from the date of initial receipt within the State. This means that States must distribute collections within, for example, 15 working days from the date the collection is first received in the State. If the collection must pass through more than one entity in the State before reaching the final distribution point, the State must still ensure that the collection is distributed within 15 working days of the date of *first* receipt in the State. In wage withholding cases, the timeframe would start when the withheld amount is received in the State, not when it is withheld by the employer.

Proposed distribution timeframes were discussed a great deal in the advisory committee meeting. The initial proposal presented to the group recommended allowing each entity in a State through which a collection passed (e.g., court, local IV-D agency, State IV-D agency) 10 working days to forward the collection. Almost universally, the committee members felt that the initial OCSE proposal was an unduly protracted timeframe. Committee members were negative to an approach which would allow each entity within a State to hold a collection for a period of time to the disadvantage of the children. The clear consensus was that an all-encompassing timeframe from initial receipt within the State until payment to the custodial parent and children should be set. It then would be up to the designated single State agency to monitor performance and limit delays at each step of the process. Committee members generally agreed that as short a time as feasible should be set, making allowance for interstate case situations. Virginia has been under court order for over a year to distribute child support collections within 15 days, and has almost always met that condition without difficulty through management commitment and an appropriate allocation of resources to the task. Therefore, we have responded to the committee's concern that distribution be as timely as possible for the benefit of the children who, all too frequently, are in desperate financial circumstances, while allowing adequate time for more difficult situations such as interstate cases, as the basis for the timeframes discussed below.

1. Section 302.32(f)(1)—Timeframes for Distribution of Amounts Collected in Interstate IV-D Cases

Current regulations under § 303.7(c)(7)(iv) require in interstate IV-D cases, the responding State to collect and monitor any support payments from the absent parent and forward payments to the location specified by the initiating IV-D agency no later than 10 days after the collection is received, except with respect to certain Federal tax offset collections. We propose to add a new paragraph § 302.32(f)(1) to require in interstate IV-D cases, amounts collected by the responding State on behalf of the initiating State to be forwarded to the initiating State within 10 working days of the initial point of receipt in the responding State in accordance with § 303.7(c)(7)(iv). This does not reflect a change in policy but simply conforms this proposed requirement to the current requirement under the interstate regulation.

2. Section 302.32(f)(2)—Timeframes for Distribution of Amounts Collected on Behalf of Current Recipients or AFDC and Title IV-E Foster Care Assistance

We propose to add a new § 302.32(f)(2) to require States to meet specific timeframes in distributing collections on behalf of current recipients of AFDC and title IV-E foster care assistance.

Current regulations at § 302.51(b)(1) require that, of any amount that is collected as support by the IV-D agency on behalf of current recipients of aid under the State's IV-A plan and for whom an assignment under § 232.11 is effective, the first $50 of any amount collected in a month which represents payment of the required support obligation for that month shall be paid to the family. Because the $50 pass-through must be disregarded in redetermining eligibility, there is no reason to delay sending that amount to the family. Accordingly, we propose to amend § 302.32 by adding a new paragraph (f)(2)(i) to require that payments to the family in AFDC cases under § 302.51(b)(1) must be made within 15 working days of the date of initial receipt in the State. Therefore, the 15-day timeframe would start when the collection is received by the first point of receipt within the State. This required timeframe would apply regardless of whether the IV-A agency distributes the $50 disregard or the IV-D agency makes the $50 disregard payment under agreement with the IV-A agency.

We propose to amend § 302.32 further to address the distribution of collections in AFDC cases under § 302.51(b) (2) through (5). Because the amounts collected in excess of the $50 payment to the family are, for the most part, used to reimburse the State and Federal government for AFDC payments to the family, we propose to require in paragraph (f)(2)(ii) that, except as specified under proposed paragraph (f)(2)(iv), collections under § 302.51(b) (2) through (5) must be distributed within 15 working days of notice of eligibility redetermination by the IV-A agency. However, we would allow States to distribute such collections prior to eligibility redetermination at the IV-D agency's discretion. We are proposing to allow States to distribute collections under § 302.51(b) (2) through (5) without waiting for eligibility redetermination because, while redetermination of eligibility can take up to four months, a collection which causes ineligibility is used to reimburse the State and Federal government for AFDC paid to the family in the month of collection. Although some subsequent adjustment may be necessary, the benefits of timely distribution warrant allowing States this flexibility.

We propose to require in paragraph (f)(2)(iii) that, except as specified in paragraph (f)(2)(iv), collections in title IV-E foster care cases must be distributed within 15 working days of the date of initial receipt in the State.

Finally, proposed paragraph (f)(2)(iv) requires collections as a result of Federal or State tax refund offset to be distributed in AFDC cases under § 302.51(b) (4) and (5) and in title IV-E foster care cases under § 302.52(b) (3) and (4) within 15 working days of the date of initial receipt in the State. Even though tax offset collections are batched in a discrete timeframe, for the most part, unlike regularly recurring collections, we believe that distribution can be handled expeditiously, albeit perhaps with some shifting of IV-D agency resources. Therefore, we are proposing the same 15 working day timeframe with respect to these collections as well.

3. Section 302.32(f)(3)—Timeframes for Distribution of Amounts Collected on Behalf of Non-AFDC Individuals

To ensure timely distribution of amounts collected on behalf of individuals receiving services under § 302.33, we propose to require in § 302.32(f)(3) timeframes within which States must distribute collections on behalf of non-AFDC families. Current delays in some States in transmitting support payments to the family are excessive and unwarranted. We believe that these timeframes are necessary to ensure that children receive the support to which they are entitled in a timely manner.

Under § 302.32(f)(3)(i), we propose that amounts collected which represent payment on the current support obligation shall be paid to the family within 15 working days of the date of initial receipt in the State.

New paragraph (f)(3)(ii) would reflect current policy by requiring that, except as specified in paragraph (f)(3)(iii), if the amount collected is more than the amount required to be distributed in paragraph (f)(3)(i) discussed above, the State may, at its discretion, either pay such amounts to the family to satisfy non-AFDC past-due support or retain such amounts as have been assigned to satisfy past assistance paid to the family which has not been reimbursed. In States where the IV-D agency opts to apply such amounts to non-AFDC arrearages, the amounts must be paid to the family within 15 working days of the date of initial receipt in the State.

New paragraph (f)(3)(iii) would address timeframes for distribution of Federal income tax refund offset collections in non-AFDC cases. Amounts collected as a result of tax refund offset to satisfy past-due support would be distributed under § 302.51(b) (4) and (5) within 15 working days of the date of initial receipt in the State, with one exception. Section 303.72(h)(5) allows States, in cases where the Secretary of the Treasury, through OCSE, notifies the State that an offset is being made to satisfy non-AFDC past due support from a Federal refund based on a joint return, to delay distribution until notified that the unobligated spouse's proper share of the refund has been paid or for a period not to exceed

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six months from notification of offset, whichever is earlier.

Since timeframes for distribution of all IV–D collections, regardless of the collection mechanism (e.g., Federal or State income tax refund offset, wage withholding), would be governed by proposed § 302.32(f), reference to timeliness of distribution in other regulations is unnecessary. Accordingly, we propose to amend § 302.51 by deleting in paragraph (a) the last sentence that reads "In any case in which collections are received by an entity other than the agency responsible for final distribution under this section, the entity must transmit the collections within 10 days of receipt." and by deleting in paragraphs (b) (3) and (5) the sentence that reads "This payment shall be made in the month following the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the State's title IV–A plan". Similarly, we propose to amend § 303.100(e)(2) to delete reference to distributing "promptly" amounts collected through wage or income withholding. Finally, we would delete from regulations governing distribution of State tax refund offset collections the words "Within a reasonable time period in accordance with State law" in § 303.102(g)(1).

Maintenance of Case Records—Section 303.2

Current § 303.2 requires the IV–D agency, for all cases referred to the IV–D agency or upon application for IV–D services under § 302.33, to immediately establish a case record. The case record must contain all information collected pertaining to the case. Furthermore, current regulations list information which should be included, when applicable, at § 303.2 (a) through (l).

Despite these current requirements, GAO reported that seven of the eight IV–D agencies visited in the study cited earlier did not open cases and establish records for 110 of the 760 children who needed orders and did not get them. GAO stressed that failure to open cases results in some children being denied paternity determinations and support orders and distorts statistics needed by program managers and the Congress to accurately measure performance and identify problems that may require corrective legislative actions. Similar findings are evident in IV–D program audit results. Of 33 States found not to comply substantially with title IV–D requirements as a result of an audit for FY 1984 and 1985, nine States have been assessed a penalty for failure to meet the requirement for maintenance of case records because case records could not be located or because case documentation was inadequate. This indicates that cases had never been opened or case records had been lost.

Case opening problems are compounded by the fact that there are no formal requirements governing the IV–D application process. As a result, there are reportedly long delays in even accepting an application in some States. Members of the advisory committee discussed the overwhelming need for specific requirements setting timeframes within which States must accept and respond to applications for IV–D services. The initial proposal we presented to the group required that States open a case within 2 working days of receipt of referral or application. The members of the group expressed concern about problems individuals have in obtaining and filing IV–D applications. The consensus of the group was to retain our proposed 2-day timeframe for case opening and to add formal requirements governing the accessibility, availability and filing of applications for services. The group believes that this is necessary to ensure that the case opening requirements are triggered promptly.

The intent of the Child Support Enforcement program is to ensure that IV–D services are provided to those cases which require them. Unless applications are provided and accepted and cases are opened, this purpose cannot be achieved. In response to advisory committee input, the problems reported by GAO and OCSE's program reviews and program audits, we believe it is necessary to clearly state what actions IV–D agencies must take to provide and accept applications for IV–D services and to open a case upon referral or application for IV–D services.

Accordingly, this proposed regulation would revise § 303.2 in several ways. First, the section title, Maintenance of case records, would be changed to Establishment of cases and maintenance of case records. Because this proposed regulation would expand and clarify the requirements for case establishment, to be discussed below, it should be reflected in the title. Second, current § 303.2(a) through (1) are examples of the type of information to be included in case records. The list, while not all-inclusive, is lengthy. We do not believe it is necessary to attempt to spell out all the information that should be included in a case record. Rather, we are proposing to address IV–D agency responsibilities with regard to the application process in § 303.2(a) and to address case records in proposed § 303.2(b).

1. Application Process

The requirements for provision of non-AFDC services do not apply until the IV–D agency receives an application for IV–D services. However, because there are no current requirements governing when the IV–D agency must provide and accept the applications, there are indefensible delays in the establishment of case records and provision of services. In accordance with Pub. L. 100–485, we are proposing to set forth explicit requirements and timeframes for responding to requests from individuals for child support assistance. This will ensure that individuals receive applications for IV–D services and that once applications are received, cases are opened and services provided in a timely manner.

Current regulations at § 302.30 require that IV–D agencies must publicize the availability of support enforcement services and must include a telephone number or address where further information may be obtained. However, further information is often not readily available to individuals. Often, individuals cannot receive applications for services or information about IV–D services until an intake appointment is scheduled. Members of the advisory committee reported that current State practices regarding applications frustrate individuals who are trying to obtain IV–D services. For instance, they indicated that at least seven States require an intake appointment to receive or fill out an application and often appointments are not available for at least 6 to 8 weeks. In addition, when individuals call to request services, an application may never be mailed to them. These delays are discouraging to the individual and antithetical to the purpose of the IV–D program. To ensure that IV–D services are provided to those persons who require them, it is crucial that individuals have access to IV–D applications without having to wait unreasonable periods of time. Accordingly, proposed paragraph (a)(1) would require that the IV–D agency must make applications for child support services readily accessible to the public.

To ensure that applications are provided as soon as possible after an individual inquires about IV–D services, we propose to require in § 303.2(a)(2) that the IV–D agency must provide applications on the day an individual requests an application or services. In addition, information describing available services, the individual's rights and responsibilities and the State's fees, cost recovery and distribution policies must accompany all applications for services.

While the above requirements should ensure that IV–D information is provided to individuals in a timely manner, cases cannot be opened and services cannot be provided until the application is received and a case record is established. Case record establishment, to be discussed in more detail below, is the essential first step in gathering the information needed to process cases effectively. Because in non-AFDC cases this information is initially gathered on the application, States must log in and assess the application in a timely manner. However, because only minimal information is needed to establish a case record, we propose to require in paragraph (a)(3) that the IV–D agency must accept an application as filed on the day it is received. An application is a written document provided by the State which indicates that the individual is seeking assistance with a child support problem and is signed by the individual applying for IV–D services.

2. Opening Cases

We are proposing in § 303.2(b) that, for all cases referred to the IV–D agency or applying for IV–D services under § 302.33, the IV–D agency must open a case within two working days of receipt of referral or application for services by establishing a case record. The case record (which may be automated, on paper or a combination thereof) must be supplemented with all information and documents pertaining to the case and will include all relevant facts, dates, actions taken, contacts made and results in a case.

Initially, a case file will contain only that information which is available upon application or referral. The additional information and documents pertaining to the case described above would be included in the case file as they become available or as they are gathered. Therefore, because the initial requirements for case opening are minimal, we believe two working days for opening cases is adequate and reasonable.

3. Actions Required Within 15 Working Days of Referral or Application for IV–D Services

With regard to cases referred to the IV–D agency, the AFDC agency is required under 45 CFR 235.70 to provide all relevant information prescribed by the IV–D agency. Often, however, the interview to determine AFDC eligibility is inadequate to gather the information.

Because of the need for increased cooperation and coordination between the AFDC (IV–A) and IV–D programs, the Family Support Administration (FSA) launched the IV–A/IV–D Interface Initiative in FY 1986 to improve the interaction between IV–A and IV–D programs. As mentioned previously, IV–D program reviews highlighted serious problems which prevent effective IV–A/IV–D agency interaction including: Lack of timeliness in reporting; inadequate information referred; and poor understanding of the roles of each agency. As part of the Initiative, OCSE is working with the Office of Family Assistance (OFA) to correct these problems. To date, the following goals have been accomplished:

1. FSA has funded four demonstration projects under which States will test the following techniques: a separate AFDC applicant interview by a child support enforcement worker and initiation of IV–D services within the AFDC application period; the invoking of sanctions by the IV–D agency for failure to cooperate in establishing paternity and obtaining a support order; and enhanced data exchange between the two programs.

2. Each FSA Regional Office initially conducted an interface program review of at least one locality and issued a report including recommendations for improvement. Regional Offices have carried out subsequent activities in this same vein.

3. Several States have initiated or are developing pilot projects to test the feasibility of innovative provisions to address problems such as: late case referrals from IV–A to IV–D agencies and insufficient, or poor quality, information referred; poor exchange of case status information; lack of communication between IV–A and IV–D agencies; and inadequate staff training.

4. OCSE developed training packages to improve understanding of each agency's roles and programs and to strengthen the training and orientation of workers within and between programs. The National Institute of Child Support Enforcement (NICSE), under contract to OCSE, developed and field tested the Participants' Handbook and Trainers' Guide Handbook with local jurisdictions and conducted the first two sessions for training certified trainers in February, 1988.

5. OCSE is identifying State and local practices that are innovative and will improve the interface process. Three "best practices" have already been publicized on failure to cooperate, direct referrals and automated data exchange.

The problems discussed above must be solved because the information obtained from the AFDC client is critical to the establishment and processing of a IV–D case. While State AFDC agencies should gather all pertinent and necessary information at the AFDC interview, the IV–D agency may need to gather additional information. Some States conduct IV–D interviews before AFDC eligibility is determined. This practice, which is accomplished within the permissible time period for AFDC eligibility determination, often produces quality child support-related information quickly. We would like to point out that Federal funding is available for this IV–D activity regardless of whether the applicant is determined to be eligible for AFDC. If the custodial parent is determined to be ineligible for AFDC, States should encourage the applicant to apply for non-AFDC IV–D services in order to obtain support for the child.

Federal AFDC regulations have requirements for prompt referral of cases to child support agencies, but this NPRM does not include any corresponding requirements for child support agencies to make sure they receive the referrals. We specifically request comment on the possibility of requiring State IV–D agencies to have agreements in place to ensure that all cases are referred within a specified number of working days of an application or determination of eligibility for AFDC, Foster Care or Medicaid benefits.

Proposed § 303.2(c) would require the IV–D agency to take specific actions on a case within 15 working days of receipt of referral of a case by the AFDC, IV–E (foster care) or Medicaid agency or of an application under § 302.33. GAO specifically recommended in their report that OCSE take steps to improve State efforts to determine paternity and establish support orders. We agree that it is necessary to take steps to ensure that IV–D agencies immediately open cases and pursue paternity and support orders because we believe the initial steps taken in child support enforcement are crucial. Often it is at the first point of contact with the custodial parent that information is most likely to be available and accurate, particularly with regard to location leads, paternity issues, etc. We believe that a timeframe of 15 working days is both reasonable and necessary to ensure that cases are forwarded for necessary action expeditiously. We want to stress, however, that the 15-day requirement is intended as an outer limit. If at any point prior to the end of the required time limit there is sufficient information

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to proceed, the State must initiate the next appropriate action on a case within 2 working days of determination of that action, as required in proposed paragraph (c)(3).

Child support cases enter the IV–D system at different stages of readiness and success in each case is contingent upon timely determination of what appropriate action is necessary. Furthermore, regardless of what or how much information is initially received on a case, the information is only as useful as it is accurate and complete. As stated previously, although the AFDC agency is required to gather all relevant information on a case, additional information may be necessary. The GAO report identified cases in the study which were closed due to what the State termed "inadequate information" about the alleged father. Although the particular State identified had written procedures requiring interviews to attempt to obtain information about the absent parent, records were not adequate to determine whether any information gathering had taken place.

The initial proposal we presented to the advisory committee required that within 15 working days of receipt of referral or application, the IV–D agency must conduct an interview if necessary. The group urged us to delete this requirement because an interview may not be needed in each instance at this point in case processing. Furthermore, they did not agree with setting a standard based on an "if necessary" judgment call. Although we have not required an interview, States must obtain as much information as possible from the custodial parent. This information is the most valuable in preparing a case for necessary service. To ensure all efforts to gather accurate information are made, we propose to require in paragraph (c)(1) that, within 15 working days of receipt of a case or of an application for services, based on an assessment of the case to determine necessary action, the IV–D agency must solicit necessary information from the custodial parent and other relevant sources and initiate verification of information.

Many cases enter the IV–D system with inaccurate, incomplete, outdated or no location information. Every attempt must be made to locate the absent parent because, without this information, establishment of paternity or establishment and enforcement of child support obligations is impossible. Therefore, we propose, in paragraph (c)(2), that the IV–D agency must, as necessary, access all appropriate State and local automated location sources within the 15-day timeframe. State and local automated location sources would include any of those location sources listed in § 303.3 which are automated. The State parent locator service (PLS) should have access to all these records. This requirement would ensure that every effort is made to gather information necessary to proceed with a case.

Within the 15-day timeframe, under paragraph (c)(3), if there is adequate location information available to proceed with a case, the IV–D agency must initiate necessary action on the case within 2 working days of determination of the next appropriate action or service. Such actions could include referral to another State for necessary services if the absent parent has been located in another State. Alternatively, in situations where there is inadequate location information to proceed with a case, paragraph (c)(4) would require the IV–D agency to refer the case for further location attempts as specified in § 303.3.

As stated previously, the proposed 15-day timeframe is intended as an outer limit. If at any point prior to the end of the 15 working days there is sufficient information to proceed with the case, the State must determine the next appropriate action or service immediately.

The requirements governing case opening and maintenance of case records will ensure that all appropriate cases enter the IV–D system and receive prompt attention. While the proposed rule requires the IV–D agency to perform the above-mentioned actions within the prescribed timeframes, we would like to stress that, in cases referred to IV–D agencies, the extent to which certain of these actions are necessary or appropriate depends for the most part on the amount and accuracy of information gathered on a case by the referring agency and the steps taken on a case by that agency prior to referral. By requiring the IV–D agency to perform these functions to the extent that they have not been performed by others, we do not intend to remove the burden and responsibility on the referring agency of forwarding as complete and accurate case information as possible. Often the most recent and accurate information can be obtained from the custodial parent during the interview for AFDC eligibility. The interview and the AFDC eligibility worker's initial efforts to ascertain as much information as possible are essential steps toward the goal of providing necessary services successfully.

Finally, we would like to point out that in situations where the custodial parent fails to cooperate, the IV–D agency should notify the AFDC or foster care agency of noncooperation but should not suspend activities to establish paternity or secure support in any case unless, as provided under § 302.31(b), the IV–D agency receives notice from the AFDC or IV–E agency that there has been a claim of good cause for failing to cooperate. In accordance with § 302.31(c), the IV–D agency will not undertake to establish paternity or secure support in any case for which it has received notice from the IV–A or IV–E agency that there has been a finding of good cause pursuant to §§ 232.40 through 232.49 of this title unless there has been a determination by the State or local IV–A or IV–E agency that support enforcement may proceed without the participation of the caretaker or other relative. If there has been such a determination, the IV–D agency will undertake to establish paternity or secure support but may not involve the caretaker or other relative in such undertaking.

Location of Absent Parents—Section 303.3

Current regulations at 45 CFR 303.3 set forth requirements for all cases referred to the IV–D agency or applying for services under § 302.33 under which State IV–D agencies must attempt to locate all absent parents when their location is unknown.

Because current and accurate location information is a prerequisite to any action to establish or enforce a child support obligation, we believe improvements in the requirements regarding location are necessary. The members of the advisory committee agreed with our proposed improvements to this section but discussed at great length the need to formally define "location" and to close loopholes in the location process. The proposed requirements and timeframes herein, and the new section governing service of process, are a direct result of the advisory committee's discussions about the importance of improved location services.

1. Definition

The advisory committee stressed that the location function can only be considered complete or successful when the address received is accurate. Accordingly, we propose to define in § 303.3(a) "location" as the confirmed physical whereabouts of the absent parent or his or her employer(s), other sources of income, and/or assets. We want to point out that the need for confirmation of the location information would depend on whether the information received is current (e.g., confirmation may not be necessary if address information received through accessing the Department of Motor Vehicles shows that the absent parent provided the address recently).

2. Location Sources

Current § 303.3(c) requires the IV–D agency to use appropriate State agencies and departments, which at a minimum must include those departments which maintain records of public assistance, unemployment insurance, income taxation, driver's licenses, vehicle registration and criminal records. We propose to redesignate paragraph (c) as (b)(3) and add departments which maintain records of employment and wage records to the list. Employment files are a particularly valuable location source because they are updated quarterly and often contain the most recent address information. This proposed change, together with the current requirements at § 303.3(a) and (b) (redesignated in this proposed rule as (b)(1) and (2)) for use of local location sources, should ensure that all available and appropriate sources are used to locate an absent parent.

This NPRM does not include any requirements on the use of private automated data sources. We specifically request comment on the possibility of including requirements or encouragement on the use of credit reporting agencies and the Postal Service contractor's recent mover data base.

3. Actions Required Within 30 Working Days

Current regulations at § 303.3(d) require the IV–D agency to utilize all appropriate State and local location sources within 60 days of referral of the case from the AFDC agency or application under § 302.33. Despite this 60-day timeframe for accessing State and local sources, the GAO report identified cases in their study which were closed due to what the State termed "inadequate information" about the alleged father. In addition, 20 of 43 States assessed penalties as a result of FY 1984, 1985 and 1986 program audits failed to comply substantially with program requirements for providing location services. Currently, the States and localities decide what location attempts are adequate and when a case can be closed. As the audit results and the GAO report indicate, IV–D agency efforts to locate absent parents are often inadequate.

We propose to redesignate current § 303.3(d) as (b)(4) and revise it to require that the IV–D agency, within 30 working days of referral of the case, application under § 302.33, or determination that location of the absent parent is unknown, access all appropriate location sources.

Inadequate location efforts are difficult to understand given the great strides States have made developing automated child support systems. Use of automated systems significantly reduces the time it takes to access location sources. Given today's automated access to many location sources, and the fact that the 60-day timeframe was set in 1978, prior to this automated access, we propose to reduce the time within which the IV–D agency must access all appropriate location sources to 30 working days in paragraph (b)(4).

We want to stress that child support case processing is a dynamic process. There may be many points in case processing where the IV–D agency cannot proceed because the absent parent moves or changes jobs or where the case otherwise necessitates further location efforts. The advisory committee was particularly concerned with the fact that current regulations put the emphasis on front-end location efforts but do not explicitly take into consideration situations where location services are necessary at a later point in case processing because, for example, the absent parent's location, although it may have been previously known, becomes unknown. To close this loophole, we propose to require in paragraph (b)(4) that these location requirements would again apply at any point where the State determines that location services are warranted (i.e., at any point in case processing where location is needed, the required location sources must be accessed within 30 working days of request for location as a result of determining that the location of the absent parent, employer, other source of income and/or assets is unknown). We believe 30 working days is reasonable given many States' capabilities for immediate or very rapid access to motor vehicle, employment security and other records. Nevertheless, we encourage comments on this timeframe.

We are proposing a parallel change to § 303.7(c)(4) which currently requires responding IV–D agencies, in interstate cases, to provide location services in accordance with § 303.3 within 60 days of receipt of an Interstate Child Support Transmittal Form, a URESA Action Request Forms package or other alternative State form and documentation from its interstate central registry. We propose to change the 60-day timeframe to 30 working days to be consistent with the 30 working day timeframe proposed in § 303.3(b)(4).

Paragraph (b)(5) would require that the IV–D agency transmit appropriate cases to the Federal PLS, including cases which qualify for submittal to the FPLS and for which State and local location efforts have been unsuccessful. While the Federal PLS is a valuable source, we want to avoid situations where cases are "shot-gunned" to the FPLS when State and local sources could provide accurate location information. We urge States to examine each case to decide which location sources would be the most appropriate. The 1984 Amendments amended section 453(f) of the Act to permit States to access the Federal PLS without first exhausting State PLS resources and States may now submit appropriate cases to the Federal and State PLS simultaneously without waiting to access local location sources. Except when States have reason to believe an absent parent/putative father lives or has assets out of State, we encourage States to use automated data sources before requesting Federal PLS services. We want to point out, however, that in interstate cases, the Federal PLS is accessed by the initiating State. The responding State is not required to access the Federal PLS again upon receipt of the case.

We also propose in paragraph (b)(6) that within 2 working days of location, the IV–D agency must initiate necessary action or service (i.e., establishment of paternity or a support order or enforcement of a support order). This requirement again is indicative of the advisory committee's concern that cases move forward as soon as one action is completed and the next appropriate and necessary action is determined. Necessary action includes referring a case to another State because the absent parent has been, or is presumed to be, located there, as specified in proposed paragraph (b)(7). Once a case has been referred by the central registry in the responding State to the appropriate State or local IV–D agency for processing, that case, although an interstate case, must be worked like any intrastate case, in accordance with the timeframes and standards in Part 303.

4. Continued Location Attempts

We believe it is critical for States to attempt periodically to locate absent parents or sources of income in cases in

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which previous attempts have been unsuccessful to determine whether location information has become available. Accordingly, we propose to require in paragraph (b)(8) that the IV–D agency must repeat location attempts quarterly in appropriate cases in which previous attempts have failed but adequate information exists to meet the requirements for submittal for location. This 3-month cycle must coincide with quarterly updates to State employment security files.

This requirement to repeat location attempts in cases in which prior location attempts have failed is proposed because, as stated previously, often cases are closed or left unattended when insufficient effort has been made to pursue the case, or to reevaluate it after initial attempts to proceed were unsuccessful. We do not intend that States resubmit cases for location attempts if there is inadequate identification information on the absent parent. However, if adequate information exists but previous attempts have failed, States would be required to resubmit such cases because the subsequent attempts to locate may prove successful, e.g., the absent parent may have gotten a driver's license or a job. We specifically request comment on whether annual checks against Federal automated data sources should be required.

As previously discussed, the advisory committee urged us to revise the location section to ensure that location services are provided expeditiously at any such point in case processing when the location of the absent parent, source(s) of income, etc, is unknown. Accordingly, we propose to require in paragraph (9) that the IV–D agency must refer a case for location services within 5 working days of determining that location is necessary. This could occur at any time, for example, when the IV–D agency is in the process of establishing or modifying an order or enforcing an existing order. Once the case is referred for location services, the requirement and timeframes in § 303.3(b) would again apply.

Establishment of Support Obligations—Section 303.4

Current regulations at § 303.4 set forth requirements for IV–D agencies with regard to the establishment of support obligations in all cases referred to the IV–D agency or for which there are applications for IV–D services. We propose to amend § 303.4 by adding a new paragraph (d) which would require the IV–D agency, within 30 working days of locating the absent parent or establishing paternity, to establish a support order or file a petition with the court or administrative authority to establish a support obligation.

As stated previously, Congress attempted to alleviate public concerns regarding the lack of adequate and expeditious IV–D services by requiring in the 1984 Amendments that States have and use expedited processes to establish and enforce support obligations. Those expedited processes, and the timeframes in implementing regulations at § 303.101, only apply to cases once they are under administrative or judicial review. No corresponding timeframes exist within which IV–D agencies must file cases with the administrative or expedited judicial authority for support order establishment or enforcement. The result is large backlogs of cases in IV–D offices. Section 121 of Pub. L. 100–485 adds a new section 452(h) to the Act which requires the Secretary of HHS to impose timeframes within which States must respond to requests for assistance in establishing and enforcing support orders.

The initial proposal we presented to the advisory committee required that within 60 calendar days of locating the absent parent, the IV–D agency must establish a support order or file a petition with the court or administrative authority to establish a support obligation. We have subsequently revised this due to the group's concerns. First, while we urge States to establish paternity and a support order simultaneously except where prohibited by State law, the advisory committee believes that paternity and support orders are often established in separate proceedings. For this reason, the committee argued that the proposed timeframes should begin with locating the absent parent or establishing paternity. Because it is our intent that child support case processing flow quickly from one needed service to the next, we incorporated the advisory committee's suggestions in our proposal.

Secondly, the advisory committee convinced us that 30 working days (rather than the 60 calendar days in our proposal) is adequate to either establish an order by consent or to petition the court or administrative authority for support. Again the committee convinced us that if a IV–D agency is unable to establish an order administratively by consent in less than six weeks, a petition for support should be filed. We request comments, including any alternatives based on experience, on this timeframe.

Unless IV–D agencies process cases to the point of establishing an order by consent or petitioning the court or administrative authority to establish an order and serving process, the expedited process system in place in most States is useless. Timeframes for processing cases from application or referral of the case by the IV–D agency to establishment or enforcement of an order are necessary if we are to conform to Congressional intent in requiring expedited processes as part of the 1984 Amendments as well as in requiring timeframes for providing services in Pub. L. 100–485—that IV–D services be provided expeditiously.

The proposed case processing timeframes contained in this regulation are intended to encompass all necessary actions up to the point where the expedited processes timeframes requirements begin (i.e., a case is "filed"). Therefore, there should not be a gap between the timeframe requirements contained in this proposed rule and the timeframe requirements for expedited processes.

There is one further concern we would like to address. Currently, there are no requirements governing situations where a petition for a support order is dismissed without prejudice. Because this may occur for various legitimate reasons (e.g., the absent parent is currently unemployed, etc.), we believe it is necessary to ensure that every effort is made to establish a support order if circumstances upon which the dismissal is based change. Accordingly, we propose in § 303.4(e) that the IV–D agency must examine the reasons for dismissal, determine when it would be appropriate to seek an order in the future, and seek a support order at that time.

Establishment of Paternity—Section 303.5

This proposed rule would revise current requirements for paternity establishment at § 303.5.

1. Paternity Establishment Within One Year

As discussed previously, we propose to add timeframes for processing cases from the time of referral or application until the date the IV–D agency files a petition or serves process to establish or enforce a child support obligation with the court or administrative agency. Once a petition is filed or service of process is completed (depending on which date triggers expedited processes in the State), the required timeframes for expedited processes apply and ensure that 100 percent of those cases are processed within one year of the date of filing or service. The exception to this scenario are complex issue cases or cases requiring paternity establishment.

The Child Support Enforcement Amendments of 1984 allow States to exclude paternity cases from their expedited processes. However, paternity establishment is a crucial step in the child support enforcement process. In the past States have been lax in the establishment of paternity, as reflected in IV–D program audit results (32 of 43 States penalized as a result of FY 1984, 1985 and 1986 audits were cited in paternity-related cases, either because of the State's failure to locate putative fathers or to establish paternity.) Often, States do not bother to attempt location in cases needing paternity establishment. Because of these audit results and the fact that paternity establishment cases are not subject to expedited process requirements unless the State opts to include them, we believe it is essential to set a time standard for establishing paternity.

We believe that strengthened paternity establishment standards and time limits are essential to improve State IV–D program performance. Therefore, we propose to amend § 303.5(a) to require that the IV–D agency must, within one year of locating the alleged father, establish paternity by court order or other legal process established under State law, establish paternity by voluntary acknowledgment if under current law such acknowledgment has the same effect as court-ordered paternity, or exclude the alleged father as a result of genetic tests. We want to stress, however, that the one-year time limit is intended as an outer limit. We urge States to attempt to establish paternity by voluntary acknowledgment or legal process immediately upon location of the alleged father, simultaneously with the establishment of an order if not prohibited by State law. The advisory committee was concerned that we include reference to cases in which paternity cannot be established because the putative father is excluded. Therefore, we have added this reference but limited it to exclusion as a result of genetic tests. We specifically request comment on whether there should be separate time requirements for uncontested paternity cases.

While this one-year timeframe may seem on its face to ignore cases in which paternity establishment may be difficult if not impossible, it is imperative to underscore the need to strengthen paternity establishment requirements because of the current exclusion of paternity establishment cases from the expedited processes requirements and the low priority States have given this essential function of child support enforcement. We consulted with the advisory committee with regard to the limited number of paternity cases which are impossible to resolve within one year despite the State's every effort. The committee believes that these very limited number of cases would easily be accounted for within the 25 percent margin allowed as part of the 75 percent substantial compliance audit standard. At such time as audit regulations are revised for consistency with case processing timeframes and program standards, a State would be cited in an audit if it failed to establish paternity or exclude the alleged father (discussed below) within one year in 75 percent of the cases reviewed for the audit.

2. Exclusion of the Alleged Fathers

Proposed § 303.5 would require that the IV–D agency must establish paternity or exclude the alleged father as a result of genetic tests within one year of locating the alleged father. In our discussions with the committee, questions were raised about whether or not IV–D agencies must pursue all alleged fathers or only one. To encompass situations where more than one alleged father has been identified, we propose to require in § 303.5(a)(2) that the IV–D agency must meet the requirements set forth in paragraph (a)(1) of this section for each alleged father identified, until paternity is established or each alleged father is excluded.

3. Use of Laboratories Which Perform Genetic Testing at Competitive Rates

Furthermore, this proposed regulation would revise current paragraph (c) to require IV–D agencies to identify and use laboratories which perform genetic testing at reasonable cost through competitive procurement. In the interest of competition and associated cost benefits, we deleted the reference limiting identification of laboratories to those within the State. State IV–D statistical and expenditure reports show vast differences in what States pay for genetic tests. The range, based on voluntary reporting of laboratory costs, is between $300 and $1500 per test. Effective October 1, 1988, as a result of Pub. L. 100–485, the Federal government pays 90 percent of the costs of genetic tests. To avoid situations where States use laboratories at exorbitant cost when there may be a laboratory available which performs comparable testing at more reasonable cost, OCSE will investigate what laboratories throughout the country charge for comparable genetic tests and report that data to States.

This proposed rule also would add the word "genetic" before "tests" in proposed paragraph (c) to more accurately reflect the advancements in, and increased refinement of, testing methods to determine paternity. Current paragraph (b) would not be changed.

To correspond with these proposed changes, § 304.20(b)(2) would be revised by changing the reference to blood tests to genetic tests and the reference to § 303.5(b) to § 303.5(c).

Enforcement of Support Obligations—Section 303.6

This proposed regulation would revise current requirements at § 303.6 by deleting the enforcement techniques listed in paragraphs (a) through (f) and adding monitoring and enforcement requirements in new paragraphs (a) through (c).

1. Monitoring Compliance With Orders and Identifying Delinquencies

Current regulations at § 303.6 require that the IV–D agency, for all cases under the State plan in which the obligation to support and the amount of the obligation have been established, must maintain an effective system for identifying, within 30 days, those cases in which there is a failure to comply with the support obligation and to contact such delinquent individuals as soon as possible in order to enforce the obligations and obtain the current support obligation and any arrearages.

Despite the above requirement that States must monitor cases, some IV–D agencies still rely on custodial parents informing them of a delinquency before they investigate compliance with the obligation and take action to enforce it. Effective and timely monitoring of compliance is essential in order to trigger income withholding in accordance with statutory requirements and to ensure timely use of other enforcement techniques as appropriate.

In addition, the statutory provision for States to have and use procedures for withholding wages or income requires that the absent parent become subject to withholding and that advance notice of the withholding be sent to the absent parent, at the latest, on the date on which the parent fails to make payments in an amount equal to the support payable for one month. Therefore, it is imperative that States identify delinquencies immediately in all cases when the debt equals the amount payable for one month. States may not wait 30 days after there is a delinquency to identify the delinquency.

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We specifically request comment on whether the requirement for sending notice to a delinquent absent parent should be amended from "the State must take steps * * * to send the advance notice" on the day the delinquency reaches one month's support to "the State must send the advance notice" on that day. We also specifically request comment on whether States should be required to process uncontested wage withholding cases more quickly than contested cases.

We propose to delete the current 30-day timeframe and address the above-mentioned issues in several ways. First, proposed § 303.6(a) would require that the IV–D agency maintain and use an effective system for monitoring compliance with the support obligation. Advisory members encouraged us to clarify that monitoring includes monitoring of medical as well as cash support provisions of support orders. Under current requirements, the IV–D agency must communicate periodically with the Medicaid agency to determine if there have been lapses in health insurance coverage for Medicaid applicants and recipients. The IV–D agency then must take appropriate action to enforce the order when the Medicaid agency informs the IV–D agency that the absent parent has failed to secure health insurance coverage as ordered, or that health insurance coverage has lapsed. We request comment on whether wage withholding notices to employers should: (a) inform the employer when enrollment in employment based medical insurance has also been required by the support order, (b) request the employer to alert the IV–D agency if the absent parent has not enrolled the child(ren) in required medical insurance and (c) request the employer to enroll the child(ren) if the absent parent has not, where permitted by State law.

Additionally, we propose to require in paragraph (b) that the IV–D agency maintain and use an effective system for identifying those cases in which there is a failure to comply with the support obligation on the date the parent fails to make payments in an amount equal to the support payable for one month or earlier in accordance with State law.

2. Enforcement Actions

We would require in paragraphs (c)(1) and (2) that the State must initiate wage withholding in accordance with the requirements of § 303.100, and initiate any other appropriate enforcement technique, except Federal or State tax refund offset (which are available only once a year), within 30 working days of identifying a delinquency or other support-related non-compliance with the order. The committee supported this proposal.

This requirement would include taking appropriate enforcement action within 30 working days of notification of non-compliance with an order requiring health insurance coverage. In accordance with current medical support requirements, States must attempt to enforce a requirement in a support order that an absent parent obtain health insurance in cases of non-compliance with such an order. The enforcement action must be taken within 30 working days of being informed that the absent parent has failed to obtain health insurance or within 30 working days of being notified of a lapse in such coverage. In Medicaid-eligible cases, this would be within 30 working days of being informed by the State Medicaid agency of such non-compliance and in all other cases where the custodial parent has consented to such services, this would be within 30 working days of being notified by the custodial parent of non-compliance with the health insurance aspect of an order.

Section 302.70(b) specifies that a State need not apply procedures for State income tax refund offset, imposition of liens against real and personal property, giving security, posting a bond or giving some other guarantee to secure payment of support, or providing information on the amount of overdue support to consumer reporting agencies in a particular case "if the State determines that it is not appropriate using guidelines generally available to the public which take into account the payment record of the absent parent, the availability of other remedies, and other relevant considerations. The guidelines may not determine a majority of cases in which no other remedy is being used to be inappropriate." Therefore, if a State has developed guidelines specifying when use of these enforcement techniques would be inappropriate, the requirement in proposed § 303.6(c)(2) to initiate any appropriate enforcement technique within 30 working days would not apply if use of the technique is inappropriate in a given case, in accordance with those guidelines.

When use of a specific enforcement action requires service of process, process must be served within 10 working days of request for service of process, in accordance with § 303.9 of this proposed rule. This 10-day timeframe must be met within the 30 working day period proposed under § 303.6(c)(2) for enforcement action. Service of process is often an essential step in taking enforcement actions and traditionally many of the delays in providing support enforcement services are delays caused by slow service of process. The advisory committee indicated it is important to place a time limit on serving process and we propose that the service of process be accomplished as part of the overall timeframe for taking the necessary enforcement action. Proposed § 303.9 which addresses service of process requirements is discussed in more detail below.

With regard to Federal and State income tax refund offset, we propose to require in paragraph (c)(3) that States submit all cases which meet the certification requirements for State tax refund offset once a year, in accordance with § 303.102 and State guidelines developed under § 302.70(b), and for Federal tax refund offset in accordance with § 303.72. Federal and State income tax refund offset are particularly effective and efficient mechanisms for enforcing support orders. However, States have not taken full advantage of Federal tax refund offset as evidenced by vastly different State submission practices. To ensure maximum use of these effective enforcement techniques, cases meeting the certification requirements for Federal and State income tax refund offset, as set forth in §§ 303.72 and 303.102, must be submitted.

We propose to require in paragraph (c)(4) that in cases where previous enforcement attempts have been unsuccessful, the State must initiate appropriate enforcement techniques where it becomes aware of changes in the factors which determine the ability to use an enforcement technique. Because it is not acceptable to ignore cases when previous enforcement efforts have failed, States would be required to examine the factors quarterly. The State must keep abreast of case circumstances to determine when the potential for resumed enforcement efforts occurs and take all necessary actions in accordance with § 303.6 (c)(1) through (c)(3).

Because of the proposed changes discussed above, we propose to delete the current list of enforcement techniques in current § 303.6(a) through (f). There is no reason to list some enforcement actions or to try to list all techniques since States are required to take whatever enforcement action is warranted in a particular case.

Service of Process—Section 303.9

Service of process is a necessary element in child support establishment and enforcement cases and many delays in providing services are directly caused by slow and ineffective attempts to serve process.

As specified in OCSE–AT–88–19, expedited processes timeframes apply beginning with the date a case is filed. A State may interpret "case filing" to mean the date the absent parent is served or the date a case is filed. If a State's trigger for the expedited processes timeframes is the date of successful service of process, service must be completed within the proposed case processing timeframes contained in this regulation. Alternatively, if a State's trigger for the expedited processes timeframe is the date a case is filed, service of process must occur within those expedited processes timeframes.

The committee discussed at length that it is crucial to place a time limit on requesting and serving process within the overall timeframes for taking certain actions. They were concerned that a case's forward movement not be halted because service of process is slow or not given adequate attention. Accordingly, we propose to add a new section § 303.9 to require that when service of process is necessary at any point in case processing, service of process must be requested within 2 working days of determination that service of process is necessary and must be completed, in accordance with paragraph (b), within, not in addition to, the overall timeframes for location, establishment of paternity and support orders, and enforcement. Paragraph (b) would require process to be served within 10 working days of the request for service of process.

In order to meet these timeframes, States will need to remedy deficiencies in service of process procedures. Committee members urged us to state clearly in this discussion the fact that, if IV–D agencies encounter difficulty in obtaining adequate and timely responses to requests for service of process, Federal funding at the applicable matching rate is available for the costs of hiring process servers or otherwise purchasing such services as necessary expenditures under the IV–D program. In addition, we urge States to examine alternatives to personal service and redefine what constitutes service of process. We believe that alternatives such as mail service and use of public or private process services on a performance-related contact basis can meet due process concerns and improve attempts to serve process. Simple and effective practices are described in an OCSE Service of Process monograph published in May of 1987 and other OCSE materials.

We recognize that there may be cases in which service of process takes an extended period of time or is impossible because an absent parent successfully avoids service. However, we discussed these concerns with the advisory committee and the committee was comfortable with the belief that this percentage of cases is small enough to be encompassed in the 25 percent margin allowed under the contemplated 75 percent audit standard. We encourage comments in this area.

Procedures for Case Assessment and Prioritization—Section 303.10

Because States may prioritize their IV–D caseload in accordance with the requirements for case assessment and prioritization at § 303.10, we are clarifying the State's responsibility for meeting the proposed requirements contained in this regulation if the State has a prioritization system. As stated in the preamble to the final rule, Procedures for Case Assessment and Prioritization (49 FR 36773, published September 19, 1984), the purpose of case prioritization is to improve case management, not to limit IV–D services. States are required to undertake to secure support and establish paternity in all cases. However, a State may use various case characteristics to determine the order in which cases will be worked.

In previous sections of this proposed rule, we have stressed the overwhelming need for more stringent requirements and standards for paternity establishment and the establishment and enforcement of support obligations. Because we have never intended that case prioritization schemes limit IV–D services, we believe it is necessary to clarify in the regulations governing case prioritization that the requirements in Part 303 must be met if a State implements a case prioritization system. Therefore, we propose to add to § 303.10(a) that, if a State adopts a case assessment and prioritization system, the IV–D agency must continue to meet the timeframes and case processing standards contained in Part 303. We believe this addition is necessary to clarify that prioritizing cases may not result in impeding case processing.

Current § 303.10(b)(5) requires a State, in implementing a case assessment and prioritization system, to prioritize cases after reviewing all intake information for accuracy and completeness and, if review indicates that additional information is needed, prioritize only after attempting to verify or secure the information. We propose to cross reference proposed § 303.2 in § 303.10(b)(5) to ensure that cases are prioritized only after the requirements for establishment of cases and maintenance of case records in proposed § 303.2 are met. Although we are proposing to reference all of Part 303 in § 303.10(a), as mentioned above, we believe that adding a reference to § 303.2 in paragraph (b)(5) is necessary because the initial actions required in proposed § 303.2 are essential to ensure adequate information is available on a case before a State determines the priority of working that case.

Finally, we propose to tie the case processing requirements in Part 303 to the requirement for periodic review of low priority cases contained in current § 303.10(b)(6). We propose to add to paragraph (b)(6) that periodic review of low priority cases must be in accordance with the standards set forth in Part 303, such as quarterly location attempts.

Case Closure Criteria—Section 303.11

Proposed § 303.11 would establish criteria States must use to determine whether child support cases may be closed. Current regulations are silent regarding any criteria which States must apply in evaluating caseloads for the purpose of case closure. This proposal would require State IV–D agencies to establish standards for closing cases which would limit cases the State may close to those in which there is no reasonable expectation of establishing paternity, obtaining a support order, or collecting child or spousal support, either now or in the foreseeable future. These criteria will ensure that dependent children and their custodial parents have the benefit of all the support enforcement services available where the potential for paternity establishment or establishment and enforcement of support exists. Any case not meeting at least one of the standards for closure must remain open and be worked by the State IV–D agency.

The establishment of a system of case closure will allow States to more effectively pursue cases in which circumstances pose reasonable expectations that support enforcement services will result in paternity or support order establishment and the enforcement of orders. State IV–D agencies will be able to close cases with little or no potential for success, currently and in the foreseeable future, and focus their resources on cases with establishment or enforcement potential.

The GAO report mentioned previously noted that the prioritization regulations did not specifically address case closure

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and applied only to those States which opted to use case prioritization procedures. The GAO found that five of the eight sample IV–D offices reviewed for the report did not have written prioritization procedures, and that a significant number of cases were closed by the offices prematurely without adequately pursuing the establishment of paternity and support orders. The report recommended that OCSE develop case closure criteria for IV–D agencies to ensure that efforts to determine paternity and obtain support orders and provide other assistance are adequate.

It is in the best interests of both children and their custodial parents, as well as State IV–D agencies, that clearly defined regulatory standards be established for case closure. At the present time each State may establish case closure criteria, subject only to the requirements mentioned above. Where the State has no standards for case closure and does not periodically evaluate unworkable cases, the IV–D agency is forced to spread available resources inefficiently, resulting in less than effective service given to cases with demonstrated potential for success. In other circumstances, the lack of standards for case closure, or the establishment of standards which are too broad, can result in the arbitrary closing of cases which should have remained open, and the failure to establish paternity and support orders or to collect needed support.

Some States have shown that a careful delineation of case closure criteria can result in program performance improvements; refocusing resources formerly spent unproductively can increase support order establishment and enforcement. In the summer of 1987, OCSE collected and evaluated available information regarding existing State practices and case closure criteria and used this information in developing these proposed criteria.

The advisory committee reviewed and discussed the proposed criteria. Members of the committee agreed with the need for case closure criteria and support the proposed criteria discussed below as reasonable.

If a case does not meet at least one of the following proposed criteria, it must be kept open and worked. However, because current regulations at § 303.10 allow States to establish procedures for case prioritization, States may distinguish between those cases with current success potential and those which do not now, but may in the future, have potential for success. This latter group could include the cases which do not meet the criteria for closure but in which the next required case processing step cannot be taken. Requirements for periodic review in § 303.10 governing case prioritization systems, and elsewhere in Part 303, would apply in these cases.

The proposed § 303.11 would be entitled "Case closure criteria." A new paragraph (a) would require States to establish a system for case closure. Paragraph (b) would establish the criteria for case closure eligibility.

Paragraph (b)(1) would allow closure of a case where the child has reached the age of majority, there is no longer a current support order, and either no arrearages are owed or arrearages are under $150. We believe that this will allow States to reduce caseloads where there is no longer a minor child and arrearages are relatively small. This provision would also ensure that an obligor could not avoid support obligations by evading their support responsibilities until the child reached the age of majority if the amount of past-due support owed was substantial (i.e., over $150).

Proposed § 303.11(b)(2) would allow case closure where the child has not reached the age of majority, arrearages are less than $150, and there is no longer a current support order. Circumstances in which a child has not reached the age of majority but there is no longer a current support order might include termination of parental rights or reconciliation of the child's parents. Termination of parental rights might occur in cases where the child has been legally adopted or has become legally emancipated through marriage. In cases where the parents have reconciled, there would no longer be an absent parent.

Proposed § 303.11(b)(3) would allow a State to close a case upon the death of the absent parent, or putative father, if there are no resources available in the estate from which to recover support. A delinquent absent parent may have assets which he or she has protected from collection procedures, and the parent's death may release these assets for collection by the IV–D agency. States should establish routine procedures for ascertaining the extent of any assets which may be available, including availability of assets upon the death of an absent parent. In the case of the death of a putative father, the IV–D agency should also continue to pursue a paternity action to conclusion if there are assets which can be identified, including social security or other retirement survivors' benefits.

Under proposed paragraph (b)(4), the IV–D agency may close cases in which, either the child is at least 18 years old and the action is barred by a statute of limitations which meets the requirements of § 302.70(a)(5), or the putative father is excluded and no other putative father can be identified. Requiring the IV–D agency to keep cases open beyond this point will serve no useful purpose. In addition, paragraph (b)(4) would specify that, in accordance with § 303.5(b), the IV–D agency need not attempt to establish paternity in any case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending, if, in the opinion of the IV–D agency, it would not be in the best interests of the child to establish paternity.

Although proposed paragraph (b)(4) would allow closure of cases needing paternity establishment under specific, limited conditions, we urge States to make every effort, using all resources available, to establish paternity in every case which requires such action.

Proposed paragraph (b)(5) would allow case closure where the IV–D agency has been unable to locate an absent parent despite having made repeated location efforts using multiple sources, including those listed under § 303.3, over a three-year period. We believe that, if a State has made such efforts, the likelihood of success beyond the three-year period is extremely low. However, we are particularly interested in receiving comments on the three-year, or any other, timeframe in this proposal. Comments on individual or State experience which may support or discredit these proposed timeframes are encouraged.

Paragraph (b)(6) would allow case closure if the absent parent is unable to pay support during the duration of the child's minority because he or she has been institutionalized for at least five years or is incarcerated with a sentence of at least 12 years remaining to be served with no chance for parole. In such cases, the State must also determine that no income or assets are available to the absent parent which could be levied or attached. Income would include earnings while incarcerated. In the case of an institutionalized or incarcerated parent where the timeframes established above have not been met, a IV–D agency which prioritizes cases in accordance with § 303.10 may wish to place the case in a low priority file and review the case periodically for available assets and to determine any change in status.

Paragraph (b)(7) would allow a case to be closed when the absent parent is a citizen of, and lives in, a foreign country, does not work for the United States government or a company which has its headquarters or offices in the United States, and has no reachable domestic income or assets; and the State has been unable to establish reciprocity with the country. If the absent parent resides abroad and the case does not qualify for closure under the above criteria (i.e., reciprocity has been established, or the parent works for a U.S. agency or a company with headquarters or offices in the United States), the State should have a good chance of establishing paternity or establishing and enforcing support. In addition, if an absent parent residing abroad meets all the other criteria for closure in this subparagraph, but is a U.S. citizen, the case should not be closed, since a return to the United States is a possibility. Such cases may qualify for inclusion in a suspense file established under § 303.10.

Paragraph (b)(8) would allow a case to be closed if the resident parent, legal guardian, attorney, or agent of a child requested the State parent locator service (PLS) to submit a request to the Federal PLS under the provisions of § 302.35(c)(3) and the location services have been completed. The advisory committee asked that we clarify that this is a special category of cases in which Federal PLS access only, not full IV–D services, is requested.

Paragraph (b)(9) would allow case closure in a non-AFDC case or in a former AFDC, Medicaid or foster care (title IV–E) case when the custodial parent requests that the case be closed and there are no arrearages assigned to the State. No such option is available to the custodial parent in an open AFDC, Medicaid or foster care case where support has been assigned to the State in accordance with section 402(a)(26) or 1912 of the Act.

Paragraph (b)(10) would allow the IV–D agency to close a case when it has been notified by the IV–A or IV–E agency, in accordance with § 302.31(c), that there has been a finding of good cause for the recipient's failure to cooperate in obtaining support and the IV–A or IV–E agency has determined that paternity establishment or support establishment and enforcement may not proceed without risk or harm to the child or caretaker relative.

Paragraph (c) would require the State, 60 calendar days prior to any case closure because of criteria in paragraphs (b) (1) through (7), to notify the custodial parent in writing of the State's intent to close the case. If a case is closed, the custodial parent may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order, or enforcement of an order.

Paragraph (d) would require the IV–D agency to retain all records for cases closed pursuant to this section for a minimum of three years, in accordance with 45 CFR Part 74, Subpart D.

However, because some families tend to remain on AFDC for long periods of time or leave and then return to the AFDC rolls, States should consider keeping at least minimal information on closed AFDC IV–D cases (e.g., the date and the reason for closure) to avoid duplication of effort should the case be referred again for IV–D services at some, much later, date.

Minimal Organizational and Staffing Requirements—Section 303.20

We believe that the goal of efficient and effective IV–D programs cannot be achieved unless States and localities have an organizational structure and sufficient resources to meet the performance and time standards proposed in this rule. Therefore, we propose to amend current § 303.20(c), minimal organizational and staffing requirements, by requiring that there must be an organizational structure and sufficient resources at the State or local level to meet the performance standards contained in Part 303.

To further ensure effective child support programs, we propose to amend current § 303.20 by adding a new paragraph (g) which would state that, if it is determined as a result of an audit under Part 305 that a State is not in substantial compliance with title IV–D of the Act, the Secretary will evaluate whether insufficient program resources were a contributing factor and, if necessary, may prescribe specific standards for the State.

We discussed the subject of adequate staffing and sufficient resources with the committee. They agreed that inadequate resources, e.g., insufficient staff and inadequate computer capabilities, often result in poor child support services. Perceived resource deficiencies may also stem from or be exacerbated by fragmented and inefficient organizational arrangements, poor work flow, inadequate policies and procedures, and lack of staff training, among other factors. The committee could offer no clear solution to the problem other than States need to focus attention on child support efforts and realign priorities and/or increase available resources to realize the potential of the program's goals. The fact is that, although there is a general requirement that States adequately staff and manage IV–D programs to ensure compliance with Federal requirements, this requirement has never been quantified and thus many have not done so. Each State should examine the overall management and operation of it's IV–D program and, as necessary, consider transferring existing resources or reordering priorities for the benefit of the program which has a high potential for generating revenues for the State as well as for ensuring support for those in need.

Finally, for consistency with the previously mentioned proposal to delete the list of enforcement techniques in § 303.6, we propose to amend § 303.20(c)(7) by replacing the list of available enforcement techniques with a requirement that the activities to enforce collection of support must include wage withholding and other available enforcement techniques.

Incentive Payments to States and Political Subdivisions—Section 303.52 and Proposed Section 304.12

Current § 303.52 sets forth requirements governing incentive payments to both States and political subdivisions. Because regulations for incentive payments, for the most part, govern a financial aspect of the program and do not therefore properly belong in Part 303, which establishes program standards, OCSE is proposing to transfer § 303.52 (a), (b) and (c) to 45 CFR Part 304, Federal Financial Participation. We are proposing this technical change because we believe that this section would be more appropriately located in Part 304 since it is not directly related to program operations. Accordingly, current 45 CFR 303.52(d) would be redesignated as § 303.52. Furthermore, we propose to change the section title, Incentive payments to States and political subdivisions, to Pass-through of incentives to political subdivisions, since this is the only requirement remaining in this section.

To implement the provisions of sections 103(e) and 127 of Pub. L. 100–485, we propose to amend regulations governing incentive payments (proposed § 304.12) in two ways. First, we propose to implement section 127, which amends section 458(d) of the Act to exclude the costs of interstate grants when computing incentive payments, by revising paragraph (b)(4)(v) to state that, effective January 1, 1990, in calculating the amount of incentive payments, amounts expended by the State in carrying out a special project under section 455(e) of the Act shall not be included in the State's total IV–D administrative costs. In addition, we propose to implement section 103(e) of Pub. L. 100–485 by adding a new paragraph (vi) which would state that

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the costs of demonstration projects for evaluating model procedures for reviewing child support awards under section 103(e) of Pub. L. 100-485 shall not be included in a State's total IV-D administrative costs for purposes of computing incentives.

For consistency with the redesignation of most of § 303.52 as § 304.12, all references to § 302.52 (a) through (c) in other regulations would be changed to refer to § 304.12.

Medical Support Enforcement—Part 306

Currently, Part 306 is divided into two subparts. Current Subpart A contains requirements governing optional cooperative agreements and Subpart B contains required IV-D medical support activities. Because Subpart B contains medical support enforcement requirements which should more appropriately appear in Part 303, we propose to move the requirements under current Subpart B (§ 306.50, Securing medical support information, and § 306.51, Securing medical support obligations) to Part 303 as new §§ 303.30 and 303.31, respectively. The regulations under current Subpart A would remain as Part 306 without the heading of Subpart A.

For consistency with the changes and redesignations within Part 306, all references in program regulations to regulations in current Part 306 would be changed to reflect the transfer of the contents of Subpart B to Part 303 and the redesignation of Subpart A of Part 306 as Part 306.

Economic Impact

The Child Support Enforcement program was established under title IV-D of the Act by the Social Services Amendments of 1974, for the purposes of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity and obtaining child support. The IV-D program collected some $4.7 billion in FY 1988—over $1.5 billion on behalf of children receiving AFDC and the remainder on behalf of children not receiving AFDC. State and local expenditures amounted to $1.2 billion. Collections for AFDC families, after a $50 disregard, are used to offset the costs of assistance payments made to such families. The intent of this proposed regulation is to improve the efficiency and effectiveness of IV-D programs. Because this proposed rule strengthens and clarifies existing program operations regulations, it is expected that State performance will improve and cases will be worked more effectively. Any increase in administrative costs will be minimized if States transfer existing resources to concentrate on child support enforcement efforts and will be more than offset by an increase in collections. The principal impact of the regulation will be on State operations. State expenditures may increase initially; however, we believe that the increase will be more than offset by the increase in collections, and therefore, a net savings to State governments will result.

Executive Order 12291

The Secretary has determined, in accordance with Executive Order 12291 that this rule does not constitute a "major" rule. A major rule is one that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule clarifies and strengthens current regulations governing IV-D program operations and any increase in administrative costs to the States will be more than offset by increased collections under the program. If States reallocate existing resources to concentrate efforts on child support enforcement, the return on that investment of resources will far exceed any initial increase in cost to the State.

The proposed case closure criteria contained in § 303.9 should result in improved performance of State IV-D agencies because it will ensure that available resources are focused on IV-D cases in which there is a potential for paternity establishment and support order establishment and enforcement. It will allow States to close unworkable cases and improve the management of their caseloads. Increased efforts focused on workable cases should result in increased collections, and in AFDC cases, increased savings to the State and Federal governments.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this regulation will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments and individuals, which are not considered small entities under the Act.

Lists of Subjects

45 CFR Parts 301, 303 and 304

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

45 CFR Part 302

Child support, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Unemployment compensation.

45 CFR Part 306

Child support, Grant programs—social programs, Medicaid, Reporting and recordkeeping requirements.

45 CFR Part 307

Child support, Grant programs—social programs, Computer technology, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 13.783, Child Support Enforcement Program.)

Dated: April 6, 1989.

Catherine Bertini,

Acting Director, Office of Child Support Enforcement.

Approved: April 6, 1989.

Louis W. Sullivan,

Secretary.

For the reasons set forth in the preamble, 45 CFR Parts 301 through 304, 306 and 307 are proposed to be amended as set forth below.

PART 301—[AMENDED]

1. The authority citation for Part 301 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

§§ 301.1, 306.1, and 303.52 [Amended]

2. Section 301.1 is amended by moving the definitions of "Medicaid agency" and "Medicaid" which are currently in § 306.1 (b) and (c) and removing the paragraph designations, and inserting the definitions after the definition of "IV-D agency" and by moving the definition of "Political subdivision" which is currently in § 303.52(a) and inserting it after the definition of "Past-due support".

PART 302—[AMENDED]

1. The authority citation for Part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. Section 302.32 is amended by the revising the first sentence of paragraph (b) and adding paragraph (f) to read as follows:

§ 302.32 Support payments to the IV-D agency.

* * * * *

(b) The IV-D agency must inform the State's IV-A agency of the amount of the collection which represents payment on the required support obligation for the month as determined in § 302.51(a) within 10 working days from the date of receipt by the IV-D agency responsible for final distribution of the collection.

* * * .

* * * * *

(f) *Timeframes for distribution of support payments.* (1) In interstate IV-D cases, amounts collected by the responding State on behalf of the initiating State must be forwarded to the initiating State within 10 working days of the initial point of receipt in the responding State, in accordance with § 303.7(c)(7)(iv).

(2) Amounts collected by the IV-D agency on behalf of current recipients of aid under the State's title IV-A or IV-E plan for whom an assignment under § 232.11 of this title or section 471(a)(17) of the Act is effective shall be distributed as follows:

(i) Payments to the family in AFDC cases under § 302.51(b)(1) of this part must be made within 15 working days of the date of initial receipt in the State.

(ii) Except as specified under paragraph (f)(1)(iv) of this section, collections distributed under § 302.51(b)(2) through (5) of this part must be distributed within 15 working days of notice of eligibility redetermination by the IV-A agency, but may be distributed prior to eligibility redetermination at the IV-D agency's discretion.

(iii) Except as specified in paragraph (f)(1)(iv) of this section, collections in title IV-E foster care cases must be distributed within 15 working days of the date of initial receipt in the State.

(iv) Collections as a result of Federal or State tax refund offset must be distributed in AFDC cases under § 302.51(b) (4) and (5) and in title IV-E foster care cases under § 302.52(b) (3) and (4) within 15 working days of the date of initial receipt in the State.

(3) Amounts collected on behalf of individuals receiving services under § 302.33 of this part shall be distributed as follows:

(i) Amounts collected which represent payment on the current support obligation shall be paid to the family within 15 working days of the date of initial receipt in the State.

(ii) Except as specified in paragraph (f)(2)(iii), if the amount collected is more than the amount required to be distributed in paragraph (f)(2)(i) of this section, the State may at its discretion either pay such amounts to the family to satisfy past-due support within 15 working days of the date of initial receipt in the State or retain such amounts as have been assigned to satisfy assistance paid to the family which has not been reimbursed.

(iii) Amounts collected as a result of Federal income tax refund offset to satisfy past-due support in non-AFDC cases shall be distributed under § 302.51(b) (4) and (5) within 15 working days of the date of initial receipt in the State, except as provided in § 303.72(h)(5) of this chapter.

§ 302.51 [Amended]

3. Section 302.51 is amended by changing all references to "§ 303.52" to "§ 304.12," by removing the sentence "In any case in which collections are received by an entity other than the agency responsible for final distribution under this section, the entity must transmit the collection within 10 days of receipt." in paragraph (a), and by removing the sentence "This payment shall be made in the month following the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the State's title IV-A plan." in paragraphs (b) (3) and (5).

§ 302.55 [Amended]

4. Section 302.55 is amended by changing reference to "§ 303.52" to "§ 304.12" and the reference to "§ 303.52(d)" to "§ 303.52".

§ 302.80 [Amended]

5. Section 302.80 is amended by removing the words "Subpart A of" in paragraph (a) and replacing the words "Subpart B of Part 306" in paragraph (b) with the words "§§ 303.30 and 303.31".

PART 303—[AMENDED]

1. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. Part 303 is amended as follows:

§ 303.0 [Amended]

a. Section 303.0 is amended by removing the words "effective July 1, 1975;" in paragraph (a).

b. Section 303.2 is revised to read as follows:

§ 303.2 Establishment of cases and maintenance of case records.

(a) The IV-D agency must:

(1) Make applications for child support services readily accessible to the public;

(2) Provide applications on the day an individual requests an application or services. Information describing available services, the individual's rights and responsibilities, and the State's fees, cost recovery and distribution policies must accompany all applications for services; and

(3) Accept an application as filed on the day it is received. An application is a written document provided by the State which indicates that the individual is seeking assistance with a child support problem and is signed by the individual applying for IV-D services.

(b) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter, the IV-D agency must open a case within two working days of receipt of referral or application for services by establishing a case record. The case record must be supplemented with all information and documents pertaining to the case, as well as all relevant facts, dates, actions taken, contacts made and results in a case.

(c) Within 15 working days of receipt of referral of a case or of an application for services under § 302.33, based on an assessment of the case to determine necessary action:

(1) Solicit necessary and relevant information from the custodial parent and other relevant sources and initiate verification of information;

(2) Access all appropriate State and local automated sources to determine the absent parent's address, employer, income and assets, if necessary;

(3) If there is adequate location information to proceed with the case, initiate appropriate service within 2 working days of determination of next appropriate action or service; and

(4) If there is inadequate location information to proceed with the case, request additional information or refer the case for further location attempts, as specified in § 303.3.

c. Section 303.3 is revised to read as follows:

§ 303.3 Location of absent parents.

(a) *Definition.* "Location" means the confirmed physical whereabouts of the absent parent, his or her employer(s), other sources of income and/or assets.

(b) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter, the IV-D agency must attempt to locate all absent parents or sources of income and/or assets when their location is unknown. Under this standard, the IV-D agency must:

(1) Use appropriate local locate sources such as officials and employees

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administering public assistance, general assistance, medical assistance, food stamps and social services (whether such individuals are employed by the State or a political subdivision), relatives and friends of the absent parent, current or past employers, the local telephone company, the U.S. Postal Service, financial references, unions, fraternal organizations, and police, parole, and probation records if appropriate;

(2) Establish working relationships with all appropriate local agencies in order to utilize local locate resources effectively;

(3) Use appropriate State agencies and departments, which at a minimum must include those departments which maintain records of public assistance, wages and employment, unemployment insurance, income taxation, driver's licenses, vehicle registration, and criminal records;

(4) Within 30 working days of referral of the case, application under § 302.33 or request for location in accordance with paragraph (b)(8) of this section, access all appropriate location sources;

(5) Transmit appropriate cases to the Federal PLS, including cases which qualify for submittal to the FPLS and for which State and local location efforts have been unsuccessful;

(6) Within 2 working days of location, initiate necessary action or service;

(7) Refer appropriate cases to the IV–D agency of any other State, in accordance with the requirements of § 303.7 of this Part. The IV–D agency of such other State shall follow the procedures in paragraphs (b) (1) through (8) of this section for such cases, as necessary except that the responding State is not required to access the Federal PLS under section (b)(4) of this section;

(8) Repeat location attempts quarterly in appropriate cases in which previous attempts to locate absent parents or sources of income and/or assets have failed, but adequate information exists to meet requirements for submittal for location, in conjunction with quarterly updates of State employment security files; and

(9) If at any point in case processing the absent parent's location or location of sources of income and/or assets becomes unknown, refer for location services within 5 working days of determining that location is unknown.

d. The introductory text of § 303.4 is republished and the section is amended by adding new paragraphs (d) and (e) to read as follows:

§ 303.4 Establishment of support obligations.

For all cases referred to the IV–D agency or applying for services under § 302.33 of this chapter, the IV–D agency must:

* * * * *

(d) Within 30 working days of locating an absent parent or establishing paternity, establish a support order or file a petition for establishment of a support order with the court or administrative authority responsible for establishment of obligations;

(e) If the court or administrative authority dismisses a petition for a support order without prejudice, the IV–D agency must examine the reasons for dismissal, determine when it would be appropriate to seek an order in the future, and seek a support order at that time.

e. Section 303.5 is amended by revising paragraphs (a) and (c) to read as follows:

§ 303.5 Establishment of paternity.

(a) For all cases referred to the IV–D agency or applying for services under § 302.33 of this chapter in which paternity has not yet been established, the IV–D agency must:

(1) Within one year of locating the alleged father:

(i) Establish paternity by court order or other legal process established under State law;

(ii) Establish paternity by acknowledgment if under State law such acknowledgment has the same legal effect as court-ordered paternity, including the right to benefits other than child support; or

(iii) Exclude the alleged father as a result of genetic tests.

(2) In any case where an alleged father is excluded but more than one alleged father has been identified, the IV–D agency must meet the requirements set forth in paragraph (a)(1) of this section for each alleged father identified.

* * * * *

(c) The IV–D agency must identify and use through competitive procurement laboratories which perform, at reasonable cost, legally and medically acceptable genetic tests, including blood tests, which tend to identify the father or exclude the alleged father. The IV–D agency must make available a list of such laboratories to appropriate courts and law enforcement officials, and to the public upon request.

f. Section 303.6 is revised to read as follows:

§ 303.6 Enforcement of support obligations.

For all cases referred to the IV–D agency or applying for services under § 302.33 in which the obligation to support and the amount of the obligation have been established, the IV–D agency must maintain and use an effective system for:

(a) Monitoring compliance with the support obligation;

(b) Identifying on the date the parent fails to make payments in an amount equal to the support payable for one month, or on an earlier date in accordance with State law, those cases in which there is a failure to comply with the support obligation; and

(c) Enforcing the obligation by:

(1) Initiating income withholding, in accordance with § 303.100;

(2) Initiating any other available enforcement technique, except Federal and State income tax refund offset, as appropriate in accordance with § 302.70(b) of this Chapter, within 30 working days of identifying a delinquency or other support-related noncompliance with the order;

(3) Submitting once a year, all cases which meet the certification requirements for State income tax refund offset, in accordance with § 303.102 and State guidelines developed under § 302.70(b), and for Federal income tax refund offset, in accordance with the requirements of § 303.72 of this part; and

(4) In cases where previous enforcement attempts have been unsuccessful, examine the factors which determine the ability to use an enforcement technique quarterly and initiate appropriate enforcement techniques as appropriate in accordance with the requirements of this section.

§ 303.7 [Amended]

g. Section 303.7(c) is amended by amending paragraph (c)(4) to replace the words "60 days" with the words "30 working days" and by adding the words "with the exception of the requirement to access the Federal PLS in § 303.3(b)(4)." after "§ 303.3 of this part" in paragraph (c)(4)(i).

h. A new § 303.9 entitled "Service of process" is added to read as follows:

§ 303.9 Service of process.

(a) When service of process is necessary at any point in case processing, service of process must be requested within 2 working days of a determination that service of process is necessary and must be completed in accordance with paragraph (b) of this section within the overall timeframes for

location, establishment of paternity and support orders and enforcement set forth in this Part; and

(b) Process must be served within 10 working days of the request for service of process.

i. The introductory text of § 303.10(b) is republished and § 303.10 is amended by revising paragraphs (a), (b)(5) and (b)(6) to read as follows:

§ 303.10 Procedures for case assessment and prioritization.

(a) The IV–D agency may implement a case assessment and prioritization system Statewide or in a particular political subdivision of the State to manage its caseload. If a IV–D agency implements a case assessment and prioritization system, the IV–D agency must continue to meet the timeframes and case processing standards contained in this Part.

(b) In implementing a case assessment and prioritization system, the IV–D agency must:

* * * * *

(5) Prioritize cases after reviewing all intake information for accuracy and completeness and, if review indicates that additional information is needed, prioritize only after attempting to verify or secure the information in accordance with § 303.2.

(6) Establish a mechanism for the periodic review of low priority cases in accordance with the standards set forth in Part 303, and for notifying the custodial parent in these cases that new information may result in a higher priority for the case.

j. A new § 303.11 entitled "Case closure criteria" is added to read as follows:

§ 303.11 Case closure criteria.

(a) The IV–D agency shall establish a system for case closure.

(b) In order to be eligible for closure, the case must meet at least one of the following criteria:

(1) In the case of a child who has reached the age of majority, there is no longer a current support order and arrearages are under $150;

(2) In the case of a child who has not reached the age of majority, there is no longer a current support order and arrearages are under $150;

(3) The absent parent or putative father is deceased and no further action, including a levy against the estate, can be taken;

(4) Paternity cannot be established because:

(i) the child is at least 18 years old and action to establish paternity is barred by a statute of limitations which meets the requirements of § 302.70(a)(5) of this chapter;

(ii) a court or administrative process has excluded the putative father and no other putative father can be identified; or

(iii) in accordance with § 303.5(b) of this part, the IV–D agency has determined that it would not be in the best interests of the child to establish paternity in a case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending;

(5) The absent parent's location is unknown, and the State has made regular attempts using multiple sources to locate the absent parent over a three-year period, all of which have been unsuccessful;

(6) The absent parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility for at least five years or is incarcerated with a sentence of at least 12 years remaining to be served and there is no chance for parole. The State must also determine that no income or assets are available to the absent parent which could be levied or attached for support;

(7) The absent parent is a citizen of, and lives in, a foreign country, does not work for the Federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and the State has been unable to establish reciprocity with the country;

(8) The IV–D agency has provided location-only services as requested under § 302.35(c)(3) of this chapter;

(9) The non-AFDC custodial parent requests closure of a case and there is no assignment to the State of arrearages which accrued under a support order; or

(10) There has been a finding of good cause as set forth at §§ 302.31(c) and 232.40 through 232.49 of this chapter and the State or local IV–A or IV–E agency has determined that support enforcement may not proceed without risk or harm to the child or caretaker relative.

(c) In cases meeting the criteria in paragraphs (b) (1) through (7) of this section, the State must notify the custodial parent in writing 60 calendar days prior to closure of the case of the State's intent to close the case. If the case is closed, the custodial parent may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order.

(d) The IV–D agency must retain all records for cases closed pursuant to this section for a minimum of three years, in accordance with 45 CFR Part 74, subpart D.

k. Section 303.20 is amended by revising the introductory language in paragraph (c) and paragraph (c)(7) and adding new paragraph (g) to read as follows:

§ 303.20 Minimum organizational and staffing requirements.

* * * * *

(c) There is an organizational structure and sufficient resources at the State and local level to meet the performance and time standards contained in this part and to provide for the administration or supervision of the following support enforcement functions:

* * * * *

(7) *Enforcement.* Activities to enforce collection of support, including income withholding and other available enforcement techniques.

* * * * *

(g) If it is determined as a result of an audit conducted under Part 305 of this chapter that a State is not in substantial compliance with the requirements of title IV–D of the Act, the Secretary will evaluate whether inadequate resources was a major contributing factor and, if necessary, may set resource standards for the State.

§§ 303.30 and 303.31 [Redesignated From 306.50 and 306.51 Respectively]

l. Section 306.50 is redesignated as a new § 303.30 and § 306.51 is redesignated as a new § 303.31.

§§ 303.52 and 301.1 [Amended]

m. In § 303.52, the definition of "Political subdivision" is moved from paragraph (a) to § 301.1 and § 303.52 is revised to read as follows:

§ 303.52 Pass-through of incentives to political subdivisions.

The State must calculate and promptly pay incentives to political subdivisions as follows:

(a) The State IV–D agency must develop a standard methodology for passing through an appropriate share of its incentive payment to those political subdivisions of the State that participate in the costs of the program, taking into account the efficiency and effectiveness of the activities carried out under the State plan by those political subdivisions. In order to reward efficiency and effectiveness, the methodology also may provide for payment of incentives to other political subdivisions of the State that administer the program.

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(b) To ensure that the standard methodology developed by the State reflects local participation, the State IV–D agency must submit a draft methodology to participating political subdivisions for review and comment or use the rulemaking process available under State law to receive local input.

§ 303.72 [Amended]

n. Section 303.72(g)(8) is amended by changing the reference to "§ 303.52" to "§ 304.12."

§ 303.73 [Amended]

o. Section 303.73(a)(1) is amended by changing the reference to "§ 303.7(a)(3)" to "§ 303.7."

§ 303.100 [Amended]

p. Section 303.100(e)(2) is amended by removing the word "promptly" after the word "distributed".

§ 303.102 [Amended]

q. Section 303.102(g)(1) is amended by removing the words "Within a reasonable time period in accordance with State law," and capitalizing the word "a" before the word "State".

PART 304—[AMENDED]

1. The authority citation in Part 304, continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. Part 304 is amended by adding a new § 304.12, entitled "Incentive payments" and by amending §§ 304.20(b)(2), 304.23 and 304.26 as follows:

§ 304.12 Incentive payments

(a) *Definitions.* For the purposes of this section: "AFDC collections" means support collections satisfying an assigned support obligation under § 232.11 of this title or section 471(a)(17) of the Act, including collections treated in accordance with paragraph (b)(4)(ii) of this section.

"Non-AFDC Collections" means support collections, on behalf of individuals receiving services under this title, satisfying a support obligation which has not been assigned under § 232.11 of this title or section 471(a)(17) of the Act, including collections treated in accordance with paragraph (b)(4)(ii) of this section and collections made under § 302.51(e) of this chapter.

"Total IV–D administrative costs" means total IV–D administrative expenditures claimed by a State in a specified fiscal year adjusted in accordance with paragraphs (b)(4)(iii), (b)(4)(iv) and (b)(4)(v) of this section.

(b) *Incentive payments to States.* Effective October 1, 1985, the Office shall compute incentive payments for States for a fiscal year in recognition of AFDC collections and of non-AFDC collections.

(1) A portion of a State's incentive payment shall be computed as a percentage of the State's AFDC collections, and a portion of the incentive payment shall be computed as a percentage of its non-AFDC collections. The percentages are determined separately for AFDC and non-AFDC portions of the incentive. The percentages are based on the ratio of the State's AFDC collections to the State's total administrative costs and the State's non-AFDC collections to the State's total administrative costs in accordance with the following schedule:

RATIO OF COLLECTIONS TO TOTAL IV–D ADMINISTRATIVE COSTS

	Percent of collection paid as an incentive
Less than 1.4	6.0
At least 1.4	6.5
At least 1.6	7.0
At least 1.8	7.5
At least 2.0	8.0
At least 2.2	8.5
At least 2.4	9.0
At least 2.6	9.5
At least 2.8	10.0

(2) The ratios of the State's AFDC and non-AFDC collections to total IV–D administrative costs will be truncated at one decimal place.

(3) The portion of the incentive payment paid to a State for a fiscal year in recognition of its non-AFDC collections is limited to the percentage of the portion of the incentive payment paid for that fiscal year in recognition of its AFDC collections, as follows:

(i) 100 percent in fiscal years 1986 and 1987;

(ii) 105 percent in fiscal year 1988;

(iii) 110 percent in fiscal year 1989; and

(iv) 115 percent in fiscal year 1990 and thereafter.

(4) In calculating the amount of incentive payments, the following conditions apply:

(i) Only those AFDC and non-AFDC collections distributed and expenditures claimed by the State in the fiscal year shall be used to determine the incentive payment payable for that fiscal year;

(ii) Support collected by one State on behalf of individuals receiving IV–D services in another State shall be treated as having been collected in full by each State;

(iii) Fees paid by individuals, recovered costs, and program income such as interest earned on collections shall be deducted from total IV–D administrative costs;

(iv) At the option of the State, laboratory costs incurred in determining paternity may be excluded from total IV–D administrative costs; and

(v) Effective January 1, 1990, amounts expended by the State in carrying out a special project under section 455(e) of the Act shall not be included in the State's total IV–D administrative costs.

(vi) Costs of demonstration projects for evaluating model procedures for reviewing child support awards under section 103(e) of Pub. L. 100–485 shall not be included in the State's total IV–D administrative costs.

(c) *Payment of incentives.* (1) The Office will estimate the total incentive payment that each State will receive for the upcoming fiscal year.

(2) Each State will include one-quarter of the estimated total payment in its quarterly collection report which will reduce the amount that would otherwise be paid to the Federal government to reimburse its share of assistance payments under §§ 302.51 and 302.52 of this chapter.

(3) Following the end of a fiscal year, the Office will calculate the actual incentive payment the State should have received based on the reports submitted for that fiscal year. If adjustments to the estimate made under paragraph (c)(1) of this section are necessary, the State's IV–A grant award will be reduced or increased because of over- or under-estimates for prior quarters and for other adjustments.

(4) For FY 1985, the Office will calculate a State's incentive payment based on AFDC collections retained by the State and paid to the family under § 302.51(b)(1) of this chapter.

(5) For FY 1986 and 1987, a State will receive the higher of the amount due it under the incentive system and Federal matching rate in effect as of FY 1986 or 80 percent of what it would have received under the incentive system and Federal matching rate in effect during FY 1985.

§ 304.20 [Amended]

b. Section 304.20(b)(2) is amended by substituting the word "genetic" for the word "blood" wherever it appears and changing the reference to "§ 303.5(b)" to "§ 303.5(c)".

§ 304.23 [Amended]

c. Section 304.23(g) is amended by removing the words ", Subpart A," after the words "Part 306".

§ 304.26 [Amended]

d. Section 304.26(b) is amended by changing the reference to "§ 303.52" to "§ 304.12".

PART 306—[AMENDED]

§§ 306.1 and 301.1 [Amended]

§§ 306.50 and 306.51 [Redesignated as §§ 303.30 and 303.31]

Part 306 is amended by transferring the definitions of "Medicaid agency" and "Medicaid" from §306.1 to § 301.1, transferring the contents of Subpart B—Required IV–D Activities, which consists of §§ 306.50 and 306.51, to Part 303 and redesignating them as new §§ 303.30 and 303.31, respectively, and the part is revised to read as follows:

PART 306—OPTIONAL COOPERATIVE AGREEMENTS FOR MEDICAL SUPPORT ENFORCEMENT

Sec.

306.0 Scope of this part.
306.2 Cooperative agreement.
306.10 Functions to be performed under a cooperative agreement.
306.11 Administrative requirements of cooperative agreements.
306.20 Prior approval of cooperative agreements.
306.21 Subsidiary cooperative agreements with courts and law enforcement officials.
306.22 Purchase of service agreements.
306.30 Source of funds.

Authority: 42 U.S.C. 652, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

§ 306.0 Scope of this part.

This part defines the requirements for an optional cooperative agreement between the IV–D agency and the Medicaid agency for the purpose of enforcing medical support obligations under section 1912 of the Act.

§ 306.2 Cooperative agreement.

The cooperative agreement between the IV–D agency and the Medicaid agency shall be a written agreement for the IV–D agency to assist the Medicaid agency by securing and enforcing the medical support obligation of an absent parent to a child for whom an assignment of medical support rights has been executed under 42 CFR 433.146. The functions that the IV–D agency may perform under the cooperative agreement are set forth in § 306.10. The administrative requirements are set forth at § 306.11.

§ 306.10 Functions to be performed under a cooperative agreement.

The functions that the IV–D agency may perform under a cooperative agreement with the Medicaid agency are limited to one or any combination of the following activities. The agency may:

(a) Receive referrals from the Medicaid agency.

(b) Locate the absent parent, using the State Parent Locator Service and the Federal Parent Locator Service, as needed.

(c) Establish paternity if necessary.

(d) Determine whether the parent has a health insurance policy or plan that covers the child.

(e) Obtain sufficient information about the health insurance policy or plan to permit the filing of a claim with the insurer.

(f) File a claim with the insurer; or transmit the necessary information to the Medicaid agency, or to the appropriate State agency or fiscal agent for the filing of the claim; or require the absent parent to file a claim.

(g) Secure health insurance coverage through court or administrative order.

(h) Take direct action against the absent parent to recover amounts necessary to reimburse medical assistance payments when the absent parent does not have health insurance and the amounts collected will not reduce the absent parent's ability to pay child support.

(i) Receive medical support collections.

(j) Distribute the collections as required by 42 CFR 433.154 including calculation and payment of the incentives provided for by 42 CFR 433.153.

(k) Perform other functions as may be specified by instructions issued by the Office of Child Support Enforcement.

§ 306.11 Administrative requirements of cooperative agreements.

(a) *Organizational structure.* The cooperative agreement must:

(1) Describe the organizational structure of the unit or units within the IV–D agency that are responsible for medical support enforcement activities.

(2) List the medical support enforcement functions that are to be performed outside of the IV–D agency with the name of the organization responsible for performance.

(3) Provide that the IV–D agency shall have responsibility for securing compliance with the requirements of the cooperative agreement by individuals or agencies outside the IV–D agency performing medical support enforcement functions.

(b) *Maintenance of records.* The cooperative agreement must specify that the IV–D agency will establish and maintain case records of medical support enforcement activities in accordance with the provisions of § 302.15 of this chapter.

(c) *Safeguarding information.* The cooperative agreement must provide that the use or disclosure of information concerning applicants for, or recipients of, medical support enforcement services is subject to the limitations in § 303.21 of this chapter.

(d) *Fiscal policies and accountability.* (1) The cooperative agreement must provide that the IV–D agency will maintain an accounting system and supporting fiscal records adequate to assure that claims for reimbursement from the Medicaid agency are in accordance with applicable Federal requirements in 45 CFR Part 74.

(2) The cooperative agreements must provide for the establishment of a method for properly allocating those costs that cannot be directly charged to the medical support enforcement effort.

§ 306.20 Prior approval of cooperative agreements.

(a) Prior to implementation, the IV–D agency must submit two copies of any cooperative agreement entered into under this part to the Regional Representative for approval.

(b) The Regional Representative will review the cooperative agreement for conformity with the requirements of this part and 42 CFR 433.152.

(c) The Regional Representative will promptly notify the State of approval or disapproval. The State may consider the agreement approved if notification is not received within 60 days after the agreement is received by the Regional Representative.

§ 306.21 Subsidiary cooperative agreements with courts and law enforcement officials.

The IV–D agency will enter into subsidiary written cooperative agreements with appropriate courts and law enforcement officials to the extent necessary to perform those functions specified in the cooperative agreement between the IV–D agency and the Medicaid agency. These agreements must be made in accordance with the requirements of § 302.34 (Cooperative agreements).

§ 306.22 Purchase of service agreements.

The IV–D agency will enter into written purchase of service agreements to the extent necessary to fulfill the requirements of its cooperative agreement with the Medicaid agency.

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§ 306.30 Source of funds.

The cooperative agreement must specify that the IV–D agency will receive full reimbursement from the Medicaid agency for all medical support enforcement activities performed under the agreement. (See § 306.11(d) for requirements on fiscal policies and accountability.)

PART 307—[AMENDED]

1. The authority citation for Part 307 continues to read as follows:

Authority: 42 U.S.C. 652 through 656, 664, 666, 667 and 1302.

§ 307.10 [Amended]

2. Section 307.10 is amended by changing the reference in paragraph (a)(2)(xiii) to "45 CFR Part 306" to "§§ 303.30 and 303.31".

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April 19, 1989

Part III

Department of Health and Human Services
Family Support Administration

Department of Labor
Employment and Training Administration

45 CFR Part 251
Aid to Families With Dependent Children; Job Opportunities and Basic Skills Training Program; Program Participant Employment Protection; Proposed Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

DEPARTMENT OF LABOR

Employment and Training Administration

45 CFR Part 251

RIN 0970-AA67

Aid to Families With Dependent Children; Job Opportunities and Basic Skills Training Program; Program Participant Employment Protection

AGENCY: Family Support Administration, HHS, and Employment and Training Administration, DOL.

ACTION: Proposed rule.

SUMMARY: These proposed regulations set forth provisions that must be met in assigning a participant to any program activity in the Job Opportunities and Basic Skills Training (JOBS) program. They also establish procedures for resolving displacement complaints by regular workers and disputes regarding on-the-job working conditions, workers' compensation, and wage rates under the community work experience program (CWEP) which apply to JOBS program participants. They further provide that these procedures apply to any other work-related programs and activities authorized in connection with the AFDC program under section 1115 of the Social Security Act. These conditions will establish appropriate participation conditions and grievance and appeals procedures.

DATE: Interested persons and agencies are invited to submit written comments concerning these regulations no later than June 19, 1989.

ADDRESS: Comments should be submitted in writing to the Assistant Secretary for Family Support, Attention: Ms. Carol Callahan, Acting Director, Division of Special Initiatives, 370 L'Enfant Promenade SW., 5th Floor, Washington, DC 20447, or delivered to the Family Support Administration, Office of Family Assistance, 370 L'Enfant Promenade SW., 5th Floor, Washington, DC 20447, between 8:00 a.m. and 4:30 p.m., on regular business days. Comments received may be inspected during the same hours by making arrangements with the HHS contact person shown below.

FOR FURTHER INFORMATION CONTACT: For HHS: Ms. Carol Callahan, Family Support Administration, Office of Family Assistance, 5th Floor, 370 L'Enfant Promenade SW., Washington, DC 20047, telephone: (202) 252-4979; for DOL: Mr. Robert N. Colombo, Employment and Training Administration, Room N-4703, 200 Constitution Avenue NW., Washington, DC 20210, telephone: (202) 535-0577.

SUPPLEMENTARY INFORMATION:

Background

On October 13, 1988, the President signed the Family Support Act of 1988 (hereafter referred to as the Statute), Pub. L. 100-485. Title II of the Statute creates a new education, training and employment program known as the Job Opportunities and Basic Skills Training (JOBS) program under title IV-F of the Social Security Act. The purpose of the JOBS program is to assure that needy families with children obtain education, training, and employment that will help them avoid long term welfare dependence.

Associated with participation in the JOBS program, the Statute requires the establishment of provisions related to on-the-job working conditions, tort claims protections, workers' compensation, displacement and grievance procedures to protect currently employed workers and program participants. As directed by the Statute, the Department of Health and Human Service (HHS) coordinated with the Department of Labor (DOL) to propose joint regulations on these provisions.

Discussion of the Regulations

The Statute requires each State to have a JOBS program under a plan approved by the Secretary of Health and Human Services (Secretary) no later than October 1, 1990. The Statute also permits States to implement a JOBS program as early as July 1, 1989, even if implementing regulations have not been published. It further requires each State to make the program available in each subdivision of the State where it is feasible to do so by October 1, 1992. At least every two years, the State must review and update its JOBS plan and submit the updated JOBS plan to the Secretary for approval.

These regulations discuss provisions in section 484 of title IV-F of the Social Security Act (as added by section 201(b) of the Statute). Such provisions apply both to the JOBS program and work-related activities authorized in connection with the AFDC program under section 1115 of the Social Security Act. (Hereafter references to the JOBS program will also apply to such section 1115 activities.) These provisions require the Secretaries of Health and Human Services and Labor to issue joint regulations with respect to on-the-job working conditions, tort claims protections, workers' compensation, and displacement as related to the JOBS program. Disputes relating to on-the-job working conditions, workers' compensation, and wage rates for CWEP hours for participants in the JOBS program are to be heard under the State agency's fair hearing process. States are also to establish grievance procedures for resolving displacement complaints. Appeals of State decisions may be made to the Administrative Law Judges, U.S. Department of Labor, under the conditions set forth in these regulations.

Section 251.1 of the regulations proposes that participants be assigned to employment and training activities within the JOBS program which they are capable of performing on a regular basis, that they not be required to travel an unreasonable distance from their homes to the work and training site, that they be provided necessary support services, including child care, and that the training be appropriate. Several factors are considered in determining the participant's capability to perform tasks on a regular basis. The definition of unreasonable distance incorporates a standard of two hours per day commuting time, unless community standards are higher; this policy is consistent with that used under the Work Incentive (WIN) program. This section further provides that JOBS participants in work and training assignments will be protected by the same State and Federal health and safety standards as other individuals in similar assignments who are not participating in the JOBS program. Also, no person participating in the JOBS program will be subjected to discrimination based on race, sex, national origin, religion, age or handicapping condition.

Section 251.2 proposes to require that each JOBS participant in a work or training activity covered by a State workers' compensation statute or system will be assured of workers' compensation, including medical, accident, and income maintenance insurance, to the same extent as that available to others who are employed in similar activities. In work assignments, such as CWEP, where workers' compensation may not be applicable, on-site medical and accident insurance similar to that required by the workers' compensation system must be provided. However, income maintenance insurance is not required since the family's AFDC eligibility would not be adversely affected by an accident.

Section 251.3 contains the provisions designed to protect currently employed workers from displacement. Under the proposed regulations, these provisions apply to participants in CWEP (and other work experience programs), on-the-job training (OJT), and work supplementation programs because these are the components which involve work activities where displacement could occur. It assures that no currently employed workers will be displaced or have the hours of their normal work shift, wages or employment benefits reduced as the result of activities by participants in the JOBS program. Also, JOBS participants in work assignments will not impair existing contracts for services or collective bargaining agreements and will not fill established unfilled positions or positions when workers are in layoff from the same or similar positions in the organization. In addition, currently employed workers will not be terminated in order to fill the vacancies with JOBS participants. JOBS participants will not infringe upon the promotional opportunities of currently employed workers. Regarding the filling of any established unfilled positions, a special displacement provision applies to work assignments in work supplementation and CWEP. This is incorporated in the last paragraph of this section; it does not apply to OJT or other work experience assignments.

Section 251.4 proposes to require the State to establish grievance procedures for resolving displacement complaints by regular employees. Section 251.5 proposes to require the State to establish a complaint procedure under the State agency's fair hearing process to resolve disputes regarding on-the-job working conditions, workers' compensation and wage rates for CWEP hours for participants in the JOBS program. This hearing process may be established especially for the purpose of resolving disputes relating to the JOBS program or it may specify that the provisions of 45 CFR 205.10, which relate to hearing and notice procedures under the AFDC program, apply to JOBS participants. Decisions by the State concerning displacement complaints under § 251.4 and on-the-job working conditions, workers' compensation and CWEP wage rate issues under § 251.5 may be appealed to the Office of Administrative Law Judges, U.S. Department of Labor. The Administrative Law Judges' review shall be on the record of the State proceedings and shall be limited to questions of law, and the State's findings of fact shall be conclusive if supported by substantial evidence.

Section 251.5 does not specifically define the working conditions that may be considered under the State agency's fair hearing process and which may be appealed to the Department of Labor; however, the term "on-the-job working conditions" has been used. It refers to the conditions at the place of work. It does not refer to matters which are addressed in the assessment period prior to placement. Thus, it does not cover issues related to the process or outcome of orientations, assessments, employability planning, case management, job search, job development or placement activities. Nor does it cover disputes about issues such as those related to family responsibilities, place of residence, child care and other support services needs, availability of resources and participant circumstances. These issues are covered under the State agency's fair hearing process for JOBS (which are being covered under separate regulations) and are not appealable to the Department of Labor.

It should also be noted that § 251.5 of these regulations would require that a State establish and maintain a complaint procedure under the State agency's fair hearing process to cover the wage rates used in calculating the hours of participation required of individuals in CWEP, as well as on-the-job working conditions and workers' compensation issues. However, these regulations do not include a description of how the Federal or State minimum wage, or the prevailing wage, is used to compute the number of hours of participation in CWEP. Instead, there is a reference to section 482(f) of the Social Security Act, as amended, which addresses CWEP. Since this process is central to the operation of CWEP, it was felt that the description of the computation CWEP hours more appropriately belonged in the JOBS regulations which will be published in a separate regulatory package.

When an appeal is filed with the Office of the Administrative Law Judges we are requesting that copies of the appeal and the administrative record be sent to those State and Federal agencies responsible for the issuance of the JOBS program rules. We have also provided an opportunity for the Employment and Training Administration, DOL; the Family Support Administration, HSS; and the State agency to file a report with the Office of Administrative Law Judges. The decision of the Administrative Law Judges is the final decision of the Secretary of Labor on the appeal.

Other provisions of JOBS contained in title II of the Statute and the provisions in title III of the Statute regarding child care and other supportive services are being covered in another regulatory package. Likewise, related AFDC amendments under the Statute are being covered in a separate regulatory package.

Regulatory Procedures

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be performed for any "major rule". A major rule is one that:

—Has an annual effect on the national economy of $100 million or more;

—Results in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic region;

—Has significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The increased expenditures authorized by the Statute will have an annual effect on the national economy of over $100 million in the first five years of operations. The calculations for expenditures under the Statute are based on the anticipation of increased expenditures in work/training programs and connected supportive services which will be partially offset by reduced welfare costs in the long run, but it is still expected the net impact will exceed $100 million per year in the first five years after implementation. It is envisioned that required funding levels will decrease over time as a result of the impact of the JOBS program on long-term dependency and the number of families on AFDC.

We have determined that any economic impact in excess of $100 million per year is the result of section 201 of the Statute and not these regulations, which merely implement the statutory provisions of section 484 of title IV-F of the Social Security Act (as added by section 201(b) of the Statute). The implementing regulations will not cause a significant change in current expenditure projections. For this reason, an extensive analysis of the economic impact of this rule is not required.

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Paperwork Reduction Act

The provisions of these proposed regulations do not contain information collection requirements as defined by the Paperwork Reduction Act of 1980.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96-354) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each particular rule, we must publish an initial analysis describing the rule's impact on small businesses. This analysis should indicate the purpose and reasons for the rule, the number of small businesses to which it would apply, anticipated reporting and recordkeeping requirements, possible overlap and conflict with other Federal rules, and a description of possible alternative means of accomplishing the stated objectives which would minimize the impact on small businesses.

The Secretary certifies under 5 U.S.C. 605(b), enacted by Pub. L. 96-354, the Regulatory Flexibility Act, that these regulations, if promulgated, will not result in a significant impact on a substantial number of small entities because the regulations primarily affect State governments and individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required. These regulations are issued under the authority of section 1102 of the Social Security Act.

Federalism and Family Effects

The following regulations implement the requirements of the Statute regarding on-the-job working conditions, tort claims protections, workers' compensation, and displacement as related to the JOBS program. These regulations will not have a significant effect on federalism or the family based on the criteria cited in E.O. 12606 and E.O. 12612.

(Catalog of Federal Domestic Assistance Programs: No. 13.780, Assistance Payments—Maintenance Assistance)

Note: We have requested that the JOBS program be added to the Catalog of Federal Domestic Assistance Programs, and we received a tentative assignment of No. 13.781.

List of Subjects 45 CFR Part 251

Aid to Families with Dependent Children, Grant programs—social programs, Employment, Education, Training, Administrative practice and procedure.

Dated: April 10, 1989.
Roberts T. Jones,
Assistant Secretary of Labor, Employment and Training Administration.

Approved: April 14, 1989.
Elizabeth Dole,
Secretary, Department of Labor.

Dated: April 6, 1989.
Catherine Bertini,
Acting Assistant Secretary for Family Support.

Approved: April 6, 1989.
Louis W. Sullivan,
Secretary, Department of Health and Human Services.

Title 45, Chapter II, Code of Federal Regulations is amended by adding a new Part 251 to read as follows:

PART 251—THE JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM, PROGRAM PARTICIPANT EMPLOYMENT PROTECTION

Sec.
251.0 Purpose.
251.1 Work and training conditions.
251.2 Workers' compensation and tort claims protection.
251.3 Displacement.
251.4 Grievances by regular employees.
251.5 Complaints with respect to on-the-job working conditions, workers' compensation and CWEP wage rates.

Authority: Section 484 of the Social Security Act as amended (42 U.S.C. 684); section 1102 of the Social Security Act, as amended (42 U.S.C. 1302).

§ 251.0 Purpose.

(a) The purpose of Part 251 is to set forth the conditions generally applicable to the provision of services when assigning participants to program activities under the Jobs Opportunity and Basic Skills Training (JOBS) program. This part contains the following:

(1) The work and training conditions that the State agency shall assure when assigning participants to any program activity;

(2) Appropriate workers' compensation and tort claims protections that must be provided to participants;

(3) Provisions to assure that work assignments shall not result in displacements;

(4) A grievance procedure for resolving displacement complaints by regular employees;

(5) A complaint procedure under the State's fair hearing process with respect to on-the-job working conditions and workers' compensation, and wage rates in the case of individual participating in community work experience programs (CWEP); and

(6) Procedures for appealing State decisions on displacement complaints and certain other complaints to the Department of Labor.

(b) The provisions of this section apply to any work-related programs and activities under JOBS and under any other work-related programs and activities authorized in connection with the Aid to Families with Dependent Children (AFDC) program under section 1115 of the Social Security Act.

§ 251.1 Work and training conditions.

(a) *Job assignments.* The State agency shall assure that:

(1) The employment or training be related to the capability of the participant to perform the task on a regular basis, including physical capacity, skills, experience, family responsibilities and place of residence.

(2) The total daily commuting time to and from home to the work or training site to which the participant is assigned shall not normally exceed 2 hours, not including the transporting of a child to and from child care, unless a longer commuting distance and time is generally accepted in the community, in which case the round trip commuting time shall not exceed the generally accepted community standards without the participant's consent.

(3) No participant shall be required, without his or her consent, to remain away from his or her home overnight.

(4) The conditions of participation are reasonable, taking into account in each case the proficiency of the participant and the child care and other supportive service needs of the participant.

(5) For training to be appropriate, the nature of the training shall meet local employers' requirements so that the participant will be in a competitive position within the local labor market. The training must also be likely to lead to employment which will meet the appropriate working conditions.

(b) *Health and safety standards.* Participants are subject to the same health and safety standards established under State and Federal law, that otherwise apply to other individuals in similar assignments.

(c) *Non-discrimination.* No persons shall be discriminated against on the basis of race, sex, national origin, religion, age or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State or local law prohibiting discrimination.

§ 251.2 Workers' compensation and tort claims protections.

(a) Each participant covered by a workers' compensation statute or system shall be assured of workers' compensation including medical, accident and income maintenance insurance at the same level and to the same extent as that available to others who are similarly employed.

(b) Each participant not covered by an applicable workers' compensation statute shall be provided with on-site medical and accident insurance similar to that required under such applicable workers' compensation statute. Income maintenance coverage is not required for these participants.

§ 251.3 Displacement.

The State agency shall assure that CWEP, other work experience, on-the-job training (OJT), and Work Supplementation assignments:

(a) Shall not result in the displacement of currently employed workers, including partial displacement, such as a reduction in hours of non-overtime work, wages, or employment benefits;

(b) Shall not impair existing contracts for services or collective bargaining agreements;

(c) Shall not result in the employment or assignment of a participant or the filling of a position when any other person not supported under this program is on layoff from the same or a substantially equivalent job within the same organizational unit, or when an employer has terminated any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this program;

(d) Shall not infringe in any way upon promotional opportunities of persons currently in jobs not funded under this program; and

(e) Shall not result in the filling of any established unfilled position vacancy by a participant assigned under section 482(e) (work supplementation program) and section 482(f) (CWEP) of the Social Security Act, as amended.

§ 251.4 Grievances by regular employees.

(a) The State shall establish and maintain a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual violates any of the prohibitions described in § 251.3.

(b) A decision of the State under paragraph (a) of this section may be appealed to the Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 1111 20th Street NW., Washington, DC 20036. The review shall be on the record of the State proceedings and shall be limited to questions of law, and the State's findings of fact shall be conclusive if supported by substantial evidence.

(c) The appellant under paragraph (b) of this section shall send copies of the appeal to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 and to the Assistant Secretary for Family Support, Department of Health and Human Services, 370 L'Enfant Promenade SW., 6th Floor, Washington, DC 20447.

(d) The appeal shall contain:

(1) The full name, address and telephone number of the appellant;

(2) The provisions of the Statute or regulations believed to have been violated;

(3) A copy of the original complaint filed by the appellant with the State; and

(4) A copy of the State's findings and decision regarding the appellant's complaint.

(e) Upon receipt of an appeal pursuant to paragraph (b) of this section, the Office of Administrative Law Judges shall request from the State agency, and the State shall, within 30 days of such request, certify and file with the Office of Administrative Law Judges the entire administrative record of the matter under appeal. The State shall send copies of this record to the Assistant Secretary for Employment and Training and the Assistant Secretary for Family Support at the addresses set forth in paragraph (c) of this section.

(f) Upon receipt of the copy of the appeal and the copy of the record pursuant to paragraphs (c) and (e) of this section, the Assistant Secretary for Employment and Training shall review the record and, through the Office of the Solicitor of Labor, file, if deemed appropriate, an *amicus curiae* brief or a report with the Office of Administrative Law Judges for that office's consideration pursuant to paragraph (b) of this section. The State agency and the Assistant Secretary for Family Support may also file a report with the Office of Administrative Law Judges.

(g) The decision of the Office of Administrative Law Judges under paragraph (b) of this section shall be the final decision of the Secretary of Labor on the appeal.

§ 251.5 Complaints with respect to on-the-job working conditions, workers' compensation and CWEP wages rates.

(a) The State shall establish and maintain a complaint procedure under the State's fair hearing process:

(1) With respect to on-the-job working conditions for individuals participating in the JOBS program;

(2) With respect to workers' compensation coverage for individuals participating in the JOBS program; and

(3) With respect to wage rates used in calculating the hours of participation required of individuals in community work experience programs described in section 482(f) of the Social Security Act, as amended.

(b) A decision of the State under paragraph (a) of this section may be appealed to the Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 1111 20th Street NW., Washington, DC 20036. The review shall be on the record of the State proceedings and shall be limited to questions of law, and the State's findings of fact shall be conclusive if supported by substantial evidence.

(c) The appellant under paragraph (b) of this section shall send copies of the appeal to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, and to the Assistant Secretary for Family Support, Department of Health and Human Services, 370 L'Enfant Promenade SW., 6th Floor, Washington, DC 20447.

(d) The appeal shall contain:

(1) The full name, address and telephone number of the appellant;

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(3) A copy of the original complaint filed by the appellant with the State; and

(4) A copy of the State's findings and decision regarding the appellant's complaint.

(e) Upon receipt of an appeal pursuant to paragraph (b) of this section, the Office of Administrative Law Judges shall request from the State agency, and the State shall, within 30 days of such request, certify and file with the Office of Administrative Law Judges the entire administrative record of the matter under appeal. The State shall send copies of the record to the Assistant Secretary for Employment and Training and the Assistant Secretary for Family Support at the addresses set forth in paragraph (c) of this section.

(f) Upon receipt of the copy of the appeal and the copy of the record pursuant to paragraphs (c) and (e) of

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this section, the Assistant Secretary for Employment and Training shall review the record and, through the Office of the Solicitor of Labor, file, if deemed appropriate, an *amicus curiae* brief or a report with the Office of Administrative Law Judges for that office's consideration pursuant to paragraph (b) of this section. The State Agency and the Assistant Secretary for Family Support shall also have the opportunity to file a report with the Office of Administrative Law Judges.

(g) The decision of the Office of Administrative Law Judges under paragraph (c) of this section shall be the final decision of the Secretary of Labor on the appeal.

[FR Doc. 89-8364 Filed 4-18-89; 8:45 am]
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federal register

Wednesday
April 19, 1989

Part IV

Department of Health and Human Services

Public Health Service

Availability of Grants for Minority HIV Education/Prevention Demonstration Projects; Notice

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Availability of Grants for Minority HIV Education/Prevention Demonstration Projects

AGENCY: Office of Minority Health/ Office of Assistant Secretary for Health, PHS, DHHS.

ACTION: Notice of availability of funds and request for applications under the Office of Minority Health's Program of Grants for Minority HIV Education/ Prevention Projects.

SUMMARY: The Office of Minority Health announces the availability of grants to provide suppport to minority community-based organizations and national organizations, and minority institutions. These grants will be awarded for projects that demonstrate effective minority-targeted education and prevention strategies which encourage behaviors to reduce or eliminate risk for acquiring or transmitting human immunodeficiency virus (HIV), the virus that causes acquired immunodeficiency syndrome (AIDS).

Background

Infection with HIV results in a spectrum of disease. At one end of the spectrum are people infected with HIV who look and feel perfectly healthy. At the opposite end are people with AIDS. Between these two extremes, HIV-infected people may develop illnesses that range from mild to extremely serious. The interval between initial HIV infection and the presence of symptoms and signs that characterize AIDS is long and variable and may range from several months to seven years or longer. A person who is infected with HIV, even while feeling healthy, may unknowingly infect others. Thus, the term "HIV infection" more appropriately describes the entire scope of this public health problem than the term "AIDS."

Current statistics indicate that Blacks and Hispanics are disproportionately represented among the over 84,000 people with AIDS that have been reported in the United States. While Blacks and Hispanics respectively represent approximately 12% and 7% of the U.S. population, 27% of people with AIDS are Black and 15% are Hispanic. Asian-Pacific Islanders and Native Americans respectively represent 1.6% and 0.7% of the U.S. population and together currently account for less than 1% of people with AIDS. Although Asian/Pacific Islanders and Native Americans do not appear to be disproportionately affected by HIV infection, cultural and linguistic characteristics of these populations must also be considered in the development of effective HIV prevention programs.

There is a significant degree of geographic variation in the racial/ethnic distribution of people with AIDS. For example, approximately 55% of Blacks and Hispanics with AIDS reported residence in New York, New Jersey and Florida compared to 28% of whites with AIDS. Recognizing this variation is essential to understanding how the HIV epidemic has impacted upon various minority communities.

There are striking differences in patterns of transmission of HIV among Blacks and Hispanics compared to whites. Overwhelmingly, whites with AIDS are more likely to have contracted the disease through male homosexual contact, or transfusion of blood or blood products (including hemophiliacs) than Blacks and Hispanics. Homosexual contact between men is also an important mode of HIV transmission among Blacks and Hispanics. However, intravenous drug use (by sharing needles and other drug paraphernalia—including the syringe, the cooker used to liquify the drug, and the cotton used for filtering), heterosexual contact, and perinatal transmission (HIV spreading from infected mother to infant during pregnancy, delivery and possibly through breast milk during nursing) are more prevalent modes of transmission among Blacks and Hispancis than among whites. Furthermore, over 70% of heterosexuals, over 70% of women and 75% of children with AIDS are Black and Hispanic. It must be emphasized that people at risk for HIV infection become so because of behavior, which may be influenced by socioeconomic factors, not because of any inherent feature of race or ethnicity.

The behaviors that increase the risk of infection with HIV include: Unprotected sexual intercourse (homosexual or heterosexual); sharing needles or other drug paraphernalia among people using drugs intravenously; having numerous sexual partners (homosexual or heterosexual). Having sex with someone who uses drug intravenously and shares needles or other "works," or has had numerous homosexual or heterosexual partners is also "high risk" behavior.

At the present time there is no cure for HIV infection. Furthermore, there is no available treatment or vaccine to prevent HIV infection. Prevention through individual behavior change is the only method currently available to stop the spread of HIV infection.

Strategies to eliminate or reduce high risk behaviors associated with HIV infection must provide education about how HIV is transmitted from one person to another, the consequences of infection, how to avoid becoming infected as well as specific skills for adopting and maintaining appropriate behaviors. These strategies require discussion of potentially emotionally charged issues about very personal behaviors, such as discussion of specific sexual behaviors, homosexuality, bisexuality and drug use. To be effective in minority populations, these strategies must specifically address culture, language, educational levels and other socio-economic factors.

Addressing heterogeneity within minority populations, including differences in HIV risk factor profiles, will require creativity and innovation in the development of approaches to HIV education/prevention. Furthermore, these approaches must be presented by organizations and institutions that are credible to the targeted population. Community-based and national service organizations that represent racial/ ethnic minorities, and other minority institutions, are uniquely qualified to influence individuals and foster community norms that will encourage and support appropriate behaviors. Supporting these organizations to initiate or expand HIV education/ prevention activities provides an opportunity to intensify the quality and scope of HIV disease prevention for minority populations.

This announcement is the second annual notice for this grant program. Last year, the Office of Minority Health received 164 applications of which 64 were approved and 27 grants awarded for a total of $1.4 million. 100 applications were disapproved because of various deficiencies. Several applications may have been in the approval range with some technical assistance.

Others would have required much more work in the pre-application stage. Given the time and resources involved in developing and writing an application, potential applicants may wish to seriously consider whether or not they should apply at this time or wait until they develop greater expertise in planning and writing their proposals.

Applicants wishing to improve their chances for approval should pay particular attention to both the Supplemental and General Instructions provided with the grant application. *Applications will be evaluated only in terms of the information presented in the application.* It is therefore incumbent upon applicants to specifically document how their organizations meet eligibility criteria and are responsive to Grant Program objectives.

Authority

This program is authorized under section 301 of the Public Health Service Act, as amended.

Program Goal

The goal of this grant program is to demonstrate the effectiveness of education and prevention strategies designed for racial/ethnic minority populations which will encourage behaviors to eliminate or reduce risk for acquiring or transmitting HIV.

Program Purpose

The purpose of this grant program is to (1) expand the range of minority community-based and national organizations, and minority institutions involved in HIV education/prevention activities relevant to the program goal and (2) encourage innovative approaches that appropriately address the diversity within and among minority populations.

Program Objectives

The objectives of this grant program are to fund projects which:

(1) Characterize a specific minority target population and its need for the proposed program;

(2) Demonstrate specific and detailed methods for providing HIV infection education and prevention in a medium, format and language that is appropriate for the target population;

(3) Demonstrate coordination and collaboration with existing HIV infection education and prevention resources (e.g. the local or state health department, other community-based organizations receiving public or private funds to provide HIV education/ prevention services);

(4) Document the experience of the organization in minority community service on a local or national level;

(5) Monitor and evaluate how the project's specific objectives have been met through the proposed activities.

Definitions

For the purposes of this grant program the following definitions are provided:

Minority Community-based Organization

A private nonprofit or for-profit organization which has a governing board composed of 50% or more racial/ ethnic minority members and has an established record of service to racial and ethnic minority communities.

A local affiliate of a national minority organization which has a national governing board composed of 50% or more racial/ethnic minority members and has an established record of service to racial and ethnic minority communities (see definition below).

Minority National Organization

A private nonprofit or for-profit organization which has a governing board composed of 50% or more racial/ ethnic minority members and has an established record of service to racial and ethnic minority communities. Activities of such organizations must be national in scope. For the purposes of this grant program a national organization must have members or affiliate organizations in five or more states.

Minority Institution

A religious or educational institution. The activities of such institutions must focus predominantly on addressing the religious or educational needs of racial/ ethnic minority populations. This category includes minority churches, and historically Black colleges and universities (HBCU's).

Community

A defined geographical area in which persons live and work which is characterized by: (a) Formal and informal channels of communications; (b) formal and informal leadership structures for the purpose of maintaining order and improving conditions; (c) the capacity to serve as a focal point for addressing societal needs including health needs.

Target Population

The population for whom the proposed project is directed. Proposals will be considered which address HIV education/prevention activities for racial/ethnic minority populations within United States and its territories. For the purposes of this grant program racial/ethnic minorities are defined as American Indians/Alaskan Natives, Asians/Pacific Islanders, Blacks and Hispanics.

High Risk Behaviors

The behaviors that increase the risk of infection with HIV include: Unprotected sexual intercourse (homosexual or heterosexual); sharing needles or other drug paraphernalia among people using drugs intravenously; having numerous sexual partners (homosexual or heterosexual). Having sex with someone who uses drug intravenously and shares needles or other "works," or has had numerous homosexual or heterosexual partners is also "high risk" behavior.

Intervention

An activity or series of activities that is implemented to produce positive change.

Examples of Grant Program Activities

Please note that a broad range of approaches may be considered responsive to this proposal. The following examples are provided to describe *possible elements* of an acceptable program. A proposed program might include one, all or none of the examples described below:

(1) Provide instruction to community professionals and out-reach workers to provide HIV infection education and risk reduction;

(2) Develop mechanisms to encourage volunteers to develop and deliver community HIV infection education/ prevention out-reach;

(3) Develop strategies to provide HIV infection education/prevention using hospital emergency rooms, other health care centers, churches, youth shelters, teen centers, adult education centers, detention centers or social service agencies or other community sites;

(4) Develop and implement activities to enable people at risk for contracting HIV infection to make a realistic assessment of their personal risk and their potential for transmitting the virus to others;

(5) Develop and implement activities to assist people at risk in planning, negotiating and reinforcing behavior change to prevent HIV infection;

(6) Develop and implement strategies for coordinating community-based HIV education/prevention activities targeting specific minority population(s) within a specific community;

(7) Develop and implement strategies for providing technical assistance to other minority community-based organizations.

Availability of Funds

Under this announcement the Office of Minority Health will make $1.4 million available in Fiscal Year 1989 to support approximately 25 projects. Grants of $20,000–50,000 each per year will be awarded to minority community-based organizations; grants of $25,000–75,000 each per year will be awarded to minority national organizations; and grants of $25,000–75,000 each per year will be awarded to minority institutions. The specific amount funded will depend on the merit and scope of the proposed

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project and the overall availability of funds. Since a variety of approaches would represent valid responses to this announcement, a range of cost is expected among individual grants awarded.

These grants will be funded for a three year project period. Funding for the second and third year of the project period will be contingent on the applicant's satisfactory performance during the prior year and future availability of funds. Under this announcement it is anticipated that funds will be awarded before September 30, 1989.

Applicant Eligibility

Eligible applicants for this grant program must be minority community-based organizations or national organizations, or a minority institution as defined within this announcement (see Definitions). Individuals are not eligible to apply.

Federal demonstration grant support is not expected to result in more than one award in any Metropolitan Statistical Area (MSA) unless an additional project in an MSA is targeted to another of the four major minority groups—American Indians/Alaskan Natives, Asians/Pacific Islanders, Blacks and Hispanics. Efforts will be made to balance geographic, racial/ethnic and HIV infection risk considerations in the distribution of grant awards. Institutions and organizations that develop projects targeting minority homosexual/bisexual men, minority intravenous drug users (IVDU's), the sexual partners of IVDU's, minority adolescents who engage in high risk behaviors or minority women are specifically encouraged to apply.

Organizations that have received funds for HIV infection education/prevention projects under the Office of Minority Health's 1988 Program of Grants for Minority Community Health Coalition Demonstration Projects or 1988 Minority AIDS Education/Prevention Grant Program are not eligible to apply.

Application Procedures

Application Forms

The forms used to apply for grants under this program are Form PHS 398. Copies of the application kit may be obtained from The OMH Grant Office, 8201 Greensboro Drive, Suite 600, McLean, Virginia 22102, (phone 703–821–2487).

Deadlines

The deadline for receipt of applications is 5:30 p.m. (e.s.t.) on June 26, 1989. Applications will be considered as meeting the deadline if they are either:

(1) Received at the above address on or before the deadline date, or

(2) Sent to the above address on or before the deadline date and received in time for orderly processing.

(Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be accepted as proof of timely mailing.)

Late Applications

Applications which do not meet the deadline criteria specified above will be considered late applications and will be returned to the applicant without being processed.

Terms of Condition and Support

Funds may be used to cover expenses clearly related and necessary to conduct the demonstration project. These expenses include the cost of personnel required to implement the program and the cost for consultants, support services and materials. Funds may not be used for HIV testing or screening, patient treatment or care. Funds may not be used for building construction costs or building alterations and renovations. Also, funds may not be used to purchase equipment except as may be acceptably justified in relation to conducting the project.

Review Methods and Review Criteria

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs. Applications for funding will be subject to State review but comment must be received by 60 days after the due date by the program grants management office. Applicants should contact State Single Points of Contact (SPOC) early in the application preparation process.

All applications will be reviewed and evaluated only in terms of the evidence presented in the application regarding the ability of the applicant to meet the goal of the Grant Program and its objectives. A review group will be convened by the Office of Minority Health solely for this purpose.

The criteria presented below will be used to assist reviewers in evaluating proposed projects. (A quantitative indicator of each review criterion appears in parentheses):

Target Population/Needs Assessment (20 points)

1. The need for HIV education/prevention for the target population specified by the applicant;

Project Objectives/Intervention/Workplan (25 points)

2. The consistency of the project's goals and objectives with those of the Grant Program;

3. The appropriateness and feasibility of the intervention strategy, specific activities and methods of implementation proposed for the target population;

4. The coherence, detail, and explanation of the workplan; population specified by the applicant;

Organizational Capability (25 points)

5. The organization's capacity to be a credible source of HIV education and prevention for the target population;

6. The organization's capacity to meet the objectives of its proposed program and carry out all proposed activities;

7. The organization's ability and commitment to coordinate its HIV education/prevention efforts with other existing resources available for the target population;

Project Management and Staffing (10 points)

8. Qualifications and appropriateness of proposed program staff, both paid and voluntary, and adequacy of time allocated for them to accomplish program activities;

9. Appropriateness of management plan and qualifications and experience of managers proposed;

Evaluation (20 points)

10. The appropriateness and usefulness of methods proposed to monitor activities and measure progress toward obtaining the project objectives;

11. The extent to which the evaluation plan assesses the effects of the project intervention(s) on the target population.

For second and third project years, noncompeting continuation applications will be evaluated on satisfactory performance in meeting the program objectives as determined by site visits made by Office of Minority Health staff or its representatives, progress reports, quality of future plans.

Information and Technical Assistance

Information on the application procedures and copies of application forms may be obtained from The OMH Grant Office, 8201 Greensboro Drive, Suite 600, McLean, Virginia 22102 (phone 703–821–2487).

Technical assistance on the programmatic content of the application may be obtained from Jacqueline Bowles, M.D., or Georgia Buggs, Office of Minority Health, Room 116F, HHH Building, Washington, DC 20201 (phone 1–800–444–6472 or 202–245–0020).

Technical assistance on budgets and other business management concerns may be obtained from Ralph Sloat, Grants Management Officer, Room 18A10, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301–443–4033).

(The Catalog of Federal Domestic Assistance Number for this program is 13.160.)

Dated: April 12, 1989.

Samuel Lin,

Acting Director, Office of Minority Health.

[FR Doc. 89–9355 Filed 4–18–89; 8:45 am]
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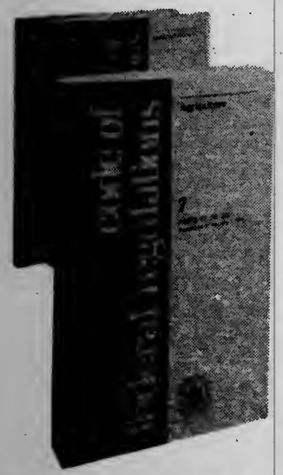
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Federal Register
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Thursday, April 20, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1230

[No. LS-88-103]

Pork Promotion, Research, and Consumer Information

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts with some modifications an interim final rule which amended regulations issued under the Pork Promotion, Research, and Consumer Information Order (Order). This final rule (1) revises the table which lists the Tariff Schedule of the United States (TSUS) numbers identifying imported pork and pork products subject to assessments under the Order to conform with a new numbering system—the Harmonized Tariff System (HTS) implemented by the U.S. Customs Service (USCS), and (2) includes a new table listing the HTS numbers of live porcine animals subject to assessment. This rule also incorporates a listing of the assessment amounts in cents per kilogram. These changes will facilitate the continued collection of assessments on imported porcine animals, pork, and pork products by USCS.

EFFECTIVE DATE: May 22, 1989.

ADDRESS: Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch, Livestock and Seed Division, Agricultural Marketing Service; USDA, Room 2610-S, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch, (202) 447-2650.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established to implement Executive Order No. 12291 and Departmental Regulation 1512-1 and is hereby classified as a nonmajor rule under the criteria contained therein.

This action has also been reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.). Many importers may be classified as small entities. This final rule merely (1) revises the table containing the numbers identifying imported pork and pork products listed in the table in § 1230.110 (53 FR 27478) in the regulations from the former TSUS numbers to the HTS numbers to conform with the USCS conversion to the new HTS, and lists the amount of assessment for each identified HTS number in cents per kilogram in addition to cents per pound and (2) includes a table listing HTS numbers of live porcine animals subject to assessment. In addition, the action will not impose any requirements on importers beyond those previously discussed in the September 5, 1986, issue of the Federal Register (51 FR 31898), when it was determined that the Order would not have a significant effect upon a substantial number of small entities. The conversion to the new HTS numbering system implemented by the USCS is merely a technical change and imposes no new requirements on the industry. Accordingly, the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact upon a substantial number of small entities.

The Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801-4819) approved December 23, 1985, authorizes the establishment of a national pork promotion, research, and consumer information program. The program is funded by an assessment of 0.25 percent of the market value of live porcine animals sold in the United States and an equivalent amount on imported live porcine animals, pork, and pork products. The final Order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the Federal Register (51 FR 31898) and assessments began on November 1, 1986. The Order requires importers of live porcine animals to pay an amount equal to 0.25 percent of their market value, and importers or pork and pork products to pay an amount which represents 0.25 percent of the value of the live porcine animals from which the pork and pork products were derived, based upon the most recent annual seven-market average price for barrows and gilts, as published by the Department. Prior to the interim final rule published on December 29, 1988 (53 FR 52628), the assessment on imported pork and pork products was expressed in dollars per pound. In the interim final rule, the assessment was expressed in cents per pound rather than dollars to simplify and facilitate use of the table. The formula for converting the live animal equivalent of 0.25 percent of the value of the live animal to an assessment per pound is described in the supplementary information accompanying the Order and published in the September 5, 1986, issue of the Federal Register (51 FR 31901). The schedule of assessments is listed in a table in § 1230.110 of the regulations (53 FR 27478) for each type of pork and pork product identified by a TSUS number. Although TSUS numbers for imported live porcine animals did not appear in the table in § 1230.110 of the regulations (53 FR 27478), such animals were subject to assessment at a rate specified in § 1230.71 of the Order (7 CFR 1230.71). The TSUS numbers of live porcine animals subject to assessment under the Order were published in an issue of the Department of Treasury News, United States Customs Service dated September 26, 1986.

The USCS implemented a new numbering system, the Harmonized Commodity Description and Coding System, otherwise known as the Harmonized Tariff System (HTS), to replace the TSUS numbering system. The HTS numbering system became effective January 1, 1989, as part of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107).

The purpose of this final rule is to revise the present table found under § 1230.110 of the regulations (53 FR 27478) to reflect the change from the TSUS numbering system listed therein to the HTS numbering system, list assessment amounts for imported pork and pork products in cents per kilogram, and to include the HTS numbers for live porcine animals. This revised table lists the HTS numbers for pork and pork products which conform to the

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previously listed TSUS numbers. Additionally, a separate table lists the HTS numbers of imported live porcine animals subject to assessment. This change permits the USCS to collect assessments due on imported live porcine animals, pork, and pork products in conjunction with its regular importation processing and collection system.

The new HTS uses an 11-digit number to identify specific imports of live porcine animals, pork, and pork products compared with a 7-digit number used in the TSUS system. Under the HTS, some of the major TSUS categories for live porcine animals, pork, and pork products subject to assessment have been subdivided into new categories which have been assigned HTS numbers; other major TSUS categories remained unchanged but were renumbered with HTS numbers.

As a result of these changes from the TSUS system to the HTS, the 13 TSUS categories of pork and pork products listed in the table in § 1230.110 of the regulations (53 FR 27478) subject to assessment have been expanded to 27 HTS categories, and the one TSUS category for live porcine animals has been expanded to three HTS categories. The live porcine animals, pork, and pork products subject to assessment and the assessment remain unchanged.

A comparison of the new HTS numbers and the former TSUS numbers of live porcine animals, pork, and pork products subject to assessment under the Act and Order and a description of the type of pork, pork products, or porcine animals represented by corresponding new HTS numbers are shown in the following chart.

HTS No.	HTS article description	TSUS No.
Imported Live Porcine Animals:		
Live swine:		
0103.10.00004	Purebred breeding animals, Other.	100.0180
0103.91.00006	Weighing less than 50 kg each.	100.8500
0103.92.00005	Weighing 50 kg or more each.	100.8500
Imported Pork and Pork Products:		
Meat of swine, fresh, chilled, or frozen:		
0203.11.00002	Fresh or chilled: Carcasses and half-carcasses, Hams, shoulders and cuts thereof, with bone in.	106.4020
0203.12.10009	Processed	107.3020
0203.12.90002	Other	106.4020
0203.19.20000	Other: Processed	107.3060
0203.19.40006	Other	106.4020
0203.21.00000	Carcasses and half-carcasses, Hams, shoulders and cuts thereof, with bone in.	106.4020
0203.22.10007	Processed	107.3020
0203.22.90000	Other	106.4040
0203.29.20008	Other: Processed	107.3060
0203.29.40004	Other: Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen.	106.4040
0206.30.00006	Of swine, fresh or chilled.	106.8500
0206.41.00003	Of swine, frozen: Livers.	106.8500
0206.49.00005	Other: Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal.	106.8500
0210.11.00003	Meat of swine: Hams, shoulders and cuts thereof, with bone in.	107.3020
0210.12.00208	Bellies (streaky) and cuts thereof: Bacon.	107.3040
0210.12.00404	Other	107.3040
0210.19.00005	Other: Sausages and similar products, or meat, meat offal or blood; food preparations based on these products.	107.3060
1601.00.20007	Pork: Other prepared or preserved meat, meat offal or blood: Of swine; Hams and cuts thereof Containing cereals or vegetables.	107.1000/ 107.1500
1602.41.20203	Other: Boned and cooked and packed in airtight containers in containers holding less than 1 kg.	107.3515/ 107.3525
1602.41.20409	Other	107.3515/ 107.3525
1602.41.90002	Other: Shoulders and cuts thereof: Boned and cooked and packed in airtight containers.	107.3020
1602.42.20202	In containers holding less than 1 kg.	107.3515/ 107.3525
1602.42.20406	Other	107.3515/ 107.3525
1602.42.40002	Other	107.3020
Other, including mixtures:		
1602.49.20009	Offal, Other: Not containing cereals or vegetables; Boned and cooked and packed in airtight containers.	107.3560/ 107.3540
1602.49.40005	Other	107.3060

Comments

The interim final rule requested comments from interested persons by January 30, 1989. The Department received only two comments—one from the Office of Trade Operations, USCS, Department of the Treasury and one from the Multilateral Trade Policy Affairs Division (MTPAD), FAS, USDA.

The USCS comment recommended that the cents-per-pound assessments listed in the table of assessments for imported pork and pork products in § 1230.110 also be expressed in cents-per-kilogram. The commentor pointed out that the "Unit of Quantity" for reporting purposes for covered products under the HTS is "kilogram." The commentor further stated that "kilogram" will be the unit in which quantities will be reported on USCS entry documents. "Pounds" will no longer be used. In the commentor's opinion, expressing rates only in cents-per-pound will cause confusion in the importing community, require more work in the preparation and verification of entry documents, and increase the probability of clerical errors. The Agency believes that the adoption of this recommendation would facilitate the computation, collection, and processing of assessments on imported pork and pork products. Accordingly, cents-per-kilogram has been included in the table of assessments for pork and pork products in § 1230.110 (7 CFR 1230.110) for each HTS number listed therein. To determine cents per kilogram, the cents-per-pound assessments are multiplied by a metric conversion factor 2.2046 and carried to the sixth decimal.

The other comment, submitted by the Foreign Agricultural Service, recommended certain changes in the chart contained in the Supplementary Information section on page 52827 of the interim final rule (53 FR 52827). That chart listed a comparison of the former TSUS numbers and the new corresponding HTS numbers along with an HTS article description for live porcine animals and pork and pork products subject to assessment under the Act. It was the commentor's opinion that such changes were necessary to make the listed HTS numbers correctly conform to corresponding TSUS numbers. Based on a review of the latest available information on the conversion of TSUS numbers to HTS numbers, the Agency concurs with the recommended changes and has revised the applicable numbers in the chart that appears in this supplementary information section accordingly. The changes do not result in any deletions or additions to the list of HTS numbers published in the tables of import assessments for live porcine animals and pork and pork products contained in § 1230.110 on page 52828 of the interim final rule (53 FR 27628).

This final rule adopts with some modifications the provisions of the interim final rule. Such changes are to facilitate the application of the regulation. Accordingly, the interim final rule amending 7 CFR Part 1230 which was published at 53 FR 52826 on December 29, 1988, is adopted as a final rule with the following changes.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and Meat products, Pork and pork products.

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR Part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

2. Amend Subpart B—Rules and Regulations, by revising § 1230.110 to read as follows:

§ 1230.110 Assessments on imported live porcine animals, pork, and pork products.

The following HTS categories of imported live porcine animals are subject to assessment at the rate specified.

Live porcine animals	Assessment
0103.10.00004	0.25 percent Customs Entered Value
0103.91.00006	0.25 percent Customs Entered Value
0103.92.00005	0.25 percent Customs Entered Value

The following HTS categories of pork and pork products are subject to assessment at the rate specified.

Pork and pork products	Assessment	
	Cents/lb	Cents/kg
0203.11.00002	.18	0.396826
0203.12.10009	.18	.396826
0203.12.90002	.18	.396826
0203.19.20000	.21	.462966
0203.19.40006	.18	.396826
0203.21.00000	.18	.396826
0203.22.10007	.18	.396826
0203.22.90000	.18	.396826
0203.29.20008	.21	.462966
0203.29.40004	.18	.396826
0206.30.00006	.18	.396826
0206.41.00003	.18	.396826
0206.49.00005	.18	.396826
0210.11.00003	.19	.396826
0210.12.00208	.19	.418674
0210.12.00404	.19	.418674
0210.19.00005	.21	.462966
1601.00.20007	.25	.551150
1602.41.20203	.28	.617286
1602.41.20409	.28	.617286
1602.41.90002	.18	.396826
1602.42.20202	.28	.617286
1602.42.20406	.28	.617286
1602.42.40002	.18	.396826
1602.49.20009	.25	.551150
1602.49.40005	.21	.462966

Done at Washington, DC, on April 17, 1989.

J. Patrick Boyle,

Administrator.

[FR Doc. 89-9501 Filed 4-19-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1260

[No. LS-88-101]

Beef Promotion and Research

AGENCY: Agriculture Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts with some modifications an interim final rule which amended the Beef Promotion and Research Order (Order) by (1) changing the Tariff Schedule of the United States (TSUS) numbers which identify imported cattle, beef, and beef products subject to assessments under the Order to conform with a new numbering system—the Harmonized Tariff System (HTS) to be implemented by the U.S. Customs Service (USCS); (2) expanding the table concerning the assessment rates for imported cattle, beef, and beef products to include four new categories for edible meat offal of bovine animals; and (3) clarifying the language pertaining to the expenses of the Cattlemen's Beef Promotion and Research Board (board). This final rule also incorporates a list of the assessment amounts for each HTS category in cents per kilogram. These changes will facilitate the continued collection by USCS of assessments on imported cattle and beef and beef products.

EFFECTIVE DATE: May 22, 1989.

ADDRESS: Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch, Livestock and Seed Division, Agricultural Marketing Service; USDA, Room 2610–S, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch, (202) 447–2650.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established to implement Executive Order No. 12291 and Departmental Regulation 1512–1, and is hereby classified as a nonmajor rule under the criteria contained therein.

This action was also reviewed under the Regulatory Flexibility Act (RFA), (5 U.S.C. 601 et seq.). Many importers may be classified as small entities. This final rule (1) revises the table containing the numbers identifying imported cattle, beef, and beef products listed in table 1260.172 in the Order (7 CFR 1260.172) from the former TSUS numbers to the HTS numbers to conform with the USCS conversion to the new HTS, (2) expands the table to include four new categories for edible meat offal of bovine animals, (3) clarifies the language pertaining to expenses of the board, and (4) lists assessment amounts for imported beef and beef products in cents per kilogram. Except for the second change, this action will not impose any requirements on importers beyond those previously discussed in the July 18, 1986, issue of the **Federal Register** (51 FR 26132) when it was determined that the Order would not have a significant effect upon a substantial number of small entities. The conversion to the new HTS numbering system implemented by the USCS on January 1, 1989, is merely a technical change and will impose no new requirements on the industry. It is estimated that the increase in total assessments collected on imports as a result of the change made in this final rule will be less than 1 percent over a 12-month period as a result of the new assessments. This impact will be minimal. Any additional costs will be outweighed by the benefits derived from the operations of the Beef Promotion and Research Program. The changes in the language pertaining to the expenses of the board are merely for clarification. Accordingly, the Administrator of the Agricultural Marketing Service has determined that this action will not have

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a significant economic impact upon a substantial number of small entities.

The Beef Promotion and Research Act of 1985 (7 U.S.C. 2901 et seq.) approved December 23, 1985, authorizes the establishment of a national beef promotion and research program. The program is funded by a $1.00-per-head assessment on all cattle marketed in the United States and an equivalent amount of assessment on imported cattle, beef, and beef products. The final Order establishing a beef promotion and research program was published in the July 18, 1986, issue of the **Federal Register** (51 FR 26132) and assessments began on October 1, 1986. The Order requires importers of cattle to pay to the USCS, upon importation, an assessment of $1.00-per-head for cattle imported. Also importers of beef and beef products, which includes veal, must pay to the USCS, upon importation, an assessment equivalent to $1.00-per-head. As a matter of practicality, the assessment on imported beef and beef products is expressed in cents per pound for each type of such products. The formula for converting the live animal equivalent of $1.00-per-head to an assessment per pound is described in the supplementary information accompanying the Order and published in the July 18, 1986, issue of the **Federal Register** (51 FR 26136). The initial schedule of assessments is listed in a table in § 1260.172 (7 CFR 1260.172) of the Order for each type of beef and beef product identified by a TSUS number. Edible meat offal of bovine animals was not previously included in the list of TSUS numbers listed in the Order as subject to assessment upon importation. It is estimated that total assessments collected on imports will increase by less than 1 percent over a 12-month period as a result of these assessments.

The USCS has implemented a new numbering system, the Harmonized Commodity Description and Coding System, otherwise known as the Harmonized Tariff System (HTS), to replace the Tariff Schedule of the United States numbering system. The HTS numbering system became effective January 1, 1989, as part of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107).

One of the purposes of this final rule is to revise the present table found under § 1260.172 (7 CFR 1260.172) of the Order to reflect the change from the TSUS numbering system listed therein to the HTS numbering system. This revised table lists (1) the HTS numbers for imported cattle, beef, and beef products which conform to the previously listed TSUS numbers and are subject to assessment under the Order, and (2) the HTS numbers for edible meat offal of bovine animals which were not identified under the previous TSUS numbering system but are subject to assessment under the Order and (3) assessment amounts for imported beef and beef products in cents per kilogram. This change permits the USCS to continue to collect assessments due on imported cattle, beef, and beef products already being assessed and begin collection of assessments due on edible meat offal of bovine animals in conjunction with its regular importation processing and collection system.

The new HTS system uses an 11-digit number to identify specific imports such as cattle, beef, or beef products compared with a 7-digit number used in the TSUS system. Under the HTS, some of the major TSUS categories for cattle, beef, and beef products subject to assessment have been subdivided, and the new categories have been assigned HTS numbers; other major TSUS categories remained unchanged but were renumbered with HTS numbers; and the veal category under the TSUS numbering system has been subdivided and renumbered with HTS numbers.

Under the TSUS system, edible beef offal was not identified by a specific TSUS number as were other types of beef and beef products. Consequently, edible beef offal was not included in the table in § 1260.172 (7 CFR 1260.172) of the Order for assessment purposes. However, under the new HTS, edible beef offal is identified by four separate HTS numbers. These numbers have been included in the revised table.

As a result of these changes from the TSUS system to the HTS system there are 8 categories which cover imported cattle subject to assessment compared with the previous 10 TSUS categories. The 16 TSUS categories of beef and beef products listed in the table in the Order subject to assessment have been expanded to 24 HTS categories and 2 subcategories. Four new categories have been added. The cattle, beef, and beef products subject to assessment and the assessment under the TSUS system remain unchanged. The four new categories will be assessed at a rate equivalent to $1.00-per-head according to the formula described in the supplementary information accompanying the Order and published in the July 18, 1986, issue of the **Federal Register** (51 FR 26136). The assessment rate is .20 cents per pound for each of the four new categories. The following chart lists a comparison of the new HTS numbers and the former TSUS numbers for imported cattle, beef, and beef products subject to assessment under the Act and Order.

HTS-Number	HTS-Article-Description	TSUS-Number
	Imported Live Cattle	
	Live bovine animals:	
	Purebred breeding animals:	
	Dairy:	
0102.10.00103	Male	100.0130
0102.10.00201	Female	100.0140
	Other:	
0102.10.00309	Male	100.0130
0102.10.00504	Female	100.0150
	Other:	
0102.90.20004	Cows imported specially for dairy purposes	100.5000
	Other:	
0102.90.40206	Weighing less than 90 kg each	100.4000/100.4300
0102.90.40402	Weighing 90 kg or more but less than 320 kg each	100.4500
0102.90.40607	Weighing 320 kg or more each	100.5300/100.5500
	Imported Beef and Beef Products	
	Meat of bovine animals, fresh or chilled:	
	Carcasses and half-carcasses:	
0201.10.00103	Veal	106.1080
0201.10.00906	Other	106.1020
	Other cuts with bone in:	
	Processed:	
0201.20.20009	High-quality beef cuts	107.6100

HTS-Number	HTS-Article-Description	TSUS-Number
0201.20.40005	Other	107.6200
0201.20.60000	Other	106.1020
	Boneless:	
	Processed:	
0201.30.20007	High-quality beef cuts	107.6100
0201.30.40003	Other	107.6200
0201.30.60008	Other	106.1060
	Meat of bovine animals, frozen:	
	Carcasses and half-carcasses:	
0202.10.00102	Veal	106.1060
0202.10.00905	Other	106.1040
	Other cuts with bone in:	
	Processed:	
0202.20.20008	High-quality beef cuts	107.6100
0202.20.40004	Other	107.6200
0202.20.60009	Other	106.1040
	Boneless:	
	Processed:	
0202.30.20006	High-quality beef cuts	107.6100
0202.30.40002	Other	107.5500/107.6200
0202.30.60007	Other	106.1060
	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled, or frozen:	
0206.10.00000	Of bovine animals, fresh or chilled	na
	Of bovine animals, frozen:	
0206.21.00007	Tongues	na
0206.22.00006	Livers	na
0206.29.00009	Other	na
	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:	
0210.20.00002	Meat of bovine animals	107.4000/107.4500
	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products:	(na-edible beef offal)
	Other:	
1601.00.40003	Beef in airtight containers	107.2000
	Other:	
1601.00.60204	Beef	107.2520
	Other prepared or preserved meat, meat offal or blood:	
	Of bovine animals:	
1602.50.05004	Offal	na
	Other:	
	Not containing cereals or vegetables:	
1602.50.09000	Cured or pickled	107.4500
	Other:	
	In airtight containers:	
	Corned beef:	
1602.50.10203	In containers holding less than 1 kg	107.4820/107.4840
1602.50.10409	Other	107.4840
	Other:	
1602.50.20201	In containers holding less than 1 kg	107.5220/107.5240
1602.50.20407	Other	107.5240
1602.50.60006	Other	107.6300

This final rule also clarifies the language pertaining to the expenses of the Cattlemen's Beef Promotion and Research Board found in § 1260.151(a) of the Order (7 CFR 1260.151(a)) and established in the final rule on July 18, 1986, at 51 FR 26141. That section provides that the Board is authorized to incur such expenses (including provision for a reasonable reserve) as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and enable it to exercise its powers and perform its duties in accordance with that subpart. It further provides that such expenses incurred by the Board shall not exceed 5 percent of the projected revenue of that fiscal period. The same provision in the proposed rule, found at 51 FR 8990 and designated as § 1260.171, stated that "administrative expenses" incurred by the board shall not exceed 5-percent of the projected revenue of that fiscal period.

The Beef Promotion and Research Act (7 U.S.C. 2901 et seq.) which authorizes the Order limits only "administrative expenses" to the 5-percent limit. Section 2904(4)(D) (7 U.S.C. 2904(4)(D)) provides that the total costs of collection of assessments and administrative staff incurred by the board during any fiscal year shall not exceed 5 per centum of the projected total assessment to be collected by the board for such fiscal year.

It is in a separate provision, not subject to the 5 percent limitation, that the Act authorizes a reasonable reserve. Section 2904(8)(C) (7 U.S.C. 2904(8)(C)) provides that the assessment shall be used for payment of the costs of plans and projects as provided for in paragraph (4), and expenses in administrating the Order, including administrative costs incurred by the Secretary after the Order has been promulgated, and to establish a reasonable reserve.

Thus, under the Act, only those expenses associated with the annual cost of collecting assessment and maintaining the Board's administrative staff ("administrative expenses") are subject to the 5-percent limit. The Act does not include the reserve as an administrative expense; and, therefore, the reserve is not to be included in the 5-percent limit.

To clarify that the reserve is not subject to the 5-percent limitation under the Act and the Order, this final rule substitutes the word "Administrative" for the word "such" as the first word in the second sentence of § 1260.151(a) (7 CFR 1260.151(a)) and the phrase "expenses authorized in the paragraph" is substituted for the word "such" in the last sentence of the same paragraph.

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Comments

The interim final rule requested comments from interested persons by January 30, 1989. The Department received only two comments—one from the Office of the Trade Operations, USCS, Department of the Treasury, and one from the Multilateral Trade Policy Affairs Division (MTPAD), FAS, USDA.

The USCS comment recommended that the cents-per-pound assessments listed in the table of assessments for beef and beef products in section 1260.172 (7 CFR 1260.172) of the Order also be expressed in cents per kilogram. The commentor pointed out that the "Unit of Quantity" for reporting purposes for covered products under the HTS is "kilogram." The commentor further stated that "kilogram" will be the unit in which quantities will be reported on USCS entry documents. "Pounds" will no longer be used. In the commentor's opinion, expressing rates only in cents per pound will cause confusion in the importing community, require more work in the preparation and verification of entry documents, and increase the probability of clerical errors. The Agency believes that the adoption of this recommendation would facilitate the computation, collection, and processing of assessments on imported beef and beef products. Accordingly, the cents per kilogram has been included in the table of assessments for beef and beef products in section 1260.172 for each HTS number listed therein. To determine the cents per kilogram, the cents-per-pound assessments are multipled by a mertic conversion factor of 2.2046 and carried to the sixth decimal. The other comment, submitted by FAS, recommended certain changes in the chart contained in the Supplementary Information on page 52629–30 of the interim final rule. That chart listed a comparison of the former TSUS numbers and the new corresponding HTS numbers along with an HTS article description for live cattle and beef and beef products subject to assessment under the Act. It was the commentor's opinion that such changes were necessary to make the listed HTS numbers correctly conform to corresponding TSUS numbers. Based on a review of the latest available information on the conversion of TUSUS numbers to HTS numbers, the Agency concurs with the recommended changes and has revised the applicable numbers in the chart that appears in this supplementary information section accordingly. The changes do not result in any deletions or additions to the list of HTS numbers published in the tables of import assessments for live cattle and beef and beef products contained in § 1260.172 on page 52631 of the interim final rule.

This final rule adopts with some modifications the provisions of the interim final rule. Such changes are to facilitate the application of the Order. Accordingly, the interim final rule amending 7 CFR Part 1260 which was published at 53 FR 52628 on December 29, 1988, is adopted as a final rule with the following changes.

List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and meat products, Beef and beef products.

For the reasons set forth in the peramble, 7 CFR Part 1260 is amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for 7 CFR Part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901 et. seq.

2. The interim rule is corrected on page 52631 in the second column in paragraph 2. to state that only paragraph (a) of § 1260.151 is revised.

3. Revise § 1260.151(a) to read as follows:

§ 1260.151 Expenses.

(a) The Board is authorized to incur such expenses (including provision for a reasonable reserve), as the Secretary finds are reasonable and likely to be incurred by the board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with this subpart. Administrative expenses incurred by the board shall not exceed 5 percent of the projected revenue of that fiscal period. Expenses authorized in this paragraph shall be paid from assessments collected pursuant to § 1260.172.

* * * * *

3. Revise § 1260.172(b)(2) to read as follows:

§ 1260.172 Assessments

* * * * *

(b) * * *

(2) The assessment rates for imported cattle, beef, and beef products are as follows:

Live Cattle	Assessment
0102.10.00103	$1.00/hd
0102.10.00201	$1.00/hd
0102.10.00309	$1.00/hd
0102.90.20004	$1.00/hd
0102.90.40206	$1.00/hd
0102.90.40402	$1.00/hd
0102.90.40607	$1.00/hd

Beef and Beef Products	Assessment	
	cents/lb	cents/kg
0201.10.00103	.77	1.697542
0201.10.00906	.20	0.440920
0201.20.20009	.28	0.617286
0201.20.40005	.27	0.595242
0201.20.60000	.20	0.440920
0201.30.20007	.28	0.617286
0201.30.40003	.27	0.595242
0201.30.60006	.27	0.595242
0202.10.00102	.77	0.697542
0202.10.00905	.20	0.440920
0202.20.20006	.28	0.617286
0202.20.40004	.27	0.595242
0202.20.60009	.20	0.440920
0202.30.20006	.28	0.617286
0202.30.40002	.27	0.595242
0202.30.60007	.27	0.595242
0206.10.00000	.20	0.440920
0206.21.00007	.20	0.440920
0206.22.00006	.20	0.440920
0206.29.00009	.20	0.440920
0210.20.00002	.35	0.771610
1601.00.40003	.25	0.551150
1601.00.60204	.25	0.551150
1602.50.05004	.35	0.771610
1602.50.09000	.35	0.771610
1602.50.10203	.35	0.771610
1602.50.10409	.35	0.771610
1602.50.20201	.37	0.815702
1602.50.20407	.37	0.815702
1602.50.60006	.38	0.837748

* * * * *

Done at Washington, DC on April 17, 1989.

J. Patrick Boyle,
Administrator.

[FR Doc. 89-9502 Filed 4-19-89; 8:45 am]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 89-031]

Ports Designated for Exportation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning inspection and handling of livestock for exportation by adding Stevedoring Service of America as an operator of an export inspection facility at the port of Seattle, Washington. This action will add an additional facility through which animals may be exported.

EFFECTIVE DATE: May 22, 1989.

FOR FURTHER INFORMATION CONTACT: Dr. George Winegar, Senior Staff Veterinarian, Import-Export Animals Staff, VS, APHIS, USDA, Room 761, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 (301) 436–8383.

SUPPLEMENTARY INFORMATION:

Background

On January 24, 1989, we published in the **Federal Register** (54 FR 3473–3474, Docket 88–047) a document proposing to amend § 91.14 by adding Stevedoring Service of America as an animal export inspection facility at the port of Seattle, Washington. Our proposal invited the submission of written comments, which were required to be postmarked or received on or before February 8, 1989. We did not receive any comments. Based on the rationale set forth in the proposal, we are adopting the provisions of the proposal as a final rule.

Miscellaneous

The telephone number of Seattle's existing animal export inspection facility, operated by S&W Export Ltd., is incorrectly listed in § 91.14. We are correcting the number to read (206) 241–1837.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based.enterprises in domestic or export markets.

The addition of another animal export inspection facility at the port of Seattle, Washington, will facilitate the exportation of livestock from the United States. We believe the addition of this facility will have little or no economic impact on animal exporters, the majority of whom are small businesses. The primary impact will be the increased convenience of having two animal export facilities from which to choose.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Humane animal handling, Livestock and livestock products, Transportation.

Accordingly, 9 CFR Part 91 will be amended as follows:

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for Part 91 continues to read as follows:

Authority: 21 U.S.C., 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618, 46 U.S.C. 466a, 466b, 49 U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d).

§ 91.14 [Amended]

2. In § 91.14, the telephone number in paragraph (a)(15)(ii)(A), "(206) 248–2360", is corrected to read "(206) 241–1837".

3. Section 91.14 is amended by adding a new paragraph (a)(15)(ii)(B) to read as follows:

§ 91.14 Ports of embarkation and export inspection facilities.

(a) * * *

(15) * * *

(ii) * * *

(B) Stevedoring Service of America, 3615 11th Avenue SW., Seattle, WA 98134, (206) 623–0304.

* * * * *

Done at Washington, DC, this 14th day of April 1989.

James W. Glosser,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-9503 Filed 4-19-89; 8:45 am]
BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

[Rev. 4, Amdt. 21]

RIN: 3245-AB89

Loans to State and Local Development Companies

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: SBA hereby reduces the minimum amount of pool certificates representing an undivided interest in a pool of development company debentures (505 certificates) from $100,000 to $25,000, in order to improve the market acceptance of 505 certificates.

EFFECTIVE DATE: April 20, 1989.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, 202–653–6574.

SUPPLEMENTARY INFORMATION: On October 3, 1988 [53 FR 38737] SBA published the Notice of Proposed Rulemaking which is hereby promulgated as a final rule. No comments were received.

Section 505 of the Small Business Investment Act, 15 U.S.C. 697(b), authorizes SBA to issue certificates representing undivided ownership of all or a fractional part of a pool of development company debentures guaranteed by SBA. SBA is further authorized to guarantee the timely payment of principal and interest on these certificates. The full faith and credit of the United States is pledged to such guarantees.

Pursuant to this authority, SBA adopted a regulation which provides in relevant part that 505 certificates shall be issued in amounts of at least $100,000 [13 CFR 108.505(e)]. Experience has shown, however, that this minimum amount is too large, and that purchasers frequently split these amounts by selling fractional interests in such certificates to other investors. By reducing the minimum amount to $25,000, SBA hopes to improve the marketability of 505 certificates, and therefore eventually to reduce the interest cost to the development companies which have issued the debentures forming such pools, and to their small business borrowers.

SBA has determined that this rule is not a major rule for purposes of Executive Order 12291 because it cannot have an annual economic impact on the national economy of $100 million or more. In this regard, SBA estimated that the anticipated interest rate reduction, assuming the authorized program level

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for FY 1989 of $466 million and an interest rate reduction of one-half of one percent, will not exceed $2,340,000. The rule also will not result in a major increase in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions. Further, the proposed rule will not have a significant adverse effect on competition, employment, investment, productivity, innovations or international competitiveness of U.S. based businesses.

SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities because it only changes the form of the certificates now being sold by the underwriters.

SBA also certifies that this rule has no federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

For purposes of the Paperwork Reduction Act, Pub. L. 96-511, 44 U.S.C. Ch. 35, SBA certifies that this rule imposes no reporting or recordkeeping requirements.

List of Subjects in 13 CFR Part 108

Loan Programs/business—Small business.

Accordingly, pursuant to the authority contained in section 308(c) of the Small Business Investment Act, 15 U.S.C. 687(c), SBA hereby amends Part 108, Chapter I, of Title 13, Code of Federal Regulations, as follows:

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

1. The authority citation is revised to read as follows:

Authority: Sections. 308(c), 501, 502, 503, 504, 505 of the Small Business Investment Act, 15 U.S.C. 687(c), 695, 696, 697, 697a, 697b.

2. Section 108.505(e) is amended by striking "one hundred thousand dollars ($100,000)" therefrom and substituting "twenty-five thousand dollars ($25,000)" therefor.

(Catalog of Federal Domestic Assistance #59.036 Development Company Loans and #59.041 Certified Development Company Loans)

Dated: March 31, 1989.

James Abdnor,

Administrator.

[FR Doc. 89-9386 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM88-25-000]

Generic Determination of Rate of Return on Common Equity for Public Utilities; Benchmark Rate of Return on Common Equity for Public Utilities

April 14, 1989.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of benchmark rate of return on common equity for public utilities.

SUMMARY: In accordance with § 37.5 of its regulations, the Federal Energy Regulatory Commission, by its designee, the Director of the Office of Economic Policy, issues the update to the benchmark rate of return on common equity applicable to rate filings made during the period May 1, 1989 through July 31, 1989. This benchmark rate is set at 12.44 percent.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8283.

SUPPLEMENTARY INFORMATION:

On December 19, 1988, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 510) concerning the generic determination of the rate of return on common equity for public utilities.[1] In several earlier rulemaking proceedings, the Commission established a discounted cash flow (DCF) formula to determine the average cost of common equity and a quarterly indexing procedure to calculate benchmark rates of return on common equity for public utilities and codified the formula and procedure at § 37.9 of its Regulations.[2] In Order No. 510, the Commission determined that 4.3 percent is an appropriate expected annual dividend growth rate for use in the quarterly indexing procedure during the 12 months beginning February 1, 1989 and that 0.03 percent is an appropriate flotation cost adjustment factor for that period.

The Commission, by its designee, the Director of the Office of Economic Policy, uses the quarterly indexing procedure to determine that the benchmark rate of return on common equity applicable to rate filings made during the period May 1, 1989 through July 31, 1989 is 12.44 percent.

Section 37.9 of the Commission's regulations requires that the quarterly benchmark rate of return be set equal to the average cost of common equity for the jurisdictional operations of public utilities. This average cost is based on the average of the median dividend yields for the two most recent calendar quarters for a sample of 96 utilities.[3] The average yield is used in the following formula with fixed adjustment factors (determined in the most recent annual proceeding) to determine the cost rate:

$$k_t = 1.02\ Y_t + 4.33$$

where k_t is the average cost of common equity and Y_t is the average dividend yield.

The attached appendix provides the supporting data for this update. The median dividend yields for the sample of utilities for the fourth quarter of 1988 and the first quarter of 1989 are 7.85 and 8.04 percent, respectively. The average yield for those two quarters is 7.95 percent. Use of the average dividend yield in the above formula produces an average cost of common equity of 12.44 percent.

This notice supplements the generic rate of return rule announced in Order No. 510, issued December 19, 1988 and effective on February 1, 1989.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Part 37, Chapter I, Title 18 of the Code of Federal Regulations, as set forth below, effective May 1, 1989.

Richard P. O'Neill,

Director, Office of Economic Policy.

PART 37—GENERIC DETERMINATION OF RATE OF RETURN ON COMMON EQUITY FOR PUBLIC UTILITIES

1. The authority citation for Part 37 continues to read as follows:

[1] Generic Determination of Rate of Return on Common Equity for Public Utilities, Order No. 510, 53 FR 51,752 (Dec. 23, 1988), 45 FERC ¶ 61,452 (Dec. 19, 1988).

[2] 18 CFR 37.9 (1988). The most recent adoption of the DCF formula and quarterly indexing procedure came in Order No. 469, 53 FR 3342 (Feb. 5, 1988).

[3] As a result of the acquisition of Utah Power and Light by PacifiCorp, the Commission has reduced the number of companies in the sample for the most recent quarter to 96. It has made this change in accordance with the criteria for inclusion in the sample specified in 18 CFR 37.9(c) (1987).

Authority: Federal Power Act, 16 U.S.C. 791a-825r (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982).

2. In § 37.9, paragraph (d) is revised to read as follows:

§ 37.9 Quarterly indexing procedure.

* * * * *

(d) *Table of Quarterly Benchmark Rates of Return.* The following table presents the quarterly benchmark rates of return on common equity:

Benchmark Applicability Period (t)	Dividend Increase Adjustment Factor (a)	Expected Growth Adjustment Factor (b)	Current Dividend Yield (Y_t)	Cost of Common Equity (K_t)	Benchmark Rate of Return
2/1/86 to 4/30/86	1.02	4.54	9.03	13.75	13.75
5/1/86 to 7/31/86	1.02	4.54	8.37	13.08	13.25
8/1/86 to 10/31/86	1.02	4.54	7.49	12.18	12.75
11/1/86 to 1/31/87	1.02	4.54	6.75	11.43	12.25
2/1/87 to 4/30/87	1.02	4.63	6.44	11.20	11.20
5/1/87 to 7/31/87	1.02	4.63	6.54	11.30	11.30
8/1/87 to 10/31/87	1.02	4.63	6.97	11.74	11.74
11/1/87 to 1/31/88	1.02	4.63	7.49	12.27	12.27
2/1/88 to 4/30/88	1.02	4.36	7.90	12.42	12.42
5/1/88 to 7/31/88	1.02	4.36	7.99	12.51	12.51
8/1/88 to 10/31/88	1.02	4.36	7.84	12.36	12.36
11/1/88 to 1/31/89	1.02	4.36	7.92	12.44	12.44
2/1/89 to 4/30/89	1.02	4.33	7.89	12.38	12.38
5/1/89 to 7/31/89	1.02	4.33	7.95	12.44	12.44

Note: The Appendix will not be published in *Code of Federal Regulations*

Appendix

EXHIBIT NO.	TITLE
1	Initial sample of utilities
2	Utilities excluded from the sample for the indicated quarter due to either zero dividends or a reduction in dividends for this quarter or the prior three quarters
3	Annualized dividend yields for the indicated quarter for utilities retained in the sample
Source of Data	Standard and Poor's Compustat Services, Inc., Utility COMPUSTAT II Quarterly Data Base.

EXHIBIT 1.—SAMPLE OF UTILITIES

Utility	Ticker symbol	Industry code
Allegheny Power System	AYP	4911
American Electric Power	AEP	4911
Atlantic Energy Inc	ATE	4911
Baltimore Gas & Electric	BGE	4931
Black Hills Corp	BKH	4911
Boston Edison Co	BSE	4911
Carolina Power & Light	CPL	4911
Centerior Energy Corp	CX	4911
Central & South West Corp	CSR	4911
Central Hudson Gas & Elec	CNH	4931
Central Ill Public Servic	CIP	4931
Central Louisiana Electri	CNL	4911
Central Maine Power Co	CTP	4911
Central Vermont Pub Serv	CV	4911
Cilcorp Inc	CER	4931
Cincinnati Gas & Electric	CIN	4931
CMS Energy Corp	CMS	4931
Commonwealth Edison	CWE	4911
Commonwealth Energy Syste	CES	4931
Consolidated Edison of NY	ED	4931
Delmarva Power & Light	DEW	4931
Detroit Edison Co	DTE	4911
Dominion Resources Inc	D	4931
DPL Inc	DPL	4931
Duke Power Co	DUK	4911
Duquesne Light Co	DQU	4911
Eastern Utilities Assoc	EUA	4911
Empire District Electric	EDE	4911
Fitchburg Gas & Elec Ligh	FGE	4931
Florida Progress Corp	FPC	4911
FPL Group Inc	FPL	4911
General Public Utilities	GPU	4911
Green Mountain Power Corp	GMP	4911
Gulf States Utilities Co	GSU	4911
Hawaiian Electric Inds	HE	4911
Houston Industries Inc	HOU	4911
I E Industries Inc	IEL	4931
Idaho Power Co	IDA	4911
Illinois Power Co	IPC	4931
Interstate Power Co	IPW	4931
Iowa Resources Inc	IOR	4911
Iowa-Illinois Gas & Elec	IWG	4931
IPALCO Enterprises Inc	IPL	4911
Kansas City Power & Light	KLT	4911
Kansas Gas & Electric	KGE	4911
Kansas Power & Light	KAN	4931
Kentucky Utilities Co	KU	4911
Long Island Lighting	LIL	4931
Louisville Gas & Electric	LOU	4931
Maine Public Service	MAP	4911
Middle South Utilities	MSU	4911
Midwest Energy Co	MWE	4931
Minnesota Power & Light	MPL	4911
Montana Power Co	MTP	4931
NECO Enterprises Inc	NPT	4911
Nevada Power Co	NVP	4911
New England Electric Syst	NES	4911
New York State Elec & Gas	NGE	4931
Niagara Mohawk Power	NMK	4931
NIPSCO Industries Inc	NI	4931
Northeast Utilities	NU	4911
Northern States Power-MN	NSP	4931
Ohio Edison Co	OEC	4911
Oklahoma Gas & Electric	OGE	4911
Orange & Rockland Utiliti	ORU	4931
Pacific Gas & Electric	PCG	4931
Pacificorp	PPW	4931
Pennsylvania Power & Ligh	PPL	4911
Philadelphia Electric Co	PE	4931
Pinnacle West Capital Cor	PNW	4911
Portland General Corp	PGN	4911
Potomac Electric Power	POM	4911
PSI Holdings Inc	PIN	4911
Public Service Co of Colo	PSR	4931
Public Service Co of N H	PNH	4911
Public Service Co of N ME	PNM	4931
Public Service Entrp	PEG	4931
Puget Sound Power & Light	PSD	4911
Rochester Gas & Electric	RGS	4931
San Diego Gas & Electric	SDO	4931
Scana Corp	SCG	4931
SCECORP	SCE	4911
Sierra Pacific Resources	SRP	4931
Southern Co	SO	4911
Southern Indiana Gas & El	SIG	4931
St Joseph Light & Power	SAJ	4931
Teco Energy Inc	TE	4911
Texas Utilities Co	TXU	4911
TNP Enterprises Inc	TNP	4911
Tucson Electric Power Co	TEP	4911
Union Electric Co	UEP	4911
United Illuminating Co	UIL	4911
Unitil Corp	UTL	4911
Utilicorp United Inc	UCU	4931
Washington Water Power	WWP	4931
Wisconsin Energy Corp	WEC	4931
Wisconsin Public Service	WPS	4931
WPL Holdings Inc	WPH	4931

N=98.

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EXHIBIT 2.—UTILITIES EXCLUDED FROM THE SAMPLE FOR THE INDICATED QUARTER DUE TO EITHER ZERO DIVIDENDS OR A CUT IN THE DIVIDENDS FOR THIS QUARTER OR THE PRIOR THREE QUARTERS

[Year=89 Quarter=1]

Ticker symbol	Utility	Reason for exclusion
CX	Centerior Energy Corp	Dividend rate was reduced for the quarter Calendar 88Q2.
CMS	CMS Energy Corp	Dividend rate was zero for quarter Calendar 89Q1.
GSU	Gulf States Utilities Co	Dividend rate was zero for quarter Calendar 89Q1.
LIL	Long Island Lighting	Dividend rate was zero for quarter Calendar 89Q1.
MSU	Middle South Utilities	Dividend rate was zero for quarter Calendar 89Q3.
PCG	Pacific Gas & Electric	Dividend rate was reduced for the quarter Calendar 88Q3.
PNW	Pinnacle West Capital Corp	Dividend rate was reduced for the quarter Calendar 89Q1.
PIN	PSI Holdings Inc	Dividend rate was zero for quarter Calendar 88Q4.
PNH	Public Service Co. of N H	Dividend rate was zero for quarter Calendar 89Q1.
PNM	Public Service Co. of N ME	Dividend rate was reduced for the quarter Calendar 88Q2.

N=10.

EXHIBIT 3.—ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE

[Year = 89 Quarter = 1]

Ticker symbol	Price, 1st month of qtr-high	Price, 1st month of qtr-low	Price, 2nd month of qtr-high	Price, 2nd month of qtr-low	Price, 3rd month of qtr-high	Price, 3rd month of qtr-low	Average price	Dividends annual rate	Annualized dividend yield
AEP	27.875	26.500	27.750	26.000	26.750	25.750	26.771	2.370	8.853
ATE	33.375	32.500	33.750	32.625	33.625	32.625	33.063	2.760	8.343
AYP	37.875	36.750	38.000	36.875	37.750	35.625	37.146	3.080	8.292
BGE	32.125	30.750	32.000	30.625	31.000	28.500	30.833	2.000	6.486
BKH	27.000	24.875	26.750	25.125	26.750	25.000	25.917	1.520	5.865
BSE	16.625	15.500	16.125	15.375	16.625	15.750	16.000	1.820	11.375
CER	33.625	32.250	34.000	32.625	35.000	31.750	33.208	2.460	7.408
CES	32.500	30.750	31.500	29.625	31.500	30.000	30.979	2.800	9.038
CIN	26.375	25.250	26.625	25.375	26.000	24.375	25.667	2.240	8.727
CIP	22.250	21.500	22.125	20.750	21.125	20.125	21.312	1.760	8.258
CNH	22.375	21.125	22.125	21.375	21.750	20.875	21.604	1.760	8.147
CNL	32.250	31.125	32.250	31.250	32.125	31.500	31.750	2.320	7.307
CPL	37.250	35.500	36.750	35.000	36.125	35.000	35.938	2.840	7.903
CSR	32.750	31.125	32.375	30.250	30.875	29.750	31.187	2.600	8.337
CTP	18.750	17.750	18.625	17.500	17.875	17.000	17.917	1.520	8.484
CV	25.000	23.250	25.000	22.125	25.250	24.125	24.125	1.960	8.207
CWE	34.625	32.125	34.625	32.250	33.750	32.375	33.292	3.000	9.011
D	42.625	41.750	42.500	40.375	41.625	40.375	41.542	3.200	7.703
DEW	17.750	17.000	17.875	17.250	17.750	17.250	17.479	1.500	8.582
DPL	25.500	24.750	25.750	25.000	25.375	24.375	25.125	2.240	8.915
DQU	18.750	17.875	18.625	18.000	19.000	17.375	18.271	1.280	7.008
DTE	18.250	17.375	18.500	17.625	18.250	17.125	17.854	1.680	9.410
DUK	46.750	45.375	46.250	43.000	44.500	42.750	44.771	2.960	6.611
ED	47.250	46.000	47.250	44.375	45.875	44.625	45.896	3.440	7.495
EDE	28.375	27.750	28.250	27.500	28.000	26.750	27.771	2.220	7.994
EUA	32.875	31.250	32.625	32.000	32.375	30.375	31.917	2.400	7.520
FGE	30.375	28.375	28.500	27.125	30.625	27.750	28.792	2.000	6.946
FPC	34.875	34.125	35.125	33.500	34.250	33.250	34.167	2.560	7.488
FPL	31.625	30.625	31.625	29.625	30.250	29.000	30.458	2.200	2.223
GMP	23.750	22.250	23.500	22.500	23.625	22.125	22.958	1.920	8.363
GPU	38.125	36.500	37.875	36.625	38.875	36.875	37.479	1.800	4.803
HE	30.875	29.375	31.000	29.500	30.750	29.375	30.146	2.040	6.767
HOU	29.250	27.500	29.250	26.750	27.875	26.875	27.917	2.960	10.603
IDA	23.875	22.625	23.500	22.000	23.500	22.750	23.042	1.800	7.812
IEL	23.375	22.625	23.125	22.500	23.250	21.625	22.750	2.040	8.967
IOR	17.875	17.000	18.125	17.500	18.000	17.625	17.687	1.680	9.385
IPC	21.750	19.000	20.750	18.625	18.000	13.875	18.333	2.640	14.400
IPL	22.875	22.375	22.875	22.125	22.750	21.750	22.458	1.720	7.659
IPW	23.000	22.000	23.125	21.500	22.000	21.250	22.146	2.000	9.031
IWG	39.750	37.625	39.000	38.250	38.750	37.125	38.417	3.260	8.486
KAN	23.875	22.500	23.375	22.000	22.750	21.625	22.687	1.760	7.758
KGE	21.250	20.625	21.250	20.500	20.750	19.250	20.604	1.600	7.765
KLT	31.000	29.750	30.750	29.250	29.750	28.125	29.771	2.440	8.196
KU	18.875	18.000	18.750	17.875	18.500	18.000	18.333	1.400	7.636
LOU	34.625	33.500	33.750	32.500	33.625	32.000	33.333	2.720	8.160
MAP	21.187	20.312	21.625	20.875	24.500	21.125	21.604	1.500	6.943
MPL	24.000	23.125	24.000	22.875	24.750	23.375	23.687	1.780	7.515
MTP	35.625	34.375	35.000	34.500	35.625	34.000	34.854	2.760	7.919
MWE	19.625	18.875	19.500	18.250	19.125	18.000	18.896	1.560	8.256
NES	24.250	23.375	24.125	23.250	23.500	22.250	23.458	2.040	8.696
NGE	23.625	22.500	23.375	22.500	23.000	21.875	22.812	2.000	8.767
NI	14.125	13.125	14.500	13.750	14.125	13.375	13.833	0.840	6.072
NMK	13.750	11.750	12.625	11.500	12.500	11.750	12.312	1.200	9.746
NPT	20.500	19.125	19.375	17.750	18.000	15.875	18.437	1.500	8.136
NSP	33.250	32.250	33.125	31.125	31.625	30.250	31.937	2.120	8.638

EXHIBIT 3.—ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

[Year = 89 Quarter = 1]

Ticker symbol	Price, 1st month of qtr-high	Price, 1st month of qtr-low	Price, 2nd month of qtr-high	Price, 2nd month of qtr-low	Price, 3rd month of qtr-high	Price, 3rd month of qtr-low	Average price	Dividends annual rate	Annualized dividend yield
NU	20.125	19.500	20.000	18.625	19.875	18.500	19.437	1.760	9.055
NVP	20.625	20.000	20.750	19.750	20.500	19.375	20.167	1.520	7.537
OEC	20.750	18.625	20.875	20.375	20.375	19.375	20.062	1.960	9.769
OGE	33.000	32.000	33.125	32.375	33.000	32.375	32.646	2.380	7.290
ORU	29.875	28.750	28.875	28.000	28.250	27.250	28.500	2.260	7.930
PE	20.500	19.625	21.125	19.250	20.125	19.125	19.958	2.200	11.023
PEG	24.875	23.875	24.875	23.500	24.500	23.000	24.104	2.040	8.463
PGN	22.625	21.000	22.875	22.250	22.750	21.375	22.146	1.960	8.850
POM	20.375	19.375	20.625	19.250	20.125	19.250	19.833	1.460	7.361
PPL	36.250	35.500	36.375	34.750	35.250	34.250	35.396	2.860	8.080
PPW	35.125	34.125	34.750	33.375	35.000	33.125	34.250	2.640	7.708
PSD	19.125	18.250	18.875	18.000	18.875	18.125	18.542	1.760	9.492
PSR	21.750	20.375	21.000	20.125	21.625	20.000	20.812	2.000	9.610
RGS	18.250	17.000	18.000	17.375	17.875	17.000	17.583	1.500	8.531
SAJ	22.000	20.000	22.875	21.500	22.750	21.375	21.750	1.520	6.989
SCE	33.625	31.625	33.375	31.750	32.500	31.000	32.312	2.480	7.675
SCG	31.750	30.625	31.250	30.500	31.000	29.625	30.792	2.460	7.989
SDO	39.250	37.250	39.000	37.500	38.125	36.375	37.917	2.700	7.121
SIG	29.625	27.875	29.750	28.375	28.750	27.750	28.687	1.800	6.275
SO	24.500	22.000	23.875	22.500	23.875	22.875	23.271	2.140	9.196
SRP	23.625	23.000	25.875	22.375	25.500	23.500	23.979	1.800	7.507
TE	23.750	22.500	23.000	22.000	23.000	22.125	22.729	1.420	6.247
TEP	50.250	48.375	49.000	45.625	47.875	36.875	46.667	3.900	8.357
TNP	20.000	19.375	20.250	19.125	20.125	19.500	19.729	1.550	7.856
TXU	29.375	27.875	29.250	27.750	28.875	27.750	28.479	2.920	10.253
UCU	19.363	18.505	19.608	17.500	18.375	17.750	18.517	1.333	7.199
UEP	24.375	23.375	24.500	23.375	24.250	23.000	23.812	2.000	8.399
UIL	27.000	25.000	27.125	25.625	26.500	24.625	25.979	2.320	8.930
UTL	30.750	30.000	31.125	30.500	34.750	30.500	31.271	2.080	6.652
WEC	27.500	26.125	26.500	25.125	26.500	25.375	26.187	1.540	5.881
WPH	23.125	22.125	22.625	21.875	22.875	22.000	22.437	1.680	7.487
WPS	22.250	21.750	22.375	20.875	21.500	20.500	21.542	1.580	7.335
WWP	28.000	27.000	27.500	26.125	27.000	26.000	26.937	2.480	9.206

[FR Doc. 89-9479 Filed 4-19-89; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 58

[Docket No. 89N-0054]

Good Laboratory Practice Regulations; Minor Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations on good laboratory practice (GLP) for nonclinical laboratory studies to confirm the FDA policy that testing facilities are to use humane procedures for animal identification and experimentation. The agency has determined that toe clipping for animal identification is a potentially painful procedure and its use in animal studies should be discouraged. The amendment will not affect the intent of the regulatory requirements, which is to assure that animals used in nonclinical laboratory studies are appropriately identified.

DATES: Effective May 22, 1989; written comments by May 22, 1989.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paul D. Lepore, Division of Compliance Policy (HFC-230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2390.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 22, 1978 (43 FR 59986), FDA published final regulations regarding GLP for nonclinical laboratory studies. These regulations, codified at 21 CFR Part 58, prescribe GLP for conducting nonclinical laboratory studies that support or are intended to support applications for research or marketing permits for products regulated by FDA, including food and color additives, animal food additives, human and animal drugs, medical devices for human use, biological products, and electronic products. Compliance with these regulations is intended to assure the quality and integrity of the safety data filed under provisions of the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act. (See 21 CFR 58.1(a).) The GLP regulations were amended in a final rule published on September 4, 1987 (52 FR 33768).

Section 58.90(d) of the GLP regulations provides, in pertinent part, that "Warm-blooded animals, excluding suckling rodents, used in laboratory procedures * * * shall receive appropriate identification (e.g., tattoo, toe clip, color code, ear tag, ear punch, etc.) * * *."

The need for requiring appropriate identification of the animals was discussed in the preamble to the proposed rule (November 19, 1976; 41 FR 51206 at 51214) and in the preamble to the final rule (December 22, 1978; 43 FR 59986 at 60004, par. 157). FDA has determined that appropriate identification is necessary to preclude animal mixups during a study. Such mixups in test animal identification could affect the validity of the study results. Paragraph 157 of the preamble to the final rule advised that, because of the varied nature of the tests and the test systems that could be used in a study, the precise manner of animal identification is left to the discretion of the test facility.

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Elsewhere in the preamble to the final rule (par. 150), the agency stated that the humane care of test animals is a recognized and accepted scientific and ethical responsibility that is encouraged by various agency guidelines and the Animal Welfare Act. The agency also stated that the promulgation of the GLP regulations should foster the humane treatment of animals used in nonclinical laboratory studies.

In light of the foregoing, FDA listed in § 58.90(d) examples of methods of animal identification which were considered to be appropriate and humane. At that time, toe clipping was considered to be appropriate and humane. Since then, an increasing number of veterinarians for laboratory animals have determined that toe clipping is potentially painful and that its use should be discouraged.

As a result, the Interagency Research Animal Committee, a group consisting of representatives from Federal agencies involved in the care, use, and conservation of animals used in biomedical research and testing, has recommended that a scientist wishing to use toe clipping of animals as a method of animal identification should obtain the approval of each facility's institutional animal care and use committee (the committee). Before giving its consent, the committee should be convinced that no other method of identifying the animals would be appropriate. The committee should also be convinced that anesthesia and antisepsis would be used so that the toe clipping procedure would be humane and conform to accepted veterinary procedures. The Interagency Research Animal Committee did not recommend prohibiting the use of toe clipping entirely, but did recommend restricting its use to situations where this method of identification is necessary. The interagency committee also recommended procedures for performing toe clipping if it is to be done.

FDA accepts the recommendations of the Interagency Research Animal Committee and believes that the use of toe clipping of animals in nonclinical laboratory studies should be discouraged in accordance with that group's recommendations. Accordingly, FDA is removing the words "toe clip" from the second parenthetical expression in § 58.90(d). The amendment will eliminate the impression given by the current regulation that toe clipping is an approved and humane method of animal identification. The amendment will not affect the responsibility of testing facilities to use appropriate and humane methods of animal identification.

Under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b) and FDA's administrative practices and procedures regulations (21 CFR 10.40(e)), the Commissioner finds that notice and public procedure for amending 21 CFR 58.90(d) are unnecessary and contrary to the public interest. FDA believes that this amendment will help to promote the humane treatment of laboratory animals. However, by removing one example from the list of examples of methods of identification given parenthetically in § 58.90(d), the agency is neither adding nor removing a regulatory requirement. That is, the substantive requirements of the GLP regulations are unchanged by this amendment. Therefore, the Commissioner finds good cause to proceed directly to a final rule.

Although the agency is publishing this final rule without an opportunity for prior notice and comment as a proposed rule, FDA is providing for comment on this final rule in accordance with § 10.40(e)(1) of the agency's regulations (21 CFR 10.40(e)(1)).

Economic Impact

In accordance with Executive Order 12291, FDA has analyzed the potential economic effects of this final rule. The agency has determined that the rule is not a major rule as defined by the Order.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(10) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Comments

Interested persons may, on or before May 22, 1989, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 58

Laboratories, Reporting and Recordkeeping requirements.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 and under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 58 is amended to read as follows:

PART 58—GOOD LABORATORY PRACTICE FOR NONCLINICAL LABORATORY STUDIES

1. The authority citation for 21 CFR Part 58 is revised to read as follows:

Authority: Secs. 306, 402(a), 406, 408, 409, 502, 503, 505, 506, 507, 510, 512–516, 518–520, 701(a), 706, 801, Pub. L. 717, 52 Stat. 1045–1046 as amended, 1049–1053 as amended, 1055, 1058 as amended, 55 Stat. 851 as amended, 59 Stat. 463 as amended, 68 Stat. 511–517 as amended, 72 Stat. 1785–1788 as amended, 76 Stat. 794 as amended, 82 Stat. 343–351, 90 Stat. 539–574 (21 U.S.C. 336, 342(a), 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360b–360f, 360h–360j, 371(a), 376, 381); secs. 215, 351, 354–360F, Pub. L. 410, 58 Stat. 690, 702 as amended, 82 Stat. 1173–1188 as amended (42 U.S.C. 216, 262, 263b–263n); 21 CFR 5.11.

§ 58.90 [Amended]

2. Section 58.90 *Animal care* is amended in paragraph (d) by removing the words "toe clip," from the second parenthetical expression.

Dated: April 4, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-9469 Filed 4-19-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 316, 342, and 351

[Dept. of Treasury Circs. No. 653, Tenth Revision; Public Debt Series No. 3-67, 2nd Rev.; and No. 1-80, 2nd Rev.]

U.S. Savings Bonds and Notes; Tables Reflecting Investment Yields and Maturity Periods

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Notice providing update of tables showing the redemption values and investment yields of United States Savings Bonds/Notes.

SUMMARY: This notice updates the tables set forth in the offering circulars for Series E/EE savings bonds and savings notes. The tables reflect the redemption values and investment yields for interest accrual dates occurring May 1, 1989 through October 1, 1989, for Series E/EE savings bonds and savings notes.

EFFECTIVE DATE: April 20, 1989.

FOR FURTHER INFORMATION CONTACT: Jacqueline L. Jackson, Attorney Adviser, Office of the Chief Counsel, Bureau of the Public Debt, Washington, DC 20239-0001, (202) 376-4320.

SUPPLEMENTARY INFORMATION: This notice, published semi-annually, updates the tables reflecting the investment yields of Series E/EE savings bonds and savings notes. Department of the Treasury Circulars No. 653 (Series E), No. 1-80 (Series EE) and Public Debt Series No. 3-67 (Saving Notes) are hereby supplemented by the addition of tables showing the redemption values and investment yields for interest accrual dates occurring May 1, 1989 through October 1, 1989. It should be noted that the values and yields contained in the tables apply through October 31, 1989. It should be noted that the tables reflect the market-based variable yields described in the offering circulars at 31 CFR 316.8(b)(2)(C)(iii) for Series E savings bonds, 31 CFR 351.2(f)(2) for Series EE savings bonds, and 31 CFR 342.2a(b)(2) for savings notes. The values shown apply only where the securities are actually paid. They do not form the basis for future accruals.

Procedural Requirements

This notice is not a rulemaking document and, therefore, is not considered a "major rule" for purposes of Executive Order 12291. A regulatory impact analysis, therefore, is not required. The notice and public procedures of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rule-making is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

List of Subjects in 31 CFR Parts 316, 342, 351

Banks and banking, Federal Reserve System, Government securities.

Dated: March 22, 1989.

Gerald Murphy,

Fiscal Assistant Secretary.

Accordingly, pursuant to the authority of Department of the Treasury Circular No. 653, Tenth Revision (31 CFR Part 316), Public Debt Series No. 3-67, Second Revision (31 CFR Part 342), and No. 1-80, Second Revision (31 CFR Part 351), the following updated tables are provided:

U.S. SAVINGS BONDS, SERIES E—REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING MAY 1, 1989 THRU OCTOBER 1, 1989

Issue price / Denomination		$7.50 10.00	$18.75 25.00	$37.50 50.00	$75.00 100.00	$150.00 200.00	$375.00 500.00	$750.00 1,000.00			
Issue dates	Accrual date [1]	Redemption values during half-year period following accrual date (values increase on first day of period)							Actual yield [2] (percent)	Market yield [3] (percent)	Minimum yield [4] (percent)
5/49 thru 5/49	5/1/89	55.21	138.02	276.04	552.08	1,104.16	2,760.40	5,520.80	8.50	8.25	8.50
6/49 thru 10/49	6/1/89	57.53	143.83	287.66	575.32	1,150.64	2,876.60	5,753.20	8.50	8.25	8.50
11/49 thru 11/49	5/1/89	55.72	139.30	278.60	557.20	1,114.40	2,786.00	5,572.00	8.50	8.25	8.50
12/49 thru 4/50	6/1/89	56.42	141.06	282.12	564.24	1,128.48	2,821.20	5,642.40	8.50	8.25	8.50
5/50 thru 5/50	5/1/89	54.65	136.63	273.26	546.52	1,093.04	2,732.60	5,465.20	8.50	8.25	8.50

[1] Accrual date shown is for bonds of the first issue date listed—add one month for each successive month of issue.
[2] Actual investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[3] Market based variable investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[4] Guaranteed minimum yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

Note: Additional investment information is obtainable from Federal Reserve Banks and the Bureau of the Public Debt, Savings Bond Operations Office, 200 Third St., Parkersburg, WV 26102-1328.

U.S. SAVINGS BONDS, SERIES E—REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING MAY 1, 1989 THRU OCTOBER 1, 1989

Issue price / Denomination		$18.75 25.00	$37.50 50.00	$75.00 100.00	$150.00 200.00	$375.00 500.00	$750.00 1000.00				
Issue dates	Accrual date [1]	Redemption values during half-year period following accrual date (values increase on first day of period)							Actual yield [2] (percent)	Market yield [3] (percent)	Minimum yield [4] (percent)
6/50 thru 10/50	6/1/89	138.50	277.00	554.00	1108.00	2770.00	5540.00		8.50	8.50	8.50
11/50 thru 11/50	5/1/89	134.14	268.28	536.56	1073.12	2682.80	5365.60		8.50	8.50	8.50
12/50 thru 12/50	6/1/89	136.14	272.28	544.56	1089.12	2722.80	5445.60		8.50	8.50	8.50
1/51 thru 4/51	7/1/89	136.14	272.28	544.56	1089.12	2722.80	5445.60		8.50	8.50	8.50
5/51 thru 5/51	5/1/89	131.86	263.72	527.44	1054.88	2637.20	5274.40		8.50	8.50	8.50
6/51 thru 6/51	6/1/89	133.81	267.62	535.24	1070.48	2676.20	5352.40		8.50	8.50	8.50
7/51 thru 10/51	7/1/89	133.81	267.62	535.24	1070.48	2676.20	5352.40		8.50	8.50	8.50
11/51 thru 11/51	5/1/89	129.59	259.18	518.36	1036.72	2591.80	5183.60		8.50	8.50	8.50
12/51 thru 12/51	6/1/89	131.47	262.94	525.88	1051.76	2629.40	5258.80		8.50	8.50	8.50
1/52 thru 4/52	7/1/89	131.47	262.94	525.88	1051.76	2629.40	5258.80		8.50	8.50	8.50

[1] Accrual rate shown is for bonds of the first issue date listed—add one month for each successive month of issue.
[2] Actual investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

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[3] Market based variable investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

[4] Guaranteed minimum yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

Note: Additional investment information is obtainable from Federal Reserve Banks and the Bureau of the Public Debt, Savings Bond Operations Office, 200 Third St., Parkersburg, WV 26102-1328.

U.S. Savings Bonds, Series E—Redemption Values and Investment Yields for Accrual Dates Occurring May 1, 1989 Thru October 1, 1989

Issue price / Denomination		$18.75 25.00	$37.50 50.00	$75.00 100.00	$150.00 200.00	$375.00 500.00	$750.00 1000.00	$7500 10000			
Issue dates	Accrual date [1]	Redemption values during half-year period following accrual date (values increase on first day of period)							Actual yield [2] (Percent)	Market yield [3] (Percent)	Minimum yield [4] (Percent)
5/52 thru 5/52	7/1/89	130.67	261.94	523.68	1047.76	2619.40	5238.80	52388	8.50	8.25	8.50
6/52 thru 6/52	8/1/89	131.27	262.54	525.08	1050.16	2625.40	5250.80	52508	8.50	8.25	8.50
9/52 thru 9/52	5/1/89	127.13	254.26	508.52	1017.04	2542.60	5085.20	50852	8.50	8.25	8.50
10/52 thru 10/52	6/1/89	128.73	257.46	514.92	1029.84	2574.60	5149.20	51492	8.50	8.25	8.50
11/52 thru 11/52	7/1/89	128.73	257.46	514.92	1029.84	2574.60	5149.20	51492	8.50	8.25	8.50
12/52 thru 2/53	8/1/89	129.07	258.14	516.28	1032.56	2581.40	5162.80	51628	8.50	8.25	8.50
3/53 thru 3/53	5/1/89	123.06	246.12	492.24	984.48	2461.20	4922.40	49224	8.25	8.25	7.50
4/53 thru 4/53	6/1/89	124.58	249.16	498.32	996.64	2491.60	4983.20	49832	8.25	8.25	7.50
5/53 thru 5/53	7/1/89	124.58	249.16	498.32	996.64	2491.60	4983.20	49832	8.25	8.25	7.50
8/53 thru 8/53	8/1/89	124.88	249.76	499.52	999.04	2497.60	4995.20	49952	8.25	8.25	7.50
9/59 thru 9/53	5/1/89	120.94	241.88	483.76	967.52	2418.80	4837.60	48376	8.25	8.25	7.58
10/53 thru 10/53	6/1/89	122.48	244.96	489.92	979.84	2449.60	4899.20	48992	8.25	8.25	7.58
11/53 thru 11/53	7/1/89	122.48	244.96	489.92	979.84	2449.60	4899.20	48992	8.25	8.25	7.58
12/53 thru 2/54	8/1/89	122.80	245.60	491.20	982.40	2456.00	4912.00	49120	8.25	8.25	7.58
3/54 thru 3/54	5/1/89	118.95	237.90	475.80	951.60	2379.00	4758.00	47580	8.25	8.25	7.65
4/54 thru 4/54	6/1/89	120.45	240.90	481.80	963.60	2409.00	4818.00	48180	8.25	8.25	7.66
5/54 thru 6/54	7/1/89	120.45	240.90	481.80	963.60	2409.00	4818.00	48180	8.25	8.25	7.66
8/54 thru 8/54	8/1/89	120.77	241.54	483.08	966.16	2415.40	4830.80	48308	8.25	8.25	7.65
9/54 thru 9/54	5/1/89	116.97	233.94	467.88	935.76	2338.40	4678.80	46788	8.25	8.25	7.73
10/54 thru 10/54	6/1/89	118.52	237.04	474.08	948.16	2370.40	4740.80	47408	8.25	8.25	7.73
11/54 thru 11/54	7/1/89	118.52	237.04	474.08	948.16	2370.40	4740.80	47408	8.25	8.25	7.73
12/54 thru 2/55	8/1/89	118.81	237.62	475.24	950.48	2376.20	4752.40	47524	8.25	8.25	7.81
3/55 thru 3/55	5/1/89	115.04	230.08	460.16	920.32	2300.80	4601.60	46016	8.25	8.25	7.81
4/55 thru 4/55	6/1/89	116.55	233.10	466.20	932.40	2331.00	4662.00	46620	8.25	8.25	7.81
5/55 thru 5/55	7/1/89	116.55	233.10	466.20	932.40	2331.00	4662.00	46620	8.25	8.25	7.81
8/55 thru 8/55	8/1/89	116.85	233.70	467.40	934.80	2337.00	4674.00	46740	8.25	8.25	7.88
9/55 thru 9/55	5/1/89	113.18	226.36	452.72	905.44	2263.60	4527.20	45272	8.25	8.25	7.88
10/55 thru 10/55	6/1/89	114.70	229.40	458.80	917.60	2294.00	4588.00	45880	8.25	8.25	7.88
11/55 thru 11/55	7/1/89	114.70	229.40	458.80	917.60	2294.00	4588.00	45880	8.25	8.25	7.88
12/55 thru 2/56	8/1/89	114.99	229.98	459.96	919.92	2299.80	4599.60	45996	8.25	8.25	7.89
3/56 thru 3/56	5/1/89	111.37	222.74	445.48	890.96	2227.40	4454.80	44548	8.25	8.25	7.96
4/56 thru 4/56	6/1/89	114.50	229.00	458.00	916.00	2290.00	4580.00	45800	8.25	8.25	7.96
5/56 thru 5/56	7/1/89	114.50	229.00	458.00	916.00	2290.00	4580.00	45800	8.25	8.25	7.96
6/56 thru 8/56	8/1/89	114.75	229.50	459.00	918.00	2295.00	4590.00	45900	8.25	8.25	7.98
9/56 thru 9/56	5/1/89	111.13	222.26	444.52	889.04	2222.60	4445.20	44452	8.25	8.25	8.04
10/56 thru 10/56	6/1/89	112.42	224.84	449.68	899.36	2248.40	4496.80	44968	8.25	8.25	8.04
11/56 thru 11/56	7/1/89	112.42	224.84	449.68	899.36	2248.40	4496.80	44968	8.25	8.25	8.04
12/56 thru 1/57	8/1/89	113.08	226.16	452.32	904.64	2261.60	4523.20	45232	8.25	8.25	8.03
2/57 thru 5/57	7/1/89	114.62	229.24	458.48	916.96	2292.40	4584.80	45848	8.25	8.25	7.96

[1] Accrual date shown is for bonds of the first issue date listed—add one month for each successive month of issue.

[2] Actual investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

[3] Market based variable investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

[4] Guaranteed minimum yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

Note: Additional investment information is obtained from Federal Reserve Banks and Bureau of the Public Debt, Savings Bond Operations Office, 200 Third St., Parkersburg, WV 26102-1328.

U.S. Savings Bonds, Series E—Redemption Values and Investment Yields for Accural Dates Occurring May 1, 1989 Thru October 1, 1989

Issue price / Denomination		$18.75 25.00	$37.50 50.00	$75.00 100.00	$150.00 200.00	$375.00 500.00	$750.00 1000.00	$7500 10000			
Issue dates	Accrual date [1]	Redemption values during half-year period following accrual date (values increase on first day of period)							Actual yield [2] (percent)	Market yield [3] (percent)	Minimum yield [4] (percent)
6/57 thru 6/57	5/1/89	111.49	222.98	445.96	891.92	2229.80	4459.60	44596	8.25	8.25	8.04
7/57 thru 7/57	6/1/89	112.77	225.54	451.08	902.16	2255.40	4510.80	45108	8.25	8.25	8.04

Issue dates	Accrual date [1]	Redemption values during half-year period following accrual date (values increase on first day of period)							Actual yield [2] (percent)	Market yield [3] (percent)	Minimum yield [4] (percent)
8/57 thru 11/57	7/1/89	112.77	225.54	451.08	902.16	2255.40	4510.80	45108	8.25	8.25	8.04
12/57 thru 12/57	5/1/89	109.70	219.40	438.80	877.60	219.00	4388.00	43880	6.25	6.25	7.53
1/58 thru 1/58	6/1/89	111.00	222.00	444.00	888.00	2220.00	4440.00	44400	8.25	8.25	7.53
2/58 thru 5/58	7/1/89	111.00	222.00	444.00	888.00	2220.00	4440.00	44400	8.25	8.25	7.53
6/58 thru 8/58	5/1/89	107.95	215.90	431.80	863.60	2159.00	4316.00	43160	8.25	8.25	7.73
7/58 thru 7/58	6/1/89	109.21	218.42	436.84	873.68	2184.20	4368.40	43684	8.25	8.25	7.72
8/58 thru 11/58	7/1/89	109.21	218.42	436.84	873.68	2184.20	4368.40	43684	8.25	8.25	7.72
12/58 thru 12/58	5/1/89	106.23	212.46	424.92	849.84	2124.60	4249.20	42492	8.25	8.25	7.92
1/59 thru 1/59	6/1/89	107.50	215.00	430.00	860.00	2150.00	4300.00	43000	8.25	8.25	7.92
2/59 thru 5/59	7/1/89	107.50	215.00	430.00	860.00	2150.00	4300.00	43000	8.25	8.25	7.92
6/59 thru 7/59	9/1/89	107.19	214.38	428.76	857.52	2143.80	4287.60	42876	8.25	8.25	7.53
8/59 thru 8/59	5/1/89	103.61	207.62	415.24	840.48	2076.20	4152.40	41524	8.25	8.25	7.73
9/59 thru 9/59	6/1/89	104.98	209.96	419.92	839.84	2099.80	4199.20	41992	8.25	8.25	7.72
10/59 thru 11/59	7/1/89	104.98	209.96	419.92	839.84	2099.80	4199.20	41992	8.25	8.25	7.72
12/59 thru 1/60	9/1/89	105.20	210.40	420.80	841.60	2104.00	4208.00	42080	8.25	8.25	7.73
2/60 thru 2/60	5/1/89	101.90	203.80	407.60	815.20	2038.00	4076.00	40760	8.25	8.25	7.92
3/60 thru 3/60	6/1/89	103.07	206.14	412.28	824.56	2061.40	4122.80	41228	8.25	8.25	7.92
4/60 thru 5/60	7/1/89	103.07	206.14	412.28	824.56	2061.40	4122.80	41228	8.25	8.25	7.92
6/60 thru 7/60	9/1/89	103.24	206.48	412.96	825.92	2064.80	4129.60	41296	8.25	8.25	7.92
8/60 thru 8/60	5/1/89	100.01	200.02	400.04	800.08	2000.20	4000.40	40004	8.25	8.25	8.11
9/60 thru 9/60	6/1/89	101.16	202.32	404.64	809.28	2023.20	4046.40	40464	8.25	8.25	8.11
10/60 thru 11/60	7/1/89	101.16	202.32	404.64	809.28	2023.20	4046.40	40464	8.25	8.25	8.11
12/60 thru 1/61	9/1/89	101.34	202.68	405.36	810.72	2026.80	4053.60	40536	8.25	8.25	8.11
2/61 thru 2/61	5/1/89	98.50	197.00	394.00	788.00	1970.00	3940.00	39400	8.31	8.25	8.31
3/61 thru 3/61	6/1/89	99.63	199.26	398.52	797.04	1992.60	3985.20	39852	8.31	8.25	8.31
4/61 thru 5/61	7/1/89	99.63	199.26	398.52	797.04	1992.60	3985.20	39852	8.31	8.25	8.31
6/61 thru 7/61	9/1/89	99.82	199.64	399.68	799.36	1998.40	3996.80	39968	8.31	8.25	8.31
8/61 thru 8/61	5/1/89	97.95	195.90	391.80	783.60	1959.00	3918.00	39180	8.50	8.25	8.50
9/61 thru 9/61	6/1/89	99.04	198.08	396.16	792.32	1980.80	3961.60	39616	8.50	8.25	8.50
10/61 thru 11/61	7/1/89	99.04	198.08	396.16	792.32	1980.80	3961.60	39616	8.50	8.25	8.50
12/61 thru 1/62	9/1/89	99.32	198.64	397.28	794.56	1986.40	3972.80	39728	8.50	8.25	8.50
2/62 thru 2/62	5/1/89	96.20	192.40	384.80	769.60	1924.00	3484.00	38480	8.50	8.25	8.50
3/62 thru 3/62	6/1/89	96.89	193.78	387.56	775.12	1937.80	3875.60	38756	8.50	8.25	8.50
4/62 thru 5/62	7/1/89	96.89	193.78	387.56	775.12	1937.80	3875.60	38756	8.50	8.25	8.50
6/62 thru 7/62	9/1/89	97.13	194.26	388.52	777.04	1942.60	3885.20	38852	8.50	8.25	8.50
8/62 thru 8/62	5/1/89	94.08	188.16	376.32	752.64	1881.60	3763.20	37632	8.50	8.25	8.50
9/62 thru 9/62	6/1/89	94.74	189.48	378.96	757.92	1894.80	3789.60	37896	8.50	8.25	8.50

[1] Accrual date shown is for bonds of the first issue date listed—add one month for each successive month of issue.

[2] Actual investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

[3] Market based variable investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

[4] Guaranteed minimum yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

Note: Additional investment information is obtainable from federal reserve banks and the bureau of the public debt, savings bond operations office, 200 Third St., Parkersburg, WV 26102-1328.

U.S. Savings Bonds, Series E—Redemption Values and Investment Yields for Accrual Dates Occurring May 1, 1989 Thru October 1, 1989

Issue price / Denomination		$18.75 25.00	$37.50 50.00	$75.00 100.00	$150.00 200.00	$750.00 500.00	$75.00 1000.00	$75.00 10000			
Issue dates	Accrual date [1]	Redemption values during half-year period following accrual date (values increase on first day of period)							Actual yield [2] (percent)	Market yield [3] (percent)	Minimum yield [4] (percent)
10/62 thru 11/62	7/1/89	94.74	189.48	378.96	757.92	1894.80	3789.60	37896	8.50	8.50	8.50
12/62 thru 1/63	9/1/89	95.14	190.28	380.56	761.12	1902.80	3805.60	38056	8.50	8.50	8.50
2/63 thru 2/63	5/1/89	92.14	184.28	368.56	737.12	1842.80	3685.60	36856	8.50	8.50	8.50
3/63 thru 3/63	6/1/89	92.56	185.12	370.24	740.48	1851.20	3702.40	37024	8.50	8.50	8.50
4/63 thru 5/63	7/1/89	92.56	185.12	370.24	740.48	1851.20	3702.40	37024	8.50	8.50	8.50
6/63 thru 7/63	9/1/89	93.28	186.56	373.12	746.24	1865.60	3731.20	37312	8.50	8.50	8.50
8/63 thru 8/63	5/1/89	90.33	180.66	361.32	722.64	1806.60	3613.20	36132	8.50	8.50	8.50
9/63 thru 9/63	6/1/89	90.76	181.52	363.04	726.08	1815.20	3630.40	36304	8.50	8.50	8.50
10/63 thru 11/63	7/1/89	90.76	181.52	363.04	726.08	1815.20	3630.40	36304	8.50	8.50	8.50

[1] Accrual date shown is for bonds of the first issue date listed—add one month for each successive month of issue.

[2] Actual investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

[3] Market based variable investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

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[4] Guaranteed minimum yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

Note: Additional investment information is obtainable from Federal Reserve Banks and the Bureau of the Public Debt, Savings Bond Operations Office, 200 Third St., Parkersburg, WV 26102-1328.

U.S. SAVINGS BONDS, SERIES E—REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING MAY 1, 1989 THRU OCTOBER 1, 1989

Issue Price		$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500			
Denomination		25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000			
Issue dates	Accrual date[1]	Redemption values during half-year period following accrual date (values increase on first day of period)								Actual yield[2] (percent)	Market yield[3] (percent)	Minimum yield[4] (percent)
12/63 thru 1/64	9/1/89	91.34	182.68	274.02	365.36	730.72	1826.80	3653.60	36536	8.50	8.25	8.50
2/64 thru 2/64	5/1/89	88.49	176.92	265.38	353.84	707.68	1769.20	3538.40	35384	8.50	8.25	8.50
3/64 thru 3/64	6/1/89	88.89	177.78	266.67	355.56	711.12	1777.80	3555.60	35556	8.50	8.25	8.50
4/64 thru 5/64	7/1/89	88.89	177.78	266.67	355.56	711.12	1777.80	3555.60	35556	8.50	8.25	8.50
6/64 thru 7/64	9/1/89	89.47	178.94	268.41	357.88	715.76	1788.40	3576.80	35788	8.50	8.25	8.50
8/64 thru 8/64	5/1/89	86.64	173.28	259.92	346.56	693.12	1732.80	3465.60	34656	8.50	8.25	8.50
9/64 thru 9/64	6/1/89	87.07	174.14	261.21	348.28	696.56	1741.40	3482.80	34828	8.50	8.25	8.50
10/64 thru 11/64	7/1/89	87.07	174.14	261.21	348.28	696.56	1741.40	3482.80	34828	8.50	8.25	8.50
12/64 thru 1/66	9/1/89	87.63	175.26	262.89	350.52	701.04	1752.60	3505.20	35052	8.50	8.25	8.50
2/65 thru 2/65	5/1/89	83.55	167.10	250.65	334.20	668.40	1671.00	3342.00	33420	8.25	8.25	7.50
3/65 thru 3/65	6/1/89	83.96	167.92	251.88	335.84	671.68	1679.20	3358.40	33584	8.25	8.25	7.50
4/65 thru 5/65	7/1/89	83.96	167.92	251.88	335.84	671.68	1679.20	3358.40	33584	8.25	8.25	7.50
6/65 thru 7/65	9/1/89	84.41	168.82	253.23	337.64	675.28	1688.20	3376.40	33764	8.25	8.25	7.50
8/65 thru 8/65	5/1/89	81.76	163.52	245.28	327.04	654.08	1635.20	3270.40	32704	8.25	8.25	7.58
9/65 thru 9/65	6/1/89	82.18	164.36	246.54	328.72	657.44	1643.60	3287.20	32872	8.25	8.25	7.57
10/65 thru 11/65	7/1/89	82.18	164.36	246.54	328.72	657.44	1643.60	3287.20	32872	8.25	8.25	7.57
12/65 thru 12/65	6/1/89	82.43	164.86	247.29	329.72	659.44	1648.60	3297.20	32972	8.25	8.25	7.50
1/66 thru 4/66	7/1/89	82.43	164.86	247.29	329.72	659.44	1648.60	3297.20	32972	8.25	8.25	7.50
5/66 thru 5/66	5/1/89	79.85	159.70	239.55	319.40	638.80	1597.00	3194.00	31940	8.25	8.25	7.57
6/66 thru 6/66	6/1/89	80.66	161.32	241.98	322.64	645.28	1613.20	3226.40	32264	8.25	8.25	7.58
7/66 thru 10/66	7/1/89	80.66	161.32	241.98	322.64	645.28	1613.20	3226.40	32264	8.25	8.25	7.58
11/66 thru 11/66	5/1/89	78.12	156.24	234.36	312.48	624.96	1562.40	3124.80	31248	8.25	8.25	7.65
12/66 thru 12/66	6/1/89	78.96	157.96	236.94	315.92	631.84	1579.60	3159.20	31592	8.25	8.25	7.66
1/67 thru 4/67	7/1/89	78.96	157.96	236.94	315.92	631.84	1579.60	3159.20	31592	8.25	8.25	7.66
5/67 thru 5/67	5/1/89	76.48	152.96	229.44	305.92	611.84	1529.60	3059.20	30592	8.25	8.25	7.74
6/67 thru 6/67	6/1/89	77.34	154.68	232.02	309.36	618.72	1546.80	3093.60	30936	8.25	8.25	7.73
7/67 thru 10/67	7/1/89	77.34	154.68	232.02	309.36	618.72	1546.80	3093.60	30936	8.25	8.25	7.73
11/67 thru 11/67	5/1/89	74.92	149.84	224.76	299.68	599.36	1498.40	2996.80	29968	8.25	8.25	7.81
12/67 thru 12/67	6/1/89	75.82	151.64	227.46	303.28	606.56	1516.40	3032.80	30328	8.25	8.25	7.81
1/68 thru 4/68	7/1/89	75.82	151.64	227.46	303.28	606.56	1516.40	3032.80	30328	8.25	8.25	7.81
5/68 thru 5/68	5/1/89	73.44	146.88	220.32	293.76	587.52	1468.80	2937.60	29376	8.25	8.25	7.89
6/68 thru 6/68	6/1/89	74.31	148.62	222.93	297.24	594.48	1486.20	2972.40	29724	8.25	8.25	7.89
7/68 thru 10/68	7/1/89	74.31	148.62	222.93	297.24	594.48	1486.20	2972.40	29724	8.25	8.25	7.89
11/68 thru 11/68	5/1/89	71.96	143.92	215.88	287.84	575.68	1439.20	2878.40	28784	8.25	8.25	7.96
12/68 thru 12/68	6/1/89	72.96	145.92	218.88	291.84	583.68	1459.20	2918.40	29184	8.25	8.25	7.96
1/69 thru 4/69	7/1/89	72.96	145.92	218.88	291.84	583.68	1459.20	2918.40	29184	8.25	8.25	7.96
5/69 thru 5/69	5/1/89	70.66	141.32	211.98	282.64	565.28	1413.20	2826.40	28264	8.25	8.25	8.04
6/69 thru 6/69	10/1/89	73.57	147.14	220.71	294.28	588.56	1471.40	2942.80	29428	8.25	8.25	7.81
7/69 thru 7/69	5/1/89	71.24	142.48	213.72	284.96	569.92	1424.80	2849.60	28496	8.25	8.25	7.89

[1] Accrual date shown is for bonds of the first issue date listed—add one month for each successive month of issue.
[2] Actual investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[3] Market based variable investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[4] Guaranteed minimum yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

Note: Additional investment information is obtainable from Federal Reserve Banks and the Bureau of the Public Debt, Savings Bond Operations Office, 200 Third St., Parkersburg, WV 26102-1328.

U.S. SAVING BONDS, SERIES E—REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING MAY 1, 1989 THRU OCTOBER 1, 1989

Issue price		$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500.			
Denomination		25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000.			
Issue dates	Accrual date[1]	Redemption values during half-year period following accrual date (values increase on first day of period)								Actual yield[2] (percent)	Market yield[3] (percent)	Minimum yield[4] (percent)
6/69 thru 8/69	8/1/89	71.42	142.84	214.26	285.68	571.36	1428.40	2856.80	28568.	8.25	8.25	7.68
9/69 thru 11/69	7/1/89	71.42	142.84	214.26	285.68	571.36	1428.40	2856.80	28568.	8.25	8.25	7.68

Issue dates	Accrual date[1]	Redemption values during half-year period following accrual date (values increase on first day of period)								Actual yield[2] (percent)	Market yield[3] (percent)	Minimum yield[4] (percent)
12/69 thru 12/69	10/1/89	71.79	143.58	215.37	287.16	574.32	1435.80	2871.60	28716.	8.25	8.25	7.88
1/70 thru 1/70	5/1/89	69.55	139.10	208.65	278.20	556.40	1391.00	2782.00	27820.	8.25	8.25	7.96
2/70 thru 2/70	6/1/89	69.70	139.40	209.10	278.80	557.60	1394.00	2788.00	27880.	8.25	8.25	7.96
3/70 thru 5/70	7/1/89	69.70	139.40	209.10	278.80	557.60	1394.00	2788.00	27880.	8.25	8.25	7.96
6/70 thru 6/70	10/1/89	70.02	140.04	210.06	280.08	560.16	1400.40	2800.80	28008.	8.25	8.25	7.96
7/70 thru 7/70	5/1/89	67.82	135.64	203.46	271.28	542.56	1356.40	2712.80	27128.	8.25	8.25	8.04
8/70 thru 8/70	6/1/89	68.01	136.02	204.03	272.04	544.08	1360.20	2720.40	27204.	8.25	8.25	8.04
9/70 thru 11/70	7/1/89	68.01	136.02	204.03	272.04	544.08	1360.20	2720.40	27204.	8.25	8.25	8.04
12/70 thru 12/70	10/1/89	68.14	136.28	204.42	272.56	545.12	1362.80	2725.60	27256.	8.25	8.25	8.04
1/71 thru 1/71	5/1/89	66.01	132.02	198.03	264.04	528.06	1320.20	2640.40	26404.	8.25	8.25	7.53
2/71 thru 2/71	6/1/89	66.16	132.32	198.48	264.64	529.28	1323.20	2646.40	26464.	8.25	8.25	7.53
3/71 thru 5/71	7/1/89	66.16	132.32	198.48	264.64	529.28	1323.20	2646.40	26464.	8.25	8.25	7.53
6/71 thru 6/71	10/1/89	66.35	132.70	199.05	265.40	530.80	1327.00	2654.00	26540.	8.25	8.25	7.54
7/71 thru 7/71	5/1/89	64.25	128.50	192.75	257.00	514.00	1285.00	2570.00	25700.	8.25	8.25	7.73
8/71 thru 8/71	6/1/89	64.40	128.80	193.20	257.60	515.20	1288.00	2576.00	25760.	8.25	8.25	7.72
9/71 thru 11/71	7/1/89	64.40	128.80	193.20	257.60	515.20	1288.00	2576.00	25760.	8.25	8.25	7.72
12/71 thru 12/71	10/1/89	64.56	129.12	193.68	258.24	516.48	1291.20	2582.40	25824.	8.25	8.25	7.73
1/72 thru 1/72	5/1/89	62.53	125.06	187.59	250.12	500.24	1250.60	2501.20	25012.	8.25	8.25	7.92
2/72 thru 2/72	6/1/89	62.68	125.36	188.04	250.72	501.44	1253.60	2507.20	25072.	8.25	8.25	7.92
3/72 thru 5/72	7/1/89	62.68	125.36	188.04	250.72	501.44	1253.60	2507.20	25072.	8.25	8.25	7.92
6/72 thru 6/72	10/1/89	62.85	125.70	188.55	251.40	502.80	1257.00	2514.00	25140.	8.25	8.25	7.92
7/72 thru 7/72	5/1/89	60.89	121.78	182.67	243.56	487.12	1217.80	2435.60	24356.	8.25	8.25	8.11
8/72 thru 8/72	6/1/89	61.02	122.04	183.06	244.08	488.16	1220.40	2440.80	24408.	8.25	8.25	8.11
9/72 thru 11/72	7/1/89	61.02	122.04	183.06	244.08	488.16	1220.40	2440.80	24408.	8.25	8.25	8.11
12/72 thru 12/72	10/1/89	61.14	122.28	183.42	244.56	489.12	1222.80	2445.60	24456.	8.25	8.25	8.11
1/73 thru 1/73	5/1/89	59.42	118.84	178.26	237.68	475.36	1188.40	2376.80	23768.	8.31	8.25	8.31
2/73 thru 2/73	6/1/89	59.58	119.16	178.74	238.32	476.64	1191.60	2383.20	23832.	8.31	8.25	8.31
3/73 thru 5/73	7/1/89	59.58	119.16	178.74	238.32	476.64	1191.60	2383.20	23832.	8.31	8.25	8.31
6/73 thru 6/73	10/1/89	59.71	119.42	179.13	238.84	477.68	1194.20	2388.40	23884.	8.31	8.25	8.31
7/73 thru 7/73	5/1/89	58.53	117.06	175.59	234.12	468.24	1170.60	2341.20	23412.	8.50	8.25	8.50
8/73 thru 8/73	6/1/89	58.67	117.34	176.01	234.68	469.36	1173.40	2346.80	23468.	8.50	8.25	8.50
9/73 thru 11/73	7/1/89	58.67	117.34	176.01	234.68	469.36	1173.40	2346.80	23468.	8.50	8.25	8.50
12/73 thru 12/73	6/1/89	57.01	114.02	171.03	228.04	456.08	1140.20	2280.40	22804.	8.31	8.25	8.31
1/74 thru 4/74	7/1/89	57.01	114.02	171.03	228.04	456.08	1140.20	2280.40	22804.	8.31	8.25	8.31
5/74 thru 5/74	5/1/89	55.89	111.78	167.67	223.56	447.12	1117.80	2235.60	22356.	8.50	8.25	8.50
6/74 thru 6/74	6/1/89	56.02	112.04	168.06	224.08	448.16	1120.40	2240.80	22408.	8.50	8.25	8.50
7/74 thru 10/74	7/1/89	56.02	112.04	168.06	224.08	448.16	1120.40	2240.80	22408.	8.50	8.25	8.50

[1] Accrual date shown is for bonds of the first issue date listed—add on month for each successive month of issue.
[2] Actual investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[3] Market based variable investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, for the accrual date shown.
[4] Guaranteed minimum yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

Note: Additional investment information is obtainable from Federal Reserve Banks and the Bureau of the Public Debt, Savings Bond Operations Office, 200 Third St., Parkersburg, WV 26102-1328.

U.S. SAVINGS BONDS, SERIES E—REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING MAY 1, 1989 THRU OCTOBER 1, 1989

Issue price		$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500.			
Denomination		25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000.			
Issue dates	Accrual date[1]	Redemption values during half-year period following accrual date (values increase on first day of period)								Actual yield[2] (percent)	Market yield[3] (percent)	Minimum yield[4] (percent)
11/74 thru 11/74	5/1/89	54.25	108.50	162.75	217.00	434.00	1085.00	2170.00	21700.	8.50	8.25	8.50
12/74 thru 12/74	6/1/89	54.38	108.76	163.14	217.52	435.04	1087.60	2175.20	21752.	8.50	8.25	8.50
1/75 thru 4/75	7/1/89	54.38	108.76	163.14	217.52	435.04	1087.60	2175.20	21752.	8.50	8.25	8.50
5/75 thru 5/75	5/1/89	52.66	105.32	157.98	210.64	421.28	1053.20	2106.40	21064.	8.50	8.25	8.50
6/75 thru 6/75	6/1/89	52.79	105.58	158.37	211.16	422.32	1055.80	2111.60	21118.	8.50	8.25	8.50
7/75 thru 10/75	7/1/89	52.79	105.58	158.37	211.16	422.32	1055.80	2111.60	21118.	8.50	8.25	8.50
11/75 thru 11/75	5/1/89	51.13	102.26	153.39	204.52	409.04	1022.60	2045.20	20452.	8.50	8.25	8.50
12/75 thru 12/75	6/1/89	51.24	102.48	153.72	204.96	409.92	1024.80	2049.60	20496.	8.50	8.25	8.50
1/76 thru 4/76	7/1/89	51.24	102.48	153.72	204.96	409.92	1024.80	2049.60	20496.	8.50	8.25	8.50
5/76 thru 5/76	5/1/89	49.63	99.26	148.89	198.52	397.04	992.60	1985.20	19852.	8.50%	8.25%	8.50%
6/76 thru 6/76	6/1/89	49.74	99.48	149.22	198.96	397.92	994.80	1989.60	19896.	8.50	8.25	8.50

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Issue dates	Accrual date [1]	Redemption values during half-year period following accrual date (values increase on first day of period)								Actual yield [2] (percent)	Market yield [3] (percent)	Minimum yield [4] (percent)
7/78 thru 10/78	7/1/89	49.74	99.48	149.22	198.96	397.92	994.80	1989.60	19896.	8.50	8.25	8.50
11/78 thru 11/78	6/1/89	46.17	96.34	144.51	192.68	385.36	963.40	1926.80	19268.	8.50	8.25	8.50
12/78 thru 12/78	6/1/89	46.30	96.60	144.90	193.20	386.40	966.00	1932.00	19320.	8.50	8.25	8.50
1/77 thru 4/77	7/1/89	46.30	96.60	144.90	193.20	386.40	966.00	1932.00	19320.	8.50	8.25	8.50
5/77 thru 5/77	5/1/89	46.78	93.56	140.34	187.12	374.24	935.60	1871.20	18712.	8.50	8.25	8.50
6/77 thru 6/77	6/1/89	46.90	93.80	140.70	187.60	375.20	938.00	1876.00	18760.	8.50	8.25	8.50
7/77 thru 10/77	7/1/89	46.90	93.80	140.70	187.60	375.20	938.00	1876.00	18760.	8.50	8.25	8.50
11/77 thru 11/77	5/1/89	44.70	89.40	134.10	178.80	357.60	894.00	1788.00	17880.	8.25	8.25	7.50
12/77 thru 12/77	6/1/89	44.82	89.64	134.46	179.28	358.56	896.40	1792.80	17928.	8.25	8.25	7.50
1/78 thru 4/78	7/1/89	44.82	89.64	134.46	179.28	358.56	896.40	1792.80	17928.	8.25	8.25	7.50
5/78 thru 5/78	5/1/89	41.61	83.22	124.83	166.44	332.88	832.20	1664.40	16644.	8.33	8.25	8.33
6/78 thru 6/78	6/1/89	41.72	83.44	125.16	166.88	333.76	834.40	1668.80	16688.	8.37	8.25	8.37
7/78 thru 10/78	7/1/89	41.72	83.44	125.16	166.88	333.76	834.40	1668.80	16688.	8.37	8.25	8.37
11/78 thru 11/78	5/1/89	40.60	81.20	121.80	162.40	324.60	812.00	1624.00	16240.	8.41	8.25	8.41
12/78 thru 12/78	6/1/89	40.70	81.40	122.10	162.80	325.60	814.00	1628.00	16280.	8.45	8.25	8.45
1/79 thru 4/79	7/1/89	40.70	81.40	122.10	162.80	325.60	814.00	1628.00	16280.	8.45	8.25	8.45
5/79 thru 5/79	5/1/89	39.62	79.24	118.86	158.48	316.96	792.40	1584.80	15848.	8.49	8.25	8.49
6/79 thru 6/79	6/1/89	39.71	79.42	119.13	158.84	317.68	794.20	1588.40	15884.	8.52	8.25	8.52
7/79 thru 10/79	7/1/89	39.71	79.42	119.13	158.84	317.68	794.20	1588.40	15884.	8.52	8.25	8.52
11/79 thru 11/79	5/1/89	38.64	77.28	115.92	154.56	309.12	772.80	1545.60	15456.	8.52	8.25	8.52
12/79 thru 12/79	6/1/89	38.64	77.28	115.92	154.56	309.12	772.80	1545.60	15456.	8.52	8.25	8.52
1/80 thru 4/80	7/1/89	38.64	77.28	115.92	154.56	309.12	772.80	1545.60	15456.	8.52	8.25	8.52
5/80 thru 5/80	5/1/89	37.62	75.24	112.86	150.48	300.96	752.40	1504.80	15048.	8.51	8.25	8.51
6/80 thru 6/80	6/1/89	37.62	75.24	112.86	150.48	300.96	752.40	1504.80	15048.	8.51	8.25	8.51

[1] Accrual date shown is for bonds of the first issue date listed—add one month for each successive month of issue.
[2] Actual investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[3] Market based variable investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[4] Guaranteed minimum yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

Note: Additional investment information is obtainable from Federal Reserve Banks and the Bureau of the Public Debt, Savings Bond Operations Office, 200 Third St., Parkersburg, WV 26102-1328.

U.S. Savings Bonds, Notes—Redemption Values and Investment Yields for Accrual Dates Occurring May 1, 1989 Thru October 1, 1989

Issue price				$20.25	$40.50	$60.75	$81.00					
Denomination				25.00	50.00	75.00	100.00					
Issue dates	Accrual date [1]	Redemption values during half-year period following accrual date (values increase on first day of period)								Actual yield [2] (percent)	Market yield [3] (percent)	Minimum yield [4] (percent)
5/67 thru 5/67	5/1/89			85.34	170.68	256.02	341.36			8.50	8.25	8.50
6/67 thru 6/67	6/1/89			85.73	171.46	257.19	342.92			8.50	8.25	8.50
7/67 thru 10/67	7/1/89			85.73	171.46	257.19	342.92			8.50	8.25	8.50
11/67 thru 11/67	5/1/89			83.02	166.04	249.06	332.08			8.50	8.25	8.50
12/67 thru 12/67	6/1/89			83.44	166.88	250.32	333.76			8.50	8.25	8.50
1/68 thru 4/68	7/1/89			83.44	166.88	250.32	333.76			8.50	8.25	8.50
5/68 thru 5/68	5/1/89			79.56	159.12	238.68	318.24			8.25	8.25	7.50
6/68 thru 6/68	6/1/89			80.84	161.68	242.52	323.36			8.25	8.25	7.50
7/68 thru 10/68	7/1/89			80.84	161.68	242.52	323.36			8.25	8.25	7.50
11/68 thru 11/68	5/1/89			78.31	156.62	234.93	313.24			8.25	8.25	7.58
12/68 thru 12/68	6/1/89			78.73	157.46	236.19	314.92			8.25	8.25	7.57
1/69 thru 4/69	7/1/89			78.73	157.46	236.19	314.92			8.25	8.25	7.57
5/69 thru 5/69	5/1/89			76.24	152.48	228.72	304.96			8.25	8.25	7.65
6/69 thru 6/69	6/1/89			76.60	153.20	229.80	306.40			8.25	8.25	7.66
7/69 thru 10/69	7/1/89			76.60	153.20	229.80	306.40			8.25	8.25	7.66
11/69 thru 11/69	5/1/89			74.21	148.42	222.63	296.84			8.25	8.25	7.73
12/69 thru 12/69	6/1/89			74.55	149.10	223.65	298.20			8.25	8.25	7.73
1/70 thru 4/70	7/1/89			74.55	149.10	223.65	298.20			8.25	8.25	7.73
5/70 thru 5/70	5/1/89			72.22	144.44	216.66	288.88			8.25	8.25	7.81

Issue dates	Accrual date [1]	Redemption values during half-year period following accrual date (values increase on first day of period)								Actual yield [2] (percent)	Market yield [3] (percent)	Minimum yield [4] (percent)
6/70 thru 6/70	6/1/89			72.54	145.08	217.62	290.16			8.25	8.25	7.81
7/70 thru 10/70	7/1/89			72.54	145.08	217.62	290.16			8.25	8.25	7.81

[1] Accrual date shown is for bonds of the first issue date listed—add one month for each successive month of issue.
[2] Actual investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[3] Market based variable investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[4] Guaranteed minimum yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

Note: Additional investment information is obtainable from Federal Reserve Banks and the Bureau of the Public Debt, Savings Bond Operations Office, 200 Third St., Parkersburg, WV 26102-1328.

U.S. Savings Bonds, Series E—Redemption Values and Investment Yields for Accrual Dates Occurring May 1, 1989 Thru October 1, 1989

Issue price		$25.00	$37.50	$50.00	$100.00	$250.00	$500.00	$2,500.00	$5,000.00			
Denomination		50.00	75.00	100.00	200.00	500.00	1,000.00	5,000.00	10,000			
Issue dates	Accrual date [1]	Redemption values during half-year period following accrual date (values increase on first day of period)								Actual yield [2] (percent)	Market yield [3] (percent)	Minimum (percent)
1/80 thru 4/80	7/1/89	56.30	84.45	112.60	225.20	563.00	1,126.00	5,630.00	11,260.	9.70	8.25	9.70
5/80 thru 10/80	5/1/89	54.40	81.60	108.80	217.60	544.00	1,088.00	5,440.00	10,880.	9.67	8.25	9.67
11/80 thru 4/81	5/1/89	52.58	78.87	105.16	210.32	525.80	1,051.60	5,258.00	10,516.	9.81	8.25	9.81
5/81 thru 10/81	5/1/89	50.56	75.84	101.12	202.24	505.60	1,011.20	5,056.00	10,112.	9.64	8.25	9.64
11/81 thru 4/82	5/1/89	48.14	72.21	96.28	192.56	481.40	962.80	4,814.00	9,628.	9.39	8.25	9.39
5/82 thru 10/82	5/1/89	45.86	68.79	91.72	183.44	458.60	917.20	4,586.00	9,172.	9.24	8.25	9.24
11/82 thru 4/83	5/1/89	42.30	63.45	84.60	169.20	423.00	846.00	4,230.00	8,460.	8.26	8.25	7.51
5/83 thru 10/83	5/1/89	40.04	60.06	80.08	160.16	400.40	800.80	4,004.00	8,008.	8.01	8.00	7.51
11/83 thru 4/84	5/1/89	38.50	57.75	77.00	154.00	385.00	770.00	3,850.00	7,700.	8.01	8.00	7.51
5/84 thru 10/84	5/1/89	37.02	55.53	74.04	148.08	370.20	740.40	3,702.00	7,404.	8.01	8.00	7.51

[1] Accrual date shown is for bonds of the first issue date listed—add one month for each successive month of issue.
[2] Actual investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[3] Market based variable investment yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.
[4] Guaranteed minimum yield (annual percentage rate) from date of issue or beginning of first accrual period on or after November 1, 1982, whichever is later, to the accrual date shown.

Note: Additional investment information is obtainable from Federal Reserve Banks and the Bureau of the Public Debt, Savings Bond Operations Office, 200 Third St., Parkersburg, WV 26102-1328.

[FR Doc. 89-9459 Filed 4-19-89; 8:45 am]
BILLING CODE 4810-40-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services; Amendments to Procurement Manual

AGENCY: Postal Service.

ACTION: Amendments to procurement manual.

SUMMARY: The Postal Service announces that it is amending the Procurement Manual to conform certain solicitation provisions and contract clauses to Chapter 60 of title 41, Code of Federal Regulations, as requested by the Department of Labor. The purpose of the regulations in Chapter 60 is to insure equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, who are employed or seeking employment with Government contractors or with contractors performing under federally assisted construction contracts. The requested changes have no effect on postal personnel resources or the normal course of postal business.

EFFECTIVE DATE: April 24, 1989.

FOR FURTHER INFORMATION CONTACT: Paul D. McGinn, (202) 268-4638.

SUPPLEMENTARY INFORMATION: The Procurement Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 601.100), has been amended by the issue of PM Circular 89-1, dated April 24, 1989.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Procurement Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR 601

Government procurement, Postal Service, Incorporation by reference.

PART 601—[AMENDED]

The authority citation for Part 601 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 410, 411, 2008, 5001-5605.

Explanation of Changes

A. Provision 10-4 (p. A-18), *Equal Opportunity Affirmative Action Program*. Revised to add a certification as to whether the offeror has filed the required reports with the Joint Reporting Committee.

B. Provision 10-5 (p. A-18), *Preaward Equal Opportunity Compliance Review*. Revised to require, as a condition of award, compliance with 41 CFR 60-1.20 rather than with the *Equal Opportunity Clause*.

C. Clause 10-4 (p. B-90), *Contract Work Hours and Safety Standards Act—Overtime Compensation*.

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1. Paragraph c, *Withholding for Unpaid Wages and Liquidated Damages*. Revised to stress that cross-withholding is authorized.

2. Paragraph d, *Records*. (a) Revised to set forth the material regarding records previously incorporated by reference to 29 CFR Part 5; (b) To add a statement on the availability of records for inspection, copying or transcription, and the availability of employees for interviews; (c) To indicate Office of Management and Budget (OMB) approval of Department of Labor (DOL) information collection and recordkeeping requirements.

D. Clause 10–5 (pp. B–91—B–93), *Davis-Bacon Act*.

1. Subparagraph a.1. Revised to specify that the work excluded from coverage must be of a recurring, routine nature.

2. Subparagraph a.3. Revised to specify that contributions made or costs assumed, if not on a weekly basis, must be on a not-less-than-quarterly basis;

3. Subparagraph a.4. Revised to conform to Department of Labor regulations.

4. Subparagraph a.5. Revised to clarify the reporting arrangements and to specify when the contracting officer may approve additional classifications and related wage rates and fringe benefits.

5. New subparagraph a.6. New text listing the actions taken when the parties cannot agree on the proper classification of a class of laborers or mechanics, and to indicate OMB approval of DOL information collection and recordkeeping requirements.

6. Paragraph b. Revised to require conformance with Executive Order 11246 and 29 CFR Part 30, and to give details of when trainees may be permitted to work, what wages and benefits apprentices and trainees must receive, and what happens when approval of an apprenticeship or trainee program is withdrawn.

7. Subparagraph c.4. Deleted as superfluous.

8. Subparagraph d.1. Revised to add a reference to social security numbers and to cover apprentices and trainees, and to indicate OMB approval of DOL information collection and recordkeeping requirements.

9. Subparagraph d.2. Revised to clarify language and add a reference to OMB approval for DOL collecting and reporting requirements.

10. Paragraph e. Revised to specify that cross-withholding is authorized.

11. Paragraph h. Revised to clarify language.

12. New paragraph i. New text specifying that breach of this clause may be grounds for termination and debarment.

13. Paragraph j. New text specifying that disputes over labor standards are not subject to the *Claims and Disputes Clause*, but rather must be resolved under DOL procedures in 29 CFR Parts 5, 6, and 7.

E. Clause 10–7 (pp. B–93—B–94), *Contract Work Hours and Safety Standards Act—Safety Standards*. Revised to clarify language and to update reference to the Code of Federal Regulations.

F. Clause 10–12, (pp. B–98—B–104), *Service Contract Act*. Revised to make editorial changes and clarifications.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89–9301 Filed 4–19–89; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–056 and FRL–3556–9]

Approval and Promulgation of Implementation Plans; Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves revisions to Appendix N of the Kentucky State Implementation Plan (SIP). Appendix N consists of regulations developed by the Air Pollution Control District of Jefferson County (the District), and applies only in Jefferson County, Kentucky; they are implemented by the District. EPA approval of the regulations enables the District to retain authority for all subject activities in Jefferson County.

EFFECTIVE: This action will be effective June 19, 1989, unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to Richard A. Schutt of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the material submitted by Kentucky may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington DC 20460.

Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365.

Kentucky Department for Environmental Protection, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601.

Air Pollution Control, District of Jefferson County, 914 East Broadway, Louisville, Kentucky 40204.

FOR FURTHER INFORMATION CONTACT: Richard A. Schutt of the EPA Region IV Air Programs Branch at 404–347–2864) (FTS–257–2864) and at the above address.

SUPPLEMENTARY INFORMATION: The Air Pollution Control District of Jefferson County (the District) develops and implements air quality regulations in Jefferson County, Kentucky. The District's regulations are at least as stringent as corresponding Kentucky regulations. The District's regulations are incorporated by the State as part of the Kentucky SIP; in this manner, the State has the authority to implement the regulations in Jefferson County if the District cannot.

The SIP revisions affected by today's approval were adopted by the Air Pollution Control Board of Jefferson County on April 20, 1988, and submitted to EPA by Kentucky on January 19, 1989. The regulations being approved by this notice are 3.05, Methods of Measurement, and 4.02, Episode Criteria. Regulation 3.05 establishes the methods to use for measuring air contaminants. This regulation was amended to correct references to federal regulations. With the adoption of the PM_{10} standard for particulate, new methods and standards for measurement were added to 40 CFR Parts 50 and 53 to ensure consistency of measurement. With the incorporation of PM_{10} standards in the Jefferson County regulations, the methods for measurement logically followed.

Regulation 4.02 establishes the criteria to determine air pollution episodes. This regulation was amended to drop TSP and add PM_{10} in all three phases of the episode criteria such that alerts, warnings and emergencies reflect the concentration levels as set forth in 40 CFR Part 51, Appendix L.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective June 19, 1989 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective June 19, 1989.

Final Action

EPA is today finalizing approval of revisons to Regulation 3.05 and 4.02 contained in Appendix N of the Kentucky State Implementation Plan. These revisions simply reflect the adoption of the PM_{10} standard for particulates.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Park Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 19, 1989. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations.

Note: Incorporation by reference of Kentucky State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

Date: April 7, 1989.

Joe R. Franzmathes,

Acting Regional Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart S—Kentucky

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.920 is amended by adding paragraph (c)(59) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(59) Revisions to Jefferson County Regulations 3.05, Methods of Measurement, and 4.02, Episode Criteria, submitted on January 19, 1989, by the Kentucky Natural Resources and Environmental Protection Cabinet.

(i) Incorporation by reference.

(A) Revisions to the following Jefferson County Regulations:

3.05. Methods of Measurement

4.02. Episode Criteria—section 2. Air Pollution alerts, section 3. Air Pollution warnings, and section 4. Air Pollution Emergencies.

These revisions became State-effective April 20, 1988.

(B) Letter of January 19, 1989, from the Kentucky Natural Resources and Environmental Protection Cabinet.

(ii) Other material—none.

[FR Doc. 89–9210 Filed 4–19–89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL–3557–7]

Approval and Promulgation of Air Quality Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Missouri Department of Natural Resources has submitted revised regulations to incorporate by reference EPA's Guidelines on Air Quality Models (Revised 1986) (EPA 450/2–78–027R) and Supplement A (1987). EPA is taking final action to approve this revision to establish consistency with EPA's current requirements on air quality models. Also, two typographical errors in the state regulations are being changed.

DATES: This action will be effective June 19, 1989, unless notice is received by May 22, 1989, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection at:

U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Air Pollution Control Program, Missouri Department of Natural Resources, Jefferson State Office Building, P.O. Box 176, Jefferson City, Missouri 65102

FOR FURTHER INFORMATION CONTACT: Carol D. LeValley at (913) 236–2893 (FTS 757–2893).

SUPPLEMENTARY INFORMATION: On October 18, 1988, the Missouri Department of Natural Resources submitted an amendment to state rule 10 CSR 10–6.060 "Permits Required." The amendment incorporates EPA's Guideline on Air Quality Models (Revised 1986) and Supplement A (1987) to satisfy EPA's modeling requirement in 40 CFR 51.166(l) and 52.21(l) and the rulemaking on the addition of Supplement A which became effective February 5, 1988.

A correction is being made to (7)(F) Table 6. This changes the *de minimis* air quality impact of beryllium from .0001 to .001 micrograms per cubic meter on a 24-hour average. This correction makes this regulation consistent with EPA's requirement at 40 CFR 51.166(i)(8)(i)(h). Also (7)(H) Table 8, Levels of Significant Air Quality Impact for Areas not Meeting 20 CSR 10–6.010 should be 10 CSR 10–6.010.

This amendment was adopted by the Missouri Air Conservation Commission after proper notice and public hearing (see 40 CFR 51.102) and became effective on September 29, 1988. If additional information is desired on EPA's Guideline on Air Quality Models (Revised), the reader can refer to 51 FR 32176 published September 9, 1986, and in reference to Supplement A, 53 FR 392, published January 6, 1988.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective June 19, 1989 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective June 19, 1989. ACTION: EPA takes final action to approve Missouri's revised rule 10 CSR 10–6.060, "Permits Required", which pertains to air quality models as submitted in a state submittal on October 18, 1988.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit June 19, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control and Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the state of Missouri was approved by the Director of the Federal Register on July 1, 1982.

Date: April 15, 1989.

Morris Kay,

Regional Administrator.

40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

Subpart AA—Missouri

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401—7642.

2. Section 52.1320 is amended by adding paragraph (c)(68) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(68) Revised regulations applicable to air quality models were submitted by the Missouri Department of Natural Resources on October 18, 1988.

(i) Incorporation by reference

(A) Revision of rule 10 CSR 10–6.060 "Permits Required," effective on September 29, 1988.

[FR Doc. 89–9381 Filed 4–19–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[FRL–3558–5]

Approval and Promulgation of Air Quality Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On February 25, 1987, EPA published in the **Federal Register** (FR 5559) a proposal to approve amended Kansas regulations K.A.R. 28–19–16, New source permit requirements for designated nonattainment areas, and K.A.R. 28–19–17, New source permit requirements for designated attainment and unclassified areas. Also, on December 28, 1988, EPA published in the **Federal Register** (FR 52433) a proposal to approve K.A.R. 28–19–18 through 28–19–18f, the state's stack heights regulations; K.A.R. 28–19–17(g), the state's definition of "emission limitation and emissions standard"; and the state's negative declaration with respect to stack height analysis. No comments were received during the public comment period for either proposal. Thus, EPA is today taking final action to approve these rule revisions and the negative declaration.

EFFECTIVE DATE: This rule will become effective on May 22, 1989.

ADDRESSES: Documents relevant to this action are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101; Kansas Department of Health and Environment, Bureau of Air Quality and Radiation Control, Forbes Field, Topeka, Kansas 66620; and Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, DC 20460; and Office of the **Federal Register**, 1100 L Street NW., Room 8301, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 236–2893 (FTS 757–2893).

SUPPLEMENTARY INFORMATION: On February 25, 1987 (52 FR 5559), EPA published a proposed rulemaking for revising Kansas regulations pertaining to construction permits for sources to be located in nonattainment areas, and attainment and unclassified areas. K.A.R. 28–19–16, New source permit requirements for designated nonattainment areas, and K.A.R. 28–19–17, New source permit requirements for designated attainment and unclassified areas, were adopted by the state after a public hearing on November 27, 1985, and became effective on May 1, 1986. EPA reviewed the proposed revision, as described in the proposed rulemaking, and has determined that it meets the applicable requirements of the Clean Air Act. No public comments were received on the proposed rulemaking.

On December 28, 1988 (FR 52439), EPA published a proposed rulemaking for revising the Kansas regulations pertaining to stack heights at K.A.R. 28–19–18, the state definition of "emission limitation and emission standard" at K.A.R. 28–19–7(g), and the state's negative declaration (the state's determination that no emission limits applicable to individual sources require revision due to the stack height provisions). The stack height rules were submitted by the state to EPA on March 27, 1986. EPA's review of the submittal is described in the proposed rulemaking, and EPA has determined that it meets the applicable requirements of the Clean Air Act. No public comments were received on the proposed rulemaking.

For additional background information and discussion regarding this rulemaking, see the appropriate **Federal Register** notices mentioned above.

Final Action

EPA is approving revisions to K.A.R. 28–19–7(g), Definitions; K.A.R. 28–19–16, New source permit requirements for designated nonattainment areas; K.A.R. 28–19–17, New source permit requirements for designated attainment and unclassified areas; K.A.R. 28–19–18, Stack heights; and the negative declaration.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the U.S.Court of appeals for the appropriate circuit by July 18, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, and Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the state of Kansas was approved by the Director of the Federal Register on July 1, 1982.

Morris Kay,

Regional Administrator.

Date: April 5, 1989.

40 CFR Part 52, Subpart R, is amended as follows:

PART 52—[AMENDED]

Subpart R—Kansas

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.870 is amended by adding paragraph (c)(24) to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

(24) Revised regulations K.A.R. 28–19–7(g), K.A.R. 28–19–16, and K.A.R. 28–19–17 pertaining to new source permit requirements, were submitted by the Secretary of the Kansas Department of Health and Environment on March 27, 1986. Revised regulation K.A.R. 28–19–18 pertaining to stack heights was submitted by the Secretary of the Kansas Department of Health and Environment on January 6, 1988.

(i) Incorporation by reference

(A) Revised regulations, K.A.R. 28–19–16, 28–19–16b, 28–19–16d, 28–19–16g, 28–19–16i, 28–19–161, 28–19–17, 28–19–17a, and 28–19–17b, which became effective on May 1, 1986.

(B) Revised regulations K.A.R. 28–19–7(g), and K.A.R. 28–19–18 through 28–19–18f. The temporary regulations became effective December 16, 1987, and became permanently effective on May 1, 1988.

(ii) Additional material

(A) KDHE letter of March 27, 1986, to EPA pertaining to new source permit regulations.

(B) KDHE letter of January 6, 1988, and June 9, 1988, to EPA pertaining to stack height regulations.

(C) KDHE letters of December 7, 1987, and December 23, 1987, pertaining to the state's stack heights analysis and negative declarations.

§ 52.884 [Amended]

3. Section 52.884 is amended by removing paragraph (b).

[FR Doc. 89–9507 Filed 4–19–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 261

[SW–FRL–3558–7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a final exclusion from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32 for a specific waste generated by Marquette Electronics, Incorporated, Milwaukee, Wisconsin. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATE: April 20, 1989.

ADDRESS: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW. (Room M2427), Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The reference number for this docket is "F–89–MQEF–FFFFF". The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Terry Grist, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4782.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine (1) that the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

B. History of the Rulemaking

Marquette Electronics, Incorporated, located in Milwaukee, Wisconsin, petitioned the Agency to exclude from hazardous waste control a specific waste that it generates. After evaluating the petition, EPA proposed, on November 8, 1988, to exclude Marquette's waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 53 FR 45106).

This rulemaking addresses public comments received on the proposal and finalizes the proposed exclusion.

II. Disposition of Delisting Petition

Marquette Electronics, Incorporated, Milwaukee, Wisconsin.

1. Proposed Exclusion

Marquette petitioned the Agency for an exclusion of its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006. Marquette petitioned to exclude its waste based on the claim that the constituents of concern are not present in appreciable amounts in the petitioned waste. To support its claim that both the non-listed and listed constituents of concern are not present in the wastewater treatment sludge above levels of concern, Marquette submitted (1) detailed descriptions of its manufacturing and waste treatment processes and wastewater treatment system; (2) a list of raw materials used at the facility; (3) results from total constituents analyses for the EP toxic metals, nickel, and cyanide; (4) results from EP leachate analyses for the EP toxic metals and nickel; (5) results from leachate analyses for cyanide using distilled water; and (6) results from total oil and grease analyses. These analyses were performed on representative samples of Marquette's wastewater treatment sludge.

The Agency evaluated the information and analytical data provided by Marquette in support of its petition and determined that the hazardous constituents found in the petitioned waste would not pose a threat to human health and the environment. Specifically, the Agency used its Vertical and Horizontal Spread (VHS) model and Organic Leachate Model (OLM) to predict the potential mobility of the hazardous constituents found in the petitioned waste. Based on this evaluation, the Agency determined that the constituents in Marquette's waste would not leach and migrate at concentrations above the health-based levels used in delisting decision-making. See 53 FR 45106, November 8, 1988, for a more detailed explanation of why EPA proposed to grant Marquette's petition for its wastewater treatment sludge.

2. Agency Response to Public Comments

The Agency received public comments on the proposed rule from two interested parties. One commenter opposed the Agency's proposed decision to exclude Marquette's wastewater treatment sludge. The second commenter neither supported nor opposed the Agency's proposed decision, but claimed that the Agency "dismisses or at least discounts the idea of excluding" F006 sludges similar to

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Marquette's that are generated by the job shop metal finishing industry. The comments made by the two interested parties are discussed below.

Petition-Specific Comments

One commenter opposed the Agency's proposal to grant Marquette's petition for three reasons, two of which are discussed in turn below. The third reason concerns the inconsistencies between the Delisting Program and the Land Disposal Restrictions Program and is discussed in a later section.

The commenter stated that the Agency did not consider other relevant potential mismanagement scenarios during the evaluation of Marquette's petition. The commenter believes that airborne and waterborne dispersal of the waste could occur, along with or in addition to those exposure routes associated with waste disposal (*e.g.*, ground-water contamination).

With regard to possible airborne dispersal, the Agency notes that Marquette's treated waste is 70–80 percent water. Therefore, the Agency believes that due to the high water content of the waste, airborne dispersal of the treated waste is unlikely.

With regard to waterborne dispersal of the waste, exposure could result primarily from surface waters receiving contaminated ground water or runoff, or from the consumption of drinking water (*i.e.*, ground water) contaminated with leachate derived from the treated material. The VHS model analysis described in the proposal shows that leachate from the waste that travels through the ground water will not exceed health-based levels used in delisting decision-making.

The Agency acknowledges that it may be possible for surface water runoff to transport contaminants from the waste to a nearby surface water body. However, the Agency does not believe that analysis of such overland transport of contaminants would compel a different result for this petition. First, as described in the proposed rule, landfill disposal is a reasonable worst-case management scenario for Marquette's filter cake wastes. Contamination of surface water might occur, therefore, through runoff from the petitioned waste. However, EPA believes that the concentrations of any hazardous constituents in that runoff will tend to be lower than the levels in the EP leachate analyses reported in the proposal due to the acidic medium of the EP tests. Furthermore, any transported contaminants would be further diluted in the surface water body.

Secondly, the Agency believes, in general, that the leachate derived from this waste is not likely to directly enter a surface water body without first traveling through the saturated (subsurface) zone, where dilution and attenuation of constituents may occur. The VHS model takes this saturated zone into account as it predicts the ultimate fate and transport of hazardous constituents. As a result, the Agency continues to believe that under reasonable worst-case conditions, the disposal of Marquette's waste will not present a threat to either human health or the environment.

The commenter also believed that the Agency should not have relied upon EP toxicity data for lead which merely indicated leachable lead levels below a detection limit of 0.10 ppm. The commenter's concerns were based primarily on the fact that the health-based level for lead is 0.05 ppm. The Agency believes that Marquette may have been able to achieve a lower detection limit for its leachable lead analyses, if they had been requested to do so. However, the Agency did not request additional quantification of leachable lead levels because even an assumed maximum leachable lead level of 0.10 ppm passes the VHS model evaluation by a wide margin. Thus, the Agency maintains that leachable lead levels in Marquette's waste are not of concern.

The commenter further stated that the total metal content of the wastewater treatment sludge is relevant in estimating the potential hazards of the petitioned waste.

The Agency agrees that the presence of significant total constituent concentrations of the inorganic constituents of concern was one of the reasons for listing F006 wastes as "T" (toxic) wastes. See 40 CFR 261.11(a)(3)(ii) and "Background Document, Resource Conservation and Recovery Act, Subtitle C, Hazardous Waste Management, section 3001, Identification and Listing of Hazardous Waste—Electroplating and Metal Finishing Operations," 1980. The Agency, however, believes that data presented in the Background Document characterize the physical/chemical nature of a wide variety of F006 sludges and that these data are not representative of the physical/chemical nature of the treated wastes produced by Marquette. Specifically, EPA believes it is reasonable to expect that, as the total constituent concentration of an unbound or loosely bound metal present in a waste increases, the potential for the metal to leach from the waste also increases (generally, the higher the total constituent concentration of an unbound or loosely bound metal, the higher the potential EP leachate concentration). Thus, wastes having significant total constituent concentrations of unbound or loosely bound metals are more likely to impact the underlying ground water than wastes having lower total constituent concentrations of unbound or loosely bound metals. In this case, however, the metals in Marquette's waste are tightly bound within the waste's matrix, as evidenced by the EP leachate analyses. Thus, the Agency believes that the elevated levels of the metals present in Marquette's waste should not pose a threat to human health or the environment. The Agency's conclusion that the inorganic constituents of concern (including lead) are bound in the waste matrix and thus are not available for leaching is supported by the results of the EP leachate analyses presented in the proposed notice. See 53 FR 45109, November 8, 1988.

Exclusion of Job Shop Wastes

A second commenter believes that the Agency discourages job shop facilities from pursuing delisting petitions. The commenter further claims that the Agency believes job shops cannot make a showing that petitioned wastes are consistent from month-to-month and year-to-year. The Agency maintains that, under 40 CFR 260.20 and 260.22, any facility may submit a petition to exclude a waste, provided that the facility can demonstrate that the petitioned waste (1) does not meet any of the criteria for which the waste was listed, and (2) does not contain significant levels of any other hazardous constituents. The Agency does not automatically disregard petitions submitted by job shop facilities. However, the Agency believes that constituent concentrations in wastes generated by job shop facilities may be more variable than in wastes generated by captive electroplaters (facilities that plate their own items). The Agency recognizes that the composition of certain types of wastes may vary, yet this variation may be such that constituent levels are still below levels of concern. In these cases, the Agency believes that an exclusion may be merited. Depending on the variability of the waste, however, EPA may require these facilities to continually analyze the excluded waste for a specific list of analytical parameters. Thus, the Agency is not intentionally discouraging job shop facilities from submitting delisting petitions, but is indicating that the information required of job shop facilities may be more detailed than for those facilities that plate their own products.

Inconsistencies Between the Delisting Program and the Land Disposal Restrictions Program

One commenter stated that there are inconsistencies between delisting levels proposed for Marquette and the Land Disposal Restrictions Program's (LDRP) proposed best demonstrated available technology (BDAT) treatment levels for F006 wastes. See 53 FR 45106, November 8, 1988, and 53 FR 17578, May 17, 1988, respectively. [On August 17, 1988, the Agency promulgated BDAT treatment levels for F006 non-wastewater wastes. See 53 FR 31138.] Specifically, the commenter stated that leachable concentrations of nickel would almost certainly exceed the BDAT treatment standard promulgated for F006 wastes. The commenter indicated [and the Agency recognizes] that the Delisting Program currently relies on results from the standard or Oily Waste EP leachate procedure [SW–846 Methods 1310 and 1330, respectively], whereas, the BDAT treatment standard for leachable nickel is based on TCLP levels. Furthermore, the commenter stated that it makes no sense for EPA to allow a waste that could not be legally disposed of at a Subtitle C site—because it exceeds promulgated BDAT levels—to be managed as a non-hazardous waste.

The Agency agrees with the commenter that there are differences in approach between some of the decision criteria used in individual delisting decisions and those used in the Land Disposal Restriction Program. However, these differences are appropriate given the separate functions of the two programs and their different regulatory coverage. The Delisting Program and the LDRP are fundamentally different in that the Delisting Program's standards are health-based and the LDRP's treatment standards are technology-based. See RCRA section 3001 [42 U.S.C. 6921) and RCRA section 3004 [42 U.S.C. 6924[m]], respectively. The Agency, however, believes that both the health-based and technology-based approaches of the Delisting Program and the LDRP, respectively, are protective of human health and the environment.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that Marquette's wastewater treatment sludge should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Marquette Electronics, Incorporated, located in Milwaukee, Wisconsin, for its wastewater treatment sludge described in its petition as EPA Hazardous Waste No. F006. The exclusion only applies to the processes covered by the original demonstration. The facility would require a new exclusion if either its manufacturing or treatment processes are significantly altered, such that an adverse change in waste composition occurred. Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Limited Effect of Final Exclusion

The final exclusion being granted today is being issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under the State law.

IV. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therfore subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous. There is no additional economic impact, therefore, due to today's rule.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

VOL 54 ISS 75 AP 20 1989 UMI

Date: April 10, 1989

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

Appendix IX to Part 261—[Corrected]

2. In Table 1 of Appendix IX, add the following wastestream in alphabetical order:

Appendix IX—Wastes Excluded Under § 260.20 and § 260.22

TABLE 1. WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste Description
•	•	•
Marquette Electronics Incorporated.	Milwaukee, Wisconsin.	Wastewater treatment sludge (EPA Hazardous Waste No. F006) generated from electroplating operations. This exclusion was published on April 20, 1989.
•	•	•

[FR Doc. 89-9509 Filed 4-19-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-3559-6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a final exclusion from the lists of hazardous wastes continued in 40 CFR 261.31 and 261.32 for specified wastes generated by North American Philips Consumer Electronics Corporation, Greenville, Tennessee. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR § 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATE: April 20, 1989.

ADDRESS: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW., Room M2427, Washington, DC 20460, and is available for viewing from 9:00 am to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The reference number for this docket is "F-88-NAEF-FFFFF." The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 832-3000. For technical information concerning this notice, contact Linda Cessar, Office of Solid Waste (OS-343), U.S. Environmental Potection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-9828.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitions must provide sufficient information to EPA to allow the Agency to determine that (1) the waste to be exlcuded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

B. History of this Rulemaking

North American Philips Consumer Electronics Corporation (NAPCEC), located in Greenville, Tennessee, petitioned the Agency to exclude from hazardous waste control a specific waste it generates. After evaluating the petition on July 12, 1988, EPA proposed to exclude NAPCEC's waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 53 FR 26283).

This rulemaking addresses public comments received on the proposal and finalizes the proposed exclusion.

II. Disposition of Petition

North American Philips Consumer Electronics Corporation, Greenville, Tennessee

1. Proposed Exclusion

NAPCEC petitioned the Agency for an exclusion of its wastewater treatment sludge filter cake, presently listed as EPA Hazardous Waste No. F006. NAPCEC based its petition on the claim that the constituents of concern, although present in the waste, were in an essentially immobile form. Furthermore, to support its claim that both the non-listed and listed constituents of concern would not be present in the waste above health-based levels of concern, NAPCEC submitted results from total constituent analyses for all the EP toxic metals, nickel, cyanide, and sulfide and results from EP toxicity analyses for all the EP toxic metals and nickel.

The Agency evaluated the information and analytical data provided by NAPCEC in support of its petition and determined that the hazardous constituents found in the petitioned waste would not pose a threat to human health and the environment. Specifically, the Agency used its vertical and horizontal spread (VHS) model and organic leachate model (OLM) to predict the potential mobility of the hazardous constituents found in the petitioned waste. Based on this evaluation, the Agency detrmined that the constituents in NAPCEC's waste would not leach and migrate at concentrations above the health-based levels used in delisting decision-making. See 53 FR 26283, July 12, 1988, for a more detailed explanation of why EPA proposed to grant NAPCEC's petition for its sludge filter cake.

2. Agency Response to Public Comments

The Agency received one public comment on the proposed rule. The commenter supported the Agency's proposed use of the organic leachate model (OLM) and the vertical and horizontal spread (VHS) model as applied to NAPCEC's petitioned waste. The commenter also strongly supported EPA's assertion that "it is inappropriate for the Delisting Program to consider extensive site-specific factors in its evaluation of delisting petitions." See 53 FR 26284. The commenter believed that it is unlawful and inappropriate for EPA to consider any site-specific factors in its evaluation of delisting petitions. This comment does not pertain to this petition or affect the proposed decision since the Agency did not consider any site-specific factors in its evaluation of the petitioned waste. The Agency, therefore, will independently respond to this comment in terms of a separate rulemaking petition raising this issue with the Agency [filed by the commenter, the Hazardous Waste Treatment Council].

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that NAPCEC's wastewater treatment sludge filter cake should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to North American Philips Consumer Electronics Corporation, located in Greenville, Tennessee, for its wastewater treatment sludge filter cake, described in its petition as EPA Hazardous Waste No. F006. The exclusion only applies to the processes covered by the original demonstration. The facility would require a new exclusion if either its manufacturing or treatment processes are altered, and accordingly would need to file a new petition. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is being issued under the Federal RCRA delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Since a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

IV. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this rule should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous. There is no additional economic impact, therefore, due to today's rule.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, U.S.C. Chapter 35) and have been assigned OMB Control Number 2050-0053.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Date: April 10, 1989

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922.]

2. In Appendix IX, add the following wastestream in alphabetical order:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22.

Table 1. Wastes Excluded From Non-Specific Sources

Facility	Address	Waste Description
•	•	•
North American Philips Consumer Electronics Corporation.	Greenville, Tennessee.	Wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations. This exclusion was published on [insert date of publication in the Federal Register].
•	•	•

[FR Doc. 89-9508 Filed 4-19-89; 8:45 am]

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40 CFR Part 271

[FRL 3560-1]

North Carolina; Order To Recommence Proceedings To Determine Whether To Withdraw Hazardous Waste Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to hold a hearing to determine whether to withdraw hazardous waste program approval.

SUMMARY: On November 17, 1987 EPA issued an Order to Commence Proceedings to Determine whether to withdraw Hazardous Waste Approval of North Carolina's Hazardous Waste Management program for reasons set forth in 52 FR 43903. This notice schedules a hearing date for the resumption of the withdrawal proceedings against North Carolina. The hearing was previously postponed (53 FR 32899, August 29, 1988), "pending a review of consistency and capacity issues under the Resources Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)". EPA has completed its review of these National issues.

DATE: The hearing will be held May 31, June 1 and June 2 from 8:30 a.m. to 5:00 p.m.

ADDRESS: The location of the hearing is the Jane S. McKimmon Center, corner of Western Blvd. and Gormand St., Raleigh, NC.

CONTACT: For further information contact: Otis Johnson, Jr., Chief, WPS, RCRA Branch, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, telephone: (404) 347-3016.

Dated: April 18, 1989.

Greer C. Tidwell,

Regional Administrator.

[FR Doc. 89-9618 Filed 4-19-89; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

[FPMR Amdt. G-90]

Use of Electronic Data Interchange to Document and Pay Transportation Bills

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation amends the Federal Property Management Regulations to permit Federal agencies to electronically transmit carrier billings and backup documentation for freight and passenger transportation services as an alternative to issuing the hard copy Standard forms (SF's) prescribed in Part 101-41. This regulation is intended to reduce paperwork and encourage implementation of electronic data interchange Governmentwide.

EFFECTIVE DATE: April 20, 1989.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Collections, Accounts, and Procedures Division, Office of Transportation Audits, Office of the Controller, (202) 786-3065 or FTS 786-3065.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) was published on September 23, 1988, (53 FR 37008), inviting comments within 30 days ending 4:00 p.m., October 24, 1988.

The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a regulatory impact analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweight the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society. Paperwork Reduction Act of 1980. This rule contains reporting requirements which have been approved under OMB clearance number 3090-0242.

This final rulemaking anticipates that data collected from carriers for freight transportation service will follow the EDI standards currently utilized by industry in freight transportation transactions; such as, the Transportation Data Coordinating Committee's (TDCC) Transaction Sets (104 and 110 (air), 204 and 210 (motor), 304 and 310 (ocean), 404 and 410 (rail)), and American National Standard Institute (ANSI) Transaction Sets, hereafter referred to as TDCC/ANSI Transaction Sets.

It has not been possible to prescribed EDI standards for passenger transportation services since no EDI applications are presently know to exist. However, this rule anticipates that industry and Government agencies may develop applications and standards at a future date. Regulatory Flexibility Analysis.

Since use of EDI will be optional at the discretion of each carrier, this proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. A regulatory flexibility analysis has therefore not been prepared. Comments from small business and other interested parties were solicited in our NPRM, but none were received.

Discussion of Major Comments, Suggestions, Determination And Actions Taken

All comments received were considered in the final determination. Comments from seven parties were filed: two carrier associations, two motor carriers, two railroads, and one Government agency.

The following summarizes major comments and suggestions, and GSA's determinations and actions taken.

EDI Benefits

All seven respondents supported GSA's proposal to use EDI as an alternative to the Government's hard copy billing and documentation forms currently prescribed by Part 101-41. Six respondents expressed confidence that EDI transactions would reduce billing and payment costs or otherwise prove more efficient than the paper exchange of information. Three carriers and two associations stated that EDI has been used successfully by many railroads and motor carriers to electronically exchange commercial documents (including freight bills and bills of lading) with private sector customers. No information was provided to support these assertions or to document the extent to which EDI experiences in the private sector are applicable to the Government.

One carrier association expressed the opinion that EDI would assist the Government in avoiding interest penalties required by the Prompt Payment Act (31 U.S.C. 3901, et seq.), presumably by speeding payment of transportation bills, and would improve cash flow to carriers thereby providing an additional incentive for carriers to support implementation of an EDI program within the Government. Regarding this asserting, it should be noted that the Government's ability to promptly pay transportation bills is governed by the timely completion of a prepayment audit (see notice of final

rulemaking published on July 5, 1988, (53 FR 25162)], and/or prompt certification as to the correctness of carrier billings rather than by the mechanics of disbursing funds to carriers.

Need for EDI Standards

Two carrier associations, two carriers, and a Government agency affirmed the need for EDI standards in the rulemaking. One association commended the proposed rule for requiring that there be an EDI letter agreement between parties, but expressed concern that the minimum data requirements in the rule were "somewhat vague."

Two carriers and the other association requested that the EDI rule be modified to allow for rail applications and asked that Transportation Data Coordinating Committee (TDCC) Rail Transactions Sets 404 and 410 be specified. The availability of generic (rail, motor, water) transaction sets (ANSI 858 [bill of lading] and ANSI 810 [freight bill]) was also noted by two carriers.

The Government agency asked that EDI standards be expanded to include those of the American National Standards Institute (ANSI), specifically the ANSI 810 Transaction Set. The agency also felt that EDI coordinating procedures and standards in the proposed rule were vague and proposed two revisions. One suggested revision was to limit GSA review of EDI procedures and standards only to that data transmitted to GSA's Office of Transportation Audits. The second suggestion was for a wording change which the agency felt would more clearly define the minimum data required by GSA.

We have adopted the recommendations that this rule-making establish specific EDI standards and that those standards include rail applications. It has never been GSA's intent to confine EDI exchange of transportation data to a single carrier mode. Similarly, GSA recognizes the potential EDI applications of ANSI as well as TDCC Transaction Sets. Accordingly, EDI standards referred to in the supplementary information portion of the NPRM as "TDCC 210 Transaction Set" are changed in the final rulemaking to read: "EDI standards for freight transportation services include but are not limited to Transportation Data Coordinating Committee Transaction Sets (104 and 110 (air), 204 and 210 (motor), 304 and 310 (ocean), 404 and 410 (rail)) and ANSI Transaction Sets" and have been included in § 101-41.104. However, the suggestion that GSA's review of EDI procedures and standards be limited only to that data transmitted to GSA is not consistent with GSA's oversight responsibilities (§ 101-41.102) and the proposed wording change has not been adopted. In response to the concerns that minimum data requirements in the NPRM are too vague, § 101-41.104 has been changed in the final rulemaking to reiterate GSA data requirements as follows: "(b) The data required for transmission is that data which GSA must have to carry out its responsibilities including data specified in Part 101-41."

Finally, to avoid Federal Acquisition Regulation contract requirements implicit in the bilateral letter of agreement specified in § 101-41.007 of the proposed rulemaking, the term "letter of agreement" has been replaced by the terms "sec. 10721 quotations" and "unilateral ordering agreements" in the final rule.

List of Subjects in 41 CFR Part 101-41

Accounting, Air carriers, Claims, Maritime carriers, Passenger services, Railroads, Transportation.

Title 41 Part 101-41 of the Code of Federal Regulations is amended as follows:

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The authority citation for Part 101-41 continues to read as follows:

Authority: 31 U.S.C. 3726 and 40 U.S.C. 486(c).

2. Section 101-41.002 is amended by adding paragraphs (c) and (d) to read as follows:

§ 101-41.002 Definitions.

* * * * *

(c) "Electronic data interchange" (EDI) means the electronic exchange of transportation information by means of electronic transmission of the information in lieu of the creation of a paper document.

(d) "Signature," in the case of an EDI transmission, means a discreet authenticating code intended to bind parties to the terms and conditions of a contract.

3. Section 101-41.006 is added to read as follows:

§ 101-41.006 Electronic data interchange (EDI) records.

(a) For the purposes of EDI only, a paper or microform record need not be created to satisfy the requiements of this part if the record is initially prepared in a coordinated electronic exchange medium. Each record kept in such a coordinated medium shall be accompanied by a statement clearly indicating the type of data included in the record and certifying that the information contained in it has been accurately duplicated. This statement shall be executed by the person duplicating the records. The records shall be indexed and retained in such a manner that they are easily accessible and the carrier or the agency shall have the facilities available to locate, identify, and reproduce the records in readable form without loss of clarity.

(b) The transmission of records between the agency, the carrier, and the General Services Administration may be in an electronic media.

4. Section 101-41.007 is added to read as follows:

§ 101-41.007 EDI policy.

When mutually agreeable to the procuring agency and the participating carrier, authorization is granted to use EDI for the procurement of transportation services, provided that there are sufficient procedures to safeguard the integrity of the billing and payment process. An authenticating signature will be used in each transaction as the equivalent of a signature to certify receipt, delivery of goods, and that the bill accurately reflects the services provided and that the carrier charged the lowest charges available for the service. Each carrier must also provide a sec. 10721 quotation or present a unilateral ordering agreement to GSA or other agency of the Government that is establishing an EDI program, binding the carrier to all the requirements of Part 101-41 with the exception of the forms being used. EDI standards are prescribed in § 101-41.104.

Subpart 101-41.1—General

5. Section 101-41.104 is added to read as follows:

§ 101-41.104 Procedures and standards for utilizing EDI.

(a) The medium, timing, and precise format of transmissions of data must be approved in advance by GSA's Office of Transportation Audits (FW), Washington, DC 20405. The Office of Transportation Audits will exercise oversight of individual agency EDI programs through periodic management reviews. Authority to utilize EDI as an alternative to hard copy Standard forms will be suspended by the Director, Office of Transportation Audits, if individual EDI programs fail to meet the transportation documentation and accounting needs of the Government. EDI standards for freight transportation

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services include but are not limited to Transportation Data Coordinating Committee Transaction Sets (104 and 110 (air), 204 and 210 (motor), 304 and 310 (ocean), 404 and 410 (rail)), and/or ANSI Transaction Sets.

(b) The data required for transmission is that data which GSA must have to carry out its responsibilities including data specified in Part 101–41.

Dated: March 27, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–8324 Filed 4–19–89; 8:45 am]

BILLING CODE 6820–24–M

41 CFR Part 101–41

[FPMR Temp. Reg. G–53]

Submission of Paid Freight Bills/Invoices, Commercial Bills of Lading, Government Transportation Requests, Passenger Coupons, and Supporting Documentation Covering Transportation Services Under Cost-Reimbursement Contracts

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation revises § 101–41.807–4 of the Federal Property Management Regulations to include the submission of U.S. Government Transportation Requests and passenger coupons to the General Services Administration (GSA) for audit. Currently, agencies must ensure only that contractors doing business with the United States Government under a cost-reimbursement contract submit paid freight bills/invoices, commerical bills of lading, and supporting documentation to GSA for audit.

DATES: *Effective date:* April 20, 1989.

Expiration date: October 20, 1989.

Comments due on or before: May 22, 1989.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Collections, Accounts, and Procedures Division, Office of Transportation Audits (commercial 202–786–3065) or (FTS 786–3065).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a regulatory impact analysis has not been prepared. The GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), GSA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis has been prepared.

The reporting forms required by this regulation are not subject to the provisions of Pub. L. 96–511, the Paperwork Reduction Act of 1980, and FIRMR 201–45.6.

List of Subjects in 41 CFR Part 101–41

Accounting, Air carriers, Claims, Freight, Freight forwarders, Maritime carriers, Passenger services, Railroads, Transportation.

Authority: 31 U.S.C. 3726 and 40 U.S.C. 486(c).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter G to read as follows:

March 23, 1989.

Federal Property Management Regulations, Temporary Regulation G–53

To: Heads of Federal agencies

Subject: Submission of paid freight bills/invoices, commercial bills of lading, Government Transportation Requests, passenger coupons, and supporting documentation covering transportation services under cost-reimbursement contracts

1. *Purpose.* This regulation revises § 101–41.807–4 to require the submission to GSA of Government Transportation Requests and passenger coupons for transportation services provided by contractors doing business with the U.S. Government under a cost-reimbursement contract.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires on (Insert date not to exceed 1 year after effective date).

4. *Applicability.* This regulation applies to all Government agencies that are subject to the audit atuhority of the General Services Administration (GSA) under 31 U.S.C. 3726.

5. *Background.* FPMR Amendment G–85, published May 12, 1988 (53 FR 16876), requires agencies to ensure that contractors doing business with the Government under a cost-reimbursement contract submit paid freight bills/invoices, commercial bills of lading, and supporting documentation to GSA for audit.

6. *Agency comments.* Comments concerning this regulation should be submitted to the General Services Administration (FWCP), Washington, DC 20405, no later than (Insert date 1 month after date of issue).

7. *Revised policy.* Section 101–41.807–4 is revised to read as follows:

§ 101–41.807–4 Submission of paid freight bills/invoices, commercial bills of lading, Government Transportation Requests, passenger coupons, and supporting documentation covering transportation services by contractors under a cost-reimbursement contract.

(a) Agencies shall ensure that legible copies of paid freight bills/invoices, commercial bills of lading (CBL's), Government Transportation Requests (GTR's), passenger coupons, and supporting documentation for transportation services, for the account of and on which the United States will assume freight and passenger charges that were paid by a Federal agency's contractor under a cost-reimbursement contract and their first-tier subcontractors, under a cost-reimbursement contract, are submitted to GSA for audit.

(b) Agencies shall ensure that each prime contractor forwards legible copies of paid freight bills/invoices, CBL's, GTR's, passenger coupons, and supporting documentation as soon as possible following the end of the month, in one package to the General Services Administration (FWAAC), 18th and F Streets NW., Washington, DC 20405. The shipment shall include the required documents for all first-tier subcontractors under a cost-reimbursement subcontract. If, however, the inclusion of the transportation documents for any such subcontractors in the shipment is not practicable, such documents are to be transmitted in a separate package.

(c) Agencies shall ensure that any original transportation bills or other documents requested by GSA be forwarded promptly by the contractor to GSA. The agency shall ensure that the contractor stamp or write the name of the contracting agency on the face of the bill before sending it to GSA.

(d) A statement prepared in duplicate by the sender shall accompany each shipment of transportation documents. The copy, duly signed and acknowledging receipt of the shipment, will be returned by GSA. The statement should show the following:

(1) The name and address of the prime contractor;

(2) The contract symbol and number;

(3) The name and address of the field office or headquarters office administering the contract;

(4) The total number of bills submitted; and

(5) A listing of the respective amounts paid, or in lieu of such listing, an adding machine tape of the amounts paid showing the contractor's voucher or check numbers.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–8418 Filed 4–19–89; 8:45 am]

BILLING CODE 6820–24–M

41 CFR Part 101–41

[FPMR Amdt. G–88]

Transportation Documentation and Audit; Revision of Standard Form 1170, Redemption of Unused Tickets

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) amends the Federal Property Management Regulations, Part 101–41 by making Standard Form (SF) 1170, Redemption of Unused Tickets suitable for automated preparation. Currently, the SF 1170 is 3¼ by 7⅜ inches and consists of an original and three copies assembled in snapout carbon-interleaved sets. The original and the last copy are of buff-punched-card stock and the remaining copies are of white paper stock. Although the present card stock form is durable and easy to file, it is difficult to prepare using electronic data processing (EDP) printers. The revised SF 1170 will be available in a marginally punched construction (three to the page), and also can be computer-generated on 8½- by 11-inch, marginally punched paper.

EFFECTIVE DATE: April 20, 1989.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Review Branch, Office of Transportation Audits (Commercial 202–786–3065 or FTS 786–3065).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) was published in the **Federal Register** of June 1, 1988 (53 FR 19946). The GSA has received no comments to the NPRM.

The GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the GSA has also determined that this final rule will not have a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis has been prepared.

The reporting forms required by this regulation are not subject to the provisions of Pub. L. 96–511, the Paperwork Reduction Act of 1980, and FIRMR 201–45.6.

List of Subjects in 41 CFR Part 101–41

Accounting, Air carriers, Claims, Passenger service, Transportation.

Title 41, Part 101–41 of the Code of Federal Regulations is amended as follows:

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The authority citation for Part 101–41 continues to read as follows:

Authority: 31 U.S.C. 3726 and 40 U.S.C. 486(c).

Subpart 101–41.2—Passenger Transportation Services Furnished for the Account of the United States

2. Section 101–41.202 is amended by adding paragraph (h) to read as follows:

§ 101–41.202 Standard forms relating to passenger transportation.

* * * * *

(h) SF 1170–EDP (Electronic Data Processing), Redemption of Unused Tickets (computer-generated).

3. Section 101–41.202–2 is revised to read as follows:

§ 101–41.202–2 SF 1170, Redemption of Unused Tickets.

(a) SF 1170 and SF 1170–EDP (computer-generated) consist of an original and three copies which are carbon-interleaved for simultaneous preparation.

(b) The SF 1170 is pre-printed (three to the page) on 8⅜- by 9¾-inch, four part carbon-interleaved, marginally punched paper. There are perforations between each form.

(c) SF 1170–EDP (computer-generated) must be printed on standard 8½- by 11-inch, four part carbon-interleaved, marginally punched paper. SF 1170–EDP must be positioned so that the name and address of the carrier begin at line 13, column 9, and must be no longer than 31 characters and 5 lines. The name and address of the agency to which the refund is to be made must begin at line 13, column 48, and must be no longer than 31 characters and 5 lines. Fold marks must be located at line 22 and line 45. The SF 1170–EDP must conform to the exact wording as the approved Standard form and must contain the form number and edition date.

4. Section 101–41.202–5 is amended by revising paragraph (a) as follows:

§ 101–41.202–5 Procurement of standard forms by agencies and carriers.

(a) Agencies may obtain supplies of SF 1169 and SF 1170 assemblies from GSA by submitting a requisition in FEDSTRIP format to GSA's Federal Supply Service, Furniture Commodity Center (FCNI), Washington, DC 20406. With respect to the GTR assemblies, FCNI maintains a record of the serial numbers imprinted on the forms and the names and mailing addresses of the receiving agencies. Where feasible, agencies should request that the name and address of the office to be billed for payment of charges be preprinted on each SF 1169 and that the name and address of the office to receive the refund be preprinted on each SF 1170. No other overprinting on SF 1169, SF 1170, or SF 1170–EDP (computer-generated) is permitted unless specifically approved in writing by the Director, Office of Transportation Audits (FW), GSA.

* * * * *

Subpart 101–41.49—Illustrations of Forms

5. Section 101–41.4901–1170–1 is added to read as follows:

§ 101–41.4901–1170–1 Standard Form 1170–EDP (Electronic Data Processing), Redemption of Unused Tickets (computer-generated).

Dated: March 16, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–9325 Filed 4–19–89; 8:45 am]

BILLING CODE 6820–24–M

VOL 54 ISS 75 AP 20 1989 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

45 CFR Part 235

RIN 0970-AA56

Aid to Families With Dependent Children

AGENCY: Family Support Administration (FSA), HHS.

ACTION: Interim final rule.

SUMMARY: This interim final rule implements section 605 of the Family Support Act of 1988, Pub. L. 100-485, which requires State agencies to establish pre-eligibility fraud detection measures.

DATES: *Effective date:* October 1, 1989. *Comment date:* Comments must be received by June 19, 1989.

ADDRESSES: Comments should be submitted in writing to the Acting Assistant Secretary for Family Support, Attention: Ms. Diann Dawson, Director, Division of Policy, Office of Family Assistance, Fifth Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447. Comments may be inspected between 8:00 a.m. and 4:30 p.m. during regular business days by making arrangements with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Ms. Diann Dawson, Office of Family Assistance, Fifth Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447, telephone (202) 252-5116.

SUPPLEMENTARY INFORMATION:

Discussion of Interim Final Rule

Section 605 of the Family Support Act of 1988 amends section 402(a) of the Social Security Act by adding a new paragraph (45) that requires State agencies to establish measures to detect fraudulent AFDC applications before eligibility is determined.

Federal policy has long recognized that the initial eligibility determination process requires State agency staff to thoroughly question and verify an applicant's statements concerning the family's eligibility for AFDC and the amount of payment (see 38 FR 22007 dated August 15, 1973). An integral facet of this process is the utilization of "verification measures" where the worker confirms the applicant's statements by examining documents in his or her possession or by obtaining information from appropriate third-party sources. We believe that Congress acknowledged the importance of these verification measures and intended for State agencies to take a critical look at current measures and enhance their effectiveness in detecting fraudulent applications as appropriate. Examples of such enhanced verification measures include automated data matches other than those utilized in the Income Eligibility Verification System (IEVS), error prone profiles, mandatory home visits or collateral contacts, and credit bureau inquiries.

In order to implement this statutory provision, we are requiring that the State plan be amended to contain a description of the various verification measures used to detect fraudulent applications for AFDC prior to the establishment of eligibility for such aid. This description should include long established measures routinely performed by workers, periodic support activities such as training on investigative interviewing techniques, and any newly established initiatives designed to be performed by or in support of staff responsible for pre-eligibility fraud detection.

Furthermore, we believe that to ensure the effectiveness of the pre-eligibility verification process, State agencies must routinely monitor, evaluate, and refine their verification measures as appropriate. We are therefore requiring that States perform an annual evaluation of their verification measures and submit needed changes as amendments to their State plans. Additionally, we are requiring that a report of the evaluation be submitted to the FSA Regional Office within 45 days following the end of the Federal fiscal year. This will help us evaluate proposed amendments as well as enable us to share valuable ideas with other States.

The rule requires that costs attributed to such verification measures will qualify for Federal matching as administrative costs at the 50 percent Federal matching rate.

Regulatory Procedures

Justification for Dispensing With Notice of Proposed Rulemaking

There has been a strong desire for the issuance of definitive Federal policies regarding pre-eligibility fraud detection measures. The statute requires final rules to be issued six months after the date of enactment (October 13, 1988). Accordingly, these provisions are published as an interim final rule. It would be impracticable to publish this regulation as a Notice of Proposed Rulemaking in view of the Congressionally mandated publication date. In addition, neither the States nor individuals will be affected deleteriously in any way as the interim final rule is subject to a 60-day comment period and we plan to publish a final rule that responds to comments received.

Executive Order 12291

This interim final rule has been reviewed under Executive Order 12291 and does not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required because this regulation will not: (1) Have an annual effect on the economy of $100 million or more; (2) impose a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

Section 235.111(c) of this interim final rule contains information collection requirements which are subject to review by the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). Organizations and individuals desiring to submit comments on this information collection requirement should direct them to the agency official designated for this purpose whose name appears in the preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, Attention: Desk Officer for DHHS.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96-354) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. The primary impact of this interim final rule is on State governments and individuals. Therefore, we certify that this rule will not have a significant economic impact on a substantial number of small entities because it affects benefits to individuals and payments to States. Thus, a regulatory flexibility analysis is not required.

(Catalog of Federal Domestic Assistance Programs 13.780, Assistance Payments-Maintenance Assistance)

List of Subjects in 45 CFR 235

Aid to Families with Dependent Children, Fraud, Grant programs—social programs, Public assistance programs.

Dated: April 6, 1989.

Catherine Bertini,

Acting Assistant Secretary for Family Support.

Approved: April 6, 1989.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 235 of Chapter II, Title 45 of the Code of Federal Regulations, is amended as set forth below:

PART 235—[AMENDED]

1. The authority citation for Part 235 is revised to read as follows:

Authority: Section 402 of the Social Security Act (42 U.S.C. 602).

2. New § 235.111 is added to read as follows:

§ 235.111 Pre-eligibility fraud detection measures.

(a) *State plan requirement.* A State plan under title IV, Part A of the Social Security Act must contain a description of the verification measures to detect fraudulent applications for AFDC prior to the establishment of eligibility for such aid.

(b) *Definition.* For purposes of this section, "verification measures" are actions taken by a State agency:

(1) To confirm information provided by an applicant to support his or her eligibility for AFDC; and

(2) To confirm information provided by an applicant that is relevant in determining the amount of the assistance payment.

Such actions involve the examination of supporting documentation in the applicant's possession and obtaining additional information, when necessary, from appropriate third party sources; also included are any periodic support activities taken by the State agency to enhance these actions. Examples of such measures include: automated data matches to establish the accuracy of statements on the application; use of error prone profiles; home visits or collateral contacts; credit bureau inquiries; and training on investigative interviewing techniques.

(c) *Annual evaluation.* A State agency shall make a written evaluation each calendar year of the effectiveness of its verification measures, submit a copy of the evaluation to the FSA Regional Office within 45 days following the end of the Federal fiscal year, and submit any appropriate amendments to its title IV-A State plan. The evaluation must include an assessment of verification measures such as home visits, credit bureau inquiries, data matches with entitlement programs in addition to those included in the State's Income and Eligibility Verification System (IEVS), or other similar measures implemented by States.

(d) *Federal financial participation.* Verification measures to detect fraudulent applications will be matched as administrative costs at a 50 percent rate.

[FR Doc. 89-9499 Filed 4-19-89; 8:45 am]

BILLING CODE 4150-04-M

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Eligibility; Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the official Federal Poverty Income Guidelines as defined by the Department of Health and Human Services.

EFFECTIVE DATE: April 20, 1989.

FOR FURTHER INFORMATION CONTACT: Timothy B. Shea, General Counsel, Legal Services Corporation, 400 Virginia Avenue SW., Washington, DC 20025-2571; (202) 863-1823.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act, 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance and the Act provides that income shall be taken into account along with other specified factors.

Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the official Federal Poverty Income Guidelines as defined by the Office of Management and Budget. Responsibility for revision of the official Federal Poverty Income Guidelines was shifted in 1982 from the Office of Management and Budget to the Department of Health and Human Services. The revised figures for 1989 equivalent to 125% of the current official Poverty Income Guidelines as set out at 54 FR 7098 (Feb. 16, 1989) are set forth below:

List of Subjects in 45 CFR Part 1611

Legal services.

PART 1611—ELIGIBILITY

1. The authority citation for Part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1), 1007(a)(2) Legal Services Corporation Act of 1974, as amended, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of Part 1611 is revised to read as follows:

APPENDIX A OF PART 1611—LEGAL SERVICES CORPORATION POVERTY GUIDELINES *

Size of family unit	All states but Alaska and Hawaii [1]	Alaska [2]	Hawaii [3]
1	$7,475	$9,350	$8,587
2	10,025	12,537	11,525
3	12,575	15,725	14,462
4	15,125	18,912	17,400
5	17,675	22,100	20,337
6	20,225	25,287	23,275
7	22,775	28,475	26,212
8	25,325	31,662	29,150

* The figures in this table represent 125% of the poverty income level by family size as determined by the Department of Health and Human Services.

[1] For family units with more than eight members, add $2,550 for each additional member in a family.

[2] For family units with more than eight members, add $3,187 for each additional member in a family.

[3] For family units with more than eight members, add $2,937 for each additional member in a family.

Dated: April 17, 1989.

Timothy B. Shea,

General Counsel.

[FR Doc. 89-8541 Filed 4-19-89; 8:45 am]

BILLING CODE 7050-01-M

BEST COPY AVAILABLE

VOL 54 ISS 75 AP 20 1989 UMI

Proposed Rules

Federal Register
Vol. 54, No. 75
Thursday, April 20, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 318

[Docket No. 88-025P]

RIN 0583-AA49

Additional Methods for Destroying Trichinae

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations (9 CFR 318.10) by amending trichina destruction Method No. 3 for hams and pork shoulders (9 CFR 318.10(c)(3)) to allow more variety in the production of country hams, including the use of ambient temperature drying. The proposed change would also combine two present controlled temperature drying tables. Further, FSIS is proposing to amend trichina destruction Method No. 1 for hams and pork shoulders to allow establishments to use a drying time and temperature combination prescribed in the controlled temperature drying table in proposed Method No. 3. In addition, FSIS is proposing to rescind one of the approved trichina destruction methods (Method No. 2) because establishments no longer use it. FSIS is also proposing a new specific trichina destruction method for hams and pork shoulders (Method No. 4) which would permit establishments to substitute potassium chloride for salt in the curing mixture based on data substantiating that specific process. Finally, FSIS is proposing to ease the drying requirements for oval sausages found in Table 3a, based on the application of basic physical principles and on data submitted by a manufacturer.

DATE: Comments must be received on or before June 19, 1989.

ADDRESS: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Dennis, Director, Processed Products Inspection Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3840.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined that this proposed rule is not a "major rule" within the scope of E.O. 12291. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601 *et seq.*). The Agency has determined that the vast majority of country ham manufacturers are small entities; this determination is based on evaluation of each establishment's process, on-site visits, and that historically, this industry has been composed of small entities. All of the 170 country ham producers would be able to comply with the proposed regulations as amended. Some may have to change their process slightly or make a minimal investment in equipment amounting to several hundred dollars. The Agency has determined that this is not a significant impact on these small producers. The amendment to Method No. 1 and the requirement for oval sausages were requested by one processor each and are permissive only, so they would have a negligible effect on the industry. Based on the Agency's knowledge of these manufacturer's products, the proposed amendment would not produce a significant economic impact.

The proposed Method No. 4, permitting the use of potassium chloride, is an additional processing method. It would not exclude any present or proposed method; it can be used with simple technology; and it could partially answer a few processors complaints that their product is increasingly unpopular because of its sodium content. Therefore, it would have a negligible effect on small entities.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent to the Policy Office and should refer to the docket number that appears in the heading of this document. All comments submitted in response to this action will be available for public inspection in the Policy Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

On March 10, 1983, FSIS published a proposed rule in the **Federal Register** (48 FR 10065) to permit additional trichina destruction treatment methods providing prescribed times and internal product temperatures for freezing, combinations of smoking temperature and drying temperature for processing hams and pork shoulders, and alternate sausage drying times based on salt content, sausage diameter, and fermentation or smoking temperature and time. The final rule was published on February 7, 1985 (50 FR 5226) and became effective on August 6, 1985. On the effective date of the final regulation, all trichina destruction treatments not listed in the Federal meat inspection regulations as approved methods were rescinded.

Affected establishments that operated small, local businesses that served their own communities objected to the final regulation. they asserted that they were using time-tested methods of trichina destruction and there was not history of illness associated with their product.

FSIS considered those claims to have merit and, therefore, developed the following plan and published it as a partial waiver of the final rule in the **Federal Register** on June 18, 1985 (50 FR 25202). Establishments that make country ham could send a copy of a nonconforming process to FSIS before

August 6, 1985, for review, and continue its use until December 31, 1986, unless the Department determined that it was not likely to prove effective, or data became available to substantiate the effectiveness or ineffectiveness of the method.

The Agency reviewed over 100 different ham curing processes to evaluate their effectiveness in destroying trichinae based on currently available scientific information. Upon reviewing these processes, the Agency determined that all but two establishments were using processes that appeared effective in destroying trichinae. The Agency immediately directed those two establishments to amend their process to comply with the present regulations. The other nonconforming establishments were judged provisionally acceptable based on professional expertise. Subsequent to these determinations, FSIS worked with other USDA scientists to develop a general research protocol which, considering the money available, would give the best and most useful information about the mechanism of killing trichinae by curing.

The Department selected Texas A&M Universtiy to conduct the research because that univeristy had qualified people with experience in conducting experiments with dry-cured hams; it had had prior experience with trichina research and also had the ability to begin the research within a short time period. A summary of the research data and the results are provided elsewhere in this document.

In addition to the country ham question, other questions related to trichina destruction have emerged as a result of the implementation of the final rule. One establishment makes a sausage that is oval rather than round. The traditional degree of required rigor for trichina treatment had been based on the diameter of the round sausage. The question then arose as to how one determines the diameter of the oval sausage. The establishment submitted data to substantiate their point of view. A summary of their research data is provided elsewhere in this document.

Method No. 2 is an approved ham curing method in the Federal meat inspection regulations. Method No. 2 was published simultaneously by the same scientists that validated Method No. 1; [1] both methods are described in the regulations as dry-salt curing processes. Method No. 2 requires the establishment to inject a brine solution into the ham while brine injection is optional for Method No. 1. The Agency believes that there are no establishments presently using Method No. 2 because the standard for Country Ham and Dry Cured Ham (9 CFR 319.106) prohibits brine injection. Other establishments use heat treatment. Therefore, the Agency proposes to rescind Method No. 2 from the Code of Federal Regulations.

North Caorlina State Universtiy scientists have completd and published trichina destruction research for a dry-cured ham process and demonstrated that salt (sodium chloride) may be partially substituted with potassium chloride and still result in a safe product. They published these research results in the Journal of Food Science (1987) 52:(3)554-563 [2]. The research did not show that potassium chloride was equivalent to sodium chloride in killing trichinae; however, it showed that hams were free of infective trichinae within 72 percent of the drying time when made with a certain processing method and up to half of the salt substituted with potassium chloride. Additionally, the ham processing method used for their research had a specific salt application rate and a longer curing time (the salt contact time plus equalization time) than either the proposed Method No. 3 or the present Method No. 3. Therefore, the Agency is proposing to approve substituting potassium chloride for salt in dry-cured hams for that processing method by adding a new Method No. 4 to 9 CFR 318.10(c)(3)(iv).

A prosciutto manufacturer using currently approved Method No. 1 for hams requested permission to use a time/temperature drying process that consisted of keeping the product for 9 days in a temperature of 105 °F as permitted by Method No. 3 in Table 5 rather than the 10 days at 95 °F required by Method No. 1. The 9 days at 105 °F is a far more rigorous time/temperature combination. USDA scientists have considered the matter and determined that Method No. 1 prescribes a more stringent salting requirement than does Method No. 3. Method No. 1 specifies the amount of salt to be used per 100 pounds of product, while Method No. 3 does not. Thus, any drying time and temperature combination in Table 5 in Method No. 3, used in conjunction with Method No. 1 salting requirements, should be effective in protecting the public health. Therefore, the proposal would change Method No. 1 accordingly.

The Texos A&M Research

USDA and Texas A&M scientists designed an experiment to test the destructive effect of three frequently used ham drying temperatures on trichinae [3]. By sampling both deep and shallow ham tissue at different drying times, the scientists hoped to resolve the relative effect of salt concentration during the curing and drying steps as well as the effect of temperature during the drying process on destroying trichinae. If these factors were better understood and quantified, FSIS could better evaluate the effectiveness of individual processes and write a more precise regulation.

The Texas A&M scientists carried out the experiment by selecting and purchasing a number of below-market-weight hogs, feeding infective trichina cysts to these hogs, allowing the hogs to develop trichinosis as they reach market weight, slaughtering the hogs and harvesting the hams, subjecting the hams to various analyses to secure baseline data, and then subjecting the hams to specific curing and drying treatments.

The hams were sampled at various points in the treatment, including the endpoint, and tested for infective trichinae. This was done by treating the ham to extract the cysts and feeding the extract to trichina-susceptible rats. After the trichinae had a chance to develop and encyst in the rats, the rats were killed and their flesh treated with an acid/enzyme mixture so that they could be examined for cysts. If live cysts were found after such a treatment, it meant that the treatment was not effective for the destruction of trichinae.

There were 66 hogs in the study. From the resulting 132 hams, the 44 heaviest were termed large, the next 44 medium, and the 44 lightest were termed small. Of the 132 hams, 120 received the short cure as described below and 12 large hams received the bag cure. Three drying treatments were used, 50 °F, 75 °F, and 90 °F. Ten hams of each size were used for each drying treatment, and in addition one ham of each size was examined before drying as a control. This required a total of 93 hams. In addition, 12 large hams were used to test the bag cure. These 12 hams were subjected to the same period of salt

[1] Ransom, B., Schwartz, B., and Raffensperger, H., *Effects of Pork-Curing Processes on Trichinae*, USDA Bulletin 880 (1920).

[2] Copies of the mentioned study reports are available free of charge from the FSIS Hearing Clerk, Policy Office, USDA, Room 3171, South Agriculture Building, Washington, DC 20250.

[3] Copies of the mentioned study reports are available free of chage from the FSIS Hearing Clerk, Policy Office, USDA, Room 3171, South Agriculture Building, Washington, DC 20250.

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equalization as the other 93 hams and were dried using the 75 °F treatment. The remaining 27 hams were also treated, but were kept as spares in case of spoilage and in fact were not analyzed.

The short cure procedure consisted of covering the exposed lean portions of the hams with salt and leaving this salt in contact with the ham for 1.5 days per pound. Salt was applied twice; the application on the first day of curing consisted of about 4 pounds of salt per 100 pounds of ham. Another 2 pounds per 100 pounds of ham was applied 10 days later. After this salt contact period, the hams were rinsed of excess salt and hung for 0.5 days per pound to permit equalization of the high surface salt concentration with low interior salt concentration. The salt contact plus equalization periods totaled at least 2 days per pound of ham but not less than 40 days. The short cure procedure was so named because the processes now in the regulations require the salt contact period alone to be at least 40 days (Method No. 1) or 30 days (Method No. 3). Therefore, the cure being tested allows the establishment to maintain salt contact for a lesser period of time so that the hams are slightly less salty, hence the term short cure.

The bag cure is a traditional farm curing method in which the manufacturer rubs the mixture into the hams, wraps the hams in paper with additional curing mixture and hangs the hams without refrigeration for 6 months or more. In the experiment, the 12 large hams were rubbed with about 4.5 pounds of salt per 100 pounds of ham, wrapped in paper, maintained for the same cure periods as the other large hams, but with no additional salt added, unwrapped, and from that point on treated in the same manner as the other hams.

To study salt effects, the experimental protocol called for sampling five muscle sites within each ham. In dry-cured hams deep muscles such as the biceps femoris absorb salt more slowly than surface ones such as the semimembranosus and, consequently, have less salt during drying and in the finished product. Similarly, the hock region of these muscles absorbs salt more slowly because of their distance from the surface. In order to measure the relative rate of salt absorption and its effect on trichina destruction, the research protocol required assays of center and hock regions of the biceps femoris, the center and the hock regions of the semimembranosus, and the rectus group of muscles.

To study the relative contribution of drying, the protocol provided three drying treatments: 50 °F for 90 days, 75 °F for 35 days, and 90 °F for 11 days, all taken from Table 5 of the trichina treatment regulation (9 CFR 318.10). For each ham size, a representative ham was sampled at the beginning of the drying period; then for each treatment, two hams were sampled ⅓ of the way through the drying period, two ⅔ of the way through the drying period, three ⅚ of the way through the drying period, and three at the completion of the drying period. During the bag cured hams' drying procedure (using the 75 °F) one ham was sampled at the beginning of the drying period, two ⅓ of the way through the drying period, four ⅔ of the way through, and five at the end.

The Texas A&M Research Results

The results from the research that could be directly employed in controlling the processing of country hams were few, but very important.

1. Drying time and temperature were the prime lethal factors in killing trichinae.

2. Brine concentration (a ratio of the salt and water content) was less important in killing trichina, but it was a critical factor.

3. Water activity (an index fraction indicating the amount of unbound water present, pure water has a water activity of 1.0) is currently being used by some foreign countries as a measure of whether a product is trichina safe. Although not disproved by this study, the data does not lend credence to water activity alone as a reliable indication of trichina death or inactivation.

4. The 50 °F drying time of 90 days, in the FSIS regulations as a drying time/temperature combination for years and thought to destroy trichinae, has now been shown to be less effective than originally thought. This has had serious effects upon the trichina rule because the experiment was not designed to determine the effectiveness of times longer than those in the regulations for trichina destruction. Thus, the present data indicates no safe drying time at a temperature below 75 °F.

The Oval Sausage Research

The present rule requires that the drying time for dried sausages be determined by the greatest diameter. Sausages are stuffed into a tubular shape and a cross-section of that tube is a circle. Prior to publication of the final rule, FSIS learned that a few establishments first stuffed the sausages into tubes and then flattened the tubes somewhat. This resulted in a cross-section that was an oval rather than a circle. For safety, FSIS therefore promulgated the greatest diameter rule for determining the drying time for oval sausages.

However, since then one such manufacturer petitioned FSIS that this degree of safety was unnecessary and unfair. The manufacturer stated that flattening a sausage should not slow the drying of a sausage but hasten it. The Agency recognized that this statement is in accord with basic physical principles. Additionally, since past research has shown that trichina destruction is proportional to the drying rate in sausages, flattened sausages, if they dry faster, should be as safe or safer than round sausages. Accordingly, the manufacturer developed an experiment [4] to show that sausage drying rates are more closely related to the circumference than the greatest diameter, since flattening a sausage changes the greatest diameter, but not the circumference.

The manufacturer selected 16 sausages from a regular production lot and weighed and identified them. Eight of them were dried unflattened with an average diameter of 4.29 inches before drying. The other eight were 4.42 inches before drying and were flattened to an average large diameter of 5.2 inches. Table 3A of the trichina regulations, 9 CFR 318.10(c)(3)(i), Method No. 6, presently requires 30 days for the round sausage (4½ inches) and 43 days for the flattened ones (5⅓ inches).

The manufacturer dried the sausages at 58 °F and a relative humidity of 60 percent then weighed the drying sausages at approximately 8 day intervals. After 32 and 40 days, drying, portions of the sausages were also analyzed for moisture and protein content.

The Oval Sausage Research Results

The results showed that the flattened sausages lost weight faster than the round ones and that their moisture content was less at 32 and 40 days' drying. Flattened sausages lost an average of 23 percent of their weight during 32 days' drying, round sausages lost 21 percent. The moisture contents were similar after 32 days' drying; flattened contained 43.9 percent moisture, round 44.1 percent. These results indicate, as physical principles and logic would predict, that the flattened sausages dry at an equal or faster rate than round sausages of the same circumference.

[4] Copies of the mentioned study reports are available free of charge from the FSIS Hearing Clerk, Policy Office, USDA, Room 3171, South Agriculture Building, Washington, DC 20250.

The Agency believes the results to be sufficiently credible to propose that Table 3A be amended to require that the calculations of the drying time for flattened or oval sausages be based on their circumference. This proposed amendment is based on the premise that the drying rate is directly correlated to the death rate of any trichina cysts that may be in the sausage.

Discussion of the Proposal

The proposal would first alter the way the diameter is determined for flattened sausages so that a drying time can be obtained. The present regulation requires the use of the largest diameter. The proposal would substitute the circumference.

The proposal would add a statement as to the ham weight to be used in calculating days per pound. The purpose of the addition is intended for the sake of clarity and is not substantive. In addition, Method No. 2 would be rescinded and that Method would be reserved. It was developed by Department employees in the 1920's and so far as is known today, is not in use. Therefore, it serves only as a source of confusion. For that reason it would be rescinded.

There are several differences in the proposed Method No. 3 and the present Method No. 3. The proposed regulation is broken into several paragraph instead of one, each paragraph treating a different stage of processing. This is to make the regulation more understandable and to better show the alternative processing choices available to the manufacturer.

A minimum salt content is specified is specified for the curing mixture. This is based on scientific research showing that the amount of salt in the tissue is significant to trichina destruction.[5] Therefore, the salt in the curing mixture must not be too diluted. The minimum amount of salt in the cure mixture, 70 percent, is based both on what those researchers used and what manufacturers commonly use.

There is no requirement for use of a specific amount of salt, except for the bag cure method. It the meat surface is covered with cure then maximum cure absorption is attained without the need for a required weight. Thus, a requirement to rub the cure mixture into all exposed muscle tissue and cover it with additional mixture appears to be more meaningful.

There are changes in the mandatory cure contact and equalization times. The proposed regulation would still require a total curing time (cure contact time plus equalization time) of at least 40 days but no less than 2 days per pound of meat. However, the establishment could shorten the cure contact time to a minimum 28 days but not less than 1.5 days per pound of meat if it increased the equalization time to meet the total curing time requirement. The current Method No. 3 requires a total curing time of 40 days but not less than 2 days per pound of meat and permits establishments to credit only 10 days equalization to the total curing time. Method No. 1 requires a minimum of 40 days cure contact and does not credit equalization time.

The time at which the surface of the product can be rinsed of excess cure mixture would be changed to permit rinsing after completing the cure contact period and before the beginning of equalization. The proposed regulation would also permit brushing, bumping, or other mechanical means of removing excess cure which the current Method No. 3 does not recognize.

Currently, Method No. 3 requires that the establishment overhaul at least once during the curing process. This requirement would be replaced with the simpler requirement to keep the exposed muscle tissue covered with cure mixture because this will supply sufficient salt penetration to ensure an adequate cure to destroy trichinae.

For the first time, a specific provision would be made for the bag cure method. Only a few establishments still use this method. This method is somewhat distinct because it does not conveniently permit an overhaul during curing, since the ham is wrapped in paper. However, since salt is not permitted to fall off these hams and a specific amount of salt is prescribed, the method is fully acceptable.

In recognition of the actual range of practices in the production of country hams, the regulation would provide three different schedules of drying times depending upon whether the establishment elects to (1) dry the product in a temperature controlled room, in which case provision would be made for that on the basis of the controlled chamber temperature; (2) not control the room temperature, but monitor the temperature of the product and alter the drying times accordingly; or (3) ignore the temperature and operate solely by the calendar.

For the establishments who operate on the basis of drying temperature, whether it is controlled or not, the most significant change in the proposed regulation is the removal of all references to temperatures below 75 ° F from the drying time/temperature table. This came about as a result of the Texas A&M research, as discussed above. Other times and temperatures may be added later as a result of further research. However, at the present time some processors may have to adjust their drying temperatures slightly.

Those establishments who operate only by calendar and do not monitor time and temperature live primarily in the Eastern States of North Carolina, Virginia, and Kentucky. As the chart below for mean temperatures indicates, the summer temperatures appear adequate for assuring safe dry cured hams. The coolest climate at which a country ham establishment is now operating is Boone, North Carolina. Should an establishment wish to begin drying by the calendar, then they would have to demonstrate that their local climate is as warm or warmer that that reported for Boone, North Carolina, for 1951 to 1980. This could be accomplished by supplying the Department with weather charts for that locality.

In developing a rule for establishments wishing to use the calendar, the Agency consulted National Oceanic and Atmospheric Administration weather tables for those areas. The following Table presents normal average and minimum monthly temperatures for the period between 1951 to 1980 of two areas in which there are establishments using ambient drying temperature.

MONTHLY TEMPERATURES (° F) for Two Ham Curing Areas

Station	January	February	March	April	May	June	July	August	September
				Normal Average Temperatures					
Frankfort, KY	30.9	33.4	42.5	53.5	63.0	71.5	75.6	74.5	66.3

[5] Copies of the mentioned study reports are available free of charge from the FSIS Hearing Clerk, Policy Office, USDA, Room 3171, South Agriculture Building, Washington, DC 20250.

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MONTHLY TEMPERATURES (° F) for Two Ham Curing Areas—Continued

Station	January	February	March	April	May	June	July	August	September
Boone, NC	32.2	34.1	41.3	51.2	59.1	65.1	68.3	67.5	61.6
Normal Minimum Temperatures									
Frankfort, KY	20.9	22.9	31.0	40.7	50.3	59.4	63.5	62.2	55.3
Boone, NC	22.8	24.2	30.8	39.6	48.1	54.7	58.5	57.6	51.6

The FSIS has no data concerning the effect of smoke as such on trichina survival. The current "Table 6.—Smoking and Drying Schedule" was intended to convey the effect of drying at two different temperatures, one of which occurred when the product was being smoked. The regulations would be modified in this regard to indicate the effect of heating at two or more different temperatures on trichina survival. It appears the easiest way to do this would be to combine Tables 5 and 6. In addition, since a number of fractional drying periods are being totaled and it is not clear that the cumulative effect is simply additive, a safety margin would be added to assure that the resulting process had sufficient safety.

The last sentence of Method No. 1 for hams and shoulders would be amended to acknowledge that the drying times and temperatures of Method No. 3 are all suitable for Method No. 1 with its more rigorous salting requirement.

Finally, a new Method No. 4 is proposed which would permit establishments to replace salt with potassium chloride on an equal weight basis using a processing method similar to that used by the North Carolina researchers. Proposed Method No. 4 is based on the proposed Method No. 3 but with changes as follows.

Proposed Method No. 4 prescribes a minimum salt content in the cure mixture that is slightly higher than that in the proposed Method No. 3, but permits substituting up to half of the salt with potassium chloride (KC1) on an equal weight basis. It also prescribes the minimum amount of salt and KC1 to be applied, approximately how much to apply at each overhaul, and the number of overhauls. Finally, Method No. 4 prescribes longer cure contact and equalization times than the proposed Method No. 3. These requirements reflect the experimental procedure used by the research scientists.

In consideration of the above, FSIS is proposing to amend Part 318 of the Federal meat inspection regulations (9 CFR 318) regarding treatment methods for destroying trichinae in pork and pork products as follows:

PART 318—[AMENDED]

1. The authority citation for Part 318 would continue to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

§ 318.10 [Amended]

2. Paragraph (c)(3)(i) of § 318.10 would be amended by revising the text of Footnote 1 of Table 3A as follows:

"The drying room times for flattened or oval sausages shall use a diameter derived by measuring the largest circumference and dividing by 3.14 (pi)."

3. Paragraph (c)(3)(iv) of § 318.10 would be revised to read as follows:

§ 318.10 Prescribed treatment of pork and products containing pork to destroy trichinae.

* * * * *

(c) * * *

(3) * * *

(iv) *Hams and pork shoulder picnics.* In the curing of hams and pork shoulder picnics, one of the methods below shall be used. For calculating days per pound, the establishment shall use the weight of the heaviest ham or picnic in the lot.

§318.10 [Amended]

4. *Method No. 1* of paragraph (c)(3)(iv) of § 318.10 would be amended by removing the last sentence and replacing it with the following sentence: "The products shall finally be dried or smoked at a time and temperature not less than a combination prescribed in Table 5 of Method No. 3."

5. Method No. 2 of paragraph (c)(3)(iv) of § 318.10 would be removed and reserved as follows:

Method No. 2. [Reserved]

6. Method No. 3 paragraph (c)(3)(iv) of § 318.10 would be revised to read as follows:

Method No. 3 (A) *Curing* (other than bag curing). Establishments shall cure hams and shoulders by using a cure mixture containing not less than 70 percent salt by weight to cover all exposed muscle tissue and to pack the hock region. Establishments may also inject the ham or shoulder with a saturated curing solution. Curing time consists of a mandatory cure contact time and an optional equalization time.

(B) *Cure Contact Time.* This is the cure contact period, during which the establishment shall keep exposed muscle tissue coated with the cure mixture at least 28 days but for no less than 1.5 days per pound of ham or shoulder. Overhaul (removing the product and applying additional cure mixture) is optional so long as the exposed muscle tissue remains coated with curing mixture.

(C) *Equalization.* The establishment may provide an equalization period after the minimum cure contact period in (B) above to permit the absorbed salt to permeate the product's inner tissues. Equalization is the time after the excess cure has been removed from the product at the end of the cure contact period until the product is placed in the drying room and the drying period begins. The total curing time (equalization plus cure contact) shall be at least 40 days and in no case less than 2 days per pound of uncured ham or shoulder.

(D) *Removing Excess Cure.* After the required cure contact period, the establishment may remove excess cure mixture from the product's surface mechanically or by rinsing up to to 1 minute with water, but not by soaking.

(E) *Bag Curing.* Bag curing is a traditional ham curing technique in which the manufacturer wraps the ham and all of the cure mixture together in kraft paper then hangs individually. The paper keeps the extra cure mixture in close contact with the product making reapplication of salt unnecessary, and it protects the product from mites and insects. The establishments may employ the bag curing method as an alternative to (A) through (E) above. Such establishment shall apply a cure mixture containing at least 6 pounds of salt per 100 pounds of uncured product. The establishment shall rub the curing mixture into the exposed muscle tissue, pack the hock region with the curing mixture, and use uncoated wrapping paper to wrap the product together with any remaining curing mixture. The bag cured product shall remain wrapped throughout the curing period and may or may not remain wrapped during the drying period. In any case, the curing period shall be at least 40 days but not less than 2 days per pound of uncured ham or shoulder. After curing, the cured product shall be exposed to a drying time and temperature prescribed in Table 5.

(F) *Curing Temperature.* During the curing period the establishment shall use one of the following procedures:

1. The establishment shall control the room temperature at not less than 35 °F nor greater than 45 °F for the first 1.5 days per pound of product, and not less than 35 °F nor greater than 55 °F for the remainder of the curing period.

2. The establishment shall monitor and record daily product temperature. The room temperature need not be controlled but days on which the product temperature drops below 35 °F shall not be counted as curing time. If the product temperature exceeds 45 °F within the first period of 1.5 days per pound of product or if it exceeds 55 °F for the remainder of the curing period, the establishment shall cool the product back to the 45 °F or 55 °F maximum, respectively.

3. The establishment shall begin curing product only between the dates of December 1 and February 13. The room temperature need not be controlled, but the establishment shall monitor and record daily room temperatures, and days in which the room temperature drops below 35 °F shall not be counted as curing time.

(G) *Drying.* After the curing period, establishments shall use one of three procedures for drying:

1. The establishment shall subject the product to a controlled room temperature for a minimum time and minimum temperature combination prescribed in Table 5 or for a set of such combinations in which the total of the fractional periods (in column 4 of Table 5) exceeds 1.5.

2. Establishments using uncontrolled room temperatures shall monitor and record the internal product temperature. The drying period shall be complete when one of the time/temperature combinations of Table 5 is satisfied or when the total of the fractional values for the combinations exceeds 1.5.

3. Establishments using uncontrolled room temperatures shall dry the product for a minimum of 160 days including the entire months of June, July, and August. This procedure is obviously dependent on local climatic conditions and no problem exists with respect to current producers who use this procedures. Future applicants shall demonstrate that their local climatic conditions are equal to or warmer than those the National Oceanic and Atmospheric Administration reported for Boone, North Carolina, station 31–00977, 1951 through 1980.

MONTHLY TEMPERATURES (°F) FOR BOONE, NC, 1951–1980

Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.
Normal Average Temperatures: 32.2	34.1	41.3	51.2	59.1	65.1	68.3	67.5	61.6
Normal Minimum Temperatures: 22.8	24.2	30.8	39.6	48.1	54.7	58.5	57.6	51.6

Drying Times and Temperatures for Trichina Inactivation in Hams and Shoulders.

TABLE 5.—MINIMUM DRYING DAYS AT A MINIMUM TEMPERATURE*

Minimum drying temperature		Minimum days at drying temperature	Fractional period for one day of drying
Degrees fahrenheit	Degrees centigrade		
130	54.4	1.5	.67
125	51.7	2	.50
120	48.9	3	.33
115	46.1	4	.25
110	43.3	5	.20
105	40.6	6	.17
100	37.8	7	.14
95	35.0	9	.11
90	32.2	11	.091
85	29.4	18	.056
80	26.7	25	.040
75	23.9	35	.029

* Interpolation of these times or temperatures is not acceptable; establishments wishing to use temperatures or times not in this Table shall first validate their efficacy as provided by 318.10(c)(4) of this section.

7. Method No. 4 of paragraph (c)(3)(iv) of § 318.10 would be added to read as follows:

Method No. 4. (A) *Cure.* Establishments shall cure hams and shoulders by using a cure mixture containing not less than 71.5 percent salt by weight to cover all exposed muscle tissue and to pack the hock region. Establishments may substitute potassium chloride (KC1) for up to half of the required salt on an equal weight basis.

(B) *Curing.* Establishments shall apply the cure at a rate not less than 5.72 pounds of salt and KC1 per hundred pounds of fresh meat. The cure shall be applied in approximately three equal amounts at three separate times during the first 14 days of curing.

(C) *Cure Contact Time.* Establishments shall keep the product in contact with the cure mixture for no less than 2 days per pound of fresh meat but for at least 30 days. Establishments shall maintain the curing temperature at no less than 35 °F during the cure contact time.

(D) *Equalization.* After the cure contact period, establishments shall provide an added equalization period of no less than 1 day per pound of fresh meat but at least 14 days. Equalization is the time after the excess cure has been removed from the product, the end of the cure contact period, and before the drying period begins. Establishments may substitute additional cure contact days for an equal number of equalization days.

(E) *Removing Excess Cure.* After the required cure contact period, the establishment may remove excess cure mixture from the product's surface mechanically or by rinsing up to 1 minute with water, but not by soaking.

(F) *Drying.* After the curing period, establishments shall use one of the controlled temperature methods for drying listed in Method No. 3 of this subparagraph.

Done at Washington DC, on April 14, 1989.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 89–9366 Filed 4–19–89; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 523

[No. 89–1336]

Extension of Time Period for Board Action on Outstanding Proposal

Date: April 13, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule; extension of time period for Board action.

SUMMARY: Pursuant to its regulatory review procedures, see Board Res. No. 88–269, 53 FR 13156 (April 21, 1988), the Federal Home Loan Bank Board ("Board") hereby gives notice that it is extending the time period for possible Board action on the following outstanding proposed regulation as outlined in **SUPPLEMENTARY INFORMATION.** The Board is taking this action in order to allow adequate time for consideration of a number of complex issues raised by this proposal. It is not soliciting additional comments on this proposal.

DATE: April 13, 1989.

FOR FURTHER INFORMATION CONTACT: Mary Hoyle, Paralegal, Specialist, (202) 906–7135, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552 or the appropriate contact persons listed in

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the referenced Federal Register document.

SUPPLEMENTARY INFORMATION: Although the comment period on the following proposal has been closed for more than six months, the Board still has the proposal under active consideration for possible further action. The Board is hereby extending the time for possible final Board action on this proposal to July 13, 1989.

Readmission of Federal Home Loan Bank Members Terminating Their Status as Insured Institutions, adopted by the Board on August 5, 1988; 53 FR 30686 (August 15, 1988).

The Board notes that this action does not constitute a representation that the Board will take final action with respect to this proposal, only that it may do so within this extension of time. Moreover, this action carries no implication whatsoever with respect to the Board's view of the merits of the proposal.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-9497 Filed 4-19-89; 8:45 am]

BILLING CODE 6720-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Policy

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Small Business Administration (SBA) does not guarantee a loan to a close relative of designated persons. Under this proposed rule, SBA would clarify that such close relative would be ineligible regardless of whether he or she was a member of the household of such designated person.

DATE: Comments must be submitted on or before May 22, 1989.

ADDRESS: Comments may be mailed to Charles R. Hertzberg, Deputy Associate Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzbert, 202/635-6574.

SUPPLEMENTARY INFORMATION: The Small Business Administration (SBA) will not guarantee a loan to an "associate of the lender." That is a term defined in § 120.2-2 of SBA regulations and it includes several categories of persons and enterprises. The purpose of this prohibition is to preclude the possibility of a conflict of interest or the appearance thereof between an SBA participating lender and the borrower of an SBA guaranteed loan.

At the present time, "close relative" of the designated persons is defined by listing types of relatives who are members of the household of such designated persons. The requirement that such relative be a member of the household does not truly address the conflict of interest issue. Thus, presently the mother-in-law of a director of an SBA participating lender would not be eligible for an SBA guaranteed loan if she lived in the same household with such director, but she would be eligible if she lived in a household separate from the director. This is a difference without a distinction.

Accordingly, SBA proposes to eliminate the narrow circumscription of being a member of the household of the designated person. Thus, a "close relative" would be defined as an ancestor, lineal descendant, brother or sister or the lineal descendant of either, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, without regard to whether he or she was a member of the household of the designated person.

For purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)), SBA certifies that this proposed rule, if promulgated in final form, will not have a significant impact on a substantial number of small entities since SBA believes that only a small number of potential loans fall into the category of "close relative" of designated persons. SBA certifies that this proposed rule does not constitute a major rule for the purposes of Executive Order 12291, since the change is not likely to result in an annual effect on the economy of $100 million or more.

The proposed rule, if promulgated in final form, would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

This proposed rule would not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 120

Loan programs/Business.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend Part 120, Chapter I, Title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.2-2(d) would be revised to read as follows:

§ 120.2-2 Associate

* * * * *

(d) A "close relative" as used in paragraphs (a) and (b) of this definition only, means ancestor, lineal descendant, brother or sister of the lineal descendants of either, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

Dated: March 31, 1989.

James Abdnor,

Administrator.

[FR Doc. 89-9387 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 120

Business Loan Policy

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 103 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590 (102 Stat. 2989), enacted November 3, 1988, amends the Small Business Act (15 U.S.C. 636) with respect to loans by Preferred Lenders. This proposed rule would implement such amendment, would limit the Preferred Lenders Program to loans over $155,000 and would prohibit Preferred Lenders from selling all or any part of the unguaranteed portion.

DATE: Comments must be submitted on or before June 19, 1989.

ADDRESS: Comments may be mailed to: Charles R. Hertzberg, Deputy Associate Administrator, for Financial Assistance, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, 202-653-6574.

SUPPLEMENTARY INFORMATION: Pursuant to statutory authority (15 U.S.C. 634(b)(7)) the Small Business Administration (SBA) has implemented the operation of a Preferred Lenders Program (PLP) in its regulations (Title 13, Code of Federal Regulations, Chapter I, Part 120, Subpart D). Under PLP a lender's guaranty by SBA presently cannot exceed 75 percent of the amount of the loan. Section 103 of Pub. L. 100-590, enacted November 3, 1988, limits the SBA guaranty for a PLP loan to no more than five percentage points less than the percentage for other loans (non-PLP) guaranteed pursuant to Section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

Under the present law and the implementing regulations, an SBA lender which makes a guaranteed loan of $155,000 or less will obtain an SBA guaranty of no less than 90 percent. If the loan is greater than $155,000, the guaranty cannot be more than 85 percent. By implementing Section 103 of Pub. L. 100-590, SBA is proposing to guaranty 80 percent of a PLP loan in excess of $155,000 and to prohibit any PLP loan of $155,000 or less. Thus, for a PLP loan over $155,000 the Preferred Lender would be at risk for five percentage points more than a regular loan or a loan made under the Certified Lenders Program. This would continue to ensure that a Preferred Lender will process, service and liquidate a PLP loan at a high level.

SBA has decided that it cannot forgo its review function if the guaranty were to be above 80%. Since PLP loans are subject to no SBA review during their making and processing, SBA under this proposed regulation, will not extend its guaranty to those loans of $155,000 or less. The PLP Program permits carefully selected, experienced lenders with an excellent record in SBA lending to make guaranteed loans without submitting the application to SBA for approval. In return, the lender agrees to accept an SBA guaranty that is significantly less than the 85 to 90% received on most other loans. The purpose is to more fully utilize the resources of SBA's best lenders, reduce processing time on strong credits and help SBA deal with personnel considerations.

The lower guaranty percentage has been the plan's keystone from the beginning. The program is to be used only for the strongest credits: those on which the SBA can justify giving a lender the extraordinary privilege to unilaterally put government funds at risk.

Any time that a PLP Lender feels it needs the extra guaranty percentage, it has the unqualified right to submit the loan application to SBA for processing under Certified Lender (three-day turnaround) or regular processing. It is with these riskier loans that SBA must retain its authority to say yes or no. The unilateral approval authority of PLP should not be applied to loans that are so risky that the lender must seek the higher guaranty.

In addition, in order to ensure that a Preferred Lender will continue to service a PLP loan properly (particularly since SBA does not review the file as the loan is processed and made), SBA is proposing that a Preferred Lender will not be allowed to sell or transfer any part of the 20 percent of the PLP loan that is unguaranteed by SBA. Thus, the Preferred Lender would remain at risk for the full 20 percent. This would not preclude the Preferred Lender from selling or transferring part of the unguaranteed portions of non-PLP loans so long as such Lender complies with SBA rules and contractual provisions. The preponderance of loans made by Preferred Lenders are non-PLP loans so they would still be able to sell parts of the unguaranteed portions for most of their loans.

For purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)), SBA certifies that this proposed rule, if promulgated in final form, will not have a significant impact on a substantial number of small entities because the proposed changes would affect the speed in which a loan would be processed and not whether a loan would be made. SBA certifies that this proposed rule does not constitute a major rule for the purposes of Executive Order 12291, since the change is not likely to result in an annual effect on the economy of $100 million or more.

The proposed rule, if promulgated in final form, would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

This proposed rule would not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

Lists of Subjects in 13 CFR Part 120

Loan Programs/Business.

Accordingly, pursuant to the authority contained in Section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend Part 120, Chapter I, Title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.403-1 is proposed to be revised to read as follows:

§ 120.403-1 Amount of PLP loan and of maximum guaranteed portion.

The amount of a loan guaranteed under this program shall be greater than $155,000 and the amount of the guaranteed portion shall not exceed $750,000.

3. Section 120.403-2 is proposed to be revised to read as follows:

§ 120.403-2 Maximum percentage of PLP loan to be guaranteed.

Under this program, SBA shall not guarantee more than 80% of any loan greater than $155,000. No PLP loan shall be made for $155,000 or less.

4. Section 120.403-7 is proposed to be amended by changing the heading and by adding a new paragraph (d) to read as follows:

§ 120.403-7 Limitations on preferred lenders; SBA access.

* * * * *

(d) Sale of Part of Unguaranteed Portion. A Preferred Lender is prohibited from selling or transferring all or any part of the unguaranteed portion of a PLP loan.

Dated: January 30, 1989.

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans)

James Abdnor,

Administrator.

[FR Doc. 89-9388 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-ANM-20]

Proposed Amendment, Cut Bank Control Zone, Cut Bank, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Cut Bank Control Zone, Cut Bank, Montana, from full-time to part-time. A reduction in personnel staffing of the Cut Bank Flight Service station has resulted in weather observations not being available 24 hours a day. This action will bring publications up-to-date giving continuous accurate information to the aviation public.

DATE: Comments must be received on or before May 22, 1989.

ADDRESS: Send comments on the proposal in triplicate to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 88-ANM-20, 19700 Pacific Highway South, C-68966, Seattle, Washington 98168.

The Official docket may be examined at the same address. An informal docket may also be examined during normal business hours at the address listed above.

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FOR FURTHER INFORMATION CONTACT:
Art Corwin, ANM-537, Federal Aviation Administration, Docket No. 88-ANM-20, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2576.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88-ANM-20". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA proposes an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Cut Bank Control Zone, Cut Bank, Montana, from full-time to part-time. A reduction in personnel staffing of the Cut Bank Flight Service Station has resulted in weather observations not being available 24 hours a day, and therefore, full-time control zone services will not be available. The admendment will allow for changes in the hours of effectiveness by issuances of Notices to Airmen when minor variations in time of designation are anticipated.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration propose to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Cut Bank Montana Control Zone [Amended]

Add "The Control Zone shall be effective during the specified dates and times established in advance by a Notice to Airmen. The effective date and time will therefore be continuously published in the Airport/Facility Directory."

Issued in Seattle, Washington, on March 10, 1989.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

FR Doc. 89-9293 Filed 4-19-89; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 250 and 259

[Rel. No. 35-24862; File No. S7-2-89]

Request for Comments on Certain Issues Arising Under the Public Utility Holding Company Act of 1935 Relating to Non-Utility Diversification by Intrastate Public-Utility Holding Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Securities and Exchange Commission today announced that it has extended from May 15, 1989, until July 14, 1989, the date by which comments on Public Utility Holding Company Act Release No. 24815 (February 7, 1989) (54 FR 6701, February 14, 1989) concerning non-utility diversification by intrastate public-utility holding companies must be submitted.

DATE: Comments must be received on or before July 14, 1989.

ADDRESS: Persons wishing to express their views should submit comments in triplicate addressed to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Mail Stop 6-9, Washington, DC 20549. Reference should be made to File No. S7-2-89. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: William C. Weeden or Sidney L. Cimmet (202) 272-7676, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission, 450 5th Street NW., Mail Stop 7-1, Washington, DC 20549

By the Commission.
April 13, 1989.
Jonathan G. Katz,
Secretary.
[FR Doc. 89-9436 Filed 4-19-89; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule; Public Comment Period and Opportunity for Public Hearing on Proposed Amendment.

SUMMARY: OSMRE is announcing the receipt of a proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to authorities and definitions; permit applications; environmental protection performance standards; blasting for surface coal mining operations; variances for surface coal mining operations; coal exploration; self-bonding program; procedures applicable to surface coal mining operations; permit revisions; exploration by drilling; release of bonds or deposits for surface coal mining operations; inspections; enforcement and penalties for surface coal mining operations; designation of areas unsuitable for coal mining; and limited mining operations for ten acres or less of affected land. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards.

This notice sets forth the times and locations that the Wyoming program and proposed amendment to that program are available for public inspection; the comment period during which interested persons may submit written comments on the proposed amendment; and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., m.d.t., May 22, 1989. If requested, a public hearing on the proposed amendment will be held on May 15, 1989. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t. on May 5, 1989.

ADDRESSES: Written comments should be mailed or hand-delivered to Mr. Jerry R. Ennis at the address listed below. Copies of the Wyoming program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSMRE's Casper Field Office.

Mr. Jerry Ennis, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement 100 E. B Street, Room 2128, Casper, Wyoming 82601-1918, Telephone: (307) 261-5776.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 100 L Street NW., Washington, DC 20240, Telephone: (202) 343-5492.

Department of Environmental Quality, Land Quality Division, Herschler Building—Third Floor West, 122 West 25th Street, Cheyenne, WY 82002, Telephone: (307) 777-7756.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry R. Ennis, (307) 261-5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program can be found in the November 26, 1980 **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.12, 950.15 and 950.16.

II. Proposed Amendment

On March 31, 1989 Wyoming submitted a proposed amendment to its program pursuant to SMCRA (administrative record no. WY-12-1). Wyoming submitted the proposed amendment in response to the December 23, 1985 and June 6, 1987 letters that OSMRE sent in accordance with 30 CFR 732.17(c). Wyoming proposes to amend the following Department of Environmental Quality/Land Quality Division rules and regulations relating to coal mining operation: Authorities and Definitions, Chapter I; Permit Applications, Chapter II; Environmental Protection Performance Standards, Chapter IV; Performance Standards for Special Categories of Coal Mining, Chapter V; Blasting for Surface Coal Mining Operations, Chapter VI; Underground Mining, Chapter VII; Variances for Surface Coal Mining Operations, Chapter IX; Coal Exploration, Chapter XI; Self-bonding Program, Chapter XII; Procedures Applicable to Surface Coal Mining Operations, Chapter XIII; Permit Revisions, Chapter XIV; Release of Bonds or Deposits for Surface Coal Mining Operations, Chapter XVI; Inspections, Enforcement and Penalties for Surface Coal Mining Operations, Chapter XVII; Designation of Areas Unsuitable for Surface Coal Mining, Chapter XVIII; Limited Mining Operations for Ten (10) Acres or Less of Affected Land, Chapter XX.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is now seeking comment on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming program

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4:00 p.m., m.d.t. on May 22, 1989. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare the adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify and who wish to do so, will be heard following those who have been scheduled. The hearing

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will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "ADDRESSES." A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Russell F. Price,

Acting Assistant Director, Western Field Operations.

Dated: April 12, 1989.

[FR Doc. 89-9485 Filed 4-19-89; 8:45 am]

BILLING CODE 4310-05-M

POSTAL SERVICE

39 CFR Part 111

Acceptance of Mailpieces Bearing an Incorrect Date in the Meter or Mailer's Precancel Postmark; Extension of Time for Comment

AGENCY: Postal Service.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On March 14, 1989, the Postal Service published in the **Federal Register** (54 FR 10563) a proposed rule that would change existing procedures concerning the acceptance of mailings bearing and incorrect date in the meter or mailer's precancel postmark. The Postal Service requested comments by April 14, 1989. In response to a request for additional time, the Postal Service is extending the comment period to April 28, 1989.

DATE: Comments on the proposed rule change must be received on or before April 28, 1989.

ADDRESS: Address all comments to the Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, DC 20260-5360. Copies of all written comments will be available for inspection between 9 a.m. and 4 p.m., Monday through Friday, in Room 8430, at the above address.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268-5199.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89-9433 Filed 4-19-89; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC-040; FRL-3558-6]

Approval and Promulgation of Implementation Plans; North Carolina: Revisions to the SIP Including PM_{10}

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On May 2, 1988, the State of North Carolina submitted to EPA several revisions to the State Implementation Plan. The revisions were the result of three separate hearings held on February 15, 1988. The first hearing dealt with the adoption of New Source Performance Standards; a notice of the resulting delegation was published on June 22, 1988 (53 FR 23390). The third hearing dealt with revisions to the 111(d) plans along with other minor bookkeeping revisions; approval of these revisions was published on December 12, 1988 (53 FR 49681). The second hearing dealt with several miscellaneous revisions, including provisions for PM_{10}. This notice proposes to approve those revisions.

DATE: To be considered, comments must be received on or before May 22, 1989.

ADDRESSES: Written comments should be addressed to Rosalyn D. Hughes of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the documents relevant to this proposed action are available for public inspection during normal business hours at the following locations:

EPA Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Air Quality Section, Division of Environmental Management, North Carolina Department of Natural Respources and Community Development, 512 North Salisbury Street, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalyn D. Hughes, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347-2864 or FTS-257-2864.

SUPPLEMENTARY INFORMATION: On May 2, 1988, the State of North Carolina submitted to EPA several revisions to the State Implementation Plan (SIP). The revisions were the result of three separate public hearings on February 15, 1988. The first hearing dealt with the adoption of New Source Performance Standards. EPA delegated to the State authority for the affected source category on June 1, 1988, and the public was notified on June 22, 1988 (53 FR 23390). The third hearing dealt with revisions to the 111(d) plan along with other minor bookkeeping revisions. EPA approved those revisions on December 12, 1988 (53 FR 49681).

The second hearing dealt with several revisions, including the State's PM_{10} provisions. The hearing affected the following regulations, which will be addressed in this notice: 15 NCAC 2D.101, Definitions; 15 NCAC 2D.0104, Adoption by Reference Updates; 15 NCAC 2D.0302, Episode Criteria; 15 NCAC 2D.0403, Suspended Particulate; 15 NCAC 2D.0409, Particulate Matter; 15 NCAC2D.0501, Compliance with Emission Control Standards, 15 NCAC 2D.0530, Prevention of Significant Deterioration; 15 NCAC 2D.0531, Sources in Non-Attainment Areas; 15 NCAC 2D.0532, Sources Contributing to an Ambient Violation; 15 NCAC 2D.0913, Determination of Volatile Content of Surface Coatings; 15 NCAC 2D.0916, Determination of VOC Emissions from Bulk Gasoline Terminals; 15 NCAC 2D.0939, Determination of Volatile Organic Compound Emissions; 15 NCAC 2D.0940, Determination of Leak Tightness and Vapor Leaks; 15 NCAC 2H.061, Purpose and Scope; and 15 NCAC 2H.0603, Applicability.

SIP Amendments

The definitions which are being added to meet the federal PM_{10} requirements are for "PM_{10}", "particulate emissions," and "PM_{10} emissions." The definition of "suspended particulate" is being changed to "total suspended particulate." At the request of EPA, the term "air pollutant" is being defined. Also, in order to facilitate the permitting process the terms "construction," "facility," "owner or operator," "permitted," and "source" are being defined. All of these definitions are acceptable to EPA.

North Carolina adopted a new regulation in response to a legislative amendment which allows amendments to referenced federal regulations to be adopted without going through the normal rulemaking process. Regulation, 2D.0104 effects eight other regulations by automatically incorporating by reference amendments to the Code of Federal Regulations (CFR). The eight regulations affected (2D.0501, 2D.0530, 2D.0531, 2D.0532, 2D.0913, 2D.0916, 2D.0939, and 2D.0940) are amended by deleting from them the mention of a specific version of the CFR. This change is approvable for 2D.0501, 2D.0913, 2D.0916, 2D.0939, and 2D.0940 because it allows future amendments to EPA test methods and sampling procedures in the CFR to be incorporated in the North Carolina regulations without having to go through the normal rulemaking process. A problem, however, does exist with automatically updating Regulations 2D.0530 and 2D.0532. These two regulations deal with prevention of significant deterioration and new source review. The automatic incorporation of CFR amendments in these regulations does not mean that the federally enforceable SIP is automatically revised. To revise the federally approved SIP, North Carolina must submit the revision to EPA after the revision has gone through the procedural requirements of 40 CFR 51.102, and EPA will approve it as part of the SIP. In response to this problem, North Carolina committed to restore to 2D.0530 and 2D.0532 the reference to a specific revision of the CFR and to the removal of the 2D.0530 and 2D.0532 references in 2D.0104. Based on this committal, EPA is proposing to approve 2D.0104. If 2D.0104, 2D.0530, and 2D.0532 are not revised by October 1989 EPA will withdraw the proposed approval and propose disapproval.

Regulation 2D.0409, Particulate Matter, is being added to incorporate the two new PM_{10} ambient air quality standards. It also includes methods used to determine attainment of the PM_{10} standards which are the same as the standards and methods in the July 1, 1987, **Federal Register** notice (52 FR 24 634).

Regulations 2D.0530 and 2D.0531 and 2D.0532 are being amended to specify the transitional provisions to be used in changing from the total suspended particulate standard to the PM_{10} standard and to add the PM_{10} significance levels. These two regulations are also affected by 2D.0104. Since North Carolina has committed to removing the antomatic updating clause from 2D.0530 and 2D.0532 at the next public hearing, EPA is proposing approval of the two revised regulations. Final approval will be contingent upon the removal of the clause.

Regulation 2H.0601, Purpose and Scope, is being amended to delete a paragraph that paraphrases North Carolina General Statute 143-215-108(a), as recommended by the State's Office of Legal Affairs. Also on the advice of the Office of Legal Affairs, the permit requirements for complex sources have been clarified. The final amendment to 2H.0601 requires the owner or operator seeking an exemption from permitting requirements to demonstrate that both the emission standards and air quality standards will not be contravened.

Regulation 2H.0603, Applicability, is being amended to require incinerators constructed before July 1, 1987 to use an allowable particulate emission rate of 0.08 grains per dry standard cubic foot (0.08 grf/dscf) instead of the applicable pounds per hour rate in order to have their permits adopted as part of the SIP. Region IV and North Carolina have been working on this revision of several years and concur on this version.

Proposed Action

EPA had reviewed the submitted material and found it to meet the requirements of 40 CFR Part 51. Therefore, EPA is proposing the approve the North Carolina revisions, including the PM_{10} provisions, and is soliciting public comments.

For further information of EPA's analysis, the reader may consult a Technical Support Document which contains a detailed review of the materials submitted. This is available at the EPA address given above. Interested persons are invited to submit written comments within thirty days of the publication of this notice.

Under 5 U.S.C. 605(b), I certify that these revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air Pollution control, Hydrocarbons, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7642.

Dated: April 12, 1989.

Lee A. DeHihns, III,

Acting Regional Administrator.

[FR Doc. 89-9510 Filed 4-19-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-77; FCC 89-90]

Broadcast Television Service; Transfer of Control of Certain Licensed Non-Stock Entities

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission seeks comment on proposed guidelines for determining when a transfer of control of certain types of licensed non-stock entities is deemed to occur, and on proposed clarifications of the procedures to be followed in seeking Commission consent to such transfer. This action is needed to promote efficiency in the licensing of the electromagnetic spectrum by clarifying how the FCC's requirements regarding transfers of control should be applied to non-stock entities.

DATES: Comments are due by June 1, 1989, and reply comments are due by June 16, 1989.

ADDRESS: Federal Communication Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David E. Horowitz, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Inquiry (Notice)* in MM Docket No. 89-77, adopted March 16, 1989, and released April 11, 1989. The complete text of this *Notice* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Inquiry

1. This *Notice* is issued to develop a record on which to forumlate guidelines for identifying when transfers of control of certain types of licensed non-stock entities are deemed to occur, and on which to clarify the procedures to be followed when such transfers are proposed. Although the Commission has established a general framework for addressing these matters in connection with "traditional" stock corporations, we presently lack a comparably articulated Commission policy for determining when a transfer of control

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of a non-stock entity has occurred. The lack of such a policy has created a degree of uncertainty among licensees, and on several occasions has unnecessarily exposed various non-stock entities to attack.

2. The Commission believes that the basic principles and approaches used regarding transfers of control of stock corporations can and should be applied to those non-stock entities that (a) are directed by a governing board, and (b) operate pursuant to a written organizational document. It appears that three basic types of non-stock entities possess these characteristics: (1) membership organizations; (2) certain governmental bodies; and (3) organizations with self-perpetuating boards.

3. For membership organizations and governmental entities, our proposed approach would generally track the framework used in the context of stock corporations. Thus, gradual changes in the boards of these two types of non-stock entities—even if resulting in the replacement of a majority of the original board members—would not be considered a transfer of control and would need only be reported as appropriate on the licensee's ownership reports. A sudden change in the majority of the governing board, however, would be considered an insubstantial transfer of control, subject to the "modified short form" consent procedures we established for stock corporations (*i.e.*, submission of an FCC Form 316 application, supplemented with information on all the new board members and nominees regarding citizenship, adverse findings of law violations, and other attributable media interests).

4. For non-stock entities that have self-perpetuating boards, we propose that (a) gradual changes in a self-perpetuating board would not constitute a transfer of control prior to the replacement of a majority of the board's members; (b) if the majority threshold is passed as a result of gradual changes, an insubstantial transfer of control would occur and prior Commission approval would be required by application under the modified short form procedures; and (c) a sudden change in the majority would be considered a substantial transfer of control requiring the licensee to seek Commission approval by submission of a "long form" (FCC Form 315) application, in accordance with the full panoply of procedures set forth in section 309 of the Communications Act of 1934, as amended.

5. Before we formalize the above framework as a general statement of Commission policy, however, we invite comments from interested parties on various aspects of the framework. On the most basic level, we seek comment on whether our assumptions about the structure and operation of the three types of non-stock entities are correct. To the extent we have proposed to treat these entities in an analagous fashion to stock corporations because of similarities in structure and operation, we request comment on whether the non-stock entities possess any characteristics that differe sufficiently from those of stock corporations to justify a modification of the proposed framework. To the extent we have proposed, for non-stock entities, departures from (or additions to) the framework used in the stock context, we invite general comment. Although we have proposed to treat membership organizations and governmental entities the same, we seek specific comment on whether there are any special considerations that should be accorded governmental entities, either for practical reasons or for reasons of federal policy. In addition, as an alternative to the proposal described above for treating entities with self-perpetuating boards differently than the other two types of non-stock entities, we ask whether all three types should be treated the same, and, if so, which of the standards we have set forth should be applied to determine when a transfer of control occurs. Finally, we invite interested parties to comment on whether the proposed framework for non-stock entities can be extended beyond our specific proposals to cover certain situations where the analogy between stock corporations and non-stock entities appears less clear-cut.

Comment Information

6. Pursuant to applicable procedures set forth in Section 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before June 1, 1989, and reply comments on or before June 16, 1989. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

7. Authority for this proposed rule making is contained in sections 4(i), 303, 308(b), 309(g), 319 and 403 of the Communications Act of 1934, as amended.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9494 Filed 4-19-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

Atlantic Sea Scallop Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the New England Fishery Management Council (Council) has submitted Amendment 3 to the Fishery Management Plan for Atlantic Sea Scallops (FMP) for review by the Secretary of Commerce. Written comments are invited from the public. Copies of Amendment 3 may be obtained from the address below.

DATE: Comments on the Amendment should be submitted on or before June 12, 1989.

ADDRESS: All comments should be sent to Richard Roe, Regional Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930. Clearly mark the outside of the envelope "Comments on Amendment 3 to the Sea Scallop FMP."

Copies of Amendment 3 are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts 01906.

FOR FURTHER INFORMATION CONTACT: Patricia A. Kurkul, Atlantic Sea Scallop FMP Coordinator, (508) 281-9331.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review, approval and implementation. The Magnuson Act also requires that the Secretary, upon receiving the plan or amendment, immediately publish a notice of its availability for public review and comment. The Secretary will consider any public comments received in determining whether or not to approve the plan or amendment.

Amendment 3 would require that all vessels must offload sea scallops within a twelve hour time window each day as follows:

State	Daily Time Period for Offloading
Maine and New Hampshire	7 a.m. to 7 p.m.
Massachusetts, Rhode Island and Connecticut	5 a.m. to 5 p.m.
New York, New Jersey, Delaware, Maryland and Virginia	6 a.m. to 6 p.m.
North Carolina, South Carolina, Georgia and Florida	12 noon to 12 midnight

The purpose of Amendment 3 is to improve the enforceability of the meat count/shell height management standards for landed scallops. The offloading window covers different time periods in different states where sea scallops are offloaded in order to accommodate local industry practices. The offloading window reduces, by half, the time when enforcement agents can sample (weigh) scallops in order to establish compliance with the meat count/shell height size standards. Under Amendment 3, offloading scallops outside the time window would constitute a violation of the FMP'S implementing regulations, regardless of the actual meat count/shell height measurements of the offload scallops.

Proposed regulations proposed to implement Amendment 3 are scheduled to be published within 15 days.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 650

Fish, Fisheries.

Dated: April 14, 1989.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-9460 Filed 4-17-89; 11:19 am]

BILLING CODE 3510-22-M

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Notices

Federal Register
Vol. 54, No. 75
Thursday, April 20, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 14, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250; (202) 447–2118.

Extension

- Agricultural Marketing Service
Cotton Classing, Testing, and Standards
CN–248, 247, 248, 3575
Recordkeeping; On Occasion
Individuals or households; Businesses or other for-profit; Small business or organizations; 3,400 responses; 411 hours; not applicable under 3504(h)
Elvis W. Morris, (FTS) 222–2921

Revision

- Agricultural Stabilization and Conservation Service
Peanut Warehouse Contracts, Applications for Approval, Examination Reports, Bond, Warehouse Receipts, and Drafts
CCC–1006, 1006 A, 1011, 1023, 1025, 1028, 1028–A, 1029, 1032, 1032–1, 1033, 1036, 1041, 1041–VC, 1041–A, 1057
On occasion; Monthly; Annually; Daily
Farms; Businesses or other for-profit; 80,856 responses; 8,941 hours; not applicable under 3504(h)
David Kincannon, (202) 382–0152

Donald E. Hulcher,
Acting Department Clearance Officer.
[FR Doc. 89–9435 Filed 4–19–89; 8:45 am]
BILLING CODE 3410–01–M

Types and Quantities of Agricultural Commodities to Be Made Available for Donation Overseas Under Section 416(b) of the Agricultural Act of 1949 in Fiscal Year 1989

AGENCY: Office of the Secretary, USDA.
ACTION: Notice.

SUMMARY: This notice increases the quantities of agricultural commodities owned by the Commodity Credit Corporation to be made available for donation overseas under Section 416(b) of the Agricultural Act of 1949, as amended, during fiscal year 1989.

FOR FURTHER INFORMATION CONTACT: Mary Chambliss, Director, Program Analysis Division, Office of the General Sales Manager, FAS, USDA (202) 447–3573.

SUPPLEMENTARY INFORMATION: Section 416(b) of the Agricultural Act of 1949, as amended 7 U.S.C. 1431(b) ("Section 416(b)"), requires the Secretary of Agriculture to make available for donation overseas for each of the fiscal years 1986–1990, not less than certain minimum quantities of Commodity Credit Corporation ("CCC") uncommitted stocks. The minimum quantity of grains (wheat, rice, and feed grains) and oilseeds required to be made available shall be the lesser of 500,000 metric tons of CCC's uncommitted stocks or 10 percent of estimated year-end levels of CCC's uncommitted stocks. The minimum quantity of dairy products shall be 10 percent of CCC's uncommitted stocks, but not less than 150,000 metric tons to the extent that uncommitted stocks are available. The minimum quantity requirements may be waived by the Secretary if the Secretary determines, and reports to Congress, that there are insufficient valid requests for eligible commodities under Section 416(b) for any fiscal year, or the Secretary determines that the restrictions in furnishing commodities under section 416(b)(3) prevent making available commodities in such quantities.

A total of 900,000 metric tons of grains, including 500,000 metric tons of sorghum, and 4,500 metric tons of butter (frozen form only) was previously determined to be available for donation under Section 416(b) during fiscal year 1989. This determination was published in the **Federal Register** on November 18, 1988 (53 FR 46640). The purpose of this notice is to inform the public that such previous determination is revised by increasing the quantity of sorghum to be made available from 500,000 metric tons to 800,000 metric tons. With this increase, CCC will be able to meet additional commodity donation requests for sorghum.

Determination

Accordingly, I have determined that 1,200,000 metric tons of grains and oilseeds and 4,500 metric tons of dairy products shall be made available for donation overseas pursuant to Section 416(b) during fiscal year 1989. The kinds and quantities of comodities that shall be made available for donation are as follows:

	Commodity	Quantity (metric tons)
Grains and oilseeds	Corn	400,000
	Sorghum	800,000
Dairy products	Butter (frozen only)	4,500
Total		1,204,500

Done at Washington, DC this 14 day of April 1989.

Peter C. Myers,
Deputy Secretary.
[FR Doc. 89–9504 Filed 4–19–89; 8:45 am]
BILLING CODE 3410–10–M

Forest Service

Wild Horse Management

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare a plan and draft environmental impact statement (DEIS) for managing wild horses in the Lower Deer Creek Management Area (#42) on the Almanor Ranger District, Lassen National Forest, Tehama County, California. The agency gives notice of the full environmental analysis and decision-making process that is occurring on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by May 31, 1989.

FOR FURTHER INFORMATION CONTACT: Direct comments, suggestions and questions about the proposed Plan and DEIS to Laurence Crabtree, District Planning Officer, Almanor Ranger District, Lassen National Forest, P.O. Box 767, Chester, California 96020, phone 916–258–2141.

SUPPLEMENTARY INFORMATION: The 6,000 acre Brushy Mountain Wild Horse Territory was established pursuant to the 1971 Wild Horse and Burro Act. The Almanor Multiple Use Plan (1972) provides general guidance for the management of the wild horse range. Additionally, the proposed Lassen National Forest Land and Resource Management Plan includes management direction for this area. Direction in this proposed Plan will be considered because it is expected to be finalized before the wild horse plan is completed.

In preparing the DEIS, the Forest Service will identify and consider several alternatives. Preliminary proposals are:

1. No Action (A continuation of current level of management).
2. Eliminate the Wild Horse Territory and remove the horses.
3. Manage the wild horse herd at levels within the current carrying capacity of the Territory.
4. Use range management techniques to increase the carrying capacity of the Territory for wild horses.

Richard A. Henry, Forest Supervisor, Lassen National Forest, Susanville, California, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). In April 1989, the Forest Service will send a letter of management intent to Federal and State agencies and other individuals or organizations with possible interest in, or who may be affected by, the management of the wild horses. The letter will seek information, comments, and assistance regarding the management plan. Additionally, a public meeting is being held on April 25, 1989 at the CARD Center, Room 1–2, 545 Vallombrosa Ave., Chico, California at 7:00 p.m. This input will be used in preparation of the DEIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

Input from Forest Service specialists has identified the following concerns:

1. Private land that was historically part of the Wild Horse Territory is no longer available to them.
2. Plants and other indicators of range condition suggest the Territory is being degraded by the cumulative impacts of deer, wild horses and cattle.
3. The wild horses have declined from approximately 55 animals in 1974 to 30 in 1988 and are below numbers generally considered genetically viable for a herd.

The proposed plan and DEIS are expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in September, 1989. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the DEIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register.** It is very important that those interested in the management of this wild horse herd participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed.

Comments on the Plan and DEIS will be analyzed and considered by the Forest Service in preparing the final EIS (FEIS), which is scheduled to be completed in December, 1989. In the FEIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Date: April 12, 1989.
Richard A. Henry,
Forest Supervisor.
[FR Doc. 89–9442 Filed 4–19–89; 8:45 am]
BILLING CODE 3410–11–M

Soil Conservation Service

Sandy Run Creek Watershed; Cleveland and Rutherford Counties, North Carolina

AGENCY: North Carolina Department of Natural Resources and Community Development and the United States Department of Agriculture, Soil Conservation Service.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Division of Soil and Water Conservation, North Carolina Department of Natural Resources and Community Development and the Soil Conservation Service, United States Department of Agriculture, give notice that an environmental impact statement is not being prepared for the Sandy Run Creek Watershed, Cleveland and Rutherford Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: David W. Sides, Director, Division of Soil and Water Conservation, North Carolina Department of Natural Resources and Community Development, P.O. Box 27687, Raleigh, North Carolina 27611, Telephone (919) 733–2302 or Bobbye J. Jones, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 535, Fifth Floor, Federal Building, Raleigh, North Carolina, 27601, Telephone (919) 790–2888.

SUPPLEMENTARY INFORMATION: The Environmental assessement of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Bobbye J. Jones, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned

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works of improvement include accelerated technical and financial assistance to apply land treatment measures on 5,150 acres of cropland and 116 acres of woodland.

The Notice of A Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting David W. Sides.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

Dated: March 28, 1989.

("This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.")

Bobbye J. Jones,

State Conservationist.

[FR Doc. 89-9213 Filed 4-19-89; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Construction Project Report (Multifamily Residential).

Form Number: C-700(R).

Agency Approval Number: 0607-0163.

Type of Request: Extension.

Burden: 7,500 hours.

Number of Respondents: 2,500.

AVG Hours Per Response: 15 minutes.

Needs and Uses: This survey collects data on the amount of construction put in place each month from a nationwide sample of private multifamily residential construction projects. These statistics are used extensively by the Federal Government to make policy decisions and become part of the Gross National Product. They are used by the private sector for market analysis and other research.

Affected Public: Business or other for-profit organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 14, 1989

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-9535 Filed 4-19-89; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Construction Project Report (State and Local Governments, Form C-700(SL)

Form Number: C-700(SL)

Agency Approval Number: 0607-0171

Type of Request: Extension.

Burden: 15,000 hours.

Number of Respondents: 5,000.

Avg Hours Per Response: 15 minutes.

Needs and Uses: This form is used to collect the amount of construction put in place each month from a nationwide sample of new state and local government construction projects. The Federal Government uses these statistics to evaluate economic policy, to measure progress toward national goals, and as part of the Gross National Product. The private sector uses them to estimate the demand for building materials and to schedule production; distribution, and sales efforts.

Affected Public: State or local governments.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 14, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-9536 Filed 4-19-89; 8:45am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: 1990 Decennial Census—Maritime Enumeration.

Form Number: D-34, D-47.

Type of Request: New Collection.

Burden: 71 hours.

Number of Respondents: 850.

AVG Hours Per Response: 5 minutes.

Needs and Uses: The Bureau of the Census uses the data gathered on form D-47 to assign individuals aboard ship to the appropriate geographic areas for the 1990 Decennial Census.

Affected Public: Individuals or households.

Frequency: One time only.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 14, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-9537 Filed 4-19-89; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Construction Project Report (Private Construction Projects)

Form Number: C-700.

Agency Approval Number: 0607-0153.

Type of Request: Extension.

Burden: 12,000 hours.

Number of Respondents: 4,000.

AVG Hours Per Response: 15 minutes.

Needs and Uses: The data gathered in the Construction Project Report are used extensively by the Federal Government in making policy decisions and calculating the Gross National Product. The data are also used by the private sector for market analysis and other research.

Affected Public: Business or other for-profit institutions.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, 395-7340.

Copies of the above informaton collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written and comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 14, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-9538 Filed 4-19-89; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: CPS, SIPP, and NCS Porticipant-Observer Ethnographic Study of Within Household Undercoverage.

Form Number: CPS-1 Questionnaire & CPS-263 Advance Letter; SIPP-9100 AND SIPP-9105A Advance Letter; NCS-1 AND NCS-572A Advance Letter.

Type of Request: New.

Burden: 40 hours.

Number of Respondents: 180.

AVG Hours Per Response: 13.3 minutes.

Needs and Uses: The Census Bureau will use data collected from this study to improve within household coverage for current demographic surveys.

Affected Public: Individuals or households.

Frequency: One Time Only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 14, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-9539 Filed 4-19-89; 8:45 am]

BILLING CODE 3510-07-M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Auld Brass Hunting Club from an Objection by the South Carolina Coastal Council

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of dismissal.

On September 14, 1987, Auld Brass Hunting Club (Appellant) filed with the Secretary of Commerce a notice of appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (Act), 16 U.S.C. 1451 *et seq.*, and the Act's pertinent implementing regulations, 15 CFR Part 930, Subpart H. The appeal arose from an objection by the South Carolina Coastal Council (State) to Appellant's consistency certification for an after-the-fact permit from the U.S. Army Corps of Engineers for excavation to enlarge a drainage ditch and placement of the material excavated in wetlands along the Combahee River in Beaufort County, South Carolina. The appeal was stayed at the request of Appellant until recently.

Because Appellant failed to submit a mandatory brief, the Department of Commerce has dismissed the appeal for good cause pursuant to 15 CFR 930.128. Appellant is barred from filing another appeal from the State's objection to its consistency certification.

FOR FURTHER INFORMATION CONTACT: Stephanie S. Campbell, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235, (202) 673-5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Date: April 12, 1989.

B. Kent Burton,

Assistant Secretary for Oceans and Atmosphere.

[FR Doc. 89-9385 Filed 4-19-89; 8:45 am]

BILLING CODE 3510-08-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

April 7, 1989.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 335 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Licensing information and copies of patent applications bearing serial numbers with prefix E may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151. All other patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487-4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

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Please cite the number and title of inventions of interest.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6-875,911 (4,797,408)—Cockroach Repellents
SN 7-036,050 (4,804,384)—Acetylation of Lignocellulosic Materials
SN 7-063,358 (4,799,966)—Process for Converting Alpha to Beta-Lactose
SN 7-075,168 (4,781,922)—Control of Parasitic Nematode Ova with Bacillus Sphaericus
SN 7-247,547—Synergist for the Grape Root Borer Pheromone
SN 7-269,584—Herbicide Tolerance in Maize Plants
SN 7-270,939—Nucleic Acid Probes for Detections of Mycoplasma-Like Organisms
SN 7-271,825—Bovine Monoclonal Antibodies to Bovine Herpesvirus I from Sequential Fusion Heterohybridomas
SN 7-302,871—Novel Aminoglycoside Affinity Media for Separation of Macromolecules
SN 7-303,327—Microbial Detoxification of Xenobiotics
SN 7-303,328—Improved Flan-Type Pudding
SN 7-308,220—Application of Knowledge-Based System for Grading Meat

Department of Commerce

SN 6-909,433 (4-804,446)—Electrodeposition of Chromium from Trivalent Electrolyte
SN 7-268,430—Covered Inverted Offset Cassegrainian System

Department of Health and Human Services

SN 6-712,236 (4,797,368)—Adeno-Associated Virus as Eukaryotic Expression Vector
SN 6-888,960 (4,806,494)—Monoclonal Antibody Against Ovarian Cancer Cells (OVB-3)
SN 7-025,062 (4,803,202)—Substituted N-Methyl Derivatives of Mitindomide
SN 7-026,540 (4,796,622)—Oxyhydrogen Catalytic Thermal Tip for Angioplasty
SN 7-090,363—Thermal Fragmentation of Methylbenzylurea Disastereomers or Secondary Amines and Preparation of Optically Active Secondary Amines
SN 7-160,827—Molecular Cloning of the HIV Virus From Immortalized Cell Lines
SN 7-265,883—Immortalized Human Cell Lines
SN 7-270,030—Process for Detecting Generic Susceptibility to Cancer
SN 7-272,165—Peptides with Laminin Activity
SN 7-284,331—Cell Culture Medium for Human Liver Epithelial Cell Line
SN 7-285,559—Thymoleptic Peptides
SN 7-292,393—The Isolation of Diagnostic Glycoproteins to Taenia Solium, Immunoblot-Assay and Method for the Detection of Human Cysticercosis
SN 7-304,234—Human Derived Monocyte Attracting Purified Peptide Products Useful in a Method of Treating infection and Neoplasms in a Human Body
SN E-105-88—Method of Synthesis of Hydroxy-Substituted-4-Alkoxphenylacetic Acids
SN E-425-87—Breath Sampler

Department of the Interior

SN 7-091,812 (4,806,264)—Method of Selectively Removing Selenium Ions from an Aqueous Solution

[FR Doc. 89-9425 Filed 4-19-89; 8:45am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Army; Open Meeting

Army Science Board

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meeting: 9-10 May 1989.

Time: 0800-1400 hours each day.

Place: Fort Huachuca, Arizona.

Agenda: The Army Science Board 1989 Summer Study on Maintaining State-of-the-Art in the Army Command and Control System has identified a subpanel of its members to investigate the plans and progress of testing activities on the Army Data Distribution System as well as other communications systems supporting command and control. This meeting is open to the public. Any person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-9512 Filed 4-19-89; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 15 May 1989.

Time of Meeting: 0830-1600 hours.

Place: Fort McClellan, Alabama.

Agenda: The Army Science Board's Effectiveness Review Panel of the US Army Chemical, Research, Development and Engineering Center will visit the US Army Chemical Center and School at Fort McClellan to gather data for the conduct of the effectiveness reveiw of the Chemical, Research, Development and Engineering Center. This meeting will be closed to the public in accordance with section 552 (c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administration Officer, Sally Warner, for further information at 202-695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-9513 Filed 4-19-89; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplemental Environmental Impact Statement (DSEIS) for Proposed Elizabeth River and Southern Branch 45-foot and 40-Foot Navigation Improvements in the Vicinity of Norfolk Harbor, Hampton Roads, VA

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers, Norfolk District, prepared a feasibility report and final Environmental Inpact Statement in 1980 titled "Norfolk Harbor and Channels, Virginia, Deepening and disposal", which recommended further investigations leading to improvements to the Elizabeth River and Southern Branch portions of the project.

The recommended improvements include increasing the depth of the Elizabeth River and the Southern Branch of the Elizabeth River between Lamberts Point at Mile 9 and the Norfolk and Western Railway Bridge at Mile 15 from 40 feet to 45 feet over its existing 375- to 750-foot width. Increasing the depth of the Southern Branch of the Elizabeth River between Norfolk and Western Railway Bridge and U.S. Routes 460 and 13 highway crossing at Mile 17.5 from 35 feet to 40 feet over its existing 250- to 500-foot width and providing a new 800-foot turning basin at the terminus of the channel improvement will also be accomplished.

FOR FURTHER INFORMATION CONTACT: Comments and questions concerning the proposed action should be addressed to Mr. Richard Klein (804) 441-7125; questions regarding the DSEIS should be addressed to Mr. Terrence Getchell (804) 441-7671. U.S. Army Corps of Engineers, Norfolk District, 803 Front Street, Norfolk, Virginia 23510.

SUPPLEMENTARY INFORMATION: 1. The DSEIS will be prepared in connection with a General Design Memorandum which will document the engineering and design investigations required to complete plans and specification and actual construction. Authority for the work is provided by Section 201(a) of Public Law 99-662, enacted 17 November 1986. The feasibility report, published as House Document No. 99-85 dated 16 July 1985, recommended the improvements which are the subject of the DSEIS.

2. Deepening the channels constructing the turning basin and widening the channel between Mile 15 and Mile 17.5 will be considered. Allowing the channels to remain in the present condition will also be evaluated. Disposal options include use of Craney Island Rehandling Basin, direct pumpout into Craney Island, ocean disposal and other upland locations, along the channels.

3. The project was discussed with key federal and state agencies on 25 October 1988. Significant issues included dredging methods, direct pumpout into the Craney Island Disposal Area as well as use of the Rehandling Basin, the contamination of channel sediments by polynuclear automatic hydrocarbons and a design of a future monitoring plan related to the use of the rehandling basin.

4. Further input from these agencies will be solicited both by letter and during scheduled coordination meetings held by the Dredging Management Branch, Norfolk District. U.S. Fish and Wildlife Service has agreed to perform work under the fish and Wildlife coordination Act and has provided a wildlife resource report. Further environmental consultation and review will be conducted in accordance with the National Environmental Policy Act and other applicable laws and regulation, including endangered species and cultural resources.

6. It is anticipated that the DSEIS will be available for public review and comment in June 1989.

April 10,1989.

J.J. Thomas,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 89-9514 Filed 4-17-89; 8:45 am]

BILLING CODE 3710-EN-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, April 26, 1989 beginning at 1:30 p.m. at the Trevose Hilton, 2400 Old Lincoln Highway, Trevose, Pennsylvania. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissions and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *ALPO Petfoods, Inc. D-84-2 RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 25.92 million gallons (mg)/30 days of water to the applicant's Allentown Plant from Well No. 6. Commission approval on March 28, 1984, was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 25.92 mg/30 days. The project is located in South Whitehall Township, Lehigh County, Pennsylvania.

2. *Riverton Country Club D-85-10 RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 6.0 mg/30 days of water to the applicant's irrigation system from Well Nos. 1A and 2. Commission approval on May 29, 1985 was limited to three years and will expire unless renewed. The project is located in Cinnaminson Township, Burlington County, New Jersey.

3. *Occidental Chemical Corporation D-85-41.* An application to modify an industrial waste treatment plant at the applicant's polyvinyl chloride manufacturing facility in Burlington Township, Burlington County, New Jersey. Process waste streams include flows from compound, calender and resin operations. The compound facility has been modified by addition of a charcoal filtering system for TSS removal. All process waste streams are combined with storm runoff and up to 0.02 million gallons per day (mgd) of treated sanitary wastes prior to discharge to Bustleton Creek, a tidal tributary to the Delaware River in Burlington Township. Based on monitoring reports, discharge from the facility averages 0.38 mgd. The applicant is seeking relief from the Commission's normal TDS effluent limit of 1000 mg/1 and requests permission to discharge a daily maximum of 2000 mg/1 TDS to Bustleton Creek. In addition, the applicant is to conduct a groundwater decontamination program at the site as per conditions specified in its New Jersey Department of Environmental Protection's permit.

4. *C. S. Water and Sewer Company D-87-96 CP.* An application for approval of a ground water withdrawal project to supply up to 4.32 mg/30 days of water to the applicant's distribution system from Well No. 5, and to limit the withdrawal from all wells to 4.88 mg/30 days as approved by Docket No. D-81-62 CP under the former ownership of the Lackawaxen Water and Sewer Company. The project is located in Lackawaxen Township, Pike County, Pennsylvania.

5. *Moon Nurseries Contracting, Inc. D-88-28.* A revised application for an increased allocation of ground water for a previously approved withdrawal from Well Nos. 1, 2, 3 and 3A which supply water to the applicant's nursery operation. The applicant requests that the withdrawal limit of 11.4 mg/30 days from all wells be increased to 15.9 mg/30 days. The project is located in Lower Makefield Township, Bucks County, Pennsylvania.

6. *Bath Borough Authority D-88-51 CP.* An application to expand a 0.3 mgd sewage treatment plant to process a design average flow of 0.41 mgd. The plant is to provide secondary treatment and will discharge to Monocacy Creek through the existing outfall. The project is designed to serve an equivalent population of 4,100 persons in Bath Borough and a portion of East Allen Township through the year 2000. The plant is located just south of Mill Street in Bath Borough, Northampton County, Pennsylvania.

7. *Borough of Doylestown D-88-78 CP.* An application to upgrade and expand a 0.6 mgd sewage treatment plant to

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provide high quality secondary treatment of 0.9 mgd. The plant is located off Harvey Street in Doylestown Borough, Bucks County, Pennsylvania. The proposed plant includes a chemical treatment process for phosphorus removal, and is designed to remove 90 percent of the influent BOD_5. The plant is designed to serve an equivalent population of 6,080 persons in portions of Doylestown Township and Borough through the year 2009. Treatment plant effluent will continue to discharge through the existing outfall to Cooks Run, a tributary of Neshaminy Creek.

8. *Bangor Borough Authority D–88–87 CP.* An application to upgrade and expand a 0.8 mgd sewage treatment plant to process 1.8 mgd of wastewater for an equivalent population of 10,523 persons through the year 2010. The existing secondary treatment plant will be abandoned (with the exception of the anaerobic digesters) and replaced by two sequencing batch reactor systems operated in parallel. The proposed biological treatment operation is a combined carbon oxidation-nitrification process. Treatment plant effluent will continue to be discharged to Martins Creek, but a new cascading outfall will be constructed at the project site. The plant will continue to serve Bangor and Roseto Boroughs, in Northampton County, Pennsylvania. The plant is located off Pennsylvania Highway #191 in Washington Township, which surrounds these Boroughs.

9. *U.S. Department of Justice—Bureau of Prisons D–88–90 CP.* An application to expand the sewage treatment plant that serves the Otisville Federal Correctional Institution located in Mount Hope Village, New York, approximately 1.5 miles north of central Otisville in Orange County. The applicant seeks approval for the expansion of the 0.1 mgd plant to treat an average design flow of 0.2 mgd. The project is designed to remove more than 90 percent of the BOD and suspended solids plus provided nitrification and disinfection via ultraviolet light. Treatment plant effluent is discharged to an unnamed, intermittent tributary of Basher Kill, a tributary of the Neversink River. No modifications to the outfall are proposed.

10. *Northeast Land Company D–89–10 CP.* An application for approval of a ground water withdrawal project to supply up to 4.95 mg/30 days of water to the applicant's distribution system from existing Mid-Lake Well No. 1, and to limit withdrawal from all wells to 4.95 mg/30 days. The project is located in Kidder Township, Carbon County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Acting Secretary prior to the hearing.

Richard C. Albert,
Acting Secretary.
April 11, 1989.

[FR Doc. 89-9419 Filed 4-19-89; 8:45 am]
BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on proposed information collection requests as requird by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 10, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, DC 20503. Request for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice with attached proposed information collection requests prior to submission of these requests to OMB. For each proposed information collection request, grouped by office, this notice contains the following information: (1) Type of review requested, e.g., new, revision, extension, existing, or reinstatement; (2) title; (3) frequency of collection; (4) the affected public; (5) reporting and/or Recodkeeping burden and (6) abstract. Because an expedited review is requested, the information collection request is also included as an attachment to this notice.

Dated: April 14, 1989.

George P. Sotos,
Acting Director for Office of Information Resources Management.

Office of Special Education and Rehabilitative Services

Type of Review: Expedited.
Title: Application for State Grants under the Technology-Related Assistance for Individuals with Disabilities Program.
Abstract: This form will be used by State agencies to apply for funding under the Application for State Grants under the Technology-Related Assistance for Individuals with Disabilities Program. The Department uses the information to make grant awards.
Additional Information: An expedited review is requested in order to make FY89 grant awards. This application contains the Standad Form SF–424 Federal Asistance Face Sheet and SF–424A Budget Information.
Frequency: Annually.
Affected Public: State or Local Governments.
Reporting Burden:
Responses: 30.
Burden Hours: 900.
Recordkeeping Burden:
Recordkeeping: 0.
Burden Hours: 0.

BILLING CODE 4000-01-M

Technology-Related Assistance for Individuals with Disabilities State Grants Program application package.

This application package is divided into parts. These parts are organized in the same manner in which applicants should organize the application.

Part I. Federal Assistance Face Sheet (Form SF-424 and Instructions).

Part II. Budget Information (Form SF-424 A, Sections A-F and Instructions).

Part III. Program Narrative.

Part IV. Assurances and Certifications.

Public reporting burden for this collection of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820-NEW, Washington, D.C. 20503.

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Instructions for completion of Part III - Program Narrative

The program office recommends that the narrative section include information that is required according to the regulations in 345.21 and 345.22 (extension grant), and the evaluation criteria in 345.31.

The applicant is advised to include all necessary assurances and other required information.

The program office suggests that the applicant address the selection in the order the criteria are listed in the regulations.

[FR Doc. 89-9437 Filed 4-19-89; 8:45 am]
BILLING CODE 4000-01-C

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Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 15, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 732-3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, ort substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice with attached proposed information collection requests prior to submission of these requests to OMB. For each proposed information collection request, grouped by office, this notice contains the following information: (1) Type of review requested, e.g., new, revision, extension, existing, or reinstatement; (2) title; (3) frequency of collection; (4) the affected public; (5) Reporting and/or Recordkeeping burden and (6) abstract. Because an expedited review is requested, the information collection request is also included as an attachment to this notice.

Dated: April 14, 1989.

George P. Sotos,

Acting Director for Office of Information Resources Management.

Office of Educational Research and Improvement

Type of Review: Expedited.

Title: Integrated Postsecondary Education Data System (IPEDS).

Abstract: IPEDS data provides information on postsecondary education, and its providers, enrollments, completions (by program and race/ethnicity of recipients), finance, staff and salaries. Data are used to create sampling frames, conduct institutional research and carry out mandates for the Bureau of Census, Office of Civil Rights, and the National Center for Education Statistics.

Additional Information: The Office of Management and Budget recently approved the IPEDS surveys for three years that end February 29, 1989. ED is requesting an expedited OMB review to extend the 1986-88 IPEDS surveys to May 1, 1990, and to delay implementing the newly approved IPEDS forms until the 1990-93 survey period.

The Office of Educational Research and Improvement is delaying implementation to allow enough time for an effective changeover to the new forms. A delay will also provide a window of opportunity for a coordinated approach to software development between OERI and the States. Such a "window" would potentially avoid duplicate software development activities, particularly between the States.

Frequency: Annually.

Affected Public: Individuals or households; businesses or other for-profit; non-profit institutions; small businesses or organizations.

Recordkeeping Burden:
Recordkeepers: 0,
Burden Hours: 0.

Institutional Characteristics

Reporting Burden:
Responses: 12,400.
Burden Hours: 11,000.
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0.

Institutional Activity

Reporting Burden:
Responses: 7,200.
Burden Hours: 8,000.

Fall Enrollment (Age data)

Reporting Burden:
Responses: 7,200.
Burden Hours: 6,200.

Occupationally Specific Enrollment

Reporting Burden:
Responses: 5,200.
Burden Hours: 9,600.

Completions (R/E)

Reporting Burden:
Responses: 7,200.
Burden Hours: 16,000.

Finance

Reporting Burden:
Responses: 7,200.
Burden Hours: 20,600.

Salary

Reporting Burden:
Responses: 7,200.
Burden Hours: 11,200.

Staff

Reporting Burden:
Responses: 300.
Burden Hours: 4,400.

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Descriptions of IPEDS Survey Data Uses

Institutional Activity: This survey provides the data needed to produce the estimated number of full-time equivalent (FTE) students in postsecondary education institutions. These data are used extensively by the Department of Education and institutional researchers. For example, it is used a) to determine funding allocations to institutions; b) for statistical projections of financial aid costs; c) as a measure of participation in postsecondary education; and d) as a measure of institutional size. The data are extremely valuable for survey research design, statistical analyses, and general information purposes.

Staff: This survey, done in cooperation with the Equal Employment Opportunity Commission, collects data to obtain a comprehensive picture of staff in institutions of postsecondary education by their full-time or part-time status and by the type of work they do. These data will provide insights into the use of full-time and part-time faculty and staff in postsecondary education. It will also allow comparisons of staffing patterns by institutional type and control and will permit analysis of the relationship between financial and staff resources.

Completions: Completions data constitute the only national source of information on the availability and location of highly trained manpower. Information on completers of postsecondary education programs is used extensively by Federal and State government agencies for manpower planning; by business and industry and other groups for recruiting purposes; and by researchers and others to study manpower supply and demand.

Fall Enrollment: Fall enrollment data traditionally are used to measure student access to postsecondary education and this survey will continue to supplement this important statistical series. The Department also uses fall enrollment data in program planning and for setting funding allocations standards for legislatively controlled programs. Other Federal and State agencies use enrollment data in policymaking decisions, economic and financial planning, manpower forecasting, and policy formulation.

Salaries of Full-time Instructional Faculty: These data are used by postsecondary institutions to establish competitive compensation packages; by State agencies to determine budgets for State-supported institutions and to make comparative studies with other States; by Federal agencies to analyze the teaching profession as a whole, to contribute to occupational forecasting, and to develop financial indicators relating to postsecondary education; and by professional and educational associations to evaluate the differences in salaries between men and women, and the general status of the profession.

Finance: The purpose of this survey is to provide basic data which describe the financial condition of postsecondary education in the nation; to monitor changes in postsecondary education finance; and to promote research involving institutional financial resources and expenditures. Data will be summarized by various institutional categories to detect any changes over the years in the sources of revenues and types of expenditures. Results will allow institutions to compare their financial status to national averages. The data will also be merged with other institutional data, such as enrollment and completions, to provide a valuable national resource for institutional research.

Institutional Characteristics: The primary purpose of this survey is to collect the basic data that identify and describe the universe of

postsecondary education institutions in the United States and its outlying areas. Results will be used as the source file for sample design and selection for the other IPEDS surveys and other data collection activities involving postsecondary education institutions. Other uses include generating basic counts of institutions in each State by type, control and other key institutional characteristics; compiling directories of postsecondary institutions that will be made available to the general public; and incorporating results into Career Information Delivery Systems througout the Nation.

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Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before May 22, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 6524, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State of Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) frequency of collection; (4) the affected public; (5) reporting burden; and/or (6) recordkeeping burden; and (7) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Wester at the address specified above.

Dated: April 14, 1989.

George P. Sotos,

Acting Director for Office of Information Resources Management.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.
Title: Application for Training Personnel for the Education of the Handicapped.
Frequency: Annually.
Affected Public: State or local government, Non-profit institutions.
Reporting Burden:
Responses: 815.
Burden Hours: 815.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by State agencies and other institutions to apply for funding under the Training Personnel for Education of the Handicapped Program. The Department uses the information to make grant awards.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.
Title: Number of Personnel Employed to Provide Special Education and Related Services to Handicapped Children and Youth.
Frequency: Annually.
Affected Public: State and local government.
Reporting Burden:
Responses: 58.
Burden Hours: 13,978.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0
Abstract: This form will be used by States to report the number of personnel that are employed to provide educational services to handicapped children and youth. This information will be used by the Department to monitor States to ensure compliance with Federal statute and regulations and to respond to Congressional reporting requirements.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.
Title: Additional Personnel Needed to Provide Special Education and Related Services to Handicapped Children and Youth.
Frequency: Annually.
Affected Public: State or local governments.
Reporting Burden:
Responses: 58.
Burden Hours: 7,018.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by the Department to assess the adequacy of personnel to provide services to handicapped children and youth. This information will be used by the Department to monitor States to ensure compliance with Federal statute and regulations, and to respond to Congressional reporting requirements.

Office of Postsecondary Education

Type of Review: Extension.
Title: Certification Form for the Endowment Challenge Grant Program.
Frequency: Annually.
Affected Public: Non-profit institutions.
Reporting Burden:
Responses: 50.
Burden Hours: 25.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: The institutions of Higher Education that have participated in the Endowment Grant Program submit these reports to the Department. The Department uses the information to assess the accomplishments of project goals and objectives and to aid in the effective program management.

Office of Educational Research and Improvement

Type of Review: Extension.
Title: Applications for Grants Under Library Research and Demonstration Program, title II–B of the Higher Education Act of 1965, as Amended.
Frequency: Annually.
Affected Public: State or local governments.
Reporting Burden:
Responses: 50.
Burden Hours: 1,800.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This application will be used by institutions of higher education and library organizations to apply for funds under Title II–B of the Higher Education Act, as amended. Funds are available for research and development activities to improve libraries and information technology and for training in librarianship.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: 1990 National Postsecondary Student Aid Study.
Frequency: Triennial.
Affected Public: Individuals or households; Non-profit institutions.
Reporting Burden:
Responses: 5650.
Burden Hours: 4803.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This study will collect data from a sample of students in postsecondary institutions, their parents and their school financial aid records. It will provide a student-based information system for student financial aid. It will assess the distribution and use of financial aid and address important issues in this area.

[FR Doc. 89–9439 Filed 4–19–89; 8:45 am]
BILLING CODE 4000–01–M

[CFDA 84.060A]

Indian Education Program; Formula Grants; Local Educational Agencies

AGENCY: Department of Education.

ACTION: Notice of extension of closing date for transmittal of applications for new awards for Fiscal Year 1989 assistance under the Formula Grant Program, Indian Education Act of 1988, Subpart 1 (formerly Part A).

This notice extends the closing date of May 1, 1989, to May 15, 1989, for the transmittal of applications for new awards under the Formula Grant Program. The application notice for this program, published in the **Federal Register** on March 15, 1989 (54 FR 10696), provides detailed information concerning this program. Application packages were to have been available March 17, 1989. The packages were not available, however, until April 3, 1989. The extension of the closing date to May 15, 1989 will provide applicants sufficient time to prepare applications.

FOR FURTHER INFORMATION CONTACT: Inquiries concerning this extension should be addressed to Julia Lesceux, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2177, Washington, DC 20202–6335. Telephone: (202) 732–5146.

(25 U.S.C. 2601–2606, 2651)

Dated: April 13, 1989.

Daniel F. Bonner,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 89–9440 Filed 4–19–89; 8:45 am]
BILLING CODE 4000–01–M

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: May 12 and 13, 1989.

ADDRESS: Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Eunice E. Henderson, Designated Federal Official, Office of Assistant Secretary for Educational Research, and Improvement, U.S. Department of Education, 555 New Jersey Avenue NW., Room 602C, Washington, DC 20208, telephone: (202) 357–6050.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Eductional Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297); 20 USC 1221e–1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

The National Assessment Governing Board will meet in Washington, DC, on May 12 and 13, 1989. The Board will meet from 9:00 a.m. until the completion of business on May 12, 1989 and from 8:30 a.m. to 2:00 p.m. on May 13, 1989. The proposed agenda includes introduction of the Board's newly appointed Executive Staff Director, meetings of the Board's committees, briefings on issues related to the conduct of the National Assessment of Educational Progress (NAEP), a review of the bylaws of the Board, Board committee reports, and a discussion on the process to be used in identifying appropriate achievement goals for NAEP assessments.

A portion of the meeting will be closed to the public. On May 12, 1989, the Board will meet in closed session beginning at 12:15 p.m. until 2:00 p.m. During the closed session, the Board will discuss its organizational structure, staffing and operations. This segment of the meeting will be devoted to consideration by the Board of qualifications of specific individuals for positions on the Board's staff. Discussion will touch on matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session and will relate solely to the internal personnel rules and practices of an agency. Such matters are protected by exemptions (2) and (6) of section 552b (c) of Title 5 U.S.C. The Board also will discuss and review NAEP policy matters on which the Board's advice is needed. The discussion will involve privileged information that cannot be discussed in open session. Matters to be discussed include those for which premature disclosure would significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption (9)(b) of section 552b (c) of Title 5 U.S.C. A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within 14 days following the meeting.

Records are kept of all Board proceedings and, until a permanent office site for the Board has been established, are available for public inspection at the U.S. Department of Education, Office of Educational Research and Improvement, Room 600, 555 New Jersey Avenue NW., Washington, DC, Monday through Friday from 8:30 a.m. to 5:00 p.m.

Dated: April 17, 1989.

Bruno V. Manno,

Assistant Secretary for Educational Research and Improvement (Acting).

[FR Doc. 89–9500 Filed 4–19–89; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C.

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6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on Thursday, April 27, 1989, at the offices of the IEA, 2, rue Andre Pascal, Paris, France, beginning at 10:00 a.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of representatives of Participating Countries which is scheduled to be held at the aforesaid location on April 27 for the purpose of advising the IEA Secretariat in its preparation for a workshop on the subject of "Practical Aspects of Stockholding and Stockdraw." The principal participants at the meeting are expected to be representatives of Participating Countries. Additional participants are expected to be representatives of the IEA Secretariat and representatives of a small number of members of the IAB. The agenda for the meeting is under the control of the Secretariat. It is expected that the agenda will cover the following items:

1. Introductory remarks.
2. Draft agenda for Workshop on Practical Aspects of Stockholding and Stockdraw.
3. Any other business.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the meeting is open only to representatives of members of the IAB, their counsel, representatives of members of the IEA's Standing Group on Emergency Questions (SEQ), representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of Committees of the Congress, representatives of the IEA, representatives of the Commission of the European Communities, and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, DC, April 14, 1989.

Eric J. Fygi,

Acting General Counsel.

FR Doc. 89-9408 Filed 4-19-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF87-452-001 et al.]

Wheelabrator Northampton Energy Company, Inc., et al., Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 14, 1989.

Take notice that the following filings have been made with the Commission:

1. Wheelbrator Northampton Energy Company, Inc.

[Docket No. QF87-452-001]

On March 31, 1989, Wheelabrator Northampton Energy Company, Inc. (Applicant), of 55 Ferncroft Road, Danvers, Massachusetts 01923, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in the Borough of Northampton, Northampton County, Pennsylvania. The facility will consist of two circulating fluidized bed combustion boilers and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be used for space heating and in the production of commercial-grade liner board. The electric power production capacity of the facility will be 84.1 MW. The primary source of energy will be anthracite culm. Construction of the facility is scheduled to begin in September 1989.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

2. Utah Power & Light Company

[Docket No. ER89-325-000]

Take notice that on April 5, 1989, Utah Power & Light Company (Utah) tendered for filing an Interconnected Operation Agreement between Utah Municipal Power Agency and Utah Power & Light Company. The purpose of the Agreement is to supplement, consolidate, and to coordinate in and through UMPA services already being provided under existing agreements.

Utah requests that the notice requirements be waived, and that the Agreement be made effective retroactively as of November 1, 1988, the date service was commenced.

Copies of this filing were served on Utah Municipal Power Agency, the Towns of Levan and Nephi, Utah, and the Utah Public Service Commission.

Comment date: May 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Southwestern Electric Power Company

[Docket No. ER89-319-000]

Take notice that on March 31, 1989, Southwestern Electric Power Company (SWEPCO) tendered for filing for information purposes, the estimated return on common equity—11.08%—which will be used to calculate estimated formula rates for wholesale service in the 1989 Contract Year to Northeast Texas Electric Cooperative, Inc. (NTEC), FERC Rate Schedule No. 84; the City of Bentonville, Arkansas (Bentonville), FERC Rate Schedule No. 69; the City of Hope Arkansas (Hope), FERC Rate Schedule No. 86; the Oklahoma Municipal Power Authority (OMPA), FERC Rate Schedule No. 95; Rayburn County Electric Cooperative, Inc. (Rayburn), FERC Rate Schedule No. 99; Cajun Electric Power Cooperative, Inc. (Cajun), FERC Rate Schedule No. 100; and TEX-LA Electric Cooperative of Texas, Inc. (TEX-LA), FERC Rate Schedule No. 104.

Comment date: May 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas Power and Light Company

[Docket No. ER89-321-000]

Take notice that on April 3, 1989, the Kansas Power and Light Company (KPL) tendered for filing a proposed change in its Federal Energy Regulatory Commission Electric Service Tariff No. 247. The revised Exhibit A sets forth Nominated Capacities for transmission, distribution and dispatch services for the contract year beginning June 1, 1989 and for the four subsequent contract years, pursuant to Article IV, sections 4.2 and 4.3 of FERC Service Tariff No. 247. The revised Exhibit B sets forth Kansas Electric Power Cooperative's (KEPCo's) most recent load forecast submitted to KPL pursuant to Article III, section 3.1 of FERC Service Tariff No. 247.

Copies of the filing were served upon Kansas Electric Power Cooperative, Inc. and the Kansas Corporation Commission.

Comment date: May 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. New York State Electric & Gas Corporation

[Docket No. ER89-322-000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on April 3, 1989 tendered for filing a Notice of Cancellation of its FERC Electric Rate Schedule Nos. 94 and 95 short-term contracts between NYSEG and Rochester Gas and Electric Corporation (RG&E) for supply of power from NYSEG to RG&E's Ginna nuclear power plant.

NYSEG states that as the contracts have already expired by their own terms. NYSEG has asked for a waiver of the 60 day notice requirement. This is an administrative filing having no effect on service rendered by NYSEG.

NYSEG states that the subject rate schedules consists of an agreement between NYSEG and Rochester Gas and Electric Corporation, providing for NYSEG to sell electric energy during a scheduled outage of RG&E's Ginna nuclear power plant.

A copy of the appropriate notice of cancellation was served upon Rochester Gas and Electric Corporation.

Comment date: May 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9533 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER89-312-000 et al.]

Vermont Yankee Nuclear, Power Corp. et al.; Electric rate, Small power production, and Interlocking Directorate Filings

April 13, 1989.

Take notice that the following filings have been made with the Commission:

1. Vermont Yankee Nuclear

[Docket No. ER89-312-000]

Take notice that on March 31, 1989, Vermont Yankee Nuclear Power Corporation (Vermont Yankee) tendered for filing, an amendment to the Power Contracts under which the Company sells electricity for resale to nine England Utilities. Vermont Yankee states that the rate change proposed would result in an increase in Vermont Yankee's 1990 revenue requirment of approximately $9.4 million. Vermont Yankee is also submitting an alternative proposal that would reduce the 1990 increase to approximately $7.6 million.

Vermont Yankee states that copies of its filing have been provided to its customers and to state regulatory authorities to Vermont, New Hampshire, Maine, Massachusetts, Connecticut and Rhode Island.

Comment date: April 28, 1989, in accordance with Standard Paragraph E at the end of this notice.

Northern Indiana Public Service

[Docket No. ER89-311-000]

Take notice that on March 31, 1989, Northern Indiana Public Service Company (Northern Indiana) tendered for filing Amendment No. 3 dated March 31, 1989 to the Operating Agreement dated May 1, 1979 among Consumers Power Company, The Operating Agreement is designated as Northern Indiana Rate Schedule FERC No. 11.

Northern Indiana states that Amendment No. 3 modifies the provisions of the current Rate Schedule by deleting Service Schedule D (Conservation Energy) modifying Service Schedule C (Economy Energy) by changing its title to Interchange Power and adding a Non-Displacement Energy Section, and increasing rates established for Emergency Service, Short-Term Capacity and Energy and Interchange Power, as set forth in Service Schedules A, B, and C, respectively.

The proposed effective date of amendment No. 3 shall be March 31, 1989, if waiver of the notice requirements is granted by the Commission.

Northern Indiana respectively requests waiver of any Commission requirements not addressed by the filing as it is being made pursuant to a mutual agreement of the parties.

Copies of this filing have been served upon Consumers Power Company, the Detroit Edison Company, the Michigan Public Service Commission, and the Indiana Utility Regulatory Commission.

Comment date: April 28, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Kansas City Power & Light Company

[Docket No. ER89-323-000]

Take notice that on April 5, 1989, Kansas City Power & Light Company (KCPL) tendered for filing a Municipal Participation Agreement dated March 6, 1989 between KCPL and the City of Gardner, Kansas (City), to become effective as of June 1, 1990. This Agreement provides for the initial rates and charges for certain wholesale service by KCPL to the City.

Under the Municipal Participation Agreement, KCPL will coordinate with and share in the generation of Generating Units which the City will install and own. in addition, KCPL will provide Firm Power Service System Participation Power, Reserve Capacity Deficiency make-up and Standby Service to the City. The rates included in these schedules are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Energy Regulatory Commission. By separate filing, the Company will be filing a Load Regulation and Displacement Energy Service Schedule which will also be made available to the City under the Agreement.

Copies of the filing were served upon KCPL's jurisdictional customer, as well as the Missouri Public Service Commission and the State Corporation Commission of the State of Kansas.

Comment date: April 28, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Company

[Docket No. ER89-320-000]

Take notice that on April 4, 1989, Northeast Utilities Service Company (NUSCO) tendered for filing proposed rate schedules pertaining to (i) a Purchase Agreement with Respect to Various Gas Turbine Units, dated May 1, 1987 (Gas Turbine Agreement), (ii) a Letter Agreement dated February 17, 1989 (PSNH Letter Agreement), (iii) a Letter Agreement dated March 10, 1989 (NEP Letter Agreement), and (iv) a Transmission Service Agreement dated November 1, 1988, between NUSCO, as Agent for the Connecticut Light and Power Company (CL&P) and Western Massachusetts Electric Company (WMECO), and Public Service Company of New Hampshire (PSNH) and New England Power Company (NEP).

NUSCO requests that the Commission waiver its notice filing regulations to the extent necessary to permit (i) the Gas Turbine Agreement to commence effective May 1, 1987 and to terminate effective April 30, 1988; (ii) the PSNH Letter Agreement to commence effective November 1, 1987 and to terminate effective September 30, 1988; (iii) to NEP Letter Agreement to commence effective November 1, 1987 and to terminate effective April 30, 1988; and (iv) the Transmission Service Agreement to commence effective November 1, 1988.

NUSCO states that a copy of the rate schedules have been mailed or delivered to CL&P and WMECO, and to PSNH and NEP.

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Comment date: April 28, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Mississippi Power Company

[Docket No. ER89-318-000]

Take notice that on March 31, 1989, Mississippi Power Company tendered for filing a rate schedula change for the transmission services provided pursuant to the contract dated January 29, 1965 between Mississippi Power Company and the Southeastern Power Administration, acting on behalf of the United States of America, Department of Energy. The rate schedule change provides for a decrease (from 15 percent to 14 percent) in the return on common equity component of the formulary rate for transmission services incorporated in the contract.

Comment date: April 28, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9429 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1176-000 et al.]

Natural Gas Pipeline Co. of America et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Natural Gas Pipeline Company of America

[Docket No. CP89-1176-000]

April 12, 1989.

Take notice that on April 10, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-1176-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of TXG Gas Marketing Company (TXG), a natural gas marketer, under its blanket authorization issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural would perform the proposed interruptible transportation service for TXG, pursuant to an interruptible transportation service agreement dated October 21, 1988 (#IGP-1538). The transportation agreement is effective for a primary term ending February 1, 1989, and shall continue month to month thereafter unless terminated by five days prior notice by either party. Natural proposes to transport up to a maximum of 480,0000 MMBtu of natural gas per day (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS); on an average day up to 100,000 MMBtu; and based on the average day figure, 36,500,000 MMBtu annually of natural gas for TXG. Natural proposes to receive the subject gas at various points located in Offshore Louisiana, Texas and Offshore Texas and the delivery points are located in Louisiana. Natural avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of Section 284.223(a)(1) of the Commission's Regulations. Natural commenced such self-implementing service on February 8, 1989, as reported in Docket No. ST89-2994-000.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Northwest Pipeline Corporation

[Docket No. CP89-1192-000]

April 13, 1989.

Take notice that on April 11, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1192-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Columbus Gas Services, Inc. (Columbus), a producer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to transport, on an interruptible basis, up to 12,000 MMBtu of natural gas equivalent per day for Columbus pursuant to a gas transportation agreement dated April 1, 1987, as amended on February 1, 1988, May 13, 1988, June 15, 1988, June 24, 1988, October 14, 1988 and February 24, 1989, between Northwest and Columbus. Northwest would receive the gas at gas wells in San Juan and Rio Arriba Counties, New Mexico and redeliver equivalent volumes, less fuel and lost and unaccounted for volumes, to the Ignacio delivery point and the Ignacio Plant Outlet in La Plata County, Colorado and the LaJara interconnect with El Paso Natural Gas Company in Rio Arriba County, New Mexico.

Northwest further states that the estimated average daily and annual quantities would be 4000 MMBtu and 1,500,009 MMBtu, respectively. Service under § 284.223(a) commenced on February 24, 1989, as reported in Docket No. ST89-2869-000, it is stated.

Comment date: May 30, 1989 in accordance with Standard Paragraph G at the end of the notice.

3. Northwest Pipeline Corporation

[Docket No. CP89-1191-000]

April 13, 1989.

Take notice that on April 11, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1191-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Enron Oil and Gas Company (Enron), a producer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to transport, on an interruptible basis up to 185,000 MMBtu of natural gas equivalent per day for Enron pursuant to a gas transportation agreement dated March 30, 1989, as amended on March 30, 1989, between Northwest and Enron. Northwest would receive the gas at gas wells in Sublette and Lincoln Counties, Wyoming and the Mickleson-Ote Creek Control Meter in Sublette County, Wyoming and redeliver equivalent volumes, less fuel and lost and unaccounted for volumes, to the Opal Plant delivery point in Lincoln County, Wyoming.

Northwest further states that the estimated average daily and annual quantities would be 75,000 MMBtu and 27,000,000 MMBtu, respectively. Service under § 284.223(a) commenced on February 1, 1989, as reported in Docket No. ST89-2956-000, it is stated.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Texas Gas Transmission Corporation

[Docket No. CP89-1167-000]

April 13, 1989.

Take notice that on April 7, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-1167-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, for authorization to transport natural gas under its blanket certificate issued in Docket No. CP88-686-000 pursuant to Section 7 of the Natural Gas Act for the Polaris Pipeline Corporation (Polaris), as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas proposes to transport up to a maximum daily quantity of 100,000 MMBtu, average daily volume of 20,000 MMBtu and an annual volume of 6,000,000 MMBtu for Polaris through use of Texas Gas' existing facilities.

Texas Gas explains that service commenced February 15, 1989, under Section 248.223(a) of the Commission's regulations, as reported in Docket No. ST89-2345-000.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Northwest Pipeline Corporation

[Docket No. CP89-1193-000]

April 13, 1989.

Take notice that on April 11, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1193-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for the account of National Cooperative Refinery Association (NCRA), a producer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to transport on an interruptible basis up to 8,000 MMBtu of natural gas on a peak day, 1,000 MMBtu on an average day and 365,000 MMBtu on an annual basis for NCRA. Northwest states that it would perform the transportation service for NCRA under Northwest's Rate Schedule TI-1 for a primary term of 30 days and continue on a monthly basis thereafter, subject to termination upon 30 days notice. Northwest indicates that it would transport the gas from wells located in La Plata County, Colorado to the Ignacio delivery point and the Ignacio Plant Outlet located in La Plata County, Colorado and to the existing LaJara interconnect with El Paso Natural Gas Company is Rio Arriba County, New Mexico.

It is explained that the service has commenced February 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-2871. Northwest indicates that no new facilities would be necessary to provide the subject service.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Northern Natural Gas Company

[Docket No. CP89-1173-000]

April 13, 1989.

Take notice that on April 7, 1989, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP89-1173-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis on behalf of Devon Energy Corporation (Devon), a producer of natural gas, under its blanket certificate issued in Docket No. CP86-435-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that it proposes to transport natural gas on behalf of Devon between several points of receipt in Texas and Oklahoma, and several points of delivery in Texas, Iowa, Illinois, Kansas and Oklahoma.

Northern states that the maximum daily, average daily and annual quantities that it would transport on behalf of Devon would be 5,800 MMBtu equivalent of natural gas, 4,350 MMBtu equivalent of natural gas and 2,117,000 MMBtu equivalent of natural gas, respectively.

Northern indicates that in Docket No. ST89-2753, filed with the Commission on March 21, 1989, it reported that transportation service on behalf of Devon had begun under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Paiute Pipeline Company

[Docket No. CP89-1177-000]

April 13, 1989.

Take notice that on April 10, 1989, Paiute Pipeline Company (Paiute), P.O. Box 94197, Las Vegas, Nevada 89193-4197, filed in Docket No. CP89-1177-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for CP National Corporation (CP National), under its blanket certificate issued in Docket No. CP87-309-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Paiute proposes to transport for CP National on an interruptible basis up to 15,300 MMBtu of natural gas on a peak day, 4,658 MMBtu on an average day, and 1,700,000 MMBtu on an annual basis. It is stated that service under § 284.223(a) commenced January 22, 1989, as reported in Docket No. ST89-2283. Paiute indicates that the service would be provided pursuant to a Transportation Service Agreement dated November 14, 1988 under Paiute's Rate Schedule IT-1. It is stated that the service would have a primary term continuing through October 31, 1991 and would continue on a monthly basis thereafter. No new facilities are proposed herein.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Colorado Interstate Gas Company

[Docket No. CP89-1169-000]

April 13, 1989.

Take notice that on April 7, 1989, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP89-1169-000 a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to transport natural gas on behalf of Fuel Resources Development Company (Fuel Resources), a marketer of natural gas, under CIG's blanket certificate issued in Docket No. CP89-589-000, pursuant to section 7 of the

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Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG proposes to transport on an interruptible basis up to 50,000 Mcf of natural gas on a peak day, 25,000 Mcf on an average day end 9.1 Bcf on an annual basis for Fuel Resources. It is stated that CIG would receive the gas for Fuel Resources' account at existing points on CIG's system in Wyoming and Texas and would deliver equivalent volumes of gas at existing points on CIG's system in Wyoming. It is asserted that the transportation service would be effected using existing facilities and would require no construction of additional facilities. It is explained that the transportation service commenced February 13, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-2618.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. United Gas Pipe Line Company

[Docket No. CP89-1171-000]

April 13, 1989.

Take notice that on April 7, 1989, United Gas Pipe Line Company (United), P.O Box 1478, Houston, Texas 77152-1478, filed in Docket No. CP89-1171-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Loutex Energy, Inc. (Loutex), a producer and marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport, on an interruptible basis, up to 480,236 MMBtu per day for Loutex. United states that construction of facilities would not be required to provide the proposed service.

United further states that the maximum day, average day, and annual transportation volumes would be approximately 480,236 MMBtu, 480,236 MMBtu and 175,286,140 MMBtu respectively.

United advises that service under § 284.223(a) commenced February 27, 1989, as reported in Docket No. ST89-2782.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Columbia Gulf Transmission

[Docket No. CP83-231-002]

April 13, 1989.

Take notice that on April 4, 1989, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP83-231-002 a petition to amend the order issued September 22, 1983, in Docket No. CP83-231-000 issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act so as to authorize a reduction in the contract demand volume to be transported for Northern Natural Gas Company, Division of Enron Corporation (Northern), from 60,000 Mcf to 35,000 dt equivalent of natural gas per day, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Columbia Gulf states that it was authorized by order issued September 22, 1983, in Docket No. CP83-231-000, to transport for Northern a contract demand quantity of 60,000 Mcf per day, less 2.05 percent for fuel usage and unaccounted-for losses incidental to the transportation service, and such additional quantities as Columbia Gulf agrees to accept from time to time, from its measurement facilities at the terminus of the Blue Water System Project near Egan, Acadia Parish, Louisiana, through its available capacity in its West Lateral pipeline facilities to its compressor station near Rayne, Acadia Parish, Louisiana, and, by displacement, to deliver thermally equivalent quantities for the account of Northern to United Gas Pipeline Company (United) at the terminus of United's jointly owned Sea Robin Pipe Line System located near Erath, Vermilion Parish, Louisiana. Pursuant to an amendment to the agreement dated September 22, 1988, Columbia Gulf requests authorization to reduce the presently authorized contract demand quantity from 60,000 Mcf per day to 35,000 dt equivalent of natural gas per day, effective September 22, 1988, and from year to year thereafter, unless the agreement is cancelled by either party giving one year's written notice to the other.

Comment date: May 4, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protect. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9430 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1140-000, et al.]

Southern Natural Gas Co., et al.; Natural Gas Certificate Filings

April 14, 1989.

Take notice that the following filings have been made with the Commission:

1. Southern Natural Gas Company

[Docket No. CP89-1140-000]

Take notice that on April 4, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP89-1140-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on an interruptible basis for Total Minatome Corporation (Total) under the blanket certificate issued in Docket No. CP89-316-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that pursuant to a Transportation Agreement dated February 16, 1989, it proposes to transport up to 15,000 MMBtu per day of natural gas for Total under Rate Schedule IT, for a primary term of one month with successive terms of one month thereafter unless cancelled by either party.

Southern also states that the maximum day, average day, and annual transportation volumes would be approximately 15,000 MMBtu, 136 MMbtu and 50,000 MMbtu, respectively. Southern proposes to receive the gas at an interconnection with Texas Eastern Transmission Corporation in offshore Louisiana for delivery to a point in offshore Louisiana.

Southern further states it commenced their service February 22, 1989, as reported in Docket No. ST89-2703-000.

Comment Date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Trunkline Gas Company

[Docket No. CP89-1157-000]

Take notice that on April 5, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1157-000 an application pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon exchange services between Trunkline and Gulf Oil Corporation (Gulf) and Trunkline and Tennessee Gas Pipeline Company (Tennessee), all as more fully set forth in the application which is on file with the Commission.

Trunkline states that pursuant to Rate Schedules TE-2, E-21, and E-23 of Trunkline's FERC Gas Tariff, Original Volume No. 2, Trunkline currently exchanges 10,000 Mcf/d with Gulf, 70,000 Mcf/d with Gulf and 5,000 Mcf/d with Tennessee, respectively. Trunkline further states that the contractual terms of all three exchange agreements have expired, which has prompted Trunkline to request an order authorizing the abandonment of Rate Schedules TE-2, E-21, and E-23. Trunkline indicates that there would be no abandonment of any facilities.

Comment date: May 30, 1989, in accordance with Standard Paragarph G at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP89-1175-000]

Take notice that on April 10, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1175-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service on behalf of Loutex Energy, Inc. (Loutex), a producer and marketer, under its blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it proposes to transport natural gas on behalf of Loutex from points of receipt located in Louisiana to a point of delivery located in Louisiana.

United further states that the maximum daily, average daily and annual quantities that it would transport on behalf of Loutex would be 20,600 MMBtu equivalent, 20,600 MMBtu equivalent and 7,519,000 MMBtu equivalent of natural gas, respectively.

United indicates that in Docket No. ST89-2619, filed with the Commission on March 28, 1989, it reported that transportation service for Loutex had begun under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Colorado Interstate Gas Company

[Docket No. CP89-1186-000]

Take notice that on April 10, 1989, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP89-1186-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Santa Fe Gas Marketing (Santa Fe), a marketer, under the blanket certificate issued in Docket No. CP86-589, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

CIG states that pursuant to a transportation agreement dated March 1, 1989, under its Rate Schedule TI-1, it proposes to transport up to 50,000 Mcf per day of natural gas for Santa Fe. CIG states that it would transport the gas from multiple receipt points on its system in Wyoming, Oklahoma and Kansas, and would redeliver the gas, for less fuel gas and lost and unaccounted-for gas, for the account of Santa Fe in Moore County, Texas.

CIG advises that service under § 284.223(a) commenced March 1, 1989, as reported in Docket No. ST89-2785-000. CIG further advises that it would transport 25,000 Mcf on an average day and 9.1 Bcf annually.

Comment date: May 30, 1989 in accordance with Standard Paragraph G at the end of the notice.

5. Trunkline Gas Company

[Docket No. CP89-1185-000]

Take notice that on April 10, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1185-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Anadarko Trading Company (Anadarko), a shipper and marketer of natural gas, under its blanket certificate issued in Docket No. CP86-586-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline requests authorization to transport, on an interruptible basis, up to a maximum of 80,000 dt of natural gas per day for Anadarko from receipt points located in the states of Illinois, Louisiana, Tennessee and Texas. Trunkline will then transport and redeliver the gas to Southern Natural (Shadyside) in St. Mary Parish, Louisiana. The transportation agreement dated February 28, 1989 (Contract No. T-PLT-1445), has a primary term of one month and shall continue in effect month-to-month thereafter until terminated by either party upon at least 30 days written notice. Trunkline anticipates transporting, on an average

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day 80,000 dt and an annual volume of 29,200,000 dt.

Trunkline states that the transportation of natural gas for Anadarko commenced March 2, 1989, as reported in Docket No. ST89-2910-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Panhandle Eastern Pipe Line Company Trunkline Gas Company

[Docket No. CP89-1156-000]

Take notice that on April 5, 1989, Panhandle Eastern Pipe Line Company (Panhandle), and Trunkline Gas Company (Trunkline), collectively referred to as Applicants, both of, P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP89-1156-000 a joint applicant pursuant to section 7(b) of the Natural Gas Act, for an order permitting and approving abandonment of certain transportation and exchange services between Panhandle, Trunkline and Michigan Gas Utilities (MGU), all as more fully set forth in the application which is on file with the Federal Energy Regulatory Commission (Commission) and open for public inspection.

Panhandle and Trunkline state that the Transportation and Exchange Agreement (Agreement) covering these services expired October 31, 1988. It is further stated that the Agreement provided for MGU to designate up to 6,000 Mcf per day of its daily contract volume during the months of November through March, under its Gas Sales Contract with Panhandle for (1) transportation by Panhandle to Trunkline and (2) subsequent delivery by Trunkline to MGU at the existing Trunkline-MGU delivery point near White Pigeon, Michigan. It is explained that the delivery by Trunkline was accomplished through an exchange with Panhandle. It is asserted that services were provided under Panhandle's Rate Schedule TE-1 and Trunkline's Rate Schedule TE-3.

Comment date: May 5, 1989, in accordance with Standard Paragraph F at the end of this notice.

7. Tennessee Gas Pipeline Company

[Docket No. CP89-1157-000]

Take notice that on April 11, 1989, Tennessee Gas Pipeline Company, (Tennessee) P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-1157-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Summit Pipeline & Producing Company (Summit), under its blanket authorization issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee would perform the proposed interruptible transportation service for Summit, a marketer of natural gas, pursuant to a transportation agreement dated November 18, 1988. The term of the transportation agreement is from the date of execution and shall remain in full force and effect for a term of one year and month to month thereafter, subject to termination upon 30 days prior written notice to the other party. Tennessee proposes to transport on a peak day up to 20,000 dekatherm; on an average day up to 20,000 dekatherm; and on an annual basis 7,300,000 dekatherm for Summit. Tennessee proposes to transport the subject gas from receipt points located in offshore Texas, offshore Louisiana, Texas, Mississippi, and Alabama, for redelivery to various delivery points off Tennessee's system. Tennessee avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of Section 284.223(a)(1) of the Commission's Regulations. Tennessee commenced such self-implementing service on March 3, 1989, as reported in Docket No. ST89-2916-000.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. United Gas Pipe Line Company

[Docket No. CP89-1147-000]

Take notice that on April 5, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1147-000 a request pursuant to §§ 157.205 and 284-223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service on behalf of Texaco Producing, Inc., a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to Section 7 of the Natural Gas act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

United proposes, pursuant to the gas transportation service agreement dated March 31, 1988, to transport a maximum daily quantity of 41,200 MMBtu equivalent of natural gas, an average daily quantity of 41,200 MMBtu equivalent of natural gas, and an annual quantity of 15,038,000 MMBtu equivalent of natural gas. United states that existing facilities will be used to provide the transportation service pursuant to that agreement. It is stated that the executed agreement contains the location of the receipt and delivery points in Exhibits A and B. United further states that service commenced on February 22, 1989, under the 120-day automatic provisions of § 284.223(a) of the Commission's Regulations, as reported in Docket ST89-2769.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice

9. Northwest Pipeline Corporation

[Docket No. CP89-1190-000]

Take notice that on April 11, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1190-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Gold Fields Operating Company—Chimney Creek (Gold Fields), an end user of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to transport, on an interruptible basis, up to 2,000 MMBtu per day for Gold Fields. Northwest states that construction of facilities would not be required to provide the proposed service.

Northwest further states that the maximum day, average day, and annual transportation volumes would be approximately 2,000 MMBtu, 1,000 MMBtu and 365,000 MMBtu respectively.

Northwest advises that service under § 284.223(a) commenced March 10, 1989, as reported in Docket No. ST89-2870.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. United Gas Pipe Line Company

[Docket CP89-1170-000]

Take notice that on April 7, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, made a Prior Notice filing pursuant to §§ 157.205 and 284.223 in Docket No. CP89-1170-000, to provide interruptible transportation service on behalf of CITGO Petroleum Corporation, an end user of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, all of more fully set forth in the request on file with the Commission and open to public inspection.

United states that the Interruptible Gas Transportation Agreement T1-21-1896, dated October 4, 1988, as amended on December 27, 1988, proposed to transport a maximum daily quantity of 25,750 MMBtu, and the service commenced December 27, 1988, as reported in Docket No. ST89-2737, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. United Gas Pipe Line Company

[Docket No. CP89-1168-000]

Take notice that on April 7, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1168-000 a request pursuant to § 157.205 of the Commission's regulations for authorization to provide transportation service on behalf of Victoria Gas Corporation (Victoria Gas), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United requests authorization to transport, on an interruptible basis, up to a maximum of 103,000 MMBtu of natural gas per day for Victoria Gas from receipt points located in Texas, Mississippi, Louisiana and Alabama, to delivery points located in Mississippi, Louisiana, Florida and Texas. United anticipates transporting an annual volume of 37,595,000 MMBtu.

United states that the transportation of natural gas for Victoria Gas commenced February 24, 1989, as reported in Docket No. ST89-2781-000, for a 120-day period pursuant to Section 284.223(a) of the Commission's Regulations and the blanket certificate issued to United in Docket No. CP88-6-000.

Comment date: May 30, 1989, in accordance with Standared Paragraph G at the end of this notice.

12. ANR Pipeline company

[Docket N. CP89-1161-000]

Take notice that on March 24, 1989, ANR Pipeline Company (ANR) 500 Renaissance Center, Detroit, Michigan 48243 filed in Docket No. CP89-1161-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Enron Gas Marketing, Inc. (Enron), under the authorization issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commmission and open to public inspection.

ANA would perform the proposed interruptible transportation service for Enron, a marketer of natural gas, pursuant to a transportation agreement dated September 6, 1988. The term of the transportation agreement is for a initial period of 120 days and thereafter until August 1 1990, and shall continue in effect month-to-month thereafter unless terminated upon 30 days prior written notice. ANR proposes to transport on a peak day up to 200,000 dekatherm; on an average day up to 200,000 dekatherm; and on an annual basis 73,000,000 dekatherm of natural gas for Enron. ANR states that it would receive the gas at an existing points of receipt in ANR's Oklahoma, Kansas, Texas, Louisiana, offshore Louisiana, offshore Texas gathering areas and redeliver the gas for the account of Enron at an existing interconnection located in states of Kentucky, Indiana, and Ohio. It is alleged that Enron would pay ANR the effective rate contained in ANR's rate schedule ITS. ANR avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's regulations. ANR commenced such self-implementing service on March 1, 1989, as reported in Docket No. ST89-2878-000.

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Northern Natural Gas Company, Division of Enron, Corp.

[Docket N. CP89-1174-000]

Take notice that on April 7, 1989, Northern Natural Gas Company, Division on Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP89-1174-000, a request pursuant to §157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authority to transport natural gas on behalf of Centran Corporation, a marketer of natural gas, under its blanket certificate issued in Docket No. CP88-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that it would transport natural gas on behalf of Centran from points of receipt located in the states of Iowa, Kansas, Minnesota, Nebraska, New Mexico, Oklahoma, South Dakota and Texas. Northern further states that the points of delivery would be located in the states of Iowa, Kansas, Oklahoma, South Dakota, Texas, and Wisconsin. Northern indicates that the peak day, average day and annual transportation volumes would be 10,000 MMBtu 7,500 MMBtu and 3,650,000 MMBtu, respectively. Northern states that construction of facilities would not be required to provide the proposed service.

Northern states that it commenced the transportation of natural gas for Centran on March 1, 1989, as reported in Docket No. ST89-2757-000 for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR § 284.223(a)).

Comment date: May 30, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. Tennessee Gas Pipeline Company

[Docket No. CP89-1203-000]

Take notice that on April 13, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-1203-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations for authorization to change delivery points for its existing firm sales customer, Cumberland Gas Company (Cumberland), under the blanket certificate issued in Docket No. CP82-413-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to change the location of Cumberland's delivery point at the Salt Rock Meter Station in Cabell County, West Virginia. Tennessee states that it currently provides natural gas service to Cumberland pursuant to Tennessee's Rate Schedule GS-3. Tennessee further states that it also currently provides natural gas service to Cabot Corporation (Cabor) and that Cabot and Cumberland both receive Tennessee's gas at the Salt Rock Meter Station. It is explained that Cabot and Cumberland were served by a dual meter tube setup consisting of 2 parallel 4-inch meter tubes connected to a common outlet header. Tennessee indicates that at the terminus of the common outlet header, Cabot took

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possession of the gas for both its and Cumberland's account and then Cabot redelivered Cumberland's gas to Cumberland slightly further downstream. It is stated that serious allocation and billing problems resulted from this method.

Tennessee states that it proposed to rearrange these facilities by severing the riser serving one of the meter tubes to the common outlet header and capping the remaining portion of the riser. It is indicated that Cumberland would disconnect from Cabot's line and reconnect their facilities at the outlet of the meter tube, a distance of approximately 50 feet. Tennessee states that the result would be that both Cabot and Cumberland would have separate and distinct meter tubes and meters. It is stated that all the above described work would take place within the station yard of the Salt Rock Meter Station and that Tennessee's cost would be approximately $2,000.

Tennessee states that there has been some confusion whether the circumstances described herein would require the instant request under its blanket certificate or whether the circumstances qualify for automatic authorization pursuant to § 157.208(a) of the Commission's Regulations. It is stated that as a result of this confusion, Tennessee's field operations performed this work and placed the new location of the delivery point in service in February of this year. Tennessee states that it is filing this request out of an abundance of caution.

Tennessee states that the total volumes to be delivered to Cumberland and Cabot would not exceed the presently authorized volumes and that the change is not prohibited by Tennessee's existing tariff. It is further stated that Tennessee has sufficient capacity to accomplish the deliveries requested herein without detriment or disadvantage to its other customers and that the requested change would have no impact on Tennessee's peak day or annual deliveries.

Comment date: May 30, 1989 in accordance with Standard Paragraph G at the end of the notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9534 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-6342-020, et al.]

Conoco Inc., et al.; Applications for Termination or Amendment of Certificates [1]

April 14, 1989.

Take Notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to terminate or amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 2, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

Docket No. and Date Filed	Applicant	Purchaser and Location	Description
G-6342-020, D, 3-15-89	Conoco Inc., P.O. Box 2197, Houston, TX 77252.	El Paso Natural Gas Company, Monument Area, Lea County, New Mexico.	Assigned 1-24-89 to V. H. Westbrook.
CI62-1139-001, D, 3-16-89	Conoco Inc.	El Paso Natural Gas Company, AXI Apache Area, Rio Arriba and Sandoval Counties, New Mexico.	Assigned 12-1-88 to Robert L. Bayless.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and Date Filed	Applicant	Purchaser and Location	Description
CI66-176-003, D, 6-17-88	Texaco Producing Inc., P.O. Box 52332, Houston, TX 77052.	Arkla Energy Resources, a division of Arkla, Inc., Steve Fazekas & Bennett State Units, Latimer County, Oklahoma.	Assigned 4-8-88 to Atlantic Richfield Company. [1]
CI78-453-004, D, 3-17-89	Conoco Inc.	Sunterra Gas Gathering Company, AXI Apache Area, Rio Arriba County, New Mexico.	Assigned 12-1-88 to Robert L. Bayless and Jerry W. Guy.
CI69-349-000, (CI68-642, D, 3-23-89.	BHP Petroleum (Americas) Inc.	Dorchester Master Limited Partnership, Big Lake Field, Reagan County, Texas.	Assigned 6-1-87 to Bledsoe Petro Corporation.

[1] Previously noticed incorrectly (54 FR 14282) in CI66-176-003 as assignment to William S. Price filed 12-14-88. The assignment to Price is being processed in CI66-176-004.

Filing code. A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 89-9477 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-226-001]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 14, 1989.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on April 12, 1989, the following proposed change to its FERC GAS Tariff, Original Volume No. 1, First Revised Sheet No. 6B. Such tariff sheet bears a proposed effective date of August 1, 1988.

ESNG states that such proposed change is being filed to revise the billing amounts shown on Original Sheet No. 6B to comply with the provisions of Ordering Paragraph (B) of the Commission's August 26, 1988 order in the subject docket. The referenced order requires ESNG to file revised billing amounts to "track" any modifications to Transcontinental Gas Pipe Line Corporation's (Transco) take-or-pay charges ordered by the Commission.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's rules of Practice and Procedure (18 CFR § 385.211 and § 385.214). All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9470 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-51-002 and RP89-92-001]

El Paso Natural Gas Co.; Tariff Filing

April 14, 1989.

Take notice that on April 5, 1989, El Paso Natural Gas Company ("El Paso") filed pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act ("NGA"), First Revised Sheet Nos. 1771, 1775 and 1776 and Original Sheet No. 1776-A to special Rate Schedule T-28 contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2.

El Paso states that Special Rate Schedule T-28 is comprised of a Gas Transportation Agreement ("Transportation Agreement") dated February 3, 1982, as amended, between El Paso and Chevron U.S.A. Inc. ("Chevron"), formerly Gulf Oil Corporation. The Transportation Agreement provides for the transportation of natural gas, for the account of Chevron, produced from Block 237 and transported through a lateral pipeline in which El Paso owns an interest and which is operated by Tennessee Gas Pipeline Company, a Division of Tenneco Inc., extending from the production platform located in Block 237 of the East Cameron Area, South Addition to Block 241, located in the Vermilion Area, all offshore Louisiana, pursuant to section 7 of the NGA. By order issued by the Director of the Office of Pipeline and Producer Regulation on February 16, 1984 at Docket No. CP83-51-000, et al., the Commission granted El Paso certificate authorization to transport and deliver natural gas for the account of Chevron.

El Paso states that on March 3, 1989, El Paso tendered for filing and acceptance certain tariff sheets in compliance with Order No. 509, *et seq.* In said filing, El Paso advised the Commission that special Rate Schedule T-28 contained in its FERC Gas Tariff, Third Revised Volume No. 2, provides for transportation rates other than those contained in El Paso's FERC Gas Tariff, Original Volume No. 1-A, but that El Paso and Chevron have agreed to amend the Transportation Agreement to conform to the rates under Rate Schedule T-3. El Paso states that the tendered tariff sheets, when accepted for filing and permitted to become effective will revise the Transportation Agreement to incorporate the T-3 rates contained in El Paso's FERC Gas Tariff, Original Volume No. 1-A, as agreed to by El Paso and Chevron pursuant to an Amendatory Agreement dated March 10, 1989.

El Paso requested, pursuant to § 154.51 of the Commission's Regulations, that waiver of the notice requirements of § 154.22 of the Commission's Regulations be granted so as to permit the tendered tariff sheets to become effective April 1, 1989.

Any person desiring to be heard to or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 154.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commision in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commssion and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9471 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. RP89-77-001]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

April 14, 1989.

Take notice that Florida Gas Transmission Company on April 11, 1989, tendered for filing a revision its F.E.R.C. Gas Tariff in compliance with the Commission's Order dated March 31, 1989 in this proceeding. FGT states that the filing reflects a revision in its minimum FTS-OCS, ITS-OCS Transportation rates as precribed in said Order. FGT has requested that the proposed filing be made effective April 1, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice & Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9472 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-7-51-000]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff Purchased Gas Adjustment Clause Provisions

April 14, 1989.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on April 12, 1989 tendered for filing Twenty-First Revised Sheet Nos. 57(i) and 57(ii) and Eighth Revised Sheet No. 57(v) to its FERC Gas Tariff, First Revised Volume No. 1.

Great Lakes states these tariff sheets reflect PGA rates for the months of May, June and July, 1989 pursuant to the Quarterly PGA filing requirements of § 154.304(a)(2) of the Commission's Regulations.

Great Lakes states Twenty-First Revised Sheet No. 57(ii) included Rate Schedule T-24 for firm transportation service to Consumers Power Company and POCO Petroleums Ltd. Such service was authorized by Commission Order issued March 22, 1989 in Docket No. CP88-539-000. Great Lakes filed tariff sheets for Rate Schedule T-24 on March 31, 1989 to be effective April 10, 1989.

Great Lakes requested waiver of the notice requirements of the provisions of Section 154.308 of the Commission's Regulations and any other necessary waivers so as to permit the above tariff sheets to become effective May 1, 1989.

Great Lakes also requested waiver of the requirements of § 154.304(a)(2) of the Commission's Regulations which require the filing of Quarterly PGA Filings. Great Lakes stated that it is committed to file, on a monthly basis, an out-of-cycle PGA to reflect gas pricing pursuant to current contractual arrangements. Great Lakes requested such waiver in order to save substantial administrative burdens on Great Lakes, its customers and the Commission's Staff.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9473 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-4579-062, et al.]

OXY USA Inc. et al.; Applications for Certificates and Amendment of Certificates [1]

April 14, 1989.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 2, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Description
G-4579-062 C F 3-31-89	OXY USA Inc., P.O. Box 300, Tulsa, OK 74102.	Northern Natural Gas Company, Division of Enron Corp., Hugoton Field, Texas County, Oklahoma.	Acreage acquired 10-1-88 from Union Pacific Resources Company.
C89-345-000 E 3-21-89	Mesa Operating Limited Partnership, P.O. Box 2009, Amarillo, TX 79189.	Northern Natural Gas Company, Division of Enron Corp., Various wells, Stevens County, Kansas.	Acreage acquired 7-15-88 from the Estate of Augusta C. Pulver.
		Panhandle Eastern Pipe Line Company, Brack #1-15 and Browne #1-10 Wells, Seward County, Kansas.	Acreage acquired 7-15-88 from the Estate of Augusta C. Pulver.
		Panhandle Eastern Pipe Line Company, Various wells, Grant, Morton, and Stevens Counties, Kansas.	Acreage acquired 7-15-88 from the Estate of Augusta C. Pulver.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
		Panhandle Eastern Pipe Line Company, Gentzler A-1 Well, Stevens County, Kansas.	Acreage acquired 7-15-88 from the Estate of Augusta C. Pulver.
		Panhandle Eastern Pipe Line Company, Kumaric A-1 Well, Stevens County, Kansas.	Acreage acquired 7-15-88 from the Estate of Augusta C. Pulver.
		Panhandle Eastern Pipe Line Company, Bane H-1 Well, Stevens County, Kansas.	Acreage acquired 7-15-88 from the Estate of Augusta C. Pulver.
C89-347-000 E 3-24-89	Sun Exploration and Production Company, P.O. Box 2880, Dallas, TX 75221-2880.	Columbia Gas Transmission Corporation, High Island Area, South Addition, Offshore Texas.	Acreage acquired 5-1-88 from Tesoro Petroleum Corporation.
C89-350-000 A 3-31-89	Union Oil Company of California, P.O. Box 7600, Los Angeles, CA 90051.	Williston Basin Interstate Pipeline Company, Gillette Gas Plant, Campbell County, Wyoming.	Application for a certificate to cover a sale previously covered by the operator, ARCO Oil and Gas Company.

Filing Code
A—Initial Service B—Abandonment C—Amendment to add acreage D—Amendment to delete acreage E—Total Succession F—Partial Succession

[FR Doc. 89-9476 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-148-000]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 14, 1989

Take notice that on April 10, 1989, Southern Natural Gas Company (Southern) tendered for filing the following tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1, to be effective May 9, 1989:

Fourth Revised Sheet No. 30O
First Revised Sheet No. 30P
Fifth Revised Sheet No. 30Y
Second Revised Sheet No. 30CC
Fourth Revised Sheet No. 30GG
First Revised Sheet No. 30HH
Sixth Revised Sheet No. 30QQ
Third Revised Sheet No. 30SS
First Revised Sheet No. 30UU
Original Sheet No. 30UU.1
First Revised Sheet Nos. 45R.6-45R.7
Fourth Revised Sheet No. 45R.9
Second Revised Sheet No. 45R.10
First Revised Sheet No. 45R.19a

Southern states that it submits the revised sheets listed above to effect certain changes to its Rate Schedules FT and IT, the General Terms and Conditions thereto, and Forms of Service Agreement under Rate Schedules FT and IT which are necessary to reflect operating procedures or to allow more flexibility in the administration thereof. Southern has requested that the revised sheets be made effective May 9, 1989, as indicated above.

Southern states that copies of the filing were mailed to all of Southern's jurisdictional purchasers, shippers, and interested state commissions, as well as the parties listed on the Commission's official service list compiled in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9474 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-239-010 and RP89-11-005]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

April 14, 1989.

Take notice that on April 10, 1989 Trunkline Gas Company (Trunkline) tendered for filing the following tariff sheets to its FERC Gas Tariff Original Volume No. 1:

To Be Effective September 29, 1988

Third Substitute Original Sheet No. 3-A.5
Third Substitute Original Sheet No. 3-A.6

To Be Effective November 28, 1988

Second Substitute Original Sheet No. 3-A.7
Second Substitute Original Sheet No. 3-A.8

Trunkline states that the proposed tariff sheets are being filed in compliance with the Commission's March 24, 1989 Order Granting Rehearing in Docket No. RP88-239-006. Specifically, these revised tariff sheets reflect the modification of the allocation methodology used to recover take-or-pay buyout and buydown costs from Trunkline's customers.

Trunkline states that copies of the filing were sent to all of Trunkline's jurisdictional sales customers and interested state commissions, as well as the parties to the above-captioned proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before April 21, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9475 Filed 4-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-147-000]

United Gas Pipe Line Co.; Tariff Filing

April 14, 1989

Take notice that on April 10, 1989, United Gas Pipe Line Company (United) tendered for filing the following Tariff Sheets as part of its FERC Gas Tariff, First Revised Volume No. 1:

Original Sheet No. 4-M
Original Sheet No. 4-N
Original Sheet No. 4-O
Original Sheet No. 4-P
Original Sheet No. 4-Q
Original Sheet No. 4-R

United states that this filing is made consistent with the Commission's Order No. 500 *et. seq.*

BEST COPY AVAILABLE

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United states that the purpose of this filing is to establish the procedures pursuant to which United will recover the take-or-pay charges to be billed by Sea Robin Pipeline Company (Sea Robin) and paid by United under Sea Robin's Docket No. RP89-141. The tariff sheets tendered set forth the principal amount plus interest that each jurisdictional sales customer of United will be required to pay in order to recover Sea Robin's take-or-pay charges billed to United by Sea Robin. Consistent with the Commission's February 29, 1988, order in *Mississippi River Transmission Corporation*, Docket No. TA88-25-000, 42 FERC ¶ 61,244 (1988), these principal amounts were developed by utilizing the same procedures that Sea Robin developed in Docket No. RP88-141.

If at any time Sea Robin is permitted by Commission order to change its take-or-pay procedures and/or the amounts to be recovered pursuant thereto, United states it will adopt the same change in its take-or-pay procedures and/or the amounts to be recovered pursuant thereto.

United is requesting an effective date April 1, 1989, for the above referenced tariff sheets, to parallel the requested effective date in Sea Robin's filing in Docket No. RP89-141.

United states that copies of this filing are being served upon United's jurisdictional sales customers, the public service commissions of the states of Alabama, Florida, Louisiana, and Mississippi, and the Railroad Commission of Texas.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or Protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's regulations. All such motions of protest should be filed on or before April 21, 1989.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9476 Filed 4-16-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products, Petition for Waiver of Furnace Test Procedures From the Trane Co. (F-017)

AGENCY: Conservation and Renewable Energy Office, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice publishes a "Petition for Waiver" from The Trane Company (Trane), Tyler, Texas, requesting a waiver from the existing Department of Energy (DOE) test procedure for furnaces. In addition, today's notice publishes the granting of Trane's application for an Interim Waiver. Trane manufactures residential heating appliances. The petition requests DOE to grant relief from the DOE test procedure relating to the blower time delay specification for Trane's condensing furnaces TUC(–) up-flow models and TDC(–) down-flow models. Trane seeks to test using a blower delay time of 30 seconds instead of the specified 1.5 minute delay between burner on-time and blower on-time. DOE is soliciting comments, data and information respecting the petition.

DATE: DOE will accept comments, data and information not later than May 22, 1989.

ADDRESS: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-107, Mail Stop CE-132, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-132, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-12, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3266, and the National Appliance Energy Conservation Act of 1987 (NAECA), Pub. L. 100-12, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process, 45 FR 64108. DOE further amended the Department's appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986. The waiver process allows the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of a waiver.

The interim waiver provisions, added by the 1986 amendment, allow the Assistant Secretary to grant an interim waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, it if appears likely that the petition for waiver will be granted and/or the Assistant Secretary determined that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver.

Trane's petition seeks a waiver from the DOE test provisions that require a 1.5 minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Trane requests the allowance to test using a 30 second blower time delay when testing its condensing furnaces models TUC(–) and TDC(–). Trane states that the 30 second delay is indicative of how these condensing furnaces actually operate. Such a delay results in an energy savings of approximately 1.8 percent. Since current DOE test procedures do not address this variable blower time delay, Trane asks that the waiver be granted.

The Department finds that it would be desirable for public policy reasons to grant Trane's Application for Interim Wavier. Specifically, in those instances where DOE has granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis. Previous waivers for this type of timed blower delay control have been granted to the Coleman Company, the Magic Chef Company and the Rheem Manufacturing Company. 50 FR, 2710, January 18, 1985, 50 FR 41553, October 11, 1985, and 53 FR 48574, December 1, 1988, respectively.

Therefore, Trane's Application for an Interim Waiver requesting relief from the DOE test procedures for its condensing furnace models TIC(–) and TDC(–) is granted.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

In addition, pursuant to paragraph (e) of section 430.27 of the Code of Federal Regulations, the following letter granting the Application for Interim Waiver was issued to The Trane Company.

Issued in Washington, DC, April 12, 1989.

John R. Berg,

Assistant Secretary, Conservotion and Renewable Energy.

[FR Doc. 89-9542 Filed 4-19-89; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Special Research Grant Program Notice 89-4; Transport Initiative in Tokamak Fusion Plasmas

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Energy Research (OER) of the Department of Energy (DOE) announces its interest in receiving applications for Special Research Grants related to the area of transport studies in tokamak fusion plasmas. New transport-related experiments in existing toroidal devices will be considered. Such R&D includes new diagnostics, use of existing diagnostics on new experiments, data reduction and analysis techniques, and experiment-specific models of transport and confinement. New experiments may involve, for example, installation of auxiliary equipment on these existing devices, or request for operating time on the devices to conduct a specific program that might either reduce transport or contribute to the understanding of transport in plasmas. Applications from collaborative teams or multi-institutional research groups will be welcomed.

DATES: Initial selection will be made for FY 1990 funding; for consideration for the initial selection, submission of an application to the office listed under the "Address" heading prior to June 15, 1989, is required. Information on the timing of subsequent rounds of selection will be available after June 1989, from the information contact given below.

ADDRESS: Completed applications referencing Program Notice 89-4 should be forwarded to: U.S. Department of Energy, Division of Acquisition and Assistance Management, ER-64, Office of Energy Research, Washington, DC 20545.

FOR FURTHER INFORMATION: Contact Dr. Stephen A. Eckstrand, Office of Fusion Energy, ER-55, Washington, DC 20545 (301) 353-2848 or Dr. Ronald H. McKnight, Office of Fusion Energy, ER-542, Washington, DC 20545 (301) 353-3421.

SUPPLEMENTARY INFORMATION: The intent of this particular initiative is to support research and development that would enhance the understanding of transport physics issues in fusion plasmas and/or provide new methods and operational scenarios to achieve improved energy confinement. Emphasis will be given to research that can produce near-term results. This initiative may include: installation of new hardware to affect plasma transport phenomena such as divertor baffles and pumps, pellet injectors, and auxiliary heating systems for active control of particles, plasma pressure, or current profiles; development of operational scenarios such as those with peaked density or pressure profiles; fundamental theory on physical mechanisms of transport in tokamaks; investigation of plasma transport near beta limits or in the second regime of stability; development and operation of new diagnostics such as heavy ion beam probes and laser scattering for temporal and radial resolution of plasma parameters such as current density, temperature, electron and ion densities, fluctuations, electric fields, and heat and particle flows. The proposed work should include an adequate level of analytical and numerical methods for data analysis and interpretation.

Since October 1988, a Transport Task Force composed of leading scientists from Universities and National Laboratories has been reviewing the present status of transport studies and preparing a report on the scientific issues that must be addressed in order to characterize, understand, and learn how to reduce transport in tokamaks. The report of the Transport Task Force should be completed in May 1989 and can be obtained from the individuals identified above.

The initial funding of up to approximately $5M for the initiative is included in the FY 1990 budget. A number of awards will be issued depending on the nature and excellence of the applications that are received and the availability of funds. General information about development and submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures is contained in the OER Special Research Grant Application and Guide. The application kit and guide is available from the U.S. Department of Energy, Office of Energy Research, Washington, DC 20545. Telephone requests may be made by calling (301) 353-2848. The Catalog of Domestic Assistance Number for this program is 81.049.

Issued in Washington, DC, on April 3, 1989.

D.D. Mayhew,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 89-9405 Filed 4-19-89; 8:45 am]

BILLING CODE 6450-01-M

Special Research Grant Program Notice 89-5: Pre-Doctoral Training Grants

AGENCY: Department of Energy, (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Energy Research (OER) of the Department of Energy (DOE) announces its interest in receiving applications for Special Research Grants from historically black colleges and universities with accredited Ph.D. degree granting programs. The purpose of this program is to provide assistance for training Ph.D.'s that will increase their availability to carry out scientific research in the following OER program areas: basic energy sciences, high energy and nuclear physics, fusion energy and health and environmental research. Therefore, the applications submitted should request support for training efforts aimed at increasing the number of qualified students receiving

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Ph.D degrees in physical and life sciences, mathematics, computer science, and engineering areas of graduate education. The training program is expected to contain the following activities: (1) Development and administration of a plan to recruit and enroll students in programs leading to a Ph.D in those areas mentioned above; (2) develop and provide a student evaluation and selection plan to be utilized for selection of trainees under this program; (3) develop and implement a retention and mentorship effort to assure decreased rate of student dropout; and (4) assist in developing alternative financial aid information and resources.

DATES: To permit timely consideration for awarding during FY 1989, applications submitted in response to this Notice should be received by OER's Division of Acquisition and Assistance Management by May 23, 1989.

ADDRESS: Completed applications referencing Program Notice 89-5 should be forwarded to: U.S. Department of Energy, Division of Acquisition and Assistance Management, ER-64, Office of Energy Research, Washington, DC 20545.

FOR FURTHER INFORMATION: Contact Dr. Richard E. Stephens, Director, University and Industry Division, Office of Field Operations Management, ER-44, Washington, DC 20585 (202) 586-8949.

SUPPLEMENTARY INFORMATION: It is anticipated that approximately $2M will be available for up to 12 grant awards during Fiscal Year 1989. Future fiscal year awards will be subject to the availability of funds and satisfactory progress. The amont of each award will depend upon the number of trainees and allowable non-trainee expenses approved.

In addition, this program wil provide at a maximum up to $25,000 for a twelve-month period for support of an eligible trainee. Within that amount, no more than $15,000 is available for living expenses during the same twelve-month period. No trainee will be allowed support beyond 60 months under this activity and no funds will be provided to any student if they have already completed a Ph.D program in any of the above mentioned eligible degree areas. Other allowable grant expenditures include: tuition, books and fees, attendance and/or participation in technical and professional meetings and supplies and materials. General information about development and submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures are contained in the OER Special Research Grant Application Kit and Guide. The application kit and guide is available from the U.S. Department of Energy, Office of Energy Research, Division of Acquisition and Assistance Management, ER-64, Washington, DC 20545. Telephone requests may be made by calling (202) 586-8949. The Catalog of Federal Domestic Assistance Number for this program is 81.049.

This notice supports DOE's goal to historical black colleges and universities in increasing the production of qualified Ph.D's in science and engineering and the specific manpower needs for future energy-related research and development. In accordance with recommendations in Executive Order 12320 dated September 15, 1981, eligibility for this program is limited to historical black colleges and universities.

D.D. Mayhew,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 89-9406 Filed 4-19-89; 8:45 am]

BILLING CODE 6450-01-M

High Energy Physics Advisory Panel, Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP).

Date and Time: Tuesday, May 16, 1989, 8:00 am-5:00 pm; Wednesday, May 17, 1989, 8:00 am-4:30 pm.

Place: Fermi National Accelerator Laboratory, Room 1 West, Batavia, Illinois 60510.

Contact: Dr. Enloe T. Ritter, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER-221, GTN Washington, DC 20545. Telephone: (301) 353-4829.

Purpose of Panel: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda

Tuesday, May 16, 1989 and Wednesday, May 17, 1989

—Discussion of National Science Foundation Elementary Particle Physics Programs
—Discussion of Department of Energy High Energy Physics Programs
—Discussion of Department of Energy Superconducting Super Collider Programs
—Update on Stanford Linear Collider
—Preliminary Consideration of Intermediate-Term DOE Laboratory Upgrade Options
—DUMAND II, GRANDE, and FLY'S EYE Subpanel Report Discussion
—Overview of Fermilab Programs
—Reports on and discussions of topics of general interest in high energy physics
—Public Comment

Public Participation

The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes

Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on April 14, 1989.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 89-9416 Filed 4-19-89; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $50,000, plus accrued interest, obtained from Butler Fuel Corporation pursuant to a Release issued by the United States Department of Justice. The funds will be distributed to ultimate consumers who purchased kerosene and No. 2 heating oil (the covered products) from Butler between November 1, 1973 through April 30, 1974.

DATE AND ADDRESS: Applications for Refund from the Butler escrow fund must be filed in duplicate and must be received by July 19, 1989. All Applications for Refund from this escrow fund should display a conspicuous reference to Case Number KEF-0094, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Darlene Gee, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6602.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute monies obtained from the Butler Fuel Corporation (Butler) to settle pricing violations with respect to the firm's sales of kerosene and No. 2 heating oil between November 1, 1973 and April 30, 1974 (the audit period).

OHA has determined that a portion of the escrow fund should be distributed to ultimate consumers of Butler kerosene and No. 2 heating oil during the audit period. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of covered products from Butler. The specific requirements which an applicant must meet in order to receive a refund are set out in Section II of the Decision. Residual funds in the escrow account will be used for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99-509, title III.

Applications for Refund will now be accepted provided they are filed in duplicate and received no later than 90 days after publication of this Decision and Order in the Federal Register. Applications should be sent to the address set forth at the beginning of this notice. All applications received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 11, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

Butler then failed to comply with the terms of the modified Remedial Order, and and the case was referred to the Department of Justice for judicial enforcement. *See* November 13, 1984 Memorandum to David J. Anderson, Civil Division, Department of Justice, from Robert G. Heiss, Assistant General Counsel for Enforcement, DOE. Under the terms of a March 27, 1987 Release executed by the Department of Justice, Butler paid the DOE $50,000 in full and final settlement of the issues raised in the 1978 Remedial Order. With interest, the total value of the Butler escrow account has grown to $56,673.11 as of February 28, 1989.

On June 14, 1988, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties that make a reasonable showing of injury as a result of Butler's overcharges. In order to five notice to all potentially affected parties, a copy of the PD&O was published in the Federal Register and comments regarding the proposed refund procedures were solicitied. 53 FR 23307 (June 21, 1988). We received no comments concerning the proposed refund procedures for Butler. Therefore, we will adopt the procedures in the PD&O as final procedures for the distribution of the Butler refined product funds.

II. Final Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations in which the DOE is unable to identify readily those persons who may have been injured by the alleged regulatory violations or to determine the amount of such injuries. A more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds is set forth in the cases of *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Pursuant to the goals of the Subpart V regulations, we will attempt to provide refunds to claimants who demonstrate that they were injured by Butler's overcharges during the November 1, 1973 through April 30, 1974 remedial order period. Because the Remedial Order underlying this proceeding covered only Butler's overcharges to its retail customers of kerosene and No. 2 heating oil, only those customers will be eligible for a refund in this proceeding. Residual funds in the Butler escrow account will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), Pub. L. No. 99-509, Title III, *See* 51 FR 43964 (December 5, 1986).

April 11, 1989.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Butler Fuel Corporation.

Date of Filing: June 1, 1987.

Case Number: KEF-0094.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement procedures for the distribution of funds obtained by the DOE as a result of the agency's enforcement of the Mandatory Petroleum Price and Allocation Regulations. *See* 10 CFR Part 205, Subpart V. On June 1, 1987, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Remedial Order issued to the Butler Fuel Corporation (Butler).

I. Background

Butler is a "retailer" of refined petroleum products as that term was defined in 10 CFR 212.31, and is located in Oxford, Massachusetts. On March 6, 1978, the DOE issued a Proposed Remedial Order (PRO) to Butler alleging that the firm violated the Mandatory Petroleum Price Regulations by overcharging its retail customers in its sales of kerosene and No. 2 heating oil (covered products) between November 1, 1973 and April 30, 1974. *See* 10 CFR Part 212 Subpart F. The PRO ordered Butler to refund the full amount of the alleged violations, $36,553.55, plus interest, to its retail customers through price rollbacks.

Butler did not contest the PRO, and on October 24, 1978, OHA issued the PRO as a final Remedial Order. *Butler Fuel Company*, No. DRW-0004 (October 24, 1978). Butler failed to comply with the provisions of the Remedial Order calling for price rollbacks, so the ERA petitioned OHA for a modification of the Remedial Order. In an April 12, 1984 Decision, OHA granted the ERA's Application for Modification and ordered Butler to remit the sum of $36,553.55, plus accrued interest, directly to the DOE. The monies were to be deposited into an interest-bearing escrow account pending ultimate distribution through a special refund

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proceeding. *ERA/Butler Fuel Corp.*, 12 DOE ¶ 82,506 (1984).

A. Calculation of Refund Amounts

The first step in the refund process is the calculation of an applicant's potential refund. To accomplish this, we propose adopting a volumetric refund presumption. This presumption assumes that Butler's overcharges were spread evenly over all gallons of covered products that the firm sold during the remedial order period.

Under the volumetric presumption, a claimant's potential refund generally will be computed by multiplying the number of gallons of covered products that it purchased from Butler during the remedial order period by a volumetric factor of $0.0571 per gallon.[1] In addition, successful claimants will receive proportionate shares of the interest that has accrued on the Butler escrow account.

The volumetric refund presumption is rebuttable. Because we realize that the impact on an individual claimant may have been greater than its potential volumetric refund, a claimant may submit evidence detailing the specific overcharge that it sustained in order to be eligible for a larger refund. *See Standard Oil Co. (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

As in previous cases, only claims for at least $15 in principal will be processed. This minimum has been adopted in refined product refund proceedings because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those instances. *See e.g., Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). *See also* 10 CFR 205.286(b). Accordingly, an applicant must have purchased at least 254 gallons of covered products from Butler in order for its claim to be considered.

B. Determination of Injury

Once a claimant's potential refund has been calculated we must determine whether the claimant was injured by its purchases from Butler, *i.e.*, whether it was forced to absorb the alleged overcharges. To facilitate this process, we generally adopt presumptions of injury in Subpart V proceedings. Injury presumptions are designed to allow claimants to participate in the refund process without incurring inordinate expense, and to enable OHA to consider the refund applications in the most efficient way possible. The use of presumptions in refund cases is specifically authorized by DOE procedural regulations. 10 CFR 205.282(e). Because retail purchasers of Butler covered products are the only class of purchasers eligible for refunds in this proceeding, we will adopt only two injury presumptions. We will presume that end-users of Butler covered products, and certain types of regulated firms and cooperatives were injured by their purchases from Butler. Each presumption is discussed below, along with the rationale underlying its use.

1. End-Users: First, in accordance with prior Subpart V proceedings, we will presume that end-users of Butler products, *i.e.*, ultimate consumers of the products whose businesses are unrelated to the petroleum industry, were injured by the firm's overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the remedial order period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of a special refund proceeding. *See Marion Corporation*, 12 DOE ¶ 85,014 (1984) and cases cited therein. Therefore, end-users need only document their purchase volumes of Butler covered products during the remedial order period to demonstrate that they were injured by the overcharges.

2. Regulated Firms and Cooperatives: Second, public utilities, agricultural cooperatives, and other firms whose prices are regulated by government agencies or cooperative agreements do not have to submit detailed proof of injury. Such firms would have routinely passed through price increases, including overcharges, to their customers. Likewise, their customers would share the benefits of cost decreases resulting from refunds. *See e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) (*Tenneco*); *Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). Such firms applying for refunds should certify that they will pass through any refund received to their customers and should explain how they will alert the appropriate regulatory body or membership group to monies received. Purchases that cooperatives subsequently resold to nonmembers will generally not be covered by this presumption.

C. General Refund Application Requirements

Pursuant to 10 CFR 205.283, we will now accept Applications for Refund from individuals and firms that were retail purchasers of kerosene and No. 2 heating oil sold by Butler between November 1, 1973 and April 30, 1974. No "class claims" on behalf of groups of applicants will be permitted. There is no specific application form that must be used. However, a suggested format for filing a Butler Refund Application is set forth in the Appendix to this Decision. All Applications for Refund should include the following information:

(1) A conspicuous reference to Case Number KEF-0094 and the name and address of the applicant during the period for which the claim is filed, as well as the name to whom the refund check should be made out and the address to which the check should be sent;

(2) The name, title, address and telephone number of a person who may be contacted by OHA for additional information concerning the Application;

(3) The manner in which the applicant used the Butler products, *i.e.*, whether it was an end-user, utility, cooperative, etc. (refiners, resellers and retailers are not eligible for refunds in this proceeding);

(4) For each covered product (kerosene and No. 2 heating oil), a monthly schedule of purchases from Butler during the period November 1, 1973 through April 30, 1974. *See supra* note 4. If the applicant was an indirect purchaser it must also submit the name of its immediate supplier and indicate why it believes the covered product was originally sold by Butler;

(5) All relevant material necessary to support its claim in accordance with the injury presumptions and requirements outlined above;

(6) If the applicant was or is in any way affiliated with Butler, an explanation of the nature of the affiliation;

(7) A statement as to whether there has been a change in ownership of the entity that purchased the Butler refined petroleum products during or since the remedial order period. If there was such a change, the applicant must submit a copy of the sales agreement, as well as provide the names and addresses of the previous or subsequent owners;

(8) A statement as to whether the applicant has received a refund, from any source, for the overcharges identified in the ERA audits underlying this proceeding;

(9) A statement as to whether the applicant or a related firm has filed any other Application for Refund in this proceeding;

(10) A statement as to whether the claimant or a related firm has authorized any other individual(s) to file an Application for Refund on the claimant's behalf in the Butler proceeding; and

(11) The following statement signed by the applicant or a responsible official of the business or organization claiming the refund: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c).

Applications for Refund should be sent to: Butler Refund Proceeding, Case No. KEF-0094, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision in the Federal Register. A copy of each application will be available for public insepction in the Public Reference Room of the Office of Hearings and Appeals. Any applicant that believes that its application contains confidential information must submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why the information is confidential.

It is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Butler Fuel Corporation pursuant to a Release issued by the United States Department of Justice on March 23, 1987 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision in the Federal Register.

Date: April 11, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 89-9407 Filed 4-19-89; 8:45 am]

BILLING CODE 6450-01-M

[1] This figure is computed by dividing the $50,000 received from Butler by the 875,000 gallons of covered products sold by the firm during the remedial order period. *See* January 7, 1988 Memorandum of Telephone conversation between James Butler, President of Butler, and Jon F. Leyens, OHA Staff Analyst.

ENVIRONMENTAL PROTECTION AGENCY

[OA-FRL-3558-3]

Municipal Wastewater Treatment Works Construction Programs; Grants, State and Local Assistance

AGENCY: Environmental Protection Agency.

ACTION: Waiver of Section 109, Pub. L. 100-202, for the Wayne County Department of Public Works, Wastewater Treatment Construction Grant C262391-10.

SUMMARY: The Administrator of the Environmental Protection Agency (EPA) has approved a waiver from the provisions of the Brooks-Murkowski amendment section 109, Pub. L. 100-202, for the Wayne County Department of Public Works wastewater treatment construction grant C262391-10.

This waiver allows EPA to participate in the cost of a contract to be awarded to a joint venture which includes a Japanese firm.

EFFECTIVE DATE: April 7, 1989.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Administration Division, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-5240.

Date: April 7, 1989.

William K. Reilly,

Administrator.

[FR Doc. 89-9511 Filed 4-19-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Application Procedures for Network Organizer Applications

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission will accept applications for a single network organizer for frequency 931.8875 MHz, a frequency which has been allocated on a nationwide basis for paging, from May 17, 1989 through May 19, 1989, inclusive. In its *First Report and Order*, CC Docket No. 87-120, the Commission decided that this frequency should be reopened for acceptance of applications. Two other network organizers were licensed in 1985 and began operations in 1988.

Applicable sections of 47 CFR Part 22, Subparts A, B, C, D, E and G are the governing Rules. The Commission will use random selection procedures to choose among qualified applicants. Only one applicant will be chosen per drawing; if that applicant ("tentative selectee") is found to be disqualified, another random selection drawing will be held. These procedures will be repeated until a qualified applicant is selected for grant.

Section 22.527 of the Commission's Rules sets out the technical and other substantive showings required of network organizer applicants. Financial showings must meet the "reasonable assurance" standard as set out in § 22.917(a). If the technical and/or financial showing of a tentative selectee's application does not meet the requirements of the rules, the tentative selectee's application will be returned as defective. All applications for frequency 931.8875 MHz will be considered mutually exclusive, notwithstanding the specific locations initially proposed.

Sections 22.23 and 22.39, concerning ownership changes to pending applications, apply to any ownership or control changes by applicants.

Any pre-filing settlement agreements must be filed with, and referenced in, the application. In addition to other applicable ownership and interest-reporting information required on FCC Form 401 and by § 22.13 of the Rules, these agreements must state clearly the name, business or residence address, and daytime telephone number of each individual and corporate participant. Corporate participants in pre-filing settlement agreements must include a list of each officer's name, title, and address. Partnership participants must include the name, address, and daytime telephone number of each partner, as well as the partnership share of each individual participant.

If pre-filing settlement participants enter into other agreements relating to the primary settlement agreement (for example, management, buyout, or finacing agreements) these further agreements must also be filed with the application.

Any post-filing settlement agreement involving the winner of the random selection procedure may not be filed until ten days after public notice of the tentative selectee. The information herein required of pre-filing agreements is also required of post-filing agreements.

The *First Report and Order* stated that existing nationwide paging licensees may not have a cognizable interest in applications for the third frequency. This means that an existing nationwide paging licensee may not have any interest, direct or indirect, in applicants which are non-publicly traded entities. An applicant which is a publicly traded entity must affirm that to the best of its knowledge, an existing nationwide paging licensee does not hold any of its debt or equity, and that it does not have any other direct or indirect interest in the applicant.

Late applications will not be accepted. Any applications filed after 5:30 p.m. on

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the last day of the filing period will be unacceptable for filing.

DATES: May 17 through May 19, 1989, from 8:00 a.m. to 5:30 p.m.

ADDRESS: Federal Communications Commission, Washington DC, 20554.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, Mobile Services Division, (202) 632-6450.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9496 Filed 4-19-89; 8:45 am]

BILLING CODE 6712-01-M

Return Of Applications Filed Prior to Effective Date of Amendment of Part 73 of the Commission's Rules to Permit Short-Spaced FM Station Assignments Pursuant to MM Docket No. 87-121

April 13, 1989.

This is to advise applicants and their attorneys who are planning to file applications on FCC Form 301 (Application for Authority to Construct or Make Changes in a Commercial Broadcast Station) and FCC Form 340 (Application for Authority to Construct or Make Changes in Noncommercial Educational Broadcast Station) that the effective date of the rules adopted in the *Report and Order* in MM Docket No. 87-121 will be the date approval of the pertinent amendments of FCC Forms 301 and 340 by the Office of Management and Budget (OMB).

The Commission staff will return *all* FCC Forms 301 and 340 applications requesting authority to permit short-spaced FM station assignments pursuant to the rules adopted in MM Docket 87-121 filed prior to the effective date of the rules.

For additional information contact Jackie Swank at (202) 632-7191.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9495 Filed 4-19-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-822-DR]

Major Disaster and Related Determinations; Washington

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA-822-DR), dated April 14, 1989, and related determinations.

DATED: April 14, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice: Notice is hereby given that, in a letter dated April 14, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288, as amended by Public Law 100-707), as follows:

I have determined that the damage in certain areas of the State of Washington, resulting from flooding and mudslides caused by subsurface freezing and heavy rainfall on March 8-17, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707. I, therefore, declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288, as amended by Pub. L. 100-107, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Joan F. Hodgins of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Washington to have been affected adversely by this declared major disaster: The counties of Douglas, Okanogan, Stevens, and Whitman for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 89-9498 Filed 4-19-89; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreeement No.: 224-200238.

Title: Port of Beaumont Lease Agreement.

Parties:

Port of Beaumont Navigation District of Jefferson County Texas (Beaumont)

Continental Grain Company (Continental)

Synopsis: The Agreement provides for the lease of the Beaumont's grain dock to Continental. The term of the Agreement expires January 9, 1995.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: April 14, 1989.

[FR Doc. 89-9466 Filed 4-19-89; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 89-7]

Inquiry Into Laws, Regulations and Policies of the Government of Ecuador Affecting Shipping in the United States/Ecuador Trade; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Special Studies has determined that Docket No. 89-7 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, U.S.C. section 4321 et seq., and that preparation of an environmental impact statement is not required.

In Docket No. 89-7, the Commission, in response to information received from the overseas Enterprises, Inc., a U.S.-owned carrier, and the Department of State, regarding the effect of laws, regulations and policies of the government of Ecuador on shipping conditions in the United States/Ecuador trade, is issuing a Notice of Inquiry to provide interested parties an opportunity to submit comments on shipping conditions in that trade. These comments will assist the Commission in determining whether issuance of a countervailing rule pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, is warranted.

This Finding of No Significant Impact ("FONSI") will become final within 10 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 504.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, DC 20573-0001, telephone (202) 523-5725.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89-9467 Filed 4-19-89; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 918]

Public Health Conference Support Grant Program; Availability of Funds for Fiscal Year 1989

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces grant applications are to be accepted for a Public Health Conference Support Grant Program.

Authority

This program is authorized under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended.

Eligibile Applicants

Eligible applicants are States, and political subdivisions thereof, which may include State universities, State colleges, State research institutions, State hospitals and State and local health departments.

Availability of Funds

Approximately $75,000 will be available in Fiscal Year 1989 to fund approximately ten awards. It is exepcted that the average award will be $7,500 ranging from $5,000 to $10,000. It is expected that the awards will begin on or about September 1, 1989, and will be funded for a 12-month budget and project period. Funding estimates may vary and are subject to change.

Purpose

The ATSDR supports local, State, academic, national and international health efforts to prevent or reduce illness, disability and premature death due to exposure to toxic substances. This support often takes the form of education, and the transfer of high quality research findings and public health methods through symposia, seminars, and workshops. Systematic approaches are needed for linking applicable resources in public health with individuals and organizations involved in the practice of applying such research. The ATSDR believes that conferences and similar meetings that permit individuals engaged in public health research, education, and application (related to actual and/or potential human exposure to toxic substances) to interact are critical for the development and implementation of effective programs to prevent adverse health effects from hazardous substances.

This program will provide partial suport for non-Federal conferences on disease prevention, health promotion and information/education projects. Applications are being solicited for conferences on: (1) Health effects of toxic substances; (2) disease and exposure registries; (3) hazardous substance removal and remediation; (4) emergency response to toxic and environmental disasters; (5) risk communication; (6) disease surveillance; and (7) investigation and research.

Evaluation Criteria

Applications for support of the types of conferences above in the *Purpose* Section of this announcement will be evaluated and ranked for funding. The major factors to be considered in the evaluation of responsive applications will include:

1. *Proposed Program* (50%).
2. *Program Personnel* (30%).
3. *Applicant Capability* (20%).
4. *Program Budget—(NOT SCORED)* Comments only.

E.O. 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs (45 CFR 100).

CFDA Number

The Catalog of Federal Domestic Assistance number is 13.161.

Application Submission and Deadline

The original and two copies of the application shall be submitted on Form PHS-5161-1 in accordance with the following schedule. The schedule also sets forth the *anticipated* award date:

Deadline Date	*Application Award Date*
June 1	September 1

Applications must be submitted on or before the deadline date to: Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier on U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the *Deadline* criteria outlined above are considered late applications and will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures and an application package may be obtained from Donna M. Rushin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30304, (404) 842-6575 or FTS 236-6575.

Please refer to Announcement Number 918 when requesting information and submitting any application on the Request for Assistance.

Technical assistance may be obtained from Peter Sherman, Agency for Toxic

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Substances and Disease Registry, 1600 Clifton Road, NE., Mail Stop F38, Atlanta, Georgia 30333, (404) 488–4630 or FTS 236–4630.

Dated: April 14, 1989.

Mary E. Guinan,

Acting Administrator for Agency for Toxic Substances and Disease Registry.

[FR Doc. 89–9464 Filed 4–19–89; 8:45 am]

BILLING CODE 4160–70–M

Centers for Disease Control

[Program Announcement 925]

HIV–Related Tuberculosis Prevention

Introduction

The Centers for Disease Control (CDC) announces the availability of Fiscal Year 1989 funds for Cooperative Agreements for Human Immunodeficiency Virus (HIV)–related Tuberculosis (TB) Prevention Activities. This program is directed to support projects to demonstrate the effectiveness, safety, and acceptability of isoniazid (NIH) therapy in preventing clinical tuberculosis among intravenous drug users (IVDU) and other groups with a high prevalence of tuberculous infection who are also at high risk of having HIV infection and who are enrolled in methadone treatment programs or other long-term health care systems which are designed to provide long-term (at least 6 to 12 months) follow-up.

Authority

These cooperative agreements are authorized by the Public Health Service Act: section 301(a) (U.S.C. 241(a)), as amended; and section 317(a) (42 U.S.C. 247b(a)). Regulations governing programs for preventive health services are codified at 42 CFR Part 51b. Subpart A contains general provisions relating to these programs.

Eligible Applicants

Eligible applicants for this program are the official public health agencies of State and local governments currently receiving cooperative agreement funds for TB Control and/or TB/HIV Activities. Current TB Control cooperative agreement recipients are located in areas accounting for 97% of the TB cases reported in the United States during 1987 and 98% of the AIDS cases reported through December 5, 1988. Since limited funds are available, those areas which have significant levels of morbidity and infection with both conditions will be given priority.

Availability of Funds

Approximately $3,300,000 is available in Fiscal Year 1989 to fund approximately 30 projects. Awards are expected to range from $30,000 to $150,000 with an average award of $100,000. It is expected that the awards will begin on August 1, 1989, for a 12-month budget period within a project period of up to 4 years. These awards will be consolidated into the TB Control and TB and HIV Activities awards. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Cooperative agreement funds may be used to support personnel and to purchase equipment, supplies, and services directly related to project activities. Under section 317 of the PHS Act, direct assistance ("in lieu of cash") may be requested. Funds may not be used to supplant State or local funds or for inpatient care.

Purpose

The propose of this program is to demonstrate acceptability, safety, and programmatic effectiveness of INH therapy in preventing clinical TB among IVDU and other groups with a high prevalence of tuberculous infection who are also at high risk of HIV infection.

This program will address the problem of increasing HIV-related TB by ensuring that funded drug treatment programs or other health care programs employ interventions leading to achievement of the following national objectives:

A. At least 95% of all new clients and other already enrolled will receive a Mantoux tuberculin skin test using 5 tuberculin units of purified protein derivative (PPD) with results recorded in millimeters (mm) of induration, unless this test has been previously performed and documented. All enrollees will be tested initially, and subsequent enrollees will be tested within 2 weeks of enrolling in the program;

B. At least 95% of all clients with a 5mm or larger tuberculin skin test will be clinically evaluated for TB within 2 weeks of the skin test reading;

C. Regardless of age, at least 90% of all HIV-positive clients with a 5mm or larger induration and 90% of all HIV-negative (or HIV status unknown) IVDU clients with 10mm or more induration will be placed on INH preventive therapy if there is no evidence of clinical TB or medical contraindications; and

D. At least 80% of all clients started on treatment and who continue in the program will complete the recommended 6 months of directly observed INH preventive therapy if the HIV serostatus in negative or unknown and 12 months if the HIV is seropositive.

Program Requirements

A. *Recipient Activities*

1. Arrange for on site Mantoux tuberculin skin testing and recoding of results in millimeters of induration for (a) IVDU enrolled in drug treatment programs and/or (b) other individuals who are at high risk of having both tuberculous and HIV infection and who are enrolled in health care programs which are designed to provide long-term (at least 6 to 12 months) follow-up.

2. Provide pre-test counseling about the skin test and the need for follow-up and preventive therapy if the skin test is positive.

3. Routinely offer culturally sensitive and language specific pre- and post-test counseling and voluntary HIV antibody testing to all adults with tuberculosis. Persons with positive tuberculn skin test reactions should be routinely assessed for HIV risk factors and if persent should be offered counseling and HIV antibody testing.

4. In collaboration with the HIV/AIDS prevention programs, establish standards and implement procedures for confidential notification of sex and needle-sharing partners of persons with AIDS and HIV infection. These should emphasize the role of the seropositive person in informing partners; train seropositive persons in techniques of notifying partners; and, where appropriate, offer health departments assistance in confidentially notifying partners.

5. Ensure that clients with a 5mm or larger tuberculin skin test reaction are evaluated for clinical TB and, if present, treated according to current guidelines. Persons with symptoms suggestive of TB will be referred for evaluation regardless of the skin test reaction.

6. Ensure that clients with a positive skin test and no clinical evidence of TB or medical contraindications are started on INH preventive therapy and ensure that 6 to 12 months of uninterrupted daily or biweekly preventive therapy are provided. This will include all HIV-seropositive persons with a 5mm or larger skin test reaction and all HIV-seronegative (or HIV status unknown) with a 10mm or larger induration. An aggressive "case management" approach must be employed to ensure therapy compliance. While on preventive therapy, clients will be monitored at least monthly for compliance and signs and symptoms of possible adverse drug reactions.

7. Provide follow-up for clients who fail to comply with their preventive therapy regimens.

8. Develop a collaborative plan between the State/local health department and the drug treatment or other health programs which will be providing these services. The roles of the two agencies should be specifically defined and letters of support from the other participating health program(s) should be included. The plan should also specify how the confidentiality of patient records will be ensured and should include documentation which permits the use of and reporting of the HIV antibody test results for the purposes described in the application.

9. Determine by HIV status the number of TB cases identified during initial screening procedures, the number occurring during preventive therapy, and the number occurring during the 2-year period following preventive therapy.

B. *Centers for Disease Control Activities*

1. Assist in the development of appropriate counseling messages and in the training of staff.

2. Assist in implementing public health and medical policies and recommendations related to the diagnosis, treatment, and prevention of HIV-related TB.

3. Assist in developing data collection instruments and in the analysis and interpretation of data to evaluate HIV-related TB prevention activities.

Review and Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

A. The degree of need for support to prevent HIV-related tuberculosis;

B. The extent of HIV-related TB problems;

C. The degree to which long- and short-term objectives are consistent with the national goal and objectives and are realistic, specific, measurable, and consistent with availability of funds.

D. The overall potential effectiveness of the applicant's proposed activities and methods for meeting the stated objectives and ensuring confidentiality.

E. The adequacy of plans to evaluate progress in implementing methods and in achieving objectives related to TB/HIV activities.

In addition, consideration will be given to the completeness of required fiscal information and the extent to which the budget request is clearly justified and consistent with the intended use of cooperative agreement funds.

E.O. 12372 Review

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Other Requirements

Recipients must comply with the document titled: *Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions* (October 1988). (54 FR 10049, March 9, 1989)

All recipients must have procedures in place to ensure the confidentiality of patient records.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Numbers are 13.116, Project Grants and Cooperative Agreements for Tuberculosis Control Programs, and 13.118, Acquired Immunodeficiency Syndrome (AIDS) Activity.

Application Submission and Deadline

The original and one copy of the application (PHS 5161–1) must be submitted to Nancy Bridger, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305, on or before April 28, 1989.

A. *Deadline.* Applications shall be considered as meeting the deadline if they are either:

1. Received at the above address on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

B. *Late Applications.* Applications which do not meet the criteria in A. 1. or 2. are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

C. *Copies of Applications.* A copy of the application should be simultaneously submitted to the appropriate Department of Health and Human Services Regional Office. For applicants who are other than State agencies, the appropriate State health agency should be notified of the submission of the application.

Where to Obtain Additional Information

Information on application procedures may be obtained from Marsha Driggans or Anne Foglesong, Grants Management Specialists, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, (404) 842–6640, or FTS 236–6640. Please refer to Announcement Number 925 when requesting information and submitting any application under this announcement.

Technical assistance may be obtained from Harry A. Stern or Christopher H. Hayden, Division of Tuberculosis Control, Center for Prevention Services, Centers for Disease Control, Atlanta, GA 30333, (404) 639–2519 or FTS 236–2519 and (404) 639–2524 or FTS 236–2524, respectively.

Technical assistance is also available from the appropriate Department of Health and Human Services Regional Office.

Dated: April 14, 1989.

Signed by:

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 89–9465 Filed 4–19–89; 8:45 am]

BILLING CODE 4160–18–M

Immunization Practices Advisory Committee; Meeting

Action: Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee

Time and Date: May 10, 1989, 8:30 a.m.–5 p.m.; May 11, 1989, 8:30 a.m.–1 p.m.

Place: Conference Room 207, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333

Status: Open

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Matters to Be Discussed: The Committee will discuss draft recommendations for ACIP statements on viral hepatitis and mumps; research priorities of vaccine preventable diseases; vaccine information pamphlets; measles; and will consider other matters of relevance among the Committee's objectives. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Cheryl Counts, Staff Assistant, Centers for Disease Control (1–B46), 1600 Clifton Road, NE., Mailstop A20, Atlanta,

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Georgia 30333, Telephones: FTS: 236-3851. Commercial: (404) 639-3851

Dated: April 14, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89-9463 Filed 4-19-89; 8:45 am]

BILLING CODE 4160-19-M

National Institute for Occupational Safety and Health; Assessment of Exposures of Health Care Personnel to Aerosols of Ribavirin; Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC):

Name: Meeting on the Assessment of Exposures of Health-Care Personnel to Aerosols of Ribavirin.

Date: June 30, 1989.

Place: Centers for Disease Control, Auditorium A, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Time: 8:30 a.m.–5:00 p.m.

Status: Open to the public, limited only by space available.

Purpose: NIOSH will conduct a meeting to discuss exposures of health-care personnel to aerosolized ribavirin. Topics for consideration will include a review of existing environmental data, pharmacokinetics, potential risk of adverse reproductive effects, engineering controls, and personal protective devices, as they apply to worker exposures incurred in the course of caring for patients receiving treatment with this drug.

Additional information may be obtained from: Mr. Robert A. Rinsky, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, Mail Stop R-9, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: Commercial: (513) 841-4382, FTS: 684-4382.

Dated: April 13, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89-9462 Filed 4-19-89; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Advisory Committee: Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Dermatologic Drugs Advisory Committee

Date, time, and place. May 8, 1989, 8:30 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 12:30 p.m.; closed committee deliberations, 1:30 p.m. to 5 p.m.; Isaac F. Roubein, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee: The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of dermatologic disorders.

Agenda-Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee, should communicate with the committee contact person.

Open committee discussion. The committee will discuss the current status of isotretinoin, Accutane®, Hoffman-LaRoche, Inc.

Closed committee deliberations. The committee will discuss trade secret and/or confidential commercial information relevant to pending investigational new drug number 29-951 and new drug application number 19-795. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guidelines (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address

above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Commtitee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10 (a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: April 14, 1989.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89-9415 Filed 4-19-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district health fraud program.

Dallas District Office, chaired by Gerald E. Vince, District Director. The topic to be discussed is health fraud.

DATE: Tuesday, May 9, 1989, 8 a.m. to 4:45 p.m.

ADDRESS: Texas Department of Health, Auditorium, 1100 West 49th St., Austin, TX 78756.

FOR FURTHER INFORMATION CONTACT:

Juan A. Tijerina, Consumer Affairs Officer, Food and Drug Administration, 727 East Durango, Rm. B-406, San Antonio, TX 78206-1200, 512-229-6737.

or

Sheryl L. Baylor, Consumer Affairs Officer, Food and Drug Administration, 1445 North Loop West, #420, Houston, TX 77008, 713-220-23222.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to educate and inform the public on matters pertaining to consumer fraud and quackery, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's consumer education programs.

Dated: April 14, 1989.

Alan L. Hoeting,

Acting Associote Commissioner for Regulatory Affairs.

[FR Doc. 89-9412 Filed 4-19-89; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Department of Health and Human Services (HHS) previously published a list of information collection packages it submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (Pub. L. 96-511). The Health Care Financing Administration (HCFA), a component of HHS, now publishes its own notices as the information collection requirements are submitted to OMB. The HCFA has submitted the following requirements to OMB since the last HCFA list was published.

1. *Type of Request:* Reinstatement; *Title of Information Collection:* Request for Reconsideration of Part A Health Insurance Benefits; *Form Number:* HCFA-2849; *Frequency:* On occasion; *Respondents:* Individuals or households and State/local governments; *Estimated Number of Responses:* 62,000; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 15,500.

2. *Type of Request:* Reinstatement; *Title of Information Collection:* Installment Agreement on Beneficiary Refund of Overpayment; *Form Number:* HCFA-9005; *Frequency:* On occasion; *Respondents:* Individuals or households; *Estimated Number of Responses:* 3,240; *Average Hours per Response:* .16; *Total Estimated Burden Hours:* 518.

3. *Type of Request:* Extension; *Title of Information Collection:* HMO/CMP Disenrollment Survey Form; *Form Number:* HCFA-602; *Frequency:* On occasion; *Respondents:* Individuals or households; *Estimated Number of Responses:* 13,931; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 3,483.

4. *Type of Request:* Revision; *Title of Information Collection:* Request for Certification for Physical Therapist in Independent Practice; *Form Number:* HCFA-262; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 400; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 100.

5. *Type of Request:* Revision; *Title of Information Collection:* Information Collection Requirements for Income and Eligibility Verification System; *Form Number:* HCFA-R-74; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of*

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Responses: 54; *Average Hours per Response:* 80 (Reporting) and 1,764 (Recordkeeping); *Total Estimated Burden Hours:* 4,320 (Reporting) and 95,257 (Recordkeeping) = 99,577 total hours.

6. *Type of Request:* Extension; *Title of Information Collection:* Disclosure of Ownership and Control interest Statement; *Form Number:* HCFA–1513; *Frequency:* Annually; *Respondents:* Small businesses or organizations; *Estimated Number of Responses:* 30,000; *Average Hours per Response:* .5; *Total Estimated Burden Hours:* 15,000.

7. *Type of Request:* Extension; *Title of Information Collection:* State Agency Sheets for Verifying Exclusions from the Prospective Payment System; *Form Number:* HCFA–437; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 1,744; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 436.

8. *Type of Request:* Extension; *Title of Information Collection:* Information Collection Requirements for Hospice Care Service: Nursing; *Form Number:* HCFA–R–66; *Frequency:* On occasion; *Respondents:* Small businesses or organizations; *Estimated Number of Responses:* 1; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 1.

9. *Type of Request:* Revision; *Title of Information Collection:* Conditions of Participation for Long Term Care Facilities for Medicare/Medicaid; *Form Numbers:* HCFA–R–45 and 46; *Frequency:* Recordkeeping; *Respondents:* State/local governments, businesses or other for profit, and small businesses/organizations; *Estimated Number of Responses:* 15,000; *Average Hours per Response:* 77.83; *Total Estimated Burden Hours:* 1,167,500.

10. *Type of Request:* Extension; *Title of Information Collection:* Home Health Agency Request for Certification in the Medicare/Medicaid Program and Survey Report Form;; *Form Numbers:* HCFA–1515 and 1572; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 3,180; *Average Hours per Response:* 1.75; *Total Estimated Burden Hours:* 5,565.

11. *Type of Request:* Revision; *Title of Information Collection:* Physical Therapist in Independent Practice Survey Report Form; *Form Number:* HCFA–3042; *Frequency:* On occasion and annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 300; *Average Hours per Response:* 2; *Total Estimated Burden Hours:* 600.

12. *Type of Request:* Extension; *Title of Information Collection:* Rural Health Clinic Request for Certification and Survey Report Form; *Form Numbers:* HCFA–29 and 30; *Frequency:* Annually; *Respondents:* State/local governments and small businesses or organizations; *Estimated Number of Responses:* 148; *Average Hours per Response:* 1.75; *Total Estimated Burden Hours:* 259.

Additional Information or Comments: Call the Reports Clearance Officer on 301–966–2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address:

OMB Reports Management Branch, Attention: Allison Herron, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: April 5, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 89–9516 Filed 4–19–89; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–89–1974; FR–2651]

Termination of Public Housing Tenancy for Drug-Related Criminal Activity

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: As a part of the priority for drug-free public housing that has been announced by the Secretary of Housing and Urban Development, this Notice is intended to ensure the widest possible awareness of new laws that Congress has enacted to help eradicate illegal drug activity from public housing. Public Housing Agencies (PHAs) and Resident Management Corporations (RMCs) are urged to make all public housing residents aware of these new laws and enlist their fullest participation in the overall effort to free their home environments from the scourge of illegal drugs.

FOR FURTHER INFORMATION CONTACT: Nancy Chisholm, Director, Policy Staff, Office of Public and Indian Housing (PIH), Department of Housing and Urban Development, Room 4118, 451 Seventh Street, SW., Washington, DC 20410. Telephone number (202) 755–6713. Hearing- or speech-impaired persons may call HUD's TDD number, (202) 245–0850. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Lease Provision for Termination of Tenancy (Eviction).

Section 5101 of the Anti-Drug Abuse Act of 1988 amended section 6(1) of the United States Housing Act of 1937 to include the following language:

(1) Each public housing agency shall utilize leases which—

* * * * *

(5) provide that a public housing tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the tenant is a tenant in public housing, and such criminal activity shall be cause for termination of tenancy.

For purposes of paragraph (5), the term 'drug-related criminal activity' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

Every PHA's or RMC's lease form should include the provisions required by this law. See 24 CFR Part 966, Subpart A, for the regulatory requirements for lease changes. (Although this statutory amendment does not apply to Indian Housing Authorities, they are free to adopt comparable lease provisions.)

Note that the new statutory prescription addresses criminal activity only. Pursuant to existing regulations, public housing leases also include, among the causes for lease termination, disruptive conduct that impairs the rights of other residents to the peaceful use and enjoyment of their homes. The 1988 law does not restrict the proper enforcement of those existing lease provisions, including eviction according to applicable law.

The decision whether to initiate proceedings to terminate tenancy in a particular case remains a matter for good judgment by the PHA or the RMC, based on the factual situation. The statutory policy does not restrict the PHA's or RMC's exercise of wise and humane judgment, weighing the interests of all concerned. On the other hand, the statute makes it clear that PHAs and RMCs have full authority to initiate eviction for violation of the prohibition on criminal activity when they consider such action to be justified.

II. Lease Forfeiture.

The Anti-Drug Abuse Act of 1988 also includes (as section 5105) a clarifying amendment expressly stating that

leasehold interests are among the types of property interests that are subject to the forfeiture provisions of the Controlled Substances Act (21 U.S.C. 881(a)(7)). PHAs and RMCs may wish to consult with the appropriate United States Attorney's Office regarding the latter's use of this lease forfeiture procedure as one of the means available under Federal or State law to eliminate the threat of illegal drugs from public housing.

Dated: April 13, 1989.

Thomas Sherman,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 89–9480 Filed 4–19–89; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–967–4230–15 AA–6985–D]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Klukwan, Inc., for approximately 1,393.146 acres. The lands involved are in the vicinity of Long and Dall Islands, Alaska.

Copper River Meridian, Alaska

T. 80 S., R. 83 E.
T. 81 S., R. 84 E.
T. 81 S., R. 85 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Ketchikan Daily News.* Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal Government or regional corporation, shall have until May 22, 1989 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia A. Baker,

Acting Chief, Branch of KCS Adjudication.

[FR Doc. 89–9461 Filed 4–19–89; 8:45 am]

BILLING CODE 4310–JA–M

[ID–943–09–4214–12; I–2448]

Termination of Classification for Multiple Use Management; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification termination.

SUMMARY: This action terminates a classification order which originally segregated approximately 302,945 acres of public land from disposal under various land laws. The lands are located in the Idaho Falls District and within the Big Butte and Medicine Lodge Resource Areas. The classification was partially terminated in May of 1961. The remaining classification is no longer needed because the Resource Management Plans prepared for the areas provide the necessary protection of the resources this classification sought to protect. In addition, many of the disposal laws for which the lands were segregated have since been repealed by the Federal Land Policy and Management Act of 1976. This section will open 301,380 acres of public lands specified to the agricultural land laws. These lands, with the exception of 80 acres closed to the mining laws, have been and continue to be open to the mining and mineral leasing laws and to all other public land laws. This action will also open an additional 80 acres to the mining laws.

EFFECTIVE DATE: April 20, 1989.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208–334–1597.

1. Pursuant to authority delegated to me by BLM Manual, section 1203—Delegation of Authority (48 FR 85), I hereby terminate the Bureau of Land Management Multiple-Use Classification Order dated July 2, 1969, and published in the **Federal Register** July 10, 1969, Vol. 34, No. 131, Pages 11429–11430, insofar as it affected the lands described below:

Boise Meridian

T. 9 N., R. 29 E.
Secs. 1 to 3, inclusive;
Sec. 10, N½;
Sec. 11, N½;
Secs. 12, 13, 24, 25 and 36.
T. 10 N., R. 29 E.
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 27, inclusive.
T. 8 N., R. 30 E.
Secs. 1 to 23, inclusive;
Secs. 26 to 28, inclusive;
Sec. 29, E½;
Sec. 32, NE¼;
Secs. 33 to 35, inclusive.
T. 9 N., R. 30 E.
Secs. 2 to 11, inclusive;
Secs. 13 to 36, inclusive.
T. 10 N., R. 30 E.
Secs. 5 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 to 33, inclusive.
T. 8 N., R. 31 E.
Secs. 1 to 18, inclusive.
T. 9 N., R. 31 E.
Secs. 22 and 23.
T. 9 N., R. 36 E.
Sec. 2, W½;
Sec. 3, all;
Sec. 4, E½;
Secs. 6, 7, and 10;
Sec. 11, W½;
Sec. 14, W½;
Secs. 15, 18, 19, and 22;
Sec. 23, W½;
Sec. 27, W½;
Sec. 28, all;
Secs. 30 to 32, inclusive;
Sec. 33, N½;
Sec. 34, NW¼.
T. 10 N., R. 36 E.
Sec. 10, E½, E½W½;
Secs. 13 and 14;
Sec. 15, E½;
Sec. 22, E½;
Secs. 23 to 26, inclusive;
Sec. 27, E½.
T. 11 N., R. 36 E.
Secs. 5 and 6.
T. 12 N., R. 36 E.
Secs. 19 to 23, inclusive;
Secs. 28 to 35, inclusive.
T. 9 N., R. 37 E.
Sec. 1, S½S½;
Sec. 2, S½S½;
Sec. 3, S½S½;
Secs. 10 to 36, inclusive.
T. 10 N., R. 37 E.
Sec. 1, NW¼NE¼, N½NW¼;
Sec. 2, N¾, SW¼;
Secs. 3 to 5, inclusive;
Secs. 8 to 10, inclusive;
Sec. 11, W½;
Sec. 14, W½;
Secs. 15 to 21, inclusive;
Secs. 28 to 32, inclusive.
T. 10 N., R. 38 E.
Secs. 11 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 11 N., R. 38 E.
Secs. 3 and 4;
Sec. 9, N½;
Sec. 10, N½.
T. 12 N., R. 38 E.
Sec. 2, S½;
Sec. 8, S½;
Secs. 9 to 11, inclusive;
Sec. 14, N½;
Sec. 15, N½;
Secs. 16 and 17;
Sec. 20, N½;
Sec. 21, N½;

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Sec. 26, SW¼SW¼;
Sec. 27, S¼, S½N½;
Secs. 33 and 34.
T. 10 N., R. 39 E.
Sec. 8, E½E½;
Sec. 9;
Secs. 16 to 18, inclusive.
The areas described aggregate approximately 301,300 acres in Clark County.

2. The Multiple Use Classification cited in paragraph one, which segregated certain recreation and archeological sites from the mining and agricultural land laws, is hereby terminated insofar as it affects the sites described below:

Boise Meridian

Medicine Lodge Recreation Site No. 2
T. 11 N., R. 34 E.
Sec. 17, NW¼NW¼;
Sec. 18, NE¼NE¼.
The area described contains 80 acres in Clark County.

3. The following-described archeological sites remain segregated from the mining and agricultural land laws by virtue of the July 2, 1969, Classification Order:

Warm Springs Archeological Site
T. 11 N., R. 32 E.
Sec. 25, E½NE¼.

Spring Hollow Archeological Site
T. 12 N., R. 33 E.
Sec. 22, NE¼NW¼.
The areas described aggregate 120 acres in Clark County.

4. The segregative effect on the lands described in paragraphs one and two will terminate upon publication of this notice in the **Federal Register** as provided by the regulations in 43 CFR 2091.7–1(b)(3).

5. At 9:00 a.m. on May 19, 1989, the lands described in paragraphs one and two shall be open to the agricultural land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 9:00 a.m. on May 19, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands described in paragraphs one and two, with the exception of 80 acres closed to the mining laws, have been and continue to be open to the mining and mineral leasing laws and to all other public land laws.

6. At 9:00 a.m. on May 19, 1989, the lands described in paragraph two shall be open to location and entry under the United States mining laws. Appropriation of land described under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Delmar D. Vail,
State Director.
Dated: April 11, 1989.

[FR Doc. 89-9517 Filed 4-19-89; 8:45 am]
BILLING CODE 4310-GG-M

[ID-943-09-4214-12; I-2837]

Termination of Classification for Multiple Use Management; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification termination.

SUMMARY: This action terminates a classification order which originally segregated approximately 1,035,395 acres from disposal under various land laws in the Shoshone District and within the Bennett Hills and Monument Resource Areas. The classification was partially terminated in August of 1982. The remaining classification is no longer needed because the Resource Management Plans prepared for the areas provide the necessary protection of the resources this classification sought to protect. In addition, many of the disposal laws for which the lands were segregated have since been repealed by the Federal Land Policy and Management Act of 1976. This action will open approximately 235,766 acres of public lands specified to the agricultural land laws. These lands, with the exception of 1,337.68 acres closed to the mining laws, have been and continue to be open to the mining and mineral leasing laws and to all other public land laws. This action will also open an additional 1,337.68 acres to the mining laws.

EFFECTIVE DATE: April 20, 1989.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208–334–1597.

1. Pursuant to authority delegated to me by BLM Manual, section 1203—Delegation of Authority (48 FR 85), I hereby terminate the Bureau of Land Management Multiple-Use Classification Order dated November 20, 1970, and published in the **Federal Register** November 26, 1970, Vol. 35, No. 230, Pages 18131–18135, insofar as it affected the lands described below:

Boise Meridian

Blaine County
T. 1 S., R. 16 E.
Sec. 14, NW¼SW¼, NE¼SE¼ in Blaine County.
T. 1 S., R. 18 E.
Sec. 4, lots 1, 2.
T. 2 S., R. 21 E.
Secs. 20 to 29, inclusive.
T. 1 N., R. 22 E.
Sec. 15, W½NE¼, NE¼NW¼.

Comas County
T. 1 S., R. 16 E.
Sec. 14, NW¼SW¼, S½S½, NE¼SE¼;
Sec. 15, SE¼NW¼, NE¼SW¼, S½SW¼, SE¼.
T. 2 N., R. 16 E.
Sec. 30, N½SW¼SW¼.

Elmore County
T. 4 S., R. 11 E.
Sec. 17, East of Shoshore District boundary.

Gooding County
T. 5 S., R. 12 E.
Sec. 35, SE¼.
T. 7 S., R. 14 E.
Sec. 1, S½SE¼;
Sec. 3, SW¼, S½SE¼;
Sec. 10, E½, NE¼NW¼, S½NW¼; NE¼SW¼;
Secs. 11 and 12;
Sec. 13, N½, N½S½, S½SE¼;
Sec. 14, N½N½, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 15, NE¼NE¼;
Sec. 24, E½NE¼.
T. 5 S., 15 E.
Sec. 12, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 13, NE¼, E½NW¼, SW¼NW¼; S½;
Sec. 14, SE¼NE¼, SW¼NW¼, S½;
Sec. 15, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 21, SE¼SE¼;
Sec. 22, N½NE¼, SW¼NE¼, W½;
Sec. 23, E½E½, S½SW¼, SW¼SE¼;
Sec. 24;
Sec. 25, N½, N½S½;
Sec. 26, NE¼, N½NW¼, SE¼NW¼, NE¼ SW¼, N½SE¼;
Sec. 27, N½N½, SW¼NE¼, S½NW¼, NW¼SW¼, NW¼SE¼;
Sec. 28, E½NE¼, E½SE¼, SE¼;
Sec. 33, N½N½, SW¼NE¼, S½NW¼.
T. 6 S., R. 15 E.
Sec. 11, SE¼;
Sec. 12, SE¼SW¼;
Sec. 13;
Sec. 14, N½, SW¼;
Sec. 15, N½N½, S½NE¼, E½SE¼;
Sec. 19, SE¼SE¼;
Sec. 20, SE¼NE¼, S½;
Sec. 21, E½;
Sec. 22, lot 1, SE¼NE¼; S½;
Secs. 23 to 29, inclusive;
Secs. 30, E½E½;
Sec. 31, lot 4, E½, E½W½;
Secs. 32 to 36, inclusive.
T. 7 S., R. 15 E.

Secs. 1 to 18, inclusive;
Sec. 19, lots 1, 2, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 20, N½, W½SW¼, NW¼SE¼;
Sec. 21, N½N½;
Sec. 22, N½, N½S½, S½SE¼;
Sec. 23;
Sec. 24, N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 26, N½, SW¼, W½SE¼;
Sec. 27, NE¼, N½SE¼, SE¼SE¼.
T. 5 S., R. 16 E.
Sec. 7, lots 3, 4, E½SW¼, W½SE¼;
Sec. 18, 19;
Sec. 30, lots 1, 2, 3, NE¼, E½NW¼, NE¼ SW¼, SE¼.
T. 6 S., R. 16 E.
Sec. 6, SE¼SW¼, NE¼SW¼, S½SE¼;
Sec. 7, E½, E½W½;
Secs. 18, 19;
Secs. 30, 31.
T. S., R. 16 E.
Secs. 6, 7;
Sec. 18;
Sec. 19, lots 1, 2, N½NE¼, SW¼NE¼, E½NW¼;

Jerome County
T. 7S., R. 16 E.
Secs. 1 to 5, inclusive;
Secs. 8 to 10, inclusive;
Sec. 11, N½, SW¼, W½SE¼;
Sec. 12, N½N¼, S½NE¼;
Sec. 14, NW¼, NW¼SW¼;
Sec. 17;
Sec. 20, E¼, SE¼NW¼, NE¼SW¼, S½SW¼.
T. 7 S., R. 17 E.
Secs. 1, 2;
Sec. 3, lots 1, 2, SE¼;
Sec. 8, lots 2 to 5, inclusive, W½SE¼;
Sec. 7, lot 1, NW¼NE¼;
Sec. 10, NE¼, NE¼NW¼, NE¼SW¼;
Sec. 11, N½N½, SW¼NE¼, S½NW¼, NW¼SW¼;
Sec. 12, E½, N½NW¼, SE¼NW¼;
Sec. 13, NE¼.
T. 7S., R. 18 E.
Secs. 5 to 8, inclusive;
Secs. 16, 17;
Sec. 18, NE¼NE¼;
Sec. 19, E½SE¼;
Sec. 20, N½NE¼, NE¼NW¼, S½N½, S½;
Secs. 21 to 29, inclusive;
Sec. 30, NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 31, NE¼, E½NW¼;
Sec. 32, NE¼, N½NW¼, SW¼NW¼;
Sec. 33, N½, N½SW¼;
Secs. 34 to 36, inclusive.
T. 8 S., R. 18 E.
Secs. 1 to 3, inclusive;
Sec. 4, lots 1, 2, S½N½, W½W½SW¼;
Secs. 10 to 15, inclusive;
Sec. 21., SE¼NE¼, NE¼SE¼, S½SE¼;
Secs. 22 to 24, inclusive;
Sec. 25, NW¼, NW¼SW¼;
Sec. 26, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, NW¼SE¼;
Sec. 27, NE¼NE¼.
T. 9S., R. 18 E.
Sec. 25, SE¼NE¼NW¼, NE¼SE¼NW¼;
Sec. 28, S½SW¼, SE¼;
Sec. 29, S½SE¼;
Sec. 32, lot 5, N½N½;
Sec. 33, lot 1, N½, N½S½, SE¼SW¼, S½SE¼.
T. 10 S., R. 18 E.
Sec. 3, lots 4, 5;
Sec. 4, lots 1, 2;
T. 7 S., R. 19 E.
Secs. 19 to 36, inclusive.
T. 8 S., R. 19 E.
Secs. 1 to 24, inclusive;
Sec. 25, W½;
Sec. 28, NW¼;
Sec. 28, W½W½NE¼NE¼; NW¼NE¼, N½N½SW¼NE¼,NW¼NW¼S E¼NE¼,N½NW¼,N½S½NW¼, N½S½S½NW¼;
Secs. 29, 30;
Sec. 31, Lot 1, NE¼, NE¼NW¼.
T. 7 S., R. 20 E.
Secs. 19 to 36, inclusive.
T. 8 S., R. 20 E.
Secs. 1 to 18, inclusive;
Sec. 19, lots 1 to 8, inclusive, E½, E½NW¼;
Secs. 20 to 28, inclusive;
Sec. 29, E½, E½SW¼;
Sec. 32, E½, E½W½ north of canal;
Secs. 33 to 36, inclusive.
T. 9 S., R. 20 E.
Sec. 1, lots 1 to 4, inclusive, S½NE¼, S½NW¼, SW¼;
Secs. 2 and 3;
Sec. 4, lots 1 to 4, inclusive, S½N½;
Sec. 5, lots 5, 6, 9, 10, SE¼NE¼;
Sec. 10, N½NE¼;
Sec. 11, N½;
Sec. 12, W½.
T. 8 S., R. 21 E.
Secs. 1 jto 3, inclusive;
Sec. 4, lots 1 to 4, inclusive, SE¼NE¼, SE¼;
Secs. 5 to 7, inclusive;
Sec. 8, W½E¼, W½;
Sec. 9, N½NE¼;
Sec. 10, NW¼;
Sec. 11, S½SE¼;
Sec. 12, E½, E½NW¼, SW¼;
Sec. 13, all;
Sec. 14, N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 15, SE¼NE¼;
Secs. 17 to 20, inclusive;
Sec. 21, NW½, S½;
Sec. 22, S½NE¼, SE¼NW¼;
Sec. 23, NE¼, E½NW¼, SW¼NW¼;
Sec. 24, N½N½;
Sec. 27, W½NW¼, SW¼;
Sec. 28, W½, SW¼SE¼;
Secs. 29 to 31, inclusive;
Sec. 32, N½, NW¼, W½SE¼;
Sec. 33, NW¼NE¼, N½NW¼;
Sec. 34, W½NW¼.

Lincoln County
T. 5 S., R.16 E.,
Sec. 13, all;
Sec. 14, NE¼NE¼, S½NE¼, S½;
Sec. 15, S½;
Sec. 17, all;
Secs. 20 to 29, inclusive;
Sec. 32, N½, E½SW¼, SE¼;
Secs. 33 to 36, inclusive.
T. 6 S., R. 16 E.,
Secs. 1 to 5, inclusive;
Secs. 8 to 17, inclusive;
Secs. 20 to 29, inclusive;
Secs. 32 to 35, inclusive.
T. 5 S., R. 17 E.,
Sec. 14, SW¼, W½SE¼;
Sec. 15, SW¼NW¼, NW¼SW¼, S½S½, N¼SE¼;
Sec. 16, south of Big Wood River;
Sec. 17, W½NW¼, SE¼NW¼, S½;
Secs. 23 to 26, inclusive;
Sec. 34, N½NE¼.
T. 6 S., R. 17 E.,
Sec. 2, SW¼SW¼;
Sec. 3, lots 3, 4, 7, S½NW¼, SW¼, W½ SE¼;
Secs. 4 to 29, inclusive;
Sec. 30, lots 1 to 3, inclusive, NE¼, E½ NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 32, E½NE¼, NE¼SE¼;
Secs. 33 to 36, inclusive.
T. 5 S., R. 18 E.,
Sec. 28, SW¼;
Sec. 33, S½SE¼, N½SE¼, SW¼SE¼.
T. 6 S., R. 18 E.,
Sec. 7, lots 3, 4, SE¼SW¼, SW¼SE¼;
Sec. 17, SW¼NW¼, S½;
Secs. 18, 19;
Sec. 20, SW¼NE¼, NW¼, N½SW¼, W½ SE¼;
Sec. 28, S½;
Sec. 29, SW¼, S½SE¼;
Secs. 30 to 33, inclusive;
Sec. 34, W½.
T. 7 S., R. 18 E.,
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive.
T. 6 S., R. 19 E.,
Sec. 13, S½;
Sec. 14, NE¼NE¼, S½N½, S½;
Sec. 15, SW¼NW¼, S½;
Sec. 21, NE¼, NE¼;
Sec. 22, NW¼NE¼;
Secs. 23 to 26, inclusive;
Sec. 34, SE¼NE¼, E½SE¼;
Secs. 35, 36.
T. 7 S., R. 19 E.,
Sec. 1, all;
Sec. 2, lots 1 to 3, inclusive, S½NE¼, SE¼ NW¼, SE¼;
Sec. 3, S½SW¼, SW¼SE¼;
Secs. 4 to 18, inclusive.
T. 6 S., R. 20 E.,
Sec. 16, S½;
Sec. 17 S½;
Sec. 18, lots 3, 4, E½SW¼, SE¼;
Secs. 19 to 24, inclusive;
Sec. 25, N½, W½SW¼;
Secs. 26 to 34, inclusive;
Sec. 35, N½, N½S½.
T. 7 S., R. 20 E.,
Sec. 1, lots 3, 4, SW¼NW¼, SW¼;
Secs. 2 to 16, inclusive.
T. 6 S., R. 21 E.,
Sec. 19, lots 1 to 12, inclusive, NE¼, N½ SE¼;
Sec. 20, W½NE¼, W½, SE¼;
Sec. 28, S½;
Sec. 29, E½, E½NW¼, NE¼SW¼;
Sec. 30, lots 2 to 4, inclusive;
Sec. 31, SE¼NE¼, E½SE¼;
Sec. 32, E½, E½W½, SW¼NW¼, W½ SW¼;
Sec. 33, all;
Sec. 34, W½SW¼.
T. 7 S., R. 21 E.,
Secs. 1 to 3, inclusive;
Sec. 4, lots 1, 2, S½NE¼, N½SE¼;
Sec. 7;
Sec. 8, S½SW¼;
Sec. 9, SE¼SW¼, S½SE¼;
Secs. 10 to 14, inclusive;
Sec. 17, NW¼, N½SW¼, SW¼SW¼;

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Secs. 18, 19;
Sec. 20, W½NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 22, SE¼SE¼;
Secs. 23 to 28, inclusive;
Sec. 27, E½E½;
Sec. 29 to 32, inclusive;
Sec. 33, S½;
Sec. 34, S½S½;
Sec. 35, E½, S½SW¼;
Sec. 36, all.
T. 6 S., R. 22 E.,
Sec. 29, N½SW¼, SW¼SW¼;
Sec. 30, lots 6 to 12, inclusive, S½NE¼, SE¼;
Sec. 31, all;
Sec. 32, lots 1 to 4, inclusive, S½NE¼, SE¼NW¼, N½S½;
Sec. 33, lots 1 to 4, inclusive, NW¼, N½S½.
T. 7 S., R. 22 E.,
Secs. 1 to 11, inclusive;
Sec. 12, N½, N½SW¼, NW¼SE¼;
Secs. 14 to 23, inclusive;
Secs. 26 to 35, inclusive.
T. 7 S., R. 23 E.,
Secs. 5, 6, south of UPRR;
Sec. 7, lost 1 to 3, inclusive, E½E½;
Sec. 8, NW¼NW¼;
Sec. 29, SW¼NW¼;
Sec. 30, E½NE¼.
T. 8 S., R. 22 E.,
Sec. 4, lots 3, 4, S½NW¼, SW¼;
Secs. 5 to 7, inclusive;
Sec. 8, NE¼, W½;
Sec. 17, W½;
Sec. 18, all;
Sec. 19, lots 1 to 4, inclusive, N½NE¼, E½NW¼, SE¼SE¼;
Sec. 20, W½.

The public lands in the areas described aggregate approximately 234,428 acres in Blaine, Camas, Elmore, Gooding, Jerome, Lincoln, and Minidoka Counties.

2. The Multiple Use Classification cited in paragraph one, which segregated certain recreation sites from the mining and agricultural land laws, is hereby terminated insofar as it affects the sites described below:

Boise Meridian

Devil's Corral Area (Includes three sites)

Vineyard Lake

Devil's Corral

Devil's Corral Springs

T. 9 S., R. 18 E.
Sec. 28, S½SW¼, SE¼;
Sec. 29, S½SE¼;
Sec. 32, lot 5, N½N½;
Sec. 33, lot 1, N½, N½S½, SE¼SW¼, S½SE¼.
T. 10 S., R. 18 E.
Sec. 3, lots 4 and 5;
Sec. 4, lots 1 and 2.

Wilson Butte Cave

T. 7 S., R. 19 E.
Sec. 27, NW¼NE¼SW¼.

Milner-Gooding Canal Stop

T. 8 S., R. 19 E.
Sec. 4, SE¼SE¼.

Notch Butte Lookout

T. 6 S., R. 17 E.
Sec. 22, SW¼NE¼SW¼.

The areas described aggregate 1,337.68 acres in Jerome and Lincoln Counties.

3. The segregative effect on the lands described in paragraphs one and two will terminate upon publication of this notice in the **Federal Register** as provided by the regulations in 43 CFR 2091.7–1(b)(3).

4. At 9:00 a.m. on May 12, 1989, the lands described in paragraphs one and two shall be open to the agricultural land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 9:00 a.m. on May 12, 1989, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands described in paragraphs one and two, with the exception of 1,337.68 acres closed to the mining laws, have been and continue to be open to the mining and mineral leasing laws and to all other public land laws.

5. At 9:00 a.m. on May 12, 1989, the lands described in paragraph two shall be open to location and entry under the United States mining laws. Appropriation of land described under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Delmar D. Vail,
State Director.

Dated: April 11, 1989.

[FR Doc. 89-9518 Filed 4-19-89; 8:45 am]
BILLING CODE 4310-GG-M

[ID-943-09-4214-12; I-3663]

Partial Termination of Classification for Multiple Use Management; Idaho.

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification termination.

SUMMARY: This action partially terminates a classification order which originally segregated 201,240 acres of public land from disposal under various land laws. The lands are located in the Idaho Falls District and within the Medicine Lodge Resource Area. The classification was partially terminated in May of 1981. The remaining classification is no longer needed because the Resource Management Plan prepared for the area provides the necessary protection of the resources this classification sought to protect. In addition, many of the disposal laws for which the lands were segregated have since been repealed by the Federal Land Policy and Management Act of 1976. This action will open 201,000 acres of public lands specified to the agricultural land laws. These lands have been and continue to be open to the mining and mineral leasing laws and to all other public land laws.

EFFECTIVE DATE: April 20, 1989.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208–344–1597.

1. Pursuant to authority delegated to me by BLM Manual, Section 1203—Delegation of Authority (48 FR 85), I hereby terminate the Bureau of Land Management Multiple-Use Classification Order dated November 13, 1970, and published in the **Federal Register** November 20, 1970, Vol. 35, No. 226, Pages 17862–17863, insofar as it affected the lands described below:

Boise Meridian

Jefferson County

T. 8 N., R. 32 E.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive.
T. 8 N., R. 33 E.,
Sec. 5, lots 3 and 4, S½NW¼, SW¼;
Sec. 6, all;
Sec. 7, lots 1 to 4, inclusive, N½NE¼, E½W½;
Sec. 18, lots 1 to 4, inclusive, E½W½.
T. 4 N., R. 34 E.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Sec. 28, SE¼SE¼;
Sec. 33, E½E½;
Secs. 34, 35 and 36.
T. 5 N., R. 34 E.,
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35 and 36.
T. 7 N., R. 34 E.,
Secs. 1 to 4, inclusive;
Secs. 9 to 14, inclusive;
Sec. 15, E½.
T. 8 N., R. 34 E.,
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 4 N., R. 35 E.,

Secs. 2 to 9, inclusive;
Sec. 10, N½;
Secs. 17, 18 and 19;
Sec. 20, W½NW¼;
Sec. 30, N½, SW¼;
Sec. 31, W½.
T. 5 N., R. 35 E.,
Sec. 1, lots 1, 2, 3, E½SW¼, SE¼;
Sec. 7, all;
Sec. 8, SW¼SW¼;
Sec. 11, S½N½, S½;
Sec. 12, NE¼, NE¼NW¼, S½NW¼, S½;
Secs. 13, 14 and 15;
Sec. 17, W½NW¼, S½;
Secs. 18 to 24, inclusive;
Sec. 25, N½;
Secs. 26 to 35, inclusive.
T. 6 N., R. 35E.,
Sec. 13, SE¼;
Secs. 24, 25 and 36.
T. 7 N., R. 35 E.,
Sec. 1, N½, W½SW¼;
Secs. 2 to 10, inclusive;
Sec. 11, W½E½, W½;
Sec. 13, W½W½;
Secs. 14 to 18, inclusive;
Sec. 19, N½NE¼, SE¼NE¼;
Sec. 20, N½;
Sec. 21, N½;
Sec. 22, N½;
Sec. 23, N½NW¼, SW¼NW¼.
T. 8 N., R. 35E.,
Secs. 1 to 36, inclusive;
T. 5 N., R. 36 E.,
Sec. 2, lots 5 and 6, S½NW¼, SW¼;
Secs. 3 to 10, inclusive;
Secs. 15 to 21, inclusive;
Sec. 27, SW¼NW, W½SW¼;
Secs. 28, 29 and 30.
T. 6 N., R. 36 E.,
Secs. 1 to 4, inclusive;
Sec. 8, E½;
Secs. 9 to 17, inclusive;
Sec. 18, NE¼, S½;
Secs. 19 to 36, inclusive;
T. 7 N., R. 36 E.,
Secs. 24 and 25;
Sec. 34, SE¼;
Sec. 35, S½;
Sec. 36, all.
T. 8 N., R. 36E.,
Secs. 1 to 9, inclusive;
Sec. 11, N½;
Sec. 12, N½, SE¼;
Sec. 13, NE¼;
Secs. 16 to 21, inclusive;
Sec. 26, N½;
Sec. 29, N½;
Sec. 30, all.
T. 4 N., R. 37 E.,
Sec. 12, S½SE¼;
Sec. 13, NE¼, S½;
Sec. 23, NE¼NE¼, S½NE¼, NW¼SE¼;
Sec. 24, NW¼NW¼.
T. 5 N., R. 37 E.,
Secs. 1 to 6, inclusive;
Secs. 9 to 12, inclusive;
Sec. 14, W½;
Sec. 15, all.
T. 6 N., R. 37 E.,
Secs. 1 to 36, inclusive;
T. 7 N., R. 37E.,
Sec. 1, E½;
Sec. 12, E½;
Sec. 13, all;
Secs. 19 to 36, inclusive;
T. 4 N., R. 38 E.,
Sec. 7, lot 4;
Sec. 18, lots 1 to 4, inclusive, SE¼NW¼, E½SW¼;
Sec. 19, W½NE¼, E½NW¼.
T. 5 N., R. 38 E.,
Secs. 4 to 9, inclusive;
T. 6 N., R. 38 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 7 N., R. 38 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive;

Madison County

T. 5 N., R. 38 E.,
Secs. 1, 2, 3, and 10.
T. 6 N., R. 38 E.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35 and 36.
T. 7 N., R. 38 E.,
Secs. 22 to 27, inclusive;
Secs. 34, 35 and 36.
T. 6 N., R. 39 E.,
Secs. 7, 18 and 19.
T. 7 N., R. 39 E.,
Sec. 19, N½.

The areas described aggregate approximately 201,000 acres of public lands in Jefferson and Madison Counties.

2. The segregative effect on the lands described in paragraph one will terminate upon publication of this notice in the **Federal Register** as provided by the regulations in 43 CFR 2091.7–1(b)(3).

3. At 9:00 a.m. on May 16, 1989, the lands described in paragraph one shall be open to the agricultural land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 9:00 a.m. on May 16, 1989, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands described in paragraph one have been and continue to be open to the mining and mineral leasing laws and to all other public land laws.

Delmar D. Vail,
State Director.

Dated: April 11, 1989.

[FR Doc. 89-9519 Filed 4-19-89; 8:45 am]
BILLING CODE 4310-GG-M

[WY-040-09-4300-90]

Rock Springs District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Rock Spring District Grazing Advisory Board.

SUMMARY: This notice sets forth the schedule and agenda of a meeting of the Rock Springs District Grazing Advisory Board.

DATES: May 17, 1989, 9 a.m. until 4 p.m. and May 18, 1989, 9 a.m. until 12 p.m.

ADDRESS: Lincoln County Public Library Community Room, 519 Emerald Street, Kemmerer, Wyoming 83101.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of land Management, P.O. Box 1869, Rock Springs, Wyoming 82902–1869, (307) 382–5350.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

May 17, 9 a.m.

1. Introduction and opening remarks
2. Review of minutes from last meeting
3. Election of a Chairman and Vice Chairman
4. Briefing Topics: Planning Status, Budget, Ongoing EIS Efforts
5. Ranger program
6. Oil & Gas program
7. Tour of Mau Exchange lands, northwest of Kemmerer

May 18, 8:30 a.m.

1. QUEST Progream update
2. Land exchange priorities
3. Mau tract management
4. Drought planning
5. Public Comment Period

The meeting is open to the public. Interested persons may make oral statements to the Board between 11 a.m. and 12 p.m., May 18, or file written statements for the Board's consideration. Anyone wishing to make an oral statement should notify the Distirct Manager at the above address by May 15, 1989.

Depending on the number of persons wishing to make oral statements, a time limit per person may be established by the District Manager.

Donald H. Sweep,
District Manager.

[FR Doc. 89-9420 Filed 4-19-89; 8:45 am]
BILLING CODE 4310-22-M

[ID-030-09-4212-13]

Realty Action (I-23235); Intent To Prepare a Planning Amendment to the Little Lost/Birch Creek Management Framework Plan; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a planning amendment to the Little Lost/

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Birch Creek Management Framework Plan.

SUMMARY: The following described public land in Clark County, Idaho will be examined for possible disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T. 9 N., R. 30E.,
Sec. 4, Lot 8, SE¼SW¼NW¼, W½SW¼SE¼, W½E½SW¼SE¼.
Sec. 5, Lots 6 and 7.
Sec. 9, Lot 2.
Total Selected Public Lands 122.73 acres.

If these lands are found to be suitable for disposal, the United States will acquire by exchange the following described private land of equal value from Mr. Mac Wagoner:

Tract 1, Boise Meridian, Idaho
Beginning at the Northwest Corner of Section 9, T. 9 N., R. 30 E., and running North along section line into Section 4 a distance of 365 feet more or less to a fence on the West right-of-way line of Highway 28; thence S 23 degrees 22' E, along said right-of-way line 400 feet more or less to the North line of said Section 9; thence continuing along said right-of-way line 1436 feet more or less to the South line of the NW¼NW¼ of said Section 9; thence West along said South line 725 feet more or less to the West line of Section 9; thence North along said section line 1322 feet more or less to the point of beginning.

Tract 2, Boise Meridian, Idaho
Beginning at the Southwest Corner of the Northeast Quarter of the Southwest Quarter of Section 9, T. 9 N., R. 30 E., and running thence North along West side of said ¼th line 1262 feet more or less to a fence on the West right-of-way line of Highway 28; thence S 23 degrees 22' E, along said right-of-way line 1373 feet more or less to the South line of the NE¼SW¼; thence West along said South line 543 feet more or less to the point of beginning.

Total Offered Private Lands 21.9 acres

For a period of 30 days from the date of publication of this Notice, interested parties may submit comments to LeRoy Cook, Big Butte Area Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401.

April 11, 1989.
Gary L. Bliss,
Acting District Manager.
[FR Doc. 89-9520 Filed 4-19-89; 8:45 am]
BILLING CODE 4310-GG-M

[CO-010-09-4212-13; COC-40622]

Exchange of Lands in Grand County, CO

AGENCY: Bureau of Land Management, Interior.
ACTION: Notice of realty action.

SUMMARY: Pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), the Bureau of Land Management, Kremmling Resource Area has identified the following described land in Grand County as suitable for disposal by exchange.

Selected Land: 6th Principal Meridian

T. 2N., R. 79W.,
Sec. 18: E½SE¼.
Containing 80 acres of public land, more or less.

In exchange for these lands, the United States will acquire the following described lands from the Ritschard Cattle Co.

Offered Land: 6th Principal Meridian

T. 2N., R. 79W.,
Sec. 30: E½SE¼, except that portion lying west of Grand County Road No. 2.
T. 3N., R. 80W.,
Sec. 34: NW¼SE¼.
Containing 100 acres of Non-Federal land, more or less.

FOR FURTHER INFORMATION AND PUBLIC COMMENT: Additional information concerning this exchange, including the planning documents and environmental assessment, is available for review in the Kremmling Resource Area Office at 1116 Park Avenue, Kremmling, Colorado 80459.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Craig District Office, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue his final determination. In the absence of objections, this realty action will become a final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to facilitate improved resource mangement and to dispose of scattered, difficult to manage public land parcels while consolidating ownership of other public lands.

The values of lands to be exchanged are approximately equal: full equalization of value will be achieved through acreage adjustment, or by cash payment in an amount not to exceed 25 percent of the value of the lands being transferred out of federal ownership.

The following reservations would be made in a patent issued for the public lands:

1. A reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. A reservation to the United States of all oil and gas mineral resources.

3. The reservation for the existing Grand County Road Right-of-Way: Road No. 2.

4. Continued grazing use for a period of two years consistent with grazing permit 1782 unless waived.

Publication of this notice in the Federal Register segregates the public lands from operation of the public land laws and the mining law, except for mineral leasing and exchanges under section 206 of FLPMA. The segregated effect will end upon issuance of patent or two years from the date of publication, whichever occurs first.

Date: April 10, 1989.
William J. Pulford,
District Manager.
[FR Doc. 89-9521 Filed 4-19-89; 8:45 am]
BILLING CODE 4310-JB-M

[Mr-020-09-4212-11; MTM-74887]

Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Montana

The following lands in Custer County, Montana, have been examined and found suitable for classification for lease or conveyance to the State of Montana under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The State of Montana proposes to use the lands for an administrative facility.

Principle Meridian, Montana

T. 7 N., R. 47 E.,
Sec. 5: Tract W.
T. 8 N., R. 47 E.,
Sec. 32: Tract W.
Containing 5 acres more or less

The lands are not needed for Federal purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest.

The lease/patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. An easement for access purposes and helicopter flight paths in accordance with the BLM transportation plan for the Miles City District.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Miles City District, West of Miles City, P.O. Box 940, Miles City, Montana 59301.

Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice, interested parties may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Miles City District Office, P.O. Box 940, Miles City, Montana 59301. Any adverse comment will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Date: April 13, 1989.
Allen C. Kutt,
Acting District Manager.
[FR Doc. 89-9522 Filed 4-19-89; 8:45 am]
BILLING CODE 4310-DN-M

[NV-930-09-4212-11; N-50827]

Realty Action; Lease/Purchase for Recreation and Public Purposes Clark County, NV

The following described public land in Las Vegas, Clark County, Nevada has been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 10, NW¼NE¼NE¼NW¼, N½NW¼NE¼NW¼, N½S½NW¼NE¼NW¼, N½SW¼NE¼NE¼NW¼, N½NE¼NW¼NW¼, NE¼NW¼NW¼NW¼.
Aggregating 18.75 acres (gross).

The City of Las Vegas intends to use the land for a public park. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe, and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for the City of Las Vegas.

2. Those rights for powerline purposes which have been granted to Nevada Power Company by Permit No. N-6719 under the Act of February 15, 1901, 31 Stat. 790, 43 U.S.C. 961.

3. Those rights for county road purposes which have been granted to the County of Clark by Permit No. N-43902 under the Act of October 21, 1976, 90 Stat. 2776, 43 U.S.C. 1761.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the Office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the Federal Register, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the Federal Register.

Date: April 11, 1989.
Ben F. Collins,
(District Manager, Las Vegas, NV).
[FR Doc. 89-9523 Filed 4-19-89; 8:45 am]
BILLING CODE 4310-HC-M

[NV-930-09-4212-22]

Filing of Plats of Survey; Nevada

April 10, 1989.
AGENCY: Bureau of Land Management, Interior.
ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATE: Filings were effective at 10:00 a.m. on the dates shown below.

FOR FURTHER INFORMATION CONTACT: Lacel Bland, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702-328-6341.

SUPPLEMENTARY INFORMATION: The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada on the date indicated.

	Date filed
Mount Diablo Meridian, Nevada	
T. 16 N., R. 19 E.—Dependent resurvey	4/4/89
T. 42 N., R. 60 E.—Dependent resurvey	4/4/89
T. 30 S., R. 63 E.—Dependent resurvey	3/16/89
T. 30 S., R. 64 E.—Dependent resurvey and section subdivisions	3/16/89

The surveys on T. 30 S., Rs. 63 and 64 E. were accepted on March 6, 1989; the surveys on T. 16 N., R. 19 E. and T. 42 N., R. 60 E. were accepted on March 24, 1989.

All the surveys except T. 16 N., R. 19 E. were executed to meet certain administrative needs of the Bureau of Land Management. The survey of T. 16 N., R. 19 E. was executed to meet certain administrative needs of the U.S. Forest Service.

All of the above-listed plats are now the basic record for describing the lands for all authorized purposes. The plats will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the plats and related field notes may be furnished to the public upon payment of the appropriate fee.

Edward F. Spang,
State Director, Nevada.
[FR Doc. 89-9444 Filed 4-19-89; 8:45 am]
BILLING CODE 4310-HC-M

[NV-930-4214-11; Nev-051797]

Notice of Proposed Continuation of Withdrawal; Nevada

April 10, 1989.
AGENCY: Bureau of Land Management, Interior.
ACTION: Notice.

SUMMARY: The U.S. Navy proposes that a 55,628-acre withdrawal for three Fallon Naval bombing ranges continue for an additional 25 years. The lands will remain closed to surface entry and

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mining but will be opened to mineral leasing.

DATE: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–328–6326.

The U.S. Navy proposes that the existing land withdrawal made by Public Land Order 898 and modified by Public Land Order 6300, be continued for a period of 25 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Mount Diablo Meridian, Nevada

(Bombing Range B–16)

T. 17 N., R. 27 E.
Sec. 1, 2 and 3;
Sec. 11, E½;
Secs. 12 and 13;
Sec. 14, E½;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 17 N., R. 28 E.,
Sec. 4 to 9, inclusive;
Secs. 16 to 20, inclusive;
Secs. 29 to 32, inclusive.

(Bombing Range B–19)

T. 15 N., R. 28 E.,
Secs. 1, 2 and 3;
Secs. 10 to 15, inclusive;
Secs. 22, 23 and 24.
T. 15 N., R. 30 E.,
Secs. 3 to 10, inclusive;
Secs. 15 to 22, inclusive.

(Bombing Range B–17)

T. 16 N., R. 33 E.,
Sec. 2, SW¼, W½SE¼;
Sec. 3, S½;
Sec. 4, S½SW¼, SE¼;
Sec. 5, E½SW¼SE¼, SE¼SE¼;
Sec. 8, E½, SE¼NW¼, E½ SW¼;
Sec. 9, all;
Sec. 10, all;
Sec. 11, S½NE¼, W½NW¼NE¼, W½, SE¼;
Secs. 12 to 17, inclusive;
Secs. 20 to 28, inclusive;
Sec. 29, NE¼;
Sec. 33, NE¼;
Secs. 34 to 36, inclusive.

T. 16 N., R. 33½ E. and a portion of T. 16 N., R. 34 E., unsurveyed, more particularly described as:

Beginning from the northeast corner of section 12, T. 16 N., R. 33 E; thence easterly 2 miles; thence southerly 5 miles; thence westerly 2 miles to the southeast corner of sec. 36, T. 16 N., R. 33 E., thence a distance of 5 miles along the east lines of secs. 36, 25, 24, 13 and 12, T. 16 N., R. 33 E., to the point of beginning.

The area described contains 55,627.68 acres in Churchill County.

The purpose of the withdrawal is to allow the Navy continued use of the land for bombing ranges and to prohibit access for safety purposes. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws and the mineral leasing laws. A change is proposed to reduce the segregative effect of the withdrawal by opening the lands to mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawal may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Edward F. Spang,
State Director, Nevada.

[FR Doc. 89–9445 Filed 4–19–89; 8:45 am]
BILLING CODE 4310–HC–M

[NV–930–09–4214–11; Nev–051796, Nev–056459]

Notice of Proposed Continuation of Withdrawals; Nevada

April 10, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Navy proposes that three withdrawals comprising 3526.57 acres for the Fallon Naval Air Station continue for an additional 25 years. The lands will remain closed to surface entry and mining but will be opened to mineral leasing.

DATE: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–328–6326.

The U.S. Navy proposes that the existing land withdrawals made by Public Land Order 275, 788, and 2635, be continued for a period of 25 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Mount Diablo Meridian, Nevada

T. 18 N., R. 29 E.
Sec. 3, W½SW¼, SE¼SW¼;
Sec. 4, lot 6;
Sec. 10, W½NE¼, NE¼NW¼, E½SW¼, SE¼;
Sec. 14, all;
Sec. 15, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, N½NE¼, SW¼NE¼, NW¼, N½ SW¼, SW¼SW¼, NW¼SE¼.

The area described contains 3526.57 acres in Churchill County.

The purpose of the withdrawals is to protect the United States' interests at the Fallon Naval Air Station and to allow the Navy continued use of the land for military purposes. The withdrawals segregate the land from operation of the public land laws generally, including the mining laws and the mineral leasing laws. A change is proposed to reduce the segregative effect of the withdrawals by opening the lands to mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

Edward F. Spang,
State Director, Nevada.

[FR Doc. 89–9446 Filed 4–19–89; 8:45 am]
BILLING CODE 4310–HC–M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's Information Collection Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service and OMB, Paperwork Reduction Project (1018–0006), Washington, DC 20503, telephone 202–395–7340.

Title: Banding Schedule.
OMB Approval No.: 1018–0006.
Abstract: The Banding Schedule is used by licensed bird banders to record specific information on the use of each Service band once it has been placed on a bird and the bird is returned to the wild. The data collected are used by Federal, State, and Provincial personnel and scientific cooperators to aid in the study of population size, mortality and survival rates, longevity, and migration patterns of birds. Banding and related band recovery information is also one of the most important tools used in the preparation of the annual United States and Canadian hunting regulations.
Service Form number: 3–860.
Frequency: On occasion.
Description of Respondents: Individuals and households, and State or local governments.
Estimated Completion Time: The reporting burden is estimated to be 12 minutes.
Annual Responses: 33,000 (each respondent averages 13.2 responses per year).
Annual Burden Hours: 6,600.
Service Information Collection Clearance Officer: James E. Pinkerton, 202–653–7500, 859 Riddell Building, U.S. Fish and Wildlife Service, Washington, DC 20240.

Date; March 28, 1989.
David Olsen,
Acting Assistant Director, Refuges and Wildlife.

[FR Doc. 89–9443 Filed 4–19–89; 8:45 am]
BILLING CODE 4310–55–M

Minerals Management Service

Information Collection Submitted for Review

The justification for the collection of information listed below has been submitted to the Office of Management and Budget for reapproval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the information collection requirement and related explanatory material may be obtained by contacting Jeane Kalas at 303–231–3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below and to the Office of Management and Budget Interior Department Desk Officer, Paperwork Reduction Project No. 1010–0076, Washington, DC 20502, telephone 202–395–7340.

Title: Application for Reward for Original Information.
Abstract: The Secretary of the Interior is authorized to pay a reward for information resulting in the recovery of royalty or other payments owed the United States from any oil or gas leases on Federal lands or the Outer Countinental Shelf. To claim a reward, individuals must voluntarily, and of their own initiative, submit an Application for Reward for Original Information. The information requested on the application enables the Minerals Management Service to determine the amount of the reward and to pay the reward.
Bureau Form Number: MMS–4280
Frequency: On occasion
Description of Respondents: Individuals
Annual Responses: 12
Estimated Completion Time: One-half hour
Annual Burden Hours: 6
Bureau Clearance Officer: Dorothy Christopher, 703–435–6213

Dated: March 17, 1989.
Jerry D. Hill,
Associate Director for Royalty Management.

[FR Doc. 89–9427 Filed 4–19–89; 8:45 am]
BILLING CODE 4310–MR–M

National Park Service

Proposed Exchange of Federal and Private Lands, Santa Monica Mountains National Recreation Area, California; Intent To Prepare an Environmental Impact Statement

SUMMARY: The National Park Service, Santa Monica Mountains National Recreation Area, Los Angeles and Ventura Counties, California, has received a proposal from Potomac Investment Associates, Gaithersburg, Maryland, to exchange private properties for lands within the National Recreation Area in order to gain access to a proposed golf course and subdivision on private lands in the Jordan Ranch area of Ventura County. In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service is requiring the preparation of an environmental impact statement to assess the impacts of the proposed exchange. Potomac Investment Associates has retained, with the National Park Service's concurrence, Envicom Corporation, of Calabasas Park, California, to prepare the environmental statement. The National Park Service will be the responsible federal agency.

The proposed action would effect the transfer of 864.45 acres of private lands in the China Flat area of Palo Camado Canyon to the National Park Service, in return for 59.43 acres of the Cheeseboro Canyon area to Potomac Investment Associates. Alternatives to be evaluated include no action, other available access routes to Potomac's present holdings, and other means of acquisition of such access routes such as purchase.

A public information and scoping meeting will be held on May 17, 1989, at 7:30 p.m. at the following location: El Camino High School, 5440 Valley Circle Blvd., Woodland Hills, CA.

In addition, scoping comments or request for additional information should be addressed to: Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Blvd., Woodland Hills, CA 93164. Scoping comments should be received no later than May 31, 1989.

The responsible official is Stanley Albright, Regional Director, Western Region. The draft environmental statement is expected to be released for public review by mid-summer, 1989, and the final environmental statement and Record of Decision completed by the end of 1989.

Dated: April 10, 1989.
Stanley T. Albright,
Regional Director, Western Region.

[FR Doc. 89–9414 Filed 4–19–89; 8:45 am]
BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

Review of the Harmonized Tariff Schedule of the United States

AGENCY: United States International Trade Commission.

ACTION: Institution of procedures for review of the Harmonized Tariff Schedule.

SUMMARY: This notice is intended to describe procedures for implementing section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (the Act) relating to the continuous review of the Harmonized Tariff Schedule of the

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United States by the United States International Trade Commission.

EFFECTIVE DATE: March 27, 1989.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (202–252–1592) or David Beck, Chief, Nomenclature Division (202–252–1604).

Background: Section 1205 of the Act (19 U.S.C. 3005) directs the United States International Trade Commission (Commission) to keep the Harmonized Tariff Schedule of the United States (HTS) under continuous review. The Commission is directed to recommend modifications to the HTS (1) when amendments to the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on June 14, 1983, and the Protocol thereto, done at Brussels on June 24, 1986 (Convention) are recommended by the Customs Cooperation Council (Council) for adoption, and (2) as other circumstances warrant.

Continuous Review Authority

Section 1205(a) provides that the Commission may recommend to the President such modifications to the HTS as it believes necessary or appropriate—

(A) To conform the HTS with amendments made to the Convention;

(B) To promote the uniform application of the Convention and particularly the Annex thereto, which contains the Harmonized Commodity Description and Coding System (Harmonized System);

(C) To ensure that the HTS is kept up-to-date in light of changes in technology or in patterns of international trade;

(D) To alleviate unnecessary administrative burdens; or

(E) To make technical rectifications.

Section 1205(d) provides that the Commission may not recommend any modification to the HTS unless the modification is consistent with the Convention or any amendment thereto recommended for adoption. Additionally, recommended modifications must be consistent with sound nomenclature principles and must ensure substantial rate neutrality. Modifications which involve a change in any rate of duty must be consequent to, or necessitated by, recommended nomenclature modifications. Moreover, the recommended modification must not alter existing conditions of competition for the affected U.S. industry, labor, or trade. "Technical rectifications", as used in subparagraph (E) above, are limited by section 1202(6) of the Act to rectifications of an editorial character or minor technical or clerical changes which do not affect the substance or meaning of the text, such as errors in spelling, numbering, or punctuation, errors in indentation, errors (including inadvertent omissions) in cross-references to headings or subheadings or notes, and other clerical or typographical errors.

Continuous Review Procedure

The Commission will keep the HTS under continuous review and will recommend necessary or appropriate modifications to the HTS when amendments to the Harmonized System are recommended for adoption by the Council, and as other circumstances warrant, including at the request of interested Federal agencies and the public. In formulating its recommendations, the Commission will solicit, and give consideration to, the views of interested Federal agencies and the public. Interested Federal agencies and the public may request that the Commission consider a particular modification to the HTS. An original and fourteen (14) copies of such requests should be submitted to the Director, Office of Tariff Affairs and Trade Agreements, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. If the request is sufficient and the suggested modification is the proper subject matter of a Commission recommendation, as authorized in the Act, then the Commission will publish its proposed recommendation in the Federal Register and afford reasonable opportunity for interested parties to present their views in writing. The Commission may, in its discretion, schedule a public hearing in addition to affording the opportunity to submit written views.

The Commission will submit a report to the President presenting its final recommendations. The report will include a summary of the information on which the Commission's recommendations are based, together with a statement of the probable economic effect of each recommended change on any industry in the United States. The report also will include a copy of all written views submitted by interested Federal agencies and a copy or Commission-prepared summary of the written views of any other interested parties.

In the case where an amendment to the Convention is recommended by the Council for adoption, the Commission will publish the proposed amendment, along with a corresponding recommended modification to the HTS, where necessary or appropriate, in the Federal Register and invite public comment. The Commission will not, however, report a final recommendation to the President until the amendment has been accepted by the Contracting Parties. An amendment to the Convention is deemed accepted six months after the date of notification of the recommendation, unless a Contracting Party notifies an objection thereto. When a recommended amendment is not accepted, the Commission will terminate the consideration of any corresponding modifications to the HTS. When a recommended modification is accepted, the Commission will complete its consideration of any necessary or appropriate modifications and report to the President.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 252–1810.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: April 12, 1989.

[FR Doc. 89-9451 Filed 4-19-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-284]

Certain Electric Power Tools Battery Cartridges and Battery Chargers; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: International Consumer Brands, Inc. and Home Depot Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on April 10, 1989.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–252–1000. Hearing impaired individuals are advised that information on this matter can be obtained by contracting the Commission's TDD terminal on 202–252–1810.

Written Comments:

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Rudy J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–252–1805.

By order to the Commission.

Issued: April 7, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-8953 Filed 4-19-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-284]

Certain Electric Power Tools, Battery Cartridges, and Battery Chargers; Decision Not To Review Initial Determinations

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the following initial determinations ("IDs") issued by the presiding administrative law judge ("ALJ") in the subject investigation: Order No. 83 granting a motion for partial termination of the subject investigation, i.e., termination of the investigation insofar as it pertains to respondent-intervenor The Robert Bosch-Power Tool Corporation ("Bosch"); Order No. 84 declaring the investigation "more complicated" and extending the deadline for the ALJ to issue an ID on whether the respondents have violated section 337 of the Tariff Act of 1930; and Order No. 85 finding certain respondents in default.

FOR FURTHER INFORMATION CONTACT: P. N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–1061.

SUPPLEMENTARY INFORMATION:

Background

The subject investigation is being conducted to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337 (1982), as amended by section 1342 of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100–418, 102 Stat. 1107 and 1212–1216 (1988)) in the importation or sale of certain electric power tools, battery cartridges, and battery chargers from Taiwan. The complainants are Makita U.S.A., Inc. ("Makita"), and its subsidiary, Makita Corporation of America ("Makita"). There are 31 respondents and 1 respondent-intervenor. Makita's complaint alleges that each respondent has engaged in 1 or more of the following unfair acts or unfair methods of competition in the importation or sale of the accused Taiwanese merchandise: Infringement of Makita's common-law or registered trademarks; false representation; false advertising; passing off. *See* 53 FR 31112 (Aug. 17, 1988) as amended by 53 FR 47586 and 47587 (Nov. 23, 1988); 54 FR 6181 (Feb. 8, 1989).

On March 6, 1989, the ALJ filed an ID (Order No. 84) *sua sponte* declaring the investigation "more complicated" on the basis of (1) the complexity of the issues, (2) the number of parties, (3) the time required for the evidentiary hearing, and (4) the size of the administrative record. The ID also ordered a two-and-one-half week extension of the ALJ's administrative deadline for issuing a final ID concerning the alleged violation of section 337 by the respondents.

On March 6, 1989, the ALJ also issued an ID (Order No. 83) granting a motion for termination of the investigation as to respondent-intervenor Bosch on the basis of its settlement agreement with Makita. *See* 54 FR 10741 (March 15, 1989).

On March 9, 1989, the ALJ filed an ID (Order No. 85) finding certain Taiwanese respondents in default for their failure to respond to the complaint and notice of investigation and to certain orders issued by the ALJ. Those respondents are Honworld International Inc., Homogene Corp., Famous Overseas Corporation, New Golden Star Electric Works, Ltd., and Jiang Charng Machinery Works.

No party filed a petition for review of the IDs, and the Commission determined that there was no basis for ordering a review on its own motion. *See* interim Commission rule 210.55, 53 FR 33043 and 33071 (Aug. 29, 1988) (to be codified at 19 CFR 210.55). By virtue of the Commission's determination not to review the IDs, they have become the Commission's final determinations on the matters in question. *See* interim Commission rule 210.53(h), 53 FR 33043 and 33070 (Aug. 29, 1988) (to be codified at 19 CFR 210.53(h)).

As a result of being declared "more complicated," the 18-month statutory deadline for the Commission to conclude the investigation is January 17, 1990. *See* 19 U.S.C. 1337(b)(1) (1982), as amended by section 1342(b) of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100–418, 102 Stat. 1107 and 1215 (1988)). *See also* interim Commission rules 210.59(a), 53 FR 33043 and 33072 (Aug. 29, 1988) (to be codified at 19 CFR 210.59(a)). The Commission can, nevertheless, adopt a shorter administrative deadline if it wishes to. *See* interim Commission rule 210.2, 53 FR 33043 and 33056 (Aug. 29, 1989) (to be codified at 19 CFR 210.2). The Commission has therefore adopted a tentative administrative deadline of September 18, 1989. The Commission plans to complete the investigation by that date, unless circumstances develop that would make the deadline impracticable for the parties and/or the Commission.

Public Inspection

Copies of the IDs, the underlying motions, responses, and orders, and all other nonconfidential documents on the record of the investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Docket Section, Room 112, Washington, DC 20436, telephone 202–252–1000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission TDD terminal on 202–252–1810.

By Order of the Commission.

Issued: April 7, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-9454 Filed 4-19-89; 8:45 am]

BILLING CODE 7020-02-M

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[Investigation Nos. 731-TA-406 and 408 (Final)]

Electrolytic Manganese Dioxide From Greece and Japan

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b) (the Act), that an industry in the United States is materially injured by reason of imports from Greece [2] and Japan of electrolytic manganese dioxide (EMD),[3] provided for in subheading 2820.10.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be held sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective November 14, 1988, following preliminary determinations by the Department of Commerce that imports of EMD from Greece and Japan were being sold in the United States at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigations and of the public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of December 28, 1988 (53 FR 52516). The hearing was held in Washington, DC, on March 9, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on these investigations to the Secretary of Commerce on April 10, 1989. A public version of the Commission's report, Electrolytic Manganese Dioxide from Greece and Japan (Investigations Nos. 731-TA-406 and 408 (Final)), USITC Publication 2177, April 1989, contains the views of the Commission and information developed during the investigations.

[1] The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.(i)).

[2] Chairman Brunsdale and Vice Chairman Cass determine that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of LTFV imports from Greece.

[3] The product covered by these investigations is manganese dioxide (MnO2) that has been refined in an electrolysis process.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

Issued: April 11, 1989.

[FR Doc. 89-9452 Filed 4-19-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-276]

Certain Erasable Programmable Read Only Memories, Components Thereof, Products Containing Such Memories, and Processes for Making Such Memories; Commission Decision Denying Emergency Petition

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has denied an emergency petition for a stay of its remedial orders in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Ofice of the General Counsel, U.S. International Trade Commission, telephone 202-252 1093.

SUPPLEMENTARY INFORMATION: The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

On March 21, 1989, respondent Atmel filed an "Emergency Petition under Rules 210.60 and 211.57 and Paragraph X of the Commission's Cease and Desist Order for a Stay" (hereinafter "Atmel Petition"). Atmel requested that the Commission stay the effective date of the cease and desist order issued to Atmel until the President has acted, or until the end of the 60-day Presidential review period. Atmel also requested that the Commission stay the limited exclusion order as it applies to Atmel or, at a minimum, decrease the bond required under the limited exclusion order during the 60-day Presidential review period.

On March 25, 1989, the Commission issued a series of questions to Atmel concerning the information contained in the Atmel Petitioon in an effort to create an adequate record on which to base its consideration of the Atmel Petition. Atmel filed its responses to the Commission's questions on March 27, 1989.

Having considered the Atmel Petition, Atmel's answers to the Commission's questions, and all other submissions concerning the Atmel Petition, the Commission has determined to deny the Atmel Petition.[1] The Commission will issue an Opinion in support of its Order shortly.

Notice of this investigation was published in the Federal Register of September 16, 1987 (52 FR 35004).

Copies of the Commission's Order, the nonconfidential version of the opinion to be issued, and all other nonconfidential documents filed in connection with this investigation are or will shortly be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: April 7, 1989.

[FR Doc. 89-9455 Filed 4-19-89; 8:45 am]

BILLING CODE 7020-02-M

Investigation With Respect to the Operation of the Harmonized System Subtitle of the Omnibus Trade and Competitiveness Act of 1988

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and request for public comment.

SUMMARY: This notice is intended to describe the procedures for a Commission investigation of the operation during 1989 of the Harmonized System subtitle of the Omnibus Trade and Competitiveness Act of 1988 (the Act), as required by section 1216 of the Act.

EFFECTIVE DATE: March 14, 1989.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (202-252-1592) or Leo A. Webb (202-2562-1599).

Background: Section 1216 of the Act (Pub. L. 100-418) directs the Commission, in consultation with other appropriate Federal agencies, to prepare, and submit to the Congress and to the President, a report regarding the operation of the Harmonized System subtitle of the Act during the 12-month period commencing on January 1, 1989. The Commission instituted investigation No. 332-274, on March 14, 1989, pursuant to section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b) to fulfill the requirements of section 1216 of the Act. The report will be submitted to the Congress and to the President by June 20, 1990.

[1] Chairman Brunsdale and Vice Chairman Cass dissent from this determination in one respect. They would grant the Atmel Petition to a limited extent by modifying the cease and desist order that has been issued to Atmel to permit Atmel to import the subject EPROMs during the Presidential review period under the bonding provisions contained in the limited exclusion order and to sell EPROMs imported under bond, but not previously imported EPROMs.

Written submissions: Interest parties (including other Federal agencies) are invited to submit written statements concerning the subject of the report. More specifically, interested parties are requested to advise the Commission of their views on the operation of the Harmonized System subtitle of the Act during 1989 and, in particular, the Harmonized Tariff Schedule of the United States, and to suggest changes which, in their opinion, would improve its operation. Such statements must be submitted by no later than January 31, 1990, in order to be considered by the Commission. The Commission may subsequently schedule a public hearing in connection with this investigation if, in its opinion, the information submitted warrants such action.

The Commission will include copies (or summaries, as appropriate) of written statements in its report to the Congress and to the President. Commerical or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E St. SW., Washington, DC 20436.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 252-1810.

By Order of the Commision.

Kenneth R. Mason,

Secretary.

Issued: April 12, 1989.

[FR Doc. 89-8499 Filed 4-19-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-281]

Certain Recombinant Erythropoietin; Commission Decision to Dismiss Complaint for Lack of Subject Matter Jurisdiction and to Terminate the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to dismiss the complaint for lack of subject matter jurisdiction and to terminate the investigation.

ADDRESS: Copies of the Commission's Order, the Commission's opinions, the presiding ALJ's final initial determination (ID), and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-252-1104. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On February 10, 1988, the Commission instituted an investigation to determine whether there is a violation of section 337 of the Tariff Act of 1930 in the importation or sale of certain recombinant erythropoietin by reason of alleged unfair acts in the importation into and sale in the United States of recombinant erythropoietin manufactured abroad by a process which, if practiced in the United States, would infringe claims 2, 4-7, 23-25, and 27-29 of U.S. Letters Patent 4,703,008. The Commission named Chugai Pharmaceutical Co., Ltd. of Japan and Chugai, USA, Inc. of New York City as respondents. During the investigation, the Commission granted a motion filed by The UpJohn Company of Kalamazoo, Michigan, to intervene as a respondent.

On January 10, 1989, the presiding administrative law judge issued his final ID finding no violation of section 337. On February 27, 1989, the Commission determined to review the ID in its entirety.

This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.56 of the Commission's interim rules (53 FR 33071 (Aug. 29, 1988)).

By Order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: April 10, 1989.

[FR Doc. 89-8456 Filed 4-19-89; 8:45 am]

BILLING CODE 7020-02-M

Certain Final Judicial Decisions Relating to Tariff Treatment

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and request for public comment.

SUMMARY: This notice is intended to describe the procedures for a Commission investigation of certain final judicial decisions as required by subsection 1211(d)(2)(B) of the Omnibus Trade and Competitiveness Act of 1988 (the Act).

EFFECTIVE DATE: March 14, 1989.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office Tariff Affairs and Trade Agreements (202-252-1592) of Leo A. Webb (202-252-1599).

Background and scope of investigation: The Commission instituted investigation No. 332-273, on March 14, 1989, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), as required by subsection 1211(d)(2)(B) of the Act (Pub. L. 100-418). Subsection 1211(d)(2)(B) directs the Commission to initiate an investigation under section 332 of the Tariff Act of 1930 at the earliest practicable date after the effective date of the Harmonized Tariff Schedule of the United States (HTS) of any protest filed under section 514 of the Tariff Act 1930 (19 U.S.C. 1514) or any petition by an American manufacturer, producer, or wholesaler under section 516 of such Act (19 U.S.C. 1516), covering articles entered before the effective date of the HTS, which protest or petition is sustained in whole or in part by a final judicial decision which is published during the two-year period beginning on February 1, 1988, and which would have affected tariff treatment under the HTS if the decision had been published during the period of the conversion of the Tariff Schedules of the United States (TSUS) into the format of the Harmonized System-based HTS.

The Act directs the Commission to report the results of this investigation to the President, the Committee on Ways and Means of the U.S. House of Representatives, and the Committee on

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Finance of the U.S. Senate no later than September 1, 1990. The Commission is directed to recommend those changes to the HTS that the Commission would have recommended if such final judicial decisions had been made before the conversion of the TSUS into the format of the Harmonized System. Thereafter, the President is directed to review all changes recommended by the Commission and, as soon as practicable, to proclaim any such changes which the President determines are necessary or appropriate to conform the HTS to such final judicial decisions.

Written submissions: Interested parties are invited to submit written statements concerning the investigation. More specifically, interested parties are requested to notify the Commission of particular final judicial decisions which they believe are within the scope of this investigation and to suggest changes to the HTS which they believe are necessary or appropriate to conform the HTS to such decisions.

A final judicial decision within the scope of this investigation is a final judicial decision that: (1) Sustains, in whole or in part, a protest filed under section 514 of the Tariff Act of 1930 or a petition by an American manufacturer, producer, or wholesaler under section 516 of such Act, covering articles entered before the effective date of the HTS; (2) is published during the two-year period beginning on February 1, 1988; and (3) would have affected tariff treatment under the HTS if the decision had been published during the period of the conversion of the TSUS to the HTS. For purposes of this investigation, a "final judicial decision" is a judgment of the Court of International Trade or the Court of Appeals for the Federal Circuit, which is not subject to further review or collateral attack. Interested parties who notify the Commission of such decisions shall state, as a part of the written submission, that, to the best of their information and belief, such decisions are not subject to further review or collateral attack.

The Commission will publish the suggested changes to the HTS for public comment and will hold a hearing, if deemed appropriate by the Commission.

Commerical or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. To be assured of consideration by the Commission, written requests suggesting changes to the HTS must be received by the close of business on June 1, 1989, if the final judicial decision concerned is published prior to January 1, 1989, or within 45 days of the date when the final judicial decision is published, if such decision is published on or after January 1, 1989 and before February 1, 1990. Failure to respond by the indicated dates may preclude consideration of any such decision by the Commission. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E St. SW., Washington, DC 20436.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 252-1810.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: April 12, 1989.

[FR Doc. 89-9450 Filed 4-19-89; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 7, 1989, a proposed Consent Decree in *United States* v. *Landfill, Inc., et al.*, Civil Action No. 88-Z-1714 (D. Colo.), was lodged with the United States District Court for the District of Colorado. This proposed Consent Decree is between the United States and AMF, Incorporated, Public Service Company of Colorado, Mesa Sand and Gravel, Inc., and James H. Kean (an officer, director, and shareholder of Mesa). This group of defendants is referred to herein as the "Second Settlors".

The United States brought suit on October 21, 1988, pursuant to sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") to compel the cleanup of the Marshall/Boulder Landfill near Marshall, Colorado, and the reimbursement of the United States for its response costs associated with the site. The defendants include Landfill, Inc., The City of Boulder, Cowdrey Corporation, and several individuals who own portions of the site. These defendants are referred to herein as the "First Settlors". The four additional defendants (the Second Settlors) are three corporations which allegedly disposed of hazardous substances at the site, and an individual who was an officer, director, and shareholder of one of the corporations.

A partial Consent Decree was lodged with the Complaint. It provided for the First Settlors to design and undertake remedial action chosen by the United States Environmental Protection Agency ("EPA"), and described in EPA's Record of Decision ("ROD") entered September 26, 1986. The remedy selected by EPA in its ROD consists of: fencing, regrading, and revegetating the Site to restrict access and minimize infiltration; collecting contaminated groundwater by a series of drains partially surrounding the site to eliminate the off-site transport of contaminants via alluvial groundwater; treating the groundwater by air stripping with off-gas carbon adsorption to reduce concentrations of volatile organics in the groundwater to the most conservative of the applicable or relevant and appropriate standards and criteria (and to prevent the escape of volatile organics into the atmosphere); and monitoring to assess the groundwater and surface water to assess the effectiveness of the selected remedial alternative. In addition, the Decree signed by the First Settlors provides that they shall reimburse the United States $200,000.

The Decree with the First Settlors left the United States with an estimated shortfall of $550,000 for past costs and anticipated future costs, such as oversight costs for the remedial action. The Second Settlors have now agreed, through a proposed Consent Decree, to reimburse the United States for $485,000 of its past and anticipated future response costs. Given the two Decrees described herein, the United States has obtained a full resolution of this litigation at 98.7% of the potential exposure to the Superfund.

The proposed Decree between the United States and the Second Settlors is a straightforward document requiring the Second Settlors to pay a total of $485,000 to the Superfund, in return for covenants not to sue provided for in section 122(f) of CERCLA, 42 U.S.C. 9622(f). The Department of Justice will receive for a period of thirty days from the date of this publication comments relating to the proposed Complaint and Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Landfill, Inc.*, DOJ Ref. No. 90-11-2-195. The proposed Complaint and Consent Decree may be examined at the Office of the United States Attorney, District of Colorado, Suite 1200, Federal Building, 1961 Stout Street, Denver, Colorado, 80294. Copies of the Complaint and Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. Copying costs are $.10 per page, and the Consent Decree is 14 pages long, so a request for a copy of the Consent Decree must be accompanied with a check or money order made out to the Treasurer of the United States for $1.40.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-9423 Filed 4-19-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree; William K. Martin et al.

In accordance with Departmental policy, 28 CFR 50.7, and pursuant to section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9622(i), notice is hereby given that on March 15, 1989, a proposed Partial Consent Decree in *United States* v. *William K. Martin, et al.* ("BMF/Petro Products"), was lodged with the United States District Court for the Northern District of Alabama.

The Complaint in this case seeks cost recovery pursuant to section 107 of CERCLA, 42 U.S.C. 9607. The Complaint was filed on March 15, 1989, against William K. Martin ("Martin"), the past owner and operator of the site in question, and several generators who arranged for transportation of waste solvents and other materials to the BMF/Petro Products reclamation facility in Athens, Alabama. The generators named as defendants include: Whittaker Corporation; GTE Communication Systems Corporation ("GTE"); Murray Ohio Manufacturing Co. ("Murray"); Reynolds Metal Co. ("Reynolds"); Dunlop Tire & Rubber Co. ("Dunlop"); and Amana Refrigeration Co. ("Amana").

The site involved in the case is a 20 acre tract of land containing several chicken houses just outside of Athens, Alabama. The site was used by Martin to store hazardous materials from the Petro Products facility beginning in August 1979. In October of 1983, the Environmental Protection Agency ("EPA") conducted an immediate removal of hazardous substances at the site. EPA incurred costs of $302,119.54 in connection with its response actions at the site.

Under the proposed Partial Consent Decree, defendants Murray, Dunlop, Amana and Reynolds (the "settling defendants") have agreed to pay $97,903.90 to the United States in exchange for the United States' covenant not to sue the settling defendants for recovery of costs incurred in connection with EPA's past response actions at the site. Defendants Martin, Whittaker and GTE are not parties to the Partial Consent Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. The Department of Justice will consider any comments in determining whether or not to consent to the proposed settlement and may withdraw its consent to the proposed settlement if such comments disclose facts or considerations which indicate that the proposed Consent Decree is inappropriate, improper or inadequate. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *William K. Martin, et al.*, DOJ Ref. No. 90-11-3-324.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Alabama, 200 Federal Building, 1800 5th Ave., Birmingham, Alabama 35203, and the Office of the Regional Counsel, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Room 1521, Department of Justice, 9th Street and Pennsylvania Avenue, NW., Washington, DC 20530. In requesting a copy, please enclose a check in the amount of $7.50 payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-9525 Filed 4-19-89; 8:45 am]

BILLING CODE 4410-10-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—CAD Framework Initiative, Inc.; Correction

In notice document 89-5642 concerning CAD Framework Initiative, Inc. appearing in the issue of Monday, March 13, 1989 at 54 FR 10456, make the following correction: "Objective Design, Inc." should read "Object Design, Inc."

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-9421 Filed 4-19-89; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984—Corporation for Open Systems International

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Corporation for Open Systems International ("COS") has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission on March 15, 1989, disclosing changes in the membership of COS. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On May 14, 1986, COS filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 11, 1986, 51 FR 21260. On August 6, 1986, September 30, 1986, January 2, 1987, March 24, 1987, June 12, 1987, July 23, 1987, July 31, 1987, October 5, 1987, October 23, 1987, November 16, 1987, January 12, 1988, February 9, 1988, May 2, 1988, and October 20, 1988, COS filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on September 4, 1986 (51 FR 31735), October 28, 1986 (51 FR 39434), February 13, 1987 (52 FR 4671), April 24, 1987 (52 FR 13769), July 21, 1987 (52 FR 27473), October 7, 1987 (52 FR 37539), November 9, 1987 (52 FR 43138), December 4, 1987 (52 FR 46129), December 15, 1987 (52 FR 47642), December 18, 1987 (52 FR 48164), February 19, 1988 (53 FR 5060), March 8, 1988 (53 FR 7411), and June 30, 1988 (FR

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24811), and November 25, 1988 (53 FR 47773), respectively.

On January 1, 1988, IDACOM became a member of COS. On February 1, 1989, GSI Danet, Inc., Soft-Switch Inc., and Concord Communications Inc., became members of COS. On January 1, 1989, ADC Telecommunications, Aetna Life & Casualty, Dow Chemical Company, Excelan, General Electric Company, Gould Inc., Harris Inc., Telenet Communications, Telex Computer Products, VANCE Systems, and VISA International ceased their membership in COS.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-9422 Filed 4-19-89; 8:45 am]

BILLING CODE 4410-01-M

Pursuant to the National Cooperative Research Act of 1984—Petroleum Environmental Research Forum

Notice is hereby given that, on March 21, 1989, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Petroleum Environmental Research Forum ("PERF") filed written notifications on its own behalf and on behalf of the members of PERF simultaneously with the Attorney General and with the Federal Trade Commission disclosing a change in the members of PERF. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the notifications stated that the membership in PERF of Occidental Petroleum Corporation, now known as OXY USA Inc., has terminated.

Accordingly, at present the members of PERF are those companies listed below:

Amerada Hess Corporation, 1 Hess Plaza, Woodbridge, New Jersey 07095

Amoco Oil Company, Post Office Box 400, Mail Station H-9, Naperville, Illinois 60566

Ashland Oil Inc., Post Office Box 391, Ashland, Kentucky 41114

Atlantic Richfield Company, 515 South Flower Street, AP 33 Los Angeles, California 90071

BP America (formerly known as Standard Oil Company of Ohio), 4440 Warrensville Center Road, Cleveland, Ohio 44128

Chevron Research Company, Post Office Box 1627, Richard, California 94802-0627

Conoco Inc., Petroleum R&D, Post Office Box 1267, Ponca City, Oklahoma 74603

Exxon Research and Engineering Company, Route 22 East, Clinton Township, Annandale, New Jersey 08801

Kerr-McGee Corporation, Post Office Box 25861, Oklahoma City, Oklahoma 73125

Koch Refining Company, Post Office Box 64596, St. Paul, Minnesota 55164

Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840

Mobil Research and Development Corporation, Paulsboro Research Laboratory, Billingsport Road, Paulsboro, New Jersey 08066

Murphy Oil USA, Inc., 200 Peach Street, El Dorado, Arkansas 71730

Pennzoil Company, Pennzoil Place, Post Office Box 2967, Houston, Texas 77252-2967

Phillips Petroleum Company, 468 Frank Phillips Building, Bartlesville, Oklahoma 74004

Shell Development Company, Post Office Box 1380, Houston, Texas 77251-1380

Sun Company, Inc., Sun Refining and Marketing Company, Post Office Box 1135, Marcus Hook, Pennsylvania 19061-0835

Texaco Refining & Marketing Inc., Post Arthur Research Laboratories, Post Office Box 1608, Port Arthur, Texas 77641

Union Oil Company of California, 376 South Valencia Avenue, Post Office Box 76, Brea, California 92621

On February 21, 1986, PERF filed its original notification on its own behalf and on behalf of the members of PERF pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on March 14, 1986 (51 FR 8903). On May 6, 1986, May 27, 1986, June 23, 1986 and February 3, 1989, PERF filed additional written notifications. The Department published notices in the Federal Register in response to these additional notifications on June 9, 1986 (51 FR 20897), June 19, 1986 (51 FR 22385), July 17, 1986 (51 FR 25957), June 19, 1986 (51 FR 22385), July 17, 1986 (51 FR 25957) and March 1, 1989 (54 FR 8607), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-9524 Filed 4-19-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 89-30; Exemption Application No. D-7387 et al.]

Grant of Individual Exemptions; The Equity Real Estate Account of John Hancock Mutual Life Insurance Co., et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) for certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) The are protective of the rights of the participants and beneficiaries of the plans.

The Equity Real Estate Account (Account) of John Hancock Mutual Life Insurance Company, Located in Boston, Massachusetts

[Prohibited Transaction Exemption 89-30; Exemption Application No. D-7387]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply, effective December 30, 1988 through December 31, 1990, to the sale and transfer of certain real estate investments by the Account to John Hancock Property Fund, a separate account of John Hancock Mutual Life Insurace Company, provided that the terms of sale are not less favorable to the Acount than those terms obtainable in an arm's length transaction with an unrelated party at the time of execution of the transaction.

For a more complete statement of the facts and representatations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 14, 1989 at 54 FR 6780.

EFFECTIVE DATE: This exemption will be effective from December 30, 1988 through December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of Department, telephone (202) 523-8194. (This is not a toll-free number.)

ServiceMaster Profit Sharing, Savings and Retirement Plan (the Plan), Located in Downers Grove, Illinois

[Prohibited Transaction Exemption 89-31; Exemption Application No. D-7416]

Exemption

The restrictions of Sections 46(a), (b)(1) and (b)(2) and 407 of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: 1) The Plan's proposed one-time acquisition from ServiceMaster Limited Partnership (the Employer), the sponsor of the Plan and, as such, a party in interest with respect to the Plan, of the Employer's limited partnership units (the Units) at a price per Unit which is the lower of: a) $22.50; or b) the closing price of the Units as publicly traded on the New York Stock Exchange on the date of the purchase; provided that the Plan acquire no greater than 25% of its assets in such Units in its one time purchase thereof from the Employer; 2) the Plan's proposed holding of such Units; 3) the contribution to the Plan by the Employer of an irrevocable put option (the Put Option) which permits the Plan to sell the Units to the Employer at a price per Unit of $22.50; and (4) the holding of said Put Option by the Plan.

Temporary Nature of the Exemption: The exemption will expire ten years from the date the exemption is granted.

For purposes of technical accuracy, the Department has clarified transaction: (1) Contained in the notice of proposed exemption (the Notice) published on February 14, 1989 at 54 FR 6781 to read as two separate transactions, namely the acquisition and the holding of Units by the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice.

For further information contact: Mrs. B.S. Scott of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Plessey Dynamics Employees Retirement Plan (the Plan), Located in Hillside, New Jersey

[Prohibited Transaction Exemption 89-32; Exemption Application No. D-7473]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Coee, shall not apply to the cash sale of certain real property from the Plan to Plessey Incorporated, a party in interest with respect to the Plan, for the greater of $675,000 or the fair market value for the property at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 14, 1989 at 54 FR 6782.

Effective Date: This exemption is effective as of March 31, 1989.

For further information contact: Paul Kelty of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

United Artists Communications, Inc. (Rowley United Division) Retirement Plan (the Plan), Located in Dallas, Texas

[Prohibited Transaction Exemption 89-33; Exemption Application No. D-7491]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the applications of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of certain real property from the Plan to United Artists Communications, Inc., a party in interest with respect to the Plan, provided the Plan receives no less than fair market value for the property at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 14, 1989, at 54 FR 6783.

For further information contact: Paul Kelty of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Herbert S. Kaufman, M.D. Pension Plan (the Plan), Located in San Francisco, California

[Prohibited Transaction Exemption 89-34; Exemption Application No. D-7759]

Exemption

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the applications of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the cash sale by the Plan of a parcel of unimproved real property (the Land) located in Napa, California to Herbert S. Kaufman, a party in interest with respect to the Plan; provided that the terms of the sale are not less favorable to the Plan than similar terms negotiated at arm's length between unrelated third parties and provided further that the sales price is not less than fair market value of the Land.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 24, 1989 at 54 FR 8024.

For further information contact: Angelena C. Le Blanc of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Leanin' Tree Publishing Co., Profit Sharing Trust (the Plan), Located in Boulder, Colorado

[Prohibited Transaction Exemption 89-35; Exemption Application No. D-7787]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the

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Code, shall not apply to a cash sale by the Plan of two unimproved parcels of real property and an outlot which is an addition to one of the parcels to Edward P. Trumble, a party in interest with respect to the Plan, provided that the Plan receives the greater of $671,000 or the fair market value at the time of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 24, 1989 at 54 FR 8024/8025.

For further information contact Ekaterina A. Uzlyan of the Department at (202) 523-8194 (this is not a toll free number).

Barber and Lundberg Profit Sharing Plan and Trust (the Plan), Located in Tulsa Oklahoma

[Prohibited Transaction Exemption 89-30; Exemption Application No. D-7788]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to a loan, not to exceed $300,000, by the Plan to Barber and Lundberg, Inc., the sponsor of the Plan; provided that all terms of such loan are at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 14, 1989 at 54 FR 6785.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 14th day of April 1989.

Robert J. Doyle,

Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-9484 Filed 4-19-89; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-7673 et al.]

Proposed Exemptions; Local 705 International Brotherhood of Teamsters Pension Fund et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

DATE: *Written comments and hearing requests.* All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, on or before June 5, 1989. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5671, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to interested persons. Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department on or before May 5, 1989. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Local 705 International Brotherhood of Teamsters Pension Fund (the Plan) Located in Chicago, Illinois

[Application No. D-7673]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c) (2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b) (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the

Code, shall not apply to the proposed purchase by the Plan of certain real property (the Land) from the Local 705 Building Corporation (the Corporation), a party in interest with respect to the Plan; provided that all terms of such transaction are at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a multi-employer defined benefit pension plan established under section 302(c) of the Labor Management Relations Act of 1947, as amended, by collective bargaining between Local 705 of the Truck Drivers, Oil Drivers, Filling Station and Platform Workers Union, International Brotherhood of Teamsters (the Union) and representatives of Chicago-area employers (the Employers) of members of the Union. The Plan had approximately 14,000 participants and total assets of approximately $660,000,000 as of June 22, 1987. Investment decisions with respect to Plan assets are made by the Plan's eight trustees, four of whom are designated by the Employers and four of whom are designated by the Union. The Corporation is a tax-exempt non-profit corporation wholly owned by the Union for the exclusive purpose of holding and managing real property assets of the Union.

2. Among the assets of the Plan is a multi-tenant office building (the Building) located at 300 South Ashland Avenue in Chicago, Illinois. The Building is owned and managed on behalf of the Plan by the West Side Realty Corporation (West Side), a tax-exempt non-profit corporation which is wholly owned by the Plan for the exclusive purpose of holding and managing real property assets of the Plan. The Building is situated on the Land, a 2.815 acre parcel owned by the Corporation. West Side has leased the Land (the Land Lease) from the Corporation since 1967, having constructed the Building thereon in 1968 for approximately $2,200,000 at a time when total Plan assets were valued at approximately $38,000,000. As of February 19, 1987, the Land and Building had a fair market value of $3,950,000, according to an appraisal conducted by Seay and Thomas Appraisers, Inc. (Seay and Thomas), professional real estate appraisers in Chicago, Illinois.

Included among the tenants in the Building is the Union, which leases office space therein (the Union Lease) from West Side. The Trustees represent that the Union's lease of office space from the Plan through West Side under the Union Lease constitutes a lease which satisfies the requirements of prohibited transaction class exemptions 76-1 [PTE 76-1, 41 FR 12740, March 26, 1976) and 77-10 (PTE 77-10, 42 FR 33918, July 1, 1977) and that such lease of space is exempt, therefore, from the prohibitions of section 406 of the Act.[1]

The Trustees also represent that West Side's lease of the Land from the Corporation under the Land Lease satisfied the requirements of section 414(c)(2) of the Act and that such lease was exempt, therefore, until June 30, 1984 from the prohibitions of section 406 of the Act.[2] However, the Trustees acknowledge that the Land Lease has continued after June 30, 1984 without any exemption from the prohibitions of 406 of the Act. In order to terminate the Land Lease as an ongoing prohibited transaction, the Trustees propose that West Side purchase the Land on behalf of the Plan from the Corporation. An exemption is requested to permit such purchase transaction under the terms and conditions described herein.

3. West Side will pay the Corporation cash for the Land in the amount of no more than the Land's fair market value as of the sale date, in no event to exceed $800,000, the Land's fair market value as of February 19, 1987 according to Seay and Thomas. As of December 27, 1988, the Land's fair market value was $920,000, according to an appraisal performed for West Side by Urban Real Estate Research, Inc.) an independent real estate appraisal firm in Chicago, Illinois. The Corporation will pay all costs and expenses related to the transaction and will deliver to West Side fee simple title to the Land free and clear of all liens and encumbrances.

The Department is not proposing herein any exemptive relief for any transaction related to the Land or Building except the Corporation's proposed sale of the Land to West Side. Accordingly, the Trustees represent that, within 60 days of the final grant of the exemption proposed herein, if granted, the Corporation will pay any excise taxes which are applicable under section 4975(a) of the Code by virtue of the continuation of the Land Lease after June 30, 1984, to the date of the proposed sale transaction.

4. The interests of the Plan in the proposed transaction are represented by Berger Financial Services Corporation (the Fiduciary), a real estate investment consulting firm which represents itself to have substantial fiduciary experience under the Act. The Fiduciary states that it has served as sole real estate consultant to the Plan since 1981 and that it is independent of the Union and the Corporation. The Fiduciary represents that it has reviewed and considered all material details of the proposed transaction to determine independently whether the proposal is in the best interests of the participants and beneficiaries of the Plan. In so doing, the Fiduciary represents that it has considered the alternatives available to the Plan in dealing with the subject real property. As a result of its evalution, the Fiduciary represents that it finds of its evaluation, the Fiduciary represents that it finds that the proposed transaction is in the best interests of the Plan. The Fiduciary states that the proposed transaction will preserve and enhance the value of the Plan's interests in both the Building and the Land. The Fiduciary further states that the proposed transaction will be in accordance with governing provisions of the Plan documents and will leave the Plan assets appropriately diversified as required by the Act. According to the Fiduciary, the proposed purchase price for the Land is prudent and will constitute a purchase price not in excess of the Land's fair market value.

The Fiduciary represents that it also undertook to evaluate the rentals paid to the Corporation by West Side under the Land Lease since June 30, 1984 and that it finds that such rentals have not been in excess of the Land's fair market rental value. Finally, the Fiduciary has undertaken to monitor and oversee the transaction on behalf of the Plan through the completion of the proposed sale.

5. In summary, the applicant maintains that the criteria of section 408(a) of the Act are satisfied in the proposed transaction for the following reasons: (1) The proposed transaction will terminate an ongoing prohibited transaction between the parties; (2) The Plan, through West Side, will pay cash in the amount of no more than the fair market value of the Land as of the sale date, in no event to exceed $800,000; (3) The Corporation will pay all costs and expenses related to the proposed sale transaction; and (4) The Plan's interests in the proposed transaction are represented by the Fiduciary, which has determined that the transaction will be in the Plan's best interests, prudent, and enhancing of the Plan's interests in the Building and Land.

For Further Information Contact: Mr. Ronald Willett of the Department,

[1] The Department expresses no opinion in this exemption as to whether the Union's lease of office space under the Union Lease satisfies the requirements of PTE 76-1 and PTE 77-10.

[2] The Department expresses no opinion in this exemption as to whether West Side's lease of the Land under the Land Lease satisfied the requirements of section 414(c) (2) of the Act.

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telephone (202) 523-8881. (This is not a toll-free number.)

John Deere Optional Life Insurance Plan for Salaried Employees (the Plan), Located in Moline, IL

[Application No. D-7660]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406 (a) and (b) of the Act shall not apply to the reinsurance of risks and the receipt of premiums therefrom by John Deere Life Insurance Company (JDLIC) from the insurance contracts sold by Connecticut General Life Insurance Company (CG), or another life insurance company unrelated to Deere & Company (Deere), to provide life insurance benefits to participants of the Plan, provided the following conditions are met:

(a) JDLIC—

(1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with Deere that is described in section 3(14) (E) or (G) of the Act,

(2) Is licensed to sell insurance or conduct reinsurance operations in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Authority from the Department of Insurance of its domiciliary state, Illinois, which has neither been revoked nor suspended, and

(4)(A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction; or

(B) Has undergone a financial examination (within the meaning of the law of its domiciliary State, Illinois) by the Superintendent of Insurance for the State of Illinois within 5 years prior to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plan pays no more than adequate consideration for the insurance contracts;

(c) No commissions are paid with respect to the direct sale of such contracts, or the reinsurance thereof; and

(d) For each taxable year of JDLIC, the gross premiums and annuity considerations received in that taxable year by JDLIC for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which JDLIC is a party in interest by reason of a relationship to such employer described in section 3(14) (E) or (G) of the Act does not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance (whether direct insurance or reinsurance) in that taxable year by JDLIC. For purposes of this condition (d):

(1) the term "gross premiums and annuity considerations received" means as to the numerator the total of premiums and annuity considerations received, both for the subject reinsurance transactions as well as for any direct sale or other reinsurance of life insurance, health insurance or annuity contracts to such plans (and their employers) by JDLIC. This total is to be reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by JDLIC.

(2) all premium and annuity considerations written by JDLIC for plans which it alone maintains are to be excluded from both the numerator and denominator of the fraction.

Effective Date: If this proposed exemption is granted, it will be effective January 1, 1983.

Preamble

On August 7, 1979, the Department published a class exemption (Prohibited Transaction Exemption 79-41 (PTE 79-41), 44 FR 46365) which permits insurance companies that have substantial stock or partnership affiliations with employee benefit plans to make direct sales of life insurance, health insurance or annuity contracts which fund such plans if certain conditions are satisfied.

In PTE 79-41, the Department stated its views that if a plan purchases an insurance contract from a company that is unrelated to the employer pursuant to an arrangement or understanding, written or oral, under which it is expected that the unrelated company will subsequently reinsure all or part of the risk related to such insurance with an insurance company which is a party in interest with respect to the plan, the purchase of the insurance contract would be a prohibited transaction.

The Department further stated that as of the date of publication of PTE 79-41, it had received several applications for exemption under which a plan or its employer would contracted with an unrelated company for insurance, and the unrelated company would, pursuant to an arrangement or understanding, reinsure part or all of the risk with (and cede part or all of the premiums to) an insurance company affiliated with the employer maintaining the plan. The Department felt that it would not be appropriate to cover the various types of reinsurance transactions for which it had received applications within the scope of the class exemption, but would instead consider such applications on the merits of each individual case.

Summary of Facts and Representations

1. Deere is incorporated under the laws of the State of Delaware and is one of the world's largest manufacturers of farm and industrial equipment. The Plan, which is maintained by Deere, provides life insurance on an elective basis to active employees of Deere and its subsidiaries and to the dependents of such employees through the purchase of group term life insurance. The Plan had approximately 4,425 participants as of October 31, 1987.

2. JDLIC is a wholly owned subsidiary of Deere and is currently licensed to do business in 44 states. JDLIC was incorporated in 1937 and was acquired by Deere in 1982. JDLIC is primarily engaged in the business of selling life insurance and annuities to the general public and had annual premiums and annuity considerations for its fiscal year ended December 31, 1988 of approximately $38,400,000. As of that date, it had capital and surplus of approximately $26 million, and its total assets were approximately $186 million. JDLIC also provides life insurance on a direct basis to other welfare plans of Deere and its subsidiaries, but the applicants represent that such sales of insurance meet the conditions of PTE 79-41. In 1988, the premiums for those plans totaled approximately $8,800,000.

3. The life insurance benefit under the Plan is currently underwritten by CG, an unaffiliated insurance carrier. The life insurance benefits under the Plan are provided unconditionally by CG. On January 1, 1983, CG and JDLIC entered into a reinsurance agreement whereby JDLIC would receive 75 percent of the premiums paid and would pay 75 percent of the claims under the CG policy. The Plan is not a party to the reinsurance agreement. The applicants have requested that this proposed exemption apply to any successor company to CG that is also unrelated to Deere should Deere decide to insure this life insurance coverage with another carrier under the same type of arrangement.

4. The applicants represent that the subject reinsurance transaction has met and will continue to meet all of the conditions of PTE 79-41 covering direct insurance transactions:

(a) JDLIC is a party in interest as described in Act section 3(14)(G) with respect to the Plan by reason of stock affiliation with Deere, which maintains the Plan.

(b) JDLIC is licensed to do business in 44 states.

(c) JDLIC has been audited by the independent certified public accounting firm of Deloitte, Haskins & Sells for each of its fiscal years since 1982.

(d) JDLIC has received a Certificate of Compliance from its domiciliary state, Illinois, annually since prior to its acquisition by Deere in 1982.

(e) The Plan has paid and will pay no more than adequate consideration for the insurance. The subject transaction has not and will not in any way affect the cost to the Plan of the group life insurance contract.

(f) No commissions have been or will be paid with respect to the direct insurance by CG or any successor thereto or the reinsurance agreement between CG or any successor thereto and JDLIC.

(g) The gross premiums and annuity considerations received by JDLIC for group life and health insurance (both direct and reinsurance) or annuity contracts for all employee benefit plans (and their employers) with respect to which JDLIC is a party in interest under section 3(14) (E) or (G) of the Act have not exceeded and will not exceed 50 percent of the gross premiums and annuity considerations received by JDLIC for all lines of insurance in each taxable year, all of which, except for the subject reinsurance transaction, is written on a direct basis. The premiums for the Plan insurance have never exceeded 2.5 percent of JDLIC's total premiums, and, in 1988, were less than 1.5 percent. The total of premiums for all plans of Deere (direct and reinsured) received by JDLIC as a percentage of its total premiums and annuity considerations for the years 1983 through 1988 has ranged from a high of approximately 32 percent in 1984 to a low of approximately 19 percent in 1986.

5. In summary, the applicants represent that the subject transaction has met and will continue to meet the criteria of section 408(a) of the Act because: (a) Plan participants and beneficiaries are afforded insurance protection by CG, one of the largest and most experienced group insurers in the United States, at competitive market rates arrived at through arm's-length negotiations; (b) JDLIC is a sound, viable insurance company which does a substantial amount of direct public business outside its affiliated group of companies; and (c) each of the protections provided to the Plan and its participants and beneficiaries by PTE 79-41 has been and will continue to be met under the subject reinsurance transaction.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Empire Acceptance Company, Inc. Profit Sharing Plan (the Plan), Located in Greensboro, NC

[Application No. D-7663]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 18, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply for a period of five years to the sale of certain mortgage notes to the Plan by Empire Acceptance Company, Inc. (the Employer) and to the guarantee by the Employer to repurchase any mortgage notes which are in default and to the repurchase by the Employer of such mortgage notes, provided that the terms of the transactions are at least as favorable as those the Plan could obtain in an arm's-length transaction with an unrelated party.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted, will expire five years after the date of grant. Should the Employer wish to continue to sell mortgage notes to the Plan beyond the five-year period, the Employer may submit another application for exemption. The Employer may repurchase mortgage notes from the Plan after the five-year period so long as the mortgage notes were purchased by the Plan during the five-year period.

Summary of Facts and Restrictions

1. The Plan had nine participants and total assets of approximately $405,000 as of March 1, 1988. Approximately $315,000 of that amount are allocated to the account of William Starr (Starr) who is the owner of the Employer. The investment decisions of the Plan are made by Starr who is also the Plan's trustee.

2. The Employer is a mortgage lender. When the Employer loans money to a customer, the customer generally will sign a note payable to the order of the Employer. The note is usually secured by a deed of trust on the borrower's residence. In compiling its mortgage portfolio, the Employer uses the following criteria:

(a) The credit record of the borrower;

(b) Verification of the borrower's employment or source of income;

(c) Ratio of mortgage payments to borrower's income;

(d) Requiring that the borrower be a good credit risk; and

(e) Requiring that the property offered as security be especially attractive from the standpoint of value and continued marketability, or that the loan presents a lower than usual loan to value ratio.

3. The Employer proposes to sell certain mortgage notes originated by the Employer to the Plan. The purchase price will be mortgage notes' fair market value at the time of the sale. The sale of each mortgage note will be for cash and the Plan will pay no transfer charges or other costs in relation to the transaction. The Employer will service the mortgage account for each such note free of any charge to the Plan.

4. The total dollar value of mortgage notes sold to the Plan will not exceed at any one time 25 percent of the aggregate carrying value of the Plan's assets, with no more than five percent of the Plan's assets in any one mortgage note or the notes of any one borrower. To the extent possible, the mortgage notes sold to the Plan will be geographically and demographically diversified within the area served by the Employer. In addition, the Employer agrees, in writing, to repurchase any mortgage note that is in default for more than three months as well as to repurchase any mortgage note as needed to provide liquidity for the Plan.

5. The selection of mortgage notes to be sold to the Plan will be made by Robert Skenes of Greensboro, North Carolina, who will serve as an independent fiduciary (the Independent Fiduciary) in regard to the proposed transactions. The Independent Fiduciary states that he is unrelated to the Employer and that he is educated, trained and experienced in mortgage matters. From 1967 through 1977, the Independent Fiduciary was a vice-president and senior commercial loan officer with First Union National Bank in Greensboro. He is now self-employed as a real estate financial consultant and developer. The Independent Fiduciary also states that he has been advised by legal counsel as to the duties and responsibilities of a fiduciary under the Act and assumes those responsibilities in regard to the proposed transactions. The Independent Fiduciary will make

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the determination that each sale of a mortgage note to the Plan is in the best interests of the Plan. The Independent Fiduciary will determine that each such transaction is on terms at least as favorable as the Plan could receive in a comparable transaction with an unrelated party. In addition, the Independent Fiduciary will monitor all formerly purchased mortgage notes, including the servicing of the mortgages, and will take any steps necessary to enforce the Plan's rights in relation to the mortgage notes.

The Independent Fiduciary will ensure that each mortgage note selected for the Plan is purchased for an amount which is not greater than its fair market value. In determining the fair market value of a mortgage note, the Independent Fiduciary will look at the original cost and the tax value of the property that is secured by the note and will add an appreciate factor of four percent per year.

In determining which mortgage notes will be purchased by the Plan, the Independent Fiduciary will use the following criteria:

(a) Only first mortgages will be sold to the Plan;

(b) The mortgage notes selected for purchase by the Plan will be at least three months old and have an established record of timely payment and be secured by a deed of trust;

(c) The balance owed on the mortgage note sold to the Plan shall not exceed 80 percent of the value of the secured property;

(d) An enforceable hazard insurance policy covering the property in an amount at least equal to the current outstanding balance of the mortgage note must be in existence;

(e) The original loan application and record for any mortgage considered will be reviewed in detail to determine that there has been no substantial change in the position of the borrower;

(f) The interest rate on any mortgage note purchased by the Plan will equal or exceed the current market rate available for similar investments; and

(g) The mortgage notes purchased by the Plan will be with full recourse against the Employer. In the event of default of a mortgage note, the Employer will purchase that mortgage note from the Plan at a price which is equal to the higher of (i) the current fair market value of the mortgage note or (ii) the total amount of the outstanding principal and accrued interest due on the mortgage note.

In the event that the Independent Fiduciary resigns, the Employer shall notify the Department's Office of Regulations and Interpretations of the name and qualifications of a prospective successor fiduciary and the reasons for the change. Solely for purposes of continuing the effectiveness of this exemption, the appointment of a successor independent fiduciary shall not be effective until the receipt by the Employer of the Department's approval.

6. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because: (1) The selection of mortgage notes to be sold to the Plan will be made by a Plan fiduciary who is independent of the Employer; (2) the Employer will repurchase a mortgage note from the Plan in the event of default on the note; (3) the Employer will service the mortgage account for each note free of charge to the Plan; (4) no more than 25 percent of the Plan's assets will be invested in the mortgage notes; and (5) the exemption will be a temporary exemption for a period of five years.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Proptech, Inc. Defined Benefit Pension Plan (the Plan), Located in San Diego, CA

[Application No. D-7730]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to a proposed series of loans (the Loans) by the Plan to Solana Beach Mini-Warehouse, Ltd. (the Partnership), a disqualified person and a general partnership in which the sponsor of the Plan, PROPTECH, INC. (the Employer) is the majority general partner, provided that at any time not more than twenty-five (25%) percent of the total assets of the Plan will be involved in such loans, and further provided that the terms of each of the Loans are not less favorable to the Plan than those obtainable in an arm's-length transaction with unrelated parties.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with total assets of $719,562.11, as of October 31, 1988. The Plan has two participants, George Hunt and Cathleen Hunt, who are husband and wife.[3] The trustee of the Plan is George Hunt and the administrator of the Plan is the Employer. George Hunt is the sole owner of the Employer, which is a Delaware corporation that is engaged in the business of owning, managing, and leasing self-storage facilities in San Diego, California. The Partnership is a general partnership consisting of two partners, the Employer, which has a 75 percent majority interest in the Partnership, and Mr. Dale Marquardt, unrelated to the Plan, who has a minority interest of 25 percent in the Partnership. The primary purpose of the Partnership is to maintain and develop the miniwarehouse business.

2. The Employer requests an exemption from the sanctions of section 4975 of the Code to permit a series of loans by the Plan to the Partnership. The Loans will be used to reduce an outstanding loan for $800,000 made to the Employer for which repayment is owed to the San Diego Trust & Savings Bank of San Diego, California (the Bank). The Loans will be made over a period of five-year beginning in 1989 in amounts not to exceed $120,000 per year with a maximum of $600,000 for the entire five year period. The aggregate value of all outstanding individual Loans by the Plan to the Partnership will never exceed 25 percent of the total assets of the Plan. At all times the value of the Loans will be evidenced by a promissory note and will be secured by a second deed of trust on certain real property (the Property). Each time a new loan is made by the Plan to the Partnership a new promissory note, secured by a second deed of trust on the Property, will be executed for the Partnership by each partner of the Partnership and by Mr. Hunt, as an individual, to reflect the total debt outstanding of the Partnership under the Loans.

3. The repayment of principal and interest of 11.5 percent per annum on the Loans will be made in equal quarterly installments commencing in 1989. A total repayment of the Loans will be completed within fifteen years of the granting the initial loan with no penalty for prepayment of any sum. The Bank, which holds the first deed of trust on the Property, has given its written approval for the proposed placements of second deeds of trust as the Loans are made by the Plan to the Partnership. The secured interest of the Plan in the Property will be properly recorded under the laws of California and the improvements will be insured against fire and other hazards for the entire period of the Loans, at no expense to the Plan, in an amount no less than the outstanding balance of the first and second deed of trusts on the Property under both the Loans and the outstanding loan to the Bank.

[3] Since Mr. and Mrs. Hunt are the only participants in the Plan and the Employer is wholly owned by Mr. Hunt, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

4. The Property is located at 545 Stevens Avenue, Solama Beach, California and has been improved by a miniwarehouse facility consisting of 1,152 unit mini storage facility totalling 83,887 square feet of net rentable area. Wood Associates of Redlands, California, an independent appraisal firm determined that the Property had a fair market value of $4,900,000, as of June 22, 1987, and Conland Appraisal Associates of San Diego, California, another independent appraisal firm concurred as of July 13, 1988, with the appraised fair market value of $4,900,000 for the Property. The Property has a value considerably greater than 200 percent of the outstanding balance of the proposed Loans and the Bank loan, however if the Property should decrease in value, the parties in the Partnership agree to provide additional collateral, if necessary, to ensure that the value of the total collateral is at all times equal to at least 200 percent of the outstanding balance of the Loans and the Bank loan.

5. The First Interstate Mortgage Company, San Diego, California, a financial institution, made an evaluation of the proposed Loans and concluded that their terms represent fair market value and that it would grant a second loan under the terms as proposed. The participants of the Plan, Mr. and Mrs. Hunt, both believe the proposed Loans to be in the best interest of the Plan and its participants and both believe that the Loans are adequately secured to protect their interests. The Employer has no employees other than the Hunts and none are anticipated during the period of the Loans. However, should another employee become eligible to participate in the Plan, another plan with provisions identical to the Plan will be established for such employee or employees so that the only persons affected by the Loans will be the Hunts.

6. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (a) The Loans are secured by real estate with an appraised value that is and will remain substantially more than 200 percent of the outstanding balance of the Loans and the Bank loan; (b) an evaluation of the Loans as proposed was made by a financial institution, which concluded that the Loans were at fair market value and it would grant loans under the proposed terms; (c) the Plan's secured interest under the Loans will be protected by properly recording the deeds of trust under the laws of California and the Property's improvements will be insured against fire and other hazards for the length of the Loans, at no cost to the Plan, in an amount no less than the outstanding balances of the first and second deeds of trust; (d) a policy of insurance on the Property will be obtained for fire and other hazards for the length of the Loans; and (e) the Hunts, the only participants affected by the transactions desire that the transactions be consummated.

Notice to Interested Persons: Because the Hunts are the only participants affected by the proposed transactions, the Department has determined that there is no need to distribute notice to interested persons. Comments and requests for a hearing are due 30 days from the date of publication of this notice in the **Federal Register**.

For Further Information Contact: Mr. C. E. Beaver of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Southern California Floor Covering Pension Trust Fund (the Plan), Located in Pasadena, CA

[Application No. D-7738]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a parcel of improved real property (the Property) by the Plan to Sanwa Bank California (Sanwa), a party in interest with respect to the Plan, provided the Plan receives the greater of $660,000 or the fair market value for the Property at the time of sale.

Summary of Facts and Representations

1. The Plan is a multiemployer, collectively bargained pension plan representing approximately 70 contributing employers. The sponsoring union is Resilient Floor and Decorative Covering Local Union 1247 of the International Brotherhood of Painters and Allied Traders. The Plan had total assets of approximately $59,300,000 of 1,474 participants as of October 31, 1988. Sanwa, a California banking corporation, is a co-trustee of the Plan which has investment management responsibilities in regard to the Plan.

2. The investment portfolio of the Plan includes the Property located in Cerritos, California. The Property consists of a bank branch facility, situated on a 0.66 acre portion of a shopping center, which is currently leased to Sanwa. The Plan purchased the Property in June 1970 from First Western Bank and Trust Co. (First Western), the predecessor bank to Sanwa. The cost to the Plan for the land and building on the land was $200,000. According to the applicant, the initial lease between the Plan and First Western was approved by the California Superior Court because of the requirements of California law. In order to overcome any problems with the California Civil Code on prohibited transactions between an employee benefit plan and related parties (prior to passage of the Act), an application was made to the California Superior Court in the County of Los Angeles. The lease was entered into in June 1970 for a period of 25 years and contains five option periods for up to 25 additional years. The current annual rental income on the Property is $44,507.

3. The Plan obtained an independent appraisal on the Property from Clifton Webb, Jr., and Jeffrey Sumida (Webb and Sumida) of Landauer Associates, Inc., a real estate consulting firm located in Santa Ana, California. The bank branch facility consists of a concrete block freestanding building constructed on 3,536 square feet of the Property. The improvements on the, Property also include professional landscaping and paved parking for 24 automobiles. Webb and Sumida believe that the highest and best use of the Property would be conversion of the bank building to retail use, with construction of an additional 2,064 square feet of retail space on the excess land component. Utilizing the cost, income, and comparable sales approaches to value, Webb and Sumida estimated that the fair market value of the Property, unencumbered by the current lease, was $660,000 as of June 24, 1988. Webb and Sumida also estimated that the fair market rent on the Property for the year ending in June 1988 was $51,343 (approximately $4,279 per month).

4. The trustees of the Plan instructed Sanwa in September 1987 to sell the Property to a third party. In March 1988,

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the Department in an investigation of the Plan notified the Plan that in its view the lease between the Plan and Sanwa appeared to be a prohibited transaction.[4] Sanwa proposes to pay to the Plan at least $37,711 as additional rent (which is the difference between the rent paid by Sanwa and the fair rental value, as established in the appraisal from June 30, 1984 to the date of the appraisal). As of the appraisal date, Sanwa will make monthly rental payments of $4,279 to the Plan, the fair market rent established in the appraisal. Sanwa will continue to pay fair market rent to the Plan until sale of the Property is completed.[5]

Sanwa also proposes to purchase the Property from the Plan. The applicant notes that the Property is suitable for bank purposes, without renovations or modifications, and that the Plan might not be able to sell the Property to a third party for cash at fair market value. Sanwa will pay the greater of $600,000 or fair market value for the Property at the time of sale, based on a updated independent appraisal. The sale will be entirely for cash, and the Plan will pay no fees or commissions in regard to the transaction.

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) Sanwa will pay no less than fair market value for the Property at the time of sale; (2) the fair market value will be established by a current independent appraisal of the Property; (3) the transaction will allow the Plan to disengage from a lease between itself and a party in interest with respect to the Plan; and (4) the sale of the Property will be entirely for cash and the Plan will pay no fees or commissions in regard to the sale.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Pillsbury, Madison & Sutro Keogh Plan (the Keogh Plan), Located in San Francisco, CA

[Application No. D-7741]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed loan of up to $10 million by the Keogh Plan to Pillsbury, Madison & Sutro (the Employer), provided that the terms of the transaction are not less favorable to the Keogh Plan than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Pillsbury, Madison & Sutro Retirement Plan is a co-mingled trust consisting of three parts, which include a Keogh Plan, a Tax Saving Plan, and a Voluntary Contribution Plan. The proposed transaction will involve only the assets of the Keogh Plan, whose total assets as of December 31, 1988 equalled approximately $42 million. The trustees of the Plan are currently W.D. Berry, J.M. Canty, P. Hudner, A.R. Kemp, Jr., W.J. Martin, Jr., T.N. McNamara, and G.A. Sears, all of whom are partners in the Employer. The Employer was established as a California general partnership in 1875 and is one of the largest law firms in the United States. For the year ended December 31, 1987, the Employer's gross revenues were $116.8 million and its net income was in excess of $37 million.

2. The Trustees of the Keogh Plan and the Employer have agreed to enter into a loan arrangement in which the Employer will borrow up to $10 million from the Keogh Plan. The arrangement contemplates two separate loan disbursements. The first, to be made as soon as the requested exemption is granted, will be for $6 million. The second, to be disbursed by September 15, 1990, will be for $4 million. The applicant represents that the total amount of the loans, including a prior loan approved by the Department, will not exceed 25% of the Keogh Plan's assets on the date of disbursement of each amount. Funds for the loans will come from a group annuity contract issued by Prudential Insurance Company of America.[6]

3. The proceeds from the loans will be used by the Employer to pay for automation equipment, software and related installation expenses for a fully integrated, automated office system encompassing word processing, electronic mail data base management, calendar, and docket systems and to repay loans from financial institutions to finance such purchases.

4. Each of the proposed loans will have a term of 5 years from the date of its disbursement. Principal and interest shall be repaid in equal monthly installments. Monthly interest payments on the remaining principal balance of the loans will be at the annual rate of 5 percentage points over the Federal Reserve Bank of San Francisco discount rate, or, if higher, the rate which provides the Keogh Plan with a return commensurate with the interest rate charged by persons in the business of lending money for loans made under similar circumstances, as determined by the Keogh Plan's independent fiduciary (See appointment of Union Bank, infra).

5. The loan will be secured by letters of credit (or a single letter of credit covering both loans) issued by the Bank of America equal to the total amount of the outstanding loan balance plus approximately 60 days accrued interest. In addition, the trustees of the Keogh Plan will appoint Union Bank as independent fiduciary for the Keogh Plan to determine the prudence of each loan, to administer and enforce the terms of the loan agreement and, if necessary, to draw down on the letters of credit on behalf of the Keogh Plan. The letters of credit may be drawn down by Union Bank upon certification by it that the amount being drawn down is due and payable under the loan agreement because of either the occurrence of an event of default under the loan agreement,[7] or the receipt of

[4] The applicant represents that the lease between the Plan and Sanwa was entitled to relief from the provisions of section 408 of the Act by virtue of section 414(c)(2) of the Act. Section 414(c)(2) provides an exemption until June 30, 1984, for a lease or joint use of property involving a plan and a party in interest pursuant to a binding contract in effect on July 1, 1974, provided certain conditions are met. The Department expresses no opinion as to whether the conditions of section 414(c)(2) and the regulations issued thereunder (29 CFR 2550.414c-2) were in fact met in regard to the situation described above.

[5] The applicant recognizes that the lease between the Plan and Sanwa may have constituted a prohibited transaction (at least after June 30, 1984) under section 406 of the Act and section 4975 of the Code. Accordingly, the applicant will pay the Internal Revenue Service all excise taxes that are applicable under section 4975(a) of the Code within 90 days of the publication in the Federal Register of the grant of this proposed exemption.

[6] The applicant represents that the Keogh Plan will not incur any market value adjustment or other penalty as a result of the liquidation of this investment.

[7] An event of default will occur if the Employer fails to pay interest or principal on the loans within 10 days after the due date, upon proof of any false or misleading statements made by the Employer under the representations and warranties or covenants of the agreement, the filing of bankruptcy, or a default under certain other loan agreements where the lender may accelerate payment. Upon the occurrence of an event of default, the obligation of the Keogh Plan to continue the loans is terminated, and at the option of the Keogh Plan all amounts of principal and interest under the loan become due and payable.

notice of termination of either letter of credit from Bank of America.

6. Under the letter of credit agreement, Bank of America will reserve the right to terminate the letter of credit upon 60 days written notice to Union Bank. If such a notice is given and substitute letters of credit are not obtained or the Employer does not repay all amounts of principal and interest outstanding under the loan within 30 days prior to the expiration of the letters of credit, an event of default under the loan agreement will occur. In such a case, Union Bank will demand full payment of all principal and interest owing under the loan agreement and will draw down on the letters of credit before they terminate so that interests of the Keogh Plan will be protected.

7. The terms of the loan trust agreement provide that Union Bank will hold the promissory notes evidencing the loans as trustee on behalf of the Keogh Plan, and will pay over to the trustees of the Keogh Plan any amounts of principal and interest received from the Employer and any amounts drawn down under the Bank of America letters of credit. Union Bank is authorized to enforce the provisions of the loan agreement and to collect the notes or the proceeds from the letters of credit as required to protect the interests of the Keogh Plan and its participants and beneficiaries. The loan trust agreement will terminate upon the repayment of the loans or the payment of the proceeds from the letters of credit. Union Bank will have control and authority only with respect to the Keogh Plan assets subject to the loan agreement.

8. Union Bank represents that, as independent fiduciary, it has reviewed various documents relating to the proposed loan and to the financial condition of the Employer. Those documents included, among others, the loan agreement and note, the loan trust agreement, the irrevocable letter of credit, and audited financial statements of the Employer. In addition, Union Bank has reviewed the documents establishing the Keogh Plan, current financial statements of the Keogh Plan and the allocation of the Keogh Plan's assets between the Prudential Group Annuity contract and other types of investments.

Based upon Union Bank's review of the documents referred to above and other information provided by the Keogh Plan, it has determined that the terms of the proposed loan are consistent with those customarily found in commercial loan arrangements and are no less favorable to the Keogh Plan than the Keogh Plan might obtain in a loan to an unrelated party. Union Bank has also determined that the proposed loan would be an appropriate investment for the Keogh Plan and in the interest of the Keogh Plan's participants and beneficiaries. Union Bank will review these determinations prior to making each disbursement under the loan agreement and will not make such disbursements unless it finds them to be appropriate and in the interest of the Keogh Plan.

9. The Employer represents that it does not control, is not controlled by, and is not under common control with Union Bank and is not otherwise affiliated with Union Bank. No partner in the Employer has any ownership interest in Union Bank, nor does any partner or relative of a partner hold a position as a director or senior management official of Union Bank. Although the Employer has no banking relationship with Union Bank, a few partners in the Employer have checking or savings accounts, loans, or other consumer banking relationships with Union Bank. The Employer has also provided legal services for Union Bank from time to time. In 1987, Union Bank paid the Employer $161,750 in legal fees, representing less than .2% of the firm's gross income for that year. The applicant represents that the Employer will neither advise nor counsel Union Bank with respect to any matter concerning the proposed loan arrangement or the Bank of America letter of credit arrangement. Thus, the applicant represents that Union Bank will be totally independent of the Employer with respect to this matter, and the Employer will not be in a position, by virtue of any past or existing business relationship, to influence the actions or decisions of Union Bank in connection with the proposed loan arrangements. Union Bank is also totally independent of the Bank of America.

10. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The loans' terms and conditions will be monitored by Union Bank;

(b) The loans will be secured by letters of credit from the bank of America. Such letters will be called if the Bank of America notifies Union Bank of its intent not to renew, and substitute letters of credit are not obtained; and

(c) Union Bank, as independent fiduciary to the Keogh Plan, has determined that the transaction is appropriate for the Keogh Plan and in the best interests of the Keogh Plan's participants and beneficiaries.

For further information contact: Alan H. Levitas of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Blackhawk, Inc. Employees' Retirement Plan and Trust (the Plan), Located in Phoenix, AZ

[Application No. D-7792]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase of vacant land (the Land) by the Plan from Mr. Kenneth A. Wallace, a disqualified person with respect to the Plan, provided the purchase price does not exceed the Land's fair market value as of the date of the purchase and provided further that the purchase does not cause the Plan to be disqualified in accordance with the provisions of section 415 of the Code.[8]

Summary of Facts and Representations

1. The Plan is a defined contribution plan covering only one participant, Mr. Kenneth A. Wallace (the Trustee), who is the trustee of the Plan, the sole owner of Blackhawk, Inc. (the Employer), the Plan sponsor, which has no employees other than the Trustee. The Trustee represents that no further employees of the Employer will participate in the Plan but will, when eligible, participate in a separate plan with identical provisions. As of October 31, 1988, the Plan's totalled $726,637.05

2. The Land comprises approximately 14 acres of vacant land located in the White Mountain area of Apache County, Arizona, described in said County's Notice of Valuation as SEC 18 TION R25E, Lot 6. The Trustee, who presently owns the Land, wishes to purchase it for the Plan for its fair market value as appraised by Mr. Jed B. Shapiro (the Realtor), of Coldwell Banker McCarty Realty.

3. Although the Land has been valued by the Apache County Assessor (the Assessor) at $34,536 (full cash value)

[8] Because Kenneth A. Wallace is the sole owner and employee of Blackhawk, Inc., the Plan sponsor, and the sole participant in the Plan, there is no jurisdiction under Title II of the Act pursuant to 29 CFR 2510.3-3 (b) and (c). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

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and at $33,182 (limited cash value) as of January 1, 1989, the Realtor, on September 30, 1988, suggested listing the Land at a price of $19,950. The Realtor has inspected the Land and calculated its net usable area as 11.84 acres. He notes that a portion of the Land appears to be a seasonal wetland and that a domestic water well would be required to improve the Land.

4. The Trustee represents that the Realtor is totally independent of the Employer and is, in fact, unknown to the Trustee except as a realtor recommended as being the best in the area, so that there is no relationship between or among the Realtor, the Employer, or the Trustee. The Realtor states that he has actively pursued a full-time living marketing real estate in the White Mountain area for two years and that he is: An Arizona licensed real estate salesperson; a member of the Navajo County, Arizona, and National Association of Realtors; and a graduate of the Coldwell Banker Fast Start Program. He states that he holds a bachelor's degree in business administration and presently maintains a personal listing inventory in excess of $2.2 million.

5. In regard to the Assessor's full cash valuation of the Land, the Realtor asserts that his research of actual sales demonstrates that the Assessor is consistently high and that the standard relationship between the free market sales price and the full cash valuation for property taxation is typically 60–85%. He asserts that the Assessor's full cash valuation is clearly unsupported by recent or historic sales, explaining that the number of potential buyers is limited and that most of the property in the area of the Land is undeveloped, owned by individuals who do not live in the area, and affected by the depressed market conditions present in the White Mountains (and, in fact, in all of Arizona). He asserts that his observations, summarized above, are, to the best of his knowledge and professional competence, a factual representation of current conditions. The Trustee states that he agrees with the Realtor's valuation of the Land and that he is appealing the Assessor's valuation through the procedures established for such appeals.

6. The Trustee represents that there will be no commission or other expense involved in the transfer of the Land to the Plan, that the Plan will pay the purchase price in a cash lump sum on the date of the purchase, and that said purchase price will not exceed the fair market value of the Land as of the purchase date as determined by the Realtor or another qualified appraiser who is unrelated to the Trustee and the Employer. The Trustee also represents that if the difference between the Assessor's valuation and the price to be paid by the Plan to purchase the Land were deemed to constitute a contribution or other addition to the Plan for purposes of section 415(c) of the Code, the limits provided by that section would not be exceeded. The Trustee represents that the Plan stands to benefit from selling the Land in the future at a higher price and/or terms which will benefit the Plan and its sole participant. He also represents that the Land does not require management as it is vacant and that a future sale of the Land by the Plan can be completed with a minimum of effort.

7. In summary, the Trustee represents that the proposed purchase satisfies the exemption criteria set forth in section 4975(c)(2) of the Code because: (a) The proposed purchase price will not exceed the land's fair market value as of the date of the purchase as determined by a qualified unrelated appraiser; (b) no commissions or other purchase expenses will be charged to the Plan; (c) the Trusee, who is the sole participant in the Plan, believes the Plan stands to benefit from reselling the Land in the future; (d) the Trustee is the only Plan participant affected by the proposed purchase, which he wishes to effect; and (e) the contribution limits provided by section 415 of the Code would not be exceeded if the difference between the price to be paid by the Plan to acquire the Land and the Assessor's valuation were deemed to be a contribution or other addition to the Plan for purposes of that Code section.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring Employer to the plan and therefore must be examined under applicable provisions of the Code, including section 401(a)(4), 404, and 415.

Notice to Interested Persons

Because the Trustee is the only participant in the Plan and the sole owner of the employer, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests on the proposed exemption are due 30 days after the date of publication of said notice in the **Federal Register**.

For further information contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

John R. Ciliberti, M.D., P.S. Pension Plan and Trust (the Plan), Located in Redmond, WA

[Application No. D–7924]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale (the Sale) for cash of certain real property (the Property) by the Plan to John R. Ciliberti, M.D., a disqualified person with respect to the Plan, provided that the sales price for the Property is the higher of the sum of $76,000 or the fair market value of the Property on the date of the Sale.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with total assets of $382,592.03, as of October 31, 1988. John R. Ciliberti, M.D. (the Applicant) is the trustee of the Plan and its only participant as well as the sole shareholder of the sponsor of the Plan, John R. Ciliberti, M.D., P.S. (the Employer).[*]

2. The Property is a parcel of unimproved real property consisting of approximately 2.5 acres with 400 feet of waterfront located in the upper northern region of Puget Sound on Stuart Island at the extreme northwesternly terminus of San Juan County, Washington. Lynne Mercer, a real estate broker with nine years experience in the area with Friday Harbor Realty, Inc., Friday Harbor, Washington, describes the Property as being remote, slow in sales activities, and only reachable in good weather by private boat or airplane. It is designated as an "outer island", lacking public power, water, telephone or ferry services. As of November 7, 1988, the Property was appraised by an independent appraiser, Donald G. Montgomery, MAI with Wm. T. Follis, Realtor, Bellingham, Washington. He determined that the fair market value of the Property is $76,000.

[*] Since John R. Ciliberti, M.D. is the sole shareholder of the Employer and is the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

3. The Applicant determined shortly after the Plan purchased the Property from an unrelated party that the investment made by the Plan was a mistake. The discrenment of the erroneous investment arose when the Applicant comprehended that because of the condition and location of the Property, it would not appreciate in value as initially anticipated and would not generate income for the Plan. It became obvious to the Applicant that if the Plan continued to hold title to the Property, the unsuitable investment would deplete assets of the Plan by the payments of property taxes and maintenance costs. The Applicant desires to remedy the poor investment quickly by his cash purchase of the Property for the higher of the sum of $76,000 or the fair market value of the Property. By personally purchasing the Property, the Applicant intends for the Plan to avoid a delay in selling the Property to an unrelated party and the payment of real estate commissions and other expenses. All recording, escrow, excise or any other fees will be paid by the Applicant in the proposed Sale.

4. In summary, the Applicant represents that the proposed transaction will satisfy the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (a) The proposed Sale will be a one-time transaction for cash; (b) the Plan will receive the higher of the sum of $76,000 or the fair market value on the date of the Sale as determined by an independent, qualified appraiser; (c) the Plan will pay no real estate commissions nor any other fees or expenses in connection with the proposed Sale; and (d) the Applicant, the only participant affected by the proposed transaction, desires that the proposed transaction be consummated.

Notice to Interested Persons: Since John R. Ciliberti, M.D., is the sole owner of the Employer and the only participant of the Plan, it has been determined that there is no need to distribute the notice of the proposed exemption to interested persons. Comments and requests for a hearing are due 30 days after publication of this notice in the Federal Register.

For Further Information Contact: Mr. C. E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 14th day of April 1989.

Robert J. Doyle,

Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor

[FR Doc. 89–9483 Filed 4–19–89; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[89–28]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Astrophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Astrophysics Subcommittee.

DATE AND TIME: May 4, 1989, 9 a.m. to 4:30 p.m.

ADDRESS: Capital Gallery, West Wing, Room 100, 600 Maryland Avenue SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Haymes, Code EZ, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1435).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Astrophysics Subcommittee provides advice to the Astrophysics Division and to the SSAAC on operation of the Astrophysics Program and on formulation and implementation of the Astrophysics research strategy. The Subcommittee will meet to receive reports on the Data Analysis Manpower Workshop, the Management Operations Working Groups, restructuring of the Space Science Board, and plan future Subcommittee activities. The Subcommittee is chaired by Dr. Irwin Shapiro and is composed of 34 members. The meeting will be open to the public up to the capacity of the room (approximately 50 including Subcommittee members).

Type of Meeting: Open.

Agenda

Thursday, May 4

9 a.m.—Introduction and Opening Remarks.
9:10 a.m.—Recent Developments.
9:40 a.m.—Data Analysis Manpower Workshop Report.
10 a.m.—Management Operations

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Working Group Reports.
1 p.m.—Restructuring of the Space Science Board.
2 p.m.—Report on the Office of Aeronautics and Space Technology.
3:15 p.m.—Support for Ground-based Observing.
4 p.m.—Subcommittee Discussion.
4:30 p.m.—Adjourn.

John W. Gaff,
Advisory Committee Management Officer, National Aeronautics and Space Administration.
April 14, 1989.

[FR Doc. 89-9481 Filed 4-19-89; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given on confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

1. *Date:* May 15, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications in Higher Education Programs, submitted to the Division of Education Programs, for projects beginning after October 1, 1989.

2. *Date:* May 17, 1989.
Time: 8:30 a.m. to 5:00 p.m.
Room: 316-2.
Program: This meeting will review applications in Higher Education Programs, submitted to the Division of Education Programs, for projects beginning after October 1, 1989.

3. *Date:* May 19, 1989.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications in Higher Education Programs, submitted to the Division of Education Programs, for projects beginning after October 1, 1989.

4. *Date:* May 22 1989.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications in Higher Education Programs, submitted to the Division of Education Programs, for projects beginning after October 1, 1989.

5. *Date:* May 24, 1989.
Time: 8:30 a.m. to 5:00 p.m.
Room: M-14.
Program: This meeting will review applications in Higher Education Programs, submitted to the Division of Education Programs, for projects beginning after October 1, 1989.

Stephen J. McCleary,
Advisory Committee Management Officer.
[FR Doc. 89-9431 Filed 4-19-89; 8:45 am]
BILLING CODE 7536-01-M

National Endowment for the Humanities; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: The National Endowment for the Humanities will hold two public meetings for discussion of the upcoming reauthorization of the National Foundation on the Arts and the Humanities Act (Pub. L. 99-194) as it relates to the National Endowment for the Humanities. The first will be held in Dallas, Texas, on May 23, 1989, and the second will be held in Chicago, Illinois, on May 24, 1989.

FOR FURTHER INFORMATION CONTACT: Rex O. Arney, General Counsel, National Endowment for the Humanities, Washington, DC 20506, Telephone: (202) 786-0322.

SUPPLEMENTARY INFORMATION: Members of the public are invited to give their views on the legislation that established the National Endowment for the Humanities. Individuals who wish to present their views are encouraged to notify the Endowment in advance and to submit a written copy of their comments prior to the meeting. These meetings will be open to the public on a space available basis. If you need special accommodations due to a disability, please contact the Endowment at least seven (7) days prior to the meeting.

1. *Date:* May 23, 1989
Time: 10:00 a.m.
Place: Plaza Level Auditorium, J. Erik Jonsson Central Library, 1515 Young Street, Dallas, Texas
2. *Date:* May 24, 1989
Time: 10:00 a.m.
Place: Swift Hall, Third Floor, 1025-35 East 58th Street, Main Quadrangle of the University of Chicago, Chicago, Illinois

Stephen J. McCleary,
Advisory Committee, Management Officer.
[FR Doc. 89-9506 Filed 4-19-89; 8:45 am]
BILLING CODE 7536-01-M

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on May 12, 1989 from 9:00 a.m. to 5:15 p.m., and on May 13, 1989 from 9:00 a.m. to 7:00 p.m., in Room M-09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on Friday, May 12, 1989 from 9:00 a.m. to 5:15 p.m., and on Saturday, May 13, 1989, from 9:00 a.m. to 4:00 p.m. The topics for discussion will include Program Review and Guidelines for State Programs; Music: Professional Training, Recording, and Centers for New Music Resources; Expansion Arts; Expansion Arts/Inter-Arts Organizational Development Pilot for Presenters; Dance; Folk Arts; and Literature. In addition there will be discussions on Advanced Television Technologies, Reauthorization of the Agency and FY 91 Budget Planning.

The remaining sessions on Saturday May 13, 1989, from 4:00 to 7:00 p.m. are for the purpose of Council review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(B) of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5496 at least seven days (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.
[FR Doc. 89-9526 Filed 4-19-89; 8:45 am]

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Challenge III Section) to the National Council on the Arts will be held on May 11, 1989, from 9:00 a.m.-5:00 p.m. in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 11, 1989 from 4:00 p.m.-5:00 p.m. The topics for discussion will be policy issues.

The remaining portion of this meeting on May 11, 1989 from 9:00 a.m.-4:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

April 13, 1989.

Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.
[FR Doc. 89-9527 Filed 4-19-89; 8:45 am]
BILLING CODE 7537-01-M

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Artists' Projects: New Forms Prescreening Section) to the National Council on the Arts will be held on May 8—11, 1989, from 9:30 a.m.—6:00 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purposes of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.
April 13, 1989.

[FR Doc. 89-9528 Filed 4-19-89; 8:45 am]
BILLING CODE 7537-01-M

Meeting

Notice is hereby given that the National Endowment for the Arts will sponsor a meeting on May 15, 1989, from 10:00 a.m.-1:00 p.m. in Room MO-9 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

The topic of discussion will be the upcoming reauthorization of the National Foundation on the Arts and the Humanities Act (Pub. L. 99-194) as it relates to the National Endowment for the Arts. This meeting will be open to the public on a space available basis.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Rose M. DiNapoli, Congressional Liaison Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5434.

Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.
April 13, 1989.

[FR Doc. 89-9529 Filed 4-19-89; 8:45 am]
BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, and of the ACNW, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published March 21, 1989 (54 FR 11588). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee and ACNW

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meetings begin at 8:30 a.m. and ACRS Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings and when ACRS Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the May 1989 ACRS full Committe and the ACNW meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 301/492–7288, ATTN: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Occupational and Enviornmental Protection Systems, April 20, 1989, Bethesda, MD. The Subcommittee will review the proposed interim standard for occupational exposure of the skin to beta radiation from small radioactive particles (hot particles).

Instrumentation and Control Systems, April 21, 1989, Bethesda, MD. The Subcommittee will review the implementation status of the ATWS rule.

Limerick 2, April 25, 1989, Philadelphia, PA. The Subcommittee will review the application of the Philadelphia Electric Company for a license to operate Limerick Unit 2.

Materials and Metallurgy, April 27, 1989, Bethesda, MD. the Subcommittee will discuss the status of the following matters: erosion/corrosion of pipes, hydrogen/water chemistry, zinc addition to the primary coolant loop and its effects on materials, decontamination effects on materials, and other related matters.

Mechanical Components, May 3, 1989, MD., The Subcommittee will continue the discussion on proposed NRC staff generic letter on testing and surveillance of all safety-related MOVs.

General Electric Reactor Plants (ABWR), May 10–11, 1989, Bethesda, MD. The Subcommittee will continue its review of the GE ABWR. The Subcommittee will also preview Chapters 1, 8, 9, 11, 12, 13, 14 and 17 of the Safety Analysis Report related to GE ABWR.

Joint Thermal Hydraulic Phenomena and Core Performance, May 23, 1989, Bethesda, MD. The Subcommittee will discuss: (1) The NRC–RES thermal Hydraulic research program plan as documented in NUREG–1252, and a proposed SECY paper and (2) the status of the ongoing effort to address the implications of the core power oscillation event at La Salle Unit 2.

Regulatory Policies and Practices, May 24, 1989, Bethesda, MD. The Subcommittee will review a proposed rule on nuclear plant license renewal.

Materials and Metallurgy, May 25, 1989, Bethesda, MD. The Subcommittee will review low upper shelf fracture energy concerns of reactor pressure vessels.

Joint Regulatory Activities and Containment Systems, July 12, 1989, Bethesda, MD. The Subcommittee will review the proposed final revision to Appendix J to 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

Reliability Assurance, Date to be determined (end of May), Bethesda, MD. The Subcommittee will discuss the status of implementation of USI A–46, "Seismic Qualification of Equipment in Operating Plants."

Auxiliary and Secondary Systems, Date to be determined (end of May), Bethesda, MD. The Subcommittee will discuss the proposed Generic Letter on Service Water System Problems Affecting Safety-Related Equipment, and the Bio-fouling issue.

Joint Severe Accidents, and Probabilistic Risk Assessment, Date to be determined (May-June), location to be determined. The Subcommittees will discuss the second draft of NUREG–1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants."

Advanced Pressurized Woter Reactors, Date to be determined (June), Bethesda, MD. The Subcommittee will discuss the comparison to WAPWR (RESAR SP/90) design with other modern plants (in U.S. and abroad).

Advanced Pressurized Water Reactors, Date to be determined (June), Bethesda, MD. The Subcommittee will discuss the licensing review bases document being developed for Combustion Engineering's Standard Safety Analysis Report-Design Certification (CESSAR–DC).

B&W Reactor Plants (Rancho Seco), Date to be determined (late June-early July), Sacramento, CA. The Subcommittee will discuss the lessons learned for the approximately 2-year shutdown of Rancho Seco.

AC–DC Power Systems Reliability, Date to be determined (June/July), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 128, "Electrical Power Reliability."

Auxiliary and Secondary System, Date to be determined (June/July), Bethesda, MD. The Subcommittee will review the adequacy of the staff's proposed plans to implement the recommendations resulting from the Fire Risk Scoping Study and other matters related to fire protection sytems.

Severe Accidents, Date to be determined (June/July), Bethesda, MD. The subcommittee will discuss the NRC Severe Accident Research Program (SARP) plan.

Thermal Hydraulic Phenomena, Date to be determined (July), Bethesda, MD. The Subcommittee will review the NRC staff's proposed resolution of Generic Issue 84: "CE PORVs."

Plant Operating Procedures, Date to be determined (July), Bethesda, MD. The Subcommittee will review the status of the NRC program on Technical Specification Improvement.

Severe Accidents, Date to be determined (July/August), Bethesda, MD. The Subcommittee will discuss the NUMARC Accident Management guideline document and the NRC research program in the accident management area.

Decay Heat Removal System, Date to be determined (July/August), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 23: "RCP Seal Failures."

Joint Thermal Hydraulic Phenomena and Core Performance, Date to be determined (September), Bethesda, MD. The Subcommittees will continue its review of the implication of the core power oscillation event at LaSalle, Unit 2.

Decay Heat Removal System, Date to be determined Bethesda, MD. The Subcommittee will explore the issue of the use of feed and bleed for decay heat removal in PWRs.

Thermal Hydraulic Phenomena, Date to be determined Bethesda, MD. The Subcommittee will discuss the status of Industry best-estimate ECCS model submittals for use with the revised ECCS Rule.

Auxiliary and Secondary Systems, Date to be determined Bethesda, MD. The Subcommittee will discuss the: (1) Criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the NRC staff to review the Chilled Water Systems design.

Extreme External Phenomena, Date to be determined, Bethesda, MD. The Subcommittee will review planning documents on external events.

ACRS Full Committee Meetings

349th ACRS Meeting, May 3–6, 1989—Items are tentatively scheduled.

*A. *Meeting with NRC Commissioners (Open)*—Discuss recent ACRS reports to NRC regarding Generic Issue-99, Improved Reliability of Residual Heat Removal Capability in PWRs dated September 14, 1988 and February 16, 1989; Unresolved Safety Issue A–45, Shutdown Decay Heat Removal Requirements dated September 14, 1988, and the NRC Safety Goal Implementation Plan dated February 16, 1989.

*B. *NUREG–1150, Reactor Risk Reference Document (Open)*—Review and comment on proposed revised version of NUREG–1150, Severe Accident Risk: An Assessment for Five U.S. Nuclear Power Plants

*C. *ACRS/ACNW Scope of Responsibilities (Open)*—Discuss proposed ACRS recommendations to the NRC.

*D. *Limerick Nuclear Power Station Unit 2 (Open)*—Review and report on the application of the Philadelphia Electric Company for a license to operate this plant.

*E. *Human Factors (Open)*—Review and comment regarding proposed NRC Human Factors Research Program Plant and the agency's Human Factors Initiatives.

*F. *10 CFR Parts 50 and 55 (Open)*—Review and comment regarding proposed NRC rules regarding education requirements for Senior Reactor Operators and Supervisors at nuclear power plants. Representatives of the NRC staff and NUMARC will participate, as appropriate.

*G. *Unresolved Safety Issue A–40, Seismic Design Criteria (Open)*—Review and report on the proposed resolution of this USI.

*H. *Radiological Effect of "Hot Particles" (Open)*—Review and report on proposed NRC generic letter regarding evaluation of radiation exposure/doses from "hot particles."

*I. *Evaluation of Operating Experience (Open)*—Briefing and discussion of AEOD reports on several aspects of nuclear power plant operations including loss of decay heat removal capability due to rapid cavity pump down, and operational experience review of potential large openings in containment.

*J. *Safety-Related Value Testing and Surveillance (Open)*—Discuss proposed ACRS report to the NRC regarding proposed generic letter on testing and surveillance of safety-related motor operated valves in nuclear power plants.

*K. *ACRS Subcommittee Activities (Open/Closed)*—Discuss status of assigned activities of designated ACRS subcommittee meetings, including the status of the implementation of the NRC rule on Anticipated Transients Without Scram (ATWS), and the planning of ACRS activities and allocation of its resources.

L. *Appointment of ACRS Members (Closed)*—Discuss the status of appointment of ACRS members and the qualifications of candidates proposed for nomination as members of the ACRS.

*M. *Anticipated ACRS Activities (Open)*—Discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full committee.

*N. *Emergency Planning (Open)*—Briefing and discussion regarding the status of emergency planning and preparedness for nuclear power plants.

*O. *Performance Indicator Program (Open)*—Briefing by representatives of the NRC staff regarding development and use of the performance indicators at nuclear power plants.

*P. *Chemistry/Corrosion Current Issues (Open)*—Discussion of the status of the issues regarding: erosion/corrosion of pipes, hydrogen/water chemistry, zinc addition to primary coolant loop and its effects on materials, decontamination effects on materials, and boric acid corrosion.

350th ACRS Meeting, June 8–10, 1989—Agenda to be announced.

351st ACRS Meeting, July 13–15, 1989—Agenda to be announced.

ACNW Full Committee Meetings

10th ACNW Meeting, May 11, 1989—Items are tentatively scheduled.

The following items will be discussed:

1. Consideration of the Site Characterization Plan and the NRC staff's Site Characterization Analysis. (Open)

2. Environmental Monitoring of Low-Level Radioactive Waste Disposal Facilities. (Open)

11th ACNW Meeting, June 13, 1989—Agenda to be announced.

12th ACNW Meeting, June 28–30, 1989—Agenda to be announced.

13th ACNW Meeting, July 26–27, 1989—Agenda to be announced.

Dated: April 13, 1989.

John C. Hoyle,

Advisory Committee Manogement Officer.

[FR Doc. 89–9411 Filed 4–19–89; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Mechanical Components; Meeting

The ACRS Subcommittee on Mechanical Components will hold a meeting on May 3, 1989, Room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, May 3, 1989—8:30 a.m. Until the Conclusion of Business

The Subcommittee will continue discussion on proposed NRC staff's generic letter on testing and surveillance of all safety-related MOVs.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member identifed below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Elpidio Igne (telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: April 13, 1989.

Gary Quittschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89–9410 Filed 4–19–89; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff

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for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 1 to Regulatory Guide 3.45, "Nuclear Criticality Safety for Steel-Pipe Intersections Containing Aqueous Solutions of Fissile Materials," describes procedures acceptable to the NRC staff for the prevention of criticality accidents in the storage and processing of aqueous solutions of fissile materials in steel-pipe intersections. This guide endorses ANSI/ANS-8.9-1987, "Nuclear Criticality Safety Criteria for Steel-Pipe Intersections Containing Aqueous Solutions of Fissile Material."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, telephone (202) 275-2060 or (202) 275-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 13th day of April 1989.

For the Nuclear Regulatory Commission.

Eric S. Beckjord, Director,

Office of Nuclear Regulatory Research.

[FR Doc. 89-9492 Filed 4-19-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 55-06347 and ASLBP No. 88-577-02-EA]

Atomic Safety and Licensing Board; Hearing

April 13, 1989.

Before Administrative Judges: B. Paul Cotter, Jr., Chairman; Harry Foreman; Jerry R. Kline.

In the Matter of: Maurice P. Acosta, Jr., Operator License No. 6010-2 EA 88-164

Please take notice that an evidentiary hearing on the above proceeding will begin at 1:30 p.m. on Wednesday, May 24 and going through all or part of Friday, May 26. The hearing will be held at the Moot Courtroom, California Western School of Law, 350 Cedar Street, San Diego, California 92101 and begin at 9:00 a.m. every day except Wednesday.

For The Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland this 13th day of April 1989.

B. Paul Cotter, Jr.,

Chairman, Administrative Judge.

[FR Doc. 89-9543 Filed 4-19-89; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Withdrawal

The Nuclear Regulatory Commission is withdrawing from all consideration Task SC 708-4, "Qualification and Acceptance Tests for Snubbers Used in Systems Important to Safety," which was issued for public comment in February 1981 as a draft regulatory guide.

The licensing staff has indicated that there are no plans for using the guidance proposed in Task SC 708-4 in the licensing process. Therefore, the NRC staff has ceased development of Task SC 708-4.

The Regulatory Guide Series was developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 13th day of April 1989.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 89-9491 Filed 4-19-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) has denied a request by the licensee for amendments to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, issued to the Duke Power Company (the licensee) for operation of the Oconee Nuclear Station, Units 1, 2, and 3 (the facility) located in Oconee County, South Carolina.

The denied amendments, as proposed by the licensee, would modify the Technical Specifications to relax the requirements for the position of Superintendent of Operations by permitting the requirements to be based on the licensee's Senior Reactor Operator (SRO) "certification" program. The amendments were requested April 10, 1987.

The licensee's application for the amendments was published in the **Federal Register** on May 20, 1987 (52 FR 18978).

The NRC staff finds the proposed change to represent a significant departure from the existing requirement in that candidates for certification do not take the NRC license examination. We find the functions and responsibilities of the Superintendent of Operations to be important elements in the overall safe operation of the plant. The position provides the broad managerial responsibility for plant operation described in section 3.2.1 of ANSI/ANS 3.1-1978, "Selection and Training of Nuclear Power Plant Personnel." As such, we conclude that the knowledge and skills resulting from the SRO training for this position should have been demonstrated, in part, through the successful completion of the NRC examination.

Accordingly, it continues to be the staff position that adequate qualification for the position of Superintendent of Operations means that the individual holds or has held an SRO license on the assigned plant or on a similar plant. The request was, therefore, denied.

By May 22, 1989, the licensee may demand a hearing with respect to the denial described above and any person whose interests may be affected by the proceeding may file a written petition for leave to intervene.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 2120 L Street, NW. Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to J. Michael McGarry, III, Esquire, Bishop, Liberman, Cook, Purcell, and Reynolds, 1400 L Street, NW., Washington, DC 20005, attorney for the licensee.

For further details with respect to this action, see: (1) The application for amendment dated April 10, 1987, and (2) the Commission's letter to Duke Power Company dated April 14, 1989, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29621. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Rockville, Maryland, this 14th day of April 1989.

For The Nuclear Regulatory Commission.

Darl S. Hood,

Project Manager, Project Directorate II-3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-9487 Filed 4-19-89; 8:45 am]

BILLING CODE 7590-01-M

Docket No. 50-245

Northeast Nuclear Energy Co., Millstone Nuclear Power Station, Unit No. 1; Corrected Notice of Denial of Amendment to Facility Operating License and Opportunity for Hearing

On March 21, 1989, the U.S. Nuclear Regulatory Commission issued a Denial of Amendment to Facility Operating License and Opportunity for Hearing which was published in the **Federal Register** on March 28, 1989 (54 FR 12705). We are correcting that Denial because it contained typographical errors and omissions. The correct text is as follows:

The U.S. Nuclear Regulatory Energy Commission (the Commission) has denied a request by Northeast Nuclear Energy Company (licensee) to amend Facility Operating License No. DPR-21, issued for the operation of Millstone Nuclear Power Station, Unit No. 1, located in New London County, Connecticut. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on August 12, 1987 (52 FR 29923).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to allow containment deinerting and entry during power operations for testing, surveillance or maintenance of equipment "necessary to ensure safe plant operaton." Currently, the TS permit such activities only for equipment "important to safety." It is the staff's position that the current TS requirements for containment deinerting and entry are appropriate with regard to plant safety and personnel safety considerations.

The licensee was notified of the Commission's denial of the proposed TS amendment by a letter dated.

By May 22, 1989 the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499, attorney for the licensee.

For further details with respect to this action, see: (1) The application for amendment dated June 1, 1987, and (2) the Commission's letter to the licensee dated April 10, 1989.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, CT 06385. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 10th day of April 1989.

For The Nuclear Regulatory Commission.

Michael L. Boyle,

Project Manager, Project Directorate I-4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-9489 Filed 4-19-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-354]

Public Service Electric and Gas Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 24. to Facility Operating License No. NPF-57 issued to Public Service Electric and Gas Company, which revised the Technical Specifications for operation of the Hope Creek Generating Station, located in Salem County, New Jersey. The amendment was effective as of the date of issuance.

The amendment revised the Technical Specifications' Table 3.3.3-3 to change the maximum allowed response time for the high pressure coolant injection system. The subject response time is the time allowed for the system to achieve rated flow following receipt of an initiation signal.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this section was published in the **Federal Register** on October 21, 1988 (53 FR 41430). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment (April 5, 1989 (54 FR 13967)).

For further details with respect to the action see: (1) The application for amendment dated August 13, 1987, as supplemented August 12, 1988, (2) Amendment No. 24 to License No. NPF-57, and (3) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW, and at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070. A copy of items (2), and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Rockville, Maryland this 12th day of April 1989.

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For The Nuclear Regulatory Commission.
Walter R. Butler,
Director, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.
[FR Doc. 9488 Filed 4-19-89; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co., et al., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 130 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensee), which revised the Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment was effective as of the date of its issuance.

The amendment revised the Technical Specifications to allow fuel with a maximum enrichment of 3.80 weight percent Uranium-235 to be stored in new fuel storage locations and spent fuel storage locations in the existing fuel storage facilities at the plant.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on May 26, 1988 (53 FR 19071). No request for hearing or petition for leave to intervene was filed following this notice. Letters from the licensee dated December 16, 1988 and January 26, 1989 did not change the proposed amendment and a renotice was unnecessary.

For further details with respect to this action see: (1) The application for amendment dated April 11, 1988, as supplemented by letters dated December 16, 1988 and January 26, 1989, (2) Amendment No. 130 to License No. NPF-3, (3) the Commission's related Safety Evaluation dated and (4) the Environmental Assessment dated April 13, 1989 (54 FR 14894). All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland this 13th day of April 1989.

For The Nuclear Regulatory Commission.
Thomas V. Wambach, Sr.
Project Manager, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.
[FR Doc. 89-9490 Filed 4-19-89; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-26721; File No. SR-AMEX-89-7]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Notice of Filing and Order Granting Temporary Accelerated Approval To Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 10, 1989, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposes Rule Change

The Amex proposed to extend the current margin requirements for short equity and index options positions through July 17, 1989. The Amex's current margin requirements were approved in Securities Exchange Act Release No. 25701 (May 17, 1988), 53 FR 20706, for a six-month period. In Securities Exchange Act Release No. 26381 (December 21, 1988), 53 FR 52541, the Amex's margin requirements were extended for an additional three-month period.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On May 17, 1988, the Commission approved proposals by the Amex and the other options self-regulatory organizations ("SROs") to amend their rules to increase the customer margin requirements for short positions in equity and index options.[1] The proposals, which were approved for a six-month period, provided for margin requirements for broad-based index options of 100 percent of the option premium plus 15 percent of the underlying aggregate index value, less any out-of-the-money amount, with a minimum requirement of the option premium plus 10 percent of the underlying aggregate index value. The proposals provided for margin requirements for equity options and narrow-based index options of 100 percent of the option premium plus 20 percent of the underlying product value, less any out-of-the-money amount, with a minimum requirement of the option premium plus 10 percent of the underlying product value.

The Amex proposes to extend the current margin requirements until July 17, 1989 to permit implementation of a routine margin monitoring program expected to be instituted by the options SROs in the second quarter of 1989. The Amex believes that the proposed rule change is consistent with section 6(b)(5) of the act in that extending the current margin requirements until a routine margin monitoring program is implemented should assure both firms and investors reasonable financial protection even if market volatility increases during this period.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose a burden on competition.

[1] Securities Exchange Act Release No. 25701, 53 FR 20706.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received; however, the Amex stated that the Options Committee, a committee of the Amex Board of Governors comprised of members and representatives of member firms, has endorsed the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex has requested accelerated effectiveness of the proposal pursuant to section 19(b)(2) of the act to permit the uninterrupted effectiveness of the current margin levels. The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the proposals in the **Federal Register**. The Amex's proposal extends current margin requirements that were noticed for the full thirty-day period and were approved by the Commission in Securities Exchange Act Release 25701 (May 17, 1988), 53 FR 20706. In light of the absence of any comments on the original proposal, the Commission believes that a good cause finding is warranted. In addition, the proposal merely extends the margin levels that have been in place for nine months, and prevents the margins from reverting back to levels that may be inconsistent with the routine margin monitoring program that is being developed.

The Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5),[2] which provides, in pertinent part, that the rules of the exchanges must be designed to protect investors and the public interest. Extending the current margin requirements until a routine margin monitoring program is implemented should assure both firms and investors reasonable financial protection even if market volatility increases during this period. Moreover, the SROs have provided data to indicate that the current margin levels are adequate for prudential purposes.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 9, 1989.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[3] that the proposed rule change is approved for a period ending on July 17, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Dated: April 12, 1989.

Jonathan G. Katz,
Secretary.
[FR Doc. 89-9531 Filed 4-19-89; 8:45 am]
BILLING CODE 8010-01-M

[2] 15 U.S.C. 78f(b)(5) (1982).

[Rel. No. 34-26727; File No. SR-NASD-89-20]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Mandatory Participation in the Trade Acceptance and Reconciliation Service

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 29, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposed rule change as one that constitutes an interpretation with respect to the enforcement of an existing rule under section 19(b)(3)(A)(i), which renders the interpretation effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[3] 15 U.S.C. 78s(b)(2) (1982).
[4] 17 CFR 200.30-3(a)(12) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change defers until July 1, 1989 full implementation of section 68 of the NASD Uniform Practice Code, which requires all NASD members that are participants in a registered clearing agency for purposes of clearing over-the-counter securities transactions to reconcile all eligible transactions through the facilities of the NASD's Trade Acceptance and Reconciliation Service ("TARS"). Section 68 was approved by the Commission on April 18, 1988 in Securities Exchange Act Release No. 25595. In addition, the NASD filed a proposed rule change that became effective upon filing on January 25, 1989 (Securities Exchange Act Release No. 26488), which amended Part IX, Section A.6 of Schedule D to the NASD By-Laws to establish a monthly fee for those TARS subscribers averaging fewer than 30 trades per day who access TARS through the NASD service desk.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the delay in fully implementing section 68 is to provide the time necessary to obtain appropriately executed service agreements from members and to have equipment installed and activated for those members where such equipment will be required. Due to limitations on the availability of equipment and particularly to delays in obtaining necessary telephone line installations, it is anticipated that the transitions will take approximately three more months. For this reason, the NASD has determined to delay full implementation of section 68 until July 1, 1989.

The statutory basis for the proposed rule change is found in section 15A(b)(6) of the Act, which provides that the rules

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of a registered securities association be designed to facilitate transactions in securities and to remove impediments to and perfect the mechanism of a free and open market and a national market system for securities transactions. The NASD believes that the proposed rule change will facilitate the orderly implementaion of the rule requiring the mandatory use of TARS.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not anticipate that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received with respect to the proposed rule change contained in this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is effective on filing pursuant to section 19(b)(3)(A)(i) of the Act in that it is a stated practice with respect to the implementation of section 68 of the NASD Uniform Practice Code. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 9, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: April 14, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9532 Filed 4-19-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 6749]

Alaska; Declaration of Disaster Loan Area

The Boroughs of Kodiak Island and Kenai Peninsula and the contiguous Boroughs of Anchorage, Dillingham, Matanuska-Susitna, and Valdez-Cordova in the State of Alaska, constitute an Economic Injury Disaster Loan Area due to economic losses resulting from the oil spill caused by the grounding of the *Exxon Valdez* on March 24, 1989. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on January 10, 1990 at the address listed below:

Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, CA 95853-4795

or other locally announced locations. The interest rate for eligible small business and small agricultural cooperatives is 4 percent. SBA must have evidence that the needed financial assistance is not available from Exxon or its agents before a small business may be considered for economic injury assistance.

Dated: April 10, 1989.

James Abdnor,

Administrator.

[FR Doc. 89-9389 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Areas # 2346 & # 2347]

Indiana and Contiguous Counties in the State of Illinois; Declaration of Disaster Loan Area

Gibson County, and the contiguous counties of Knox, Pike, Posey, Vanderburgh, and Warrick, in the State of Indiana, and Wabash and White Counties, in the State of Illinois, constitute a disaster area as a result of damages from tornadoes, high winds, heavy rainfall, and hail which occurred on April 3, 1989. Applications for loans for physical damage may be filed until the close of business on June 12, 1989 and for economic injury until the close of business on January 12, 1990 at the address listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd. 14th Fl. Atlanta, GA 30308

or other locally announced locationa.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Businesses and non-profit organizations (EIDL) without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	9.125

The numbers assigned to this disaster for physical damage are 234612 for the State of Indiana, and 234712 for the State of Illinois; and for economic injury the numbers are 675000 for the State of Indiana and 675100 for the State of Illinois.

Dated: April 12, 1989.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

James Abdnor,

Administrator.

[FR Doc. 89-9390 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area # 2343; Amdt. No. 4]

Kentucky and Contiguous Counties in the States of Indiana, Ohio, West Virginia, Virginia, Illinois, Missouri, and Tennessee; Declaration of Disaster Loan Area

The above-numbered Declaration (54 FR 9584), as amended (54 FR 11602), (54 FR 13283), and (54 FR 14723), is hereby further amended in accordance with the Notice of Amendment to the President's declaration, dated March 23, 1989, to include the counties of Grayson, Johnson, and Rockcastle, in the Commonwealth of Kentucky, as a result of damages from severe storms and flooding between February 13 and March 8, 1989.

All counties contiguous to the above-named primary counties have been previously declared as primary or adjacent counties for the same storms and flooding and are, therefore, eligible.

All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on April 27, 1989, and for economic injury until the close of business on November 24, 1989.

Dated: March 29, 1989.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 89-9391 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council, Public Meeting; Alabama

The U.S. Small Business Administration, Region IV Advisory Council, located in the geographical area of Birmingham, will hold a public meeting 11:00 a.m. to 12:30 p.m. on Friday, May 12, 1989, at the Mobile Area Chamber of Commerce, 451 Government Street, Mobile, Alabama 36652, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration, 2121 8th Avenue, North, Suite 200, Birmingham, Alabama 35203, phone (205) 731-1341.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 12, 1989.

[FR Doc. 89-9392 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council, California; Public Meeting

The U.S. Small Business Administration, Region IX Advisory Council, located in the geographical area of San Francisco, will hold a public meeting 10:00 a.m. Friday, May 19, 1989, at the Napa Chamber of Commerce, Napa, California to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call J. Mark Quinn, Acting District Director, U.S. Small Business Administration, San Francisco District Office, 211 Main Street, 4th Floor, San Francisco, California 94105, phone (415) 974-0642.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 12, 1989.

[FR Doc. 89-9393 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council, Florida; Public Meeting

The U.S. Small Business Administration, Region IV Advisory Council, located in the geographical area of Jacksonville, will hold a public meeting 9:30 a.m. to 2:30 p.m. on Thursday, April 27, 1989, in the Sun Bank Tower Building, "C" Training Room, 2nd Floor, 200 S. Orange Avenue, Orlando, Florida 32801, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Thomas M. Short, District, Director, U.S. Small Business Administration, Jacksonville District Office, 400 West Bay Street, Box 35067, Jacksonville, Florida 32202-4441; telephone (904) 791-3102.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 5, 1989.

[FR Doc. 89-9394 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council, Georgia; Public Meeting

The U.S. Small Business Administration, Region IV Advisory Council, located in the geographical area of Atlanta, will hold a public meeting from 1:00 p.m. on Thursday, April 20, 1989, through 11:30 a.m. on Friday, April 21, 1989 at the AmeriBank, N. A., 7393 Hodgson Memorial Drive, Savannah, Georgia 31416 to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Wilfred A. Stone, District Director, U.S. Small Business Administration, 1720 Peachtree Road, NW., 6th Floor, Atlanta, Georgia 30309, Phone (404) 347-4749.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 12, 1989.

[FR Doc. 89-9395 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council, Hawaii; Public Meeting

The U.S. Small Business Administration, Region IX Advisory Council, located in the geographical area of Honolulu will hold a public meeting at 9:00 a.m., on Thursday, May 11, 1989, at the Prince Kuhic Federal Building, 300 Ala Moana Boulevard, Conference Room 5311, Honolulu, Hawaii 96850 to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Charles T. C. Lum, District, Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2213, Honolulu, Hawaii 6850, phone (808) 541-2990.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 12, 1989.

[FR Doc. 89-9396 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council, Michigan; Public Meeting

The U.S. Small Business Administration, Region V Advisory Council, located in the geographical area of Detroit, will hold a public meeting at 10:00 a.m. EDT on Thursday, May 4, 1989, at the Novi Hilton Hotel 21111 Haggerty Road, Novi, Michigan, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Richard Temkin, Deputy District Director, U.S. Small Business Administration, 477 Michigan Avenue, Detroit, Michigan 48226, phone (313) 226-7240.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 12, 1989.

[FR Doc. 89-9397 Filed 4-19-89; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council, Utah; Public Meeting

The U.S. Small Business Administration, Region VIII Advisory Council, located in the geographical area of Salt Lake City, will hold a public meeting from 10:00 a.m. to 11:30 a.m. on Thursday, May 4, 1989, at the Salt Lake Community College, Conference and Convention Center , 4600 South Redwood Road, Salt Lake City, Utah, to discuss such matters as may be

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presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Thomas E. Bergdoll, Acting District Director, U.S. Small Business Administration, Salt Lake City District Office, Wallace F. Bennett Federal Building, 125 South State Street, Room 2237, Salt Lake City, Utah 84138–1195 or phone (801) 524–5804.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 5, 1989.

[FR Doc. 89–9398 Filed 4–19–89; 8:45 am]

BILLING CODE 8025–01–M

Region III Advisory Council, West Virginia; Public Meeting

The U.S. Small Business Administration, Region III Advisory Council, located in the georgraphical area of Clarksburg, will hold a public meeting from 1:00 p.m. to 4:30 p.m. on Tuesday, May 2, 1989, and 9:00 a.m. to 12:00 p.m. on Wednesday, May 3, 1989 at the Travelodge Charleston-Dunbar, (Dunbar, I–64, Exit 53 next to Shoney's), 1007 Dunbar Avenue, Dunbar, West Virginia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Marvin P. Shelton, Disrict Director, U.S. Small Business Administration, P.O. Box 1608, Clarksburg, West Virginia 26302–1608, or phone (304) 622–6601.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 5, 1989.

[FR Doc. 89–9399 Filed 4–19–89; 8:45 am]

BILLING CODE 8025–01–M

Region VIII Advisory Council, Wyoming; Public Meeting

The U.S. Small Business Administration, Region VIII Advisory Council, located in the geographical area of Casper will hold a public meeting at 9:00 a.m., on Tuesday, May 9, 1989, at the Tower West Lodge, 109 North U.S. Highway 14–16, Gillette, Wyoming to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Paul W. Nemetz, District Director, U.S. Small Business Administration, Casper District Office, Federal Building, Room 4001, 100 East B Street, P.O. Box 2839, Casper, Wyoming 82602–2839 or phone (307) 261–5761.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 5, 1989.

[FR Doc. 89–9400 Filed 4–19–89; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

The Anchorage Bowl Airspace Design and Utilization Review; Public Meetings

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meetings; extension of comment periods.

SUMMARY: This notice announces a series of fact-finding meetings to gather additional information from airspace users and others concerning the Anchorage Bowl Airspace Design and Utilization Review. The present airspace configuration is a combination of a non-standard airport radar service area (ARSA), modified airport traffic areas (ATA), and control zones. Discussions with airspace users during 1988 produced a consensus view that aviation safety would be enhanced if an overall review of Anchorage Bowl airspace usage and air traffic management would be conducted. It should not be construed that a decision has been made to pursue change(s) through regulatory action, all the comments received in these meetings will be considered prior to the issuance of a notice of proposed rulemaking (NPRM). The objective of these meetings is to provide the opportunity to gather additional facts relevant to the aeronautical effects of proposals, and provide interested persons an opportunity to discuss objections to any proposals.

DATES: Comments must be received on or before 45 days following each meeting. The public meetings will be held on June 21, 1989, and September 20, 1989, in Anchorage, AK.

ADDRESSES: Send or deliver comments in duplicate to: Federal Aviation Administration, Anchorage Airspace Review, Attention: Air Traffic Division (AAL–500), 222 W. Seventh Avenue, P.O. Box 14, Anchorage, AK 99513–7587.

The public meeting locations are as follows:

Date: June 21, 1989, and September 20, 1989

Time: 6:00 p.m.

Location: Z. J. Loussac Public Library, Wilda Marston Theatre, Level 1, 3600 Denall Street, Anchorage, AK

FOR FURTHER INFORMATION CONTACT: Jim Titus, Plans, Programs and Resources Branch (AAL–510), Air Traffic Division, 222 W. Seventh Avenue, P.O. Box 14, Anchorage, AK 99513–7587; telephone: (907) 271–5884.

SUPPLEMENTARY INFORMATION:

Objective/Followup Process

Public participation in these fact-finding meetings and comment periods will promote development of an appropriate, minimally restrictive, and efficient plan for use of the Anchorage Bowl airspace. If the review results in a proposal for designation, alteration, or revocation of airspace by rule, regulation or order, at least one additional informal airspace meeting will be conducted in Anchorage. The notice of the meeting will be published a minimum of 60 days in advance and will describe the proposal in sufficient detail, including charts, if necessary, to enable interested persons to prepare comments prior to the meeting.

Meeting Procedures

(a) The meetings will be informal in nature and will be conducted by representatives of the FAA Alaskan Region, and members of the FAA Anchorage Bowl Airspace Review Team (ABART). Representatives from the FAA will present a formal briefing on identified problems and proposals for change that have been received from the public. All other participants will be given an opportunity to make a presentation.

(b) The meetings will be open to all persons on a space-available basis. All efforts will be made to provide a meeting site with sufficient seating capacity for the expected participation. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation to the FAA Team will be asked to sign in and estimate the amount of time needed for such presentation. This will permit the Team to allocate an appropriate amount of time for each presenter. The Team may allocate the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel. The meeting may be adjourned at any time if all persons present have had the opportunity to speak.

(d) Any person who wishes to present a position paper to the Team pertinent to the topic of the Anchorage Bowl Airspace Review for consideration and public presentation may do so.

(e) Persons wishing to hand out pertinent position papers to the attendees should present two copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(f) The meetings will not be formally recorded. However, informal tape recordings will be made of presentations to ensure that each respondent's comments are accurately noted. A summary of the comments at each meeting will be made available to all interested parties.

Materials relating to the Anchorage Bowl Airspace Design and Utilization Review will be accepted at the individual meetings. Every reasonable effort will be made to hear every request for presentation consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the Team up to 45 days after the close of the last meeting.

Agenda

Opening Remarks and Discussion of Meeting Procedures
Briefing on Identified Problems and Change Proposals
Public Presentations
Closing Comments.

Issued in Washington, DC, on April 14, 1989.

William C. Davis,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 89–9434 Filed 4–19–89; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

[Docket No. S–848]

Coastal Barge Corp.; Application for Permission Under Section 506 of the Merchant Marine Act, 1936, as Amended To Operate in the Domestic Trade

Notice is hereby given that Coastal Barge Corporation (Coastal) by application dated April 12, 1989, has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended (Act), for the temporary transfer of the LASH ATLANTICO to a purely domestic service to assist Exxon Shipping Company (Exxon) in the oil-spill clean-up operation related to the EXXON VALDEZ grounding in Alaska. Section 506 permits the temporary transfer for up to six months of construction-differential subsidy (CDS) built vessels "whenever the Secretary determines that such transfer is necessary or appropriate to carry out the purposes of the Act." Consent by the Maritime Administration (MARAD) is to be conditioned upon payment to MARAD, upon such terms as MARAD may prescribe, of "an amount which bears the same proportion to the CDS paid by the Secretary as such temporary period bears to the entire economic life of the vessel."

Coastal's request is precipitated by the emergency oil-spill clean-up operations necessitated by the recent environmental disaster caused by the grounding of the EXXON VALDEZ in Prince William Sound, Alaska. The LASH ATLANTICO is under firm offer to Exxon for charter for a period up to six months to assist in the mobilization and demobilization of emergency equipment and supplies, the distribution and collection of barges along the littoral areas impacted by the oil spill, and transportation of oily slops and materials to a processing/clean-up site or sites. Coastal notes that the specific applications of the LASH vessel's unique capabilities to assist in addressing the environmental challenges in Alaska are not entirely known as of this date.

Coastal envisions that the LASH ATLANTICO will be employed during much of the time as a distribution vehicle for clean-up barges and equipment along the hundreds of miles of fouled beaches. The vessel's loading and unloading capabilities will be of particular importance. Moreover, in light of the changing weather conditions in Alaska, the vessel's speed in excess of 20 knots may prove of significant value to the protection of life, equipment, and the local environment.

In light of the emergency situation in Alaska and the negotiations currently underway with Exxon which are fundamentally affected by the granting of the waiver requested herein, Coastal would appreciate MARAD's promptest possible determination.

Coastal must comply with any Coast Guard regulations relating to operating the LASH barges.

Although publication of a Notice with respect to Coastal's request for permission under section 506 is not required, the Maritime Administration believes that it is appropriate to provide an opportunity for interested parties to comment on Coastal's application.

Any person, firm, or corporation having any interest in the application for section 506 permission and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, by the close of business on April 28, 1989. The Maritime Administration, as a matter of discretion, will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidies (CDS))

By order of the Maritime Administrator.

Dated: April 14, 1989.

James E. Saari,

Secretary

[FR Doc. 89–9401 Filed 4–19–89; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Sries—No. 10–89]

Treasury Notes, Series F–1996

Washington, April 13, 1989.

The Secretary announced on April 12, 1989, that the interest rate on the notes dsignated Series F–1996, described in Department Circular—Public Debt Series—No. 10–89 dated April 6, 1989, will be 9⅜ percent. Interest on the notes will be payable at the rate of 9⅜ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 89–9417 Filed 4–19–89; 8:45 am]

BILLING CODE 4810–40–M

[Number: 102–10]

Delegation of Authority to the Deputy Assistant Secretary for Information Systems To Waive Federal Information Processing Standards

Date: March 17, 1989.

By virtue of the authority vested in me as Secretary of the Treasury, including the authority vested in me by 31 U.S.C. 321(b) and authority delegated to me by memorandum of November 14, 1988 from the Secretary of Commerce, there is hereby redelegated to the Deputy Assistant Secretary for Information Systems, as the Treasury senior official designated pursuant to section 3506(b) of title 44 of the U.S. Code, the authority to waive, under conditions specified by the Department of Commerce, previously issued and all subsequent Federal Information Processing Standards (FIPS) that are compulsory for Federal agency use in the acquisition

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and management of computers and related telecommunications systems. This authority may not be redelegated.

Nicholas F. Brady,

Secretary of the Treasury.

[FR Doc. 89-9428 Filed 4-19-89; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Mary Cassatt: The Color Prints" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, DC, beginning on or about June 18, 1989, to on or about August 27, 1989, at The Museum of Fine Arts, Boston, Massachusetts, beginning on or about September 9, 1989, to on or about November 5, 1989, and at the Williams College Museum of Art, Williamstown, Massachusetts, beginning on or about November 25, 1989, to on or about January 21, 1990, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

R. Wallace Stuart,

Acting General Counsel.

Date: April 13, 1989.

[FR Doc. 89-9540 Filed 4-19-89 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202-485-7978, and the address is Room 700, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 54, No. 75
Thursday, April 20, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 9:00 a.m. May 15, 1989.

PLACE: Radio Free Europe/Radio Liberty, Inc., Oettingenstrasse 67, Am Englischen Garten, 8000 Munich 22, Germany.

STATUS: Closed, pursuant to 5 U.S.C. 552(b)(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, March 12, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Mark G. Pomar, Deputy Executive Director, Board for International Broadcasting, Suite 400, 1201 Connecticut Avenue, NW., Washington, DC 20036.

Mark G. Pomar,

Deputy Executive Director.

[FR Doc. 89-9609 Filed 4-18-89; 2:10 am]

BILLING CODE 8155-01-M

U.S. COMMISSION ON CIVIL RIGHTS

April 18, 1989.

PLACE: 1121 Vermont Avenue, NW., Room 516, Washington, DC 20425.

DATE AND TIME: Friday, April 28, 1989, 9:00 a.m.-5:00 p.m.

STATUS OF MEETING: Portion open to the public and portion closed.

MATTERS TO BE CONSIDERED:

Agenda

I. Approval of Agenda
II. Approval of Minutes of March Meeting
III. Announcements
IV. SAC Reports and Recharters
Nutrition Services for Minority Elderly; Census Data and Hispanic Elderly; and State Grant-in-Aid Program (Delaware)
The Impact of Two Consent Decrees on Employment at Major Hotels/Casinos in Nevada
Desegregation of Public Higher Education in Tennessee
Colorado SAC Recharter
Delaware SAC Interim Appointment
District of Columbia SAC Interim Appointments
West Virginia SAC Interim Appointment
V. Commission Reauthorization Discussion
VI. Project Proposal—*Window Dressing on the Set: The Sequel*
VII. Commission Subcommittee Reports
A. ICRA
B. Regional Forums
C. Medical Discrimination Against Children With Disabilities
D. Set-aside Draft
E. Asian Roundtable
F. Proposals Presented to the Conservative Opportunity Society
VIII. Staff Director's Report
A. Briefing—Bigotry and Violence on College Campuses
B. Discussion—New Perspectives
C. Incomes Study
D. Testing Consultation
E. Civil Rights Monitoring—U.S. Department of Education
F. Immigration Report
IX. Future Agenda Items
X. Executive Session closed to the public at end of public meeting to discuss personnel matters

PERSON TO CONTACT FOR FURTHER INFORMATION: John Eastman, Press and Communications Division, (202) 376-8312.

William H. Gillers,

Solicitor.

[FR Doc. 89-9571 Filed 4-18-89; 11:53 am]

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Part II

Department of Labor

Employment and Training Administration

20 CFR Part 639

Worker Adjustment and Retraining Notification; Final Rule

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 639

Worker Adjustment and Retraining Notification

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment and Training Administration of the Department of Labor is publishing a final regulation carrying out the provisions of the Worker Adjustment and Retraining Notification Act (WARN). WARN provides that, with certain exceptions, employers of 100 or more workers must give at least 60 days' advance notice of a plant closing or mass layoff to affected workers or their representatives, to the State dislocated worker unit, and to the appropriate local government.

EFFECTIVE DATE: May 22, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Employment and Training Administration, Department of Labor, Room N4469, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: (202) 535-0577.

SUPPLEMENTARY INFORMATION:

Introduction

The Worker Adjustment and Retraining Notification Act (WARN, the statute, or the Act), Pub. L. 100-379, 102 Stat. 890, was enacted on August 4, 1988. 29 U.S.C. 2101 et seq. Section 11 of the Act provides that WARN goes into effect on February 4, 1989. WARN provides that, with certain exceptions, employers of 100 or more workers must give at least 60 days' advance notice of a plant closing or mass layoff to affected workers or their representatives, to the State dislocated worker unit (see 29 U.S.C. 1661(b)(2)), and to the appropriate local government. 29 U.S.C. 2902 and 2903. Section 8(a) of the Act requires that the Secretary of Labor "prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the method by which employers may provide for appropriate service of notice as required by this Act." 29 U.S.C. 2107(e). Under section 11 of the Act, the authority to issue regulations for WARN became effective on August 4, 1988.

The Employment and Training Administration (ETA) of the Department of Labor (DOL or Department), since the enactment of WARN, has published in the **Federal Register** for comment various notices, a discussion paper, an interim interpretative rule and a proposed rule on WARN. 53 FR 34844 (September 8, 1988); 53 FR 36056 (September 16, 1988); 53 FR 38026 (September 29, 1988); 53 FR 39403 (October 6, 1988); 53 FR 43731 (October 28, 1988); 53 FR 46884 (December 2, 1988); and 53 FR 49076 (December 5, 1988). After full consideration of public comments received in response to the notices, discussion paper, interim interpretative rule and proposed rule, ETA is publishing this final rule.

Prior Actions

On September 16, 1988, the Department published a notice in the **Federal Register** inviting comments from interested parties regarding: "(1) The extent to which the Department should issue interpretive regulations; and (2) To the extent that regulations are needed, the specific views of commenters on how particular sections of the law should be implemented through regulations."

A total of 63 letters was received from employer associations, companies, law firms, unions, employee associations, Members of Congress, State officials, and a private citizen. Commenters strongly encouraged DOL to publish regulations to explain how WARN would be implemented and to clarify WARN provisions they found ambiguous. Commenters also requested that DOL address a number of specific items and define particular terms.

On October 28, 1988, the Department published the WARN Discussion Paper in the **Federal Register** and solicited comments. This paper reviewed sections 2, 3, 4, and 11 of the statute, discussing questions raised in comments on the September 16, 1988 Notice and issues addressed in the legislative history.

DOL received 62 comment letters in response to the October 28 Discussion Paper from employer associations, employers, labor unions, law firms, a State governmental agency, four members of Congress who were legislative sponsors, and another member of Congress. Commenters generally expressed agreement with the scope of the issues presented and many of the tentative positions covered in the Discussion Paper. Commenters did raise specific points of disagreement, posed additional questions, sought information about the application of WARN in specific situations, and provided examples.

On December 2, 1988 and December 5, 1988, the Department published an interim interpretative rule effective through April 1, 1989, and a proposed rule, respectively, implementing the provisions of WARN and soliciting comments (these documents will be referred to as the proposed rule or regulation). 53 FR 48884 and 53 FR 49076. The rules were identical. In their preambles, the Department discussed issues under the Act and comments received in response to the October 28, 1988 Discussion Paper. DOL received 82 letters of comment on the interim interpretative and proposed rules from employer associations, employers, labor unions, City governments, government interest groups, professional associations, four members of Congress who were legislative sponsors, a municipal utility and a Federal agency. The comments were fully considered, along with the written comments on the September 16, 1988 Notice and the October 28, 1988 Discussion Paper, in ETA's development of this final rule. The comments are discussed at considerable length in order to make clear the Department's interpretation of WARN through these final regulations and of their application to some of the problems that may arise in implementing the Act. At various points in this preamble the Department, in response to comments, has provided advice to employers on methods by which WARN liability may be avoided. This advice is for guidance only and should not be interpreted to impose any new or additional standards or requirements on employers.

Analysis of Final Rule and Comments

(1) General Issues

(a) Organization of Regulations

The Department has written and presented the WARN regulations so they will be understandable, and offer guidance to readers in the business and labor communities. Issues are discussed in their logical sequence, in an effort to easily convey the intent of the Act and employers' responsibilities.

(b) Scope and Purpose

These regulations cover sections 2, 3, and 4 of the Worker Adjustment and Retraining Notification Act. Section 2 of the Act provides necessary definitions and exclusions. Section 3 creates the notice requirement, describes the service of notice, sets forth the legal bases for providing reduced notice, provides for the extension of a layoff period, and specifies the consideration of employment losses over a 90-day period in determining whether some employers are covered by WARN

requirements. Section 4 outlines two exemptions to coverage of plant closings and mass layoffs.

(c) General Comments

A commenter suggested that the final regulations should only deal with what WARN requires, not what the Department encourages. In developing these final regulations, DOL has attempted to faithfully follow the language and intent of WARN. The Department also has been aware that some of the provisions of WARN may be ambiguous. In an effort to assist the public in avoiding unintentional noncompliance, DOL has tried to point out potential problems and in some cases has suggested methods of compliance.

A commenter suggested that DOL should not regard the comments of four of the Congressional sponsors, who commented both on the Discussion Paper and on the proposed regulations, as legislative history and should disregard those comments. The Department agrees that these comments do not have the force of legislative history. On the other hand, there is no reason to disregard them. They have been treated as any other comments.

A commenter suggested that the final regulations should contain specific citations to the legislative history for clarity and to preclude litigation. DOL agrees that citations may be useful and has provided them.

(2) Section 639.1 Purpose and Scope

(a) Section 639.1(a) Purpose of WARN

This section gives a brief overview of the purpose of the Act. None of the comments discussed this provision and it remains unchanged in the final regulations.

(b) Section 639.1(b) Scope of These Regulations

This section discusses the Department's intent in developing these regulations. None of the comments discussed this provision and it remains unchanged in the final regulations.

(c) Section 639.1(c) Notice Encouraged Where Not Required

This section quotes the statutory provision reflecting the intent of Congress that notice be provided even where not required by WARN. None of the comments discussed this provision and it remains unchanged in the final regulations.

(d) Section 639.1(d) WARN Enforcement

This provision discusses the WARN enforcement scheme. Commenters suggested that the regulations should include interpretations of several of the provisions of § 5 of WARN, which contains the enforcement provisions. Specifically, it was suggested that the regulations should discuss the "buy-out" provisions of sections 5(a) (2) and (3), which provide that an employer may reduce its monetary liability for violations of WARN by the amounts of certain payments made to or on behalf of the affected workers. One of the commenters also suggested that the regulations should discuss the basis for calculating the amount of monetary liability and should distinguish between violations of the Act from failure to give notice and violations for giving notice in a "technically deficient fashion".

The Department believes that in the unique WARN enforcement scheme, under which all enforcement will occur in the context of private civil lawsuits, it is inappropriate for the Department to regulate with respect to these issues. These matters have been left solely to the courts to decide.

The Department generally agrees with the comment that technical violations of the notice requirements not intended to evade the purposes of WARN ought to be treated differently than either the failure to give notice or the giving of notice intended to evade the purposes of the Act. The final regulations, in § 639.7(a)(3), include language to make it clear that inadvertent errors and factual errors which occur because of subsequent changes in events are not intended to be violations of the regulations. Other kinds of violations, i.e., the failure to provide information required in these regulations, may constitute a violation of WARN.

The proposal referred to these rules as interpretative regulations. Upon re-evaluation, this reference has been eliminated in the final regulation. The final regulation reflects the Department's careful consideration of the issues raised in this rulemaking and extensive analysis of the numerous comments it has received.

(e) Section 639.1(e) Notice in Ambiguous Situations

This section discusses the desirability of giving notice in situations where questions may arise about the applicability of WARN. While no comments were received which directly discussed this provision, DOL has received numerous comments and questions which illustrate the principle of this provision and demonstrate the existence of a possible source of confusion for some employers. These comments inquire about whether or not an employer planning a plant closing or mass layoff is covered because of some events which may occur between the date that notice is required to be given and the date of the event. An example of a typical inquiry is: an employer is planning to close a unit which employs 55 people; the employer will subsequently offer early retirement incentives to some of these employees, six of whom accept the early retirements before the termination occurs; since only 49 workers will finally be terminated is there a covered plant closing? Technically, the correct answer may be that no covered plant closing will have occurred (assuming, of course, that other actions within the 30- or 90-day aggregation periods provided in WARN do not trigger coverage). However, an employer has to make a decision on whether or not to give notice based on what it *knows* 60 or more days before the plant closing or mass layoff will occur. If, as in this example, at the time the decision to give notice has to be made, the employer is not certain that its early retirement incentives will be accepted or how many workers will accept early retirement, the employer is best advised to give notice. If the employer "gambles" that a sufficient number of employees will accept the offer and "loses', the employer's cost will be 60 days' pay and benefits to at least 50 workers. If the employer gives notice, the cost will be the cost of preparing and mailing 55 notices. Given the relative costs involved, the employer is best advised to give notice unless it is *certain, at the time it must decide to give notice,* that there is no possibility of coverage.

Because of this possible source of confusion, DOL has strengthened the language of this recommendation.

(f) Section 639.1(f) Coordination With Job Placement and Retraining Programs

This provision discusses coordination with other DOL programs aimed at providing assistance to dislocated workers. None of the comments discussed this provision and it remains unchanged in the final regulations.

(g) Section 639.1(g) WARN Not to Supersede Other Laws and Contracts

This provision discusses the requirement of § 6 of WARN that the provisions of the Act "are in addition to, and not in lieu of, any other contractual and statutory rights of the employees". In the preamble to the proposed regulations, DOL solicited comments on: (1) Whether and to what extent the final regulations might provide that collective bargaining agreements which provide for terms different from the terms

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incorporated into the WARN regulations may be used as legitimate alternative methods of Compliance with WARN; and (2) whether such a provision should apply only to collective bargaining agreements that are entered into after the effective date of WARN or whether agreements that predate WARN also should be included. DOL received a number of comments on this issue. Some commenters supported broad application of collective bargaining agreements to define the terms of WARN. Other commenters opposed any application of collective bargaining agreements to alter or modify the provisions of WARN.

After considering comments received, the Department concludes that the WARN requirements stand by themselves and cannot be set aside in favor of collective bargaining agreements, regardless of whether such agreements were entered into before or after the effective date of WARN. However, where collective bargaining agreements include provisions which are consistent with and not inferior to WARN requirements, application of those provisions to further define or clarify WARN terms in a specific context would satisfy WARN. For example, WARN requires that notice of a mass layoff be provided at least 60 days in advance to affected employees or their representatives, to the State dislocated worker unit, and to a unit of local government. If a collective bargaining agreement provides for an employer to issue written notice to the union representing the affected workers 10 days prior to an anticipated layoff, this provision will not satisfy the WARN requirements for 60-day advance notice to the union representing the workers. But if the contract provides for an employer to issue written notice to the union 75 days in advance of anticipated layoffs, that provision will satisfy the WARN requirement for 60-day advance notice.

The Department also recognizes that certain of the provisions of WARN involves subjects which are typically covered in collective bargaining agreements. For example, the definition of the term "operating unit" depends on the organizational and functional structure of each plant, a matter often covered under seniority or other provisions of collective bargaining agreements. Similarly, WARN provides that a worker does not experience an employment loss if the employer offers to transfer the worker to a job at a different site within a reasonable commuting distance. The definition of the term "reasonable commuting distance" is a flexible one intended to take local conditions into consideration. If a collective bargaining agreement includes provisions for transfers and stipulates what constitutes reasonable commuting distance, that definition should control; it is the parties' agreement on the meaning of the term in the local conditions. Also, the collective bargaining agreements often will help in defining whether certain of the exceptions to the general definition of "single site of employment" are applicable.

(3) Section 639.2 What Does WARN require?

This section provides a brief overview of the WARN notice scheme. None of the comments discussed this provision and it remains unchanged in the final regulations.

(4) Section 639.2 Definitions

(a) Section 639.3(a) Definition of "Employer"

This provision provides a definition of the term "employer". It repeats the statutory definition of the size threshold for coverage under WARN as an employer and specifies which workers are counted in making coverage determinations; it makes it clear that private nonprofit organizations, as well as for-profit entities, are covered; it discusses the status of independent contractors and subsidiaries as separate employers; and it clarifies that an employer is defined in terms of the overall corporate or business entity, not in terms of any particular plant.

In the preamble to the proposed regulations, DOL requested comments on whether agencies of State and local government which are independent and perform business activities should be covered. Several commenters opposed inclusion of these entities, arguing that the statutory definition of employer as a "business enterprise" is inapplicable to government agencies, that the tax payment test for notice to local governments is inapplicable to agencies of local government and that any definition would sweep too broadly and include school boards and similar entities. Other commenters supported inclusion as consistent with the intent of WARN to broadly protect workers against dislocation. Because of the use of the term "business enterprise", DOL concludes that regular Federal, State, and local government public agencies and services are outside the purview of WARN. For completeness, federally recognized Indian tribal governments have also been added to the list of governments not covered by WARN.

The legislative history is not helpful on the specific question of coverage of public and quasi-public business enterprises. DOL agrees that the underlying intent of WARN is worker protection. Given the nature and the language of the law, DOL concludes that the term "business enterprise" used in the statute includes public and quasi-public entities which engage in business (i.e., take part in a commercial or industrial enterprise; supply a service or good on a mercantile basis, or provide independent management of public assets, raising revenue and making desired investments). Whether a particular public or quasi-public entity is covered will be determined by the functional test described above and by an organizational test, i.e., whether the entity is managed by a separately organized governing body with independent authority to manage its personnel and assets. It should be noted that DOL has not defined covered public enterprises in terms of the traditional/non-traditional governmental functions distinction that was rejected by the Supreme Court as unworkable in *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1984). The test that has been adopted is intended to be a relatively precise one that will include such entities as regional transportation authorities and independent municipal utilities, but will exclude such organizations as school boards. Several commenters pointed out that the phrase in § 639.3(a)(1), defining additional workers who are counted in determining whether an employer meets the coverage threshold, "[w]orkers on temporary layoff who have a reasonable expectation of recall" needs further definition. Particularly, commenters from the construction industry pointed out that when construction crafts workers are laid off at the end of a project, they expect to be reemployed within the construction industry, but not necessarily with the same employer. DOL agrees with the commenters that further definition of the phrase is appropriate and has added a definition. A worker is considered to have a "reasonable expectation of recall" if the worker "understands, either through notification or industry practice, that his/her employment with the employer has been temporarily interrupted and that he/she will be recalled to the same or a similar job." This definition, derived from case law under the National Labor Relations Act (NLRA), is intended to cover those situations in which, for a variety of reasons, workers are laid off with the understanding that they will be called back at a later date. The definition is intended to be applied in accordance with the case law developed under the NLRA.

Another commenter suggested that the regulations should define the status of workers who are on leave from their employers. DOL thinks that the same rules apply to these workers as apply to workers in layoff status, that is, whether workers on leave from an employer understand that their leave status constitutes a temporary interruption of their job and that they have rights upon the conclusion of their leave to return to the same or a substantially similar job with the employer. Language has been added in § 639.3(a)(1) to include workers on leave within the category of workers who may be counted for determining the coverage thresholds for the definition of employer.

Several commenters raised questions about the definition of "[i]ndependent contractors and subsidiaries" in § 639.3(a)(2). Some of these commenters suggested that the definition should be simplified to treat subsidiaries as separate employers as long as they are "bona fide separate and distinct companies and hold themselves out to the public as such"; or to define as separate companies entities that have separate payroll functions. One commenter requested special treatment for the garment industry because of the peculiar relationship of jobbers and contractors within that industry. Another commenter suggested that the regulation also should recognize the doctrine of joint employer status, as that doctrine has been developed under the NLRA. A commenter suggested that the National Mediation Board should be recognized as the authority for determining whether companies covered by the Railway Labor Act (RLA) are separate. Another commenter stated that the rule on subsidiaries also should apply to operating divisions.

The intent of the regulatory provision relating to independent contractors and subsidiaries is not to create a special definition of these terms for WARN purposes; the definition is intended only to summarize existing law that has developed under State Corporations laws and such statutes as the NLRA, the Fair Labor Standards Act (FLSA) and the Employee Retirement Income Security Act (ERISA). The Department does not believe that there is any reason to attempt to create new law in this area especially for WARN purposes when relevant concepts of State and federal law adequately cover the issue. Thus, no change has been made in the definition. Similarly, the regulation is not intended to foreclose any application of existing law or to identify the source of legal authority for making determinations of whether related entities are separate. To the extent that existing law recognizes the joint employer doctrine or the special situation of the garment industry, nothing in the regulation prevents application of that law. Nor does the regulation preclude recognition of the National Mediation Board as an authoritative decision maker for entities covered under the RLA. Neither does the regulation preclude treatment of operating divisions as separate entities if such divisions could be so defined under existing law.

A commenter suggested that the regulations be clarified to reflect that if a business loses a contract, it is not responsible for employment losses that occur if the successor contractor fails. DOL agrees with the comment, but believes that the proposition state is axiomatic in the WARN scheme; an employer is only responsible for giving notice to its employees for covered employment losses that occur as a result of its actions. The Department does not believe that any clarification of the regulations is needed.

A question has been raised whether temporary employees are to be counted when determining whether an employer is covered under WARN. The Department notes that there is no exception for temporary employees (or more accurately, for employees working on temporary projects or in temporary facilities) in the definition of employer in the law; the only category of workers not counted in determining coverage is part-time employees, as defined in the statute. In determining employer coverage, therefore, temporary employees are counted unless they are part-time employees. Of course, while an employer may be covered by virtue of employing a sufficient number of temporary—but not part-time—workers, the employer may be exempt from any requirement to give these employees notice if they are working in a temporary facility, or on a temporary project or undertaking, as defined in § 4(a) of the Act and § 639.5(c) of these regulations.

The Federal Home Loan Bank Board (FHLBB) specifically commented on the application of WARN to its activities and those of the Federal Savings and Loan Insurance Corporation (FSLIC) in the current savings and loan (S & L) banking crisis. FHLBB argues that, because of its statutory mandate, it should not be considered an employer when it or the FSLIC closes a bank. The Department agrees that under the statutory scheme of the deposit insurance laws, neither the Board nor the FSLIC, which are exercising strictly governmental authority in ordering the closing, are to be considered as employers.

Another commenter suggested that "fiduciaries" in bankruptcy proceedings should be excluded from the definition of employer. Since adequate protections for fiduciaries are available through the bankruptcy courts, the Department does not think it appropriate to change the regulations to address this situation. Further, DOL agrees that a fiduciary whose sole function in the bankruptcy process is to liquidate a failed business for the benefit of creditors does not succeed to the notice obligations of the former employer because the fiduciary is not operating a "business enterprise" in the normal commercial sense. In other situations, where the fiduciary may continue to operate the business for the benefit of creditors, the fiduciary would succeed to the WARN obligations of the employer precisely because the fiduciary continues the business in operation.

(b) Section 639.3(b) Definition of "Plant Closing"

This section closely replicates the statutory definition of the term "plant closing" and applies the definition to other WARN requirements. There were few comments on the regulatory language itself, and they supported the approach taken.

A comment made in the preamble to the proposed regulation, suggesting that a plant closing occurs only where the threshold number of workers are terminated or laid off as a direct result of one or more plant closings, did, however, draw considerable comment. A number of commenters supported this interpretation. Several commenters opposed it, pointing to the structure of the statutory language. DOL has revisited this issue and has decided to revise its earlier position. Section 2(a)(2) of WARN defines plant closing as "the permanent or temporary shutdown of * * * one or more facilities or operating units * * * if the shutdown results in an employment loss during any 30-day period for 50 or more employees * * *." This language, particularly the use of the words "results in", contemplates that both employment losses of the employees who work in the facility(s) or operating unit(s) and those who lose their jobs as the direct result of the shutdown(s) are to be counted in determining when a plant closing has occurred. Thus, for example, if the 45 worker computer data entry department at a plant is closed

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and, *as a direct result of that closing*, (and within 30 days of the closing), 5 computer programmers also are terminated, a covered plant closing has occurred.

Another commenter suggested that a series of closings or layoffs should be considered a plant closing or mass layoff "only if each stems from the same business decision, personnel action, or other distinct cause"; where no distinct cause accounts for a threshold number of employment losses there is no WARN coverage. DOL disagrees with this interpretation. WARN Section 2(a)(2) and (3) say nothing about cause. Under the language of those provisions, one merely counts up all the employment losses that occur in a 30-day period to determine coverage.

(c) Section 639.3(c) Definition of "Mass Layoff"

This section closely follows the statutory language defining the term "mass layoff" and contrasts plant closings and mass layoffs. In reviewing the language of the regulation, DOL has determined that the insertion of the phrase "which can be triggered by the termination of a smaller number of workers than a mass layoff" in the description of a plant closing, is technically incorrect, and, therefore, that phrase has been removed. Both mass layoffs and plant closings can be triggered by the layoff or termination of 50 workers. In the case of a mass layoff of less than 500 workers, however, coverage only will be triggered if the number of workers terminated is equal to 33 percent of the total number of workers at the single site of employment. Thus, the termination of 50 affected workers does not automatically lead to coverage as it does in the case of a plant closing.

One commenter noted that the legislative history of WARN makes it clear that only employees who are actively working for the employer at the single site of employment as of the time of the layoff are to be considered in determining whether the one-third threshold is met. Remarks to this effect were made by Sen. Metzenbaum, the Senate floor manager of the bill. (133 CONG. REC. S9488 (daily ed. July 9, 1987) (remarks of Sen. Metzenbaum)). Since the statutory language can be read to include only active employees and since no contrary interpretation has been discovered, the regulation has been revised accordingly. The Department believes that "actively working" employees refers to those currently on the payroll and in pay status as of the time of the mass layoff.

Another commenter suggested that the phrase "or the entire site" be added at the end of the third sentence of the section. The Department agrees that this change more closely conforms to the statutory language and has added the phrase.

A commenter suggested that the regulations should make it clear that part-time workers are not counted in determining mass layoff or plant closing thresholds. While this is a correct statement, the regulations adequately address the issue. For reasons already discussed, language has been added in the final regulations to clarify that workers on temporary projects or in temporary facilities who do not meet the definition of part-time workers are counted for purposes of determining whether covered plant closing or mass layoff coverage thresholds have been met.

(d) Section 639.3(d) Definition of "Representative"

This section quotes the definition of the term representative as it appears in section 2(a)(4) of WARN. The comments supported this use of the definition and no change has been made in the final regulations.

(e) Section 639.3(e) Definition of "Affected employees"

This section quotes the statutory definition of the term "affected employees": "employees who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff"; and discusses specific applications of the term to certain classes of employees, including "bumpees", managerial and supervisory employees and employees of independent contractors. It also indicates a rule for determining the number of affected employees for purposes of determining coverage thresholds.

The purpose of WARN, to provide notice to workers so alternative employment or necessary training can be obtained on a timely basis, applies to white-collar and managerial employees as well as to employees in the skilled trades and other blue-collar occupations. Therefore, the Department includes managerial and supervisory workers as "affected employees".

This provision drew a number of comments. A substantial number of commenters opposed any requirement of notice to "bumpees", that is, to workers who lose their jobs as a result of the exercise by an employee whose position has been eliminated (or by other more senior workers who have previously been bumped) of seniority or bumping rights established by a seniority system. Most of these commenters pointed out the complexity of many seniority systems and the difficulty of accurately predicting 60 days in advance which workers will actually lose their jobs. It was also pointed out that requiring notice to bumpees could lead to overbroad notice, which Congress clearly condemned. These commenters suggested that notice to incumbents in the positions to be eliminated satisfies the Act (although one of these commenters also suggested that it is extremely difficult to identify incumbents 60 days in advance). Some commenters suggested alternative notice to bumpees; either general notice to all potentially affected workers, some kind of different notice to bumpees, or specific notice to bumpees as soon as they are identified.

One commenter supported notice to bumpees but opposed any requirement that notice to bumpees be given only "to the extent that such workers can be identified at the time notice is required to be given." The commenter argued that section 3(b)(3) of WARN requires employers to give affected employees "as much notice as practicable".

Most of the comments discuss collectively bargained seniority systems under which the identification problems suggested in the comments will not arise since employers are required only to notify the affected unions and to provide them with information about the positions affected and the incumbents in those positions, not about the ultimate "bumpees". More fundamentally, the commenters' position on this issue, as it may apply to non-bargained seniority systems, directly conflicts with the plain language of WARN. Section 2(a)(5) of the Act defines "affected employees" (in non-union situations, the persons entitled to WARN notice) as "employees who *may reasonably be expected* to experience an employment loss". The plain meaning of this language is that notice must be given to those workers who will actually lose their jobs, to the extent they can reasonably be identified. Only if the workers who will lose their jobs cannot be reasonably identified is notice to incumbents sufficient.

DOL recognizes that, in cases of non-bargained, employer-developed seniority or bumping systems, there are real complexities which militate against imposing an absolute requirement that notice be given to all potentially affected employees. DOL is persuaded that there are factors, including the difficulty of predicting a bumping path

where employees have several options among positions or lines of progression into which they can bump, which make it difficult to predict who will finally be affected as a result of a plant closing or mass layoff. Nonetheless, DOL is constrained by the statutory language to provide for notice to bumpees. The final regulations provide some flexibility by providing that notice need only be given to individual workers who can reasonably be identified at the time notice is required to be given. This section and § 639.6(b) have been revised to clarify these principles.

In addition, the Department recommends that notice be given to bumpees who are not given the full 60 days' notice as soon as they are identified. Such notice, while not required, would tend to show good faith compliance. The Department does not agree that section 3(b)(3) of WARN provides authority for a separate requirement that notice be given to bumpees as soon as they are identified since that provision applies only to situations in which one of the three bases for providing less than 60 days' notice is invoked.

To some extent, it is true that broad notice may be the prudent course in cases where complex seniority systems exist, but the concerns raised by some commenters on this score appear to be overstated. Notice is not required to be given to intermediate bumpees in situations in which multiple bumps will occur. If an employee who has available bumping or seniority rights refuses to exercise those rights and quits or resigns instead, that employee has voluntarily quit, has not suffered an employment loss and is not entitled to notice. Therefore, an employer need only provide notice to two classes of workers: to those workers who are likely to actually lose their jobs taking into consideration the probability that bumping rights will be exercised, and to incumbents in the positions to be eliminated, in cases where it is not possible 60 days in advance of the covered event to identify the ultimate bumpees. Although the complexities of identifying these ultimate bumpees may still exist, the group of workers to whom notice must be given is considerably smaller than some commenters appear to think.

A commenter suggested that the regulations should be clear that the number by which to measure whether the plant closing or mass layoff threshold has been met is the number of employment losses that actually occur, if that number is less than the number of positions eliminated. While the Department agrees that this statement is correct and has revised the language of this section to reflect this interpretation, it is important to point out that, from a practical point of view, the number on which an employer must focus, in determining whether to give notice, is the number of potential employment losses which can be determined 65 days [1] before the closing or layoff is to occur, the time at which the decision to give notice must be made. As the same commenter stressed repeatedly in other comments, it is often difficult to predict 65 days in advance exactly how many employment losses will actually occur. Thus, an employer faced with a decision about whether to give notice may be well advised to base its decision on the number of positions to be eliminated, which is a known fact at the relevant time.

Commenters raised the question whether notice extends to bumpees who may be bumped at other employment sites (to the extent that they can be identified when notice is required to be given). DOL interprets the definition of affected employees to include such workers, who are, therefore, entitled to receive notice. It should be noted, however, that workers who suffer an employment loss at another single site of employment are not counted in determining whether plant closing or mass layoff coverage thresholds are met. (DOL notes again the caution that the employer must evaluate the facts as they appear when it must make its decision to give notice.) Thus, if an employer closes an operating unit which employs 55 workers and, because of crossplant bumping rights, 6 workers at another site lose their jobs, (and if these facts can be accurately predicted 65 days in advance of the closing date) the plant closing threshold has not been met at the first site. It is also possible that an employment action that affects large numbers of workers may trigger a second covered action at a separate site if enough workers lose their jobs through cross-plant bumping.

A commenter suggested that "the regulations should specify that consultant or contract employees employed by another employer or self-employed are not counted toward the threshold for determining employer coverage." DOL agrees with this proposition, as long as the separate employment relationship is established under existing legal rules. It is specifically covered in section 639.3(e).

[1] The figure of 65 days is used as an approximation of the number of days it will take to identify workers and to prepare and serve notices 60 days in advance of a planned action.

(f) Section 639.3(f) Definition of "Employment Loss"

This section defines "employment loss" and exclusions from employment loss when certain transfers occur. These definitions closely follow the language of the statute. The proposed regulation provided that workers who retained "full employment status" could be reassigned without suffering employment loss. The Department notes that it interprets the statutory terms "termination" and "layoff" in section 3(a)(6) to be distinguishable and to have their common sense meanings. Thus, for the purposes of defining "employment loss", the term "termination" means the permanent cessation of the employment relationship and the term "layoff" means the temporary cessation of that relationship.

A number of commenters questioned the use of the term "full employment status" in section 639.3(f)(2). They argued that this concept, if broadly applied to mean that an employee can be reassigned only if he/she retains full pay and benefits, is inconsistent with the statutory definition of employment loss and with employers' rights to reassign workers.

The intent of the "full employment status" language was to deal with a specific comment from a major employer which has a program for moving workers who are to be terminated or laid off for a long time into job-finding or retraining activities, all at full pay and benefits. The "full employment status" language was an attempt to distinguish this kind of program, in which an employee is not working at his old job but is retained on the payroll, and does not experience an employment loss, from other kinds of severance pay or supplemental unemployment benefits (SUB) programs which occur after the end of the job and do not postpone the date of the employment loss. DOL recognizes that the comments have merit and that the "full employment status" concept is capable of overbroad application. The regulations have been revised to delete the concept but to retain language encouraging the kinds of employer-sponsored retraining programs for which the full employment status concept was developed.

It must be noted that the ability to reassign workers is not without limits. An employer may not vary the terms of a worker's assignment so much as to constructively discharge (as discussed in greater detail below) the employee. Language to this effect has been added to the regulation.

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The question also has been raised as to whether an employment loss occurs if an employee retains full pay and benefits and other entitlements but is not required to report to work. DOL notes that neither WARN nor the regulations dictate the nature of work to be performed—or whether work must be performed—during a period of employment after notice of an impending plant closing or mass layoff has been given. However, WARN does not replace or alter any other contractual or statutory rights and remedies of employees, and other contracts or statutes may be applicable when employers consider reassignments or assignment to non-work status after giving notice in advance of plant closings or mass layoffs.

Several commenters requested further definition of what constitutes a "voluntary departure, or retirement", which are excluded from the definition of employment loss. One commenter suggested that "incentive programs" should be specifically recognized as voluntary departures. Another commenter suggested that employees who are offered transfers to another employment site and who refuse those offers should be considered to have voluntarily quit. Other commenters suggested that "voluntary layoffs", that is, layoffs provided for in certain collective bargaining agreements under which more senior workers may accept a layoff in return for certain SUB or other benefits should be excluded from the definition of employment loss. Other commenters disagreed and suggested that workers who retire or quit in the face of an impending termination should not be treated as having voluntarily departed.

DOL agrees with the commenters that some clarification of the concept of voluntary departures is appropriate. The concept is not a new one in the law; there is a developed body of law under such statutes as the NLRA, Title VII of the 1964 Civil Rights Act and the Age Discrimination in Employment Act. This body of law recognizes the concept of constructive discharge, under which a worker's resignation or retirement may be found not to be voluntary if the employer has created a hostile or intolerable work environment or has applied other forms of pressure or coercion which forced the employee to quit or resign. Similarly, acceptance of incentive programs, particularly incentive retirement programs, can be found to be involuntary where a worker was unduly pressured to accept the program. The regulations have been revised to include this concept. Since the law in this area is well developed, the regulations do not attempt to specifically define the parameters of voluntariness, but merely refer to the existing legal concepts.

In terms of the specific issues raised in the comments, the Department agrees that incentive programs, including incentive retirement programs and voluntary layoffs, that meet the definition of voluntariness outlined above, are voluntary departures for purposes of WARN. DOL does not, however, agree that a worker who, after the announcement of a plant closing or mass layoff, decides to leave early has necessarily been constructively discharged or quit "involuntarily". (In the situation posted, where the plant closing or mass layoff has been announced, and, presumably, notice has been given, the worker already has received the notice that WARN requires and whether his later resignation or retirement is voluntary or not is no longer germane.)

The comment about workers who quit when offered a transfer involves another provision of WARN (section 2(b)(2)) which defines exclusions from employment loss. Under that section, which will be discussed in greater detail below, the basic rule is that if, as a part of a relocation or consolidation of all or part of an employer's business, a worker is offered a transfer within a reasonable commuting distance, the worker is not considered to have suffered an employment loss whether or not the worker declines the transfer. There is no requirement for acceptance of the offer in this situation and, unless the offer itself may be deemed to be a constructive discharge, the offer of the transfer itself means that the worker is not deemed to suffer an employment loss. On the other hand, if the transfer is beyond a reasonable commuting distance, WARN requires that the employee accept the transfer and refusal to accept means that the employee has suffered an employment loss. If the transfer is not covered under these provisions, because not offered as a result of a relocation or consolidation, a technical employment loss occurs. If an employer offers to transfer a worker in this situation and if the worker accepts, the employer may still wish to provide notice as additional protection from liability.

Several commenters suggested that the regulations incorporate a concept of "net employment loss" to cover situations in which an employer lays off one group of workers and simultaneously hires another group to work on a different aspect of the same task or project. Other commenters suggested that the definition of employment loss exclude government service contractors; since when such employers lose their contracts, their employees ordinarily are hired by the successor contractor. Similarly, a commenter suggested that where work is contracted out and the contractor hires the former employer's old workers to perform the contracted work, no notice should be required unless more than the threshold number of employees are not rehired. These definitions cannot be squared with the definition of employment loss or with the statutory structure, which focuses on the effects of employment losses on groups of workers. WARN requires notice to workers who lose their jobs with a particular employer, whether or not other workers have gained other jobs and whether or not other employers may hire those workers.

As noted above, § 639.3(f)(4) reiterates the statutory exclusion of certain transfers from the definition of employment loss. Commenters suggested that further definition of the terms "relocation" and "consolidation" are needed. One commenter suggested that the definition should be consistent with the definition under the NLRA; which it summarized as stating that the terms should be given a broad meaning not dependent on labels, as long as the transfer offer is bona fide and is to a related enterprise. While the Department agrees that a broad definition of the terms is appropriate in light of the intent of WARN to focus on actual losses of employment, the commenter's proposal cannot be accepted since it would give no meaning to the words "relocation or consolidation". The final regulations have been revised to include a broad definition, suggested by another commenter, under which the transfer of definable business, whether customer orders, product lines or operations, to a different site will be considered a relocation or consolidation.

Commenters questioned how to determine whether there has been a more than 50% reduction in hours for purposes of the third branch of the definition of employment loss. They asked whether overtime hours should be counted; whether overtime should be calculated on the basis of an 8-hour day or a 40-hour week; and how to determine the base for employees with fluctuating hours. The Department thinks that overtime hours or hours in addition to the normal and customary hours of the worker should not be counted in determining the base hours of work. In terms of the other questions, DOL will rely on the definitions found in the FLSA, that overtime is calculated based on a 40-hour week and that each week is treated separately. For an employee who works fluctuating hours, the monthly base would be the sum of the non-overtime hours worked in each week of the month.

A commenter questioned whether employees laid off for an indefinite period (i.e., where the employer expects to recall them but does not know whether their recall will occur before or after 6 months) are automatically to be considered as experiencing an employment loss at the time of the layoff. In this situation, the layoff is not automatically deemed an employment loss. If the layoff lasted for more than 6 months, the workers would experience an employment loss, would be counted toward the trigger level for the plant closing or mass layoff of which their individual layoffs were a part, and would have been entitled to notice if the layoff or closing met coverage thresholds. Since an employment loss begins with the layoff and since notice is due 60 days in advance, a prudent employer wishing to avoid potential liability would provide notice to the workers at least 60 days prior to their layoff unless it is certain that the layoff will not exceed 6 months.

A commenter asked how to define the date on which to measure the 6-month period to determine whether there has been a more than 50% reduction in hours of work. The commenter suggests using a "snapshot" on the date notice first should be given. While DOL agrees that the determination whether a reduction in hours will take place must be made around the time notice must be given, the use of the term "snapshot" is confusing since it implies looking at events that have already occurred. Notice that is given based on what has happened over the past 6 months may be too late.

The reduction in hours language of the definition of employment loss is not explained in the legislative history. This language can be interpreted to require either that notice be given 60 days before the beginning of the 6-month period in which hours are to be reduced more than 50% or that notice be given 60 days before an employee will suffer 6 consecutive months of more than 50% reduction in hours (that is, 60 days before the end of the 6-month period.) There are practical reasons for favoring each interpretation. The former interpretation better protects workers against a substantial loss of income. The latter interpretation is more consistent with what is probably the more common situation, in which substantial reductions in hours occur, where the reductions are not planned 6 months in advance, but happen incrementally because of changing conditions, for example, a reduction in cash flow that extends for many months. Thus, DOL beclieves that a common sense rule should be followed in determining when to give notice of a covered reduction in hours: When it becomes evident that the reduction will extend beyond 6 months, WARN notice should be given. This rule will, at least, establish the employer's good faith effort to comply with WARN. (Of course, if the employer knows in advance that a reduction in hours of more than 50% will occur for each of 6 months, the rule requires that the employer give notice at least 60 days in advance of the beginning of the period or as soon as the duration of the reduction becomes clear.)

Another commenter suggested that the regulations should be clarified to state whether a layoff, recall and layoff of a worker within a 30-day period constitutes one or two employment losses. Since WARN defines employment loss as a layoff exceeding 6 months in duration, a layoff and recall which occurred within a 30-day period cannot be an employment loss. Thus, only the second layoff may count, if it will be of sufficient duration.

(g) Section 639.3(g) Definition of "Unit of Local Government

"Unit of local government" is defined in the proposed regulations as in the Act. This section also provides a rule, based on total taxes paid to each unit, for determining which unit of local government to notify where a plant is located within more than one unit of local government. A commenter pointed out that some taxes are not paid directly to the local government but are paid as a surcharge on a State tax and are collected by the State. The commenter suggested that the employer may not be able to easily determine how much tax it paid to a unit of local government. The Department agrees and has revised the definition to include only taxes paid directly to the unit of local government.

(h) Section 639.3(h) Definition of "Part-Time Employee"

The definition of "part-time employee" in the proposed regulations follows the statutory language. Some commenters were unsure whether regular full-time employees with employment during less than 6 of the last 12 months would be considered part-time or full-time employees. The statute defines such employees as part-time.

Other commenters were unsure as to the status of employees who are traditionally understood to be "seasonal" and short-term, yet are hired on a recurring basis. According to the Act, if there employees worked for less than 6 of the past 12 months, they are part-time employees. Such employees would, in many cases, also fall under the "temporary facility/limited employment" exemption in section 4(a). Further, "seasonal" employees who work 6 months or more may also fall under the "limited employment" exemption.

In response to commenters' requests for guidelines in determining the period used in calculating whether a worker has worked "an average of fewer than 20 hours per week," DOL has established that the shorter of the time the worker has been employed or the most recent 90 days should be used.

(i) Section 639.3(i) Definition of "Single Site of Employment"

This section provides a definition of "single site of employment" which is drawn from the April 1988 Conference Report on H.R. 3. (H.R. Rep. 100–576, 100th Cong., 2nd Sess., 1046 (April 20, 1988)). As a general rule, a geographic connection or proximity is required to define "single site of employment." Even where several distinct operations are performed at a geographically connected site, that building or complex will be counted as a single site of employment. The regulations also recognize that, in some limited cases, geographically separate sites may still be considered a single site of employment because of an inextricable operational connection. DOL intends this exception to be a narrow one to cover those cases where separate buildings are used for the same purpose and share the same staff and equipment.

Several commenters expressed concerns that the definition of single site of employment could be read either too broadly or too narrowly. Two commenters were concerned that the discussion of geographically separate but operationally connected sites in § 639.3(i)(2) could be read broadly to cover separate sites which occasionally

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share staff or which are supplied from a common source. As noted above, this exception is intended to be read narrowly to cover those rare situations in which two separate buildings share staff, equipment and functions. DOL believes that the language of the exception conveys this narrow reading.

A commenter urged that the definition be amended to treat geographically contiguous facilities that are functionally separate as distinct sites. The Department agrees that this is an appropriate distinction in those cases where two plants are clearly separate, that is, where they produce distinct products, have different workforces and have separate management at the plant level. This reading does not appear to be inconsistent with Congress' concern, reflected in the Conference Report, that geographically separate plants be considered different single sites of employment. The language of the regulation has been revised to reflect this exception. Again, this is intended to be a narrow exception to the general rule that geographically related facilities are single sites of employment and geographically separate facilities are separate sites.

The comments just discussed also caused the Department to review the language of the regulation and to add a new subparagraph to make it clear that in office buildings or similar sites, where several different businesses rent or own space, the single site of employment for each employer is the space within the building that it rents or owns.

Several commenters focused on the "catchall clause" in § 639.3(i)(4). Some commenters suggested that the clause either be clarified or deleted to prevent it becoming an escape clause. Two commenters described their individual employment arrangements and suggested that the clause should be interpreted to include them. These employers have cross-plant bumping and worker transfer among a number of geographically separate facilities over a large area, in one case a major metropolitan area, in another a several hundred square mile area. Given the concern expressed in the Conference Report on H.R. 3 that geographically separate facilities be treated separately, neither of these situations is an appropriate exception to the rule which Congress intended to apply, that individual plants should be treated individually. (H.R. Rep, 100–576, 100th Cong., 2nd Sess., 1046 (April 20, 1988)). DOL continues to believe it prudent, however, to maintain some flexibility in the definition of "single site of employment", to provide for truly unusual organizational situations which DOL could not anticipate. The clause in § 693.3(i)(4) has been retained in the final regulations, with the proviso that application of any alternative, situation-specific definition is allowable only if its use is not intended to evade the purpose of WARN to provide notice. Thus, a firm which has a factory or other site which would otherwise qualify as a single site of employment and whose size would permit treatment of some small layoffs as mass layoffs (i.e., a plant that employs fewer than 1499 workers) cannot be combined with other sites within an area for the purpose of eliminating WARN coverage of mass layoffs.

A commenter suggested that foreign sites of employment should not be covered under WARN. DOL agrees that the general rule is that foreign sites are not considered covered by a statute unless coverage is specified in the language of the act, and have added an exclusion for foreign sites of employment to the definition of single site of employment. The exclusion of foreign sites does not exclude the U.S. workers at those foreign sites from being counted to determine coverage as an employer, i.e., whether an employer has 100 employees.

(j) Section 639.3(j) Definition of "Facility or Operating Unit"

The regulations adopt common sense definitions of the terms "facility" and "operating unit" within a single site of employment. These terms are important for determining whether a plant closing has occurred. DOL has defined these terms in a manner which attempts to define physically and operationally distinct entities for purposes of determining whether a plant closing, the shutdown of a distinct entity, has occurred.

Several commenters were concerned that the definition of "operating unit" was overly broad and suggested that it be made clear that the term refers to only a "fundamental, distinct or structural organizational segment of the enterprise". These commenters were critically of the use of the word "task" within the definition, arguing that the term is capable of application to activities that are neither fundamental nor distinct. Another commenter thought the definition was too narrow and should be revised to include any distinct operation, department or division of work at a worksite, defined in terms of function or organization. While these two commenters are apparently seeking different results in terms of how operating units would be defined in practice, there appears to be little difference in the definitions they present and DOL agrees with both commenters that only distinct structural or operational entities within a single site of employment are intended to be included as operating units. DOL agrees that the use of the word "task" might be construed to include specific work assignments within a distinct unit that would not be appropriately included as an operating unit. The final regulations do not use the term "fundamental" in the definition simply because it might create more ambiguities in applying the definition that it would avoid. The definition of operating unit has, therefore, been revised to include these concepts. The revised definition reads: "an organizationally or operationally distinct product, operation or specific work function".

Two examples may help to clarify our view of the appropriate limits of the definition. If an automobile manufacturing plant has an assembly line which assembles cars, there may be groups of workers whose job is to put on the doors or the bumpers. The operating unit should be the assembly line, not the groups of workers who perform the task of door or bumper assembly. Similarly, a data processing department may have within it data entry workers, computer programmers, computer maintenance workers and clerical workers. If the department is clearly a distinct entity in terms of the employer's organizational structure, the data processing department is the appropriate operating unit and the separate task groups are simply a part of that operating unit. (These examples are merely illustrative and are not intended to create rules applicable to all assembly lines or data processing departments. There may well be cases in which workers performing different jobs as a part of a larger operation may be sufficiently organizationally or operationally distinct to be defined as a separate operating unit.)

The critical factor in determining what constitutes an operating unit will be the organizational or operational structure of the single site of employment. Sources of evidence which will assist in defining separate and distinct units will be applicable collective bargaining agreements, the employer's organizational structure and industry understandings of what constitute distinct work functions. One commenter suggested that in the trucking industry, lines of progression would constitute operating units, i.e., over-the-road drivers, mechanics and clericals would each be in separate operating units. As the Department understands the comment, the use of lines of progression may well be an appropriate basis for defining operating units in the trucking industry. In other industries, however, seniority lines or lines of progression may not be a useful basis for defining an operating unit. Several different groups of workers in different lines of progression may be organized into a recognized department, like the data processing department discussed above, which would be an operating unit.

In the preamble to the proposed regulations the following example was used to illustrate the operating unit definition: "a 24-hour store eliminating its night shift would not carry out a closing of an operating unit, but the elimination of all warehouse and stock workers on all three shifts would constitute the closing of an operating unit if 50 or more workers were affected". Several commenters disagreed with the example. Some suggested that shifts could constitute operating units depending on the employer's organizational structure and whether the elimination of the shift "results in the closing of the facility during the time the workforce was previously employed". It is possible that there may be situations in which shifts can be operating units if the workers on the shift perform some separate and distinct function from the workers on other shifts. If, for example, a shift performed only maintenance functions which were not performed on other shifts, if the workers on that shift were in a separate job classification and, possibly, if the workers were recognized in the employer's organizational structure or in applicable collective bargaining agreements as a separate department, the shift could be an operating unit. The Department disagrees, however, that the mere closing of a plant for hours when it was previously open constitutes the closing of an operating unit. As long as the plant continues to operate and no recognized department, operation or major work function has been terminated, the fact of a reduction in hours of plant operation is not the closing of an operating unit.

Other commenters disagreed that all warehouse and stock workers would necessarily constitute an operating unit. They suggested that whether such workers would be defined as an operating unit would depend on the employer's organization. If the store were organized by product departments, the departments would be the operating units and the stock workers would be assigned to those units. DOL agrees that, in the situation posited, the product departments are the operating units.

Another commenter suggested that the definition of operating unit should exclude "common tasks" such as maintenance, secretarial or housekeeping. Whether maintenance, clerical or housekeeping workers will be considered as an operating unit will depend on how they are organized and how they operate. If there is a separate maintenance or housekeeping department or a central clerical pool, the workers in those units will be in separate operating units. If the workers are assigned to other distinct departments, for example, if different clerical workers work exclusively in several distinct departments, the workers will be considered assigned to those departments.

Another commenter suggested that the definition of operating unit is too broad and proposed that operating units should be defined only as including production processes and should not include support staff. The Department disagrees. The reason for the use of the term "operating unit" in WARN is to apply the protections of the law to small units of workers in a larger plant when their units are closed. It is not relevant to this purpose whether the workers are production workers or support workers; their job loss and their need for protection is as real in either case.

A commenter suggested that the definition of operating unit be clarified to reflect that, in the construction industry, employees of a subcontractor on the construction site where several different activities are taking place are an operating unit. DOL agrees that this will often be the case if the workers are performing a separate part of the work. However, this would not necessarily always be the case. Consistent with the decision not to attempt to cover industry-specific cases in the regulations, these final regulations have not been revised to provide for this particular case.

Another commenter suggested that in the railroad industry certain maintenance crews have no home base and should be treated as separate operating units. While such workers may well be considered as a separate operating unit, their status must be determined in terms of the single site of employment to which they are assigned. These workers may not have an assigned home base, but they must get their orders or assignments from somewhere, even if that place changes from time to time. In order to cover this situation and the situation of outstationed workers and traveling workers who report to but do not work out of a particular office, that part of the regulation relating to mobile workers has been revised to clarify that such workers should be treated as assigned to their home base or to the single site from which their work is assigned or to which they report. This part of the definition has been moved, for reasons of organizational clarity, to be a part of the definition of "single site of employment" in § 639.3(i).

(k) Section 639.3(k) Definition of "State Dislocated Worker Unit"

The definition of the term "State dislocated worker unit" refers to the statutory provisions under which such units are created. None of the comments discussed this definition and it remains unchanged.

(l) Section 639.3(l) Definition of "State"

The definition of State refers to the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands. None of the comments discussed this definition and it remains unchanged.

(5) Section 639.4 Who Must Give Notice

The prefatory language in § 639.4 states the basic rule of WARN about giving notice to the appropriate parties. None of the comments discussed this definition and it remains unchanged.

(a) Section 639.4(a) Who Should Give Notice

This section discusses who, within the employer's organization, should give notice. None of the comments discussed this definition and it remains unchanged.

(b) Section 639.4(b) Layoffs That Extend Beyond 6 Months

This section discusses an employer's responsibility in situations in which a covered layoff, which originally was announced as being for 6 months or less in duration, is extended beyond 6 months and, therefore, falls within the definition of "employment loss" in section 2(a)(6) of WARN and triggers the requirement of notice. One commenter proposed that any suggestion in the regulations that employers indicate the length of layoffs be deleted since some courts might interpret it as a requirement. Another commenter suggested that there should be no requirement of written notice for layoffs of 6 months or less. Another commenter objected to the inclusion of the phrase "consistent with section 3(c) of WARN" and suggested that the requirements of that section be spelled out.

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In response to these comments and the Department's own review of the statute and the regulations, language has been added to the final regulations in an effort to provide better guidance to employers. The Department's view is that an employer who announced at the outset that a layoff would be for 6 months or less, who did not provide advance notice under WARN and who plans to extend the layoff beyond 6 months may violate the Act unless: (i) The extension is due to business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and (ii) notice is given when it becomes reasonably foreseeable that the extension is required. A layoff extending beyond 6 months for any other reason is treated as an employment loss from the date of its commencement. Although the standard for foreseeability under this provision may be seen as less exacting than it is under the "unforeseeable business circumstances" exception of section 3(b)(2)(A) of WARN, due to the addition of the parenthetical phrase in section 3(c), there still may be situations in which an employer may be found in violation of WARN when it gives notice that a layoff will extend beyond 6 months. For example, if an employer shuts down for 5 months to retool his plant for a new product line and the retooling process takes longer than originally anticipated, *and the employer has experienced similar delays in previous retoolings*, the employer may be liable under WARN for having failed to give notice 60 days before the shutdown was begun since the cause of the extension arguably was foreseeable. An employer may, therefore, want to consider giving notice at least 60 days prior to the layoff unless it is certain that the layoff will not exceed six months.

The Department does not view the regulations as requiring any form of notice of a layoff that will not extend for more than 6 months. The statutory use of the term "announced" merely recognizes the reality that if an employer closes down or lays off some workers for a short period of time and expects to reopen or recall the workers, it will somehow communicate to the workers the fact that the closing or layoff is temporary.

(c) Section 663.3(c) Sales of Businesses

WARN creates an absolute division of responsibility for giving notice between a buyer and a seller of a business; the seller is liable to give notice of covered actions which occur up to and including the date (time) of sale and the buyer is responsible thereafter. Thus, at all times one of the parties to the transaction is responsible for giving notice. The proposed regulations offered guidance to employers anticipating a sale or purchase transaction to avoid confusion regarding service of notice and liability under WARN, by suggesting that each party's responsibility with respect to these items be covered in the contract of sale.

There were a wide variety of comments on this provision. One commenter suggested that the regulations make it clear that if the employees of a business that has been sold are not rehired by the buyer, the responsibility for giving notice is on the seller. The Department believes that such an allocation of responsibility is precisely contrary to the statutory language and intent. If a plant closing occurred as a result of the buyer's decision not to rehire the seller's workers, and the closing occurred after the effective time of the sale, the buyer is responsible for giving notice. This view is consistent with the statutory provision that the employees of the seller become the employees of the buyer immediately after the sale, with the intent of WARN that notice be given to workers who will suffer dislocations and with the reality of allocating responsibility for notice to the party to the transaction that actually makes the decision to order the plant closing or mass layoff. Other commenters agreed with the allocation of notice responsibility just discussed; one suggested that the apportionment of liability turn solely on when the plant closing or mass layoff occurs relative to the effective date of the sale.

Some commenters suggested that the regulations be clarified to assign responsibility to the seller through the date of sale and to the buyer on the next day. Such an interpretation is a possible reading of the statutory language; but DOL has rejected that reading because it would either make the seller responsible for the acts of the buyer or it would create a period in which no one is responsible for giving notice. The former alternative is inconsistent with the legal position of the parties after the sale has become effective. The latter alternative is inconsistent with the intent of the statute.

A commenter suggested that the regulations make it clear that the seller is not responsible for a layoff ordered by the buyer within 60 days of the sale. For the reasons already discussed, DOL agrees that no such responsibility attaches.

Several commenters suggested that no employment loss is experienced in a sale situation if the seller's employees are hired by the buyer within 6 months of the sale. Assuming there has been an announcement that a layoff of 6 months or less has been ordered, this is a correct statement since the definition of employment loss excludes layoffs of 6 months or less.

Several commenters discussed the provision of WARN that assigns the seller's employees to the buyer after the sale. These commenters agreed that this provision does not create any additional employment rights, other than WARN notice rights and that, although a technical termination (i.e., the termination of employment with the seller) may be deemed to have occurred in a sale, that termination, by itself, is not a basis for WARN notice. One commenter suggested that nothing in the WARN provision on sales requires that a buyer actually hire the seller's employees. Another commenter suggested that it should be made clear that employees in a sale situation have the same WARN rights as do any other workers. The Department generally agrees with all these statements and believes the final regulations reflect them; but notes that the buyer is responsible for giving notice to workers if it does not hire them.

One commenter suggested that the regulation should focus on the closing date and time of the sale, not on the effective date and time. The Department does not view these terms as different and the final regulations continue to use the term "effective date" because it is used in the Act.

One commenter suggested that the phrase "at all times, one of the parties to the transaction is responsible for giving notice" be added to the regulations. DOL agrees and has added the phrase in the final regulations.

The variety of comments suggests that the regulations needed to be clarified, along the lines suggested in this discussion. This section has been revised extensively. The examples in § 639.4(c)(1)–(3) have been revised to make it clear that these are merely suggestions about how the buyer and seller may wish to handle notice responsibilities between themselves and do not change the basic allocation of responsibility for notice. While specific mention of the contract of sale has been deleted in the final regulations, since the parties to a transaction may utilize other methods to allocate WARN responsibility, DOL continues to suggest that prudent employers make provisions for WARN notice, if applicable, in the contract of sale or elsewhere. The federal regulations also make it clear that if the seller gives notice as the buyer's agent, the responsibility for giving notice still remains with the buyer.

The FHLBB also described the situation in which it takes over an institution and keeps it operating while seeking to merge it with another bank or to find new owners. In that case, the new owner stands in the position of a buyer under WARN and is responsible for notice from the time the merger or acquisition becomes effective.

One commenter suggested that DOL not promulgate regulations on sales. DOL believes that such a course of action would be inconsistent with its statutory role and with its efforts to assist employers and workers in fully understanding their rights and obligations under a complex statute.

(6) Section 639.5 When Must Notice Be Given

(a) Section 639.5(a) General Rule

This section discusses the basic WARN rule that notice must be given 60 days in advance of a planned plant closing or mass layoff. It also discusses the 30- and 90-day aggregation periods found in sections 2(a) and 3(d) of WARN and suggests alternative rules for measuring the size of an employer's workforce for determining whether coverage thresholds are met.

Notice with respect to an individual worker's employment loss must be given 60 days in advance of that worker's separation from employment. In response to requests for clarification as to what date is the separation date, the Department has specified in § 639.5(a)(1) of the regulations that a worker's last day of employment is considered the date of that worker's layoff. The word "calendar" also has been added in this section to clarify that 60-day notice is not based on working days.

To aid employers in complying with the Act and issuing notice when it is due, DOL suggests that the employers look ahead and behind, not only 30 days, but 90 days (to determine whether coverage is triggered under section 3(d) of the Act) in determining whether planned employment actions will trigger notice requirements. By doing this, an employer can look at its planned employment actions in the broader framework of the Act, and reduce potential liability for failure to give notice when thresholds have been met. For example, if an employer has 300 employees, 60 of whom experience an employment loss on March 5 and an additional 40 of whom suffer an employment loss on March 30, sixty days' notice is required for both the March 5 and the March 30 employment losses, since they occurred within a 30-day period and constitute a mass layoff. If a third layoff affecting 60 employees occurs on April 20, these employees also are entitled to notice since their employment losses fall within a second 30-day period which includes the March 30 layoffs.

Section 3(d) of WARN provides that if, within a 90-day period, separate employment losses occur, each of which involves fewer than the number of workers necessary to trigger coverage but which together add up to the minimum numbers necessary to trigger coverage, WARN notice must be given unless the employer can demonstrate that the individual actions arose from separate and distinct causes. The Department recognizes that this provision may place employers in jeopardy for failing to accurately predict their employment actions. DOL is, however, constrained to interpret the provision according to its terms. It is important to note that the 90-day aggregation provision applies only to separate actions each of which is under the coverage threshold. Thus, small plant closings or layoffs are not aggregated with covered plant closings or mass layoffs. Also, as some commenters pointed out, it does appear that, in some cases where an employer underestimates the size of a layoff, the unforeseeable business circumstances exception for reduced notice may be applicable. Use of this exception may reduce liability for the second group of workers who are laid off, but it does not appear to provide much assistance as to the failure to give notice to the first group.

A number of commenters asked for additional definition of the term "separate and distinct actions and causes". One suggested that the definition be that the layoffs arise from different events. Another commenter suggested that, in the construction industry, the completion of one phase of a project and the layoff of the crafts workers on that phase should be considered as separate and distinct causes. The Department does not find either of these suggestions helpful; the first is too ambiguous to be useful; the second, while probably correct in the context of the construction and similar industries, does not provide a general definition. (In any event, since most construction workers will be engaged in work on temporary projects, the definition will be irrelevant to most layoffs in that industry.) DOL has considered these comments, but believes that the words of the statute are clear.

One commenter suggested that the regulations not include language that an employer should look ahead 90 days to determine whether separate but related events will trigger coverage. The commenter argues that this language is gratuitous and might undermine an employer's defense that the layoffs arose from separate and distinct causes. The Department believes that this language is an appropriate caution to employers about the obligations which WARN places upon them.

One commenter gave a specific example of a situation in which 90-day aggregation might apply and asked questions about the application of that provision. The commenter offered the following example:

Day 1—Company has 180 employees;

Day 2—Company terminates 30 employees (now 150 employees);

Day 31—Company terminates 29 employees (now 121 employees);

Day 60—Company terminates 6 employees (now 115 employees);

Day 90—Company terminates 5 employees (now 110 employees).

The commenter asked, to whom is the company liable? The commenter argued that there is liability only to the first 30 workers because the other three groups when aggregated do not constitute ⅓ of the number of employees on Day 31 and, therefore, the mass layoff threshold has not been met as to those workers. The commenter also asked what if the first group were "fired" for cause, poor productivity; is there a violation if there are no further layoffs?

In answer to these questions: Assuming that no notice was given, the company is liable to all 70 employees because the mass layoff threshold has been reached through separate actions which did not occur for separate and distinct causes within a 90-day period. All employees terminated within the 90-day period have suffered a mass layoff and all are entitled to 60 days' notice before the date of their termination. For this purpose, the date on which the company size is measured is Day 1. (Note that the aggregation periods are rolling and the second layoff starts a second 90-day period where the applicable workforce is 121 workers.) On the second question, if the workers were fired for cause they have not suffered an employment loss as defined in WARN section 2(a)(6)(A), which excludes discharges for cause. (The remaining 40 workers who suffered an employment loss are not numerous enough to trigger mass layoff coverage.) It is, however, likely that a mass firing

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will be challenged and if it is determined that the firing was not for cause, the notice obligation will revive. The courts may well look at the question of whether the mass firing was intended to evade the Act.

The regulation also provides for a "snapshot" test for determining the number of employees in an employer's workforce or at a single site of employment for purposes of determining coverage. The "snapshot" test is simply to look at the employer's employment levels on the date notice is due to be given. An alternative test also is suggested for those unusual situations in which the results of the snapshot test are not representative. Under the alternative test, an employer or employees may look to a date or to a time period in which employment levels were more representative.

A number of commenters suggested that the alternative test be abandoned because it might create too many ambiguities and because it might lead to second guessing in many situations. DOL believes that there are situations in which the workforce at a single point in time may be genuinely unrepresentative and may lead to inappropriate coverage or lack of coverage, such as situations where workers are temporarily transferred among plants. Because there is a need to provide protection to both employers and workers in these cases, the final regulations retain the alternative test. In so doing, the final regulations have been revised to stress that the alternative test is intended to be used only in unusual situations. It is not to be applied in cases where a workforce has shrunk through ordinary attrition. Language has been added to the final regulations to make it clear that the alternative test is only to be used in unusual situations and is not to be invoked for the purpose of evading WARN.

Another commenter disagreed with both the snapshot and the alternative tests. The commenter argued that the employer's workforce should be determined before notice is due to be given. The commenter suggested a bright line test for determining coverage: an employer should be covered if, at any time before an employment loss, it had 100 or more workers. While, from a practical point of view the employer probably must look at its workforce on the date on which it must decide to give notice, the Department concludes that the use of the date on which notice is to be given is a reasonable date to use and is more easily applied than any alternative date. The commenter's suggested test poses serious problems because it does not permit legitimate shrinkage of the workforce due to attrition to be taken into account and since it does not apply to measuring the workforce at a single site of employment for purposes of determining whether mass layoff thresholds have been met.

Questions were raised with regard to whether temporary employees are to be counted when determining whether the closing/layoff threshold is reached. As stated earlier, there is no exception for counting temporary employees in the law or the regulations. Part-time employees, as defined in WARN, are the only workers that are not counted when making this threshold determination. Temporary employees, unless they are part-time, should, therefore, be included in the calculation.

Several commenters raised a related issue not covered in the regulations. They suggested that an exception for government ordered closings be included in the regulations. No language recognizing such an exception appears in WARN and the Department is reluctant to create such an exception. However, some government-ordered closings may constitute unforeseeable business circumstances to which reduced notice applies. This approach is supported in the legislative history. (133 CONG REC S9435 (daily ed. July 8, 1987) (remarks of Sen. Kennedy)). Although this treatment will lead to after the fact notice in some cases, it also will lead to the provision of some notice to workers affected by the closing. These workers have a legitimate need for notice, particularly for notice of whether the closing will be a permanent or temporary closing.

Some commenters discussed several types of governmental actions which they argued should be treated as government ordered closings. DOL agrees that those closings which are the direct result of governmental action and which occur without notice should be counted as government ordered closings to which after the fact notice is applicable. Examples of such closings would be the closing of a restaurant by a local health department or the closing of nuclear power plant by the Nuclear Regulatory Commission. Other agencies do not take such direct action. For example, the Occupational Safety and Health Administration and the Environmental Protection Agency take enforcement actions which might result in the closing of a plant by the employer either to remedy the violation or because it cannot continue to operate. These agencies do not, however, directly order the closing of the plant and they usually give some notice of the violation and an opportunity to contest the findings. Such closings, although they may result from a government action, are not government ordered and are not subject to the same treatment. (Depending on the length of the notice given, a claim that the closings qualify for reduced notice under the unforeseeable business circumstances exception may be available.) A commenter also suggested that terminations of government contracts should qualify as government ordered closings. In most cases, there is some notice of the government's intent to terminate a contract, even if the termination is for cause and, for the reasons stated above, these contract terminations should not be treated as government ordered closings.

The Department notes an important difference between the closings discussed above and the absolute closing of a savings and loan institution by the FHLBB. In the case discussed above, the employer remains in control of its business. The employer can remedy the conditions that caused the closing and reopen the business. In the case of an absolute closing or shut-down of a S & L, in contrast, the previous ownership is ousted from control of the institution and the FSLIC assumes control of the enterprise. In this case, there is no employer to give notice and the after the fact notice requirement cannot be imposed, since the S & L employer has been removed.

(b) Section 639.5(b) Transfers

This section discusses the application of section 2(b)(2) of WARN which excludes certain transfers from the definition of employment loss. It discusses what kind of transfer offer meets the statutory requirement, the definition of "reasonable commuting distance" and discusses the operation of the provision relating to transfers beyond a reasonable commuting distance.

A number of commenters criticized the inclusion in the regulations of the requirement that, in order to qualify as a transfer to which the exclusion applies, a transfer must be to a job that is "substantially equivalent in terms of pay and working conditions." That language was adopted because of the use of the term "equivalent position" in the Senate Report on S. 538. (S. Rep. 100–62, 100th Cong., 1st Sess., 23, 69–70 (June 2, 1987).) The transfer provision in the Senate Bill differed substantially from the present transfer provision in WARN. The Provision in the Senate Bill was an exemption to coverage involving the transfer of "substantially all" of the

affected workers with no more than a two-week break in employment. The WARN transfer provision focuses on the individual worker and permits a break in employment of no more than 6 months. The Department has found nothing in the legislative history to explain these changes. The Department agrees that the language of the transfer provision is not consistent with the definition of employment loss, to which the break in employment provision appears related. The Department concludes that its earlier reliance on the legislative history is not supported by the later changes in the language of the transfer provision. The "substantial equivalence" requirement has, therefore, been deleted from the final regulations. Consistent with the earlier discussion of the law of constructive discharge, language has been added to the final regulation to state that a job offer which constitutes a constructive discharge constitutes an employment loss for purposes of WARN.

Several commenters criticized the adoption of the Internal Revenue Service (IRS) definition of "reasonable commuting distance" as the definition of the same term for WARN purposes. Some commenters suggested other factors that should be added to the definition. These included industry practice, a comparison of the employee's pre- and post-commuting times, transportation costs in the area and the availability of alternate forms of transportation, public transportation and car and vanpools. One commenter suggested that the regulations should state that transfers within a metro-wide area are always within a reasonable commuting distance. Other commenters suggested the adoption of a standard, such as the 30 miles/45 minutes "rule of thumb" contained in the Senate Committee Report on S. 538. (S. Rep. 100–62, 100th Cong., 1st Sess., 23 (June 2, 1987).) One commenter suggested that the regulation should permit the employer to rely on a written acknowledgment from the worker that the commuting distance is reasonable.

The Department borrowed the IRS definition because it appears to be appropriately general to permit considerable flexibility in arriving at a determination of what constitutes a reasonable commuting distance. In doing so, the Department did not intend to adopt all the IRS interpretations that apply to situations not directly relevant to WARN. The language of the final regulation has, therefore, been revised to eliminate specific reference to the IRS regulation. DOL believes that the IRS definition encompasses all of the factors discussed by the commenters. The Department notes that the determination of what is a reasonable commuting distance may be strongly influenced by industry practice or the provisions of collective bargaining agreements. While setting a "rule of thumb" has some appeal, DOL has decided not to do so because any such role could be inappropriate in a large number of situations and may cause more confusion than it eliminates. Similarly, establishing a rule of thumb that transfers within a metropolitan area are always within a reasonable commuting distance is inappropriate, although such transfers will usually meet the definition. In the case of the specific commenter, it appears that the company's collective bargaining agreements recognize the metropolitan area as an area within which transfers are permissible. In that case, any transfer within the metropolitan area would be deemed to be within a reasonable commuting distance. While an employer may seek to obtain written acknowledgments that a transfer is within a reasonable commuting distance, adopting that practice as a rule poses three problems: First, it may be seen to require employers to adopt certain employment practices; second, it will not provide an employer any protection if workers refuse to sign the acknowledgment; and third, the employer might not find out that not enough workers will sign the acknowledgment until after the time to give notice has passed, thus possibly becoming liable for failing to give notice.

(c) Section 639.5(c) Temporary Projects or Facilities

This section discusses the exemption from notice in section 4(a)(1) of WARN. Under that exemption, no notice is required to be given when a plant closing or mass layoff occurs because of the closing of a temporary facility or the completion of a temporary project or undertaking, and the affected workers were hired with the understanding that their employment was limited to the duration of the facility or project. Since such an understanding could arise in a variety of ways, the proposed regulation specifies reference to employment contracts or local or industry employment practices, but leaves the burden of proof to employers. The regulation also discusses some examples of what do and do not constitute temporary projects.

Some commenters, representing the construction industry, requested an exemption for their industry. DOL does not believe that industry-specific exemptions from WARN notice requirements are appropriate or justified. The construction industry and similar industries, including the shipbuilding industry and the roadbuilding industry, will receive appropriate treatment under the temporary projects exemption. To the extent that their workforces only work on a project-specific basis, the employers are exempted from having to give notice under the Act and the regulations. To the extent that they employ workers on a more permanent basis, an exemption would defeat the purpose of WARN.

Several commenters opposed the imposition of a temporal limitation in the definition of "project". They pointed out that certain projects, like dams, take years to complete. The discussion of the duration of a job in § 639.5(c)(4) was not intended to suggest a time limitation on temporary projects. It was intended to respond to comments that suggested that certain long-term contractual arrangements also should be considered temporary projects. Nonetheless, that point can be made without reference to the duration of the contract and the final regulation has been revised to eliminate the reference.

A commenter criticized the same provision, arguing that long-term government contracts can be cancelled with less than 60 days' notice and that employers should be absolved from giving notice in that situation. DOL disagrees with this analysis. The temporary projects exemption applies to the nature of the project, not to the length of the notice given when it is terminated. If an employer receives less than 60 days' notice of cancellation, it may be able to give less than 60 days' notice under the unforeseeable business circumstances exception.

Another commenter pointed out that to qualify as a temporary project, a project must be for a "defined and limited" period and must have been begun with "an announced and ascertainable duration and a terminal point". DOL generally agrees with this characterization of the statutory requirement. It must be recognized, however, that the duration and terminal point of many temporary projects may not be capable of being precisely defined at the beginning of the project due to the vargaries of other conditions and other factors. What is important is that it be clear at the outset that upon the completion of some defined undertaking, the project will be complete.

Several commenters opposed the use of the word "clearly" when describing the workers' understanding that a

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project is temporary. Another commenter opposed the assignment to employers of the burden of proof of the existence of the understanding that the project is temporary. The word "clearly" comes from the description of the Congressional understanding of the way the exemption would work in the Conference Report on H.R. 3. (H.R. Rep. No. 100-576, 100th Cong., 2d Sess., 1051 (April 20, 1988)). Although it is true that the statute does not mention the burden of proof as it does in other instances, it is reasonable to assign the burden to the employer in this case because the employer is seeking an exemption from the general rule of 60-day notice (or, legally speaking, is asserting an affirmative defense) and because, in the nature of the language of the exemption, it is the employer that must prove that it communicated the nature of the project. The final regulation has been revised to make it clear that the employer must show that it communicated to its employees the temporary nature of the project or facility. The final regulation also has been revised to make it clear that the test of clear communication focuses on the understandings of the affected employees in general, not on whether each individual employee understood the temporary nature of the project or facility.

Another commenter supported the approach taken in the regulation, arguing that if the worker understood that he/she would be transferred to another project at the completion of the work, the exemption does not apply. DOL agrees with this formulation. The last point is particularly important. Commenters in the shipbuilding industry referred to their "core staff" when describing their operations which the commenters claimed were temporary projects. While the Department agrees that the projects described in the comments qualify as temporary projects, if the term "core staff" refers to workers who remain on the payroll and move from project to project, the temporary project exemption would not apply to those workers because they would not understand that they had been hired to work on a particular project.

Some of the comments suggested that the commenters interpreted the regulation to require written notice that the job is a temporary project and insisted that the regulations should recognize industry practice. DOL believes that these commenters have misread the regulation, which specifically refers to "the employment practices of an industry or a locality". Reference to collective bargaining agreements as a source of evidence of the understanding that the project or facility is temporary also has been added in the final regulations.

One commenter suggested a form of written notice to workers which employers might use to reflect the understanding that the work is on a temporary project.

> Workers on this project are being hired on a project-only basis. When this contract is completed, your job will be terminated. At that time, you may or may not be offered another job on a different project as needs dictate.

Such written notice is not always required by WARN since industry practice may be sufficient to demonstrate that workers understand that their jobs are on temporary projects. It may, however, be useful to some employers to give written notice. To provide assistance to those employers who may wish to give written notice that a job is on a temporary project, DOL has reviewed the commenter's proposed language. While the last sentence might be considered confusing, DOL understands that in the construction and similar industries workers often work for the same employer on different projects. In light of that fact, the notice as a whole appears to adequately convey the temporary nature of the job.

Another commenter suggested that the words "or project" be added to clarify the example in § 639.5(c)(3). The Department agrees and has so revised the final regulation.

A commenter suggested that the temporary projects exemption should apply to depletable resources. This does not appear to be an appropriate extension of the exemption since depletable resources may last for so long a time that they cannot be said to have a termination date, even though eventually the resource may run out.

A commenter asked that the regulations include transportation projects in the regulation. Another commenter asked that it be made clear that the examples in the regulation are not inclusive. DOL agrees with the second commenter; the purpose of the example in the regulation (as with examples in other parts of these rules) is to be illustrative, not to include every industry that might work on temporary projects. The Department also agrees that roadbuilding projects may qualify as temporary.

A commenter asked that the regulation be clarified as to the construction industry to acknowledge that the completion of a project may result in a layoff from a job but not a separation from the industry. DOL assumes that this is true for most industries that work on temporary projects, but has decided not to revise the regulations to reflect this fact.

The FHLBB stated that when it closes down a savings and loan institution, it sometimes rehires the employees of the closed institution to work on closing down the bank. The FSLIC rehires the workers with the understanding that their work will only last until the affairs of the S & L are wound up, although the time that this task will take is not certain at the time the workers are rehired. The FHLBB suggested that these employees should be covered under the temporary projects exemption. DOL agrees, under the circumstances stated, that these workers are covered under the temporary projects exemption.

A commenter from the trucking industry suggested that the temporary projects exemption should cover "casual" workers in that industry, that is, workers who are hired on an "as needed" basis when freight volumes increase and are laid off indefinitely subject to recall. The Department does not agree that these workers, while their work may be temporary, are working on a temporary project, which is a distinct undertaking not simply an increase in already existing and continuing work. It appears from the description of these workers that most of them will be part-time workers for WARN purposes (i.e., they will work less than 6 months in any 12-month period) and thus are not counted in determining whether a plant closing or mass layoff has occurred.

Another commenter suggested that the definition of temporary project include project-specific fabrication or component manufacturing. To the extent that workers are hired specifically and only to work on fabrication or component manufacturing that relates to a specific project, they will be working on a temporary project. To the extent that workers manufacture or fabricate components for more than one project, they will not qualify. DOL believes that the regulation adequately covers those workers in any industries to which it is applicable.

(d) Section 639.5(d) Strikes and Lockouts Exemption

This section discusses the strikes and lockouts exemption of section 4(d) of WARN. That exemption provides that notice is not required to be given where a plant closing or mass layoff "constitutes" a strike or lockout not intended to evade the requirements of the Act. Notice is also not required when an employer permanently replaces "a person who is deemed to be an economic striker" under the NLRA. The exemption provision in the Act also indicates that nothing in WARN affects judicial or administrative rulings relating to the hiring of permanent replacements for economic strikers under the NLRA. Because this language is so closely tied to another law, administered by another agency having expertise in this area, DOL has chosen not to attempt any extensive regulatory explanation of this provision.

The Department solicited comments on issues related to strikes and lockouts. One commenter recommended that the regulations should include the definition of lockout which appears in the Conference Report on H.R. 3, i.e., a lockout occurs when, for tactical reasons relating to collective bargaining, an employer refuses to utilize some or all of its employees for the performance of available work. (H.R. Rep. 100-576, 100th Cong., 2d Sess., 1051 (April 20, 1988).) The Department agrees, and has included this definition in § 639.5(d). Consequently, a layoff that occurs in response to a decrease in orders, and thus a lack of work, in anticipation of a possible labor dispute cannot be characterized as a lockout.

The Department also is aware that lockouts may occur for defensive reasons in the course of a labor dispute. The Conference Report definition does not appear to take account of that possibility. In the final regulations, the definition of lockout has been modified to cover defensive lockouts that occur during labor disputes.

Several commenters objected to the inclusion of the phrase "in the normal course of collective bargaining" in the regulation, arguing that it could be construed to exclude sympathy or wildcat strikes from the coverage of the exemption. The Department agrees that this construction is possible but was not intended and has deleted the phrase. Whether a strike or other form of concerted activity will fall under this exemption is ultimately a question which will have to be decided under the NLRA or other applicable laws.

A commenter suggested that the regulations should make it clear that work slowdowns also are included under the strikes/lockouts exemption. This is a complex area of law under the NLRA and other federal statutes. Because other agencies with responsibility to administer these statutes regularly are involved in these areas, the regulations will not address the issue.

A commenter questioned whether notice is required when an employer permanently shuts down or relocates an operation after the commencement of a lockout. The exemption for a lockout is applicable only if the closing or layoff constitutes a lockout. If, after the commencement of a lockout, another decision is made which results in employment loss for a sufficient number of workers (including locked-out workers), as might occur if an employer decided to relocate, notice would be due based on the new circumstances.

A commenter suggested that the regulation should be revised to provide that an employer need not give notice when replacing an unfair labor practice striker since it will be required to rehire that worker at the end of the strike. WARN specifically mentions the permanent replacement of economic strikers but provides no other exceptions for notice of replacement for other kinds of strikers. Also, as discussed above, the Department does not view the strikes/lockouts exemption as applying to situations in which plant closings or mass layoffs are ordered because of other conditions than the particular strike or lockout. For these reasons, and because the status of strikers raises many complex questions under the NLRA and other federal laws, the Department has not revised the regulations in the manner suggested.

A commenter suggested that the regulations provide for some method to determine whether a lockout is intended to evade the purposes of the Act. The commenter suggested that if an employer remains closed for 4 months, it should be required to demonstrate an intent to reopen. The Department does not view this as a practical suggestion, since WARN provides no administrative mechanism for monitoring compliance. Also, given the complexities of the collective bargaining process, DOL can see no basis for imposing arbitrary time limits on the length of strikes or lockouts.

In the preamble to the proposed regulations, the Department also indicated its intent to provide in the final regulations that notice is due to non-strikers at the site at which the strike is occurring and to provide that the strikes/lockouts exemption does not apply to plant closings or mass layoffs that occur at other sites as an indirect result of the strike. It also was indicated that the regulations would be clarified to indicate that the unforeseeable business circumstances exception may well apply to the indirect effects of strikes. The Department invited comments on these issues.

A number of commenters opposed notice to non-strikers. The commenters gave a number of reasons for their opposition, including: (1) The NLRA only requires a union to provide 60 days' notice of contract termination or modification and thus the employer may not know that the strike might happen in time to give WARN notice. (2) The NLRA requires employers to negotiate in good faith and notice might be used as evidence of a lack of good faith. (3) The strike or lockout will generally be for 6 months or less and notice will not be required. (4) The type of employment loss that will occur in a strike situation is not the same type that WARN was intended to address, i.e., the kind of loss that requires planning to get a new job or training. (5) Requiring notice will lead to "preventive" notices or to rolling or periodic notices that WARN seeks to avoid. (6) Since the union alone decides to strike, it makes no sense that Congress intended to cover this situation; also, it would require notice to the union that initiated the strike. (7) Requiring notice to non-strikers gives unions a powerful weapon to expand the impact of strikes and is inconsistent with WARN's philosophy of neutrality with respect to labor law.

While the Department recognizes that the comments raise several good policy arguments for application of the strikes/lockouts exemption to non-strikers, at least at the plant at which the strike occurs, the Department believes that the legislative history is clear that non-strikers were intended to receive notice. During the Senate debates on the bill, Sen. Quayle offered an amendment that would have extended the exemption to non-strikers. (134 CONG. REC. S8667 (daily ed. June 28, 1988) (remarks of See Quayle)). Sen. Metzenbaum, the floor manager of the bill, opposed the amendment and it was defeated. (134 CONG. REC. S8669 (daily ed. June 28, 1988) (remarks of Sen. Metzenbaum)). The final regulations contain language making it clear that notice is due to non-strikers. Where a union which is on strike represents more than one bargaining unit at a single site, non-strikers include the non-striking bargaining unit(s). Notice is also due to those workers who are not part of the bargaining unit which is involved in the labor negotiations that led to the lockout.

The Department notes that if, as a commenter pointed out, most strikes do not last over 6 months, no notice is required under WARN for temporary layoffs that last 6 months or less. Employers should exercise care in deciding not to give notice for this reason in a strike situation, since, as discussed earlier, WARN does apply if the layoff is extended beyond 6 months and the extension is not caused by business circumstances not reasonably

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foreseeable at the time the layoff was announced.

Commenters also urged, if the strikes/lockouts exemption is not to apply to plants other than the plant at which the strike is occurring, that the regulations state that the unforeseeable business circumstances basis for reduced notice applies. The Department agrees that it is generally the case that strikes will not be foreseeable. The Department also acknowledges that the unforeseeable business circumstances exception to the 60-day notice requirement may well be applicable in most situations where a strike has effects at other plants, either other plants of the same employer or other plants of other employers. The unforeseeable business circumstances exception equally may apply to the plant at which the strike is occurring. The Department also notes that the "faltering company" exception may also apply in strike/lockout situations and has modified the final regulation accordingly.

The final regulations have been revised to make it clear that the exemption does not apply to the effects of strikes or lockouts at plants other than those at which the strike or lockout actually is occurring and to make it clear that the unforeseeable business circumstances exception to the 60-day notice requirement may be applicable to these direct and indirect effects and to layoffs at the struck plant.

(7) Section 639.6 Who Must Receive Notice

Notice must be given to affected employees' representatives, directly to unrepresented affected employees, to the State dislocated worker unit, and to the chief elected official of the unit of local government. Section 639.6 of the regulations clarifies who is to receive notice in each case. The prefatory paragraph describes the general rule and discusses the provision in section 2(b)(1) of WARN relating to the status of employees of the seller in a sale of all or part of the business. This discussion has been revised to make it clear that the provision preserves notice rights, but creates no other employment rights and that the technical termination that may be deemed to occur upon the consummation of the sale does not, in itself, create notice rights. Other than the comments relating to the business sale provisions of WARN, already discussed in the review of § 639.4(c) of these regulations, there were no comments on this section and no other revisions have been made.

(a) Section 639.6(a) Notice to Representatives of Affected Employees

This section states the rule that notice must be served on the chief elected official of the exclusive representative or bargaining agent representing affected employees. It also recommends that, if this person is not an official of the affected local union, notice also be served on the local official.

Commenters suggested that the regulations be revised to clarify that if an employer provides notices to a union, it is not required to provide notice to the individual workers represented by the union or liable if these workers do not receive notice. DOL agrees that both these propositions are correct, but believes that the regulations adequately cover these points.

A commenter suggested that the regulations clarify that in right to work States, notice to the union is effective as notice to both the members of the union and to those non-members who it represents. Another commenter suggested that non-members of a union should receive individual notice. The Department agrees with the first comment, although it applies in non-right to work States as well. The Department believes that this duty to represent non-members in appropriate situations is inherent in the definition of "representative" in § 639.3(d) of this Part. WARN provides that, where there is a representative of affected employees as of the time of notice, an employer must provide notice to that representative rather than directly to the workers. Thus, the second suggestion would not be appropriate.

Commenters suggested that an employer should be required to give notice only to one individual on behalf of a union. While this proposition is generally correct, there may be situations in which a collective bargaining agreement recognizes more than one entity, for example, both a national and a local union, as the exclusive representative. In such cases, notice to the chief elected officer of both entities would be required.

A commenter suggested that the regulations should provide that a union must give notice to the affected employees it represents within 3–5 days and that a penalty should be imposed upon the union for failure to give notice. WARN contains no provisions imposing any notice obligations on unions. The suggestion cannot, therefore, be adopted.

(b) Section 639.6(b) Notice to Affected Employees

This section has been substantially revised in accordance with the previous discussion of the comments on notice to "bumpees" under § 639.3(e). The final regulations provide that notice is required to be given to employees who may reasonably be expected to experience an employment loss, including those workers who lose their jobs because of bumping rights and other factors, to the extent that they can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employer cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a particular position, it is acceptable for the employer to provide notice to the incumbent in that position. The rule also provides that affected employees entitled to notice include part-time as well as full-time employees, since WARN specifically excludes part-time employees from being counted for threshold determination purposes but does not exclude them otherwise.

It is clear that such factors as voluntary separations, early retirements and transfers which occur after notice is given may make it difficult to determine which employees will actually experience employment loss. Commenters asked if, in a situation where it is uncertain who will be terminated or laid off, it is acceptable to give notice to more employees than will actually experience employment loss. Where it is not possible at the time notice is required to be given to determine who may reasonably be expected to experience employment loss, it may also be adviseable for an employer to give notice to other workers who may lose their jobs as the result of the seniority system, both to forewarn them and to avoid potential liability. However, it is not appropriate for an employer to provide blanket notice to workers. As noted earlier, intermediate bumpees need not receive notice if they have bumping rights they can exercise.

A commenter suggested that the regulations be clear that there is no obligation to notify employees of independent contractors and that such employees are not included in the "employee count" for threshold determination purposes. The Department concludes that this principle is adequately covered in the definition of "affected employee" in § 639.3(e).

A commenter opposed any requirement of giving notice to part-time employees. For the reasons just stated, DOL disagrees that part-time employees are not entitled to notice; part-time employees have the same need to find other work or training as full-time workers.

(c) Section 639.6(c) Notice to the State Dislocated Worker Unit

States are required, under section 311(b)(2) of the Job Training Partnership Act and section 6305(a) of EDWAA, to have operating dislocated worker units as of July 1, 1989. To meet the requirement for notice to these units before they become fully operational and to permit States to set in motion existing worker adjustment assistance programs, the regulations specify that notice served upon the State Governor constitutes service upon the State dislocated worker unit.

A commenter suggested that service on the Governor should be sufficient service on the State dislocated worker unit and that DOL should publish a list of State dislocated worker units. DOL believes that the regulations provide appropriate recognition of the fact that all States will not have finally set up their dislocated worker units by the time these regulations are published and of the need for service of notice on the unit at the same time that workers or their unions get notice so that the States can engage in the rapid response activities that are stressed under EDWAA.

(d) Section 639.6(d) Notice to the Chief Elected Official of the Affected Unit of Local Government

Questions were raised about the identity of the chief elected official of a unit of local government, given the variety of local government structures. In particular, clarification was sought in the situation where local government is run by an elected board. The regulations clarify this situation by providing that the chairperson of the elected board is to receive notice.

(8) Section 639.7 Content of Notice

(a) Section 639.7(a) Notice Must Be Specific

The proposed regulations provide that notice must be specific, that conditional notice may be given in certain circumstances and that notice must contain all of the elements required by the regulations.

The provision on conditional notice provoked numerous comments. Several commenters supported this provision of the regulations. Other commenters opposed it, claiming that the WARN language about ordering plant closings means that notice must be unconditional and must be about a definite event. They also argued that if an event is not foreseeable 60 days in advance, the unforeseeable business circumstances exception should apply to it. The commenters argued that conditional notice under WARN could be used to legitimate kinds of notice which could be illegal under the NLRA. These commenters raised concerns that a conditional notice requirement could lead to "rolling" or overbroad notice and to liability for employers who fail to give conditional notice. They suggested that optional notice providing useful information to workers should be encouraged.

While acknowledging these views, there may nonetheless be situations in which a plant closing or mass layoff are quite foreseeable if a known event, such as the non-renewal of a contract, occurs. If the event and the consequences are foreseeable, the unforeseeable business circumstances exception cannot be available. If notice can be given only when the necessity of the layoff becomes definite, the employer cannot avoid liability. The Department believes that the best remedy for the problem is to permit contingent notice to cover these cases. The final regulations have, therefore, been revised to permit optional conditional notice to serve as compliance with WARN, while narrowing the definition so that the commenters' concerns are ameliorated. Thus, conditional notice is permitted only if there is a definite event, like the renewal of a major contract, the consequences of the occurrence or non-occurrence of which will definitely lead to a covered plant closing or mass layoff less than 60 days after the event. The final regulations provide that conditional notice may not be used to legitimate notices which would be violations of other laws. Further, the regulations specify that conditional notice is optional to avoid the problem of imposing liability on employers for failing to give a conditional notice.

An example of a situation in which conditional notice might be applicable was provided by one commenter, a utility. The commenter operates a nuclear power plant which is the subject of some opposition. A referendum is scheduled to take place to decide whether the utility should continue to operate the plant. If the voters decide that the plant should be closed, the utility may have to begin terminating workers fairly quickly after the referendum occurs. In these circumstances, if a schedule of layoffs can be determined 60 days in advance of the first layoff, conditional notice may be advisable.

(b) Section 639.7(b)–(f) Elements of Notice

These sections in the proposed rule prescribed the elements which must be included in the notices to each of the individuals or entities who are entitled to receive notice. A number of commenters argued that the proposed rule imposed too many requirements on employers and went beyond the requirements of the Act. Comments were, in fact, received on each and every element of the notice. The commenters argued that WARN does not require a specific form of notice and that only simple notice is required under the Act; that the requirements can create other grounds for suit for technical violations of the requirements; that the requirements will discourage employers from providing longer notice and from voluntary compliance. On the specific elements of notice, the commenters were particularly opposed to any requirement that a specific date be given, claiming that employers cannot anticipate a specific date when a layoff will take place 60 or more days in advance. The commenters also opposed identification of the workers involved (in notice to unions) claiming that complex seniority systems made such identification difficult. One commenter supported all the elements of notice specified in the regulation and suggested that the name and address of a company contact person be included in the notice to affected employees.

While the Act does not enumerate specific elements which should be included in the advance written notice of an order for a plant closing or a mass layoff, the purpose of providing notice to the parties mentioned in the Act is to allow each of them to take appropriate action to facilitate training, employment or other adjustments for affected employees. The content of notice to each party is designed to provide information necessary for each of them to take responsible action. The information requested is not difficult to obtain and care was taken to keep the elements of notice to a minimum.

Nonetheless, DOL has reexamined the regulations to ensure that the notice requirements are not overly burdensome on employers while providing sufficient information to permit the other actors in the WARN process to receive the full protection intended by the Act and to perform their functions. Several changes, including clarifying language changes, have been made in the final regulations. In recognition of the difficulty of identifying specific separation dates for individuals 60 days

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in advance, the final regulations provide for a 14-day period of flexibility. An employer may give a specific separation date, the beginning date of a 14-day period during which the separation is expected to occur or a combination of specific dates and 14-day periods, if appropriate. This revision applies to the dates in the individual workers' notices and to the date or schedule of dates in notices to representatives and government units.

In the final regulations prescribing the elements of notice to unions, the first and last elements have been combined. The requirement that unions be notified of the identity of other affected unions, the requirement that employers provide the number of affected employees and the requirement for a statement about applicable bumping rights have been eliminated.

In the final regulations prescribing notice to affected employees, the requirement that the notice state the name and address of the plant has been eliminated and a requirement that the employer provide the name and telephone number of a company contact person has been added.

The notice provisions for the State dislocated worker unit and the chief elected official of the affected local government have been combined into one paragraph in the final regulation, although separate notices still are required by WARN for each. The first and last elements of notice have been combined and the provision about the statement of bumping rights has been clarified.

In all of the notices, the requirement that the notice identify whether the proposed action is a plant closing or mass layoff also has been eliminated and the requirement has been revised to require that the employer state whether the planned action is temporary or permanent and, if applicable, to state that the entire single site of employment will be closed.

A new provision has been added to provide an alternative form of notice to the State dislocated worker unit and to the chief elected official of the affected local government. Under this alternative, an employer may provide an abbreviated notice to these parties which states the name and address of the plant at which the action is to take place, the name and telephone number of a company contact person, the first data on which an employment action is expected to take place, and the number of affected employees. All other information required by the regulation must be maintained by the employer at a readily accessible place for use by the State dislocated worker unit and the local government. DOL believes that this alternative provides a reasonable way to ease some of the perceived burden on employers.

DOL believes that the remaining elements of notice are important if the parties are to receive notice which will provide them with the information they need to take the appropriate actions to minimize the effects of the affected employees' employment loss. The name and address of the plant and of a contact person provides basic information to identify the employer who is giving notice, the place at which the plant closing and mass layoff will occur and someone to provide them with additional information, if needed. The date of the layoff or schedule of layoff dates is essential to enable all recipients of notice to understand when employment losses actually will occur. Whether the planned action is permanent or temporary and the date on which it is to occur are important pieces of information to enable workers and service providers to plan and to make decisions about what kind of services workers may need and when the services will be needed. The job titles of the positions to be eliminated and the names of the workers holding those positions (or the numbers of workers for the State dislocated worker unit and the local government) enable unions and service providers to quickly identify the workers who will be affected and the size and scope of the action and the services needed to respond to it. The statement about whether bumping rights exist enables the governmental actors to determine that the workers who will actually need services may be difficult to determine at the outset. The name of each union representing affected employees, and the name and address of the chief elected officer of each union in the notices to State dislocated worker units and local governments is needed for the governmental actors to be able to contact the unions with which they will work to provide services. The statement about whether the entire plant will close provides needed information about job and general economic prospects in the local community and enables workers and the State and local governments to more accurately gauge the kinds of actions that will be needed.

DOL also agrees with commenters who were concerned that technical errors in providing the information required in the regulation could lead to claims that employers violated the Act. Language has been added to the final regulation, in § 639.7(a)(3), to make it clear that the notice must contain the best information available to the employer when the notice is given. The intent of adding this language is to attempt to prevent claims that might arise when an employer makes what turns out to be a factual error because circumstances later changed. DOL recognizes that in developing notices, considerable amounts of information may be required to be reviewed and considered by employers. While the Department expects employers to use their best efforts to be accurate in providing the information required by the regulations, DOL also recognizes that minor, inadvertent errors may be made. The final regulations provide that such minor errors should not be the basis for liability.

DOL notes that it is not the intent of WARN to interfere with collective bargaining contract provisions calling for notice to employees or their unions in advance of WARN's 60-day notice period. The content of notice requirements provide for some flexibility where this situation exists. Such long term notice need not contain all the elements required by this section as long as the remaining information is provided in writing 60 days in advance of the covered action. For example, where such long-term notice is given that otherwise includes all required notice elements but does not identify a definite termination date or 14-day period, the giving of an additional notice specifying a termination date or 14-day period 60 days in advance of that date or period constitutes full compliance with WARN.

In § 639.7(d) of the proposed regulations, prescribing the requirements of notice to affected workers, the regulations require that the notice be "in language understandable to the employee". Several commenters suggested that this statement be revised to make it clear that there is no requirement that notice be in a language other than English. Other commenters asked that the regulations be clarified to reflect that the standard is that the notice be understandable to the average worker. It was not DOL's intention that the regulations require that notices be in a language other than English and the Department does not believe that the language of the proposed regulation suggests such a requirement, so no change has been made. Employers should, however, be aware that under various civil rights laws, notices of various kinds have been required to be given in languages other than English where substantial numbers of recipients of those notices primarily speak another language. Employers whose workforces contain large numbers of such workers may wish to consider whether to provide notices in a language other than English. The Department agrees with those commenters who suggest a standard of understandability to the average worker and has changed the word "employee" to "employees" to make this point clearer.

(9) Section 639.8 How Is Notice To Be Served

This section provides that any reasonable method of serving notice is acceptable, as long as the intended recipient has the notice in hand 60 days before the separation occurs. Additionally, the regulation indicates that a ticketed notice fails to meet the requirements of WARN.

Commenters suggested that rules should be added to state when mailed notice is deemed to be timely mailed or that mailed notice is deemed served on the date it is postmarked. Commenters also asked that the regulations state that a notice sent in a pay envelope is deemed to be served on the date of the payday on which it is to be delivered. Since WARN and the regulation focus on receipt of the notice and since the time it will take for mailed notice to be received will vary with local conditions and with the location of the recipient, DOL does not believe that any additional rule for when notice is deemed served is appropriate. Employers should mail notice far enough in advance, given local mail conditions, so that the notice will be received 60 days in advance of the date of the plant closing or mass layoff. Section 8(b) of WARN specifies that mailing notice to the employee's last known address or inserting notice in the employee's paycheck are acceptable methods of service. DOL does not view this language as requiring that each employee actually receive notice 60 days in advance of a covered event as long as the method of service is timed so that the employees generally receive timely notice. For the same reason, deeming notice to be served when postmarked will not ensure timely delivery. Similarly, because notice served by insertion in a pay envelope may be delivered or mailed or directly deposited in the worker's bank account with a pay stub being delivered later, DOL does not think that an absolute rule deeming notice to be served on the payday on which the paycheck is to be delivered is appropriate.

(10) Section 639.9 When May Notice Be Given Less Than 60 Day in Advance

The prefatory paragraph of the proposed regulation indicates that three exceptions to giving a full 60 days' notice exist and that they are to be construed narrowly. The paragraph also states that they are to be construed narrowly. The paragraph also states that if one of the exceptions is invoked, the employer must still give as much notice as is practicable, and must give notice containing a brief statement of the reason of the reason for giving less than 60 day's notice and the elements of notice required in § 639.7.

Several commenters disagreed with the statement that all the exceptions should be narrowly construed. Some of these commenters cited specific aspects of the legislative history to show that the unforeseeable business circumstances and natural disaster exceptions should not be narrowly construed. The Department has reviewed the legislative history and agrees that it may not have been appropriate to say that the unforeseeable business circumstances and natural disaster exceptions should be narrowly construed. While the Conference Report on H.R. 3 (H.R. Rep. No. 100–576, 100th Cong., 2nd Sess., 1049 (April 20, 1988)) may be read to suggest a narrow construction of the unforeseeable business circumstances exception because of the various requirements for proving the applicability of the exception that appear in the report, the debates on the bill suggest that the exception was not intended to be narrowly construed. (133 CONG. REC. S9435 (daily ed. July 8, 1987) (remarks of Sen. Kennedy); 134 CONG. REC. S8856, S8857 (daily ed. July 6, 1988) (remarks of Sen. Metzenbaum); 134 CONG. REC. H2370 (daily ed. April 21, 1988) (remarks of Cong. Ford); see also H.R. Rep. No. 100–285, 100th Cong., 1st Sess., 16, 34–35 (August 8, 1987)). Particularly significant are the continued references to the exception when questions were raised about how the bill would work. The legislative history does indicate that the faltering company exception ws intended to be narrowly construed. (H.R. Rep. No. 100–576, 100th Cong., 2nd Sess., 1048 (April 20, 1988)). In the final regulations, the reference to narrow construction has been deleted from the prefatory paragraph. In § 639.9(b), covering the unforeseeable business circumstances exception, the definition of what constitutes an unforeseeable business circumstance has been revised to be more in line with the language of the Conference Report by the addition of the word "dramatic". The language in § 639.9(a), discussion the faltering company exception has been revised to indicate that exception should be narrowly construed.

(a) Section 639.9(a) The "Faltering Company" Exception

This section describes the "faltering company" exception in the language of the Conference Report. (*Id.*). This exception requires that an employer must have been actively seeking capital or business at the time 60-day notice was due to be given, that there must have been a realistic chance to obtain the capital or business; that if the capital or business were obtained it would have been sufficient to keep the business operating for a reasonable period of time; and that the employer must have believed in good faith that giving notice 60 days in advance would have precluded the employer from obtaining the needed capital or business. The regulation also provides that the employer's financial situation will be viewed in a company-wide context.

A commenter suggested that the test for the "faltering company" exception should be whether "similarly situated employers would have followed a similar course of action" and that the regulation should clearly state that failure to obtain the capital or business is not a factor under the test. DOL believes that the first point is correct, or, stated another way, that an employer must demonstrate that it exercised "commercially reasonable business judgment" in its actions. The Department believes that the regulations reflect this standard and has not changed them. The commenter's second point is confusing since the exception requires that the business or financing must have been sufficient to keep the company or the plant open for some reasonable time. Thus, the need for notice will only be triggered if the employer fails to obtain the business or financing it seeks.

Another commenter, representing the food marketing industry, objected to the language that the "faltering company exception will be viewed in a company-wide context". The commenter argued that since retail grocery stores operate on slim profit margins, closing one store may save others and under the regulatory language that would not be possible. DOL does not think this language must be read as narrowly as the commenter does. Congress was concerned with situations in which a company has substantial assets or cash which it simply chooses not to use to save a faltering branch. If the whole position of the company shows that the closing of one branch to save others was a reasonable business judgment, the faltering company exception is available. It should also be noted that,

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in some circumstances, it may be appropriate for a company to make a judgment not to use its other assets to save a branch. In this case, the company simply cannot avail itself of the faltering company exception and it must give 60 days' notice.

The same commenter suggested a broad reading of the "faltering company" exception so that grocery stores that run sales and try to attract customers can avail themselves of the exception. The commenter argued that faltering stores will lose employees and customers if they give notice, which will become a self-fulfilling prophecy. The commenter also suggested that the regulations should address cases in which secured creditors intervene and force the closing or sale of one or more stores or in which creditors seek time to sell the business before foreclosing.

The Department believes that the suggestion about running sales is too broad for general application. Any business can make a general claim it was seeking more customers or orders. The faltering company exception requires some more specific efforts to get customers. If the store can show an unusually great effort to attract customers and that there was valid reason to believe that the customers would abandon the store if they knew it would close, the exemption would appear to apply. On the questions about actions by secured creditors, DOL thinks that if it can be shown that the creditors do not want their efforts to be known, the exception would apply.

One commenter suggested that since WARN section 3(b)(3) merely requires the employer to give a brief statement of the reasons for giving less than 60 days' notice, the regulations should follow the burden of proof model of Title VII of the Civil Rights Act and impose the burden on the challenging party to prove that the claim of exception was a pretext if the employer proffers a sworn statement as part of the notice process. The commenter also suggested that the rule should define the terms "good faith" and "reasonable". The commenter also asserted that the rules create a much tougher standard than Congress intended. DOL notes that the language the regulation comes directly from the Conference Report, and that the statements about the burden of proof are a reasonable interpretation of the Report's statements that the employer must show that various of the elements of the exception are met. (*Id*). DOL does not think that the Title VII model is appropriate since, in the case of the assertion of an exception to full notice, the employer is in the position of the proponent of an affirmative defense, i.e., the employer must prove that it is entitled to use the exception. DOL believes that, by referring to "commercially reasonable business judgments", the regulations do define "reasonable" and "good faith" in the context of the faltering company exception.

Another commenter asserted that the narrowness of the "faltering company" exception will preclude any unionized company from using it because it could lead to onerous information disclosure requirements under the NLRA. While the Department is not the agency charged with expertise with respect to the NLRA, DOL believes that the regulations accurately reflect the statutory language and Congressional intent.

(b) Section 639.9(b) The "Unforeseeable Business Circumstances" Exception

This section also draws its language from the Conference Report on H.R. 3. (*Id.*) The regulations define the exception as applying to circumstances that are not reasonably foreseeable at the time 60 days' notice would have been required. The regulation cites some examples of events which might be unforeseeable business circumstances. It focuses the test for determining whether business circumstances were reasonably unforeseeable on the employer's commercially reasonable business judgment.

A commenter suggested that the test for the application of the unforeseeable business circumstances exception is that an event could not "reasonably" have been foreseen and that reasonableness should be determined on an objective standard. The Department agrees with this formulation and believes that the regulations provide an objective test by focusing on the commercial reasonableness of the employer's actions.

The same commenter pointed out that the unforeseeable business circumstances exception still requires that an employer give as much notice as feasible. DOL agrees and has so provided in the regulation.

The same commenter pointed out the provision in the Conference Report that the exception applies only where "it is not economically feasible to require the employer to give notice and wait until the end of the notice period before effecting the plant closing or mass layoff" (*id.*) and asserted that the burden is on the employer to prove feasiblity. The Department believes that the quoted language simply describes an element of the factual predicate that must extist for an event to be an unforeseeable business circumstance; but does not create any kind of separate test. DOL believes that the quoted language merely requires an employer to show that a "sudden, dramatic and unexpected" event occurred which precipitated a covered employment action, which, in light of the circumstances at that plant, could not have been postponed. The test of whether the action could have been postponed is one of commercially reasonable business judgment.

The Deparment solicited comments on examples of unforeseeable business circumstances that might be included in the regulations as illustrating principles applicable to employers generally, and the circumstances in which they might apply. Commenters suggested that DOL include as examples of unforeseeable business circumstances strikes or lockouts elsewhere, loss of or failure to award contracts, unexpected major market downturns, fires, changes in prices and costs, declines in customer orders, State and local regulatory changes, cases in which layoffs become larger than originally expected, loss of raw materials, loss of financing, legislation, court decisions, unavailability of a ship to be repaired, force majeure, actions related to public health and safety, other, and "secondary effects of economic conditions". While the commenters did not respond to the second part of the invitation and state any generally applicable principles, DOL agrees that many of these factors may constitute unforeseeable business circumstances, and has included four examples in the regulations.

What emerges from consideration of the variety of factors mentioned by the commenters is that it is not appropriate to develop a rule defining certain conditions as *per se* unforeseeable business circumstances. While many of the factors suggested by the commenters will, in most cases, be unforeseeable business circumstances, for example, strikes at another plant of the same company, one can conceive of situations in which they would not be reasonably unforeseeable, as where the strike is part of a union busting strategy. Some of the factors mentioned do not seem unforeseeable in many cases. For example, regulatory changes are often preceded by lengthy notice and comment procedures, often have delayed effective dates and sometimes have time to attain compliance built in. The effects of such regulations will not be unforeseeable. The same is true of legislation, which often has delayed effective dates and is the suject of lengthy public debate. Similarly, while the timing and content of court decisions may not be foreseeable 60 days in advance, the execution of the judgement may be delayed for a long time for a variety of reasons and prudent businessmen make provision for the consequences of adverse judgments. Finally, loss of contracts, particularly government contracts may be preceded by notice and by the opportunity to respond. (It also must be pointed out that DOL does not understand the last of the factors listed and does not mean to suggest approval of this factor.)

What is important is that the circumstance be "sudden, dramatic and unexpected". Each claim of unforeseeable business circumstances must be examined on its own merits, in these terms and in terms of whether the employer reasonably (exercising commercially reasonably business judgment) could not foresee that the even would occur or that it would have the effects it bad.

The FHLBB suggested that persons or institutions that take over ailing savings and loan institutions should be considered covered under the unforeseeable business circumstances exception since they may not know all of the problems they face in taking over the ailing institution. While there will be circumstances in which surprise discoveries of bad debts or assets may require covered employment actions to be ordered in less than 60 days and where the unforeseeable business circumstances exception will clearly apply, the Department cannot agree to a blanket application of the exception. These buyers must exercise commercially reasonable business judgement in discovering the problems of the institution it is acquiring and in deciding what employment actions to take in light of these problems; they may not simply rely on the fact that their action was assisted by the Federal Government.

(c) Section 639.9(c) The "Natural Disaster" Exception

This section discusses the exemption for plant closings and mass layoffs caused by natural disasters. The regulation lists some of the conditions that are natural disasters. It provides that the natural disaster exception applies to the direct results of a natural disaster, while the indirect results of a natural disaster may be covered under the unforeseeable business circumstances exception. It also provides that notice must be provided when a natural disaster causes a covered closing or layoff, even if the notice is after the fact.

Several commenters opposed the provision of the regulations that applies the natural disaster exception only to events directly caused by natural disasters. These commenters cited remarks in the floor debates by the sponsor of the natural disaster exception amendment suggesting that the exception applies to the "downstream" effects of natural disasters. (134 CONG. REC. S8687 (daily ed. June 28, 1988) (remarks of Sen. Dole)). These commenters did not discuss the entire debate on the amendment. The amendment originally offered specifically included the direct and indirect effects of natural disasters. (*Id.* at S8686). The floor manager opposed the amendment because of the language about indirect effects. (*Id.* at S8687 (remarks of Sen. Metzenbaum). The amendment was withdrawn, the language stricken and the amendment accepted. (*Id.* at S8688). DOL thinks that the legislative history, considered in its entirety, supports the position taken in the proposed regulations and no change has been made in the final regulations.

Other commenters objected to the requirement that after the fact notice be given when a natural disaster causes a plant closing or mass layoff. In this regard, the statutory language may be confusing. The natural disaster exception, section 3(b)(2)(A), begins with the words "[n]o notice under this Act shall be required". On the other hand, the final subsection of section 3(b) of WARN, section 3(b)(3), which, by its terms, applies to the entire section, to all the exceptions, requires that as much notice as practicable be given when one of the exceptions is invoked. The Department believes that the approach that it has decided upon is the best approach in this ambiguous situation since it is consistent with the needs of workers to have information on whether their jobs will continue to exist and how long they may be without work and thus is consistent with the intent of WARN to provide such information to workers. The final regulation has been revised to conform to the statutory language and to make it clear that such after the fact notice need only contain such information as is available to the employer at the time the notice is given.

(11) Section 639.10 When May Notice Be Extended

This section covers the length of time after the date (or the ending date of the 14-day period) specified in the notice for which the notice is valid. To ensure that the parties who are due notice have the most current and helpful data available and, thus, can make appropriate plans, additional notice is due if the original date or the ending date of the 14-day period is not met. If the postponement is for less than 60 days, the notice need only contain a reference to the earlier notice, the date to which the planned action is postponed, and the reasons for the postponement. This type of notice will provide the parties with needed information and be less burdensome to the employer. If the postponement extends for 60 days or more, the additional notice should be treated as new notice and meet the specified requirements.

Several commenters disagreed with this interpretation, arguing that there is no specific statutory requirement to support it; that a 180-day period is more in keeping with the rolling 90-day aggregation period for determining employment loss under section 3(d); that if any "secondary" notice is required, posting general notice on a bulletin board should be sufficient; that the reasons for extending the layoff date may not enable the employer to make precise calculations of how long the plant may remain open; and that such notices might require the disclosure of confidential information. One commenter supported the approach taken in the regulations and suggested that the regulations make it clear that the short term, less than 60-day postponement notice is mandatory.

DOL believes that the approach it has adopted is most consistent with Congressional intent in two important respects. First, it furthers the Congressional purpose that notice to workers provide the workers and governmental authorities with specific information in order to react to a dislocation event and to obtain new employment or training to minimize the effects of that event. If workers are not informed of changes in planned termination dates their planning will be disrupted and either they will run the risk of losing other opportunities or the employer will lose employees who it may need to carry on its operations. Secondly, DOL's approach is in accord with Congress' express intent to prohibit rolling notice. (134 CONG. REC. S8680 (daily ed. June 28, 1988) (remarks of Sens. Kennedy and Metzenbaum)). The Department also notes that some of the concerns expressed by the commenters will be ameliorated by the provision that notices can identify a 14-day period during which the layoff may take place. The Department does recognize that the notice of short term postponements can create a burden on employers. The final regulations have, therefore, been revised to make it clear that any form of notice or method of providing the information

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about a postponement for less than 60 days is acceptable as long as the information about the postponement is effectively communicated to all the affected workers.

A commenter asked the following questions about the application of this provision. If an employer gave notice on January 1, 1989 of a layoff scheduled for December 31, 1989 and then realizes on December 15, 1989 that it can keep open until January 15, 1990, is notice required to be given and, if so, must it be 60 days' notice? Under the regulations, the employer is not required to give a new 60-day notice for a 15-day postponement; but it is required to inform its employers of the postponement in any reasonable way which will get the information to all affected workers. The commenter also asked if a new 60-day notice was required on November 1, 1989 if the employer adheres to the original closing date. The answer is no in the circumstances stated. One notice is sufficient no matter how far in advance it is given if it contains the information required in section 639.7.

(12) Effective Date

Several commenters continued to oppose DOL's "interpretation" of the effective date. These commenters suggested that the final regulations should adopt a definition of the effective date provision of section 11 of WARN that requires notice to begin to be given on the February 4, 1989 effective date of WARN for plant closings or mass layoffs that occur on April 5, 1989. DOL believes that the course it took in the preamble to the proposed regulations was the most correct and appropriate one. DOL recognized that there were three supportable interpretations of the effective date provision. The Department chose not to adopt any interpretation but simply to inform employers of the interpretations and of their possible liability. DOL continues to believe that the issue of the meaning of the effective date is a purely legal issue that the courts will decide without giving any deference to any interpretation that DOL might adopt. Thus, any interpretation that might be adopted possibly could mislead employers to their detriment.

Regulatory Impact

The final rule interprets the provisions of the Worker Adjustment and Retraining Notification Act. It does not have the financial or other impact to make it a major rule and, therefore, preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291, 5 U.S.C. 601 Note.

At the time the interim interpretative and proposed rules were published, the Department of Labor notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule would not have a significant economic impact on a significant number of small entities. No significant economic impact would be imposed by the rule.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act, information collection requirements imposed by these regulations have been approved by the Office of Management and Budget as a final rule under OMB No. 1205–0276, expiring December 31, 1990.

Public reporting burden for this collection of information is estimated to vary from 64 to 168 hours for 960 responses with an average of 112 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Information Management, Department of Labor, Room N–1301, 200 Constitution Avenue, NW., Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1205–0276), Washington, DC 20503.

List of Subjects for 20 CFR Part 639

Employment, Labor, Labor management relations, Labor unions, Penalties.

Final Rule

Accordingly, Chapter V of Title 20, Code of Federal Regulations, is amended by revising Part 639, to read as follows:

PART 639—WORKER ADJUSTMENT AND RETRAINING NOTIFICATION

Sec.

639.1 Purpose and scope.
639.2 What does WARN require?
639.3 Definitions.
639.4 Who must give notice?
639.5 When must notice be given?
639.6 Who must receive notice?
639.7 What must the notice contain?
639.8 How is the notice served?
639.9 When may notice be given less than 60 days in advance?
639.10 When may notice be extended?

Authority: 29 U.S.C. 2107(a).

§ 639.1 Purpose and scope.

(a) *Purpose of WARN.* The Worker Adjustment and Retraining Notification Act (WARN or the Act) provides protection to workers, their families and communities by requiring employers to provide notification 60 calendar days in advance of plant closings and mass layoffs. Advance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. WARN also provides for notice to State dislocated worker units so that dislocated worker assistance can be promptly provided.

(b) *Scope of these regulations.* These regulations establish basic definitions and rules for giving notice, implementing the provisions of WARN. The Department's objective is to establish clear principles and broad guidelines which can be applied in specific circumstances. However, the Department recognizes that Federal rulemaking cannot address the multitude of industry and company-specific situations in which advance notice will be given.

(c) *Notice encouraged where not required.* Section 7 of the Act states:

> It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 3 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

(d) *WARN enforcement.* Enforcement of WARN will be through the courts, as provided in section 5 of the statute. Employees, their representatives and units of local government may initiate civil actions against employers believed to be in violation of § 3 of the Act. The Department of Labor has no legal standing in any enforcement action and, therefore, will not be in a position to issue advisory opinions of specific cases. The Department will provide assistance in understanding these regulations and may revise them from time to time as may be necessary.

(e) *Notice in ambiguous situations.* It is civically desirable and it would appear to be good business practice for an employer to provide advance notice to its workers or unions, local government and the State when terminating a significant number of employees. In practical terms, there are some questions and ambiguities of interpretation inherent in the application of WARN to business practices in the

market economy that cannot be addressed in these regulations. It is therefore prudent for employers to weigh the desirability of advance notice against the possibility of expensive and time-consuming litigation to resolve disputes where notice has not been given. The Department encourages employers to give notice in all circumstances.

(f) *Coordination with job placement and retraining programs.* The Department, through these regulations and through the Trade Adjustment Assistance Program (TAA) and Economic Dislocation and Worker Adjustment Assistance Act (EDWAA) regulations, encourages maximum coordination of the actions and activities of these programs to assure that the negative impact of dislocation on workers is lessened to the extent possible. By providing for notice to the State dislocated worker unit, WARN notice begins the process of assisting workers who will be dislocated.

(g) *WARN not to supersede other laws and contracts.* The provisions of WARN do not supersede any laws or collective bargaining agreements that provide for additional notice or additional rights and remedies. If such law or agreement provides for a longer notice period, WARN notice shall run concurrently with that additional notice period. Collective bargaining agreements may be used to clarify or amplify the terms and conditions of WARN, but may not reduce WARN rights.

§ 639.2 What does WARN require?

WARN requires employers who are planning a plant closing or a mass layoff to give affected employees at least 60 days' notice of such an employment action. While the 60-day period is the minimum for advance notice, this provision is not intended to discourage employers from voluntarily providing longer periods of advance notice. Not all plant closings and layoffs are subject to the Act, and certain employment thresholds must be reached before the Act applies. WARN sets out specific exemptions, and provides for a reduction in the notification period in particular circumstances. Damages and civil penalties can be assessed against employers who violate the Act.

§ 639.3 Definitions.

(a) *Employer.* (1) The term "employer" means any business enterprise that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) 100 or more employees, including part-time employees, who in the aggregate work at least 4,000 hours per week, exclusive of hours of overtime.

Workers on temporary layoff or on leave who have a reasonable expectation of recall are counted as employees. An employee has a "reasonable expectation of recall" when he/she understands, through notification or through industry practice, that his/her employment with the employer has been temporarily interrupted and that he/she will be recalled to the same or to a similar job. The term "employer" includes non-profit organizations of the requisite size. Regular Federal, State, local and federally recognized Indian tribal governments are not covered. However, the term "employer" includes public and quasi-public entities which engage in business (i.e., take part in a commercial or industrial enterprise, supply a service or good on a mercantile basis, or provide independent management of public assets, raising revenue and making desired investments), and which are separately organized from the regular government, which have their own governing bodies and which have independent authority to manage their personnel and assets.

(2) Under existing legal rules, independent contractors and subsidiaries which are wholly or partially owned by a parent company are treated as separate employers or as a part of the parent or contracting company depending upon the degree of their independence from the parent. Some of the factors to be considered in making this determination are (i) common ownership, (ii) common directors and/or officers, (iii) de facto exercise of control, (iv) unity of personnel policies emanating from a common source, and (v) the dependency of operations.

(3) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN are nonetheless counted as employees for purposes of determining coverage as an employer.

(4) An employer may have one or more sites of employment under common ownership or control. An example would be a major auto maker which has dozens of automobile plants throughout the country. Each plant would be considered a site of employment, but there is only one "employer", the auto maker.

(b) *Plant closing.* The term "plant closing" means the permanent or temporary shutdown of a "single site of employment", or one or more "facilities or operating units" within a single site of employment, if the shutdown results in an "employment loss" during *any 30-day period* at the single site of employment for *50 or more* employees, excluding any part-time employees. An employment action that results in the effective cessation of production or the work performed by a unit, even if a few employees remain, is a shutdown. A "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations, layoffs exceeding 6 months, or reductions in hours of work as specified under the definition of "employment loss."

(c) *Mass layoff.* (1) The term "mass layoff" means a reduction in force which first, is not the result of a plant closing, and second, results in an employment loss at the single site of employment during *any 30-day period* for:

(i) *At least 33 percent* of the active employees, excluding part-time employees, and

(ii) *At least 50 employees*, excluding part-time employees.

Where 500 or more employees (excluding part-time employees) are affected, the 33% requirement does not apply, and notice is required if the other criteria are met. Plant closings involve employment loss which results from the shutdown of one or more distinct units within a single site or the entire site. A mass layoff involves employment loss, regardless of whether one or more units are shut down at the site.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN are nonetheless counted as employees for purposes of determining coverage as a plant closing or mass layoff. For example, if an employer closes a temporary project on which 10 permanent and 40 temporary workers are employed, a covered plant closing has occurred although only 10 workers are entitled to notice.

(d) *Representative.* The term "representative" means an exclusive representative of employees within the meaning of section 9(a) or 8(f) of the National Labor Relations Act or section 2 of the Railway Labor Act.

(e) *Affected employees.* The term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer. This includes individually identifiable employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such individual workers reasonably can be identified at the time notice is required to be given. The term "affected employees" includes managerial and

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supervisory employees, but does not include business partners. Consultant or contract employees who have a separate employment relationship with another employer and are paid by that other employer, or who are self-employed, are not "affected employees" of the business to which they are assigned. In addition, for purposes of determining whether coverage thresholds are met, either incumbent workers in jobs being eliminated or, if known 60 days in advance, the actual employees who suffer an employment loss may be counted.

(f) *Employment loss.* (1) The term "employment loss" means (i) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (ii) a layoff exceeding 6 months, or (iii) a reduction in hours of work of individual employees of more than 50% during each month of any 6-month period.

(2) Where a termination or a layoff (see paragraphs (f)(1)(i) and (ii) of this section) is involved, an employment loss does not occur when an employee is reassigned or transferred to employer-sponsored programs, such as retraining or job search activities, as long as the reassignment does not constitute a constructive discharge or other involuntary termination.

(3) An employee is not considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(i) The employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment, or

(ii) The employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(4) A "relocation or consolidation" of part or all of an employer's business, for purposes of paragraph § 639.3(h)(4), means that some definable business, whether customer orders, product lines, or operations, is transferred to a different site of employment and that transfer results in a plant closing or mass layoff.

(g) *Unit of local government.* The term "unit of local government" means any general purpose political subdivision of a State, which has the power to levy taxes and spend funds and which also has general corporate and police powers. When a covered employment site is located in more than one unit of local government, the employer must give notice to the unit to which it determines it directly paid the highest taxes for the year preceding the year for which the determination is made. All local taxes directly paid to the local government should be aggregated for this purpose.

(h) *Part-time employee.* The term "part-time" employee means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required, including workers who work full-time. This term may include workers who would traditionally be understood as "seasonal" employees. The period to be used for calculating whether a worker has worked "an average of fewer than 20 hours per week" is the shorter of the actual time the worker has been employed or the most recent 90 days.

(i) *Single site of employment.* (1) A single site of employment can refer to either a single location or a group of contiguous locations. Groups of structures which form a campus or industrial park, or separate facilities across the street from one another, may be considered a single site of employment.

(2) There may be several single sites of employment within a single building, such as an office building, if separate employers conduct activities within such a building. For example, an office building housing 50 different businesses will contain 50 single sites of employment. The offices of each employer will be its single site of employment.

(3) Separate buildings or areas which are not directly connected or in immediate proximity may be considered a single site of employment if they are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment. An example is an employer who manages a number of warehouses in an area but who regularly shifts or rotates the same employees from one building to another.

(4) Non-contiguous sites in the same geographic area which do not share the same staff or operational purpose should not be considered a single site. For example, assembly plants which are located on opposite sides of a town and which are managed by a single employer are separate sites if they employ different workers.

(5) Contiguous buildings owned by the same employer which have separate management, produce different products, and have separate workforces are considered separate single sites of employment.

(6) For workers whose primary duties require travel from point to point, who are outstationed, or whose primary duties involve work outside any of the employer's regular employment sites (e.g., railroad workers, bus drivers, salespersons), the single site of employment to which they are assigned as their home base, from which their work is assigned, or to which they report will be the single site in which they are covered for WARN purposes.

(7) Foreign sites of employment are not covered under WARN. U.S. workers at such sites are counted to determine whether an employer is covered as an employer under § 639.3(a).

(8) The term "single site of employment" may also apply to truly unusual organizational situations where the above criteria do not reasonably apply. The application of this definition with the intent to evade the purpose of the Act to provide notice is not acceptable.

(j) *Facility or operating unit.* The term "facility" refers to a building or buildings. The term "operating unit" refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site.

(k) *State dislocated worker unit.* The term "State dislocated worker unit" means a unit designated or created in each State by the Governor under Title III of the Job Training Partnership Act, as amended by EDWAA.

(l) *State.* For the purpose of WARN, the term "State" includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

§ 639.4 Who must give notice?

Section 3(a) of WARN states that "an employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of such an order * * *." Therefore, an employer who is anticipating carrying out a plant closing or mass layoff is required to give notice to affected employees or their representative(s), the State dislocated worker unit and the chief elected official of a unit of local government. (See definitions in § 639.3 of this part.)

(a) It is the responsibility of the employer to decide the most appropriate person within the employer's organization to prepare and deliver the notice to affected employees or their representative(s), the State dislocated worker unit and the chief elected official of a unit of local government. In most instances, this may be the local site

plant manager, the local personnel director or a labor relations officer.

(b) An employer who has previously announced and carried out a short-term layoff (6 months or less) which is being extended beyond 6 months due to business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A layoff extending beyond 6 months from the date the layoff commenced for any other reason shall be treated as an employment loss from the date of its commencement.

(c) In the case of the sale of part or all of a business, section 2(b)(1) of WARN defines who the "employer" is. The seller is responsible for providing notice of any plant closing or mass layoff which takes place up to and including the effective date (time) of the sale, and the buyer is responsible for providing notice of any plant closing or mass layoff that takes place thereafter. Affected employees are always entitled to notice; at all times the employer is responsible for providing notice.

(1) If the seller is made aware of any definite plans on the part of the buyer to carry out a plant closing or mass layoff within 60 days of purchase, the seller may give notice to affected employees as an agent of the buyer, if so empowered. If the seller does not give notice, the buyer is, nevertheless, responsible to give notice. If the seller gives notice as the buyer's agent, the responsibility for notice still remains with the buyer.

(2) It may be prudent for the buyer and seller to determine the impacts of the sale on workers, and to arrange between them for advance notice to be given to affected employees or their representative(s), if a mass layoff or plant closing is planned.

§ 639.5 When must notice be given?

(a) *General rule.* (1) With certain exceptions discussed in paragraphs (b), (c) and (d) of this section and in § 639.9 of this part, notice must be given at least 60 calendar days prior to any planned plant closing or mass layoff, as defined in these regulations. When all employees are not terminated on the same date, the date of the first individual termination within the statutory 30-day or 90-day period triggers the 60-day notice requirement. A worker's last day of employment is considered the date of that worker's layoff. The first and each subsequent group of terminees are entitled to a full 60 days' notice. In order for an employer to decide whether issuing notice is required, the employer should—

(i) Look ahead 30 days and behind 30 days to determine whether employment actions both taken and planned will, in the aggregate for any 30-day period, reach the minimum numbers for a plant closing or a mass layoff and thus trigger the notice requirement; and

(ii) Look ahead 90 days and behind 90 days to determine whether employment actions both taken and planned each of which separately is not of sufficient size to trigger WARN coverage will, in the aggregate for any 90-day period, reach the minimum numbers for a plant closing or a mass layoff and thus trigger the notice requirement. An employer is not, however, required under section 3(d) to give notice if the employer demonstrates that the separate employment losses are the result of separate and distinct actions and causes, and are not an attempt to evade the requirements of WARN.

(2) The point in time at which the number of employees is to be measured for the purpose of determining coverage is the date the first notice is required to be given. If this "snapshot" of the number of employees employed on that date is clearly unrepresentative of the ordinary or average employment level, then a more representative number can be used to determine coverage. Examples of unrepresentative employment levels include cases when the level is near the peak or trough of an employment cycle or when large upward or downward shifts in the number of employees occur around the time notice is to be given. A more representative number may be an average number of employees over a recent period of time or the number of employees on an alternative date which is more representative of normal employment levels. Alternative methods cannot be used to evade the purpose of WARN, and should only be used in unusual circumstances.

(b) *Transfers.* (1) Notice is not required in certain cases involving transfers, as described under the definition of "employment loss" at § 639.3(f) of this part.

(2) An offer of reassignment to a different site of employment should not be deemed to be a "transfer" if the new job constitutes a constructive discharge.

(3) The meaning of the term "reasonable commuting distance" will vary with local and industry conditions. In determining what is a "reasonable commuting distance", consideration should be given to the following factors: geographic accessibility of the place of work, the quality of the roads, customarily available transportation, and the usual travel time.

(4) In cases where the transfer is beyond reasonable commuting distance, the employer may become liable for failure to give notice if an offer to transfer is not accepted within 30 days of the offer or of the closing or layoff (whichever is later). Depending upon when the offer of transfer was made by the employer, the normal 60-day notice period may have expired and the plant closing or mass layoff may have occurred. An employer is, therefore, well advised to provide 60-day advance notice as part of the transfer offer.

(c) *Temporary employment.* (1) No notice is required if the closing is of a temporary facility, or if the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking.

(2) Employees must clearly understand at the time of hire that their employment is temporary. When such understandings exist will be determined by reference to employment contracts, collective bargaining agreements, or employment practices of an industry or a locality, but the burden of proof will lie with the employer to show that the temporary nature of the project or facility was clearly communicated should questions arise regarding the temporary employment understandings.

(3) Employers in agriculture and construction frequently hire workers for harvesting, processing, or for work on a particular building or project. Such work may be seasonal but recurring. Such work falls under this exemption if the workers understood at the time they were hired that their work was temporary. In uncertain situations, it may be prudent for employers to clarify temporary work understandings in writing when workers are hired. The same employers may also have permanent employees who work on a variety of jobs and tasks continuously through most of the calendar year. Such employees are not included under this exemption. Giving written notice that a project is temporary will not convert permanent employment into temporary work, making jobs exempt from WARN.

(4) Certain jobs may be related to a specific contract or order. Whether such jobs are temporary depends on whether the contract or order is part of a long-term relationship. For example, an aircraft manufacturer hires workers to produce a standard airplane for the U.S. fleet under a contract with the U.S. Air Force with the expectation that its

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contract will continue to be renewed during the foreseeable future. The employees of this manufacturer would not be considered temporary.

(d) *Strikes or lockouts.* The statute provides an exemption for strikes and lockouts which are not intended to evade the requirements of the Act. A lockout occurs when, for tactical or defensive reasons during the course of collective bargaining or during a labor dispute, an employer lawfully refuses to utilize some or all of its employees for the performance of available work. A lockout not related to collective bargaining which is intended as a subterfuge to evade the Act does not qualify for this exemption. A plant closing or mass layoff at a site of employment where a strike or lockout is taking place, which occurs for reasons unrelated to a strike or lockout, is not covered by this exemption. An employer need not give notice when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act. Non-striking employees at the same single site of employment who experience a covered employment loss as a result of a strike are entitled to notice; however, situations in which a strike or lockout affects non-striking employees at the same plant may constitute an unforeseeable business circumstance, as discussed in § 639.9, and reduced notice may apply. Similarly, the "faltering company" exception, also discussed in § 639.9 may apply in strike situations. Where a union which is on strike represents more than one bargaining unit at the single site, non-strikers includes the non-striking bargaining unit(s). Notice also is due to those workers who are not a part of the bargaining unit(s) which is involved in the labor negotiations that led to the lockout. Employees at other plants which have not been struck, but at which covered plant closings or mass layoffs occur as a direct or indirect result of a strike or lockout are not covered by the strike/lockout exemption. The unforeseeable business circumstances exception to 60 days' notice also may apply to these closings or layoffs at other plants.

§ 639.6 Who must receive notice?

Section 3(a) of WARN provides for notice to each representative of the affected employees as of the time notice is required to be given or, if there is no such representative at that time, to each affected employee. Notice also must be served on the State dislocated worker unit and the chief elected official of the unit of local government within which a closing or layoff is to occur. Section 2(b)(1) of the Act states that "any person who is an employee of the seller (other than a parttime employee) as of the effective date [time] of the sale shall be considered an employee of the purchaser immediately after the effective date [time] of the sale." This provision preserves the notice rights of the employees of a business that has been sold, but creates no other employment rights. Although a technical termination of the seller's employees may be deemed to have occurred when a sale becomes effective, WARN notice is only required where the employees, in fact, experience a covered employment loss.

(a) *Representative(s) of affected employees.* Written notice is to be served upon the chief elected officer of the exclusive representative(s) or bargaining agent(s) of affected employees at the time of the notice. If this person is not the same as the officer of the local union(s) representing affected employees, it is recommended that a copy also be given to the local union official(s).

(b) *Affected employees.* Notice is required to be given to employees who may reasonably be expected to experience an employment loss. This includes employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such workers can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employer cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a particular position, the employer must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether plant closing or mass layoff thresholds are reached, such workers are due notice.

(c) *State dislocated worker unit.* Notice is to be served upon the State dislocated worker unit. Since the States are restructuring to implement training under EDWAA, service of notice upon the State Governor constitutes service upon the State dislocated worker unit until such time as the Governor makes public State procedures for serving notice to this unit.

(d) *Chief elected official of the unit of local government.* The identity of the chief elected official will vary according to the local government structure. In the case of elected boards, the notice is to be served upon the board's chairperson.

§ 639.7 What must the notice contain?

(a) *Notice must be specific.* (1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employer must ensure that all of the information required by this section is provided in writing to the parties listed in § 639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event, such as the renewal of a major contract, only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of business, lead to a covered plant closing or mass layoff less than 60 days after the event. For example, if the non-renewal of a major contract will lead to the closing of the plant that produces the articles supplied under the contract 30 days after the contract expires, the employer may give notice at least 60 days in advance of the projected closing date which states that if the contract is not renewed, the plant closing will occur on the projected date. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employer at the time the notice is served. It is not the intent of the regulations, that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) As used in this section, the term "date" refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the plant closing or mass layoff will occur, and the name and telephone number of a company official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire plant is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(d) Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire plant is to be closed, a statement to that effect;

(2) The expected date when the plant closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of a company official to contact for further information.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(e) The notices separately provided to the State dislocated worker unit and to the chief elected official of the unit of local government are to contain:

(1) The name and address of the employment site where the plant closing or mass layoff will occur, and the name and telephone number of a company official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire plant is to be closed, a statement to that effect;

(3) The expected date of the first separation, and the anticipated schedule for making separations;

(4) The job titles of positions to be affected, and the number of affected employees in each job classification;

(5) An indication as to whether or not bumping rights exist;

(6) The name of each union representing affected employees, and the name and address of the chief elected officer of each union.

The notice may include additional information useful to the employees such as a statement of whether the planned action is expected to be temporary and, if so, its expected duration.

(f) As an alternative to the notices outlined in paragraph (e) above, an employer may give notice to the State dislocated worker unit and to the unit of local government by providing them with a written notice stating the name of address of the employment site where the plant closing or mass layoff will occur; the name and telephone number of a company official to contact for further information; the expected date of the first separation; and the number of affected employees. The employer is required to maintain the other information listed in § 639.7(e) on site and readily accessible to the State dislocated worker unit and to the unit of general local government. Should this information not be available when requested, it will be deemed a failure to give required notice.

§ 639.8 How is the notice served?

Any reasonable method of delivery to the parties listed under § 639.6 of this part which is designed to ensure receipt of notice of least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

§ 639.9 When may notice be given less than 60 days in advance?

Section 3(b) of WARN sets forth three conditions under which the notification period may be reduced to less than 60 days. The employer bears the burden of proof that conditions for the exceptions have been met. If one of the exceptions is applicable, the employer must give as much notice as is practicable to the union, non-represented employees, the State dislocated worker unit, and the unit of local government and this may, in some circumstances, be notice after the fact. The employer must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elements set out in § 639.7.

(a) The exception under section 3(b)(1) of WARN, termed "faltering company", applies to plant closings but not to mass layoffs and should be narrowly construed. To qualify for reduced notice under this exception:

(1) An employer must have been actively seeking capital or business at the time that 60-day notice would have been required. That is, the employer must have been seeking financing or refinancing through the arrangement of loans, the issuance of stocks, bonds, or other methods of internally generated financing; or the employer must have been seeking additional money, credit, or business through any other commercially reasonable method. The employer must be able to identify specific actions taken to obtain capital or business.

(2) There must have been a realistic opportunity to obtain the financing or business sought.

(3) The financing or business sought must have been sufficient, if obtained, to have enabled the employer to avoid or postpone the shutdown. The employer must be able to objectively demonstrate that the amount of capital or the volume of new business sought would have enabled the employer to keep the facility, operating unit, or site open for a reasonable period of time.

(4) The employer reasonably and in good faith must have believed that giving the required notice would have precluded the employer from obtaining the needed capital or business. The employer must be able to objectively demonstrate that it reasonably thought that a potential customer or source of financing would have been unwilling to provide the new business or capital if notice were given, that is, if the employees, customers, or the public were aware that the facility, operating unit, or site might have to close. This condition may be satisfied if the employer can show that the financing or business source would not choose to do business with a troubled company or with a company whose workforce would be looking for other jobs. The actions of an employer relying on the "faltering company" exception will be viewed in a company-wide context. Thus, a company with access to capital markets or with cash reserves may not avail itself of this exception by looking solely at the financial condition of the facility, operating unit, or site to be closed.

(b) The "unforeseeable business circumstances" exception under section 3(b)(2)(A) of WARN applies to plant closings and mass layoffs caused by business circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a business circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employer's control. A principal client's sudden and unexpected termination of a major

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contract with the employer, a strike at a major supplier of the employer, and an unanticipated and dramatic major economic downturn might each be considered a business circumstance that is not reasonably foreseeable. A government ordered closing of an employment site that occurs without prior notice also may be an unforeseeable business circumstance.

(2) The test for determining when business circumstances are not reasonably foreseeable focuses on an employer's business judgment. The employer must exercise such commercially reasonable business judgment as would a similarly situated employer in predicting the demands of its particular market. The employer is not required, however, to accurately predict general economic conditions that also may affect demand for its products or services.

(c) The "natural disaster" exception in section 3(b)(2)(B) of WARN applies to plant closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunemis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employer must be able to demonstrate that its plant closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is practicable, containing as much of the information required in § 639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where a plant closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the "unforeseeable business circumstance" exception described in paragraph (b) of this section may be applicable.

§ 639.10 When may notice be extended?

Additional notice is required when the date or schedule of dates of a planned plant closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in § 639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§ 639.5, 639.6 and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not a plant closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

Signed at Washington, DC this 13th day of April 1989.

Elizabeth Dole,

Secretary of Labor.

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Interim Exemption for Commercial Fisheries; Notice

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 81140-9094]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Interim Exemption for Commercial Fisheries

AGENCY: National Marine Fisheries Service (NOAA Fisheries), NOAA, Commerce.

ACTION: Notice of final list of fisheries.

SUMMARY: NOAA Fisheries issues this final List of Fisheries associated with the interim exemption for commercial fisheries under section 114 of the Marine Mammal Protection Act of 1972 (MMPA). Section 114 of the MMPA, added by recent amendments, provides for a 5-year exemption for certain incidental takings of marine mammals in the course of commercial fishing.

FOR FURTHER INFORMATION CONTACT: Herbert W. Kaufman, Office of Protected Resources, 301–427–2319; Steven Zimmerman, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, 907–586–7233; Brent Norberg, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, WA 98115, 206–526–6110; James Lecky, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, CA 90731–7415, 213–514–6664; Douglas Beach, Northeast Region, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930, 508–281–9254; or, Charles Oravetz, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702, 813–893–3366.

SUPPLEMENTARY INFORMATION:

Background

Before the 1988 amendments, the MMPA prohibited the take of marine mammals incidental to commercial fishing operations unless authorized by a general permit or a small take exemption. In order to issue a general permit, NOAA Fisheries was required to determine that the population stock from which a marine mammal was to be taken was within its optimum sustainable population (OSP) and that the marine mammal stock would not be disadvantaged by the incidental take. If these determinations could not be made, no permit could be issued for that particular marine mammal stock. Early in 1988 it became apparent that the necessary determinations to renew certain general permits could not be made and many fishermen would be forced to forgo fishing altogether or risk substantial penalties for violating the MMPA. To address this problem, Congress amended the MMPA based on a proposal developed by representatives of the fishing industry and conservation community.

Section 114 added by Pub. L. 100–711 on November 23, 1988, replaces most earlier provisions of the MMPA for granting incidental take authorizations to commercial fishermen with an interim exemption system valid until October 1, 1993. Section 114 gives fishermen a 5-year exemption from the incidental taking provisions of the MMPA, provided that certain conditions are met. The primary objective of this interim system is to provide a means to obtain reliable information about interactions between commercial fishing activities and marine mammals while allowing commercial fishing operations to continue despite NOAA Fisheries' current inability to make OSP findings. The information collected in conjunction with the exemption system and information on the sizes and trends of marine mammal populations will be used to develop a long-term program to govern the taking of marine mammals associated with commercial fisheries. The Secretary of Commerce is required to provide Congress a proposed system of authorizing incidental takes by January 1, 1992.

The 1988 amendments retain the immediate goal of the MMPA to reduce the incidental kill or serious injury of marine mammals in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate. As stated in Senate Report 100–592, Congress anticipated that progress toward this goal would be achieved through education programs and the development of improved fishing gear and techniques, and commended the commitment made by representatives of commercial fishing organizations to undertake and fund a special research program on gear technology and fishing practices, and to educate and inform fishermen of their responsibilities under the MMPA.

The 1988 amendments require the Secretary of Commerce to publish a list of fisheries, along with the marine mammals and number of vessels or persons involved in each such fishery, in three categories as follows:

(I) A frequent incidental taking of marine mammals;

(II) An occasional incidental taking of marine mammals; or

(III) A remote likelihood, or no known incidental taking, of marine mammals.

NOAA Fisheries published an advance notice of proposed rulemaking and proposed list of fisheries on January 27, 1989 (54 FR 4154). Comments were requested by February 27, 1989.

Based on Congressional guidance, NOAA Fisheries interpretation of the 1988 amendments, public comment and meetings and consultations with state and Federal agencies, Regional Fishery Management Councils, and other interested parties, NOAA Fisheries issues this notice of final List of Fisheries. The List of Fisheries, categorized according to frequency of incidental take of marine mammals, will be reviewed at least annually and may be amended, after notice in the **Federal Register** and opportunity for public comment.

The 1988 amendments require that, beginning July 21, 1989, vessel owners will have registered with NOAA Fisheries in order to engage lawfully in any Category I or II fishery. In the near future, NOAA Fisheries will issue regulations to govern the interim exemption system on the taking of marine mammals incidental to commercial fishing operations, and will request public comments.

Under the regulations, owners of vessels will be required to register with NOAA Fisheries, display a decal on their vessel, possess an Exemption Certificate to incidentally take marine mammals, and submit periodic reports to engage lawfully under the MMPA in any Category I or II fishery. To register for an Exemption, vessel owners will be required to supply: their name, address and phone number; vessel name, vessel length, State license number or State registration number, Coast Guard documentation, and tribal plaque number, if appropriate; and, a list of all Category I and II fisheries in which the vessel will participate. A registration fee will also be required. Vessels engaged in Category I fisheries will be required to take on board a natural resources observer if requested by NOAA Fisheries. Owners of vessels engaged *only* in Category III fisheries will not be required to register with NOAA Fisheries or to obtain an Exemption Certificate or decal to fish legally or to incidentally take marine mammals; however, they will be required to submit reports on all marine mammals incidentally killed as a result of their fishing operations. In addition, owners and masters of all vessels will be required to comply with any general regulations, any conditions of the Exemption Certificate issued to the vessel owner, and any special or emergency regulations published under the authority of section 114 of the MMPA.

Fifty-six comments were received in response to the January 27, 1989, advance notice of proposed rulemaking and proposed list of fisheries. Comments and information were received from Congress, State and Federal agencies, treaty Indian tribes, fishing associations, fishermen, conservation groups and other interested parties. Comments on the criteria and List of Fisheries are summarized below along with NOAA Fisheries' responses. These comments were considered in developing this notice. Comments on the exemption system will be discussed in the notice issuing NOAA Fisheries' regulations governing the exemption system.

Comments and Responses On Criteria for Categorizing Fisheries

1. Commenters recommended that criteria and a system for reviewing and changing categories be developed, and that categories be changed as new information becomes available on a particular fishery.

NOAA Fisheries will review the list of fisheries annually, solicit public comment, and reclassify fisheries as appropriate based on established criteria and all available information. In addition, if available information warrants, the list can be modified at any time, after notice and opportunity for public comment.

2. One commenter supported including intentional harassment to protect gear, catch or person as a type of incidental taking considered in classifying fisheries. Other commenters believed that all types of taking must be considered in categorizing fisheries, since the MMPA's definition of take was not changed by the 1988 amendments. Other commenters believed that intentional takings to protect gear, catch or person should include only serious injury or death, and not harassment. Still others believed that only lethal taking should be considered.

The 1988 amendments to the MMPA did not change the definition of take in section 3. In discussing the exemption system under section 114(b), Senate Report 100–592 indicated that "the term 'incidental taking', as used in this section, should be considered to mean the entanglement, serious injury, or death of a marine mammal in the course of normal fishing operations." In a subsequent floor statement discussing the amendments, Senator Hollings stated that there is "* * * no intention to redefine the original terms of the act, such as taking." For purposes of categorizing fisheries, NOAA Fisheries considered section 3 of the MMPA, the language of section 114, and the legislative history, including the Senate Report, House Report and floor statements.

3. One commenter agreed with the proposed criteria that did not consider stock status or impacts to marine mammal populations in categorizing fisheries. Other commenters objected to classifying fisheries solely on the average frequency of take without regard to the status or impacts to marine mammal populations or to the total number of animals taken in a fishery. These commenters feared that using only the rate of take could allow a continued large annual take of marine mammals.

Section 114(b)(1) of the MMPA requires NOAA Fisheries to classify fisheries based on the frequency of incidental taking in a fishery. This section does not include criteria based on status of or impacts to marine mammal stocks. Senate Report 100–592 states that fisheries in which the incidental taking of marine mammals is an exceptional event for "any individual fisherman" should be placed in Category III. Therefore, NOAA Fisheries believes that Congress intended fisheries to be classified based on the frequency with which a randomly selected vessel is likely to incidentally take marine mammals. Section 114 contains provisions, such as authority to adopt emergency rules and mitigating measures, to address situations where the incidential taking may be adversely affecting a population.

4. Commenters recommended that the "standard observation period" used to determine frequency of take for classifying fisheries be clearly defined. Otherwise the definitions of frequent, occasional and remote are meaningless. Commenters believed that the standard observation period should be the same for all fisheries to allow comparisons between fisheries of marine mammal interaction rates. One commenter believed that frequency should be defined in terms of the likelihood of an individual vessel taking a marine mammal per fishing season or per year. Other commenters believed frequency should be defined in terms of the likelihood of a vessel taking a marine mammal in one day to help focus agency resources and recommended that specific probabilities be used to define frequent, occasional and remote.

NOAA Fisheries believes that the "standard observation period" to determine frequency of take should be the same for all fisheries so that comparisons between fisheries can be made. This does not mean that observers would be placed on vessels in different fisheries for the same length of time. The specific design of the observer program, including how long an observer will be placed on a particular vessel, will vary among fisheries and will depend on a number of factors, including the length of the fishing trips. To avoid confusion with an observer trip, the term "standard observation period" will not be used.

To determine the frequency to take, it is necessary to define both the level or amount of taking and the time period over which incidental takings will be evaluated. This will allow the calculation of an average rate of taking so that a comparison among fisheries can be made. The rate of taking will be used to distinguish between fisheries with frequent, occasional and remote taking. The values chosen to define these categories should reflect Congressional intent and should be such that fisheries would fall into each category.

One of the primary purposes of the interim exemption system is to obtain reliable information on species and number of marine mammals incidentally taken in commercial fishing operations. Categorizing fisheries will assist NOAA Fisheries in selecting the appropriate method for verifying the reports received from fishermen in a particular fishery. Observers will have the highest probability of seeing incidental takes of marine mammals in fisheries with frequent interactions. Therefore, the expense of placing observers in a Category I fishery is justified by the high probability they will collect sufficient information to accurately assess the total takings in a fishery and to verify the accuracy of fishermen's reports. Observers are not as likely to see marine mammal takes in Category II fisheries and other verification techniques may be more efficient.

In the proposed List of Fisheries, NOAA Fisheries set the level of take per vessel at more than one animal for frequent, one or less for occasional, and near zero for remote. Using this level of take and based on comments and information on the fisheries, NOAA Fisheries believes that a 20-day period is a reasonable time period to evaluate frequency of taking for purposes of classifying fisheries. This interpretation would place observers in fisheries where the likelihood of observing incidental takes of marine mammals would be greatest.

NOAA Fisheries declines to use specific numerical probabilities to define "frequent" "occasional" and "remote" because the information needed to calculate these probabilities

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is not available, except for a very small number of fisheries.

5. On commenter believed that another opportunity for public comment should be allowed on any proposed definition of standard observation period because this definition will have significant implications.

Since the 1988 amendments require NOAA Fisheries to publish a final List of Fisheries within 120 days of enactment of the amendments, there is not sufficient time to allow for another public comment period on the criteria before publishing the final List of Fisheries. However, NOAA Fisheries will request public comment on the criteria that should be used in subsequent revisions to the List of Fisheries in the notice issuing its regulations governing the exemption system.

6. Commenters expressed concern about classifying fisheries based solely on fishery-wide averages. These commenters believed that, because the incidental take of marine mammals within a fishery may vary significantly by location and/or time of the year, fisheries should be sub-divided and classified accordingly. Another commenter believed that placing fisheries with different gear and/or operational environments into the same fishery is not appropriate.

NOAA Fisheries will further sub-divide fisheries if there is sufficient information to distinguish the components of the fisheries, based on fishing season, area, gear, etc. However, NOAA Fisheries does not believe that it is appropriate to subdivide a distinct fishery based on variations in the frequency of incidental take of marine mammals. Placing a fishery in different categories at different times within the same fishing season or in different locations within the same fishing area, would be confusing and difficult to administer.

7. Commenters recommended that, in the absence of direct information on the frequency of taking in a particular fishery, the fishery should be put into Category I if the fishery is similar or analogous to a Category I fishery. Commenters believed that fisheries with potentially substantial incidental take rates have been inappropriately placed in Category II because there currently is insufficient evidence from observation of that fishery to support a Category I listing. Other commenters believed that fisheries should not be placed in Category I if there is not sufficient information on the frequency of incidental take. One commenter recommended that if there is not enough information to classify a fishery, then it should be placed in Category II with the provision that research be conducted to allow the collection of necessary data.

In developing the proposed List of Fisheries, if there was no direct information on the frequency of take, NOAA Fisheries used analogies with similar fisheries to place a fishery in Category II, but not in Category I. Placing fisheries in Category II will enable NOAA Fisheries to gather data through reports and verification programs to determine the actual level of taking. This information will be used to revaluate the placement of fisheries into categories.

Senate Report 100-592 recognized "* * * that for the first year * * * the Secretary may not have time to conduct adequate research to determine which fisheries should be included in each list" and therefore directed that certain fisheries be placed in Category I without documented information to substantiate a frequent incidental take. NOAA Fisheries believes that Congress intended that other fisheries be placed in Category I only if there is sufficient information documenting a frequent take of marine mammals. Therefore, NOAA Fisheries has decided not to use analogies to place a fishery in Category I if there is not sufficient information on the frequency of take in the fishery.

8. Commenters urged consistent treatment of similar fisheries. One commenter believed that there is no basis for distinguishing gillnet gear by areas, and that all drift gillnets and that all set gillnets be placed in the same category. While other commenters disagreed and believed that fisheries cannot be classified by analogy because proper categorization requires that fisheries be considered individually, not only by gear type (including type of material, construction and deployment) but also by area, depth, target species, time of year and other considerations. Another commenter believed that factors such as density and diversity of species of marine mammals in the area should be included in drawing analogies.

NOAA Fisheries believes that analogies used for putting fisheries in Categories II and III should not rely on gear type alone. The frequency and occurrence of incidental takes can vary between fisheries using similar gear due to factors such as fishing techniques and specific gear used, methods used to deter marine mammals, target species, seasons and areas fished, and species and distribution of marine mammals in the area. Therefore, when using analogies with other fisheries to place a fishery in Category II or III, NOAA Fisheries will take into account these factors to ensure appropriate treatment of the fishery.

9. One commenter believed requiring information documenting a frequent take to place a fishery in Category I discriminated against foreign fisheries because observers have documented information about the taking of marine mammals in the foreign fishery, but not in similar U.S. fisheries.

Due to the 100 percent observer coverage and the reporting requirements that have been in place, NOAA Fisheries has reliable data on marine mammal catches by foreign vessels fishing in U.S. waters. The frequency of take in many domestic fisheries is less understood. Although this may mean placing some similar foreign and domestic fisheries in different categories, it is not discriminatory. There will be no additional observer requirements for foreign vessels since observer coverage is already required under the Magnuson Fishery Conservation and Management Act. If the data from reports or verification programs document a similar take in the domestic fishery, that fishery will be reclassified.

10. Commenters believe that a fishery should not be placed in the category specified in the Committee Reports if there is information to support its placement in another category. Another commenter recommended that fisheries be placed in Category I based on the Committee reports and not based on any documented information be given a different designation.

The Committee Reports (Senate Report 100-592 and House of Representatives Report 100-970) recognize that the first year section 114 is in effect, there may not be adequate datat to determine accurately the placement of all fisheries into categories. Accordingly, these reports specified placing six fisheries in Category I and two fisheries in Category III. NOAA Fisheries will use Congresssional intent as reflected in these reports as a criterion for classifying fisheries in this final List of Fisheries. However, for future revisions of the list, NOAA Fisheries proposes to use all available data, including data from fishermen reports and results of observer and alternative verification programs, to classify fisheries.

11. One commenter believed that certain fisheries should be placed in "lower" categories because it would result in less paperwork for fishermen, less government interference in the fisheries, and less cost to the taxpayers in administration. Other commenters believed that voluntary compliance with observer and reporting requirements should be used as a basis for placing fisheries in Category II versus Category I. Other commenters believed that Category I should include only those fisheries that NOAA Fisheries can observe, and should focus first on fisheries that interact with species of concern. Another commenter believed that a fishery should not be placed in Category I if the fishery has been sufficiently studied and an observer program is not needed.

NOAA Fisheries does not believe that section 114 of the MMPA allows for such considerations in classifying fisheries. NOAA Fisheries intends to follow the priorities contained in section 114 of the MMPA for the placement of observers if observers cannot be placed on all Category I fisheries.

12. One commenter recommended that if a fishery is placed in Category II based on the intentional take by some fishermen to protect gear or catch, fishermen who do not wish to take marine mammals intentionally should not be required to obtain an exemption, and should be considered as a Category III fishery.

Congress directed NOAA Fisheries to classify each fishery, not individual fishermen in a fishery. If a fishery is placed in Category I or II, all vessel owners must register to legally fish in these fisheries; the MMPA does not give vessel owners the option to register.

13. One commenter recommended that NOAA Fisheries complete consultations under section 7 of the Endangered Species Act of 1973 (ESA) prior to issuing the final list of Fisheries. During the consultation, the criteria used to classify fisheries should be reviewed since the category in which a particular fishery is placed could adversely affect endangered or threatened species.

Fisheries are classified based only on the likely frequency of taking marine mammals by an individual vessel, and not by the impacts to the marine mammal populations or the total taking. The category in which the fishery is placed does not itself affect endangered and threatened species. NOAA fisheries is consulting under section 7 of the ESA on its regulations and the proposed issuance of Exemptions since these are actions that may affect endangered and threatened species. In addition to these consultations, section 114 of the MMPA contains provisions for special conditions to Exemptions and emergency rules to address impacts to marine mammal populations.

14. Commenters expressed concern over identifying marine mammal species with a particular fishery on the list when accidental entanglement, serious injury or death of such marine mammal is not known to occur. The commenters believed that the list should focus on problems, not species occurring in the same area as the fishery.

The list of marine mammal species involved in each fishery is a listing of all documented or reported instances (including rare and unique instances) of marine mammal interactions. Interactions include both accidental and intentional harassment to deter animals to protect gear and catch, as well as entanglement, injury and mortality. The naming of a species in a particular fishery does not address the magnitude of take and makes no statement regarding the significance of any interactions. The discussions of the individual fisheries accompanying the list provides more information concerning marine mammal interactions.

15. One commenter expressed concern over the listing of endangered species in the list of species involved.

Since exemptions provided by section 114 of the MMPA apply to all species of marine mammals (except the southern sea otter), endangered, threatened and other depleted species are included in the list. Certain takings of endangered species may be exempted from the MMPA's prohibitions. However, the MMPA exemption will not exempt fishermen from the prohibitions on taking endangered and threatened marine mammals under the ESA. To be exempt from the taking prohibitions under the ESA, additional taking authorization will be needed. This issue will be discussed further in the notice issuing NOAA Fisheries' regulations governing the exemption system.

16. One commenter recommended that further clarification of the southern sea otter's special status be provided by annotating the list or by removing mention of the species from the list to avoid confusion.

Based on this comment, NOAA Fisheries will separate the southern (California) sea otter (species code 41) from the Alaska sea otter (species code 13) on the list of marine mammals. Although the interim exemption under section 114 of the MMPA applies to Alaska sea otters, but not to southern sea otters, NOAA Fisheries believes that interactions with southern sea otters should be noted on the List of Fisheries.

17. One commenter recommended that the column entitled "Number of Vessels or Persons" in the summary table show only the actual number of vessels used or vessel days fished.

This column contains the best and most recent available information on the number of vessels/persons licensed to participate in a fishery (or, in the case of Alaska, the number of permits used). This number does not necessarily reflect the number of vessels that participated in a given fishery or effort expended by vessels in the fishery; that information is not always available. NOAA Fisheries will use information gathered through the exemption system to refine these estimates.

18. One commenter asked whether a fishery not identified in any Category would be automatically included in Category III.

NOAA Fisheries realizes that a few fisheries may be omitted from the List of Fisheries. If a fishery is not included in the List, it is considered to be a Category III fishery. As reports and new information become available, the list will be updated.

19. Commenters expressed concern about the "stigma" of being placed in a Category I or II fishery.

One of the purposes of the interim exemption for commercial fisheries is to obtain data so that the effects of interactions between marine mammals and commercial fisheries can be studied. The categories were established by Congress to assist NOAA Fisheries in collecting information on the nature and extent of interactions between fishing activities and marine mammals. Inclusion in Category I or II does not imply that a fishery is adversely affecting a marine mammal population. The date gathered from the interim exemption program and from research on the sizes and trends of marine mammal populations will be used to develop a long-term program to govern the incidental taking of marine mammals associated with commercial fishing operations.

Criteria for Categorizing Fisheries

Under the 1988 amendments, NOAA Fisheries must establish three categories of commercial fisheries according to whether there is frequent (Category I), occasional (Category II) or a remote likelihood or no known (Category III) incidental taking of marine mammals. To classify fisheries, it is necessary to interpret and define "frequent," "occasional" and "remote likelihood." Based on NOAA Fisheries' interpretation of Congressional intent, these terms and the subsequent placement of fisheries into categories were not to be based on the status of stocks of marine mammal species or the likelihood of significant impacts on a species. Actions, such as emergency rules, mitigating measures and alternative verification programs, are available under section 114 to address

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situations where incidental take may be adversely affecting a marine mammal population or where more information is needed.

NOAA Fisheries believes that "frequent," "occasional" and "remote likelihood" were intended by Congress to be evaluated on the average frequency with which marine mammals are taken incidentally in a fishery. This interpretation would place observers in fisheries where the likelihood of observing incidental takes of marine mammals would be greatest. In evaluating incidental takes for purposes of categorizing fisheries, NOAA Fisheries considered the definition of take in section 3 of the MMPA, the language of section 114, and the legislative history of the 1988 amendments, including the Senate Report, House Report and floor statements.

To determine the frequency of take, it is necessary to define both the level or amount of taking and the time period over which incidental takings will be evaluated. This will allow the calculation of a rate of taking so that a comparison among fisheries can be made. The rate will be used to distinguish between fisheries with frequent, occasional and rare taking. The values chosen to define these categories should reflect Congressional intent and should be such that fisheries would fall into each category.

One of the primary purposes of the interim exemption system is to obtain reliable information on species and number of marine mammals incidentally taken in commercial fishing operations. Categorizing fisheries will assist NOAA Fisheries in selecting the appropriate method for verifying the reports received from fishermen in a particular fishery. Observers will have the highest probability of seeing incidental takes of marine mammals in fisheries with frequent interactions. Therefore, the expense of placing observers in a Category I fishery is justified by the high probability they will collect sufficient information to assess accurately the total takings in a fishery and to verify the accuracy of fishermen's reports. Observers are not as likely to see marine mammal takes in Category II fisheries and other verification techniques may be more efficient.

In the proposed List of Fisheries, NOAA Fisheries set the level of take at more than one animal for frequent, one or less for occasional, and near zero for remote. Using this level of take, NOAA Fisheries believes that a 20-day period is a reasonable time period to use when determining the frequency of taking for purposes of classifying fisheries.

Using these standards, "frequent" means that it is highly likely that more than one marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period. "Occasional" means that there is some likelihood that one marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period, but that there is little likelihood that more than one marine mammal will be incidentally taken. And, "remote likelihood" means that it is highly unlikely that any marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period.

These definitions will be applied to categorize fisheries according to the following guidelines. If sufficient documented information is available to estimate the frequency of incidental takings of marine mammals, that information is used in categorizing that fishery. If there is not sufficient documented information to estimate the frequency of incidental takings, the agency will consider other factors that would indicate the likelihood of incidental takings such as fishing techniques and gear used, methods used to deter marine mammals, target species, seasons and areas fished, and species and distribution of marine mammals in the area. If these factors indicate a likelihood of at least occasional incidental takings, the fishery will be placed in Category II. If available information or other factors indicate that the likelihood of incidental takings in a fishery would be so rare or exceptional as to be remote or non-existent, that fishery will be placed in Category III.

The Committee Reports (Senate Report 100–592 and House of Representatives Report 100–970) recognize that for the first year section 114 is in effect, there may not be adequate data to determine accurately the placement of all fisheries into categories. Accordingly, these reports specified six fisheries to be included in Category I and two fisheries to be included in Category III. Most of these fisheries were identified and jointly suggested to Congress by representatives of the environmental community and the fishing industry. The Senate Report also specified that the South Unimak (False Pass and Unimak Pass) salmon purse seine fishery should be included in Category I, but the House Report did not. However, in a letter concerning the proposed List of Fisheries, the Senior Senator from Alaska stated that the South Unimak salmon purse seine fishery would not have been suggested for inclusion in Category I if additional information now available had been brought to the attention of the Senate. NOAA Fisheries used this Congressional intent as criteria for classifying fisheries in this final List of Fisheries.

The following criteria were used in classifying fisheries in this final List of Fisheries:

Category I. (1) There is documented information indicating a "frequent" incidental taking of marine mammals in the fishery, or (2) Congress intended that the fishery be placed in Category I. "Frequent" means that it is highly likely that more than one marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period.

Category II. (1) There is documented information indicating an "occasional" incidental taking of marine mammals in the fishery, or (2) in the absence of information indicating the frequency of incidental taking of marine mammals, other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, and species and distribution of marine mammals in the area suggest there is a likelihood of at least an "occasional" incidental taking in the fishery. "Occasional" means that there is some likelihood that one marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period, but that there is little likelihood that more than one marine mammal will be incidentally taken.

Category III. (1) There is information indicating no more than a "remote likelihood" of an incidental taking of a marine mammal in the fishery, (2) in the absence of information indicating the frequency of incidental taking of marine mammals, other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, and species and distribution of marine mammals in the area suggest there is no more than a remote likelihood of an incidental take in the fishery, or (3) Congress intended that the fishery be placed in Category III. "Remote likelihood" means that it is highly unlikely that any marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period.

Comments and Responses on the List of Fisheries

1. Commenters recommended that the South Unimak (False Pass and Unimak Pass) salmon purse seine fishery be moved out of Category I.

This fishery was proposed in Category I based on the Senate Committee Report (it was not mentioned in the Committee Report of the House of Representatives). Melteff and Rosenberg (1984) indicated that frequent encounters occur between this fishery and marine mammals. Since publication of Melteff and Rosenberg (1984), the length of this fishery has declined from several hundred hours to 110 hours in 1988. In 1988, the State of Alaska's research vessel RESOLUTION monitored fishing activities in the South Unimak District. During their observations, the crew did not observe or hear of any marine mammals being entangled, seriously injured or killed in this fishery. Commenters and several participants at public meetings corroborated these observations. Although the Senate Report indicated that this fishery should be in Category I, the Senior Senator from Alaska commented subsequently that if the information from the State of Alaska had been available to the Senate, that body would not have included this fishery in Category I. Based on the information received and a clarification by the Senior Senator from Alaska on Congressional intent, NOAA Fisheries concludes that this fishery should be in Category II rather than I.

2. Commenters recommended that the Alaska, Washington, Oregon and California salmon troll fisheries be moved from Category II to III because marine mammals are not entangled, injured or killed in troll gear.

NOAA Fisheries agrees that gear related entanglement, injury or mortality is rare in these fisheries. The salmon troll fisheries are placed in Category II because of the efforts to deter marine mammals to protect gear and/or catch that result in injuries and mortalities.

3. Commenters recommended that the Prince William Sound and Southern Bering Sea sablefish longline fisheries be removed from Category I.

These sablefish longline fisheries were proposed in Category I because of their interactions with killer whales. Because of high rates of depredation by the killer whales (resulting in an estimated 15–25 percent loss of catch) in Prince William Sound, fishermen attempted to deter the animals using a variety of methods. NOAA Fisheries has no evidence to suggest that frequent entanglements, serious injuries or deaths have resulted in the Southern Bering Sea. Moreover, there will be no directed fishery for sablefish in the area east of 170° West (the area in which the preponderance of depredation by killer whales is believe to occur). Therefore, NOAA Fisheries places both of these fisheries in Category II.

4. One commenter stated that there is only a remote likelihood that a marine mammal will be entangled or otherwise taken in the Alaskan longline groundfish fishery.

Because of the absence of data on the taking of marine mammals by this fishery and because the gear and techniques used rarely entangle, seriously injure or kill marine mammals this fishery is placed in Category III with other West Coast longline groundfish fisheries.

5. Commenters stated that the Alaska salmon beach or purse seine fisheries seldom take marine mammals and therefore belong in Category III.

Discussions with State of Alaska Area Fishery Biologists indicate that the mesh size and the method of pursuing the nets result in a very low likelihood of an incidental take. State biologists have noted that, in the rare instances when pinnipeds are trapped inside purse seines, they are able to pass over the cork line before the net is closed. In the rare instances when cetaceans are trapped inside purse seines, they usually exit the net by sounding. Although there have been intentional takings by fishermen to protect catch or gear, comments from the State indicated that such takings rarely result in serious injury or mortality. These fisheries are now listed in Category III along with the Alaska herring beach or purse seine fishery.

6. Commenters questioned whether sea otters might be taken in the Metlakatla fish trap fishery.

NOAA Fisheries is unaware of any records of sea otters interacting with the fish traps. Biologists from the U.S. Fish and Wildlife Service, the U.S. Forest Service and the Alaska Department of Fish and Game who work in the area are unaware of any sightings of sea otters near the Metlakatla fish traps. The nearest location where sea otters are commonly found is approximately 40–50 miles from the traps.

7. Commenters questioned why the Alaska Kuskokwim, Yukon, Norton, and Lotzebue salmon gillnet fisheries were placed in Category III when all other salmon gillnet fisheries in Alaska were in either Category I or II.

NOAA Fisheries and Alaska Department of Fish and Game personnel have noted that these fisheries are almost entirely carried out by Alaska Natives. Direct observations indicate that incidental takes of pinnipeds do not occur in these fisheries because any such potential takings are pre-empted by directed kills for subsistence before the animals encounter the gear. Although takings of harbor porpoises (which are not taken for subsistence) have been recorded in these fisheries, such takings are believed to be very rare.

8. Commenters suggested that the incidental takes of sea otters in the Kodiak Island salmon set gillnet fishery and the Aleutian gillnet fisheries may warrant their inclusion in Category I.

Discussions with U.S. Fish and Wildlife Service sea otter biologists indicate that takings of sea otters by the Kodiak set gillnet fishery does occur. However, the number of incidental takes on the northern side of Kodiak Island are not believed to exceed 25 per season. The level of taking which occurs on the southern side of Kodiak Island is unknow, but is not believed to exceed that of the north side. Based on the number of permits used and the duration of the fishery (June–October) in the Kodiak area, this fishery remains in Category II. Salmon gillnet fisheries are not permitted in the Aleutian Island area.

9. Commenters suggested that because of the size of the Bristol Bay salmon gillnet fishery, the cumulative takes of harbor seals, northern sea lions, beluga whales, harbor porpoise and other marine mammals may warrant its inclusion in Category I.

Discussions with Alaska State Area Biologists indicate that this may not be the case. It has been their observation that during the height of the Bristol Bay gillnet fishery there are so many vessels fishing in such small areas that many pinnipeds leave the area. Even when pinnipeds are present, the extremely high availability of fish reduces the level of competition. Also, the high density of vessels during the most active periods in this fishery largely precludes the use of firearms. Twelve beluga whales were reported taken by this fishery in 1983. The available documented information does not warrant inclusion of this fishery in Category I.

10. One commenter objected to categorizing the tribal commercial fisheries as Category II because the tribal government survey is still in progress to determine the frequency of incidental takes.

NOAA Fisheries recognizes that data collection programs are ongoing in many fisheries; however, NOAA Fisheries is required to publish a final List of Fisheries, based on the best available information, with 120 days of enactment of the amendments. Information received from tribal government surveys, when available, will be used in subsequent reviews and revisions to the List.

11. One commenter objected to considering the Bering Sea/Gulf of Alaska groundfish trawl fishery as one

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fishery since it is comprised of a number of individually regulated fisheries in different areas and different seasons.

NOAA Fisheries considered this as a single fishery based on the Committee Reports, but is interested in defining these segments as precisely as possible. The data from fishermen reports and verification programs will be useful in further defining these fisheries and in identifying those segments with frequent interactions.

12. Commenters requested clarification on the location of the Washington set gillnet salmon fishery in Washington's Fisheries Management and Reporting Areas 4, 4A, and 4B.

These areas are located off the north coast of Washington and the western end of the Straits of Juan de Fuca.

13. Commenters proposed that the Washington, Oregon, California thresher shark and swordfish drift net fishery be separated into several different fisheries based on seasonal restrictions and differences in fishing strategy when targeting on swordfish versus thresher shark.

NOAA Fisheries believes that this fishery should be treated as one fishery and should be placed in Category I to be consistent with Congressional intent. The history of the fishery and the States' approach to regulating the fishery indicate that it should be treated as a single fishery. The fishery began in 1977 as a thresher shark fishery in southern California, and swordfish could be landed only as a by-catch. California Department of Fish and Game Regulations were changed in 1982 to allow fishermen to target on swordfish with these drift nets. In addition, the fishery has extended north to fish for thresher shark in central and northern California, and has been operating under experimental fishing permits off Washington and Oregon since 1983. Although fishermen use different strategies and focus on different environmental cues when targeting on swordfish versus thresher shark, the components are not entirely distinct. Shark and swordfish can be landed together at certain times of the year and marine mammal mortalities have been observed in nets, presumably set for swordfish, as well as nets set for thresher shark. Therefore, NOAA Fisheries believes that the available information is insufficient to support clear separation of the components of this fishery. Since Congress identified a concern for one component of this fishery and the components of the fishery are not entirely separate, the fishery remains in Category I, as originally described.

14. One commenter asked whether northern fur seals are taken in the Washington, Oregon, and California thresher shark and swordfish fishery and questioned if the identification of harbor porpoise as a species taken was accurate.

The California Department of Fish and Game observed 66 sets in 1983 and reported the incidental take of 12 different species; northern fur seals were not observed and have not been reported from other sources. State personnel observed harbor porpoise taken in this fishery during the 1988 experimental fishing season off Washington.

15. One commenter asked how the Category II California gillnet fisheries for white sea bass, yellow tail, soupfin shark, white croaker, and bonito-flying fish differ from the California halibut set gillnet fishery in Category I. Commenters also asked whether harbor porpoise should be added to the list of mammals reported taken.

The California Department of Fish and Game has been monitoring gillnet fisheries in California since 1983. Their observations indicate that the rate of take in the white sea bass, etc. fisheries is lower than in the halibut and angel shark fisheries. Reasons for this include differences in gear, seasons, and areas fished. Most yellow tail and white sea bass fishing occurs in southern California and seasonal restrictions reduce effort during the spring and summer months when sea lion abundance is highest (California sea lions are the marine mammal most commonly taken in gillnets). Most of the yellow tail and white sea bass fishermen use nets constructed of multifilament nylon versus monofilament nylon used in the halibut and angel shark nets. Nets in the white sea bass and yellow tail fisheries are also much shorter (150 fathoms) than the halibut and angel shark nets (600 to 1000 fathoms). The soupfin shark nets are also constructed of multifilament nylon and they are generally set in deeper water than halibut and angel shark nets. Multifilament nylon may be more visible to marine mammals thereby contributing to a lower rate of take than is observed in monofilament nets. White croaker and bonito/flying fish nets are constructed of small mesh (less than 3.5 inches stretched) webbing. The rate of entanglement in such small mesh is lower than in the 8 inch or greater mesh size used in the halibut and angel shark fisheries. All these factors contribute to the lower rate of observed entanglement in Category II gillnet fisheries and NOAA Fisheries believes they are listed appropriately.

Harbor porpoise has been added to the list of marine mammals documented to have been taken in this complex of gillnet fisheries. The California Department of Fish and Game observed a harbor porpoise taken in a white croaker gillnet near San Francisco in 1986. Since then State laws have prohibited the use of gillnets in that area and harbor porpoise have not been observed in small mesh nets at any other location.

16. One commenter suggested that the California halibut and angel shark fisheries be separated because they use nets that are different in construction.

NOAA Fisheries combined these fisheries because both types of nets take marine mammals and fishermen will utilize both nets on the same fishing trip. The fisheries can be separated, but information available from the California Department of Fish and Game indicates that both fisheries frequently take marine mammals. Therefore, NOAA Fisheries has separated these fisheries and retained them in Category I.

17. Commenters asked why any Hawaii fisheries were placed in other than Category III.

The Hawaii trolling rod and reel, and the deep sea bottomfish and tuna hand line fisheries have been moved to Category III. Even though interactions with and harassment of marine mammals may occur in localized areas, entanglement, serious injury and mortality are rare events.

18. One commenter stated that most salmon troll fishermen do not shoot at marine mammals and therefore belong in Category III.

Salmon troll fisheries will remain in Category II because available information indicates the intentional lethal removal of marine mammals is an occasional event. As stated above, the MMPA does not provide a mechanism for dividing a fishery so fishermen can choose the category in which they will fish. Instead the law requires NOAA Fisheries to classify each fishery based on frequency or incidental take.

19. One commenter suggested moving the California salmon troll fishery to Category I because Miller *et al.* (1983) estimated that 300 California sea lions are shot annually in the fishery.

Based on the size of the salmon fleet (3,545 permits), which has been stable since entry to the fishery was limited in 1980, a take of 300 animals per year does not qualify as frequent under the criteria for Category I. Therefore, NOAA Fisheries is retaining this fishery in Category II.

20. One commenter stated that in some years the take of pilot whales in the squid purse seine fishery was frequent.

Prior to the 1983 El Niño event, pilot whales and the squid purse seine fishery occurred in the same waters around the southern California Channel Islands and pilot whales were occasionally captured in seine operations. Since El Niño, pilot whales have not been abundant in southern California waters. The probability of a pilot whale take is low, but based on interactions with other species, NOAA Fisheries is retaining the fishery in Category II.

21. One commenter noted that there was no listing for the pelagic drift net fishery for large oceanic pelagic species (primarily swordfish and tuna) along the Atlantic coast, and recommended that if this fishery still exists it should be placed in Category I or II.

NOAA Fisheries is not aware of any vessels operating in this fishery at this time. However, if information becomes available that the fishery is active, it will be added in the proper category.

22. Commenters were opposed to the placement of all domestic squid and mackerel fisheries in Category II, and believed that there is sufficient evidence in certain segments of the fishery to suggest their placement in Category III. The commenters suggested that vessels with less than 2000 horsepower are unlikely to take marine mammals and that bottom-tending squid and mackerel vessels, as opposed to vessels using mid-water gear, will not take marine mammals, and therefore should be placed in Category III.

NOAA Fisheries recognizes that there may be less likelihood of less powerful trawlers taking marine mammals. However, NOAA Fisheries does not have sufficient data to confirm this or to document the differences in the frequency of taking marine mammals between bottom versus mid-water trawls. Observers aboard foreign vessels report an attraction of marine mammals to nets during haulback, suggesting that marine mammals could be caught regardless of vessel towing speed or depth of trawl. NOAA Fisheries believes that additional information is needed to document the effects of these factors on the frequency of marine mammal takings. Reports and results of observer and other verification programs will be useful in making determinations on these factors and in the fisheries.

23. One commenter identified an apparent omission from the list, the South Atlantic and Gulf of Mexico mackerel driftnet fisheries. The commenter believed that this fishery incidentally takes bottlenose dolphins and perhaps other marine mammal species and should be placed in Category II.

This drift gillnet fishery is listed under Category III, Florida—East Coast, Gulf of Mexico pelagics, king and spanish mackerel. Approximately 13 vessels operate in the South Atlantic and Gulf of Mexico mackerel fishery which is localized to the lower East Coast of Florida. Available information does not warrant placing this fishery in Category II.

Final List of Fisheries

NOAA Fisheries issues this final List of Fisheries as required by section 114(b)(1)(B) of the MMPA. Fisheries were categorized based on the frequency of incidental taking using the revised criteria discussed above and additional information received in response to the proposed List of Fisheries. In total, NOAA Fisheries has categorized 167 fisheries in which approximately 181,486 vessels or persons participate in the Pacific, Atlantic (Atl) and Gulf of Mexico (GMX). The information contained in the final List of Fisheries is summarized below:

Category	No. of Fisheries		No. of vessels or persons	
	Pacific	Atl/GMX	Pacific	Atl/GMX
I	9	2	3,641	155
II	24	3	17,023	1,040
III	82	47	28,767	130,860
Total	115	52	49,431	132,055

Tables 1, 2 and 3 describe Pacific Ocean fisheries and Tables 4, 5, and 6 describe Atlantic Ocean and Gulf of Mexico fisheries in Category I, II and III, respectively. These tables list the fisheries along with the marine mammal species for which takings have been documented and the estimated number of vessels/persons involved in the fishery. A brief description of the interactions of the fisheries with marine mammals follows. For additional information, readers are referred to the Status Report on Marine Mammals Involved in Commercial Fisheries (NOAA Fisheries, 1988) and other references listed at the end of this document.

Category I Fisheries—Tables 1 and 4

Tables 1 and 4 comprise the list of commercial fisheries that meet the criteria for Category I—frequent incidental takings of marine mammals.

Category I Fisheries Specified by Congress

The Committee Report of the House of Representatives identified the Prince William Sound/Copper River set and drift gillnet fisheries, Alaska Peninsula (Unimak Pass and False Pass) salmon drift gillnet fishery, Columbia River salmon drift gillnet fishery, the Washington and Oregon thresher shark drift gillnet fishery, and the Bering Sea and Gulf of Alaska groundfish trawl fisheries as Category I fisheries. The Senate Committee Report affirmed the House of Representatives' list and added the Alaska South Unimak (Unimak Pass and False Pass) salmon purse seine fishery which is discussed in detail under category II fisheries. There is not sufficient documented information to estimate accurately the frequency of incidental takings in all of these fisheries. However, NOAA Fisheries has used Congressional intent as the criterion for placing a fishery in Category I in this final List of Fisheries. These fisheries are briefly discussed below in terms of available information concerning incidental takings.

Matkin and Fay (1980) reported that approximately 1,000 marine mammals were entangled or killed in the Prince William Sound/Copper River Delta salmon drift gillnet fishery during the 1978 season. The approximate composition of the kill was 516 harbor seals, 333 northern sea lions, 10 Dall's porpoise, 44 harbor porpoise and 66 Alaska sea otters. Unpublished data collected by Wynne (U.S. Fish and Wildlife Service) indicate that the levels of interaction probably were of the same order of magnitude in 1988.

There is not sufficient information available to estimate reliably the frequency of incidental takings in the Prince William Sound set gillnet fishery for salmon and the Alaska Peninsula (Unimak Pass and False Pass) drift gillnet fishery. However, northern sea lions, harbor seals and Alaska sea otters reside in the area and these species interact with similar gear in the Prince William Sound/Copper River drift gillnet fishery.

The results of monitoring programs for the salmon gillnet fisheries in the Columbia River and adjacent waters were reported by Beach *et al.* (1985). An estimated 335 harbor seals and 45 California sea lions were killed annually incidental to gillnetting in the Columbia River, Willapa Bay and Grays Harbor fisheries. In addition commercial fishermen frequently harass mammals away from their nets. Some of these animals entangle in the nets and drown,

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and others are killed after attempts to harass them away from fishing operations fail.

Committee Reports identified the Washington and Oregon drift gillnet fishery for thresher shark as a Category I fishery. NOAA Fisheries believes that these reports identified only part of this fishery. The California driftnet thresher shark fishery represents the southern end of this fishery and should be combined with the Washington/Oregon portion. Therefore, NOAA Fisheries has added the California extension of this fishery to Category I. The thresher shark is a highly migratory species that occurs along the entire west coast. The majority of the thresher shark fleet originates in California where they fish for swordfish as well as shark. The Washington and Oregon fishery is conducted largely by California fishermen who have followed the sharks north in the summer months. The drift gillnet fishery for thresher shark is a relatively young fishery that started around the Channel Islands in southern California in 1977. Miller *et al.* (1983) estimated that the fishery off southern California killed between 600 and 1200 California sea lions between September 1980 and September 1981. In 1983, the State of California promulgated regulations to reduce the incidental mortality of California sea lions. As a result of the new regulations and the 1983–84 El Niño event, the fishery moved offshore and extended to the north and billfish became an important target species. Since this shift, there have been too few observers placed to produce statistically reliable estimates of incidental marine mammal mortality. Diamond *et al.* (1987) reported that the redistribution of the fishing effort contributed to a reduction in the rate of California sea lion mortality but moved the fishery into areas where it interacts with more species of marine mammals. From Diamond *et al.* (1987) and preliminary unpublished data from the 1988 Washington and Oregon observer program, it is clear that 15 different species of marine mammals have been taken in this fishery. Given the potential for this fishery to take large numbers of marine mammals and the diversity of marine mammal species known to have been taken in the fishery, NOAA Fisheries believes including the entire west coast drift net fishery for thresher shark and swordfish in Category I is consistent with Congressional intent.

The Bering Sea-Gulf of Alaska ground fish trawl fishery interacts with 14 different species of marine mammals. Loughlin *et al.* (1983), Loughlin and Nelson (1986), and unpublished observer reports prepared annually by the NOAA Fisheries National Marine Mammal Laboratory, indicate that most of these were taken in the foreign and joint venture fisheries. Loughlin and Nelson (1986) estimated that 958 to 1,436 northern sea lions were killed in the Shelikof Strait fishery in 1982. However, mortalities decreased substantially in following years and the fishery has become largely domestic in nature. Unpublished data from Craig (Alaska Department of Fish and Game) indicate a low level of interaction between the domestic trawl fleet and marine mammals; only 4 northern sea lions were caught during 1,176 trawl hauls observed during the 1978 through 1988 seasons.

Observer data in the North Pacific groundfish trawl fishery indicate that the degree of interaction with marine mammals varies widely according to the time of year, location of the fishery, species of fish sought and the type of trawl gear used. NOAA Fisheries is interested in defining these segments as precisely as possible. The data from fishermen's reports and observers will enable NOAA Fisheries to more accurately identify those segments with frequent interactions and to develop appropriate mitigation measures, if necessary.

Additional Category I Fisheries

The Washington marine set gillnet fishery for salmon in areas 4, 4A, and 4B (Table 1); the California halibut and angel shark set gillnet fisheries (Table 1); the East Coast foreign mackerel trawl fishery (Table 4); and the Gulf of Maine groundfish/mackerel gillnet fishery (Table 4) are included in Category I.

Reports and observations on the Washington marine set gillnet fishery indicate that there is frequent incidental taking of marine mammals in this fishery.

The California Department of Fish and Game has been monitoring set net fisheries in near shore waters since 1983. From 1983 through 1985, the estimated mortality of California sea lions was between 2,207 and 3,427 annually and the estimated mortality of harbor seals increased from 834 to 1,886 animals per year (Hanan *et al.* 1988). The California halibut and angel shark fisheries account for most of this mortality. These fisheries also take common dolphins, harbor porpoise, a small number of gray whales, and southern (California) sea otters (which would not be authorized under the exemption system).

In East Coast fisheries, the foreign mackerel trawl fishery has had 100 percent observer coverage from 1984–88. During this period, a total of 286 animals were killed at an observed rate of kill per day per vessel of 0.1 (or one every 10 days).

The take of marine mammals in the Gulf of Maine groundfish/mackerel gillnet fisheries has been documented in a number of sources. Gilbert and Wynne (1987) documented various marine mammal mortalities (at least 100 marine mammals were taken by 11–22 vessels during a three month season) in a study designed to investigate take levels in a segment of the gillnet fishery that occurs where marine mammal populations were known to be high. The same study documented marine mammal mortalities in the seasonal mackerel fishery near Cape Cod.

Category II Fisheries—Tables 2 and 5

Tables 2 and 5 compromise the list of fisheries that meet the criteria for Category II—occasional incidental take of marine mammals. A brief discussion of these fisheries follows.

South Unimak Salmon Purse Seine Fishery

Based on information received, factual data and a clarification from the Senior Senator from Alaska on Congressional intent, NOAA Fisheries has placed the South Unimak (Unimak Pass and False Pass) salmon purse fishery in Category II rather than Category I. Melteff and Rosenberg (1984) indicated "frequent encounters" occur between the South Unimak (Unimak Pass and False Pass) salmon purse seine fishery and marine mammals. Since publication of Metleff and Rosenberg's report, the length of this fishery has declined from several hundred hours to 110 hours in 1988. In 1988, the State of Alaska's research vessel RESOLUTION monitored fishing activities in the South Unimak Pass District. During their observations, the crew did not observe or hear of any marine mammals being entangled, seriously injured or killed in this fishery.

Additional Category II Fisheries

The salmon gillnet fisheries listed in Table 2 use gear similar to the gear observed by Matkin and Fay (1980) in the Copper River Delta and by Beach *et al.* (1985) in the Columbia River and there is a known incidence of marine mammals in the area. There are also reports indicating that incidental takes of marine mammals are more than a rare or exceptional event in most salmon gillnet fisheries. However, there is insufficient information to estimate reliably the frequency of the takes. Examples of reports in various salmon gillnet fisheries are discussed below.

The NOAA fisheries Alaska Region documented six humpback whale entanglements, resulting in at least one mortality in the southeast Alaska drift gillnet fishery for salmon in 1987. This appears to be an anomalous year and may not be a reliable estimate of the frequency of incidental takes.

NOAA fisheries Alaska Region has received reports that fishermen in the Yakatat set gillnet fishery for salmon occasionally shoot northern sea lions (the amendments prohibit such takings) and harbor seals to prevent loss of catch or damage of gear. This fishery also took a gray whale in 1988.

Twelve beluga whales were reported taken in 1983 in the Bristol Bay set and drift gillnet fisheries for salmon (Frost *et al.* 1984). Few other published reports of interactions with salmon gillnet fisheries in Alaska are available.

Certificate of Inclusion holders have reported incidental marine mammal takes in the Puget Sound and Straits on Juan de Fuca salmon gillnet fishery, but these reports are not sufficient to estimate reliably the actual frequency of incidental takings.

The Klamath River salmon gillnet fishery was solely a subsistence and ceremonial fishery prior to 1987. In 1987 salmon returned to the Klamath River at a rate that provided a surplus that could be sold commercially. A commercial harvest was conducted in 1988, and is expected to continue. In 1980, NOAA Fisheries and the California Department of Fish and Game studied the pinniped interaction with the subsistence fishery. During the period July through September 1980, 13 harbor seals were observed taken in 257 sets. The commercial fishery is of a much shorter duration (August 1 through August 21 in 1988) than the subsistence fishery, but the level of effort is more intense.

The gear used in the gillnet fisheries for California white sea bass, yellow tail, and soupfin shark is similar to the gear used in other fisheries with frequent incidental takings and there is known incidence of marine mammals in the areas fished. These fisheries use mesh sizes large enough to capture California sea lions and harbor seals. Hanan *et al.* (1988) estimated the total mortality of California sea lions and harbor seals in these fisheries to be small compared to the take in the halibut and angel shark fisheries. The white croaker and bonito/flying fish gillnets use smaller mesh but incidental takes of marines mammals are reported and there is some intentional incidental takings.

The entanglement of marine mammals is a rare event in the salmon troll fisheries, but the loss of hooked fish to seals and sea lions occurs. Fishermen use various methods, including firearms, to deter marine mammals from stealing hooked fish. When this type of deterrence has failed, fishermen have been known to shoot at and sometimes kill animals that continue to depredate their catch. Based on interviews with fishermen, Miller *et al.* (1983) reported that approximately 300 California sea lions were killed in the California salmon troll fishery in 1980.

Miller *et al.* (1983) documented some mortality of several species of cetaceans in the California round haul fisheries.

The longline fisheries for sablefish in Prince William Sound and the Southern Bering Sea have been known to interact with killer whales. Because of high rates of depredation by the killer whales (resulting in an estimated 15–25 percent loss of catch) in Prince William Sound, fishermen attempted to deter the animals using a variety of methods. NOAA Fisheries has no evidence to suggest that frequent entanglements, serious injuries or deaths have occurred in the Southern Bering Sea. There will be no directed fishery for sablefish in the area east of 170° West, the area in which the preponderance of depredation by killer whales is believed to have occurred.

In the remainder of the West Coast fisheries listed in Category II (the Metlakatla fishtrap fishery in Alaska, the squid dip net fishery, and the aquaculture salmon fisheries) marine mammals are at least occasionally intentionally injured or killed as a result of fishermen protecting their gear and catch. Information is too sparse to document the frequency of incidental takings.

The available information on the Southern New England, Mid-Atlantic offshore squid and Atlantic Ocean mackerel fisheries (Table 5) indicates that there is some incidental taking of a variety of marine mammals. This is based on observer reports in joint venture operations. There were 33 reported takes of marine mammals from 1985–88 with a high of 20 in 1986.

Information collected by observers on the Japanese fleet of longliners operating in Northeast and Gulf of Mexico waters documented incidental takings of marine mammals. This fleet is similar in most respects to other pelagic longliners in the Atlantic Ocean and Gulf of Mexico pelagic longline fisheries (Table 5).

Category III Fisheries—Table 3 and 6

Tables 3 and 6 comprise the list of fisheries that meet the criteria for Category III—a remote likelihood of or no known incidental taking of a marine mammal.

Category III Fisheries Specified by Congress

The Senate Committee Report recommended that the shrimp trawl fishery and menhaden purse seine fisher in the Atlantic Ocean and the Gulf of Mexico be placed in Category III. A large number of vessels participate in these fisheries with a small take of bottlenose dolphins and manatees.

Additional Category III Fisheries

The Hawaiian trolling rod-and-reel, deep sea bottom, and tuna hand line fisheries interact with marine mammals in localized areas. Entanglement, serious injury and mortality of marine mammals are rare events. The methods of harassment, to deter marine mammals, which are used in these fisheries are not likely to result in injury or mortality.

There is an absence of data on the taking of marine mammals by the Alaskan longline groundfish fishery. The gear and techniques used rarely entangle, seriously injure or kill marine mammals. This fishery is combined with other West Coast longline groundfish fisheries in Category III.

State of Alaska Area Fishery Biologists indicate that the mesh size and the method of pursuing the nets result in a very low likelihood of an incidental take in the Alaska salmon beach or purse seine fisheries. State biologists noted that, in the rare instances when pinnipeds are trapped inside purse seines, they are able to pass over the cork line before the net is closed. In the rate instances when cetaceans are trapped inside purse seines, they usually exit the net by sounding. Although there have been intentional takings by fishermen to protect catch or gear, comments from the State indicated that the likelihood of such takings occurring is rare. These fisheries are now combined with the Alaska herring beach or purse seines fishery in Category III.

NOAA Fisheries and Alaska Department of Fish and Game personnel have noted that the Alaska Kuskokwim, Yukon, Norton, Kotzebue salmon gillnet fisheries are almost entirely carried out by Alaska natives. Direct observations indicate that incidental takes of pinnipeds do not occur in these fisheries because any such potential takings are pre-empted by directed kills for subsistence before the animals encounter the gear. Although takings of harbor porpoises (which are not taken for subsistence) have been recorded in these fisheries, such takings are believed to be very rare.

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The incidental take of marine mammals in the other Category III gillnet fisheries identified in Table 3 is rare because the seasons are extremely short (e.g., herring fisheries), the mesh size is too small to entangle mammals (e.g., shad, smelt, and herring), or they are conducted in areas where mammals generally are not present (e.g., mullet).

Troll fisheries for species other than salmon rarely report losses of fish to marine mammals. Incidental take in troll fisheries usually occurs as intentional lethal removal of animals that are depredating catch and gear. The troll fisheries identified in Table 3 have not reported fish losses and troll gear rarely entangles a marine mammal.

Marine mammal interactions have been documented for only a few of the round haul fisheries (including beach seines and throw nets) identified in Table 3. The likelihood of entanglement, serious injury, or mortality of marine mammals as a result of these interactions is rare.

Marine mammal interactions have also been documented for longline fisheries, but the likelihood of entanglement or intentional takings is rare.

On rare occasions, marine mammals may become entrapped in West Coast trawl nets. In the Pacific whiting fishery observers have documented between 1 and 12 takings of marine mammals per year since 1976 by foreign and joint venture operations. Interactions tend to be with pinnipeds attempting to remove fish from the cod end as the net is retrieved (Miller *et al.* 1983). Fishermen generally are not bothered by this and few reports of intentional injuries or killings are known.

The nature of the gear or methods used in the remainder of the fisheries in Table 3 is such that the likelihood of entanglement, serious injury, or mortality of a marine mammal or intentional takings to protect gear or catch is rare.

The Gulf of Maine (GME) Tub Trawl identified in Table 6, is a bottom longline operation that occurs within 25 miles of shore. The interactions reported usually involve seals robbing bait and fish from the hooks. Marine Mammals are rarely entangled.

Only five vessels are licensed for the GME, Southern New England (SNE), Mid-Atlantic (MDA) Atlantic bluefin tuna purse seize fishery. In 1986, three humpback whales were reported taken by these vessels. This appears to be an anomalous event because there have been no other reports of marine mammals taken in other years. The season for this fishery is very short and the purse seines are relatively small compared to those used in other types of tuna fisheries.

There have been no reports of marine mammal mortalities in the GME Atlantic Herring Purse Seine and Fixed Gear fisheries. Marine mammals do become captured by geat in these fisheries, but because mesh size of nets used is small there is only a small chance of entanglement. When marine mammals are captured in this gear, they are generally released without injury.

Based on gear type and areas fished, the GME, SNE and MDA coastal gillnet fisheries have only a small chance of incidentally taking marine mammals. These fisheries take place within the lower reaches of the large river systems, or near the coastal embayments in the spring during anadromous fish runs. Marine mammal abundance in the coastal areas is usually low at that time. A gillnet fishery operates year-round in the Mid-Atlantic area for various pelagic fish species. The fine mesh nets do not entangle the larger mammal species that frequent the area.

There have been some reports of entanglement of marine mammals in gear used by SNE and MDA Trap and Pound Net fishery. The reports of entanglement often involve decaying carcasses that have floated into the gear.

There have been periodic reports of marine mammals, including large cetaceans and manatees, being entangled in lobster and crab lines and gear in the Atlantic Ocean and Gulf of Mexico fisheries. However, given the large number of individual vessel/gear owners, the nature of these fisheries and the gear type used, the likelihood of incidental takings is rare.

The GME Atlantic salmon farming fishery is a growing industry along the coast of Maine. The marine mammal interactions involve seal interference with the pens. Nonharassing methods, such as double netting around the pens, have been used to protect fish to date. At this time, there does not appear to be more than a rare chance of entanglement or intentional takings of these marine mammals.

For the remaining fisheries identified in Table 6, there is only a rare chance of incidental takings based on gear type, the nature of these fisheries, and other factors.

List of Fisheries Interim Exemption for Commercial Fisheries

TABLE 1.—CATEGORY I COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
Gillnet Fisheries, Salmonids:		
AK Prince William Sound, drift gillnet.	525	2, 6, 13, 14, 15.
AK Prince William Sound, set gillnet.	17	2, 6, 13, 15.
AK Peninsula, drift gillnet.	164	2, 6, 13, 15 30.
WA marine set gillnet, in Areas 4, 4A, and 4B.	66	6, 15, 30.
WA, OR Lower Columbia River Region, Willipa Bay, Grays Harbor (includes rivers, resteuries, etc.), drift gillnet.	914	2, 3, 6, 30.
Gillnet Fisheries, Other Finfish:		
WA, OR, CA thresher shark and swordfish, drift gillnet.	309	2, 3, 6, 11, 14, 15, 16, 17, 18, 22, 23, 29, 30, 32, 33.
CA California halibut, set gillnet.	788	3, 6, 41, 15, 16, 30.
CA angel shark, set gillnet.	788	3, 6, 15, 16, 30.
Trawl Fisheries, Groundfish:		
AK Bering Sea/ Gulf of Alaska.	70	1, 2, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 25, 32.

TABLE 2.—CATEGORY II COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
Gillnet Fisheries, Salmonids:		
AK Southeast Alaska, drift gillnet.	460	2, 6, 13, 14, 15, 25, 30, 31.
AK Yakutat—set gillnet.	154	2, 6, 13, 14, 30.
AK Cook Inlet, set and drift gillnet.	1,213	2, 6, 13, 15, 26.
AK Kokiak—set gillnet.	174	2, 6, 13, 15.
AK Peninsula—set gillnet.	100	2, 6, 13, 30.
AK Bristol Bay, set and drift gillnet.	2,692	2, 6, 26, 30.
WA Puget Sound Region, Hood Canal, Straits of Juan de Fuca (includes rivers, estuaries, etc.), set and drift gillnet.	3,900	1, 2, 3, 6, 14, 15, 25.
WA coastal river, gillnet.	255	2, 3, 6.
CA Klamath River, gillnet.	600	3, 6.
Gillnet Fisheries, Other Finfish:		
AK gillnets	6	2, 6.
CA gillnets for white sea bass, yellow tail, soupfin shark, white croaker, bonito/flying fish.	144	3, 6, 14, 15, 27, 30.
Purse Seine Fisheries, Salmon:		
AK South Unimak (False Pass and Unimak Pass).	102	1, 2, 13.
Troll Fisheries:		
AK salmon	1,607	1, 2, 6, 26, 31.
WA, OR, CA salmon.	4,727	2, 3, 6.
Round Haul (seine and lampara), Beach Seine, and Throw Net Fisheries:		
CA herring purse seine.	43	3, 6.
CA anchovy, mackerel, tuna purse seine.	330	3, 27.
CA sardine, purse seine.	345	3, 27.
CA squid, purse seine.	40	3, 22, 23, 27.
Long Line/Set Line Fisheries, Sablefish:		
AK Prince William Sound.	25	25, 26.
AK Southern Bering Sea.	66	25.
Pot, Ring Net, and Trap Fisheries:		
AK Metlakatla, fish trap.	4	2, 6.
Dip Net Fisheries:		
CA squid	10	3, 23.
Aquaculture, Ranch Pens:		
WA, OR salmon, net pens.	21	2, 3, 6.
OR salmon ranch	5	3, 6.

TABLE 2.—CATEGORY II COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
WA Puget Sound Region, Hood Canal, Straits of Juan de Fuca (includes rivers, estuaries, etc.), set and drift gillnet.	3,900	1, 2, 3, 6, 14, 15, 25.
WA coastal river, gillnet.	255	2, 3, 6.
CA Klamath River, gillnet.	600	3, 6.
Gillnet Fisheries, Other Finfish:		
AK gillnets	6	2, 6.
CA gillnets for white sea bass, yellow tail, soupfin shark, white croaker, bonito/flying fish.	144	3, 6, 14, 15, 27, 30.
Purse Seine Fisheries, Salmon:		
AK South Unimak (False Pass and Unimak Pass).	102	1, 2, 13.
Troll Fisheries:		
AK salmon	1,607	1, 2, 6, 26, 31.
WA, OR, CA salmon.	4,727	2, 3, 6.
Round Haul (seine and lampara), Beach Seine, and Throw Net Fisheries:		
CA herring purse seine.	43	3, 6.
CA anchovy, mackerel, tuna purse seine.	330	3, 27.
CA sardine, purse seine.	345	3, 27.
CA squid, purse seine.	40	3, 22, 23, 27.
Long Line/Set Line Fisheries, Sablefish:		
AK Prince William Sound.	25	25, 26.
AK Southern Bering Sea.	66	25.
Pot, Ring Net, and Trap Fisheries:		
AK Metlakatla, fish trap.	4	2, 6.
Dip Net Fisheries:		
CA squid	10	3, 23.
Aquaculture, Ranch Pens:		
WA, OR salmon, net pens.	21	2, 3, 6.
OR salmon ranch	5	3, 6.

TABLE 3.—CATEGORY III COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
Gillnet Fisheries:		
AK Kuskokwim, Yukon, Norton, Kotzebue salmon gillnets.	1,806	15.
AK herring only	1,374	2, 6.
WA, OR Upper Columbia River Basin (above Bonneville Dam) salmon and other finfish, gillnets.	100	3.
WA, OR, CA gillnets for herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish.	1,218	3, 6.
HI gillnet	61	None Documented.
Troll Fisheries:		
Non-salmon troll fisheries, AK North Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut.	1,354	4, 6.
HI trolling, rod and reel.	903	20, 21, 24.
Guam tuna	<50	None Documented.
Commonwealth of the Northern Mariana Islands, tuna.	<50	None Documented.
American Samoa, tuna.	<50	None Documented.
Purse Seine, Beach Seine, Round Haul (seine and lampara) and Throw Net Fisheries:		
AK salmon/herring, beach or purse seine.	1,749	2, 13, 15.
AK other finfish	9	None Documented.
WA salmon, purse seine.	440	6, 14.
WA salmon, reef net.	53	6.
WA, OR herring, smelt, squid, purse seine.	100	3, 6.
WA beach seine all species.	199	None Documented.
HI purse seine	18	None Documented.
HI opelu/akule net	3	None Documented.
HI throw net, cast net.	24	None Documented.
HI net unclassified	8	None Documented.

TABLE 3.—CATEGORY III COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
Western Pacific yellowfin tuna, purse seine (South Pacific Tuna Treaty.	32	None Documented.
Long Line/Set Line Fisheries:		
AK groundfish	1,607	2, 31.
AK, WA, OR, North Pacific halibut.	5,893	2, 4, 25, 26.
WA, OR, CA groundfish, bottomfish.	367	3, 4, 6, 17.
CA shark/bonito	19	3.
HI ahi flagline	18	21, 24.
Trawl Fisheries:		
AK food/bait herring.	2	None Documented.
AK, WA, OR, CA shrimp.	382	None Documented.
WA, OR, CA groundfish, squid, smelt, bottomfish.	585	1, 2, 3, 6, 14, 17, 27, 23.
CA California halibut.	25	3.
CA sea cucumber	6	None Documented.
Pot, Ring Net, and Trap Fisheries:		
AK shellfish—pot	1,533	13.
AK finfish—pot	226	None Documented.
WA, OR, CA sablefish-pot.	176	4, 6.
WA, OR, CA dungeness crab.	1,426	4, 6, 30, 32.
WA, OR shrimp—pot.	231	None Documented.
CA lobster, prawns, shrimp, rock crab, fish—pot.	606	None Documented.
OR, CA hagfish	7	None Documented.
HI lobster—trap	21	12.
HI crab—trap	5	None Documented.
HI fish—trap	2	None Documented.
HI shrimp—trap	2	None Documented.
HI other—trap	6	None Documented.
Handline and Jig Fisheries:		
AK North Pacific halibut.	69	None Documented.
AK other finfish	33	None Documented.
WA groundfish, bottomfish.	679	4, 6.
HI aku boat, pole and line.	17	None Documented.
HI inshore handline	76	20.
HI deep sea bottomfish.	434	12, 20.
HI tuna	144	12, 20, 21.
Guam bottomfish	<50	None Documented.

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TABLE 3.—CATEGORY III COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
Commonwealth of the Northern Mariana Islands bottomfish.	<50	None Documented
American Somoa bottomfish.	<50	None Documented
Dip Net Fisheries:		
WA, OR smelt, herring.	119	None Documented.
Harpoon Fishery:		
CA swordfish	228	None Documented.
Pound Fisheries:		
AK, Prince William Sound herring spawn on kelp.	81	2.
AK Southeast Alaska herring food/bait.	1	None Documented.
WA herring—brush weir.	1	None Documented.
WA herring spawn on kelp.	4	None Documented.
Bait Pens:		
WA, OR herring	12	6.
Dredge Fishery:		
Coastwide scallop	106	None Documented.
Dive, Hand/ Mechanical Collection Fisheries:		
AK abalone	23	None Documented.
AK dungeness crab.	3	None Documented.
AK herring spawn on kelp.	172	None Documented.
AK urchin and other fish/ shellfish.	19	None Documented.
AK clam hand shovel.	64	None Documented.
AK clam mechanical/ hydraulic fisheries.	3	None Documented.
WA geoduck	37	4.
WA, OR sea urchin, other clams, octopus, oysters, sea cucumbers, scallops.	647	2, 6.
CA abalone	129	None Documented.
CA sea urchin	800	None Documented
HI squiding, spear	49	None Documented.
HI lobster diving	16	None Documented.
HI coral diving	2	None Documented.
HI handpick	86	None Documented.
Aquaculture, Ranch, Ponds:		
WA tribal salmon ranch.	1	None Documented.
WA oyster farm	316	None Documented.

TABLE 3.—CATEGORY III COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
WA mussel/clam	224	None Documented.
WA, CA kelp	4	None Documented.
HI fish pond	3	None Documented.
Commercial Passenger Fishing Vessel (Charter Boat) Fisheries:		
AK, WA, OR, CA all species.	1243	3, 6.
Other Fisheries:		
HI	17	None Documented.

TABLE 4.—CATEGORY I COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
Trawl Fishery:		
SNE, MDA Foreign mackerel.	15	16, 20, 22, 23, 34.
Gillnet Fisheries:		
GME groundfish/ mackerel.	140	6, 15, 23, 31, 32, 34, 35, 36

TABLE 5.—CATEGORY II COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN AND GULF OF MEXICO

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
Trawl Fisheries:		
SNE, MDA offshore squid.	20	16,22,23,34
SNE, MDA Atlantic mackerel.	200	16,23
Longline:		
Atlantic Ocean and GMX tuna, shark, swordfish.	820	16,22,23,24,27, 31,32,36

TABLE 6.—CATEGORY III COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN AND GULF OF MEXICO

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
Trawl Fisheries:		
GME northern shrimp.	320	None Documented.

TABLE 6.—CATEGORY III COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN AND GULF OF MEXICO—Continued

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
GME mackerel	30	None Documented.
GME, SNE groundfish.	1,052	None Documented.
GME, SNE sea scallops.	215	None Documented.
GME, SOA, GMX coastal herrings.	5	36.
SNE, MDA inshore squid.	100	None Documented.
SNE, MDA mixed species.	>1,000	None Documented.
SOA, GMX shrimp	18,292	20,40
GMX butterfish	5	36
GA, SC whelk	25	None Documented.
Calico scallops	200	None Documented.
Bluefish, croaker, flounder.	550	None Documented.
Crab	400	None Documented.
Purse Seine:		
GME Atlantic herring.	30	6, 15, 35.
GME, SNE, MDA menhaden.	10	20.
GME, SNE, MDA Atlantic bluefin tuna.	5	31.
SOA, GMX menhaden.	97	20.
FL west coast sardines.	16	20.
Bottom Longline/ Hook & Line:		
GME tube trawl groundfish.	46	6, 35.
SOA, GMX snapper-grouper and other reef fish.	1,300	None Documented.
Pelagic Hook & Line/ Harpoon/Gillnet:		
GME, SNE, MDA tuna, shark, swordfish.	26,223	None Documented.
SOA, GMX	1,446	None Documented.
Gillnet:		
GME, SNE, MDA, SOA coastal shad, sturgeon.	4,515	15, 20, 32.
SOA, GMX coastal	4,000	20.
FL east coast, GMX pelagics king & spanish mackerel.	271	20.
FL east coast shark.	24	20.
Fixed Gear Fisheries Trap/Pot—Fish:		
GME, SNE, MDA mixed species.	100	6, 15, 31, 32, 35.
MDA black sea bass.	30	None Documented.
MDA eel	500	None Documented.

TABLE 6.—CATEGORY III COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN AND GULF OF MEXICO—Continued

Fishery	Estimated number of vessels/ persons	Marine mammal species involved
Fixed Gear Fisheries Trap/Pot—Lobster, Crab:		
GME, SNE inshore lobster.	10,613	6, 31, 32, 38, 39.
GME, SNE offshore lobster.	2,902	None Documented.
Atlantic Ocean, GMX blue crab.	20,500	20, 40.
SOA, GMX, CB spiny lobster.	2,500	20, 40.
SOA, GMX, CB reef fish.	2,200	None Documented.
FL east & west coast, GMX stone crab.	500	20, 40.
Stop Seine, Weirs (Staked Fish Traps):		
GME herring and Atlantic mackerel.	50	6, 15, 31, 32, 35, 38.
SNE, MDA mixed species.	600	None Documented.
MDA crab	2,600	None Documented.
Dredge Fisheries:		
GME, SNE sea scallops.	233	31.
SNE, MDA offshore clam.	159	None Documented.
GME mussel	>50	None Documented.
MDA oyster	7,000	None Documented.
Haul Seine:		
SOA, CB	150	None Documented.
Beach Seine:		
CB	15	40.
Aquaculture, Pens:		
GME Atlantic salmon.	30	6, 35.
Dive, Hand/ Mechanical Collection Fisheries:		
GME urchins	<50	None Documented.
Atlantic Ocean, GMX, CB shellfish.	20,000	None Documented.

List of State Abbreviations Used in Tables

AK—Alaska
CA—California
FL—Florida
GA—Georgia
HI—Hawaii
OR—Oregon
SC—South Carolina
TX—Texas
WA—Washington

Acronyms and the Areas They Represent

GME—Gulf of Maine—Canadian Border to Nantucket Island, Massachusetts (includes Georges Bank)
SNE—Southern New England—Nantucket Island, Massachusetts to New York (Hudson Canyon)
MDA—Mid Atlantic—New Jersey to Cape Hatteras, North Carolina
SOA—Southern Atlantic—South Carolina to Florida
GMX—Gulf of Mexico—All Gulf States
CB—Caribbean

Explanation of Columns

Fishery—Identified by gear, target species, and area.

Estimated number of Vessels/Persons—Contains the best and most recent available information on the number of vessels/persons licensed to participate in a fishery or, in the case of Alaska, the number of permits used.

Marine Mammal Species Involved—Contains a list of all documented or reported instances (including rare and unique instances) of marine mammal interactions. The inclusion of a species does not address the magnitude of take and makes no statement regarding the significance of any interaction.

SPECIES CODES FOR MARINE MAMMAL TAKEN IN COMMERCIAL FISHERIES

Species codes	Common name	Scientific name
1.	Northern fur seal	*Callorhinus ursinus.*
2.	Steller (Northern) sea lion.	*Eumetopias jubatus.*
3.	California sea lion	*Zalophus californianus.*
4.	Unidentified sea lion	
5.	Walrus	*Odobenus rosmarus.*
6.	Harbor seal	*Phoca vitulina.*
7.	Spotted seal	*Phoca largo.*
8.	Ringed seal	*Phoca hispida.*
9.	Ribbon seal	*Phoca fasciata.*
10.	Bearded seal	*Erignathus barbatus.*
11.	Northern elephant seal.	*Mirounga angustirostris.*
12.	Hawaiian monk seal	*Monachus schauinslandi.*
13.	Alaska sea otter	*Enhydra lutris lutris.*
14.	Dall's porpoise	*Phocoenoides dalli.*
15.	Harbor porpoise	*Phocoena phocoena.*
16.	Common (Saddleback) dolphin.	*Delphinus delphis.*
17.	Pacific whitesided dolphin.	*Lagenorhynchus obliquidens.*
18.	Northern right whale dolphin.	*Lissodelphis borealis.*
19.	Striped dolphin	*Stenella coeruleoalba.*
20.	Bottlenose dolphin	*Tursiops truncatus.*

SPECIES CODES FOR MARINE MAMMAL TAKEN IN COMMERCIAL FISHERIES—Continued

Species codes	Common name	Scientific name
21.	Rough toothed dolphin.	*Steno bredanensis.*
22.	Risso's dolphin	*Grampus griseus.*
23.	Pilot whale	*Globicephala melaena.*
24.	False killer whale	*Pseudorca crassidens.*
25.	Killer whale	*Orcinus orca.*
26.	Beluga whale	*Delphinapterus leucas.*
27.	Unidentified small cetacean.	
28.	Sperm whale	*Physeter catodon.*
29.	Beaked whales	*Ziphiidae.*
30.	Gray whale	*Eschrichtius robustus.*
31.	Humpback whale	*Megaptera novaeangliae.*
32.	Minke whale	*Balaenoptera acutorostrata.*
33.	Unidentified large cetacean.	
34.	Atlantic whitesided dolphin.	*Lagenorhynchus acutus.*
35.	Gray seal	*Halichoerus grypus.*
36.	Spotted dolphin	*Stenella spp.*
37.	Pygmy sperm whale	*Kogia breviceps.*
38.	Northern right whale	*Eubalaena glacialis.*
39.	Fin whale	*Balaenoptera physalus.*
40.	Manatee	*Trichechus manatus.*
41.	Southern (California) sea otter.	*Enhydra lutris nerles.*

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Dated: April 14, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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Part IV

National Science Foundation

Draft Program Guidelines; Notice

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NATIONAL SCIENCE FOUNDATION

Draft Program Guidelines

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The Academic Research Facilities Modernization Act of 1988, (102 Stat. 2873, 42 U.S.C. 1862a-1862d), calls for the National Science Foundation (NSF) to develop draft Program Guidelines and publish them in the Federal Register for review and comment. Comments on the proposed Guidelines will be considered by NSF in developing the Program Guidelines which will be included in a report to Congress due June 15, 1989.

Note: Funds are not available for this proposed program in FY 89 and none have been included in the FY 90 budget request to the Congress. Furthermore, funding for this program is not included in the Administration or Foundation plans for doubling the NSF budget by FY 93.

DATES: Comments are due on or before May 22, 1989.

ADDRESS: Comments on the Guidelines should be submitted to: Research Facilities Office, National Science Foundation, 1800 G Street, NW., Room 1240, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Altie H. Metcalf, Staff Assistant, Research Facilities Office, National Science Foundation, 202-357-9785.

SUPPLEMENTARY INFORMATION:

Academic Research Facilities Modernization Program, Program Guidelines

Background

The Academic Research Modernization Program was established by the National Science Foundation Authorization Act of 1988 (102 Stat. 2873, 42 USC 1862a-1862d) to assist in modernizing and revitalizing the Nation's research facilities. The Program will be carried out through projects which involve the repair, renovation, or, in exceptional cases, replacement of specific science and engineering research facilities at eligible organizations.

Goals

The goals of the Academic Research Facilities Modernization Program are to:

- Promote the modernization of graduate and undergraduate academic science and engineering research laboratories and related facilities at institutions of higher education, independent nonprofit research institutions, research museums, and consortia thereof.
- Assist those academic institutions that historically have received relatively little Federal research and development funds to improve their academic science and engineering infrastructures and broaden and strengthen the Nation's science and engineering base.

Scope

The purpose of the program is to repair or renovate, or, in exceptional cases, replace science or engineering research facilities. It is *NOT* the intent of the program to fund construction or renovation of: (1) New facilities; (2) facilities not devoted to scientific or engineering research; (3) major, highly specialized research facilities, such as research vessels, airplanes, telescopes or supercomputer centers; or (4) facilities used in fields of research not normally funded by NSF, e.g. biomedical research with disease-related goals; nor is it intended to fund: (5) the operation and maintenance of facilities; or (6) non-fixed laboratory equipment or instrumentation.

Definitions

The following definitions apply specifically to the Academic Research Facilities Modernization Program and these program guidelines:

Institution: A separate legal and fiscal entity, whether at the central or system level, main campus level, or branch campus level, which can receive awards and which is separately and consistently identified at that level for federal research and development reporting purposes.

Institutions of Higher Education: Institutions legally authorized and accredited at the college level by a nationally recognized accrediting agency to offer and which are offering at least a two-year program of college-level studies leading toward a degree.

Independent Nonprofit Research Institutions: Independent legal entities, other than institutions of higher education, which are generally recognized as separately incorporated, nonprofit, tax exempt organizations, and which conduct research as one of their primary purposes.

Research Museums: Independent nonprofit science museums, zoological parks, aquaria, natural history museums, etc., which conduct research as one of their primary purposes.

Consortia: Recognized groups consisting exclusively of two or more eligible organizations. For the purposes of evaluation and review, a consortium will be identified with the organization where the facility proposed for renovation is located.

Research Facilities: The physical plant in which sponsored or non-sponsored research activities (including research training) take place, including related infrastructure and systems (e.g., HVAC and power systems, toxic waste removal systems), and fixed equipment (e.g., clean rooms, fume hoods). This includes all or parts of buildings in which research activities take place some percentage of the time.

Repair: Fixing existing research facilities or otherwise putting them in a usable, adequate and acceptable condition.

Renovation: The renewing, restoring, upgrading, updating, or modernizing of existing research facilities.

Replacement: Taking the place of an existing research facility which is beyond repair or for which renovation is not cost-effective. Replacement includes, but is not limited to: razing an existing research facility and constructing one in its place; and relocating or consolidating existing research facilities.

Research Training: Training of individuals in research techniques where such activities utilize the same facilities as research activities, and where these research activities are not a part of the instruction function of the institution. Research training does not include general science or engineering training or instruction whether in a classroom or instructional laboratory.

Minority Institutions: Historically Black colleges and universities and other institutions whose enrollments are: (a) more than 50 percent of a combination of any of the following groups: Alaskan Native (Eskimo or Aleut), American Indian, Black, Mexican American, Puerto Rican, or Native Pacific Islander; or (b) 20 percent of more of any one of the above eligible minorities.

Eligible Organizations

Proposals may be submitted by institutions of higher education, independent nonprofit research institutions, research museums, and consortia thereof. Proposals must be either for the renovation of one facility (single or multi-disciplinary) or for the renovation of facilities within one discipline.

Eligible Fields of Science

Proposals will be considered for research facilities used for any field of science, mathematics and engineering ordinarily supported by the National Science Foundation, including astronomy, atmospheric sciences, biological and behavioral sciences,

chemistry, computer sciences, earth sciences, engineering, information science, materials research, mathematical sciences, oceanography, physics, and social sciences.

Matching Requirements

Organizations must propose matching or cost-sharing at the level of at least 50% of total eligible project costs. The matching or cost-sharing may be from any private or non-Federal public source and may be in cash or in kind, fairly evaluated (see OMB Circular A-110, Attachment E).

Proposals

Proposals are limited to one per eligible organization per proposal cycle. In addition, an eligible organization may participate in one consortium proposal each proposal cycle.

In order to help simplify and facilitate proposal preparation and processing and to help manage the proposal evaluation process efficiently and effectively, the program is conducted in two phases. This two phase process requires organizations to submit proposals in the first phase without detailed specifications or construction plans. It also enables the Foundation to select those Phase I proposals which are most competitive to determine which organizations will be invited to submit a more detailed proposal for the second phase of competition.

Phase I Proposals

Phase I proposals are directed at describing the current research activities, the research facility problem and the proposed repair or renovation project. Phase I proposals should be brief, direct, and concise.

The following elements should be addressed:

1. *Description of the Research Facility and Limitations.* Identify and describe the research facility including its nature, location, size, configuration, purpose, age, and condition. Discuss the adequacy, limitations, and constraints of the facility. Provide an estimate of the percentages of time or space or combination thereof the facility is used for research and research training.

2. *Research Activities.* Describe the type(s) of research and research training being conducted in the research facility. Identify by number and types (e.g., senior personnel, postdocs, graduate students, undergraduate students) the personnel using the facility for research and research training on a regular basis.

3. *Project and Management Plans.* Describe the scope, extent, type, and nature of the proposed repair/renovation/replacement project. If the project is for replacement, describe, why it is necessary and why repair or renovation is inappropriate.

Describe the management organization for the conduct of the project. Specify the key manager for the project and relevant experience. State the overall schedule for completion of the project.

4. *Project Impacts.* Describe how the repair/renovation/replacement will contribute to improving the organization's research and research training capabilities, improving the academic science and engineering infrastructure, and broadening and strengthening the Nation's science and engineering base.

5. *Budget and Funding.* On the budget form provided, indicate the estimated total eligible project costs and the amount and percentage NSF is being asked to fund. Identify the expected sources of matching funds.

Note: Eligible project costs are those total project costs properly and reasonably allocable to the research facility portion of the project based on the percentage of time or space or combination thereof that the facility is used for research and research training. Eligible project costs may include: A&E services, surveys, testing, inspections, relocation, demolition, removal, construction, fixed equipment, and related engineering management costs. Indirect costs of the proposing organization are not allowed. Costs incurred prior to the effective date of an award under this program are not eligible project costs.

Length

Five (5) single-spaced, standard size, typewritten pages, excluding the cover sheet and budget (no attachments are permitted.

Where to Submit

Ten (10) copies of the Phase I proposal should be submitted to the following address: Proposal Processing Unit, Room 233, National Science Foundation, 1800 G Street, NW., Washington, DC 20550, Attn: Research Facilities/Phase I Proposal.

Deadlines and Training

October 15 annually. Approximately three months after submission of Phase I proposals, proposers will be notified as to the status of their proposals. Proposers either will be invited to submit a Phase II proposal or their proposal will be declined.

Phase II Proposals

Only those who submitted a Phase I proposal and are invited to submit a Phase II proposal are eligible to compete in Phase II. In addition to the *NSF Cover Page*, indicating the proposal number assigned to the Phase I proposal, and the *Table of Contents*, containing page numbers of the major sections of the proposal, Phase II proposals should address all of the information required in Phase I in greater detail, as appropriate, and in addition address the following requirements:

1. *Description of the Research Facility and Limitations.* Describe in detail the adverse impact the limitations have on the quality of research and research training performed by those who utilize the facility. Indicate the percentage of time or space or combination thereof the facility is used for research and research training and how the percentage was determined.

2. *Research Activities.* Describe the research activities and projects being conducted in the research facility and sources of support, if any. Identify the senior personnel using the facility for research, and for each provide a brief biographical sketch and list up to five recent publications most relevant to the research being conducted in the research facility.

3. *Project and Management Plans.* Provide detailed plans on the proposed repair/renovation/replacement. Explain who will do the work, e.g., in-house personnel or competitive contracting. One set of complete drawings and specifications should be provided as an appendix to the Phase II proposal.

Provide detailed schedules for the conduct of the project from the time of project approval to project completion. Discuss the relationship to other organizational facility plans and activities, the expected use of experts, plans for continuing current research activities during the renovation phase, and other relevant plans. Also indicate plans for the operation/maintenance of the facility.

4. *Project Impacts.* Describe how the upgraded facility will contribute to meeting the research needs of the organization, the region, and the nation. Discuss the potential of the improved facility to contribute to the improvement of the quality, distribution and effectiveness of the Nation's research and education capabilities. Indicate how the project will attract researchers and students and contribute to increasing the number of students entering the pipeline leading to advanced degrees in science and engineering and improving the quality of their education.

5. *Budget and Funding.* Provide a detailed budget of total eligible project costs, by categories, on the budget form provided. Specify the expected sources of cost-shared or matching funds (e.g., state appropriations, endowment, debt

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financing); the plans for obtaining such matching; and when such cost-sharing or matching will be available.

Note: Eligible project costs are those total project costs properly and reasonably allocable to the research facility portion of the project based on the percentage of time or space or combination thereof that the facility is used for research and research training. Eligible project costs may include: A&E services, surveys, testing, inspections, relocation, demolition, removal, construction, fixed equipment, and related engineering management costs. Indirect costs of the proposing organization are not allowed. Costs incurred prior to the effective date of an award under this program are not eligible projects costs.

6. *Previous Federal Awards*—Identify by agency, purpose, year, and amount any federal awards received for the repair, renovation, construction, or replacement of academic facilities in the previous five years.

Length

Fifteen (15) single-spaced, standard size, typewritten pages, excluding the cover sheet and budget. One set of complete drawings and specifications should be provided as an appendix.

Where to Submit

Fifteen (15) copies of the Phase II proposal should be submitted directly to the Research Facilities Office at the following address: Research Facilities/ Phase II Proposal, Room 1240, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Deadlines and Timing

May 1 annually. Phase II proposals must be submitted in the Phase II cycle immediately following submission of the Phase I proposal.

Review and Selection

For the purposes of competition, review, evaluation, and final rankings, Phase I and Phase II proposals will be separated into three different groups based on the average amount of NSF research and development funds received by the proposing organization in the previous three fiscal years (as determined by NSF).

- Group I consists of those organizations that have received an average of $2 million or more;
- Group II consists of those organizations that have received an average of less than $2 million but equal to or greater than $400,000;
- Group III consists of those organizations that have received an average of less than $400,000.

(Appendix A indicates the organizations in Groups I and II. Organizations not identified in I or II may assume they are in Group III, unless otherwise advised by NSF. Inclusion on the listing does not necessarily mean an organization is eligible under this program; see the section on "Eligible Organizations," above.)

Phase I and Phase II proposals will be evaluated on the basis of merit review. Reviews may include staff reviews, ad hoc mail reviews, panel reviews, and site visits. Outside reviewers will be broadly representative of the various types of eligible organizations.

Evaluation criteria will include:

1. *Research Merit.* Consideration of the existing research (and research training) activities and assessment of the impact the facility renovation/ repair/replacement project will have on the overall quality and significance of the current and expected research and research training activities carried out in the facility.

2. *Facility Need.* The adequacy and appropriateness of the facility for current and expected research activities and research training, as well as any demonstrated need based on age and condition analysis.

3. *Infrastructure Contribution.* The contribution of the project toward:

(a) The future research (including research training needs of the Nation and the research mission of the Foundation;

(b) Meeting national, regional, and organizational research and related training needs;

(c) Improving the organization's academic scientific and engineering infrastructure and broadening the Nation's science and engineering base; and

(d) Improving the quality, distribution, or effectiveness of the Nation's scientific and engineering research and education capabilities.

4. *Plans and Funding.* The qualifications and experience of the project director to plan, lead, and manage the project. The technical soundness of the proposed plans and approach. The reasonableness and appropriateness of the costs and budget, matching, and organizational and management plans.

The first three criteria are of approximately equal weight. The last criterion, while of lesser weight than each of the first three, is of critical importance, and projects must be acceptable in this area in order to be funded.

Additional Considerations

In addition to the four evaluation criteria stated above, NSF must, by law, consider the following factor in making awards under this program:

- Equitable distribution of funds among organizations of different sizes and geographic locations;
- The extent to which an organization has received awards for the repair, renovation, construction, or replacement of academic facilities from any other Federal funding source within the 5-year period immediately preceding the application; and
- A minimum 12% of the funds available under this program must go to Minority Institutions as defined in this Program Announcement.

In making final decisions on awards, NSF will give additional consideration to proposals offering significantly higher percentages of matching or cost-sharing than the minimum required under the program.

Awards

NSF award amounts may range from $100,000 to $7 million. Total awards under this program to any eligible organization shall not exceed $7 million during any five year period.

NSF awards may be made contingent on the awardee obtaining the required matching or cost-sharing within a certain time period. However, NSF award funds cannot be expended until required matching or cost-sharing commitments have been met. The duration of NSF awards is not expected to exceed two years. Awards and supported projects may be subject to certain federal or other standards, codes, regulations, or requirements.

ATTACHMENT A

Group I Organizations

Arizona State University
Boston University
Brandeis University
Brown University
California Institute of Technology
Carnegie-Mellon University
Case Western Reserve University
Children's TV Workshop
Colorado State University
Columbia University
Consortium for Scientific Computing
Cornell University
CUNY-City College
Dartmouth College
Drexel University
Duke University
Florida State University
Georgia Institute of Technology—All Campuses
Harvard University
Indiana University—All Campuses
Iowa State University of Science & Technology
Johns Hopkins University
Joint Oceanographic Institutions, Inc.
Lehigh University
Louisiana State University—All Campuses
Massachusetts Institute of Technology
Mathematical Sciences Research Institute

Michigan State University
National Academy of Sciences
New York University
North Carolina State University—Raleigh
Northeastern University
Northwestern University
Ohio State University—All Campuses
Oregon State University
Pennsylvania State University—All Campuses
Princeton University
Purdue University—All Campuses
Rensselaer Polytechnic Institute
Rice University
Rutgers State University of New Jersey
SRI International
Stanford University
SUNY—Albany
SUNY—Buffalo
SUNY—Stony Brook
Syracuse University—All Campuses
Texas A&M University—All Campuses
University of Alaska—Fairbanks
University of Arizona
University of California—Berkeley
University of California—Davis
University of California—Irvine
University of California—Los Angeles
University of California—Riverside
University of California—San Diego
University of California—Santa Barbara
University of California—Santa Cruz
University of Chicago
University of Cincinnati—All Campuses
University of Colorado
University of Connecticut
University of Delaware
University of Florida
University of Georgia
University of Hawaii—Manoa
University of Houston
University of Illinois—System Office
University of Illinois—Urbana
University of Iowa
University of Kansas
University of Kentucky
University of Maryland—College Park
University of Massachusetts—System Office
University of Michigan
University of Minnesota
University of Missouri—Columbia
University of Nebraska—Lincoln
University of New Mexico
University of North Carolina—Chapel Hill
University of Notre Dame
University of Oklahoma
University of Oregon
University of Pennsylvania
University of Pittsburgh
University of Rhode Island
University of Rochester
University of South Carolina—All Campuses
University of Southern California
University of Tennessee—Knoxville
University of Texas—Austin
University of Utah
University of Virginia
University of Washington
University of Wisconsin—Madison
University of Wyoming
Utah State University
Vanderbilt University
Virginia Polytechnic Inst & State University
Washington State University
Washington University
Woods Hole Oceanographic Institute
Yale University

Group II Organizations

American Association of Physics Teachers
American Mathematical Society
American Statistical Association
American University
Auburn University—All Campuses
Baylor College of Medicine
Boston College
Brigham Young University—All Campuses
California State Univ., Fullerton
California State Univ., Los Angeles
Carnegie Institution of Washington
Catholic University of America
Clarkson University
Clemson University
Cold Spring Harbor Lab
College of William and Mary
Colorado School of Mines
Columbia University Teachers College
Center for Advanced Study Behavioral Science
CUNY—Brooklyn College
CUNY—Hunter College
CUNY—Mount Sinai School of Medicine
CUNY—Queens College
DOSECC, Inc.
Education Development Center
Emory University
Field Museum of Natural History
Franklin Institute—Bartol Research Foundation
George Washington University
Georgetown University
Georgia State University
Howard University
Illinois Institute of Technology
Institute for Cancer Research
Kansas State University of Ag & Applied Science
Kent State University—All Campuses
Marine Biological Lab
Marquette University
Medical University of South Carolina
Meharry Medical College
Miami University—All Campuses (OH)
Michigan Technological University
Missouri Botanical Garden
Montana State University
N E Research Foundation
National Opinion Research Center
National Public Radio
National Bureau of Economic Research, Inc.
National Science Teachers Association
N E Radio Observatory Center
New Mexico Institute of Mining & Technology
New Mexico State University—All Campuses
New York Botanical Garden
Northern Arizona University
Northern Illinois University
Ohio University—All Campuses
Oklahoma State University
Old Dominion University
Oregon Graduate Center
Polytechnic University
Portland State University
Rand Corporation
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William B. Cole, Jr.,

Executive Officer, Research Facilities Office, National Science Foundation.

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Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 46
Federal Acquisition Regulation (FAR); Inspection for Commercial Off-the-Shelf Supplies (Quality Assurance); Proposed Rule

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 46

Federal Acquisition Regulation (FAR); Inspection for Commercial Off-the-Shelf Supplies (Quality Assurance)

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to FAR Part 46, Quality Assurance, to more clearly define under what circumstances the Government should rely on inspection and testing by contractors when acquiring commercial or off-the-shelf supplies.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before June 19, 1989, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89–21 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 46.203 provides general criteria for selecting which quality requirements shall be applicable to a particular contract. The criteria to be considered include the technical description of the item, its complexity, and its intended application. Based on these criteria, Government reliance on contractor performed inspection and testing would be sufficient for many procurements of commercial or off-the-shelf supplies. However, FAR 46.301 and 46.302 indicate that Government inspection of such supplies is required when a procurement is expected to exceed the small purchase limit, without regard to the complexity or intended application of the supplies.

The proposed changes to the FAR will make reliance on contractor testing and inspection for commercial or off-the-shelf supplies the general rule, with standard inspection or higher-level quality requirements being the exception.

B. Regulatory Flexibility Act

The rule, which concerns inspection and testing by contractors when acquiring commercial or off-the-shelf supplies, does not change existing policy on the subject; it merely clarifies such policy. Consequently, the rule will not, if promulgated, have a significant impact on a substantial number of small entities. Therefore, an Initial Regulatory Flexibility Analysis has not been prepared. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR Subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite CASE 89–610 (FAR Case 89–21) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) is deemed to apply because the proposed rule contains information collection requirements. Accordingly, a request for review and approval of a currently approved information collection requirement concerning Quality Assurance, and assigned OMB 9000–0077 control number, is being submitted to the Office of Management and Budget under 44 U.S.C. 3501, et seq. Public comments concerning this request will be invited through a subsequent **Federal Register** notice.

List of Subjects in 48 CFR Part 46

Government procurement.

Dated: April 12, 1989.

Harry S. Rosinski

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Part 46 is amended as set forth below:

1. The authority citation for 48 CFR Part 46 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 46—QUALITY ASSURANCE

2. Section 46.202-1 is amended by revising paragraph (a) to read as follows:

46.202–1 Government reliance on inspection by contractor.

(a) Except as specified in paragraph (b) of this subsection, the Government shall rely on the contractor to accomplish all inspection and testing needed to ensure that (1) supplies or services acquired under small purchases, and (2) commercial or off-the-shelf supplies acquired under fixed-price contracts, conform to contract quality requirements before they are tendered to the Government (see 46.301).

* * * * *

3. Section 46.301 is revised to read as follows:

46.301 Contractor inspection requirements.

(a) Except as specified in paragraph (b) of this section, the contracting officer shall insert the clause at 52.246–1, Contractor Ispection Requirements, in solicitations and contracts—

(1) For commercial or off-the-shelf supplies, regardless of dollar amount, when a fixed-price contract is contemplated; and

(2) For other than commercial or off-the-shelf supplies, when the contract amount is expected to be within the small purchase limitation; and

(i) Inclusion of the clause is necessary to ensure an explicit understanding of the contractor's inspection responsibilities; or

(ii) Inclusion of the clause is required under agency procedures.

(b) The clause at 52.246–1 shall not be used if the contracting officer has made the determination specified in 46.202–1(b).

4. Section 46.302 is revised to read as follows:

46.302 Fixed-price supply contracts.

(a) Except as specified in paragraph (d) of this section, the contracting officer—

(1) Shall insert the clause at 52.246–2, Inspection of Supplies—Fixed-Price, in solicitations and contracts for supplies, or services that involve the furnishing of supplies, when a fixed-price contract is contemplated and the contract amount

is expected to exceed the small purchase limitation; and

(2) May insert the clause at 52.246–2 in such solicitations and contracts when the contract amount is expected to be within the small purchase limitation and inclusion of the clause is in the Government's interest (see 46.203).

(b) If a fixed-price incentive contract is contemplated, the contracting officer shall use the clause with its Alternate I.

(c) If a fixed-ceiling-price contract with retroactive price redetermination is contemplated, the contracting officer shall use the clause with its Alternate II.

(d) The clause at 52.246–2 shall not be used if the clause at 52.246–1, Contractor Inspection Requirements, is used.

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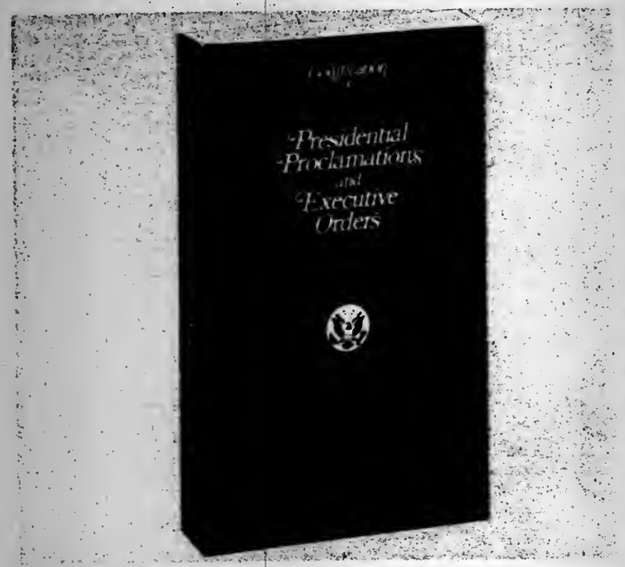
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Rules and Regulations

Federal Register
Vol. 54, No. 76
Friday, April 21, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Order in Which Officers of the Department Shall Act as Secretary

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture to reflect changes in the order in which officers of the Department shall act as Secretary.

EFFECTIVE DATE: April 21, 1989.

FOR FURTHER INFORMATION CONTACT: Robert Siegler, Deputy Assistant General Counsel, Office of the General Counsel, United States Department of Agriculture, Washington, DC 20250, (202) 447-6035.

SUPPLEMENTARY INFORMATION: Executive Order No. 11957, dated January 13, 1977 (42 FR 3295), empowers the Secretary of Agriculture to prescribe the order in which officers from the Department of Agriculture shall act as Secretary during periods when both the Secretary and the Deputy Secretary are not available to exercise the powers or perform the duties of the Office of Secretary.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rule making and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order No. 12291. Finally, this action is not a rule as defined by Pub. L. No. 96-354, the Regulatory Flexibility Act, and, thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

Accordingly, Part 2, Title 7, Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for Part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart A—General

2. Section 2.5 is revised to read as follows:

§ 2.5 Order in which Officers of the Department shall act as Secretary.

(a) Pursuant to Executive Order No. 11957, dated January 13, 1977 (42 FR 3295), in the case of the absence, sickness, resignation, or death of both the Secretary and the Deputy Secretary, the officials designated below shall act as Secretary in the order in which they are listed. Each official shall act only in the absence, sickness, resignation, or death of the immediately preceding official:

(1) The Under Secretary for International Affairs and Commodity Programs;

(2) The Under Secretary for Small Community and Rural Development;

(3) The General Counsel.

(b) In the case of the absence, sickness, resignation, or death of the Secretary, the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and the General Counsel, the Assistant Secretary for Marketing and Inspection Services, the Assistant Secretary for Food and Consumer Services, the Assistant Secretary for Natural Resources and Environment, the Assistant Secretary for Economics, the Assistant Secretary for Science and Education, the Assistant Secretary for Governmental and Public Affairs, and the Assistant Secretary for Administration shall act as Secretary in the order in which they have taken office as an Assistant Secretary. In the event that any two or more Assistant Secretaries shall have taken office on the same date they shall act as Secretary in the order listed herein.

Date: April 15, 1989.

Clayton Yeutter,

Secretary of Agriculture.

[FR Doc. 89-9561 Filed 4-20-89; 8:45 am]
BILLING CODE 3410-14-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 662]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 662 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 350,000 cartons during the period April 23 through April 29, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 662 (§ 910.962) is effective for the period April 23 through April 29, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act,

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and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1988–89. The Committee met publicly on April 11, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that demand for lemons is strong.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreement and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.962 is added to read as follows:

Note.—This section will not appear in the Code of Federal Regulations.

§ 910.962 Lemon Regulation 662.

The quantity of lemons grown in California and Arizona which may be handled during the period April 23, 1989, through April 29, 1989, is established at 350,000 cartons.

Dated: April 19, 1989.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-9782 Filed 4-20-89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-CE-14-AD; Amendment 39-6195]

Airworthiness Directive; Piper PA-28 and PA-32 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, rescission.

SUMMARY: This amendment rescinds Airworthiness Directive (AD) 87-08-08, and all revisions thereto, applicable to certain Piper PA-28 and PA-32 series airplanes. This AD required, (1) a visual inspection with a 10-power magnifying glass and a dye penetrant inspection of the lower spar cap for both wings; (2) replacement of any spars found to be cracked; and (3) visual inspection of the wing upper skin for cracks and repair as required. This AD was issued following an in-flight wing failure on a Piper PA-28 airplane. Subsequent to its issuance, the FAA has learned that two Piper PA-32-300 airplanes were found to have similar type cracks. Piper Aircraft Corporation has presented evidence that these airplanes were subjected to heavy use and extensive damage. An extensive evaluation of the fracture surface from these airplanes has shown that it would require an extraordinary stress level to produce the growth rate of those cracks. Therefore, such failure is not likely to exist or develop in other Piper Model airplanes of the same type design operated in a normal manner.

EFFECTIVE DATE: May 22, 1989.

ADDRESSES: Piper Service Letter No. 997, dated May 14, 1987, and Piper Service Bulletin No. 886, dated June 8, 1989, applicable to this AD may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the Rules Docket, FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles L. Perry, ACE-120A, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, FAA, Suite 210C, 1669 Phoenix Parkway, Atlanta, Georgia 30349; Telephone (404) 991-2910.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by rescinding AD 87-08-08, Amendment 39-5615; AD 87-08-08R1, Amendment 39-5669; and AD 87-08-08R2, Amendment 39-5731, pertaining to certain Piper PA-28 and PA-32 series airplanes was published in the **Federal Register** on August 31, 1988 (Volume 53, No. 169, page No. 33501). The proposal resulted from a reevaluation of AD 87-08-08, Amendment 39-5615 (52 FR 15302, April 28, 1987), which was issued to require on certain Piper Model PA-28 and PA-32 series airplanes: (1) The removal of both wings and a visual inspection with a ten power magnifying glass and a dye penetrant inspection of the lower spar cap for both wings; (2) The replacement of any spars found to be cracked; and (3) visual inspection of the wing upper skin for cracks and repair as required. AD 87-08-08R1, Amendment 39-5669 (52 FR 29505, August 10, 1987), which was issued effective August 12, 1987, revised the AD to delete the Model PA-28-201T since it was verified that its spar design configuration was different in detail and should not have been included. On September 28, 1987, the AD was suspended by AD 87-08-08R2 (Amendment 39-5731, 52 FR 35907) pending further evaluation, since it was becoming apparent, from the relevant data being collected, that only those airplanes used in a severe operating environment were susceptible to fatigue cracks.

The original AD was issued following an in-flight wing separation of a Piper PA-28-181, S/N 8090115, on March 30, 1987, near Marlin, Texas. The airplane was flying low level pipeline patrol at the time of the accident. Investigation revealed that the left wing separated from the airplane at the lower spar wing root attachment to the fuselage. National Transportation Safety Board, FAA, and Piper Aircraft Corporation personnel determined that the lower cap on the main spar had sustained a fatigue failure. The lower cap had a fatigue crack across its forward face just outboard of the outboard attachment hole. During the time that the unrevised AD was in effect, approximately 560 spar inspections were performed. These inspections resulted in three additional reports of spar cracks in two PA-32-300 airplanes operated in Alaska. It was determined that these airplanes had been operated in a severe environment based on repairs recorded in the airplane logbooks and their general condition. The environment included rough rock/gravel fields and overweight operation. Prior to the accident leading to the issuance of the original AD, neither the FAA nor the Piper Service Department had received a report of problems in the area where the cracks occurred. However, the FAA realized that the inspections required would necessitate the removal and reinstallation of high tolerance critical wing spar attachment bolts; and, that if this was not done carefully, such process could cause damage to the wing spar cap material that could in turn result in a future fatigue failure. There are airplanes in the fleet with 19,000 plus hours time-in-service (TIS) that complied with the inspections of the AD and reported no cracks found.

Fatigue tests were conducted on a full-scale test article in the late 1950's and early 1960's prior to certification of the PA-28. These tests were run to the equivalent of 300,000 unfactored cycles with no failure. The FAA has carefully reviewed all of the available information including a credible fracture mechanics analysis. Striation counts on the fracture surface of the spar cap removed from one airplane showed that it would require extraordinary stress levels to produce the growth rate found. Airplanes operated in a normal general aviation type environment would not be exposed to sufficient loads to create these high stress levels. Therefore, it is concluded that the cracks found were isolated occurrences and those failures are not likely to exist or develop in other PA-28 series or PA-32 series airplanes operated in a normal manner.

In addition, Piper conducted an extensive fracture mechanics and fatigue analysis program to establish more accurately an inspection threshold and appropriate reinspection intervals based on different categories of airplane operations. Their study showed that airplanes used for low level pipeline patrol have a fatigue life approximately 20 times less than airplanes used for normal operations. Piper issued Service Bulletin (SB) No. 886, dated June 8, 1988, addressing the spar damage that can occur from different types of operational usage and providing applicable inspection thresholds, intervals, and procedures for detecting damage. This SB should serve to alert owners and operators of PA-28 series or PA-32 series airplanes used in severe operational environments to inspect the wing spar/fuselage attachments. In addition to this SB, information will be provided in the appropriate maintenance manuals to fully ensure that pilots and mechanics are aware of the effect severe operational usage has on the structural durability of an airplane, and the need for repetitive inspections of the wing spar attachment area for cracks. The SB also specified an initial inspection threshold of 30,600 hours TIS for normal usage airplanes which was also based on the above mentioned study. Since the high time airplane in the fleet has only accumulated approximately 19,000 hours TIS, and furthermore, only a relatively few airplanes have accumulated more than 10,000 hours TIS, no action is deemed necessary at this time. The FAA will continue to monitor the service history of these high time airplanes and as the 30,600 hour TIS threshold is approached, appropriate regulatory action may be considered. Consequently, as a result of the approximately 560 wing spar inspections, the fatigue study, and the SB, the FAA proposes to rescind AD 87-08-08.

Interested persons have been afforded an opportunity to comment on the proposal. Forty-seven commentors responded. Forty-five of the commentors provided responses to the proposals that were similar in nature. First and foremost, these forty-five commentors supported rescinding the AD. Nearly half of the commentors stated there was a lack of justification for an AD. The possible adverse effect on wing attachment structure caused by wing removal and reinstallation was mentioned by several commentors. Several of these commentors cited airplanes with wing cracks which were the result of use in severe operational environments. Other commentors pointed out the lack of any real safety benefits arising from the AD. The commentors citing a lack of justification for the AD were doing so on the basis of the many inspections performed on airplanes around the world without detecting cracks, except for those two airplanes in Alaska that were operated in a severe environment. Since there is such a large fleet of airplanes and the approximate 560 inspections represent a substantial sample, this does provide a sound basis for this assumption. Furthermore, the extensive fracture mechanics and fatigue analysis programs submitted to the FAA by Piper concerning airplanes with less than 30,000 hours, provide additional evidence that airplanes used for normal flight should not be affected. Wing removal and reinstallation was a concern from the time the original AD was considered. The fatigue life of a joint is highly dependent on the quality of the hole. Removal and replacement of tight-fitting bolts can create stress risers which result in earlier than usual fatigue failures. The risk of damage during this operation can be higher than the risk of failure on airplanes operated in a more benign environment. As some of the commentors mentioned, the cracks that have been documented have occurred only on airplanes that fall in the categories of abused airplanes or those used in a severe operating environment. Examination of the airplane log books of the airplanes that were operated in Alaska makes it quite evident that the airplanes were subjected to severe use.

The examinations of the right inboard section of spar from one of those airplanes by an independent laboratory reveal that at some point it was subjected to abnormally high loads. The same laboratory examined the cracked spar of the pipeline patrol airplane that crashed and observed that the problem resulted from an unusual use of the airplane. The commentors who cited a lack of safety benefits indicated that there is no structural problem based on the inspections and accordingly, no substantiated safety benefit commensurate with the cost. For the general flying public who do not use their airplanes in any of the risk categories, the wing spar inspections are supporting evidence. In fact, the FAA mandated inspection program did not find cracks other than in the Alaskan airplanes and the fatigue analysis/fracture mechanics program reports corroborate the commentors' opinions. However, for those airplanes that are abused or operated in a severe environment, there are safety benefits

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since the inspection of airplanes in accordance with Piper SB No. 886 could detect a crack that may represent a potential for a catastrophic failure. The FAA position is to rescind the AD and encourage voluntary compliance with the SB. There were eighteen comments regarding cost. They were outright statements that the cost of this inspection is extremely high or the safety benefits were not commensurate with the cost of the inspection. The FAA agrees. A commentor responded that Piper Aircraft Corporation issued FAA-approved SB No. 886, dated June 8, 1988, which provides for an inspection program for the wing spars in PA-28 and PA-32 series airplanes. The commentor stated that only those airplanes subjected to "severe" operational conditions, those damaged from exposure to "extreme" usage, or those for which the operational histories are "unknown" are candidates for wing spar inspections at a relatively low number of hours TIS. The commentor is concerned that none of the inspections established in SB No. 886 are required inspections. The commentor further states that the operating histories of many of the older airplanes may be difficult if not impossible to accurately establish, and the owners of these airplanes may tend to ignore the provisions of SB No. 886. As a consequence, the commentor believes that unless the provisions of SB No. 886 are made mandatory by airworthiness directive, the probability of further wing spar failures may be significant among the approximately 38,500 PA-28 and PA-32 airplanes that are affected. Therefore, the commentor believes that the AD should be amended to mandate the inspection provisions of Piper SB No. 886. However, the FAA has no evidence to indicate that the vast majority of airplanes are utilized in abnormal operating environments. The FAA believes that the owners/operators of airplanes used for this type of flying are concerned enough about flying safety to comply with the SB if their airplane is subjected to one of the categories of usage specified. As the commentor pointed out, it is difficult, if not impossible, to accurately establish the operating histories of the older airplanes. If the FAA mandated SB No. 886 with an AD, it would be impossible for the FAA to establish conclusively which airplanes must comply with the SB. Therefore, from an enforcement standpoint, the FAA would find it difficult, if not impossible, to require compliance with the AD because positive proof of the airplane usage would be lacking. Consequently, the FAA position remains to rescind the AD and encourage voluntary compliance with the SB.

Another commentor who did not concur with rescinding the AD addressed the operating environment of the airplanes in Alaska with known wing spar cracks. The commentor suggested that the spar cracks resulted from a loading environment which produced high-cycle fatigue failures rather than severe usage resulting in structural static overloads. The commentor made reference to the spar crack examination that showed approximately 20,000 relatively uniform striations as strong evidence of high-cycle fatigue. He expressed a concern that cracks are small and hard to detect and although the basic steps of dye penetrant testing are known to most aviation technicians, the individual techniques can cause significant variations in the results. The commentor further denied claims of overgross and rough field operations and also denied that the airplanes were highly modified. Even so, he did mention that the Alaskan airplanes did endure a lot of use and varying degrees of main gear damage. He alleged that turbulence in Alaska is generally not as significant as that found during summer afternoons and in mountainous areas of the lower 48 States. He requested that a caution note should be added to the AD requiring particular attention to the front spar attach point bushing, as it is very small and easily lost when reinstalling the wings, and cannot reliably be determined to be in place once the wing is installed. Also, the commentor indicated that the AD should show the location and orientation of the tapered skins underneath the spar cap where the main spar is bolted into the fuselage. He also indicated that an experienced shop can remove PA-28/32 wings for inspection easily and quickly with little chance of damage to the airplane. Furthermore, he stated that the inspection and reinspection intervals should be established after new studies are made by an independent source. He recommended that "Classes of Service" published in the Piper SB should be discarded and that the AD should be reissued.

The commentor's position of excluding overload and severe use in favor of high cycle fatigue does not adequately substantiate that the Alaskan airplanes only engaged in normal usage. Piper and FAA engineers went to Alaska to observe the cracks in wing spars of the Alaskan airplanes. Those airplanes revealed landing gear modifications per STC SA281AL. The nose and main tires on the airplanes were 6-ply rating Goodyear 8.00-6 and 8.50-6, respectively. The tires were inflated to 35 psi and the struts inflated to expose an additional 2 inches of strut. Also, a Cleveland 199-62 wheel and brake conversion kit was used.

Investigation revealed the STC was for nose gear only and the main gear modification was apparently approved by FAA Form 337 (field approved). The airplane logbook entries showed several significant structural replacements/repairs. There were numerous entries in both airplane logbooks of landing gear scissors being replaced. Physical observations of the two airplanes revealed other apparent replacement/repairs and other damage. It was determined that the airplanes were occasionally used to haul 1/2 ton caribou and snowmobiles, as well as operate from tundra, ice and gravel bottoms. Also, gussets were added to the engine mount gear attach area due to mount failures induced by nose gear loads. An analysis by an independent laboratory of the accident PA-28-181 airplane concluded that the problem results from unusual use of the airplane. This included observation of striation spacing which suggests high stress (low cycle) fatigue. It is apparent that cracks will not initiate unless fretting occurs. The area was inspected using a stereomicroscope and a scanning electron microscope. During the fracture surface examination, striation spacing counts were performed. Results of this analysis indicated the load cycles applied (which were sufficient to cause crack propagation) from the time the crack began to propagate from a depth of 0.030 inches until it failed would be approximately 15,000 to 20,000 cycles. This is a low number of cycles and from a knowledge of fatigue, it is apparent that high stresses (high loads) would be required to cause crack propagation to critical crack. This appears to relate to the abnormal loads incurred in pipeline patrol airplanes.

In regard to methods of inspections several alternatives were investigated. Piper contracted with a consulting firm who specializes in non-destructive test methods. They evaluated eddy current (hole and surface probes), ultrasonic, radiographic (x-ray), visual (magnified), and dye penetrant or fluorescent NDI methods. Their conclusions are as follows:

Eddy Current—Ultrasonic—Radiographic
—No evidence of adequate reliability.
—Would require technical specialists.
—Limited access in the field to equipment.
—Known damage must be found to establish a model.
—If in doubt, remove wing.

Visual with Magnification—Dye Penetrant Verification
—Highly reliable.
—No extraordinary training or experience required.
—High confidence level of detection.

In his efforts to show that the Alaskan airplanes were utilized mostly in normal flight and not abused or highly modified, the commentor seemed to confirm just the opposite. He mentioned, as previously noted, that the airplanes did suffer a lot of use and sustained various degrees of main gear damage. The FAA regards the commentor's statements, that turbulence is generally not as significant as that found during summer afternoons and in mountainous areas of the lower 48 states, as unverified. He did not offer any substantiating data to support his allegations.

His comment regarding the ease with which an experienced shop can remove PA-28/32 wings for inspection easily and quickly with little chance of damage to the airplane, is not supported by others. In response to an earlier comment it was noted that removal and replacement of tight fitting bolts can create stress risers which result in premature fatigue failures. His comments pertinent to a caution note that should be added to the AD regarding the front attach bushing and tapered shims underneath the spar caps, articulate a problem that has previously been discussed with Piper. Piper has prepared a change to the maintenance manual that reflects the correct procedure to follow with this installation. The commentor requested that the "classes of service" published in the Piper SB should be discarded and the AD reissued after studies by an independent source. The FAA has determined that additional studies would serve no useful purpose. The fracture surfaces were previously examined by an independent lab. Also, Piper contracted with Lockheed-Georgia Company to conduct the fracture mechanics evaluation which was used to establish the inspection and reinspection intervals incorporated into the SB. The FAA position, which is based upon the data collected from the inspections, the independent laboratory analysis of the fracture surface, the fracture mechanics/fatigue analysis submitted by Piper and observations of the Alaskan airplanes, is to rescind the AD and to encourage voluntary compliance with the SB. Therefore, the proposal is not being changed in light of this comment. Accordingly, the proposal is adopted without change.

There are approximately 38,500 airplanes affected by this action. Since Revision 2 to the AD suspended the effective date of the AD, the cost of this Rescission is estimated to be negligible to the private sector.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By rescinding AD 87-08-08, Amendment 39-5615; AD 87-08-08R1, Amendment 39-5669; and AD 87-08-08R2, Amendment 39-5731.

This amendment becomes effective on May 22, 1989.

Issued in Kansas City, Missouri, on April 6, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9587 Filed 4-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-ACE-21]

Alteration of Transition Area—Estherville, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Estherville, Iowa. An instrument approach procedure for the Estherville, Iowa, Municipal Airport based on the Swan Lake nondirectional radio beacon (NDB) has been canceled. Accordingly, that portion of the Estherville transition area airspace designed to protect this approach procedure is no longer required and is being deleted from the present transition area description. Action is also taken herein to correct minor errors in the coordinates of the Estherville Airport.

EFFECTIVE DATE: 0901 u.t.c., June 1, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On December 23, 1988, the FAA published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations, (14 CFR Part 71) so as to alter the transition area at Estherville, Iowa, (53 FR 51823). Action is also taken herein to correct minor errors in the Estherville Airport coordinates.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Except for editorial changes, this amendment is the same as that which was proposed in the Notice. Section 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6E, dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the description of the Estherville, Iowa, transition area. An instrument approach procedure for the Estherville, Iowa, Municipal Airport

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based on the Swan Lake NDB has been canceled. Therefore, that portion of the Estherville, Iowa, transition area designed to protect this approach is no longer required and the Estherville transition area is being redescribed to delete this airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the FAR (14 CFR Part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Estherville, Iowa [Revised]

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Estherville Municipal Airport (lat. 43°24'30"N., long. 94°44'46"W.); within 3 miles each side of the 175° radial from the Estherville VOR (lat. 43°24'37"N., long. 94°44'20"W.), extending from the 6½ mile radius area to 8½ miles south of the VOR; within 3 miles each side of the 340° radial from the Estherville VOR extending from the 6½ mile radius areas to 8½ miles north of the VOR, excluding that portion that overlies the Emmetsburg, Iowa, Transition Area.

This amendment becomes effective at 0901 u.t.c. June 1, 1989.

Issued in Kansas City, Missouri, on March 27, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89-9591 Filed 4-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-ACE-22]

Alteration of Transition Area—Sac City, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Sac City, Iowa. An instrument approach procedure for the Sac City, Iowa, Municipal Airport utilizing the Sac City nondirectional radio beacon (NDB) has been canceled. Accordingly, that portion of the Sac City transition area airspace designed to protect this approach procedure is no longer required and is being deleted from the present transition area description. Action is also taken herein to correct minor errors in the coordinates for the Sac City Airport.

EFFECTIVE DATE: 0901 u.t.c., June 1, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On December 23, 1988, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area at Sac City, Iowa (53 FR 51824). Action is also taken herein to correct minor errors in the coordinates for the Sac City Airport and the Sac City NDB.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Except for editorial changes, this amendment is the same as that which was proposed in the Notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the description of the Sac City, Iowa, transition area. An instrument approach procedure for the Sac City Municipal Airport, utilizing the 138° bearing of the Sac City NDB has been canceled. Therefore, that portion of the Sac City transition area designed to protect this approach is no longer required and the Sac City transition area is being redescribed to delete this airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a rountine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the FAR (14 CFR Part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Sac City, Iowa [Revised]

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Sac City Municipal Airport (lat. 42°22'49" N., long. 94°58'46" W.), within 3 miles each side of the 172° bearing from the Sac City NDB (lat. 42°22'33" N., long. 94°58'51" W.), extending from the 6½ mile radius area to 8½ miles south of the NDB.

This amendment becomes effective at 0901 u.t.c. June 1, 1989.

Issued in Kansas City, Missouri, on March 27, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89-9589 Filed 4-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-ACE-23]

Alteration of Transition Area—Vinton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Vinton, Iowa. An instrument approach procedure for the Vinton Veterans Memorial Airpark, Vinton, Iowa, utilizing the Garrison nondirectional radio beacon (NDB) has been canceled. Accordingly, that portion of the Vinton, Iowa, transition area airspace designed to protect this approach procedure is no longer required and is being deleted from the present transition area description.

EFFECTIVE DATE: 0901 U.T.C., June 1, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On December 23, 1988, the FAA published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area at Vinton, Iowa (53 FR 51825).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the description of the Vinton, Iowa, transition area. An instrument approach procedure for the Vinton Veterans Memorial Airpark utilizing the 310° bearing of the Garrison NDB has been canceled. Therefore, that portion of the Vinton transition area designed to protect this approach is no longer required and the Vinton transition area is being redescribed to delete this airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the FAR (14 CFR Part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Vinton, Iowa [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Vinton Veterans Memorial Airpark (lat. 42°13'03" N., long 92°01'43" W.), and within 2 miles each side of the Garrison NDB (lat. 42°13'16" N., long. 92°01'12" W.), 103° bearing, extending from the 5-mile radius area to 7 miles east of the airport.

This amendment becomes effective at 0901 U.T.C. June 1, 1989.

Issued in Kansas City, Missouri, on March 27, 1989.

Clarence E. Newbern,

Manager, Air Traffice Division.

[FR Doc. 89-9588 Filed 4-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-AGL-31]

Alteration of Transition Area—Austin, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to alter the Austin, MN, transition area to accommodate a new VOR RWY 18 Standard Instrument Approach Procedure (SIAP) and a new VOR RWY 36 SIAP to Austin Municipal Airport, Austin, MN. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 u.t.c., July 27, 1989.

FOR FURTHER INFORMATION CONTACT: Harold G. Hale, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Thursday, February 2, 1989, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the existing transition area airspace near Austin, MN (54 FR 5246). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the transition area airspace near Austin, MN. The present transition area is being modified to accommodate a new VOR RWY 18 SIAP and a new VOR RWY 36 SIAP to Austin Municipal Airport, Austin, MN. The modifications will consist of increasing the 5 mile radius to an 8.5 mile radius, and increasing the lengths and widths of the north and south transition area extensions.

The development of these procedures requires that the FAA alter the designated airspace to ensure that the

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procedures will be contained within controlled airspace. The minimum descent altitude for the procedures may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Austin, MN [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of the Austin Municipal Airport (lat. 43°40'00" N., long. 92°56'00" W.); within 4.25 miles each side of the Austin VOR 355 radial extending from the 8.5 mile radius to 15 miles north of the Austin Municipal Airport; and, within 4.25 miles each side of the Austin VOR 175 radial extending from the 8.5 mile radius to 15 miles south of the Austin Municipal Airport; excluding that portion which overlies the Rochester, MN, transition area.

Issued in Des Plaines, Illinois on April 10, 1989.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 89-9560 Filed 4-20-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 25879; Amdt. No. 1396]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

EFFECTIVE DATE: An effective date for each SIAP is specified in the amendatory provisions. Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason; the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on April 14, 1989.

Robert L. Goodrich,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 g.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

• • • Effective July 27, 1989

Andrews, SC—Andrews Muni, NDB RWY 36, Amdt. 3, Cancelled

• • • Effective June 29, 1989

Covington/Cincinnati, OH,KY—Greater Cincinnati Intl, ILS RWY 27L, Amdt. 10
Falmouth, KY—Gene Snyder, VOR-A, Amdt. 1
Jackson, MI—Jackson County-Reynolds Field, VOR RWY 14, Amdt. 16
Jackson, MI—Jackson County-Reynolds Field, VOR RWY 24, Amdt. 20
Jackson, MI—Jackson County-Reynolds Field, NDB RWY 24, Amdt. 13
Jackson, MI—Jackson County-Reynolds Field, ILS RWY 24, Amdt. 13
Asheville, NC—Asheville Regional, NDB RWY 34, Amdt. 17
Nashville, TN—Nashville International, RADAR-1, Amdt. 21

• • • Effective June 1, 1989

Monroe, LA—Monroe Regional, VOR RWY 4, Amdt. 17
Monroe, LA—Monroe Regional, VOR RWY 22, Amdt. 3
Monroe, LA—Monroe Regional, VOR/DME RWY 4, Orig.
Monroe, LA—Monroe Regional, VOR/DME RWY 22, Amdt. 8
Monroe, LA—Monroe Regional, VOR/DME RWY 31, Amdt. 1
Monroe, LA—Monroe Regional, NDB RWY 4, Amdt. 14
Monroe, LA—Monroe Regional, ILS RWY 4, Amdt. 20
Monroe, LA—Monroe Regional, ILS RWY 22, Amdt. 2
Monroe, LA—Monroe Regional, RADAR-1, Amdt. 4
Sherman-Denison, TX—Grayson County, VOR/DME-A, Amdt. 6
Sherman-Denison, TX—Grayson County, NDB RWY 17L, Amdt. 6
Sherman-Denison, TX—Grayson County, RNAV RWY 35R, Amdt. 2
Kingsville, TX—Kleberg County, NDB RWY 13, Amdt. 4
Kingsville, TX—Kleberg County, RADAR-1, Amdt. 4
Blacksburg, VA—Virginia Tech, LOC RWY 12, Orig.
Blacksburg, VA—Virginia Tech, NDB-A, Amdt. 1

• • • Effective May 4, 1989

Fort Lauderdale, FL—Fort Lauderdale/Hollywood Intl, LOC RWY 9R, Amdt. 3
New Bedford, MA—New Bedford Muni, LOC (BC) RWY 23, Amdt. 6

• • • Effective April 6, 1989

Kenosha, WI—Kenosha Muni, Lil RWY 6L, Orig.

The FAA published an Amendment in Docket No. 25861, Amdt. NO. 1397 to Part 97 of the Federal Aviation Regulations (VOL 54 FR NO. 66 Page 14072; dated Friday, April 7, 1989) under Section 97.25 and 97.29 effective May 4, 1989, which is hereby amended as follows:

Danville, VA—Danville Muni, LOC RWY 2, Amdt. 1; should read: Danville, VA—Danville Regional, LOC RWY 2, AMDT. 1, CANCELLED.
Danville, VA—Danville Muni, ILS RWY 2, Orig.; should read: Danville, VA—Danville Regional, ILS RWY 2, Orig.
Richmond, VA—Richmond Evelyn Bird Intl, ILS RWY 7, Amdt. 24; should read: Richmond, VA—Richmond Evelyn Bird Intl, ILS RWY 7, Amdt. 24, CANCELLED

[FR Doc. 89-9592 Filed 4-20-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

Coal Product Valuation Regulations

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meeting and request for comments.

SUMMARY: The Minerals Management Service (MMS) is soliciting further public comments on certain provisions of the recently adopted final coal product valuation regulations that were effective March 1, 1989. Comments may be submitted in writing and/or at a public meeting.

DATES: The public meeting will be held on May 4, 1989, from 8:30 a.m. to 4 p.m. Written comments must be submitted on or before June 5, 1989.

ADDRESSES: The public meeting will be held at the Sheraton Hotel and Conference Center, Bergen Park Conference Room, 360 Union Boulevard, Lakewood, Colorado, telephone (303) 987-2000.

Written comments may be mailed to Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 662, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, telephone (303) 231-3432, (FTS) 326-3432.

SUPPLEMENTARY INFORMATION:

I. Background

On January 13, 1989 (54 FR 1492), MMS adopted new coal product value regulations codified at 30 CFR Part 206 to replace the regulations in 30 CFR Part 203. The regulations that were adopted were the product of a lengthy public process including a proposed rulemaking on January 15, 1987 (52 FR 1840), a further notice of proposed

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rulemaking on July 15, 1988 (53 FR 26942), and numerous public meetings, including representatives of the affected States, Indian Tribes and the coal and electric utility industries.

Since the rules were issued, the States (who receive 50 percent of the royalties from coal production from Federal lands) and Indian Tribes (who may be affected indirectly despite the express exemption in the regulations) have maintained that the exclusions for taxes and fees are of concern. Because of the significance of this issue to all affected parties, the Secretary of the Interior has decided to provide an opportunity for the States, Indian Tribes, industry and the public to provide comments to the Department.

MMS is soliciting both written comments and statements from interested parties at a public meeting. The public meeting will be an open discussion among representatives from industry, States, Indian Tribes, and all other interested persons, including the public, for the purpose of gathering new information, but MMS would like commenters specifically to address the following issues in detail, with objective data where possible:

- The fiscal impact of the regulations on the Federal Treasury.
- The fiscal impact of the regulations on the States and Indians.
- The impact of implementation of the regulations on coal production and enhancing the Nation's goal of increasing domestic energy resources.

II. Public comment procedures

A. Public Meeting

1. Procedure for requests to make oral presentations. The time and place for the meeting are identified in the "DATES" and "ADDRESSES" sections of this notice.

You may request to made an oral presentation. Request to make a presentation should be made to Mr. Dennis Whitcomb, Chief, Rules and Procedures Branch, telephone (303) 231-3432, (FTS) 326-3432 by May 1, 1989.

2. Conduct of the meeting. The MMS reserves the right to select the persons to be heard at the meeting (in the event there are more requests to be heard than time allows), to schedule their respective presentations, and to establish the procedures governing the conduct of the meeting. The length of each presentation may be limited, based upon the number of persons requesting to be heard. A Department of the Interior official will be designated to preside at the meeting.

A transcript of the meeting will be made. The entire record of the meeting, including the transcript, will be retained by MMS and made available for inspection in Room C420, Building 85, Denver Federal Center, Lakewood, Colorado, between the hours of 8 a.m. and 4 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

B. Written Comments

The public is also invited to participate in this proceeding by submitting data and comments in writing. All written comments should be submitted by 4:00 p.m. of the day specified in the "DATES" section to the appropriate address indicated in the "ADDRESS" section of this notice and should be identified on the outside envelop and on documents submitted with the designation "Comments on Coal Product Valuation Regulations." All comments received by MMS will be available for public inspection in Room C420, Building 85, Denver Federal Center, Lakewood, Colorado, between the hours of 8 a.m. and 4 p.m., Monday through Friday.

Any information or data submitted which is considered to be confidential must be so identified and submitted in writing, one copy only. The MMS reserves the right to determine the confidential status of the information or data and to treat it according to its independent determination.

Date: April 18, 1989.

Barry A. Williamson,

Director, Minerals Management Service.

[FR Doc. 89-9719 Filed 4-20-89; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD1 89-013]

National Sweepstakes Regatta, Redbank, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation of regulations.

SUMMARY: This notice puts into effect the permanent regulations, 33 CFR 100.103, for the National Sweepstakes Regatta between 8:00 am and 6:00 pm on August 11, 12, and 13, 1989.

The regulations in 33 CFR 100.103 are needed to control vessel traffic within the immediate vicinity of the event due to the confined nature of the waterway and the expected congestion at the time of the event. The regulations restrict general navigation in the area for the safety of life and property on the navigable waters during the event.

DATES: These regulations will be implemented from 8:00 a.m. to 6:00 p.m. on August 11, 12, and 13, 1989.

FOR FURTHER INFORMATION CONTACT: Lieutenant Luke Brown, (617) 223-8311.

SUPPLEMENTARY INFORMATION: This notice provides the effective period for the permanent regulation governing the 1989 running of the National Sweepstakes Regatta on the Navesink River in Redbank, New Jersey. The regulations, 33 CFR 100.103, will be in effect from 8:00 am to 6:00 pm for three (3) days; August 11, 12, and 13, 1989. The event consists of several daily speedboat races of about 50 minutes each. All racing shall be held during the effective period of regulation. The regulated area is that portion of the Navesink River in Redbank, NJ between the New Jersey Route 35 bridge and a line running across the Navesink River connecting Guyon and Lewis Points. Further public notification of these regulations will be accomplished through publication of the regulations in the First Coast Guard District Local Notice to Mariners.

Drafting Information:

The drafters of this notice are Lt. L. Brown, Project Officer, First Coast Guard District Boating Safety Division, and Lt. J.B. Gately, project attorney, First Coast Guard District Legal Division.

Dated: April 4, 1988.

R.I. Rybacki,

Rear Admiral, U. S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89-9558 Filed 4-20-89; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD6-88-19]

Drawbridge Operation Regulations; Carlin Bayou, LA

AGENCY: U.S. Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is changing the regulation governing the operation of the vertical lift span bridge on State Route 14 across Carlin Bayou, mile 6.4 at Delcambre, Louisiana, by permitting the draw to open on signal from 5 a.m. to 9 p.m. and open on at least four hours advance notice from 9 p.m. to 5 a.m. This change is being made because of infrequent requests for opening the draw during the prescribed advance notice period. This action should relieve the bridge owner of the burden of having a person constantly available at the bridge to open the draw between 9 p.m. and 5 a.m., while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This regulation becomes effective on May 22, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, Eighth Coast Guard District, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: On 21 November 1988, the Coast Guard published a proposed rule (53 FR 46885) concerning this amendment. The Commander, Eighth Coast Guard District, also published the proposal as a Public Notice dated 5 December 1988. In each notice interested parties were given until 5 January 1989 to submit comments.

Drafting Information

The drafters of this regulation are Mr. John Wachter, project officer, and Commander J. A. Unzicker, project attorney.

Discussion of Comments

Two letters of comment were received in response to public notification of the proposed rule change. The National Marine Fisheries Service and the Federal Emergency Management Agency offered no objection to the proposed change. Therefore, in the absense of any objection to the proposed rule as published in (53 FR 46885) on 21 November 1988, the final rule is unchanged from the proposed rule.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that very few vessels now pass the bridge during the advance notice period of 9 p.m. to 5 a.m. For that period, the bridge averages opening less than one time every three days. When the need arises, the vessels involved can reasonably give four hours notice for a bridge opening during that period by placing a collect call to the bridge owner at any time. Mariners requiring the bridge opening are repeat users and scheduling their arrival at the bridge at the appointed time should involve little or no additional expense to them. Since the economic impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

The advance notice for opening of the draw should be given by placing a collect call at any time to the LDOTD in Lafayette, Louisiana, telephone (318) 233-7404. From afloat, this contact may be made by radiotelephone through a public coast station.

The LDOTD recognizes that there may be an unusual occasion to open the bridge on less than four hours notice for an emergency, or to operate the bridge on demand for an isolated but temporary surge in waterway traffic, and has committed to doing so if such an event should occur.

List of Subjects in 33 CFR Part 117

Bridges

Regulation

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499, 49 CFR 1.46, and 33 CFR 1.05-1(g); 33 CFR 117.43.

2. Section 117.436 is added to read as follows:

§ 117.436 Carlin Bayou.

The draw of the S14 bridge, mile 6.4 at Delcambre, shall open on signal; except that, from 9 p.m. to 5 a.m. the draw shall open on signal if at least four hours notice is given. The draw shall open on less than four hours notice for an emergency and shall open on demand should a temporary surge in waterway traffic occur.

Dated: April 6, 1989.

W. F. Merlin,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 89-9559 Filed 4-20-89; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD8 89-03]

Safety Zone—Vicinity of Old River Control Structure, Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations in Title 33 § 165.802(b) by indicating that the resident engineer at Old River Control Structure is delegated the authority to permit entry into this safety zone.

DATES: This regulation became effective on 1 July 1988. Comments on this regulation must be received on or before May 22, 1989.

ADDRESS: Comments should be mailed to Commanding Officer (po), Marine Safety Office, New Orleans, 1440 Canal Street, New Orleans, LA 70112-2711. The comments will be available for inspection and copying at 1440 Canal St., New Orleans, LA, Room 1311. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: LT(jg) Berard at (504) 589-4219.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been unnecessary. This regulation change should have little or no economic impact and no adverse comments are expected concerning the terms of the regulation.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESS" in this preamble. Commenters should include their names and addresses, identify the docket number for the regulations, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information: The drafters of these regulations are LT(jg) Berard, Project Officer for the Captain of the Port, and CDR J. A. Unzicker, project attorney, Eighth Coast Guard District Legal Office.

Discussion of Regulation: The U.S. Army Corps of Engineers have suspended picket boat operations at the

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Old River Control Structures Mile 315 LMR AHP. The safety zone between miles 316.1 and 311.5 LMR is still necessary and will remain in effect. Any vessel desiring to enter this safety zone must first obtain permission from Captain of the Port New Orleans. The resident engineer at Old River Control Structure (WUG–424) is now monitoring marine radio traffic and is delegated the authority to permit entry into this safety zone. The purpose of the structures is to control the distribution of water between the Mississippi River, Red River, and Atchafalaya River. This safety zone assists in protecting the structures and thus preventing interruption of flow control with serious downstream ramifications for flood control, navigation and municipal/industrial water supplies.

Federalism Implications: This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification: These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant impact on a substantial number of small entities.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Final Regulations

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165 [AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

§ 165.802 [Amended]

2. Section 165.802(b) is revised to read as follows:

(b) Any vessel desiring to enter this safety zone must first obtain permission from the Captain of the Port, New Orleans. The resident engineer at Old River Control Structure (WUG–424) is delegated the authority to permit entry into this safety zone.

Dated: March 27, 1989.

W.F. Merlin,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 89-9560 Filed 4–20–89; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 207

[Docket No. 207]

Disaster Assistance; Great Lakes Planning Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule with request for comments.

SUMMARY: Part 207 provides procedures for the implementation of section 202 of Title II of Pub. L. 100–707, the Great Lakes Planning Assistance Act of 1988 (The Act), enacted on November 23, 1988. The Act authorizes the Director of the Federal Emergency Management Agency to provide assistance to Great Lakes States in the establishment of State programs to reduce and prevent damage attributable to high water levels in the Great Lakes. The assistance would include a one-time grant to each Great Lake State of not more than $250,000 for:

(1) Preparing mitigation, warning, and emergency plans;

(2) Coordinating available State and Federal assistance;

(3) Developing and implementing nonstructural measures to reduce or prevent damage; and

(4) Assisting local governments in developing and implementing plans.

Each State receiving a grant is required to match it with an amount equal to 25 percent of the Federal grant. Each Great Lake State will have 1 year from the date of enactment, until November 23, 1989, to submit an application for the grant program. This timeframe is not dependent upon appropriation of funds by Congress. No grants will be awarded until sufficient funds have been appropriated.

DATE: This Interim Rule will be effective on April 21, 1989. Comments from the public will be accepted until June 12, 1989.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Karen A. Helbrecht, Office of Disaster Assistance Programs, Federal Emergency Management Agency, Room 714, 500 C Street SW., Washington, DC 20472, Telephone (202) 646–3358.

SUPPLEMENTARY INFORMATION: Section 202 of the Great Lakes Planning Assistance Act allows the Great Lakes States to apply for a one-time grant of up to $250,000. Although funds for this program have not been appropriated, interested States must submit an application within 1 year after the date of enactment, by November 23, 1989. The application will be held until adequate funds have been appropriated. A brief technical proposal will serve as the initial application. It will consist of:

(1) The identification of the primary State agency responsible for managing the grant program,

(2) A general description of the project,

(3) Identification of the agency or organization responsible for implementing the project, and

(4) Estimate of total funds to be requested.

A subsequent formal grant application will not be required until funds for this grant program have been appropriated. At that time, more detailed guidance will be sent to the States concerning the process. The States will be given the opportunity to revise their technical proposal and resubmit it with the required financial forms. The financial forms will include Application For Federal Assistance, Standard Form (SF) 424; Budget Information, SF 424A–D (where appropriate); and Financial Status Report (short form), SF 269A.

Environmental Considerations

In compliance with the National Environmental Policy Act, an Environmental Assessment (EA) and Finding of No Significant Impact has been prepared and is on file in the Office of General Counsel. The EA discusses the need for, and the environmental effects of, the interim regulations. The Finding concludes that there will be no significant impact as a result of the regulations.

Executive Order 12291, "Federal Regulations"

This rule is not a major rule within the context of Executive Order 12291. It will not have an annual impact on the economy of $100 million or more. The rule will not have a significant economic impact on small entities, within the meaning of 5 U.S.C. 605 (the Regulatory Flexibility Act). Therefore, no regulatory analysis will be prepared.

Federalism

This rule is intended to assist Great Lakes States and local units of government in reducing and preventing damage attributable to high water levels in the Great Lakes. This program encourages Great Lakes States to develop their own program initiatives within the limits of authorized activity as allowed by the Act. The rule imposes no additional costs or burdens on the States, but rather, has long-term Federal and State cost-saving potential. The rule therefore has no federalism implications pursuant to Executive Order 12612 so as to warrant the preparation of a Federalism Assessment, because States can choose whether or not to apply for the grant program.

Paperwork Reduction Act

The collections of information in this proposed interim rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, as amended, 44 U.S.C. 3501 et seq. Submit comments on these requirements to the Office of Information and Regulatory Affairs, OMB, 726 Jackson Place, NW., Washington, DC 20503 marked "Attention: Ms. Francine Picoult, FEMA Desk Officer." The final rule will respond to any OMB or public comments on the information collection requirements.

Part 207 is added to 44 CFR Ch. I, Subchapter D, to read as follows:

PART 207—GREAT LAKES PLANNING ASSISTANCE

Sec.
207.1 General.
207.2 Definitions.
207.3 Eligibility.
207.4 Application procedures.
207.5 Project Management.
207.6 Technical Assistance.

Authority: Sec. 202, Pub. L. 100–707.

§ 207.1 General.

This part provides requirements and establishes general procedures for administration of one-time grants to States under the provisions of section 202 of the Great Lakes Planning Assistance Act of 1988, Pub. L. 100–707. The Act authorizes the Director of the Federal Emergency Management Agency (FEMA) to provide assistance to the Great Lakes States to reduce and prevent damage attributable to high water levels in the Great Lakes. The assistance would include a one-time grant of not more than $250,000 for preparation of mitigation and emergency plans, coordinating available State and Federal assistance, developing and implementing measures to reduce damages due to high water levels, and assisting local governments in developing and implementing plans to reduce damages. Each State receiving a grant shall match it with an amount equal to 25 percent of the Federal grant. The grant should be used to supplement and extend existing activities and programs, to the extent possible.

§ 207.2 Definitions.

(a) "Applicant" means a Great Lakes State.

(b) "Grant" means an award of financial assistance.

(c) "Grantee" means the State government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award. For the purposes of this regulation, the State is the grantee.

(d) "Grant Application" means the official request for funding under the Great Lakes Planning Assistance Grant program.

(e) "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron, Lake Michigan, Lake Superior, and Lake St. Clair, to the extent those lakes are subject to the jurisdiction of the United States.

(f) "Great Lake States" means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

(g) "High Water" includes static water level, wind generated waves, and runup.

(h) "Nonstructural Measures", as the term is used in Part 207, are those actions taken to protect people and property from the effects of a hazard, but do not modify the nature, frequency, or intensity of the hazard. They include measures such as setbacks, land use and development standards, flood-proofing, and elevation or relocation of properties and structures at risk.

(i) "Structural Measures", as the term is used in Part 207, are those actions taken to protect people and property from the effects of a hazard by modifying the nature, frequency or intensity of a hazard. They include measures such as floodwalls, levees, retaining walls, jetties, groins and other engineering works designed to control flooding and erosion.

(j) "Subgrant" means an award of financial assistance under a grant by a grantee to an eligible subgrantee.

(k) "Subgrantee" means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

(l) "Technical Proposal" means the initial submission by the State to FEMA indicating interest in the program and identifying projects for funding.

§ 207.3 Eligibility.

(a) *Applicant eligibility.* Each of the eight Great Lakes States (Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin) is eligible for this grant program. The State will be the grantee to which funds are awarded and will be accountable for the use of those funds. There may be subgrantees within the State.

(b) *Project eligibility.* Each State shall identify projects and programs in the grant application and technical proposal. Projects and programs funded through this grant must comply with all applicable laws and regulations, including 44 CFR Part 9, Floodplain Management and Protection of Wetlands, and 44 CFR Part 10, Environmental Considerations. Categories of projects and programs eligible for funding under this grant program are:

(1) Preparation of plans for mitigation, warning, emergency operations, and emergency assistance. These plans must meet the following conditions, where applicable.

(i) All plans should be specific to reducing and/or preventing damage due to high water.

(ii) Mitigation plans should identify specific measures or recommendations to limit and/or prevent damages.

(iii) Emergency plans should identify measures to protect lives, property, and facilities.

(iv) All plans should be part of an overall State program to evaluate hazards and develop recommendations regarding the Great Lakes.

(2) Coordination of available State and Federal assistance. This task would be accomplished by determining the availability of funds and programs (at the Federal, State, local, and private level) and identifying how to most effectively use those resources to protect against future damages.

(3) Development and implementation of nonstructural measures to reduce or prevent damages. These measures could include the establishment of setback or dune preservation requirements and/or other conditions on construction and reconstruction of public facilities, development of enforcement procedures

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for nonstructural measures, and mapping flood and erosion hazard areas.

(4) Assist local governments in developing and implementing plans for nonstructural reduction and prevention of damages. This assistance would include providing a mechanism for local governments to apply for the grant program, assisting local governments in implementing mitigation measures, and providing technical assistance to local governments in developing nonstructural mitigation measures.

(c) *Duplication of programs.* Great Lakes Planning Assistance Grants cannot be used as a substitute or replacement to fund projects or programs that are available under other Federal authorities.

(d) *Packaging of programs.* Great Lakes Planning Assistance Grants can be packaged or used in combination with other Federal, State, local, or private funding sources where appropriate. However, the Grants cannot be used to meet the non-Federal cost share requirements of other Federal programs.

§ 207.4 Application procedures.

(a) *General.* The grant applications are due to the appropriate FEMA Regional Director no later than November 23, 1989.

(1) *Technical proposal.* A technical proposal will serve as this initial grant application. As part of the proposal, the Governor shall identify the State agency that will be responsible for the overall management of the grant. The proposal shall also include the following:

(i) A general description of the project;

(ii) Identification of the agency or organization responsible for completing that project;

(iii) Estimate of total funds to be requested.

(2) *Grant application.* A formal grant application will not be required until such time as funds are appropriated for this grant program. At that time, the State will be given the opportunity to review and revise the technical proposal. The formal grant application will consist of the revised technical proposal and appropriate reports in accordance with 44 CFR Part 13.

(b) *Cost share requirement.* States receiving a grant shall match the grant with an amount no less than 25 percent of the amount of the Federal grant. Identification of allowable costs and rules for cost sharing are included in CFR 44 Part 13, §§ 13.22 and 13.24.

§ 207.5 Project management.

The State serving as grantee has primary responsibility for project management and accountability of funds as indicated in 44 CFR Part 13. The State is responsible for ensuring that subgrantees meet all program requirements.

§ 207.6 Technical assistance.

(a) *General.* Requests from a State to FEMA for technical assistance in carrying out any activity of this grant program shall be made by the Governor or his/her designated representative to the Regional Director (reference Section 202(c) of the Act).

(b) *Content of request.* The request for technical assistance shall indicate as specifically as possible the objectives, nature, and duration of the requested assistance; the professional disciplinary capabilities needed; the recipient agency or organization within the State; the manner in which such assistance is to be utilized; and any other information needed for a full understanding of the need for such requested assistance.

(c) *State participation.* The request for assistance requires participation by the State in the technical assistance process. As part of its request for such assistance, the State shall agree to facilitate coordination among FEMA and all subgrantees in need of assistance.

Dated: April 12, 1989.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 89-9364 Filed 4-20-89; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 86-341; FCC 89-78]

Link-Up America

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted certain revisions to the Part 36 Link-Up America program rules. On February 27, 1989, the Commission adopted and released a change of the rules which eliminated two non-income criteria for those programs in which an applicants income eligibility is verified. In order to be eligible for assistance when income eligibility is verified, a residential subscriber must (1) meet the requirements of a state established income test, and (2) not be a dependent, unless the subscriber is more than 60 years of age. The Commission agreed with the Federal-State Joint Board that the rule change would extend universal service to low-income households.

EFFECTIVE DATE: February 27, 1989.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Larry Povich, Industry Analysis Division, Common Carrier Bureau (202) 632-0745.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Decision and Order (FCC 89-78), adopted and released February 27, 1989. The full text of this Commission decision and the rules is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Decision and Order

1. On July 18, 1988, the Commission released a *Notice of Proposed Rulemaking* (MTS and WATS Market Structure, Link-Up America, and Amendment of Part 36 of the Commission's Rules), which proposed revising the eligibility requirements for the Link-Up America program, a federal assistance program designed to encourage low-income households, that are not on the telephone network, to subscribe to local exchange service by reducing initial service and installation charges.

2. The Federal-State Joint Board, and parties commenting on the Notice have indicated substantial support for eliminating the non-income eligibility criteria for those applicants who have met the requirements of a State-established income test. These eligibility rules were found to foreclose Link-Up service to over 15 percent of all applicants, and as the commentors demonstrate, the restrictions have prevented otherwise eligible persons from receiving the benefits of this telephone connection program. The Commission agrees that when income eligibility is verified, the non-income eligibility requirements of the Link-Up program may be eliminated. The Commission agreed with the Joint Board that it is costly and often infeasible for states and telephone companies to maintain the records necessary to verify the non-income criteria. The Commission found that the income eligibility criteria alone should be sufficient to ensure proper targeting of the program.

3. In order to be eligible for assistance when income eligibility is verified, a residential subscriber must (1) meet the requirements of a State-established income test, and (2) not be a dependent, unless the subscriber is 60 years of age or older. Alternatively, when income is not verified, a residential subscriber may self-certify #1 and #2, and the entity receiving certification (state or company) must verify that the customer (3) has lived at an address where there has been no telephone service for at least three months, and (4) has not received assistance within the last two years.

Ordering Clauses

1. Accordingly, *it is ordered,* That the recommendations of the Federal-State Joint Board concerning federal assistance measures to aid low-income households in obtaining telephone service through the Link-Up America program ARE ADOPTED.

2. *It is further ordered,* That Part 36 of Title 47 CFR of the Commission's Rules IS AMENDED as set forth below. The Rules are effective with their publication and release date.

3. *It is further ordered,* That this proceeding is hereby terminated.

List of Subjects in 47 CFR Part 36

Communications common carriers, Telephone, Reporting and recordkeeping requirements, Uniform system of accounts.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Part 36 of Title 47 CFR is to be amended as follows:

PART 36—[AMENDED]

1. The authority citation for Part 36 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 221(c), 403, and 410(c) of the Communications Act of 1934 as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 221(c), 403, and 410(c).

2. Section 36.711 is amended by revising the introductory text of paragraph (a), and revising paragraphs (b), (c), and adding paragraph (d) to read as follows:

§ 36.711 Lifeline Connection Assistance.

(a) For purposes of this subpart, Lifeline Connection Assistance shall describe the following lifeline telephone assistance for eligible residential subscribers as defined in § 36.711 (b) and (c):

* * * * *

(b) In order to be eligible for assistance when income is verified, a residential subscriber must:

(1) Meet the requirements of a state established income test; and

(2) Not be a dependent for federal income tax purposes as defined in 26 U.S.C. Section 152 (1986) unless the subscriber is more than 60 years of age.

(c) In order to be eligible for assistance when income is not verified, a residential subscriber must meet the eligibility criteria in § 36.711(b)(1) and (b)(2) and:

(1) Have lived at an address where there has been no telephone service for at least three months immediately prior to the date that the assistance described in § 36.711(a)(1) and/or (a)(2) is requested from the telephone company; and

(2) Not have received assistance pursuant to § 36.711(a)(1) and/or (a)(2) within the last two years, with receipt of such assistance to be measured from the date of initiation of the telephone service for which assistance was provided.

(d) Charges assessed for commencing service include any state tariffed charges levied for connecting a subscriber to the network. These charges do not include security deposit requirements.

3. Section 36.721 is amended by revising paragraph (a)(1), (a)(2) introductory text, (a)(2)(ii), (a)(2)(iii), (a)(2)(iv), and (a)(3) to read as follows:

§ 36.721 Telephone company eligibility for lifeline connection assistance expense allocation.

(a) * * *

(1) Must provide Lifeline Connection Assistance as defined in § 36.711(a)(1) and/or (a)(2) to eligible subscribers as defined in § 36.711(b) or (c);

(2) Shall verify that subscribers meet the eligibility criteria set out in § 36.711(b) or (c) provided that:

* * * * *

(ii) If the eligibility criterion in § 36.711(b)(1) is verified, then the criteria in § 36.711(c) shall not apply;

(iii) If the eligibility criterion in § 36.711(b)(1) is self-certified, then the eligibility criteria in § 36.711(c)(1) and (c)(2) shall apply and must be verified;

(iv) In all cases, the eligibility criterion in § 36.711(b)(2) may be self-certified.

(3) Shall file information with the Commission Secretary demonstrating that it is eligible for the additional interstate expense adjustment.

* * * * *

[FR 89-9493 Filed 4-20-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 203, 204, 208, 213, 215, 225, 228, 247, and 252

[Defense Acquisition Circular (DAC) 88-6]

Department of Defense Federal Acquisition Regulation Supplement; Regulatory and Miscellaneous Amendments

AGENCY: Department of Defense (DOD).

ACTION: Final rules and interim rules as indicated.

SUMMARY: Defense Acquisition Circular (DAC) 88-6 amends the DoD FAR Supplement (DFARS) with respect to special prohibition on employment; instructions for completion of DD Forms 350 and 1057; contract files; contingency contracting thresholds; clarification of adequate price competition; waiver of submission of cost or pricing data; prohibition of certain contracts with foreign entities for the conduct of Strategic Defense Initiative Research, Development, Test, or Evaluation; separate bid bonds for construction contracts; and ocean transportation by U.S.-Flag vessels. This DAC contains editorial corrections, and also includes an information item with respect to safeguarding conventional arms, ammunition, and explosives within industry.

DATES: *Effective Date:* May 31, 1989, unless otherwise noted in the **SUPPLEMENTARY INFORMATION.**

Comment Date: Comments on Items X and XII are due no later than May 22, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987, revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement

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made by Defense Acquisition Circulars 88-1 through 88-5. Amendments made by DACs 88-6 through 88-16 were published in the Federal Register at 53 FR 38171, September 29, 1988, and will be included in the October 1, 1988, revision of the CFR.

B. Public Comments

DAC 88-6, Item I

Public comments are not solicited with respect to this Item because it is provided for information purposes.

DAC 88-6, Item II

A proposed rule with request for comments was published in the Federal Register on December 9, 1988 (53 FR 49694). Comments received were considered in the development of the final rule.

DAC 88-6, Items III, IV, VI, and VIII

Public comments are not solicited with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or do not have a significant effect beyond agency internal operating procedures. However, comments from small entities concerning the affected DFARS coverage will be considered. Please cite DAR Case 89-610D.

DAC 88-6, Items V and IX

Public comments are not solicited with respect to these items because they provide editorial corrections to the DFARS.

DAC 88-6, Item VII

A proposed rule with request for comments was published in the Federal Register on March 31, 1988 (53 FR 10409). As a result of public comments, the final rule clarifies (a) when certified cost or pricing data shall or shall not be required regarding adequate price competition; and (b) how adequate price competition exists in dual source programs.

DAC 88-6, Item X

Comments are invited. This interim rule is published prior to receipt of comments to implement the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. 100-180, at section 222. Interested parties should submit written comments to be considered in developing a final rule on or before May 22, 1989 to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OUSD(A) (M&RS), Room 3D139, the Pentagon, Washington, DC 20301-3062. Please cite DAR Case 88-119 in all correspondence related to this subject.

DAC 88-6, Item XI

A proposed rule with request for comments was published in the Federal Register on December 23, 1987 (52 FR 48549). Public comments were considered in the development of this final rule.

DAC 88-6, Item XII

Comments are invited. This interim rule is published prior to receipt of comments to implement the requirements of the Cargo Preference Act of 1904, 10 U.S.C. 2631, which applies to the ocean transportation of cargo owned by or destined for use by the Department of Defense. Interested parties should submit written comments to be considered in developing a final rule on or before May 22, 1989 to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062. Please cite DAR Case 88-47 in all correspondence related to this subject.

C. Regulatory Flexibility Act

DAC 88-6, Item I

Public comments are not solicited with respect to this item. The Regulatory Flexibility Act does not apply.

DAC 88-6, Item II

This rule is not expected to have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because it will not diminish any existing preferences for small businesses, affect small purchase procedures, impose either special skill requirements, administrative costs, or unusual business practices upon small business. It is also required by a statute requiring uniform application. A Regulatory Flexibility Analysis has therefore not been performed.

DAC 88-6, Items III, IV, V, VI, VIII, IX, and X

These rules do not constitute a significant revision within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq. The Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected DFARS Subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 89-610D in correspondence.

DAC 88-6, Item VII

This final rule will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because most contracts are awarded to small entities on a competitive basis, and the detailed cost or pricing data will seldom, if ever be required under this rule.

DAC 88-6, Item XI

This final rule will not have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because 31 U.S.C. 9303 already allows a person to give a Government obligation as security. A proposed rule was published in the Federal Register on December 23, 1987 (52 FR 48549), and public comments were solicited. However, no public comments were received concerning the Regulatory Flexibility Statement.

DAC 88-6, Item XII

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et. seq., because this interim rule merely implements the 1904 Cargo Preference Act, and the requirements imposed on small entities are necessary to ensure compliance with that Act. The Cargo Preference Act requires that ocean shipment of covered supplies be shipped on U.S.-flag vessels, regardless of the size of the contracting entity. A Regulatory Flexibility Analysis has therefore not been performed. Comments are invited from small businesses and other interested parties.

D. Paperwork Reduction Act

DAC 88-6, Items I, V, and IX

The Paperwork Reduction Act does not apply to these items because they either provide information or are editorial in nature.

DAC 88-6, Items II, III, IV, VI, VII, VIII, X, and XI

The Paperwork Reduction Act does not apply because these rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

DAC 88-6, Item XII

The Paperwork Reduction Act does not apply because this rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

Under current industry practice, freight forwarders already prepare and maintain copies of shipping documents, and the existing FAR Part 47 already requires contractors and subcontractors to provide notice of certain ocean shipments, in the form of copies of such shipping documents. The interim rule will expand this requirement to apply to more cargo, but the information to be forwarded should not require additional recordkeeping on the part of the affected contractors. These requirements are imposed by the Cargo Preference Act of 1904, 10 U.S.C. 2631. Federal agencies could not ensure compliance with the law if this information were not collected.

E. Determination To Issue an Interim Regulation

DAC 88-6, Item X

A determination has been made under the authority of the Secretary of Defense that this coverage be issued as an interim rule. This action is necessary to implement the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. 100-180, at section 222.

DAC 88-6, Item XII

A determination has been made under the authority of the Secretary of Defense that this coverage be issued as an interim rule. This action is necessary to implement the requirements of the Cargo Preference Act of 1904, in light of the February 2, 1988 Department of Justice opinion which concluded that the 1904 Act applies to supplies that are contracted for by the Military Departments that, at the time of shipment by sea are clearly identified as destined for military use, regardless of whether the Government has title at the time of shipment. These regulations are also necessary to establish procedures which are consistent with the decision of the Court of Appeals for the District of Columbia in *Rainbow Navigation, Inc. v. Department of the Navy*, 783 F.2d 1072 (D.C. Cir. 1986).

List of Subjects in 48 CFR Parts 203, 204, 208, 213, 215, 225, 228, 247, and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

(Defense Acquisition Circular No. 88-6)

March 31, 1989

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective May 31, 1989.

Defense Acquisition Circular (DAC) 88-6 amends the DoD Federal Acquisition Regulation Supplement (DFARS) 1988 Edition and prescribes procedures to be followed. The following is a summary of the amendments and procedures.

Item I—Safeguarding Conventional Arms, Ammunition, and Explosives (AA&E) Within Industry (Information Item)

Item II of DAC #88-4 deleted the AA&E coverage at DFARS Subpart 223.71 and the related clause at 252.223-7003 because of the cancellation of DoDI 5220.30, "Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives (AA&E) at Contractor Facilities" (canceled December 28, 1988). The DoDI has been replaced by DoD 5100.76-M "Physical Security of Sensitive Conventional AA&E", as modified through Change 4, December 28, 1988, which is now the controlling document on AA&E. Appendix E of the DoD Manual provides physical security standards for DoD AA&E at contractors' facilities. The manual is available through the US Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487-4650.

Item II—Special Prohibition on Employment (Final Rule)

Section 831 of the FY 1989 Department of Defense Authorization Act (Pub. L. 100-456) amended the provisions of 10 U.S.C. 2408(a) regarding employment prohibitions on persons convicted of fraud or other defense contract related felonies. The amendment added to existing prohibitions the additional prohibitions that defense contractors may not permit felons convicted of fraud or any other felony arising out of contracts with the Department of Defense to serve as a consultant to any defense contractor or in any other way as determined by regulation prescribed by the Secretary of Defense. This rule implements this amendment and adds "acting as an agent or representative" to the prescribed activities in order to make these prohibitions consistent with those contained in FAR 9.405. In addition, section 831 increased the period of these employment prohibitions to a minimum of 5 years and permits waiver only in the interest of national security. These amended prohibitions were effective with enactment of Pub. L. 100-456 on September 29, 1988. A proposed rule with request for comments was published in the Federal Register on December 9, 1988 (53 FR 49694). This final rule revises existing DFARS coverage to reflect the above-referenced amendments and to provide for the waiver procedure. This rule is effective immediately.

Item III—Instructions for Completion of DD Form 350, Individual Contracting Action Report (Over $25,000), and DD Form 1057, Monthly Contracting Summary of Actions $25,000 or Less (Final Rule)

Revisions are made to DFARS 204.6 to clarify and/or correct guidance for completing DD Form 350, Individual Contracting Action Report (Over $25,000), and DD Form 1057, Monthly Contracting Summary of Actions $25,000 or Less. Information concerning the Contractor Establishment Codes has been updated to show the current contact points.

Item IV—Contract Files (Final Rule)

DFARS 204.804-4 is revised to incorporate a requirement for the issuance of an Interim Contract Completion Statement (Notice of Physical Completion) by the office administering a contract, if other than the purchasing office. Issuance of this interim notice will assist purchasing offices in the timely completion of contract closeout actions. Other changes include substitution of the term "small purchase threshold" in place of references to "$10,000" in 204.804-5 and 204.804-70(a)(2), and deletion of the requirement for purchasing offices to issue a MILSCAP Format Identifier PK9, Contract Completion Statement, as cited in 204.804-5.

Item V—Editorial Correction to DFARS 208.405

DFARS 208.405-2(S-70) is revised to reflect the correct title which was changed at the time the coverage was revised in DAC #86-16.

Item VI—Contingency Contracting Thresholds (Final Rule)

DFARS 213.404(a)(3) is added to permit funds to be used up to $2,500 for each overseas transaction in support of contingencies declared by the Secretary of Defense.

DFARS 213.505-3(b)(1)(ii) is added to allow warranted contracting officers to use Standard Form 44 up to $25,000 for overseas transactions in support of contingencies declared by the Secretary of Defense.

Item VII—Clarification of Adequate Price Competition (Final Rule)

DFARS 215.6 and 215.8 are revised to clarify the existing coverage on Adequate Price Competition.

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Clarification is needed to explain that adequate price competition may exist even where price is not a primary factor in evaluation of proposals, regardless of the type of contract contemplated. A definition of cost realism is included which is distinguished from the detailed cost analysis typically conducted in sole source procurements.

The Deputy Assistant Secretary of Defense for Procurement (DASD(P)) issued a memorandum dated May 1, 1987, on Adequate Price Competition. The memorandum expressed concern that contracting officers were requesting detailed cost or pricing data and then conducting detailed cost and profit analysis even though adequate price competition had resulted or was expected to result on the procurement. The memorandum stated that there should rarely be a need to obtain certified cost or pricing data in a competition although some cost data may be required to determine cost realism to ensure that the offeror adequately understands the scope of the work. Unnecessarily requiring cost or pricing data is not in the best interest of DoD because it leads to increased proposal preparation costs, extends procurement lead time, and wastes both contractor and Government resources. This final rule, effective May 22, 1989, implements the policy statement of the DASD(P) memorandum. A proposed rule with request for comments was published in the **Federal Register** on March 31, 1988 (53 FR 10409).

Item VIII—Certification of Cost or Pricing Data (Final Rule)

DFARS 215.804–3 is revised to provide, for nonprofit educational institutions and other nonprofit organizations, waiver of the requirement for certification, but not submission, of cost of pricing data for cost-reimbursement-no-fee contracts and subcontracts. This rule also completely exempts the Canadian Commercial Corporation and its subcontractors from submitting either cost or pricing data or a certification of any such data.

Item IX—Editorial Corrections to Part 225

(a) Section 225.001 "Definitions" is relocated to Section 225.101 to make the coverage consistent with the FAR.

(b) Paragraph 225.603(b)(3), *"Customs Forms and Duty-Free Entry Certificates"*, is redesignated as paragraph (5) to reflect correct sequence of paragraphs.

(c) Paragraph 225.603(b)(6), *"Immediate Entry and Release"*, is redesignated as paragraph (c) to conform to the FAR.

Item X—Prohibition of Certain Contracts With Foreign Entities for the Conduct of Strategic Defense Initiative Research, Development, Test or Evaluation (RDTE) (Interim Rule)

Subpart 225.7013, Prohibition of Certain Contracts With Foreign Entities for the Conduct of Strategic Defense Initiative RDTE, is added to implement the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. 100–180, at section 222. The coverage provides that Department of Defense funds may not be used for any contract with a foreign government or foreign firm for research, development, test or evaluation in connection with the Strategic Defense Initiative (SDI) Program unless the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that work under the contract cannot be competently performed by a United States firm at a price equal to or less than the price at which it would be performed by the foreign government or firm. The prohibition does not apply to contracts awarded to a foreign government or firm if: (a) The contract is to be performed within the United States; (b) the contract is for research, development, test or evaluation in connection with antitactical ballistic missile systems; or (c) the foreign government or foreign firm agrees to share a substantial portion of the total cost. Further, the law does not apply to contracts awarded before its enactment on December 14, 1987, nor does it apply to subcontracts. A related clause is added at 252.225–7028.

Item XI—Separate Bid Bonds for Constuction Contracts (Final Rule)

DFARS 228.101 is revised and a clause at 252.228–7007 is added to require submission of separate bid bonds vice separate bid guarantees for construction contracts. This coverage requires that DoD prime contractors furnish a separate bid bond or certain other public debt obligations of the United States by the time set for opening of bids. A proposed rule with request for comments was published in the **Federal Register** on December 23, 1987 (52 FR 48549).

Item XII—Ocean Transportation by U.S.- Flag Vessels (Interim Rule)

DFARS Subpart 247.5 has been revised in its entirety, the clause at 252.247–7200 has been deleted, and a provision at 252.247–7202 and a clause at 252.247–7203 have been added to implement the requirements of the Cargo Preference Act of 1904, 10 U.S.C. 2631, which applies to the ocean transportation of cargo owned by or destined for use by the Department of Defense. For such cargo, this constitutes an approved class deviation from FAR Subpart 47.5 in its entirety, and from the clause at FAR 52.247–64.

Contractors and contracting officers should note the new requirement for a solicitation provision, requiring offerors to state whether ocean transportation may be required under the resultant contract or under any subcontracts. The cargo to which the U.S.-flag requirements apply is that which meets the new definition of "supplies" as defined in this coverage. The regulation no longer limits the application of the U.S.-flag requirements to supplies that are owned by the DoD at the time of ocean shipment.

Under the revised procedures, contracting officers are required to forward a copy of the first page of the applicable DD Form 350 to the U.S. Maritime Administration, when awarding a contract (other than a contract for direct purchase of ocean transportation services, or with a value below the small purchase threshold in FAR Part 13), which will require ocean transportation of supplies as defined in the subpart.

The revisions included in this DAC shall be effective for solicitations and resulting contracts issued on or after May 31, 1989. However, contracting officers are authorized to apply the provisions of this interim regulation prior to that time in lieu of the existing DFARS Subpart 247.5 and the existing clause at 252.247–7200, upon issuance of this DAC, if to do so will not unnecessarily delay procurements. When applied, these revisions supersede the deviation requiring the use of the clause at FAR 52.247–64 with its appropriate Alternate, as directed in Deputy Assistant Secretary of Defense Memorandum dated April 4, 1988.

Adoption of Amendments

Therefore, the DoD FAR Supplement is amended as set forth below:

1. The authority for 48 CFR Parts 203, 204, 208, 213, 215, 225, 228, 247, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

203.571–1 [Amended]

2. Section 203.571–1 is amended by changing the period at the end of the first sentence to a comma and adding the words "as a consultant, or as an agent or representative. The nature and length of the statutory prohibition depend upon the date of conviction."; and by removing the last sentence.

3. Section 203.571–3 is revised to read as follows:

203.571–3 Policy.

(a) It is DoD policy that a contractor shall not knowingly allow a person, convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the Department of Defense, to serve (1) in a management or supervisory capacity on any defense contract or subcontract, or (2) upon its board of directors, or (3) as a consultant, or (4) as an agent or representative, for a period of five years from the date of conviction or for the period of any resultant debarment of the convicted person, whichever is longer, unless waived in accordance with agency procedures in the interests of national security.

(b) Contractors shall not allow a person, convicted on or before September 29, 1988, of fraud or any other felony arising out of a contract with the Department of Defense, to serve in a management or supervisory capacity on any defense contract or subcontract or upon its board of directors, for a period of one year from the date of conviction or for the period of any resultant debarment of the convicted person, whichever is longer.

203.571–6 [Added]

4. Section 203.571–6 is added to read as follows:

203.571–6 Waiver.

(a) Requests for waiver submitted under DFARS 252.203–7001(e) shall be reviewed by the contracting officer. If the contracting officer decides the requested waiver is not required in the interests of national security, the contracting officer shall deny the request and advise the contractor accordingly. If the contracting officer decides the requested waiver may be in the interests of national security, the contracting officer shall forward the request to the Head of the Agency or designee.

(b) The Head of the Agency or its designee shall report all waivers granted and the reasons therefor to the Under Secretary of Defense for Acquisition who shall forward the report to Congress as required by 10 U.S.C. 2408(a)(3).

PART 204—ADMINISTRATIVE MATTERS

204.671–3 [Amended]

5. Section 204.671–3 is amended by adding before the period at the end of paragraph (d)(2) the words "where the contracting action was executed by GSA".

204.671–5 [Amended]

6. Section 204.671–5 is amended by substituting in paragraph (b) in paragraph (i) under "Item B5A" the words "the Federal Procurement Data Center (FPDC)" in lieu of the words "Dun & Bradstreet"; by substituting in paragraph (b) in paragraph (i)(D) under "Item B5A" the words "office assigned responsibility by FPDC to provide a code" in lieu of the words "representative at the following commercial telephone numbers: 215–776–4388/4389/4390/4391"; and by adding in paragraph (i)(D) under "Item B5A" immediately before the words "All requesters" the following: "Contracting offices may request a code by any of the following methods: *1.* Telephoning 800–397–4472 or 215–776–1710/1764/1769/1788; *2.* Telefaxing 215–398–3688; *3.* Mailing inquiries to Dun & Bradstreet Central Data Collection, Dept. 178, Allentown, PA 18195."; by substituting in paragraph (c)(4) in the second sentence between the word "and" and the word "blank" the designation "C13C" in lieu of the designation "C13"; by removing in paragraph (c) in paragraph (v) under Code B under Item C3 the words "Foreign Military Sales/"; by removing paragraph (vi) under Code B under Item C3; by redesignating the existing paragraph (vii) as paragraph (vi) and adding a note following the redesignated paragraph (vi) to read: "Note: DoD competition reports include the categories listed above and also include FMS awards and actions with another Agency in the category of "Not Available for Competition", although these actions are not reported in Item C3.)".

204.672–2 [Amended]

7. Section 204.672–2 is amended by adding before the period at the end of paragraph (c)(6) the words "where the contracting actions were executive by GSA".

204.672–5 [Amended]

8. Section 204.672–5 is amended by removing in paragraph (b) under "Line B2" the first word of the second sentence and capitalizing the word "Report"; by adding in paragraph (b) under "Line B2" a third sentence reading "Also report any actions placed directly with another Federal Agency on this line."; by adding in paragraph (c) immediately after the title a note in parentheses to read: "(Note: Actions reported in Lines B1 and B2 are not reported in Section C.)"; by substituting in paragraph (c)(i)(A) between the word "or" and the word "were" the word "offers" in lieu of the word "quotes"; by adding in paragraph (c)(ii) immediately following the introductory sentence a note in parentheses to read: "(Note: DoD competition reports also include awards to regulated monopolies, FMS awards/International Agreements and actions with another Agency in the category of "Not Available for Competition", but are not reported in Line C2.)"; and by removing in paragraph (c)(ii) the existing paragraphs (A), (D), and (E), and redesignating the existing paragraphs (B), (C), (F), and (G) as paragraphs (A) through (D) respectively.

9. Section 204.804–4 is amended by adding paragraph (a) (S–70) and by redesignating the existing paragraph as paragraph (b) to read as follows:

204.804–4 Physically completed contracts.

(a) (S–70) *Interim Contract Completion Statement (Notice of Physicol Completion).* This notice will be used when the contract is administered by an office other than the purchasing office. When a contract, other than a small purchase, is physically completed and accepted, the Contract Administration Office (CAO) with primary contract administration responsibility will forward a DD Form 1594, Contract Completion Statement, or a MILSCAP Format Identifier Interim PK9 (Contract Physical Completion), to the purchasing office. When the DD Form 1594 is used as a notification of physical completion, Block 8, Remarks, will be annotated "Notice of Physical Completion". Block 8 will also contain the final acceptance date and the typed name and signature of a responsible official, and the date signed. Blocks 9b, 9c, and 9d of the DD Form 1594 will be left blank. This notification will be used to begin the contract closeout procedures specified in FAR 4.804–5.

* * * * *

10. Section 204.804–5 is amended by revising paragraph (a) (S–70); by removing in the last sentence of paragraph (b) the phrase in parentheses "(including final payment)"; by adding in paragraph (b) paragraph (1); by redesignating in paragraph (b) the existing paragraphs (1) through (4) as paragraphs (2) through (5); and by adding in the redesignated paragraph (4) between the word "completion" and the comma the words in parentheses

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"(including final payment)"; to read as follows:

204.804-5 Detailed procedures for closing out contract files.

(a) (S-70) *When purchasing office administers the contract.* When the purchasing office administers a contract, that office is responsible for insuring that all required purchase actions and contract administration have been completed, utilizing as necessary DD Form 1597, Contract Closeout Check-List, and DD Form 1593, Contract Administration Completion Record. When all required actions have been completed, the purchasing office shall prepare DD Form 1594, Contract Completion Statement, for all contracts in excess of the small purchase threshold (see FAR 13.000). The Contract Completion Statement shall be made a part of the official contract file. For all contracts not in excess of the small purchase threshold, the contracting officer shall include in the contract file a statement that all contract actions have been completed. The completed form or statement is authority for closing out of the contract file. The file shall be closed out as provided in 204.804-70(a)(2).

* * * * *

11. Section 204.804-70 is amended by revised paragraph (a)(2), to read as follows:

204.804-70 Review, separation, and retirement of completed contract files.

(a) * * *

(2) *Official contract case file*—remove folder for completed contract from the active file series, mark each folder or folder tab "Completed *(Date)*" and place them in completed (inactive) cross-reference/locator file series; separate series should be established for contracts under the small purchase threshold (see FAR 13.000) to facilitate later disposal.

* * * * *

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

12. Section 208.405-2 is amended by changing the title of paragraph (S-70) to read "Oral orders" in lieu of "Oral orders not to exceed $10,000."

PART 213—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

13. Section 213.404 is amended by adding paragraph (a)(3) to read as follows:

213.404 Conditions for use.

* * * * *

(3) The purchase is for overseas transactions up to $2,500 in support of contingencies declared by the Secretary of Defense.

* * * * *

14. Section 213.505-3 is amended by revising paragraph (b)(1) to read as follows:

213.505-3 Standard Form 44, purchase order-invoice-voucher.

(b)(1) The $2,500 limitation applies to all purchases except for—

(i) Aviation fuel and oil purchases which will not exceed $10,000; and

(ii) Overseas transactions by warranted contracting officers up to $25,000 in support of contingencies declared by the Secretary of Defense.

PART 215—CONTRACTING BY NEGOTIATION

215.608 [Amended]

15. Section 215.608 is amended by adding paragraph (a)(1) to read:

See also 215.805-70 regarding use of "cost realism analysis."

16. Section 215.801 is added to read as follows:

215.801 Definitions.

"Cost realism analysis", as used in this subpart, means a review of the cost position of an offeror's proposals to determine if the overall costs proposed are realistic for the work to be performed, if the costs reflect an offeror's understanding of the requirements, or if the costs are consistent with the various elements of the technical proposal.

17. Section 215.804-3 is amended by changing in the title the word "Exemption" to read "Exemptions"; by designating the existing paragraph (a)(1) as paragraph (a)(1)(ii); by adding paragraph (a)(1)(i); by adding paragraph (a) (S-70); by adding paragraphs (b)(1) and (b)(2); and by adding paragraph (b) (S-70); to read as follows:

215.804-3 Exemptions from or waiver of submission of certified cost or pricing data.

(a)(1)(i) When there is a reasonable expectation that adequate price competition will result on a particular procurement, the contracting officer should rarely have a need to require the submission or certification of cost or pricing data regardless of the type of contract. Unnecessarily requiring the submission of cost or pricing data is not in the best interest of the Government because it leads to increased proposal preparation costs, extends procurement leadtime, and wastes both contractor and Government resources.

* * * * *

(a) (S-70) The Department of Defense has waived the following requirements with respect to cost or pricing data and certification thereof:

(i) Certification, but not submission of, cost or pricing data for cost-reimbursement-no-fee prime and subcontracts with nonprofit educational institutions and other nonprofit organizations. However, subcontractors other than nonprofit educational institutions and other nonprofit organizations are still subject to the certification requirements and the contracting officer will require, by appropriate contractual provision, subcontractor compliance with certification requirements.

(ii) Submission or certification of cost or pricing data from the Canadian Commercial Corporation and its subcontractors.

(b)(1) Adequate price competition may exist for any contract including cost-reimbursement contracts, even though price is not the primary factor in the evaluation of proposals, provided that price is a substantial factor in the source selection criteria.

(2) If, after receipt of proposals, it is determined that adequate price competition does not exist, then cost or pricing data shall be obtained and certified as required (see FAR 15.804-2).

* * * * *

(b) (S-70) *Adequate Price Competition in Dual Source Programs.* (i) In the case of dual source programs, adequate price competition normally exists when prices are solicited across a full range of step quantities, normally including a 0-100 per cent split from at least two offerors who are individually capable of producing the full quantity, and

(A) The award is made to the offeror with the lowest evaluated price;

(B) When the award is split, if the combined price of both awards is the lowest evaluated price in the range of offers submitted; or

(C) When the combined price of both awards is not the lowest evaluated price in the range of offers submitted, if the price reasonableness of all prices awarded is clearly established on the basis of price analysis.

(ii) The procedures in paragraph (b)(S-70)(i) above may also be used in multiple source acquisitions, including those for the mobilization base.

* * * * *

18. Section 215.805-1 is added to read as follows:

215.805-1 General.

(b) See also 215.805-70 regarding use of cost realism analysis.

19. Section 215.805-70 is added to read as follows:

215.805-70 Cost realism analysis.

(a) Even when adequate price competition exists, it may be appropriate to perform a cost realism analysis (see 215.801) to ensure that there is a reasonable expectation that the proposed costs are consistent with the technical proposal, especially for cost-reimbursement contracts. Cost realism analysis should also be used when the solicitation contains new requirements that may not be fully understood by competing contractors; when there are quality concerns; or when past experience has indicated that contractors have proposed costs which have resulted in quality or service shortfalls.

(b) Information necessary to perform a cost realism analysis should be determined during procurement planning and development of the solicitation based upon the circumstances of the particular procurement. There are instances where there may be information available from Government sources to perform a cost realism analysis; in other instances information will have to be obtained from the offerors. In the latter case, the contracting officer shall request only those data necessary to perform the cost realism analysis, not the submission or certification of cost or pricing data.

PART 225—FOREIGN ACQUISITION

225.001 [Redesignated as 225.101 and Amended]

20. Section 225.001 is redesignated as section 225.101 and moved to Subpart 225.1; and the redesignated section 225.101 is amended by substituting in the first sentence of the introductory paragraph the word "in" in lieu of the word "through".

21. Section 225.603 is amended by redesignating paragraph (b)(3) entitled "*Customs Forms and Duty-Free Entry Certificates.*" as paragraph (b)(5); and by redesignating the last paragraph of the section as paragraph (c) in lieu of paragraph (6).

22. Section 225.7013 is added to read as follows:

225.7013 Prohibition of certain contracts with foreign entities for the conduct of strategic defense initiative RDTE.

(a) *Definitions.* As used in this section:

"Competent" means the ability of an offeror to satisfy the requirements of the solicitation. This determination is based on a comprehensive assessment of each offeror's proposal including a consideration of the specific areas of evaluation criteria in the relative order of importance described in the solicitation.

"Foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

"United States firm" means a business entity other than a foreign firm.

(b) *Policy.* Section 222 of the Defense Authorization Act for FYs 1988 and 1989 (Pub. L. 100-180) prohibits the award of certain contracts, for the conduct of Strategic Defense Initiative (SDI) Program research, development, test, or evaluation (RDTE), to foreign governments or firms unless the Secretary of Defense certifies to Congress in writing at any time during the applicable fiscal year that work cannot be competently performed by a U.S. firm at a price equal to or less than the price of the foreign government or firm. For purposes of implementing this section, HCAs are authorized to make this certification (see paragraph (c)(2) below). Accordingly, except as provided for in paragraph (c) below, any funds appropriated to, or for the use of DoD, may not be used to enter into or carry out any contract, including any contract awarded as a result of a Broad Agency Announcement (BAA), with a foreign government or firm if the contract provides for the conduct of RDTE in connection with the SDI. This prohibition, however, is not intended to deny access to foreign expertise when contract performance requires a level of competency unavailable in the United States.

(c) *Exceptions.* The prohibition shall not apply:

(1) To contracts awarded to a foreign government or firm if the contracting officer determines that—

(i) The contract is to be performed within the United States; or

(ii) The contract is exclusively for RDTE in connection with antitactical ballistic missile systems; or

(iii) The foreign government or firm agrees to share a substantial portion of the total contract cost. The foreign share may be considered substantial where it is equitable with respect to the relative benefits to be derived from the contract by the U.S. and the foreign parties. For example, if the contract is more beneficial to the foreign party, its share of the costs should be correspondingly higher; or

(2) If the HCA has certified in writing, prior to contract award, that a contract for research, development, testing, or evaluation (other than for RDTE described in paragraph (c)(1)(ii) above) cannot be competently performed by a United States firm at a price equal to or less than the price at which the RDTE would be performed by a foreign government or firm.

(d) *Procedures.* (1) When awarding a prime contract to a foreign government or firm under paragraph (c)(2) above, the contracting officer or Source Selection Authority, as applicable, shall make a determination which will be the basis for the certification in paragraph (c)(2) above.

(i) The determination must describe the contract effort; state the number of proposals solicited and received from both U.S. and foreign firms; identify the proposed awardee and the amount of the contract; state that selection of the contractor was based on the evaluation factors contained in the solicitation, or the criteria contained in the BAA; and state that the effort cannot be competently performed by a U.S. firm at a price equal to, or less than, the price at which it would be performed by the foreign awardee.

(2) If award is based on a determination under paragraph (d)(1) above, or award is based on other than full and open competition in accordance with FAR 6.3, or award is made as the result of an unsolicited proposal in accordance with FAR Subpart 15.5, then a copy of the certification (from paragraph (c)(2) above), and, as appropriate, the determination or justification and approval (J&A) shall be forwarded within 30 days of contract award to the SDI Organization, Attention: SDIO/MN, The Pentagon, Washington, DC 20301-7100.

(e) *Solicitation Provision.* Unless foreign participation is otherwise excluded, the contracting officer shall insert, in all competitively negotiated SDI solicitations for RDTE, a provision substantially the same as the provision at 252.225-7028, "Notice of Prohibition of Certain Contracts With Foreign Entities for the Conduct of Strategic Defense Initiative RDTE".

PART 228—BONDS AND INSURANCE

23. Sections 228.101, 228.101-1 and 228.101-3 are added to read as follows:

228.101 Bid guarantee.

228.101-1 Policy on use.

(b) Only separate bid bonds, or United States bonds, Treasury notes or other public debt obligations of the United States are acceptable for construction contracts.

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228.101-3 Contract clause.

(b) The contracting officer shall insert the clause at 252.228-7007, Bid Bond, in lieu of FAR clause 52.228-1, in solicitations and contracts for construction.

PART 247—TRANSPORTATION

24. Subpart 247.5 is revised in its entirety, to read as follows:

Subpart 247.5—Ocean Transportation by U.S.-Flag Vessels

Sec.
247.570 Scope.
247.571 Definitions.
247.572 Policy.
247.573 Procedures.
247.573-1 Purchase of ocean transportation incidental to a contract for supplies, services, or construction.
247.573-2 Direct purchases of ocean transportation services.
247.574 Solicitation provisions and contract clause.

Subpart 247.5—Ocean Transportation by U.S.-Flag Vessels

247.570 Scope.

Sections 247.570 through 247.574 set forth the Department of Defense policies and procedures for implementing the Cargo Preference Act of 1904, 10 U.S.C. 2631, which applies to the ocean transportation of cargo owned by or destined for use by the Department of Defense. For such cargo, this constitutes an approved class deviation from FAR Subpart 47.5 in its entirety. This subpart does not specifically implement the Cargo Preference Act of 1954, 46 U.S.C. 2141 (b), which while applicable to the Department of Defense, does not require DFARS coverage in view of the fact that compliance with the 1904 Act has historically resulted in DoD's far exceeding the 1954 Act's requirements for shipment by private commercial carrier.

247.571 Definitions.

As used in this subpart:

"Armed services" means the Army, Navy, Air Force, Marine Corps, and Defense Agencies.

"Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication or assembly by the contractor or any subcontractor.

"Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

"Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

"Subcontractor" includes a supplier, materialman, distributor or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

"Supplies" means all property except land and interests in land that is readily identifiable for eventual use by the armed services, or owned by the armed services, at the time of transportation by sea. It includes (but is not limited to) public works, buildings and facilities, ships, floating equipment and vessels of every character, type, and description, together with parts, subassemblies, accessories, and equipment; machine tools, material, equipment, and stores of all kinds; end items, construction materials and the components of the foregoing.

247.572 Policy.

(a) Authority Citation: 10 U.S.C. 2631.

(b) Supplies as defined in 247.571 shall be transported exclusively on U.S.-flag vessels unless:

(1) Those vessels are not available and appropriate notices are given and approvals received;

(2) The Secretary of the Navy finds that the freight charged is excessive or unreasonable; or

(3) The contracting officer finds that the charges to the armed services are higher than charges to private persons for the transportation of like goods.

(c) The contracting officer shall ensure that contracts provide for the use of Government-owned vessels when the security classification prohibits the use of other than Government-owned vessels.

(d) The Cargo Preference Act of 1904 does not apply to ocean transportation of (1) products obtained for contributions to foreign assistance programs; or (2) products owned by agencies other than the Department of Defense. For these products, FAR Subpart 47.5 applies.

247.573 Procedures.

247.573-1 Purchase of ocean transportation incidental to a contract for supplies, services, or construction.

(a) This subsection applies to those acquisitions where ocean transportation will be used by a contractor or subcontractor in its performance of a supply, service or construction contract or subcontract.

(b) The contracting officer shall obtain assistance from the cognizant transportation activity (see 247.105), as follows:

(1) In developing the Government estimate for transportation costs, irrespective of whether freight will be paid directly by the Government;

(2) In developing appropriate shipping instructions and delivery terms for inclusion in solicitations and contracts that may involve transportation by sea of supplies.

(c) When the contracting officer is notified in accordance with the clause at 252.247-7203, Transportation of Supplies by Sea, that the contractor or subcontractor considers that:

(1) No U.S.-flag vessels are available: the contracting officer shall request confirmation from the Director, Office of Contracts and Business Management, Military Sealift Command (MSC), that no U.S.-flag vessels are available.

(2) The freight charges to the armed services, the contractor or any subcontractor, are higher than charges for transportation of like goods to private persons having no involvement in the contract: the contracting officer may waive or approve any request for a waiver of the requirement to ship on U.S.-flag vessels for a particular shipment. Prior to granting such a waiver, the contracting officer shall solicit oral or written advice from the Commander, MSC or designated representative, MSC. The Commander, MSC shall consider, as appropriate, evidence from published tariffs, industry publications, the Maritime Administration, and other available sources when advising the contracting officer whether the waiver should be granted.

(3) The freight charged by U.S.-flag carriers is considered excessive or otherwise unreasonable: the contracting officer shall forward a report to the Commander, MSC through the head of the contracting activity and the Director, Office of Contracts and Business Management, MSC. The report shall take into consideration that the Cargo Preference Act of 1904 is, in part, a subsidy of the U.S.-flag commercial shipping industry which starts from the premise that lower prices can be obtained from foreign-flag shippers. Accordingly, the report should consider not only excessive profits to the vessel owner, if ascertainable, but also excessive costs (i.e., costs beyond the economic penalty normally incurred by excluding foreign competition) resulting from the mandatory use of U.S.-flag vessels in extraordinarily inefficient circumstances. If the Commander, MSC or designated representative concurs with the contracting officer, the report will be forwarded to the Secretary of the Navy, via ASN(S&L) (CBM), for a determination.

(i) The report shall be in D&F format and include, as appropriate, an analysis of whether the cost of the armed

services is excessive, taking into account factors such as the differential between freight charges by the U.S.-flag carrier and an estimate of what foreign-flag carriers would charge based upon a price analysis; a comparison of U.S.-flag rates charged on comparable routes; efficiency of operation regardless of rate differential (i.e., suitability of the vessel for the required transportation in terms of cargo requirements/vessel capacity; the commercial reasonableness of vessel positioning required, etc.); and any other relevant economic and financial considerations affecting the armed services.

(ii) The fact that it would be less expensive to use a foreign-flag vessel is an insufficient basis, on its own, to determine that the freight rate proposed by the U.S.-flag carrier is excessive or otherwise unreasonable. However, such a differential may indicate a need for further review.

(d) When the successful offeror indicates in accordance with the solicitation provision at 252.247-7202, Representation of Extent of Transportation of Supplies by Sea, that supplies will be transported by sea under the resulting contract or subcontract, the contracting officer shall within 30 days of award forward one copy of the first page of the DD Form 350 for that contract to the Chief, Division of National Cargo, U.S. Maritime Administration, 400 7th Street SW., Washington, DC 20590.

247.573-2 Direct purchases of ocean transportation services.

(a) This subsection applies to those acquisitions where ocean transportation is the principal purpose of the contract such as Time Charter, Voyage Charters, Contracts of Affreightment, Dedicated Contractor Contracts of Affreightment, Ocean Bills of Lading, etc. These acquisitions shall be coordinated, as appropriate, with the MSC in accordance with DoDD 5160.10, Single Manager Assignment for Ocean Transportation.

(b) The MSC shall take such action as may be necessary and practicable to assure proper utilization of Government vessels and private United States vessels in accordance with applicable laws and regulations. The Commander, MSC or designated representative is authorized to make any determination as to the availability of United States-flag vessels required to assure proper utilization.

(c) All solicitations for ocean transportation services for supplies owned by the armed services of the United States shall provide, as an evaluation factor, a preference for U.S.-flag vessels. No contract of the type described in paragraph (a) above shall be awarded for a foreign-flag vessel unless:

(1) The contracting officer determines in accordance with paragraph 247.573-1(c)(1) that no U.S.-flag vessels are available, and obtain approval of the Commander, MSC or designated representative; or

(2) The contracting officer determines in accordance with paragraph 247.573-1(c)(2) that the freight charges proposed by U.S.-flag vessels to the armed services are higher than charges to private persons for transportation of like goods, and obtains the approval of the Commander, MSC or designated representative, or

(3) The contracting officer performs the analysis and forwards the report in accordance with subparagraph (i) below, and the Secretary of the Navy determines that the freight charges for U.S.-flag vessels are excessive or otherwise unreasonable.

(i) When the contracting officer believes, based solely on economic considerations, that the freight offered for a U.S.-flag vessel is excessive or otherwise unreasonable, the contracting officer shall forward a report through the head of the contracting activity to the Commander, MSC. The report shall take into consideration the factors in paragraph 247.573(b)(3). If the Commander, MSC or designated representative concurs with the contracting officer, the report will be forwarded to the Secretary of the Navy for a determination. The report shall be in D&F format and shall include, as appropriate:

(A) An analysis of the carrier's costs in accordance with FAR Subpart 15.8 or profit in accordance with DFARS Subpart 215.9 including the basis for the contracting officer's conclusion that the costs are unreasonable or that the profit proposed exceeds that which the contracting officer determines is necessary to adequately motivate the contractor and compensate the contractor for the degree of risk incurred (i.e., the costs or profit should not be high as to make it unreasonable to apply the preference for U.S.-flag vessels). The report shall include, as appropriate, a description of efforts taken by the contracting officer, pursuant to FAR 15.803(d), to negotiate a reasonable price. For the purpose of FAR 15.803(d), this report shall be considered the referral to higher authority.

(B) An analysis of whether the cost to the armed services is excessive (i.e., cost beyond the economic penalty normally incurred by excluding foreign competition), taking into account factors such as: the differential between freight charges by the U.S.-flag carrier and an estimate of what foreign-flag carriers would charge based upon a price analysis; a comparison of rates charged by other U.S.-flag carriers on comparable routes; efficiency of operation regardless of rate differential (i.e., suitability of the vessel capacity/cargo requirements; the commercial reasonableness of the vessel positioning required, etc.), and any other relevant economic and financial considerations affecting the armed services.

(C) The fact that it would be less expensive to use a foreign-flag vessel is an insufficient basis, on its own, to determine that the freight rate proposed by the U.S.-flag carrier is excessive or otherwise unreasonable. However, such differential may indicate a need for further review.

247.574 Solicitation provisions and contract clause.

(a) The contracting officer shall insert the provision at 252.247-7202, Representation of Extent of Transportation of Supplies by Sea, in full text, in all solicitations other than those for direct purchase of ocean transportation services, or those with an anticipated value below the small purchase threshold in FAR Part 13, or those where the contracting officer knows that ocean transportation of supplies as defined at 247.571 will not occur in the performance of the contract or subcontract thereunder.

(b) The contracting officer shall insert the clause at 252.247-7203, Transportation of Supplies by Sea, in all solicitations and contracts other than those for direct purchase of ocean transportation services, or those with an anticipated value below the small purchase threshold in FAR Part 13.

(c) The contracting officer may insert in solicitations and contracts, under agency procedures, additional appropriate clauses consistent with this subpart concerning the vessels to be used.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

25. Section 252.203-7001 is revised to read as follows:

252.203-7001 Special prohibition on employment.

As prescribed in 203.571-5, insert the following clause in all solicitations and contracts other than those entered into using the small purchase procedures of FAR Part 13:

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Special Prohibition on Employment (Mar 1989)

(a) *Definitions.* "Arising out of a contract with the Department of Defense", as used in this clause, means any act in connection with (1) attempting to obtain, (2) obtaining, or (3) performing a contract or subcontract of any agency, department, or component of the Department of Defense.

"Conviction of fraud or any other felony", as used in this clause, means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which sentence has been imposed.

"Date of conviction", as used in this clause, means the date judgment was entered against the individual.

(b) 10 U.S.C. 2408 prohibits a person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense from working in a management or supervisory capacity on any defense contract, or serving in various other capacities for a defense contractor, for up to five (5) years from the date of conviction, as set forth in paragraph (c) below. Defense contractors are subject to a criminal penalty of not more than $500,000 if they are convicted of knowingly employing a person under a prohibition or allowing that person to serve in violation of 10 U.S.C. 2408.

(c)(1) The Contractor agrees not to knowingly employ any person, convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the Department of Defense, in a management or supervisory capacity on any Department of Defense contract or subcontract or allow that person to serve either on its board of directors, as a consultant, or as an agent or representative for a period of five (5) years from the date of conviction or for the period of any resultant debarment of the convicted person, whichever is longer, unless waived.

(2) The Contractor agrees not to knowingly employ any person, convicted on or before September 29, 1988, of fraud or any other felony arising out of a contract with the Department of Defense, in a management or supervisory capacity on any Department of Defense contract or subcontract or allow that person to serve on its board of directors for a period of one (1) year from the date of conviction or for the period of any resultant debarment, whichever is longer.

(d) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as suspension or debarment, may direct the cancellation of the contract at no cost to the Government, or terminate this contract for default.

(e) The Contractor may submit written requests for waiver of the prohibitions in paragraph (c)(1) above to the Contracting Officer who will process such requests in accordance with DFARS 203.571–4. Requests shall clearly identify the person involved, the nature of the conviction and resultant sentence or punishment imposed, the reasons for the requested waiver, and an explanation of why waiver of the prohibitions of paragraph (c)(1) above is in the interests of national security.

(f) The Contractor agrees to include the substance of this clause, including this paragraph (f), appropriately modified to reflect the identity and relationship of the parties, in all subcontracts exceeding $25,000.

(End of clause)

26. Section 252.225–7028 is added to read as follows:

252.225–7028 Notice of prohibition of certain contracts with foreign entities for the conduct of strategic defense initiative RDTE.

As prescribed at 225.7013(e), insert the following provision:

NOTICE OF PROHIBITION OF CERTAIN CONTRACTS WITH FOREIGN GOVERNMENTS OR FIRMS FOR THE CONDUCT OF STRATEGIC DEFENSE INITIATIVE RDTE (MAR 1989)

(a) *Definitions.* As used in this solicitation:

"Competent" means the ability of an offeror to satisfy the requirements of the solicitation. This determination is based on a comprehensive assessment of each offeror's proposal including a consideration of the specific areas of evaluation criteria in the relative order of importance described in the solicitation.

"Foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than fifty percent (50%) of the stock is owned or controlled by one or more foreign nationals.

"United States firm" means a business entity other than a foreign firm.

(b) *Policy.* This provision implements section 222 of the Defense Authorization Act for FYs 1988 and 1989 (Pub. L. 100–180) which prohibits the award of certain contracts, for the conduct of Strategic Defense Initiative (SDI) Program research, development, test, or evaluation (RDTE), to foreign governments or firms. Accordingly, except as provided for in paragraph (c) below, any funds appropriated to, or for the use of DoD, may not be used to enter into or carry out any contract, including any contract awarded as a result of a Broad Agency Announcement (BAA), with a foreign government or firm if the contract provides for the conduct of RDTE in connection with the SDI. Foreign governments and firms, however, are encouraged to submit offers since this clause is not intended to restrict SDI access to unique foreign expertise when contract performance requires a level of competency unavailable in the United States.

(c) *Exceptions.* The prohibition does not apply to a foreign government or firm if:

(1) The contract is to be performed within the United States; or

(2) The contract is exclusively for RDTE in connection with antitactical ballistic missile systems; or

(3) The foreign government or firm agrees to share a substantial portion of the total contract cost. The foreign share may be considered substantial where it is equitable with respect to the relative benefits to be derived from the contract by the U.S. and the foreign parties. For example, if the contract is more beneficial to the foreign party, its share of the costs should be correspondingly higher; or

(4) The U.S. Government determines that the contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the RDTE can be performed by a foreign government or firm.

(d) The Offeror hereby certifies that it is ___ is not ___ a United States firm as defined in paragraph (a) above.

(End of provision)

27. Section 252.228–7007 is added to read as follows:

252.228–7007 Bid bond.

As prescribed in 228.101–3(b), insert the following clause in solicitations and contracts:

BID BOND (MAR 1989)

(a) The Offeror (Bidder) shall furnish a separate bid bond, or United States bonds, Treasury notes or other public debt obligations of the United States, in the proper form and amount, by the time set for opening of bids. Failure to do so may be cause for rejection of the bid. The Contracting Officer will return bonds or notes of the United States (1) to unsuccessful bidders as soon as practicable after the opening of bids; and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(b) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or give a bond(s) as required by the solicitation within the time specified, the Contracting Officer may terminate the contract for default.

(c) Unless otherwise specified in the bid, the Bidder will (1) allow sixty (60) days for acceptance of its bid; and (2) give bond within ten (10) days after receipt of the forms by the Bidder.

(d) In the event the contract is terminated for default, the Bidder is liable for any cost of acquiring the work that exceeds the amount of its bid. The bid bond, or bonds or notes of the United States, is available to offset the difference.

(End of clause)

252.247–7200 [Removed and Reserved]

28. Section 252.247–7200 is removed and the section marked "Reserved."; section 252.247–7201 is added and the section marked "Reserved."; and sections 252.247–7202 and 252.247–7203 are added to read as follows:

252.247–7201 [Reserved]

252.247–7202 Representation of extent of transportation by sea.

As prescribed in 247.574(a), insert the following provision, in full text, in solicitations other than those for direct purchase of ocean transportation services, or those with an anticipated

value below the small purchase threshold in FAR Part 13, or those where the contracting officer knows that ocean transportation of supplies as defined in 247.571 will not occur in the performance of the contract or a subcontract thereunder.

REPRESENTATION OF EXTENT OF TRANSPORTATION OF SUPPLIES BY SEA (MAR 1989)

The clause at 252.247–7203, Transportation of Supplies by Sea, will be included in any contract resulting from this solicitation. The Offeror is required to indicate whether transportation by sea is anticipated under the resultant contract by checking the appropriate blank as follows:

The Offeror represents that it ___ does ___ does not anticipate that any of the supplies, as defined in the above-referenced clause, will be transported by sea in the performance of any contract or subcontract resulting from this solicitation. Notwithstanding this representation, the Offeror recognizes and will comply with the requirements of the above-referenced clause.

(End of representation)

(End of provision)

252.247–7203 Transportation of supplies by sea.

As prescribed in 247.574, insert the following clause in all solicitations and contracts other than those for direct purchase of ocean transportation services, or those with an anticipated value below the small purchase threshold in FAR Part 13.

TRANSPORTATION OF SUPPLIES BY SEA (MAR 1989)

(a) As used in this clause:

(1) "Armed services" means the Army, Navy, Air Force, Marine Corps, and Defense Agencies.

(2) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication or assembly by the contractor or any subcontractor.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property except land and interests in land that is readily identifiable for eventual use by the armed services, or owned by the armed services, at the time of transportation by sea. It includes (but is not limited to) public works, buildings and facilities, ships, floating equipment and vessels of every character, type, and description, together with parts, subassemblies, accessories, and equipment; machine tools, material, equipment, and stores of all kinds; end items, construction materials and the components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The Contractor shall employ United States-flag vessels, and no others, in the transportation by sea of any supplies to be furnished in the performance of its contractual obligations.

(c) If the Contractor or a subcontractor believes that (1) U.S.-flag vessels are not available for timely shipment; (2) the freight charges are excessive or unreasonable; or (3) freight charges are higher than charges to private persons for transportation of like goods, the Prime Contractor, including subcontractors through the Prime Contractor, may request from the Contracting Officer, in accordance with paragraph (d) below, authorization to ship in foreign-flag vessels or designation of available U.S.-flag vessels. If the Prime Contractor's request to ship supplies in foreign-flag vessels, whether on its own account or on account of a subcontractor, is granted in writing by the Contracting Officer, the supplies may be shipped on foreign-flag vessels in accordance with the approval. The Contracting Officer may condition approval to ship on a foreign-flag vessel on an equitable adjustment of the contract.

(d) The request for use of other than U.S.-flag vessels must be submitted in writing by or through the Prime Contractor to the Contracting Officer at least forty-five (45) days for matters concerning freight charges or for matters concerning availability prior to the sailing date for the shipper to meet its delivery schedules. Requests submitted after such date(s) will be processed as expeditiously as possible but the failure of the appropriate official to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. The request shall contain at a minimum:

(1) Type, weight, and cube of cargo.

(2) Required shipping date.

(3) Special handling and discharge requirements.

(4) Loading and discharge points.

(5) Name of shipper and consignee.

(6) Prime contract number.

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact with at least two (2) U.S.-flag carriers contacted by name and telephone number. Copies of telephone notes, telegraphic and facsimile messages or letters will be sufficient for this purpose.

(8) Certification, to the best of the certifying official's knowledge and belief, that the information provided under this paragraph (d) is accurate, complete and current as of the date of submission and that good faith efforts have been made to secure U.S.-flag transportation in a timely and efficient manner.

(9) Signature of an official of the Contractor eligible to sign claim certification under FAR 33.207(c).

(e) The Contractor agrees to furnish with each invoice submitted for payment a copy of the rated on-board vessel operating carrier's ocean-bills-of-lading executed since the date of the award of the contract, or executed since the previously submitted invoice. The operating carrier's ocean-bills-of-lading shall contain the following information:

(1) Applicable Government prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

(5) Port of loading;

(6) Port of final discharge;

(7) Description of commodity;

(8) Gross weight in pounds and cubic feet if available;

(9) Total ocean freight in U.S. dollars.

(10) Name of the steamship company.

(f) The Prime Contractor shall ensure that within thirty (30) days after each shipment covered by this clause the shipper shall provide the Contracting Officer and the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the shipping document cited in paragraph (e), reflecting each shipment made under the contract.

(g) Along with the submission of its final invoice under this contract the Contractor agrees to provide a representation that to the best of its knowledge and belief:

(1) No ocean transportation was used in the performance of this contract;

(2) Ocean transportation was used and only United States-flag vessels were used for all ocean shipments under the contract. Legible copies of rated on-board ocean-bills-of-lading or similar shipping documents have been submitted with the applicable invoices to the payment office, to the Contracting Officer and to the Maritime Administration in accordance with paragraphs (e) and (f) of this clause;

(3) Ocean transportation was used, and to the extent any non-U.S.-flag vessels were used, the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. These shipments were as follows:

Item description	Contract line item's quantity
Total.....	

(h) If the final invoice does not include the required representations and documentation, it will be rejected and returned to the Contractor as an improper invoice for the purposes of the clause of the contract entitled "Prompt Payment". In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

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(i) The Contractor shall include this clause, including this paragraph (i), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder.

(End of clause)

[FR Doc. 89-9295 Filed 4-20-89; 8:45 am]
BILLING CODE 3610-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 701, 704, 709, 725, 728, and 752

[AIDAR Notice 89-2]

Miscellaneous Amendments to Acquisition Regulations

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The A.I.D. Acquisition Regulation (AIDAR) is being amended to correct various typographical errors and update references, clarify certain provisions, and specify authority in A.I.D. for approving waivers under FAR 9.503. All of the changes are considered editorial.

EFFECTIVE DATE: April 21, 1989.

FOR FURTHER INFORMATION CONTACT: M/SER/PPE, Mr. James M. Kelly, Room 1600I, SA-14, Agency for International Development, Washington, DC 20523. Telephone (703) 875-1534.

SUPPLEMENTARY INFORMATION: The changes being made by this Notice are not considered significant rules subject to FAR 1.301 or Subpart 1.5. This Notice is exempted from the requirements of Executive Order 12291 by OMB Circular 85-7. This Notice will not have an impact on a substantial number of small entities, nor does it establish any information collection as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 701, 704, 709, 725, 728, and 752

Government procurement.

For the reasons set out in the Preamble, Chapter 7 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citations in Parts 701, 704, 709, 725, 728, and 752 continue to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.1—Purpose, Authority, Issuance

701.105 [Amended]

2. Paragraph (a) of section 701.105, OMB approval under the Paperwork Reduction Act, is amended to change the Expiration Data for AIDAR Segment 733.7003(c) from "12/31/88" to "12/31/90".

PART 704—ADMINISTRATIVE MATTERS

Subpart 704.4—Safeguarding Classified Information Within Industry

704.405 [Redesignated as 704.404]

3. Section 704.405, Contract clause, is redesignated as 704.404.

PART 709—CONTRACTOR QUALIFICATIONS

4. A new Subpart 709.5 consisting of section 709.503 is added as follows:

Subpart 709.5—Organizational Conflicts of Interest

709.503 Waiver.

For purposes of approving waivers or redelegating the authority to approve waivers pursuant to FAR 9.503, the A.I.D. Procurement Executive is the Agency head (see AIDR 702.170-13(c)(4). The Procurement Executive had redelegated the authority to approve waivers pursuant to FAR 9.503 to the heads of contracting acitivites in A.I.D., as defined in AIDAR 702.170-10.

PART 725—FOREIGN ACQUISITION

Subpart 725.2 [Removed]

5. Subpart 725.2—Buy American Act—Construction Materials is removed.

PART 728—BONDS AND INSURANCE

Subpart 728.3—Insurance

728.305-70 [Amended]

6. Section 728.305-70, Overseas worker's compensation and war-hazard insurance—waivers and A.I.D. insurance coverage, is amended by removing the ninth and tenth sentences (starting with the words "Copies of A.I.D. secured . . ." and ending ". . . A.I.D. secured waivers.") of paragraph (a), and by revising the first sentence of paragraph (a)(2) to read:

(a) * * *

(2) Waived employees (i.e., employees who are neither U.S. citizens nor U.S. resident aliens, and who were hired outside the United States) will be provided worker's compensation benefits as required by the laws of the country in which they are working or the laws of their native country, whichever offers greater benefits.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.2—Texts of Provisions and Clauses

752.225-9 [Amended]

7. Section 752.225-9, Buy American Act—Trade Agreements Act—Balance of Payments Program, is amended to change the reference to "subsection 752.7005 ", replacing it with a reference to "section 752.7004."

8. Section 752.228-3, Worker's Compensation Insurance (Defense Base Act), is amended by designating the paragraphs in the clause as (a), (b) and (c) respectively and revising newly designated (a) and (b) to read as follows:

752.228-3 Worker's Compensation Insurance (Defense Base Act).

* * * * *

(a) The Contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between A.I.D. and A.I.D.'s DBA insurance carrier unless the Contractor has a DBA self insurance program approved by the Department of Labor or has an approved retrospective rating agreement for DBA.

(b) If A.I.D. or the Contractor has secured a waiver of DBA coverage for Contractor's employees who are not citizens of, residents of, or hired in the United States, the Contactor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits. The list of countries for which A.I.D. has secured waiver of DBA coverage is shown in AIDAR 728.305-70(a)(2) (48 CFR 728.305-70(a)(2)).

* * * * *

752.228-7 [Amended]

9. Section 752.228-7, Insurance—Liability to Third Persons is amended by removing the reference to "728.307-2(b)" appearing in the first sentence of the section, replacing it with a reference to "728.307-2(c)".

Subpart 752.70—Texts of A.I.D. Contract Clauses

10. The contract clause in section 752.7004, source and nationality requirements, is amended by revising the clause title and date and paragraph (g) of the clause as follows:

752.7004 Source and Nationality Requirements.

* * * * *

Source and Nationality Requirements (APR 1989)

* * * * *

(g) *Ineligible suppliers.* Funds provided under this contract shall not be used to procure any commodity or commodity-related service from any supplier who is debarred or suspended pursuant to the procedures in 22 CFR Part 208—Government-wide Debarment and Suspension (Nonprocurement).

752.7026 [Amended]

11. Paragraph (a) of section 752.7026, Reports, is amended by revising the introductory sentence following "(a) *Alternate 70.*" as follows:

* * * * *

For use in all A.I.D.-direct contracts for technical services except fixed-price contracts; for fixed-price contracts for technical services see paragraph (b), *Alternate 72,* of this section.

Date: April 11, 1989.

John F. Owens,

Procurement Executive.

[FR Doc. 89-9610 Filed 4-20-89; 8:45 am]
BILLING CODE 6116-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 204 and 650

[Docket No. 90499-9099]

Atlantic Sea Scallop Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of control date for entry into the Atlantic Sea Scallop Fishery.

SUMMARY: This notice announces that anyone entering the Atlantic sea scallop fishery after March 2, 1989 (control date), will not be assured of future access to the scallop resource if a management regime is developed and implemented that limits the number of participants in the fishery. This announcement is necessary for public awareness of a potential eligibility criterion for access to the Atlantic sea scallop resource. This announcement does not prevent any other date for eligibility in the fishery or another method of controlling fishing effort from being proposed and implemented. The intended effect of this announcement is to discourage new entry to the fishery based on speculation, while discussions continue on whether and how access to the scallop resource should be controlled.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall (Executive Director, New England Fishery Management Council), 617-231-0422 or Patricia Kurkul, Northeast Region, National Marine Fisheries Service (508-281-9331).

SUPPLEMENTARY INFORMATION: Six proposals to amend the Fishery Management Plan for Atlantic Sea Scallops were taken to informational hearings in February and March by the New England Fishery Management Council (Council). Five hearings were held from Maine through North Carolina. Several of the proposals included provisions for establishment of a moratorium on vessels entering the fishery, and other fishing effort control measures.

After reviewing comments from the hearings and discussing the matter at its March 2, 1989 meeting, the Council voted to establish and publish the earliest possible control date which may be used for evaluating "historic participation" in the fishery, in the event that a moratorium is established or limited entry is used as a management measure. Accordingly, persons who enter the fishery after March 2, 1989, are not assured of future participation, should the Council develop, and the Secretary of Commerce implement, an access management regime that limits the number of participants in the scallop fishery.

In specifying the control date, the Council is acting in response to reports of an expanding number of fishery vessels entering the Atlantic sea scallop fleet, and the inability of the resource to support significantly increased effort.

Initial estimates of catch composition and the historical experience of regular fluctuations in resource abundance suggest an impending decline in the available scallop stocks. The Council concluded that the vessels active in the fishery at this time have sufficient capacity, if not an overcapacity, to harvest the available yield of the sea scallop stocks. The Council has decided that the establishment of an access management program for the fishery should be considered.

The Council's intent in making this announcement is to discourage speculative entry into the sea scallop fishery while potential management regimes to control access into the fishery are discussed and possibly developed by the Council. The control date will help to distinguish bona fide established fishermen from the speculative entrants to the fishery. Although fishermen are notified that entering the fishery after the control date will not assure them of future access to the sea scallop fishery on the grounds of previous participation, other qualifying criteria also may be applied for entry.

This announcement hereby establishes March 2, 1989, for potential use in determining historical or traditional participation in the sea scallop fishery. The action does not commit the Council to develop any particular management regime or any specific criteria for determining entry to the sea scallop fishery. Fishermen are not guaranteed future participation in the sea scallop fishery, regardless of their date of entry or intensity of participation in the fishery before or after the control date.

The Council may choose a different control date, or it may choose a management regime that does not make use of such a date. The Council may choose to give variably weighted consideration to fishermen in the fishery before and after the control date. The Council may choose also to take no further action to control entry or access to the fishery. Any action by the Council will be taken pursuant to the requirements for FMP development established under the Magnuson Act.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 18, 1989.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89-9643 Filed 4-18-89; 4:02 pm]
BILLING CODE 3510-22-M

50 CFR Parts 204 and 658

[Docket No. 80990-9088]

Shrimp Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule and notice of OMB control number.

SUMMARY: NOAA issues this final rule to amend the regulations for the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) to (1) modify, temporarily, the boundary of the Tortugas shrimp sanctuary to reduce the area closed to trawl fishing, and (2)

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require a report of the incidental take of any threatened or endangered sea turtle in the opened part of the Tortugas shrimp sanctuary. This action will enable fishermen to harvest marketable-sized shrimp from a small area that otherwise would be closed to shrimp trawling and will provide adequate protection to sea turtles, as required by the Endangered Species Act (ESA). This rule also informs the public of the approval by the Office of Management and Budget (OMB) of the information collection request (ICR) contained in this rule and publishes the OMB control number for that ICR.

EFFECTIVE DATE: May 22, 1989, through November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813–893–3722.

SUPPLEMENTARY INFORMATION: The shrimp fishery is managed under the FMP and its implementing regulations at 50 CFR Part 658, as provided by the Magnuson Fishery Conservation and Management Act (Magnuson Act). Under the FMP, the Director, Southeast Region, NMFS (Regional Director), may modify by no more than 10 percent the geographical scope of the Tortugas shrimp sanctuary specified at § 658.22 after (1) consultation with the Gulf of Mexico Fishery Management Council (Council), (2) consideration of specified criteria, and (3) determination that benefits may be increased or adverse impacts decreased by the modification.

The primary purpose of establishing the sanctuary was to protect small shrimp and allow them to attain a larger, more valuable size prior to harvest. The FMP stipulates that, prior to any modification of the sanctuary, NMFS will monitor and assess the impacts of the closure and advise the Council of its findings. The Council may also consider the advice of its Shrimp Advisory Panel regarding the findings.

When the sanctuary was partially opened in 1983–1984, NMFS determined that harvestable populations of shrimp occur periodically within a small portion of the sanctuary—a fact strongly supported by public testimony. Fishermen contend that shrimp from within this portion of the sanctuary emigrate to untrawlable areas and are unavailable to the fishery. Poor recruitment of shrimp to the Tortugas fishery has resulted in 2 consecutive years of poor production and economic loss to the adjacent shrimp ports. As identified in the FMP, poor recruitment in the unique shrimp fishery is more a function of environmental forces than of overfishing. Opening the area of the sanctuary containing all sizes of shrimp is consistent with optimum yield because it will allow shrimpers to obtain, on a temporary basis, a more valuable catch per unit of effort.

Thus, the Regional Director, after consulting with the Council and considering the criteria for modifying the sanctuary, has determined that the small portion (approximately 54 square nautical miles) of the sanctuary that periodically contains harvestable shrimp should be opened for 1 year. This area is less than 10 percent of the total geographical scope of the sanctuary and such modification will increase the benefits to fishermen by optimizing the yield of shrimp. This temporary geographic modification is consistent with Objective 1 of the FMP because it provides temporary economic relief to the stressed fishermen while continuing to optimize the yield of shrimp recruited to the fishery.

To maximize the intended economic benefits of this action, it was necessary to make the geographic modification as soon as possible after November 1, 1988. November 1 marks the onset of the six-month period when peak landings occur. Accordingly, NOAA published an emergency final rule on November 9, 1988 (53 FR 45270), that implemented the geographic modification for 90 days (November 4, 1988 through February 2, 1989). During this period NOAA expected to (1) publish the proposed rule to extend the period of the boundary modification so as to provide a total period of one year and to require a report of incidental catch of sea turtles in the opened portion of the shrimp sanctuary, (2) receive public comments on the proposed rule, (3) obtain approval from the Office of Management and Budget (OMB) on the reporting requirement of the proposed rule, and (4) publish this final rule. These actions were not completed by February 2, 1989, and the Tortugas shrimp sanctuary reverted to its normal boundaries after that date.

This final rule modifies the boundary of the Tortugas shrimp sanctuary to reduce the area closed to trawl fishing and requires a report of the incidental take of any threatened or endangered sea turtle in the opened part of the sanctuary, effective from May 22, 1989 through November 3, 1989. The opened part of the sanctuary under this rule is the same as was opened under the emergency final rule.

Analysis of the impacts of the boundary modification, including its impact on endangered species, was included in the proposed rule (54 FR 2175, January 19, 1989) and is not reported here.

Comments and Responses

Seven written responses were received commenting on (1) temporarily modifying until November 3, 1989, the boundary of the Tortugas shrimp sanctuary to reduce the area closed to trawl fishing, and (2) requiring a report of the incidental take of any threatened or endangered sea turtle in the open area of the Tortugas shrimp sanctuary.

1. Temporary Modification of the Boundary of the Tortugas Shrimp Sanctuary Until November 3, 1989

One comment from a seafood dealer was received supporting the extension because the economic conditions that existed when the boundary modification was implemented on November 4, 1988, continue to exist. The commenter also noted that an interruption of the boundary modification would leave many questions unanswered. Thirty-one spiny lobster and stone crab fishermen opposed this action because they deployed traps in portions of the 54-square mile open area. Fixed trap gear cannot be safely deployed in an area fished with mobile, trawl gear. These fishermen contended that opening this area of the Tortugas shrimp sanctuary created the conditions for fishermen using trawl gear to inadvertently destroy about 6,500 spiny lobster and stone crab pots.

Comments from the Center for Marine Conservation, a professor from a sea grant college, and three individuals objected to opening the 54-square mile area of this sanctuary without concurrent requirements for the use of Turtle Excluder Devices (TEDs). These commenters were concerned about the shrimp fleets incidental, inadvertent catch and kill of endangered and threatened sea turtles.

NOAA has decided to extend the temporary modification of the Tortugas shrimp sanctuary until November 3, 1989. The risk of further conflict between fishermen using fixed and trawl gear is minimal because most of the trap loss occurred soon after the area was opened. Also, the spiny lobster season ends on March 31, 1989. The stone crab season ends May 15 but most stone crab fishing ends well before that time. All spiny lobster gear must be removed at the end of the season and most fishermen remove their stone crab pots about the same time due to unprofitable catch rates during the last two months of the season. In any case, this final rule gives ample notice to fishermen to remove fixed gear from the opened portion of the sanctuary.

NOAA does not agree with requiring the use of TEDs in the open area of the sanctuary. As was indicated in the emergency rule, the implementation of regulations that require the use of TEDs and other conservation measures in the ocean area around the Tortugas shrimp sanctuary, and elsewhere, was delayed by Congress until May 1, 1989. At that time, the regulations will become effective for the opened portion of the Tortugas shrimp sanctuary as well. NOAA remains convinced of the benefits of properly used TEDs to the conservation of endangered and threatened sea turtles. However, the required use of TEDs in the 54-square mile area of the sanctuary before their required use in adjacent areas would be unnecessarily cumbersome, difficult to enforce, counterproductive to orderly implementation of the more general requirements for TEDs and other conservation measures, and contrary to the present Congressional mandate.

2. Reporting Incidental Catches of Sea Turtles and Following Resuscitation Techniques and Release Procedures

One comment from a seafood dealer was received in support of reporting the incidental catch of sea turtles and requiring resuscitation of comatose turtles. One commenter from a sea grant college objected to requiring sea turtle catch reports, resuscitation procedures, and release techniques as mitigation measures instead of requiring the use of TEDs in the 54-square mile open area. NOAA views the mitigation measures included in this rule as adequate until the more general requirements for TEDs and other conservation measures become effective in this area.

Changes From the Proposed Rule

In the reporting requirement for the incidental take of a threatened or endangered sea turtle in the opened portion of the sanctuary (§ 658.5(c)), the availability of reporting forms, sea turtle identification guides, and resuscitation techniques has been added as a convenience to fishermen.

Classification

The Assistant Adminstrator for Fisheries, NOAA (Assistant Administrator), determined that this rule is consistent with the national standards and other provisions of the Magnuson Act and other applicable law.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities because the geographical area affected by the rule is small and, as a result, the number of fishermen affected in the Gulf-wide and Florida-wide fisheries would not be substantial. As a result, a regulatory flexibility analysis was not prepared.

The Council prepared a regulatory impact review (RIR) for this rule. Based on the RIR, the Under Secretary for Oceans and Atmosphere, NOAA, determined that the rule is not major under E.O. 12291 because it would not have an annual effect on the economy of $100 million or more; would not result in an increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Council prepared an environmental assessment (EA) for this rule and, based on the EA, the Assistant Administrator concluded that there will be no significant adverse impact on the human environment as a result of this rule.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. A request to collect this information has been approved by the Office of Management and Budget under OMB Control Number 0648–0219. Public reporting burden for this collection of information is estimated to average 12 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Michael E. Justen, Southeast Region, NMFS, and to the Office of Information and Regulatory Affairs, OMB (See **ADDRESSES**).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Florida. This determination was submitted for review by Florida under Section 307 of the Coastal Zone Management Act. Florida failed to comment within the statutory time period and concurrence is therefore implied.

List of Subjects

50 CFR Part 204

Reporting and recordkeeping requirements.

50 CFR Part 658

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated April 13, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Parts 204 and 658 are amended as follows:

PART 204—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 204 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

§ 204.1 [Amended]

2. In § 204.1(b), the table is amended by adding in the left hand column, in numerical order, "§ 658.5(c)" and adding in the right hand column, in a corresponding position, "–0219", effective from May 22, 1989, through November 3, 1989.

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO [AMENDED]

3. The authority citation for Part 658 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 658.5, a new paragraph (c) is added, effective from May 22, 1989, through November 3, 1989, to read as follows:

§ 658.5 Reporting requirements.

* * * * *

(c) *Tortugas shrimp sanctuary.* (1) The owner or operator of any fishing vessel that fishes for or lands shrimp or any part thereof in or from that part of the Tortugas shrimp sanctuary described at § 658.22(b) of this part, and who incidentally takes any endangered or threatened sea turtle, must provide the following information regarding any such taking to the Director, Galveston Laboratory, NMFS, 4700 Avenue U, Galveston, TX 77550, 409–766–3500, within 24 hours after landing.

(i) Date;

(ii) Shrimp vessel name;

(iii) Species of turtle caught:

(A) Loggerhead;

(B) Kemp's ridley; or

(C) Other (specify, see turtle identification guide);

(iv) Status of turtle when released:

(A) Alive; or

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(B) Dead;
(v) Whether the turtle had a tag;
(vi) If so, the tag number;
(vii) Coordinates of capture (loran readings or latitude and longitude);
(viii) Approximate tow time; and
(ix) Additional comments.
(2) Reporting forms, sea turtle identification guides, and resuscitation techniques may be requested from the Director, Galveston Laboratory.

5. In § 658.22, effective from May 22, 1989, through November 3, 1989, the existing text is redesignated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 658.22 Tortugas shrimp sanctuary.

* * * * *

(b) The provisions of paragraph (a) of this section notwithstanding, effective from November 4, 1988, through November 3, 1989, that part of the Tortugas shrimp sanctuary seaward of a line connecting the following points is open to trawl fishing: From point F at 24°50.7' N. latitude, 81°51.3' W. longitude to point Q at 24°46.7' N. latitude, 81°52.2' W. longitude (the intersection of the extension of the sanctuary boundary line from point N to point F (in a direction of 191° from true north) and the line denoting the seaward limit of Florida's waters); thence along the seaward limit of Florida's waters, as shown on the current edition (March 21, 1987) of NOAA chart 11439, to point R at 24°44.7' N. latitude, 82°10.0' W. longitude; thence north to point S at 24°45.1' N. latitude, 82°10.0' W. longitude (the intersection of 82°10.0' W. longitude and the sanctuary boundary line from point F to point G) (see Figure 1).

[FR Doc. 89-9644 Filed 4-20-89; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 81132-9033]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the portion of the total allowable catch (TAC) of sablefish allocated to hook-and-line gear in the Eastern Regulatory Area of the Gulf of Alaska has been reached. The Secretary of Commerce (Secretary) is prohibiting further retention of sablefish by longline vessels fishing in this area from 12:00 noon, Alaska Daylight Time (a.d.t.), on April 17, 1989, through December 31, 1989.

DATES: Effective from 12:00 noon, a.d.t., on April 17, 1989, until midnight, Alaska Standard Time, December 31, 1989. Public comments on this notice of closure may be submitted to the Regional Director at the address below by May 2, 1989.

ADDRESSES: Comments should be addressed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Fishery Management Biologist, or Ellen Rose Varosi, Fishery Biologist, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR Part 672. Section 672.20(a) of the regulations establishes an optimum yield (OY) range of 116,000-800,000 metric tons (mt) for all ground fish species in the Gulf of Alaska. Total allowable catches (TACs) for target species and species groups are specified annually within the OY range and apportioned among the regulatory areas and districts.

Section 672.24(b)(1) of current regulations restricts the hook-and-line catch of sablefish in the Eastern Regulatory Area to 95 percent of the TAC. The Eastern Regulatory Area is divided into three districts, the West Yakutat District and the combined Southeast Outside and East Yakutat Districts (SE/EYT). The 1989 TACs specified for sablefish in these districts are 4,550 mt in the West Yakutat District and 5,980 mt in the combined SE/EYT Districts (54 FR 6524, February 13, 1989); the portion of the TAC allocated to hook-and-line gear in these districts are 4,320 mt and 5,680 mt, respectively. Under § 672.24(b)(3)(ii), if the share of the sablefish TAC assigned to any type of gear for any area or district is reached, further catches of sablefish must be treated as prohibited species by persons using that type of gear for the remainder of the year.

The directed hook-and-line fishery for sablefish started April 1, 1989. The Regional Director reports that vessels using hook-and-line gear have landed 2,369 mt of sablefish through April 12 in the West Yakutat District. The longline fleet in this district has averaged a daily sablefish landing of 301.7 mt per day. At this rate, the balance of the 4,320 mt allocated to these vessels will be harvested by 12:00 noon, a.d.t., April 17, 1989.

The Regional Director further reports that the longline fleet fishing in the SE/EYT Districts has landed 3,325 mt of sablefish through April 11, 1989, and has averaged a daily landing of 369 mt per day. At this rate, the balance of the 5,680 mt allocated to these vessels will also be harvested by 12:00 noon, a.d.t., April 17, 1989.

Therefore, pursuant to § 672.24(b)(3)(ii), the Secretary is prohibiting further retention of sablefish caught with hook-and-line gear in the West Yakutat District and combined SE/EYT Districts effective 12:00 noon, a.d.t., April 17, 1989. Any sablefish caught with hook-and-line gear after that date must be treated as prohibited species and discarded at sea. The Secretary has already prohibited retention of sablefish caught with trawl gear in the West Yakutat District on April 12, 1989. Overharvesting of sablefish will result unless this notice takes effect promptly. NOAA therefore finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed.

If written comments are received which oppose or protest this action, the Secretary will reconsider its necessity and, as soon as practicable after that reconsideration, will publish in the **Federal Register** a notice either of continued effectiveness of the adjustment, responding to comments received, or that modifies or rescinds the adjustment.

Classification

This action is taken under §§ 672.22 and 672.24, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801, et seq.

Dated: April 17, 1989.

Richard H. Schaefer,
Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-9565 Filed 4-17-89; 4:52 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 76
Friday, April 21, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-CE-08-AD]

Airworthiness Directives; Cessna Model 180 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The FAA is considering issuing an Airworthiness Directive (AD) applicable to certain Cessna Model 180 airplanes to correct a problem involving undetected fuel loss. Evidence indicates that those airplanes equipped with an over wing (above cabin top) fuel vent mast may be susceptible to fuel syphoning due to ice blockage of the fuel vent mast inlet. Since possible alternative actions may be directed toward either the airplane or the operator, the agency is seeking comments from interested persons regarding the feasibility of requiring corrective action similar to that already voluntarily taken by some owners or operators.

DATES: Comments must be received on or before June 21, 1989.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-CE-08-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Paul O. Pendleton, Aerospace Engineer, FAA, ACE-140W, Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4427.

SUPPLEMENTARY INFORMATION:

Invitation for Comments

This Advance Notice of Proposed Rulemaking is being issued in accordance with the FAA's policy for the early institution of public rulemaking proceedings. An "advance" notice is issued when it is found that the resources of the FAA and reasonable inquiry outside of the agency do not yield a sufficient basis to identify and select a tentative or alternate courses of action, or where it would be helpful to invite public participation in the identification and selection of a course or alternative courses of action with respect to a particular rulemaking problem. The subject matter of this notice involves a situation contemplated by that policy.

Interested persons are invited to participate in the formulation of the FAA action by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in triplicate to the address specified above. All communications received on or before the date specified above will be considered before taking additional action. All comments will be available, both before and after the closing date for comments, in the Office of the Assistant Chief Counsel, Central Region, FAA, for examination by interested persons. If it is determined to be in the public interest to proceed with regulatory action, after consideration of the available data and comments, a Notice of Proposed Rulemaking will be issued.

Scope of Problem

Cessna manufactured the Model 170 Series, some early Models 172 and 180, as well as all 190/195 Series airplanes with an over the wing (above the cabin top) fuel tank vent mast. Reports have been received which indicate that the Model 180 airplane may be susceptible to fuel syphoning due to ice blockage of the over wing fuel vent mast. Operators of Cessna Model 180 airplanes still in service with over the wing fuel vents have recently reported a higher than usual number of fuel syphoning problems.

Cessna manufactured 2,466 Model 180 series airplanes from 1953 thru 1955 with an over wing fuel tank vent. These vents were subsequently determined to be susceptible to ice accretion. Ice blocking the fuel vent mast inlet results in fuel being syphoned out the alternate vent opening on the aft side of the fuel vent mast. In the mid 1956 model year production, the Model 180 fuel tank vent was relocated behind the left wing lift strut. This is the only vent location used through the most recent production of the light single engine series airplanes. However, in 1963 the Cessna 180 Series had an additional identical vent added behind the right wing lift strut. Dual primary fuel vents were utilized on all Cessna 180 Series airplanes manufactured from 1963 through the most recent production.

Some of the Cessna Model 180 airplanes manufactured with the single over wing fuel vent were later equipped with Cessna service kits to relocate the vent behind the left wing strut. During 1956, Cessna offered their Service Kit SK 180-6 which consisted of an exchange program to provide fuel tanks capable of accommodating the under wing vent for the early Model 180 airplanes. Subsequently, in 1959, Cessna offered their Service Kit SK 180-17A which provided instructions and hardware to relocate the over wing fuel vent mast to the under wing vent location. The Cessna vent relocation kits were discontinued several years ago. The Cessna Aircraft Company has advised the FAA that it is not practical to make the Cessna vent relocation kits available at this time.

There have been reports of incidents and accidents that were initiated by ice blockage of the over wing fuel vent mast followed by fuel loss due to syphoning of fuel out of the fuel vent mast alternate vent opening. The FAA has determined that there may be a valid need to provide all remaining early Cessna Model 180 airplanes (approximately 1,000) with under wing fuel tank vent(s). However, the FAA believes that there may be more cost effective methods available to equip the early Cessna Model 180 airplanes with under wing fuel vent(s). Therefore, this proposal is being offered as an Advance Notice of Proposed Rulemaking in an attempt to determine if a feasible course of action is (or can be made) available to correct the potential fuel syphoning problem on those Cessna Model 180 airplanes still equipped with an over wing fuel vent mast.

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Topics of Inquiry

The FAA believes that previous actions taken by Cessna in changing the fuel vent location and providing retrofit kits, which were voluntarily installed by some operators over 30 years ago, have reduced the probability of undetected fuel loss due to in-flight fuel syphoning on Cessna Model 180 airplanes. However, since this problem is now being reported with increased frequency, the FAA is considering the necessity for additional rulemaking or some other action which would improve the probability that the pilot would detect in-flight fuel loss or that fuel syphoning would not occur when the over wing fuel vent mast becomes obstructed by ice or some other foreign matter. In this regard, the FAA is especially interested in field comments and viewpoints on the following:

(a) Has erroneous fuel gaging and/or fuel syphoning with an over wing fuel vent configured Cessna Model 180 airplane been experienced?

(b) Has engine power interruption due to fuel flow problems on Cessna Model 180 airplanes configured with an over wing fuel vent been experienced when encountering an inadvertent icing condition?

(c) Are there field approved modifications, other than those produced by the Cessna Aircraft Company for the Cessna Model 180 airplanes originally configured with the over wing fuel vent?

(d) If the response to this advance notice indicates that action to increase the level of safety in the operation of the airplanes is warranted, which of the following actions would be most effective:

(1) Modification of existing, or installation of additional, primary fuel tank vents?

(2) Requiring an Airplane Flight Manual Supplement with special fuel system operating procedures and limitations?

(e) Would additional non-regulatory action by the FAA, such as increased emphasis on this problem in our accident prevention programs and during biennial flight reviews, raise the pilots' awareness of this problem and cause them to operate so that they would detect fuel syphoning?

(f) Are there some suggestions, other than those addressed above, for reducing the possibility of accidents involving these airplanes resulting from undetected fuel syphoning while operating in possible icing conditions?

This ANPRM is published pursuant to 49 U.S.C. 1354(a).

Issued in Kansas City, Missouri, on March 31, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-9593 Filed 4-20-89; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 109 and 509

[Docket No. 88N-0006]

RIN 0905-AC73

Action Levels for Added Poisonous or Deleterious Substances in Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to (1) amend its regulations creating and describing action levels to make it clear that action levels, as defined in the proposal, constitute prosecutorial guidance rather than substantive rules, and (2) revoke the provisions of regulations providing for exceptions to action levels in 21 CFR Parts 109 (human food) and 509 (animal feed), because of a court decision that relied on those regulations in determining that the action levels were substantive rules.

DATE: Comments by June 20, 1989.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John R. Wessel, Contaminants Policy Staff (HFC-6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1615.

SUPPLEMENTARY INFORMATION: Beginning with the enactment of the Federal Food, Drug, and Cosmetic Act (the act) in 1938 (21 U.S.C. 301 *et seq.*), and continuing through most of 1987, FDA regulated the presence in food and feed of unavoidable added poisonous or deleterious substances, such as aflatoxins in corn, principally by using what the agency viewed as general statements of policy—publicly available prosecutorial guidelines—that it termed "action levels." These action levels announced the amount of a particular added contaminant that FDA regarded as resulting in adulteration under section 402(a)(1) of the act (21 U.S.C. 342(a)(1)). That section provides that a food is adulterated if it bears or contains an added poisonous or deleterious substance that "may render (the food) injurious to health." In *Young* v. *CNI*, 106 S. Ct. 2360 (1986), reversing *CNI* v. *Young* 757 F.2d 354 (D.C. Cir. 1985), the Supreme Court decided that FDA has the discretion to regulate such substances either by (1) exercising its prosecutorial discretion to recommend court proceedings under section 402(a)(1) of the act, guided by informal action levels, or (2) issuing tolerances by formal rulemaking under sections 406 and 701(e) of the act (21 U.S.C. 346 and 371(e)). The Supreme Court found that the question whether action levels must be promulgated by notice and comment (informal) rulemaking under the Administrative Procedure Act (APA) (5 U.S.C. 553) was not before it (106 S. Ct. at 2364), and therefore remanded the case to the U.S. Court of Appeals for the District of Columbia Circuit for decision on that issue.

On May 15, 1987, the D.C. Circuit held that FDA action levels are legislative rules rather than general statements of policy within the meaning of the APA (5 U.S.C. 551(5)) and, therefore, must be promulgated in accordance with the notice and comment procedures of that statute (*CNI* v. *Young*, 818 F.2d 943 (D.C. Cir. 1987)). Because FDA's action levels were issued without such procedures, the court found the action levels to be "invalid." *Id.* at 950.

On June 29, 1987, the government filed a petition for rehearing with suggestion for rehearing *en banc* in the case. On October 15, 1987, the circuit court denied the *en banc* suggestion without dissent. On the same date, the petition for panel rehearing was denied. The government did not seek *certiorari*.

In the **Federal Register** of February 19, 1988 (53 FR 5043), in response to the circuit court's decision, FDA issued a notice stating that its current action levels are not binding on the courts, the public (including food producers), or the agency (including individual FDA employees), and that the action levels do not have the "force of law" of substantive rules. The notice said that if a food bears or contains an unavoidable added poisonous or deleterious substance in an amount below the action level for that substance, FDA is not precluded from recommending to the Department of Justice (see 21 U.S.C. 337; *Ewing* v. *Mytinger & Casselberry, Inc.*, 339 U.S. 594, 598-99 (1950)) that court enforcement action be instituted against the food or the persons responsible for its shipment, and the government is not barred from bringing such an action. Action levels do not create a legal

immunity from prosecution for food producers, nor do action levels grant to food producers a legal privilege to ship in interstate commerce food with added contaminants up to the applicable action levels. At the same time, as stated in the notice, if a food bears or contains an unavoidable poisonous or deleterious substance in an amount in excess of the action level for that substance, FDA is not required to recommend court proceedings, and the government is not required to bring such proceedings. Whether FDA will recommend, and the government will institute, seizure, injunction, or prosecution in a given case will depend on the extent of the contamination, the strength of the evidence of adulteration within the meaning of section 402(a)(1) of the act, the risk to health presented by the unavoidable added poisonous or deleterious substance, the amount of food involved, and other factors.

In the February 19, 1988, notice, FDA also stated that it would publish a proposed rule to (1) amend its regulations creating and describing action levels to make it clear that action levels constitute prosecutorial guidance rather than substantive rules, and (2) revoke the provisions of the regulations providing for exemptions to action levels in 21 CFR Parts 109 (human food) and 509 (animal feed), because the circuit court relied on those regulations and provisions in determining that the action levels were substantive rules. *CNI* v. *Young*, 818 F.2d at 847, quoting 21 CFR 109.4, 109.6(c), and 109.8(a).

FDA is proposing to amend 21 CFR 109.4(b)(1) and 21 CFR 509.4(b)(1) by providing that an action level define a level of contamination at which the agency may regard a food as adulterated. An action level would no longer be defined as "the level of contamination at which a food will be deemed to be adulterated." FDA is also proposing to amend § 109.4(b)(1) § 509.4(b)(1) be deleting the last sentence, which provides that "an action level may prohibit any detectable amount of the substance in food." These proposed amendments are intended to make it clear that action levels do not have a present effect and are not binding.

FDA is proposing to amend § 109.4(b)(2) and § 509.4(b)(2) by deleting the following sentences:

> Regulatory action may be taken at any time after an action level is established, and need not await publication of the notice. An action level may be changed at any time if the protection of the public health so requires.

The agency is proposing to delete these sentences because they suggested that action levels are binding and because they attach to action levels a degree of formality that is neither necessary nor appropriate. As indicated in the February 19, 1988, notice, action levels are merely prosecutorial guidelines. Regulatory action may therefore be taken whether or not an action level has been established, and an action level may be changed for any appropriate reason.

FDA is proposing to amend § 109.6(c) and § 509.6(c) in two respects. First, consistent with the proposed amendments to § 109.4(b) (1) and (2) and § 509.4(b) (1) and (2), discussed above, the agency is proposing to delete from the second sentence of § 109.6(c) and § 509.6(c) the phrase "shall cease to be enforced and," because that phrase suggests that action levels have a present effect and are binding. Second, FDA is proposing to amend the first sentence of § 109.6(c) and § 509.6(c) to provide that an action level for an added poisonous or deleterious substance in a food (or feed) may be established at a level at which FDA may regard the food (or feed) as adulterated within the meaning of section 402(a)(1) of the act, without regard to the criteria in section 406 of the act or § 109.6 or § 509.6 of the agency's regulations. FDA has established action levels in the past to aid in enforcing section 402(a)(1) of the act, and the agency is proposing to reflect that practice in its regulations.

FDA is not proposing at this time any other amendments to § 109.6 or § 509.6. The agency emphasizes, however, that an action level established using the criteria in current § 109.6 or § 509.6 is not the functional equivalent of a tolerance established by formal rulemaking under sections 406 and 701(e) of the act. The administrative standard represented by an action level as opposed to such a tolerance is entirely different in legal effect, for an action level does not bind the courts, the public (including food producers), or FDA (including individual agency employees).

Finally, FDA is proposing to delete § 109.8 and § 509.8 in their entirety. These provisions provided for exemptions to action levels and, in the circuit court's view, confirmed that action levels were "presently binding norm[s]." *CNI* v. *Young*, 818 F.2d at 847. The agency emphasizes, however, that notwithstanding any deletion of § 109.8 and § 509.8, FDA "enjoys complete discretion not to employ the enforcement provisions" of the act. *CNI* v. *Young*, 818 F.2d at 950, citing *Heckler* v. *Chaney*, 470 U.S. 821 (1985). Those "provisions authorize, but do not compel, FDA to undertake enforcement activity; they 'commit complete discretion to [FDA] to decide how and when they should be exercised.' " *Schering Corp.* v. *Hekcler* 779 F.2d 683, 686 (D.C. Cir. 1985), quoting *Heckler* v. *Chaney*, 470 U.S. at 835.

FDA notes that if it were to establish, by notice-and-comment rulemaking under sections 402(a)(1) and 701(a) of the act (21 U.S.C. 342(a)(1) and 371(a)), levels of added poisonous and deleterious substances in food that may render the food injurious to health, those levels would be binding on the courts, the public (including food producers), and the agency (including individual FDA employees). If the agency establishes such levels, it will call them regulatory limits, to eliminate the possibility of confusion over the legal effect of action levels, as defined in this proposal, and binding regulatory limits promulgated by informal rulemaking under sections 402(a)(1) and 701(a) of the act.

Environmental Impact

FDA has determined that this action is of a type that is categorically excluded under § 25.24(a)(8) of the agency's regulations governing environmental impact considerations (21 CFR 25.24(a)(8)). Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has examined the regulatory impact and regulatory flexibility implications of the proposed rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96-354). The agency finds that the proposed rule is not a major rule because the revisions proposed would not result in any increase in cost (significant or otherwise) to the public (including food producers). The proposal would amend the agency's regulations creating and describing action levels for added poisonous or deleterious substances, such as aflatoxins in corn, to make it clear that action levels constitute prosecutorial guidance rather than substantive rules. The agency is also proposing to revoke the provisions of the regulations providing for exceptions to action levels since there would be no need to provide for an exception to an action level that does not bind the courts, the public (including food producers), or the agency (including individual agency employees). Thus, the proposal creates no new requirements for food producers. For these reasons, therefore, the agency has determined that the proposed rule is

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not a major rule as defined in Executive Order 12291. Further, FDA certifies that the proposed rule will not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Request for Comments

Interested persons may, on or before June 20, 1989, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 109

Food packaging, Foods, Polychlorinated biphenyls (PBC's).

21 CFR Part 509

Animal foods, Packaging and containers, Polychlorinated biphenyls (PCB's).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Parts 109 and 509 be amended as follows:

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIAL

1. The authority citation for 21 CFR Part 109 continues to read as follows:

Authority: Secs. 306, 402(a), 406, 408, 409, 701, 52 Stat. 1045–1046 as amended, 1049 as amended, 1055–1056 as amended, 68 Stat. 411–518 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 336, 342(a), 346, 346a, 348, 371).

2. Section 109.4 is amended by revising paragraphs (b) (1) and (2) to read as follows:

§ 109.4 Establishment of regulations.

* * * * *

(b)(1) When appropriate under the criteria of § 109.6, an action level for an added poisonous or deleterious substance, which may be a food additive, may be established to define a level of contamination at which a food may be regarded as adulterated.

(2) Whenever an action level is established or changed, a notice shall be published in the **Federal Register** as soon as practicable thereafter. The notice shall call attention to the material supporting the action level which shall be on file with the Dockets Management Branch before the notice is published. The notice shall invite public comment on the action level.

* * * * *

3. Section 109.6 is amended by revising paragraph (c) to read as follows:

§ 109.6 Added poisonous or deleterious substances.

* * * * *

(c) An action level for an added poisonous or deleterious substance in any food may be established when the criteria in paragraph (b) of this section are met, except that technological or other changes that might affect the appropriateness of the tolerance are foreseeable in the near future. An action level for an added poisonous or deleterious substance in any food may also be established at a level at which the Food and Drug Administration may regard the food as adulterated within the meaning of section 402(a)(1) of the act, without regard to the criteria in paragraph (b) of this section or in section 406 of the act. An action level shall be revoked when a tolerance for the same substance and use has been established.

* * * * *

§ 109.8 [Removed]

4. Section 109.8 *Exemptions* is removed from Subpart A.

PART 509—UNAVOIDABLE CONTAMINANTS IN ANIMAL FOOD AND FOOD-PACKAGING MATERIAL

5. The authority citation for 21 CFR Part 509 continues to read as follows:

Authority: Secs. 306, 402(a), 406, 408, 409, 701; 52 Stat. 1045–1046 as amended, 1049 as amended, 1055–1056 as amended; 68 Stat. 511–518 as amended; 72 Stat. 1785–1788 as amended (21 U.S.C. 336, 342(a), 346, 346a, 348, 371).

6. Section 509.4 is amended by revising paragraphs (b) (1) and (2) to read as follows:

§ 509.4 Establishment of regulations.

* * * * *

(b)(1) When appropriate under the criteria of § 509.6, an action level for an added poisonous or deleterious substance, which may be a food additive, may be established to define a level of contamination at which a food may be regarded as adulterated.

(2) Whenever an action level is established or changed, a notice shall be published in the **Federal Register** as soon as practicable thereafter. The notice shall call attention to the material supporting the action level which shall be on file with the Dockets Management Branch before the notice is published. The notice shall invite public comment on the action level.

* * * * *

7. Section 509.6 is amended by revising paragraph (c) to read as follows:

§ 509.6 Added poisonous or deleterious substances.

* * * * *

(c) An action level for an added poisonous or deleterious substance in any food may be established when the criteria in paragraph (b) of this section are met, except that technological or other changes that might affect the appropriateness of the tolerance are foreseeable in the near future. An action level for an added poisonous or deleterious substance in any food may also be established at a level at which the Food and Drug Administration may regard the food as adulterated within the meaning of section 402(a)(1) of the act, without regard to the criteria in paragraph (b) of this section or in section 406 of the act. An action level shall be revoked when a tolerance for the same substance and use has been established.

* * * * *

§ 509.8 [Removed]

8. Section 509.8 *Exemptions* is removed from Subpart A.

Dated: April 3, 1989.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89-9580 Filed 4-20-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1301 and 1305

Registration of Manufacturers, Distributors, and Dispensers of Controlled Substances and Order Forms

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The DEA proposes to amend its regulations concerning the storage of potent animal immobilizing agents to include a recently controlled substance subject to this classification.

DATE: Comments or objections must be received by May 22, 1989.

ADDRESS: Comments should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, ATTN: Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: This action come after the final rule placing carfentanil, a narcotic substance, into Schedule II of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.). Carfentanil is a rapidly acting and extremely potent synthetic compound that is an analog of the opiate fentanyl. The drug is estimated to be several thousand times as potent as morphine. The approved use of carfentanil is in veterinary medicine for immobilizing free ranging or confined members of the family Cervidae (deer, elk, moose), as outlined in **Federal Register** Notice 40056 dated October 13, 1988.

Because of the potency of carfentanil and the potential hazard this drug poses to humans, DEA proposes that the additional security and record-keeping requirements currently required for etorphine hydrochloride and diprenorphine also apply to carfentanil. These requirements would entail the following: (a) Manufacturer/distributor registrants would verify (prior to shipment) that a customer is registered and approved to handle this drug by contacting the DEA; (b) the storage of carfentanil would be in a safe, steel cabinet equivalent to a U.S. Government Class V security container, or other security approved by the DEA; (c) the purchaser of carfentanil would be required to submit copies 1 and 2 of the DEA–222c order form to the supplier and retain copy 3 in his own files; (d) the supplier of carfentanil would maintain the DEA–222c order forms separately from other records; (e) DEA–222c order forms for carfentanil would only contain this one controlled substance in reasonable quantities; and (f) the substance would only be shipped to the purchaser at the location printed by the DEA upon the DEA–222c order form. Furthermore, the shipper would use substantial packaging material, with no markings present on the outside of the package, to indicate its content.

The Deputy Assistant Administrator of the Office of Diversion Control hereby certifies that these matters will have no significant negative impact upon small businesses within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. This rule is not a major rule for purposes of Executive Order (E.O.) 12291 of February 17, 1981. Pursuant to Sections 3(c)(3) and 3(e)(2)(C) of E.O. 12291, this proposed rule has been submitted for review to the Office of Management and Budget. This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b), delegated to the Administrator of the Drug Enforcement Administration, and redelegated to the Deputy Assistant Administrator of the Office of Diversion Control by 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator hereby proposes that 21 CFR Part 1301 and 21 CFR Part 1305 be amended as follows:

List of Subjects

21 CFR Part 1301

Administrative practice and procedure, Drug Enforcement Administration, Drug traffic control, Security measures.

21 CFR Part 1305

Drug Enforcement Administration, Drug traffic control, Reporting requirements.

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES [AMENDED]

1. The authority citation for Part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

§ 1301.74 [Amended]

2. 21 CFR 1301.74(g) is amended by inserting the word "carfentanil," before the words "etorphine hydrochloride".

§ 1301.75 [Amended]

3. 21 CFR 1301.75(d) is amended by inserting the word "Carfentanil," at the beginning of the sentence.

PART 1305—ORDER FORMS [AMENDED]

1. The authority citation for Part 1305 continues to read as follows:

Authority: 21 U.S.C. 821, 828, 871(b).

§ 1305.06 [Amended]

2. 21 CFR 1305.06(b) is amended by inserting the word "carfentanil," before the words "etorphine hydrochloride".

§ 1305.13 [Amended]

3. 21 CFR 1305.13(d) is amended by inserting the word "carfentanil," before the words "etorphine hydrochloride".

§ 1305.16 [Amended]

4. 21 CFR 1305.16(a) is amended by inserting the word "carfentanil," before the words "etorphine hydrochloride".

5. 21 CFR 1305.16(b)(1) is amended by inserting the word "carfentanil," before the words "etorphine hydrochloride".

Date: March 27, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 89-9562 Filed 4-20-89; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-301B]

RIN 1218-AA20

Concrete and Masonry Construction Safety Standards; Lift-Slab Construction

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; Notice of informal public hearing.

SUMMARY: This notice schedules an informal public hearing concerning the notice of proposed rulemaking which OSHA issued on September 15, 1988 (53 FR 35972) on lift-slab construction.

DATES: The hearing will begin at 9:30 a.m. on June 29, 1989, in Washington, DC, and continue beyond that day as necessary. A tentative schedule of appearances will be prepared and distributed to parties who have submitted notices of intention to appear, so parties will know more specifically when issues which concern them are to be raised at the hearing.

Notices of intention to appear at the informal public hearing must be postmarked by May 22, 1989. Testimony and all evidence which will be offered into the hearing record must be postmarked by June 5, 1989.

ADDRESS: Four copies of the notice of intention to appear, and testimony and documentary evidence which will be introduced into the hearing record must be sent to Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety

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and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8615

The hearing will be held in the Auditorium of the Frances Perkins Building U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Hearing: Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8615. For additional information on how to submit notices of intention to appear, see the section on public participation below.

Proposal and Hearing Issues: Mr. James Foster, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8151.

SUPPLEMENTARY INFORMATION: On September 15, 1988, OSHA published a Notice of Proposed Rulemaking (NPRM) which proposed to revise the safety standards in 29 CFR Part 1926 for lift-slab construction (53 FR 35972). Interested persons were initially given until November 14, 1988, to comment on the proposal and to request a hearing.

The comment period and the time for requesting an informal public hearing has been extended twice, first to December 14, 1988, (53 FR 216), and then to February 12, 1989, (53 FR 239), both times at the request of Texstar Construction Corporation. OSHA received two requests for an informal public hearing—one on behalf of Texstar Construction Corporation and Continental Lift Slab Corporation (Ex. 38–15) and the other from Mr. Mario Suarez of Schupack Suarez Engineers, Inc. (Ex. 38–21). OSHA observes that Mr. Mario Suzrez is also listed as one of the witnesses to be presented by Texstar/Continental. Accordingly, pursuant to section 6(b)(3) of the OSH Act, OSHA has scheduled an informal public hearing to begin on June 29, 1989, to receive testimony and other information pertinent to the issues raised in the hearing requests and at OSHA's initiative.

Texstar Construction Corporation and Continental Lift Slab Construction (Ex. 38–15) in their hearing request noted their objections to five provisions on which they requested a hearing. Those provisions include the following:

(1) *Section 1926.705(a)* which requires lift-slab operations to be designed and planned by a qualified lift-slab designer and which requires the employer to implement the plans and designs.

Texstar/Continental believes that the provision should be modified to require lift-slab details to be reviewed and approved by the architect/engineer of record and incorporated into the structural drawings and that the drawings shall include details of erection and instruction regarding the prescribed lifting sequence. Texstar/Continental stated that their revised language will insure an adequate check and balance system between the contractor/employer and the design architect/engineer so as to insure a safe workplace for the employee.

(2) *Section 1926.705(d)* which prohibits overloading jacking equipment and which requires that threaded rods and other members which transmit loads to the jacks be capable of supporting at least two and one-half times the load to be applied.

Texstar/Continental object to "The unwarranted inclusion of shearheads, columns and footings in the 2.5 safety factor for the lifting equipment." They also requested a clarification of some of the lifting components identified by OSHA and requested that the term "lifting angle" be changed to "lifting attachment."

(3) *Section 1926.705(j)* which limits the number of manually conrolled jacks on one slab to a number that will permit the operator to maintain the slab level within specified tolerances.

Texstar/Continental suggests the provision be revised to read: "The maximum number of manually controlled jacks on one slab shall be limited to 14 jacks per console. If more than 14 jacks are used they should be divided as equally as possible among the two consoles. The consoles shall be attended by competent operators experience in this type of operation." Texstar/Continental noted that is was their opinion that it is necessary to limit the number of jacks to insure proper monitoring of the lifting rate and that "Exceeding the maximum of 14 jacks per console limits the ability of the operators to visually and physically control the console and the lifting process."

(4) *Section 1926.705(k)* which prohibits nonessential employees from being in buildings while jacking operations are in progress. Jacking operations begin when a slab or group of slabs is lifted and ends when such slabs are secured.

Texstar/Continental suggests the provision be amended to allow work to take place under slabs that have been secured even though jacking operations are in progress elsewhere in the structure. Specifically, they suggested the provision read as follows: "No work or personnel shall be permitted *directly underneath* [emphasis added] a slab during the time it is being lifted except for the placing of temporary or permanent connections." They also listed three tasks to be performed by essential personnel *while the slab is being lifted.* Texstar/Continental noted that prior to the L'Ambiance collapse, it was industry practice in the U.S. to work under slabs that had been secured even though other slabs were being lifted. They also noted that the economics of not allowing workers in the building during lifting would eliminate lift slab as a viable competitive system.

(5) *Section 1926.705(l)* requires that when making temporary connections to support slabs, wedges shall be secured by tack welding or an equivalent method of securing *before* the load is released from the lifting unit.

Texstar/Continental suggested the provision be changed to require tack welding *after* the load has been released from the lifting unit. Texstar/Continental noted that tack welding must be done after the load is released onto the wedges to insure the tack weld will not break due to the application of the load onto the wedge and to provide proper seating of the bearing surface.

Schupack Suarez Engineers, Inc. did not identify the provisions to which they objected.

In addition to the concerns raised above, OSHA solicits testimony, with supporting information, on the issues presented below.

Issue #1: Post–tensioning of Slabs

OSHA received a comment from a professional engineer, (Ex. 38–13A), who commented, "When constructing with the "lift-slab" method, the primary method of reinforcing concrete slabs *shall not be* by the use of *un-bonded* post-tensioning elements." The commenter suggested that OSHA Include the following provision in the final rule:

> If a *bonded* post-tensioning process is used, the post-tensioned elements shall all be fully bonded within the concrete slabs prior to lifting.

OSHA solicits information and evidence relative to the language proposed by the commenter.

Issue #2: Economic Effect

OSHA Has received comments from Texstar/Continental, the Associated General Contractors, and others that indicate a potential severe economic impact on at least one firm of the three firms engaged in lift-slab construction as a result of the proposed regulations. In order to make a determination on this question, more information is needed on the cost differential between lift-slab construction and the degree to which this would shift under the proposed regulations. OSHA also requests additional data showing the comparative accident and injury rates for the same groups of workers for lift slab and other construction methods.

Public Participation

Notice of Intention to Appear

Persons desiring to participate at the hearing must submit a notice of intention to appear, postmarked no later than May 22, 1989. The notice of intention to appear must contain the following information:

1. The name, address and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The specific issues that will be addressed;
5. A detailed statement of the position that will be taken with respect to each issue addressed; and
6. Whether the party intends to submit documentary evidence and, if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing.

Any party requesting more than 10 minutes for presentation at the hearing, or who will submit documentary evidence, must provide, in quadruplicate, the complete text of testimony, including all documentary evidence to be presented at the hearing. These materials must be sent to Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8615, and must be postmarked no later than June 5, 1989.

Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact prior to the hearing.

Any party who has not substantially complied with the above requirement may be limited to a 10–minute presentation, and may be requested to return for questioning at a later time.

Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge, but will not be allowed to question witnesses.

Notices of intention to appear, testimony and evidence will be available for inspection and copying at the Docket Office, Docket No. S-301B, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue NW., Washington, DC 20210 (202) 523–7894.

The hearing will commence at (9:30 a.m., on June 29, 1989, in the Auditorium of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. The hearing will begin with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the power:

1. To regulate the course of the proceedings;
2. To dispose of procedural requests, objections and comparable matters;
3. To confine the presentation to the matters pertinent to the issues raised;
4. To regulate the conduct of those present at the hearing by appropriate means;
5. In the Judge's discretion, to question and permit questioning of any witness; and
6. In the Judge's discretion, to keep the record open for a reasonable time to receive written information and additional data, views and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. The notices of proposed rulemaking will be reviewed in light of all testimony and written submissions received as part of the record, and a determination will be made to modify or not to modify the requirements based on the entire record of the proceeding.

Authority

This document was prepared under the direction of Alan C. McMillan, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. It is issued under section 6 of the Occupational Safety and Health Act (29 U.S.C. 655), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333), Secretary of Labor's Order No. 9–83 (48 Fr 35736), and 29 CFR Part 1911.

Signed at Washington, DC this 17th day of April 1989.

Alan C. McMillan,

Acting Assistant Secretary of Labor.

[FR Doc. 89–9579 Filed 4–20–89; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Maryland Permanent Regulatory Program; Public Notice; Permitting; Performance Standards; Bond Forfeiture

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of proposed amendments to the Maryland permanent regulatory program (hereinafter referred to as the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments. concern proposed changes to the Code of Maryland Administrative Regulations (COMAR) 08.13.09.01 General, COMAR 08.13.09.02 Permit Application, COMAR 08.13.09.13 Surface Effects of Deep Mines, COMAR 08.13.09.17 Small Operator's Assistance Program, COMAR 08.13.09.28 Special Performance Standards, COMAR 08.13.09.31 Topsoil Handling, COMAR 08.13.09.32 Excess Spoil Disposal, COMAR 08.13.09.33 Waste Handling, COMAR 08.13.09.34 Backfilling, COMAR 08.13.09.42 Permit Suspensions, Revocation and Bond Forfeiture, and COMAR 08.13.09.43 General Provisions on Adjudicatory Hearings.

This notice sets forth the times and locations that the Maryland program and proposed amendments to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on May 22, 1989. If requested, a public hearing on the proposed amendments will be

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held at 1:00 p.m. on May 16, 1989; request to present oral testimony at the hearing must be received on or before 4:00 p.m. on May 8, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to: Mr. James C. Blankenship, Jr., Director, Charleston Field Office, at the address listed below. Copies of the proposed amendments and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSMRE's Charleston Field Office.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street NW., Room 5131, Washington, DC 20240, Telephone: (202) 343–5492

Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136

FOR FURTHER INFORMATION CONTACT: James C. Blankenship, jr., Director, Charleston Field Office, (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background

On February 18, 1982, the Secretary of Interior approved the Maryland program. Information regarding general background on the Maryland program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Maryland program can be found in the February 18, 1982 **Federal Register** (47 FR 7214–7217). Subsequent actions concerning the Maryland program which led to further required amendments are discussed at 50 FR 47379–47386 (November 18, 1985) and are contained in 30 CFR 920.16.

II. Discussion of Proposed Amendments

By letter on July 8, 1986, the Office of Surface Mining Reclamation and Enforcement (OSMRE) transmitted to Maryland a list of deficiencies which the OSMRE had determined to be less effective than the Federal requirements for surface mining and reclamation operations (Administrative Record No. MD 351). After informal discussions with OSMRE on several items, on June 20, 1988, and December 27, 1988, Maryland Department of Natural Resources, Energy Administration, Bureau of Mines (MDBOM) responded to the July 8, 1986, letter with the following proposed amendments to Maryland's federally approved program (Administrative Record No. MD 377 and 379).

In COMAR 08.13.09.01, General, the definition of soil horizons is changed to include a fourth horizon—"E"; Topsoil definition now includes "A" & "E" horizons; and separate definitions of "Excess Spoil and Coal Mine Waste" are added.

In COMAR 08.13.09.02Q, the MDBOM is explicitly given authority to agree or disagree with Survey of Structures and Renewable Lands reports and to act on its findings.

In COMAR 08.13.09.02R, reporting requirements of the subsidence control plan are expanded.

In COMAR 08.13.09.03A, Experimental Practices Mining, permit application requirements are expanded to require additional reporting and to provide for additional details regarding requested variances and revisions.

In COMAR 08.13.09.03B, Prime Farmlands, the requirement to conduct a reconnaissance inspection of the proposed permit area for the presence of possible prime farmlands is added as a requirement. The nature and extent of the reconnaissance inspection would be determined by the MDBOM in consultation with U.S. Soil Conservation Service. Further investigative steps to be taken would be based upon results of the inspection as outlined therein.

In COMAR 08.09.13.13, Surface Effects of Deep Mines, Part J, Subsidence Control, buffer zone restrictions on undergound mining activities "beneath or close to any public building" are changed to "beneath or adjacent to any public buildings or facilities." The MDBOM is therein empowered to limit the percentage of coal extracted under, or adjacent to, public facilities, or, to any significant source of public water supply. Details of operator reporting requirements in this area are outlined.

COMAR 08.09.13.17C, Eligibility for Assistance, restricts applicant's eligibility to receive aid by requiring that the applicant's probable total actual and attributed production (PTAAP) from all locations during any consecutive 12 month period during the term of the permit (or during the first 5 years after permit issuance) not exceed 100,000 tons. The definition of PTAAP is expanded to include restrictions of the applicant's interest in other coal producers.

In COMAR 08.09.13.17D, Filing for Assistance, the applicant is required to include in the application a statement of coal reserves in the permit area and to explain the method by which reserves were calculated.

In COMAR 08.09.13.17H, applicant liability to reimburse the MDBOM for the cost of laboratory services performed is expanded to include sale, transfer or assignment to a non-eligible person.

In COMAR 08.09.13.28A, Special Performance Standards, Auger Mining, prior approval by the MDBOM to affect previously undisturbed coal areas within an augering area is clearly delineated. Specifications on the physical limits of these areas are deleted. Auger hole plugging details are deleted. General performance standards for preventing subsidence are outlined and permittee requirements to correct, repair or compensate for damage from subsidence to surface lands or structures or facilities are added.

In COMAR 08.09.13.28, Special Performance Standards, Operations on Prime Farmlands, references to "A" horizon soil are deleted and replaced with "topsoil". Other suitable soils referred to in 28B(2) to be stored separately are changed from the "A" horizons or other suitable soil materials" and the "B" horizon" to read "topsoil or other suitable soil materials, the 'B' horizon or other suitable materials and the 'C' horizon" or other suitable soil materials.

In COMAR 08.09.13.28.B(4), Revegetation, Section (b) subparagraphs i, ii and iii are deleted and replaced with more detailed standards.

In COMAR 08.09.13.31, Topsoil Handling, Section (A)(5), the basis for a determination of the suitability of selected overburden materials for substitution for, or as a supplement to, topsoil in revegetation is deleted and replaced with a more generalized outline of requirements.

In COMAR 08.09.13.34B(2), Method of Backfilling & Grading, the scope or purpose of the backfilling requirements is revised to explicitly include the minimization of erosion and water pollution both on and off site.

In COMAR 08.09.13.34C, General Requirements, Section (1), the requirement that "The final graded slopes may not exceed in grade the approximate pre-mining slopes" is deleted.

In COMAR 08.09.13.34C(1)(b), the reference to a "minimum static safety factor 1.5" with respect to highwall elimination is changed to "minimum long term static safety factor of 1.5"

In COMAR 08.09.13.34.C(2)(d), the provision that "culverts and underground rock drains shall be used on the terrace only when approved by the Bureau" is deleted.

In COMAR 08.09.13.34.C(3)(a), the creation and enhancement of wildlife habitat is including as a possible reason for constructing small depressions in backfill areas; removing the restrictions of COMAR 08.09.13.34C(3)(c) against using small depressions as substitutes for lower grades on reclaimed lands are removed; and the requirement of obtaining written approval from MDBOM prior to construction is added.

In COMAR 08.09.13.34.(c)(4), the performance standard is revised to be less restrictive.

COMAR 08.09.13.34.(C)(5) is added to allow restricted placement of spoil on the permit outside the mined out area in nonsteep slope areas.

In COMAR 08.09.13.32, Excess Spoil Disposal, revisions are included to define placement of excess soil, design standards, lift placement heights, terrace construction, inspection requirements, treatment of acid or toxic forming excess spoil, certification requirements and reporting requirements. Of particular note is a specific provision to allow MDBOM to approve a design which incorporates placement of excess spoil in horizontal lifts exceeding four feet in thickness.

In COMAR 08.09.13.33, Waste Handling, the section is revised to provide for detail and/or changes to the existing performance standards regarding placement of coal mine waste, design certification requirements, foundation stability, water control measures, incineration, refuse pile requirements, impoundment restrictions, removal of burned or burning coal mine wastes, disposal of noncoal wastes, and design and construction requirements for coal mine waste impoundment structures.

In COMAR 08.09.13.42A(1), permittee abandonment of an operation is changed to "failure to produce coal or remove overburden." A permit revocation is made more permissive by replacement of "may" for "shall".

COMAR 08.09.13.42A(2) is deleted and revised to give the criteria for issuance of a show cause order.

COMAR 08.09.13.42A(3) is revised to place responsibilities for violations on a permit with the permittee unless sabotage is proven.

COMAR 08.09.123.42A(4) is deleted. COMAR 08.09.13.42A(5) replaces it in a revised format defining "persistent or repeated failure to comply."

In COMAR 08.09.13.42B, Show Cause and Hearing, the title is revised to "Show Cause Order and Hearing." The contents of the show cause order are defined. The 30 day opportunity for a permittee to request and adjudicatory hearing is delineated along with required preparatory actions for the hearing, if one is requested. The MDBOM's responsibility to establish a prima facie case for revocation of a permit and forfeiture of bond is detailed. Permittee responsibility to continue his duties under the permit during proceeding is noted. Conditions for suspension of the permit in lieu of revocation upon permittee demonstration of good faith efforts to bring an operation into compliance and the requirements of compliance agreements on permits are delineated. Authority for the lifting suspensions is defined to be with the MDBOM Director. Consequences of failure to comply with reclamation or compliance schedules is explained. Actions required of the MDBOM Director regarding permittee notification of forfeiture are defined.

Paragraphs (1) through (5) of COMAR 08.09.13.42D are deleted and replaced. Revised COMAR 08.09.13.42.D(1) defines the Director, MDBOM's actions when the right of appeal is not exercised or when the final decision, upon appeal, is to revoke the permit and forfeit the bond.

COMAR 08.09.13.42D(2) covers claims of collateral by a third party in cases where reclamation is completed by a third party. It further mandates forfeiture of the total bond amount regardless of the actual amount of reclamation work required at a site. All forfeited bond funds go to the Bituminous Coal Open-Pit Mining Reclamation Fund.

COMAR 08.09.13.42E is deleted and replaced with the requirement that show cause orders and notices be served on the permittee at the address shown on the permit or operator's address. Service of the show cause order is to be through mailing via certified mail. Service is considered complete upon mailing of the order.

COMAR 08.09.13.43, General Provisions on Adjudicatory Hearings, is generally modified to reflect MDBOM's current organizational position within the Division of Water Resources.

In COMAR 08.09.13.43(A), reference to "Article 41, 244 et seq" is deleted and replaced with "Section 10–201, et seq., State Government Article."

In COMAR 08.09.13.43B, paragraphs (1) and (2) are deleted and replaced with seven paragraphs detailing administrative procedures in the initial request for adjudicatory hearings.

COMAR 08.09.13.43, PreHearing Conference, is revised to fit the new organization structure as in COMAR 08.09.13.43E, F, and K. COMAR 08.09.13.43L, Questions of Law, is deleted. COMAR 08.09.13.M becomes COMAR 08.09.13.43L, Record or Adjudicatory Hearing.

COMAR 08.09.13.43N becomes COMAR 08.09.13.43, Decision. It is revised to fit the new organizational structure.

COMAR 08.09.343.0 becomes COMAR 08.09.13.43N, Award of Costs; of this, COMAR 08.09.13.43N(7) is appended to define appeals of decisions in an administrative proceedings which go to the Board of Review pursuant to COMAR 08.16.01.

COMAR 08.09.13.43P becomes COMAR 08.09.13.43.0, Delegation of Authority, Time Limitations. It is revised to fit the new organizational structure.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(b), OSMRE is now seeking comments on whether the amendments proposed by Maryland satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Maryland program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the OSMRE Charleston Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4:00 p.m. on May 8, 1989. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission or written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all person scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

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Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the OSMRE office listed under "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations under "**ADDRESSES**". A written summary of each meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 920

Coal Mining, Intergovernmental Relations, Surface Mining, Underground Mining.

Date: April 12, 1989.

Ronald C. Recker,

Acting Assistant Director,

FR Doc. 89-9547 Filed 4-20-89; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 948

West Virginia Regulatory Program; Conditions of State Program Approval

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of proposed amendments to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments contain revisions to the State's surface mining and coal refuse disposal regulations. The amendments are intended to satisfy five of the remaining six conditions of program approval concerning augering on previously mined areas, coal refuse disposal, applicant violator information, revegetation and show cause orders. In addition, the State has proposed several revisions to its permitting requirements and has made numerous editorial changes which reflect the creation of the Department of Energy (DOE).

This notice sets forth the times and locations that the West Virginia program and proposed amendments to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on May 22, 1989. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on May 11, 1989. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on May 8, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to the Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, ATTENTION: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

Copies of the proposed amendments (Adminsitrative Record Nos. WV 766 and WV 767), the West Virginia program, and the administrative record on the West Virginia program are available for public review and copying at the OSMRE offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347-7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street NW., Room 5131, Washington, DC 20240. Telephone: (202) 343-5492

West Virginia Department of Energy, 1615 Washington Street, East Charleston, West Virginia 25311. Telephone: (304) 348-3500

In addition, copies of the proposed amendments are available for inspection and copying during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office 75 High Street, Room 229, Morgantown, West Virginia 26505. Telephone: (304) 291-4004

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 101 Harper Park Drive, Beckley, West Virginia 25801. Telephone: (304) 255-5265

Each requester may receive, free of charge, one single copy of the proposed program amendments by contacting the OSMRE Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Blankenship, Jr., Director, Charleston Field Office; Office of Surface Mining Reclamation and Enforcement; 603 Morris Street; Charleston, West Virginia 25301; Telephone (304) 347-7156.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

On March 3, 1980, the Secretary of the Interior received a proposed permanent regulatory program from the State of West Virginia. On October 22, 1980, following a review of the proposed program in accordance with 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69249-69271).

West Virginia resubmitted its proposed program on December 19, 1980, which was conditionally approved on January 21, 1981. Information concerning the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the initial conditions of approval of the West Virginia program can be found in the January 21, 1981, **Federal Register** (46 FR 5915-5956). Subsequent actions concerning proposed amendments and the conditions of approval are codified at 30 CFR 948.11, 948.12, 948.13, 948.15, and 948.16.

II. Discussion of Proposed Amendments

As discussed above, West Virginia's permanent regulatory program was conditionally approved by the Secretary of the Interior on January 21, 1981.

On July 11, 1985, the Director of OSMRE approved the West Virginia Energy Act (WVEA) as an amendment to the West Virginia program, with the exception of nine provisions which were required to be amended by March 15, 1986. On July 11, 1985, the Director also approved in part the State's revised regulations that were submitted on June 14, 1985. The Director's approval resulted in the removal of ten conditions. The State was given until January 11, 1986, to satisfy six remaining conditions (50 FR 28316-28345).

Because of legislative scheduling problems, on February 10, 1986, the State notified OSMRE that it would not be able to meet the January 11, 1986, deadline for addressing the six regulatory conditions and the March 15, 1986, deadline for satisfying the nine required statutory amendments (Administrative Record No. WV 707). On June 30, 1986, the State requested that the submission deadlines for both the conditions and the required amendments be extended to April 15, 1987 (Administrative Record No. WV 709).

On November 10, 1986, the Secretary approved the State's request and extended the deadline for the submission of materials satisfying the remaining conditions of program approval and the required statutory amendments until April 15, 1987 (51 FR 40795-40796).

On April 6, 1987, the State informed OSMRE that it was unable to initiate action on its legislative proposals to satisfy its program conditions by the April 15, 1987, deadline. The State requested that the deadline be extended for one year (Administrative Record No. WV 733).

On June 19,1987, OSMRE requested that the State enact emergency regulations to satisfy the six remaining regulatory conditions. OSMRE acknowledged the State's request for a one year extension to satisfy its nine required statutory amendments (Administrative Record No. WV 754).

On July 1, 1987, DOE advised OSMRE that it was unable to develop a workable set of emergency regulations to satisfy its regulatory conditions. The State indicated that the conditions would be addressed in the regulatory reform package which it was developing in response to OSMRE's regulatory reform letter of August 19, 1986. The State planned to submit the entire package to the Legislative Rulemaking Review Committee in late August (Administrative Record No. WV 735).

On October 19, 1987, DOE and OSMRE officials met to discuss the remaining conditions on West Virginia's permanent regulatory program. At the meeting, the State agreed to submit emergency regulations to satisfy all but one of its conditions. State officials later advised OSMRE that given the complexity of the task and to avoid confusing the Legislature, they only planned to submit emergency regulations to satisfy one condition relating to compliance information requirements for permit applications (Administrative Record WV 738). On October 27, 1987, the State submitted a proposed program amendment to OSMRE. The amendment contained an emergency rule that was filed with the Secretary of State on October 21, 1987, to satisfy the condition at 30 CFR 948.11(a)(19) relating to compliance information (Administrative Record No. WV 743).

In October 1987, and again in January 1988, DOE submitted revised regulations to the Legislative Rulemaking Review Committee. The West Virginia Legislature adjourned in March 1988, without adopting DOE's proposed regulations. Due to unforeseen problems, DOE's proposed legislation to satisfy its nine required statutory amendments was never submitted to the Legislature for consideration.

On July 7, 1988, DOE submitted a proposed amendment to OSMRE which contained surface mining reclamation regulations and coal refuse disposal regulations which the State filed with the Secretary of State on an emergency basis on July 15, 1988 (Administrative Record No. WV 756). The revised regulations are intended to satisfy five of the remaining conditions imposed on the West Virginia program on July 11, 1985, and set forth at 30 CFR 948.11(a). The existing conditions concern stability analyses for coal mine waste piles, inspection requirements for coal mine waste piles, inspection requirements for coal mine waste disposal areas, compliance information requirements for permit applications, critical habitats of threatened and endangered species with respect to coal exploration permit applications, revegetation success standards and evaluation techniques and the issuance of show cause orders for patterns of violations. A portion of the condition relating to satistical sampling techniques and productivity measurements for revegetation is to be addressed later in the State's Technical Handbook. In addition, the State revised certain permit application, bonding, water monitoring, backfilling, and incidental mining requirements.

On August 10, 1988, DOE revised its emergency regulations that were submitted to OSMRE on July 7, 1988. The revisions were filed with the Secretary of State on August 5, 1988, as emergency amendments to the emergency regulations filed on July 15, 1988. The revisions were necessary to correct a number of typographical and editorial errors. DOE also made significant revisions to the applicability section of the regulations and deleted the acreage limit for incidental boundary revisions for underground mining operations (Administrative Record WV 766).

On September 9, 1988, DOE held a public hearing on the revised emergency regulations, and on September 19, 1988, DOE submitted its revised emergency regulations to the Legislative Rulemaking Review Committee for consideration.

On November 29, 1988, the State provided OSMRE a list of minor changes that had been made to its revised emergency regulations that had been filed with the Secretary of State on August 5, 1988. The most significant revision concerned the inspection of coal refuse piles (Administrative Record No. WV 767).

III. Public Comment Procedure

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comments on the proposed amendments submitted by the State of West Virginia to its permanent regulatory program. Specifically, OSMRE is seeking comments on the emergency surface coal mining and coal refuse disposal regulations submitted on August 10, 1988, and the revisions submitted on November 29, 1988 (Administrative Record Nos. WV 766 and WV 767). Comments should address whether the proposed amendments are as stringent as SMCRA and no less effective than its implementing regulations. If approved, the amendments will become part of the West Virginia program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the OSMRE Charleston Field Office will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the close of business on May 8, 1989. If no one has requested an opportunity to participate in the hearing by that date, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests to comment at a hearing, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the OSMRE Charleston Field Office listed under "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT**".

All such meetings are open to the public and, if possible, notices of

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meetings will be posted in advance at the locations listed under "ADDRESSES". A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Date: April 13, 1989.

Ronald C. Recker

Assistant Director, Eastern Field Operations.

[FR Doc. 89-9548 Filed 4-20-89; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS-400021, FRL-3559-6]

Community Right-to-Know Release Reporting; Addition of Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to add 10 chemicals to the list of toxic chemicals under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). Title III of SARA is also referred to as the Emergency Planning and Community Right-to-Know Act of 1986. The addition of nine of these chemicals is based on their carcinogenicity or other chronic toxicity as reflected in determinations made under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended. EPA believes that these chemicals meet the criteria for addition to the list of toxic substances as established in section 313(d)(2). EPA is also proposing to add toluenediisocyanate (mixed isomers) (CAS Registry Number: 26471-62-5) to the section 313 list. It is expected that mixtures of toluenediisocyanate isomers would generally cause the same health and environmental effects as the individual isomers already included on the section 313 list.

DATE: Written comments on this proposed rule should be submitted by June 5, 1989.

ADDRESS: Comments should bear the docket control number OPTS-400021 and should be submitted to: OTS Docket Clerk, TSCA Public Docket Office, Environmental Protection Agency, Mail Stop TS-793, Room NE-G004, 401 M St., SW., Washington, DC 20460, Attention: Docket Number OPTS-400021.

FOR FURTHER INFORMATION CONTACT: Robert Israel, Project Manager, Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, 401 M St., SW., Mail Stop WH-562A, Washington, DC 20460, Toll free: 800-535-0202, in Washington, DC and Alaska, (202) 479-2449.

SUPPLEMENTARY INFORMATION: EPA is proposing to add 10 chemicals to the list of toxic chemicals under section 313 of Title III of SARA (Pub. L. 99-499) ("SARA" or "the Act").

The public reporting burden for this collection of information is estimated to average 23 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503.

I. Introduction

A. Statutory Authority

EPA is proposing to add 10 chemicals to the list of toxic substances under section 313(d)(2) of SARA Title III. Section 313 of Title III requires owners and operators of covered facilities to report annually their releases of listed toxic chemicals. SARA section 313(d)(1) authorizes EPA to add or delete chemicals to the list of toxic chemicals by rulemaking at any time. Section 313(d)(2) states that a chemical may be added if the Administrator determines that there is sufficient evidence to establish that a chemical is known to cause or can reasonably be anticipated to cause adverse acute human health effects based on recurring or continuous releases, chronic human health effects, or environmental toxicity.

B. Background

To date, modifications to the list of toxic chemicals have occurred solely as a result of petitions received by EPA under section 313(e). These petitions have focused almost exclusively on requests for deletions and have led to five proposed or final rules.

While promulgated and proposed deletions to the list have been warranted, EPA recognizes the likelihood that there are chemicals not currently subject to section 313 reporting requirements which meet the criteria for addition as described in section 313(d)(2). By reviewing numerous petitions, EPA has been able to gain valuable experience in defining more precisely, the types of chemicals for which it would be most appropriate to require annual release reporting.

This action represents only the first attempt by EPA to modify the list of reportable chemicals under section 313. EPA will continue to look to other sources to add chemicals to the list which pose known or anticipated health and environmental hazards as established in section 313(d). The Agency is currently looking into a more comprehensive effort in developing a process to screen chemicals for addition to and deletion from the section 313 list; however, this effort is not the subject of this proposal. EPA invites public comment on the approach used in this rulemaking as well as on criteria for future additions to, and deletions from, the section 313 list.

EPA intends to evaluate public comment and promulgate a final rule by the fall of 1989 such that reporting for the identified chemicals will be required for activities during the 1990 calendar year. Such reports would have to be submitted to EPA and States by July 1, 1991.

II. Methodology and Rationale

A. Development of the Addition Candidates

There are currently over 2,500 chemicals which are regulated by EPA under its various statutes. As a starting point for screening candidates for addition to the toxic chemical list under SARA section 313, EPA chose to examine the list of chemicals under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA) (Pub. L. 96-510), 42 U.S.C. 9601, *et seq.* CERCLA section 102(a) requires EPA to promulgate regulations designating hazardous substances which may present substantial danger to public health or welfare of the environment when releases to the environment occur. Section 102 of CERCLA also requires EPA to establish reportable quantities (RQs) for such chemicals. CERCLA section 103 (a) and (b) requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the RQs immediately report to the National Response Center.

The CERCLA section 102 list was chosen for the first screening for a number of reasons. The CERCLA section 102 list is the broadest list of chemicals identified as being of concern to various EPA programs. Also it is one of the bases for reporting under another part of Title III (section 304) and is evolving into an "umbrella" list for Title III with the proposed addition of the Extremely Hazardous Substances (section 302 of Title III) (54 FR 3388). Utilization of the CERCLA RQ list as a source of candidates for addition to section 313 can therefore serve to bring about some unification for chemicals subject to reporting under various Title III sections. Finally, toxicological evaluations have already been conducted for chemicals on the CERCLA section 102 list and the resulting conclusions documented and reflected in the adjusted RQs.

B. Criteria for the Candidate List

CERCLA section 102(a) allows EPA to adjust RQ levels for specific chemicals. In establishing and adjusting the RQ levels, EPA evaluates the intrinsic physical, chemical, and toxicological properties of each chemical. The primary criteria used to adjust an RQ for a particular chemical are carcinogenicity, chronic toxicity, aquatic toxicity, mammalian toxicity, ignitability, and reactivity. EPA ranks each of these properties, with the exception of potential carcinogenicity, on a five-tier scale, associating a specified range of values on each scale with a particular RQ. The five-tier scale uses the five RQ levels (1, 10, 100, 1,000, and 5,000 pounds), while the three-tier scale for potential carcinogenicity uses three levels (1, 10, and 100 pounds). Thus, an RQ can be assigned for each of the above properties. The lowest of all of the tentative RQs becomes the "primary criteria RQ" for a particular substance. EPA then considers secondary criteria (biodegradation, hydrolysis, and photolysis) which may be used to adjust the "primary criteria RQ" to establish a final RQ.

In reviewing the RQ methodology for its application to the section 313(d)(2) criteria, EPA wanted to ensure that chemicals which are added to the section 313 list have high concerns for properties which are most relevant to section 313. For example, ignitability and reactivity which are not specifically mentioned in section 313(d) have not been considered in this rulemaking. For this reason, EPA considered only the criteria of chronic toxicity and carcinogenicity. Although aquatic and mammalian toxicity are relevant to section 313, EPA chose to only address chronic human toxicity in this rulemaking. As previously stated, this is EPA's first attempt to initiate modification to the section 313 list; other section 313 toxicity endpoints, such as aquatic and mammalian toxicity, will be considered in future modifications.

1. *Chronic toxicity.* When evaluated for chronic toxicity under the CERCLA methodology, chemicals are assigned scores which are based on the Minimum Effective Dose (MED) levels for repeated exposures and the severity of the effect (liver necrosis, birth defects, death, etc.) likely to be cause by repeated exposure. These scores are then used to assign the RQ for chronic toxicity. For a detailed explanation of the derivation of the scoring methodology see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 2, August 1986 (Docket number: 102RQ-R1-3-1) available for inspection at Room LG-100, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC. As discussed in the **Federal Register** of May 25, 1983 (48 FR 23564) for the proposed rulemaking on RQ adjustments, the MED and the severity of effect were each assigned values of 1 to 10. A score of 10 for the MED Level indicates only a small dose is required to elicit an effect. Similarly, a score of 10 for severity of effect indicates the most severe effects were observed for the MED, such as pronounced pathological changes or death. A composite score is reached by multiplying the MED and effect scores. RQs are then assigned based on these composite scores.

2. *Carcinogenicity.* Details of the proposed CERCLA RQ methodology for assigning RQs for potential carcinogens can be found in the **Federal Register** of March 16, 1987 (52 FR 8140). This is a proposed rulemaking which, as of this time, has yet to be finalized. EPA reviews four sources of human epidemiologic and/or animal bioassay data on hazardous substances that suggest possible carcinogenic effect. These sources are: (1) The Annual Report on Carcinogens of the National Toxicology Program, U.S. Department of Health and Human Services (DHHS); (2) the Monographs of the International Agency for Research on Cancer (IARC); (3) final Agency determinations published in the **Federal Register** identifying substances as potential carcinogens; and (4) ongoing determinations by EPA's Office of Health and Environmental Assessment that substances may be potential carcinogens.

During the carcinogenic evaluation, EPA considers qualitative and quantitative assessments to assign RQs. During the qualitative assessment, EPA evaluates the quality and reliability of the data to determine the "weight of evidence" that a particular hazardous substance is a human carcinogen. The quantitative assessment utilizes available data to calculate a potency factor. Thus, carcinogenic hazard ranking is based on the weight of evidence and potency determinations. For further discussion of the hazard ranking, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 3, December 1986 (Docket number: 102RQ-273C-4) available for inspection at Room LG-100, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC.

III. Evaluation of CERCLA Chemicals for Addition to Section 313

A. Thresholds for Developing a List for Addition

EPA used two criteria to evaluate chemicals on the CERCLA section 102 list for addition to section 313, the CERCLA RQ scores for carcinogenicity and chronic toxicity and the production volume.

Since the CERCLA section 102 list has already been evaluated by EPA for carcinogenicity and chronic toxicity, EPA chose certain RQ scores as thresholds for these effects. Chemicals with assigned RQ levels at or below the threshold are interpreted to meet the criteria established in section 313(d)(2). EPA set a RQ threshold level of 100 pounds for carcinogenicity and chronic toxicity based on the methodology and sources used to assign RQs for these effects. EPA believes that the assignment of RQs of 100 pounds or less for chronic toxicity and carcinogenicity could establish the finding that must be made under section 313(d) that these chemicals are known to cause or can reasonably be anticipated to cause cancer or other serious or irreversible chronic effects in humans. For example, isosafrole (CAS Registry Number: 120-58-1) has an assigned RQ of 100 pounds for carcinogenicity. In its evaluation, EPA has ranked this chemical as a class B2 carcinogen according to EPA's Guidelines for Carcinogen Risk Assessment (51 FR 33992). Chemicals are classifed as B2 carcinogens when there is sufficient evidence that the chemical causes cancer in animal studies and therefore is a probable human carcinogen. EPA believes that this evidence is sufficient to satisfy the SARA section 313(d) finding that

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isosafrole can reasonably be anticipated to cause cancer in humans.

Chemicals with final RQ scores of 100 or less based on aquatic toxicity, mammalian toxicity, ignitability, and reactivity were screened for scores reflecting assessments based on their cancer and chronic toxicity potential. In other words, a chemical with a final RQ of 1 pound based on reactivity was still screened for its carcinogenicity and chronic toxicity scores. If that score is less than or equal to 100 pounds, then the chemical meets the threshold outlined in this proposal.

SARA section 313(f) established reporting thresholds related to the amount of a chemical that is manufactured, processed, or used. Thus EPA also screened the CERCLA section 102 list for production volume. Chemicals without a known production volume are not proposed for addition even if they meet the RQ threshold of 100 pounds. Production volume data for the CERCLA section 102 list was gathered from the Toxic Substances Control Act (TSCA) Confidential Inventory Update System (1986). This data base contains production volume information for a large number of chemicals from chemical manufacturers. EPA screened this data base for CERCLA section 102 chemicals with a minimum production volume of 25,000 pounds. This threshold corresponds to the section 313 threshold for manufacturers and processors for the 1989 reporting year and beyond.

B. Proposed Additions

EPA Initially screened the 611 chemicals on the CERCLA section 102 list for chemicals with an underlying RQ for cancer or chronic toxicity of 100 pounds or less. This resulted in a list of 156 chemicals. These chemicals were then screened for associated production volumes of at least 25,000 pounds. This resulted in a list of 18 chemicals for addition to the section 313 list. Of these 18 chemicals, 9 were already reportable under one of the section 313 chemical categories. For example, strontium chromate is assigned as underlying RQ of 1 pound for carcinogenicity and has a significant production volume. It is not specifically listed on the section 313 list with a CAS registry number, but it is reportable under section 313 as a "chromium compound." EPA decided not to propose listing these chemicals since they are already reportable under the categories.

The above analysis yields nine chemicals which EPA is proposing to add to the section 313 list. EPA has determined that each of these chemicals causes or can reasonably be anticipated to cause cancer or serious irreversible chronic health effects in humans. Table 1 below summarizes the list of chemicals proposed for addition.

TABLE 1.—PROPOSED ADDITION CANDIDATES: CERCLA SECTION 102 CHEMICALS WITH CANCER AND CHRONIC TOXICITY CONCERNS

CAS registry number	Chemical name	RQ score	Basis of score	Federal Register Citation	Chemical Specific Docket Number
78-88-6	2,3-Dichloropropene	100	CTX	51 FR 34534	102RQ-R1-2-1
99-65-0	m-Dinitrobenzene	100	CTX	50 FR 13456	102RQ-10-3-60
100-25-4	p-Dinitrobenzene	100	CTX	50 FR 13456	102RQ-10-3-60
107-18-6	Allyl Alcohol	100	CTX	50 FR 13456	102RQ-10-3-5
109-89-7	Diethylamine	100	CTX	51 FR 34534	102RQ-R1-2-1
120-58-1	Isosafrole	100	CARC	52 FR 8140	102RQ-273C-2-2
528-29-0	o-Dinitrobenzene	100	CTX	50 FR 13456	102RQ-10-3-60
8001-58-9	Creosote	1	CARC	52 FR 8140	102RQ-273C-2-2
25321-14-6	Dinitrotolune (mixed isomers)	10	CARC	52 FR 8140	102RQ-273C-2-2

Note: Known production volumes range from 236,000—315,000,000 lbs/yr. CTX = Chronic Toxicity; CARC = Carcinogenicity.

Production volumes for these chemicals ranges from 236,000 to 315 million pounds per year. Toxicologic profiles on each specific chemical can be found in the docket associated with each CERCLA **Federal Register** notice indicated in Table 1.

1. *Dinitrobenzenes.* The derivation of RQ scores for *ortho-*, *meta-*, and *para-*dinitrobenzene is based on a subchronic study of *meta*-dinitrobenzene. EPA considers this approach appropriate in light of the fact that the American Conference of Governmental Industrial Hygienists (ACGIH) considers that the toxicologic properties of all isomers should be similar and has set identical standards for them.

Male rats exposed orally to *meta*-dinitrobenzene in the diet for 16 weeks showed testicular atrophy with indication of loss of function. EPA believes this information is sufficient to establish that *ortho-*, *meta-*, and *para-*dinitrobenzene are known or can reasonably be anticipated to cause serious reproductive dysfunctions in humans.

2. *Allyl alcohol.* Exposure of rats, guinea pigs, and rabbits to 17 mg/m³ of allyl alcohol via inhalation for 7 hours per day, 5 days per week for 5 weeks led to necrosis of the liver and kidney. EPA believes this information is sufficient to establish the finding that allyl alcohol is known or can reasonably be anticipated to cause serious chronic health effects in humans.

3. *Diethylamine.* Inhalation exposure of 50 parts per million of diethylamine to rabbits for 7 hours per day, 5 days per week for 6 weeks led to pulmonary irritation, multiple punctate corneal erosions and edema, and histological changes in the liver. EPA believes this information is sufficient to establish that diethylamine is known or can reasonably be anticipated to cause serious chronic health effects in humans.

4. *2,3-Dichloropropene.* The RQ derivation for this chemical is based on studies using 1,3-dichloropropene. RQ scores for 1,3-dichloropropene are viewed by EPA to be protective for all dichloropropenes.

In a subchronic inhalation study, rats exposed to 3 parts per million of 1,3-dichloropropene for 4 hours per day, 5 days per week for 6 months, exhibited slight cloudy swelling of the renal tubular epithelium. Based on the above data, EPA has determined there is sufficient information to establish that the 2,3-dichloropropene is known to cause or can reasonably be expected to cause serious chronic effects in humans.

5. *Isosafrole.* A weight of evidence determination classifies isosafrole as a Group B2 carcinogen under the EPA Proposed Guidelines for Carcinogenic Risk Assessment (U.S. EPA, 1984). Evidence on potential carcinogenicity from animal studies is sufficient to determine that isosafrole is known or can reasonably be anticipated to cause cancer in humans.

6. *Creosote.* A weight of evidence determination classifies creosote as a Group B1 carcinogen under the EPA Proposed Guidelines for Carcinogenic Risk Assessment. There is sufficient animal evidence and limited human evidence to determine that creosote is known or can reasonably be anticipated to cause cancer in humans.

7. *Dinitrotoluene (mixed isomers).* A weight of evidence determination classifies dinitrotoluene (mixed isomers) as a Group B2 carcinogen under the EPA Guidelines for Carcinogenic Risk Assessment. There is sufficient animal evidence to determine that dinitrotoluene (mixed isomers) is known or can reasonably be anticipated to cause cancer in humans.

C. Toluenediisocyanate

EPA also proposes to modify the section 313 list by adding the entry toluenediisocyanate (TDI) (mixed isomers) (CAS Registry Number: 26471-62-5). TDI is listed under § 372.65(a) and (b) for annual release reporting in two isometric forms. Specifically, these chemicals are toluene-2,4-diisocyanate (2,4-TDI) (CAS Registry Number: 584-84-9) and toluene-2,6-diisocyanate (2,6-TDI) (CAS Registry Number: 91-08-7). While manufacturers, processors, and users of these two specific isomers are required to report under section 313, TDI is more commonly manufactured as a mixture of isomers, i.e., an 80:20 mixture of 2,4- and 2,6-TDI. During the first year of reporting under sectin 313, EPA received many questions pertaining to the reportability of TDI mixtures.

Furthermore, many Toxic Release Inventory forms were received containing the CAS Registry Number (26471-62-5) for TDI as an isometric mixture.

The section 313 list of toxic chemicals already contains similar entries for other isomeric mixtures. For example, *o*-cresol (CAS Registry Number: 95-48-7), *m*-cresol (CAS Registry Number: 108-39-4), and *p*-cresol (CAS Registry Number: 106-4-5) are all individually listed on the section 313 list; however, there is also an entry for cresol (mixed isomers) (CAS Registry Number: 1319-77-3).

Both of the specific isomers of TDI listed under section 313 have associated acute, chronic, and environmental toxicity as summarized in a Chemical Hazard Information Profile. The most prominent health effects of TDI are of the respiratory tract, skin, eyes, and central nervous system. Respiratory illnesses have been documented in workers from exposure to TDI which include irritation of the upper and lower respiratory tract, an asthma-like sensitization response, and decrements in lung function. Sensitization has been found to occur at levels of less than 0.005 parts per million. EPA believes that the isometric mixture of TDI also meets the criteria in section 313(d)(2) because the TDI mixture causes or can reasonably be anticipated to cause serious or irreversible chronic effects. Therefore, EPA is proposing to modify the list of toxic substances under section 313 to include the CAS listing, 26471-62-5, for the mixture.

IV. Rulemaking Record

The record supporting this proposed rule is contained in the docket number OPTS-400021 and in the CERCLA dockets referenced in Table 1. Nonconfidential documents, including an index of the docket, are available to the public in the TSCA Public Docket Office from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, Rm. NE-G004, 401 M Street SW., Washington, DC. The CERCLA dockets which are part of this rulemaking are available to the public in CERCLA Public Docket Office which is located at EPA Headquarters, Rm. LG-100, 401 M Street SW., Washington, DC.

V. Regulatory Assessment Requirements.

A. Executive Order 12291

Executive Order (E.O.) 12291 requires each federal agency to classify as "major" any rule like to result in:

(1) An annual effect on the economy of $100 million or more; or

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

EPA's economic analysis estimates up to 659 additional reports entailing annual costs to EPA, industry, and States of about $786,000 as a result of the proposed addition of 10 chemicals to the section 313 list of toxic chemicals. EPA anticipates that this proposed addition will not have a significant effect on competition, costs, or prices. Therefore, EPA has determined that this proposed rule is not "major."

This proposed rule has been submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291.

B. Regulatory Flexibility Act

The Regulatory Flexiblity Act of 1980 requires each Federal agency to perform a Regulatory Flexibility Analysis for all rules that are likely to have a "significant impact on a substantial number of small entities."

40 CFR Part 372 exempts contain small businesses from reporting; specifically, those facilities with fewer than 10 full-time employees. This exclusion exempts about one-half of all manufacturing facilities in Standard Industrial Classification (SIC) codes 20 through 39 from section 313 reporting. EPA estimates that the proposed addition of 10 chemicals will require reporting from less than 1 percent of manufacturing facilities with between 10 and 50 employees.

The analysis supporting this proposed rule anticipates that no segment of the manufacturing sector is likely to suffer significant adverse effects because of this rule. Reporting costs are estimated at less than 0.25 perecent of median sales per report for affected facilities with 10 to 19 full-time employees in manufacturing SICs 20 through 39. Based on the 10 proposed chemicals, it is unlikely that any facilities with 10 to 19 employees will have to file reports for more than one chemical.

Therefore, EPA certifies that this proposed rule will not have a significant impact on a substantial number of small entities and that no Regulatory Flexibility Analysis is needed.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070-0093.

The public reporting burden for this collection of information is estimated to average 23 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to

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any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 372

Community right-to-know, Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: April 6, 1989.

William K. Reilly,

Administrator.

Therefore, it is proposed that 40 CFR Part 372 be amended to read as follows:

PART 372—[AMENDED]

1. The authority citation for Part 372 would continue to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

2. In § 372.65 by adding chemicals to paragraph (a) alphabetically and to paragraph (b) by CAS No. sequence to read as follows:

§ 372.65 Chemicals and chemical categories to which the part applies.

* * * * *

(a) * * *

Chemical name	CAS No.	Effective date
Allyl alcohol	107-18-6	1/01/90
Creosote	8001-58-9	1/01/90
2,3-Dichloropropene	78-88-6	1/01/90
Diethylamine	109-89-7	1/01/90
m-Dinitrobenzene	99-65-0	1/01/90
o-Dinitrobenzene	528-29-0	1/01/90
p-Dinitrobenzene	100-25-4	1/01/90
Dinitrotoluene (mixed isomers).	25321-14-6	1/01/90
Isosafrole	120-58-1	1/01/90
Toluenediisocyanate (mixed isomers).	26471-62-5	1/01/90

(b) * * *

Cas No.	Chemical name	Effective date
78-88-6	2,3-Dichloropropene	1/01/90
99-65-0	m-Dinitrobenzene	1/01/90
100-25-4	p-Dinitrobenzene	1/01/90
107-18-6	Allyl alcohol	1/01/90
109-89-7	Diethylamine	1/01/90
120-58-1	Isosafrole	1/01/90
528-29-0	o-Dinitrobenzene	1/01/90
8001-58-9	Creosote	1/01/90
25321-14-6	Dinitrotoluene (mixed isomers).	1/01/90
26471-62-5	Toluenediisocyanate (mixed isomers).	1/01/90

[FR Doc. 89-9620 Filed 4-20-89; 8:45 am]
BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 54, No. 76
Friday, April 21, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Sunflowerseed Oil Assistance Program (SOAP) and Cottonseed Oil Assistance Program (COAP)

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that USDA will use during fiscal years 1989 and 1990 $20,000,000 to purchase sunflowerseed oil and cottonseed oil. This sunflowerseed oil and cottonseed oil will be made available to U.S. exporters to facilitate additional sales of sunflowerseed oil and cottonseed oil in targeted world markets.

ADDRESS: Comments and proposed alternate systems for the Sunflowerseed Oil Assistance Program (SOAP) and the Cottonseed Oil Assistance Program (COAP) should be submitted to the General Sales Manager, Foreign Agricultural Service, USDA, Washington, DC 20250. A request to receive copies of the announcements under these programs may be made by writing to the Commodity Credit Corporation Operations Division, Export Credits, Foreign Agricultural Service, USDA, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: L.T. McElvain, Director, CCC Operations Division, Export Credits, Foreign Agricultural Service, USDA, Washington, DC 20250, Phone (202) 447-6225 or William Hawkins, Agricultural Marketing Specialist, of the same Division, Phone (202) 447-3241.

SUPPLEMENTARY INFORMATION: Section 639 of the Rural Development, Agriculture and Related Agencies Appropriations Act, 1989, Pub. L. 100-460, provides that during fiscal years 1989 and 1990 $20 million of funds available under section 32 of the Act of August 24, 1935, Pub. L. 320, Seventy-Fourth Congress (section 32), shall be used to purchase sunflowerseed oil and cottonseed oil for use in facilitating additional export sales of sunflowerseed oil and cottonseed oil at competitive prices, so as to compete with other countries.

The export promotion activity of the Sunflowerseed Oil Assistance Program (SOAP) and the Cottonseed Oil Assistance Program (COAP) implemented under this authority will be administered by the General Sales Manager, Foreign Agricultural Service.

The SOAP and COAP will be designed to increase export sales of sunflowerseed oil and cottonseed oil to those markets where U.S. exporters have been subjected to unfair competition by nations that subsidize their exports of vegetable oil.

The programs will have two distinct parts. First, the Department of Agriculture will, from time to time, issue an Invitation for Bids to purchase sunflowerseed oil or cottonseed oil. Second, the purchased oil will be made available to U.S. exporters in the form of bonuses for the purpose of increasing export sales of sunflowerseed oil or cottonseed oil.

Periodically, the General Sales Manager will issue announcements and invitations for bonus offers containing the terms and conditions of the SOAP or the COAP. These will specify, among other things, the quantity of the respective oils for which bonuses will be made available and the countries to which the oil must be exported.

In general, it is anticipated that the export part of these programs will work as follows:

(1) U.S. exporters must qualify before they may enter into an agreement with the General Sales Manager. Interested U.S. exporters may contact the CCC Operations Division at the above address to obtain the specific qualifications requirements established for the programs.

(2) Exporters participating under the programs will be required to furnish an adequate performance security prior to entering into an agreement with the General Sales Manager.

(3) Upon issuance of announcements and invitations by the General Sales Manager, an exporter may enter into a contract to sell sunflowerseed oil or cottonseed oil overseas in accordance with the terms and conditions of the applicable announcement and invitation. This contract may provide that the export sale is contingent upon the acceptance by the General Sales Manager of the exporter's bonus offer.

(4) After entering into a sales contract with a foreign buyer, an exporter may submit a bonus offer to the General Sales Manager. Each invitation will state that the bonus offer should specify the quantity of the oil requested for a bonus in terms of pounds per metric ton and will also state the process for submitting bonus offers. The bonus offer should be for only the quantity that is needed to make the exporter's sale competitive with export sales from other suppliers of vegetable oil to the country specified in the applicable invitation.

(5) Bonus offers, which comply with the terms and conditions of the applicable announcement and invitation, will be reviewed by the General Sales Manager on a competitive basis, considering the bonus requested, the sale price, and the sales prices of competitor countries in the same market. The General Sales Manager will reserve the right to reject any and all offers for a bonus.

(6) If the exporter's bonus offer is accepted, the exporter will be notified in writing.

(7) The exporter must furnish evidence that the sunflowerseed oil or cottonseed oil has been exported in accordance with the terms and conditions of the agreement. The exporter may then request delivery of the bonus.

(8) After the General Sales Manager has determined that the exporter has complied with all the terms and conditions of the agreement, the performance security(ies) will be released.

Signed at Washington, DC, on April 17, 1989.

Christopher E. Goldthwait,

Acting General Sales Manager.

[FR Doc. 89-9608 Filed 4-20-89; 8:45 am]
BILLING CODE 3410-10-M

CIVIL RIGHTS COMMISSION

Illinois Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights.

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that a subcommittee meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 2:00 p.m., on May 12, 1989, at the Palmer House and Towers, 17 East Monroe, Chicago, Illinois. The purpose of this subcommittee meeting is to plan for a future committee forum on issues related to access to public education for minority students.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Hugh J. Schwartzberg, or William F. Muldrow, Acting Director of the Central Regional Division (816) 426–5253, (TDD 816/426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 13, 1989.

Melvin L. Jenkins,
Acting Staff Director,

[FR Doc. 89–9572 Filed 4–20–89; 8:45 am]
BILLING CODE 6335–01–M

Louisiana Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 6:00 p.m., on Friday, May 12, 1989, at the Hilton Hotel, 5500 Hilton Avenue, Baton Rouge, Louisiana. The purpose of the meeting is to receive information regarding voter registration and voter-roll purging procedures in Louisiana parishes.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Michael R. Fontham, or William F. Muldrow, Acting Director of the Central Regional Division (816) 426–5253, (TDD 816/426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 17, 1989.

Melvin L. Jenkins,
Acting Staff Director,

[FR Doc. 89–9573 Filed 4–20–89; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a meeting of the Census Advisory Committee on Agriculture Statistics. The meeting will convene on May 24, 1989 at the California State University, 5241 N. Maple Street, Fresno, California 93710.

The Committee advises the Director, Bureau of the Census, on the kind of information that should be obtained from respondents associated with agricultural production; prepares recommendations regarding the contents of agricultural reports; and presents the views and needs for data of major agricultural organizations and their members, and other suppliers of agricultural statistics.

The Committee is composed of 20 members appointed by the presidents of the nonprofit organizations having representatives on the Committee and a representative from the Department of Agriculture.

The agenda for the May 24 meeting that will begin at 9:00 a.m. and adjourn at 4:30 p.m. is: (1) Introductory remarks by the Associate Director for Economic Programs, Bureau of the Census; (2) 1987 Agriculture Census update; (3) data needs for rural areas; (4) mandatory vs. voluntary reporting issues; (5) 1992 census data content requirements and methodology testing; (6) combined data from agriculture and economic censuses; (7) election of chairperson-elect; and (8) Committee recommendations.

The meeting is open to the public and a brief period is set aside for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least 3 days before the meeting.

Persons wishing additional information regarding this meeting or who wish to submit written statements may contact Mr. George Pierce, Agriculture Division, Bureau of the Census, Room 437, Iverson Mall, Suitland, Maryland. (Mailing address: Washington, DC 20233) Telephone (301) 763–8556.

Date: April 14, 1989.

C.L. Kincannon,
Deputy Director, Bureau of the Census.

[FR Doc. 89–9544 Filed 4–20–89; 8:45 am]
BILLING CODE 3510–07–M

Bureau of Export Administration

[Docket No. 90253–9053]

Crude Oil Export Study

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Notice of public hearings on the section 2424 Crude Oil Export Study.

SUMMARY: Consistent with the U.S. Department of Commerce's commitment to solicit public comment and to involve the public in the review of crude oil export policy, the Bureau of Export Administration is sponsoring public hearings on the Crude Oil Export Study which Commerce is required to prepare under section 2424 of the Omnibus Trade and Competitiveness Act of 1988. This notice identifies issues on which the Department is interested in obtaining the public's views. It also sets forth the procedures for public participation in the hearings.

DATES: The hearings will be held in Houston, Texas, on May 11, 1989, and Long Beach, California, on May 12, 1989. Requests to speak are due by May 1, 1989, for the Houston hearing and May 2, 1989, for the Long Beach hearing. The hearing in Houston will be held at the City Council Chambers, second floor, Houston City Hall, 901 Bagby, Houston, Texas 77002. The hearing in Long Beach will be held at the Port of Long Beach, Board Room, 925 Harbor Plaza, Long Beach, California 90802.

ADDRESS: Send requests to speak to: Bernard Kritzer, Senior Energy Advisor, Office of Industrial Resource Administration, Room H–3878, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377–4060.

Send written copies of the oral presentation to the Bureau of Export Administration's Freedom of Information Records Inspection Facility, Attn: Margaret Cornejo, Bureau of Export Administration, U.S. Department of Commerce, Room H–4886, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Senior Energy Advisor, Office of Industrial Resource Administration, Room H–3878, U.S. Department of Commerce, Washington, DC 20230, (202) 377–4060.

SUPPLEMENTARY INFORMATION:

I. Background and specific comments requested
II. Public hearing and comment procedures

I. Background and Specific Comments Requested

Section 2424 of the Omnibus Trade and Competitiveness Act of 1988 requires that the Secretary of Commerce, in consultation with the Secretary of Energy, undertake a comprehensive review to assess whether existing statutory restrictions on the export of crude oil produced in the lower 48 States are adequate to protect the energy and national security interests of the United States and American consumers.

Commerce is currently undertaking a comprehensive review of export control restrictions on crude oil produced in the lower 48 States. For further details concerning this study, see the **Federal Register** of March 8, 1989 (54 FR 9867).

The presentations at the hearings will assist the Department of Commerce in learning more about the public perspectives on the existing export restrictions on crude oil produced in the lower 48 States, with emphasis on the heavy oil produced in California. The Department requests speakers to provide suggestions as to whether the current export control restrictions should be maintained or modified in order to serve the energy and national security interests of the United States and American consumers.

In particular, but without limiting the scope of the information requested, we solicit your views on the following:

(a) The adequacy of domestic supplies of crude oil and refined petroleum products in meeting United States energy and national security needs;

(b) The quantity, quality, and retail price of petroleum products available to consumers in the United States generally and on the West Coast in particular;

(c) The overall trade deficit of the United States;

(d) The acquisition costs of crude oil by domestic refiners;

(e) The financial viability of sectors of the domestic petroleum industry (including independent refiners, distributors, marketers, and pipeline carriers); and

(f) The sufficiency of the United States tanker fleet (and the industries that support it), with particular emphasis on the availability of militarily useful tankers to meet anticipated national defense requirements.

II. Public Hearings and Comment Procedures

The public hearings are scheduled to be held in Houston, Texas on May 11, 1989, and Long Beach, California on May 12, 1989. The hearings will commence at 8:30 a.m. and end at 5:00 p.m. The Houston hearing will be held in the City Council Chambers, Houston City Hall, 901 Bagby, Houston, Texas. The Long Beach hearing will be held at the Port of Long Beach, Board Room, 925 Harbor Plaza, Long Beach, California 90802.

1. Procedure for Requesting Participation

Interested public participants are encouraged to present their views orally at the hearings. You may make a written request for an opportunity to make an oral presentation at the hearing. The request must be made to the address noted above by May 1, 1989, for the Houston hearing and May 2, 1989, for the Long Beach hearing. In addition, a written synopsis of your comments may be submitted at the same time as your request to speak. If all interested parties cannot be accommodated, these statements will be used to allocate speaking time and ensure that a full range of comment is heard. Please note that the submission of written comments for the public hearings is separate from the request for written comments contained in the March 8, 1989 Federal Register Notice.

In addition, the request to speak should contain a daytime phone number where you may be contacted before the hearing. Since it may be necessary to limit the number of persons making presentations, you should be prepared to describe your interest in this proceeding. If appropriate, please explain why you are a proper representative of a group or class of persons that has such an interest; and provide a concise summary of your proposed presentation.

The DOC will notify each person selected to be heard before 5:00 p.m. on May 4, 1989, which is one week prior to the hearings. In addition, the DOC will arrange the presentation times for the speakers. Attendees will be seated on a first-come, first-served basis. Persons selected to be heard should bring 100 copies of their oral presentation on the day of the hearing to the hearing address indicated in the "**ADDRESS**" section of this notice.

In addition, please submit 10 written copies of your oral presentation to the Bureau of Export Administration's Freedom of Information Records Inspection Facility, Attn: Margaret Cornejo, U.S. Department of Commerce, Room H–4886, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone (202) 377–2593. All comments received will be available for public inspection in the Freedom of Information Records Inspection Facility, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday.

Identify separately any information you consider to be company confidential and submit it in writing, one copy only. We reserve the right to return information if we do not deem it to be business confidential.

2. Conduct of the Hearing

We reserve the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. Each speaker will be limited to 10 minutes, and comments must be directly related to the section 2424 Crude Oil Export Study.

A Commerce official will be designated to preside at the hearings. Representatives from the Departments of Energy, Interior, and Transportation will also participate in the hearings. This will not be a judicial or evidentiary-type hearing. Only those conducting the hearing may ask questions, and there will be no cross-examination of persons presenting statements.

Any further procedural rules for the proper conduct of the hearing will be announced by the presiding officer.

Michael E. Zacharia,
Assistant Secretary for Export Administration.

April 19, 1989.

[FR Doc. 89–9781 Filed 4–19–89; 2:07 pm]
BILLING CODE 3510–DT–M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council will hold a public meeting of the Sablefish Economic Work Group on May 3 and 4, 1989. On May 3 at 10 a.m., the Workgroup will meet in the library of the California Department of Fish and Game, 411 Burgess Drive, Menlo Park, CA, to review and develop economic information for resolving the long-term sablefish inter-gear allocation problem.

For further information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 SW. First Avenue,

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Suite 420, Portland, OR 97201; telephone: (503) 221–6352.

Date: April 14, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–9569 Filed 4–20–89; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico and South Atlantic Fishery Management Councils; Corrected Meeting Agenda

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

NOAA published and amended agenda for meetings of the South Atlantic Fishery Management Council's Committees and for a joint South Atlantic and Gulf of Mexico Councils meeting. The amended agenda was published in notice at 54 FR 14374 on April 11, 1989.

The notice erroneously stated that all joint discussions scheduled for April 26, 1989, had been cancelled. This correction is to indicate that the other matters scheduled for joint discussion, that is bag limits, quotas for king and Spanish mackerel, a review of unresolved issues related to the Mackerel Amendment #4 and Amendment #5 Options Paper, continue on the agenda for that date.

For further information contact Carrier R.F. Knight, Public Information Specialist, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571–4366.

Dated: April 19, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

FR Doc. 89–9778 Filed 4–20–89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

April 18, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATES: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–9480. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current sublimits of certain categories in Groups I and II are being adjusted, variously, for carryover, carryover used, carryforward and swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 24476, published on June 29, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 18, 1989

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on June 24, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in indonesia and exported during the period which began on July 1, 1988 and extends through June 30, 1989.

Effective on April 18, 1989, the directive of June 24, 1988 is being amended to adjust the following sublimits in Groups I and II, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Indonesia:

Category	Adjusted 12 Month Limit [1]
Within Group I:	
340	500,135 dozen.
347/348	942,094 dozen.
351	123,596 dozen.
369–S [2]	549,420 kilograms.
641	1,352,631 dozen.
645/646	393,260 dozen.
647	566,284 dozen.
648	1,418,731 dozen.
Within group II:	
342/642	178,590 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1988.

[2] In Category 369–S, only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–9634 Filed 4–20–89; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of a Previous Directive Adjusting Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

April 18, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a sublimit.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For imformation on the quota status of this sublimit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6582. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current sublimit for Category 341-Y is being increased by application of swing. The fabric group limit was reduced in a previous directive to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the

CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 25526, published on July 7, 1988; and 54 FR 9246, published on March 6, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 18, 1989

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 1, 1989, by the Chairman, Committee for the Implementation of Textile Agreements. That directive adjusted limits for certain cotton and man-made fiber textile products, produced or manufactured in Turkey and exported during the period which began on July 1, 1988 and extends through June 30, 1989.

Effective on April 18, 1989, the directive of March 1, 1989 is amended to adjust the sublimit for Category 341-Y [1], a sublevel of Category 341, to 196,613 dozen[2], as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Turkey. The limit for Category 341 remains as adjusted in the March 1, 1989 directive.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerly,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–9635 Filed 4–20–89; 8:45 am]

BILLING CODE 3510-DR-M

Deduction of Overshipment Charges for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the United Arab Emirates

April 18, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Issuing a directive to the Commissioner of Customs deducting certain import charges.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854)

Under the terms of the Memorandum of Understanding dated March 14, 1989 between the Governments of the United States and the United Arab Emirates, textile products in Categories 338/339, 340/640, 341/641 and 347/348, produced or manufactured in the United Arab Emirates and exported in 1988 in excess of previously established limits shall be charged to the limits established for these categories for the 1989, 1990 and 1991 agreement years.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to deduct import charges, for goods exported in 1988, from charges made to the current limits for these categories. (In order to prevent an embargo, a deduction was made previously from the limit for Categories 347/348.) The amounts deducted shall be charged, in equal amounts, to the limits established for Categories 338/339, 340/640, 341/641 and 347/348 for the 1990 and 1991 agreement years.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 12472, published on March 27, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of Understanding dated March 14, 1989, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 18, 1989

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: To facilitate implementation of the Memorandum of Understanding dated March 14, 1989 between the Governments of the United States and the United Arab Emirates, I request that, effective on April 18, 1989, you deduct the following amounts, for goods exported in 1988, from charges made to the limits established in the directive of March 22, 1989 for cotton and man-made fiber textile products in the following categories, produced or manufactured in the United Arab Emirates and exported during the period January 1, 1989 through December 31, 1989:

Category	Amount to be deducted
338/339	83,914 dozen.
340/640	44,946 dozen.
341/641	6,056 dozen.
347/348	104,831 dozen.

This letter will be published in the **Federal Register.**

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–9636 Filed 4–20–89; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 341-Y, only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030.

[2] The sublimit has not been adjusted to account for any imports exported after June 30, 1988.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989, Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1989 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 22, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On December 27, 1988, February 3 and February 10, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (53 FR 52210, 54 FR 5542 and 6446) of proposed additions to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018). No comments were received concerning the proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified workshops to

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produce the commodities at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce the commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1989:

Peeler, Potato, Hand
7330–00–238–8316

Tarpaulin
8340–00–485–3012

Pants, Woman's

8410–01–189–9909	8410–01–189–9925
8410–01–189–9910	8410–01–190–9975
8410–01–189–9911	8410–01–189–9927
8410–01–189–9912	8410–01–189–9919
8410–01–189–9913	8410–01–189–9920
8410–01–189–9914	8410–01–189–9921
8410–01–189–9915	8410–01–189–9916
8410–01–190–9274	8410–01–189–9917
8410–01–190–9271	8410–01–189–9922
8410–01–190–9272	8410–01–189–9923
8410–01–190–9273	8410–01–189–9924
8410–01–190–9276	8410–01–189–9925
8410–01–190–9277	8410–01–190–4257
8410–01–189–9918	8410–01–189–9928
8410–01–190–9278	8410–01–189–9929
8410–01–190–9279	8410–01–189–9930
8410–01–190–9280	8410–01–189–9931
8410–01–190–9281	8410–01–189–9932

Topper, Woman's

8410–01–187–9636	8410–01–187–9646
8410–01–187–9637	8410–01–187–9647
8410–01–187–9628	8410–01–187–9648
8410–01–187–9629	8410–01–187–9649
8410–01–187–9630	8410–01–187–9674
8410–01–187–9631	8410–01–187–9706
8410–01–187–9642	8410–01–187–9697
8410–01–187–9643	8410–01–187–9698
8410–01–187–9644	8410–01–187–9699
8410–01–187–9645	8410–01–187–9700
8410–01–187–9632	8410–01–187–9709
8410–01–187–9633	8410–01–187–9675
8410–01–187–9634	8410–01–187–9676
8410–01–187–9635	8410–01–187–9677
8410–01–187–9650	8410–01–187–9654
8410–01–187–9641	8410–01–187–9655
8410–01–187–9658	8410–01–187–9656
8410–01–187–9659	8410–01–187–9657
8410–01–187–9710	8410–01–187–9682
8410–01–187–9660	8410–01–187–9683
8410–01–187–9661	8410–01–187–9651
8410–01–187–9662	8410–01–187–9652
8410–01–187–9663	8410–01–187–9653
8410–01–187–9664	8410–01–187–9638
8410–01–187–9665	8410–01–187–9639
8410–01–187–9640	8410–01–187–9694
8410–01–187–9692	8410–01–187–9695
8410–01–187–9666	8410–01–187–9696
8410–01–187–9667	8410–01–187–9678
8410–01–187–9668	8410–01–187–9684
8410–01–187–9669	8410–01–187–9685
8410–01–187–9670	8410–01–187–9711
8410–01–187–9671	8410–01–187–9689
8410–01–187–9686	8410–01–187–9690
8410–01–187–9687	8410–01–187–9691
8410–01–187–9688	8410–01–187–9679
8410–01–187–9705	8410–01–187–9680
8410–01–187–9706	8410–01–187–9681
8410–01–187–9707	8410–01–187–9701
8410–01–187–9672	8410–01–187–9702
8410–01–187–9673	8410–01–187–9703
8410–01–187–9693	8410–01–187–9704

Beverly L. Milkman,
Executive Director.

[FR Doc. 89–9632 Filed 4–20–89; 8:45 am]
BILLING CODE 6820–33–M

Procurement List 1989; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1989 commodities to be produced by workshops for the blind or other severely handicapped.

DATE: Comments must be received on or before May 22, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to procurement List 1989, which was published on November 15, 1988 (53 FR 46018):

Compress and Bandage, Camouflaged
6510–00–200–2075
6510–00–200–3080

Shirt, Woman's
8410–01–069–6611
8410–01–069–6612
8410–01–069–6613
8410–01–069–6614
8410–01–069–6615
8410–01–069–6616
8410–01–069–6617
8410–01–069–6618
8410–01–069–6619
8410–01–069–6620
8410–01–069–6621
8410–01–069–6622
8410–01–069–6623
8410–01–069–6624
8410–01–069–6625
8410–01–069–6626
8410–01–069–6627

Beverly L. Milkman,
Executive Director

[FR Doc. 89–9633 Filed 4–20–89; 8:45 am]
BILLING CODE 6820–33–M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 88–2–86CD]

1986 Cable Royalty Distribution Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of final determination.

SUMMARY: The Copyright Royalty Tribunal announces the adoption of its final determination in the proceeding concerning the distribution to certain copyright owners of royalty fees paid by cable systems for secondary transmissions during 1986.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 540, Washington, DC 20036, (202–653–5175).

SUPPLEMENTARY INFORMATION:

Authority

Section 111(d)(3) of the Copyright Act, as amended August 27, 1986, authorizes the Copyright Royalty Tribunal to distribute annually royalty fees paid by cable systems to those among the following copyright owners who claim that their works were the subject of secondary transmissions by cable systems during the relevant semiannual period:

(A) Any such owner whose work was included in a secondary transmission made by a cable system of a nonnetwork television program in whole or in part beyond the local service area of the primary transmitter; and

(B) Any such owner whose work was included in a secondary transmission identified in a special statement of account deposited under paragraph (1)(A); and

(C) Any such owner whose work was included in nonnetwork programming consisting of aural signals carried beyond the local service area of the primary transmitter of such programs.

This Proceeding

In this proceeding, the Tribunal takes up the distribution of the royalty fees deposited by cable operators for the calender year 1986. In accordance with past procedure, the Tribunal resolved that the 1986 distribution proceeding would be conducted in two phases. In Phase I, the Tribunal would determine the allocation of cable royalties among various program categories of claimants. The Phase I categories were: Program Suppliers (MPAA, Multimedia, NAB), Sports (Major League Baseball, NBA, NHL, NCAA), Noncommercial Television (PBS), U.S. Commercial Television (NAB), Music (ASCAP, BMI, SESAC), Devotional Programs (CBN, PTL, OTGH), Canadian Programs (CBC, CTV), Noncommercial Radio (NPR) and Commercial Radio (NAB).[1] In Phase II, the Tribunal would allocate cable royalties to individual claimants within a program category.

For this 1986 proceeding, there were no controversies in Phase I. All Phase I parties settled based upon the allocations made by the Tribunal in the 1983 cable distribution proceeding. (The 1984 and 1985 Phase I controversies were similarly settled on the basis of the 1983 allocations.)

In Phase II, there was one controversy. Within the Program Suppliers categories, three parties advanced claims which, when combined, exceeded 100% of the category. The three parties were: the Motion Picture Association of America, Inc., (MPAA), Multimedia Entertainment, Inc. (Multimedia), and the National Association of Broadcasters (NAB).

MPAA claimed 99.3% of the Program Suppliers category, while proposing that NAB be awarded 0.38%, and Multimedia be awarded 0.32%. Multimedia claimed 0.975% of the Program Suppliers category, while proposing that MPAA be awarded 98.225%, and NAB be awarded 0.8%. NAB claimed 0.8% of the Program Suppliers, while proposing that MPAA be awarded 98.225% and Multimedia be awarded 0.975%.

Background and Chronology

Seven hundred and twenty-one (721) individual or joint claims were filed with the Tribunal for the 1986 cable royalty fund. On December 15, 1987, the Tribunal published a notice directing all claimants to inform the Tribunal by February 4, 1988 whether any controversies existed concerning the distribution of the 1986 cable copyright royalty fees. 52 FR 47628.

In response to requests filed by the claimants, the Tribunal twice extended the time to file comments concerning a controversy, first to March 4, 1988, then to April 15, 1988. *Order*, dated February 4, 1988; *Order*, dated March 8, 1988.

Based upon written comments filed April 15, 1988, the Tribunal concluded that controversies existed regarding the distribution of the 1986 cable copyright royalty fees, both in Phase I and in Phase II of the proceeding, effective April 21, 1988. At the same time, the Tribunal ordered a partial distribution of the 1986 cable fund. 53 FR 13144 (April 21, 1988).

The filing of written direct cases in Phase I was originally scheduled for August 5, 1988, but was delayed twice at the request of the parties to facilitate settlement negotiations and for delays in the production of evidence due to the U.S. Court of Appeals' decision in *Cablevision* versus *MPAA, et al. Order*, dated July 11, 1988; *Order*, dated September 30, 1988.

On October 12, 1988, the Tribunal received a motion from all Phase I claimant groups informing the Tribunal that they had reached an agreement regarding the Phase I allocations for five of the claimants groups—U.S. Commercial Television, Music, the Devotional Programs, the Canadian Programs, and Noncommercial Radio—and asking the Tribunal to adopt the agreed-upon allocations. The allocations the parties agreed to were the same percentages allocations as those for the 1983–1985 cable royalty funds.

On December 2, 1988, the Tribunal was notified that Program Suppliers, Sports and Public Broadcasting Service had reached a settlement of their controversy, which was confirmed at the scheduled hearing, December 5, 1988. Consequently, all controversies in Phase I were resolved. The Tribunal adopted the agreed-upon allocations, and ordered another partial distribution of the 1986 cable royalty fund. *Order*, dated December 5, 1988.

On February 6, 1989, the Phase II claimants, MPAA, Multimedia and NAB, filed their written direct cases. The hearing of the direct cases took place on February 13, 14, 15, and 16, 1989.

Phase II rebuttal cases were filed February 27, 1989, and hearing of the rebuttal cases took place in March 2, 6, 7, and 8, 1989. The record in the proceeding was closed March 17, 1989.

The Program Suppliers claimants filed their Proposed Findings of Fact and Conclusions of Law on March 24, 1989. Reply Proposed Findings of Fact and Conclusions of Law were filed on March 31, 1989.

Findings of Fact

Previous Findings. The Tribunal took evidence regarding allocations among MPAA, Multimedia and NAB in the Program Suppliers category in the 1979, 1980, 1982, 1983, 1984 and 1985 cable distribution proceedings. All the findings of fact of these proceedings are hereby consolidated by reference into the 1986 cable distribution proceeding final determination. 47 FR 9879; 48 FR 9952; 49 FR 37653; 51 FR 12792; 52 FR 8408; 53 FR 7133; 53 FR 11895.

The claimants. MPAA is a trade association which represents 99 producers and/or syndicators of syndicated movies, television series and specials. MPAA Ex. 1. Collectively, the 99 claimants seek the cable royalties attributable to 8,229 different syndicated series, movies and specials broadcast on 113 commercial television stations which were retransmitted by cable systems in 1986 and whose viewing was measured by a Nielsen study commissioned by MPAA. MPAA Ex. 6.

Multimedia is the producer and syndicator of the following programs: "Donahue"—261 hours of news/interview programs, including 210 original programs, and 51 repeat programs; "Sally Jessy Raphael"—261 half-hours of interview/talk programs, including 236 original programs, and 25 repeat programs; "New Music City U.S.A."—52 half-hour country music programs, including 25 original programs, and 27 repeat programs; "Young People's Specials"—10 half-hour children's features: "Runaway to Glory," "Nicky and the Nerd," "Buddies," "Umbrella Jack," "That Funny Fat Kid," "Molly's Pilgrim," "The Horrible Secret," "My First Swedish Bombshell," "Little Arliss," and "Charlie's Christmas Secret" (four of these were first-run programs in 1986); "Country Music, Entertainment and International Specials"—ten primetime country, music, entertainment and international specials, including, $20th Annual Music City News Country Music Awards," "6th Annual National Song Writers Awards," "Family affair: Osmonds' 25th Anniversary," "Statlers' Christmas Present," "Public People, Private Lives," Marty Robbins: Super Legend," "Dreesen Street (original and Repeat), "New Stars of '88," "Spacesbridge: A Citizens' Summit," and "Citizens' Summit II: Women to Women" (eight of these were first-run programs in 1986). Multimedia-owned broadcast stations also produced and syndicated its own programming including: "Redscene,"

[1] The parties mentioned in parenthesis are the major claimants in each category. The listing is for the reader's edification, and is not intended to be a complete list.

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"Ruth Lyons: Portrait of A Legend," and "Cumberland College Christmas Program." Test. of Richard Thrall, pp. 3–4, 16; Multimedia Ex. 14.

NAB is a trade association which represents 66 television broadcast stations. Collectively, the 66 stations seek the cable royalties attributable to 139 programs which the stations produced and which were syndicated to and broadcast on other stations in 1986. NAB Ex. II–2 (amended). NAB categorized its programs, generally, as coaches shows, specials and series with regional appeal, sports programs, news/talk/public affairs programs, children's programs, documentary and instructional programs, parades, pageants and special events, and entertainment/talk shows. Test. of Richard Ducey, pp. 6–15.

MPAA's claim. As a part of its case for several distribution proceedings, MPAA has commissioned a special Nielsen study to prove its entitlement. 47 FR 9880; 48 FR 9554; 51 FR 12794; 52 FR 8416; 53 FR 7133. The study measures the bours of distant signal nonnetwork programming which are viewed by cable households. *Id.*

For this proceeding, MPAA selected to be included in the Nielsen study all U.S. commercial television broadcast stations which reached a minimum average of 80,000 Form 3 cable subscribers, as determined from the statement of accounts filed by the cable systems as of November, 1987 for the two semiannual accounting periods of 1986. Test. of Allen Cooper, p. 6. A total of 113 commercial stations met MPAA's criteria: 70 network-affiliates and 43 independent stations. MPAA Ex. 3.

Once the sample broadcast stations are selected, the study is based on data compiled by the A.C. Nielsen Company from Nielsen Station Index (NSI) diaries distributed to approximately 950,000 television households, including both cable subscribers (from Form 1, 2, and 3 systems) and non-subscribers, during six four-week measurement periods, or "cycles." During 1986, these cycles encompassed January 2–29, January 30–February 26, May 1–28, July 10–August 6, September 25–October 22 and October 30–November 26. Test. of Allen Cooper. p. 5. For the four principal cycles, February, May, July and November, 436,000 diaries were returned, reviewed by the Nielsen Company and accepted as accurate, and of those, 230, 839 or 52.94% were from cable households. Tr. 8.

The scope of the 1986 Nielsen study is greater than the 1985 Nielsen study. MPAA lowered the threshold of those stations which would be included in the study from stations reaching 100,000 subscribers to stations reaching 80,000. Consequently, 113 commercial stations were measured as opposed to 104 commercial stations in 1985. According to MPAA, these 113 stations accounted for more than 95% of all distant cable viewing of U.S. commercial programs by Form 3 cable systems, versus its estimate for 1985 that the 104 commercial stations accounted for 86.5% Test. of Allen Cooper, pp. 8–9; 1985 Test. of Allen Cooper, pp. 3–4.

The cable household viewing hours found by the MPAA-commissioned Nielsen study attributable to the programs of each of the three Program Suppliers claimants were:

		(Percent)
MPAA	2,618,283,916	99.289
NAB	10,276,176	.390
Multimedia	8,463,698	.321

Test. of Allen Cooper, p. 10; NAB Ex. 9RX; MPAA Ex. 12R.

MPAA and NAB disputed the ownership of 11 programs, three of which had reported cable household viewing hours of 188,231. MPAA Ex. 16R (revised). If NAB were given the credit for those three programs, instead of MPAA, the percentages for each of the three claimants would be: MPAA—99.282% NAB—0.397%, Multimedia—0.321%.

In the 1984 distribution proceeding, the Nielsen viewing data for the three parties were: MPAA—99.330%, NAB—0.404%, Multimedia—0.266%. 51 FR 8419. In the 1985 distribution proceeding, a proceeding in which NAB did not participate, the relative Nielsen data for MPAA and Multimedia were: MPAA—99.74%, Multimedia—0.26%. 53 FR 7133.

When asked by counsel for Multimedia whether the Nielsen viewing data are "pin-point accurate" or yield the "actual number of cable households" that viewed the distant programming, MPAA witness Cooper said that any Nielsen statistic is based upon estimates, and the estimates are subject to error. Tr. 707. Even for the range of probable error to be correct, it would need to assume a perfectly representative sample and that each participant in the sample complied completely with the survey requirements, which, Cooper stated, never happens. Tr. 708. The value of the Nielsen data, Cooper stated, is that they are relied on by stations, programmers and advertisers, and understanding their limitations, "they are fine for the purposes of constructively making decisions." *Id.*

In the 1985 proceeding, MPAA argued that the Tribunal should employ the Nielsen study as the sole means of determining the allocation among claimants in the Program Suppliers category, because it felt that it provided the only objective standard of measuring the relative values of competing claims. 1985 Test. of Allen Cooper, p. 8. This argument was rejected by the Tribunal. 53 FR 7136. In this proceeding, MPAA argues that the Nielsen study should be the Tribunal's primary consideration, and that the weight to be afforded the evidence of the other claimants should be so slight as to result in an allocation virtually the same as that which would have obtained from a strict application of the Nielsen data. Test. of Allen Cooper, pp. 3–4, 12.

Responding to the Tribunal's statement in the 1985 proceeding that credit would be given when it is shown that a claimant's programs have been either unmeasured or undermeasured by the Nielsen study, MPAA submitted a list of more than 820 titles (mostly movies and a few series) aired in over 1800 broadcasts which, because the programs were broadcast either by a non-sample station or ontside the measurement period, were not measured at all in the Nielsen study. MPAA Ex. 8; Test. of Marsha Kessler, pp. 2–3. MPAA did not attempt to obtain a comprehensive list of all unmeasured MPAA-represented programs. The listed programs were only those which happened to be sent by some program suppliers during the MPAA certification process. Tr. 123. A second list of 21 television series was also submitted by MPAA, which although measured by the Nielsen study, was alleged to have been undermeasured. Both lists were analyzed by MPAA for total subscriber-incidents (that is, the number of broadcasts times the numbers of subscribers reached) outside of the Nielsen measurement periods. MPAA Exs. 9, 10.

NAB's claim. In support of its claim, NAB presented two exhibits. The first exhibit was a copy of a questionnaire on programs syndicated in 1986 which the NAB-represented broadcast stations filled out at NAB's request. NAB Ex. II–1. The second exhibit was a listing of the syndicated programs which the broadcast stations claim. NAB Ex. II–2 (amended). The listing was based upon the response to the questionnaire. Test. of Richard Ducey, p. 2. To assure the accuracy of the questionnaire data, NAB research assistants re-contacted the stations by telephone to confirm and verify their responses. Tr. 363–64.

Exhibit II–2 listed the titles of the syndicated programs, the station which originated the program, the stations which carried the programs, and whether the program was a series or special. Ex. II–2 (amended). NAB underlined which carrying stations were imported as a distant signal by Form 3 cable systems in 1986. *Id.* Those stations which were not underlined were confirmed by NAB to have been imported as a distant signal by at least one Form 1 or Form 2 cable system in 1986. Tr. 362–63.

In addition, NAB presented Richard Ducey, senior Vice President and head of the NAB Research and Planning Department to give testimony concerning the marketplace value of the NAB-represented programs. Test. of Richard Ducey. Ducey described 58 of the 139 programs claimed by NAB as sports programs, either actual live sports games, such as state and regional high school or amateur basketball, football, hockey and track and field championships, wrestling matches, bowling tournaments, horse races, and auto races; or programs about sports, such as college or professional coaches' shows. *Id.*, pp. 6–15. In Ducey's opinion, sports programs are especially attractive to subscribers. Tr. 392.

In addition, Ducey emphasized that most of the NAB programs have special interest to cable subscribers within the state or region in which they are retransmitted on a distant signal basis. The type of shows, Ducey stated, which have this kind of appeal are coaches' shows and regional sports programs, news-programs, state lotteries, state fairs, and beauty pageants and political programs. Tr. 368–371, 395; Test. of Richard Ducey, pp. 6–15. Finally, Ducey cited one program "INN Evening News," which had 117 affiliated stations, as a program with national interest. Test. of Richard Ducey, p. 17; NAB Ex. II–2 (amended). Concerning all of NAB's represented programs, whether sports or non-sports, whether regional or national, Ducey described them as timely, fresh and first-run programs having more appeal than reruns. *Id.*; Tr. 387–89.

MPAA contested NAB's claim to represent 11 programs, asserting that they had been syndicated by MPAA-represented syndicators. Reb. Test. of Marsha Kessler, pp. 6–9. The programs in question were: "The Boy King," claimed by All American Television, "Inday News," claimed by LBS, "Breast Cancer: My Body, My Life," claimed by Twentieth Century-Fox, and "Public Women, Private Men," "Drop Everything and Read," "When I Was Your Age," "Notes To My Parents," "The Crossing," "No Secrets," "Street Shadows," and "Origins," claimed by Group W Westinghouse. *Id.*

Only three of the eleven programs were measured by the Nielsen study to have measurable cable household viewing hours. MPAA Ex. 16R. According to the settlement agreement among MPAA-represented program suppliers, those suppliers who sign with MPAA agree to be compensated solely on the basis of the Nielsen study, so that programs they own which receive zero viewing hours, or which were not measured in the Nielsen study will not receive compensation from MPAA from the Tribunal allocation for MPAA-represented program suppliers. Tr. 572, 574, 602.

MPAA witnesses conceded that MPAA's challenge to NAB's right to represent "Breast Cancer; My Body, My Life" might not be correct, that Twentieth Century-Fox's "It's My Body, It's My Life" is a different program than CBS' "Breast Cancer: My Body, My Life." Tr. 604–610, 778–779.

Group W Westinghouse signed to be represented for its programs by both NAB and MPAA. Reb. Test. of Marsha Kessler, p. 9.

MPAA drew concessions from NAB's witness on the issue of diversity programming, by demonstrating that many programs of regional appeal, such as the Hayden Fry Program and the Tom Osborne Show, two coaches shows retransmitted to cable systems in Iowa and Nebraska, respectively, are also available locally from over-the-air broadcast stations. MPAA Ex. 16X; Tr. 430–435. NAB countered with examples where programs are not duplicated by local broadcasts, such as the Montana program, "Face the State," which is available to Kalispell and Williston residents only by means of distant signal importation. Tr. 391.

NAB. sought credit for asserted undermeasurement of its specials in the Nielsen study. NAB Prop. Findings, par. 19. Not including the NAB–MPAA contested specials, NAB represented 82 specials for 1986. NAB Ex. II–2 (amended). These 82 specials were broadcast on a total of 395 television stations which were also transmitted by Form 3 cable systems. 116 of these 395 television stations, or 29.36% were among the selected commercial stations in the Nielsen study. (In the previous two sentences, many stations were counted more than once, because they carried more than one NAB-represented special). *Id.* This compares to the overall selection rate of 113 commercial stations chosen from 437 stations which were retransmitted by Form 3 systems, or 25.9%. Reb. Test. of Richard Thrall, p. 5; Test. of Allen Cooper, p. 3. 12 of the specials which were on the 116 stations were actually measured by the Nielsen study because they were aired during the sweep period, but it was not made part of the record how many times those 12 specials were measured; MPAA Ex. 16R (revised). MPAA noted that NAB's presentation lacked the frequency of the airings of NAB's programs, and the cable systems which carried them, and their subscribership. MPAA Reply Findings, p. 34; NAB Direct Case.

Multimedio's Claim. Multimedia seeks an increase in its award from 0.825%, which it received in 1985, to 0.975%. Multimedia Prop. Findings, p. 38. Two-thirds of Multimedia's proposed increase is based on what Multimedia claims as changed circumstances. One-third is based on Multimedia's assertion that WTBS already compensates those syndicators who supply programs to it with higher license fees, so that those syndicators incur far less harm to them than do syndicators who do not supply WTBS, such as Multimedia. *Id.*, pp. 4–5.

Changed circumstances—"Donahue" was broadcast on 209 broadcast stations in 1986, as compared to 206 in 1985, 98 of which were retransmitted by Form 3 cable systems on a distant signal basis. Multimedia Exs. 15, 3R. "Donahue" garnered 7,315, 294 household viewing hours in the Nielsen study versus 5,872,269 in 1985, an increase of approximately 24.6%. MPAA Ex. 7. "Donahue" received daytime broadcast ratings in 1986 of 8, 7, 7, 7 for the four sweep periods, as compared to daytime ratings of 7, 6, 6, 6 for the same periods in 1985. Multimedia Ex. 5. The daytime share for "Donahue" was 31, 31, 28, 31 for the four sweep periods in 1986, as compared with 28, 30, 27, 28 for the same sweep periods in 1985. *Id.*

Multimedia performed an advertsing analysis comparing how much revenue "Donahue" generates for its affiliates with the total of all nonnetwork, nonlocal news spot sales. Multimedia Ex. 4 (corrected). Multimedia chose 21 selected markets, representing 13.93% of the U.S., and, projecting those markets to the total of all U.S. markets, found that "Donahue" generated 2.16% of all 1986 nonnetwork, nonlocal news spots sales, as compared to 1.61% for 1985. *Id.* MPAA analyzed the selected 21 markets and found that "Donahue" in those markets had an average share 27.5% higher than the average share for "Donahue" for all television markets. MPAA Ex. 14R. Since advertising revenues are tied to the share a program gets, use of higher share markets tends to distort the advertising study,

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according to MPAA. Tr. 736. MPAA performed its own analysis using the same format and group of markets contained in Multimedia's 1985 study and reached an advertising figure of 1.46%. MPAA Ex. 12X; Tr. 287–88.

"Sally Jessy Raphael"—After having its first year of syndication in 1985, Sally Jessy Raphael increased the number of station affiliates from 70 to 84 in 1986, 46 of which were retransmitted by a cable system on a distant signal basis. Test. of Richard Thrall, p. 9; Multimedia Ex. 3R; Tr. 301. "Sally Jessy Raphael" garnered 839,489 cable household viewing hours, compared to 298,912 in 1985, an increase of 180.85%. MPAA Ex. 7. In 1986, "Sally Jessy Raphael's" average NSI daytime total households and persons increased 90%, ratings rose 17% and audience share increase 7%. Test. of Richard Thrall, p. 3. However, during 1986, daytime total households for "Sally Jessy Raphael" declined from 1,605,000 to 1,395,000 from February to November, despite an increase in the number of stations. Similarly, daytime total persons for "Sally Jessy Raphael" declined from 1,856,000 to 1,533,000 from February to November. Multimedia Ex. 6. Finally, Multimedia offered an advertising study for "Sally Jessy Raphael" similar to the one performed for "Donahue" which yielded 0.38% of all advertising revenues for all nonnetwork, non-local news spots sales. Multimedia Ex. 8 (corrected).

For all other Multimedia programming, Multimedia proposed no finding of changed circumstances, stating, for example, that its country music and entertainment special viewership "held steady." Test. of Richard Thrall, p. 14. According to the Nielson study, cable household viewing for all other Multimedia programming rose from 217,256 to 308,915, or 42.19%. MPAA Ex. 12R; MPAA Ex. 7.

The time for all Multimedia country music and entertainment specials on all broadcasting stations during 1986 was 45.73 hours, versus 41.1 hours in 1985. Multimedia Ex. 15. Overall, the total hours occupied by all Multimedia programming in a typical week amounted to 1,381.55, representing a 3% increase over 1985. Tr. 241; Test. of Richard Thrall, p. 17. MPAA attempted to rebut Multimedia's time estimate on the ground that Multimedia's estimate relies on all its programs being broadcast the maximum number of times possible throughout the year. MPAA estimated a reduction in total Multimedia time of approximately 100 hours per week based on the number of broadcasts reported by Arbitron SPAs. MPAA Ex. 13R.

Undermeasurement—In addition to asserting changed circumstances, Multimedia renewed its claim from last year that its special were undermeasured by the Nielson study, and added this year that its regularly scheduled series, such as "Donahue," and "Sally Jessy Raphael," were also undermeasured Multimedia Ex. 1R, 2R, 3R.

The Nielson study measured 113 commercial stations out of 437 commercial stations which were retransmitted by Form 3 cable systems, or 25.9%. Reb. Test. of Richard Thrall, p. 5; Test. of Allen Cooper, p. 6. Of the 98 commercial stations which carried "Donahue," and which were retransmitted by Form 3 cable systems, 25 were stations measured in the Nielson study, or 25.5%. Multimedia Ex. 3R. Of the 46 commercial stations which carried "Sally Jessy Raphael," and which were transmitted by Form 3 cable systems, 11 were stations in the Nielson study, or 23.9%. *Id.*

Concerning specials, of the 82 commercial stations which carried "My First Swedish Bombshell" and which were retransmitted by Form 3 cable systems, 22 were stations measured by the Nielsen study, or 26.8%. *Id.* Similarly, "20th Annual Music City News Country Music Awards" was on 22 measured Nielsen stations out of 85 distantly-carried commercial stations, or 25.9%. *Id.*

In another exhibit, Multimedia presented the number of times its specials aired on all broadcast stations in the U.S., 2,955 and divided that figure by the number of time its specials were on a selected Nielsen station during a measured sweep period, 112, and proposed the resulting figure, 3.8% as a valid indicator of its asserted undermeasurement. Multimedia Ex. 2R. MPAA responded that Multimedia's denominator in the fraction was not the relevant denominator because it included all broadcast stations regardless of whether they were retransmitted by Form 3 cable systems on a distant basis. MPAA Prop. Findings, p., 12. MPAA eliminated nonrelevant broadcasts for two of Multimedia's specials for which there was record evidence, so that "6th Annual Song Writers Award" was measured 7.9% of the time it was broadcast on stations retransmitted by Form 3 cable systems, rather than 5.1%, and "20th Annual Music City News Country Music Awards was measured 8.25% of the time, rather than 5.17%. *Id.* p. 13. MPAA did not perform any more analyses of this kind for the other Multimedia specials, not did it provide an overall percentage.

WTBS—Multimedia introduced statements submitted by TBS to the SEC and the FCC in which TBS states that because of WTBS's special position in the cable market, it typically pays program suppliers a licensing fee significantly in excess of the market rate for programming aimed at the Atlanta market alone. Reb. Test. of Richard Thrall, pp. 11–12. Specific examples of significant increase in the license fees paid for "Three Stooges" and "The Andy Griffith Show" were given. *Id.* TBS estimated that it pays $10 million per year more than the average production and new costs of an independent station in the 11–20 television markets. *Id.*, p. 14. It is Multimedia's position that these additional $10 million fees negate the harm program suppliers to WTBS are alleged to incur, and that those who do not syndicate to WTBS, such as Multimedia, should get a correspondingly higher share of the program suppliers royalties. Multimedia Prop. Findings, pp. 33–36.

MPAA introduced a cross examination exhibit to show that the 297.65% increase from 1978 to 1986 in license fees for WTBS to air "The Andy Griffith Show" was less than the increases independent stations incurred nationwide from 1978 to 1986 (379.3%) and less than independent stations in the 11–20 television markets incurred (612.87%). MPAA Ex. 17RX. Additionally, Multimedia's witness conceded that TBS' statement compared WTBS' costs for 1986 to a typical station's costs for 1983. Tr. 1075–76. When the relevant year's costs were compared, 25% of the independent stations in 1986 had production and news costs of at least $12 million, compared to WTBS' cost of $15.2 million MPAA Ex. 17RX.

MPAA argued that Multimedia's award should be reduced on the harm factor, rather than program suppliers to WTBS, because Multimedia has avoided the harm caused to its programs by distant signal importation by not selling any of its programs to the superstations. MPAA Prop. Findings, p. 15; Tr. 1095–96. MPAA submitted an exhibit analyzing "Donahue," "Sally Jessy Raphael," "20th Annual Music City News Country Music Awards," and "6th Annual Song Writers Awards", showing that although these shows were carried cumulatively by 250 broadcast which were retransmitted by cable systems on a distant signal basis, those cable systems accounted for only about $4 million of the $118.7 million which were deposited by cable systems.

Reb. Test. of Marsha Kessler, p., 2; MPAA Exs. 1R–5R; Tr. 559.

Multimedia also alleged that TBS, knowing that MPAA distributes its royalty shares based strictly on the Nielsen study, can schedule its programs on WTBS during Nielsen sweep periods so it can garner extra income for cable copyright royalties. Multimedia gave the example of the Goodwill Games, which, if scheduled during June, outside of a sweep period, would get no cable royalties, but scheduled as it was during July, would be getting approximately $2 million in cable royalties. Tr. 968–69. Upon request from the Tribunal, Multimedia submitted the schedule of all previous summer Olympic Games, which showed that the 1976 and 1980 summer Olympics were scheduled in July. Multimedia submission, dated March 13, 1989.

Conclusions of Law

MPAA, Multimedia and NAB have shown entitlement to 98.5%, 0.625% and 0.675% of the Program Suppliers Phase I allocation, respectively.

Our starting off point in analyzing the three Phase II program suppliers claimants is our award to these claimants from the last previously litigated proceeding. Our awards to these claimants were: MPAA—98.475%, Multimedia—0.625%, NAB—0.7%. These previous awards were arrived at by the Tribunal primarily on the basis of the special Nielsen study of cable household viewing of distant signals and other evidence going to the five factors employed by the Tribunal in analyzing a claimant's claim: harm to the claimants, benefit to the cable operator, marketplace value, and to a lesser degree, quality and time.

In this proceeding, one alleged insufficiency of the Nielsen data, whether the Nielsen study undermeasured any of the three claimants overall programming, was especially contested. The other important issues were whether any claimant could show changed circumstances from 1985; whether the claimants had improved on weaknesses in their cases perceived by the Tribunal; certain programs that were claimed by more than one party; and factors of harm, benefit to cable operators, and marketplace value.

Concerning the Nielsen study, MPAA continued to make improvements in its reliability. It expanded the number of commercial stations in the study, by including stations which reached 60,000 subscribers rather than last year's cut-off of 100,000. This resulted in an increase in the number of commercial stations measured by the study from 104 in 1985 to 113 in 1986. In addition, MPAA cleared up one point of confusion. The Tribunal had accepted Multimedia's criticism that the Nielsen data does not measure the viewing of cable subscribers who subscribe to Form 1 or Form 2 cable systems. MPAA established in this proceeding, however, that while the choice of which broadcast stations should be studied is restricted to their distant signal carriage by Form 3 systems, once that choice is made, the Nielsen study measures the viewing of those broadcast stations by all cable households, including households subscribing to Form 1 or Form 2 systems.

The Nielsen data yielded a relative measure of the programs of the three program suppliers as follows: MPAA—99.289%; NAB—0.390%; Multimedia—0.321%. This represented a decrease for NAB from 0.404% to 0.390%, or 3.5%, and an increase for Multimedia from 0.260% to 0.321%, or 23.5%.

To obtain these final Nielsen figures, it was necessary to resolve the question of the ownership of 11 contested programs between MPAA and NAB. One program, "Breast Cancer, My Body, My Life," was resolved at a hearing, where it was conceded by MPAA that, in fact, two different programs were being discussed and there was no conflict at all. Concerning the other ten, it was represented to the Tribunal that MPAA represented the syndicator of the program and NAB represented the producer. As we established in the 1984 cable distribution proceeding, as between the syndicator and the producer, the Tribunal will award the royalties to the syndicator, so here too, the Tribunal has determined these programs belong to MPAA's claim. *1984 Cable Royalty Distribution Proceeding*, 52 FR 8408, 8410, 8418 (March 17, 1987).

NAB argued that there existed a difference in this proceeding, that although MPAA sought the credit for these programs, the majority of them would not get any payment from MPAA under its own internal distribution system, whereas if NAB were recognized to be the proper representative for those programs, each one of them would get some compensation from NAB. The Tribunal believes, that although NAB's point has a certain appeal, the seeming inequity stems from a choice the syndicator made when he chose to be represented by MPAA, and to accept MPAA's distribution method. If, however, the syndicator feels penalized by MPAA's system, he can come directly to the Tribunal in Phase II as Multimedia does.

Concerning Group W Westinghouse, the Tribunal is particularly troubled by a circumstance in which Group W could possibly be compensated twice. In this case, Group W is assigned this year by the Tribunal to MPAA for the reason that it has received compensation from MPAA and has agreed to MPAA's distribution formula. This does not preclude Group W from filing with either MPAA or NAB in a future proceeding, but it must clearly choose.

Challenges to the Nielsen study in the proceeding were based primarily on allegations of undermeasurement. MPAA argued that the credit the Tribunal has given the other claimants in the past for undermeasurement of their programs was not warranted, because MPAA's programs were equally undermeasured. To advance this argument, MPAA gave examples of how much product its represented group has on the nonmeasured stations, and during the nonmeasured periods of the year. However, the Tribunal always assumed that MPAA had a substantial amount of its programs outside of the Nielsen study, for that was the necessary assumption the Tribunal had to make in order to project the results of MPAA's Nielsen study to the entire year. For MPAA to show that its programs have been undermeasured, it would have to show that its relative share of programming in the unmeasured periods exceeds its 97.5% (excluding unclaimed programs) relative share of programming in the measured period, or to show that the other claimants were overmeasured.

Overall, however, we consider that MPAA has continued to improve the Nielsen study, its claimants maintained their strong standing in the Nielsen data, and has thus demonstrated the marketplace value of its programs.

Concerning Multimedia, the statistical way in which Multimedia set out to demonstrate undermeasurement of its specials in this proceeding is different from the way it attempted to show undermeasurement in the last proceeding, and therefore our analysis has to be different. In the 1985 proceeding, Multimedia's exhibit on undermeasurement included one factor that has been left out of this year's exhibit—cable subscribership. Cable subscribership is a factor, because not all distant retransmissions of broadcast signals have equal impact.

This year, Multimedia first alleged that its series and specials were undermeasured simply by the fact that ¾ of their airings took place on broadcast stations not selected to be in the study. However, as our findings demonstrate, the Nielsen study only chose ¼ of all relevant broadcast stations to measure, so that

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Multimedia's programs received approximately average treatment.

Multimedia's second exhibit on undermeasurement was misleading because it included many nonrelevant broadcast stations, that is, stations that were not retransmitted by a Form 3 cable system.

It could not be shown from Multimedia's two exhibits whether there was undermeasurement. Our conclusion of the record is that there was not. This is not a contradiction from our finding of last year that there was undermeasurement. The basic criticism advanced by critics of the Nielsen study is that for small claimants it can be capricious. One year, it may undermeasure, the next year, it can overmeasure. Therefore, a claimant must continue to prove undermeasurement in order to get credit for it.

Regarding the other indicia of Multimedia's claim, we perceive two indications of changed circumstances, the improvement in "Sally Jessy Raphael" and the improvement in the Nielsen study. "Sally Jessy Raphael" was syndicated to more stations in 1986, 46 of which were retransmitted by Form 3 cable systems. Improvements for "Sally Jessy Raphael" were reflected in the Nielsen data. Overall, the Nielsen data for all Multimedia programming improved Multimedia's relative share by 23.5%.

We do not consider that there was changed circumstances for "Donahue" or for the other programs belonging to Multimedia. For "Donahue," the changes in ratings tend to prove that "Donahue," remains strong, but are not such as to warrant a finding of changed circumstances. Multimedia's advertising and time exhibits were sufficiently impeached by MPAA to preclude any finding of changed circumstances. The time study included many broadcast stations which were not retransmitted by any cable system on a distant signal basis. So improvements, if there were any, in time on the air might not be so for distant signal cable retransmissions. For the other programming, Multimedia did not allege changed circumstances.

On the issue of WTBS, Multimedia presented submissions by TBS to the SEC and the FCC purporting to show that TBS pays program suppliers a premium for their programs because of the special position station WTBS has in the cable market. However, TBS' submissions were essentially out-of-court statements; Multimedia's witness could not answer for the factual truth of the statements contained in them. MPAA's cross examination exhibits were successful in impeaching the allegations contained in TBS exhibits, so the Tribunal could not give them credit. Multimedia's argument that the Tribunal should find that program suppliers who syndicate to WTBS incur no harm because of the alleged premiums they get from WTBS was not proved. Nor could we find that WTBS intentionally schedules its programs, such as the Goodwill Games, during sweep periods for cable royalties, because many other Olympics have been scheduled during July.

On the contrary, we are generally persuaded by MPAA's showing that Multimedia has used self-help to avoid harming its distribution of its programs by not selling to the broadcast stations with the most cable retransmissions. To this extent, the Tribunal believes that Multimedia's award should be somewhat closer to its Nielsen figure.

It should be noted that although we have stated numerous times in the past that the Nielsen study is the starting point, it is obvious from a reading of our past Phase II decisions that the awards have never been based upon a strict application of Nielsen figures. In Phase II, both Multimedia and NAB have long received awards which are several times higher than indicated by Nielsen data. At the same time, past increases or decreases in Nielsen have not resulted in the same corresponding percentage of increase or decrease in Multimedia or NAB awards. See, for example, the 1982 and 1984 cable distribution proceedings. Such changes in Nielsen are but one factor in determining changed circumstances. Similarly, this year the Tribunal declines to apply directly Nielsen gains absent consideration of other factors to elevate changed circumstances.

In conclusion, regarding Multimedia, we believe that Multimedia's 23% improvement in the Nielsen study, which reflect, among other things, the improvement in "Sally Jessy Raphael" is offset by our finding that there was no undermeasurement of Multimedia's specials in 1986, and that Multimedia incurs somewhat less harm than other program suppliers who syndicate to the broadcast stations with greater cable retransmissions. Consequently, the Tribunal has determined to award Multimedia 0.825%, the same as in the last proceeding.

Concerning NAB, NAB has improved on the weaknesses in its case which the Tribunal perceived in the 1984 proceeding. Whereas in the 1984 proceeding, NAB could not represent to the Tribunal that each one of the broadcast stations listed in Exhibit II–2 were retransmitted by at least one cable system on a distant signal basis, this year it was able to. Similarly, NAB took extra steps to confirm and verify the information it had gathered from its represented stations.

NAB was also criticized in the 1984 proceeding for offering no proof of the marketplace value of its represented programs. The Tribunal particularly noted that NAB's programs change from year to year so that previously shown marketplace value for other program could not suffice to establish marketplace value for the new programs. NAB produced a witness this year to address the marketplace value of NAB's programs. However, while continuing to credit NAB for some value to its programs meriting an award higher than its Nielsen share, the Tribunal has determined to adjust NAB's share slightly downward from 0.7% to 0.675%, based primarily on a lack of proof that the regional programs have as special an appeal to particular audiences as NAB's witness said they do, and based upon MPAA's showing that these regional programs are also available over-the-air from regional broadcast networks.

The downward adjustment in NAB's award is not related to any fluctuation in its Nielsen share. As previously noted, the Tribunal has never taken the statistical result of the Nielsen study as having pin-point accuracy. The 3.5% decline for NAB, from 0.404% to 0.390%, was considered by the Tribunal to be de minimis.

Concerning NAB's assertion of undermeasurement of its specials in the Nielsen study, we first analyzed whether the NAB programs were on selected broadcast stations more or less than the statistical average. Since the Nielsen study measured 113 out of 437 stations, or 25.9%, NAB's result of 116 out of 395 stations, or 29.4%, being measured, does not show any undermeasurement.

However, it would be of no help for a special to be on a selected Nielsen station if it was aired outside of the sweep periods. 12 of NAB's programs were actually measured by the Nielsen study, but we do not know if they were measured once or more than once. We are inclined to conclude, however, that NAB's specials were probably undermeasured. To that extent, some amount of undermeasurement has already been built into NAB's award for the past several proceedings. However, our conclusion is frustrated by a lack of solid evidence. As we said previously on the issue of undermeasurement, to show it requires putting in the record the broadcast stations which aired the programs, when, whether the programs were aired within or outside a Nielsen sweep period, which cable systems carried them, and their subscribership.

Allocations

Pursuant to the Phase I settlement, the Tribunal has adopted the following allocation to categories of claimants in Phase I of the 1986 cable copyright royalties fees available for distribution.

After subtracting the stipulated award to National Public Radio of 0.18% of the entire fund.

Category	Basic	3.75 percent	Syndex
Program suppliers	67.10	72.00	95.00
Sports	18.35	17.50	0
Noncommercial television	5.20	0	0
Commercial television	5.00	5.00	0
Music	4.50	4.50	4.50
Devotional claimants	1.10	0.75	0
Canadian claimants	0.75	0.25	0
Commercial radio	0	0	0

The allocation adopted by the Tribunal under Phase II for the individual claimants in the Program Suppliers category is as follows:

Motion Picture Association of America, Inc. 98.500%
Multimedia Entertainment, Inc. 0.825%
National Association of Broadcasters 0.675%

Dated: April 16, 1989.

J. C. Argetsinger,

Acting Chairman.

[FR Doc. 89–9627 Filed 4–20–89; 8:45 am]

BILLING CODE 1410–09–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Intelligence Agency Advisory Board; Cancellation of Closed Meeting

AGENCY: Defense Intelligence Agency Advisory Board.

ACTION: Notice of cancellation of closed meeting.

SUMMARY: Notice is hereby given that the closed meeting of the DIA Advisory Board's HUMINT Panel, scheduled for 13 April 1989, previously announced in the **Federal Register** on Tuesday, April 4, 1989, Volume 54, No. 63, page 13555, FR Document 89–7975 was cancelled.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Advisory Board, Washington, DC 20340–1328 (202 373–4980.

April 17, 1989.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–9623 Filed 4–20–89; 8:45 am]

BILLING CODE 3810–01–M

Defense Advisory Panel on Government-Industry Relations; Panel Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Defense Advisory Panel on Government-Industry Relations (DAPGIR) is scheduled to be held from 8 a.m. to 5:30 p.m. on May 4 1989. The meeting will be held at the U.S. Chamber of Commerce, 1615 H Street, NW., Washington, DC. This is the second meeting of the DAPGIR. The agenda will include baseline briefings to provide all panel members a common basis of understanding pertaining to current regulatory requirements of the areas under study. It is also expected that members of the Senate and House of Representatives will address the panel.

The DAPGIR was established pursuant to section 608, Pub. L. 100–456 to study and make recommendations to the Secretary of Defense on ways to enhance cooperation between the Department of Defense and industry regarding matters of mutual interest, including (1) procedures governing the debarment and suspension of contractors from doing business with the Department of Defense; (2) the role of self-governing oversight programs established by defense contractors; and (3) expanded use of alternative disputes resolution procedures. The Panel will also study and make recommendations on the desirability of establishing a permanent panel. Membership of the DAPGIR is comprised of senior government acquisition officials, prominent academicians and senior executives from private industry.

Persons desiring to attend the Panel meeting should contact Ms. Regina Bacon, Defense Advisory Panel on Government-Industry Relations, ATTN: DLA–L, Cameron Station, VA 22304, telephone (202) 274–7146, no later than May 1, 1989.

April 17, 1989.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–9624 Filed 4–20–89; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on SDIO Technology Assessment; Meeting

ACTION: Change in date of advisory committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on SDIO Technology Assessment scheduled for April 5–6, 1989 as published in the **Federal Register** (Vol. 54, No. 51, Page 11263, Friday, March 17, 1989, FR Doc. 89–6295) will be held on June 7–8, 1989.

April 17, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–9625 Filed 4–20–89; 8:45 am]

BILLING CODE 3810–01–M

Department of Defense Advisory Committee on Uncompensated Overtime; Meetings

AGENCY: Office of the Secretary, DOD.

ACTION: Notice.

SUMMARY: The Department of Defense Advisory Committee on Uncompensated Overtime, established pursuant to section 804 of the FY89 National Defense Authorization Act (Pub. L. 100–456), will meet on the dates indicated below to: (1) Develop criteria to ensure that proposals for contracts for professional and technical services are evaluated on a basis which does not encourage contractors to propose mandatory uncompensated overtime for professional and technical employees, and (2) make recommendations to the Secretary of Defense on the criteria to be adopted by the Secretary. In developing the recommendations, the Advisory Committee shall address the following issues: (a) How the Department of Defense can best be assured that it receives the best quality services for the amounts expended and that the contractors supplying such services follow sound personnel management practices and observe established labor-management policies and regulations; (b) Whether contract competitions should be structured in a manner that requires offerors to compete on the basis of factors other than the number of hours per week its professional and technical employees of similar annual salaries work; and (c) Whether the Department of Defense can allow contractors to maintain different accounting systems (for example, 40-hour work week, full time accounting) and still allow the Department to evaluate proposals on the basis of a work rate of 40 hours per week and

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2,080 hours per year. The meetings are open to the public.

Dates and Time: May 12 and May 26, 1:00 pm to 4:00 pm

Location: The Pentagon, Washington, DC: OSD Conference Area 1E801, Room #1

FOR FURTHER INFORMATION CONTACT: Please contact the following Action Officer five days in advance of the meeting date if you plan to attend either meeting or require any additional information: Ted Godlewski, Action Officer, Office of the Deputy Assistant Secretary of Defense for Procurement, Directorate of Cost, Pricing and Finance, The Pentagon—Room 3C800, Washington, DC 20301–1900, (202) 695–7249.

April 17, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–9626 Filed 4–20–89; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Notice of Availability of a Draft Environmental Impact Statement (EIS)

AGENCY: National Guard Bureau, DOD/Michigan Department of Military Affairs, DoD.

ACTION: Notice of availability of a draft environmental impact statement: Proposed mission expansion/multiple construction at Camp Grayling Army National Guard Training Site, Michigan.

Background

Camp Grayling Army National Guard Training Area is a state owned, state operated, federally funded installation. Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Guard Bureau and the Michigan Department of Military Affairs have, acting as co-lead agencies, prepared a Draft Environmental Impact Statement on the proposed master plan mission expansion/multiple construction at Camp Grayling, Michigan. On July 22, 1986, a Notice of Intent to prepare an Environmental Impact Statement was published in the **Federal Register**. A scoping meeting (in accordance with the Council on Environmental Quality Regulations (40 CFR 1500–1508)) was conducted on September 6, 1986, at Grayling, Michigan, to identify significant issues related to the proposed master plan mission expansion/multiple construction at Camp Grayling.

Action

The proposed action includes renovation and rehabilitation of existing facilities, construction of new facilities, range improvements, development of new ranges and associated maneuver areas, and a potential for increased training site utilization. The Draft Environmental Impact Statement addresses direct and indirect environmental impacts, both beneficial and detrimental. Environmental impacts addressed include those affecting air quality, noise, physical setting, natural resources, land use, waste disposal, water resources, cultural resources, and social and economic resources.

In addition to the proposed actions, three alternatives were considered in the Draft EIS:

(a) No Action (Status quo)
(b) Modification/Alteration of Proposed Action
(c) Conduct actions at another location

Document Availability

The identification of preferred alternatives in the Draft Environmental Impact Statement does not constitute a final decision. The Draft EIS and any comments received will be used by the Army National Guard to prepare a Record of Decision. Copies of the Draft EIS may be obtained from: Michigan Department of Military Affairs, ATTN: Gregory Huntington, Construction and Facilities Office, 2500 South Washington Ave, Lansing, Michigan 48913, or (517) 483–5645.

Hugh M. McAlear,

Assistant for Environment OASA (I&L).

[FR Doc. 89–9754 Filed 4–20–89; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Board of Advisors to the Superintendent, Naval Postgraduate School; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School, Monterey, California, will meet on May 11–12 1989, in Herrmann Hall at the School. On both days the first session will commence at 8:15 a.m. and terminate at 12:00 noon and the second session will commence at 1:15 p.m. and terminate at 5:00 p.m. All sessions are open to the public.

The purpose of the meeting is to elicit the advice of the board on the Navy's Postgraduate Education Program. The board examines the effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent.

For further information concerning this meeting, contact: Commander Gary K. Iversen, USN (Code 007), Naval Postgraduate School, Monterey, California 93943–5000, Telephone: (408) 646–2513.

Date: April 13, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89–9586 Filed 4–20–89; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research advisory Committee Panel on Survivability of Navy Tactical Communications in a Hostile Environment will meet on May 9–10, 1989. The meeting will be held at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. The meeting will commence at 9:00 a.m. and terminate at 4:00 p.m. on May 9 and 10, 1989. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the panel members related to the survivability of Navy tactical communications in a hostile environment. The agenda will include briefings and discussions on related to C3I program appraisal and budget assessment, threat analysis, and program summaries. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Execution Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c) (1) of title 5, United States Code.

For further information concerning this meeting contract: Commander L. W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number: (202) 696–4488.

Date: April 17, 1989.

Sandra M. Kay,

Department of the Navy Alternate Federal Register Liaison Officer.

[FR Doc. 89–9585 Filed 4–20–89; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 89–20–NG]

Brymore Energy Inc.; Application To Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on March 27, 1989, of an application filed by Brymore Energy Inc. (BEI) requesting blanket authorization to export up to 200 Bcf of natural gas from the United States to Canada for short-term and spot market sales over a two-year period beginning on the date of the first delivery. BEI intends to export this gas at the international boundary near Detroit, Michigan, by means of existing pipeline facilities. BEI also proposes to submit quarterly reports detailing each transaction.

The application is filed pursuant to section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than May 22, 1989.

FOR FURTHER INFORMATION:

William C. Daroff, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9516.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: BEI, a Delaware corporation with its principal place of business in Las Vegas, Nevada, proposes to export this natural gas under contract arrangements of two years or less, either for its own account, or as a broker or agent for other parties. The specific terms of each export and sale would be negotiated on an individual basis at prices responsive to the market. No contracts have been executed and therefore the application does not identify the suppliers, buyers, or prices.

In support of its application, BEI asserts that there is no present national need for the gas to be exported and the short term of the authorization ensures that the gas would be available for domestic consumption should the current oversupply situation reverse itself. In addition, the applicant states that the proposed export will advance the U.S. policy goals of reducing trade barriers and encouraging competition and efficient distribution of goods between the U.S. and Canada.

This export application will be reviewed pursuant to Section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, the domestic need for the gas will be considered, and any other issues determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment in their responses on these matters as they relate to the requested export authority. The applicant asserts that the export arrangements transacted under the requested authority will be competitive and in the public interest, and that there is no current need for domestic gas that it proposes to export. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m., e.d.t., May 22, 1989.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any reques' for a trial-type hearing must show that there

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are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of BEI's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 12, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89-9628 Filed 4-20-89; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 89-15-NG]

Great Lakes Gas Transmission Co.; Application To Amend Existing Authorization to Import and Export Canadian Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice Of application to amend existing authorization to import and export Canadian natural gas.

SUMMARY: The office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on February 24, 1989, of an application filed by Great Lakes Gas Transmission Company (Great Lakes) to amend an existing authorization to import and export Canadian natural gas granted in DOE/ERA Opinion and Order No. 264 (Order 264) issued on August 9, 1988. The Amendment would allow Great Lakes to provide additional 417,000 Mcf of firm daily transportation service for TransCanada PipeLines Limited (TransCanada). Great Lakes proposes to construct 459.6 miles of pipeline loop and related facilities to transport the increased volumes.

The application is filed pursuant to section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than May 22, 1989.

FOR FURTHER INFORMATION:

Stan Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-091, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1302.

Michael Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION:

Great Lakes is jointly owned by TransCanada and The Coastal Corporation. Great Lakes currently transports Canadian natural gas for the account of TransCanada from the international boundary near Emerson, Manitoba, to the international boundary near St. Clair, Michigan, as part of a transportation arrangement to move gas from one point in Canada to another point in Canada by traversing a portion of the U.S. None of the imported gas is authorized to be sold or stored in the U.S. Great Lakes is authorized by Order 264 to import from and export to TransCanada through November 1, 2005, up to 925,000 Mcf per day of firm volumes. On October 31, 1988, Great Lakes was granted temporary, limited authority in DOE/ERA Opinion and Order No. 276 (Order 276), ERA Docket No. 88-56-NG, to increase, by 62,500 Mcf per day on an interruptible basis, the volumes of natural gas which it may import into the U.S. for redelivery back into Canada through existing Great Lakes pipeline facilities. This interruptible service would be converted to firm transportation service after Great Lakes receives from the Federal Energy Regulatory Commission (FERC) a certificate to construct 90.8 miles of 36-inch pipeline loop needed to transport the additional volumes on a firm basis, as well as final approval from the DOE to import and export the gas. Construction of the necessary facilities is scheduled to begin in the autumn of 1989.

By this application, Great Lakes seeks authorization to increase the firm volumes of Canadian natural gas imported and exported for transportation on behalf of TransCanada by an additional 417,500 mcf per day. This gas, together with all previously approved volumes (including the interruptible gas), would increase to 1,405,000 Mcf per day the total amount imported and exported for transportation on behalf of TransCanada. Great Lakes' proposal in this proceeding is dependent upon the construction of 459.6 miles of pipeline loop and 25 aerodynamic assemblies adjacent to its existing pipeline. This construction is in addition to the construction involved in Order 276. The date when transportation of the additional 417,500 Mcf per day would begin is the later of November 1, 1990, and the date ten days after Great Lakes advises TransCanada that the new facilities required to provide the increased service are constructed and operational.

In support of its application, Great Lakes states that transporting the additional volumes for TransCanada is in the public interest because it will provide residential, commercial, and industrial markets in Eastern Canada with competitively priced natural gas supplies. According to Great Lakes, some of the gas exported back into Canada would also be destined for consumption in the U.S. Northeast. However, parties involved in those import arrangements would be required, as asserted by Great Lakes, to apply separately for an import authorization.

Great Lakes filed a related application with the FERC in Docket No. CP89-892-000, to amend its existing certificate authority to transport the 417,500 Mcf per day of additional volumes which is the subject of this proceeding.

This import and export application will be reviewed pursuant to Section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. Since, according to the application, the same gas would be imported and exported solely as part of a transportation arrangement, and will not be sold or stored in the U.S., the DOE does not believe that it is necessary to consider in its evaluation competitiveness, need for the gas or security of supply with respect to the proposed import, nor domestic need for the gas with respect to the proposed export.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires the DOE to give appropriate consideration to the environmental effect of its proposed actions. The FERC is currently performing an environmental review of the impacts of constructing and operating the proposed new pipeline facilities required for both conversion to firm deliveries of the interruptible gas previously authorized by Order 276, and for transportation on a firm basis of the proposed import involved in this proceeding. The DOE will independently review the results of the FERC environmental evaluation of this project in the course of making its own environmental determination. No final decision will be issued in this proceeding until the DOE has met its obligations under NEPA.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., e.d.t., May 22, 1989.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Great Lakes' application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 13, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89-9629 Filed 4-20-89; 8:45]

BILLING CODE 6450-01-M

[FE Docket No. 89-12-NG]

ICG Utilities (Ontario) Ltd.; Application to Import Natural Gas From and Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for authorization to import natural gas from and to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on February 21, 1989, of an application filed by ICG Utilities (Ontario) Ltd. (ICG), for authorization to import from Canada up to 8,267,250 Mcf of natural gas per year and to subsequently export the same natural gas to Canada, on a firm basis, over a term of fifteen years beginning on November 1, 1990, and ending on October 31, 2005. The import/export proposal would be a means of supplying gas to fuel a new cogeneration facility to be built at Fort Frances, Ontario, Canada, and would not result in a net import of gas into the U.S.

The application is filed pursuant to section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than May 22, 1989.

FOR FURTHER INFORMATION:

Stanley C. Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9482.

Michael T. Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION:

ICG, a Canadian corporation with its principal place of business in North York, Ontario, is a large natural gas distribution company serving customers in more than 100 communities in Northwestern and Eastern Ontario. ICG requests authorization to import Canadian gas into the U.S. and to export the same gas to Canada as part of a transportation arrangement to supply gas to a new cogeneration facility which ICG plans to build at Fort Frances, Ontario. The steam and electricity generated by the new cogeneration facility would be consumed in Canada. The applicant asserts that there would be no net import, and no sale of the natural gas inside the U.S.

ICG asserts that no new domestic transmission facilities will be needed to implement the proposed import and export. The gas, to be acquired from various Canadian producers, would simply be transported from one point in Canada to another point in Canada via a pipeline which for a short span traverses a portion of the State of Minnesota.

In support of its application, ICG contends that since the gas would not be produced or consumed in the U.S., the issues of price, need for the gas, and security of supply are not relevant for the proposed import, nor is domestic need for the gas a relevant consideration for the proposed export. ICG also asserts that no new facilities would be constructed within the U.S. for the proposed import/export, and therefore there would be no environmental impact as a result of approval of the application.

Since, according to the application, the same gas will be imported and exported solely as part of a transportation arrangement, and will not be sold or stored in the U.S., the DOE does not believe that it is necessary to consider in its evaluation competitiveness, need for the gas, or security of supply with respect to the proposed import, nor domestic need for the gas with respect to the proposed export.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969

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(NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m., e.d.t., May 22, 1989.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of ICG's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 12, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89–9630 Filed 4–20–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–18–NG]

Texas International Gas & Oil Co.; Application To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on March 8, 1989, of an application filed by Texas International Gas & Oil Company (TI), requesting blanket authorization to export from the United States to Mexico up to 30,000 Mcf of natural gas per day and 11 Bcf per year, or a total of 22 Bcf for short-term and spot market sales over a two-year period beginning on the date of first delivery. TI intends to use existing facilities in Texas for transportation of the volumes to be exported and to file quarterly reports detailing such transaction.

The application is filed with the Department pursuant to section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, request for additional procedures and written comments are to be filed no later than May 22, 1989.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9394.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: TI, a Texas corporation with its principal place of business in El Paso, Texas, does business as Service-Gas. TI proposes to purchase and export natural gas produced in the U.S. Southwest to Mexico for sale to purchasers on an interruptible or short-term, firm basis. With the exception of Petroleos Mexicanos, the Mexican national energy company, the identities of prospective customers and the specifics of each sale are not known at this time. TI states that each export and sale would be negotiated on an individual basis at competitive prices.

This export application will be reviewed pursuant to Section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, the authorization may permit the export of the gas at any international border point where existing transmission facilities are located. In addition, a total amount of authorized volumes may be designated for the term rather than a daily or annual limit, in order to provide the applicant with maximum flexibility of operation.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 29, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this applicaiton will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., e.d.t., May 22, 1989.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of TI's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on April 13, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89–9631 Filed 4–20–89; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–3559–7]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements Filed April 10, 1989 Through April 14, 1989 Pursuant to 40 CFR 1506.9.

EIS No. 890083, Draft, UMT, NJ, Boonton Line/Montclair Branch Rail Lines Corridor Improvements, Funding, Hudson, Morris, Sussex, Essex and Passaic Counties, NJ, Due: June 30, 1989; Contact: Lelitia Thompson (212) 264–8162.

EIS No. 890084, Draft, AFS, MT, White Stallion Timber Sale Management, Implementation, Darby Range District, Bitterroot National Forest, Ravalli County, Mt, Due: June 5, 1989, Contact: George L. Tompkins (406) 821–3913.

EIS No. 890085, Final, EPA, TX, Corpus Christi Ocean Dredged Material Disposal Site Designation for Material Dredged from the Corpus Christi Entrance Channel, TX, Due: May 22, 1989, Contact: Norm Thomas (214) 255–2260.

EIS No. 890086, Draft, USA, MI, Camp Grayling Army National Guard Training Site, Mission Expansion and Multiple Construction, Implementation, Crawford, Otsego and Kalkaska Counties, MI, Due: June 5, 1989, Contact: Greg Huntington (517) 483–5646.

EIS No. 890087, Final, COE, OK, Coal Creek Local Flood Protection, Implementation, City of Henryetta, Okmulgee County, OK, Due: May 22, 1989, Contact: J. Paul Mace (918) 581–7857.

EIS No. 890088, Draft, NPS, GA, US 27/GA–1/LaFayette Road Relocation, US 27 near County Road-144 on the south and GA–2 at US 27 on the north, Approval and 404 Permit, Walker and Catoosa Counties, GA, Due: June 5, 1989, Contact: Steve Price (404) 331–5835.

EIS No. 890089, Final, FHW, OR, North Reseburg Interchange/I–5 Construction, I–5 to Oakland-Shady Highway, Funding, Douglas County, OR, Due: May 22, 1989, Contact: Dale Wilken (503) 399–5749.

EIS No. 890090, DSuppl, DOE, NM, Waste Isolation Pilot Plant Construction, Updated Geological and Hydrological Information, Eddy County, NM, Due: May 22, 1989, Contact: W. John Arthur III (505) 889–3038.

Amended Notices

EIS No. 890074, Final, FAA, MD, 15L/33R Runway Extension, Baltimore/Washington International Airport, Approval and Funding, Anne Arundel County, MD, Due: May 22, 1989, Contact: Michael C. West (301) 859–7068.

Published FR 4–7–89—Review period Reestablished. The 30 day NEPA wait period is calculated from 4–21–89.

Dated: April 18, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89–9641 Filed 4–20–89; 8:45 am]

BILLING CODE 6560–50–M

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[ER-FRL-3559-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 3, 1989 through April 7, 1989 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated. April 14, 1989.

Final EISs

ERP No.: F-AFS-K65072-CA, Pacific Southwest Region Vegetation Management, National Forests Reforestation Plan, Implementation, CA, OR and NV.

Summary: EPA's concerns and recommendations were incorporated in the final EIS, but did not demonstrate that all of the environmental concerns associated with the use of herbicides have been fully considered. EPA asked that subsequent Forest Service environmental documents at the project level described specific guidelines for herbicide use based on environmental considerations, in order to provide the basis for sound planning and public notification of herbicides use.

ERP No.: F-AFS-K65110-CA, Eldorado National Forest, Land and Resource Management Plan, Amador, Alpine, Eldorado and Placer Counties, CA.

Summary: EPA supported the water quality and riparian habitat protection measures proposed in this document. Close coordination with the regional water quality agency on future forest activities was recommended to ensure compliance with water quality protection requirements.

ERP No.: F-AFS-L65113-00, Pacific Northwest Region, National Forest System Lands, Competing and Unwanted Vegetation Mangement Plan, Implementation, Oregon, Idaho, Washington, and California.

Summary: EPA's major concern with the draft EIS was that the air quality effects of prescribed burning at sensitive areas (e.g. residences, campgrounds, highways) located immediately downwind of fires were underestimated. A commitment to using the available techniques for evaluating and mitigating such impacts on individual burns would alleviate this concern.

Dated: April 18, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-9642 Filed 4-20-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL—3559-2]

Proposed Administrative Penalty Assessment and Opportunity to Comment for the Colorado River Commission and J.F. Shea Co., Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. section 1319(g), EPA is authorized to issue orders assessing cvil penalties for various violations of the Act. EPA may issue such orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. section 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR Part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after issuance of public notice.

On the date identified below, EPA commenced athe following Class II proceeding for the assessment of penalties:

In the Matter of the Colorado River Commission, Las Vegas, Nevada and the J.F. Shea Co., Inc., Walnut, California; EPA Docket No. IX-FY89-34; filed on April 5, 1989, with James Casuscelli, Regional Hearing Clerk, U.S. EPA, Region 9, 215 Fremont St., San Francisco, California 94105, (415) 974-0718; proposed penalty of $70,000 for discharging to Waters of the United States without an NPDES Permit.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty days after the date of publication of this notice.

Dated: April 4, 1989.

Harry Seraydarian,

Director, Water Mangement Division.

[FR Doc. 89-9621 Filed 4-20-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3559-3]

Proposed Administrative Penalty Assessment and Opportunity to Comment for Texaco U.S.A., Inc., Ventura District, Los Angeles Operations Division

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. section 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. section 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR Part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after issuance of public notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Texaco U.S.A., Inc., Ventura District, Los Angeles Operations Division, Ventura, California; EPA Docket No. IX-FY89-36; filed on April 12, 1989, with James Casuscelli, Regional Hearing Clerk, U.S. EPA, Region 9, 215 Fremont St., San Francisco, California 94105, (415) 974-0718; proposed penalty of $125,000 for discharges to Waters of the United States from the Platform Habitat facility in violation of the requirements established in their NPDES permit.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public diclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty days after the date of publication of this notice.

Dated: April 12, 1989.

Harry Seraydarian,

Director, Water Management Division.

[FR Doc. 89-9622 Filed 4-20-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[DA 89-449]

Advisory Committee on Advanced Television Service Implementation Subcommittee Meeting

April 18, 1989.

A meeting of the Implementation Subcommittee of the Advisory Committee on Advanced Television Service will be held on: May 9, 1989, 1:00 P.M., Commission Meeting Room (Room 856), 1919 M Street NW, Washington, DC.

The agenda for the meeting will consist of:

1. Introduction
2. Approval of Minutes of Last Meeting
3. Report of Working Party 1 Policy and Regulation
4. Report of Working Party 2 Transition Scenarios
5. General Discussion
6. Other Business
7. Date and Location of Next Meeting
8. Adjournment

All interested persons are invited to attend. Those interested also may submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Implementation Subcommittee Chairman.

Any questions regarding this meeting should be directed to Dr. James J. Tietjen at (609) 734-2237 or David R. Siddall at (202) 632-6460.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9722 Filed 4-20-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200239.

Title: Port of Galveston Terminal Agreement.

Parties:

Board of Trustees of Galveston Wharves (Galveston)

Universal Shipping Agency, (USA)

Synopsis: The Agreement provides for Galveston to grant USA reduced "lay berth rates" for grain shipments through the Port of Galveston and a grace period during which USA's payments will not be subject to interest charges. The lay berth charge for using the berth will be $0.10 per GRT ton for the first day and $0.05 per GRT ton for each subsequent day. In addition, USA will be allowed 60 days for payment of invoice charges before interest charges are assessed on outstanding balances.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: April 17, 1989.

[FR Doc. 89-9553 Filed 4-20-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 5, 1989.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Marvin Braun;* Charles Kantor; Lonnie Barbara Kantor; and Thomas Gary; all of Miami, Florida; to acquire an additional 37.7 percent of the voting shares of Mega Bank, Miami, Florida, for a total of 40.5 percent.

2. *Raymond E. Mason, Jr.,* Venice, Florida; to retain 19 percent of the voting shares of Florida Westcoast Banks, Inc., Venice, Florida, and thereby indirectly acquire First National Bank of Venice, Venice, Florida.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Clifford R. Jerobak,* Bloomington, Minnesota, and Lloyd R. Jerobak, Excelsior, Minnesota; to acquire 97.72

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percent of Crow River State Bank, Delano, Minnesota.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Robert E. Atkins*, Woodward, Oklahoma, to acquire an additional 38.85 percent for a total of 59.23 percent; Bryce L. Hodgden, Woodward, Oklahoma, to acquire an additional 38.85 percent for a total of 58.77 percent; and Jack Miller, Mooreland, Oklahoma, to acquire an additional 38.85 percent for a total of 59.34 percent of the voting shares of American Interstate Bancshares, Inc., Woodward, Oklahoma, and thereby indirectly acquire American National Bank, Woodward, Oklahoma.

2. *Jerry G. Jackson, Trust*, (Jerry G. Jackson, Grantor and Trustee), Stigler, Oklahoma; to acquire 100 percent of the voting shares of Stigler Bancorporation, Inc., Stigler, Oklahoma, and thereby indirectly acquire The First National Bank, Stigler, Oklahoma.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Donald H. Anderson*, Sherman, Texas; to acquire 51.46 percent of the voting shares of TransTexas Bancshares, Inc., Beaumont, Texas, and thereby indirectly acquire The First National Bank of Canton, Canton, Texas, and First State Bank, Pflugerville, Texas.

2. *R. Ransom Gallaway*, Lubbock, Texas; to acquire 32.67 percent of the voting shares of Kenco Bancshares, Inc., Jayton, Texas, and thereby indirectly acquire Kent County State Bank.

Board of Governors of the Federal Reserve System, April 17, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-9574 Filed 4-20-89; 8:45 am]

BILLING CODE 6210-01-M

The Central Bancorporation, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts or interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 12, 1989.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *The Central Bancorporation, Inc.*, Cincinnati, Ohio, and its parent, PNC Financial Corp., Pittsburgh, Pennsylvania, to acquire 14.04 percent of the voting shares or Money Station, Inc., Columbus, Ohio, and thereby engage in providing data processing, data transmission services, data base maintenance and telecommunication services pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 17, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

FR Doc. 89-9575 Filed 4-20-89; 8:45 am]

BILLING CODE 6210-01-M

FNB, Inc., et al; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested pesons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 10, 1989.

A. Federal Reserve Bank of Cleveland (John J. Wixted. Jr., Vice President) 1455 East Sixth Street, Clevaland, Ohio 44101:

1. *FNB, Inc.*, Dennison, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Dennison, Dennison, Ohio.

2. *First Financial Bancorp*, Monroe, Ohio; to acquire 100 percent of the voting shares of Union Trust Company, Union City, Indiana.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Key Centurion Bancshares, Inc.*, Charleston, West Virginia; to acquire 100 percent of the voting shares of Guyan National Bank, Barboursville, West Virginia.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Banker's Bancorporation of Florida, Inc.*, Orlando, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Independent Bankers' Bank of Florida, Orlando, Florida.

2. *Barnett Banks, Inc.*, Jacksonville, Florida; to acquire 100 percent of the voting shares of Investors Trust Financial Corporation, Duluth, Georgia, and thereby indirectly acquire Investors Bank & Trust, Duluth, Georgia.

3. *First National Bancorp*, Gainesville, Georgia; to merge with Pickens County Bancshares, Inc., Jasper, Georgia, and thereby indirectly acquire Pickens County Bank, Jasper, Georgia.

D. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *FSB Bancorp, Inc.*, Breckenridge, Michigan; to become a bank holding company by acquring 100 percent of the voting shares of Farmers State Bank of Breckenridge, Breckenridge, Michigan.

2. *First National Bonk of Blue Island Employee Stock Ownership Trust*, Blue Island, Illinois; to become a bank holding company by acquiring 39 percent of the voting shares of Greater Lakes financial Resources, Inc., Blue Island, Illinois, and thereby indirectly acquire First National Bank of Blue Island, Blue Island, Illinois, and Community Bank of Homewood-Flossmoor, Homewood, Illinois.

3. *Firstar Corporation*, Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of First National Bank of Wisconsin Rapids, Wisconsin Rapids, Wisconsin.

4. *Pine Creek Bancorp, Inc.*, Oakland, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The Oakland National Bank, Oakland, Illinois.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *FirstBank Holding Company of Colorado*, Lakewood, Colorado; to acquire 100 percent of the voting shares of FirstBank at 9th/Corona, N.A., Denver, Colorado; FirstBank of Edgewater, N.A., Edgewater, Colorado; and FirstBank of Leetsdale/Monaco, N.A., Denver, Colorado.

2. *NorCentral Bancshares, Inc.*, Portis, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of The First State Bank, Portis, Kansas, which engages in the sale of credit life and crop insurance in a town with a population of less than 5000.

Board of Governors of the Federal Reserve System, April 17, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-4576 Filed 4-20-89; 8:45]

BILLING CODE 6210-01-M

First Peoples Financial Corp., et al., Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 12, 1989.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Peoples Financial Corporation*, Westmont, Haddon Township, New Jersey; to engage *de novo* through its subsidiary First Peoples Mortage Corporation, Westmont, Haddon Township, New Jersey, in mortgatge banking activities pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta Georgia 30303:

1. *Barnett Banks, Inc.*, Jacksonville, Florida; to expand the activities of its wholly-owned subsidiary, Barnett Merchants Services, Inc., Jacksonville, Florida, to include serving as agent for the receipt of information concerning lost or stolen credit cards from Barnett's cardholders pursuant to 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 17, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-9577 Filed 4-20-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on April 7, 1989.

(Call Reports Clearance Officer on 202-245-2100 for copies of package)

1. The Community Intervention Trial for Smoking Cessation (COMMIT)—Intervention Activities Surveys—0925-0309—The National Cancer Institute is conducting the Community Intervention Trial for Smoking Cessation (COMMIT), which will test community-based strategies to produce long-term cessation among smokers, particularly heavy smokers. This request is for the pretesting and fielding of intervention activities surveys of health care professionals, worksites, local organizations, cessation resources and the smokers' hotline network to assess and monitor the progress of the smoking cessation interventions in these specific channels. Respondents: Individuals or households; State or local governments; businesses or other for-profit; non-profit institutions, small businesses or organizations.

	No. of Respondents	No. of Hours Per Response	No. of Responses Per Respondent
Health Practitioners	1,855	.069 hrs.	1
Worksites Survey	815	.592 hrs.	1
Religious Organizations	383	.306 hrs.	1

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	No. of Respondents	No. of Hours Per Response	No. of Responses Per Respondent
Cessation Resources Survey	300	.596 hrs.	1.95
Lay Public Hotline Callers	20,361	.009 hrs.	1

Estimated Annual Burden..... 1,261 hours

2. 1988 National Maternal and Infant Health Survey—0920-0228—This survey provides data on maternal and infant health care, complications, and birth outcome, including live births, low birthweight, and fetal and infant deaths. It is needed by Federal and State researchers to study these birth outcomes and assess program needs in maternal and infant health. The purpose of this revision is to obtain information for the Indian Health Service about maternal and child health among urban Indians. Respondents: Individuals or households; businesses or other for-profit; Number of Respondents: 20,454; Number of Responses per Respondent: 1; Average Burden per Response: .5 hours; Estimated Annual Burden: 10,227 hours.

3. HRSA Competing Training Grant Application—0915-0060—The Health Resources and Services Administration uses this information to determine the eligibility of applicants for awards, to calculate the amount of each award, and to judge the relative merit of applications. The purpose of this revision is to add two new programs as users of the application: Podiatric Residency Training Program, and Scholarships for Undergraduate Education of Professional Nurses. Respondents: State and local governments; non-profit institutions.

	No. of Respondents	No. of Hours Per Response	No. of Responses Per Respondent
Podiatry Programs	25	56.25 hrs	1
Nursing Programs	250	56.25 hrs	1

Estimated Annual Burden..... 15,471 hours

4. NIH: Medical Staff Fellowship Program—0925-0006—Information from these forms is used to determine qualifications and preferences for a clinical, research or a staff fellowship position at the National Institutes of Health, the National Institute of Mental Health, and the National Institute on Alcohol Abuse and Alcoholism. Respondents: Individuals or households.

	No. of Respondents	No. of Hours Per Response	No. of Responses Per Respondent
Applicants	135	1.75 hrs	1
Referees	405	.08 hrs.	1

Estimated Annual Burden..... 254 hours

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Date: April 17, 1989.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89-9583 Filed 4-20-89; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Pub. L. 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on April 7, 1989.

(Call Reports Clearance Officer on (301) 965-4149 for copies of package)

1. Child Care and Dropout Questionnaire—New—The information collected on the SSA-4162 is used by the Social Security Administration to determine if an applicant for disability benefits may have certain computation years excluded from the benefit computation. The respondents are individuals applying for disability benefits.

Number of Respondents: 2,000
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 166 hours

2. Statement Regarding Student's School Attendance—0960-0113—The information collected on the form SSA-2434 is used by the Social Security Administration to determine the student status of certain children, brothers and sisters of deceased or disabled coal miners. The respondents are such persons who want to continue receiving benefits beyond age 18 because they are or will be full-time students.

Number of Respondents: 5,340
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 445 hours

3. Missing and Discrepant Wage Reports Letters and Questionnaires—0960-0432—The information collected on forms SSA-L2620, L2623, 2621 and 2622 will be used by the Social Security Administration to reconcile its wage reports (from employers) with wage reports from those same employers to the Internal Revenue Service. The respondents are employers which have missing or discrepant wage reports.

Number of Respondents: 354,900
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 177,450 hours

OMB Desk Officer: Justin Kopca.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Date: April 17, 1989.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 89-9595 Filed 4-20-89; 8:45 am]

BILLING CODE 4190-11-M

Disability Advisory Committee; Meeting

AGENCY: Social Security Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), this notice announces the schedule and proposed agenda of a forthcoming meeting of the Disability Advisory Committee (the Committee).

DATES: May 24, 1989, 8:00 a.m. to 6:00 p.m.; May 25, 1989, 8:00 a.m. to 6:00 p.m.

ADDRESS: Guest Quarters Suite Hotel at Baltimore-Washington International Airport, The Garrett Room, 1300 Concourse Drive, Linthicum, MD 21090.

AGENDA: Review materials and formulate recommendations.

The Committee may hold additional sessions during the evenings of May 24 and/or May 25, 1989. If the Committee decides to hold these evening sessions, the Committee will make an announcement during the regularly scheduled sessions.

FOR FURTHER INFORMATION CONTACT: Jean H. Hinckley, Executive Director, Disability Advisory Committee, P.O. Box 17064, Baltimore, Maryland 21235, (301) 965-4646.

SUPPLEMENTARY INFORMATION: The Committee is established under and governed by the provisions of section 1114 of the Social Security Act, as amended, and the provisions of the Federal Advisory Committee Act, as amended, (Pub. L. 92-463). The Committee is chaired by Dr. John E. Affeldt.

The purposes of the Committee are to study the Social Security administrative review process (known as the "appeals process") to ensure that the process protects the rights of the claimants, produces accurate and swift decisions, and is viewed as fair and equitable; receive and consider public views on reform of the process; and make a report and recommendations to the Commissioner of Social Security.

The Committee is scheduling this meeting to review and discuss the oral and written comments received pursuant to two public meetings held in March 1989 (announced February 21, 1989 at 54 FR 7477). During the review and discussion, the Committee will identify the issues and proposals and formulate recommendations for inclusion in its report to the Commissioner of Social Security.

This meeting is open to the public to the extent space is available. Anyone wishing to submit a written statement of his or her views and/or questions for consideration by the Committee should send them to the Executive Director of the Committee at the post office box shown above.

A transcript of the Committee meeting is available to the public on an at-cost-of duplication basis. The transcript can be ordered from the Executive Director of the Committee. The transcript and all written submissions will become part of the record of these proceedings.

Dated: April 14, 1989.

Jean H. Hinckley,

Executive Director, Disability Advisory Committee.

[FR Doc. 89-9584 Filed 4-20-89; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-040-09-4120-06, OK NM 0141015 and OK BLM 017612]

Amendment of Southeast Oklahoma Management Framework Plan; LeFlore County, Oklahoma

AGENCY: Bureau of Land Management, Interior, Tulsa District, Oklahoma.

ACTION: Notice of amendment of Management Framework Plan for Coal Lease Modifications in LeFlore County, Oklahoma.

SUMMARY: The Bureau of Land Management (BLM), Oklahoma Resource Area, Oklahoma has amended the Southeast Oklahoma Management Framework Plan (MFP) to allow the modification of two Federal coal leases in LeFlore County, Oklahoma. The amendment modified a decision which precluded the Bureau from considering leasing actions outside of areas designated in the 1980 plan.

DATE: The amendment is subject to a 30-day protest period. Protests must be postmarked no later than May 30, 1989.

ADDRESS: Any protest to the amendment must be submitted in writing to: Director (760), Bureau of Land Management, Premier Bldg., Room 909, 18th and C Streets NW., Washington, DC 20240. A party that participated in the plan amendment and is adversely affected by the amendment may protest this action only as it affects issues submitted for the record during the planning process.

FOR FURTHER INFORMATION CONTACT: Paul Tanner, Area Manager, or Jim Gegen, Team Leader, Oklahoma Resource Area, (405) 231-5491.

SUPPLEMENTARY INFORMATION: Any person who is on record for participating in the planning process and had an interest that is or may be affected by approval of the Amendment may file a protest.

Protests should be presented to the BLM Director with the following information: (1) Name, mailing address, telephone number, and interest of the person filing the protest; (2) statement of the issue(s) being protested; (3) a statement of the part(s) being protested; (4) a copy of all documents addressing the issue(s) that were submitted during the planning process by the protesting party or an indication of the date the issue(s) were discussed for the records; and (5) a concise statement explaining why the proposed BLM New Mexico State Director's decision is wrong.

At the end of the 30-day protest period, the Proposed Plan, excluding any portions under protest, will become final. Approval of the proposed land use plan amendment will constitute formal designation of two tracts as acceptable for further consideration for leasing.

Evans Coal Company proposes to modify Federal Lease OK BLM 017612, by adding 120 acres contiguous to the lease, located four miles west of Spiro, Oklahoma. Laredo Solid Fuels, Inc. proposes to modify Federal Lease OK NM 0141015, by adding 50 acres contiguous to the lease, located two miles southwest of Heavener, Oklahoma. Complete records of the planning amendment process are available for public review at the Oklahoma Resource Area, 200 NW., Fifth Street, Room 548, Oklahoma City, OK 73102.

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Dated: April 17, 1989.
Larry L. Woodard,
State Director.
[FR Doc. 89-9570 Filed 4-20-89; 8:45 am]
BILLING CODE 4310-FB-M

[AZ-920-09-4212-13; AZA-23085-B]

Arizona; Exchange of Public and Private Lands in Maricopa and Yavapai Counties

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange of land.

SUMMARY: This action informs the public of the completion of an exchange between the United States and Olympic Lake Pleasant General Partnership II, an Arizona general partnership. The United States transfered 1,759.59 acres in Maricopa County and Olympic Lake Pleasant General Partnership II conveyed 2,684.804 acres in Yavapai County.

FOR FURTHER INFORMATION CONTACT: Lisa Schaalman, BLM, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, telephone (602) 241-5534.

SUPPLEMENTARY INFORMATION: On March 24, 1989, the Bureau of Land Management transferred the following described land by Patent No. 02-89-0020 pursuant to the Federal Land Policy and Management Act of October 21, 1976:

Gila and Salt River Meridian

T. 6 N., R. 2 W.,
Sec. 4, lot 4, SW¼NE¼, SW¼SE¼NE¼, W½SE¼SE¼NE¼, S½NW¼, S½;
Sec. 5, lots 1 to 4, incl., S½N½;
Sec. 6, lots 1 to 5, incl., N½SE¼NE¼, SW¼SE¼NE¼, SW¼NE¼, SE¼NW¼;
Sec. 9, all.

The areas described comprise 1,759.59 acres in Maricopa County.

In exchange the following described land was conveyed to the United States:

Gila and Salt River Meridian

T. 9 N., R. 2 W.,
Sec. 1, patented "Campview" lode mining claim designated by MS 1557 A & B, patented "Chicago" lode mining claim designated by MS 1665, patented "Cleveland and Boston" lode mining claims designated by MS 1676;
Sec. 3, lots 1 to 4 incl., SW¼NE¼, N½SE¼NE¼, SW¼SE¼NE¼, N½SE¼SE¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 4, lots 1 and 2, S½NE¼, SE¼;
Sec. 5, lot 4, SW¼NW¼, W½SW¼;
Sec. 6, lots 6 and 7, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, incl., E½W½;
Sec. 10, NE¼;
Sec. 17, W½W½;
Sec. 18, lots 1 to 4, incl., E½, E½W½.

The areas described comprise 2,674.804 acres in Yavapai County.

The purpose of this notice is to inform the public and interested State and local government officials of the exchange of public and private land.

The land conveyed to the United States in this exchange will be administered by the Bureau of Land Management.

Marsha L. Luke,
Acting Chief, Branch of Lands Operations.
[FR Doc. 89-9612 Filed 4-20-89; 8:45 am]
BILLING CODE 4310-32-M

[MT-930-09-4212-13; MTM 77153]

Conveyance and Order Providing for Opening of Public Land in Carter County, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order will open lands reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (FLPMA), to the operation of the public land laws. No minerals were transferred in the exchange. It also informs the public and interested state and local government officials of the issuance of the conveyance document.

EFFECTIVE DATE: June 14, 1989.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-255-2941.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that pursuant to Section 206 of FLPMA, the following described surface estate was transferred to Tom D. Stieg and Kathy J. Stieg:

Principal Meridian, Montana

T. 4 S., R. 58 E.,
Sec. 5, SW¼NW¼;
Sec. 6, lot 3, SE¼NW¼, E½NE¼SW¼;
Sec. 21, E½NE¼, E½SW¼, SE¼;
Sec. 29, N½NE¼
Containing 559.83 acres.

2. In exchange for the above selected land, the United States acquired the following described surface estate from the Stiegs:

Principal Meridian, Montana

T. 3 S., R. 58 E.,
Sec. 31, W½SE¼.
T. 4 S., R. 58 E.,
Sec. 27, S½NW¼;
Sec. 28, S½N½;
Sec. 29, S½N¼, SE¼.
Aggregating 560 acres.

3. The values of the Federal public land and the private land were appraised at $16,800 each.

Opening Date

4. At 9 a.m. on June 14, 1989, the lands described in paragraph 2 above that were conveyed to the United States will be opened to the operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. All valid applications under the public land laws received at or prior to 9 a.m. on June 14, 1989, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

James Binando,
Acting Deputy State Director, Division of Lands and Renewable Resources.
April 12, 1989.

[FR Doc. 89-9566 Filed 4-20-89; 8:45 am]
BILLING CODE 4310-DN-M

[NM-030-09-4212; NM NM 77575]

An Exchange of Public Land with the Nature Conservancy in Dona Ana County, NM; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of correction of case file serial number.

SUMMARY: This notice corrects the serial number previously published in the March 9, 1989 (Vol 54 No 45 FR 10054) **Federal Register** in the first line of the Notice of Realty Action. The correct case file serial number is NM NM 77575.

FOR FURTHER INFORMATION CONTACT: Marvin M. James at the Bureau of Land Management, Las Cruces District Office, 1800 Marquess Street, Las Cruces, New Mexico 88005 or at (505) 525-8228 (FTS 571-8312).

H. James Fox,
District Manager.
April 14, 1989.

[FR Doc. 89-9546 Filed 4-20-89; 8:45 am]
BILLING CODE 4310-FB-M

[CO-942-09-4520-12]

Colorado; Filing of Plats of Survey

April 14, 1989.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., April 14, 1989.

The plat representing the dependent resurvey of portions of the south and west boundaries and subdivisional lines, and the subdivision of sections 20, 29, and 31, T. 4 S., R. 82 W., Sixth Principal Meridian, Colorado, Group No. 809, was accepted March 30, 1989.

This survey was requested by the U.S. Forest Service, Rocky Mountain Region, to identify the National Forest boundary.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,
Chief, Cadastral Surveyor for Colorado.
[FR Doc. 89-9611 Filed 4-20-89; 8:45 am]
BILLING CODE 4310-JB-M

[CO-930-09-4214-11; C-22622]

Proposed Modification and Continuation of Withdrawal; Colorado

April 12, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management, Department of the Interior, proposes that the order which withdrew 27.80 acres of public land for an indefinite period of time for the Escalante Historical site be modified and the withdrawal be continued for 20 years. The land will continue to be closed to surface entry, to the mining laws, and to the mineral leasing laws.

DATE: Comments should be received on or before July 20, 1989.

ADDRESS: Comments should be addressed to State Director, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office 303-236-1768.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management, Department of the Interior, proposes that the existing withdrawal made by Public Land Order No. 5589 for an indefinite period of time be modified to expire in 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, insofar as it affects the following described lands:

New Mexico Principal Meridian

T. 37 N., R. 15 W.,
Sec. 7, A tract of land in the NW¼SE¼, commencing at the northwest corner of NW¼SE¼ of said section 7, the point of beginning: thence N. 89°31'00" E., 653.400 ft; thence S. 26°37'30" E., 752.070 ft.; thence S. 0°52'45" E., 675.180 ft.; thence S. 89°34'00" W., 977.130 ft.; thence N. 1°01'00" W., 1350.360 ft., to the point of beginning.

The area contains 27.80 acres in Montezuma County.

The purpose of this withdrawal is for the administration and protection of the Escaltante Historic Site and Anazazi Heritage Center. No change is proposed in the purpose of this withdrawal. The land will continue to be withdrawn from surface entry, mining, and mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of the final determination will be published in the **Federal Register**. The existing withdrawal will continue until such determination is made.

Jenny Saunders,
Acting Chief, Realty Programs.
[FR Doc. 89-9567 Filed 4-20-89; 8:45 am]
BILLING CODE 4310-JB-M

[WY-930-09-4214-10; WYW 115104]

Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

This notice will correct the Notice of Proposed Withdrawal and Opportunity for Public Meeting published in Vol. 54, No. 50, Thursday, March 16, 1989, page 11085. The Notice is corrected by changing the following legal description:

Sixth Principal Meridian

1. Change lots 1-3, NW¼NE¼, NE¼NW¼, of sec. 19, T. 16 N., R. 79 W., to lots 1-2, N½ N½ and S½S½ of lot 3, NW¼NE¼, NE¼ NW¼.

2. Change T. 19 N., R. 79 W., to T. 17 N., R. 79 W.

The acreage amount is corrected by changing the totals from 21,575.64 to 21,636.29 acres.

F. William Eikenberry,
Associate State Director.

Date: April 12, 1989.

[FR Doc. 89-9613 Filed 4-20-89; 8:45 am]
BILLING CODE 4310-22-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 4397 and 6581, Blocks 291 and 292, respectively, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on April 10, 1989. Comments must be received on or before May 8, 1989, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management

BEST COPY AVAILABLE

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Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: April 13, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89-9568 Filed 4-20-89; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Golf Course Specialists, Inc.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Golf Course Specialists, Inc., authorizing it to continue to provide golf course facilities and services for the public at Rock Creek Park, Washington, DC, for approximately five (5) years from April 1, 1989.

EFFECTIVE DATE: June 20, 1989.

ADDRESS: Interested parties should contact the Regional Director, National Capital Region, 1100 Ohio Drive SW., Washington, DC 20242, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on March 31, 1989, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR, 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Robert Stanton,

Regional Director, National Capital Region.

Date: March 28, 1989.

[FR Doc. 89-9582 Filed 4-20-89; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Central Valley Project Water Conveyance Improvement

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability and notice of public hearing for the draft environmental impact report/environmental impact statement (DEIR/DEIS) INTDES-89-07.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, and Section 21002 of the California Environmental Quality Act, the Bureau of Reclamation and the Westlands Water District (WWD) prepared a joint DEIR-DEIS. The DEIR/DEIS addresses the impacts of alternative conveyance or other means to continue to provide up to 125,000 acre-feet of interim water annually to the WWD which historically has been provided by the Delta Mendota Canal (DMC) within the capacity reserved for San Felipe Unit (SFU). SFU will henceforth be taking its contracted water supply leaving no capacity in the DMC to deliver interim water to WWD.

DATES: A 60-day public review of the DEIS commences with the publication of this notice. Comments should be submitted to the Regional Director at the address below on or before June 20, 1989.

A public hearing on the DEIR/DEIS has been scheduled to solicit public comment on the project. The hearing will be held in Sacramento, California, on May 22, 1989. The hearing will begin at 7:30 p.m. and will be scheduled to end at 9:30 p.m.

ADDRESSES: The hearing will be held at: Red Lion, 2001 Point West Way, Sacramento, California.

Single copies of the DEIS may be obtained on request to the Regional Director at the following address:

Regional Director, Bureau of Reclamation, Mid-Pacific Region (MP-410), 2800 Collage Way, Sacramento, CA 95825; Telephone (916) 978-5049.

Copies of the DEIS are available for public inspection and review at the following locations:

Bureau of Reclamation, Environmental and Planning Branch, U.S. Department of Interior, 18th and C Streets, NW., Room 7455, Washington, DC 20240; Telephone (202) 343-4662.

Libraries:

Bureau of Reclamation Library, 2800 Cottage Way, Sacramento, CA 95825.

Bureau of Reclamation, Denver Office Library, Denver Federal Center, 6th and Kipling, Building 67, Room 167, Denver, CO 80225; Telephone (303) 236-6963.

Contra Costa County Central Library, 1750 Oak Park Boulevard, Pleasant Hill, CA 94523.

Fresno County Free Library, 2320 Mariposa Street, Fresno, CA 93721.

Sacramento Public Library, 828 I Street, Sacramento, CA 95814.

San Francisco Public Library, Government Documents Department, Civic Center, San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: Mr. John Brooks (Environmental Specialist, Mid-Pacific Region, MP-410, 2800 Cottage Way, Sacramento, California 95825), Telephone (916) 978-5049; or Mr. Lance Johnson (Project Engineer, Westlands Water District, 3130 Fresno Street, Fresno, California 93703), Telephone (209) 224-1642.

SUPPLEMENTARY INFORMATION: Due to conveyance capacity limitations, farmers within the WWD face a shortfall in the quantity of water historically available. The purpose of this improvement to the Central Valley Project (CVP) is to identify and describe altenatives for making up for the projected shortfall in order to maintain historic levels of irrigation.

Environmental effects addressed in the DEIR/DEIS include economic impacts caused by the irrigation water shortfalls, impacts on fish and wildlife, consequences of ground-water pumping, agricultural drainage, and water quality impacts.

The public hearing on the DEIR/DEIS is designed to receive views and comments from interested organizations and individuals relating to the environmental impacts on the Westlands Water District Water Supply Replacement Project. Organizations or individuals who would like to present statements at the hearing should contact the Mr. John Brooks, at the address or telephone number given above, and announce their intentions to participate. Speakers will be scheduled according to their time preference, if possible. Requests for scheduled presentations will be accepted until 4 p.m. on May 17, 1989. Any subsequent requests will be accommodated on a first-come, first-

served basis following the scheduled presentations at the hearing.

Speakers not present when called will lose their privileges in the schedule order, and their names will be recalled at the end of the scheduled speakers. Oral statements at the hearing will be limited to a period of 10 minutes per speaker. Speakers cannot combine times to obtain a longer oral presentation and will not be allowed to trade their scheduled time with someone else. However, the person authorized to conduct the hearing may allow speakers to provide additional oral comments after all persons wishing to comment have been heard.

Written comments from those unable to attend and from those wishing to supplement their oral presentations at the hearing should be received by June 19, 1989, to be included in the hearing record.

Date: April 19, 1989.

C. Dale Duvall,

Commissioner.

[FR Doc. 89-9780 Filed 4-20-89; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Intent to Engage in Compensated Intercorporate Hauling Operations; Richfood, Inc. et al.

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Richfood, Inc., (Parent Company) 2000 Richfood Road, Mechanicsville, Virginia 23111.

2. Garner Wholesale Merchandisers, Inc., 305 Industrial Boulevard, Greenville, North Carolina 27835, (A Virginia Corporation).

Noreta R. McGee,

Secretary.

[FR Doc. 89-9551 Filed 4-20-89; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-213 (Sub-No. 3X)]

Canadian Pacific, Ltd.; Abandonment Exemption; In Aroostook County, ME

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Canadian Pacific, Ltd. of 26.79 miles of rail line in Aroostook County, ME, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 22, 1989. Petitions to stay must be filed by May 8, 1989. Petitions for reconsideration must be filed by May 16, 1989. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by May 1, 1989. Requests for a public use condition must be filed by May 1, 1989.

ADDRESSES: Send pleadings, referring to Docket No. AB-213 (Sub-No. 3X), to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representatives: Charles H. White, Jr., 1730 Pennsylvania Ave., NW., Suite 400, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

(TDD for hearing impaired: (202) 275-1721.)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

Decided: April 14, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-9549 Filed 4-20-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31440]

Intermountain Western Railroad Co.; Lease and Operation Exemption; Line of Oregon Northwestern Railroad Co. and Snowmountain Pine Co.

Intermountain Western Railroad Company (IWRR) has filed a notice of exemption to lease and to operate 4 miles of rail line owned by Oregon Northwestern Railroad Company (ONRC), a wholly owned subsidiary of Snowmountain Pine Company. The line extends between the Snowmountain Pine facility and Burns (milepost 156.5) in Harney County, OR. The transaction will be consummated contingent upon and shortly after the granting of the petition for exemption from the prior approval requirements of 49 U.S.C. 11343 for the common control of two railroads that was filed concurrently with this notice.[1]

Any comments must be filed with the Commission and served on: Paul S. Street, Moffatt, Thomas, Barrett, Rock & Fields, Chartered, P.O. Box 829, Boise ID 83701; Karl Morell, Heron, Burchette, Ruckert & Rothwell, 1025 Thomas Jefferson Street NW., Suite 700, East Lobby, Washington, DC 20007; and Doug Durbano, Durbano, Smith & Reeve, United Savings Plaza #320, 4185 Harrison Blvd., Ogden UT 84403.

Applicant must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 49 U.S.C. 470, is achieved. *Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901,* 4 I.C.C. 2d 309 (1988).

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition of revoke will not automatically stay the transaction.

Decided: April 17, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-9550 Filed 4-20-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act; Royal N. Hardage, et al.

In accordance with section 122(d)(2)(B), 42 U.S.C. 9622(d)(2)(B) of

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

[1] IWRR, a non-carrier, is owned and controlled by two general partners: (1) ITS, Inc., a non-carrier and wholly owned subsidiary of Intermountain Gas Industries, Inc., also a non-carrier; and (2) Big Sky Industries, Inc., owned by Phillip Scott and David Durbano. Because Messrs. Scott and Durbano also control the Wyoming Colorado Railroad, Inc. (WYCO), they have filed, concurrently with the filing of this notice of exemption, a petition pursuant to 49 U.S.C. 10505 for exemption from the prior approval requirements for their common control of WYCO and IWRR in Finance Docket No. 31440 (Sub-No. 1).

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the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), and Department Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed Consent Decree for *De Minimis* Settlement in *United States* v. *Royal N. Hardage, et al.*, Civil Action No. CV–86–1401–P, was lodged with the United States District Court for the Western District of Oklahoma on April 7, 1989. The proposed Consent Decree for *De Minimis* Settlement is entered into in accordance with section 112(g), 42 U.S.C. 9622(g) of the Comprehensive Environmental Response, Compensation, and Liability Act. The proposed decree resolves the liability of settling parties whose contributions to the Hardage waste disposal site located in Criner, Oklahoma, have been determined by the Environmental Protection Agency to have been *de minimis*, both in terms of volume and toxicity. Under the terms of the proposed decree, settling parties will make payments to the Hazardous Substance Superfund in reimbursement for the United States' past and future response costs. Additionally, the proposed decree for cleanup of the principal disposal areas of the Site contamination resulting from migration from the principal disposal areas, as well as investigation of migration of hazardous substances from the disposal areas.

The Department of Justice will receive for a period of 30 days from the date of publication of this notice, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Royal N. Hardage, et al.* D.J. Ref. 90–5–2–1–30–A.

The proposed Consent Decree for *De Minimis* Settlement may be examined at the office of the United States Attorney, Western District of Oklahoma, 4434 U.S. Courthouse, Oklahoma City, Oklahoma 73102; at the Region VI office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and at the Environmental Enforcement Section, Land and Natural Resources Division, United Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree for *De Minimis* Settlement may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, at the above address. In requesting a copy, please enclose a check in the amount of $2.10, payable to the Treasurer of the United States, to cover the costs of reproduction.

Donald A Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–9614 Filed 4–20–89; 8:45 am]

BILLING CODE 4410–01–M

Consent Decree in Action To Enjoin Discharge of Water Pollutants; Iron Springs Sanitary District, et al.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Iron Springs Sanitary District, et al.*, Civil Action No. 87–1345–PHX–RCB, was lodged with the United States District Court for the District of Arizona on March 31, 1989. The consent decree establishes a compliance schedule to bring Iron Springs Sanitary District's two publicly owned wastewater treatment facilities, known as the Wildwood Treatment Plant and the Pine Lakes Treatment Plant, into compliance with the Clean Water Act, 33 U.S.C. 1251 *et seq.*, the applicable National Pollutant Discharge Elimination System Permits, and the applicable regulations relating to the discharge of pollutants. The consent decree also requires payment of a civil penalty of $20,000. The consent decree calls for the Iron Springs Sanitary District to achieve compliance with the permit effluent limitations and operation and maintenance requirements within 30 days of the date the Consent Decree is entered by the Court.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue NW., Washington, DC 20530 and should refer to *United States* v. *Iron Springs Sanitary District, et al.*, D.J. Ref. No. 90–5–1–1–2873.

The consent decree may be examined at the office of the United States Attorney, District of Arizona, 4000 U.S. Courthouse, 230 North First Avenue, Phoenix, Arizona 85025 and at the Region IX office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105. A copy may be obtained by mail by written request to the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice. In requesting a copy, please enclose a check in the amount of $5.10 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–9615 Filed 4–20–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to Clean Water Act; City of Pahokee, FL

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on April 10, 1989, a proposed Consent Decree in *United States* v. *City of Pahokee, Florida*, Civil Action No. 88–8204–CIV–GONZALES, was lodged with the United States District Court for the Southern District of Florida. The Complaint filed by the United States sought injunctive relief and the assessment of civil penalties under the Clean Water Act, as amended (the Act), against the City of Pahokee, Florida. The Complaint alleged that the City discharged pollutants from its sewage treatment plant in violation of its National Pollutant Discharge Elimination System (NPDES) permit and the Act.

Under the proposed Consent Decree, the City will pay a civil penalty of $45,000. The Decree requires the City to undertake numerous remedial measures to ensure that it complies with the Act in its operation of its sewage treatment plant.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *City of Pahokee, Florida*, D.J. Ref. 90–5–1–1–3057.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Southern District of Florida, 155 South Miami Avenue, Miami, Florida 33150; (2) the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NW., Altanta, Georgia; and (3) the Environmental Enforcement Section, Land & Natural Resources Division, U.S. Department of Justice, 10th & Pennsylvania Avenue NW., Washington, DC. Copies of the proposed Decree may be obtained by mail from the Environmental Enforcement Section of the Department of Justice, Land and Natural Resources Division, P.O. Box 7611, Benjamin Franklin Station, Washington, DC 20044–7611, or in person at the U.S. Department of Justice Building, Room 1517, 10th Street and Pennsylvania Avenue NW., Washington, DC. Any request for a copy of the proposed Consent Decree should be accompanied by a check for copying costs totaling $1.80 ($0.10 per page) payable to "United States Treasurer."

Donald A. Carr,

Acting Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 89–9616 Filed 4–20–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging a Final Judgment by Consent Pursuant to the Clean Water Act; USX Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 10, 1989 a proposed Consent Decree in *United States of America and the Commonwealth of Pennsylvania* v. *USX Corporation*, Civil Action No. 88–7346, was lodged with the United States District Court for the Eastern District of Pennsylvania.

The complaint filed by the United States alleged that USX violated section 301(a) of the Clean Water Act (the "Act"), 33 U.S.C. 1311(a), by discharging pollutants from its Clairton, Edgar Thomson, and Fairless Works in excess of the limitations allowed by USX's NPDES permits issued by EPA and the Commonwealth of Pennsylvania. The United States sought an injunction and civil penalties of up to $25,000 per day of violation against USX.

USX, the Commonwealth of Pennsylvania, and the United States have executed the Consent Decree. USX has agreed to pay a civil penalty of $750,000.00 to resolve past violations of the Act, $487,500.00 to the United States and $262,500.00 to the Commonwealth of Pennsylvania. USX is also liable for the payment of stipulated penalties for violations of its NPDES permits occurring between January 1, 1989 and termination of the Consent Decree. USX shall construct a wastewater treatment facility at Fairless to pre-treat the effluent discharged from Fairless' tin-free chrome-plating line prior to treatment by the oil interception plant. USX shall hire a third-party consultant to conduct a diagnostic review of the Clairton biological treatment facility to recommend operation, maintenance, monitoring, and diagnostic procedures that USX shall employ at the biological treatment facility. All three facilities will undergo operation and maintenance review under EPA guidance and corrective measures will be implemented by USX to achieve Clean Water Act compliance according to a schedule set forth in the Consent Decree.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Acting Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC, 20530, and should refer to *United States and the Commonwealth of Pennsylvania* v. *USX Corporation*, Civil Action No. 88–7346, DOJ Ref. No. 90–5–1–1–2850. The proposed Consent Decree may be examined at the office of the United States Attorney, Eastern District of Pennsylvania, 3310 U.S. Courthouse, 601 Market Street, Independence Mall West, Philadelphia, Pennsylvania 19106. Copies of the Consent Decree may also be examined and obtained in person at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Tenth and Pennsylvania Avenue NW., Washingotn, DC. A copy of the proposed Consent Decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Box 7611, Ben Franklin Station, Washington, DC, 20044. When requesting a copy, please present or enclose a check in the amount of $2.50 (ten cents per page reproduction costs) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–9617 Filed 4–20–89; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Maimoona Hakim Husain, M.D.; Revocation of Registration

On December 16, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Maimoona Hakim Husain, M.D., of 13957 13 Mile Road, #4, Warren, Michigan, proposing to revoke her DEA Certificate of Registration BH0708466 and to deny her application for renewal of that registration executed on September 17, 1987. The Order to Show Cause alleged that Dr. Husain's continued registration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

A registered mail receipt indicates that the Order to Show Cause was received by Dr. Husain on December 29, 1988. More than thirty days have passed since the Order to Show Cause was received by Dr. Husain and the Drug Enforcement Administration has received no response thereto. Therefore, the Administrator concludes that Dr. Husain has waived her opportunity for a hearing on the issues raised by the Order to Show Cause and, pursuant to 21 CFR 1301.54(d) and 1301.54(e), enters this final order based on the investigative file.

The Administrator finds that Dr. Husain was a physician licensed to practice medicine in the State of Michigan. On September 30, 1987, a felony complaint was filed by the State of Michigan charging two corporations, five doctors and six individuals with conspiracy to unlawfully deliver controlled substances, conspiracy to defraud Michigan Medicaid and Blue Cross/Blue Shield, and filing false Medicaid claims. Dr. Husain was one of the doctors against whom this complaint was filed. Individually, she faced one count each of conspiracy to deliver controlled substances, delivery of controlled substances, conspiracy to defraud Medicaid and Medicaid fraud. These charges were the result of a two-and-a-half-year investigation by the Michigan State Health Care Fraud Division which uncovered an elaborate scheme that both supplied controlled substances to drug abusive patients and defrauded the Michigan State Medicaid program of millions of dollars.

The investigative file reveals that sometime in 1985 Dr. Husain entered into an agreement with a Michael Kemp. Michael Kemp operated five American Health Center medical clinics in the Detroit area. These clinics were visited by Medicaid and Blue Cross patients who sought prescriptions for controlled substances. Many of the prescriptions issued by the clinic were for Tylenol with codeine numbers 3 and 4, both Schedule III controlled substances. In exchange for receiving these prescriptions, the patients were required to submit to a battery of tests, including blood tests, x-rays and other medically unnecessary procedures. Medicaid and Blue Cross then paid all claims for these tests to Mr. Kemp. Under Dr. Husain's agreement with Mr. Kemp, Dr. Husain received a weekly salary in return for her permitting Mr. Kemp to present claims under Dr. Husain's provider identification number. Additionally, because a licensed and registered

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physician was required to sign prescriptions for controlled substances. Dr. Husain also pre-signed numerous blank prescriptions. These prescriptions would later be filled out by unlicensed employees at Mr. Kemp's clinics who held themselves out to be doctors.

Dr. Husain never saw or treated patients at any of Mr. Kemp's clinics, she merely passed the pre-signed prescriptions on to individuals who were neither qualified nor licensed to treat patients. In fact, for approximately three weeks when Dr. Husain was in the hospital to have a baby, her husband came to the clinic to bring the pre-signed prescriptions from Dr. Husain. A patient could go to each of Mr. Kemp's clinics and receive Tylenol 3 prescriptions every two weeks, regardless of his or her complaint. The most common complaint was "back pain." Lines of patients could be observed outside Mr. Kemp's clinics, each patient waiting to get controlled substance prescriptions.

Medical records seized from the clinics indicate that patients continuously received these controlled substances over an extended period of time. The prescriptions were easily available to the patients and they returned to the clinic often. One doctor advised the Michigan Health Care Fraud Division that patients should not be maintained on a codeine-based medication for any length of time because of the danger of addiction. This is common knowledge in the medical community. By pre-signing prescriptions, Dr. Husain facilitated the clinic's practice of supplying controlled substance prescriptions to patients for no legitimate justification.

On February 27, 1987, a Health Care Fraud investigator visited one of Mr. Kemp's clinics in Detroit posing as Medicaid recipient "Jackie Hamilton," faking a complaint of foot pain. Jackie Hamilton was seen by an unlicensed individual not under the supervision of any licensed physician. Jackie Hamilton was issued a prescription for Tylenol with codeine #3, signed in the name of Dr. Husain. On April 23, 1987, a claim was made to Medicaid which falsely represented that on February 27, 1987, a certain prescription for Tylenol 3 was medically necessary for the care and treatment of Medicaid recipient Jackie Hamilton.

The Administrator notes that on January 20, 1989, the Michigan Department of Licensing and Regulation suspended the medical license of Dr. Husain for a period of one year, effective January 21, 1989, and imposed a fine of $5,000. Dr. Husain is not currently licensed to practice medicine or authorized to handle controlled substances in the State of Michigan. This fact alone is sufficient to revoke her DEA registration. See: *Emerson Emery, M.D.*, Docket No. 85–46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No. 85–8, 50 FR 34208 (1985); *Agostino Carlucci, M.D.*, Docket No. 82–20, 49 FR 33148 (1984).

In addition to the fact that Dr. Husain is not authorized to handle controlled substances in Michigan, the Administrator finds that Dr. Husain's continued registration with DEA is inconsistent with the public interest. The factors which the Administrator has considered in determining whether the registration would be inconsistent with the public interest are enumerated in 21 U.S.C. 823(f). Two of the factors to be considered include the registrant's experience in dispensing controlled substances and the registrant's compliance with Federal, State or local laws relating to controlled substances. All factor need not be present for the Administrator to revoke a Certificate of Registration. Instead, the Administrator may accord each factor the weight he deems appropriate in determining the public interest. See *Paul Stepak, M.D.*, 51 FR 17556 (1986).

In this instance, there is no question that Dr. Husain's experience in dispensing controlled substances has been in violation of the laws and regulations relating to controlled substances. Dr. Husain has admitted, in sworn deposition testimony before the Health Care Fraud Division, that she was paid by Mr. Kemp for the use of her Medicaid and Blue Cross provider identification number and that she routinely provided Mr. Kemp with blank pre-signed prescriptions which she knew were being issued to patients for controlled substances. Dr. Husain knew that the responsibility for the ultimate quality of medical care services given to patients at Mr. Kemp's clinics lay in the unlicensed individuals who actually saw the patients. One of these unlicensed individuals who issued prescriptions with Dr. Husain's signature explicitly told Dr. Husain that she did not have a medical license. Dr. Husain did not reply, she only instructed the unlicensed individual to continue dispensing Tylenol 3. Dr. Husain deliberately closed her eyes to what must have been obvious to her, that the prescriptions she was pre-signing were filled in for controlled substances and issued to patients for other than legitimate medical need. Dr. Husain's activities with regard to pre-signing prescriptions are clearly violations of Federal and State laws relating to the proper prescribing of controlled substances.

In view of all the foregoing facts regarding Dr. Husain's experience with controlled substances, her pre-signing controlled substance prescriptions with knowledge that they would be used to dispense controlled substances, her invovlement in a conspiracy to defraud Medicaid, and the suspension of her Michigan State medical license, the Administrator concludes that Dr. Husain's DEA Certificate of Registration must be revoked. Dr. Husain's controlled substance handling activities fall far outside the bounds of legitimate practice. Registrants must handle controlled substances, and the prescriptions by which such drugs are dispensed, in a careful and prudent manner so as to prevent their misuse. Dr. Husain was clearly a participant in a scheme which caused the diversion of substantial quantities of controlled substances.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration BH0708466, previously issued to Maimoona Hakim Husain, M.D., be, and it hereby is, revoked. It is further ordered that her pending application for renewal, executed on September 17, 1987, and any other outstanding applications for registration, be, and hereby are, revoked.

This order is effective May 22, 1989.

Dated: April 17, 1989.

John C. Lawn,

Administrator.

[FR Doc. 89–9564 Filed 4–20–89; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 28, 1989, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Dihydromorphine (9145)	I
Pholcodine (19314)	I
Alphacetylmethadol (9603)	I
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Pethidine (meperidine) (9230)	II
Methadone (9250)	II
Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane (9254).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid (9620)	II
Tincture of opium (9630)	II
Powered opium (9639)	II
Granulated opium (9640)	II
Mixed alkaloids of opium (pantopon) (9648).	II
Concentrate of poppy straw (9670)	II
Phenazocine (9715)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than (May 22, 1989).

Gene R. Haislip

Deputy Assistant Administrator Office of Diversion Control, Drug Enforcement Administration.

Dated: April 14, 1989.

[FR Doc. 89–9563 Filed 4–20–89; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable in Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238. When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 14th Day of April 1989.

Robert V. Setera,

Acting Director, Division of Wage Determinations.

[FR Doc. 89-9457 Filed 4-20-89; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL SCIENCE FOUNDATION

Materials Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: To request copies of the materials submitted to OMB for review contact Herman G. Fleming, Division of Personnel and Management, National Science Foundation, Washington, DC 20550, or call (202) 357-9520.

OMB Desk Officer: Written comments to: Office of Information and Regulatory Affairs, ATTN: Jim Houser, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Evaluation of Research Experiences for Undergraduates (REU) Program

Affected Public: Individuals or households.

Responses/Burden Hours: 3,829 responses—.5 burden hours each response.

Abstract: During FY 1987-88, NSF made 2,206 REU awards to provide hands-on research experiences to promising undergraduate students to encourage them to pursue graduate study in science and engineering. The study examines the impact of the program on participants, programmatic elements contributing to impact, and implementation characteristics.

Dated: April 17, 1989.

M. Rebecca Winkler,

Management Analyst.

[FR Doc. 89-9552 Filed 4-20-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-346]

Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-3, issued to Toledo Edison Company and Cleveland Electric Illuminating Company (the licensees), for operation of the Davis-Besse Nuclear Power Station, Unit 1, located in Ottawa County, Ohio.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specifications (TS) relating to the Auxiliary Feedpump Turbine Inlet Steam Pressure Interlocks. The operability and surveillance requirements for these interlocks are disassociated from the requirements for operability of the Auxiliary Feedwater Pumps, but are retained in the Technical Specifications for protection against the effects of a rupture of the steamlines to the Auxiliary Feedwater Pump Turbines.

The proposed action is in accordance with the licensee's application for amendment dated May 4, 1987, as supplemented by a letter dated April 29, 1988.

The Need for the Proposed Action

The proposed change to the TS is required in order to reflect the change in system requirements resulting from modifications to increase the reliability of the Auxiliary Feedwater System.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to TS and concludes that this change retains the function and purpose of the affected components and, therefore, does not change the probability or consequences of any accident. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

The Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on January 6, 1986 (53 FR 295). No request for hearing or petition for leave to intervene was filed following this notice.

With regard to potential nonradiological impacts, the proposed change to the TS involves no changes to any effluents or needed resources. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological

environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Davis-Besse Nuclear Power Station, Unit 1, dated March 1973, and supplement dated October 1975.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated May 4, 1987 and a supplement dated April 29, 1988, which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 14th day of April 1989.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Director, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-9605 Filed 4-20-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-454, et al.]

Commonwealth Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity For Hearing

In the matter of docket numbers 50-454, 50-455, 50-456, and 50-457.

The U.S. Nuclear Regulatory Commission (Commission) is considering issuance of amendment to Facility Operating License Nos. NPF-37 and NPF-66, issued to the Commonwealth Edison (the licensee), for operation of the Byron Station, Units 1 and 2 located in Ogle County, Illinois, and Facility Operating License Nos. NPF-72 and NPF-77, issued to the license for operation of Braidwood Station, Units 1 and 2, located in Will County, Illinois.

The amendments would change Technical Specification 4.5.2 to modify the surveillance requirements for venting of Emergency Core Cooling System (ECCS) equipment.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulation.

By May 22, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and petitions for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practices for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any other which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael Miller, Esq., Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filing of petitions for leave to intervene, amended petitions, supplemental petitions and/or request for hearing will not be entertained

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absent a determination by the Commission, the presiding officer to the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If the request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated March 17, 1989, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; and the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 12th day of April 1989.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 89–9603 Filed 4–20–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–247

Consolidated Edison Co. of New York, Inc. and Indian Point Nuclear Generating Unit No. 2; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Consolidated Edison Company of New York, Inc. (the licensee) to withdraw its June 22, 1987 application for proposed amendment to Facility Operating License No. DPR–26 for the Indian Point, Unit No. 2, located in Westchester County, New York.

The proposed amendment would have revised the Technical Specifications to authorize (but not require) sleeving of steam generator tubes as a repair technique. The proposed amendment did not specify the particular sleeving technique to be used.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 9, 1987 (52 FR 34002). However, by letter dated April 6, 1989, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 22, 1987, and the licensee's letter dated April 6, 1989, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 14th day of April 1989.

For The Nuclear Regulatory Commission.

Donald S. Brinkman,

Senior Project Manager, Project Directorate I–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–9604 Filed 4–20–89; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

April 17, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Baroid Corporation
Common Stock, $0.10 Par Value (File No. 7–4483)
Matlack Systems, Inc.
Common Stock, $1 Par Value (File No. 7–4484)
NL Industries, Inc.
Common Stock, $0.125 Par Value (File No. 7–4485)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 8, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary

[FR Doc. 89–9601 Filed 4–19–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16920; 811–4966]

Vigilant Fund, Inc.; Application

April 17, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 ("1940 Act").

Applicant: Vigilant Fund, Inc. ("Applicant").

Relevant 1940 Act Sections: Order requested under Section 8(f) of the 1940 Act.

Summary of Application: Applicant has requested an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on April 10, 1989.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application, or ask to be notified if a hearing is ordered. Any request should be in writing and should be received by the SEC by 5:30 p.m., on May 11, 1989. A request for a hearing should state the nature of the requestor's interest, the reason for the request, and the issues contested. Any person requesting a hearing should serve the Applicant with a copy of the request, either personally or by mail. the hearing request should then be sent to the Secretary of the SEC, together with proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of service. A request for notification of the date of a hearing may be made by writing to the Secretary of the SEC.

Addresses: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Huntoon Hastings, Inc., Riverpark, 800 Connecticut Ave., Norwalk, CT 06850.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Staff Attorney, at (202) 272–2847, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee by either going to the SEC's Public Reference Branch or contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is a Maryland corporation which registered as an open-end diversified management investment company under the 1940 Act on December 30, 1986. Applicant's registration statement under the Securities Act of 1933, filed on December 30, 1986, was declared effective on February 1, 1988. Applicant began the offer and sale of its sole series, the Select U.S. Government Collateral Series, on February 8, 1988.

2. On April 21, 1988, Vigilant Advisors, Inc. (the "Adviser") notified the Board of Directors of Applicant that the Adviser's financial condition had deteriorated, although it was attempting to secure additional financing. Applicant's disinterested directors then determined to suspend further sales of shares, and requested that the Adviser immediately place Applicant's assets in short-term, liquid money market instruments. After being informed that the Adviser had not secured additional financing, the disinterested directors conferred with Applicant's three public shareholders, who requested redemption of their shares. The redemptions were made on April 29, 1988, at the net asset value per share of $15.22. Thereafter, Applicant's sole shareholder was its Sub-Adviser, Huntoon Hastings, Inc., which had purchased Applicant's initial seed capital shares from the Adviser on February 4, 1988. The Adviser and Applicant's principal underwriter, Vigilant Distributors, Inc., have been inoperative since May 1, 1988.

3. During the remainder of 1988, the Sub-Adviser maintained Applicant's registrations and corporate existence. At a special meeting held on February 10, 1989, the Sub-Adviser informed Applicant's Board of Directors that it had determined not to sponsor or distribute Applicant's shares. The Board of Directors authorized the winding-up of Applicant's affairs, and resolved to hold a special meeting of shareholders to consider the dissolution of Applicant under Maryland law. Applicant's sole remaining shareholder, the Sub-Adviser, waived notice of the special meeting and executed a written consent to Applicant's dissolution. Applicant intends to file Articles of Dissolution after the receipt of the order requested by the application.

4. Immediately preceding the liquidation, Applicant's assets consisted solely of cash. Applicant's Statement of Assets and Liabilities as of March 31, 1989 shows net assets of $65,852.64, which amount was distributed to the Sub-Adviser on April 3, 1989 in redemption of its seed capital shares.

5. Expenses incurred in connection with the liquidation are estimated at approximately $7,000 and will be borne by the Sub-Adviser. There are no securityholders of Applicant to whom distributions in complete liquidation of their interests have not been made. Applicant has not, within the past 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant. Applicant has no assets, debts or liabilities which remain outstanding, is not a party to any litigation or administrative proceeding, and is not engaged in or proposing to engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9602 Filed 4–20–89; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 03/03–5156]

Basic Investment Corp.; Revocation of License

Notice is hereby given that the License of Basic Investment Corporation (Basic), 6723 Whittier Avenue, McLean, Virginia 22101, to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act), has been revoked. Basic was licensed by the Small Business Administration on July 29, 1983.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the revocation of the License was effective on April 13, 1989, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: April 17, 1989.

[FR Doc. 89–9637 Filed 4–20–89; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–0044]

The Central New York Small Business Investment Co., Inc.; Surrender of License

Notice is hereby given that The Central New York Small Business Investment Co., Incorporated 351 South Warren Street, Syracuse, New York 13202 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). The Central New York Small Business Investment Co., Incorporated was licensed by the Small Business Administration on April 28, 1961.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on April 5, 1989, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: April 17, 1989.

[FR Doc. 89–9638 Filed 4–20–89; 8:45 am]

BILLING CODE 8025–01–M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VI Advisory Council, located in the geographical area of Dallas will hold a public meeting at 9:00 a.m., on Friday, May 5, 1989, at the Hyatt Regency Hotel, 300 Reunion Boulevard, Dallas, Texas 75207 to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call James S. Reed, District Director, U.S. Small Business Administration, 1100

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Commerce, Room 3C36, Dallas, Texas 75242, phone (214) 767-0600.

Jean M. Nowak,
Director, Office of Advisory Councils.
April 13, 1989.
[FR Doc. 89-9639 Filed 4-20-89; 8:45 am]
BILLING CODE 8025-01-M

[Application No. 01/01-0346]

Senior Service Capital, Inc.; Filing of an Application for a License to Operate as a Small Business Investment Co.

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1989)) by Senior Service Capital, Inc., 500 Purdy Hill Road, Monroe, Connecticut 06468, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. *et. seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders are:

Name	Title	Percentage of Ownership
James A. DeSanctis, 500 Purdy Hill Road, Monroe, Connecticut 06468	Chief, Operating Officer/ Director.	9.5
Maurice C. Thompson, 500 Purdy Hill Road, Monroe, Connecticut 06468	Chief, Executive Officer/ Director.	0
John F. DiGiacomo, 500 Purdy Hill Road, Monroe, Connecticut 06468	Vice President.	0
Senior Service Corporation, 500 Purdy Hill Road, Monroe, Connecticut 06468	Shareholder.....	90.5

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Monroe, Connecticut.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,
Deputy Associate Administrator for Investment.
Date: April 18, 1989.
[FR Doc. 89-9640 Filed 4-20-89; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statement; Dallas/Fort Worth International Airport; Dallas/Fort Worth, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent.

SUMMARY: The FAA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered for proposed facility improvements at Dallas/Fort Worth International Airport (DFW). DFW proposed to construct two new runways, tentatively identified as Runways 16/34 East and 16/34 West.

FOR FURTHER INFORMATION CONTACT: Agencies may contact: Ms. Mo Keane, Airport Environmental Specialist, ASW-612B, Federal Aviation Administration, Southwest Regional Office, Fort Worth, Texas 76193-0612. Telephone (817) 624-5606. Public may contact: Mr. Jeffrey Bunting, Noise Compatibility Planner, Dallas/Fort Worth International Airport, P.O. Drawer DFW, DFW Airport, Texas 75261. Telephone (214) 574-8776.

SUPPLEMENTARY INFORMATION: The FAA, in cooperation with the Dallas/Fort Worth International Airport Board, will prepare an Environmental Impact Statement (EIS) for airfield improvements at the Dallas/Fort Worth International Airport.

During public scoping meetings held for the Runway 16/34 East EIS, elected officials and local citizens requested that environmental studies for both Runways 16/34 East and 16/34 West be undertaken at the same time so that total impacts on respective communities could be understood. In response to public concerns, the FAA and DFW will conduct simultaneous environmental studies for both runways. Environmental consequences for both 16/34 East and 16/34 West will be evaluated simultaneously. The EIS will be divided into two sections, with one section placing particular emphasis on impacts to the communities of Irving and Coppell with regard to Runway 16/34 East, and the other section placing emphasis on impacts to the communities of Grapevine and Euless with regard to Runway 16/34 West. The format of the EIS will allow the impacts of each runway to be assessed both independently and in total. Results and conclusions reached will be presented in the EIS.

Runway 16/34 East: This proposed runway project will be accomplished through a two-phase action. Phase 1 proposes a 6,000 ft x 150 ft runway capable of accommodating commuter and general aviation traffic and limited air carrier arrivals. This runway is scheduled to be on-line in 1992. Phase 2 proposes to extend the runway to overall dimensions of 8,500 ft x 150 ft. The runway will support air carrier traffic flying routes of 2,000 nautical miles or less. Implementation of the second phase will occur near the year 2000 or as required by aviation demand.

Runway 16/34 West: This proposed project will also be accomplished through a two-phase action similar to Runway 16/34 East. Phase 1 proposes runway dimensions of about 6,000 ft x 150 ft capable of accommodating commuter and general aviation traffic and limited air carrier arrivals. This portion of the project is scheduled to be on-line near 1996. Phase 2 proposes to extend the runway to an air carrier length. The precise length is yet to be determined, but will be determined prior to finalizing the EIS. Several alternatives for 16/34 West are operationally feasible. The EIS will evaluate each alternative and lead to a final recommendation. Implementation of the second phase will occur near the year 2000 or as required by aviation demand.

The FAA intends to consult and coordinate with Federal, State, and local agencies which have jurisdiction by law or have special expertise with respect to any environmental impacts associated with the proposed project. Three scoping meetings to discuss project magnitude and identify the scope of issues to be addressed have been accomplished for Runway 16/34 East. To solicit input from the communities, three additional scoping meetings are being scheduled to identify the scope of issues to be addressed relative to Runway 16/34 West. The first will be held for public agencies on May 22, 1989, at the Dallas-Fort Worth International Airport, Administration Building, Board Room beginning at 2 p.m. The second meeting will be held for interested members of the public on May 22, 1989, in the Euless High School Auditorium, Euless, Texas, beginning at 7 p.m. The third meeting will be held for interested members of the public on May 23, 1989, in the Grapevine Convention Center, Grapevine, Texas, beginning at 7 p.m.

Interested persons or agencies are invited to attend the appropriate scoping meeting to identify those issues which may have significant environmental impacts.

Issued on: April 10, 1989.
Gene L. Faulkner,
Manager, Airports Planning Branch.
[FR Doc. 89-9597 Filed 4-20-89; 8:45 am]
BILLING CODE 4910-13-M

[Summary Notice No. PE-89-17]

Petition for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before May 11, 1989.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Administration (14 CFR Part 11).

Issued in Washington, DC, on April 17, 1989.

Deborah E. Swank,
Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 25810
Petitioner: Mountain Air Cargo, Inc.
Regulations Affected: 14 CFR 121.343(b)
Description of Relief Sought: To continue operation of the company fleet of Fokker F27-500 aircraft with its currently installed flight data recorders beyond the digital flight data recorder installation compliance date of May 26, 1989.

Docket No.: 25824
Petitioner: Mercy Medical Center Redding
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought: To allow petitioner's pilots to perform the preventive maintenance function of removal and replacement of passenger seats in aircraft used in Part 135 operations.

Docket No.: 25828.
Petitioner: University of North Dakota Center for Aerospace Sciences.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought: To allow petitioner to exercise examining authority to recommend graduates of its flight instructor certification courses for certificates without taking the FAA flight or written test.

Docket No.: 25870.
Petitioner: Jet Express, Inc.
Sections of the FAR Affected: 14 CFR Part 93, Subparts K and S.
Description of Relief Sought: Petitioner requests an exemption from Part 93, Subparts K and S, in order to permit the operation of additional commuter flights in the high density hours at Washington National Airport. The additional slots would be used only by STOL aircraft under the Separate Access Landing System.

Docket No.: 24446.
Petitioner: Air Transport Association of America.
Regulations Affected: 14 CFR 121.485.
Description of Relief Sought/ Disposition: To extend Exemption No. 4317, as amended, that allows petitioner's members to conduct flights of less than 12 hours duration with an airplane having an additional crew of three or more pilots and an additional flight crewmember without requiring the rest period to be twice the hours flown since the last at home base rest period. Grant, April 6, 1989, Exemption No. 4317B.

Docket No.: 25732.
Petitioner: World Jet Corporation.
Sections of the FAR Affected: 14 CFR 135.89(b)(3).
Description of Relief Sought/ Disposition: To allow petitioner to operate its turbojet aircraft under § 121.333(c) of the FAR. Denial, April 3, 1989, Exemption No. 5038.

Docket No.: 25665.
Petitioner: Rocky Mountain Helicopters, Inc.
Sections of the FAR Affected: 14 CFR 135.293(b).
Description of Relief Sought/ Disposition: To allow pilots of petitioner, having passed a competency check in a particular make and model single-engine helicopter, to extend the results of this check and be deemed competent to operate other single-engine helicopters in the same class. Denial, April 6, 1989, Exemption No. 5039.

[FR Doc. 89-9596 Filed 4-20-89; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Public File No. 89-02; Notice 1]

Impact of Radar Detectors on Highway Traffic Safety

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Establishment of a public file and invitation to comment.

SUMMARY: This notice announces the avaialbility of the draft final report entitled "The Impact of Radar Detectors on Highway Traffic Safety," prepared for NHTSA by the Texas Transportation Institute under Contract No. DTNH22-87-C-05111. A public file has been created to provide an opportunity for the public to present comments on the draft final report. This research report was funded by NHTSA to determine the relationship, if any, between the use of traffic radar detection devices and highway safety. The agency seeks public review and comment on this draft final report.

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DATE: Comments must be received by June 20, 1989.

ADDRESSES: Interested persons may obtain a copy of the report free of charge by sending a self-addressed mailing label to Ms. Glorious Harris (NAD–51), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments should refer to "Radar Detectors," the public file and the notice number set forth above and be submitted to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Sheehan, Chief, Police Traffic Services Division (NTS–41), National Highway Traffic Safety Administration, Room 6124, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–4296.

SUPPLEMENTARY INFORMATION: The agency contracted with the Texas Transportation Institute, Texas A&M University, College Station, Texas, to conduct research and produce a report pursuant to Contract No. DTNH22–87–C–05111 concerning the impact of radar detectors on highway traffic safety. The study makes comparisons between speed distributions when a detectable radar transmission is present and when it is not. The authors of the report found that the data analyzed show an influence of radar detectors on traffic behavior when radar is present. They conclude that this influence can have a negative impact on speed enforcement, but caution that definitive conclusions about the larger issue of the relationship between detectors and traffic safety require resolution of serious methodological issue. The opinions, findings and recommendations contained in the report are those of the authors, V.J. Pezoldt and R.Q. Brackett, and do not necessarily represent those of NHTSA.

Prior to the issuance of the final report, NHTSA received an inquiry about this study and a request to make comments. In response to this request, agency decided to solicit comments from the general public. The comments will become part of the public record and will assist the agency in reaching a decision on whether or not to embrace the findings of the draft report.

Authority: 23 U.S.C. 403; delegation of authority at 49 CFR 1.50.

Issued on: April 18, 1989.

Diane K. Steed,

National Highway Traffic Safety Administrator.

[FR Doc. 89–9668 Filed 4–20–89; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 89–48]

Customs Bond Cancellation Standards

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Under the Omnibus Trade and Competitiveness Act of 1988 the Secretary of the Treasury is required to publish guidelines for cancellation of bond charges. This document publishes the Guidelines for Cancellation of Claims for Liquidated Damages currently in effect.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202) 566–8317.

SUPPLEMENTARY INFORMATION:

Background

Section 1904 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), amends section 623 of the Tariff Act of 1930 (19 U.S.C. 1623) by adding at the end of section 623(c) of the Tariff Act of 1930 (19 U.S.C. 1623(c)) the following sentence:

> In order to assure uniform, reasonable, and equitable decisions, the Secretary of the Treasury shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or changes thereunder.

The text of the guidelines currently in effect for cancellation of claims for liquidated damages is set forth below.

Dated: April 14, 1989.

Harvey B. Fox,

Director, Office of Regulations and Rulings.

I. Guidelines for Cancellation of Claims for Liquidated Damages for Late Filing of Entry Summary Claims (19 CFR 142.15)

Pursuant to § 172.22(d) of the Customs Regulations, claims for liquidated damages for failure to file entry summaries timely shall be issued and mitigated as follows:

A. Modified CF 5955A

Notices of liquidated damages incurred shall be issued on a modified CF–5955A. The modified form shall specify two options from which the petitioner may choose to resolve the demand.

1. Option 1. He may pay a specified sum within 60 days and the case will be closed. By electing this option in lieu of petitioning, he waives his right to file a petition. He may, however, file a supplemental petition, if he does so in accordance with the Customs Regulations and has some new fact or information which merits consideration in accordance with these guidelines.

2. Option 2. The second option is to file a petition seeking presumably more relief than would be had by paying the mitigation amount specified.

a. When the entry summary is late by less than 30 days, the district or area director shall grant further relief only when the petitioner has demonstrated:

i. The violation did not occur, or

ii. The violation occurred solely as a result of Customs error (Customs cannot be contributorily negligent in late file cases)

b. When the entry summary is late by 30 days or more, the district or area director may consider the following factors in response to a petition for further relief:

i. The circumstances causing the delay;

ii. The extent of the lateness;

iii. The amount of duty involved (the higher the amount of withheld duty the greater the advantage to the violator, and as a corollary, the longer it is withheld the greater still the advantage);

iv. The past record of the importer or broker in filing entry summaries timely;

v. The lack of intent to file the entry summary timely;

vi. Ordinarily, mitigation granted under Option 2 shall not be in an amount less than that determined in accordance with Option 1 unless extraordinary mitigating factors are presented.

B. Calculation of Mitigated Amount

The amounts to be set forth under Option 1 on the CF 5955A shall be calculated as follows:

1. Dutiable entry summary filed late.

The importer of record shall be charged an administrative fee of $100 plus interest on the withheld duty at the rate of .1 percent (.001) per calendar day that the entry summary was late. The interest amount shall be rounded *up* to the next dollar. For purposes of this calculation, the duty amount shall be rounded *down* to the next dollar.

2. Duty free entry filed late—$100.

3. Dutiable entry rejected and refiled late with no withheld duty—$100.

4. Dutiable entry filed timely but rejected, refiled late with additional duty owed reflecting duty withheld—$100 plus interest calculated on withheld duty only.

C. Date-Stamping or Receipt System

Entries will be time-stamped in accordance with instructions issued in Customs Directive 3550–24, dated September 8, 1987.

D. Entry Summary Not Filed

If at the time the demand for liquidated damages is issued the entry summary has not been filed, no mitigated amount shall be offered under Option 1. A prerequisite for any mitigation under these guidelines is that the principal file the entry summary and deposit the duty or that the surety deposit the duty. No demand will be mitigated until the summary is filed and/or the duty deposited as stated above. Failure to present the duty check will be treated as a non-filing.

Once the duties have been paid, or, if a non-file has been outstanding for 30 days, a late filing notice will be issued. The late filing claim issued as a result of a non-filing situation shall be cancelled in accordance with the following (however, in no case shall a late filing claim be cancelled before the summary is filed and/or duties deposited in settlement of the non-file):

1. Dutiable entry—

a. The importer of record shall be charged an administrative fee of $200 plus interest on the withheld duty at the rate of .1 percent (.001) per calendar day that the entry summary was late. The interest amount shall be rounded *up* to the next dollar. For purposes of this calculation, the duty amount shall be rounded *down* to the next dollar.

b. If an amount equal to the withheld duties was paid by the surety, the surety shall be charged an administrative fee of $200 plus .1 percent (.001) per calendar day between the date of the demand for duties made against surety and the date of payment of those duties.

2. Non-dutiable entry—$200.

3. **Note:** If a non-filing claim is issued and duties are not paid within 30 days, a late filing claim should be issued without an Option 1 amount. Only petitions will be reviewed and the claims will be cancelled in a manner consistent with these guidelines (payment of duties plus $200 plus the appropriate interest charge).

E. Second Offenses

These guidelines provide for charging an administrative fee plus interest for each late filing case. Accordingly, the fact that a violation is a second or subsequent offense is important only to determine an importer's record within the context of A(2)(b)(vi) above. If an importer frequently abuses his privileges and fails to meet his obligations under immediate release procedures, steps should be taken in accordance with the Regulations and existing policy directives to suspend those privileges. In the alternative, the District Director may choose to assess liquidated damages but not offer an Option 1 alternative. In these cases, consultation with Headquarters, Penalties Branch, shall occur to determine appropriate mitigation.

II. Guidelines for Cancellation of Claims for Liquidated Damages for Violation of Temporary Importation Bonds (19 CFR 10.39)

A. Cancel without payment if:

1. Breach was for the benefit of the United States.

2. Breach was due wholly to circumstances beyond the importer's control and which could not have been reasonably anticipated, i.e., destruction by fire.

3. Merchandise would have been entitled to free entry as domestic products exported and returned.

B. If the merchandise was exported or destroyed, but not within the bond period, or if it was exported but not under Customs supervision (if required), or if it was timely exported or destroyed by Customs was not timely notified so as to cancel the bond:

1. Cancel the claim for liquidated damages upon payment of an amount between 1 and 5 percent of the bond amount (depending on aggravating or mitigating factors present), but not less than $100.

2. Examples of aggravating factors:

a. Importer is uncooperative, e.g., fails to provide information to Customs.

b. A large number of violations of this type by the importer in relation to the total number of transactions engaged in.

c. Experience in importing.

d. Importer's willful disregard or carelessness toward responsibilities under applicable statutes, regulations, or bond.

3. Examples of mitigating factors:

a. Contributory Customs error, e.g., importer demonstrates that he acted in accordance with instructions given by Customs personnel.

b. Importer cooperates with Customs personnel in resolution of the case.

c. Importer takes immediate remedial action.

d. Lack of experience in importing.

e. A small number of violations of this type in relation to the number of transactions engaged in.

C. Grant no relief from the claim for liquidated damages in the following cases:

1. When the merchandise has entered into the commerce of the United States. If petitioner claims the articles have been exported or destroyed and does not present satisfactory evidence thereof, articles shall be deemed to have entered the commerce.

2. When the importer requests that a TIB entry be amended to a consumption entry after the merchandise has been released from Customs custody.

3. When TIB merchandise is sold and not exported.

D. Grant relief equal to one times the duty on merchandise which is sold but later exported.

III. Guidelines for Cancellation of Claims for Shortage, Irregular Delivery, Non-Delivery or Delivery Directly to the Consignee of In-Bond Merchandise (19 CFR 18.8)

A. Documents Filed Late or Merchandise Delivered Late

1. If merchandise is delivered untimely to the port of destination or exportation (not within 15 days if transported by air, 30 days if transported by vehicle, or 60 days if transported by vessel) but is otherwise intact, cancel the claim upon payment of an amount between $100 and $500 depending on the presence of aggravating or mitigating factors.

2. If merchandise is delivered timely but the documentation is not filed with Customs within 2 days of arrival in the port of delivery, cancel the claim upon payment of an amount between $100 and $500 depending on the presence of aggravating and mitigating factors.

3. If the bonded carrier consistently fails to timely deliver paperwork and Customs business is impeded by these repeated failures, the district director may cancel any claim upon payment of a higher amount than the guidelines generally permit. The advice of Headquarters, Office of Regulations and Rulings, Penalties Branch, shall be sought to determine appropriate mitigation.

B. Failure to Deliver or Shortage

Customs records indicate that merchandise was not delivered, or was delivered short.

1. If the carrier shows that the merchandise was entered and duty was paid (on an IT) of that the merchandise was exported but not in accordance with regulation (on a T&E or Direct Export), the claim may be cancelled upon payment of amount between $100

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and $1,000 depending on the presence of aggravating and mitigating factors.

2. If the bonded carrier can prove that the merchandise was never received or landed, the claim should be cancelled without payment.

3. If the carrier cannot prove that the merchandise was entered and duty paid or that it was properly exported or that it was never received or landed, the claim should be cancelled upon payment of an amount equal to the duties that would have been due on the subject merchandise had it been properly entered plus an amount between $100 and $1,000.

4. If the merchandise which has not been delivered is free of duty, cancel the claim upon payment of an amount between $100 and $1,000 depending on the presence of aggravating and mitigating factors.

6. If the bonded carrier consistently has shortages and failure to delivar cases and Customs business is impeded by these repeated failures, the district director may cancel any claim upon payment of a higher amount than the guidelines generally permit. The advice of Headquarters, Office of Regulations and Rulings, Penalties Branch, shall be sought to determine appropriate mitigation.

C. Delivery of Merchandise Directly to the Consignee

1. If the carrier can show that the merchandise was entered and duty paid, the claim may be cancelled upon payment of an amount between $100 and $1,000 depending on the presence of aggravating and mitigating factors.

2. If the carrier can prove that the merchandise was never received or landed, the claim should be cancelled without payment.

3. If the carrier can neither prove that the merchandise was entered and duty paid nor that the merchandise was never received or landed, the claim should be cancelled upon payment of an amount equal to the duties that would have been due on the subject merchandise had it been properly entered plus an amount between $100 and $1,000.

4. If the merchandise which has been delivered directly to the consignee is free of duty, cancel the claim upon payment of an amount between $100 and $1,000 depending on the presence of aggravating and mitigating factors.

5. If the bonded carrier consistently delivers bonded merchandise directly to the consignee, the district director may cancel any claim upon payment of a higher amount than the guidelines generally permit. The advice of Headquarters, ORR, Penalties Branch shall be sought to determine appropriate mitigation.

D. Aggravating Factors Include (But Are Not Limited To)

1. Violator refuses to cooperate with Customs or acts to impede Customs action on the case.

2. Violator experienced in handling in-bond shipments of the type in question.

3. Large number of violations in relation to total number of the same type of in-bond shipments handled by the violator, i.e., a frequent violator.

E. Mitigating Factors

1. Violator inexperienced in handling in-bond shipments of the type in question.

2. Small number of violations in relation to total number of the same type of in-bond shipments handled by the violator, i.e., violations are infrequent.

3. Violator demonstrates remedial action to prevent future violations has been taken.

4. Evidence of contributory Customs error.

5. Circumstances intervened that were beyond carrier's control (untimely delivery cases only).

a. Act of God (related to weather or some other natural cause).

b. An act of war or terrorism.

c. **Note:** Human failure by the carrier or any agent of the carrier shall not be considered as a circumstance beyond the carrier's control.

IV. Guidelines for Cancellation of Claims Involving Failure To Redeliver Merchandise Into Customs Custody or Failure To Comply With a Notice of Refusal of Admission Issued by Another Government Agency (19 CFR 141.113 or 113.62(e))

A. Statutes and Regulations Enforced on Behalf of FDA and CPSC

1. The provisions of 21 CFR 1.97 (FDA Regulations) and 16 CFR 1500.271 (CPSC Regulations) require that the District Director of Customs and the other applicable agency be in agreement as to the amount to be accepted in cancellation of the claim for liquidated damages. Accordingly, by regulation Customs must follow the recommendation of other agency.

2. Exception: When the sole requirement which has been imposed by the Food and Drug Administration is exportation or destruction under Customs supervision, apply guidelines to be used in the case of other Customs statutes or regulations (subparagraph I of these guidelines). See 21 CFR 1.97 and HQ Ruling 617367.

3. If there is sufficient reason to depart from the recommendation of the other agency, state such reason in a referral memorandum and forward the case to Headquarters, Penalties Branch.

4. **Note:** Pursuant to T.D. 82-20, Customs must follow the Department of Commerce recommendation in redelivery cases involving failure to obtain export certificates for EC steel.

B. Statutes and Regulations Enforced on Behalf of Other Agencies (Not FDA or CPSC

1. As a rule, follow recommendation of other agency.

2. Customs is not required by regulation to follow the recommendation of agencies other than FDA and CPSC. If the District Director finds the recommendation of the other agency to be arbitrary and capricious, he may modify the recommendation to be consistent with Customs guidelines.

C. Marking Cases

Merchandise Marked With the Country of Origin After Liquidation of the Entry and Outside the 30-day Marking Period

1. If merchandise is marked outside the 30-day marking period and after liquidation of the entry, marking duties should be assessed and collected.

2. If marking duties have been assessed and collected, cancel the claim upon payment of one percent of the value, but not less than $100.

3. The above mitigation should be afforded to first-time violators.

4. Grant no relief in any case until marking duties are assessed and collected; however if liquidation is final and marking duties cannot be assessed, cancel upon payment of an amount between 10 and 15 percent for a first violation and 15 and 35 percent for a subsequent violation.

5. For subsequent violations where marking duties are assessed and collected, cancel upon payment of between 5 and 25 percent of the value depending upon the number of violations and the presence of aggravating and mitigating factors.

D. Marking Cases

Merchandise Marked Outside the 30-day Period but Before Liquidation

1. If merchandise is properly marked with the country of origin outside the 30-day period but before liquidation of the entry, liquidated damages are appropriate, but marking duties are *not* due.

2. For a first-time violation, if the merchandise has been marked under Customs supervision outside the 30-day period, cancel upon payment of 1 percent of the value, but not less than $100.

5. For subsequent violations, cancel upon payment of between 5 and 25 percent of the value depending upon the number of violations and the presence of aggravating and mitigating factors.

E. Marking Cases

Merchandise Not Marked

1. Relief from liquidated damages incurred is contingent upon deposit of marking duties. See 19 CFR 134.54(c).

2. If it is a first-time violation and marking duties have been assessed and collected, cancel the claim upon payment of between 10 and 25 percent of the value depending on the presence of aggravating or mitigating factors.

3. If it is a subsequent violation and marking duties have been assessed and collected, cancel upon payment of an amount between 25 and 50 percent of the value of the merchandise.

4. If marking duties have been assessed but not collected, grant no relief. If liquidation is final, thereby barring their assessment, cancel upon payment of no less than 50 percent of value.

5. Examples of aggravating factors:

a. Offender is uncooperative, e.g., fails to provide information to Customs.

b. A large number of violations of this type by the offender in relation to the total number of transactions engaged in.

c. Offender's experience in importing.

d. Offender's willful disregard or carelessness toward responsibilities under applicable statutes of regulations.

6. Examples of mitigating factors:

a. Contributory Customs error, e.g., offender demonstrates that he acted in accordance with instructions given by Customs personnel.

b. Offender cooperates with Customs personnel in resolution of the case.

c. Offender takes immediate remedial action.

d. Offender's lack of experience in importing.

e. A small number of violations of this type by the offender in relation to the number of transactions engaged in.

F. Quota/Visa Merchandise

1. If the importer fails to redeliver visa merchandise, but subsequent to assessment of the claim produces a valid visa or visa waiver, cancel the claim upon payment of between one and five percent of the value of the merchandise (but not less than $100), depending upon the presence of aggravating or mitigating factors.

2. If no visa is ever produced, and it is a first-time violation, cancel the claim upon payment of between 20 and 30 percent of the value, depending upon the presence of aggravating or mitigating factors.

3. If no visa is ever produced, and it is a subsequent violation, cancel the claim upon payment of no less than 50 percent of the value.

4. If the importer fails to redeliver quota merchandise, and it is a first-time violation, cancel the claim upon payment of an amount between 25 and 50 percent of the value, depending on the presence of aggravating or mitigating circumstances.

5. For subsequent quota redelivery violations, cancel the claim upon payment of no less than 50 percent of the value.

6. For merchandise which is subject to both quota and visa restrictions (some textiles are so subject), follow quota guidelines in cancelling liquidated damages.

G. Copyright Violative Merchandise

1. If the importer fails to redeliver the merchandise, but after assessment of liquidated damages receives a retroactive licensing of the merchandise by the copyright holder, cancel the claim upon payment of between one and five percent of the value of the merchandise, but not less than $100.

2. If no authorization is received from the copyright holder, cancel a first-time violation upon payment of betwen 25 and 50 percent of the value, depending upon the presence of aggravating or mitigating factors.

3. For subsequent violations without authorization of the copyright holder, cancel upon payment of an amount equal to no less than 50 percent of the value. In order to receive any releif, extraordinary mitigating factors must be shown.

H. Trademark Violative Merchandise

1. If the importer fails to redeliver the merchandise, but after assessment of liquidated damages receives a retroactive licensing of the merchandise by the trademark holder, cancel the claim upon payment of between one and five percent of the value of the merchandise, but no less than $100.

2. If no authorization is received from the trademark holder, cancel a first-time violation upon payment of between 25 and 50 percent of the value, depending upon the presence of aggravating or mitigating factors.

3. For subsequent violations without authorization of the trademark holder, cancel upon payment of an amount equal to no less than 50 percent of the value.

4. As a general rule, if the merchandise is counterfeit, no relief shall be granted. If the merchandise is genuine, that fact shall be considered a mitigating factor in accordance with the above guidelines.

I. Other Customs Statutes and Regulations

1. For a first time violation, cancel the claim upon payment of between one and five percent of the value of the merchandise, depending on the presence of aggravating or mitigating factors.

2. For subsequent violations, cancel the claim upon payment of between 10 and 20 percent of the value of the merchandise, depending on the presence of aggravating or mitigating factors.

3. If the issue is Customs supervision of exportation or destruction of merchandise which is the subject of a notice of refusal of admission issued by FDA of CPSC and such exportation or destruction occurs, but not under supervision, cancel in accordance with subparagraph H.1.

4. If exportation or destruction never occurs, grant no relief.

V. Guidelines for Cancellation of Claims Arising From Failure to Provide Missing Documents (19 CFR 113.42)

A. The regulatory provisions which permit cancellation of the bond upon payment of $25 are discretionary. In lieu of following such provision, the following guidelines should be used.

B. Issuance of Modified CF 5955A. A modified CF-5955A similar to that issued in cases involving late filing of entry summaries shall be issued in missing document cases.

C. Option 1

1. Petitioner may pay a specified sum within 60 days and the case will be closed.

2. Such payment shall act as a waiver of his right to file a petition.

D. Option 2

1. Normal petitioning procedures are in effect.

2. Mitigation shall not be permitted to an amount lower than that afforded under Option 1 unless extraordinary mitigating factors can be shown.

3. Petitions shall be limited to the following issues:

a. Circumstances causing the delay in filing of the document.

b. Extent of the lateness.

c. Past record of the importer.

d. Lack of intent to file documents untimely.

E. When a claim for liquidated damages is issued and the missing documents have not been provided (as opposed to being provided untimely), a modified 5955A should not be issued.

F. Calculation of Mitigated Amount.

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1. Document other than invoice filed late—cancel upon payment of $100.
2. Invoice filed late:
a. No resulting duty advance—cancel upon payment of $100.
b. Resulting duty advance—cancel upon payment of $100 plus .1 percent of amount of duty advance for each calendar day late.
3. Document not filed:
a. If absence of document will not affect duty due, cancel upon payment of $200.
b. If absence of document impedes Customs ability to appraise merchandise, cancel upon payment of $200 plus further duties determined to be owing after a reasonable appraisal of merchandise is made by Customs.
4. Document upon which a claim of conditionally free or reduced duty entry is based.
a. Filed late—Cancel upon payment of $100 plus .1 percent per calendar day late of duty that would have been due had the entry been liquidated as fully dutiable. This mitigation is not affected by the fact that the late filed documents substantiated the conditionally free or reduced duty claim.
b. Non-filing
i. For the first violation cancel upon payment of $200 plus request liquidation of the entry as fully dutiable.
ii. For second or subsequent violation, cancel upon payment of $400 plus liquidate the entry as fully dutiable.
c. If there is a continuing course of conduct by an importer where conditionally free entry is claimed, but documents supporting such claim are regularly missing from the entry and are not provided, the presumption after the fourth violation shall be one of bad faith in the filing of the entry as conditionally free. No relief from the claim should be afforded.
d. If the violator is a broker, a civil monetary penalty under Title 19, United States Code, section 1641, may be appropriate.
G. Second or Subsequent Offenses.
Except as noted in section V(F)(5)(c), second or subsequent offenses will not be considered in cancellation of claims other than as relating to importer's past record in consideration of petitions for relief.

VI. Guidelines for Cancellation of Claims Arising From Failure to Timely File Shipper's Export Declarations (15 CFR 30.24)

A. Assessment Amounts

1. $50 per day for each of first three days late.
2. $100 per day for each day late beyond 3.

B. Mitigation Guidelines

1. First Offense—cancel upon payment of 50 percent of the claim but not lower than $100.
2. Second Offense—cancel upon payment of 75 percent of the claim but not lower than $100.
3. Third and Subsequent Offenses—no mitigation.
4. NOTE: All claims assessed for $50 or $100 (1 or 2 days late) will receive no mitigation.

VII. Guidelines for Cancellation of Claims Arising From Violations of Warehouse Proprietor's Bond (19 CFR Part 19)

A. "Defaults involving merchandise" includes violations involving merchandise which:
1. Cannot be located or accounted for in a bonded warehouse;
2. Has been removed from a bonded warehouse without a proper Customs permit;
3. Has been deposited, manipulated, manufactured, or destroyed in a bonded warehouse:
a. Without proper Customs permit;
b. Not in accordance with the description of the activity in the permit; or
c. In the case of Class 6 warehouses, not manufactured in accordance with the formula specified in § 19.13(e) of the Customs Regulations.
B. "Defaults not involving merchandise" is defined as any instance of failure, other than on involving merchandise, to comply with Customs laws and regulations. The same act shall not be regarded as both a default involving merchandise and default not involving merchandise.
C. Defaults involving merchandise should be processed in accordance with the following:
1. If the breach resulted from a clerical error or mistake (a non-negligent inadvertent error), and liquidated damages have been assessed, the obligation may be cancelled upon payment of:
a. Ten percent of the value of any restricted merchandise involved in the default.
b. Three percent of the value of any other merchandise (i.e., not restricted or prohibited merchandise).
c. In any case where merchandise cannot be located or accounted for in the warehouse, and a withdrawal for consumption has not been filed or the merchandise has not been returned to Customs custody, an amount equal to the duties and taxes applicable to the merchandise.
2. If the breach resulted from negligence, the obligation may be cancelled (depending on the presence of aggravating or mitigating factors) upon payment of:
a. Not less than 50 percent of the value nor more than 150 percent of the value in the case of restricted merchandise.
b. Not less than 15 percent of the value nor more than 50 percent of the value of any other merchandise (i.e., not restricted or prohibited merchandise).
c. In the case of merchandise which cannot be located or accounted for in a warehouse, cancellation of the claim shall not be for less than an amount which is equal to duties and taxes accruing on the merchandise unless a withdrawal for consumption is filed or the merchandise is redelivered to Customs custody.
3. If the breach was intentional there will be no relief from liquidated damages.
4. Aggravating factors:
a. Principal's failure or refusal to cooperate with Customs.
b. Large number of violations compared to number of transactions handled.
c. Experience of principal.
d. Principal's carelessness or willful disregard toward its responsibilities.
e. Merchandise not returned to Customs custody or duties and taxes not paid thereon.
5. Mitigating factors:
a. Contributory error by Customs or by a party independent of the principal.
b. Small number of violations compared to number of transactions handled.
c. Remedial action taken by principal.
d. Cooperation with Customs.
e. Lack of experience of principal.
f. Merchandise returned to Customs custody or duties and taxes paid.
D. Defaults not involving merchandise should be cancelled in accordance with the following guidelines:
1. If the breach resulted from clerical error, the claim may be cancelled upon payment of $50 per default.
2. If the breach resulted from negligence, the claim may be cancelled upon payment of not less than $100 or more than $250 per default, depending on the presence of aggravating or mitigating factors.
3. If the breach was intentional, no relief shall be granted.

VIII. Cancellation of Claims for Liquidated Damages Arising From Violation of Airport Security Regulations (19 CFR 122.14)

A. Failure to conduct a background investigation or failure to retain background investigation records.

1. No mitigation unless extraordinary mitigating circumstances exist.
2. An example of an extraordinary mitigating circumstance would be destruction of records by fire or act of God.
B. Unauthorized entry into secured area, failure to openly display or possess identification card, strip or seal or failure to surrender identification upon demand by an authorized Customs officer.
1: First violation—cancel upon payment of $200.
2. Second violation—cancel upon payment of $500.
3. Third or subsequent violation—No mitigation.
C. Failure to return, failure to report loss or theft of identification card, strip or seal or failure to notify district director that employee no longer requires access to a secured area.
1. First violation—cancel upon payment of $500.
2. Second or subsequent violation—No mitigation.
D. Presentation of an identification card, strip or seal by a person other than to whom it was issued.
1. For a first violation, cancel without payment if the bond principal can show that it was unaware that its employee, agent or contractor used the card, strip or seal in an improper manner and it had given warnings about such conduct to all its employees, agents or contractors.
2. For a subsequent violation against a bond principal who has received full cancellation of a claim as described in D. 1. above, cancel upon payment of $200.
3. For any violation where the bond principal was aware that its employees, agents or contractors were acting in this improper manner, no relief shall be granted.
E. Refusal of an employee to obey any proper order of a Customs officer or any Customs order, rule or regulation.
1. For a first violation, cancel without payment if the bond principal can show that it was unaware that its employee had acted contrary to a proper order, rule or regulation and it had given warnings about such conduct to all its employees.
2. For a subsequent violation against a bond principal who has received full cancellation of a claim as described in E.1. above, cancel upon payment of between $200 and $500.
3. For any violation where the bond principal was aware that its employees, agents or contractors were acting in this improper manner, no relief shall be granted.
F. The district director has discretion to permit greater mitigation than that permitted in the guidelines in cases involving a third or subsequent violation if the bond principal after a first or second violation, takes remedial action and does not incur a violation for a period of six months.

IX. Guidelines for Cancellation of Claims for Liquidated Damages for Violation of Foreign Trade Zone Regulations (19 CFR Part 146)

A. "Default involving merchandise" includes merchandise which:
1. Cannot be located or accounted for in the activated area of a foreign trade zone;
2. Has been removed from the activated area of the zone without a proper Customs permit; of
3. Has been admitted, manipulated, manufactured, exhibited, or destroyed in the activated area of a zone:
a. Without proper Customs permit; or
b. Not in accordance with the description of the activity in the Customs permit.
B. "Default not involving merchandise" means any instance of failure, other than one involving merchandise or late payment of the annual fee, to comply with the law or regulations governing foreign trade zones. A default involving one zone lot or unique identifier may not be combined with a default under another lot or unique identifier.
C. Cancellation of claims for liquidated damages involving merchandise.
1. If the breach resulted from a clerical error or mistake (a non-negligent or inadvertent error) cancel upon payment of:
a. One percent of the value of merchandise wholly in domestic status (as defined in 19 CFR 146.1(b)(10)) for which a Customs permit is required, not to exceed $500 per claim.
b. Ten percent of the value of restricted or prohibited merchandise.
c. Three percent of the value of other merchandise (i.e., not prohibted, restricted or domestic status) per default, not to exceed $1,000 per claim.
2. If the breach resulted from negligence, cancel upon payment of:
a. Not less than 2 percent or more than 5 percent of the value of domestic status merchandise for which requires a Customs permit, not to exceed $1,500 per claim.
b. Not less than 40 percent nor more than 100 percent of the value of merchandise in the case of restricted merchandise.
c. Not less than 20 percent nor more than 35 percent of the value in the case of other merchandise (i.e., not prohibited, restricted or domestic status).
3. If the breach was intentional, grant no relief.
D. Cancellation of claims for liquidated damages not involving merchandise.
1. If the breach resulted from clerical error, the claim may be cancelled upon payment of $50 per default.
2. If the breach resulted from negligence, the claim may be cancelled upon payment of not less than $100 or more than $250 per default, depending on the presence of aggravating or mitigating factors.
3. If the breach was intentional, no relief shall be granted.
E. Cancellation of claims for late payment of the annual fee.
1. If the late payment resulted from a clerical error or mistake, the claim my be cancelled upon payment of the amount due but not paid plus one-fourth of one percent per day for each calendar day payment is in arrears.
2. If the late payment resulted from negligence, cancel upon payment of the amount due but not paid plus the following percent of that amount for each day payment is in arrears:
a. First seven calendar days—not less than one-third of one percent nor more than three-fourths of one percent per day.
b. Second seven calendar days—not less than 1 and one-third percent nor more than 1 and three-fourths percent per day.
c. After the fourteenth calendar day—not less than 2 and one-third nor more than 2 and three-fourths percent per day.
3. If the late payment was intentional, no relief shall be granted.
F. Aggravating and mitigating factors listed in the guidelines for cancellation of warehouse bond violations are applicable to foreign trade zone bond violations.

X. Guidelines for Cancellation of Claims Arising From the Failure to Hold Merchandise at the Place of Examination (19 CFR 113.62(f))

A. The following guidelines are applicable to first-time violations for failure to deliver merchandise to or hold merchandise at the place of examination and the merchandise involved in the violation is neither prohibited nor restricted:
1. Merchandise not delivered or held as a result of clerical error, and an entry summary is filed with estimated duties paid, cancel upon payment of between $100 and $500.

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2. Merchandise not delivered or held as a result of clerical error, but neither is an entry summary filed nor estimated duties paid, cancel upon payment of an amount equal to the estimated duties plus $100 to $500.

3. Merchandise not delivered or held as a result of negligence, and an entry summary is filed and estimated duties are paid, cancel upon payment of an amount equal to estimated duties or $1,000, whichever is greater.

4. Merchandise not delivered or held as a result of negligence, but neither is an entry summary filed nor an amount equal to the estimated duties paid, cancel upon payment of an amount equal to three times the estimated duties or $3,000, whichever is greater.

5. Intentional violation, cancel upon payment of an amount equal to no less than 50 percent of the value of the merchandise. In no case can mitigation afforded for an intentional violation be more generous than that afforded for a negligent violation.

B. Second or subsequent violation for merchandise that is not delivered to or held at the place of examination and the merchandise involved in the violation is neither prohibited nor restricted:

1. If the violation results as a matter of clerical error, cancel upon payment of an amount that is not less than double that taken for a first violation.

2. If the violation results as a matter of negligence, cancel upon payment of an amount that is not less than double that taken for a first violation.

3. Intentional violation, grant no relief.

C. Any violation involving failure to deliver merchandise to or hold merchandise at the place of examination and the merchandise involved is prohibited or restricted:

1. Clerical error—cancel upon payment of an amount equal to no less than 25 percent of the value of the merchandise or, if the duty rate is in excess of 25 percent, an amount equal to estimated duties, but not less than $4,000.

2. Negligence—cancel upon payment of an amount equal to no less than 75 percent of the value of the merchandise, but not less than $10,000.

3. Intentional—grant no relief.

D. Failure to keep any Customs seal or cording intact until the merchandise is examine.

1. Clerical error—cancel upon payment of $100.

2. Negligence—cancel upon payment of $500.

3. Intentional—grant no relief.

[FR Doc. 89-9505 Filed 4-20-89; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

[Dept. Circ. 570, 1988—Rev., Supp. No. 13]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; American Fidelity Insurance Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to American Fidelity Insurance Company, of Oklahoma City, Oklahoma, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 53 FR 25054, July 1, 1988.

With respect to any bonds currently in force with American Fidelity Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washingtron, DC 20227, telephone (202) 287–3921.

Dated: April 14, 1989.

Mitchell A. Levine

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 89-9598 Filed 4-20-89; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Cir. 570, 1988—Rev., Suppl. No. 11]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; The Camden Fire Insurance Association

Notice is hereby given that the Certificate of Authority issued by the Treasury to The Camden Fire Insurance Association of Philadelphia, PA, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 53 FR 25058, July 1, 1988.

With respect to any bonds currently in force with The Camden Fire Insurance Association, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287–3921.

Dated: April 17, 1989.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 89-9599 Filed 4-20-89; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1988—Rev., Supp. No. 12]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; Cigna Insurance Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Cigna Insurance Company, of Philadelphia, Pennsylvania, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 53 FR 25058, July 1, 1988.

With respect to any bonds currently in force with Cigna Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC. 20227, telephone (202) 287–3921.

Dated: April 14, 1989.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 89-9600 Filed 4-20-89; 8:45 am]

BILLING CODE 4810-35-M

Office of Foreign Assets Control

License Applications for Travel and Family Remittance Services Related to Cuban Travel

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: Consistent with the licensing requirements governing persons engaged in travel service to, from, and within Cuba and persons forwarding family remittances to Cuba, the Office of Foreign Assets Control invites public comment concerning the fitness and qualification of license applicants. In addition, this notice informs the public of the identity of the only travel service providers and family remittance forwarders currently authorized to provide such services.

DATE: Comments must be submitted on or before June 20, 1989.

FOR FURTHER INFORMATION CONTACT: Richard J. Hollas, Chief of Enforcement, Tel.: (202) 376–0400, or Steven I. Pinter, Chief of Licensing, Tel.: (202) 376–0236, Office of Foreign Assets Control, Department of the Treasury, 1331 G Street NW., Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Sections 515.560 and 515.563 of the Cuban Assets Control Regulations, 31 CFR Part 515 (the "Regulations"), were amended, effective December 23, 1988, to require that persons engaged in service transactions related to travel to Cuba or the forwarding or remittances to close relatives in Cuba obtain a specific license from the Office of Foreign Assets Control. The Regulations provide that licenses will be issued only upon the applicant's affirmation and demonstration "that it does not participate in discriminatory practices of the Cuban government against certain residents and citizens of the United States." 31 CFR 515.560(i)(1)(ii). The Regulations were further amended on April 6, 1989, 54 FR 13881, to indicate the procedures and criteria applicable to the issuance, denial, suspension or revocation of a license.

As of April 21, 1989, 43 completed license applications have been filed with the Office of Foreign Assets Control. Pursuant to 31 CFR 515.560(i)(3), these applicants, listed below, have been granted provisional authority to provide services pending review of their completed license applications. Only applicants operating under provisional authority and listed below may provide travel services or family remittance forwarding services at this time.

In order to evaluate the assertions made by license applicants that they do not engage in discriminatory practices, and to collect appropriate information to evaluate the fitness and qualification of the license applicants listed below, anyone having personal knowledge regarding the applicants (including employees, officers, and directors) is invited to comment concerning the following:

1. Any evidence of discrimination based on race, color, religion, sex, citizenship, place of birth, national origin, or ability to pay (charging different amounts based on the financial means of travelers) with regard to the provision of or payment required for accommodations and meals, or other services provided in connection with travel to, from, or within Cuba;

2. Any evidence of demanding, soliciting, receiving, or forwarding to Cuba payments or remittances in excess of the amounts permitted by § 515.563 of the Cuban Assets Control Regulations, namely, family remittances to close relatives in amounts not to exceed $500 in any consecutive 3-month period to any one payee or household, and remittances for the purpose of enabling emigration from Cuba on a one-time basis in an amount not to exceed $500 to any one payee; and

3. Any evidence of charging any fees prohibited by U.S. law or any arbitrary and exorbitant fees which exceed the total of official Cuban government consular fees and reasonable service charges.

Comments should be submitted in writing to the Office of Foreign Assets Control, Department of the Treasury, 1331 G Street NW., Room 400, Washington, DC 20220. To the extent permitted by law, the identity of anyone submitting information, as well as any identifying information provided, will be held in confidence and will not be released without the express permission of the person submitting the information. Any information provided will be evaluated by the Director of the Office of Foreign Assets Control to determine its reliability and relevance to the investigation of applicants.

List of Applicants for Licenses to Perform Travel and Family Remittance Forwarding Services:

Principal officer (if applicant is incorporated); Name of applicant (company name or individual); Address (as supplied by applicant)	Branch office(s); Travel service provider ("TSP"); Family remittance forwarder ("FRF")
Agencia Via Cuba, Estrella Santos, 3009 E. Florence Ave., Huntington Park, CA 90255.	TSP, FRF.
Airline Brokers Co., Vivian Mannerud, 888 Douglas Entrance #160, Coral Gables, FL 33134.	TSP.
Alamar Department Store, Inc., Sotero Machin, 1806 Sunset Blvd., Los Angeles, CA 90026.	FRF.
Almacen el Espanol, Augusto P. Rodriguez, 1359 SW. 1st St., Miami, FL 33135.	FRF. 1169–99 W. 27th St., Hialeah, FL 33012 602 N.W. 27th Ave., Miami, FL 33135.
Ameis Travel Agency, Edmundo Garcia-Torres, 218 48th St., Union City, NJ 07087.	TSP.
Armada Enterprise, Raul Armada, 421 57th St., West New York, NJ 07093.	FRF.
Barbara's Enterprises, Barbara Proenza, 5841 Dahlia Drive #2, Orlando, FL 32807.	TSP, FRF.
Bizjet, Inc., Wayne Turnquist, S1500 Perimeter Road, West Palm Beach, FL 33406.	TSP.
Buro de Servicios Comunitarios, Inc., Hilda Diaz, 250 W. 57th St., New York, NY 10107.	TSP, FRF.
Capritur, Inc., Waldo Luis Valdes-Salvat, 434 65th St., West New York, NJ 07093.	TSP, FRF.
Caribbean Agency, Inc., Jorge Fernandez, 3686 Olive St., Las Vegas, NV 89104.	FRF.
Caribe Viajes y Envios, Inc., Jorge Fernandez, 4315 NW. 7th St. #43, Miami, FL 33126.	TSP, FRF.
Caribe Viajes y Envios Num 2, Inc., Jorge Fernandez, 4238 W. 16th Ave., Hialeah, FL 33012.	TSP, FRF.
Le Club Travel, Inc., Hector Martinez Puldon, 1708 W. 68th St., Hialeah, FL 33014.	TSP, FRF.
Costa Cuba Inc., Dalia Perez, 9732 SW. 40th Street, Miami, FL 33165.	TSP, FRF.
Cuba Envios, Inc., Carmen Ordenes, 4700 NW. 7th St., #8, Miami, FL 33126.	FRF. 484 Palm Ave., Hialeah, FL 33010. 1171 W. 29th St., Hialeah, FL 33012. 4811 NW. 183rd St., Miami, FL 33055. 7216 SW. 6th St., Miami, FL 33144. 9766 SW. 24th St., Miami, FL 33165.
Cuba Paquetes, Inc., Milton Serret, 1067–A West 29th St., Hialeah, FL 33012.	TSP, FRF.
Espanol Accounting Service, Orlando Sierra, 2644 N. Milwaukee Ave., Chicago, IL 60647.	TSP, FRF.
El Espanol Corporation, Augusto C. Rodriguez, 8938 SW. 40th St., Miami, FL 33165.	FRF.
Exportaciones Cubancan Inc., Jose S. Mesa, 2319 NW. 7th St., Miami, FL 33125.	FRF.
Juan A. Hernandez, 10629 SW. 68 Terr., Miami, FL 33713.	TSP, FRF.

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Principal officer (if applicant is incorporated); Name of applicant (company name or individual); Address (as supplied by applicant)	Branch office(s); Travel service provider ("TSP"); Family remittance forwarder ("FRF")
Iracuba Corp., Lazaro Guillen, 1700 SW. 57th Ave #206, Miami, FL 33155.	TSP, FRF.
Key Largo Air Service, Patricia Barnes, 26720 SW. 217th Ave., Homestead, FL 33030.	TSP.
Machi Community Services, Maria S. Brieva, 4864 NW. 7th Street, Miami, FL 33126.	TSP, FRF.
Marazul Charters, Inc., Francisco G. Aruca, 13889 South Dixie Highway, Miami, FL 33176.	TSP. 250 W. 57th St. #1311, New York, NY 10107.
Marazul Tours, Inc., Hilda Diaz, 250 W. 57th St. 1311, New York, NY 10107.	TSP.
Media Travel USA, Rich Schneider, 111 U.S. Highway One, Tequesta, FL 33469.	TSP.
Miami-Cuba Envios, Inc., Alfonso Lozada, 13851 SW. 16th St., Miami, FL 33184.	TSP, FRF. 801 W. 49th St. #246, Hialeah, FL 33012.
National Jets, Inc., Thomas E. Boy, 902 SW. 34 St., Fort Lauderdale, FL 33315.	TSP.
New Miami International Import-Export, Corp., Alberto Rodriguez, 4800 NW. 7th St., Miami, FL 33126.	TSP, FRF. 692 W. 29th St. #7, Hialeah, FL 33010. 9656 Coral Way, Miami, FL 33165. 605 Belvedere Rd. #12, W. Palm Beach, FL 33405. 339A 47th St., Union City, NJ 07087.
Pan American Trade, Enrique Gomez, 647 Linden Ave., Ridgefield, NJ 07657.	FRF.
Paradise International, Inc., Jesus G. Rodriguez, 1111 SW. 8th St. #204, Miami, FL 33130.	TSP, FRF.
Armando Ramirez, 3057 W. Hillsborough Ave., Tampa, FL 33614.	TSP, FRF.
Sam Immigration Agency & Tours, Hilda Martinez, 6616 Pacific Blvd. Suite E, Huntington, Park, CA 90255.	FRF.
Solymar Tours Corp., Marieolaiba Sanchez, 530 57th St., West New York, NJ 07093.	TSP, FRF.
Trans-Cuba, Inc., Iris Diaz, 2500 SW. 107th Ave. #30, Miami, FL 33165.	TSP, FRF. 4375 W. 16th Ave., Hialeah, FL 33012. 701 SW. 27th Ave., Miami, FL 33135.
Tropicuba, Inc., Grace Padron, 2178 NW. 7th St., Miami, FL 33125.	TSP, FRF.
VA Cuba, Inc., Mario Patino, 285 NW. 27th Ave. #18, Miami, FL 33125.	FRF. 9258 SW. 40th St., Miami, FL 33165. 2900 W. 12th Ave., Hialeah, FL 33012.
Varadero International Corp., Daisy Diaz, 3310 SW. 82 Avenue, Miami, FL 33155.	TSP, FRF. 2742 SW. 8th St., Miami, FL 33135
Viajes Antillas, Carlos Garcia, Calle Arzuaga #201, Rio Piedras PR 00928.	TSP.
Viajes Comunidad International Service, Vicente Rodriguez, 4800 W. Flagler St. #210, Miami, FL 33134.	TSP, FRF.
Viajes Con Aldea, Carlos Ernestro Aldea, 2425 E. Slauson Avenue Suite 117, Hunting Park, CA 90255.	FRF.
Viajes Varadero, Inc., Raul Alzaga Manresa, Ave Americo Miranda 1136, Caparra Terrace, Rio Piedras, PR 00921.	TSP, FRF.
Wilson International Services, Inc., Daniel Blanco (Old Address), 239 NW. 59 Avenue, Miami, FL 33126. (New Address), 1250 NW. 7th St. #105, Miami, FL 33125.	TSP, FRF. (Current Branch) 7300 Kennedy Blvd., North Bergen, NJ 07047.

Dated: April 11, 1989.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: April 14, 1989.

Salvatore R. Martoche.

Assistant Secretary (Enforcment).

[FR Doc. 89-9711 Filed 4-19-89; 11:16 am]

BILLING CODE 4810-25-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP) Subcommittee; Results of Reviews of Petitions Requesting Changes in the List of Countries and Articles Eligible for Duty-Free Treatment Under the 1988 Annual Review of the GSP

This publication contains the dispositions of the petitions accepted for review in the 1988 annual review of the GSP program (53 FR 27335 and 53 FR 33097). These petitions requested changes in the list of articles and countries eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP). The GSP is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461–2465). The review was conducted pursuant to regulations codified as 15 CFR Part 2007. These changes will take effect on July 1, 1989. The President's decisions concerning the 1988 annual review have also been reflected in a proclamation and in a recent USTR press release. (The press release is available by contacting the USTR Public Affairs Office at (202) 395–3230.) All communications with respect to this notice should be addressed to the Executive Director, Generalized System of Preferences, Room 517, 600 17th Street, NW., Washington, DC 20506.

Petitions were also submitted requesting a review of the beneficiary status of six GSP beneficiary countries based on their practices in the area of internationally recognized worker rights. One petition on the Central African Republic was continued from the 1987 Annual Review. After reviewing those requests the President determined that Israel and Malaysia are taking steps to afford internationally recognized worker rights. The President also determined that Burma and the Central African Republic are not taking such steps and therefore will be suspended from the GSP program. Haiti, Liberia, and Syria will continue to be reviewed as part of the upcoming 1989 Annual Review. With respect to a request from Occidental Petroleum to examine Venezuela's actions of alleged expropriation without compensation, the President has extended the review for up to one year.

Sandra J. Kristoff,

Chairwoman, Trade Policy Staff Committee.

Case # HTS	Article	Petitioner	Action Taken
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences.			
88-HS-3 2907.11.00	Phenol	Government of Mexico	Petition Granted.
88-HS-4 2917.19.15	Fumaric Acid	Government of Mexico	Petition Granted.
88-HS-5 2917.19.23	Maleic Acid	Government of Mexico	Petition Granted.
88-HS-6 2918.19.60	Malic Acid	Government of Mexico	Petition Granted.
88-HS-7 3817.10.00	Mixed Alkylbenzenes	Shrieve Chemical Products, Inc.	Petition Granted.
88-HS-8 7019.10.40	Glass Rovings	PPG Industries	Petition Granted.
88-HS-9 9607.20.00	Parts of slide fasteners	Government of Colombia	Petition Granted.
88-HS-10 9607.20.40	Slides	Government of Colombia	Petition Granted.
88-HS-11 9607.20.80	Parts, nesi	Government of Colombia	Petition Granted.
B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences.			
88-HS-12 2804.69.10	Silicon Metal	The Ferroalloys Association	Petition Denied.
88-HS-13 2918.39.15	Ibuprofen	Ethyl Corporation	Petition Denied.
88-HS-15 7307.93.30	Steel pipe fittings	US Butt-weld Fitting Committee	Petition Granted.
88-HS-16 9025.11.20	Clinical Thermometers	Florida Medical Industries	Petition Denied.
C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles under the Generalized System of Preferences.			
88-HS-14 2933.90.47	Hexamine	Wright Chemical Corporation	Graduate Mexico.
D. Petitions to waive competitive need limits for a country [1] for a product on the list of eligible articles for the Generalized System of Preferences.			
88-HS-17 9503.50 (Mexico)	Toy balloons	American Imports	Petition Denied.
88-HS-18 9503.90.60 (Mexico)	Toys, no spring	Mattel, Inc., Kenner Parker Toys, Inc.	Petition Denied.
88-HS-19 9503.90.70 (Mexico)	Toys, nesi	Mattel, Inc., Kenner Parker Toys, Inc.	Petition Granted.

[1] Countries subject to petition are identified under HTS number.

[FR Doc. 89-9578 Filed 4-20-89; 8:45 am]

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Sunshine Act Meetings

Federal Register
Vol. 54, No. 76
Friday, April 21, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Friday, April 21, 1989.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Enforcement matters.

CONTRACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 89-9717 Filed 4-19-89; 10:41 am]
BILLING CODE 6351-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 18, 1989.

TIME AND DATE: 10:00 a.m., Thursday, April 27, 1989.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Otis Elevator Company*, Docket Nos. PENN 87-25-R, etc. and PENN 88-282. (Issues include whether Otis Elevator is an independent contractor under the Mine Act and thus liable for violations of several mandatory safety standards.)

Any person intending to attend this argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

TIME AND DATE: Immediately following Oral Argument.

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Otis Elevator Co.*, Docket No. PENN 87-25-R, etc. (See ORAL Argument listing)
2. *Pennsylvania Electric Company*, Docket No. PENN 88-227. (Issues include consideration of procedural motions.)

It was determined by a unanimous vote of Commissioners that this portion be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629/(202) 566-2673 for TDD Relay

Jean H. Ellen,
Agenda Clerk.
[FR Doc. 89-9744 Filed 4-19-89; 1:13 pm]
BILLING CODE 6735-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 18, 1989.

Change in Previously Scheduled Meeting

TIME AND DATE: The meeting previously scheduled for Wednesday, April 19, 1989 has been changed to Wednesday, April 26, 1989 at 10:00 a.m.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Part Open & Part Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. In open meeting: *Secretary of Labor on behalf of Jerry Dale Aleshire, et al. v. Westmoreland Coal Co.*, Docket No. WEVA 84-344-D. (Issues include whether the judge erred in finding that the operator did not discriminate against the complainant miners under Section 105(c) of the Mine Act. 30 U.S.C. 815(c)(1).
2. In closed meeting: *BethEnergy Mines, Inc.*, Docket No. PENN 87-94, etc. (Issues include whether BethEnergy violated 30 CFR 75.1704.)

Any person intending to attend the open portion of this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

It was determined by a unanimous vote of Commissioners that BethEnergy be considered in closed session.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629/(202) 566-2673 for TDD Relay.

Jean H. Ellen,
Agenda Clerk.
[FR Doc. 89-9745 Filed 4-19-89; 1:13 pm]
BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, April 26, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
1. Proposals regarding the Board's compensation program.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: April 18, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 89-9724 Filed 4-19-89; 11:13 am]
BILLING CODE 6210-01-M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, May 2, 1989, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC, in the Benjamin Franklin Room. The meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

There will also be a session of the Board on Monday, May 1, 1989, but it will consist entirely of briefings and is not open to the public.

Agenda

Tuesday Session

May 2, 8:30 a.m. (Open)

1. Minutes of the Previous Meeting, April 3-4, 1989.

2. Remarks of the Postmaster General.
3. Quarterly Report on National Service Performance. (Ann McK. Robinson, Consumer Advocate)
4. Quarterly Report on Financial Performance. (Comer S. Coppie, Senior Assistant Postmaster General, Finance Group)
5. Report of the Chief Postal Inspector and Semiannual Consumer Protection Report. (Charles R. Clauson, Chief Postal Inspector)
6. Advanced Bar Code Concept. (Peter A. Jacobson, Assistant Postmaster General, Engineering and Technical Support Department)
7. Training and Development Mission. (Elwood A. Mosley, Assistant Postmaster General, Training and Development Department.)
8. Capital Investments:
   a. Manhattan, New York, GMF. (Stanley W. Smith, Assistant Postmaster General, Facilities Department)
   b. San Diego Site Acquisition. (Mr. Smith)
   c. Truck Tractors. (Arthur I. Porwick, Assistant Postmaster General, Operations Systems and Performance Department)
9. Tentative Agenda for June 5-6, 1989, meeting in Philadelphia, Pennsylvania.

David F. Harris,
Secretary.
[FR Doc. 89-9783 Filed 4-19-89; 2:18 pm]
BILLING CODE 7710-12-M

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Corrections

Federal Register
Vol. 54, No. 76
Friday, April 21, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Parts 1745 and 1749

General Policies, Types of Loans, Loan Requirements - Telephone Program; Preloan Procedures and Requirements - Telephone Program

Correction

In rule document 89-7459 beginning on page 13345 in the issue of Monday, April 3, 1989, make the following corrections:

On page 13349, in the third column, in the second complete paragraph, in the second line, insert "that" between "section" and "RTB".

On page 13350, in the third column, in the last paragraph, in the sixth line, "establishing" should read "established".

§ 1745.2 [Corrected]

On page 13351, in the third column, in § 1745.2(g), in the seventh line, "geRE" should read "RE".

§ 1745.32 [Corrected]

On page 13354, in the first column, in § 1745.32(b), in the first line, "New worth" should read "Net worth".

On the same page, in the second column, in § 1745.32(i)(3), in the eighth line, "icorrective" should read "corrective".

§ 1749.32 [Corrected]

On page 13358, in the 1st column, in § 1749.32(b), in the 10th line, "position" should read "postloan".

§ 1749.42 [Corrected]

On page 13360, in the first column, in § 1749.42(a)(3), in the second line, "will" should read "until".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-802]

Final Determination of Sales at Less Than Fair Value: 3.5" Microdisks and Coated Media Thereof From Japan

Correction

In notice document 89-3203 beginning on page 6433 in the issue of Friday, February 10, 1989, make the following correction:

On page 6434, in the 3rd column, in the 3rd complete paragraph, in the 12th line, "include" should read "exclude".

BILLING CODE 1505-01-D

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit on Certain Cotton Textile Products Produced or Manufactured in India

Correction

In notice document 89-7457 appearing on page 13100 in the issue of Thursday, March 30, 1989, make the following correction:

On page 13100, in the third column, in footnote 3, in the first line, "only HTS numbers" should read "all HTS numbers except".

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[Federal Acquisition Circular 84-45]

Federal Acquisition Regulation (FAR); Prompt Pay and Definition of A-E Services

Correction

In rule document 89-7614 beginning on page 13332 in the issue of Friday, March 31, 1989, make the following correction:

§ 52.232-27 [Corrected]

On page 13341, in § 52.232-27, in the clause, in the second column, in paragraph (c)(2), in the third line, "more" should read "made".

BILLING CODE 1505-01-D

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-7

[FPMR Temp. Reg. A-33]

Federal and State Tax Tables To Be Used for Calculating 1989 Relocation Income Tax (RIT) Allowance Payments

Correction

In rule document 89-7119 beginning on page 12448 in the issue of Monday, March 27, 1989, make the following corrections:

1. In Attachment B, on page 12449, in the table, in the first table-column, in entry 50, in the first line, the corresponding entry in the third table-column should read "6.93".

2. In Attachment C, on page 12450, in the italic heading, "*Tax Year 1988*" should read "*Tax Year 1989*".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-920-09-4212-12; A-22435]

Arizona; Opening Order

Correction

In notice document 89-8269 beginning on page 14169 in the issue of Friday, April 7, 1989, make the following correction:

On page 14170, in the first column, under "T. 13 S. R. 32 E.,", the first line should read "Sec. 4, NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;".

BILLING CODE 1505-01-D

DEPARTMENT OF STATE

Bureau of Personnel

22 CFR Part 192

[Final Rule 108.884]

Victims of Terrorism Compensation

Correction

In rule document 89-7282 beginning on page 12596 in the issue of Tuesday, March 28, 1989, make the following correction:

§ 192.52 [Corrected]

On page 12603, in the 2nd column, in § 192.52(c)(3), in the 11th line, "6⅔" should read "66⅔".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Custom Service

19 CFR Part 171

Proposed Customs Regulations Amendments Concerning Seizure of Property for Possession of Controlled Substances

Correction

In proposed rule document 89-8296 beginning on page 14242 in the issue of Monday, April 10, 1989, make the following corrections:

§ 171.12 [Corrected]

1. On page 14244, in the second column, in § 171.12(b), in the fourth line, "§ 171.32(d)" should read "§ 171.52(d)".

2. On the same page, in the third column, in amendatory instruction 4., the third line should read "Subpart F consisting of § § 171.51 through 171.55".

§ 171.51 [Corrected]

3. On page 14245, in the 1st column in § 171.51(b)(5), in the 19th line, "day" should read "may".

4. On the same page, in the same column, in § 171.51(b)(6), in the third line from the bottom of the page, "substances" should read "substance".

5. On the same page, in the third column, in § 171.51(b)(6)(ii)(F), in the last line "describe" should read "distribute".

BILLING CODE 1505-01-D

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federal register

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Part II

Department of Transportation

Coast Guard

46 CFR Parts 30, 31, 33, et al.
Lifesaving Equipment; Notice of Proposed Rulemaking

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 30, 31, 33, 35, 70, 71, 75, 78, 90, 91, 94, 97, 107, 108, 109, 112, 154, 160, 161, 167, 168, 188, 189, 192, 196, and 199

[CGD 84-069]

RIN 2115-AB72

Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a complete revision of the lifesaving equipment regulations for tank vessels, cargo and miscellaneous vessels, mobile offshore drilling units, passenger vessels, nautical school ships, offshore supply vessels, and oceanographic research vessels. The primary purpose of the project is to implement the provisions of the new Chapter III of the Safety of Life at Sea Convention 1974, as amended in 1983, which came into force July 1, 1986. The proposed rules would also implement a number of recommendations arising from major vessel casualties. Lifesaving regulations for Great Lakes vessels and certain vessels in domestic trade which are not covered by the Safety of Life at Sea Convention would also be revised to require more effective lifesaving equipment. The proposed rules also reorganize the lifesaving regulations in order to simplify, clarify and reduce redundancy. A number of specification regulations for Coast Guard approved equipment will also have to be revised to meet the new Safety of Life at Sea Convention requirements. Those revisions will be proposed under additional notices at a later date.

DATE: Comments must be submitted on or before August 21, 1989.

ADDRESSES: 1. Comments should be mailed to the Commandant (G-LRA-2/21) (CGD 84-069), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001. Between the hours of 8:00 a.m. and 3:00 p.m. Monday through Friday, except holidays, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council (G-LRA-2/21) Room 2110, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC, (202) 267-1477.

2. The revised Chapter III of the Safety of Life at Sea Convention is published by the International Maritime Organization (IMO) in Volume I of the "1983 Amendments to the International Convention for the Safety of Life at Sea, 1974" (SOLAS 74/83) (IMO publication 096 83.10.E). IMO also publishes the "Recommendation on Testing of Life-saving Appliances" and the "Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements" in a document titled "Testing and Evaluation of Life-saving Appliances" (IMO publication 982 85.02.E). These publications, and other IMO documents referred to in this notice, are available from:

a. The International Maritime Organization, Publications Section, 4 Albert Embankment, London SE1 7SR, England. The price of publication 096 83.10.E is £2.50 or the dollar equivalent at current exchange rates. Publication 982 85.02.E is £4.00. If payment is by check, it must be drawn on a United Kingdom bank. The price includes surface mail delivery. Airmail delivery is available at extra cost.

b. New York Nautical Instrument Co., 140 West Broadway, New York, NY 10013, (212) 962-4522.

c. Southwest Instrument Co., 235 W. Seventh St., San Pedro, CA 90731, (213) 519-7800.

d. Marine Education Textbooks, 124 North Van Ave., Houma, LA 70360-3866, (504) 879-3866.

e. Baker-Lyman & Co., 308 Magazine St., New Orleans, LA 70130, (504) 522-0745.

3. This notice refers to two technical reports. These reports have been placed in the docket for examination and copying. A limited number of single copies is available free of charge from Office of Marine Safety, Security, and Environmental Protection, Survival Systems Branch (G-MVI-3), U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001. The reports may also be purchased from the National Technical Information Service, Springfield, VA 22161, (703) 487-4650. The reports are:

a. "Shipboard Training and Maintenance for Merchant Vessel Survival Equipment", October 1979, Report No. CG-M-1-80, NTIS Accession number ADA100528.

b. "Transitory Fire Resistance of Tanker Lifeboats", February 1980, Report No. CG-D-19-80, NTIS Accession number ADA084257.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Marine Safety, Security, and Environmental Protection (G-MVI-3), Room 1404, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001, (202) 267-1444. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: On June 17, 1983, the IMO Maritime Safety Committee approved SOLAS 74/83, including a new Chapter III (Lifesaving Appliances and Arrangements). Under the SOLAS "tacit amendment" procedure, SOLAS 74/83 was deemed to be accepted on January 1, 1986. There were no objections from any contracting government. Therefore, the new requirements came into force on July 1, 1986 for the United States and all other contracting governments. Ships whose keels were laid or which are at a similar stage of construction on or after that date must comply in order to qualify for a SOLAS Safety Certificate. In addition, some of the operational requirements apply to existing ships on that date, and some equipment requirements will become effective for existing ships on July 1, 1991. SOLAS 74/83 applies to self-propelled merchant vessels on international voyages, except for (1) Cargo ships (including tankers) under 500 tons gross tonnage and (2) Fishing vessels.

The Coast Guard announced a series of meetings with the U.S. Lifesaving Manufacturers Association in the **Federal Register** of July 30, 1984 (CGD 84-051, 49 FR 30339). The implications of the SOLAS 74/83 Chapter III requirements on Coast Guard approved lifeboats, inflatable liferafts, and their launching equipment were discussed. Guidelines for lifesaving equipment manufacturers were also developed covering the additions and deviations from present regulations that are necessary to meet the new SOLAS 74/83 Chapter III. The rules proposed in this notice reflect some of the discussions held at those meetings.

The Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) on this project on December 31, 1984 (49 FR 50745). That notice described the major changes under consideration, and invited comments on the proposals. Twenty-two parties offered a total of 106 separate comments. Those submitting comments included nine vessel operators, five industry associations, three drilling companies, two equipment manufacturers, one union, one shipbuilder, and one interested individual. Two of the comments generally supported the regulations, while none opposed the concept in general. The remainder of the comments either supported or opposed particular parts of the ANPRM, or suggested changes. These comments are covered in the appropriate sections of the following discussion on the rules proposed in this notice.

The Coast Guard also published an Advance Notice of Proposed Rulemaking (ANPRM) on Offshore Supply Vessel Regulations on February 14, 1983 (48 FR 6636, Coast Guard docket CGD 82-004). That notice proposed a new Subchapter L on offshore supply vessels that included lifesaving equipment requirements. This notice supercedes the lifesaving equipment proposals under CGD 82-004. A notice of proposed rulemaking (NPRM) on offshore supply vessels will be published later that will reference the regulations proposed in this notice for lifesaving equipment requirements. The inspection and operational requirements for lifesaving equipment on new offshore supply vessels will be addressed in the NPRM under CGD 82-004, taking into consideration the characteristics, methods of operation, and the nature of their service (see 46 U.S.C. 3306(f)).

The rules proposed in this notice do not cover small passenger vessels , inspected under 46 CFR Subchapter T. Proposed lifesaving equipment regulations for small passenger vessels were published on January 30, 1989 (54 FR 4412) as part of a comprehensive project to revise Subchapter T (CGD 85-080, RIN 2115-AC22).

Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Comments should include the name and address of the person making them, identify this Notice (CGD 84-069) and the specific section to which each comment applies, and give reasons for the comments. If an acknowledgment is desired, a stamped, self-addressed post card should be enclosed. The proposal may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if requested in writing and it is determined that the opportunity to make oral presentations will benefit the rulemaking process.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Drafting Information

The principal persons involved in drafting these regulations are Mr. Robert Markle, Project Manager, and Lieutenant Commander Don M. Wrye, Project Attorney, Office of the Chief Counsel.

General Discussion of the Proposed Regulations

This notice proposes a complete revision of the vessel lifesaving equipment carriage regulations in CFR Title 46 for tank vessels, cargo and miscellaneous vessels, mobile offshore drilling units, passenger vessels, nautical school ships, offshore supply vessels, and oceanographic research vessels. The proposal consolidates the regulations into new Subchapter W of Title 46 which would replace most of the repetitive sections of the lifesaving equipment parts of the present vessel regulations, which would be deleted.

Specification regulations for Coast Guard approval of various items of lifesaving equipment, such as lifeboats, liferafts, lifejackets, flares, and others, also need to be revised to meet the new SOLAS 74/83 requirements. These revisions will be proposed in separate notices.

Some of the requirements of the SOLAS 74/83 Chapter III will require a number of changes to 46 CFR 113.30 on sound-powered telephone systems, 46 CFR 113.50 on emergency loudspeaker systems, and 46 CFR 113.65 on whistle operators. These revisions will be covered in a separate notice of proposed rulemaking on changes to Subchapter J of Title 46, "Electrical Engineering", to be published at a later date.

Although the proposed regulations are completely revised in format, their content is similar to the present regulations with the exceptions covered in the following discussions.

a. The proposed vessel regulations incorporate the changes required by SOLAS 74/83, Chapter III. Although the new Chapter III is much closer to U.S. regulations than the previous version, the U.S. regulations still describe more completely the onboard inspection requirements for approved lifesaving equipment. These existing provisions, which SOLAS 74/83 Chapter III does not cover, are generally retained. Persons who want to review the revised Chapter III should obtain Volume I of the "1983 Amendments to the International Convention for the Safety of Life at Sea, 1974" (see **ADDRESSES** section).

(1) Three of the comments on the ANPRM were to the effect that the U.S. regulations for vessels subject to SOLAS 74/83 should follow the SOLAS 74/83 requirements as closely as possible and should not include unilateral requirements that exceed the SOLAS 74/83 regulations. We agree with these comments as a general principle. The regulations proposed in this notice do exceed SOLAS 74/83 requirements in a number of areas however, because the SOLAS 74/83 requirements are vague or do not address certain important safety problems. Proposed requirements that exceed SOLAS 74/83 regulations and that are not covered in present regulations are covered in the discussions that follow, along with the reasons why the regulation is being proposed. A derivation table is also included at the end of this preamble that shows the relationship of the regulations in this notice to existing regulations and to SOLAS 74/83. Comments are specifically requested on proposals which exceed or are not addressed in SOLAS 74/83. Most of these proposals are fully discussed in following sections of this notice, but the following is a summary of regulations proposed in this notice that would affect SOLAS vessels, but which are not covered in SOLAS 74/83:

Sections 199.15(f) and 199.135(c) would require each vessel equipped with a liferaft not served by a launching appliance, and each vessel equipped with an inflatable buoyant apparatus, to have rail or bulwark openings, or appropriate mounting arrangements.

Section 199.15(g) would require retrofitting of gravity davits.

Section 199.15(h) would require retrofitting of totally enclosed lifeboats.

Sections 199.15(i) and 199.310(b) would prohibit the use of new aluminum lifeboats on tank ships certificated to carry crude, product, chemicals, or liquified gases; having a flashpoint less than 60°C.

Section 199.15(l) would require all lifeboats to meet the propulsion power requirements in effect for all new Coast Guard approved lifeboats since 1965 (see 46 CFR 160.035-3(a)).

Section 199.25 explains the conditions under which the Officer in Charge, Marine Inspection (OCMI) may require specialized or additional lifesaving equipment.

Section 199.64 contains requirements for satellite Emergency Position Indicating Radio Beacons (EPIRBs) and Search and Rescue Radar Transponders (SARTs). These requirements are not in SOLAS 74/83, but are in a new set of SOLAS Amendments adopted in 1988 which completely revise the requirements for ship radiocommunications.

Section 199.110(d) would limit the amount of climbing necessary to reach the survival craft from the deck of the vessel.

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Section 199.153(h) would require appropriate guards or other protection for falls subject to damage or fouling.

Section 199.153(j) clarifies the lowering speed for a lightly loaded survival craft. SOLAS 74/83 is not clear on this point, and could be interpreted as imposing a more stringent requirement.

Section 199.170(d) covers the need for the auxiliary line needed for use with a line throwing appliance.

Section 199.170(e) covers stowage of line throwing appliances.

Section 199.175(c)(24) would require two lifejackets to be carried in each lifeboat.

Section 199.175(c)(35) would require lifeboats to have a rainwater collection device.

Section 199.217(b) would require formation of an emergency squad on certain passenger vessels.

Section 199.272 would require each vessel with an inflatable liferaft stowed in a remote location to have enough lifejackets to equal the capacity of the liferaft stowed at the liferaft station.

Sections 199.273 and 199.640 would require immersion suits on all cargo ships and mobile offshore drilling units (MODUs) in colder waters, while SOLAS requires them only on vessels not equipped with totally enclosed lifeboats.

Section 199.650 contains several requirements for MODUs which have no counterpart in SOLAS 74/83, but do conform with a new version of the IMO MODU Code, now under consideration by IMO. The MODU Code interprets SOLAS for MODUs, which are a very specialized type of vessel.

(2) Two comments recommended that the regulations include the possibility for exemption from SOLAS 74/83 requirements that would not be appropriate for certain voyages, such as the exemption provisions under regulation 2 of SOLAS 74/83. We agree with these comments, but no new regulation is needed since these exemptions are provided for in existing 46 CFR 30.01–6, 70.05–10, and 90.05–10.

b. As part of the consolidation of the regulations, revised requirements for vessels not subject to SOLAS 74/83 are proposed in this notice. Wherever appropriate, proposed revisions for the vessels not subject to SOLAS 74/83 are consistent with the SOLAS requirements. Vessels not subject to SOLAS 74/83 are primarily nonself-propelled vessels, Great Lakes vessels, coastwise vessels, cargo and tank vessels under 500 tons gross tonnage, and other vessels not on international voyages. Mobile offshore drilling units (MODUs) are also covered in this notice. Self-propelled MODUs are technically covered by SOLAS 74/83 when working in waters of a nation other than the nation where they are registered. The IMO has developed the Code for the Construction and Equipment of Mobile Offshore Drilling Units (MODU Code) to provide a level of safety equivalent to conventional vessels under SOLAS 74/83. U.S. MODUs are not required to meet the MODU Code, but if they operate in waters of another country, that country may require a MODU Code Certificate as a condition for their operation in those waters. Self-propelled MODUs on international voyages are ships under SOLAS 74/83, but most countries will accept MODU Code Certificates as an equivalence to SOLAS. For these reasons, the Coast Guard will issue a MODU Code Certificate to a MODU that meets the Code, if the operator requests it. The present MODU Code and a revision of the MODU Code presently under consideration by the members of IMO, are used as a basis for some of the revisions proposed in this notice. These are more completely discussed in a following section titled "Additional Requirements for Mobile Offshore Drilling Units."

(1) Two comments opposed the inclusion of MODUs into Subchapter W because the present Subchapter I–A of Title 46 on MODUs was intended to be a set of uniform, comprehensive regulations for MODUs, recognizing the significant difference between MODUs and other types of vessels. One of the comments added the suggestion that MODU revisions should be proposed separately, and should take into account the various types of MODUs. When Subchapter I–A was developed, it was intended to be a single comprehensive set of regulations for MODUs, like Subchapter D for tank vessels, Subchapter H for passenger vessels, and Subchapter I for cargo and miscellaneous vessels. This type of regulatory organization leads to extensive repetition since much of the general lifesaving requirements are the same for all vessels. Subchapter W can accommodate the special requirements for MODUs as well as for other vessels. A consolidation of regulations by subject matter, rather than by vessel type, has already been utilized in Subchapter F on Marine Engineering, Subchapter J on Electrical Engineering, and Subchapter S on Stability. Consequently, this proposed notice includes MODUs under Subchapter W.

(2) The same two comments expressed concern over the application of SOLAS 74/83 and the MODU Code to MODUs. One stated that the ANPRM implied that SOLAS 74/83 changes would automatically be applied to MODUs, and pointed out that the MODU Code recognized the differences by establishing a level of safety equivalent to SOLAS. The comment noted that the U.S. is not bound to comply with the MODU Code since it, unlike SOLAS 74/83, is not a convention. The other comment supported making regulations for self-propelled MODUs consistent with the MODU Code, and did not want MODUs to be forced into complying with SOLAS 74/83 or required to meet requirements more onerous than the MODU Code. The requirements of SOLAS 74/83 that would apply to MODUs under the regulations proposed in this notice are general in nature and should apply to any vessel with lifesaving equipment. These regulations are in Part B of proposed Subchapter W. Regulations proposed in this notice that go beyond the requirements of SOLAS 74/83 and the MODU Code are completely discussed in the following section on "Additional Requirements for Mobile Offshore Drilling Units."

(3) One comment noted that the International Association of Drilling Contractors would sponsor a Second International Conference on Offshore Safety in March 1986, and suggested that a new regulatory scheme should not be put in place before the conference is concluded. The transactions of that conference were available and were reviewed in drafting this NPRM.

(4) Five comments on the ANPRM stated that the SOLAS 74/83 requirements should not be applied to nonself-propelled vessels and other vessels in various domestic services not subject to SOLAS 74/83. The comments expressed concern that this would generate excessive costs and requirements for unnecessary equipment. We agree that many of the SOLAS 74/83 requirements for oceangoing vessels in international trades are not appropriate for inland vessels and vessels trading solely within U.S. coastal waters, but many of the SOLAS 74/83 requirements are basic principles that apply to any vessel carrying lifesaving equipment. These are the SOLAS 74/83 requirements that are proposed as requirements for other vessels in this notice and they are generally not new requirements. Where a certain regulation is applicable only to vessels in certain services, the regulation clearly states the services to which it applies. As an example, see proposed § 199.10(b).

(5) One comment stated that the Coast Guard would be hard-pressed to prove that revised equipment requirements would have prevented any fatalities on the Great Lakes. The comment pointed to the "impressive safety record of the Great Lakes maritime sector", especially the self-propelled tank vessel sector. Over the past 30 years, there have been four major casualties resulting in abandonment on the Great Lakes, each of which pointed to the need for improvement of the lifesaving equipment carried on these vessels. None of these casualties involved a tank vessel, however, we believe the hazards that would be present in accidents involving Great Lakes tank vessels would be similar to those involving oceangoing tank vessels. Similarly, a sinking of a Great Lakes tank vessel would present survival problems for the crew similar to those that would be experienced in the sinking of a Great Lakes bulk carrier. Each of the major revisions that would result from the regulations proposed in this notice are discussed in the following sections along with the reasons for the changes.

c. Revisions are proposed to incorporate various recommendations of Coast Guard Marine Boards of Investigation and the National Transportation Safety Board. Most of these recommendations are consistent with revisions that are required to comply with SOLAS 74/83 Chapter III. Significant differences are discussed in following sections.

Organization of the Proposed Regulations

The lifesaving equipment requirements are proposed as a new Subchapter W (Part 199) of Title 46 of the Code of Federal Regulations. This new subchapter has been placed first in the proposed revisions contained in this notice, even though it is the last numerically and would appear at the end of Chapter I of Title 46. This is done for the benefit of the reader, since most of the rest of the proposed regulations involve inspection and operational requirements which require an understanding of the equipment requirements in Subchapter W. Subchapter W would completely replace Parts 33, 75, 94, 192, and Subpart E of Part 108 of Title 46.

The structure of Subchapter W parallels Chapter III of SOLAS 74/83. The general requirements applying to all vessels are set out first in Subparts A and B. Subparts C through H contain additional requirements for passenger vessels, cargo vessels, tank vessels, special purpose ships, nautical school ships, and mobile offshore drilling units. For §§ 199.10 to 199.290, the corresponding regulation of SOLAS 74/83 Chapter III is generally the section number following the decimal point, divided by 10. For example, the SOLAS 74/83 Chapter III regulation generally corresponding to § 199.140 is regulation 14 (140 divided by 10). One comment to the ANPRM urged language similar to the SOLAS 74/83 regulations be used in the U.S. regulations in order to avoid future problems with interpretation and possible conflicts. This is the main objective for using this type of organization. The language used differs in some areas because the SOLAS 74/83 regulations are silent on some points, and are sometimes deliberately vague since complete international agreement was not possible on a particular point. Other changes were necessary in order to conform with current regulatory drafting practices.

There are exceptions to the organizational system described in the preceding paragraph. Chapter III of SOLAS 74/83 contains some inspection and operational requirements. These requirements are proposed as changes to the existing sections of the vessel regulations covering inspection and certification (Parts 31, 71, 91, 107, and 189), and operations (Parts 35, 78, 97, 109, 196, and Subpart 167.65). Part C of SOLAS 74/83 Chapter III (Regulations 30 to 53) contains specifications for lifesaving equipment. A few of these requirements are covered in the proposed Subchapter W, but most affect the specification regulations in Subchapter Q of Title 46 of the Code of Federal Regulations. Most of the revisions to Subchapter Q that are required by the new Chapter III will be proposed in separate notices.

One of the objectives of this project is to eliminate repetitive and overlapping regulations. The new Subchapter W accomplishes this by covering all of the lifesaving system equipment requirements for major inspected vessels in one place. While this type of organization should help to eliminate regulations that are inconsistent from one type of vessel to another, it will require the user to look in two places in order to find the regulations applying to a particular vessel. The user will have to refer to the requirements for all vessels as well as the specific requirements for the particular type of vessel. The revisions for inspection and certification, and for operations are proposed as changes to the existing parts of the various vessel type regulations covering these subjects. This means there are a number of very similar changes being proposed to as many as seven different parts of Chapter I of Title 46. Eventually, these regulations may also be consolidated, and this repetition will be eliminated. Consolidation of these sections of the regulations is outside the scope of this regulatory project.

References to SOLAS 74/83

These regulations are based in part on SOLAS 74/83, the 1983 Amendments to the International Convention for the Safety of Life at Sea, 1974, which includes a completely revised Chapter III, "Life-saving Appliances and Arrangements." References to the 1983 Amendments are written as "SOLAS 74/83." References to individual regulations follow the convention used in SOLAS 74/83 of listing the chapter, followed by a slash "/", then the regulation number, and the various numbered subdivisions of the regulation separated by decimal points. "Regulation III/4.2.1" therefore refers to Chapter III, Regulation 4, paragraph 2.1.

Additional Requirements

The proposed Subchapter W is intended to establish lifesaving system requirements for vessel operations in tropical and temperate climates. It does not cover operations under unusually severe conditions, such as Arctic conditions. New developments in the search for mineral resources will regularly take vessels into environments where commercial vessel operations have been limited. Proposed § 199.25 will provide for appropriate lifesaving equipment under the conditions in which these vessels will operate.

New and Revised Terminology

a. The SI (metric) system of measurement is used throughout the regulations proposed in this notice. This is done to be consistent with the measurements used in the new Chapter III of SOLAS 74/83 which are in SI units for the first time. It is also consistent with the international character of shipping and shipbuilding. For the convenience of those wishing to use the English system, English equivalents are given in parentheses immediately following the SI units. The SI units would be the official regulatory requirement.

b. The term "immersion suit" replaces "exposure suit" formerly used in Coast Guard vessel regulations. These suits have also been widely known as "survival suits". A separate rulemaking project has updated the specifications for these suits and incorporates the new terminology. These regulations were published on October 22, 1987 at 52 FR 39532.

c. "Thermal protective aids" would be required for certain vessels under the

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proposed regulations. These devices are made of lightweight material that will fold into a compact package so that they can be carried as survival craft equipment. They are used to limit heat loss of persons riding in survival craft. The Coast Guard published a new specification regulation for these devices on May 29, 1986 at 51 FR 19342.

d. The term "lifejacket" replaces "life preserver" in order to be consistent with SOLAS 74/83 terminology. This device is also referred to in Coast Guard regulations for recreational boats as a Type I Personal Flotation Device (PFD). The Type I PFD designation will continue to be used in the regulations for recreational boats.

e. The term "lifejacket light" replaces "personal flotation device light" to be consistent with SOLAS 74/83 terminology.

f. The term "hydrostatic release unit" replaces "hydraulic release" and "hydraulic and manual lifesaving equipment release" to be consistent with SOLAS 74/83.

g. The term "mechanical disengaging apparatus" replaces "release mechanism" to be consistent with SOLAS 74/83.

h. The term "survival craft" is defined in proposed § 199.30. The term includes lifeboats, liferafts, buoyant apparatus, and life floats, but does not include rescue boats.

Equivalent and Novel Lifesaving Appliances and Arrangements

Proposed § 199.40(b) provides for approval of "novel" lifesaving appliances. Criteria for acceptance and approval of these devices are in IMO Resolution A.520(13), "Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Lifesaving Appliances and Arrangements". Regulation I/5 of SOLAS 74/83 allows national Administrations to accept arrangements that are equivalent to those specified in the convention. Resolution A.520 establishes performance criteria for these equivalent systems for the first time.

Rescue Boats

One or more rescue boats would be required on most vessels under these proposed regulations. These boats are intended primarily to rescue persons who fall overboard. They could also be used to assist another vessel in trouble. Rescue boats would replace the emergency lifeboats now required on certain passenger vessels. Present regulations require rescue boats on those vessels where inflatable liferafts are substituted for lifeboats. As in present regulations, vessels operating in relatively protected waters would continue to use the simple rescue boat approved under existing 46 CFR 160.056. Present regulations also require that vessels in exposed waters carry a more seaworthy rescue boat, but the regulations give no criteria for these boats. Under SOLAS 74/83 and the proposed regulations, these rescue boats would have to meet Regulation III/47 of SOLAS 74/83. The need for rescue boats or improved means of retrieving survivors from rough seas was identified by the National Transportation Safety Board in its investigations of the SS BADGER STATE and SS PANOCEANIC FAITH casualties. A lifeboat could also be used as a rescue boat if it meets both the rescue boat and lifeboat requirements. One comment stated that a rescue boat had to be arranged to allow no more than two persons of average build and strength to assist the person into the rescue boat, and that a lifeboat could not meet this requirement. A specification regulation for rescue boats will be proposed under another notice and it will contain performance requirements for rescue boats. If a manufacturer can design a lifeboat so that it meets the performance requirements for both a lifeboat and rescue boat, it could be approved as both.

a. Proposed § 199.140 covers the stowage requirements for rescue boats, including a requirement that rescue boats be stowed ready for launching in not more than 5 minutes. One comment stated that rescue boats have some time to prepare before launching, and that the same speed and efficiency is not required as when abandoning ship. We do not agree with this comment. One of the primary functions of the rescue boat is to rescue persons that fall overboard. The time required to launch the rescue boat is of the utmost importance. This is the reason for the 5 minute requirement for preparation of the boat for launching, and for the requirement in proposed § 199.160 that the boat be capable of being launched in the shortest possible time.

b. Proposed § 199.160 covers general requirements for rescue boat embarkation, launching, and recovery arrangements. This paragraph is based on Regulation III/16 of SOLAS 74/83.

c. Many of the rescue boats used on U.S. vessels not on international voyages are small and lightweight, can be put into the water easily by several crew members, and can be boarded in the water from the deck of the vessel. These rescue boats could be exempted from the requirement for a launching appliance on the same basis as survival craft under proposed § 199.150(a)(1).

d. Proposed § 199.202(d) would require rescue boats meeting 46 CFR 160.056 used on passenger vessels to be motor-propelled. Although rescue boats approved under 46 CFR 160.056 are basically rowboats, they can usually be equipped with an outboard motor. This proposal is in response to a recommendation by the National Transportation Safety Board (NTSB) arising from an investigation of the collision between the passenger vessel MISSISSIPPI QUEEN and the towboat CRIMSON GLORY in the Mississippi River in 1985 (NTSB recommendation 86-075). Although the rescue boat was not used in this casualty, the board noted that current, visibility, and traffic problems in the river would limit the usefulness of an oar-propelled boat, and that a motorized rescue boat would greatly reduce the time needed to retrieve a victim in the river.

e. One of the purposes of a rescue boat on a passenger vessel in ocean, short international voyage, and coastwise service, is to marshal the liferafts which have no means of propulsion other than their paddles. Proposed § 199.203 would establish acceptable liferaft-to-rescue boat ratios. (Lifeboats could also be used for this purpose, even if not approved as rescue boats.) This proposed regulation is based on Regulation III/20.3 of SOLAS 74/83. One of the comments on the ANPRM stated that there should be a generous assignment of personnel to the rescue boat to allow for several shifts of persons to operate the boat and act as towline tenders. Assignment of personnel to the rescue boat in the event of a casualty is the responsibility of the master. The boat will be large enough to accommodate at least six persons so there should be room for enough personnel for alternating shifts.

f. Proposed § 199.262 (e) and (f) provide for exemptions from the requirement to carry rescue boats for certain cargo vessels not in ocean service, and for nonself-propelled vessels. Proposed § 199.410 provides for exemptions from the requirement to carry rescue boats for special purpose ships operating on the continental shelf of the United States. A similar provision was included in the February 14, 1983 ANPRM on offshore supply vessel regulations. One comment on the December 31, 1984 ANPRM on this project pointed out that during the development of the new Chapter III of SOLAS 74/83, the United States had submitted a proposal to IMO to exempt small cargo vessels from the rescue boat requirement, if the vessel itself provided a satisfactory rescue platform. The comment stated that although the proposal was not accepted by IMO, the concept was still valid, especially for crew boats servicing the offshore drilling industry. As special purpose ships, the proposed regulations would exempt suitably arranged crew boats from the rescue boat requirement if they operate on the continental shelf of the United States, or if they carry less than 50 offshore workers and are not in ocean service. Offshore supply vessels that are not crew boats, as well as oceanographic research vessels would qualify for the same rescue boat exemptions since they are also classified as special purpose ships under proposed § 199.400. On December 24, 1987, the Coast Guard published an NPRM on an Emergency Evacuation Plan for Manned OCS Facilities (52 FR 48717). An offshore supply vessel designated as a "standby vessel" in such an emergency evacuation plan might include a rescue boat as part of the emergency evacuation plan. This rescue boat could be the same one used to meet the rescue boat requirements proposed in this notice.

Prevention and Reduction of Hypothermia

Many of the new requirements proposed in this notice are intended to prevent or reduce the effects of hypothermia.

a. In accordance with Regulation III/7.3 of SOLAS 74/83, proposed § 199.73 would require vessels to carry immersion suits for each member of the rescue boat crew. As proposed, this requirement would apply not only to SOLAS 74/83 vessels, but also to those vessels operating in coastwise and Great Lakes service. One comment on the ANPRM wanted this immersion suit requirement limited to vessels operating in those areas where immersion suits are required to be carried, apparently referring to the warm water exemptions further discussed in item (e.) under this heading. The proposed regulation does not include such an exemption since it is not provided for under regulation III/7.3 of SOLAS 74/83. Comments are specifically requested as to whether or not the final regulations should include a limited warm water exemption for this requirement for certain vessels not required to meet SOLAS 74/83.

b. Thermal protective aids would be required to be carried as an item of lifeboat, liferaft, and rescue boat equipment on vessels in ocean, short international voyage, and coastwise service. These aids are compact, waterproof devices that are intended to retain the body heat of the wearer riding in a boat or liferaft. They are not intended to be effective devices for a wearer in the water. This proposed requirement is consistent with Regulations III/38.5.24, III/41.8.31 and III/47.2.2.13 of SOLAS 74/83 and appears in the equipment list in § 199.175(c)(48) and as item 48 on Table 199.175(c).

c. Proposed § 199.214 would require each passenger vessel in ocean, short international voyage, coastwise, and Great Lakes service to carry immersion suits for the crew of each survival craft on the vessel. Thermal protective aids would be required for the rest of the persons on board. For Great Lakes passenger vessels, this requirement would replace 46 CFR 75.41, which requires immersion suits for all persons on board during the Winter season.

(1) One comment stated that thermal protective aids should be carried on cargo vessels as well as passenger vessels. This is not necessary since cargo vessels are covered by a requirement for immersion suits in proposed § 199.273.

(2) The same comment also suggested that there should be more than one thermal protective aid on board for each person in order to provide spares for those that might be lost or damaged. The thermal protective aids carried as lifeboat and liferaft equipment under § 199.175(c)(48) would be in addition to those carried under § 199.214, therefore spares would be available on board.

(3) Finally, the comment noted that the ANPRM would have exempted passenger vessels that carry totally enclosed or partially enclosed lifeboats from the requirement to carry thermal protective aids. The comment went on to suggest that only vessels with totally enclosed lifeboats should be exempted. Proposed § 199.214 contains no exemptions related to totally enclosed or partially enclosed lifeboats. On February 6, 1984, the Coast Guard published final rules requiring the carriage of exposure suits on certain cargo vessels. These rules provided an exemption for vessels with totally enclosed lifeboats. On November 8, 1984, the President signed into law an act (Pub. L. 98-623) which included a specific legislated requirement for the carriage of exposure suits and a prohibition on excluding a vessel only because that vessel carries other lifesaving equipment (such as totally enclosed lifeboats). On December 31, 1984, the Coast Guard published an amended final rule removing the exemption for vessels with totally enclosed lifeboats (49 FR 50724). Although Pub. L. 98-623 did not address thermal protective aids on passenger vessels, the purpose of these aids is to provide a degree of hypothermia protection, as is the purpose of exposure suits on cargo vessels. The same principles should therefore apply, so these proposed rules contain no exemption from the thermal protective aid requirement based on the carriage of either totally enclosed or partially enclosed lifeboats.

d. Immersion suits would be required for cargo vessels under proposed § 199.273, and for MODUs under proposed § 199.640. These proposed regulations are essentially identical to the present regulations requiring exposure suits. Three comments wanted these suits to be able to be used to satisfy the requirement for rescue boat crew immersion suits in § 199.73. This would be permitted under proposed §§ 199.273(d) and 199.640(d).

e. Warm water exemptions from the immersion suit requirements are proposed in § 199.214(d) for passenger vessels, in § 199.273(a) for cargo vessels, and in § 199.640(a) for MODUs. The latitudes for the exemption would be established at 32 °N and 32 °S worldwide. The present regulations establish the exemption lines at 35 °N and 35 °S worldwide, except in the Atlantic Ocean where the lines are 32 °N and 32 °S. These latitudes are established by law (46 U.S.C. 3102(a)). The same Act of Congress that established this statute (Pub. L. 98-623) stated that it "does not limit the authority of the (Coast Guard) to prescribe regulations requiring exposure suits on vessels not required by section 3102 to have exposure suits." This act also required the Coast Guard to report to Congress on the benefits and disadvantages of extending the regulations to require exposure suits on designated vessels operating in all waters north of 31 °N or south of 31 °S. The report to Congress is complete and has been entered in the docket for this project so that it is available for inspection and copying. The report found that there was little advantage to worldwide exemption lines of 31 °N and 31 °S, but it did find that Winter water temperatures in the Pacific Ocean near the west coast of the United States at 32 °N were colder than they were in the Atlantic Ocean at the same latitude. This is the reason that the change to 32 °N and 32 °S exemption lines are proposed. Expected water temperature at 32 °N is at least 60 °F at all times during the year in the coastal areas of North America. If a vessel will operate north of 32 °N or south of 32 °S only when the water temperature is at least 60 °F, the vessel may be exempted from

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the exposure suit requirement under existing exemption provisions in 46 CFR 30.01–6 and 90.05–10.

f. The best way to prevent hypothermia is to keep survivors from entering the water. Proposed § 199.150(a) is derived from Regulation III/15.1 of SOLAS 74/83 Chapter III and would require launching appliances for all survival craft, with certain exceptions. Launching appliances enable survivors to board the survival craft aboard the vessel before it is launched, so there is no need to climb down the side of a sinking vessel to board them, or to swim to them. One exception in the proposed regulation would generally apply to liferafts that can be readily put into the water and boarded simply by jumping from the vessel to the survival craft. The other exception applies to the float-free liferafts carried on cargo vessels in ocean and coastwise service. On cargo vessels in Great Lakes service, proposed § 199.150(a) would require the liferafts to be davit launched unless they are boarded from a position on deck less than 4.5 m (14 ft., 9 in.) above the light waterline, and meet one of the other conditions in § 199.150(a)(1)(i) or § 199.150(a)(1)(ii). Section 199.405(d) includes an exemption for launching appliances for liferafts on self-elevating offshore supply vessels known in the industry as "liftboats". Liftboats are used to service offshore platforms, and in an emergency, personnel on board the liftboat can transfer directly to the platform the liftboat is working on. If the emergency is on board the platform, or if the liftboat is not adjacent to a platform, these vessels are capable of dropping quickly to the water for abandonment.

(1) One comment expressed concern that liferafts as small as 15 persons capacity might have to be davit-launched since changing requirements for liferafts might cause them to exceed the 185 kg limit. The comment cited in particular a proposal to require stability appendages on inflatable liferafts which was published in the **Federal Register** on January 11, 1985 (50 FR 558). We believe that the combined effect of the changes needed for inflatable liferafts to comply with SOLAS 74/83 and any required additional stability appendage will result in inflatable liferafts as large as 20 persons capacity being under the 185 kg limit. It should also be noted that under proposed § 199.150(a)(1)(ii), liferafts exceeding 185 kg are not required to be davit launched if they are stowed for direct launching and are less than 4.5 m above the waterline.

(2) One comment stated that davit-launched liferafts on Great Lakes bulk cargo vessels could offer no advantage over float-free liferafts, except in the case of fire. Under proposed § 199.290(b), liferafts on cargo vessels would have to be arranged to automatically float free, whether they are davit-launched or not. On Great Lakes vessels, lifeboats for only 100% of the persons permitted on board would be required. This contrasts with vessels in ocean and coastwise service where 200% capacity in lifeboats is required. If the lifeboats on one side of a vessel in ocean or coastwise service can not be used, there is still 100% capacity available on the other side. The float-free liferafts are used only if the vessel sinks before the lifeboats can be launched. On Great Lakes cargo vessels, the liferafts serve a dual purpose. They must float free if the vessel sinks, and they must be available if the lifeboat (usually only one is carried on newer vessels) can not be used. If they are stowed high above the waterline (over 4.5 m), they must be davit-launched so that they can be boarded by their full complement at deck level, then launched into the water.

g. Proposed § 199.150(h) would require each launching appliance to be actuated from a position within the survival craft, in addition to a position on deck. This is to enable all persons to board the survival craft at the deck, without the need for a deck crew to remain behind. Conventional launching appliances require at least one winch operator on deck, who must climb down a ladder to the survival craft once it has been launched. Transferring from the ladder to the boat in heavy seas can be very difficult, and may result in the deck crew having to enter the water in order to reach the boat. The term "actuated" is used in response to one comment on the ANPRM that "controlled" should not be used since it implied a need to be able to operate the winch brake from inside the survival craft while the survival craft is being lowered. The regulation is intended to permit, but not require the capability to control the winch brake from inside the survival craft while the survival craft is being lowered.

h. The present regulations require open lifeboats on most large commercial vessels, with the exception of MODUs. In heavy seas and cold weather, occupants will get wet and cold in open lifeboats, exposing them to the risk of hypothermia. There is also a danger that the boat can be swamped and made more susceptible to capsize. If the boat capsizes, those that do not drown would be exposed to an even greater risk of hypothermia. Proposed § 199.261 (b) and (e) would require totally enclosed lifeboats on cargo vessels and tank vessels in ocean; coastwise; Great Lakes; and lakes, bays, and sounds service. Totally enclosed lifeboats provide protection from heavy seas. SOLAS 74/83 requires totally enclosed lifeboats to be self-righting when fully loaded and not swamped. If they do swamp, the lifeboats meeting SOLAS 74/83 are required to provide an above-water escape for the occupants. Some lifeboats will be effectively self-righting in the swamped condition. Proposed § 199.201 (b), (c), and (d) would require totally enclosed lifeboats or partially enclosed lifeboats on passenger vessels in ocean, short international voyage, coastwise, and Great Lakes service. Partially enclosed lifeboats have rigid canopies at each end, and an open area in the center that can be quickly closed with a foldable cover. This arrangement provides some of the same hypothermia protection as a totally enclosed boat, but can generally accommodate and provide more rapid boarding for a larger number of persons. Most large passenger vessels use very large lifeboats.

(1) One comment on the ANPRM expressed support for the totally enclosed lifeboat requirements on cargo vessels.

(2) Another comment stated that open lifeboats in combination with immersion suits already carried, provide adequate protection in case of a casualty. The comment also noted that survival craft Emergency Position Indicating Radio Beacons (EPIRBs) would reduce the amount of time survivors have to spend in lifeboats. While the observations made in the comment are valid, the open lifeboat is still susceptible to swamping and capsizing, and can not be made to be self-righting. Furthermore, survival time will be increased by keeping survivors dry, even if they are wearing immersion suits.

(3) A third comment opposed a requirement for totally enclosed lifeboats on Great Lakes cargo vessels, stating no lifeboats had been launched in connection with a U.S. flag vessel loss on the Great Lakes in the past three decades. There have been four major vessel casualties on the Great Lakes in the three decade period mentioned in the comment. The reason lifeboats were not a factor in three of these casualties is that the lifeboats were served by mechanical davits, which would be replaced with gravity davits under this proposal. This issue is more completely covered elsewhere in this discussion. Had boats been launched in these casualties, they would have been

subject to the same hazards discussed previously.

i. Some of the present regulations for passenger vessels do not require survival craft for all persons on board the vessel, even though the vessel may operate in waters cold enough to quickly cause the onset of hypothermia. Table 75.10–20(a) in Title 46 of the Code of Federal Regulations is a complex system of requirements for percentages of persons that must be provided for in lifeboats, liferafts, and life floats on vessels operating in Great Lakes service; lakes, bays, and sounds service; and river service. There are different requirements for a Winter season (Sept. 16 to May 14) and for a Summer season (May 15 to Sept. 15). There are different requirements for vessels operating north of the 33rd parallel and those operating south of the 33rd parallel. Other variations in the requirements are provided for vessels based on routes, radio equipment, daytime operation, etc. The primary considerations in all of these variations are the risk of injury due to cold water and the speed of rescue in case of a casualty. This complex system would be replaced by the regulations proposed in this notice, which are based on the simple principle that survival craft should be provided for all persons on board, and that appropriate additional survival craft should be provided in case some of the survival craft can not be used. The number of survival craft can be reduced below the number necessary to accommodate all persons on board only in those cases where there is minimal risk of death due to hypothermia or its complications.

(1) In place of the complex table of alternatives, the regulations for passenger vessels proposed in this notice give a basic requirement for survival craft, then provide for various alternatives for vessels operating under certain conditions. For hypothermia risk, water temperature is the primary concern, although the degree of risk at a particular water temperature varies widely for different individuals. The alternatives proposed in this notice are based on the assumption that water temperatures above 15 °C (59 °F) do not present an immediate risk of hypothermia. The various alternatives proposed are more fully discussed in the following section titled "Alternative Survival Craft Requirements for Small Vessels and Vessels in Protected Waters". For the alternatives based on water temperature, it is not intended that the water temperatures in which the vessel operates be continuously monitored. The survival craft requirements for the vessel would be established according to the routes on which it operates, and the normal prevailing water temperatures during the times of the year it operates on those routes.

(2) One comment on the ANPRM stated additional lifeboats and liferafts would severely affect passenger vessels operating in river service, with a doubtful result. The regulations proposed in this notice may, but not necessarily, result in an increase in lifeboats and liferafts over present requirements. The ANPRM did not present specific regulatory proposals for these vessels, as this notice does.

Alternative Survival Craft Requirements for Small Vessels and Vessels in Protected Waters

The proposed requirements for totally enclosed lifeboats and partially enclosed lifeboats are appropriate for large vessels operating in waters where severe sea conditions can be anticipated. Alternative arrangements are proposed for certain other vessels.

a. Under proposed § 199.201(e), passenger vessels on lakes, bays, and sounds service, and those in river service would be permitted to carry open lifeboats for that portion of the complement that would have to be accommodated in lifeboats. Most passenger vessels in these services, however, can be expected to use one of the other alternatives discussed in the following paragraphs.

b. Under proposed § 199.201(f), passenger vessels under 500 tons gross tonnage with fewer than 200 persons on board could carry liferafts for all of the persons on board. A similar provision for cargo vessels less than 85 m (278 ft.) long in ocean and coastwise service is proposed in § 199.261(d). Cargo vessels under 85 m long in Great Lakes service; lakes, bays, and sounds service; and those operating on the continental shelf of the United States would be covered under proposed § 199.261(f). No boats would be required other than rescue boats. These alternatives are based on Regulations III/20.1.5 and III/26.1.3 of SOLAS 74/83. Nonself-propelled vessels (barges) are not covered under SOLAS 74/83, but the liferaft alternative would also be permitted for those vessels under proposed § 199.261(d) and (f).

(1) One comment addressed the substitution of liferafts for lifeboats on passenger vessels by stating that it was not supported, but no reasons were given. Substitution of liferafts for lifeboats on small vessels is permitted by the present regulations, and has proved to be a satisfactory arrangement to date.

(2) One comment stated that the present requirement for 100% capacity in inflatable liferafts should be retained for offshore supply vessels and also for nonself-propelled vessels. These vessels would continue to have a requirement for 100% capacity in inflatable liferafts under proposed § 199.261(f).

c. Proposed § 199.201(g) would allow ferries not in ocean service or short international voyage service, or a passenger vessel in lakes, bays, and sounds service, or in river service, to carry inflatable buoyant apparatus instead of lifeboats or liferafts. Inflatable buoyant apparatus are a relatively new type of survival craft. They are similar to inflatable liferafts, except that they have no canopy, can be used either side up, and carry only a limited amount of equipment. These devices provide important protection from hypothermia since they support their occupants completely out of the water. The proposed regulations would limit the services in which they could be used, because the lack of a canopy would compromise their hypothermia protection in severe sea conditions. Since they have no canopy, they can be rapidly boarded by a large number of persons with a minimum amount of supervision, which is very important in high density passenger service. The new inflatable buoyant apparatus, the proposed requirement for survival craft in § 199.201(g), and the retrofit requirement proposed in § 199.15(k), is the Coast Guard's response to a provision in the 1984 Coast Guard Authorization Act which required the Secretary of Transportation to proceed vigorously with efforts to develop improved lifesaving equipment for use on passenger ferries.

Additionally, we believe that the use of inflatable buoyant apparatus will result in the most cost effective way to provide out of the water flotation for survivors of a ferry casualty because (1) inflatable devices store in a compact form, limiting the amount of structural modifications that have to be made to accommodate them, (2) inflatable buoyant apparatus are significantly less bulky on a per-person basis than even inflatable liferafts, so that comparatively fewer of them are needed, (3) they do not carry a large amount of survival equipment, so that bulk, weight, and cost are further reduced, and (4) because their open structure allows one person to supervise the launching and loading of several devices at one time, there is no requirement to have a lifeboatman or other trained crewmember for each individual device. On high density ferry

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services, a requirement for one crewmember for each device could significantly raise the number of crewmembers required, for the sole purpose of being available for an abandon-ship casualty. With the appropriate arrangement of inflatable buoyant apparatus, we believe that vessels will generally not have to increase their crew size for the sole purpose of manning the survival craft.

d. Proposed § 199.201(h) would permit passenger vessels operating in warm waters (15 °C (59 °F)) and not in ocean, short international voyage, or coastwise service to increase the number of persons carried. Survival craft would be required only for 10% of the persons on board. The number of persons carried may exceed the capacity of the survival craft provided because each person will be provided with a lifejacket, the warm water does not present an immediate hypothermia threat, and rescue would be quickly available in the areas where these vessels operate. The 10% survival craft requirement is retained to provide for persons who may be incapacitated and for other persons attending them. Present regulations in 46 CFR 75.10–20(a) permit reductions in lifesaving equipment in certain areas and at certain times of the year regardless of prevailing water temperature.

e. Proposed § 199.201(i) would permit passenger vessels not in ocean, short international voyage, or coastwise service to operate in shallow water near land without survival craft. A similar alternative is proposed for cargo vessels in § 199.261(j). These proposed regulations are similar to existing passenger and cargo vessel regulations permitting vessels to operate without survival craft in waters less than 3 ft. deep. There are few, if any vessels, believed to be taking advantage of these regulations, therefore they are being considered for elimination from the final rules. Comments are specifically requested as to the usefulness of these proposals.

f. Cargo vessels in river service would be required to carry a combination of survival craft to accommodate all persons on board under proposed § 199.261(g).

g. Proposed § 199.261(i) would permit cargo vessels operating in warm waters (15 °C (59 °F)) and not in ocean or coastwise service, and vessels operating on the continental shelf in the Gulf of Mexico, to carry life floats instead of lifeboats or liferafts. The warm water in these areas does not present an immediate hypothermia threat and rescue would be quickly available in the areas where these vessels operate.

h. Present regulations in 46 CFR 94.10–20, 94.10–25, 94.10–45 and 94.10–50 cover alternative lifesaving equipment requirements for fireboats, wrecking vessels, fishing vessels, pilot boats, and yachts. Ordinarily vessels of these types are inspected vessels only if propelled by steam. Virtually all vessels of these types are now motor propelled and covered under either 46 CFR Subchapter C, or 33 CFR Subchapter S, so these regulations are obsolete. There are no corresponding regulations proposed in this notice.

Improved Distress Communications

a. Proposed § 199.62 would require each vessel in ocean, short international voyage, coastwise or Great Lakes service to have survival craft portable two-way radiotelephone apparatus. These radios are intended for communication between survival craft, between survival craft and the vessel, between the vessel and its rescue boat, and for communication with on-scene rescue units. These portable radios would not be required for each survival craft, but at least three would have to be on each vessel. The Federal Communications Commission (FCC) adopted final rules on approval of this equipment on May 1, 1985 (50 FR 18489).

(1) Two comments wanted clarification on whether or not these radios were to be portable or permanently installed, and whether existing equipment on the vessel could be used to meet the requirement. Three other comments stated that equipment already in use would meet this requirement. This equipment is intended to be the same as or similar to the two-way radio equipment typically used on vessels for routine operations, so although the requirement is new, it should not result in the carriage of additional equipment on most vessels.

(2) One comment stated that two-way radiotelephone apparatus now used as operational equipment on board vessels is not kept in good operational condition, and that regulations were needed to cover maintenance and spare parts requirements. The FCC is responsible for regulations covering radio equipment and its operation. That agency requires operational testing of this equipment once a week in its regulations at 47 CFR 80.834(c). This testing should determine if the equipment is in good operating condition and whether or not it needs repair. This comment has been forwarded to the FCC for their consideration.

b. On March 18, 1974, the Coast Guard published rules that required inspected vessels in ocean and coastwise service to carry Class A Emergency Position Indicating Radio Beacons (EPIRBs) operating on 121.5/243 MHz (39 FR 10139). Vessels in coastwise service could escape the requirement under certain conditions. On October 18, 1984, the Coast Guard published final rules that required vessels operating on the Great Lakes to carry Class C EPIRBs operating on VHF–FM channels 15 and 16 (49 FR 40407).

(1) For vessels in ocean, short international voyage, coastwise, or Great Lakes service, the regulations proposed in § 199.64(a) would require on each side of the vessel, a Federal Communications Commission (FCC) Type Accepted float-free EPIRBs operating on the dedicated satellite frequency of 406.025 MHz. Elimination of the exemption for coastwise service is proposed since rapid alerting and location of vessels in distress in this region is as necessary as it is further at sea. The "406" MHz Satellite EPIRB system not only provides improved alerting and locating over conventional EPIRBs operating on 121.5/243 MHz, but also includes safeguards to prevent problems arising from false alarms. False alarms are a major problem which limit the effectiveness of the 121.5/243 MHz system. Although "COSPAS/SARSAT" search and rescue satellites can receive 121.5 MHz signals, 121.5/243 MHz EPIRBs are not designed as "Satellite EPIRBs" and their coverage area and alert and locate ability is significantly inferior to that of the 406 MHz Satellite EPIRB. Necessary final rules permitting manufacture and sale of 406 MHz Satellite EPIRBs were published by the Federal Communications Commission (FCC) on September 28, 1988 (53 FR 37308). These beacons should be readily available later this year.

(2) The proposed regulations would require two 406 MHz Satellite EPIRBs, one on each side of the vessel. The present regulations require only one Class A EPIRB. This proposal is made because vessels often list strongly to one side, or roll over before sinking, which could render a single EPIRB inoperable. A fire or explosion could also destroy a single EPIRB, or make it inaccessible. The second EPIRB also provides added reliability. We also believe that under certain conditions, these EPIRBs can be substituted for the Class S EPIRBs or transponders discussed in paragraph (c.) which follows. The substitution is proposed in § 199.64(b)(3). Having two 406 MHz Satellite EPIRBs on the vessel could be more economical than having one 406 MHz Satellite EPIRB and two Class S EPIRBs or transponders on the vessel.

(3) The Coast Guard recognizes that many vessels have Class A EPIRBs in compliance with the present regulations, and that this equipment has a long service life. Therefore, proposed § 199.64(d) would allow Class A EPIRBs that are installed on or before the effective date of the final rules to be carried for about 6 years. This phase-in period is identical to the period provided for fishing vessels, fish processing, and fish tender vessels under a final rule published in the Federal Register on August 17, 1988 (53 FR 31004). At the present time a revision to SOLAS 74/83 is under consideration at IMO, which would introduce the Global Maritime Distress and Safety System (GMDSS). The revision is expected to be accepted at an international conference in late 1988. Satellite 406 MHz EPIRBs are part of the GMDSS, and the revision could come into force as soon as 1993, with all ships on an international voyage required to carry Satellite EPIRBs at that time. In spite of the 6-year phase-in period proposed in this notice, vessels on international voyages would have to comply with any earlier SOLAS amendment date in order to be issued SOLAS Safety Certificates.

(4) For vessels in Great Lakes service, the regulations proposed in § 199.64(e) would also require the 406 MHz Satellite EPIRB to replace the two Class C EPIRBs within 6 years. The Class C EPIRBs do not have the false alarm problem that Class A EPIRBs do and can provide an immediate alert without having to wait for a satellite to pass within range, since the Great Lakes have virtual full coast station coverage of the VHF–FM system on which Class C EPRIBs operate. On the negative side, the Class C EPIRB's short low-power alert signal on channel 16 can easily be drowned out by more powerful transmissions on that busy channel. They are not recognized as a distress device in Canada, or anywhere else outside the United States. Because of the limited use of these devices, EPIRB transmissions on channel 16 often aren't recognized by persons guarding the channel, and the transmission may not be identified as a distress.

(5) Under proposed § 199.66, each vessel on an international voyage now required to carry a portable radio apparatus for survival craft (portable lifeboat radio), would not have to carry one once the vessel is equipped with the 406 MHz Satellite EPIRB. The United States will have to file a SOLAS Equivalency Statement with IMO for this rule, since the portable radio apparatus will still be required under SOLAS 74/83 until the SOLAS amendments providing for the GMDSS come into force. The equivalency statement would be based on the vessel carrying a float-free Category 1 Satellite EPIRB, in addition to locating equipment for survival craft consisting of Class S EPIRBs, transponders, or Category 2 Satellite EPIRBs as discussed in paragraph (c.), which follows.

(6) Three comments opposed EPIRBs for inshore or river operations. The regulations proposed in this notice would not require any EPIRBs on vessels in river service, or in lakes, bays, and sounds service.

c. Regulation III/6.2.3 of SOLAS 74/83 requires each vessel to carry two survival craft EPIRBs, one on each side of the ship, stowed in a way that they can be rapidly placed in survival craft. Survival craft EPIRBs are designated as Class S EPIRBs by the FCC, and the rules published by the FCC on May 1, 1985 (50 FR 18489) included technical requirements for them. Under the GMDSS, the Class S EPIRB would be replaced by a Search and Rescue Transponder (SART). These SARTs would be required to be stowed one on each side of the ship in such locations that they can be readily placed in any survival craft, or else one would have to be carried in each survival craft. The Coast Guard is proposing that each lifeboat and rescue boat carry either a Class S EPIRB, a 406 MHz Satellite EPIRB, or a SART instead of having just one stowed on each side of the vessel for use of all the survival craft on the vessel. This arrangement should provide more protected stowage for the EPIRB or SART. More importantly, it simplifies the abandonment procedure by eliminating an additional item that has to be remembered, and since each lifeboat and rescue boat would be provided with an EPIRB or SART, survivors of a casualty should be able to be more rapidly located. For liferafts, the proposed § 199.64(b) would require one EPIRB or SART on each side of the vessel unless each liferaft carries one of these devices. Carriage of EPIRBs or SARTs in the liferafts would be desirable for the same reasons as discussed for lifeboats and rescue boats, but the option being proposed would allow the saving of weight in liferafts limited to 185 kg under SOLAS 74/83 Regulation III/38.2.2. Note that the present FCC regulations at 47 CFR 80.833(b) require Class S EPIRBs to be stowed in survival craft, so if this proposal is adopted as a final rule, the Coast Guard will have to request a change in the FCC rules. The proposed regulations requiring an EPIRB or SART in survival craft are consistent with a recommendation on survival craft EPIRBs made by the Coast Guard Marine Board of Investigation on the sinking of the drillship GLOMAR JAVA SEA. Since the EPIRB or SART would be required to be carried in lifeboats and rescue boats, "EPIRB/SART" is listed as an item of survival craft equipment in proposed § 199.175(c)(12). Lifeboats and rescue boats equipped with SARTs will not have to carry the passive radar reflector required in proposed § 199.175(c)(34) and under SOLAS 74/83 Regulations III/38.5.1.14 and III/41.6.30.

(1) The ANPRM of December 31, 1984 stated that the Coast Guard would propose that a Class S EPIRB in a float-free liferaft be required to activate automatically when the raft floats free and inflates. The present requirement for the Class A float-free EPIRB on the vessel could then be eliminated. One comment identified a number of potential problems with the automatic activating EPIRB in a float-free raft. Another favored retaining the Class A EPIRB in addition to the Class S EPIRB. Since neither the Class S EPIRB nor the SART will have a 406 MHz signal, neither can perform the function of the 406 MHz Satellite EPIRB; therefore, neither can replace the 406 MHz Satellite EPIRB whether automatically activated or not. For this reason, the regulations proposed in this notice do not propose automatic operation for any Class S EPIRBs or SARTs.

(2) Two comments suggested that new EPIRBs for survival craft should not be required until the GMDSS and the international rescue apparatus are in place. Class S EPIRBs and SARTs do not need any special international rescue apparatus to operate. Class S EPIRBs function with existing aeronautical radios, direction finders on larger Coast Guard cutters, and the COSPAS/SARSAT satellite system. SARTs function with most radar sets which operate in the bands 9200–9500 MHz or 9300–9500 MHz. The GMDSS is expected to be adopted (although not fully implemented) by the time the final rules arising from this notice are in effect.

(3) Vessels subject to SOLAS 74/83 built since July 1, 1986 have been required to be equipped with Class S EPIRBs. Class S EPIRBs have circuitry similar to Class A EPIRBs, so they will be detected by COSPAS/SARSAT satellites. Consequently, § 199.175(c)(12) would permit continued use of Class S EPIRBs. The United States is considering allowing Class S EPIRBs or 406 MHz Satellite EPIRBs to be used instead of SARTs even after the GMDSS is in place. In order to do this, the United

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States will have to file an equivalency statement with IMO when the GMDSS requirement for SARTs goes into effect. SARTs allow any ship with a 9 GHz radar set to locate survival craft at a range of 6 to 10 nautical miles. These detection ranges were determined in testing using Coast Guard cutters and aircraft. Aircraft with compatible radar can locate SARTs at a range of up to 20 nautical miles. About half of the Coast Guard's aircraft do not have compatible radar and would not detect SARTs. Commercial airliners and most military aircraft would also be incapable of detecting SARTs. On the other hand, Class S EPIRBs and 406 MHz Satellite EPIRBs are detectible at relatively long ranges by Coast Guard, civil, and military aircraft. (Satellite EPIRBs operation on 406 MHz will also have a low-power homing beacon operating on the same 121.5 MHz frequency as Class S EPIRBs.) Large Coast Guard cutters can also home on this signal, although few other ships have this capability.

(3) Two comments supported the proposal to have an EPIRB in each survival craft. Another comment supported an EPIRB in each lifeboat, but not in the inflatable liferafts, stating that their usefulness was doubtful in view of the other EPIRBs on board, and their functional reliability in a liferaft would be questionable. The comment did not explain why the reliability of an EPIRB in the liferaft was doubtful. Two comments concerned the possibility that an excessive number of EPIRBs would create problems with multiple transmission sources. Another did not agree that pilferage of EPIRBs was a problem, or that they were necessarily more secure in a lifeboat. The same comment expressed doubt that EPIRBs would be likely to be forgotten if they were stowed outside a survival craft. Our understanding is that pilferage of Class A EPIRBs has been a problem, and that they are often locked up when the vessel is in port. If survival craft EPIRBs and SARTs are not stowed in the survival craft, they would have to be kept in prominently marked boxes on deck. Stowage in a lifeboat equipment locker, and especially in a packed inflatable liferaft would appear to be more secure. We believe that the equipment should be stowed where it will be used—in the survival craft. Although a well-trained crew might not forget to carry the EPIRB or SART to the survival craft, the abandonment procedure should not be unnecessarily complicated by additional tasks to be carried out under emergency conditions. We believe that the requirement for carriage of EPIRBs or SARTs in lifeboats and rescue boats, and the option to carry EPIRBs or SARTs for liferafts either on deck or in the liferaft, provides the best balance among the various concerns.

Rapid Launching of Survival Craft

The ability to abandon a vessel quickly is often important in a marine casualty. A number of proposed new requirements are intended to make sure survival craft can be quickly boarded and launched.

a. Proposed § 199.110(c) would require muster and embarkation stations for survival craft boarded before they are launched, to be arranged to enable stretcher cases to be placed in survival craft. This proposal is based on Regulation III/11.6 of SOLAS 74/83 and is intended to make sure that loading of disabled persons into the survival craft does not unduly delay launching of the survival craft. One comment expressed concern that all totally enclosed lifeboats might not have entrances sized to allow stretcher loading, and that the embarkation areas on existing vessels might have to be rearranged to provide for stretcher access. There is no intent to have existing vessels rearranged to meet this requirement. All new totally enclosed lifeboats built to meet SOLAS 74/83 will have entrances sized to permit stretcher loading. The embarkation area on new vessels would have to be arranged so that the stretcher could be loaded in the intended manner. This is a detail that will have to be considered when the vessel's embarkation area is designed, but it should not normally result in difficulty or additional cost.

b. Proposed § 199.110(d) would require embarkation stations to be located where it is not necessary to climb more than three steps or climb over obstructions to reach the embarkation station from the adjacent deck house and to board the survival craft from the embarkation station. There is no corresponding requirement in the present regulations because conventional launching arrangements require lifeboats to be lowered to the deck edge in order to be boarded. This arrangement limits climbing to board the survival craft. The proposed regulation would make sure that future survival craft installations continue to minimize the need for climbing to board the survival craft.

c. Proposed § 199.135(c) would require a gate or other suitable opening in the rail or bulwark adjacent to the stowage location of each liferaft and inflatable buoyant apparatus, not served by a launching appliance, unless the raft is mounted above the rail so it can be pushed overboard. This is to enable the liferaft or inflatable buoyant apparatus to be pushed over the side without lifting it. The need to lift a liferaft over the rail has been a problem in several casualties, and recommendations to provide an opening in the rail or bulwark were made by the Marine Board of Investigation on the explosion and fire aboard the SS PUERTO RICAN, and by the investigating officer on the fire aboard the M/V FINALISTA 100.

d. Proposed § 199.150(c) would require all new launching appliances to operate only by gravity or stored mechanical power. Launching systems that depend on manual power would not be permitted because of the long time required to launch a survival craft by manual means. Note, however, that proposed § 199.130(a)(2) would permit manual power to be used to bring a davit launched liferaft from its stowed position to the embarkation position. Stored electrical power (batteries) would also not be permitted because of reliability problems and diminished performance at low temperatures.

e. Proposed § 199.153(i) would establish a formula to determine the minimum lowering speed for survival craft launched by a system employing falls and a winch. The minimum speed increases as the launch height increases. The formula comes from Regulation III/48.2.6 of SOLAS 74/83, although that regulation does not state the condition of survival craft loading for which the formula is intended. Based on correspondence with several foreign maritime regulatory agencies, we believe that most of the drafters of SOLAS 74/83 intended this formula to apply to a fully loaded survival craft. Therefore, proposed § 199.153(i) would apply to a loaded survival craft. A related proposed regulation is § 199.153(j) which would require a lowering speed for a light survival craft to be not less than 70% of the speed required under § 199.153(i). One comment expressed concern about the application of this regulation to MODUs, because the high freeboards of these vessels would result in extremely high launching speeds when the formula in Regulation III/48.2.6 of SOLAS 74/83 is used. The comment pointed out that the SOLAS 74/83 regulation was developed for conventional vessels to limit the swinging of a lifeboat against the side of a rolling vessel as the lifeboat is launched, and that this should not be a concern on MODUs because of the clearance requirement which is covered under proposed § 199.650(d) of this notice. We agree with this comment, but the concern is addressed by the 30 m launching height limit used to calculate the lowering speed under proposed § 199.153(i). No lifeboat would be required to have a loaded lowering speed greater than 1 m/sec.

f. Proposed § 199.153(k) would establish a maximum lowering speed of 1.3 m/sec. (256 ft./min.). Regulation III/48.2.7. of SOLAS 74/83 requires Administrations to establish a maximum lowering speed.

g. Proposed § 199.245(b) would require the total number of persons on board a passenger vessel to be able to be launched in survival craft within 30 minutes from the time the abandon-ship signal is given. Other vessels would be required to provide for abandonment in 10 minutes under proposed § 199.280(e). One comment expressed support for the 10 minute requirement on cargo vessels.

h. Conventional lifeboat launching systems require the lifeboat to be moved from its stowage position, down to an embarkation position at the edge of a lower deck. The boat is held close to the deck by "tricing pendants." "Frapping lines" are then passed around the falls and the tricing pendants let go. The boat is then boarded, the frapping lines let out, and the boat lowered. A superior method allows all persons to board the lifeboat at the stowage position and launch the lifeboat directly. The regulations proposed in this notice would allow this method of launching from the stowed position for passenger vessels (§ 199.220(a)(1)) and require it for other vessels (§ 199.280(b)). During discussions on this matter at IMO prior to the completion of SOLAS 74/83, the delegates decided not to require this method of launching on passenger ships because (1) it had not been demonstrated with the large lifeboats that are typical on passenger ships, and (2) if the lifeboats were located on one of the upper decks in a typical passenger ship configuration, passengers would be required to climb at least one additional deck level to board the lifeboats, and the loaded lifeboats higher on the vessel could adversely affect the stability of a ship already in danger. These problems could be overcome by a departure from typical passenger ship configuration by locating the lifeboats at a lower deck. Some ship designers have indicated an interest in stowing lifeboats at a lower level with launching directly from the stowed position. IMO committees are now considering a proposed recommendation to limit passenger ship lifeboats to a stowage height of 13.5 m (44.3 ft.). Comments are specifically requested on passenger ship lifeboat stowage and launching arrangements.

i. One new system of lifeboat launching is the free-fall system. It is intended to improve the speed and reliability of lifeboat launching by eliminating the need to lower the lifeboat to the water on a wire. Instead, the boat is boarded on the vessel and, when all on board are strapped into their specially designed seats, the boat is released and allowed to drop into the water. The design of the boat and its angle of entry into the water are such that the boat with the survivors can safely endure the impact with the water, and the boat is carried safely away from the vessel. SOLAS 74/83 provides for the approval of free-fall lifeboats in Regulations III/44.6 and III/48.4, and the Coast Guard has already approved one such a system as equivalent to a conventional launching system. Free-fall systems could be used in place of conventional launching systems on most vessels, except they would not be permitted on passenger vessels. Proper training essential for the safe use of free-fall systems is not practical for passengers. Free-fall lifeboats are most likely to be used on MODUs and on large cargo and tank vessels. Proposed § 199.261(c) would permit the use of free-fall launched lifeboats on the stern of cargo and tank vessels. This proposed regulation is based on Regulation III/26.1.2 of SOLAS 74/83. The lifeboats required on a MODU under proposed § 199.605(b) could be free-fall boats also. One comment expressed concern about the vulnerability of a stern-mounted free-fall boat to storm damage, and its ability to get away from the stern of the vessel. There are no free-fall lifeboats on U.S. flag cargo vessels or tankers, but several vessels registered in other countries are equipped with such systems. The boats are mounted high enough on the stern to prevent wave damage, and the motion given the boat by the free-fall ramp propels it away from the stern.

(j) Proposed § 199.135(f) would require float-free liferafts and inflatable buoyant apparatus to use hydrostatic release units for the first time. Existing regulations allow the use of float-free arrangements which keep the raft from shifting on deck, but which permit it to float upward and away from a sinking vessel unrestrained. This arrangement, and the arrangement of the present Coast Guard approved hydraulic release, require that the raft painter be secured to the vessel by a weak link, which breaks under the buoyant force of the raft. This keeps the sinking ship from sinking the raft by dragging it under by its painter. Unfortunately, this arrangement also means if the raft is launched manually, it is secured only by the weak link. The weak link can easily break under the force of wind and waves, which can lead to loss of the raft before it is boarded. This problem can be solved by belaying the painter to a cleat, but this defeats the protection of the weak link if the vessel sinks. Proposed § 199.135(f) and new hydrostatic releases approved under SOLAS 74/83 solve these problems by allowing the raft to be manually released from the hydrostatic release, without releasing the painter from the vessel. The painter remains secured to the vessel through the hydrostatic release. If the vessel sinks, the hydrostatic release releases the painter, which remains secured to the vessel only by the weak link. The weak link is loaded only if the vessel sinks. This system has been required by other countries for many years, and seems to work well.

Launching at a 20° List

Present regulations and SOLAS 74/83 requirements generally require survival craft to be launched with the vessel trimmed to 10° and listed to 15°. SOLAS 74/83 generally requires survival craft launching appliances to operate at a 10° trim and 20° list. The drafters of SOLAS 74/83 Chapter III added the requirement for operation at an additional 5° list to allow for launching of survival craft if the decision to abandon ship is made with the ship listing as much as 20°.

a. Proposed § 199.130(a)(1)(iii)(C) would require the survival craft in the embarkation position to be above the waterline with the vessel listed to 20°.

b. Proposed § 199.150(a)(1)(ii) would permit certain survival craft boarded from a position less than 4.5 m (14 ft., 9 in.) above the waterline (generally liferafts) to not have a launching appliance if the survival craft is stowed for launching directly from the stowed position under unfavorable conditions of trim of up to 10° and with the vessel listed up to 20° either way.

c. Proposed § 199.150(b) would require launching appliances to safely lower survival craft against a trim of up to 10° and a list of up to 20° on the high side, and the greater of 20° or the degree of list where the survival craft becomes waterborne, whichever is the greater, on the low side.

d. Proposed § 199.150(d) would require a factor of safety of 4.5 for launching appliances and their attachments in accordance with Regulation III/48.1.8 of SOLAS 74/83. Present regulations require a factor of safety of 6; however, the present factor of safety applies to a vessel with a list of 15°. The factor of safety of 4.5 would apply to the new 20° list requirement, which for davits should

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be roughly equivalent to a factor of safety of 6 at 15° list.

e. Proposed § 199.153(d) would require falls long enough for the survival craft to reach the water with the vessel in its lightest seagoing condition, under unfavorable conditions of trim and with the vessel listed up to 20° either way.

f. Proposed § 199.157(d) would require a davit span for each open lifeboat and partially enclosed lifeboat. Each davit span would have to be provided with not less than two lifelines of sufficient length to reach the water with the vessel in its lightest seagoing condition, under unfavorable conditions of trim and with the vessel listed up to 20° either way.

g. Proposed § 199.320(b) would require survival craft on an oil tanker, chemical tanker, or gas carrier to be safely lowered on the lower side of the vessel at the final angle of heel calculated under—

(1) MARPOL 73/78 in the case of an oil tanker;

(2) The International Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk (IBC Code) in the case of a chemical tanker; or

(3) The International Code for the Construction and Equipment of Ships carrying Liquefied Gases in Bulk (IGC Code) in the case of a gas carrier.

Availability of Survival Craft

a. Proposed § 199.261(b)(2) would require ocean and coastwise cargo vessels and other ocean and coastwise vessels required to meet the cargo vessel regulations, to carry liferafts for the total number of persons permitted on board. These liferafts are in addition to the lifeboats carried. This proposed regulation is based on Regulation III/26.1.1.2 of SOLAS 74/83, and is an increase over present requirements. Both Coast Guard regulations and SOLAS 1974 require these vessels to carry liferafts for 50% of the persons on board. These liferafts are required to automatically float free if the vessel sinks so that there are survival craft available in case the lifeboats can not be launched before the vessel sinks. The liferafts are also available in case the lifeboats can not be used for some other reason. A sufficient number of liferafts should therefore be available to accommodate all persons on board the vessel.

(1) Additional liferafts were recommended by the National Transportation Safety Board as a result of its investigations of the casualties involving the TEXACO OKLAHOMA and the PANOCEANIC FAITH.

(2) One comment on the ANPRM stated that 100% liferaft capacity was probably unnecessary since all hands would probably not get clear of a vessel that sank too rapidly to launch the lifeboats. The comment may be correct for some casualties, but the recommendations cited in the preceding paragraph arose from casualties where the present 50% liferaft capacity was not adequate. This matter also was discussed at length by the Lifesaving Appliances Subcommittee and the Maritime Safety Committee of IMO before the 100% liferaft requirement was finally adopted as part of the new Chapter III of SOLAS 74/83. A number of other countries cited casualties to their vessels in which the present 50% liferaft capacity was inadequate.

b. The present regulations for seagoing cargo barges in 46 CFR 94.10–15 require only a lifeboat with a capacity of 60 cubic feet, or the equivalent capacity in inflatable liferafts for those barges small enough to qualify for substitution of liferafts for lifeboats. For tank barges in ocean and coastwise service, 46 CFR 33.05–5 and 33.05–15 require lifeboats of 125 cubic foot capacity. A typical 80 cubic foot capacity lifeboat would be about 13 feet long with a capacity of 5 persons. A typical 125 cubic foot capacity lifeboat would be about 16 feet long with a capacity of 9 persons. Open lifeboats this size would probably be inadequate in heavy seas, and no provision is made to provide spare survival craft in case the boat is lost or made unusable. Under proposed § 199.261(d), most seagoing cargo barges would be required to carry an inflatable liferaft on each side capable of accommodating all persons permitted on board the barge. Under proposed § 199.310(c), tank barges over 500 tons gross tonnage would have to have the same fire-protected lifeboats as self-propelled vessels.

Survival Craft and Rescue Boat Equipment

Proposed § 199.175(c) and Table 199.175(c) contain requirements for survival craft and rescue boat equipment. Note that the liferaft equipment covered in this section is for rigid liferafts only. There are no rigid liferafts approved by the Coast Guard for new production at this time. Equipment for inflatable liferafts is covered in 46 CFR 160.051, and revisions to that section to meet the SOLAS 74/83 requirements will be proposed under a separate notice. The quantities of equipment have been revised for vessels in ocean and short international voyage service to be consistent with SOLAS 74/83. Few revisions have been made to the quantities of equipment required for vessels in Great Lakes; lakes, bays, and sounds; and river services. Comments are specifically requested on whether or not additional changes should be made to the equipment lists for these services. Items to consider adding are first aid kits, heaving line, knife or jackknife, ladder, orange smoke signals, and a signal mirror. The lifeboat equipment list has been revised to eliminate special equipment requirements for seagoing barges and for Great Lakes cargo vessels not carrying cargo. In the following discussion, the item number refers to both the paragraph number under proposed § 199.175(c) and the number used in Table 199.175(c).

a. Item 3 covers requirements for lifeboat bilge pumps. The size of the bilge pump is governed by the cubic capacity of the lifeboat under present regulations, but cubic capacity will no longer be used to describe lifeboat size. Instead, the persons capacity is used to determine bilge pump size. The size 1 bilge pump has also been deleted since there have been no Coast Guard approved size 1 bilge pumps produced in over 10 years.

b. Item 4 covers boathooks. The 1¾" and 2" pole diameter sizes are no longer listed since they are no longer generally available. Boathooks would be required to be of at least the 1½" size under item 4 as proposed.

c. SOLAS 74/83 requires lifeboats and liferafts to carry 3 can openers. Item 6 covers this proposed requirement. The can opener in the Coast Guard approved jackknife under item 20 could be used to meet the requirement for one of these can openers.

d. Item 7 covers the proposed requirement for a compass on a lifeboat and rescue boat. Coast Guard approved compasses in open lifeboats and many totally enclosed lifeboats are now mounted in a box which is stowed in an equipment locker. The proposed regulation would require the compass in a totally enclosed lifeboat to be permanently installed at the steering position. This can be done in an enclosed lifeboat since the compass would be adequately protected from the weather by the boat enclosure, it would reduce the need for stowage space, it would make the compass available for immediate use, and it could make the compass less susceptible to loss. In other than totally enclosed lifeboats, the compass could either be permanently installed, or be of the conventional removable arrangement.

e. The dipper required in a lifeboat for collected rain water under SOLAS 74/83 is covered in item 9.

f. Item 16 covers flashlights. The Coast Guard removed 46 CFR 160.008 in a Final Rule published May 18, 1988 at 53 FR 17702. That specification regulation was replaced by American Society for Testing and Materials (ASTM) Standard F1014. Item 16 reflects the revision.

g. Item 22 covers proposed requirements for the lifeboat and rescue boat boarding ladder. For the first time, a permanently installed rigid ladder would be allowed for this purpose in place of a rope ladder. Present regulations require the rope ladder to be kept on the side benches rigged ready for immediate use. The proposed regulations would now require a rope ladder to be rigged outboard at all times. If these boats are empty and not launched when a vessel sinks, they can be torn loose of their davits as the vessel sinks and could be used by survivors that are cast into the water. The ladder needs to be readily available for the use of those that need to board the boat from the water. Comments are specifically requested on problems or advantages involved in keeping the ladder rigged outboard.

h. Item 23 covers proposed requirements for the lifeboat lantern. Present regulations require an oil lantern; however, under the proposed regulations, totally enclosed and partially enclosed lifeboats would have to have an interior lighting system installed by the manufacturer. Item 26, matches, and item 29, illuminating oil are related items.

i. Item 28 covers the requirement to carry oars, but for new lifeboats, paddles would be acceptable if the manufacturer of the lifeboat demonstrates that paddles can be used for manual propulsion. Totally enclosed lifeboats are generally not arranged for efficient operation under oars.

j. Item 31 would establish a minimum length of 15 m (50 ft.) for lifeboat painters in order to be consistent with SOLAS 74/83. SOLAS 74/83 also requires a minimum length of two times the distance from the stowage position to the waterline; however, item 31 would retain the requirement in the present regulations for a length of at least 3 times the distance from the stowage position to the waterline.

k. Item 32 contains proposed revisions to the requirements for provisions. Existing regulations require 2 lb. of hard bread plus 1 lb. of condensed milk per person in each lifeboat. Hard bread has not been used for many years, but provision manufacturers have instead provided a mixture of biscuits, sugar, and sometimes other components, which together with the condensed milk provided about 5,000 calories of food energy value per person. Recent experience with major commercial vessel casualties indicates that the lifeboat rations are rarely, if ever used. Water is more important to long term survival. Consequently, the proposed regulations would require emergency provisions with a total food value of at least 10,000 kJ (2,390 calories), or roughly half of the present requirements. This is consistent with Regulation III/41.8.12 of SOLAS 74/83. Condensed milk would no longer be part of the ration requirement. The condensed milk was once intended for babies and those with injuries that prevented them from chewing. New Coast Guard approved rations will have to include a water soluble component to take care of these needs. Furthermore, condensed milk increases the body's need for water and is therefore not appropriate as a sea survival ration. Condensed milk has also not been available in corrosion-resistant containers, making it especially troublesome for stowage in lifeboats.

l. Item 35 would require a rain water collection device for many totally enclosed lifeboats. The water tanks in lifeboats are required to be designed for the stowage of collected rain water and open lifeboats are required to be equipped with protective covers that incorporate a rain water collection device. The rain water collection device requirement would result in all lifeboats being able to collect and make use of rain water.

m. Item 38 contains the requirement for sea anchors. SOLAS 74/83 no longer requires storm oil for the totally enclosed and partially enclosed lifeboats now required under that convention. Storm oil is dispensed from a container attached to the sea anchor, and is intended to lessen the chance of waves breaking over the lifeboat. The enclosures of the totally enclosed and partially enclosed lifeboats make storm oil less important. The proposed regulations would also not require storm oil in totally enclosed and partially enclosed lifeboats, but would continue to require it to be carried in open lifeboats.

n. Item 39 would require each new lifeboat and rescue boat on vessels in ocean, short international voyage, coastwise, and Great Lakes service to be equipped with a searchlight. This is a new requirement, since in the past, searchlights were required only on certain lifeboats on passenger vessels.

(1) Regulations III/41.8.29 and III/47.2.2.11 of SOLAS 74/83 require searchlights on lifeboats and rescue boats. Searchlights were not required on lifeboats in the past, since many lifeboats did not have engines and electrical systems. All new lifeboats in these services would be engine driven, and would therefore have a means to keep the searchlight battery charged. Searchlights have also become more important since the widespread use of retroreflective material on survival equipment has made searching for survivors in the water at night a realistic possibility.

(2) Passenger vessel searchlights were previously approved under 46 CFR 161.006. This specification regulation originated over 40 years ago and has become obsolete. The American Society for Testing and Materials has developed a voluntary consensus standard (ASTM F1003) for lifeboat searchlights meeting the SOLAS 74/83 requirements. Item 39 proposes to require a searchlight certified to meet ASTM F1003. This notice also proposes removal of obsolete 46 CFR 161.006.

o. Item 40 would require lifeboats and liferafts on vessels in ocean, short international voyage, and coastwise service to carry a seasickness kit for each person, consisting of a seasickness bag and six doses of seasickness medication. This is consistent with Regulations III/38.5.21 and III/41.8.21 of SOLAS 74/83. The Marine Board of Investigation on the SILVER DOVE also recommended that seasickness medication be carried in lifeboats. Present regulations require inflatable liferafts to carry seasickness medication. The combination of ephedrine sulfate and promethazine hydrochloride prescribed as one option in the proposed regulations has been found by the Coast Guard to be the most effective seasickness remedy available at the present time. These drugs are taken orally and must remain in the digestive system for several hours to be completely absorbed. The other option, scopolamine in a transdermal patch, has been found to be significantly more effective in preventing seasickness than both dramamine and meclezine in clinical tests, according to its manufacturer. Its advantage is that since its medication is released through the skin, it will not be lost due to regurgitation as oral medication will. It takes four to six hours to become fully effective, and one patch provides about three days of effective medication. Both medication options seem to be reasonably stable throughout a wide temperature range, but both would probably be damaged by extended storage at temperatures above 50 °C (122 °F) or 55 °C (131 °F).

p. Regulation III/41.8.13 and III/41.8.14 of SOLAS 74/83 would require four parachute flares and six hand flares in lifeboats. Present Coast Guard regulations require 12 of each, and items

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42 and 43 would continue to require 12 parachute flares and 12 hand flares in ocean, short international voyage, and coastwise services. These flares do not add great expense, but they can greatly assist search and rescue forces in locating survivors. For this reason, the present requirement is not proposed to be lowered to the minimum number required by SOLAS 74/83. Six hand flares and six parachute flares would also be required for the first time in survival craft on vessels in lakes, bays, and sounds service. These signals will assist searchers in locating survivors in these waters at night. Even recreational boats operating in some of these waters are now required to carry flares or other approved visual distress signals.

q. Item 46 would require survival instructions in each lifeboat in accordance with Regulation III.41.8.4 of SOLAS 74/83. Similar instructions are now required in all inflatable liferafts.

r. Item 48 would require thermal protective aids in lifeboats, liferafts, and rescue boats in ocean, short international voyage, and coastwise service. This item is discussed fully under the section on "Prevention and Reduction of Hypothermia."

s. Item 49 covers the lifeboat tool kit which must contain sufficient tools for minor adjustments to the engine and its accessories. The minimum contents of the kit are listed and are the same as the tool kit required in the present regulations. Comments are requested as to the adequacy of this kit and whether or not additional items such as a Phillips screwdriver need be added.

t. Item 51 would require 3 liters of water per person on lifeboats in ocean, short international voyage, and coastwise service in accordance with Regulation III/41.8.9 of SOLAS 74/83. The present regulations require 3 quarts of water per person. This change will result in an increase of approximately 6% in the amount of water carried. SOLAS 74/83 permits water to be dispensed with on liferafts with the SOLAS B pack (short international voyage). The regulations proposed in this notice would require water to be carried in liferafts on vessels in short international voyage service, since vessels in this service could be as far as 200 miles from port.

u. Items 25, 28, and 37 make reference to regulations in effect for vessels on June 30, 1986. These items are all components of traditional open lifeboats that would eventually be phased out of use. Present regulations contain detailed requirements for these components, which are not appropriate for modern performance-oriented regulations. These details would be included in a Navigation and Vessel Inspection Circular (NVIC) so that they will be available for reference as long as the old lifeboats continue in use. A draft of the NVIC has been placed in the docket for examination and copying.

v. A number of items have been determined to be unnecessary for use on a MODU, unless the MODU is on an international voyage. MODUs operating in U.S. waters are always in known locations and there are usually other vessels or offshore activities nearby, so that some items intended for long term survival are not necessary. These include item 28, oars; item 32, provisions; and item 35, rain water collection device.

w. The lifeline is no longer listed as an item of lifeboat equipment because it is already required as part of the lifeboat under 46 CFR 160.035.

Hyperbaric Lifeboats

Some lifeboat manufacturers now offer hyperbaric lifeboats which include a diver decompression chamber built into a totally enclosed lifeboat. Divers must spend many hours or days allowing their bodies to readjust to atmospheric pressure after a long period underwater. Without proper decompression, divers can suffer serious injury or death. The hyperbaric lifeboat is intended to prevent these injuries in the event of abandonment of a vessel with decompressing divers aboard. The regulations proposed in this notice would not require hyperbaric lifeboats, but comments are specifically requested as to whether or not hyperbaric lifeboats or other provisions for decompressing divers, should be required on vessels supporting saturation diving operations.

Training and Drills

A number of revisions, including equipment requirements, are proposed to improve training and drills in survival systems. Many of the proposed revisions are consistent with recommendations made in a Coast Guard sponsored study titled "Shipboard Training and Maintenance for Merchant Vessel Survival Equipment." (See ADDRESSES section for information on how to obtain a copy of this report.) The proposed regulations are also responsive to recommendations to improve on-board training and drill requirements made by the Marine Boards of Investigation on casualties involving the GLOMAR JAVA SEA, the CHESTER A. POLING, the OCEAN EXPRESS, the EDMUND FITZGERALD, the TRANSHURON, and the WILLIAM T. STEELE. A similar recommendation was made by the National Transportation Safety Board after its investigation of the loss of the WILLIAM T. STEELE.

a. Proposed § 199.153(c) would require launching appliances using falls and a winch to have a single-part fall arrangement. This is not required under SOLAS 74/83, but is included to facilitate training and other operations where recovery of the boat is required. Complete launching of survival craft during drills is important to make sure the crew is fully familiar with the launching procedure. If recovery of the survival craft after launching is too difficult, launching will be avoided. The presence of a heavy sheave block at the lower end of a multiple-part fall arrangement can make recovery difficult. It can make reattachment of the falls to the survival craft dangerous, even in good weather. One of the findings of the Marine Board of Investigation on the GLOMAR JAVA SEA, was that difficulty in reattaching the falls to the lifeboats discouraged the crew from launching the boat during drills. The single-part fall requirement would make a block at the lower end of the falls unnecessary. In addition to removing a hazard, facilitating recovery of the boat should encourage launching during drills. One disadvantage to the single-part fall requirement is that the fall wire would have to be about 40% larger in diameter than the wire on a two-part fall, making it stiffer and requiring larger sheaves and drums on the launching equipment.

b. Present regulations require vessels to hold regular fire and boat drills. These drills have been traditionally considered and conducted as a single drill. The requirements in Regulation III/18 of SOLAS 74/83 revise many of the requirements for the "abandon-ship" drill and also include requirements for on-board training. For this reason, and to emphasize the difference between the fire training and drills and the abandon ship training and drills, the regulations proposed in this notice separate these requirements into separate sections, and require the abandon-ship drills and fire drills to be conducted separately. Drills would be somewhat more comprehensive than they are presently, but would only be required on alternating weeks on vessels other than passenger vessels. Present regulations require weekly drills on all vessels. Passenger vessels would continue to be required to conduct weekly drills. The proposed fire drill requirements are in proposed § 35.10–2 for tank vessels, § 78.17–55 for passenger vessels, § 97.15–40 for cargo and miscellaneous vessels, § 109.213 for MODUs, § 167.65–2 for public nautical school vessels, and

§ 196.15–40 for oceanographic research vessels. Abandon ship training and drills are covered in proposed § 35.10–1 for tank vessels, § 78.17–50 for passenger vessels, § 97.15–35 for cargo and miscellaneous vessels, and § 109.215 for MODUs. Under proposed § 167.65–1 for public nautical school vessels, and § 196.15–35 for oceanographic research vessels, drill requirements are those required for either passenger vessels or cargo vessels, depending upon the lifesaving equipment installed. New training and drill requirements are discussed in the following paragraphs. Two comments suggested that training on board MODUs should be done in accordance with IMO Resolution A.538(13), "Maritime Safety Training of Personnel on Mobile Offshore Units". The training and drill requirements proposed in this notice for MODUs are based in part on Resolution A.538, and are not inconsistent with it. Resoultion A.538 was also used in developing the revision to the IMO MODU Code discussed previously. On December 24, 1987, the Coast Guard published an NPRM on an Emergency Evacuation Plan for Manned OCS Facilities (52 FR 48717). The Final Rules for abandonment drills on MODUs developed as a result of this NPRM may have to be revised to take into account the Final Rules for Emergency Evacuation Plans, once those rules are published.

c. Requirements for mustering and attending to passengers are presently included in the passenger vessel regulations. A limited number of passengers may be carried on other vessels, so the proposed training and drill requirements for vessels other than passenger vessels include provisions for mustering and attending to passengers, when passengers are carried. Present regulations do not specifically require mustering of passengers, except for vessels on international voyages. Proposed § 78.17–50(b)(3) would require a muster of the passengers on other voyages, or at least calling the attention of the passengers to the emergency instructions on voyages of less than one day's duration. Under §§ 35.10–1(b)(3) and 95.15–1(b)(3), a similar requirement is proposed for other vessels when they carry passengers. This proposal is responsive to a recommendation of the National Transporation Safety Board arising from the grounding of the M/V PILGRIM BELLE in July 1985 (Recommendation M–86–60).

d. Abandon-ship training material would be required to be on board each vessel in accordance with SOLAS 74/83, regulations III/18.2 and III/51. This training material could either be in the form of manuals or audio-visual training aids. Much of this material would normally be supplied by the survival equipment manufacturer. Many manufacturers produce this material at the present time, and make it available to vessel operators. Two comments did not favor a requirement for training manuals since the ship's officers would be able to indoctrinate the crew in its use, and since certificated personnel (lifeboatmen) would have been trained in lifesaving equipment. The training material is important because of the growing diversity of lifesaving equipment. Licensed and certificated personnel will have received basic training using certain lifesaving equipment, but the various lifesaving equipment designs have important differences. The training material prepared by equipment manufacturers provides professionally prepared instructional material and important reference information.

e. Present regulations require weekly fire and boat drills. Under Regulation III/25.2 of SOLAS 74/83, weekly drills are required only on passenger vessels. Because of an increased emphasis on abandon ship training outside of drills, the proposals in this notice would require drills on alternating weeks on vessels other than passenger vessels. Passenger vessels would continue to be required to conduct weekly drills. All vessels would be required to make sure that each crew member participates in at least one abandon ship drill per month. Present regulations contain no participation requirements. Under the proposed regulations, abandon ship training would be required at the same intervals as the drills. This training would make use of the training materials discussed in the preceding paragraph. These new training and drill requirements should typically result in either an abandon ship drill or a training session being held each week.

f. Present regulations require each lifeboat to be lowered to the water at least once every 3 months. The regulations proposed in this notice would require each boat not only to be lowered, but also to be launched and maneuvered in the water once every 3 months. This requirement comes from Regulation III/18.3.7 of SOLAS 74/83.

g. The proposed regulations would require at least one abandon ship drill every 3 months to be held at night, unless the master determines it is unsafe to do so.

h. Vessels equipped with davit-launched liferafts would be required to have special training in the use of these rafts at intervals of not more than 4 months. Whenever practicable, this would include inflation and lowering of a liferaft. One comment suggested that a liferaft that is ready to be sent for servicing be permitted to be inflated and used for training. We have no objection to using a liferaft that is ready for servicing for this training. If a liferaft is used for this training, it could be a special liferaft intended for training purposes only, or a liferaft that is about to be sent for servicing.

Operational Readiness and Maintenance

a. One way to keep the lifeboats in good operating condition and keep the crew familiar with their launching and operation is to use them when the vessel is in a harbor or at an anchorage. Regulations proposed in this notice would permit such use of the lifeboats provided there are sufficient survival craft on the vessel to accommodate those remaining on board. The proposed regulations are in § 35.90–20(c) for tank vessels, § 78.95–20(c) for passenger vessels, and § 97.90–20(c) for cargo and miscellaneous vessels. Under proposed § 167.35–90 for public nautical school vessels, and § 196.90–20 for oceanographic research vessels, operational readiness requirements are those required for either passenger vessels or cargo vessels, depending upon the lifesaving equipment installed. Operators should be aware that use of a lifeboat as a launch to carry passengers may require that the lifeboat also be certificated as a small passenger vessel under 46 CFR Subchapter T.

b. Regulations proposed in this notice would require falls on launching appliances to be turned end for end at intervals of not more than 30 months and replaced at least every five years. This proposal is intended to prevent the failure of falls due to corrosion and other deterioration. The proposed regulations are in § 35.90–40 for tank vessels, § 78.95–40 for passenger vessels, and § 97.90–40 for cargo and miscellaneous vessels. Under proposed § 167.35–90 for public nautical school vessels, and § 196.90–20 for oceanographic research vessels, maintenance requirements are those required for either passenger vessels or cargo vessels, depending upon the lifesaving equipment installed. Section 109.305 contains the corresponding proposal for MODUs. It contains an alternative for a fall which can not be turned end for end. Such a fall would have to be carefully inspected between 24 and 30 months after its installation. If the inspection shows that the fall is faultless, it may be continued in service

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up to 48 months after its installation, when it must be replaced. This provision is based on one in the draft revision of the IMO MODU Code. Comments are requested on whether or not a similar provision should be made for other vessels not subject to SOLAS 74/83.

One comment on the ANPRM opposed this requirement on the basis that it would not be necessary if proper maintenance and visual inspections are done on the falls. Another stated that there was no record of failures justifying the requirement, and that turning falls end-for-end could not be done because the fittings on opposite ends of the falls were different. Visual inspections are not fully satisfactory for wire rope falls, since only the exterior of the rope can be seen. There is a continuing history of wire rope failures averaging between 3 and 4 incidents a year on inspected U.S. vessels. Many of these failures have occurred with falls that are 4 to 5 years old. Turning the falls end-for-end every 2½ years causes the heavy wear areas to be distributed over different portions of the falls and should therefore safely extend their life to 5 years. Manufacturers can design fall attachments with identical fittings at each end to facilitate turning them end-for-end. Approved retrofits are also possible for existing designs. Other national shipping administrations have had similar experience with wire rope falls, which is what led to the adoption of this requirement as a part of SOLAS 74/83.

c. Present regulations require flares and smoke signals to be replaced three years after the date of manufacture. Emergency drinking water is to be replaced five years after its date of packing. Regulations like these are difficult to comply with since the person maintaining these items must either know the federal regulations, or else must refer to them. A simpler method is to require expiration dates to be marked on the equipment so that outdated equipment is evident. Expiration dates also allow for the use of items that the manufacturer can show are more durable than the three year or five year service life. Many approval regulations already require expiration dates. This notice contains a proposed revision to 46 CFR 160.040–6 that would add expiration dates to line throwing device expendables. Other proposed regulations concerning annual inspection and repair would make use of these expiration dates. The proposed regulations are in § 35.90–75 (c), (d), and (e) for tank vessels; § 78.95–75 (c), (d), and (e) for passenger vessels; § 97.90–75 (c), (d), and (e) for cargo and miscellaneous vessels; and § 109.315 (c), (d), and (e) for MODUs. Under proposed § 167.35–90 for public nautical school vessels, and § 196.90–20 for oceanographic research vessels, maintenance requirements are those required for either passenger vessels or cargo vessels, depending upon the lifesaving equipment installed.

Additional Requirements for Tank Vessels

Tank vessels would be required to meet the same lifesaving system requirements as cargo vessels, with certain additions.

a. Under proposed § 199.310(a), tank vessels certificated to carry cargos that emit toxic vapors or gases would be required to have gas protected lifeboats. These are totally enclosed lifeboats with a compressed air system that can supply the occupants and the lifeboat engine for 10 minutes, in order to provide time to escape from a toxic gas cloud.

b. Proposed § 199.310(b) would require tankers carrying flammable cargos to have fire protected lifeboats. These lifeboats have the same compressed air system as gas protected lifeboats, but also have a water spray system designed to prevent the lifeboat from being damaged in a fire in the water for a period of at least 8 minutes. Fire protected lifeboats on tank vessels are required under regulation 26.1.7 of SOLAS 74/83. They were also recommended by the National Transportation Safety Board as a result of its investigation of the collision between the SS EDGAR M. QUEENY and SS CORINTHOS. One comment opposed the requirement for fire protected lifeboats on Great Lakes tankers, noting that these vessels are equipped with foam fire extinguishing systems, and that there had been no tanker casualties on the Great Lakes where fire protected lifeboats would have prevented any injury. The fire protected lifeboat is designed to go through fire on the water once the vessel has been abandoned. In such cases, the foam fire fighting system would be of little use since it is designed to fight a fire on deck, not on the water, and there would be no one on board to operate the system after the vessel is abandoned. Great Lakes tank vessels would be susceptible to the same fire hazards as any other tank vessel involved in a collision or explosion. The need for fire protected lifeboats was demonstrated in the collision between the SS EDGAR M. QUEENY and SS CORINTHOS. The possible consequences of fire on the water were also demonstrated when eleven crewmembers of the SS ESSO BRUSSELS died when their lifeboat was engulfed in fire on the water. The fire resulted when the SS C.V. SEA WITCH collided with the SS ESSO BRUSSELS in New York harbor in 1973.

c. Proposed § 199.310(b) would prohibit lifeboats with aluminum hulls or canopies on tank vessels. Proposed § 199.320(c) would prohibit aluminum launching appliances. Aluminum has a low melting point compared to fiberglass and steel, which are the other materials used to construct lifeboats. The low melting point makes the aluminum lifeboat susceptible to destruction in even a short exposure to fire on the deck of a vessel. Aluminum lifeboats have been destroyed on deck before they could be used in tank vessel accidents. The Marine Board of Investigation on the collision between the SS KEYTRADER and SS BAUNE recommended that the use of aluminum lifeboats be discontinued on tankers. A test performed by the Coast Guard in 1979 confirmed the susceptibility of aluminum lifeboats to rapid destruction in a short-term fire. This test is covered in a report titled "Transitory Fire Resistance of Tanker Lifeboats." A copy of this report has been placed in the docket for this project, and a limited number of copies are available. (See **ADDRESSES** section for information on how to obtain a copy of this report.)

d. Survival craft would be required to be stowed in positions protected from fire and explosion under proposed § 199.310(d). This requirement is intended to keep the survival craft out of the "line of sight" of the area most likely to be involved in an explosion in order to shelter them from the shock wave generated by the explosion. Comments are specifically requested on the problems or advantages involved in this proposed requirement.

e. Certain tankers have damage stability characteristics that provide a final angle of heel greater than the 20° list for which survival craft launching appliances are generally intended. Since these tankers might not be abandoned until that final angle of heel is reached, proposed § 199.320(b) would require launching appliances on the low side of the vessel to be able to be launched at the final angle of heel.

Additional Requirements for Special Purpose Ships and Nautical School Ships

The IMO Code for Special Purpose Ships is intended for vessels that frequently carry persons in addition to the crew. Examples are oceanographic research vessels which carry a scientific team, and offshore supply vessels which may carry a variety of offshore workers.

These "special personnel" are neither crew members, nor passengers. The regulations proposed in this notice would classify oceanographic research vessels and offshore supply vessels as special purpose ships for the purpose of establishing requirements for lifesaving systems. The IMO Code for Special Purpose Ships has not been widely used in the United States. The code is intended for vessels of 500 tons gross tonnage and above. In the United States, 46 U.S.C. 2101(19) limits the term "offshore supply vessel" to vessels "of more than 15 gross tons but less than 500 gross tons", but for lifesaving purposes, the Code for Special Purpose Ships gives reasonable guidelines for vessels of this type.

As in the IMO Code for Special Purpose Ships, proposed § 199.405 would require these vessels to meet lifesaving system requirements for cargo vessels if they carry not more than 50 special personnel. If they carry more than 50 special personnel, they would be required to meet the lifesaving system requirements for passenger vessels. The proposed regulations would apply to all inspected oceanographic vessels including nonself-propelled vessels under 300 tons gross tonnage, presently exempted under 46 CFR 192.01–1(b) from all lifesaving equipment requirements except life preservers.

Under proposed § 199.505, public nautical school ships and civilian nautical school ships that meet the structural fire protection requirements for passenger vessel of the same size and service would be required to meet the lifesaving requirements for passenger vessels. Other nautical school ships would be required to meet the lifesaving requirements for cargo vessels.

Additional Requirements for Mobile Offshore Drilling Units

Mobile Offshore Drilling Units (MODUs) would be required to meet the same general lifesaving system requirements as any ocean service vessel, but a MODU may be one of several radically different types, most very different from conventional vessels. U.S. registered MODUs may operate in virtually any marine oil-producing area in the world. For these reasons, most MODUs need lifesaving systems that differ from either the cargo vessel or passenger vessel classifications that are used for other types of vessels. One comment on the ANPRM suggested that the regulations should be subdivided into separate requirements for the varying types of MODUs. As explained in the following paragraphs, the regulations proposed in this notice do recognize the essential differences between types of MODUs and provide for appropriate requirements for each. As stated in some of the preceding discussions, the proposals in this notice for MODUs are based in part on a draft revision to the IMO Code for the Construction and Operation of Mobile Offshore Drilling Units (MODU Code) now under consideration by the members of IMO. This draft appears in various annexes to IMO paper "DE 30/14", of June 16, 1987. The draft revisions were prepared with the active participation of the United States. Various oil companies and drilling contractors based in the United States also participated in the development of the draft code through U.S. delegation working group meetings, and also at IMO through various international observer organizations. The IMO paper may be requested from the IMO at the address provided in the **ADDRESSES** section at the beginning of this notice, or from the Coast Guard contact listed in the section titled **FOR FURTHER INFORMATION CONTACT**.

a. A drillship is the one classification of MODU that is similar to a conventional vessel in many respects. Proposed § 199.600(c) would require a drillship to meet the same lifesaving system requirements as an oil tanker.

b. Under proposed § 199.605(a)(1), aluminum lifeboats would not be permitted to be used on MODUs. Proposed § 199.650(f) would prohibit aluminum launching appliances. This issue is discussed under the section of this notice titled "Additional Requirements for Tank Vessels".

c. The present regulations require totally enclosed lifeboats for 100% of the persons on board. Survival craft for an additional 100% capacity are also required in case the lifeboats can not be used. These additional survival craft can be either lifeboats or davit-launched inflatable liferafts. These requirements are based on assumptions similar to those made for conventional cargo ships that have two sides and need 100% capacity available on both sides in case the survival craft on one side can not be used. As stated above, many MODUs are very different from conventional vessels. They may have three, four, or even five sides. Their decks are often far above the water, and the area under the deck is usually open. For these reasons, the requirements for MODU lifesaving systems need to be developed considering the special characteristics of these vessels. The requirements for the number and arrangement of lifeboats and liferafts on MODUs would be completely revised under proposed § 199.605(b). Totally enclosed fire-protected lifeboats would be required in at least two widely separated locations on different sides of the MODU. The arrangement of the lifeboats would have to provide sufficient capacity to accommodate the total number of persons on board if either all the lifeboats in any one location are lost; or all the lifeboats on any one side of the MODU are lost or rendered unusable. For many MODUs with davit-launched survival craft in two separate locations, this requirement would result in an arrangement similar to the present regulations. For larger units with three or more separate survival craft locations on different sides, it would result in a reduction of the total number of davit-launched survival craft as compared to present regulations.

d. The present regulations in 46 CFR 108.503(a) allow a MODU permitted to carry 30 persons or less to have only one lifeboat. One comment suggested that at least two lifeboats be required on all MODUs, and that existing MODUs be given 2 years to comply. The regulations proposed in this notice require at least two lifeboats on all new MODUs as suggested by the comment, but under proposed § 199.10(e), existing MODUs would be permitted to retain their present arrangement. No retrofit requirement has been proposed because most of these small units could not be retrofitted without extensive modification. New units of this size can be more economically designed to accommodate two lifeboats in separate locations, although § 199.605(c) would provide an alternative for certain (usually small) self-elevating units which could not comply with the proposed requirements.

e. Present regulations allow the use of either davit-launched inflatable liferafts or totally enclosed lifeboats for the second 100% survival craft capacity. Davit-launched liferafts were developed originally for conventional vessels where they could be launched down the straight side of the hull. The open structure of MODUs makes davit-launched liferafts especially susceptible to damage due to being driven into structural members by wind and waves while being lowered. We are not aware of any MODU casualty where abandonment by davit-launched liferaft has been attempted. Totally enclosed lifeboats would be required under the proposed regulations for the first 100% survival craft capacity as well as for the additional survival craft needed to meet the requirement discussed in preceding paragraph (c.). Davit-launched liferafts would no longer be permitted to meet

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the survival craft requirement on new MODUs, although under proposed § 199.15(b), they could be retained on MODUs already equipped with them. They could also be used on certain self-elevating units under § 199.605(c). In addition to the lifeboats, the regulations in proposed § 199.605(b) would require float-free liferafts with an aggregate capacity that will accommodate the total number of persons on board. These liferafts would be available for use in case the MODU is lost before the davit-launched survival craft are launched.

(1) Three comments on the ANPRM suggested that davit-launched liferafts were unsuitable for use on MODUs. One of the comments stated they were unnecessary because most newly constructed rigs were being built with 200% lifeboats. Another stated "the industry's general opinion is that davit-launched inflatable liferafts have proven to be expensive, ineffective and a maintenance nightmare, especially for units operating in remote locations. Such liferafts are a secondary, or backup, means of escape which has never gained the confidence of personnel serving on MODUs." The regulations proposed in this notice are consistent with these comments.

(2) One comment stated that the present davit-launched liferafts should be continued to be accepted in place of the float-free liferafts on existing MODUs. As explained in the preceding paragraph, the proposed regulations provide for continued acceptance of davit-launched liferafts on existing MODUs.

f. Proposed § 199.650(d) would require lifeboats on MODUs (other than drillships) to be arranged to clear each leg, column, footing, brace, mat, and each similar structure below the hull of a self-elevating unit and below the upper hull of a column stabilized unit, with the unit in an intact condition. A reduction in the total number of survival craft meeting this requirement would be allowed when the unit is in the transit mode and the number of personnel on board is reduced. The ANPRM discussed requiring survival craft to clear MODU structures by at least 5 m (16.5 ft.) when the survival craft is launched with the MODU on even keel. The ANPRM also discussed requiring survival craft to clear the same structures with the unit listed and trimmed at angles up to 20°. The purpose would have been to reduce the possibility that the survival craft would be damaged by collision with the lower structure of the MODU as they are launched.

(1) Two comments expressed concern about the 5 m clearance requirement proposed in the ANPRM. They pointed out the disadvantages of a long cantilevered structure that would be necessary to get the lifeboat 5 m away from the hull, including structural problems and the danger crew members would face on such a structure in bad weather. The regulation proposed in this notice does not specify any minimum clearance. It follows the proposed IMO MODU Code revision in requiring that all survival craft clear the structure of the MODU in the upright, intact condition. Under damaged conditions, an aggregate survival craft capacity to accommodate the total number of persons permitted on board would be required to be capable of being launched safely, and clear of any obstruction. This is a more performance-oriented requirement than the 5 m clearance requirement discussed in the ANPRM. Under the requirement proposed in this notice, MODUs should be able to provide for adequate launching, and avoid the necessity of the cantilevered structures discussed in the comments.

(2) One comment noted that a new system (designated the PROD system) is under development that would hold the lifeboat pointed away from the unit and would prevent it from contacting the structure. The comment suggested that the 5 m clearance requirement would not be needed if such a system were used. The PROD system, or similar systems would be acceptable under the rules proposed in this notice.

(3) One comment pointed out that some units are limited by design to angles of less than 20°, and that lifeboats would be underwater in some cases at 20°. The rules proposed in this notice require operation of launching appliances based on list and trim derived from the damage stability characteristic of the unit, rather than requirements based on list and trim of 20°.

(4) Another comment supported the present regulations in 46 CFR 108.506 (a) and (b), and stated there was nothing in the various reports on the OCEAN RANGER that constituted a basis for changing the present requirements. The regulations in § 108.506(a) on a surface type unit require launching at a list of 15° and a trim of 10°. Under the rules proposed in this notice, surface type units would have to meet the same lifesaving requirements as a tank vessel. Launching equipment built to meet SOLAS 74/83 will be designed to operate on these MODUs as well as on conventional SOLAS 74/83 vessels, and there should be no difficulty meeting the requirement. For other MODUs, § 108.506(b) requires the adverse list and trim to be determined by the characteristics of the unit. The comment stated that this requirement was appropriate and flexible. The rules proposed in this notice require operation of launching appliances based on list and trim derived from the damage stability characteristics of the unit. Contrary to the statement in the comment about there being no basis for changing the requirement, the abandonment of the OCEAN RANGER was evidently attempted with the unit listing well beyond the 12° list at which the lifeboats would clear the structure. Another casualty to the Norwegian semi-submersible ALEXANDER L. KIELLAND resulted in an attempt to abandon the unit in the lifeboats at a list of about 30°] We are not aware of any practical way to achieve clearance at angles beyond 20° for conventionally designed semi-submersibles, with the possible exception of free-fall lifeboats. Further comments are invited on this matter.

g. Proposed § 199.650(e) would require lifeboats with an aggregate capacity that will accommodate the total number of persons permitted on board to be capable of being launched safely, and clear of any obstruction in any damaged condition under 46 CFR 174, Subpart C. The ANPRM discussed consideration of a requirement for lifeboats to be launched into the water heading away from the unit. This would enable the boats to apply power immediately in the direction away from the unit. A boat launched broadside on the weather side of a MODU in distress would be driven farther into or under the unit during the time it takes to turn it away. This is a particular hazard on column stabilized MODUs that have large structures near water level. It would also be a hazard on self-elevating units where the lifeboats are installed adjacent to the legs, although the normal lifeboat installation on these units is between the legs. The proposed regulation would require that these potential problems be considered in the orientation of the lifeboats, but would not necessarily require them to be oriented in a direction headed away from the unit.

(1) One comment stated that orienting the lifeboats headed away from the unit could be a hazard on semi-submersible units where the lifeboats are mounted on the side of the unit. The comment pointed out that a semi-submersible is normally oriented with its bow toward prevailing wind and waves, so that a lifeboat launched on the side of the unit and headed away from it, would be broadside to the weather. The comment was not taken into account in preparing the proposed rule since the weather at the time of abandonment may not be coming from the direction of the prevailing wind and waves at the site. Furthermore, the lifeboats are required to be self-righting, so if they are launched broadside and capsize, they will automatically reright. We consider the hazard presented by collision with the structure of the MODU to be greater that the hazard presented by being launched broadside to the waves. Nevertheless, the regulation proposed in this notice would not specifically require the lifeboats to be oriented in a direction headed away from the unit.

(2) Two comments opposed a requirement for the lifeboats on self-elevating MODUs to be launched in a direction headed away from the unit. The comments noted that lifeboats on self-elevating MODUs are usually installed between the legs and are therefore not normally at hazard from a collision with them. We agree with the comments, and the proposed regulation would not require a lifeboat to be launched headed away from a self-elevating MODU.

Initial Inspections and Tests

The initial inspections and tests are those that are conducted whenever new lifesaving equipment is installed on board a vessel. A number of revisions and additions are proposed in this notice for these inspections and tests. These proposed tests and inspections appear in proposed § 31.01–5(c) for tank vessels, § 71.20–20(a)(1) for passenger vessels, and § 91.20–20(a)(1) for cargo vessels. One or more of those sections are cross-referenced in § 107.231(y) for MODUs, § 167.15–27(a) for public nautical school ships, and § 189.20–20(a)(1) for oceanographic research vessels. The requirements for public nautical school ships and for oceanographic research vessels depend upon whether cargo ship lifesaving equipment or passenger ship lifesaving equipment is installed.

a. Installation tests for launching appliances using falls and a winch have been revised to be consistent with SOLAS 74/83 and Part 2 of IMO Resolution A.521(13), "Recommendation on Testing of Lifesaving Appliances".

b. Tests for davit-launched liferaft launching equipment and rescue boat launching equipment are proposed in addition to tests for lifeboat launching equipment.

c. Installation tests have been added for free-fall lifeboats.

d. A two-hour operational test has been added for lifeboats and rescue boats. Although not in the present regulations, a similar test is often done to make sure that the boat is operating properly before it is installed on the vessel, and that the boat has not been damaged in transportation to the shipyard. This test should be conducted on all lifeboats and rescue boats as part of the installation test procedure.

e. A requirement for an abandon-ship simulation has been added to make sure the survival system is suitable for abandonment in 30 minutes for vessels required to meet passenger vessel standards, and 10 minutes for other vessels. This test demonstrates how well the lifesaving equipment works as a survival system on the vessel. This simulation would not be required if a previously tested sister vessel with the same lifesaving equipment had successfully completed the test.

f. Another system test would require a lifeboat and a rescue boat to be launched with the vessel proceeding at 5 knots. This test will also verify the manufacturer's instructions for launching the boat with the vessel underway. This test would probably be conducted during sea trials.

Inspections for Certification

The inspections for certification are conducted whenever the vessel renews its certificate of inspection. A number of revisions and additions are proposed in this notice for these inspections. These proposed revisions and additions appear in § 31.10–15(d) for tank vessels, § 71.25–15 for passenger vessels, § 91.25–15 for cargo vessels, and § 107.239 for MODUs. One or more of those sections are cross-referenced in § 167.15–28(b) for public nautical school ships, and § 189.25–15 for oceanographic research vessels. The requirements for public nautical school ships and for oceanographic research vessels depend upon whether cargo ship lifesaving equipment or passenger ship lifesaving equipment is installed. These tests are similar to some of the tests conducted under the initial inspection for certification, but they are intended to establish that the lifesaving equipment is still in good and serviceable condition. The primary revisions and additions to the inspections for certification are:

a. Load testing would be required for rescue boat and liferaft launching devices, in addition to the present requirement to test lifeboat launching equipment.

b. Testing of free-fall lifeboat launching equipment would be required.

c. Tests of the air supply and water spray systems would be required for totally enclosed lifeboats equipped with them.

d. Inspectors would not stamp lifejackets, immersion suits, and work vests with the present "INSPECTED AND PASSED" stamp unless the inspectors determined that it was necessary. Stamping might be necessary when a large number of devices must be inspected, or in other cases where confusion might arise over which devices have been inspected, and which have not.

e. An abandon-ship drill would be required to determine that the equipment is in working order, and that the crew has been appropriately trained in its use.

Miscellaneous Revisions

a. The existing regulations for tank vessels require ship's distress signals and line throwing appliance to be carried in a portable magazine chest in the vicinity of the bridge. Regulations for other vessels require a portable watertight container that can be carried on the bridge or inside the pilothouse. Proposed §§ 199.68(d) and 199.170(e) would allow the use of either method of stowage on all vessels.

b. The Lyle gun has been removed from the regulations as an acceptable line throwing apparatus. There are few, if any, Lyle guns still in service.

c. Proposed § 199.70(a)(2) would revise the requirement for the lines secured to ring lifebuoys in order to be consistent with SOLAS 74/83. The existing requirements are for a line 15 fathoms (90 ft.) long. The line must be buoyant on vessels on an international voyage. The proposed regulation requires all lines to be buoyant, and to be at least as long as twice the height where the buoy is stowed above the waterline, or 30 m (100 ft.), whichever is the greater. Additional requirements for the diameter, strength, and ultraviolet resistance are also proposed.

d. Proposed § 199.72(a) would require lifejackets on vessels in international voyage, short international voyage, or coastwise services, to meet Regulations III/30.2 and III/32.1 of SOLAS 74/83. Vessels in other services could continue to use lifejackets of the type currently approved by the Commandant as "life preservers". The "SOLAS" lifejackets must float wearers slightly higher in the water, therefore they have more buoyancy than "life preservers". The SOLAS lifejackets are also more bulky and slightly more expensive than life preservers. The current life preserver is considered suitable for continued use in Great Lakes; lakes, bays and sounds; and river services.

e. Present regulations for passenger vessels require "an approved life preserver for each person carried and in addition, * * * a number of life preservers suitable for children equal to

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at least 10 percent of the persons carried" (46 CFR 75.40–10(a)). The Coast Guard interprets this regulation as requiring a child-size life preserver for each child carried, even if more than 10% of the persons on board are children. Other vessels are required to carry a "suitable number of children's life preservers", "when children are carried" (46 CFR 94.40–10(c)). Proposed § 199.72(a)(1)(i) would require all vessels carrying passengers to carry a number of child-size lifejackets equal to at least 10% of the number of passengers permitted on board, or such greater number as necessary to provide a lifejacket for each person smaller than the lower size limit of the adult lifejackets. This proposed regulation would state the requirement for child-size life preservers more clearly than in the present regulations for passenger vessels. This proposed requirement is the same as Regulation III/7.2.1.1 of SOLAS 74/83 and means that any vessel permitted to carry passengers would have to carry child-size lifejackets. Proposed § 199.72(b)(2) would permit vessels not under SOLAS 74/83 to omit the child-size lifejackets if children are never among the passengers carried. This regulation means that child-size lifejackets well in excess of 10% of the total number of passengers permitted on board, may be required for a vessel that carries a large number of children on infrequent occasions, or for a vessel that carries large numbers of passengers over short distances and does not normally control the number of children carried.

(1) One comment called the requirement for children's lifejackets reasonable. Another stated total opposition noting that a child can use an adult lifejacket. The comment also pointed out that in his particular operation, stowage space was minimal, a lifejacket has never been needed, all operations are close to the river bank, and the water is not deep enough to submerge the vessel. A third comment also cited a lack of stowage space as a problem. These last two comments regard the proposed regulation for children's lifejackets as a change from the present requirements. The proposed regulation is only a clarification of present requirements for passenger vessels. The only vessels that will have a revision in their requirements are cargo vessels that also carry passengers. Most of these vessels will have to have a minimum number of child-size lifejackets equal to 10% of the passengers permitted to be carried. We understand the problems of passenger vessel operators, but can not agree that adult lifejackets can necessarily be used for any and all children. If the lifejacket is too big for a child, it may come off easily, or its buoyancy may be too low on the child's body causing the child to float with the head under water. The Coast Guard has worked on the problem by testing some adult lifejackets on children. Some were found to be satisfactory for children over 75 lb. Recognizing that future "adult universal" size lifejackets may be approved for persons smaller than 90 lb., the regulations proposed in this notice refer to the lower size limit of the lifejacket.

(2) Comments on the issue of lifejackets for children are invited. Comments suggesting alternative approaches should consider the need to provide appropriate flotation devices for all children carried, as well as the problems that are experienced by operators in complying with the requirement.

f. Proposed § 199.75 would require each lifejacket and immersion suit carried on a vessel engaged in ocean, short international voyage, coastwise, or Great Lakes service, to have a lifejacket light, similar to existing regulations. Vessels in ocean service would be required to have lights meeting Regulation III/32.3 of SOLAS 74/83. Other vessels would be required to have lifejacket lights meeting the present 46 CFR 161.012. The "SOLAS" light would have to meet a brightness requirement after 8 hours of operation. The lights now approved under 46 CFR 161.012 have an initial brightness similar to the SOLAS light, but they are not required to be as bright at the end of 8 hours of operation. A battery-powered SOLAS light will therefore be slightly larger and more expensive than a comparable 46 CFR 161.012 light. Normally, the Coast Guard would propose to revise the existing specification regulation to bring all lights up to the SOLAS 74/83 standard, but in this case, the lights approved under 46 CFR 161.012 include a "chemiluminescent" light that can not practically be modified to meet the SOLAS 74/83 requirements. This light does not meet the SOLAS 74/83 brightness requirement after 8 hours. When it is cold, the chemical reaction is slowed so that the light is dimmer, but lasts much longer. This light has proven to be popular with vessel operators, and it is apparently more inherently reliable than other approved lights which are all battery powered. Therefore, lights approved under 46 CFR 161.012 are proposed to be acceptable for domestic services, in the belief that the higher reliability available with these devices is a worthwhile tradeoff for their slightly lower operational effectiveness.

g. Proposed § 199.80 contains more detail on the contents of the station bill than present regulations. This was done to meet the requirements of Regulation III/8 of SOLAS 74/83, and also to cover additional necessary items. The Coast Guard used to provide the form CG–848 series to vessel operators as station bills, but these forms have been discontinued. The proposed section therefore contains more descriptive information on the content of the station bill. Proposed § 199.80 would also apply to all cargo vessels and tank vessels over 500 tons gross tonnage, so for the first time, a station bill would be required on large barges covered by these rules. Currently, the Coast Guard is involved in developing an ASTM consensus standard under committee F 25.07, General Support Requirements, for locating and preparing station bills. Its text corresponds to the proposed requirement. Should this standard be adopted by ASTM prior to publication of the final rule, the ASTM standard could be incorporated by reference, in place of the text in proposed § 199.80.

h. Proposed § 199.90 contains requirements for posted operating instructions for survival craft and their launching controls, as required under Regulation III/9 of SOLAS 74/83. Currently, the Coast Guard is involved in developing an ASTM consensus standard under committee F 25.07, General Support Requirements, for location and instruction symbols for evacuation and lifesaving equipment. Its text corresponds to the proposed requirement. Should this standard be adopted by ASTM prior to publication of the final rule, the ASTM standard could be incorporated by reference, in place of the reference to IMO Resolution A.603(15).

i. Present regulations require winches for gravity davits to have a fleet angle not exceeding 8°, and no more than a single wrap of wire rope on the drum. Other types of davits may have more than one layer of wrap. The purpose of the single wrap on gravity davit winch drums is to prevent the wire from winding unevenly onto the drum when the survival craft is recovered. Uneven winding could cause separate falls to wind onto the drum at different speeds, or cause fouling of the wire on the drum. The requirements for gravity davit winches in proposed § 199.153(f) and (g) would be less restrictive. Two layers of wire rope would be permitted on the drum, provided the fleet angle does not exceed 4°. A fleet angle of 4° or less should not result in uneven winding, therefore, a second layer of wire can be permitted. This should provide manufacturers with more design flexibility.

j. Proposed §§ 199.211 and 199.271 would slightly revise the requirements for the numbers of ring life buoys required to be carried. Most of the changes result from changing break points based on vessel length in feet to points based on length in meters. The changes would make the requirements for vessels in ocean and short international voyage service consistent with Regulations III/21 and III/27 of SOLAS 74/83. Proposed requirements for other vessels are similar to existing regulations. The following tables show only the changes that would occur as a result of the rules proposed in this notice. Vessels in size ranges not shown on the tables would not be affected.

PASSENGER VESSELS, OCEAN AND SHORT INTERNATIONAL VOYAGE

Length of vessel in feet	No. of ring life buoys (proposed in this NPRM)	No. of ring life buoys (existing regulations)
196 ft.–300 ft.	12	8
393 ft.–400 ft.	18	12
590 ft.–600 ft.	24	18
787 ft.–800 ft.	30	24

CARGO AND TANK VESSELS, OCEAN VOYAGE

Length of vessel in feet	No. of ring life buoys (proposed in this NPRM)	No. of ring life buoys (existing regulations)
98 ft.–100 ft.	4	3
100 ft.–196 ft.	4	6
200 ft.–300 ft.	6	8
300 ft.–328 ft.	6	12
400 ft.–492 ft.	12	18
600 ft.–656 ft.	18	24
800 ft.–820 ft.	24	30

PASSENGER VESSELS OTHER THAN OCEAN AND SHORT INTERNATIONAL VOYAGE

Length of vessel in feet	No. of ring life buoys (proposed in this NPRM)	No. of ring life buoys (existing regulations)
Under 98 ft.	3	2
98 ft.–100 ft.	4	2
196 ft.–200 ft.	6	4
297 ft.–300 ft.	12	8
590 ft.–600 ft.	24	18
787 ft.–800 ft.	30	24

CARGO AND TANK VESSELS OTHER THAN OCEAN VOYAGE

Length of vessel in feet	No. of ring life buoys (proposed in this NPRM)	No. of ring life buoys (existing regulations)
98 ft.–100 ft.	3	2
196 ft.–200 ft.	6	4
300 ft.–328 ft.	6	12
400 ft.–492 ft.	12	18
600 ft.–656 ft.	18	24
800 ft.–820 ft.	24	30

k. Emergency signals are listed in proposed § 35.10–5 for tank vessels, § 78.13–1 for passenger vessels, § 97.13–1 for cargo and miscellaneous vessels, and § 109.503 for MODUs. Under proposed § 167.35–5 for public nautical school vessels, and § 196.13–1 for oceanographic research vessels, emergency signal requirements are those required for either passenger vessels or cargo vessels, depending upon the lifesaving equipment installed. The requirements specify what each signal must be, except for a man-overboard signal and an abandon-ship signal which must be established for each vessel and listed on the station bill. This notice does not attempt to resolve the differences that exist for emergency signals on different types of vessels. For instance, on MODUs, the signal to man the abandon unit stations is a continuous sounding of the general alarm and the whistle. On other vessels, the continuous signal is for fire and emergency stations. On MODUs, the signal for emergency stations is a rapid succession of short soundings, while a rapid sucession of short soundings followed by a long sounding is the signal for boat stations on other vessels. Comments are specifically requested as to the need for establishing uniform signals for these commands, and what those signals should be. Comments should address whether or not a separate abandon-ship signal is required in addition to the signals to go to boat stations (six short blasts, one long), and to lower boats or rafts (one short). We are aware of at least two different signals in common use for man overboard (five short blasts, and also four sequences of three long blasts each).

l. Proposed requirements for manning and supervision of lifeboats and liferafts are in § 35.11–5 for tank vessels, § 78.14–5 for passenger vessels, § 97.14–5 for cargo and miscellaneous vessels, and § 109.323 for MODUs. Under proposed § 167.35–10 for public nautical school vessels, and § 196.14–1 for oceanographic research vessels, manning and supervision requirements are those required for either passenger vessels or cargo vessels, depending upon the lifesaving equipment installed. The number of certificated lifeboatmen (including deck officers and able seamen) required for a lifeboat in the present regulations is based on the size of the lifeboat. Only one is required in a liferaft. The proposed regulations would require a minimum of one certificated person for each survival craft, and a sufficient number of trained and certificated persons for the various tasks involved in abandoning the vessel. A second certificated person would be required for each lifeboat on vessels in ocean service, and for each lifeboat permitted to carry more than 40 persons on all vessels except those in river service. Each vessel that carries passengers and is not in river service would have to have at least one certificated person for every 20 passengers assigned to each lifeboat. On certain passenger vessels, persons "practiced in the handling and operation of liferafts" could be permitted to be placed in charge of liferafts instead of certificated persons. This is based on a similar provision in Regulation III/10.4 of SOLAS 74/83.

m. Under existing regulations, a lifeboat must be marked and equipped for the number of persons for which it is approved. Often lifeboats are larger than necessary to accommodate the number of persons assigned to them on the vessel. If the vessel owner wants to equip the lifeboat for a smaller number of persons, the lifeboat must be recertified for the smaller number, and a new recertification plate attached to the boat. The marking requirements for lifeboats proposed in this notice would simplify the procedure. The number of persons capacity painted on the lifeboat would determine the number of persons the boat must be equipped for. This number would have to be equal to or less than the number the boat was originally approved for. The proposed regulations are in § 35.40–40(b)(2) for tank vessels, § 78.47–60(b)(2) for passenger vessels, § 97.37–37(b)(2) for cargo and miscellaneous vessels, § 108.645(b)(2) for MODUs, and § 196.37–37(b)(2) for oceanographic research vessels. Under proposed § 167.55–5(j), public nautical school vessels would have to meet the marking requirements in the passenger vessel regulations.

Additional Requirements for Existing Vessels

The inspection and operational requirements proposed in this notice

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generally apply to all vessels, but most major equipment requirements would apply immediately only to vessels constructed on or after July 1, 1986. The major equipment exemption for existing vessels (those built before July 1, 1986) is in proposed § 199.10(e). Proposed § 199.15(a) establishes the basic requirements for an existing vessel as those requirements in effect for the vessel on June 30, 1986. Section 199.15 also contains the proposed requirements to "phase-in" certain equipment requirements on existing vessels. These are:

a. When any lifesaving equipment is replaced on a vessel or added to it, the equipment would generally be required to meet the new requirements (§ 199.15(b)). An exception to this requirement would be allowed for a survival craft replaced without replacing its davit and winch, or vice versa.

b. On or before July 1, 1991, each vessel in ocean, short international voyage, or coastwise service, would be required to have survival craft portable two-way radiotelephone equipment (§ 199.15(c)).

(1) Under Regulation III/1.6 of SOLAS 74/83, vessels with SOLAS Safety Certificates would have to have this equipment not later than July 1, 1991.

(2) The requirement would also apply to existing vessels in coastwise service, even though SOLAS 74/83 does not apply to these vessels.

c. On or before July 1, 1991, each passenger vessel in ocean, short international voyage, coastwise, and Great Lakes service, would be required to have at least three immersion suits for the crew of each lifeboat. A thermal protective aid would be required for each other person on board. An exemption from the requirement would be allowed for vessels operating only on routes between 32° N and 32° S latitude (§ 199.15(d)).

(1) This requirement would also apply to other vessels that would be required to meet the passenger vessel lifesaving equipment requirements, including nautical school ships, oceanographic research vessels carrying more than 50 scientific personnel, and offshore supply vessels carrying more than 50 offshore workers.

(2) Under Regulation III/1.6 of SOLAS 74/83, vessels with SOLAS Safety Certificates would have to have this equipment not later than July 1, 1991.

(3) The requirement would also apply to existing vessels in coastwise and Great Lakes service, even though SOLAS 74/83 does not apply to these vessels.

(4) The proposed requirement is based on Regulation III/21.4 of SOLAS 74/83, which includes an exemption from the immersion suit requirement for vessels with totally or partially enclosed lifeboats in paragraph 4.2.1. The proposed regulations in this notice do not include such an exemption because it is not permitted by statute (46 U.S.C. 3102(a)).

d. On or before July 1, 1991, each cargo vessel and tank vessel in ocean or coastwise service would be required to have liferafts for 100% of the persons on board the vessel in addition to the lifeboats, rather than the present 50% (§ 199.15(e)).

(1) This requirement would also apply to other vessels that would be required to meet the cargo vessel lifesaving equipment requirements and that do not substitute liferafts for lifeboats. This category could include oceanographic research vessels carrying not more than 50 scientific personnel, and offshore supply vessels carrying not more than 50 offshore workers.

(2) Under Regulation III/1.6 of SOLAS 74/83, vessels with SOLAS Safety Certificates would have to have these extra liferafts not later than July 1, 1991.

(3) The requirement would also apply to existing vessels in coastwise service, even though SOLAS 74/83 does not apply to these vessels.

e. On or before July 1, 1991, each vessel would have to have openings in rails or bulwarks for launching liferafts or inflatable buoyant apparatus (§ 199.15(f)).

f. On or before July 1, 1991, each set of lifeboat davits on a cargo vessel or tank vessel in ocean, coastwise, or Great Lakes service, would be required to be gravity type davits (§ 199.15(g)).

(1) This requirement would also apply to other vessels that would be required to meet the cargo vessel lifesaving equipment requirements and that do not substitute liferafts for lifeboats. This category could include oceanographic research vessels carrying not more than 50 scientific personnel, and offshore supply vessels carrying not more than 50 offshore workers.

(2) This proposed requirement arises from the Coast Guard investigation of the capsizing and sinking of the SS MARINE ELECTRIC in February, 1983. The Marine Board of Investigation found launching a lifeboat under the adverse conditions the MARINE ELECTRIC encountered to be much more difficult to perform with quadrantal davits than with gravity davits. The board recommended "that all vessels currently fitted with quadrantal davits be required to install gravity davits for the launching of their lifeboats." The Commandant of the Coast Guard stated in concurring with this recommendation, "The Coast Guard will propose that inspected cargo and tank vessels in ocean and coastwise service, equipped with mechanical davits of any type, be fitted with enclosed lifeboats and launching systems that meet SOLAS 74/83 no later than July 1, 1991." (See the discussion that follows in section (g) on retrofit proposals for enclosed lifeboats.)

(3) The proposed retrofit requirement for gravity davits does not apply to vessels limited to river, or lakes, bays, and sounds service, where the severe conditions encountered by the MARINE ELECTRIC are not likely to be found. It does, however, extend to vessels in Great Lakes service since very severe sea conditions can prevail in those waters. Four casualties on the Great Lakes in the past 30 years illustrate the need for replacement of mechanical davits. In the case of the SS CARL D. BRADLEY which sank on Lake Michigan in 1958, the lifeboat was in the process of being launched when the vessel sank. The SS *Cedarville* sank in the straits of Mackinac in 1965 after a collision. Both lifeboats were in the process of being lowered when the vessel capsized and sank. There were no survivors from the stern section of the SS DANIEL J. MORRELL which broke up and sank in Lake Huron in 1966, so it is not known if the process of launching either of the lifeboats had begun. There were approximately eight minutes available to abandon ship which would have been enough time to launch a totally enclosed lifeboat with a modern gravity davit. The crew of the SS EDMUND FITZGERALD may not have had time to even attempt to launch the lifeboats when the vessel sank in Lake Superior in 1975, but testimony taken by the Coast Guard Marine Board of Investigation indicated that former crewmembers doubted that the lifeboats could have been launched in severe weather.

(4) Although the evidence from the MARINE ELECTRIC casualty is the primary justification for the gravity davit retrofit requirement, the casualty record indicates that there have been problems with launching of lifeboats from mechanical davits in other casualties. In addition to those discussed in the preceding paragraph, these other casualties include the SS BUNKER HILL which exploded on March 6, 1964, and the M/V CHESTER A. POLING which sank on January 10, 1977.

(5) The proposed gravity davit retrofit requirement is consistent with a recommendation made by the National Transportation Safety Board (NTSB) in its report on the collision of the U.S.

Coast Guard Cutter BLACKTHORN, and the tankship CAPRICORN on January 28, 1980. NTSB was concerned not with the capability to abandon ship, but with the difficulty the CAPRICORN had in launching one of its lifeboats to assist the crew of the sunken BLACKTHORN. In recommending that U.S. merchant vessels over 1,600 gross tons be equipped with gravity davits, NTSB stated that the accident illustrated "the delays in launching lifeboats using sheath-screw type davits." The report goes on to say, "the Safety Board does not believe that outdated lifesaving equipment should be permitted to remain in service indefinitely. The Coast Guard should establish a service life after which all lifesaving equipment on U.S. merchant vessels should be upgraded to meet current vessel standards." This is, in effect, what this proposed retrofit requirement and the enclosed lifeboat retrofit requirement, covered in the discussion that follows in section (g) would do.

(6) Two identical comments suggested that the Coast Guard go slow on retrofit requirements since new equipment will not result in fail-safe systems. Another comment stated that the retrofit requirements would be too costly for existing vessels. The retrofit requirements proposed in this notice take the concerns expressed in these comments into account. We are not proposing that all launching systems be replaced with the higher-performing systems in SOLAS 74/83. This proposal would result in the replacement of only the most antiquated launching systems that do not have gravity davits. The requirement to retrofit totally enclosed lifeboats, discussed in following section (g.), would extend over many years. This would allow the boats to be replaced whenever existing boats are no longer serviceable, or in need of extensive repairs.

g. On or before July 1, 2001, each lifeboat on a cargo vessel or tank vessel in ocean, coastwise, or Great Lakes service, would be required to be a totally enclosed lifeboat (§ 199.15(h)).

(1) This requirement would also apply to other vessels that would be required to meet the cargo vessel lifesaving equipment requirements and that do not substitute liferafts for lifeboats. This category could include oceanographic research vessels carrying not more than 50 scientific personnel, and offshore supply vessels carrying not more than 50 offshore workers.

(2) This proposed requirement also arises from the Coast Guard investigation of the capsizing and sinking of the SS MARINE ELECTRIC in February, 1983. In considering the difficulties involved in launching the lifeboat, the Commandant of the Coast Guard stated, "the Coast Guard will propose that all existing inspected cargo and tank vessels in ocean and coastwise voyages, presently equipped with open lifeboats and gravity davits, be fitted with enclosed lifeboats and launching systems that meet SOLAS 74/83 no later than July 1, 2001."

(3) In combination with the proposed requirement for launching appliances discussed in preceding section (f.), this proposed requirement would make sure that antiquated lifesaving equipment is not perpetuated on vessels that will continue in service well into the 21st century. It is also consistent with the NTSB recommendation discussed in paragraph (e.)(5) to establish a service life after which all lifesaving equipment on U.S. merchant vessels should be upgraded to meet current vessel standards. On the other hand, the period provided for compliance will permit vessel operators to complete the retrofit at a time that is most economical to do so. Many existing vessels will undergo an extensive overhaul, repair, or refitting in a shipyard within this time period, which would be a good time to complete this work. Others will have to replace lifeboats due to damage, loss at sea, or deterioration. For those vessels, the cost of the proposed requirement would be limited to the difference in cost between an open lifeboat and an enclosed lifeboat. Other vessels will undoubtedly wait until the deadline to complete the retrofit.

(4) The ten-year difference between the proposed 1991 deadline to meet the gravity davit requirement, and the 2001 deadline to meet the totally enclosed lifeboat requirement will allow owners of vessels with a limited remaining service life in 1991 to rectify the launching problems on a vessel with mechanical davits, without going to the expense of replacing the lifeboat. Other vessels affected by the proposed gravity davit requirement, that have a service life projected beyond 2001, will probably fit the totally enclosed lifeboat at the same time as the new davit, as anticipated in the Commandant's response to the MARINE ELECTRIC casualty quoted in paragraph (e.)(2).

(5) One comment suggested that Great Lakes vessels be exempted from a lifeboat retrofit requirement. The proposed retrofit requirement for totally enclosed lifeboats extends to vessels in Great Lakes service since very severe sea conditions and cold water temperature can prevail in those waters. The retrofit requirement is consistent with the recommendations of the Coast Guard Marine Board of Investigation on the sinking of the SS EDMUND FITZGERALD in Lake Superior on November 10, 1975. The board recommended that measures be implemented to improve the entire abandon ship system.

h. The use of aluminum for the hull or canopy would be prohibited for new lifeboats on an oil tanker, chemical tanker or gas carrier (§ 199.15(i)). This is to prevent the boat from being destroyed quickly in a casualty that results in high temperatures for a short period of time in the vicinity of the boat.

i. On or before April 1, 1991, life floats and liferafts which are not davit-launched would not be permitted to be counted toward the requirement for davit-launched liferafts on mobile offshore drilling units, with the exception of submersible MODUs. Each mobile offshore drilling unit would be required either to have lifeboats and liferafts that meet proposed § 199.605(b), or have the combination of totally enclosed fire-protected lifeboats and davit-launched liferafts that meets the present regulations in 46 CFR 108.503 and 108.505 (§ 199.15(j)). Open lifeboats installed on board units prior to January 3, 1979 could be used in place of the davit-launched liferafts.

(1) At the time the Coast Guard first published the regulations for mobile offshore drilling units, it also published Navigation and Vessel Inspection Circular (NVIC) 4–78 covering inspection and certification of units built prior to the effective date of the regulations. NVIC 4–78 allowed existing lifesaving equipment such as open lifeboats, "throwover" liferafts, and life floats, to be used to meet half of the requirement for survival craft to accommodate 200% of the persons on board the unit. Whenever this existing equipment needed extensive repairs, it had to be replaced with either totally enclosed lifeboats or davit-launched liferafts. The proposed regulations would end the acceptance of throwover liferafts and life floats for this purpose. Open lifeboats could continue to be used as long as they are in good working order and do not require extensive repairs.

(2) The April 1, 1991 deadline date was selected after an extended dialog with the International Association of Drilling Contractors on the interpretation of NVIC 4–78. The "existing" throwover liferafts and life floats installed on a unit over 10 years ago should be nearing the end of their useful lives, and this proposed rule would establish a firm deadline for their replacement. In a February 5, 1988 letter to the International Association of

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Drilling Contractors, the Coast Guard agreed to consider extension of the deadline for the few units for which this would create a severe hardship. Owners requesting such an extension must address all pertinent safety issues and must provide technical justification for the extension for each MODU. In any case, extensions beyond March 31, 1993 would not be considered.

j. On or before July 1, 1991, each passenger ferry and each other passenger vessel not on ocean, short international voyage, or coastwise service would be required to have sufficient lifeboats, liferafts, and inflatable buoyant apparatus to accommodate everyone on board (§ 199.15(k)). During those periods of the year when the water temperature exceeds 15 °C (59 °F), the number of survival craft on board could be reduced or the number of passengers increased to the point where the vessel has survival craft for 10% of the persons on board.

(1) Most vessels could meet this proposed regulation by carrying inflatable buoyant apparatus. This would provide out-of-the-water support for survivors in the case of a casualty.

(2) The vessels affected by this proposed requirement operate in waters relatively close to shore and now carry only life preservers as survival equipment. One or two small boats are also carried, but these are intended primarily to rescue persons that fall overboard. They can only accommodate a few persons. An accident in cold water that requires those on board to abandon ship would probably result in a number of fatalities due to the cold water alone, if there was no way for survivors to stay out of the water.

k. On or before July 1, 1991, each lifeboat on a vessel would be required to be propelled either by motor or by hand-propelling gear if the lifeboat has a capacity of at least 60 persons, but less than 100 persons. A lifeboat with a capacity of 100 persons or more would be required to be motor propelled (§ 199.15(1)).

Note: Hand-propelled lifeboats are sometimes confused with oar-propelled lifeboats. Oar-propelled lifeboats are maneuvered with oars or sails. Hand-propelled lifeboats are powered by a series of manually-operated levers that drive a propeller through a system of mechanical links and gears.

(1) All new Coast Guard approved lifeboats built since 1965 have been required to meet these requirements, except for hand-propelled lifeboats over 100 persons intended as replacements for previously approved hand-propelled lifeboats. Since 1953, all new lifeboats of at least 60 persons capacity have been required to be either hand-propelled or motor propelled. This proposed regulation would therefore require the upgrading only of larger oar-propelled lifeboats that are 38 years old in 1991, and hand-propelled lifeboats over 100 persons capacity that are, for the most part, 25 years old or older on July 1, 1991.

(2) For lifeboats that are still in serviceable condition, lifeboat manufacturers can provide Coast Guard approved engine or hand-propelling gear retrofits. Complete replacement of a lifeboat in good condition would not be necessary to meet this proposed requirement.

l. SOLAS 74/83 regulations III/1.4.4 and 1.4.5 permit lifesaving equipment installed on existing vessels before July 1, 1991 to not comply fully with the requirements of Chapter III. The regulations proposed in this notice have a similar provision in § 199.15(m).

m. Retroreflective material would be required to be added to lifeboats, rescue boats, and ring life buoys that are not already provided with it by July 1, 1991. Lifejackets and exposure suits are already required to be fitted with retroreflective material. These requirements are in proposed § 35.40–40(e) and § 35.40–50(f) for tank vessels, § 78.47–60(e) and § 78.47–65(f) for passenger vessels, § 97.37–37(e) and § 97.37–43(f) for cargo vessels, § 108.645(e) and § 108.649(f) for MODUs, and § 196.37–37(e) and § 196.37–43(f) for oceanographic research vessels. Marking under the passenger vessel regulations would be required under proposed § 167.55–5 (j) and (n) for public nautical school vessels. All of these proposed regulations reference a draft IMO recommendation on the placement of retroreflective material. The draft is expected to be formally adopted as an IMO resolution in November 1989. Three comments on the ANPRM supported the proposed requirement for retroreflective material.

Regulatory Evaluation

These proposed regulations are considered to be non-major under Executive Order 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A draft regulatory evaluation has been prepared and placed in the docket. It may be inspected or copied at the Office of the Marine Safety Council (see section titled "**ADDRESSES**").

The draft evaluation estimates a total one-time cost by July 1, 1991 of $22.5 M (million) to comply with the retrofit requirements in the proposed rules. About $10 M of the one-time cost, or about 44%, would be required to retrofit gravity davits and winches on certain cargo and tank vessels which are now equipped with mechanical davits. Just under $5 M or about 22% of the one-time cost, arises from the proposal to require passenger vessels operating in cold waters in domestic services to have survival craft for all persons on board the vessel. This proposal arises in part from Congressional direction in the 1984 Coast Guard Authorization Act which directs the Secretary to proceed vigorously with efforts to improve lifesaving equipment on passenger ferries. Most of the remainder of the costs arise directly from SOLAS 74/83 requirements, such as about $2 M for cargo and tank vessels to double their float-free liferaft capacity to 100% of the persons on board. Two of the largest cost items arise from the new Global Maritime Distress and Safety System (GMDSS), which is expected to be adopted soon as the third set of amendments to SOLAS 1974. Satellite EPIRBs would cost just under $2.5 M. Survival craft radar transponders (SARTs) or their equivalent, would cost about $1.2 M.

The approximate 1991 retrofit cost for a typical passenger vessel in cold water, domestic services is estimated to be approximately $50,000, arising primarily from the requirement to fit survival craft for all persons on board. For the purposes of this estimate, the survival craft selected are assumed to be inflatable buoyant apparatus. An oceangoing passenger vessel would be required to spend an estimated $47,000, primarily for immersion suits and thermal protective aids. An oceangoing cargo or tank vessel would be required to carry additional liferafts, accounting for most of the $9,000 in costs estimated for these vessels. A little over $10 M would be required to retrofit gravity davits and winches on certain cargo and tank vessels which are now equipped with mechanical davits. The average cost for each of the approximately 130 vessels affected is estimated to be $80,000.

Under the proposed rules, cargo and tank vessels still in service on July 1, 2001 and equipped with open lifeboats, would be required to retrofit totally enclosed lifeboats. This would result in an additional one-time cost of $51 M for the estimated 261 vessels that would be affected. The average cost (1988 dollars) for each vessel in ocean or coastwise service affected would be $220,000, and for each vessel in Great Lakes service would be $110,000. This cost may be significantly overstated since an unknown number of the affected vessels will undoubtedly have to replace or extensively repair their existing open lifeboats sometime before the year 2001. If these lifeboats are replaced at that time with totally enclosed lifeboats, the actual cost of the retrofit requirement would be the difference between the cost of the new lifeboats with installation, and the cost to repair or replace the existing lifeboat.

A recurring annual cost of $7.4 M will result from more extensive on-board training requirements, the additional equipment required on newly constructed vessels, as well as the added maintenance costs for the new equipment. The annual added training and maintenance costs would range from approximately $3,500 for a typical large oceangoing vessel to $757 for an offshore supply vessel operating in the Gulf of Mexico. The approximate added construction cost for typical vessels of selected types are as follows:

MODU (semisubmersible)	$306,925
MODU (jackup)	$226,925
Passenger vessel (ferries, other non-ocean, cold water areas)	$52,540
Passenger vessel (oceangoing)	$81,745
Cargo vessel (ocean, coastwise)	$28,145
Tank vessel (ocean, coastwise)	$50,045
Cargo vessel (Great Lakes)	$14,245
Offshore supply vessel (Gulf of Mexico)	$1,390

Total estimates for the project are $73.8 M total one-time costs spread over the 15 years from 1986 to 2001 (average annual cost $4.9 M), and $7.4 M in recurring annual costs. The year 1986 is considered the base year since SOLAS 74/83 came into force then. U.S. vessels on international voyages had to start complying at that time, even though these implementing regulations were not in place.

The draft evaluation uses a discounting method to determine future costs and benefits. On the basis of this analysis, the evaluation estimates that the regulations would cost approximately $915,666 per life saved. Depending upon the type of vessel, this may vary from as little as $0.4 M per life saved, to as much as $2.8 M per life saved. However, as explained in the regulatory evaluation, the costs and benefits are very difficult to identify accurately, so there is a significant margin for error in these numbers. The minimum accepted value of a human life is $1 M and values considerably above this amount have frequently been used. Therefore, it appears that the rule may be cost effective depending upon the changes made in the final rule, refinements to the draft evaluation, and the assumed value of a human life. It should be noted that the draft evaluation makes no attempt to quantify intangible benefits, such as the elimination of some of the present repetitive, overlapping and sometimes contradictory regulations, and the publication of fewer pages in the Code of Federal Regulations and **Federal Register** in the future.

Comments are invited on the draft evaluation. In particular, comments are invited on the assumptions made in the evaluation and the time-phasing proposed in the regulations. Changes in either could greatly affect the cost-benefit analysis. The proposals in this notice are intended to meet the objectives of lifesaving system improvement in the most cost-effective way, however, comments are specifically invited on ways to further reduce the cost of these regulations.

The agency certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Generally, the only small entities affected would be certain operators of offshore supply vessels, operating primarily in the Gulf of Mexico. These regulations provide for a number of alternative arrangements that minimize the cost impact on these operators, including the possibility to use life floats instead of lifeboats or liferafts. An optional arrangement for recovering persons that fall overboard is also permitted in lieu of the requirement to carry a rescue boat.

State and local governments that operate passenger ferry services in cold waters may be affected by the proposed requirement for survival craft on passenger vessels. These vessels would have the highest 1991 retrofit costs of all the vessels affected by these proposed rules at an estimated $50,300. Nevertheless, this is only about 0.1% of an estimated $50,000,000 replacement cost of such a vessel. For this reason, these regulations are not considered to have a significant impact on governments, or any small entity that may happen to operate similar vessels.

Three primary benefits of the proposed regulations are identified in the draft evaluation. First, the proposed regulations would resolve numerous outstanding recommendations made by the National Transportation Safety Board and Coast Guard Marine Boards of Investigation, and would result in the saving of life in future marine casualties where vessels must be abandoned. Second, repetitive, overlapping, and sometimes contradictory regulations will be eliminated. Third, U.S. registered vessels would not be subject to penalty or delay in foreign ports because of non-compliance with SOLAS 74/83.

Four comments on the ANPRM were to the effect that the costs identified in that notice were too low or that some particular element of the cost of the regulations were not taken into account. The draft evaluation includes a cost estimate that is more complete than the rough estimate used in the ANPRM. It should also be more accurate since it uses cost information we believe is more accurate than that used to estimate the cost in the ANPRM.

One comment stated that the benefits of the proposed rules were overestimated, and the costs underestimated. Another comment was interested in how the cost estimate is prepared. The draft evaluation contains an analysis of the costs and benefits. The draft evaluation is part of the docket and is available for inspection and copying at the Marine Safety Council (see **ADDRESSES** section at the beginning of this notice).

One comment noted that the cost of the regulations would put operators of self-propelled vessels at a greater disadvantage as compared to uninspected tug and barge operations. The Coast Guard does not have statutory authority to require any lifesaving equipment aboard uninspected vessels beyond a life preserver or other lifesaving device for each individual on board (46 U.S.C. 4101(b)). The Coast Guard would recommend that uninspected vessels comply with the regulations proposed in this notice for the particular size and service of vessel.

Recordkeeping Requirements

This proposed rulemaking contains information collection and recordkeeping requirements. Some provisions are minor revisions of existing sections that have previously been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 et seq.). The section numbers of those provisions and the corresponding OMB approval numbers are as follows:

a.	§ 35.07–10	2115–0071
b.	§ 35.10–1(e)	2115–0071
c.	§ 35.10–2(e)	2115–0071
d.	§ 35.10–3(b)	2115–0071
e.	§ 35.90–70(a)	2115–0071
f.	§ 35.90–73(c)	2115–0071
g.	§ 78.17–50(f)	2115–0071
h.	§ 78.17–55(e)	2115–0071
i.	§ 78.37–5(b)	2115–0071
j.	§ 78.95–70(a)	2115–0071
k.	§ 78.95–73(c)	2115–0071
l.	§ 97.15–35(e)	2115–0071
m.	§ 97.15–40(e)	2115–0071
n.	§ 97.35–5(c)	2115–0071
o.	§ 97.90–70(a)	2115–0071

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p. § 97.90–73(c)..... 2115–0071
q. § 109.311(a)..... 2115–0071
r. § 109.313(c)..... 2115–0071
s. § 109.425..... 2115–0007
t. § 109.433..... 2115–0071
u. § 167.55–5..... 2115–0071
v. § 167.65–2(e)..... 2115–0071
w. § 196.15–40(e)..... 2115–0071
x. § 196.35–5..... 2115–0071
y. § 199.80..... 2115–0542

Other information collection and recordkeeping requirements are either new or have not been approved by OMB. They have been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 et seq.). Persons desiring to comment on these information collection and recordkeeping requirements should submit their comments to: Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard. Persons submitting comments to OMB are also requested to submit a copy of their comment to the Coast Guard as indicated under "**ADDRESSES**." The section numbers are as follows:

a. § 35.10–1(a)
b. § 35.11–5(d)
c. § 35.40–19
d. § 35.40–40
e. § 35.40–43
f. § 35.40–45
g. § 35.40–48
h. § 35.40–50
i. § 35.40–55
j. § 35.90–30
k. § 35.90–40(c)
l. § 78.14–5(d)
m. § 78.17–50(a)
n. § 78.47–60
o. § 78.47–62
p. § 78.47–63
q. § 78.47–64
r. § 78.47–65
s. § 78.47–72
t. § 78.95–30
u. § 78.95–40(c)
v. § 97.14–5(d)
w. § 97.15–35(a)
x. § 97.37–37
y. § 97.37–39
z. § 97.37–40
aa. § 97.37–42
bb. § 97.37–43
cc. § 97.37–55
dd. § 97.90–30
ee. § 97.90–40(c)
ff. § 108.645
gg. § 108.646
hh. § 108.647
ii. § 108.649
jj. § 108.650
kk. § 109.215(a)
ll. § 109.303
mm. § 109.305(c)
nn. § 109.323(e)
oo. § 160.040–6
pp. § 196.37–37
qq. § 196.37–39
rr. § 196.37–40
ss. § 196.37–42
tt. § 196.37–43
uu. § 196.37–49
vv. § 199.80
ww. § 199.90
xx. § 199.175(c)
yy. § 199.175(c)(19)
zz. § 199.175(c)(40)
aaa. § 199.175(c)(46)

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this notice of proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Derivation Table

The regulations proposed in this notice are based in part on existing regulations in Title 46 of the Code of Federal Regulations that would be removed or revised, and also on Chapter III of the 1983 Amendments to the Safety of Life at Sea Convention, 1974. For the convenience of the user, the following derivation table shows the relationship of the regulations proposed in this notice with existing similar regulations and SOLAS 74/83. The right-hand column also lists certain resolutions of the International Maritime Organization that are related to SOLAS 74/83. These are IMO Res. A.414(XI), Code for the Construction and Equipment of Mobile Offshore Drilling Units; IMO Res. A.521(13), Recommendation on Testing of Life-Saving Appliances; and IMO Res. A.534(13), Code of Safety for Special Purpose Ships. The section number follows identification of the resolution. In the case of Resolution A.521, all references are in Part 2 of the resolution, with the part number listed first, followed by a "/", followed by the section number.

Proposed regulation	Existing regulation (CFR, title 46)	SOLAS 74/83 regulation (Ch. III, except as noted)
(effective date)		1.1
§ 199.5	None	None
§ 199.7	None	None
§ 199.10(a)	None	None
§ 199.10(b)	§ 33.15–1(a), 75.01–1, 75.10–1, 75.15–1, 75.20–1, 75.25–1, 75.27–1, 75.30–1, 75.33–1, 75.40–1, 75.41–1, 75.43–1, 75.45–1, 75.50–1, 75.90–1, 78.87–1, 94.10–1(a), 94.10–1(b), 94.15–1, 94.20–1, 94.25–1, 94.30–1, 94.33–1, 94.35–1, 94.40–1, 94.43–1, 94.45–1, 94.50–1, 94.90–1, 97.85–1, 192.01–1, 192.10–1, 192.15–1, 192.20–1, 192.25–1, 192.30–1, 192.33–1, 192.35–1, 192.40–1, 192.43–1, 192.45–1, 192.50–1, 192.60–1, 196.90–1.	1.5, 8.1, 9.1, 21.3.1, 21.4.1
§ 199.10(c)	§ 30.10–35	1.2
§ 199.10(d)	None	1.3
§ 199.10(e)	None	1.1
§ 199.10(f)	§ 75.05–5, 94.05–5, 108.103, 192.05–5	None
§ 199.15	§ 33.01–5, 33.05–1, 33.05–2, 33.10–10(j), 33.10–15(a)(3), 75.10–90, 75.15–90, 75.20–90, 75.25–90, 75.30–90, 75.33–90, 75.40–90, 75.43–90, 75.45–90, 75.50–90, 94.10–90, 94.15–90, 94.20–90, 94.25–90, 94.30–90, 94.33–90, 94.40–90, 94.43–90, 94.50–5(b), 94.50–90, 192.10–90, 192.15–90, 192.20–90, 192.25–90, 192.30–90, 192.33–90, 192.40–90, 192.43–90, 192.45–90, 192.50–5(b), 192.50–90.	1.4.1, 1.4.2
§ 199.15(a)	§ 33.10–15(b)	1.4.1, 1.4.2
§ 199.15(b)	§ 33.01–5	1.4.3
§ 199.15(c)	None	1.6, 6.1
§ 199.15(d)	None	1.6, 21.4.1
§ 199.15(e)	None	1.6, 26.3
§ 199.15(f)	None	None
§ 199.15(g)	None	None
§ 199.15(h)	None	None
§ 199.15(i)	None	None
§ 199.15(j)	None	None
§ 199.15(k)	None	None

Proposed regulation	Existing regulation (CFR, title 46)	SOLAS 74/83 regulation (Ch. III, except as noted)
§ 199.15(l)	§ 75.10–5(a)(2), 94.10–5(a)(2), 192.10–5(a)(2)	None
§ 199.15(m)	None	1.4.4, 1.4.5
§ 199.25	None	None
§ 199.30 "Child"	None	None
§ 199.30 "Embarkation station"	None	None
§ 199.30 "Fleet angle"	§ 33.10–10(k), 75.33–10(d), 94.33–10(d), 108.509(a), 192.33–10(d)	None
§ 199.30 "Float-free"	None	3.4
§ 199.30 "Free-fall"	None	3.5
§ 199.30 "Immersion suit"	§ 33.37–5(c) & (d), 94.41–5(c) & (d), 108.513(d), 192.41–5(c) & (d)	3.6
§ 199.30 "Inflatable"	None	3.7
§ 199.30 "Inflated"	None	3.8
§ 199.30 "Launching appliance"	None	3.9
§ 199.30 "Length"	§ 42.13–15(a)	3.10
§ 199.30 "Molded depth"	§ 42.13–15(e)	3.11
§ 199.30 "Muster station"	None	3
§ 199.30 "Novel"	None	3.12
§ 199.30 "Retrieval"	None	3.14
§ 199.30 "Seagoing condition"	None	3
§ 199.30 "Survival craft"	None	3.17
§ 199.30 "Toxic vapor or gas"	None	3
§ 199.40	§ 30.15–1(a), 70.15–1(a), 90.15–1(a), 108.105, 188.15–1(a)	4.3
§ 199.62	None	6.2.4
§ 199.64	§ 33.60, 75.60, 94.60,108.523,109.307(a), 192.65	6.2.3
§ 199.66	§ 33.15–25, 75.10–10(a)(4), 75.55–1, 94.55–1, 108.519, 109.321, 192.55–1	6.2.1, 41.7.8
§ 199.68(a)(1)	§ 33.45–5, 75.90–5(a), 94.90–5(a), 108.521(a), 192.60–5(a)	6.3
§ 199.68(a)(2)	§ 33.45–1, 75.90–10, 94.90–5(b)	None
§ 199.68(b)	§ 94.90–10, 192.60–10(a)	None
§ 199.68(c)	§ 94.90–15	None
§ 199.68(d)(1)	§ 33.45–1, 33.45–5, 75.90–5(c), 94.90–5(a), 108.521(b), 192.60–5(a)	6.3
§ 199.68(d)(2)	§ 33.01–35, 33.45–10	6.3
§ 199.70(a)	§ 33.40–1(a), 33.40–1(b), 33.40–5(b), 33.40–5(c), 33.40–15, 75.43–5(a), 75.43–5(b), 75.43–10(b), 75.43–15, 94.43–5(a), 94.43–5(b), 94.43–10(b), 94.43–15, 108.515(b), 108.515(c), 108.515(e), 108.515(f), 192.43–5(a), 192.43–5(b), 192.43–10(b), 192.43–15.	7.1.1.2, 7.1.2, 7.1.3, 31.4
§ 199.70(b)	None	7.1.1.1
§ 199.70(c)	§ 33.40–1(c)(1), 75.43–5(c)(1), 75.43–10(c), 94.43–5(c)(1), 94.43–10(c), 108.515(d), 192.43–5(c)(1), 192.43–10(c).	7.1.3
§ 199.70(d)	§ 33.40–5(d), 75.43–10(d), 94.43–10(d), 192.43–10(d)	30.2.6
§ 199.72(a)	§ 33.35–1, 33.35–15, 75.40–5(a), 75.40–10(a), 75.40–10(c), 94.40–5(a), 94.40–10(a), 94.40–10(c), 108.514(a), 108.514(c), 192.40–5, 192.40–10(a), 192.40–10(b).	7.2
§ 199.72(b)	§ 33.35–1(b), 94.40–10(c), 192.40–10(b)	None
§ 199.72(c)	§ 94.40–10(b)	None
§ 199.73	None	7.3
§ 199.75(a)	§ 33.38–1, 75.40–30, 94.42–1, 108.513(e), 108.514(e), 192.42–1	21.3.2, 27.2.2
§ 199.75(b)	None	21.3.1, 27.2.1
§ 199.76	§ 33.38–5, 75.40–5(b), 94.42–5, 108.513(f), 108.514(d), 192.42–5	32.1.6
§ 199.78	§ 33.35–5, 33.37–15, 75.40–15(a), 75.40–15(c), 75.40–20, 75.41–10, 78.87–5, 94.40–15, 94.41–10, 97.85–5, 108.513(g), 108.514(b), 109.313, 109.314, 192.41–10, 196.90–5.	7.2.2
§ 199.80	§ 35.10–1(a), 78.13–1(a), 97.13–1(a), 196.13–1(a)	8.1, 8.2
§ 199.80(a)	§ 35.10–1(a), 35.10–1(b), 78.13–1, 78.13–5, 78.13–15, 97.13–5, 97.13–10, 109.501, 109.503(a), 109.505, 196.13–5, 196.13–10.	8.3, 53
§ 199.80(b)	§ 75.40–25, 78.47–47	8.4
§ 199.80(c)	§ 35.10–9, 78.49–1, 97.39–1, 108.655, 196.39–1	8.2
§ 199.80(d)	§ 160.071–15(b)	8.2
§ 199.90	§ 35.10–9(a), 78.49–1(a), 97.39–1(a), 108.655, 196.39–1(a)	9.2
§ 199.110(a)	§ 75.15–10(a)(3)	11.2
§ 199.110(b)	§ 72.10–40, 92.10–40, 108.165, 190.10–40	11.3
§ 199.110(c)	None	11.6
§ 199.110(d)	None	None
§ 199.110(e)	§ 33.20–1(c)(1), 33.20–3, 75.50–5, 75.50–7, 94.50–5, 94.50–7, 108.525(a), 108.525(b), 109.341(b), 192.50–5, 192.50–7.	11.7, 48.7.1
§ 199.110(f)	§ 33.20–1(f), 75.15–10(b)(7), 94.15–10(b)(6), 108.507(a)(4), 192.15–10(b)(6)	11.8,48.6
§ 199.110(g)	§ 108.508(a)(5)	11.8, 38.4.1.2
§ 199.120	§ 33.20–1(d), 75.15–10(b)(4), 75.15–10(c)(1), 94.15–10(b)(4), 192.15–10(1)(4)	12
§ 199.130(a)	None	11.1
§ 199.130(a)(1)	§ 33.20–1(e), 75.15–10(b)(2), 75.15–10(b)(6), 75.15–10(c)(1), 75.25–5(d), 75.25–5(f), 94.15–10(a)(2), 94.15–10(a)(3), 94.15–10(b)(2), 94.25–5(d), 94.25–5(f), 108.511(a), 108.511(c), 192.15–10(e)(2), 192.15–10(a)(3), 192.15–10(b)(2), 192.25–5(d), 192.25–5(f).	13.1
§ 199.130(a)(2)	§ 33.20–15(c), 75.15–10(b)(5), 75.25–5(c), 75.27–5(c), 94.15–10(b)(5), 94.25–5(c), 108.508(d), 192.15–10(b)(5), 192.25–5(c).	48.6
§ 199.130(a)(3)	§ 33.10–5(d), 75.30–5(b), 94.30–5(b), 160.015–2(g), 192.30–5(b)	48.1.9
§ 199.130(b)	§ 33.05–3(c), 33.05–20(c)	11.1
§ 199.130(c)	§ 94.10–40(a)	None
§ 199.130(d)	None	13.1.2
§ 199.133(a)	§ 33.05–3(c)(2), 75.15–10(b)(4), 94.15–10(b)(4), 108.511(d), 192.15–10(b)(4)	13.2
§ 199.133(b)	§ 33.20–1(a), 75.15–10(b)(1), 94.15–10(b)(1), 192.15–10(b)(1)	13.3
§ 199.133(c)	None	41.6.11
§ 199.135(a)	None	13.4

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§ 199.135(b)	None	38.1.2
§ 199.135(c)	None	None
§ 199.135(d)	None	13.5
§ 199.135(e)	None	39.9.2
§ 199.135(f)	§33.20–20, 75.15–10(e), 94.15–10(e), 108.510, 192.15–10(e)	30.2, 38.6.3 (IMO Res. A.414(XI)–10.5)
§ 199.137	§ 33.20–25, 94.15–10(d), 192.15–10(d)	None
§ 199.140(a)	§ 75.10–10(a)(3)	14
§ 199.140(b)	None	41.6.11
§ 199.140(c)	None	47.3.11
§ 199.150(a)	§ 33.10–5(b), 33.20–1(a), 75.30–10(a), 94.30–10(a), 108.506(c), 192.30–10(a)	15.1
§ 199.150(b)	§ 33.10–10(d), 75.15–10(a)(4), 75.27–5(b), 75.33–5(b), 94.15–10(a)(4), 94.33–5(b), 192.15–10(a)(4), 192.33–5(b).	48.1.1
§ 199.150(c)	§ 33.10–1(b), 33.10–1(c), 75.25–5(c), 75.25–10(a), 75.25–15(a), 94.25–5(c), 94.25–10(a), 94.25–15(a), 108.508(d), 192.25–5(c), 192.25–10(a).	48.1.3
§ 199.150(d)	§ 75.27–5(b)	48.1.8
§ 199.150(e)	§ 33.10–20(b), 75.10–5(a)(6)(ii), 94.10–5(a)(4)(ii), 192.10–5(a)(4)(ii)	15.4
§ 199.150(f)	§ 75.15–10(a)(2), 94.15–10(a)(2), 192.15–10(a)(2).	15.5
§ 199.150(g)	§ 75.15–10(a)(3), 94.15–10(a)(3), 192.15–10(a)(3)	38.4.2, 38.4.3, 41.3.1, 41.3.2
§ 199.150(h)	§ 33.10–5(a), 75.30–15(a), 94.30–15(a), 108.507(b), 108.507(d), 108.508(b), 108.508(c), 192.30–15(a).	15.3, 48.1.4
§ 199.150(i)	§ 33.20–1(c)(4), 75.15–10(b)(10), 75.15–10(c)(2), 94.15–10(b)(8), 108.511(d). 192.15–10(b)(8).	15.8
§ 199.150(j)	None	15.9
§ 199.153(a)	§ 33.10–1(a), 33.10–1(d), 33.10–5(c), 33.10–10(g), 33.10–10(i), 75.25–5(a), 75.27–5(a), 75.27–5(d), 75.30–5(a), 75.30–10(b), 75.30–15(b), 94.25–5(a), 94.30–5(a), 94.30–10(b), 94.30–15(b), 108.507(a)(2), 108.507(a)(3), 108.508(a)(1), 108.508(a)(2), 108.508(a)(3), 108.508(a)(4), 108.508(a)(8), 192.25–5(a), 192.30–5(a), 192.30–10(b), 192.30–15(b).	30.2, 48.2
§ 199.153(b)	§ 33.10–5(a), 33.10–10(a), 33.10–10(b), 33.10–10(c), 75.30–5(c), 75.33–5(a), 75.33–10(a), 75.33–10(b), 94.30–5(c), 94.33–5(a), 94.33–10(a), 108.507(a)(5), 108.507(a)(6), 192.30–5(c), 192.33–5(a), 192.33–10(a).	48.1.8, 48.2.1
§ 199.153(c)	§ 33.10–10(b), 75.33–10(c), 94.33–10(c), 192.33–10(c)	None
§ 199.153(d)	§ 33.10–10(d), 75.33–5(b), 94.33–5(b), 108.506(a), 192.33–5(b)	15.8
§ 199.153(e)	§ 33.10–10(g), 75.33–5(d), 94.33–5(d), 108.507(a)(6), 160.015–2(h), 192.33–5(d)	48.2.2
§ 199.153(f)	§ 33.10–10(k), 75.33–10(d), 94.33–10(d), 108.509(b), 192.33–10(d)	48.2.2
§ 199.153(g)	§ 33.10–10(k), 75.33–10(d), 94.33–10(d), 108.509(b), 192.33–10(d)	48.2.2
§ 199.153(h)	§ 75.33–5(c), 94.33–5(c), 108.507(c), 160.015–2(i), 192.33–5(c)	None
§ 199.153(i)	None	48.2.6
§ 199.153(j)	§ 33.10–5(f)(1)(iii), 75.35–5(b)(4)(iii), 94.35–5(b)(4)(iii), 192.35–5(b)(4)(iii)	None
§ 199.153(k)	§ 33.10–5(f)(1)(iii), 75.35–5(1)(4)(iii), 94.35–5(b)(4)(iii), 192.35–5(b)(4)(iii)	48.2.7
§ 199.153(l)	§ 160.015–3(k)(2)	48.2.5
§ 199.155	None	48.5.1
§ 199.157(a)	None	28.2
§ 199.157(b)	§ 160.015–2(f)	15.2, 48.1.10
§ 199.157(c)	None	15.3
§ 199.157(d)	§ 33.20–1(c)(2), 75.25–10(b), 75.25–15(b), 94.25–10(b), 94.25–15(b), 192.25–10(b).	15.10
§ 199.160	§ 33.20–1(g), 75.25–5(g), 94.10–55(b)(2)(iii), 94.25–5(g), 192.10–55(b)(2)(iii), 192.25–5(g).	16.1
§ 199.160(a)	None	16.2
§ 199.160(b)	None	None
§ 199.160(c)	§ 75.30–10(d)	16.3
§ 199.160(d)	§ 75.30–10(d)	16.4, 48.2.3, 48.2.8
§ 199.170(a)	§ 33.55–1(a), 33.55–1(b), 75.45–5(a), 75.45–10, 94.45–5(a), 94.45–10, 108.517(a), 192.45–5(a), 192.45–10.	17
§ 199.170(b)	§ 33.55–1(a), 33.55–1(c), 75.45–5(b), 75.45–10, 94.45–5(b), 94.45–10, 108.517(b), 192.45–5(b), 192.45–10.	None
§ 199.170(c)	§ 33.55–10(a), 33.55–10(b), 75.45–15, 94.45–15, 192.45–15	49.1
§ 199.170(d)	§ 33.55–10(a), 33.55–10(b), 75.45–15(a)(8), 75.45–15(b)(6), 94.45–15(a)(6), 94.45–15(b)(6), 192.45–15(a)(6), 192.45–15(b)(6).	None
§ 199.170(e)	§ 33.55–5, 109.320(a)	None
§ 199.175(a)	§ 33.15–1(b), 33.15–1(d), 33.15–1(e), 75.20–5(a), 75.20–5(c), 75.20–5(d), 94.20–5(a), 94.20–5(c), 94.20–5(d), 108.503(f), 192.20–5(a), 192.20–5(c), 192.20–5(d).	41.8
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§ 199.175(c)	§ 33.15–5, 33.15–15, 75.20–10, 75.20–20, 94.20–10, 94.20–20, 108.503(d), 108.503(e), 108.503(f), 192.20–10, 192.20–20.	38.5.2, 38.5.3, 41.8.32, 47.2.1
§ 199.175(c)(1)	(Reserved)	None
§ 199.175(c)(2)	§ 33.15–10(a), 75.20–15(a), 94.20–15(a), 192.20–15(a)	38.5.1.3, 41.8.3, 47.2.2.2
§ 199.175(c)(3)	§ 33.15–10(b), 75.20–15(b), 94.20–15(b), 192.20–15(b)	41.7.12, 41.8.25, 42.2
§ 199.175(c)(4)	§ 33.15–10(c), 33.15–20(a), 75.20–15(c), 75.20–25(a), 94.20–15(c), 94.20–25(a), 192.20–15(c), 192.20–25(a).	41.8.2, 47.2.3.1, 47.2.4.5
§ 199.175(c)(5)	§ 33.15–10(d), 75.20–15(d), 94.20–15(d), 192.20–15(d)	41.8.3, 47.2.3.2
§ 199.175(c)(6)	§ 160.051–8(c)(13)	38.5.1.7, 41.8.23
§ 199.175(c)(7)	§ 33.15–10(e), 75.20–15(e), 94.20–15(e), 192.20–15(e)	41.8.5, 47.2.2.3
§ 199.175(c)(8)	§ 33.15–10(mm), 75.20–15(oo), 94.20–15(mm), 192.20–15(mm)	42.3
§ 199.175(c)(9)	None	41.8.10
§ 199.175(c)(10)	§ 33.15–10(f), 75.20–15(f), 94.20–15(f), 192.20–15(f)	None
§ 199.175(c)(11)	§ 33.15–10(g), 75.20–15(g), 75.20–25(b), 94.20–15(g), 94.20–25(b), 192.20–15(g), 192.20–25(b).	38.5.1.20, 41.6.11
§ 199.175(c)(12)	None	6.2.3
§ 199.175(c)(13)	§ 33.15–10(h), 75.20–15(h), 94.20–15(h), 192.20–15(h)	41.8.28

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§ 199.175(c)(14)	§ 33.15–10(i), 75.20–15(i), 94.20–15(i), 192.20–15(i)	38.5.1.8, 41.8.20, 47.2.2.9
§ 199.175(c)(15)	§ 33.15–10(11), 75.20–15(nn), 94.20–15(11), 192.20–15(11)	38.5.1.17, 41.8.26
§ 199.175(c)(16)	§ 33.15–10(j), 75.20–15(j), 94.20–15(j), 192.20–15(j)	38.5.1.13, 41.8.16, 47.2.2.7
§ 199.175(c)(17)	§ 33.15–10(k), 75.20–15(k), 94.20–15(k), 192.20–15(k)	41.8.6
§ 199.175(c)(18)	§ 33.15–10(1), 75.20–15(1), 94.20–15(1), 192.20–15(1)	38.5.1.1, 41.8.24, 47.2.2.10
§ 199.175(c)(19)	§ 160.051–8(b)(13)	38.5.1.23
§ 199.175(c)(20)	§ 33.15–10(m), 75.20–15(m), 75.20–25(c), 94.20–15(m), 94.20–25(c), 192.20–15(m), 192.20–25(c).	41.8.22
§ 199.175(c)(21)	None	38.5.1.2, 47.2.3.3, 47.2.4.1
§ 199.175(c)(22)	§ 33.15–10(n), 75.20–15(n), 94.20–15(n), 192.20–15(n)	41.3.3
§ 199.175(c)(23)	§ 33.15–10(o), 75.20–15(o), 94.20–15(o), 192.20–15(o)	41.7.11
§ 199.175(c)(24)	§ 33.15–10(q), 75.20–15(q), 94.20–15(q), 192.20–15(q)	None
§ 199.175(c)(25)	§ 33.15–10(s), 75.20–15(s), 94.20–15(s), 192.20–15(s)	None
§ 199.175(c)(26)	§ 33.15–10(t), 33.15–20(c), 75.20–15(t), 75.20–25(e), 94.20–15(t), 94.20–25(e), 192.20–15(t), 192.20–25(e).	None
§ 199.175(c)(27)	§ 33.15–10(v), 75.20–15(v), 75.20–25(f), 94.20–15(v), 94.20–25(f), 192.20–15(v), 192.20–25(f).	38.5.1.15, 41.8.17
§ 199.175(c)(28)	§ 33.15–10(w), 33.15–10(cc), 33.15–20(d), 33.15–20(g), 75.20–15(w), 75.20–15(dd), 75.20–25(g), 75.20–25(k), 94.20–15(w), 94.20–15(cc), 94.20–25(g), 192.20–15(w), 192.20–25(g).	41.8.1, 47.2.2.1
§ 199.175(c)(29)	§ 33.15–10(x), 75.20–15(x), 94.20–15(x), 192.20–15(x)	None
§ 199.175(c)(30)	§ 160.051–8(b)(7)	38.5.1.6
§ 199.175(c)(31)(i)	§ 33.15–10(z), 75.20–15(z), 94.20–15(z), 192.20–15(z)	41.8.7
§ 199.175(c)(31)(ii)	None	47.2.2.5
§ 199.175(c)(31)(iii)	§ 33.15–20(f), 75.20–25(i), 94.20–25(i), 192.20–25(i)	38.3.3, 40.6.1
§ 199.175(c)(32)	§ 33.15–10(bb), 75.20–15(bb), 75.20–25(j), 94.20–15(bb), 94.20–25(j), 192.20–15(bb), 192.20–25(j).	38.5.1.18, 41.8.12
§ 199.175(c)(33)	§ 160.051–8(b)(9)	47.2.4.3
§ 199.175(c)(34)	None	38.5.1.14, 41.8.30, 47.2.2.12
§ 199.175(c)(35)	None	None
§ 199.175(c)(36)	§ 160.051–8(c)(7)	47.2.4.4
§ 199.175(c)(37)	§ 33.15–10(dd), 75.20–15(ee), 94.20–15(dd), 192.20–15(dd)	None
§ 199.175(c)(38)	§ 33.15–10(ee), 33.15–20(h), 75.20–15(ff), 75.20–25(l), 94.20–15(ee), 94.20–25(l), 192.20–15(ee), 192.20–25(l).	38.5.1.5, 41.8.6, 47.2.2.4
§ 199.175(c)(39)	§ 75.20–15(gg)	41.8.29, 47.2.2.11
§ 199.175(c)(40)	§ 160.051–8(c)(15)	38.5.1.21, 41.8.21
§ 199.175(c)(41)	§ 33.15–10(ff) 75.20–15(hh), 75.20–25(m), 94.20–15(ff), 94.20–25(m), 192.20–15(ff), 192.20–25(m).	38.5.1.12, 41.8.15
§ 199.175(c)(42)	§ 33.15–10(gg), 33.15–20(i), 75.20–15(ii), 75.20–25(m), 94.20–15(gg), 94.20–25(m), 192.20–15(gg), 192.20–25(m).	38.5.1.11, 41.8.14
§ 199.175(c)(43)	§ 33.15–10(hh), 33.15–20(i), 75.20–15(jj), 94.20–15(hh), 192.20–15(hh)	38.5.1.10, 41.8.13
§ 199.175(c)(44)	§ 33.20–1(c)(5), 75.15–10(b)(8), 94.15–10(b)(7), 192.15–10(b)(7)	41.7.9
§ 199.175(c)(45)	§ 160.051–8(c)(9)	38.5.1.4, 47.2.4.2
§ 199.175(c)(46)	§ 160.051–8(b)(3)	38.5.1.21, 41.8.4
§ 199.175(c)(47)	§ 33.15–10(nn), 75.20–15(pp), 94.20–15(nn), 192.20–15(nn)	38.5.1.16, 41.8.18
§ 199.175(c)(48)	None	38.5.1.24, 41.8.31, 47.2.2.13
§ 199.175(c)(49)	§ 33.15–10(ii), 75.20–15(kk), 94.20–15(ii), 192.20–15(ii)	41.8.27
§ 199.175(c)(50)	None	47.2.2.6
§ 199.175(c)(51)	§ 33.15–10(jj), 33.15–10(oo), 75.20–15(ll), 75.20–15(qq), 75.20–25(n), 94.20–15(jj), 94.20–15(oo), 94.20–25(n), 192.20–15(oo), 192.20–25(n).	38.5.1.19, 41.8.9
§ 199.175(c)(52)	§ 33.15–10(kk), 75.20–15(mm), 94.20–15(kk), 192.20–15(kk)	38.5.1.9, 41.8.19, 47.2.2.8
§ 199.175(d)	§ 33.15–15, 94.20–30, 192.20–30	None
§ 199.175(d)(1)	§ 33.15–20(a), 94.20–35(a), 192.20–35(a)	None
§ 199.175(d)(2)	§ 33.15–20(b), 94.20–35(b), 192.20–35(b)	None
§ 199.175(d)(3)	§ 33.15–20(d), 94.20–35(c), 192.20–35(c)	None
§ 199.175(d)(4)	§ 33.15–20(f), 94.20–35(d), 192.20–35(d)	None
§ 199.175(d)(5)	§ 33.15–20(j), 94.20–35(e), 192.20–35(e)	None
§ 199.200	None	None
§ 199.201(a)	§ 75.05–1, 192.05–1	None
§ 199.201(a)(1)	§ 75.10–5(a)(1), 192.10–5(a)(1)	None
§ 199.201(a)(2)	None	30.2, 41, 42
§ 199.201(a)(3)	None	30.2, 41, 44
§ 199.201(a)(4)	§ 75.10–5(b)(3), 75.10–5(b)(4), 192.10–5(b)(2), 192.10–5(b)(3)	30.2, 38, 38.2.1, 39
§ 199.201(a)(5)	§ 75.10–5(b)(1), 192.10–5(b)(1)	30.2, 38, 38.2.1, 40
§ 199.201(a)(6)	None	None
§ 199.201(b)(1)	§ 75.10–10(a)(1), 75.10–10(a)(5), 192.10–10(f)	20.1.1.1
§ 199.201(b)(2)(i)	§ 75.15–10(c)(1), 75.27–5(g)	20.1.1.1
§ 199.201(b)(2)(ii)	§ 75.10–10(b)(1), 75.10–10(c)(3), 75.15–10(c)(4), 192.10–10(f)	13.6, 20.1.1.2
§ 199.201(c)	§ 75.10–10(a)(6), 75.10–15(a)	20.1.3
§ 199.201(c)(1)	§ 75.10–10(a)(6)	20.1.2.1
§ 199.201(c)(2)(i)	§ 75.10–10(a)(6), 75.15–10(c)(1), 75.27–5(g)	20.1.2.1
§ 199.201(c)(2)(ii)	§ 75.10–10(a)(6), 75.10–10(b)(2), 75.15–10(c)(3), 75.15–10(c)(4)	13.6, 20.1.2.2
§ 199.201(d)	§ 75.10–20(a)	None.
§ 199.201(d)(1)	§ 75.10–20(a)	None.
§ 199.201(d)(2)	§ 75.10–20(a), 75.15–10(c)(1), 75.15–10(c)(4), 75.27–5(g)	None.
§ 199.201(e)(1)	§ 75.10–20(a), 75.10–20(c)	None.
§ 199.201(e)(2)	§ 75.10–20(a), 75.10–20(c), 75.15–10(c)(1), 75.15–10(c)(4), 75.27–5(g)	None.
§ 199.201(f)	§ 75.10–10(a)(6), 75.10–10(b)(4), 75.10–15(b), 75.10–15(c), 75.10–20(a)(2), 75.10–20(a)(3), 75.10–20(a)(4), 75.10–25, 75.15–10(c)(3).	20.1.5.
§ 199.201(g)	§ 75.10–20(a)(3), 75.10–20(b)	None.
§ 199.201(h)	§ 75.10–20(a)(2), 75.10–20(a)(3), 75.10–20(b)	None.

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§ 199.201(f)	§ 75.10–20(a)(2), 75.10–20(a)(3)	None.
§ 199.202(a)	§ 75.10–5(e)(1), 75.10–10(a)(3), 75.10–25(b)(2), 75.10–25(b)(3), 192.10–5(e)	20.2.1.
§ 199.202(b)	§ 75.10–5(e)(1), 75.10–10(a)(3), 75.10–25(b)(1)(iii), 192.10–5(e)	20.2.2.
§ 199.202(c)	None	20.2.3
§ 199.202(d)	§ 75.10–5(e)(2), 192.10–5(e)	None.
§ 199.203	§ 75.27–5(f)	20.3.
§ 199.211	§ 75.43–10(a)	21.1.
§ 199.212	§ 75.40–10(b), 75.40–15(b)	21.2.
§ 199.213	§ 75.40–30(a)	21.3.2.
§ 199.214	§ 75.41–5	21.4.2.
§ 199.217(a)	None	53.7.
§ 199.217(b)	§ 78.13–15(a)	None.
§ 199.220	None	22.
§ 199.230(a)	§ 75.15–10(b)(4), 192.15–10(b)(4)	13.2.
§ 199.230(b)	§ 75.15–10(c)(5), 192.15–10(c)(3)	23, 38.6.1, 48.3.
§ 199.240	None	24.
§ 199.245(a)	§ 75.15–10(a)(1), 192.15–10(a)(1)	38.4.2.
§ 199.245(b)	§ 75.15–10(b)(3), 75.27–5(f), 192.15–10(b)(3)	20.1.4.
§ 199.250	§ 75.20–15(cc)	6.2.2.
§ 199.260	None	None.
§ 199.261(a)	§ 33.01–5, 94.05–1, 192.05–1	None.
§ 199.261(a)(1)	§ 94.10–5(a), 192.10–5(a)	None.
§ 199.261(a)(2)	§ 33.05–3(e), 33.10–15(a), 33.10–20(a), 94.10–5(a), 192.10–5(a)	30.2, 41, 44.
§ 199.261(a)(3)	§ 33.01–30(f), 94.10–5(b)(2), 192.10–5(b)(2)	30.2, 38, 38.2.1, 39.
§ 199.261(a)(4)	§ 33.01–30(d), 94.10–5(b)(1), 192.10–5(b)(1)	38.2.1.
§ 199.261(a)(5)	§ 33.01–30(e), 94.10–5(c), 192.10–5(c)	None.
§ 199.261(a)(6)	None	None.
§ 199.261(b)(1)	§ 33.05–3(a), 33.05–5(a), 33.05–15(a), 94.10–10(a), 94.10–10(d), 94.10–15(a), 192.10–10(a), 192.10–15(a).	26.1.1.1.
§ 199.261(b)(2)	§ 33.05–3(f), 33.20–15(b), 94.10–10(e), 192.10–10(d)	13.6, 26.1.1.2.
§ 199.261(c)	None	26.1.2.
§ 199.261(d)	§ 33.05–3(g), 33.05–5(c), 33.05–15(c), 33.07–1, 33.07–10(b), 94.10–10(b), 94.10–10(f), 94.10–15(b), 94.10–20(d), 94.10–55, 192.10–10(e), 192.10–15(b), 192.10–55.	13.6, 26.1.3.
§ 199.261(e)(1)	§ 33.05–20(a), 33.05–25(a), 94.10–40(a), 94.10–45(a), 94.10–45(b), 192.10–40(a)	None.
§ 199.261(e)(2)	§ 33.05–20(c), 94.10–40(a), 94.10–45(a), 94.10–45(b), 192.10–40(a)	None.
§ 199.261(f)	§ 33.05–20(d), 33.05–25(d), 33.07–1, 33.07–10(b), 94.10–40(b), 94.10–45(d), 94.10–55, 192.10–40(b), 192.10–55.	None.
§ 199.261(g)	§ 33.05–25(a), 94.10–40(a), 192.10–40(a)	None.
§ 199.261(h)	§ 33.05–3(f), 94.10–10(e), 94.10–15(c), 192.10–10(d)	26.1.4.
§ 199.261(i)	§ 75.10–10(a)(7), 94.10–20(b)(5)	None.
§ 199.261(j)	§ 94.10–40(a)	None.
§ 199.262(a)	§ 33.01–30(a), 33.07–10(c), 94.10–5(e)(1), 94.10–55(b)(1)(iii), 94.10–55(b)(2)(i), 94.10–55(b)(3)(i), 192.10–5(e)(1), 192.10–55(b)(1)(iii), 192.10–55(b)(2)(i), 192.10–55(b)(3)(i).	26.2.
§ 199.262(b)	§ 33.01–30(a), § 33.07–10(c), 94.10–5(e)(1), 94.10–20(b)(1), 94.10–20(b)(2), 94.10–20(b)(3), 94.10–20(b)(4), 94.10–45(c), 94.10–55(b)(1)(iii), 94.10–55(b)(2)(i), 94.10–55(b)(3)(i), 192.10–5(e)(1), 192.10–55(b)(1)(iii), 192.10–55(b)(2)(i), 192.10–55(b)(3)(i)	None.
§ 199.262(c)	§ 33.01–30(a), 33.07–10(c), 94.10–5(e)(1), 94.10–45(c), 94.10–55(b)(1)(iii), 94.10–55(b)(2)(i), 94.10–55(b)(3)(i), 192.10–5(e)(1), 192.10–55(b)(1)(iii), 192.10–55(b)(2)(i), 192.10–55(b)(3)(i).	None.
§ 199.262(d)	§ 33.01–30(a), § 33.07–10(c), 94.10–5(e)(2), 94.10–45(c), 94.10–55(b)(1)(iii), 94.10–55(b)(2)(i), 94.10–55(b)(3)(i), 192.10–5(e)(2), 192.10–55(b)(1)(iii), 192.10–55(b)(2)(i), 192.10–55(b)(3)(i).	None.
§ 199.262(e)	§ 94.10–55(b)(1)(iv)	None.
§ 199.262(f)	None	None.
§ 199.271(a)	§ 33.40–5(a), 94.43–IC(a), 192.43–10(a)	27.1.1.
§ 199.271(b)	§ 33.40–10	None.
§ 199.271(c)	§ 94.43–10(a), 192.43–10(a)	None.
§ 199.272	§ 33.35–5, 94.40–15(a), 192.40–15(a)	None.
§ 199.273(a)	§ 33.37–1, 94.41–1, 192.41–1	27.3.2.3, 27.3.3.3.
§ 199.273(b)	§ 33.37–5(a), 94.41–5(a), 97.85–10, 192.41–5(a), 196.90–10	27.3.2, 27.3.3.
§ 199.273(c)	§ 33.37–5(b), 94.41–5(b), 192.41–5(b)	None.
§ 199.273(d)	None	27.3.4.
§ 199.280(a)	None	None.
§ 199.280(b)	None	28.1.
§ 199.280(c)	None	28.1.
§ 199.280(d)	§ 33.20–15(a), 94.15–I0(b)(3), 192.15–10(b)(3)	38.4.3, 41.3.2, 48.1.11.
§ 199.280(e)	§ 33.20–15(a), 94.15–I0(a)(1), 192.15–10(a)(1)	26.1.5.
§ 199.290(a)	§ 33.05–3(c)(2), 94.15–10(b)(4), 192.15–10(b)(4)	13.2.
§ 199.290(b)	§ 33.20–15(d), 94.15–I0(c)(3), 94.15–10(c)(4), 192.15–10(c)(3)	29, 38.6.1, 48.3.
§ 199.300	None	None.
§ 199.310(a)	§ 33.0I–5, 33.01–30(b)	26.1.6.
§ 199.310(b)	None	26.1.7.
§ 199.310(c)	§ 33.07–1, 33.07–10(a)	26.1.3.
§ 199.310(d)	None	13.1.5.

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§ 199.320	§ 154.1445	48.1.2.
§ 199.400	None	(IMO Res. A.534(13)).
§ 199.405	None	(IMO Res. A.534(13)).
§ 199.410	None	None.
§ 199.500	None	None.
§ 199.505	§ 167.35	None.
§ 199.600	None	None.
§ 199.605(a)	§ 108.50(b), I08.503(c), I08.505(b)	(IMO Res. A.414(XI)–10.1).
§ 199.605(b)	§ 108.503(a), 108.505(a), 108.505(c), 108.511(b)	(IMO Res. A.414(XI)–10.1).
§ 199.605(c)	§ 108.503(a), 108.505(a)	None.
§ 199.610	None	(IMO Res. A.414(XI)–10.2).
§ 199.630(a)	§ 108.515(a)	(IMO Res. A.414(XI)–10.4).
§ 199.630(b)	§ 108.515(d)(2)	(IMO Res. A.414(XI)–10.4).
§ 199.640	§ 108.513(a), 108.513(b), 108.513(c)	None.
§ 199.645	None	(IMO Res. A.414(XI)–10.6).
§ 199.650(a)	None	None.
§ 199.650(b)	None	(IMO Res. A.414(XI)–10.5.2).
§ 199.650(c)	§ 108.511(e)	(IMO Res. A.414(XI)–10.5.2).
§ 199.650(d)	108.506(a), 108.506(b), 108.511(d)	None.
§ 199.650(e)	None	None.
§ 199.650(f)	None	None.
§ 199.650(g)	§ 108.525(c), 108.525(d), 108.525(e)	None.
§ 199.650(h)	§ 108.527	None.
§ 30.05–1	None	None.
§ 30.35–1	None	None.
§ 31.01–1(a)	§ 31.01–1(a)	Chap. I, Reg. 8.
§ 31.01–5(c)	§ 33.01–1	Chap. I, Reg. 8.
§ 31.01–5(c)(1)	§ 33.01–27, 33.10–5(f)	(IMO Res. A.521(13)–2/5.3.1, 6.1.2, 6.1.3, 6.1.4, 6.2.1, 6.2.2, 6.2.4).
§ 31.01–5(c)(2)	None	None.
§ 31.01–5(c)(3)	None	(IMO Res. A.521(13)–2/5.3.2).
§ 31.01–5(c)(4)	None	(IMO Res. A.521(13)–2/6.2.3).
§ 31.01–5(c)(5)	None	None.
§ 31.01–5(c)(6)	§ 31.01–5(a)	None.
§ 31.01–5(c)(7)	None	(IMO Res. A.521(13)–2/3.1).
§ 31.05–1(a)	§ 31.05–1(a)	None.
§ 31.10–15(d)	§ 33.01–1	Chap. I, Reg. 8.
§ 31.10–15(d)(1)	§ 33.25–20(c)	None.
§ 31.10–15(d)(2)	§ 33.01–27	None.
§ 31.10–15(d)(3)	§ 33.01–27	None.
§ 31.10–15(d)(4)	§ 31.10–15(b)	None.
§ 31.10–15(d)(5)	§ 31.10–15(b)	None.
§ 31.10–15(d)(6)	§ 31.10–15(b)	None.
§ 31.10–15(d)(7)	§ 31.10–15(b)	None.
§ 31.10–15(d)(8)	§ 31.10–15(b)	None.
§ 31.10–15(d)(9)	§ 31.10–15(b)	None.
§ 31.10–15(d)(10)	§ 31.10–15(b)	None.
§ 31.10–15(d)(11)	§ 33.35–10, 33.37–10	None.
§ 31.10–15(d)(12)	§ 31.10–15(b)	None.
§ 31.10–15(d)(13)	§ 31.10–15(b)	None.
§ 31.10–15(d)(14)	§ 31.10–15(b)	None.
§ 31.10–15(d)(15)	§ 33.40–1(c)(2), 33.45–1, 33.45–5, 33.55–1(d)	30.3
§ 31.10–15(d)(16)	§ 35.10–5(h)	None.
§ 35.07–10(b)	§ 35.07–10(b)	18.5.
§ 35.10–1(a)	None	18.2, 51.
§ 35.10–1(b)	§ 35.10–5(d), 35.10–5(e)	18.3.
§ 35.10–1(c)	§ 35.10–6	None.
§ 35.10–1(d)	None	18.4.
§ 35.10–1(e)	§ 35.10–5(f)	18.5.
§ 35.10–2	§ 35.10–5(d), 35.10–5(e)	18.
§ 35.10–3	§ 35.10–1(c)	None.
§ 35.10–4	§ 35.10–3	None.
§ 35.10–5	§ 35.10–5(a), 35.10–5(b), 35.10–5(c)	None.
§ 35.11–1	None	3.1.
§ 35.11–5	§ 33.30	10.
§ 35.40–19	§ 35.40–40(a)	None.
§ 35.40–40(a)	§ 33.25–5(a), 33.25–5(b), 35.40–40	41.9.2.
§ 35.40–40(b)	§ 33.25–5(b)	41.9.1.
§ 35.40–40(c)	§ 33.25–5(a), 33.25–5(b)	41.9.3.
§ 35.40–40(d)	None	None.
§ 35.40–40(e)	None	1.6, 30.1.
§ 35.40–43	§ 33.25–10(a), 35.40–40	40.7.
§ 35.40–45	§ 33.25–10(b)	None.
§ 35.40–48	§ 35.40–40	None.
§ 35.40–50(a)	§ 35.40–40(a)	7.1.4.
§ 35.40–50(b)	None	7.2.2.
§ 35.40–50(c)	§ 35.40–40(b)	7.1.4.
§ 35.40–50(d)	§ 33.40–15(a)	None.
§ 35.40–50(e)	§ 33.35–25	1.6, 30.2.7.
§ 35.40–50(f)	None	1.6, 30.1.
§ 35.40–55	§ 35.40–40(a)	None.

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§ 35.90–20	§ 33.01–15, 33.15–1(c), 33.20–10, 33.25–20	19.2.
§ 35.90–30(a)	None	19.3.1.
§ 35.90–30(b)	None	None.
§ 35.90–30(c)	None	19.1.
§ 35.90–30(d)	None	19.3.2.
§ 35.90–30(e)	§ 33.25–15(b)	None.
§ 35.90–30(f)	§ 33.01–20	None.
§ 35.90–30(g)	§ 33.01–20	None.
§ 35.90–30(h)	§ 33.01–20	None.
§ 35.90–40	§ 33.25–20(d)	19.4.
§ 35.90–50	None	19.5.
§ 35.90–60(a)	§ 35.10–5(d)	19.6.
§ 35.90–60(b)	§ 35.10–5(e)(3)	19.6.
§ 35.90–60(c)	None	19.6.
§ 35.90–60(d)	§ 35.10–20(a)	None.
§ 35.90–60(e)	§ 35.10–20(b)	None.
§ 35.90–70(a)	§ 35.10–5(d)	19.7.
§ 35.90–70(b)	§ 35.10–25(a)	19.7.
§ 35.90–73	§ 35.10–7	None.
§ 35.90–75(a)	§ 33.25–15(a)	None.
§ 35.90–75(b)	§ 33.25–15(c)	None.
§ 35.90–75(c)	§ 33.15–10(ff), 33.15–10(gg), 33.15–10(hh), 33.15–10(jj), 33.15–20(i), 33.40–1(c)(2), 33.45–1, 33.45–5, 33.55–1(d), 35.10–30.	30.3.
§ 35.90–75(d)	§ 35.10–25(b), 35.10–30(b)	30.3.
§ 35.90–75(e)	§ 33.15–10(j)	30.3.
§ 35.90–75(f)	None	19.2.
§ 35.90–80	§ 33.25–15(d)	19.8.
§ 35.90–90	§ 33.25–15(e)	19.9.
§ 70.03–1	None	None.
§ 70.10–43	§ 70.10–43	3.16.
§ 70.27–1	None	None.
§ 71.20–20(a)(1)	§ 71.20–20(a)(1), 75.35–5(a), 75.37–5(a), 192.35–5(a)	Chap. I, Reg. 7.
§ 71.20–20(a)(1)(i)	§ 75.35–5(b), 75.37–5(b), 75.37–5(c), 192.35–5(b).	(IMO Res. A.521(13)–2/5.3.1, 6.1.2, 6.1.3, 6.1.4, 6.2.1, 6.2.2, 6.2.4).
§ 71.20–20(a)(1)(ii)	None	(IMO Res. A.521(13)–2/5.3.2).
§ 71.20–20(a)(1)(iii)	None	(IMO Res. A.521(13)–2/6.2.3).
§ 71.20–20(a)(1)(iv)	None	None.
§ 71.20–20(a)(1)(v)	None	None.
§ 71.20–20(a)(1)(vi)	None	(IMO Res. A.521(13)–2/3.1).
§ 71.25–15(a)	§ 71.25–15(a)	Chap. I, Reg. 7.
§ 71.25–15(a)(1)	§ 71.25–15(a)(1)	None .
§ 71.25–15(a)(2)	§ 71.25–15(a)(5), 71.25–15(a)(7)	None .
§ 71.25–15(a)(3)	§ 71.25–15(a)(2)	None .
§ 71.25–15(a)(4)	§ 75.37–5(b)	None .
§ 71.25–15(a)(5)	§ 71.25–15(a)(3), 71.25–15(b)	None .
§ 71.25–15(a)(6)	§ 71.25–15(a)(4)	None.
§ 71.25–15(a)(7)	None	None.
§ 71.25–15(a)(6)	§ 71.25–15(a)(9)	None.
§ 71.25–15(a)(9)	§ 71.25–15(a)(8), 75.20–15(hh), 75.20–15(ii), 75.20–15(jj), 75.20–15(ll), 75.20–25(m), 75.20–25(n), 75.43–5(c)(2), 75.45–5(a), 75.90–5(d), 75.90–10(a), 78.17–85(b), 78.17–90, 192.20–25(m), 192.20–25(n), 192.43–5(c)(2), 192.45–5(a), 192.60–5(b), 192.60–10(b), 196.15–65(b), 196.15–70.	30.3.
§ 71.25–15(a)(10)	None	None.
§ 78.13–1	§ 78.13–10, 196.13–10	None.
§ 78.14–1	None	3.1.
§ 78.14–5	§ 78.14, 196.14	10.
§ 78.17–50(a)	None	18.2, 51.
§ 78.17–50(b)	§ 78.17–50(a), 78.17–50(b), 78.17–50(c), 196.15–35(a), 196.15–35(b)	18.3, 25.
§ 78.17–50(c)	§ 78.17–52	None.
§ 78.17–50(d)	None	None.
§ 78.17–50(e)	§ 78.13–20, 196.13–20	18.4.
§ 78.17–50(f)	§ 78.17–50(d), 196.15–35(c)	18.5.
§ 78.17–55	§ 78.17–50(a), 78.17–50(b), 78.17–50(d)	18.
§ 78.37–5(a)	§ 78.37–5(a)	18.5.
§ 78.47–60(a)	§ 75.15–15, 78.47–60(a), 78.47–60(b), 192.15–15	41.9.2.
§ 78.47–60(b)	§ 78.47–60(c)	41.9.1.
§ 78.47–60(c)	§ 78.47–60(c)	41.9.3.
§ 78.47–60(d)	§ 78.47–60(d)	None.
§ 78.47–60(e)	None	1.6, 30.1.
§ 78.47–62	§ 75.15–15, 78.47–63(a), 78.47–63(b),	40.7.
§ 78.47–63	§ 75.15–15, 78.47–63(c)	None.
§ 78.47–64	75.15–15, 78.47–63(a), 78.47–63(b)	None.
§ 78.47–65(a)	§ 78.47–65	7.1.4.
§ 78.47–65(b)	§ 78.47–50, 78.47–51	7.2.2.
§ 78.47–65(c)	§ 78.47–65	7.1.4.
§ 78.47–65(d)	§ 75.43–15(a)	None.
§ 78.47–65(e)	§ 75.40–35, 192.40–25	1.6, 30.2.7.
§ 78.47–65(f)	None	1.6, 30.1.
§ 78.47–72	§ 78.47–72	None.
§ 78.95–20	§ 75.15–5, 75.20–5(b), 75.45–20, 78.17–60(a), 192.15–5, 192.20–5(b), 192.45–20, 196.15–45(a).	19.2.

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§ 78.95–30	None	19.3.
§ 78.95–40	None	19.4.
§ 78.95–50	None	19.5.
§ 78.95–60(a)	§ 78.17–50(b)(7)	19.6.
§ 78.95–60(b)	§ 78.17–60(b), 196.15–45(b)	19.6.
§ 78.95–60(c)	None	19.6.
§ 78.95–60(d)	§ 78.17–70(a), 196.15–50(a)	None.
§ 78.95–60(e)	§ 78.17–70(b), 196.15–50(b)	None.
§ 78.95–70(a)	None	19.7.
§ 78.95–70(b)	§ 78.17–85(a), 196.15–65(a)	19.7.
§ 78.95–73	§ 78.17–55, 196.15–40	None.
§ 78.95–75(a)	§ 78.17–60(c), 78.17–60(d), 78.17–60(e), 196.15–45(c), 196.15–45(d)	None.
§ 78.95–75(b)	None	None.
§ 78.95–75(c)	§ 75.20–15(hh), 75.20–15(ii), 75.20–15(jj), 75.20–15(ll), 75.20–25(m), 75.20–25(n), 75.43–5(c)(2), 75.45–5(a), 75.90–5(d), 75.90–10(a), 78.17–90(a), 192.20–25(m), 192.20–25(n), 192.43–5(c)(2), 192.45–5(a), 192.60–5(b), 192.60–10(b), 196.15–70(a).	30.3.
§ 78.95–75(d)	§ 78.17–85(b), 78.17–90(b), 196.15–65(b)	30.3.
§ 78.95–75(e)	§ 75.20–15(j)	30.3.
§ 78.95–75(f)	None	19.2.
§ 78.95–80	§ 71.25–15(a)(6), 78.17–60(f), 196.15–45(f)	19.8.
§ 78.95–90	§ 71.25–15(a)(9)	19.9.
§ 90.03–1	None	None.
§ 90.27–1	None	None.
§ 91.20–20(a)(1)	§ 91.20–20(a)(1), 94.35–5(a), 192.35–5(a)	Chap. I, Reg. 8.
§ 91.20–20(a)(1)(i)	§ 94.35–5(b), 192.35–5(b)	(IMO Res. A.521(13)–2/5.3.1, 6.1.2, 6.1.3, 6.1.4, 6.2.1, 6.2.2, 6.2.4).
§ 91.20–20(a)(1)(ii)	None	None.
§ 91.20–20(a)(1)(iii)	None	(IMO Res. A.521(13)–2/5.3.2).
§ 91.20–20(a)(1)(iv)	None	(IMO Rcs. A.521(13)–2/6.2.3).
§ 91.20–20(a)(1)(v)	None	None.
§ 91.20–20(a)(1)(vi)	None	None.
§ 91.20–20(a)(1)(vii)	None	(IMO Res. A.521(13)–2/3.1).
§ 91.25–15(a)	§ 91.25–15, 189.25–15	Chap. I, Reg. 8.
§ 91.25–15(a)(1)	§ 91.25–15(a)(1), 189.25–15(a)(1)	None.
§ 91.25–15(a)(2)	§ 91.25–15(a)(5), 189.25–15(a)(5)	None.
§ 91.25–15(a)(3)	§ 91.25–15(a)(2), 189.25–15(a)(2)	None.
§ 91.25–15(a)(4)	None	None.
§ 91.25–15(a)(5)	None	None.
§ 91.25–15(a)(6)	None	None.
§ 91.25–15(a)(7)	None	None.
§ 91.25–15(a)(8)	None	None.
§ 91.25–15(a)(9)	§ 91.25–15(a)(3), 91.25–15(b), 189.25–15(a)(3), 189.25–15(b)	None.
§ 91.25–15(a)(10)	§ 91.25–15(a)(4), 189.25–15(a)(4)	None.
§ 91.25–15(a)(11)	§ 91.25–15(a)(6), 189.25–15(a)(6)	None.
§ 91.25–15(a)(12)	§ 91.25–15(a)(8), 189.25–15(a)(8)	None.
§ 91.25–15(a)(13)	§ 91.25–15(a)(7), 94.20–15(ff), 94.20–15(gg), 94.20–15(hh), 94.20–15(jj), 94.20–25(m), 94.20–25(n), 94.43–5(c)(2), 94.45–5(a), 94.90–5, 94.90–10, 94.45–5(a), 192.20–25(m), 192.20–25(n), 192.43–5(c)(2), 192.45–5(a), 192.60–5(b), 192.60–10(b).	30.3.
§ 91.25–15(a)(14)	None	None.
§ 97.13–1	§ 97.13–15, 196.13–15	None.
§ 97.14–1	None	3.1.
§ 97.14–5	§ 97.14, 196.14	10.
§ 97.15–35(a)	None	18.2, 51.
§ 97.15–35(b)	§ 97.15–35(a), 97.15–35(b), 196.15–35(a), 196.15–35(b)	18.3.
§ 97.15–35(c)	§ 97.15–37, 196.15–37	None.
§ 97.15–35(d)	§ 97.13–20, 196.13–20	18.4.
§ 97.15–35(e)	§ 97.15–35(c), 196.15–35(c)	18.5.
§ 97.15–40	§ 97.15–35(a), 97.15–35(b), 97.15–35(c)	18.
§ 97.35–5(a)	§ 97.35–5(a)	18.5.
§ 97.37–37(a)	§ 94.15–15, 97.37–37(a), 97.37–37(b), 192.15–15	41.9.2.
§ 97.37–37(b)	§ 97.37–37(c)	41.9.1.
§ 97.37–37(c)	§ 97.37–37(c)	41.9.3.
§ 97.37–37(d)	§ 97.37–37(d)	None.
§ 97.37–37(e)	None	1.6, 30.1.
§ 97.37–39	§ 94.15–15, 97.37–40(a), 97.37–40(b)	40.7.
§ 97.37–40	§ 97.37–40(c)	None.
§ 97.37–42	§ 94.15–15, 97.37–40(a), 97.37–40(b)	None.
§ 97.37–43(a)	§ 97.37–43(a)	7.1.4.
§ 97.37–43(b)	§ 94.40–15(b)	7.2.2.
§ 97.37–43(c)	§ 97.37–43(b)	7.1.4.
§ 97.37–43(d)	§ 94.43–15(a)	None.
§ 97.37–43(e)	§ 94.40–25, 192.40–25	1.6, 30.2.7.
§ 97.37–43(f)	None	1.6, 30.1.
§ 97.37–55	§ 97.37–55	None.
§ 97.90–20	§ 94.15–5, 94.20–5(b), 94.45–20, 97.15–45(a), 192.15–5, 192.20–5(b), 192.45–20, 196.15–45(a).	19.2.
§ 97.90–30	§ 97.15–45(e), 196.15–45(e)	19.3.
§ 97.90–40	None	19.4.
§ 97.90–50	None	19.5.

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§ 97.90–60(a)	§ 97.15–35(b)(7), 196.15–35(b)(6)	19.6.
§ 97.90–60(b)	§ 97.15–45(b), 196.15–45(b)	19.6.
§ 97.90–60(c)	None	19.6.
§ 97.90–60(d)	§ 97.15–50(a), 196.15–50(a)	None.
§ 97.90–60(e)	§ 97.15–50(b), 196.15–50(b)	None.
§ 97.90–70(a)	§ 97.15–35(b)(9), 196.15–35(b)(6)	19.7.
§ 97.90–70(b)	§ 97.15–65(a), 196.15–65(a)	19.7.
§ 97.90–73	§ 97.15–40, 196.15–40	None.
§ 97.90–75(a)	§ 97.15–45(c), 97.15–45(d), 196.15–45(c), 196.15–45(d)	None.
§ 97.90–75(b)	None	None.
§ 97.90–75(c)	§ 94.20–15(ff), 94.20–15(gg), 94.20–15(hh), 94.20–15(jj), 94.20–25(m), 94.20–25(n), 94.43–5(c)(2), 94.45–5(a), 94.90–5, 94.90–10, 97.15–70(a), 192.20–25(m), 192.20–25(n), 192.43–5(c)(2), 192.45–5(a), 192.60–5(b), 192.60–10(b), 196.15–70(a).	30.3.
§ 97.90–75(d)	§ 97.15–65(b), 97.15–70(b), 196.15–65(b), 196.15–70(b)	30.3.
§ 97.90–75(e)	§ 94.20–15(j)	19.2.
§ 97.90–75(f)	None	19.8.
§ 97.90–80	§ 91.25–15(a)(6), 97.15–45(f), 196.15–45(f)	19.9.
§ 97.90–90	§ 91.25–15(a)(8)	None.
§ 107.115	§ 107.115	None.
§ 107.231(a)	§ 107.231(a)	(IMO Res. A.414(XI)–1.6).
§ 107.231(b)	§ 107.231(b), 107.231(g), 107.231(i)	None.
§ 107.231(b)(1)	None	None.
§ 107.231(b)(2)	§ 107.231(h)	None.
§ 107.231(b)(3)	None	30.3.
§ 107.231(b)(4)	§ 109.225, 109.307(b), 109.317, 109.320(b)	19.8.1.
§ 107.231(e)	§ 107.231(e)	19.9.
§ 107.231(f)	§ 107.231(f)	None.
§ 107.231(g)	None	(IMO Res. A.414(XI)–1.6).
§ 107.231(y)	§ 107.231(y), 107.231(z)	None.
§ 107.231(z)	None	(IMO Res. A.414(XI)–1.6).
§ 107.239(a)	§ 107.239(a), 107.239(b), 107.239(d)	(IMO Res. A.414(XI)–1.6).
§ 107.239(b)	§ 107.239(a)	(IMO Res. A.414(XI)–1.6).
§ 107.239(c)	None	(IMO Res. A.414(XI)–1.6).
§ 107.239(d)	None	(IMO Res. A.414(XI)–1.6).
§ 107.239(e)	§ 107.239(c)	None.
§ 107.305(bb)	§ 107.305(bb)	None.
§ 107.305(cc)	§ 107.305(cc)	None.
§ 108.501	None	41.9.2.
§ 108.645(a)	§ 108.645(a)	41.9.1.
§ 108.645(b)	§ 108.645(a)	41.9.3.
§ 108.645(c)	None	None.
§ 108.645(d)	None	1.6, 30.1.
§ 108.645(e)	None	40.7.
§ 108.646	None	None.
§ 108.647	§ 108.647	7.1.4.
§ 108.649(a)	§ 108.649(a), 108.649(c)	7.2.2.
§ 108.649(b)	§ 108.649(b)	7.1.4.
§ 108.649(c)	§ 108.649(c)	None.
§ 108.649(d)	None	1.6, 30.2.7.
§ 108.649(e)	§ 108.514(f)	1.6, 30.1.
§ 108.649(f)	None	None.
§ 108.650	None	None.
§ 109.207(c)	§ 109.320(c)	18.
§ 109.213	§ 109.213	18.2, 51.
§ 109.215(a)	§ 108.503(g)	18.3.
§ 109.215(b)	§ 109.215, 109.215(a), 109.215(b), 109.215(c), 109.217(a)	None.
§ 109.215(c)	§ 109.215(e)	18.4.
§ 109.215(d)	§ 109.215(d), 109.505(e)	19.2.
§ 109.301	§ 109.217(b), 109.301, 109.305, 109.341(a)	19.3.
§ 109.303	§ 108.503(g), 109.425	19.4.
§ 109.305	None	19.5.
§ 109.307	None	19.6.
§ 109.309	§ 109.217(c), 109.217(f), 109.217(g)	19.7.
§ 109.311(a)	None	19.7.
§ 109.311(b)	§ 109.208	None.
§ 109.313	§ 109.221	None.
§ 109.315(a)	§ 109.217(d), 109.217(e)	None.
§ 109.315(b)	None	30.3.
§ 109.315(c)	§ 109.225(a), 109.317, 109.320(b)	30.3.
§ 109.315(d)	§ 109.225(b), 109.307(b)	30.3.
§ 109.315(e)	None	19.2.
§ 109.315(f)	None	19.8.
§ 109.317	§ 109.219	19.9.
§ 109.319	§ 107.231(f)	10.
§ 109.323	§ 109.323, 109.325	None.
§ 109.425	§ 109.425	18.5.
§ 109.433(d)	§ 109.433(d)	18.5.
§ 109.433(e)	§ 109.433(e)	None.
§ 109.503(c)(2)	§ 109.503(c)(2)	11.5.
§ 112.15–1(c)	§ 112.15–1(c)	

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§ 112.15–1(g)	§ 33.20–1(c)(3), 75.70–10, 75.70–15, 94.50–10, 94.50–15, 112.15–1(g), 192.50–10, 192.50–15.	11.4, 15.7.
§ 112.15–5(u)	None	15.9.
§ 160.040–6(a)	§ 160.040–6(a)	None.
§ 160.040–6(b)	§ 160.040–6(a)	30.3.
§ 160.040–6(c)	§ 160.040–6(a)	30.3.
§ 160.040–6(d)	§ 160.040–6(b)	None.
§ 160.040–6(e)	§ 160.040–6(b)	None.
§ 167.03–1	None	None.
§ 167.35–1	§ 167.35–1	None.
§ 167.65–2	§ 167.65–1(c), 167.65–1(d)	18.
§ 168.05–5	§ 168.05–5	None.
§ 188.03–1	None	None.
§ 188.27–1	None	None.
§ 189.20–20(a)(1)	§ 189.20–20(a)(1)	None.
§ 196.15–40	§ 196.15–35(a), 196.15–35(b), 196.15–35(c)	18.
§ 196.35–5(a)	§ 196.35–5(a)	18.5.
§ 196.37–37(a)	§ 196.37–37(a), 196.37–37(b)	41.9.2.
§ 196.37–37(b)	§ 196.37–37(c)	41.9.1.
§ 196.37–37(c)	§ 196.37–37(c)	41.9.3.
§ 196.37–37(d)	§ 196.37–37(d)	None.
§ 196.37–37(e)	None	1.6, 30.1.
§ 196.37–39	§ 196.37–40(a), 196.37–40(b)	40.7.
§ 196.37–40	§ 196.37–40(c)	None.
§ 196.37–42	§ 196.37–40(a), 196.37–40(b)	None.
§ 196.37–43(a)	§ 196.37–43(a)	7.1.4.
§ 196.37–43(b)	None	7.2.2.
§ 196.37–43(c)	§ 196.37–43(b)	7.1.4.
§ 196.37–43(d)	§ 192.43–15(a)	None.
§ 196.37–43(e)	§ 194.40–25	1.6, 30.2.7.
§ 196.37–43(f)	None	1.6, 30.1.
§ 196.37–49	§ 196.37–49	None.
(None required)	None	1.4.4, 1.4.5, 2.2, 4.6, 21.4.3, 27.3.1, 27.3.2.1, 27.3.2.2, 27.3.3.1, 27.3.3.2, 27.3.5, 43.
(No change)	§ 2.75	4.4.
	§ 30.01–6(d), 70.05–10(d), 90.05–10(d), 188.05–10(d)	2.1.
	§ 111.75–16	11.4, 15.7.
	§ 112.15–1(c)	11.5.
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The existing regulations listed below are to be deleted. No new regulations are proposed and there is no corresponding regulation in SOLAS 74/83.

§ 33.01–25	33.05–15(b)	33.07–5	33.15–10(aa)	75.05–10	75.15–10(b)(9)
33.01–30(a)	33.05–20(b)	33.07–10(d)	33.15–20(e)	75.10–5(b)(2)	75.15–10(c)(5)
33.01–30(c)	33.05–25(b)	33.07–15	33.15–90	75.10–5(c)	75.15–10(c)(6)
33.01–30(e)	33.05–25(c)	33.07–20	33.20–1(b)	75.10–5(d)	75.15–10(c)(7)
33.05–3(b)	33.05–25(e)	33.07–25	33.20–5	75.10–5(a)(3)	75.15–10(d)
33.05–3(d)	33.05–30	33.10–1(e)	33.25–5(d)	75.10–5(a)(4)	75.20–15(p)
33.05–5(b)	33.05–35	33.10–10(e)	33.25–5(e)	75.10–5(a)(5)	75.20–15(r)
		33.10–10(f)	33.25–20(e)	75.10–5(a)(6)	75.20–15(u)
		33.10–10(h)	33.50	75.10–10(a)(2)	75.20–15(y)
		33.15–10(p)	33.55–10(c)	75.10–10(a)(4)	75.20–15(aa)
		33.15–10(r)	33.55–15	75.10–10(b)(3)	75.20–25(d)
		33.15–10(u)	35.10–5(g)	75.10–15(d)	75.20–25(h)
		33.15–10(y)	35.10–5(i)	75.10–20(a)(5)	75.20–25(o)

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46 CFR Part 31

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46 CFR Part 33

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46 CFR Part 35

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46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 75

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46 CFR Part 189

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Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 199

Cargo vessels, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements, Vessels.

In consideration of the foregoing, it is proposed that Chapter I, Title 46, Code of Federal Regulations be amended as follows:

1. By adding Subchapter W to read as follows:

SUBCHAPTER W—LIFESAVING APPLIANCES AND ARRANGEMENTS

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

Subpart A—General

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199.110 Survival craft muster and embarkation arrangements.
199.120 Launching stations.
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199.135 Stowage of liferafts and inflatable buoyant apparatus.
199.137 Stowage of life floats and buoyant apparatus.
199.140 Stowage of rescue boats.
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Subpart E—Additional Requirements for Tank Vessels

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199.320 Survival craft embarkation and launching arrangements: ocean, coastwise, or Great Lakes service.

Subpart F—Additional Requirements for Special Purpose Ships

199.400 General
199.405 Lifesaving appliance requirements.
199.410 Rescue boats: special purpose ships operating on the continental shelf of the United States.

Subpart G—Additional Requirements for Nautical School Ships

199.500 General.
199.505 Lifesaving appliance requirements.

Subpart H—Additional Requirements for Mobile Offshore Drilling Units

199.600 General
199.605 Survival craft.
199.610 Rescue boats.
199.630 Ring life buoys.
199.640 Immersion suits.
199.645 Station bill.
199.650 Survival craft embarkation and launching arrangements.

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

Subpart A—General

§ 199.5 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street, NW., Washington, DC, and at the U.S. Coast Guard, Merchant Vessel Inspection Division (G–MVI), 2100 Second Street, SW., Washington, DC 20593—0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected are:

American Society for Testing and Materials

1916 Race St., Philadelphia, PA 19103
ASTM F1003, Standard Specification for Searchlights on Motor Lifeboats, 1986 ..... 199.175
ASTM F1014, Standard Specification for Flashlights on Vessels, 1986 ..... 199.175

International Maritime Organization (IMO)

Publications Section, 4 Albert Embankment, London SE1 7SR, England

Resolution A.181(VI), "Instructions on Survival in Liferafts", October 28, 1969 ..... 199.175
Resolution A.216(VII), "Instructions for Action in Survival Craft", October 12, 1971 ..... 199.175
Resolution A.520(13), "Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements", November 1983 ..... 199.40
Resolution A.603(15), "Symbols Related to Life-saving Appliances and Arrangements", November 1987 ..... 199.90
Resolution A.604(15), "Performance Standards for Survival Craft Radar Transponder for Use in Search and Rescue Operations", November 1987 ..... 199.64
Resolution A.605(15), "Performance Standards for Survival Craft Two-way VHF Radiotelephone Apparatus", November 1987 ..... 199.62
1983 Amendments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74/83) 199.7; 199.30; 199.68; 199.70; 199.72; 199.75; 199.110; 199.135; 199.150; 199.153; 199.175; 199.201; 199.202; 199.261; 199.262; 199.310; 199.605; 199.610
Resolution MSC.4(48), "International Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk" (IBC Code), 1983 ..... 199.320
Resolution MSC.5(48), "International Code for the Construction and Equipment of Ships carrying Liquefied Gases in Bulk" (IGC Code), 1983 ..... 199.320
International Convention for the Prevention of Pollution from Ships, 1973, as modified by the 1978 Protocol related thereto (MARPOL 73/78) 199.320

§ 199.7 Transitional provisions.

This subchapter is based in part on Chapter III, "Life-saving Appliances and Arrangements" of SOLAS 74/83. The Coast Guard approves some lifesaving appliances under subparts of Subchapter Q of this chapter that have not been revised to meet SOLAS 74/83. This subchapter requires those appliances to meet both Subchapter Q and SOLAS 74/83. Where the requirements conflict, SOLAS 74/83 takes precedence. Until revisions to Subchapter Q are published, the Commandant (G–MVI) will provide guidance on the approval requirements for these appliances.

§ 199.10 Application.

(a) A nonself-propelled vessel without accommodations or work stations on board is not required to carry lifesaving appliances meeting this subchapter. This subchapter contains requirements for lifesaving appliances and arrangements on the following self-propelled vessels

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and nonself-propelled vessels with accommodations or work stations:

(1) Each tank vessel required to meet Subchapter D of this chapter.

(2) Each cargo and miscellaneous vessel required to meet Subchapter I of this chapter. For the purposes of this subchapter, the term "cargo vessel" also includes each miscellaneous vessel under Subchapter I.

(3) Each mobile offshore drilling unit required to meet Subchapter I–A of this chapter.

(4) Each passenger vessel required to meet Subchapter H of this chapter.

(5) Each offshore supply vessel required to meet Subchapter L of this chapter (proposed, 48 FR 6636).

(6) Each nautical school ship required to meet Subchapter R of this chapter.

(7) Each oceanographic research vessel required to meet Subchapter U of this chapter.

(b) Each section of this subchapter applies to each vessel in each service listed in this paragraph unless otherwise stated in the section. Each vessel that complies with the lifesaving requirements in a section of this subchapter for a particular service is considered to meet the requirements for each service that follows it in the following list. The services are:

(1) Ocean (including international voyage).

(2) Short international voyage (passenger vessels only).

(3) Coastwise.

(4) Great Lakes.

(5) Lakes, bays, and sounds.

(6) Rivers.

(c) For the purposes of this subchapter—

(1) "similar stage of construction" means the stage at which—

(i) construction identifiable with a specific vessel begins; and

(ii) assembly of that vessel comprising at least 50 metric tons (55.1 U.S. tons) or 1% of the estimated mass of all structural material, whichever is less, has been achieved; and

(2) "vessel constructed" means "vessel the keel of which is laid or which is at a similar stage of construction".

(d) For the purposes of this subchapter, a vessel converted to a passenger vessel must be treated as a passenger vessel constructed on the date when the conversion begins.

(e) Subject to § 199.15, each vessel constructed before July 1, 1986 must meet this subchapter except for—

(1) The number, type, and arrangement of lifeboats, lifeboat davits, winches, inflatable liferafts, liferaft launching equipment, rescue boats, life floats, and buoyant apparatus;

(2) Two-way radiotelephone apparatus under § 199.62;

(3) Emergency Position Indicating Radio Beacons (EPIRB) and Search and Rescue Transponders (SART) for survival craft under § 199.64(b) and § 199.175(c)(12); and

(4) Immersion suits under § 199.214 for a vessel required to meet Subpart C of this subchapter.

(f) Each item of lifesaving equipment carried on board the vessel in addition to equipment of the type required under this part, must—

(1) Be approved by the Commandant (G–MVI); or

(2) Be acceptable to the cognizant Officer in Charge of Marine Inspection (OCMI) for use on the vessel.

§ 199.15 Requirements for vessels built before July 1, 1986.

This section applies to each vessel built before July 1, 1986 that does not meet the applicable requirements in Subparts B through H of this subchapter.

(a) The number, type, and arrangement of lifeboats, lifeboat davits, winches, inflatable liferafts, liferaft launching equipment, rescue boats, life floats, and buoyant apparatus must be as required for the vessel on June 30, 1986, as long as the arrangement or equipment is continued in use on the vessel.

(b) When any lifesaving appliance or arrangement on a vessel is replaced or a vessel undergoes repairs, alterations or modifications of a major character involving replacement of, or any addition to, the existing lifesaving appliances or arrangements, each new lifesaving appliance and arrangement must meet this subchapter, unless the vessel can not accommodate the new appliance or arrangement.

(1) A survival craft is not required to meet this subchapter if it is replaced without replacing its davit and winch.

(2) A davit and its winch are not required to meet this subchapter if one or both are replaced without replacing the survival craft.

(c) On or before July 1, 1991, each vessel in ocean, short international voyage, coastwise, or Great Lakes service, must have survival craft portable two-way radiotelephone apparatus meeting § 199.62.

(d) On or before July 1, 1991, each vessel of a type required to meet Subpart C of this subchapter in ocean, short international voyage, coastwise, or Great Lakes service, must have immersion suits and thermal protective aids meeting § 199.214.

(e) On or before July 1, 1991, each vessel of a type required to meet Subpart D of this subchapter in ocean or coastwise service, must have liferafts meeting § 199.261(b)(2), § 199.261(h), and § 199.290(b).

(f) On or before July 1, 1991, each vessel equipped with a liferaft not served by a launching appliance, and each vessel equipped with an inflatable buoyant apparatus, must have rail or bulwark openings or mounting arrangements meeting § 199.135(c).

(g) On or before July 1, 1991, each set of lifeboat davits on a vessel of a type required to meet Subpart D of this subchapter in ocean, coastwise, or Great Lakes service, must be gravity type davits with a winch. For open lifeboats, boarding of the lifeboat in the stowed position is not required.

(h) On or before July 1, 2001, each lifeboat on a vessel of a type required to meet Subpart D of this subchapter in ocean, coastwise, or Great Lakes service, must be a totally enclosed lifeboat.

(i) After July 1, 1991, each new lifeboat for a tank ship certificated to carry crude, product, chemicals, or liquified gases; having a flashpoint less than 60° C (closed cup test), must not be of aluminum construction in the hull or canopy.

(j) On or before April 1, 1991, each mobile offshore drilling unit (MODU) required to meet Subpart H of this subchapter must either have—

(1) Lifeboats and liferafts that meet § 199.605(b); or

(2) Totally enclosed fire-protected lifeboats of sufficient capacity to accommodate 100% of the persons permitted on board, plus additional totally enclosed lifeboats or davit-launched liferafts of sufficient capacity to accommodate 100% of the persons permitted on board the unit.

(i) An open lifeboat may be used instead of davit-launched liferafts as long as it is in good working order. An open lifeboat requiring extensive repairs must be replaced with either a totally enclosed fire-protected lifeboat, or davit-launched liferafts.

(ii) A submersible MODU constructed before January 3, 1979 may continue to use the lifesaving arrangements described on its Certificate of Inspection in effect on [insert effective date].

(k) On or before July 1, 1991, each passenger ferry, and each other passenger vessel on ocean, short international voyage, or coastwise service, must have the number of lifeboats, liferafts, and inflatable buoyant apparatus meeting § 199.201.

(l) On or before July 1, 1991, each lifeboat on a vessel must be propelled—

(1) Either by motor or by a hand-propelling gear meeting Subpart 160.034 of this chapter if the lifeboat has a capacity of at least 60 persons, but less than 100 persons; or

(2) By motor if the lifeboat has a capacity of 100 persons or more.

(m) A lifesaving appliance required under this section and in use on a vessel before July 1, 1991 is not required to comply fully with this subchapter as long as it—

(1) Is Coast Guard approved;

(2) Meets the requirements for the vessel in effect before [insert effective date]; and

(3) Is maintained in good and serviceable condition.

§ 199.25 Additional requirements.

The Officer in Charge, Marine Inspection (OCMI) may require a vessel to carry specialized or additional lifesaving equipment if,—

(a) the OCMI determines the conditions of the voyage render the requirements of this subchapter inadequate; or

(b) the vessel is operated in Arctic, Antarctic, or other severe conditions not covered under this subchapter.

§ 199.30 Definitions.

Each term defined elsewhere in this chapter for a particular class of vessel applies to this subchapter unless a different definition is given in this section.

"Accommodation" means a cabin or other covered or enclosed place intended to carry persons. Each place where passengers are carried is considered an accommodation, whether or not it is covered or enclosed.

"Embarkation station" means the place where a survival craft is boarded.

"Fleet angle" for a wire rope leading to a winch drum means the angle included between an imaginary line from the lead sheave perpendicular to the axis of the drum and the line formed by the wire rope when led from the lead sheave to either extremity of the drum.

"Float-free" launching means that method of launching a lifesaving appliance whereby the appliance is automatically released from a sinking vessel and is ready for use. In the case of an inflatable lifesaving appliance, inflation takes place automatically.

"Free-fall" launching means that method of launching a survival craft whereby the craft with its complement of persons and equipment on board is released and allowed to fall into the water without any restraining apparatus.

"Immersion suit" means a device approved by the Commandant (G–MVI) under Subpart 160.171 of this chapter. Except for a vessel on an international voyage constructed on or after July 1, 1986,—

(a) An exposure suit approved under former Subpart 160.071 of this chapter is an immersion suit for the purposes of this subchapter, and

(b) An unapproved suit in use on the vessel before November 1, 1980 is accepted for use on that vessel in place of an immersion suit if—

(1) It is similar or identical to an approved suit; and

(2) It is in serviceable condition.

"Inflatable" appliance means one that depends upon non-rigid, gas filled chambers for buoyancy and that is normally kept uninflated until ready for use.

"Inflated" appliance means one that depends upon non-rigid, gas filled chambers for buoyancy and that is kept inflated and ready for use at all times.

"Launching appliance" or "launching arrangement" means a device or devices for safely transferring a survival craft or rescue boat from its stowed position to the water. For a launching arrangement using a davit, the term includes the davit, winch and falls.

"Length" means the load line length defined in § 42.13–15(a) of this chapter.

"Lifejacket", for the purposes of this subchapter, means a flotation device approved by the Commandant (G–MVI) as—

(a) A "life preserver"; or

(b) As meeting Regulations III/30.2 and III/32.1 of SOLAS 74/83.

"Marine escape slide" means a device which includes an inflatable escape slide and an inflatable boarding platform. The device allows survivors to abandon the ship by sliding from the embarkation deck down to the boarding platform floating on the water. Survival craft are then boarded from the boarding platform. Although it does not transfer a survival craft from the stowed position to the water, a marine escape slide is considered to be a "launching appliance" for the purposes of this subchapter.

"Molded depth" is defined in § 42.13–15(e) of this chapter.

"Muster station" means the place where the crew and passengers assemble before boarding a survival craft.

"Novel" lifesaving appliance or arrangement means one that has new features not fully covered by the provisions of this subchapter but providing an equal or higher standard of safety.

"Retrieval" means the safe recovery of survivors.

"Seagoing condition" means the operating condition of the vessel with the personnel, equipment, fluids and ballast necessary for safe operation on the waters where the vessel operates. For bottom-bearing mobile offshore drilling units, the term also applies in the bottom-bearing mode, but the "lightest seagoing condition" is considered to be the highest anticipated operating condition.

"Survival craft" means a craft capable of sustaining the lives of persons in distress after abandoning the vessel on which they were carried. The term includes lifeboats, liferafts, buoyant apparatus, and life floats, but does not include rescue boats.

"Toxic vapor or gas" means a product for which emergency escape respiratory protection is required under subchapter 17 of the International Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk (IBC Code), and in subchapter 19 of the International Code for the Construction and Equipment of Ships carrying Liquefied Gases in Bulk (IGC Code).

§ 199.40 Equivalent and novel lifesaving appliances and arrangements.

(a) Where this subchapter requires a particular lifesaving appliance or arrangement, the Commandant (G–MVI) may accept any other appliance or arrangement that is at least as effective as that specified. If necessary, the Commandant (G–MVI) may require engineering evaluations and tests to demonstrate the equivalence of the substitute appliance or arrangement.

(b) The Commandant (G–MVI) may approve a novel lifesaving appliance or arrangement, if it has performance characteristics at least equivalent to the appliance or arrangement required under this subchapter, and—

(1) Is evaluated and tested under IMO Resolution A.520(13), "Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Lifesaving Appliances and Arrangements"; or

(2) Has successfully undergone evaluation and tests that are substantially equivalent to those recommendations.

Subpart B—Requirements for All Vessels

§ 199.62 Survival craft portable two-way radiotelephone equipment: ocean, short international voyage, coastwise, or Great Lakes services.

This section applies to each vessel in ocean, short international voyage, coastwise, or Great Lakes service, which is equipped with lifeboats, liferafts, or inflatable buoyant apparatus.

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(a) Each vessel must have survival craft portable two-way radiotelephone equipment meeting the regulations of the Federal Communications Commission at 47 CFR 80.271 and IMO Resolution A.605(15). Each radio must operate on 156.3 MHz (channel 6), and 156.8 MHz (channel 16).

(b) A radio for each survival craft is not required; however, at least three such radios must be on each vessel.

(c) Other transceivers used on board the vessel that are not incompatible with the appropriate requirements of the Federal Communications Commission are acceptable to meet this requirement.

§ 199.64 Emergency Position Indicating Radiobeacons (EPIRB) and Search and Rescue Transponders (SART).

(a) *Ocean, short international voyage, coastwise, or Great Lakes services.* Each vessel in ocean, short international voyage, coastwise, or Great Lakes service, except as provided under paragraph (c), (d), or (e) of this section, must have on each side of the vessel, a Category 1, float-free, automatically activated, 406 MHz Satellite Emergency Position Indicating Radio Beacon (EPIRB) meeting Federal Communications Commission (FCC) regulations at 47 CFR 80.1061 (See 53 FR 37306 of September 26, 1988), stowed where it—

(1) Is readily accessible for testing and use; and

(2) Will not be obstructed when it floats free of the vessel.

(b) *Ocean, short international voyage, or coastwise services.* (1) Unless each liferaft on the vessel is equipped with a Class S EPIRB, a Category 2 Satellite EPIRB, or a Search and Rescue Transponder (SART), each vessel in ocean, short international voyage, or coastwise service, must have

(i) Two Class S EPIRBs which meet the FCC regulations at 47 CFR 80.1059,

(ii) Two Category 1 or Category 2 Satellite EPIRBs which meet FCC regulations at 47 CFR 80.1061, or (See 53 FR 37308, of September 26, 1988)

(iii) Two SARTs which meet the FCC regulations at 47 CFR 80.375(e) and IMO Resolution A.604(15).

(2) Each EPIRB or SART must be installed—

(i) In a weathertight enclosure;

(ii) One on each side of the vessel;

(iii) In a readily accessible location;

(iv) If the vessel has two or more widely separated deckhouses, at separate deckhouses; and

(v) At or near a liferaft embarkation station.

(3) The Category 1 Satellite EPIRBs required under paragraph (a) of this section may be considered to meet the requirement in paragraph (b)(1) of this section, if their installation meets paragraphs (b)(2)(iii), (b)(2)(iv), and (b)(2)(v) of this section.

(c) *Alternative: nonself-propelled vessels.* An EPIRB is not required on a nonself-propelled vessel if the vessel is normally—

(1) under tow;

(2) moored to or alongside a mobile offshore drilling unit or self-propelled vessel; or

(3) moored to shore.

(d) *Alternative: Class A EPIRBs installed on or before [insert effective date].* Until [insert date 6 years after effective date], a Coast Guard approved Class A EPIRB may be used to meet the requirement for an EPIRB under paragraph (a) of this section. Each Class A EPIRB carried under this paragraph must have been installed on the vessel on or before [insert effective date]. Each Class A EPIRB replaced after [insert effective date] must be replaced with an EPIRB meeting § 199.64(a).

(e) *Alternative: Class C EPIRBs installed on Great Lakes vessels on or before [insert effective date].* Until [insert date 6 years after effective date], two Class C EPIRBs may be used to meet the requirement for an EPIRB on vessels in Great Lakes service under paragraph (a) of this section. Each Class C EPIRB carried under this paragraph must have been installed on the vessel on or before [insert effective date]. Each Class C EPIRB replaced after [insert effective date] must be replaced with an EPIRB meeting § 199.64(a). Class C EPIRBs carried under this paragraph must be installed—

(1) Each in a weathertight enclosure;

(2) Each in a readily accessible location;

(3) One on each side of the vessel;

(4) If the vessel has two or more widely separated deckhouses, at separate deckhouses; and

(5) Each at or near a principal embarkation station.

§ 199.66 Portable radio apparatus for survival craft: international voyage.

Except as specified under paragraphs (a) and (b) of this section, each vessel on an international voyage carrying a Class A EPIRB as an alternative to a Category 1, 406 MHz Satellite EPIRB, must have a portable radio apparatus Type Approved by the FCC.

(a) The portable radio apparatus is not required if a fixed radio installation meeting the regulations of the Federal Communications Commission is fitted in a lifeboat on each side of the vessel or in a stern-launched lifeboat under § 199.261(c).

(b) The OCMI may exempt a vessel from the requirement to carry a portable radio apparatus on voyages of such duration that the apparatus is unnecessary.

(c) The portable radio apparatus must be stowed—

(1) in a protected and easily accessible position ready to be moved to any survival craft in an emergency; or

(2) in the case of a vessel with lifeboats in widely separated positions fore and aft, the portable radio apparatus must be stowed in the vicinity of the lifeboats farthest away from the vessel's main transmitter.

(d) Each totally enclosed lifeboat on a vessel carrying a portable radio apparatus must be equipped with a collapsible rod antenna meeting the regulations of the Federal Communications Commission at 47 CFR 80.265(e)(2). The boat must also have mounting arrangements to hold the antenna in its operating position.

§ 199.68 Distress flares.

(a) *Ocean, short international voyage, or coastwise service.* This paragraph applies to each vessel in ocean, short international voyage, or coastwise service, except for vessels of less than 150 tons gross tonnage and not carrying passengers, persons in addition to the crew, or offshore workers.

(1) Each vessel must carry not less than 12 rocket parachute flares approved by the Commandant (G–MVI) as meeting Subpart 160.036 of this Chapter, Regulation III/30.2 of SOLAS 74/83, and Regulation III/35 of SOLAS 74/83.

(2) A vessel less than 150 tons gross tonnage that is not a passenger vessel, but carries passengers, persons in addition to the crew, or offshore workers, is not required to meet paragraph (a)(1) of this section if it carries six hand red flare distress signals approved under Subpart 160.021 of this chapter, and six hand orange smoke distress signals approved under Subpart 160.037 of this chapter.

(b) *Great Lakes service.* Each vessel of 150 tons gross tonnage and over in Great Lakes service must carry not less than 12 hand red flare distress signals approved under Subpart 160.021 of this chapter.

(c) *Exemption: vessels on short runs.* Vessels operating on short runs limited to approximately 30 minutes away from the dock are not required to carry distress flares under this section.

(d) *Stowage.* Each flare carried to meet this section must be stowed in one of the following:

(1) A portable watertight container carried within the pilothouse or on the navigating bridge. An acceptable watertight container is described in § 160.021–6 of this chapter.

(2) A portable magazine chest secured above the freeboard deck, away from heat, in the vicinity of the pilothouse or navigating bridge. An acceptable magazine chest is described in Subpart 160.038 of this chapter.

§ 199.70 Ring life buoys.

(a) *General.* Each vessel must have two or more ring life buoys.

(1) Each ring life buoy on a vessel must—

(i) Be approved under Subpart 160.050 of this chapter;

(ii) Be of the 800 mm (30 in.) size;

(iii) Be readily accessible;

(iv) Be stowed in a way that it can be rapidly cast loose; and

(v) Not be permanently secured in any way.

(2) At least one ring life buoy on each side of the vessel must be fitted with a buoyant lifeline. The lifeline must—

(i) Be at least as long as twice the height where it is stowed above the waterline in the lightest seagoing condition, or 30 m (100 ft.), whichever is the greater;

(ii) Be non-kinking;

(iii) Have a diameter of not less than 8 mm (5/16 in.);

(iv) Have a breaking strength of not less than 5 kN (1,124 lb.); and

(v) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light.

(3) Not less than one-half of the total number of ring life buoys, but at least two, must each have a water light approved by the Commandant (G–MVI) as meeting Subpart 161.010 of this Chapter, Regulation III/30.2 of SOLAS 74/83, and Regulation III/31.2 of SOLAS 74/83. The ring life buoys with a water light, including any with a self-activating smoke signal under paragraph (c) of this section—

(i) Must have a lanyard between 1 m (39 in.) and 2 m (78 in.) long securing the water light to the ring life buoy;

(ii) Must be equally distributed on both sides of the vessel; and

(iii) Unless the vessel carries less than four ring life buoys, must not be the ring life buoys with lifelines under paragraph (a)(2) of this section.

(b) *Self-propelled vessels: all services.* On each self-propelled vessel, one or more ring life buoys must be readily available—

(1) On each side of the vessel;

(2) As far as practicable, on each open deck extending to the side of the vessel; and

(3) Near the stern.

(c) *Ocean or short international voyage service.* On each vessel in ocean or short international voyage service, not less than two of the ring life buoys with water lights must each have a self-activating smoke signal approved by the Commandant (G–MVI) as meeting Subpart 160.057 of this Chapter, Regulation III/30.2 of SOLAS 74/83, and Regulation III/31.3 of SOLAS 74/83. Each of these ring life buoys must be capable of quick release from the navigating bridge.

(d) *Ocean, short international voyage, or coastwise service.* Each ring life buoy on a vessel in ocean, short international voyage, or coastwise service must be orange.

§ 199.72 Lifejackets.

(a) *General.* A lifejacket must be provided for each person permitted on board the vessel. Each lifejacket must be approved by the Commandant (G–MVI) as meeting Subpart 160.002, Subpart 160.005, or Subpart 160.055 of this Chapter. On each vessel in ocean, short international voyage, or coastwise service, each lifejacket must also be approved by the Commandant as meeting Regulations III/30.2 and III/32.1 of SOLAS 74/83.

(1) In addition,—

(i) A number of child-size lifejackets equal to at least 10% of the number of passengers permitted on board must be provided or such greater number as necessary to provide a lifejacket for each person smaller than the lower size limit of the adult lifejackets provided to meet this section; and

(ii) The engineroom, pilothouse, bow lookout, and each work station and industrial work site remotely located from the lifejackets carried under paragraph (a) of this section, must have enough lifejackets to equal the number of persons normally on watch in, or assigned to, the station at one time.

(2) Where, due to the particular arrangements of the vessel, the lifejackets under paragraph (a)(1) of this section could become inaccessible, the OCMI may require an increase in the number of lifejackets to be carried, or suitable alternative arrangements.

(b) *Services other than ocean or short international voyage.* Notwithstanding the requirements of paragraph (a) of this section, on a vessel not in ocean or short international voyage service—

(1) A lifejacket is not required at a watch or work station for a person whose cabin, stateroom, or berthing area (and the lifejackets stowed in that location) is readily accessible to the watch or work station; and

(2) Child-size lifejackets are not required if the vessel does not carry persons smaller than the lower size limit of the adult lifejackets.

(c) *Great Lakes service.* Each vessel of 3000 tons gross tonnage and over in Great Lakes service, having forward berthing or working spaces widely separated from messing or recreational spaces aft, must carry lifejackets in addition to those required under paragraph (a) of this section, sufficient for 50 percent of the number of persons permitted on board.

§ 199.73 Rescue boat immersion suits: ocean, short international voyage, coastwise, or Great Lakes service.

On each vessel with a rescue boat in ocean, short international voyage, coastwise, or Great Lakes service, an immersion suit of appropriate size must be provided for each person assigned to the rescue boat crew.

§ 199.75 Lights for lifejackets and immersion suits: ocean, short international voyage, coastwise, or Great Lakes service.

(a) Each lifejacket and each immersion suit carried on a vessel engaged in ocean, short international voyage, coastwise, or Great Lakes service, must have a lifejacket light securely attached to the front shoulder area of the lifejacket or immersion suit. The lifejacket light must be approved by the Commandant (G–MVI) as meeting—

(1) For a vessel in ocean service, Subpart 161.012 of this Chapter, Regulation III/30.2 of SOLAS 74/83, and Regulation III/32.3 of SOLAS 74/83; or

(2) For a vessel in short international voyage, coastwise, or Great Lakes service, Subpart 161.012 of this Chapter.

(b) Until July 1, 1991, a lifejacket light on a vessel in ocean service built before July 1, 1986 is not required to be approved by the Commandant (G–MVI) as meeting Regulations III/30.2 and III/32.3 of SOLAS 74/83, if the light is approved under Subpart 161.012 of this chapter, and is in good and serviceable condition.

§ 199.76 Whistles for lifejackets and immersion suits: ocean or short international voyage service.

Each lifejacket and each immersion suit carried on a vessel engaged in ocean or short international voyage service must have a whistle of the ball type or multi-tone type, of corrosion-resistant construction, and in good working order.

(a) The whistle must be attached to the lifejacket or immersion suit by a lanyard without hooks, snaps, clips, etc. The lanyard must be long enough to

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permit the whistle to reach the mouth of the wearer.

(b) If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the lifejacket or immersion suit, or be stowed with the lanyard coiled and stopped off.

§ 199.78 Stowage of lifejackets and immersion suits.

(a) *General.* Unless otherwise stated in this section, lifejackets and immersion suits must be distributed throughout the cabins, staterooms, berthings, and other places convenient for each person permitted on board.

(1) Each stowage container for lifejackets or immersion suits must not be capable of being locked.

(2) Each lifejacket and immersion suit kept in a stowage container must be readily available.

(3) Each lifejacket and immersion suit stowed overhead must be supported in a manner that allows quick release for distribution.

(4) If lifejackets or immersion suits are stowed more than 2.1 m (7 ft.) above the deck, a means for quick release must be provided and must be capable of operation by a person standing on the deck.

(5) Each child size lifejacket and child size immersion suit must be stowed in a location which is appropriately marked and separated from adult size devices, so that child size devices are not mistaken for adult size devices.

(b) *Rescue boat immersion suits: ocean, short international voyage, coastwise, or Great Lakes service.* The immersion suits required under § 199.73 must be stowed near the rescue boat, or in some other location readily accessible to the rescue boat crew.

(c) *Lifejackets for engineroom, pilothouse, bow lookout, and work stations and industrial work sites.* The additional lifejackets required under § 199.72(a)(1)(ii) must be stowed in places readily accessible to the locations specified in that section.

(d) *Great Lakes service.* The lifejackets required under § 199.72(c) must be stowed in the vicinity of the muster or embarkation stations.

§ 199.80 Station bill (muster list) and emergency instructions.

This section applies to each passenger vessel and each other vessel 500 tons gross tonnage and over. Clear instructions to be followed in the event of an emergency must be provided for each person on board.

(a) Identical station bills (muster lists) must be exhibited in conspicuous places throughout the vessel including the navigating bridge, engineroom and crew accommodation spaces. The station bill must be prepared and posted before the vessel begins its voyage. After the station bill has been prepared, if any change takes place that necessitates an alteration in the station bill, the master must either revise the station bill or prepare a new one. Each station bill must—

(1) Give instructions for operating the general alarm system required under Subpart 113.25 of this chapter;

(2) Identify the emergency signals;

(3) Specify the action to be taken by crew and passengers when each signal is sounded;

(4) Specify how the order to abandon the vessel will be given;

(5) Specify the survival craft each person on board is assigned to;

(6) Specify the officers that are assigned to make sure that lifesaving and fire fighting appliances are maintained in good condition and are ready for immediate use;

(7) Show the duties assigned to the different members of the crew including—

(i) Persons in command and the chain of command;

(ii) Closing of the watertight doors, fire doors, valves, scuppers, sidescuttles, skylights, portholes and other similar openings in the vessel's hull;

(iii) The stopping of fans and ventilating systems;

(iv) Equipping the survival craft and other lifesaving appliances;

(v) Preparation and launching of survival craft;

(vi) General preparations of other lifesaving appliances;

(vii) Muster of passengers and other persons in addition to the crew;

(viii) Use of communication equipment;

(ix) Responsibility for the portable radio apparatus;

(x) Manning of the rescue boats for rescuing persons overboard and other emergencies requiring the use of the rescue boat;

(xi) Manning of emergency squad assigned to deal with fires and other emergencies;

(xii) Administration of first-aid;

(xiii) Special duties assigned with respect to the use of fire-fighting equipment and installations; and

(xiv) Such other duties as are necessary for the proper handling of the vessel in an emergency;

(8) Show the duties assigned to members of the crew, generally from the steward's department, in relation to passengers in case of emergency, including—

(i) Warning the passengers;

(ii) Seeing that passengers are suitably dressed and have donned their lifejackets or immersion suits correctly;

(iii) Assembling passengers at muster stations;

(iv) Keeping order in the passageways and on the stairways and generally controlling the movements of the passengers;

(v) Making sure that a supply of blankets is taken to the survival craft;

(9) Specify substitutes for key persons if they are disabled, taking into account that different emergencies require different actions; and

(10) Be at least poster size [600 mm (24 in.) x 750 mm (30 in.)].

(b) Illustrations and instructions in English and any other appropriate language must be posted in each passenger cabin and be conspicuously displayed at each muster station and other passenger spaces to inform passengers of—

(1) The fire and emergency signal;

(2) The abandon-ship signal;

(3) Their muster station;

(4) The essential actions they must take in an emergency;

(5) The location of lifejackets, including child size lifejackets;

(6) Fully illustrated instructions on the method of donning lifejackets;

(7) If immersion suits are provided for passengers, the location of the immersion suits, including child size immersion suits; and

(8) If immersion suits are provided for passengers, fully illustrated instructions on the method of donning immersion suits.

(c) Each vessel equipped with inflatable liferafts must have the manufacturer's approved launching and inflating instruction placards posted in conspicuous places readily available to the crew and passengers. The number and location of the placards must be accepted by the OCMI.

(d) Each vessel equipped with immersion suits must have the manufacturer's approved donning and use instruction placards posted in conspicuous places readily available to the crew. The number and location of the placards must be accepted by the OCMI.

§ 199.90 Operating instructions.

Posters or signs must be on or in the vicinity of each survival craft and its launching controls and must—

(a) Illustrate the purpose of controls;

(b) Illustrate the procedures for operating the launching device;

(c) Give relevant instructions or warnings;

(d) Be easily seen under emergency lighting conditions; and

(e) Use symbols In accordance with IMO recommendation A.603(15).

§ 199.110 Survival craft muster and embarkation arrangements.

(a) One or more muster stations must be close to each embarkation station. Each muster station must have sufficient space to accommodate all persons assigned to muster at that station. An embarkation station may serve as a muster station if there is sufficient space to accommodate all persons assigned to muster at that station.

(b) Each muster station and embarkation station must be readily accessible from accommodation and work areas.

(c) Each muster station and embarkation station for a survival craft which is boarded before it is launched, must be arranged to enable stretcher cases to be placed in the survival craft.

(d) Each embarkation station must be located where it is not necessary to climb up more than three steps on stairs or a ladder, or climb over obstructions to—

(1) Reach the embarkation station from the adjacent deck house; and

(2) Board the survival craft from the embarkation station.

(e) An embarkation ladder must be at each launching station or at each two adjacent launching stations. Each embarkation ladder must be approved by the Commandant (G–MVI) as meeting Subpart 160.017 of this Chapter, Regulation III/30.2 of SOLAS 74/83, and Regulation III/48.7 of SOLAS 74/83.

(1) Each ladder must extend in a single length, from the deck to the waterline in the lightest seagoing condition under unfavorable conditions of trim and with the vessel listed up to 15° either way.

(2) Each ladder must be secured to the deck and stowed ready to be put over the side and used.

(3) Handholds must be provided to allow safe passage between the deck and the head of the ladder.

(4) The OCMI may permit an embarkation ladder to be replaced by a device approved by the Commandant (G–MVI) to provide safe and rapid access to survival craft in the water, provided that there is at least one embarkation ladder on each side of the vessel.

(5) The OCMI may permit other safe and effective means of embarkation for a liferaft required under § 199.261(h).

(6) An embarkation ladder is not required if—

(i) The distance from the embarkation deck to the vessel's lightest operating waterline is less than 3 m (10 ft.); and

(ii) The vessel is not in ocean or short international voyage service.

(f) Means must be provided for bringing each davit-launched survival craft against the side of the vessel and holding it alongside to allow persons to be—

(1) Safely embarked in the case of a survival craft intended to be boarded over the edge of the deck; and

(2) Safely disembarked after a drill in the case of a survival craft not intended to be moved to the stowed position with a full complement of persons on board.

(g) Each davit-launched liferaft launching arrangement must have a means to hold the liferaft in the embarkation position that—

(1) Will hold the liferaft securely in high winds;

(2) Can be rapidly engaged by hooks, clips, or a similar arrangement that does not require lashing, tying, adjustment, or separate tools; and

(3) Can be rapidly released for launching by one person from within the loaded liferaft in not more than two separate motions.

§ 199.120 Launching stations.

(a) Each launching station must be positioned to ensure safe launching considering in particular clearance from—

(1) The propeller; and

(2) Steeply overhanging portions of the hull.

(b) As far as possible, survival craft must be launched down the straight side of the vessel, except for survival craft for free-fall launching.

(c) Each launching station in the forward part of the vessel must—

(1) Be located aft of the collision bulkhead in a sheltered position; and

(2) Have a launching appliance approved by the Commandant (G–MVI) as being of sufficient strength for forward installation.

§ 199.130 Stowage of survival craft.

(a) *General.* Each survival craft required to have a launching appliance, must be stowed as close to accommodation and service spaces as possible.

(1) Each survival craft must be stowed—

(i) In a way that neither the survival craft nor its stowage arrangements will interfere with the embarkation and operation of any other survival craft or rescue boat at any other launching station;

(ii) As near the water surface as is safe and practicable, except as provided in paragraphs (a)(1)(iii) and (d) of this section;

(iii) Where the survival craft in the embarkation position is above the waterline with the vessel—

(A) In the fully loaded condition;

(B) Under unfavorable conditions of trim; and

(C) Listed up to 20° either way, or to the angle where the vessel's weatherdeck edge becomes submerged, whichever is less;

(iv) In a way that the crew can gain access to prepare the survival craft for launching;

(v) Sufficiently ready for use so that two crew members can complete preparations for embarkation and launching in less than 5 min;

(vi) Fully equipped as required under this subchapter; and

(vii) As far as practicable, in a secure and sheltered position and protected from damage by fire and explosion.

(2) With the exception of survival craft not over 185 kg (407.8 lb.), a survival craft must not require lifting from its stowed position in order to launch.

(i) If lifting is required for a survival craft not over 185 kg, it must not be greater than 300 mm (1 ft.).

(ii) The prohibition on lifting does not apply to a davit-launched liferaft lifted by a manually powered winch from its stowed position to its embarkation position.

(3) Each vessel operating in an area where icing is likely to be encountered, must provide each exposed winch mechanism with a fabric cover, or equivalent, so that ice may be readily broken away to operate the winch.

(b) *Stowage position: ocean, short international voyage, or coastwise service.* Each vessel in ocean, short international voyage or coastwise service having widely separated accommodation and service spaces, must have survival craft of each type required on the vessel as close as possible to each such space to serve those persons normally in that space. The capacity and arrangement of the survival craft for each such space must be as if each space were a separate vessel.

(c) *Stowage position: Great Lakes; lakes, bays, and sounds; or river service.* Each vessel in Great Lakes; lakes, bays, and sounds; or river service having widely separated accommodation and service spaces, must either have—

(1) Survival craft arranged as required under paragraph (b) of this section, or

(2) Survival craft stowed as close as possible to the accommodation and

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service space that normally holds the greatest number of persons, with liferafts stowed as close as possible to each other accommodation and service space of sufficient capacity to accommodate 50% of the persons permitted on board.

(d) *Stowage and embarkation position: ocean, short international voyage, coastwise, or Great Lakes services.* On each vessel in ocean, short international voyage, coastwise, or Great Lakes services, each survival craft served by a launching appliance must be stowed in a position where the survival craft in the embarkation position is not less than 2 m (79 in.) above the waterline under the conditions described under paragraph (a)(1)(iii) of this section.

§ 199.133 Stowage of lifeboats.

In addition to meeting § 199.130, each lifeboat must be stowed as required under this section.

(a) Each lifeboat for lowering down the side of the vessel must be stowed as far forward of the propeller as practicable. The vessel must be arranged so each lifeboat, in its stowed position, is protected from damage by heavy seas.

(b) Each lifeboat must be stowed attached to its launching appliance.

(c) Means must be provided for recharging lifeboat batteries from the vessel's power supply at a supply voltage not exceeding 55 V.

§ 199.135 Stowage of liferafts and inflatable buoyant apparatus.

In addition to meeting § 199.130, each liferaft and inflatable buoyant apparatus must be stowed as required under this section.

(a) Each liferaft and inflatable buoyant apparatus must be stowed to permit manual release from its securing arrangements, and to permit it to be dropped into the water from the deck on which it is stowed.

(b) Each liferaft and inflatable buoyant apparatus must be stowed at a height above the waterline in the lightest seagoing condition not greater than the maximum stowage height indicated on the liferaft, or on the container of an inflatable liferaft or inflatable buoyant apparatus. Each liferaft and inflatable buoyant apparatus without an indicated maximum stowage height must be stowed no more than 18 m (59 ft.) above the waterline in the lightest seagoing condition.

(c) A gate or other suitable opening must be provided in the rail or bulwark adjacent to the stowage location of each liferaft and inflatable buoyant apparatus, not served by a launching appliance. Alternatively, the liferaft or inflatable buoyant apparatus may be mounted on stanchions or a platform adjacent to the rail or bulwark to allow the liferaft or inflatable buoyant apparatus to be pushed directly overboard.

(1) Each gate or opening must be large enough to allow the liferaft or inflatable buoyant apparatus to be pushed overboard.

(2) If the liferaft or inflatable buoyant apparatus is intended to be available for use on either side of the vessel, a gate or opening must be provided on each side.

(d) Each davit-launched liferaft must be stowed within reach of its lifting hook, unless some means of transfer is provided that is not rendered inoperable—

(1) Within the limits of trim and list under § 199.130(a)(1);

(2) By vessel motion; or

(3) By power failure.

(e) Each rigid container for an inflatable liferaft to be launched by a launching appliance must be secured in a way that the container or parts of it are prevented from falling into the sea during and after inflation and launching of the contained liferaft.

(f) Each liferaft and inflatable buoyant apparatus arranged for float-free launching must use a hydrostatic release unit approved by the Commandant (G-MVI) as meeting Subpart 160.062 of this Chapter, Regulation III/30.2 of SOLAS 74/83, and Regulation III/38.6.3 of SOLAS 74/83. The hydrostatic release unit must be arranged so that—

(1) The liferaft or inflatable buoyant apparatus, and its painter are secured to the vessel by the hydrostatic release unit;

(2) When the liferaft or inflatable buoyant apparatus is manually released, the painter remains secured to the vessel through the hydrostatic release unit; and

(3) When the hydrostatic release unit opens in the water under hydrostatic pressure, the painter remains secured to the vessel through its weak link.

§ 199.137 Stowage of life floats and buoyant apparatus.

In addition to meeting § 199.130, each life float and buoyant apparatus must be stowed as required under this section. Each life float and buoyant apparatus must be secured to the vessel by a painter and a float-free link.

(a) The float-free link must be—

(1) Certified to meet Subpart 160.073 of this chapter;

(2) Of proper strength for the size of the life float or buoyant apparatus as indicated on its identification tag; and

(3) Secured to the painter at one end and to the vessel on the other end.

(b) The means used to attach the float-free link to the vessel must—

(1) Have a breaking strength of at least the breaking strength of the painter;

(2) If synthetic, be of a dark color or of a type certified to be resistant to deterioration from ultraviolet light; and

(3) If metal, be corrosion resistant.

(c) If the life float or buoyant apparatus does not have a painter attachment fitting, a means for attaching the painter must be provided by a wire or line that—

(1) Encircles the body of the device;

(2) Will not slip off;

(3) Has a breaking strength that is at least the strength of the painter; and

(4) If synthetic, is of a dark color or is of a type certified to be resistant to deterioration from ultraviolet light.

(d) The float-free link described under paragraphs (a) and (b) of this section is not required if the waters in which the vessel is certificated to operate are not as deep as the length of the painter.

(e) If the vessel carries more than one life float or buoyant apparatus in a group with each group secured by a single painter,—

(1) The combined weight of each group of life floats and buoyant apparatus must not exceed 185 kg (407.8 lb.);

(2) Each life float and buoyant apparatus must be individually attached to the painter by a line meeting § 199.175(d)(4) and long enough that each life float or buoyant apparatus can float without contacting any other life float or buoyant apparatus in the group; and

(3) The strength of the float-free link under paragraph (a)(2) of this section and the strength of the painter under § 199.175(d)(4)(ii) must be determined by the combined capacity of the group of life floats and buoyant apparatus.

(f) Life floats and buoyant apparatus must not be secured to the vessel except by the painter and by lashings that can be easily released or by a hydrostatic release unit approved under Subpart 160.062 of this chapter. They must not be stowed in more than four tiers. When stowed in tiers, the separate units must be kept apart by spacers.

(g) There must be means to prevent shifting.

§ 199.140 Stowage of rescue boats.

(a) Each rescue boat must be stowed—

(1) Ready for launching in not more than 5 min;

(2) In a position suitable for launching and recovery;

(3) In a way that neither the rescue boat nor its stowage arrangements will interfere with the operation of any survival craft at any other launching station; and

(4) If it is also a lifeboat, in compliance with §§ 199.130 and 199.133.

(b) Means must be provided for recharging rescue boat batteries from the vessel's power supply at a supply voltage not exceeding 55 V.

(c) Each inflated rescue boat must be kept fully inflated at all times.

§ 199.150 Survival craft launching and recovery arrangements: general.

(a) A launching appliance approved by the Commandant (G-MVI) as meeting Regulation III/30.2 of SOLAS 74/83, Regulation III/48.1 of SOLAS 74/83, and either Regulation III/48.2, III/48.4, III/48.5, or III/48.6 of SOLAS 74/83, must be provided for each survival craft except that a launching appliance is not required for the following:

(1) A survival craft boarded from a position on deck less than 4.5 m (14 ft., 9 in.) above the waterline in the lightest seagoing condition and that either—

(i) has a mass of not more than 185 kg (407.8 lb.); or

(ii) is stowed for launching directly from the stowed position under unfavorable conditions of trim of up to 10° and with the vessel listed up to 20° either way.

(2) A survival craft having a mass of not more than 185 kg (407.8 lb.) and carried in excess of the survival craft for 200% of the total number of persons permitted on board the vessel.

(b) Each launching appliance together with all its lowering and recovery gear must be arranged in a way that the fully equipped survival craft it serves can be safely lowered when loaded with its full complement of persons, and also without persons, against a trim of up to 10° and—

(1) A list of up to 20° on the high side; and

(2) A list of up to 20° or the degree of list where the survival craft becomes waterborne, whichever is the greater, on the low side.

(c) A launching appliance must not depend on any means other than gravity or stored mechanical power independent of the vessel's power supplies to launch the survival craft it serves in the fully loaded and equipped condition and also in the light condition.

(d) The ultimate strength of each structural attachment to the vessel of a davit, winch, or other launching appliance, must be at least 4.5 times the load imparted on the attachment by the launching appliance and its fully loaded survival craft under the most adverse combination of list and trim under paragraph (b) of this section.

(e) The same type of release mechanism must be used for each similar survival craft carried on board the vessel. For the purpose of this requirement, a release mechanism is of the same type as another release mechanism if both are operated in the same way.

(f) Preparation and handling of survival craft at any one launching station must not interfere with the prompt preparation and handling of any other survival craft at any other station.

(g) The arrangement of each launching appliance must enable safe, rapid boarding of the survival craft.

(h) Each launching mechanism must be arranged so it may be actuated by one person from a position on the vessel's deck, and also from a position within the survival craft. Each launching and recovery arrangement must allow the operator on the deck to observe the survival craft at all times during launching.

(i) Means must be provided outside the machinery space to prevent any discharge of fluids onto survival craft during abandonment. Acceptable means include—

(1) Baffles to deflect fluid down the vessel's side;

(2) Reach rods or other means to close the discharge openings; or

(3) Remote means for stopping the pumps.

(j) If there is a danger of the survival craft being damaged by the vessel's stabilizer wings, the stabilizer wings must be able to be brought inboard using power from the emergency power system required under Part 112 of this chapter. Indicators operated by the emergency power system must be on the navigating bridge to show the position of the stabilizer wings.

§ 199.153 Survival craft launching and recovery arrangements using falls and a winch.

(a) Each launching appliance using falls and a winch must be approved by the Commandant (G-MVI) as meeting Regulations III/30.2, III/48.1, and III/48.2 of SOLAS 74/83; and either—

(1) For a lifeboat, Subparts 160.015 and 160.032 of this chapter; or

(2) For a davit-launched liferaft, Subpart 160.063 of this chapter with an automatic disengaging apparatus meeting Subpart 160.070 of this chapter.

(b) Each fall wire used in a launching appliance must be of rotation-resistant, corrosion-resistant, pre-lubricated steel wire rope.

(1) For the purposes of this requirement, galvanized wire rope is considered to be corrosion-resistant.

(2) The breaking strength of each fall wire and each attachment used on the fall must be at least six times the load imparted on the fall by the fully-loaded survival craft.

(3) Each replacement fall wire must be the same as that approved for use with the launching appliance.

(c) Each fall must be in a single-part arrangement.

(d) Each fall must be long enough for the survival craft to reach the water with the vessel in its lightest seagoing condition, under unfavorable conditions of trim and with the vessel listed up to 20° either way.

(e) Each fall must be arranged to lead fair in each davit position. Falls must not lead past any operating position of the winch, such as hand cranks, pay-out wheels, and brake levers.

(f) The lead sheave to each winch drum must be located to result in a maximum fleet angle of not more than 8°.

(g) Each winch drum must be arranged so the fall wire winds onto the drum in a level wrap.

(1) The winch drum of a launching appliance must be of such size that there will be no more than two layers of wire on the drum, provided that the maximum fleet angle is not more than 4°.

(2) Each winch drum of a launching appliance that has a maximum fleet angle of more than 4° must be of such size that there will be no more than one layer of wire on the drum.

(h) Each fall, where exposed to damage or fouling, must have guards or equivalent protection. Each fall which leads along a deck must be covered with a guard which is not more than 300 mm (1 ft.) above the deck.

(i) The lowering speed for a fully loaded survival craft must be not less than that obtained from the formula:

$S = 0.4 + (0.02\ H)$;

where S is the speed of lowering in meters per second, and H is the height in meters from davit head to the waterline at the lightest seagoing condition. For the purposes of this calculation, H shall not be greater than 30, regardless of the lowering height. (In English units, the formula is $S = 79 + (1.2\ H)$, where S is in ft./min. and H is in ft., with H not greater than 99.)

(j) The lowering speed for a survival craft loaded with all of its equipment, but only one person, must be not less than 70% of the speed required under paragraph (i) of this section.

column must be permanently marked

position. In any other lifeboat, either the

spare bulbs, stored in a watertight

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(k) The lowering speed for a fully loaded survival craft must be not more than 1.3 m/sec. (256 ft./min.).

(l) If a survival craft is recovered by electric power, the electrical installation must meet Part 111 of chapter, including the requirements in Subpart 111.95 on electric power-operated boat winches. If a survival craft is recovered by any means of power, including a portable power source, a limit switch or equivalent safety device must be provided on each fall that—

(1) Is located in either the power or control circuit;

(2) Is connected in series which each other switch or equivalent device on the launching appliance;

(3) Automatically cuts off all power in the circuit in which the switch or equivalent device is located before the survival craft reaches the fully stowed position;

(4) Stops recovery of the survival craft under power at least 300 mm (12 in.) from the final stowed position; and

(5) Keeps power disconnected as the survival craft is manually brought to the stowed position.

§ 199.155 Survival craft launching and recovery arrangements: other devices

Each marine escape slide must be capable of being deployed by one person at the embarkation station. Notwithstanding the requirements under § 199.150(h), a marine escape slide is not required to be actuated from a position within the survival craft.

§ 199.157 Lifeboat launching and recovery arrangements.

(a) Each lifeboat must be capable of being launched with the vessel making headway of 5 knots in calm water. A painter may be used to meet this requirement.

(b) Each lifeboat launching appliance must be capable of recovering the lifeboat with its crew.

(c) Each launching and recovery arrangement must allow the operator on the vessel to observe the lifeboat at all times during recovery.

(d) For each open lifeboat and partially enclosed lifeboat, a davit span must be provided with not less than two lifelines of sufficient length to reach the water with the vessel in its lightest seagoing condition, under unfavorable conditions of trim and with the vessel listed up to 20° either way.

§ 199.160 Rescue boat embarkation, launching and recovery arrangements.

Each rescue boat embarkation and launching arrangement must permit the rescue boat to be boarded and launched in the shortest possible time.

(a) If the rescue boat is one of the vessel's survival craft, the embarkation arrangements and launching station must meet §§ 199.110 and 199.120.

(b) If a workboat or launch is used in place of a rescue boat, the stowage, embarkation, launching, and recovery arrangements must meet the requirements of this section.

(c) The rescue boat launching arrangements must meet the requirements for lifeboat launching arrangements in § 199.150 and § 199.157, and if the launching arrangement uses falls and a winch, § 199.153. If the launching arrangement uses a single fall, the release mechanism may be an automatic disengaging apparatus approved by the Commandant (G–MVI) as meeting Subpart 160.070 of this chapter, instead of a lifeboat release mechanism.

(d) Rapid recovery of the rescue boat must be possible when loaded with its full complement of persons and equipment. If the rescue boat is also a lifeboat, rapid recovery must be possible when loaded with its lifeboat equipment and an approved rescue boat complement of at least six persons. Each rescue boat launching appliance must be capable of hoisting the rescue boat when loaded with its full rescue boat complement of persons and equipment at a rate of not less than 0.3 m/sec. (59 ft./min.).

§ 199.170 Line-throwing appliance: ocean, short international voyage, or coastwise service.

(a) Each of the following vessels must carry a line-throwing appliance approved under Subpart 160.040 of this chapter:

(1) Each passenger vessel in ocean or short international voyage service.

(2) Each vessel 500 tons gross tonnage and over, other than a passenger vessel, in ocean service.

(b) Each vessel in ocean or coastwise service, not covered under paragraph (a) of this section, must carry either—

(1) A line-throwing appliance approved under Subpart 160.040 of this chapter; or

(2) A line-throwing appliance approved under Subpart 160.031 of this chapter.

(c) Each line throwing appliance required to be carried under this section, must also have the equipment on the list provided with the approved appliance.

(d) Each line throwing appliance required to be carried under this section, must also have an auxiliary line that—

(1) If manila, is 75 mm (3 in.) or more in circumference;

(2) If other than manila, has a breaking strength of at least 40 kN (9,000 lb.);

(3) If other than manila, is of a dark color or of a type certified to be resistant to deterioration from ultraviolet light;

(4) If provided for a line throwing appliance approved under Subpart 160.040 of this chapter, is at least 450 m (1,500 ft.) long; and

(5) If provided for a line throwing appliance approved under Subpart 160.031 of this chapter, is at least 150 m (500 ft.) long.

(e) The line throwing appliance and its equipment must be readily accessible for use, stowed in—

(1) Its container carried within the pilothouse or on the navigating bridge; or

(2) The portable magazine chest under § 199.68(d)(2) of this chapter.

§ 199.175 Survival craft and rescue boat equipment.

(a) *General.* Each item of survival craft and rescue boat equipment must be good quality, and suitable for the purpose it is intended to serve. Unless otherwise stated in this section, each item of equipment carried, whether required under this section or not, must be secured by lashings, stored in lockers, compartments, brackets, or have equivalent mounting or storage arrangements that do not—

(1) Reduce seating capacity;

(2) Interfere with launching, recovery, or rescue operations;

(3) Adversely affect seaworthiness of the survival craft or rescue boat; or

(4) Overload the launching appliance.

(b) *Inflatable liferafts.* Each inflatable liferaft must have one of the following equipment packs as shown by the markings on its container:

(1) "SOLAS A Pack" on a vessel in ocean service.

(2) Either "SOLAS A Pack" or "SOLAS B Pack" on a vessel in short international voyage service or coastwise service.

(3) "SOLAS A Pack", "SOLAS B Pack", or "Limited Service" on a vessel in a service other than ocean, short international voyage, or coastwise service.

(c) *Lifeboats, rigid liferafts, and rescue boats.* Unless otherwise stated in this paragraph, each lifeboat, each rigid liferaft, and each rescue boat must carry the equipment specified for it in Table 199.175(c) under the vessel's category of service. A lifeboat that is also a rescue boat must carry the equipment in the "lifeboat" column. Each rigid liferaft equipped as required under the "Ocean"

column must be permanently marked "SOLAS A Pack" in block letters at least 25 mm (1 in.) high. Each rigid liferaft equipped as required under the "Short International Voyage and Coastwise" column must be permanently marked "SOLAS B Pack" in block letters at least 25 mm (1 in.) high. Each item in the table is described below along with any exceptions or limitations, with the paragraph number corresponding to the item number in the table.

(1) [Reserved]

(2) *Bailer.* The bailer must be buoyant, except for a bailer with a lanyard used in the lifeboat or rescue boat before July 1, 1986 and continued in use thereafter.

(3) *Bilge pump.* The bilge pump must be approved under Subpart 160.044 of this chapter and must be installed in the lifeboat in a ready-to-use condition.

(i) The bilge pump for a lifeboat approved for less than 70 persons must be either size 2 or size 3, except for a size 1 bilge pump used in a lifeboat of less than 330 cubic foot capacity before July 1, 1986 and continued in use thereafter.

(ii) The bilge pump for a lifeboat approved for 70 persons or more must be size 3.

(4) *Boathook.* Each boathook must be kept free and ready for use at all times. Each boathook in a lifeboat and a rigid rescue boat must have a single hook and ball-point. The boathook in an inflated or rigid/inflated rescue boat must be a type designed to minimize the possibility of damage to the fabric portions of the hull. The handle of each boathook must be—

(i) Of clear-grained white ash or the equivalent;

(ii) At least 38 mm (1½ in.) in diameter;

(iii) At least 2.4 m (8 ft.) long for a boat less than 8.8 m (29 ft.) in length; and

(iv) At least 3.6 m (12 ft.) long for a boat 8.8 m (29 ft.) or more in length.

(5) *Bucket.* Each bucket must be of corrosion-resistant material with a capacity of at least 7.5 liters (2 U.S. gallons). A lanyard of a minimum diameter of 4 mm (5/32 in.) and at least 1.8 m (6 ft.) long must be attached to the bail.

(6) *Can opener.* Each can opener must be suitable for opening the cans carried in the lifeboat or liferaft. The can opener in a jackknife approved under Subpart 160.043 of this chapter counts toward this requirement.

(7) *Compass.* The compass and its mounting arrangement must be approved by the Commandant (G–MVI). In a totally enclosed lifeboat and in a rescue boat, the binnacle must be permanently installed at the steering position. In any other lifeboat, either the binnacle must be permanently installed at the steering position, or the mounting base for a removable compass must be permanently installed in a location where the compass will be in sight of the helmsman.

(8) *Cover, protecting.* The protecting cover for an open lifeboat must be approved by the Commandant (G–MVI). The protecting cover for a partially enclosed lifeboat is approved as a component of the lifeboat.

(9) *Dipper.* Each dipper must be of corrosion-resistant construction, attached to a lanyard at least 0.9 m (3 ft.) long. The dipper must be suitable for dipping collected rainwater from the lifeboat's water tanks.

(10) *Ditty bag.* The ditty bag must be canvas or equivalent material, and must contain a sailmaker's palm, needles for repairing a sail, sail twine, marline, and marline spike.

(11) *Drinking cup.* The drinking cup must be—

(i) Of corrosion resistant material;

(ii) Graduated in ounces or milliliters or both; and

(iii) Provided with a lanyard of a minimum diameter of 4 mm (5/32 in.) and at least 0.9 m (3 ft.) long.

(12) *EPIRB/SART.* A Class S EPIRB, a Category 2 Satellite EPIRB, or a SART must be mounted in a position in the boat where it is ready to be used.

(i) The Class S EPIRB must be a type which meets the regulations of the Federal Communications Commission at 47 CFR 80.1059.

(ii) The Category 2 Satellite EPIRB must be a type which meets the regulations of the Federal Communications Commission at 47 CFR 80.1061 (See 53 FR 37308 of September 26, 1988).

(iii) The SART must be a radar transponder which meets the regulations of the Federal Communications Commission at 47 CFR 80.375(e) and IMO Resolution A.604(15).

(13) *Fire extinguisher.* Each fire extinguisher must be approved under Subpart 162.028 of this chapter. Each fire extinguisher must be Type B–C, Size I or larger.

(14) *First-aid kit.* The first-aid kit in a lifeboat and in a rescue boat must be approved under Subpart 160.041 of this chapter. The first-aid kit in a rigid liferaft must be approved under Subpart 160.054 of this chapter.

(15) *Fishing kit.* The fishing kit must be approved under Subpart 160.061 of this chapter.

(16) *Flashlight.* The flashlight must be a Type I or Type III constructed and marked in accordance with ASTM F1014. Three spare batteries and two spare bulbs, stored in a watertight container, must be provided for each flashlight. Three-cell size flashlights bearing Coast Guard approval numbers in the 160.018 series may continue to be used as long as they are in a serviceable condition.

(17) *Hatchet.* Each hatchet must be approved under Subpart 160.013 of this chapter. A lanyard of a minimum diameter of 4 mm (5/32 in.) must secure each hatchet to the lifeboat. The lanyard must be long enough to allow a hatchet to reach the falls and the painter.

(i) Where one hatchet is required, it must be stowed in a bracket near a release hook.

(ii) When two hatchets are required and the boat has two release hooks, there must be a hatchet stowed in a bracket near each release hook.

(iii) When two hatchets are required and the boat has one release hook, there must be a hatchet stowed in a bracket near the release hook and one stowed in a bracket near the towing point.

(18) *Heaving line.* Each heaving line must—

(i) Be buoyant;

(ii) Be at least 8 mm (5/16 in.) in diameter;

(iii) Be at least 30 m (99 ft.) long; and

(iv) Have a buoyant rescue quoit attached to one end.

(19) *Instruction card.* The instruction card must be printed on waterproof plastic, and must be suspended from the inside canopy. The instruction card must contain information on the immediate steps to be taken by survivors upon entering the liferaft.

(20) *Jackknife.* The jackknife must be approved under Subpart 160.043 of this chapter, and must be attached to the boat by its lanyard.

(21) *Knife.* The knife must be of the non-folding type with a buoyant handle.

(i) The knife for a rigid liferaft must be secured to the raft by a lanyard attached and stowed in a pocket on the exterior of the canopy near the point where the painter is attached to the liferaft. The lanyard must be long enough to permit the knife to be used to cut the painter. If an approved jackknife is substituted for the second knife required on a liferaft equipped for 13 or more persons, the jackknife must be secured to the liferaft by a lanyard.

(ii) The knife in an inflated or rigid/inflated rescue boat must be a type designed to minimize the possibility of damage to the fabric portions of the hull.

(22) *Ladder.* The boarding ladder must be capable of being used on either side of the boat to enable persons in the water to board the boat. The ladder must be a permanently installed rigid

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type or a flexible ladder kept rigged outboard ready for use. Each flexible ladder must meet the following requirements:

(i) The ladder must have flat steps with handhold openings in them.

(ii) Each step must have a bare wood surface, or have a non-skid surface.

(iii) The steps of the ladder must be spaced approximately 0.3 m (12 in.) apart.

(iv) Each suspension member must be at least 15 mm (9/16 in.) diameter manila rope, or another material provided it is at least 15 mm in diameter and has a breaking strength of at least 17.6 kN (3,960 lb.). Synthetic rope must not be used unless it is ultraviolet light resistant, or is pigmented in a dark color.

(v) The lowest step of the ladder must be not less than 0.4 m (15 3/4 in.) below the lifeboat's light waterline.

(23) *Lantern.* Each open lifeboat must have a lantern containing sufficient oil to burn for at least 9 hours. The lantern must be kept ready for use. Each totally enclosed and partially enclosed lifeboat must have an operating interior lighting system that is approved as a component of the lifeboat.

(24) *Lifejacket.* Each lifejacket must be approved by the Commandant (G-MVI) as meeting Subpart 160.002, Subpart 160.005, or Subpart 160.055 of this Chapter. On each vessel in ocean, short international voyage, or coastwise service, each lifejacket must also be approved by the Commandant as meeting Regulations III/30.2 and III/32.1 of SOLAS 74/83.

(25) *Mast and sail.* The mast and sail unit must consist of one standing lug sail together with the necessary spars, rigging, and cover or storage container.

(i) The rigging must be at least 4.75 mm (3/16 in.) in diameter and must be either galvanized or stainless steel wire rope.

(ii) The sails must be of good quality canvas or other material acceptable to the Commandant (G–MVI), and international orange in color.

(26) *Matches.* Each box of matches must consist of at least 100 wooden friction matches with striking surface, in its own watertight container.

(27) *Signalling mirror.* Each signalling mirror must be approved by the Commandant (G-MVI).

(28) *Oars.* Each unit of oars must consist of sufficient buoyant oars or paddles to make headway in calm seas. An oarlock or equivalent device, either permanently installed or attached to the boat by a lanyard or chain, must be provided for each oar.

(i) Each lifeboat and rescue boat built after June 30, 1986 contains information provided by the manufacturer on the number, size, and type of oars or paddles to meet this requirement.

(ii) Each lifeboat built before July 1, 1986 that does not contain information provided by the manufacturer on the number, size, and type of oars or paddles required to meet this requirement, must carry the number, size, and type of oars as required in the regulations in effect for the vessel on June 30, 1986.

(iii) Each rescue boat built before July 1, 1986 that does not contain information provided by the manufacturer on the number, size, and type of oars or paddles required to meet this requirement, must carry two oars, if it is a rigid hull boat, or two paddles if it is an inflated hull boat.

(iv) A rescue boat meeting Subpart 160.056 of this chapter is not required to carry oars under paragraphs (c)(28)(i), (c)(28)(ii) or (c)(28)(iii) of this section, if the boat is equipped with a motor and carries two paddles.

(29) *Oil, illuminating.* A quantity of at least 0.94 liter (1 quart) of illuminating oil must be provided in a durable container in addition to the oil provided in the lantern.

(30) *Paddle.* Each paddle must be buoyant.

(31) *Painter.* If the painter is of synthetic material, it must be of a dark color or of a type certified to be resistant to deterioration from ultraviolet light.

(i) Each painter for a lifeboat and each painter for a rescue boat other than a rescue boat meeting Subpart 160.056 of this chapter, must be of a length equal to not less than three times the distance from the stowage position of the boat to the waterline in the lightest seagoing condition, or 15 m (50 ft.), whichever is the greater. Each painter must have a breaking strength of at least 34 kN (7,700 lb.).

(A) One painter on a lifeboat must be firmly secured at or near the bow ready for use.

(B) The painter on a rescue boat, and the second painter on a lifeboat, if one is required; must be attached by a painter release device at the forward end of the boat. The painter release device must be capable of quickly releasing the painter even when the painter is being used to tow the boat.

(ii) Each painter for a rescue boat meeting Subpart 160.056 of this chapter must be firmly secured at or near the bow ready for use. The painter must be—

(A) At least 9 m (30 ft.) long;

(B) At least 9.5 mm (3/8 in.) diameter; and

(C) Have a breaking strength of at least 5.5 kN (1,220 lb.).

(iii) The painter for a rigid liferaft must be of a length equal to not less than two times the distance from the stowage position of the liferaft to the waterline in the lightest seagoing condition or 15 m (50 ft.), whichever is the greater.

(A) The painter must have a breaking strength of not less than 13.3 kN (3,000 lb.) for liferafts approved for nine persons or more, and not less than 7.5 kN (1,687 lb.) for any other liferaft.

(B) A float-free link meeting Subpart 160.073 of this chapter must be secured to the end of the painter that is attached to the vessel. The breaking strength of the float-free link must be between 1800 N (400 lb.) and 2400 N (538 lb.).

(32) *Provisions.* Each unit of provisions must be approved by the Commandant (G–MVI) and must consist of not less than 10,000 kJ (2,390 Calories).

(33) *Pump.* The pump or bellows must be manually operated and arranged to be capable of inflating any part of the inflatable structure of the rescue boat.

(34) *Radar reflector.* A SART carried under paragraph (c)(12) of this section meets the requirement for a radar reflector. If the boat does not carry a SART, it must carry a radar reflector certified by its manufacturer to have an apparent cross sectional area of at least 1 m^2 (10.8 $ft.^2$) over 65% of the horizonal plane, using a radar system operating in the 9300–9500 MHz band. The radar reflector must also have mounting provisions to install it on the boat in its proper orientation.

(35) *Rainwater collection device.* The rainwater collection device must—

(i) Be arranged to collect falling rain and direct it into the water tanks in the lifeboat;

(ii) Have a collection area of at least 1 m^2 (10.75 sq. ft.); and

(iii) Be arranged to function unattended after it has been set up.

(36) *Repair kit.* The repair kit for inflated and rigid/inflated rescue boats must contain at least—

(i) Six sealing clamps;

(ii) Five 50 mm (2 in.) diameter tube patches;

(iii) Roughing tool; and

(iv) Cement compatible with the tube fabric. The cement must have an expiration date on its container that is not more than 24 months after the date of manufacture of the cement.

(37) *Rudder and tiller.* The rudder and tiller must be as required in the regulations in effect for the vessel on June 30, 1986.

(38) *Sea anchor.* Each sea anchor must be approved by the Commandant (G–MVI) and have a shock-resistant hawser at least 10 m (33 ft.) long, and a tripping line that provides a firm hand grip when wet.

(i) Each open lifeboat required to have a sea anchor must also have at least 3.75 liters (1 U.S. gal.) of storm oil, consisting of vegetable, fish, or animal oil. The storm oil must be in a container suitable for attachment to the sea anchor and designed to distribute a controlled amount of oil on the water.

(ii) On each rigid liferaft, one sea anchor must be permanently attached to the liferaft in such a way that when the liferaft is waterborne, the sea anchor will cause the liferaft to lie oriented to the wind in the most stable manner. The second sea anchor must be stowed in the rigid liferaft as a spare. Each sea anchor on a rigid liferaft must be fitted with a swivel at each end of the line and must be of a type that is unlikely to turn inside-out between its shroud lines.

(39) *Searchlight.* Each searchlight must be certified by its manufacturer to meet ASTM F1003. The lifeboat must carry two spare bulbs.

(i) The searchlight must be permanently mounted on the canopy, or must have a stanchion type or collapsible type portable mounting on the canopy. The mounting must be located to enable operation of the searchlight by the boat operator.

(ii) The searchlight's power source must be capable of operating the light without charging or recharging, for not less than—

(A) 3 hours continuous operation; or

(B) 6 hours total "on" time in cycles consisting of 15 min. on and 5 min. off.

(iii) If the power source is an engine starting battery, there must be sufficient battery capacity to start the engine at the end of either operating period specified in paragraph (c)(39)(ii) of this section.

(iv) The power source must be connected to the searchlight using watertight electrical fittings meeting Subpart 111.75 of this chapter.

(40) *Seasickness kit.* Each seasickness kit must be packed in a waterproof package and must include one waterproof seasickness bag, anti-seasickness medication, and instructions for using the medication. In totally enclosed and partially enclosed lifeboats, each seasickness kit must be stowed within reach of the seat it is intended for. The anti-seasickness medication must be one of the following:

(i) Six doses of a combination of 25 mg of promethazine hydrochloride and 25 mg of ephedrine sulfate, to be taken at six-hour intervals.

(ii) A transdermal patch containing scopolamine suitable for at least 2 days use.

(41) *Signal, smoke.* Each orange smoke signal must be of the floating type approved by the Commandant (G–MVI) as meeting Subpart 160.022 of this Chapter, Regulation III/30.2 of SOLAS 74/83, and Regulation III/37 of SOLAS 74/83.

(42) *Signal, hand flare.* Each hand flare must be approved by the Commandant (G–MVI) as meeting Subpart 160.021 of this Chapter, Regulation III/30.2 of SOLAS 74/83, and Regulation III/36 of SOLAS 74/83.

(43) *Signal, rocket parachute flare.* Each rocket parachute flare must be approved by the Commandant (G–MVI) as meeting Subpart 160.036 of this Chapter, Regulation III/30.2 of SOLAS 74/83, and Regulation III/35 of SOLAS 74/83.

(44) *Skates and fenders.* The skates and fenders must be as specified by the lifeboat manufacturer to facilitate launching and prevent damage to a lifeboat intended for launching down the side of a vessel.

(45) *Sponges.* Each sponge must have a volume of at least 1000 cm^3 (62 $in.^3$) when fully expanded.

(46) *Survival instructions.* The survival instructions must be in the form of a manual printed on waterproof paper or plastic. The manual must describe the lifeboat or rigid liferaft and its equipment and use. The manual must contain the relevant information in IMO Resolution A.216. The manual in the rigid liferaft must also contain the relevant information in IMO Resolution A.181.

(47) *Table of lifesaving signals.* The table of lifesaving signals must be those in Regulation V/16 of SOLAS 74/83, printed on a waterproof card.

(48) *Thermal protective aid.* Each thermal protective aid must be approved by the Commandant (G–MVI) under Subpart 160.174 of this chapter.

(49) *Tool kit.* The tool kit must contain sufficient tools for minor adjustments to the engine and its accessories. As a minimum, the tool kit must include:

(i) A container large enough to hold all the items in the kit.

(ii) One 340 g (12 oz.) ball peen hammer.

(iii) One screwdriver with a 150 mm (6 in.) flat blade.

(iv) One pair of 200 mm (8 in.) slip-joint pliers.

(v) One 200 mm (8 in.) adjustable wrench.

(50) *Towline.* The towline for a rescue boat meeting Subpart 160.056 of this chapter must be at least the same size and length as its painter. The towline for each other rescue boat and lifeboat must be buoyant, not less than 50 m (164 ft.) in length, and must have a breaking strength of not less than 13.3 kN (3,000 lb.).

(51) *Water.* At least two-thirds of the water must be emergency drinking water approved under Subpart 160.026 of this chapter. The remainder must either be emergency drinking water approved under Subpart 160.026 of this chapter, or desalting apparatus approved under Subpart 160.058 of this chapter capable of producing the required amount of fresh water in 2 days.

(52) *Whistle.* The whistle must be a ball-type or multi-tone whistle of corrosion-resistant construction, attached to a lanyard at least 0.9 m (3 ft.) long.

TABLE 199.175(c)

Item No.	Item	Ocean			Short international voyage and coastwise			Great Lakes			Lakes, bays, and sounds			Rivers		
		Lifeboat	Rigid Liferaft	Rescue boat	Lifeboat	Rigid Liferaft	Rescue boat	Lifeboat	Rigid Liferaft	Rescue boat	Lifeboat	Rigid Liferaft	Rescue boat	Lifeboat	Rigid Liferaft	Rescue boat
1	(Reserved) [1]															
2	Bailer	1	1 [3]	1	1	1 [3]	1	1	1 [3]	1	1	1 [3]	1	None	None	None.
3	Bilge pump	1 [3]	None	None	1 [3]	None	None	1 [3]	None	None	1	None	None	None	None	None.
4	Boathook	2	None	1	2	None	1	1	None	1	1	None	1	1	None	1
5	Bucket	2	None	1 [4]	2	None	1 [4]	1	None	1 [4]	1	None	None	1	None	None.
6	Can opener	3	3	None	3	3	None	None	None	None	None	None	None	None	None	None.
7	Compass	1	None	1	1	None	1	None	None	None	None	None	None	None	None	None.

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TABLE 199.175(c)—Continued

Item No.	Item	Ocean			Short international voyage and coastwise			Great Lakes			Lakes, bays, and sounds			Rivers		
		Lifeboat	Rigid Liferaft	Rescue boat	Lifeboat	Rigid Liferaft	Rescue boat	Lifeboat	Rigid Liferaft	Rescue boat	Lifeboat	Rigid Liferaft	Rescue boat	Lifeboat	Rigid Liferaft	Rescue boat
8	Cover, protecting	1 [6]	None	None	1 [6]	None	None	None	None	None	None	None	None	None	None	None.
9	Dipper	1	None	None	1	None	None	None	None	None	None	None	None	None	None	None.
10	Ditty bag	1 [6]	None	None	1 [6]	None	None	None	None	None	None	None	None	None	None	None.
11	Drinking Cup	1	1	None	1	1	None	None	None	None	None	None	None	None	None	None.
12	EPIRB/SART	1	None	1	1	None	1	None	None	None	None	None	None	None	None	None.
13	Fire extinguisher	2 [5]	None	1 [6]	2 [6]	None	1 [6]	2 [6]	None	1 [6]	2 [6]	None	1 [6]	2 [6]	None	1 [6]
14	First-aid kit	1	1	1	1	1	1	None	None	None	None	None	None	None	None	None.
15	Fishing kit	1	1	None	None	None	None	None	None	None	None	None	None	None	None	None.
16	Flashlight	1	1	1	1	1	1	1	1	1	None	None	None	None	None	None.
17	Hatchet	2	None	None	2	None	None	2	None	None	1	None	None	1	None	None.
18	Heaving line	2	1	2	2	1	2	None	None	None	None	None	None	None	None	None.
19	Instruction card	None	1	None	None	1	None	None	1	None	None	1	None	None	1	None.
20	Jackknife	1	None	1	1	None	1	None	None	None	None	None	None	None	None	None.
21	Knife	None	1 [8]	1 [10]	None	1 [6]	1 [10]	None	None	None	None	None	None	None	None	None.
22	Ladder	1	None	1	1	None	1	1	None	1	None	None	None	None	None	None.
23	Lantern or interior lighting	1	None	None	1	None	None	1	None	None	1	None	None	1	None	None.
24	Lifejacket	2	None	None	2	None	None	2	None	None	2	None	None	2	None	None.
25	Mast and sail	1 [9]	None	None	1 [11]	None	None	None	None	None	None	None	None	None	None	None.
26	Matches (boxes)	2 [12]	None	None	2 [12]	None	None	1 [12]	None	None	1 [12]	None	None	1 [12]	None	None.
27	Mirror, signalling	2	1	None	2	1	None	None	None	None	None	None	None	None	None	None.
28	Oars (units)	1 [13]	None	1	1	None	1	1	None	1	1	None	1	1	None	1.
29	Oil, illuminating (quarts)	1 [13]	None	None	1 [13]	None	None	None	None	None	None	None	None	None	None	None.
30	Paddles	None	2	None	None	2	None	None	2	None	None	2	None	None	2	None.
31	Painter	2	1	1	2	1	1	2	1	1	1	1	1	1	1	1.
32	Provisions (units per person).	1 [13]	1 [13]	None	None	None	None	None	None	None	None	None	None	None	None	None.
33	Pump	None	None	1 [14]	None	None	1 [14]	None	None	1 [14]	None	None	1 [14]	None	None	1. [14]
34	Radar Reflector	1	None	1	None	1	None	None	None	None	None	None	None	None	None	None.
35	Rainwater collection device	1 [15,16]	None	None	1 [15,16]	None	None	None	None	None	None	None	None	None	None	None.
36	Repair kit	None	None	1 [16]	None	None	1 [16]	None	None	1 [16]	None	None	1 [16]	None	None	1. [16]
37	Rudder and tiller	1 [16]	None	None	1 [16]	None	None	1 [16]	None	None	None	None	None	None	None	None.
38	Sea anchor	1	2	1	1	2	1	1	2	1	None	None	None	None	None	None.
39	Searchlight	1 [17]	None	1	1 [17]	None	1	1	None	1	None	None	None	None	None	None.
40	Seasickness kit (kits per person).	1	1	None	1	1	None	None	None	None	None	None	None	None	None	None.
41	Signal, orange smoke	2	2	None	2	1	None	None	None	None	None	None	None	None	None	None.
42	Signal, red hand flare	12	12	None	12	6	None	6	6	None	6	6	None	None	None	None.
43	Signal, red parachute flare	12	12	None	12	6	None	6	6	None	None	None	None	None	None	None.
44	Skates and fenders (set)	1 [18]	None	None	1 [18]	None	None	1 [18]	None	None	1 [18]	None	None	1 [18]	None	None.
45	Sponge	None	2	2 [19]	None	2	2 [19]	None	2	2 [19]	None	2	2 [19]	None	None	None.
46	Survival instructions	1	1	None	1	1	None	1	1	None	1	1	None	None	None	None.
47	Table of lifesaving signals	1	1	None	1	1	None	None	None	None	None	None	None	None	None	None.
48	Thermal protective aid (percent of persons).	10% [19]	10% [19]	10% [19]	10% [19]	10% [19]	10% [19]	None	None	None	None	None	None	None	None	None.
49	Tool kit	1 [6]	None	None	1 [6]	None	None	1 [6]	None	None	1 [6]	None	None	1 [6]	None	None.
50	Towline	1 [20]	None	1	1 [20]	None	None	1	1 [20]	None	1	1 [20]	None	1	1 [20]	1.
51	Water (liters per person)	3	1.5	None	3	1	None	None	None	None	None	None	None	None	None	None.
52	Whistle	1	1	1	1	1	1	None	None	None	None	None	None	None	None	None.

[1] (Reserved).
[2] Each liferaft approved for 13 persons or more must carry an additional bailer.
[3] Each lifeboat approved for 100 persons or more must carry an additional bilge pump, or be equipped with a powered bilge pump.
[4] Not required for inflated or rigid/inflated rescue boats.
[5] Not required for totally enclosed lifeboats.
[6] Required only for an open lifeboat provided with a mast and sail.
[7] (Reserved).
[8] Required only for motor-propelled lifeboats and rescue boats.
[9] Each liferaft equipped for 13 persons or more must carry an additional knife, that must either meet the same requirements as the first knife, or must be a jackknife approved under Subpart 160.043 of this chapter.
[10] A hatchet counts toward this requirement in rigid rescue boats.
[11] Not required for a lifeboat powered by a motor, or a hand-propelling gear approved under Subpart 160.034 of this chapter.
[12] Required only if the lifeboat carries an oil lantern under item 23.
[13] Not required for a lifeboat or liferaft on a mobile offshore drilling unit unless the unit is in international service as defined under § 107.111 of this chapter.
[14] Not required for a rigid rescue boat.
[15] Not required for a lifeboat with a protecting cover (item 8) that includes a rainwater collection device.
[16] Not required for a lifeboat with a permanently installed steering system.
[17] Required only on lifeboats built on or after July 1, 1986, and on Class 2 and Class 3 motor lifeboats built before July 1, 1986.
[18] Not required if the launching arrangement is such that skates and fenders are unnecessary.
[19] Sufficient thermal protective aids are required for at least 10% of the persons the survival craft is equipped to carry, but not less than 2.
[20] Required only if the lifeboat is also the rescue boat.

(d) *Buoyant apparatus and life floats.* Unless otherwise stated in this paragraph, each buoyant apparatus, inflatable buoyant apparatus and life float must carry the equipment specified for it in Table 199.175(d) under the vessel's category of service. Each item in the table is described below along with any exceptions or limitations, with the paragraph number corresponding to the item number in the table.

(1) *Boathook.* Each boathook must have a single hook and ball-point. The handle of each boathook must be—

(i) Of clear-grained white ash or the equivalent;

(ii) At least 38 mm (1½ in.) in diameter; and

(iii) At least 1.8 m (6 ft.) long.

(2) *Lifeline and pendants.* The lifeline and pendants must be as furnished by the manufacturer with the approved life float or buoyant apparatus. Replacement lifelines and pendants must meet the requirements in Subpart 160.010 of this chapter.

(3) *Paddle.* Each paddle must be at least 1.2 m (4 ft.) long and buoyant.

(4) *Painter.* The painter must—

(i) Be at least 30 m (100 ft.) long, but not less than 3 times the distance between the deck where the life floats and buoyant apparatus are stowed and the light draft of the vessel;

(ii) Have a breaking strength of at least 8.7 kN (1500 lb.), except that if the capacity of the life float or buoyant apparatus is 50 persons or more, the breaking strength must be at least 13.4 kN (3000 lb.);

(iii) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light; and

(iv) Be stowed in such a way that it runs out freely when the life float or buoyant apparatus floats away from the sinking vessel.

(5) *Water light.* The water light must be approved under Subpart 161.010 of this chapter, and must be attached to the life float or buoyant apparatus by a 12-thread manila, or equivalent lanyard, at least 5.5 m (18 ft.) long.

TABLE 199.175(d)

Item No.	Item	Ocean	Short Int'l. Voyage and Coastwise	Great Lakes	Lakes; Bays; and Sounds	Rivers
1	Boathook[1]	1	1	1	1	1
2	Lifeline and pendants	1	1	1	1	1
3	Paddles[1]	2	2	2	2	2
4	Painter	1	1	1	1	1
5	Water light[2]	1	1	1	None	None

[1] Not required to be carried on buoyant apparatus or inflatable buoyant apparatus.
[2] Not required on life floats or buoyant apparatus with a capacity of 24 persons or less.

Subpart C—Additional Requirements for Passenger Vessels

§ 199.200 General.

Each passenger vessel must meet the requirements in this subpart in addition to the requirements in Subparts A and B.

§ 199.201 Survival craft.

(a) *General.* Each survival craft on a passenger vessel must be approved by the Commandant (G–MVI) as follows:

(1) Each open lifeboat must meet Subpart 160.035 of this chapter.

(2) Each partially enclosed lifeboat must meet Subpart 160.035 of this chapter; and Regulations III/30.2, III/41, and III/42 of SOLAS 74/83.

(3) Each totally enclosed lifeboat must meet Subpart 160.035 of this chapter; and Regulations III/30.2, III/41, and III/44 of SOLAS 74/83.

(4) Each inflatable liferaft must meet Subpart 160.051 of this chapter; and Regulations III/30.2, III/38, and III/39 of SOLAS 74/83. Each inflatable liferaft on a passenger vessel in ocean or short international voyage service must have a capacity of 6 persons or more.

(5) Each rigid liferaft must meet Subpart 160.018 of this chapter; and Regulations III/30.2, III/38, and III/40 of SOLAS 74/83. Each rigid liferaft on a passenger vessel in ocean or short international voyage service must have a capacity of 6 persons or more.

(6) Each inflatable buoyant apparatus must be approved by the Commandant (G–MVI).

(b) *Ocean service.* Each passenger vessel in ocean service must carry the following:

(1) Totally enclosed or partially enclosed lifeboats.

(i) The lifeboats on each side of the vessel must have an aggregate capacity that will accommodate not less than 50% of the total number of persons permitted on board.

(ii) The OCMI may accept substitution of lifeboats by liferafts of equivalent total capacity provided that there are lifeboats on each side of the vessel with an aggregate capacity that will accommodate not less than 37.5% of the total number of persons permitted on board.

(2) Liferafts.

(i) The liferafts substituted for lifeboats under paragraph (b)(1)(ii) of this section must be served by launching appliances equally distributed on each side of the vessel.

(ii) In addition to any liferafts under paragraph (b)(1)(ii) of this section, liferafts must be provided having an aggregate capacity that will accommodate at least 25% of the total number of persons permitted on board.

(A) Stowage of these liferafts is not required to meet § 199.135(d).

(B) These liferafts must either be readily transferable for launching on either side of the vessel, or arranged for launching on one side of the vessel, provided that one or more liferafts with the same capacity are on the opposite side of the vessel. The liferaft or liferafts on the opposite side of the vessel must be in addition to the liferafts required under paragraphs (b)(1)(ii) and (b)(2)(ii) of this section.

(C) These liferafts must be served by at least one launching appliance on each side of the vessel. These launching appliances must either be those under paragraph (b)(2)(ii) of this section, or equivalent appliances approved by the Commandant (G–MVI), capable of being used on both sides of the vessel.

(c) *Short international voyage or coastwise service.* Each passenger vessel in short international voyage service that meets the special standards of subdivision in § 171.068 of this chapter, and each passenger vessel in coastwise service must carry the following:

(1) Totally enclosed or partially enclosed lifeboats.

(i) The lifeboats must have an aggregate capacity that will accommodate not less than 30% of the total number of persons permitted on board.

(ii) The lifeboats must be equally distributed, as far as practicable, on each side of the vessel.

(2) Liferafts.

(i) The liferafts must have an aggregate capacity that, together with the lifeboats, will accommodate the total number of persons permitted on board. These liferafts must be served by launching appliances equally distributed on each side of the vessel.

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(ii) In addition to the liferafts required under paragraph (c)(2)(i) of this section, liferafts must be provided with an aggregate capacity that will accommodate at least 25% of the total number of persons permitted on board.

(A) Stowage of these liferafts is not required to meet § 199.135(d).

(B) These liferafts must either be readily transferable for launching on either side of the vessel, or arranged for launching on one side of the vessel, provided that one or more liferafts with the same capacity are on the opposite side of the vessel. The liferaft or liferafts on the opposite side of the vessel must be in addition to the liferafts required under paragraphs (c)(2)(i) and (c)(2)(ii) of this section.

(C) These liferafts must be served by at least one launching appliance on each side of the vessel. These launching appliances must be those under paragraph (c)(2)(i) of this section, or equivalent appliances approved by the Commandant (G–MVI), capable of being used on both sides of the vessel.

(d) *Great Lakes service.* Each passenger vessel in Great Lakes service must carry the following:

(1) Totally enclosed or partially enclosed lifeboats.

(i) The lifeboats must have an aggregate capacity that will accommodate not less than 30% of the total number of persons permitted on board.

(ii) The lifeboats must be equally distributed, as far as practicable, on each side of the vessel.

(2) Liferafts.

(i) The liferafts must have an aggregate capacity that, together with the lifeboats, will accommodate the total number of persons permitted on board. These liferafts must be served by launching appliances equally distributed on each side of the vessel.

(ii) In addition to the liferafts required under paragraph (d)(2)(i) of this section, liferafts must be provided with an aggregate capacity that will accommodate at least 10% of the total number of persons permitted on board, or that will accommodate the capacity of the largest single survival craft on the vessel, whichever is the greater.

(A) Stowage of these liferafts is not required to meet § 199.135(d).

(B) These liferafts must be served by at least one launching appliance on each side of the vessel. The launching appliances must be those under paragraph (d)(2)(i) of this section, or equivalent appliances approved by the Commandant (G–MVI), capable of being used on both sides of the vessel.

(e) *Lakes, bays, and sounds, or river service.* Each passenger vessel in lakes, bays, and sounds service, or in river service must carry the following:

(1) Totally enclosed, partially enclosed, or open lifeboats.

(i) The lifeboats must have an aggregate capacity that will accommodate not less than 25% of the total number of persons permitted on board.

(ii) The lifeboats must be equally distributed, as far as practicable, on each side of the vessel.

(2) Liferafts. The liferafts must have an aggregate capacity that, together with the lifeboats, will accommodate the total number of persons permitted on board. These liferafts must be served by launching appliances equally distributed on each side of the vessel if the embarkation deck is more than 3 m (10 ft.) above—

(i) The waterline under normal operating conditions; or

(ii) The equilibrium waterline after being subjected to the assumed damage and subdivision requirements in Part 171 of this chapter.

(f) *Alternative: small vessels.* A passenger vessel less than 500 tons gross tonnage where the total number of persons permitted on board is less than 200, is not required to meet paragraph (b), (c), (d), or (e) of this section, if it meets the following:

(1) Liferafts must be provided on each side of the vessel with an aggregate capacity that will accommodate the total number of persons permitted on board.

(2) Unless the liferafts required under paragraph (f)(1) of this section can be readily transferred for launching on either side of the vessel, additional liferafts must be provided to bring the total capacity available on each side to at least 150% of the total number of persons permitted on board.

(3) If the rescue boat required under § 199.202 is also a lifeboat, it is included in the aggregate capacity required under paragraph (f)(1) of this section, provided that paragraph (f)(2) of this section is met.

(4) In the event of the largest survival craft on either side of the vessel being lost or rendered unserviceable, there must be sufficient survival craft available for use on that side to accommodate the total number of persons permitted on board.

(g) *Alternative: ferries and vessels in lakes, bays, and sounds, or river service.* A ferry not in ocean service or short international voyage service, or a passenger vessel in lakes, bays, and sounds service, or in river service, is not required to meet paragraph (c), (d), or (e) of this section, if it meets the following:

(1) Inflatable buoyant apparatus must be provided with an aggregate capacity that will accommodate the total number of persons permitted on board.

(2) Additional inflatable buoyant apparatus must be provided with an aggregate capacity not less than the larger of—

(i) 10% of the total number of persons on board; or

(ii) The capacity of the largest inflatable buoyant apparatus on board.

(3) Embarkation must be provided on each side of the vessel by at least one marine escape slide approved by the Commandant (G–MVI), if the embarkation deck is more than 3 m (10 ft.) above both—

(i) The waterline under normal operating conditions; and

(ii) The equilibrium waterline after being subjected to the assumed damage and subdivision requirements in Part 171 of this chapter.

(4) If a rescue boat required under § 199.202 is also a lifeboat, it is included in the aggregate capacity required under paragraph (g)(1) of this section.

(h) *Alternative: warm water operation; vessels not in ocean, short international voyage, or coastwise service.* During those periods of the year when the normal temperature of the water equals or exceeds 15 °C (59 °F) in the area where the vessel operates, a vessel not in ocean, short international voyage, or coastwise service is required to have 10% of the survival craft that would otherwise be required under paragraph (d), (e), (f), or (g) of this section.

(i) *Alternative: shallow water operation close to land; vessels not in ocean, short international voyage, or coastwise service.* No survival craft are required under this section on vessels that—

(1) Are not in ocean, short international voyage, or coastwise service; and

(2) Operate not more than 3 miles from land in water where the average depth of the channel does not exceed 1 m (39 in.).

§ 199.202 Rescue boats.

(a) *General: vessels 500 tons and over.* Each passenger vessel of 500 tons gross tonnage and over must carry at least one rescue boat on each side of the vessel. Each rescue boat must be approved by the Commandant (G–MVI) as meeting Regulations III/30.2 and III/47 of SOLAS 74/83.

(b) *General: vessels less than 500 tons.* Each passenger vessel of less than 500 tons gross tonnage must carry at least one rescue boat. The rescue boat must be approved by the Commandant (G–MVI) as meeting Regulations III/30.2 and III/47 of SOLAS 74/83.

(c) *Alternative: use of lifeboat as rescue boat.* A lifeboat is accepted as a rescue boat if it also meets the requirements for rescue boats as specified in Regulation III/47 of SOLAS 74/83.

(d) *Alternative: vessels operating in harbors, sheltered lakes, or river service.* A vessel operating in harbors or sheltered lakes, or operating in river service is not required to carry a rescue boat approved as meeting Regulations III/30.2 and III/47 of SOLAS 74/83, if it carries a rescue boat meeting Subpart 160.056 of this chapter. The rescue boat must be equipped with a motor.

§ 199.203 Marshalling of liferafts.

(a) To permit efficient marshalling of liferafts, each passenger vessel in ocean, short international voyage, or coastwise service must have a lifeboat or rescue boat for each six liferafts when—

(1) Each lifeboat and rescue boat is loaded with its full complement of persons; and

(2) The minimum number of liferafts necessary to accommodate the remainder of the persons permitted on board have been launched.

(b) A passenger vessel in short international voyage or coastwise service which meets the special standards of subdivision in § 171.068 of this chapter, is not required to meet paragraph (a) of this section if it has a lifeboat or rescue boat for each nine liferafts when—

(1) Each lifeboat and rescue boat is loaded with its full complement of persons; and

(2) The minimum number of liferafts necessary to accommodate the remainder of the persons permitted on board have been launched.

§ 199.211 Ring life buoys.

(a) *General.* The minimum number of ring life buoys carried to meet § 199.70, is prescribed in Table 199.211.

TABLE 199.211

Length of vessel in meters (feet)	Minimum number of ring life buoys	
	Ocean and short international voyage service	Other than ocean and short int'l voyage service
Under 30 (96)	8	3
30 (98) and under 60 (196)	8	4
60 (196) and under 90 (297)	12	6
90 (297) and under 120 (393)	12	12
120 (393) and under 180 (590)	18	18
180 (590) and under 240 (787)	24	24
240 (787) and over	30	30

(b) *Small vessels in ocean or short international voyage service.* Notwithstanding § 199.70(a)(3), each passenger vessel under 60 m (196 ft.) in length in ocean or short international voyage service, must carry not less than six ring life buoys with floating electric water lights.

§ 199.212 Lifejackets: ocean or short international voyage service.

In addition to the lifejackets required under § 199.72, each passenger vessel in ocean or short international voyage service must carry lifejackets for not less than 5% of the total number of persons permitted on board. These lifejackets must be stowed in conspicuous places on deck or at muster stations.

§ 199.213 Lifejacket lights; ferries.

Notwithstanding the requirements of § 199.75(a), lifejackets on ferries are not required to be fitted with lifejacket lights.

§ 199.214 Immersion suits and thermal protective aids; ocean, short international voyage, coastwise, or Great Lakes service.

(a) Each passenger vessel in ocean, short international voyage, coastwise, or Great Lakes service must carry an immersion suit for each person—

(1) In command of a survival craft;

(2) Second in command of a lifeboat;

(3) Assigned to operate a survival craft; and

(4) Assigned to operate a survival craft launching appliance.

(b) The number of immersion suits for the crew of each lifeboat provided under paragraph (a) of this section must be at least three.

(c) In addition, the vessel must carry a thermal protective aid approved by the Commandant under Subpart 160.174 of this chapter for each person not provided with an immersion suit.

(d) The immersion suits and thermal protective aids under this section are not required if the vessel operates only on routes between 32° N and 32° S latitude.

§ 199.217 Station bill (muster list).

(a) The format of the station bill under § 199.80 used on a passenger vessel must be approved by the OCMI.

(b) Where the size of the crew permits, the station bill on a passenger vessel must include an emergency squad organized by the master to form the nucleus of a damage control party. This squad consists of persons specially trained in the use of the emergency and rescue equipment, and generally familiar with the vessel and fundamentals of damage control.

§ 199.220 Survival craft and rescue boat embarkation arrangements.

(a) Survival craft embarkation arrangements must be designed for—

(1) Each lifeboat to be boarded and launched either directly from the stowed position or from an embarkation deck, but not both; and

(2) Davit-launched liferafts to be boarded and launched from a position immediately adjacent to the stowed position or from a position to where, under § 199.135(d), the liferaft is transferred before launching.

(b) Each rescue boat must be able to be boarded and launched directly from the stowed position with the number of persons assigned to crew the rescue boat on board. Notwithstanding paragraph (a)(1) of this section, if the rescue boat is also a lifeboat and the other lifeboats are boarded and launched from an embarkation deck, the arrangements must be such that the rescue boat can also be boarded and launched from the embarkation deck.

§ 199.230 Stowage of survival craft.

(a) In order to meet § 199.133(a), each lifeboat on a passenger vessel of 80 m (262 ft.) in length and upwards, must be stowed where the after end of the lifeboat is not less than 1.5 times the

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length of the lifeboat forward of the propeller.

(b) Each liferaft and each inflatable buoyant apparatus must be arranged for float-free launching.

§ 199.240 Muster stations.

Each passenger vessel must, in addition to meeting § 199.110, have passenger muster stations that—

(a) Are near the embarkation stations unless in the same location;

(b) Permit ready access for the passengers to the embarkation stations unless in the same location; and

(c) Have sufficient room to marshal and instruct the passengers.

§ 199.245 Survival craft embarkation and launching arrangements.

(a) Each passenger vessel davit-launched liferaft must be arranged to be rapidly boarded by its full complement of persons.

(b) All survival craft required for abandonment by the total number of persons permitted on board must be capable of being launched with their full complement of persons and equipment within a period of 30 min. from the time the abandon-ship signal is given.

§ 199.250 Fixed radio installation for lifeboats: international voyage.

Each passenger vessel on an international voyage carrying a Class A EPIRB as an alternative to a Category 1, 406 MHz Satellite EPIRB, must have a fixed radio installation meeting the regulations of the Federal Communications Commission at 47 CFR 80.267 in—

(a) At least one lifeboat where the total number of persons permitted on board is more than 199 but less than 1,500; and

(b) At least one lifeboat on each side of the vessel where the total number of persons permitted on board is 1,500 or more.

Subpart D—Additional Requirements for Cargo Vessels

§ 199.260 General.

Each cargo vessel must meet the requirements in this subpart in addition to the requirements in subparts A and B.

§ 199.261 Survival craft.

(a) *General.* Each survival craft on a cargo vessel must be approved by the Commandant (G–MVI) as follows:

(1) Each open lifeboat must meet Subpart 160.035 of this chapter.

(2) Each totally enclosed lifeboat must meet Subpart 160.035 of this chapter; and Regulations III/30.2, III/41, and III/44 of SOLAS 74/83.

(3) Each inflatable liferaft must meet Subpart 160.051 of this chapter; and Regulations III/30.2, III/38, and III/39 of SOLAS 74/83. Each inflatable liferaft on a cargo vessel in ocean or short international voyage service must have a capacity of 6 persons or more.

(4) Each rigid liferaft must meet Subpart 160.016 of this chapter; and Regulations III/30.2, III/38, and III/40 of SOLAS 74/83. Each rigid liferaft on a cargo vessel in ocean service must have a capacity of 6 persons or more.

(5) Each life float must meet Subpart 160.027 of this chapter.

(6) Each inflatable buoyant apparatus must be approved by the Commandant (G–MVI).

(b) *Ocean or coastwise service.* Each cargo vessel in ocean or coastwise service must carry the following:

(1) Totally enclosed lifeboats. The lifeboats on each side of the vessel must have an aggregate capacity that will accommodate the total number of persons permitted on board.

(2) One or more liferafts capable of being launched on either side of the vessel. The liferafts must have an aggregate capacity that will accommodate the total number of persons permitted on board. If the liferaft or liferafts can not be readily transferred for launching on either side of the vessel, the total capacity available on each side must be sufficient to accommodate the total number of persons permitted on board.

(c) *Alternative: ocean or coastwise service.* A cargo vessel in ocean or coastwise service is not required to meet paragraph (b) of this section, if it carries the following:

(1) One or more lifeboats capable of being free-fall launched over the stern of the vessel. The lifeboats must have an aggregate capacity that will accommodate the total number of persons permitted on board.

(2) Liferafts. The liferafts on each side of the vessel must have an aggregate capacity that will accommodate the total number of persons permitted on board. The liferafts on at least one side of the vessel must be served by launching appliances.

(d) *Alternative for vessels less than 85 m long and for nonself-propelled vessels: ocean or coastwise service.* A cargo vessel less than 85 m (278 ft.) in length in ocean or coastwise service, or a nonself-propelled vessel in ocean or coastwise service is not required to meet paragraphs (b) or (c) of this section, if it meets the following:

(1) One or more liferafts must be carried on each side of the vessel. The liferafts on each side must have an aggregate capacity that will accommodate the total number of persons permitted on board.

(2) Unless the liferafts required under paragraph (d)(1) of this section can be readily transferred for launching on either side of the vessel, additional liferafts must be provided to bring the total capacity available on each side to at least 150% of the total number of persons permitted on board.

(3) If the rescue boat required under § 199.262 is also a lifeboat, it is included in the aggregate capacity required under paragraph (d)(1) of this section, provided that the total survival craft capacity available on each side of the vessel is at least 150% of the total number of persons permitted on board.

(4) In the event of the largest survival craft on either side of the vessel being lost or rendered unserviceable, there must be sufficient survival craft available for use on that side to accommodate the total number of persons permitted on board.

(5) In calculating the capacity of survival craft on board the vessel, no individual survival craft is credited with a capacity greater than the total number of persons permitted on board.

(e) *Great Lakes or lakes, bays, and sounds service.* Each cargo vessel in Great Lakes or lakes, bays, and sounds service must meet the following:

(1) The vessel must have one or more totally enclosed lifeboats with an aggregate capacity sufficient to accommodate the total number of persons permitted on board.

(2) The vessel must have one or more liferafts with an aggregate capacity sufficient to accommodate the total number of persons permitted on board.

(3) The aggregate capacity of the lifeboats and liferafts on each side of the vessel must be sufficient to accommodate the total number of persons permitted on board.

(f) *Alternative for vessels less than 85 m long and for nonself-propelled vessels: Great Lakes service; lakes, bays, and sounds service; or vessels operating on the continental shelf of the United States.* A cargo vessel less than 85 m (278 ft.) in length in Great Lakes service; lakes, bays, and sounds service; or operating on the continental shelf of the United States; or a nonself-propelled vessel in Great Lakes service; lakes, bays, and sounds service; or operating on the continental shelf of the United States, is not required to meet paragraph (e) of this section, if it meets the following:

(1) One or more liferafts must be carried with an aggregate capacity that will accommodate the total number of persons permitted on board.

(2) Unless the liferafts required under paragraph (f)(1) of this section can be readily transferred for launching on either side of the vessel, additional liferafts must be provided to bring the total capacity available on each side to at least 100% of the total number of persons permitted on board.

(3) If the rescue boat required under § 199.262 is also a lifeboat, it is included in the aggregate capacity required under paragraph (f)(1) of this section, if the requirements under paragraph (f)(2) of this section are met.

(g) *River service.* Each cargo vessel in river service must have a combination of lifeboats, liferafts, or inflatable buoyant apparatus, that together with its rescue boat, provides an aggregate capacity that will accommodate the total number of persons permitted on board.

(h) *Additional liferaft for large vessels.* Each cargo vessel where the survival craft are stowed more than 100 m (328 ft.) from the stem must carry, in addition to the liferafts required under paragraphs (b)(2), (c)(2), or (e)(2) of this section, a liferaft stowed as far forward as is reasonable and practicable. Each cargo vessel where the survival craft are stowed more than 100 m (328 ft.) from the stern must carry, in addition to the liferafts required under paragraphs (b)(2), (c)(2), or (e)(2) of this section, a liferaft stowed as far aft as is reasonable and practicable. The requirement for the liferaft to float free under § 199.290(b) does not apply to a liferaft under this paragraph, provided it is arranged for quick manual release.

(i) *Alternative: warm water operation; vessels not in ocean or coastwise service and small vessels operating on the continental shelf of the United States in the Gulf of Mexico.* Lifeboats, liferafts, and inflatable buoyant apparatus are not required if life floats of a combined capacity to accommodate all persons permitted on board are carried on the following:

(1) Vessels not in ocean or coastwise service during those periods of the year when the normal temperature of the water equals or exceeds 15 °C (59 °F) in the area where the vessel operates.

(2) Vessels less than 500 tons gross tonnage operating exclusively on the continental shelf of the United States in the Gulf of Mexico.

(j) *Alternative: shallow water operation close to land; vessels not in ocean or coastwise service.* No survival craft are required under this section on vessels that—

(1) Are not in ocean or coastwise service; and

(2) Operate not more than 3 miles from land in water where the average depth of the channel does not exceed 1 m (39 in.).

§ 199.262 Rescue boats.

(a) *Ocean service.* Each cargo vessel in ocean service must carry at least one rescue boat. The rescue boat must be approved by the Commandant (G–MVI) as meeting Regulations III/30.2 and III/47 of SOLAS 74/83. A lifeboat is accepted as a rescue boat if it also meets the requirements for a rescue boat.

(b) *Coastwise or Great Lakes service.* Each cargo vessel in coastwise or Great Lakes service must carry at least one rescue boat. The rescue boat must be approved by the Commandant (G–MVI) as meeting Regulations III/30.2 and III/47 of SOLAS 74/83.

(1) A lifeboat is accepted as a rescue boat if it also meets the requirements for a rescue boat.

(2) A vessel that uses a motor-propelled work boat or launch in its normal operations is not required to carry a rescue boat if the work boat or launch meets the stowage, launching, and recovery requirements, and carries the same equipment as the rescue boat that would otherwise be required.

(c) *Lakes, bays, and sounds service.* Each cargo vessel in lakes, bays, and sounds service must carry at least one rescue boat. The rescue boat must be approved by the Commandant (G–MVI) as meeting Regulations III/30.2 and III/47 of SOLAS 74/83.

(1) A lifeboat is accepted as a rescue boat if it also meets the requirements for a rescue boat.

(2) A vessel that uses a motor-propelled work boat or launch in its normal operations is not required to carry a rescue boat if the work boat or launch carries the same equipment as the rescue boat that would otherwise be required.

(3) A vessel operating in harbors or sheltered lakes is not required to carry a rescue boat approved by the Commandant (G–MVI) as meeting Regulations III/30.2 and III/47 of SOLAS 74/83, if it carries a rescue boat meeting Subpart 160.056 of this chapter.

(d) *River service.* Each cargo vessel in river service where the average depth of the channel exceeds 1 m (39 in.), must carry at least one rescue boat meeting Subpart 160.056 of this chapter. A vessel that uses a work boat or launch in its normal operations is not required to carry a rescue boat if the work boat or launch carries the same equipment as the rescue boat that would otherwise be required.

(e) *Alternative: vessels not in oceon service.* A rescue boat is not required for a vessel, other than a vessel in ocean service, if—

(1) The OCMI determines the vessel is arranged to allow a helpless person to be recovered from the water;

(2) Recovery of the helpless person can be observed from the navigating bridge; and

(3) The vessel does not regularly engage in operations that restrict its maneuverability.

(f) *Alternative: nonself-propelled vessels.* A rescue boat is not required on a nonself-propelled vessel if the vessel is normally always—

(1) Under tow;

(2) Moored to or alongside a mobile offshore drilling unit or self-propelled vessel; or

(3) Moored to shore.

§ 199.271 Ring life buoys.

(a) *Self-propelled vessels.* For a self-propelled vessel, the minimum number of ring life buoys carried to meet § 199.70, is prescribed in Table 199.271.

TABLE 199.271

Length of vessel in meters (feet)	Minimum number of ring life buoys	
	Ocean service	Other than ocean service
Under 30 (98)	8	3
30 (98) and under 60 (196)	8	4
60 (196) and under 100 (328)	8	6
100 (328) and under 150 (492)	12	12
150 (492) and under 200 (656)	18	18
200 (656) and under 250 (820)	24	24

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TABLE 199.271—Continued

Length of vessel in meters (feet)	Minimum number of ring life buoys	
	Ocean service	Other than ocean service
250 (820) and over	30	30

(b) *Nonself-propelled vessels.* Each nonself-propelled vessel must have one ring life buoy at each end of the vessel.

(c) *Small vessels: not in ocean service.* Notwithstanding the requirements of § 199.70(a)(3), a cargo vessel is not required to have any ring life buoys with water lights if it is—

(1) Under 30 m (98 ft.) in length; and

(2) Not in ocean service.

§ 199.272 Lifejackets.

In addition to the lifejackets required under § 199.72, each vessel with a liferaft under § 199.261(h) of this chapter must have enough lifejackets to equal the capacity of the liferaft stowed at the liferaft station.

§ 199.273 Immersion suits: ocean, coastwise, or Great Lakes service.

(a) This section applies to each vessel in ocean, coastwise, or Great Lakes service, except those operating on routes between 32°N and 32°S latitude.

(b) Each vessel must carry an immersion suit for each person permitted on board. A child/small adult size immersion suit must be provided for each person smaller than the lower size limit of the adult immersion suits.

(c) In addition to the immersion suits required under paragraph (b) of this section, the engine room, pilot house, bow lookout station, and each work station and industrial work site must have enough immersion suits to equal the number of persons normally on watch in or assigned to the station at one time. However, an immersion suit is not required at a watch station, work station, or work site for a person whose cabin, stateroom, or berthing area (and the immersion suits stowed in that location) is readily accessible to the station or site.

(d) The immersion suits required under this section count toward meeting the requirements of § 199.73.

§ 199.280 Survival craft embarkation and launching arrangements: ocean, coastwise, or Great Lakes service.

(a) This section applies to vessels in ocean, coastwise, or Great Lakes service.

(b) Each lifeboat must be arranged to be boarded and launched directly from the stowed position.

(c) Each davit-launched liferaft must be arranged to be boarded and launched from a position immediately adjacent to the stowed position or from a position to where the liferaft is transferred under § 199.135(d).

(d) In order to meet § 199.150(g), each lifeboat and davit-launched liferaft on a cargo vessel must be arranged to be boarded by its full complement of persons within 3 min. from the time the instruction to board is given.

(e) All survival craft required for abandonment by the total number of persons permitted on board must be capable of being launched with their full complement of persons and equipment within 10 min. from the time the abandon-ship signal is given.

§ 199.290 Stowage of survival craft.

(a) In order to meet § 199.133(a), each lifeboat on a cargo vessel—

(1) 80 m (262 ft.) in length and upwards but less than 120 m (393 ft.) in length, must be stowed with the after end of the lifeboat not less than one length of the lifeboat forward of the propeller; and

(2) 120 m (393 ft.) in length and upwards, must be stowed with the after end of the lifeboat not less than 1.5 times the length of the lifeboat forward of the propeller.

(b) Each liferaft, other than those required under § 199.261(h), and each inflatable buoyant apparatus must be arranged for float-free launching.

Subpart E—Additional Requirements for Tank Vessels

§ 199.300 General.

Except as provided in this subpart, tank vessels must meet the requirements for cargo vessels in Subpart D.

§ 199.310 Survival craft.

(a) Each lifeboat on a tank ship certificated to carry crude, product, chemicals, or liquified gases, emitting toxic vapors or gases; must be a lifeboat with a self-contained air support system approved by the Commandant (G–MVI) as meeting Subpart 160.035 of this chapter; and Regulations III/30.2, III/41, III/44, and III/45 of SOLAS 74/83.

(b) Each lifeboat on a tank ship certificated to carry crude, product, chemicals, or liquified gases, having a flashpoint less than 60 °C (closed cup test); must be a fire-protected lifeboat approved by the Commandant (G–MVI) as meeting Subpart 160.035 of this chapter; and Regulations III/30.2, III/41, III/44, III/45, and III/46 of SOLAS 74/83 A fire-protected lifeboat must not be of aluminum construction in the hull or canopy.

(c) Substitution of liferafts for lifeboats under § 199.261(d) is not permitted unless the tank vessel is less than 500 tons gross tonnage and not in ocean service.

(d) Each stowage position and each muster and embarkation station for a survival craft on a tank vessel other than the liferaft required under § 199.261(h) of this subchapter, must be in a location—

(1) Not over a cargo tank; and

(2) Protected from fire and explosion in the cargo tank area by the deckhouse, or A–60 divisions under § 32.57–5(b) of this chapter, or both.

§ 199.320 Survival craft embarkation and launching arrangements: ocean, coastwise, or Great Lakes service.

(a) This section applies to vessels in ocean, coastwise, or Great Lakes service.

(b) Notwithstanding the requirements of § 199.150(b), each launching appliance on a tank ship carrying crude, product, chemicals, or liquified gases, together with its lowering and recovery gear, must be arranged in a way that the fully equipped survival craft it serves can be safely lowered on the lower side of the vessel at the angle of heel after damage allowed under—

(1) MARPOL 73/78 in the case of an oil tanker;

(2) The IBC Code in the case of a chemical tanker; or

(3) The IGC Code in the case of a gas carrier.

(c) Each launching appliance on a tank ship certificated to carry crude, product, chemicals, or liquified gases, having a flashpoint less than 60 °C (closed cup test); must not be of aluminum construction.

Subpart F—Additional Requirements for Special Purpose Ships

§ 199.400 General.

(a) This subpart applies to the following vessels:

(1) Oceanographic research vessels. Scientific personnel on an oceanographic research vessel are "special personnel" for the purposes of this subpart.

(2) Offshore supply vessels. Offshore workers on an offshore supply vessel are "special personnel" for the purposes of this subpart.

(b) The term "passenger" wherever it is used in Subparts A, B, or C means one of the special personnel on a special purpose ship.

§ 199.405 Lifesaving appliance requirements.

(a) Each special purpose ship permitted to carry more than 50 special personnel must meet the requirements for passenger vessels in Subpart C, except that the lifesaving appliance requirements for passenger vessels on short international voyages do not apply.

(b) Each special purpose ship permitted to carry not more than 50 special personnel must meet the requirements for cargo and miscellaneous vessels in Subpart D, unless it meets the subdivision requirements for ships permitted to carry more than 50 special personnel under the IMO Code of Safety for Special Purpose Ships.

(c) Each special purpose ship permitted to carry not more than 50 special personnel, but meeting the subdivision requirements for ships permitted to carry more than 50 special personnel under the IMO Code of Safety for Special Purpose Ships, must meet either the lifesaving appliance requirements for passenger vessels in Subpart C or the requirements for cargo and miscellaneous vessels in Subpart D.

(d) Notwithstanding the requirements of paragraph § 199.150(a), a self-elevating offshore supply vessel, known in the industry as a "liftboat", is not required to have launching appliances for its liferafts.

§ 199.410 Rescue boats: special purpose ships operating on the continental shelf of the United States.

A rescue boat is not required under § 199.202 or § 199.282 for a special purpose ship operating on the continental shelf of the United States, if all of the following are demonstrated to the satisfaction of the Commandant (G–MVI):

(a) The vessel is arranged to allow a helpless person to be recovered from the water.

(b) Recovery of the helpless person can be observed from the navigating bridge.

(c) The vessel does not regularly engage in operations that restrict its maneuverability.

Subpart G—Additional Requirements for Nautical School Ships

§ 199.500 General.

(a) This subpart applies to public nautical school ships and civilian nautical school ships.

(b) In addition to a regular passenger, the term "passenger" wherever it is used in Subparts A, B, or C includes each—

(1) Student;

(2) Cadet; and

(3) Instructor who is not also a member of the crew.

§ 199.505 Lifesaving appliance requirements.

(a) Each nautical school ship which meets the structural fire protection requirements for a passenger vessel of the same size and service, must meet the lifesaving appliance and arrangement requirements for passenger vessels in Subpart C.

(b) Each nautical school ship which does not meet the structural fire protection requirements for a passenger vessel of the same size and service, must meet the lifesaving appliance and arrangement requirements for cargo vessels in Subpart D.

(c) Notwithstanding the requirements under § 199.150(e), the release gear is not required to be of the same type on various lifeboats and rescue boats on a nautical school ship.

Subpart H—Additional Requirements for Mobile Offshore Drilling Units

§ 199.600 General.

(a) For the purposes of this subpart, a "drillship" is a surface type mobile offshore drilling unit (unit) that is not a column stabilized unit as defined in § 107.111 of this chapter.

(b) Each mobile offshore drilling unit (unit), other than a drillship, must meet the requirements in this subpart in addition to the requirements in Subparts A and B for a vessel in ocean service.

(c) Each drillship must meet the requirements in Subpart E for an oil tanker in ocean service carrying a cargo having a flashpoint less than 60°C (closed cup test).

§ 199.605 Survival craft.

(a) *General.* Each survival craft on a unit must be one of the following:

(1) A totally enclosed, fire-protected lifeboat approved by the Commandant (G–MVI) as meeting Subpart 160.035 of this chapter; and Regulations III/30.2, III/41, III/44, III/45, and III/46 of SOLAS 74/83. A fire-protected lifeboat must not be of aluminum construction in the hull or canopy.

(2) An inflatable liferaft approved by the Commandant (G–MVI) as meeting Subpart 160.051 of this chapter; and Regulations III/30.2, III/38, and III/39 of SOLAS 74/83. Each inflatable liferaft must have a capacity of 6 persons or more.

(3) A rigid liferaft approved by the Commandant (G–MVI) as meeting Subpart 160.018 of this chapter; and Regulations III/30.2, III/38, and III/40 of SOLAS 74/83. Each rigid liferaft must have a capacity of 6 persons or more.

(b) *Lifeboats and liferafts.* Each unit must carry the following:

(1) Totally enclosed fire-protected lifeboats installed in at least two widely separated locations on different sides or ends of the unit. The arrangement of the lifeboats must provide sufficient capacity to accommodate the total number of persons permitted on board if—

(i) All the lifeboats in any one location are lost or rendered unusable; or

(ii) All the lifeboats on any one side or end of the unit are lost or rendered unusable.

(2) Float-free liferafts. The float-free liferafts must have an aggregate capacity that will accommodate the total number of persons permitted on board. Notwithstanding the requirements of § 199.150(a), these liferafts are not required to be served by launching appliances.

(c) *Alternative: certain self-elevating units.* In the case of a self-elevating unit where, due to its size or configuration, lifeboats can not be located in the widely separated locations required under paragraph (b)(1) of this section, the OCMI may require—

(1) The lifeboats to have an aggregate capacity to accommodate the total number of persons permitted on board; and

(2) Liferafts served by launching appliances of an aggregate capacity to accommodate the total number of persons permitted on board. These liferafts may be the float-free liferafts under paragraph (b)(2) of this section, or liferafts in addition to the float-free liferafts.

§ 199.610 Rescue boats.

Each unit must carry at least one rescue boat. The rescue boat must be approved by the Commandant (G–MVI)

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as meeting Regulations III/30.2 and III/47 of SOLAS 74/83. A lifeboat is accepted as a rescue boat if it also meets the requirements for a rescue boat.

§ 199.630 Ring life buoys.

(a) Each unit must have at least eight ring life buoys to meet § 199.70.

(b) The releasing mechanism for each ring life buoy with a smoke signal required under § 199.70(c) must be capable of operation from the navigating bridge, main control station, or a location readily available to personnel on board.

§ 199.640 Immersion suits.

(a) This section applies to each unit operating in any ocean or in the Great Lakes, except those operating between 32°N and 32°S latitude.

(b) Each unit must carry an immersion suit for each person permitted on board. A child/small adult size immersion suit must be provided for each person smaller than the lower size limit of the adult immersion suits.

(c) In addition to the immersion suits required under paragraph (b) of this section, each watch station, work station, and industrial work site must have enough immersion suits to equal the number of persons normally on watch in, or assigned to, the station or site at one time. However, an immersion suit is not required at a station or site for a person whose cabin or berthing area (and the immersion suits stowed in that location) is readily accessible to the station or site.

(d) The immersion suits required under this section count toward meeting the requirements of § 199.73.

§ 199.645 Station bill.

The requirements in § 199.80 applying to the crew, also include the industrial personnel assigned to the unit. The requirements in § 199.80 applying to passengers, apply to visitors and other persons on board not regularly employed on the unit. In addition to the requirements in § 199.80, the station bill must—

(a) Cover the duties of the crew in case of collisions or other serious casualties, and

(b) Cover the duties of the crew in case of severe storms.

§ 199.650 Survival craft embarkation and launching arrangements.

(a) Each lifeboat must be arranged to be boarded and launched directly from the stowed position.

(b) In order to meet § 199.150(g), each lifeboat on a unit must be arranged to be boarded by its full complement of persons within 3 min. from the time the instruction to board is given.

(c) All lifeboats required for abandonment by the total number of persons permitted on board must be capable of being launched with their full complement of persons and equipment within 10 min. from the time the signal to abandon the unit is given.

(d) Each survival craft must be arranged to clear each leg, column, footing, brace, mat, and each similar structure below the hull of a self-elevating unit and below the upper hull of a column stabilized unit, with the unit in an intact condition.

(1) The survival craft is not required to be arranged to be launched down the straight side of the unit as required under § 199.120(b), if it is mounted on a structure intended to provide clearance from lower structures of the unit.

(2) The OCMI may allow a reduction in the total number of survival craft meeting this requirement when the unit is in the transit mode and the number of personnel on board is reduced. In such cases, survival craft sufficient to meet § 199.605 of this chapter must be available for use by the total number of personnel remaining on board.

(e) When the unit is under any unfavorable condition such as maximum airgap, lightest transit or operational condition, or any damaged condition under Part 174, Subpart C of this chapter,—

(1) Notwithstanding the requirements under § 199.150(b), survival craft launching appliances must be capable of operation;

(2) Falls, where used, must be long enough for survival craft to reach the water; and

(3) Lifeboats with an aggregate capacity that will accommodate the total number of persons permitted on board must be capable of being launched safely, and clear of any obstruction. The location and orientation of each lifeboat must take into consideration the in-water operating capabilities of the lifeboat.

(f) Each launching appliance and supporting structure must not be of aluminum construction.

(g) In place of the embarkation ladders required under § 199.110(e), each unit must be provided with at least two widely separated fixed metal ladders or stairways extending from the deck to the surface of the water. If a fixed ladder can not be installed, the OCMI will approve an alternate means of escape with sufficient capacity to permit all persons permitted on board to safely descend to the waterline.

(1) Each inclined fixed ladder must meet the requirements under § 108.159 of this chapter.

(2) Each vertical fixed ladder must meet the requirements under § 108.160 of this chapter for fixed ladders, except that the vertical bars in cages must be open at least 500 mm (20 in.) on one side throughout the length of the ladder.

(3) An alternate means of escape must have sufficient capacity to permit all persons permitted on board to safely descend to the waterline within 10 minutes from the time the signal to start is given.

(h) Means of abandonment, such as portable slides, safety booms, moveable ladders, elevators, and controlled descent devices must be approved by the Commandant (G-MVI).

SUBCHAPTER D—TANK VESSELS

PART 30—GENERAL PROVISIONS

2. The authority citation for Part 30 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

§ 30.01-5 [Amended]

3. By removing and reserving paragraph (b)(3) of § 30.01-5.

4. By adding a new Subpart 30.35 to read as follows:

Subpart 30.35—Lifesaving Appliances and Arrangements

§ 30.35-1 General—TB/ALL.

Lifesaving appliances and arrangements on tank vessels must meet Subchapter W of this chapter.

PART 31—INSPECTION AND CERTIFICATION

5. The authority citation for Part 31 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3307; 49 CFR 1.46.

Subpart 31.01—General

6. By revising paragraph (a) of § 31.01-1 to read as follows:

§ 31.01-1 Inspections required—TB/ALL.

(a) The Coast Guard inspects each tank vessel biennially, annually, or more often if necessary, to determine that it meets the laws, the regulations in this chapter, and the regulations in 33 CFR Chapter I.

* * * * *

7. By adding paragraph (c) to § 31.01-5 to read as follows:

§ 31.01-5 Scope of initial inspections—TB/ALL.

* * * * *

(c) The following tests and inspections and the tests and inspections in § 31.10-15(d)(7) through § 31.10-15(d)(11) must be conducted for each initial inspection for certification. The tests and inspections under paragraph (c)(1) of this section must also be conducted when each new davit or winch is installed on the vessel. The tests and inspections under paragraph (c)(2) of this section must also be conducted when each new free-fall launching system is installed on the vessel. The test under paragraph (c)(3) of this section must also be conducted when each new lifeboat or rescue boat is installed on the vessel. The inspection under paragraph (c)(6) of this section must also be conducted when each new lifeboat, rescue boat, liferaft, davit, winch, or other launching appliance is installed on the vessel. The test under paragraph (c)(7) of this section must also be conducted when each new life buoy quick release device is installed on the vessel.

(1) Each launching appliance using falls and a winch for a rescue boat, davit-launched liferaft, or lifeboat including any auxiliary davit system for a free-fall lifeboat must be tested as follows:

(i) The lifeboat, rescue boat or davit-launched liferaft must be loaded with all of its equipment or the deadweight equivalent. In addition, the davit-launched liferaft must be loaded with a 75 kg (165 lb.) weight to simulate the load of one person. A davit-launched liferaft is not required for this test if an appropriate test weight is used. The boat or liferaft must be lowered from the embarkation station and launched into the water using the normal launching procedure. If a test weight is substituted for the davit-launched liferaft, the weight must be "launched" onto a surface that will support its weight. The rescue boat must then be loaded with the deadweight equivalent of its full rescue boat complement using a weight of 75 kg (165 lb.) per person. In the case of a lifeboat or rescue boat launching appliance, the boat must then be recovered by the launching appliance. In the case of a liferaft launching appliance, the hand-operated quick-return mechanism must be used to recover the fall.

(A) There must be no deformation of or damage to the launching appliance or its connections to the vessel.

(B) The lowering speed must meet § 199.153(j) of this chapter, and the falls must meet § 199.153(g) of this chapter. For a multiple drum winch, the falls must wind off the drums at the same rate when lowering, and wind onto the drums evenly in a level wrap at the same rate when hoisting.

(C) The release mechanism control in a boat must open all hooks simultaneously and release the boat into the water.

(D) The automatic disengaging apparatus for a davit-launched liferaft must open and release the liferaft or test weight after the apparatus is set to open automatically and the liferaft or test weight is set on the surface.

(E) The recovery of the boat must meet § 199.153(l) of this chapter, and if the boat is a rescue boat, § 199.160(d) of this chapter.

(F) For each launching device equipped to recover a boat by power, including a launching device with a portable power source, the limit switches or other safety devices must automatically cut off the power before the boat reaches the stops to avoid overstressing the falls and davits.

(G) The hand-operated recovery gear for a lifeboat or rescue boat launching appliance must be capable of moving the boat into its stowed position where the boat can be safely and properly secured.

(H) The operation of the hand-operated quick-return mechanism on a davit-launched liferaft launching appliance must be smooth, rapid, and easy enough for one person to recover the fall.

(ii) If the lowering of a lifeboat or rescue boat is controlled from within the boat by a control wire wound on an auxiliary drum on the winch, the launching of the boat must be tested with the boat loaded as under paragraph (c)(1)(i) of this section, but with an operator inside.

(A) The mass of the control wire must be sufficient to overcome the friction of the sheaves used on the control wire when the launching appliance is being operated by the on-deck controls.

(B) The control wire must properly operate the winch brake.

(C) The winch brake must not be affected by the mass of the fully extended control wire.

(D) There must be sufficient length of control wire available inside the boat to operate the winch brake during all stages of lowering.

(E) The free end of the control wire must be retained within the boat until the boat is released from the falls by the operator.

(iii) The test procedure under paragraph (c)(1)(i) of this section must be repeated with the lifeboat, rescue boat or liferaft loaded with weight equivalent to all of its equipment and full complement of persons, plus 10% of the total weight of the loaded boat or liferaft. In the case of a davit-launched liferaft, the automatic disengaging apparatus must be set to release. The on-deck launching controls must be used for this test, with the boat or liferaft being stopped after it has reached its maximum lowering speed, and then at approximately 2 m (6 ft.) intervals. In the case of a lifeboat or rescue boat, when the boat reaches a position just above the water, it must be released from the falls using the on-load release mechanism control.

(A) There must be no deformation of or damage to the launching appliance or its connections to the vessel.

(B) The lowering speed must meet § 199.153(i) and 199.153(k) of this chapter, and the falls must meet § 199.153(g) of this chapter.

(C) The launching appliance must bring the boat or raft to a stop within 1 m (39 in.) by application of the brake by the winch counterweight alone.

(D) The brake action must be smooth and positive.

(E) The brake must be always applied unless the operator, or a mechanism activated by the operator, holds the brake control in the "off" position.

(F) The boat or raft must begin to lower each time the brake is released. No additional force is permitted.

(G) The release mechanism control in a boat must open all hooks simultaneously and release the boat into the water.

(H) The automatic disengaging apparatus for a davit-launched liferaft must not release the liferaft or test weight until the liferaft or test weight is set on the surface.

(iv) The release apparatus for a davit-launched liferaft must be tested to determine that it will release under a towing strain. The liferaft or test weight loaded as required under paragraph (c)(1)(iii) of this section must be suspended just above the surface and the release apparatus set to open automatically. A horizontal towing strain sufficient to pull the falls 5° from vertical must be applied to the liferaft or test weight and the liferaft lowered. The release apparatus must release the liferaft or test weight as it is set on the surface.

(v) If any winch brake surface is exposed to the weather, the test under paragraph (c)(1)(iii) of this section must be conducted with the brake surfaces dry and repeated with the brake surfaces wet. The brake must stop the winch when the brake surface is wet, but the stopping distance requirement does not apply.

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(2) Each free-fall launched lifeboat and launching system must be tested as follows with the vessel at its lightest seagoing draft:

(i) The lifeboat loaded with only its normal equipment or the deadweight equivalent of the equipment, must be launched into the water. After launching, the boat must be retrieved and examined.

(A) The free-fall release mechanism must operate properly and release the boat from the launching appliance.

(B) The launching system must operate smoothly, must launch the boat into the water at the intended angle, and must not show any evidence of improper operation.

(C) The lifeboat must not show any evidence of instability in the air or in the water.

(D) There must be no deformation of or damage to the lifeboat, the launching appliance or its connections to the vessel.

(ii) The procedure under paragraph (c)(2)(i) of this section must be repeated with each seat in the lifeboat loaded with 75 kg (165 lb.) of deadweight properly secured in place to simulate the weight of one person.

(A) The inspections required under paragraphs (c)(2)(i)(A) through (c)(2)(i)(D) of this section must be performed.

(B) Each seat and its mounting arrangements must be closely inspected. There must be no deformation or damage to any seat or its mounting arrangements.

(C) If the inspector has reason to believe that the boat is not being launched in a safe and proper manner, the inspector may order the test under this paragraph (paragraph (c)(2)(ii) of this section) to be repeated with the boat instrumented with acceleration monitoring equipment. The data must be compared with the approval test data to determine whether or not the boat is being launched in a safe and proper manner.

(iii) The procedure under paragraph (c)(2)(i) of this section must be repeated with at least one operator aboard the lifeboat. The rest of the seats in the lifeboat must either be empty, loaded with deadweight, or with personnel to the satisfaction of the inspector. The launching of the lifeboat must be completely controlled by the personnel in the lifeboat.

(A) The inspections required under paragraphs (c)(2)(i)(A) through (c)(2)(i)(D) of this section must be performed.

(B) There must be no injury to any of the personnel in the lifeboat.

(3) Each lifeboat and rescue boat must be operated in the water for at least 2 hr. During this time, the propulsion system must be operated both forward and astern. At least 1 hr. of this running time must be with the propulsion system operating at full speed. Each boat system, such as any powered bilge pump, water spray system, or air supply system, must be operated.

(i) The boat and each of its systems must operate properly without overheating or being damaged.

(ii) The boat must not have any evident leakage through the hull or around any through-hull fitting.

(4) An abandon-ship simulation must be held to determine that all survival craft required for abandonment by the total number of persons permitted on board, can be launched with their full complement of persons and equipment within 10 min. from the time the abandon-ship signal is given.

(i) This simulation must include loading and launching of sufficient survival craft to demonstrate that the requirement can be met.

(ii) This test is not required if the Coast Guard has witnessed a successful test on a sister vessel with the same lifesaving appliance arrangements.

(5) One lifeboat and one rescue boat of each type on board must be launched with the vessel proceeding at a speed of approximately 5 knots. No particular loading of the boat is required. The boat must not give any indication that it is unstable or out of control during the launching procedure.

(6) The installation of each lifeboat, rescue boat, liferaft and launching appliance must be inspected to determine that it meets each condition of its approval, as listed on its Certificate of Approval (Form CGHQ 10030).

(7) The quick release device for ring life buoys required for certain vessels under § 199.70(c) of this chapter, must be tested to demonstrate that the ring life buoy and its attachments drop clear of the side of the vessel when released. A self-activating smoke signal is not required for this test if a dummy device of comparable size and weight is used.

Subpart 31.05—Certificate of Inspection

8. By revising paragraph (a) of § 31.05–1 to read as follows:

§ 31.05–1 Issuance of certificate of inspection—TB/ALL.

(a) When a tank vessel is found to meet the laws, the regulations in this chapter, and applicable regulations in 33 CFR Chapter I, the Officer in Charge, Marine Inspection issues a certificate of inspection.

* * * * *

Subpart 31.10—Inspections

9. By adding paragraphs (d) and (e) to § 31.10–15 to read as follows:

§ 31.10–15 Inspection for certification—TB/ALL.

* * * * *

(d) At each inspection for certification, the following inspections and tests must be conducted in the presence of a marine inspector, or as otherwise directed by the OCMI:

(1) Each air tank provided for buoyancy on a lifeboat, liferaft, buoyant apparatus or life float, must be tested and demonstrated to be airtight.

(2) Each lifeboat and rescue boat gravity davit including each auxiliary davit system for a free-fall lifeboat, and each davit-launched liferaft launching device must be used to lower the boat or liferaft from its stowed position to a point near the water using the on-deck launching appliance controls. This test must be conducted twice; once with the boat or liferaft loaded with all equipment and additional weight of not more than one person, and a second time with the weight of a full load of persons and equipment. A davit-launched liferaft is not required for this test if an appropriate test weight is used. During the lowering, the brake must be applied and released at least five times.

(i) The launching appliance must bring the boat, liferaft, or test weight to a stop by application of the brake by the winch counterweight alone.

(ii) The brake action must be smooth and positive.

(iii) The brake must be always applied unless the operator, or a mechanism activated by the operator, holds the brake control in the "off" position.

(iv) Lowering must begin each time the brake is released. No additional force is permitted.

(3) Each lifeboat and rescue boat on a davit must be lowered to a point just above the water and evenly loaded until the total weight of the boat equals the "B" weight on the boat data plate. If the boat is equipped with mechanical disengaging apparatus, the release mechanism control must be operated and must open all hooks simultaneously and release the boat into the water properly. There must be no evident damage or deformation of the boat, the launching appliance, or its connections to the vessel.

(4) Each free-fall launched lifeboat and launching system must be tested with the lifeboat loaded with only its normal equipment or the deadweight equivalent of the equipment. The lifeboat must be launched into the water. After launching, the boat must be retrieved and examined.

(i) The free-fall release mechanism must operate properly and release the boat from the launching appliance.

(ii) The launching system must operate smoothly, must launch the boat into the water at the intended angle, and must not show any evidence of improper operation.

(iii) The lifeboat must not show any evidence of instability in the air or in the water.

(iv) There must be no deformation of or damage to the lifeboat, the launching appliance or its connections to the vessel.

(5) The procedure under paragraph (d)(4) of this section must be repeated with each seat in the lifeboat loaded with 75 kg (165 lb.) of deadweight properly secured in place to simulate the weight of one person.

(i) The inspections required under paragraphs (d)(4)(i) through (d)(4)(iv) of this section must be performed.

(ii) Each seat and its mounting arrangements must be closely inspected. There must be no deformation or damage to any seat or its mounting arrangements.

(6) If the inspector has reason to believe that the free-fall boat is not being launched in a safe and proper manner, the inspector may order the test under paragraphs (d)(4) and (d)(5) of this section to be repeated with the boat instrumented with acceleration monitoring equipment. The data must be compared with the approval test data to determine whether or not the boat is being launched in a safe and proper manner.

(7) The procedure under paragraph (d)(4) of this section must be repeated with at least one operator aboard the lifeboat. The rest of the seats in the lifeboat must either be empty, loaded with deadweight, or with personnel to the satisfaction of the inspector. The launching of the lifeboat must be completely controlled by the personnel in the lifeboat.

(A) The inspections required under paragraphs (d)(4)(i) through (d)(4)(iv) of this section must be performed.

(B) There must be no injury to any of the personnel in the lifeboat.

(8) The air supply system of each gas protected and fire protected lifeboat must be checked by—

(i) determining that the air regulator is operating properly either by discharging one or more of the air supply cylinders through the regulator, or by checking the flow rate on a test apparatus; and

(ii) making sure each air supply cylinder is fully charged and meets § 147.04–1(a) of this chapter.

(9) The water spray system of each fire protected lifeboat must be checked by operating the pump and determining that all sprinkler heads are operating properly and provide a uniform flow of water over the surface of the lifeboat.

(10) Each davit-launched liferaft launching appliance must be loaded with a weight equal to the liferaft loaded with its full load of persons and equipment. The weight must be lowered to a point just above the water, dock or other surface that will support the weight. The automatic disengaging apparatus control must be set to release, and must open when the weight is lowered to and supported by the surface. There must be no evident damage or deformation of the automatic disengaging apparatus, launching appliance, or its connections to the vessel.

(11) Each lifejacket, immersion suit, and work vest must be examined to determine that it is in serviceable condition. Each lifejacket, immersion suit, and work vest not in serviceable condition must be either repaired, or destroyed and removed from the vessel. The marine inspector may mark the lifejackets, immersion suits, and work vests to indicate that they have been inspected and passed.

(12) The control apparatus for each electrically-controlled launching appliance winch must be opened, inspected, and determined to be in serviceable condition.

(13) Each inflatable liferaft and inflatable lifejacket must be inspected to determine that it has been serviced under § 35.90–80 of this chapter.

(14) Each hydrostatic release unit must be inspected to determine that it has been serviced under § 35.90–90 of this chapter.

(15) Each other item of lifesaving equipment on the vessel must be inspected to determine that it is in serviceable condition. Each item not in serviceable condition must be repaired or replaced. Each item of survival equipment with an expiration date on it must be replaced if the expiration date has passed.

(16) An abandon-ship drill must be held. The marine inspector specifies the nature of the emergency to be simulated.

PART 33—LIFESAVING EQUIPMENT

10. By removing and reserving Part 33.

10a. The following Table of Contents for Part 35 reflects new subparts to read as follows:

PART 35—OPERATIONS

Subpart 35.00—Incorporation by Reference

Sec.

35.00–1 Incorporation by reference.

Subpart 35.01—Special Operating Requirements

* * * * *

Subpart 35.11—Manning of Survival Craft and Supervision

35.11–1 Certificate of proficiency—TB/ALL.
35.11–5 Manning and supervision—TB/ALL.

* * * * *

Subpart 35.90—Operational Readiness, Maintenance and Inspection of Lifesaving Equipment

35.90–20 Operational readiness—TB/ALL.
35.90–30 Maintenance—TB/ALL.
35.90–40 Maintenance of falls—TB/ALL.
35.90–50 Spare parts and repair equipment—TB/ALL.
35.90–60 Weekly Maintenance and inspection—TB/ALL.
35.90–70 Monthly inspections—TB/ALL.
35.90–73 Quarterly inspections—TB/ALL.
35.90–75 Annual inspection and repair—TB/ALL.
35.90–80 Servicing of inflatable liferafts, inflatable lifejackets and inflated rescue boats—TB/ALL.
35.90–90 Periodic servicing of hydrostatic release units—TB/ALL.

11. The authority citation for Part 35 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

12. By adding Subpart 35.00 to read as follows:

Subpart 35.00—Incorporation by Reference

§ 35.00–1 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street, NW., Washington, DC, and at the U.S. Coast Guard, Merchant Vessel Inspection Division (G–MVI), 2100 Second Street, SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected are:

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American Society for Testing and Materials

1916 Race St., Philadelphia, PA 19103

ASTM D93–80, Test for Flash Point by Pennsky-Martens Closed Tester—35.25–10.

International Maritime Organization (IMO)

Publications Section, 4 Albert Embankment, London SE1 7SR, England.

Resolution [LSR 19/WP.4, Annex 3], "Guidelines Concerning the Use and Fitting of Retroreflective Materials on Life-saving Appliances", June 1987—35.40–40; 35.40–50.

National Fire Protection Association

Batterymarch Park, Quincy, MA 02269.

NFPA 306, Control of Gas Hazards on Vessels, 1975—35.01–1.

Subpart 35.07—Logbook Entries

13. By revising paragraphs (b)(1), (b)(2), and (b)(6) of § 35.07–10 to read as follows:

§ 35.07–10 Actions required to be logged—TB/ALL.

* * * * *

(b) * * *

(1) Abandon-ship training and drills, and fire drills. As held. See §§ 35.10–1 and 35.10–2.

(2) Survival craft winches. Once in each three months. See § 35.90–73.

* * * * *

(6) Line-throwing appliances. Once in each three months. See § 35.10–3.

* * * * *

Subpart 35.10—Fire and Emergency Requirements

14. By revising § 35.10–1 to read as follows:

§ 35.10–1 Abandon-ship training and drills—T/ALL.

(a) Abandon-ship training material must be on board each vessel. The training material must consist either of a manual of one or more volumes, or audio-visual training aids, or both.

(1) The training material must contain instructions and information on the lifesaving appliances on the vessel and on the best methods of survival. A training manual must be written in easily understood terms, illustrated wherever possible.

(2) If a training manual is used, a copy must be in each crew messroom and recreation room or in each crew cabin. If audio-visual training aids are used they must be incorporated in the onboard training sessions under paragraph (d) of this section.

(3) The training material must explain the following in detail:

(i) Donning of the lifejackets and immersion suits carried on board.

(ii) Muster at the assigned stations.

(iii) Boarding, launching, and clearing the survival craft and rescue boats.

(iv) Method of launching from within the survival craft.

(v) Release from launching appliances.

(vi) Method and use of devices for protection in launching areas, where appropriate.

(vii) Illumination in launching areas.

(viii) Use of all survival equipment.

(ix) Use of all detection equipment.

(x) With illustrations, the use of radio lifesaving appliances.

(xi) Use of sea anchors.

(xii) Use of engine and accessories.

(xiii) Recovery of survival craft and rescue boats including stowage and securing.

(xiv) Hazards of exposure and the need for warm clothing.

(xv) Best use of the survival craft for survival.

(xvi) Methods of retrieval, including the use of helicopter rescue gear (slings, baskets, stretchers), breeches-buoy and shore lifesaving apparatus and vessel's line-throwing apparatus.

(xvii) All other functions contained in the muster list and emergency instructions.

(xviii) Instructions for emergency repair of the lifesaving appliances.

(b) An abandon-ship drill must be conducted on each vessel in alternating weeks. If a drill cannot be held during the appointed week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(1) Any member of the crew excused from an abandon-ship drill must participate in the next drill, so that each member participates in at least one abandon-ship drill each month. If more than 25% of the crew have not participated in an abandon-ship drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port if reasonable and practicable, but not later than 24 hours after the vessel leaves port. The Commandant (G–MVI) may accept other arrangements that are at least equivalent for those vessels where this is impractical.

(2) On a vessel on an international voyage, musters of the passengers must take place within 24 hours after their embarkation. Passengers must be instructed in the use of the lifejackets and the action to take in an emergency. The passengers must be encouraged to participate fully in the abandon-ship drill. If only a small number of passengers embark at a port after the original muster has been held, the attention of these passengers must be drawn to the emergency instructions required under § 199.80(a) and 199.80(c) of this chapter if another muster is not held.

(3) On each vessel not on an international voyage, a muster of the passengers must be held on departure, or else—

(i) For voyages of more than one day's duration, musters of the passengers must be in accordance with paragraph (b)(2) of this section as for vessels on an international voyage; and

(ii) For voyages of less than one day's duration, the attention of the passengers must be drawn to the emergency instructions required under § 199.80(a) and 199.80(c) of this chapter.

(4) Each abandon-ship drill must include:

(i) Summoning of passengers and crew to muster stations with the general alarm and making sure that they are made aware of how the order to abandon ship is given, as specified in the station bill.

(ii) Simulation of an abandon-ship emergency which varies from drill to drill.

(iii) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular abandon-ship emergency being simulated.

(iv) Checking to see that passengers and crew are suitably dressed.

(v) Checking to see that lifejackets are correctly donned.

(vi) Lowering of at least one lifeboat after any necessary preparation for launching. The lifeboat must be lowered at least to the extent where the davit head has completed its travel and the fall wire has begun to pay out.

(vii) Starting and operating the lifeboat engine.

(viii) Operation of davits used for launching liferafts.

(5) Different lifeboats must, as far as practicable, be lowered to meet paragraph (b)(3)(v) of this section at successive drills.

(6) Each abandon-ship drill must, as far as practicable, be conducted as if there were an actual emergency.

(7) Each lifeboat must be launched with its assigned operating crew aboard and maneuvered in the water at least once every 3 months during an abandon-ship drill.

(8) Each rescue boat that is not also a lifeboat must be launched with its assigned crew aboard and maneuvered in the water—

(i) Once each month, if reasonable and practicable; but

(ii) At least once every 3 months.

(9) If lifeboat and rescue boat launching drills are carried out with the vessel making headway, such drills must, because of the dangers involved, be practiced only in waters where it is safe, under the supervision of an officer experienced in such drills.

(10) At least one drill every 3 months must be held at night, unless the master determines it is unsafe.

(11) Emergency lighting for mustering and abandonment must be tested at each abandon-ship drill.

(c) The master of a vessel carrying immersion suits shall make sure that—

(1) Each crew member either—

(i) Wears an immersion suit in at least one abandon-ship drill per month unless is is impracticable due to warm weather; or

(ii) Participates in at least one immersion suit drill per month that includes donning an immersion suit and being instructed in its use;

(2) In each abandon-ship drill, each passenger on board is instructed in the use of immersion suits; and

(3) Each passenger is told at the beginning of the voyage where immersion suits are stowed on board and is encouraged to read the instructions for donning and use of the immersion suits.

(d) Each crew member on board the vessel must be given training in the use of lifesaving appliances and the duties assigned in the station bill.

(1) Except as provided under paragraph (d)(2) of this section, onboard training in the use of the vessel's lifesaving appliances, including survival craft equipment, must be given to each crew member as soon as possible, but not later than 2 weeks after the crew member joins the vessel.

(2) If a crew member is on a regularly scheduled rotating assignment to a vessel, onboard training in the use of the vessel's lifesaving appliances, including survival craft equipment, must be given to the crew member not later than 2 weeks after the time the crew member first joins the vessel.

(3) The crew must be instructed in the use of the vessel's lifesaving appliances and in survival at sea on alternating weeks, normally in the weeks when abandon-ship drills are not held. If individual instruction sessions cover different parts of the vessel's lifesaving system, all the vessel's lifesaving equipment and appliances must be covered within each 2 month period. Each member of the crew must be instructed in at least—

(i) Operation and use of the vessel's inflatable liferafts;

(ii) Problems of hypothermia, first-aid treatment for hypothermia and other appropriate first-aid procedures; and

(iii) Special instructions necessary for use of the vessel's lifesaving appliances in severe weather and severe sea conditions.

(4) Onboard training in the use of davit-launched liferafts must take place at intervals of not more than 4 months on each vessel with davit-launched liferafts. Whenever practicable this must include the inflation and lowering of a liferaft. If this liferaft is a special liferaft intended for training purposes only, and is not part of the vessel's lifesaving equipment, this liferaft must be conspicuously marked.

(e) The date when musters are held, details of abandon-ship drills, drills of other lifesaving appliances and onboard training must be recorded in the vessel's official logbook. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill or training session.

(3) Identification of survival craft used in drills.

(4) Subject of training session.

(5) Statement as to the condition of the equipment used.

(6) If a full muster, drill or training session is not held at the appointed time, the circumstances and the extent of the muster, drill or training session held.

15. By adding a new § 35.10–2 to read as follows:

§ 35.10–2 Fire drills.

(a) A fire drill must be conducted on each vessel in alternating weeks. The fire drill must not be conducted as part of the abandon-ship drill, nor immediately prior to or after the abandon-ship drill. If a fire drill can not be held during the appointed week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(b) Any member of the crew excused from a fire drill must participate in the next drill, so that each member participates in at least one fire drill each month. If more than 25% of the crew have not participated in a fire drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port if reasonable and practicable, but not later than 24 hours after the vessel leaves port. The Commandant (G–MVI) may accept other arrangements that are at least equivalent for those vessels where this is impractical.

(c) Each fire drill must include:

(1) Summoning of passengers and crew to their stations with the general alarm.

(2) Simulation of a fire emergency which varies from drill to drill.

(3) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular fire emergency being simulated.

(4) Starting of fire pumps and use of a sufficient number of outlets to determine that the system is in proper working order.

(5) Bringing out each breathing apparatus and other item of rescue and safety equipment from the emergency equipment lockers, and demonstrating the use of each item by the person or persons designated to use it.

(6) Operating each watertight door used while the vessel is underway.

(7) Operation of each self-closing fire door.

(8) Closing all fire doors and doors in fire boundaries.

(d) Each fire drill must, as far as practicable, be conducted as if there were an actual emergency.

(e) The date when fire drills are held, and details of fire drills must be recorded in the vessel's official logbook. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill.

(3) Number and lengths of hose used.

(4) Statement as to the condition of the equipment used.

(5) If a full drill is not held at the appointed time, the circumstances and the extent of the drill held.

16. By redesignating § 35.10–3 as § 35.10–4 and adding a new § 35.10–3 to read as follows:

§ 35.10–3 Line throwing appliance drills—T/ALL.

(a) The master of a vessel carrying a line-throwing appliance shall make sure that the crew is drilled in its use at least once every three months. The actual firing of the appliance is at the discretion of the master.

(b) Each line-throwing appliance drill must be recorded in the vessel's logbook.

17. By revising § 35.10–5 to read as follows:

§ 35.10–5 Emergency signals—T/ALL.

(a) The various signals used to call the crew to their stations and to give instructions to the crew must be listed on the station bill required under § 199.80(b) of this chapter. The signals must be as follows:

(1) The fire and emergency signal must consist of a continuous blast of the whistle for not less than 10 seconds followed by the continuous ringing of

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the general alarm bells for not less than 10 seconds.

(2) The signal for dismissal from fire alarm stations must consist of ringing of the general alarm bells three times, followed by three short blasts of the whistle.

(3) The signal for boat stations or boat drill must consist of a succession of more than six short blasts, followed by one long blast of the whistle, followed by the same signal on the general alarm bells.

(4) A man-overboard signal must be established.

(5) An abandon-ship signal must be established.

(6) The signal to lower lifeboats or davit launched liferafts must consist of one short blast of the whistle.

(7) The signal to stop lowering lifeboats or davit launched liferafts must consist of two short blasts of the whistle.

(8) The signal for dismissal from boat stations must consist of three short blasts of the whistle.

(9) Each other emergency signal must not conflict with navigational signals or other general alarm signals.

(b) For vessels in river service where a whistle is not used, the ship's bell must be used for the whistle signals described under paragraph (a) of this section.

§ 35.10-6 [Removed]

18. By removing § 35.10-6.

§ 35.10-7 [Removed]

19. By removing § 35.10-7.

§ 35.10-9 [Removed]

20. By removing § 35.10-9.

§ 35.10-20 [Removed]

21. By removing § 35.10-20.

§ 35.10-25 [Removed]

22. By removing § 35.10-25.

§ 35.10-30 [Removed]

23. By removing § 35.10-30.

24. By adding Subpart 35.11 to read as follows:

Subpart 35.11—Manning of Survival Craft and Supervision

§ 35.11-1 Certificate of proficiency—TB/ALL.

A merchant mariner's document endorsement as a lifeboatman or another inclusive rating under Part 12 of this Title is evidence of training in survival craft and serves as a certificate of proficiency. For the purposes of this subpart, a "certificated person" is a person holding a merchant mariner's document with such an endorsement.

§ 35.11-5 Manning and supervision—TB/ALL.

(a) There must be a sufficient number of trained persons on board for mustering and assisting untrained persons.

(b) There must be a sufficient number of deck officers, able seamen, or certificated persons on board to operate the survival craft and launching arrangements required for abandonment by the total number of persons permitted on board.

(c) One person must be placed in charge of each survival craft to be used.

(1) Except for vessels in river service, the person in command must be a deck officer, able seaman, or certificated person.

(2) A deck officer, able seaman, or certificated person must be designated second-in-command for—

(i) Each lifeboat on a vessel in ocean service; and

(ii) Except on a vessel in river service, each lifeboat permitted to carry more than 40 persons.

(3) Each vessel that carries passengers and is not in river service, must have at least one deck officer, able seaman, or certificated person for every 20 passengers assigned to each lifeboat.

(d) The person in charge of each survival craft shall have a list of the survival craft crew and shall see that the crewmembers are acquainted with their duties. The second-in-command of a lifeboat shall also have a list of the lifeboat crew.

(e) Each motorized survival craft must have a person assigned who is capable of operating the engine and carrying out minor adjustments.

(f) The master shall make sure the persons required under paragraphs (a), (b), and (c) of this section are equitably distributed among the vessel's survival craft.

Subpart 35.40—Marking of Fire and Emergency Equipment.

25. By adding a new § 35.40-19 to read as follows:

§ 35.40-19 Fire hoses and fire axes—TB/ALL.

Fire hoses and fire axes must be marked with the vessel's name.

26. By revising § 35.40-40 to read as follows:

§ 35.40-40 Lifeboats and rescue boats—TB/ALL.

(a) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 75 mm (3 in.) high:

(1) The name of the vessel.

(2) The number of the boat. The boats on each side of the vessel must be numbered from forward to aft. If there are boats on both sides of the vessel, the odd numbers must be on the starboard side.

(3) For vessels in ocean service, the name of the port is required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 35 mm (1.5 in.) high:

(1) The length and beam of the boat.

(2) The number of persons capacity of the boat. This number must—

(i) Be the number of persons the lifeboat is equipped for; and

(ii) Not be greater than the number of persons the boat is approved for, as shown on its nameplate.

(c) The following must be plainly marked or painted on each lifeboat and rescue boat in at least two places visible from above the boat in letters and numbers not less than 75 mm (3 in.) high:

(1) The number of persons capacity of the boat.

(2) The name of the vessel.

(d) The name of the vessel must be plainly marked or painted on each oar and paddle.

(e) On or before July 1, 1991, each lifeboat and rescue boat must be marked with Type II retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

27. By adding a new § 35.40-43 to read as follows:

§ 35.40-43 Rigid liferafts—TB/ALL.

(a) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 75 mm (3 in.) high:

(1) The name of the vessel.

(2) The number of the liferaft. Liferafts stowed on the sides of the vessel must be numbered in the same manner as the lifeboats.

(3) For vessels in ocean service, the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 35 mm (1.5 in.) high:

(1) Either "SOLAS A Pack" or "SOLAS B Pack" depending upon its equipment under § 199.143(b) or § 199.143(c) of this chapter.

(2) The length of the painter.

(c) The number of persons capacity must be plainly marked or painted over each entrance to each rigid liferaft in letters and numbers at least 100 mm (4 in.) high, in a color contrasting to that of the liferaft. This number must—

(1) Be the number of persons the liferaft is equipped for; and

(2) Not be greater than the number of persons the liferaft is approved for, as shown on its nameplate.

(d) The name of the vessel must be plainly marked or painted on each paddle.

28. By adding a new § 35.40-45 to read as follows:

§ 35.40-45 Inflatable liferafts—TB/ALL.

The number of the liferaft and the number of persons it is permitted to accommodate must be marked or painted in a conspicuous place in the immediate vicinity of each inflatable liferaft in letters and numbers at least 35 mm (1.5 in.) high. Liferafts stowed on the sides of the vessel must be numbered in the same manner as the lifeboats. This marking must not be on the inflatable liferaft container.

29. By adding a new § 35.40-48 to read as follows:

§ 35.40-48 Life floats and buoyant apparatus—TB/ALL.

(a) The name of the vessel must be plainly marked or painted on each life float and buoyant apparatus, together with their oars and paddles.

(b) The number of persons capacity must be plainly marked or painted on each life float and buoyant apparatus in letters and numbers at least 35 mm (1.5 in.) high. This number must—

(1) Be the number of persons the device is equipped for; and

(2) Not be greater than the number of persons the device is approved for, as shown on its nameplate.

30. By adding a new § 35.40-50 to read as follows:

§ 35.40-50 Lifejackets, immersion suits, and ring life buoys—TB/ALL.

(a) Each lifejacket, immersion suit, and ring life buoy must be marked in block capital letters with the vessel's name.

(b) Each container for lifejackets and immersion suits must be marked in letters and numbers at least 50 mm (2 in.) high with the number and identification of the items stowed inside and their size.

(c) Each ring life buoy on a vessel in ocean service must be marked in block capital letters with the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(d) Each stowage position for a ring life buoy must be marked "LIFE BUOY".

(e) Each lifejacket must be marked with Type I retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution (LSR 19/WP.4, Annex 3).

(f) On or before July 1, 1991, each ring life buoy must be marked with Type II retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

Note.—Each approved immersion suit is provided with retroreflective material by the manufacturer of the suit.

31. By adding a new § 35.40-55 to read as follows:

§ 35.40-55 EPIRBs and SARTs—TB/ALL.

The name of the vessel must be plainly marked or painted on each Emergency Position Indicating Radio Beacon (EPIRB) and on each Search and Rescue Transponder (SART), except for an EPIRB or SART—

(a) In an inflatable liferaft; or

(b) Permanently installed in a survival craft.

32. By adding a new Subpart 35.90 to read as follows:

Subpart 35.90—Operational Readiness, Maintenance and Inspection of Lifesaving Equipment

§ 35.90-20 Operational readiness—TB/ALL.

(a) Except as provided in § 35.90-30(e), each lifesaving appliance and each item of survival craft, rescue boat, life float, and buoyant apparatus equipment must be in good working order and ready for immediate use before the vessel leaves port and at all times when the vessel is in navigation.

(b) Each deck where lifeboats, liferafts, life floats, and buoyant apparatus are stowed or boarded must be kept clear of obstructions that would interfere with the boarding and launching of the lifesaving appliances.

(c) If lifeboats are used to carry persons to and from the vessel when the vessel is in a harbor or at an anchorage, a sufficient number of lifeboats and liferafts must be available for use on each side of the vessel to accommodate all persons remaining on board.

§ 35.90-30 Maintenance—TB/ALL.

(a) The manufacturer's instructions for onboard maintenance of lifesaving appliances must be onboard and must include the following for each appliance—

(1) Checklists for use when carrying out the inspections required under § 35.90-70(a);

(2) Maintenance and repair instructions;

(3) A schedule of periodic maintenance;

(4) A diagram of lubrication points with the recommended lubricants;

(5) A list of replaceable parts;

(6) A list of sources of spare parts; and

(7) A log for records of inspections and maintenance.

(b) The master shall make sure that maintenance is carried out in accordance with the instructions required under paragraph (a) of this section.

(c) For lifesaving appliances constructed on or before July 1, 1986, paragraph (a) of this section need only be complied with to the extent that the manufacturer's instructions are available.

(d) The OCMI may accept, instead of the instructions required under paragraph (a) of this section, a shipboard planned maintenance program that includes the items listed in that paragraph.

(e) If lifeboats, rescue boats, and rigid liferafts are maintained and repaired while the vessel is underway, a sufficient number of lifeboats and liferafts must be available for use on each side of the vessel to accommodate all persons on board.

(f) Except in an emergency, extensive repairs or alterations must not be made to any lifesaving appliance without advance notification of the OCMI. Insofar as possible, each repair or alteration must be made in accordance with the requirements for the lifesaving appliance in Subchapter Q of this chapter. The OCMI may require each lifesaving appliance that has been altered or extensively repaired to be subjected to each test for the appliance in Subchapter Q of this chapter that is affected by the repair or alteration.

(g) The master shall report each emergency repair or alteration to a lifesaving appliance as soon as practicable to the OCMI in the next port in the United States where the vessel calls. If the vessel does not regularly call at ports in the the United States, the report must be made to the OCMI responsible for one of the foreign ports where the vessel calls.

(h) A lifeboat or rigid liferaft must not be repaired or reconditioned for use on a vessel other than the one it was originally built for, unless specifically permitted by the OCMI. If required by the OCMI, the repair or reconditioning

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of the lifeboat or rigid liferaft must be made under the OCMI's supervision.

§ 35.90-40 Maintenance of falls—TB/ALL.

(a) Each fall used in a launching appliance must be turned end for end at intervals of not more than 30 months.

(b) Each fall must be renewed when necessary due to deterioration or at intervals of not more than 5 years, whichever is the earlier.

(c) Each fall must have a corrosion-resistant tag with the following permanently marked on it:

(1) The date the new fall was installed.

(2) If the fall has been turned end for end, the date it was turned.

§ 35.90-50 Spare parts and repair equipment—TB/ALL.

Spare parts and repair equipment must be provided for each lifesaving appliance and component subject to excessive wear or consumption and that needs to be replaced regularly. These parts and equipment must be kept on board the vessel, or, if the vessel operates daily out of the same shore base, these parts and equipment may be kept at the shore base.

§ 35.90-60 Weekly maintenance and inspection—TB/ALL.

The following tests and inspections must be carried out weekly:

(a) Each survival craft, rescue boat and launching appliance must be visually inspected to ensure its readiness for use.

(b) Each lifeboat engine and rescue boat engine must be run ahead and astern for not less than 3 min., unless the ambient temperature is below the minimum temperature required for starting the engine.

(c) The general alarm system must be tested.

(d) Each battery for lifeboat and rescue boat engine starting, searchlights, fixed lifeboat radio installations, and portable radio apparatus must be brought up to full charge at least once each week if—

(1) The battery is of a type that requires recharging; and

(2) The battery is not connected to a device that keeps it continuously charged.

(e) The transmitter of each fixed lifeboat radio installation and portable radio apparatus must be tested at least once each week using a dummy antenna load.

§ 35.90-70 Monthly inspections—TB/ALL.

(a) Each lifesaving appliance, including lifeboat equipment, must be inspected monthly using the checklist required under § 35.90-30(a)(1) to make sure it is complete and in good order. A report of the inspection, including a statement as to the condition of the equipment, must be recorded in the vessel's official logbook.

(b) Each EPIRB and each SART, other than an EPIRB or SART in an inflatable liferaft, must be tested monthly. The EPIRB must be tested using the integrated test circuit and output indicator to determine that it is operative.

§ 35.90-73 Quarterly inspections—TB/ALL.

(a) Each lifeboat winch control apparatus, including motor controllers, emergency switches, master switches, and limit switches must be examined once each three months.

(b) The examination must include the removal of drain plugs and the opening of drain valves to make sure that enclosures are free of water.

(c) The date of the examination required under this section and the condition of the equipment must be noted in the official logbook.

§ 35.90-75 Annual inspection and repair—TB/ALL.

(a) Each lifeboat, rescue boat, rigid liferaft, buoyant apparatus and life float must be stripped, cleaned, and thoroughly inspected and repaired as needed at least once each year, including emptying and cleaning of each fuel tank, and refilling it with fresh fuel.

(b) Each davit, winch, fall and other launching appliance must be thoroughly inspected and repaired as needed once each year.

(c) Each item of survival equipment with an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.

(d) Each battery used in an item of survival equipment and clearly marked with a date identified as an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.

(e) Except for a storage battery used in a lifeboat or rescue boat, each battery without an expiration date used in an item of survival equipment must be replaced during the annual inspection and repair.

(f) The requirements in this section do not relieve the master or person in charge of the requirement under § 35.90-20(a) to keep the equipment ready for immediate use.

§ 35.90-80 Servicing of inflatable liferafts, inflatable lifejackets and inflated rescue boats—TB/ALL.

(a) Each inflatable liferaft, inflatable lifejacket, and hybrid inflatable lifejacket or work vest must be serviced—

(1) Within 12 months of its initial packing; and

(2) Within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided the delay does not exceed 5 months.

(b) Each inflatable liferaft must be serviced—

(1) Whenever the container of the raft is damaged, or the straps or seal broken; and

(2) In accordance with the servicing procedure under Subpart 160.051 of this chapter.

(c) Each inflatable lifejacket must be serviced in accordance with the servicing procedure under Subpart 160.076 of this chapter.

(d) Each hybrid inflatable lifejacket or work vest must be serviced in accordance with the servicing procedure under Subpart 160.077 of this chapter.

(e) Repair and maintenance of inflated rescue boats must be in accordance with the manufacturer's instructions. All repairs must be made at a servicing facility approved by the Commandant (G-MVI), except for emergency repairs carried out on board the vessel.

§ 35.90-90 Periodic servicing of hydrostatic release units—TB/ALL.

(a) Each hydrostatic release unit must be serviced—

(1) Within 12 months of its manufacture and within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided the delay does not exceed 5 months; and

(2) In accordance with the repair and testing procedures under Subpart 160.062 of this chapter.

(b) The springs of each spring-tensioned gripe used with a hydrostatic release unit must be renewed when the unit is serviced and tested.

SUBCHAPTER H—PASSENGER VESSELS

PART 70—GENERAL PROVISIONS

33. The authority citation for Part 70 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

34. By revising § 70.10-43 to read as follows:

§ 70.10-43 Short international voyage.

A short international voyage is an international voyage in the course of which a vessel is not more than 200 miles from a port or place in which the passengers and crew could be placed in safety. Neither the distance between the last port of call in the country in which the voyage begins and the final port of destination nor the return voyage must exceed 600 miles. The final port of destination is the last port of call in the scheduled voyage at which the vessel begins its return voyage to the country in which the voyage began.

35. By adding a new Subpart 70.28 to read as follows:

Subpart 70.28—Lifesaving Appliances and Arrangements.

§ 70.28-1 General.

Lifesaving appliances and arrangements on passenger vessels must meet Subchapter W of this chapter.

PART 71—INSPECTION AND CERTIFICATION

36. The authority citation for Part 71 is revised to read as follows:

Authority: 46 U.S.C. 2113, 3306; 49 CFR 1.46.

Subpart 71.20—Initial Inspection

37. By revising paragraph (a)(1) of § 71.20-20 to read as follows:

§ 71.20-20 Specific tests and inspections.

(a) * * *

(1) The following tests and inspections and the tests and inspections in § 71.25-15(a)(5) through § 71.25-15(a)(9) must be conducted for each initial inspection for certification. The tests and inspections under paragraph (a)(1)(i) of this section must also be conducted when each new davit, winch, or other launching appliance is installed on the vessel. The test under paragraph (a)(1)(ii) of this section must also be conducted when each new lifeboat or rescue boat is installed on the vessel. The inspection under paragraph (a)(1)(v) of this section must also be conducted when each new lifeboat, rescue boat, liferaft, davit, winch, or other launching appliance is installed on the vessel. The test under paragraph (a)(1)(vi) of this section must also be conducted when each new life buoy quick release device is installed on the vessel.

(i) Each launching appliance using falls and a winch for a rescue boat, davit-launched liferaft, or lifeboat must be tested as follows:

(A) The lifeboat, rescue boat or davit-launched liferaft must be loaded with all of its equipment or the deadweight equivalent. In addition, the davit-launched liferaft must be loaded with a 75 kg (165 lb.) weight to simulate the load of one person. A davit-launched liferaft is not required for this test if an appropriate test weight is used. The boat or liferaft must be lowered from the embarkation station and launched into the water using the normal launching procedure. If a test weight is substituted for the davit-launched liferaft, the weight must be "launched" onto a surface that will support its weight. The rescue boat must then be loaded with the deadweight equivalent of its full rescue boat complement using a weight of 75 kg (165 lb.) per person. In the case of a lifeboat or rescue boat launching appliance, the boat must then be recovered by the launching appliance. In the case of a liferaft launching appliance, the hand-operated quick-return mechanism must be used to recover the fall.

(*1*) There must be no deformation of or damage to the launching appliance or its connections to the vessel.

(*2*) The lowering speed must meet § 199.153(j) of this chapter, and the falls must meet § 199.153(g) of this chapter. For a multiple drum winch, the falls must wind off the drums at the same rate when lowering, and wind onto the drums evenly in a level wrap at the same rate when hoisting.

(*3*) The release mechanism control in a boat must open all hooks simultaneously and release the boat into the water.

(*4*) The automatic disengaging apparatus for a davit-launched liferaft must open and release the liferaft or test weight after the apparatus is set to open automatically and the liferaft or test weight is set on the surface.

(*5*) The recovery of the boat must meet § 199.153(1) of this chapter, and if the boat is a rescue boat, § 199.160(d) of this chapter.

(*6*) For each launching device equipped to recover a boat by power, including a launching device with a portable power source, the limit switches or other safety devices must automatically cut off the power before the boat reaches the stops to avoid overstressing the falls and davits.

(*7*) The hand-operated recovery gear for a lifeboat or rescue boat launching appliance must be capable of moving the boat into its stowed position where the boat can be safely and properly secured.

(*8*) The operation of the hand-operated quick-return mechanism on a davit-launched liferaft launching appliance must be smooth, rapid, and easy enough for one person to recover the fall.

(B) If the lowering of a lifeboat or rescue boat is controlled from within the boat by a control wire wound on an auxiliary drum on the winch, the launching of the boat must be tested with the boat loaded as under paragraph (a)(1)(i)(A) of this section, but with an operator inside.

(*1*) The mass of the control wire must be sufficient to overcome the friction of the sheaves used on the control wire when the launching appliance is being operated by the on-deck controls.

(*2*) The control wire must properly operate the winch brake.

(*3*) The winch brake must not be affected by the mass of the fully extended control wire.

(*4*) There must be sufficient length of control wire available inside the boat to operate the winch brake during all stages of lowering.

(*5*) The free end of the control wire must be retained within the boat until the the boat is released from the falls by the operator.

(C) The test procedure under paragraph (a)(1)(i)(A) of this section must be repeated with the lifeboat, rescue boat or liferaft loaded with weight equivalent to all of its equipment and full complement of persons, plus 10% of the total weight of the loaded boat or liferaft. In the case of a davit-launched liferaft, the automatic disengaging apparatus must be set to release. The on-deck launching controls must be used for this test, with the boat or liferaft being stopped after it has reached its maximum lowering speed, and then at approximately 2 m (6 ft.) intervals. In the case of a lifeboat or rescue boat, when the boat reaches a position just above the water, it must be released from the falls using the on-load release mechanism control.

(*1*) There must be no deformation of or damage to the launching appliance or its connections to the vessel.

(*2*) The lowering speed must meet §§ 199.153(i) and 199.153(k) of this chapter, and the falls must meet § 199.153(g) of this chapter.

(*3*) The launching appliance must bring the boat or raft to a stop within 1 m (39 in.) by application of the brake by the winch counterweight alone.

(*4*) The brake action must be smooth and positive.

(*5*) The brake must be always applied unless the operator, or a mechanism activated by the operator, holds the brake control in the "off" position.

(*6*) The boat or raft must begin to lower each time the brake is released. No additional force is permitted.

(*7*) The release mechanism control in a boat must open all hooks simultaneously and release the boat into the water.

(*8*) The automatic disengaging apparatus for a davit-launched liferaft must not release the liferaft or test

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weight until the liferaft or test weight is set on the surface.

(D) The release apparatus for a davit launched liferaft must be tested to determine that it will release under a towing strain. The liferaft or test weight loaded as required under paragraph (a)(1)(i)(C) of this section must be suspended just above the surface and the release apparatus set to open automatically. A horizontal towing strain sufficient to pull the falls 5° from vertical must be applied to the liferaft or test weight and the liferaft lowered. The release apparatus must release the liferaft or test weight as it is set on the surface.

(E) If any winch brake surface is exposed to the weather, the test under paragraph (a)(1)(i)(C) of this section must be conducted with the brake surfaces dry and repeated with the brake surfaces wet. The brake must stop the winch when the brake surface is wet, but the stopping distance requirement does not apply.

(ii) Each lifeboat and rescue boat must be operated in the water for at least 2 hrs. During this time, the propulsion system must be operated both forward and astern. At least 1 hr. of this running time must be with the propulsion system operating at full speed. Each boat system, such as any powered bilge pump, water spray system, or air supply system, must be operated.

(A) The boat and each of its systems must operate properly without overheating or being damaged.

(B) The boat must not have any evident leakage through the hull or around any through-hull fitting.

(iii) An abandon-ship simulation must be held to determine that all survival craft required for abandonment by the total number of persons permitted on board, can be launched with their full complement of persons and equipment within 30 min. from the time the abandon-ship signal is given.

(A) This simulation must include loading and launching of sufficient survival craft to demonstrate that the requirement can be met.

(B) This test is not required if the Coast Guard has witnessed a successful test on a sister vessel with the same lifesaving appliance arrangements.

(iv) One lifeboat and one rescue boat of each type on board must be launched with the vessel proceeding at a speed of approximately 5 knots. No particular loading of the boat is required. The boat must not give any indication that it is unstable or out of control during the launching procedure.

(v) The installation of each lifeboat, rescue boat, liferaft and launching appliance must be inspected to determine that it meets each condition of its approval, as listed on its Certificate of Approval (Form CGHQ 10030).

(vi) The quick release device for ring life buoys required for certain vessels under § 199.70(c) of this chapter, must be tested to demonstrate that the ring life buoy and its attachments drop clear of the side of the vessel when released. A self-activating smoke signal is not required for this test if a dummy device of comparable size and weight is used.

* * * * *

Subpart 71.25—Annual Inspection

38. By revising § 71.25–15 to read as follows:

§ 71.25–15 Lifesaving equipment.

(a) At each inspection for certification, the following inspections and tests must be conducted in the presence of a marine inspector, or as otherwise directed by the OCMI:

(1) Each air tank provided for buoyancy on a lifeboat, liferaft, buoyant apparatus or life float, must be tested and demonstrated to be airtight.

(2) Each lifeboat and rescue boat gravity davit, and each davit-launched liferaft launching device must be used to lower the boat or liferaft from its stowed position to a point near the water using the on-deck launching appliance controls. This test must be conducted twice; once with the boat or liferaft loaded with all equipment and additional weight of not more than one person, and a second time with the weight of a full load of persons and equipment. A davit-launched liferaft is not required for this test if an appropriate test weight is used. During the lowering, the brake must be applied and released at least five times.

(i) The launching appliance must bring the boat, liferaft, or test weight to a stop by application of the brake by the winch counterweight alone.

(ii) The brake action must be smooth and positive.

(iii) The brake must be always applied unless the operator, or a mechanism activated by the operator, holds the brake control in the "off" position.

(iv) Lowering must begin each time the brake is released. No additional force is permitted.

(3) Each lifeboat and rescue boat must be lowered to a point just above the water and evenly loaded until the total weight of the boat equals the "B" weight on the boat data plate. If the boat is equipped with mechanical disengaging apparatus, the release mechanism control must be operated and must open all hooks simultaneously and release the boat into the water properly. There must be no evident damage or deformation of the boat, the launching appliance, or its connections to the vessel.

(4) Each davit-launched liferaft launching appliance must be loaded with a weight equal to the liferaft loaded with its full load of persons and equipment. The weight must be lowered to a point just above the water, dock or other surface that will support the weight. The automatic disengaging apparatus control must be set to release, and must open when the weight is lowered to and supported by the surface. There must be no evident damage or deformation of the automatic disengaging apparatus, launching appliance, or its connections to the vessel.

(5) Each lifejacket, immersion suit, and work vest must be examined to determine that it is in serviceable condition. Each lifejacket, immersion suit, and work vest not in serviceable condition must be either repaired, or destroyed and removed from the vessel. The marine inspector may mark the lifejackets, immersion suits, and work vests to indicate that they have been inspected and passed.

(6) The control apparatus for each electrically-controlled launching appliance winch must be opened, inspected, and determined to be in serviceable condition.

(7) Each inflatable liferaft and inflatable lifejacket must be inspected to determine that it has been serviced under § 78.95–80 of this chapter.

(8) Each hydrostatic release unit must be inspected to determine that it has been serviced under § 78.95–90 of this chapter.

(9) Each other item of lifesaving equipment on the vessel must be inspected to determine that it is in serviceable condition. Each item not in serviceable condition must be repaired or replaced. Each item of survival equipment with an expiration date on it must be replaced if the expiration date has passed.

(10) An abandon-ship drill must be held. The marine inspector specifies the nature of the emergency to be simulated.

PART 75—LIFESAVING EQUIPMENT

39. By removing and reserving Part 75.

39a. The following Table of Contents for Part 78 reflects new or revised subparts to read as follows:

PART 78—OPERATIONS

Subpart 78.00—Incorporation by Reference

Sec.
78.00–1 Incorporation by reference.
* * * * *

Subpart 78.13—Emergency Signals

78.13–1 Emergency signals.

Subpart 78.14—Manning of Survival Craft and Supervision

78.14–1 Certificate of proficiency.
78.14.5 Manning and supervision.
* * * * *

Subpart 78.95—Operational Readiness, Maintenance and Inspection of Lifesaving Equipment

78.95–20 Operational readiness.
78.95–30 Maintenance.
78.95–40 Maintenance of falls.
78.95–50 Spare parts and repair equipment.
78.95–60 Weekly maintenance and inspection.
78.95–70 Monthly inspections.
78.95–73 Quarterly inspections.
78.95–75 Annual inspection and repair.
78.95–80 Servicing of inflatable liferafts, inflatable buoyant apparatus, inflatable lifejackets and inflated rescue boats.
78.95–90 Periodic servicing of hydrostatic release units.

40. The authority citation for Part 78 is revised to read as follows:

Authority: 46 U.S.C. 3306, 6101; 49 CFR 1.46.

41. By adding Subpart 78.00 to read as follows:

Subpart 78.00—Incorporation by Reference

§ 78.00–1 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street, NW., Washington, DC, and at the U.S. Coast Guard, Merchant Vessel Inspection Division (G–MVI), 2100 Second Street, SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected are:

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103
ASTM D93–80, Test for Flash Point by Pennsky-Martens Closed Tester: 78.17–75.

International Maritime Organization (IMO)
Publications Section, 4 Albert Embankment, London SE1 7SR, England
Resolution [LSR 19/WP.4, Annex 3], "Guidelines Concerning the Use and Fitting of Retroreflective Materials on Life-saving Appliances", June 1987: 78.47–60; 78.47–65.

42. By revising Subpart 78.13 to read as follows:

Subpart 78.13—Emergency Signals

§ 78.13–1 Emergency signals.

(a) *General.* The various signals used to call the crew to their stations and to give instructions to the crew must be listed on the station bill required under § 199.80 of this chapter. The signals must be as follows:

(1) The fire and emergency signal must consist of a continuous blast of the whistle for not less than 10 seconds followed by the continuous ringing of the general alarm bells for not less than 10 seconds.

(2) The signal for dismissal from fire alarm stations must consist of ringing of the general alarm bells three times, followed by three short blasts of the whistle.

(3) The signal for boat stations or boat drill must consist of a succession of more than six short blasts, followed by one long blast of the whistle, followed by the same signal on the general alarm bells.

(4) A man-overboard signal must be established.

(5) An abandon-ship signal must be established.

(6) The signal to lower lifeboats or davit launched liferafts must consist of one short blast of the whistle.

(7) The signal to stop lowering lifeboats or davit launched liferafts must consist of two short blasts of the whistle.

(8) The signal for dismissal from boat stations must consist of three short blasts of the whistle.

(9) Each other emergency signal established must not conflict with navigational signals or other general alarm signals.

(b) *River service.* For vessels in river service where a whistle is not used, the ship's bell must be used for the whistle signals described in this section.

43. By revising Subpart 78.14 to read as follows:

Subpart 78.14—Manning of Survival Craft and Supervision

§ 78.14–1 Certificate of proficiency.

A merchant mariner's document endorsement as a lifeboatman or another inclusive rating under Part 12 of this Title is evidence of training in survival craft and serves as a certificate of proficiency. For the purposes of this subpart, a "certificated person" is a person holding a merchant mariner's document with such an endorsement.

§ 78.14–5 Manning and supervision.

(a) There must be a sufficient number of trained persons on board for mustering and assisting untrained persons.

(b) There must be a sufficient number of deck officers, able seamen, or certificated persons on board to operate the survival craft and launching arrangements required for abandonment by the total number of persons permitted on board.

(c) One person must be placed in charge of each survival craft to be used.

(1) Except for vessels in river service, the person in command must be a deck officer, able seaman, or certificated person.

(2) The OCMI, considering the nature of the voyage, the number of persons permitted on board and the characteristics of the vessel, may permit persons practiced in the handling and operation of liferafts to be placed in charge of liferafts instead of persons required under paragraph (c)(1) of this section.

(3) A deck officer, able seaman, or certificated person must be designated second-in-command for—

(i) Each lifeboat on a vessel in ocean service; and

(ii) Except on a vessel in river service, each lifeboat permitted to carry more than 40 persons.

(4) Each vessel that is not in river service, must have a least one deck officer, able seaman, or certificated person for every 20 passengers assigned to each lifeboat.

(d) The person in charge of each survival craft shall have a list of the survival craft crew and shall see that the crewmembers are acquainted with their duties. The second-in-command of a lifeboat shall also have a list of the lifeboat crew.

(e) Each lifeboat required to carry a radiotelegraph installation under § 199.250 of this chapter must have a person assigned who is capable of operating the equipment.

(f) Each motorized survival craft must have a person assigned who is capable of operating the engine and carrying out minor adjustments.

(g) The master shall make sure the persons required under paragraphs (a), (b), and (c) of this section are equitably distributed among the vessel's survival craft.

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Subpart 78.17—Tests, Drills, and Inspections

§ 78.17-40 [Amended]

44. By removing paragraph (a)(3) of § 78.17-40.

45. By revising § 78.17-50 to read as follows:

§ 78.17-50 Abandon-ship training and drills.

(a) Abandon-ship training material must be on board each vessel. The training material must consist either of a manual of one or more volumes, or audio-visual training aids, or both.

(1) The training material must contain instructions and information on the lifesaving appliances on the vessel and on the best methods of survival. A training manual must be written in easily understood terms, illustrated wherever possible.

(2) If a training manual is used, a copy must be in each crew messroom and recreation room or in each crew cabin. If audio-visual training aids are used they must be incorporated in the onboard training sessions under paragraph (d) of this section.

(3) The training material must explain the following in detail:

(i) Donning of the lifejackets and immersion suits carried on board.

(ii) Muster at the assigned stations.

(iii) Boarding, launching, and clearing the survival craft and rescue boats.

(iv) Method of launching from within the survival craft.

(v) Release from launching appliances.

(vi) Method and use of devices for protection in launching areas, where appropriate.

(vii) Illumination in launching areas.

(viii) Use of all survival equipment.

(ix) Use of all detection equipment.

(x) With illustrations, the use of radio lifesaving appliances.

(xi) Use of sea anchors.

(xii) Use of engine and accessories.

(xiii) Recovery of survival craft and rescue boats including stowage and securing.

(xiv) Hazards of exposure and the need for warm clothing.

(xv) Best use of the survival craft for survival.

(xvi) Methods of retrieval, including the use of helicopter rescue gear (slings, baskets, stretchers), breeches-buoy and shore lifesaving apparatus and vessel's line-throwing apparatus.

(xvii) All other functions contained in the muster list and emergency instructions.

(xviii) Instructions for emergency repair of the lifesaving appliances.

(b) An abandon-ship drill must be conducted on each vessel at least once each week. If a drill cannot be held during any week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(1) Any member of the crew excused from an abandon-ship drill must participate in a later drill, so that each member participates in at least one abandon-ship drill each month. If more than 25% of the crew have not participated in an abandon-ship drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port if reasonable and practicable, but not later than 24 hours after the vessel leaves port. The Commandant (G-MVI) may accept other arrangements that are at least equivalent for those vessels where this is impractical.

(2) On a vessel on an international voyage that is not a short international voyage, musters of the passengers must take place within 24 hours after their embarkation. Passengers must be instructed in the use of the lifejackets and the action to take in an emergency. The passengers must be encouraged to participate fully in the abandon-ship drill. If only a small number of passengers embark at a port after the original muster has been held, the attention of these passengers must be drawn to the emergency instructions required under §§ 199.80(a) and 199.80(c) of this chapter if another muster is not held.

(3) On each vessel on a short international voyage, and on each other vessel not on an international voyage, a muster of the passengers must be held on departure, or else—

(i) For voyages of more than one day's duration, musters of the passengers must be in accordance with paragraph (b)(2) of this section as for vessels on an international voyage; and

(ii) For voyages of less than one day's duration, the attention of the passengers must be drawn to the emergency instructions required under § 199.80(a) and 199.80(c) of this chapter.

(4) Each abandon-ship drill must include:

(i) Summoning of passengers and crew to muster stations with the general alarm and making sure that they are made aware of how the order to abandon ship is given, as specified in the station bill.

(ii) Simulation of an abandon-ship emergency which varies from drill to drill.

(iii) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular abandon-ship emergency being simulated.

(iv) Checking to see that passengers and crew are suitably dressed.

(v) Checking to see that lifejackets are correctly donned.

(vi) Lowering of at least one lifeboat after any necessary preparation for launching. The lifeboat must be lowered at least to the extent where the davit head has completed its travel and the fall wire has begun to pay out.

(vii) Starting and operating the lifeboat engine.

(viii) Operation of davits used for launching liferafts.

(5) Different lifeboats must, as far as practicable, be lowered to meet paragraph (b)(4)(v) of this section at successive drills.

(6) Each abandon-ship drill must, as far as practicable, be conducted as if there were an actual emergency.

(7) Each lifeboat must be launched with its assigned operating crew aboard and maneuvered in the water at least once every 3 months during an abandon-ship drill. Except for vessels on international voyages which are not short international voyages, the OCMI may allow a vessel not to launch the lifeboats on one side of the vessel if the berthing arrangements in port and the trading pattern does not permit launching of lifeboats on that side. However, each such lifeboat must be lowered at least once every 3 months and launched at least annually.

(8) Each rescue boat that is not also a lifeboat must be launched with its assigned crew aboard and maneuvered in the water—

(i) Once each month, if reasonable and practicable; but

(ii) At least once every 3 months.

(9) If lifeboat and rescue boat launching drills are carried out with the vessel making headway, such drills must, because of the dangers involved, be practiced only in waters where it is safe, under the supervision of an officer experienced in such drills.

(10) At least one drill every 3 months must be held at night, unless the master determines it is unsafe.

(11) Emergency lighting for mustering and abandonment must be tested at each abandon-ship drill.

(c) The master of a vessel carrying immersion suits shall make sure that—

(1) Each crew member either—

(i) Wears an immersion suit in at least one abandon-ship drill per month unless it is impracticable due to warm weather; or

(ii) Participates in at least one immersion suit drill per month that includes donning an immersion suit and being instructed in its use;

(2) If immersion suits are carried for passengers—

(i) In each abandon-ship drill, passengers are instructed in the use of immersion suits; and

(ii) Passengers are told at the beginning of the voyage where immersion suits are stowed on board and are encouraged to read the instructions for donning and use of the immersion suits.

(d) The master of a vessel carrying thermal protective aids shall make sure that—

(1) In each abandon-ship drill, passengers are instructed in the use of thermal protective aids; and

(2) Passengers are told at the beginning of the voyage where thermal protective aids are stowed on board and are encouraged to read the instructions for donning and use of the thermal protective aids.

(e) Each crew member on board the vessel must be given training in the use of lifesaving appliances and the duties assigned in the station bill.

(1) Except as provided under paragraph (e)(2) of this section, onboard training in the use of the vessel's lifesaving appliances, including survival craft equipment, must be given to each crew member as soon as possible, but not later than 2 weeks after the crew member joins the vessel.

(2) If a crew member is on a regularly scheduled rotating assignment to a vessel, onboard training in the use of the vessel's lifesaving appliances, including survival craft equipment, must be given to the crew member not later than 2 weeks after the time the crew member first joins the vessel.

(3) The crew must be instructed in the use of the vessel's lifesaving appliances and in survival at sea at the same interval as the abandon-ship drills. If individual instruction sessions cover different parts of the vessel's lifesaving system, all the vessel's lifesaving equipment and appliances must be covered within each 2 month period. Each member of the crew must be instructed in at least—

(i) Operation and use of the vessel's inflatable liferafts;

(ii) Problems of hypothermia, first-aid treatment for hypothermia and other appropriate first-aid procedures; and

(iii) Special instructions necessary for use of the vessel's lifesaving appliances in severe weather and severe sea conditions.

(4) Onboard training in the use of davit-launched liferafts must take place at intervals of not more than 4 months on each vessel with davit-launched liferafts. Whenever practicable this must include the inflation and lowering of a liferaft. If this liferaft is a special liferaft intended for training purposes only, and is not part of the vessel's lifesaving equipment, this liferaft must be conspicuously marked.

(f) The date when musters are held, details of abandon-ship drills, drills of other lifesaving appliances and onboard training must be recorded in the vessel's official logbook. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill or training session.

(3) Identification of survival craft used in drills.

(4) Subject of training session.

(5) Statement as to the condition of the equipment used.

(6) If a full muster, drill or training session is not held at the appointed time, the circumstances and the extent of the muster, drill or training session held.

§ 78.17-52 [Removed]

46. By removing § 78.17-52.

47. By revising § 78.17-55 to read as follows:

§ 78.17-55 Fire drills.

(a) A fire drill must be conducted on each vessel at least once each week. The fire drill must not be conducted as part of the abandon-ship drill, nor immediately prior to or after the abandon-ship drill. If a fire drill cannot be held during any week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(b) Any member of the crew excused from a fire drill must participate in a later drill, so that each member participates in at least one fire drill each month. If more than 25% of the crew have not participated in a fire drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port if reasonable and practicable, but not later than 24 hours after the vessel leaves port. The Commandant (G-MVI) may accept other arrangements that are at least equivalent for those vessels where this is impractical.

(c) Each fire drill must include:

(1) Summoning of passengers and crew to their stations with the general alarm.

(2) Simulation of a fire emergency which varies from drill to drill.

(3) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular fire emergency being simulated.

(4) Starting of fire pumps and use of a sufficient number of outlets to determine that the system is in proper working order.

(5) Bringing out each breathing apparatus and other item of rescue and safety equipment from the emergency equipment lockers, and demonstrating the use of each item by the person or persons designated to use it.

(6) Operating each watertight door used while the vessel is underway.

(7) Operation of each self-closing fire door.

(8) Closing all fire doors and doors in fire boundaries.

(d) Each fire drill must, as far as practicable, be conducted as if there were an actual emergency.

(e) The date when fire drills are held, and details of fire drills must be recorded in the vessel's official logbook. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill.

(3) Number and lengths of hose used.

(4) Statement as to the condition of the equipment used.

(5) If a full drill is not held at the appointed time, the circumstances and the extent of the drill held.

§ 78.17-60 [Removed]

48. By removing § 78.17-60.

§ 78.17-70 [Removed]

49. By removing § 78.17-70.

§ 78.17-85 [Removed]

50. By removing § 78.17-85.

§ 78.17-90 [Removed]

51. By removing § 78.17-90.

52. By revising paragraphs (a)(1) and (a)(10) of § 78.37-5 to read as follows:

§ 78.37-5 Actions required to be logged.

(a) * * *

(1) Abandon-ship training and drills, and fire drills. As held. See §§ 78.17-50, and 78.17-55.

* * * * * *

(10) Survival craft winches. Once in each three months. See § 78.95-73.

* * * * * *

Subpart 78.47—Markings for Fire and Emergency Equipment, Etc.

§ 78.47-47 [Removed]

53. By removing § 78.47-47.

§ 78.47-50 [Removed]

54. By removing § 78.47-50.

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§ 78.47-51 [Removed]

55. By removing § 78.47–51.

56. By revising § 78.47–60 to read as follows:

§ 78.47-60 Lifeboats and rescue boats.

(a) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 75 mm (3 in.) high:

(1) The name of the vessel.

(2) The number of the boat. The boats on each side of the vessel must be numbered from forward to aft. If there are boats on both sides of the vessel, the odd numbers must be on the starboard side.

(3) For vessels in ocean service, the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 35 mm (1.5 in.) high:

(1) The length and beam of the boat.

(2) The number of persons capacity of the boat. This number must—

(i) Be the number of persons the lifeboat is equipped for; and

(ii) Not be greater than the number of persons the boat is approved for, as shown on its nameplate.

(c) The following must be plainly marked or painted on each lifeboat and rescue boat in at least two places visible from above the boat in letters and numbers not less than 75 mm (3 in.) high:

(1) The number of persons capacity of the boat.

(2) The name of the vessel.

(d) The name of the vessel must be plainly marked or painted on each oar and paddle.

(e) On or before July 1, 1991, each lifeboat and rescue boat must be marked with Type II retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

57. By adding a new § 78.47–62 to read as follows:

§ 78.47-62 Rigid liferafts.

(a) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 75 mm (3 in.) high:

(1) The name of the vessel.

(2) The number of the liferaft. Liferafts stowed on the sides of the vessel must be numbered in the same manner as the lifeboats.

(3) For vessels in ocean service, the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 35 mm (1.5 in.) high.

(1) Either "SOLAS A Pack" or "SOLAS B Pack" depending upon its equipment under § 199.143(b) or § 199.143(c) of this chapter.

(2) The length of the painter.

(c) The number of persons capacity must be plainly marked or painted over each entrance to each rigid liferaft in letters and numbers at least 100 mm (4 in.) high, in a color contrasting to that of the liferaft. This number must—

(1) Be the number of persons the liferaft is equipped for; and

(2) Not be greater than the number of persons the liferaft is approved for, as shown on its nameplate.

(d) The name of the vessel must be plainly marked or painted on each paddle.

58. By revising § 78.47–63 to read as follows:

§ 78.47-63 Inflatable liferafts.

The number of the liferaft and the number of persons it is permitted to accommodate must be marked or painted in a conspicuous place in the immediate vicinity of each inflatable liferaft in letters and numbers at least 35 mm (1.5 in.) high. Liferafts stowed on the sides of the vessel must be numbered in the same manner as the lifeboats. This marking must not be on the inflatable liferaft container.

59. By adding a new § 78.47–64 to read as follows:

§ 78.47-64 Life floats and buoyant apparatus.

(a) The name of the vessel must be plainly marked or painted on each life float and buoyant apparatus, together with their oars and paddles.

(b) The number of persons capacity must be plainly marked or painted on each life float and buoyant apparatus in letters and numbers at least 35 mm (1.5 in.) high. This number must–

(1) Be the number of persons the device is equipped for; and

(2) Not be greater than the number of persons the device is approved for, as shown on its nameplate.

60. By revising § 78.47–65 to read as follows:

§ 78.47-65 Lifejackets, immersion suits, and ring life buoys.

(a) Each lifejacket, immersion suit, and ring life buoy must be marked in block capital letters with the vessel's name.

(b) Each container for lifejackets and immersion suits must be marked in letters and numbers at least 50 mm (2 in.) high with the number and identification of the items stowed inside and their size.

(c) Each ring life buoy on a vessel in ocean service must be marked in block capital letters with the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(d) Each stowage position for a ring life buoy must be marked "LIFE BUOY".

(e) Each lifejacket must be marked with Type I retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

(f) On or before July 1, 1991, each ring life buoy must be marked with Type II retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

Note: Each approved immersion suit is provided with retroreflective material by the manufacturer of the suit.

61. By revising § 78.47–72 to read as follows:

§ 78.47-72 EPIRBs and SARTs.

The name of the vessel must be plainly marked or painted on each Emergency Position Indicating Radio Beacon (EPIRB) and on each Search and Rescue Transponder (SART), except for an EPIRB or SART—

(a) In an inflatable liferaft; or

(b) Permanently installed in a survival craft.

§ 78.49-1 [Removed]

62. By removing Subpart 78.49 (consisting of § 78.49–1).

§§ 78.87-1, 78.87-5, and 78.87-10 [Removed]

63. By removing Subpart 78.87 (consisting of §§ 78.87–1, 78.87–5, and 78.87–10).

64. By adding a new Subpart 78.95 to read as follows:

Subpart 78.95—Operational Readiness, Maintenance and Inspection of Lifesaving Equipment

§ 78.95-20 Operational readiness.

(a) Except as provided in § 78.95–30(e), each lifesaving appliance and each item of survival craft, rescue boat, life float, and buoyant apparatus equipment must be in good working order and ready for immediate use before the vessel leaves port and at all times when the vessel is in navigation.

(b) Each deck where lifeboats, liferafts, life floats, and buoyant apparatus are stowed or boarded must be kept clear of obstructions that would interfere with the boarding and launching of the lifesaving appliances.

(c) If lifeboats are used to carry persons to and from the vessel when the vessel is in a harbor or at an anchorage, there must be a sufficient number of lifeboats and liferafts available for use to accommodate all persons remaining on board.

§ 78.95-30 Maintenance.

(a) The manufacturer's instructions for onboard maintenance of lifesaving appliances must be onboard and must include the following for each appliance—

(1) Checklists for use when carrying out the inspections required under § 78.95–70(a);

(2) Maintenance and repair instructions;

(3) A schedule of periodic maintenance;

(4) A diagram of lubrication points with the recommended lubricants;

(5) A list of replaceable parts;

(6) A list of sources of spare parts; and

(7) A log for records of inspections and maintenance.

(b) The master shall make sure that maintenance is carried out in accordance with the instructions required under paragraph (a) of this section.

(c) For lifesaving appliances constructed on or before July 1, 1986, paragraph (a) of this section need only be complied with to the extent that the manufacturer's instructions are available.

(d) The OCMI may accept, instead of the instructions required under paragraph (a) of this section, a shipboard planned maintenance program that includes the items listed in that paragraph.

(e) If lifeboats, rescue boats, and rigid liferafts are maintained and repaired while the vessel is underway, there must be a sufficient number of lifeboats and liferafts available for use to accommodate all persons on board.

(f) Except in an emergency, extensive repairs or alterations must not be made to any lifesaving appliance without advance notification of the OCMI. Insofar as possible, each repair or alteration must be made in accordance with the requirements for the lifesaving appliance in Subchapter Q of this chapter. The OCMI may require each lifesaving appliance that has been altered or extensively repaired to be subjected to each test for the appliance in Subchapter Q of this chapter that is affected by the repair or alteration.

(g) The master shall report each emergency repair or alteration to a lifesaving appliance as soon as practicable to the OCMI in the next port in the United States where the vessel calls. If the vessel does not regularly call at ports in the United States, the report must be made to the OCMI responsible for one of the foreign ports where the vessel calls.

(h) A lifeboat or rigid liferaft must not be repaired or reconditioned for use on a vessel other than the one it was originally built for, unless specifically permitted by the OCMI. If required by the OCMI, the repair or reconditioning of the lifeboat or rigid liferaft must be made under the OCMI's supervision.

§ 78.95-40 Maintenance of falls.

(a) Each fall used in a launching appliance must be turned end for end at intervals of not more than 30 months.

(b) Each fall must be renewed when necessary due to deterioration or at intervals of not more than 5 years, whichever is the earlier.

(c) Each fall must have a corrosion-resistant tag with the following permanently marked on it:

(1) The date the new fall was installed.

(2) If the fall has been turned end for end, the date it was turned.

§ 78.95-50 Spare parts and repair equipment.

Spare parts and repair equipment must be provided for each lifesaving appliance and component subject to excessive wear or consumption and that needs to be replaced regularly. These parts and equipment must be kept on board the vessel, or, if the vessel operates daily out of the same shore base, these parts and equipment may be kept at the shore base.

§ 78.95-60 Weekly maintenance and inspection.

The following tests and inspections must be carried out weekly:

(a) Each survival craft, rescue boat and launching appliance must be visually inspected to ensure its readiness for use.

(b) Each lifeboat engine and rescue boat engine must be run ahead and astern for not less than 3 min., unless the ambient temperature is below the minimum temperature required for starting the engine.

(c) The general alarm system must be tested.

(d) Each battery for lifeboat and rescue boat engine starting, searchlights, fixed lifeboat radio installations, and portable radio apparatus must be brought up to full charge at least once each week if—

(1) The battery is of a type that requires recharging; and

(2) The battery is not connected to a device that keeps it continuously charged.

(e) The transmitter of each fixed lifeboat radio installation and portable radio apparatus must be tested at least once each week using a dummy antenna load.

§ 78.95-70 Monthly inspections.

(a) Each lifesaving appliance, including lifeboat equipment, must be inspected monthly using the checklist required under § 78.95–30(a)(1) to make sure it is complete and in good order. A report of the inspection, including a statement as to the condition of the equipment, must be recorded in the vessel's official logbook.

(b) Each EPIRB and each SART other than an EPIRB or SART in an inflatable liferaft, must be tested monthly. The EPIRB must be tested using the integrated test circuit and output indicator to determine that it is operative.

§ 78.95-73 Quarterly inspections.

(a) Each lifeboat winch control apparatus, including motor controllers, emergency switches, master switches, and limit switches must be examined once each three months.

(b) The examination must include the removal of drain plugs and the opening of drain valves to make sure that enclosures are free of water.

(c) The date of the examination required under this section and the condition of the equipment must be noted in the official logbook.

§ 78.95-75 Annual inspection and repair.

(a) Each lifeboat, rescue boat, rigid liferaft, buoyant apparatus, and life float must be stripped, cleaned, and thoroughly inspected and repaired as needed at least once each year, including emptying and cleaning of each fuel tank, and refilling it with fresh fuel.

(b) Each davit, winch, fall and other launching appliance must be thoroughly inspected and repaired as needed once each year.

(c) Each item of survival equipment with an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.

(d) Each battery used in an item of survival equipment and clearly marked with a date identified as an expiration date must be replaced during the annual

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inspection and repair if the expiration date has passed.

(e) Except for a storage battery used in a lifeboat or rescue boat, each battery without an expiration date used in an item of survival equipment must be replaced during the annual inspection and repair.

(f) The requirements in this section do not relieve the master or person in charge of the requirement under § 78.95-20(a) to keep the equipment ready for immediate use.

§ 78.95-80 Servicing of inflatable liferafts, inflatable buoyant apparatus, inflatable lifejackets and inflated rescue boats.

(a) Each inflatable liferaft, inflatable lifejacket, and hybrid inflatable lifejacket or work vest must be serviced—

(1) Within 12 months of its initial packing; and

(2) Within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months.

(b) Each inflatable liferaft must be serviced—

(1) Whenever the container of the raft is damaged, or the straps or seal broken; and

(2) In accordance with the servicing procedure under Subpart 160.051 of this chapter.

(c) Each inflatable lifejacket must be serviced in accordance with the servicing procedure under Subpart 160.076 of this chapter.

(d) Each hybrid inflatable lifejacket or work vest must be serviced in accordance with the servicing procedure under Subpart 160.077 of this chapter.

(e) Repair and maintenance of inflated rescue boats must be in accordance with the manufacturer's instructions. All repairs must be made at a servicing facility approved by the Commandant (G-MVI), except for emergency repairs carried out on board the vessel.

§ 78.95-90 Periodic servicing of hydrostatic release units.

(a) Each hydrostatic release unit must be serviced—

(1) Within 12 months of its manufacture and within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months; and

(2) In accordance with the repair and testing procedures under Subpart 160.062 of this chapter.

(b) The springs of each spring-tensioned gripe used with a hydrostatic release unit must be renewed when the unit is serviced and tested.

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

PART 90—GENERAL PROVISIONS

65. The authority citation for Part 90 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

66. By adding a new Subpart 90.27 to read as follows:

Subpart 90.27—Lifesaving Appliances and Arrangements

§ 90.27-1 General.

Lifesaving appliances and arrangements on cargo and miscellaneous vessels must meet Subchapter W of this chapter.

PART 91—INSPECTION AND CERTIFICATION

67. The authority citation for Part 91 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

Subpart 91.20—Initial Inspection

68. By revising paragraph (a)(1) of § 91.20-20 to read as follows:

§ 91.20-20 Specific tests and inspections.

(a) * * *

(1) The following tests and inspections and the tests and inspections in § 91.25-15(a)(5) through § 91.25-15(a)(9) must be conducted for each initial inspection for certification. The tests and inspections under paragraph (a)(1)(i) of this section must also be conducted when each new davit, winch, or other launching appliance is installed on the vessel. The test under paragraph (a)(1)(ii) of this section must also be conducted when each new lifeboat or rescue boat is installed on the vessel. The inspection under paragraph (a)(1)(vi) of this section must also be conducted when each new lifeboat, rescue boat, liferaft, davit, winch, or other launching appliance is installed on the vessel. The test under paragraph (a)(1)(vii) of this section must also be conducted when each new life buoy quick release device is installed on the vessel.

(i) Each launching appliance using falls and a winch for a rescue boat, davit-launched liferaft, or lifeboat including any auxiliary davit system for a free-fall lifeboat must be tested as follows:

(A) The lifeboat, rescue boat or davit-launched liferaft must be loaded with all of its equipment or the deadweight equivalent. In addition, the davit-launched liferaft must be loaded with a 75 kg (165 lb.) weight to simulate the load of one person. A davit-launched liferaft is not required for this test if an appropriate test weight is used. The boat or liferaft must be lowered from the embarkation station and launched into the water using the normal launching procedure. If a test weight is substituted for the davit-launched liferaft, the weight must be "launched" onto a surface that will support its weight. The rescue boat must then be loaded with the deadweight equivalent of its full rescue boat complement using a weight of 75 kg (165 lb.) per person. In the case of a lifeboat or rescue boat launching appliance, the boat must then be recovered by the launching appliance. In the case of a liferaft launching appliance, the hand-operated quick-return mechanism must be used to recover the fall.

(*1*) There must be no deformation of or damage to the launching appliance or its connections to the vessel.

(*2*) The lowering speed must meet § 199.153(j) of this chapter, and the falls must meet § 199.153(g) of this chapter. For a multiple drum winch, the falls must wind off the drums at the same rate when lowering, and wind onto the drums evenly in a level wrap at the same rate when hoisting.

(*3*) The release mechanism control in a boat must open all hooks simultaneously and release the boat into the water.

(*4*) The automatic disengaging apparatus for a davit-launched liferaft must open and release the liferaft or test weight after the apparatus is set to open automatically and the liferaft or test weight is set on the surface.

(*5*) The recovery of the boat must meet § 199.153(1) of this chapter, and if the boat is a rescue boat, § 199.160(d) of this chapter.

(*6*) For each launching device equipped to recover a boat by power, including a launching device with a portable power source, the limit switches or other safety devices must automatically cut off the power before the boat reaches the stops to avoid overstressing the falls and davits.

(*7*) The hand-operated recovery gear for a lifeboat or rescue boat launching appliance must be capable of moving the boat into its stowed position where the boat can be safely and properly secured.

(*8*) The operation of the hand-operated quick-return mechanism on a davit-launched liferaft launching appliance must be smooth, rapid, and easy enough for one person to recover the fall.

(B) If the lowering of a lifeboat or rescue boat is controlled from within the boat by a control wire wound on an auxiliary drum on the winch, the launching of the boat must be tested with the boat loaded as under paragraph (a)(1)(i)(A) of this section, but with an operator inside.

(*1*) The mass of the control wire must be sufficient to overcome the friction of the sheaves used on the control wire when the launching appliance is being operated by the on-deck controls.

(*2*) The control wire must properly operate the winch brake.

(*3*) The winch brake must not be affected by the mass of the fully extended control wire.

(*4*) There must be sufficient length of control wire available inside the boat to operate the winch brake during all stages of lowering.

(*5*) The free end of the control wire must be retained within the boat until the boat is released from the falls by the operator.

(C) The test procedure under paragraph (a)(1)(i)(A) of this section must be repeated with the lifeboat, rescue boat or liferaft loaded with weight equivalent to all of its equipment and full complement of persons, plus 10% of the total weight of the loaded boat or liferaft. In the case of a davit-launched liferaft, the automatic disengaging apparatus must be set to release. The on-deck launching controls must be used for this test, with the boat or liferaft being stopped after it has reached its maximum lowering speed, and then at approximately 2 m (6 ft.) intervals. In the case of a lifeboat or rescue boat, when the boat reaches a position just above the water, it must be released from the falls using the on-load release mechanism control.

(*1*) There must be no deformation of or damage to the launching appliance or its connections to the vessel.

(*2*) The lowering speed must meet §§ 199.153(i) and 199.153(k) of this chapter, and the falls must meet § 199.153(g) of this chapter.

(*3*) The launching appliance must bring the boat or raft to a stop within 1 m (39 in.) by application of the brake by the winch counterweight alone.

(*4*) The brake action must be smooth and positive.

(*5*) The brake must be always applied unless the operator, or a mechanism activated by the operator, holds the brake control in the "off" position.

(*6*) The boat or raft must begin to lower each time the brake is released. No additional force is permitted.

(*7*) The release mechanism control in a boat must open all hooks simultaneously and release the boat into the water.

(*8*) The automatic disengaging apparatus for a davit-launched liferaft must not release the liferaft or test weight until the liferaft or test weight is set on the surface.

(D) The release apparatus for a davit launched liferaft must be tested to determine that it will release under a towing strain. The liferaft or test weight loaded as required under paragraph (a)(1)(i)(C) of this section must be suspended just above the surface and the release apparatus set to open automatically. A horizontal towing strain sufficient to pull the falls 5° from vertical must be applied to the liferaft or test weight and the liferaft lowered. The release apparatus must release the liferaft or test weight as it is set on the surface.

(E) If any winch brake surface is exposed to the weather, the test under paragraph (a)(1)(i)(C) of this section must be conducted with the brake surfaces dry and repeated with the brake surfaces wet. The brake must stop the winch when the brake surface is wet, but the stopping distance requirement does not apply.

(ii) Each free-fall launched lifeboat and launching system must be tested as follows with the vessel at its lightest seagoing draft:

(A) The lifeboat loaded with only its normal equipment or the deadweight equivalent of the equipment, must be launched into the water. After launching, the boat must be retrieved and examined.

(*1*) The free-fall release mechanism must operate properly and release the boat from the launching appliance.

(*2*) The launching system must operate smoothly, must launch the boat into the water at the intended angle, and must not show any evidence of improper operation.

(*3*) The lifeboat must not show any evidence of instability in the air or in the water.

(*4*) There must be no deformation of or damage to the lifeboat, the launching appliance or its connections to the vessel.

(B) The procedure under paragraph (a)(1)(ii)(A) of this section must be repeated with each seat in the lifeboat loaded with 75 kg (165 lb.) of deadweight properly secured in place to simulate the weight of one person.

(*1*) The inspections required under paragraphs (a)(1)(ii)(A)(*1*) through (a)(1)(ii)(A)(*4*) of this section must be performed.

(*2*) Each seat and its mounting arrangements must be closely inspected. There must be no deformation or damage to any seat or its mounting arrangements.

(*3*) If the inspector has reason to believe that the boat is not being launched in a safe and proper manner, the inspector may order the test under this paragraph (paragraph (a)(1)(ii)(B) of this section) to be repeated with the boat instrumented with acceleration monitoring equipment. The data must be compared with the approval test data to determine whether or not the boat is being launched in a safe and proper manner.

(C) The procedure under paragraph (a)(1)(ii)(A) of this section must be repeated with at least one operator aboard the lifeboat. The rest of the seats in the lifeboat must be empty, loaded with deadweight, or with personnel to the satisfaction of the inspector. The launching of the lifeboat must be completely controlled by the personnel in the lifeboat.

(*1*) The inspections required under paragraphs (a)(1)(ii)(A)(*1*) through (a)(1)(ii)(A)(*4*) of this section must be performed.

(*2*) There must be no injury to any of the personnel in the lifeboat.

(iii) Each lifeboat and rescue boat must be operated in the water for at least 2 hr. During this time, the propulsion system must be operated both forward and astern. At least 1 hr. of this running time must be with the propulsion system operating at full speed. Each boat system such as any powered bilge pump, water spray system, or air supply system must be operated.

(A) The boat and each of its systems must operate properly without overheating or being damaged.

(B) The boat must not have any evident leakage through the hull or around any through-hull fitting.

(iv) An abandon-ship simulation must be held to determine that all survival craft required for abandonment by the total number of persons permitted on board, can be launched with their full complement of persons and equipment within 10 min. from the time the abandon-ship signal is given.

(A) This simulation must include loading and launching of sufficient survival craft to demonstrate that the requirement can be met.

(B) This test is not required if the Coast Guard has witnessed a successful test on a sister vessel with the same lifesaving appliance arrangements.

(v) One lifeboat and one rescue boat of each type on board must be launched with the vessel proceeding at a speed of approximately 5 knots. No particular loading of the boat is required. The boat must not give any indication that it is

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unstable or out of control during the launching procedure.

(vi) The installation of each lifeboat, rescue boat, liferaft and launching appliance must be inspected to determine that it meets each condition of its approval, as listed on its Certificate of Approval (Form CGHQ 10030).

(vii) The quick release device for ring life buoys required for certain vessels under § 199.70(c) of this chapter, must be tested to demonstrate that the ring life buoy and its attachments drop clear of the side of the vessel when released. A self-activating smoke signal is not required for this test if a dummy device of comparable size and weight is used.

* * * * *

Subpart 91.25—Inspection for Certification

69. By revising § 91.25–15 to read as follows:

§ 91.25–15 Lifesaving equipment.

(a) At each inspection for certification, the following inspections and tests must be conducted in the presence of a marine inspector, or as otherwise directed by the OCMI:

(1) Each air tank provided for buoyancy on a lifeboat, liferaft, buoyant apparatus or life float, must be tested and demonstrated to be airtight.

(2) Each lifeboat and rescue boat gravity davit including each auxiliary davit system for a free-fall lifeboat, and each davit-launched liferaft launching device must be used to lower the boat or liferaft from its stowed position to a point near the water using the on-deck launching appliance controls. This test must be conducted twice; once with the boat or liferaft loaded with all equipment and additional weight of not more than one person, and a second time with the weight of a full load of persons and equipment. A davit-launched liferaft is not required for this test if an appropriate test weight is used. During the lowering, the brake must be applied and released at least five times.

(i) The launching appliance must bring the boat, liferaft, or test weight to a stop by application of the brake by the winch counterweight alone.

(ii) The brake action must be smooth and positive.

(iii) The brake must be always applied unless the operator, or a mechanism activated by the operator, holds the brake control in the "off" position.

(iv) Lowering must begin each time the brake is released. No additional force is permitted.

(3) Each lifeboat and rescue boat on a davit must be lowered to a point just above the water and evenly loaded until the total weight of the boat equals the "B" weight on the boat data plate. If the boat is equipped with mechanical disengaging apparatus, the release mechanism control must be operated and must open all hooks simultaneously and release the boat into the water properly. There must be no evident damage or deformation of the boat, the launching appliance, or its connections to the vessel.

(4) Each free-fall launched lifeboat and launching system must be tested with the lifeboat loaded with only its normal equipment or the deadweight equivalent of the equipment. The lifeboat must be launched into the water. After launching, the boat must be retrieved and examined.

(i) The free-fall release mechanism must operate properly and release the boat from the launching appliance.

(ii) The launching system must operate smoothly, must launch the boat into the water at the intended angle, and must not show any evidence of improper operation.

(iii) The lifeboat must not show any evidence of instability in the air or in the water.

(iv) There must be no deformation of or damage to the lifeboat, the launching appliance or its connections to the vessel.

(5) The procedure under paragraph (a)(4) of this section must be repeated with each seat in the lifeboat loaded with 75 kg (165 lb.) of deadweight properly secured in place to simulate the weight of one person.

(i) The inspections required under paragraphs (a)(4)(i) through (a)(4)(iv) of this section must be performed.

(ii) Each seat and its mounting arrangements must be closely inspected. There must be no deformation or damage to any seat or its mounting arrangements.

(6) If the inspector has reason to believe that the free-fall boat is not being launched in a safe and proper manner, the inspector may order the test under paragraphs (a)(4) and (a)(5) of this section to be repeated with the boat instrumented with acceleration monitoring equipment. The data must be compared with the approval test data to determine whether or not the boat is being launched in a safe and proper manner.

(7) The procedure under paragraph (a)(4) of this section must be repeated with at least one operator aboard the lifeboat. The rest of the seats in the lifeboat must either be empty, loaded with deadweight, or with personnel to the satisfaction of the inspector. The launching of the lifeboat must be completely controlled by the personnel in the lifeboat.

(A) The inspections required under paragraphs (a)(4)(i) through (a)(4)(iv) of this section must be performed.

(B) There must be no injury to any of the personnel in the lifeboat.

(8) Each davit-launched liferaft launching appliance must be loaded with a weight equal to the liferaft loaded with its full load of persons and equipment. The weight must be lowered to a point just above the water, dock or other surface that will support the weight. The automatic disengaging apparatus control must be set to release, and must open when the weight is lowered to and supported by the surface. There must be no evident damage or deformation of the release mechanism, launching appliance, or its connections to the vessel.

(9) Each lifejacket, immersion suit, and work vest must be examined to determine that it is in serviceable condition. Each lifejacket, immersion suit, and work vest not in serviceable condition must be either repaired, or destroyed and removed from the vessel. The marine inspector may mark the lifejackets, immersion suits, and work vests to indicate that they have been inspected and passed.

(10) The control apparatus for each electrically-controlled launching appliance winch must be opened, inspected, and determined to be in serviceable condition.

(11) Each inflatable liferaft and inflatable lifejacket must be inspected to determine that it has been serviced under § 97.90–80 of this chapter.

(12) Each hydrostatic release unit must be inspected to determine that it has been serviced under § 97.90–90 of this chapter.

(13) Each other item of lifesaving equipment on the vessel must be inspected to determine that it is in serviceable condition. Each item not in serviceable condition must be repaired or replaced. Each item of survival equipment with an expiration date on it must be replaced if the expiration date has passed.

(14) An abandon-ship drill must be held. The marine inspector specifies the nature of the emergency to be simulated.

PART 94—LIFESAVING EQUIPMENT

70. By removing and reserving Part 94.

70a. The following Table of Contents for Part 97 reflects new or revised subparts to read as follows:

PART 97—OPERATIONS

Subpart 97.00—Incorporation by reference

Sec.
97.00–1 Incorporation by reference.
* * * * *

Subpart 97.13—Emergency Signals

97.13–1 Emergency signals.

Subpart 97.14—Manning of Survival Craft and Supervision

97.14–1 Certificate of proficiency.
97.14–5 Manning and supervision.

Subpart 97.90—Operational Readiness, Maintenance and Inspection of Lifesaving Equipment

97.90–20 Operational readiness.
97.90–30 Maintenance.
97.90–40 Maintenance of falls.
97.90–50 Spare parts and repair equipment.
97.90–60 Weekly inspection.
97.90–70 Monthly inspections.
97.90–73 Quarterly inspections.
97.90–75 Annual inspection and repair.
97.90–80 Servicing of inflatable liferafts, inflatable lifejackets and inflated rescue boats.
97.90–90 Periodic servicing of hydrostatic release units.

71. The authority citation for Part 97 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703, 6101, 6105; 49 CFR 1.46.

72. By adding Subpart 97.00 to read as follows:

Subpart 97.00 Incorporation by reference.

§ 97.00–1 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street, NW., Washington, DC, and at the U.S. Coast Guard, Merchant Vessel Inspection Division (G–MVI), 2100 Second Street, SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected are:

American Society for Testing and Materials

1916 Race St., Philadelphia, PA 19103.
ASTM D93–80, Test for Flash Point by Pennsky-Martens Closed Tester: 97.15–55.

International Maritime Organization (IMO)

Publications Section, 4 Albert Embankment, London SE1 7SR, England.
Resolution [LSR 19/WP.4, Annex 3], "Guidelines Concerning the Use and Fitting of Retroreflective Materials on Life-saving Appliances", June 1987: 97.37–37; 97.37–43.

73. By revising Subpart 97.13 to read as follows:

Subpart 97.13—Emergency Signals

§ 97.13–1 Emergency signals.

(a) *General.* The various signals used to call the crew to their stations and to give instructions to the crew must be listed on the station bill required under § 199.80 of this chapter. The signals must be as follows:

(1) The fire and emergency signal must consist of a continuous blast of the whistle for not less than 10 seconds followed by the continuous ringing of the general alarm bells for not less than 10 seconds.

(2) The signal for dismissal from fire alarm stations must consist of ringing of the general alarm bells three times, followed by three short blasts of the whistle.

(3) The signal for boat stations or boat drill must consist of a succession of more than six short blasts, followed by one long blast of the whistle, followed by the same signal on the general alarm bells.

(4) A man-overboard signal must be established.

(5) An abandon-ship signal must be established.

(6) The signal to lower lifeboats or davit launched liferafts must consist of one short blast of the whistle.

(7) The signal to stop lowering lifeboats or davit launched liferafts must consist of two short blasts of the whistle.

(8) The signal for dismissal from boat stations must consist of three short blasts of the whistle.

(9) Each other emergency signal established must not conflict with navigational signals or other general alarm signals.

(b) *River service.* For vessels in river service where a whistle is not used, the ship's bell must be used for the whistle signals described in this section.

74. By revising Subpart 97.14 to read as follows:

Subpart 97.14—Manning of Survival Craft and Supervision

§ 97.14–1 Certificate of proficiency.

A merchant mariner's document endorsement as a lifeboatman or another inclusive rating under Part 12 of this Title is evidence of training in survival craft and serves as a certificate of proficiency. For the purposes of this subpart, a "certificated person" is a person holding a merchant mariner's document with such an endorsement.

§ 97.14–5 Manning and supervision.

(a) There must be a sufficient number of trained persons on board for mustering and assisting untrained persons.

(b) There must be a sufficient number of deck officers, able seamen, or certificated persons on board to operate the survival craft and launching arrangements required for abandonment by the total number of persons permitted on board.

(c) One person must be placed in charge of each survival craft to be used.

(1) Except for vessels in river service, the person in command must be a deck officer, able seaman, or certificated person.

(2) A deck officer, able seaman, or certificated person must be designated second-in-command for—

(i) Each lifeboat on a vessel in ocean service; and

(ii) Except on a vessel in river service, each lifeboat permitted to carry more than 40 persons.

(3) Each vessel that carries passengers and is not in river service, must have at least one deck officer, able seaman, or certificated person for every 20 passengers assigned to each lifeboat.

(d) The person in charge of each survival craft shall have a list of the survival craft crew and shall see that the crewmembers are acquainted with their duties. The second-in-command of a lifeboat shall also have a list of the lifeboat crew.

(e) Each motorized survival craft must have a person assigned who is capable of operating the engine and carrying out minor adjustments.

(f) The master shall make sure the persons required under paragraphs (a), (b), and (c) of this section are equitably distributed among the vessel's survival craft.

Subpart 97.15—Tests, Drills, and Inspections

75. By removing paragraph (a)(3) of § 97.15–25.

76. By revising § 97.15–35 to read as follows:

§ 97.15–35 Abandon-ship training and drills.

(a) Abandon-ship training material must be on board each vessel. The training material must consist either of a manual of one or more volumes, or audio-visual training aids, or both.

(1) The training material must contain instructions and information on the lifesaving appliances on the vessel and

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on the best methods of survival. A training manual must be written in easily understood terms, illustrated wherever possible.

(2) If a training manual is used, a copy must be in each crew messroom and recreation room or in each crew cabin. If audio-visual training aids are used they must be incorporated in the onboard training sessions under paragraph (d) of this section.

(3) The training material must explain the following in detail:

(i) Donning of the lifejackets and immersion suits carried on board.

(ii) Muster at the assigned stations.

(iii) Boarding, launching, and clearing the survival craft and rescue boats.

(iv) Method of launching from within the survival craft.

(v) Release from launching appliances.

(vi) Method and use of devices for protection in launching areas, where appropriate.

(vii) Illumination in launching areas.

(viii) Use of all survival equipment.

(ix) Use of all detection equipment.

(x) With illustrations, the use of radio lifesaving appliances.

(xi) Use of sea anchors.

(xii) Use of engine and accessories.

(xiii) Recovery of survival craft and rescue boats including stowage and securing.

(xiv) Hazards of exposure and the need for warm clothing.

(xv) Best use of the survival craft for survival.

(xvi) Methods of retrieval, including the use of helicopter rescue gear (slings, baskets, stretchers), breeches-buoy and shore lifesaving apparatus and vessel's line-throwing apparatus.

(xvii) All other functions contained in the muster list and emergency instructions.

(xviii) Instructions for emergency repair of the lifesaving appliances.

(b) An abandon-ship drill must be conducted on each vessel in alternating weeks. If a drill can not be held during the appointed week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(1) Any member of the crew excused from an abandon-ship drill must participate in the next drill, so that each member participates in at least one abandon-ship drill each month. If more than 25% of the crew have not participated in an abandon-ship drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port if reasonable and practicable, but not later than 24 hours after the vessel leaves port. The Commandant (G–MVI) may accept other arrangements that are at least equivalent for those vessels where this is impractical.

(2) On a vessel on an international voyage, musters of the passengers must take place within 24 hours after their embarkation. Passengers must be instructed in the use of the lifejackets and the action to take in an emergency. The passengers must be encouraged to participate fully in the abandon-ship drill. If only a small number of passengers embark at a port after the muster has been held, the attention of these passengers must be drawn to the emergency instructions required under § 199.80(a) and 199.80(c) of this chapter if another muster is not held.

(3) On each vessel not on an international voyage, a muster of the passengers must be held on departure, or else—

(i) For voyages of more than one day's duration, musters of the passengers must be in accordance with paragraph (b)(2) of this section as for vessels on an international voyage; and (ii) For voyages of less than one day's duration, the attention of the passengers must be drawn to the emergency instructions required under § 199.80(a) and 199.80(c) of this chapter.

(4) Each abandon-ship drill must include:

(i) Summoning of passengers and crew to muster stations with the general alarm and making sure that they are made aware of the order to abandon-ship as specified in the station bill.

(ii) Simulation of an abandon-ship emergency which varies from drill to drill.

(iii) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular abandon-ship emergency being simulated.

(iv) Checking to see that passengers and crew are suitably dressed.

(v) Checking to see that lifejackets are correctly donned.

(vi) Lowering of at least one lifeboat after any necessary preparation for launching. The lifeboat must be lowered at least to the extent where the davit head has completed its travel and the fall wire has begun to pay out.

(vii) Starting and operating the lifeboat engine.

(viii) Operation of davits used for launching liferafts.

(5) Different lifeboats must, as far as practicable, be lowered to meet paragraph (b)(4)(vi) of this section at successive drills.

(6) Each abandon-ship drill must, as far as practicable, be conducted as if there were an actual emergency.

(7) Each lifeboat must be launched with its assigned operating crew aboard and maneuvered in the water at least once every 3 months during an abandon-ship drill.

(8) Each rescue boat that is not also a lifeboat must be launched with its assigned crew aboard and maneuvered in the water—

(i) Once each month, if reasonable and practicable; but

(ii) At least once every 3 months.

(9) If lifeboat and rescue boat launching drills are carried out with the vessel making headway, such drills must, because of the dangers involved, be practiced only in waters where it is safe, under the supervision of an officer experienced in such drills.

(10) At least one drill every 3 months must be held at night, unless the master determines it is unsafe.

(11) Emergency lighting for mustering and abandonment must be tested at each abandon-ship drill.

(c) The master of a vessel carrying immersion suits shall make sure that—

(1) Each crew member either—

(i) Wears an immersion suit in at least one abandon-ship drill per month unless it is impracticable due to warm weather; or

(ii) Participates in at least one immersion suit drill per month that includes donning an immersion suit and being instructed in its use;

(2) In each abandon-ship drill, each passenger on board is instructed in the use of immersion suits; and

(3) Each passenger is told at the beginning of the voyage where immersion suits are stowed on board and is encouraged to read the instructions for donning and use of the immersion suits.

(d) Each crew member on board the vessel must be given training in the use of lifesaving appliances and the duties assigned in the station bill.

(1) Except as provided under paragraph (d)(2) of this section, onboard training in the use of the vessel's lifesaving appliances, including survival craft equipment, must be given to each crew member as soon as possible but not later than 2 weeks after the crew member joins the vessel.

(2) If a crew member is on a regularly scheduled rotating assignment to a vessel, onboard training in the use of the vessel's lifesaving appliances, including survival craft equipment, must be given to the crew member not later than 2 weeks after the time the crew member first joins the vessel.

(3) The crew must be instructed in the use of the vessel's lifesaving appliances and in survival at sea on alternating

weeks, normally in the weeks when abandon-ship drills are not held. If individual instruction sessions cover different parts of the vessel's lifesaving system, all the vessel's lifesaving equipment and appliances must be covered within each 2 month period. Each member of the crew must be instructed in at least—

(i) Operation and use of the vessel's inflatable liferafts;

(ii) Problems of hypothermia, first-aid treatment for hypothermia and other appropriate first-aid procedures; and

(iii) Special instructions necessary for use of the vessel's lifesaving appliances in severe weather and severe sea conditions.

(4) Onboard training in the use of davit-launched liferafts must take place at intervals of not more than 4 months on each vessel with davit-launched liferafts. Whenever practicable this must include the inflation and lowering of a liferaft. If this liferaft is a special liferaft intended for training purposes only, and is not part of the vessel's lifesaving equipment, this liferaft must be conspicuously marked.

(e) The date when musters are held, details of abandon-ship drills, drills of other lifesaving appliances and onboard training must be recorded in the vessel's official logbook. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill or training session.

(3) Identification of survival craft used in drills.

(4) Subject of training session.

(5) Statement as to the condition of the equipment used.

(6) If a full muster, drill or training session is not held at the appointed time, the circumstances and the extent of the muster, drill or training session held.

§ 97.15–37 [Removed]

77. By removing § 97.15–37.

78. By revising § 97.15–40 to read as follows:

§ 97.15–40 Fire drills.

(a) A fire drill must be conducted on each vessel in alternating weeks. The fire drill must not be conducted as part of the abandon-ship drill, nor immediately prior to or after the abandon-ship drill. If a fire drill cannot be held during the appointed week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(b) Any member of the crew excused from a fire drill must participate in the next drill, so that each member participates in at least one fire drill each month. If more than 25% of the crew have not participated in a fire drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port if reasonable and practicable, but not later than 24 hours after the vessel leaves port. The Commandant (C–MVI) may accept other arrangements that are at least equivalent for those vessels where this is impractical.

(c) Each fire drill must include:

(1) Summoning of passengers and crew to their stations with the general alarm.

(2) Simulation of a fire emergency which varies from drill to drill.

(3) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular fire emergency being simulated.

(4) Starting of fire pumps and use of a sufficient number of outlets to determine that the system is in proper working order.

(5) Bringing out each breathing apparatus and other item of rescue and safety equipment from the emergency equipment lockers, and demonstrating the use of each item by the person or persons designated to use it.

(6) Operating each watertight door used while the vessel is underway.

(7) Operation of each self-closing fire door.

(8) Closing all fire doors and doors in fire boundaries.

(d) Each fire drill must, as far as practicable, be conducted as if there were an actual emergency.

(e) The date when fire drills are held, and details of fire drills must be recorded in the vessel's official logbook. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill.

(3) Number and lengths of hose used.

(4) Statement as to the condition of the equipment used.

(5) If a full drill is not held at the appointed time, the circumstances and the extent of the drill held.

§ 97.15–45 [Removed]

79. By removing § 97.15–45.

§ 97.15–50 [Removed]

80. By removing § 97.15–50.

§ 97.15–65 [Removed]

81. By removing § 97.15–65.

§ 97.15–70 [Removed]

82. By removing § 97.15–70.

83. By revising paragraphs (a)(1) and (a)(7) of § 97.35–5 to read as follows:

§ 97.35–5 Actions required to be logged.

(a) • • •

(1) Abandon-ship training and drills, and fire drills. As held. See §§ 97.15–35, and 97.15–40.

• • • • • •

(7) Survival craft winches. Once in each three months. See § 97.90–73.

• • • • • •

Subpart 97.37—Markings for Fire and Emergency Equipment, Etc.

84. By revising § 97.37–37 to read as follows:

§ 97.37–37 Lifeboats and rescue boats.

(a) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 75 mm (3 in.) high:

(1) The name of the vessel.

(2) The number of the boat. The boats on each side of the vessel must be numbered from forward to aft. If there are boats on both sides of the vessel, the odd numbers must be on the starboard side.

(3) For vessels in ocean service, the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 35 mm (1.5 in.) high:

(1) The length and beam of the boat.

(2) The number of persons capacity of the boat. This number must—

(i) Be the number of persons the lifeboat is equipped for; and

(ii) Not be greater than the number of persons the boat is approved for, as shown on its nameplate.

(c) The following must be plainly marked or painted on each lifeboat and rescue boat in at least two places visible from above the boat in letters and numbers not less than 75 mm (3 in.) high:

(1) The number of persons capacity of the boat.

(2) The name of the vessel.

(d) The name of the vessel must be plainly marked or painted on each oar and paddle.

(e) On or before July 1, 1991, each lifeboat and rescue boat must be marked with Type II retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution (LSR 19/WP.4, Annex 3).

85. By adding a new § 97.37–39 to read as follows:

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§ 97.37–39 Rigid liferafts.

(a) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 75 mm (3 in.) high:

(1) The name of the vessel.

(2) The number of the liferaft. Liferafts stowed on the sides of the vessel must be numbered in the same manner as the lifeboats.

(3) For vessels in ocean service, the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 35 mm (1.5 in.) high:

(1) Either "SOLAS A Pack" or "SOLAS B Pack" depending upon its equipment under § 199.143(b) or § 199.143(c) of this chapter.

(2) The length of the painter.

(c) The number of persons capacity must be plainly marked or painted over each entrance to each rigid liferaft in letters and numbers at least 100 mm (4 in.) high, in a color contrasting to that of the liferaft. This number must—

(1) Be the number of persons the liferaft is equipped for; and

(2) Not be greater than the number of persons the liferaft is approved for, as shown on its nameplate.

(d) The name of the vessel must be plainly marked or painted on each paddle.

86. By revising § 97.37–40 to read as follows:

§ 97.37–40 Inflatable liferafts.

The number of the liferaft and the number of persons it is permitted to accommodate must be marked or painted in a conspicuous place in the immediate vicinity of each inflatable liferaft in letters and numbers at least 35 mm (1.5 in.) high. Liferafts stowed on the sides of the vessel must be numbered in the same manner as the lifeboats. This marking must not be on the inflatable liferaft container.

87. By adding a new § 97.37–42 to read as follows:

§ 97.37–42 Life floats and buoyant apparatus.

(a) The name of the vessel must be plainly marked or painted on each life float and buoyant apparatus, together with their oars and paddles.

(b) The number of persons capacity must be plainly marked or painted on each life float and buoyant apparatus in letters and numbers at least 35 mm (1.5 in.) high. This number must—

(1) Be the number of persons the device is equipped for; and

(2) Not be greater than the number of persons the device is approved for, as shown on its nameplate.

88. By revising § 97.37–43 to read as follows:

§ 97.37–43 Lifejackets, immersion suits, and ring life buoys.

(a) Each lifejacket, immersion suit, and ring life buoy must be marked in block capital letters with the vessel's name.

(b) Each container for lifejackets and immersion suits must be marked in letters and numbers at least 50 mm (2 in.) high with the number and identification of the items stowed inside and their size.

(c) Each ring life buoy on a vessel in ocean service must be marked in block capital letters with the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(d) Each stowage position for a ring life buoy must be marked "LIFE BUOY".

(e) Each lifejacket must be marked with Type I retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution (LSR 19/WP.4, Annex 3).

(f) On or before July 1, 1991, each ring life buoy must be marked with Type II retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution (LSR 19/WP.4, Annex 3).

Note: Each approved immersion suit is provided with retroreflective material by the manufacturer of the suit.

89. By revising § 97.37–55 to read as follows:

§ 97.37–55 EPIRBs and SARTs.

The name of the vessel must be plainly marked or painted on each Emergency Position Indicating Radio Beacon (EPIRB) and on each Search and Rescue Transponder (SART), except for an EPIRB or SART—

(a) In an inflatable liferaft; or

(b) Permanently installed in a survival craft.

§ 97.39–1 [Removed]

90. By removing Subpart 97.39 (consisting of § 97.39–1).

§§ 97.85–1, 97.85–5, and 97.85–10 [Removed]

91. By removing Subpart 97.85 (consisting of §§ 97.85–1, 97.85–5, and 97.85–10).

92. By redesignating Subpart 97.90 as Subpart 97.85 and adding a new Subpart 97.90 to read as follows:

Subpart 97.90—Operational Readiness, Maintenance and Inspection of Lifesaving Equipment

§ 97.90–20 Operational readiness.

(a) Except as provided in § 97.90–30(e), each lifesaving appliance and each item of survival craft, rescue boat, life float, and buoyant apparatus equipment must be in good working order and ready for immediate use before the vessel leaves port and at all times when the vessel is in navigation.

(b) Each deck where lifeboats, liferafts, life floats, and buoyant apparatus are stowed or boarded must be kept clear of obstructions that would interfere with the boarding and launching of the lifesaving appliances.

(c) If lifeboats are used to carry persons to and from the vessel when the vessel is in a harbor or at an anchorage, there must be a sufficient number of lifeboats and liferafts available for use on each side of the vessel to accommodate all persons remaining on board.

§ 97.90–30 Maintenance.

(a) The manufacturer's instructions for onboard maintenance of lifesaving appliances must be onboard and must include the following for each appliance—

(1) Checklists for use when carrying out the inspections required under § 97.90–70(a);

(2) Maintenance and repair instructions;

(3) A schedule of periodic maintenance;

(4) A diagram of lubrication points with the recommended lubricants;

(5) A list of replaceable parts;

(6) A list of sources of spare parts; and

(7) A log for records of inspections and maintenance.

(b) The master shall make sure that maintenance is carried out in accordance with the instructions required under paragraph (a) of this section.

(c) For lifesaving appliances constructed on or before July 1, 1986, paragraph (a) of this section need only be complied with to the extent that the manufacturer's instructions are available.

(d) The OCMI may accept, instead of the instructions required under paragraph (a) of this section, a shipboard planned maintenance program that includes the items listed in that paragraph.

(e) If lifeboats, rescue boats, and rigid liferafts are maintained and repaired while the vessel is underway, there must be a sufficient number of lifeboats and liferafts available for use on each side of the vessel to accommodate all persons on board.

(f) Except in an emergency, extensive repairs or alterations must not be made to any lifesaving appliance without advance notification of the OCMI. Insofar as possible, each repair or alteration must be made in accordance with the requirements for the lifesaving appliance in Subchapter Q of this chapter. The OCMI may require each lifesaving appliance that has been altered or extensively repaired to be subjected to each test for the appliance in Subchapter Q of this chapter that is affected by the repair or alteration.

(g) The master shall report each emergency repair or alteration to a lifesaving appliance as soon as practicable to the OCMI in the next port in the United States where the vessel calls. If the vessel does not regularly call at ports in the the United States, the report must be made to the OCMI responsible for one of the foreign ports where the vessel calls.

(h) A lifeboat or rigid liferaft must not be repaired or reconditioned for use on a vessel other than the one it was originally built for, unless specifically permitted by the OCMI. If required by the OCMI, the repair or reconditioning of the lifeboat or rigid liferaft must be made under the OCMI's supervision.

§ 97.90–40 Maintenance of falls.

(a) Each fall used in a launching appliance must be turned end for end at intervals of not more than 30 months.

(b) Each fall must be renewed when necessary due to deterioration or at intervals of not more than 5 years, whichever is the earlier.

(c) Each fall must have a corrosion-resistant tag with the following permanently marked on it:

(1) The date the new fall was installed.

(2) If the fall has been turned end for end, the date it was turned.

§ 97.90–50 Spare parts and repair equipment.

Spare parts and repair equipment must be provided for each lifesaving appliance and component subject to excessive wear or consumption and that needs to be replaced regularly. These parts and equipment must be kept on board the vessel, or, if the vessel operates daily out of the same shore base, these parts and equipment may be kept at the shore base.

§ 97.90–60 Weekly inspection.

The following tests and inspections must be carried out weekly:

(a) Each survival craft, rescue boat and launching appliance must be visually inspected to make sure it is ready for use.

(b) Each lifeboat engine and rescue boat engine must be run ahead and astern for not less than 3 min., unless the ambient temperature is below the minimum temperature required for starting the engine.

(c) The general alarm system must be tested.

(d) Each battery for lifeboat and rescue boat engine starting, searchlights, fixed lifeboat radio installations, and portable radio apparatus must be brought up to full charge at least once each week if—

(1) The battery is of a type that requires recharging; and

(2) The battery is not connected to a device that keeps it continuously charged.

(e) The transmitter of each fixed lifeboat radio installation and portable radio apparatus must be tested at least once each week using a dummy antenna load.

§ 97.90–70 Monthly inspections.

(a) Each lifesaving appliance, including lifeboat equipment, must be inspected monthly using the checklist required under § 97.90–30(a)(1) to make sure it is complete and in good order. A report of the inspection, including a statement as to the condition of the equipment, must be recorded in the vessel's official logbook.

(b) Each EPIRB and each SART other than an EPIRB or SART in an inflatable liferaft, must be tested monthly. The EPIRB must be tested using the integrated test circuit and output indicator to determine that it is operative.

§ 97.90–73 Quarterly inspections.

(a) Each lifeboat winch control apparatus, including motor controllers, emergency switches, master switches, and limit switches must be examined once each three months.

(b) The examination must include the removal of drain plugs and the opening of drain valves to make sure that enclosures are free of water.

(c) The date of the examination required under this section and the condition of the equipment must be noted in the official logbook.

§ 97.90–75 Annual inspection and repair.

(a) Each lifeboat, rescue boat, rigid liferaft, buoyant apparatus, and life float must be stripped, cleaned, and thoroughly inspected and repaired as needed at least once each year, including emptying and cleaning of each fuel tank, and refilling it with fresh fuel.

(b) Each davit, winch, fall and other launching appliance must be thoroughly inspected and repaired as needed once each year.

(c) Each item of survival equipment with an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.

(d) Each battery used in an item of survival equipment and clearly marked with a date identified as an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.

(e) Except for a storage battery used in a lifeboat or rescue boat, each battery without an expiration date used in an item of survival equipment must be replaced during the annual inspection and repair.

(f) The requirements in this section do not relieve the master or person in charge of the requirement under § 97.90–20(a) to keep the equipment ready for immediate use.

§ 97.90–80 Servicing of inflatable liferafts, inflatable lifejackets and inflated rescue boats.

(a) Each inflatable liferaft, inflatable lifejacket, and hybrid inflatable lifejacket or work vest must be serviced—

(1) Within 12 months of its initial packing; and

(2) Within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months.

(b) Each inflatable liferaft must be serviced—

(1) Whenever the container of the raft is damaged, or the straps or seal broken; and

(2) In accordance with the servicing procedure under Subpart 160.051 of this chapter.

(c) Each inflatable lifejacket must be serviced in accordance with the servicing procedure under Subpart 160.076 of this chapter.

(d) Each hybrid inflatable lifejacket or work vest must be serviced in accordance with the servicing procedure under Subpart 160.077 of this chapter.

(e) Repair and maintenance of inflated rescue boats must be in accordance with the manufacturer's instructions. All repairs must be made at a servicing facility approved by the Commandant (G–MVI), except for emergency repairs carried out on board the vessel.

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§ 97.90-60 Periodic servicing of hydrostatic release units.

(a) Each hydrostatic release unit must be serviced—

(1) Within 12 months of its manufacture and within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months; and

(2) In accordance with the repair and testing procedures under Subpart 160.062 of this chapter.

(b) The springs of each spring-tensioned gripe used with a hydrostatic release unit must be renewed when the unit is serviced and tested.

SUBCHAPTER I-A—MOBILE OFFSHORE DRILLING UNITS

PART 107—INSPECTION AND CERTIFICATION

93. The authority citation for Part 107 is revised to read as follows:

Authority: 43 U.S.C. 1333(d); 46 U.S.C. 3306; 49 CFR 1.46.

Subpart B—Inspection and Certification

94. By removing and reserving paragraphs (h) and (i), by revising paragraphs (a)(8), (b), (e), (f), (g), (y), and (z), and by adding paragraph (a)(9) to § 107.231 to read as follows:

§ 107.231 Inspection for certification.

* * * * *

(a) * * *

(8) Subchapter S of this chapter, Subdivision and Stability; and

(9) Subchapter W of this chapter, Lifesaving Appliances and Arrangements.

Lifesaving Equipment

(b) Each item of lifesaving equipment on the vessel is in serviceable condition.

(1) Each item not in serviceable condition must be repaired or replaced.

(2) A lifejacket that is cleaned or repaired must meet Subpart 160.006 of this chapter.

(3) The marine inspector may mark the lifejackets, immersion suits, and work vests to indicate that they have been inspected and passed.

(4) Each item of survival equipment with an expiration date on it must be replaced if the expiration date has passed.

* * * * *

(e) Each inflatable liferaft and inflatable lifejacket has been serviced under § 109.317 of this chapter.

(f) Each hydrostatic release unit has been serviced under $ § 109.319 of this chapter.

(g) A successful drill to abandon the unit is held. The marine inspector specifies the nature of the emergency to be simulated.

(h) [Reserved]

(i) [Reserved]

* * * * *

(y) Each new davit or winch meets the tests and inspections in § 31.01–5(c)(1) of this chapter, each new free-fall launching system meets the tests and inspections in § 31.01–5(c)(2) of this chapter, each new lifeboat and rescue boat meets the test in § 31.01–5(c)(3) of this chapter, each new lifeboat, liferaft, rescue boat, davit, winch, or other launching appliance meets the inspection under § 31.01–5(c)(6) of this chapter, and each new ring life buoy quick release device meets the test in § 31.01–5(c)(7) of this chapter.

(z) For the original certificate of inspection, a simulation demonstrates that all survival craft required for abandonment by the total number of persons on board, can be launched with their full complement of persons and equipment within 10 min. from the time the signal to abandon the unit is given. This simulation must include loading and launching of sufficient survival craft to demonstrate that the requirement can be met. This test is not required if the Coast Guard has witnessed a successful test on a sister unit with the same lifesaving appliance arrangements.

* * * * *

95. By revising § 107.239 to read as follows:

§ 107.239 Testing of lifeboats, rescue boats, lifeboat launching systems, and davit-launched liferaft systems.

(a) Each lifeboat and rescue boat gravity davit, and each davit-launched liferaft launching device must be used to lower the boat or liferaft from its stowed position to a point near the water using the on-deck launching appliance controls. This test must be conducted twice; once with the boat or liferaft loaded with all equipment and additional weight of not more than one person, and a second time with the weight of a full load of persons and equipment. A davit-launched liferaft is not required for this test if an appropriate test weight is used. During the lowering, the brake must be applied and released at least five times.

(1) The launching appliance must bring the boat, liferaft, or test weight to a stop by application of the brake by the winch counterweight alone.

(2) The brake action must be smooth and positive.

(3) The brake must be always applied unless the operator, or a mechanism activated by the operator, holds the brake control in the "off" position.

(4) Lowering must begin each time the brake is released. No additional force is permitted.

(b) Each lifeboat and rescue boat must be lowered to a point just above the water. If the test is conducted in sheltered waters, the boat must be evenly loaded until the total weight of the boat equals the "B" weight on the boat data plate. The release mechanism control must be operated and must open all hooks simultaneously and release the boat into the water properly. There must be no evident damage or deformation of the boat, the launching appliance, or its connections to the vessel.

(c) The air supply system of each fire protected lifeboat must be checked by—

(1) Determining that the air regulator is operating properly either by discharging one or more of the air supply cylinders through the regulator, or by checking the flow rate on a test apparatus; and

(2) Making sure each air supply cylinder is fully charged and meets § 147.04–1(a) of this chapter.

(d) The water spray system of each fire protected lifeboat must be checked by operating the pump and determining that all sprinkler heads are operating properly and provide a uniform flow of water over the surface of the lifeboat.

(e) Each davit-launched liferaft launching appliance must be loaded with a weight equal to the liferaft loaded with its full load of persons and equipment. The weight must be lowered to a point just above the water, dock or other surface that will support the weight. The automatic disengaging apparatus control must be set to release, and must open when the weight is lowered to and supported by the surface. There must be no evident damage or deformation of the automatic disengaging apparatus, launching appliance, or its connections to the vessel.

Subpart C—Plan Approval

96. By revising paragraphs (bb) and (cc) of § 107.305 to read as follows:

§ 107.305 Plans and information.

* * * * *

Lifesaving Equipment

(bb) The location and arrangement of each lifesaving system including each embarkation deck, showing each overboard discharge and clearances from projections and obstructions in the way of launching lifeboats, rescue boats, and liferafts throughout the range of list and trim angles required under Subchapter W of this chapter.

(cc) The weight of each lifeboat, rescue boat, and davit-launched liferaft when fully equipped and loaded.

* * * * *

PART 108—DESIGN AND EQUIPMENT

97. The authority citation for Part 108 continues to read as follows:

Authority: 43 U.S.C. 1333(d); 46 U.S.C. 3306; 49 CFR 1.46.

Subpart A—General

98. By revising § 108.101 to read as follows:

§ 108.101 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street, NW., Washington, DC, and at the U.S. Coast Guard, Merchant Vessel Inspection Division (G–MVI), 2100 Second Street, SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected are:

American Bureau of Shipping

45 Eisenhower Dr., Paramus, NJ 07652
Rules for Building and Classing Offshore Mobile Drilling Units, 1980—108.113; 108.705

American National Standards Institute

1430 Broadway, New York, NY 10018
ANSI Z89.1, Industrial Head Protection, 1969—108.497
ANSI A14.3, Fixed Ladders, 1974—108.160

American Petroleum Institute

300 Corrigan Tower Bldg., Dallas, TX 75201
API Spec 2C with supplement 2, Specification for Offshore Cranes, 1972—108.601

International Maritime Organization (IMO)

Publications Section, 4 Albert Embankment, London SE1 7SR, England
Resolution [LSR 19/WP.4, Annex 3], "Guidelines Concerning the Use and Fitting of Retro-reflective Materials on Life-saving Appliances", June 1987—108.645; 108.649

National Fire Protection Association

Batterymarch Park, Quincy, MA 02269
NFPA 407, Standard for Aircraft Fuel Servicing, 1980—108.239
NFPA 496, Standard for Purged and Pressurized Enclosures for Electrical Equipment in Hazardous Locations, 1974—108.187

Naval Forms and Publications Center

Customer Service, Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120
Federal Specification ZZ–H–451 F, Hose, Fire, Woven-jacketed Rubber or Cambric-lined with Couplings, 1976—108.425

Underwriters Laboratories

333 Pfingston Rd., Northbrook, IL 60062
UL 19–78, Woven-jacketed Rubber Lined Fire Hose, 1978—108.425

Subpart E—Lifesaving Equipment

99. By revising § 108.501 to read as follows:

§ 108.501 Lifesaving appliances and arrangements.

Lifesaving appliances and arrangements on each unit must meet Subchapter W of this chapter.

§ 108.503 [Removed]

100. By removing § 108.503.

§ 108.505 [Removed]

101. By removing § 108.505.

§ 108.506 [Removed]

102. By removing § 108.506.

§ 108.507 [Removed]

103. By removing § 108.507.

§ 108.508 [Removed]

104. By removing § 108.508.

§ 108.509 [Removed]

105. By removing § 108.509.

§ 108.510 [Removed]

106. By removing § 108.510.

§ 108.511 [Removed]

107. By removing § 108.511.

§ 108.513 [Removed]

108. By removing § 108.513.

§ 108.514 [Removed]

109. By removing § 108.514.

§ 108.515 [Removed]

110. By removing § 108.515.

§ 108.517 [Removed]

111. By removing § 108.517.

§ 108.519 [Removed]

112. By removing § 108.519.

§ 108.521 [Removed]

113. By removing § 108.521.

§ 108.523 [Removed]

114. By removing § 108.523.

§ 108.525 [Removed]

115. By removing § 108.525.

§ 108.527 [Removed]

116. By removing § 108.527.

117. By revising § 108.645 to read as follows:

§ 108.645 Lifeboats and rescue boats.

(a) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 75 mm (3 in.) high:

(1) The name of the unit.

(2) The number of the boat. The boats on each side of the unit must be numbered from forward to aft. If there are boats on both port and starboard sides of the unit, the odd numbers must be on the starboard side.

(3) The name of the port required to be marked on the unit under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 35 mm (1.5 in.) high:

(1) The length and beam of the boat.

(2) The number of persons capacity of the boat. This number must—

(i) Be the number of persons the lifeboat is equipped for; and

(ii) Not be greater than the number of persons the boat is approved for, as shown on its nameplate.

(c) The following must be plainly marked or painted on each lifeboat and rescue boat in at least two places visible from above the boat in letters and numbers not less than 75 mm (3 in.) high:

(1) The number of persons capacity of the boat.

(2) The name of the unit.

(d) The name of the unit must be plainly marked or painted on each oar and paddle.

(e) On or before July 1, 1991, each lifeboat and rescue boat must be marked with Type II retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

118. By adding a new § 108.646 to read as follows:

§ 108.646 Rigid liferafts.

(a) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 75 mm (3 in.) high:

(1) The name of the unit.

(2) The number of the liferaft. Liferafts stowed on the sides of the unit must be numbered in the same manner as the lifeboats.

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(3) The name of the port required to be marked on the unit under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 35 mm (1.5 in.) high:

(1) Either "SOLAS A Pack" or "SOLAS B Pack" depending upon its equipment under § 199.143(b) or § 199.143(c) of this chapter.

(2) The length of the painter.

(c) The number of persons capacity must be plainly marked or painted over each entrance to each rigid liferaft in letters and numbers at least 100 mm (4 in.) high, in a color contrasting to that of the liferaft. This number must—

(1) Be the number of persons the liferaft is equipped for; and

(2) Not be greater than the number of persons the liferaft is approved for, as shown on its nameplate.

(d) The name of the unit must be plainly marked or painted on each paddle.

119. By revising § 108.647 to read as follows:

§ 108.647 Inflatable liferafts.

The number of the liferaft and the number of persons it is permitted to accommodate must be marked or painted in a conspicuous place in the immediate vicinity of each inflatable liferaft in letters and numbers at least 35 mm (1.5 in.) high. Liferafts stowed on the sides of the unit must be numbered in the same manner as the lifeboats. This marking must not be on the inflatable liferaft container.

120. By revising § 108.649 to read as follows:

§ 108.649 Lifejackets, immersion suits, and ring life buoys.

(a) Each lifejacket, immersion suit, and ring life buoy must be marked in block capital letters with the unit's name.

(b) Each container for lifejackets and immersion suits must be marked in letters and numbers at least 50 mm (2 in.) high with the number and identification of the items stowed inside and their size.

(c) Each ring life buoy must be marked in block capital letters with the name of the port required to be marked on the unit under Subpart 67.13 of this chapter.

(d) Each stowage position for a ring life buoy must be marked "LIFE BUOY".

(e) Each lifejacket must be marked with Type I retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

(f) On or before July 1, 1991, each ring life buoy must be marked with Type II retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

Note: Each approved immersion suit is provided with retroreflective material by the manufacturer of the suit.

121. By adding a new § 108.650 to read as follows:

§ 108.650 EPIRBs and SARTs.

The name of the vessel must be plainly marked or painted on each Emergency Position Indicating Radio Beacon (EPIRB) and on each Search and Rescue Transponder (SART), except for an EPIRB or SART—

(a) In an inflatable liferaft; or

(b) Permanently installed in a survival craft.

§ 108.655 [Removed]

122. By removing § 108.655.

PART 109—OPERATIONS

123. The authority citation for Part 109 is revised to read as follows:

Authority: 43 U.S.C. 1333(d); 46 U.S.C. 3306, 6101; 49 CFR 1.46. Section 431 also issued under 46 U.S.C. 11301.

Subpart B—Tests, Drills, and Inspections

124. By adding paragraph (c) to § 109.207 to read as follows:

§ 109.207 Line-throwing equipment.

* * * * *

(c) The master or person in charge shall make sure the line-throwing equipment is not operated in an explosive atmosphere.

§ 109.208 [Removed]

125. By removing § 109.208.

126. By revising § 109.213 to read as follows:

§ 109.213 Fire fighting training and fire drills.

(a) A fire drill must be conducted on each unit in alternating weeks. The fire drill must not be conducted as part of the abandonment drill, nor immediately prior to or after the abandonment drill. If a fire drill cannot be held during the appointed week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(b) Any member of the crew or any of the industrial personnel excused from a fire drill must participate in the next drill, so that each person participates in at least one fire drill each month. Each drill must take place within 24 hours of a change in crew or industrial personnel if more than 25% of the persons on board have not participated in a fire drill on board the unit in the previous month.

(c) Each fire drill must include:

(1) Summoning of crew and industrial personnel to their stations with the general alarm.

(2) Simulation of a fire emergency which varies from drill to drill.

(3) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular fire emergency being simulated.

(4) Starting of fire pumps and use of a sufficient number of outlets to determine that the system is in proper working order.

(5) Bringing out each breathing apparatus and other item of rescue and safety equipment from the emergency equipment lockers, and demonstrating the use of each item by the person or persons designated to use it.

(6) Operation of fire doors, watertight doors, and other closing arrangements.

(7) Training in the use of firefighting equipment such as fire pumps, fire hoses and hydrants, portable fire extinguishers, foam generators, and fireman's outfits.

(8) Operation of remote controls for stopping ventilation and fuel supplies to machinery spaces.

(d) Each fire drill must, as far as practicable, be conducted as if there were an actual emergency.

(e) Each of the industrial personnel without designated responsibility for the survival of others on board, must be instructed in at least—

(1) The location and actuation of fire alarm controls;

(2) The location and proper method of use of firefighting equipment; and

(3) Fire precautions.

(f) Each member of the crew and each of the industrial personnel with designated responsibility for the survival of others on board must be instructed in at least the items covered in paragraph (e) of this section and—

(1) Methods of detection, isolation, control, and extinguishing of fire; and

(2) Checking and maintaining fire fighting equipment.

127. By revising § 109.215 to read as follows:

§ 109.215 Abandonment training and drills.

(a) Unit abandonment training material must be on board each unit. The training material must consist either of a manual of one or more volumes, or audio-visual training aids, or both.

(1) The training material must contain instructions and information on the lifesaving appliances on the unit and on the best methods of survival. A training manual must be written in easily understood terms, illustrated wherever possible.

(2) If a training manual is used, a copy must be made available to each person on board the unit. If audio-visual training aids are used they must be incorporated in the onboard training sessions under paragraph (d) of this section.

(3) The training material must explain the following in detail:

(i) Donning of the lifejackets and immersion suits carried on board.

(ii) Muster at the assigned stations.

(iii) Boarding, launching, and clearing the survival craft and rescue boat.

(iv) Method of launching from within the survival craft.

(v) Release from launching appliances.

(vi) Method and use of devices for protection in launching areas, where appropriate.

(vii) Illumination in launching areas.

(viii) Use of all survival equipment.

(ix) Use of all detection equipment.

(x) With illustrations, the use of radio lifesaving appliances.

(xi) Use of sea anchors.

(xii) Use of engine and accessories.

(xiii) Recovery of survival craft and rescue boat including stowage and securing.

(xiv) Hazards of exposure and the need for warm clothing.

(xv) Best use of the survival craft for survival.

(xvi) Methods of retrieval, including the use of helicopter rescue gear (slings, baskets, stretchers), breeches-buoy and shore lifesaving apparatus and unit's line-throwing apparatus.

(xvii) All other functions contained in the muster list and emergency instructions.

(xviii) Instructions for emergency repair of the lifesaving appliances.

(b) An abandonment drill must be conducted on each unit in alternating weeks. If a drill cannot be held during the appointed week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(1) Any member of the crew or any of the industrial personnel excused from an abandonment drill must participate in the next drill, so that each person participates in at least one abandonment drill each month. A drill must take place within 24 hours of a change in crew or industrial personnel if more than 25% of the persons on board have not participated in an abandonment drill on board the unit in the previous month.

(2) Each abandonment drill must include:

(i) Summoning of crew and industrial personnel to muster stations with the general alarm and making sure that they are made aware of how the order to abandon the unit is given, as specified in the station bill.

(ii) Simulation of an abandonment emergency which varies from drill to drill.

(iii) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular abandonment emergency being simulated.

(iv) Checking to see that crew members and industrial personnel are suitably dressed.

(v) Checking to see that lifejackets are correctly donned.

(vi) Lowering of at least one lifeboat after any necessary preparation for launching. The lifeboat must be lowered at least to the extent where the davit head has completed its travel and the fall wire has begun to pay out.

(vii) Starting and operating the lifeboat engine.

(viii) Operation of davits used for launching liferafts.

(4) Different lifeboats must, as far as practicable, be lowered to meet paragraph (b)(4)(v) of this section at successive drills.

(5) Each abandonment drill must, as far as practicable, be conducted as if there were an actual emergency.

(6) Each lifeboat must be launched with its assigned operating crew aboard and maneuvered in the water at least once every 3 months during an abandonment drill.

(7) Each rescue boat that is not also a lifeboat must be launched with its assigned crew aboard and maneuvered in the water—

(i) Once each month, if reasonable and practicable; but

(ii) At least once every 3 months.

(8) At least one drill every 3 months must be held at night, unless the master or person in charge determines it is unsafe.

(9) Emergency lighting for mustering and abandonment must be tested at each abandonment drill.

(c) The master or person in charge of a unit carrying immersion suits shall make sure that—

(1) Each member of the crew and industrial personnel either—

(i) Wears an immersion suit in at least one abandonment drill per month unless is is impracticable due to warm weather; or

(ii) Participates in at least one immersion suit drill per month that includes donning an immersion suit and being instructed in its use.

(d) Each member of the crew and industrial personnel on board the unit must be given training in the use of lifesaving appliances and the duties assigned in the station bill.

(1) Except as provided under paragraph (d)(2) of this section, onboard training in the use of the unit's lifesaving appliances, including survival craft equipment, must be given to each member of the crew and industrial personnel as soon as possible, but not later than 2 weeks after they join the unit.

(2) If the crew or industrial personnel are on a regularly scheduled rotating assignment to a unit, onboard training in the use of the unit's lifesaving appliances, including survival craft equipment, must be given to each member of the crew and industrial personnel not later than 2 weeks after the time the person first joins the unit.

(3) The crew and the industrial personnel must be instructed in the use of the unit's lifesaving appliances and in survival at sea on alternating weeks, normally in the weeks when abandonment drills are not held. If individual instruction sessions cover different parts of the unit's lifesaving system, all the unit's lifesaving equipment and appliances must be covered within each 2 month period.

(i) Each of the industrial personnel without designated responsibility for the survival of others on board, must be instructed in at least—

(A) The emergencies which might occur on that particular type of unit;

(B) The consequences of panic;

(C) The types of all lifesaving appliances carried on the unit and proper methods of using them, including—

(*1*) The correct method of donning and wearing a lifejacket, and if provided, an immersion suit;

(*2*) Jumping into the water from a height while wearing a lifejacket and, if provided, an immersion suit;

(*3*) How to board survival craft from the unit and from the water;

(*4*) Operation and use of the unit's inflatable liferafts;

(*5*) Special instructions necessary for use of the unit's lifesaving appliances in severe weather and severe sea conditions;

(*6*) Swimming while wearing a lifejacket; and

(*7*) Keeping afloat without a lifejacket;

(D) Where appropriate, how to survive in the water—

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(1) In the presence of fire or oil on the water;
(2) In cold conditions; and
(3) If sharks may be present;
(E) Problems of hypothermia, first-aid treatment for hypothermia and other appropriate first-aid procedures; and
(F) The need to adhere to the principles of survival; and
(G) The basic methods of boarding helicopters.
(ii) Each member of the crew and each of the industrial personnel with designated responsibility for the survival of others on board, must be instructed in at least the items covered in paragraph (d)(3)(i) of this section, and—
(A) Marshalling of personnel;
(B) Abandonment of the unit, including—
(1) Launching survival craft;
(2) Getting survival craft quickly and safely clear of the unit; and
(3) Righting a capsized survival craft;
(C) Handling all survival craft and their equipment, including—
(1) Checking and maintaining their readiness for immediate use;
(2) Using equipment to the best advantage;
(3) Using the sea anchor;
(4) Remaining, as far as practicable, in the general vicinity of the unit, well clear of but not downwind of any hydrocarbons or fire;
(5) Recovering and, as far as practicable, caring for other survivors;
(6) Keeping a look-out;
(7) Operating available means of detection by others, including radio distress alerting and radio emergency procedures; and
(8) Making proper use of food and drinking water and using protective measures in survival craft such as those for preventing exposure to cold, sun, wind, rain, and sea, and for preventing seasickness;
(D) Cautioning on the preservation of body fluids and the dangers of drinking seawater;
(E) Transferring personnel from survival craft to helicopters or to work boats;
(F) Maintaining morale; and
(G) Methods of helicopter rescue.
(4) Onboard training in the use of davit-launched liferafts must take place at intervals of not more than 4 months on each unit with davit-launched liferafts. Whenever practicable this must include the inflation and lowering of a liferaft. If this liferaft is a special liferaft intended for training purposes only, and not part of the unit's lifesaving equipment, it must be conspicuously marked.

§ 109.217 [Removed]

128. By removing § 109.217.

§ 109.219 [Removed]

129. By removing § 109.219.

§ 109.221 [Removed]

130. By removing § 109.221.

§ 109.225 [Removed]

131. By removing § 109.225.

Subpart C—Operation and Stowage of Safety Equipment

132. By revising § 109.301 to read as follows:

§ 109.301 Operational readiness.

(a) Except as provided in § 109.303(e), each item of firefighting equipment, each lifesaving appliance and each item of survival craft and rescue boat equipment must be in good working order and ready for immediate use at all times when the unit is in operation.
(b) Each deck where lifeboats and liferafts are stowed or boarded must be kept clear of obstructions that would interfere with the boarding and launching of the lifesaving appliances.

133. By adding a new § 109.303 to read as follows:

§ 109.303 Maintenance of lifesaving appliances.

(a) The manufacturer's instructions for onboard maintenance of lifesaving appliances must be onboard and must include the following for each appliance—
(1) Checklists for use when carrying out the inspections required under § 109.311(a);
(2) Maintenance and repair instructions;
(3) A schedule of periodic maintenance;
(4) A diagram of lubrication points with the recommended lubricants;
(5) A list of replaceable parts;
(6) A list of sources of spare parts; and
(7) A log for records of inspections and maintenance.
(b) The master or person in charge shall make sure that maintenance is carried out in accordance with the instructions required under paragraph (a) of this section.
(c) For lifesaving appliances constructed on or before July 1, 1986, paragraph (a) of this section need only be complied with to the extent that the manufacturer's instructions are available.
(d) The OCMI may accept, instead of the instructions required under paragraph (a) of this section, an onboard planned maintenance program that includes the items listed in that paragraph.
(e) If lifeboats, rescue boats, and rigid liferafts are maintained and repaired while the unit is in operation, there must be a sufficient number of lifeboats and liferafts available for use in at least two separate locations to accommodate all persons on board.
(f) Except in an emergency, extensive repairs or alterations must not be made to any lifesaving appliance without advance notification of the OCMI. Insofar as possible, each repair or alteration must be made in accordance with the requirements for the lifesaving appliance in Subchapter Q of this chapter. The OCMI may require each lifesaving appliance that has been altered or extensively repaired to be subjected to each test for the appliance in Subchapter Q of this chapter that is affected by the repair or alteration.
(g) The master or person in charge shall report each emergency repair or alteration to a lifesaving appliance as soon as practicable to the OCMI responsible for the area where the unit is operating.
(h) A lifeboat or rigid liferaft must not be repaired or reconditioned for use on a unit other than the one it was originally built for, unless specifically permitted by the OCMI. If required by the OCMI, the repair or reconditioning of the lifeboat or rigid liferaft must be made under the OCMI's supervision.

134. By revising § 109.305 to read as follows:

§ 109.305 Maintenance of falls.

(a) Except as provided under paragraph (d) of this section, each fall used in a launching appliance must be turned end for end at intervals of not more than 30 months.
(b) Each fall must be renewed when necessary due to deterioration or at intervals of not more than 5 years, whichever is the earlier.
(c) Each fall must have a corrosion-resistant tag with the following permanently marked on it:
(1) The date the new fall was installed.
(2) If the fall has been turned end for end, the date it was turned.
(d) A fall which can not be turned end for end must be carefully inspected between 24 and 30 months after its installation. If the inspection shows that the fall is faultless, the fall may be continued in service up to 48 months after its installation, when it must be replaced.

135. By revising § 109.307 to read as follows:

§ 109.307 Spare parts and repair equipment for lifesaving appliances.

Spare parts and repair equipment must be on board the unit for each lifesaving appliance and component subject to excessive wear or consumption and that needs to be replaced regularly.

136. By adding a new § 109.309 to read as follows:

§ 109.309 Weekly inspection of lifesaving appliances.

The following tests and inspections must be carried out weekly:
(a) Each survival craft, rescue boat and launching appliance must be visually inspected to ensure its readiness for use.
(b) Each lifeboat engine and rescue boat engine must be run ahead and astern for not less than 3 min., unless the ambient temperature is below the minimum temperature required for starting the engine.
(c) The general alarm system must be tested.
(d) Each battery for lifeboat and rescue boat engine starting, searchlights, fixed lifeboat radio installations, and portable radio apparatus must be brought up to full charge at least once each week if—
(1) The battery is of a type that requires recharging; and
(2) The battery is not connected to a device that keeps it continuously charged.
(e) The transmitter of each portable radio apparatus must be tested at least once each week using a dummy antenna load.

137. By adding a new § 109.311 to read as follows:

§ 109.311 Monthly inspections of lifesaving appliances.

(a) Each lifesaving appliance, including lifeboat equipment, must be inspected monthly using the checklist required under § 109.303(a)(1) to make sure it is complete and in good order. A report of the inspection, including a statement as to the condition of the equipment, must be recorded in the unit's official logbook.
(b) Each EPIRB and each SART other than an EPIRB or SART in an inflatable liferaft, must be tested monthly. The EPIRB must be tested using the integrated test circuit and output indicator to determine that it is operative.

138. By revising § 109.313 to read as follows:

§ 109.313 Quarterly inspections of lifesaving appliances.

(a) Each lifeboat winch control apparatus, including motor controllers, emergency switches, master switches, and limit switches must be examined once each three months.
(b) The examination must include the removal of drain plugs and the opening of drain valves to make sure that enclosures are free of water.
(c) The date of the examination required under this section and the condition of the equipment must be noted in the official logbook.

§ 109.314 [Removed]

139. By removing § 109.314.

140. By adding a new § 109.315 to read as follows:

§ 109.315 Annual inspection and repair of lifesaving appliances.

(a) Each lifeboat, rescue boat and rigid liferaft must be stripped, cleaned, and thoroughly inspected and repaired as needed at least once each year, including emptying and cleaning of each fuel tank, and refilling it with fresh fuel.
(b) Each davit, winch, fall and other launching appliance must be thoroughly inspected and repaired as needed once each year.
(c) Each item of survival equipment with an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.
(d) Each battery used in an item of survival equipment and clearly marked with a date identified as an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.
(e) Except for a storage battery used in a lifeboat or rescue boat, each battery without an expiration date used in an item of survival equipment must be replaced during the annual inspection and repair.
(f) The requirements in this section do not relieve the master or person in charge of the requirement under § 109.301(a) to keep the equipment ready for immediate use.

141. By revising § 109.317 to read as follows:

§ 109.317 Servicing of inflatable liferafts, inflatable lifejackets and inflated rescue boats.

(a) Each inflatable liferaft, inflatable lifejacket, and hybrid inflatable lifejacket or work vest must be serviced—
(1) Within 12 months of its initial packing; and
(2) Within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the unit, provided that the delay does not exceed 5 months.
(b) Each inflatable liferaft must be serviced—
(1) Whenever the container of the raft is damaged, or the straps or seal broken; and
(2) In accordance with the servicing procedure under Subpart 160.051 of this chapter.
(c) Each inflatable lifejacket must be serviced in accordance with the servicing procedure under Subpart 160.076 of this chapter.
(d) Each hybrid inflatable lifejacket or work vest must be serviced in accordance with the servicing procedure under Subpart 160.077 of this chapter.
(e) Repair and maintenance of inflated rescue boats must be in accordance with the manufacturer's instructions. All repairs must be made at a servicing facility approved by the Commandant (G–MVI), except for emergency repairs carried out on board the vessel.

142. By adding a new § 109.319 to read as follows:

§ 109.319 Periodic servicing of hydrostatic release units.

(a) Each hydrostatic release unit must be serviced—
(1) Within 12 months of its manufacture and within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the unit, provided that the delay does not exceed 5 months; and
(2) In accordance with the repair and testing procedures under Subpart 160.062 of this chapter.
(b) The springs of each spring-tensioned gripe used with a hydrostatic release unit must be renewed when the unit is serviced and tested.

§ 109.320 [Removed]

143. By removing § 109.320.

§ 109.321 [Removed]

144. By removing § 109.321.

145. By revising § 109.323 to read as follows:

§ 109.323 Manning of survival craft and supervision.

(a) A merchant mariner's document endorsement as a lifeboatman or another inclusive rating under Part 12 of this Title is evidence of training in survival craft and serves as a certificate of proficiency. For the purposes of this section, a "certificated person" is a person holding a merchant mariner's document with such an endorsement.
(b) There must be a sufficient number of trained persons on board for mustering and assisting untrained persons.

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(c) There must be a sufficient number of deck officers, able seamen, or certificated persons on board to operate the survival craft and launching arrangements required for abandonment by the total number of persons permitted on board.

(d) One person must be placed in charge of each survival craft to be used.

(1) The person in command must be a deck officer, able seaman, or certificated person.

(2) A deck officer, able seaman, or certificated person must be designated second-in-command for each lifeboat permitted to carry more than 40 persons.

(e) The person in charge of each survival craft shall have a list of the survival craft crew and shall see that the crewmembers are acquainted with their duties. The second-in-command of a lifeboat shall also have a list of the lifeboat crew.

(f) Each motorized survival craft must have a person assigned who is capable of operating the engine and carrying out minor adjustments.

(g) The master or person in charge shall make sure the persons required under paragraphs (b), (c), and (d) of this section are equitably distributed among the unit's survival craft.

§ 109.325 [Removed]

146. By removing § 109.325.

§ 109.341 [Removed]

147. By removing § 109.341.

148. By revising § 109.425 to read as follows:

§ 109.425 Repairs and alterations: fire detecting and extinguishing equipment.

(a) Before making repairs or alterations, except emergency repairs or alterations to fire detecting and extinguishing equipment, the master or person in charge shall report the nature of the repairs or alterations to the Officer in Charge, Marine Inspection.

(b) When emergency repairs or alterations to fire detecting or fire extinguishing equipment have been made, the master or person in charge shall report the nature of the repairs or alterations to the Officer in Charge, Marine Inspection.

149. By revising paragraphs (d) and (e) of § 109.433 to read as follows:

§ 109.433 Logbook Entries.

* * * * *

(d) The date when fire drills are held, and details of fire fighting training and fire drills. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill or training session.

(3) Number and lengths of hose used.

(4) Subject of training session.

(5) Statement as to the condition of the equipment used.

(6) If a full drill or training session is not held at the appointed time, the circumstances and the extent of the drill or training session held.

(e) The date when musters are held, details of abandonment drills, drills of other lifesaving appliances and onboard training. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill or training session.

(3) Identification of survival craft used in drills.

(4) Subject of training session.

(5) Statement as to the condition of the equipment used.

(6) If a full muster, drill or training session is not held at the appointed time, the circumstances and the extent of the muster, drill or training session held.

* * * * *

By revising the title of Subpart E to read as follows:

Subpart E—Emergency Signals

§ 109.501 [Removed]

150. By removing § 109.501.

151. By removing and reserving paragraph (a), by revising the section heading, and by revising paragraph (c)(2) of § 109.503 to read as follows:

§ 109.503 Emergency signals.

(a) [reserved]

* * * * *

(c) * * *

(2) If whistle signals are used to direct the handling of lifeboats and davit-launched liferafts, they must be—

(i) One short blast to lower the lifeboats and davit-launched liferafts; and

(ii) Two short blasts to stop lowering the lifeboats and davit-launched liferafts.

* * * * *

§ 109.505 [Removed]

152. By removing § 109.505.

SUBCHAPTER J—ELECTRICAL ENGINEERING

PART 112—EMERGENCY LIGHTING AND POWER SYSTEMS

153. The authority citation for Part 112 is revised to read as follows:

Authority: 46 U.S.C. 2113, 3306, 3703, 4104; 49 CFR 1.46.

Subpart 112.15—Emergency Loads

154. By revising paragraphs (c) and (g) of § 112.15–1 to read as follows:

§ 112.15–1 Temporary emergency loads.

* * * * *

(c) Lighting for passageways, stairways, and escape trunks in passenger quarters, crew quarters, public spaces, machinery spaces, and work spaces sufficient to allow passengers and crew to find their way to open decks and to survival craft muster stations and embarkation stations with all watertight doors and fire-screen doors closed.

* * * * *

(g) Lighting for survival craft launching, including muster stations, embarkation stations, the survival craft, its launching appliance, and the area of the water where it is to be launched. Lights must meet § 111.75–16 and 112.43–11.

* * * * *

155. By adding a new paragraph (u) to § 112.15–5 to read as follows:

§ 112.15–5 Final emergency loads.

* * * * *

(u) Each stabilizer wing and indicator that must be movable to prevent damage to survival craft.

SUBCHAPTER O—CERTAIN BULK DANGEROUS CARGOES

PART 154—SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUIFIED GASES

156. The authority citation for Part 154 continues to read as follows:

Authority: 46 U.S.C. 3703; E.O. 12234, 3 CFR, 1980 Comp. p. 277; 49 CFR 1.46.

§ 154.1445 [Removed]

157. By removing § 154.1445

SUBCHAPTER Q—EQUIPMENT, CONSTRUCTION, AND MATERIALS: SPECIFICATIONS AND APPROVAL

PART 160—LIFESAVING EQUIPMENT

158. The authority citation for Part 160 is revised to read as follows and all other authority citations in Part 160 are removed:

Authority: 46 U.S.C. 3306, 3703, 4102, 4302; 49 CFR 1.46.

Subpart 160.040—Line-Throwing Appliance; Impulse-Projected Rocket Type (and Equipment)

159. By revising § 160.040–6 to read as follows:

§ 160.040–6 Marking and labeling.

(a) Each line throwing appliance must be permanently and legibly marked with the—

(1) Model designation;

(2) Serial number;

(3) Coast Guard approval number; and

(4) Name of the manufacturer.

(b) Each projectile must be permanently and legibly marked with the—

(1) Model designation;

(2) Coast Guard approval number;

(3) Name of the manufacturer;

(4) Month and year manufactured; and

(5) Expiration date that must not be more than 48 months after the date of manufacture.

(c) Each primer-ejector cartridge must be permanently and legibly marked with the—

(1) Model designation;

(2) Coast Guard approval number;

(3) Name of the manufacturer;

(4) Month and year manufactured; and

(5) Expiration date that must not be more than 48 months after the date of manufacture.

(d) Each container of new service line must be permanently and legibly marked with—

(1) The name of the manufacturer;

(2) The month and year manufactured; and

(3) A statement to the effect that in all respects the line meets the applicable requirements of this subpart.

(e) Each faking box and reel must bear the name of the manufacturer.

§§ 160.042–1 through 160.142–5 [Removed]

160. By removing Subpart 160.042 (consisting of §§ 160.042–1 through 160.142–5).

PART 161—ELECTRICAL EQUIPMENT

161. The authority citation for Part 161 is revised to read as follows and all other authority citations in Part 161 are removed:

Authority: 46 U.S.C. 3306, 3703, 4104; 49 CFR 1.46.

§§ 161.006–1 through 161.006–6 [Removed]

161a. By removing Subpart 161.006 (consisting of§§ 161.006–1 through 161.006–6).

SUBCHAPTER R—NAUTICAL SCHOOLS

161b. The following Table of Contents for Part 167 reflects revised Subpart 167.35 to read as follows:

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

Subpart 167.35—Lifesaving Appliances and Arrangements

Sec.

167.35–1 General.
167.35–5 Emergency signals.
167.35–10 Manning of survival craft and supervision.
167.35–90 Operational readiness, maintenance and inspection of lifesaving equipment.

* * * * *

162. The authority citation for Part 167 is revised to read as follows:

Authority: 46 U.S.C. 3306, 6101; 49 CFR 1.46.

Subpart 167.15—Inspections

163. By adding a new § 167.15–27 to read as follows:

§ 167.15–28 Inspection of lifesaving appliances and arrangements.

(a) At each initial inspection, one of the following must be done in the presence of a marine inspector:

(1) The tests and inspections under § 71.20–20(a)(1) of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements.

(2) The tests and inspections under § 91.20–20(a)(1) of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

(b) At each inspection for certification, one of the following must be done in the presence of a marine inspector:

(1) The tests and inspections under § 71.25–15 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements.

(2) The tests and inspections under § 91.25–15 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

164. By revising Subpart 167.35 to read as follows:

Subpart 167.35—Lifesaving Appliances and Arrangements

§ 167.35–1 General.

Lifesaving appliances and arrangements on public nautical school ships must meet the requirements for nautical school ships in Subchapter W of this chapter.

§ 167.35–5 Emergency signals.

The various signals used to call the crew to their stations and to give instructions to the crew must be listed on the station bill required under § 199.80 of this chapter. The signals must meet—

(a) Section 76.13–1 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(b) Section 97.13–1 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

§ 167.35–10 Manning of survival craft and supervision.

The manning of survival craft and their supervision must meet—

(a) Subpart 78.14 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(b) Subpart 97.14 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

§ 167.35–90 Operational readiness, maintenance and inspection of lifesaving equipment.

The operational readiness, maintenance, and inspection of lifesaving equipment must be as required under—

(a) Subpart 78.95 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(b) Subpart 97.90 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

Subpart 167.55—Special Markings Required

165. By revising paragraph (j) and adding paragraphs (k), (l), (m), (n), and (o) of § 167.55–5 to read as follows:

§ 167.55–5 Marking of fire and emergency equipment, etc.

* * * * *

(j) *Lifeboats and rescue boats.* Each lifeboat and rescue boat must be marked as required under—

(1) Section 78.47–60 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(2) Section 97.37–37 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

(k) *Rigid liferafts.* Each rigid liferaft must be marked as required under—

(1) Section 78.47–62 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

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(2) Section 97.37–39 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

(l) *Inflatable liferafts.* Markings for each inflatable liferaft must be as required under—

(1) Section 78.47–63 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(2) Section 97.37–40 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

(m) *Life floats and buoyant apparatus.* Each life float and buoyant apparatus must be marked as required under—

(1) Section 78.47–64 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(2) Section 97.37–42 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

(n) *Lifejackets, immersion suits, and ring life buoys.* Each lifejacket, immersion suit, and ring life buoy must be marked as required under—

(1) Section 78.47–65 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(2) Section 97.37–43 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

(o) *EPIRBs and SARTs.* Each EPIRB and each SART must be marked as required under—

(1) Section 78.47–72 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(2) Section 97.37–55 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

Subpart 167.65—Special Operating Requirements

166. By revising § 167.65–1 to read as follows:

§ 167.65–1 Abandon-ship training and drills.

(a) Abandon-ship training and drills must be conducted as required under—

(1) Section 78.17–50 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(2) Section 97.15–35 of this chapter for each public nautical school ship provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

(b) Wherever the term "passenger" is used in § 78.17–50 or § 97.15–35 of this chapter, it shall be interpreted as meaning a—

(1) Student;

(2) Cadet; and

(3) Instructor who is not also a member of the crew.

167. By adding a new § 167.65–2 to read as follows:

§ 167.65–2 Fire drills.

(a) A fire drill must be conducted on each vessel in alternating weeks. The fire drill must not be conducted as part of the abandon-ship drill, nor immediately prior to or after the abandon-ship drill. If a fire drill can not be held during the appointed week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(b) Any member of the crew excused from a fire drill must participate in the next drill, so that each member participates in at least one fire drill each month. If more than 25% of the crew have not participated in a fire drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port if reasonable and practicable, but not later than 24 hours after the vessel leaves port. The Commandant (G–MVI) may accept other arrangements that are at least equivalent for those vessels where this is impractical.

(c) Each fire drill must include:

(1) Summoning of the crew and other persons on board to their stations with the general alarm.

(2) Simulation of a fire emergency which varies from drill to drill.

(3) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular fire emergency being simulated.

(4) Starting of fire pumps and use of a sufficient number of outlets to determine that the system is in proper working order.

(5) Bringing out each breathing apparatus and other item of rescue and safety equipment from the emergency equipment lockers, and demonstrating the use of each item by the person or persons designated to use it.

(6) Operating each watertight door used while the vessel is underway.

(7) Operation of each self-closing fire door.

(8) Closing all fire doors and doors in fire boundaries.

(d) Each fire drill must, as far as practicable, be conducted as if there were an actual emergency.

(e) The date when fire drills are held, and details of fire drills must be recorded in the vessel's official logbook. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill.

(3) Number and lengths of hose used.

(4) Statement as to the condition of the equipment used.

(5) If a full drill is not held at the appointed time, the circumstances and the extent of the drill held.

§ 167.65–55 [Removed]

168. By removing § 167.65–55.

PART 168—CIVILIAN NAUTICAL SCHOOL VESSELS

169. The authority citation for Part 168 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

Subpart 168.05—General Requirements

170. By revising § 168.05–5 to read as follows:

§ 168.05–5 Application of passenger vessel inspection regulations.

Except for requirements covered specifically by this part, all of the following regulations applying to passenger vessels apply to each vessel and item of floating equipment used by or in connection with a civilian nautical school:

(a) For vessels 100 gross tons and over, Subchapter H (Passenger Vessels) of this chapter, and all other regulations in this chapter applicable to passenger vessels 100 gross tons and over.

(b) For vessels less than 100 gross tons, Subchapter T (Small Passenger Vessels) of this chapter, and all other regulations in this chapter applicable to passenger vessels less than 100 gross tons.

SUBCHAPTER U—OCEANOGRAPHIC RESEARCH VESSELS

PART 188—GENERAL PROVISIONS

171. The authority citation for Part 188 is revised to read as follows:

Authority: 46 U.S.C. 2113, 3306; 49 CFR 1.46.

172–173. By adding a new Subpart 188.27 to read as follows:

Subpart 188.27—Lifesaving Appliances and Arrangements.

§ 188.27–1 General.

Lifesaving appliances and arrangements on oceanographic research vessels must meet the requirements for special purpose ships in Subchapter W of this chapter.

PART 189—INSPECTION AND CERTIFICATION

174. The authority citation for Part 189 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

Subpart 189.20—Initial Inspection

175. By revising paragraph (a)(1) of § 189.20–20 to read as follows:

§ 189.20–20 Specific tests and inspections.

(a) * * *

(1) The tests and inspections under § 71.20–20(a)(1) of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or the tests and inspections under § 91.20–20(a)(1) of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

* * * * *

Subpart 189.25—Inspection for Certification

176. By revising § 189.25–15 to read as follows:

§ 189.25–15 Lifesaving equipment.

At each inspection for certification, one of the following must be done in the presence of a marine inspector:

(a) The tests and inspections under § 71.25–15 of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting passenger vessel requirements.

(b) The tests and inspections under § 91.25–15 of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

PART 192—LIFESAVING EQUIPMENT

177. By removing and reserving Part 192.

177a. The following Table of Contents for Part 196 reflects new or revised subparts to read as follows:

PART 196—OPERATIONS

Subpart 196.00—Incorporation by Reference

Sec.

196.00–1 Incorporation by reference.

* * * * *

Subpart 196.13—Emergency Signals

196.13–1 Emergency Signals.

Subpart 196.14—Manning of Survival Craft and Supervision

196.14–1 General.

Subpart 196.90—Operational Readiness, Maintenance and Inspection of Lifesaving Equipment

196.90–20 Operational readiness.

Subpart 196.95—Pilot Boarding Operations

* * * * *

178. The authority citation for Part 196 continues to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

179. By adding Subpart 196.00 to read as follows:

Subpart 196.00—Incorporation by Reference

§ 196.00–1 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of change must be published in the Federal Register and the material made available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street NW., Washington, DC, and at the U.S. Coast Guard, Merchant Vessel Inspection Division (G–MVI), 2100 Second Street SW., Washington, DC 20593–0001, and is available from the source indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected are:

International Maritime Organization (IMO)

Publications Section, 4 Albert Embankment, London SE1 7SR, England

Resolution [LSR 19/WP.4, Annex 3], "Guidelines Concerning the Use and Fitting of Retroreflective Materials on Life-saving Appliances", June 1987—196.37–37; 196.37–43

180. By revising Subpart 196.13 to read as follows:

Subpart 196.13—Emergency Signals

§ 196.13–1 Emergency signals.

The various signals used to call the crew to their stations and to give instructions to the crew must be listed on the station bill required under § 199.80 of this chapter. The signals must meet—

(a) Section 78.13–1 of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(b) Section 97.13–1 of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

181. By revising Subpart 196.14 to read as follows:

Subpart 196.14—Manning of Survival Craft and Supervision

§ 196.14–1 General.

The manning of survival craft and their supervision must meet—

(a) Subpart 78.14 of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(b) Subpart 97.14 of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

Subpart 196.15—Tests, Drills, and Inspections

§ 196.15–25 [Amended]

182. By removing § 196.15–25(a)(3).

183. By revising § 196.15–35 to read as follows:

§ 196.15–35 Abandon-ship training and drills.

(a) Abandon-ship training and drills must be conducted as required under—

(1) Section 78.17–50 of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(2) Section 97.15–35 of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

(b) Wherever the term "passenger" is used in § 78.17–50 or § 97.15–35 of this chapter, it shall be interpreted as meaning one of the scientific personnel on an oceanographic research vessel for the purposes of this section.

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§ 196.15–37 [Removed]

184. By removing § 196.15–37.

185. By revising § 196.15–40 to read as follows:

§ 196.15–40 Fire drills.

(a) A fire drill must be conducted on each vessel in alternating weeks. The fire drill must not be conducted as part of the abandon-ship drill, nor immediately prior to or after the abandon-ship drill. If a fire drill cannot be held during the appointed week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(b) Any member of the crew excused from a fire drill must participate in the next drill, so that each member participates in at least one fire drill each month. If more than 25% of the crew have not participated in a fire drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port if reasonable and practicable, but not later than 24 hours after the vessel leaves port. The Commandant (G–MVI) may accept other arrangements that are at least equivalent for those vessels where this is impractical.

(c) Each fire drill must include:

(1) Summoning of scientific personnel and crew to their stations with the general alarm.

(2) Simulation of a fire emergency which varies from drill to drill.

(3) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular fire emergency being simulated.

(4) Starting of fire pumps and use of a sufficient number of outlets to determine that the system is in proper working order.

(5) Bringing out each breathing apparatus and other item of rescue and safety equipment from the emergency equipment lockers, and demonstrating the use of each item by the person or persons designated to use it.

(6) Operating each watertight door used while the vessel is underway.

(7) Operation of each self-closing fire door.

(8) Closing all fire doors and doors in fire boundaries.

(d) Each fire drill must, as far as practicable, be conducted as if there were an actual emergency.

(e) The date when fire drills are held, and details of fire drills must be recorded in the vessel's official logbook. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill.

(3) Number and lengths of hose used.

(4) Statement as to the condition of the equipment used.

(5) If a full drill is not held at the appointed time, the circumstances and the extent of the drill held.

§ 196.15–45 [Removed]

186. By removing § 196.15–45.

§ 196.15–50 [Removed]

187. By removing § 196.15–50.

§ 196.15–65 [Removed]

188. By removing § 196.15–65.

§ 196.15–70 [Removed]

189. By removing § 196.15–70.

190. By revising paragraphs (a)(1) and (a)(6) of § 196.35–5 to read as follows:

§ 196.35–5 Actions required to be logged.

(a) * * *

(1) Abandon-ship training and drills, and fire drills. As held. See §§ 196.15–35 and 196.15–40.

* * * * * * *

(6) Survival craft winches. Once in each three months. See § 196.90–73.

* * * * * * *

Subpart 196.37—Markings for Fire and Emergency Equipment, etc.

191. By revising § 196.37–37 to read as follows:

§ 196.37–37 Lifeboats and rescue boats.

(a) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 75 mm (3 in.) high:

(1) The name of the vessel.

(2) The number of the boat. The boats on each side of the vessel must be numbered from forward to aft. If there are boats on both sides of the vessel, the odd numbers must be on the starboard side.

(3) For vessels in ocean service, the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 35 mm (1.5 in.) high:

(1) The length and beam of the boat.

(2) The number of persons capacity of the boat. This number must—

(i) Be the number of persons the lifeboat is equipped for; and

(ii) Not be greater than the number of persons the boat is approved for, as shown on its nameplate.

(c) The following must be plainly marked or painted on each lifeboat and rescue boat in at least two places visible from above the boat in letters and numbers not less than 75 mm (3 in.) high:

(1) The number of persons capacity of the boat.

(2) The name of the vessel.

(d) The name of the vessel must be plainly marked or painted on each oar and paddle.

(e) On or before July 1, 1991, each lifeboat and rescue boat must be marked with Type II retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

192. By adding a new § 196.37–39 to read as follows:

§ 196.37–39 Rigid liferafts.

(a) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 75 mm (3 in.) high:

(1) The name of the vessel.

(2) The number of the liferaft. Liferafts stowed on the sides of the vessel must be numbered in the same manner as the lifeboats.

(3) For vessels in ocean service, the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 35 mm (1.5 in.) high:

(1) Either "SOLAS A Pack" or "SOLAS B Pack" depending upon its equipment under § 199.143(b) or § 199.143(c) of this chapter.

(2) The length of the painter.

(c) The number of persons capacity must be plainly marked or painted over each entrance to each rigid liferaft in letters and numbers at least 100 mm (4 in.) high, in a color contrasting to that of the liferaft. This number must—

(1) Be the number of persons the liferaft is equipped for; and

(2) Not be greater than the number of persons the liferaft is approved for, as shown on its nameplate.

(d) The name of the vessel must be plainly marked or painted on each paddle.

193. By revising § 196.37–40 to read as follows:

§ 196.37–40 Inflatable liferafts.

The number of the liferaft and the number of persons it is permitted to accommodate must be marked or painted in a conspicuous place in the immediate vicinity of each inflatable liferaft in letters and numbers at least 35 mm (1.5 in.) high. Liferafts stowed on the sides of the vessel must be numbered in the same manner as the lifeboats. This marking must not be on the inflatable liferaft container.

194. By adding a new § 196.37–42 to read as follows:

§ 196.37–42 Life floats and buoyant apparatus.

(a) The name of the vessel must be plainly marked or painted on each life float and buoyant apparatus, together with their oars and paddles.

(b) The number of persons capacity must be plainly marked or painted on each life float and buoyant apparatus in letters and numbers at least 35 mm (1.5 in.) high. This number must—

(1) Be the number of persons the device is equipped for; and

(2) Not be greater than the number of persons the device is approved for, as shown on its nameplate.

195. By revising § 196.37–43 to read as follows:

§ 196.37–43 Lifejackets, immersion suits, and ring life buoys.

(a) Each lifejacket, immersion suit, and ring life buoy must be marked in block capital letters with the vessel's name.

(b) Each container for lifejackets and immersion suits must be marked in letters and numbers at least 50 mm (2 in.) high with the number and identification of the items stowed inside and their size.

(c) Each ring life buoy on a vessel in ocean service must be marked in block capital letters with the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(d) Each stowage position for a ring life buoy must be marked "LIFE BUOY".

(e) Each lifejacket must be marked with Type I retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

(f) On or before July 1, 1991, each ring life buoy must be marked with Type II retroreflective material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO Resolution [LSR 19/WP.4, Annex 3].

Note: Each approved immersion suit is provided with retroreflective material by the manufacturer of the suit.

196. By revising § 196.37–49 to read as follows:

§ 196.37–49 EPIRBs and SARTs.

The name of the vessel must be plainly marked or painted on each Emergency Position Indicating Radio Beacon (EPIRB) and on each Search and Rescue Transponder (SART), except for an EPIRB or SART—

(a) In an inflatable liferaft; or

(b) Permanently installed in a survival craft.

§ 196.39–1 [Removed]

197. By removing Subpart 196.39 (consisting of § 196.39–1).

198. By revising Subpart 196.90 to read as follows:

Subpart 196.90—Operational Readiness, Maintenance and Inspection of Lifesaving Equipment

§ 196.90–20 Operational readiness.

The operational readiness, maintenance, and inspection of lifesaving equipment must be as required under—

(a) Subpart 78.95 of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting passenger vessel requirements, or

(b) Subpart 97.90 of this chapter for each oceanographic research vessel provided with lifesaving appliances and arrangements meeting cargo and miscellaneous vessel requirements.

M.J. Schiro,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

Dated: September 8, 1988.

Editorial Note: This document was received by the Office of the **Federal Register**, April 5, 1989.

[FR Doc. 89–8366 Filed 4–20–89; 8:45 am]

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Part III

Department of Health and Human Services

Food and Drug Administration

Cumulative List of Orphan-Drug and Biological Designations; Notice

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84N-0102]

Cumulative List of Orphan-Drug and Biological Designations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) previously announced the availability of a list, which is brought up-to-date quarterly, identifying the drugs and biologicals granted orphan-drug designation pursuant to section 526 of the Federal Food, Drug, and Cosmetic Act (54 FR 7100; February 16, 1989). The printing and format errors which occurred in the list could not adequately be amended by a correction notice. Therefore, by this notice, FDA is announcing a revised publication of the notice of availability of the cumulative list of designated orphan drugs and biological products as of December 31, 1988. This notice supersedes the notice of February 16, 1989.

ADDRESS: Copies of the revised publication of the list of current orphan-drug designations and of any future lists are or will be available from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Aleta M. Sindelar, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4903.

SUPPLEMENTARY INFORMATION: FDA's Office of Orphan Products Development reviews and takes final action on applications submitted by sponsors seeking orphan-drug designation under section 526 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360bb). In accordance with this section of the act, which requires public notification of designations, FDA maintains a list of designated orphan drugs and biological products. This list is made current on a quarterly basis and is available upon request from FDA's Dockets Management Branch (address above). Those requesting a copy of the list should specify the docket number found in brackets in the heading of this document. At the end of each calendar year, the agency intends to publish in the **Federal Register** an up-to-date cumulative list of designated orphan drugs and biological products including the names of designated compounds, the specific disease/condition for which the compounds are designated, and the sponsors' names and addresses. The cumulative list of compounds receiving orphan-drug designation through 1987 was published in the **Federal Register** of January 29, 1988 (53 FR 2680).

The list that is the subject of this notice consists of designated orphan drugs and biological products through December 31, 1988, and, therefore, brings the January 29, 1988, publication up to date. This list was initially printed in the **Federal Register** notice of February 16, 1989 (54 FR 7100). However, typographical errors as well as format revisions in the list occurred at the time of publication. These errors could not adequately be amended by a correction notice. This revised publication of designated orphan drugs through December 31, 1988, will supersede the February 16, 1989, notice.

The orphan-drug designation of a drug or biological product applies only to the sponsor who requested the designation. Each sponsor interested in developing an orphan drug or biological product must apply for orphan-drug designation to obtain exclusive marketing rights. Any request for designation is required to be received by FDA before the submission of a marketing application for the proposed indication for which designation is requested. (See 53 FR 47577; November 23, 1988.) Copies of the interim guidelines for use in preparing an application for orphan-drug designation may be obtained from the Office of Orphan Products Development (HF-35) (contact identified above).

The names used in this notice for the drug and biological products that have not been approved/licensed for marketing may not be the established/proper names approved by FDA for these products if they are eventually approved/licensed for marketing. Because these products are investigational, some may not have been reviewed for purposes of assigning the most appropriate established proper name.

Dated: March 15, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

ORPHAN DRUG AND BIOLOGICAL DESIGNATIONS THROUGH 1988

[Approved for Marketings*]

[Exclusive Approval**]

Biological Designations		
Name of biological	Designated use	Sponsor's name and address
Generic—alpha-1-anti-trypsin (recombinant DNA origin). *Trade*—Not established	Supplementation therapy for alpha-1 antitrypsin deficiency in the ZZ phenotype population.	Cooper Biomedical, 3145 Porter Drive, Palo Alto, CA 94304.
Generic—alpha-1-proteinase inhibitor (Alpha-1 PI). *Trade*—Prolastin */**	Replacement therapy in the Alpha 1 PI congenital deficiency state.	Cutter Laboratories, P.O. Box 1986, Berkeley, CA 94701
Generic—anti-J5mAb *Trade*—Not established	Treatment of patients with gram-negative bacteremia which has progressed to endotoxin shock.	Centocor, Inc., 244 Great Valley, Malvern, PA 19355.
Generic—antimelanoma antibody XMMME-01-RTA. *Trade*—Same as generic	Treatment of Stage III melanoma not amenable to surgical resection.	XOMA Corporation, 3516 Sacramento St., San Francisco, CA 94116.
Generic—anti-TAP-72 immunotoxin *Trade*—XOMAZYME-791	Treatment of metastatic colorectal adenocarcinoma.	XOMA Corporation, 2910 Seventh Street, Berkeley, CA 94710.

ORPHAN DRUG AND BIOLOGICAL DESIGNATIONS THROUGH 1988—Continued

[Approved for Marketings*]

[Exclusive Approval**]

Biological Designations		
Name of biological	Designated use	Sponsor's name and address
Generic—antithrombin III(AT-III) *Trade*—Not established	Replacement therapy in congenital deficiency of AT-III for prevention and treatment of thrombosis and pulmonary emboli.	Cutter Laboratories, P.O. Box 1986, Berkeley, CA 94701.
Generic—antithrombin III concentrate I.V. *Trade*—Kybernin	Prophylaxis and treatment of thromboembolic episodes in patients with genetic AT-III deficiency.	Hoechst-Roussell, Route 202-206 North, Somerville, NJ 08876.
Generic—antithrombin III (human) *Trade*—Antithrombin	Hereditary AT-III deficiency	Kabi Vitrum, Inc., 1311 Harbor Bay Pkwy., Alameda, CA 94501
Generic—antithrombin III (human) *Trade*—Antithrombin III (human)	Preventing or arresting episodes of thrombosis in patients with congenital antithrombin III deficiency and/or to prevent the occurrence of thrombosis in patients with antithrombin III deficiency who have undergone trauma or who are about to undergo surgery or parturition.	American National Red Cross, National HDQ, 17th and E St., NW., Washington, DC 20006
Generic—benzylpenicillin, benzylpenicilloic acid, and benzylpenilloic acid. *Trade*—Pre-Pen/MDM	Assessing the risk of administrating penicillin when it is the preferred drug of choice in adult patients who have previously received penicillin and have a history of clinical hypersensitivity.	Kremers-Urban Co., P.O. Box 2038, Milwaukee, WI 53201.
Generic—botulinum A toxin *Trade*—Oculinum	Treatment of strabismus Treatment of blepharospasm	Alan B. Scott, M.D., 2232 Webster Street, San Francisco, CA 94115.
Generic—botulinum toxin *Trade*—Ortholinum	Treatment of spasmodic torticollis	Alan B. Scott, M.D., 2232 Webster Street, San Francsco, CA 94115.
Generic—CD5-T Lymphocyte Immunotoxin *Trade*—XOMAZYME-H65	For ex-vivo treatment to eliminate mature T cells from potential bone marrow grafts. For in-vivo treatment of bone marrow recipients to prevent graft rejection and graft vs host disease (GVHD). Treatment of graft vs host disease (GVHD) and/or rejection in patients who have received bone marrow transplants.	XOMA Corporation, 2910 Seventh Street, Berkeley, CA 94710.
Generic—cytomegalovirus Immune Globulin (Human). *Trade*—Not established	Prevention or attenuation of primary cytomegalovirus disease in immunosuppressed recipients of organ transplants.	Massachusetts Public Health Biologic Labs, 305 South Street, Jamaica Plain, MA 02130.
Generic—digoxin Immune Fab (Ovine) *Trade*—Digidote	Life-threatening acute cardiac glycoside intoxication manifested conduction disorders, ectopic ventricular activity and (in some cases) hyperkalemia.	Boehringer Mannheim, 1301 Piccard Drive, Rockville, MD 20850.
Generic—digoxin Immune Fab (Ovine) *Trade*—Digibind*/**	Treatment of potentially life-threatening digitalis intoxication in patients who are refractory to management by conventional therapy.	Burroughs-Wellcome, 3030 Cornwallis Road, Research Triangle Park, NC 27709.
Generic—erwinia l-asparaginase Trade—Not established	Treatment of acute lymphocytic leukemia (ALL).	Porton Products Ltd., 5445 Balboa Blvd., Suite 115, Encino, CA 91316.
Generic—erwinia l-asparaginase *Trade*—Not established	Treatment of acute lymphocytic leukemia (ALL).	Lypho Med, Inc., 2020 Ruby Street, Melrose Park, IL 60160.
Generic—erythropoietin (recombinant-human) *Trade*—Not established	Treatment of anemia associated with end stage renal disease (ESRD).	Amgen, 1900 Oak Terrace La., Thousand Oaks, CA 91320.
Generic—erythropoietin (recombinant-human) *Trade*—Not established	Treatment of anemia associated with end stage renal disease (ESRD).	McDonnell Douglas, P.O. Box 516, St. Louis, MO 63166.
Generic—erythropoietin (recombinant-human) *Trade*—Not established	Treatment of anemia associated with end stage renal disease (ESRD). Treatment of anemia of prematurity in preterm infants.	Ortho Pharmaceutical Corporation, Route 202, P.O. Box 300, Raritan, NJ 08869-0602.
Generic—erythropoietin (recombinant-human) *Trade*—EPOCH	Treatment of anemia associated with end stage renal disease (ESRD).	Chugai Pharmaceuticals 1-9, Kyobashi 2-Chome, Chu, Tokyo 104, Japan.
Generic—erythropoietin (recombinant-human) *Trade*—Not established	Treatment of anemia associated with end stage renal disease (ESRD).	Organon Teknika, 800 Capitola Drive, Durham, NC 27713.
Generic—factor VIIa (recombinant, DNA origin) *Trade*—Not established	Treatment of patients with hemophilia A & B with and without antibodies against Factor VIII/IX. Treatment of patients with von Willebrand's disease.	Novo Laboratories, 33 Turner Road, Danbury, CT 06810-5101.
Generic—factor XIII *Trade*—Fibrogammin	Congenital Factor XII deficiency	Hoechst-Roussel Pharmaceuticals, Route 202-206 North, Somerville, NJ 08876.

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ORPHAN DRUG AND BIOLOGICAL DESIGNATIONS THROUGH 1988—Continued

[Approved for Marketings*]

[Exclusive Approval**]

Biological Designations

Name of biological	Designated use	Sponsor's name and address
Generic—fibronectin (human plasma derived) *Trade*—Not established	Treatment of non-healing corneal ulcers or epithelial defects which have been unresponsive to conventional therapy and the underlying cause has been eliminated.	The New York Blood Center, Inc. 310 East 67 St., N.Y., N.Y. 10021.
Generic—fibronectin (plasma derived) *Trade*—Not established	Treatment of non-healing corneal ulcers or epithelial defects which have been unresponsive to conventional therapy and for which any infectious cause has been eliminated.	Chiron Ophthalmics, 15A Marconi, Irvine, CA 92718.
Generic—heme arginate *Trade*—Normosang	Treatment of symptomatic stage of acute porphyria.	Huhtamaki Oy Pharmaceuticals, Leiras Medic, P.O. Box 415, SF-20101 Turku, Finland.
Generic—hemin *Trade*—Panhematin*/**	Amelioration of recurrent attacks of acute intermittent porphyria temporarily related to the menstrual cycle in susceptible women and similar symptoms which occur in other patients with acute intermittent porphyria, porphyria variegata and hereditary coproporphyria.	Abbott Laboratories, North Chicago, IL 60064.
Generic—Indium In 111 antimelanoma antibody XMMME-0001-DTPA. *Trade*—Same as generic	Diagnostic use in imaging systemic and nodal melanoma metastases.	XOMA Corporation, 3516 Sacramento St., San Francisco, CA 94118.
Generic—interferon alfa-nl *Trade*—Wellferon	Treatment of Acquired Immune Deficiency Syndrome (AIDS)-related Kaposi's Sarcoma. Treatment of Human Papillomavirus (HPV) in patients with severe resistant/recurrent respiratory (laryngeal) papillomatosis.	Burroughs Wellcome, 3030 Cornwallis Road, Research Triangle Park, NC 27709.
Generic—interferon alfa-2a (recombinant) *Trade*—Roferon-A*/**	Treatment of selected patients with Acquired Immune Deficiency Syndrome (AIDS)-related Kaposi's Sarcoma*/**. Treatment of metastatic renal cell carcinoma	Hoffman-LaRoche, 340 Kingsland St., Nutley, NJ 07110.
Generic—interferon alfa-2b (recombinant) *Trade*—Intron A*/**	Treatment of chronic myelogenous leukemia (CML). Treatment of metastatic renal cell carcinoma Treatment of selected patients with AIDS-related Kaposi's Sarcoma*/**. Treatment of ovarian carcinoma Treatment of invasive carcinoma of the cervix Treatment of primary malignant brain tumors Treatment of carcinoma in situ of the urinary bladder. Treatment of human papillomavirus (HPV) in patients with recurrent respiratory (laryngeal) papillomatosis.	Schering Corporation, 2000 Galloping Hill Road, Kenilworth, NJ 07033.
Generic—interferon (recombinant human, beta) *Trade*—Betaseron	Treatment of of acute hepatitis B Treatment of Acquired Immune Deficiency Syndrome (AIDS). Treatment of Multiple Sclerosis (MS)	Triton Biosciences, 1501 Harbor Bay Pkwy., Alameda, CA 94501.
Generic—interferon gamma-Ib *Trade*—Not established	Treatment of Chronic Granulomatous Disease (CGD).	Genentech, Inc., 460 Point San Bruno Boulevard, South San Francisco, CA 94080.
Generic—interleukin-2, recombinant *Trade*—Proleukin	Treatment of metastatic renal cell carcinoma	Cetus Corporation, 1400 Fifty-Third St., Emeryville, CA 94608.
Generic—Iodine I 123 murine monoclonal antibody to human alpha-fetoprotein. *Trade*—Not established	Detection of hepatocellular carcinoma and hepatoblastoma. Detection of alpha-fetoprotein producing germ cell tumors.	Immunomedics, Inc., 5 Bruce Street, Building #7, Newark, NJ 07013.
Generic—Iodine I 123 murine monoclonal antibody to human chorionic gonadotropin (hCG). *Trade*—Not established	Detection of hCG producing tumors such as germ cell and trophoblastic cell tumors.	Immunomedics, Inc., 150 Mt. Bethel Rd., CN4918, Warren, NJ 07060.
Generic—Iodine I 131 Lym-1 monoclonal antibody. *Trade*—Not established	Treatment of B-cell lymphoma	Lederle Laboratories, Pearl River, NY 10965.

ORPHAN DRUG AND BIOLOGICAL DESIGNATIONS THROUGH 1988—Continued

[Approved for Marketings*]

[Exclusive Approval**]

Biological Designations

Name of biological	Designated use	Sponsor's name and address
Generic—Iodine I 131 murine monoclonal antibody to human alpha-fetoprotein. *Trade*—Not established	Treatment of hepatocellular carcinoma and hepatoblastoma. Treatment of alpha-fetoprotein producing germ cell tumors.	Immunomedics, Inc., 5 Bruce Street, Building #7, Newark, NJ 07013.
Generic—Iodine I 131 murine monoclonal antibody to human chorionic gonadotropin (hCG). *Trade*—Not established	Treatment of hCG producing tumors such as germ cell and trophoblastic cell tumors.	Immunomedics, Inc., 150 Mt. Bethel Rd., CN4918, Warren, NJ 07060.
Generic—monoclonal antibodies (murine or human) recognizing B-cell lymphoma idiotypes. *Trade*—Not established	Treatment of B-cell lymphoma	IDEC, Inc., 291 North Bernardo Ave., Mountain View, CA 94043.
Generic—monoclonal antibody 17-1A *Trade*—Panorex	Treatment of pancreatic cancer	Centocor, Inc., 244 Great Valley Pkwy., Malvern, PA 19355.
Generic—monoclonal antiendotoxin antibody XMMENOE5. *Trade*—Same as generic	Treatment of patients with gram-negative sepsis which has progressed to shock.	Pfizer Inc., 235 East 42nd St., New York, NY 10017.
Generic—pentastarch *Trade*—Pentaspan*/**	For use as an adjunct in leukapheresis, to improve the harvesting and increase the yield of leukocytes by centrifugal means.	DuPont Critical Care, 1600 Waukegan Rd., McGaw Park, IL 60085.
Generic—polyribonucleotide *Trade*—Ampligen	Treatment of Acquired Immunodeficiency Syndrome (AIDS).	HEM/Du Pont Immunological Products, Barley Mill Plaza, P27-2320, Wilmington, DE 19898.
Generic—ricin (Blocked) conjugated murine monoclonal antibody (Anti-B4) to B cell (CD 19). *Trade*—Not established	Treatment of B-cell leukemia and B-cell lymphoma.	Immunogen, Inc., 148 Sidney St., Cambridge, MA 02139.
Generic—serratia marcescens extract (polyribosomes). *Trade*—ImuVert	Treatment of primary brain malignancies	Cell Technology, Inc., 1668 Valtec Lane, Boulder, CO 80301.
Generic—ST1-RTA Immunotoxin (SR 44163) *Trade*—Not established	Prevention of acute graft versus host disease (GVHD) in allogenic bone marrow transplantation. Treatment of patients with B-chronic lymphocytic leukemia (CLL).	Sanofi, Inc., 101 Park Ave., New York, NY 10178.
Generic—Technetium Tc 99m Anti-melanoma Murine Monoclonal Antibody Kit. *Trade*—Not established	For use in detecting, by imaging, metastases of malignant melanoma.	NeoRx Corporation, 410 West Harrison, Seattle, WA 98119.
Generic—trisaccharides A&B *Trade*—Not established	Treatment of moderate to severe clinical forms of hemolytic disease of the newborn arising from placental transfer of antibodies against blood group substances A and B. For use in ABO-incompatible solid organ transplantation including kidney, heart, liver, and pancreas. Treatment of moderate to very severe clinical forms of transfusion reactions arising from ABO incompatible transfusion of blood, blood products and blood derivatives. For use in ABO-incompatible bone marrow transplantation (BMT).	CHEMBIOMED, Ltd., 16th Floor Campus Towers, 11145-87th Ave., Edmonton, Alberta, Canada T6G OY1.

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Drug Designations

Name of drug	Designated use	Sponsor's name and address
Generic—acetylcysteine *Trade*—Mucomyst/Mucomyst 10 IV	Intravenous treatment of patients presenting with moderate to severe acetaminophen overdose.	Bristol-Myers U.S. Pharmaceutical, 2404 Pennsylvania Street, Evansville, IN 47721-0001.
Generic—aconiazide *Trade*—Not established	Treatment of tuberculosis	Lincoln Diagnostics, P.O. Box 1139, Decatur, IL 62525.
Generic—allopurinol *Trade*—Zyloprim	Ex-vivo preservation of cadaveric kidneys for transplantation.	Burroughs Wellcome, 3030 Cornwallis Rd., Research Triangle Park, NC 27709.
Generic—allopurinol riboside *Trade*—Not established	Treatment of cutaneous visceral leishmaniasis Treatment of Chagas' disease	Burroughs Wellcome, 3030 Cornwallis Rd., Research Triangle Park, NC 27709.
Generic—amsacrine *Trade*—Amsidyl	Treatment of patients with acute adult leukemia.	Warner-Lambert Co., 201 Tabor Road, Morris Plains, NJ 07950.
Generic—anagrelide *Trade*—Not established	Treatment of polycythemia vera	Bristol-Myers Co., P.O. Box 4755, Syracuse, NY 13221-4755.
Generic—anagrelide *Trade*—Not established	Treatment of thrombocytosis in chronic myelogenous leukemia (CML). Treatment of essential thrombocythemia (ET)	Bristol-Myers Pharmaceutical Research and Development Divieon, 5 Research Pkwy., P.O. Box 5100, Wallingford, CT 06492.
Generic—antipyrine *Trade*—Not established	Antipyrine test as an index of hepatic drug-metabolizing capacity.	Upsher-Smith Laboratories, 14905 23rd Ave. North, Minneapolis, MN 55441.
Generic—AS-101 *Trade*—Not established	Treatment of Acquired Immunodeficiency Syndrome (AIDS).	Scientific Testing, 783 Jersey Avenue, New Brunswick, NJ 08901.
Generic—bacitracin, USP *Trade*—Altracin	Antibiotic-associated pseudomembranous enterocolitis caused by toxins A&B elaborated by Clostridium difficile.	A.L. Laboratories, 452 Hudson Terrace, P.O. Box 1621, Englewood Cliffs, NJ 07632.
Generic—baclofen (intrathecial) *Trade*—Lioresal	Treatment of intractable spasticity caused by spinal cord injury or multiple sclerosis (MS).	Medtronic, Inc., 7000 Central Ave., Minneapolis, MN 55432.
Generic—benzoate/phenylacetate *Trade*—Ucephan*/**	For adjunctive therapy in the prevention and treatment of hyperammonemia in patients with urea cycle enzymopathy (UCE) due to carbamylphosphate synthetase, ornithine, transcarbamylase, or arginosuccinate synthetase deficiency.	Kendall McGaw Laboratories, P.O. Box 25080, Santa Ana, CA 92799-5060.
Generic—bethanidine sulfate *Trade*—Not established	Treatment of primary ventricular fibrillation	Medco Research, Inc., 8733 Beverly Blvd., Suite 404, Los Angeles, CA 90048.
Generic—BW B759U *Trade*—Not established	Treatment of severe human cytomegalovirus infections (HCMV) in specific immunosuppressed patient populations (e.g., bone marrow transplant recipients and Acquired Immunodeficiency Syndrome patients).	Burroughs Wellcome, 3030 Cornwallis Rd., Research Triangle Park, NC 27709.
Generic—BW 12C *Trade*—Not established	Treatment of sickle cell disease crisis	Burroughs Wellcome, 3030 Cornwallis Rd., Research Triangle Park, NC 27709.
Generic—caffeine *Trade*—Not established	Treatment of apnea of prematurity	Pediatric Pharmaceuticals, Inc., 379 Thornall St., Edison, NJ 08837.
Generic—calcitonin-human *Trade*—Cibacalcin*/**	Treatment of symptomatic Paget's disease of bone (osteitis deformans).	Ciba-Geigy Corporation, 556 Morris Ave., Summit, NJ 07901.
Generic—calcium acetate *Trade*—Phos-Lo	Treatment of hyperphosphatemia in end stage renal disease (ESRD).	Braintree Laboratories, 60 Columbian St., P.O. Box 361, Braintree, MA 02184.
Generic—ceramide trihexosidase/alpha-galactosidase A. *Trade*—Not established	Treatment of Fabry's disease	Genzyme Corporation, 75 Kneeland St., Boston, MA 02111.
Generic—chenodiol *Trade*—Chenix*/**	For patients with radiolucent stones in well opacifying gallbladders, in whom elective surgery would be undertaken except for the presence of increased surgical risk due to systemic disease or age.	Reid-Rowell, Inc., 210 Main Street West, Baudette, MN 56623-0370.
Generic—chlorhexidine gluconate mouthrinse *Trade*—Peridex	For use in the amelioration of oral mucositis associated with cytoreductive therapy used in conditioning patients for bone marrow transplantation therapy.	Procter & Gamble Co., Sharon Woods Technical Ctr., HB Building, 11511 Reed Hartman Hwy., Cincinnati, OH 45241.
Generic—cetiedil citrate *Trade*—Not established	Treatment of sickle cell disease crisis	Medical Market Specialties, Inc., P.O. Box 150, Boonton, NJ 07005.
Generic—clindamycin *Trade*—Cleocin	Treatment of Pneumocystis carinii pneumonia (PCP) associated with the Acquired Immunodeficiency Syndrome (AIDS). Treatment of PCP associated with AIDS	The Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001.

ORPHAN DRUG AND BIOLOGICAL DESIGNATIONS THROUGH 1988—Continued

[Approved for Marketings*]

[Exclusive Approval*/**]

Drug Designations

Name of drug	Designated use	Sponsor's name and address
Generic—clofazimine *Trade*—Lamprene*/**	Treatment of lepromatous leprosy, including dapsone-resistant lepomatous leprosy and lepromatous leprosy complicated by erythema nodosum leprosum.	Ciba-Geigy Corporation, 556 Morris Ave., Summit, NJ 07901.
Generic—colchicine *Trade*—Not established	For use in arresting the progression of neurologic disability caused by chronic progressive multiple sclerosis (MS).	Pharmacontrol Corporation, P.O. Box 931, Englewood Cliffs, NJ 07632.
Generic—coplymer 1 (COP 1) *Trade*—Not established	Treatment of multiple sclerosis (MS)	TAG Pharmaceuticals, C/O Lemmon Co., Sellersville, PA 18960.
Generic—cromolyn sodium *Trade*—Gastrocrom	Mastocytosis	Fisons Corporation, 2 Preston Court, Bedford, MA 01730.
Generic—cromolyn sodium 4% ophthalmic solution. *Trade*—Opticrom 4% Ophthalmic Solution	Treatment of vernal keratoconjunctivitis (VKC)	Fisons Corporation, 2 Preston Court, Bedford, MA 01730.
Generic—cyclosporine ophthalmic *Trade*—Optimmune	Treatment of severe keratoconjunctivitis sicca	University of GA Research Foundation, College of Veterinary Medicine, University of GA, Athens, GA 30602.
Generic—cyproterone acetate *Trade*—Cyproteron/Androcur	Treatment of severe hirsutism	Berlex Laboratories, 110 East Hanover Avenue, Cedar Knolls, NJ 07927.
Generic—cysteamine (2-aminoethanethiol) *Trade*—Not established	Treatment of nephropathic cystinosis	Jess G. Thoene, M.D., Section of Biochemical Genetics and Metabolism, Dept. of Pediatrics, University of Michigan School of Medicine, Ann Arbor, MI 48109.
Generic—dantrolene sodium *Trade*—Dantrium	Treatment of neuroleptic malignant syndrome	Norwich Eaton Pharmaceuticals, P.O. Box 191, Norwich, NY 13815.
Generic—defibrotide *Trade*—Not established	Treatment of thrombotic thrombocytopenic purpura.	Crinos International, Via Belvedere 1, 22079 Villa Guardia (Como), Italy.
Generic—dextran sulfate sodium (UA001) *Trade*—Not established	Treatment of Acquired Immunodeficiency Syndrome (AIDS).	Ueno Fine Chemicals Industry, Ltd., 2-31 Koraibashi, Higashi-Ku, Osaka 541, Japan.
Generic—diaziquone *Trade*—Not established	Treatment of primary brain malignancies (Grade III-IV astrocytomas).	Warner-Lambert, 201 Tabor Rd., Morris Plains, NJ 07950.
Generic—diethyldithiocarbamate *Trade*—Imuthiol	Treatment of Acquired Immunodeficiency Syndrome (AIDS).	Merieux Institute, Inc., 7855 N.W. 12th St., Suite 114, Miami, Florida 33126.
Generic—dimethyl sulfoxide (DMSO) *Trade*—Sclerosol	Treatment of cutaneous manifestations of scleroderma.	Research Medical, Inc., A Subsidiary of Research Industries Corporation, 1874 West 2300 South, Salt Lake City, UT 84119.
Generic—dipalmitoylphosphatidylcholine (DPPC)/phosphatidylglycerol (PG). *Trade*—ALEC (Artificial Lung Expanding Compound)	Prevention & treatment of neonatal respiratory distress syndrome (RDS).	Britannia Pharmaceuticals, Ltd., Forum House, Brighton Road, Redhill, Surrey RH1 6YS, U.K.
Generic—disodium silibinim dihemisuccinate *Trade*—Legalon	Treatment of hepatic intoxication by Amanita phalloides (mushroom poisoning).	Pharmaquest Corporation, 201 Tamal Vista Blvd., Corte Madera, CA 94925; and Dr. Madaus GmbH and Co., Ostmerheimer St., 198, 5000 Koln 91, Federal Republic of Germany.
Generic—d,l-sotalol HCl *Trade*—Not established	Treatment of life threatening ventricular tachyarrhythmias. Prevention of life threatening ventricular tachyarrhythmias.	Bristol-Myers, Co., Pharmaceutical Research and Development Division, 5 Research Pkwy., P.O. Box 5100, Wallingford, CT 06492-7660.
Generic—eflornithine HCl (DFMO) *Trade*—Ornidyl	Trypanosoma brucei gambiense sleeping sickness. Treatment of Pneumocystis carinii pneumonia (PCP) in Acquired Immunodeficiency Syndrome (AIDS) patients.	Merrell Dow Research, P.O. Box 6300, 2110 East Galbraith Road, Cincinnati, OH 45215-6300.
Generic—epidermal growth factor (human) *Trade*—Not established	Acceleration of corneal epithelial regeneration and healing of stromal incisions from corneal transplant surgery. Acceleration of corneal epithelial regeneration and the healing of stromal tissue in the condition of non-healing corneal defects.	Chiron Corporation, 4560 Horton Street, Emeryville, CA 94608.
Generic—epidermal growth factor (human) *Trade*—Not established	Promotion of cutaneous wound healing in extreme burn treatment protocols.	Ethicon, Inc., Somerville, NJ 08876-0151.
Generic—epoprostenol prostacycline, PGI_2 PGX. *Trade*—Flolan	Replacement of heparin in patients requiring hemodialysis and who are at increased risk of hemorrhage.	Burroughs-Wellcome, 3030 Cornwallis Rd., Research Triangle Park, NC 27709.

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[Exclusive Approval*/**]

Drug Designations		
Name of drug	Designated use	Sponsor's name and address
Generic—apoprostenol *Trade*—Cyclo-Prostin	Replacement of heparin in patients requiring hemodialysis and who are at increased risk of hemorrhage.	The Upjohn Co., 301 Henrietta St., Kalamazoo, MI 49001.
Generic—apoprostenol, prostacycline, PGI$_2$, PGX *Trade*—Flolan	Treatment of primary pulmonary hypertension (PPH).	Burroughs-Wellcome, 3030 Cornwallis Rd., Research Triangle Park, NC 27709.
Generic—etidronate disodium *Trade*—Didronel*/**	Treatment of hypercalcemia of a malignancy managed by dietary modification and/or oral hydration.	Norwich Eaton Pharmaceuticals, P.O. Box 191, Norwich, NY 13815.
Generic—ethanolamine oleate *Trade*—Ethamolin*/**	Treatment of patients with esophageal varices that have recently bled, to prevent rebleeding.	Glaxo, Inc., P.O. Box 13960, Five Moore Drive, Research Triangle Park, NC 27709.
Generic—ethinyl estradiol *Trade*—Not established	Treatment of Turner's syndrome	Gynex, Inc., 570 Lake Cook Rd., Deerfield, IL 60015.
Generic—fludarabine monophosphate *Trade*—Not established	Treatment of chronic lymphocytic leukemia (CLL).	Triton Biosciences, 1501 Harbor Bay Pkwy., Alameda, CA 94501.
Generic—flumecinol *Trade*—Zbooryn	Hyperbilirubinemia in newborn infants unresponsive to phototherapy.	Farmacon, Inc., P.O. Box 586, Westport, CT 06881.
Generic—flunarizine *Trade*—Sibelium	Treatment of alternating hemiplegia	Janssen Pharmaceuticals, 40 Kingsbridge Rd., Piscataway, NJ 08854.
Generic—gallium nitrate *Trade*—Not established	Treatment of hypercalcemia of malignancy	Lyphomed, Inc., 2020 Ruby St., Melrose Park, IL 60160.
Generic—ganciclovir (DHPG) *Trade*—Not established	Treatment of cytomegalovirus (CMV) infections of a serious life- or sight-threatening nature in immunocompromised patients.	Syntex (USA), Inc., 3401 Hillview Ave., Palo Alto, CA 94304.
Generic—gangliosides as sodium salts *Trade*—Cronassial	Treatment of Retinitis Pigmentosa	Fidia Pharmaceutical, 1775 K St., NW., Suite 800, Washington, DC 20006.
Generic—glucocerebrosidase/beta-glucoseidase (placenta-derived). *Trade*—Not established	Replacement therapy in patients with Gaucher's Disease Type I.	Genzyme Corporation, 75 Kneeland St., Boston, MA 02111.
Generic—guanethidine monosulfate *Trade*—Ismelin I.V.	Treatment of moderate to severe reflex sympathetic dystrophy and causalgia.	Ciba-Geigy Corporation, 556 Morris Ave., Summit, NJ 07901.
Generic—hexamethylmelamine *Trade*—Hexastat	Treatment of advanced adenocarcinoma of the ovary.	Ives Laboratories, 685 Third Ave., New York, NY 10017.
Generic—histrelin *Trade*—Not established	Treatment of central precocious puberty	Ortho Pharmaceutical Corporation, Route 202, P.O. Box 300, Raritan, NJ 08869-0602.
Generic—HPA-23 *Trade*—Not established	Treatment of Acquired Immunodeficiency Syndrome (AIDS).	Rhone-Poulenc Pharmaceuticals, P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852.
Generic—hydroxycobalamin/sodium thiosulfate *Trade*—Not established	Treatment of severe acute cyanide poisoning	Evreka, Inc., P.O. Box 1513, 1990 Broadway, New York, NY 10023.
Generic—idarubicin HCl *Trade*—Not established	Treatment of acute myelogenous leukemia (AML), also referred to as acute nonlymphocytic leukemia (ANLL).	Adria Laboratories, 7001 Post Road, Dublin, Ohio 43216-6529.
Generic—Iodine I 131 meta-Iodobenzylguanidine. *Trade*—Not established	Diagnostic adjunct in patients with pheochromocytoma.	William Beierwaltes, M.D., Nuclear Medicine, University of Michigan, Medical Center, 1405 E. Ann St., Ann Arbor, MI 48109.
Generic—Iodine I 131 6B-Iodomethyl-19-norcholesterol. *Trade*—Not established	Adrenal cortical imaging	William Beierwaltes, M.D., Nuclear Medicine, University of Michigan, Medical Center, 1405 E. Ann St., Ann Arbor, MI 48109.
Generic—ifosfamide *Trade*—Ifex*/**	Treatment of soft tissue sarcoma	Bristol-Myers Co., P.O. Box 4755, Syracuse, NY, 13221-4755.
	Treatment of bone sarcoma To be used in combination with other approved antineoplastic agents, for third line chemotherapy of germ cell testicular cancer. It should be used in combination with a prophylactic agent for hemorrhagic cystitis, such as mesna*/**.	Bristol-Myers Co., Pharmaceutical Research and Development Division, Wallington, CT 06492.
Generic—inosine pranobex *Trade*—Isoprinosine	Treatment of subacute sclerosing panencephalitis.	Newport Pharmaceuticals, Inc., 897 W. Sixteenth St., Newport Beach, CA 92663.
Generic—l-alpha-acetylmethadol (LAAM) *Trade*—Not established	Treatment of heroin addicts suitable for maintenance on opiate agonists.	Dixon and Williams Pharmaceutical Co., 43 Old Wood Road, Bernardsville, NJ 07924.
Generic—l-carnitine *Trade*—Vita Carn*	Genetic carnitine deficiency*	Kendall McGaw Laboratories, P.O. Box 25060, Santa Ana, CA 92799-5060.

ORPHAN DRUG AND BIOLOGICAL DESIGNATIONS THROUGH 1988—Continued

[Approved for Marketings*]

[Exclusive Approval*/**]

Drug Designations		
Name of drug	Designated use	Sponsor's name and address
Generic—l-carnitine *Trade*—Vita Carn	Treatment of manifestations of carnitine deficiency in patients with end stage renal disease (ESRD) who require dialysis.	Kendall McGaw Laboratories, P.O. Box 25060, Santa Ana, CA 92799-5080.
Generic—l-carnitine *Trade*—Carnitor*/**	Primary and secondary carnitine deficiency of genetic origin*/**. Treatment of manifestations of carnitine deficiency in patients with end stage renal disease (ESRD) who require dialysis.	Sigma Tau, Inc., 723 North Beers St., Holmdel, NJ 07733.
Generic—leucovorin calcium *Trade*—Wellcovorin	Treatment of metastatic colorectal cancer	Burroughs Wellcome Co., 3030 Cornwallis Road, Research Triangle Park, NC 27709.
Generic—leucovorin calcium *Trade*—Leucovorin*/**	For use in combination with 5-fluorouracil for the therapy of metastatic adenocarcinoma of the colon and rectum. For rescue use after high dose methotrexate therapy in the treatment of osteosarcoma*/**.	Lederle Laboratories, Pearl River, NY 10965.
Generic—leuprolide acetate *Trade*—Lupron Injection	Treatment of central precocious puberty	TAP Pharmaceuticals, D-49N, 1400 N. Sheridan Rd., Abbott Park, IL 60064.
Generic—levocabastine HCl *Trade*—Not established	Treatment of vernal keratoconjunctivitis (VKC)	Iolab Pharmaceuticals, 500 Iolab Drive, Claremont, CA 91711.
Generic—LHRH [(DES-GLY^{10})-D-Trp^6-Pro^9-N-Ethylamide)]. *Trade*—Not established	Treatment of central precocious puberty	Roberts Laboratories, Meridian Center III, 6 Industrial Way West, Eatontown, NJ 07724.
Generic—L-Leucine, L-isoleucine and L-valine *Trade*—Not established	Treatment of amyotrophic lateral sclerosis (ALS).	Andreas Plaitakis, M.D., The Mount Sinai Medical Center, Department of Neurology, One Gustave Levy Pl., New York, NY 10029.
Generic—l-5 hydroxytryptophan (L-5HTP) *Trade*—Not established	Treatment of postanoxic intention myoclonus	Bolar Pharmaceuticals, 130 Lincoln Street, Copiague, NY 11726.
Generic—luteinizing hormone releasing hormone (GnRH). *Trade*—Not established	Induction of ovulation in women with hypothalamic amenorrhea due to a deficiency or absence in the quantity or pulse pattern of endogenous GnRH secretion.	Ortho Pharmaceuticals, Route 202, P.O. Box 300, Raritan, NJ 08869-0602.
Generic—mazindol *Trade*—Sanorex	Treatment of Duchenne muscular dystrophy (DMD).	Platon J. Collip, M.D., 176 Memorial Dr., Jesup, GA 31545.
Generic—mefloquine HCl *Trade*—Mephaquin	Treatment of chloroquine-resistant falciparum malaria. Prevention of chloroquine-resistant falciparum malaria.	Mephra AG, 4143 Dornach, Aesch Basel, Switzerland.
Generic—mefloquine HCl *Trade*—Lariam	Treatment of acute malaria due to Plasmodium falciparum and plasmodium vivax. Prophylaxis of Plasmodium falciparum malaria which is resistant to other available drugs.	Hoffmann-La Roche Inc., 340 Kingsland St., Nutley, NJ 07110.
Generic—megestrol acetate *Trade*—Megace	Treatment of patients with anorexia, cachexia, or significant weight loss (=/> 10% of baseline body weight) and confirmed diagnosis of AIDS.	Bristol-Myers U.S. Pharmaceutical & Nutritional Group, 2404 Pennsylvania Street, Evansville, IN 47721-0001.
Generic—mesna *Trade*—Mesnex*/**	For use as a prophylactic agent in reducing the incidence of ifosfamide-induced hemorrhagic cystitis.	Degussa Corporation, P.O. Box 2004, Route 46 at Hollister Rd., Teterboro, NJ 07608.
Generic—mesna *Trade*—Not established	Inhibition of the uro-toxic effects induced by oxazaphosphorine compounds such as cyclophosphamide.	Adria Laboratories, P.O. Box 16529, Columbus, OH 43216-6529.
Generic—methotrexate sodium *Trade*—Methotrexate*/**	For use with leucovorin rescue in combination with other chemotherapeutic agents to delay recurrence in patients with non-metastatic osteosarcoma who have undergone surgical resection or amputation for the primary tumor.	Lederle Laboratories, Pearle River, NY 10965.
Generic—metronidazole (topical) *Trade*—MetroGel*/**	Treatment of acne rosacea	Curatek Pharmaceuticals, 1965 Pratt Blvd., Elk Grove Village, IL 60007.
Generic—metronidazole (tropical) *Trade*—Flagyl	Treatment of Grade III and IV, anaerobically infected, decubitus ulcers.	G.D. Searle and Co., Box 5110, Chicago, IL 60680.
Generic—midodrine HCl *Trade*—Amatine	Treatment of idiopathic orthostatic hypotension	Roberts Laboratories, 230 Half Mile Rd., Red Bank, NJ 07701.

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ORPHAN DRUG AND BIOLOGICAL DESIGNATIONS THROUGH 1988—Continued

[Approved for Marketings*]

[Exclusive Approval*/**]

Drug Designations

Name of drug	Designated use	Sponsor's name and address
Generic—mitoxantrone HCl *Trade*—Novantrone*/**	Treatment of acute myelogenous leukemia (AML), also referred to as acute nonlymphocytic leukemia (ANLL).	Lederle Laboratories, Pearl River, NY 10965.
Generic—monooctanoin *Trade*—Moctanin*/**	Dissolution of cholesterol gallstones retained in the common bile duct.	Ethitek Pharmaceuticals, 8100 North Lawndale Ave., Skokie, IL 60076.
Generic—morphine sulfate concentrate (preservative free). *Trade*—Duramorph	For administration via microinfusion devices in repeated doses or constant infusion, for *epidural* use in the treatment of severe chronic pain which responds inadequately to systemic analgesic therapy or when epidural administration is considered preferable to systemic administration and for *intrathecal* use in patients with refractory pain due to malignancy.	Elkins-Sinn, Inc., 2 Esterbrook Lane, Cherry Hill, NJ 08003-4099.
Generic—nafarelin acetate *Trade*—None established	Treatment of central precocious puberty	Syntex (U.S.A.) Inc., 3401 Hillview Avenue, P.O. Box 10850, Palo Alto, CA 94303.
Generic—naltrexone HCl *Trade*—Trexan*/**	Blockade of the pharmacological effects of exogenously administered opioids as an adjunct to the maintenance of the opioid-free state in detoxified formerly opioid-dependent individuals.	E.I. du Pont de Nemours, dba Du Pont Pharmaceuticals, 1000 Stewart Ave., Garden City, NY 11530.
Generic—oxymorphone HCl *Trade*—Numorphan H.P	Relief of severe intractable pain in narcotic-tolerant patients.	Du Pont Pharmaceuticals, P.O. Box 12, Manati, Puerto Rico 00701.
Generic—PEG-adenosine deaminase (PEG-ADA). *Trade*—Imudon	Enzyme replacement therapy for ADA deficiency in patients with severe combined immunodeficiency disease (SCID).	Enzon, Inc., 300C Corporate Court, South Plainfield, NJ 07060.
Generic—pentamidine isethionate (Injectable) *Trade*—Pentam 300*/**	Treatment of Pneumocystis carinii pneumonia (PCP)*/**.	LyphoMed, Inc., 2020 Ruby Street, Melrose Park, IL 60160.
Generic—pentamidine isethionate (Injectable) *Trade*—Not established	Treatment of Pneumocystis carinii pneumonia (PCP).	Rhone-Poulenc, 52 Vanderbilt Ave., New York, NY 10017.
Generic—pentamidine isethionate (inhalation) *Trade*—Pneumopent	Prevention of Pneumocystis carinii pneumonia (PCP) in patients at high risk of developing this disease.	Fisons Corporation, 2 Preston Cort, Bedford, MA 01730.
Generic—pentamidine isethionate (inhalation) *Trade*—Pentam 300	Prevention of Pneumocystis carinii pneumonia (PCP) in patients at high risk of developing this disease.	LyphoMed, Inc., 2020 Ruby Street, Melrose Park, IL 60160.
Generic—pentostatin *Trade*—Not established	Treatment of Hairy Cell Leukemia	Warner-Lambert, 2800 Plymouth Rd., P.O. Box 1047, Ann Arbor, MI 48106.
Generic—phosphocysteamine *Trade*—Not established	Treatment of cystinosis	Medea Research Laboratories, Suffolk Co. Airport, Building 32, Westhampton Beach, N.Y. 11978.
Generic—physostigmine salicylate *Trade*—Antilirium	Friedreich's and other inherited ataxias	Forrest Pharmaceuticals, 2510 Metro Blvd., Maryland Heights, MO 64043-9979.
Generic—piracetam *Trade*—Nootropil	Treatment of myoclonus	U.C.B. Secteur Pharmaceutique, 326 Ave. Louise, 105 Brussels, Belgium.
Generic—piritrexim isethionate *Trade*—Not established	Treatment of infections caused by Pneumocystis carinii, Toxoplasma gondii, and Mycobacterium avium-intracellulare.	Burroughs Wellcome, 3030 Cornwallis Rd., Research Triangle Park, N.C. 27709.
Generic—potassium citrate *Trade*—Urocit-K*/**	Prevention of calcium renal stones in patients with hypocitraturia. Avoidance of the complication of calcium stone formation in patients with uric acid lithiasis. Prevention of uric acid nephrolithiasis	Charles Y.C. Pak, M.D., University of Texas Health Science Center at Dallas, 5323 Harry Hines Blvd., Dallas, TX 75235.
Generic—potassium citrate and citric acid *Trade*—Polycitra-K	Dissolution and control of uric acid and cystine calculi in the urinary tract.	Willen Drug Co., 18 North High St., Baltimore, MD 21202.
Generic—praziquantel *Trade*—Cysticide	Treatment of neurocysticercosis	EM Pharmaceuticals, 5 Skyline Drive, Hawthrone, NY 10532.
Generic—prednimustine *Trade*—Sterecyt	Treatment of malignant non-Hodgkin's lymphomas.	Pharmacia, Inc., 800 Centennial Ave., Picataway, NJ 08855.
Generic—propamidine isethionate (0.1%) *Trade*—Brolene Eye Drops	Treatment of Acanthamoeba keratitis	Bausch & Lomb, Inc., 1400 North Goodman Street, Rochester, NY 14692-0450.
Generic—protirelin (TRH) *Trade*—Thymone	Amyotrophic lateral sclerosis (ALS)	Abbott Laboratories, North Chicago, IL 60064.
Generic—pulmonary surfactant replacement *Trade*—Not established	Prevention and treatment of respiratory distress syndrome (RDS).	California Biotechnology, 2450 Bayshore Pkwy., Mountain View, CA 94043.

ORPHAN DRUG AND BIOLOGICAL DESIGNATIONS THROUGH 1988—Continued

[Approved for Marketings*]

[Exclusive Approval*/**]

Drug Designations

Name of drug	Designated use	Sponsor's name and address
Generic—quinacrine HCl *Trade*—Not established	Prevention of recurrence of pneumothorax in patients at high risk of recurrence, e.g., patients with cystic fibrosis.	LyphoMed, Inc., 2020 Ruby Street, Melrose Park, IL 60160.
Generic—rifampin *Trade*—Rifadin I.V.	Antituberculosis treatment where use of the oral form of the drug is not feasible.	Merrell Dow Research Inst., 2110 E. Galbraith, Cincinnati, OH 45215.
Generic—rifampin, isoniazid, pyrazinamide *Trade*—Rifater	Short course treatment of tuberculosis	Merrell Dow Research Inst., 2110 E. Galbraith, Cincinnati, OH 45215.
Generic—selegiline HCl *Trade*—Deprenyl	Adjuvant to levodopa and carbidopa treatment of idiopathic Parkinson's disease (paralysis agitans), postencephalitic parkinsonism, and symptomatic parkinsonism.	Somerset Pharmaceuticals, One Olde Town Court, Bernardsville, NJ 07924.
Generic—sermorelin acetate [GRF(1-29)NH2] *Trade*—Not established	Treatment of idiopathic and organic growth hormone deficiency in children with growth failure.	Serono Laboratories, 280 Pond Street, Randolph, MA 02368.
Generic—sodium monomercaptoundecahydrocloso-dodecaborate. *Trade*—Borolife	Treatment of glioblastoma multiforme as an alternative to conventional photon therapy.	Theragenics Corporation, 900 Atlantic Drive, Atlanta, GA 30318.
Generic—sodium oxybate (gammahydroxybutyrate). *Trade*—Not established	Treatment of narcolepsy and the auxiliary symptoms of cataplexy, sleep paralysis, hypnagogic hallucinations and automatic behavior.	Sigma F&D Div. of Sigma Chemical Co., 3050 Spruce St., St. Louis, MO 63103.
Generic—sodium oxybate (gammahydroxybutyrate). *Trade*—Not established	Treatment of narcolepsy and the auxiliary symptoms of cataplexy, sleep paralysis, hypnagogic hallucinations and automatic behavior.	Biocraft Laboratories, 92 Route 46, Elmwood Park, NJ 07407.
Generic—sodium pentosan polysulphate *Trade*—Elmiron	Treatment of interstitial cystitis	Medical Market Specialties, P.O. Box 150, Boonton, NJ 07005.
Generic—sodium tetradecyl sulfate *Trade*—Sotradecol	Treatment of bleeding esophageal varices	Elkins-Sinn, 2 Esterbrook La., Cherry Hill, NJ 08003-4099.
Generic—somatostatin *Trade*—Reducin	Adjunct to the non-operative management of secreting cutaneous fistulas of the stomach, duodenum, small intestine (jejunum and ileum), or pancreas.	Ferring Laboratories, Montebello Park, 75 Montebello Rd., Suffern, NY 10901.
Generic—somatrem *Trade*-Protropin */**	Long-term treatment of children who have growth failure due to a lack of adequate endogenous growth hormone secretion.	Genentech, Inc., 460 Point San Bruno Blvd., South San Francisco, CA 94080.
Generic—somatrem *Trade*—Protropin	Short stature associated with Turner's syndrome.	Genentech, Inc., 460 Point San Bruno Blvd., South San Francisco, CA 94080.
Generic—somatropin *Trade*—Humatrope */**	Long-term treatment of children who have growth failure due to inadequate secretion of normal endogenous growth hormone.	Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285.
Generic—somatropin *Trade*—Saizen	Treatment of idiopathic or organic growth hormone deficiency in children with growth failure.	Serono Laboratories, 280 Pond Street, Randolph, MA 02368.
Generic—somatropin *Trade*—Protropin II	Long-term treatment of children who have growth failure due to a lack of adequate endogenous growth hormone secretion.	Genentech, Inc., 460 Point San Bruno Blvd., South San Francisco, CA 94080.
Generic—somatropin *Trade*—Norditropin	Treatment of growth failure in children due to inadequate growth hormone secretion. For adjunctive use in the induction of ovulation in women with infertility due to 1) hypogonadotropic hypogonadism, and 2) bilateral tubal occlusion or unexplained infertility, who are undergoing in-vivo fertilization procedures or in-vitro fertilization with embryo transfer procedures, respectively, and who fail to ovulate in response to gonadotropin therapy alone. Treatment of short stature associated with Turner's Syndrome.	Nordisk-USA, 3202 Monroe St., Suite 100, Rockville, MD 20852.
Generic—spiramycin *Trade*—Rovamycine	Symptomatic relief and parasitic cure of chronic cryptosporidiosis in patients with immunodeficiency.	Rhone-Poulenc, Inc., 52 Vanderbilt Ave., New York, NY 10017.

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ORPHAN DRUG AND BIOLOGICAL DESIGNATIONS THROUGH 1988—Continued

[Approved for Marketings*]

[Exclusive Approval*/**]

Drug Designations

Name of drug	Designated use	Sponsor's name and address
Generic—superoxide dismutase (recombinant/human). *Trade*—Not established	Protection of donor organ tissue from damage or injury mediated by oxygen-derived free radicals that are generated during the necessary periods of ischemia (hypoxia, anoxia), and especially reperfusion, associated with the operative procedure.	Pharmacia-Chiron Partnership, 4560 Horton Street, Emeryville, CA 94608.
Generic—superoxide dismutase (recombinant/human). *Trade*—Not established	Prevention of reperfusion injury to donor organ tissue.	Bristol-Myers Co., 5 Research Pkwy., Wallingford, CT 06492.
Generic—surface active extract of saline lavage of bovine lungs. *Trade*—Infasurf	Treatment and prevention of respiratory failure due to pulmonary surfactant deficiency in preterm infants.	Ony, Inc., TDC Incubation Center, 2211 Main Street, Buffalo, NY 14214.
Generic—surfactant (human) (amniotic fluid derived). *Trade*—Human Surf	Prevention and treatment of neonatal respiratory distress syndrome (RDS).	T. Allen Merritt, M.D., University of California San Diego Medical Center, 225 W. Dickinson Street, H-814-J, San Diego, CA 92103.
Generic—surfactant TA (modified bovine lung surfactant extract). *Trade*—Survanta	Prevention and treatment of neonatal respiratory distress syndrome (RDS).	Ross Laboratories, 625 Cleveland Ave., Columbus, OH 43216.
Generic—teniposide (VM-26) *Trade*—Not established	Treatment of refractory childhood acute lymphocytic leukemia (ALL).	Bristol-Myers Pharmaceutical Research & Development Div., P.O. Box 4755, Syracuse, NY 13221-4755.
Generic—teriparatide *Trade*—Parathar*/**	Diagnostic agent to assist in establishing the diagnosis in patients presenting with clinical and laboratory evidence of hypocalcemia due to either hypoparathyroidism or pseudohypoparathyroidism.	Rorer Pharmaceuticals, Fort Washington, PA 19034.
Generic—terlipressin *Trade*—Glypressin	Treatment of bleeding esophageal varices	Ferring AB, Soldattorspvagen 5, Box 30651, 200 62 Malmo, Sweden.
Generic—thalidomide *Trade*—Not established	Treatment of graft versus host disease (GVHD) in patients receiving bone marrow transplantation (BMT).	Pediatric Pharmaceuticals, 379 Thornall St., Edison, NJ 08837.
	Prevention of GVHD in patients receiving BMT...	
	Treatment and maintenance of reactional lepromatous leprosy.	
Generic—thymoxamine HCl *Trade*—Not established	Reversal of phenylephrine-induced mydriasis in patients who have narrow anterior angles and are at risk of developing an acute attack of angle-closure glaucoma following mydriasis.	Iolab Pharmaceuticals, 500 Iolab Drive, Claremont, CA 91711.
Generic—tiopronin *Trade*—Thiola*/**	Prevention of cystine nephrolithiasis in patients with homozygous cystinuria.	Charles Y.C. Pak, M.D., The University of Texas Health Science Center at Dallas, 5323 Harry Hines Blvd., Dallas, TX 75235.
Generic—tocophersolan oral solution [(Vitamin E, d-alpha tocopheryl polylene glycol-1000 succinate (TPGS). *Trade*—Not established	Treatment of Vitamin E deficiency resulting from malabsorption due to prolonged cholestatic hepatobiliary disease.	Eastman Pharmaceuticals, 2260 Lake Avenue, Rochester, NY 14650.
Generic—tranexamic acid *Trade*—Cyklokapron	Treatment of hereditary angioneurotic edema	Kabi Vitrum. 1311 Harbor Bay Pkwy., Alameda, CA 94501.
	Treatment of patients undergoing prostatectomy where there is hemorrhage or risk of hemorrhage as a result of increased fibrinolysis or fibrinogenolysis.	
Generic—tranexamic acid *Trade*—Cyklokapron*/**	Treatment of patients with congenital coagulopathies who are undergoing surgical procedures e.g. dental extractions.	Kabi Vitrum, 1311 Harbor Bay Pkwy., Alameda, CA 94501.
Generic—tretinoin *Trade*—Not established	Treatment of squamous metaplasia of the ocular surface epithelia (conjunctiva and/or cornea) with mucous deficiency and keratinization.	Spectra Pharmaceutical Services, Hanover Business Park, 155 Webster Street, Hanover, MA 02339.
Generic—trientine HCl *Trade*—Cuprid*/**	Treatment of patients with Wilson's disease who are intolerant, or inadequately responsive to penicillamine.	Merck Sharp & Dohme, Research Laboratories, West Point, PA 19486.

ORPHAN DRUG AND BIOLOGICAL DESIGNATIONS THROUGH 1988—Continued

[Approved for Marketings*]

[Exclusive Approval*/**]

Drug Designations

Name of drug	Designated use	Sponsor's name and address
Generic—trimetrexate glucuronate *Trade*—Not established	Treatment of metastatic colorectal adenocarcinoma.	Warner-Lambert, 2800 Plymouth Rd., P.O. Box 1047, Ann Arbor, MI 48106.
	Treatment of metastatic carcinoma of the head and neck (i.e. buccal cavity, pharynx and larynx).	
	Treatment of pancreatic adenocarcinoma	
	Treatment of Pneumocystis carinii pneumonia (PCP) in AIDS patients.	
	Treatment of patients with advanced nonsmall cell carcinoma of the lung.	
Generic—urofollitropin *Trade*—Metrodin*/**	Induction of ovulation in patients with polycystic ovarian disease who have an elevated LH/FSH ratio and who have failed to respond to adequate clomiphene citrate therapy.	Serono Laboratories, 280 Pond Street, Randolph, MA 02368.
Generic—viloxazine HCl *Trade*—Vivalan	Treatment of narcolepsy	Stuart Pharmaceuticals, Wilmington, DE 19897.
	Treatment of cataplexy	
Generic—zidovudine (AZT) *Trade*—Retrovir*/**	Treatment of Acquired Immunodeficiency Syndrome (AIDS).	Burroughs Wellcome, 3030 Cornwallis Rd., Research Triangle Park, NC 27709.
	Treatment of certain patients with AIDS Related Complex (ARC).	
Generic—zinc acetate *Trade*—Not established	Treatment of Wilson's disease	Lemmon Co., 650 Cathill Rd., Sellerville, PA 18960.
Generic—4-aminopyridine (4-AP) *Trade*—Not established	Relief of symptoms of multiple sclerosis (MS)	Rush-Presbyterian-St. Lukes Medical Center, 1753 West Congress Pkwy., Chicago, IL 60612.
Generic—5-AZA-2'-deoxycytidine (DAC) *Trade*—Not established	Treatment of acute leukemia	Pharmachemie B.V., Nijverheidsweg 48-50, P.O. Box 552, 2003 RN Haarlem, Holland.
Generic—4-methylpyrazole *Trade*—4-MP	Treatment of methanol, ethylene glycol, 2-methoxyethanol or 2-butoxyethanol poisoning.	Kenneth E. McMartin, Louisiana State University Medical Center, Department of Pharmacology, P.O. Box 33932, Shreveport, LA 71130-3932.
Generic—2'-3'-dideoxyadenosine *Trade*—Not established	Treatment of Acquired Immunodeficiency Syndrome (AIDS).	National Cancer Inst., Bldg. 31, Room 3A49, NIH, Bethesda, MD 20892.
Generic—2'-3'-dideoxycytidine *Trade*—Not established	Treatment of Acquired Immunodeficiency Syndrome (AIDS).	Hoffmann-La Roche, 340 Kingsland St., Nutley, NJ 07110.
Generic—2'-3'-dideoxycytidine *Trade*—Not established	Treatment of Acquired Immunodeficiency Syndrome (AIDS).	National Cancer Inst., Bldg. 31, Room 3A49, NIH, Bethesda, MD 20892.
Generic—2'-3'-dideoxyinosine *Trade*—Not established	Treatment of Acquired Immunodeficiency Syndrome (AIDS).	Bristol-Myers Co., 5 Research Pkwy., P.O. Box 5100, Wallingford, CT 06492-7660.
Generic—2,3-dimercaptosuccinic Acid (DMSA) *Trade*—Not established	Treatment of lead poisoning in children	Johnson and Johnson Baby Products Co., Grandview Road, Skillman, NJ 08858.
Generic—24,25 dihydroxycholecalciferol *Trade*—Not established	Treatment of uremic osteodystrophy	Lemmon Co/TAG Pharmaceuticals, P.O. Box 630, Sellersville, PA 18960.

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Part IV

Department of Transportation

Research and Special Programs Administration

Transporting Hazardous Wastes; City of Maryland Heights (Missouri) Ordinance Requiring Bond for Vehicles; Notice

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Inconsistency Ruling No. IR-25; Docket IRA-43]

Transporting Hazardous Wastes; City of Maryland Heights (Missouri) Ordinance Requiring Bond for Vehicles

Applicant: City of Maryland Heights, Missouri.

City Ordinance Affected: City of Maryland Heights (Missouri) Ordinance 88-378, Section I.

Applicable Federal Requirements: Hazardous Materials Transportation Act (HMTA) (Pub. L. 93-633, 49 App. U.S.C. 1801 *et seq.*) and the Hazardous Materials Regulations (HMR) (49 CFR Parts 171-179) issued thereunder.

Mode Affected: Highway.

Issue Date: April 17, 1989.

Ruling: Section I of Ordinance 88-378 of the City of Maryland Heights, Missouri, requiring a $1,000 bond for highway transportation of certain hazardous wastes, is inconsistent with the HMR to the extent it applies to hazardous materials regulated under the HMTA and, therefore, is preempted to that extent under section 112(a) of the HMTA (49 App. U.S.C. 1811(a)).

Summary: This inconsistency ruling is the opinion of the Office of Hazardous Materials Transportation (OHMT) of the Department of Transportation (DOT) concerning whether Section I of Ordinance 88-378 of the City of Maryland Heights, Missouri, is inconsistent with the HMTA and the HMR and thus preempted by section 112(a) of the HMTA. This ruling was applied for and is issued under the procedures set forth at 49 CFR 107.201-107.209.

For Further Information Contact: Edward H. Bonekemper, III, Senior Attorney, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590 (Tel. (202) 366-4362).

I. Background

On May 13, 1988, Michael K. Moran, Building Commissioner of the City of Maryland Heights, Missouri, filed an inconsistency ruling application. That application requested a ruling concerning the inconsistency with the HMTA of the following prohibition in Section I of the City's Ordinance 88-378:

> No person shall haul sewage, sludge, human excrement, special, hazardous or infectious wastes without providing a bond in the amount of One Thousand Dollars ($1,000) per vehicle for each vehicle, hauling or to haul sewage, sludge, human excrement, special, hazardous or infectious waste.

The City requested that this section be reviewed for consistency with the insurance and indemnification requirements of the HMTA.

On the issue of consistency, the City stated:

> We believe this bonding requirement is not in conflict with the Hazardous Materials Transportation Act inasmuch as it imposes an additional requirement upon haulers; it does not exempt, or attempt to exempt them from the requirements of the Hazardous Materials Transportation Act.

On June 6, 1988 (53 FR 20736), OHMT published a Public Notice and Invitation To Comment soliciting public comments on the City's application. Comments supporting a finding of inconsistency were filed by E & H Hauling Company, Infectious Waste Management, Inc. (IWM), the Chemical Waste Transportation Council (CWTC), the National Tank Truck Carriers, Inc. (NTTC), the American Trucking Associations (ATA), and jointly by the National Private Trucking Association (NPTA) and the Private Truck Council of America (PTCA). No comments were filed by the City of Maryland Heights or any other party in support of a finding of consistency.

II. General Authority and Preemption Under the HMTA

The HMTA at section 112(a) (49 App. U.S.C. 1811(a)) preempts "* * * any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in [the HMTA], or in a regulation issued under [the HMTA]." This express preemption provision makes it evident that Congress did not intend the HMTA and its regulations to completely occupy the field of transportation so as to preclude any state or local action. The HMTA preempts only those state and local requirements that are "inconsistent."

In the HMTA's Declaration of Policy (section 102) and in the Senate Commerce Committee language reporting out what became section 112 of the HMTA, Congress indicated a desire for uniform national standards in the field of hazardous materials transportation. Congress inserted the preemption language in section 112(a) "in order to preclude a multiplicity of state and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous material transportation" (S. Rep. 1192, 93rd Cong., 2d Sess., 37-38 (1974)). Through its enactment of the HMTA, Congress gave the Department the authority to promulgate uniform national standards. While the HMTA did not totally preclude state or local action in this area, Congress apparently intended, to the extent possible, to make such state or local action unneccessary. The comprehensiveness of the HMR, issued to implement the HMTA, severely restricts the scope of historically permissible state or local activity.

Although advisory in nature, inconsistency rulings issued by OHMT under 49 CFR Part 107 provide an alternative to litigation for a determination of the relationship between Federal requirements and those of a state or political subdivision. If a state or political subdivision requirement is found to be inconsistent, the state or local government may apply to OHMT for a waiver of preemption. 49 App. U.S.C. 1811(b); 49 CFR 107.215-107.225.

In issuing its advisory inconsistency rulings concerning preemption under the HMTA, OHMT is guided by the principles enunciated in Executive Order 12612 entitled "Federalism" (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of state laws only when the statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of state authority directly conflicts with the exercise of Federal authority. The HMTA, of course, contains an express preemption provision, which OHMT has implemented through regulations and interpreted in a long series of inconsistency rulings beginning in 1978.

Since these proceedings are conducted pursuant to the HMTA, only the question of statutory preemption under the HMTA will be considered. A court might find a non-Federal requirement preempted for other reasons, such as statutory preemption under another Federal statute, preemption under state law, or preemption by the Commerce Clause of the U.S. Constitution because of an undue burden on interstate commerce. However, OHMT does not make such determinations in its inconsistency ruling process.

OHMT has incorporated into its procedures (49 CFR 107.209(c)) the following criteria for determining whether a state or local requirement is consistent with, and thus not preempted by, the HMTA:

> (1) Whether compliance with both the non-Federal requirement and the Act or the regulations issued under the Act is possible; and

> (2) The extent to which the non-Federal requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

These criteria are based upon, and supported by, U.S. Supreme Court decisions on preemption. *Hines* v. *Dovidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield Co.*, 435 U.S. 151 (1978).

The first criterion, the "dual compliance" test, concerns those non-Federal requirements which are irreconcilable with Federal requirements; that is, compliance with the non-Federal requirement causes the Federal requirement to be violated, or *vice versa*. The second criterion, the "obstacle" test, involves determining whether a state or local requirement is an obstacle to executing and accomplishing the purposes of the HMTA and the HMR; a requirement which is such an obstacle is inconsistent. Application of this second criterion requires an analysis of the non-Federal requirement in light of the requirements of the HMTA and the HMR, as well as the purposes and objectives of Congress in enacting the HMTA and the manner and extent to which those purposes and objectives have been carried out through OHMT's regulatory program.

III. Public Comments

As indicated above, the City of Maryland Heights stated in its application its belief that this bonding requirement is "not in conflict" with the HMTA. As discussed in more detail below, all six commenters who responded to OHMT's Federal Register Notice opposed a finding of consistency.

E & H Hauling Company, Maryland Heights, states that there is no need for a local bond because of existing liability requirements for hazardous waste transporters. It argues that the ordinance was passed to hinder the solid waste transporting business, and it claims the ordinance is discriminatory because it does not apply to transporters of other hazardous materials (e.g., propane or gasoline). Finally, it contends that the ordinance would be difficult to enforce without permanent roadblocks or inspections of all trucks entering the City.

IWM states that the scarcity of licensed disposal facilities results in long transportation distances for sludge, special, hazardous or infectious wastes. IWM continues:

> Therein lies the problem. As an example, Maryland Heights is one of over 100 communities in the St. Louis Metropolitan Area and is located on two Interstate Highways. If each City in the Metro area adopted an Ordinance of this type and only thirty DOT regulated trucks traveled through this area, it is conceivable that consumer prices on certain products and services could rise in excess of three (3) million dollars annually for the St. Louis consumers alone. On a nationwide basis this figure could reach into the billions. It should also be pointed out that layered bonding causes additional administrative expense at the local level with no return to the citizens.

IWM concludes that trucking bonds can be enforced and administered more efficiently at the state or Federal level than at the local level and urges that bonding of regulated trucking be limited to the state and Federal levels.

CWTC, on behalf of hazardous waste transporters, contends that the City's bonding requirement is inconsistent for several reasons. First, it contends that it is inconsistent with § 177.853(a) of the HMR because it will cause rerouting of hazardous materials around the City.

Second, CWTC argues that this "artificial routing" will be done without adequate safety justification and appropriate coordination with adjoining affected jurisdictions—allegedly in violation of the tenets set forth in Inconsistency Ruling No. IR-1 (IR-1), 43 FR 16954 (Apr. 20, 1978); IR-2, 43 FR 75566 (Dec. 20, 1979), *appeal* 45 FR 71881 (Oct. 30, 1980), *correction*, 45 FR 76838 (Nov. 20, 1980); IR-3, 46 FR 18918 (Mar. 26, 1981), *appeal*, 47 FR 18457 (Apr. 29, 1982); IR-20, 52 FR 24396 (June 30, 1987), *correction*, 52 FR 29468 (Aug. 7, 1987).

Third, CWTC asserts that the City's bonding requirement will divert traffic off the I-270 beltway and onto non-interstate routes or interstates (e.g., I-170) through more densely populated areas. This effect allegedly would contravene a 1977 RSPA interpretation of 49 CFR 387.9.

Fourth, CWTC states that the City has failed to make the purportedly required showing that $1,000 is a reasonable and appropriate amount for the required bond.

Fifth, CWTC contends that the City's requirement is inconsistent with the financial requirements of 49 CFR 387.15. It argues that, despite statements to the contrary in the Public Notice on this matter, RSPA must consider consistency with those requirements—as it allegedly previously did in IR-10, 49 FR 46645 (Nov. 27, 1984), *correction*, 50 FR 1939 (Mar. 12, 1985); IR-11, 49 FR 46647 (Nov. 27, 1984); IR-15, 49 FR 46660 (Nov. 27, 1984); IR-15 (Appeal), 52 FR 13062 (Apr. 20, 1987); IR-18, 52 FR 200 (Jan. 2, 1987), *appeal*, 53 FR 28850 (July 29, 1988).

Sixth, CWTC claims that the City's bonding requirement is inequitable because it is not levied on the transportation of all hazardous materials. It points to the irony that a bond is required for hazardous wastes but not for undiluted non-waste hazardous materials which are more toxic and hazardous than the waste materials.

Finally, CWTC argues that the cumulative effect of multiple state and local bonding requirements would be to ban the transportation of hazardous waste.

NTTC argues that the City's bonding requirement is inconsistent for several reasons. It contends that it is a form of tax or fee applicable because of the nature of the commodity transported and that it will prompt transportation delays in violation of the HMR.

NTTC contends that the City's bonding requirement fails the "dual compliance" test for consistency. It contends that, unlike the Illinois fee involved in IR-17, 51 FR 20925 (June 9, 1986), and IR-17 (Appeal), 52 FR 36200 (Sept. 25, 1987), *correction*, 52 FR 37399 (Oct. 6, 1987), the City's requirement does not support an otherwise consistent safety regulatory program. It also points to unnecessary delays which would be caused by roadside checks to enforce the City's requirements, by carriers' routing their trucks around the City, and by the administrative delays necessarily involved in obtaining the required bond. It argues that the potential for replication by other jurisdictions is relevant because the result will be massive disruptions in traffic flows, a factor which it says must be considered under the "DOT enabling act," which directs the Secretary to "promote" transportation.

In addition, NTTC contends that the City's requirement fails the "obstacle test" for consistency. It argues that, because the City's ordinance provides no compliance methodology or details concerning guarantors or beneficiaries, the Ordinance is a transparent attempt to export risks to other jurisdictions by discouraging the hauling of hazardous wastes through the City. NTTC also urges that consideration be given to "burden of commerce" arguments—despite rejection of such arguments in IR-17 (Appeal), *supra*—because the potential threat of widespread fees and similar financial requirements has became a reality; it contends that the "burden on commerce" argument must be considered by OHMT in deciding inconsistency applications because astute state or local governments will not request waivers of preemption (which would open the door for consideration of "burden on commerce" issues).

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The NPTA and the PTCA, in their joint comments, contend that the City's bonding requirement is inconsistent for three reasons. First, they assert that the requirement of a bond as a precondition to hazardous materials transportation would result in rerouting by carriers and an exportation of risk to other communities and thus constitutes a *de facto* ban on hazardous materials transportation. They cite IR–10, *supra*, in support of this contention. In addition, they argue that the rerouting effects of the City's bonding requirement will be aggravated by the existing Federal motor carrier insurance requirements in 49 CFR 387.15.

Second, they contend that the City's requirement will result in unnecessary delays in transit for many shipments because of the rerouting that requirement will cause. Such delays, they argue, result in a direct conflict with § 177.853 of the HMR, which directs that highway shipments proceed without unnecessary delay.

Third, they assert that the City's requirement is inconsistent because of potential multiplicity. In support of this argument, they quote from IR–10, *supra*:

> [I]f any one State may use insurance requirements to deflect interstate carriers of hazardous materials into other jurisdictions, then all States may do so. The logical result would be, if not a total cessation of a Congressionally recognized form of interstate transportation then the very patchwork of varying and conflicting state and local regulations which Congress sought to preclude.

49 FR 46647. NPRA and PTCA also cite IR–6 as declaring City of Covington, Kentucky, prenotification requirements inconsistent for the same reasons.

ATA challenges the consistency of the City's requirements on several grounds. It points out that the City's Ordinance states that the "bond shall assure that the provisions of the Ordinance are satisfied" and "shall inure to the benefit of the City of Maryland Heights and persons residing therein." ATA claims that the bond is used to enforce compliance with other provisions of the Ordinance, including requirements to have an annual waste transportation license, to be inspected, to display a sticker, to have specified levels of insurance, and to have vehicles and containers which meet City construction requirements.

ATA also states that the City contains segments of four major interstate highways near the Missouri-Illinois border and that City Manager Moran stated that the City believes it has authority under this Ordinance to regulate trucks passing through the City on Interstate highways and state highways.

Having set forth these premises, ATA advances three separate arguments against the consistency of the City's requirement. It first argument is that the City's requirement is inconsistent with the national uniformity intended by Congress in enacting the HMTA, as reflected in 49 CFR 177.800. They perceive the City's Ordinance as a precedent leading to adoption of different regulations by many jurisdictions which would interfere with compliance with the HMR and reduce safety.

This lack of uniformity, ATA asserts, is demonstrated by the City's prohibiting the use of drivers and vehicles meeting all HMR requirements from transporting hazardous wastes in the City unless the vehicle is bonded, licensed, inspected, insured and constructed in compliance with the City's Ordinance. In particular, ATA points to "ambiguous" requirements that "vehicles and containers used shall be constructed—so as to prevent wastes from spilling" and shall "have spillproof bodies."

ATA's second argument is that the City's Ordinance would create unnecessary delays in transportation in conflict with § 177.853 of the HMR. It expresses concern that delays would result from City inspections to enforce the bonding requirement and from carriers having to await the availability of those specific vehicles in their fleets for which they have obtained a required bond. ATA argues that these delays would not only violate §177.853 but also would constitute an obstacle to compliance with the HMR under IR–22, 52 FR 46574 (Dec. 8, 1987), *correction*, 52 FR 49107 (Dec. 29, 1987).

ATA's third argument is that the City's bonding requirement is an inconsistent routing restriction or ban. It contends that the minimal bond level cannot measurably increase safety, particularly in light of the 49 CFR 387.15 [actually §§ 387.7 and 387.9] requirement for $1,000,000 liability insurance for carriers of hazardous waste in interstate commerce. Nevertheless, ATA contends these bonds will be difficult, costly or impossible to obtain. Therefore, it argues, the bonding requirement will force some carriers to avoid the City and that, therefore, the Ordinance really is a routing restriction or *de facto* ban.

ATA contends that the Ordinance is inconsistent as either a hazardous materials routing restriction or ban. It points out that IR–23, 53 FR 16840 (May 11, 1988), requires routing restrictions to be preceded by a determination of effect on overall public safety and consultation with other affected jurisdictions—neither of which is reflected in the record here. ATA further states that IR–23 indicates that the power to ban is exclusively Federal and that local bans generally are inconsistent.

IV. Ruling

While many of the issues raised in the comments (e.g., delays, routing restrictions, bans, equipment requirements, etc.) may have merit, it is unnecessary to discuss them in order to determine the consistency of the City of Maryland Heights' bonding requirement for the transportation of hazardous wastes.

A local government may not impose any insurance, bonding or indemnification requirement as a precondition to the transportation of hazardous materials. It is necessary to discuss the imposition of such requirements to both radioactive materials and other hazardous materials because the City's bonding requirement appears to apply to both radioactive and non-radioactive hazardous wastes. This issue previously has been resolved with respect to radioactive materials, and this ruling addresses this issue with respect to other hazardous materials, specifically hazardous wastes.

Several prior inconsistency rulings have made it clear that indemnification, bonding or insurance requirements for radioactive materials transportation differing from Federal requirements are inconsistent. IR–10, IR–11, IR–15, IR–15 (Appeal), IR–18, all *supra*; IR–18 (Appeal), 53 FR 28850 (July 29, 1988). This conclusion was stated succinctly by the RSPA Administrator in IR–15 (Appeal):

> The indemnification level established through the HMR, coupled with the indemnification provisions of the Price-Anderson Act (42 U.S.C. 2210), provides the exclusive standard for radioactive materials transportation indemnification. They have totally occupied that field, and any state or local bond, insurance or indemnification requirement not identical to the HMR requirement is an obstacle to the accomplishment of the objectives of the HMTA and the HMR.

52 FR 13062.

However, no prior inconsistency ruling or court decision has considered the consistency under the HMTA or the HMR of a local bonding, insurance or indemnification requirement for the transportation of non-radioactive hazardous materials. There is no such requirement in the HMR. OHMT is determining herein, in accordance with *Ray v. Atlantic Richfield Co.*, 435 U.S. 151 (1978), that no such requirement is necessary—particularly because 49 CFR 387.7 and 387.9 already require insurance or surety bonds of between $1,000,000 and $5,000,000 for motor carriers transporting hazardous wastes, hazardous substances and other hazardous materials.

If OHMT later determines that a bonding, insurance, or indemnity requirement is necessary under the HMTA for the transportation of non-radioactive hazardous materials, it will amend the HMR accordingly. Until such time, the absence of such a requirement in the HMR is a reflection of OHMT's determination that no such requirement is necessary and that any such requirement imposed at the state or local level is inconsistent with the HMR.

The subject of bonding, insurance and indemnity requirements for hazardous materials transportation is exclusively Federal. The existence in the U.S. of more than 30,000 local jurisdictions, each having the potential to impose such requirements, demonstrates the havoc which could be created if even a small percentage of them were to impose such requirements (with their inevitable differences). It would be extremely difficult for carriers to learn about, let alone comply with, such local requirements.

As indicated in IR–10, *supra*, at 46647, this regulatory subject is the type of subject (insurance) about which Congress was concerned when it included preemption language in the HMTA "in order to preclude a multiplicity of state and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous material transportation." S. Rep. 1192, 93rd Cong., 2d Sess., 37–38 (1974). Thus, non-Federal bonding, insurance and indemnity requirements for hazardous materials transportation regulated under the HMTA fail the "obstacle" test and are inconsistent with the HMR.

V. Ruling

For the foregoing reasons and on the basis of this record, I find that Section I of Ordinance 88–378 of the City of Maryland Heights, Missouri, is inconsistent with the HMR to the extent it applies to hazardous materials regulated under the HMTA, and, therefore, is preempted to that extent under section 112(a) of the HMTA (49 App. U.S.C. 1811(a)).

Any appeal of this ruling must be filed within 30 days of service in accordance with 49 CFR 107.211.

Alan I. Roberts,

Director, Office of Hazardous Materials and Transportation.

Issued in Washington, DC, on April 17, 1989.

[FR Doc. 89–9554 Filed 4–20–89; 8:45 am]

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Part V

Department of Transportation

Research and Special Programs Administration

California Department of Motor Vehicles Regulations on Training Requirements for Operators of Vehicles Carrying Hazardous Materials; Notice

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Inconsistency Ruling No. IR-26; Docket IRA-42]

California Department of Motor Vehicles Regulations on Training Requirements for Operators of Vehicles Carrying Hazardous Materials

Applicant: California Department of Motor Vehicles.

Regulations Affected: California Administrative Code, Title 13, Chapter 1, §§ 100.00–100.11.

Applicable Federal Requirements: Hazardous Materials Transportation Act (HMTA) (Pub. L. 93–633, 49 App. U.S.C. 1801 *et seq.*) and the Hazardous Materials Regulations (HMR) (49 CFR Parts 171–179) issued thereunder.

Mode Affected: Highway.

Issue Date: April 17, 1989.

Ruling: Sections 100.00–100.11 of Title 13, Chapter 1 of the California Administrative Code presently are inconsistent with the HMTA and the HMR to the extent that they apply to operators of motor vehicles transporting hazardous materials who are domiciled in states other than California. Effective April 1, 1992, those regulations will be inconsistent with the HMTA and the HMR to the extent that they apply to operators of motor vehicles transporting hazardous materials who are domiciled in states other than California which issue commercial drivers' licenses (CDL's) under the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701–2716) (CMVSA) and who have hazardous materials endorsements on their CDL's. In addition, § 100.02 of those regulations is inconsistant with the HMTA and the HMR to the extent that its requirements are based upon definitions of hazardous materials not identical to those in the HMR. Otherwise, those regulations however, are consistent with the HMTA and the HMR. To the extent those regulations are inconsistent with the HMTA and the HMR, they are preempted under section 112(a) of the HMTA (49 App. U.S.C. 1811(a)).

Summary: This inconsistency ruling is the opinion of the Office of Hazardous Materials Transportation (OHMT) of the Department of Transportation (DOT) concerning whether §§ 100.00–100.11 of Title 13, Chapter 1 of the California Administrative Code are inconsistent with the HMTA and the HMR and thus preempted by section 112(a) of the HMTA. This ruling was applied for and is issued under the procedures set forth at 49 CFR 107.201–107.209.

For Further Information Contact: Edward H. Bonekemper, III, Senior Attorney, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590 (Tel. (202) 366–4362).

I. Background

On October 13, 1987, A.A. Pierce, Director of the California Department of Motor Vehicles (DMV), filed an inconsistency ruling application. That application requested a ruling concerning the consistency of §§ 100.00 through 100.11 of Title 13, Chapter 1 of the California Administrative Code with the HMTA and the HMR.

These regulations were approved by California's Office of Administrative Law and filed with the Secretary of State on September 15, 1987.

The following is a brief synopsis of those regulations:

Section 100.00 provides that Federal standards and requirements govern in the event of a conflict between these regulations and Federal statutes or regulations.

Section 100.01 contains definitions of cargo tank, tank configuration, combinations of vehicles with any tank configuration, and bulk liquid load.

Section 100.02 contains requirements for out-of-state drivers. These include requirements that such drivers have received the training specified in § 100.07 applicable to the hazardous material or waste being carried and carry either an employer notice to that effect or a California Non-Resident Special Driver Certificate authorizing carriage of the hazardous materials or waste being carried.

Section 100.03 provides for certificate renewals.

Section 100.04 provides for exceptions to the certificate program.

Section 100.05 specifies bases on which DMV may refuse to issue, or may suspend or revoke, a certificate.

Section 100.06 establishes a program for employer certification of training for drivers of vehicles transporting hazardous waste, hazardous materials or bulk liquid loads.

Section 100.07 sets forth the detailed training requirements for drivers hauling hazardous wastes, hazardous materials, and bulk liquids in combination.

Section 100.08 describes the requirements for employer-issued certificates of driving experience.

Section 100.09 authorizes an employer to file a joint application if it meets all the requirements of Sections 100.06 through 100.08.

Section 100.10 contains recordkeeping and other requirements for employers authorized to issue certificates of training or certificates of experience.

Section 100.11 sets forth the effective dates for these regulations.

California's application requested comparisons of those regulations for consistency with section 112(a) of the HMTA and §§ 171.8, 177.800 and 177.823 of the HMR. The application also requested comparisons of those regulations with 49 CFR 391.4, 391.11, 391.15, 391.25, 391.35, 391.41, 391.43, 391.45, 391.51, and 391.65 of the Federal Motor Carrier Safety Regulations (FMCSR). Finally California's application requested comparisons of its regulations with certain provisions of the Commercial Motor Vehicle Safety Act of 1986.

On November 16, 1987, OHMT published a Public Notice and Invitation to Comment (52 FR 43018) soliciting public comments on California's application. On December 29, 1987 (52 FR 49107), OHMT extended the comment period to April 18, 1968. Comments in support of a finding of inconsistency were filed by the National Tank Truck Carriers, Inc. (NTTC), 3M, Federal Express, the National Private Trucking Association (NPTA), the National Industrial Transportation League (NITL), the American Trucking Associations, Inc. (ATA), the Electric Utility Companies' Nuclear Transportation Group (the Nuclear Group), and the Department of Energy (DOE). Opposing comments, supporting a finding of consistency, were filed by the California DMV, California State Senator John Seymour and the California Trucking Association (CTA).

Conoco requested that OHMT delay its ruling until the Federal Highway Administration (FHWA) completed a rulemaking on Commercial Driver Testing and Licensing Standards, concerning which a notice of proposed rulemaking (NPRM) had been published by the FHWA. Conoco's request is moot because the FHWA published a final rule on that subject on July 21, 1988 (53 FR 27628).

II. General Authority and Preemption Under the HMTA

The HMTA at section 112(a) (49 App. U.S.C. 1811(a)) preempts "* * * any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in [the HMTA], or in a regulation issued under [the HMTA]." This express preemption provision makes it evident that Congress did not intend the HMTA and its regulations to completely occupy the field of transportation so as to preclude any state or local action. The HMTA preempts only those state and local requirements that are "inconsistent."

In the HMTA's Declaration of Policy (section 102) and in the Senate Commerce Committee language reporting out what became section 112 of the HMTA, Congress indicated a desire for uniform national standards in the field of hazardous material transportation. Congress inserted the preemption language in section 112(a) "in order to preclude a multiplicity of state and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation" (S. Rep. 1192, 93rd Cong., 2d Sess., 37–38 (1974)). Through its enactment of the HMTA, Congress gave the Department the authority to promulgate uniform national standards. While the HMTA did not totally preclude state or local action in this area, Congress intended, to the extent possible, to make such state or local action unnecessary. The comprehensiveness of the HMR, issued to implement the HMTA, severely restricts the scope of historically permissible state or local activity.

Although advisory in nature, inconsistency rulings issued by OHMT under 49 CFR Part 107 provide an alternative to litigation for a determination of the relationship between Federal requirements and those of a state or political subdivision. If a state or political subdivision requirement is found to be inconsistent, the state or local government may apply to OHMT for a waiver of preemption. 49 App. U.S.C. 1811(b); 49 CFR 107.215–107.225.

In issuing its advisory inconsistency rulings concerning preemption under the HMTA, OHMT is guided by the principles enunciated in Executive Order 12612 entitled "Federalism" (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of state laws only when the Federal statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of state authority directly conflicts with the exercise of Federal authority. The HMTA, of course, contains an express preemption provision, which OHMT has implemented through regulations and interpreted in a long series of inconsistency rulings beginning in 1978.

Since these proceedings are conducted pursuant to the HMTA, only the question of statutory preemption under the HMTA will be considered. A court might find a non-Federal requirement preempted for other reasons, such as statutory preemption under another Federal statute, preemption under state law, or preemption by the Commerce Clause of the U.S. Constitution because of an undue burden on interstate commerce. However, OHMT does not make such determinations in an inconsistency ruling proceeding.

OHMT has incorporated into its procedures (49 CFR 107.209(c)) the following criteria for determining whether a state or local requirement is consistent with, and thus not preempted by, the HMTA:

(1) Whether compliance with both the non-Federal requirement and the Act or the regulations issued under the Act is possible; and

(2) The extent to which the non-Federal requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

These criteria are based upon, and supported by, U.S. Supreme Court decisions on preemption. These include *Hines* v. *Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); and *Ray* v. *Atlantic Richfield Co.*, 435 U.S. 151 (1978).

The first criterion, the "dual compliance" test, concerns those non-Federal requirements which are irreconcilable with Federal requirements; that is, compliance with the non-Federal requirement causes the Federal requirement to be violated, or *vice versa*. The second criterion, the "obstacle" test, involves determining whether a state or local requirement is an obstacle to executing and accomplishing the purposes of the HMTA and the HMR; a requirement constituting such an obstacle is inconsistent. Application of this second criterion requires an analysis of the non-Federal requirement in light of the requirements of the HMTA and the HMR, as well as the purposes and objectives of Congress in enacting the HMTA and the manner and extent to which those purposes and objectives have been carried out through OHMT's regulatory program.

III. Public Comments Against Consistency

Several commenters contended that the California DMV regulations are inconsistent without regard to whether they are applied to residents or non-residents of California. Other commenters focused on inconsistencies which allegedly would result if the California regulations are imposed on non-residents of California. (Comments supporting a determination of consistency are summarized in Part IV.)

The following discussions include a summary of the general arguments made against the consistency of the DMV regulations (Section A) and a summary of the arguments alleging inconsistency based on application of the DMV regulations to non-residents of California (Section B).

A. General Arguments Against Consistency

1. Definitions

Citing Inconsistency Ruling 20 (IR–20), 52 FR 29396 (June 30, 1987), *correction*, 52 FR 29468 (Aug. 7, 1987), DOE contends that California DMV's definitions of hazardous materials differ from those in the HMR and, therefore, are inconsistent. DOE specifically cites the State's allegedly "vague" definition of hazardous waste in sections 25115 and 25117 of the California Health and Safety Code; placarding requirements in section 27903 of the California Vehicle Code, and bulk liquid loads in combination as defined in § 100.01(d) of the DMV regulations and sections 12804.1 and 12804.3 of the California Vehicle Code.

2. Information and Documentation Requirements

DOE contends that § 100.02 of the DMV rules is inconsistent with HMR shipping paper and information requirements because it requires information and documentation in excess of Federal requirements. DOE says that § 100.02 requires non-California operators carrying certain hazardous materials to possess either a Non-Resident Special Certificate or a notice from the employing carrier on a State-approved form that the driver has met the DMV training requirements.

Federal Express contends that DMV's § 100.10, requiring out-of-state employers of operators to maintain training records in California, is inconsistent. Citing IR–8, 49 FR 46637 (Nov. 27, 1984), *affirmed* IR–8 (Appeal), 52 FR 13000 (Apr. 20, 1987), NPTA agrees with this contention on the ground that those requirements are redundant with Federal requirements.

NITL, a shipper's transportation trade association, cites IR–22, 52 FR 46574 (Dec. 8, 1987), *correction*, 52 FR 49107 (Dec. 29, 1987), for the proposition that information and documentation requirements in excess of HMR requirements are inconsistent with the HMTA and the HMR. It asserts that the DMV regulations are redundant, place a substantial compliance burden on the private sector, and would do little to improve highway safety.

NPTA and ATA argue that DMV's authority under §§ 100.05 and 100.10,

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respectively, to revoke a driver's special certificate or an employer's certification number constitutes unfettered discretion which fails the "obstacle" test and thus is inconsistent.

3. Training Requirements

a. General Training Requirements

Federal Express objects to the training requirements in §§ 100.02 and 100.07 and DMV's attempt to impose its training program on employers authorized to issue certificates to drivers. It contends that the imposition of a separate training requirement which must be evidenced by a certificate applicable only in California is inconsistent with "the overall Federal regulation of training requirements imposed by the Department of Transportation."

NPTA contents that DMV's § 100.07 training requirements are inconsistent with the HMR training requirements in §§ 177.800 (general), 177.816 (flammable cryogenic liquids) and 177.825 (radioactive materials). ATA also alleges inconsistency with § 177.800 of the HMR. NPTA argues that § 100.07 is redundant with the HMR and provides the DMV with unfettered discretion to determine the adequacy of training. These factors lead NPTA to conclude that § 100.07 fails the "obstacle" test for consistency with the HMR.

b. Radioactive Materials Training Requirements

DOE asserts that § 100.07 is inconsistent with § 177.825(d) of the HMR insofar as the former applies to operators of vehicles carrying highway route controlled quantities of radioactive materials (HRCQ). It states that the Federal rules require such drivers to carry a certificate of training as evidence of training within two preceding years and that the DMV rules require a Non-Resident Special Certificate as proof of training renewable every four years, or notice from the employing carrier on a state-approved form valid for 30 days.

Likewise, the Nuclear Group alleges inconsistency of the DMV regulations with § 177.825(d), which, it states, requires drivers of vehicles carrying HRCQ to have received, within two preceding years, training on (i) the HMR pertaining to the specific HRCQ transported, (ii) properties and hazards of those materials, and (iii) procedures to be followed if an accident occurs. Section 177.825(d) also requires the driver to carry a certificate evidencing such training.

The Nuclear Group argues that the existence of these specific HMR training requirements makes the DMV regulations redundant, confusing, and/or burdensome. It foresees the likelihood of delays entering, or diversions around, California. Finally, the Group asserts that OHMT's decision to require specific training for HRCQ drivers but not for drivers of other radioactive materials precludes California from imposing training requirements on the latter drivers. It contends that California should file a rulemaking petition with OHMT if it deems such additional training regulations necessary.

B. Arguments Against Consistency Based on Applicability to Non-California Operators

1. General Arguments

Federal Express states its concerns about application of the DMV regulations to non-California operators:

> Federal Express engages in some transborder truck operations into * * * California and each non-resident driver on each route would be required to complete California training prior to driving a vehicle to a California location. The utilization of a particular driver on any route cannot be guaranteed and emergency replacements are frequently necessary. As a result, this requirement imposes a substantial burden on Federal Express. Federal Express would have to specifically train any individual who might be asked to serve as a replacement driver on the California-approved program. This requirement could impair or prevent Federal Express from operating these routes when the regular driver is unexpect[ed]ly ill or otherwise unable to drive.

NTTL expresses its concern about the burdens the DMV regulations allegedly would place on interstate commerce and their effect on the FHWA's commercial driver licensing rulemaking.

NPTA states that minimum requirements for training and testing of hazardous materials drivers must be nationally uniform rather than established and implemented individually by states. It argues that: "To the extent California's training and testing regulations will apply to non-resident drivers and employers engaged in the transport of hazardous materials in interstate commerce, California's regulations should be ruled inconsistent with the requirements of the HMTA and the HMR."

NPTA challenges the consistency of DMV's § 100.02, which, NPTA says, requires a non-California driver to demonstrate compliance with the § 100.07 training requirements and to possess either a California Non-Resident Special Certificate or a notice signed by the driver and his or her employer certifying that the driver has met the § 100.07 training requirements. NPTA asserts that these requirements fail the "dual compliance" test by causing delays in transportation in violation of § 177.853 of the HMR. NPTA argues that this would occur because most carriers would not license all their drivers in California and thus routinely would have to delay shipments into or through California to obtain the services of a California-approved driver.

Similarly, NPTA attacks the consistency of DMV's § 100.06 concerning employer certification of training:

> First, the necessity for drivers to take a written test prepared by California (presumably by Cal DMV) and administered (presumably) in California poses a substantial, time consuming and costly burden for drivers and carriers alike. The labor contracts of many carriers will require them to bear the administrative and financial expenses which the taking of a written test in California will entail. Under most agreements, the carrier would be responsible for the driver's wages and travel expenses. Shifting such expenses from the carrier to the driver will not lessen or alter the outcome either. Although the operations of many carriers may be nationwide in scope, it does not necessarily follow that every driver employed or leased to a particular carrier will routinely operate throughout that carrier's route system, if at all; this is one of many operational uncertainties that confront carriers. Obviously, the inability to identify with certainty which drivers will operate in California, when, or for how long, together with the administrative and financial expenses associated with the taking of the written test, will serve to limit the number of drivers obtaining California licenses under subsection (a). Thus, carriers' compliance with the requirements of subsection (a) will, in many cases, cause unnecessary delays in transport in violation of 49 C.F.R. § 177.853, as interstate shipments of hazardous materials moving through or destined for California but not under the control of a California-licensed driver will routinely be forced to stop at California's borders while a California-approved driver can be located and substituted for the non-California-licensed driver.
>
> For many carriers and drivers, these effects will not be altered by the opportunity for carriers to obtain an employer number and issue training certificates under subsection (b). First, considering the number of carriers and drivers that will have to pass scrutiny under subsection (b), there will be a dearth of California-licensed drivers available. Thus, unnecessary delays in transit are an inherent part of subsection (b). This problem will be compounded by the unfettered discretion which subsection (b) appears to give Cal DMV in determining whether an employer has met its requirements, which will undermine to some extent the speedy implementation of subsection (b).

Likewise, the NTTC contends that those DMV regulations impose a requirement different from Federal requirements and thus fail the "dual compliance" and "obstacle" tests if and when applied to non-California employers or drivers. It points out that the DMV rules apply only when hazardous materials are being transported and asserts that the controversy concerning them arises only because of their proposed applicability to non-California drivers.

NTTC also urges OHMT to take notice of section 12009(a)(14) of the CMVSA, 49 App. U.S.C. 2708(a)(14), in which Congress mandates that states honor a commercial driver's license issued by any other state "in accordance with minimum Federal standards for the issuance of such licenses." It asserts that the DMV has failed to comply with the Congressional mandate for uniform state standards contained in section 12006 of the CMVSA, 49 App. U.S.C. 2705. ATA concurs with the NTTC's CMVSA argument and also supports preemption under the Federal Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2507(c)(4)).

Finally, NTTC argues that California's application of its licensing requirements to persons not holding a California license or permit violates the "dual compliance" test. It describes a few scenarios to demonstrate unnecessary delays which it claims could result from the DMV regulations and states that these potential delays directly contravene § 177.853 (a) and (b) of the HMR:

> The problem comes when the Golden Bear extends its regulatory paw to drivers licensed in other states.
>
> California's rules (under evaluation, here) force out-of-state employers to create an administrative process just to comply with the California rules—a process which will require constant review and updating.
>
> "Call and demand service" is the very essence of the for-hire tank truck business. Typically, vehicles and drivers are dispatched on very short notice. Here is the core of "unnecessary delay." For the purpose of illustration we submit the following scenario (based on the assumption that California's rules would be enforced):
>
> Carrier A, based in Denver, Colorado, receives an order to transport acetone from Denver to Sacramento, California, in a cargo tank motor vehicle. Driver and vehicle must be dispatched from the carrier's Pueblo, Colorado, terminal. That carrier must now sift through the following options.
>
> (a) All of the carrier's Pueblo-based drivers are "California qualified"—no problem, no delay.
>
> (b) None of the carrier's Pueblo-based drivers are "California qualified", and the carrier refuses the load—delay is caused because (now) the shipper must locate another carrier with appropriate equipment and "California qualified" drivers. The delay is "unnecessary", because, absent the State's singular licensing requirement, the load would have been transported.
>
> (c) None of the carrier's Pueblo-based drivers are "California qualified", but the carrier does not refuse the load—delay is caused because the carrier must obtain and complete the "form approved by the department" (as mandated by CAC 100.02(e)(2)); train the driver (as mandated by CAC 100.06 and 100.07(2)(b)); then, dispatch the loaded trailer. Again, the delay is unnecessary because, absent the State's singular licensing requirement, the load would have been transported immediately following the first customer/client contact.
>
> (d) Some of the carrier's Pueblo-based drivers are "California qualified", but those drivers are "short on hours" (re: Federal Hours of Service regulations), and could complete the trip only with an "in service" interruption—here, the delay is inevitable and unnecessary. Had the California rules not been in force, the carrier would have selected a driver with a maximum number of available hours.
>
> Without strain, any number of variations can be constructed from this scenario. For instance, let us assume that our hypothetical load of acetone arrives at its California destination under the steady hand of a driver "California qualified" for "Hazardous Materials" (at CAC 100.07(2)(b)). However, upon arrival, the consignee rejects the load, as contaminated. At this point, the load (still in the same trailer and under the control of the same driver) becomes "Hazardous Waste". Since the driver is not qualified under 100.07(a) for "Hazardous Waste", the carrier is faced with a limited number of choices—all bad. The carrier could urge the consignee (now shipper) to "cheat" and not cut a hazardous waste manifest; or, the carrier could order the unit and driver back to Pueblo (and pray that the unit is not stopped for inspection); or, the carrier could order the unit to sit in California until a driver, qualified under CAC 100.07(a), can come and pick up the trailer containing the contaminated product.
>
> In any such situation, the potential for unnecessary delay is obvious.

ATA contends that the DMV regulations would prohibit experienced drivers who are authorized by DOT to transport hazardous materials anywhere else in the Nation from transporting hazardous materials in California. ATA argues that this lack of uniformity is an obstacle to compliance with the HMR, especially § 177.800, and thus is inconsistent with the HMR.

ATA advances the following argument concerning how application of the DMV regulations to non-California drivers would lead to delays and, therefore, inconsistency with the HMR:

> The California regulations would create delays in the transportation of hazardous materials. A driver of a vehicle containing hazardous materials will be stopped in California if he does not have evidence that he has been trained and tested in accord with California's unique requirements. Any vehicle stopped will be delayed.
>
> There are more than 3 million drivers of commercial vehicles in the United States. Except for drivers who never transport hazardous materials or do not ever drive in California, each of these drivers would have to be trained and tested to meet California's requirements. This poses real problems for the majority of drivers affected and will lead directly to delays in transportation.
>
> First, drivers who are owner-operators are self-employed and so would not be able to turn to an employer for training, testing and certification. An owner-operator based outside of California would either have to make a special stop in California or delay the transportation of hazardous material while the owner-operator is trained and tested. Depending on California's specific requirements, the training could take days or weeks.
>
> Second, motor carriers that transport cargo in California irregularly would not want to go through the cost and recordkeeping which is required by California to become an employer authorized to train, test and certify drivers. Therefore their drivers would also have to make a special stop or delay the transportation of hazardous material.
>
> Each such delay is in direct conflict with the provisions of 49 CFR § 177.853 that mandate that highway shipments of hazardous materials be transported without unnecessary delay. Such delay is also an obstacle to compliance with the HMR. As decided by OHMT in IR–22, "hazardous materials transportation delays * * * constitute an independent basis for finding [regulations] to be inconsistent with the HMR." *Ibid.*, at 46584. Therefore, the regulations should be preempted.

2. Precedential Effects

Federal Express sees the DMV regulations as a forerunner to similar requirements in all 50 states and that Company's being required to develop and maintain separate training programs, compliance procedures and records for each of those states. NPTA shares these views, particularly with respect to training and records requirements.

Similarly, the Nuclear Group says that hazardous materials transportation safety is an issue of concern to all the states and that the "regulatory balkanization that would result from piecemeal action at the state level to address this issue could actually decrease the safety of the interstate transportation of hazardous materials." The Group contends that driver training requirements should be developed at the national, not state, level.

3M shares these concerns about the costs to carriers and shippers which would result from numerous states imposing multiple standards and certifications. 3M concludes:

> Administrative costs would increase as a result of comparing state requirements, updating programs, certification of driver training programs by state(s), and

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unnecessary additional training of drivers. Increased fees for special licenses/permits with no demonstrable benefit to the public will result in higher transportation costs. Furthermore, the carrier industry is already operating on competitive profit margins and it is arguable that the increased costs of these regulatory duplications will further financially burden carriers and may precipitate bankruptcies.

Duplicative regulations concerning drivers training results in additional substantial private costs without perceivable public benefit.

NPTA argues that, because other states and localities will adopt their own unique criteria for licensing drivers of hazardous materials shipments if the DMV's requirements are found consistent, § 100.02 should be found to violate the "obstacle" test. As an example, it cites certain New York City driver licensing requirements concerning which OHMT deferred ruling in IR-22, *supra*, pending the outcome of this proceeding.

It also cites IR-19, 52 FR 24404 (June 30, 1987), *correction*, 52 FR 29468 (Aug. 7, 1987), *affirmed* IR-19 (Appeal), 53 FR 11600 (Apr. 7, 1988), and IR-22, *supra*, for the proposition that the comprehensiveness of the HMR severely restricts previously permissible state and local regulatory activity.

Finally, NPTA provides the following analysis of the effect of the Commercial Motor Vehicle Safety Act of 1986 (CMVSA):

As sections 12005 and 12006 of the Commercial Motor Vehicle Safety Act of 1986 ("CMVSA"), 49 U.S.C. App. 2704 and 2705, so clearly demonstrate, in directing DOT to promulgate standards for the testing and licensing drivers, including specific subject-matter training for drivers of hazardous materials, Congress intended "to establish uniform standards for testing and licensing operators of commercial motor vehicles." H.R. Rep. No. 99-601, 99th Cong. 2d Sess. 1 (1986) ("House Report"). Further, notwithstanding that the CMVSA reserved to each state the right to impose more stringent standards, House Report, *supra* at 3, section 12009 of the CMVSA, 49 U.S.C. App. 2708, also makes clear that this right is restricted to the resident drivers of each state; that as a condition of participation in the federal licensing program created by the CMVSA, the states are required to honor the licenses of other states issued in accordance with the minimum federal requirements. Thus, the CMVSA is not only in keeping with the HMTA, its requirements for driver testing and licensing are in furtherance of the HMTA's objectives "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." S. Rep. No. 93-1192, 93rd Cong., 2d Sess. 37 (1974); *see, also*, IR-6, *City of Covington Ordinance Governing Transportation of Hazardous Materials by Rail, Barge, and Highway Within the City*, 48 *Fed. Reg.* 760 at 761 (Jan. 6, 1983).

IV. Public Comments Supporting Consistency

Three commenters presented arguments supporting the consistency of the DMV regulations and rebutting the opposing arguments summarized above in Part III. Their arguments are summarized below in the same order as the counterpart arguments were summarized in Part III.

The following discussions include a summary of the general arguments supporting the consistency of the DMV regulations (Section A) and a summary of the arguments supporting the consistency of the DMV regulations as applied to non-residents of California (Section B).

A. General Arguments Supporting Consistency

1. Definitions

In response to DOE's comment that DMV is using hazardous materials definitions inconsistent with the HMR definitions, DMV responds that the California statutes containing those definitions are not the subject of this inconsistency review. DMV contends that its regulations merely specify which drivers—in addition to those specified in the HMR—must receive training for the operation of vehicles carrying certain cargoes in California.

2. Information and Documentation Requirements

To a comment expressing concern about DMV's employer recordkeeping requirements, DMV responds:

Only employers with DMV employer numbers must keep the records described in Section 100.10(a). Employer numbers are issued only to companies which employ California-licensed drivers. Since the training records will, in most cases, be kept on California-licensed drivers, the requirement that the records be kept in California is reasonable. DMV will be monitoring both the training and training records for employers given DMV employer numbers.

3. Training Requirements

a. *General training requirements.* DMV presents the following arguments in support of the consistency of its training requirements:

Every attempt was made in formulating these regulations to ensure that they do not conflict with federal regulations or unreasonably burden commerce. Congress, by enacting the Commercial Motor Vehicle Safety Act of 1986, has acknowledged the need to test and ensure the fitness of commercial vehicle operators. Logically, the only practical method to ensure fitness is to adequately train and test these drivers; the proposed regulations and related California Vehicle Code sections provide for reasonable methods and alternatives to train and test drivers of vehicles which pose the greatest risk of harm, due either to the type of load carried and/or the design of the vehicle. Furthermore, California's training requirements parallel the federal requirements so closely that a carrier who is currently meeting the federal requirements will also be meeting California's training requirements.

For carriers who employ California-licensed drivers, California's new regulations establish standards for employer issuance of certificates of training by specifying the following:

- The conditions authorizing the Department to refuse the employer the authority to issue training certificates or to suspend, revoke, or cancel that authority once it has been granted.
- The Department's authority to monitor training classes and records.
- The procedures to provide hearings for employers whose authority to issue training certificates is being refused, suspended, or revoked.

This regulation ensures that only qualified employers who provide adequate training and have records showing they have done so) are allowed to issue certificates of training to California-licensed drivers. Without this requirement, unscrupulous employers without the resources, or even intention, to provide adequate training would be allowed to issue certificates of training to California drivers. The drivers for such employers would be able to avoid the tests for the certificates. These untrained drivers would then be allowed to haul hazardous materials or waste or to operate large tank vehicles on public roads, posing a serious risk to the safety of persons using California highways.

The provisions related to application for employer number, on departmental forms, has no parallel in federal regulations. Nevertheless, these provisions are not inconsistent with federal requirements because the application provisions only apply to motor carriers who wish to be issued an employer number and, as such, are not an obstacle to the accomplishment and execution of the Hazardous Materials Transportation Act. These provisions place no burden on interstate commerce because applying for an employer number is merely an *option* available to carriers who employ California-licensed drivers. No one is *required* to apply for an employer number.

In response to comments alleging that DMV's §§ 100.07 and 100.10 provide DMV with "unfettered discretion," DMV states that its training requirements are specific and provide clear guidance and that, likewise, the guidelines for suspension of an employer number are specific. As to the latter, DMV asserts that decisions will be made case-by-case but that findings will be based on whether an employer met or did not meet the DMV's regulatory requirements.

b. *Radioactive materials training requirements.* DMV responds to comments alleging inconsistency of its regulations with § 177.825(d) of the HMR by pointing out that that regulation does not require a driver carrying radioactive materials to carry a certificate of training unless the driver is carrying HRCQ. DMV contends that its broader training certificate requirements help to resolve a serious enforcement problem and enhance enforcement of the HMR. In addition, DMV states that, pursuant to State statute, it will recognize driver training certificates issued under § 177.825(d) as "equivalent certificates."

In response to the Nuclear Group's comments that the DMV regulations are inconsistent with § 177.825(d) of the HMR, DMV states:

Unless and until the Federal Government adopts comprehensive training requirements, enforceable through a certification process, California regulations are neither redundant nor "duplicative." California training requirements for hazardous materials drivers are a proper exercise of the State's police power. In any case, the regulations do not exceed current federal training requirements.

B. Arguments Supporting Consistency of Applicability to Non-California Operators.

1. General Arguments

In response to comments that application of the DMV regulations to non-California operators is inconsistent, DMV contends that such application is necessary to identify, monitor and require training of, drivers from other states who transport extremely hazardous materials and wastes through California cities. DMV explains how it intends to facilitate compliance by non-California operators:

• • • California regulations provide for employer-issuance of a 30-day temporary notice, so that an out-of-state driver may bring affected cargoes into California when the driver has not previously had an opportunity or need to obtain the certificate. Upon implementation of this certificate program, these temporary notice forms will be provided by the Department to employers who are licensed to transport hazardous materials or hazardous waste in California. Copies will also be provided to administrators of other states so that employers in sister jurisdictions will have ready access to this form. In addition, employers will be allowed to duplicate copies of these forms as they are needed. This temporary notice process was developed specifically to minimize inconvenience to the employer while ensuring that only adequately trained drivers will be transporting hazardous materials, hazardous waste, or bulk liquids in California.

* * * * *

The requirements for out-of-state drivers were intended to ensure drivers were complying with federal training requirements while minimizing inconvenience to both driver and employer. The Department of Motor Vehicles will issue Non-Resident Special Driver Certificates to out-of-state drivers who meet the qualifications outlined in the new California regulations. The Department of Motor Vehicles will provide carriers who employ out-of-state drivers with a form the carriers can use. On this form they can list their out-of-state driver, check the driver's record in his home state and, if the driver is qualified, mail the driver a Non-Resident Special Certificate.

* * * * *

California's requirements parallel federal regulations by requiring the employer to certify that the driver has met the training requirements set forth in the California regulations. In addition, the driver is required by the California regulation to carry evidence of such training in the form of a Non-Resident Special Driver Certificate [or recognized equivalent]. This requirement will enhance enforcement of federal regulations since California's training requirements are based on requirements in the Code of Federal Regulations and enforcement personnel can immediately determine, upon stopping drivers, if they have received the required training and test(s).

* * * * *

California regulations are consistent with federal requirements in that the employer of out-of-state drivers must certify his drivers have been trained in accordance with California's training requirements which are based on federal requirements. The employer may do this on a form provided by the Department. This form will be provided to all carriers licensed to transport hazardous materials and/or hazardous waste in California. California does not intend to monitor the training given to out-of-state drivers. Unless some evidence indicates California should do otherwise, a carrier who certifies that an out-of-state driver has been properly trained will be believed without further evidence required.

In addition, DMV argues that applicability of its requirements to non-California operators is consistent with the CMVSA:

The Commercial Motor Vehicle Safety Act of 1986 clearly indicates that the Federal Government intends that states issue commercial driver licenses and that states ensure that those commercial drivers who transport hazardous materials understand how to transport such materials safely. Under California law, the California Department of Motor Vehicles will recognize commercial driver licenses issued in accordance with those new federal standards. It may well be many years before an effective national commercial vehicle driver license program exists. Until then, the Department has a duty to protect the California public as mandated under the California Vehicle Code. California law allows the Department to exempt, from California certificate requirements, any driver who holds a valid license, endorsement, or certificate from his or her state, country, or territory of residence which corresponds to California's certificate. Once other states develop standards for knowledge, testing, etc., that equal or exceed California's, the Department will exempt their qualified drivers from the Department's certificate requirements.

The California Trucking Association (CTA) provides comments supporting California's regulation of out-of-state operators:

ATA makes quite an issue of the "lack of uniformity" and "need for uniformity" issues without considering the factual situation that California is far ahead of many states in special statutory requirements for the transportation, routing, packing, and retention of loads of hazardous materials and waste. Why should a driver from a substandard driver licensing state be allowed to blithely operate in ignorance in California carrying a load the legislature has already determined needs special attention and controls?

The uniformity ATA speaks to should not lend itself to the lowest denominator, but rather should establish a creditable basis which can be improved upon. There has been no strong effort by ATA to challenge the special California requirements for maintenance of underground storage tanks by interstate carriers having terminals in California.

Yet this program which attempts to assure public protection from upward climb of truck accidents in California has been challenged on the basis it is an obstacle to uniform enforcement (ATA comments, Page 6, 1st paragraph). There is no such thing and can never be "uniform enforcement of the law." There are too many varying factors involved in such an objective beginning with the knowledge, training, and administrative instructions to the enforcement officer and the PARTICULAR or PECULIAR NEEDS OF THE STATE.

The "For example" (ATA Page 6, 3rd paragraph) challenges the California regulation as to minimum training requirements of "driving and parking rules applicable to hazardous materials transportation", illustrates the problem with stressing uniformity at the lowest denominator. The regulations [include] this particular statement because California statutes cover these items, and drivers moving hazardous materials here should not do so in ignorance.

There is no obstacle to compliance with HMR & HMTA since the California system provides for a system of employer certification (including owner operators), reciprocal recognition of equivalent states' endorsement or certification programs, and statewide facilities to accommodate others.

California State Senator John Seymour provides an explanation for California's legislative decision to apply its certification procedures to non-California operators. He describes his legislative efforts which resulted in passage of Senate Bill 895 in the 1983-84

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legislative session, the prime support provided by the California Trucking Association, and the legislative concerns about non-California operators.

Concerning the latter issue, Senator Seymour states:

In the course of moving the legislation, a number of changes were made to meet opposition and some legislative concerns. One of the questions regularly asked at all hearings and floor debates was: "What about the out of state drivers? You are upgrading the California driver * * * but will the driver from another state be at the same level?" Recognizing that this was a good point and also recognizing California has been a leading state in legislation for special statutes in transporting, handling, parking, and routing of loads of hazardous waste and materials, all of which require additional information beyond federal regulation. Additionally, California's topography is sufficiently different from the driving experience of most out-of-state drivers that we need to assure drivers that specialty vehicles (tanks in combination) are capable of meeting California road conditions. All of this was considered in responding to the legislative concerns about out-of-state drivers and the Vehicle Code was amended to provide the following:

Driver Certification: Not Required

3103. (a) No nonresident having in his or her immediate possession a valid driver's license, endorsement, or certificate issued by a foreign jurisdiction of which he or she is a resident permitting the operation of vehicles requiring certification under Section 12804.1 or 12804.3, shall be required to obtain certification under 12804.1 or 12804.3, if the Department of Motor Vehicles determines that the law of the foreign jurisdiction pertaining to the license, endorsement, or certificate is at least equivalent to the requirements of this state pertaining to certification under Section 12804.1 or 12804.3.

This statute permits the DMV to waive their nonresident certfication requirement upon determining the equivalency of the home state certification. This is a reasonable approach to the problem and provides some guarantee that a driver shopping for the least difficult license to obtain will not find it to be an advantage for the operation in California. Additionally, since it will be a number of years before the new federal Drivers License Standards are nationwide and upgraded, the DMV regulations provide the public safety benefits intended by my bill.

It is therefore requested that recognition be given to California leadership in this program and that the DMV's request for acceptance of their regulations be approved.

DMV also responded to numerous comments alleging that transportation delays would result from DMV's regulations. First, it argues that its § 100.07 is "in line with" the intent of Federal regulations requiring that drivers be "trained, experienced, or instructed." DMV then adds:

However, California recognized that often drivers are hired and sent into California almost immediately. For this reason, the 30-day temporary operating notice was included in these regulations to minimize the burden on out-of-state employers who must send their drivers into California on short notice. The 30-day period was chosen to allow enough time for the driver to complete his or her trip, return home, and find a DMV issued certificate in the mail box. DMV will issue a certificate to an out-of-state licensed driver only when DMV determines that the driver qualifies, based upon his or her driving record in California, as well as in other states, and upon the employer's certification that the driver has been adequately trained. The new employer does not have to retrain an already qualified driver himself, but the employer must satisfy himself that the driver is qualified by sufficient training and experience to transport the load before certifying that the driver has been trained.

In response to an ATA comment that an owner-operator based outside California would either have to make a special stop in California or delay transportation of a hazardous material while the owner-operator is trained and tested, DMV says: "Drivers who are owner-operators based outside of California are responsible for their own training, testing, and certification, just as they are responsible for meeting other legal requirements as a motor carrier."

On the issue of delays, CTA provides the following comments:

The question of delay is similar to arguments previously expressed when California required *all* transporters of hazardous materials to secure a California Hazardous Permit from the Highway Patrol. Again the protection of the public was paramount and the inconsistency ruling was approved.

The whole issue of employer certification (including owner operators) has been misunderstood as to what will be required and the processing by the Department of Motor Vehicles. This detail should be available from the department to clear up this issue.

The real issue here is: Does a state in its inherent right to protect its citizens have to adhere to lesser standards that will not provide the safety program intended by the legislature and regulations in question.

The inconsistency ruling should be approved as was the case of the hazardous Permit requirement.

2. Precedential Effects

In response to comments that the DMV regulations constitute a precedent undermining national uniformity, DMV replies that it may be years before an effective national CDL program exists and that, until then, DMV has a duty to protect the California public.

DMV contends that its regulations represent timely implementation of the CMVSA at the state level—as contemplated by the CMVSA.

DMV provides the following response to NPTA's concerns about the potential impact of similar recordkeeping requirements being imposed by other states or localities:

Federal regulations require employers to keep a driver qualification file on each driver they employ. Information on testing and training must be kept in this file. Federal regulations require the employer to keep driver qualification files at the carrier's principal place of business. However, the carrier can request, and be granted, permission to keep such files at a regional or terminal office.

California regulations also require that training records be kept by employers issuing certificates of training to their drivers. This information could easily be kept in the driver's qualification file. California's regulations require California-based employers to keep these records at their primary place of business or at locations the employer designates on his application for an employer number. An employer based outside of California can keep these records at this California terminal or at other designated locations in California. An employer who has no California terminal can keep these records at their primary place of business or other designated locations. California's requirements for location of these records is also consistent with federal requirements and, in fact, should enhance enforcement of these federal requirements.

V. Ruling

California is commended for its leadership in developing a program, statute and regulations concerning the difficult, significant and complex issues involved in the licensing and training of operators of motor vehicles carrying hazardous materials. That State is deservedly recognized as a national leader in these and other motor vehicle operating licensing issues.

Furthermore, California deserves full credit for coming forward on its own volition to seek an inconsistency ruling on the many complex issues involved in its long and difficult undertaking. The fact that, as discussed above, differing parties have a diversity of views on the consistency of certain of the California regulations is a result of the complex and controversial nature of the regulations and in no way reflects adversely on the quality, good faith and diligence of the State's efforts.

In addition, California's cooperative approach to the Federalism and interstate issues involved here is

demonstrated by its initial regulation under review:

§ 100.00. To the extent that the provisions of this article conflict with Federal statutes or regulations, the Federal standards and requirements shall govern the activities otherwise addressed in this article.

Finally, California has indicated in its rebuttal comment that: "California's request for an Inconsistency Ruling was made to ensure that these state regulations are in consonance with DOT's intentions. Any portion of the regulations found to be inconsistent will not be implemented."

In summary, California has acted responsibly, diligently, openly and in good faith to implement a high quality program in a manner consistent with the laws executed by, and the regulations issued by, DOT.

Although intended primarily to reconcile the DMV requirements with those issued under the HMTA, this ruling also provides guidance on the interface between the CMVSA and the HMTA. It recognizes legitimate state interests under the CMVSA and construes the preemptive effect of the HMTA and the HMR in a manner which takes those state interests into account.

The following discussion of the consistency/preemption issues raised by the commenters is organized in a manner parallel to that used in discussing the comments in Parts III and IV.

A. General Consistency Issues

1. Definitions

DOE asserts that the California statutory definitions of hazardous materials used by DMW are inconsistent with those in the HMR. DMV argues that the State statutory provisions are not the subject of this review; however, DMV did submit a copy of the State Vehicle Code with its application for this ruling.

Although not included by DMV in its inconsistency application, it is necessary to examine those State statutory provisions which defined terms used in the DMW regulations at issue in this proceeding. Section 100.02, the subject of most of the comments, provides:

A driver from another state, territory, or country is authorized to drive in California without the drivers certificate required by Vehicle Code section 12804.1 or 12804.3 providing the driver meets all of the following requirements:

• • • • •

Section 12804.1 requires a special DMV certificate for drivers of motor vehicles required to display placards or makings pursuant to section 27903 of the Vehicle Code or hauling hazardous waste as defined in sections 25115 and 25117 of the Health and Safety Code.

Section 12804.3 requires a DMV special certificate for drivers of tank trucks required to be operated by a class 1 driver and transporting bulk liquids.

Section 27903 appears to be generally consistent with the HMR because it merely requires, with exceptions not relevant to this proceeding, compliance with the HMR regulations on placarding of vehicles carrying hazardous materials.

However, section 25115 (defining "extremely hazardous waste") and section 25117 (defining "hazardous waste") appear to be California-unique definitions different from the HMR definitions of hazardous materials. This is because the State's definitions differ from the criteria used by the U.S. Environmental Protection Agency (EPA) to define "hazardous wastes" (40 CFR Part 262), which "hazardous wastes" are regulated as "hazardous materials" under the HMTA (§§ 171.3, 171.8 and 172.101 of the HMR). In addition, there is inadequate evidence in the record to determine to what extent "bulk liquids" subject to § 12804.3 are or are not hazardous materials as defined in the HMR.

The Federal role is exclusive in defining hazard classes and hazardous materials for purposes of regulating transportation thereof. IR–18, 52 FR 200 (Jan. 2, 1987); IR–18(Appeal), 53 FR 28850 (July 29, 1988); IR–19, *supra*; IR–19 (Appeal), *supra*; IR–20, *supra*; IR–21, 52 FR 37072 (Oct. 2, 1987); *Missouri Pacific RR Co.* v. *Railroad Commission of Texas*, 671 F. Supp. 466 (W.D. Tex. 1987); *Union Pacific RR Co.* v. *City of Las Vegas*, CV–LV–85–932 HDM (D. Nev. 1987). As indicated in IR–6, *supra*, at 764, "the key to hazardous materials transportation safety is precise communication of risk. The proliferation of differing State and local systems of hazard classification is antithetical to a uniform, comprehensive system of hazardous materials transportation safety regulations."

Under these standards, the "hazardous materials" definitions in sections 25115 and 25117 of the California Health and Safety Code and § 12804.3 of the California Motor Vehicle Code are inconsistent with the HMTA and the HMR to the extent that any of them are used as a basis for regulating the transportation of hazardous materials under §§ 12804.1 and 12804.3 of the Vehicle Code and § 100.02 of the DMV regulations. Therefore, for purposes of this proceeding, § 100.02 of the DMV regulations is inconsistent with the HMTA and the HMR to the extent that its requirements are based upon definitions of hazardous materials (such as the foregoing statutory sections 25115, 25117 and 12804.3) not identical to those in the HMR.

2. *Information and Documentation Requirements*

Several commenters alleged that DMV's information and documentation requirements exceed those of the HMR and thus are inconsistent therewith. Particular mention was made of requirements in §§ 100.02 and 100.10 relating to out-of-state drivers. DMV's response is that its § 100.10(a) requirements apply only to employers which have been issued DMV employer numbers and that such employers include only those which employ California-licensed drivers. However, under § 100.02, DMV requires non-California drivers to possess either a Non-Resident Special Certificate issued by DMV or a certificate from his or her employer on a DMV-approved form indicating that the driver has met DMV's training requirements.

OHMT addressed the issue of information and documentation requirements in IR–19, *supra*:

In summary, the HMTA and HMR provide sufficient information and documentation requirements for the safe transportation of hazardous materials; state and local requirements in excess of them constitute obstacles to implementation of the HMTA and HMR and thus are inconsistent with them.

52 FR at 24408.

In general, therefore, requirements for information or documentation in excess of current Federal requirements, which are prerequisites to hazardous materials transportation, create potential unnecessary delay, constitute an obstacle to execution of the HMTA and the HMR, and thus are inconsistent. IR–2, 44 FR 75566, (Dec. 20, 1979), *appeal*, 45 FR 71881 (Oct. 30, 1980), *correction*, 45 FR 78838 (Nov. 20, 1980), IR–6, *supra*; IR–8, *supra*; IR–8(Appeal), *supra*; IR–15, *supra*; IR–15(Appeal), *supra*; IR–18, *supra*; IR–18(Appeal), *supra*; IR–19, *supra*; IR–19(Appeal), *supra*; IR–21, *supra*; *Chem-Nuclear Systems, Inc.* v. *City of Missoula*, CV 80–18–M (D. Mont. 1984). (The issue of unnecessary delay is discussed in greater detail in Section B.1. below.)

The DMV has authority under the CMVSA to prescribe information and documentation requirements with respect to commercial drivers' licenses (CDL's) for California domiciliaries and domiciliaries of those states (and foreign countries) which do not issue CDL's

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under the CMVSA. States, however, are not required to implement CDL programs until April 1, 1992. 49 App. U.S.C. 2704(b)(3), 49 CFR 383.23. Thus, effective April 1, 1992, exercise of its CMVSA authority by DMV with respect to those individuals over which it has CMVSA jurisdiction will be consistent with the HMTA and the HMR. However, at that time, DMV's extension of such requirements to other individuals who have hazardous materials endorsements on other CDL's will be inconsistent with the HMTA and the HMR for the reasons set forth above. In addition, before April 1, 1992, DMV's imposition of its CDL requirements upon non-domiciliaries of California similarly is inconsistent with the HMTA and the HMR for the same reasons.

Here, DMV has extended its requirements for documentary evidence of trianing to individuals over which it has no jurisdiction under the CMVSA and also to individuals who are not required by the CMVSA to have CDL's until April 1, 1992. Such extension of DMV's requirements imposes upon perhaps a million or more motor vehicle operators transporting hazardous materials into, through or in California an additional documentary prerequisite to the transportation of hazardous materials being conducted in accordance with the CMVSA, the HMTA and the HMR. There is no *de minimis* exception to the "obstacle" test with respect to this or similar arguably *de minimis* documentation requirements. IR–8(Appeal), *supra*. As discussed below, the DMV requirements undermine uniformity of transportation regulation, create potential unnecessary delay, and, therefore, constitute obstacles to execution of the HMTA and the HMR.

DMV may, consistent with the HMTA and the HMR, impose its training-related documentation requirements on non-domiciliaries of California only after April 1, 1992, the CMVSA deadline for CDL implementation, and then only on non-domiciliaries who do not have hazardous materials endorsements on their CDL's. However, DMV's application of its documentation requirements to other persons constitutes an obstacle to execution of the HMTA and the HMR and, therefore, is inconsistent therewith.

3. Training Requirements

a. *General training requirements.* Several commenters alleged that DMV's training requirements in §§ 100.02 and 100.07 are inconsistent with the HMTA and the HMR. Specific HMR training requirements with which inconsistency is alleged are §§ 177.800 (general), 177.816 (flammable cryogenic liquids) and 177.825(d) (radioactive materials).

In response, DMV argues that it made every effort to avoid conflict with Federal regulations and imposition of unreasonable burdens on interstate commerce. It contends that Congressional enactment of the CMVSA acknowledged the need to test, and ensure the fitness of, commercial vehicle operators.

To date OHMT has promulgated few specific training requirements for motor carriers transporting hazardous materials. Section 177.800 of the HMR requires carriers "to thoroughly instruct employees in relation" to the HMR. Section 177.816 prescribes mandatory training for drivers of vehicles carrying flammable cryogenic liquids, describes the training required, and specifies training records which must be maintained. Finally, § 177.825(d) requires training for all persons transporting highway route controlled quantities of radioactive materials (HRCQ); it mandates biennial written training on specified topics and requires drivers to carry a certificate of training.

The general policy approach of the OHMT, therefore, is that the HMR contain minimal training requirements for the highway transportation of hazardous materials and that a state may impose more stringent training requirements on motor carrier operators so long as those requirements do not directly conflict with the HMR requirements and apply only to individuals domiciled in that state and to individuals domiciled in other states who do not have hazardous materials endorsements on their CDL's. This approach recognizes the significant role which states properly have in the regulation of highway transportation of hazardous materials—particularly with regard to training requirements for their own licensed drivers.

In summary, OHMT views its training requirements for highway transportation of hazardous materials as minimum requirements which a state may exceed—so long as its greater requirements do not directly conflict with the HMR or apply to individuals not domiciled in that state (with limited exceptions discussed below). Thus, more stringent, more detailed or additional state training requirements applicable to domiciliaries of that state and not in direct conflict with the HMR are consistent with the HMTA and the HMR and, therefore, are not preempted by section 112(a) of the HMTA.

None of the DMV training requirements is in direct conflict with the present provisions of the HMR. As applied to domiciliaries of California, therefore, they are consistent with the HMTA and the HMR. Their inconsistency with respect to most non-domiciliaries is discussed below.

b. *Radioactive materials training requirements.* DOE and the Nuclear Group allege that the DMV regulations are inconsistent with § 177.825(d) of the HMR, which imposes training requirements on drivers of vehicles transporting HRCQ. They argue that the DMV rules are redundant, confusing, and burdensome and stress that fact that the DMV rules apply to carriers of radioactive materials other than HRCQ.

DMV contends that is broader training requirements are necessary, asserts that its radioactive materials training requirements are neither redundant nor duplicative, and states that it will recognize § 177.825(d) certificates as "equivalent certificates" under its regulations.

The issue of training requirements for transporters of radioactive materials was addressed by the Administrator of RSPA in deciding the appeal of IR–8:

> * * * the Department, through promulgation of 49 CFR § 177.825, has established a near total occupation of the field of training requirements relating to the transportation of radioactive materials. Thus, state and local radioactive materials transportation * * * training requirements other than * * * those identical to Federal requirements * * * are very likely to be inconsistent and thus preempted under § 112(a) of the HMTA.

52 FR at 13003.

The Administrator, however, did not consider this issue in the context of commercial driver licensing. This ruling recognizes the legitimate training requirements role which states have under the CMVSA. In addition, as indicated in the preceding discussion of training requirements in general, a state may impose additional training requirements on its own domiciliary motor vehicle operators so long as those requirements do not directly conflict with the HMR. The radioactive materials training requirements of the HMR are not sufficiently different from the other HMR training requirements to justify and different treatment of them.

Insofar as they relate to HRCQ, the DMV regulations do not directly conflict with the HMR. Insofar as they relate to other placarded radioactive materials, the DMV regulations are the type of non-conflicting additional training regulations which states may impose on their own domiciliaries through their CDL programs.

Therefore, as applied to California domiciliaries, the DMV regulations on

required training for transporters of radioactive materials are consistent with the HMTA and the HMR. Their applicability to non-domiciliaries of California is discussed below.

B. Consistency Issues Related to Applicability to Non-California Operators

1. General

Several commenters contend that the DMV regulations are inconsistent with the HMTA and the HMR insofar as they apply to non-domiciliaries of California. In particular, they focus on the § 100.02 requirement that out-of-state drivers possess either a Non-Resident Special Certificate issued by DMV or an employer's certification on a DMV-approved form and on the § 100.10 recordkeeping requirements applicable to non-California employers.

These commenters state that there are three million commercial vehicle drivers in the United States, contend that the DMV training and paperwork requirements for many of those drivers not domiciled in California will be time-consuming and burdensome, and present scenarios to demonstrate the types of delays which they foresee resulting from implementation of the California regulations. Their conclusion is that application of the DMV rules to non-domiciliaries of California will cause unnecessary delays in transportation in violation of § 177.853 of the HMR and thereby violate the "dual compliance" test for consistency.

In addition, two commenters contend that the DMV has failed to abide by the reciprocity requirements of the CMVSA, particularly 49 App. U.S.C. 2708(a)(14).

DMV and its supporting commenters respond that the DMV requirements really are not all that burdensome, that they create a standard superior to the lowest common denominator, and that they comply with the CMVSA reciprocity requirements by providing for reciprocity if the law of the other jurisdiction "pertainng to the license, endorsement, or certificate is at least equivalent to the requirements of [California]." As explained below, California cannot require such equivalency with respect to most non-domiciliaries of California. Contrary to assertions of the CTA, there has been no prior inconsistency ruling concerning any California requirements.

OHMT concludes that the DMV regulations are inconsistent with the HMR insofar as (1) they presently apply to operators of motor vehicles transporting hazardous materials who are domiciled in states other than California, and (2) on or after April 1, 1992, they apply to operators of motor vehicles transporting hazardous materials who are domiciled in states other than California which issue CDL's under the CMVSA and who have hazardous materials endorsements on their CDL's. The reasons for their inconsistency are that application of the DMV regulations to perhaps a million or more non-domiciliaries of California is likely to result in numerous unreasonable delays of transportation in violation of § 177.853 of the HMR and that such application conflicts with the uniform transportation regulatory goals of the HMTA and the HMR under the "obstacle" test. In addition, this option clarifies the relationship between, and the combined effects of, the HMTA and CMVSA in a rational and workable manner.

Delays in transportation of hazardous materials have been of critical concern beginning with the earliest inconsistency rulings. In IR–2, *supra*; transportation delays were addressed:

> The manifest purpose of the HMTA and the Hazardous Materials Regulations is safety in the transportation of hazardous materials. Delay in such transportation is incongruous with safe transportation.

44 FR at 75571. The threat of delays was discussed shortly thereafter in IR–3, 46 FR 18919 (Mar. 26, 1981), *appeal* 47 FR 18457 (Apr. 29, 1982):

> The mere threat of delay may redirect commercial hazardous materials traffic into other jurisdictions that may not be aware of or prepared for a sudden, possibly permanent, change in traffic patterns.

46 FR at 18921.

Section 177.853 of the HMR contains two relevant provisions:

> (a) *No unnecessary delay in movement of shipments.* All shipments of hazardous materials shall be transported without unnecessary delay, from and including the time of commencement of the loading of the cargo until its final discharge at destination.
>
> (b) *Delivery at destination.* Shipments of hazardous materials which are refused by the consignees, or which can not be delivered within 48 hours after arrival at destination, must be promptly disposed of (1) by return to the shipper, if in proper shipping condition.
>
> * * * * *

In light of the massive numbers of hazardous materials transportation movements and drivers involved therewith, numerous unreasonable chronic and acute delays of such transportation are likely to occur if the DMV rules are applied to non-domiciliaries of California. The scenarios described above by the out-of-state industry commenters graphically illustrate the types of delays which are likely to occur once hazardous materials are in commerce if the DMV rules are applied to non-residents. Numerous non-California drivers unaware of the DMV requirements are likely to be stopped at the California border or in California and their hazardous materials movements significantly delayed because of their failure to comply with the DMV training and related documentation requirements. The likelihood of these delays renders application of the DMV rules to most non-domiciliaries of California inconsistent with § 177.853, the primary intent of which is to reduce the number of hazardous materials incidents by minimizing the time in transit of hazardous materials.

To the extent that the DMV is imposing documentary prerequisites for the transportation of hazardous materials upon persons over whom it does not have CDL licensing jurisdiction and upon other non-domiciliaries before they are required by the CMVSA to have CDL's and hazardous materials endorsements thereon, the DMV is creating unnecessary delays in the transportation of hazardous materials in commerce. Systemic "permitting" requirements, like DMV's documentary regulations, can cause chronic delays during transportation and have been found to be inconsistent with the HMR. IR–19, IR–19(Appeal), IR–21, IR–22, all *supra*. In addition, application of those requirements to motor vehicle operators arriving at the California border with hazardous materials and without the DMV-required documentation would result in numerous acute delays as a search was undertaken for a "qualified" driver. The likelihood of such acute delays results in the DMV requirements being inconsistent with § 177.853 of the HMR.

This situation is clearly distinguishable from that considered in *New Hampshire Motor Transport Assn. v. Flynn*, 751 F.2d 43 (1st Cir., 1984). In that case, the Court of Appeals for the First Circuit determined that New Hampshire's $15 single trip/$25 annual hazardous materials transportation license fee was consistent with the HMTA and that delays incident to paying those fees were not "significant enough to interfere with the federal speedy-transport mandate." A motor carrier merely had to pay a fee at the border during business hours or otherwise pay in advance. Given that there are a million or more non-California individual operators, a non-California motor carrier would have to either (1) ensure that its drivers obtain a California DMV Non-Resident Special Certificate (which involves testing in

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California), or (2) issue to each of those drivers a California-approved form indicating that the driver has met California's training requirements and send a copy of the California DMV. In other words, a non-California motor carrier must be prepared either to send its drivers into California for training or to establish a California-approved training program and comply with California DMV recordkeeping requirements. It is unclear whether or how a self-employed trucker could be approved other than by being tested in California. The delays inherent in application of the DMV requirements to non-domiciliaries of California, therefore, are significant. That significance renders them inconsistent with § 177.853 of the HMR under the "dual compliance" test and also inconsistent with the uniform transportation regulatory goals of the HMTA and the HMR under the "obstacle" test.

As a matter of regulatory policy, OHMT is dovetailing its regulatory requirements and practices under the HMTA with those of the Federal Highway Administration (FHWA) under the CMVSA. The latter statute provides for a single commercial driver's license (CDL) for each driver of a commercial motor vehicle. Section 12009(a)(14) of that Act, 49 App. U.S.C. 2708(a)(14), and an implementing FHWA regulation, 49 CFR 383.73(b) (53 FR 27628, 27651; July 21, 1988), require states to extend reciprocity to CDL's issued by other states.

Under the FHWA rules (including 49 CFR 383.121 on hazardous materials endorsements) and this ruling (applying the "dual compliance" and "obstacle" tests for consistency with the HMTA and the HMR), a state may impose more stringent hazardous materials training requirements on its own domiciliary commercial motor vehicle operators than do Federal regulations so long as those requirements do not directly conflict with Federal regulations—but may not do so with respect to a motor vehicle operator who has been issued another state's CDL with a hazardous materials endorsement thereon and also may not do so with respect to a non-domiciliary operator prior to April 1, 1992. DMV erroneously asserts that it has authority to determine whether another state's hazardous materials endorsement requirements are adequate; in fact, the authority to make that determination rests with the FHWA under the CMVSA.

In summary, application of the DMV regulations to (1) domiciliaries of states other than California prior to April 1, 1992, and (2) to domiciliaries of states other than California who have hazardous materials endorsements on their CDL's in or after April 1, 1992, is inconsistent with the HMTA and the HMR under both the "obstacle" and "dual compliance" tests, and, therefore, such application is preempted.

2. Precedential Effects

Several commenters perceive the DMV regulations as harbingers of a Balkanized regulatory approach under which operators of vehicles carrying hazardous materials would be subject to 50 separate state hazardous materials licensing standards.

One quoted the legislative purpose for the HMTA preemptive provision: "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." S. Rep. No. 93–1192, 93d Cong. 2d Sess. 37 (1974).

DMV, on the other hand, contends that it is implementing the CMVSA at the state level in a timely and effective manner and that it may be years before an effective national CDL program exists.

As discussed in IR–17, 51 FR 20925 (June 9, 1986), and in IR–17 (Appeal), 52 FR 36200 (Sept. 25, 1987), *correction* 52 FR 37399 (Oct. 6, 1987), OHMT and RSPA have never relied upon the potential cumulative effects of a requirement as a basis for finding inconsistency. They have, however, discussed such potential effects to illustrate adverse impacts of requirements already found inconsistent.

Likewise here, OHMT's ruling, that application of DMV's rules to most non-domiciliaries of California is inconsistent, should help to avoid a chaotic and burdensome situation in which numerous states would apply separate and possible conflicting requirements on persons engaged in the transportation of hazardous materials. Such a situation could result in a company having to develop training programs and issue training-related documents meeting the requirements of the 49 separate continental states.

VI. Summary of Ruling

For the foregoing reasons and on the basis of this record, I make the following findings. Sections 100.00–100.11 of Title 13, Chapter 1 of the California Administrative Code presently are inconsistent with the HMTA and the HMR to the extent that they apply to operators of motor vehicles transporting hazardous materials who are domiciled in states other than California. Effective April 1, 1992, those regulations will be inconsistent with the HMTA and the HMR to the extent that they apply to operators of motor vehicles transporting hazardous materials who are domiciled in states other than California which issue commercial drivers' licenses (CDL's) under the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701–2716) (CMVSA) and who have hazardous materials endorsements on their CDL's. In addition, § 100.02 of those regulations is inconsistent with the HMTA and the HMR to the extent that its requirements are based upon definitions of hazardous materials not identical to those in the HMR. Otherwise, those regulations, however, are consistent with the HMTA and the HMR. To the extent those regulations are inconsistent with the HMTA and the HMR, they are preempted under section 112(a) of the HMTA (49 App. U.S.C. 1811(a)).

Any appeal of this ruling must be filed within 30 days of service in accordance with 49 CFR 107.211.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

Issued in Washington, DC on April 17, 1989.

[FR Doc. 89–9555 Filed 4–20–89; 8:45 am]

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Part VI

Department of Transportation

Research and Special Programs Administration

Colorado Regulations on Transportation of Radioactive Materials; Notice

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Inconsistency Ruling No. IR-27; Docket IRA-44]

Colorado Regulations on Transportation of Radioactive Materials

Applicant: United States Department of Energy.

Statute and Regulations Affected: Colorado Public Utilities Commission Regulations for the Safe Transportation of Nuclear Materials by Motor Vehicle ("NT Regulations"), 4 CCR 723-25, issued under Colorado's Nuclear Materials Transportation Act of 1986 (CNMTA), C.R.S. section 40-2.2-101 *et seq.*

Applicable Federal Requirements: Hazardous Materials Transportation Act (HMTA) (Pub. L. 93-633, 49 App. U.S.C. 1801 *et seq.*) and the Hazardous Materials Regulations (HMR) (49 CFR Parts 171-179) issued thereunder.

Mode Affected: Highway.

Issue Date: April 17, 1989.

Ruling: No opinion is rendered concerning the consistency of any provisions of Colorado's Nuclear Materials Transportation Act of 1986 (CNMTA), C.R.S. section 40-2.2-101 *et seq.* Colorado Public Utilities Commission (CPUC) Regulations NT 3(a), 5(c)(5), 8(a), 8(b), 8(c) and 8(f); the first seven words of CPUC Regulation NT 8(d); and Appendix 8-A to the CPUC Regulations are inconsistent with the HMTA and the HMR. CPUC Regulations NT 4, 5 (except for 5(c)(5)) and 6 are consistent to the extent they relate to other consistent requirements; otherwise they are inconsistent. CPUC Regulation NT 9 is inconsistent to the extent it requires different or more prenotifications than the HMR. CPUC Regulation NT 8(d), except for its first seven words, and CPUC Regulation NT 8(e) are consistent with the HMTA and the HMR. No opinion is rendered concerning the consistency of any other CPUC regulations.

Summary: This inconsistency ruling is the opinion of the Office of Hazardous Materials Transportation (OHMT) of the Department of Transportation (DOT) concerning whether the Colorado Public Utilities Commission Regulations for the Safe Transportation of Nuclear Materials by Motor Vehicle ("NT Regulations"), 4 CCR 723-25, issued under the CNMTA, C.R.S. section 40-2.22-101 *et seq.*, are inconsistent with the HMTA and the HMR and thus preempted by Section 112(a) of the HMTA. This ruling was applied for and is issued under the procedures set forth at 49 CFR 107.201-107.209.

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I. General Authority and Preemption Under the HMTA

The HMTA at section 112(a) (49 App. U.S.C. 1811(a)) preempts "* * * any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in [the HMTA], or in a regulation issued under [the HMTA]." This express preemption provision makes it evident that Congress did not intend the HMTA and its regulations to completely occupy the field of transportation so as to preclude any state or local action. The HMTA preempts only those state and local requirements that are "inconsistent."

In the HMTA's Declaration of Policy (section 102) and in the Senate Commerce Committee language reporting out what became section 112 of the HMTA, Congress indicated a desire for uniform national standards in the field of hazardous materials transportation. Congress inserted the preemption language in section 112(a) "in order to preclude a multiplicity of state and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous material transportation" (S. Rep. 1192, 93rd Cong., 2d Sess., 37 (1974)). Through its enactment of the HMTA, Congress gave the Department the authority to promulgate uniform national standards. While the HMTA did not totally preclude state or local action in this area, Congress intended, to the extent possible, to make such state or local action unnecessary. The comprehensiveness of the HMR, issued to implement the HMTA, severely restricts the scope of historically permissible state or local activity.

Although advisory in nature, inconsistency rulings issued by OHMT under 49 CFR Part 107 provide an alternative to litigation for a determination of the relationship between Federal requirements and those of a state or political subdivision. If a state or political subdivision requirement is found to be inconsistent, the state or local government may apply to OHMT for a waiver of preemption. 49 App. U.S.C. 1811(b); 49 CFR 107.215-107.225.

In issuing its advisory inconsistency rulings concerning preemption under the HMTA, OHMT is guided by the principles enunciated in Executive Order 12612 entitled "Federalism" (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of state laws only when the Federal statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of state authority directly conflicts with the exercise of Federal authority. The HMTA, of course, contains an express preemption provision, which OHMT has implemented through regulations and interpreted in a long series of inconsistency rulings beginning in 1978.

Since these proceedings are conducted pursuant to the HMTA, only the question of statutory preemption under the HMTA will be considered. A court might find a non-Federal requirement preempted for other reasons, such as statutory preemption under another Federal statute, preemption under state law, or preemption by the Commerce Clause of the U.S. Constitution because of an undue burden on interstate commerce. However, OHMT does not make such determinations in an inconsistency ruling proceeding.

OHMT has incorporated into its procedures (49 CFR 107.209(c)) the following criteria for determining whether a state or local requirement is consistent with, and thus not preempted by, the HMTA:

(1) Whether compliance with both the non-Federal requirement and the Act or the regulations issued under the Act is possible; and

(2) The extent to which the non-Federal requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

These criteria are based upon, and supported by, U.S. Supreme Court decisions on preemption. These include *Hines* v. *Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); and *Ray* v. *Atlantic Richfield Co.*, 435 U.S. 151 (1978).

The first criterion, the "dual compliance" test, concerns those non-Federal requirements which are irreconcilable with Federal requirements; that is, compliance with the non-Federal requirement causes the Federal requirement to be violated, or *vice versa*. The second criterion, the "obstacle" test, involves determining whether a state or local requirement is an obstacle to executing and accomplishing the purposes of the HMTA and the HMR; a requirement constituting such an obstacle is inconsistent. Application of this second criterion requires an analysis of the non-Federal requirement in light of the requirements of the HMTA and the HMR, as well as the purposes and objectives of Congress in enacting the HMTA and the manner and extent to which those purposes and objectives have been carried out through OHMT's regulatory program.

II. The Application for Inconsistency Ruling

On July 25, 1988, Lawrence H. Harmon, Director of the Transportation Management Division, Office of Defense Waste and Transportation Management, U.S. Department of Energy (DOE), filed an application on behalf of DOE for an inconsistency ruling. That application specifically requested a finding that certain provisions of Colorado's regulations implementing the Colorado Nuclear Materials Transportation Act of 1986 (CNMTA) be determined to be inconsistent with the HMTA and the HMR.

DOE alleges that the CNMTA and its implementing regulations apply to carriers transporting through Colorado highway route controlled quantities of radioactive material (HRCQ) as defined in 49 CFR 173.403(1). DOE states that it is the Federal agency responsible for radioactive materials transportation to which the Colorado regulations pertain under the following applicability language:

> * * * radioactive materials being transported to the waste isolation pilot plant in New Mexico and radioactive materials along transported to any facility provided pursuant to section 135 of the federal 'Nuclear Waste Policy Act of 1982', 42 U.S.C. 10101, *et seq.*, or any repository licensed by the United States Nuclear Regulatory Commission that is used for the permanent, deep, geologic disposal of high-level radioactive waste and spent nuclear fuel.

DOE contends that the Colorado regulations under the CNMTA are inconsistent with the HMR insofar as they impose information and documentation requirements, classify hazardous materials, impose training requirements, specify permit requirements and impose penalties and fees.

With respect to information and documentation requirements, DOE alleges that the following Colorado regulations exceed HMR requirements and, therefore, are inconsistent with the HMR:

(1) *NT 3(a)*, which requires that the telephone number of the Colorado State Patrol (CSP) be carried with the other shipping papers within the cab of every motor vehicle with instructions to the driver or person in charge of the vehicle to call that number in the event of any incident, accident, or breakdown of equipment;

(2) *NT 5(c)(5)*, which requires that the original vehicle inspection report and any subsequent inspection report shall be retained in the vehicle while transporting nuclear materials within the State;

(3) *NT 8(f)*, which requires that each person transporting nuclear material within the State shall carry in the motor vehicle a copy of a nuclear materials transportation permit issued by the Colorado Public Utilities Commission.

(4) Appendix 8-A to the Colorado rules, which requires that the permit applicant supply additional information in order to receive a permit, including:

(a) A copy of the company's driver training program, which must describe preparation for mountain driving if the route to be traveled is mountainous;

(b) Proof that the applicant has obtained liability insurance required by Federal rules;

(c) A nuclear incident plan that demonstrates applicant's ability to respond to a nuclear incident, which must include provisions for removal of the vehicle and its cargo, prevention or minimization of releases of radioactivity, and decontamination of the environment; and

(d) The carrier's plan for replacement or repair of equipment that has been placed out of service by a Port of Entry or State Patrol officer after inspection or has been inoperative due to mechanical failure or other circumstance.

(5) *NT 9*, which contains prenotification requirements in excess of those required by the HMR.

In addition, DOE asserts that Colorado Rule NT 9 applies the Nuclear Regulatory Commission (NRC) regulation for prenotification of spent fuel shipments, 10 CFR 173.73(f), to all HRCQ shipments—instead of the less restrictive NRC regulation applicable to non-spent fuel HRCQ shipments. The HMR (49 CFR 173.22) incorporates the NRC requirements. DOE contends that Rule NT 9 thereby establishes a classification of hazardous materials that impermissibly differs from that of the HMR.

In the area of training, DOE alleges that Appendix 8-A to the Colorado regulations constitutes an inconsistent training requirement. DOE argues that Appendix 8-A's requirement that each permit applicant supply a copy of the company's driver training program, which must describe preparation for mountain driving if the route to be traveled is mountainous, is inconsistent with 49 CFR 177.825.

Concerning Colorado's permit requirements, DOE argues that they are inconsistent because of their extensive information requirements and their vague and discretionary standards for determining when a permit may be issued. DOE cites the required submission of a nuclear incident plan that demonstrates the applicant's ability to respond to a nuclear incident as an example of a vague standard for permit issuance. DOE further contends that the permit requirements ban transportation of HRCQ in compliance with the HMTA and the HMR unless a permit is obtained and create the likelihood of diversion of transportation to other jurisdictions.

Finally, DOE contends that the Colorado regulations providing for civil penalties for violations of the regulations (Rule NT 4) and providing annual and single-trip permit fees (Rules NT 8 (c), (d) and (e)) are inconsistent insofar as they relate to inconsistent regulations or support an inconsistent permit system.

III. Public Comments

A. General

On August 11, 1988, OHMT published a Public Notice and Invitation to Comment (53 FR 30418) soliciting public comments on DOE's application. Comments opposing a finding of consistency were filed by the Electric Utility Companies' Nuclear Transportation Group (NTG). Comments favoring a finding of consistency were filed by the Western Governors' Association (WGA) and the State of Nevada Department of Transportation (Nevada). Rebuttal comments, replying to the WGA comments, were filed by DOE and NTG.

Unfortunately, the State of Colorado (State) has decided not to participate in this proceeding. Instead the State, on September 22, 1988, advised OHMT that it would not participate because it expected to litigate all relevant issues in Federal court and did not wish to unnecessarily incur legal expenses. Further, the State requested that this inconsistency proceeding be stayed or DOE's petition dismissed. Simultaneously a similar request was sent to the Secretary of Transportation by Senator Tim Wirth and Representatives Patricia Schroeder, David Skaggs and Ben Nighthorse Campbell of the Colorado Congressional Delegation. The basis of their request was that the State was pursuing this matter in court.

On October 19, 1988, the Secretary of Transportation responded to the Senator and three representatives and declined to direct that this proceeding be stayed

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or the DOE petition dismissed. The Secretary's letter set forth the rationale for this decision in the following language:

This department's inconsistency Ruling process provides a forum for differing views on the consistency of State and local requirements with the Federal HMTA and concomitant regulations. The DOT, which has been designated as the responsible government agency to administer the HMTA, is knowledgeable concerning the competing interests of the parties and committed to carrying out the intent of Congress in issuing these advisory opinions.

Twenty-four advisory Inconsistency Rulings have been issued in the past decade. These rulings provide a consistent, precedential body of opinions which have been deemed helpful to courts, State and local governments, the transportation industry and other parties interested in HMTA preemption issues. It is not unusual for a court case to be pending while an Inconsistency Ruling application is filed. In fact, several Inconsistency Rulings have been issued while cases were pending in court. Moreover, in these cases the courts considered the Department's views before rendering their decisions. It has long been the Department's policy to rule on petitions (such as DOE's) in a timely manner.

In this instance, DOE has petitioned the Department and, consistent with prior policy and practice, we intend to issue a decision in a timely manner. In fact, should the DOT ruling be rendered prior to the Court's consideration of the case, it may be helpful to the Federal Judge determining HMTA preemption issues.

Thereafter, on October 31, 1988, I responded to the September 22 letter from the State and denied its request that the DOE application be dismissed or this inconsistency proceeding be stayed.

B. Comments Supporting Consistency

The Western Governors' Association (WGA) submitted substantive comments supporting the consistency of the CNMTA and the Colorado PUC's implementing regulations. Nevada's comment merely endorsed the WGA comments.

WGA cites language in the CNMTA, stating that the PUC regulations thereunder "shall not be inconsistent with any Federal rule or regulation" regarding nuclear materials transportation, as evidence that the CNMTA is consistent with the HMTA.

WGA states that section 105 of the CNMTA authorizes the PUC to adopt rules for "the safe transportation of nuclear materials by motor vehicle" and argues that a similar law was found consistent with the HMTA in Inconsistency Ruling No. IR-12 (IR-12), 49 FR 46650 (Nov. 27, 1984).

With respect to requirements for inspections under section 108 of the CNMTA and PUC Rule NT 5, WGA contends that such requirements are consistent because the inspections are conducted to determine compliance with the HMR and Federal motor carrier safety rules. It cites several inconsistency rulings for the proposition that state inspections for compliance with Federal regulations and consistent state regulations are a valid exercise of state police power. IR-2, 43 FR 75566 (Dec. 20, 1979), *appeal*, 45 FR 71881 (Oct. 30, 1980), *correction*, 45 FR 76838 (Nov. 20, 1980); IR-8, 49 FR 46637 (Nov. 27, 1984), *appeal*, 52 FR 13000 (Apr. 20, 1987); IR-15, 49 FR 46660 (Nov. 27, 1984), *appeal*, 52 FR 13062 (Apr. 20, 1987); IR-17, 51 FR 20825 (June 9, 1986), *appeal*, 52 FR 36200 (Sept. 25, 1987), *correction*, 52 FR 37399 (Oct. 6, 1987). WGA quotes the following language from IR-8:

Far from being an obstacle to the accomplishment of the HMTA, State enforcement of Federal and consistent State regulations concerning hazardous materials transportation safety is a critical element of a regulatory system of national applicability.

49 FR 46644.

Similarly, WGA asserts that PUC Rule NT 6, stating that a vehicle, driver or cargo can be placed out-of-service for violations of the HMR or Federal motor carrier safety regulations, is consistent with the HMTA. It alleges that no vehicles in compliance with Federal laws are denied entry to the State. WGA states that IR-17, *supra*, held that restricting shipments that are in violation of Federal safety laws "is precisely the sort of state action which the drafters of the HMTA intended and which the [U.S. DOT] endorses as sound enforcement policy." In summary, WGA argues that the State's inspections are to enforce Federal regulations and thus are consistent with the HMTA.

As to civil and criminal penalties under sections 107-109 of the CNMTA, WGA states that they are valid tools for enforcing Federal and consistent state regulations, are neither extreme nor arbitrary, and thus are consistent. WGA cites IR-3, 46 FR 76838 (Mar. 26, 1981), *appeal*, 47 FR 18457 (Apr. 29, 1982), for the proposition that a mere difference in penalty provisions between state and Federal penalties is not a basis for finding inconsistency.

The final issue addressed by WGA is the State's shipment fees under section 202 of the CNMTA and PUC Rule NT-6. WGA contests DOE's assertion that the shipment fees are inconsistent because they support an inconsistent permit system. WGA says that the system and the fees are not inextricably linked.

WGA states:

When the merits of the fee are examined separately, the fee is found to be consistent with federal law in that: the fee does not delay the transportation of nuclear materials in interstate commerce; no evidence was introduced that the fee results in rerouting to avoid Colorado; the fee is used to compensate the state for the reasonable costs imposed by the transportation of nuclear materials within the state's borders; and there is no evidence presented showing that the size of the fee is disproportionate to the costs imposed upon the state.

WGA also points to the flexibility concerning alternate means of payment of the shipping fees: (1) Seven days in advance by mail, (2) at the time and place of entering the State, or (3) by monthly payments when carriers are making regular shipments. It also points to the deposit of the funds in a nuclear materials transportation fund (section 212 of the CNMTA) and their subsequent use to finance the costs of administering the CNMTA, including inspections (section 108), enforcement of Federal rules (sections 107-110), and preparation for nuclear incidents (section 102). WGA contends that all these activities are valid exercises of state police power consistent with the HMTA.

Furthermore, WGA distinguishes an earlier inconsistency ruling, IR-15, *supra*, in which a similar fee was found inconsistent:

Furthermore, unlike the Vermont fee which was found inconsistent by DOT in IR-15, the Colorado fee is not being used to support state programs that unnecessarily duplicate federal resources. In that case Vermont chose to ignore federal emergency response resources. Colorado has fully availed itself of the emergency response training offered by DOE for future shipments of transuranic waste to the Waste Isolation Pilot Plant (WIPP) in New Mexico Under PUC Rule NT-5, Colorado's inspection program is required to be operated in accordance with the standards developed by the Commercial Vehicle Safety Alliance—further evidence that Colorado is aware of other transportation resources and is fully coordinating its nuclear materials transportation safety program with these resources.

WGA concludes its comments by urging that the Colorado Act and PUC regulations be found consistent with the HMTA because they supplement, rather than supplant, the HMR.

C. Comments Opposing Consistency

NTG filed extensive comments and rebuttal comments contending that several provisions of the CNMTA and corresponding PUC regulations are inconsistent with the HMTA and the HMR under the "obstacle" test. It stresses the significance of this inconsistency ruling because of its probable precedential effect on states' regulation of HRCQ shipments to DOE's Waste Isolation Pilot Plant (WIPP) in New Mexico and later HRCQ shipments to a permanent repository under the Nuclear Waste Policy Act of 1982, as amended by the Nuclear Waste Policy Amendments of 1987 (NWPA), 42 U.S.C. 10101.

NTG specifically alleges that the State is imposing inconsistent requirements with respect to permitting, information and documentation, and prenotification and enforcing them with inconsistent penalty provisions.

Concerning the permitting issue, NTG quotes PUC Rule NT 8: "No carrier shall transport nuclear materials into, within, through, or out of the State of Colorado until a permit authorizing such transportation has been issued by the CPUC or its designee." It explains that NT 8 imposes a $500 annual permit fee and a $200 per shipment fee. It also states that the permit application requires the applicant's driver training program, proof-of-insurance, a nuclear incident clean-up plan, and a plan for replacement or repair of equipment when required.

NTG cites IR-18, 52 FR 200 (Jan. 2, 1987), *appeal* 53 FR 28850 (July 29, 1988), for the proposition that state and local permit requirements for the transportation of radioactive materials generally are inconsistent with the HMTA and the HMR. It also contends that IR-18 supports an inconsistency finding in this instance because Colorado requires more information than the HMR and because its CNMTA provides no permit processing period.

NTG advances separate arguments against the consistency of each of three of the permit application provisions. It cites IR-2, *supra;* IR-18, *supra;* IR-19, 52 FR 24404 (June 30, 1987), *correction* 52 FR 29468 (Aug. 7, 1987), *appeal* 53 FR 11600 (Apr. 7, 1988), for the proposition that emergency response is a state and local responsibility and that an emergency response plan cannot be required of a carrier. It argues that requiring proof of insurance is inconsistent under IR-2, IR-8, IR-8(Appeal); IR-15, IR-15(Appeal), and IR-19, all *supra*. It further contends that requiring submission of a driver training program is inconsistent with § 177.825 of the HMR and cites IR-8(Appeal) as authority for that proposition.

After concluding that the CNMTA permit requirements, as a whole, are inconsistent under the "obstacle" test, NTG argues that, under IR-15, IR-17, and IR-17(Appeal), all *supra*, the permit fees are inconsistent because they are designed to fund or are related to an inconsistent state regulatory program.

In addition, NTG asserts that requirements to carry in the cab a Colorado State Patrol phone number with calling instructions (Rule NT 3), to carry a copy of the permit (Rule NT 8(f)), and to carry vehicle inspection reports which exceed Federal requirements and thus are inconsistent under IR-8(Appeal), *supra*.

Concerning the State's prenotification requirements, NTG alleges that Rule NT 9 fails to maintain the Federal differentiation (10 CFR 71.97 and 73.37(f)) between spent fuel shipments and other HRCQ shipments. In addition, it asserts that the information required under Rule NT 9 differs from that required by 10 CFR 71.97 and, therefore, is *per se* inconsistent under IR-14, 49 FR 46656 (Nov. 27, 1984); IR-15, *supra;* IR-16, 50 FR 20872 (May 20, 1985) and IR-18, *supra*.

Concerning the civil penalty provisions of Rule NT 4, NTG contends that those provisions are inconsistent to the extent that any provisions of the CNMTA are found inconsistent. In support of that assertion, it cites IR-18, *supra*, and *Jersey Central Power & Light Co.* v. *Township of Lacey*, 772 F.2d 1103 (3d Cir. 1985).

In summary, NTG asserts that the following Colorado rules and the corresponding CNMTA provisions are inconsistent with the HMTA and the HMR under the obstacle test:

NT 3(a)
NT 5(c)(5)
NT 8 and Appendix 8-A
NT 9
NT 4 (as applied to the above provisions).

NTG also filed reply comments to the WGA comments. It asserts that DOE's application for this inconsistency ruling fosters a cooperative Federal-state relationship more effectively than litigation. It points out that WGA addressed only three aspects of the CNMTA, inspections, penalties and shipment fees, and argues that DOT may conclude that the WGA does not take issue with DOE and NTG arguments concerning the alleged inconsistency of many other CNMTA provisions. It also contends that the CNMTA language declaring that implementing regulations "shall not be inconsistent with any federal rule or regulation" cannot prevent a full examination of the State's requirements to determine their consistency.

In response to WGA's discussion of the CNMTA's inspection provisions, NTG points out that DOE did not seek a ruling on the consistency of those provisions. Thus, NTG takes no position on those inspection provisions.

NTG agrees with WGA's statement that reasonable penalty provisions for enforcing consistent state requirements are themselves consistent. However, NTG points to the State PSC's ability to impose fines of up to $10,000 per day for a continuing violation, argues that this amount could be extremely excessive, and concludes that the State's failure to explain its derivation or assessment of penalties would justify OHMT in assuming that maximum penalties would be assessed when it determines the reasonableness of the State's penalties.

Concerning shipment fees, NTG disagrees with the WGA assertion that the fees are not inextricably linked to the permit system. It says that section 40-2.2-202 of the CNMTA ties the two together and that the fees are designed, in part, to fund the permitting program. It states that Colorado has not provided detail on the use of the fees, that prior inconsistency rulings result in very limited areas for state and local transportation requirements for radioactive materials transportation, and disagrees with WGA's contention that parties challenging the fees' consistency have the burden of proof (given the virtually complete occupation of the field of radioactive materials transportation by the HMTA and the HMR). Finally, NTG cites language in IR-17 (Appeal), *supra*, indicating that fees, such as those involved in IR-15, *supra*, associated with inconsistent permitting systems themselves are inconsistent.

DOE also submitted comments responding to those of WGA. DOE describes its cooperative effort with states concerning its radioactive materials transportation. It cites an Office of Technology Assessment Report indicating that NRC specifications used for HRCQ shipments provide a very high level of public protection— "much greater than that afforded in any other current hazardous materials shipping activity." In light of that finding, DOE argues that Colorado has no rational safety basis for its $500 permit fee per vehicle and $200 per shipment fee for HRCQ shipments when its recently-promulgated fee schedule for other hazardous materials transported by motor vehicle provides for no per shipment fee and for annual fees as follows:

No. of vehicles	Fees
1-5	$10
6-10	25
11-50	125
51-100	200
101-300	350

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No. of vehicles	Fees
Over 300	400

Concerning the issue of inspection provisions, DOE states that its application did not raise the issue of the consistency of those provisions.

Concerning the penalty provisions, DOE states that it objects only to the imposition of penalties insofar as they apply to violations of inconsistent rules.

Concerning the State's permit and fee requirements, DOE disagrees with WGA's comments that the permit and fees are separable and that the fees do not cause delay or support an inconsistent program. DOE argues as follows:

> The fee and permit are not separable. Colorado rule NT–8 addresses permit requirements and NT–8(c) is entitled "permit fees". No permit can be obtained without payment of an annual permit fee of $500. NT–8(d) imposes a $200 per shipment fee in addition to the annual permit fee. If a carrier entering the State does not have a permit, a single-trip permit may be obtained pursuant to NT–8(e). But NT–8(e) provides that the single trip fee "shall be the same as indicated in NT–8 (c) and (d) here." Thus, based on the clear and explicit language of the Colorado rules, the annual, per shipment, and single trip permits are inextricably linked to fees.
>
> The WGA claims that since the fee can be paid seven days in advance by mail, and since single shipment permits can be obtained, no delay in shipment will result. There are two flaws in this reasoning. First, in order to obtain a permit, information additional to that required by the federal rules must be supplied (Appendix 8–A to the Colorado regulations) and the Colorado Public Utilities Commission has broad discretion in determining whether the permit requirements have been met. There is no deadline by which Colorado must respond to a permit applicant. Therefore, significant delay in awaiting permit approval easily could occur. Secondly, the single trip permit may be obtained only if the carrier can provide $700. If the carrier cannot provide $700, and transports nonetheless, the carrier is subject to both civil penalties (NT–4) and criminal penalties (Colorado Revised Statutes, 40–2.2–107).
>
> The obvious result of such a system is redirection of shipments away from Colorado whenever possible. As recognized in IR–15, such diversion would reduce the State's exposure to the risk of HRCQ transportation at the expense of neighboring jurisdictions. If other jurisdictions follow suit and enact a similar permit and fee system, "[t]he proliferation of escalating fees, as States sought to finance elaborate response systems and/or to reduce their exposure to radioactive materials transportation, would amount to a system of internal tariff barriers which would completely undermine HM–164 [the federal regulation] . . . ". IR–15, 49 FR 46664 (November 27, 1984).

DOE concludes that the State's permitting system is inconsistent with the HMTA and the HMR under the "obstacle" test and constitutes a prohibited routing rule under Appendix A to 49 CFR Part 177 because it would create unnecessary delays.

IV. Ruling

A. Inspection Requirements

WGA's comments focused on the desirability of states' carrying out effective hazardous materials transportation inspection programs. DOE, however, has not challenged any of the State's inspection requirements in its inconsistency ruling application.

It is clear, nevertheless, that state inspection requirements relating to Federal and consistent state requirements are encouraged by OHMT and are consistent with the HMTA and the HMR. IR–2, IR–6, IR–15, IR–17, all *supra*; IR–20, 52 FR 24396 (June 30, 1987), *correction*, 52 FR 29468 (Aug. 7, 1987). On the other hand, state inspection requirements relating to inconsistent requirements are themselves inconsistent. IR–20, *supra*; IR–21, 52 FR 37072 (Oct. 2, 1987); *appeal*, 53 FR 46735 (Nov. 18, 1988).

Accordingly, the State's inspection requirements (Colorado PUC Rules NT 5 and 6) generally are consistent to the extent, but only to the extent, they relate to Federal and consistent State requirements. (But see discussion below of Rule NT 5(c)(5).)

B. Information and Documentation Requirements

DOE's application contains unrebutted assertions that the following State information and documentation requirements exceed HMR requirements and thus are inconsistent:

(1) *NT 3(a)*, which requires that the telephone number of the Colorado State Patrol (CSP) be carried with the other shipping papers within the cab of every motor vehicle with instructions to the driver or person in charge of the vehicle to call that number in the event of any incident, accident, or breakdown of equipment;

(2) *NT 5(c)(5)*, which requires that the original vehicle inspection report and any subsequent inspection report shall be retained in the vehicle while transporting nuclear materials within the State;

(3) *NT 8(f)*, which requires that each person transporting nuclear material within the State shall carry in the motor vehicle a copy of a nuclear materials transportation permit issued by the Colorado Public Utilities Commission.

(4) *Appendix 8–A* to the CPUC rules, which requires that the permit applicant supply additional information in order to obtain a permit, including:

(a) a copy of the company's driver training program, which must describe preparation for mountain driving if the route to be traveled is mountainous;

(b) proof that the applicant has obtained liability insurance required by Federal rules;

(c) a nuclear incident plan that demonstrates applicant's ability to respond to a nuclear incident, which must include provisions for removal of the vehicle and its cargo, prevention or minimization of releases of radioactivity, and decontamination of the environment; and

(d) the carrier's plan for replacement or repair of equipment that has been placed out of service by a Port of Entry or State Patrol officer after inspection or has been inoperative due to mechanical failure or other circumstance.

(5) *NT 9*, which allegedly contains prenotification requirements in excess of those required by the HMR.

All of the above information, in fact, is in excess of that required by the HMR, including that required by Nuclear Regulatory Commission (NRC) regulations incorporated into the HMR by 49 CFR 173.22.

Requirements for information or documentation in excess of the HMR create potential delay, constitute an obstacle to execution of the HMTA and the HMR, and thus are inconsistent. IR–6, 48 FR 760 (Jan. 6, 1983); IR–2, IR–6, IR–8, IR–8(Appeal), IR–15, IR–15(Appeal), IR–18, IR–18(Appeal), IR–19, IRA–19(Appeal), IR–21, all *supra; Chem-Nuclear Systems, Inc.* v. *City of Missoula*, CV 80–18–M (D. Mont. 1984). Also, there is no *de minimis* exception to the "obstacle" test for such requirements because thousands of jurisdictions could impose *de minimis* information requirements.

These principles are particularly applicable with respect to the intensely regulated field of radioactive materials transportation. RSPA's Administrator considered such requirements in that context in IR–8(Appeal), *supra:*

> DOT and NRC have determined what information and documentation requirements are needed for the safe transportation of radioactive materials, and state and local requirements going beyond them create confusion, impose burdens on transporters, are obstacles to the accomplishment of the HMTA's objectives, and thus are inconsistent.

52 FR 13004; see also IR–15(Appeal), *supra*.

State and local radioactive materials transportation information and documentation requirements which have been found inconsistent with the HMR include the following: Emergency response information requirements; multiple submissions of the same information (e.g., submission to states of NRC approvals and licenses); transportation route plans; shipment-specific information; and information on possible alternate routes, proposed means of conveyance, estimated date and time of departure, emergency response and recovery plans, attestations concerning safety inspections, and certification of compliance with laws and regulations (the latter being the same as required on DOT shipping papers). IR–8, IR–8(Appeal), IR–15, IR–15(Appeal), IR–19, all *supra*.

In summary, the field of radioactive materials transportation information and documentation requirements has been preempted by the Federal Government (RSPA and NRC, with the latter's requirements having been incorporated into the former's HMR). Therefore, the State's information and documentation requirements identified by DOE fail the "obstacle" test and are inconsistent with the HMTA and the HMR.

With respect to some of the areas addressed by its information requirements, however, the State may have other consistent regulatory tools at its disposal. For example, it may accident/incident reports for emergency response purposes. IR–2, *supra;* IR–3, *supra; National Tank Truck Carriers, Inc.* v. *Burke*, 535 F. Supp. 509 (D.R.I. 1982), *aff'd* 698 F.2d 559 (1st Cir. 1983); 49 CFR Part 177, Appendix A.

In summary, RSPA has determined that current information and documentation requirements concerning radioactive materials transportation are sufficient to meet the needs of safe transportation. However, should RSPA, through its own initiative or in response to an appropriate petition for rulemaking, decide that those requirements should be enhanced, RSPA will undertake appropriate rulemaking.

C. Prenotification Requirements

DOE contends that Colorado Rule NT 9 applies the NRC regulation for prenotification of spent fuel shipments, 10 CFR 173.73(f), to all HRCQ shipments, not just spent fuel shipments. As to non-spent fuel HRCQ shipments, therefore, the State requires greater prenotification than the NRC regulations, which are incorporated into the HMR by 49 CFR 173.22.

DOE's objection to the State's prenotification requirement (in addition to the above-discussed informational requirement objection) is that this requirement creates a classification of hazardous materials impermissibly different from the HMR. However, it is not necessary to discuss the classification issue in order to determine the consistency of the State's prenotification requirement.

Local requirements for advance notice of hazardous materials transportation have the potential to delay and redirect traffic and thus are inconsistent. IR–6, *supra*. Although state notice requirements concerning radioactive materials shipment schedule changes identical to NRC requirements are consistent (IR–8, *supra*), notice requirements concerning schedules or schedule changes for such shipments different from NRC requirements are inconsistent. IR–8(Appeal), IR–14, IR–15, IR–16, IR–18, IR–18(Appeal), *Chem-Nuclear Systems, Inc.* v. *City of Missoula*, all *supra*.

OHMT's total occupation of the prenotification field was explicitly stated in IR–8(Appeal), *supra*:

> Through its rulemaking process and related studies, DOT has determined what prenotification (including information, documentation and certification) requirements are necessary for the safe transportation of radioactive materials. In the process of analyzing rulemaking comments and studies it has commissioned or examined, DOT has determined what prenotification requirements are not necessary. This field has been totally occupied by the HMR. State and local provisions either authorizing less prenotification or requiring greater prenotification than the HMR, therefore, constitute obstacles to the accomplishment and execution of the objectives of the HMTA and the HMR, are inconsistent, and are preempted.

52 FR at 13005.

The State's prenotification requirements differ from, and are more burdensome than, the radioactive materials prenotification requirements in §§ 173.22 and 177.825 of the HMR and 10 CFR 71.97 and 73.97 (NRC regulations incorporated by reference in § 173.22 of the HMR). CPUC Rule NT 9 requires more information about more shipments and thereby creates confusion and undermines the likelihood of proper compliance with the HMR prenotification requirements.

Therefore, the State's Rule NT 9 is inconsistent with the HMR to the extent that it exceeds NRC requirements by requiring greater prenotification concerning non-spent fuel HRCQ radioactive materials shipments.

D. Training Requirements

DOE contends that Appendix 8–A (Application for Permit) to the Colorado regulations constitutes an inconsistent training requirement insofar as it requires a motor carrier training program describing preparation for mountain driving where a mountainous route is to be used.

Again, this particular topic previously was addressed by RSPA's Administrator:

> • • • the Department, through promulgation of 49 CFR § 177.825, has established a near total occupation of the field of training requirements relating to the transportation of radioactive materials. Thus, state and local radioactive materials transportation • • • training requirements other than • • • those identical to Federal requirements • • • are very likely to be inconsistent and thus preempted under § 112(a) of the HMTA.

IR–8(Appeal)), *supra*, at 13003.

Although Colorado, being a mountainous state, understandably may wish to require motor carrier training for mountain driving, its imposition of such a requirement on transporters of certain radioactive materials constitutes an obstacle to implementation of the HMTA and the HMR. Many other mountainous states or localities may wish to impose similar reqnirements, and states or localities with other geograpical characteristics (e.g., desert) may wish to impose training requirements tailored to those conditions. Such requirements, when applied to drivers of motor vehicles carrying radioactive materials, would be inconsistent.

State or local governments, like Colorado, wanting to impose such requirements have two options available to them. First, they may file a rulemaking petition with OHMT or the NRC requesting that the HMR or the NRC regulations be amended to impose such a requirement. Second, they may apply to OHMT, under 9 CFR 107.215, for a non-preemption determination (i.e., a waiver of preemption). Any such applications will be given full consideration by DOT.

In summary, the requirement in Appendix 8–A to the Colorado regulations requiring a training program for motor carriers of certain radioactive materials fails the "obstacle" test and thus is inconsistent with the HMTA and the HMR.

E. Permit Requirements

DOE contends that the State's permit requirements (Rule NT 8(a) and (b) and Appendix 8–A to the Rules) are inconsistent because: (1) They ban transportation without a permit of HRCQ shipments which are in compliance with the HMTA and the HMR, (2) create the likelihood of

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diversion of transportation to other jurisdictions, (3) include extensive information requirements, and (4) contain vague and discretionary standards for determining when a permit will be issued (e.g., the required submission of a nuclear incident plan demonstrating the applicant's ability to respond to a nuclear incident). DOE's contention is correct for all of the reasons cited.

Generally, state or local hazardous materials transportation permits *per se* are not inconsistent, and their consistency depends upon their specific requirements. IR–2, IR–3, IR–20, all *supra*. However, because the field of radioactive materials transportation safety is so intensively regulated and almost completely occupied by the HMTA and the HMR, state and local requirements are limited to : (1) Traffic control or restrictions applying to all traffic, (2) designation of preferred routes under 49 CFR 177.825, (3) adoption of Federal or consistent requirements, (4) enforcement of consistent requirements or those for which preemption has been waived, and (5) imposition of reasonable transit fees to finance those enforcement activities and emergency response preparedness. Thus, radioactive materials transportation permits generally are inconsistent. IR–8; IR–8(Appeal); IR–10; IR–11; IR–12; IR–13; IR–15; IR–18; IR–18(Appeal); IR–19; IR–19(Appeal); IR–20; IR–21; IR–21(Appeal), all *supra*.

The permit system at issue here has many similarities to the Nevada permit system (applicable to radioactive and explosive materials) found inconsistent in IR–19 and IR–19 (Appeal), both *supra*. Like that system, Colorado's permit system prohibits certain transportation without a permit regardless of whether that transportation is in compliance with the HMTA and the HMR, applies to selected hazardous materials, involves extensive information and documentation requirements, and contains considerable discretion concerning permit issuance. As was stated in IR–19, "Cumulatively, these factors constitute unauthorized prior restraints in shipments of * * * hazardous materials that are presumptively safe based on their compliance with Federal regulations." 52 FR at 24407. The quoted language was applied in IR–19 to permits for *nonradioactive* hazardous materials transportation, a field which, unlike *radioactive* hazardous materials transportation, has not been virtually completely occupied by the HMR.

I am aware of a contrary view concerning the Nevada permitting system at issue in IR–19 and IR–19(Appeal), that is, a four-page unpublished U.S. District Court opinion upholding the consistency of that system. *Southern Pacific Transportation Co.* v. *Public Service Commission of Nevada*, CV–N–86–444–BRT (D. Nev. 1988). That Court cited no judicial or other precedent for it conclusions, did not fully address the issues discussed in the two DOT opinions, and did not discuss or apply the two-pronged test for consistency set forth in 49 CFR 107.209(c). Thus, I do not find that decision persuasive in considering the consistency of the Colorado permit system with the HMTA and the HRM.

For the foregoing reasons, CPUC NT 8(a) and (b) and Appendix 8–A to the CPUC Rules are inconsistent with the HMTA and the HMR.

F. Civil Penalties

DOE contends that CPUC Rule NT 4, providing for civil penalties for violations of the CPUC regulations, is consistent insofar as if relates to inconsistent regulations. NTG supports that contention and also argues that civil penalties imposed under the Rule could be excessive.

Civil penalties for violations of consistent state or local hazardous materials transportation laws or regulations are consistent with the HMTA and the HMR unless they are so extreme or arbitrarily applied as to cause the rerouting or unreasonable delay of shipments. Mere differences in amount do not require a finding of inconsistency. IR–3, *supra*. However, civil penalties for violations of inconsistent state or local hazardous materials transportation laws or regulations are themselves inconsistent with the HMTA and the HMR under the "obstacle" test. IR–18, *supra*; IR–18(Appeal), *supra*; *Jersey Central Power & Light Co.* v. *Township of Lacey*. 772 F.2d 1103 (3rd Cir. 1985).

Therefore, CPUC Rule NT 4 is consistent with the HMTA and the HMR insofar as it applies to violations of inconsistent CPUC regulations. The civil penalties under CPUC Rule NT 4 which are similar in amount to those under the MHTA and the HMR, have not been demonstrated to be so arbitrary or excessive as to cause diversion or significant delays of hazardous materials transportation. Therefore, CPUC Rule NT 4 is consistent with the HMTA and the HMR insofar as it applies to violations of consistent CPUC regulations; otherwise it is inconsistent.

G. Fee Requirements

DOE contends that the State's permit fees and shipment fees (CPUC Rules NT 8(c), (d) and (e)) are inconsistent because they support an inconsistent permit system and discriminate against radioactive materials—as compared to other hazardous materials.

Reasonable state or local fees on hazardous materials transportation to fund consistent governmental activities are consistent with the HMTA and the HMR. IR–17, *supra*; IR–17 (Appeal), *supra*; *New Hampshire Motor Transport Assn.* v. *Flynn*, 751 F.2d 43 (1st Cir. 1984). However, state or local fees which are unreasonably high or are related to inconsistent governmental activities are inconsistent. IR–11, 49 FR 46647 (Nov. 27, 1984); IR–13, 49 FR 46653 (Nov. 27, 1984); IR–15, *supra*; IR–18 (Appeal), *supra*; IR–19, *supra*; *New Hampshire Motor Transport Assn.* v. *Flynn*, *supra*.

1. Permit Fees

Under these standards, the State's "permit fee" (Rule NT 8(c)) and the first seven words of NT 8(d) is similar to Vermont's $1,000 fee for spent nuclear fuel shipments found inconsistent in IR–15, *supra*, and is itself inconsistent because it represents payment for a permit which has been determined elsewhere in this ruling to be inconsistent.

2. Shipment Fees

The "shipment fees" in CPUC Rules NT 8(d) (except for the first seven words thereof) and NT 8(e), however, are more similar to Illinois' $1,000 per cask fee for spent nuclear fuel transportation to fund inspection, enforcement, state escorts and emergency response, none of which was related to inconsistent provisions or caused diversions or significant transportation delays. The Illinois fee was found consistent in IR–17 and IR–17 (Appeal), both *supra*. Colorado's shipment fees, although larger, also are similar to New Hampshire's $25/year or $15/trip fee for hazardous materials transportation, used to fund transportation and environmental programs and related to a minimal delay licensing system, which fee was found consistent in *New Hampshire Motor Transport Assn.* v. *Flynn*, supra.

There is no showing on the record in this matter that the CPUC Rule NT 8 (d) and (e) shipment fees are related to inconsistent state activities or cause diversion or unreasonable delays of hazardous materials transportation. Based on this record, therefore, they are consistent with the HMTA and the HMR.

V. Summary

Many of the State's requirements are inconsistent with the uniform nationwide regulation of hazardous materials transportation contemplated by the HMTA and the HMR and thus have been found inconsistent herein.

To the extent the State believes that certain of its requirements are appropriate for nationwide application, it may file petitions for rulemaking with RSPA (49 CFR 106.31) or the NRC. To the extent it believes that certain of its requirements are appropriate for application within Colorado, it may apply for a non-preemption determination (waiver of preemption) under 49 CFR 107.215.

VI. Ruling

For the foregoing reasons and based on the record in this matter, I make the following findings. No opinion is rendered concerning the consistency of any provisions of Colorado's Nuclear Materials Transportation Act of 1986 (CNMTA), C.R.S. section 40–2.2–101 *et seq*. Colorado Public Utilities Commission (CPUC) Regulations NT 3(a), 5(c)(5), 8(a), 8(b), 8(c) and 8(f); the first seven words of CPUC Regulation NT 8(d); and Appendix 8–A to the CPUC Regulations are inconsistent with the HMTA and the HMR. CPUC Regulations NT 4, 5 (except for 5(c)(5)) and 6 are consistent to the extent they relate to other consistent requirements; otherwise they are inconsistent. CPUC Regulation NT 9 is inconsistent to the extent it requires different or more prenotifications than the HMR. CPUC Regulation NT 8(d), except for its first seven words, and CPUC Regulation NT 8(e) are consistent with the HMTA and the HMR. No opinion is rendered concerning the consistency of any other CPUC regulations.

Any appeal of this ruling must be filed within 30 days of service in accordance with 49 CFR 107.211.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

Issued in Washington, DC, on April 17, 1989.

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Part VII

National Labor Relations Board

29 CFR Part 103

Collective-Bargaining Units in the Health Care Industry; Final Rule

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NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

Collective-Bargaining Units in the Health Care Industry

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The Board issues a Final Rule providing for appropriate bargaining units in the health care industry. The Board has determined that establishing bargaining units by rulemaking will better effectuate the purposes and policies of the National Labor Relations Act than continuing lengthy and costly litigation over the issue of appropriate bargaining units in each case.

EFFECTIVE DATE: May 22, 1989.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue NW., Room 701, Washington, DC 20570, Telephone: (202) 254–9430.

SUPPLEMENTARY INFORMATION: The following is an outline of the contents of this Supplementary Information:

I. Background
II. Rulemaking
III. Cost Considerations
IV. Employer Flexibility
V. Common Expiration Dates
VI. The Units
VII. Small Units
VIII. Equal Employment Considerations
IX. Coverage of the Rule
X. Miscellaneous Problems
XI. Placement Decisions
XII. Extraordinary Circumstances
XIII. Proliferation
XIV. Regulatory Flexibility Act
XV. Dissenting Opinion

I. Background

On September 1, 1988, the Board issued its Second Notice of Proposed Rulemaking (NPR II) (53 FR 33900), modifying in some respects the rule tentatively proposed in its original Notice of Proposed Rulemaking (NPR) (52 FR 25142). Member Wilford W. Johansen dissented from the Board's decision to proceed with rulemaking. For reasons set forth in NPR II (53 FR 33901), the Board provided for another period of comment on all aspects of the proposed rule; that period ended October 17, 1988.

During this additional comment period, the Board received approximately 1500 timely comments. A number of comments received through Congressional offices were copies of letters also sent directly to the Board. On March 23, 1989, the Board met in open session to discuss further the issue of appropriate bargaining units in the health care industry, and this Final Rule is the product of that open meeting. The Board is appreciative of the extensive interest shown by all segments of the health care industry during this rulemaking proceeding, and has carefully considered the entire record during its deliberations. Though this Supplementary Information contains references to various comments submitted during this final phase, the Board wishes to emphasize now, as it did earlier (53 FR 33901), that these references are merely illustrative. The Board's decision has been based on the complete rulemaking record, including the transcript, the witnesses' statements, all comments and briefs, and the exhibits, and not solely on the testimony and comments referred to in NPR, NPR II, and this Supplementary Information.

Approximately 30 of the comments submitted during this final comment period support the Board's proposal in whole or in part, and approximately 1465 comments oppose it. Of the 1465 comments in opposition, approximately one-half are form letters, for the most part containing brief arguments without supporting detail.

The most common form letter, submitted by over 600 correspondents, briefly exhorts the Board to return to the case-by-case approach and to find appropriate only two units, all professionals and all nonprofessionals, plus the statutorily-mandated separate unit of guards. Otherwise, say these commenters, their ability to provide comprehensive, coordinated care would be adversely affected. An example of this form letter is that submitted by St. Luke's Hospital in Bethlehem, Pennsylvania (Comment 434). The form letter contains blank spaces for such information as "(name of organization)"; "(number)" of health care facilities owned by the commenter; and "(number)" of employees; one submitted copy of the form letter did not have the blanks filled in.

A second form letter, such as that submitted by St. Mary's Health Center of St. Louis, Missouri (Comment 875), has been received from approximately 35 commenters, and contains only four sentences. This letter also asks the Board to abandon rulemaking and return to a case-by-case analysis, arguing that, in ways not specified, the rule will increase the risk of life-threatening strikes and result in jurisdictional disputes, inefficient work rules, and higher consumer costs.

The other two most frequently submitted form letters are those received from the Humana chain and its affiliates; over 35 copies of these two form letters have been received. Illustrative of one type is that received from Humana Hospital-Winn Parish (Comment 1474). This letter argues that the proposed rule fails to consider the differences in hospitals and specific circumstances of employees at a time of dynamic change in the industry, could limit flexibility in dealing with personnel at a time this flexibility is needed, and will result in increased costs at a time of growing demand for cost containment. This letter urges the Board to continue a case-by-case analysis, arguing that the rule contravenes Congressional intent.

The other Humana form letter was that submitted by Steven L. Durbin, Vice President of Employee Relations/Education, Humana Inc. (Comment 905), which makes similar arguments but also gives various examples of duties nurses now undertake (e.g. as inservice education, utilization review and discharge planning, or admissions), to show changes in the industry. The letter adds that two proposed units, skilled maintenance and other professionals, would be very small units. The letter argues that the Board's rationale in its proposed rule has inconsistencies regarding salaries of nurses and uniformity in the industry. The letter further argues that the Board is abandoning *St. Francis II* (*St. Francis Hospital*, 271 NLRB 948 (1984)) to save time and resources for itself and suggests other mechanisms for dealing with these problems.

Of the remaining one-half of the comments which oppose the proposed rule, the vast majority make general arguments with little, if any, supporting detail, and many contain portions of the form letters. The arguments in these comments, which for the most part mirror those made during the earlier portions of the rulemaking proceeding, generally fall within the following categories:

a. The health care industry is unfairly being singled out for rulemaking.

b. Rulemaking is contrary to the language of section 9(b), requiring a case-by-case approach.

c. The Board should follow the case-by-case approach of *St. Francis II*.

d. The number of proposed units conflicts with the Congressional admonition against proliferation.

e. If the Board establishes units, there should be only two units, professional and nonprofessional, plus guards.

f. The proposal will lead to increased organizing by unions.

g. Multiple units will result in strikes, repeated strike notices, jurisdictional disputes, and other disruptions of health care.

h. Health care costs will substantially increase as a result of strikes, whipsawing, work rules, bargaining, and contract administration.

i. Hospitals will lose needed flexibility.

j. The Board did not consider the changes in the industry such as teams, and the differences between institutions and between employees.

k. The particular units proposed, such as RN and skilled maintenance, are inappropriate.

l. The implementation of the proposed rule will lead to increased litigation.

m. At least 75 commenters argue that the Board should not treat small, rural hospitals as it does other acute care hospitals because they have less money and staff flexibility, and more overlapping employee duties. Moreover, disruptions at these facilities would have a severe impact on providing health care and employment for persons living in their areas since there are few or no other medical facilities nearby. Many of the 75 commenters provide no further detail on this point.

n. Several commenters embrace the arguments made by Member Johansen in his dissent from the Board's decision to continue with rulemaking.

o. Some commenters argue that the Board is inappropriately foreclosing discussion on bargaining unit issues by refusing to hear evidence on issues considered during rulemaking.

p. About 25 commenters argue that no rule should be made with less than a full five-member Board.

q. Some commenters suggest that the Board consider alternative to a rule, such as a Board panel deciding health care cases.

r. A few commenters argue that the implementation of the Board's proposed rule will expedite the Board's election process resulting, in insufficient time for an employer to respond to a union's organizing campaign.

s. Some comments criticize the extraordinary circumstances provision as being too narrow.

The Board has carefully considered all the above arguments. Some (a, c, e, f, g, j, k, l, and n) were thoroughly dealt with in NPR and NPR II, and the Board believes that no further consideration or response is required. As to these arguments, the Board reaffirms the Supplementary Information and rationale contained in NPR II, as well as pertinent parts of the original NPR.

The point made by the 25 commenters referred to in "p" is moot, since all five Board Members have participated in the consideration and promulgation of this Final Rule.

With respect to the point made in "r," it is the Board's expectation that the rule will reduce what has hitherto been excessive delay and uncertainty in determining the appropriate bargaining unit, but otherwise all the Board's normal processes remain.

With respect to the remaining arguments: argument "b" is considered at II; "d" at XIII; "h" at III; "i" at IV; "m" at VII; "o" at II and XII; "q" at II; and "s" at XII.

The Board acknowledges and has taken into consideration the numerical superiority of the comments opposing the rule proposed in NPR II. From the beginning of this proceeding, employers have preferred continued use of the adjudicatory approach,[1] and labor organizations have favored rulemaking. Since there are many more hospitals than unions in the health care industry, the disparity in the number of comments is not surprising. Although there are exceptions, the comments are for the most part divided pro and con along employer-union lines.

We do not view our task as similar to that of a scale-master, weighing the total body of comments for quantity without regard to substance. Insofar as we have found particular comments to be persuasive, we have reflected that in revisions to the rules previously proposed. To the extent we have found comments to be unpersuasive, we have so indicated in these and previous Supplementary Information sections. The Board "is not required to mold its decision to accord with the weight of the comments it receives." *M.C.I. Telecommunications Corp.* v. *FCC*, 675 F.2d 408, 415, n. 39 (D.C. Cir. 1982), cited with approval in *Telocator Network of America* v. *FCC*, 691 F.2d 525, at 538 (D.C. Cir. 1985). Cf. *Lloyd Noland Hospital & Clinic* v. *Heckler*, 762 F.2d 1561 (11th Cir. 1985).

[1] The Board in NPR II at 33929 stated, in the introduction to Section XIV on Specialized Hospitals, "Some employers suggested that the Board make a separate rule for specialty hospitals, arguing that they are neither acute care hospitals nor nursing homes * * *." Attorney Roger King, among others, was cited, TR 4230–31. In Comment 1142, Bricker & Eckler correctly points out that King's argument at the cited pages was that today's hospitals are varied and complex, and that rulemaking is "not suited for these institutions." The commenter is correct; throughout these proceedings, King has opposed rulemaking in every form, for all institutions. However, the Board intended at the point in question merely to introduce the discussion as to whether specialty hospitals should be covered by the rule; reference to a separate rule for such hospitals was inadvertent, and that possibility was not considered by the Board in NPR II. In fact, the Board excluded psychiatric hospitals from the proposed rule; it did not make a separate rule for them. The misstatement about King's testimony as to this point was immaterial to the Board's deliberations but is hereby acknowledged and corrected.

II. Rulemaking

In both prior Notices, the Board set forth at considerable length the reasons prompting it to embark on rulemaking to establish appropriate bargaining units in the health care field. These reasons are set forth fully at 52 FR 25143 through 25145, and 53 FR 33901 through 33904, and are still valid.

Both the AFL–CIO (AFL) in its brief filed jointly with eleven other labor organizations (Comment 1713), and the American Hospital Association (AHA) in its brief (Comment 1711), deal at length with the Board's authority under section 9(b) to engage in rulemaking in the area of appropriate bargaining units. See also Comment 1055, Eastern Hospital; Comment 1330, Taft, Stettinius & Hollister; Comment 1663, Labor Policy Association; and Comment 379, James T. O'Reilly (supporting), among others.

Section 9(b) of the National Labor Relations Act requires the Board to decide "in each case" what the appropriate bargaining unit shall be. At the same time, section 6 gives the Board general authority to make rules, in the manner set forth in the Administrative Procedure Act, "as may be necessary to carry out the provisions of this Act."

We have carefully examined the legislative history of these sections, particularly that surrounding section 9(b), and find nothing to impugn the legitmacy of this rulemaking proceeding. The words "in each case" were added to S. 1958 by Secretary of Labor Perkins, along with a number of other changes, as "small amendments" to be "made for the sake of clarity." I Legislative History (1935) at 1442 (Hearing 3/12/35.) A later House version of the bill, HR 7978 (5/9/35), contained the "in each case" language (II Legislative History at 2903), although earlier House bills had not. The House Committee Report, submitted by Representative Connery, stated:

> Section 9(b) provides that the Board shall determine whether, in order to effectuate the policy of the bill (as expressed in sec. 1), the unit appropriate for the purposes of collective bargaining shall be the craft unit, plant unit, employer unit, or other unit. This matter is obviously one for determination in each individual case, and the only possible workable arrangement is to authorize the impartial governmental agency, the Board, to make that determination. There is a similar provision in the Railway Labor Act of 1934 (sec. 2(9); 2(4)). [II Legislative History, supra, at 2976.]

The AFL suggests that the National Mediation Board (NMB), which administers section 2(9) of the Railway Labor Act, has defined units in the airline industry on an industry-wide basis as the result of industry-wide

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proceedings. If that were so, it would seem clear, consistent with Congressman Connery's analogy, that the Board could decide units for an entire industry also. However, the cases cited by the AFL in its comment (p. 12, n. 18), are not fully supportive of its position. Though the NMB has used industry-wide proceedings for bargaining unit determinations in the airline industry, its pronouncements in each of the six proceedings that have been called to our attention have been limited to the particular airline involved.

For the reasons set forth in the NPR and NPR II, including the virtually unanimous views of courts, scholars such as Kenneth Culp Davis, and many other experts, we believe that our use of our rulemaking authority in this area is well within our discretion. In addition to the reasons previously given, we note that the Board has long made use of "rules" of general applicability to determine appropriate units, for example: (1) That single facility units are presumptively appropriate. *Haag Drug Company, Inc.*, 169 NLRB 877 (1968). *See also NLRB* v. *New Enterprise Stone & Lime Co.*, 413 F.2d 117 (3d Cir. 1969); (2) that residual units are not separately appropriate when sought by an incumbent. *The Budd Co.*, 154 NLRB 421 (1965); (3) that plant clericals and office clericals do not constitute an appropriate unit absent agreement of the parties. *The Kroger Co.*, 204 NLRB 1055 (1973); *Robbin & Myers, Inc.*, 144 NLRB 295 (1963); (4) that the appropriate unit in decertification elections is the certified or recognized unit. *Campbell Soup Co.*, 111 NLRB 234 (1955). See also the "rules" described in *Otis Hospital*, 219 NLRB 164, 166 (1975), pertaining to the appropriateness of residual units in the health care industry.

We are aware of no judicial criticism of the Board's longstanding use of "rules" in the appropriate bargaining unit area, and the Supreme Court in *NLRB* v. *Wyman-Gordon Co.*, 394 U.S. 759 (1969), strongly suggested that, when it promulgated "rules," the Board would be better advised to utilize its rulemaking powers under the Administrative Procedure Act (APA). The Supreme Court similarly endorsed the Board's use of its rulemaking powers in *NLRB* v. *Metropolitan Life Insurance Company*, 380 U.S. 438 (1965), at 444, n. 6, when, in remanding a bargaining unit case to the Board, the Court stated:

> Of course, the Board may articulate the basis of its order by reference to other decisions or its general policies laid down in its rules and its annual reports, reflecting its "cumulative experience," so long as the basis of the Board's action, in whatever manner the Board chooses to formulate it, meets the criteria for judicial review. (Citations omitted.)

There is nothing inconsistent between section 9(b) and the Board's use of its APA rulemaking power. Section 9(b) requires the Board to decide the appropriate unit in each case, and the Board will continue to do so under this rule. Should the parties not agree on the appropriate unit, a hearing in each case will still be directed, with the Board ultimately rendering a decision on the appropriate unit applicable to that particular petition and that particular employer's operation. The Board may rely on a rule properly promulgated under the APA just as it has, since 1935, relied on rules formulated under adjudication. The Supreme Court said as much in a recent case arising under the Social Security Act. That Act, like the NLRA, requires determinations (of disability) to be made on an individual basis, after hearings, if the issue is in dispute. Because of similarities between cases, the Secretary of Health and Human Services promulgated, through rulemaking, a grid or matrix, through which it could be determined, with considerable predictability and uniformity, whether disability in a particular case existed. In *Heckler* v. *Campbell*, 461 U.S. 458, 467 (1983), the Court stated:

> We do not think that the Secretary's reliance on medical-vocational guideline is inconsistent with the Social Security Act. It is true that the statutory scheme contemplates that disability hearings will be individualized determinations based on evidence adduced at a hearing. See 42 U.S.C. sec. 423(d)(2)(A) (specifying consideration of each individual's condition); 42 U.S.C. sec. 405(b) (1976 ed., Supp. V) (disability determination to be based on evidence adduced at hearing). But this does not bar the Secretary from relying on rulemaking to resolve certain classes of issues. The Court has recognized that even where an agency's enabling statute expressly requires it to hold a hearing, the agency may rely on its rulemaking authority to determine issues that do not require case-by-case consideration. See *FPC* v. *Texaco Inc.*, 377 U.S. 33, 41–44 (1964); *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192, 205 (1956). A contrary holding would require the agency continually to relitigate issues that may be established fairly and efficiently in a single rulemaking proceeding. See *FPC* v. *Texaco Inc.*, *supra*, at 44.[2]

As indicated, some of the form letters, as well as Comment 884a, submitted by Martha Jefferson Hospital, Comment 1049 submitted by Vanderbilt University School of Nursing, and Comment 905, by Humana Inc., suggest as an alternative that the Board establish special panels "in the Regions and Washington to hear, decide and resolve health care bargaining unit issues." This is neither feasible nor helpful. Only the Board members themselves can resolve contested cases, including unit issues. *KFC National Mgmt. Corp* v. *NLRB*, 497 F.2d 298 (2d Cir. 1974). The Board normally decides representation cases (as well as other cases) by panels of three members, and to create a permanent panel of three would not be likely to improve efficiency, and instead might result in delay. Moreover, it would unjustifiably exclude the other two members. Because of the volume of cases before it, the Board simply cannot hear oral arguments except in very unusual cases, and we are aware of no useful purpose that would be served by sending Board members to regional offices to decide health care cases. Sitting in the locale of the contested case would not add to the members' understanding of the case.

Some commenters suggest the use of rebuttable presumptions. The Board has previously rejected that suggestion, for the reasons set forth in NPR at 52 FR 25145. The Board's experience since 1974 is that painstaking elicitation and examination of the facts of each individual case is, absent extraordinary circumstances, neither helpful nor

[2] In *Heckler*, the Court noted that, at the statutorily-required "hearing," the claimants would be given "ample opportunity both to present evidence relating to their own abilities and to offer evidence that the guidelines do not apply to them (footnote omitted)." [Id. at 467.] Similarly, here, if the parties do not execute one of the Board's stipulated or consent agreement forms, and the petition is not dismissed for administrative reasons, there will be the hearing required by section 9(c) of the Act. At the hearing, the facility being organized, or the union, will be given ample opportunity to demonstrate that the unit guidelines are not applicable to it for such reasons as (a) the facility is not a hospital; (b) insufficient numbers of its patients receive acute care; (c) it is primarily a nursing home; (d) it is primarily a psychiatric hospital; (e) it is primarily a rehabilitation hospital; (f) its situation presents "extraordinary circumstances"; etc.

Moreover, we note that, under section 9(c) of the NLRA, the "hearing" requirement is not specifically related to the appropriate unit question, but rather, more generally, to whether a question concerning representation exists. Thus, although now the Board will in most cases render a decision on one subsidiary issue—the scope of the appropriate unit—on the basis of this rule, the Board will resolve other issues, such as whether a contract bar exists, whether certain employees are supervisory or managerial, whether the petitioner is a labor organization or has a conflict of interest, whether a single facility unit is appropriate, the composition of the appropriate unit, etc., on the basis of testimony taken at the hearing. The Board has merely determined that the issue of the scope of the appropriate unit within an acute care hospital does not generally require adjudicatory consideration, and that otherwise it would have "continually to relitigate issues that may be established fairly and efficiently in a single rulemaking proceeding." *Heckler* v. *Campbell*, supra at 467.

outcome determinative as to the scope of the appropriate unit. See NLRB Exhibit 5, revised, referred to in NPR II at 53 FR 33903. The use of mere presumptions would not eliminate the duplicative litigation referred to by the Supreme Court in *Heckler* v. *Campbell*, but establishing units by rulemaking will go a long way towards accomplishing that objective.

Finally, although we are highly satisfied with this rulemaking proceeding both because of the large amount of valuable information it has given us and because, based on that information, we are confident we have moved towards eliminating much of the unnecessary uncertainty existing in this area, we are under no illusions that the answers we now provide will necessarily solve all health care unit problems, for all time. This is our first venture in major, substantive rulemaking. At some future date, after the rule has had a fair trial, it may be appropriate to reexamine the rule to determine how well it has worked, whether new developments have changed our underlying assumptions and require different conclusions, and whether some other provisions might improve those now promulgated.

III. Cost Considerations

Strikes and strike costs were dealt with at some length in NPR II. (53 FR 33908–33910.) Though the comments following NPR II did not challenge the Board's finding there that the incidence of strike activity in the health care industry has been lower than in all other industries (53 FR 33908), industry commenters identify approximately 20 strikes that have taken place. A number of employers report that they have experienced one strike (e.g., Comment 1708, Ellis Hospital; Comment 1718b, Waterbury Hospital Health Center; Comment 1654, Pottsville Hospital and Warne Clinic; etc.). Two commenters report multiple strikes (Comment 1145, East Liverpool City Hospital, four in 20 years; Comment 1249, Santa Rosa Memorial Hospital, two strikes in last 8 years totalling 70 days plus four 10-day strike notices).

The evidence in NPR II showed that sympathy strikes in hospitals have been virtually nonexistent. (53 FR 33909.) Nonetheless, two hospitals now report sympathy strikes. (Comments 1259 and 1729b, Bridgeport Hospital, regarding Waterbury Hospital; Comment 516, Saint Elizabeth Medical Center (sympathy strike by delivery drivers at unnamed hospital).)

The strikes reported in the aforementioned comments are insufficient in number or character to conflict with the Board's prior conclusions in NPR and NPR II.

A few hospitals discuss costs relating to their strikes. For example, in Comment 961, O'Bleness Memorial Hospital reports spending $20,000 for security forces and over $20,000 for legal and negotiating fees; two of the three times the hospital renegotiated its contract, the union issued a strike notice and the hospital incurred costs in strike preparation. Pottsville Hospital and Warne Clinic reports $20,000 in legal fees and staff time (Comment 1654). The only cost amounts we regard as possibly noteworthy involve Wadley Regional Medical Center and Santa Rosa Memorial Hospital. In Comment 937, Wadley states that, in 1978, its costs for a strike were "up to $1,000,000." Santa Rosa, in Comment 1249, reports its labor relations costs relating to two strikes, four strike notices, and three organizing campaigns, were "up to 5 million." In both instances, and in the absence of elaboration, the hospitals' use of the phrase "up to" leads us to believe that the amounts given are only upper-limit estimates and not careful calculations. Nor is there any indication whether these costs were largely wage increases, legal fees, lost revenues, overtime, remuneration of striker replacements, or even lost profits. Legal fees are, of course, highly individual. Where cost estimates include staff time, it is not clear how much of the staff's time was ordinary expense precommitted to be paid regardless of whether there was a strike. See, e.g., Comment 1654, Pottsville. In any event, the costs of the small number of strikes mentioned do not seem disproportionate to what we believe Congress must have anticipated when it authorized collective bargaining in the health care industry by placing it under the Board's jurisdiction in 1974.

Approximately twelve commenters provided information regarding costs of bargaining. For example, in Comment 1684, MonVale Health Resources, Inc. reports it spent $40,000 in the last negotiations with its nonprofessional unit and $8,000 for arbitration. In Comment 1714, Gerald Champion Memorial Hospital reports $16,000 for each of its negotiations. In Comment 1143, Lakeland Hospital estimates the cost from its one nonprofessional unit as $15,000 to $25,000. In Comment 1476, Brookhaven Memorial Hospital reports the cost of one unit's organizing campaign as 24 days of hearings and lost productivity, and $80,000 in legal fees. It is the Board's expectation that its promulgation of this rule establishing appropriate bargaining units will render lengthy scope-of-unit hearings unnecessary and to that extent some costs, such as legal fees, will therefore diminish. In any event, it would not be suitable for the Board to reject appropriate bargaining units on the basis that the very things sought by collective bargaining—negotiating and grievance processing—can be obtained only at some financial cost. The statutory amendments enacted by Congress in 1974 represented an implicit policy decision that collective bargaining in the health care industry will produce countervailing benefits justifying the cost.

IV. Employer Flexibility

Four commenters take particular issue with the Board's reasoning that rulemaking has no logical connection with an employer's continuing ability to respond flexibly to changing needs of the times. (53 FR 33904; see also 53 FR 33910)

Martha Jefferson Hospital (Comment 884A) argues that employees will resist change by seeking to join one of the units deemed appropriate. That argument has no support in the facts adduced during this proceeding; there has been no showing that unions have resisted changed job duties. Moreover, logically, the argument, if valid, would apply to some extent regardless of what units the Board finds appropriate, and regardless of the method the Board utilizes to determine the scope of appropriate units. It is true that union organization does lead to the requirement that employers bargain before making changes in wages, hours, and working conditions, but that is an obligation imposed upon all employers by the NLRA, and we have no basis upon which to exempt health care employers from these requirements. There has been no demonstration of undue resistance to change by health care unions.

The University of New Mexico Hospital (Comment 1022) suggests that jurisdictional disputes may arise but offers no examples to support its speculation; few if any were offered in the earlier stages of this proceeding either. (53 FR 33909). Based on the evidence presented to us, we conclude that jurisdictional disputes are infrequent in the health care industry generally. If such disputes were to arise, section 10(k) of the Act would be available to assist in resolving them. Moreover, if there were several units in a facility, it is possible they would be represented by the same labor organization, which might work things out by itself.

Allegheny Health Services (Comment 1094) reasons that implementing a

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hospital-wide fitness policy, for example, including drug testing, would be more difficult or even impossible if bargaining had to be held with eight separate units. Even if that is true, the evidence shows that, at least in the past, very seldom have hospitals had more than two or three units. (52 FR 33933.) Moreover, though no specific evidence was offered on this point, we suspect that other hospital-wide policies, such as holiday and vacation schedules, cafeteria benefits, parking privileges, etc., are uniform at many hospitals despite the presence of several units. Lastly, if one is to speculate, it could be argued with equal logic that an employer might have better success in negotiating a new plan with one small unit's representative, implementing that, and later using it as precedent for changes elsewhere, than it would in negotiating a new plan with a single labor organization representing many types of employees with diverse interests.

Taft, Stettinius & Hollister (Comment 1330) refers to a proposal by the American Medical Association for a new classification, RCT (registered care technician), in which employees could move up from aide to LPN to RN as they received additional training. Taft, Stettinius argues that, under the Board's proposed rule, employees within the RCT classification would be in three different units and therefore hospitals will lose flexibility in using RCTs. However, insofar as employees are in fact aides, LPNs and RNs, they are, for reasons set forth in NPR and NPR II, entitled to be in separate units, and creating a new generic classification of RCT does not change that fact. Nor would any RCT be in more than one unit at a time, even though he or she might, over time, progress from one unit to another. In any event, at this time the development and implementation of the RCT classification is speculative. Taft, Stettinius' additional comment that hospitals would have to structure their staffs to conform to the proposed rule is supported neither by evidence nor reason. Physicians will still practice their specialty, as will RNs, technicals, etc. Nothing in the rule precludes hospitals from structuring their operations as they see fit.

V. Common Expiration Dates

In NPR II, the Board noted that "hospitals have not generally sought common expiration dates, which would be a possible solution to recurring near strikes." (53 FR 33909) The AHA argues (Comment 1711) that "common expiration of multiple contracts virtually would insure a complete cessation of operations, and, thus, is an illogical, unworkable goal for hospitals to pursue or for the Board to use as support for its conclusions here." See also Comment 987, Dana-Farber Cancer Institute, which suggests that the Board should not criticize the health care industry for not availing itself of common expiration dates because there have been crippling strikes in New York, Minneapolis, and San Francisco as a result of the strategy of common expiration dates.

We accept the criticism of these commenters, but their argument proves too much. Simultaneous strikes that may occur on the occasion of common expiration dates would seem to support more rather than fewer units. An obvious charcteristic of a large bargaining unit would be that all employees' no-strike obligations would expire at the same time, and bargaining for the entire unit would take place at the same time. Although a small unit's work stoppage may not shut down the entire facility, a large unit's stoppage surely will. This point was made in NPR II, at 33909; see also *Manor Healthcare Corp.*, 285 NLRB No. 31 (1987), slip op. at 13, where the Board pointed out that "an employerwide unit in this situation would tend to broaden a given dispute and increase the potential for disruption of patient care."

VI. The Units

Surprisingly few comments offered additional facts which would be helpful to the Board in making a final decision with regard to the appropriateness of particular bargaining units.

Some additional information on teams was proffered, but the Board reaffirms its earlier conclusion as to the limited relevance of the so-called "team approach." See NPR II 33907; 33913. A few commenters state they have teams, like discharge planning, but do not detail interaction or demonstrate why separate units would prevent use of teams. One commenter, Bethesda North Hospital (Comment 1303), acknowledges that each discipline retains its particular area of accountability, but argues that "it is vital to the progress of the patient that they each understand and can cross over into each other's area * * *." See also Comment 1044, Missouri Hospital Association, which emphasizes that the Board has conceded the existence of teams, however widespread they may be.

On a related point, several commenters give examples of cross training. Comment 586, Marshalltown Medical and Surgical Center, describes its practice of having security guards work the switchboard and do maintenance work. However, such employees would necessarily be placed into the statutorily-mandated separate guard unit. Attached to Comment 586 is a newsletter from George E. Speese, a Human Resource Development consultant, who describes how an East Oregon hospital assigned switchboard duties to a "radiology tech," and how a Philadelphia hospital assigned nursing unit clerical duties to a phlebotomist. Similarly, Comment 1053, La Grange, states that certain non-unit jobs were performed by unit employees (dietary employees performed some outside maintenance duties, certified nurses' assistants performed some clerical duties, etc.). In such situations, La Grange argues, the Board's proposed rule would require it to carve out skilled maintenance and clerical functions into separate units. However, this argument is based on a misunderstanding of Board unit determinations as well as of the provisions and purposes of the rule. Board unit determinations do not require that certain types of work be assigned to any particular unit. To the contrary, employers are free to make whatever work assignments they wish, subject of course to their obligation to bargain before making any changes in working conditions. Where one employee is assigned functions relating to more than one unit, he or she is a "dual function" employee, and, upon request, the Board will determine the unit placement of such employee. See, e.g., *Otasco, Inc.*, 278 NLRB 376 (1986); *Oxford Chemicals, Inc.*, 286 NLRB No. 13 (1987). In neither of the cited cases did the Board impose any restrictions on the employer's making cross-unit assignments; neither has the Board imposed such restrictions in any other case of which we are aware.

La Grange's comment also refers to medical technicians' being trained in at least 3 areas, including hematology, bacteriology, and histology. This comment is consistent with the observation of NPR II that "the majority of cross-training that occurs is among the technical categories themselves." NPR II at 33919.

Comment 1061, Wausau Hospital Center, discusses product line management. Employees have to work together, and sometimes are even supervised by an individual who may not be their direct line supervisor. The comment states that the Board misunderstands this concept and that multiple bargaining units jeopardize this program. As with cross-training, discussed above, this commenter does not explain how the Board's unit determinations would in any manner inhibit product-line management.

A small amount of additional information was offered as to the proposed separate RN unit. See Comment 1026, by Spelman Memorial Hospital, that, with 128 beds, RNs report to the same administrator as lab technologists and physical therapists. Moreover, RNs work in medical records along with other professionals. Comment 1330, Taft, Stettinius & Hollister, asserts that RNs are not unique, since other professionals also have direct and continuous patient interaction, etc. This comment concedes that RNs are the "hub" of the professional administration of health care, but argues that to remove the hub and separate it from the spokes will cause the wagon to break down. Comment 1675, Middletown Regional Hospital, states that some of its nurses' former work is now done by social workers, and that nurses at this hospital share the same pay system and pay, as well as some common first line supervision, with other professionals.

The comment of Taft, Stettinius that all professionals interact with patients, fails to give sufficient weight to the adjective "continuous." The uniqueness of the RNs' function in this regard was thoroughly dealt with in NPR II at 33911, V, B, 2. The fact that in smaller hospitals there may be some common supervision does not cause us to reach a different result, particularly in view of the very few examples presented.

In Comment 1044, Missouri Hospital Association, through its attorneys, Spencer Fane Britt & Browne, takes issue with the Board's observation in NPR II that nurse licensing exams are uniform throughout the country. However, at TR 3595–96, witness Faith Reierson described national licensing exams in considerable detail. The National Council of State Boards of Nursing consists of the executive secretary and the members of the various nursing boards in the 50 states and 3 territories. Each of the states and territories has contracted with the National Council to provide that state or territory's licensing examination for RNs and LPNs. The same test is administered twice a year on the same day at the same time (except for time zone variations) in each of the states and territories. No contrary testimony was introduced.

On January 19, 1989, the Secretary of Health and Human Services made public the report of his Commission on Nursing. This Commission was an advisory panel appointed to examine reports of a widespread shortage of registered nurses, and to make recommendations for resolving the shortage. We have examined the Commission's Report and find that it supports our observations in NPR II concerning the nursing shortage, unique problems confronting nurses, and the special need of nurses for their wage compression to be alleviated.

In Comment 975, American Physical Therapy Association urges the Board to create a separate unit for physical therapists, in part because of their separate licensure. The practice of physical therapy is administered in almost all jurisdictions by a separate board. The commenter represents, and it is undoubtedly true, that physical therapists have concerns peculiar to their speciality, such as interpretation of their practice act, private patient referral and access, home care extension services, and experimental structures for student clinical supervision. However, especially in view of their relatively small numbers and their limited history of separate bargaining (in New York, largely), as well as the Board's desire to limit the number of units unless there is strong justification presented in the rulemaking record, the Board declines to establish a separate unit for physical therapists. If found to be professionals, they are to be included with other non-RN and non-physician professionals. See NPR II at 33917–33918.

The Board affirms the appropriate unit findings made in NPR II, for the reasons set forth therein, and except to the extent modified in this Final Rule and accompanying Supplementary Information.

VII. Small Units

A number of commenters argue that the proposed "skilled maintenance" and "other professional" units, in particular, may be too small for collective bargaining purposes. See, e.g., Comment 1686, American Society for Personnel Administration, which represents that skilled maintenance frequently constitutes less than 2% of the workforce. See also, generally, Comment 905, Humana; Comment 562, The Methodist Hospitals (Indiana); Comment 1021, St. Elizabeth's Hospital; Comment 1044, Missouri Hospital Association; and Comment 1330, Taft, Stettinius & Hollister. Blanchard Valley Hospital (Comment 369), referred specifically to excessive administrative costs that may be associated with negotiations for very small units.

We recognize the possibility that some skilled maintenance units will be relatively small, as will some "other professional" units and some physicians' units. The same point has been made with respect to rural hospitals, whose small employee complements may also lead to very small units.[3] St. Vincent Hospital (Comment 1691) argues that a Coronado Hospital with 105 beds, there would be bargaining units of 1–2 persons. In Comment 1044, Missouri Hospital Association hypothesizes that in a hospital of 20 beds, there might be more units than patients.

We doubt this situation will frequently arise. For one thing, it is likely this "problem" will be self-policing. Where the entire workforce is very small, we believe that even smaller sub-groups will seldom want separate units; nor will unions be likely to organize such small units. Moreover, we note that under adjudication, the Board rarely if ever reached different results because of the size of facility. In only one case, to our knowledge [4], did the Board arguably reach a different result because of the number of employees involved. In *Mt. Airy Psychiatric Center*, 217 NLRB 802, 803 (1975), one of the earliest cases decided after the 1974 amendments, the Board included two employees who *orguably* were technicals in the service and maintenance unit, since they were the only employees performing a "technical" function. Lastly, the Board did propose a 100-bed dividing line with fewer units for small hospitals in the first NPR, but industry and labor organizations were virtually unanimous in their opposition to it (53 FR 33927).

Despite the foregoing, and despite the improbability that the problem will frequently arise, we agree that units of two or three employees, or of similarly small numbers of employees, would in many cases be impractically small, especially in the health care industry. Where so few employees are involved, it can be argued with some degree or persuasiveness that despite the shared, unique concerns and backgrounds that would otherwise make the separate units appropriate, these concerns are outweighed by concerns over disproportionate, unjustified costs and undue proliferation of units. We therefore shall revise the rule to provide

[3] Parenthetically, we noted that a large number of small rural hospitals call attention to their precarious financial condition. Comment 333, Holy Rosary Medical Center; Comment 1300, Bowie Memorial Hospital; Comment 1307, United Hospital Center; Comment 1673, Grayson County Hospital; Comment 987, Northern Maine Medical Center; Comment 1700, Weston County Memorial Hospital and Manor; etc. We do not consider the financial condition of rural or small hospitals relevant to a determination of appropriate bargaining units.

[4] But see also *Extendicare of West Virginia, d/b/a St. Luke's Hospital*, 203 NLRB 1232 (1973), which arose prior to the 1974 amendments.

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that a petitioned-for unit of five employees or fewer shall constitute an "extraordinary circumstance" removing the case from strict application of the rule, and the Board will consider by adjudication what the appropriate scope of the unit should be.[5]

We recognize that situations involving small units may vary. Thus, in some situations, if the requested units were not deemed appropriate, the small, requested unit might have to be added to a vastly larger unit. On the other hand, a requested unit falling within this extraordinary circumstances exception might be considered in conjunction with one or more otherwise appropriate units of approximately the same size. Requiring a combination of these otherwise separately appropriate groupings may give rise to considerations different from those in the previous example. The Board will render appropriate decisions through its adjudicatory processes when the extraordinary circumstance provision is invoked in this situation. This approach will allow us to examine individual circumstances where justified, while eliminating unnecessarily repetitive litigation.

VIII. Equal Employment Considerations

Comment 1098, Myerson & Kuhn (position paper by Susan Warner), represents that RN units are dominated by females, 95–98%; physicians are dominated by males (primarily white), in one large medical center, 83%; technicals are dominated by females, 72–78%, with less than 50% minorities; other nonprofessionals are dominated 90% by minorities; business office clericals are predominantly female, and almost 50% white; and skilled maintenance is 85% male, 75% white. This commenter observes that hospitals are subject to Title VII of the Civil Rights Act of 1964, and argues that the proposed rule will defeat hospitals' efforts to integrate their workforces and provide opportunities for minorities and women. Hospitals will be hampered by negotiations with unions representing what are in effect segregated units, insuring that these units remain segregated. She points particularly to seniority and says most collective-bargaining agreements do not recognize seniority from other units, thus impeding upward mobility. Warner's cover letter expresses the opinion that this aspect has not been adequately explored and requests that the Board extend the comment deadline for this purpose. Her remarks are echoed by Comment 1508, Thomas Jefferson University Hospital.

This is a question that has previously concerned us also, and during the first round of hearings the Board's representative specifically asked, twice, for comments on this subject (see TR 5225, 5243), noting that former-Member Jenkins had raised the same question during the 1975 oral arguments held shortly after passage of the amendments.

Only two witnesses addressed the subject: Jerry Shea, SEIU's Director of the Health Care Division; and Cathy Schoen, consultant to SEIU and its former Research Director. Both testified at some length, answering questions raised by management attorney Roger King. Schoen submitted a supplemental statement addressing it further. SEIU has represented over a quarter million workers in the health care industry, through 80 separate locals.

The testimony of Shea and Schoen was that "balkanization," or rigid stratification within classifications, with little upward mobility, has been characteristic of the entire health care industry, representing the attitude of most employers that they would rather not lose a good worker and have not deemed it in their interest to provide training for promotions to other classifications; this has been done for bureaucratic and not for nefarious or uncaring reasons. They testified that the medical "model" characteristically organizes access to positions through outside education and licensure certification as opposed to, for instance, the apprenticeship model that operates in the skilled trades.

Schoen testified there is in effect a caste system, with employers preferring departmental seniority regardless of whether or not there is unionization, and that it has been unions that have attempted to break out of this system. (TR 5221 ff.) Frequently even with broad units there is departmental seniority. (TR 5242.) Some subgroups have successfully bargained for seniority across unit lines. (TR 5244–45.) In her Supplemental Comments, Schoen gives as examples of these exceptional cases Mt. Sinai in Chicago, where SEIU secured hospital-wide seniority for business office clericals, as well as bumping rights in the event of layoffs' and Cape Cod Hospital, where SEIU successfully negotiated hospital-wide mapping of jobs according to skills and entry level requirements, so employees could better see mobility paths. Schoen also notes the SEIU Local 250 contract for Kaiser in Northern California, covering 9,000 workers from service staff to pharmacists; there, seniority and promotion accrue first by department, then by facility. Schoen concludes that there "is a narrow administrative orientation towards human potential that limits mobility—not the units in which workers choose to organize." A footnote to Schoen's Supplemental Comment lists three studies on this subject. Brief reference was made to this evidence in NPR II at 33910.

In view of the Board's express invitation on the record for further evidence on this subject, and the limited substantive response, the Board does not see a need for additional discussion. Having considered the comments and the record evidence on this issue, the Board affirms its prior conclusion that the evidence fails to show that the units found appropriate will limit minorities' or women's opportunities for job advancement and security, and may possibly have the opposite effect. (53 FR 33910.)[6]

IX. Coverage of the Rule

Though not objecting to the Board's exclusion of nursing homes from the proposed rule, the AFL objects to the Board's summation of the evidence (NPR II, Section XII, at 33927–29), suggesting that the Board's conclusions might not be accurate and might prejudice future rulemaking by referring to lack of uniformity among nursing homes.

[5] Though, based generally on our prior experience as well as the evidence accumulated during this rulemaking proceeding, we have decided that a unit of five of fewer employees automatically triggers the "extraordinary circumstances" exception, we recognize that there is no ineluctable logic in the number five, and that other situations may occur in which a party may contend that the number of employees in the petitioned-for unit, or other circumstances, may require deviation from strict application of the rule. Thus, the "extraordinary circumstances" exception remains available (most commonly through an offer of proof—NPR II at 33933) for any party who wishes to argue for any reason that the rule should not be applicable to its facility. At the same time, we reemphasize that we do not intend for the "extraordinary circumstances" exception to "provide an excuse, opportunity, or 'loophole' for redundant or unnecessary litigation." NPR II at 33932. The Board will not reconsider, under the "extraordinary circumstances" exception, the arguments it has already rejected in this exhaustive proceeding.

[6] In one adjudicated case, the Board adopted the conclusion of an administrative law judge that a bargaining unit limited to a coke department continued to be separately appropriate even through one of the parties alluded to a formal consent decree (*U.S. v. Allegheny-Ludlum Industries*, 63 F.R.D. 1 [N.D. Ala. 1974], affd. 517 F.2d 826 [5th Cir. 1975], cert. den. 425 U.S. 944 [1976]), the primary objective of which was to create transfer opportunities so that employees in departments like the coke department could move into other departments with higher skills. The purpose of the consent decree was to alleviate past alleged discrimination on the basis of race, sex, color, and national origin. As indicated, the Board found accretion was not appropriate, despite the existence of the consent decree. *Armco, Inc.* 279 NLRB 1184 at 1184, 1214–15, 1218–19 (1986).

Though we agree that our information as to nursing homes has been limited, we do not agree that this part of the prior Supplementary Information will in any way prejudice future proceedings that might involve nursing homes. Such proceedings would be based on evidence presented herein.

Only one commenter would include psychiatric hospitals, Comment 322, Union of American Physicians & Dentists. That suggestion was made not on the basis of specific facts or arguments on the merits, but rather because, in view of the many instances of common ownership and interlocking directorates, it would allegedly be relatively simple for "devious" attorneys to make a given facility fit within an exclusion. We have no good reason to believe that parties will attempt to dupe the Board into thinking that an institution is not what the facts make it out to be. In any event, such a remote possibility is an insufficient reason for including a type of facility which the Board finds, for reasons explained in NPR II at 33929–30, should not be covered by the proposed rule. We shall continue to exclude psychiatric hospitals from coverage of the rule.[7]

In NPR II, the Board noted that it did not have much evidence on rehabilitation hospitals and various other specialty facilities, and so these facilities were "tentatively" included. See NPR II at 33931. Those who had commented had argued that care was integrated, but did not urge special treatment. NPR II, Section XIV.

New England Rehabilitation Hospital, Comment 952, represents that it is solely a rehabilitation facility, but that average patient stay has been decreasing and last year was just under 30 days. It documents more completely the integrated care required for comprehensive rehabilitation. For one thing, as with psychiatric hospitals, RNs are not the primary facilitators of patient care, and are significantly outnumbered by other professionals. Teams are used not only for special situations, but carry out day-to-day treatment for each and every patient. In all cases there is close integration between the work of RNs and that of physicians, therapists, social workers, psychologists and dieticians. RNs are not left to themselves on off-shifts; therapies are conducted on weekends, and social workers meet with patients and families evenings and weekends. Similar information is offered by Comment 1273, The Rehab Hospital of York, which states that its occupational therapists, physical therapists, and speech therapists continuously collaborate with physicians and RNs to develop and provide treatment for all patients. New England Rehabilitation Hospital has 198 beds; The Rehab Hospital of York, 250 employees.

The most extensive comment addressing this issue was that submitted by Specialty Hospital Group, part of National Medical Enterprises, Inc., Comment 970. That group includes 53 freestanding psychiatric hospitals, 23 freestanding rehabilitation hospitals, 18 freestanding substance abuse treatment facilities, and 100 managed facilities of the three varieties. First, it describes how AHA registers some hospitals as "rehabilitation" hospitals; average length of stay is not involved. Second, Congress exempts rehabilitation hospitals from Medicare's prospective payment system, and implementing regulations (42 CFR 4052) contain a specific, 7-part definition of a rehabilitation hospital. Rehabilitation hospitals may also be accredited by one of two bodies: Joint Commission on Accreditation of Healthcare Organizations (JCAHO), under different standards from those applied to regular hospitals, or by Commission for Accreditation of Rehabilitation Facilities (CARF). Accreditation by JCAHO or CARF automatically satisfies six of the seven criteria constituting the definition for Medicare prospective payment exclusion purposes: All except the requirement that, during the most recent 12-month reporting period, 75% of the inpatient population required intensive rehabilitative services for the treatment of one or more of certain specified conditions. Thus, exclusion of rehabilitation hospitals would be administratively feasible, claims this commenter.

Specialty Hospital Group further points out that one of the accreditation standards under the Medicare definition requires multidisciplinary care. Each patient must have at least three hours of physical or occupational therapy per day for Medicare to pay for the care as "medically necessary"; therefore, it is argued, nurses are not the primary facilitators of care in rehabilitation hospitals. Moreover, for Medicare coverage to apply, rehabilitation hospitals' patients must be medically stable before they are admitted. Thus, it appears that the level of acuity at rehabilitation hospitals is considerably lower, and generalizations about job classifications and appropriate units at other types of hospitals may not apply.

Specialty Hospital Group does not ask for exclusion of alcohol and drug abuse hospitals (if there are any), but for clarification of the rule to make it clear that alcohol and drug abuse residential treatment facilities that are not hospitals are not covered.

The rule previously proposed covers only "acute care hospitals." An acute care hospital is defined as a "short term care hospital in which the average length of patient stay is less than thirty days." It seems likely that the acute care definition would exclude many rehabilitation, as well as drug and alcohol, facilities. Yet, if it is true, as New England Rehabilitation Hospital represents, that its average length of stay is now slightly below 30 days, such a hospital would be covered by the rule previously proposed, as an acute care hospital.

The Board has considered the comments submitted at this stage of the proceeding, pertaining to rehabilitation hospitals, and has decided that sufficient questions have been raised about appropriate units at such facilities that the rule should not be applied to rehabilitation hospitals. Many of the reasons given by the Board in NPR II for the exclusion of psychiatric hospitals (NPR II at 33929–30) now appear applicable to rehabilitation hospitals as well. Thus, for example, it appears that RNs may not be identifiable as the primary professional providers of patient care; RNs and other employee classifications function somewhat differently because patients are not as acutely sick as in other types of hospitals, and because different methods of treatment appear required for rehabilitative care; and around-the-clock efforts may be more extensively required of all professional groups, and perhaps other employees as well. The Final Rule will not, therefore, cover rehabilitation facilities that have been accredited as such by either JCAHO or CARF, regardless of the average length of patient stay.

With respect to inpatient drug and alcohol treatment centers, it is possible they would be excluded either by (a) the definition of "acute care," relating to length of patient stay; or (b) the new exclusion for rehabilitation hospitals generally. No case has been made for exclusion of all drug and alcohol treatment facilities as a class, and regardless of whether they are hospitals. However, if particular drug and alcohol facilities are not hospitals, the rule is not intended to cover them. For purposes of clarification we have decided to include in the rule a definition of "hospital," apart from the definition of "acute care."

[7] The same commenter requests the inclusion of non-acute care facilities such as HMO's, for the same reason. We similarly reject this request.

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The definition shall be that contained in the Medicare Act, currently to be found at 42 U.S.C. 1395x(e), as revised 1988, and incorporated by reference in the Final Rule's definitions.

X. Miscellaneous Problems

(a) *Definition of "acute care."* AFL contends that use of the "acute care" definition in NPR II might "skew" the average length of stay if a hospital has a large number of long term beds or swing beds. AFL points out that AHA alternatively defines a "short term" hospital as one in which "over 50 percent of all patients are admitted to units where the average length of stay is less than 30 days." In view of the very high patient acuity level in hospitals today, we doubt that there would be many situations in which a sufficient number of long-term days by a few patients would skew the average. However, we agree with AFL that the Board's intention may be better realized by addition of the alternative definition. One long-term patient in a small, otherwise acute care hospital should not serve to define the character of the hospital. Accordingly, we shall revise the Final Rule to encompass the alternative definition as well.

(b) AFL suggests that parties may try to persuade the Board that, even though a facility is not "primarily" any one of the excluded types of institutions, it still is not "primarily" an acute care hospital, perhaps because it has such a variety and/or multiplicity of other types of units it is not "primarily acute care," but rather some other amalgam type of institution. The concern of this commenter may be well placed. Many of today's hospitals have a number of other types of units, such as outpatient clinics, nursing care units, etc., and the Board did not intend to exclude such hospitals from coverage of the rule unless any one of the excluded ancillary services predominated. Nor did the Board intend to permit a hospital to argue successfully that since the number of its outpatient visitors exceeded the number of its over-night (acute care) patients, it was not an acute care hospital, and therefore not subject to the rules. In order that there not be unintended litigation, we shall, in the Final Rule, delete the initial reference to the primary purpose of the hospital.

(c) AFL suggests that the Board establish a reference point for average length of stay, such as "the most recent twelve months preceding receipt of a representation petition for which data its readily available." We doubt that, with respect to this issue, individual hospitals will substantially vary depending on which 12-month period is uitilized. However, for purposes of clarity, we shall revise the rule to encompass this suggestion.

(d) AFL further suggests that, where a petition is filed under the rule, and a hospital claims not to meet the definition of "short-term hospital," the burden should be on the hospital to produce the evidence, since the records would be in its sole control. The AFL is suggesting a *Tropicana*-type rule (*Tropicana Products, Inc.*, 122 NLRB 121 (1958)) for use in situations in which a hospital does not come forth with the necessary information. We trust this will not prove to be a major concern, since in the normal case it will be obvious whether a hospital is acute care or not; stipulations should usually be obtainable. However, in order to encourage the party in sole possession of the records to cooperate, we shall amend the proposed rule to provide that, where the employer does not, after issuance of a subpoena, produce records sufficient for the Board to determine the facts, the Board may presume the employer is an "acute care hospital."

(e) AFL urges the Board to reconsider and hold cases pending the effective date of the Final Rule. Alternatively, it urges the Board to use its new empirical knowledge and, for example, grant RN units even under the latest dispartiy of interests test. The same point is made, in more detail, by Comment 1710, American Nurses Association (ANA). The Board has not held cases pending the effective date of the Final Rule (see, e.g., *Middletown Hospital Association*, 291 NLRB No. 79 (Oct. 28, 1988)), although parties themselves may have refrained from bringing cases during this interim period; few have come to the Board since NPR II. Whatever the merits of the AFL's suggestion, and that of ANA, it is now moot.

(f) AFL suggests that, "to make the rule consistent with the preamble, it should state that a unit may be combined when petitioned for by a union. This would preclude an employer from arguing that only a combination unit is appropriate." That is, of course, the intent of this provision of the rule, as explained, with citations, in NPR II at 33932 (Sec. XIX, Combined Units). The longstanding principle of *Morand Brothers Beverage Co.*, 91 NLRB 409 (1950) (cited NPR II at 33932) continues to apply, and we shall make the required addition to the rule to clarify this point.

XI. Placement Decisions

Comment 1107, American Association of Nurse Anesthetists, asks for case-by-case consideration of whether certified nurse anesthetists properly belong in physicians' units or RN units. Such consideration will, of course, continue to occur, as the Board implied in NPR (at 25146, noting that some day in the future perhaps rulemaking would be utilized to determine unit composition), and NPR II (at 33926, stating "The precise placement of particular classifications which may be disputed in a particular case, is, for the time being, left to the case-by-case adjudicative approach.")

For the same reasons, we deny the request of American Society of Clinical Pathologists (Comment 1329) to clarify the rule to specify that ASCP-certified medical lab technologists are to be included in "other professional" units, and certified medical lab technicians are to be included in technical units. The Board in this rulemaking proceeding at the outset disclaimed any intention to determine placement issues (NPR at 25146), and it would be inappropriate to deviate from this stated intention, even if the record were sufficiently complete to permit us to do so.

XII. Extraordinary Circumstances

AFL suggests that some of the limitations on the extraordinary circumstances exception set forth in the Supplementary Information accompanying NPR II (Section XX at 33932–3) be incorporated into the Final Rule. AFL suggests, e.g., that the rule should provide:

> Extraordinary circumstances exist only where a hospital is shown to be uniquely situated such that application of the rule would be accidental or unjust. Variations among acute care hospitals that were considered by the Board in promulgating this rule do not, alone or in combination, constitute an extraordinary circumstance.

AFL also asks that the rule make it clear that multi-site units are not an exception. The Board has considered these suggestions, but fails to see the necessary for including these matters in the Final Rule.

Several commenters suggest that the extraordinary circumstances exception is so narrow as to be useless. AHA argues that, because of the narrowness of the exception, parties would be deprived of due process. (Comment 1711.) However, the case cited for that proposition, *Jackson Water Works, Inc.* v. *Public Utilities Comm.*, 793 F.2d 1090, 1097 (9th Cir. 1986), merely states as a general proposition that "the due process clause guarantees an aggrieved party the opportunity to present a case and have its merits fairly judged (citations omitted). [S]ome form of 'hearing' is required before a person is deprived of a protected property interest." Aside from the question whether a constitutionally-protected "property" interest is involved when the Board makes a unit determination in a representation proceeding, it is clear that the hearing required by section 9(a) of our Act will continue to be available where the parties do not consent to an election. Supra, Section II, and, specifically, n. 2. We note, coincidentally, that the majority in *Jackson* held that the state's eminent domain procedure was constitutional, even though it provided for no right of appellate review. See also Comment 1330, Taft, Stettinius & Hollister. Comment 1087, California Association of Hospitals and Health Systems suggests that the extraordinary circumstances exception is so narrow that its inclusion is "a charade."

We do not agree with these commenters' characterizations. The purpose of the rulemaking procedure has been to gather a large amount of information, and then to set forth unit determinations consistent with the information gathered, appropriate for collective bargaining purposes, and consistent with the Board's obligations under the statute. The Board's experience since 1974, as documented in Board Exhibit 5, as amended, has been that, even under adjudication, with the facts of each individual case recited in records of substantial length and expense, the Board has almost always reached the same result. That being true, avoidance of unnecessary litigation in each case has been one goal of the rulemaking undertaking. The extraordinary circumstances exception has had to be crafted in such a way as to satisfy due process by allowing for litigation where the circumstances warrant, i.e. are truly extraordinary—but at the same time precluding litigation where the arguments are merely repetition of matters already considered, such as the team approach, integration of functions, cross training, increased specialization, recent cost containment measures, etc.

We have, in this SUPPLEMENTARY INFORMATION, provided specifically for one "extraordinary circumstance," viz. a requested unit of five employees or fewer. There will undoubtedly be others, but we do not expect them to be frequent. We find nothing inconsistent with due process in the "extraordinary circumstances" exception crafted into the Final Rule. We reaffirm the scope of the extraordinary circumstances exception as set forth in NPR II.

XIII. Proliferation

A number of commenters dispute the Board's conclusions on proliferation in NPR II at 33933–34. Comment 1087, California Association of Hospitals and Health Systems, takes issue with the Board's analysis in NPR II, that Congress was concerned with patterns such as in newspaper and construction industries of fifteen or more units at a workplace. That commenter argues that Congress' failure to specify a number does not justify the Board's speculation that eight units would satisfy Congressional concern. Comment 1330, Taft, Stettinius & Hollister, contends that the Board erroneously analyzed the legislative history. Taft, Stettinius believes that the parties did not reach a compromise whereby employers gave up statutory limitations on the number of units in return for stroke-restricting provisions; neither did unions win the right to use the five-unit specification as a floor. Comment 1686, American Society for Personnel Administration, contends that no other industry has as many units as the Board has given in this proceeding. Comment 1711, AHA, argues that the Board errs in believing that Congress merely wanted the Board to avoid patterning health care units after the newspaper or construction industries, stating that this argument was rejected by the Second Circuit in *Mercy Hosp. Assn.*, 606 F.2d 22, 27 (2d Circ. 1979), cert. den. 445 U.S. 971 (1980), which said that even application of the normal industrial unit criteria could impede effective delivery of health care services.

The subject of what Congress meant has been debated since 1974, with opinions varying from those expressed by the Board in NPR II, to those expressed by some courts as indicated above, to those expressed by Judge Edwards in *Electricial Workers IBEW Local 474 (St. Francis Hospital)* v. *NLRB*, 814 F.2d 697 (D.C. Cir., 1987) to the effect that varying expressions of Congressional intent are not legally binding upon the Board since the statutory language was not changed.

We are inclined to agree with Judge Edwards that, since section 9(a) was not changed in 1974, varying expressions by legislators on what they intended do not necessarily rise to a mandate requiring, for example, a disparity of interests standard.[8] Contrary to the understanding of The American Society for Personnel Administration, Comment 1686, it is not true that "with the limited exception of the construction industry, virtually no other industry covered by the NLRA must cope with as many as eight bargaining units." In industrial settings, there is the potential for far more than eight appropriate bargaining units. The following are but a representative sampling of the separate bargaining units found appropriate by the Board in various cases:

1. Drivers [9]
2. P & M (production and maintenance) employees [10]
3. Office clericals [11]
4. Guards [12]
5. Technical employees [13]
6. Driver-salesmen [14]
7. Toolroom employees [15]
8. Maintenance department employees [16]
9. Warehouse and service employees [17]
10. Patternmakers [18]
11. Electricians [19]
12. Welders [20]
13. Tool designers [21]
14. Crane operators [22]
15. Powerhouse employees [23]
16. Millwrights [24]
17. Attorneys [25]
18. First-aid department employees [26]
19. Chemists, chemical engineers, and engineers [27]
20. Garment cutters and spreaders [28]
21. Industrial art designers [29]
22. Knitters [30]
23. Auto mechanics [31]

[8] *Accord:* Kilgour, *The Health-Care Bargaining Unit Controversy: Community of Interest versus Disparity of Interest*, 40 Lab. L.J. 81 at 82 (1989). See also *The D.C. Circuit Struggles With Standards of Reviewability*, 56 Geo. Wash. L. Rev. 960 (1988).

[9] *Memphis Furniture Manufacturing Co.*, 259 NLRB 401 (1981).

[10] *Comet Corp.*, 261 NLRB 1414 (1982).

[11] *Robbins & Myers*, 144 NLRB 295 (1963).

[12] *Bonded Armored Carrier*, 195 NLRB 346 (1972).

[13] *Loral Corp.*, 200 NLRB 1019 (1972).

[14] *Bardahl Oil Co.*, 163 NLRB 280 (1967).

[15] *McCulloch Corp.*, 189 NLRB 78 (1971).

[16] *Verona Dyestuff Div.*, 225 NLRB 1159 (1976).

[17] *A.B. Dick Co.*, 230 NLRB 257 (1977).

[18] *Mueller Industries*, 132 NLRB 469 (1961).

[19] *E.I. DuPont de Nemours and Co.*, 192 NLRB 1019 (1971).

[20] *Aerojet General Corp.*, 128 NLRB 313 (1960).

[21] *Douglas Aircraft Co.*, 157 NLRB 791 (1966).

[22] *Louisiana Industries*; 15–RC–2441, cited at 40 LRRM 1414 (1961).

[23] *American Can Co.*, 131 NLRB 909 (1961).

[24] *National Container Corp.*, 98 NLRB 1492 (1952).

[25] See *Westinghouse Air Brake Co.*, 121 NLRB 636 (1958). Cf. *Legal Action of Wisconsin*, 261 NLRB 1095 (1985).

[26] *Ladish Co.*, 178 NLRB 90 (1969). And see *Westinghouse Air Brake Co., supra* (nurses).

[27] *Firestone Tire & Rubber Co.*, 181 NLRB 630 (1970). See also *Westinghouse Air Brake, supra*.

[28] *Benjamin & Jones*, 133 NLRB 766 (1961).

[29] *Chrysler Corp.*, 90 NLRB No. 285 (1950), not reported in Board volumes; reported at 28 LRRM 1415 (1950).

[30] *Morganton Full Fashioned Hosiery Co.*, 115 NLRB 1267 (1956).

[31] *Dodge City of Wouwatosa*, 282 NLRB No.71 (1986).

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These twenty-three (there are at least as many more) potential units are, of course, unlikely to arise in any single establishment, just as it is unlikely that all eight potential appropriate units will occur in any given hospital [32]. In fact, based on our experience following the 1974 health care amendments, we anticipate that most of the organizing will occur in RN units, technical units, skilled maintenance units, service and unskilled maintenance units, and, possibly, business office clerical units. Many physicians in hospitals are independent contractors, and there have been only one or two published cases involving separate physicians' units since 1974 (NPR, 52 FR 25147; NPR II, 53 FR 33905). Although a separate guard unit is mandated by the Act, we have had few if any hospital guard unit cases, perhaps because some hospitals contract out their guard service. The unit of all-other professionals is also required by the Act, if, as we have found, RNs and physicians constitute separate appropriate units; however, we have not had a large number of other professional units.

The original rulemaking record provided strong empirical support for all the units ultimately proposed in NPR II. In addition to the other factors mentioned in NPR II in support of the individual units, the separate labor markets for the RNs, skilled maintenance employees, and business office clericals favored separate representation for them. The legislative history showed "proliferation" was opposed by Congress because it was feared that would lead to numerous work stoppages, jurisdictional disputes, and wage whipsawing and leapfrogging. However, as was amply documented in NPR II, multiple units have not been shown to cause an unusual number of work stoppages, nor have they been shown to have caused jurisdictional disputes, wage whipsawing, or leapfrogging. Little additional evidence on these points was introduced during the current round of comments, except that several commenters expressed the view that, since there have never, or rarely, been eight bargaining units in the health care field, the Board's evidence as to costs, strikes, bargaining success, and unionization is irrelevant. (See, e.g., Comment 1711, AHA; Comment 1081, Wausau Hospital. See also Comment 1044, Missouri Hospital Association, which argues that early units were recognized voluntarily because, prior to 1974, it was known that individual units could not strike.)

We do not agree that the evidence acquired during this proceeding is irrelevant. For one thing, even under adjudication, whether strikes, whipsawing, or jurisdictional disputes will result if an initial organizational effort succeeds carries with it a greater degree of speculativeness than is alleged here; under adjudication of individual cases, no evidence whatever can be adduced as to the facility under consideration, whereas, at least here, past experience in the industry generally can be and has been considered. The fact is that in the decade between 1974 and 1984 there were, generally, eight units recognized as appropriate under Board case law (including the statutorily-mandated separate unit of guards.) Despite continual uncertainty as to the proper standard, there was considerable organizational activity, and the evidence presented to us is that there were virtually none of the disruptive consequences which concerned Congress during the 1974 debates.

Comment 725, Greater Baltimore Medical Center, argues that, where there are existing units, more than eight may ultimately be found appropriate. While that is a theoretical possibility because section 103.30(c) of the rule technically removes such facilities from the literal reach of the rule, section XV of NPR II refers to the principle of *Levine Hospital of Hayward*, 219 NLRB 327 (1975), which in effect prohibits residual or fractional units in health care facilities. The Board in NPR II deferred this issue to adjudication. Our stated intention will be, insofar as possible, to conform new units in such situations to the proposed rule.

As for the question whether the units found appropriate are too many, or proliferative, we do not believe that that was a question Congress wished us to answer in the abstract—as if, for example, "x" number of units are automatically proliferative, but "y" are not. Rather, we believe it has been incumbent upon us to carefully examine the exhaustive rulemaking record furnished by numerous parties from all sectors of the health care industry, and then to make a determination on appropriate units consistent with that evidence, consistent with our self-expressed desire to avoid a proliferation of units, and consistent with a requirement that these units not be likely to produce the unwanted results of repeated work stoppages, jurisdictional disputes, wage whipsawing, and other related evils. We believe we have done so and, for that reason, conclude that our determination is not unduly or reasonably proliferative in any meaningful usage of that phrase.[33]

Our action in exempting units of five or fewer employees from the coverage of the rule is prompted by our concern about proliferation. Comments about the effects of a number of small units in small hospitals convince us that they could pose a serious proliferation potential. It is for that reason that we have excepted these small units from coverage of the rule. We note that the "small unit" exception is not limited to small hospitals. It could also have the effect of reducing the number of units in large health care institutions.

In addition to the foregoing, we continue to believe that Congress was concerned with the Board's not repeating the pattern of bargaining in such industries as newspapers and construction, and affirm those additional portions of NPR II which discuss this point.

XIV. Regulatory Flexibility Act

No comments after NPR II addressed this issue. We reaffirm our prior certification. (53 FR 33934)

[32] In Comment 1142, Bricker & Eckler alleges that attorney Roger King's testimony concerning other-professional units was taken out of context. It is alleged that King intended only to show that there was very little organizing among RNs in Ohio: i.e., such units exist in only 16 of Ohio's 180 private hospitals. However, King also testified that, in Ohio, only one separate other-professional unit exists (NPR II at 33908). We believe that King's testimony does support the conclusion for which it was cited, that, in Ohio, the existence of separate units of RNs has not led to similar, separate units of all other professionals.

[33] We note that our unit determinations in this proceeding are not inconsistent with those in the cases cited with approval in the Senate Committee Report (S. Rept. 93-766, 93d Cong., 2d sess. 5 [1974]). Thus, in *Four Seasons Nursing Center of Joliet*, 208 NLRB 403 (1974), the Board found inappropriate a three-employee unskilled maintenance unit in a nursing home. Our rule does not cover nursing homes, and three-employee units are considered an "extraordinary circumstance" even in acute care hospitals. In addition, maintenance employees who primarily empty trash, replace light bulbs, and move furniture are included in service units. In *Woodland Park Hospital*, 205 NLRB 888 (1973), the Board declined to find appropriate a separate unit of X-ray technicians. Our rule would, likewise, find inappropriate a separate unit of X-ray technicians. (The Board in *Woodland* did not have occasion to consider the appropriateness of an all-technical unit, since no request for review was filed to the regional director's ruling on that issue.) Finally, in *Extendicare of West Virginia, Inc., d/b/a St. Luke's Hospitol*, 203 NLRB 1232 (1973), the Board found appropriate a separate unit of licensed practical nurses, but included the seven remaining technicals with the service and maintenance employees. Our rule would not find appropriate a separate unit of licensed practical nurses, who in prior Board cases have been found to be technical employees, but would rather group all technical employees together in a separate unit.

XV. Dissenting Opinion

Member Wilford W. Johansen dissents from establishing health care bargaining units through a rulemaking procedure.

In his view rulemaking in the health care industry is neither appropriate nor desirable, for several reasons.

He believes the language of the Act itself forecloses rulemaking for particular units. Section 9(b) of the Act requires that "The Board *shall* decide *in each case*" what the appropriate unit shall be, "in order to assure to employees the fullest freedom in exercising the rights guaranteed by" the Act. Under basic rules of statutory construction, he reads that language as mandatory rather than permissive. He also believes that the Board cannot satisfactorily fulfill its statutory obligation by relegating that specialized, decisional function to rulemaking procedures. Thus, while rulemaking is a desirable and even a necessary portion of the Board's functions in some areas, in his opinion, this is not one of those areas. It is important to remember that Congress did *not* amend section 9 when it enacted the Health Care Amendments in 1974. If Congress had intended that the Board abandon its then almost 40-year old decisional approach and instead embark on a wholly new procedure for determining appropriate units in portions of the health care industry (and only in that industry) it surely would have said so explicitly. It did not do so; nor did it even implicitly suggest such action. The Board "rules" referred to by the majority as grounds for this action (i.e., *Excelsior* list, contract, bar, etc.) in his view simply do not support such a radical departure from well established precedent. They were themselves arrived at decisionally, and they did not involve unit determinations. Nor is he persuaded by reference to interpretation of different functions by other agencies.

Even assuming that abandoning the Board's decisional format for determining the appropriate unit in each case is a permissible exercise, however, he would not deem rulemaking with regard to health care units to be either necessary or desirable.

The disagreements between members of the Board or between one Board majority and another, have focused on questions concerning the meaning of the statute, analysis of the legislative history, and the interpretation of Congress' intent. The differences between the Board and various courts of appeals and the conflicts among the courts of appeals have involved not only those questions which divided the Board, but also issues concerning the proper scope of review, and the deference to be properly accorded to the Board's reading and interpretation of the Act—the Board's primary function and responsibility.

The appropriate procedure to resolve questions surrounding Congress' intent, the proper scope of review, and the Board's duty and authority in the exercise of its expertise under the statute, is to submit those questions to the Supreme Court, the final arbiter on issues of this nature. That is particularly true in this area, because the Board has received criticism from Circuit Courts at both ends of the spectrum. Most of the disagreement has centered around application of the traditional "community of interest" standard versus a separate "disparity of interest" test for evaluating appropriate units in health care facilities. Different courts at different times have rejected each of these approaches. Thus, it seems especially appropriate to submit these issues to the Supreme Court to resolve the split in the circuits. That process best serves the interests of the parties, the general public, and the Board.

Other factors make the establishment of particular health care units through rulemaking at best inadvisable. Those courts that have deemed the Board's approach to health care units to be too rigid will continue to criticize such units established through rulemaking. And, because unit determinations established by a predetermined set of rules are inherently less flexible than those arrived at by decision in specific cases, it must be anticipated that criticism by some courts will intensify; on the ground that a result reached by the Board was not derived through application of its institutional expertise in a particular factual situation. Indeed, the Board must concede the validity of at least some such criticism. That is so not only because the rules themselves are less flexible, but also because the nature of the evidence on which the rule is based is in turn more generalized—primarily anecdotal and statistical—and, therefore, lacks the quality of pertinent evidence regarding a specific situation which lies at the core of the decisional process.

Another reason to reject the rule is the information which the Board has obtained during this process. As a result of that experience, the Board has already seen fit to revise the proposed rules substantially. That fact in itself is a compelling reason to retain the Board's traditional decisional format, even if it were not required.

There have been considerable changes from one year to the next in this proceeding. Nursing homes and rehabilitation hospitals have been exempted from operation of the rule. The proposed "100-bed" distinction has been eliminated, along with the separate unit configuration for small hospitals. Thus, the number of proposed units affecting small hospitals has changed dramatically; and the number of units in large (now all) acute hospitals has been expanded by the addition of separate groupings for maintenance, and business office clerical employees. We do not know what will happen next year. Will the heavy burden of proof required under the "extraordinary circumstances" proviso virtually preclude evidence that the units established in this proceeding make little practical sense in a particular case? Will the Board need to indicate—again—that it might have proceeded differently if there had been more, or better, information when the rule was made? And, in that case, will the Board, the parties, and the public have to undergo another two year exercise in order to amend the rule to accord with what the Board then knows (or believes it "knows")? Such uncertainties neither benefit the Board nor any other constitutency. Certainly they do not effectuate the purposes of the Act.

For all these reasons, Member Johansen would vacate the notices of rulemaking and submit the issues to the Supreme Court for resolution.

List of Subjects in 29 CFR Part 103

Administrative practice and procedure, Labor management relations.

Regulatory Text

For the reasons set forth at 52 FR 25142-25145 (through Section IV), and also 53 FR 33900-33934, as supplemented and modified by this Supplementary Information, 29 CFR Part 103 is amended as follows:

PART 103—OTHER RULES

1. The authority citation for 29 CFR Part 103 is revised to read as follows:

Authority: 29 U.S.C. 156, in accordance with the procedure set forth in 5 U.S.C. 553.

2. Subpart C, consisting of § 103.30, is added to read as follows:

Subpart C—Appropriate Bargaining Units

§ 103.30 Appropriate bargaining units in the health care industry.

(a) This portion of the rule shall be applicable to acute care hospitals, as defined in paragraph (f) of this section: Except in extraordinary circumstances

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and in circumstances in which there are existing non-conforming units, the following shall be appropriate units, and the only appropriate units, for petitions filed pursuant to section 9(c)(1)(A)(i) or 9(c)(1)(B) of the National Labor Relations Act, as amended, except that, if sought by labor organizations, various combinations of units may also be appropriate:

(1) All registered nurses.
(2) All physicians.
(3) All professionals except for registered nurses and physicians.
(4) All technical employees.
(5) All skilled maintenance employees.
(6) All business office clerical employees.
(7) All guards.
(8) All nonprofessional employees except for technical employees, skilled maintenance employees, business office clerical employees, and guards.

Provided That a unit of five or fewer employees shall constitute an extraordinary circumstance.

(b) Where extraordinary circumstances exist, the Board shall determine appropriate units by adjudication.

(c) Where there are existing non-conforming units in acute care hospitals, and a petition for additional units is filed pursuant to sec. 9(c)(1)(A)(i) or 9(c)(1)(B), the Board shall find appropriate only units which comport, insofar as practicable, with the appropriate unit set forth in paragraph (a) of this section.

(d) The Board will approve consent agreements providing for elections in accordance with paragraph (a) of this section, but nothing shall preclude regional directors from approving stipulations not in accordance with paragraph (a), as long as the stipulations are otherwise acceptable.

(e) This rule will apply to all cases decided on or after May 22, 1989.

(f) For purposes of this rule, the term:

(1) "Hospital" is defined in the same manner as defined in the Medicare Act, which definition is incorporated herein (currently set forth in 42 U.S.C. 1395x(e), as revised 1988);

(2) "Acute care hospital" is defined as: either a short term care hospital in which the average length of patient stay is less than thirty days, or a short term care hospital in which over 50% of all patients are admitted to units where the average length of patient stay is less than thirty days. Average length of stay shall be determined by reference to the most recent twelve month period preceding receipt of a representation petition for which data is readily available. The term "acute care hospital" shall include those hospitals operating as acute care facilities even if those hospitals provide such services as, for example, long term care, outpatient care, psychiatric care, or rehabilitative care, but shall exclude facilities that are primarily nursing homes, primarily psychiatric hospitals, or primarily rehabilitation hospitals. Where, after issuance of a subpoena, an employer does not produce records sufficient for the Board to determine the facts, the Board may presume the employer is an acute care hospital.

(3) "Psychiatric hospital" is defined in the same manner as defined in the Medicare Act, which definition is incorporated herein (currently set forth in 42 U.S.C. 1395x(f)).

(4) The term "rehabilitation hospital" includes and is limited to all hospitals accredited as such by either Joint Committee on Accreditation of Healthcare Organizations or by Commission for Accreditation of Rehabilitation Facilities.

(5) A "non-conforming unit" is defined as a unit other than those described in paragraphs (a) (1) through (8) of this section or a combination among those eight units.

(g) Appropriate units in all other health care facilities: The Board will determine appropriate units in other health care facilities, as defined in section 2(14) of the National Labor Relations Act, as amended, by adjudication.

Dated, Washington, DC, April 18, 1989.

John C. Truesdale,

Executive Secretary.

[FR Doc. 89-9654 Filed 4-20-89; 8:45 am]

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federal register

Friday
April 21, 1989

Part VIII

Department of Energy

Waste Isolation Pilot Plant; Availability of Draft Supplement to the Final Environmental Impact Statement; Notice

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DEPARTMENT OF ENERGY

Waste Isolation Pilot Plant; Availability of Draft Supplement to the Final Environmental Impact Statement

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability of the draft Supplement to the final environmental impact statement and of public hearings.

SUMMARY: The Department of Energy (DOE) announces the availability of a draft Supplement to the Final EIS (DOE/EIS–0026 DS) for the Waste Isolation Pilot Plant (WIPP). The purpose of the Supplement (SEIS) is threefold:

1. Present information, data, and analyses that have become available since the 1980 Final EIS (FEIS);

2. Address proposed changes to the action described in the Record of Decision (46 FR 9162) of January 28, 1981; and

3. Further the purposes of the National Environmental Policy Act (NEPA), which include providing opportunities for public review of information bearing on environmental impacts.

DOE invites written and oral comments on the draft SEIS from interested persons, organizations, and agencies. Public hearings will be held in New Mexico, where the WIPP has been constructed, and at several locations along major transportation routes to the WIPP.

DATES: Written comments should be postmarked by June 20, 1989, to ensure consideration in preparation of the Final SEIS. Written and oral comments will receive equal consideration. Oral comments will be accepted at the public hearings (schedule given below). Persons who wish to make comments should notify DOE's WIPP SEIS Project Office at the address below not later than one week before the hearing to be placed on the list of commenters.

ADDRESSES: Requests for copies of the FEIS and draft SEIS, requests to present oral comments at the public hearings, and requests for further information concerning the draft SEIS should be directed to: W. John Arthur, III, Project Manager, WIPP SEIS Project Office, U.S. Department of Energy, 6301 Indian School Road, NE. 7th Floor, Albuquerque, NM 87110.

Comments on the draft SEIS should also be sent to this address, adding "Attention: SEIS Comments."

Requests to present oral comments at the public hearings, and requests for copies of the FEIS and the draft SEIS can be made 24 hours a day at: (800) 274–0585 or (505) 889–3038.

Place leave your name, address, date, time, phone number, and the nature of the request.

For general information on the procedures DOE follows in complying with the requirements of NEPA, contact: Carol Borgstrom, Director, Office of NEPA Project Assistance (EH–25), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 586–4600.

SUPPLEMENTAL INFORMATION:

I. Background

The DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for retrievably-stored and newly-generated transuranic (TRU) radioactive waste from various DOE defense program facilities. The repository has been excavated from a bedded salt formation 2150 feet below the land surface. The WIPP lands are under the jurisdiction of and managed by the U.S. Department of the Interior's Bureau of Land Management (BLM). The BLM is a "cooperating agency" (see 40 CFR Part 1501.6) in the development of the SEIS. The DOE has submitted to the BLM an application for withdrawal of the WIPP site lands from the public domain.

Congress authorized the DOE to build the WIPP to demonstrate the safe disposal of radioactive wastes resulting from its national defense activities. Since 1970, all defense-generated TRU wastes have been stored at various DOE defense facilities using methods that facilitate retrieval. Continued storage at these facilities has raised public concerns about health and environmental protection. In addition, the filling of available storage capacity for radioactive waste at certain sites may hamper defense production operations vital to national security.

DOE published the FEIS for the WIPP (DOE/EIS–0026) in October 1980, followed by the Record of Decision (ROD) in January 1981 (46 FR 9162). Subsequently, DOE proceeded with construction of the WIPP facility.

II. Supplement Preparation

On February 17, 1989, the DOE announced (54 FR 7251) its intent to prepare a supplement to the WIPP FEIS to reflect proposed changes in the project, and new information, assumptions, or methods of analysis since publication of the FEIS. The draft SEIS assesses potential environmental consequences of the current proposed action and reasonable alternatives. The post-FEIS changes and information considered in the SEIS fall mainly in the following areas:

Changes in the sources of TRU wastes. In the 1980 FEIS, only TRU wastes from the Idaho National Engineering Laboratory and Rocky Flats Plant were analyzed for disposal in the WIPP. Since then, the DOE has proposed that TRU wastes from two other defense facilities, Hanford Operations and the Savannah River Plant, would be disposed of at the WIPP. The potential impacts of transport to WIPP, and emplacement of waste from six additional facilities, are also analyzed in the SEIS.

Changes in the volume of TRU waste inventory. The DOE estimates a smaller volume of TRU waste because of a refinement in inventory sampling methods; a change in the definition of TRU waste; changes to the WIPP Waste Acceptance Criteria; and anticipated facility waste treatment process modifications.

Changes in the composition of the TRU waste inventory. The inventory of TRU wastes now includes high-curie and high-neutron wastes, and DOE no longer proposes to conduct tests at WIPP using high-level wastes.

Consideration of hazardous chemical constituents of the inventory. Hazardous chemical constituents in the radioactive waste inventory (which, together, are referred to as "mixed" wastes) were not considered in the 1980 FEIS, but are assessed in the SEIS. The hazardous chemical constituents of this mixed waste constitute a small fraction of the total waste and consist primarily of lead from radiation shielding and residual organic solvents.

Changes in transportation modes, routes, and packaging. In the FEIS, DOE anticipated using a mixed transport mode (75% train and 25% truck). The SEIS considers transport by truck (100 percent) and "maximum" train (i.e., train transport from eight facilities and, because they lack rail heads, truck transport from Los Alamos National Laboratory, and the Nevada Test Site). The design of the "contact-handled" TRU waste packaging has changed from the Type A (TRUPACT–I) container, proposed in 1980, to the Type B (TRUPACT–II) container to be certified by the Nuclear Regulatory Commission.

Implementation of a Test Phase. DOE is proposing to conduct a Test Phase to reduce uncertainties associated with two factors that may affect repository performance—gas generation and brine in-flow—and to demonstrate effective waste handling procedures.

The SEIS analyzes DOE's proposed action and two alternatives, one of which is a "no action" alternative required by the Regulations of the Council on Environmental Quality (40 CFR 1502.14(d)). The proposed action consists of two parts: a Test Phase and a Disposal Phase. The Test Phase would last approximately five years, during which a maximum of 10 percent of the facility design capacity for waste would be brought to the WIPP and emplaced underground in a retrievable manner. (The DOE expects to use less than 10 percent of capacity, but evaluates 10 percent in the SEIS for purposes of bounding environmental impacts.) If the Test Phase results in a determination that WIPP satisfies environmental and operational safety requirements, the Disposal Phase would follow. The DOE will not use the WIPP as a permanent waste repository unless and until there is a determination, based on the accumulated scientific and operational data, that waste operations and disposal at WIPP comply with the Environmental Protection Agency's public health and environmental standards (40 CFR Part 191), and with other applicable Federal, State, and local requirements.

The Test Phase is designed for two purposes: to obtain information relevant to assessing the long-term performance of WIPP, and to demonstrate DOE's ability to perform safely the operations necessary to transport waste to, and emplace waste in the WIPP. The Test Phase would involve tests of different scales, or sizes, designed to collect data underground, in conditions to which emplaced waste would be subjected if the facility should become operational.

The second alternative action analyzed in the SEIS is to conduct only those tests described in the proposed action that can be performed at a location other than underground at WIPP until there is a determination of compliance with regulatory requirements. The "bin-scale" tests proposed to be conducted with TRU waste in the WIPP underground facility would be conducted at a location other than underground at WIPP. The tests would be conducted in a specially-engineered above-ground facility designed for this purpose.

In effect, this alternative is for a Test Phase without waste emplaced in the WIPP underground.

III. Comment Procedure

A. Availability of Draft SEIS

Copies of the draft SEIS and the 1980 Final EIS have been distributed to officials of Federal, State, and local governments, environmental organizations, and individuals known to be interested in, or affected by, the proposed project. Additional copies may be obtained from the DOE WIPP SEIS Project Manager at the address given above.

The draft SEIS, all references in the SEIS, and the FEIS are available at the following DOE Public Reading Rooms and libraries:

Department of Energy-HQ, Public Reading Room, Room 1E–190 Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–6020.

U.S. Department of Energy-ID, Public Reading Room, University Place, 1776 Science Center Drive, Idaho Falls, ID 83402, (208) 526–1144.

U.S. Department of Energy-NV, Public Reading Room, 2753 South Highland Street, Las Vegas, NV 89109, (702) 295–1274.

U.S. Department of Energy-OR, Public Reading Room, Federal Building, 200 Administration Road, Oak Ridge, TN 37830, (615) 576–1216.

National Atomic Museum, Public Reading Room, Wyoming Boulevard South, Kirtland Air Force Base, Albuquerque, NM 87115, (505) 844–4378.

U.S. Department of Energy-RL, Public Reading Room, Hanford Science Center, 825 Jadwin Avenue, Richland, WA 99352, (509) 376–8583.

U.S. Department of Energy-SR, FOI Publication/Document Room, University of South Carolina—Aiken, Gregg—Graniteville Library, 171 University Parkway, Aiken, SC 29801, (803) 725–1408.

U.S. Department of Energy-SFO, Public Reading Room, 1333 Broadway, 7th Floor, Oakland, CA 94612, (415) 273–4428.

U.S. Department of Energy-CH, Public Reading Room, 9800 South Cass Avenue, Building 201, Argonne, IL 60439, (312) 972–2010.

Zimmerman Library, Government Publications, University of New Mexico, Roma Avenue and Yale Boulevard, Albuquerque, NM 87131, (505) 277–5441.

Carlsbad Public Library, Public Document Room, 101 South Halagueno Street, Carlsbad, NM 88220, (505) 885–6776.

New Mexico State Library, 325 Don Gasper, Santa Fe, NM 87503, (505) 827–3800.

Santa Fe Public Library, 145 Washington Avenue, Santa Fe, NM 87501, (505) 984–6780.

Libraries receiving the draft SEIS and the FEIS:

Alabama Public Library Service, 6030 Monticello Drive, Montgomery, AL 36104, (205) 277–7330.

Arkansas State Library, 1 Capitol Mall, Little Rock, AR 72201, (501) 682–1527.

Arizona Library, Archives and Public Records, 1700 W. Washington, Phoenix, AZ 85701, (602) 542–4159.

California Libraries Division, Library and Courts Building, 914 Capitol Mall, Sacramento, CA 95809, (916) 445–8833.

Government Publications, Norlin Library, University of Colorado/Boulder, 18th and Colorado Streets, Boulder, CO 80309, (303) 492–8784.

Denver Public Library, Government Documents Room, Second Floor, 1357 Broadway, Denver, CO 80203–2165, (303) 571–2000.

Georgia State Library, 301 Judicial Building, Atlanta, GA 30334, (404) 656–3468.

Library—Region 2, U.S. Nuclear Regulatory Commission, 101 Marietta Street, Suite 3100, Atlanta, GA 30303, (404) 331–5518.

Idaho State Library, 325 W. State Street, Boisc, ID 83702, (208) 334–5124.

Indiana State Library, 140 N. Senate Avenue, Indianapolis, IN 46204, (317) 232–3675.

Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, IL 62704, (217) 524–5968.

Illinois State Library Division, 213 Capitol Building, Springfield, IL 62756, (217) 782–2994.

Legislative Research Library, State Capitol Building, 13th Floor, Baton Rouge, LA 70804, (504) 342–2923.

Louisiana State Library Office, 760 Riverside North, Baton Rouge, LA 70821, (504) 342–4923

Missouri State Library, 2002 Missouri Boulevard, Jefferson City, MO 65102, (314) 751–3615.

Mississippi Library Commission, 1221 Ellis Avenue, Jackson, MS 39209, (601) 359–1036

Mississippi Bureau of Geology, 2525 N. West Street, Jackson, MS 39216, (601) 354–6228

Nevada State Library and Archives, Federal Documents, Capitol Complex, 401 North Carson Street, Carson City, NV 89710, (702) 885–5160; (800) 922–2880

Ohio Library Board, 65 S. Front Street, Columbus, OH 43266, (614) 644–7061

Oklahoma Libraries Department, 200 NE 18th Street, Oklahoma City, OK 73105, (405) 521–2502

Oregon State Library, State Library Building, Court and Summer Streets, Salem, OR 98310, (503) 378–4277

South Carolina State Library, 1500 Senate Street, Columbia, SC 29201, (803) 734–8666

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Texas Library and Archives Commission, 1201 Brazos Street, Austin, TX 78701, (512) 463–5460
Utah State Library, 2150 South 300 West, Suite 16, Salt Lake City, UT 84115, (801) 466–5888
State of Washington, Department of Ecology Library, Abbott Raphael Building, St. Martins College Campus, Olympia, WA 98504, (206) 459–6150
Washington State Library, State Library Building, 16th and Water Streets, Olympia, WA 98504, (206) 459–6150
Wyoming Library Department, Supreme Court Building, Capitol Avenue, Between 22nd and 24th, Cheyenne, WY 82002, (307) 777–6333.

B. Written Comments

Interested parties are invited to provide written comments on the draft SEIS to the DOE WIPP SEIS Project Manager at the address provided in the Summary, above. Envelopes should be marked "Attention: SEIS Comments." Comments should be postmarked no later than June 20, 1989, to ensure consideration in the final SEIS. Comments postmarked after June 20, 1989, will be considered to the extent practicable. Written and oral comments will be treated equally.

C. Public Hearings

1. Participation Procedures

The public is also invited to provide comments to the DOE on the draft SEIS at the scheduled public hearings. The hearings will not be judicial or evidentiary hearings. Advance registration for presentations will be accepted up to one week prior to the hearing date by telephone or by mail at the Office of the WIPP SEIS Project Manager listed in the Summary, above. Address mailings to the attention of "WIPP SEIS Hearing Registration." Requests to speak at a specific time will be honored, if possible. Elected officials and representatives of government agencies, Indian tribes, and interest groups will be given the opportunity to provide comments at the beginning of the hearings. The DOE may limit these speakers to 10 minute presentations if necessary to accommodate all who wish to speak.

People may register only themselves and should confirm the time they are scheduled to speak at the registration desk on the day of the hearing. Persons who have not registered in advance may register to speak at the hearings to the extent time is available. Commenters are asked to provide the DOE with written copies of their remarks, if possible.

2. Hearing Schedules and Locations

The hearings will begin at 9:00 a.m. and continue through the day and evening, with recesses for meals. Anyone may attend any session, but only registrants may provide comments. Hearings will be held at the following locations:

May 25, 1989 at
Atlanta Airport Hilton, 1031 Virginia Avenue, Hapeville, Georgia 30354 (404) 767–9000.
June 1, 1989 at
City Council Chambers, Boise City Hall, 150 North Capitol Boulevard, Boise, Idaho 83701, (208) 384–4422.
June 6, 1989 at
Regency Hotel, 3900 Elati Street, Denver, Colorado 80212, (303) 458–5555.
June 8, 1989 at
Vert Memorial Club Room, 345 Southwest 4th, Pendleton, Oregon 97801, (503) 276–6924.
June 13, 1989 at
Albuquerque Hilton, 1910 University Boulevard, NE., Albuquerque, NM 87102, (505) 884–2500.
June 15, 1989 at
Sweeney Convention Center, 201 West Marcy Street, Santa Fe, New Mexico 87504, (505) 984–8760.

3. Conduct of Hearings

Rules needed for the orderly conduct of the hearings will be announced by the presiding officer at the start of the hearings. Clarifying questions regarding statements made at the hearings may be asked only by the presiding officer or DOE personnel. Commenters will not be cross-examined. A transcript of the hearings will be prepared, and the entire record of each hearing, including the transcript, will be retained by the DOE for inspection at the libraries and reading rooms listed above. A complete copy of the transcript will be provided to the BLM in its role as a cooperating agency.

Issued at Washington, DC April 19, 1989.
Peter N. Brush,
Acting Assistant Secretary, Environment, Safety and Health.
[FR Doc. 89–9838 Filed 4–20–89; 11:10 am]
BILLING CODE 6450–01–M

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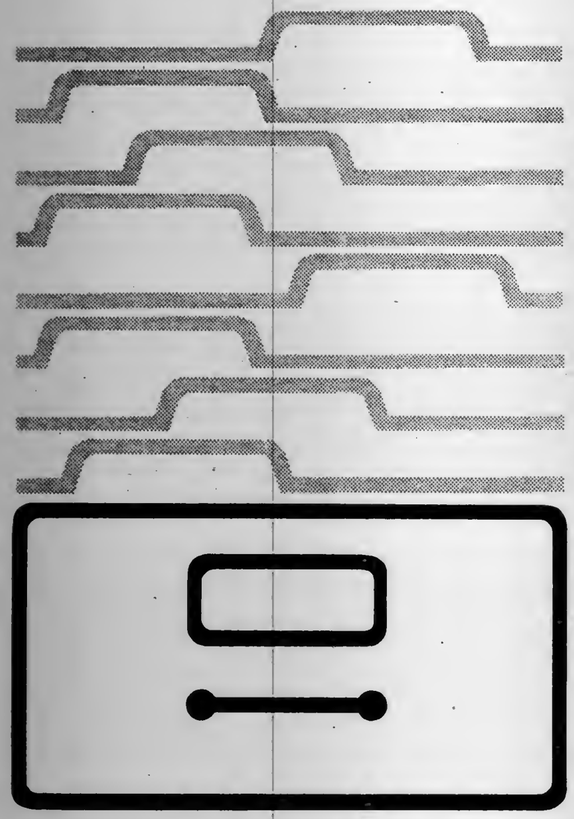
To implement the Bipartisan Accord on Central America of March 24, 1989. (Apr. 18, 1989; 103 Stat. 37; 4 pages) Price: $1.00

H.J. Res. 173/Pub. L. 101-15

To designate April 16, 1989, and April 6, 1990, as "Education Day, U.S.A." (Apr. 18, 1989; 103 Stat. 41; 2 pages) Price: $1.00

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Rules and Regulations

Federal Register
Vol. 54, No. 77
Monday, April 24, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

9 CFR Parts 201 and 203

[RIN 0580-AA84]

Poultry Regulations and Policy Statements

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: This document revises certain existing regulations relative to poultry to conform to the Poultry Producers Financial Protection Act of 1987 (Pub. L. 100–173) amending the Packers and Stockyards Act. These revisions will add live poultry dealers to existing payment and accounting, reporting and trust notification regulations and policy statements and delete reference to poultry "handlers" made obsolete by the legislation. The revisions also remove references to jurisdiction over dressed poultry trade practices as provided by the legislation. The regulation dealing with time of weighing live poultry is also clarified and revised as a result of a U.S. District Court decision.

EFFECTIVE DATE: May 24, 1989.

FOR FURTHER INFORMATION CONTACT: Kenneth Stricklin, Director, Packer and Poultry Division, Packers and Stockyards Administration, Room 3422 South Building, U. S. Department of Agriculture, Washington, DC 20250–2800, (202) 447–7363.

SUPPLEMENTARY INFORMATION: On July 11, 1988 a notice of a proposal to amend the regulations and policy statements (9 CFR Parts 201 and 203) under the Packers and Stockyards Act was published in the **Federal Register**. The proposal would amend the existing regulations and policy statements as follows:

Regulations	Effect of change
§ 201.43 (9 CFR 201.43)	Add "live poultry" dealer to (b)(4) and remove (d)
§ 201.49(a) (9 CFR 201.49(a))	Remove "or handler" and "packer or"
§ 201.53 (9 CFR 201.53)	Remove "or handler" and "or dressed poultry"
§ 201.71 (9 CFR 201.71)	Remove "or handler"
§ 201.72 (9 CFR 201.72)	Remove "or handler"
§ 201.73 (9 CFR 201.73)	Remove "or handlers"
§ 201.76 (9 CFR 201.76)	Remove "or handlers"
§ 201.82 (9 CFR 201.82)	Remove "or handler"; revise paragraph (b)
§ 201.94 (9 CFR 201.94)	Add "live poultry dealer"
§ 201.95 (9 CFR 201.95)	Remove "or handler"
§ 201.96 (9 CFR 201.96)	Remove "or handler"
§ 201.97 (9 CFR 201.97)	Add "live poultry dealer"
§ 201.100 (9 CFR 201.100)	Remove references to "handlers" and "packers", and remove (a)(3).

Policy Statements	Effect of change
§ 203.4 (9 CFR 203.4)	Remove "or handlers"
§ 203.15 (9 CFR 203.15)	Add "poultry sellers and growers"

The notice provided that comments on the proposed amendments must be received by the Administrator on or before September 9, 1988. Pursuant to a request from interested parties, the filing deadline was extended until November 8, 1988. A total of 57 responses were filed. Comments were filed by 44 poultry dealers, 7 state and national organizations, 4 state and national farmer/producer organizations, a poultry grower and a poultry equipment manufacturer. Twenty-eight of the poultry dealer comments were from employees of 7 firms. Ten of these comments were from one poultry dealer. For obvious reasons, consideration has been given to the opinions expressed as a whole rather than to the number of comments filed by the same firm or employees of a firm which expressed the same opinion. This approach is essential if fairness and equity are to prevail and credibility is to be maintained in the rulemaking process.

Fifty-three comments were filed in opposition to the proposed weighing amendment (9 CFR 201.82(b)) and the amendment that requires poultry dealers to file annual reports (9 CFR 201.97). Thirty-three of these comments simply endorsed without further comment the comment filed by a major trade organization in opposition to these two proposed amendments. One comment also opposed providing requested business information needed to carry out the provisions of the Packers and Stockyards Act (9 CFR 201.94). No objections were received regarding the balance of the proposed amendments.

Three comments were received favoring all of the proposed amendments and one comment favored the weighing regulation amendment.

All comments were carefully considered by the Agency.

Time of Weighing

Based on recent litigation and complaints from poultry growers with respect to the time of weighing, the Agency proposed to amend and clarify regulation § 201.82 by revising paragraph (b) to require that poultry obtained under a growout contract be weighed for payment purposes immediately upon arrival at the processing plant or holding yard and that the poultry must be weighed no later than 12 hours after being removed from feed.

Fifty-three comments were filed in opposition to the proposal. Many of these comments were merely endorsements of a comment filed by a major trade association. Opposing comments centered around the 12-hour limitation between the time the birds are taken off feed and the time of weighing. Concern was expressed that the time limitation was too restrictive and could result in higher risk of microbiological contamination from fecal material. Several comments suggested weather conditions, bird size, feed formulations and other factors affect the time required for feed digestion. Other comments questioned the time limitation in light of possible delays in weighing due to truck breakdowns, adverse weather conditions, etc. One comment indicated an increase in cost to the poultry dealer would result from the proposal.

An opposing comment from a national farm organization stated that they "would support new weighing regulations if they are proposed in a new document and further clarification is provided on the 12 hour limitation for weighing poultry and the interpretation of the term 'immediately'." Another

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opposing comment from a major poultry dealer stated that, "The weighing of poultry immediately upon arrival at the plant is a proper request," but that the time off feed proposal is too restrictive.

Four comments favoring the proposal were in agreement that the current weighing regulations do not provide satisfactory protection to poultry growers and supported the weighing proposal as written. After review of the comments, the Agency has decided to delete the 12-hour time restriction from the regulation as it is believed that it may be too restrictive under some circumstances. Also, the phrase "growout contract" in the proposed regulation will be replaced with "poultry growing arrangement" to conform to the defined terms in Title I of the Packers and Stockyards Act. The adopted regulation will require prompt transportation of poultry after loading and immediate weighing on arrival at the processing plant, holding yard or other scale location.

Annual Reports

It was proposed to add "live poultry dealer" to regulation § 201.97 thus requiring poultry dealers to file annual reports of their operations. A majority of those responding opposed this proposal, however, most merely endorsed the objection filed by a major trade organization without further comment and ten were from the same firm.

All the objections filed to the proposal were basically the same as those advanced by the trade organization: (1) The information provided by annual reports would not provide the Agency with authority to act and would create an unnecessary burden on the industry, and (2) concern that the confidentiality of the sensitive information provided could not be maintained.

It is recognized that neither jurisdiction nor authority to act is provided by information obtained from annual reports. The authority is provided by the statute itself. Information supplied by annual reports provides information to "act on" within the range of that authority. Annual report information has long been a recognized means for channeling the Agency's resources to the potential problem areas in the red meat industry in administering similar provisions of the Act. It has been accepted well by the industry as a less burdensome alternative to the Agency conducting periodic audits which require time and personnel resources on the part of the firm as well as the Agency.

To the extent the comments in opposition to this proposal have implied that the Agency has no authority to act unless there is a failure to pay, they have been considered; however, it is the Agency's position that such a position is not consistent with the intent and purpose of the amendments to the Act. The Committee on Agriculture in its report dated October 27, 1987, on the Poultry Producers Financial Protection Act of 1987 included the following statement in reference to the purpose and need for the amendments:

> Moreover, the amendments made by the bill relating to prompt payment and statutory trust are designed to ensure that those engaged in poultry production *are protected* from *circumstances* that could inflict heavy losses on an extremely important segment of our nation's agricultural community. (Emphasis added)

Clearly the Congress did not intend that the Secretary be given this reponsibility without also providing the authority to obtain information to carry out this responsibility in the most efficient and expeditious way possible. Annual reports provide this information without any undue burden on the industry.

The nation's largest general farm organization and a supporter of the 1987 poultry amendments to the Act recognized the need for this requirement in its comments stating:

> We recognize this requirement as an important management tool for P&SA in order to direct their limited resources to the surveillance of companies that are most likely to become problems. This requirement could also be helpful to live poultry dealers and P&SA in heading off problems before they occur.

It has long been an established policy of Packers and Stockyards Administration to obtain compliance with the payment provisions of the Act by informal means whenever possible. Some of the comments filed would indicate that the Agency has no authority to act except for the issuance of an administrative complaint and then only if there has been failure to pay. We believe this position is counterproductive and not in keeping with the intent and purpose of the amendments to provide information that enables the Agency and the industry to work together to obtain correction and compliance on an informal basis before losses occur.

In reference to the opposition to this proposal based on the confidentiality of the information required to be supplied on annual reports, the Agency has a long history of recognizing the sensitivity of such information in the red meat industry and has an established record of protecting the integrity of its relationship with the industry in this regard. Moreover, such information is protected from unauthorized disclosure by the same law giving the Agency the authority to obtain the information. It is absolutely essential that the Agency have the information necessary to help prevent losses before they occur whenever possible rather than to be continually engaged in "mopping up" operations after the damage is done. After consideration of all the comments on the proposal, the Agency believes that the filing of annual reports by poultry dealers is necessary to provide such information, therefore, the amendment to regulation § 201.97 is issued as proposed.

Furnishing Business Information

It was proposed to amend regulation § 201.94 to require live poultry dealers to provide business information as requested. One comment was received in opposition to this proposal suggesting such information was unnecessary to carry out the regulatory functions of Packers and Stockyards Administration. The Agency believes it is necessary to require subject firms to furnish business information upon request in order to effectively conduct investigations or inquiries and therefore regulation § 201.94 will be adopted as a final rule.

No opposing comments were received to the proposed amendment to add "live poultry dealers" to regulation § 201.43, nor were there any comments opposing amendments to regulations §§ 210.49, 201.53, 201.71, 201.73, 201.76, 201.82, 201.95, 201.96, 201.100 or policy statement § 203.4 which removes references to poultry "handlers". Likewise, amending policy statement § 203.15 dealing with trust notification procedures to include poultry sellers and growers received no opposition. Accordingly, the above regulations and policy statements will be adopted as proposed, except for part (a) of regulation § 201.71 which was previously published as a final rule on February 1, 1989 (54 FR 5073). The reference to "poultry handlers" in regulation § 201.71(a) was removed by the final rule published February 1, 1989 which updated the regulation to incorporate the current version of National Bureau of Standards Handbook 44.

Executive Order

Regulatory impact analysis is not required for these amendments because it has been determined that they are not "major" rules as defined by section 1(b) of E.O. 12291. They will not have an annual effect on the economy of $100 million or more, and they will not result in major increases in costs or prices for consumers, individual industries, government agencies, or geographic regions. They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that these amendments will not have significant impact on family formation, maintenance, and general well-being, per E.O. of September 2, 1987, and will not have substantial direct effects on the States, or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, per E.O. of October 23, 1987.

Regulatory Flexibility Act

It has been determined that these amendments will not have a significant economic impact on a substantial number of small entities. The number of entities in the United States affected by the amendments is believed to be about 350.

The annual report form generally to be used for firms with less than $100,000 in purchases or sales of live poultry, or value of live poultry obtained under poultry growing arrangements, is a one page form, and the public reporting burden is estimated to average .33 hours (one third of one hour) per response. The number of these small firms is believed to be about 20. For all other firms, the public reporting burden for the longer annual report form is estimated to average three hours per response.

The compliance burden other than reporting is not expected to be significant either.

Paperwork Reduction Act of 1980

Information collection requirements contained in these regulations have been approved by the Office of Management and Budget under Control No. 0580-0001.

Accordingly, 9 CFR Parts 201 and 203 are amended as set forth below.

List of Subjects In 9 CFR Parts 201 and 203

Stockyards, Market agencies, Dealers, Packers, Live poultry dealers.

Done at Washington, DC, this 18th day of April 1989.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

1. The authority citation for Part 201 continues to read as follows:

Authority: 7 U.S.C. 222, 228(a), 7 CFR 2.17(e), 2.56.

2. Section 201.43 is amended by revising the heading of paragraph (b), and revising paragraph (b)(4), to read as set forth below, and removing paragraph (d):

§ 201.43 Payment and accounting for livestock and live poultry.

* * * * *

(b) *Prompt payment for livestock and live poultry—terms and conditions.*

* * * * *

(4) No packer, live poultry dealer, market agency, or livestock dealer shall as a condition to its purchase of livestock or poultry, impose, demand, compel or dictate the terms or manner of payment, or attempt to obtain a payment agreement from a seller through any threat of retaliation or other form of intimidation.

* * * * *

(d) [Removed]

3. Sections 201.49(b), 201.53, 201.71 (b) and (d), 201.72 (a) and (b), 201.73, 201.76, 201.82, 201.94, 201.95, 201.96, and 201.97 are revised to read as follows:

§ 201.49 Requirements regarding scale tickets evidencing weighing of livestock and live poultry.

* * * * *

(b) Poultry. When live poultry is weighed for the purpose of purchase, sale, acquisition, or settlement by a live poultry dealer, a scale ticket shall be issued which shall show:

(1) The name of the agency performing the weighing service;

(2) The name of the live poultry dealer;

(3) The name and address of the grower, purchaser, or seller;

(4) The name or initials of the person who weighed the poultry;

(5) The location of the scale;

(6) The gross weight, tare weight, and net weight;

(7) The date and time gross weight and tare weight are determined;

(8) The number of poultry weighed;

(9) The weather conditions;

(10) Whether the driver was on or off the truck at the time of weighing; and

(11) The license number of the truck or the truck number; *Provided*, That when live poultry is weighed on a scale other than a vehicle scale, the scale ticket need not show the information specified in paragraphs (b) (9), (10), and (11) of this section. Scale tickets issued under this paragraph shall be at least in duplicate form and shall be serially numbered and used in numerical sequence. One copy shall be furnished to the grower, purchaser, or seller, and one copy shall be furnished to or retained by the live poultry dealer.

§ 201.53 Persons subject to the Act not to circulate misleading reports about market conditions or prices.

No packer, live poultry dealer, stockyard owner, market agency, or dealer shall knowingly make, issue, or circulate any false or misleading reports, records, or representation concerning the market conditions or the prices or sale of any livestock, meat, or live poultry.

§ 201.71 Scales; accurate weights, repairs, adjustments or replacements after inspection.

* * * * *

(b) All scales used by stockyard owners, market agencies, dealers, packers, and live poultry dealers to weigh livestock or live poultry for the purpose of purchase, sale, acquisition or settlement shall be equipped with a printing device which shall be used for recording weight values on a scale ticket or other document used for this purpose.

* * * * *

(d) No scales shall be operated or used by any stockyard owner, market agency, dealer, packer, or live poultry dealer to weigh livestock, livestock carcasses or live poultry for purposes of purchase, sale, acquisition or settlement unless it has been found upon test and inspection, as specified in § 201.72 of the regulations, to be in a condition to give accurate weight. If a scale is inspected or tested and found incorrect or inaccurate or if any repairs, adjustments or replacements are made to a scale, it shall not be used until it has been inspected and tested and met all accuracy requirements specified in the regulations.

§ 201.72 Scales; testing of.

(a) Each stockyard owner, market agency, dealer, packer, or live poultry dealer who weighs livestock or live poultry for purposes of purchase, sale, acquisition or settlement, or who weighs livestock carcasses for the purpose of purchase on a carcass weight basis, or who furnishes scales for such purposes, shall cause such scales to be tested by competent persons in accordance with the regulations at least twice during each calendar year at intervals of approximately six months. More frequent testing will be required in cases

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where the scale does not maintain accuracy between tests.

(b) Each stockyard owner, market agency, dealer, packer or live poultry dealer who weighs livestock, livestock carcasses or live poultry for purposes of purchase, sale, acquisition or settlement shall furnish reports of such tests and inspections on forms prescribed by the Administrator. The stockyard owner, market agency, dealer, packer or live poultry dealer shall retain one copy of the test and inspection report and shall file one copy with the regional office for the region in which the scale is located.

* * * * *

§ 201.73 Scale operators to be qualified.

Stockyard owners, market agencies, dealers, packers and live poultry dealers shall employ qualified persons to operate scales for weighing livestock, livestock carcasses or live poultry for the purpose of purchase, sale acquisition or settlement, and they shall require such employees to operate the scales in accordance with the regulations.

§ 201.76 Reweighing.

Stockyard owners, market agencies, dealers, packers and live poultry dealers shall reweigh livestock, livestock carcasses or live poultry on request of any authorized representative of the Secretary.

§ 201.82 Care and promptness in weighing and handling livestock and live poultry.

(a) Each stockyard owner, market agency, dealer, packer and live poultry dealer shall exercise reasonable care and promptness with respect to loading, transporting, holding, yarding, feeding, watering, weighing or otherwise handling livestock or live poultry to prevent waste of feed, shrinkage, injury, death or other avoidable loss.

(b) Whenever live poultry is obtained under a poultry growing agreement, the poultry shall be transported promptly after loading and the gross weight for grower payment purposes shall be determined immediately upon arrival at the processing plant, holding yard, or other scale normally used for such purpose.

§ 201.94 Information as to business; furnishing of by packers, live poultry dealers, stockyard owners, market agencies, and dealers.

Each packer, live poultry dealer, stockyard owner, market agency, and dealer, upon proper request, shall give to the Secretary or his duly authorized representatives in writing or otherwise, and under oath or affirmation if requested by such representatives, any information concerning the business of the packer, live poultry dealer, stockyard owner, market agency, or dealer which may be required in order to carry out the provisions of the Act and regulations in this part within such reasonable time as may be specified in the request for such information.

§ 201.95 Inspection of business records and facilities.

Each stockyard owner, market agency, dealer, packer, and live poultry dealer, upon proper request, shall permit authorized representatives of the Secretary to enter its place of business during normal business hours and to examine records pertaining to its business subject to the Act, to make copies thereof and to inspect the facilities of such persons subject to the Act. Reasonable accommodations shall be made available to authorized representatives of the Secretary by the stockyard owner, market agency, dealer, packer, or live poultry dealer for such examination of records and inspection of facilities.

§ 201.96 Unauthorized disclosure of business information prohibited.

No agent or employee of the United States shall, without the consent of the stockyard owner, market agency, dealer, packer or live poultry dealer concerned, divulge or make known in any manner, any facts or information regarding the business of such person acquired through any examination or inspection of the business or records of the stockyard owner, market agency, dealer, packer or live poultry dealer, or through any information given by the stockyard owner, market agency, dealer, packer, or live poultry dealer pursuant to the Act and regulations, except to such other agents or employees of the United States as may be required to have such knowledge in the regular course of their official duties or except insofar as they may be directed by the Administrator or by a court of competent jurisdiction, or except as they may be otherwise required by law.

§ 201.97 Annual reports.

Every packer, live poultry dealer, stockyard owner, market agency, and dealer (except a packer buyer registered to purchase livestock for slaughter only) shall file annually with the Administration a report on prescribed forms not later than April 15 following the calendar year end or, if the records are kept on a fiscal year basis, not later than 90 days after the close of his fiscal year. The Administrator on good cause shown, or on his own motion, may grant a reasonable extension of the filing date or may waive the filing of such reports in particular cases.

(Approved by the Office of Management and Budget under Control No. 0590-0001.)

4. The heading preceding §§ 201.100 and 201.100 are revised to read as follows:

Poultry-Packers and Live Poultry Dealers

§ 201.100 Records to be furnished poultry growers and sellers.

(a) *Contracts; contents.* Each live poultry dealer who enters into a growout (feeding) contract with a poultry grower shall furnish the grower a true written copy of the contract, which shall clearly specify:

(1) The duration of the contract and conditions for the termination of the contract by each of the parties; and

(2) All terms relating to the payment to be made to the poultry grower, including among others, where applicable, the following:

(i) The party liable for condemnations, including those resulting from plant errors;

(ii) The method or figuring feed conversion ratios;

(iii) The formula or method used to convert condemnations to live weight;

(iv) The per unit charges for feed and other inputs furnished by each party; and

(v) The factors to be used when grouping or ranking poultry growers.

(b) *Settlement sheets; contents; supporting documents.* Each live poultry dealer, who acquires poultry pursuant to a contract with a poultry grower, shall prepare a true and accurate settlement sheet (final accounting) and furnish a copy thereof to the poultry grower at the time of settlement. The settlement sheet shall contain all information necessary to compute the payment due the poultry grower. For all such arrangements in which the weight of birds affects payment, the settlement sheet shall show, among other things, the number of live birds marketed, the total weight and the average weight of the birds, and the payment per pound.

(c) *Condemnation and grading certificates.* Each live poultry dealer, who acquires poultry pursuant to a contract with a poultry grower which provides that official U.S. Department of Agriculture condemnations or grades, or both, are a consideration affecting payment to the grower, shall obtain an official U.S. Department of Agriculture condemnation or grading certificate, or both, for the poultry and furnish a copy thereof to the poultry grower prior to or at the time of settlement.

(d) *Grouping or ranking sheets.* Where the contract between the live poultry dealer and the poultry grower provides for payment to the poultry grower based upon a grouping or ranking of poultry growers delivering poultry during a specified period, the live poultry dealer shall furnish the poultry grower, at the time of settlement, a copy of a grouping or ranking sheet which shows the grower's precise position in the grouping or ranking sheet for that period. The grouping or ranking sheet need not show the names of other growers, but shall show the actual figures upon which the grouping or ranking is based for each grower grouped or ranked during the specified period.

(e) *Live poultry purchases.* Each live poultry dealer who purchases live poultry shall prepare and deliver a purchase invoice to the seller at time of settlement. The purchase invoice shall contain all information necessary to compute payment due the seller. When U.S. Department of Agriculture condemnations or U.S. Department of Agriculture grades, or both, of poultry purchased affect final payment, copies of official U.S. Department of Agriculture condemnation certificates or grading certificates, or both, shall be furnished to the seller at or prior to the time of settlement.

(Approved by the Office of Management and Budget under control number 0590-0001)

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

5. An authority citation for Part 203 is hereby added to read as follows:

Authority: 7 CFR 2.17(e), 2.56

6. Sections 203.4(a), (b) and (c) and 203.15 are revised to read as follows:

§ 203.4 Statement with respect to the disposition of records by packers, live poultry dealers, stockyard owners, market agencies and dealers.

(a) *Records to be kept.* Section 401 of the Packers and Stockyards Act (7 U.S.C. 221) provides, in part, that every packer, live poultry dealer, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. In order to properly administer the P&S Act, it is necessary that records be retained for such periods of time as may be required to permit the Packers and Stockyards Administration a reasonable opportunity to examine such records. Section 401 of the Act does not, however, provide for the destruction or disposal of records. Therefore, the Packers and Stockyards Administration has formulated this policy statement to provide guidance as to the periods of time after which records may be disposed of or destroyed.

(b) *Records may be disposed of after two years except as otherwise provided.* Except as provided in paragraph (c) of this section, each packer, live poultry dealer, stockyard owner, market agency, and dealer may destroy or dispose of accounts, records, and memoranda which contain, explain, or modify transactions in its business subject to the Act after such accounts, records, and memoranda have been retained for a period of two full years; *Provided*, That the following records made or kept by a packer may be disposed of after one year: cutting tests; departmental transfers; buyers' estimates; drive sheets; scale tickets received from others; inventory and products in storage; receiving records; trial balances; departmental overhead or expense recapitulations; bank statements, reconciliations and deposit slips; production or sale tonnage reports (including recapitulations and summaries of routes, branches, plants, etc.); buying or selling pricing instructions and price lists; correspondence; telegrams; teletype communications and memoranda relating to matters other than contracts, agreements, purchase or sales invoices, or claims or credit memoranda; and *Provided further*, That microfilm copies of records may be substituted for and retained in lieu of the actual records.

(c) *Retention for longer periods may be required.* The periods specified in paragraph (b) of this section shall be extended if the packer, live poultry dealer, stockyard owner, market agency, or dealer is notified in writing by the Administrator that specified records should be retained for a longer period pending the completion of any investigation or proceedings under the Act.

* * * * *

§203.15 Trust benefits under sections 206 and 207 of the Act.

(a) Within the times specified under sections 206(b) and 207(d) of the Act, any livestock seller, live poultry seller or grower, to preserve his interest in the statutory trust, must give written notice to the appropriate packer or live poultry dealer and file such notice with the Secretary. One of the ways to satisfy the notification requirement under these provisions is to make certain that notice is given to the packer or live poultry dealer within the prescribed time by letter, mailgram, or telegram stating:

(1) Notification to preserve trust benefits:

(2) Identification of packer or live poultry dealer;

(3) Identification of seller or poultry grower;

(4) Date of the transaction;

(5) Date of seller's or poultry grower's receipt of notice that payment instrument has been dishonored (if applicable); and

(6) Amount of money due; and to make certain that a copy of such letter, mailgram, or telegram is filed with a P&SA Regional Office or with P&SA, USDA, Washington, DC 20250, within the prescribed time.

(b) While the above information is desirable, any written notice which informs the packer or live poultry dealer and the Secretary that the packer or live poultry dealer has failed to pay is sufficient to meet the above-mentioned statutory requirement if it is given within the prescribed time.

(Approved by the Office of Management and Budget under control number 0590-0001)

[FR Doc. 89-9607 Filed 4-21-89; 8:45 am]
BILLING CODE 3410-KD-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221, and 224

[Regulations G, T, U, and X]

Securities Credit Transactions; List of Marginable OTC Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OCT Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published four times a year by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List which was effective February 13, 1989, and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: May 8, 1989.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation

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Analyst, Division of Banking Supervision and Regulation, (202) 452-2781. For the hearing impaired *only*, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. This supersedes the last List which was effective February 13, 1989. Additions and deletions for that List were published on January 30, 1989 (54 FR 4254). A copy of the complete List incorporating these additions and deletions is available from the Federal Reserve Banks.

The List of Marginable OTC Stocks includes those stocks that meet the criteria in Regulations G, T and U (12 CFR Parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR Part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The List also includes any stock designated under a Securities and Exchange Commission (SEC) rule as qualified for trading in the national market system (NMS security). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their NMS designation. The names of these stocks are available at the Board and the SEC and will be incorporated into the Board's next quarterly List.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and contained inclusion on the List specified in 12 CFR 207.6(a) and (b), 220.17(a) and (b), and 221.7(a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. § 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and Recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6(c) (Regulation G), 12 CFR 220.2(s) and 220.17(c) (Regulation T), and 12 CFR 221.2(j) and 221.7(c) (Regulation U), there is set forth below a listing of deletions from and additions to the Board's List of Marginable OTC Stocks:

Deletions From List

Stocks Removed For Failing Continued Listing Requirements

202 Data Systems, Inc.
$.10 par common
Amfed Financial Corporation
$.01 par common
Atlantic Permanent Savings Bank F.S.B. (Virginia)
$1.00 par common
Automatix Incorporated
$.05 par common
Autospa Corporation
$.01 par common
Broadview Savings Bank
No par common
Card*Tel, Inc.
$.01 par common
Commonwealth Savings and Loan Association F.A. (Florida)
$1.00 par common
Computer Components Corporation
$.01 par common
Warrants (expire 06-18-91)
Delta US Corporation
$.01 par common
Dionics, Inc.
$.01 par common
Environmental Treatment & Technologies Corp.
8% convertible subordinated debentures
Enzon, Inc.
Warrants (expire 02-15-89)
Farragut Mortgage Company, Inc.
$.10 par common
Federal Savings Bank of Puerto Rico, The
$1.00 par common
Financial Benefit Group, Inc.
Class B, $.01 par common
First Colorado Financial Corp.
$1.00 par common
First Farwest Corporation
$2.50 par common
First Federal Savings of Arkansas, F.A.
$.01 par common
Hospital Newspapers Group, Inc.
$.001 par common
Interactive Technologies, Inc.
No par common
Warrants (expire 03-06-91)
Lasertechnics, Inc.
$.01 par common
MCI Communications Corporation
7¾% convertible subordinated debentures
National Healthcare, Inc.
$.01 par common
Nova Pharmaceutical Corporation
Class B, warrants (expire 02-05-89)
Novo Corporation
$.01 par common
Peregrine Entertainment, Ltd.
No par common
Physio Technology Inc.
No par common
Piezo Electric Products, Inc.
$1.00 par cumulative convertible preferred
Pubco Corporation
$.01 par common
Radionics, Inc.
No par common
Rise Technology, Inc.
$.01 par common
Royal Palm Savings Bank (Florida)
$1.60 par common
Sis Corporation
No par common
Snelling and Snelling, Inc.
$.05 par common
Sybra, Inc.
$.10 par common
Telequest, Inc.
No par common
Texas American Energy Corporation
12⅞% convertible subordinated debentures
Travelers Real Estate Investment Trust
No par shares of beneficial interest
Travelers Realty Income Investors
No par shares of beneficial interest
Trio-Tech International
No par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

Bank of Delaware Corporation
$.10 par common
Budget Rent a Car Corporation
$.01 par common
Chemclear, Inc.
$.01 par common
Citizens & Southern Corp.
$2.50 par common
Computer Entry Systems Corporation
$.05 par common
Continuum Company, The
$.10 par common
Eaton Financial Corporation
$.10 par common
Electro-Nucleonics, Inc.
$.02½ par common
Equion Corporation, The
$.01 par common
First Maryland Bancorp
$5.00 par common
First Service Bank for Savings (Massachusetts)
$.10 par common
Galactic Resources Ltd.
No par common
Henley Manufacturing Corp.
$.01 par common
Huntingdon International Holdings PLC
American Depository Receipts
L.A. Gear, Inc.
No par common
Langley Corporation
$1.00 par common
Laurel Entertainment, Inc.
$.001 par common
Major Video Corp.
$.001 par common
Malrite Communications Group, Inc.
$.01 par common
Class A, $.01 par common
Medicare-Glaser Corporation
$.50 par common
Metro Mobile CTS, Inc.
Class A, convertible, $.10 par common
Class B, $.10 par common
Micro D, Inc.
$.01 par common
MNC Financial Inc.
$2.50 par common
Mobile Communications Corporation of America
Class A, $1.00 par common
Class B, $1.00 par common
Morino, Inc.
$.01 par common
Northern Air Freight, Inc.
$.01 par common
OMI Corp.
$.50 par common
$1.00 par convertible exchangeable preferred
Republic American Corporation
$.01 par common
Reynolds and Reynolds Company, Inc.
Class A, $.625 par common
Scicom Data Services, Ltd.
$.10 par common
Shoney's, Inc.
$1.00 par common
Specialty Composites Corporation
$.01 par common
Stanley Interiors Corporation
$.01 par common
Temco Home Health Care Products
$.01 par common
U.S. Health Inc.
$.0556 par common
Union National Corporation
$1.00 par common
Union Planters Corporation
$5.00 par common
University Savings Bank
$.01 par common
Wendt-Bristol Company, The
$.01 par common
Warrants (expire 10-16-91)
Williams, A.L., Corporation, The
$.10 par common
Wilson Foods Corporation
$.50 par common
Windmere Corporation
$.10 par common

Additions to the List

Anangel-American Shipholders Limited
American Depository Receipts
Arksansas Freightways Corporation
$.01 par common
BF Enterprises, Inc.
$.10 par common
BTU International, Inc.
$.01 par common
Callon Consolidated Partners, L.P.
Limited partnership units
Central & Southern Holding Company
$1.00 par common
Chemex Pharmaceuticals, Inc.
1989-1 Warrants (expire 03-31-94)
Communication Cable, Inc.
$1.00 par common
Condor Services, Inc.
$.01 par common
Corporate Capital Resources, Inc.
$.025 par common
Dover Regional Financial Shares
No par shares of beneficial interest
Ecogen, Inc.
$.01 par common
Electrosource, Inc.
$.10 par common
Equity Bank, The (Connecticut)
$10.00 par common
Farm & Home Financial Corporation
13% Series A, cumulative exchangeable preferred
FSI International, Inc.
No par common
Hitox Corporation of America
$.25 par common
Marcor Development Company, Inc.
$.01 par common
Mobile Telecommunication Technologies Corp.
$.01 par common
NAC RE Corp.
6¼% convertible subordinated debentures
Network General Corporation
$.01 par common
Nooney Realty Trust, Inc.
$1.00 par common
North American Bancorporation Inc.
$5.00 par common
Nucorp, Inc.
Warrants (expire 10-31-89)
Office Club, Inc., The
No par common
Pettibone Corporation
$.01 par common
Premier Financial Services, Inc.
$5.00 par common
Pricor Incorporated
$.01 par common
Provident Bancorp, Inc.
No par common
Ravenswood Financial Corporation
$1.00 par common
Red Eagle Resources Corporation
$.10 par common
Rocking Horse Child Care Centers of America, Inc., The
$.001 par common
Simetco, Inc.
$1.00 par common
Southern Educators Life Insurance Company
$.50 par common
Stratford American Corporation
$.01 par common
Tejas Gas Corporation
$.25 par common
Transmation, Inc.
$.50 par common
Trimas Corporation
$.01 par common
United Federal Bancorp, Inc.
$.01 par common
Utah Medical Products, Inc.
$.01 par common
Vanfed Bancorp
$1.00 par common
WLR Foods, Inc.
$1.00 par common

By order of the Board of Governors of the Federal Reserve System, acting by its Staff Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), April 21, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-9706 Filed 4-21-89; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 785

[Docket No. 90132-9032]

Exports to North Korea; Shipments of Commercially-Supplied Goods

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is revising § 785.1 of the Export Administration Regulations (EAR) to allow shipments to North Korea of commercially-supplied goods intended to meet basic human needs. Such exports may be authorized under an individual validated license on a case-by-case basis. Previously, only exports of donated goods to meet human needs were allowed.

This is part of a broader foreign policy initiative intended to encourage North Korea to end its policy of confrontation and international terrorism. In July of 1988, the Republic of Korea (South Korea) introduced a new policy aimed at fostering dialogue and contact among the two Korean states and their allies. In support of these goals, the United States Government announced new foreign policy initiatives on October 31, 1988. These included encouragement of unofficial, non-governmental visits from North Korea, facilitation of travel by U.S. citizens to North Korea, diplomatic discussions in neutral settings with North Korean officials, and this change in export controls to permit commercial sales of humanitarian goods.

EFFECTIVE DATE: This rule is effective April 24, 1989.

FOR FURTHER INFORMATION CONTACT: Stewart Ballard, Country Policy Division, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-4439.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under Control Number 0694-0005.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979, as amended (EAA) (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 785

Communist countries, Exports.

Accordingly, Part 785 of the Export Administration Regulations is amended as follows:

PART 785—[AMENDED]

1. The authority citation for 15 CFR Part 785 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, Pub. L. 98-64 of July 12, 1985 and Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

2. Section 785.1, paragraph (a) is revised by adding two sentences at the end of the paragraph to read as follows:

§ 785.1 Country Group Z [1]: North Korea, Vietnam, Cambodia and Cuba.

(a) * * * Exports of commercially-supplied goods to meet basic human needs may be authorized under an individual validated license on a case-by-case basis for destinations in North Korea. The types of commodities that may be supplied commercially to meet basic human needs are the same as those types of commodities described in Supplement No. 7 to Part 773, but are not restricted solely to small scale projects at the local level.

* * * * *

Dated: April 18, 1989.

Michael E. Zacharia,

Assistant Secretary for Export Administration.

[FR Doc. 89-9785 Filed 4-21-89; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-89-1950; FR-2626]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots; Correction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas; Correction.

SUMMARY: This Notice corrects the "high-cost" mortgage limits published in the **Federal Register** April 7, 1989 (54 FR 14075) for Broward County, Florida.

EFFECTIVE DATE: April 7, 1989.

FOR FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, Room 9270; telephone (202) 755-6720. For manufactured homes: Robert J. Coyle, Director, Title I Insurance Division, Room 9160; telephone (202) 755-6880; 451 Seventh Street, SW., Washington, DC 20410. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: On April 7, 1989 (54 FR 14075), the Department published in the **Federal Register** a notice that amended the list of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by increasing "high-cost" mortgage limits for eleven areas; and by adding "high-cost" mortgage limits for seven areas. The limits for Broward County, Florida were incorrect.

Accordingly, the following corrections are made to FR Doc. 89-8303 in the **Federal Register** issue dated April 7, 1989 (54 FR 14075), as follows:

On page 14076, in the table for Region IV, the limits for Broward County, Florida should be corrected as they appear below.

REGION IV.—HUD FIELD OFFICE—CORAL GABLES OFFICE

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
Ft. Lauderdale-Hollywood-Pompano Beach, FL MSA Broward County	$95,000	$107,000	$130,000	$150,000

Dated: April 18, 1989.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 89-9776 Filed 4-21-89; 8:45 am]

BILLING CODE 4210-27-M

[1] See Supplement No. 1 to Part 770 for listing of Country Groups.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3557-1]

Minnesota: Final Authorization of Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Final authorization of Hazardous Waste Management Program.

SUMMARY: Minnesota has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Minnesota's 1987 and 1988 applications and has reached a decision, subject to public review and comment, that Minnesota's hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to Minnesota to operate its expanded program, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984.

DATES: *Effective date.* Final authorization for Minnesota's application shall be effective June 23, 1989 unless EPA publishes a prior **Federal Register** action withdrawing this final authorization. All comments on Minnesota's final authorization must be received by 4:30 p.m. on May 24, 1989.

ADDRESSES: Copies of Minnesota's final authorization applications are available during the hours 9:00 a.m. to 4:00 p.m. at the following addresses for inspection and copying: Ms. Carol Nankivel, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, Minnesota 55155, Phone 612/296-7260; U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, DC 20460, Phone 202/382-5926; Ms. Christine Klemme, U.S. EPA, Region V, 230 S. Dearborn, 13th Floor, Chicago, Illinois 60604, Phone 312/886-3715. Written comments should be sent to Ms. Christine Klemme, Waste Management Division, Office of RCRA, 230 S. Dearborn, 5HR-JCK-13, Chicago, Illinois 60604, Phone 312/886-3715.

FOR FURTHER INFORMATION CONTACT: Christine Klemme, Minnesota Regulatory Specialist, U.S. Environmental Protection Agency, Region V, Waste Management Division, Office of RCRA, Program Management Branch, Regulatory Development Section, 5HR-JCK-13, 230 South Dearborn, Chicago, Illinois 60604, (312) 886-3715 FTS 8 886-3715).

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter HSWA) allow States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. A State exercising this option receives "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later applies for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessary because of changes to EPA's regulations in 40 CFR Parts 124, 260-268 and 270.

B. Minnesota

Minnesota initially received final authorization for the base RCRA program on February 11, 1985. On June 30, 1986, Minnesota submitted a revision application for additional program approvals. On July 20, 1987, EPA published a proposal to approve Minnesota's program revision application in accordance with 40 CFR 271.21(b)(4). On September 18, 1987, that proposal became effective.

On January 29, 1988, and November 18, 1988, Minnesota submitted additional revision applications.

EPA has reviewed Minnesota's applications and has made a final decision that Minnesota's hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Consequently, EPA is granting final authorization for the additional program modifications to Minnesota.

Minnesota will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the Federal program as listed below:

Federal Requirement	State Authority
Amendments to Part B Information Requirements for Disposal Facilities, June 22, 1987, 52 FR 23447-23450.	Rule 7001.0640(2)
List (Phase I) of Hazardous Constituents for Groundwater Monitoring, July 9, 1987, 52 FR 25946-25953.	Rule 7045.0484 (12) and (13); 7045.0143; 7001.0640.
Liability Coverage, November 18, 1987, 52 FR 44314-44321.	Rule 7045.0518(7), 7045.0524(8); 7045.0620(6)

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Federal Requirement	State Authority
Standards for Hazardous Waste Storage and Treatment Tank Systems, July 14, 1986, 51 FR 25470–25486 and *August 15, 1986, 51 FR 29430–29431.	Rule 7045.0020; 7045.0120; 7045.0219; 7045.0292; 7045.0452; 7045.0478; 7045.0490; 7045.0496; 7045.0528; 7045.0575; 7045.0556; 7045.0564; 7045.0584; 7045.0600; 7045.0606; 7045.0628; 7045.0075; 7045.0629; 7001.0560; 7001.0580; 7001.0650.
*Hazardous Waste Exports July 15, 1985, 50 FR 28702–28755.	Rule 7045.0302(5).
*Exports of Hazardous Wastes; August 8, 1986, 50 FR 28664–28686.	Rule 7045.0219(5); 7045.0125(12); 7045.0296; 7045.0302; 7045.0020; 7045.0302; 7045.0304; 7045.0375; 7045.0381.
*Listing of EDBC, October 24, 1986, 51 FR 37725–37729.	Rule 7045.0135; 7045.0065; 7045.0139.
Financial Responsibility: Settlement Agreement May 2, 1986, FR 16443–16459.	Rule 7045.0020; 7045.0486; 7045.0488; 7045.0490; 7045.0492; 7045.0494; 7045.0496; 7045.0498; 7045.0502; 7045.0504; 7045.0506; 7045.0508; 7045.0518; 7045.0524; 7045.0594; 7045.0596; 7045.0600; 7045.0602; 7045.0604; 7045.0606; 7045.0608; 7045.0610; 7045.0612; 7045.0614; 7045.0616; 7045.0620; 7045.0628; 7045.0630; 7001.0560; 7001.0190; 7001.0650; 7045.0670.
Listing of Spent Pickle Liquor, May 28, 1986, and amended September 22, 1986, 51 FR 19320/51 FR 33612.	Rule 7045.0135(3).
*Availability of Information —3006(f) 42 U.S.C. 6921.	Statute 13.03; 13.06; 13.37; 15.17; 15.171; 116.075; Rule 7045.0080.
*Direct Action Against Insurers —3004(t).	Statute 116.14.
*Sharing of Information with ATSDR–3019(b).	Statute 13.05(9).
Liability Coverage –July 11, 1986, 51 FR 25350–25356.	Rule 7045.0518; 7045.0524; 7045.0620.
Corrections to Listing of Commercial Chemical Products and Appendix VIII Constituents, August 6, 1986, 51 FR 28296–28310.	Rule 7045.0135(4); 7045.0141.
Closure/Post-Closure Care for Interim Status Surface Impoundments, March 19, 1987, 52 FR 8704–8709.	Rule 7045.0630(6).
*Permit Life, July 15, 1985, 50 FR 28702–28755.	Rule 7001.0140; 7001.0720(1); 7001.0150(1).
*Omnibus Provision, July 15, 1985, 50 FR 28702–28755.	Rule 7001.0150(2).
*Interim Status, July 15, 1985, 50 FR 28702–28755.	Rule 7001.0150(2); 7001.0650.(1) and (7); 7001.0530(2A).
*Research and Development Permits, July 15, 1985, 50 FR 28702–28755.	Rule 7001.0712.
*Exposure Information, July 15, 1985, 50 FR 28702–28755.	Rule 7001.0590
*Listing of TDI, DNT, TDA Waste, October 23, 1985, 50 FR 42936–42943.	Rule 7045.0135 (3) and (4); 7045.0075(2); 7045.0139; 7045.0141.
*Listing of Spent Solvents, December 31, 1985 50 FR 53315–53320.	Rule 7045.0135(2).
*Listing of EDB Wastes February 13, 1986, 51 FR 5327–5331.	Rule 7045.0135(3); 7045.0075(2); 7045.0139.
*Listing of Four Spent Solvents, February 25, 1986, 51 FR 6537–6541.	Rule 7045.0135 (2) and (4); 7045.0075(2); 7045.0139; 7045.0141.
*Generators of 100–1000 kg Hazardous Waste, March 24, 1986, 51 FR 10174–10176.	Rule 7045.0219(1), (4)–(6); 7045.0381(5); 7001.0520(2).
Radioactive Mixed Wastes, July 3, 1986, 51 FR 24504–24505.	Statute 116.06(13)
*Paint Filter Test, April 30, 1985, 50 FR 18370–18375.	Rule 7045.0458(2F); 7045.0478(3E); 7045.0538(10C); 7045.0564(2F); 7045.0584(3E); 7045.0638(7B).
*Small Quantity Generators, July 15, 1985, 50 FR 28702–28755.	Rule 7045.0219.
*Delisting, July 15, 1985, 50 FR 28702–28755.	Rule 7045.0075(2).
*Waste Minimization July 15, 1985, 50 FR 28702–28755.	Rule 7045.0296 (2F–H); 7045.0478 (1) and (3K); 7045.0482(2G); 7001.0150(2C); 7001.0650(1).
*Location Standards for Salt Domes, Beds, Underground Mines and Caves, July 15, 1985, 50 FR 28702–28755.	Rule 7045.0460(3); 7045.0556(7).
*Liquids in Landfills, July 15, 1985, 50 FR 28702–28755.	Rule 7045.0538(10); 7045.0638(7); 7001.0620.
*Groundwater Monitoring, July 15, 1985, 50 FR 28702–28755.	Rule 7045.0484(1); 7045.0484(12); 7045.0532(5); 7045.0532(7); 7034.0534, (4), (5), and (6); 7045.0538 (5) and (7).
*Cement Kilns, July 15, 1985 50 FR 28702–28755.	Rule 7045.0125; 7045.0135(4).
*Corrective Action July 15, 1985, 50 FR 28702–28755.	Rule 7045.0484(1); 7045.0485 (1) and (2); 7001.0520(3).

(the * indicates HSWA rules)

Any RCRA hazardous waste permits, or portions of permits, issued by EPA under the RCRA provisions for which Minnesota is receiving final authorization shall be administered by EPA. EPA will suspend issuance of any further permits under these provisions on the effective date of Minnesota's authorization.

The public may submit written comments on EPA's final decision up until May 24, 1989. Copies of Minnesota's application for program revision are available for inspection and copying at the location indicated in the "Addresses" section of this notice.

Approval of Minnesota's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revisions discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish a withdrawal of the final decision or a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

Minnesota is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Effect of HSWA on Minnesota's Authorization

Before the Hazardous and Solid Waste Amendments to RCRA, a State with final authorization administered its hazardous waste program instead of, or entirely in lieu of, the Federal program. Except for enforcement provisions not applicable here, EPA no longer directly applied the Federal requirements in the authorized State and EPA did not issue permits for any facilities the State was authorized to permit. When new, more stringent, Federal requirements were promulgated or enacted, the State was obligated to obtain equivalent authority within specified time frames. New Federal requirements usually did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under the amended section 3006(g) of RCRA, 42 U.S.C. 6926(g), new HSWA requirements and prohibitions take effect in authorized States at the same time they take effect in non-authorized States. EPA carries out those requirements and prohibitions directly in authorized and non-authorized States, including the issuance of full or partial HSWA permits, until EPA grants the State authorization to do so. States must still, at one point, adopt HSWA-related provisions as State law to retain final authorization.

As a result of the HSWA, there is a dual State/Federal regulatory program in Minnesota. To the extent HSWA does not affect the authorized State program, the State program will operate in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA will administer and enforce those HSWA requirements in Minnesota until the State is authorized for them. Among other things, this will entail the issuance of Federal RCRA permits for those HSWA requirements for which the State is not yet authorized in addition to the State permits.

Once EPA authorizes Minnesota to carry out a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision or prohibition. Until that time, the State may assist EPA's implementation of the HSWA under a Cooperative Agreement.

Today's rulemaking includes authorization of Minnesota's program for several requirements implementing the HSWA. Those requirements implementing the HSWA are specified above. Any effective State requirement that is more stringent or broader in scope than a Federal HSWA provision will continue to remain in effect.

EPA published a **Federal Register** notice explaining in detail the HSWA and its affect on authorized States (50 FR 28702–28755, July 15, 1985).

D. Decision

I conclude that Minnesota's applications for program revisions meet all the RCRA statutory and regulatory requirements. Accordingly, EPA grants Minnesota final authorization to operate its hazardous waste program as revised. Minnesota now has primary responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program. This responsibility is subject to the limitations of its program revision applications and previously approved authorities. Minnesota also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

E. Codification

Codification of the Minnesota program will be completed at a later date.

Compliance with Executive Order 12291: The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act: Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Minnesota's program thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act: Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a) 3006, and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926 and 6974(b).

Dated: April 14, 1989.

Frank M. Covington,

Deputy Regional Administrator.

[FR Doc. 89–9652 Filed 4–21–89; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[MM Docket No. 88–375; FCC 89–107]

FM Broadcast Service; Amendment of the Rules To Provide for an Additional FM Station Class (Class C3) and To Increase the Maximum Transmitting Power for Class A FM Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission amends its rules to establish an additional class of FM broadcast stations, designated "Class C3", to be assigned throughout most of the United States. Creation of this new station classification will provide upgrade opportunities for some existing Class A FM broadcast stations. Upgrading from Class A to the new Class C3 will result in greatly expanded signal coverage for these stations, thereby enabling them to better serve their radio audiences. Also, the availability of another intermediate class of FM facility in sparsely populated areas may make additional new FM broadcast stations economically feasible.

EFFECTIVE DATE: May 24, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: B.C. "Jay" Jackson, Jr., Mass Media Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information is estimated to vary from 72 hours 30 minutes to 302 hours 15 minutes per response with an average of 110 hours 13 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of the Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060–0027), Washington, DC 20503.

Following is a summary of Commission's *First Report and Order* in MM Docket No. 88–375, adopted March 30, 1989 and released April 17, 1989. The full text of this action is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of the First Report and Order

1. On July 20, 1988, the Commission adopted a *Notice of Proposed Rule Making* ("*Notice*") (53 FR 38743, October 3, 1988) setting forth for public comment various proposed rule amendments that would potentially permit improvements in the facilities of the majority of Class A FM broadcast stations in the United States. Specifically, the Commission proposed the creation of a new intermediate class of FM broadcast stations in Zone II, and a general increase in the maximum permitted transmitting power for Class A FM broadcast stations from 3000 to 6000 Watts.

2. In response to the *Notice*, the Commission received 98 formal comments, 16 reply comments, and

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several hundred informal letters and inquiries. Most of these comments and letters address issues related to the Class A power increase proposal, and some of them address the matter of the proposed new C3 station class as well. It is apparent from an initial review of these pleadings that there is sharp disagreement among the parties as to how any increase in transmitting power for Class A stations should be implemented, and that further study of the positions advocated in the comments, consideration of administrative details, and additional technical analysis is necessary.

3. By contrast, the majority of comments addressing the new C3 station class agree in favoring the rules proposed to provide for such a station class. The commenters confirm the Commission's tentative conclusion that the creation of this new station class will improve spectrum utilization and afford opportunities for some Class A stations in Zone II to expand coverage, thereby allowing these stations to provide improved service to their audiences. Because the technical and administrative issues associated with the Class C3 proposal are comparatively simple, and there is among the commenting parties a nearly universal consensus in support of the proposed rules, it appears that prompt consideration of the Class C3 rules, separate from action on the proposed Class A power increase, is appropriate.

4. In the *Notice*, the Commission proposed Class C3 to be an intermediate class between Class A and Class C2, with a maximum effective radiated power (ERP) of 25 kilowatts and a reference antenna height above average terrain (HAAT) of 100 meters (328 feet). Noting that this proposed ERP/HAAT combination would produce coverage midway between that of existing Classes A and C2, the Commission nonetheless invited comments as to whether some other combination might be more appropriate.

5. Additionally, it was proposed to revise the table of minimum distance separation requirements for domestic FM commercial broadcast stations by adding appropriate distances for the new Class C3. The distances proposed, except for the intermediate frequency ("IF") distances, were calculated by assuming a primary service area for Class C3 facilities bounded by the 1 mV/m (60 dBμ) F(50,50) field strength contour. Consistent rules proposed in MM Docket 86–144 (53 FR 10259, March 30, 1988), the IF distances proposed for Class C3 were calculated to prevent overlap of the predicted 36 mV/m (91 dBμ) contours of IF-related stations.

6. The Commission restated in the *Notice* the desire to assign FM broadcast stations in a manner that provides adequate protection to existing service but does not preclude additional allotments or assignments by protecting vast areas not actually served. Accordingly, the Commission proposed to reclassify, after a specific time period, existing stations continuing to operate with facilities that result in less predicted coverage than is normally expected for the pertinent station class.

7. Of the 96 formal comments filed in response to the *Notice*, 43 addressed the Class C3 proposal. All but one favored the proposal without major changes. Also, 3 of the 16 reply comments addressed the Class C3 proposal. All three reiterated support for it. Supporting commenters state that addition of the C3 Class would increase the efficiency and flexibility of the Commission's FM station classification scheme, that the proposed Class C3 is sensible from an economic standpoint, and that it would provide improvement of FM service in sparsely populated areas of the nation.

8. On the other hand, one party opposes the Class C3 proposal because it believes that the growth potential for public radio stations operating in the reserved portion of the FM band would be adversely affected by improvement of Class A commercial facilities. Most affected, according to this party, would be public radio stations operating on FM Channels 218, 219 and 220, channels that are particularly important for reserved band public radio service in areas where TV Channel 6 is also assigned.

9. Commenters favoring creation of Class C3 unanimously support the maximum ERP (25 kilowatts) and reference HAAT (100 meters) proposed for the new Class C3. All but one also concur with the proposed distance separation requirements, which were calculated on the basis of a primary service area bounded by the 1 mV/m (60 dBμ) contour. The reasons most often cited by the commenters for basing the distances on the 1 mV/m contour are: (1) that more C3 allotments could be made than if the Class B1 distances were to be used, and (2) that using the 1 mV/m contour would be consistent with the existing practice for all other FM stations in Zone II.

10. No commenters oppose, and several support, the proposal to reclassify, after a specified time period, existing stations continuing to operate with facilities that result in less predicted coverage than is normally expected for the pertinent station class. Greater Media supports the use of a three year period, noting that this policy was successful when applied to Class C stations in BC Docket 80–90. However, several other commenters suggest that a three year period is not warranted and that a shorter period would be more appropriate.

11. *Decision.* After consideration of the record developed in this proceeding with regard to the Class C3 proposal, the Commission concludes that the adoption of rules providing for such a class is in the public interest. The Commission finds that the potential benefits of the additional intermediate FM station class are significant and outweigh the administrative costs of its implementation.

12. Although the Class C3 rules will potentially help only ten to fifteen percent of Class A stations, those stations will be able to provide much better service with, in many cases, a relatively modest expenditure. Class C3 stations, with their greater power, will have much better coverage than Class A stations and will thus promote better spectrum utilization. Moreover, the Commission expects that some new Class C3 stations may be established in Zone II areas where a Class C2 allotment is not possible because of spacing requirements, and a Class A facility has been considered to be economically infeasible.

13. However, the assignment of Class C3 facilities may in some cases have a restrictive effect on possible future relocations and changes in facilities for non-commercial educational FM stations, particularly in markets where a Channel 6 TV station operates. To ensure the continued availability of adequate non-commercial educational FM radio service in such markets, the Commission will continue to apply the "heavy burden" policy developed in the *First Report and Order* in MM Docket 86–144 (52 FR 8259, March 17, 1987) to Class A upgrades on Channel 221, in order to lessen any possible hardship on non-commercial educational FM stations.

14. The Commission finds that the proposed maximum ERP of 25 kW and reference antenna HAAT of 100 meters are appropriate for the new class. These facilities will provide a predicted coverage area approximately midway between those of Class A and Class C2 stations. The Commission also finds that the proposed minimum distance separation requirements are appropriate. The co-channel, and the first, second and third adjacent channel distances are based on a Class C3

primary service area bounded by the F(50,50) 1 mV/m (60 dBμ) field strength contour. The distances calculated in this way are technically consistent with those currently applicable to all other station classes in Zone II, and will allow more Class C3 allotments to be made than if the existing Class B1 separations were applied. Concerning the IF distance separation requirements for the new Class C3, the Commission is adopting the proposed distances, which conform to the uniform 36 mV/m protection level established in MM Docket 86–144. (*Third Report and Order* in MM Docket 86–144, FCC 89–62, FR cite not yet available.)

15. The record in this proceeding supports the Commission's proposal to employ reclassification procedures to ensure that FM station classifications are commensurate with the size of the area actually served, and to prevent stations that do not meet minimum service requirements from receiving excessive protection, thereby precluding other operations. In the *Notice*, a three year period was proposed for licensees of stations facing reclassification to file for modification to meet the minimum requirements for their class. However, the Commission now believes that three years may be unnecessarily long and that a two year period is sufficient to allow for these filings. Accordingly, the Commission is establishing a date two years from the effective date of this order by which parties subject to reclassification must apply for at least the minimum facilities for their current class as set forth in 47 CFR 73.211 as amended, or be reclassified, with the new class to be determined in accordance with 47 CFR 73.210 and 47 CFR 73.211. The Commission will issue a Public Notice listing these parties based on their status on the effective date of this order.

16. In processing applications from parties seeking to avoid reclassification pursuant to this order, the Commission believes that the public interest will be best served if the following procedures are used. Specifically, for each application filed prior to the deadline and not reached for processing until after the deadline, the Commission will afford the applicant one opportunity to correct all deficiencies in the application. Upon finding a deficiency in a timely filed application, the staff on its own motion will waive the "hard look" FM processing rules, (*Report and Order* in MM Docket 84–750, 50 FR 19936, May 13, 1985) and notify the applicant of the deficiency, rather than returning the application. The applicant will then have 30 days within which to correct the noted deficiency and any other deficiencies in the application. If after the 30 day period the application still contains one or more deficiencies, it will be returned and the allotment reclassified. Thereafter, the allotment could be returned to its prior classification only through filing and subsequent grant of a petition for rulemaking to amend the Table of FM Allotments (47 CFR 73.202).

17. For purposes of compliance with the provisions of the Canada-United States FM Broadcast Agreement (and Working Arrangement), Class C3 allotments and assignments within 320 kilometers of the border will be considered to be Class B1. Similarly, for the purposes of compliance with the provisions of the Mexico-United States FM Broadcasting Agreement, Class C3 allotments and assignments within 320 kilometers of the border will be considered to be Class B. This procedure is necessary until agreements incorporating the new C3 station class can be negotiated with these countries.

18. The Commission's Mass Media Bureau has identified approximately 150 existing Class A stations that apparently can be upgraded to Class C3 at their current locations and on their currently assigned channels, without precluding any other Class A to Class C3 upgrades. Rather than to require individual petitions for rulemaking from licensees and permittees of these stations who desire to upgrade their stations to Class C3, the Bureau intends to issue an omnibus notice of proposed rulemaking proposing the upgrade of these allotments. This omnibus proceeding will not preclude any other parties from filing timely petitions for rulemaking to amend the Table of FM Allotments in accordance with our existing procedures. This approach is intended to spare these licensees and permittees some effort and expense and will also conserve FCC staff resources.

19. The Commission believes that the potential public benefit of the new intermediate class of FM stations (Class C3) warrants its incorporation into the existing regulatory structure. Appropriate technical criteria that will enable the new station class to provide opportunities for significantly expanded FM service as well as some new service, while fully protecting all existing service. The Commission is also continuing its "heavy burden" policy to ensure that the upgraded service resulting from the creation of Class C3 does not unduly restrict non-commercial educational radio stations operating in the vicinity of Channel 6 TV stations. Finally, the Commission is providing for reclassification of stations operating with less than the expected minimum facilities for their class. These actions will contribute to the Commission's policy goal of ensuring that the FM broadcast spectrum is effectively utilized.

Final Regulatory Flexibility Analysis

I. Need and Purpose of this Action

The Commission is adding an additional station class to its existing FM broadcast station classification system. The principal purpose of this action is to provide additional opportunities for improvement of the facilities of existing Class A FM broadcast stations. The need for such improvement was outlined in the *Notice* and confirmed by the majority of the commenting parties. An additional purpose of this action is to provide additional opportunities for new service in areas where Class A operation is economically unfeasible and Class C2 operation is technically unfeasible.

II. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

No commenters addressed the Initial Regulatory Flexibility Analysis.

III. Significant Alternatives Considered and Rejected

There are no alternatives to the action herein that would accomplish the stated purpose. Another proposal in the *Notice*, to increase the maximum transmitting power for Class A stations from 3000 to 6000 Watts, remains under consideration at this time. Final action on that proposal will be taken in a future order. Although also intended to provide for improvement of Class A FM station facilities, that proposal is being considered as an addition, rather than an alternative, to the action taken herein.

20. Accordingly, *It is ordered* That pursuant to the authority contained in Sections 4 and 303 of the Communications Act of 1934, as amended, 47 CFR Part 73 is *amended* as set forth below. *It is further ordered* That authority is delegated to the Chief, Mass Media Bureau to issue a Public Notice listing the parties subject to reclassification pursuant to this order, and to initially waive 47 CFR 73.3566 (as discussed *supra*, in connection with the "hard look" processing procedures) for applications submitted by these parties.

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Federal Communications Commission.
Donna R. Searcy,
Secretary.

List of Subjects

47 CFR Part 1

Procedures, Table of FM Allotments.

47 CFR Part 73

Radio broadcasting, FM Broadcast stations, Class C3.

For the reasons set forth in the preamble, 47 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. 47 CFR 1.420 is amended by revising the Note following paragraph (h) to read as follows:

§ 1.420 Additional procedures in proceedings for amendment of the FM, TV or Air-Ground Table of Allotments.

* * * * *

(h) * * *

Note: Licensees and permittees operating Class A FM stations who seek to upgrade their facilities to Class B1, B, C3, C2, C1, or C on Channel 221, and whose proposed 1 mV/m signal contours would overlap the Grade B contour of a television station operating on Channel 6 must meet a particularly heavy burden by demonstrating that grants of their upgrade requests are in the public interest. In this regard, the Commission will examine the record in rule making proceedings to determine the availability of existing and potential non-commercial education service.

For the reasons set forth in the preamble, 47 CFR Part 73 is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. 47 CFR 73.207 is amended by revising paragraph (a), the introductory text to paragraph (b) and the text of paragraphs (b)(2), (b)(3), and (c), as follows:

§ 73.207 Minimum distance separation between stations.

(a) Except for assignments made pursuant to §§ 73.213 or 73.215, FM allotments and assignments must be separated from other allotments and assignments on the same channel (co-channel) and five pairs of adjacent channels by not less than the minimum distances specified in paragraphs (b) and (c) of this section. The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments unless transmitter sites meet the minimum distance separation requirements of this section, or such applications conform to the requirements of §§ 73.213 or 73.215. However, applications to modify the facilities of stations with short-spaced antenna locations authorized pursuant to prior waivers of the distance separation requirements may be accepted, provided that such applications propose to maintain or improve that particular spacing deficiency. Class D (secondary) assignments are subject only to the distance separation requirements contained in paragraph (b)(3) of this section. (*See* § 73.512 for rules governing the channel and location of Class D (secondary) assignments.)

(b) The distances listed in Tables A, B, and C apply to allotments and assignments on the same channel and each of five pairs of adjacent channels. The five pairs of adjacent channels are the first (200 kHz above and 200 kHz below the channel under consideration), the second (400 kHz above and below), the third (600 kHz above and below), the fifty-third (10.6 MHz above and below), and the fifty-fourth (10.8 MHz above and below). The distances in the Tables apply regardless of whether the proposed station class appears first or second in the "Relation" column of the table.

* * * * *

(2) Under the Canada-United States FM Broadcasting Agreement, domestic U.S. allotments and assignments within 320 kilometers (199 miles) of the common border must be separated from Canadian allotments and assignments by not less than the distances given in Table B, which follows. When applying Table B, U.S. Class C2 allotments and assignments are considered to be Class B; also, U.S. Class C3 allotments and assignments are considered to be Class B1.

(3) Under the Mexico-United States FM Broadcasting Agreement, domestic U.S. allotments and assignments within 320 kilometers (199 miles) of the common border must be separated from Mexican allotments and assignments by not less than the distances given in Table C, which follows. When applying Table C, U.S. Class C2, C3 and B1 allotments and assignments are considered to be Class B; U.S. Class C1 allotments and assignments are considered to be Class C.

* * * * *

(c) The distances listed below apply only to allotments and assignments on Channel 253 (98.5 MHz). The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments where the following minimum distances (between transmitter sites, in kilometers) from any TV Channel 6 allotment or assignment are not met:

MINIMUM DISTANCE SEPARATION FROM TV CHANNEL 6 (82–88 MHz)

FM Class	TV Zone I	TV Zones II & III
A	16	20
B1	19	23
B	22	26
C3	19	23
C2	22	26
C1	29	33
C	36	41

3. 47 CFR 73.207 is further amended by revising the introductory text in paragraph (b)(1); by adding, in TABLE A in paragraph (b)(1), a new row for relation "A to C3" to be inserted after the existing row for relation "A to B", a new row for relation "B1 to C3" to be inserted after the existing row for relation "B1 to B", a new row for relation "B to C3" to be inserted after the existing row for relation "B to B", and four new rows, for relations "C3 to C3", "C3 to C2", "C3 to C1" and "C3 to C", to be inserted, in that order, after the existing row for relation "B to C", as follows:

§ 73.207 Minimum distance separation between stations.

* * * * *

(b) * * *

(1) Domestic allotments and assignments must be separated from each other by not less than the distances in Table A which follows:

TABLE A—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS (MILES)

Regulation	Co-channel	200 kHz	400/600 kHz	10.6/10.8 MHz
A to C3	136 (86)	84 (52)	42 (26)	12 (8)
B1 to C3	175 (109)	114 (71)	50 (31)	14 (9)
B to C3	211 (131)	145 (90)	71 (44)	17 (11)
C3 to C3	153 (95)	99 (62)	43 (27)	14 (9)
C3 to C2	177 (110)	117 (73)	56 (35)	17 (11)
C3 to C1	211 (131)	144 (90)	76 (47)	24 (15)
C3 to C	237 (147)	176 (109)	96 (60)	31 (19)

4. 47 CFR 73.210 is amended by revising paragraph (a) republishing the introductory text of paragraph (b), and revising paragraphs (b) (1), (2), and (3) to read as follows:

§ 73.210 Station classes.

(a) The rules applicable to a particular station, including minimum and maximum facilities requirements, are determined by its class. Possible class designations depend upon the zone in which the station's transmitter is located, or proposed to be located. The zones are defined in § 73.205. Allotted station classes are indicated in the Table of Allotments, § 73.202. Class A, B1 and B stations may be authorized in Zones I and I–A, Class A, C3, C2, C1, and C stations may be authorized in Zone II.

(b) The power and antenna height requirements for each class are set forth in § 73.211. If a station has an ERP and an antenna HAAT such that it cannot be classified using the maximum limits and minimum requirements in § 73.211, its class shall be determined using the following procedure:

(1) Determine the reference distance of the station using the procedure in paragraph (b)(1)(i) of § 73.211. If this distance is less than or equal to 24 km, the station is Class A; otherwise,

(2) For a station in Zone I or Zone I–A, except for Puerto Rico and the Virgin Islands:

(i) If this distance is greater than 24 km and less than or equal to 39 km, the station is Class B1.

(ii) If this distance is greater than 39 km and less than or equal to 52 km, the station is Class B.

(3) For a station in Zone II:

(i) If this distance is greater than 24 km and less than or equal to 39 km, the station is Class C3.

(ii) If this distance is greater than 39 km and less than or equal to 52 km, the station is Class C2.

(iii) If this distance is greater than 52 km and less than or equal to 72 km, the station is Class C1.

(iv) If this distance is greater than 72 km and less than or equal to 92 km, the station is Class C.

* * * * *

5. 47 CFR 73.211 is amended by revising paragraphs (a)(1), (a)(2), the table in the introductory text of paragraph (b)(1) (the introductory text of paragraph (b)(1) is republished), and revising paragraph (b)(3), to read as follows:

§ 73.211 Power and antenna height requirements.

(a) *Minimum requirements.* (1) Except as provided in paragraphs (a)(3) and (b)(2) of this section, FM stations must operate with a minimum effective radiated power (ERP) as follows:

(i) The minimum ERP for Class A stations is 0.1 kW.

(ii) The ERP for Class B1 stations must exceed 3 kW.

(iii) The ERP for Class B stations must exceed 25 kW.

(iv) The ERP for Class C3 stations must exceed 3 kW.

(v) The ERP for Class C2 stations must exceed 25 kW.

(vi) The ERP for Class C1 stations must exceed 50 kW.

(vii) The minimum ERP for Class C stations is 100 kW.

(2) Class C stations must have an antenna height above average terrain (HAAT) of at least 300 meters (984 feet). No minimum HAAT is specified for Classes A, B1, B, C3, C2, or C1 stations.

* * * * *

(b) *Maximum limits.* (1) Except for stations located in Puerto Rico or the Virgin Islands, the maximum ERP in any direction, reference HAAT, and distance to the class contour for each FM station class are listed below:

Station class	Maximum ERP	Reference HAAT in meters (ft)	Class contour distance in kilometers
A	3kW (4.8 dBk)	100 (328)	24
B1	25kW (14.0 dBk)	100 (328)	39
B	50kW (17.0 dBk)	150 (492)	52
C3	25kW (14.0 dBk)	100 (328)	39
C2	50kW (17.0 dBk)	150 (492)	52
C1	100kW (20.0 dBk)	299 (981)	72
C	100kW (20.0 dBk)	600 (1968)	92

* * * * *

(3) For stations located in Puerto Rico or the Virgin Islands, the maximum ERP in any direction, reference HAAT, and distance to the class contour for each FM station class are listed below:

Station class	Maximum ERP	Reference HAAT in meters (ft)	Class contour distance in kilometers
A	3kW (4.8 dBk)	335 (1100)	42
B1	25kW (14.0 dBk)	150 (492)	46
B	50kW (17.0 dBk)	472 (1549)	78

* * * * *

6. 47 CFR 73.506 is amended by revising paragraph (a)(3) to read as follows:

§ 73.506 Classes of noncommercial educational FM stations and channels.

(a) * * *

(3) Noncommercial educational FM (NCE–FM) stations with more than 10 watts transmitter power output are classified as Class A, B1, B C3, C2, C1, or C depending on the station's effective radiated power and antenna height above average terrain, and on the zone

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in which the station's transmitter is located, on the same basis as set forth in §§ 73.210 and 73.211 for commercial stations.

* * * * *

7. 47 CFR 73.610 is amended by revising paragraph (f) to read as follows:

§ 73.610 Minimum distance separations between stations.

* * * * *

(f) The distances listed below apply only to allotments and assignments on Channel 6 (82–88 MHz). The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments where the following minimum distances (between transmitter sites, in kilometers) for any FM Channel 253 allotment or assignment are not met:

MINIMUM DISTANCE SEPARATION FROM FM CHANNEL 253 (98.5 MHz)

Fm Class	TV Zone I	TV Zones II & III
A	16	20
B1	19	23
B	22	26
C3	19	23
C2	22	26
C1	29	33
C	36	41

[FR Doc. 89–9659 Filed 4–21–89; 8:45 am]
BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1001

[Ex Parte No. 55 (Sub-66)]

Freedom of Information Act; Predisclosure Notification Procedures for Confidential Commercial Information

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts a final rule implementing Executive Order No. 12600, issued on June 23, 1987, which requires the Commission to revise its Freedom of Information Act regulations by promulgating predisclosure notification procedures for confidential commercial information.

EFFECTIVE DATE: The rule is effective on May 24, 1989.

FOR FURTHER INFORMATION CONTACT: S. Arnold Smith, (202) 275–7076 (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: On March 1, 1988, the Commission published for public comment in the Federal Register at 53 FR 6155 an interim rule revising its Freedom of Information (FOIA) regulations by promulgating predisclosure notification procedures for confidential commercial information, in accordance with Executive Order No. 12,600 (EO), issued on June 23, 1987.

Comments were received from the Association of American Railroads (AAR), The Reporters Committee for Freedom of the Press (Committee) and the Washington Legal Foundation (WLF). The Commission has carefully considered these submissions and has made several minor revisions to clarify and strengthen its rule.

First, AAR and WLF objected to the notice limitations contained in § 1001.5(c): Ten years for records submitted prior to January 1, 1988; six years for records submitted thereafter. The Commission recognizes that in some cases the necessity for confidentiality could remain for longer periods. Therefore, it has changed this provision so that notice will be provided to submitters whenever: (1) The Commission has reason to believe that information may be protected under Exemption 4; or (2) the information has been designated as confidential commercial information by the submitter (and regardless of submission date).

Second, WLF and the Committee disagreed with § 1001.5(d)(1) that would have permitted ten work days for a submitter to object to disclosure. The Committee noted that an additional ten work days might preclude the Commission from meeting the FOIA's overall ten day processing deadline. WLF, on the other hand, argued that a twenty day period for objections was more reasonable.

The Commission routinely processes FOIA requests, including those for proprietary data, within ten days as required by statute. In order, therefore, to make it clear that the Commission will continue to do so, even when the new predisclosure requirements are activated, the rule has been modified as follows:

(1) A caveat, "to the extent permitted by law," has been added to § 1001.5(b);

(2) Submitters shall have "a reasonable period of time," rather than a specified number of days, to provide disclosure objections under § 1001.5(d)(1); and

(3) The Commission's intent to disclose will be communicated to submitters "a reasonable number of days" prior to the disclosure date, under § 1001.5 (e)(3) and (g)(6), instead of the ten work days now provided.

Each of the aforesaid revisions comports with the EO.

This decision will not significantly affect either the quality of the human environment or energy conservation. This decision also will not have a significant impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1001

Freedom of Information.

Decided: April 17, 1989.

By the Commission: Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

For the reasons set out in the preamble, Part 1001 of Title 49 of the Code of Federal Regulations is amended as follows:

PART 1001—INSPECTION OF RECORDS

1. The authority citation for Part 1001 is revised to read as follows:

Authority: 5 U.S.C. 552 and 49 U.S.C. 10301 and 10321.

2. Section 1001.5 is revised to read as follows:

§ 1001.5 Predisclosure notification procedures for confidential commercial information.

(a) *In general.* Confidential commercial information provided to the Commission shall not be disclosed pursuant to a Freedom of Information Act (FOIA) request except in accordance with this section. For such purposes, the following definitions apply:

(1) "Confidential commercial information" means records provided to the government by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) "Submitter" means any person or entity who provides confidential commercial information to the government. The term "submitter" includes, but is not limited to, corporations, state governments, and foreign governments.

(b) *Notice to submitters.* The Commission, to the extent permitted by law, shall provide a submitter with prompt written notice of receipt of a FOIA request encompassing its submissions in accordance with paragraph (c) of this section, and except as provided in paragraph (g) of this

section. This notice shall either describe the exact nature of the information requested or provide copies of the records themselves.

(c) *When notice is required.* Notice shall be given to a submitter whenever:

(1) The Commission has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm; or

(2) The information has been designated, in good faith by the submitter, as confidential commercial information at the time of submission or a reasonable time thereafter.

Whenever possible, the submitter's claim of confidentiality shall be supported by a statement or certification by an officer or authorized representative of the company that the information in question is in fact confidential commercial information and has not been disclosed to the public.

(d) *Opportunity to object to disclosure.* (1) Through the notice described in paragraph (b) of this section, the Commission shall afford a submitter a reasonable period of time in which to provide it with a detailed statement of any objection to disclosure. Such statement shall specify all grounds for withholding the requested information.

(2) When notice is given to a submitter under this section, the Commission also shall notify the requester that it has been provided.

(e) *Notice of intent to disclose.* The Commission shall consider carefully submitter's objections and specific grounds for nondisclosure prior to its determination whether or not to disclose the requested information. Whenever the Commission decides to disclose the information over a submitter's objection, it shall provide the submitter with written notice containing the following:

(1) A description or copy of the information to be disclosed;

(2) The reasons why the submitter's disclosure objections were not sustained; and

(3) A specific disclosure date, which shall be a reasonable number of days after the notice of intent to disclose has been mailed to the submitter.

At the same time that notice of intent to disclose is given to a submitter, the Commission shall notify the requester accordingly.

(f) *Notice of lawsuit.* (1) Whenever a FOIA requester brings legal action seeking to compel disclosure of confidential commercial information, the Commission shall promptly notify the submitter.

(2) Whenever a submitter brings legal action seeking to prevent disclosure of confidential commercial information, the Commission shall promptly notify the requester.

(g) *Exception to notice requirement.* The notice rquirements of this section shall not apply if:

(1) The Commission determines that the information requested should not be disclosed; or

(2) The information already has been published or otherwise officially made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) Disclosure is required by a Commission rule that:

(i) was adopted pursuant to notice and public comment;

(ii) specifies narrow classes or records submitted to the Commission that are to be released; and

(iii) provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm; or

(5) The information requested is not designated by the submitter as exempt from disclosure, when the submitter had an opportunity to do so at the time of submission or within a reasonable time thereafter, unless the Commission has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm; or

(6) The designation made by the submitter in accordance with these regulations appears obviously frivolous; in such case, the Commission must provide the submitter only with written notice of any administrative disclosure determination within a reasonable number of days prior to the specified disclosure date.

[FR Doc. 89–9696 Filed 4–21–89; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 71143–9044]

Foreign Fishing, Health and Safety Standards

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: This final rule establishes minimum health and safety standards aboard foreign fishing vessels to which U.S. observers are deployed. The Secretary of Commerce (Secretary) is required by the Magnuson Fishery Conservation and Management Act (Magnuson Act), to prescribe, by regulation, minimum health and safety standards that must be maintained aboard each foreign fishing vessel to which a U.S. observer is deployed. These health and safety standards apply to the facilities for the quartering of observers and the carrying out of observer functions.

EFFECTIVE DATE: July 24, 1989.

FOR FURTHER INFORMATION CONTACT: Special Agent Gary A. Wood, NOAA, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, 301–427–2300.

SUPPLEMENTARY INFORMATION: Section 201(i) of the Magnuson Act requires that a U.S. observer be stationed aboard each foreign fishing vessel (FFV) while it is engaged in fishing in the exclusive economic zone (EEZ). Section 201(i)(1)(B) requires that the Secretary establish, by regulation, minimum health and safety standards with respect to the facilities provided aboard the vessel for the quartering of observers and carrying out of observer functions.

In accordance with section 201(i)(1)(B), minimum health and safety standards were published as a proposed rule on July 25, 1988, at 53 FR 27867. Comments on the proposed rule were received through September 8, 1988. NOAA received two written comments and one oral comment on the proposed rule. The written comments of one party supported the adoption of the proposed rule as published. The written comments of a second party requested modification of three of the proposed standards and recommended alternative approaches to the proposed rule. The oral comment recommended clarification of the rule as it applied to emergency position indicating radio beacons (EPIRBs). A summary of the comments and recommendations, along with NOAA's responses, follows:

1. Comment: The proposed rule requires ring life buoys to be 30 inches in diameter and positioned at intervals of 25 feet along the length of the vessel. With respect to the size of the life buoy, the commentator referred to an international standard for such devices establishing an outer diameter of not more than 800 mm (approximately 31.2 inches), and an inner diameter of at least 400 mm (approximately 15.6

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inches). The commentator requested that NOAA amend the proposed rule to reflect this standard.

The commentator also noted that the requirement to position ring life buoys at 25-foot intervals required clarification since it was unclear if the interval applied to both sides of the vessel or to the length overall. In any case, the commentator opined that the standard required a greater number of ring life buoys than was necessary and that four buoys were adequate if two were positioned on the bridge and the other two were positioned at strategic places elsewhere on the vessel. The commentator further stated that the number of ring life buoys required by the proposed rule could actually increase risk by increasing the risk of entanglement during fishing or transfer operations.

Response: The proposed rule has been rewritten to accommodate the size variation of ring life buoys noted by the commentator. The final rule requires that ring life buoys have an outside diameter of not more than 32 inches nor less than 30 inches.

The wording with respect to the spacing of ring life buoys has been clarified to require one buoy per 25 feet of vessel length, placed so that they are readily accessible and not so as to pose a potential risk of entanglement.

NOAA does not believe the number of ring life buoys required by this rule is excessive. A similar number is required aboard NOAA vessels. The International Convention for Safety of Life at Sea (SOLAS) sets a standard of at least eight ring life buoys for cargo vessels and approximates the standard of one per 25 feet of vessel length for passenger-carrying vessels. Because observers frequently work on weather decks and often during marginal weather conditions, the standard of one ring life buoy per 25 feet of vessel length is not regarded as excessive.

2. Comment: The proposed rule requires that FFVs carry at least one EPIRB, stowed in a location so as to make it readily available in the event of an emergency. One commentator noted that vessels now operating under the SOLAS will not be required to carry EPIRBs until July 1, 1991. The commentator further stated that some FFVs are required by the laws of the flag state nation to have on board automatic transmitters for distress signals or radio equipment installed on each life boat. The commentator opined that the safety of the crew and observers was adequately protected by existing equipment and implied that the requirement to carry an EPIRB was unnecessary.

A second commentator, in an oral statement, suggested that the proposed rule be amended to require EPIRBs be of the sort approved by the U.S. Coast Guard for offshore commercial use.

Response: NOAA is aware that some FFVs may have on board emergency transmitting and/or radio equipment. However, such equipment generally does not have the same capability or range of transmission as an EPIRB. Unlike other types of emergency transmitters commonly encountered on FFVs, EPIRBs transmit a signal via satellite on a continuously monitored frequency, virtually insuring that any distress signal will be intercepted. Further, if a vessel sinks, EPIRBs, if properly installed, will break free of the vessel, float, and continue to transmit a signal that can be used to locate survivors. In NOAA's judgment, they offer a significant safety advantage over other types of emergency transmitting equipment. The proposed rule has been amended to require installation of EPIRBs approved by the U.S. Coast Guard for offshore commercial use.

3. Comment: The rule requires FFVs to have on board at least six hand-held, rocket-propelled, parachute, red-flare distress signals, and three orange-smoke distress signals stowed in the pilothouse or navigation bridge in portable, watertight containers. The commentator opined that the number of these signals was in excess of the number needed to insure safety and suggested that four red-flare parachute signals and two orange-smoke signals were adequate for trawl vessels and that two red-flare parachute signals and two orange-smoke signals were adequate for longline vessels.

Response: NOAA disagrees with the opinion of the commentator. The rule with respect to the number and kind of distress signals was based on existing regulations that apply to NOAA vessels and is supported by NOAA's experience in vessel operations. The rule has been finalized as proposed.

4. Comment: The commentator concluded by opining that it was not necessary for NOAA to propose more stringent standards than currently exist, and recommended that the proposed rule be revised "taking into account current international standards." As an alternative, the commentator, who represented Japan Fisheries Association, recommended "that Japanese fishing vessels be exempt from application of the proposed standards if the Japanese vessel has on board a current, valid certificate which certifies compliance in accordance with Japanese law." The commentator based this recommendation on the assertion that Japanese vessels have had an excellent safety record while operating in the EEZ, and that Japanese domestic law affecting health and safety features aboard fishing vessels is sufficient to adequately protect observer safety. The commentator requested that NOAA justify its more stringent standards and provide an opportunity for comment on that justification.

Response: Section 201(i) of the Magnuson Act requires the Secretary to "prescribe minimum health and safety standards that shall be maintained aboard each foreign fishing vessel with regard to the facilities provided for the quartering of, and the carrying out of observer functions by, United States observers." In developing the proposed regulations, NOAA considered existing international standards as well as the health and safety conditions that actually exist aboard FFVs fishing in the EEZ. Based on almost 12 years of experience in operating the U.S. foreign fishing vessel observer program under the provisions of the Magnuson Act, and its experience in operating research vessels, NOAA concluded that existing international standards applicable to fishing vessels were not sufficient to protect the health and safety of observers.

With respect to Japanese vessels, NOAA records indicate that, among other incidents potentially affecting the health and safety of observers, two Japanese fishing vessels collided in the EEZ on February 14, 1984. One of the vessels had on board U.S. observers. The collision resulted in the greatest loss of life recorded during a single incident involving FFVs fishing in the EEZ.

NOAA recognizes that other nations may have health and safety standards that are adequate to insure observers health and safety, although our experience indicates that this is not the case for all classes of FFVs, regardless of flag state, that might wish to fish in the United States EEZ. In any case, it is impractical for NOAA to review applicable foreign laws and determine adequacy with respect to section 201(i) of the Magnuson Act. Further, to be effective, NOAA would have to maintain a watch on foreign law to insure that any amendments would not adversely affect the health and safety of observers. NOAA does not have the resources for such an effort.

Finally, NOAA regards the health and safety standards as proposed as genuinely minimal in order to protect observers. The requirements of this rule do not place an economic burden on any vessel owner or operators, nor an operational burden on crews. NOAA believes that its experience and the law support its decision to publish standards that exceed, in some cases, existing international standards. NOAA has provided adequate opportunity for public comment on its health and safety standards. The law does not require, nor is it in the best interest of observer health and safety, to extend further comment on this rule.

Changes to the Proposed Rule

In addition to the changes discussed above, by addition of new §611.7(a)(25), the rule also makes it unlawful for any person engaged in fishing activity aboard an FFV while in the EEZ to fail to comply with the minimum health and safety standards.

Classification

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02-10.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E. O. 12291, because it will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices to consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because it applies only to the owners or operators of FFVs. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations.

Dated: April 18, 1989.

James W. Brennan,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 611 is amended as follows:

PART 611—[AMENDED]

1. The authority citation for Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. § 611.7 is amended by redesignating paragraphs (a) (25) through (27) as paragraphs (a) (26) through (28), and adding a new paragraph (a) (25), to read as follows:

§ 611.7 Prohibitions.

(a) * * *

(25) Fail to maintain health and safety standards set forth in § 611.8(d);

* * * * * *

3. Section 611.8 is amended by redesignating paragraphs (d) through (j) as paragraphs (e) through (k), and by adding a new paragraph (d) to read as follows:

§ 611.8 Observers.

* * * * * *

(d) *Health and safety standards.* All foreign fishing vessels to which an observer is deployed must maintain, at all times that the vessel is in the EEZ of the United States, the following:

(1) At least one working radar;

(2) Functioning navigation lights as required by international law;

(3) A watch on the bridge by appropriately trained and experienced personnel while the vessel is underway;

(4) Lifeboats and/or inflatable life rafts with a total carrying capacity equal to or greater than the number of people aboard the vessel. Lifeboats and inflatable life rafts must be maintained in good working order and be readily available;

(5) Life jackets equal or greater in number to the total number of persons aboard the vessel. Life jackets must be stowed in readily accessible and plainly marked positions throughout the vessel, and maintained in a state of good repair;

(6) At least one ring life buoy for each 25 feet of vessel length, equipped with automatic water lights. Ring life buoys must have an outside diameter of not more than 32 inches nor less than 30 inches, and must be mainteined in a state of good repair. Ring life buoys must be readily available but not positioned so they pose a threat of entanglement in work areas. They must be secured in such a way that they can be easily cast loose in the event of an emergency;

(7) At least one VHF-FM radio with a functioning channel 16 (156.8 MHz), International Distress, Safety and Calling Frequency, and one functioning AM radio (SSB-Single Side Band) capable of operating at 2182 KHz. Radios will be maintained in a radio room, chartroom or other suitable location;

(8) At least one Emergency Position indicating Radio Beacon (EPIRB), approved by the U.S. Coast Guard for off-shore commercial use, stowed in a location so as to make it readily available in the event of an emergency;

(9) At least six hand-held, rocket-propelled, parachute, red-flare distress signals, and three orange-smoke distress signals stowed in the pilothouse or navigation bridge in portable watertight containers;

(10) All lights, shapes, whistles, foghorns, fog bells and gongs required by and maintained in accordance with the International Regulations for Preventing Collisions at Sea; and

(11) Clean and sanitary conditions in all living spaces, food service and preparation areas and work spaces aboard the vessel.

* * * * * *

4. In § 611.8, newly redesignated paragraph (f) is amended by changing the reference "(h)" to read "(i)"; newly redesignated paragraph (h)(1) is amended by changing the reference "(g)(4)" to read "(h)(4)"; newly redesignated paragraph (h)(2)(ii) is amended by changing the reference "(i)(2)" to read "(j)(2)" and newly redesignated paragraph (k)(1)(i) is amended by changing the reference "(g)(2)" to read "(h)(2)".

[FR Doc. 89-9779 Filed 4-21-89; 8:45 am]

BILLING CODE 3510-22-M

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Proposed Rules

Federal Register
Vol. 54, No. 77
Monday, April 24, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 83-14]

RIN: 2125-AC10

Truck Size and Weight; National Network, South Carolina

AGENCY: Federal Highway Administration (FHWA, DOT).

ACTION: Termination of proposed rulemaking.

SUMMARY: The FHWA hereby terminates proposed rulemaking to delete a route from the National Network for trucks in Columbia, South Carolina.

EFFECTIVE DATE: This termination is effective on April 24, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Richard A. Torbik, Office of Planning, (202) 366-0233, Mr. Philip W. Blow, Office of Motor Carrier Information Management and Analysis, (202) 366-4036, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 366-1356, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FHWA published a notice of proposed rulemaking (NPRM) on May 25, 1988 (53 FR 18859) requesting comments on a proposal to delete US 76 between SC 277 and I-126 from the National Network for trucks in Columbia, South Carolina. The subject portion of US 76 (Elmwood Avenue) is a six-lane divided urban thoroughfare that terminates at a T-intersection with SC 277 (Bull Street). Prior reviews indicated that lane encroachment safety problems may be involved in the left-turn-only lanes from US 76 to SC 277.

Comments

Two commenters responded to the docket, the South Carolina Department of Highways and Public Transportation and the South Carolina Trucking Association, Inc. Both opposed the proposed deletion, citing acceptable standards for larger tucks and the need for connectivity and access to terminals in the Columbia area. At the request of the FHWA for reanalysis, the State pointed out that all intersections have very low accident rates, there is at least one 12-foot wide through lane in each direction, and opening of the Southeast Beltway extension of I-77 will reduce use of the US 76/SC 277 intersection.

Termination

In view of the acceptable operation and desirable continuity afforded by the network segment, the FHWA hereby terminates the rulemaking action in Docket 83-14 to delete the segment in South Carolina.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant rulemaking action under the regulatory policies and procedures of the Department of Transportation. Due to the nature of this termination action, a regulatory evaluation is not required since no economic impact is expected. Under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the notice of termination does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor Carrier—size and weight.

Issued on April 13, 1989.

R.D. Morgan,
Executive Director.

[FR Doc. 89-9701 Filed 4-21-89; 8:45 am]

BILLING CODE 4910-22-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3554-9]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing rulemaking on revisions to the Illinois State Implementation Plan (SIP) for Ozone and Carbon Monoxide (CO). The revisions pertain to the proposed approval of (1) the State's CO plan and (2) the State's vehicle inspection and maintenance (I/M) program and transportation control measures, which are part of both the State's Ozone and CO Plans. USEPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act).

DATE: Comments on this revision and on the proposed USEPA action must be received by May 24, 1989.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Randolph O. Cano, at (312) 886-6036, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to:

Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6036.

SUPPLEMENTARY INFORMATION: Under section 107 of the Act, USEPA has designated certain areas in each State as not attaining the National Ambient Air Quality Standards (NAAQS) for particulate matter (total suspended particulates—TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone, and nitrogen dioxide (NO_2). For Illinois, see 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). For these areas, Part D of the Act requires that the State revise its SIP to provide for attaining the primary NAAQS by December 31, 1982, (in certain cases, by December 31, 1987, for ozone and/or CO). These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable.

The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Under Part D, the States had to revise their SIPs for all nonattainment areas and submit the revisions to USEPA by January 1, 1979 (Sections 171-178 of the Act; section 129(c) (uncodified) of Pub. L. 95-95). The revised plan had to provide for attainment in nonattainment areas by December 31, 1982, unless the State demonstrated that it could not attain either the ozone or CO standard by that date, despite the implementation of all reasonably available control technology (RACT) (Sections 172(a)(1), 172(a) of the Act).

If USEPA approved this demonstration, the attainment date for ozone or CO could be extended up to December 31, 1987, and the State could defer certain of the Part D planning requirements but would have to meet additional, more stringent planning requirements at a later date. States receiving such extensions were to submit a second SIP revision that provided for attainment by December 31, 1987, and complied with all of the Part D requirements (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95-95). On January 22, 1981 (46 FR 7182), USEPA published final criteria for reviewing these revisions. These criteria supplemented the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1] Other requirements for plan preparation and USEPA policy guidance were contained in a technical support memorandum dated November 15, 1982. These documents are available for review at the Region V office, listed above.

In April 1979, the State of Illinois submitted an initial SIP revision for CO and ozone in the Illinois portion of the Chicago metropolitan area, and for ozone in the Illinois portion of the St. Louis metropolitan area. In its submittal, the State requested that USEPA extend the attainment date for meeting the Ozone and CO standards in these areas until December 31, 1987. USEPA approved this request and the initial SIP on February 21, 1980 (45 FR 11572).

On February 3, 1983 (48 FR 5110), USEPA proposed disapproval of and solicited public comment on the 1982 Illinois SIP revision for CO and Ozone which had been submitted by IEPA in draft form on June 30, 1982. On December 3, 1982, the State submitted responses to comments included in USEPA's November 15, 1982, Technical Support Document. On May 4, 1983, November 4, 1983, and January 20, 1984, the State submitted substantial revisions to the draft SIP.

On August 15, 1984 (49 FR 32601), USEPA again proposed rulemaking on the Illinois Ozone and CO SIP taking into account the submittals sent by the State designed to address the deficiencies identified in the February 3, 1983 (48 FR 5110), proposed disapproval of the State's plan. In the August 15, 1984, rulemaking, USEPA proposed to approve the State's Ozone and CO plans, except for vehicle inspection and maintenance (I/M). Today's proposed rulemaking concerns; (1) the transportation control measures, the Federal Motor Vehicle Control Program (FMVCP) and the I/M program, which are part of both the ozone and CO plans; and (2) the CO attainment demonstrations for downtown Chicago and the freeway corridors. Remaining portions of the ozone SIP are the subject of separate **Federal Register** notices, including one published October 17, 1988 (53 FR 40415), which disapproved the Chicago portion of the ozone SIP. It should also be noted that on May 26, 1988, USEPA notified the Governor of Illinois that the ozone plan was substantially inadequate to attain and maintain the standard in the Chicago area and called for a revision of the plan.

On August 15, 1984 (49 FR 32601), USEPA proposed to approve the State's attainment demonstrations for CO, including the FMVCP and the transportation control measures in the Chicago area. USEPA has not revised its analysis of these plan elements since the proposed rulemaking at that time.

To avoid confusion over changes in other portions of the plan since the August 15, 1984, proposed approval, USEPA will again present its analysis of the plan elements and again propose rulemaking on each.

Attaintment Demonstration for Carbon Monoxide (CO) in the Chicago Area

The Illinois CO SIP includes separate attainment demonstrations for downtown Chicago and for other nonattaintment areas in and near Chicago (i.e., the freeway corridors). Illinois has submitted two basic attainment demonstrations for downtown Chicago. The first demonstration was submitted June 30, 1982, and the second demonstration was submitted May 4, 1983. (Illinois also submitted responses to comments on the first demonstration on December 3, 1982.) In its May 4, 1983, submittal, Illinois states that this analysis reflects IEPA's current best estimate of the anticipated emission reductions from implementation of the FMVCP.

The May 4 analysis for CO in downtown Chicago relies on the rollback model. This analysis assumed that the violations monitored downtown were predominantly the result of motor vehicle emissions. Stationary source emissions were considered by means of a 0.2 parts per million (ppm) constant background concentration. The rollback analysis relied on emission factors derived for the MOBILE 2.5 emission factor model. Illinois also used 1982 air quality data in its analysis in the belief that the use of these data provide a more stringent test of whether attainment will be achieved by 1987, than do the 1979 to 1981 air quality data.

The rollback approach assumes that the nonbackground component of an observed concentration will decrease by the same percentage as emissions. Illinois provided rollback calculations based on a variety of vehicle operating conditions that might be applicable in the downtown area, as well as for two different ambient temperatures. In all cases, attainment was shown to occur by the end of 1987. USEPA made additional calculations based on slightly different assumptions of vehicle operating conditions. These calculations

[1] USEPA published four additional notices supplementing the general preamble on July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761) and November 23, 1979 (44 FR 67185).

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support Illinois' conclusion that attainment will be achieved by the end of 1987. Rollback calculations for 1979, 1980, and 1981 support Illinois' attement that 1982 air quality data are the most stringent data.

A final issue concerning the downtown attainment demonstration relates to I/M. Illinois' attainment demonstration for CO in downtown Chicago does not reflect the impact of an I/M program. However, consideration of an I/M program would lead to the projection of an earlier attainment date. Thus, Illinois' attainment demonstration may be considered adequate evidence that the CO standard will be achieved in downtown Chicago by the end of 1987. USEPA, therefore, proposes approval of this portion of the Illinois SIP.

The CO attainment demonstration for the freeway corridors was submitted by Illinois on June 30, 1982. This attainment demonstration was based on hot-spot modeling using the CALINE 3 model. On August 23, 1982, USEPA sent comments to Illinois on its June 30, 1982, submittal. The original February 3, 1983, proposed disapproval did not specifically address the approvability of the attainment demonstration for the freeway corridors.

Based on USEPA comments transmitted on August 23, 1982, the State submitted a corrected analysis on January 20, 1984. This analysis shows that attainment did not occur by 1982 at a few locations in the freeway corridors in the Chicago area. However, these locations were predicted to have 1982 concentrations only slightly above the standard, and it was predicted likely that based on reductions obtained from the FMVCP attainment would occur well before 1987 at all locations in the Chicago area freeway corridors. USEPA, therefore, proposes to approve this portion of the Illinois SIP.

Transportation Control Measures

The Transportation Control Plan (TCP) for Northeastern Illinois describes eight TCMs to be implemented to obtain the hydrocarbon (HC) and CO reduction goal. The TCP will implement the following Transportation Control Measures (TCMs): public transportion; ridesharing; traffic flow improvements; bicycle promotion; long-range transit; park and ride lots; alternative work schedules; and exclusive bus/car pool lanes.

The TCP for East St. Louis describes six TCMs to be implemented to provide the HC emission reduction target. The TCP will implement the following TCM package: traffic flow improvements; electric vehicles use; increase in ridesharing; increase in van pooling; 30 percent increase in transit ridership; and park and ride lots.

USEPA finds these TCMs adequate, and USEPA proposes approval of these TCMs.

Vehicle Inspection and Maintenance (I/M)

I. Introduction

The Act, as amended in 1977, requires the States that receive an attainment date extensions to submit revised Ozone/CO SIPs that include commitments to implement I/M program on an expeditious schedule, with implementation complete no later than December 31, 1982. The 1982 Ozone/CO SIP approval policy published on January 22, 1981 (46 FR 7182), discusses the 1982 Ozone/CO SIP approval requirements. Illinois requested and received the 5-year extension of the ozone/CO deadline. On August 3, 1983, USEPA proposed to disapprove the Ozone/CO portion of the SIP (48 FR 35315), because Illinois lacked an I/M program. In accordance with the Act, the USEPA initiated sanction proceedings against the State. On May 4, 1984, USEPA proposed Federal highway and air quality funding restrictions, and a construction moratorium, because the State failed to submit, or to make reasonable efforts to submit, a SIP which considers each element in Section 172 of the Act (See 49 FR 19039), including an I/M program.

Subsequently, State legislation was signed into law in September of 1984, creating the legal authority and funding mechanism for an I/M program to operate in Cook, and parts of Lake, DuPage, Madison, and St. Clair Counties. This legislation is entitled the "Vehicle Emission Inspection Law". It amended the Illinois Vehicle Code by the addition of "Chapter 13A, Emission Inspection". This piece of legislation established:

1. The geographic area subject to vehicle emissions inspection,
2. The general provisions of an inspection program,
3. The conditions for exemption from inspection program,
4. The program's financing mechanisms,
5. The program's enforcement mechanisms,
6. The responsibilities of the affected State government agencies for each aspect of the program,
7. The conditions for entry into contracts by the State, and
8. Deadlines for implementation for an I/M program in Illinois.

II. General Description of the Illinois I/M Program

The State of Illinois contracted with Systems Control, Inc., to develop and operate a centralized network of testing facilities, consisting of 15 facilities, with a total of 78 lanes in Cook County and portions of Lake and DuPage Counties (Chicago area) and 3 facilities with 6 lanes in Madision and St. Clair Counties (the St. Louis area). Vehicles are tested for hydrocarbon (HC), carbon monoxide (CO), and carbon dioxide (CO_2) emissions. Illinois' plan states that the 2500 RPM/Idle and Engine Restart 2500 RPM/Idle tests are to be used, depending on the model and year of the vehicle. In both tests, a probe is inserted into the vehicle tailpipe; and the exhaust is analyzed for emission at 2500 RPM and at idle. If the vehicle passes the test, an annual sticker is issued that indicates compliance with the law. If the vehicle fails to pass the test, the vehicle owner is required to make the necessary repairs and submit the vehicle for a retest. If the vehicle is unable to pass a retest, a waiver is available under certain conditions.

Enforcement of the program is accomplished through a vehicle inspection sticker system. Penalties for failure to secure a sticker include drivers' license and vehicle registration suspensions.

III. Evaluation of I/M Program Elements

USEPA's Evaluation of the State's I/M program is summarized below. USEPA's detailed evaluation of the State's program is contained in technical support documents dated June 6, 1986, February 18, 1987, and October 20, 1987. These documents are available from the Region V Office listed above.

USEPA policy, as stated in the January 22, 1981, Federal Register (46 FR 7182), requires the inclusion of any rules and regulations, and any other I/M elements that could affect the ability of the I/M program to achieve the minimum emission reduction requirements, in any revisions for areas with an attainment date extension.

The 1982 Ozone/CO SIP submittal must include the following:

1. Inspection test procedures,
2. Emission standards,
3. Inspection station licensing requirements,
4. Emission analyzer specification and maintenance calibration requirements,
5. Record keeping and record submittal requirements,
6. Quality control audit and surveillance procedures,
7. Procedures to ensure that non-complying vehicles are not operated on the public roads,
8. Any other official program rules, regulations, and procedures,
9. A public awareness plan, and
10. A mechanic training program if additional emission credits are being claimed for mechanic training.

Each of these SIP requirements are addressed in the Technical Support document for this rulemaking which is available from the Region V Office.

The following support documents of the SIP address these requirements:

1. The Illinois Vehicle Emission Inspection Law;
2. The set of regulations amending 35 Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution Control Chapter I: Pollution Control Board, Part 240 (henceforth referred to as the IPCB Rules);
3. The same set of regulations detailed immediately above, Chapter II: Environmental Protection Agency, Part 276 (referred to as IEPA Rules);
4. The IEPA/SOS Joint Memorandum-Technical Procedures for Enforcement (Draft, December 1985) (referred to as the Enforcement Memorandum);
5. The Memorandum of Understanding between the Illinois Secretary of State and the Illinois Environmental Protection Agency Concerning the Operation of a Vehicle Emission Inspection Program as Required by Public Act 83-1477 (referred to as the Memorandum of Understanding);
6. "Strategies Plan for the Air Team Public Information Effort", Office of Public Information, IEPA; and
7. Summary of I/M RACT Calculations for the Illinois Vehicle Inspection and Maintenance Program, IEPA Division of Air Pollution Control, August 1985 (referred to as I/M RACT Summary).

USEPA has carefully reviewed the State's submittal and determined that it satisfies USEPA's requirements for approval. USEPA, therefore, proposes to approve the State's I/M program as part of the Ozone and CO SIPs.

However, during the first year of the program not all subject vehicles received a test notification from the State and the seven month enforcement cycle, as specified by State procedures, was not met. While USEPA acknowledges that over the past few months significant enforcement activity has occurred, the State still has not met the seven month enforcement cycle. While timeliness improved during the second year, the State still has not met this crucial design parameter. As a result, many subject vehicles are in non-compliance with program requirements.

While USEPA is proposing to approve the enforcement portion of the I/M program, prior to USEPA making a final decision on approving the enforcement portion, the State must demonstrate that it has improved the timeliness to be within the design parameter and that all subject vehicles receive an annual test during the actual annual cycle.

If the State is not able to make this demonstration, then the enforcement program will not meet USEPA requirements for routine and expeditious enforcement or for preventing noncomplying vehicles from operating on the road and USEPA, therefore, will have to reconsider its position on the approvability of the enforcement portion of the I/M program.

At this time, USEPA also proposes to approve the Transportation Control Measures as part of the Ozone and CO SIPs. The State's CO attainment demonstration and the CO plan as a whole are also being proposed for approval.

Solicitation of Public Comment

Public comment is solicited on these proposed SIP revisions and on USEPA's proposed rulemaking action approving their incorporation into the Ozone and CO SIPs. Public comments received by the date indicated above will be considered in the development of USEPA's final rulemaking action.

USEPA has published several proposed rulemaking actions on the Illinois Ozone and CO SIPs, including February 3, 1983 (48 FR 5110), August 3, 1983 (48 FR 35315), May 4, 1984 (49 FR 19039), August 15, 1984 (49 FR 32601) and July 14, 1987 (52 FR 26424). These plans have been revised substantially since each rulemaking was published. As a result, USEPA believes that public comments submitted in response to these earlier proposed rulemaking actions are outdated. Consequently, USEPA does not intend to address public comments received in response to earlier proposed rulemaking actions in the development of its final rule.

Commentors who believe that all or a portion of the comments they submitted in response to earlier proposed rulemaking actions remain germaine to this action and should be answered, should resubmit their comments. The relevance of any resubmitted comment to this proposed rulemaking should be explained. USEPA will then reconsider any earlier comment in relation to the State's current Plan.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of the Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401-7642.

Frank M. Covington,
Acting Regional Administrator.

[FR Doc. 89-9770 Filed 4-21-89; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 60

[AD-FRL-3559-1]

Standards of Performance for New Stationary Sources; Amendment to Method 7A for the Determination of Nitrogen Oxide Emissions from Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule and Notice of Public Hearing.

SUMMARY: The purpose of this proposed rule is to amend Method 7A of Appendix A by increasing the acid strength of the sample absorbing reagent. The currently-used reagent was implicated as the source of inaccuracy and imprecision that has been experienced with test results. This deficiency was confirmed through an Agency investigation. An advanced notice of proposed rulemaking was published on June 2, 1988 (53 FR 20139), to alert testers of this problem and recommended that the method not be used until further notice was given. A subsequent evaluation of the method has shown that the deficiency is corrected when the acid strength of the absorbing reagent is increased to correspond to that of Method 7. This change results in improved accuracy and precision for the method. The intended effect of this notice is to reinstate the method's use with the modified absorbing reagent.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed rule.

DATE: *Comments.* Comments must be received on or before July 10, 1989.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by May 15, 1989, a public

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hearing will be held on June 8, 1989, beginning at 10:00 a.m. Persons interested in attending the hearing should call the contact mentioned under ADDRESSES to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by May 15, 1989.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE–131), Attention: Docket Number A–88–21, U.S. Environmental Protection Agency, South Conference Center, Room 4, 401 M Street SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Emission Measurement Laboratory, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Foston Curtis, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Caroline 27711, telephone (919) 541–1063.

Docket. Docket No. A–88–21, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 3:30 p.m., Monday through Friday, at EPA's Central Docket Section, South Conference Center, Room 4, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Roger T. Shigehara, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–1063.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard or make it more stringent. Rather, the rulemaking amends a test method to which the affected facilities are already subject.

II. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed revisions in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA, before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are to:

(1) Allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and

(2) serve as the record in case of judicial review (except for interagency review materials) [section 307(d)(7)(A)].

C. Office of Management and Budget Review

Executive Order 12291 Review. Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This rulemaking would not result in any of the adverse economic effects set forth in section 1 of the Order as grounds for finding a "major rule." It will not have an annual effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

D. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this attached rule, if promulgated, will not have any economic impact on small entities because no additional costs will be incurred.

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, and Fossil-fuel fired steam generators.

Date: April 13, 1989.

Don R. Clay,

Acting Assistant Administrator for Air Radiation.

It is proposed that Method 7A, Appendix A of 40 CFR Part 60 be amended as follows:

PART 60—[AMENDED]

1. The authority for 40 CFR Part 60 continues to read as follows:

Authority: Sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

Appendix A—[Amended]

2. By revising § 3.1 of Method 7A to read as follows:

Method 7A—Determination of Nitrogen Oxide Emissions From Stationary Sources—Ion Chromatographic Method

* * * * *

3. * * *

3.1 Sampling

An absorbing solution consisting of sulfuric acid (H_2SO_4) and hydrogen peroxide (H_2O_2) is required for sampling. To prepare the absorbing solution, cautiously add 2.8 ml concentrated H_2SO_4 to a 1-liter flask containing water (same as § 3.2). Add 6 ml of 3 percent H_2O_2 that has been freshly prepared from 30 percent solution. Dilute to volume with water, and mix well. This absorbing solution should be used within 1 week of its preparation. Do not expose to extreme heat or direct sunlight.

* * * * *

[FR Doc. 89–9769 Filed 4–21–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 372

[OPTS–400029; FRL–3560.5]

Aluminum Oxide; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is partially granting a petition by proposing to delete nonfibrous of aluminum oxide from the list of toxic chemicals under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). The proposal to delete nonfibrous forms of aluminum oxide is based on EPA's conclusion that there is no evidence that nonfibrous forms of aluminum oxide cause adverse human health or environmental effects as specified under section 313(d). The decision to retain fibrous forms of aluminum oxide on the list is based on EPA's conclusion that evidence exists to support the finding that exposure to fibrous forms of aluminum oxide via inhalation may lead to the development of cancer in humans. EPA proposes to amend 40 CFR Part 372. EPA also requests comments on whether a new category of "respirable fibers" should be added to the section 313 list.

DATES: Written comments must be submitted on or before June 23, 1989.

ADDRESSES: Written comments should be submitted in triplicate to:

OTS Docket Clerk,
TSCA Public Docket Office (TS–793),
Environmental Protection Agency,
Rm. NE–G004,
401 M St., SW.,
Washington, DC 20460,
Attention: Docket Control Number OPTS–400029.

FOR FURTHER INFORMATION CONTACT: Robert Israel, Acting Petition Coordinator,
Emergency Planning and Community Right-to-Know Hotline,
Environmental Protection Agency,
Mail Stop OS–120,
401 M St., SW.,
Washington, DC 20460,
Toll free: 800–535–0202,
In Washington, DC, and Alaska: 202–479–2449.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

The proposed deletion is issued under sections 313(d) and (e)(1) of Title III of SARA (Pub. L. 99–499). Title II of SARA is also referred to as the Emergency Planning and Community Right-To-Know Act of 1986.

B. Background

Section 313 of SARA Title III requires certain facilities using toxic chemicals to report annual thir environmental releases of such chemicals. Section 313 establishes an initial list of toxic chemicals that is composed or more than 300 chemicals and chemical categories. Any person may petition EPA to add chemicals to or delete chemicals from the list.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. EPA must respond to petitions within 180 days either by initiating a rulemaking or by publishing an explanation of why the petiton is denied.

II. Description of Petition

On September 30, 1988, EPA received a petition form the Aluminum Association to delete aluminum oxide (Al_2O_3) from the list of toxic chemicals. All forms of aluminum oxide (fibrous and nonfibrous) are currently listed under section 313. On February 9, 1989, a two-week extension of the review period was granted to allow EPA to address additional concerns. The satutory deadline for EPA's response is April 12, 1989.

II. EPA's Review of Aluminum Oxide

A Toxicity Evaluation

The health and environmental review of Al_2O_3 include the assessment of metabolism and absorption, acute toxicity, chronic toxicity, carcinogenicity, mutagenicity, developmental effects, neurotoxic effects, reproductive system toxicity, and environmental toxicity. All readily available data, including those provided in the petition, studies retrieved from literature searches, and documents prepared by EPA, were considered in the health and environmental assessment. Studies in which alunimum power was the test chemical were also evaluated because aluminum powder is rapidly oxidized to Al_2O_3.

1. *Acute toxicity.* Based on available data and physicochemical properties, Al_2O_3 is not expected to be toxic upon acute or short-term exposure.

2. *Chronic toxicity.* The combined weight of evidence from human and animal studies indicates that Al_2O_3 has weak fibrogenic potential. When humans and animals were exposed by inhalation to Al_2O_3 or to A1 powder, severe or irreversible pulmonary disease was not observed.

Although some pulmonary fibrosis has been observed in studies of workers exposed to aluminum dust and Al_2O_3 powder in occupational settings, the effect has been attributed to extremely high exposures and to other components mixed with Al_2O_3, such as silica.

3. *Carcinogenicity (nonfibrous Al_2O_3).* Nonfibrous forms of Al_2O_3 cannot reasonably be anticipated to cause cancer in humans. This finding is based on the lack of a tumorogenic response in three assays of nonfibrous Al_2O_3 in rats and hamsters by three routes of administration (intratracheal, intramuscular, and intrapleural). There is no evidence in humans that nonfibrous Al_2O_3 is involved in tumor development as a result of usual environmental routes of exposure.

4. *Carcinogenicity (fibrous Al_2O_3).* In light of a positive intrapleural implantation study with respirable Al_2O_3 fibers in rats, EPA has identified a cancer concern for humans exposed to respirable Al_2O_3 fibers (i.e., fibers with a diameter up to 3.5 um and lengths up to about 200 um).

In 72 experiments, researchers implanted mineral particles of respirable size and of wide chemical and structural varieties into the pleurae of female Osborne-Mendel rats. Eight samples of Al_2O_3 were included, seven of which were fibrous. A 40 mg dose of particles dispersed in gelatin was applied by open thoracotomy to the left pleural surface.

In each experiment, 30 to 50 rats were treated and followed for two years. All rats were necropsied and all lesions examined histologically. Three of the seven fibrous Al_2O_3 samples produced a statistically significant (30% or greater) incidence of pleural sarcomas.

Because inhalation studies in rodents may not be adequately sensitive for evaluating the carcinogenic potential of fibrous materials in humans, intrapleural, intratracheal and intraperitoneal routes of administration are frequently used. While these methods may not necessarily be predictive of cancer hazard via inhalation, they are of value in determining the intrinsic carcinogenic activity of test fibers close to or in contact with the target tissues.

EPA was not able to identify an adequate inhalation bioassay performed with respirable Al_2O_3 fibers to either support or call into question the findings of the intrapleural study discussed above.

A Materials Safety Data Sheet (MSDS) submitted by a manufacturer of Saffil Al_2O_3 fibers appears to contradict EPA's finding of a cancer concern. According to the MSDS, lifetime rat inhalation studies of Saffil fibers at the maximum concentration achievable showed no evidence of lung cancer, lung fibrosis, or any other adverse effect, apart from a minimal pulmonary response typical of that of a nuisance particulate. However, EPA reviewed an inhalation study believed to be among those used as the basis for the MSDS's summary statements and found that the lack of a positive response was probably because the tested fibers were relatively thick and contained a low level of respirable fractions and because the exposure concentrations of the fibers were low.

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The MSDS also reports that studies in which Saffil fiber was administered by the intraperitoneal, intratracheal, or intrapleural route, together with two in vitro tests, did not show positive results, while chrysotile asbestos and crystalline silica used as positive controls did. EPA reviewed two intraperitoneal studies presumed to be among those used for the MSDS and found them inadequate for carcinogenicity assessment of the fibers because of the short study durations (observation periods of 6 months to 1 year).

5. *Neurotoxicity.* Although aluminum has been implicated in Alzheimer's disease as well as amyotrophic lateral sclerosis (ALS) and ALS-parkinsonism dementia, EPA found no clear evidence that it has a role in the observed pathological changes, signs, and symptoms of any of these diseases. Aluminum has not been found to be a risk factor for Alzheimer's disease in several case-control studies.

This effect is addressed here because Al presented to biological systems as Al_2O_3 may react with stomach acid and lead to Al ion formation.

6. *Developmental toxicity.* Available information is not sufficient for determining whether Al_2O_3 is a developmental toxicant.

7. *Mutagenicity and reproductive system toxicity.* There is no information available for evaluating Al_2O_3's potential to cause heritable genetic mutations in humans or harmful reproductive system effects.

8. *Ecotoxicity.* Because of its low water solubility, Al_2O_3 is not expected to cause any significant toxicity toward aquatic species at normal pH values (6–9), where Al_2O_3 can be expected to precipitate and mix with sediments.

Under more acidic conditions (pH less than 5), the solubility of Al_2O_3 increases, and Al_2O_3 found naturally in soils or deposited from industrial emissions may be mobilized as polymeric complexes. In susceptible aquatic systems, these complexes may cause toxicity to aquatic life. However, it is difficult to distinguish between the effects of the aluminum compounds and those due to low pH.

Al_2O_3 is not expected to bioaccumulate significantly.

B. Production, Release, and Exposure

1. *Production and use.* In 1987, domestic production of Al_2O_3 was 9.13 billion pounds. Approximately 8 billion pounds of Al_2O_3 was imported in 1987, while exports were negligible.

Most Al_2O_3 produced (94 percent) is used in the manufacturing of aluminum metal. The remaining Al_2O_3 is used to manufacture specialty aluminas such as aluminum hydroxides, activated aluminas and calcined alumina, which can be processed into fiber form.

There are three domestic producers of Al_2O_3: the Aluminum Company of America (Alcoa), Kaiser Aluminum and Chemical Corporation, and Reynolds Metals Company.

There are currently two known manufacturers (3M Inc. and DuPont) and one known importer (ICI Americas Inc.) of fibrous Al_2O_3. Production and import volumes for fibrous Al_2O_3 products are unknown or claimed confidential by the producers, but the combined total is expected to be less than .5 percent of all Al_2O_3 production. No reports were found in the Toxic Release Inventory database for releases of fibrous aluminum oxide from the facilities of these known manufacturers and importer.

2. *Exposure and release.* To date, 1,197 release reports have been received for Al_2O_3 under section 313. EPA examined aproximately twenty of these reports for release information. While the reports do not distinguish between nonfibrous and fibrous forms of Al_2O_3, EPA believes, based on knowledge of the facilities involved, that all of the examined reports were for releases of nonfibrous Al_2O_3.

Among the reports examined, fugitive air emissions of Al_2O_3 per facility ranged from 33,000 to 8.4 million pounds per year. Stack air emissions per facility ranged from 390,000 to 1.7 million pounds per year.

Releases to landfill were reported as high as 350 million pounds per facility per year. While this release appears high, Al_2O_3 is not expected to leach into drinking water supplies due to its low water solubility.

The largest release to water identified was 32 million pounds per year. Due to the low water solubility, the density, and the particle size of Al_2O_3, releases to water are anticipated to result in precipitation to sediments.

Currently, little data are available to assess the release and exposure scenarios of fibrous Al_2O_3. EPA was not able to identify any release reports for fibrous Al_2O_3. Retaining fibrous forms of Al_2O_3 on the section 313 list will allow collection and evaluation of this needed release and exposure information.

C. Summary of the Technical Review

EPA's health and environmental review of nonfibrous Al_2O_3 yielded no evidence of significant adverse human health or environmental effects.

Evidence exists to support the finding that exposures to the fibrous form of Al_2O_3 may lead to the development of cancer in humans. This effect appears to be attributable more to the fibrous nature of the material than to the chemical properties of Al_2O_3, since there is no evidence that nonfibrous Al_2O_3 causes cancer.

Currently, little data are available to assess the release and exposure scenarious of fibrous Al_2O_3. While production and importation volumes are expected to be less than .5 percent of all Al_2O_3 production, actual figures are unknown or have been claimed confidential. It is not known if release reports have been received or fibrous Al_2O_3, since the reports do not distinguish between fibrous and nonfibrous forms. Focusing reporting on fibrous forms of Al_2O_3 will clarify annual release and exposure numbers for fibrous Al_2O_3.

IV. Explanation for Proposed Action to Delete

EPA is partially granting the petition submitted by the Aluminum Association by proposing to delete nonfibrous Al_2O_3 from the section 313 list of toxic chemicals.

The decision to delete nonfibrous Al_2O_3 from the list is based upon EPA's toxicity evaluation. EPA believes that there is no evidence that nonfibrous Al_2O_3 is known to cause or can reasonably be expected to cause health or environmental effects as described in section 313(d)(2).

The decision to retain fibrous forms of Al_2O_3 on the list is also based upon EPA's toxicity evaluation. EPA believes that there is evidence that inhalation exposures to fibrous forms of Al_2O_3 can reasonably be anticipated to cause cancer in humans.

V. Rulemaking Record

The record supporting this proposed rule is contained in docket control number OPTS–400029. All documents, including an index of the docket, are available to the public in the TSCA Public Docket Office from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

VI. Request for Public Comment

The Agency requests comments on all the analyses conducted for this review and on the Agency's proposal to delete nonfibrous Al_2O_3 from the list of toxic chemicals. EPA also requests that any pertinent data of Al_2O_3 be submitted to the address at the front of this document.

Scientific evidence suggests that carcinogenicity concerns may exist for a variety of fibrous materials in addition to fibrous Al_2O_3. EPA intends to explore the need for adding to the section 313 list a category of "respirable fibers" to include fibrous Al_2O_3 and other fibers of concern. This will build upon ongoing EPA work in respirable fibers and fine particulates, including that being conducted through EPA's Offices of Toxic Substances, Research and Development, and Air and Radiation.

EPA therefore requests public comment on the need for and feasibility of adding to the list a "respirable fibers" category. Public comment should address: definition of the category; criteria for inclusion of materials therein; considerations such as durability, respirability, and dimensions of fibers; feasibility of measuring or estimating respirable fractions of emissions of fibrous materials; or any other consideration relevant to the establishment of such a category.

All comments related to the deletion of nonfibrous Al_2O_3 must be submitted on or before June 23, 1989. All comments related to the addition of a new category of "respirable fibers" to the section 313 list must be submitted on or before August 22, 1989.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major rule" because it will not have an effect on the economy of $100 billion or more.

This proposed rule would decrease the impact of the section 313 reporting requirements on coverd facilities and would result in cost-savings to industry, EPA, and States. Therefore, this is a minor rule under Executive Order 12291.

This proposed rule was submitted to the Office of Management and Budget (OMB) under Executive Order 12291.

The total number of reports expected for all forms of Al_2O_3 is 1,171. Based on this estimate, the cost savings of delisting for industry of delisting all forms of Al_2O_3 over a 10-year period is estimated to be up to $12,230,000, while the savings for EPA are estimated to be up to $231,000 (10-year present values using a 10 percent discount rate).

At this time, not enough is known about Al_2O_3 fibers to estimate the costs of reporting their releases separately. However, given that fibrous Al_2O_3 is expected to represent less than .5 percent of all Al_2O_3 production, the cost savings for delisting only nonfibrous Al_2O_3 should not be significantly less than the cost savings for delisting all forms of Al_2O_3.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, the Agency must conduct a small business analysis to determine whether a substantial number of small entities will be significantly affected. Because the proposed rule results in cost savings to facilities, the Agency certifies that small entities will not be significantly affected by the rule.

C. Paperwork Reduction Act

This proposed rule does not have any information collection requirements under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 372

Community right-to-know, Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: April 12, 1989.

Victor J. Kimm,

Acting Assistant Administrator, Office of Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 372 be amended as follows:

PART 372—[AMENDED]

1. The authority citation for Part 372 would continue to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

§ 372.65 [Amended]

2. Section 372.65(a) and (b) are amended by changing the entry for aluminum oxide to read "Aluminum oxide (fibrous forms)" under paragraph (a) and for the CAS number entry 1344–28–1 under paragraph (b).

[FR Doc. 89–9766 Filed 4–21–89; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Finding on Petition to List Agave murpheyi

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: The U.S. Fish and Wildlife Service announces a 90-day petition finding for the petition to amend the Lists of Endangered and Threatened Wildlife and Plants. Substantial information has been presented that a petition to list the plant *Agave murpheyi* may be warranted.

DATES: The finding announced in this notice was made in December 1988. Comments and information may be submitted until further notice.

ADDRESSES: Information, comments, or questions regarding the petition may be submitted to the Phoenix Field Office, U.S. Fish and Wildlife Service, 3616 West Thomas, Suite 6, Phoenix, Arizona 85019 (Telephone 602/261–4720, FTS 261–4720).

The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Ms. Sue Rutman at the Phoenix Field Office list above (Telephone 602/261–4720, FTS 261–4720).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If the finding is positive, the Service is also required to promptly commence a review of the status of the involved species.

The Service has received and made a 90-day finding on the following petition from Dr. Gary Nabhan, Wendy Hodgson, and Rick Delamater of Desert Botanical Garden, Phoenix, Arizona. It was dated August 30, 1988, and was received by the Service on September 9, 1988. It requested the Service to list the plant *Agave murpheyi* as an endangered species.

Information provided by the petitioners stated this agave has been found in 34 localities from central Arizona south to northern Sonora, Mexico, most of which are associated with prehistoric agricultural systems. They provided information suggesting that indigenous people valued the species for food and fiber. They cited present threats from urban development, inundation by reservoirs, and grazing.

The petition has been examined by the Service's Regional Office in Albuquerque, New Mexico. The

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recommendation is that the petition has presented substantial information to indicate that listing may be warranted. However, before a final decision is made to consider listing *Agave murpheyi*, the Service will seek additional information and a peer review of all available data by plant experts throughout the U.S. and Mexico.

On the basis of the best scientific and commercial information presently available, the Service determined that this petition has presented substantial information indicating that the action requested may be warranted.

Review of the status of *Agave murpheyi* is initiated herewith. The Service would appreciate any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any interested party concerning this species.

Author

This notice was prepared by Dr. James Tate, Jr., Division of Endangered Species and Habitat Conservation, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1975 or FTS 235–1975).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: March 24, 1989.

Becky Norton Dunlop,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–9693 Filed 4–21–89; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Finding on Petition To Delist the Gray Wolf

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day petition finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The Service finds the petitioner has not presented substantial information indicating that delisting the gray wolf (*Canis lupus*) is warranted.

DATES: The finding announced in this notice was made in October 1988. Comments and information may be submitted until further notice.

ADDRESSES: Questions or comments concerning this finding should be submitted to the Division Chief, Endangered Species, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Engel (612–725–3276 or FTS 725–3276), at the above address.

SUPPLEMENTARY INFORMATION: Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.), requires that the U.S. Fish and Wildlife Service (Service) make a finding within 90 days of the receipt of a petition to list, delist, or reclassify a species as to whether the petition presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be published promptly in the **Federal Register**. If the finding is positive, the Service is also required to promptly commence a review of the status of the involved species and, within 12 months of receipt of the petition, find whether the petitioned action is warranted.

The Service has received and made a 90-day finding on the following petition:

A petition from Mr. Lawrence Krak was received by the Service on August 19, 1988. The petition requested the Service to delist the gray wolf (*Canis lupus*) as an endangered and threatened species.

The petition stated wolves are in no danger of total extinction, with over 50,000 in Canada, 15,000 in Alaska, and 1,500 in Minnesota. The petitioner stated the classification of the wolf makes state management impossible. Concern was expressed on monies spent for wolf restoration and that wolves were starving as a result of prey depletion.

After review of the petition and other available information, the Service found the petition did not present substantial information indicating the requested delisting of the wolf may be warranted. Mr. Krak's brief petition did not present any significant information bearing on the status. Moreover, the best scientific and commercial information available to the Service indicates the goals of the gray wolf recovery plans have not been met and the present classification of the wolf is correct.

Author

This notice was prepared by James M. Engel, U.S. Fish and Wildlife Service (see **ADDRESSES** above).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended: (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 100–478, 102 Stat 2306; Pub. L. 100–653, 102 Stat. 3825); Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: March 24, 1989.

Becky Norton Dunlop,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–9694 Filed 4–21–89; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 54, No. 77
Monday, April 24, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 89–016]

Secretary's Advisory Committee on Swine Health Protection; Notice of Renewal

The Secretary of Agriculture has renewed the Secretary's Advisory Committee on Swine Health Protection (Committee) for a 2-year period.

The purpose of the Committee is to consult with the Secretary of Agriculture on matters within the scope of the Swine Health Protection Act, including assuring effective coordination between Federal and State programs for regulating garbage fed to swine. The Committee also serves as a public forum enabling those affected by the Swine Health Protection Program to have a voice in the program's policies.

The Committee is specifically authorized by section 11 of the Swine Health Protection Act (7 U.S.C. 3810). The Secretary has determined that the work of the Committee is in the public interest and is in connection with the duties of the Department of Agriculture.

For further information contact Dr. Dale C. Gigstad, Senior Staff Veterinarian, Swine Diseases Staff, VS, APHIS, USDA, Room 735–A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7767.

Comments should be directed to Helene R. Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89–016. Comments received may be inspected at Room 1141 of the South Building, 14th and Independence Avenue, SW., Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Consideration will be given only to comments postmarked or received on or before May 9, 1989.

Done in Washington, DC, this 18th day of April, 1989.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 89–9692 Filed 4–21–89; 8:45 am]

BILLING CODE 3410–34–M

[Docket No. 89–015N]

National Advisory Committee on Microbiological Criteria for Foods; Meetings

Notice is hereby given that meetings of the Meat and Poultry and Seafood Subcommittees of the National Advisory Committee on Microbiological Criteria for Foods will be held on Wednesday through Saturday, May 10–13, 1989. Meetings are schedule from 1:00 to 5:00 p.m. on Wednesday, and from 8:30 a.m. to 5:00 p.m. on Thursday, Friday, and Saturday, at the New Orleans Marriott Hotel, 555 Canal Street, New Orleans, Louisiana 70140.

The Committee provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been produced using good manufacturing practices.

The subcommittees, which are comprised of committee members, will be meeting to review and discuss assignments referred to them by the full committee and to prepare comments on those assignments.

The meetings are open to the public on a space available basis. Comments of interested persons may be filed prior to, or following, the meetings in order that they may be considered and should be addressed to Ms. Catherine M. DeRoever, Director, Executive Secretariat, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 3175, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. Background materials are available for inspection by contacting Ms. DeRoever on (202) 447–9150.

Done at Washington, DC on: April 17, 1989.

Kenneth A. Gilles,

Chairman.

[FR Doc. 89–9734 Filed 4–21–89; 8:45 am]

BILLING CODE 3410–DM–M

Commodity Credit Corporation

Determinations with Regard to the 1989 Rice Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination of 1989-crop provisions for rice.

SUMMARY: The purpose of this notice is to affirm the determinations previously made by the Secretary of Agriculture in accordance with the Agricultural Act of 1949, as amended (the "1949 Act"), and the Commodity Credit Corporation Charter Act, as amended, with respect to the 1989 price support and production adjustment programs for rice.

EFFECTIVE DATE: December 1, 1988.

ADDRESS: Bruce R. Weber, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Gene Rosera, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3740, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447–5954. The Final Regulatory Impact Analysis describing the options considered in developing this notice of determinations and the impacts of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "major." It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The titles and numbers of the Federal assistance programs, as found in the catalog of Federal Domestic Assistance, to which this notice applies are:

Titles	Numbers
Rice Production Stabilization	10.065
Loans and Purchases	10.051

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It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject of this notice.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

It has been determined by environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

GENERAL INFORMATION: On October 6, 1988, (53 FR 39322) a notice of proposed determinations was published which set forth provisions for the 1989 Rice Price Support and Production Adjustment Programs. A total of 11 respondents commented on the 1989 Rice Program. Three of the respondents were received from individual rice producers, one from a foreign government, and the balance were from producer or miller organizations.

Public comments were recorded and presented to the Secretary prior to the final program determinations. The following specific comments were received:

(1) *Acreage Reduction Program:* Nine of the eleven comments received on the acreage reduction level favored a 25 percent or greater reduction level. Two comments favored a 20 percent reduction or less. The 1949 Act, as amended, provides that to the maximum extent practicable, the Secretary shall carry out an acreage limitation program to result in a carryover to 30 million hundredweight. The announced reduction level of 25 percent is forecast to more closely attain this level than any of the other considered reduction options. The total supply of rice is forecast to be adequate to provide for growth in total utilization during the 1989/90 marketing year.

(2) *Land Diversion Program:* All four comments were received opposed the establishment of a paid land diversion program. A paid diversion program will not be implemented because the acreage reduction program is determined to be sufficient to prevent rice stocks from becoming excessive.

(3) *National Program Acreage:* Two comments opposing the establishment of a National Program Acreage were received. This program, and the voluntary reduction percentage, will not be implemented because an acreage reduction program has been established.

(4) *Certificate Purchases:* Four comments were received and all opposed requiring producers to purchase marketing certificates with respect to any portion of any marketing loan gain. Certificate purchases will not be required of producers who repay price support loans at a reduced rate. Such certificates would have to be rice specific and it is not likely that CCC will forecast to have a rice inventory sufficient to support the potential certificate issuances under this provision.

(5) *Loan Deficiency Payments:* Four comments were received regarding this provision, three in opposition and one in support of such payments. One suggested that such payments be based on actual rather than State-average milling yields. Loan deficiency payments will be offered to producers under the 1989-crop program.

(6) *Inventory Reduction Program:* Two comments were received opposing the inventory reduction program. This program is not being implemented because program participation by large farm units has remained high and is forecast to be high without implementing this provision.

Determinations

1. *Loan and Purchase Level.* In accordance with section 101A(a) (1) and (2) of the 1949 Act, the price support loan and purchase level for the 1989 crop of rice shall be $6.50 per hundredweight.

2. *Established (Target) Price.* In accordance with section 101A(c)(1)(D) of the 1949 Act, the established ("target") price for the 1989 crop of rice shall be $10.80 per hundredweight.

3. *Acreage Reduction/Paid Land Diversion Programs.* In accordance with sections 101A(f)(1)(A) and 101A(f)(4)(A) of the 1949 Act, the acreage reduction program for the 1989 crop of rice is established at 25 percent and land diversion payments shall not be made available. Accordingly, producers will be required to reduce their 1989 acreages of rice for harvest from their rice acreage bases by 25 percent in order to be eligible for price support loans, purchases, and payments.

4. *Marketing Certificate Purchase.* In accordance with section 101A(a)(5)(A) of the 1949 Act, producers will not be required to purchase marketing certificates equal in value to an amount that does not exceed one-half the difference between the amount of the loan obtained by the producer and the amount of the loan repayment.

5. *Loan Deficiency Payments.* In accordance with section 101A(b)(1) of the 1949 Act, the Secretary will make payments available to producers who, although eligible to obtain a loan or purchase agreement, agree to forgo obtaining such loan or agreement in return for such payment. Such payments shall be computed by multiplying the loan payment rate by the quantity of rice the producer is eligible to place under loan, but such quantity may not exceed the product obtained by multiplying the individual farm program acreage by the farm program payment yield for the farm.

6. *Inventory Reduction Program.* In accordance with section 101A(g) of the 1949 Act, the Secretary will not make payments available to producers who agree to forgo obtaining a loan or purchase agreement and deficiency and disaster payments and who do not plant rice for harvest in excess of the rice acreage base reduced by one-half of the required reduction percentage.

Authority: Sections 101A and 107E of the Agricultural Act of 1949, as amended, 99 Stat. 1419, as amended, 1448 (7 U.S.C. 1441–1 and 1445e).

Signed at Washington, DC on April 17, 1989.

Vern Neppl,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89–9691 Filed 4–21–89; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Screening of Effects of Proposed Emissions on Air Quality Related Values in Class I Wilderness Areas

AGENCY: Forest Service, USDA.

ACTION: Notice of intent.

SUMMARY: The Forest Service hereby gives notice of its intent to use a screening procedure for the initial review of permit applications from proposed new or modified major sources of air pollution that may affect air quality related values in 88 class I wilderness areas managed by the Agency. This screening procedure is intended to help managers identify and estimate the potential severity of impacts from proposed additional air pollution.

DATE: The Agency will begin using this screening procedure as soon as possible. Comments on the use of this procedure are invited and must be received in writing by June 23, 1989.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2580), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090. The public may inspect comments received on this proposed procedure in the Office of the Director, Watershed and Air Management Staff, Room 1210, Rosslyn Plaza E Building, 1621 North Kent Street, Rossyln Virginia between the hours of 8:30 a.m. and 3:00 p.m.

FOR FURTHER INFORMATION CONTACT: James G. Byrne, Watershed and Air Management Staff, 703–235–8096.

SUPPLEMENTARY INFORMATION: The Forest Service is required by the Clean Air Act, as amended in 1977, to report to the permitting authority (either the Environmental Protection Agency or the State) the effects of proposed additional air pollution from new or modified major emission sources that may affect air quality related values in class I wilderness areas managed by the Forest Service. The time allowed for Agency reply sometimes may be as little as 30 days.

Forest Service managers and leding scientists in air pollution effects developed a procedure for screening permit applications at a national workshop held in May 1988. The Agency intends to use this screening procedure to help managers identify those permit applications that are likely to require more intensive study and consideration in the short time available for permit review.

The screening procedure uses estimates of sulfur and nitrogen deposition and ambient ozone concentration in determining whether adverse effects on air quality related values in class I wildernesses could occur. These estimates are expressed as "green" and "red" lines on a graph. Pollution levels that fall below the "green" line would likely be judged not to cause adverse impacts. Levels at or above the "red" line would likely be judged to cause adverse impacts. In both thes cases, the land manager might request additional detailed information related to projected effects on air quality related values before recommending permit actions to the Environmental Protection Agency or the State. Levels of pollution falling in the zone between the red and green lines would be evaluated on the basis of additional information aimed at better identifying the effects.

More detailed information on the development of this screening procedure is contained in the workshop report entitled "A Screening Procedure to Evaluate Air Pollution Effects on Class I Wilderness Areas" (GTR RM–168) published by the USDA Forest Service, Rocky Mountain Forest and Range Experiment Station in January 1989. Copies of this report are available from: Publications Office, Rocky Mountain Forest and Range Experiment Station, USDA Forest Service, 3825 E. Mulberry, Fort Collins, CO 80524.

The Agency wants the interested public to have the opportunity to submit written comments on the use and/or value of the screening procedure. These comments will be used to refine the screening process for each class I area. Forest Service Regional workshops, beginning in fiscal year 1989, will be used to train land managers in this procedure. These workshops will develop more specific screening criteria for sulfur and nitrogen deposition and ambient ozone concentration for specific wildernesses in their respective Regions. These workshops will be held in coordination with Forest Service Research and participants will be managers, invited local scientists, and some participants from the 1988 national workshop. The Agency or the State. Levels of pollution falling in the zone between the red and green lines would be evaluated on the basis of additional information aimed at better identifying the effects.

More detailed information on the development of this screening procedure is contained in the workshop report entitled "A Screening Procedure to Evaluate Air Pollution Effects on Class I Wilderness Areas" (GTR RM–168) published by the USDA Forest Service, Rocky Mountain Forest and Range Experiment Station in January 1989. Copies of this report are available from: Publications Office, Rocky Mountain Forest and Range Experiment Station, USDA Forest Service, 3825 E. Mulberry, Fort Collins, CO 80524.

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Date: April 17, 1989.

George M. Leonard

Associate Chief.

[FR Doc. 89–9733 Filed 4–21–89; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

A meeting of the Electronic Instrumentation Technical Advisory Committee will be held May 10 and 11, 1989, in the Herbert C. Hoover Building, 14th Street & Constitution Avenue NW., Washington, DC. On May 10 the meeting will convene at 9:00 a.m. in Room 1617F. On May 11 the meeting will reconvene at 9:00 a.m. and continue to its conclusion in Room 1617F in the Herbert C. Hoover Building. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to electronics and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.

Executive Session

3. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting and can be directed to: Lee Ann Carpenter, Technical Advisory Committee Unit, Office of Technology & Policy Analysis, Room 4069A, 14th Street & Constitution Avenue NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the

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provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes please call Lee Ann Carpenter, 202–377–2583.

Date: April 17, 1989.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology & Policy Analysis.

[FR Doc. 89–9766 Filed 4–21–89; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

Announcement of New Application Forms for Administrative Protective Orders

AGENCY: International Trade Administration, Commerce.

ACTION: Announcement of new application forms to be used in requesting administrative protective orders.

The Department of Commerce is announcing that, as of April 27, 1989, it will only accept applications for administrative protective orders filed with the Department on FORM ITA–367 (3.89). Copies of these forms may be obtained from the Department of Commerce, Room B–099, 14th Street and Pennsylvania Ave., NW., Washington, DC 20230.

EFFECTIVE DATE: April 24, 1989.

FOR FURTHER INFORMATION CONTACT: Ann M. Sebastian, Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Pennsylvania Ave., NW., Washington, DC 20230, (202) 377–3354 or Leila J. Afzal, Office of Chief Counsel for Import Administration, U.S. Department of Commerce, 14th Street and Pennsylvania Ave., NW., Washington, DC 20230, (202) 377–0062.

April 14, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89–9667 Filed 4–21–89; 8:45 am]

BILLING CODE 3510–DS–M

[C–469–004]

Stainless Steel Wire Rod From Spain; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on stainless steel wire rod from Spain. We preliminarily determine the net subsidy for the period January 1, 1987 through December 31, 1987 to be 0.42 percent *ad valorem*, a rate we consider *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: April 24, 1989.

FOR FURTHER INFORMATION CONTACT: Laurie Goldman or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On July 28, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 28427) the final results of its last administrative review of the countervailing duty order on stainless steel wire rod from Spain (48 FR 52; January 3, 1983). On January 29, 1988, a Spanish exporter, Roldan S.A., requested in accordance with section 355.10 of the Commerce Regulations an administrative review of the order. We published the initiation on March 2, 1988 (53 FR 6681). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of Spanish stainless steel wire rod, which includes coiled, semi-finished, hot-rolled stainless steel products of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, whether or not tempered or treated or partly manufactured. During the review period, such merchandise was classified under item numbers 607.2600 and 607.4300 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item numbers 7221.00.00.20 and 7221.00.00.40. The review covers the period January 1, 1987 through December 31, 1987 and six programs.

Analysis of Programs

(1) Long-Term Loans Under the Concerted Action Program

Under the Concerted Action Program established by Royal Decree 669/74, the Spanish government directs banks to make long-term loans to steel companies at below-market rates. Such loans are provided for approximately ten years. Roldan received a long-term loan for financing new plant and equipment that had an outstanding balance during the review period. The loan was received in multiple disbursements from 1977 to 1981. Because the loans under the Concerted Action Program are provided to a specific industry at rates and terms inconsistent with commercial considerations, we preliminarily determine that this loan confers a countervailable domestic subsidy.

Roldan did not obtain any comparable commercial loans in the year in which it received the preferential long-term loan. Therefore, we used as our long-term commercial benchmark the "free" long-term (three or more years) lending rate published by the Bank of Spain in its *Boletin Estadistico*. We treated the multiple disbursements as individual loans.

To calculate the benefit, we found the difference between the annual amounts of principal and interest Roldan actually paid and the annual amounts of principal and interest Roldan would have paid if it had received each disbursement at our commercial benchmark rate. We then calculated the "grant equivalent" of each disbursement by determining the present value (at the time the preferential loan was made) of the difference in annual payments that would occur during the life of the loan. Using our declining balance methodology with the long-term commercial benchmark as the discount rate, we allocated the grant equivalents over the life of the loan. We then totaled the review period benefits allocated for each disbursement.

Since these loans benefit a company's total production, we allocated the benefit over the company's total sales during the review period. On this basis, we preliminarily determine the benefit from this program to be 0.27 percent *ad valorem* during the review period.

(2) Prefinancing of Exports Under Privileged Circuit Exporter Credit Program

As part of its Privileged Circuit Exporter Credit program, the Spanish government, under Royal Decree 2254/85 of November 20, 1985, required banks to set aside a specific percentage of lendable funds for the prefinancing of exports. The maximum amount of allowable funds for prefinancing of exports was 60 percent of the invoice value until July 1, 1987, when it was reduced to 01 percent. The maximum term of these loans was 90 days and the interest rate ranged between 10 and 10.5 percent. Because this program is contingent upon export performance, we preliminarily determine that it confers a countervailable benefit on exports.

To calculate the benefit, we compared the preferential interest rate to our commercial benchmark and applied the interest differential to the principal amounts of the loans. We used as our commercial benchmark an annual average of the "free" three-month lending rate published in the *Boletin Estadistico*. Since Roldan was able to tie these loans to specific shipments, we allocated the benefit from loans for U.S. shipments over Roldan's exports of stainless steel wire rod to the United States during the review period. We preliminarily determine the benefit from this program to be 0.15 percent *ad valorem*.

Because this program was terminated effective March 5, 1987, pursuant to Royal Decrees 321/1987 and 322/1987, we preliminarily determine that for this program the cash deposit of estimated countervailing duties will be zero.

(3) Energy Saving Grant

Under the Ministerial Order of December 17, 1984 and pursuant to Royal Decree 101/1984 of January 25, 1984, the Institute for the Diversification and Saving of Energy provides funds for investment in energy saving equipment. This program is part of the National Energy Saving Plan (PEN) and open to all energy saving projects. Roldan received a grant for energy saving equipment under this program.

Eligibility for this program is not contingent upon export performance nor limited to any specific region, industry or groups of industries. The Government of Spain has provided information showing that a wide variety of industries and sectors in all regions and provinces have taken advantage of this program. Because this program is not limited to a specific enterprise or industry or group of enterprises or industries, we preliminarily determine that this program does not confer a countervailable subsidy.

(4) Other Programs

We also examined the following programs and preliminarily determine that Roldan did not use them during the review period:

A. Operating Capital Loans.
B. Capital Grants.
C. Regional Incentives Program.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy for the period January 1, 1987 through December 31, 1987 to be 0.42 percent *ad valorem*. The Department considers any rate less than 0.50 percent to be *de minimis*.

The Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after January 1, 1987 and on or before December 31, 1987.

The Department also intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the last workday preceding. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.22 of the Commerce Regulations published in the Federal Register on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.22).

Date: April 14, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89–9668 Filed 4–21–89; 8:45 am]

BILLING CODE 3510–DS–M

City University of New York Medical School, et al., Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 88–287. *Applicant:* City University of New York Medical School, New York, NY 10031. *Instrument:* Electron Microscope, Model JEM–100CX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 53 FR 43463, October 27, 1988. *Instrument Ordered:* April 1, 1988.

Docket Number: 88–290. *Applicant:* University of Denver, Denver, CO 80208. *Instrument:* Electron Microscope, Model H–7000. Manufacturer: Hitachi Scientific Ltd., Japan. *Intended Use:* See notice at 53 FR 43463, October 27, 1988. *Instrument Ordered:* March 24, 1988.

Docket Number: 88–297. *Applicant:* Methodist Medical Center, Dallas, TX 75208. *Instrument:* Electron Microscope, Model EM 10CA. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 53 FR 43464, October 27, 1988. *Instrument Ordered:* July 14, 1988.

Docket Number: 88–298. *Applicant:* Rhodes College, Memphis, TN 38112–1690. *Instrument:* Electron Microscope, Model EM 109T/TFP with Accessories. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 53 FR 43464 October 27, 1988. *Instrument Ordered:* July 18, 1988.

Docket Number: 88–303. *Applicant:* Armed Forces Radiobiology Research Institute, Bethesda, MD 20814–5145. *Instrument:* Electron Microscope, Model H–7000–2T. *Manufacturer:* Hitachi Scientific Ltd., Japan. *Intended Use:* See notice at 53 FR 43464, October 27, 1988. *Instrument Ordered:* August 10, 1988.

Docket Number: 88–304. *Applicant:* University of California, Berkeley, Berkeley, CA 94720. *Instrument:* Electron

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Microscope, Model JEM-1200EX/SEG/DP/DP. Manufacturer: JEOL Ltd., Japan. *Intended Use:* See notice at 53 FR 43465, October 27, 1988. *Instrument Ordered:* August 2, 1988.

Docket Number: 88-307. *Applicant:* The Ohio State University, Columbus, OH 43210. *Instrument:* Electron Microscope, Model CM12. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 53 FR 43465, October 27, 1988. *Instrument Ordered:* August 12, 1988.

Docket Number: 88-310. *Applicant:* Queens Hospital, Jamaica, NY 11432. *Instrument:* Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. *Intended Use:* See notice at 53 FR 43465, October 27, 1988. *Instrument Ordered:* February 5, 1988.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-9665 Filed 4-21-89; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of the Export Visa Arrangement for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic on Turkey

April 19, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending the export visa arrangement.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854)

The current Export Visa Arrangement between the Governments of the United States and the Republic of Trukey is being amended to specify that the first digit of the standard nine-digit visa number shall be the last digit of the year of export of the shipment.

The Arrangement is being amended further to require a visa for the entry of cotton and man-made fiber textile products in Categories 336/636.

Interested persons are advised to take all necessary steps to ensure that textile products, produced or manufactured in Turkey and exported from Turkey on and after May 1, 1989, which are to be entered or withdrawn from warehouse for consumption in the United States will meet the visa requirements as amended in this notice.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 52 FR 6859, published in the **Federal Register** on March 5, 1987.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 19, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on March 2, 1987, by the Chairman, Committee for the Implementation of Textile Agreements that directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Turkey which were not properly visaed.

Effective on May 1, 1989, the Export Visa Arrangement between the Governments of the United States and the Republic of Turkey shall be amended to read as follows:

The Visa Number. The visa number shall be in the standard nine-digit/letter format beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha country code, specified by the International Organization for Standardization (ISO) (the code for Turkey is "TR"), followed by a six-digit numeric serial number identifying the shipment, e.g., 9TR123456. The date of issuance shall be the day, month and year on which the visa was issued.

You are directed to deny entry of shipments of textile products, produced or manufacture in Turkey and exported from Turkey on and after May 1, 1989, in which the visa number does not conform with the aforementioned standard nine-digit/letter format. If the visa is not acceptable, a new visa must be obtained from the Government of the Republic of Turkey or a visa waiver issued by the Turkish Government through the U.S. Department of Commerce.

Also, effective on May 1, 1989, you are directed to prohibit entry of cotton and man-made fiber textile products in Categories 336/636 entered for consumption or withdrawn from warehouse for consumption into the Customs territory of the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) which are produced or manufactured in Turkey and exported from Turkey on and after May 1, 1989 for which the Government of the Republic of Turkey has not issued and appropriate export visa.

Goods in Categories 336/636, produced or manufactured in Turkey which were exported prior to May 1, 1989 shall not be denied entry for lack of a visa.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-9784 Filed 4-21-89; 8:45 am]

BILLING CODE 3510-DR-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. 89-2-87CD]

1987 Cable Royalty Distribution Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of Phase I settlement; notice of partial distribution.

SUMMARY: The Tribunal announces that the Phase I claimants to the 1987 cable royalty distribution proceeding have reached a settlement, and that a partial distribution of the 1987 cable copyright royalty fund can be made.

DATES: The distribution of cable copyright royalties will take place on April 27, 1989.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC, (202) 653-5175.

SUPPLEMENTARY INFORMATION: On March 30, 1989, the Tribunal published in the **Federal Register** a notice declaring that controversies existed in both Phase I and Phase II of the 1987 cable royalty distribution proceeding, effective April 3, 1989. 54 FR 13101. In the same notice, the Tribunal asked the parties for comments on how much of the 1987 cable royalty fund could be distributed. The comments were due April 14, 1989.

On April 14, 1989, the Tribunal received notice from the Phase I claimants that all Phase I controversies had been resolved, and that the parties had agreed to a Phase I allocation of cable royalties on the same basis as the allocations made for the 1983-1986 funds. The Tribunal adopts the settlement of the Phase I claimants and declares that Phase I of the 1987 cable royalty distribution proceeding is concluded. The procedural dates for Phase II will be set by the Tribunal in an order to be issued to the Phase II parties at a later date.

Concerning a distribution of the 1987 fund, since there was a full agreement regarding Phase I, the only remaining question is how much should be retained by the Tribunal to satisfy any Phase II controversies. The Phase II claimants in the Noncommercial Television and the Music categories state that although there may be Phase II hearings necessary to resolve their controversies, full distributions can be made in those categories, with all the parties within those categories stating their willingness to reimburse each other as may be required. In the Program Suppliers category, MPAA, NAB and Multimedia suggested a total distribution based upon the same mechanism as last year's. Accordingly, the Tribunal will make the Phase II Program Supplier distribution based upon the 1983 percentages. All three parties have represented that they will undertake any reimbursement that may be necessary to reflect the ultimate award.

Accordingly, the Tribunal will make 100% distributions according to the recommendations of these parties in the Noncommercial Television, Music and Program Suppliers categories as well as all other categories which have no Phase II controversies.

Concerning the Devotional Claimants category, however, there was disagreement among the commenters. Those Devotional Claimants that had received in prior years some portion of the Devotional Claimants' allocation—the Christian Broadcasting Network, Inc., Old Time Gospel Hour, The Inspirational Network, NAB, and Multimedia—recommended that there be a 100% distribution of Devotional Claimants' royalties to an escrow fund, or if the Tribunal felt there should be some withholding to account for the new claimants, it should be no more than 5%. The new claimants wanted the Tribunal to withhold more. In Touch Ministries, Oral Roberts Evangelistic Association and First Century Broadcast, Inc. requested that the Tribunal withhold 25%, and Christian Television Network requested that the Tribunal withhold 45%.

In a situation where there are new claimants for whom the Tribunal has no prior experience, determining how much to distribute can be problematic. On the one hand, the Tribunal needs to retain sufficient funds to satisfy all controversies. On the other hand, the Tribunal has a mandate to make as rapid a distribution of the funds as feasible, and the Tribunal has stated several times in the past that the mere assertion of a percentage claim by a claimant does not define the extent of the controversy. Otherwise, a claimant could frustrate a valid distribution by merely interposing a large percentage.

The Tribunal has determined in this case that it will distribute 80% of the Devotional Claimants royalties to those claimants who have previously shown entitlement, while retaining 20% to satisfy the claims of the new claimants. It is emphasized that this decision is not in any sense a determination by the Tribunal of the ultimate award the Tribunal expects to make in the Devotional Claimants category. Further, should the final awards to the new claimants exceed 20%, reimbursement from the other Devotional Claimants shall be the amount owed plus the interest that would have accrued had the royalties remained with the Copyright Office.

Accordingly, an 80% distribution of the Devotional Claimants category, and a 100% distribution of all other Phase I categories is ordered for April 27, 1989.

J. C. Argetsinger,

Acting Chairman.

Dated: April 18, 1989.

[FR Doc. 89-9723 Filed 4-21-89; 8:45 am]

BILLING CODE 1410-09-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Panel on Government-Industry Relations; Subpanel Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Defense Advisory Panel on Government-Industry Relations (DAPGIR), Subpanel on Suspension and Debarment, is scheduled to be held from (9 a.m. to 5 p.m. on May 3, 1989. The meeting will be held at the U.S. Chamber of Commerce, 1615 H Street NW., Weshington, DC. The agenda includes a review of the Terms of Reference, several guest speakers and a roundtable discussion.

The DAPGIR was established pursuant to section 808, Pub. L. 100-456 to study and make recommendations to the Secretary of Defense on ways to enhance cooperation between the Department of Defense and industry regarding matters of mutual interest, including: (1) Procedures governing the debarment and suspension of contractors from doing business with the Department of Defense; (2) the role of self-governing oversight programs established by defense contractors; and (3) expended use of alternative disputes resolution procedures. The Panel will also study and make recommendations on the desirability of establishing a permanent panel.

The starting time of this Subpanel meeting is subject to change. Persons desiring to attend should verify the starting time by contacting Ms. Regina Bacon, Defense Advisory Panel on Government-Industry Relations, ATTN: DLA-L, Cameron Station, Alexandria, VA 22304, telephone (202) 274-7146, no later than May 1, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 18, 1989.

[FR Doc. 89-9771 Filed 4-21-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER84-560-008 et al.]

Union Electric Company et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 17, 1989.

Take notice that the following filings have been made with the Commission:

1. Union Electric Company

[Docket No. ER84-560-008]

Take notice that on January 23, 1989 Union Electric Company (Union) tendered for filing the Callaway Test Energy refund and refund of the Labadie Insurance Recoveries pursuant to the Commission's order issued November 25, 1988.

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Comment date: May 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Company of New Mexico

[Docket No. ER89-227-000]

Take notice that on March 30, 1989, Public Service Company of New Mexico (PNM) tendered for filing Texas-New Mexico Power Company's (TNP) Concurrence in the cancellation of Service Schedules C and D to the PNM-TNP Interconnection Agreement dated November 13, 1975. TNP's Concurrence supplements PNM's February 10, 1989 filing of the Notices of Cancellation of Service Schedules C and D to the PNM-TNP Interconnection Agreement.

Comment date: May 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9704 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 1413-004 et al.]

Hydroelectric Applications (Island Park Resorts, Inc. et al.); Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Filing:* Transfer of License.

b. *Project No.:* 1413-004.

c. *Date Filed:* March 23, 1989.

d. *Applicants:* Island Park Resorts, Inc. and Buffalo Hydro, Inc.

e. *Name of Project:* Pond's Lodge Hydroelectric Project.

f. *Location:* Occupies lands within the Targhee National Forest on the Buffalo River, in Fremont County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contacts:*

Mr. Jay Goldman, President, Pond's Lodge, Island Park, ID 83429, (208) 558-7221.

Mr. Randall B. Reed, Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls, ID 83405, (208) 523-0620.

i. *FERC Contact:* Thomas Dean, (202) 376-9562.

j. *Comment Date:* May 26, 1989.

k. *Description of Application:* Island Park Resorts, Inc. (licensee) proposes to transfer the license issued on March 14, 1980, to Buffalo Hydro, Inc. (transferee). The transferee is a private corporation organized under the laws of the State of Idaho.

l. This notice also consists of the following standard paragraphs: B & C.

2 a. *Type of Application:* New Minor License.

b. *Project No.:* 2758-003.

c. *Date Filed:* November 28, 1988.

d. *Applicant:* Linweave, Inc.

e. *Name of Project:* Crocker Mill, A and B Wheels Project.

f. *Location:* On the Second Level Canal of the Holyoke Canal System off of the Connecticut River in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contacts:*

Mr. Robert Belsky, President, Linweave, Inc., 10 Linweave Drive, Holyoke, MA 01040, (413) 526-6410.

June P. Broadstone, Esquire, Skadden, Arps, Slate, Meager & Flom, 1440 New York Avenue, NW., Washington, DC 20005, (202) 371-7000.

i. *FERC Contact:* Steven H. Rossi, (202) 376-9814.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The existing operating project was issued an initial license in 1977, which will expire in 1991. The licensee has filed for a new license for the continued operation of the project. The existing project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) a 10-foot-diameter penstock 225 feet long; (3) an existing 350-kW generating unit located in the Crocker Mill building; (4) a 10-foot-wide by 8-foot-high arched brick-lined tailrace tunnel 230 feet long extending from the draft tube to an existing concrete outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line 140 feet long that connects the project to an existing transmission line; and (7) appurtenant facilities. The project generates an average of 1,543 MWh annually.

l. *Purpose of Project:* Project power would continue to be sold to the Fitchburg Gas & Electric Light Company.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

3 a. *Type of Application:* New Minor License.

b. *Project No.:* 2770-002.

c. *Date Filed:* November 28, 1988.

d. *Applicant:* Linweave, Inc.

e. *Name of Project:* Crocker Mill, C Wheel Project.

f. *Location:* On the Second Level Canal of the Holyoke Canal System off of the Connecticut River in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contacts:*

Mr. Robert Belsky, President, Linweave, Inc., 10 Linweave Drive, Holyoke, MA 01040, (413) 526-6410.

June P. Broadstone, Esquire, Skadden, Arps, Slate, Meager & Flom, 1440 New York Avenue, NW., Washington, DC 20005, (202) 371-7000.

i. *FERC Contact:* Steven H. Rossi, (202) 376-9814.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The existing operating project was issued an initial license in 1977, which will expire in 1991. The licensee has filed for a new license for the continued operation of the project. The existing project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) a 7-foot-diameter penstock 210 feet long; (3) an existing 300-kW generating unit located in the Crocker Mill building; (4) a 12-foot-wide by 8-foot-high arched brick-lined tailrace tunnel 220 feet long extending from the draft tube to an existing concrete outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line 140 feet long that connects the project to an existing transmission line; and (7) appurtenant facilities. The project generates an average of 1,329 MWh annually.

l. *Purpose of Project:* Project power would continue to be sold to the Fitchburg Gas & Electric Light Company.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

4a. *Type of Application:* New Minor License.

b. *Project No.:* 2771-002.

c. *Date Filed:* November 25, 1988.

d. *Applicant:* Linweave, Inc.

e. *Name of Project:* Nonotuck Mill Project.

f. *Location:* On the Second Level Canal of the Holyoke Canal System off of the Connecticut River in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contacts:*

Mr. Robert Belsky, President, Linweave, Inc., 10 Linweave Drive, Holyoke, MA 01040, (413) 526-6410.

June P. Broadstone, Esquire, Skadden, Arps, Slate, Meager & Flom, 1440 New York Avenue, NW., Washington, DC 20005, (202) 371-7000.

i. *FERC Contact:* Steven H. Rossi, (202) 376-9814.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The existing operating project was issued an initial license in 1977, which will expire in 1991. The licensee has filed for the continued operation of the project. The existing project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) a 10.5-foot-diameter penstock 235 feet long; (3) an existing 500-kW generating unit located in the Nonotuck Mill building; (4) two parallel 9-foot-wide by 9-foot-high arched brick-lined tailrace tunnels 190 feet long extending from the draft tube to an existing concrete outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line; and (7) appurtenant facilities. The project generates an average of 3,068 MWh annually.

l. *Purpose of Project:* Project power would continue to be sold to the Fitchburg Gas & Electric Light Company.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

5a. *Type of Application:* New License (less than 5 MW).

b. *Project No.:* 2772-002.

c. *Dote filed:* November 28, 1988.

d. *Applicant:* Linweave, Inc.

e. *Name of Project:* Gill Mill (A Wheel).

f. *Location:* On the second level canal of the Holyoke Water Power Company on the Connecticut River, Hamden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:*

Mr. Robert Belsky, Linweave, Inc., 10 Linweave Drive, Holyoke, MA 01040, (413) 536-6410.

i. *FERC Contact:* Michael Dees, (202) 376-9414.

j. Comment Date: May 25, 1989.

k. *Description of Project:* The existing project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) an 8-foot-diameter penstock 295 feet long; (3) an existing 450-kW generating unit located within the Gill Mill building; (4) a 16-foot-wide by 9-foot-high arched brick-lined tailrace tunnel extending from the draft tube to an existing outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line 660 feet long that connects the project to an existing transmission line; and (7) appurtenant facilities.

The applicant estimated from historical generation that the average annual energy generation will be 2,530 MWh. The applicant is the sole owner of the existing project facilities and has no plans to modify the existing facilities or operation.

The existing project is not subject to Federal takeover because in the original license section 15 of the FPA was waived only insofar as it relates to Federal takeover.

1. This notice also consists of the following standard paragraphs: B, C, and D1.

6 a. *Type of Application:* New License (less than 5 MW).

b. *Project No.:* 2775-001.

c. *Date filed:* November 25, 1988.

d. *Applicant:* Linweave, Inc.

e. *Name of Project:* Gill Mill (D Wheel).

f. *Location:* On the second level canal of the Holyoke Water Power Company on the Connecticut River, Hamden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r)

h. *Applicant Contact:*

Mr. Robert Belsky, Linweave, Inc., 10 Linweave Drive, Holyoke, MA 01040, (413) 536-6410.

i. *FERC Contact:* Michael Dees (202) 376-9414.

j. *Comment Date:* May 25, 1989.

k. *Description of Project:* The existing project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) a 12-foot-diameter penstock 295 feet long; (3) an existing 450-kW generating unit located within the Gill Mill building; (4) two parallel 7-foot-wide by 10-foot-high arched brick-lined tailrace tunnels extending from the draft tube to an existing outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line 660 feet long that connects the project to an existing transmission line; and (7) appurtenant facilities.

The applicant estimated from historical generation that the average annual energy generation will be 1,790 MWh. The applicant is the sole owner of the existing facilities and has no plans to modify the existing facilities or operation.

The existing project is not subject to Federal takeover because in the original license section 15 of the FPA was waived only insofar as it relates to Federal takeover.

1. This notice also consists of the following standard paragraphs: B, C, D1.

7 a. *Type of Applicotion:* Preliminary Permit.

b. *Project No.:* 2969-005.

c. *Date filed:* February 1, 1989.

d. *Applicant:* Borough of Weatherly.

e. *Name of Project:* Francis E. Walter.

f. *Location:* At the U.S. Army Corps of Engineers' Francis E. Walter Dam and Reservoir on the Lehigh River in Lucerne and Carbon Counties, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:*

Mr. James P. Palumbo, Utility Engineers Division, Quad Three Group, Inc., 37 North Washington Street, Wilkes-Barre, PA 18701, (717) 829-4200.

i. *FERC Contact:* Michael Dees (202) 376-9414.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The proposed run-of-river project would utilize the U.S. Army Corps of Engineers' Francis E. Walter Dam and Reservoir as proposed to be modified and authorized by Congress and would consist of: (1) new trashracks at the existing intake structure; (2) a new 10-foot-diameter and 500-foot-long steel penstock; (3) a new powerhouse with turbine-generator units with a total installed capacity of 10,310 Kw; (4) a new 67-foot-wide and 250-foot-long tailrace; (5) a new 7.5-mile-long transmission line; and (6) other appurtenances. Applicant estimates an average annual generation of 56,700,000 kWh and that studies under the permit

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will cost $35,000. Project energy would be sold to the Pennsylvania Power and Light Company.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

8 a. *Type of Application:* Transfer of License.

b. *Project No.:* 4900–011.

c. *Date filed:* February 1, 1989.

d. *Applicant:* Trafalgar Power Inc. (licensee), Trafalgar Power Limited Partnership (transferee).

e. *Name of Project:* Forestport.

f. *Location:* On the Black River, Oneida County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:*

John M. Cutler, Jr., McCarthy, Sweeney & Harkaway, P.C., 1750 Pennsylvania Avenue, NW., Washington, DC 20006, (202) 393–5710.

i. *FERC Contact:* Michael Dees (202) 376–9414.

j. *Comment Date:* May 24,1989.

k. *Description of Project:* On February 1, 1989, Trafalgar Power Inc. and Trafalgar Power Limited Partnership filed a joint application for transfer of the license for the Forestport Project No. 4900. The proposed transfer will not result in any change in the project. The transferee states that it will comply with all terms and conditions of the license. The purpose of the transfer is to facilitate the financing of project operations.

The existing licensee has not adequately complied with all of the terms and conditions of its license. A notice of proposed penalty was issued on February 23, 1989, which proposed a penalty of $20,000. Transfer of the license, if granted, will not relieve the licensee or its successors from responsibility for any penalty established by the Commission.

1. This notice also consists of the following standard paragraphs: B and C.

9 a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 10375–001.

c. *Date filed:* January 31, 1989.

d. *Applicant:* Weber Basin Water Conservancy District.

e. *Name of Project:* Drought Relief Pipeline Hydro Project.

f. *Location:* On the Weber River in Weber County, Utah.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:*

Ivan W. Flint, Weber Basin Water Conservancy District, 2837 East Highway 193, Layton, UT 84040, (801) 771–1677.

i. *FERC Contact:* Nanzo T.Coley (202) 376–9416.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The proposed project would consist of a 560 kW generating unit installed in the existing pumping station and appurtenant facilities. The estimated average annual energy output for the project is 1,680,000 kWh.

l. *Purpose of Project:* Energy produced at the project would be used to replace the energy purchased from Utah Power and Light Company to operate the pumping station.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

10 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10716–000.

c. *Date filed:* January 3, 1989.

d. *Applicant:* Rankin Associates.

e. *Name of Project:* Oregon Water Power Project.

f. *Location:* On the Rock River in Ogle County, Illinois.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:*

Ronald A. Rankin, Rankin and Associates, 1124A Bunker Hill Drive, Wheaton, IL 60187, (312) 665–5464.

i. *FERC Contact:* Mary Nowak (202) 376–9634.

j. *Comment Date:* May 25, 1989

k. *Competing Application:* Project No. 10724.

Date Filed: January 30, 1989.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing rock-filled dam 876 feet long, 25 feet wide and 12 feet high; (2) a small reservoir; (3) a rehabilitated powerhouse containing three turbogenerators at a total installed capacity of 1,050 kW; (4) a proposed 12,000-volt transmission line approximately 500 feet; and (5) appurtenant facilities. The existing dam and powerhouse foundation are owned jointly by the Illinois Department of Conservation and the City of Oregon, Illinois. The applicant estimates that the average annual generation is 8,500,000 kWh. The applicant estimates that the cost of the studies under permit is $20,000.

m. This notice also consists of the following standard paragraphs: A6, A10, B, C, and D2.

11 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10723–000 .

c. *Date Filed:* January 27, 1989.

d. *Applicant:* Aquatic Research Corporation.

e. *Name of Project:* Collinsville Project.

f. *Location:* On the Farmington River in Hartford County, Connecticut.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:*

Ms. Leslie A. Robinson, Aquatic Research Corporation, 36 Wickham's Fancy, Collinsville, CT 06022 (203) 693–6569.

i. *FERC Contact:* Robert Bell (202) 376–9237.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The proposed project would consist of the following two developments: Upper Collinsville Dam development consisting of: (1) An existing 325-foot-long, 18-foot-high concrete gravity dam; (2) an existing reservoir having a 55-acre surface area with negligible storage capacity; (3) an existing intake; (4) an existing 200-footlong canal; (5) an existing refurbished powerhouse containing 2 generating units with a total installed capacity of 6000 kW; (6) an existing tailrace; (7) a proposed transmission line; and (8) appurtenant facilities.

Lower Collinsville Dam development consisting of: (1) an existing 350-foot-long, 20-foot-high concrete gravity dam; (2) an existing reservoir having a 32-acre surface area with negligible storage capacity; (3) an existing intake; (4) an existing 680-foot-long canal; (5) an existing refurbished powerhouse containing 2 generating units having a total installed capacity of 1,000 kW; (6) an existing tailrace; (7) a proposed transmission line; (8) appurtenant facilities.

The applicant estimates the average annual generation would be 9,942,800 kWh. The dam and project facilities are owned by the State of Connecticut.

l. *Purpose of Project:* All project energy generated would be a local utility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

12 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10730–000.

c. *Date filed:* February 14, 1989.

d. *Applicant:* Rock River Power and Light Corporation.

e. *Name of Project:* Little Falls Dam Hydro Project.

f. *Location:* On the Willow River in St. Croix County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. Thomas Reiss, P.O. Box 553, Watertown, WI 53094, (414) 261–5786.

i. *FERC Contact:* Ed Lee (202) 376–5786.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The proposed project would consist of: (1) An existing 311-foot-long and 30-foot-high concrete dam; (2) an existing 185-acre reservoir with a maximum storage of 1,700 acre-feet at pool elevation 744 U.S.G.S.; (3) a powerhouse which is integral to the dam and containing a single 600-kW generating unit; (4) a new 1.25-mile-long, 125-kV transmission line, and (5) appurtenant facilities. The applicant estimates that the average annual generation would be 2.7 GWh. The cost of the work to be performed under the permit by the applicant would be $25,000. The existing dam is owned by the Wisconsin Department of Natural Resources, 4610 University Avenue, Madison, WI 53711.

l. *Purpose of Project:* The applicant anticipates that the power generated will be sold to a nearby utility company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

13 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10736–000.

c. *Date filed:* February 17, 1989.

d. *Applicant:* Schmidt Industries, Inc.

e. *Name of Project:* Ceresco Dam Hydro Project.

f. *Location:* On the Kalamazoo River in Calhoun County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:*

Mr. David A. Schmidt, 3290 Patterson Road, Bay City, MI 48706, (517) 684–3216.

i. *FERC Contact:* Ed Lee (202) 376–5786.

j. *Comment Date:* May 25, 1989.

k. *Description of Project:* The proposed project would consist of: (1) An existing 183-foot-long and 16-foot-high concrete dam; (2) an existing reservoir with a storage capacity of 3,500 acre-feet; (3) a new powerhouse integral with the dam and housing a single 1.5-MW generating unit; (4) a short new 12-kV transmission line; and (5) appurtenant facilities. The applicant estimates that the average annual generation would be 3.5 GWh. The cost of the work and studies to be performed under the permit would be $17,000. The existing dam is owned by the applicant.

l. *Purpose of Project:* The applicant estimates that the power generated will be sold to Consumers Power Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2

14 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10738–000.

c. *Date Filed:* February 24, 1989.

d. *Applicant:* Coralville Hydro Associates.

e. *Name of Project:* Coralville Dam Project.

f. *Location:* On the Iowa River in Johnson County, Iowa.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. Dominique Darne, 1900 L Street, NW, Suite 608, Washington, DC 20036, (202) 775–4692.

i. *FERC Contact:* Ed Lee (202) 376–5786.

j. *Comment Date:* May 25, 1989.

k. *Description of Project:* The proposed project would utilize the existing US Army Corps of Engineers Coralville Dam and Lake and would consist of: (1) A proposed 600-foot-long and 18-foot-diameter diversion tunnel from the left abutment of the dam leading to a new powerhouse that will house three 4-MW generating units for a total installed capacity of 12 MW; (2) a new tailrace; (3) a short new 13.8-kV transmission line; and (4) appurtenant facilities. The applicant estimates the average annual generation to be 52.6 MWh. The cost of the work and studies to be performed under the permit would be $150,000.

l. *Purpose of Project:* The applicant intends to sell the project generation to a local utility or power company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

15 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10739–000.

c. *Date Filed:* February 24, 1989.

d. *Applicant:* Casitas Municipal Water District.

e. *Name of Project:* Lake Casitas Water Power Project.

f. *Location:* On Lake Casitas in Ventura County, California.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a) 825(r).

h. *Applicant Contact:*

Norman A. Pederson, Michelle Phillips, Jones, Day, Reavis and Pogue, 1450 G St., NW., Washington, DC 20005–2088.

i. *Commission Contact:* Nanzo T. Coley, (202) 376–9416.

j. *Comment Date:* May 22, 1989.

k. *Competing application:* Project No. 10656–000, Comment Date: January 27, 1989.

l. *Description of Project:* The applicant would utilize an existing dam under the jurisdiction of the Bureau of Reclamation. The proposed project would consist of a proposed powerhouse containing two generating units with a total rated capacity of 1,100 kw and appurtenant facilities. Water for the project would be taken from the dam's existing outlet works before entering the proposed water treatment plant. The estimated average annual energy output for the project is 3,400,000 kwh. The applicant estimates that the cost of the work to be performed under the preliminary permit is $120,000.

m. *Purpose of Project:* Energy produced at the project would be utilized by the applicant to operate its water treatment plant and pumping station.

n. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

16 a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 10742–000.

c. *Date Filed:* March 8, 1989.

d. *Applicant:* Mesa Consolidated Water District.

e. *Name of Project:* Mesa Hydroelectric Project.

f. *Location:* At 1965 Placentia Avenue, on the water distribution system of the city of Costa Mesa in Orange County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 823(a).

h. *Applicant Contact:*

Beth A. Calcaterra, 4140 Norse Way, Long Beach, CA 90808, (213) 425–1233.

i. *FERC Contact:* Ms. Julie Bernt, (202) 376–1936.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The proposed project would utilize the flow from a new ten million gallon reservoir being built to provide enhanced service to the Water District's customers and would consist of 2 generating units, each with a rated capacity of 25 kW, located in the pump house. The average annual energy production would be 95,000 kWh.

l. *Purpose of Project:* Project power would be sold to the local power company.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

17 a. *Type of Filing:* Preliminary Permit.

b. *Project No.:* 10704–000.

c. *Date Filed:* December 9, 1988.

d. *Applicant:* Pacific Water & Power, Inc.

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e. *Name of Project:* Carquinez Dam Power Project.

f. *Location:* On the Carquinez Strait near the cities of Vallejo, Richmond, and Martinez, in Solano and Contra Costa Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r).

h. *Applicant Contact:*

Robert R. Doelle, 701 Welch Road, Suite 1119, Stanford, CA 95304, (415) 853–5646.

i. *FERC Contact:* Thomas Dean, (202) 376–9562.

j. *Comment Date:* May 30, 1989.

k. *Description of Project:* The proposed project would consist of: (1) A 120-foot-high diversion dam with a spillway elevation of 22 feet msl; (2) a 40,000-acre reservoir; (3) a powerhouse containing two to four generating units with a combined capacity of 50.7 MW; and (4) a 2,000- to 4,500-foot-long, 6,400-kVA transmission line.

The applicant estimates the average annual energy production at 150 GWh.

The approximate cost of the studies under the permit would be $350,000.

l. *Purpose of Project:* Applicant intends to sell project power to Pacific Gas & Electric Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

18 a. *Type of Filing:* Transfer of License.

b. *Project No.:* 8909–005.

c. *Date Filed:* March 8, 1989.

d. *Applicant:* Idaho Renewable Resources, Bonneville Pacific Corporation, and Big Wood Canal Company.

e. *Name of Project:* Dietrich Drop.

f. *Location:* On the Milner Gooding Canal in Lincoln County, Idaho.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicants Contacts:*

Idaho Renewable Resources.

McNeill Watkins II, Esq., Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005, (202) 371–5785.

Bonneville Pacific Corporation.

Mark E. Rinehart, Esq., Bonneville Pacific Corporation, Suite 600, 257 East 200 South, Salt Lake City, Utah 84111, (801) 363–2520.

Big Wood Canal Company.

Cecil Hobdey, Esq., Hobdey & Hobdey, 125 Fifth Avenue West, P.O. Box 176, Gooding, Idaho 83330, (208) 934–4429.

i. *Commission Contact:* Mr. William Roy-Harrison, (202) 376–9830.

j. *Comment Date:* May 15, 1989.

k. *Description of Project:* The applicants seek to delete Idaho Renewable Resources as a licensee since Bonneville Pacific Corporation has acquired Idaho Renewable Resources. Therefore, the licensees would remain Bonneville Pacific Corporation and Big Wood Canal Company.

l. This notice also consists of the following standard paragraphs: B and C.

19 a. *Type of Application:* Preliminary Permit.

b. *Project. No.:* 10725–000.

c. *Date Filed:* February 1, 1989.

d. *Applicant:* Little Horn Energy Wyoming, Inc.

e. *Name of Project:* Little Horn Pumped Storage.

f. *Location:* On Dry Fork of the Little Big Horn River within the Bighorn National Forest in T57N, R89W: Sixth Principal Meridian, near Sheridan in Sheridan County, Wyoming.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:*

Larry D. Baccari, P.O. Box 6208, Sheridan, WY 82801, (307) 672–5885.

i. *FERC Contact:* Ms. Julie Bernt, (202) 376–1936.

j. *Comment Date:* May 24, 1989.

k. *Description of Project:* The proposed pump-storage project would consist of: (1) A 300-foot-high, 1,000-foot-long zoned rockfill dam impounding the Dry Fork Reservoir at surface elevation 6,400 feet; (2) Dry Fork powerhouse at the foot of the dam containing one generating unit rated at 1,000 kW and having the capability to pump water up to Ridge Reservoir during times of low energy demand; (3) a 5,200-foot-long Dry Fork to Ridge Reservoir conduit., (4) Ridge Reservoir, impounded at surface elevation 8,456 feet by a 160-foot-high, 8,100-foot-long rockfill dam; (5) a 6,200-foot-long penstock from Ridge Reservoir to West Pass powerhouse; (6) West Pass powerhouse containing one generating unit rated at 10.1 MW; (7) a 7,400-foot-long penstock from West Pass powerhouse to Taffner powerhouse; (8) Taffner powerhouse containing one generating unit rated at 20 MW; (9) a 42,000-foot-long conduit from Taffner powerhouse to Parkman Reservoir; (10) Parkman Reservoir impounded at surface elevation 4,485 feet by a 150-foot-high, 3,250-foot-long zoned earthfill dam; (11) a 400-foot-long penstock to Parkman powerhouse; (12) Parkman powerhouse containing one generating unit rated at 7 MW; and (13) approximately 95 miles of new transmission line. Applicant estimates the average annual energy production to be 380 GWh and the cost of the work to be performed under the preliminary permit to be $4,500,000.

l. *Purpose of Project:* The power produced will be sold to local power companies.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

20 a. *Type of Application:* Declaration of Intention.

b. *Project No.:* EL89–36–001.

c. *Date Filed:* December 30, 1988 (Amended).

d. *Applicant:* Patrick O. Clemens.

e. *Name of Project:* Ashley Creek Hydro.

f. *Location:* Ashley Creek in Lake County, near Polson, Montana.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:*

Patrick O. Clemens, P.O. Box 173, Homer, AK 99603, 907–235–7259.

i. *FERC Contact:* Etta Foster, (202) 376–9064.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The proposed project would consist of: (1) A proposed stream diversion works consisting of Gabion weirs, settling basin, power canal and forebay; (2) a small pool at an elevation of 3800 feet m.s.l. of negligible size and storage capacity; (3) an inlet with trash racks; (4) a 12-inch-diameter, 3000-foot-long penstock; (5) a powerhouse containing 1 or 2 turbines with a total installed capacity of 99 kilowatts (kW) or less; (6) a 300-foot-long transmission line; and (7) appurtenant facilities. The applicant requests that the Commission investigate and determine whether the proposed project is subject to licensing pursuant to section 23(b) of the Federal Power Act.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project would: (1) Be located on a navigable waterway; (2) occupy or affect public lands or reservations of the United States; (3) utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* Applicant intends to sell excess power to Montana Power Company.

m. This notice also consists of the following standard paragraphs: B, C, and D2.

21 a. *Type of Application:* Change in Land Rights.

b. *Project No.:* 2599–002.

c. *Date Filed:* March 9, 1989.

d. *Applicant:* Consumers Power Company.

e. *Name of Project:* Hodenpyl.

f. *Location:* Manistee River in Manistee County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. T. A. McNish, Secretary, Consumers Power Company, 212 West Michigan Avenue, Jackson, MI 49201, (517) 788–1030.

i. *FERC Contact:* Brian Romanek, (202) 376–9042.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The Consumers Power Company, license for the Hodenpyl Project, requests Commission authorization to transfer about 106 acres of project land located in Wexford County to the United States Forest Service (FS). The FS intends to add this land to the adjoining Manistee National Forest. Acquisition of this land would provide additional canoeing and fishing access points to the river. The land is also considered to be some of the last undeveloped recreation lands in Lower Michigan and is a sensitive wildlife habitat area. The licensee states that the lands would best be managed by the FS for recreational purposes (a copy of the application may be obtained by interested parties directly from the licensee).

l. This notice also consists of the following standard paragraphs: B, C, and D2.

Standard Paragraphs:

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 203–RB, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway

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affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in Section 313(b) of the Federal Power Act, 16 U.S.C. Section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are required, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, state and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Agency Comments—The Commission requests that the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agenc(ies), for the purposes set forth in Section 406 of the Energy Security Act of 1980, file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, state and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: April 18, 1989, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 89–9702 Filed 4–21–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP89–1202–000 et al.]

Williams Natural Gas Company et al.; Natural Gas Certificate Filings

April 17, 1989.

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Company

[Docket No. CP89–1202–000]

Take notice that on April 12, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–1202–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon by reclaim measuring, regulating and appurtenant facilities serving Midwest Corporate Aviation, Inc. (Midwest), airport facilities in Sedgwick County, Kansas, and to abandon the transportation of gas through the facilities under WNG's blanket authorization issued in Docket No. CP82–479–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that Midwest has requested that the facilities be reclaimed. It is stated that the total cost of the abandonment would be $285 with an estimated salvage value of $0.

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Arkla Energy Resources a Division of Arkla, Inc.

[Docket No. CP89–1135–000]

Take notice that on April 3, 1989, Arkla Energy Resources, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP89–1135–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Arkla to construct and operate approximately 100 miles of pipeline and pipeline looping and 23,640 horsepower (hp) of compression in the states of Arkansas and Oklahoma which would enable Arkla to transport on a firm basis up to 350,000 Mcf of natural gas per day between the pipeline facilities of Natural Gas Pipeline Company of America (NGPL) in central Oklahoma and NGPL's pipeline facilities in southern Arkansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Arkla requests authority to construct, install, and operate the following facilities:

(1) 22.6 miles of 30-inch pipeline, extending from a point on the Oklahoma Extension of NGPL's Amarillo Line in Comanche County, Oklahoma to Arkla's Line AD in Grady County, Oklahoma, and related interconnection facilities;

(2) 6,750 hp of compressor facilities at the interconnection of such new pipeline facilities and Line AD at Arkla's new Chickasha Compressor Station;

(3) 50.2 miles of 30-inch pipeline looping of Arkla's Line 0 and 0–10–0 in LeFlore County, Oklahoma and Sebastian County, Arkansas, west of Arkla's existing Dunn Compressor Station (Dunn Station);

(4) 8,000 hp of compressor facilities at Arkla's Dunn Station in Logan County, Arkansas;

(5) 4,500 hp of compressor facilities on Arkla's Line J in Conway County, Arkansas at Arkla's new Round Mountain Compressor Station;

(6) 12.0 miles of 30-inch pipeline looping of Arkla's Lines BT–1 and BT–1A, beginning at the discharge side of Arkla's Dunn Station;

(7) 4,390 hp of compressor facilities at Arkla's existing Chambers Compressor Station (Chambers Station) in Yell County, Arkansas;

(8) 16.3 miles of 30-inch pipeline looping of Arkla's Lines BT–1 and BT–1A, beginning at the point of discharge from Arkla's Chambers Station;

(9) 8.7 miles of 20-inch pipeline looping of Arkla's Line S from the Perla Regulating Station to a point of interconnection with a 2.5-mile, 24-inch pipeline connecting Arkla's Line S to the suction side of NGPL's Compressor Station No. 306 on NGPL's Gulf Coast Line in Hot Spring County, Arkansas; and;

(10) any appurtenant facilities associated with the facilities detailed above.

Arkla also requests authority under Section 7(c) of the Natural Gas Act to continue the operation of the 2.5-mile, 24-inch pipeline described in (9) above and which pipeline Arkla will construct in 1989 pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and will operate for the purpose of transporting natural gas from NGPL's Gulf Coast Line. Finally, Arkla seeks authority for rolled-in rate treatment of all such facilities.

Arkla states that it is under a continuing obligation to provide service to its customers at the lowest reasonable cost. Arkla states that it has an affirmative duty to pursue new market opportunities, when reasonably available to the Arkla system, which would result in benefits to its customers. Recognizing that obligation, Arkla states that it has reviewed NGPL's proposal in Docket No. CP88–706–000 and determined that Arkla can provide the service NGPL requires in a way that is beneficial both to Arkla's customers and those of NGPL. Arkla asserts that, with capital expenditures somewhat less than NGPL proposes, it can provide the 350,000 Mcf per day of firm transportation capacity sought by NGPL, secure for NGPL the benefits promised in NGPL's application, and do so at lower rates and operating costs than those resulting from the NGPL proposal. Equally, if not more important, Arkla notes that its existing customers will also benefit through a substantial reduction in the sales and transportation rates they otherwise would pay. Arkla projects a savings to its transportation customers of between 1.2 cents per MMBtu to 6.0 cents per MMBtu of gas transported, depending on the type of service such customers receive and whether they provide their own fuel. Arkla asserts that sales rate reductions would be greater than the projected transportation rate savings. Finally, Arkla insists that its proposal is more flexible then NGPL's, offering near-term opportunities for firm transportation and the ability to tailor system expansion to the transportation volume actually available on the NGPL system.

Comment date: May 8, 1989, in accordance with Standard Paragraph F at the end of this notice.

Natural Gas Pipeline Company of America

[Docket No. CP89–1198–000]

Take notice that on April 12, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89–1198–000 a request pursuant to Section 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Texaco Gas Marketing, Inc. (Texaco), a marketer of natural gas, under Natural's blanket certificate issued in Docket No. CP86–582–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural proposes to transport on an interruptible basis up to 200,000 MMBtu of natural gas on a peak day plus excess volumes pursuant to the overrun provisions of its Rate Schedule ITS, 20,000 MMBtu on an average day and 7,300,000 MMBtu on an annual basis for Texaco. It is stated that Natural would receive the gas for Texaco's account at existing receipt points in Texas, offshore Texas, Oklahoma, New Mexico, Kansas, Louisiana and offshore Louisiana, and would deliver equivalent volumes at existing points on Natural's system in Oklahoma, Louisiana, New Mexico, Texas, Iowa, Kansas and Illinois. It is asserted that the transportation service would be effected using existing facilities and would require no construction of additional facilities. It is explained that the transportation service commenced February 17, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–2994.

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

El Paso Natural Gas Company

[Docket No. CP89–1200–000]

Take notice that on April 12, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP89–1200–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act to install a meter station, to be located in McKinley County, New Mexico, in order to permit the delivery of natural gas to the Navajo Tribal Utility Authority (NTUA), within the certificated entitlements of that customer, for resale to customers located in the Coyote Canyon Community area, in McKinley County, New Mexico, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states that by order issued September 18, 1953 at Docket No. G–2206, the Commission granted El Paso certificated authorization for, *inter alia*, the construction and operation of certain facilities and the sale and delivery of natural gas to the NTUA in various communities located in the States of New Mexico and Arizona. El Paso further states that it presently provides natural gas service to the NTUA in accordance with the terms and conditions of the currently effective service agreement between El Paso and NTUA dated February 19, 1985, as amended.

El Paso also states that it has received a written request from the NTUA for additional natural gas service to be provided at a point on El Paso's existing 24" O.D. San Juan Line and 30" O.D. San Juan second Loop Line in McKinley County, New Mexico. El Paso has been advised by the NTUA that the requested quantities of natural gas would be utilized to serve residential natural gas requirements in the Coyote Canyon

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Community area located in McKinley County, New Mexico. Initial deliveries of natural gas are requested to begin June 1, 1989, it is stated.

In order to accommodate the NTUA's request, El Paso proposes to install one (1) sales meter station consisting of a 1" O.D. tap and valve assembly, and one (1) American 80B positive displacement meter, with appurtenances, on El Paso's existing 24" O.D. San Juan Line and 30" O.D. San Juan second Loop Line in McKinley County, New Mexico. El Paso states that the estimated cost of the sales meter station is $9,698. The volumes of natural gas to be sold to the NTUA at the proposed meter station would be under Rate Schedule ABD–S–NM of El Paso's Volume No. 1 Tariff, it is stated. El Paso is advised that the NTUA would install a pipeline and regulation connecting to El Paso's proposed facilities for ultimate distribution of the requested quantities of natural gas for residential use. El Paso states that NTUA has projected that the estimated annual and maximum peak day delivery requirements of the Coyote Canyon Community area during the third full year of service would be 16,618 Mcf of natural gas per year and 170 Mcf of natural gas per day, respectively.

El Paso states that the additional quantities of natural gas to be delivered would be sold by El Paso to the NTUA for resale in the Coyote Canyon area in order to accommodate projected Priority 1 requirements. El Paso further states that the anticipated Priority 1 load growth, which has precipitated the NTUA's request for natural gas service described herein, would not alter the NTUA's entitlements under El Paso's Permanent Allocation Plan.

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

El Paso Natural Gas Company

[Docket No. CP89–1206–000]

Take notice that on April 13, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas, 79978, filed a request for authorization at Docket No. CP89–1206–000, pursuant to §§ 157.205 and 284.223 of the Commission's Regulations Under the Natural Gas Act, to provide interruptible transportation service for Gulf Gas Utilities Company (Shipper), under its blanket certificate issued at Docket No. CP88–433–000, all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

El Paso requests authority to transport up to 106 MMBtu of natural gas per day for Shipper from any point of receipt on El Paso's system to a point of delivery located in the State of New Mexico. El Paso states that the estimated daily and annual quantities would be 58 MMBtu and 21,170 MMBtu, respectively. El Paso states that transportation service under § 284.223(a) commenced on December 23, 1988, as reported at Docket No. ST89–2850–000. El Paso further states that the instant prior notice request is being filed untimely and the self-implementing transportation portion of this service will expire before the end of the 45-day comment period for the prior notice request. Therefore, El Paso respectfully requests that the Commission waive its regulation by extending the 120-day limit in § 284.223.

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Northern Natural Gas Company

[Docket No. CP89–1196–000]

Take notice that on April 11, 1989, Northern Natural Gas Company, Division of Enron Corp., (Northern) 1400 Smith Street, Houston, Texas 77251, filed in Docket No. CP89–1196–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas under its blanket authorization issued in Docket No. CP86–435–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes to transport natural gas on an interruptible basis for American Central Gas Marketing Company. Northern explains that the service commenced under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–2936. Northern proposes to transport on a peak day up to 75,000 MMBtu; on an average day up to 100,000 MMBtu; and on an annual basis up to 36,500,000 MMBtu. Northern proposes to receive and deliver the gas at various points in Texas, Kansas, Oklahoma and New Mexico.

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. United Gas Pipe Line Company

[Docket No. CP89–1142–000]

Take notice that on April 5, 1989, United Gas Pipe Line Company (United, P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket Nol. CP89–1142–000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by sale approximately 850 feet of 20-inch pipeline situated in San Jacinto County and Polk County, Texas, all as more fully set forth in the application which is on file with the commission and open to public inspection.

United proposes to abandon the 850 feet of pipe which crosses the Trinity River, for sale to United Texas Transmission Company (UTTCO). United states that this request is the result of a bill of sale executed on June 30, 1987, between United and (UTTCO), that had been inadvertently overlooked. United indicates that unusual administrative burdens delayed its seeking approval to abandon the pipeline, and that, a review of its files recently revealed that United had not sought the necessary abandonment authorization. As a result, United requests retroactive abandonment effective, June 30, 1987. United avers it is proposing to abandon these facilities in place.

The Trinity River crossing was certified in Docket No. G–1447 and constructed in 1952.

Comment date: May 8, 1989, in accordance with Standard Paragraph F at the end of this notice.

8. ANR Pipeline Company

[Docket No. CP89–1183–000]

Take notice that on April 10, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89–1183–000 a request, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR I57.205), for authorization to provide a transportation service for Fuel Service Group (FSG), a gas marketer, under ANR's blanket certificate issued in Docket No. CP88–532–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission.

ANR states that, pursuant to a transportation agreement executed March 7, 1989, it proposes to transport up 1,000 MMBtu of natural gas per day for FSG on an interruptible basis. ANR states that it would receive the gas at existing points of receipt in its Louisiana, Oklahoma, offshore Louisiana and offshore Texas gathering area and redeliver the gas to Wisconsin Gas Company, for the account of FSG, at existing points of interconnection located in the State of Wisconsin. FSG expects to have the full 1,000 MMBtu transported on an average day and based thereon, anticipates transporting 365,000 MMBtu annually. ANR advises that the service commenced on March 8, 1989, as reported in Docket No. ST89–2881–000, under § 284.223(a) of the Commission's Regulations.

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. United Gas Pipe Line Company

[Docket No. CP89–1201–000]

Take notice that on April 12, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1201–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service on behalf of AMPRO Fisheries (AMPRO), an end user, under its blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it proposes to transport natural gas on behalf of AMPRO from a point of receipt located in Louisiana to a point of delivery located in Mississippi.

United further states that the maximum daily, average daily and annual quantities that it would transport on behalf of AMPRO would be 3,296 MMBtu equivalent, 3,296 MMBtu equivalent and 1,203,040 MMBtu equivalent of natural gas, respectively.

United indicates that in Docket No. ST89–2735, filed with the Commission on March 20, 1989, it reported that transportation service for AMPRO had begun under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Williston Basin Interstate Pipeline Company

[Docket No. CP89–1118–000]

Take notice that on March 31, 1989, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP89–1118–000 an application, pursuant to Section 7(c) of the Natural Gas Act (NGA) and § 284.221 of the Commission's Regulations, for a blanket certificate of public convenience and necessity authorizing open-access transportation service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Williston Basin also requests, pursuant to section 7(b) of the NGA, pre-granted abandonment authority (1) with respect to its sales obligations, to the extent that its sales customers elect to convert their firm sales entitlements to firm transportation and (2) with respect to transportation agreements entered into under its blanket certificate as such transportation agreements expire.

Williston Basin states that it will perform transportation services under the terms and conditions of the Commission's Order No. 500, *et al.* and that it will comply with Subpart A of Part 284 of the Commission's Regulations.

Williston Basin further states that it is currently providing Natural Gas Policy Act (NGPA) Section 311 transportation service under its FERC Gas Tariff Original Volume No. 1–B filed June 24, 1988 in Docket No. RP88–197–000 and that it will offer both firm and interruptible transportation service under Subpart B and G of the Commission's Regulations under Rate Schedules FT–1 and IT–1 contained therein, as amended.

Comment date: May 8, 1989, in accordance with Standard Paragraph F at the end of this notice.

11. Southern Natural Gas Company

[Docket No. CP89–1164–000]

Take notice that on April 6, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563 filed in Docket No. CP89–1164–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on an interruptible basis for National Energy Systems, Inc. (National) under the blanket certificate issued in Docket No. CP88–316–000 under section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that pursuant to a Transportation Agreement dated February 20, 1989, it proposes to transport up to 600 MMBtu per day of natural gas for National under Rate Schedule IT, for a primary term of one month with successive terms of one month thereafter unless cancelled by either party.

Southern also states that the maximum day, average day and annual transportation volumes would be approximately 600 MMBtu, 600 MMBtu and 219,000 MMBtu, respectively. Southern proposes to receive the gas at the various receipt points in offshore Texas, offshore Louisiana, Texas, Louisiana, Mississippi and Alabama for delivery to various points in Georgia.

Southern further states it commenced their service March 1, 1989, as reported in Docket No. ST89–2699–000.

Comment date: June 1, 1989 in accordance with Standard Paragraph G at the end of the notice.

12. ANR Pipeline Company

[Docket No. CP89–1184–000]

Take notice that on April 10, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89–1184–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Coastal Gas Marketing Co. (Coastal), a marketer of natural gas, under its blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that it would receive the gas at existing points of receipt in ANR's offshore Texas gathering area and would redeliver the gas for the account of Coastal at existing interconnections located in the offshore Texas area.

ANR further states that the maximum daily, average daily and annual quantities that it would transport for Coastal would be 100,000 dt equivalent of natural gas, 100,000 dt equivalent of natural gas and 36,500,000 dt equivalent of natural gas, respectively.

ANR indicates that in a filing made with the Commission in Docket No. ST89–2880, it reported that transportation service for Coastal commenced on March 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. ANR Pipeline Company

[Docket No. CP89–1180–000]

Take notice that on April 10, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89–1180–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR proposes to transport gas on an interruptible basis for Enron Gas Marketing, Inc. (Enron). ANR explains

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that service commenced March 1, 1989 under section 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–2885–000. ANR further explains that the peak day quantity would be 200,000 dekatherms, the average daily quantity would be 200,000 dekatherms, and that the annual quantity would be 73,000,000 dekatherms. ANR explains that it would receive natural gas at ANR's Kansas, Louisiana, Oklahoma, Texas, offshore Louisiana and offshore Texas gathering areas and redeliver the gas at existing interconnections located in the State of Louisiana.

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. ANR Pipeline Company

[Docket No. CP89–1182–000]

Take notice that on April 10, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89–1182–000 a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to transport natural gas on behalf of Koch Hydrocarbon, Inc. (Koch), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport on an interruptible basis up to 300,000 dt equivalent on a peak day for Koch, 300,000 dt equivalent on an average day and 109,500,000 dt equivalent on an annual basis for Koch. It is stated that ANR would receive the gas at designated points on ANR's system in Oklahoma, Kansas, Texas, Louisiana, offshore Louisiana and offshore Texas, and would deliver equivalent volumes at designated points on ANR's system in Kentucky, Indiana, Ohio, Missouri, Iowa, Tennessee, Kansas, Wisconsin and Illinois. It is asserted that the transportation would be effected using existing facilities and that no construction of additional facilities would be required. It is explained that the transportation service commenced March 1, 1989, under the self-implementing authorization of Section 284.223 of the Commission's Regulation, as reported in Docket No. ST89–2874.

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. Northern Natural Gas Company Division of Enron Corporation

[Docket No. CP89–1197–000]

Take notice that on April 11, 1989, Northern Natural Gas Company, Division of Enron Corporation (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–1197–000, a prior notice request pursuant to Sections 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Meridian Oil Trading Inc. (Meridian), a marketer of natural gas, under the certificate issued in Docket No. CP88–435–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern requests authorization to transport up to 150,000 MMBtu of natural gas per day, pursuant to a March 2, 1989, agreement between Northern and Meridian from receipt points located in New Mexico, Oklahoma and Texas to delivery points located in Illinois, Iowa, Kansas, New Mexico, Oklahoma and Texas. Northern would provide the service to Meridian under the provisions of its Rate Schedule IT–1, it is indicated. Northern further states that the average and annual quantities would be 133,330 MMBtu and 54,750,000 MMBtu, respectively.

Northern states that the transportation of natural gas for Meridian commenced March 2, 1989, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations as reported in Docket No. ST89–2889–000.

Comment date: June 1, 1989, in accordance with Standard Paragraph G at the end of this notice.

16. Texas Gas Transmission Corporation

[Docket No. CP89–1189–000]

Take notice that on April 11, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89–1189–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Beech-Nut Nutrition Corporation (Beech-Nut), under Texas Gas' blanket certificate issued in Docket No. CP88–686–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement dated November 21, 1988, Texas Gas requests authorization to transport up to 4,350 MMBtu of natural gas per day for Beech-Nut. Texas Gas states that the agreement provides for it to receive the gas at various existing points of receipt along its system and deliver the gas to an existing point of delivery located in Warren County, Ohio. Beech-Nut estimates that the average day and annual transportation quantities would be 1,489 MMBtu and 543,638 MMBtu, respectively. Texas Gas advises that the service commenced March 1, 1989, as reported in Docket No. ST89–2579–000, under § 284.223(a) of the Commission's Regulations.

Comment date: June 1, 1989 in accordance with Standard Paragraph G at the end of the notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89–9703 Filed 04–21–89; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2496 Oregon]

City of Eugene, OR; Intent to File an Application for a New License

April 17, 1989.

Take notice that on December 23, 1988, the City of Eugene, Oregon (Eugene Water & Electric Board), the existing licensee for the Leaburg Hydroelectric Project No. 2496, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99–495. The original license for Project No. 2496 was issued effective June 1, 1968, and will expire December 31, 1993.

The project is located on the McKenzie River in Lane County, Oregon. The principal works of the Leaburg Project include a 20-foot-high, 450-foot-long reinforced concrete dam with a gated sluiceway and canal intake; Leaburg Lake; a canal about five miles long; a forebay and two 8-foot-diameter, 250-foot-long reinforced concrete penstocks; a powerhouse with an installed capacity of 13,500 KW; a substation with transmission line connections; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87–7–000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 500 East Fourth Avenue, Eugene, OR 97401, Attn: Mr. Gale Banry, telephone (503) 484–2411.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89–9646 Filed 4–21–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ89–1–46–006 and RP88–166–005]

Kentucky West Virginia Gas Co.; Amended Compliance Filing

April 14, 1989.

Take notice that on April 13, 1989, Kentucky West Virginia Gas Company (Kentucky West) amended its March 30, 1989 compliance filing so as to extend the proposed effective date of the tariff sheets from March 15, 1989 to September 1, 1989. Accordingly, the date for motions to intervene or protests to the March 30, 1989 filing has been changed to August 14, 1989, as indicated below.

Kentucky West states that the tariff sheets filed March 30, 1989 were filed in compliance with the Commission's "Order Rejecting Compliance Filing" issued in the referenced proceedings on March 15, 1989, and in accordance with the mandate of the United States Court of Appeals of the Fifth Circuit, issued in *Kentucky West Virginia Gas Co.* v. *FERC*, 780 F.2d 1231 (5th Cir. 1986).

Kentucky West states that, under such tariff sheets, it would bill its customers directly for the difference between (1) the amounts each such customer paid during the period in which Kentucky West was required to price certain of its company production at cost of service rather than Natural Gas Policy Act (NGPA) rates; and (2) the amounts each such customer would have paid if Kentucky West, during such time period, had not been denied the right to price its pipeline production at NGPA prices, plus interest calculated in accordance with the Commission's regulations. Kentucky West states further that its customers are given the option of paying the direct billing amounts either: (1) by a lump-sum payment to be made by May 1, 1989; (2) in monthly installments of direct billing amounts, plus interest, to be paid over a period not to exceed eighty-four months; or (3) by a lump-sum payment during the installment period.

In its April 13, 1989 amendment to the compliance filing, Kentucky West states that preliminary discussions with certain parties lead it to believe that a settlement of the issues in these proceedings and related appellate proceedings may be possible. To facilitate settlement discussions, Kentucky West has filed to amend the proposed effective date of the tariff sheets to September 1, 1989, and requests waiver of the Commission's regulations so that the time for filing protests or requests for hearing may be extended until August 14, 1989. Kentucky West states that it will waive interest concerning the direct billing amounts involved for the months of May through August 1989.

Kentucky West states that a copy of its filing has been served upon all parties in this proceeding pursuant to the Commission's Rules.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before August 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–9651 Filed 4–21–89; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2775–001 Massachusetts]

Linweave, Inc.; Procedures for Relicensing and a Deadline for Submission of Final Amendments

April 17, 1989.

The license for the Gill Mill (D Wheel) Project No. 2775 located on the second level canal of Holyoke Water Power Company on the Connecticut River in the City of Holyoke, Hampden County, Massachusetts, expires on February 28, 1991. Pursuant to section 15(c)(1) of the Federal Power Act the statutory deadline for the submission of applications for relicense was March 1, 1989. An application for relicense has been filed as follows:

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Project No.	Applicant	Contact
P-2775	Linweave, Inc., 10 Linweave Drive, Holyoke, MA 01040.	Ms. June P. Broadstone, Skadden, Arps, Slate, Meager & Flom, 1440 New York Avenue, NW., Washington, DC 20005.

Pursuant to section 15(c)(1) of the Federal Power Act the deadline for applicant to file final amendments, if any, to its applications is May 31, 1989.

The following is an approximate schedule that will be used in processing the application.

Date	Action
Feb. 9, 1989	Commission notified applicant of deficiencies in its application.
Feb. 21, 1989	Applicant filed all corrections of deficiencies.
Feb. 9, 1989	Commission notified applicant of the need for additional information, and the date the information is due.
Mar. 24, 1989	Commission issued public notice of the application describing final proposals and establishing dates for filing interventions, public comments, agency recommendations, and fish and wildlife terms and conditions.

Upon receipt of all additional information, public comments, and agency recommendations, the Commission will complete its environmental analysis pursuant to the National Environmental Policy Act, attempt to resolve any disputed fish and wildlife terms and conditions, and issue an order on the application.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9647 Filed 04-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2772-002 Massachusetts]

Linweave, Inc.; Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

April 17, 1989.

The license for the Gill Mill (A Wheel) Project No. 2772 located on the second level canal of the Holyoke Water Power Company on the Connecticut River in the City of Holyoke, Hampden County, Massachusetts, expires on February 28, 1991. Pursuant to section 15(c)(1) of the Federal Power Act the statutory deadline for the submission of applications for relicense was March 1, 1989. An application for relicense has been filed as follows:

Project No.	Applicant	Contact
P-2772	Linweave, Inc., 10 Linweave Drive, Holyoke, MA 01040.	Ms. June P. Broadstone,Skadden, Arps, Slate, Meager & Flom, 1440 New York Avenue NW., Washington, DC 20005.

Pursuant to section 15(c)(1) of the Federal Power Act the deadline for applicant to file final amendments, if any, to its application is May 31, 1989.

The following is an approximate schedule that will be used in processing the application.

Date	Action
Feb. 9, 1989	Commission notified applicant of deficiencies in its application.
Feb. 21, 1989	Applicant filed all corrections of deficiencies.
Feb. 9, 1989	Commission notified applicant of the need for additional information, and the date the information is due.
Mar. 24, 1989	Commission issued public notice of the application describing final proposals and establishing dates for filing interventions, public comments, agency recommendations, and fish and wildlife terms and conditions.

Upon receipt of all additional information, public comments, and agency recommendations, the Commission will complete its environmental analysis pursuant to the National Environmental Policy Act, attempt to resolve any disputed fish and wildlife terms and conditions, and issue an order on the application.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9648 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2342 Washington]

Pacific Power & Light Co.; Intent To File an Application for a New License

April 17, 1989.

Take notice that on December 28, 1988, Pacific Power & Light Company, the existing licensee for the Condit Hydroelectric Project No. 2342, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2342 was issued effective May 1, 1965, and expires December 31, 1993.

The project is located on the White Salmon River in Skamania and Klickitat Counties, Washington. The principal works of the Condit Project include a 125-foot-high concrete gravity dam; a reservoir of 97 acres; a 13.5-foot-diameter, 5,100-foot-long woodstave pipeline with a 40-foot-diameter concrete surge tank; two 9-foot-diameter, 650-foot-long penstocks; a powerhouse with an installed capacity of 9,600 kW; a 2.3/69-kV substation and a 69-kV switchyard; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 920 SW 6th Avenue, Portland, OR 97204, Attn: S. A. deSousa, telephone (503) 464-5343.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9649 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8264-004]

Summit Hydropower; Surrender of Exemption From Licensing

April 17, 1989.

Take notice that Summit Hydropower, exemptee for the Falls Mill Dam No. 2 Project No. 8264, requested by letter filed February 28, 1989, that its exemption be terminated. No construction of hydroelectric project works has been performed. The exemptee has requested this action because this site has been incorporated into its recently accepted Falls Mills Dams Hydro Project No. 8263 license application.

The exemption for Project No. 8264 shall be terminated effective with the issuance of this notice. No new applications involving this project site may be filed.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9650 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-6-51-001]

Great Lakes Gas Transmission Co.; Filing

April 18, 1989.

Take notice that on April 13, 1989, Great Lakes Gas Transmission Company (Great Lakes) filed Second Substitute Seventh Revised Sheet No. 57(v) to its FERC Gas Tariff, First Revised Volume No. 1, to be effective March 6, 1989.

Great Lakes states that this tariff sheet includes a current PGA adjustment for Rate Schedule T-23.

Great Lakes requests waiver of the notice requirements of the provisions of § 154.309 of the Commission's Regulations and any other necessary waivers so as to permit the above tariff sheet to become effective March 6, 1989.

Great Lakes states that copies of this filing has been served on all of its customers and the Public Service Commissions of Minnesota, Wisconsin, and Michigan.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before April 25, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9725 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-90-001 and RP89-83-001]

Superior Offshore Pipeline Co.; Compliance Filing

April 18, 1989.

Take notice that on April 12, 1989, Superior Offshore Pipeline Company ("SOPCO") tendered for filing the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff.

Second Revised Sheet No. 32
Original Sheet No. 32a
Original Sheet No. 32b
Original Sheet No. 32c

SOPCO states the revised sheets comply with the Federal Energy Regulatory Commission's order issued March 31, 1989, and with Order No. 509.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 25, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9726 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 18, 1989

Take notice that ANR Pipeline Company ("ANR") on April 13, 1989 tendered for filing as a part of its FERC Gas Tariff Original Volume No. 1-A, Substitute First Revised Sheet No. 136B.

ANR states that the above referenced tariff sheet is being filed in compliance with the Commission's Letter Order of March 31, 1989 in Docket No. RP89-88-000 to revised § 2.3(c) by adding the word operationally, so that the section reads in part, " * * * provided that such FTS-1 transportation service is operationally feasible * * * "

ANR has requested that the Commission accept this filing to become effective as of April 1, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Stret, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Such protests or motions must be filed by April 25, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9581 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2449 Michigan]

Consumers Power Co.; Intent To File an Application for a New License

April 18, 1989.

Take notice that on December 16, 1988, Consumers Power Company, the existing licensee for the Loud Hydroelectric Project No. 2449, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2449 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Au Sable River in Iosco County, Michigan. The principal works of the Loud Project include a 41-foot-high, 2,000-foot-long dam with two earth embankments, an emergency spillway, and a powerhouse and gated spillway section; a reservoir of 790 acres at elevation 742.67 feet m.s.l.; a powerhouse with an installed capacity of 4,000 kW; a substation and transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 1945 West Parnall Road, Jackson, MI 49201, Attn: R.J. Ford, telephone (517) 788-0156.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for

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license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9727 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2385 New York]

Finch, Pruyn & Co. Inc.; Intent To File an Application for a New License

April 18, 1989.

Take notice that on August 4, 1988, Finch, Pruyn & Company, Inc., the existing licensee for the Glens Falls Hydroelectric Project No. 2385, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2385 was issued effective April 1, 1949, and expires December 31, 1993.

The project is located on the Hudson River in Warren County, New York. The principal works of the Glens Falls Project include that section owned by the licensee of a reinforced concrete dam across the Hudson River; a headgate structure and a forebay canal, averaging 80 feet in width, formed by the natural river bank on the left and on the right by a 550-foot-long reinforced concrete wall at crest elevation 266.16 feet m.s.l.; a powerhouse with an installed capacity of 9,840 kW; a transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 1 Glen Street, Glens Falls, NY 12801.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9728 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C88-74-002]

Panhandle Trading Co.; Application for Extension of a Blanket Limited-Term Certificate With Pregranted Abandonment

April 18, 1989.

Take notice that on April 17, 1989, Panhandle Trading Company (Panhandle) of P.O. Box 1354, Houston, Texas 77251-1354, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of its blanket limited-term certificate with pregranted abandonment previously issued by the Commission for a term expiring March 31, 1989, to extend such authorization for an unlimited term, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before April 27, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214), All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Panhandle to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9729 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2583 New York]

Rochester Gas and Electric Corp.; Intent to File an Application for a New License

April 18, 1989.

Take notice that on December 30, 1988, Rochester Gas and Electric Corporation, the existing licensee for the Station 5 Hydroelectric Project No. 2583, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2583 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Genesee River in Monroe County, New York. The principal works of the Station 5 Project include a 400-foot-long dam with four 16-foot by 50-foot Taintor Gates and two 15-foot by 100-foot steel gates separated by concrete piers; a reservoir of 325 acre-feet usable capacity; a rack house and a 20-foot-diameter, 1,400-foot-long concrete lined tunnel with a surge tank; three 13-foot-diameter, 30-foot-long steel penstocks; a powerhouse with an installed capacity of 38,250 kW; transmission line connections; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at Document Control Room 49, East Avenue, Rochester, NY 14649-0001.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9730 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2582 New York]

Rochester Gas and Electric Corp.; Intent To File an Application for a New License

April 18, 1989.

Take notice that on December 30, 1988, Rochester Gas and Electric Corporation, the existing licensee for the Station 2 Hydroelectric Project No. 2582, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2582 was issued effective January 1, 1959, and expires December 31, 1993.

The project is located on the Genesee River in Monroe County, New York. The principal works of the Station 2 Project include a canal gate house, with seven steel gates, downstream from the City of Rochester's Central Avenue Dam and upstream from a collapsible 11-foot-high, 32-foot-long wood dam; a canal known as Brown's Race; a forebay, rack house and 11-foot-diameter, 235-foot-long steel penstock; a powerhouse with a installed capacity of 6,500 kW; two 11-kV underground transmission cables, about 4,000 feet long; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at Document Control Room, 49 East Avenue, Rochester, NY 14649-0001.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9731 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2561 Missouri]

Sho-Me Power Corp.; Intent to File an Application for a New License

April 18, 1989.

Take notice that on October 14, 1988, Sho-Me Power Corporation, the existing licensee for the Niangua Hydroelectric Project No. 2561, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. § 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2561 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Niangua River in Camden County, Missouri. The principal works of the Niangua Project include an 878-foot-long dam with four 24-foot-high, 300-foot-long concrete gravity overflow section, a 533-foot-long rock and earthfill section and a rock-filled crib section; a reservoir of 360 acres at elevation 711.5 feet m.s.l.; an 830-foot-long concrete lined tunnel to a surge chamber; a powerhouse with an installed capacity of 3,000 kW; a 2.3/69-kV substation and transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 301 W. Jackson, Marshfield, MO 65706, Attn: Howard H. Fillmer, telephone (417) 468-2615.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9732 Filed 4-21-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OA-FRL-3559-5]

Waiver of Section 109, Pub. L. 100-202, for the City and County of San Francisco, Wastewater Treatment Construction Grant C-061253-710

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Administrator of the Environmental Protection Agency (EPA) has approved a waiver from the provisions of the "Brooks-Murkowski amendment", section 109, Pub. L. 100-202, for the City and County of San Francisco (grantee), wastewater treatment construction grant C-061253-710. The waiver is printed with this notice.

The waiver allows EPA to participate in the cost of three steel beams for the grant project even though the beams are Japanese-made.

EFFECTIVE DATE: April 13, 1989.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Administration Division, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (202) 382-5268.

Date: April 13, 1989.

William K. Reilly,

Administrator.

[FR Doc. 89-9768 Filed 4-21-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3560-4]

Workshop Report on EPA Guidelines for Carcinogen Risk Assessment

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of availability of workshop report on EPA guidelines for carcinogen risk assessment.

SUMMARY: This notice announces the availability of the Workshop Report on EPA Guidelines for Carcinogen Risk Assessment (EPA/625/3-89/015). The comments and background papers assembled in this report describe the scientific issues reviewed at the recent workshop.

ADDRESSES: To obtain a single copy of the report, interested parties should contact the ORD Publications Office, CERI-FRN, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Tel: (513) 569-7562 or FTS: 684-7562. Please provide your name and mailing address and request the document by the title and EPA number.

The workshop report also will be available for public inspection and copying in the Public Information Reference Unit of the EPA Headquarters Library, Waterside Mall, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Thomas, Technical Liaison, Risk Assessment Forum, Tel: (202) 475-6743 or FTS: 475-6743.

SUPPLEMENTARY INFORMATION: On January 11-13, 1989, EPA assembled experts in various aspects of carcinogen risk assessment to examine the scientific foundation for two aspects of the EPA's 1986 Carcinogen Risk Assessment Guidelines (51 FR 33992-34054, 24 September 1986). Some workshop participants studied qualitative issues bearing on the classification of chemicals as potential human carcinogens, while others focused on quantitative questions regarding extrapolation from test animal data to human populations.

The workshop report highlights the major scientific issues discussed at the meeting. The report includes remarks by opening session speakers, EPA's pre-meeting statement of issues, summary

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statements for major workshop discussions, reference lists, and a list of workshop participants. The papers are informal materials prepared exclusively for use at the workshop, rather than standard scientific papers.

As described in previous Federal Register notices (53 FR 32656, 26 August 1988; 53 FR 49920-21, 12 December 1988), the workshop was part of EPA's current review of its 1986 Guidelines for Carcinogen Risk Assessment. The first stage of this review included several activities, including the January workshop, designed to develop information to help EPA identify scientific issues relating to current use and possible revision of these guidelines.

In the current second stage, EPA is analyzing the information collected above to make decisions about possible changes in the guidelines and, if appropriate, to develop a proposal for peer review and public comment. The information collected so far suggests several different outcomes, ranging from no changes at this time to substantial revision of some parts of the guidelines.

In the third stage, any proposed changes would be submitted to individual scientists for preliminary peer review and then to the general public, other federal agencies, and EPA's Science Advisory Board for comment. All of these comments would be considered in developing final guidance.

Date: April 17, 1989.

Erich Bretthauer,

Assistant Administrator for Research and Development.

[FR Doc. 89-9767 Filed 4-21-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 17, 1989.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501 et seq.).

Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785. Copies of these comments should also be sent to the Commission. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632-7513.

OMB Number: 3060-0419

Title: Sections 76.94, 76.155, 76.157, and 76.159—Syndicated Exclusivity and Network Non-duplication

Action: Revision

Respondents: Businesses (including small businesses)

Frequency of Response: On occasion

Estimated Annual Burden: 1,460,025 responses; 176,663 hours; 0.121 hours each

Needs and Uses: Notifications by television stations and program suppliers will provide cable systems with information on programs for which they have syndicated exclusivity or network non-duplication rights. The data provided to cable systems by television systems will be used to determine when programs subject to deletion will be aired, so that cable systems can delete carriage of signal at appropriate time.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9657 Filed 4-21-89; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Virgil L. Pearman, et al.

1. The Commission has before it the following mutually exclusive applications for three new FM stations:

I

Applicant, city, and state	File No.	MM docket No.
A. Virgil L. Pearman; Radcliff, KY.	BPH-871110MK	89-82
B. W & B Broadcasting, Inc.; Radcliff, KY.	BPH-871110MU	
C. Elizabethtown Broadcasting Co., Inc.; Radcliff, KY.	BPH-871110NG	

Issue Heading and Applicants

1. Air Hazard, B
2. Comparative, A, B, C
3. Ultimate, A, B, C

II

Applicant, city, and state	File No.	MM docket No.
A. Nancy C. Hart; Auberry, CA.	BPH-870330MF	89-81
B. Mirror Broadcasting Corp.; Auberry, CA.	BPH-870331OE	
C. James K. Zahn; Auberry, CA.	BPH-870331OS	
D. Sharryle G. Chung Eurich and Robert Eurich d/b/a Mountain Air Broadcasting; Auberry, CA.	BPH-870331OZ	
E. Eric R. Hilding; Auberry, CA.	BPH-870331PL	
F. Catharina Louisa Osborn; Auberry, CA.	BPH-870408KC	
G. Gary E. Willson, Auberry, CA.	BPH-870331ON (Dismissed herein)	

Issue Heading and Applicants

1. Financial, E
2. Comparative, A-F
3. Ultimate, A-F

III

Applicant, city, and state	File No.	MM docket No.
A. RFI Associates; Ithaca, NY.	BPED-861229MA	89-83
B. Family Life Ministries Radio, Inc.; Spencer, NY.	BPED-870606MB	

Issue Heading and Applicant

1. Financial, A
2. 307(b)—Noncommercial Educational, A,B
3. Contingent Comparative, A,B
4. Ultimate, A,B

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 89-9655 Filed 4-21-89; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Sainte Ltd., et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city, and state	File No.	MM docket No.
A. Sainte Limited; Las Vegas, NV.	BPCT-881011KG	89-80
B. Blackstar Communications, Inc.; Las Vegas, NV.	BPCT-881121KK	
C. Televenture Broadcasting, Inc.; Las Vegas, NV.	BPCT-881128KF	
D. Lorraine Walker Arms; Las Vegas, NV.	BPCT-881202KK	
E. P.Z. Entertainment Partnership, L. P.; Las Vegas, NV.	BPCT-881205KG	
F. Channel 15—Daniel R. Ewing, Limited Partnership; Las Vegas, NV.	BPCT-881205KH	
G. Media Profiles, Inc.; Las Vegas, NV.	BPCT-881205KI	
H. Tierra Alta Broadcasting, Inc.; Las Vegas, NV.	BPCT-881205KJ	
I. North Las Vegas Broadcasting Co., Inc.; Las Vegas, NV.	BPCT-881205KK	
J. Echonet Corporation; Las Vegas, NV.	BPCT-881205KM	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, E, H, I & J

Comparative, A, B, C, D, E, F, G, H, I & J

Ultimate, A, B, C, D, E, F, G, H, I & J

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart, Chief,

Video Services Division, Mass Media Bureau.

[FR Doc. 89-9656 Filed 4-21-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010676-034.

Title: South Europe/U.S.A. Freight Conference ("Conference").

Parties:
Achille Lauro
Compania Trasatlantica Espanola, S.A.
Costa Container Lines (Contship Containerlines, Ltd.)
Evergreen Marine Corporation (Taiwan) Ltd.
Farrell Lines, Inc.
Italia de Navigazione S.p.A.
Jugolinija
Jugooceanija
Lykes Lines (Lykes Bros. Steamship Co., Ltd.)
A.P. Moller-Maersk Line
Nedlloyd Lines (Nedlloyd Lijnen B.V.)
Sea-Land Service, Inc.
P & O Containers (TFL) Ltd.
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed modification would permit the Conference to be organized as an association or other legal entity under Italian Law for the purpose of providing administrative services for the Members. It would also provide that all Members of the Conference shall be members of such association or other legal entity organized in Italy.

Agreement No.: 202-010776-046.

Title: Asia North America Eastbound Rate Agreement.

Parties: American Presedent Lines, Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Liner Systems, Ltd.
Nippon Yusen Kaisha Line
Sea-Land Service, Inc.

Synopsis: The proposed modification provides that extensions of existing independent actions will be considered initial independent actions.

Agreement No.: 203-011237.

Title: Agreement 11237.

Parties: Atlantic Container Line BV
Hapag Llyod AG
Sea-Land Service, Inc.
P & O Containers (TFL) Limited
Gulf Container Line (GCL), BV
Compagnie Generale Maritime (CGM)
Nedlloyd Lijnen BV
A.P. Moller-Maersk Line.

Synopsis: The proposed Agreement would authorize the parties to meet, communicate and exchange information, and consider, discuss and reach consensus or agreement with regard to matters of mutual interest, and upon their respective rates, conditions of carriage and services in the North Europe-U.S. Atlantic trade including ports in the United Kingdom and Scandinavia. Any agreement reached would be voluntary.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: April 19, 1989.

[FR Doc. 89-9714 Filed 4-21-89; 8:45 am]

BILLING CODE 6730-01-M

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FEDERAL RESERVE SYSTEM

J.P. Morgan & Co. Inc., New York, NY; Proposal to Engage in Placement as Agent of All Types of Securities; Correction

This notice corrects a previous Federal Register notice (FR Doc. 89–8364 published at page 14,290 of the issue for Monday, April 10, 1989).

The entry for J.P. Morgan & Co. Incorporated is amended to read as follows:

J.P. Morgan & Co. Incorporated, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a), of the Board's Regulation Y (12 CFR 225.23(a)), for permission for its subsidiary J.P. Morgan Securities Inc., New York, New York ("JPMS"), to engage in the placement, as agent for issuers, of all types of securities.

JPMS is currently authorized to underwrite and deal in, to a limited extent, certain securities. *See J.P. Morgan & Co. Incorporated, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp and Security Pacific Corporation*, 75 Federal Reserve Bulletin 192 (1989) ("*J.P. Morgan et al.*"); *J.P. Morgan and Co. Incorporated*, 73 Federal Reserve Bulletin 875 (1987); *Citicorp, J.P. Morgan and Co. Incorporated and Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987); and 12 CFR 225.25(b)(16). In addition, JPMS has received authorization to provide securities brokerage and investment advisory services on a combined basis to institutional customers. *J.P. Morgan and Co. Incorporated*, 73 Federal Reserve Bulletin 810 (1987).

J.P. Morgan has applied to engage in the placement, as agent for issuers, of all types of securities within the limitations established by the Board in *J.P. Morgan et al.*, except that: (i) The proposal would involve the placement of all types of securities, including equities; and (ii) the revenues from the proposed placement activities would be not be subject to the five percent gross revenue limitation established in prior orders which limits JPMS's underwriting and dealing activities. As part of the proposed activities, JPMS would engage in "riskless principal" transactions. J.P. Morgan contends that such transactions are the economic equivalent of agency transactions, in that they do not expose JPMS to market risk. JPMS would not engage in "best efforts" underwriting under the proposal.

The Board has not previously determined that the proposed activities are permissible under section 4(c)(8) of the Bank Holding Company Act. Section 4(c)(8) of the Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

J.P. Morgan contends that the proposed activities are closely related to banking because banks, including its bank subsidiary, Morgan Guaranty Trust Company of New York, are currently active participants in the private placement market. Under this proposal, J.P. Morgan would transfer the placement activities currently conducted in its bank subsidiary to JPMS.

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." J.P. Morgan maintains that permitting bank holding companies to engage in the proposed activities would result in greater convenience to customers and increased efficiency in the provision of J.P. Morgan's placement services.

J.P. Morgan contends that the proposed activities would not result in adverse effects since the proposal would result in the shifting the placement activities out of a bank to a nonbank subsidiary. J.P. Morgan states that JPMS is registered with the Securities and Exchange Commission and is a member of the National Association of Securities Dealers and the New York Stock Exchange and hence is subject to the full range of state and federal securities laws including financial reporting, antifraud and financial responsibility rules applicable to a broker-dealer. Moreover, J.P. Morgan notes that the framework of prudential limitations required by the Board's prior orders reinforce the separation between JPMS and its banking affiliates and would subject the proposed activities to restrictions that otherwise would not be required if such activities continue to be performed in the bank.

J.P. Morgan contends that the proposed asctivities do not raise an issue under section 20 of the Glass-Steagall Act (12 U.S.C. 377), relying on *Securities Industry Ass'n* v. *Board of Governors*, 807 F.2d 1052 (D.C. Cir. 1986), *cert. denied*, 107 S.Ct. 3228 (1987). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as Morgan Guaranty Trust Company of New York, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities.

Any request for a hearing on this application must comply with section § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than May 10, 1989.

Board of Governors of the Federal Reserve Systrem, April 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9707 Filed 4–21–89; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89M–0116]

Epcon Laboratories; Premarket Approval of Epcon Soft (Polymacon) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Epcon Laboratories, El Paso, TX, for premarket approval, under the Medical Device Amendments of 1976, of the spherical Epcon Soft (polymacon) Hydrophilic Contact Lens for daily wear. The lenses are to be manufactured under an agreement with Allergan Hydron, Inc., Woodbury, NY, which has authorized Epcon Laboratories to incorporate information contained in its approved premarket approval application for the Hydron® (polymacon) Hydrophilic Contact Lens manufactured by a lathe cutting technique. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of February 27, 1989, of the approval of the application.

DATE: Petitions for administrative review by May 24, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On June 23, 1988, Epcon Laboratories, El Paso, TX 79912, submitted to CDRH an application for premarket approval of the spherical Epcon Soft (polymacon) Hydrophilic Contact Lens for daily wear. The lens is indicated for the correction of visual acuity in persons with nondiseased eyes and/or aphakia, who are myopic or hyperopic and may exhibit astigmatism 1.50 diopters (D) or less that does not interfere with visual acuity. The lens is indicated in a power range of −20.00 D to +20.00 D and is to be disinfected using either a heat or chemical disinfection system. The application includes authorization from Allergan Hydron, Inc., Woodbury, NY 11797, to incorporate information contained in its approved premarket approval application for the Hydron® (polymacon) Hydrophilic Contact Lens manufactured by a lathe cutting technique.

On February 27, 1989, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above. The labeling of the Epcon Sodt (polymacon) Hydrophilic Contact Lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 24, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 14, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89–9715 Filed 4–21–89; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Human Immunodeficiency Virus Services Planning Program Grants

AGENCY: Health Resources and Services Administration, PHS, DHHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of availability of funds, published in the Federal Register on March 8, 1989 (54 FR 9898), as follows:

• Under 54 FR 9899, Eligible Jurisdictions, at the end of the paragraph add:

(3) Counties that are not in SMSAs and that have between 100 and 400 cases of AIDS as reported by the CDC as of September 12, 1988 (see Appendix C).

• Under 54 FR 9902, add Appendix C, as follows:

APPENDIX C—Counties Not in SMSAs Eligible For Grants Under The HIV Services Planning Program (counties that are not in SMSAs and that have between 100 and 400 cases of AIDS as reported by the Centers for Disease Control as of September 12, 1988).

County	Cumulative cases
Monroe County, Florida	161

All other aspects of the March 8, 1989 Federal Register notice remain the same.

Date: April 18, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89–9716 Filed 4–21–89; 8:45 am]

BILLING CODE 4160–15–M

Office of Human Development Services

[Program Announcement No. 13631–89–2]

Developmental Disabilities; Availability of Fiscal Year 1989 Financial Assistance for Grant Awards Under the Technical Assistance Priority Area 3.3 for Projects of National Significance; Extension of Deadline

AGENCY: Administration on Developmental Disabilities, Office of Human Development Services, HHS.

ACTION: Extension of deadline for applications for Developmental Disabilities Technical Assistance projects.

SUMMARY: The Administration on Developmental Disabilities, Office of Human Development Services (OHDS), announces that the deadline for accepting applications for funding of Technical Assistance projects under Priority Area 3.3 as published in the OHDS Coordinated Discretionary Funds Program announcement on August 31, 1988 (53 FR 33686–33722), has been extended.

DATE: The new closing date for receipt of applications is June 23, 1989.

ADDRESSES: Application kits may be obtained by writing or telephoning: Kay

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Smith, Developmental Disabilities Program Specialist, Program Development Division, Administration on Developmental Disabilities, Room 5317 Wilbur J. Cohen Building, 330 Independence Avenue SW., Washington, DC 20201, Telephone: (202) 245–7719. Applications should be sent to: Office of Human Development Services, Division of Grants and Contracts Management, 200 Independence Avenue SW., HHH Building, Room 349–F, Washington, DC 20201, Attention: HDS–89–2, Priority Area: 3.3.

FOR FURTHER INFORMATION CONTACT: Kay Smith, (202) 245–7719.

SUPPLEMENTARY INFORMATION:

I. Background

The Administration on Developmental Disabilities (ADD) provides assistance to States and public and private nonprofit agencies and organizations to assure that all persons with developmental disabilities receive the services, assistance and other opportunities necessary to enable them to achieve their maximum potential through increased independence, productivity and integration into the community. Changes made by the Developmental Disabilities and Bill of Rights Act of 1987 (Pub. L. 100–146) emphasized that persons with developmental disabilities include those with severe functional limitations attributable to physical impairments, mental impairments and combinations of physical and mental impairments.

In addition, ADD seeks to enhance the role of the family in assisting persons with developmental disabilities to achieve their maximum potential as well as ensuring the protection of their legal and human rights. ADD funds projects of national significance to States and public and private nonprofit agencies for projects relating to persons with developmental disabilities.

Pub. L. 100–146 included a provision that the Secretary of Health and Human Services may make grants and enter into contracts with public or private nonprofit agencies for technical assistance to expand or otherwise improve the programs and activities of the State Developmental Disability Planning Councils, University Affiliated Programs, and State Protection and Advocacy agencies.

On August 31, 1988, the Office of Human Development Services (OHDS) published in the **Federal Register** its fiscal year 1989 Coordinated Discretionary Funds Program announcement. ADD's fiscal year 1989 priority areas for projects of national significance were included as part of that announcement. That solicitation announcement resulted in no technical assistance projects being approved for funding. Therefore, OHDS has determined that it is in the best interest of the Federal Government to extend the deadline for receipt of applications for technical assistance projects (Priority Area 3.3).

II. Priority Area Description

Technical Assistance Projects to Assist State Developmental Disabilities Planning Councils, Protection and Advocacy Agencies, and University Affiliated Programs

ADD is interested in funding technical assistance projects which support:

- The advocacy functions of the State Developmental Disability Planning Council;
- The functions performed by University Affiliated Programs and Satellite Centers; and
- The protection and advocacy services relating to the State protection and advocacy system.

This includes arranging for and coordinating the provision of technical assistance to University Affiliated Programs and Satellite Centers, State Protection and Advocacy agencies, and State Developmental Disability Planning Councils.

ADD expects to fund one project in each of the categories identified above not to exceed $100,000 per project.

III. Minimum Requirements for Project Design

In order to successfully compete, the application should:

—Clearly demonstrate the ability to expand or otherwise improve the advocacy functions of the State Planning Council; or the functions performed by University Affiliated Programs and Satellite Centers; or the protection and advocacy services relating to the State protection and advocacy system.

—Provide evidence of partnerships with community agencies and local advocacy agencies to emphasize productivity, independence, and integration into the community of individuals with developmental disabilities.

Eligible Applicants: State, public or private nonprofit organizations, institutions or agencies. Applicants who previously applied may reapply.

Duration of Projects: Not to exceed 12 months.

Federal Share of Project Costs: Not to exceed $100,000 per project.

Grantee Share of Project Costs: Successful applicants must contribute $1, secured from non-Federal sources, for every $3 received in Federal funding up to $100,000. The grantee share amounts to at least 25% of the entire project cost.

The exception to this requirement relates to applications originating from American Samoa, Guam, the Virgin Islands or the Commonwealth of the Northern Mariana Islands. Applicants from these insular areas are covered by section 510(d) of Pub. L. 95–134, which requires the Department to waive "any requirement for local matching funds under $200,000" for these jurisdictions.

The non-Federal share of total project costs for each budget period may be in the form of grantee-incurred costs and/or third party in-kind contributions. OHDS strongly encourages applicants to propose a grantee share which is more than 25% of the project costs. OHDS also encourages applications where the matching requirement will be met in cash (as opposed to in-kind contributions) from non-Federal sources.

If the required non-Federal share is not met by a grantee for each budget period during the project period, OHDS will disallow any unmatched Federal dollars. The amount of non-Federal share required will be the amount proposed by the applicant. If the proposed share exceeds 25%, the applicant will be required to provide the additional cost-sharing or matching. Therefore, applicants should be sure of any amount proposed as match before including these funds in their budgets.

IV. General Information and Requirements for the Application Process and Review

Applicants must meet the requirements contained in the following sections of the **Federal Register** announcement of August 31, 1988:

A. General Information
B. Evaluation Criteria
C. The Components of an Application
D. Preparing the Application
E. The Application Package
F. Checklist for a Complete Application

In addition, all applicants must submit two new assurances: (1) Certification Regarding Drug-Free Workplace and (2) Certification Regarding Debarment. This will be included in the application kit.

V. The Application Process

A. Deadline for Submittal of Applications

The closing date for submittal of applications under this program announcement is June 23, 1989. The requirements for deadline and submittal of applications as published in the August 31, 1988 **Federal Register** (page 33702) apply to this resolicitation.

B. Availability of Forms

All instructions and forms for submittal of applications will be included in the application kit and may be obtained by writing or telephoning: Kay Smith, Program Development Division, Administration on Developmental Disabilities, Room 5317, Wilbur J. Cohen Building, 330 Independence Avenue SW., Washington, DC 20201. Telephone: (202) 245–7719.

(Federal Catalog of Domestic Assistance Number 13.631 Developmental Disabilities–Special Projects)

Dated: April 11, 1989.

Will Weistein,

Acting Commissioner, Administration on Developmental Disabilities.

Approved: April 18, 1989.

Donna N. Givens,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 89–9664 Filed 4–21–89; 8:45 am]

BILLING CODE 4130–01–M

Public Health Service

Health Resources and Services Administration; Delegation of Authority to Director, Bureau of Health Care Delivery and Assistance

Notice is hereby given that in furtherance of the delegation of authority of April 7, 1989, from the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration, of the authority under section 2523, Title XXV, of the Public Health Service Act, as amended, excluding the authority to issue regulations and to submit reports to the Congress, the Administrator has delegated to the Director, Bureau of Health Care Delivery and Assistance, the authority under section 2523, Title XXV, of the Public Health Service Act, as amended, concerning the provision of information to underserved populations.

Redelegation

This authority may be redelegated.

Effective Date

This delegation was effective upon date of signature.

Date: April 7, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89–9645 Filed 4–21–89; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–89–1976]

Submission of Proposed Information Collection to the Office of Management and Budget

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

This Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: April 13, 1989.

David S. Cristy,

Deputy Director, Information Policy and Management Division.

Proposal: Urban Development Action Grant Program (UDAG).

Office: Community Planning and Development.

Description of the Need for the Information and Its Proposed Use: Information will be provided to HUD by local governments for evaluation of UDAG project applications, monitoring progress and closing out funded projects.

Form Number: SF–424, HUD–3445, HUD–3440; HUD–3441–4, and HUD–3446.

Respondents: States or Local Governments.

Frequency of Submission: Recordkeeping, On Occasion, and Semi-Annually.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Application	200		1.3		32.2		8,372
Semi-annual Progress Report	1,500		2		3.5		10,500
Closeout Report	325		1		3.0		975
Recordkeeping	606		1		40		24,240

Total Estimated Burden Hours: 44,087.

Status: Extension.

Contact: Michael McMahon, HUD, (202) 755–8227, John Allison, OMB, (202) 395–6880.

Date: April 13, 1989.

[FR Doc. 89–9774 Filed 4–21–89; 8:45 am]

BILLING CODE 4210–01–M

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[Docket No. N-89-1977]

Submission of Proposed Information Collections to the Office of Management and Budget

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act. 42 U.S.C. 3535(d).

Date: April 18, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Compliance Inspection Report—Morgagee's Assurance of Completion.
Office: Housing.
Description of the Need for the Information and Its Proposed Use: Form HUD-92051 will be used by HUD staff and private inspectors to report the status of repair requirements on existing or proposed construction cases. Form HUD-92300 will be used by mortgage companies for establishing escrows for incomplete repairs or construction.
Form Number: HUD-92051 and HUD-92300.
Respondents: Business or Other For-Profit.
Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD-92051	10,000		100		.25		250,000
HUD-92300	14,000		1		.25		3,500

Total Estimated Burden Hours: 253,500.
Status: Extension.
Contact:
Ken Crandall, HUD (202) 755-6720
John Allison, OMB (202) 395-6880
Date: April 13, 1989.

Proposal: Request for Determination of Eligibility as a Nonprofit Sponsor and/or Mortgagor.
Office: Housing.
Description of the Need for the Information and Its Proposed Use: The form, FHA-3433, will be used by HUD Field Offices to evaluate nonprofit sponsors to determine eligibility of proposed sponsors as nonprofit entities. By making this determination at the earliest possible date, it will eliminate the need to expand additional funds by those not qualified.
Form Number: FHA-3433.
Respondents: Businesses and Other For-Profit.
Frequency of Submission: Annually.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
FHA-3433	900		1		.75		675

Total Estimated Burden Hours: 675.
Status: Revision.
Contact:
Sharon Mizell, (HUD) (202) 426-8730
John Allison, OMB, (202) 395-6880.
Date: April 14, 1989.

Proposal: Schedule of Pooled Project Mortgage.
Office: Government National Mortgage Association (GNMA).
Description of the Need for the Information and Its Proposed Use: This form will provide a means of identifying specific project mortgages in the pool and assure that all required mortgage documents have been delivered to a document custodian. This information is necessary to assure GNMA's interest in the pooled mortgage in the event of a default.
Form Number: HUD-11721.
Respondents: Businesses or Other For-Profit.
Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD-11721	30		9		.1		32

Total Estimated Burden Hours: 32.
Status: Extension.
Contact:
Charles Clark, HUD, (202) 755-5535
John Allison, OMB, (202) 395-6880
Date: April 18, 1989.

Proposal: 1. Schedule of Pooled Loans—Manufactured Home Loans. 2. Issuer Certification of Pool Composition—Manufactured Home Loans.
Office: Government National Mortgage Association (GNMA).
Description of the Need for the Information and Its Proposed Use: The information collected will provide a means of identifying specific manufactured home loans in the pool and assure that all the required loans and related documents have been delivered to a document custodian. In addition, this information is necessary to assure GNMA's interest in the pooled loans in the event of a default, provide information on interest rates, terms, and constraints for manufactured home loan pools.
Form Number: HUD-11725 and HUD-11739.
Respondents: Businesses or Other For-Profit.
Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD-11725 and HUD-11739	12		17		.25		51

Total Estimated Burden Hours: 51.
Status: Revision.
Contact:
Charles Clark, HUD, (202) 755-5535
John Allison, OMB, (202) 395-6880
Date: April 18, 1989.

Proposal: Community Development Technical Assistance Program.
Office: Community Planning and Development.
Description of the Need for the Information and Its Proposed Use: The technical assistance regulations are designed to inform potential applicants of funds for the Community Development Technical Assistance Program. Information collected will consist of who may apply for an award, types of proposals and applications, selection criteria, submission times and places, and proposal content. With this information, HUD will be able to properly and adequately determine the merits of a proposal and subsequent award.
Form Number: SF-424.
Respondents: State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions.
Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Unsolicited Proposals	200		1		80		16,000

Total Estimated Burden Hours: 16,000.
Status: New.
Contact:
Maggie H. Taylor, HUD, (202) 755-6090
John Allison, OMB, (202) 395-6880
Date: April 12, 1989.

[FR Doc. 89-9775 Filed 4-21-89; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-050-09-4332-11]

Closure Order for Vehicle Use; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure Order for Vehicle Use; California.

SUMMARY: In cooperation with the California Department of Fish and Game, and under authority of 43 CFR 8364.1, the Bureau of Land Management is designating a seasonal vehicular closure on the Lang's Peak-Buck Island Road located in Yolo and Lake Counties.

This road becomes extremely hazardous for public vehicular use during the rainy season due to its steepness, the high clay content of the soil, and its location on a north slope which gets very little sunshine during the winter months. Visitors attempting to travel this road during the wintertime can cause considerable road and soils damage, as well as placing themselves in an extremely hazardous situation.

DATES: This vehicular closure will become effective immediately and will cover the period from November 1 through April 15 of each year.

SUPPLEMENTARY INFORMATION: Yolo County Road 40, also known as the Rieff-Rayhouse Road, provides the only public access to the Buck Island Road.

This county road is already closed during the winter months by a locked gate at both ends. However this does not keep out motorcycles and ATV's. In addition several people have a key to the county gate and drive into this area, even though it is closed to the public. Vehicles are continuing to the Buck Island Road and down to public land included within the Cache Creek Area of Critical Environmental Concern (ACEC), which *does* have a vehicular closure in effect. Bald Eagle use here in the wintertime is very significant, and also very easily disrupted by vehicles.

A locked gate with adjacent cable barrier to prevent vehicular access will be constructed near the public land boundary at the Road 40/Buck Island Road intersection. This closure area will continue down the Buck Island Road to the private property line for a distance of approximately 6 miles.

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This closure is consistent with the Clear Lake Resource Area Management Framework Plan Update and the Rocky Creek/Cache Creek Final Environmental Impact Statement.

Maps depicting this seasonal closure area are available from the Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482. Phone (707) 462–3873.

FOR FURTHER INFORMATION CONTACT: Catherine Roberston, Bureau of Land Management, Clear Lake Resource Area, 555 Leslie Street, Ukiah, California 95482. Phone (707) 462–3873.

Catherine Robertson,

Clear Lake Resource Area Manager.

[FR Doc. 89–9747 Filed 4–21–89; 8:45 am]

BILLING CODE 4310–40–M

[CA–050–08–4332–11]

Closure Order for Vehicle Use; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure order for vehicle use; California.

SUMMARY: In cooperation with the California Department of Fish and Game, and under authority of 43 CFR 8364.1, the Bureau of Land Management is designating a vehicular closure of public lands and trails within two areas: (1) the Northern California Chaparral Research Natural Area (NCCRNA), and (2) the adjacent Perkins Creek Ridge/Bally Peak area, both in Lake County. These two areas are within the Rocky Creek/Cache Creek Wilderness Study Area (WSA). They also overlap portions of public land included within the Cache Creek Area of Critical Environmental Concern (ACEC). Public lands within this ACEC were closed to vehicles in July 1987. This closure adds approximately 10,000 acres to the 1987 closure.

All vehicular use except for administrative access and that associated with valid existing rights (e.g. grazing leases, mining claims, etc.) are prohibited year-round.

DATES: This closure is effective immediately.

SUPPLEMENTARY INFORMATION: The lands included within this closure are part of the Rocky Creek/Cache Creek Wilderness Study Area (WSA). This is a 34,000 acre block of public land which the Bureau is currently mandated to manage so as to not impair wilderness values, pending the final decision by Congress to designate or to not designate the WSA a wilderness area. This decision by Congress is expected sometime within the next two years.

The management plan for the NCCRNA, approved in 1986, calls for a restriction on vehicle use. Vehicular access for administrative purposes, valid existing rights, and any authorized academic research pertaining to the California chaparral plant community would still continue. Currently vehicular access is occurring into the NCCRNA from adjacent private lands inaccessible to the public. Vehicles have been driving more than 5 miles into this portion of public land to the point where it overlaps with the ACEC. Traffic then continues on through critical wildlife habitat areas previously closed to vehicles in 1987.

Specific resource damage occurring here is primarily soils and vegetation-related. Some of these trails are being severely eroded from vehicular use on the steep erosive soils. Significant damage to vegetation is occurring where old jeep trails, which had almost completely grown over with native vegetation are being re-opened by recent vehicle use into the NCCRNA.

In the Perkins Creek Ridge/Bally Peak area there are illegal activities occurring which detract from wilderness values. Trash dumping including car bodies, old refrigerators, and miscellaneous junk is a serious problem. Because a nearby sanitary landfill is closed on certain days, trash is often dumped on adjacent BLM lands via a public access road. Trash is spread out for a distance of about one mile on that portion of the road not visible from other roads or residences. Because of this limited visibility, a person dumping feels relatively assured of not being caught. Littering of adjacent private land is also occurring where the public access road meanders back into private property.

Indiscriminate target shooting at all this trash is another problem. Broken glass is littered along the first mile of jeep road. Added to this is the safety hazard of having the public target shooting on a road which other vehicles are using.

Significant soils damage is also occurring here from vehicle use on steep hillsides.

This closure will not affect public access by hikers, equestrians, or bicyclists. Sport hunting during allowable seasons will continue.

This closure includes all public lands, not previously covered by the 1987 closure, which are located in T. 13N., R. 6W., sections 13 through 36 inclusive, Mt. Diablo Meridian; all public land located in T. 13N., R. 7W., sections 13, 24, 25, and 26, Mt. Diablo Meridian; and all public land located in T. 12N., R.6W., sections 1 through 6 inclusive, Mt. Diablo Meridian.

This closure is consistent with the Rocky Creek/Cache Creek Wilderness Study Area Final Environmental Impact Statement and the Northern California Chaparral Research Natural Area management plan.

Copies of a map showing the designated closure area are available from the Bureau of Land Management Office, Clear Lake Resource Area, 555 Leslie Street, Ukiah, California 95482.

FURTHER INFORMATION CONTACT: Catherine Robertson, Bureau of Land Management, Clear Lake Resource Area Manager, 555 Leslie Street, Ukiah, California 95484, Phone (707) 462–3873.

Catherine Robertson,

Clear Lake Resource Area Manager.

[FR Doc. 89–9748 Filed 4–42–89; 8:45 am]

BILLING CODE 4310–40–M

[CA–050–08–4332–11]

Closure Order for Vehicle Use; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure Order for Vehicle Use; California.

SUMMARY: In cooperation with the California Department of Fish & Game, and under authority of 43 CFR 8364.1, the Bureau of Land Management is designating a permanent vehicular closure of public lands within the Cedar Roughs Area of Critical Environmental Concern/Research Natural Area (ACEC–RNA). This closure will not apply to vehicular access for administrative purposes, authorized academic research, or access pertaining to any valid existing rights (i.e. private inholdings).

DATES: This closure is effective immediately.

SUPPLEMENTARY INFORMATION: The public lands included within this closure comprise the Cedar Roughs ACEC–RNA. This 5,600 acre block of public land is being managed as an ACEC–RNA because of its unique vegetative attributes, primarily the large stand of Sargent Cypress (*Cupressus sargentii*) and the large block of undisturbed California chaparral found here. Academic research into the botanical, geological, and cultural aspects of the Cedar Roughs area is being encouraged.

Presently *there is no public vehicular access into the ACEC–RNA.* One landowner who owns property within the boundary of the area would maintain the right of vehicular access to get to his property. The only other vehicular access is by local landowners and their permittees who control the access points. These other neighboring landowners would no longer be allowed to drive into the ACEC–RNA.

This closure is consistent with the Clear Lake Resource Area Management Framework Plan Update and the Cedar Roughs ACEC–RNA Management Plan (1988), which calls for a vehicular closure into this area.

Maps depicting this permanent closure area are available from the BLM, 555 Leslie Street, Ukiah, California 95482. Phone (707) 462–3873.

FOR FURTHER INFORMATION CONTACT: Catherine Robertson, Bureau of Land Management, Clear Lake Resource Area, 555 Leslie Street, Ukiah, California 95482, Phone (707) 462–3873.

Catherine Robertson,

Clear Lake Resource Area Manager.

[FR Doc. 89–9749 Filed 4–21–89; 8:45 am]

BILLING CODE 4310–40–M

[WY–060–4320–12–2411]

Casper District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Casper District Advisory Council.

SUMMARY: The Casper District Advisory Council will convene at 9:00 a.m. May 17, 1989 at the Casper District Office, 1701 East "E" Street, Casper, Wyoming. The council will address the following agenda items during the morning session: new member orientation, 1989 fire management plan, "Recreation 2000" projects, land exchanges, and any other topic raised by either council members or members of the public. The public comment period is scheduled for 10:00 a.m.

Beginning at 1:00 p.m. the Advisory Council and the District Advisory Board will meet for a joint session and tour of public lands. The session will start with comments from new Wyoming State Director Ray Brubaker, followed by a tour of a recreational site, and grazing and riparian areas located within the jurisdiction of the Platte River Resource Area. The meeting and tour is open to the public.

FOR INFORMATION CONTACT: Kate DuPont, Public Affairs Specialist, 307–261–5101, Casper, Wyoming.

SUPPLEMENTARY INFORMATION: The meeting and the tour is open to the public. Summary minutes of the Board meeting will be maintained in the district office and will be available for public inspection within 30 days following the meeting.

Mike Karbs,

Acting District Manager.

April 14, 1989.

[FR Doc. 89–9751 Filed 4–21–89; 8:45 am]

BILLING CODE 4310–22–M

[WY–060–4320–12–2411]

Casper District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Casper District Advisory Board.

SUMMARY: The Casper District Grazing Advisory Board will meet May 17, 1989 for a joint tour of public lands together with the Casper District Advisory Council and will reconvene May 18, 1989 at 9:00 a.m. at the Casper District Office, 1701 East "E" Street, Casper, Wyoming. The joint session/tour will begin at 1:00 p.m. at the Casper District Office with comments from Wyoming's new State Director Ray Brubaker, followed by a tour of a recreational site, and grazing and riparian areas located within the jurisdiction of the Platte River Resource Area.

The agenda items for the May 18 business session of the Grazing Advisory Board are as follows: (1) Progress report on range improvement projects; (2) presentation and approval of proposed range improvement projects; (3) report on the district weed control program; and (4) reports on allotment management plans by resource areas and any other items raised for discussion by the board or members of the public. The public comment period is scheduled for 10:00 a.m. May 18, 1989. Interested persons may testify or submit written statements for Board consideration.

FOR FURTHER INFORMATION CONTACT: Kate DuPont, Public Affairs Specialist, or Bruce Daughton, Range Conservationist at 307–261–5101.

SUPPLEMENTARY INFORMATION: The meeting is held in accordance with section 3, Executive Order 12548 of February 14, 1986. The meeting and the tour is open to the public. Summary minutes of the Board meeting will be maintained in the district office and will be available for public inspection within 30 days following the meeting.

Mike Karbs,

Acting District Manager.

April 14, 1989.

[FR Doc. 89–9752 Filed 4–21–89; 8:45 am]

BILLING CODE 4310–22–M

[ID–040–4320–10]

Salmon District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held Wednesday, May 24, 1989 at 10:00 a.m.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92–463. The meeting is open to the public; public comments on agenda items will be accepted from 11:00 to 11:30 a.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467 by May 19, 1989.

The purpose of the meeting is to discuss a Range Readiness Policy for the Salmon District.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:15 p.m.) within 30 days after the meeting.

For further information, contact: Roy S. Jackson, District Manager, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, phone (208) 756–5400.

Dated: April 13, 1989.

Roy S. Jackson,

District Manager.

[FR Doc. 89–9753 Filed 4–21–89; 8:45 am]

BILLING CODE 4310–89–M

[WY–930–09–4212–24; WYW 114330]

Filing of Application for Conveyance of Federally-Owned Mineral Interests; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice correction.

This notice will correct the Notice of Filing of Application for Conveyance of Federally-Owned Mineral Interests published in Vol. 54, No. 35, Thursday, February 23, 1989, page 7889. The Notice is corrected by changing the following legal description:

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Sixth Principal Meridian, Wyoming

In T. 35 N., R. 111 W., Sec. 7, delete previously published legal description and replace with the NE¼, NE¼SE¼.

John A. Naylor,
Chief, Branch of Land Resources.

Date: April 14, 1989.

[FR Doc. 89-9757 Filed 4-21-89; 8:45 am]
BILLING CODE 4310-22-M

[WY-930-09-4212-24; WYW 114327]

Filing of Application for Conveyance of Federally-Owned Mineral Interests; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice correction.

This notice will correct the Notice of Filing of Application for Conveyance of Federally-Owned Mineral Interests published in Vol. 54, No. 36, Friday, February 24, 1989, page 8003. The Notice is corrected by changing the following legal description:

Sixth Principal Meridian, Wyoming

In T. 35 N., R. 111 W., add Sec. 6, W½SE¼.

John A. Naylor,
Chief, Branch of Land Resources.

Date: April 14, 1989.

[FR Doc. 89-9758 Filed 4-21-89; 8:45 am]
BILLING CODE 4310-22-M

[Designation Order ID-040-8901 and ID-040-4333-08]

Idaho Off-Road Vehicle Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle designation decisions.

Decision: Notices is hereby given realting to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR 8340. The following described lands under administration of the Bureau of Land Management are designated as open, limited, or closed to off-road motorized vehicle use.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer.

The 499,566 acre area affected by the designations is known as the Lemhi Resource Area, which includes all public lands in Lemhi County, Idaho. These designations are a result of resource management decisions made in the 1986 Lemhi Resource Management Plan Final EIS. Comments received from public meetings, workshops, and numerous written responses influenced the designation decisions. This designation order supersedes interim off-road vehicle designations which were made prior to development of the 1986 Resource Management Plan. These designations are published as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

A. *Open Designation.* Areas which are designated open comprise 422,744 acres. Open designation was determined to be appropriate for these public lands since off-road vehicle use is an important recreational activity and is essential for the conduct of other authorized resource uses.

B. *Limited Designation.—1. Limited Season of Use—16,230 acres.* The Agency, Cow, Warm Springs, and Kenney Creek drainages are approximately 15 miles southeast of Salmon, Idaho. The area is open to motorized use from May 16 to November 14 and closed to snowmobile use from November 15 to May 15 to protect wintering wildlife. The Agency Creek and Warm Springs wood roads, which pass through the area, are not closed and allow snowmobilers to pass through the closure area and access the high meadows along the Continental Divide.

2. Limited Area of Use—24,922 acres. The Eighteenmile Wilderness Study Area is approximately 15 miles southeast of Leadore, Idaho. Motorized vehicle use is limited to existing roads and trails. The limited designation is an interim step in the wilderness study process.

3. Limited Season of Use—4,500 acres. The Henry Creek Road, which is approximately nine miles south of Salmon, Idaho, will be open to motorized use from April 11 to September 19. From September 20 to April 10 the area will be closed to improve watershed quality.

4. Limited Use Area—1,064 acres. The Sevenmile Area of Critical Environmental Concern (ACEC) is located seven miles south of Salmon, Idaho. Use will be limited to authorized vehicles only to protect soil and watershed and land users. The area is extremely erodible and unstable.

5. Limited Use Area—680 acres. The Chief Tendoy Cemetery, located approximately 20 miles southeast of Salmon, Idaho, is limited to use on authorized roads only to protect cultural values.

C. *Closed Areas.* 1. The 236 acre Trail Creek ACEC is located approximately 12 miles west of Lemhi, Idaho. All motorized vehicle use is prohibited in this area to preserve the unroaded old growth timber/riparian habitat and to provide additional protection to premier elk habitat.

2. The 1200 acre Tendoy area, located approximately 20 miles southeast of Salmon, Idaho, is closed to all motorized vehicle use to protect the public land user because the area is extremely steep and hazardous.

The impacts of these designations were assessed and analyzed in the Lemhi Resource Management Plan and Final Environmental Impact Statement and is available for inspection at the offices listed below.

ADDRESS: For further information about and maps of these designations, contact either of the following Bureau of Land Management officials:

District Manager, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467
Lemhi Area Manager, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467

Roy S. Jackson,
Authorized Officer.

Dated: April 12, 1989.

[FR Doc. 89-9755 Filed 4-21-89; 8:45 am]
BILLING CODE 4310-90-M

[AK-040-09-4333-10]

Designation of Off-Road Vehicle Closure of the Campbell Tract Facility

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of designation of off-road vehicle (ORV) closure of the Campbell Tract Facility.

SUMMARY: This notice of designation of an ORV closure applies to all lands and waters within the Campbell Tract Facility, a 730-acre Bureau of Land Management administrative site located within the Municipality of Anchorage, Alaska.

This order is issued pursuant to 43 CFR Part 8342 and in accordance with the authority and requirements of Executive Order 11644 and 11989. It implements a provision of "A Management Plan for Public Use and Resource Management on the Bureau of Land Management Campbell Tract Facility", which was approved in June, 1988, and which included public notice and meetings and a public comment period. This order will remain in effect until rescinded or modified by the Anchorage District Manager.

The Campbell Tract Facility is closed to all ORV use. Security of the administrative site, conflicts with non-motorized recreation use of the tract, and ORV damage to trails on the tract

are cited in the management plan referenced in the previous paragraph as rationale for the closure. The closure is not applicable to federal, state, or local law enforcement officers, members of organized search and rescue or fire suppression forces, or other federal officials in the performance of an official duty. Signs will be placed at major access points to notify the public of the closure to ORv use. Maps identifying the area are available at the office listed below. Operators of ORVs in violation of this designation are subject to the penalties prescribed in 43 CFR 8340.0-7. Direct questions to: Anchorage District Manager, Bureau of Land Management, 6881 Abbott Loop Road, Anchorage, Alaska 99507, (907) 267-1246.

Richard J. Vernimen,
Anchorage District Manager.

[FR Doc. 89-9705 Filed 4-21-89; 8:45 am]
BILLING CODE 4310-84-M

[AZ-920-09-4214-10; A-23595]

Proposed Withdrawal and Opportunity for Public Meeting; Arizona

April 13, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service proposes to withdraw 1,141.68 acres of Federal mineral estate located under recently acquired land within the Leslie Canyon Unit of the San Bernardino National Wildlife Refuge near Douglas, Arizona. This notice segregates the land for up to 2 years from location and entry under the U.S. mining laws. The mineral estate will remain open to mineral leasing.

DATE: Comments and requests for a public meeting must be received by July 24, 1989.

ADDRESS: Comments and meeting requests should be sent to the Arizona State Director, BLM, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: John Gaudio, BLM Arizona State Office, (602) 241-5534.

SUPPLEMENTARY INFORMATION: On April 12, 1989, a petition was approved allowing U.S. Fish and Wildlife Service to file an application to withdraw the Federal mineral estate in the following described land from location and entry under the United States mining laws, subject to valid existing rights:

Gila and Salt River Meridian

T. 21 S., R. 28 E.,
Sec. 17, that portion of the SW¼ lying southwest of a diagonal line which runs from the west one-quarter corner to the south one-quarter corner of said sec. 17;
Sec. 20, N½, SE¼;
Sec. 21, lots 3, 4, and 5;
Sec. 28, NW¼, N½SW¼, that portion of the NW¼SE¼ lying southwest of a diagonal line which runs from the center one-quarter corner to the southeast one-sixteenth corner of said sec. 28;
Sec. 29, E½E½, NW¼NE¼.

The area described contains 1,141.68 acres in Cochise County.

The purpose of the proposed withdrawal is to provide protection of unique ash-willow-cottonwood riparian habitat populated by the endangered Sonoran topminnow and Yaqui chub from disturbances resulting from mining activity.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given than an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer, in care of the address above, within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this Notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date.

John T. Mezes,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-9750 Filed 4-21-89; 8:45 am]
BILLING CODE 4310-22-M

Minerals Management Service

Royalty Management Advisory Committee; Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that the Royalty Management Advisory Committee (Committee) will hold a meeting in Denver, Colorado, at the location and on the dates indicated below. This meeting is being held for the purpose of MMS briefings and Committee discussion regarding the following:

- The results of constituents' review of Royalty management Program (RMP) mission performance and options for change.
- Update on Production Accounting and Auditing System onshore implementation.
- Extraordinary cost allowances for valuation purposes.
- Revenue neutrality of revised oil and gas product valuation regulations.

The Committee will make recommendations to the Secretary of the Interior (Secretary) as appropriate.

LOCATION AND DATE: The Advisory Committee meeting will be held at the Denver Hilton South, 7801 East Orchard Road, Englewood, Colorado 80111, on June 22 and 23, 1989. The Committee will meet from 8 a.m. to 5 p.m. on June 22 and from 8 a.m. to 3 p.m. on June 23. An evening session on June 22 will be scheduled during the day session if it is deemed necessary by the Committee chairman and members. For overnight accommodations at the Denver Hilton South, call 1-800-327-2242 or (303) 779-6161.

The meetings will be open to the public. Public attendance may be limited by the space available. Members of the public will be given an opportunity to address the Committee, and questions from the public will be addressed at a designated time during each session. Written statements should be submitted by June 15, 1989, to the address listed below. Minutes of this meeting will be available for public inspection and copying by July 31, 1989, at the same address.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 651, Denver, Colorado 80225, telephone number (303) 231-3360, (FTS) 326-3360.

SUPPLEMENTARY INFORMATION: The Committee was established for a 2-year period by the Secretary in 1985 to provide advice and recommendations on different RMP elements. The charter was renewed for an additional 2-year period in 1987. The Committee has 27 members appointed by the Secretary,

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representing RMP constituent interests, including Indian Tribes and allottees, State governments, and the minerals industry.

Date: April 18, 1989.

Barry A. Williamson,

Director, Minerals Management Service.

[FR Doc. 89-9718 Filed 4-21-89; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Kobuk Valley Subsistence Resource Commission; Meeting

AGENCY: National Park Service, Alaska Region, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Alaska Regional Office of the National Park Service announces a forthcoming meeting of the Kobuk Valley Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to order
(2) Introduction of guests
(3) Invocation
(4) Review of minutes from last meeting
(5) Commission member appointment
(6) Update of National Park Service plans/activities
(7) Recent court rulings on Subsistence
(8) Subsistence hunting plans
  (a) Review of past recommendations
  (b) New recommendations
  (c) Commission recommendations for future research
(9) Old and New Business
(10) Adjourn.

DATE: The meeting will begin at 1:00 p.m. on May 8, 1989, and conclude the afternoon of May 9, 1988.

ADDRESS: The meeting will be held at the Chukchi Community College.

FOR FURTHER INFORMATION CONTACT: Alan Eliason, Superintendent, Northwest Areas, P.O. Box 1029, Kotzebue, Alaska 99752, Phone (907) 442-3890.

SUPPLEMENTARY INFORMATION: The Kobuk Valley Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Convervation Act, Pub. L. 96-487.

Paul F. Haertel,

Acting Regional Director.

[FR Doc. 89-9712 Filed 4-21-89; 8:45 am]

BILLING CODE 4310-70-M

Cape Krusentern National Monument Subsistence Resource Commission; Meeting

AGENCY: National Park Service, Alaska Region, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Alaska Regional Office of the National Park Service announces a forthcoming meeting of the Cape Krusenstern National Monument Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to order
(2) Introduction of guests
(3) Invocation
(4) Review of minutes from last meeting
(5) Update of National Park Service plans/activities
(6) Subsistence and legal changes
  (a) Lime village case
  (b) Federal and state court rulings
(7) Subsistence hunting plans
  (a) Review of past recommendations
  (b) New recommendations
  (c) Commission recommendations for future research
(8) Old and New Business
(9) Adjourn

DATE: The meeting will begin at 1:00 p.m. on May 11, 1989, and conclude the afternoon of May 12, 1989.

ADDRESS: The meeting will be held at the Chukchi Community College.

FOR FURTHER INFORMATION CONTACT: Alan Eliason, Superintendent, Northwest Areas, P.O. Box 1029, Kotzebue, Alaska 99752, Phone (907) 442-3890.

SUPPLEMENTARY INFORMATION: The Cape Krusenstern Subsistence Resource Commission is authorized under Title VII, section 808, of the Alaska National Interest Lands Act, Pub. L. 96-487.

Paul F. Haertel,

Acting Regional Director.

[FR Doc. 89-9713 Filed 4-21-89; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-316X]

Angelina and Neches River Railroad Co.—Abandonment Exemption—In Angelina County, TX

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 4.0-mile line of railroad between milepost 629.0 and milepost 633.0 in Angelina County, TX.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 24, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by May 4, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by May 15, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Peter A. Greene, Thompson, Hine, and Flory, 1920 N Street, NW., Washington, DC 20036.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C. 2d 400 (1988). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by April 28, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275-7316. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 14, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-9698 Filed 4-21-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31406]

Davenport, Rock Island & North Western Railway Co.— Joint Project for the Relocation of a Line of Railroad and Trackage Rights Exemptions—Burlington Northern Railroad Co.

On March 30, 1989, Davenport, Rock Island and North Western Railway Company (DRI)[1] filed a notice of exemption under 49 CFR 1100.2(d) (5) and (7) for the acquisition of overhead trackage rights over the line of Burlington Northern Railroad Company (BN) from approximately Twenty-Ninth Street in Rock Island, IL to a point near Seventh Street in East Moline, IL. The trackage rights will become effective on or before July 1, 1989.

The joint project involves the relocation of a line of railroad that does not disrupt service to shippers, and, incidental thereto, the abandonment of DRI's existing line and construction of connecting track. The Commission will assume jurisdiction over the abandonment and discontinuance components of a relocation project only in cases where the proposal involves, for example, a change in service to shippers, expansion into new territory, or a change in existing competitive situations. *See, generally Denver & R.G.W.R. Co.—Jt. Proj.—Relocation Over BN*, 4 I.C.C.2d 95 (1987). Under these standards, the abandonment and construction of track are not subject to the Commission's jurisdiction. The remainder of the joint relocation project, involving the acquisition of overhead trackage rights, qualifies under the class exemption procedures at 49 CFR 1180.2(d) (5) and (7).

Use of this exemption will be conditioned on appropriate labor protection. Any employees affected by the trackage rights agreement will be protected by the conditions in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on:

Larry D. Starns, Soo Line Railroad Company, 1000 Soo Line Building, 105 South 5th Street, Minneapolis, MN 55402

William R. Power, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

Dated: April 18, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-9697 Filed 4-21-89; 8:45 am]

BILLING CODE 7035-01-M

[1] DRI is jointly owned by Burlington Northern Railroad Company and Soo Line Railroad Company.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act in United States v. Chevron Chemical Co., et al.

In accordance with Departmental policy, 28 CFR 50.7, and pursuant to section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9622(i), notice is hereby given that on April 6, 1989, a proposed Consent Decree in *United States* v. *Chevron Chemical Company, et al.*, was lodged with the United States District Court for the Middle District of Georgia. The Complainant in this case sought cost recovery pursuant to section 107 of CERCLA, 42 U.S.C. 9607. The Complaint was filed on December 2, 1987, against Chevron Chemical Company ("Chevron"), Billy Mitchell ("Mitchell"), and Kova Fertilizer, Inc. ("Kova"). Each defendant was a past owner/operator of the site in question.

The site involved in the case is the Marzone Chemical Company facility, which is located on a three-acre tract of land in Tifton, Georgia. The site was operated by Chevron as an agricultural chemicals formulating facility from 1950 to 1970. Subsequent owners of the site, including Mitchell, used the facility for formulating pesticides, until it was closed in 1987.

The proposed Consent Decree provides that defendants Chevron, Mitchell and Kova will reimburse the United States $440,000 in past response costs, which is the entire amount expended by the Environmental Protection Agency for immediate removal of hazardous substances at the site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. The Department of Justice will consider any comments in determining whether or not to consent to the proposed settlement and may withdraw its consent to the proposed settlement if such comments disclose facts or considerations which indicate that the proposed Consent Decree is inappropriate, improper or inadequate. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Chevron, et al.*, DOJ Ref. No. 90-11-3-274.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Middle District of Georgia, Old Post Office Building, Room 303, Mulberry & 3rd Streets, Macon, Georgia 31202, and the Office of the Regional Counsel, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Room 1521, Department of Justice, 9th Street and Pennsylvania Avenue NW., Washington, DC 20530. In requesting a copy, please enclose a check in the

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amount of $7.50 payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-9760 Filed 4-21-89; 8:45 am]

BILLING CODE 4410-10-M

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *City of Metropolis, Illinois* has been lodged with the United States District Court for the Southern District of Illinois. The consent decree addresses the City of Metropolis, Illinois', alleged violations of the Clean Water Act and the effluent limits set forth in its NPDES permit.

The proposed Consent Decree requires the City of Metropolis, in accordance with schedules set forth in the decree, to secure the necessary funding, correct its combined sewer overflow structure, rehabilitate its existing sewer system and construct the additional facilities described in its Municipal Compliance Plan ("MCP") as approved by the Illinois Environmental Protection Agency ("IEPA") on October 29, 1985. Metropolis shall achieve and thereafter maintain compliance with the terms of its NPDES permit and the Clean Water Act in accordance with the MCP and the decree. The Consent Decree also provides for the payment of a civil penalty of $17,500.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Metropolis* D.J. Ref. 90-5-1-1-3174.

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Illinois, 750 Missouri Avenue, East St. Louis, Illinois 62201 and at the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1748, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please refer to the referenced case name and D.J. Ref. number and enclose a check in the amount of $1.70 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-9761 Filed 4-21-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on April 5, 1989, a proposed First Amended Consent Order in *United States v. City of Rochester, Indiana*, Civil Action S 84-0469 (N.D. Indiana), was lodged with the United States District Court for the Northern District of Indiana. The proposed First Amended Consent Order resolves a judicial enforcement action brought by the United States against the City of Rochester, Indiana ("City" or "Rochester"), under the Clean Water Act ("Act") to enforce compliance under 33 U.S.C. 1251 *et seq.* of the Act and with the terms and conditions of the City's National Pollutant Discharge Elimination System ("NPDES") Permit, Permit Number IN 0021661, at its publicly owned (wastewater) treatment works located at Rural Route 3, Monticello Road, Rochester, Indiana.

The proposed First Amended Consent Order establishes a new compliance schedule for additions to the City's wastewater treatment plant, requires full compliance with Rochester's NPDES permit by October 1, 1989, provides a sewer ban on all sewer connections until compliance with the effluent limitations in the City's NPDES permit is met and provides for payment of civil penalties by the City of $25,000, in three installments over six months following the entry of the First Amended Consent Order.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed First Amended Consent Order. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, U.S. Department of Justice, Washington, DC and should refer to *United States v. City of Rochester, Indiana*, D.J. Ref. 90-5-1-1-2138A.

The proposed First Amended Consent Order may be examined at the office of the United States Attorney, Federal Building, 4th Floor, 507 State Street, Hammond, Indiana 46320-1577 and at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the First Amended Consent Order may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1748, Tenth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed First Amended Consent Order may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-9756 Filed 4-21-89; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Controlled Substances; Proposed Revised 1989; Aggregate Production Quotas

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed revised 1989 aggregate production quotas.

SUMMARY: This notice proposes revised 1989 aggregate production quotas for controlled substances in Schedule II of tne Controlled Substances Act. Since the establishment of the 1989 aggregate production quotas on October 20, 1988 (53 FR 41253), DEA has reviewed data submitted by the registered manufacturers concerning 1988 dispositions and year-end inventories and has determined that revisions of some of the previously established quotas are necessary.

DATE: Comments or objections should be received on or before May 24, 1989.

ADDRESS: Send comments or objections to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attn: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year.

This responsibility has been delegated to the Administrator of the DEA pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On October 20, 1988, a notice of the 1989 established aggregate production quotas was published in the **Federal Register** (53 FR 41253). The notice stipulated that the Administrator of the DEA would adjust the quotas in early 1989, as provided in Title 21, Code of Federal Regulations, § 1303.23(c). These aggregate production quotas represent those amounts of controlled substances that may be produced in the United States in 1989 and do not include amounts which may be imported for use in industrial processes.

Based on a review of 1988 year-end inventories, 1988 disposition data submitted by quota applicants, estimates of the medical needs of the United States submitted to the DEA by the Food and Drug Administration and other information available to DEA, the Administrator of the DEA, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes the following changes in the 1989 aggregate production quotas for the listed controlled substances, expressed in grams of anhydrous acid or base:

Schedule II	Previously established 1989 aggregate production quota	Proposed revised 1989 aggregate production quota
Amobarbital	213,000	160,000
Amphetamine	326,000	352,000
Codeine (for conversion)	4,528,000	5,194,000
Desoxyephedrine	1,318,000	1,487,000
Levodesoxyephedrine	1,281,000	1,487,000
Methamphetamine	37,000	0
Dextropropoxyphene	78,338,000	82,361,000
Dihydrocodeine	535,000	269,000
Diphenoxylate	810,000	948,000
Fentanyl	40,000	18,800
Hydrocodone	2,507,000	3,244,000
Hydromorphone	197,000	221,000
Levorphanol	13,600	11,000
Methadone	1,441,000	1,856,000
Methadone Intermediate	1,802,000	2,320,000
Methamphetamine (for conversion)	1,500,000	965,000
Mixed Alkaloids of Opium	9,200	7,000
Morphine (for sale)	3,208,000	3,634,000

Schedule II	Previously established 1989 aggregate production quota	Proposed revised 1989 aggregate production quota
Oxycodone (for sale)	2,329,000	2,452,000
Pentobarbital	11,777,000	13,219,000
Phenylacetone	617,000	1,198,000
Secobarbital	1,298,000	545,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrants a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by a notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Pursuant to section 3(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

John C. Lawn,

Administrator, Drug Enforcement Administration.

Dated: April 5, 1989.

[FR Doc. 89-9661 Filed 4-21-89; 8:45 am]

BILLING CODE 4410-09-M

Controlled Substances: Establishment of 1989 Aggregate Production Quota for Methaqualone

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of an established 1989 aggregate production quota.

SUMMARY: This notice establishes the 1989 aggregate production quota for methaqualone, a Schedule I controlled substance.

DATE: This order is effective April 24, 1989.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act, (21 U.S.C. 826), requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On February 7, 1989, a notice proposing to establish a 1989 aggregate production quota for methaqualone was published in the **Federal Register** (54 FR 6040). All interested persons were invited to comment on or object to the proposal on or before March 9, 1989. No comments or objections were received.

Pursuant to section (3)(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of annual production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

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Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C., 826) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator hereby orders that the 1989 aggregate production quota for methaqualone, expressed in grams of anhydrous base, be established as follows:

Basic Class	1988 Aggregate Production Quota (grams)
Schedule I Methaqualone	

John C. Lawn,
Administrator, Drug Enforcement Administration.

Dated: April 10, 1989.

[FR Doc. 89-9662 Filed 4-21-89; 8:45 am]
BILLING CODE 4410-09-M

[Docket Nos. 88-43 and 88-46]

Thrifty Discount Center & Pharmacy, Inc. and Ashton Discount Pharmacy; Revocation of Registrations

On March 24, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Thrifty Discount Center & Pharmacy, Inc., of 19100 E. Ten Mile Road, Detroit, Michigan, seeking to revoke DEA Certificate of Registration AT3111236 and deny any pending applications for renewal of such registration. The statutory basis for the proposed action was that the continued registration of Thrifty Discount Center & Pharmacy would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 21 U.S.C. 824(a)(4).

On March 24, 1988, the Deputy Assistant Administrator also issued an Order to Show Cause to Ashton Discount Pharmacy of 18201 Schoolcraft, Detroit, Michigan, seeking to revoke DEA Certificate of Registration BA0205612, and to deny any pending applications for renewal of that registration on the ground that the pharmacy's continued registration would be inconsistent with the public interest.

Thrifty Discount Center & Pharmacy and Ashton Discount Pharmacy are operated by registered pharmacists Ronald Stewart and Larry Cobb. Messrs. Stewart and Cobb each own a fifty percent interest in Thrifty Discount Center and each own a one-third interest in Ashton Discount Pharmacy.

Counsel for the pharmacies filed a request for a hearing on the issues raised in the Orders to Show Cause, and the matters were placed on the docket of Administrative Law Judge Mary Ellen Bittner. Government counsel requested that the matters be joined to avoid unnecessary repetition during the hearing process. No objection was filed and the matters were scheduled for one hearing to be held on November 3, 1988. On October 21, 1988, counsel for Thrifty Discount Center & Pharmacy filed a motion for a continuance and the hearing was rescheduled for February 28, 1989. On January 20, 1989, counsel for Thrifty Discount Center and counsel for Ashton Discount Pharmacy withdrew their request for a hearing and requested that the proceedings be terminated. As a result, the hearing was cancelled and the proceedings were terminated before the Administrative Law Judge on January 26, 1989. Accordingly, the Administrator enters this final order based on the investigative files. 21 CFR 1301.54(c) and 1316.67.

The Administrator finds that on March 6, 1985, a pharmacy inspector from the Michigan Department of Licensing and Regulation conducted an audit of the Schedule II controlled substances at Thrifty Discount Center & Pharmacy. The audit results for a two-year period revealed substantial unexplained shortages which included the following: 13,102 tablets of Percodan, 6,397 tablets of Desoxyn, 3,402 tablets of Demerol 100 mg., 2,351 tablets of Demerol 50 mg., 2,783 tablets of Dilaudid 2 mg., 2,700 tablets of Dilaudid 4 mg., 1,649 tablets of Ritalin, and 1,016 tablets of Dexedrine 15 mg. The prescription files were also reviewed for the period between March 6, 1983 and March 6, 1985. There were 141 prescriptions for either Preludin 75 mg. or Dilaudid which bore the name of R.W. Helmich, M.D. as prescriber. On June 11, 1985, Dr. Helmich reviewed all 141 prescriptions and stated that he had not issued any of them. He further stated that the names on the prescriptions were not those of any of his patients.

The Administrator further finds that Messrs. Stewart and Cobb were the former owners and pharmacists at Daily Discount Pharmacy, Inc., which was located at 13505 W. Six Mile, Detroit, Michigan. A pharmacy inspector with the Michigan Department of Licensing and Regulation conducted an audit of controlled substances at Daily Discount Pharmacy. The audit results for a two-year period showed excessive unexplained shortages and overages of controlled substances. Among these were a shortage of 9,767 tablets of Percodan, which represented 50.64 percent of the amount of this drug for which the pharmacy was accountable; a shortage of 1,459 tablets of Ritalin 10 mg., which represented 47.06 percent of the amount of this drug for which the pharmacy was accountable; a shortage of 522 tablets of Dexedrine 15 mg., which represented 96.30 percent of the total accountable; and 443 tablets of Demerol 50 mg. which represented 61.1 percent of the total accountable. Several controlled substances showed overages, the records indicating that the pharmacy could account for more of a specific controlled substance than was available. Such shortages and overages show, at the very least, that Messrs. Stewart and Cobb failed to adequately maintain the records required by law to be kept at the pharmacy.

The prescription files at Daily Discount Pharmacy were also reviewed. The majority of prescriptions filled were fraudulent. Between April 9, 1983 and January 26, 1984, 233 Schedule II prescriptions bearing the name William O. Mays, M.D., as the prescriber were filled at Daily Discount Pharmacy by either Mr. Stewart or Mr. Cobb. On October 8, 1985, Dr. Mays examined the prescriptions and stated that he had not authorized or issued any of them. He further stated that the names on the prescriptions were not those of any of his patients. Between March 10, 1983 and April 25, 1983, 58 prescriptions for Schedule II controlled substances which bore the name Farouq Samhouri, M.D., as prescriber were filled at Daily Discount Pharmacy by Mr. Stewart. Dr. Samhouri examined the prescriptions and stated that he had not issued any of them. He further stated that the names on the prescriptions were not those of any of his patients. Several other doctors were also contacted concerning prescriptions filled at Daily Discount Pharmacy. They stated that they had not issued, nor authorized, any of the prescriptions and further that the names on the prescriptions were not those of any of their patients.

The Administrator further finds that the FBI conducted an investigation of Messrs. Stewart and Cobb. In June 1984, a cooperating individual reported that for several years Mr. Stewart had been filling fraudulent prescriptions for controlled substances for him. On several occasions in June 1984, the cooperating individual, while under surveillance by the FBI, presented prescriptions for Percodan in fictitious names to Mr. Stewart who filled the prescriptions. The prescriptions were presented at Daily Discount Pharmacy and Thrifty Discount Pharmacy.

In the fall of 1985, the FBI conducted court-authorized telephone wiretaps of several individuals suspected of being involved with the illegal sale and distribution of controlled substances. During the course of the wiretaps, Mr. Cobb and an individual named Henry Chaney had numerous telephone conversations regarding the illegal sale of controlled substances. Henry Chaney is currently incarcerated on drug-related offenses.

The Administrator also finds that the FBI conducted an investigation of the Kaze Clinic, a sham medical clinic, in 1983. During the course of the investigation, FBI Agents learned that Mr. Stewart provided guidance and counselling to an individual involved in establishing the Kaze Clinic. FBI Agents were also advised that Mr. Stewart had filled prescriptions written by employees of the Kaze Clinic. When interviewed by the FBI, Mr. Stewart admitted that he knew that the Kaze Clinic was a "prescription mill" clinic. He also admitted that he referred an individual to a printer to have business cards and prescription pads printed in furtherance of the scheme. As a result of his knowledge of the Kaze Clinic's illegal activities, Mr. Stewart was charged with and pled guilty to misprision of a felony in violation of 18 U.S.C. 4. On November 21, 1985, he was sentenced to nine months incarceration, sentence suspended, and was placed on one year probation and fined $500.00.

The Administrator finds that Thrifty Discount Center & Pharmacy and Daily Discount Center could not account for significant amounts of Schedule II controlled substances. Further, Messrs. Stewart and Cobb dispensed substantial amounts of Schedule II controlled substances pursuant to prescriptions which they knew, or should have known, were fraudulent. In determining whether a registration is inconsistent with the public interest, the Administrator must consider the factors set out in 21 U.S.C. 823(f) and 824(a)(4). The pharmacies' failure to account for large quantities of controlled substances is relevant for consideration under two factors: the registrant's experience in dispensing controlled substances, and the registrant's compliance with applicable State, Federal, and local laws dealing with controlled substances. 21 U.S.C. 823(f)(2) and (f)(4). There is no question that Messrs. Stewart and Cobb, registered pharmacists and owners of Thrifty Discount Center and Pharmacy and Ashton Discount Center, have failed to comply with the laws and regulations which govern the handling of controlled substances. Compliance with such laws and regulations is essential to insure that adequate control is maintained to prevent the diversion of controlled substances from legitimate channels. Instead, both Messrs. Stewart and Cobb have demonstrated their inability to properly operate registered pharmacies in the manner prescribed by Federal laws and regulations. Significant controlled substances violations occurred at the pharmacies operated by these individuals, all of which were committed by Messrs. Stewart and Cobb themselves. They have demonstrated over a protracted period of time that they cannot be trusted to handle controlled substances responsibly.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AT3111236, previously issued to Thrifty Discount Center & Pharmacy, Inc., and DEA Certificate of Registration BA0205612, previously issued to Ashton Discount Pharmacy, be, and they hereby are, revoked. It is further ordered that any pending applications for renewal of said registrations be, and they hereby are, denied. This order is effective May 24, 1989.

Dated: April 17, 1989.

John C. Lawn,
Administrator.

[FR Doc. 89-9663 Filed 4-21-89; 8:45 am]
BILLING CODE 4410-09-M

[Docket No. 88-61]

Andrew Mobley, Inc., d/b/a Medicine Shoppe; Revocation of Registration

On June 27, 1988, the Administrator of the Drug Enforcement Administration (DEA), issued an Order to Show Cause and Immediate Suspension of Registration to Andrew Mobley, Inc., d/b/a Medicine Shoppe (Respondent), of 3402 South Dale Malbry, Tampa, Florida, proposing to revoke DEA Certificate of Registration BA0453807, and to deny any pending applications for renewal of the registration on the grounds that the pharmacy's registration was inconsistent with the public interest and that Andrew Mobley, R.Ph., the owner and registered pharmacist at Medicine Shoppe, was convicted of a felony offense relating to controlled substances. The order also immediately suspended the registration on the ground that the pharmacy's continued registration posed an imminent danger to the public health and safety. The Order to Show Cause alleged that: (1) On January 6, 1988, Mr. Mobley was convicted, after entering a plea of guilty, of falsifying controlled substance prescriptions; (2) while serving his criminal sentence, Mr. Mobley took quantities of controlled substances from Medicine Shoppe for other than legitimate medical purposes and not pursuant to legitimate prescriptions, and produced fraudulent prescriptions to conceal his activities; (3) in 1986, the pharmacy ordered and dispensed an excessive quantity of cocaine, and a subsequent investigation revealed that Mr. Mobley dispensed the entire amount of cocaine pursuant to two fraudulent prescriptions. The prescriptions were not issued by the physician whose name appeared on them, the patient listed had been dead for more than 30 years, and the DEA registration number used was invalid; (4) an accountability audit performed at the pharmacy in March 1987, revealed excessive, unexplained shortages of most controlled substances included in the audit, as well as numerous recordkeeping violations; (5) during the execution of a criminal search warrant at the pharmacy, Mr. Mobley was found in possession of illicit controlled substances and other controlled substances he was not authorized to possess.

Respondent timely responded to the Order to Show Cause and requested a hearing on the issues raised in that Order. The matter was placed on the docket of Administration Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was scheduled to be held in Tampa, Florida on January 5, 1989.

On November 17, 1988, counsel for Respondent wrote to Government counsel advising her that on November 14, 1988, Mr. Mobley's pharmacy license was suspended by the Florida Department of Professional Regulation for a period of five years. Respondent's counsel also stated that, based upon the suspension "[t]he hearing [in this proceeding] set for January 5, 1989, would appear to be moot."

On December 21, 1988, Government counsel filed a motion to terminate and motion for summary disposition, claiming that: (1) Respondent's counsel's letter implied that Respondent effectively waived the opportunity for a hearing; and (2) Government counsel's telephone calls to Respondent's counsel seeking to ascertain whether Respondent still desired a hearing were not returned. In the alternative, Government counsel moved for summary disposition on the grounds that Mr. Mobley's pharmacist license was suspended and Respondent's state pharmacy permit was returned to the Florida Department of Professional Regulation. On the same date, the

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Administrative Law Judge issued a ruling on the motion and order denying the motion to terminate proceedings on the ground that Respondent did not explicitly waive the opportunity for a hearing. With respect to the motion for summary disposition, Judge Bittner allowed Respondent an opportunity to respond. The scheduled hearing was also cancelled. Respondent did not file a response to the motion for summary disposition.

On January 23, 1989, Judge Bittner issued her opinion and recommended ruling, findings of fact, conclusions of law and decision. Judge Bittner granted the motion for summary disposition and recommended that Respondent's DEA registration be revoked based upon the pharmacy's lack of state authority to handle controlled substances. No exceptions to the Administrative Law Judge's opinion and recommended ruling were filed. On March 1, 1989, Judge Bittner transmitted the administrative record to the Administrator for a final determination in this matter. After consideration of the entire record, the Administrator adopts the opinion and recommended ruling, findings of fact, conclusions of law and decision of the Administrative Law Judge. Pursuant to 21 CFR 1316.67, the Administrator enters this final order.

The Administrator finds that on November 14, 1988, the Florida Department of Professional Regulation, State Board of Pharmacy, suspended Andrew Mobley's pharmacist license in the State of Florida. In addition, on July 12, 1988, the Medicine Shoppe was closed and Respondent returned the state pharmacy license to the Florida Department of Professional Regulation. Therefore, Mr. Mobley is not authorized to act as a pharmacist and the pharmacy is no longer licensed to do business. Consequently, neither Mr. Mobley nor the pharmacy is authorized to handle controlled substances in the State of Florida.

Under 21 U.S.C. 823(f) and 824(a)(3), the Drug Enforcement Administration cannot maintain the registration of a pharmacy or practitioner who lacks state authority to handle controlled substances. The Administrator has consistently upheld this position. See *Wingfield Drugs, Inc.*, Docket No. 87-13, 52 FR 27070 (1987); *Robert F. Witek, D.D.S.*, Docket No. 87-54, 52 FR 4770 (1987); and *Bobby Watts, M.D.*, Docket No. 87-71, 53 FR 11919 (1988).

As the Administrative Law Judge appropriately explained, a motion for summary disposition is properly entertained and must be granted in situations such as this, in which a registrant no longer has state authorization to handle controlled substances. When no question of fact is involved, or when the facts are agreed upon, a plenary adversary proceeding is not obligatory, even though the statute prescribes a hearing. In such situations, the courts have determined that Congress did not intend administrative agencies to perform meaningless tasks. *United States v. Consolidated Mines and Smelting Co., Ltd.*, 455 F.2d 432, 453 (9th Cir. 1971); See *N.L.R.B. v. Int'l Assoc. of Bridge, Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977); *Alfred Tennyson Smurthwaite, M.D.*, Docket No. 77-29, 43 FR 11873 (1978); and *Philip E. Kirk, M.D.*, Docket No. 82-36, 48 FR 32867 (1983), aff'd *sub nom Kirk v. Mullen*, 749 F.2d 297 (8th Cir. 1984).

Therefore, based upon Respondent's lack of state authority to handle controlled substances, the Administrator concludes that Respondent's DEA registration must be revoked and any pending applications for renewal must be denied. No other issues need to be considered in this matter.

Accordingly, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Administrator of the Drug Enforcement Administration orders that DEA Certificate of Registration BA0453807, previously issued to Andrew Mobley, Inc., d/b/a Medicine Shoppe, be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of the pharmacy's registration be, and they hereby are, denied.

This order is effective April 24, 1989.

John C. Lawn,
Administrator.

Dated April 18, 1989.

[FR Doc. 89-9709 Filed 4-21-89; 8:45 am]
BILLING CODE 4410-09-M

[Docket No. 88-42]

Henry J. Schwarz, Jr., M.D.; Denial of Application

On March 24, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Henry J. Schwarz, Jr., M.D. (Respondent), of 8534 Kennedy Boulevard, North Bergen, New Jersey, proposing to deny his pending applications for registration, executed on June 15, 1987 and September 11, 1987. The Order to Show Cause alleged that Dr. Schwarz's registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 824(a)(4). Respondent timely filed a request for a hearing on the issues raised in the Order to Show Cause, and the matter was placed on the docket of Administrative Law Judge Mary Ellen Bittner.

Government counsel and Respondent's counsel timely filed prehearing statements. Administrative Law Judge Mary Ellen Bittner issued a prehearing ruling on July 26, 1988. The prehearing ruling required that, among other things, Respondent's counsel submit expanded summaries of testimony of three witnesses by August 15, 1988. Based upon Respondent's counsel's failure to submit expanded summaries of testimony of Respondent's witnesses, on September 12, 1988, Government counsel filed a motion to strike portions of Respondent's prehearing statement and to exclude certain testimony from the administrative proceeding. On September 14, 1988, the Administrative Law Judge issued a Memorandum to Counsel granting the Government's motion, in part, but allowing Respondent's counsel to offer the excluded testimony at the administrative hearing only as an offer of proof. An administrative hearing in this matter was held on September 22, 1988, in Washington, DC.

On January 23, 1989, the Administrative Law Judge issued her opinion, recommended ruling, finding of fact, conclusions of law and decision. She recommended that Respondent's pending applications for registration be denied. No exceptions were filed and on March 1, 1989, the Administrative Law Judge transmitted the record in this proceeding to the Administrator. The Administrator has considered this record in its entirety and adopts the findings of fact, conclusions of law and recommended ruling of the Administrative Law Judge. Pursuant to 21 CFR 1316.67, the Administrator hereby issued his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that in late 1981 or early 1982, Diversion Investigators from the DEA Newark Field Division conducted a spot check investigation of several pharmacies in Northern New Jersey and discovered that Respondent issued a suspiciously large number of controlled substance prescriptions. The Diversion Investigators seized approximately 648 Schedule II controlled substance prescriptions issued by Respondent. The DEA New Field Division later turned over the seized prescriptions to the New Jersey State Bureau of Enforcement.

The New Jersey State Bureau of Enforcement initiated its investigation on September 7, 1982. As part of that investigation, the Bureau obtained Schedule II controlled substance prescriptions written by Respondent between January 1, 1980 and October 15, 1982, and subpoenaed Respondent to produce his medical records for twenty patients. After reviewing the prescriptions, Bureau Investigators compiled controlled substance prescription profiles for each of the twenty patients. Respondent advised Investigators that he wrote prescriptions for seventeen of the tweenty patients, that the prescriptions were for controlled substances requested by the patients, and that he knew at the time he issued the prescriptions that these patients were addicted or habituated to the drugs he prescribed. Respondent also admitted that he issued multiple prescriptions for the same drug to the same patient on the same date, and would often issue controlled substance prescriptions without seeing the patients. In addition, he admitted to mailing multiple prescriptions to a patient at the patient's request. Further, Respondent admitted to issuing controlled substance prescriptions to one patient in the name of his wife or girlfriend for an extended period of time.

New Jersey Bureau of Enforcement Investigators also interviewed all of Respondent's patients they were able to locate. The interviews confirmed that, among other things, Respondent prescribed controlled substances to several of his patients for other than legitimate medical purposes and outside the scope of his professional practice; he prescribed the drug to individuals he knew, or should have known, were addicted to the drug he prescribed; he prescribed controlled substances in excessive quantities and for unjustifiably extended periods of time; he prescribed controlled substances to a patient in the name of his wife or girlfriend, and falsified medical records to conceal his activities. In their report filed on July 14, 1983, the Bureau Investigators stated that in interviews with them in May 1983, Respondent maintained that he issued the prescriptions because he felt sorry for the patients; he could not say "no" to them; he was "talked" into giving the prescriptions; or he believed that he was helping the patients. Respondent also admitted that when patients came to his office to pick up controlled substance prescriptions from his nurse, the patients were billed for office visits although they were never seen by him.

A Bureau Investigator calculated that Respondent issued prescriptions for a total of 10,950 Tuinal capsules for one patient (using various fictitious names) from 1980 to 1982. If the patient had, in fact, ingested all the capsules prescribed in accordance with the directions given by Respondent, he would have only consumed 2,190 capsules during that time period. Respondent prescribed more than five times the quantity of drugs required by his own directions for use. The Investigator also calculated the "street value" of the drugs at $3.00 to $7.00 per capsule. The overprescribed amount was found to be worth between $26,280.00 and $61,320.00. It was also noted that this "patient" was recognized as an illicit drug dealer.

At the request of the New Jersey Attorney General's Office, Frank C. Snope, M.D., a professor of family medicine at Rutgers Medical School of New Jersey reviewed Respondent's controlled substance prescribing practices. He concluded that:

> In my professional opinion, a review of the medical records, accounts of statements by many of the patients and statements gathered from Dr. Schwarz himself, present a substantial picture of inappropriate writing of prescriptions for Controlled Dangerous Substances. While the extent of deviation varies somewhat from patient case to patient case, his authorization for patients to have access to highly addictive medications is in general deplorable and quite beyond the bounds of commonly accepted medical practice.

Based upon the results of the Bureau of Enforcement's investigation, on August 24, 1983, the New Jersey Attorney General's Office filed a verified complaint against Respondent before the New Jersey State Board of Medical Examiners. The complaint, which sought the revocation or suspension of Respondent's state medical and surgical license, was based upon Respondent's improper administration of Schedule II controlled substances. On September 24, 1983, the Medical Board temporarily suspended Respondent's medical license until an administrative hearing could be held in the matter.

The Administrative Law Judge found that Respondent appeared at an administrative hearing before the Medical Board on January 11, 1984, and pleaded no contest to the allegations in the verified complaint, but presented evidence in mitigation of penalty. The Board found that Respondent's explanations did not provide "the least excuse for the extremely serious conduct evidenced herein." The Board also concluded that Respondent had engaged in "egregious conduct" including "prescribing the drugs indicated in an indiscriminate manner not in good faith, without good medical cause, and in circumstances where he knew that illicit consumption was occurring, . . . [and] gross malpractice or gross neglect . . ." Based on its conclusions, on March 16, 1984, the Board ordered the suspension of Respondent's medical and surgical license for a period of five years, two of which were active suspension, the balance of which he would be on probation. Respondent was also required, among other things, to surrender his state and Federal controlled substance registrations, to provide charitable community service drug his probation, to obtain psychiatric care and counseling, to complete a mini-residency course in controlled substances, and to pay a monetary penalty. In compliance with the Board's order, Respondent surrendered his state and Federal controlled substance registrations in May 1984. Respondent has not possessed a valid DEA Certificate of Registration since he suffendered his previously-issued registration in May 1984.

On March 25, 1987, Respondent appeared before the New Jersey State Board of Medical Examiners on a petition for reinstatement of his controlled substance handling privileges. On May 13, 1987, the Medical Board issued an amended order permitting Respondent to reapply for his New Jersey and Federal controlled substance registrations. In the order, the Board also noted that it:

> . . . became aware that [Respondent] had renewed his CDS and DEA registrations without having secured an order from [the Medical] Board permitting him that.

The Medical Board accepted Respondent's representation that he applied for the registrations in good faith, thinking that his attorney had successfully petitioned the Board for controlled substance handling privileges. The New Jersey Department of Public Safety inadvertently issued a state controlled substance license to Respondent pursuant to his application, but when the Medical Board instructed him to return the registration, he promptly surrendered it. The Medical Board also noted that Respondent "appear[ed] to have completed all portions of the drug re-education requirements," and that it "accept[ed] [Respondent's] assertion that he now has a new and more sober understanding of CDS [controlled dangerous substance] problems and that he shall be extremely cautious in prescribing."

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Respondent's probation regarding his New Jersey state medical license expired on September 24, 1988. He currently has no restriction on that license or on his New Jersey state controlled substance registration.

Although he has not possessed a valid DEA registration for several years, the Administrative Law Judge found that during the DEA administrative hearing on September 22, 1988, Respondent admitted to handling and prescribing controlled substances on more than one occasion since his surrender in May 1984. Respondent specifically admitted to ordering Demerol and morphine, both Schedule II narcotic controlled substances, for hospitalized patients. He conceded that he was not acting as a staff physician or employee of the hospital, nor was he acting under the hospital's DEA registration. Respondent also admitted to issuing at least one prescription for Valium, a Schedule IV controlled substance, since the surrender of his DEA registration. He also testified that he believed his reinstated New Jersey registration was sufficient to enable him to handle controlled substances in the state until he obtained a new DEA registration.

The Administrative Law Judge also found that on June 17, 1985, the Florida Board of Medical Examiners issued its final order revoking Respondent's medical license in that state. Also, on July 3, 1987, the Division of Professional Licensing Services of the New York State Education Department ordered the revocation of Respondent's medical license in that state. Neither his New York nor Florida State medical license has been reinstated.

At the DEA administrative hearing, Respondent testified on his own behalf and claimed that he would no longer improperly handle controlled substances, should he be granted a DEA registration. He also testified that he has implemented new office procedures with respect to prescribing controlled substances, including seeing fewer patients and spending more time with them. He also claimed that as a result of completing his "mini-residency," he now knows how to recognize drug abusers.

Respondent also presented testimony from his treating psychiatrist and a physician who shares office space with him. Respondent's psychiatrist stated that he did not think Respondent would abuse his authority to handle controlled substances again. However, he admitted that the only information he had regarding Respondent's past misconduct and current activities was obtained from Respondent's own statements to him. Further, the psychiatrist testified that he was primarily treating Respondent for depression resulting from the suspension of his medical license. The physician who shares office space with Respondent testified that Respondent has referred some patients to him and that he had no reason to question Respondent's treatment of those patients. However, he admitted he had no personal knowledge of Respondent's previous practices in handling controlled substances, nor does he supervise Respondent's current medical practice. The Administrative Law Judge did not find the testimony of either of the two physicians compelling or persuasive on the issue of whether Respondent now should be entrusted with a DEA registration.

In evaluating whether an application for a DEA Certificate of Registration should be granted, the Administrator must consider whether such registration would be consistent with the public interest. The factors which are considerd in evaluating the public interest are as follows:

(1) The recommendation of the appropriate state licensing board of professional disciplinary authority;

(2) The applicant's experience in dispensing . . . controlled substances;

(3) The applicant's conviction record under Federal or State laws relating to controlled substances;

(4) Compliance with applicable State, Federal or local laws relating to controlled substances;

(5) Such other conduct which may threaten the public health and safety. [21 U.S.C. 823(f)]

The Administrator need not make findings as to all of the factors enumerated above when evaluating each case in light of public interest considerations. Rather, he may give each factor the weight he deems appropriate. In this case, the first, second and fourth factors are relevant, with Respondent's experience in handling controlled substances being the most significant factor.

The administrative record clearly establishes that Respondent improperly handled controlled substances in the past. He prescribed controlled substances to persons he knew were addicted to them, issued prescriptions for excessive quantities or for excessive periods of time, issued prescriptions to persons he knew were obtaining them for other than legitimate medical and illicit resale purposes, prescribed to persons and mailed prescriptions to individuals he had not seen or examined, and falsified medical records to conceal his unlawful activities. The Administrator agrees with Dr. Snope's conclusion that Respondent's controlled substance handling activities were "deplorable" and clearly outside the scope of legitimate medical practice. Respondent's past conduct constitutes a flagrant abuse of authority and justifies and denial of his pending applications for registration.

Although Respondent avers that he has learned from his past mistakes and that now he can be entrusted with a DEA registration, the Administrator, in agreement with the Administrative Law Judge, concludes otherwise. Although Respondent completed a mini-residency course in proper controlled substance handling procedures, he continued to disregard Federal controlled substance laws by handling controlled substances with the benefit of possessing a valid DEA registration. Through his testimony at the DEA hearing, Respondent demonstrated his confusion about his obligations in registering and in properly handling controlled substances.

Based upon Respondent's previous egregious conduct in improperly handling controlled substances, his continued violations in handling controlled sustances without possessing a valid DEA registration, and his lack of knowledge regarding his obligations under Federal controlled substance laws and regulations, the Administrator finds that Respondent's registration would be contrary to the public interest. Therefore, the Administrator concludes that Respondent's pending applications for registration must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), orders that the pending new applications for registration executed by Henry J. Schwarz, M.D., on June 15 and September 11, 1987, and any other pending applications for registration, be, and they hereby are, denied.

This order is effective April 24, 1989.

Dated: April 18, 1989.

John C. Lawn,

Administrator.

[FR Doc. 89-9710 Filed 4-21-89; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade; Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee for the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: May 9, 1989, 9:30 a.m., Rm. S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, DC this 12th day of April 1989.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 89-9678 Filed 4-21-89; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 4, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 4, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC this 10th day of April 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/Workers/Firm—	Location	Date Received	Date of Petition	Petition Number	Articles Produced
C.D.R. Footwear Inc. (Company)	Keene, NH	4/10/89	3/18/89	22,724	Work & Safety Shoes.
Dougherty Brothers Co. (Workers)	Buena, NJ	4/10/89	3/14/89	22,725	Plastics for Pharmaceutical Industry.
Dynamic Closures (Workers)	Massena, NY	4/10/89	2/10/89	22,726	Security Gates & Doors.
Facton (Div. of Schlumberger) (Workers)	Latham, NY	4/10/89	3/15/89	22,727	Fault finders for Semi-conductor Products.
Fleischman Distilleries, Inc. (WLU)	Dayton, NJ	4/10/89	3/20/89	22,728	Bottling & Warehousing.
Gim Metal Products (Workers)	Carle Place, NY	4/10/89	3/31/89	22,729	Die Castings.
Gold Circle Stores (Workers)	Buffalo, NY	4/10/89	3/10/89	22,730	Retail Sales.
Harloc Products Corp. (UERMWA)	West Haven, CT	4/10/89	3/15/89	22,731	Door Locks.
Houston Fluid & Leasing (Workers)	Dallas, TX	4/10/89	2/22/89	22,732	Gas Processing Plant.
Howmet Turbine Div. (Workers)	Dover, NJ	4/10/89	3/17/89	22,733	Gas Turbine Engine.
Hunt Oil Co. (Workers)	Denver, CO	4/10/89	3/21/89	22,734	Oil & Gas.
Iberia Petroleum Co. (Workers)	Houston, TX	4/10/89	2/13/89	22,735	Oil & Gas.
Madewell, Inc. (ACTWU)	New Bedford, MA	4/10/89	3/17/89	22,736	Workclothes & Jeans.
Northland, A Scott Fetzer Co. (IBEW)	Watertown, NY	4/10/89	3/23/89	22,737	Fractional Horsepower Motors.
SKF (Workers)	Glasgow, KY	4/10/89	3/17/89	22,738	Tapered Bearings.
Seal Tech-Div. of Folsom Metal Products, Inc. (Workers).	Bessemer, AL	4/10/89	3/20/89	22,739	Pipes Used in Oilfield Industry.
Siemens Tranamission Systems (Workers)	El Paso, TX	4/18/89	3/22/89	22,740	Repair & Service of Telephone Equipment.
Speed Rack Inc. (UAW)	Quincy, IL	4/10/89	3/20/89	22,741	Storage Racks.
Spraytech, Inc. (Workers)	Spokane, WA	4/10/89	3/24/89	22,742	Painting Processors Keyboards & CRTS.
Tafco, Inc. (Workers)	Clearfield, PA	4/10/89	3/21/89	22,743	Kitchen Equipment.
Technical Drilling Services (Workers)	Midland, TX	4/10/89	3/21/89	22,744	Oilfield Activities.
Technical Drilling Services (Workers)	Elk City, OK	4/10/89	3/21/89	22,745	Oilfield Activities
Technical Drilling Services (Workers)	Oklahoma City, OK	4/10/89	3/21/89	22,746	Oilfield Activities.
Teledyne Wisconsin Motor (UAW)	West Allis, WI	4/10/89	3/21/89	22,747	Gasoline Engines.
Trend Tex Associates (Workers)	New York, NY	4/10/89	3/1/89	22,748	Cotton Fabric Suppliers.
Universal Clothiers (Workers)	New York City, NY	4/10/89	3/17/89	22,749	Men's Suits.
William Miller, Inc. (Company)	Henryetta, OK	4/10/89	3/23/89	22,750	X-Ray Pipeline Joints.

[FR Doc. 89-9683 Filed 4-21-89; 8:45 am]

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[TA-W-21,361]

Gruss Petroleum Management, Inc.; Midland, TX; Negative Determination Regarding Application for Reconsideration

By an application dated February 16, 1989, counsel for the petitioners requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on November 23, 1988 and published in the **Federal Register** on March 3, 1989 (54 FR 998).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous:

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Counsel for the petitioners claims that GPM's application for certification should be approved based on a comparison of similar applications by other similarly-situated companies whose workers have been certified eligible to apply for adjustment assistance.

The Department's denial was based on the fact that the workers did not produce an article within the meaning of section 222(3) of the Trade Act. Investigation findings show that the workers perform management and operating services for affiliated facilities engaged in production operations and as such are specifically excluded from the Trade Act as amended by the Omnibus Trade and Competitiveness Act of 1988.

The 1988 amendments to the Trade Act provided retroactive benefits for workers in independent firms Performing the service of drilling or exploration to unaffiliated firms in the oil and gas industry. The investigation findings show that GPM exists exclusively to manage properties owned by Gruss family entities.

In order for workers in affiliated firms like GPM to be certified eligible for adjustment assistance their separations must be caused by a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership or a firm related by control. In any case the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and the reduction must directly relate to the product impacted by imports. These conditions have not been met for workers of GPM in this case. None of the workers of the producing facilities to which GPM provides services is currently certified as eligible to apply for adjustment assistance benefits.

With respect to counsel's claim of the Department's certification under OTCA of workers at similar situated companies, a review of the files shows no inconsistencies under the certification process which would warrant a certification of workers at GPM.

The investigation findings in the Felmont certification were similar to those in the Mid-America certification in that the substantial proportion of their exploration and drilling operations were for unaffiliated clients; Therefore making their workers eligible for retroactive benefits under OTCA. Further, the findings for Petromark show that it is a producer and is not similar to GPM. Petromark's certification was consistent with other certifications of oil Producers where the workers were eligible for benefits but not retroactive benefits under OTCA.

The Department reviewed its findings in the BTA Oil Producers certification, TA-W-21,551, and reopened that investigation. The new findings show that the workers did not meet the qualifying requirements for certification under the 1988 amendments to the Trade Act of 1974 and the certification was cancelled.

Conclusion

After review of the application, and investigative findings, I conclude that there has been no error or misinterpretation of the law of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this April 3, 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-9676 Filed 4-21-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,876]

Intercontinental Energy Corp.; Three Rivers, TX; Negative Determination Regarding Application for Reconsideration

By applications of February 27 and March 2, 1989 the workers requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on February 6, 1989 and published in the **Federal Register** on March 27, 1989 (54 FR 12498).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances;

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The workers claim that the share of imported uranium now accounts for half of the uranium used in the U.S. and that share is expected to increase to about 70 percent because of the cheaper prices for imported uranium. The petitioners claim that they should be certified just like the oil and gas service workers recently brought under coverage by the 1988 amendments to the Trade Act since their situation is identical to the oil and gas service workers.

Investigation findings show that the Three Rivers operation consists of three uranium mines. The operation was sold and all production ceased on August 31, 1988.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. The "contributed importantly" test is generally demonstrated by means of a customer survey. Customers, accounting for 100 percent of the subject firm's 1988 sales decline, reported that not only was their business down in 1988 but they decreased imports in 1988 compared to 1987. The findings also show that sales, production and employment at the subject firm increased in 1987 compared to 1986 before decreasing in the first nine months of 1988 compared to the same period in 1987.

The Department has always considered workers in the uranium industry as potentially eligible for adjustment assistance since they produce an article. Accordingly, the uranium workers at the subject facility are governed by the Trade Act prior to the 1988 amendments. Therefore, in order to be certified they must meet all three of the Group Eligibility Requirements—a significant decrease in employment, an absolute decrease in sales or production and an increase of imports "contributing importantly" to worker separations and production or sales declines. The petition for the workers at Three Rivers, however, did not meet the "contribute importantly" test. The 1988 amendments to the Trade Act only extended coverage to a new class of workers—workers performing the service of exploration and drilling in the oil and gas industry.

With respect to prices, they would not, in themselves, provide a basis for certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 31st day of March 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-9677 Filed 4-21-89; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act: Program Guidance and Annual Planning Schedule for Implementation of the New Economic Dislocation and Worker Adjustment Assistance Act (EDWAA) for Program Year 1989 (July 1, 1989–July 30, 1990)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration has issued Training and Employment Guidance Letter (TEGL) No. 6–88 (March 10, 1989) providing program guidance and a planning schedule for dislocated worker programs under Title III of the Job Training Partnership Act, as amended by the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA) for Program Year 1989 (July 1, 1989–June 30, 1990). TEGL No. 6–88 provides instructions for the submission of EDWAA job training plans. This document also provides target dates for several other products and/or issuances (i.e., allotments, performance standards and reporting, etc.) instrumental to the implementation of the EDWAA amendments. TEGL No. 6–88 is reprinted below for public information.

DATE: Training and Employment Guidance Letter No. 6–88 was effective March 10, 1989.

FOR FURTHER INFORMATION CONTACT: Robert N. Colombo. Telephone (202) 535–0577.

Signed at Washington, DC., this 17th day of April 1989.

Dolores Battle,

Administrator, Office of Job Training Programs.

Training and Employment Guidance Letter No. 6–88

March 10, 1989.

From: Roberts T. Jones, Assistant Secretary of Labor

Subject: Program Guidance and Annual Planning Schedule for Implementation of the New Economic Dislocation and Worker Adjustment Assistance (EDWAA) Act for Program Year 1989

1. *Purpose.* To transmit planning guidance to States regarding the implementation of the provisions of the Economic Dislocation and Worker Adjustment Assistance (EDWAA) Act amending portions of the Job Training Partnership Act (JTPA). This transmittal also provides target dates for several other products and/or issuances (i.e., allotments, performance standards and reporting, etc.) instrumental to the implementation of the EDWAA amendments.

2. *Reference.* Pub. L. 97–300, Pub. L. 99–570, Pub. L. 100–418, Letters dated August 24 and September 7 to all Governors from the Secretary of Labor and the Assistant Secretary of Labor.

3. *Background.* On August 23, President Reagan signed into law the Omnibus Trade and Competitiveness Act of 1988 (OTCA). EDWAA, enacted as Subtitle D of Title VI of OTCA, revised Title III of the Job Training Partnership Act (JTPA), replacing the existing dislocated workers program with a new worker adjustment program, to be operational by July 1, 1989. Part 3 of Subtitle D of Title I of OTCA also makes major revisions in the Trade Adjustment Assistance (TAA) program concerning services for workers dislocated by foreign trade. Part 631 of Title 20, CFR, the regulations for JTPA Title III, as revised by OTCA, were published in the **Federal Register** on October 24, 1988, at 53 FR 41572, effective November 1, 1988.

EDWAA authorizes a new comprehensive program to assist dislocated workers and also introduces a number of new and innovative approaches, including State dislocated worker units to assist communities and workers undergoing permanent plant closings and substantial layoffs.

Pursuant to section 311(a) of Title III of JTPA, as amended by OTCA, and 20 CFR Part 631 of the JTPA regulations, this document provides: (1) Instructions to the States for the submission of the State Plan; and, (2) instructions to affected States for submission of the plan where there is a Single Substate Grantee.

The planning guidance calls for the development of a biennial "State Plan" and a "Plan" where there is a Single Substate Grantee. Both of these initial biennial Plans will cover a one-year transition period (July 1, 1989 to June 30, 1990). In conjunction with the State's biennial planning for JTPA this would put the planning cycle in conformity with the overall planning process for JTPA Titles II–A and II–B.

4. *Burden Hour Estimates.* We estimate that it will take an average of 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this survey, including suggestions for reducing this burden, send them to the Office of Information Management, Department of Labor, Room N–1301, 200 Constitution Avenue, NW., Washington, DC 20210; and the Office of Management and Budget, Paperwork Reduction Project (1205–0273), Washington, DC 20503.

5. *Planning Documents.* A. *State Plan.* Section 311(a) of the JTPA and section 631.35 of the JTPA regulations require that in order to receive funds under JTPA section 302(b) the State shall submit to the Secretary of Labor (Secretary), in accordance with instructions issued by the Secretary on a biennial basis, a biennial State Plan describing in detail the programs and activities that will be assisted with funds provided under JTPA Title III. The initial biennial plan will cover a one-year transition period (July 1, 1989 to June 30, 1990).

The document also must contain a description of the State's performance standards and incentive policy for Title III. Instructions for performance standards and incentive policy will be issued in accordance with the schedule included in section 9 of this Training

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and Employment Guidance Letter (TEGL).

The Department of Labor (Department) will review the State Plan and any comments submitted by the State Job Training Coordinating Council and will notify the State of any deficiencies in the plan within 30 days after submission. Unless a State has been so notified, the plan will be approved within 45 days after submission.

Any plan submitted under Title III may be modified to describe changes in or additions to the program and activities set forth in the plan. Modifications to the plan shall be submitted using the same format. No modification shall be effective unless reviewed and approved in accordance with § 311(d) of JTPA and § 631.36(d) and (e) of the JTPA regulations.

B. *Single Substate Grantee "Plan".* Section 311(f) of the JTPA and § 631.50(h) of the JTPA regulations require that when the substate area is the State, the substate Plan and any Plan modification(s) shall be submitted by the Governor to the Secretary, in accordance with instructions issued by the Secretary.

Single substate grantee Plans are to be submitted using the OMB-approved format contained in Attachment II. Modifications to the Plan shall be submitted using the same format.

The Department will review the Plan in accordance with the provisions of §§ 628.6 and 631.50(h) of the JTPA regulations for overall compliance with the provisions of the Act and JTPA regulations. States will be notified of the results of the review within the same time frames specified for the review of the State Plan.

6. *EDWAA Coordination.* The State Plan must describe coordination activities among State and local organizations focusing on dislocated workers. Pursuant to the new legislation, programs under EDWAA and TAA must be coordinated or integrated so as to avoid fragmented delivery of services to eligible dislocated workers.

The new EDWAA worker adjustment program and the TAA program will continue as separate and identifiable programs. However, as provided under the OTCA, States are encouraged to provide linkages and, where possible, to arrange joint responsibility for specific functions common to both programs. Such actions will assist dislocated workers to receive any and all benefits to which they are entitled, and any training or other services they need to become reemployed as quickly and easily as possible. For example, linkages can take place in providing early intervention services, in exchange of information and coordination in the development and operation of training programs, in developing a common intake point and application process for the two programs, in providing technical assistance and training, and in establishing labor-management committees for dealing with dislocations. Above all, the delivery system must assure that the clientele of these programs—the dislocated workers to be served—are provided a clearly defined and easy-to-follow system of services.

7. *Designation of State Dislocated Worker Unit.* Section 311(b)(2) of JTPA provides that States will designate or create an identifiable State dislocated worker unit (DWU) or office with the capability to respond rapidly on-site to permanent plant closures and substantial layoffs throughout the State. Through this rapid response effort the DWU will be able to assess the need for appropriate basic readjustment services.

The DWU is a key feature of the States' implementation of the new programs under EDWAA and it is therefore key to the success of this initiative. The State, in designating an existing organization or creating a new organization to fulfill the responsibilities outlined in Title III of JTPA, shall assure that this organization has the capability to:

- Make appropriate retraining and basic adjustment services available to eligible dislocated workers through substate grantees, and in statewide, regional or industry-wide projects;
- Work with employers and labor organizations in promoting labor-management cooperation to achieve the goals of the program;
- Operate a monitoring, reporting, and management information system to provide adequate information for effective program management, review, and evaluation;
- Provide technical assistance and advice to substate grantees;
- Exchange information and coordinate programs with the appropriate economic development agency, and State education, training, and social services programs;
- Coordinate with the unemployment insurance system and Federal-State Employment Service system, as well as TAA and JTPA Titles II–A and II–B programs in the State;
- Receive advance notice of plant closings and mass layoffs as provided at § 3(a)(2) of the Worker Adjustment and Retraining Notification (WARN) Act, Pub. L. 100–139, 102 Stat. 890;
- Notify the appropriate substate grantees as soon as possible (preferably within 48 hours) following receipt of employer notice of layoff or plant closing;
- Consult with labor organizations where substantial numbers of their members are to be served; and
- Coordinate with programs administered by the Veterans Administration, including the Veterans Jobs Training Act, Title IV–C of the Job Training Partnership Act, and other training, employment and education programs which may have special programs for veterans.

8. *Rapid Response Capability.* Pursuant to section 311 (b)(2), the DWU has as one of its primary responsibilities the establishment of a rapid response capability, including securing appropriate staff, which will enable it to provide assistance, on-site, for dislocation events, such as permanent closures and substantial layoffs, throughout the State. This staff should include individuals who are knowledgeable about resources, including programs under EDWAA, TAA, JTPA, and other programs which are available through public and private sources to assist dislocated workers. These rapid response specialists are to have the ability to: (1) Organize a broad-based response to a dislocation event, including the ability to coordinate services provided under EDWAA with other State-administered programs; (2) provide limited amounts of immediate financial assistance for rapid response activities; (3) work effectively with employers and employees; and (4) work out provisions of retraining and readjustment services by substate grantees.

The rapid response specialists who are designated within the DWU may use EDWAA funds to establish on-site contact with employer and employee representatives (preferably within 48 hours after notification) of a current or impending permanent closure or substantial layoff in order to provide information on available resources and to provide emergency assistance. The specialists also will promote the formation of labor-management committees and provide on-going assistance to these committees.

9. *Key Planning Dates.* The planning instructions in this TEGL are but one part of the information necessary for the implementation of the new EDWAA Program. Issuance targets for key products and other planning benchmarks are as follows. This schedule supplements and updates the prior schedule at 53 Federal Register 34844, 34847 (September 8, 1988).

11–23–88	Comment period on interim final rules for Title III ends.
12–30–88	The Employment and Training Administration (ETA) issues final allotments for State formula allotments for Title II–A, II–B, and Title III of JTPA.
01–07–89	By this time, Governors should have reconstituted their SJTCCs, designated substate areas and grantees, and determined their formula for substate fund distribution.
02–01–89	Governors should give direction for substate planning. (statute requires 3/1)
02–28–89	ETA issues Title III reporting instructions.
02–28–89	ETA issues Title III performance standards instructions.
02–28–89	ETA issues final regulations and planning instructions.
05–01–89	Governor's State Plan submitted to the Secretary, who advises of problems within 30 days or approves within 45 days. Single substate grantee Plans due to the Secretary.
07–01–89	Program operations begin.

10. *Action Required.* States shall submit Plans by May 1, 1989, to the Department of Labor based upon the planning instructions and schedule contained in the attachments to this TEGL.

11. *Inquiries.* Direct inquiries to Robert N. Colombo, at (202) 535–0577.

Attachment I—Planning Instructions

[OMB Control No. 1205–0273; Expiration Date: 02/29/92]

Format and Procedures for Submitting The State Plan for Employment and Training Assistance for Dislocated Workers

I. Identifying Information

A. Name and Address of the grantee.
B. Date of submission.
C. Time period covered.

II. A. Coordination

1. Describe coordination activities among State and local organizations focusing on dislocated workers.

2. Describe how EDWAA programs will be coordinated with the unemployment compensation system within the State. (section 314(f))

3. Describe how EDWAA programs will be coordinated with the Federal-State Employment Service.

4. Describe how EDWAA programs will be coordinated with dislocated worker programs under Title II of the Carl D. Perkins Vocational Education Act. (Section 311(b)(5) of JTPA and § 631.37(c) of the JTPA regulations)

5. Describe how EDWAA programs will be coordinated with programs administered by the Veterans Administration, including the Veterans Job Training Partnership Act, and other training, employment and education programs which may have special provisions for veterans.

6. Describe how EDWAA programs will be coordinated with JTPA Title II–A programs.

7. Describe how Title III services, including intake, referral, assessment, training and placement will be integrated or coordinated with services and payments made available under Chapter 2 of Title II of the Trade Act of 1974 so as to avoid fragmented delivery of services to eligible dislocated workers. (Section 311(b)(10) of JTPA and § 631.37(a) of the JTPA regulations.) Attach a copy of the interagency agreement developed if Title III and the Trade Adjustment Assistance Program are not operated by the same agencies.

B. Program Administration

1. Provide a list of the selected substate areas. (Section 312(a) of JTPA and § 631.35 of the JTPA regulations.)

2. Provide a list of selected substate grantees. (Section 312(b) of the Act and § 631.35 of the JTPA regulations.)

3. Describe the State's substate allocation methodology, including the data elements and allocation formulas to be used, as well as the methodology, if any, for the reallocation of funds among and from the State to substate areas. (Sections 302 and 303 of JTPA and § 632.32(b) of the JTPA regulations.)

4. Describe the State's procedures to identify funds required to be reallotted pursuant to section 303(b) of the Act and how such procedures will ensure equitable recapture of such funds. (Section 303(b) of JTPA and § 631.33 of the JTPA regulations.)

5. Describe the method to be used to assess the level of need and use of the ten percent of the State's allocation to substate grantees on the basis of need. (Section 302(c)(2) of JTPA and § 631.32(c) of the JTPA regulations.)

6. If the Governor has determined that services will be provided to displaced homemakers, indicate the basis for this decision. (Section 311(b)(4).)

7. Describe the manner in which the State will conduct monitoring and oversight of all State and substate activities. (Section 631.31 of the JTPA regulations.)

C. Performance Standards

1. Describe the State's methodology for setting performance standards for each substate grantee and any other method for assessing performance including State developed standards which are not inconsistent with the Secretary's standards. (Section 106(g).)

2. If the Governor decides to provide incentives, including incentives for training of greater duration, consistent with JTPA section 106(g), with Governor's reserve funds (section 302(c)(1)), specify the amount allocated for such incentive awards.

3. Describe the sanctions policy for substate areas failing to meet performance standards pursuant to section 106(h).

III. State Program Operation Plan

A. Dislocated Worker Unit/Rapid Response.

1. Describe the State dislocated worker unit (DWU) or office, including a description of the organization, functions and staffing of this unit; also describe the DWU's capacity to provide "rapid response" assistance to permanent closure and substantial layoffs throughout the State. (Section 311(b)(2) of JTPA and § 631.30 of the JTPA regulations.)

2. Describe how the DWU will arrange for the provision of retraining and basic readjustment services to eligible dislocated workers through substate grantees and other appropriate organizations. (Section 311(b)(3)(A) of the Act and § 631.30(a)(1) of the JTPA regulations.)

3. Describe how the DWU will work with employers and labor organizations to establish labor-management committees if appropriate to achieve the goals of the program. (Section 311(b)(3)(B) of JTPA and § 631.30(a)(2) of the JTPA regulations.)

4. Describe the DWU's monitoring, reporting, and management systems. (Section 311(b)(3)(C) of JTPA regulations.)

5. Describe how the DWU will provide technical assistance and advice to substate grantees. (Section 311(3)(D) of JTPA and § 631.30(a)(4) of the JTPA regulations.)

6. Describe how the DWU will exchange information and coordinate programs with the appropriate economic

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development agency and state education, training and social services programs. Include in this description a discussion of how this coordination will be assured. Indicate which staff in the DWU have special responsibilities for coordination. (Section 311(b)(5) of JTPA and § 631.30(a)(5) of the JTPA regulations)

7. Describe how the DWU will coordinate the delivery of services, and provide for exchange of information and coordinate with all other programs available to assist dislocated workers including the State unemployment insurance system, TAA and Federal-State employment service system. (§ 631.30(a)(6) of the JTPA regulations)

8. Describe how EDWAA Programs will be coordinated with programs administered by the Veterans Administration, including the Veterans Job Training Partnership Act, and other training, employment and education programs which may have special provisions for veterans.

9. Describe the procedures for the receipt of advance notice of plant closings and mass layoffs as provided at section 3(a)(2) of the Worker Adjustment and Retraining Notification (WARN) Act Pub. L. 100-379, 102 Stat. 898; and the procedures for notification of appropriate substate grantees. (§ 631.30(a) (7) and (8) of the JTPA regulations)

10. Describe how the State will use these notices in planning rapid response. (§ 631.30(a) (7) and (8) of the JTPA regulations)

11. Describe how the State DWU will disseminate information throughout the State on the availability of services and activities for dislocated workers. (section 311(b)(6) of the Act and § 631.30(a)(10))

B. Describe other activities undertaken by the State with 40 percent funds authorized under section 314(d) of the Act and § 631.31(a) of the JTPA regulations including the following:

1. Retraining services, including (but not limited to) those in section 314(d) of the Act when undertaken in Statewide, industry and regional programs;

2. Coordinate with the unemployment compensation system, in accordance with § 631.37(b) of the JTPA regulations;

3. Discretionary allocation for basic readjustment and retraining services to provide additional assistance to areas that experience substantial increases in the number of dislocated workers, to be expended in accordance with the substate plan or modification thereof;

4. Incentives to provide training of greater duration for those who require it; and

5. Needs-related payments in accordance with section 315 (b) of the Act.

6. Describe the process for providing appropriate organizations with an opportunity to comment on training programs as required by section 143(c)(2) and section 311(b)(7) of JTPA.

IV. Assurances

The following assurances must be included in the State Plan:

A. The State will comply with the statutory and regulatory requirements of EDWAA.

B. That services will be provided to eligible dislocated workers. (section 311(b)(1) (B) and (C) of the Act)

C. Services will not be denied on the basis of State of residence to eligible dislocated workers displaced by a permanent closure or substantial layoff within the State of residence of such workers; (section 311(b)(1)(C))

D. That services to displaced homemakers will not adversely affect the delivery of services to eligible dislocated workers and that services are provided in conjunction with ongoing programs for all dislocated workers.

E. That any program, under this Title serving a substantial number of members of a labor organization will be established only after full consultation with such labor organization. (section 311(b)(7) of JTPA)

F. That the State will not prescribe any Title III performance standards which are inconsistent with the parameters set annually by the Secretary pursuant to section 106(e) and will apply the standards in accordance with section 311(a) with regards to incentives.

V. General Administrative Information

A. Signature. The State plan must contain the Governor's signature or the signature, name and title of his/her designee.

The plan must also include a statement indicating that the SJTCC has reviewed the plan and concurs with it, whether or not the SJTCC has made written comments. If written comments have been provided, a copy of these comments shall be attached to the Plan. (section 311(b)(9))

B. Mailing Address. States are to submit three copies of the State Plan, each with an original signature of the Governor or his/her designee to: Administrator, Office of Job Training Programs, U.S. Department of Labor, Employment and Training Administration, Room N-4459, 200 Constitution Avenue NW., Washington, DC 20210.

Also, a copy of the State Plan must be sent to the ETA regional office.

C. Modification to State Plan. Any plan submitted under section 311(a) of JTPA, as amended, may be modified to describe changes in or additions to the programs and activities set forth in the Plan, except that no such modification shall be effective unless reviewed and approved pursuant to Section § 631.56 (c), (d), and (e) of the JTPA regulations.

Attachment II—Planning Instructions

[OMB Control No. Expiration Date]

Format and Procedures for Submitting the Single Substate Grantee Plan Employment and Training Assistance for Dislocated Workers

The Single Substate Grantee Plan shall contain:

I. Identifying Information

A. Identification and address of the grant recipient.

B. Identification and address of the entity or entities that will administer the program, if different from the grant recipient.

C. Date of submission.

D. Area covered by substate grantee (i.e. entire State of_____).

E. Time period covered by plan.

II. Program Information

A. The State's plan shall contain a description of:

(1) the means for delivering services in Section 314 to eligible dislocated workers;

(2) the means to be used to identify, select, and verify the eligibility of program participants:}

(3) the means for implementing the requirements of section 314(f);

(4) the means for involving labor organizations in the development and implementation of services;

(5) the performance goals to be achieved consistent with the performance goals contained in the State plan pursuant to Section 311(b)(6);

(6) procedures, consistent with section 107, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

(7) a description of the methods by which the substate grantee will respond expeditiously to worker dislocation where the rapid response assistance required by section 314(b) is inappropriate, including worker dislocation in sparsely populated areas, which methods may include (but are not limited to):

(a) development and delivery of wide-spread outreach mechanisms;

(b) provision of financial evaluation and counseling (where appropriate) to assist in determining eligibility for services and the type of services needed;

(c) initial assessment and referral for further basic adjustment and training services; and

(d) establishment of regional centers for the purpose of providing such outreach, assessment, and early readjustment assistance;

(8) a description of the methods by which the other parties to the agreement described in section 312(b) may be involved in activities of the substate grantee;

(9) a description of training services to be provided, including—

(a) procedures to assess participants' current education skill levels and occupational abilities;

(b) procedures to assess participants' needs including educational, training, employment, and social services;

(c) methods for allocating resources to provide the services recommended by rapid response teams for eligible dislocated workers within the substate area; and

(d) a description of services and activities to be provided in the substate area;

(10) the means whereby coordination with other appropriate programs, services, and systems will be effected, particularly where such coordination is intended to provide access to the services of such other systems for program participants at no cost to the worker readjustment program; and

(11) a detailed budget showing the planned expenditure of funds for the one year transition period by cost category and activity.

B. Describe the manner in which the single substate grantee will coordinate with the State dislocated worker unit in the implementation of the single substate grantee program in particular the rapid response activity. (Section 311(b)(2)).

C. Include a statement that the State will comply with the cost limitations contained in section 315 of the Act, including those limitations which apply to needs-related payements (25 percent) and retraining services (50 percent). Indicate whether the State will request a waiver of the 50 percent limitation for retraining. (Section 315 of the Act and § 631.34(a)(4) and (5) of the JTPA regulations).

D. Include the current and/or written comments of the SJTCC. If written comments have been provided, a copy of these comments shall be attached to the plan. (Section 313(a)).

III. Signature

The plan shall contain the Governor's signature of the signature and title of his/her designee. The name of the signer should be typed below the signature.

IV. Mailing Address.

States shall submit three copies of the Single substate grantee plan, each with original signature of the Governor or his/her designee to: Administrator, Office of Job Training Programs, Department of Labor, Employment and Training Administration (ETA) 200 Constitution Avenue NW,. Room N 4469, Washington, DC 20210.

Also, a copy of the plan must be sent to the ETA office.

V. Modification

Any plan submitted under section 313(a) of Title III of JTPA as amended may be modified to describe changes in or additions to the programs and activities set forth in the plan, except that no such modification shall be effective unless reviewed and approved pursuant to § 631.46 (c), (d), and (e) of the JTPA regulations.

[FR Doc. 89-9681 Filed 4-21-89; 8:45 am]
BILLING CODE 4510-30-M

Wagner-Peyser Final Planning Estimates Program Year (PY) 1989

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the final planning estimates for Program Year (PY) 1989 (July 1, 1989 through June 30, 1990) for basic labor exchange activities provided under the Wagner-Peyser Act.

FOR FURTHER INFORMATION CONTACT: Robert A. Schaerfl, Director, U.S. Employment Service, 200 Constitution Avenue NW., Room N-4470, Washington, DC 20210. Telephone: (202) 535-0157.

SUPPLEMENTARY INFORMATION: In accord with section 6(b)(5) of the Wagner-Peyser Act, the Employment and Training Administration is publishing final planning estimates for each State. Preliminary planning estimates were published in the **Federal Register** on January 10, 1989, FR 867. The total amount of funds currently available for distribution is $763,752,000. Funds are distributed in accordance with formula criteria established in section 6 (a) and (b) of the Wagner-Peyser Act. Civilian labor force (CLF) and unemployment data for Calendar Year 1988 are used in making the formula calculations. The Secretary of Labor set aside 3 percent of the total available funds to assure that each State will have sufficient resources to maintain statewide employment services, section 6(b)(4). In accord with this provision, $22,912,560 is set aside for administrative formula allocation. These set-aside funds are included in the total planning estimate. Set-aside funds are distributed in two steps to States which have lost in relative share of resources from the prior year. In step one, States which have a CLF below one million and are below the median CLF density are maintained at 100 percent of their relative share of prior year resources. The remainder is distributed in step two to all other States losing in relative share from the prior year but which do not meet the size and density criteria for step one.

Postage costs incurred by States during the conduct of employment service activities are billed directly to the Department of Labor by the U.S. Postage Service. To provide for this in previous years, the Department set aside an indicia postal reserve before allocating resources. However, in keeping with recent efforts to emphasize the importance of efficient mail management practices, the planning estimates are first determined with the total availability, without the indicia postage reserve taken off the top. Then each State is assessed 2 percent of its total planning estimate to establish a national postage reserve of $15,275,040. The assessment for each State following the formula distribution does not change the final total planning estimate. Differences between preliminary and final planning estimates are caused by the use of a Calendar Year data base as opposed to the earlier data used for preliminary planning estimates.

Signed at Washington, DC, this 13th day of April 1989.

Robert T. Jones,

Assistant Secretary of Labor.

BILLING CODE 4510-30-M

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U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
PY 1989 WAGNER-PEYSER FINAL PLANNING ESTIMATES TO STATES
03-31-1989

	TOTAL FORMULA	POSTAGE ASSESSMENT	FINAL PLANNING ESTIMATE
Alabama	11,735,922	-234,719	11,501,203
Alaska	8,302,350	-166,047	8,136,303
Arizona	9,755,125	-195,103	9,560,022
Arkansas	7,313,130	-146,262	7,166,868
California	78,074,310	-1,561,487	76,512,823
Colorado	10,169,470	-203,390	9,966,080
Connecticut	8,366,738	-167,335	8,199,403
Delaware	2,133,293	-42,666	2,090,627
District of Columbia	5,536,155	-110,723	5,425,432
Florida	33,350,187	-667,004	32,683,183
Georgia	18,288,751	-365,775	17,922,976
Hawaii	2,962,265	-59,245	2,903,020
Idaho	6,917,333	-138,346	6,778,987
Illinois	34,960,699	-699,214	34,261,485
Indiana	15,698,700	-313,974	15,384,726
Iowa	9,453,520	-189,070	9,264,450
Kansas	6,883,645	-137,673	6,745,972
Kentucky	10,958,714	-219,174	10,739,540
Louisiana	14,256,552	-285,131	13,971,421
Maine	4,113,673	-82,273	4,031,400
Maryland	13,029,677	-260,594	12,769,083
Massachusetts	15,377,504	-307,550	15,069,954
Michigan	28,988,659	-579,773	28,408,886
Minnesota	12,037,976	-240,759	11,797,217
Mississippi	8,090,161	-161,803	7,928,358
Missouri	14,780,754	-295,615	14,485,139
Montana	5,652,882	-113,058	5,539,824
Nebraska	6,793,652	-135,873	6,657,779
Nevada	5,495,195	-109,903	5,385,292
New Hampshire	2,802,484	-56,050	2,746,434
New Jersey	20,144,759	-402,896	19,741,863
New Mexico	6,343,526	-126,870	6,216,656
New York	57,044,159	-1,140,883	55,903,276
North Carolina	16,698,671	-333,974	16,364,697
North Dakota	5,756,324	-115,127	5,641,197
Ohio	30,899,903	-617,998	30,281,905
Oklahoma	13,042,714	-260,854	12,781,860
Oregon	9,126,802	-182,536	8,944,266
Pennsylvania	31,752,654	-635,053	31,117,601
Puerto Rico	9,279,239	-185,585	9,093,654
Rhode Island	2,707,250	-54,145	2,653,105
South Carolina	8,914,557	-178,291	8,736,266
South Dakota	5,320,166	-106,403	5,213,763
Tennessee	13,461,612	-269,232	13,192,380
Texas	51,743,967	-1,034,880	50,709,087
Utah	11,635,851	-232,717	11,403,134
Vermont	2,492,272	-49,846	2,442,426
Virginia	15,749,389	-314,988	15,434,401
Washington	13,445,788	-268,916	13,176,872
West Virginia	6,089,456	-121,789	5,967,667
Wisconsin	13,834,061	-276,681	13,557,380
Wyoming	4,127,643	-82,553	4,045,090
FORMULA TOTAL	761,890,239	-15,237,806	746,652,433
Guam	357,376	-7,147	350,229
Virgin Islands	1,504,385	-30,087	1,474,298
Indicia Postage	0	15,275,040	15,275,040
NATIONAL TOTAL	763,752,000	0	763,752,000

[FR Doc. 89-9682 Filed 4-21-89; 8:45 am]
BILLING CODE 4510-30-C

Mine Safety and Health Administration

[Docket No. M-89-35-C]

Consol Pennsylvania Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consol Pennsylvania Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Bailey Mine (I.D. No. 36-07230) located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that the section power center and components are too large to place in a crosscut where it would be essential to place the unit in order to adequately ventilate the unit to the return. Also, hazards exist by manually maneuvering the unit.

3. As an alternate method, petitioner proposes that the section power center be contained in a substantially constructed, fully enclosed fireproof steel housing with specific procedures and equipment as outlined in the petition.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 24, 1989. Copies of the petition are available for inspection at that address.

Date: April 14, 1989.

Patricia W. Silvey,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-9670 Filed 4-21-89; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-89-50-C]

Double D. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Double D. Coal Company, General Delivery, Artemus, Kentucky 40903 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 1 (I.D. No. 15-16261) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous miners, longwall face equipment and loading machines. The monitor is required to be kept operative and properly maintained and frequently tested.

2. No methane has been detected in the mine.

3. The three-wheel tractors are permissible DC-powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a mantrip and supply vehicle.

4. As an alternate method, petitioner proposes to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors. In further support of this request, petitioner states that:

(a) Each three-wheel tractor would be equipped with a hand-held continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(b) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any methane buildup between trips; and

(c) Each monitor would be removed from the mine at the end of the shift, and would be inspected and charged by a qualified person. The monitor would also be calibrated monthly.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 24, 1989. Copies of the petition are available for inspection at that address.

Date: April 14, 1989.

Patricia W. Silvey,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-9671 Filed 4-21-89; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-89-52-C]

G.B. Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

G.B. Mining Company, 5 Brodsky Road—Mount Carmel Estates, Mount Carmel, Pennsylvania 17851 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Glen Burn Drift (I.D. No. 36-07813) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that track haulage cars be equipped with automatic couplers.

2. Installation of automatic couplers on the track haulage cars would result in a diminution of safety to the miners affected due to the sharp radius curves in the track, the undulating pitch of the slopes, the different types of small lightweight cars, and the systems of haulage.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 24, 1989. Copies of the petition are available for inspection at that address.

Date: April 17, 1989.

Patricia W. Silvey,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-9672 Filed 4-21-89; 8:45 am]
BILLING CODE 4510-43-M

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[Docket No. M-89-51-C]

Westerman Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Westerman Coal Company, Inc., P.O. Box 134, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Sue No. 1 Mine (I.D. No. 15-14572) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous miners, longwall face equipment and loading machines. The monitor is required to be kept operative and properly maintained and frequently tested.

2. No methane has been detected in the mine.

3. The three-wheel tractors are permissible DC-powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a mantrip and supply vehicle.

4. As an alternate method, petitioner proposes to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors. In further support of this request, petitioner states that:

(a) Each three-wheel tractor would be equipped with a hand-held continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(b) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any methane buildup between trips; and

(c) Each monitor would be removed from the mine at the end of the shift, and would be inspected and charged by a qualified person. The monitor would also be calibrated monthly.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 24, 1989. Copies of the petition are available for inspection at that address.

Date: April 14, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-9673 Filed 4-21-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-27-C]

Navasota Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Navasota Mining Company, P.O. Box EF, College Station, Texas 77840 has filed a petition to modify the application of 30 CFR 77.216-3(a) (water, sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards; program requirements) to its Gibbons Creek Lignite Mine (I.D. No. 41-02847) located in Grimes County, Texas for Sedimentation Pond SP-1, (Impoundment No. 1211-TX-09-02847-01), Sedimentation Pond SP-3, (Impoundment No. 1211-TX-09-02847-03), Sedimentation Pond SP-4, (Impoundment No. 1211-TX-09-02847-17), and its Diversion Pond DP-1, (Impoundment No. 1211-TX-09-02847-02). The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that all water, sediment or slurry impoundments be examined by a qualified person designated by the person owning, operating or controlling the impounding structure at intervals not exceeding seven days for appearances of structural weakness and other hazardous conditions.

2. As an alternate method, petitioner proposes to inspect the impoundments on a monthly basis with specific procedures as outlined in the petition.

3. In support of this request, petitioner states that a safety inspection frequency of once per month would detect any increase in the phreatic level which might cause leakage.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 24, 1989. Copies of the petition are available for inspection at that address.

Date: April 14, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-9674 Filed 4-21-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-4-M]

Sunshine Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Sunshine Mining Company, P.O. Box 1060, Kellogg, Idaho 83837 has filed a petition to modify the application of 30 CFR 57.14162 (trip lights) to its Sunshine Mine (I.D. No. 10-00089) located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that on underground rail haulage, trip lights be used on the rear of pulled trips and on the front of pushed trips.

2. As an alternate method, petitioner proposes to use a swamper, equipped with a cap lamp, riding in the lead car or second car to provide protection for personnel ahead of the train.

3. In support of this request, petitioner states that the swamper can see, think, give signals and control the movement of the train. The trip lamp cannot do any of these functions.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 24, 1989. Copies of the petition are available for inspection at that address.

Date: April 14, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-9675 Filed 4-21-89; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Alaska State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letter dated December 7, 1988 from Tom Stuart, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment comparable to 29 CFR 1910.211(d) and 29 CFR 1910.217, Presence Sensing Device Initiation of Mechanical Power Presses, as published in the **Federal Register** (53 FR 8353) on March 14, 1988.

This State standard, which is contained in AAC 01., Subchapter 8, Presence Sensing Device Initiation of Mechanical Power Presses, was adopted on August 3, 1988, effective October 1, 1988. A public hearing was held on July 6, 1988. Notifications of the hearing were published in statewide media on June 3 and 10, 1988. The public comment period was open for thirty days by Tom Stuart, Director, under authority vested by AS 19.60.020. The State incorporated its numbering system, added editorial modifications, and replaced parentheses with commas in the standard. Throughout the State standard, the word *shall* was changed to *must* and the words *shall not* were replaced by *may not* as required by Alaska's Attorney General.

According to the "Note" at the beginning of Appendix C, Alaska will not have its own requirements for recognition of third-party validation organizations for the presence sensing device initiation standard. The State is instead adopting Federal OSHA's requirements, as outlined in Appendix C. Applications will be filed with Federal OSHA in Washington, DC.

2. *Decision.* The above State standard has been reviewed and compared with the relevant Federal standard. OSHA has determined that the State standard is at least as effective as the comparable Federal standard, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal standards are minimal and that the standards are thus substantially identical. OSHA therefore approves this State standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174;

State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99802; and the Office of State Programs, Occupational Safety and Health Administration, Room N-3476, 200 Constitution Avenue NW., Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

1. The standards were adopted in accordance with the procedural requirements of State law which included public comments and further public participation would be repetitious.

This decision is effective (Date of Publication) (Section 18, Pub. L. 91-596, 84 STAT. 6108 [29 U.S.C. 667]).

Signed at Seattle, Washington this 6th day of January, 1989.

James W. Lake,

Regional Administrator.

[FR Doc. 89-9679 Filed 4-21-89; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before June 8, 1989. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order

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to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force, Directorate of Information Management and Administration, Records Management Branch (N1–AFU–89–15). A comprehensive schedule of Air Force evaluations of contractor's research and develoment capabilities.

2. Department of the Army (N1–AU–89–8). Routine housekeeping records concerning veterinary inspections of Army Child Care Centers.

3. Defense Intelligence Agency, Directorate for Technical Services and Support (N1–373–89–4). Routine and facilitative personnel, training and security files. (Information from these files requiring permanent retention is maintained elsewhere.)

4. Defense Nuclear Agency, Command Services Directorate, Support Services Division (N1–374–89–2). Records relating to the establishment of per diem allowances for personnel stationed on Johnston Atoll.

5. Defense Nuclear Agency, Command Services Directorate, Support Services Division (N1–374–89–3). Routine Directorate responses to Command Group inquiries.

6. Defense Nuclear Agency, Command Services Directorate, Support Services Division (N1–374–89–4). Routine contract administration records.

7. Defense Nuclear Agency, Command Services Directorate, Support Services Division (N1–374–89–5). Internal directives and operating procedures relating to procurement operations.

8. Defense Nuclear Agency, Command Services Directorate, Support Services Division (N1–374–89–6). Programming and budget files. Agency-wide guidance and justification records are retained as permanent records.

9. Defense Nuclear Agency, Command Services Directorate, Support Services Division (N1–374–89–7). Routine administrative records relating to monitoring environmental conditions.

10. Defense Nuclear Agency, Command Services Directorate, Support Services Division (N1–374–89–8). Construction and facilities management files.

11. Defense Nuclear Agency, Command Services Directorate, Support Services Division (N1–374–89–9). Housekeeping records relating to fuel conservation in federal buildings.

12. Defense Nuclear Agency, Command Services Directorate, Support Services Division (N1–374–89–10). DNA responses and comments to Department of Defense Inspector General conducted audits and inspections.

13. Defense Nuclear Agency, Command Services Directorate, Support Services Division (N1–374–89–11). Records relating to DNA implementation of federal procurement programs.

14. Department of Energy Managing and Operating Contractors (N1–434–89–1). Training records for DOE contractor employees.

15. Department of Energy Managing and Operating Contractors (N1–434–88–1). Personnel records for DOE contractor employees.

16. Federal Emergency Management Agency, National Preparedness Directorate (N1–311–89–4). List of security clearances of members of the Interagency Materials Advisory Committee.

17. Department of Health and Human Services, Social Security Administration, Office of Disability (N1–47–89–2). A reduction in the retention period of routine electronic payment data collected in the Vocational Rehabilitation Claim Reimbursement Master System.

18. Department of Justice, Federal Bureau of Prisons (N1–129–89–2). Case files for inmates confined in state and local institutions, 1961–68.

Dated: April 14, 1989.

Claudine J. Weiher,

Acting, Archivist of the United States.

[FR Doc. 89–9762 Filed 4–21–89; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (89–29)]

NASA Advisory Council Public Affairs Task Force; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council Public Affairs Task Force.

DATE AND TIME: May 9, 1989, 1 p.m. to 4-30 p.m., and May 10, 1989, 9 a.m. to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 521], Federal Office Building 10, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code ADA–2, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–8766.

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Public Affairs Task Force was established to examine and assess the NASA public affairs goals, programs, and organization; identify strengths and weaknesses; and report to the Council the results of its study. The Task Force is co-chaired by Douglas Morrow and Julian Scheer and is composed of 11 members

This meeting will be closed to the public from 1 p.m. to 3 p.m. on May 10 for a discussion of the Task Force work plan, including the qualifications of additional candidates for membership. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room, which is approximately 60 persons including Task Force members and other participants. Visitors will be requested to sign a visitor's register.

Type of Meeting

Open—except for a closed session as noted in the agenda below.

Agenda.

May 9, 1989

1 p.m.—Introductory Remarks.
1:30 p.m.—Background.
2:30 p.m.—Overview of NASA's Information Programs.
4 p.m.—Review of Task Force Charter.
4:30 p.m.—Adjourn.

May 10, 1989

9 a.m.—Communications/Public Affairs Program.
1 p.m.—Closed Session—Task Force Work Plan and Additional Members.
3 p.m.—Adjourn.

April 17, 1989.

Philip D. Waller,

Director, General Management.

[FR Doc. 89–9721 Filed 4–21–89; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to the permit application by May 22, 1989. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the Federal Register on June 21, 1988.

The application received is as follows:

Applicant

Will Steger, International Polar Expeditions, Inc., 1288 East Como Blvd., St. Paul, MN 55117.

Activity for Which Permit Requested

Introduction of non-indigenous species into Antarctica. This is an application for permission to transport 42 sled dogs from Minneapolis, Minnesota to King George Island to Seal Nunataks for the embarkation of an international expedition which plans to traverse Antarctica from west to east. The expedition will take place from July 1989 to March 1990.

In consideration of the current concern for minimizing contact between dogs and seals in the convention area of Antarctica, the expedition will take special care to ensure no contact. At no time during the entire expedition will any dog run free. At King George Island dogs will be tied at the Chinese Greal Wall Station. They will then be transported by Twin Otter to Seal Nunataks for the commencement of the expedition. From Seal Nunataks to Mobiloil Inlet the expedition will cross a part of the Larsen Iceshelf, on the border of which there is an important population of Weddell Seals (Leptonychotes weddelli) and Crabeater Seals (Lobodon carcinophagus). Throughout this portion of the trek, the expedition will be traveling at a great distance from the edge of the iceshelf, making contact between dog and seal unlikely. At the expedition's arrival in Mirnyy, the dogs will be kept in a closed inland hangar until their embarkation for Australia by ship and from Australia to Minnesota by plane.

In accordance with the Antarctic Conservation Act of 1978, the dogs will be vaccinated against distemper, canine hepatitis, leptospirose, as well as parainfluenza, corona virus, and parvo virus, and protected from hookworm, tapeworm, whipworm coccidia and heartworm.

In addition to the cache supplies which have already been laid out along the entire route of the expidition, resupply planes will meet the team approximately once a month until the South Pole. With these flights, the expedition can guarantee that any sick, injured or dead dogs will be removed from the expedition, flown back to the base camp on King George Island and then, on the first available flight, flown to the United States via Punta Arenas. Sick, injured or dead dogs will be kept in Antarctica for a minimum amount of time and will, under no circumstances, be disposed of on the continent or on King George Island.

Charles E. Myers,

Permit Office.

[FR Doc. 89–9764 Filed 4–21–89; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–409]

Dairyland Power Cooperative, La Crosse Boiling Water Reactor; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Possession-Only License No. DPR–45 issued to Dairyland Power Cooperative (the iicensee) for the La Crosse Boiling Water Reactor (LACBWR) located at the licensee's site in Vernon County, Wisconsin.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the Technical Specifications (TS) related to the storage of fuel for the fire pump diesel engines to accommodate the installation and use of two new diesel fuel tanks.

LACBWR is permanently shut down and all nuclear fuel has been transferred to the Fuel Element Storage Well. The NRC is evaluating the licensees proposed decommissioning plan that involves long term onsite storage of the nuclear fuel and residual radioactivity (SAFSTOR) followed by removal of the fuel and decontamination of the facility. Fire protection on the site, including the storage of fuel for the diesel fire pumps, is required during the SAFSTOR period.

The Need for The Proposed Action

The present diesel fuel tanks are two outdoor underground tanks of different sizes. These older tanks need to be replaced and the licensee proposes to install two new tanks of equal size in an

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indoor location to improve the reliability of the diesel fire pump system. The TS must be changed to allow the use of the two new fuel tanks.

Environmental Impacts of the Proposed Action

The change in the TS to allow the use of the two new diesel fuel tanks will have no impact on the environment. The present TS require a minimum of 270 gallons of fuel in one tank and 106 gallons in the other. The proposed TS will require 150 gallons in each of the new tanks. The licensee has shown that each new tank will have sufficient fuel for at least 15 hours of operation of the associated diesel engine. This will be an adequate running time for most emergencies and is a sufficient time for refueling from an existing 20,000 gallon diesel fuel tank located onsite. A potential environmental benefit will result from the replacement of the older underground tanks with new tanks that would be less likely to leak and for which leaks would be easier to detect.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed amendment; any alternatives to the amendment will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant maintenance.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed amendment.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed amendment will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For information concerning this action, see the licensee's application for amendment dated December 21, 1987 as revised February 22, 1988, October 13, 1988 and February 15, 1989. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Dated at Rockville, Maryland this 17th day of April 1989.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-9743 Filed 4-21-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards; Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-54 issued to Sacramento Municipal Utility District (the licensee), for operation of the Rancho Seco Nuclear Generating Station located in Sacramento County, California. The request for amendment was submitted by letters dated June 6, 1988, and January 11, 1989.

The amendment would revise the Technical Specification (TS) as follows: (1) TS § 4.21, "Liquid Effluents," would be reorganized, clarified and modified, and would explicitly detail the sampling and analysis requirements, release paths, accountability points, design bases, dose projection requirements, and regulatory requirements for the release of radiological liquid effluent from the plant. (2) Changes to the Lower Limit of Detection (LLD) concentration values for specific nuclides would be made to reduce the required count time for a pre-release Regenerant Hold-Up Tank (RHUT) sample analysis. The changes made to the LLD value would meet established design basis and provide reasonable assurance of compliance with the dose guidelines of 10 CFR 50, Appendix I for radiological liquid effluents. (3) LLD's for pre-release sample analysis on a Retention Basin would be established, which would assure the capability of compliance with the radiological liquid effluent concentration limits of 10 CFR 20, Appendix B. (4) The LLD equation and definition found in TS §§ 4.21, 4.22, and 4.26 would be modified; the origin and basis was established in NUREG/CR-4007 and the LLD equation design basis document.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. These three criteria are discussed below.

(1) The NRC staff finds that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed Technical Specification changes will not affect plant design or alter the safety and accident analysis of the Safety Analysis Report. Results of procedural and programmatic changes involving management of radiological liquid effluent will have no adverse impact on any accident analysed in the Safety Analysis Report.

(2) The NRC staff finds that the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed Technical Specification change do not adversely impact any safety-related system and do not provide any new mechanisms by which an accident could occur.

(3) The NRC staff finds that the proposed amendment does not involve a significant reduction in a margin of safety because the proposed Technical Specification changes will not compromise the plant's ability to comply with the radiological liquid effluent release limits of 10 CFR Part 20, Appendix B and guidelines of 10 CFR Part 50, Appendix I. The proposed Radiological Effluent Technical Specifications (RETS) changes will verify the design basis for radiological liquid effluent.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-216, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC 20555. The filing of requests and petitions for leave to intervene is discussed below.

By May 24, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene must be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.174(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822.

Dated at Rockville, Maryland, this 14th day of April, 1989

For the Nuclear Regulatory Commission.

Steven A. Reynolds,

Project Manager, Project Directorate V, Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-9737 Filed 4-21-89; 8:45 am]

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[Docket No. 50–206]

Southern California Edison Co., et al.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 122 to Provisional Operating License No. DPR–13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the Licensee), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1, located in San Diego County, California. The amendment was effective as of the date of issuance.

The amendment approves the revised safety analysis for (1) an increase in steam generator tube plugging from 15% to 20%, including reanalysis of a Loss-of-Coolant-Accident, (2) the reactor coolant pump locked rotor and shaft break, and (3) an additional time delay and revised boron concentration in the safety injection lines.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on January 23, 1989 (54 FR 3169). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to this action and has concluded that an environmental impact statement need not be prepared because operation of the facility in accordance with this amendment will have no significant adverse effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated January 11, 1989, as supplemented January 27, March 4 and 11, and April 1, 1989, (2) Amendment No. 122 to License No. DPR–13, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland this 14th day of April, 1989.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–9736 Filed 4–21–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–206]

Southern California Edison Co., et al.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 123 to Provisional Operating License No. DPR–13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1, located in San Diego County, California. The amendment was effective as of the date of issuance.

The amendment approves the licensees' request to increase the power rating for each emergency diesel generator to 6000kW on an interim basis subject to certain conditions.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on December 14, 1988 (53 FR 50340). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to this action and has concluded that an environmental impact statement need not be prepared because operation of the facility in accordance with this amendment will have no significant adverse effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated November 11, 1988, as supplemented February 14 and 22, and March 11 and 14, 1989, (2) Amendment No. 123 to License No. DPR–13, (3) the Commision's related Safety Evaluation and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 14th day of April, 1989.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–9738 Filed 4–21–89; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Co., et al; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–10 and NPF–15 issued to Southern California Edison Company (SCE), San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees), for operation of San Onofre Nuclear Generating Station, Units 2 and 3 located in San Diego County, California. The request for amendments was submitted by letter dated March 10, 1989 and identified as Proposed Change PCN–287.

The proposed change would revise Technical Specifications 3.9.7, "Fuel Handling Machine—Spent Fuel Storage Pool Building;" 5.6.1(b) and 5.6.2, "Fuel Storage Criticality;" and 5.6.4, "Fuel Storage Capacity." The purpose of the proposed Technical Specification changes is to provide for increasing the capacity of the fuel storage racks at both Unit 2 and Unit 3 from 800 to 1572 fuel assembly storage locations and for conducting specific heavy load lifts above the new storage racks that are needed for construction and normal fuel pool operations.

The licensees have proposed replacing the existing spent fuel racks, which have 800 storage locations, with new high density spent fuel racks, with 1572 fuel assembly storage locations at both San Onofre Unit 2 and Unit 3. The new racks would be free standing and use Boraflex neutron absorbing material for criticality control. A two region design would be used, with 312 storage locations in Region I for storage of all types of Unit 1 and Units 2 or 3 uranium oxide fuel, and 1260 storage locations in Region II for storage of Unit 1 and Units 2 or 3 uranium oxide fuel which either meets specified burnup criteria or is stored in prescribed patterns. Approval of storage of spent fuel produced by operation of San Onofre Unit 1 in either Unit 2 or Unit 3 was authorized June 22, 1988 by Amendments 63 and 52, respectively.

The proposed Technical Specification changes are described below:

1. Technical Specification 5.6.1(b) would change the current 12.75" center-to-center rack storage location spacing to 10.40" center-to-center spacing for Region I, and 8.85" center-to-center spacing for Region II.

2. Existing Technical Specification 5.6.2 for dry storage of the first core in the fuel pool in alternate rows and columns will be deleted. This Technical Specification was only applicable to dry storage of the first core.

3. New Technical Specification 5.6.2 and accompanying Figures 5.6–1, 5.6–2, 5.6–3, and 5.6–4 would define the fuel enrichment/burnup limits for storage of Units 1, 2, and/or 3 fuel in Region II of the high capacity spent fuel storage racks.

This new Technical Specification would also define the conditions and storage patterns (checkerboard or alternating row) required for storage in Region II of new or burned fuel which does not meet the enrichment vs. burnup criterion.

Lastly, this new Technical Specification would define the conditions under which a new/burned fuel reconstitution station may be established in Region II.

4. Technical Specification 5.6.4 would be revised to specify that no more than 1572 fuel assemblies may be stored in the spent fuel racks.

5. Technical Specification 3.9.7 would be revised to list the following allowable lifts of heavy loads above stored spent fuel:

A. Spent fuel pool gates shall not be carried at a height greater than 30 inches (elevation 36 feet 4 inches) over the fuel racks.

B. Test equipment skid (4500 pounds) shall not be carried at a height greater than 72 inches (elevation 39 feet 10 inches) over rack cells which contain Units 2 or 3 fuel assemblies or greater than 30 feet 8 inches (elevation 64 feet 6 inches) over rack cells which contain Unit 1 fuel assemblies.

C. Installation or removal of the cask pool cover over the cask pool with fuel in the cask pool.

D. The lift of construction loads, including the temporary gantry crane and the old and the new fuel storage racks (including lifting equipment and rigging), above the cask pool with the cask pool cover in place and fuel in the cask pool. This includes temporary storage of these construction loads on the cask pool cover during construction.

6. The basis for Specification 3.9.7 will be revised to reflect the analysis for the heavy load drops associated with the revised Specification 3.9.7.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 24, 1989, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and

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telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington and Sutcliffe, Attention: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111, attorneys for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in the 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendments after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no signficant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's public Document Room, 2120 L Street NW., Washington, DC, and at the General Library, University of California at Irvine, Irvine, California 92713.

Dated at Rockville, Maryland, this 12th day of April, 1989.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, Project Directorate V, Division of Reactor Projects–III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–9739 Filed 4–21–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–206]

Southern California Edison Co., et al.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 124 to Provisional Operating License No. DPR–13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1, located in San Diego County, California. The amendment was effective as of the date of issuance.

The amendment approves a design change to trip both safety injection and main feed pumps and close safety injection supply valves when the refueling water storage tank reaches a low-low level during a loss-of-coolant accident.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on January 17, 1989 (54 FR 1809). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to this action and has concluded that an environmental impact statement need not be prepared because operation of the facility in accordance with this amendment will have no significant adverse effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated November 11, 1988, as supplemented January 13, February 25, and March 4, 1989, (2) Amendment No. 124 to License No. DPR–13, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland this 14th day of April 1989.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–9740 Filed 4–21–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–362]

Southern California Edison Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–10 issued to Southern California Edison Company (SCE), San Diego Gas and Electric Company, the City of Riverside, California, and the City of Anaheim, California (the licensees), for operation of San Onofre Nuclear Generating Station, Unit 2 located in San Diego County, California. The request for amendment was submitted by letter dated March 10, 1989 and identified as Proposed Change PCN–290.

The proposed change would revise Technical Specification (TS) 3/4.10, "Special Test Exceptions," to include a new Specification 3/4.10.7, "18 Month Channel Calibrations," to the Unit 2 Technical Specifications. TS 3/4.10.7 would permit a one-time extension of the 18 month surveillance requirements for certain instrumentation included in TS 3/4.3.1, "Reactor Protective Instrumentation;" TS 3/4.3.2, "Engineered Safety Feature Actuation System Instrumentation;" TS 3/4.3.3.5, "Remote Shutdown Instrumentation;" and TS 3/4.3.3.6, "Accident Monitoring Instrumentation." This extension would terminate upon entry into the Cycle 5 refueling outage into a mode in which the operability of the instruments is no longer required or October 1, 1989, whichever occurs first.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 24, 1989, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and petition for leave to intervene. Requests for a hearing and

petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly inform the Commission by a toll-free telephone call to Western Union at 1–(800)325–6000, (in Missouri 1–(800)342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington and Sutcliffe, Attention: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111, attorneys for the licenseeees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in the 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the General Library, University of California at Irvine, Irvine, California 92713.

Dated at Rockville, Maryland, this 14th day of April 1989.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–9742 Filed 4–21–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–483]

Union Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 43 to Facility Operating License No. NPF–30, issued to Union Electric Company, which revised the Technical Specifications for operation of the Callaway Plant, Unit 1, located in Callaway County, Missouri. The amendment was effective as of the date of issuance.

The amendment modified the Technical Specifications relating to the steam generator low-low level trip circuitry by adding an Environmental Allowance Modifier (EAM) and a Trip Time Delay (TTD).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on October 13, 1988 (53 FR 40148). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated August 30, 1988, and supplemented November 18 (2 letters) and December 28, 1988, and February 7, 10 and 15, 1989, (2) Amendment No. 43 to License No. NPF–30, (3) the

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Commission's related Safety Evaluation dated April 14, 1989, and (4) the Environmental Assessment dated April 4, 1989. All of these items are available for public inspection at the Commission's Public Document Room, Gelman Building 2120 L Street NW., and at the Calleway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V and Special Projects.

Dated at Rockville, Maryland this 14th day of April 1989.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Director, Project Directorate III–3, Division of Reactor Projects-III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–9741 Filed 4–21–89; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Columbia River Basin Fish and Wildlife Program; Final Action on Long-Term Spill Amendments

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of final action on long-term spill amendments to the Columbia River Basin Fish and Wildlife Program.

SUMMARY: On November 23, 1988, pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. 839, et seq.) the Pacific Northwest Electric Power and Conservation Planning Council (Council) published notice of proposed amendments to the Columbia River Basin Fish and Wildlife Program (program). The proposed amendments were to incorporate the spill provisions of an agreement negotiated by the region's state and federal fish and wildlife agencies, Indian tribes, Bonneville, and the Pacific Northwest Utilities Conference Committee, for spills at Lower Monumental, Ice Harbor, John Day, and The Dalles Dams, for the ten-year period beginning December 31, 1988 (agreement). Public hearings on the propose amendments were held in Idaho, Montana, Oregon, and Washington, in December, 1988. On February 8, 1989, the Council adopted amendments incorporating the spill standards of the agreement (section III) for 1989 only, and left this amendment proceeding open for the period after 1989. Public comment was received through April 10, 1989. On April 13, 1989, the Council adopted amendments incorporating the spill standards of the agreement for the life of the agreement. The Council's decision constitutes final action.

For a Copy of the Amendments, the Spill Agreement, or the Council's Response to Comments: Contact Judi Hertz at 851 SW. Sixth Avenue, Suite 1100, Portland, Oregon, 97204, or at (503) 222–5161, toll free 1–800–222–3355 in Idaho, Montana, and Washington or 1–800–452–2324 in Oregon.

Edward Sheets,

Executive Director.

[FR Doc. 89–9695 Filed 4–21–89; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–26730; File No. SR–DTC–89–1]

Self-Regulatory Organizations; The Depository Trust Co.; Proposed Rule Change

Relating to DTC's proposed elimination of most urgent withdrawals (CODs) of non-FAST corporate issues settling in next-day funds and institution of a new rush transfer service for those issues.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 18, 1989, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change being filed by DTC (consists of the DTC Important Notices dated October 28, 1988, and June 20, 1988, describing) DTC's planned elimination of most urgent withdrawals ("CODs") of corporate issues settling in next-day funds that are not "full" FAST issues and DTC's institution of a new rush transfer service for those issues. Procedures and pricing for the new rush transfer service are being prepared and will be filed shortly as an amendment to the filing. It is expected that the final procedures will require Participant requests for rush transfers of issues with New York City transfer agents to be submitted the night before certificate pickup and not, as originally contemplated, early in the day of the pickup.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Certificates can be withdrawn from DTC in either of two ways:

(1) Withdrawals-by-Transfer (WTs), in which certificates are transferred routinely to the name of a Participant's customer or another party. Depending on the issue, its transfer agent, and the agent's location, newly registered certificates are generally available one to two weeks after DTC has received WT instructions.

(2) Urgent Certificate-on-Demand (COD) withdrawals, in which certificates registered in the name of DTC's nominee Cede & Co. or bearer certificates are released directly from the depository.

The reasons for discontinuing the subject CODs (for corporate issues settling in next-day funds that are not "full" FAST issues) [1] are to realize cost savings and improve safety by eliminating a service that is no longer needed. Few corporate CODs are now needed because rules of the New York Stock Exchange, the National Association of Securities Dealers and other self-regulatory organizations now require, in general, that all delivery-versus-payment settlements in depository-eligible corporate securities be settled by book-entry. For other kinds of settlement, and for purposes other than settlement, where Participants may need to deliver physical certificates, WTs will usually suffice because of recent improvements in transfer agent turnaround performance. In other situations, identified in Item 3 of the filing, DTC will provide rush transfer, exception CODs or other special arrangements.

DTC eliminated most same-day corporate CODs for issues settling in next-day funds in November 1987 and eliminated most same-day municipal CODs for issues settling in next-day funds in May 1988. DTC knows of no resulting adverse impact on any Participant or its customers. Participant comment and DTC's experience with phased COD elimination to date have shaped its current proposal. Summaries of significant Participant comments on the proposed rule change and DTC's responses are presented under Item 3 of the filing.

The proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder because it will reduce unnecessary costs in the safeguarding and other processing of securities certificates in the national clearance and settlement system. It will reduce vault and other physical security costs and concerns by substituting "jumbo" certificates for smaller denominations. It will eliminate a costly urgent withdrawal structure and staffing that is no longer needed on a routine basis and should reduce risks associated with that structure. It will cease to mutualize a cost that is better addressed and priced as exception processing.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

All comments received on the present and previous versions of the proposed rule change are summarized in substance under Item 3 of the filing, and DTC's detailed responses to any significant issues raised by those comments are presented under Item 3 of the filing. Copies of written comments constitute Exhibits 2(a) and 2(b) to the filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to SR-DTC–89–1 and should be submitted by May 15, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 14, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9686 Filed 4–21–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–26729; File No. SR–MBS–89–2]

Self-Regulatory Organizations; MBS Clearing Corporation; Order Granting Accelerated Approval of Proposed Rule Change Amending By-Laws

On March 10, 1989, the MBS Clearing Corporation ("MBSCC") filed a proposed rule change (File No. SR–MBS–89–2) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] amending MBSCC's By–Laws. On March 23, 1989, the Commission published notice of the proposed rule change in the **Federal Register**.[2] The comment period expired on April 13, 1989 and no comments were received. This Order approves the proposal on an accelerated basis for the reasons stated below.

The proposal amends Article III, Section 3.1 of MBSCC's By-Laws, reducing the authorized number of directors from fifteen to eleven. The Board of Directors ("Board") is divided into three classes—Class I, Class II and Class III. Each class currently consists of five directors, each elected for a three-year term. The proposal will reduce the number of directors to four in Class I and III each, and three in Class II.

Prior to 1988, MBSCC's By-Laws provided for thirteen directors, a number MBSCC believed sufficient to provide effective representation of participants in MBSCC's Clearing and Depository Divisions. On February 23, 1988, the Commission approved on an accelerated basis a proposed rule change filed by MBSCC [3] to increase the authorized number of directors from thirteen to fifteen. In the proposal, MBSCC stated that it was in the process of restructuring its Depository Division into a separate corporate entity. In connection with that, MBSCC's Board had established committees to negotiate various issues relating to the restructuring. The Board appoint two representatives of the Midwest Stock Exchange, Inc. ("Midwest"), MBSCC's sole stockholder, to the Board to participate in negotiations regarding the sale of MBSCC's Depository Division to the Participants Trust Company ("PTC").

On March 28, 1989, the Commission granted PTC's application for registration as a clearing agency and the sale of the MBSCC's Depository Division to PTC closed on March 31, 1989.[4] Following the sale of the Depository Division, the two appointed representatives of Midwest, along with six other Board members who represented interests related to Depository Division matters, resigned

[1] Under DTC's Fast Automated Securities Transfer (FAST) program, DTC leaves securities with transfer agents in the form of balance certificates registered in the depository's nominee name, Cede & Co. The balance certificates are adjusted daily for DTC deposit and withdrawal activity. A "full" FAST issue is one where the transfer agent provides CODs as well as WTs.

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 26638 (March 17, 1989), 54 FR 12040.

[3] *See* Securities Exchange Act Release No. 25384 (February 23, 1988), 53 FR 6045.

[4] *See* Securities Exchange Act Release No. 26671 (March 31, 1989), 54 FR 13286.

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from the Board and have not been replaced. MBSCC believes that an eleven member Board will be of ample size to allow representation of a broad range of Clearing Division participants.

Originally, the composition of MBSCC's Board was balanced to provide for equal representation among the various types of participants in the Clearing and Depository Divisions. The Board composition represented Depository Division participants, which included brokers, dealers and banks, and Clearing Division participants, which consisted only of brokers and dealers. As a result of the sale of the Depository Division all of MBSCC's bank participants no longer participate in MBSCC or use MBSCC services. Thus, MBSCC's proposal restructures the Board to reflect the elimination of the Depository Division and the resulting change to the composition of its participants.

The Commission believes that an eleven member Board is of ample size to assure fair representation of its shareholder and participants in the selection of its directors. The eleven member Board will represent the remaining participants in MBSCC (*i.e.*, Clearing Division participants). Indeed, MBSCC anticipates that at least nine of the eleven directors constituting the Board after election of directors at the annual meeting will represent participants.[5] The Commission believes the proposed restructuring of the Board is consistent with MBSCC's obligation under section 17A of the Act to assure fair representation to its shareholders and participants in the selection of its directors and will result in a Board that will be able to reflect the needs of its shareholder and participants.

In its filing, MBSCC requested approval of the proposal on an accelerated basis. MBSCC states that accelerated approval is needed to complete the Board restructuring prior to the election of directors at the MBSCC's April 19, 1989 annual meeting of shareholders. The sale of MBSCC's Depository Division to PTC closed on March 31, 1989. Eight directors have resigned as a result of the sale leaving six current members on MBSCC's Board (the other director has retired). The acceleration of this proposal would allow for the smooth restructuring of MBSCC's Board at its annual meeting. Therefore, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register**.

[5] One director will represent Midwest and the other will not be from Midwest or a MBSCC participant.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–MBS–89–2) be, and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 14, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9687 Filed 4–21–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–26731; File No. SR–PHLX–88–32]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Technical Amendment to Allocation Rules

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 11, 1988 the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc., pursuant to Rule 19b–4 of the Act, submits the following proposed rule change to Rule 515 regarding Specialist Evaluations (brackets indicate deletions, italics indicates additions):

Rule 515 Specialist Evaluations

Supplementary Material.

.01 Equity Specialist Evaluation

The performance evaluation survey for equity specialists is divided into four sections: PACE, ITS, General and Primary Issues. Each section contains one or more evaluation categories. Specialist units are ranked from worst to best in each of the ratings categories (for example, if there are twenty in each category) based on their performance in the category. Categories may each have different weightings in determining a firm's evaluation overall and on each section. Any specialist unit ranking in the bottom 15% in overall ratings for two consecutive quarters, or in the bottom 15% on the PACE, ITS or General Sections of the survey for three consecutive quarters, [will] *may* [1] be deemed to have performed below minimum standards. Within the next 60 days, the Committee will conduct a special performance review. If, based on that review, the specialist unit's performance has not improved overall, or in the sections or with respect to the securities where substandard performance has been identified, the Committee may institute proceedings to determine whether to remove and reallocate one or more securities. Moreover, if a specialist unit deemed to have performed below minimum standards overall ranks in the bottom 15% in any one of the next four quarters, the Committee shall review the specialist's performance and may institute proceedings to determine whether to remove and reallocate one or more securities. If a specialist unit deemed to have performed below minimum standards in the ITS, PACE or General sections of the survey ranks in the bottom 15% in any two of the next four quarters, the Committee shall review the specialist's performance and may institute proceedings to determine whether to remove and reallocate one or more securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

Currently the language in supplementary material .01 to Rule 515 provides that an equity specialist unit that ranks in the bottom 15% of the ratings over certain periods of time "will be deemed to have performed below minimum standards." This same specialist unit, however, would not automatically be subject to a

[1] *See* Letter from Richard T. Chase, Executive Vice President, Phlx, to Howard Kramer, Assistant Director, Division of Market Regulation, dated February 8, 1989, for a complete discussion of the purpose and effect of the amendment.

reallocation proceeding. Rather, the supplementary material to the rule provides that, under these circumstances, the Committee "may institute proceedings to determine whether to remove and reallocate one or more securities." The Exchange in reviewing this rule, determined to correct this apparent inconsistency. The Exchange believes that a specialist unit's performance should not automatically be labelled below minimum standards based only on the fact that the unit received a ranking in the bottom 15% during a specific time period. In this regard, the Exchange notes that its procedures do not automatically treat such ranking as establishing that a unit's performance is deficient. Instead, as noted above, the rule provides that such a ranking "may" trigger a reallocation proceeding. To make the language of the rule better reflect the actual procedure, this amendment has been proposed.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it will promote just and equitable principles of trade.

B. Self-Regulatory Organizations Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any burden on competition.

C. Self.-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Allocation, Evaluation and Securities Committee and the Floor Procedure Committee have both reviewed and approved the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 15, 1989.

For the Commission by the Division of Market Regulation, purusant to delegated authority.

Dated: April 17, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9688 Filed 4–21–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–26737; File No. SR–BSE–88–2]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Plan for Enforcing and Reporting Minor Disciplinary Rule Violations

On October 20, 1988, the Boston Stock Exchange ("BSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to subsections (b)(2) and (d)(1) of section 19 of the Securities Exchange Act of 1934 ("Act") [1] and Rules 19b–4 and 19d–1(c)(2) thereunder,[2] a proposed rule change to establish a minor rule violation enforcement and reporting plan.[3] Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 26314, November 28, 1988), and by publication in the **Federal Register** (53 FR 48995, December 5, 1988). The Commission received no comments on the proposed rule change. On April 17, 1989, the BSE submitted an amendment to the proposed rule change that removes four substantive violations from the original proposal, conforms the due process rights of persons contesting the imposition of minor rule plan violations to Commission Rule 19d–1(c)(2), and establishes a quarterly reporting system to the Commission for disciplinary actions subject to the proposed plan.

BSE's proposed plan encompasses two systems: (1) A minor rule violation disciplinary system, and (2) a quarterly reporting system to the Commission for minor rule violations. Under the proposed rule change, Chapter XVII, Section 4 of the BSE's Rules of the Board of Governors authorizes the Exchange, in lieu of commencing a disciplinary proceeding before a hearing panel, to impose a fine not to exceed $2,500, on any member, member organization, or registered or non-registered employee of a member organization for any violation of an Exchange rule which the BSE determines to be minor in nature.[4] Alternatively, proposed Chapter XVII, Section 4 of the BSE's Rules of the Board of Governors permits any person to contest the Exchange's imposition of the fine through the submission of a written answer, at which time the matter will become a "disciplinary proceeding" subject to Chapter XXX of the Rules of the Board of Governors of the BSE and, where applicable, the reporting provisions of paragraph (c)(1) of Commission Rule 19d–1.

For covered minor disciplinary rule violations, the proposed plan would relieve the Exchange from the current reporting requirement otherwise imposed by section 19(d)(1) of the Act for "final" disciplinary actions. In accordance with paragraph (c)(2) of Commission Rule 19d–1, the BSE's proposed minor rules violation plan specifies those uncontested minor rule violations with sanctions not exceeding

[1] 15 U.S.C. 78s(b)(2), (d)(1).

[2] 17 CFR 240.19b–4, 240.19d–1(c)(2).

[3] *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23838 (June 8, 1984). Pursuant to paragraph (c)(1) of Rule 19d–1, an SRO is required to file promptly with the Commission notice of any "final" disciplinary action taken by the SRO. Pursuant to paragraph (c)(2) of Rule 19d–1, any disciplinary action taken by the SRO for violation of an SRO Rule that has been designated a minor rule violation pursuant to the plan, shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. By deeming unadjudicated, minor violations as not final, the Commission permits the SRO to report violations on a periodic, as opposed to immediate, basis.

[4] Although the BSE's Board of Governors makes the initial determination of whether a BSE rule violation is "minor" for purposes of inclusion in proposed Section 4, Chapter XVIII of the BSE's Rule of the Board of Governors, this determination is subject to Commission approval pursuant to sections 19(b)(2) and (d)(1) of the Act and Rules 19b–4 and 19d–1(c)(2) under the Act.

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$2,500 that would not be subject to the current reporting provisions of paragraph (c)(1) of Commission Rule 19d–1, provided the Exchange gives notice of such violations to the Commission on a quarterly basis.

The Exchange proposes to incorporate the following violations of existing Exchange policies into its proposed plan: (1) The failure to time stamp orders or to promptly report executions to the Consolidated Tape Association; (2) the failure of members and member organizations to be properly operating and represented on the Exchange floor; (3) the failure of specialists to confirm open orders; (4) short sale rule violations; and (5) conduct which may cause delays or interruptions in the orderly facilitation and/or confirmation of orders received on the floor such as failure to record proper post location or dilatory order handling practices. The fine schedules under Chapter XVIII, Section 4 of the Rules of the Board of Governors of the BSE are as follows: (1) first offense (depending upon the substantive violation), either a written warning, a $100 fine or a $250 fine; (2) second offense (depending upon the substantive violation), either a $100 fine, a $250 fine or a $500 fine; and (3) subsequent offenses (depending upon the substantive violation), either a $250 fine or a $500 fine.

Enforcement actions taken pursuant to any covered minor disciplinary rule violation will be reported to the Commission on a quarterly basis. Such quarterly reports include (1) the Exchange's internal file number for the case, (2) the Securities and Exchange Commission's file number, (3) the name of the individual or member organization, (4) the nature of the violation, (5) the specific rule provision violated, (6) the date of violation, (7) the fine imposed, (8) an indication of whether the fine is joint and several, (9) the number of times the violation has occurred, and (10) the date of disposition.

The Commission finds that the proposed plan is consistent with the requirements of the Act and the rules and regulations thereunder, and in particular, with the requirements of section 6(b)(5) and section 19(d). The proposed rule change would establish a simplified disciplinary system that enables the Exchange to achieve compliance with rules that are essentially technical and objective in nature in a more efficient manner than resorting to formal disciplinary proceedings. In particular, we note that because violations of the rules to be subject to the proposed plan can be determined accurately and objectively, it is reasonable for them to be included in such an abbreviated periodic reporting plan.[6] Moreover, because the proposed plan permits disciplined persons to contest the Exchange's imposition of the fine and request a full disciplinary proceeding, the proposed plan is consistent with the disciplinary proceedings required under section 6(b)(7) of the Act. Finally, we note that the BSE will retain the discretion to bring full disciplinary proceedings for violations of the rules listed in the minor plan and should do so when appropriate for the particular violation(s) involved.[6]

It is therefore ordered, pursuant to section 19(b)(2) and Rule 19d–1(c)(2) under the Act, that the above mentioned proposed plan be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: April 17, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9669 Filed 4–21–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26732; File No. SR–DTC–89–07]

Self-Regulatory Organizations; Proposed Rule Change by The Depository Trust Co. Relating to Procedures for Invitations To Cover Short Positions

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 4, 1989, The Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Depository Trust Company ("DTC") is filing herewith a proposed rule change relating procedures for invitations to cover short positions. The procedures are set out in *Exhibit A.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose for the proposed rule change is to provide an automated procedure whereby DTC, at the request of a Participant which has a short position in a certain security, invites tenders to cover the short position from Participants which have a long position in the same security.

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC since the proposed rule change will increase efficiency in eliminating certain short positions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed rule change is part of a program that is being developed at the request of Participants and securities industry organizations to eliminate short positions. Based upon informal conversations with Participants we understand that the consensus of opinion regarding the proposed rule change has been uniformly positive.

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[6] *See e.g.,* Securities Exchange Act Release No. 22300 (August 8, 1985), 50 FR 32818 (August 14, 1985) (approval of New York Stock Exchange minor disciplinary rule violations plan).

[6] The Commission notes that inclusion of a rule in an SRO's minor rule plan should not be interpreted to mean it is an unimportant rule. On the contrary, the Commission recognizes that inclusion of objective rules under a minor rule violation plan not only can reduce reporting burdens of an SRO but also can make their disciplinary systems more efficient in prosecuting violations of these rules.

[7] See 17 CFR 200.30–3(a)(44).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the data of publication of this notice in the **Federal Register** or within such longer period (1) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of DTC.

All submissions should refer to the file number SR–DTC–89–07 and should be submitted by May 15, 1989. For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: April 17, 1989.

Jonathan G. Katz,

Secretary.

Exhibit A—Invitation to Cover Short Position Procedure

Introduction

Participants with short positions at DTC may use the Participant Terminal System (PTS) or PTS Jr. to extend formal invitations to tender in an attempt to resolve their short positions.

The tender invitation will also serve as notice to Participants with long positions that:

- An inventory deficiency exists at DTC.
- Certificates may not be available for withdrawal.
- DTC may take steps to eliminate the short.

The actual tender price will be negotiated between Participants; however, meaningful premiums could be required as a cost of resolving short positions and retrieving the 130% cash deposit with DTC.

When a "short" Participant holds a security similar to the one that it is short, the invitation to tender may include an offer to sell (swap) the similar security.

In the invitation to tender, the "short" Participant is presumed to be willing to accept amounts greater or less than what is needed to cover the short position.

When, due to unusual processing problems, DTC itself is short, the depository will invite tenders.

Procedure

"Short" Participant

Notify DTC via PTS or PTS Jr. between 4:30 and 5:00 p.m. Eastern time of your request to extend an invitation to tender to cover your short position. Use Exhibit. 1 as an example and include the following information:

A. Participant name
B. Participant number
C. Date
D. CUSIP number.
E. Security description
F. Quantity desired
G. CUSIP number of substitute security (if any)
H. Security description of substitute security (if any)
I. Contact name
J. Contact telephone number (include area code)

Note: This message must be sent to printer destination #P136 at DTC.

Use phone mail to confirm DTC's receipt of your request by telephoning the DTC Reorganization Department at: (212) 656–1919

"Long" Participant

Receive a message via the BROE function of PTS informing you that an invitation to tender has been extended. (See § 6.01 of the PTS Manual for further information regarding the BROE function.) (Exhibit #2) The following information is included:

A. Date
B. CUSIP number
C. Security description
D. Quantity desired
E. CUSIP number and security description of substitute security (if any)
F. DTC Contact name
G. DTC Contact telephone number

Use phone mail to contact DTC as directed if you are willing to accept the invitation to tender by telephoning: (212) 656–1920

"Short" Participant

Receive a telephone call from DTC relaying the names and telephone numbers of "long" Participants willing to participate in your invitation to tender.

Note: At this point, it is the responsibility of the "short" Participant and the "long" Participant to reach an agreement on the terms and the amount of the transaction and to take steps (e.g. input a Deliver Order) to complete the transaction. DTC has no involvement in these negotiations.

"Short" Participant

Use phone mail upon acceptance of a tender to promptly notify DTC that the invitation to tender is no longer available by telephoning the following:

Reorganization Supervisor (212) 656–1919

"Long" Participant

Receive a broadcast message via the BROE function of PTS from DTC informing you that the invitation to tender to cover a short position is no longer available*. (Exhibit #3)

Exhibit #1—Incoming Message to DTC

Invitation to Cover Short Position

(Participant * Name) (Participant #1) invites tenders of the following security to resolve a short position:

Date: _____
Cusip Number: _____
Description: _____
Quantity Desired: _____
Substitute Available
Cusip Number: _____
Description: _____

(Contact Name) at (Contact phone #) should be contacted with responses to this invitation.

Exhibit #2—Outgoing Message From DTC

Invitation to Cover Short Position

Date: _____
To: Reorganization Manager _____
Cusip Number: _____
Description: _____

We are hereby notifying you, as a Participant with a long position in the above security, that an invitation to tender has been received from a DTC Participant who is short this security. Tenders are invited for _____ but tenders in larger or smaller quantities

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* This broadcast message will be sent only to those Participants which had a long position in the security involved at the time the invitation to tender was initially extended. No other Participants will receive this information.

* The above named Participant agrees to consider purchase from tendering Participant of amounts greater or less than the quantity desired to cover the short position.

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will also be considered. In addition, the "short" Participant has offered _____ in exchange for the above security. You are asked to consider whether you are willing to tender securities on behalf of your client. If you wish to tender securities, contact _____ of DTC at 212–709–_____ who will advise the "short" Participant of your offer.

Exhibit #3—Outgoing Message From DTC

Termination of Offer; Invitation to Cover Short Position

Name of Issue: _____
Cusip Number: _____

Notice has been received by DTC from the Participant, with a short position in the above security, that its position is no longer short due to a successful conclusion of its offer. Therefore, this offer is no longer open.

[FR Doc. 89–9660 Filed 4–21–89; 8:45 am]
BILLING CODE 8010–01–M

[Rel. NO. IC–16926 ; 811–1040]

Industry Fund of America; Application for Deregistration

April 17, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Industry Fund of America ("Applicant").

Relevant 1940 Act Section: Section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

Filing Dates: The application on Form N–8F was filed on November 21, 1988 and amended on March 10, 1989. A supplemental letter was submitted on January 18, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on May 12, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 115 Broadway, New York, New York 10006.

FOR FURTHER INFORMATION CONTACT: Patricia Copeland, Legal Technician (202) 272–3009, or Brion R. Thompson, Branch Chief (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant registered under the 1940 Act on Form N–8A as an open-end, diversified management investment company. Applicant filed a registration statement pursuant to the Securities Act of 1933 (the "1933 Act") in 1961. The registration statement became effective on March 19, 1962, and the initial public offering commenced shortly thereafter.

2. On June 10, 1988, the Applicant's Board of Directors approved an Agreement and Plan of Reorganization and Liquidation ("Plan") providing for (i) the sale of substantially all the assets of Applicant to American Heritage Fund, Inc. (File No. 811–601) in exchange for shares of common stock of American Heritage Fund, Inc. to be distributed to Applicant's shareholders on the basis of their relative net asset values per share, and (ii) Applicant's subsequent dissolution. A registration statement on Form N–14 was filed on June 24, 1988, registering the shares of beneficial interest of American Heritage Fund, Inc., (File No. 811–601). The Plan and the terms of the reorganization are set forth in the preliminary proxy statement filed with the SEC and incorporated by reference into the application.

3. On July 20, 1988, at a meeting duly called and held, a majority of Applicant's shareholders approved the Plan. On that same date 159,392.924 shares of the Applicant's common stock, $.10 par value, was outstanding. Applicant's net asset value per share on such date was $2.01.

4. Under the Plan, Applicant received 359,480.696 shares of common stock of the American Heritage Fund, Inc. in consideration for its nets assets (the "AHF Shares"). The price received by the Applicant was based upon the value thereof computed in accordance with the provisions of Section 2(a)(41) of the 1940 Act. No brokerage commissions were paid.

5. The AHF Shares were distributed to shareholders of the Applicant residing in states in which such distributions could legally be made. The AHF Shares which would have been distributed to shareholders residing in states where they could not legally be distributed were redeemed by the Applicant and the appropriate cash amounts were distributed to such shareholders.

6. Expenses of approximately $42,056 were incurred in connection with the Plan, and consisted primarily of legal, accounting, printing and filing fees. These expenses were allocated 50% to Applicant.

7. As of the date of the application, the Applicant had 2,865 shareholders of record. Shortly after the issuance of an order of the SEC declaring that the Applicant has ceased to be an investment company, the Applicant intends to cause itself to be dissolved pursuant to the provisions of the General Corporation Law of the State of Nevada. Upon such dissolution, the Applicant will no longer exist and will not have any shareholders.

8. Applicant does not have any assets or liabilities which remain outstanding. Applicant is not a party to any litigation or administrative proceeding, and does not propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89–9684 Filed 4–21–89; 8:45 am]
BILLING CODE 8010–01–M

Potomac Capital Investment Corporation, et al.; Application

[Rel. No. IC–16927; 812–6035]

April 17, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Potomac Capital Investment Corporation, Potomac Capital Preferred Corporation, Potomac Capital Joint Leasing Corporation, and Potomac Capital Markets Corporation.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from section 12(d)(1).

Summary of Application: Applicants seek an order to the extent necessary to exempt Applicants from the provisions of section 12(d)(1) with respect to holdings of certain shares of registered investment companies.

Filing Dates: The application was initially filed on January 30, 1985. An amended and restated application was filed on July 8, 1988, and a further amendment was filed on April 7, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on May 12, 1989. If you wish to request a hearing, please do so in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC. 20549. Applicants, c/o Potomac Capital Investment Corporation, 900 19th Street NW., Suite 600, Washington, DC. 20006.

FOR FURTHER INFORMATION CONTACT: H. R. Hallock, Jr., Special Counsel, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations:

1. Potomac Capital Investment Corporation ("PCI") is a wholly-owned subsidiary of Potomac Electric Power Company ("PEPCO"), an electric utility company serving approximately two million people in the District of Columbia and suburban Maryland. PEPCO is not an investment company under the 1940 Act. Potomac Capital Preferred Corporation, Potomac Capital Joint Leasing Corporation and Potomac Capital Markets Corporation (collectively referred to hereinafter with PCI as the "Applicant"), are each wholly-owned subsidiaries of PCI.

2. Applicant is generally excepted from the definition of an investment company under the 1940 Act by virtue of section 3(c)(1). However, section 3(c)(1) states that issuers excepted by virtue of section 3(c)(1)(A) are nevertheless deemed to be investment companies for purposes of section 12(d)(1) of the 1940 Act. If the proviso to section 3(c)(1) relating to section 12(d)(1) applied to Applicant, Applicant's investments in certain registered investment companies would conflict with the limitations set forth in section 12(d)(1). The application has been filed to eliminate any question as to the applicability of section 12(d)(1) to Applicant's investments in those registered investment companies.

3. Applicant was organized by PEPCO in 1983 for the purpose of segregating PEPCO's investment activities. While Applicant's functions could have been performed through a division, rather than a subsidiary, of PEPCO without raising any issues under the 1940 Act, the wholly-owned subsidiary structure is considered preferable for two reasons. First, PEPCO believes it is desirable to separate its non-utility operations from utility operations so as to ensure that utility customers are insulated from the costs, risks and operating results associated with nonutility programs. Second, consolidation of PEPCO's investments in a separate corporate entity facilitates administration, accounting and recordkeeping with respect to these investments.

4. As of December 31, 1987, Applicant's capital consisted of $145 million in equity contributions from PEPCO and $81 million in retained earnings. Its liabilities included short-term borrowings of $87 million and long-term borrowings of $206 million. The long-term borrowings consisted of large denomination unsecured debt obligations issued or guaranteed by PCI to twelve financial institutions, such as commercial banks, insurance companies and pension funds.

5. As of December 31, 1987, the consolidated book assets of Applicant totaled $610 million. These included $182 million in preferred stocks and corporate bonds; $219 million in investments in equipment lease financings; $96 million in shares of seven specialized open-end management investment companies registered under the 1940 Act and one registered closed-end fund (collectively, the "funds"), and $113 million in cash, operating lease equipment, and other assets.

6. Prior to organizing Applicant, PEPCO had a practice of purchasing mutual fund shares as a vehicle for temporarily investing cash from operations. After PEPCO decided to separate its non-utility investments in a wholly-owned subsidiary, PEPCO transferred all such shares to PCI. As of December 31, 1987, the distribution of Applicant's holdings among the eight funds ranged from $1.9 million to $38.0 million. As a percentage of the funds' outstanding voting stock, these investments ranged from .83% to 18.3%.

Applicant's Legal Conclusions

1. Applicant submits that the history of sections 12(d)(1) and 3(c)(1) makes clear that activities such as Applicant's investments in the funds were not the focus of Commission or Congressional concern.

2. Section l2(d)(1) was expanded in 1970 to limit acquisitions by unregistered as well as registered investment companies, in order to fill a gap that had permitted the creation of unregistered offshore fund holding companies. The abuses at which the expansion of section 12(d) was directed—(1) disruptive and potentially manipulative redemptions and (2) pyramiding of advisory and administrative fees and other costs to investors—are not present in Applicant's case.

3. PEPCO's use of a subsidiary rather than a division to carry on its investment activities produces no layering of fees. While PEPCO as Applicant's sole shareholder must of course bear a proportional share of the advisory and other expenses of any fund in which Applicant invests, no additional fees are imposed by Applicant. Furthermore, since Applicant's investments in the funds are not actively managed, no excessive brokerage commissions are generated.

4. Applicant, unlike an open-end fund holding company, holds shares in the funds solely for its own account; neither PEPCO nor Applicant has any obligation to meet any redemption requests from its respective shareholders and thus trigger substantial redemptions in the underlying funds. Rather, PEPCO's holding of the funds through Applicant is equivalent to an industrial or other non-investment company holding investments in registered investment companies. In addition, the language of section 3(c)(1)(A) and the section 12(d)(1) proviso therein, as well as statements by both the Commission and Congress, demonstrate a focus on investments in, rather than by, private investment company issuers.

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Conditions

Applicant has agreed to the following conditions to the relief requested:

(a) No registered investment company of which Applicant owns more than three percent of the total outstanding voting stock (a "Fund") shall be obligated to redeem in cash securities held by the Applicant in an amount exceeding one percent of that Fund's total outstanding securities during any period of less than thirty days.

(b) No Fund shall be obligated to redeem in kind securities held by the Applicant, if the Fund's portfolio manager determines that such redemption would unduly disrupt operations of the Fund to the detriment of the Fund's other shareholders. With respect to any redemption in kind, the decision as to which portfolio securities would be selected for distribution in kind would be in the discretion of the Fund's portfolio manager.

(c) Applicant will promptly deliver to each Fund written notice of the conditions of the order.

(d) Nothing shall restrict Applicant from redeeming all shares of any Fund immediately, if and when such Fund determines, directly or indirectly, to liquidate, provided that redemption by Applicant would not unduly disrupt the Fund or discriminate against the Fund's other shareholders.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9685 Filed 4–21–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[CM–8/1200]

The U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT), Study Group C; Meeting

The Department of State announces that Study Group C's Subcommittee for Telecommunciations Credit Card Issuer Identifier Code Administration and Assignment of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet May 16, 1989 at 0930 a.m. in Room 1517, Department of State, 2201 C Street NW., Washington, DC.

The agenda of the meeting will include a review of the first year's results of Subcommittee activities; review of the April 10 World Numbering Zone 1 meeting (Orlando, Florida); selection of a candidate for appointment as vice chairperson of the CCITT World Numbering Zone 1 Credit Card Committee; selection of new chairperson for the Subcommittee; selection of interim vice chairperson (if necessary) and a review of the governing By-Laws.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC; telephone (202) 647–5220. All attendees must use the C Street entrance to the building.

Date: April 13, 1989.

Earl S. Barbely,

Director, Office of Telecommunications and Informotion Standards; Chairman U.S. CCITT National Committee.

[FR DOC. 89–9763 Filed 4–21–89; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 1104]

Delegation of Authority No. 175, Deputy Secretary; Determinations Under 18 U.S.C. Section 208 (Relating to Acts Affecting a Personal Financial Interest)

Effective April 7, 1989.

By virtue of the authority vested in me as Secretary of State, including by Sections 2656 and 2658 of Title 22 and section 208 of Title 18 of the United States Code and by Part V of Executive Order 11222 of May 8, 1965, as amended, I hereby delegate the functions vested in me by Part V of Executive Order 11222, as amended, and Section 208 of Title 18 of the United States Code to the Deputy Secretary. The Deputy Secretary may redelegate these functions to the Under Secretary for Management or to the Legal Adviser, and to persons acting in these offices due to absence or vacancy.

This delegation shall supercede all previous delegations and regulations to the extent inconsistent herewith.

Date: April 7, 1989.

James A. Baker, III,

Secretary.

[FR Doc. 89–9765 Filed 4–21–89; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Hyannis Air Service, Inc. d/b/a Cape Air

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 89–4–40, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Hyannis Air Service, Inc. d/b/a Cape Air is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, Room 6401, Department of Transportation, 400 7th Street SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than April 28, 1989.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunnigan, Air Carrier Fitness Division, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366–2342.

DATED: April 18, 1989.

Patrick V. Murphy, Jr.,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 89–9700 Filed 4–21–89; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 14, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 46238

Date Filed: April 10, 1989

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 8, 1989

Description: Application of Aeroejecutivo, S.A. pursuant to section 402 of the Act and Subpart Q of the Regulations, applies for a foreign air carrier permit to provide charter transportation of persons and accompanying baggage between points in Mexico and points in the United States.

Docket No. 46241

Date Filed: April 11, 1989

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 9, 1989

Description: Application of America West Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity authorizing it to provide service between the terminal point Honolulu, Hawaii, on the one hand, and the terminal point Tokyo, Japan, on the other hand.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89–9699 Filed 4–21–89; 8:45 a.m.]

BILLING CODE 4910–62–M

National Highway Traffic Safety Administration

[Docket No. IP–89–01, Notice 2]

Grant of Petition for Determination of Inconsequential Noncompliance; Cooper Tire & Rubber Co.

This notice grants the petition by Cooper Tire & Rubber Company (Cooper) of Findlay, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.119, Federal Motor Vehicle Safety Standard (FMVSS) No. 119, "New Pneumatic Tires for Vehicles Other Than Passenger Cars." The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on January 23, 1989, and an opportunity afforded for comment (54 FR 3177).

Paragraph S6.5(d) of FMVSS No. 119 requires that tires be labeled with single and dual maximum load rating. Cooper manufactured 208 tires between the 47th and 48th production weeks of 1988 that do not comply with paragraph S6.5(d).

These tires were labeled with the incorrect single and dual maximum loads. They were identified by the DOT Nos. UPORCLJ478 and UPORCLJ488.

The tires were labeled as follows:

Maximum load single, 1060 kg–2335 lbs.
Maximum load dual, 975 kg—2150 lbs.

The correct labeling is:

Maximum load single, 1190 kg—2623 lbs.
Maximum load dual, 1060 kg—2381 lbs.

Cooper argued that its noncompliance was "inconsequential because the maximum load appearing on the tires is understated and the tires actually are capable of carrying the prescribed maximum loads."

No comments were received on the petition.

On February 21, 1989, a representative of the petitioner informed the agency in a telephone call that 201 of the 208 tires affected had been impounded. The noncompliance reported is an understatement of the actual load capacity of the tires, and so safety problem appears presented by usage of the tires at the loads indicated. Thus the noncompliance is truly *de minimis* in nature and extent. For these reasons, it is hereby found that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

The agency understands that Cooper will not sell these tires if the petition is granted. Such a decision is in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act. The sale and offer for sale of tires that do not comply with Standard No. 119 is a violation of the Act, and remains so even if the noncompliance is one that is inconsequential. The granting of an inconsequentiality petition relieves a manufacturer only of its obligation to notify purchasers and to remedy the noncompliance.

(Authority: Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417): delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: April 18, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89–9777 Filed 4–21–89; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

Date: April 18, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: None.
Type of Review: New Collection.
Title: Opinion Survey of Taxpayers Contacting IRS Problem Resolution Program—Test of Survey Alternatives.
Description: This study will help the IRS to determine the effect of various survey alternatives on the initial and overall response rate of the opinion survey for the Problem Resolution Program. This data will allow the IRS to compare the response bias for each method and to select the most effective survey procedures.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 2,079.
Estimated Burden Hours Per Response: 3 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 104 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 89–9669 Filed 4–21–89; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

A Grants Program for Private Not-For-Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The program is

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designed to increase mutual understanding between the people of the United States and Singapore and to strengthen the ties which unite our societies. The information collection involved in this solicitation is covered by OMB Clearance Number 3116–0175, entitled "A Grants Program for Private, Non-Profit Organizations in Support of International Educational and Cultural Activities," announced in the **Federal Register** June 3, 1987.

Private Sector Organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate.

Singapore Parliamentary Exchange

The Office of Private Sector Programs proposes bringing six younger members of Singapore's parliament or members of the government parliamentary committee on foreign affairs and defense, and possibly including a junior minister of state with foreign affairs responsibilities, to the United States for a program of 14 to 21 days. The purpose of the program is to acquaint these officials with the American system of government and with U.S. legislators, members of their senior staffs, and appropriate executive branch officials. The program should begin in June or July of 1989. A U.S. not-for-profit institution will design the program and select the American participants. The officials from Singapore will be selected by officers of the United States Information Agency in Singapore. Organizations bidding on this program should have extensive knowledge of the legislative process in the United States and should have a network of contacts giving them access to important participants in legislative affairs and the executive branch. The program design should include a session in Washington, DC, and visits to one or two major cities, such as New York and Los Angeles or San Francisco.

USIA is most interested in working with organizations that show promise for innovative and cost-effective programming, and with organizations that have potential for obtaining private-sector funding in addition to USIA support. Organizations must have the substantive expertise and logistical capability needed to develop and conduct the above project successfully and should also demonstrate a potential for designing programs which will have lasting impact on their participants.

Interested organizations should submit a request for complete application materials—postmarked no later than 15 days from the date of this notice—to the address listed below. The Office of Private Sector Programs will then forward a set of materials, including proposal guidelines. Please refer to these specific programs by name in your letter of interest: Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, (ATTN: Initiative Programs, Singapore Parliamentarians), United States Information Agency, 301 4th Street SW., Washington, DC 20547.

Dated: April 4, 1989.

Robert Francis Smith,

Director, Office of Private Sector Programs.

[FR Doc. 89–9772 Filed 4–21–89; 8:45 am]

BILLING CODE 8230–01–M

A Grants Program for Private Not-For-Profit Organizations in support of International Educational and Cultural Activities

The United States Information Agency (USIA) hereby announces a program of selective assistance and limited grant support to non-profit activities of United States' institutions and organizations in the Private Sector. The prorgam is designed to increase mutual understanding between the people of the United States and other countries and to strengthen the ties which unite our societies. The information collection involved in this solicitation is covered by OMB Clearance Number 3116–0175 entitled "A Grants Program for Private, Non-Profit Organizations in Support of International Educational and Cultural Activities," announced in the **Federal Register** June 3, 1987.

Private Sector organizations interested in working cooperatively with USIA on the following two projects are encouraged to develop and submit program proposals:

U.S. Study Tours for Middle Eastern Legislators

The Office of Private Sector Programs of the United States Information Agency will assist in supporting the development of two 3-week projects to introduce up to twenty new legislators from the Middle East to the concept of representational government and its application to the Federal Government system in the United States. Each project would have up to ten participants One project would be conducted in Arabic in two sections, one for Algerian participants, and one for Yemeni participants; the other will be conducted in English. Grants to administer both projects will be awarded to the same organization. Dates for the projects are to be set by the grantee organization between June 1, 1989 and September 30, 1989. The purposes and objectives of the projects are:

—To introduce new legislators to the organization, structure and functions of the executive, legislative and judicial branches of the U.S. Government;
—To provide new legislators with insight into the decision-making process in the evolution of U.S. foreign and domestic policies;
—To create understanding for the concept and practice of representational government as applied to the Federal Government system in the United States;
—To further international understanding of the values, institutions and practices of a democratic society through first-hand experience, observation, and exchanges of ideas with U.S. legislators, judges, and scholars.

USIA is most interested in working with organizations showing evidence of innovative and cost-effective programming. Primary consideration will be given to organizations which have institutional and other private sector funding in addition to USIA support. Organizations must have the substantive expertise, logistical capability and administrative skills needed to develop and conduct the projects successfully so that they will have a lasting impact on their participants.

Interested organizations should submit a request for complete application materials—postmarked no later than thirty days from the date of this notice—to the address listed below. The Office of Private Sector Programs of USIA will forward on request a set of materials containing guidelines for the preparation of proposals. Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, (Attn: Initiative Grant Programs) United States Information Agency, 301 4th Street SW., Washington, DC 20547.

Dated: April 5, 1989

Robert Francis Smith,

Director, Office of Privote Sector Programs.

[FR Doc. 89–9773 Filed 4–21–89; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 77
Monday, April 24, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting, Wednesday, April 26, 1989

April 19, 1989.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, April 26, 1989, which is scheduled to commence at 2:00 p.m., in Room 856, at 1919 M Street NW., Washington, DC.

Agenda, Item No., and Subject

General—1—*Title:* Amendment of Parts 2, 25, 80, and 87 of the Commission's Rules regarding implementation of the Final Acts of the World Administrative Radio Conference for the Mobile Services, Geneva, 1987. *Summary:* The Commission will consider whether to propose amending the Table of Frequency Allocations (§ 2.106), as well as, the technical regulations regarding the maritime and aeronautical mobile services, mobile satellite service (MSS), and radiodetermination satellite services (RDSS).

Common Carrier—1—*Title:* Height and Power Increases in the Public Mobile Service. *Summary:* The Commission will consider a proposal to change the permissible antenna height and radiated power for Public Mobile Service (PMS) stations under certain circumstances.

Common Carrier—2—*Title:* Applications for Review of Common Carrier Bureau's grant of waiver of General Telephone Company of California to construct coaxial cable transport facilities in Cerritos, California. *Summary:* The Commission will consider three applications for review of Common Carrier Bureau's decision in File No. W–P–C–5927 (3 FCC Rcd 2317 (1988)).

Mass Media—1—*Title:* In the Matter of Modification of FM and Television Authorizations to Specify a New Community of License (MM Docket No. 88–526). *Summary:* The Commission will consider whether to amend Part 1 of its Rules regarding FM and television licensees ability to modify their authorizations to specify a new community of license in the course of an allotment rule making proceeding.

Mass Media—2—*Title:* (a) An application to transfer control of the licensee of station WFXT(TV), channel 25, Boston, Massachusetts, from Twentieth Holdings Corp. to Edward W. Brooke and Hugh L. Carey, Trustees. (b) An application for renewal of license of station WFXT(TV) filed by Twentieth Holdings Corp., and petitions to deny that application filed by the Committee for Media Diversity and by the Committee for Media Access. *Summary:* The Commission will consider the applications and the petitions to determine whether a grant of the applications would be consistent with the public interest.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sarah Lawrence, Office of the Public Affairs, telephone number (202) 632–5050.

Issued: April 19, 1989.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–9903 Filed 4–20–89; 2:15 pm]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold a Closed Commission Meeting Wednesday, April 26, 1989

April 19, 1989.

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Wednesday, April 26, 1989, following the Open Meeting, which is scheduled to commence at 2:00 p.m., in Room 856, at 1919 M Street NW., Washington, DC.

Agenda, Item No., and Subject

General—1—Discussion concerning Plenipotentiary Conference of the International Telecommunications Union.

This item is closed to the public because it concerns premature disclosure matters. See 47 CFR 0.603(i)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of her staff
Acting Chief, Office of Public Affairs and members of her staff
All Bureau Chiefs and members of their staffs

Action by the Commission April 19, 1989. Commissioners Patrick, Chairman; Quello and Dennis voting to consider this matter in closed session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sarah Lawrence, Office of Public Affairs, telephone number (202) 632–5050.

Issued: April 19, 1989.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–9904 Filed 4–20–89; 2:15 am]

BILLING CODE 6712–01–M

FEDERAL ENERGY REGULATORY COMMISSION

Notice

April 19, 1989.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–49), 5 U.S.C. 552B:

TIME AND PLACE: April 26, 1989, 10:00 a.m.

PLACE: 825 North Capitol Street NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 895th Meeting—April 26, 1989, Regular Meeting (10:00)

CAP–1.
Project No. 619–013, Pacific Gas and Electric Company
CAP–2.
Project No. 10035–004, Hynergix, Inc.
CAP–3.
Project No. 7497–004, Metropolitan Sewerage District of Buncombe County North Carolina
CAP–4.
Project No. 2179–003, Merced Irrigation District
CAP–5.
Project No. 2842–013, City of Idaho Falls, Idaho
CAP–6.
Project No. 8714–001, Pennichuck Water Works, Inc.
CAP–7.
Project No. 5251–005, City of Fort Smith, Arkansas

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CAP–8.
Project No. 9085–000, Richard Balagur
Project No. 8662–000, Union Village Hydroelectric Company
CAP–9.
Project No. 10466–000, Mega Renewables
CAP–10.
Project No. 7362–003, L.F. Bush
CAP–11.
Omitted
CAP–12.
Docket No. ER89–258–000, Long Sault, Inc.
CAP–13.
Docket No. ER86–508–000, New York State Electric and Gas Corporation
CAP–14.
Docket No. ER89–271–000, Niagara Mohawk Power Corporation
CAP–15.
Docket No. ER89–90–000, American REF–FUEL Company of Hempstead
CAP–16.
Omitted
CAP–17.
Docket No. ER86–581–000, American REF–FUEL Company of Lehigh Valley
CAP–18.
Docket No. ER84–348–010, American Electric Power Service Corporation
CAP–19.
Docket Nos. EL89–3–002 and EL87–56–002, Commonwealth Electric Company v. Boston Edison Company
CAP–20.
Docket No. ER88–447–001 Vermont Electric Power Company, Inc.
CAP–21.
Omitted
CAP–22.
Docket No. QF86–433–001 Midway-Sunset Cogeneration Company
CAP–23.
Docket Nos. QF86–365–001, QF86–336–001 and QF86–370–001, Alpha Joshua, Inc., Beta Willow Inc., and Beta Joshua, Inc.
CAP–24.
Docket Nos. ER86–558–002 and 006, Gulf States Utilities Company
CAP–25.
Docket No. EL86–27–002, Sacramento Municipal Utility District v. Pacific Gas and Electric Company
CAP–26.
Docket No. EL86–3–000, Maine Public Service Company

Consent Miscellaneous Agenda

CAM–1.
Docket No. RM87–17–003, Natural Gas Data Collection System
CAM–2.
Docket No. GP87–78–000, Doran & Associates, Inc., FERC JD61–46688, *et al.*, R. Henry No. 4 KA–069 Well, Robert F. Henry No. 2 KA–065 Well, J. Patterson KA–101 Well
CAM–3.
Omitted
CAM–4.
Docket No. RO88–10–000, Houston Oil and Refining Inc. & Joseph A. Imparato
CAM–5.
Docket No. RO88–1–000, Leonard O. Rice d/b/a Rice Oil Company and Rice-Lindquist, Inc.

Consent Gas Agenda

CAG–1.
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Lois D. Cashell,
Secretary.

[FR Doc. 89–9921 Filed 4–20–89: 3:57 pm
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Corrections

Federal Register
Vol. 54, No. 77
Monday, April 24, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27 and 28

[CN-89-001]

Revisions of User Fees for Cotton Classification, Testing and Standards

Correction

In proposed rule document 89-9148 beginning on page 15210 in the issue of Monday, April 17, 1989, make the following correction:

On page 15210, in the first column, under **DATE**, in the second line, "May 15, 1989" should read "May 2, 1989".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Short-Supply Review on Certain Slabs; Request for Comments

Correction

In notice document 89-8672 beginning on page 14985 in the issue of Friday, April 14, 1989, make the following correction:

On page 14985, in the third column, under **DATE**, in the second line, "May 15, 1989" should read "April 24, 1989".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 81252-8252]

Administration Recruitment and Hiring Goals for Minority Members and Women

Correction

In the Commerce/NTIA notice appearing on page 14276, in the issue of Monday, April 10, 1989, in the third column, in the fourth line, the document number which reads '89-8345" should read "89-8345a".

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

48 CFR Parts 206 and 252

Department of Defense Federal Acquisition Regulation Supplement; Antifriction Bearings

Correction

In rule document 89-8774 beginning on page 14654 in the issue of Wednesday, April 12, 1989, make the following corrections:

On page 14654, in the 2nd column, under **B. Regulatory Flexibility Act**, in the first paragraph, in the 20th line, "role" should read "rule".

§ 206.7900 [Corrected]

On the same page, in the third column, in § 206.7900, in the definition for "Domestic manufacture", in the eighth line, "peformed" should read "preformed".

§ 252.206-7006 [Corrected]

On page 14655, in the third column, in § 252.206-7006, in the definition for "Miniature and instrument ball Bearings", in the third line, insert "outside" between basic and diameter.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 864

[Docket No. 85N-0280]

Medical Devices; Reclassification of the Automated Differential Cell Counter

Correction

In proposed rule document 89-8055 beginning on page 13698 in the issue of Wednesday, April 5, 1989, make the following correction:

On page 13699, in the third column, in the first complete paragraph, in the first and second lines the date should read "September 12, 1980".'

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 878

[Docket No. 86N-0011]

General and Plastic Surgery Devices; Exemptions From Premarket Notification

Correction

In rule document 89-8052 beginning on page 13826 in the issue of Wednesday, April 5, 1989, make the following corrections:

§ 878.9 [Corrected]

On page 13827, in the middle column, under § 878.9(b), in the seventh line "vitro" was misspelled, and in the next to last line "culture" was misspelled.

BILLING CODE 1505-01-D

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LIST OF PUBLIC LAWS

Last List April 21, 1989

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.J. Res. 102/Pub. L. 101–16

To designate April 1989 as "National Recycling Month".

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily Federal Register as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	$10.00	Jan. 1, 1988
3 (1987 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1988
4	14.00	Jan. 1, 1988
5 Parts:		
1–699	14.00	Jan. 1, 1988
700–1199	15.00	Jan. 1, 1988
1200–End, 6 (6 Reserved)	11.00	Jan. 1, 1988
7 Parts:		
0–26	15.00	Jan. 1, 1988
27–45	11.00	Jan. 1, 1988
46–51	16.00	Jan. 1, 1988
52	23.00	[2] Jan. 1, 1988
53–209	18.00	Jan. 1, 1988
210–299	22.00	Jan. 1, 1988
300–399	11.00	Jan. 1, 1988
400–699	17.00	Jan. 1, 1988
700–899	22.00	Jan. 1, 1988
900–999	26.00	Jan. 1, 1988
1000–1059	15.00	Jan. 1, 1988
1060–1119	12.00	Jan. 1, 1988
1120–1199	11.00	Jan. 1, 1988
1200–1499	17.00	Jan. 1, 1988
1500–1899	9.50	Jan. 1, 1988
1900–1939	11.00	Jan. 1, 1988
1940–1949	21.00	Jan. 1, 1988
1950–1999	18.00	Jan. 1, 1988
2000–End	6.50	Jan. 1, 1988
8	11.00	Jan. 1, 1988
9 Parts:		
1–199	19.00	Jan. 1, 1988
200–End	17.00	Jan. 1, 1988
10 Parts:		
0–50	18.00	Jan. 1, 1988
51–199	14.00	Jan. 1, 1988
200–399	13.00	[3] Jan. 1, 1987
400–499	13.00	Jan. 1, 1988
500–End	24.00	Jan. 1, 1988
11	10.00	[3] Jan. 1, 1988
12 Parts:		
1–199	11.00	Jan. 1, 1988
200–219	10.00	Jan. 1, 1988
220–299	14.00	Jan. 1, 1988
300–499	13.00	Jan. 1, 1988
500–599	18.00	Jan. 1, 1988
600–End	12.00	Jan. 1, 1988
13	20.00	Jan. 1, 1988
14 Parts:		
1–59	21.00	Jan. 1, 1988
60–139	19.00	Jan. 1, 1988
140–199	9.50	Jan. 1, 1988
200–1199	20.00	Jan. 1, 1988
1200–End	12.00	Jan. 1, 1988
15 Parts:		
0–299	10.00	Jan. 1, 1988
300–399	20.00	Jan. 1, 1988
400–End	14.00	Jan. 1, 1988
16 Parts:		
*0–149	12.00	Jan. 1, 1989
150–999	13.00	Jan. 1, 1988
1000–End	19.00	Jan. 1, 1988
17 Parts:		
1–199	14.00	Apr. 1, 1988
200–239	14.00	Apr. 1, 1988
240–End	21.00	Apr. 1, 1988
18 Parts:		
1–149	15.00	Apr. 1, 1988
150–279	12.00	Apr. 1, 1988
280–399	13.00	Apr. 1, 1988
400–End	9.00	Apr. 1, 1988
19 Parts:		
1–199	27.00	Apr. 1, 1988
200–End	5.50	Apr. 1, 1988
20 Parts:		
1–399	12.00	Apr. 1, 1988
400–499	23.00	Apr. 1, 1988
500–End	25.00	Apr. 1, 1988
21 Parts:		
1–99	12.00	Apr. 1, 1988
100–169	14.00	Apr. 1, 1988
170–199	16.00	Apr. 1, 1988
200–299	5.00	Apr. 1, 1988
300–499	26.00	Apr. 1, 1988
500–599	20.00	Apr. 1, 1988
600–799	7.50	Apr. 1, 1988
800–1299	16.00	Apr. 1, 1988
1300–End	6.00	Apr. 1, 1988
22 Parts:		
1–299	20.00	Apr. 1, 1988
300–End	13.00	Apr. 1, 1988
23	16.00	Apr. 1, 1988
24 Parts:		
0–199	15.00	Apr. 1, 1988
200–499	26.00	Apr. 1, 1988
500–699	9.50	Apr. 1, 1988
700–1699	19.00	Apr. 1, 1988
1700–End	15.00	Apr. 1, 1988
25	24.00	Apr. 1, 1988
26 Parts:		
§§ 1.0-1–1.60	13.00	Apr. 1, 1988
§§ 1.61–1.169	23.00	Apr. 1, 1988
§§ 1.170–1.300	17.00	Apr. 1, 1988
§§ 1.301–1.400	14.00	Apr. 1, 1988
§§ 1.401–1.500	24.00	Apr. 1, 1988
§§ 1.501–1.640	15.00	Apr. 1, 1988
§§ 1.641–1.850	17.00	Apr. 1, 1988
§§ 1.851–1.1000	28.00	Apr. 1, 1988
§§ 1.1001–1.1400	16.00	Apr. 1, 1988
§§ 1.1401–End	21.00	Apr. 1, 1988
2–29	19.00	Apr. 1, 1988
30–39	14.00	Apr. 1, 1988
40–49	13.00	Apr. 1, 1988
50–299	15.00	Apr. 1, 1988
300–499	15.00	Apr. 1, 1988
500–599	8.00	[4] Apr. 1, 1980
600–End	6.00	Apr. 1, 1988
27 Parts:		
1–199	23.00	Apr. 1, 1988
200–End	13.00	Apr. 1, 1988
28	25.00	July 1, 1988

Title	Price	Revision Date
29 Parts:		
0–99	17.00	July 1, 1988
100–499	6.50	July 1, 1988
500–899	24.00	July 1, 1988
900–1899	11.00	July 1, 1988
1900–1910	29.00	July 1, 1988
1911–1925	8.50	July 1, 1988
1926	10.00	July 1, 1988
1927–End	24.00	July 1, 1988
30 Parts:		
0–199	20.00	July 1, 1988
200–699	12.00	July 1, 1988
700–End	18.00	July 1, 1988
31 Parts:		
0–199	13.00	July 1, 1988
200–End	17.00	July 1, 1988
32 Parts:		
1–39, Vol. I	15.00	[5] July 1, 1984
1–39, Vol. II	19.00	[5] July 1, 1984
1–39, Vol. III	18.00	[5] July 1, 1984
1–189	21.00	July 1, 1988
190–399	27.00	July 1, 1988
400–629	21.00	July 1, 1988
630–699	13.00	[5] July 1, 1986
700–799	15.00	July 1, 1988
800–End	16.00	July 1, 1988
33 Parts:		
1–199	27.00	July 1, 1988
200–End	19.00	July 1, 1988
34 Parts:		
1–299	22.00	July 1, 1988
300–399	12.00	July 1, 1988
400–End	26.00	July 1, 1988
35	9.50	July 1, 1988
36 Parts:		
1–199	12.00	July 1, 1988
200–End	20.00	July 1, 1988
37	13.00	July 1, 1988
38 Parts:		
0–17	21.00	July 1, 1988
18–End	19.00	July 1, 1988
39	13.00	July 1, 1988
40 Parts:		
1–51	23.00	July 1, 1988
52	27.00	July 1, 1988
53–60	28.00	July 1, 1988
61–80	12.00	July 1, 1988
81–99	25.00	July 1, 1988
100–149	25.00	July 1,1988
150–189	24.00	July 1, 1988
190–299	24.00	July 1, 1988
300–399	8.50	July 1,1988
400–424	21.00	July 1, 1988
425–699	21.00	July 1, 1988
700–End	31.00	July 1, 1988
41 Chapters:		
1, 1–1 to 1–10	13.00	[7] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[7] July 1, 1984
3–6	14.00	[7] July 1, 1984
7	6.00	[7] July 1, 1984
8	4.50	[7] July 1, 1984
9	13.00	[7] July 1, 1984
10–17	9.50	[7] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[7] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[7] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[7] July 1, 1984
19–100	13.00	[7] July 1, 1984
1–100	10.00	July 1, 1988
101	25.00	July 1, 1988
102–200	12.00	July 1, 1988
201–End	8.50	July 1, 1988
42 Parts:		
1–60	15.00	Oct. 1, 1988
61–399	5.50	Oct. 1, 1988
400–429	21.00	Oct. 1, 1987
430–End	14.00	Oct. 1, 1987
43 Parts:		
1–999	15.00	Oct. 1, 1988
1000–3999	24.00	Oct. 1, 1987
4000–End	11.00	Oct. 1, 1987
44	18.00	Oct. 1, 1987
45 Parts:		
1–199	17.00	Oct. 1, 1988
200–499	9.00	Oct. 1, 1987
500–1199	18.00	Oct. 1, 1987
1200–End	14.00	Oct. 1, 1987
46 Parts:		
1–40	14.00	Oct. 1, 1988
41–69	14.00	Oct. 1, 1988
70–89	7.50	Oct. 1, 1988
90–139	12.00	Oct. 1, 1988
140–155	12.00	Oct. 1, 1988
156–165	13.00	Oct. 1, 1988
166–199	14.00	Oct. 1, 1988
200–499	20.00	Oct. 1, 1988
500–End	10.00	Oct. 1, 1988
47 Parts:		
0–19	18.00	Oct. 1, 1988
20–39	18.00	Oct. 1, 1988
40–69	9.00	Oct. 1, 1988
70–79	18.00	Oct. 1, 1988
80–End	19.00	Oct. 1, 1988
48 Chapters:		
1 (Parts 1–51)	26.00	Oct. 1, 1987
1 (Parts 52–99)	16.00	Oct. 1, 1987
2 (Parts 201–251)	17.00	Oct. 1, 1987
2 (Parts 252–299)	15.00	Oct. 1, 1987
3–6	20.00	Oct. 1, 1988
7–14	24.00	Oct. 1, 1987
15–End	23.00	Oct. 1, 1987
49 Parts:		
1–99	10.00	Oct. 1, 1987
100–177	24.00	Oct. 1, 1988
178–199	20.00	Oct. 1, 1988
200–399	17.00	Oct. 1, 1987
400–999	22.00	Oct. 1, 1987
1000–1199	17.00	Oct. 1, 1987
1200–End	18.00	Oct. 1, 1988
50 Parts:		
1–199	17.00	Oct. 1, 1988
200–599	13.00	Oct. 1, 1988
600–End	14.00	Oct. 1, 1987
CFR Index and Findings Aids	28.00	Jan. 1, 1988
Complete 1989 CFR set	620.00	1989
Microfiche CFR Edition:		
Complete set (one-time mailing)	125.00	1984
Complete set (one-time mailing)	115.00	1985
Subscription (mailed as issued)	185.00	1987
Subscription (mailed as issued)	185.00	1988
Subscription (mailed as issued)	188.00	1989

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Title	Price	Revision Date
Individual copies	2.00	1989

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan.1, 1988 to Dec.31, 1988. The CFR volume issued January 1, 1988, should be retained.

[3] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1988. The CFR volume issued January 1, 1987, should be retained.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1988. The CFR volume issued as of Apr. 1, 1980, should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1988. The CFR volume issued as of July 1, 1986, should be retained.

[7] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

federal register

Monday
April 24, 1989

Part II

Regulatory Information Service Center

Introduction to the Unified Agenda of Federal Regulations

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REGULATORY INFORMATION SERVICE CENTER

Unified Agenda of Federal Regulations

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Unified Agenda of Federal Regulations.

SUMMARY: The Regulatory Flexibility Act (5 USC 602) requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing. Executive Order 12291 and OMB Bulletins implementing section 5 of the Executive order establish minimum standards for executive agencies' agendas, including specific types of information for each entry, and publication in a uniform format. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this **Unified Agenda of Federal Regulations.**

The following separate parts in this issue of the **Federal Register** are the agency agendas, which together comprise the April 1989 edition of the semiannaul **Unified Agenda of Federal Regulations.**

ADDRESS: Regulatory Information Service Center, Room 5216, New Executive Office Building, 725 Seventeenth Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry. To provide comment on or to obtain further information about the **Unified Agenda of Federal Regulations**, contact: Mark G. Schoenberg, Executive Director, Regulatory Information Service Center, Room 5216, New Executive Office Building, 725 Seventeenth Street, NW., Washington, DC 20503, (202) 395-6993.

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INTRODUCTION TO THE UNIFIED AGENDA OF FEDERAL REGULATIONS

About the Unified Agenda

The Regulatory Information Service Center compiles the **Unified Agenda of Federal Regulations** for the Office of Information and Regulatory Affairs, Office of Management and Budget. The Center provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The Office of Information and Regulatory Affairs is responsible for overseeing the Federal Government's regulatory, paperwork, and information-management activities and for implementing Executive Orders 12291 (Federal Regulation) (46 FR 13193; 3 CFR 1981 Comp., p. 127) and 12498 (Regulatory Planning Process) (50 FR 1036; 3 CFR 1985 Comp., p. 323). Under EO 12498, OMB publishes the **Regulatory Program of the United States Government** each year.

The Regulatory Program is a policy document and a management tool that sets forth the priorities of the agency head and of the President regarding the Significant Regulatory Actions (SRAs) that will be conducted during the program year to which it pertains.

The Regulatory Program and the Unified Agenda differ in several ways. The Unified Agenda includes more regulatory actions because it covers all Federal agencies that issue regulations and includes almost all the rulemakings they have under development. The 1989 Regulatory Program will cover only 26 of the major Federal regulatory agencies, and will include only the most significant of all the regulatory actions that each agency plans to undertake. The Regulatory Program, however, describes each entry more thoroughly than the Unified Agenda.

Most of the regulatory actions described in the **Regulatory Program of the United States Government** are included in this Agenda. In general, the Regulation Identifier Number (RIN) for the action is the same for both publications; however, occasionally, several Agenda entries are combined into one Program entry, and a new RIN is assigned to that entry in the Program.

The Unified Agenda provides uniform reporting of data on regulatory activities under development throughout the Federal Government. This edition of the Unified Agenda includes 56 regulatory agendas from all Federal departments, agencies, and commissions that publish agendas. Agencies of the United States Congress are not included.

The Unified Agenda is produced through a computer system designed and maintained by the Center with the advice and assistance of the Government Printing Office. The system was designed to save agencies time and money by automating the preparation and printing of their agendas in a uniform format and to make the Agenda easier to use. In order to further facilitate producing the Agenda, many agencies currently use computer terminals at their offices to enter agenda information into the Center's computer system.

The Agenda contains a Subject Index to help readers locate entries from various agencies that may affect a particular area of interest. The numbers in the index refer to the sequence numbers that appear before the title of each entry in the Agenda. All entries are numbered sequentially from the beginning to the end of the Agenda.

For those agencies that requested it, we provided a computer-produced Table of Contents that appears after the preamble of the agency's agenda. The agency Tables of Contents help readers locate quickly those entries within an agency that may be of most interest to them.

All agendas contain uniform data elements -- regulation title, significance, legal authority, CFR citation, legal deadline, abstract, timetable, small entities affected, government levels affected, agency contact, and Regulation Identifier Number. Agencies also include any additional information they consider important. If any of the data elements is not included, the agency either did not report the information or may provide an explanation in its preamble. For further information, please contact the individual agency.

The **Unified Agenda of Federal Regulations** is published in April and October of each year. We welcome comments on this edition and suggestions for improving future ones.

Dated: April 1, 1989.
Mark G. Schoenberg,
Executive Director.

How to Use the Unified Agenda

Each agency agenda appears as a separate part in this edition of the **Federal Register.** The parts are organized alphabetically in four groups: Cabinet departments, other executive agencies, joint authorities, and independent agencies. Departments are divided into agencies, which may in turn be divided into subagencies.

Each agency begins its agenda with a preamble providing information specific to its agenda. Each agency was asked to list its rules in four groups:

1. Prerule Stage -- actions agencies will undertake in the next 12 months to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking and may include Advance Notices of Proposed Rulemaking and reviews of existing regulations.

2. Proposed Rule Stage -- actions for which agencies plan to publish a Notice of Proposed Rulemaking (NPRM) as the next step in their rulemaking process, or for which the closing date of the NPRM Comment Period is the next step.

3. Final Rule Stage -- actions for which agencies plan to publish a final rule or an interim final rule, or to take other final action as the next step in their rulemaking process.

4. Completed Actions -- actions or reviews the agency completed or withdrew since publishing its last agenda. This section also includes items that were begun and completed between issues of the Unified Agenda.

An agency may use a subheading to identify regulations that it has grouped according to a particular topic. When these subheadings are used, they appear above the title of the first regulation in the group.

A bullet (●) preceding an entry indicates that the entry appears in the Agenda for the first time.

The Agenda Sequence Number preceding the title of each entry identifies the location of the entry in this edition of the Agenda. The same number is used in the index to enable readers to find entries on specific subjects. Those agencies that chose to provide a Table of Contents at the beginning of their agendas also use the sequence number in their Table of Contents. Sequence numbers should help readers easily locate items of most interest to them, either by agency or by subject.

The regulatory activities included in the agency agendas are those currently planned for the next 12 months. The agendas do not include regulations excluded from review under EO 12291 such as military regulations and regulations related to internal agency management.

Entries describing regulations in the Agenda should contain, at a minimum, the following information:

- Title of the Regulation.
- Significance -- an indication of the significance of the entry that appears when:
  a. The action will be included in the **Regulatory Program of the United States Government** for the 1989 program year, or
  b. The agency otherwise considers the action a priority.

The Significance heading appears only if the entry is a significant action.

- Legal Authority -- the section(s) of the United States Code (USC) or Public Law (PL) or the Executive order (EO) that authorize(s) the regulatory action (agencies may provide common name references to laws in addition to USC or PL references).
- CFR Citation -- the section(s) of the Code of Federal Regulations that affects or will be affected by the action.
- Legal Deadline -- an indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some "Other" action.

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- Abstract -- a description of the problem the regulation will address; the need for a Federal solution; and, to the extent available, the alternatives that the agency is considering to address the problem and the potential costs and benefits of the action.
- Timetable -- the dates and citations (if available) for all past stages and at least the next future stage of rulemaking. If a date appears in this section as 00/00/00, it means the date of the action is presently undetermined. Similarly, 04/00/89 means the agency can predict the month and year the action will take place, but not the day it will occur.
- Small Entities Affected -- indicates whether the rule is expected to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act (5 U.S.C. 601) and, if so, whether the small entities are businesses, governmental jurisdictions, and/or organizations.
- Levels of Government Affected -- indicates whether the rule is expected to affect levels of government and, if so, whether the governments are local, State, and/or Federal.
- Agency Contact -- the name, title, address, and phone number of a person in the agency who is knowledgeable about the regulation.

Some agencies have provided other optional information at their discretion.

Data Limitations

Agencies prepared entries for this edition of the Unified Agenda to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. The Agenda does not create a legal obligation on agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear in it. The information in this edition is accurate as of February 24, 1989, in the judgment of the submitting agencies, except as otherwise noted in individual agency preambles.

List of Abbreviations

The following abbreviations appear throughout this edition of the Agenda:

ANPRM -- An Advance Notice of Proposed Rulemaking is a preliminary notice that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR -- The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up-to-date by the daily issues of the **Federal Register.**

EO -- An Executive order is a directive from the President to an executive agency, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in Title 3 of the Code of Federal Regulations.

FR -- The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY -- The Federal fiscal year runs from October 1 to September 30.

NPRM -- A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act, an NPRM must include, at a minimum:

- A statement of the time, place, and nature of the public rulemaking proceeding;
- A reference to the legal authority under which the rule is proposed; and
- Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL -- A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, as opposed to a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the two-year life of each Congress; for example, PL 97-17 would be the 17th public law of the 97th Congress.

RFA -- A Regulatory Flexibility Analysis (RFA) describes the impact of a proposed rule on small entities, as required by the Regulatory Flexibility Act (5 U.S.C. 601). An RFA describes why the agency is considering the action; the objectives of and legal basis for the proposed rule; an estimate of the number of small entities that could be affected and the compliance requirements they would have to fulfill; any other duplicative, overlapping, or conflicting Federal rules; and alternatives to the proposed action. When required, an initial RFA accompanies an NPRM and a final RFA accompanies a final rule.

RIA -- A Regulatory Impact Analysis is required by EO 12291 for all major rules and other regulations designated by the Office of Management and Budget. An RIA is prepared to determine whether a proposed regulatory action meets the requirements of section 2 of EO 12291, namely that it:

- Be based on adequate information concerning the need for and consequences of the action;
- Not be undertaken unless the potential benefits outweigh the potential costs to society;
- Maximize net benefits to society;
- Entail the least net cost to society of the alternatives considered; and
- Take into account the condition of particular affected industries, the national economy, and contemplated future regulatory actions.

RIN -- The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Agenda.

USC -- The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles and each title covers a broad area of Federal law.

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Semiannual Regulatory Agenda

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DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda; Spring 1989.

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of major and non-major regulations being developed in agencies of the U.S. Department of Agriculture in conformance with Executive Order 12291, Federal Regulation. The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Pub. L. 96-354.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions; but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action.

ADDRESSES: Requests for copies of the Agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 147-E Administration Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 382-1272.

Dated: March 1, 1989.

Jacquelyn C. Patterson,

Chief, Regulatory & Legislative Staff.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1	Fees for Service for Voluntary and Mandatory Programs	0581-AA19
2	Proposed New Milk Marketing Order for North Carolina and South Carolina	0581-AA28
3	Proposed New Marketing Agreement and Order for Seedless European Cucumbers	0581-AA30
4	Proposed New Marketing Agreement and Order TX-NM (High Plains) Potatoes	0581-AA31

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
5	Proposed Marketing Order for Vidalia Onions Grown in Georgia	0581-AA29
6	Proposed New National Watermelon Research and Promotion Plan	0581-AA32

Agricultural Stabilization and Conservation Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
7	1990 Extra Long Staple (ELS) Cotton Program	0560-AB43
8	1990 Rice Program	0560-AB45
9	1989 Soybean Program	0560-AB48
10	1989-Crop Marketing Quotas and Acreage Allotments for Five Kinds of Tobacco	0560-AB51
11	1990-Crop Peanuts National Poundage Quota	0560-AB54
12	1990 Upland Cotton Program	0560-AB55
13	1990 Feed Grain Program	0560-AB58

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Agricultural Stabilization and Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
14	1989 Price Support Levels for Six Kinds of Tobacco	0560-AB32
15	1989-Crop Honey Price Support Program	0560-AB37
16	Common Program Provisions for the 1990 Wheat, Feed Grain, Cotton and Rice Programs	0560-AB38
17	1990 Wheat Program	0560-AB41
18	1990-Crop Honey Price Support Program	0560-AB60
19	1990 Price Support Levels for Five Kinds of Tobacco	0560-AB64

Agricultural Stabilization and Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
20	Commodity Credit Corporation (CCC) Claims Regulations	0560-AA38
21	Price Support Loan Program for 1986 Through 1990-Crops Sugar Beets and Sugarcane	0560-AA74
22	1989-Crop Peanuts National Poundage Quota	0560-AB13
23	1989 Wool and Mohair Program	0560-AB20
24	CCC Cotton Loan Program Regulations--Settlement, Fraud, and Conversion Provisions	0560-AB22
25	Dairy Indemnity Payment Program--January 1, 1988 - September 30, 1990	0560-AB30
26	1989-Crop Peanut Price Support Program Differentials	0560-AB31
27	1989-Crop National Average Loan Rate and Minimum CCC Export Edible Sales Price for Additional Peanuts	0560-AB33
28	1989-Crop Burley Tobacco Marketing Quotas and Price Support Level	0560-AB34
29	1989-Crop Flue-cured Tobacco Marketing Quota and Price Support Level	0560-AB35
30	1989-Crop National Average Price Support Level for Quota Peanuts	0560-AB36
31	1989 Rice Program	0560-AB39
32	1989 CCC Cotton Loan Program Regulations -- Bale Packaging Materials	0560-AB44
33	Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops (Amendment 3)	0560-AB46
34	Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops (Amendment 1)	0560-AB47
35	1990 Wool and Mohair program	0560-AB49
36	1989-90 Marketing Year Penalty Rates for All Kinds of Tobacco Subject to Quotas	0560-AB52
37	1989 - Crop Sugar Beet and Sugarcane Price Support Loan Rates	0560-AB53
38	1989 Milk Price Support Program, July 1, Mandatory Price Support Decrease	0560-AB58
39	1990 Milk Price Support Program	0560-AB59
40	1990-Crop Burley Tobacco Marketing Quotas and Price Support Level	0560-AB61
41	1990-Crop Flue-Cured Tobacco Marketing Quota and Price Support Level	0560-AB62
42	1990-Crop National Average Loan Rates for Quota and Additional Peanuts and Minimum CCC Export Edible Sales Price for Additional Peanuts	0560-AB63
43	1990-Crop Marketing Quotas and Acreage Allotments for Five Kinds of Tobacco	0560-AB65

Agricultural Stabilization and Conservation Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
44	1988-Crop Peanut Price Support Program Differentials	0560-AB08
45	1989 Wheat Program	0560-AB14
46	1989 Feed Grain Program	0560-AB15
47	1989 Upland Cotton Program	0560-AB16
48	Common Program Provisions for the 1989 Wheat, Feed Grain, Cotton and Rice Programs	0560-AB17
49	1988 Soybean Loan Program	0560-AB18
50	1988-Crop Sugar Beet and Sugarcane Price Support Loan Rates	0560-AB19
51	1989 Extra Long Staple (ELS) Cotton Program	0560-AB25
52	Milk Price Support Level, Calendar Year 1989	0560-AB40
53	Burley Tobacco Price Support Restrictions for Nonbaled Tobacco and Nonstandard Containers	0560-AB42
54	Foreign Persons Ineligible for Tobacco Price Support Program Benefits	0560-AB50
55	Formula for Determination of Adjusted World Price for Upland Cotton	0560-AB57

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Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
56	Animal Welfare Regulations; Standards	0579-AA20
57	Importation of Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products	0579-AA21

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
58	Animal Welfare; Definition of Terms and Regulations	0579-AA18

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
59	Swine Identification	0579-AA19

Cooperative State Research Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
60	Agricultural Research Involving Outdoor Field Testing of Biotechnology - Modified Organisms	0524-AA00

Farmers Home Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
61	Security Servicing for Multiple Housing Loans	0575-AA51
62	Changes to Farmers Home Administration (FmHA) Guaranteed Loan Making and Servicing Regulations as a Result of a Study of the Program Requested by OMB	0575-AA66
63	Rural Rental Housing, Loan Policies, Procedures and Authorities	0575-AA67

Farmers Home Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
64	Property Management	0575-AA03
65	Housing Preservation Grants	0575-AA18
66	Recapture of Section 502 Rural Housing Subsidy	0575-AA29
67	Self-Help Technical Assistance Grants	0575-AA34
68	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations	0575-AA35
69	Security Servicing for Multiple Housing Loans	0575-AA38
70	Management and Collection of Nonprogram (NP) Loans	0575-AA39
71	Complaints and Compensation for Construction Defects	0575-AA41
72	Borrower Supervision Servicing and Collection of Single Family Housing Loan Accounts	0575-AA42
73	Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients	0575-AA49
74	Real Property Insurance	0575-AA53

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Farmers Home Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
75	Security Servicing for Single Family Rural Housing Loans	0575-AA54
76	Rural Rental Housing Loan Policies, Procedures and Authorizations -- Congregate Housing and Group Homes	0575-AA58
77	Secondary Market for Farmer Program Loans	0575-AA59
78	Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations	0575-AA60
79	Farm Labor Loan and Grant Policies, Procedures, and Authorization	0575-AA62
80	Rural Rental Housing Loan Policies, Procedures, and Authorizations -- Cooperative Housing Loans	0575-AA63
81	Processing and Servicing FmHA Assistance to Employees, Relatives and Associates	0575-AA64
82	Adverse Decisions and Administrative Appeals	0575-AA68

Farmers Home Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
83	Management and Supervision of Multiple Family Housing Borrowers	0575-AA20
84	Section 504 Rural Housing Loans and Grants	0575-AA37
85	Rural Housing Program Loans	0575-AA48
86	Predetermined Amortization Schedule System (PASS) Account Servicing	0575-AA52
87	Borrower Supervision Servicing and Collection of Single Family Housing Loan Accounts	0575-AA55
88	Changes to the Farmers Home Administration (FmHA) Farmer Program Loan Making, Supervision and Servicing Regulations to Implement Applicable Provisions of "The Agricultural Credit Act of 1987"	0575-AA56
89	Rural Rental Housing Loan Policies, Procedures and Authorities -- Letters of Credit	0575-AA57
90	Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received -- Single Family Housing	0575-AA61
91	Drought and Disaster Guaranteed Loans	0575-AA65

Farmers Home Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
92	Suspension and Debarment Regulations	0575-AA02
93	Changes to the FmHA Farmer Program Loan Making, Supervision and Servicing Regulations to Implement the Applicable Provisions of the "Food Security Act of 1985"	0575-AA23
94	Planning and Performing Construction and Other Development	0575-AA36
95	Analyzing Credit Needs and Graduation of Borrowers	0575-AA40
96	Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients	0575-AA50

Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
97	Food Distribution Program on Indian Reservations	0584-AA09
98	Rules of Procedure	0584-AA75
99	Miscellaneous QC Provisions of Hunger Prevention Act of 1986	0584-AA76

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
100	Food Distribution Program - Part 250	0584-AA07
101	Emergency Food Assistance for Victims of Disasters	0584-AA24

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Food and Nutrition Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
102	Conformance with Aid to Families with Dependent Children (AFDC) Rules: Food Stamp Program	0584-AA52
103	Administration/ Management: Food Stamp Program	0584-AA63
104	Employment and Training Requirements Technical Corrections Proposed Rule	0584-AA72
105	Systematic Alien Verification for Entitlements	0584-AA73
106	Child Care Food Program - Adult Day Care Provision	0584-AA74

Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
107	Issuance Loss Liability: Food Stamp Program	0584-AA05

Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
108	Eligibility of Foreign Countries for Importation of Products into the United States	0583-AA55

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
109	Requirements for Partially Defatted Meat Products	0583-AA27
110	Control of Salmonella and Other Enteric Bacteria in Meat and Poultry Processing	0583-AA28
111	Voluntary Residue Control Program	0583-AA29
112	Sulfonamide Residues in Swine	0583-AA31
113	Use of Lactic Acid and Acetic Acid as Anti-Microbial Agents on Meat and Poultry Carcasses	0583-AA43
114	Trichina Control Requirements for Dry-Cured Ham	0583-AA49
115	Use and Protection of Approved Water Systems	0583-AA54
116	Certain Products with Meat Ingredients -- Exemptions From Definition of a "Meat Food Product"	0583-AA62
117	Additional Trichina Detection Methods	0583-AA67
118	Net Weight	0583-AA69
119	Use of Sodium Lactate and Potassium Lactate as Flavor Enhancers in Meat and Poultry Products	0583-AA75
120	Requirements for the Production of Fermented Sausage	0583-AA77
121	Partially Cooked, Cured and Smoked Poultry Breakfast Strips	0583-AA82
122	Sodium/Potassium Lactate as Antimicrobial Agents in Specific Meat and Poultry Products	0583-AA83
123	PFF for Turkey Ham	0583-AA84
124	Lactic Acid Starters	0583-AA86
125	Automatic Expiration System for Approved Labels	0583-AA87
126	Cross-Contamination Prevention for All Heat Processed Meat and Poultry Products	0583-AA88
127	Labeling of Frankfurters and Similar Products Containing Binders	0583-AA92
128	Substances Approved for Use in Meat Products -- Revision of Listings	0583-AA93
129	Imported Product; Movement Prior to Reinspection	0583-AA94
130	Liberalization of Regulations Regarding the Sampling Frequency for Sampling Continuous-Type Processing Systems; Early Shipment of Shelf-Stable Products	0583-AA95
131	Review of Retail Store Inspection Exemptions	0583-AA96
132	Processing Requirements for Dried Ready-to-Eat Meat and Poultry Products	0583-AA97
133	Ante-Mortem Inspection of Disabled Animals on Transport Vehicles	0583-AA98
134	Jar Closure Requirements	0583-AB00
135	Exemption From "Equal To" Requirements	0583-AB01
136	Food Additives and GRAS Substances Used as Ingredients in Meat Food and Poultry Products	0583-AB02
137	Streamlined Inspection Systems with Carcass and Giblet Finished Product Standards (Poultry)	0583-AB03

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Food Safety and Inspection Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
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Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
139	Determination of Added Water in Cooked Sausages	0583-AA30
140	Cattle Post-Mortem Inspection Procedures and Staffing Procedures	0583-AA32
141	Binder Consisting of Sodium Alginate, Calcium Carbonate, Lactic Acid, and Calcium Lactate	0583-AA34
142	Ingredients that may be Identified as Flavors or Natural Flavors when used in Meat and Poultry Products	0583-AA44
143	Requirements for Foreign Country Import Certification and Live Animal Importation	0583-AA47
144	Use of Air During Slaughter Operations	0583-AA48
145	Sulfonamide and Antibiotic Residues in Young Veal Calves; Certification Requirements	0583-AA58
146	Use of Certain Binders in Meat and Poultry Products and Transfer of Binders in Text to the Tables of Approved Substances	0583-AA64
147	Immersion Cured and Dry Cured Bacon	0583-AA65
148	Sulfonamide and Antibiotic Residues in Young Veal Calves; Reduced Testing	0583-AA68
149	Labeling of Meat Food Products That Contain Mechanically Separated (Species) Under Certain Circumstances	0583-AA71
150	Implementation of Improved Processing System	0583-AA72
151	Binder Consisting of Sodium Alginate, Calcium Carbonate, Lactic Acid and Calcium Lactate in Ground and Formed Poultry Products	0583-AA73
152	Increase in Use Levels of Sodium Citrate as an Anticoagulant	0583-AA76
153	Use of Various Binders in Cured Pork Products	0583-AA78
154	Use of Sorbitol as a Flavoring Agent in Specific Meat Products	0583-AA79
155	Processing Procedures and Cooking Instructions for Cooked, Uncured Meat Patties	0583-AA81
156	Importation of Livestock Carcasses with Tissues Removed	0583-AA85
157	Use of Tocopherols, Ascorbyl Palmitate and Citric Acid as Antioxidants in Additional Products	0583-AA89
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159	Definition of Terms -- "Importation" and "Entry"	0583-AA91
160	Imported Canadian Product; Provision for "Streamlined" Inspection Procedures; Exemption From Official Mark of Inspection	0583-AA99

Food Safety and Inspection Service—Completed Actions

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163	Various Amendments to Accommodate Inspection of Meat Food Products Under Title IV of the Futures Trading Act of 1986	0583-AA26
164	Streamlined Inspection System for Broilers and Cornish Game Hens	0583-AA38
165	Ascorbic Acid, Erythorbic Acid, Citric Acid, Sodium Ascorbate, and Sodium Citrate in Fresh Pork Cuts	0583-AA40
166	Safety and Sanitation Requirements for Electrical Stimulating Equipment	0583-AA45
167	Prohibition on Movement of Product Prior to Reinspection	0583-AA53
168	Voluntary Inspection of Exotic Animals	0583-AA60
169	Control of Added Substances and Labeling Requirements for Turkey Ham Products	0583-AA66
170	Disposition of Livestock Thyroid Glands and Larynxes	0583-AA74
171	Restoration of Mexico to List of Countries Eligible to Import to the United States	0583-AA60

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Foreign Agricultural Service—Proposed Rule Stage

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173	Determination of Import Quotas on Sugar for Fiscal Year 1989	0551-AA21
174	Types and Quantities of Agricultural Commodities Available for Donation Overseas Under Section 416(b) of the Agricultural Act of 1949 for Each Fiscal Year	0551-AA23

Forest Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
175	Part 219 Planning	0596-AA50
176	36 CFR 271 - Use of "Smokey Bear" Symbol	0596-AA66
177	Whiskeytown-Shasta-Trinity National Recreation Area	0596-AA68
178	36 CFR 241 Wildlife: Cooperation in Wildlife Protection, Wildlife Management and Federal Refuge Regulations	0596-AA81
179	Isolated Cabin Policy	0596-AA85
180	36 CFR 223 Sale and Disposal of National Forest Timber, Subpart A - General Provisions	0596-AA89
181	36 CFR 223 Sale and Disposal of National Forest Timber, Subpart B - Timber Sale Contracts	0596-AA90
182	Special Areas	0596-AA91
183	Federal Cave Resources Protection	0596-AB02

Forest Service—Proposed Rule Stage

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184	Suspension and Debarment of Timber Purchasers, 36 CFR 223, Subpart C	0596-AA09
185	Land Status and Title Records	0596-AA24
186	Down Payments/Periodic Payments/Market-Related Contract Term Adjustments on National Forests Timber Sales	0596-AA33
187	Grazing and Livestock Use and Management of Wild, Free-Roaming Horses and Burros	0596-AA35
188	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AA36
189	Revise the Definition of "Mechanical Transport" at 36 CFR 293.6(a)	0596-AA39
190	Conservation of Fish, Wildlife, and their Habitats Chugach National Forest, Alaska	0596-AA41
191	Land Exchanges	0596-AA42
192	Small Business Timber Sale Set Aside Program	0596-AA43
193	Revision of Timber Sale Contract Forms FS-2400-6 and FS-2400-6T	0596-AA45
194	Leasable Minerals Other than Oil and Gas	0596-AA46
195	Application Procedures and Fees for Hydroelectric Uses on National Forest System Lands	0596-AA47
196	Locatable Minerals	0596-AA49
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198	Law Enforcement Support Activities	0596-AA65
199	Increase in Minimum Rates Charged for Timber	0596-AA73
200	36 CFR 261 Prohibitions	0596-AA75
201	Revise Small Tracts Act Regulations	0596-AA79
202	Revise Rules Governing Special Uses of National Forest System Lands and Resources at 36 CFR 251, Subpart B to Remove Ambiguities Regarding First Amendment Rights	0596-AA80
203	Hell's Canyon National Recreation Area - Private Lands	0596-AA88
204	Proposed Solid Waste Disposal Policy	0596-AA92
205	Irrevocable Letter of Credit	0596-AA93
206	Reserved and Outstanding Mineral Rights	0596-AA99
207	Douglas-Fir Lumber Price Index Review	0596-AB00
208	Disposal of Quartz Mineral on the Ouachita National Forest	0596-AB01
209	Pre-Award Information Requirements	0596-AB03

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Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
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211	Modify the General Prohibition Against Use of Vehicles in Excess of 40 Inches in Width on Trails	0596-AA38
212	Definition of Common Variety Mineral Materials	0596-AA44
213	Indian Allotments on National Forest System Lands	0596-AA52
214	Prohibitions; Fossil Collecting	0596-AA56
215	Ski Area Term Permits	0596-AA57
216	Oil and Gas Resources	0596-AA82
217	Surety Bond Form Revision	0596-AA94
218	Deferral of Payments on High-Priced Timber Sales	0596-AA97

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
219	Appeal of Decisions of Forest Officers	0596-AA51
220	Official Forest Service Insignia	0596-AA59
221	Noncompetitive Disposal of Mineral Materials	0596-AA60
222	Sale of Timber Where Total Public Benefits May Not Meet or May Exceed Total Costs	0596-AA74
223	Use of "Woodsy Owl" Symbol	0596-AA76
224	Modification of Timber Sale Downpayment Requirements	0596-AA83
225	Timber Sale Financial Security	0596-AA87
226	Surety Revocation Procedures	0596-AA95
227	Settlement of Defaulted Timber Sale Contracts	0596-AA96
228	Market-Related Contract Term Additions	0596-AA98

Packers and Stockyards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
229	Annual Reports	0590-AA04

Packers and Stockyards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
230	Scales; Accurate Weights, Repairs, Adjustments or Replacements after Inspection	0590-AA05

Rural Electrification Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
231	Accounting Requirements for REA Electric Borrowers	0572-AA23
232	Procedures for Securing Rural Electrification Administration Approval of Consolidating/Merger Electric Borrowers	0572-AA25
233	Financial Forecast - Electric Distribution Borrowers	0572-AA26

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Rural Electrification Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
234	Loan Account Computations, Procedures and Policies	0572-AA19
235	List of Standard Forms of Telecommunications Contracts	0572-AA20
236	Telephone System Construction Contract	0572-AA21
237	Prepayment of REA Guaranteed Federal Financing Bank Loans	0572-AA29
238	Loan Security Documents - Telephone Program	0572-AA30
239	Telephone Materials, Equipment, and Construction - Telephone Program	0572-AA31

Rural Electrification Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
240	Cushion of Credit Account Computations and Procedures	0572-AA22
241	General Policies, Types of Loans, Loan Requirements - Telephone Program Preloan Procedures and Requirements - Telephone Program	0572-AA28
242	Advance and Disbursement of Funds; Telephone	0572-AA32

Rural Electrification Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
243	Electric Loan Policies & Application Procedures	0572-AA24
244	Rural Development	0572-AA27

Soil Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
245	Snow Surveys and Water Supply Forecasts	0578-AA01
246	Relocation Assistance	0578-AA12

Soil Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
247	Soil Surveys	0578-AA00
248	Farmland Protection Policy Act	0578-AA14

Office of Operations—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
249	Agriculture Acquisition Regulation	0599-AA00

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Proposed Rule Stage

1. FEES FOR SERVICE FOR VOLUNTARY AND MANDATORY PROGRAMS

Legal Authority: 7 USC 1621 to 1627; Agricultural Marketing Act of 1946; 21 USC 1031 to 1056; Egg Products Inspection Act; 7 USC 51 et seq Cotton Standards Act; 7 USC 511 to 511q; Tobacco Inspection Act; 7 USC 499a to 499s; Perishable Agricultural Commodities Act; 7 USC 471 to 476; Cotton Statistics and Estimates Act of 1927; 7 USC 511r; Tobacco Adjustment Act of 1983; 7 USC 15b; US Cotton Futures Act

CFR Citation: 7 CFR 27 to 209

Legal Deadline: None

Abstract: Fees for the voluntary inspection, grading and classing of agricultural commodities and certain mandatory inspection rates are reviewed periodically and changes are made to reflect cost of providing the service. (AMS 84-008)

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Wyatt, Regulatory Review Officer, Department of Agriculture, Agricultural Marketing Service, Room 3516-S, Washington, DC 20250, 202 447-3785

RIN: 0581-AA19

2. ● PROPOSED NEW MILK MARKETING ORDER FOR NORTH CAROLINA AND SOUTH CAROLINA

Significance: Agency Priority

Legal Authority: 7 USC 601 to 674 Agricultural Marketing Agreement Act

CFR Citation: 7 CFR 1005 (New)

Legal Deadline: None

Abstract: To establish minimum uniform classified use prices to processors for raw milk received from producers and marketed in the current of interstate commerce. The States do not have authority to price the milk originating from out-of-State sources. The producer grouped in the Carolinas request that a Federal order be established to provide minimum prices to all dairy farmers whose milk is marketed in the Carolinas.

Timetable:

Action	Date	FR Cite
NPRM	06/22/88	52 FR 24070
NPRM Public hearing	06/22/88	52 FR 24070
NPRM Recommended Decision	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jay Guerber, Marketing Order Administrative Branch, Fruit and Vegetable Division, Department of Agriculture, Agricultural Marketing Service, Room 2525 South Bldg., Washington, DC 20250, 202 447-2491

RIN: 0581-AA30

3. ● PROPOSED NEW MARKETING AGREEMENT AND ORDER FOR SEEDLESS EUROPEAN CUCUMBERS

Significance: Agency Priority

Legal Authority: 7 USC 601 to 674, Agricultural Marketing Agreement Act of 1937

CFR Citation: 7 CFR 968 (New)

Legal Deadline: None

Abstract: To establish minimum quality standards, container requirements and market promotion. The proposal was submitted by the Greenhouse Vegetable Growers Association. The proposed agreement and order would promote the quality and pack of seedless European cucumbers in the marketplace. In addition, it would enable the establishment of production research and marketing research and development activities to improve production practices and increase the consumption of seedless European cucumbers. The program would be financed by assessments levied on seedless European cucumber handlers. The assessment rate would be recommended by the committee and approved by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM Public Hearing	04/04/88	53 FR 10887
Recommended Decision	01/25/89	54 FR 4804
Secretary's Decision	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jay Guerber, Marketing Order Administrative Branch, Fruit and Vegetable Division, Department of Agriculture, Agricultural Marketing Service, Room 2525 South Bldg., Washington, DC 20250, 202 447-2491

RIN: 0581-AA31

4. ● PROPOSED NEW MARKETING AGREEMENT AND ORDER TX-NM (HIGH PLAINS) POTATOES

Significance: Agency Priority

Legal Authority: 7 USC 601 to 674, Agricultural Marketing Agreement Act of 1937

CFR Citation: 7 CFR 949 (New)

Legal Deadline: None

Abstract: The proposed new program would establish minimum standards of quality and maturity by grades and sizes for potatoes produced in the area. It would also provide for production research, and marketing research and development. In general, the proposed order was designed to regulate the quality of shipped potatoes and improve marketing conditions. The program would be financed by assessments on handlers.

Timetable:

Action	Date	FR Cite
NPRM Public Hearing	04/17/89	54 FR 11206

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Clayton Plumb, Chief, Order Formulation Branch, Dairy Division, Department of Agriculture, Agricultural Marketing Service, Room 2732 South Bldg., Washington, DC 20250, 202 447-6273

RIN: 0581-AA28

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DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Final Rule Stage

5. ● PROPOSED MARKETING ORDER FOR VIDALIA ONIONS GROWN IN GEORGIA

Significance: Agency Priority

Legal Authority: 7 USC 601 to 674, Agricultural Marketing Agreement Act of 1937

CFR Citation: 7 CFR 955 (New)

Legal Deadline: None

Abstract: To authorize production and marketing research and promotion projects including paid advertising for Vidalia onions. The primary objective of this program would be to improve grower returns by strengthening consumer demand through various promotion activities and by reducing costs through production and marketing research. The program would be financed by assessments on handlers. Vidalia onion producers will vote in a referendum to determine whether they favor issuance of the proposed interim marketing order.

Timetable:

Action	Date	FR Cite
NPRM	08/23/88	52 FR 32054
NPRM Public Hearing	08/23/88	53 FR 32054
Tentative Decision and Referendum Order	02/24/89	54 FR 8160
Interim Final Rule	03/18/89	54 FR 10972
Comment period end	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jay Guerber, Marketing Order Administrative Branch, Fruit and Vegetable Division, Department of Agriculture, Agricultural Marketing Service, Room 2525 South Bldg., Washington, DC 20250, 202 447-2491

RIN: 0581–AA29

6. ● PROPOSED NEW NATIONAL WATERMELON RESEARCH AND PROMOTION PLAN

Significance: Agency Priority

Legal Authority: 7 USC 4901 to 4916 Watermelon Research and Promotion Act

CFR Citation: 7 CFR 1210 (New)

Legal Deadline: None

Abstract: The proposed National Watermelon Research and Promotion Plan would authorize research and promotion projects, including paid advertising to expand the domestic and foreign market for watermelons. It would be financed by assessments on producers and handlers.

Timetable:

Action	Date	FR Cite
NPRM Public Hearing	04/17/87	52 FR 13086
Recommend Decision	03/24/88	53 FR 09637
Secretary's Decision	12/20/88	53 FR 51110
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jay Guerber, Marketing Order Administrative Branch, Fruit and Vegetable Division, Department of Agriculture, Agricultural Marketing Service, Room 2525 South Bldg., Washington, DC 20250, 202 447-2491

RIN: 0581–AA32

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Stabilization and Conservation Service (ASCS)

Prerule Stage

7. 1990 EXTRA LONG STAPLE (ELS) COTTON PROGRAM

Legal Authority: 7 USC 1444(h); Agricultural Act of 1949, as amended, Sec 103(h)

CFR Citation: 7 CFR 1427

Legal Deadline: Final, Statutory, December 1, 1989.

Abstract: To assure sufficient supplies of cotton for domestic and export use, maintain adequate carryover stocks, support farm income, combat inflation, conserve natural resources, hold down Federal costs, and comply with statutory requirements. Primary determinations to be made are (1) loan rate--not less than 85% of average market price over previous 5 years excluding the high and low prices, (2) target price--120% of the loan level, and (3) acreage reduction--to be set at such a level as to assure that total supplies will not be excessive. Decisions also to be made on whether or not to implement paid land diversion or advance deficiency payments. The cost to USDA will likely range from $0 to $1.0 million.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB43

8. 1990 RICE PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1441; The Agricultural Act of 1949, as amended, Sec 101

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719 to 720; 7 CFR 794 to 796; 7 CFR 1421

Legal Deadline: Final, Statutory, January 31, 1990.

Abstract: To assure sufficient supplies of rice for domestic and export use, support farm income, combat inflation, hold down Government costs, conserve natural resources, and comply with statutory requirements. Primary determinations to be made are (1) loan and purchase rates--85 percent of the previous 5-year average, excluding the high and low years, but cannot be reduced more than 5 percent from previous year's level nor be lower than $6.50/cwt, (2) target price--no lower than $10.71/cwt, (3) acreage limitation--no more than 35 percent, with a target carryover level of 40 million cwt. Determinations are also to be made on (1) a land diversion program, (2) advance deficiency/diversion payments, (3) purchase of marketing certificates under marketing loan, (4) loan deficiency payments, (5) inventory reduction program (half-ARP), and (6) loan rate adjustments (loan differentials). The expected cost to USDA is $1.1 billion.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB45

9. 1989 SOYBEAN PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1446; The Agricultural Act of 1949, as amended, Sec 201

CFR Citation: 7 CFR 1421.365 to 1421.374

Legal Deadline: Final, Statutory, October 1, 1989.

Abstract: To assure sufficient supplies of soybeans for domestic and export use, support farm income, combat inflation, hold down Federal costs, and comply with statutory requirements. Determinations to be made are (1) loan and purchase rates--with a probable range of $4.50-$4.53/bu., and (2) whether to implement a marketing loan program. The cost to USDA will likely range from $0.1 to $0.2 billion.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB48

10. 1989-CROP MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR FIVE KINDS OF TOBACCO

Legal Authority: 7 USC 1312(a) et seq; The Agricultural Adjustment Act of 1938, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, March 1, 1989.

Abstract: Marketing quotas and acreage allotments are required by legislation. Their objective is to balance supply with demand at levels that assure stable supplies for domestic and export use. A net receipt of $14 million is expected.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB51

11. 1990-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

Legal Authority: 7 USC 1358; The Agricultural Adjustment Act of 1938, Sec 358, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, December 15, 1989.

Abstract: The objective of this action is to balance supply with demand at levels that assure stable supplies for domestic use and assure producers a stable income. This action is required by legislation, which provides a formula for computing the national quota. The quota must equal the amount estimated to be devoted to domestic edible, seed, and related uses, and may not be less than 1.1 million tons. A net cost of $1 million is expected.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB54

12. 1990 UPLAND COTTON PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1444-1; The Agricultural Act of 1949, as amended, Sec 103A

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1427

Legal Deadline: Final, Statutory, November 1, 1989.

Abstract: To assure sufficient supplies of cotton for domestic and export use, maintain adequate carryover stocks, support farm income, combat inflation, hold down Federal costs and comply with statutory requirements. Determinations to be made are (1) loan rate--not less than 50.00 cents/lb., (2) target price--not less than 72.90 cents/lb., (3) loan repayment rate--if world price is below loan rate, repayment rate may be set by 1 of 2 options: (Plan A or Plan B, Sec. 103A(a(5))), (4) acreage reduction--no greater than 25%, and (5) other provisions: whether or not to implement voluntary paid land diversion, half-compliance program, advance deficiency or diversion payments and PIK payments. The cost to USDA will likely range from $1.0 to $3.0 billion.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

USDA—ASCS

Prerule Stage

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USDA—ASCS **Prerule Stage**

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB55

13. 1990 FEED GRAIN PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1444e; 7 USC 1421; The Agricultural Act of 1949, as amended, Sec 105c and 110

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 718; 7 CFR 719; 7 CFR 792; 7 CFR 794; 7 CFR 795; 7 CFR 796; 7 CFR 1421.734

Legal Deadline: Final, Statutory, September 30, 1989.

Abstract: To provide an adequate feed grain supply for domestic and foreign utilization, support farm income, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements. Primary determinations to be made are (1) loan and purchase rates--probable range of $1.57-$1.96/bu for corn, with rates for other feed grains set in relation to that for corn, (2) target prices--not less than $2.75/bu for corn, with rates for other feed grains set in relation to that for corn, and (3) acreage adjustment--not less than 12.5% nor more than 20%, if corn carryin is projected to exceed 2 billion bu. Decisions also to be made on whether to implement (1) a paid land diversion, (2) a marketing loan, (3) a half-compliance program, (4) incentives for farmers to participate in the FOR, and (5) price support for corn silage. The cost to USDA will likely range from $6.0-$8.0 billion.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB56

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Agricultural Stabilization and Conservation Service (ASCS)

14. 1989 PRICE SUPPORT LEVELS FOR SIX KINDS OF TOBACCO

Significance: Agency Priority

Legal Authority: 7 USC 1445; The Agricultural Act of 1949, as amended, Sec 106

CFR Citation: None

Legal Deadline: None

Abstract: To stabilize tobacco prices and comply with statutory requirements, price support levels are set by statutory formula, based on a prices paid index. The Secretary may lower price support at the request of producer associations. Increases may be limited to 65% of the increase otherwise established. A net receipt of $9 million is expected.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	
Final Action	09/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB32

15. 1989-CROP HONEY PRICE SUPPORT PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1446(b); The Agricultural Act of 1949, as amended, Sec 201(b)

CFR Citation: 7 CFR 1434.26; 7 CFR 1434.27

Legal Deadline: None

Abstract: Legislation requires that 1989-crop honey be supported at 95 percent of the 1988 level, or $0.5636 per pound. It also provides the Secretary the discretion to allow loan repayment at a lower rate. The objective of a lower repayment rate is to (1) minimize loan forfeitures, (2) avoid excessive stocks, (3) reduce Federal storage costs, and (4) maintain the competitiveness of honey in domestic and export markets. Alternatives to be considered are: the type of support to offer, whether loans, purchases, or loans and purchases, and whether to implement the lower repayment provision. Government costs under the lower repayment provision would be expected to be under $60 million.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB37

16. COMMON PROGRAM PROVISIONS FOR THE 1990 WHEAT, FEED GRAIN, COTTON AND RICE PROGRAMS

Significance: Regulatory Program

Legal Authority: 7 USC 1421 et seq; The Agricultural Act of 1949, as amended, Sec 107d

CFR Citation: 7 CFR 713; 7 CFR 1421; 7 CFR 1427

Legal Deadline: None

Abstract: To make and implement determinations that are common to each of the 1989 Wheat, Feed Grain, Cotton and Rice Programs. Determinations are to be made on (1) production of approved non-program crops on underplanted program crop permitted acreage, (2) production of alternative crops on reduced acreage, (3) haying and grazing of underplanted program crop permitted acreage and ACR conservation use acreage, (4) offsetting and cross compliance, (5) an advance recourse loan program, (6) multi-year set-asides, (7) the shift of 10 percent of a farm's acreage base between program commodity acreage bases, (8) consideration of actual 1990-crop yields in establishing a subsequent year's program payment yield, (9) advance deficiency and diversion payments, (10) interest certificate payments, (11) provisions for commodity payment certificates, and (12) the enrollment period.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB38

USDA—ASCS **Proposed Rule Stage**

17. 1990 WHEAT PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1445b-3; 7 USC 1710; The Agricultural Adjustment Act of 1949, Secs 107D and 110

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796

Legal Deadline: Final, Statutory, June 1, 1989.
(For announcement of acreage adjustment levels)

Abstract: To provide an adequate wheat supply for domestic and foreign utilization, increase the competitiveness of U.S. exports, support farm income, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements.

Primary determinations to be made are (1) loan and purchase rate -- minimum probable range of $1.95 to $2.44 per bushel, (2) target price -- at least $4.00 per bushel, and (3) acreage adjustment -- not less than 20% nor more than 30%, if carryin exceeds 1 billion bushels; no more than 20% if carryin is below 1 billion bushels. Decisions also to be made on whether to implement (1) a marketing loan program and related programs, (2) a paid land diversion, (3) advance deficiency/diversion payments, (4) generic certificate program, and (5) incentives for farmers to participate in the FOR. The expected cost is $2.0-$4.0 billion.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB41

18. ● 1990-CROP HONEY PRICE SUPPORT PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1446(b); The Agricultural Act of 1949, as amended, Sec 201(b)

CFR Citation: 7 CFR 1434.26; 7 CFR 1434.27

Legal Deadline: None

Abstract: Legislation requires that 1990-crop honey be supported at 95 percent of the 1989 level, or $0.5402 per pound. This price support level must be further reduced by $0.0025 per pound under the provisions of the Omnibus Budget Reconciliation Act of 1987. Legislation also provides the Secretary with the discretion to allow loan repayment at a rate below the support level. The objective of a lower repayment rate is to (1) minimize loan forfeitures, (2) avoid excessive stocks, (3) reduce Federal storage costs, and (4) maintain the competitiveness of U.S. honey in domestic and export markets. Determinations to be made are (1) the type of support to offer (loans, purchases, or loans and purchases), and (2) implementation of the lower repayment provision. Federal outlays are expected to be less than $60 million if the lower repayment provision is adopted.

Timetable:

Action	Date	FR Cite
NPRM	01/15/90	
Final Action	04/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB60

19. ● 1990 PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Legal Authority: 7 USC 1445; The Agricultural Act of 1949, Sec 106, as amended

CFR Citation: None

Legal Deadline: None

Abstract: To stabilize prices for five kinds of tobacco and comply with statutory requirements, price support levels are set by statutory formula, based on a prices paid index. The Secretary may lower the price support level at the request of producer associations. Increases may be limited to 65 percent of the formula increase. This price support program is expected to result in net Federal receipts of approximately $16 million in FY 1990.

Timetable:

Action	Date	FR Cite
NPRM	05/01/90	
Final Action	08/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB64

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DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**

Agricultural Stabilization and Conservation Service (ASCS)

20. COMMODITY CREDIT CORPORATION (CCC) CLAIMS REGULATIONS

Legal Authority: 15 USC 714(k) Commodity Credit Corporation Charter Act

CFR Citation: 7 CFR 1403

Legal Deadline: None

Abstract: Regulations will revise policy, authorities, procedures, and responsibilities for settling claims by and against CCC. (ASCS 84-034)

Timetable:

Action	Date	FR Cite
NPRM	07/11/88	53 FR 26081
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA38

21. PRICE SUPPORT LOAN PROGRAM FOR 1986 THROUGH 1990-CROPS SUGAR BEETS AND SUGARCANE

Significance: Regulatory Program

Legal Authority: 7 USC 1446; Ag Act of 1949, as amended, Sec 201

CFR Citation: 7 CFR 1435

Legal Deadline: Final, Statutory, October 1, 1986.

Abstract: The 1949 Act, as amended by the Food Security Act of 1985, requires the Secretary to support the price of domestically grown sugarcane and sugar beets through a nonrecourse loan program effective for the 1986 through 1990 crops. The object of this action is to develop program and operation provisions for administering a sugar price support program. (ASCS 86-048)

Timetable:

Action	Date	FR Cite
Announcement	10/01/86	
Interim Final Rule	10/29/86	51 FR 39507

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA74

22. 1989-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

Legal Authority: 7 USC 1358; The Agricultural Act of 1938, as amended, Sec 358

CFR Citation: None

Legal Deadline: Final, Statutory, December 15, 1988.
(For announcement of national poundage quota only)

Abstract: To balance supply with demand at levels that assure stable supplies for domestic use and assure producers a reasonable income.

This action is required by legislation, which provides a formula for computing the national poundage quota. The quota must equal the amount estimated to be devoted to domestic edible, seed, and related uses and may not be less than 1.1 million tons. The expected cost is $1 million. (ASCS 87-020)

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47740
NPRM Comment Period End	12/07/88	
Announcement	12/15/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB13

23. 1989 WOOL AND MOHAIR PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1782 et seq; National Wool Act of 1954, as amended, Sec 703

CFR Citation: 7 CFR 1468; 7 CFR 1472

Legal Deadline: None

Abstract: To encourage the continued domestic production of wool at prices fair to both producers and consumers, in a manner which will assure a viable domestic wool industry in the future, by supporting the prices of wool and mohair by means of loans, purchases, payments, or other operations. The support level for wool is set by statutory formula. The support price for mohair must be set at a level not more than 15 percent above or below the comparable percentage of parity at which shorn wool is supported. The expected cost is $100 million to $200 million. (ASCS 87-027)

Timetable:

Action	Date	FR Cite
NPRM	11/28/88	53 FR 47838
NPRM Comment Period End	01/27/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB20

24. CCC COTTON LOAN PROGRAM REGULATIONS--SETTLEMENT, FRAUD, AND CONVERSION PROVISIONS

Legal Authority: 15 USC 714b to c; Commodity Credit Corporation Charter Act, Secs 4 and 5

CFR Citation: 7 CFR 1427

Legal Deadline: None

Abstract: This action will update regulations to (1) clarify settlement provisions and (2) incorporate fraud or conversion language in order to make the regulations for cotton consistent with those for grain. No cost to Government is expected. (ASCS 87-015)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/21/89	54 FR 11493
Interim Final Rule Effective	03/21/89	
Comment Period End	04/20/89	

USDA—ASCS — **Final Rule Stage**

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB22

25. DAIRY INDEMNITY PAYMENT PROGRAM--JANUARY 1, 1988 - SEPTEMBER 30, 1990

Legal Authority: PL 90-484, Sec 1 to 3, as amended; PL 91-524, Sec 204, as amended; PL 93-86, Sec 5; PL 95-113, Sec 205; 7 USC 450 j, k, and l

CFR Citation: 7 CFR 760.1 to 760.34

Legal Deadline: None

Abstract: This action will extend the program through September 30, 1990. The purpose of the program is to indemnify dairy farmers for milk dumped because of contamination that is not the fault of the producer and dairy manufacturers for dairy products removed from the market through no fault of the manufacturers. The alternative is to discontinue the program. The cost to the Government for FY 1988 through FY 1990 is estimated to be about $500,000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/01/88	53 FR 44001
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB30

26. 1989-CROP PEANUT PRICE SUPPORT PROGRAM DIFFERENTIALS

Legal Authority: 7 USC 1423; Agricultural Act of 1949, Sec 403; 15 USC 714c; Commodity Credit Corporation Charter Act, Sec 5

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The Secretary of Agriculture is authorized to make appropriate adjustments in the support price for peanuts for differences in grade, type, quality, location, and other factors to ensure that price support levels are representative of the market values of the various types. The average of the price support levels must, as far as is practicable, equal the national average price support level as determined by legislation. No alternatives are considered and the cost to Government will be negligible.

Timetable:

Action	Date	FR Cite
Announcement	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB31

27. 1989-CROP NATIONAL AVERAGE LOAN RATE AND MINIMUM CCC EXPORT EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Significance: Agency Priority

Legal Authority: 7 USC 1445C-2; Agricultural Act of 1949, Sec 108B

CFR Citation: None

Legal Deadline: Final, Statutory, February 15, 1989.

Abstract: This action is required by legislation, which provides guidelines for the establishment of the additional support level. The objective is to support farm income and stabilize prices.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB33

28. 1989-CROP BURLEY TOBACCO MARKETING QUOTAS AND PRICE SUPPORT LEVEL

Significance: Agency Priority

Legal Authority: 7 USC 1312; The Agricultural Act of 1938, as amended, Sec 312 to 313; 7 USC 1445; The Agricultural Adjustment Act of 1949, as amended, Sec 106

CFR Citation: 7 CFR 724

Legal Deadline: Final, Statutory, February 1, 1989.

Abstract: Marketing quotas and price support are required by legislation. Their objectives are to balance supply with demand at levels assuring stable supplies for domestic and export use at prices fair to producers. Quota is based on manufacturers' intentions, 3-year average exports, an adjustment to maintain loan stocks, and a discretionary adjustment of plus or minus 3 percent. Price support is based on a formula that is 2/3 weight average market prices and 1/3 weight cost index, plus discretion to limit any increase to 65 percent. A net receipt of $131 million is expected.

Timetable:

Action	Date	FR Cite
Announcement	01/31/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB34

29. 1989-CROP FLUE-CURED TOBACCO MARKETING QUOTA AND PRICE SUPPORT LEVEL

Significance: Agency Priority

Legal Authority: 7 USC 1311 to 1313; Agricultural Adjustment Act of 1938, Sec 311 to 313, as amended; 7 USC 1445; Agricultural Act of 1949, Sec 106, as amended

CFR Citation: None

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Legal Deadline: Final, Statutory, December 15, 1988.
(For announcement of price support level)

Abstract: Marketing quotas and price support are required by legislation. Their objectives are to balance supply with demand at levels assuring stable supplies for domestic and export use at prices fair to producers. The quote is based on manufacturers' intentions, 3-year average exports, an adjustment to maintain loan stocks and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that is 2/3 weight average market prices and 1/3 weight cost index, with discretion to limit any increase to 65 percent. A net receipt of $153 million is expected.

Timetable:

Action	Date	FR Cite
Announcement	12/15/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB35

30. 1989-CROP NATIONAL AVERAGE PRICE SUPPORT LEVEL FOR QUOTA PEANUTS

Significance: Agency Priority

Legal Authority: 7 USC 1445c-2; Agricultural Act of 1949, Sec 108B

CFR Citation: None

Legal Deadline: Final, Statutory, February 15, 1989.

Abstract: This action is required by legislation, which provides a formula for computing the quota support level. The objective is to support farm income and stabilize prices.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB36

31. 1989 RICE PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1441; Agricultural Act of 1949, Sec 101, as amended

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 720; 7 CFR 794 to 796; 7 CFR 1421

Legal Deadline: Final, Statutory, January 31, 1989.
(For announcing loan, target, and acreage limitation level.)

Abstract: To provide an adequate supply of rice for domestic and foreign utilization, support farm income, combat inflation, hold down Federal costs, conserve resources, and comply with statutory requirements.

Primary determinations to be made are (1) loan and purchase rates -- 85% of the previous 5-year average, excluding the high and low years, but cannot be reduced more than 5% from the previous year's level nor be lower than $6.50/cwt, (2) target price -- no lower than $10.80 cwt, (3) acreage limitation -- no more than 35%, with a target carryover level of 30 million cwt. Determinations are also to be made on (1) a land diversion program, (2) advance deficiency/diversion payments, (3) purchase of marketing certificates under the marketing loan, (4) loan deficiency payments, (5) inventory reduction program (half-ARP), and (6) loan rate adjustments (loan differentials). The expected cost to Government is $600 million.

Timetable:

Action	Date	FR Cite
NPRM	10/06/88	53 FR 39322
NPRM Comment Period End	11/21/88	
Announcement	12/01/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact & Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB39

32. 1989 CCC COTTON LOAN PROGRAM REGULATIONS -- BALE PACKAGING MATERIALS

Legal Authority: 15 USC 714b and 714c; Commodity Credit Corporation Charter Act, Sec 4 and 5

CFR Citation: 7 CFR 1427

Legal Deadline: None

Abstract: To incorporate by reference the specifications for bale packaging materials used in wrapping cotton for 1989 that were approved by the Joint Cotton Industry Bale Packaging Committee and that are acceptable to CCC. No cost to Government is expected.

Timetable:

Action	Date	FR Cite
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB44

33. PEANUT WAREHOUSE STORAGE LOANS AND HANDLER OPERATIONS FOR THE 1986 THROUGH 1990 CROPS (AMENDMENT 3)

Legal Authority: 7 USC 714b and 714c; 7 USC 1441; 7 USC 1421 et seq; 7 USC 1359; 7 USC 1375

CFR Citation: 7 CFR 1446

Legal Deadline: None

Abstract: This action would amend the regulations to (1) incorporate the Peanut Administrative Committee's changes in definition of Segregation 1 and 2 peanuts with regard to loose-shelled kernels in excess of 14.49 percent, and the change in moisture limit to 10.49 percent, (2) change the priority for making marketing pool distributions so that pool offsets are made in the same priority within each area and cross-area when needed, (3) change the date for submitting letters of credit to 10 days following the final date for submitting contracts, and adding peanuts for processing to the amount of peanuts for which a letter of credit is due, and (4) change shrink allowance to 2 percent. No cost to Government is expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/15/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB46

34. PEANUT WAREHOUSE STORAGE LOANS AND HANDLER OPERATIONS FOR THE 1986 THROUGH 1990 CROPS (AMENDMENT 1)

Legal Authority: 15 USC 714b and 714c; 7 USC 1441 et seq; 7 USC 1359; 7 USC 1375

CFR Citation: 7 CFR 1446

Legal Deadline: None

Abstract: This action would amend the regulations to allow export credits for crushing sound mature kernels (SMK) and sound split (SS) kernels. This action is needed because current regulations do not provide non-physically supervised handlers an alternative market for SMK and SS kernels other than the export market. An alternative market is needed when the export market is lost or when the peanuts become ineligible for export due to aflatoxin contamination.

Alternatives considered are: (1) Permit a one-time switch to physically supervised crushing of SMK and SS peanuts, regardless of quality, (2) permit prorated credit (based on ratio of contract additional peanuts purchased to total peanuts purchased) for peanuts crushed due to aflatoxin contamination, (3) permit a one-time switch to physically supervised crushing of peanuts that meet edible export standards. No cost to Government is expected.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB47

35. 1990 WOOL AND MOHAIR PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1782 et seq; National Wool Act of 1954, as amended, Sec 201

CFR Citation: 7 CFR 1468; 7 CFR 1472

Legal Deadline: None

Abstract: To encourage the continued domestic production of wool at prices fair to both producers and consumers, in a manner which will ensure a viable domestic wool industry in the future, by supporting the price of wool and mohair by means of loans, purchases, payments, or other operations. The support level for wool is set by statutory formula. Determination is to be made on the support level for mohair, which may not be more than 15 percent above or below the comparable percentage of parity at which shorn wool is supported. The cost to USDA will likely range from $0.1 to $0.2 billion.

Timetable:

Action	Date	FR Cite
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB49

36. 1989-90 MARKETING YEAR PENALTY RATES FOR ALL KINDS OF TOBACCO SUBJECT TO QUOTAS

Legal Authority: 7 USC 1314; The Agricultural Adjustment Act of 1938, as amended, Sec 314

CFR Citation: None

Legal Deadline: None

Abstract: This action announces the penalty rates for all kinds of tobacco for the 1989-90 marketing year. Legislation provides that the penalty shall be 75 percent of the previous year's average market price. Tobacco producers, warehousemen, and dealers need to be advised of the penalty rates prior to the beginning of the marketing year.

Timetable:

Action	Date	FR Cite
Final Action	06/29/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB52

37. 1989 - CROP SUGAR BEET AND SUGARCANE PRICE SUPPORT LOAN RATES

Significance: Regulatory Program

Legal Authority: 7 USC 1421; 7 USC 1446; The Agricultural Act of 1949, as amended, Secs 201 and 401

CFR Citation: 7 CFR 1435

Legal Deadline: None

Abstract: To set forth (1) loan rates applicable to 1989-crop sugar beets and sugarcane, and (2) the 1989-crop minimum price support levels processors are required to pay their growers. The minimum national average loan rate is set by statute at $0.18/lb. for sugarcane with the rate for sugar beets set at such level as the Secretary determines is fair and reasonable in relation to that for sugarcane. No impact on Government outlays is expected. However, the cost to consumers and other users of sugar will likely exceed $2 billion.

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Timetable:

Action	Date	FR Cite
Final Action	09/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB53

38. ● 1989 MILK PRICE SUPPORT PROGRAM, JULY 1, MANDATORY PRICE SUPPORT DECREASE

Significance: Regulatory Program

Legal Authority: 7 USC 1430; Agricultural Act of 1949, as amended; 7 USC 1446; The Disaster Assistance Act of 1988, Sec 102b

CFR Citation: 7 CFR 1430

Legal Deadline: Final, Statutory, July 1, 1989.

Abstract: The Disaster Assistance Act of 1988 required a temporary increase in the milk support price of 50 cents per hundredweight for the period April 1, 1989 through June 30, 1989. This action will eliminate that temporary price increase for the remainder of the year. Federal outlays for the 1989 Milk Price Support Program are expected to be approximately $662 million in FY 1989.

Timetable:

Action	Date	FR Cite
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB58

39. ● 1990 MILK PRICE SUPPORT PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1430; Agricultural Act of 1949, Sec 201, as amended

CFR Citation: 7 CFR 1430

Legal Deadline: Final, Statutory, January 1, 1990.

Abstract: The objective of this action is to support farm income and stabilize prices. Legislation requires that if estimated price support purchases of dairy products for 1990 exceed 5 billion pounds (milk equivalent), the Secretary of Agriculture shall reduce the milk support price by 50 cents per hundredweight on January 1, 1990, and, if estimated purchases for 1990 are less than 2.5 billion pounds (milk equivalent), the Secretary shall increase the support price by 50 cents per hundredweight. Federal outlays for the 1990 Milk Price Support Program are expected to be approximately $800 million in FY 1990.

Timetable:

Action	Date	FR Cite
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB59

40. ● 1990-CROP BURLEY TOBACCO MARKETING QUOTAS AND PRICE SUPPORT LEVEL

Significance: Agency Priority

Legal Authority: 7 USC 1314; The Agricultural Act of 1938, as amended, Sec 314; 7 USC 1445; The Agricultural Adjustment Act of 1949, as amended, Sec 106

CFR Citation: None

Legal Deadline: Final, Statutory, February 1, 1990.

Abstract: Burley marketing quotas and price support are required by legislation. The purpose of quotas and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are fair to producers. The national quota is based on manufacturers' intentions, 3-year average exports, an adjustment to maintain loan stocks, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that weighs average market prices (2/3) and a cost index (1/3), plus discretion to limit any increase to 65 percent of the formula increase. Federal net outlays for the 1990-crop burley tobacco program are expected to be approximately $35 million in FY 1990. These outlays will be offset by receipts in FY 1991.

Timetable:

Action	Date	FR Cite
Final Action	02/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB61

41. ● 1990-CROP FLUE-CURED TOBACCO MARKETING QUOTA AND PRICE SUPPORT LEVEL

Significance: Agency Priority

Legal Authority: 7 USC 1314; Agricultural Adjustment Act of 1938, Sec 314, as amended; 7 USC 1445; Agricultural Act of 1949, Sec 106, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, December 15, 1989.

Abstract: Flue-cured tobacco marketing quotas and price support are required by legislation. The purpose of quotas and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are fair to producers. The national quota is based on manufacturers' intentions, 3-year average exports, an adjustment to maintain loan stocks, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that weighs average market prices (2/3) and a cost index (1/3), with discretion to limit any increase to 65 percent of the formula increase. The 1990-crop flue-cured tobacco program is expected to result in net Federal receipts of approximately $80 million in FY 1990.

Timetable:

Action	Date	FR Cite
Final Action	12/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Prgram Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box, 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB62

42. ● 1990-CROP NATIONAL AVERAGE LOAN RATES FOR QUOTA AND ADDITIONAL PEANUTS AND MINIMUM CCC EXPORT EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Significance: Agency Priority

Legal Authority: 7 USC 1445c-2; Agricultural Act of 1949, Sec 108.13, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, February 15, 1990.

Abstract: The objective of this action is to support farm income and stabilize prices. The action is required by legislation. It provides a formula for calculating the loan rate for quota peanuts and guidelines for establishing the loan rate for additional peanuts. A determination must also be made on the sales price for export edible additional peanuts.

Timetable:

Action	Date	FR Cite
Final Action	02/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB63

43. ● 1990-CROP MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR FIVE KINDS OF TOBACCO

Legal Authority: 7 USC 1312(a) et seq; The Agricultural Adjustment Act of 1938, Sec 312, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, March 1, 1990.

Abstract: Marketing quotas and acreage allotments are required by legislation for these five kinds of tobacco. The purpose of quotas and allotments is to balance supply with demand at levels that assure stable supplies for domestic and export use at prices that are fair to producers. Marketing quota and acreage allotment determinations are based on 10-year average marketings adjusted for trends to yield optimal supplies.

The marketing quota and allotment program is expected to result in net Federal receipts of approximately $15 million in FY 1990.

Timetable:

Action	Date	FR Cite
Final Action	03/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB65

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Stabilization and Conservation Service (ASCS)

Completed Actions

44. 1988-CROP PEANUT PRICE SUPPORT PROGRAM DIFFERENTIALS

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
No further action will be taken	05/27/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB08

45. 1989 WHEAT PROGRAM

Significance: Agency Priority

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796

Completed:

Reason	Date	FR Cite
Final Action	02/03/89	54 FR 5526
Final Action Effective	02/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB14

46. 1989 FEED GRAIN PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 718 to 719; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1421.720 to 1421.734

Completed:

Reason	Date	FR Cite
Final Action	02/03/89	54 FR 5528
Final Action Effective	02/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4638

RIN: 0560–AB15

47. 1989 UPLAND COTTON PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1427

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USDA—ASCS — **Completed Actions**

Completed:

Reason	Date	FR Cite
Final Action	02/28/89	54 FR 8369
Final Action Effective	02/28/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB16

48. COMMON PROGRAM PROVISIONS FOR THE 1989 WHEAT, FEED GRAIN, COTTON AND RICE PROGRAMS

Significance: Regulatory Program

CFR Citation: 7 CFR 713; 7 CFR 1421; 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	02/03/89	54 FR 5526
Final Action Effective	02/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB17

49. 1988 SOYBEAN LOAN PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	09/30/88	53 FR 38310
Final Action Effective	08/12/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB18

50. 1988-CROP SUGAR BEET AND SUGARCANE PRICE SUPPORT LOAN RATES

Significance: Regulatory Program

CFR Citation: 7 CFR 1435

Completed:

Reason	Date	FR Cite
Final Action	09/30/88	53 FR 38311
Final Action Effective	10/01/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB19

51. 1989 EXTRA LONG STAPLE (ELS) COTTON PROGRAM

CFR Citation: 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	03/08/89	54 FR 9865
Final Action Effective	03/08/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB25

52. MILK PRICE SUPPORT LEVEL, CALENDAR YEAR 1989

Significance: Regulatory Program

CFR Citation: 7 CFR 1430

Completed:

Reason	Date	FR Cite
Final Action	01/12/89	54 FR 1197
Final Action Effective	01/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB40

53. BURLEY TOBACCO PRICE SUPPORT RESTRICTIONS FOR NONBALED TOBACCO AND NONSTANDARD CONTAINERS

CFR Citation: 7 CFR 1464

Completed:

Reason	Date	FR Cite
Withdrawn	10/25/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB42

54. FOREIGN PERSONS INELIGIBLE FOR TOBACCO PRICE SUPPORT PROGRAM BENEFITS

CFR Citation: 7 CFR 1464.7

Completed:

Reason	Date	FR Cite
Final Action	10/28/88	53 FR 43674
Final Action Effective	10/28/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB50

55. FORMULA FOR DETERMINATION OF ADJUSTED WORLD PRICE FOR UPLAND COTTON

Significance: Agency Priority

CFR Citation: 7 CFR 28

Completed:

Reason	Date	FR Cite
Final Action	02/07/89	54 FR 5921
Final Action Effective	02/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB57

DEPARTMENT OF AGRICULTURE (USDA) — **Proposed Rule Stage**

Animal and Plant Health Inspection Service (APHIS)

56. ANIMAL WELFARE REGULATIONS; STANDARDS

Significance: Regulatory Program

Legal Authority: 7 USC 2142; 7 USC 2143

CFR Citation: 9 CFR 3.1 to 3.17, (Revision); 9 CFR 3.25 to 3.41, (Revision); 9 CFR 3.75 to 3.91, (Revision)

Legal Deadline: None

Abstract: In 1985 Congress amended the Animal Welfare Act, 7 USC 2131 et seq., and required the Secretary of Agriculture to promulgate regulations and standards governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, operators of auction sales, carriers, and intermediate handlers. The standards and regulations will provide minimum requirements with respect to handling, housing, feeding, sanitation, veterinary care, and other related matters. APHIS is proposing to amend, revise, and expand the "Standards" relating to dogs and cats, guinea pigs and hamsters, and nonhuman primates, and will include provisions for exercise of dogs and for promoting the psychological well-being of primates.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: R. L. Crawford, Director, Animal Care Staff, Department of Agriculture, Animal and Plant Health Inspection Service, Federal Building, Room 268, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-7854

RIN: 0579–AA20

57. IMPORTATION OF NURSERY STOCK, PLANTS, ROOTS, BULBS, SEEDS, AND OTHER PLANT PRODUCTS

Significance: Agency Priority

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167

CFR Citation: 7 CFR 319.37

Legal Deadline: None

Abstract: To prevent the introduction of plant pests and diseases, Plant Protection and Quarantine (PPQ) prohibits or restricts the importation of living plants, roots, bulbs, seeds, and related articles. PPQ is updating the lists of prohibited and restricted articles and is revising the regulatory requirements for importation of various articles. These revisions will allow the importation of certain living plants and related articles under appropriate regulatory controls, and will prohibit the importation of other living plants and related articles.

Timetable:

Action	Date	FR Cite
Public Hearing	01/00/89	
NPRM Comment Period End	05/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Cooper, Senior Operations Officer, Port Operations Staff, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Federal Building, Room 637, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8248

RIN: 0579–AA21

DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**

Animal and Plant Health Inspection Service (APHIS)

58. ANIMAL WELFARE; DEFINITION OF TERMS AND REGULATIONS

Significance: Regulatory Program

Legal Authority: 7 USC 2133; 7 USC 2135; 7 USC 2136; 7 USC 2140; 7 USC 2141; 7 USC 2142; 7 USC 2143; 7 USC 2144; 7 USC 2146; 7 USC 2147; 7 USC 2151

CFR Citation: 9 CFR 1, (Revision); 9 CFR 2, (Revision)

Legal Deadline: None

Abstract: In 1985 Congress amended the Animal Welfare Act, 7 USC 2131, et seq., and required the Secretary of Agriculture to promulgate regulations and standards governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, operators of auction sales, carriers, and intermediate handlers. The standards and regulations will provide minimum requirements with respect to handling, housing, feeding, sanitation, veterinary care, and other related matters. The Agency has proposed definitions to provide proper guidance to the public, licensees, and registrants in their responsibilities under the Act. The Agency has also proposed to amend, revise, and expand the "Regulations" contained in 9 CFR 2.1 through 2.132, pertaining to licensing and registration of facilities, recordkeeping and identification of animal holding periods and facilities, inspections, Institutional Animal Care and Use Committees, adequate veterinary care, and other areas relating to humane animal care matters.

Timetable:

Action	Date	FR Cite
NPRM	03/31/87	52 FR 10298
Notice of Extension of Comment Period	05/22/87	52 FR 19359
Extension and Reopening of Comment Period	08/12/87	52 FR 29865
NPRM Comment Period End	08/27/87	52 FR 29865
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: R. L. Crawford, Director, Animal Care Staff, VS,

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USDA—APHIS — **Final Rule Stage**

Department of Agriculture, Animal and Plant Health Inspection Service, Room 268, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-7854

RIN: 0579–AA18

DEPARTMENT OF AGRICULTURE (USDA) — Completed Actions
Animal and Plant Health Inspection Service (APHIS)

59. SWINE IDENTIFICATION

Significance: Regulatory Program

CFR Citation: 9 CFR 71; 9 CFR 78; 9 CFR 85; 9 CFR 309; 9 CFR 310; 9 CFR 320

Completed:

Reason	Date	FR Cite
Final Action	10/14/88	53 FR 40378
Final Action Effective	11/14/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Steven B. Farbman 301 436-5533

RIN: 0579–AA19

DEPARTMENT OF AGRICULTURE (USDA) — Proposed Rule Stage
Cooperative State Research Service (CSRS)

60. AGRICULTURAL RESEARCH INVOLVING OUTDOOR FIELD TESTING OF BIOTECHNOLOGY - MODIFIED ORGANISMS

Significance: Regulatory Program

Legal Authority: PL 99-198 Food Security Act of 1985; 7 USC 450(h); 7 USC 3121(12); National Agr. Research Ext. and Teaching Policy Act of 1977; Sec 1405(12) as amended

CFR Citation: 7 CFR 3015.205; 7 CFR 3200.4(d)(7); 7 CFR 3400.4(c)(12)

Legal Deadline: None

Abstract: USDA/CSRS plans to publish advisory guidance for the safe performance of USDA-funded research involving outdoor field testing of biotechnology modified organisms.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/86	51 FR 23367
ANPRM Comment Period End	09/26/86	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ADDITIONAL ABSTRACT: The research guidance will be published as a notice in the Federal Register rather than as a proposed rule. The notice will contain research guidance consisting of general guideline principles and a handbook of recommended procedures for field testing biotechnology-modified organisms. USDA plans to promote adherence to the biotechnology research guidelines and handbook by requesting researchers to agree to adhere to the guidelines and handbook as a condition for accepting USDA research funds. This will be implemented by amending the USDA regulations on general provisions for grants and cooperative agreements (7 CFR 3015.205), competitive research grants (7 CFR 3200.4) and special research grants (7 CFR 3400.4) as needed. The timetable for amending these regulations has not yet been set.

Agency Contact: William S. Smith, Regulatory Coordinator, Department of Agriculture, Cooperative State Research Service, Room 310-C, Aerospace Building, 901 D St, SW, Washington, DC 20250, 202 475-4964

RIN: 0524–AA00

DEPARTMENT OF AGRICULTURE (USDA) — Prerule Stage
Farmers Home Administration (FmHA)

61. SECURITY SERVICING FOR MULTIPLE HOUSING LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1965, Subpart B

Legal Deadline: None

Abstract: This revision implements Subtitle C, "Rural Rental Housing Displacement Prevention," of the Housing and Community Development Act of 1987. Since this revision is mandated by legislation, alternatives were limited.

Timetable:

Action	Date	FR Cite
ANPRM	06/21/89	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA51

62. ● CHANGES TO FARMERS HOME ADMINISTRATION (FMHA) GUARANTEED LOAN MAKING AND SERVICING REGULATIONS AS A RESULT OF A STUDY OF THE PROGRAM REQUESTED BY OMB

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

USDA—FmHA — **Prerule Stage**

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: This revision will propose changes as deemed appropriate as a result of the study to be made which was recommended by OMB recently. Potential costs and benefits will not be known until the recommendations have been made and a criterion of changes established.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA66

63. ● RURAL RENTAL HOUSING, LOAN POLICIES, PROCEDURES AND AUTHORITIES

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944 Subpart E

Legal Deadline: None

Abstract: Revise and simplify the manner in which Multifamily Housing preapplications are rated, ranked, and funded.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/89	
ANPRM Comment Period End	08/00/89	
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA67

DEPARTMENT OF AGRICULTURE (USDA) — Proposed Rule Stage
Farmers Home Administration (FmHA)

64. PROPERTY MANAGEMENT

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1955

Legal Deadline: None

Abstract: Create a new Subpart D to cover liquidation of Single Family Housing (SFH) loans, and management and sale of SFH inventory property; and revise existing Subparts A, B, and C to have them apply to all programs other than SFH. Costs to create new subpart and revise and/or amend existing ones is minimal and would enhance all programs' ability to revise and/or amend the regulations with reduced clearances and provide personnel with clearer and simpler regulations to follow and implement. Will avoid "tie-up" of the regulations for one program subject to changes mandated by legislation or court order for another program, such as SFH changes being held up subject to Farmer Program changes being completed as has frequently been the case.

Timetable:

Action	Date	FR Cite
NPRM	08/01/89	
NPRM Comment Period End	10/01/89	
Final Action	03/01/90	
Final Action Effective	04/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Action on this project was effectively paralyzed during calendar year 1988 by extensive changes by Farmer Programs pursuant to the Agriculture Act of 1987.

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA03

65. HOUSING PRESERVATION GRANTS

Legal Authority: 42 USC 1490 (m)

CFR Citation: 7 CFR 1944, Subpart N

Legal Deadline: None

Abstract: Expansion of HPG program to include residential rental properties (single and multi-unit) and cooperative housing. Maintain availability of adequate and decent, safe, and sanitary rental housing for very low and low income individuals and families in the rural areas. Compliance with the Housing and Urban Recovery Act of 1983 and Community Development Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	
NPRM Comment Period End	07/01/89	
Final Action	11/01/89	
Final Action Effective	12/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA18

66. RECAPTURE OF SECTION 502 RURAL HOUSING SUBSIDY

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

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Abstract: The Farmers Home Administration (FmHA) proposes to revise the regulation for the recapture of subsidy granted on Section 502 Rural Housing Loans. This action is necessary because of an accounting system change resulting from the September 1987 congressionally mandated rural housing asset sale. The intended effect of this action is to adjust the formula to coincide with the revised method of applying monthly subsidy to interest credit accounts. In addition, this action will also shorten and simplify the recapture process.

Timetable:

Action	Date	FR Cite
ANPRM	11/01/88	
ANPRM Comment Period End	01/01/89	
Final Action Effective	01/29/89	
NPRM	06/12/89	
NPRM Comment Period End	07/14/89	
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA29

67. SELF-HELP TECHNICAL ASSISTANCE GRANTS

Legal Authority: 7 USC 1989; 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1933-I

Legal Deadline: None

Abstract: Complete revision to improve grantee's accounting responsibilities. No costs associated with action. Benefits reduce possibility of program fraud and abuse. Increase borrower's labor contribution.

Timetable:

Action	Date	FR Cite
NPRM	02/13/89	54 FR 6532
NPRM Comment Period End	04/14/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA34

68. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1944-A

Legal Deadline: None

Abstract: Address and clarify items to improve program (child support, unemployment compensation, etc.). Revise cost containment.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	
NPRM Comment Period End	05/01/89	
Final Action	07/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA35

69. SECURITY SERVICING FOR MULTIPLE HOUSING LOANS

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1930; 7 CFR 1944; 7 CFR 1965

Legal Deadline: None

Abstract: This regulation is being revised to provide clarification on the processing differences between membership changes and transfers, to broaden the ability to consolidate and reamortize loans, to clarify actions to be taken during a bankruptcy, and to clarify and discuss the classification of problem loans and their resolution, along with other minor revisions. These revisions are needed so as to provide more complete guidance to field staff and borrowers on the topics discussed above. Potential costs consist of administrative time involved with Agency personnel drafting and completing regulation. No alternatives were identified as being appropriate to address the several problems being corrected with this regulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA38

70. MANAGEMENT AND COLLECTION OF NONPROGRAM (NP) LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: A new instruction to provide policy and guidance for FmHA field office personnel to make, manage, collect and liquidate nonprogram (NP) loans.

Timetable:

Action	Date	FR Cite
NPRM	06/12/89	
NPRM Comment Period End	07/14/89	
Final Action	12/29/89	
Final Action Effective	01/29/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA39

71. COMPLAINTS AND COMPENSATION FOR CONSTRUCTION DEFECTS

Legal Authority: 42 USC 1479

CFR Citation: 7 CFR 1924 F

Legal Deadline: None

Abstract: Clarify handling of construction defect complaints on newly constructed homes and provide for handling of construction defect complaints on manufactured homes.

Timetable:

Action	Date	FR Cite
ANPRM	01/30/89	
ANPRM Comment Period End	03/30/89	
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA41

72. BORROWER SUPERVISION SERVICING AND COLLECTION OF SINGLE FAMILY HOUSING LOAN ACCOUNTS

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Provide for change in definition of delinquent account and certain other changes.

Timetable:

Action	Date	FR Cite
ANPRM	11/30/88	
ANPRM Comment Period End	01/30/89	
NPRM	06/12/89	
NPRM Comment Period End	07/14/89	
Final Action	12/29/89	
Final Action Effective	01/29/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA42

73. MANAGEMENT AND SUPERVISION OF MULTIPLE FAMILY HOUSING BORROWERS AND GRANT RECIPIENTS

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1930, Subpart C; 7 CFR 1944, Subpart E

Legal Deadline: None

Abstract: General revision to keep the regulations current with policy clarification and incorporate changes to comply with recent legislative changes. Alternatives were to not revise or only incorporate some changes.

Timetable:

Action	Date	FR Cite
NPRM	07/05/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA49

74. REAL PROPERTY INSURANCE

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Provide for the continuation of insurance for borrowers on escrow.

Timetable:

Action	Date	FR Cite
NPRM	06/12/89	
NPRM Comment Period End	07/14/89	
Final Action	12/29/89	
Final Action Effective	01/29/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA53

75. SECURITY SERVICING FOR SINGLE FAMILY RURAL HOUSING LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 7 USC 1989; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Provide for the implementation of escrow services for SFH loan accounts.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/29/89	
NPRM	06/12/89	
NPRM Comment Period End	07/14/89	
Final Action	12/29/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA54

76. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES AND AUTHORIZATIONS -- CONGREGATE HOUSING AND GROUP HOMES

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944 Subpart E; 7 CFR 1930 Subpart C

Legal Deadline: None

Abstract: To expand the existing authority for congregate housing and group homes in FmHA Instruction 1944-E.

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Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA58

77. SECONDARY MARKET FOR FARMER PROGRAM LOANS

Significance: Regulatory Program

Legal Authority: 7 USC 1988 Consolidated Farm and Rural Devel. Act (amendment); PL 100-233, Sec 711 Agricultural Credit Act of 1987

CFR Citation: 7 CFR 1980

Legal Deadline: Final, Statutory, July 6, 1988.
PL 100-233, Sec 711, states: "Within 180 days after the date of the enactment of this Act, the Secretary shall develop and promulgate final regulations to implement this section (cont)

Abstract: Legislation mandates that the Secretary develop procedures to facilitate, administrate and promote secondary market operations for FmHA guaranteed farm loans. It is suggested that the Secretary, directly or through a market maker, provide for the pooling of guaranteed loans and the issuance and sale of certificates backed by those loan pools. Through this procedure, secondary market activities could be promoted and expanded, thereby increasing the supply of loan money in rural areas -- allowing rural banks to increase their lending activity to farmers, rural businessmen and residents. Obtaining the services of a private agent to act as a central registry and fiscal agent -- coordinating fund flows from lenders to pool investors; handling pool formations and executions, issuance and ownership of pool shares, and monitoring of loan payments -- is the favored alternative expected to successfully meet the legislative mandate. FmHA would act as the facilitator, arranging for the creation of this private market activity, (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: ABSTRACT CONT: funding the agent. Another alternative considered is establishing an in-house capability to track the sale of guaranteed loans and transfer payments as required, but this option would require substantial personnel and other Agency resources and would prove extremely expensive.

LEGAL DEADLINE CONT: and the Amendment made by this section."

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA59

78. FARM LABOR HOUSING LOAN AND GRANT POLICIES, PROCEDURES, AND AUTHORIZATIONS

Legal Authority: 42 USC 1484; 42 USC 1486

CFR Citation: 7 CFR 1950-C

Legal Deadline: None

Abstract: The Farmers Home Administration (FmHA) proposes to amend its Farm Labor Housing regulations. This action is in response to the general public and FmHA staff requests for clarification of the Farm Labor Housing regulations. The intended effect is to provide more comprehensive guidance to applicants when applying for farm labor housing loans and grants: (1) make certain paragraphs consistent with other related parts and other housing regulations; (2) redefine terminology to ensure appropriate implementation of program eligibility standards; (3) incorporate provision of the Housing and Urban Recovery Act of 1983; housing amendments of 1984, 85 and 86; and (4) provide direction to FmHA State and District Office personnel through separate processing instructions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	
Final Action	05/00/90	
Final Action Effective	06/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA60

79. FARM LABOR LOAN AND GRANT POLICIES, PROCEDURES, AND AUTHORIZATION

Legal Authority: 42 USC 1484; 42 USC 1486

CFR Citation: 7 CFR 1930-C; 7 CFR 1944 Subpart D

Legal Deadline: None

Abstract: Revision to incorporate provisions of Housing and Community Development Act of 1987 (PL 100-242) regarding the definition of "Domestic Farmworker," that determine the eligibility of such farmworkers to occupy housing financed under the Farm Labor Housing Program. Revisions also incorporate provisions of Omnibus McKinney Homeless Assistance Act of 1988 (PL 100-628) to permit other than farmworker occupancy when no demand by such persons.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	
Final Action	07/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA62

80. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS -- COOPERATIVE HOUSING LOANS

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944 Subpart E; 7 CFR 1930 Subpart C; 7 CFR 1965 Subpart B; 7 CFR 1924 Subpart A

Legal Deadline: None

Abstract: To include provisions for Cooperative Housing Loans in the Rental Housing Regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	
Final Action	08/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA63

81. ● PROCESSING AND SERVICING FMHA ASSISTANCE TO EMPLOYEES, RELATIVES AND ASSOCIATES

Legal Authority: 7 USC 1988, Sec 336b

CFR Citation: 7 CFR 1900 Subpart D

Legal Deadline: None

Abstract: FmHA Instruction 2045-BB, Employee Responsibilities and Conduct (available in any FmHA office), requires the maintenance of high standards of honesty, integrity, and impartiality by employees. Within the limitations of that instruction and specific program restrictions, FmHA employees, family members, close relatives and other associates are eligible to receive certain types of FmHA loan and grant assistance. To assure that employee conduct is above reproach, any processing, approval, servicing or review activity is conducted only by authorized FmHA employees who (1) are not themselves the recipient; (2) are not family members or close relatives of the recipient; (3) do not have an immediate working relationship with the recipient, the employee related to the recipient, or the employee who would normally conduct the activity; or (4) do have a business or close personal relationship with the recipient, the employee related to the recipient or the employee who would normally conduct the activity. Nothing in this instruction takes precedence over individual program requirements or restrictions.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	
NPRM Comment Period End	06/01/89	
Final Action	10/01/89	
Final Action Effective	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA64

82. ● ADVERSE DECISIONS AND ADMINISTRATIVE APPEALS

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 270

CFR Citation: 7 CFR 1900 Subpart B

Legal Deadline: None

Abstract: The Agency proposes to amend FmHA Instruction 1900-B, "Adverse Decisions and Administrative Appeals," to allow State Directors and Assistant Administrators to request a review of a hearing officer's decision when that decision is based on a clear misinterpretation or error of law or regulations. No other alternatives are considered since this issue was surfaced in an earlier proposed rule but not implemented at that time, pending comments received from this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	03/01/89	
NPRM Comment Period End	04/30/89	
Final Action	05/30/89	
Final Action Effective	06/30/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Chris Goettlemann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA68

DEPARTMENT OF AGRICULTURE (USDA)

Farmers Home Administration (FmHA)

Final Rule Stage

83. MANAGEMENT AND SUPERVISION OF MULTIPLE FAMILY HOUSING BORROWERS

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1930, Subpart C

Legal Deadline: None

Abstract: Revision required by the Office of Inspector General (OIG) to change standards for multiple housing project audits to Generally Accepted Government Auditing Standards (GAGAS) in order to minimize potential for fraud, waste and abuse of Government lending. OIG used State audits of the multiple family housing program to document their concerns so alternatives to regulation change were limited.

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Timetable:

Action	Date	FR Cite
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA20

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84. SECTION 504 RURAL HOUSING LOANS AND GRANTS

Legal Authority: 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1944, Subpart J (Revision)

Legal Deadline: None

Abstract: Incorporates revisions to Agency's authorizing statutes made by the 1983 Housing amendments. Expands loan purposes, increases the total amount of assistance available. No cost increase. Will benefit more homeowners.

Timetable:

Action	Date	FR Cite
NPRM	10/28/88	53 FR 44505
NPRM Comment Period End	12/28/88	
Final Action	04/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA37

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85. RURAL HOUSING PROGRAM LOANS

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1980, Subpart A; 7 CFR 1980, Subpart D

Legal Deadline: Other, Statutory, March 6, 1989.

Amendments to Stewart B. McKinney Homeless Assistance Act requires regulation to be published within 120 days of 11/06/88.

Abstract: Update and revise existing Guaranteed Loan Regulations to incorporate revisions made to existing Rural Housing 502 Insured Loan Regulations and to remove obstacles in loan making for lenders. This action is being done to carry out the objectives of the Housing Act of 1987.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 12873
Effective Date	03/29/89	
Comment Period End	05/30/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA48

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86. PREDETERMINED AMORTIZATION SCHEDULE SYSTEM (PASS) ACCOUNT SERVICING

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1951, Subpart K; 7 CFR 1951, Subpart A; 7 CFR 1930, Subpart C; 7 CFR 1944, Subpart E

Legal Deadline: None

Abstract: Revision reincorporates automated billing provisions removed from an April 18, 1984, prior rule pending the development of computer capacity and combines multiple family housing account servicing under one regulation. Alternative is to remain under current burdensome process.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/30/89	
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA52

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87. BORROWER SUPERVISION SERVICING AND COLLECTION OF SINGLE FAMILY HOUSING LOAN ACCOUNTS

Significance: Agency Priority

Legal Authority: PL 100-71

CFR Citation: 7 CFR 1951, Subpart G

Legal Deadline: None

Abstract: Provide for escrowing and the application of payments.

Timetable:

Action	Date	FR Cite
NPRM	11/01/88	53 FR 44013
NPRM Comment Period End	01/01/89	
Final Action	04/01/89	
Final Action Effective	05/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA55

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88. CHANGES TO THE FARMERS HOME ADMINISTRATION (FMHA) FARMER PROGRAM LOAN MAKING, SUPERVISION AND SERVICING REGULATIONS TO IMPLEMENT APPLICABLE PROVISIONS OF "THE AGRICULTURAL CREDIT ACT OF 1987"

Significance: Regulatory Program

Legal Authority: PL 100-233, Sec 601

CFR Citation: 7 CFR 1910, Subpart A; 7 CFR 1924, Subpart A; 7 CFR 1924, Subpart B; 7 CFR 1941, Subpart A; 7 CFR 1941, Subpart B; 7 CFR 1943, Subpart A; 7 CFR 1943, Subpart B; 7 CFR 1945, Subpart A; 7 CFR 1945, Subpart C; 7 CFR 1945, Subpart D; 7 CFR 1951, Subpart A; 7 CFR 1951, Subpart S (New)

Legal Deadline: Final, Statutory, June 3, 1988.

Abstract: Final revisions of the provisions to the Agriculture Credit Act of 1987 which was implemented 10/14/88.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/88	53 FR 35638
Interim final rule public comment period end	11/14/88	
Final Action	07/03/89	
Final Action Effective	07/03/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, 14th & Independence Avenue, Washington, DC 20250, 202 382-9744

RIN: 0575–AA56

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89. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES AND AUTHORITIES -- LETTERS OF CREDIT

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944 Subpart E; 7 CFR 1930 Subpart C

Legal Deadline: None

Abstract: Implementing statutory change allowing letters of credit to be used for initial operating capital and allowing packaging fees to be an eligible development cost for nonprofit borrowers.

Timetable:

Action	Date	FR Cite
NPRM	10/17/88	53 FR 40430
NPRM Comment Period End	12/16/88	
Final Action	03/00/89	
Final Action Effective	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA57

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90. SERVICING CASES WHERE UNAUTHORIZED LOAN OR OTHER FINANCIAL ASSISTANCE WAS RECEIVED -- SINGLE FAMILY HOUSING

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: The borrower's repayment ability will be used to determine if an unauthorized Section 504 Grant should be repaid as a loan. This action will alleviate the undue financial hardship for elderly borrowers with a very low income.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	
ANPRM Comment Period End	02/01/88	
Final Action	04/02/89	
Final Action Effective	05/02/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA61

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91. ● DROUGHT AND DISASTER GUARANTEED LOANS

Significance: Agency Priority

Legal Authority: 7 USC 1988 Consolidated Farm and Rural Development Act; PL 100-387 Disaster Assistance Act of 1988, Sec 331

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: Sec. 331 of the Disaster Assistance Act of 1988 mandated that the Secretary of Agriculture guarantee loans made by private sector lenders to rural business entities which experienced losses or financial distress as the direct or indirect result of drought, hail, excessive moisture or related condition in 1988. The refinancing of existing loans is specified as an eligible purpose of such guaranteed loans. Farmers Home Administration proposes to modify its existing Business and Industrial (B&I) guaranteed loan program to implement the program mandated by the Disaster Assistance Act of 1988, using B&I rules as to eligibility, application, loan making, and loan servicing except where the statute requires otherwise.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/03/89	54 FR 2
Final Action	06/09/89	
Final Action Effective	06/09/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA65

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DEPARTMENT OF AGRICULTURE (USDA)
Farmers Home Administration (FmHA)

Completed Actions

92. SUSPENSION AND DEBARMENT REGULATIONS

CFR Citation: 7 CFR 1940, Subpart M

Completed:

Reason	Date	FR Cite
Final Action This reg became FmHA 1940-M as part of U.S. gov. & USDA reg.	01/30/89	54 FR 4731
Final Action Effective	03/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575–AA02

93. CHANGES TO THE FMHA FARMER PROGRAM LOAN MAKING, SUPERVISION AND SERVICING REGULATIONS TO IMPLEMENT THE APPLICABLE PROVISIONS OF THE "FOOD SECURITY ACT OF 1985"

CFR Citation: 7 CFR 1900; 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1955; 7 CFR 1980

Completed:

Reason	Date	FR Cite
Withdrawn All CFR citations withdrawn. No revisions needed.	01/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575–AA23

94. PLANNING AND PERFORMING CONSTRUCTION AND OTHER DEVELOPMENT

Significance: Agency Priority

CFR Citation: 7 CFR 1924, Subpart A

Completed:

Reason	Date	FR Cite
Final Action	10/28/88	53 FR 42675
Final Action Effective	11/28/88	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575–AA36

95. ANALYZING CREDIT NEEDS AND GRADUATION OF BORROWERS

Significance: Agency Priority

CFR Citation: 7 CFR 1951-F

Completed:

Reason	Date	FR Cite
Final Action	10/12/88	53 FR 39739
Final Action Effective	11/14/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575–AA40

96. MANAGEMENT AND SUPERVISION OF MULTIPLE FAMILY HOUSING BORROWERS AND GRANT RECIPIENTS

Significance: Agency Priority

CFR Citation: 7 CFR 1930, Subpart C

Completed:

Reason	Date	FR Cite
Final Action	01/26/89	54 FR 3771
Final Action Effective	02/26/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575–AA50

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Proposed Rule Stage

97. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS

Significance: Agency Priority

Legal Authority: 7 USC 2013(b)

CFR Citation: 7 CFR 253

Legal Deadline: None

Abstract: The rule reorganizes existing regulatory provisions for clarity and ease of reference. This rule describes the terms and conditions under which (1) USDA-donated foods (available under 7 CFR 250) may be distributed to households on or near Indian reservations; (2) the program may be administered by capable Indian tribal organizations; and (3) funds may be obtained from USDA for the costs incurred in administering the program. The rule also provides for the concurrent operation of the Food Distribution Program and the Food Stamp Program on Indian reservations when such concurrent operation is requested by an Indian tribal organization. (FNS 84-514)

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA09

98. ● RULES OF PROCEDURE

Legal Authority: PL 100-435, Sec 603

CFR Citation: 7 CFR 275

Legal Deadline: NPRM, Statutory, October 1, 1985.
Retroactive for Fiscal Year 1985 Quality Control payment error rate liability claims.

Abstract: This regulatory action is required because the Hunger Prevention Act of 1988 (PL 100-435) revised the Food Stamp Act of 1977, as amended, specifying that Food Stamp Program quality control (QC) payment error rate (PER) liability appeals by State agencies be conducted by Administrative Law Judges. The use of Administrative Law Judges replaces the current appeal process which is conducted by the State Food Stamp Appeals Board. This regulation will delineate the procedures to be followed in these QC appeals. (88-011)

Timetable:

Action	Date	FR Cite
NPRM	04/30/89	
NPRM Comment Period End	06/30/89	
Final Action	07/01/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Duane Maddox, Branch Chief, Quality Control Branch, PAD, Department of Agriculture, Food and Nutrition Service, Room 905, 3101 Park Center Drive, Alexandria, VA 22302, 703 756-3474

RIN: 0584–AA75

USDA—FNS

Proposed Rule Stage

99. ● MISCELLANEOUS QC PROVISIONS OF HUNGER PREVENTION ACT OF 1988

Significance: Agency Priority

Legal Authority: PL 100-435, Sec 602; PL 100-435, Sec 604(1)

CFR Citation: 7 CFR 275

Legal Deadline: NPRM, Statutory, October 1, 1985.
Most of the changes are retroactive for Fiscal Year 1985 Quality Control payment error rate liability claims.

Abstract: This regulatory action is required because the Hunger Prevention Act of 1988 (PL 100-435) modified the Food Stamp Program quality control (QC) system provisions of the Food Stamp Act of 1977, as amended. Section 602 requires that State agencies be charged interest on unpaid QC payment error rate (PER) liability claims from the date the billing is received by the State agency, unless the State agency appeals the billing. If the State agency appeals, interest will begin to accrue from the date of the appeal decision or 2 years from the date the billing is received by the State agency, whichever is earlier. Section 604 revised the provisions for paying State agencies enhanced administrative funds for low PERs. It also revises the threshold for State agencies' liabilities for excessive payment error rates. Finally, it provides that PER liability claims will be assessed based on a State agency's total allotments issued, rather than as a percentage of administrative costs. (89-001)

Timetable:

Action	Date	FR Cite
NPRM	04/30/89	
NPRM Comment Period End	06/30/89	
Final Action	07/01/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Duane Maddox, Branch Chief, Quality Control Branch, PAD, Department of Agriculture, Food and Nutrition Service, Room 905, 3101 Park Center Drive, Alexandria, VA 22302, 703 756-3474

RIN: 0584–AA76

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Final Rule Stage

100. FOOD DISTRIBUTION PROGRAM - PART 250

Significance: Agency Priority

Legal Authority: 7 USC 612c; 15 USC 713c; 42 USC 1755; 42 USC 1758; 7 USC 1431; 22 USC 1922; 7 USC 1859; 7 USC 1431b; 7 USC 1431 Note; 7 USC 1446a-1; 42 USC 1761; 42 USC 5179; 42 USC 5180; 42 USC 1762a; 42 USC 1766; ...

CFR Citation: 7 CFR 250

Legal Deadline: None

Abstract: The rule reorganizes existing regulatory provisions for clarity and ease of reference. This rule outlines the responsibilities of the Food and Nutrition Service and State agencies concerning the distribution of USDA-donated foods acquired under various legislative authorities. The rule prescribes the terms and conditions under which donated foods may be obtained through distributing agencies for use in schools, child care institutions, nonprofit summer camps for children, charitable institutions, nutrition programs for the elderly, and otherwise in the assistance of needy persons. A number of provisions to strengthen and improve the State Processing Program were separated and published in a final rule July 1, 1988. (51 FR 23719) (FNS 84-513)

Timetable:

Action	Date	FR Cite
NPRM	08/19/85	50 FR 33470
Interim Final Rule	06/03/88	53 FR 20416
Final Action	12/31/89	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Additional Information: ADDITIONAL LEGAL AUTHORITIES: 7 USC 612c Note; 42 USC 3030a; 42 USC 1760; 5 USC 301; 7 USC 1431e; 42 USC 1779

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA07

101. EMERGENCY FOOD ASSISTANCE FOR VICTIMS OF DISASTERS

Legal Authority: 7 USC 2013(b); 7 USC 2014(h)

CFR Citation: 7 CFR 273; 7 CFR 280

Legal Deadline: None

Abstract: This rule would define special eligibility and issuance procedures during declared disasters. (FNS 84-001)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/89	
Final Action	02/01/90	

Small Entities Affected: Governmental Jurisdictions

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USDA—FNS — Final Rule Stage

Government Levels Affected: State, Federal

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA24

102. CONFORMANCE WITH AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) RULES: FOOD STAMP PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 2014(f)

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: This rule reviews Food Stamp and Aid to Families with Dependent Children regulations for inconsistencies and proposes conformance by altering either or both programs' rules. (FNS 85-002)

Timetable:

Action	Date	FR Cite
ANPRM	02/19/85	50 FR 6970
NPRM	09/29/87	52 FR 36546
NPRM Comment Period End	11/30/87	
Final Action	04/30/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA52

103. ADMINISTRATION/ MANAGEMENT: FOOD STAMP PROGRAM

Legal Authority: PL 99-198, Secs 1524, 1530, 1526, 1535, 1539

CFR Citation: 7 CFR 272.4; 7 CFR 272.3; 7 CFR 273.18; 7 CFR 275.15

Legal Deadline: NPRM, Statutory, April 1, 1987.

Abstract: This regulation implements the following five provisions of the Food Security Act of 1985: (1) sets standards for the periodic review of food stamp offices' hours of operation; (2) requires State agencies to encourage participation in the Expanded Food and Nutrition Education Program (EFNEP); (3) requires project areas with 5,000 or more households to establish units to detect fraud; (4) allows State agencies to enter into agreements with State agencies administering Unemployment Compensation laws so that food stamp State agencies can collect outstanding claims by withholding unemployment benefits and/or other methods of collecting claims when recoupment is not an available method; (5) requires the Department to require State agencies to change the certification procedures used in project areas where it is determined that payment error rates are impairing the integrity of the program. (FNS 86-011)

Timetable:

Action	Date	FR Cite
NPRM	03/09/87	52 FR 7158
Final Action	06/01/89	
Final Action Effective	07/01/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA63

104. EMPLOYMENT AND TRAINING REQUIREMENTS TECHNICAL CORRECTIONS PROPOSED RULE

Significance: Regulatory Program

Legal Authority: The Food Stamp Act of 1977, as amended; 7 USC 2011 to 2029

CFR Citation: 7 CFR 273.1; 7 CFR 273.7

Legal Deadline: None

Abstract: The proposed rule will clarify several aspects of the Food Stamp Program Employment and Training Rule published December 31, 1986, and will accomplish minor corrections in other portions of this rule. The clarifications and corrections are the result of program experience gained through the initial operations of a program component entirely new to the Food Stamp Program as a whole.

The Department is concerned that current regulations may be inequitable to State by mandating that they use the full October 1988 count of mandatory E&T participants in computing the base on which the Fiscal Year 1989 first reporting period 35 percent E&T placement standard will be applied. This procedure inflates State placement obligations for this period and makes it difficult for them to meet these obligations. The Department is also concerned that current regulations permit States agencies some latitude in counting individuals as "placed" in E&T programs for performance measurement purposes. This results in individuals being counted as "placed" in E&T programs more than once and inflates State placement success rates. This proposed rule implements (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23636
NPRM Comment Period End	08/22/88	
Final Action	05/15/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Additional Information: ABSTRACT CONT: Departmental action to correct these inequities together with other minor alterations and clarifications. (87-012)

Agency Contact: Irene Lankford, Assistant to the Associate Administrator, Food and Nutrition Service, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 1107, Park Office Center, Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA72

105. SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS

Significance: Regulatory Program

Legal Authority: PL 99-603; Immigration Reform and Control Act (IRCA) of 1986 (Section 121)

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273; 7 CFR 275; 7 CFR 277

Legal Deadline: Other, Statutory, October 1, 1988.
Deadline for interim final rule

Abstract: This rule establishes procedures for State agencies to use to participate in the Systematic Alien Verification for Entitlements (SAVE) system. As required by IRCA, the Immigration and Naturalization Service (INS) implemented this system. IRCA requires the Food Stamp Program (FSP) and certain other entitlement programs to use SAVE to verify the immigration status of aliens applying for benefits. Such use is mandatory by October 1, 1988, and this addresses use during that period. The rule also provides guidelines for Federal reimbursement of administrative costs. In addition the rule implements nondiscretionary provisions of IRCA requiring all household members to attest to their citizenship or alien status and certain requirements relating to documentation of alien status. (87-009)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/07/88	53 FR 39433
Final Action	10/01/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Irene Lankford, Assistant to the Associate Administrator, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 1107, Alexandria, Virginia 22302, 703 756-3064

RIN: 0584–AA73

106. ● CHILD CARE FOOD PROGRAM - ADULT DAY CARE PROVISION

Significance: Agency Priority

Legal Authority: 42 USC 1758; 42 USC 1759a; 42 USC 1762a; 42 USC 1765; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: The rule amends the Child Care Food Program (CCFP) regulations by providing Program eligibility for certain adult day care centers. It implements a provision of the Older Americans Act (OAA) Amendments of 1987, which allows these centers to receive cash and commodity assistance available under the CCFP for meals served to eligible enrolled individuals and a provision of the Rural Development, Agriculture and Related Agencies Appropriations Act of 1989, which provides categorical eligibility for free meals for participants of these centers who receive assistance under Title XVI or XIX in the Social Security Act or are members of a household receiving assistance under the Food Stamp Act and defines the income to be included in determining eligibility for free and reduced-price meal benefits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/88	53 FR 52584
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Irene Lankford, Assistant to the Associate Administrator, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA74

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS) — Completed Actions

107. ISSUANCE LOSS LIABILITY: FOOD STAMP PROGRAM

CFR Citation: 7 CFR 274; 7 CFR 276

Completed:

Reason	Date	FR Cite
Final Action	02/15/89	54 FR 6990
Final Action Effective	04/01/89	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Irene Lankford 703 756-3064

RIN: 0584–AA05

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) — Prerule Stage

108. ELIGIBILITY OF FOREIGN COUNTRIES FOR IMPORTATION OF PRODUCTS INTO THE UNITED STATES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: FSIS will review the import eligibility provisions of regulations promulgated under the Federal Meat Inspection Act and Poultry Products Inspection Act.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Charles Danner, Jr., Director, Planning Office, PP, Department of Agriculture, Food Safety and Inspection Service, Room 105-Annex Bldg., Washington, DC 20250, 202 447-3317

RIN: 0583–AA55

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DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

109. REQUIREMENTS FOR PARTIALLY DEFATTED MEAT PRODUCTS

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 319

Legal Deadline: None

Abstract: Would establish a standard of identity and composition, and would provide temperature and handling requirements for partially defatted meat products. Would also allow for use of these products in a greater number of meat food products at higher use levels.

Current regulation is not adequate to assure accurate labeling or to prevent commercial misrepresentation of such products.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/85	50 FR 34157
ANPRM Comment Period End	01/21/86	
NPRM	04/01/89	
NPRM Comment Period End	06/01/89	
Final Action	01/01/90	
Final Action Effective	02/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AA27

110. CONTROL OF SALMONELLA AND OTHER ENTERIC BACTERIA IN MEAT AND POULTRY PROCESSING

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: Would permit an official meat or poultry establishment that has voluntarily developed effective microbiological controls for fresh packaged meat or poultry products to submit plans and records of such control systems to FSIS for approval. If the Administrator determines a control system to be adequate for the purpose of minimizing naturally occurring microbiological contaminations, he will approve the system, and the establishment will be permitted to use special labeling that acknowledges the use of an approved control system.

Timetable:

Action	Date	FR Cite
NPRM	10/03/89	
NPRM Comment Period End	12/05/89	
Final Action	04/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: W. H. Dubbert, Assistant Deputy Administrator, Science Program, FSIS, Department of Agriculture, Food Safety and Inspection Service, Room 401-Cotton Annex, Washington, DC 20250, 202 447-2326

RIN: 0583–AA28

111. VOLUNTARY RESIDUE CONTROL PROGRAM

Significance: Regulatory Program

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 323; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to aid in the control and reduction of residues of drugs, pesticides and other chemicals in meat and poultry products, and permit label claims to appear on meat and poultry products subject to USDA's ability to verify such claims concerning how an animal was raised.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. T. Hubbert, Director, Residue Evaluation and Planning Division, Science Division, Department of Agriculture, Food Safety and Inspection Service, Room 603-Cotton Annex, Washington, DC 20250, 202 447-2326

RIN: 0583–AA29

112. SULFONAMIDE RESIDUES IN SWINE

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None

Abstract: Would establish an in-plant testing program to monitor violative levels of sulfonamide residues in swine. Such program would be designed to encourage producers to market and packers to purchase only healthy animals that will produce safe and wholesome meat.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/85	50 FR 20796
ANPRM Comment Period End	06/30/85	
NPRM	06/01/89	
NPRM Comment Period End	08/01/89	
Final Action	12/03/89	
Final Action Effective	02/03/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard A. Carnevale, Assistant Deputy Administrator Science, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-2807

RIN: 0583–AA31

113. USE OF LACTIC ACID AND ACETIC ACID AS ANTI-MICROBIAL AGENTS ON MEAT AND POULTRY CARCASSES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend Federal meat and poultry products inspection regulations by allowing lactic acid and acetic acid to be applied to meat and poultry carcasses for the purpose of reducing microbial contamination.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

USDA—FSIS

Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6042

RIN: 0583–AA43

114. TRICHINA CONTROL REQUIREMENTS FOR DRY-CURED HAM

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations by incorporating the dry-cured ham research study findings. This study evaluated the efficiency of present procedures in the commercial production of dry-cured hams and determined the combinations of curing time, temperature, salt concentration, and water activity necessary to inactivate t. spiralis.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill F. Dennis, Director, Processed Products Inspection Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 2158-South Bldg., Washington, DC 20250, 202 447-3840

RIN: 0583–AA49

115. USE AND PROTECTION OF APPROVED WATER SYSTEMS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq; 42 USC 3007 et seq

CFR Citation: 9 CFR 308; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would prescribe acceptable conditions for the reuse of water in official establishments. This rule would outline methods protecting the potable water supply and describe conditions of use of fresh water. In addition, the rule would also consolidate and make uniform pre-existing policies for the use and reuse of water and brine.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen Wesson, Director, Facilities, Equipment, and Sanitation Div., Department of Agriculture, Food Safety and Inspection Service, Room 1140 South Bldg., Washington, DC 20250, 202 447-3885

RIN: 0583–AA54

116. CERTAIN PRODUCTS WITH MEAT INGREDIENTS -- EXEMPTIONS FROM DEFINITION OF A "MEAT FOOD PRODUCT"

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 301; 9 CFR 303

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to exclude specific products and classes of products containing meat, meat byproducts, and/or meat food products from the definition "meat food product" and thereby would exempt these products from Federal inspection. The proposal identifies two broad conditions for exemption: (1) products containing 3 percent or less of raw meat or other portion of any carcass, or less than 2 percent of cooked meat or other portion of any carcass, and (2) products that historically have not been considered by consumers as products of the meat food industry. This proposal would replace current informal standards for exemptions with formal, codified exemptions.

Timetable:

Action	Date	FR Cite
NPRM	08/01/89	
NPRM Comment Period End	10/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-6042

RIN: 0583–AA62

117. ADDITIONAL TRICHINA DETECTION METHODS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the regulations to permit use of an approved method for examining swine for evidence of trichinosis. The Food Safety and Inspection Service (FSIS) has been petitioned by a manufacturer of serological tests to amend the Federal meat inspection regulations to approve the use of immunoassays for the examination of swine for evidence of trichinosis infection. FSIS has reviewed the performance of the petitioner's assay in a laboratory where sera prepared by the Agency were tested by a precisely defined procedure and has concluded that immunoassays can effectively detect evidence of trichinosis in swine.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Rm. 2159 South Bldg., Washington, DC 20250, 202 447-6042

RIN: 0583–AA67

118. NET WEIGHT

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would make Federal and State weights and measures procedures and techniques more consistent, objective and equitable. Under the proposed rule, USDA would adopt the National Bureau of Standards Handbooks 133 and 44 as its standards. The proposed amendment would recognize a fixed amount of

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acceptable moisture loss by product. This will replace the term "reasonable variation." Moreover the amendment will grant concurrent jurisdiction to State and local authorities to enforce net weight labeling of federally inspected meat and poultry products within their geographic area. The amendment will promote uniform treatment of moisture loss and weights and measures standards as well as encourage and enable greater State and local participation.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9370
NPRM Comment Period End	05/05/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Carol Seymour, Deputy Administrator, Meat & Poultry Inspection Technical Services, Department of Agriculture, Food Safety and Inspection Service, Rm. 350-E, Administration Bldg., Washington, DC 20250, 202 447-3521

RIN: 0583–AA69

119. USE OF SODIUM LACTATE AND POTASSIUM LACTATE AS FLAVOR ENHANCERS IN MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of sodium lactate and potassium lactate as flavoring agents and flavor enhancers in various meat and poultry products. FSIS has been petitioned by Oscar Mayer Foods Corporation, Madison, Wisconsin, and Shenandoah Products, Inc., Bridgewater, Virginia, to allow the use of these substances at a 2.0 percent level for use in preparation of meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	08/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA75

120. REQUIREMENTS FOR THE PRODUCTION OF FERMENTED SAUSAGE

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 320

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to establish specific requirements concerning processing procedures used in the production of semi-dry and dry fermented sausages. Currently, the Agency has only general requirements concerning the processing procedures for these products. This proposal will provide that a manufacturer of semi-dry and/or dry fermented sausages use either a model good manufacturing practice (GMP) procedure with specified or described critical control points, process control limits, and monitoring activities; or an approved processing procedure from a processing authority who would define the critical control points, process control limits, and monitoring activities for each processing procedure. In addition, the proposal requires that all processes for semi-dry and/or dry fermented sausages comply with a set of validation criteria to assure the product is not adulterated. The proposed rule provides the necessary processing requirements to assure that the production of fermented meat food products does not result in adulterated products.

Timetable:

Action	Date	FR Cite
NPRM	08/01/89	
NPRM Comment Period End	10/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill Dennis, Director, Processed Products Inspection Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-3840

RIN: 0583–AA77

121. PARTIALLY COOKED, CURED AND SMOKED POULTRY BREAKFAST STRIPS

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to permit preparation of partially cooked, cured and smoked poultry breakfast strip products which are intended to be cooked further before consumption. This action is in response to a petition submitted by Swift Eckrich, Inc., Oak Brook, Illinois, for a change in the requirements for cooked poultry products. FSIS would amend the regulations to require that the products be labeled with cooking instructions which will inform the consumer that the products are not suitable for consumption until thoroughly cooked.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA82

122. SODIUM/POTASSIUM LACTATE AS ANTIMICROBIAL AGENTS IN SPECIFIC MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of sodium lactate and potassium lactate as antimicrobial agents in cooked meat and poultry products, and would provide for additional protection against the growth and toxin development of Clostridia botulinum in these products. FSIS has received a petition from Oscar Mayer Foods Corporation, Madison, Wisconsin, to use these substances in various cooked meat and poultry products at levels not to exceed 4.8 percent of the formulation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA83

123. PFF FOR TURKEY HAM

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to permit the use of added water in turkey ham. The new standard provides for several categories of products that are delineated according to the protein content on a fat-free basis. FSIS was petitioned by the National Turkey Federation, Reston, Virginia, to establish protein fat-free values for turkey ham to promote product standardization and permit producers of turkey ham to compete more equitably with pork producers. This proposed rule would replace the current provision which limits the amount of added water and other substances contained in turkey ham products by requiring the weight of the finished product to be no more than the original weight of the turkey thigh meat used prior to curing.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	
NPRM Comment Period End	08/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA84

124. LACTIC ACID STARTERS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 320

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of lactic acid producing bacteria as a temperature abuse indicator in hermetically sealed meat food and poultry products that are sold refrigerated or frozen. The use of lactic acid producing bacteria in these products would inhibit the growth and toxin production by Clostridia botulinum, as well as impart flavors to the product in the event of temperature abuse during distribution and storage of the product.

Timetable:

Action	Date	FR Cite
NPRM	08/01/89	
NPRM Comment Period End	10/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA86

125. AUTOMATIC EXPIRATION SYSTEM FOR APPROVED LABELS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to define a system whereby industry labels will have an automatic expiration date upon approval. The purpose of this action will be to prevent approved labels that are no longer in use from remaining in the data base unnecessarily. This will benefit both the public and the agency by improving our responsiveness to label inquiries and enforcement of changes in labeling regulations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA87

126. CROSS-CONTAMINATION PREVENTION FOR ALL HEAT PROCESSED MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to extend the current cross-contamination preventive requirements for cooked beef, roast beef and cooked corned beef, to all types of heat processed meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	08/01/89	
NPRM Comment Period End	10/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark T. Mina, Acting Asst. Deputy Admin., Regional Operations, MPIO, Department of Agriculture, Food Safety and Inspection

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Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-4565

RIN: 0583–AA88

127. LABELING OF FRANKFURTERS AND SIMILAR PRODUCTS CONTAINING BINDERS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to remove labeling requirements and use limitations required for certain binders in sausage, breakfast sausage, frankfurters, cheesefurters, bockwurst, similar products, and poultry rolls. This proposed rule would also request information from interested persons as to whether granting the petition would result in false or misleading labeling or permit the use of binders in excess of what is needed to "bind" the products.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/88	53 FR 32247
ANPRM Comment Period End	09/23/88	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA92

128. SUBSTANCES APPROVED FOR USE IN MEAT PRODUCTS – REVISION OF LISTINGS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to reorganize the table of approved substances in an alphabetical order by the substance name rather than by class of substance, to include substance approvals not listed as well as amend individual product standards, and separate those substances approved for use as processing aids into a second chart. This proposed rule will assist the user in locating a substance more quickly and provide more consistency in using the table, update the regulations to reflect existing policies and current industry practices, and provide clarity to the chart of substances.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA93

129. ● IMPORTED PRODUCT; MOVEMENT PRIOR TO REINSPECTION

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations by restricting the movement of imported product to within one of five geographical port areas where the product is unloaded. FSIS is also proposing to amend the regulations to require that such imported product be transported directly to an import inspection establishment from the place that the product is unloaded and that such product be reinspected within 30 days of its arrival in the United States. These actions are expected to increase FSIS's ability to gain and maintain control over imported meat and poultry products prior to their reinspection by FSIS.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Manis, Director, Import Inspection Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-2952

RIN: 0583–AA94

130. ● LIBERALIZATION OF REGULATIONS REGARDING THE SAMPLING FREQUENCY FOR SAMPLING CONTINUOUS-TYPE PROCESSING SYSTEMS; EARLY SHIPMENT OF SHELF-STABLE PRODUCTS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit early shipment of shelf-stable products subject to incubation and to reduce the sampling frequency for product processed in continuous-type processing systems. There actions are a result of petitions submitted by the National Food Processors Association, Washington, DC.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Dennis, Director, Processed Products Inspection Division, Technical Services, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3840

RIN: 0583–AA95

131. ● REVIEW OF RETAIL STORE INSPECTION EXEMPTIONS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 303; 9 CFR 381

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking was intended to gather information from interested persons regarding FSIS's retail store exemption provisions. FSIS is conducting a review of the retail store exemption provisions of the Federal Meat and Poultry Products Inspection Acts, and the regulations promulgated thereunder, as a result of a District Court decision and as a result of requests from certain members of the industry. This review also includes an examination of FSIS's longstanding "two-stores" policy which allows an exemption from Federal Inspection requirements for any retail operator that owns only two retail stores and prepares meat and/or poultry products at one of its retail stores for sale to consumers in normal retail quantities at both stores.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Gonter, Assistant Deputy Administrator, Compliance Program, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-4293

RIN: 0583–AA96

132. ● PROCESSING REQUIREMENTS FOR DRIED READY-TO-EAT MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to require establishments to treat certain dried, ready-to-eat meat and poultry products to eliminate microbial contamination. Past food-poisoning outbreaks from dried meat products confirm that present processing requirements do not assure that the finished product is free from contamination by salmonellae. Treatment would assure the destruction of infectious disease bacteria, such as Salmonella, often present on the raw ingredients. The proposed rule would cover all dried ready-to-eat meat and poultry products except fermented sausages and dry cured hams and pork shoulders treated by one of the processing methods in section 318.10(c)(3) (ii), (iii), or (iv) of the Federal meat inspection regulations. The required treatment would either be a lethal heating step, a combination curing and heating process, or an alternate processing method which establishments have shown to be effective. The proposed rule would also contain provisions to prevent contamination of treated product by direct or indirect contact with untreated product.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Dennis, Director, Processed Products Inspection Division, Technical Services, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-3840

RIN: 0583–AA97

133. ● ANTE-MORTEM INSPECTION OF DISABLED ANIMALS ON TRANSPORT VEHICLES

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 320

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit an alternate method of ante-mortem inspection of disabled animals. This method would allow a transport vehicle to be an extension of an official establishment's premises for purposes of ante-mortem inspection of disabled animal(s) that are within the vehicle. FSIS received a request from the Western States Meat Association, Oakland, California, to allow ante-mortem inspection of disabled animals to be performed on a transport vehicle. This proposed rule would (1) specify establishment responsibilities for maintaining control over the transport vehicle, for providing proper ante-mortem inspection facilities, for complying with the veterinary disposition, and for providing assistance to the veterinary Medical Officer when performing the ante-mortem inspection; (2) prescribe the facility requirements needed for safe ante-mortem inspection of disabled animals; and (3) provide the requirements for the written request for this inspection.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jill Hollingsworth, Director, Slaughter Inspection Standards and Procedures Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3219

RIN: 0583–AA98

134. ● JAR CLOSURE REQUIREMENTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to revoke the requirements for vacuum packaged meat and poultry products in glass containers. FSIS was petitioned by the National Food Processors Association, Washington, DC, to revoke jar closure regulations that are no longer necessary to prevent contamination of products packed in glass containers. This action would be consistent with the requirements of the Food and Drug Administration for nonmeat products.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

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USDA—FSIS

Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Bill Dennis, Director, Processed Products Inspection Division, Technical Services, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-3840

RIN: 0583–AB00

135. ● EXEMPTION FROM "EQUAL TO" REQUIREMENTS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide administrative procedures whereby a foreign country may petition FSIS to be exempted from certain specified inspection requirements. FSIS has received several requests for exemption from specific regulations and procedures to assure that the foreign inspection program will maintain its eligibility to export product to the United States. Present meat and poultry products inspection regulations do not contain a procedure that advises how such requests should be made. Exemption requests are received in various forms and with a variety of information included, and as a result unnecessary time and effort is expended to develop an exemption request in the proper form for consideration. This action will provide a procedure for the submission of exemption requests from countries exporting product to the United States and to permit a timely Agency response.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Deputy Administrator, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3473

RIN: 0583–AB01

136. ● FOOD ADDITIVES AND GRAS SUBSTANCES USED AS INGREDIENTS IN MEAT FOOD AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to simplify the procedures by which FSIS approves food additives and Generally Recognized as Safe (GRAS) substances to be used as ingredients in meat food products and poultry products. The proposed rule will be developed in cooperation with the Food and Drug Administration to make the Federal regulation of food additives and other substances that may be used as ingredients in meat food and poultry products more efficient and uniform.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Judith A. Segal, Director, Policy and Planning, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-6525

RIN: 0583–AB02

137. ● STREAMLINED INSPECTION SYSTEMS WITH CARCASS AND GIBLET FINISHED PRODUCT STANDARDS (POULTRY)

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to merge the requirements for the new turkey inspection system, new line speed inspection system, streamlined inspection system and traditional inspection into two mandatory methods to be known as streamlined inspection system-poultry and streamlined inspection system/partial quality control-poultry. The finished product standards for carcasses and giblets would be amended to include all classes of poultry. This proposal would describe the facility requirements necessary to implement this new system nationally, and would establish national presentation standards and line speeds for each class of poultry.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Seymour, Deputy Administrator, Technical Services, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-3521

RIN: 0583–AB03

138. ● EXPORT CERTIFICATION PROCEDURES

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 322

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to provide export certification of all meat and poultry products exported to foreign countries. Domestic inspectors certify that the product is USDA inspected and passed, and that all foreign requirements have been met. In 1988, the Agency conducted a pilot test to determine the feasibility of streamlining export certification procedures by centralizing control; utilizing contemporary communications technology; establishing plant review criteria; and modifying stamping requirements. The export certification project, of which the pilot was a part, will continue in 1989. FSIS will review the current regulations and determine what, if any, changes should be considered from the outcome of this project.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Fetzner, Director, Export Coordination Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-4283

RIN: 0583–AB04

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

139. DETERMINATION OF ADDED WATER IN COOKED SAUSAGES

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 318

Legal Deadline: None

Abstract: Would publish protocols for determining compliance of meat food products with current added water standards. Would differentiate in such products protein derived from meat and meat byproducts from protein derived from other sources. Would ensure that similar, competing ingredients for cooked sausages are treated consistently.

Timetable:

Action	Date	FR Cite
NPRM	08/18/87	52 FR 39659
NPRM Comment Period End	12/22/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AA30

140. CATTLE POST-MORTEM INSPECTION PROCEDURES AND STAFFING PROCEDURES

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 307; 9 CFR 310

Legal Deadline: None

Abstract: This rule will improve post-mortem inspection procedures for cattle which will result in maximum inspection efficiency and increased productivity. By modernizing cattle inspection procedures, FSIS would increase its inspection productivity while assuring that only wholesome meat enters domestic commerce.

It is anticipated that the meat industry will experience a net gain if this system of inspection is implemented in spite of the initial costs of facility modifications which may be necessary in some establishments. Savings to the industry as a whole should occur because of increased productivity and reduced overtime.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48262
NPRM Comment Period End	01/30/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jill Hollingsworth, Director, Slaughter Inspection Standards & Procedures, Department of Agriculture, Food Safety and Inspection Service, Room 4444 South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583–AA32

141. BINDER CONSISTING OF SODIUM ALGINATE, CALCIUM CARBONATE, LACTIC ACID, AND CALCIUM LACTATE

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This final rule will permit the use of a binder complex approved for use in restructured meat products to be used in restructured poultry products in which binders are permitted, and will result in superior binding of chopped/ground/sectioned and formed poultry products.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	54 FR 1377
NPRM Comment Period End	02/13/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6042

RIN: 0583–AA34

142. INGREDIENTS THAT MAY BE IDENTIFIED AS FLAVORS OR NATURAL FLAVORS WHEN USED IN MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to better define which substances should be permitted to be labeled as "flavors," "natural flavors," or "spices" on packages of meat and poultry products. This rule addresses the use of substances which are often added to products for the purpose of serving as flavor enhancers, emulsifiers, stabilizers, binders, extenders, and as nutrients. Most of the substances that would be affected by the proposed rule are proteinaceous materials, having nutritional value, and which may be considered foods, in their own right. This rule will require that these substances be identified by their common or usual names, thereby informing consumers of the origin of these materials including the species and specific animal tissues from which they are derived, if animal in origin.

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The rule is designed in part to address the personal, cultural, and religious concerns of consumers, as well as the allergies or sensitives some consumers may have to some of the substances.

Timetable:

Action	Date	FR Cite
NPRM	08/18/87	52 FR 30922
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6042

RIN: 0583–AA44

143. REQUIREMENTS FOR FOREIGN COUNTRY IMPORT CERTIFICATION AND LIVE ANIMAL IMPORTATION

Legal Authority: PL 99-198

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will respond to amendments made to the Federal Meat Inspection Act by the Food Security Act of 1985. The amendments require that FSIS periodically certify residue control programs submitted by foreign countries desiring to export meat products to the United States. The amendments also provide the Secretary with the authority to issue an order prohibiting the importation of livestock for immediate slaughter that have been administered a drug or antibiotic banned for use in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 27998
NPRM Comment Period End	09/20/88	
Final Action	06/01/89	
Final Action Effective	07/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Skinner, Director, Foreign Programs Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, Room 341-E, Administration Bldg., 14th & Independence Ave., SW, Washington, DC 20250, 202 447-7610

RIN: 0583–AA47

144. USE OF AIR DURING SLAUGHTER OPERATIONS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 310

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to allow several acceptable procedures for the inflation of carcasses and parts of carcasses with air injected during dressing operations. Any establishment interested in using air for other purposes than those mentioned in the proposed rule would be required to submit those procedures to FSIS for approval prior to its use.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	54 FR 1370
NPRM Comment Period End	03/14/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jill Hollingsworth, Director, Slaughter Inspection Standards and Procedures, TS, Department of Agriculture, Food Safety and Inspection Service, Rm 4444-South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583–AA48

145. SULFONAMIDE AND ANTIBIOTIC RESIDUES IN YOUNG VEAL CALVES; CERTIFICATION REQUIREMENTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None

Abstract: This rule will require specific certification language, advise certifying parties of the consequences of false statements, and include custodians as well as producers as parties to certification. These changes will improve the effectiveness of the voluntary certifications by providing uniformity to certifications and warnings about false statements. Because of increasing high levels of antibiotic and sulfonamide residues found in young veal calves, the Food Safety and Inspection Service in 1984 initiated intensified inplant testing procedures to prevent adulterated meat from entering consumer channels. These procedures provide for a voluntary written certification program that allows for less intense testing of calves certified as not having been treated with drugs, or if so, that prescribed label directions were followed. More recently the Office of the Inspector General recommended that the Agency develop a standard form for the certified calf program.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52177
NPRM Comment Period End	02/27/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: W. T. Hubbert, Director, Residue Evaluation and Planning Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-2807

RIN: 0583–AA58

146. USE OF CERTAIN BINDERS IN MEAT AND POULTRY PRODUCTS AND TRANSFER OF BINDERS IN TEXT TO THE TABLES OF APPROVED SUBSTANCES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: This rule will permit the use of wheat gluten, tapioca dextrin, whey protein concentrate, and sodium caseinate as binders in various meat and poultry products. This action responds to petitions submitted by several companies requesting that the Food Safety and Inspection Service permit these substances in various meat and poultry products to improve the texture of the products.

Timetable:

Action	Date	FR Cite
NPRM	10/06/88	53 FR 39307
NPRM Comment Period End	11/07/88	

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Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-6042

RIN: 0583–AA64

147. IMMERSION CURED AND DRY CURED BACON

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This rule will limit nitrate to 120 parts per million (ppm) going into immersion cured bacon bellies and to 200 ppm going into dry cured bacon bellies. The principal effect of this rule would be to reduce the formation of nitrosamines in bacon by prohibiting the use of nitrate in the production of immersion cured and dry cured bacon.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	54 FR 1371
NPRM Comment Period End	03/14/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill F. Dennis, Director, Processed Products Inspection Division, Department of Agriculture, Food Safety and Inspection Service, Rm. 2158 South Bldg., Washington, DC 20250, 202 447-3840

RIN: 0583–AA65

148. SULFONAMIDE AND ANTIBIOTIC RESIDUES IN YOUNG VEAL CALVES; REDUCED TESTING

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None

Abstract: This rule would amend the Federal meat inspection regulations to modify the testing frequency of young veal calves under certain conditions for residues of sulfonamides and antibiotics.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/20/87	52 FR 2101
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: W. T. Hubbert, Director, Residue Evaluation and Planning Division, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-2807

RIN: 0583–AA68

149. LABELING OF MEAT FOOD PRODUCTS THAT CONTAIN MECHANICALLY SEPARATED (SPECIES) UNDER CERTAIN CIRCUMSTANCES

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 317

Legal Deadline: None

Abstract: This rule will add a new exception to the requirement that the list of ingredients on the labels of meat food products shall show the common or usual names of the ingredients. The exception would apply to the use of Mechanically Separated (Species) (MS(S)), at levels no greater than ten percent of the livestock and poultry product portion of a meat food product, providing that the labeling of such product bear a calcium content declaration in accordance with section 317.2(j)(13)(ii) of the Federal meat inspection regulations (9 CFR 317.2(j)(13) (ii)). This action is the result of a petition submitted to the Food Safety and Inspection Service by several members of the meat industry to amend the labeling requirements for meat food products containing MS(S).

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35089
NPRM Comment Period End	11/08/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-6042

RIN: 0583–AA71

150. IMPLEMENTATION OF IMPROVED PROCESSING SYSTEM

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq; PL 96-511; 44 USC 3501 et seq; PL 99-641, Title IV; 7 USC 1901 et seq; 7 USC 450 et seq

CFR Citation: 9 CFR 301; 9 CFR 302; 9 CFR 303; 9 CFR 305; 9 CFR 306; 9 CFR 307; 9 CFR 308; 9 CFR 312; 9 CFR 314; 9 CFR 316; 9 CFR 317; 9 CFR 318; 9 CFR 320; 9 CFR 322; 9 CFR 325

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations and the poultry products inspection regulations to reflect a variety of changes in how Federal inspection coverage would be provided by FSIS in establishments that prepare meat food products and/or process poultry products beyond slaughter and evisceration under a 1986 amendment to the Federal Meat Inspection Act which authorizes increased Agency discretion in determining the frequency and manner of such inspections. The proposed regulations would provide for modifications primarily to rules governing agency organization, procedure and practice, revision of incompatible terminology in existing regulations, and the addition of rules describing the essential criteria to be used by FSIS in determining the conditions and methods of inspection coverage in such processing establishments.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44818
NPRM Comment Period End	02/02/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Judith A. Segal, Director, Policy and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, 14th &

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USDA—FSIS **Final Rule Stage**

Independence Ave., SW, Washington, DC 20250, 202 447-6525

RIN: 0583–AA72

151. BINDER CONSISTING OF SODIUM ALGINATE, CALCIUM CARBONATE, LACTIC ACID AND CALCIUM LACTATE IN GROUND AND FORMED POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This final rule would amend the poultry products inspection regulations to permit the use of a binder matrix in ground and formed poultry products. The matrix consists of a dry mixture of sodium alginate, calcium carbonate, calcium lactate and lactic acid and has been previously approved for use in meat products. FSIS has been petitioned by the Colorado State University Research Foundation, Fort Collins, Colorado, to approve these substances as ingredients which, in combination at specific ratios, have the technical effect of binding ground poultry pieces together to produce formed poultry products. FSIS is amending the regulations to add these substances to the table of approved substances as requested by the petitioner.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	54 FR 1377
NPRM Comment Period End	02/13/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA73

152. INCREASE IN USE LEVELS OF SODIUM CITRATE AS AN ANTICOAGULANT

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This final rule would amend the Federal meat inspection regulations to increase the level of sodium citrate allowed to be used as an anticoagulant in blood from 0.2 percent to 0.5 percent. FSIS has been petitioned by American Meat Protein Corporation, Ames, Iowa, to approve an increased use level of this substance as an anticoagulant in blood to 0.5 percent to facilitate the cleaning of equipment and the separation of red blood cells from plasma, as well as to improve sanitation.

Timetable:

Action	Date	FR Cite
Final Action	08/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA76

153. USE OF VARIOUS BINDERS IN CURED PORK PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 319

Legal Deadline: None

Abstract: This final rule would amend the Federal meat inspection regulations to permit the use of food starch modified and other binders as water retention agents in cured pork products. FSIS has been petitioned by the Corn Refiners Association, Inc., Washington, DC, for the approval of food starch modified at a rate not to exceed 2 percent to enable ham processors to formulate products which will better meet the needs of consumers and food service operators. FSIS is amending the regulations to add this binder to the table of approved substances as requested by the petitioner. FSIS is also amending the regulations to add several other binders for use as water retention agents in cured pork products.

Timetable:

Action	Date	FR Cite
Final Action	08/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA78

154. USE OF SORBITOL AS A FLAVORING AGENT IN SPECIFIC MEAT PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This final rule would amend the Federal meat inspection regulations to permit the use of sorbitol to reduce charring in pizza toppings and other cured meat products subject to severe heat treatment. FSIS has been petitioned by Quality Sausage Company, Inc., Dallas, Texas, to approve the use of sorbitol at a level of 2.0 percent of the product formula.

Timetable:

Action	Date	FR Cite
Final Action	08/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA79

155. PROCESSING PROCEDURES AND COOKING INSTRUCTIONS FOR COOKED, UNCURED MEAT PATTIES

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

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Abstract: This rule will provide processors of fully and partially cooked, and char-marked, uncured meat patties with specific manufacturing, handling, and labeling requirements for these products to reduce the potential for incidents of food-borne, pathogen-caused illness from consumption of inadequately cooked, uncured meat patties. This rule will also establish (1) holding temperature and time requirements for raw meat used for cooked, uncured meat patties; (2) internal temperature and time combination processing requirements for fully and partially-cooked, uncured meat patties which are char-marked with heat but remain raw; (3) a requirement that a cooking instruction be placed on the label of partially-cooked and char-marked, uncured patties, instructing the final preparer to cook the patties to a well done state (a minimum internal meat temperature of 160 degrees Fahrenheit); and (4) requirements to assure that fully-cooked, uncured meat patties are not contaminated after cooking. This action will prevent instances of illness from the consumption of such patties.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52179
NPRM Comment Period End	01/26/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill F. Dennis, Director, Processed Products Inspection Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-3840

RIN: 0583–AA81

156. IMPORTATION OF LIVESTOCK CARCASSES WITH TISSUES REMOVED

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 327

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to remove the requirements prohibiting the importation into the United States of carcasses or parts of carcasses of livestock from which the pleura, peritoneum, body or portal lymph nodes are removed. These carcasses or parts would be imported based on the eligibility of the exporting countries, and whether they are wholesome, not adulterated and properly marked and/or labeled. This action is in response to a petition submitted by Cloverdale Foods Company, Minot, North Dakota.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1724
NPRM Comment Period End	02/16/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jill Hollingsworth, Director, Slaughter Inspection Standard and Procedures Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-3219

RIN: 0583–AA85

157. USE OF TOCOPHEROLS, ASCORBYL PALMITATE AND CITRIC ACID AS ANTIOXIDANTS IN ADDITIONAL PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This final rule would amend the Federal meat and poultry products inspection regulations to permit the use of tocopherols, ascorbyl palmitate and citric acid as antioxidants in various products. FSIS has been petitioned by the Diamond Crystal Salt Company, Inc., St. Clair, Michigan, to approve the use of these substances in meat and poultry products at higher levels than 0.02 percent.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Acting Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA89

158. IMPORTATION OF MEAT AND POULTRY PRODUCTS; REFUSED ENTRY PRODUCT

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule would amend the Federal meat and poultry products inspection regulations to clarify what actions the agency will take when refused entry product exported to another country is returned to the U.S. This rule will add a proviso that any such products exported to another country and returned to the U.S. would be subject to seizure and condemnation in accordance with the Federal Meat Inspection Act or the Poultry Products Inspection Act.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	
NPRM Comment Period End	03/14/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Patrick Clerkin, Director, Field Operations Division, CD, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-5604

RIN: 0583–AA90

159. DEFINITION OF TERMS — "IMPORTATION" AND "ENTRY"

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This interim rule would amend the Federal meat and poultry products inspection regulations to define the terms "importation" and "entry" to clarify when imported product becomes subject to U.S. requirements. Once product offered for importation has been reinspected by

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FSIS inspectors and the official mark of inspection has been applied, FSIS considers that such product has been entered into the U.S. and is the regulatory equivalent of domestic product. This action is a result of recent litigation which indicated the need for clarification of terms with respect to USDA's interpretation of provisions of the Federal Meat Inspection Act and the regulations thereunder concerning at what point FSIS considers imported products to be domestic products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Deputy Administrator, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-3473

RIN: 0583–AA91

160. ● IMPORTED CANADIAN PRODUCT; PROVISION FOR "STREAMLINED" INSPECTION PROCEDURES; EXEMPTION FROM OFFICIAL MARK OF INSPECTION

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to provide "streamlined" inspection procedures for the reinspection of Canadian meat and poultry products and by exempting Canadian meat and poultry products offered for importation from the requirement that such product and/or containers of product be marked with the official mark of inspection once they are passed for entry into the United States. These actions stemmed from the Canada-United States Free Trade Agreement Implementation Act of 1988, Pub. L. 100-449. These actions specifically responded to one goal of the Agreement whereby both countries are charged with liberalizing agriculture trade practices by seeking ways to eliminate technical or procedural requirements which now may serve to impede trade in agricultural products.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	12/31/88	
Interim Final Rule	01/05/89	54 FR 273
Comment Period End	02/06/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Deputy Administrator, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3473

RIN: 0583–AA99

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Completed Actions

161. ADMINISTRATIVE REGULATIONS

CFR Citation: 9 CFR 304; 9 CFR 305; 9 CFR 306; 9 CFR 307; 9 CFR 329; 9 CFR 331; 9 CFR 335; 9 CFR 381

Completed:

Reason	Date	FR Cite
End Review	11/04/88	53 FR 44818

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: A. Charles Danner, Jr. 202 447-3317

RIN: 0583–AA02

162. TRANSPORTATION

CFR Citation: 9 CFR 325; 9 CFR 381, Subpart S

Completed:

Reason	Date	FR Cite
End Review	11/04/88	53 FR 44816

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: A. Charles Danner, Jr. 202 447-3317

RIN: 0583–AA19

163. VARIOUS AMENDMENTS TO ACCOMMODATE INSPECTION OF MEAT FOOD PRODUCTS UNDER TITLE IV OF THE FUTURES TRADING ACT OF 1986

Significance: Regulatory Program

CFR Citation: 9 CFR 301 to 335

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0583-AA72	02/06/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Judith Segal 202 447-6525

RIN: 0583–AA26

164. STREAMLINED INSPECTION SYSTEM FOR BROILERS AND CORNISH GAME HENS

Significance: Agency Priority

CFR Citation: 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	11/21/88	53 FR 46855
Final Action Effective	12/21/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jill Hollingsworth 202 447-3219

RIN: 0583–AA38

USDA—FSIS — Completed Actions

165. ASCORBIC ACID, ERYTHORBIC ACID, CITRIC ACID, SODIUM ASCORBATE, AND SODIUM CITRATE IN FRESH PORK CUTS

CFR Citation: 9 CFR 317; 9 CFR 318

Completed:

Reason	Date	FR Cite
Final Action	12/12/88	53 FR 49848
Final Action Effective	01/11/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons 202 447-6042

RIN: 0583–AA40

166. SAFETY AND SANITATION REQUIREMENTS FOR ELECTRICAL STIMULATING EQUIPMENT

CFR Citation: 9 CFR 307; 9 CFR 308

Completed:

Reason	Date	FR Cite
Final Action	11/17/88	53 FR 48429
Final Action Effective	12/19/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen Wesson 202 447-3885

RIN: 0583–AA45

167. PROHIBITION ON MOVEMENT OF PRODUCT PRIOR TO REINSPECTION

CFR Citation: 9 CFR 327; 9 CFR 381

Completed:

Reason	Date	FR Cite
No further action at this time	02/10/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark Manis 202 447-2952

RIN: 0583–AA53

168. VOLUNTARY INSPECTION OF EXOTIC ANIMALS

CFR Citation: 9 CFR 350; 9 CFR 352

Completed:

Reason	Date	FR Cite
Final Action	01/13/89	54 FR 1328
Final Action Effective	02/13/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Douglas L. Berndt 202 447-3219

RIN: 0583–AA60

169. CONTROL OF ADDED SUBSTANCES AND LABELING REQUIREMENTS FOR TURKEY HAM PRODUCTS

CFR Citation: 9 CFR 381

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0583-AA84	02/08/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons 202 447-6042

RIN: 0583–AA66

170. DISPOSITION OF LIVESTOCK THYROID GLANDS AND LARYNXES

CFR Citation: 9 CFR 310

Completed:

Reason	Date	FR Cite
Final Action	11/15/88	53 FR 45888
Final Action Effective	12/15/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark T. Mina 202 447-4565

RIN: 0583–AA74

171. RESTORATION OF MEXICO TO LIST OF COUNTRIES ELIGIBLE TO IMPORT TO THE UNITED STATES

Significance: Agency Priority

CFR Citation: 9 CFR 327

Completed:

Reason	Date	FR Cite
Final Action	11/29/88	53 FR 47927
Final Action Effective	12/29/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lawrence Skinner 202 447-7610

RIN: 0583–AA80

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Proposed Rule Stage

172. DETERMINATION OF THE MARKET STABILIZATION PRICE FOR SUGAR FOR FY 1989

Legal Authority: Presidential Proclamation 5002; dated November 30, 1982

CFR Citation: 7 CFR 6.300 to 6.302

Legal Deadline: None

Abstract: This notice sets forth the market stabilization price for sugar for the period October 1, 1987 - September 30, 1988. The Market Stabilization Price is used to determine bond requirements and maximum liabilities under certain programs authorized by Presidential Proclamation No. 5002 of November 30, 1982 (47 FR 54269). The calculation of the Market Stabilization Price is provided for in 7 CFR 6.300-6.302 (50 FR 36040). (FAS 86-003)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural

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USDA—FAS — **Proposed Rule Stage**

Service, Room 4961-South Bldg., Washington, DC 20250, 202 447-6713

RIN: 0551–AA20

173. DETERMINATION OF IMPORT QUOTAS ON SUGAR FOR FISCAL YEAR 1989

Legal Authority: Presidential Proclamation 4941; dated May 5, 1982

CFR Citation: Not applicable

Legal Deadline: Other, Statutory. Import quotas on sugar for FY 1987 must be announced (filed in FR) no later than 15th day of month immediately preceding calendar quarter during which such determination shall be (cont)

Abstract: Presidential Proclamation 4941 dated May 5, 1982 amended headnote 3 of the Subpart A, Part 10, Schedule 1 of the Tariff Schedules of the United States (TSUS) (Headnote 3) to establish a system of quotas for U.S. sugar imports. (FAS 86-004)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL DEADLINE CONT: in effect.

Agency Contact: Richard J. Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961-South Bldg., Washington, DC 20250, 202 447-6713

RIN: 0551–AA21

174. TYPES AND QUANTITIES OF AGRICULTURAL COMMODITIES AVAILABLE FOR DONATION OVERSEAS UNDER SECTION 416(B) OF THE AGRICULTURAL ACT OF 1949 FOR EACH FISCAL YEAR

Legal Authority: For future FY's: Food Security Act of 1985

CFR Citation: Not applicable

Legal Deadline: None

Abstract: For FY 1986: The "Food Security Improvements Act of 1986" amends the Food Security Act of 1985, as amended, to require an estimate of Commodity Credit Corporation stocks to be made available under Section 416(b) in FY 1986 by kind of commodity and quantity of each kind of commodity. The Food Security Act, as amended, requires that this estimate be published in the Federal Register.

For future FY's: The Food Security Act of 1985, as amended, requires the above estimate be made and published in the Federal Register before the beginning of each fiscal year. (FAS 86-009)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961-South Bldg., Washington, DC 20250, 202 447-6713

RIN: 0551–AA23

DEPARTMENT OF AGRICULTURE (USDA) — **Prerule Stage**

Forest Service (FS)

175. PART 219 PLANNING

Significance: Agency Priority

Legal Authority: 16 USC 1604; 16 USC 1613; 5 USC 301

CFR Citation: 36 CFR 219

Legal Deadline: None

Abstract: The rules at 36 CFR 219 set forth the procedures and resource standards that guide development and approval of National Forest land and resource management plans as required by the National Forest Management Act of 1976.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/90	
End Review	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Review of these planning regulations has been rescheduled to allow completion of all forest plans and to allow for a review of first-generation plans and associated planning issues.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA50

176. 36 CFR 271 - USE OF "SMOKEY BEAR" SYMBOL

Legal Authority: 16 USC 711

CFR Citation: 36 CFR 271

Legal Deadline: None

Abstract: The regulations govern how the name or image of "Smokey Bear" may be used, who may authorize the use of "Smokey Bear," and the use of official campaign materials, commercial licensing, and the association with the State Foresters and the Advertising Council. This review will focus on licensing and especially exclusive licenses and will consider counterpart regulations in Part 272-Use of "Woodsy Owl" Symbol as a possible approach.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/88	
End Review	09/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA66

177. WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 292, Subpart B

Legal Deadline: None

USDA—FS — **Prerule Stage**

Abstract: The rules at 36 CFR 292, Subpart B govern joint administration of the Shasta and Clair Engle-Lewiston units of the National Recreation Area by the Forest Service and the Bureau of Reclamation. The rules also set forth standards for defining compatible private land uses within the National Recreation Area to govern decisions by local zoning authorities, or in the absence of such authorities, decisions on land uses by the Secretary of Agriculture. The review will focus on experience under the rules and whether they still serve the public interest in ensuring that development and management of the NRA meet Congressional intent.

Timetable:

Action	Date	FR Cite
Begin Review	03/00/88	
End Review	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA68

178. 36 CFR 241 WILDLIFE: COOPERATION IN WILDLIFE PROTECTION, WILDLIFE MANAGEMENT AND FEDERAL REFUGE REGULATIONS

Legal Authority: Sec 1, 30 Stat 35; Sec 1, 33 Stat 628; Sec 1, 39 Stat 476; 16 USC 472, 551, 683

CFR Citation: 36 CFR 241

Legal Deadline: None

Abstract: This rule is being reviewed as required by USDA Departmental Regulation 1512-1.

36 CFR 241.1 describes Forest Service cooperation with State, County and Federal officials in the enforcement of all laws and regulations for the protection of wildlife. Forest Service employees may be appointed as deputy game wardens with full power to enforce State laws and regulations.

36 CFR 241.2 describes how Forest Service cooperates with States in developing plans for securing and maintaining desirable populations of wildlife species including entry into cooperative agreements for such purposes.

36 CFR 241.3 regulates hunting of game or non-game animals on Forest Service lands not managed cooperatively with States. Persons desiring to hunt on this land must procure a permit. The Forest Service will cooperate with persons, firms, corporations and county and State officials in the management of animals on national forest lands not having cooperative agreements for wildlife management with States. The Forest Service may sell or exchange or accept donations of animals in (cont)

Timetable:

Action	Date	FR Cite
Begin Review	02/01/88	
End Review	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: promoting conservation of wildlife.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA61

179. ISOLATED CABIN POLICY

Significance: Agency Priority

Legal Authority: 16 USC 551; 16 USC 497

CFR Citation: None

Legal Deadline: None

Abstract: Agency policy is to terminate isolated cabin authorizations on National Forest System land that were constructed without advance authorization and subsequently authorized by special use permit. These cabins are used for part- or full-time occupancy. These cabins differ from recreation residences which were established in tracts specific for this purpose and built with Agency approval and supervision. Isolated cabins originated in several ways, including encroachment and mining claims. They restrict management of the surrounding National Forest land and deprive the public from the use and enjoyment of the land actually occupied and the surrounding area. The action proposed is to seek input from the public as to whether the present policy should be continued, or whether it should be revised so as to examine each isolated occupancy and determine whether, in the interests of fairness and equity, the cabin should be converted to a recreation residence. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	09/00/89	
ANPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: This proposal to revise current policy was originally included in proposed policy on recreation residences (52 FR 206-208). Public comments and continuing discussions with recreation residence permittees on that policy revealed widely divergent views on the Agency's policy, strongly suggesting that isolated cabins be treated separately from recreation residences. Therefore, so as not to delay implementation of final policy on recreation residences, a decision was made to seek additional public comment on the isolated cabin policy before a decision is made to revise the policy.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA85

180. 36 CFR 223 SALE AND DISPOSAL OF NATIONAL FOREST TIMBER, SUBPART A - GENERAL PROVISIONS

Legal Authority: 16 USC 472a; 16 USC 618

CFR Citation: 36 CFR 223, Subpart A

Legal Deadline: None

Abstract: This is a five year review of 36 CFR 223, Subpart A. Subpart A primarily authorizes the conditions for free use of National Forest timber.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/89	
End Review	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

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USDA—FS

Prerule Stage

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA89

181. 36 CFR 223 SALE AND DISPOSAL OF NATIONAL FOREST TIMBER, SUBPART B - TIMBER SALE CONTRACTS

Legal Authority: 16 USC 472a; 16 USC 618

CFR Citation: 36 CFR 223, Subpart B

Legal Deadline: None

Abstract: This is a five year review of 36 CFR 223, Subpart B. Subpart B provides for the sale and disposal of National Forest timber, including contract conditions and provisions, advertisement and bids, award of contracts, and contract administration.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/89	
End Review	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA90

182. SPECIAL AREAS

Legal Authority: Sec. 1, 30 Stat 35, as amended; 62 Stat 100; Sec. 1, 33 Stat 628; 16 USC 551; 16 USC 472

CFR Citation: 36 CFR 294.1

Legal Deadline: None

Abstract: The agency will undertake a review of its existing regulations at 36 CFR 294.1 that provide for the setting aside of areas of National Forests, other than Wilderness or wild areas, which should be managed principally for recreation. The rule establishes size classes for areas that may or may not be designated by the Chief of the Forest Service and the Secretary of Agriculture; describes examples of the types of areas that might be set aside, and provides for clearly marking these areas on the ground. Areas classified under this section are set apart and reserved for public recreation use and such classification constitutes a formal closing of the area to any use or occupancy inconsistent with the classification.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/88	
End Review	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA91

183. ● FEDERAL CAVE RESOURCES PROTECTION

Significance: Agency Priority

Legal Authority: PL 100-691

CFR Citation: 36 CFR 290, "Subpart A (New)"

Legal Deadline: Final, Statutory, August 18, 1989.

Abstract: Regulations will implement the Federal Cave Resources Protection Act of 1988, which requires that the rules define what is a significant cave for purposes of this Act. The Act also requires that the rules address an inventory of cave resources, provide for confidentiality of information concerning the nature and location of caves on Federal land, and permits for collection and removal of cave resources. The regulations are being developed in concert with agencies of the U.S. Department of the Interior as required by the act.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/89	54 FR 9066
ANPRM Comment Period End	04/03/89	54 FR 9066
NPRM	05/00/89	
NPRM Comment Period End	06/00/89	
Final Action	08/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AB02

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Proposed Rule Stage

184. SUSPENSION AND DEBARMENT OF TIMBER PURCHASERS, 36 CFR 223, SUBPART C

Significance: Agency Priority

Legal Authority: PL 94-588, Sec 14; 16 USC 472a

CFR Citation: 36 CFR 223, Subpart C

Legal Deadline: None

Abstract: Currently, suspension and debarment of timber purchasers means the debarred entity is prevented from bidding or being awarded Forest Service timber sale contracts. Recently, suspended and/or debarred purchasers have been serving as subcontractors on Forest Service timber sale contracts, or acting as purchaser's representatives to receive notices and to take action on contracts. This has the effect of negating the suspension/debarment action, which is to protect the Government. The rule will be revised to prevent suspended and/or debarred purchasers from serving as subcontractors or purchaser representatives.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	08/00/89	
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: None

USDA—FS

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA09

185. LAND STATUS AND TITLE RECORDS

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603

CFR Citation: 36 CFR 200.12, (New)

Legal Deadline: None

Abstract: The objective is to establish the Land Status Record as the official record of title for National Forest System lands and to set forth the authorities, policies, and procedures for recording, custody, maintenance, and use of title documents and title status reports. (FS 85-012)

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	06/00/89	
Final Action	09/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA24

186. DOWN PAYMENTS/PERIODIC PAYMENTS/MARKET-RELATED CONTRACT TERM ADJUSTMENTS ON NATIONAL FORESTS TIMBER SALES

Legal Authority: 16 USC 472a; 16 USC 618

CFR Citation: 36 CFR 223.52; 36 CFR 223.50

Legal Deadline: None

Abstract: The Federal Timber Sale Contract Payment Modification Act directs the Forest Service to require purchasers to make down payments and periodic payments on timber sales. The objective of these requirements is to discourage speculative bidding on National Forest System timber sales. A rule published 10/11/85 at 50 FR 41498 requires cash down payments and a midpoint payment. However, to fully comply with the Act, additional rules are required. This rule will identify the requirements for down payments, periodic payments, and market-related contract term additions. This rule will eliminate discounting and the requirement to hold a down payment until the last timber is removed. Based on comments received the agency has decided to issue a new proposed rule. (FS 85-014)

Timetable:

Action	Date	FR Cite
NPRM	01/17/85	50 FR 2591
NPRM	11/06/87	52 FR 43020
NPRM Comment Period End	02/19/88	53 FR 544
NPRM	06/00/89	
NPRM Public Comment Period End	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: As listed in prior agendas, these actions were identified separately. To avoid unnecessary fragmentation of effort and to facilitate systematic implementation, the following entries are being combined into this rulemaking: RIN 0596-AA83 and 0596-AA98.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA33

187. GRAZING AND LIVESTOCK USE AND MANAGEMENT OF WILD, FREE-ROAMING HORSES AND BURROS

Legal Authority: 7 USC 1011; 16 USC 472; 16 USC 551; 16 USC 572; 16 USC 580g; 16 USC 580h; 16 USC 580l; 16 USC 1600 et seq; 31 USC 9701; 43 USC 1901 to 1903; 43 USC 1751; 43 USC 1752

CFR Citation: 36 CFR 222, Subpart A

Legal Deadline: None

Abstract: Minor amendments to 36 CFR 222, Subpart A are under consideration to eliminate unnecessary sections, include currently used policies and procedures, and revise the remaining regulations making them clearer and easier for the public and Agency personnel to use. The proposed regulations (1) clarify the definitions of excess livestock and unauthorized use rate; (2) remove the rule for grazing advisory boards; (3) establish requirements or procedures for minimum permit size, eligibility related to compliance with permit terms, permits for livestock use in vegetation management, valuing range improvements when livestock grazing is eliminated, charging a fee for processing actions initiated or caused by a permittee or applicant, and association meeting frequency of a least 1 every 12 months; (4) authorize, in the Eastern States, crediting permittees for specified range improvements when determining grazing fees and a waiver of base property and livestock ownership requirements on developing ranges; (5) incorporate currently used policies and procedures for escrow waivers, association member grievances, permit cancellation or (cont)

Timetable:

Action	Date	FR Cite
Review of Subpart B - notice of completion of review; no change in rules required	08/14/87	52 FR 30359
NPRM	08/16/88	53 FR 30954
NPRM Comment Period End	10/17/88	53 FR 30954
NPRM - Second	05/00/89	
NPRM Comment Period End	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: suspension for excess use, charges for excess use, requests for information for evaluating grazing applications and action on apparent violations of permit terms.

On August 16, 1988, a proposed rule was published in 53 FR 30954. In response to comments received a second proposed rule is being issued. The dates projected are for proposed and final rules revising 36 CFR 222, Subpart A-grazing and livestock use. No further rulemaking activity is planned on Subpart B. The review of Subpart B pursuant to EO 12291 concluded that there was no need to revise these rules (See Timetable).

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of

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Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA35

188. COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Significance: Regulatory Program

Legal Authority: 43 USC 1764; 31 USC 483a; 30 USC 181 Mineral Leasing Act

CFR Citation: 36 CFR 251.58

Legal Deadline: None

Abstract: The objective of this rulemaking is to establish the policy, procedures, and guidelines for recovering costs incurred by the Forest Service in the administration of special uses on National Forest System Lands. In addition, the rulemaking will propose clarifying amendments to the agency's rules on authorizing special uses resulting from conclusion of review of the existing regulation. This action has been rescheduled because of the necessity to revise the rules of this subpart with regard to First Amendment rights of assembly and speech (See Agenda entry #213). (RIN 0596-AA20) (FS 86-005)

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking will incorporate actions under 0596-AA20.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA36

189. REVISE THE DEFINITION OF "MECHANICAL TRANSPORT" AT 36 CFR 293.6(A)

Legal Authority: 16 USC 113 to 136; 16 USC 528 to 531; 16 USC 577 to 577c; 16 USC 1133

CFR Citation: 36 CFR 293.6(a)

Legal Deadline: None

Abstract: The objective of this action is to clarify the definition of mechanical transport in 36 CFR 293.6(a). Except where specifically provided for, the Wilderness Act (16 USC 1133) prohibits both motorized equipment and mechanical transport. Mechanical transport includes devices such as bicycles, hang gliders, wheeled carts, and other items designed to carry people or supplies and powered by either "non living" or "living" power sources. (FS 86-009)

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	06/00/89	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA39

190. CONSERVATION OF FISH, WILDLIFE, AND THEIR HABITATS CHUGACH NATIONAL FOREST, ALASKA

Legal Authority: PL 96-487, Title V

CFR Citation: 36 CFR 241, Subpart B (New)

Legal Deadline: None

Abstract: December 2, 1980, the Alaska National Interest Lands Conservation Act was signed into law. Section 501 (b) of the law requires that the Secretary of Agriculture promulgate regulations for the conservation of fish and wildlife and their habitats on the Chugach National Forest. The general National Forest System regulations and other existing laws governing management of National Forest System lands are applicable except as supplemented by these regulations or amended by the ANILCA, August 17, 1984. The new Chugach National Forest land management plan was appealed by 17 appellants. The settlement agreement specifies that subject to valid existing rights, the Forest Service will not allow timber harvest, road construction, surface occupancy for mineral leasing prior to publication of final regulations or completion of management area analysis for the Copper River Management Area. There are no alternatives to development of these regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	
Final Action	06/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA41

191. LAND EXCHANGES

Significance: Agency Priority

Legal Authority: 16 USC 485; 16 USC 486; 16 USC 516; 7 USC 1011; 16 USC 555a; 43 USC 1715; 43 USC 1716; 102 Stat 1086

CFR Citation: 36 CFR 254, Subpart A

Legal Deadline: Final, Statutory, August 20, 1989.

Abstract: Changes in existing regulations are needed to implement provisions of the Federal Land Exchange Facilitation Act of August 20, 1988, as well as to correct errors, delete obsolete portions, update to reflect current authorities, clarify ambiguities.

Timetable:

Action	Date	FR Cite
NPRM	03/00/89	
NPRM Comment Period End	04/00/89	
Final Action	07/20/89	
Final Action Effective	08/20/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box

96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA42

192. SMALL BUSINESS TIMBER SALE SET ASIDE PROGRAM

Significance: Regulatory Program

Legal Authority: 15 USC 631

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The policy is designed to ensure that small business purchasers have the opportunity to purchase a fair proportion of National Forest Timber. Based on comments received in response to the 9/25/87 proposal, review of market data and Congressional direction, the agency is withdrawing its 1987 proposal and offering a new proposal.

The proposed policy will be consistent with the current standards and establish procedures for determining what share of timber volume small business will have the opportunity to bid on without competition from large business.

Timetable:

Action	Date	FR Cite
NPRM	11/21/84	49 FR 45889
NPRM Comment Period End	01/22/85	
Final Policy	06/13/85	50 FR 24788
Request Comments on Final Policy	02/03/86	51 FR 4264
Revised Proposed Policy	09/25/87	52 FR 36075
Proposed Policy Comment Period End	11/00/87	
New Proposed Policy	05/00/89	
Proposed Policy Comment Period End	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA43

193. REVISION OF TIMBER SALE CONTRACT FORMS FS-2400-6 AND FS-2400-6T

Significance: Regulatory Program

Legal Authority: 16 USC 535; 16 USC 551; 16 USC 472a; 16 USC 607A; 16 USC 618; 42 USC 4461

CFR Citation: None

Legal Deadline: None

Abstract: The present timber sale contract Form FS-2400-6 was developed in September 1973, and the Form FS-2400-6T was developed in October 1973. Since these dates several Acts, Laws, and policy changes have necessitated deletion of existing provisions and inserting supplemental provisions. The need to revise these documents has been recognized since the late 1970's. The revision will provide for clarification of provisions to reduce the potential for disputes between purchasers and the Forest Service. There will be no changes in the basic contract concepts except those dictated by law, regulation, and related policy. Comments from interested individuals and organizations will be utilized, as appropriate, in the formulation of the provision language.

Timetable:

Action	Date	FR Cite
Notice of availability; request for comment	07/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA45

194. LEASABLE MINERALS OTHER THAN OIL AND GAS

Significance: Regulatory Program

Legal Authority: 16 USC 473 to 475; 16 USC 477 to 482; 16 USC 551; 16 USC 528 to 531; 90 Stat. 2949 as amended

CFR Citation: 36 CFR 228, Subparts F to H (New)

Legal Deadline: None

Abstract: These subparts will set forth the rules by which the Forest Service will process and respond to proposals received from the Department of the Interior (DOI) for the issuance of mineral licenses, prospecting permits and leases, and for the approval of operating plans. The Forest Service has no regulations at this time which have resulted in inconsistent and untimely responses to the DOI. The only other alternative considered is not to promulgate regulations. Public costs are insignificant but public benefits could be substantial in that proposals should be processed more efficiently.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This proposal has been rescheduled because of the need to give priority to issuance of oil and gas leasing regulations (entry no. 184).

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA46

195. APPLICATION PROCEDURES AND FEES FOR HYDROELECTRIC USES ON NATIONAL FOREST SYSTEM LANDS

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 36 CFR 251.54; 36 CFR 251.57

Legal Deadline: None

Abstract: Regulations are needed to reduce confusion regarding the role of the Forest Service in permitting hydroelectric uses on National Forest System lands. The objective of the rules will be to establish procedures, compatible with the procedures of the Federal Energy Regulatory Commission (FERC) for obtaining various approvals and involvement of the Forest Service in a timely manner.

In addition, the rules will establish a fee system for hydroelectric uses as required by Title V, Section 501 of the Federal Land Policy and Management Act of 1976. A Notice of Proposed

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Policy was published 6/8/84 and comments were received. The proposed rule will take those comments into account.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	
NPRM Comment Period End	06/15/89	
Final Action	09/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $2,033,000; Base Year for Dollar Estimates: 1986

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA47

196. LOCATABLE MINERALS

Significance: Agency Priority

Legal Authority: 16 USC 478; 16 USC 551; 43 USC 1701 et seq; 94 Stat 2400

CFR Citation: 36 CFR 228, Subpart A

Legal Deadline: None

Abstract: To facilitate the orderly development of locatable minerals on the National Forest System public domain in an environmentally sound manner. Since the regulations were promulgated in 1974, certain legal requirements have changed due to the provisions of the Wilderness Act and recent court decisions; some sections of the regulations no longer apply and revisions and updating are necessary. Major changes proposed will specifically address the requirements for wilderness operations and, secondly, will clarify the mechanism for administering locatable mineral activities not conducted on mining claims but which are nevertheless authorized by the 1872 mining law.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA49

197. GRAZING FEES; EASTERN AND SOUTHERN REGIONS

Significance: Regulatory Program

Legal Authority: 16 USC 551; 31 USC 483a; 43 USC 1901

CFR Citation: 36 CFR 222.53, 222.54

Legal Deadline: None

Abstract: Different grazing fee systems are used in the Eastern and Southern Regions of the Forest Service. The current system in the Eastern Region is market driven. The system in the Southern Region is based on a cost-of-livestock-production/ability-to-pay methodology which currently results in below market fees.

This rulemaking seeks to improve uniformity of grazing fee systems on National Forest System Lands in the East, update fees to current market values, and provide incentives to achieve needed range improvements.

Timetable:

Action	Date	FR Cite
NPRM	02/10/89	
NPRM Comment Period End	04/11/89	
Final Action	06/00/89	
Final Action Effective	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA55

198. LAW ENFORCEMENT SUPPORT ACTIVITIES

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(e); 16 USC 1133(c) to (d)(1); 16 USC 559(a)

CFR Citation: 36 CFR 262

Legal Deadline: None

Abstract: These rules describe awards the Forest Service is authorized to make for information leading to arrest and convictions of persons who start fires or otherwise destroy property on National Forests. Subpart B sets forth rules governing impoundment or removal of unauthorized personal property from National Forest System lands.

Review has focused on the adequacy of the rules for administration of the National Forests and has revealed the need for minor revisions. The agency is now developing a proposed rule in response to the review.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	08/01/88	
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA65

199. INCREASE IN MINIMUM RATES CHARGED FOR TIMBER

Legal Authority: 16 USC 472a

CFR Citation: None

Legal Deadline: None

Abstract: Minimum rates charged for timber have not been changed since 1979. The increased costs of preparing timber sales and the general increases in costs of logging and the price of timber have resulted in minimum rates that are disproportionately low. The action being considered is to increase minimum rates to account for inflationary increases since the rates were last changed. The agency is currently conducting statistical analysis of various rate increases and their impacts as a basis for developing this proposal.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	08/00/89	

Action	Date	FR Cite
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA73

200. 36 CFR 261 PROHIBITIONS

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(e); 16 USC 1133(c) to (d)(1); 16 USC 559(a)

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: These rules declare the range of unacceptable public behavior when visiting or using National Forest System lands. Among topics covered are prohibitions on setting campfires in certain areas, unlawful cutting of trees, and other unlawful uses of resources and property of the National Forest System. Violations of these prohibitions carry legal penalties.

Review has examined the adequacy of the rules for administration of the National Forest System and whether changes in conditions, laws, or other factors require revision. The agency has completed its review and is now preparing a proposed rule to revise the prohibitions.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	08/01/88	
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA75

201. REVISE SMALL TRACTS ACT REGULATIONS

Significance: Agency Priority

Legal Authority: 16 USC 521c-i

CFR Citation: 36 CFR 254, "Subpart C"

Legal Deadline: None

Abstract: Implementation of the agency's Small Tracts regulations has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	
Final Action	09/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA79

202. REVISE RULES GOVERNING SPECIAL USES OF NATIONAL FOREST SYSTEM LANDS AND RESOURCES AT 36 CFR 251, SUBPART B TO REMOVE AMBIGUITIES REGARDING FIRST AMENDMENT RIGHTS

Significance: Agency Priority

Legal Authority: 16 USC 472, 551, 1134, 3210; 30 USC 185; 43 USC 1740, 1761 to 1771

CFR Citation: 36 CFR 251.50; 36 CFR 251.51; 36 CFR 251.53; 36 CFR 251.54

Legal Deadline: None

Abstract: A Federal District Court has ruled that existing regulations discriminate against groups who wish to gather on National Forests to exercise their first amendment rights of assembly and free speech. The proposed rule will seek to remove ambiguities regarding these first amendment rights.

The agency is reviewing the rules of other Federal land managing agencies for possible approaches and is considering establishing separate rules for authorizing short-term, noncommercial uses of National Forests.

There will be no additional costs as a result of the proposed rule change. The benefit will be that the Forest Service will be able to adequately regulate large group use on the National Forests, which in turn will protect the public health and safety, and protect National Forest resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/88	53 FR 16548
Interim Rule Effective	05/10/88	53 FR 16548
NPRM	05/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA80

203. HELL'S CANYON NATIONAL RECREATION AREA - PRIVATE LANDS

Legal Authority: PL 94-199, sec 10a

CFR Citation: 36 CFR 292, Subpart E (New)

Legal Deadline: None

Abstract: The USDA - Forest Service proposes to issue regulations

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concerning the use of private lands in the Hell's Canyon National Recreation Area (HCNRA) on the Oregon - Idaho border, as required in PL 94-199. The intended effect of this action is to establish standards for use and development of privately owned lands within the HCNRA.

The standards are intended to achieve the following management objectives for the Recreation Area: (1) The conservation and continuance of forest land for forest uses and farm land for farm uses; (2) The maintenance and protection of the free flowing nature of rivers within the HCNRA; (3) Conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit; (4) Preservation, especially in the area generally known as Hell's Canyon, of all features and peculiarities believed to be biologically unique; (5) Protection and maintenance of fish and wildlife habitat; (6) Protection of archaeological and paleontological sites; (7) Preservation of historic sites associated with and typifying the economic and social history of the region (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: ABSTRACT CONT: and the American West; and (8) Continuation of traditional uses.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA88

204. PROPOSED SOLID WASTE DISPOSAL POLICY

Significance: Agency Priority

Legal Authority: 16 USC 497; 43 USC 931c

CFR Citation: None

Legal Deadline: None

Abstract: Solid waste disposal sites (sanitary landfills) on National Forest System lands present the potential for resource degradation, hazardous waste dumping, and future liability. A proposal for solid waste disposal is being developed to reflect changes which have occurred as a result of the Resource and Conservation Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and an increased knowledge of solid waste disposal. The proposal would prohibit the authorization of new sites and provide for the phase out of existing sites. During the phase out period, authorizations would be amended to provide resource protection and limit the Government's potential liability. In situations where National Forest System lands provide the best location for solid waste disposal, land exchange and/or purchase will be considered. Adoption of this policy would reduce administrative costs associated with administration of solid waste disposal sites, limit future liability, and protect the resources on National Forest System lands. The proposal would impact 110 sites currently authorized.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	09/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA92

205. IRREVOCABLE LETTER OF CREDIT

Significance: Agency Priority

Legal Authority: 16 USC 472a; 16 USC 528 to 531; 16 USC 1600 et seq; 12 USC 1 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In a 1987 court decision, a letter of credit issued in lieu of surety bond was found to be unenforceable because the person who signed the letter of credit did not have authority to do so and because the bank had violated State law in regard to limits of liability. Others were invalid because they exceeded the expiration date. To remedy this problem, the Forest Service is proposing to issue Handbook directions that will require the bank president to certify as to the authority of the person signing the letter of credit and the conformance with State and Federal statutes. An automatic extension of the expiration date would also be required.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	09/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA93

206. ● RESERVED AND OUTSTANDING MINERAL RIGHTS

Significance: Regulatory Program

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 228, Subpart B

Legal Deadline: None

Abstract: Substantial acreage of National Forest System land is underlain by privately owned mineral deposits. During extraction of the mineral resources, the mineral owner is required to take measures to protect Federal surface resource values. The Forest Service must analyze the effects of the proposed mineral extraction and determine what mitigation measures should be specified. Currently, there are no regulations describing the process to be followed by the Forest Service or the private mineral owner.

The regulatory approach has not yet been determined. A working group will be formed in February 1989 to determine the scope, form, and details to be included in a proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Forest Service, USDA, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AA99

207. ● DOUGLAS-FIR LUMBER PRICE INDEX REVIEW

Legal Authority: 16 USC 528 to 531; 16 USC 1600 to 1614

CFR Citation: 36 CFR 223.60

Legal Deadline: None

Abstract: The Agency will review the Douglas-fir lumber price indexes used to appraise public timber offered for sale and to adjust prices billed for timber already under contract in Northwestern California and the Pacific Northwest Coastal Regions.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	
NPRM Comment Period End	06/01/89	
Final Action	09/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB00

208. ● DISPOSAL OF QUARTZ MINERAL ON THE OUACHITA NATIONAL FOREST

Legal Authority: PL 100-446, Sec 323; 30 USC 601, 603

CFR Citation: 36 CFR 228 "Subpart C to D"

Legal Deadline: None

Abstract: This regulation is a direct response to the direction in Section 323 of Public Law 100-446 which classified quartz mineral on the Ouachita National Forest in Arkansas as no longer subject to location under the General Mining Law of 1872. These materials are now to be managed in the same manner as common varieties of mineral materials under regulations prescribed by the Secretary of Agriculture.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB01

209. ● PRE-AWARD INFORMATION REQUIREMENTS

Legal Authority: 16 USC 472(a); 16 USC 618

CFR Citation: 36 CFR 223.101

Legal Deadline: None

Abstract: Recently, as the number of timber sale defaults have increased, the number of debarred purchasers have increased, and the Government has initiated a policy of only doing business with responsible parties, it is becoming commonplace for bidders to form new affiliates in order to continue to be awarded Forest Service timber sale contracts. Unless the bidder voluntarily identifies affiliates, the Agency must make the determination through a time consuming process prior to award, prior to determining if double downpayment rules apply, and prior to taking debarment action. This rule would require bidders to disclose, prior to award of sales, all affiliates, and to certify that none are suspended or debarred. Filing false claims would be cause for contract cancellation, and debarment action.

Timetable:

Action	Date	FR Cite
NPRM	07/01/89	
NPRM Comment Period End	08/01/89	
Final Action	11/01/89	
Final Action Effective	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, WAshington, DC 20090-6090, 202 235-1488

RIN: 0596–AB03

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Final Rule Stage

210. ACCESS TO NON-FEDERAL LANDS

Legal Authority: PL 96-487, Sec 1323(a); 16 USC 3210(a)

CFR Citation: 36 CFR 251.53; 36 CFR 251.80

Legal Deadline: None

Abstract: The proposed regulation will tie the granting of special-use authorizations for ingress and egress under the Alaska National Interest Lands and Conservation Act (ANILCA) to the existing authorities for granting authorizations to use or occupy National Forest lands and remove the discretionary aspects of those laws and regulations when applied to parties qualifying for access under ANILCA. (FS 85-001)

Timetable:

Action	Date	FR Cite
NPRM	09/28/88	53 FR 37795
NPRM Comment Period End	11/28/88	
Extension of Comment Period	11/30/88	53 FR 48278
Comment Period End	01/30/89	

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Action	Date	FR Cite
Final Action	06/15/89	
Final Action Effective	08/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA31

211. MODIFY THE GENERAL PROHIBITION AGAINST USE OF VEHICLES IN EXCESS OF 40 INCHES IN WIDTH ON TRAILS

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 261.12(e)

Legal Deadline: None

Abstract: The objective of this action is to permit Forest officers more discretion for controlling off-road vehicle use. Three factors have created the need to modify this regulation: (1) the general prohibition at 36 CFR 261.12(e) controls trail use by width of vehicle. Originally developed to control four-wheel-drive vehicles on trails, this method uses a fairly arbitrary device (width) to control use; (2) off-road vehicle plans (36 CFR 295) use vehicle types to prescribe the vehicles that are permitted to use forest trails; (3) some recent models of trail vehicles (all terrain vehicles and snowmobiles) exceed the forty inch rule by one to five inches. The combination of the two methods of control with the larger model sizes has created confusion among users about ORV plan direction and created law enforcement difficulties. The proposed action would clarify the regulations and still maintain the tools necessary to control off-road vehicle use. (FS 86-007)

Timetable:

Action	Date	FR Cite
NPRM	09/14/88	53 FR 35526
NPRM Comment Period End	11/14/88	
Final Action	05/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA38

212. DEFINITION OF COMMON VARIETY MINERAL MATERIALS

Legal Authority: 30 USC 601 to 604; 16 USC 477; 16 USC 520; 7 USC 1010; 30 USC 192c; 16 USC 508b; 66 Stat. 285; 16 USC 521a; 75 Stat. 205; 23 USC 101 et seq; 16 USC 539a, Sec 502

CFR Citation: 36 CFR 228, Subpart C

Legal Deadline: None

Abstract: Whether a mineral deposit is a "common variety" determines whether or not it can be disposed of or sold by the Government under the 1947 Mineral Materials Act. Judicial and administrative interpretations defining common variety characterization determinations can only be made in court. Rulings in common variety cases are generally unpredictable, and the costs to both the Government and miner are high.

After a review of the legislative history of the 1955 Surface Resources Act, which defined common varieties, we believe that Congress did not intend for certain minerals to be locatable under the Mining Laws; however, a failure to explicitly define the "common variety" term has led to misinterpretation and actions contrary to the original intent of the law. It is proposed that 36 CFR 228 Subpart C be amended to clarify this confusing classification situation. We believe PL 167 expressly provides for this action as it allows the Secretary of Agriculture to dispose of mineral materials "under such rules and regulations as he may prescribe."

Timetable:

Action	Date	FR Cite
NPRM	04/28/88	53 FR 15236
NPRM Comment Period End	06/27/88	53 FR 15236
Final Action	04/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA44

213. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Significance: Agency Priority

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254, Subpart D (New)

Legal Deadline: None

Abstract: Objectives are to set forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act of 2/8/87, as amended by Section 31, Act of 6/25/10 authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Recent litigation and a decision by the Interior Board of Land Appeals indicate the need for the Forest Service to set forth its own regulations when the Forest Service determines that lands are not chiefly valuable for agricultural and grazing purposes. The only alternative is not to issue regulations. This is unacceptable since it leaves the Agency vulnerable to future IBLA appeals cases as well as future litigation.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	52 FR 23473
Final Action	05/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA52

214. PROHIBITIONS; FOSSIL COLLECTING

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: In response to comments from the scientific and academic communities and in keeping with the recommendations of the National Academy of Sciences "Report on Guidelines for Paleontological Collecting," the Forest Service is clarifying its regulations concerning fossil collecting on National Forest System lands. The language on "paleontological resources" is being moved to a separate paragraph and the requirement for permits is being limited specifically to quarrying for fossils and for commercial activities. The no-action alternative would be to leave the regulation of paleontological resources the same as for archeological resources, with permits needed for all activities. Since there is no evidence of widespread problems, the permit process imposes unnecessary burdens on the casual collector and creates added paperwork for the Forest officer to manage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/26/86	51 FR 30355
Final Action	04/00/89	
Final Action Effective	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule was delayed in order to receive and consider a final report from the National Academy of Sciences on "Guidelines for Paleontological Collecting."

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA56

215. SKI AREA TERM PERMITS

Significance: Agency Priority

Legal Authority: PL 99-522, Sec 3(c)

CFR Citation: 36 CFR 251.51; 36 CFR 251.53; 36 CFR 251.56; 36 CFR 251.57

Legal Deadline: Final, Statutory, October 22, 1987.
A one-year deadline is specified in the law.

Abstract: PL 99-522 provides new authority and direction for granting permits authorizing ski development and operation. It requires promulgation of rules within one year of enactment. Current direction for issuing special use permits including ski areas is contained in 36 CFR 251.50 through 251.64. While most of the current direction will continue to apply, revisions will be necessary to respond to the special provisions of the law relating to permit duration and acreage to be authorized.

The law has the effect of eliminating the current need and practice to issue two permits to authorize a single resort to use more than 80 acres. Further, it authorizes the issuance of 40-year permits instead of 30 which has been the maximum in the past.

Timetable:

Action	Date	FR Cite
NPRM	10/13/88	53 FR 40739
NPRM Comment Period End	12/19/88	
Final Action	05/01/89	
Final Action Effective	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA57

216. OIL AND GAS RESOURCES

Significance: Regulatory Program

Legal Authority: 16 USC 478; 16 USC 551; 30 USC 226, 352

CFR Citation: 36 CFR 228, Subpart E

Legal Deadline: None

Abstract: These proposed rules set forth the procedures by which the Forest Service would carry out its statutory responsibilities for management of oil and gas leasing and attendant surface disturbing activities conducted on leaseholds on National Forest System lands. In the past, The Forest Service has relied on Bureau of Land Management procedures and regulations. However, the Federal courts have ruled that the Forest Service must promulgate its own procedures and regulations. Additionally, the Federal Onshore Oil and Gas Leasing Reform Act of 1987 expanded the authority of the Secretary of Agriculture in the management of oil and gas resources on National Forest System lands and directed the Secretary to issue rules on bonding and reclamation standards. The intent of these rules is to satisfy both judicial direction and the new statute; to coordinate Forest Service oil and gas resource management procedures with those of the Bureau of Land Management, and to promote cooperation among the Agency, the oil and gas industry, and other publics interested in the management of oil and gas resources of the (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3326
NPRM Comment Period End	03/24/89	
Final Action	07/00/89	
Final Action Effective	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL ABSTRACT CONT: National Forest System lands.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA82

217. SURETY BOND FORM REVISION

Significance: Agency Priority

Legal Authority: 31 USC 9301 to 9309; 31 USC 223 to 225

CFR Citation: None

Legal Deadline: None

Abstract: Following a period of high-priced timber sales bid prior to 1982, the Forest Service experienced a number of contract defaults on these sales. Subsequently, the Forest Service has had difficulty collecting from some sureties on the bonds guaranteeing performance on these sales. As part of a financial security initiative affecting future sales, the Forest Service is proposing to revise the payment and

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performance bonds to clarify surety's obligation in regard to what is being guaranteed, when payment is due in case of default, what additional charges will be assessed if payment is not made when due and when collection action may be suspended. Other alternatives include eliminating surety bonds as a form of security, reducing surety guarantee to mid-point and periodic payment and retention of current bond forms. Upon adoption the final revised bond forms will be issued for use by Forest Service Contracting and Fiscal Officers for future timber sale contracts.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1742
NPRM Comment Period End	03/20/89	
Final Action	06/00/89	
Final Action Effective	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Proposed Bond Form changes have been reviewed by surety industry in 1987. Another review is scheduled in August 1988. The Agency anticipates publishing a notice proposing bond form changes in January 1989.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA94

218. DEFERRAL OF PAYMENTS ON HIGH-PRICED TIMBER SALES

Significance: Agency Priority

Legal Authority: 16 USC 476

CFR Citation: None

Legal Deadline: None

Abstract: This policy will provide guidance to Contracting Officers in the exercise of their existing authorities to administer Forest Service timber sale contracts. Current law provides that Contracting Officers may make modifications on unexecuted portions of a contract that will not be injurious to the United States, and in the public interest. Under this policy, the terms of payment of high-priced sales bid before January 1, 1982, could be modified to allow the purchaser the opportunity to mix high-price operations with lower priced ones. This action is needed to avoid defaults on these high-priced sales and thereby to protect the flow of receipts to the Treasury and States and counties. The deferred payment would be fully secured and the purchaser would have to pay interest. This policy has been developed in concert with the Bureau of Land Management.

Timetable:

Action	Date	FR Cite
Interim Policy	08/22/88	53 FR 31962
Interim Policy Effective	09/01/88	
Interim Policy Comment Period End	10/21/88	
Final Action	04/00/89	
Final Action Effective	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA97

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Completed Actions

219. APPEAL OF DECISIONS OF FOREST OFFICERS

Significance: Agency Priority

CFR Citation: 36 CFR 211.18

Completed:

Reason	Date	FR Cite
Final Action	01/23/89	54 FR 3342
Final Action Effective	02/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 202 235-1488

RIN: 0596-AA51

220. OFFICIAL FOREST SERVICE INSIGNIA

CFR Citation: 36 CFR 264; 36 CFR 264.1; 36 CFR 264.2; 36 CFR 264.3; 36 CFR 264.4; 36 CFR 264.5

Completed:

Reason	Date	FR Cite
Withdrawn	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA59

221. NONCOMPETITIVE DISPOSAL OF MINERAL MATERIALS

CFR Citation: 36 CFR 228, Subpart C

Completed:

Reason	Date	FR Cite
Final Action	10/28/88	53 FR 43690
Final Action Effective	10/28/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA60

222. SALE OF TIMBER WHERE TOTAL PUBLIC BENEFITS MAY NOT MEET OR MAY EXCEED TOTAL COSTS

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA74

USDA—FS — Completed Actions

223. USE OF "WOODSY OWL" SYMBOL

CFR Citation: 36 CFR 272; 36 CFR 272.1; 36 CFR 272.2; 36 CFR 272.3; 36 CFR 272.4; 36 CFR 272.5; 36 CFR 272.6

Completed:

Reason	Date	FR Cite
Withdrawn	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA76

224. MODIFICATION OF TIMBER SALE DOWNPAYMENT REQUIREMENTS

CFR Citation: 36 CFR 223

Completed:

Reason	Date	FR Cite
Merged with RIN 0596-AA33	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA83

225. TIMBER SALE FINANCIAL SECURITY

Significance: Regulatory Program

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - Until completion of RIN 0596-AA33	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA87

226. SURETY REVOCATION PROCEDURES

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0596-AA94	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA95

227. SETTLEMENT OF DEFAULTED TIMBER SALE CONTRACTS

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - Not a rulemaking proceeding	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA96

228. MARKET-RELATED CONTRACT TERM ADDITIONS

Significance: Agency Priority

CFR Citation: 36 CFR 223, Subpart B

Completed:

Reason	Date	FR Cite
Withdrawn Merged with RIN 0596-AA33	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA98

DEPARTMENT OF AGRICULTURE (USDA)
Packers and Stockyards Administration (P&SA)

Final Rule Stage

229. ANNUAL REPORTS

Significance: Agency Priority

Legal Authority: PL 100-173; 7 USC 228

CFR Citation: 9 CFR 201.97

Legal Deadline: None

Abstract: The law provides for a live poultry dealer trust for the benefit of all unpaid cash sellers or poultry growers and requires prompt payment for the sale or delivery of poultry. Administrative enforcement authority is provided for the poultry trust and prompt payment provisions. Amendment to present regulations will be required to implement the new provisions of the law.

Timetable:

Action	Date	FR Cite
NPRM	07/11/88	53 FR 26082
NPRM Comment Period End	09/09/88	
NPRM Comment Period Extended	11/08/88	53 FR 32624
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Calvin W. Watkins, Deputy Administrator, Department of Agriculture, Packers and Stockyards Administration, Room 3039, South Building, Washington, DC 20250-2800, 202 447-7063

RIN: 0590-AA04

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DEPARTMENT OF AGRICULTURE (USDA)
Packers and Stockyards Administration (P&SA)

Completed Actions

230. SCALES; ACCURATE WEIGHTS, REPAIRS, ADJUSTMENTS OR REPLACEMENTS AFTER INSPECTION

Significance: Agency Priority

CFR Citation: 9 CFR 201.71(a)

Completed:

Reason	Date	FR Cite
Final Action	02/01/89	54 FR 5073
Final Action Effective	03/03/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Calvin W. Watkins 202 447-7063

RIN: 0590–AA05

DEPARTMENT OF AGRICULTURE (USDA)
Rural Electrification Administration (REA)

Prerule Stage

231. ● ACCOUNTING REQUIREMENTS FOR REA ELECTRIC BORROWERS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1718

Legal Deadline: None

Abstract: To codify the policy and procedures currently set forth in REA Bulletin 181-1, Uniform System of Accounts Prescribed for Electric Borrowers of the Rural Electrification Administration and REA Bulletin 181-3, Accounting Interpretation for REA Electric Borrowers. In addition to codifying, revisions are being proposed to the existing policy that will update REA's accounting guidelines.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Room 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA23

232. ● PROCEDURES FOR SECURING RURAL ELECTRIFICATION ADMINISTRATION APPROVAL OF CONSOLIDATING/MERGER ELECTRIC BORROWERS

Significance: Agency Priority

Legal Authority: PL 100-203

CFR Citation: 7 CFR 1710.95 to 1710.99

Legal Deadline: None

Abstract: The proposed rule will codify REA policy currently found in REA Bulletin 115-2, Merger and Consolidation of Electric Distribution Borrowers.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA25

233. ● FINANCIAL FORECAST - ELECTRIC DISTRIBUTION BORROWERS

Significance: Agency Priority

Legal Authority: PL 100-203

CFR Citation: 7 CFR 1716

Legal Deadline: None

Abstract: The proposed rule will codify REA policy relating to financial forecasting currently found in REA Bulletin 105-5, Financial Forecast - Electric Distribution Systems.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA26

DEPARTMENT OF AGRICULTURE (USDA)
Rural Electrification Administration (REA)

Proposed Rule Stage

234. ● LOAN ACCOUNT COMPUTATIONS, PROCEDURES AND POLICIES

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1785.64 to 1785.65

Legal Deadline: None

Abstract: These additional sections to 7 CFR Part 1785 allow RTB borrowers to earn interest equal to the lesser of: (1) the rate the RTB would be required to pay the United States Treasury on new borrowings, or (2) the RTB's composite rate on borrowings from the United States Treasury.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

USDA—REA

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA19

235. ● LIST OF STANDARD FORMS OF TELECOMMUNICATIONS CONTRACTS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1762.1

Legal Deadline: None

Abstract: The purpose of revising 7 CFR Part 1762 is to announce a general revision of REA Contract Form 525, Central Office Equipment Contract (Including Installation).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA20

236. ● TELEPHONE SYSTEM CONSTRUCTION CONTRACT

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1762

Legal Deadline: None

Abstract: The purpose of revising 7 CFR Part 1762 is to announce a general revision of REA Contract Form 515, Telephone System Construction Contract, Labor and Materials.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA21

237. ● PREPAYMENT OF REA GUARANTEED FEDERAL FINANCING BANK LOANS

Significance: Agency Priority

Legal Authority: 7 USC 901 to 950b; PL 99-509; PL 100-202; PL 100-460

CFR Citation: 7 CFR 1786

Legal Deadline: None

Abstract: The revised part will establish policies and procedures to implement the provisions of the RE Act, PL 100-202, and PL 100-460.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA29

238. ● LOAN SECURITY DOCUMENTS - TELEPHONE PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1758

Legal Deadline: None

Abstract: This new part provides information on the loan security documents borrowers are required to execute and includes as appendixes REA's standard forms of loan contract, note, and mortgage.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA30

239. ● TELEPHONE MATERIALS, EQUIPMENT, AND CONSTRUCTION - TELEPHONE PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1765

Legal Deadline: None

Abstract: The primary objectives of the addition of Subparts E, G, and H to Part 1765 are to update, clarify, and simplify REA policies and procedures; to lessen the burden on borrowers involved in planning and construction of telecommunications facilities; and to decrease the processing time of related documents by REA.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA31

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DEPARTMENT OF AGRICULTURE (USDA)
Rural Electrification Administration (REA)
Final Rule Stage

240. ● CUSHION OF CREDIT ACCOUNT COMPUTATIONS AND PROCEDURES

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; PL 100-203

CFR Citation: 7 CFR 1785.66 to 1785.70

Legal Deadline: None

Abstract: This part provides that borrowers shall receive 5 percent per annum on all REA cushion of credit payments received or credited to their account by REA, after October 1, 1987.

Timetable:

Action	Date	FR Cite
NPRM	12/02/88	53 FR 48651
NPRM Comment Period End	01/03/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA22

241. ● GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS - TELEPHONE PROGRAM PRELOAN PROCEDURES AND REQUIREMENTS - TELEPHONE PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1745; 7 CFR 1749

Legal Deadline: None

Abstract: These new parts contain the provisions and requirements of the Rural Electrification Act, as amended, and the administrative policies, requirements, and procedures of the REA telephone program for first time applicants and existing borrowers seeking financial assistance from REA to furnish and improve telephone service in rural areas.

Timetable:

Action	Date	FR Cite
NPRM	08/24/88	53 FR 32235
NPRM Comment Period End	09/23/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA28

242. ● ADVANCE AND DISBURSEMENT OF FUNDS; TELEPHONE

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1754

Legal Deadline: None

Abstract: This new part sets forth the provisions and requirements of the RE Act and the administrative policies, requirements, and procedures for the advance and disbursement of REA telephone loan and other funds to and from the REA Construction Fund.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31877
NPRM Comment Period End	09/21/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA32

DEPARTMENT OF AGRICULTURE (USDA)
Rural Electrification Administration (REA)
Completed Actions

243. ● ELECTRIC LOAN POLICIES & APPLICATION PROCEDURES

Significance: Agency Priority

Legal Authority: 7 USC 901 to 950b

CFR Citation: 7 CFR 1710

Legal Deadline: None

Abstract: The new part develops electric loan policies and application procedures. The sections establish a simplified alternate loan application procedure for distribution borrowers meeting specified financial, operational and managerial criteria.

Timetable:

Action	Date	FR Cite
NPRM	04/28/88	53 FR 15228
NPRM Comment Period End	06/27/88	
Final Action	10/18/88	53 FR 40718
Final Action Effective	10/18/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA24

244. ● RURAL DEVELOPMENT

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; PL 100-203

CFR Citation: 7 CFR 1709

Legal Deadline: None

Abstract: The program provides zero interest loans and grants to RE Act borrowers for the purpose of promoting rural economic development and job creation projects.

USDA—REA
Completed Actions

Timetable:

Action	Date	FR Cite
ANPRM	04/07/88	53 FR 11511
ANPRM Comment Period End	05/09/88	
NPRM	10/27/88	53 FR 43442
NPRM Comment Period End	12/28/88	53 FR 44594
Final Action	02/15/89	54 FR 6867
Final Action Effective	02/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA27

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS)
Proposed Rule Stage

245. SNOW SURVEYS AND WATER SUPPLY FORECASTS

Legal Authority: 26 Stat. 653, Sec 8; Reorg. No. IV of 1940

CFR Citation: 7 CFR 612.1 to 612.7

Legal Deadline: None

Abstract: Sets forth policy and procedures for the administration of a cooperative snow survey and water supply forecast program, including the steps involved in carrying out the program. Sets out data collected and forecasts made, and eligible users of the data. (SCS 83-005)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Wayne Maresch, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578–AA01

246. RELOCATION ASSISTANCE

Legal Authority: 42 USC 4601 et seq; PL 91-646

CFR Citation: 7 CFR 652

Legal Deadline: None

Abstract: Prescribes the policies and procedures for the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 USC 4601 et seq.) pertaining to the treatment of persons displaced from their homes, businesses, or farms because of Federal financially assisted projects. (SCS 85-001)

Timetable:

Action	Date	FR Cite
End Review	01/31/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Wayne Maresch, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578–AA12

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS)
Final Rule Stage

247. SOIL SURVEYS

Legal Authority: Part of Agriculture Appropriation Act of 1898; PL 74-46 The Soil Conservation and Domestic Allotment Act; PL 89-560 Soil Surveys for Resource Planning and Development; 42 USC 3271; 42 USC 3274

CFR Citation: 7 CFR 611

Legal Deadline: None

Abstract: Prescribes the policy on soil survey operations including cooperative relationships with State agencies, standards, guidelines and plans on survey operations, distribution of soil survey information, and cartographic operations services furnished. (SCS 83-006)

Timetable:

Action	Date	FR Cite
End Review	12/31/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Wayne Maresch, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578–AA00

248. FARMLAND PROTECTION POLICY ACT

Significance: Agency Priority

Legal Authority: 7 USC 4201

CFR Citation: 7 CFR 658

Legal Deadline: None

Abstract: The United States Department of Agriculture amends its rule for implementing the Farmland Protection Policy Act to require progress reports, enable governors to bring action to enforce the requirements of the Act, include a section omitted by clerical error, revise how Federal agencies apply the Act, and revise the definition of farmland. These amendments are necessary in order to comply with amendments to the Farmland Protection Policy Act (FPPA)

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USDA—SCS — **Final Rule Stage**

made by Title XII of the Food Security Act of 1985, PL 99-198, December 23, 1985, and to clarify several provisions of the existing rule. This rule will revise Part 658 of Title 7 of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	04/15/89	
Final Action Effective	04/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Sectors Affected: None

Agency Contact: Wayne F. Maresch, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, PO Box 2890, Washington, DC 20013, 202 447-4811

RIN: 0578–AA14

DEPARTMENT OF AGRICULTURE (USDA)
Office of Operations (OO) — **Proposed Rule Stage**

249. ● AGRICULTURE ACQUISITION REGULATION

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 401 to 453, (Revision)

Legal Deadline: None

Abstract: This rule makes miscellaneous changes to the Department of Agriculture Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Don F. Manns, Chief, Procurement Division, Department of Agriculture, Office of Operations, Procurement Division, 1550-South, Washington, DC 20250, 202 447-3037

RIN: 0599–AA00

[FR Doc. 89-6176 Filed 04-21-89; 8:45 am]
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federal register

Monday
April 24, 1989

Part IV

Department of Commerce

Semiannual Regulatory Agenda

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DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, III, IV, VIII, IX

19 CFR Ch. III

37 CFR Chs. I, IV

48 CFR Ch. 13

50 CFR Chs. II, VI

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: April 1989 regulatory agenda.

SUMMARY: In compliance with Executive Order (E.O.) 12291, entitled "Federal Regulation," and the Regulatory Flexibility Act (Pub. L. 96-354), the Department of Commerce in April and October of each year publishes in the **Federal Register** an agenda of the rulemaking actions covered by section 1 of E.O. 12291 that the Department plans to conduct or review over the next twelve months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, and rulemaking actions completed since the October 1988 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's April 1989 regulatory agenda includes regulatory activities that are expected to be conducted during the period April 1, 1989 through March 31, 1990.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 377-8843.

SUPPLEMENTARY INFORMATION: On February 17, 1981, President Reagan signed E.O. 12291. The E.O. requires all executive agencies to publish semiannually an agenda of those regulations that are under consideration pursuant to this Order. Office of Management and Budget (OMB) Bulletin No. 89-02 issued November 4, 1988 establishes guidelines and procedures for the preparation and publication of the April 1989 Unified Agenda of Federal Regulations for all Federal departments and agencies. E.O. 12291 and the OMB Bulletin require that each agenda report the following information on non-exempt regulatory activities being conducted or planned to be conducted by the agency during the twelve-month period succeeding publication: The title of the regulation; the name, title, address and phone number of an agency person who is knowledgeable about the regulation; whether the action is expected to have a significant economic impact on a substantial number of small entities and whether it will affect levels of government; the section(s) of the Code of Federal Regulations which will affect or be affected by the action; the section of the United States Code, Public Law or Executive Order that authorizes the action; an indication of whether or not the entry is a significant regulatory action included in the Administration's Regulatory Program and if the agency considers it a priority action; an abstract describing the problem the regulation addresses, alternatives to the regulation being considered, and potential costs and benefits of the action; legal deadline, if any; and a timetable of dates and, if available, **Federal Register** citations for past stages of the action.

The Regulatory Flexibility Act requires agencies to prepare a regulatory flexibility analysis where there is a positive finding that a rule will have a significant economic impact on a substantial number of small entities. E.O. 12291 requires agencies to prepare a regulatory impact analysis for any regulation considered to be a "major rule" as defined in the Order.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units such as the Economic Development Administration, the Bureau of Export Administration, the International Trade Administration, the National Institute of Standards and Technology (NIST), the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office issue the greatest share of the Department's regulations.

Because amendments to the Export Administration Regulations are not subject to the Regulatory Flexibility Act by virtue of 50 U.S.C. app. 2412(a), they were not required to be described in the agenda prior to the issuance of E.O. 12661 on December 27, 1988. Because of time limitations and the rulemaking requirements of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100-418, it was not feasible to include rules amending the Export Administration Regulations within this agenda. They will appear in the next agenda to be published in October 1989.

A large number of regulatory actions reported in the agenda are proposed or final Federal Information Processing Standards (FIPS), issued by NIST under Pub. L. 100-235. FIPS consist of standards and guidelines to improve Federal Government use and management of computers and information technology. The standards, while often of great use to industry and the public, apply only to the Federal Government. In developing the standards and guidelines, and in providing technical guidance and coordination to Federal agencies, NIST works closely with private industry standard-setting organizations.

Another large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance

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of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. These FMPs regulate domestic and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishing management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs, or amendments to FMPs, for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance of some regulatory actions under consideration at the time the semiannual regulatory agenda is published. Frequently NMFS does not have specific plan objectives or alternatives for management since the Councils may not have approved or submitted plans to the Secretary of Commerce for review, adoption, and implementation.

The DOC April 1989 regulatory agenda follows.

Michael A. Levitt,
Acting General Counsel.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
250	Contract Clauses and Solicitation Provisions for the Commerce Automated Solicitation System	0690-AA08
251	Source Evaluation Procedures and Miscellaneous Revisions to the Commerce Acquisition Regulation	0690-AA13
252	Program Fraud Civil Remedies	0690-AA14

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
253	Benchmark Survey of U.S. Direct Investment Abroad - 1989	0691-AA15

Bureau of Economic Analysis—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
254	Change in Reporting Requirements of the BE-15, Annual Survey of Foreign Direct Investment in the United States	0691-AA14

Bureau of Economic Analysis—Completed Actions

Sequence Number	Title	Regulation Identifier Number
255	Implementation of Annual Survey of Selected Services Transactions with Unaffiliated Foreign Persons	0691-AA10
256	Change in Exemption for Foreign Ocean Carriers' Expenses Survey Conducted by BEA -- Annual Report Form BE-29	0691-AA13

Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
257	Foreign Trade Statistics Regulations	0607-AA10

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Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
258	General Requirements for Financial Assistance -- Design, Construction of Buildings to Accommodate the Physically Handicapped	0610-AA05
259	Economic Development Administration: Property Management Standards	0610-AA07
260	General Requirements for Financial Assistance: Employment of Expediters or Administrative Employees; Compensation of Persons Engaged by or on Behalf of Applicants	0610-AA18
261	Overall Economic Development Program Public Works and Development Facilities Program	0610-AA19
262	Sale of Loans and Loan Guarantees to the Private Sector	0610-AA31
263	General Requirements for Financial Assistance -- Nonrelocation	0610-AA32
264	Protection of EDA's Interest in Facilities Acquired, Built, or Improved with EDA Grant Funds	0610-AA35
265	Liability for Hazardous Substances Associated with EDA Loans and Loan Guarantees	0610-AA36
266	Adjustment Grants - Revolving Loan Funds	0610-AA37
267	Economic Development Districts, District Organization; Civil Rights Requirements	0610-AA38
268	Area Designation - Special Impact Areas	0610-AA39
269	Public Works - Industrial Parks and Sites	0610-AA40

Economic Development Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
270	Property Management Standards -- Mortgages	0610-AA12
271	Designation of Areas; Designation of PWIP Areas	0610-AA21
272	General Requirements for Financial Assistance; Unfair Competition	0610-AA22
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276	Nonprocurement Debarment and Suspension and Government Requirements for Drug-Free Workplace (Grants)	0605-AA05

International Trade Administration—Proposed Rule Stage

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279	Allocation of Apparel Tariff-Rate Quota Under the U.S.-Canada Free Trade Agreement	0625-AA30
280	Countervailing Duties	0625-AA31
281	Antidumping Duties; Countervailing Duties	0625-AA32

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International Trade Administration—Final Rule Stage

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282	Adjustment Assistance for Firms and Industries	0625-AA05
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287	Antidumping and Countervailing Duties; Modifications	0625-AA26

Bureau of Export Administration—Proposed Rule Stage

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288	Defense Priorities and Allocations System (DPAS)	0694-AA02

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Sequence Number	Title	Regulation Identifier Number
289	Revisions to Short Supply Regulations	0694-AA01

National Institute of Standards & Technology—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
290	FIPS for C Programming Language	0693-AA48
291	Revision of FIPS 151, POSIX: Portable Operating System Interface for Computer Environments	0693-AA49
292	FIPS for Recorded Formats for One- and Two-Sided 5.25 Inch (130 mm) and 3.5 Inch (90 mm) Flexible Disk Cartridges	0693-AA54
293	FIPS for Recorded Magnetic Tape and Cartridge for Information Interchange; 18 track, Parallel, 12.65 mm (1/2 in), 1491 cpmm (37871 cpi) Group-Coded Recording	0693-AA55
294	Revisions to FIPS 60, 61, 62, 63, 97, and 111, Computer System Input/Output (I/O) Interface Standards	0693-AA59
295	FIPS for Electronic Business Data Exchange	0693-AA62
296	Extensions to FIPS 127; Database Language SQL	0693-AA63
297	FIPS for Applications Portability Profile	0693-AA65
298	FIPS for Document Application Profile (DAP) for the Office Document Architecture (ODA) and Interchange Format Standard	0693-AA67
299	Revision of FIPS 140, General Security Requirements for Equipment Using the Data Encryption Standard	0693-AA68
300	Revision of FIPS 146, Government Open Systems Interconnection Profile (GOSIP)	0693-AA69
301	FIPS for POSIX Shell and Tools	0693-AA70
302	FIPS for POSIX System Administration	0693-AA71
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304	FIPS for Digital Cartographic Data	0693-AA73

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306	Revision to FIPS 100, Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation with Packet-Switched Data Communications Networks	0693-AA39
307	FIPS for Conformance Testing Policy and Procedures	0693-AA66

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309	FIPS for Recorded Magnetic Tape Cartridge for Information Interchange; 4-Track, Serial, 0.250 in (6.30 mm), 6400 bpi (252 bpmm) Inverted Modified Frequency Modulation Encoded	0693-AA51
310	FIPS for Serial Recorded Magnetic Tape Cartridge for Information Interchange; Four and Five Track, 0.250 in (6.30 mm) 8000 bpi (315 bpmm) Streaming Mode Group Code Recording	0693-AA52
311	FIPS for One-Half Inch Magnetic Tape Interchange Using a Self Loading Cartridge	0693-AA53
312	FIPS for Device Level Interface for Streaming Cartridge and Cassette Tape Drives	0693-AA57
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National Oceanic and Atmospheric Administration—Proposed Rule Stage

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322	Endangered Fish or Wildlife; Permits for the Incidental Taking of Endangered Marine Species	0648-AB47
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325	Amendment 3 to the High Seas Salmon Fishery Off the Coast of Alaska East of 175 E. Longitude	0648-AC00
326	Amendment 3 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources	0648-AC15
327	Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AC19
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Patent and Trademark Office—Completed Actions

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Technology Administration—Prerule Stage

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Technology Administration—Proposed Rule Stage

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419	Travel Promotion Fee	0644-AA00

DEPARTMENT OF COMMERCE (DOC)

Office of the Secretary (OS)

Proposed Rule Stage

250. CONTRACT CLAUSES AND SOLICITATION PROVISIONS FOR THE COMMERCE AUTOMATED SOLICITATION SYSTEM

Legal Authority: 41 USC 251 et seq; PL 98-369; PL 98-577

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None

Abstract: The Department of Commerce is currently reviewing standardized contract clauses and solicitation provisions for inclusion in a planned Departmentwide automated solicitation system. A proposed amendment to the Commerce Acquisition Regulation (CAR) would illustrate and incorporate these standardized clauses and provisions. This should ultimately be less burdensome to Department contractors and potential contractors, since the clauses and provisions would be used uniformly throughout the Department.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joyce A. Cavallini, Director of Procurement Management, Department of Commerce, Office of the Secretary, Office of Procurement and Administrative Ser, 14th Street & Constitution Avenue, NW, Washington, DC 20230, 202 377-5750

RIN: 0690-AA08

251. SOURCE EVALUATION PROCEDURES AND MISCELLANEOUS REVISIONS TO THE COMMERCE ACQUISITION REGULATION

Legal Authority: 41 USC 251 et seq

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None

Abstract: The Department of Commerce has no formal uniform source evaluation procedures applicable to its procurement activities. Standardization of source evaluation procedures will alleviate potential inconsistencies among procurement professionals as well as potential Department

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DOC—OS — **Proposed Rule Stage**

contractors relative to evaluation of proposals.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joyce A. Cavallini, Director of Procurement Management, Department of Commerce, Office of the Secretary, Office of Procurement and Administrative Ser, 14th Street and Constitution Ave., NW, Washington, DC 20230, 202 377-5750

RIN: 0690–AA13

252. PROGRAM FRAUD CIVIL REMEDIES

Legal Authority: 31 USC 3809

CFR Citation: 15 CFR 25

Legal Deadline: None

Abstract: This rule, if promulgated, would implement the Program Fraud Civil Remedies Act of 1986 which authorizes the Department of Commerce (and certain other Federal agencies) to impose through administrative adjudication civil penalties and assessments against persons making false claims or statements to it.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Walz, Chief, Contract Law Division, Room 5893, Department of Commerce, Office of the Secretary, Washington, DC 20230, 202 377-1122

RIN: 0690–AA14

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA) — **Proposed Rule Stage**

253. ● BENCHMARK SURVEY OF U.S. DIRECT INVESTMENT ABROAD - 1989

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Serv Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will replace the existing rule 15 CFR 806.16 with a new rule to provide for the conduct of the BE-10, Benchmark Survey of U.S. Direct Investment Abroad–1989, as required by the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially Sec. 4(b) of the Act). The existing rule covers a similar survey for 1982, which has been completed and which the 1989 survey will update.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
NPRM Comment Period End	11/00/89	
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 607, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691–AA15

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA) — **Final Rule Stage**

254. CHANGE IN REPORTING REQUIREMENTS OF THE BE-15, ANNUAL SURVEY OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action institutes a short form in the BE-15, Annual Survey of Foreign Direct Investment in the United States, for reporting by U.S. affiliates with assets, sales, or net income greater than the $10 million exemption level but with no one of the three items greater than $20 million. In its notice of proposed rulemaking of September 20, 1988, BEA proposed raising the BE-15 exemption level from $10 to $20 million. After careful consideration of public comments received, however, BEA decided to leave the exemption level at $10 million to maintain the quality of the data in those few country, industry, and State cells in which small investments account for a significant share of the total. The short form is instituted is an effort to keep the reporting burden to a minimum.

Timetable:

Action	Date	FR Cite
NPRM	09/20/88	53 FR 36468
NPRM Comment Period End	11/21/88	
Final Action	03/00/89	
Final Action Effective	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 607, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691–AA14

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA) — **Completed Actions**

255. IMPLEMENTATION OF ANNUAL SURVEY OF SELECTED SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS

Significance: Agency Priority

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will amend 15 CFR 801 by adding rules to implement a new annual follow-on survey to the BE-20 Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons--1986. The criteria for determining who must report are the same on the proposed BE-22 as on the BE-20. The BE-22 will cover the same type of services as the BE-20, but will collect significantly less detail for several types, namely sales of advertising, computer and data processing, and data base and other information services, and both sales and purchases of telecommunications services. Data from the annual survey will be used to derive universe estimates of covered services transactions in nonbenchmark years, thus updating the data collected in the benchmark survey. The first year of coverage will be 1987; the survey will not be taken for a year covered by the benchmark survey.

Timetable:

Action	Date	FR Cite
NPRM	06/20/88	53 FR 23124
NPRM Comment Period End	08/04/88	53 FR 23124
Final Action	10/07/88	53 FR 39453
Final Action Effective	11/07/88	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $330,000; Yearly Recurring Cost: $330,000; Base Year for Dollar Estimates: 1988

Agency Contact: Betty L. Barker, Chief, International Investment Div., Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 607, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691–AA10

256. CHANGE IN EXEMPTION FOR FOREIGN OCEAN CARRIERS' EXPENSES SURVEY CONDUCTED BY BEA – ANNUAL REPORT FORM BE-29

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will change the exemption for annual report Form BE-29 (Foreign Ocean Carriers' Expenses in the United States). An exemption based on number of calls by foreign carriers will be added and the exemption level based on the value of reportable transactions will be lowered. The change will more accurately identify persons with significant reportable transactions. This action will also place a limit on the number of reports required for certain kinds of carriers. As a result of this action, the number of reporters and number of reports filed by respondents will be reduced, thereby reducing both reporting and processing burdens.

Timetable:

Action	Date	FR Cite
NPRM	07/14/88	53 FR 26603
NPRM Comment Period End	08/29/88	53 FR 26603
Final Action	10/24/88	53 FR 41562
Final Action Effective	11/23/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony J. DiLullo, Assistant Chief, Department of Commerce, Bureau of Economic Analysis, Balance of Payments Division, Washington, DC 20230, 202 523-0621

RIN: 0691–AA13

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS) — **Proposed Rule Stage**

257. FOREIGN TRADE STATISTICS REGULATIONS

Significance: Regulatory Program

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.1 to 30.92

Legal Deadline: None
Deadline is contingent upon legislation not yet passed.

Abstract: Review of 15 CFR 30 for changes to conform with the new statistical classification (harmonized) system for imports and exports. This review will combine elements of housekeeping changes, updating obsolete information, clarification, bringing the system into line with harmonization (including metric measurements) and conformance of reporting with current practices. There should be no added burden or cost placed on the public because no additional information is required, nor new reporting requirements.

The benefits of these changes will be: allowing direct comparisons between U.S. imports and exports, enabling comparisons between trade balances of the U.S. and of our major trading partners.

With the passage of the Omnibus Trade and Competitiveness Act of 1988 there is no alternative to making these changes in order to conform to the legislation.

Additionally, Section 30.24 will be revised to be consistent with Customs Regulations by eliminating the "four-day rule" regarding submission of "Shipper Export Declarations."

Timetable:

Action	Date	FR Cite
NPRM	03/00/89	
NPRM Comment Period End	05/00/89	
Interim Final Rule	07/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: All

Agency Contact: Don L. Adams, Chief, Foreign Trade Division, Department of

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DOC—CENSUS — **Proposed Rule Stage**

Commerce, Bureau of the Census, Washington, DC 20233, 301 763-5342

RIN: 0607–AA10

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA) — **Final Rule Stage**

258. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE – DESIGN, CONSTRUCTION OF BUILDINGS TO ACCOMMODATE THE PHYSICALLY HANDICAPPED

Legal Authority: 42 USC 4151 to 4156; 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.14

Legal Deadline: None

Abstract: Existing regulations will be amended if necessary to reflect the most recent (1980) standards of the American National Standards Institute (ANSI) for handicap accessibility as well as the "Minimum Guidelines and Requirements for Accessible Design" published by the Architectural and Transportation Barriers Compliance Board (47 FR 33862, August 14, 1982) and the proposed "Uniform Federal Accessibility Standards" published by GSA (comments due by August 22, 1983).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Room 7001, Washington, DC 20230, 202 377-5441

RIN: 0610–AA05

259. ECONOMIC DEVELOPMENT ADMINISTRATION: PROPERTY MANAGEMENT STANDARDS

Legal Authority: 40 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

Legal Deadline: None

Abstract: EDA's regulations regarding the use and disposition of real property acquired or improved with Federal funds are being revised to clarify EDA policy regarding the authorized use and disposition of grant property (real property) and in particular requirements regarding the lease and/or sale of such property. As revised the change will clarify present requirements for property determining the appropriate amount of compensation due the Federal Government upon the sale of real property acquired or improved with grant funds.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Room 7001, Washington, DC 20230, 202 377-5441

RIN: 0610–AA07

260. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE: EMPLOYMENT OF EXPEDITERS OR ADMINISTRATIVE EMPLOYEES; COMPENSATION OF PERSONS ENGAGED BY OR ON BEHALF OF APPLICANTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None

Abstract: This rule amends EDA's general requirements regulation -- employment of expediters or administrative employees -- concerning EDA positions involving discretion, to conform to the reorganization of EDA pursuant to Department of Commerce Organization Order 45-1. Old positions which are no longer in existence are deleted. New comparable positions are listed in the amended regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/85	50 FR 97
Final Action	04/00/89	
Final Action Effective	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development - Administration, Herbert C. Hoover Bldg., 14th St. between Penn. & Const. Ave., NW, Washington, DC 20230, 202 377-5441

RIN: 0610–AA18

261. OVERALL ECONOMIC DEVELOPMENT PROGRAM PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 302; 13 CFR 304; 13 CFR 305

Legal Deadline: None

Abstract: This rule amends EDA's rules by updating provisions concerning Public Works Impact Areas and Special Impact Areas, specifically as to Designation Requirements; Overall Economic Development Program Requirements; and Supplementary Grant Rates.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/07/86	51 FR 24512
Final Action	04/00/89	
Final Action Effective	04/00/89	

DOC—EDA — **Final Rule Stage**

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue NW, Room 7215, Washington, DC 20230, 202 377-2710

RIN: 0610–AA19

262. SALE OF LOANS AND LOAN GUARANTEES TO THE PRIVATE SECTOR

Significance: Regulatory Program

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR Chapter III

Legal Deadline: None

Abstract: EDA seeks to repeal the limitation in the Commerce Appropriation Act ("McDade Amendment") whereby funds cannot be used to sell any loan to private interests, except with the consent of the borrower.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610–AA31

263. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE -- NONRELOCATION

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.3

Legal Deadline: None

Abstract: This rule will amend EDA's nonrelocation rule by changing the rate of interest to be charged when failure to abide by the nonrelocation rule results in termination of financial assistance provided by EDA. Interest will be at the rate used in Federal debt collection and discount evaluation under the Debt Collection Act. The rule will also state that the 48 month period for compliance by covered grantees is retroactive if the violation occurs after September 15, 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/10/87	52 FR 21932
Final Action	06/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610–AA32

264. PROTECTION OF EDA'S INTEREST IN FACILITIES ACQUIRED, BUILT, OR IMPROVED WITH EDA GRANT FUNDS

Significance: Regulatory Program

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

Legal Deadline: None

Abstract: EDA intends to initiate regulatory action to protect its interests by enabling EDA to expend funds to care for property acquired by virtue of its lien interest in property purchased or improved with EDA grant funds, including liquidation, litigation, or any other necessary action. The proposed regulatory action is contingent upon legislation being enacted which authorizes EDA to expend funds and take other actions to protect its ownership rights in property purchased or improved with EDA grant funds.

Timetable:

Action	Date	FR Cite
Final Action	06/00/89	
Final Action Effective	06/00/89	
Proposed Legislation	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610–AA35

265. LIABILITY FOR HAZARDOUS SUBSTANCES ASSOCIATED WITH EDA LOANS AND LOAN GUARANTEES

Significance: Regulatory Program

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR Chapter III

Legal Deadline: None

Abstract: EDA will undertake some action to enable it to minimize financial losses resulting from hazardous substances on property it has acquired as a result of defaulted business loans and loan guarantees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	
Final Action	06/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610–AA36

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Final Rule Stage

266. ADJUSTMENT GRANTS - REVOLVING LOAN FUNDS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 308

Legal Deadline: None

Abstract: This would amend EDA's rule on adjustment grants to provide that revolving loan fund (RLF) grants are held in trust by the grantee as trustee for the benefit of borrowers and potential borrowers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/15/88	53 FR 12510
Final Action	04/00/89	
Final Action Effective	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Marten, Acting Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., Room 7001, 14th St. & Constitution Ave., NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA37

267. ECONOMIC DEVELOPMENT DISTRICTS, DISTRICT ORGANIZATION; CIVIL RIGHTS REQUIREMENTS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 303; 13 CFR 311

Legal Deadline: None

Abstract: At the request of the Department of Justice, the Economic Development Administration (EDA) is revising our Civil Rights Regulations at 13 CFR 303 and 311. The specific changes involve minority representation on District Boards funded by EDA and Affirmative Action requirements, as well as a few minor changes in terminology.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/89	
Final Action	07/00/89	
Final Action Effective	07/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert Hoover Bldg., 14th St. Between Penn. and Const. Aves., NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA38

268. AREA DESIGNATION - SPECIAL IMPACT AREAS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 302

Legal Deadline: None

Abstract: EDA is deleting its 12-month annual average unemployment rate based upon the calendar year, for Special Impact Area (SIA) designation. Under the current calendar year qualifier, it would be possible that an area's qualifying calendar 1987 average rate could be used in support of its SIA designation as late as February 1989 regardless of a subsequently available, non-qualifying 12-month (non-calendar) rate. This could happen since 1988 calendar year average rates for areas will not be computed by state employment security agencies until February 1989, and EDA will not receive such data until March 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/14/88	53 FR 50206
Final Action	04/00/89	
Final Action Effective	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Aves., NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA39

269. PUBLIC WORKS - INDUSTRIAL PARKS AND SITES

Legal Authority: 42 USC 3211; Department of Commerce - Organization Order 10-4, as amended

CFR Citation: 13 CFR 305

Legal Deadline: None

Abstract: The requirement for a property value agreement from the owner of a private industrial park or site will be less restrictive, so that such an agreement will only be required where there is an apparent or actual incidence of the private owner's failure to deal at arm's length, or if the Assistant Secretary chooses for any other reason to impose the requirements for such an Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	
Final Action	06/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Aves., NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA40

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Completed Actions

270. PROPERTY MANAGEMENT STANDARDS -- MORTGAGES

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 314.5

Legal Deadline: None

Abstract: These amendments allow the Assistant Secretary to waive the prohibition against placing mortgages on property which has been financed by an EDA public works grant, if an additional condition is met. This additional condition for waiver is that all proceeds from a loan which is secured by a mortgage or lien on property which has been financed by an EDA public works grant shall be available only to the grantee and such proceeds shall be used on the project which secures such loans, or for working capital purposes relating to that project.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/84	49 FR 22463
Final Action Effective	05/30/84	49 FR 22463
Final Action	12/21/88	53 FR 51237

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Room 7001, Washington, DC 20230, 202 377-5441

RIN: 0610-AA12

271. DESIGNATION OF AREAS; DESIGNATION OF PWIP AREAS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 302

Legal Deadline: None

Abstract: 13 CFR 302 at Section 302.7 entitled "Designation of Public Works Impact Program Areas" is amended at paragraph (a)(4) to delete reference to submission of an Overall Economic Development Program (OEDP) since under EDA's authorizing legislation, Public Works Impact Program (PWIP) projects need not meet OEDP requirements; and to add that although there are no boundary constraints for PWIPs under the Act, program considerations dictate that for an area to be given PWIP designation, it must be capable of analysis in light of available data establishing eligibility for designation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/86	51 FR 24302
Final Action Effective	07/03/88	51 FR 24302
Final Action	12/04/88	53 FR 50206

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Ave., NW, Room 7215, Washington, DC 20230, 202 377-2710

RIN: 0610-AA21

272. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE; UNFAIR COMPETITION

Legal Authority: 42 USC 3211; Dept. of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None

Abstract: 13 CFR 309 at Sec 309.2 entitled "Unfair Competition" has been amended to change conditions under which EDA will conduct a study (verification and evaluation) called a "702 Study" of the capacity and demand for particular goods, materials, commodities, services or facilities. The amendment will narrow the unfair competition requirements for a "702 Study" by raising the threshold amount of projects from $10,000 to $25,000. Also, the unfair competition exceptions have been expanded to apply to all EDA financial assistance programs. Certain projects are exempt from "702 Study" requirements and the definition of retention of capacity and employment has been changed by deleting the word "existing."

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/02/86	51 FR 16292
Final Action Effective	05/02/86	51 FR 16292
Final Action	12/14/88	53 FR 50207

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Ave., NW, Room 7215, Washington, DC 20230, 202 377-2710

RIN: 0610-AA22

273. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE - PROJECT MODIFICATION

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.26

Legal Deadline: None

Abstract: The purpose of this amendment is to conform the statement of EDA's policy on project modification to guidelines established by the General Accounting Office on change of scope, by putting into regulatory language, that which has been actual EDA practice. The rule change provides standards and states that EDA will not allow project modification which would constitute a change of scope.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/20/87	51 FR 37175
Final Action Effective	10/20/87	51 FR 37175
Final Action	12/21/88	53 FR 51236

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania &

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DOC—EDA — **Completed Actions**

Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610–AA33

DEPARTMENT OF COMMERCE (DOC) — **Proposed Rule Stage**
General Administration (ADMIN)

274. ● NONPROCUREMENT DEBARMENT AND SUSPENSION

Legal Authority: EO 12549, Debarment and Suspension

CFR Citation: 15 CFR 26

Legal Deadline: None

Abstract: The proposed amendment to the existing rule will identify Department of Commerce programs which are exempted from coverage by the rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert M. McNamara, Grants/Cooperative Agreement Specialist, Department of Commerce, General Administration, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-5817

RIN: 0605–AA02

DEPARTMENT OF COMMERCE (DOC) — **Final Rule Stage**
General Administration (ADMIN)

275. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS TO GOVERNMENTS AND NONGOVERNMENTAL ENTITIES

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 24

Legal Deadline: None

Abstract: This action states the administrative requirements governing grants to governments and nongovernmental entities. It is intended to simplify and standardize the Federal grant process and eliminate redundant and inconsistent administrative requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Robert M. McNamara, Grants/Cooperative Agreement Specialist, Department of Commerce, General Administration, Office of Administration, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-5817

RIN: 0605–AA04

276. ● NONPROCUREMENT DEBARMENT AND SUSPENSION AND GOVERNMENT REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Legal Authority: EO 12549; PL 100-690, Sec 5151 to 5160, Drug-Free Workplace Act of 1988

CFR Citation: 15 CFR 26

Legal Deadline: Final, Statutory, February 16, 1989.

Abstract: This interim final rule requires grantees of Federal agencies to certify that they will provide drug-free workplaces and imposes sanctions on those who fail to comply with provisions of the rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 04947
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. NcNamara, Grants/Cooperative Agreement Specialist, Department of Commerce, General Administration, 14th & Constitution Avenue, Washington, DC 20230, 202 377-5817

RIN: 0605–AA05

DEPARTMENT OF COMMERCE (DOC) — **Proposed Rule Stage**
International Trade Administration (ITA)

277. GENERAL REGULATIONS GOVERNING FOREIGN TRADE ZONES IN THE UNITED STATES, WITH RULES OF PROCEDURES

Legal Authority: 19 USC 81a et seq Foreign-Trade Zones Act of 1934

CFR Citation: 15 CFR 400

Legal Deadline: None

Abstract: Revision of the regulation is needed to administer the Foreign-Trade Zones Act of 1934, as amended, to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States. At the time the ANPRM was published the emphasis was on changing the rules to provide improved guidance to the public on procedures and criteria followed in making decisions concerning special-purpose subzones and operations detrimental to the public interest. Since that time, it has been decided to propose revisions to the entire 15 CFR 400 in order to update the language and conform it to current CFR format.

Timetable:

Action	Date	FR Cite
ANPRM	10/14/80	45 FR 67681
ANPRM Comment Period End	12/15/80	
NPRM	02/18/83	48 FR 7151
NPRM Comment Period End	04/19/83	48 FR 7188

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, Pennsylvania Ave. and 14th St., NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA04

DOC—ITA — **Proposed Rule Stage**

278. ● ANTIDUMPING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1673 et seq

CFR Citation: 19 CFR 353

Legal Deadline: None

Abstract: Revisions will codify existing administrative practice with respect to the identification and measurement of dumping. Revisions also will account for statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. The revisions will improve administrative efficiency and make the antidumping law more accessible to the public.

Timetable:

Action	Date	FR Cite
ANPRM	02/01/89	54 FR 05092
ANPRM Comment Period End	03/20/89	
NPRM	04/30/89	
NPRM Comment Period End	06/30/89	
Final Action	09/30/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA29

279. ● ALLOCATION OF APPAREL TARIFF-RATE QUOTA UNDER THE U.S.-CANADA FREE TRADE AGREEMENT

Significance: Regulatory Program

Legal Authority: PL 100-449, Section 202(g); U.S.-Canada Free Trade Agreement Implementation Act of 1988

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The U.S.-Canada FTA reduces tariffs on textile and apparel products considered to be of U.S. or Canadian origin under the "rules of origin" established by the Agreement. Generally, apparel made in the U.S. or Canada from fabric sourced in a third country will not be considered to be of U.S. or Canadian origin for FTA purposes. Goods which do not qualify for the FTA rate will be subject to the regular most-favored-nation (MFN) rate. However, the FTA also establishes an annual tariff-rate quota (TRQ) under which a limited quantity of apparel products that do not meet the FTA's rules of origin will still be entitled to the FTA duty. As Canadian tariffs on U.S. apparel exports decline, U.S. apparel firms should have a growing incentive to export to Canada, but will need some predictability as to which duty their goods will be subject to.

Unless the Department implements an allocation system, we may find that U.S. firms will either face the chaos of an annual rush to the border to ensure their share of the TRQ or will ignore a lucrative export market to avoid the uncertainties of the TRQ.

Timetable:

Action	Date	FR Cite
NPRM	09/30/89	
NPRM Comment Period End	12/31/89	
Final Action	06/30/90	
Final Action Effective	01/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ronald I. Levin, Director, Office of Textiles and Apparel, Department of Commerce, International Trade Administration, Room 3100, U.S. Department of Commerce, Washington, DC 20230, 202 377-5078

RIN: 0625–AA30

280. ● COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1303; 19 USC 1671 et seq

CFR Citation: 19 CFR 355

Legal Deadline: None

Abstract: Current countervailing duty regulations will be revised to codify existing administrative practice with respect to the identification and measurement of subsidies. Revisions also will take into account statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. The revisions will improve administrative efficiency and will make the countervailing duty law more accessible to the public.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	
NPRM Comment Period End	05/01/89	
Final Action	07/01/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Council for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA31

281. ● ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1671 et seq; 19 USC 1673 et seq

CFR Citation: 19 CFR 300 to 399

Legal Deadline: None

Abstract: Revisions to the current antidumping duty and countervailing duty regulations are needed on an expedited basis in order to conform

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DOC—ITA — Proposed Rule Stage

those regulations to certain statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. Those amendments deal with (1) downstream product monitoring; (2) consultations with the International Trade Commission on certain scope rulings; (3) procedures for administrative protective orders; (4) correction of ministerial errors; and (5) effective dates. The revisions will enable the Department to apply the new statutory provisions in an orderly and efficient basis.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/89	
NPRM Comment Period End	04/30/89	
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA32

DEPARTMENT OF COMMERCE (DOC) — Final Rule Stage
International Trade Administration (ITA)

282. ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES

Legal Authority: 19 USC 2341 et seq

CFR Citation: 15 CFR 320

Legal Deadline: None

Abstract: This regulation will implement the responsibilities transferred from EDA to ITA concerning the provision of adjustment assistance to firms and industries adversely affected by imports. The proposed rule will reflect amendments to the authorizing legislation and make procedural changes required because of the transfer of the program to ITA. Proposed rules were published in the Federal Register (November 1984).

Timetable:

Action	Date	FR Cite
NPRM	11/13/84	49 FR 44903
NPRM Comment Period End	12/13/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Sectors Affected: Multiple

Additional Information: Further action on this regulation is under study by the Department.

Agency Contact: John F. Mizroch, Deputy Assistant Secretary, Department of Commerce, International Trade Administration, Office of Trade Adjustment Assistance, Washington, DC 20230, 202 377-0150

RIN: 0625–AA05

283. ● PROCEDURES AND RULES FOR IMPLEMENTING ARTICLE 1904 OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

Significance: Regulatory Program

Legal Authority: 19 USC 1516a; 19 USC 1677f(d); PL 100-449, Title IV

CFR Citation: 19 CFR 356

Legal Deadline: None

Abstract: Chapter 19 of the U.S.-Canada Free-Trade Agreement establishes a system under which final antidumping and countervailing duty determinations of both the United States and Canada will be subject to review by independent binational panels. The legislation implementing the Agreement authorizes the Department to issue regulations necessary to implement Chapter 19. Regulations are necessary to establish procedures concerning notice of intent to seek judicial review, requests for panel review, notice of receipt by Canada of class or kind determinations, continued suspension of liquidation pending panel review, release of business proprietary and privileged information under protective order during a panel review, and sanctions for violations of such protective orders. Because the Agreement could enter into force as early as January 1, 1989, and because determinations reviewable by binational panels are expected to be issued in January, 1989, interim-final rules are necessary.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/88	53 FR 53232
Final Action	05/30/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA33

DEPARTMENT OF COMMERCE (DOC) — Completed Actions
International Trade Administration (ITA)

284. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1303; 19 USC 1671 et seq

CFR Citation: 19 CFR 353; 19 CFR 355

Legal Deadline: None

Abstract: Current antidumping and countervailing duty regulations will be revised to reflect recent statutory changes and current administrative practices and to improve the clarity of the regulations. The revisions will improve administrative efficiency in enforcement of the antidumping and countervailing duty laws. The revisions will replace the entire text of 19 CFR 353 and 355.

Timetable:

Action	Date	FR Cite
Final Action	03/28/89	54 FR 12742
AD Regulations		
NPRM 08/13/86 (51 FR 29046)		
NPRM Comment Period End 09/30/86		
Final Action 03/28/89 (54 FR 12742)		
CVD Regulations		
NPRM 06/10/85 (50 FR 29225)		
NPRM Comment Period End 09/09/85 (50 FR 32088)		
Final Action 12/27/88 (53 FR 52306)		

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, Pennsylvania Ave. & 14th St., NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA08

DOC—ITA — Completed Actions

285. SANCTIONS FOR VIOLATION OF ANTIDUMPING AND COUNTERVAILING DUTY PROTECTIVE ORDERS

Significance: Regulatory Program

Legal Authority: 19 USC 1677

CFR Citation: 19 CFR 353; 19 CFR 354; 19 CFR 355

Legal Deadline: None

Abstract: The ITA will add a new part 354 to the antidumping (part 353) and countervailing duty (part 355) regulations that establishes procedures for imposing sanctions against an individual, firm or other entity that violates the terms of an administrative protective order issued under 19 USC 1677. We will make conforming changes in Parts 353 and 355.

Timetable:

Action	Date	FR Cite
NPRM	07/06/87	52 FR 25246
NPRM Comment Period End	09/04/87	
Final Action	11/28/88	53 FR 47916
Final Action Effective	12/28/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, 14th and Pennsylvania Ave., NW, Room 3622, Washington, DC 20230, 202 377-1411

RIN: 0625–AA24

286. ANNUAL WATCH QUOTA ALLOCATIONS

Legal Authority: PL 97-466, Sec 110 (1983); 19 USC 1202 general headnote 3(a)

CFR Citation: 15 CFR 303

Legal Deadline: None

Abstract: The regulation allocates watch quotas on an annual basis, in compliance with the requirements of the statute and regulations. Program issues allocations no later than March 1 of each year, under section 303.6(b) of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/11/88	53 FR 39612
Final Action	12/29/88	53 FR 52678
Final Action Effective	01/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Creel, Director, Statutory Import Programs Staff, Department of Commerce, International Trade Administration, 14th and Pennsylvania Ave., NW, Rm. 1523, Washington, DC 20230, 202 377-1660

RIN: 0625–AA25

287. ANTIDUMPING AND COUNTERVAILING DUTIES; MODIFICATIONS

Legal Authority: 19 USC 1303; 19 USC 1516a; 19 USC 1671 et seq

CFR Citation: 19 CFR 353; 19 CFR 355

Legal Deadline: None

Abstract: As appropriate, the ITA will amend the current regulations in effect at the time of enactment of modifications in the statutory authority for imposing antidumping and countervailing duties, if such legislation is enacted in 1988 or 1989.

Timetable:

Action	Date	FR Cite
The subject matter covered will be incorporated in new regulatory initiatives for 1989.	12/07/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, 14th and Pennsylvania Ave., NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA26

DEPARTMENT OF COMMERCE (DOC) — Proposed Rule Stage
Bureau of Export Administration (BXA)

288. DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM (DPAS)

Legal Authority: 50 USC 2061 et seq; EO 10480

CFR Citation: 15 CFR 350

Legal Deadline: None

Abstract: The Defense Priorities and Allocations System (DPAS) implements the priorities and allocations authority of Title I of the Defense Production Act of 1950, as amended. The DPAS was published as a final rule on July 30, 1984. Based on the findings and recommendations of an interagency sponsored study concerning the controlled materials program, and comments from both defense agency and industry users, this proposed rule would amend the DPAS to remove the controlled materials provisions and make certain revisions to its procedural requirements. These amendments will have no costs associated with them, would reduce the regulatory and information reporting burden on industry and make the DPAS more effective and efficient, and would result in cost savings for defense contractors.

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DOC—BXA — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Richard V. Meyers, DPAS Program Manager, Department of Commerce, Bureau of Export Administration, Office of Industrial Resources Admin., National Security Preparedness Div., Room 3878, Washington, DC 20230, 202 377-3634

RIN: 0694–AA02

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

289. REVISIONS TO SHORT SUPPLY REGULATIONS

Legal Authority: 50 USC app 2401 et seq; PL 99-64; 42 USC app 2401 et seq; 10 USC 7420 et seq; 43 USC 1354; 30 USC 185; EO 11912; EO 12214; EO 12002; PL 100-418; Executive Order effective December 28, 1988

CFR Citation: 15 CFR 771; 15 CFR 777; 15 CFR 799

Legal Deadline: None

Abstract: On July 12, 1985, the Export Administration Amendments Act of 1985 (PL 99-64) extended and amended the Export Administration Act of 1979 (50 USC app 2401, et seq.)(EAA). Certain changes were made to the Short Supply provisions of Section 7 of the EAA. Accordingly, revision of the Short Supply provisions (15 CFR 377) and related licensing requirements (15 CFR 371 and 399) of the Export Administration Regulations (15 CFR 368-399) is necessary. An interim final rule was issued which included (1) elimination of the validated licensing requirement for exports of refined petroleum products so as to permit their export with certain restrictions under a general license; (2) a new definition of "crude oil" for purposes of the regulation; and (3) certain technical and housekeeping changes. There are no costs associated with this action which would promote the export of decontrolled products. The Export Administration was made a Bureau in October 1987. The Export Administration Regulations were thereby transferred from 15 CFR 368-399 to 15 CFR 768-799. Furthermore, the Export Administration Act of 1979 was amended on August 23, 1988 by the Omnibus Trade and Competitiveness (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/09/85	50 FR 41131
Final Action	06/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Act of 1988 (P.L. 100-418, 102 Stat. 1107). Section 2424 of the Omnibus Trade and Competitiveness Act of 1988 (OTCA) amends section 7 of the EAA but will not require regulatory measures.

Agency Contact: Rodney A. Joseph, Short Supply Program Manager, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Bureau of Export Administration Rm. 1604, Washington, DC 20230, 202 377-4531

RIN: 0694–AA01

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Proposed Rule Stage

290. FIPS FOR C PROGRAMMING LANGUAGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed standard) which defines the syntax of the C programming language and the semantics for its interpretation. The standard will be used by implementors as the reference authority in developing compilers, interpreters or forms of high level language processors and by other computer professionals who need to know the precise syntactic and semantic rules of the standard. Use of this standard will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff training and skills.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	52 FR 851
NPRM Comment Period End	04/09/87	52 FR 851

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA48

291. ● REVISION OF FIPS 151, POSIX: PORTABLE OPERATING SYSTEM INTERFACE FOR COMPUTER ENVIRONMENTS

Legal Authority: PL 100 235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will revise FIPS 151, which was based on interim specifications, to adopt the Institute of Electrical and Electronics Engineers (IEEE) Standard for Portable Operating System Interface for Computer Environments (IEEE 1003.1-1988). The standard will adopt completed industry specifications and will facilitate the

DOC—NIST — **Proposed Rule Stage**

interchange of computer application programs between different vendor systems and architectures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA49

292. FIPS FOR RECORDED FORMATS FOR ONE- AND TWO-SIDED 5.25 INCH (130 MM) AND 3.5 INCH (90 MM) FLEXIBLE DISK CARTRIDGES

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed) that specifies the track layout, track format, and other characteristics of the recorded signal. This is one part of a set of functional specifications needed to ensure interchangeability of data between information processing systems by use of a physically removable medium.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA54

293. FIPS FOR RECORDED MAGNETIC TAPE AND CARTRIDGE FOR INFORMATION INTERCHANGE; 18 TRACK, PARALLEL, 12.65 MM (1/2 IN), 1491 CPMM (37871 CPI) GROUP-CODED RECORDING

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed) that provides requirements for a tape cartridge to be used for information interchange among information processing systems, communications systems, and associated equipment. Used with associated standards for unrecorded media, tape labels and file structures, this standard will support data interchange between different systems.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA55

294. REVISIONS TO FIPS 60, 61, 62, 63, 97, AND 111, COMPUTER SYSTEM INPUT/OUTPUT (I/O) INTERFACE STANDARDS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: Revisions to the family of input/output (I/O) interface standards will be proposed to reflect changes in computer technology and to facilitate the interconnection of peripherals to personal and minicomputers. New applicability, implementation and waiver provisions will be proposed to existing interface standards to be effective after January 1, 1990. A transition plan to cover the period from January 1988 to January 1990 will also be proposed.

Timetable:

Action	Date	FR Cite
NPRM	11/19/87	52 FR 44462
NPRM Comment Period End	02/17/88	52 FR 44462

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA59

295. FIPS FOR ELECTRONIC BUSINESS DATA EXCHANGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: A group of voluntary industry standards that will facilitate computer-to-computer interchange of procurement data will be adopted as FIPS. Developed by Accredited Standards Committee X12, the standards will provide standard data elements, formats, and contents of electronic messages containing procurement-related information. These standards will reduce paperwork, improve productivity, and enable more effective information and inventory management.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA62

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296. EXTENSIONS TO FIPS 127, DATABASE LANGUAGE SQL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: The proposed extensions will adopt American National Standards (both currently draft standards) to the SQL language for relational databases. One proposal (Draft Addendum ISO 9075/DAD 1) provides features for assuring the correctness of data that is organized in SQL databases. The other proposal specifies interfaces between SQL and other programming languages including Ada, C, COBOL, FORTRAN, PASCAL, and PL/I. Use of these extensions will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff skills and training.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA63

297. FIPS FOR APPLICATIONS PORTABILITY PROFILE

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will provide an architectural approach to applications portability, and will include standard elements that can be used to develop and maintain portable applications. Components of the profile will include database management, data interchange, network services, user interfaces, and programming languages.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA65

298. FIPS FOR DOCUMENT APPLICATION PROFILE (DAP) FOR THE OFFICE DOCUMENT ARCHITECTURE (ODA) AND INTERCHANGE FORMAT STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will be based on international standards for office document architecture and office document interchange formats. The profile will provide necessary functionality to enable documents developed on different manufacturers' equipment to be interchanged between systems.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA67

299. REVISION OF FIPS 140, GENERAL SECURITY REQUIREMENTS FOR EQUIPMENT USING THE DATA ENCRYPTION STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision will bring the standard up to date to cover new encryption applications, and new policies for testing for conformance to the standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/09/88	53 FR 49722
ANPRM Comment Period End	03/09/89	53 FR 49722
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA68

300. ● REVISION OF FIPS 146, GOVERNMENT OPEN SYSTEMS INTERCONNECTION PROFILE (GOSIP)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision of FIPS 146 will add new protocols to the Government OSI Profile for virtual terminal, end-system to intermediate-system, connection oriented network service, office document architecture, connectionless transport, and Integrated Services Digital Network (ISDN) technology. The specification addresses needs to acquire multivendor systems using available or soon-to-be-available standard products.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA69

301. ● FIPS FOR POSIX SHELL AND TOOLS

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt, on an interim basis, Draft 8.0 of the Institute of Electrical and Electronics Engineers (IEEE) Standard for Shell and Application Utility Interface for Computer Operating Systems Environments (IEEE 1003.2/POSIX Shell and Tools). This standard will extend the functionality of the POSIX standard by providing an interactive interface for users to control processing.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA70

302. ● FIPS FOR POSIX SYSTEM ADMINISTRATION

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt a set of specifications on an interim basis to provide functional system administration requirements for POSIX operating system implementations. Actual utility names and options for system administration will be specified in a future revision to this FIPS. This standard will facilitate the interchange of computer programs among different vendor systems and architectures.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA71

303. ● FIPS FOR X WINDOW SYSTEM

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt the X Protocol, Xlib Interface, Xt Intrinsics and Bitmap Distribution Format specifications developed by the Massachusetts Institute of Technology (MIT) for the X Window System. This standard will facilitate the interchange of computer programs among different vendor systems and architectures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA73

304. ● FIPS FOR DIGITAL CARTOGRAPHIC DATA

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt specifications developed by the Department of the Interior for representing data used in mapping applications. The standard will improve interchange of information among agencies analyzing land use, demographics, and other geographic information.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA72

DEPARTMENT OF COMMERCE (DOC)

Final Rule Stage

National Institute of Standards & Technology (NIST)

305. FIPS FOR INFORMATION RESOURCE DICTIONARY SYSTEM (IRDS)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (now draft proposed) which will promote portability of information resources. The Information Resource Dictionary System is a software system for recording, storing, and processing descriptions of an organization's significant data. Use of the standard will improve identification of data that can be shared within an organization, reduce unnecessary development of computer programs, and increase portability of staff skills and training.

Timetable:

Action	Date	FR Cite
NPRM	08/13/85	50 FR 32610
NPRM Comment Period End	11/12/85	50 FR 32610
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

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DOC—NIST — **Final Rule Stage**

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA38

306. REVISION TO FIPS 100, INTERFACE BETWEEN DATA TERMINAL EQUIPMENT (DTE) AND DATA CIRCUIT-TERMINATING EQUIPMENT (DCE) FOR OPERATION WITH PACKET-SWITCHED DATA COMMUNICATIONS NETWORKS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This revision will make the standard consistent with minor changes that were made to Recommendation X.25 by the Consultative Committee for International Telegraph and Telephone in 1984. This is an international standard for data processing equipment, services and telecommunications equipment using public packet switched data communications networks.

Timetable:

Action	Date	FR Cite
NPRM	07/10/86	51 FR 25088
NPRM Comment Period End	10/06/86	51 FR 25088

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA39

307. FIPS FOR CONFORMANCE TESTING POLICY AND PROCEDURES

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will specify the policy and procedures for conformance test methods, for conformance testing of implementations of FIPS, and for certifying those implementations that comply with the FIPS requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/03/88	53 FR 29249
NPRM Comment Period End	11/01/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA66

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Completed Actions

308. FIPS PUB 152, STANDARD GENERALIZED MARKUP LANGUAGE (SGML)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard adopts International Standard ISO 8879-1986 which standardizes the application of generic coding and generalized markup concepts for documents that are processed by text processing and word processing systems. It provides a coherent and unambiguous syntax for describing what a user chooses to identify within a document. Use of this standard will facilitate the interchange of documents among systems with differing text processing languages and the processing of documents by more than one application, when applications use the same text processing language.

Timetable:

Action	Date	FR Cite
NPRM	10/29/87	52 FR 41609
NPRM Comment Period End	01/27/88	52 FR 41609
Final Action	09/26/88	53 FR 37332
Final Action Effective	03/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA50

309. FIPS FOR RECORDED MAGNETIC TAPE CARTRIDGE FOR INFORMATION INTERCHANGE; 4-TRACK, SERIAL, 0.250 IN (6.30 MM), 6400 BPI (252 BPMM) INVERTED MODIFIED FREQUENCY MODULATION ENCODED

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed) that provides the format and recording requirements for magnetic tape cartridges. The standard defines the requirements and supporting test methods needed to ensure data interchange between information systems, communications systems, and associated equipment.

DOC—NIST — **Completed Actions**

Timetable:

Action	Date	FR Cite
Withdrawn Not needed to meet government requirements.	02/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA51

310. FIPS FOR SERIAL RECORDED MAGNETIC TAPE CARTRIDGE FOR INFORMATION INTERCHANGE; FOUR AND FIVE TRACK, 0.250 IN (6.30 MM) 8000 BPI (315 BPMM) STREAMING MODE GROUP CODE RECORDING

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed) that provides the format and recording requirements for magnetic tape cartridges. The standard defines the requirements and supporting test methods needed to ensure data interchange between information systems, communications systems, and associated equipment.

Timetable:

Action	Date	FR Cite
Withdrawn Not needed to meet government requirements.	02/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA52

311. FIPS FOR ONE-HALF INCH MAGNETIC TAPE INTERCHANGE USING A SELF LOADING CARTRIDGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (ANSI X3.85-1981) which provides the requirements and test methods necessary to ensure physical interchange of a self loading cartridge to be used with 1/2 inch wide magnetic tape.

Timetable:

Action	Date	FR Cite
Withdrawn Not needed to meet government requirements.	02/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA53

312. FIPS FOR DEVICE LEVEL INTERFACE FOR STREAMING CARTRIDGE AND CASSETTE TAPE DRIVES

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (ANSI X3.146-1988) that specifies the interface between streaming cartridge and cassette tape drives, and small computer systems. This standard will facilitate the acquisition of cartridge and cassette tape drives made by different manufacturers, expand the Federal Government's sources of supply, and reduce costs of acquisition.

Timetable:

Action	Date	FR Cite
Withdrawn Not needed to meet government requirements.	02/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA57

313. FIPS PUB 153, PROGRAMMER'S HIERARCHICAL INTERACTIVE GRAPHICS SYSTEM (PHIGS)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS adopt the American National Standard Programmer's Hierarchical Interactive Graphics System (ANSI X3.144-1988). This standard will improve the portability of graphics application programs among different manufacturers' computer systems and will help agencies make more effective use of staff skills and training.

Timetable:

Action	Date	FR Cite
NPRM	03/11/88	53 FR 7957
NPRM Comment Period End	06/09/88	53 FR 7957
Final Action	10/14/88	53 FR 40249
Final Action Effective	04/28/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA64

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DEPARTMENT OF COMMERCE (DOC) — **Prerule Stage**

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

314. MARINE FISHERY USER FEES

Significance: Regulatory Program

Legal Authority: Not Yet Determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A marine fishery user fee system will provide a substantial and stable source of revenue to partially offset Federal fishery expenditures and information needed for effective fishery management. Fees would be collected from the sale of marine fish conservation emblems and licenses, and from an assessment on landing or delivery of fish for commercial purposes. Administration costs are estimated to be $6 million annually, with net Federal revenues of approximately $60 million. A bill entitled "The Exclusive Economic Zone Revenue Raising Act of 1988" (HR 5580) was introduced on October 21, 1988.

Timetable:

Action	Date	FR Cite
Next steps depend on Congressional action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $6,000,000; Yearly Recurring Cost: $6,000,000; Base Year for Dollar Estimates: 1988

Sectors Affected: 203 Canned, Frozen, and Preserved Fruits, Vegetables, and Food Specialties

Agency Contact: John T. Everett, Chief, Program Evaluation and Coordination Division, Department of Commerce, National Oceanic and Atmospheric Administration, Management and Budget Staff, NMFS, Washington, DC 20235, 202 673-5464

RIN: 0648–AB87

315. AMENDMENT 1 GULF OF MEXICO REEF FISH FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 641

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 1 will attempt to rebuild declining reef fish stocks, especially red snapper. A primary objective of the amendment will be to reduce red snapper harvest by 60 percent through the use of a commercial quota of 2.1 million pounds, by the establishment of a 12 inch minimum fish size for commercial and recreational fisheries taking red snapper, and by the establishment of a 3 fish red snapper bag limit per person in the recreational sector. The amendment will also protect other species of reef fish, as well as red snapper, by proposing to (1) prohibit use of fish traps, roller trawls, and powerheads, (2) prohibit the use of bottom long lines shoreward of the 50 fathom curve, and (3) prohibit any entanglement nets, including gillnets, drift, drum, and trammell nets. Several additional species will be included in the management unit, and additional conservation measures will be forthcoming.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/89	
NPRM	06/15/89	
NPRM Comment Period End	08/01/89	
Final Action	09/20/89	
Final Action Effective	10/20/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC16

316. AMENDMENT 4 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 663; 50 CFR 611.70

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Pacific Fishery Management Council.

Abstract: Amendment 4 will restructure and update the Pacific Coast Groundfish FMP to make it a more useful and timely document. It also will consider providing the flexibility to address a wider range of problems. The major issues in Amendment 4 will examine quota management, the application of "optimum yield," the ability to impose management measures for social and economic reasons (as long as the resource will not be jeopardized), deletion of the 30 percent lid on annual and inseason increases to ABC and OY, the determination of incidental trip limits of groundfish in nongroundfish fisheries, ways to expedite the experimental fishing permit process, and the review and adoption of state regulations.

Timetable:

Action	Date	FR Cite
ANPRM	08/01/89	
NPRM	08/15/89	
NPRM Comment Period End	09/29/89	
Final Action	11/18/89	
Final Action Effective	12/17/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE, Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AC43

317. BLUEFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory.
110 days after receipt from the fishery management council.

DOC—NOAA — **Prerule Stage**

Abstract: The FMP would control the growth of the recreational and commercial fisheries in the EEZ. The Atlantic States Marine Fisheries Commission is developing a plan simultaneously with the Council and will coordinate State management with Federal management of bluefish throughout its range.

Timetable:

Action	Date	FR Cite
ANPRM	08/01/89	
NPRM	08/16/89	
NPRM Comment Period End	10/01/89	
Final Action	11/22/89	
Final Action Effective	12/22/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Gloucester, MA 01930-3799, 508 281-3600

RIN: 0648–AC51

318. ● AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 651

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 3 will address biological objectives of the FMP and specific recommendations of the Technical Monitoring Group. Measures may include modifications to percent Maximum Spawning Potential targets for haddock and yellowtail flounder, modifications to existing closed areas and exempted fishing area, establishment of new or flexible closed areas, mesh specifications in small mesh fishery, and other measures under development.

Timetable:

Action	Date	FR Cite
ANPRM	08/15/89	
NPRM	09/01/89	
NPRM Comment Period End	10/15/89	
Final Action	12/05/89	
Final Action Effective	01/05/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Gloucester, MA 01930-3799, 508 281-3600

RIN: 0648–AC79

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

319. FEDERAL CONSISTENCY WITH APPROVED COASTAL ZONE MANAGEMENT PROGRAMS

Significance: Regulatory Program

Legal Authority: 16 USC 1456 Coastal Zone Management Act of 1972

CFR Citation: 15 CFR 930

Legal Deadline: None

Abstract: On January 11, 1984, the U.S. Supreme Court issued its decision in Secretary of the Interior et al. v. California et al. No. 82-1326. The Court held that the sale of Outer Continental Shelf (OCS) oil and gas leases is not an activity "directly affecting" the Coastal Zone Management Act of 1972, as amended (CZMA), and therefore, that a consistency determination is not required under that section before such sales may be made. Section 307 (c)(1) required that Federal agencies conducting or supporting activities "directly affecting the coastal zone" must conduct or support those activities in a manner which is consistent to the maximum extent practicable with federally approved state coastal zone management programs. NOAA engaged in rulemaking to revise certain CZMA regulations as a result of the Supreme Court decision. NOAA removed those references which identify OCS lease sales as activities covered by the Section 307(c)(1) requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/84	49 FR 22825
ANPRM Comment Period End	08/31/84	49 FR 22825
NPRM	01/28/85	50 FR 3798
NPRM Comment Period End	03/01/85	50 FR 3798
Final Action	08/30/85	50 FR 35210
Decision whether to proceed with rulemaking	10/30/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: NOAA issued a final rule August 31, 1985 making the changes required by the Supreme Court decision, and decided to undertake a comprehensive study of the Federal consistency process. The Draft Study issued April 1985 will assist NOAA in evaluating the need for and consequences of further revision of the Federal consistency regulations. Further revision has been deferred pending review of public comment on the April study, and amendments to the CZMA enacted in 1986. In addition, the CZMA will be reauthorized soon, and amendments to the CZMA may result which would require further regulatory revision. Based on this review, NOAA will evaluate the need for, and consequences of further revision of the regulations.

Agency Contact: Vickie A Auin, Chief, Policy Coordination Division, Office of Ocean & Coastal Resource Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5100

RIN: 0648–AA34

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DEPARTMENT OF COMMERCE (DOC) — **Proposed Rule Stage**

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

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320. PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF & CERTAIN OTHER PROCESSED FOOD PRODUCTS: U.S. STANDARDS FOR GRADES OF FROZEN FISH BLOCKS & PRODUCTS MADE THEREFROM ETC

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 264A; 50 CFR 264B; 50 CFR 264C; 50 CFR 264D; 50 CFR 264E; 50 CFR 264F; 50 CFR 264G

Legal Deadline: None

Abstract: The revised rule will expand the coverage of established voluntary standards for grades of fishery products to include new products made from fish blocks. The standards will take into account new technology and equipment. These standards will be used in a voluntary program of fishery products inspection and certification by the NMFS. Industry has shown a high level of interest and support for the revisions. The timetable for this action is very tentative. Further research will be needed before the rule is published.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, P.O. Box 1188, Emerson Ave., Gloucester, MA 01930, 508 281-3600

RIN: 0648–AA48

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321. ● MORATORIUM ON STRIPED BASS IN EXCLUSIVE ECONOMIC ZONE OFF NORTH EAST ATLANTIC COAST

Legal Authority: PL 100-589; 16 USC 1801 et seq; 16 USC 1851

CFR Citation: 50 CFR 656

Legal Deadline: None

Abstract: The Secretary of Commerce, after consultation with other Federal agencies, state agencies, and interested persons will implement regulations to prohibit catching and retaining striped bass in the Exclusive Economic Zone off North Carolina through Maine. This is being done in response to a Congressional directive contained in the Atlantic Striped Bass Conservation Act, and is consistent with the National Standards of the Magnuson Act. These regulations conform to and complement the Atlantic Striped Bass Plan developed by the Atlantic States Marine Fisheries Commission and approved by its member states. Alternatives considered were no action, requiring those fisheries in the EEZ to conform to state regulations, and establishing a Federal Bag limit on catching striped bass in the EEZ. The cost of the preferred alternative is nominal, and appreciable benefits accrue to the migratory striped bass stocks.

Timetable:

Action	Date	FR Cite
NPRM	10/15/89	
Final Action	11/15/89	
Final Action Effective	12/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: David G. Deuel, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East West Highway, Silver Spring, MD 20910, 301 427-2347

RIN: 0648–AB25

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322. ENDANGERED FISH OR WILDLIFE; PERMITS FOR THE INCIDENTAL TAKING OF ENDANGERED MARINE SPECIES

Legal Authority: 16 USC 1531 et seq Endangered Species Act of 1973

CFR Citation: 50 CFR 222

Legal Deadline: None

Abstract: The proposed regulations implement Section 10(a)(1)(B) of the Endangered Species Act, as amended (ESA). The proposal provides, under limited circumstances, for issuance of permits allowing the incidental taking of endangered species. The proposal applies to certain Federal permit or license holders and to private entities or State or local governments whose actions are not otherwise subject to Federal involvement or control. Prior to the 1982 amendments to the ESA, the taking of endangered species was prohibited except for scientific research or to enhance the propagation or survival of the species. Permits issued under the proposed regulations would allow permit holders to conduct their activities without risk of prosecution for the incidental take of species authorized by such permits.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Sectors Affected: 091 Commercial Fishing

Additional Information: Potential cost to applicants is estimated at $420. Cost per applicant is estimated at $210. Each applicant will be required to submit a conservation plan as part of the permit process. NEPA, EO 12291 and RFA determinations have not been undertaken.

Agency Contact: Charles Karnella, Acting Chief, Protected Species Mgt Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources and Habitat Programs, NMFS, Silver Spring, MD 20910, 301 427-2323

RIN: 0648–AB47

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323. GROUNDFISH OF THE GULF OF ALASKA AND HIGH SEAS SALMON FISHERY OFF ALASKA; REGULATORY AMENDMENT

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

DOC—NOAA — **Proposed Rule Stage**

CFR Citation: 50 CFR 672; 50 CFR 674; 50 CFR 611.92

Legal Deadline: None

Abstract: As required under PL 98-623, NOAA issues a regulatory amendment to codify the fishery management boundaries of southeastern Alaska established by that law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	08/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Jonathan Pollard, Attorney-Advisor, Department of Commerce, National Oceanic and Atmospheric Administration, NOAA Office of General Counsel-GCAK, P.O. Box 21668, Juneau, AK 99801, 907 568-7414

RIN: 0648–AB51

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324. AMENDMENT 1 TO THE SWORDFISH FMP

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 630

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 1 will reflect concern for status of swordfish stocks based on recent stock assessments (Jan. and Nov. 1988). U.S. longline fishery now targets tunas and small swordfish in nearshore waters and seeks larger, more valuable swordfish in more distant waters. The Council will consider size limits, area closure, and quota management in Amendment 1 in an attempt to reduce the fishing mortality of small billfish in the exclusive economic zone.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
NPRM Comment Period End	10/00/89	
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Regional Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AB92

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325. AMENDMENT 3 TO THE HIGH SEAS SALMON FISHERY OFF THE COAST OF ALASKA EAST OF 175 E. LONGITUDE

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 674

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will (1) update the scientific data and other information used as a basis for management actions, (2) enhance the framework aspect of annual and inseason rulemaking under the fishery management plan (FMP), and (3) ensure conformity of the FMP with the Pacific Salmon Treaty.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	08/00/89	
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC00

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326. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE COASTAL MIGRATORY PELAGIC RESOURCES

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will prohibit drift gillnets in the King and Spanish mackerel fisheries in the South Atlantic and Gulf of Mexico, and prohibit purse seines and run-around gill nets in King mackerel fishery in the South Atlantic.

Timetable:

Action	Date	FR Cite
NPRM	03/20/89	
NPRM Comment Period End	04/05/89	
Final Action	05/25/89	
Final Action Effective	06/25/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC15

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327. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 652

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Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Mid-Atlantic Fishery Management Council.

Abstract: Amendment 8 would address current regulatory restraints on industry designed to conserve the resource. The FMP objectives would be modified to promote economic stability, simplify regulations, and to allow more operational flexibility for the industry. Long-term management alternatives to be considered include an Individual Transferable Quota System and other limited effort vessel allocation schemes.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	
NPRM Comment Period End	06/15/89	
Final Action	08/04/89	
Final Action Effective	09/04/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930-3799, 508 281-3600

RIN: 0648–AC19

328. IMPLEMENTATION OF CONDITIONALLY APPROVED MEASURES UNDER AMENDMENT 1 TO THE SPINY AND SLIPPER LOBSTER FMP IN THE GULF OF MEXICO AND SOUTH ATLANTIC - PERMITS AND BAG LIMITS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 640

Legal Deadline: None

Abstract: This rule will require commercial and tail separation permits and establish a recreational bag limit during the regular season.

Timetable:

Action	Date	FR Cite
NPRM	04/24/89	52 FR 8485
NPRM Comment Period End	06/06/89	52 FR 8485
Final Action	06/13/89	
Final Action Effective	09/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC25

329. AMENDMENT 3 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 649

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This action will change the date from 1990 to 1992 to establish the new minimum vent size at 1 15/16 inches by 6 inches for rectangular vents or 2 7/16 inches diameter for circular vents; and implement a requirement that each trap shall have an escape panel or equivalent mechanism to keep a trap from ghost fishing after it has been abandoned or lost for 12 months or more.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Gloucester, MA 01930, 508 281-3600

RIN: 0648–AC28

330. AMENDMENT 2 TO THE SPINY LOBSTER FISHERY MANAGEMENT PLAN OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 640

Legal Deadline: NPRM, Statutory. Final, Statutory.
110 days after receipt from the fishery management council.

Abstract: This rule would establish a regulatory amendment procedure for future implementation of gear and harvest restrictions to regulate the fishery in the Exclusive Economic Zone.

Timetable:

Action	Date	FR Cite
NPRM	04/17/89	
NPRM Comment Period End	05/31/89	
Final Action	07/25/89	
Final Action Effective	08/20/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33708, 813 893-3141

RIN: 0648–AC29

331. FISHERY MANAGEMENT PLAN FOR KING AND TANNER CRAB IN THE BERING SEA AND ALEUTIAN ISLANDS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 671

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The FMP would govern fishing for king and tanner crab in the EEZ by minimum sizes, annual guideline harvest levels, definition of legal gear, restriction on harvest of female crabs, registration areas, fishing seasons, and provisions for inseason adjustments. The State of Alaska would adopt measures for reporting requirements, gear placement, gear storage, gear restrictions, and vessel tank inspections. A person may appeal to the Secretary if he believes a State action does not comply with the FMP, the Magnuson Act, or other applicable law.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	
NPRM Comment Period End	06/30/89	
Final Action	09/04/89	
Final Action Effective	10/04/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC34

332. REPORTING REQUIREMENTS GOVERNING SALMON TAKEN OFF ALASKA AND DELIVERED OR LANDED OUTSIDE ALASKA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 674

Legal Deadline: Final, Statutory.
110 days after receipt from the fishery management council.

Abstract: A mandatory reporting requirement for fishing vessel operators who harvest salmon in the EEZ off Alaska and who sell, transport, or deliver salmon in the EEZ or to a U.S. port outside Alaska. The operator must submit a fish ticket to the Alaska Department of Fish and Game after each sale, transfer or delivery. Receipt of this ticket is necessary to obtain timely data on salmon catches.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	09/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC39

333. ATLANTIC TUNA FISHERIES - REGULATORY AMENDMENT

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: On March 31, 1988, the Regional Director published a "Notice of Receipt of Petition for Rulemaking" in the Federal Register. The Notice requested comments on the proposal to (1) restrict the use of spotter aircraft, (2) limit the incidental longline catch of Atlantic bluefin tuna, (3) close all or a portion of the Gulf to longline fishing during a specified spawning season, (4) restate and clarify the prohibition of directed fishing for bluefin tuna in the Gulf, and (5) reestablish the scientific quota administered by the Southeast Fisheries Center. Based on the comments received a rulemaking will be proposed to address the issues confronting the Atlantic bluefin tuna.

Timetable:

Action	Date	FR Cite
ANPRM	03/31/88	53 FR 10415
NPRM	03/15/89	
NPRM Comment Period End	04/15/89	
Final Action	07/01/89	
Final Action Effective	08/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Federal Bldg., Gloucester, MA 01930, 617 281-3600

RIN: 0648–AC40

334. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SWORDFISH FISHERY

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 630

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This regulatory amendment will modify the present data collection system to require 100 percent mandatory dealer reporting of landings and value, for swordfish and other species caught in the domestic longline fishery. This information is required to determine total fishery landings, fishing effort, and biological data (e.g., size of population, age classes) for stock assessment purposes.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	06/00/89	
Final Action	08/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC41

335. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC SEA SCALLOPS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 650

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Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will involve a major revision of the management plan with the purpose of replacing a management program based on a meat count standard measure with some other management approach of equal or greater effectiveness in meeting the plan's objectives. The Council is considering optional means of effort control, which would have industry support, as a basis for a new management program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Gloucester, MA 01930, 508 281-3600

RIN: 0648–AC44

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336. POLICY TO REQUIRE OBSERVERS TO BE CARRIED ON DOMESTIC FISHING VESSELS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 620

Legal Deadline: None

Abstract: The policy would establish guidelines for the use of observers in the domestic fisheries managed under the Magnuson Act. The observers collect catch and effort data on fishing operations, and biological information on fish stocks and the marine ecosystem.

Timetable:

Action	Date	FR Cite
ANPRM	06/06/88	53 FR 20661
ANPRM Comment Period End	07/18/88	
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Peter H. Fricke, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Fisheries Cons. & Mgt., 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2334

RIN: 0648–AC45

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337. AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE COASTAL MIGRATORY PELAGIC RESOURCES

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will reallocate the Spanish mackerel quota in the South Atlantic and Gulf of Mexico.

Timetable:

Action	Date	FR Cite
NPRM	04/20/89	
NPRM Comment Period End	05/29/89	
Final Action	07/18/89	
Final Action Effective	08/18/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC55

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338. FISHERY MANAGEMENT PLAN FOR THE HIGH SEAS SALMON FISHERY OFF THE COAST OF ALASKA EAST OF 175 EAST LONGITUDE - REGULATORY AMENDMENT

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 653

Legal Deadline: None

Abstract: This regulatory amendment would modify the regulations implementing the FMP in order to bring them into conformity with the FMP measures concerning the Secretary's authority to open and close fishing areas.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	08/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99801, 907 586-7221

RIN: 0648–AC57

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339. SCIENTIFIC RESEARCH - DOMESTIC AND FOREIGN FISHING

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and Mgmt. Act

CFR Citation: 50 CFR 611; 50 CFR 620

Legal Deadline: None

Abstract: The rule would define scientific research under the Magnuson Act and would add several prohibitions to the general regulations governing domestic fisheries.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Margaret Frailey, Assistant General Counsel for Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2231

RIN: 0648–AC61

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340. ● INTERIM EXEMPTION GOVERNING THE INCIDENTAL TAKING OF MARINE MAMMALS DURING COMMERCIAL FISHING OPERATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: NPRM, Statutory, March 23, 1989. Final, Statutory, July 21, 1989. Other, Statutory, January 20, 1989. ANPRM legal deadline was January 20, 1969.

Abstract: 1988 Amendments to Marine Mammal Protection Act direct Secretary of Commerce to establish within 240 days, a 5-year program for exempting commercial fishing operations within the U.S. exclusive economic zone from the Act's prohibition on taking marine mammals. The exemption will require registration of vessels with the National Marine Fisheries Service, reports on interactions with marine mammals and taking Government observers if required.

Timetable:

Action	Date	FR Cite
ANPRM	01/27/89	54 FR 04154
ANPRM Comment Period End	02/27/89	
NPRM	03/23/89	
NPRM Comment Period End	05/08/89	
Final Action	06/30/89	
Final Action Effective	07/21/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Nancy Foster, Director, Off. of Protected Resources and Habitat Prog, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2332

RIN: 0648–AC65

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341. ● REGULATION TO CONTROL ILLEGAL FISHING IN THE EXCLUSIVE ECONOMIC ZONE (EEZ) AND OVERFISHING OUTSIDE THE EEZ

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq; 22 USC 1971 et seq; 16 USC 1361 et seq

CFR Citation: 50 CFR 611.7; 50 CFR 611.93

Legal Deadline: None

Abstract: Foreign fishing on the high seas of the central Bering Sea take excessive amounts of stocks of Alaska pollock which may be shared in the economic zones of the United States and the Soviet Union. The foreign fleets also use such fishing for illegal fishing incursions in the U.S. EEZ under cloud cover and cover of darkness.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/88	53 FR 13422
ANPRM Comment Period End	05/25/88	
NPRM	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, F/CM1, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2339

RIN: 0648–AC66

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342. ● REGULATORY AMENDMENT TO THE GROUNDFISH OF THE BERING SEA/ ALEUTIAN ISLANDS AREA AND GROUNDFISH OF THE GULF OF ALASKA FISHERY MANAGEMENT PLANS - DEFINITION OF FISHERY

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 672; 50 CFR 611

Legal Deadline: None

Abstract: The action redefines directed fishing in the Bering Sea/Aleutian Islands Area and Gulf of Alaska so that fishermen could sort their catches at sea and discard inadvertent catches of species so as to avoid violations. The action provides authority for the reopening of fisheries, if subsequent information shows that the closure was premature.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	
NPRM Comment Period End	06/30/89	
Final Action	09/01/89	
Final Action Effective	09/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, Alaska 99802, 907 586-7221

RIN: 0648–AC68

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343. ● REGULATIONS GOVERNING THE TAKING OF SMALL NUMBERS OF MARINE MAMMALS INCIDENTALLY TO OIL & GAS EXPLORATION IN THE BEAUFORT AND CHUKCHI SEAS

Legal Authority: 16 USC 1371(a)(5)

CFR Citation: 50 CFR 238.3

Legal Deadline: None

Abstract: Section 101(a)(5) of the Marine Mammal Protection Act directs the Secretary to allow, on request by U.S. citizens who engage in a specified activity (other than commercial fishing) in a specified geographical region, the

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incidental take of small numbers of marine mammals. The agency must find that the taking will have a negligible impact on the species or stocks, and will not have an unmitigable adverse impact on the availability of the species for subsistence uses. The Service received a request from 6 oil companies for a take of marine mammals incidental to oil exploration in the Beaufort and Chukchi Seas. These regulations allow a take if certain conditions are met including requirements for monitoring and reporting and a prohibition on taking in the spring lead system used by bowhead whales in the Chukchi Sea. These regulations allow the oil companies to proceed with energy exploration while protecting marine mammals.

Timetable:

Action	Date	FR Cite
ANPRM	04/13/88	53 FR 12189
ANPRM Comment Period End	07/13/88	
NPRM	03/01/89	
NPRM Comment Period End	05/01/89	
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Lorenz, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, NMFS/1335 East-West Highway, Silver Spring, MD 20910, 301 427-2323

RIN: 0648–AC89

344. ● FOREIGN FISHING POUNDAGE AND PERMIT FEES, 1990

Legal Authority: 16 USC 1801 et seq. Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 611.22

Legal Deadline: None

Abstract: This rule will set poundage and permit fees for foreign fishing in 1990.

Timetable:

Action	Date	FR Cite
NPRM	09/30/89	
NPRM Comment Period End	10/30/89	
Final Action	12/15/89	
Final Action Effective	01/01/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2339

RIN: 0648–AC70

345. ● INTERIM FISHING VESSEL CAPITAL CONSTRUCTION FUND PROCEDURES

Legal Authority: 46 USC 1177, sec 607, Merchant Marine Act, 1936, as amended

CFR Citation: 50 CFR 259

Legal Deadline: None

Abstract:

(A) Incorporate into existing regulations for the part of the Capital Construction Fund administered for fishermen new requirements imposed by the Tax Reform Act of 1986.

(B) Incorporate into existing regulations, clarification of existing restraints on the use of the Capital Construction Fund by fishermen.

(C) Incorporate into existing regulations, assessment of user fees for Capital Construction Fund benefits provided fishermen.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: (A) Under existing regulations, at 50 CFR, Part 259, the acquisition of a qualified vessel is not interpreted to include the lease of a qualified vessel. The legislative history of the Tax Reform Act, 1986, indicates Congressional intent to consider lease hire payments from the CCF to be considered qualified withdrawals, if such payments are used for the acquisition of a qualified vessel through lease for a period of five years or more. The proposed rules would allow for payments from the CCF for such purpose. (B) Under existing conditions at 50 CFR Part 259, CCF benefits for fishermen are restricted in accordance with Part 251 of 50 CFR. The proposed rule would allow for either the moderation or lifting of these restrictions. (C) The proposed rules would add to 59 CFR Part 3 provisions for the assessment of user fee charges to fund operating costs for that portion of the CCF administered for fishermen.

Agency Contact: John A. Kelly, Jr., Program Leader, Capital Construction Fund Program, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2393

RIN: 0648–AC71

346. ● AMENDMENT 18 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA AND AMENDMENT 13 TO THE FMP FOR GROUNDFISH OF THE BERING SEA/ ALEUTIAN ISLANDS - LIMITED ACCESS FOR SABLEFISH LONGLINE FISHERY

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq; Magnuson Fishery Conservation and Management Act

CFR Citation: 50 CFR 672; 50 CFR 611

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days after receipt and final action 110 days after receipt from the fishery management council.

Abstract: The rule provides for an individual fishing quota for owners and permit holders in the sablefish longline fishery of the Gulf of Alaska and the Bering Sea/Aleutian Islands. The system provides for qualifications of minimum landings to determine eligibility and an appeal procedure.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	
NPRM Comment Period End	07/15/89	
Final Action	09/05/89	
Final Action Effective	10/05/89	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, Alaska 99802, 907 586-7221

RIN: 0648–AC72

347. ● AMENDMENT 12A TO THE GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA FMP - INCIDENTAL CATCH LIMITS OF CRABS AND HALIBUT

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 672; 50 CFR 611

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Limits on the incidental catch of tanner crab, king crab, and halibut are established for the groundfish fishery. Closure by specified area or subarea must occur when a limitation is reached.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	
NPRM Comment Period End	05/15/89	
Final Action	07/01/89	
Final Action Effective	08/01/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, Alaska 99802, 907 586-7221

RIN: 0648–AC74

348. ● RESUBMITTED PART OF AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days after receipt and final rule 110 days after receipt from the fishery management council.

Abstract: This amendment will require that white shrimp taken in the Exclusive Economic Zone conform to the minimum size, landing, and possession limits of the State in which they are landed.

Timetable:

Action	Date	FR Cite
NPRM	06/20/89	
NPRM Comment Period End	07/05/89	
Final Action	08/19/89	
Final Action Effective	09/18/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC75

349. ● AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will establish a multi-year management regime in which the fishery will remain seasonally closed to 200 miles in years of good recruitment and opened in years of poor recruitment.

Timetable:

Action	Date	FR Cite
NPRM	04/19/89	
NPRM Comment Period End	06/02/89	
Final Action	07/22/89	
Final Action Effective	08/22/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC76

350. ● AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days after receipt and final action 110 days after receipt from the fishery management council.

Abstract: Actions which may be considered for inclusion in the Amendment are: (1) subdivide the recreational allocation for king and Spanish mackerel by area and time, (2) adjust qualification for commercial permits, (3) prohibit charterboats from obtaining commercial permits, (4) prohibit sale of king mackerel taken under a bag limit, and (5) establish subquotas for king mackerel by gear type in the commercial fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: Undetermined

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Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC77

351. ● AMENDMENT 19 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA AND AMENDMENT 14 TO THE FMP FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 672; 50 CFR 611

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The NPFMC combined its Gulf of Alaska and Bering Sea/Aleutian Islands groundfish plans to provide for one final rule governing these fisheries. The action makes adjustments in the regulatory system to account for inconsistencies in management approach. The result is a uniform regulation applicable to an increasingly large and mobile fleet that operates in both areas.

Timetable:

Action	Date	FR Cite
NPRM	07/01/89	
NPRM Comment Period End	10/30/89	
Final Action	12/19/89	
Final Action Effective	01/19/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. box 1668, Juneau, Alaska 99802, 907 586-7221

RIN: 0648–AC80

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

352. PROPOSED REGULATIONS FOR THE KEY LARGO NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 929

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and to change research permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action Effective	11/00/89	
Begin Review	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AA33

353. ● FAGATELE BAY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 941

Legal Deadline: None

Abstract: These regulations are being revised to update on-site management provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5122

RIN: 0648–AA74

354. DRAFT REGULATIONS FOR THE PROPOSED FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 943

Legal Deadline: None

Abstract: These regulations will protect the ecological and biological reef communities of the East and West Flower Garden Banks offshore Texas and Louisiana, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	02/24/89	54 FR 7953
NPRM Comment Period End	04/25/89	
Final Action	06/00/89	
Final Action Effective	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Mgt., 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AB49

355. PROPOSED REGULATIONS FOR THE LOOE KEY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 937

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and to change research permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AB64

356. RULEMAKING TO IMPLEMENT 1985 REAUTHORIZATION OF THE COASTAL ZONE MANAGEMENT ACT (CZMA)

Legal Authority: 16 USC 1456; PL 99-272, Subtitle D

CFR Citation: 15 CFR 923

Legal Deadline: None

Abstract: PL 99-272, the Coastal Zone Management Reauthorization Act of 1985, amended Sec 306(g) of the Coastal Zone Management Act (16 USC 1456) dealing with submission and approval of changes to federally approved State coastal zone management programs. NOAA/OCRM intends to issue regulations to implement these provisions and to correct problems NOAA/OCRM and the States have experienced in processing program change requests.

Timetable:

Action	Date	FR Cite
Issue paper distributed	09/12/86	
NPRM	03/31/89	
NPRM Comment Period End	04/30/89	
Final Action	10/01/89	
Final Action Effective	12/01/89	

Small Entities Affected: None

Government Levels Affected: State

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Mark Stanga, Associate Director, OCRM, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Room 701, Washington, DC 20235, 202 673-5100

RIN: 0648–AC02

357. PROPOSED REGULATIONS FOR THE CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 935

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC03

358. PROPOSED REGULATIONS FOR THE POINT REYES-FARALLON ISLANDS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 936

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC05

359. PROPOSED REGULATIONS FOR THE NATIONAL MARINE SANCTUARY PROGRAM

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 922

Legal Deadline: NPRM, Statutory. Final, Statutory, November 7, 1989.
Within 12 months of enactment.

Abstract: As a result of the Marine Protection Research and Sanctuaries Act re-authorization anticipated in 1988, the regulations will be revised to incorporate modifications from the new legislation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	10/00/89	
Final Action Effective	11/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, NOS Universal Bldg., Rm. 714, 1825 Conn. Ave., NW, Washington, DC 20235, 202 673-5126

RIN: 0648–AC53

360. PROPOSED REGULATIONS FOR THE MONTEREY BAY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Monterey Bay, if the area is designated as a National Marine Sanctuary.

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DOC—NOAA — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	06/00/89	
Final Action	11/30/89	
Final Action Effective	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, NOS, Universal Bldg., Rm. 714, 1825 Conn. Ave., NW, Washington, DC 20235, 202 673-5126

RIN: 0648–AC83

361. ● THE MONITOR NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 924

Legal Deadline: None

Abstract: These regulations are being revised to update site management provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	06/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5122

RIN: 0648–AC78

OFFICE OF THE ADMINISTRATOR

362. NATIONAL SEA GRANT PROGRAM FUNDING REGULATIONS

Legal Authority: 33 USC 1123 (d)(7); 33 USC 1125; 33 USC 1127

CFR Citation: 15 CFR 917.2 (Revision); 15 CFR 917.11 (Revision); 15 CFR 917.20 (Revision); 15 CFR 917.21 (Revision); 15 CFR 917.22 (Revision); 15 CFR 917.30 (Revision)

Legal Deadline: Final, Statutory, December 28, 1988.
Applies only to revision of 15 CFR 917.20 - 917.22.

Abstract: Amendments to the Sea Grant Act require updating of implementing regulations to include:

Replace the "National Needs" program with a "strategic research program," essentially to focus on a more limited number of priority research areas;

Include two types of fellowships not previously recognized by statute and set forth selection procedures;

To update the international program in view of the broader geographic areas and activities authorized;

To provide more specific support for graduate education and interdisciplinary research in marine affairs.

There are no alternatives. Statutory amendments explicitly or implicitly require conforming amendments to the funding regulations. There are no costs involved.

Timetable:

Action	Date	FR Cite
NPRM	03/01/89	
NPRM Comment Period End	05/30/89	
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: John Milholland, Senior Counselor, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Universal South Bldg., Rm. 603, Washington, DC 20230, 202 673-5200

RIN: 0648–AC54

363. LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

Significance: Regulatory Program

Legal Authority: 15 USC 4244

CFR Citation: 15 CFR 960

Legal Deadline: None

Abstract: NOAA is considering amending its regulations for licensing private remote sensing space systems in response to a petition by news organizations. Petitioners seek clearer definition of when a license might be restricted because of national security. NOAA will consider ways to provide clarity to reassure potential applicants but will not consider the specific standard proposed by the media which was rejected during the original rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	01/18/89	54 FR 01945
NPRM	02/15/89	
NPRM Comment Period End	04/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: John A. Milholland, Senior Counsellor/Satellite, Department of Commerce, National Oceanic and Atmospheric Administration, Room 603, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5200

RIN: 0648–AC64

DEPARTMENT OF COMMERCE (DOC) — **Final Rule Stage**

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

364. FISHERY CONSERVATION AND MANAGEMENT: CONFIDENTIALITY OF STATISTICS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and Mgmt. Act

CFR Citation: 50 CFR 603

Legal Deadline: None

Abstract: The regulations provide internal procedures to protect statistics collected from the public under the Magnuson Fishery Conservation and Management Act from disclosure.

Timetable:

Action	Date	FR Cite
NPRM	01/09/78	43 FR 1460
Interim Final Rule	12/07/79	44 FR 237
Interim Final Rule	07/16/87	52 FR 26685
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared. The Regulatory Flexibility Act does not apply because the regulations affect only internal operations of an agency.

Agency Contact: Mark Holliday, Acting Chief, Fisheries Statistics Division, Department of Commerce, National Oceanic and Atmospheric Administration, Off. of Research and Environmental Informat., NMFS, Washington, DC 20235, 202 673-5335

RIN: 0648–AA38

365. U.S. GENERAL STANDARDS FOR GRADES OF SHRIMP

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 265A

Legal Deadline: None

Abstract: The final rule will establish general quality grading standards for all non-breaded forms of fresh or frozen shrimp. These grading standards will provide for the systematic differentiation of the quality of shrimp into four categories – U.S. Grades A, B, C and Substandard. The proposed standards will be applied to all commercial species of fresh or frozen shrimp in raw or cooked states in all non-breaded market forms. The adoption of grading standards is expected to facilitate trade in shrimp of all commercial species, as consumers will be able to select shrimp on the basis of identified quality. Industry has shown great interest in and support for the standards. Timetable for next action is very tentative. Public comments received indicate a need for further research before the rule is published.

Timetable:

Action	Date	FR Cite
NPRM	05/20/82	47 FR 21840
NPRM Comment Period End	08/18/82	47 FR 21840
Interim Final Rule	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, P.O. Box 1188, Emerson Ave., Gloucester, MA 01930, 508 281-3600

RIN: 0648–AA47

366. REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS; IMPORTATION OF YELLOWFIN TUNA

Significance: Regulatory Program

Legal Authority: 16 USC 1361 et seq Marine Mammal Protection Act of 1972

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: U.S. tuna purse seine fishermen operating in the eastern tropical Pacific have been subject to certain restrictions relating to the take of marine mammals, whereas other nations fishing in a similar manner that export tuna to the U.S. often do not impose similar constraints on their own industry. Therefore, the Marine Mammal Protection Act of 1972 was amended to require all such nations, prior to being allowed to import tuna, to provide documentary evidence that they have adopted a program governing the incidental taking of marine mammals that is comparable to that of the U.S. and that the average rate of incidental take in the fishery is comparable to the U.S. These regulations will implement this requirement.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/84	49 FR 46921
NPRM	06/13/86	51 FR 28963
NPRM Comment Period End	11/14/86	51 FR 36568
Interim Final Rule	03/18/88	53 FR 8910
Interim Final Rule	03/07/89	54 FR 9438
Comment Period End	05/08/89	
Begin Review	10/00/90	
End Review	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $9,825; Yearly Recurring Cost: $9,825; Base Year for Dollar Estimates: 1985

Sectors Affected: 091 Commercial Fishing

Additional Information: This action will require restrictions on foreign nations that export tuna to the U.S. similar to those imposed on U.S. tuna fishermen. These regulations will have no impact domestically in terms of bringing more U.S. nationals under Federal regulations.

Agency Contact: Kenneth R. Hollingshead, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources & Habitat Programs, NMFS, Silver Spring, MD 20910, 301 427-2289

RIN: 0648–AB46

367. ENDANGERED FISH AND WILDLIFE; APPROACHING HUMPBACK WHALES IN HAWAIIAN WATERS

Legal Authority: 16 USC 1382(a); 16 USC 1540(f)

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DOC—NOAA **Final Rule Stage**

CFR Citation: 50 CFR 222.31

Legal Deadline: None

Abstract: This rule will establish as regulation a previously published Notice of Interpretation regarding minimum distances that should be maintained in the presence of humpback whales in Hawaii. Establishing a 100 yard perimeter around any of the whales while in the Hawaiian Exclusive Zone as a regulation is considered necessary given a large increase in vessel traffic and other water use activities in areas where this species historically occurs. In response to comments received in the public record, NOAA is defining two specific sites as cow/calf areas in which an approach closer than 300 yds is prohibited. This addition creates a new subsection to the rule.

Timetable:

Action	Date	FR Cite
NPRM	11/24/86	51 FR 42271
NPRM Comment Period End	12/24/86	51 FR 42271
Interim Final Rule	11/23/87	52 FR 44912
Final Action	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 South Ferry Street, Terminal Island, CA 90731, 213 514-6201

RIN: 0648–AB79

368. SAFETY OF UNITED STATES OBSERVERS ABOARD FOREIGN FISHING VESSELS

Significance: Regulatory Program

Legal Authority: PL 99-659

CFR Citation: 50 CFR 611.8

Legal Deadline: None

Abstract: United States observers are required aboard foreign vessels permitted to fish in the U.S. Exclusive Economic Zone (EEZ). Conditions aboard these vessels can be hazardous to the safety of observers. To prevent injury to observers, the Department of Commerce intends to publish minimum safety standards that must be maintained aboard foreign fishing vessels before they will be permitted to fish in the U.S. EEZ.

The alternative to establishing U.S. standards is to accept flag-state standards as adequate. This solution will probably not be feasible because there is a wide variation in foreign safety standards and differing degrees of compliance with standards. In some cases, foreign fishing vessels meeting existing flag-state standards would not be suitable for U.S. observers.

Costs of this action will be borne by the owners of foreign fishing vessels. This action is beneficial in that it may prevent serious injury, including death, to observers during the performance of their duty.

Timetable:

Action	Date	FR Cite
NPRM	07/25/88	53 FR 27887
NPRM Comment Period End	09/08/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary A. Wood, Special Agent, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 301 427-2300

RIN: 0648–AB94

369. U.S. STANDARDS FOR GRADES OF FISH FILLETS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 263; 50 CFR 267

Legal Deadline: None

Abstract: This revised rule will expand the coverage of established voluntary standards for grades of fish fillets to include a new market form or style of fillet whereby the pin-bones, the bones radiating laterally from the spinal column, are not removed. This style of fillet has become more familiar in the marketplace, resulting in the industry requesting the amendment. Responses to a previous request for comments indicate a national interest in this style of presentation. The amendment will allow this market form, bearing FDA's recommended labeling, to be inspected and reflect the U.S. Grade A mark.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, P.O. Box 1188, Emerson Ave., Gloucester, MA 01930, 508 281-3600

RIN: 0648–AC12

370. FISH AND SEAFOOD PROMOTION

Significance: Regulatory Program

Legal Authority: 16 USC 4001 to 4017 Fish & Seafood Promotion Act of 1986 (FSPA)

CFR Citation: 50 CFR 270, (new)

Legal Deadline: None

Abstract: The proposed rule describes the conditions under which seafood marketing councils for one or more species of fish or fish products authorized under the FSPA may be established and operated. The councils will be funded through self-assessment by segments of the industry represented on the council and are established through (1) application of particular sector(s) of industry to the Secretary of Commerce; (2) favorable Secretarial review of the application and (3) passage of a referendum conducted by the Secretary among sector participants. The Secretary appoints members to the councils from lists of nominees supplied by the industry. Councils will submit annual plans and budgets for species-specific marketing and promotion, including consumer education, research, and other activities. Costs to the Federal Government are estimated to range from $100,000 to $200,000 for program start-up and other initial costs to establish one council. Annual costs will vary and depend upon the number of applications received and the number of referenda conducted. Benefits to the industry may be substantial.

DOC—NOAA **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/21/88	53 FR 51284
NPRM Comment Period End	02/21/89	
Final Action	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: Multiple

Agency Contact: Thomas J. Billy, Acting Director, Office of Trade and Industry Services, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, NOAA, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2351

RIN: 0648–AC27

371. AMENDMENT 12 TO THE FMP FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 675; 50 CFR 611

Legal Deadline: Final, Statutory. 110 days after receipt from the fishery management council.

Abstract: The amendment would provide for requiring all floating processors receiving fish caught in Federal waters to hold a Federal permit and make weekly reports on catch.

Timetable:

Action	Date	FR Cite
NPRM	09/06/88	53 FR 34322
NPRM Comment Period End	10/21/88	53 FR 34322
Final Action	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC32

372. AMENDMENT 17 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 672; 50 CFR 611

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The amendment would require floating processors receiving fish caught in Federal waters to hold a Federal permit, and make weekly reports on catch.

Timetable:

Action	Date	FR Cite
NPRM	09/06/88	53 FR 34322
NPRM Comment Period End	10/21/88	53 FR 34322
Final Action	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC42

373. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 661

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This Amendment will address: (1) allocation of chinook and coho salmon north of Cape Falcon between non-Indian commercial and recreational fisheries, (2) the ocean escapement goal for Klamath River Fall chinook, (3) clarification of steelhead management objectives, (4) revision of the notice procedure for inseason management actions, (5) framework provisions for reporting requirements for certain fishery information, and (6) provide more flexibility in setting season opening and closing dates.

Timetable:

Action	Date	FR Cite
NPRM	01/19/89	54 FR 02177
NPRM Comment Period End	03/03/89	
Final Action	04/14/89	
Final Action Effective	05/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way, NE, Building 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AC49

374. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO - THE TORTUGAS SANCTUARY

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 658

Legal Deadline: None

Abstract: This amendment will reopen a portion of the Tortugas Sanctuary that has been closed to shrimp fishing.

Timetable:

Action	Date	FR Cite
NPRM	01/19/89	54 FR 02175
NPRM Comment Period End	02/21/89	
Final Action	04/00/89	
Final Action Effective	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National

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Oceanic and Atmospheric Administration, F/SER, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC56

375. REGULATORY AMENDMENT TO CLARIFY TRIP LIMIT REGULATIONS FOR THE PACIFIC COAST GROUNDFISH AND SALMON FISHERIES

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 663; 50 CFR 661

Legal Deadline: None

Abstract: The regulatory amendment would clarify trip limit restrictions in the groundfish and salmon fisheries off the coasts of Washington, Oregon, and California. The definitions of "land or landing" and "fishing trip" are modified to clarify trip limit restrictions, to provide consistent regulations in the two fisheries, and to facilitate enforcement.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 41214
NPRM Comment Period End	11/18/88	53 FR 41214
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/NWR, 7600 Sand Point Way, NE, Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AC59

376. GUIDELINES FOR FISHERY MANAGEMENT PLANS (IMPLEMENTATION OF PL 99-659 - THE CONSERVATION STANDARD)

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 602

Legal Deadline: None

Abstract: Revision of regulatory guidance with regard to establishing a conservation standard for determining a biologically acceptable catch for each managed fishery. This is being considered to conform with recommendations and new administration policy.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 3031
NPRM Comment Period End	02/28/89	
Final Action	07/14/89	
Final Action Effective	08/13/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, F/NER, Gloucester, MA 01930, 508 281-3600

RIN: 0648–AC67

377. ● REGULATORY AMENDMENT FOR INTERACTION BETWEEN SUMMER FLOUNDER FISHERY AND ENDANGERED SPECIES

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 653

Legal Deadline: None

Abstract: Regulatory amendment to establish monitoring and reporting in the summer flounder winter trawl fishery and its interaction with endangered species.

Timetable:

Action	Date	FR Cite
NPRM	03/01/89	
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, Silver Spring, MD 20910, 301 427-2334

RIN: 0648–AC82

378. ● FISHERMEN'S PROTECTIVE ACT

Legal Authority: 22 USC 1980

CFR Citation: 50 CFR 258

Legal Deadline: None

Abstract: Reinstating regulations inadvertently dropped when Fishermen's Guarantee Program (whose regulations were also included in Part 258) was transferred to State Department.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2396

RIN: 0648–AC73

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

379. DRAFT REGULATIONS FOR THE PROPOSED CORDELL BANK NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 942

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Cordell Bank, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	08/28/87	52 FR 32563
Final Action	04/00/89	
Final Action Effective	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Mgt., 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AB50

380. PROPOSED REGULATIONS FOR THE NATIONAL ESTUARINE RESERVE RESEARCH PROGRAM

Legal Authority: 16 USC 1461

CFR Citation: 15 CFR 921

Legal Deadline: None

Abstract: When the Coastal Zone Management Reauthorization Act of 1985 becomes effective, the existing regulations for the National Estuarine Sanctuary Program will need to be updated to reflect the changes that will occur in the program--(1) a stronger emphasis for conducting, promoting and coordinating research within the system; (2) changes the name of the program to "National Estuarine Reserve Research System"; (3) the amount of Federal financial assistance is increased to $4,000,000 per site; and (4) submission of an annual report to Congress beginning with fiscal year 1986.

Timetable:

Action	Date	FR Cite
NPRM	10/28/88	53 FR 43616
NPRM Comment Period End	12/30/88	
Final Action	03/00/89	
Final Action Effective	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AB68

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

381. IMPLEMENTATION OF PL 99-659 AND OTHER RECOMMENDATIONS TO IMPROVE THE FISHERY MANAGEMENT SYSTEM - COUNCIL OPERATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 600; 50 CFR 601; 50 CFR 604; 50 CFR 605

Legal Deadline: None

Abstract: Revision of regulatory guidance with regard to the operations of the Regional Fishery Management Councils is issued to conform with recent legislation and administration regulatory policy. These guidelines will not have a direct regulatory impact on the fishing industry or entities participating in the industry.

Timetable:

Action	Date	FR Cite
NPRM	06/10/88	53 FR 21863
NPRM Comment Period End	08/09/88	53 FR 21863
Final Action	01/17/89	54 FR 1700
Final Action Effective	02/16/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries, Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, Silver Spring, MD 20910, 301 427-2334

RIN: 0648–AB09

382. FOREIGN FISHING - SCIENTIFIC RESEARCH

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 611.14

Legal Deadline: None

Abstract: The action would revise the scientific research provisions of the foreign fishing regulations. The action is necessary to bring the regulations into compliance with current policy on scientific research and clarify what foreign vessels may be considered scientific research vessels while conducting activities which might otherwise be considered fishing.

Timetable:

Action	Date	FR Cite
NPRM	05/01/84	49 FR 50498
NPRM Comment Period End	06/14/84	49 FR 50498
Withdrawn Will be combined with similar action - RIN 0648-AC61	02/24/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: None

Additional Information: This action is related to RIN 0648-AA40 General and Recreational Foreign Fishing.

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1825 Connecticut Avenue, NW, Washington, DC 20235, 301 427-2339

RIN: 0648–AB23

383. DEVELOPMENT OF A FISHERY MANAGEMENT PLAN FOR SUMMER FLOUNDER

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 653, (Reserved)

Legal Deadline: Final, Statutory. 110 days after receipt from the fishery management council.

Abstract: Summer flounder is seasonably vulnerable to very large and varied commercial and recreational fisheries. Landings have declined in recent years and there is concern that overfishing may occur. The summer flounder crosses Council and Regional boundaries necessitating close coordination between the constituent agencies. The long-term benefits of

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higher production and revenue to the fishermen and processors are expected to outweigh any short-term limitations on catches in order to rebuild the stocks. Rebuilding the stocks to the maximum level, the efficiency of the fleet will improve as catches per unit of effort will correspondingly rise.

Timetable:

Action	Date	FR Cite
NPRM	07/21/88	53 FR 27536
NPRM Comment Period End	09/06/88	53 FR 27536
Final Action	10/07/88	53 FR 39475
Final Action Effective	11/03/88	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 14 Elm St., FNER, Gloucester, MA 01930, 508 281-3600

RIN: 0648–AB30

384. RESUBMITTED PORTION OF AMENDMENT 1 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 649

Legal Deadline: Final, Statutory. 110 days after receipt from the fishery management council.

Abstract: The revised portion of the amendment will exempt Mid-Atlantic black sea bass fishing gear from the escape vent requirement in a specified fishing area east and south of Barnegat, New Jersey.

Timetable:

Action	Date	FR Cite
Withdrawn No action is anticipated during the reporting period.	02/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/NER, 14 Elm Street, Federal Bldg., Gloucester, MA 01930, 508 281-3600

RIN: 0648–AB89

385. MARINE FISHERY USER FEES

Significance: Regulatory Program

Legal Authority: Not Yet Determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A marine fishery user fee system will provide a substantial and stable source of revenue to partially offset Federal fishery expenditures and information needed for effective fishery management. Fees would be collected from the sale of marine fish conservation emblems and licenses, and from an assessment on landing or delivery of fish for commercial purposes. Administration costs are estimated to be $6 million annually, with net Federal revenues of approximately $60 million. A bill entitled "The Exclusive Economic Zone Revenue Raising Act of 1988" (HR 5580) was introduced on October 21, 1988.

Timetable:

Action	Date	FR Cite
RIN Changed to Regulatory Program RIN: 0648-AB87		
Next steps depend on Congressional action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $6,000,000; Yearly Recurring Cost: $6,000,000; Base Year for Dollar Estimates: 1988

Sectors Affected: 203 Canned, Frozen, and Preserved Fruits, Vegetables, and Food Specialties

Agency Contact: John T. Everett, Chief, Program Evaluation and Coordination Division, Department of Commerce, National Oceanic and Atmospheric Administration, Management and Budget Staff, NMFS, Washington, DC 20235, 202 673-5464

RIN: 0648–AB93

386. AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 658

Legal Deadline: Final, Statutory. 75 days after receipt from the fishery management council.

Abstract: This amendment will require that white shrimp taken in the Exclusive Economic Zone conform to the minimum size, landing, and possession limits of the State in which they are landed; will simplify the annual review process for the Tortugas Sanctuary; delay the Gulf of Mexico Council/Southeast Regional Director's decision on the Texas closure to February 1; and recommend expanding the sea turtle education and headstart program.

Timetable:

Action	Date	FR Cite
NPRM	09/21/88	53 FR 36609
NPRM Comment Period End	10/05/88	
Final Action	12/12/88	53 FR 49992
Final Action Effective	12/13/88	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC17

387. FISHERY MANAGEMENT PLAN FOR ATLANTIC BILLFISHES

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 644

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The plan was prepared jointly by the South Atlantic, New England, Mid-Atlantic, Gulf and Caribbean Fishery Management Councils. It would establish a management regime for sailfish, white and blue marlin, and longbill spearfish in the Atlantic, Gulf, and Caribbean exclusive economic zone. The plan's objectives are to maintain the highest availability of billfishes to the recreational fishery, to optimize social and economic benefits by reserving billfish for its traditional use, and to improve the understanding of the condition of billfish stocks and the fishery. Proposed management measures include (1) prohibition on the sale of billfish caught from the management unit, (2) possession prohibition aboard pelagic longline and drift gill net vessels, (3) possession or retention of billfish shoreward of the outer boundary of the EEZ limited to those caught by rod and reel, (4) recreational minimum size limits, (5) mandatory catch and effort reports from billfish tournaments, and (6) a provisional limited exemption from the no-sale provision for a Puerto Rico traditional handline fishery.

Timetable:

Action	Date	FR Cite
NPRM	06/29/88	53 FR 24462
NPRM Comment Period End	08/08/88	53 FR 24462
Final Action	09/28/88	53 FR 37765
Final Action Effective	10/28/88	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Analysis: Regulatory Flexibility Analysis

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC24

388. AMENDMENT 2 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 651

Legal Deadline: Final, Statutory. 110 days after receipt from the fishery management council.

Abstract: Amendment 2 will provide additional protection to groundfish resources in the North Atlantic beyond that provided by the FMP. The amendment is aimed at reducing fishing pressure on ten valuable fish species and rebuilding their stocks (cod; haddock; yellowtail, winter, windowpane, and witch flounders; pollock; redfish; American plaice; and white hake). Alternative management measures to be considered include increases in minimum sizes of four regulated species, establishment of a 9 inch minimum size for redfish, requirement for 5 1/2 inch minimum mesh throughout the net by October 1, 1989 in the regulated mesh area, a trip by catch limit of 25 percent of regulated species weight for vessels operating in the exempted Fisheries Program, as well as other measures.

Timetable:

Action	Date	FR Cite
Notice of hearings-request for comments	07/14/88	53 FR 26616
NPRM	11/09/88	53 FR 45301
NPRM Comment Period End	12/19/88	
Final Action	01/31/89	54 FR 4798

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Gloucester, MA 01930-3799, 508 281-3600

RIN: 0648–AC26

389. FOREIGN FISHING POUNDAGE AND PERMIT FEES, 1989

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and Mgmt. Act

CFR Citation: 50 CFR 611.22

Legal Deadline: None

Abstract: This rule will set poundage and permit fees for foreign fishing in 1989.

Timetable:

Action	Date	FR Cite
NPRM	11/01/88	53 FR 44047
NPRM Comment Period End	12/01/88	
Final Action Effective	01/01/89	
Final Action	02/15/89	54 FR 06933

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Alfred J. Bilik, Fishery Management Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2339

RIN: 0648–AC30

390. REGULATORY AMENDMENT TO REQUIRE REPORTING OF PACIFIC COAST GROUNDFISH LANDING TO STATES

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: The regulatory amendment would make it a Federal requirement that all landings of groundfish be reported to the appropriate States in compliance with State laws.

Timetable:

Action	Date	FR Cite
NPRM	06/15/88	53 FR 22366
NPRM Comment Period End	07/11/88	53 FR 22366
Final Action	11/29/88	53 FR 47956
Final Action Effective	12/29/88	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

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Sectors Affected: 091 Commercial Fishing

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/NWR, 7600 Sand Point Way, NE, Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AC31

391. REGULATORY AMENDMENT TO DESIGNATE SPECIAL FISHING AREAS IN THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 646

Legal Deadline: None

Abstract: The regulatory amendment would establish two special management zones around artificial reefs that were requested by the Ft. Pierce Sport Fishing Club and approved by the South Atlantic Fishery Management Council. Within the fishery management plan for the snapper-grouper fishery, use of fish traps, bottom longlines, hydraulic and electric reels unless mounted on a hand-held rod would be prohibited. In addition, spear fishing on the inshore site is prohibited and possession or harvest of jewfish would be prohibited.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32412
NPRM Comment Period End	09/26/88	
Final Action	02/28/89	54 FR 8342
Final Action Effective	03/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Regional Director, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC48

392. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER- GROUPER FISHERY OF THE SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 646

Legal Deadline: Final, Statutory. 110 days after receipt from the South Atlantic Fishery Management Council.

Abstract: Amendment 1 would prohibit the use of trawl gear in the directed fishery for snapper-groupers. The ban would apply from Cape Hatteras south through the Atlantic coast of Florida to Cape Canaveral. The prohibition is aimed primarily at fishing with roller trawls which destroy sessile organisms in live-bottom areas, including sponges and sea fans.

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 42985
NPRM Comment Period End	12/05/88	
Final Action Effective	01/12/89	
Final Action	01/17/89	54 FR 1720

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Regional Director, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC50

393. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE RED DRUM FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 653

Legal Deadline: Final, Statutory. 110 days after receipt from the fishery management council.

Abstract: Amendment 3 would establish a regulatory framework measure which allows the Secretary of Commerce to (1) adjust the total allowable catch in the Gulf of Mexico exclusive economic zone based upon the latest scientific assessment of the status of the stock, and (2) allocate the available catch between commercial and recreational users according to a preestablished allocation schedule.

Timetable:

Action	Date	FR Cite
Withdrawn - no action anticipated during the reporting period	02/24/89	
NPRM	06/00/89	
NPRM Comment Period End	09/00/89	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Regional Director, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC58

394. REGULATORY AMENDMENT TO INSTITUTE A CERTIFICATION PROGRAM FOR THE IMPORTATION OF WHOLE UNDERSIZED ATLANTIC GROUNDFISH

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 651

Legal Deadline: None

Abstract: The regulatory amendment to the Northeast Multispecies FMP would institute a certification program to allow for the importation of whole Atlantic groundfish smaller than the minimum size for U.S. harvested groundfish. The program would track the imported fish from its foreign supplier to its U.S. processor-purchaser in order to ensure enforcement of minimum size limits on domestic harvests of regulated groundfish species.

Timetable:

Action	Date	FR Cite
Withdrawn - no action anticipated during reporting period	02/15/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Gloucester, MA 01930-3799, 508 281-3600

RIN: 0648–AC60

395. PROPOSED REGULATIONS FOR THE NATIONAL MARINE SANCTUARY PROGRAM

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: As a result of the Marine Protection, Research and Sanctuaries Act reauthorization signed by the President the regulations are being revised to incorporate modifications from the new legislation regarding the sanctuary designation process.

Timetable:

Action	Date	FR Cite
NPRM	06/12/86	51 FR 21369
Final Action	10/28/88	53 FR 43802
Final Action Effective	11/28/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AA31

396. DEEP SEABED MINING REGULATIONS FOR COMMERCIAL RECOVERY

Significance: Regulatory Program

Legal Authority: 30 USC 1401 et seq Deep Seabed Hard Mineral Resources Act

CFR Citation: 15 CFR 970, (Exploration Regulations); 15 CFR 971

Legal Deadline: None

Abstract: Under 15 CFR 970, prospective deep seabed miners may apply to NOAA for the exploration license needed to explore the deep seabed for manganese nodules. Under the new regulations (15 CFR 971), prospective miners will be able to apply to NOAA for a permit to commercially recover and process nodules to obtain strategic metals (nickel, copper, cobalt, manganese). These permits would provide security of tenure for applicants with respect to other U.S. citizens and other nations' permittees in accordance with applicable international agreements. Fees for securing and maintaining a permit will be based on the Government's processing costs. These fees would be an inconsequential portion of the cost of a commercial recovery operation. The cost of a commercial recovery operation is expected to exceed one billion dollars. Alternatives to the regulation would require amending the Deep Seabed Hard Mineral Resources Act, which would be considered in the context of the U.S. law of the sea policy.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/82	47 FR 57903
NPRM	07/25/86	51 FR 26794
Public Hearings, 08/26/86, 09/11/86	09/09/86	51 FR 26794
NPRM Comment Period End	11/24/86	
NPRM	09/14/87	52 FR 34748
Final Action	01/06/89	54 FR 514
Final Action Effective	02/06/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 102 Copper Ores; 106 Ferroalloy Ores, Except Vanadium; 108 Metal Mining Services; 331 Steel Works, Blast Furnaces, and Rolling and Finishing Mills; 333 Primary Smelting and Refining of Nonferrous Metals; 951 Administration of Environmental Quality Programs

Analysis: Regulatory Impact Analysis; See Additional Information

Additional Information: A final RIA has been prepared for the commercial regulations to cover new issues raised by the commercial recovery permit regulations. It is expected that small entities will not be permittees. Rather some small entities are expected to be contractors or subcontractors to permittees. The final RIA is available as is the programmatic environmental impact statement and the supplemental environmental assessment. After considering public comments on the proposed major rule, NOAA determined that certain issues were significantly different than the proposed rules. Those limited issues were reproposed for further public comment prior to NOAA's issuing the final regulations.

Agency Contact: James P. Lawless, Chief, Oceans Minerals and Energy Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean Minerals and Energy, 1825 Connecticut Ave., NW, Suite 710, Washington, DC 20235, 202 673-5121

RIN: 0648–AA36

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

397. ● FOREIGN FILING LICENSE REQUIREMENTS

Significance: Agency Priority

Legal Authority: 35 USC 6; PL 100-418, Sec 9101(c)

CFR Citation: 37 CFR 5.14; 37 CFR 5.15; 37 CFR 5.25

Legal Deadline: None

Abstract: Amends regulations to conform with changes made in Trade Bill (Public Law 100-418) Section 9101 which amended Title 35, United States

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Code sections 184, 185 and 186. The legislation deleted "inadvertently" in view of narrow interpretation by the Courts. "Inadvertently" was replaced with "through error and without deceptive intent." The change would permit additional subject matter in foreign applications if it does not change the nature of the invention or disclose national security information.

Timetable:

Action	Date	FR Cite
NPRM	03/01/89	
NPRM Comment Period End	06/01/89	
Final Action	11/00/89	
Final Action Effective	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Kenneth Cage, Director, Group 220, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-2877

RIN: 0651–AA09

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398. DUTY OF DISCLOSURE - INFORMATION DISCLOSURE STATEMENT

Significance: Agency Priority

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.56; 37 CFR 1.97; 37 CFR 1.98; 37 CFR 1.99

Legal Deadline: None

Abstract: 37 CFR 1.56 and 1.97-1.99, which relate to the duty of patent applicants and owners to disclose information material to the examination of patent applications or to reexaminations, will be amended to specify more clearly the requirements to be met in making disclosures.

Timetable:

Action	Date	FR Cite
NPRM	03/00/89	
NPRM Comment Period End	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: R. Franklin Burnett, Special Assistant, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3054

RIN: 0651–AA27

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399. MISCELLANEOUS CHANGES IN PATENT PRACTICE

Significance: Agency Priority

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.1; 37 CFR 1.12; 37 CFR 1.84; 37 CFR 1.88

Legal Deadline: None

Abstract: Clarifications to requirements for patent application drawings. Revisions for addressing mail to the Patent and Trademark Office. Inclusion of security agreement recording in trademark records of ownership (assignments).

Timetable:

Action	Date	FR Cite
NPRM	04/15/89	
NPRM Comment Period End	06/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Theresa A. Brelsford, Assistant Commissioner for Administration, Department of Commerce, Patent and Trademark Office, 2121 Crystal Drive, PK2 908, Arlington, VA 20231, 703 557-2290

RIN: 0651–AA34

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400. AMENDMENTS OF PATENT AND TRADEMARK RULES CONCERNING JUDICIAL REVIEW OF DECISIONS

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.136; 37 CFR 1.191; 37 CFR 1.196; 37 CFR 1.197; 37 CFR 1.304; 37 CFR 1.550; 37 CFR 1.645; 37 CFR 1.658; 37 CFR 2.129; 37 CFR 2.144; 37 CFR 2.145

Legal Deadline: None

Abstract: PTO proposes to amend its rules to clarify when a decision of the Board of Patent Appeals and Interferences becomes final for purposes of judicial review. The proposed rule changes will eliminate any confusion as to when judicial review must be sought and standardizes the manner of obtaining extensions of time to seek judicial review of decisions of the Board of Appeals and Interferences and Trademark Trial and Appeal Board.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard E. Schafer, Associate Solicitor, Department of Commerce, Patent and Trademark Office, Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 557-4035

RIN: 0651–AA35

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401. AMENDMENTS OF TRADEMARK RULES GOVERNING INTER PARTES PROCEEDINGS; MISCELLANEOUS AMENDMENTS OF OTHER TRADEMARK RULES

Legal Authority: 15 USC 1123

CFR Citation: 37 CFR 2.92; 37 CFR 2.102(c); 37 CFR 2.119(d), (New); 37 CFR 2.119(e), (New); 37 CFR 2.120(d); 37 CFR 2.120(g); 37 CFR 2.120(j)(3); 37 CFR 2.120(j)(5); 37 CFR 2.120(j)(8); 37 CFR 2.123(c); 37 CFR 2.123(e)(2); 37 CFR 2.127(e)(1), (New); 37 CFR 2.127(e)(2), (New); 37 CFR 2.128(b); 37 CFR 2.186; ...

Legal Deadline: None

Abstract: The rules of practice in trademark cases are proposed to be amended to revise, simplify, clarify, or delete existing rules or to codify in rules certain practices which are currently in effect. The rules involved are those relating to the requirements for concurrent use applications; abandonment of trademark applications; appeals to the TTAB from the final refusal of registration in ex parte cases; the institution and conduct of interference, concurrent use, opposition, and cancellation proceedings before the TTAB; review by civil action of a decision of the TTAB; and allowing an assignee to take action with respect to the assigned application or registration. The proposed amendments will assist the orderly and prompt resolution of issues in proceedings before the TTAB.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Janet E. Rice, Member, Trademark Trial and Appeal Board, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Box 5, Trademark Trial and Appeal Board, Washington, DC 20231, 703 557-3551

RIN: 0651–AA36

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402. REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING DNA/RNA AND PROTEIN SEQUENCE DISCLOSURES

Significance: Agency Priority

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.221, (New); 37 CFR 1.222, (New); 37 CFR 1.223, (New); 37 CFR 1.224, (New); 37 CFR 1.225, (New)

Legal Deadline: None

Abstract: The rules would require the submission of DNA/RNA and protein sequences to be in a standard format in patent applications, to be in a separate part and also be submitted in electronic form such as diskette or tape. The submissions would simplify search, examination and publication and would facilitate the establishment of a searchable data base.

Timetable:

Action	Date	FR Cite
NPRM	03/00/89	
NPRM Comment Period End	05/00/89	
Final Action	09/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: John Kittle, Director, Group 180, Department of Commerce, Patent and Trademark Office, CP2-9A09, Washington, DC 20231, 703 557-3637

RIN: 0651–AA37

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403. ● AMENDMENTS OF THE TRADEMARK RULES TO IMPLEMENT THE TRADEMARK LAW REVISION ACT AND THE "CROCKER" DECISION AND MISCELLANEOUS TRADEMARK RULE AMENDMENTS

Significance: Regulatory Program

Legal Authority: 15 USC 1123; PL 100-667

CFR Citation: 37 CFR 2.21; 37 CFR 2.33; 37 CFR 2.51; 37 CFR 2.61; 37 CFR 2.64; 37 CFR 2.71; 37 CFR 2.76, (New); 37 CFR 2.77, (New); 37 CFR 2.81, (New); 37 CFR 2.87; 37 CFR 2.88, (New); 37 CFR 2.89, (New); 37 CFR 2.129; 37 CFR 2.133; 37 CFR 2.161; ...

Legal Deadline: Final, Statutory, November 16, 1989.
The effective date of the Trademark Revision Act of 1988 (P.L. 100-667) is November 16, 1989, by which date implementing rules must be final.

Abstract: The rules of practice in trademark cases are proposed to be amended to implement the provisions of the Trademark Law Revision Act of 1988 (P.L. 100-667), to codify changes in practice resulting from a certain Trademark Trial and Appeal Board decision commonly known as the "Crocker" decision (relating to requirements for foreign applicants seeking to register trademarks in the United States), and to otherwise clarify and revise procedures for the examination of applications. The rules involved are those relating to applications for registration of trademarks based on (1) use of a mark in commerce, (2) a bona fide intention to use a mark in commerce, and (3) ownership of a foreign registration. The rules involved relate also to post-registration procedures and to ex parte appeals and inter partes proceedings before the Trademark Trial and Appeal Board.

Timetable:

Action	Date	FR Cite
NPRM	03/00/89	
NPRM Comment Period End	05/00/89	
Final Action	08/00/89	
Final Action Effective	11/16/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Carlisle E. Walters, Legal Administrator, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Box 5, Washington, DC 20231, 703 557-3061

RIN: 0651–AA38

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404. ● PATENT AND TRADEMARK AUTOMATED SEARCH SYSTEM FEES

Significance: Regulatory Program

Legal Authority: 35 USC 6; 35 USC 41; 15 USC 1113; PL 100-703

CFR Citation: 37 CFR 1.21; 37 CFR 2.6

Legal Deadline: None

Abstract: PTO proposes to establish a reasonable user fee for access to its automated full-text patent search system and automated trademark search system in its public facilities in Arlington, Virginia.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Frances Michalkewicz, Director, Office of Long Range Planning and Evaluation, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 557-1610

RIN: 0651–AA40

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405. ● PATENT TERM EXTENSION FOR ANIMAL DRUG PRODUCTS

Significance: Agency Priority

Legal Authority: 35 USC 6; 35 USC 156; PL 100-670

CFR Citation: 37 CFR 1.710; 37 CFR 1.720; 37 CFR 1.740; 37 CFR 1.741; 37 CFR 1.765; 37 CFR 1.775; 37 CFR 1.778,(new); 37 CFR 1.779,(new); 37 CFR 1.785

Legal Deadline: None

Abstract: Changes are proposed to existing rules relating to patent term extension to implement the Generic Animal Drug and Patent Term Restoration Act, Pub. L. 100-670 (November 16, 1988).

Existing procedures and requirements will be applied to applications for patent term extension based on regulatory approval of new animal drugs or veterinary biological products.

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DOC—PTO — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9507
NPRM Comment Period End	05/01/89	
Final Action	07/00/89	
Final Action Effective	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Van Horn, Deputy Solicitor, Department of Commerce, Patent and Trademark Office, Box 8, Washington, DC 20231, 703 557-2317

RIN: 0651–AA42

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

406. VARIETY DENOMINATION REQUIREMENTS FOR PLANT PATENT APPLICATIONS

Legal Authority: 35 USC 41; 35 USC 6

CFR Citation: 37 CFR 1.17; 37 CFR 1.72; 37 CFR 1.168

Legal Deadline: None

Abstract: PTO will propose amendment of its rules of practice in patent cases to implement the International Convention for the Protection of New Varieties of Plants. The International Convention requires registration of a plant variety name at the time a patent on a plant variety is issued. Compliance with the registration requirements of the Convention would be determined in the process of examining plant patent applications.

Timetable:

Action	Date	FR Cite
Notice	12/27/85	50 FR 52963
NPRM	11/02/87	52 FR 42018
NPRM Comment Period End	01/06/88	
Final Action	04/00/89	
Final Action Effective	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Michael K. Kirk, Assistant Commissioner for External Affairs, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3065

RIN: 0651–AA12

407. DEPOSIT OF BIOLOGICAL MATERIALS FOR PATENT PURPOSES

Significance: Regulatory Program

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.200 (New); 37 CFR 1.201 (New); 37 CFR 1.202 (New); 37 CFR 1.203 (New); 37 CFR 1.204 (New); 37 CFR 1.205 (New); 37 CFR 1.206 (New); 37 CFR 1.207 (New); 37 CFR 1.208 (New)

Legal Deadline: None

Abstract: PTO will propose amendment of its rules of practice in patent cases to govern the deposit of biological materials for patent purposes.

Timetable:

Action	Date	FR Cite
ANPRM	09/09/87	52 FR 34080
ANPRM Comment Period End	11/30/87	
NPRM	10/06/88	53 FR 39420
NPRM Comment Period End	01/09/89	
Final Action	04/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Charles E. Van Horn, Deputy Solicitor, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-4035

RIN: 0651–AA13

408. REQUESTS FOR RECONSIDERATION IN PATENT AND TRADEMARK OFFICE DISCIPLINARY PROCEEDINGS

Legal Authority: 5 USC 500; 15 USC 1123; 35 USC 6; 35 USC 32; 35 USC 34; 35 USC 41

CFR Citation: 37 CFR 10.156

Legal Deadline: None

Abstract: The proposed rule change will prescribe the date on which the decision of the Commissioner of Patents and Trademarks in a PTO disciplinary proceeding becomes final agency action for purposes of judicial review. It will also provide for one request for reconsideration or modification of such decision by a party.

Timetable:

Action	Date	FR Cite
NPRM	10/03/88	53 FR 38740
NPRM Comment Period End	12/01/88	
Final Action	04/00/89	
Final Action Effective	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harris A. Pitlick, Associate Solicitor, Department of Commerce, Patent and Trademark Office, Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 557-4035

RIN: 0651–AA33

409. ● EXHAUSTION OF ADMINISTRATIVE REMEDIES IN PATENT AND TRADEMARK OFFICE DISCIPLINARY PROCEEDINGS

Legal Authority: 5 USC 500; 15 USC 1123; 35 USC 6; 35 USC 31; 35 USC 32; 35 USC 41

CFR Citation: 37 CFR 10.155; 37 CFR 10.157

Legal Deadline: None

Abstract: Proposed amendments will clarify that a respondent dissatisfied with the initial decision by the administrative law judge in a PTO disciplinary proceeding must exhaust administrative remedies before seeking judicial review under 35 USC 32.

DOC—PTO — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/28/88	53 FR 52438
NPRM Comment Period End	02/27/89	
Final Action	05/00/89	
Final Action Effective	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harris A. Pitlick, Department of Commerce, Patent and Trademark Office, Box 8, Washington, DC 20231, 703 557-4035

RIN: 0651–AA41

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Completed Actions

410. REQUESTS FOR IDENTIFIABLE RECORDS

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.15

Legal Deadline: None

Abstract: The existing regulations govern requests for records not disclosed to the public as part of PTO's informational activities. The regulations need to be revised to eliminate obsolete provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27177
NPRM Comment Period End	09/20/88	
Final Action	11/25/88	53 FR 47685
Final Action Effective	12/30/88	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: John W. Dewhirst, Department of Commerce, Patent and Trademark Office, Ofc. of the Solicitor, Washington, DC 20231, 703 557-4035

RIN: 0651–AA04

411. TRADEMARK AUTOMATED SEARCH SYSTEM FEES

Legal Authority: 15 USC 1113; 15 USC 1123; PL 96-517; PL 97-247

CFR Citation: 37 CFR 2.6

Legal Deadline: None

Abstract: PTO proposes to amend its rules to establish user fees for members of the public desiring to conduct trademark searches of the computerized data bases in the PTO's automated trademark search system.

Timetable:

Action	Date	FR Cite
NPRM	08/07/84	49 FR 31460
NPRM Comment Period End	09/05/84	
NPRM Comment Period Extended to	09/25/84	49 FR 35527
Will be merged with RIN 0651-AA40	02/24/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: Multiple

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared. Will be merged with new entry - Patent and Trademark Automated Search System Fees Authorized by Pub. L. 100-703.

Agency Contact: Bradford R. Huther, Asst. Commissioner for Finance & Planning, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-1572

RIN: 0651–AA18

412. TRADEMARK APPLICATIONS PURSUANT TO 15 USC 1126

Significance: Regulatory Program

Legal Authority: 15 USC 1123; Crocker National Bank v. Canadian Imperial Bank of Commerce; 223 USPQ 909 (TTAB 1984); In re International Barrier Corp., 231 USPQ 310 (TTAB 1986); In re ETA Systems, Inc., 2 USPQ 2d 1367 (TTAB 1987)

CFR Citation: 37 CFR 2.21; 37 CFR 2.33; 37 CFR 2.39; 37 CFR 2.56; 37 CFR 2.57; 37 CFR 2.58

Legal Deadline: None

Abstract: PTO plans to propose amendment of its rules of practice in trademark cases to revise the use and specimen requirements in trademark applications filed pursuant to Section 44 of the Trademark Act, 15 USC 1126. The revision would conform the use and specimen requirements with the decisions of the Trademark Trial and Appeal Board in Crocker National Bank v. Canadian Imperial Bank of Commerce, 223 USPQ 909 (1984), in re International Barrier Corp., 231 USPQ 310 (1986) and in re ETA Systems, Inc., 2 USPQ 2d 1367 (1987).

Timetable:

Action	Date	FR Cite
Will be merged with RIN 0651-AA38	02/24/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple.

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared. Will be merged with new entry - Amendments of the Trademark Rules to Implement the Trademark Law Revision Act and the Crocker Decision and Miscellaneous Trademark Rule Amendments.

Agency Contact: Ms. Carlisle Walters, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3061

RIN: 0651–AA23

413. REVISION OF PATENT FEES

Significance: Agency Priority

Legal Authority: 35 USC 6; 35 USC 41; 35 USC 376

CFR Citation: 37 CFR 1.16; 37 CFR 1.17; 37 CFR 1.18; 37 CFR 1.19; 37 CFR 1.20; 37 CFR 1.21; 37 CFR 1.24; 37 CFR 1.26; 37 CFR 1.297; 37 CFR 1.445; 37 CFR 1.482

Legal Deadline: None

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DOC—PTO — Completed Actions

Abstract: PTO plans to propose amendments of its rules of practice in patent cases to adjust patent fees effective October 1, 1988, to reflect the fluctuations in the Consumer Price Index during the previous three years.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48402
NPRM Comment Period End	01/04/89	53 FR 48402
Final Action	02/15/89	54 FR 06893
Final Action Effective	04/17/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: Multiple

Agency Contact: Frances Michalkewicz, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 557-1610

RIN: 0651–AA30

414. PRACTICE BEFORE THE PATENT AND TRADEMARK OFFICE

Significance: Agency Priority

Legal Authority: 35 USC 6; 35 USC 31; 35 USC 32; 5 USC 500; 15 USC 1123

CFR Citation: 37 CFR 10.5; 37 CFR 10.6; 37 CFR 10.23

Legal Deadline: None

Abstract: PTO proposes to amend its rules governing the admission of officers and employees of the United States to the register of attorneys and agents authorized to practice before the PTO in patent cases, and the practice of former PTO employees before the Office. The amendment would eliminate a restriction excluding Federal employees from registration which has been held invalid on judicial review. Provisions affected by the elimination of that restriction would also be amended.

Timetable:

Action	Date	FR Cite
NPRM	06/07/88	53 FR 20871
NPRM Comment Period End	08/09/88	53 FR 20871
Final Action	10/04/88	53 FR 38948
Final Action Effective	11/04/88	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Nancy C. Slutter, Assistant Solicitor, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 557-4035

RIN: 0651–AA31

415. MISCELLANEOUS CHANGES IN PATENT PRACTICE

Significance: Agency Priority

Legal Authority: 35 USC 6; 15 USC 1113; 15 USC 1123

CFR Citation: 37 CFR 1.4; 37 CFR 1.5; 37 CFR 1.53; 37 CFR 1.56; 37 CFR 1.81; 37 CFR 1.84; 37 CFR 1.85; 37 CFR 1.152; 37 CFR 1.378; 37 CFR 1.421; 37 CFR 1.460

Legal Deadline: None

Abstract: PTO proposes to amend its regulations to make miscellaneous changes in patent practice.

Timetable:

Action	Date	FR Cite
NPRM	05/09/88	53 FR 16522
NPRM Comment Period End	07/21/88	53 FR 16522
Final Action	11/28/88	53 FR 47803
Final Action Effective	01/01/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Louis O. Maassel, Editor, MPEP, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 557-3070

RIN: 0651–AA32

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Prerule Stage

416. ADMINISTRATION OF A UNIFORM PATENT POLICY WITH RESPECT TO DOMESTIC RIGHTS IN INVENTIONS MADE BY GOVERNMENT EMPLOYEES

Significance: Agency Priority

Legal Authority: EO 10096; EO 10930; 35 USC 207 to 208; 15 USC 3701 et seq

CFR Citation: 37 CFR 100

Legal Deadline: None

Abstract: PL 99-502 amended the Stevenson-Wydler Innovation Act of 1980 by establishing a number of procedures to encourage the development of technologies by laboratories owned or operated by the Federal government, to facilitate the transfer of such technologies to the public, and to promote cooperation between these laboratories and the private sector.

Executive Order 10096 would be amended with regard to the government's rights to ownership of inventions created in laboratories owned or operated by the Federal government. A revised version of the executive order might be prepared and regulations would be developed to implement the amendments effected by PL 99-502.

This action will not increase Federal costs. In the short run it will encourage private sector collaboration to assist work done in Federal laboratories by appropriated funds, and in the long run increased commercialization of patents and inventions will increase tax revenues.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Joseph P. Allen, Director, Office of Federal Technology Management, Department of Commerce, Technology Administration, Room H

DOC—TA — Prerule Stage

4837, Washington, DC 20230, 202 377-8101

RIN: 0692–AA05

417. ● METRIC CONVERSION POLICY FOR FEDERAL AGENCIES

Significance: Regulatory Program

Legal Authority: 15 USC 205a et seq Metric Conversion Act

CFR Citation: 15 CFR 19 Subpart B (Revised)

Legal Deadline: Other, Statutory, September 30, 1992.
15 USC 205(1) (as amended by sec. 5164 of PL 100-418) calls for the Comptroller General to review the implementation of the amended policy and report his finding to Congress along (cont)

Abstract: The CFR must be updated to reflect the new Federal policy, as amended by the 1988 Trade Act (PL 100-48), regarding Federal use of the metric system in its procurements, grants and other business-related activities, and the impact on State and local governments and the private sector of this transition. No alternatives are being considered.

The costs to the Federal government cannot be accurately estimated, but will include the cost of redoing some regulations and publications, costs associated with orienting employees and contractors to use of the metric system and some share of contractor costs for converting. The benefits will be the greater marketability of U.S. products which will improve our competitive posture in world markets and thereby improve U.S. trade balances.

Timetable:

Action	Date	FR Cite
ANPRM	06/30/89	
ANPRM Comment Period End	07/31/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: LEGAL DEADLINE DESCRIPTION CONT: with any legislative recommendation.

Agency Contact: Jack Williams, Acting Director, Office of Commercial Affairs, Department of Commerce, Technology Administration, Room 4814B, Washington, DC 20230, 202 377-1091

RIN: 0692–AA07

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Proposed Rule Stage

418. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Legal Authority: 35 USC 208

CFR Citation: 37 CFR 404

Legal Deadline: None

Abstract: This action will revise 37 CFR 404 to simplify the process by which U.S. industry can obtain license to patented inventions owned by the Government. PL 99-502 is expected to increase industry interest in licensing inventions from Federal laboratories. The existing regulation was written by GSA on the basis of 1980 legislation. It may be possible to remove some of the difficulties that potential licensees must overcome.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: All

Agency Contact: Joseph P. Allen, Director, Office of Federal Technology Management, Department of Commerce, Technology Administration, Room H 4837, Washington, DC 20230, 202 377-8101

RIN: 0692–AA04

DEPARTMENT OF COMMERCE (DOC)
United States Travel and Tourism Administration (USTTA)

Prerule Stage

419. TRAVEL PROMOTION FEE

Significance: Regulatory Program

Legal Authority: Not yet enacted

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: USTTA has primary Federal responsibility for stimulating U.S. export earnings through trade in tourism. Trade development coordination and other related services are currently provided without charge, however, various public and private sector partners do support USTTA cooperative programs at a level nearly equal the funding provided the agency by Congress. The Administration has directed USTTA to undertake efforts to replace funding it receives from general Treasury revenue with monies raised by assessing a facilitation fee derived from the economic activities of the American travel industry and its consumers. Upon enactment of this legislation USTTA will issue implementing regulations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Eric C. Peterson, Dpty. Under Secretary for Travel and Tourism, Department of Commerce, United States Travel and Tourism Administration, Room 1865, Washington, DC 20230, 202 377-0140

RIN: 0644–AA00

[FR Doc. 89-5835 Filed 04-21-89; 8:45 am]
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Part V

Department of Defense

Semiannual Regulatory Agenda

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DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, DoD.

ACTION: Publication of the consolidated semiannual agenda of DoD regulatory documents.

SUMMARY: The Department of Defense is publishing this consolidated semiannual agenda of regulatory documents for public information and comments under E.O. 12291, "Federal Regulation." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under E.O. 12291, and other regulatory programs. It contains DoD issuances initiated by DoD Components that may have economic and environmental impact on state, local, public or private interests under the criteria of E.O. 12291. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

This agenda updates the report published on October 24, 1988, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in October 1989. In addition to this agenda, DoD Components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mrs. Pearl Rascoe-Harrison, telephone 202-746-0933 or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, contact the Office of the General Counsel, DoD, Washington, DC 20301, or call 202-697-2714.

For general information on Office of the Secretary regulations, contact Mrs. Patricia H. Means, Directives Division, Correspondence and Directives, Directorate, Washington Headquarters Services, telephone 202-697-4111.

For general information on Department of the Army regulations, contact Mr. Kenneth L. Denton, telephone 202-325-6297 or write to HQDA, ASQZ-SPP, Room 1420, Hoffman I, Alexandria, Virginia 22331-0302.

For general information on Department of the Navy regulations, contact Ms. Alcinda P. Wenberg, telephone 202-697-7216 or write to Department of the Navy, Information Resources Management, IRM(C), Washington, DC 20350-1000.

For general information on Department of the Air Force regulations, contact Ms. Patsy J. Conner, telephone 202-694-3527 or write to Department of the Air Force, SAF/AADA, Pentagon, Washington, DC 20330-1000.

For specific agenda items, contact the appropriate individual indicated in each DoD Component report.

SUPPLEMENTARY INFORMATION: This consolidated agenda is composed of the regulatory status reports from the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force. Included also in this agenda is the regulatory report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of E.O. 12291. Their agenda will reflect these requirements, with follow-on reporting actions taken, as necessary.

DoD issuances range from DoD Directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement Directives). The OSD agenda section contains the primary Directives under which DoD Components promulgate their implementing regulations.

To ease identification and to clarify the differences among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes Component level of authority and type of issuance in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of E.O. 12291, will continue to be the DoD single source reporting vehicle which will identify issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, when applicable, DoD Components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act; and

c. GATT International Trade Agreement.

These DoD issuances which are directly applicable under these statutes will be identified in the agenda and their action status indicated. Generally, the reports in this agenda will contain four sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; and (4) completed actions.

Although not a regulatory agency, the Department of Defense will continue to participate in regulatory initiatives designed to reduce the economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD Component representatives identified in each section.

Although sensitive to the needs of the public and regulatory reform, the Department of Defense reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission.

Note: The publishing of this agenda does not waive the applicability of the military affairs exemption in title 5, section 553 and section 1 of E.O. 12291.

Dated: February 24, 1989.

D. O. Cooke,

Director, Administration and Management.

DOD

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
420	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Implementation of Section 504 of PL 93-112, the Rehabilitation Act of 1973 (DoD 6010.8-R)	0790-AA71
421	Commercial Activities Program; Procedures (DoD Instruction 4100.33)	0790-AA73
422	Defense Industrial Personnel Security Clearance Review Program (DoD Directive 5220.6)	0790-AA84
423	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Per Diem Based Payment Method for Mental Health Services (DoD 6010.8-R)	0790-ABC6

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
424	Implementation of the Program Fraud Civil Remedies Act (DoD Directive 5505.5)	0790-AA82
425	Department of Defense (DoD) Program Fraud Civil Remedies Regulation (DoD Directive 5505.xx)	0790-AA83
426	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Updating CHAMPUS Prevailing Charges (DoD 6010.8-R)	0790-AB05
427	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Changes to the CHAMPUS DRG-Based Payment System and Fiscal Year 1989 Rates (DoD 6010.8-R)	0790-AB07
428	Housing Referral Offices and Services (DoD Instruction 4165.51)	0790-AB22
429	The DoD Civilian Equal Opportunity (EEO) Program (DoD Directive 1440.1)	0790-AB23
430	Assistant Secretary of Defense (Research and Technology) (DoD Directive 5129.3)	0790-AB24
431	Gifts from Foreign Governments (DoD Directive 1005.13)	0790-AB25
432	Assistant Secretary of Defense (Development and Support) (DoD Directive 5129.4)	0790-AB26
433	Availability of Records and Publication of Documents Affecting the Public	0790-AB27

Department of the Army—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
434	The Army General Counsel's Honors Program	0702-AA00
435	Airfield Certification and Use of Army Airfields by Other than U.S. Department of Defense Aircraft	0702-AA02

Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
436	Regulations Affecting Military Reservations: Prohibited Activities at Fort Bragg, NC	0702-AA17

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
437	Regulatory Programs of the Corps of Engineers, Part 325, Appendix D--Endangered Species Counterpart Regulations	0710-AA17
438	Nationwide Permit Program	0710-AA20

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U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
439	Regulatory Programs of the Corps of Engineers Part 325, App. C, Historic Properties	0710-AA12

Department of the Air Force—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
440	Public Affairs Policies and Procedures (AFR 190-1)	0701-AA18
441	Claims and Tort Litigation (AFR 112-1)	0701-AA19

Department of the Air Force—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
442	Air Force Supplement to the Federal Acquisition Regulation (FAR)	0701-AA14

Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identifier Number
443	Leasing USAF Aircraft and Related Equipment to Nongovernment Organizations	0701-AA26

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Final Rule Stage

420. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); IMPLEMENTATION OF SECTION 504 OF PL 93-112, THE REHABILITATION ACT OF 1973 (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301; 29 USC 794

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: The purpose of this rule is to revise the DoD Regulation 6010.8-R (32 CFR 199) to meet the intent of Section 504 of the Rehabilitation Act of 1973, as amended.

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	51 FR 39757
NPRM Comment Period End	12/01/86	51 FR 39757
Final Action	11/30/89	
Final Action Effective	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: T. Shahid, Department of Defense, Office of the Secretary, 303 361-3587

RIN: 0790–AA71

421. COMMERCIAL ACTIVITIES PROGRAM; PROCEDURES (DOD INSTRUCTION 4100.33)

Legal Authority: 5 USC 301; 5 USC 552; PL 93-400

CFR Citation: 32 CFR 169

Legal Deadline: None

Abstract: This part establishes DoD policies to implement OMB Circular No. A-76, which are currently included in 32 CFR Part 169. It establishes procedures and criteria for use by the Department of Defense to determine whether DoD commercial activities should be performed by DoD personnel in-house or by contract with commercial sources. 32 CFR Part 169, "Commercial Activities Program" and 32 CFR Part 169a, "Commercial Activities Program Procedures" are proposed to be removed in their entirety.

DOD—OS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/03/86	51 FR 43619
NPRM Comment Period End	01/02/87	51 FR 43620
Final Action	11/30/89	
Final Action Effective	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Hansen, Department of Defense, Office of the Secretary, 202 325-0537

RIN: 0790–AA73

422. DEFENSE INDUSTRIAL PERSONNEL SECURITY CLEARANCE REVIEW PROGRAM (DOD DIRECTIVE 5220.6)

Legal Authority: 5 USC 504; EO 10865

CFR Citation: 32 CFR 155

Legal Deadline: None

Abstract: This part is being revised and reissued to establish a standard for determining petitions for reimbursement for loss of earnings, incorporate the revised DoD Adjudication Policies for security clearance determinations under this rule, and revise procedures for cases not requiring a hearing, and procedures for considering issues raised on appeal.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 16864
NPRM Comment Period End	06/05/87	52 FR 16864
Final Action	11/30/89	
Final Action Effective	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Brown, Department of Defense, Office of the Secretary, 202 696-4599

RIN: 0790–AA84

423. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PER DIEM BASED PAYMENT METHOD FOR MENTAL HEALTH SERVICES (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This proposed rule, if adopted, would revise the comprehensive CHAMPUS regulation to establish a new method of paying for mental health hospital care. Rather than continuing to pay billed charges, the new method would pay hospitals based on prospectively set fixed rates for each day of hospital services provided. These per diem rates would be calculated to be revenue neutral in the base period of calculation, with full adjustments for price inflation. The result will be nearly revenue neutral in fiscal year 1989 with respect to CHAMPUS payments for inpatient mental health services.

Timetable:

Action	Date	FR Cite
NPRM	06/03/88	53 FR 20585
NPRM Comment Period End	07/05/88	53 FR 20585
Final Action	11/30/89	
Final Action Effective	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: S. Regensberg, Department of Defense, Office of the Secretary, 303 361-3572

RIN: 0790–AB06

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Completed Actions

424. IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT (DOD DIRECTIVE 5505.5)

Legal Authority: 31 USC 3807

CFR Citation: 32 CFR 277

Legal Deadline: None

Abstract: This part implements Program Fraud Civil Remedies Act by establishing an administrative process within the Departments of the Army, Navy, and Air Force for the adjudication of fraudulent claims of less than $150,000 or false statements.

Timetable:

Action	Date	FR Cite
NPRM	07/16/87	52 FR 26692
NPRM Comment Period End	08/17/87	52 FR 26692
Final Action Effective	08/30/88	
Final Action	10/06/88	53 FR 39262

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: M. Sterlacci, Department of Defense, Office of the Secretary, 202 697-2714

RIN: 0790–AA82

425. DEPARTMENT OF DEFENSE (DOD) PROGRAM FRAUD CIVIL REMEDIES REGULATION (DOD DIRECTIVE 5505.XX)

Legal Authority: 31 USC 3807; PL 99-509

CFR Citation: 32 CFR 277

Legal Deadline: None

Abstract: This part establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious or fraudulent claims or written statements to authorities or to their agents. It also specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

Timetable:

Action	Date	FR Cite
NPRM	07/16/87	52 FR 26693
NPRM Comment Period End	08/17/87	52 FR 26693
Withdrawn	10/06/88	53 FR 39262

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 32 CFR Part 276 is removed and incorporated into Part 277.

Agency Contact: M. Sterlacci, Department of Defense, Office of the Secretary, 202 697-2714

RIN: 0790–AA83

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426. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); UPDATING CHAMPUS PREVAILING CHARGES (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This final rule revises DoD 6010.8-R to allow the Secretary of Defense increased flexibility regarding the timing of updates to the prevailing charge levels which limit the amounts that are payable under CHAMPUS for professional services.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	06/03/88	53 FR 20592
NPRM	07/05/88	53 FR 20592
Final Action	08/17/88	53 FR 30994
Final Action Effective	09/16/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Gallegos, Department of Defense, Office of the Secretary, **303 361-3005**

RIN: 0790–AB05

427. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); CHANGES TO THE CHAMPUS DRG-BASED PAYMENT SYSTEM AND FISCAL YEAR 1989 RATES (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This final rule changes CHAMPUS DRG-based payment system which was implemented on October 1, 1987. Some of these changes are necessary as a result of our experience with the system or to conform to a number of recent statutory changes affecting the Medical Prospective Payment System (PPS) upon which the CHAMPUS DRG-based payment system is modeled. Other changes expand the scope of the DRG-based payment system.

Timetable:

Action	Date	FR Cite
NPRM	06/03/88	53 FR 20576
NPRM Comment Period End	07/05/88	53 FR 20576
Final Action	08/31/88	53 FR 33461
Final Action Effective	10/01/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: S. Isaacson, Department of Defense, Office of the Secretary, **303 361-4005**

RIN: 0790–AB07

428. ● HOUSING REFERRAL OFFICES AND SERVICES (DOD INSTRUCTION 4165.51)

Legal Authority: 5 USC 301

CFR Citation: 32 CFR 239b

Legal Deadline: None

Abstract: 32 CFR Part 239b is removed in its entirety. It has served the purpose for which it was intended and is no longer required.

Timetable:

Action	Date	FR Cite
Final Action Effective	07/25/88	
Final Action	08/15/88	53 FR 30676

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: L. Bynum, Department of Defense, Office of the Secretary, **202 697-4111**

RIN: 0790–AB22

429. ● THE DOD CIVILIAN EQUAL OPPORTUNITY (EEO) PROGRAM (DOD DIRECTIVE 1440.1)

Legal Authority: 5 USC 301; 10 USC 113

CFR Citation: 32 CFR 191

Legal Deadline: None

Abstract: This part establishes the Civilian Equal Employment Opportunity (EEO) Program within the Department of Defense. It authorizes special emphasis programs for women, minorities, and persons with disabilities and establishes the Defense Equal Opportunity Council, the Civilian EEO Review Board, and Special Emphasis Program Boards.

Timetable:

Action	Date	FR Cite
Final Action	05/21/87	53 FR 30990
Effective		
Final Action	08/17/88	53 FR 30990

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Haughton, Jr., Department of Defense, Office of the Secretary, **202 695-0105**

RIN: 0790–AB23

430. ● ASSISTANT SECRETARY OF DEFENSE (RESEARCH AND TECHNOLOGY) (DOD DIRECTIVE 5129.3)

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 351b

Legal Deadline: None

Abstract: The position of Assistant Secretary of Defense (Research and Technology) has been disestablished, therefore, 32 CFR Part 351b is no longer required.

Timetable:

Action	Date	FR Cite
Final Action	10/26/88	53 FR 43201
Final Action Effective	11/01/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: L. Bynum, Department of Defense, Office of the Secretary, **202 697-4111**

RIN: 0790–AB24

431. ● GIFTS FROM FOREIGN GOVERNMENTS (DOD DIRECTIVE 1005.13)

Legal Authority: 10 USC 113

CFR Citation: 32 CFR 95

Legal Deadline: None

Abstract: This Part is issued to reflect revised General Services Administration (GSA) regulations concerning the acceptance of gifts from foreign governments and their limits of monetary value.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/13/88	53 FR 45085
Final Action	11/08/88	53 FR 45085

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. Kennedy, Department of Defense, Office of the Secretary, **202 697-1142**

RIN: 0790–AB25

432. ● ASSISTANT SECRETARY OF DEFENSE (DEVELOPMENT AND SUPPORT) (DOD DIRECTIVE 5129.4)

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 351c

Legal Deadline: None

Abstract: The position of Assistant Secretary of Defense (Development and Support) has been disestablished, therefore, 32 CFR Part 351c is no longer valid.

Timetable:

Action	Date	FR Cite
Final Action	10/26/88	53 FR 43201
Final Action Effective	11/01/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: L. Bynum, Department of Defense, Office of the Secretary, **202 697-4111**

RIN: 0790–AB26

433. ● AVAILABILITY OF RECORDS AND PUBLICATION OF DOCUMENTS AFFECTING THE PUBLIC

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 701 Subparts A to D

Legal Deadline: None

Abstract: This rule sets forth amended regulations pertaining to the Department of the Navy Freedom of Information Act Programs.

Timetable:

Action	Date	FR Cite
Final Action	12/27/88	53 FR 52139
Final Action Effective	12/27/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris M. Lama, Department of Defense, Office of the Secretary, Office of Chief of Naval Operations, Washington, DC 20350-2000, **202 694-2004**

RIN: 0790–AB27

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Prerule Stage

434. THE ARMY GENERAL COUNSEL'S HONORS PROGRAM

Legal Authority: 10 USC 302; 10 USC 3005

CFR Citation: 32 CFR 585

Legal Deadline: None

Abstract: Army General Counsel's Honors Program. To recruit highly qualified attorneys to fill vacancies in the Army General Counsel's Office. Comment period completed. The document explains the methods of application and the requirements and procedures for the appointment to that office.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Paperwork Reduction Act Impact - None.

International Trade Impact - None.

Agency Contact: John Pavlick, Department of Defense, Department of the Army, Office of the Army General Counsel, **202 695-0562**

RIN: 0702–AA00

435. AIRFIELD CERTIFICATION AND USE OF ARMY AIRFIELDS BY OTHER THAN U.S. DEPARTMENT OF DEFENSE AIRCRAFT

Legal Authority: PL 85-726; PL 97-248; PL 91-258

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Prescribes responsibilities and procedures with regard to use of U.S. Army airfields by other than DoD.

Timetable:

Action	Date	FR Cite
End Review	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Paperwork Reduction Act Impact - None.

International Trade Impact - None.

Agency Contact: Robert C. Cole, Department of Defense, Department of the Army, US Army Air Traffic Control Activity, Aeronautical Service Office, **703 272-7796**

RIN: 0702–AA02

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Final Rule Stage

436. REGULATIONS AFFECTING MILITARY RESERVATIONS: PROHIBITED ACTIVITIES AT FORT BRAGG, NC

Legal Authority: 10 USC 3012

CFR Citation: 32 CFR 552

Legal Deadline: None

Abstract: This regulation establishes the criteria for enforcement of certain State laws and installation rules pertaining to driving offenses and hunting and fishing privileges on the Fort Bragg installation. This regulation provides guidance on motor vehicle offenses and the requirements to obtain hunting and fishing privileges for anyone (military or civilian) employed on, visiting, or traveling through the above reservation.

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DOD—DOA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	09/01/89	
Final Action Effective	09/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John O. Roach, Army Liaison Officer with the Federal Register, Department of Defense, Department of the Army, HQDA, SFIS-APP, Alexandria, VA, 703 325-6297

RIN: 0702–AA17

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

437. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, PART 325, APPENDIX D–ENDANGERED SPECIES COUNTERPART REGULATIONS

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325, Appendix D

Legal Deadline: None

Abstract: Procedures for the protection of endangered species in the regulatory program of the Corps of Engineers. Because of the increased emphasis being placed on endangered species by the Federal and State resource agencies, the Corps identified a need to provide more definitive guidance on implementing the Endangered Species Act (ESA) in its regulatory program. The Corps is now developing counterpart regulations with the Department of Interior. The regulations will basically bring together various guidance used in the past by both the Corps and DOI. The regulations will include guidance on how the ESA Amendments impact applicants for Federal permits.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	09/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Regulation Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-0199

RIN: 0710–AA17

438. NATIONWIDE PERMIT PROGRAM

Significance: Regulatory Program

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 330

Legal Deadline: None

Abstract: The Corps intends to propose revisions to 33 CFR 330. The intent of the proposed revisions will be to simplify and clarify the nationwide permit program of the Corps. The nationwide permit program is designed to authorize projects that have minimal impacts with little or no paperwork or delay. Section 330 of the regulation has become so complex that this goal is no longer being met.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	05/00/89	
Final Action	12/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Regulations Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-0199

RIN: 0710–AA20

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

439. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS PART 325, APP. C, HISTORIC PROPERTIES

Legal Authority: 33 USC 401; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325, Appendix C

Legal Deadline: None

Abstract: Procedure for protection of historic properties and compliance with Sections 106 and 110(f) of the National Historic Preservation Act.

Timetable:

Action	Date	FR Cite
NPRM	05/04/84	49 FR 19036
NPRM Comment Period End	06/04/84	49 FR 19036
Final Action	04/00/89	
Final Action Effective	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: Paperwork Reduction Act Impact - The paperwork, reports, studies, etc., required of Government at all levels, business and citizens will be reduced by the revised procedures.

Small Business Impact - By streamlining the procedures for obtaining a Corps permit, the regulatory burden on small businesses will be reduced.

GATT Impact - None.

Agency Contact: Sam Collinson, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-0199

RIN: 0710–AA12

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Proposed Rule Stage

440. PUBLIC AFFAIRS POLICIES AND PROCEDURES (AFR 190-1)

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 837

Legal Deadline: None

Abstract: Describes Air Force Public Affairs program and how public affairs resources are to be managed to effectively reach public affairs goals.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lt Col Hessenflow, Department of Defense, Department of the Air Force, HQ USAF (SAF/PAR), Washington, DC 20330, 202 697-6701

RIN: 0701–AA18

441. CLAIMS AND TORT LITIGATION (AFR 112-1)

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 842

Legal Deadline: None

Abstract: Establishes standard policies and procedures to administratively process claims and tort litigation involving the Air Force.

Timetable:

Action	Date	FR Cite
Begin Review	02/28/86	
End Review	01/31/88	
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maj Adams, Department of Defense, Department of the Air Force, HQ USAF/JACC, Bldg. 5683, Bolling AFB, DC 20332-6128, 202 767-1575

RIN: 0701–AA19

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Final Rule Stage

442. AIR FORCE SUPPLEMENT TO THE FEDERAL ACQUISITION REGULATION (FAR)

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR Chapter 53

Legal Deadline: None

Abstract: Air Force FAR Supplement establishes for the Air Force uniform policy and procedures implementing and supplementing the FAR, the DOD FAR Supplement, and other DOD publications concerning contracting.

Timetable:

Contracting by Negotiation
48 CFR Ch 53, AFSC FARS; 09/14/87 (52 FR 34692)
Withdrawal of Proposed Rule 01/25/89 (54 FR 3627)

Price Negotiation
48 CFR 5315, AF FARS; 03/04/87 (52 FR 6590)
Withdrawal of Proposed Rule 01/25/89 (54 FR 3630)

Surplus Material Acquisition
48 CFR Ch 53, AFLC FARS; 10/30/86 (51 FR 39676)
Final Action 04/00/89

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lt Col Rick Hampton, Special Assistant for FAR, Department of Defense, Department of the Air Force, SAF/AQCF, 202 695-3858

RIN: 0701–AA14

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Completed Actions

443. LEASING USAF AIRCRAFT AND RELATED EQUIPMENT TO NONGOVERNMENT ORGANIZATIONS

Legal Authority: 10 USC 2667

CFR Citation: 32 CFR 863

Legal Deadline: None

Abstract: This regulation outlines USAF policies and procedures for the provision of leasing USAF aircraft and related equipment to nongovernment organizations.

Timetable:

Action	Date	FR Cite
NPRM	11/14/88	53 FR 45777
NPRM Comment Period End	12/14/88	
Final Action	01/12/89	54 FR 1169
Final Action Effective	02/13/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eric Kattner, Procurement Analyst, Department of Defense, Department of the Air Force, SAF/AQCM, Washington, DC 20330-1000, 202 695-4962

RIN: 0701–AA26

[FR Doc. 89-5836 Filed 04-21-89; 8:45 am]
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Part VI

Department of Education

Semiannual Regulatory Agenda

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DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulations

AGENCY: Department of Education.

ACTION: Publication of the semiannual agenda of Federal regulations.

SUMMARY: The Secretary of Education publishes a Semiannual Agenda of Federal Regulations as required by Office of Management and Budget (OMB) Bulletin No. 89-02 issued under the authority of section 6(b) of Executive Order 12291 (Federal Regulations). The purpose of the agenda is to encourage more effective public participation in the regulatory process by giving the public early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the contact person listed for that set of regulations. Questions or comments on the overall agenda should be directed to Kenneth C. Depew, Acting Director, Division of Regulations Management, Office of the General Counsel, Department of Education, Room 2131, FOB-6, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732-2887.

SUPPLEMENTARY INFORMATION: Executive Order 12291, dated February 17, 1981, and the Regulatory Flexibility Act, Pub. L. 96-354, enacted September 19, 1980, require the Department of Education to publish, in October and April of each year, (1) an agenda of regulations that the Department expects to issue, and (2) currently effective regulations that are under review. The agenda includes both notices of proposed rulemaking (NPRMs) currently being drafted and pending final regulations.

Under the authority of Executive Order 12291, the Director of OMB has issued OMB Bulletin No. 89-02, dated November 4, 1988, prescribing the content and structure of the Unified Agenda of Federal Regulations. The Unified Agenda will be issued semiannually and will cover the succeeding 12 months from the date of publication.

For each set of regulations listed, the Agenda provides the title of the document, the type of document, a citation of any rulemaking or other action taken since publication of the most recent Agenda, and planned dates of future rulemaking. In addition, the Agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.
- An indication if the action is priority and the criteria used in determining the priority status.

If the "Abstract" section of an entry refers readers to the preamble, it means that amendments to those particular regulations would be designed (1) to effect regulatory relief, including reducing paperwork and compliance burdens, improving cost effectiveness and, to the extent possible, vesting greater discretion in State and local agencies, and (2) if necessary, to clarify and simplify requirements governing that program.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded. Dates of future regulatory action are subject to revision in subsequent agendas.

Dated: February 24, 1989.

Steven Y. Winnick,

Acting General Counsel.

Departmental Management—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
444	U.S. Exchange Visitor Program - Request for Waiver of the Two- year Foreign Residence Requirement	1880-AA29

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
445	Disposal and Utilization of Surplus Real Property For Educational Purposes	1880-AA27

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Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
446	Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	1880-AA38
447	Debt Collection; Interest on Outstanding Debts	1880-AA03
448	Uniform Administrative Requirements for Grants and Cooperative Agreements	1880-AA34
449	Education Department General Administrative Regulations -- Amendments II	1880-AA24
450	Technical Amendments to Program Regulations	1880-AA33
451	General Education Provisions Act - Enforcement	1880-AA35

Office of Bilingual Education and Minority Languages Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
452	Bilingual Education: State Educational Agency Program	1885-AA18

Office of Bilingual Education and Minority Languages Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
453	Bilingual Education: Technical Amendments	1885-AA17
454	Transition Program for Refugee Children	1885-AA10

Office for Civil Rights—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
455	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs - Accessibility Standards	1870-AA09
456	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1870-AA06

Office for Civil Rights—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
457	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1870-AA05

Office for Civil Rights—Completed Actions

Sequence Number	Title	Regulation Identifier Number
458	Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	1870-AA08

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Office of Educational Research and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
459	Secretary's Fund for Innovation in Education	1850-AA35
460	National Program for Mathematics and Science Education	1850-AA34

Office of Educational Research and Improvement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
461	Fund for the Improvement and Reform of Schools and Teaching	1850-AA33
462	National Diffusion Network	1850-AA19

Office of Educational Research and Improvement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
463	Partnerships in Education for Mathematics, Science, and Engineering	1850-AA15
464	College Library Resources Program	1850-AA21
465	Territorial Teacher Training Assistance Program	1850-AA10

Office of Elementary and Secondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
466	Federal, State, and Local Partnership for Educational Improvement	1810-AA49
467	Assist. for LEAs in Areas Affected by Fed. Acts. and Arrangements for Ed. of Children Where LEAs Cannot Provide Suitable Free Pub. Ed.–Heavily Impacted Districts; Avg. Daily Attendance	1810-AA20
468	Indian Education General Provisions and Discretionary Grant Programs - Amendments to Selection Criteria	1810-AA51

Office of Elementary and Secondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
469	Dwight D. Eisenhower Mathematics and Science Education Program	1810-AA40
470	Chapter 1 Program in Local Educational Agencies	1810-AA50
471	Financial Assistance to State Educational Agencies to Meet Special Educational Needs of Migratory Children	1810-AA48
472	Chapter 1 Program for Neglected or Delinquent Children	1810-AA46
473	Financial Assistance to State Educational Agencies to Improve Interstate and Intrastate Coordination of Activities	1810-AA42
474	Even Start Migrant Education Program	1810-AA39
475	Assistance for LEAs in Areas Affected by Federal Activities and Arrangements for Education of Children Where LEAs Cannot Provide Suitable Free Public Ed. - Sec. 2 (Consolidated Dist. Provisions)	1810-AA52
476	Christa McAuliffe Fellowship Program	1810-AA35
477	Women's Educational Equity Act Program	1810-AA16
478	Indian Education General Provisions and Discretionary Grants	1810-AA53
479	Indian Education Formula Grant Program – Local Educational Agencies	1810-AA43
480	Indian Fellowship Program	1810-AA44
481	Magnet Schools Assistance Program	1810-AA13

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Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
482	Even Start Program	1810-AA47
483	Assistance for Local Ed. Agencies in Areas Affected by Federal Activities and Arrangements for Ed. of Children where Local Education Agencies Cannot Provide Suitable Free Public Education	1810-AA45

Office of Planning and Budget and Evaluation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
484	Protection of Human Subjects in Research	1875-AA07

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
485	Institutional Eligibility Conversion of Clock Hours	1840-AA32
486	Eligibility of Foreign Postsecondary Educational Institutions Under the Guaranteed Student Loan Program	1840-AB20
487	Student Assistance General Provisions - Verification	1840-AB07
488	Student Assistance General Provisions and Institutional Eligibility–Secretary's Accountability Initiatives	1840-AB18
489	Student Assistance General Provisions – Miscellaneous Amendments, Selective Service Refund Requirements	1840-AB19
490	Student Assistance General Provisions – Immigration Status Confirmation	1840-AB30
491	Perkins Loan Program, College Work-Study, and Supplemental Educational Opportunity Grant Programs–(Miscellaneous changes)	1840-AB22
492	Guaranteed Student Loan/PLUS/Supplemental Loans for Students/ Consolidation Loan Programs	1840-AA96

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
493	Paul Douglas Teacher Scholarship Program and Guaranteed Student Loan and PLUS Programs–Targeted Teacher Deferments	1840-AB03
494	Robert C. Byrd Honors Scholarship Program	1840-AB06
495	Student Assistance General Provisions, Guaranteed Student Loan/ PLUS Supplemental Loans for Students Programs–Default Reduction	1840-AB21
496	Income Contingent Loan Program - Due Diligence	1840-AB04

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
497	Strengthening Historically Black Colleges and Universities; Strengthening Institutions Programs	1840-AA62
498	Training Program for Special Program Staff and Leadership Personnel	1840-AB01
499	Direct Individual Foreign Language and Area Studies Fellowship Program	1840-AB27
500	Language Resource Centers Program	1840-AA67
501	Summer Intensive Language Institutes	1840-AA68
502	Foreign Periodicals Program	1840-AA69
503	Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs – Treatment of Non-need Based Earnings	1840-AB25
504	Treatment of Territories and Territorial Student Assistance	1840-AA74

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Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
505	State Operated or Supported Programs for Handicapped Children	1820-AA83
506	Training Personnel for the Education of the Handicapped -- Grants to State Educational Agencies or Institutions of Higher Education	1820-AA85
507	Technology - Related Assistance for Individuals with Disabilities	1820-AA84
508	The State Vocational Rehabilitation Services Program - Deregulation	1820-AA47
509	Rehabilitation Services Administration General Deregulation	1820-AA45
510	The State Independent Living Rehabilitation Services Program - Deregulation	1820-AA37
511	Centers for Independent Living - Standards and Evaluation Indicators	1820-AA81

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
512	Assistance to States for Education of Handicapped Children	1820-AA71
513	Early Intervention Program for Infants and Toddlers with Handicaps	1820-AA49
514	Services for Deaf-Blind Children and Youth Program	1820-AA53
515	Projects with Industry - Compliance Indicators	1820-AA82

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
516	Preschool Grants for Handicapped Children's Program	1820-AA48
517	Training Personnel for the Education of the Handicapped - Parent Training and Information Centers; Centers in Special Education and Early Intervention	1820-AA68
518	Captioned Films Loan Service for the Deaf Program and Educational Media Loan Service for the Handicapped Program	1820-AA61
519	Vocational Rehabilitation Services to Individuals with Severe Handicaps/Special Projects and Demonstrations for Providing Supported Employ Services to Individuals with Severe Handicaps	1820-AA76

Office of Vocational and Adult Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
520	State Administered Adult Education Programs and Secretary's Discretionary Programs of Adult Education	1830-AA06

Office of Intergovernmental and Interagency Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
521	Intergovernmental Review of Department of Education Programs and Activities -- List of Programs	1860-AA00

ED

Office of the General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
522	Equal Access to Justice	1801-AA01

DEPARTMENT OF EDUCATION (ED) — **Prerule Stage**
Departmental Management (EDMAN)

444. U.S. EXCHANGE VISITOR PROGRAM - REQUEST FOR WAIVER OF THE TWO- YEAR FOREIGN RESIDENCE REQUIREMENT

Legal Authority: 8 USC 1182(e); 22 USC 2451

CFR Citation: 34 CFR 050

Legal Deadline: None

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/89	
End Review	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stewart Tinsman, Director International and Territorial, Affairs Staff, Department of Education, Departmental Management, Intergovernmental and Interagency Affairs, 400 Maryland Ave., SW (Rm. 3023, FOB-6), Washington, DC 20202, 202 732-5430

RIN: 1880-AA29

DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**
Departmental Management (EDMAN)

445. DISPOSAL AND UTILIZATION OF SURPLUS REAL PROPERTY FOR EDUCATIONAL PURPOSES

Legal Authority: 40 USC 484

CFR Citation: 34 CFR 012

Legal Deadline: None

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: David B. Hakola, Coordinator, Federal Property, Administrator for Management Services, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 1175, FOB-6, Washington, DC 20202, 202 732-5500

RIN: 1880-AA27

DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**
Departmental Management (EDMAN)

446. ● NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 34 CFR 007

Legal Deadline: None

Abstract: This regulation would specify the applicability of Sec. 504 of the Rehabilitation Act of 1973 to the federally conducted pro- grams of the Department of Education. Sec. 504 prohibits discrimination on the basis of an individual's handicap.

Timetable:

Action	Date	FR Cite
NPRM	04/01/88	53 FR 10808
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Kilpatrick, Equal Employment Opportunity Staff, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 1167, FOB-6), Washington, DC 20202-4550, 202 732-3560

RIN: 1880-AA38

447. DEBT COLLECTION; INTEREST ON OUTSTANDING DEBTS

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 3474(a); 31 USC 3717

CFR Citation: 34 CFR 030

Legal Deadline: None

Abstract: These regulations would establish Departmental policies for assessing interest on outstanding debts and implementing the interest assessment provisions of the Debt Collection Act of 1982.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/11/84	49 FR 28264
NPRM Comment Period End	08/27/84	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Betty Hepak, Director, Financial Operations Division, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 3091, FOB-6), Washington, DC 20202, 202 732-4163

RIN: 1880–AA03

448. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 074; 34 CFR 080

Legal Deadline: None

Abstract: These regulations would remove Part 80 and revise Part 74 to establish certain government-wide administrative requirements for grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and nonprofit commercial organizations. These regulations are based on OMB proposal to combine OMB Circulars A-102 (Grants and Cooperative Agreements with State and Local Governments) and A-110 (Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations) into a single, unified management circular.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
Final Action	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Hughes, Grants and Contracts Service, Office of Management, Department of Education, Departmental Management, 400 Maryland Ave., SW, Room 3122, ROB-3, Washington, DC20202, 202 732-7400

RIN: 1880–AA34

449. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS – AMENDMENTS II

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 74; 34 CFR 75; 34 CFR 76; 34 CFR 77

Legal Deadline: None

Abstract: See Preamble. The Department is proposing miscellaneous amendments to update and improve the regulations in 34 CFR Parts 74, 75, 76, and 77 of the Education Department General Administrative Regulations (EDGAR).

Timetable:

Action	Date	FR Cite
NPRM	08/18/88	53 FR 31580
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Hughes, Grants and Contracts Service, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 3122, ROB-3), Washington, DC 20202, 202 732-7400

RIN: 1880–AA24

450. TECHNICAL AMENDMENTS TO PROGRAM REGULATIONS

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 080

Legal Deadline: None

Abstract: On November 4, 1988, the Department published an NPRM proposing to establish certain governmentwide administrative requirements for grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and non-profit and commercial organizations. The proposed regulations would appear in a revised 34 CFR Part 74. These amendments to program regulations specify the extent to which the revised Part 74 regulations apply to the programs of the Department. The regulations also specify statutorily required deviations to the revised Part 74 regulations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Hughes, Grants and Contracts Service, Office of Management, Department of Education, Departmental Management, 400 Maryland Ave., SW, Room 3122, ROB-3, Washington, DC 20202, 202 732-7400

RIN: 1880–AA33

451. GENERAL EDUCATION PROVISIONS ACT - ENFORCEMENT

Legal Authority: PL 100-297

CFR Citation: 34 CFR 081

Legal Deadline: None

Abstract: These regulations will govern the enforcement of legal requirements under most grant programs administered by the Secretary of Education. The regulations will implement amendments to Part E of the General Education Provisions Act enacted in PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	12/02/88	53 FR 48866
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barry W. Stevens, Counsel, Department of Education, Departmental Management, 400 Maryland Ave., SW, (Room 4091 - FOB-6), Washington, DC, 20202, 202 732-2730

RIN: 1880–AA35

DEPARTMENT OF EDUCATION (ED)

Office of Bilingual Education and Minority Languages Affairs (BEMLA)

Final Rule Stage

452. BILINGUAL EDUCATION: STATE EDUCATIONAL AGENCY PROGRAM

Legal Authority: 20 USC 3281 to 3341

CFR Citation: 34 CFR 548

Legal Deadline: None

Abstract: These final regulations complete the interim final regulations with invitation to comment published in 1985. Certain data and information collection has been determined burdensome and is deleted from these regulations.

Timetable:

Action	Date	FR Cite
Final Action	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Luis A. Catarineau, Bilingual and Minority Languages Affairs, Department of Education, Office of Bilingual Education and Minority Languages Affairs, 400 Maryland Ave., SW, Room 5086, Switzer Bldg., Washington, DC 20202, 202 732-5700

RIN: 1885–AA18

DEPARTMENT OF EDUCATION (ED)

Office of Bilingual Education and Minority Languages Affairs (BEMLA)

Completed Actions

453. BILINGUAL EDUCATION: TECHNICAL AMENDMENTS

CFR Citation: 34 CFR 500; 34 CFR 501; 34 CFR 524; 34 CFR 525; 34 CFR 526; 34 CFR 548; 34 CFR 561; 34 CFR 562; 34 CFR 573; 34 CFR 574

Completed:

Reason	Date	FR Cite
Final Action	10/05/88	53 FR 39218
Final Action Effective	11/22/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary T. Mahony 202 732-5063

RIN: 1885–AA17

454. TRANSITION PROGRAM FOR REFUGEE CHILDREN

Significance: Regulatory Program

CFR Citation: 34 CFR 538

Completed:

Reason	Date	FR Cite
Final Action	12/28/88	53 FR 5956
Final Action Effective	03/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Fayetta McAlear 202 732-5070

RIN: 1885–AA10

DEPARTMENT OF EDUCATION (ED)

Office for Civil Rights (OCR)

Proposed Rule Stage

455. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS - ACCESSIBILITY STANDARDS

Legal Authority: 29 USC 794; 29 USC 1405

CFR Citation: 34 CFR 104

Legal Deadline: None

Abstract: These proposed amendments would include a cross-reference to the Uniform Federal Accessibility Standards in federally assisted programs or activities.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9966
NPRM Comment Period End	05/08/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LeGree S. Daniels, Assistant Secretary for, Civil Rights, Department of Education, Office for Civil Rights, 400 Maryland Ave., SW, Room 5000, Switzer Bldg., Washington, DC 20202, 202 732-1213

RIN: 1870–AA09

456. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 20 USC 1681

CFR Citation: 34 CFR 106

Legal Deadline: None

Abstract: These proposed regulations would amend the fringe benefits provision of the regulations implementing Title IX of the Education Amendments of 1972. The regulations would require employers offering employees a fringe benefit plan to have both equal pay-in and equal pay-out provisions, regardless of the sex of the employee.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: LeGree S. Daniels, Assistant Secretary for, Civil Rights, Department of Education, Office for Civil Rights, 400 Maryland Ave, SW, Rm 5000, Switzer Bldg., Washington, DC 20202, 202 732-1213

RIN: 1870–AA06

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DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)

Final Rule Stage

457. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6101 et seq

CFR Citation: 34 CFR 110

Legal Deadline: None

Abstract: These agency-specific final regulations would provide appropriate investigative, conciliation, and enforcement procedures consistent with the general Age Discrimination Act regulations issued by DHEW, now the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: LeGree S. Daniels, Assistant Secretary for, Civil Rights, Department of Education, Office for Civil Rights, 400 Maryland Ave, SW, Room 5000, Switzer Bldg., Washington, DC 20202, 202 732-1213

RIN: 1870–AA05

DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)

Completed Actions

458. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

CFR Citation: 34 CFR 105

Completed:

Reason	Date	FR Cite
Withdrawn	01/17/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathy Hogancamp 202 732-2057

RIN: 1870–AA08

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)

Proposed Rule Stage

459. SECRETARY'S FUND FOR INNOVATION IN EDUCATION

Legal Authority: PL 100-297

CFR Citation: 34 CFR 731; 34 CFR 732; 34 CFR 733; 34 CFR 734

Legal Deadline: None

Abstract: These proposed regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Schecter, Fund for the Improvement and Reform of, Schools and Teaching, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Ave., NW, Rm. 522, Capitol Place Bldg., Washington, DC 20203-5524, 202 357-6496

RIN: 1850–AA35

460. NATIONAL PROGRAM FOR MATHEMATICS AND SCIENCE EDUCATION

Legal Authority: PL 100-297

CFR Citation: 34 CFR 755

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Schecter, Fund for the Improvement and Reform of, Schools and Teaching, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Ave., NW, Room 522, Capitol Place Bldg., Washington, DC 20208-5524, 202 357-6496

RIN: 1850–AA34

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)

Final Rule Stage

461. FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

Legal Authority: PL 100-297

CFR Citation: 34 CFR 757; 34 CFR 758

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

ED—OERI

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44578
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Schecter, Fund for the Improvement and Reform of, Schools and Teaching, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Ave., NW, Rm. 522, Capitol Place Bldg., Washington, DC 20208-5645, 202 357-6496

RIN: 1850–AA33

462. NATIONAL DIFFUSION NETWORK

Legal Authority: PL 100-297

CFR Citation: 34 CFR 785; 34 CFR 786; 34 CFR 787

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	10/06/88	53 FR 39406
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lois Weinberg, Education Program Specialist, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Ave. NW, Room 510, Capitol Place Bldg., Washington,DC 20208-5645, 202 357-6134

RIN: 1850–AA19

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)

Completed Actions

463. PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Schecter 202 357-6496

RIN: 1850–AA15

464. COLLEGE LIBRARY RESOURCES PROGRAM

CFR Citation: 34 CFR 773

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Alexandra 202 357-6315

RIN: 1850–AA21

465. TERRITORIAL TEACHER TRAINING ASSISTANCE PROGRAM

CFR Citation: 34 CFR 790

Completed:

Reason	Date	FR Cite
Final Action	11/29/88	53 FR 47953
Final Action Effective	02/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Haroldie Spriggs 202 357-6116

RIN: 1850–AA10

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)

Proposed Rule Stage

466. FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

Legal Authority: 20 USC 2911 to 2952; 20 USC 2971 to 2976

CFR Citation: 34 CFR 76; 34 CFR 80; 34 CFR 298

Legal Deadline: None

Abstract: These proposed regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	03/01/89	54 FR 8708
NPRM Comment Period End	05/01/89	
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alicia C. Coro, Director, School Improvement Program, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2040, Washington, DC 20202-6245, 202 732-4657

RIN: 1810–AA49

467. ASSIST. FOR LEAS IN AREAS AFFECTED BY FED. ACTS. AND ARRANGEMENTS FOR ED. OF CHILDREN WHERE LEAS CANNOT PROVIDE SUITABLE FREE PUB. ED.–HEAVILY IMPACTED DISTRICTS; AVG. DAILY ATTENDANCE

Legal Authority: 20 USC 236; 20 USC 238; 20 USC 240; 20 USC 242; 20 USC 244

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ED—OESE

Proposed Rule Stage

CFR Citation: 34 CFR 222

Legal Deadline: None

Abstract: These proposed regulations would implement section 3(d)(2)(B) of the Impact Aid law, PL 81-874, which authorizes supplemental payments enabling LEAs that are heavily impacted by federally connected children to provide a level of education that is equivalent to that maintained in comparable school districts. These regulations would also establish definitions and procedures for calculating payments for local educational agencies in states that do not collect average daily attendance data. These regulations would also implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	03/28/89	54 FR 12104
NPRM Comment Period End	06/21/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Hansen, Acting Director, Division of Impact Aid, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2079, Washington, DC 20202-6263, 202 732-3637

RIN: 1810-AA20

466. INDIAN EDUCATION GENERAL PROVISIONS AND DISCRETIONARY GRANT PROGRAMS - AMENDMENTS TO SELECTION CRITERIA

Legal Authority: 25 USC 2602(c); 25 USC 2621(a) to 2621(d); 25 USC 2622; 25 USC 2631(a) to 2631(b); 25 USC 2624

CFR Citation: 34 CFR 250; 34 CFR 252; 34 CFR 253; 34 CFR 254; 34 CFR 256; 34 CFR 257; 34 CFR 258

Legal Deadline: None

Abstract: These amendments would clarify the criteria that serve as standards for assessing the merit of applications. This change will improve the process for selecting grantees. The weights assigned to the criteria for the Education Personnel Development Programs will be revised to give more emphasis to the need to ensure that participants will serve Indian children after completing their training.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Aaron N. Shedd, Acting Director, Indian Education Programs, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2177, Washington, DC 20202-6138, 202 732-1887

RIN: 1810-AA51

DEPARTMENT OF EDUCATION (ED)

Office of Elementary and Secondary Education (OESE)

Final Rule Stage

469. DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION PROGRAM

Legal Authority: 20 USC 2961 to 2963

CFR Citation: 34 CFR 208

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	12/06/88	53 FR 49280
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Allen Schmieder, Math and Science Section, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2040, Washington, DC 20202-6437, 202 732-4336

RIN: 1810-AA40

470. CHAPTER 1 PROGRAM IN LOCAL EDUCATIONAL AGENCIES

Legal Authority: 20 USC 2701 et seq

CFR Citation: 34 CFR 200

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41466
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James R. Ogura, Chief, Program Policy Branch, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2013, Washington, DC 20202-6132, 202 732-4701

RIN: 1810-AA50

471. FINANCIAL ASSISTANCE TO STATE EDUCATIONAL AGENCIES TO MEET SPECIAL EDUCATIONAL NEEDS OF MIGRATORY CHILDREN

Legal Authority: 20 USC 2781; 20 USC 2782

CFR Citation: 34 CFR 201

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

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Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3924
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph P. Bertoglio, Office of Migrant Education, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2145, Washington, DC 20202-6135, 202 732-4758

RIN: 1810-AA48

472. CHAPTER 1 PROGRAM FOR NEGLECTED OR DELINQUENT CHILDREN

Legal Authority: 20 USC 1232d(4),(5); 20 USC 2721(a); 20 USC 2724(b); 20 USC 2728(a),(b),(d); 20 USC 2729(b); 20 USC 2801 to 2804; 20 USC 2811; 20 USC 2812; 20 USC 2824(a),(b); 20 USC 2831(a); 20 USC 2835(a),(d); 20 USC 2838(a) to (c); 20 USC 2851; 20 USC 2853; 20 USC 2891

CFR Citation: 34 CFR 203

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	12/02/88	53 FR 48856
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Ogura, Chief, Program Policy Branch, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2013, Washington, DC 20202-6132, 202 732-4701

RIN: 1810-AA46

473. FINANCIAL ASSISTANCE TO STATE EDUCATIONAL AGENCIES TO IMPROVE INTERSTATE AND INTRASTATE COORDINATION OF ACTIVITIES

Legal Authority: 20 USC 2783

CFR Citation: 34 CFR 205

Legal Deadline: None

Abstract: These final regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph P. Bertoglio, Office of Migrant Education, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2145, Washington, DC 20202-6135, 202 732-4758

RIN: 1810-AA42

474. EVEN START MIGRANT EDUCATION PROGRAM

Legal Authority: 20 USC 2743

CFR Citation: 34 CFR 212

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	12/21/88	53 FR 51530
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph P. Bertoglio, Office of Migrant Education, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2145, Washington, DC 20202-6135, 202 732-4758

RIN: 1810-AA39

475. ● ASSISTANCE FOR LEAS IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LEAS CANNOT PROVIDE SUITABLE FREE PUBLIC ED. - SEC. 2 (CONSOLIDATED DIST. PROVISIONS)

Legal Authority: 20 USC 238

CFR Citation: 34 CFR 222

Legal Deadline: None

Abstract: These final regulations make a change in one of eligibility requirements under Section 2 of PL 81-874, the Impact Aid law for local educational agencies formed by the consolidation of school districts.

Timetable:

Action	Date	FR Cite
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Hansen, Acting Director, Division of Impact Aid, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, (Room 2079), Washington, D.C. 20202-6263, 202 732-4655

RIN: 1810-AA52

476. CHRISTA MCAULIFFE FELLOWSHIP PROGRAM

Legal Authority: 20 USC 1113 to 1113e

CFR Citation: 34 CFR 237

Legal Deadline: None

Abstract: These regulations would establish a minimum and partial amount for which fellowships may be awarded and would also clarify the redistribution method used by the Department if States do not comply with certain requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 46072
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ramon Ruiz, Deputy Assistant Secretary, Regulations, Innovation and Development, Department of Education, Office of Elementary and Secondary Education,

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ED—OESE — **Final Rule Stage**

400 Maryland Ave., SW, Room 2181, Washington, DC 20202-6122, 202 732-4153

RIN: 1810-AA35

477. WOMEN'S EDUCATIONAL EQUITY ACT PROGRAM

Legal Authority: 20 USC 3041 to 3047

CFR Citation: 34 CFR 245; 34 CFR 246; 34 CFR 247

Legal Deadline: None

Abstract: See Preamble. These regulations would also implement certain provisions of the Education Amendments of 1984, PL 98-511 and the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4742
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alice T. Ford, Women's Educational Equity Act Program, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2053, Washington, DC 20202-6439, 202 732-4351

RIN: 1810-AA16

478. ● INDIAN EDUCATION GENERAL PROVISIONS AND DISCRETIONARY GRANTS

Legal Authority: 25 USC 2602(c); 25 USC 262(a) to 262(d); 25 USC 2622; 25 USC 2631(a),(b); 25 USC 2624(c)

CFR Citation: 34 CFR 250; 34 CFR 252; 34 CFR 253; 34 CFR 254; 34 CFR 256; 34 CFR 257; 34 CFR 258

Legal Deadline: None

Abstract: These final regulations implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	11/16/88	53 FR 46404
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Aaron N. Shedd, Acting Director, Indian Education Program, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW, (Room 2177), Washington, DC 20202-6138, 202 732-1867

RIN: 1810-AA53

479. INDIAN EDUCATION FORMULA GRANT PROGRAM -- LOCAL EDUCATIONAL AGENCIES

Legal Authority: 25 USC 2601 to 2606

CFR Citation: 34 CFR 251

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	11/16/88	53 FR 46412
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sylvia Wright, Indian Education Programs, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2177, Washington, DC 20202-6139, 202 732-1938

RIN: 1810-AA43

480. INDIAN FELLOWSHIP PROGRAM

Legal Authority: 20 USC 2623

CFR Citation: 34 CFR 263

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	10/12/88	53 FR 39876
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dorothea Perkins, Indian Education Programs, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2164, Washington, DC 20202-6139, 202 732-1909

RIN: 1810-AA44

481. MAGNET SCHOOLS ASSISTANCE PROGRAM

Legal Authority: 20 USC 3021 to 3032

CFR Citation: 34 CFR 280

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	11/14/88	53 FR 45874
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annie Mack, Magnet Schools Assistance Program, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2057, Washington, DC 20202-6440, 202 732-4358

RIN: 1810-AA13

DEPARTMENT OF EDUCATION (ED) — **Completed Actions**

Office of Elementary and Secondary Education (OESE)

482. EVEN START PROGRAM

CFR Citation: 34 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	03/23/89	54 FR 12138
Final Action Effective	05/10/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Fagan 202 732-4682

RIN: 1810-AA47

483. ASSISTANCE FOR LOCAL ED. AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR ED. OF CHILDREN WHERE LOCAL EDUCATION AGENCIES CANNOT PROVIDE SUITABLE FREE PUBLIC EDUCATION

CFR Citation: 34 CFR 219; 34 CFR 222

Completed:

Reason	Date	FR Cite
Final Action	10/04/88	53 FR 39018
Final Action Effective	11/22/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Hansen 202 732-4555

RIN: 1810-AA45

DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**

Office of Planning and Budget and Evaluation (OPBE)

484. PROTECTION OF HUMAN SUBJECTS IN RESEARCH

Legal Authority: 5 USC 301

CFR Citation: 34 CFR 097

Legal Deadline: None

Abstract: These regulations would implement procedures to protect human research subjects and implement a recommendation from the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The regulations set forth a common Federal policy for the protection of human subjects accepted by the Office of Science and Technology Policy in the Executive Office of the President.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ed Glassman, Evaluation Systems Expert, Department of Education, Office of Planning and Budget and Evaluation, 400 Maryland Ave., SW, (Room 3127-FOB-6), Washington, DC 20202, 202 732-3132

RIN: 1875-AA07

DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**

Office of Postsecondary Education (OPE)

485. INSTITUTIONAL ELIGIBILITY CONVERSION OF CLOCK HOURS

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1094(c)(3); 20 USC 1141

CFR Citation: 34 CFR 600

Legal Deadline: None

Abstract: These proposed amendments contain provisions for evaluating the conversion of educational programs from clock hours to credit hours by eligible institutions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia G. Re, Division of Eligibility And Certification, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, Room 3030, ROB-3, Washington, DC 20202, 202 732-4906

RIN: 1840-AA32

486. ELIGIBILITY OF FOREIGN POSTSECONDARY EDUCATIONAL INSTITUTIONS UNDER THE GUARANTEED STUDENT LOAN PROGRAM

Legal Authority: 20 USC 1082; 20 USC 1085

CFR Citation: 34 CFR 601

Legal Deadline: None

Abstract: These regulations would establish procedures and criteria the Secretary would use to determine the eligibility of institutions located outside the United States for participation in student loan programs authorized under Title IV, Part B of the Higher Education Act of 1965, as amended.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia Re, Division of Eligibility, and Certification, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Room 3030 - ROB-3, Washington,DC 20202, 202 732-4906

RIN: 1840-AB20

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487. STUDENT ASSISTANCE GENERAL PROVISIONS - VERIFICATION

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498), Tax Reform Act of 1986, and the Compact of Free Association.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lorraine Kennedy, Student Verification Branch, Division of Policy and Program Development, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., S.W., (Room 4613 - ROB-3), Washington, DC 20202, 202 245-2724

RIN: 1840–AB07

488. STUDENT ASSISTANCE GENERAL PROVISIONS AND INSTITUTIONAL ELIGIBILITY--SECRETARY'S ACCOUNTABILITY INITIATIVES

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 600; 34 CFR 668

Legal Deadline: None

Abstract: These proposed regulations would achieve better accountability in the student financial aid programs.

Timetable:

Action	Date	FR Cite
NPRM	03/17/89	54 FR 11354
NPRM Comment Period End	05/01/89	
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John DeCleene, Pell Program, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Room 4318, ROB-3, Washington, DC 20202, 202 732-4888

RIN: 1840–AB18

489. STUDENT ASSISTANCE GENERAL PROVISIONS -- MISCELLANEOUS AMENDMENTS, SELECTIVE SERVICE REFUND REQUIREMENTS

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These proposed regulations would amend the provisions related to selective service requirements and make other miscellaneous changes in the student assistance general provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carney M. McCullough, Chief, Policy Section, Pell Grant Program, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Room 4318 - ROB-3, Washington, DC 20202, 202 732-4888

RIN: 1840–AB19

490. ● STUDENT ASSISTANCE GENERAL PROVISIONS -- IMMIGRATION STATUS CONFIRMATION

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091 to 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These proposed regulations would establish rules by which an institution shall confirm the immigration status of certain alien applicants for student financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Claude E. Denton, Student Verification Branch, Division, Policy and Program Development, Department of Education, Office of Postsecondary Education, (Rm. 4613, ROB-3), 400 Maryland Avenue, SW, Washington, DC 20202, 202 732-5591

RIN: 1840–AB30

491. PERKINS LOAN PROGRAM, COLLEGE WORK-STUDY, AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAMS--(MISCELLANEOUS CHANGES)

Legal Authority: 20 USC 1070b to 1070b3; 20 USC 1087aa to 1087hh; 20 USC 2751 to 2756a

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Legal Deadline: None

Abstract: These proposed regulations would further implement provisions of the Higher Education Amendments of 1986. The regulations would also establish procedures that would make the Supplemental Educational Opportunity Grant Program consistent with the Pell Grant program with respect to collection of outstanding overpayments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Orem, Chief, Policy Section, Campus & State Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Room 4018 - ROB-3, Washington, DC 20202, 202 732-4490

RIN: 1840–AB22

ED—OPE — Proposed Rule Stage

492. GUARANTEED STUDENT LOAN/PLUS/SUPPLEMENTAL LOANS FOR STUDENTS/ CONSOLIDATION LOAN PROGRAMS

Legal Authority: 20 USC 1071 et seq

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Pamela Moran, Chief, Policy Section, Guaranteed Student Loan Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 4310 ROB-3), Washington, DC 20202, 202 732-4242

RIN: 1840–AA96

DEPARTMENT OF EDUCATION (ED) — Final Rule Stage

Office of Postsecondary Education (OPE)

493. PAUL DOUGLAS TEACHER SCHOLARSHIP PROGRAM AND GUARANTEED STUDENT LOAN AND PLUS PROGRAMS--TARGETED TEACHER DEFERMENTS

Legal Authority: 20 USC 1111b

CFR Citation: 34 CFR 653; 34 CFR 682

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Technical Amendments Act of 1987 (PL 100-50).

Timetable:

Action	Date	FR Cite
NPRM	09/30/88	53 FR 38660
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Fred Sellers, Chief, State Student Incentive, Grant Program, Department of Education, Office of Postsecondary Education, 400 Md. Ave., (Rm. 4018, ROB-3), Washington, D.C. 20202, 202 732-4507

RIN: 1840–AB06

494. ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

Legal Authority: 20 USC 1070d-31 to 1070d-41

CFR Citation: 34 CFR 654

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 5066
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela Moran, Chief, Policy Section, Guaranteed Student Loan Branch, Department of Education, Office of Postsecondary Education, 400 Md. Ave., S.W. (Rm. 4310 - ROB-3), Washington, DC 20202, 202 732-4242

RIN: 1840–AB03

495. STUDENT ASSISTANCE GENERAL PROVISIONS, GUARANTEED STUDENT LOAN/ PLUS SUPPLEMENTAL LOANS FOR STUDENTS PROGRAMS--DEFAULT REDUCTION

Significance: Regulatory Program

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 668; 34 CFR 682

Legal Deadline: None

Abstract: These regulations would establish procedures to increase institutional responsibilities in the administration of these programs, as well as provide procedures that the Secretary would use to implement the Default Reduction Initiative Program.

Timetable:

Action	Date	FR Cite
NPRM	09/16/88	53 FR 36216
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Pamela Moran, Chief, Policy Section, Guaranteed Student Loan Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Room 4310 - ROB-3, Washington, DC 20202, 202 732-4242

RIN: 1840–AB21

496. INCOME CONTINGENT LOAN PROGRAM - DUE DILIGENCE

Legal Authority: 20 USC 1087a to 1087e

CFR Citation: 34 CFR 673

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments Act of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	11/25/87	52 FR 45578
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carney M. McCullough, Chief, Policy Section, Pell Grant Program, Department of Education, Office of Postsecondary Education, 400 Md. Ave.,SW, (Rm. 4318, ROB-3), Washington, DC 20202, 202 732-4888

RIN: 1840–AB04

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DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Completed Actions

497. STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES; STRENGTHENING INSTITUTIONS PROGRAMS

CFR Citation: 34 CFR 607; 34 CFR 608

Completed:

Reason	Date	FR Cite
Final Action	04/06/89	54 FR 14041
Final Action Effective	05/21/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard L. Fairley 202 732-2592

RIN: 1840–AA62

498. TRAINING PROGRAM FOR SPECIAL PROGRAM STAFF AND LEADERSHIP PERSONNEL

CFR Citation: 34 CFR 642

Completed:

Reason	Date	FR Cite
Final Action	02/22/89	54 FR 7736
Final Action Effective	04/06/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Davis 202 732-4922

RIN: 1840–AB01

499. DIRECT INDIVIDUAL FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIP PROGRAM

CFR Citation: 34 CFR 659

Completed:

Reason	Date	FR Cite
Withdrawn	01/17/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph F. Belmonte 202 732-3304

RIN: 1840–AB27

500. LANGUAGE RESOURCE CENTERS PROGRAM

CFR Citation: 34 CFR 669

Completed:

Reason	Date	FR Cite
Withdrawn	01/17/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Belmonte 202 732-3304

RIN: 1840–AA67

501. SUMMER INTENSIVE LANGUAGE INSTITUTES

CFR Citation: 34 CFR 670

Completed:

Reason	Date	FR Cite
Withdrawn	01/17/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Belmonte 202 732-3304

RIN: 1840–AA68

502. FOREIGN PERIODICALS PROGRAM

CFR Citation: 34 CFR 671

Completed:

Reason	Date	FR Cite
Withdrawn	01/17/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Belmonte 202 732-3304

RIN: 1840–AA69

503. PERKINS LOAN, COLLEGE WORK-STUDY, AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAMS -- TREATMENT OF NON-NEED BASED EARNINGS

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Completed:

Reason	Date	FR Cite
Final Action	12/28/88	53 FR 52578
Final Action Effective	03/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Henry 202 732-4490

RIN: 1840–AB25

504. TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

CFR Citation: 34 CFR 696

Completed:

Reason	Date	FR Cite
Withdrawn	01/17/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jerry Whitlock 202 732-3551

RIN: 1840–AA74

DEPARTMENT OF EDUCATION (ED)
Office of Special Education and Rehabilitative Services (OSERS)

Proposed Rule Stage

505. STATE OPERATED OR SUPPORTED PROGRAMS FOR HANDICAPPED CHILDREN

Legal Authority: 20 USC 2791 to 2796

CFR Citation: 34 CFR 302

Legal Deadline: None

Abstract: These proposed regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

ED—OSERS

Proposed Rule Stage

Agency Contact: Shirley Jones, Acting Chief, Programs Administration Branch, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Ave., SW, Room 3813, Switzer Bldg., Washington, DC 20202, 202 732-1092

RIN: 1820–AA83

506. ● TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED -- GRANTS TO STATE EDUCATIONAL AGENCIES OR INSTITUTIONS OF HIGHER EDUCATION

Legal Authority: 20 USC 1432

CFR Citation: 34 CFR 319

Legal Deadline: None

Abstract: These proposed regulations are needed to implement certain provisions of the amendments to the Education of the Handicapped Act of 1988, PL 100-630.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Norman Howe, Acting Division Director, Division of Personnel Preparation, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Ave., SW, (Rm. 3072 - Switzer Bldg.), Washington, DC 20202, 202 732-1068

RIN: 1820–AA85

507. TECHNOLOGY - RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES

Legal Authority: PL 100-407

CFR Citation: 34 CFR 354

Legal Deadline: None

Abstract: These proposed regulations would implement certain provisions of the Technology Related Assistance for Individuals with Disabilities Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Betty Jo Berland, Planning and Evaluation, Officer, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Ave., SW, (Room 3422-Switzer Bldg.), Washington, DC 20202, 202 732-1139

RIN: 1820–AA84

508. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM - DEREGULATION

Legal Authority: 29 USC 701 to 731

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Weinheimer, Acting Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220, Switzer Building, Washington, DC 20202-1550, 202 732-1345

RIN: 1820–AA47

509. REHABILITATION SERVICES ADMINISTRATION GENERAL DEREGULATION

Legal Authority: 20 USC 107 et seq; 29 USC 701 et seq

CFR Citation: 34 CFR 362; 34 CFR 366; 34 CFR 369; 34 CFR 371; 34 CFR 372; 34 CFR 374; 34 CFR 375; 34 CFR 378; 34 CFR 379; 34 CFR 385; 34 CFR 386; 34 CFR 387; 34 CFR 388; 34 CFR 389; 34 CFR 390

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ADDITIONAL CFR CITATION: 34 CFR 395.

Agency Contact: Ann Weinheimer, Acting Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220, Switzer Building, Washington, DC 20202-1550, 202 732-1345

RIN: 1820–AA45

510. THE STATE INDEPENDENT LIVING REHABILITATION SERVICES PROGRAM - DEREGULATION

Significance: Regulatory Program

Legal Authority: 29 USC 796 to 796d

CFR Citation: 34 CFR 365

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
ANPRM	06/27/88	53 FR 24175
NPRM	04/00/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Daniels, Associate Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, (Rm. 3034, Switzer Building), Washington, DC 20202, 202 732-1437

RIN: 1820–AA37

511. CENTERS FOR INDEPENDENT LIVING - STANDARDS AND EVALUATION INDICATORS

Legal Authority: 20 USC 796e

CFR Citation: 34 CFR 366

Legal Deadline: None

Abstract: These proposed regulations would implement certain changes to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1986.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

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ED—OSERS

Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Ann Weinheimer, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW, Room 3220 - Switzer Bldg., Washington, DC 20202-1550, 202 732-1345

RIN: 1820–AA61

DEPARTMENT OF EDUCATION (ED)

Final Rule Stage

Office of Special Education and Rehabilitative Services (OSERS)

512. ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

Legal Authority: 20 USC 1401; 20 USC 1412; 20 USC 1413

CFR Citation: 34 CFR 300

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	03/14/88	53 FR 8390
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey Champagne, Director, Division of Assistance to States, Department of Education, Office of Special Education and Rehabilitative Services, 400 Md. Ave., SW, (Rm. 3609 - Switzer Bldg), Washington, DC 20202, 202 732-1656

RIN: 1820–AA71

513. EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH HANDICAPS

Legal Authority: 20 USC 1471 to 1485

CFR Citation: 34 CFR 303

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	11/18/87	52 FR 44352
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas B. Irvin, Deputy Director, Division of Program Analysis and Planning, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, 400 Md. Ave., SW, (Rm. 3092 - Switzer Bldg.), Washington, DC 20202, 202 732-1114

RIN: 1820–AA49

514. SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH PROGRAM

Legal Authority: 20 USC 1422

CFR Citation: 34 CFR 307

Legal Deadline: None

Abstract: These regulations are needed to implement certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	11/22/88	53 FR 47406
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Safer, Director, Division of Educational Services, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, 400 Md. Ave., (Rm. 4605 - Switzer Bldg.), Washington, DC 20202, 202 732-1109

RIN: 1820–AA53

515. PROJECTS WITH INDUSTRY - COMPLIANCE INDICATORS

Legal Authority: 20 USC 795

CFR Citation: 34 CFR 379

Legal Deadline: None

Abstract: These proposed regulations would implement certain changes to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1986.

Timetable:

Action	Date	FR Cite
NPRM	02/14/89	53 FR 6808
Final Action	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Weinheimer, Acting Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW, Room 3220 - Switzer Bldg., Washington, DC 20202-1550, 202 732-1345

RIN: 1820–AA82

DEPARTMENT OF EDUCATION (ED)

Completed Actions

Office of Special Education and Rehabilitative Services (OSERS)

516. PRESCHOOL GRANTS FOR HANDICAPPED CHILDREN'S PROGRAM

CFR Citation: 34 CFR 301

Completed:

Reason	Date	FR Cite
Final Action	01/13/89	54 FR 1642
Final Action Effective	03/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Treusch 202 732-1097

RIN: 1820–AA48

ED—OSERS

Completed Actions

517. TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED - PARENT TRAINING AND INFORMATION CENTERS; CENTERS IN SPECIAL EDUCATION AND EARLY INTERVENTION

CFR Citation: 34 CFR 316; 34 CFR 318

Completed:

Reason	Date	FR Cite
Final Action	11/10/88	53 FR 45730
Final Action Effective	12/25/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Norman Howe 202 732-1068

RIN: 1820–AA68

518. CAPTIONED FILMS LOAN SERVICE FOR THE DEAF PROGRAM AND EDUCATIONAL MEDIA LOAN SERVICE FOR THE HANDICAPPED PROGRAM

CFR Citation: 34 CFR 330; 34 CFR 331

Completed:

Reason	Date	FR Cite
Final Action	10/19/88	53 FR 41084
Final Action Effective	12/03/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Safer 202 732-1109

RIN: 1820–AA61

519. VOCATIONAL REHABILITATION SERVICES TO INDIVIDUALS WITH SEVERE HANDICAPS/SPECIAL PROJECTS AND DEMONSTRATIONS FOR PROVIDING SUPPORTED EMPLOY SERVICES TO INDIVIDUALS WITH SEVERE HANDICAPS

CFR Citation: 34 CFR 373; 34 CFR 380

Completed:

Reason	Date	FR Cite
Final Action	03/24/89	54 FR 12398
Final Action Effective	05/10/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann Weinheimer 202 732-1345

RIN: 1820–AA76

DEPARTMENT OF EDUCATION (ED)

Proposed Rule Stage

Office of Vocational and Adult Education (OVAE)

520. STATE ADMINISTERED ADULT EDUCATION PROGRAMS AND SECRETARY'S DISCRETIONARY PROGRAMS OF ADULT EDUCATION

Legal Authority: 20 USC 1201 et seq.; 42 USC 11421

CFR Citation: 34 CFR 425; 34 CFR 426; 34 CFR 432; 34 CFR 433; 34 CFR 434; 34 CFR 435; 34 CFR 436; 34 CFR 437; 34 CFR 438; 34 CFR 441

Legal Deadline: None

Abstract: These proposed regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297, and the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, PL 100-628.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas L. Johns, Director, Policy Analysis Staff, Department of Education, Office of Vocational and Adult Education, 400 Maryland Ave., SW, Room 4521, Switzer Bldg., Washington, DC 20202, 202 732-2237

RIN: 1830–AA06

DEPARTMENT OF EDUCATION (ED)

Proposed Rule Stage

Office of Intergovernmental and Interagency Affairs (EDSI)

521. INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS AND ACTIVITIES -- LIST OF PROGRAMS

Legal Authority: EO 12372; 31 USC 6506; 42 USC 3334

CFR Citation: 34 CFR 79

Legal Deadline: None

Abstract: This regulatory action would propose those ED programs to be included and those ED programs to be excluded under EO 12372 and ED's implementing regulations in 34 CFR Part 79. The public will be given an opportunity to comment on the listing.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10500
NPRM Comment Period End	06/12/89	
Final Action	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Leroy Walser, Executive Director, Federal Interagency Committee on Education, Department of Education, Office of Intergovernmental and Interagency Affairs, (Room 3059 - FOB-6), Washington, DC 20202, 202 732-3669

RIN: 1860–AA00

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DEPARTMENT OF EDUCATION (ED)
Office of the General Counsel (EDOGC)

Proposed Rule Stage

522. EQUAL ACCESS TO JUSTICE

Legal Authority: 5 USC 504

CFR Citation: 34 CFR 21

Legal Deadline: None

Abstract: These regulations would amend the procedures for the award of fees and other expenses to applicants who prevail in adversary adjudications before the Department of Education. The current regulations must be amended to reflect amendments to the Equal Access to Justice Act made by P.L. 99-80.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jo-Ann Frey, General Attorney, Office of the General Counsel, Department of Education, Office of the General Counsel, 400 Maryland Ave., SW, Room 4122, Washington, DC 20202, 202 732-2600

RIN: 1801-AA01

[FR Doc. 89-5837 Filed 04-21-89; 8:45 am]
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federal register

Monday
April 24, 1989

Part VII

Department of Energy

Semiannual Regulatory Agenda

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DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

41 CFR Chs. 9 and 109

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: April 1989 regulatory agenda.

SUMMARY: In order to make government more responsive to the citizens of the United States and to assist in fulfilling the President's commitment to lessen regulatory burdens, the Department of Energy (DOE) is publishing this agenda of rulemakings that DOE has in progress, as well as proposed rulemakings that DOE foreseeably may issue in the next year. This agenda also includes rules being reviewed within the Department to determine whether to propose modifications through rulemaking and rulemakings and rule reviews for which action has been completed since the last Regulatory Agenda in October 1988. In addition, the agenda meets requirements under the Regulatory Flexibility Act for information on any rulemakings which are "likely to have a significant economic impact on a substantial number of small entities." The agenda may not include all routine regulations or those that relate to internal agency management.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda in general, contact: Robert E. Morey, Department of Energy, Room 6B-128, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

Specific: For further information about any particular item on the agenda, contact the individual listed under that item.

SUPPLEMENTARY INFORMATION:

Covered agencies publish regulatory agendas under Executive Order 12291 in April and October of each year. The Executive Order authorizes the Office of Management and Budget (OMB) to set forth standards and procedures for the preparation of these agendas. The April 1989 Regulatory Agenda has been prepared in accordance with OMB Bulletin No. 89-02.

There are important reasons for preparing this agenda. It is vital to efforts to reduce the burdens of existing and future regulations, to increase agency accountability for regulatory actions, to provide for Presidential oversight of the regulatory process, to minimize duplication and conflict of regulations, and to insure well-reasoned regulations. The Department has made considerable progress in these efforts.

Executive Order 12291 provides that the regulatory agenda may be incorporated with the "regulatory flexibility agenda" required under the Regulatory Flexibility Act, 5 U.S.C. 602 *et seq.* The regulatory flexibility agenda must cover any rule which the agency expects to propose or promulgate which is "likely to have a significant economic impact on a substantial number of small entities." Its information requirements are similar to those of the Executive Order. The regulatory flexibility agenda required under 5 U.S.C. 602(a) is incorporated in today's notice.

Entries appended to this notice reflect the status of regulatory activities as of approximately February 15, 1989. Regulatory activities have been divided among categories according to their next stage: Prerulemaking action, proposed rule, final rule, or completed action.

Appended entries contain the following information: (1) DOE organizational unit responsible for the regulation; (2) RIN number (that is, the Regulation Indentifier Number assigned by OMB/OIRA); (3) title; (4) significance (that is, whether the regulation appears in the Regulatory Program prepared annually under Executive Order 12498 and, if it does not, whether it is nevertheless a Departmental priority); (5) the name, title, address and telephone number of a person who is knowledgeable about the regulation; (6) effects on small businesses and other entities (that is, whether the action is likely to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act) and effects on Federal, State, and local governments; (7) CFR citation (that is, portion of the Code of Regulations that will be affected); (8) legal authority (that is, a citation to the section of the United States Code (USC), Public Law (Pub. L.) or the Executive Order (EO) that authorizes the regulatory action); (9) abstract (that is, a description of the problem the regulation will address, the regulatory approach under consideration, the alternatives being considered for addressing the problem, and the potential costs and benefits of the action); (10) legal deadline (that is, the statuory or judicial deadline, if any); and (11) timetable (that is, the dates, and citations if applicable, for all past stages and at least the next stage of the rulemaking). In addition, each item regarding completed actions (that is, regulations completed or withdrawn and reviews completed since the preceding agenda) states the date, and citation if appropriate.

A draft of this agenda has been transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any, to fulfill the requirements of 5 U.S.C. 602(b).

DOE's next agenda will be published in October 1989.

Issued in Washington, DC on February 17, 1989.

Frank Ruddy,

General Counsel.

Conservation and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
523	Federal Energy Management & Planning Programs Methodology & Procedures for Life Cycle Costing Analyses	1904-AA06
524	Energy Conservation Performance Standards for New Buildings; Subpart B - Voluntary Performance Standards for New Non-Federal Residential Buildings	1904-AA34

DOE

Conservation and Renewable Energy—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
525	Energy-Efficiency Standards for Dishwashers, Clothes Washers and Clothes Dryers	1904-AA37

Conservation and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
526	Energy Conservation Performance Standards for New Buildings; Subpart A - Commercial and Multi-Family High Rise Residential Buildings	1904-AA06
527	Energy Efficiency Test Procedures for Water Heaters	1904-AA12
528	Energy Conservation Performance Standards for New Buildings; Subpart C - Mandatory Performance Standards for New Federal Residential Buildings	1904-AA27
529	Energy-Efficiency Standards for Refrigerators and Related Products, Small Gas Furnace and Television Sets	1904-AA28
530	Energy-Efficiency Test Procedures for Refrigerator-Freezers and Freezers	1904-AA35
531	Energy Conservation Standards for Water Heaters; Technical Amendments	1904-AA36

Conservation and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
532	State Energy Conservation Program (SECP) -- Use of Oil Overcharge Funds for Building Energy Conservation Materials and Equipment	1904-AA30
533	Regulations Implementing National Appliance Energy Conservation Act; Certification and Enforcement, Waiver of Federal Preemption and Small Manufacturer Exemptions	1904-AA32

Defense Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
534	Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material; Q Access Authorization	1992-AA11

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
535	Part 605 Special Research Grants Program; Proposed Rule	1901-AA07
536	Annotation of Land Records; Uranium Mill Tailing Remedial Action Program	1901-AA12

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
537	Model Federal Policy for Protection of Human Research Subjects	1901-AA13

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Economic Regulatory Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
538	New Administrative Procedures with Respect to Short-Term Imports and Exports of Natural Gas	1903-AA07

Economic Regulatory Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
539	Powerplant and Industrial Fuel Use Act of 1978; Revisions	1903-AA06

Management and Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
540	Department of Energy Acquisition Regulation Revisions; Patent Policy	1991-AA23
541	Department of Energy Property Management Regulation; Official Use of Motor Vehicles	1991-AA28
542	Department of Energy Acquisition Regulation; Miscellaneous Changes on Acquisition of Personal Property	1991-AA32
543	Proposed Rule on DOE Contractor Drug Free Workplace Policy	1991-AA39
544	Revised Policy on Objective Merit Review of Discretionary Financial Assistance Applications	1991-AA41
545	Research Opportunity Announcements	1991-AA42
546	Resolution of Disputes Between Subcontractors and DOE Management and Operating Contractors	1991-AA44
547	Department of Energy Acquisition Regulation: Internal Controls Systems	1991-AA50
548	Department of Energy Acquisition Regulation: Price-Anderson Act	1991-AA52
549	Department of Energy Acquisition Regulation: Environmental, Safety, and Health Requirements	1991-AA53

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Sequence Number	Title	Regulation Identifier Number
550	Department of Energy Acquisition Regulation; Use of Contract Carriers by Cost Reimbursable Contractors	1991-AA37
551	Department of Energy Acquisition Regulation: Miscellaneous Amendments	1991-AA49
552	Referral of Debts to IRS for Tax Refund Offset	1991-AA54
553	Uniform Administrative Requirements for Grants and Cooperative Agreements	1991-AA55
554	Financial Assistance Rules; Technical Corrections	1991-AA56

Management and Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
555	Drug-Free Workplace Requirements	1991-AA51

Office of General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
556	Amendments to Department of Energy Conduct of Employees Regulations	1990-AA00
557	Patent Waiver Regulation	1990-AA02

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Office of General Counsel—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
558	Foreign Gifts and Decorations	1990-AA04
559	Indemnification of Department of Energy Officials and Employees	1990-AA11
560	Production or Disclosure of Material or Information and Provision of Agency Witnesses in Federal and State Proceedings	1990-AA12
561	Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material; Revision of Current Procedures	1990-AA13

Office of General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
562	Class Patent Waivers	1990-AA07

Office of General Counsel—Completed Actions

Sequence Number	Title	Regulation Identifier Number
563	Implementation of the Program Fraud Civil Remedies Act of 1986	1990-AA08

DEPARTMENT OF ENERGY (DOE)
Conservation and Renewable Energy (CE)

Proposed Rule Stage

523. FEDERAL ENERGY MANAGEMENT & PLANNING PROGRAMS METHODOLOGY & PROCEDURES FOR LIFE CYCLE COSTING ANALYSES

Legal Authority: 42 USC 8255; PL 95-619, Sec 545; PL 99-509, Sec 3301; EO 11912; EO 12003; PL 99-509; PL 100-615

CFR Citation: 10 CFR 436

Legal Deadline: None

Abstract: Under the National Energy Conservation Policy Act, DOE has promulgated regulations establishing a methodology for estimating and comparing the life cycle costs of Federal buildings and for determining life cycle cost effectiveness. The Energy Security Act required that the regulations provide for the use of marginal energy costs in the life cycle cost analyses. DOE sought legislative revisions to authorize use of average energy costs rather than marginal costs. Appropriate legislative relief came with the Omnibus Budget Reconciliation Act of 1986. The current rulemaking would update base year prices and energy cost escalation rates based on current average energy cost projections. It would also eliminate the need for Federal Register publication of future annual updates so long as there is no significant change in the method for making average energy cost projections. In addition, the Federal Energy Management Improvement Act requires the Secretary of Energy to establish the discount rate for life cycle costing. The current rulemaking would include the methodology by which the discount rate will be established.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: K. Dean DeVine, Federal Energy Management Program, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-6784

RIN: 1904-AA06

524. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART B - VOLUNTARY PERFORMANCE STANDARDS FOR NEW NON-FEDERAL RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing voluntary guidelines for the private sector and mandatory standards for the Federal Government. Subpart B develops

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voluntary standards for new non-Federal residential buildings.

DOE is required to conduct demonstrations of interim standards and report its findings to Congress, prior to the development and promulgation of final standards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James A. Smith, Director, Building Systems Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9445

RIN: 1904–AA34

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525. ENERGY-EFFICIENCY STANDARDS FOR DISHWASHERS, CLOTHES WASHERS AND CLOTHES DRYERS

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Other, Statutory. The NAECA requires DOE determinations on need to amend Federal appliance standards in a period from 7/1/89 to 1/1/94. The statute requires completion of a second reanalysis of all(cont)

Abstract: The National Appliance Energy Conservation Act of 1987 (NAECA), as amended, extensively amends the Department's statutory authorities and responsibilities regarding energy efficiency standards for major household appliances. The NAECA establishes initial energy-efficiency standard levels for most types of major appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; kitchen ranges and ovens; and fluorescent lamp ballasts. Other appliances, including television sets, may be regulated by the Department essentially as provided for in prior law. This rulemaking will review the statutory standards for dishwashers, clothes washers and clothes dryers to determine whether those levels need to be amended.

Timetable:

Action	Date	FR Cite
ANPRM	05/18/88	53 FR 17712
ANPRM Comment Period End	07/18/88	53 FR 17712
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: LEGAL DEADLINE CONT: then-extant standards in a period from 7/1/94 to 12/31/2006. The NAECA requires a final determination on these three products by 01/01/90.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA37

DEPARTMENT OF ENERGY (DOE)

Conservation and Renewable Energy (CE)

Final Rule Stage

526. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART A - COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing voluntary standards for the non-Federal sector and mandatory standards for the Federal Government. Subpart A develops standards for both Federal and non-Federal commercial buildings and multi-family high rise buildings.

DOE is required to conduct demonstrations of interim standards and report its findings to Congress, prior to the development and promulgation of final standards.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 17051
NPRM Comment Period End	08/04/87	
Interim Final Rule	01/30/89	54 FR 4538
Interim Final Rule Effective Date	07/31/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1989

Agency Contact: James A. Smith, Director, Buildings Systems Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9445

RIN: 1904–AA08

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527. ENERGY EFFICIENCY TEST PROCEDURES FOR WATER HEATERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None

Abstract: Final test procedures for 13 types of appliances were established during 1978. The test procedures form the basis of manufacturers' representations on the Federal Trade Commission's EnergyGuide label. In February 1984, DOE proposed to establish test procedures for heat pump water heaters and to eliminate the need for the test procedure waiver granted to A.O. Smith for its water heater with a thermal compensatory dip tube. Based on the comments received pursuant to the February 8, 1984 NPRM, the Department prepared a new NPRM published March 13, 1987. This NPRM proposed a single test procedure to cover gas, oil and electric water heaters as well as heat pump water heaters, and extended the test procedures to cover instantaneous type water heaters. In addition to the A.O. Smith matter, the rulemaking would eliminate the need for the test procedure waivers granted Bock Corp., Ford Products and Lockinvar Corp. for their high mass oil-fired water heaters.

Timetable:

Action	Date	FR Cite
NPRM	02/08/84	49 FR 4870
NPRM Comment Period End	05/21/84	49 FR 4870
NPRM Test Procedures for Water Heaters	03/13/87	49 FR 7972
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Under a separate rulemaking (RIN: 1904-AA36), the Secretary will determine whether the test procedure amendment alters the measured water heater efficiency and, if so, will establish corrective technical amendments to the energy conservation standard.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA12

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528. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART C - MANDATORY PERFORMANCE STANDARDS FOR NEW FEDERAL RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing voluntary standards for the non-Federal sector and mandatory standards for the Federal Government. Subpart C develops mandatory standards for new Federal residential buildings.

DOE is required to conduct demonstrations of interim standards and report its findings to Congress, prior to the development and promulgation of final standards.

Timetable:

Action	Date	FR Cite
NPRM	08/20/86	51 FR 29754
NPRM Comment Period End	01/16/87	51 FR 222
Interim Final Rule	08/25/88	53 FR 32536
Proposed modification of Interim Final Rule	08/25/88	53 FR 32547
Interim Final Rule Effective	02/21/89	53 FR 32536
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1989

Analysis: Economic Analysis 08/20/86 (51 FR 29773); Environmental FONSI 08/20/86 (51 FR 29773)

Additional Information: On 08/25/88, the Department proposed to modify the interim final rule in three respects (53 FR 32547). To the computerized building design program (COSTSAFR) would be added: (1) credit for three mass-wall configurations; (2) new energy data on window glazings; and (3) a mathematical process for integrating innovative design options into the analysis.

Agency Contact: James A. Smith, Director, Building Systems Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-9445

RIN: 1904–AA27

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529. ENERGY-EFFICIENCY STANDARDS FOR REFRIGERATORS AND RELATED PRODUCTS, SMALL GAS FURNACE AND TELEVISION SETS

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Other, Statutory. The NAECA requires DOE determinations to amend Federal appliance standards in a period from 7/1/89 to 1/1/94. The Statute requires completion of a second reanalysis of all then-extant (cont)

Abstract: The National Appliance Energy Conservation Act of 1987 (NAECA), amended, extensively amends the Department's statutory authorities and responsibilities regarding energy efficiency standards for major household appliances. The NAECA establishes initial statutory energy-efficiency standard levels for most types of major appliances and generally requires the Department to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; kitchen ranges and ovens; and fluorescent lamp ballasts. Other appliances, including television sets, may be regulated by the Department essentially as provided for in prior law. This rulemaking will review the statutory standard levels for refrigerators, refrigerator-freezers, and freezers to determine whether those levels need to be (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/07/87	52 FR 46367
ANPRM Comment Period End	02/05/88	52 FR 46367
NPRM	12/02/88	53 FR 48798
NPRM Comment Period End	01/31/89	53 FR 48798
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

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Analysis: Regulatory Impact Analysis; FONSI Energy Conservation Standards 12/02/88 (53 FR 48626)

Additional Information: ABSTRACT CONT: amended; for small gas furnaces, will set an initial standard within the statutory range; and will determine whether any standard for television sets is warranted. LEGAL DEADLINE CONT: standards in a period from 7/1/94 to 12/31/2006. Statutory deadlines for this rulemaking: proposal on standards for refrigerators and related products (7/1/88) and establishment of the small gas furnace standards level (1/1/89), the earliest NAECA deadline for a final action.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA28

530. ENERGY-EFFICIENCY TEST PROCEDURES FOR REFRIGERATOR-FREEZERS AND FREEZERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None

Abstract: DOE has proposed to amend existing test procedures for refrigerator-freezers and freezers to alleviate the requirement for waivers for units equipped with variable defrost controls. The proposal also addresses refrigerator-freezers equipped with two compressors. The proposed amendments would eliminate the need for the test procedure waivers granted Whirlpool and White Consolidated Industries, Inc., for their variable defrost control refrigerator-freezers.

Timetable:

Action	Date	FR Cite
NPRM	09/26/88	53 FR 37416
NPRM Comment Period End	11/25/88	
Final Action	07/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA35

531. ENERGY CONSERVATION STANDARDS FOR WATER HEATERS; TECHNICAL AMENDMENTS

Legal Authority: 42 USC 6292

CFR Citation: 10 CFR 430.32

Legal Deadline: None

Abstract: This action would be a technical amendment, based on water heater test procedure changes in progress (see 1904 - AA12), of the statutory standard for water heaters contained in the National Appliance Energy Conservation Act of 1987 (NAECA), as amended. This amendment could change the way the standard level is measured, but would not change the level of the minimum energy conservation standard itself. NAECA requires amendment of the applicable standard if the Secretary determines that an amended test procedure will alter the measured efficiency of the standard. This technical amendment of the standard is to be completed concurrently with the rulemaking with respect to the amended test procedure.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1690
NPRM Comment Period End	03/20/89	54 FR 1690
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA36

DEPARTMENT OF ENERGY (DOE)
Conservation and Renewable Energy (CE) — Completed Actions

532. STATE ENERGY CONSERVATION PROGRAM (SECP) – USE OF OIL OVERCHARGE FUNDS FOR BUILDING ENERGY CONSERVATION MATERIALS AND EQUIPMENT

Legal Authority: 42 USC 6321 to 6327

CFR Citation: 10 CFR 420, (Revision)

Legal Deadline: None

Abstract: This rulemaking has modified the prohibition in the State Energy Conservation Program (SECP) regulations on the purchase and installation of equipment and materials for energy conservation building retrofits and weatherization. This prohibition was relaxed in order to take advantage of the so-called petroleum violation escrow (PVE) funds the State elects to spend through the SECP. The funds will be used to promote the leveraging of funds through financial incentive mechanisms. As with all State SECP activities, actions taken under these amendments would have to be included in an approved program plan.

Timetable:

Action	Date	FR Cite
NPRM	10/22/87	52 FR 39604
Final Action	12/27/88	53 FR 52390
Final Action Effective	12/27/88	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sandra Monje, Energy Conservation Program Specialist, Department of Energy, Conservation and Renewable Energy, Energy Management and Extension, Office of State and Local Assistance, Washington, DC 20585, 202 586-8295

RIN: 1904–AA30

533. REGULATIONS IMPLEMENTING NATIONAL APPLIANCE ENERGY CONSERVATION ACT; CERTIFICATION AND ENFORCEMENT, WAIVER OF FEDERAL PREEMPTION AND SMALL MANUFACTURER EXEMPTIONS

Significance: Regulatory Program

DOE—CE — Completed Actions

Legal Authority: 42 USC 6291 to 6309

CFR Citation: 10 CFR 430.1; 10 CFR 430.2; 10 CFR 430.22; 10 CFR 430.40; 10 CFR 430.50; 10 CFR 430.60; 10 CFR 430.70

Legal Deadline: None

Abstract: The National Appliance Energy Conservation Act of 1987 (NAECA), as amended, extensively amended the Department's statutory authorities and responsibilities regarding energy efficiency standards for major household appliances. The NAECA establishes initial statutory energy-efficiency standard levels for most types of major appliances. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; kitchen ranges and ovens; and fluorescent lamp ballasts. Other appliances, including television sets, may be regulated by the Department essentially as provided for in prior law. Although the standards prescribed by the NAECA generally supersede all State and local standards for these products, the Act allows States to petition for and DOE to grant exemption from Federal preemption and allows small manufacturers to apply for temporary exemption from the standard. This rulemaking establishes procedures for these preemption and exemption provisions, and for certification (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/04/88	53 FR 7110
NPRM Comment Period End	05/03/88	
Final Action	02/07/89	54 FR 6062
Final Action Effective	03/09/89	

Small Entities Affected: Undetermined

Government Levels Affected: State

Additional Information: ABSTRACT CONT: and enforcement aspects of the program.

Agency Contact: Michael J. McCabe, Supervisory Engineer, Department of Energy, Conservation and Renewable Energy, CE-132, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA32

DEPARTMENT OF ENERGY (DOE)
Defense Programs (DP) — Final Rule Stage

534. CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL; Q ACCESS AUTHORIZATION

Significance: Agency Priority

Legal Authority: 42 USC 2014aa Atomic Energy Act of 1954, Sec 11aa; 42 USC 2201 Atomic Energy Act of 1954, Sec 161; 10 CFR 710

CFR Citation: 10 CFR 710

Legal Deadline: None

Abstract: The protection of certain of the Department's security interests, with the potential, if misused, of causing unacceptable damage to the national security, requires the implementation of a program designed to assure that individuals occupying positions affording access to certain material, facilities, and programs meet the highest standards of reliability. This action would establish a Q (R) access authorization for individuals applying for or currently holding a position identified as a personnel security assurance program (PSAP) position. The security clearance determination would, through a system of continuous evaluation, identify those individuals whose judgment may be impaired by physical and/or emotional disorders, the use of controlled substances, or the use of alcohol habitually to excess.

Timetable:

Action	Date	FR Cite
NPRM	02/02/89	54 FR 5376
NPRM Comment Period End	03/06/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin Hershkowitz, Chief, Assurance and Analysis Br. (DP-344.3), Assurance Program, Department of Energy, Defense Programs, Office of Safeguards & Security, DP-344.3, Washington, DC 20585, 301 353-5671

RIN: 1992–AA11

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — Proposed Rule Stage

535. PART 605 SPECIAL RESEARCH GRANTS PROGRAM; PROPOSED RULE

Legal Authority: 42 USC 2051; 42 USC 5817; 42 USC 5901; 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 605

Legal Deadline: None

Abstract: This action would revise administrative guidelines in order to clarify and streamline DOE-OER pre- and post-award policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Zich, Director, Acquisition and Assistance, Management Division (ER-64), Department of Energy, Departmental and Others, (ER64) Office of Energy Research, Washington, DC 20545, 301 353-5544

RIN: 1901–AA07

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DOE—ENDEP — **Proposed Rule Stage**

536. ANNOTATION OF LAND RECORDS; URANIUM MILL TAILING REMEDIAL ACTION PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 7901 Uranium Mill Tailings Radiation Control Act of 1978

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: PL 95-604 assigned the Department of Energy the authority to conduct remedial actions at 24 processing sites and associated vicinity properties. Section 104(d) states that the Department shall issue appropriate rules and regulations concerning annotation of land records where residual radioactive materials were located and when remedial action took place. The Department will begin rulemaking proceedings during FY 1989.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	05/00/89	
Final Action	07/00/89	
Final Action Effective	07/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sally A. Mann, Dir., Div. of Uranium Mill Tailings Projects, Division, NE-22, Department of Energy, Departmental and Others, Office of Nuclear Energy, Washington, DC 20545, 301 353-6436

RIN: 1901-AA12

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — **Final Rule Stage**

537. MODEL FEDERAL POLICY FOR PROTECTION OF HUMAN RESEARCH SUBJECTS

Significance: Agency Priority

Legal Authority: PL 95-622; PL 93-438; Sec 105A

CFR Citation: 10 CFR 745, (Revision)

Legal Deadline: None

Abstract: In response to the First Biennial Report of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, DOE along with all other affected Federal departments and agencies following the lead of DHHS will adopt and implement a uniform code of regulations for the protection of human subjects in Federal research projects. This will replace the prior regulations adopted by DOE in 1976 and make DOE requirements uniform with the DHHS policies.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
NPRM Comment Period End	01/09/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Susan L. Rose, Health Scientist, Department of Energy, Departmental and Others, Office of Energy Research, Human Health and Assessments Division(ER-73), Washington, DC 20545, 301 353-4731

RIN: 1901-AA13

DEPARTMENT OF ENERGY (DOE)
Economic Regulatory Administration (ERA) — **Proposed Rule Stage**

538. NEW ADMINISTRATIVE PROCEDURES WITH RESPECT TO SHORT-TERM IMPORTS AND EXPORTS OF NATURAL GAS

Legal Authority: 15 USC 717b; 42 USC 7101 et seq; EO 12009

CFR Citation: 10 CFR 590

Legal Deadline: None

Abstract: The rule would amend the administrative procedure regulations contained in 10 CFR 590, by establishing a new Subpart F to provide alternative, expedited procedures regarding applications to import and export natural gas on a short-term basis. The rule would reduce the regulatory burden on parties wishing to import or export natural gas on a short-term or spot market basis by streamlining our licensing process, thus facilitating the operation of the market.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Constance L. Buckley, Director, Natural Gas Division, Department of Energy, Economic Regulatory Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9482

RIN: 1903-AA07

DEPARTMENT OF ENERGY (DOE)
Economic Regulatory Administration (ERA) — **Final Rule Stage**

539. POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978; REVISIONS

Significance: Agency Priority

Legal Authority: 42 USC 8301 et seq; PL 100-42; 42 USC 7101 et seq; EO 12009

CFR Citation: 10 CFR 500; 10 CFR 501; 10 CFR 503; 10 CFR 504

Legal Deadline: None

Abstract: Legislative changes and economic conditions have made it necessary to modify the regulatory language to comport with Congressional intent of the amended Fuel Use Act. Specifically, ERA has proposed to remove all language that relates to industrial facilities. The fuel price calculations and inflation indices used in the cost test calculations supporting exemptions based on a lack of alternate fuel at a cost that does not substantially exceed the cost of using imported petroleum will be changed. ERA has also proposed to insert language that will dramatically decrease the evidence that must be presented to qualify for an FUA exemption when a powerplant certifies to the technical and financial feasibility of using an alternate fuel at a future date.

Timetable:

Action	Date	FR Cite
NPRM	01/25/89	54 FR 3726
NPRM Comment Period End	03/20/89	
Final Action	09/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Anthony J. Como, Director, Coal & Electricity Division, Department of Energy, Economic Regulatory Administration, 1000 Independence Ave., SW, Room GA-093 RG-22, Washington, DC 20585, 202 586-5935

RIN: 1903-AA08

DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA) — **Proposed Rule Stage**

540. DEPARTMENT OF ENERGY ACQUISITION REGULATION REVISIONS; PATENT POLICY

Legal Authority: 41 USC 401 et seq The Office of Federal Procurement Policy Act; 42 USC 7101 et seq The Department of Energy Organization Act; EO 12352 Procurement Reforms

CFR Citation: 48 CFR 927; 48 CFR 970

Legal Deadline: None

Abstract: The Department of Energy Acquisition Regulation, promulgated March 29, 1984, at 49 FR 11922, supplements and implements the Federal Acquisition Regulation. A more recent Federal Acquisition Circular has been issued to establish a FAR Part 27 concerning Patents. It will be necessary to revise Part 927 of the DEAR to supplement and implement the FAR and to explain how DOE patent policy will differ due to our statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	09/00/89	
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-8247

RIN: 1991-AA23

541. DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATION; OFFICIAL USE OF MOTOR VEHICLES

Legal Authority: 42 USC 7254

CFR Citation: 41 CFR 109

Legal Deadline: None

Abstract: To update the Property Management Regulations regarding official use of motor vehicles. The rule would also make various other minor upgrading changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	09/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilson, Supply Management Representative, Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-8260

RIN: 1991-AA28

542. DEPARTMENT OF ENERGY ACQUISITION REGULATION; MISCELLANEOUS CHANGES ON ACQUISITION OF PERSONAL PROPERTY

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 908; 48 CFR 970; 48 CFR 907; 48 CFR 944; 48 CFR 945; 48 CFR 951; 48 CFR 952

Legal Deadline: None

Abstract: To provide additional policy guidance on the acquisition of personal property in the areas concerning acquisition plans, Government supply sources, consideration for subcontracts, Government property, and updating solicitation provisions and contract clauses.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	09/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilson, Supply Management Representative,

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Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-8260

RIN: 1991–AA32

543. PROPOSED RULE ON DOE CONTRACTOR DRUG FREE WORKPLACE POLICY

Significance: Agency Priority

Legal Authority: 42 USC 2011 et seq Atomic Energy Act

CFR Citation: 10 CFR 707

Legal Deadline: None

Abstract: Will establish comprehensive drug abuse prevention policy and program at DOE-owned or -leased operations consistent with DOE responsibility to protect public health and safety and national security. Regulation will address drug testing requirements, educational and training programs, drug counseling and rehabilitation, confidentiality and protection of privacy of employees. Costs incurred will affect cost reimbursement type contracts for managing, operating, constructing, and servicing DOE facilities. Benefits will be in establishing reasonable level of consistency among contractor programs and resultant cost to the Government and in reducing risk of unacceptable damage to security environment, health and safety of employees and the public.

Timetable:

Action	Date	FR Cite
NPRM	04/15/89	
NPRM Comment Period End	05/15/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Juanita E. Smith, Director, Employee Relations, Office of Industrial Relations, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9033

RIN: 1991–AA39

544. REVISED POLICY ON OBJECTIVE MERIT REVIEW OF DISCRETIONARY FINANCIAL ASSISTANCE APPLICATIONS

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 to 6308

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This regulation establishes standards for program offices to follow in conducting objective merit review of discretionary awards. It addresses problems with inconsistencies among programs and uncertainties about processes within DOE. No costs are apparent. Benefits include consistency and greater public awareness of agency procedures. This regulation also implements OMB-encouraged grants management changes growing out of the Florida Demonstration Project. No costs are apparent. Benefits include less governmental and recipient paperwork and greater recipient efficiency.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action Effective	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Cavanagh, Director, Business and Financial Policy Division, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8174

RIN: 1991–AA41

545. RESEARCH OPPORTUNITY ANNOUNCEMENTS

Legal Authority: 42 USC 7254 et seq

CFR Citation: 48 CFR 935; 48 CFR 917

Legal Deadline: None

Abstract: The purpose of this action is to amend the Acquisition Regulations (DEAR) to implement policies and procedures concerning the use of broad agency announcements, a form of competitive solicitation, as allowed by FAR 35.016.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	08/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward Simpson, Procurement Analyst, Department of Energy, Management and Administration, MA 421, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8246

RIN: 1991–AA42

546. RESOLUTION OF DISPUTES BETWEEN SUBCONTRACTORS AND DOE MANAGEMENT AND OPERATING CONTRACTORS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Establishes a system, by regulation, to allow subcontractors under DOE Management and Operating contracts access in certain circumstances to the Energy Board of Contract Appeals in resolution of disputes with the contractor. Also clarifies that DOE Contracting Officers lack authority to designate Management and Operating contractors as purchasing agents for DOE absent special authorization.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8247

RIN: 1991–AA44

547. ● DEPARTMENT OF ENERGY ACQUISITION REGULATION: INTERNAL CONTROLS SYSTEMS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would amend the Department of Energy Acquisition Regulation to require its Management and Operating Contractors to develop and maintain systems of internal controls to discourage waste, fraud and abuse.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard K. Mitchell, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8190

RIN: 1991–AA50

548. ● DEPARTMENT OF ENERGY ACQUISITION REGULATION: PRICE-ANDERSON ACT

Legal Authority: 42 USC 2014

CFR Citation: 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: The purpose of this action is to amend the regulations which implement the Price-Anderson Act. Amendments are necessary to incorporate the revisions included in the Price-Anderson Amendments Act of 1988. These regulations deal only with those aspects of the Price-Anderson legislation incorporated in the agency's acquisition regulations, e.g., contract clauses providing Nuclear Hazards Indemnity.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles A. Dan, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8247

RIN: 1991–AA52

549. ● DEPARTMENT OF ENERGY ACQUISITION REGULATION: ENVIRONMENTAL, SAFETY, AND HEALTH REQUIREMENTS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 916; 48 CFR 970

Legal Deadline: None

Abstract: The Department of Energy is proposing to amend the Department of Energy Acquisition Regulation to clarify and emphasize environmental protection, safety and health requirements for contractors.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: P. Devers Weaver, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8250

RIN: 1991–AA53

DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA)
Final Rule Stage

550. DEPARTMENT OF ENERGY ACQUISITION REGULATION; USE OF CONTRACT CARRIERS BY COST REIMBURSABLE CONTRACTORS

Legal Authority: PL 95-91

CFR Citation: 48 CFR 952

Legal Deadline: None

Abstract: Amend Procurement Regulations (DEAR) in order to implement GSA Bulletin FPMR A-90 and FPMR Temporary Regulation 30. Use of Government contractor airlines, hotels/motels and car rental agencies by cost reimbursable contractor employees.

Timetable:

Action	Date	FR Cite
NPRM	12/29/86	51 FR 46884
NPRM Comment Period End	01/28/87	51 FR 46884
Final Action	09/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Additional Information: DOE is awaiting action by the DAR Council and the CAA Council which published a similar proposed rule on 3/24/87. Publication of their final rule for the FAR will override the need for a final rule to be published for the DEAR.

Agency Contact: Gwendolyn Cowan, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8189

RIN: 1991–AA37

551. ● DEPARTMENT OF ENERGY ACQUISITION REGULATION: MISCELLANEOUS AMENDMENTS

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 901; 48 CFR 904; 48 CFR 906; 48 CFR 908; 48 CFR 913; 48 CFR 916; 48 CFR 935; 48 CFR 942; 48 CFR 945; 48 CFR 970

Legal Deadline: None

Abstract: This amendment would revise the Acquisition Regulation (DEAR) by clarifying and updating certain policy and procedural requirements such as approval authorities for particular actions, addresses for certain submissions, changes in property recordkeeping requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1735
NPRM Comment Period End	03/03/89	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cherlyn D. Seckinger, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence

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DOE—MA — **Final Rule Stage**

Avenue, SW, Washington, DC 20585, 202 586-9737

RIN: 1991–AA49

552. ● REFERRAL OF DEBTS TO IRS FOR TAX REFUND OFFSET

Legal Authority: 31 USC 3720A; PL 98-369

CFR Citation: 10 CFR 1018

Legal Deadline: None

Abstract: This rule establishes regulations under which the Department of Energy will refer past due legally enforceable debts to the Internal Revenue Service (IRS) for offset against the income tax refunds of persons owing debts to the Department. The agreement with IRS requires DOE to promulgate regulations governing the operation of the Federal Tax Refund Offset program for 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/89	54 FR 772
Interim final rule comment period end	02/08/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Myers, Staff Accountant, Department of Energy, Management and Administration, 1000 Independence Avenue, SW. (MA-31), Washington, DC 20585, 202 586-4860

RIN: 1991–AA54

553. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 to 6308

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: Regulation is part of governmentwide common rule making changes to A-110 and merging into the common rule growing out of A-102. A-110 is a Federal directive. Another alternative may be to separate A-110 from A-102 or to update and maintain Circular A-110. Under auspices of OMB, all agencies published NPRM's on 11/04/88.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44724
NPRM Comment Period End	01/03/89	53 FR 44716
Final Action	09/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Cavanagh, Director, Business and Financial Policy Division, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8174

RIN: 1991–AA55

554. ● FINANCIAL ASSISTANCE RULES; TECHNICAL CORRECTIONS

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 to 6308

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This regulation contains technical nonsubstantive corrections to the Financial Assistance Rules to eliminate typographical errors and repetition. No costs apparent.

Timetable:

Action	Date	FR Cite
NPRM	02/09/89	54 FR 6296
NPRM Comment Period End	03/13/89	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Cavanagh, Director, Division of Business and Financial Policy, Department of Energy, Management and Administration, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-8174

RIN: 1991–AA56

DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA) — **Completed Actions**

555. ● DRUG-FREE WORKPLACE REQUIREMENTS

Legal Authority: 41 USC 701; 42 USC 7254; 42 USC 7256; 31 USC 6301 to 6308

CFR Citation: 10 CFR 103

Legal Deadline: None

Abstract: Implements the Drug-Free Workplace Act of 1988. Cost incurred is increased reporting and recordkeeping. The benefit is carrying out the public policy embodied in the Drug-Free Workplace Act.

Timetable:

Action	Date	FR Cite
Final Action	01/31/89	54 FR 4947
Final Action Effective	03/18/89	54 FR 4947

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: James J. Cavanagh, Director, Business and Financial Policy Division, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8174

RIN: 1991–AA51

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC) — **Proposed Rule Stage**

556. AMENDMENTS TO DEPARTMENT OF ENERGY CONDUCT OF EMPLOYEES REGULATIONS

Legal Authority: 18 USC 201 to 209; 42 USC 7211 to 7216; EO 11222

CFR Citation: 10 CFR 1010

Legal Deadline: None

Abstract: The regulations need to be revised to reflect the provisions and requirements of the Ethics in Government Act. In addition, it is anticipated that certain sections of the regulations will be clarified and/or revised to reflect current Office of General Counsel policy and interpretations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Appendix I of the Regulations, regarding employee financial disclosure requirements, was published as a Final Rule in April 1988.

Agency Contact: MaryAnn Shebek, Acting Deputy Assistant General Counsel for General Law, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-1522

RIN: 1990–AA00

557. PATENT WAIVER REGULATION

Legal Authority: 42 USC 2182; 42 USC 5908; PL 99-661

CFR Citation: 10 CFR 784; 41 CFR 9-9.109-6

Legal Deadline: None

Abstract: The regulation provides procedures and standards for obtaining a waiver of the Government's rights in inventions made under DOE research and development contracts with entities that are not small businesses or nonprofit institutions, and terms and conditions of such waivers. Currently, DOE waiver policy is provided in DOE Procurement Regulations (41 CFR 9-9.109-6). The proposed regulation places DOE patent waiver policy in a separate regulation, and also provides updates, revisions and clarifications to waiver policy as contained in 41 CFR 9-9.109-6.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard E. Constant, Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-2802

RIN: 1990–AA02

558. FOREIGN GIFTS AND DECORATIONS

Legal Authority: 5 USC 7342; 41 CFR 101-49.001-5

CFR Citation: 10 CFR 1050

Legal Deadline: None

Abstract: The regulations need to be amended to reflect the increase in the dollar amount of "minimal value." (Whether a gift is of minimal value is a factor as to whether the regulations apply.) The dollar amount of minimal value is determined by the General Services Administration, by GSA regulation. Accordingly, the DOE regulations will reference the GSA regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Shebek, Acting Deputy Assistant General Counsel for General Law, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-1522

RIN: 1990–AA04

559. INDEMNIFICATION OF DEPARTMENT OF ENERGY OFFICIALS AND EMPLOYEES

Legal Authority: 42 USC 7131; 42 USC 7231; 42 USC 7254; 28 CFR 50.15 (a)(7)(iii)

CFR Citation: 10 CFR 1012

Legal Deadline: None

Abstract: The Department of Energy does not have a policy for indemnifying its employees who are sued personally and suffer an adverse judgment as a result of conduct taken within the scope of employment. Lawsuits against Federal employees in their personal capacity can constitute a major impediment to the effective conduct of the public's business, since employees faced with the potential of being held personally liable may be inhibited in discharging their duties. To deal with this problem, the Department proposes to establish a policy permitting, but not requiring, the indemnification of an employee who suffers an adverse verdict, judgment, or other monetary award when the actions giving rise to liability were within the scope of his employment and indemnification is in the interest of the Government. This policy would be modeled on a similar policy already adopted by the Department of Justice for its employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	10/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacob D. Vreeland, Trial Attorney, Department of Energy, Office of General Counsel, GC-22, Washington, DC 20585, 202 586-8709

RIN: 1990–AA11

560. PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION AND PROVISION OF AGENCY WITNESSES IN FEDERAL AND STATE PROCEEDINGS

Legal Authority: 42 USC 7254; 5 USC 301; 28 CFR 1621

CFR Citation: 10 CFR 202

Legal Deadline: None

Abstract: The intent of this regulation is to establish an agency-wide procedure for processing and responding to subpoenas or requests for Department of Energy records or testimony by Department of Energy officers and employees. A regulation intended to fulfill this purpose currently exists. However, relocating its position in the Code of Federal Regulations and

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DOE—OGC — **Proposed Rule Stage**

some minor language changes would clarify its applicability. In addition, efficient application of the regulation will be promoted by more closely modeling it on the comparable Department of Justice regulation, since the Department of Justice is usually responsible for representing the Department of Energy in such matters. The cost of this action is expected to be de minimis and could effect a savings, since clarification and recodification of the existing regulation may avoid needless litigation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	08/00/89	
Final Action Effective	08/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Robin A. Henderson, Trial Attorney, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW, GC-22, Washington, DC 20585, 202 586-8700

RIN: 1990-AA12

561. ● CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL; REVISION OF CURRENT PROCEDURES

Legal Authority: 42 USC 2161; 42 USC 2165; 42 USC 2201

CFR Citation: 10 CFR 710

Legal Deadline: None

Abstract: Revision and amendment of the current administrative procedure is necessary to streamline and shorten the process for resolving questions concerning the eligibility of individuals who are employed by or applicants for employment with DOE contractors, agents, and access permittees of the DOE, individuals who are DOE employees or applicants for DOE employment, and other persons designated by the Secretary of DOE for access to Restricted Data or significant quantities of special nuclear material, or for access to national security information.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack M. Kress, Deputy General Counsel for Legal Services, Department of Energy, Office of General Counsel, GC-40; Room 6A-197, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-5246

RIN: 1990-AA13

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC) — **Final Rule Stage**

562. CLASS PATENT WAIVERS

Legal Authority: 42 USC 2182; 42 USC 5908

CFR Citation: 10 CFR 785

Legal Deadline: None

Abstract: The proposed regulation would provide for certain class waivers, serving to streamline and simplify procedures for DOE contractors to seek rights in inventions made under DOE research and development contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44602
NPRM Comment Period End	01/09/89	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Constant, Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-2802

RIN: 1990-AA07

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC) — **Completed Actions**

563. IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Legal Authority: 31 USC 3801 to 3812

CFR Citation: 10 CFR 1013

Legal Deadline: Final, Statutory, May 1, 1987.

Abstract: These regulations establish administrative procedures for imposing the statutorily authorized civil penalties and assessments against any person who makes, submits, or presents a false, fictitious, or fraudulent claim or written statement to the Department of Energy. No other alternatives are being considered, since these are congressionally mandated regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/01/87	52 FR 20403
NPRM Comment Period End	07/31/87	52 FR 20403
Final Action	10/30/88	53 FR 44379
Final Action Effective	10/30/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jack M. Kress, Deputy General Counsel for Legal Services, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-5246

RIN: 1990-AA08

[FR Doc. 89-6177 Filed 04-21-89; 8:45 am]
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federal register

Monday
April 24, 1989

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

20 CFR Ch. III

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Regulations

AGENCY: Department of Health and Human Services.

ACTION: Publication of unified agenda of regulations.

SUMMARY: The President's February 17, 1981, Executive Order (12291) and the Regulatory Flexibility Act of 1980 require the Department to publish an agenda of significant regulations being developed and an indication of those regulatory actions that are being analyzed for their effect on small businesses. The Department published its last agenda on October 24, 1988.

FOR FURTHER INFORMATION CONTACT: For further inquiries or comments related to specific regulations listed in the agenda, the public is encouraged to contact the appropriate responsible individual. Questions or comments on the overall agenda should be sent to: Charlotte E. Lewis, Regulations Coordinator, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue, SW., Washington, DC 20201, Telephone: (202) 245-6824.

W. Keith Lively,

Deputy Executive Secretary to the Department.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
564	Revisions to "Quality of Care" Exclusion and Payment Denial Regulations	0991-AA61

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
565	Principles for Determining Costs and Cost Allocation Procedures Applicable to Grants, Contracts, and Other Agreements for Work Performed by Hospitals	0991-AA12
566	Civil Money Penalties and Sanctions for HMOs and Competitive Medical Plans	0991-AA44
567	Prohibition on Use of Physician Incentive Plans	0991-AA45
568	New Civil Money Penalties and Exclusions Authorities Resulting from OBRA 1986 and OBRA 1987	0991-AA46
569	Amendments to OIG Exclusion and CMP Authorities Resulting from PL 100-93	0991-AA47
570	PRO Rural Practitioners Amendments	0991-AA51
571	Civil Money Penalties and Sanction Authorities Relating to the Medicare Catastrophic Coverage Provisions	0991-AA52
572	Civil Money Penalties for Violations Relating to Medical Supplemental Policies	0991-AA53
573	Civil Money Penalties for Misuse of Departmental Symbols or Emblems	0991-AA54
574	Block Grant Programs	0991-AA55
575	Contract Audit Policy	0991-AA59
576	Revisions to the PRO Sanctions Notification Process	0991-AA60

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
577	Nondiscrimination Requirements (Including on the Basis of Sex or Religion) Applicable to Block Grants and Standard Nondiscrimination Procedures Applicable to Certain Other Programs	0991-AA02
578	Equal Opportunity in Employment: Public Broadcasting, Public Radio and Public Telecommunications Entities Receiving Federal Funds from the Corporation for Public Broadcasting	0991-AA22
579	Audits of Non-governmental Grantees	0991-AA29
580	Civil Money Penalties and Exclusions for Assistants at Cataract Surgery	0991-AA37
581	Civil Money Penalties for Failure to Report Medical Malpractice Payments and for Breaching the Confidentiality of Information	0991-AA40
582	OIG Anti-Kickback Provisions	0991-AA49
583	Uniform Administrative Requirements for Grants and Cooperative Agreements	0991-AA56
584	Standardization and Uniform Application of CMP Procedures	0991-AA57

HHS

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
585	Freedom of Information Act Regulation	0991-AA07
586	Privacy Act Regulation	0991-AA11
587	Administrative Adjudication of Certain Health Care Exclusion Cases	0991-AA58

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
588	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02
589	Testimony by Employees and the Production of Documents in Proceedings Where the United States is not a Party	0990-AA03

Office of Human Development Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
590	Foster Care, Adoption Assistance, and Child Welfare Services	0980-AA08
591	Runaway and Homeless Youth Program	0980-AA11
592	Head Start Criteria for Selection of New Grantees	0980-AA17
593	Head Start Appeals Process	0980-AA20
594	Head Start Recruitment Selection and Enrollment of Children	0980-AA27
595	Head Start: Limits on Costs of Development and Administration	0980-AA32
596	Head Start Performance Standards for Infants, Toddlers, and Pregnant Women	0980-AA33
597	Adoption and Foster Care Information	0980-AA35
598	Child Abuse and Neglect: technical amendments	0980-AA40

Office of Human Development Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
599	Head Start Staff and Program Options Requirements	0980-AA18
600	Head Start Performance Standards for Services to Handicapped Children	0980-AA21
601	Developmental Disabilities Program	0980-AA36

Office of Human Development Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
602	Nonrecurring Costs of Adoption	0980-AA24
603	Native Hawaiian Loan Fund Demonstration Project	0980-AA37

HHS

Social Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
604	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Cardiovascular System	0960-AA99
605	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Respiratory System	0960-AB00
606	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System	0960-AB01
607	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Adjustments in SSI Benefits on Account of Retroactive Benefits Under Title II	0960-AB38
608	Supplemental Security Income Program; Limitation on Recoupment Rate in Case of Overpayment	0960-AB40
609	Disclosure of Information for Law Enforcement Purposes	0960-AB66
610	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Evaluation Guides for Determining Substantial Gainful Activity (SGA)	0960-AB73
611	Supplemental Security Income Program; Exclusions from Income and Resources of Indian Judgement Funds and Per Capita Distributions	0960-AB86
612	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Mental Disorders-Childhood	0960-AB96
613	Old-Age, Survivors, and Disability Insurance Program; Evaluation Criteria for Immune System Disorders, Including HIV Infection (Acquired Immunodeficiency Syndrome (AIDS)/AIDS-Related Complex)	0960-AC06
614	Old-Age, Survivors, and Disability Insurance Program; Nonpayment of Benefits to Prisoners, Vocational Rehabilitation Exception	0960-AC16
615	Supplemental Security Income Program; Continuation of Benefits and Special Eligibility for Certain Severely Impaired Recipients Who Work	0960-AC22
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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Prerule Stage

564. ● REVISIONS TO "QUALITY OF CARE" EXCLUSION AND PAYMENT DENIAL REGULATIONS

Legal Authority: 42 USC 1320a-7(b)(6)(B); 42 USC 1320c-3(a)(2); 42 USC 1320c-5

CFR Citation: 42 CFR 1001; 42 CFR 1004; 42 CFR 466

Legal Deadline: None

Abstract: This rulemaking would revise and consolidate, where feasible, the principal regulations pertaining to "quality of care" exclusions from Medicare and other health care programs. Such exclusions may be based on the furnishing of excessive services, the failure to furnish care that meets professionally recognized standards of medical care, or the failure to properly document medical services. This rulemaking would attempt to make the various OIG regulations relating to such quality of care exclusions consistent with each other, consistent with HCFA's PRO payment denial regulations at 42 FR 466, and consistent with the case law that has been decided in the U.S. Courts of Appeals in recent years.

Timetable:

Action	Date	FR Cite
Begin Review	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991–AA61

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

565. PRINCIPLES FOR DETERMINING COSTS AND COST ALLOCATION PROCEDURES APPLICABLE TO GRANTS, CONTRACTS, AND OTHER AGREEMENTS FOR WORK PERFORMED BY HOSPITALS

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74, Appendix E; 45 CFR 78

Legal Deadline: None

Abstract: This action will revise the Department's current cost principles for research and development activities under grants and contracts with hospitals to make them clearer, more specific, and compatible with cost principles issued by OMB for State and local units of government, educational institutions and nonprofit organizations. The revision will also broaden the coverage of the principles to include all grants, contracts and other agreements with hospitals (except the Medicare & Medicaid programs).

HHS—OS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Additional Information: OMB is considering revisions to Circular A-21 and A-122 as a result of the Defense Procurement Improvement Act of 1985 (P.L. 99-145) and the Civilian Employee and Contractor Travel Expenses Act of 1985 (P.L. 99-234) as well as a complete rewrite of A-87. This action should conform to those revisions also.

Agency Contact: Edward M. Tracy, Director, Division of Cost Determination Management, Department of Health and Human Services, Office of the Secretary, Office of Grant & Contract Financial Mgmt., Rm 513D, HHH Bldg, 200 Independence Ave. SW, Washington, DC 20201, 202 245-0481

RIN: 0991–AA12

566. CIVIL MONEY PENALTIES AND SANCTIONS FOR HMOS AND COMPETITIVE MEDICAL PLANS

Legal Authority: PL 99-501, Sec 9312; PL 99-501, Sec 9434; PL 100-203, Sec 4014; PL 100-360, Sec 224; PL 100-360, Sec 411

CFR Citation: 42 CFR 1003; 42 CFR 417

Legal Deadline: None

Abstract: This proposed rule would provide for CMPs for each violation against any risk-sharing organization that: (1) fails substantially to provide medically necessary items and services that are required under the contract; (2) imposes premiums on enrolled individuals in excess of premiums permitted; (3) acts to expel or refuse, or to re-enroll an individual; (4) misrepresents or falsifies information; (5) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment; or, (6) fails to provide for prompt payment of claims for services provided to enrollees. In addition, this rule would authorize the Medicare program to suspend enrollment of individuals in, and payment to a risk-sharing organization that (1) denies medically necessary care to a beneficiary or (2) commits marketing abuses or other violations specified in section 1876(i)(6) of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This joint OIG/HCFA proposed rule is being revised as a result of broadened CMP and sanction authorities contained in PL 100-203, in addition to a technical amendment contained in PL 100-360.

Agency Contact: Heather Mullen, Program Analyst, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA44

567. PROHIBITION ON USE OF PHYSICIAN INCENTIVE PLANS

Legal Authority: PL 99-501, Sec 9313

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would prohibit a hospital from knowingly making incentive payments to a physician as an inducement to that physician to reduce or limit services provided to program beneficiaries who are under the direct care of that physician.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: The effective date for implementing regulations addressing physician incentive plans by risk-sharing HMOs and competitive medical plans has been delayed to 4/1/90 by P.L. 100-203, Sec 4016. This provision will be addressed through separate rulemaking at a later date.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA45

568. NEW CIVIL MONEY PENALTIES AND EXCLUSIONS AUTHORITIES RESULTING FROM OBRA 1986 AND OBRA 1987

Legal Authority: PL 99-501, Sec 9320; PL 99-501, Sec 9331; PL 99-501; Sec 9332; PL 99-501, Sec 9334; PL 99-501, Sec 9338; PL 100-203, Sec 4022; PL 100-203, Sec 4023; PL 100-203, Sec 4039; PL 100-203, Sec 4045; PL 100-203, Sec 4049; PL 100-203, Sec 4051; PL 100-203, Sec 4062; PL 100-203, Sec 4064; PL 100-203, Sec 4065; PL 100-203, Sec 4118; ...

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule provides for civil money penalties and exclusions for various program violations resulting from OBRA 1986 and OBRA 1987, as amended by the Medicare Catastrophic Coverage Act of 1988. Penalties and sanctions may be imposed against among other things: (1) those who bill Medicare beneficiaries on a non-assigned basis for services of a certified nurse anesthetist or a physician assistant: (2) non participating physicians billing for actual charges above permitted charges (3) nursing homes: (4) home health care providers: (5) unassigned lab services: (6) DME rental providers: and (7) providers of laboratory tests.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
NPRM Comment Period End	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: This proposed rule is being revised as a result of broadened CMP and sanction authorities contained in P.L. 100-203. In addition, various technical amendments to the OBRA 87 provisions contained in P.L. 100-360, the Medicare Catastrophic Coverage Act of 1988, will be incorporated into this proposed rulemaking.

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Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA46

569. AMENDMENTS TO OIG EXCLUSION AND CMP AUTHORITIES RESULTING FROM PL 100-93

Significance: Agency Priority

Legal Authority: PL 100-93; PL 100-360, Sec 411

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003; 42 CFR 1004

Legal Deadline: None

Abstract: These regulations are designed to protect program beneficiaries from unfit health care practitioners, and otherwise to improve the anti-fraud provisions relating to Titles 5, 18, 19, and 20.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: This proposed rule incorporates two previous items of proposed rulemaking (0991-AA21 and 0991-AA39) as a result of the passage of PL 100-93. Technical amendments contained in PL 100-360, the Medicare Catastrophic Coverage Act of 1988 are also being incorporated into these proposed regulations.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA47

570. PRO RURAL PRACTITIONERS AMENDMENTS

Legal Authority: PL 100-203, Sec 4095

CFR Citation: 42 CFR 1004

Legal Deadline: None

Abstract: This proposed rule would permit a hearing before an Administrative Law Judge of a provider in a rural health manpower shortage area, or in a county with a population of less than 70,000 before a program exclusion of that provider took place.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington DC 20201, 202 472-5270

RIN: 0991–AA51

571. CIVIL MONEY PENALTIES AND SANCTION AUTHORITIES RELATING TO THE MEDICARE CATASTROPHIC COVERAGE PROVISIONS

Legal Authority: PL 100-360, Sec 202; PL 100-360, Sec 203; PL 100-360, Sec 221

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would establish various new sanction and civil money penalties resulting from the Medicare Catastrophic Coverage Act of 1988. Among other provisions, these regulations would address CMPs for (1) failure to provide required survey data relating to covered outpatient drugs; (2) a physician's failure to provide appropriate diagnostic codes and information; and (3) the submission of improper claims for home IV drug therapy services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA52

572. CIVIL MONEY PENALTIES FOR VIOLATIONS RELATING TO MEDICAL SUPPLEMENTAL POLICIES

Legal Authority: PL 100-360, Sec 428(b)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would establish CMPs in all cases where only criminal penalties previously applied for deceptive selling practices relating to Medicare Supplemental health insurance - or Medigap - policies.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	09/00/89	
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA53

573. CIVIL MONEY PENALTIES FOR MISUSE OF DEPARTMENTAL SYMBOLS OR EMBLEMS

Significance: Agency Priority

Legal Authority: PL 100-360, Sec 428(a)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would establish civil money penalties for the unauthorized use, in advertising or solicitation, of certain words letters, symbols or emblems associated with the Department or its programs in a manner that would convey an impression that an item or service was approved, endorsed or authorized by HHS.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA54

574. ● BLOCK GRANT PROGRAMS

Legal Authority: PL 100-485; PL 100-607; PL 100-690

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: Recent legislation modified technical, administrative and reporting requirement for several of the Department's block grant. This notice would propose regulatory changes to reflect these statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	09/01/89	
NPRM Comment Period End	10/31/89	
Final Action	02/01/90	
Final Action Effective	03/01/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Robert C. Raymond, Director, Research Evaluation & Special, Analyses, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue, S.W., Washington, DC 20201, 202 245-7316

RIN: 0991–AA55

575. ● CONTRACT AUDIT POLICY

Legal Authority: PL 94-505

CFR Citation: 45 CFR 66 (New)

Legal Deadline: None

Abstract: This proposed rule would require that audit services performed under contract by non-Federal auditors for DHHS be in compliance with the government auditing standards issued by the Comptroller General. The purpose of this rulemaking is to fulfill the responsibility of the OIG to ensure that all audits of programs and operations of the Department meet the government auditing standards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991–AA59

576. ● REVISIONS TO THE PRO SANCTIONS NOTIFICATION PROCESS

Legal Authority: 42 USC 1320c-5(b)(2)

CFR Citation: 42 CFR 1004

Legal Deadline: None

Abstract: This rule would provide for an alternative to the method of public notice currently used by the OIG in informing the general public of its decision to sanction a practitioner or other person under section 1156 of the Social Security Act as a result of a PRO recommendation. The rule would allow each sanctioned physician or other provider an opportunity to elect to inform each of his or her patients of the sanction action rather than having the OIG provide notice to the general public by publishing a notice in a newspaper.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991–AA60

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Final Rule Stage

577. NONDISCRIMINATION REQUIREMENTS (INCLUDING ON THE BASIS OF SEX OR RELIGION) APPLICABLE TO BLOCK GRANTS AND STANDARD NONDISCRIMINATION PROCEDURES APPLICABLE TO CERTAIN OTHER PROGRAMS

Legal Authority: 42 USC 9906; 42 USC 300x-7; 42 USC 708; 42 USC 8825; 42 USC 9821; 42 USC 9849; 42 USC 1397; 42 USC 300w-7

CFR Citation: 45 CFR 92

Legal Deadline: None

Abstract: To implement the nondiscrimination requirements applicable to block grants authorized by the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2806
NPRM Comment Period End	03/24/86	51 FR 2806
Interim Final Rule	07/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

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Additional Information: New CFR Subpart to be assigned.

Agency Contact: Marcella Haynes, Director, Policy and Special Projects Staff, Department of Health and Human Services, Office of the Secretary, Policy and Special Staff, OCR, Room 5032, HHS Cohen Bldg. 330 Independence Ave, SW, Washington, D.C. 20201, 202 245-6671

RIN: 0991–AA02

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578. EQUAL OPPORTUNITY IN EMPLOYMENT: PUBLIC BROADCASTING, PUBLIC RADIO AND PUBLIC TELECOMMUNICATIONS ENTITIES RECEIVING FEDERAL FUNDS FROM THE CORPORATION FOR PUBLIC BROADCASTING

Legal Authority: 47 USC 398

CFR Citation: 45 CFR 87.1-40

Legal Deadline: None

Abstract: Implements the Equal Opportunity in Employment Provisions of the Public Telecommunications Financing Act of 1978, PUB. L. 95-567, 47 U.S.C. 398(b)(1). This provision requires that equal opportunity in employment be afforded to all persons and that no person shall be subjected to discrimination in employment on the grounds of race, color, religion, national origin, or sex by the Public Broadcasting Service, National Public Radio, and public telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/79	44 FR 14582
NPRM	12/21/79	44 FR 75676
Final Action	06/00/89	
Final Action Effective	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Public Compliance Cost: Yearly Recurring Cost: $6,000

Agency Contact: Frank E. G. Weil, Chief, Policy Branch, Department of Health and Human Services, Office of the Secretary, Office for Civil Rights, 330 Independence Avenue, SW, Room 5411, Washington, DC 20201, 202 245-6700

RIN: 0991–AA22

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579. AUDITS OF NON-GOVERNMENTAL GRANTEES

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74.62(b), (Revised)

Legal Deadline: None

Abstract: This action will implement OMB Circular A-133 which is expected to be issued sometime this year. The Circular will provide governmentwide standards for non-Federal audits of college and university and other non-profit recipients of Federal grants and contracts. The Circular and these amendments will replace the audit requirements currently contained in OMB Circular A-110.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Additional Information: It is expected that OMB which published a draft of its Circular in the Federal Register and obtained public comments will soon issue this Circular. The specific form and nature of our action is dependent upon actions to be taken by OMB. It is possible that A-133 may be implemented as part of the current revision of the A-102/A-110 Common Rule-45 CFR Part 92. If so there may be no need for this action.

Agency Contact: Edward M. Tracy, Director, Division of Cost Determination Management, Department of Health and Human Services, Office of the Secretary, Room 513D, Hubert H. Humphrey Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-0461

RIN: 0991–AA29

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580. CIVIL MONEY PENALTIES AND EXCLUSIONS FOR ASSISTANTS AT CATARACT SURGERY

Legal Authority: PL 99-272, Sec 9307; PL 99-514, Sec 1895(b)(16)

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: These final regulations provide for the imposition of civil money penalties and exclusions against physicians billing the Medicare program or program beneficiaries for services of an assistant at surgery for cataract operations where prior approval has not been granted. This rule specifically responds to various comments raised as a result of the interim final, and makes a number of technical corrections to those final regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/87	52 FR 11649
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991–AA37

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581. CIVIL MONEY PENALTIES FOR FAILURE TO REPORT MEDICAL MALPRACTICE PAYMENTS AND FOR BREACHING THE CONFIDENTIALITY OF INFORMATION

Legal Authority: PL 99-660, Sec 421(c) and 427(b)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This final rule establishes civil money penalties against any individual or entity that fails to report information on medical malpractice payments in accordance with the Health Care Quality Improvement Act of 1986, and against any individual who breaches the confidentiality of information reported to the data bank established to collect and disseminate required information in accordance with that Act.

Timetable:

Action	Date	FR Cite
NPRM	03/21/88	53 FR 9260
NPRM Comment Period End	05/20/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA40

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582. OIG ANTI-KICKBACK PROVISIONS

Legal Authority: PL 100-93, Sec 4; PL 100-93, Sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: Final, Statutory, August 18, 1989.

Abstract: This final rule will specify payment practices which, although potentially capable of inducing referrals of business under Medicare, are not to be considered kickbacks for purposes of criminal or civil remedies.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/87	52 FR 38794
ANPRM Comment Period End	12/18/87	
NPRM	01/23/89	54 FR 3088
NPRM Comment Period End	03/24/89	
Final Action	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Joel Schaer, Regulations Officer, Office of Inspector General, AO, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, SW, Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA49

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583. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74; 45 CFR 92

Legal Deadline: None

Abstract: Fiscal and Administrative requirements governing grants and cooperative agreements to non-governmental recipients are presently codified in an HHS-specific regulation (45 CFR Part 74). This rule would move those requirements (with many changes and additions) to a new rule (45 CFR Part 92) that would be virtually identical to the rules of 28 other federal agencies. The same action would also create a mechanism for applying a new set of liberalized rules to research grants. Since all Federal agencies' grants and cooperative agreements would henceforth be subject to identical rules, there should be administrative benefits for multi-award recipients and better understanding of the terms and conditions of awards.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/87	52 FR 23729
ANPRM Comment Period End	08/23/87	
NPRM	11/04/88	53 FR 44715
NPRM Comment Period End	01/03/89	
Final Action	05/30/89	
Final Action Effective	10/01/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Beverly Cordova, Director, Division of Grants Management, and Oversight, Department of Health and Human Services, Office of the Secretary, Rm 513D, HHH Bldg., 200 Independence Avenue, S.W., Washington, DC 20201, 202 245-0377

RIN: 0991–AA56

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584. ● STANDARDIZATION AND UNIFORM APPLICATION OF CMP PROCEDURES

Legal Authority: 42 USC 1302; 42 USC 1320a-7a; 42 USC 1395u(j)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This rulemaking standardizes the procedures for imposing civil money penalties and related sanctions authorized by statutes incorporating provisions of section 1128A of the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991–AA57

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Completed Actions

585. FREEDOM OF INFORMATION ACT REGULATION

CFR Citation: 45 CFR 5

Completed:

Reason	Date	FR Cite
Final Action Final Rule Published	11/25/88	53 FR 47697
Final Action Effective	12/27/88	53 FR 47697

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Russell M. Roberts 202 472-7453

RIN: 0991–AA07

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586. PRIVACY ACT REGULATION

CFR Citation: 45 CFR 5b

Completed:

Reason	Date	FR Cite
Withdrawn	12/15/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell M. Roberts 202 472-7453

RIN: 0991–AA11

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HHS—OS

Completed Actions

587. ● ADMINISTRATIVE ADJUDICATION OF CERTAIN HEALTH CARE EXCLUSION CASES

Legal Authority: 42 USC 1320a-7

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This final rule will allow the administrative hearings and administrative appeal of certain health care exclusion cases governed by 42 CFR 1001 to be handled by the Departmental Appeals Board of this Department. The purpose of this rule is to conform existing regulations to the delegations of authority made by the Secretary to handle these hearings and appeals.

Timetable:

Action	Date	FR Cite
Final Action	03/09/89	54 FR 9995
Final Action Effective	03/09/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991–AA58

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Final Rule Stage

Departmental Management (HHSDM)

588. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act requires agencies to pay attorney fees to parties prevailing against the Government in certain types of administrative proceedings. It requires each agency to issue rules implementing the Act as it applies to these proceedings. As originally enacted, the Act had a sunset clause. A recent statutory amendment eliminated the sunset provision and made other changes in the Act. The instant regulation would amend 45 CFR Part 13 (HHS's regulation implementing the Act) to eliminate the corresponding sunset provision and to make other changes conforming with the statutory changes.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/84	
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darrel J. Grinstead, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Departmental Management, Room 5382, HHS Cohen Building, 330 Independence Avenue, SW, Washington, DC 20201, 202 475-0150

RIN: 0990–AA02

589. TESTIMONY BY EMPLOYEES AND THE PRODUCTION OF DOCUMENTS IN PROCEEDINGS WHERE THE UNITED STATES IS NOT A PARTY

Significance: Agency Priority

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 45 CFR 2

Legal Deadline: None

Abstract: Part 2 of Title 45, CFR, governs the testifying of HHS employees as part of their official duties in litigation where neither the United States nor other Federal agencies are parties. This rule will amend Part 2 to clarify it and to resolve minor technical problems.

Timetable:

Action	Date	FR Cite
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Darrel J. Grinstead, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Departmental Management, Room 5362, Wilbur J. Cohen Building, 330 Independence Avenue, SW, Washington, D.C. 20201, 202 475-0150

RIN: 0990–AA03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Proposed Rule Stage

Office of Human Development Services (HDSO)

590. FOSTER CARE, ADOPTION ASSISTANCE, AND CHILD WELFARE SERVICES

Legal Authority: 42 USC 670 et seq.; 42 USC 620 et seq.

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: This NPRM will propose criteria the Department will use to verify that a State has met statutory requirements and is eligible to receive additional funds under Section 427 of the Social Security Act as amended by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272). The proposed rule will contain the specific criteria by which State performance in meeting the requirements of Section 427 is determined, the percentage levels and other standards for case record

HHS—HDSO

Proposed Rule Stage

compliance, and procedures for conducting compliance reviews.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Betty Stewart, Associate Commissioner, Children's Bureau, Admin. for Children, Youth, and Families, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20201, 202 245-0586

RIN: 0980–AA08

591. RUNAWAY AND HOMELESS YOUTH PROGRAM

Legal Authority: 42 USC 5701 Note

CFR Citation: 45 CFR 1351

Legal Deadline: None

Abstract: These rules will make technical changes in 45 CFR 1351 to incorporate changes made by reauthorization of the Runaway and Homeless Youth Act.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Associate Commissioner, Family and Youth Services Bureau, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20013, 202 245-0666

RIN: 0980–AA11

592. HEAD START CRITERIA FOR SELECTION OF NEW GRANTEES

Legal Authority: 42 USC 9801 et seq

CFR Citation: 42 CFR 1302

Legal Deadline: None

Abstract: The NPRM will propose additional new criteria that, if adopted, will be used in the selection of new Head Start grantees.

Timetable:

Action	Date	FR Cite
NPRM	09/30/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Doug Klafehn, Head Start Bureau, Admin. for Children, Youth and Families, Department of Health and Human Services, Office of Human Development Services, P. O. Box 1182, Washington, DC 20013, 202 245-0531

RIN: 0980–AA17

593. HEAD START APPEALS PROCESS

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1303

Legal Deadline: None

Abstract: The NPRM will propose revisions to current procedures for appeals Head Start grantees and delegate agencies to improve the effectiveness and efficiency of the appeals process and reduce costs.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Doug Klafehn, Head Start Bureau, Admin. for Children, Youth & Families, Department of Health and Human Services, Office of Human Development Services, P. O. Box 1182, Washington, DC 20013, 202 245-0531

RIN: 0980–AA20

594. HEAD START RECRUITMENT SELECTION AND ENROLLMENT OF CHILDREN

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1305

Legal Deadline: None

Abstract: In this NPRM, the Head Start Bureau will propose amendments to existing regulations governing recruitment, selection, and enrollment of children.

Timetable:

Action	Date	FR Cite
NPRM	09/30/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Doug Klafehn, Head Start Bureau, Admin. for Children, Youth & Families, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, D.C. 20013, 202 245-0531

RIN: 0980–AA27

595. HEAD START: LIMITS ON COSTS OF DEVELOPMENT AND ADMINISTRATION

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1301

Legal Deadline: None

Abstract: 45 CFR 1301.32 is being amended to provide additional clarification to Head Start programs in meeting the requirement that the costs of developing and administering a Head Start program not exceed 15 percent of total costs.

Timetable:

Action	Date	FR Cite
NPRM	09/30/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Head Start Bureau, Admin. for Children, Youth & Families, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20213, 202 245-0531

RIN: 0980–AA32

596. HEAD START PERFORMANCE STANDARDS FOR INFANTS, TODDLERS, AND PREGNANT WOMEN

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1307

Legal Deadline: None

Abstract: The NPRM will propose to establish a new Part 1307 setting forth performance standards that must be used in providing Head Start services to infants, toddlers and pregnant women.

Timetable:

Action	Date	FR Cite
NPRM	12/30/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Head Start Bureau, Admin. for Children, Youth & Families, Department

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HHS—HDSO — Proposed Rule Stage

of Health and Human Services, Office of Human Development Services, P.O Box 1182, Washington, D.C. 20213, 202 245-0531

RIN: 0980–AA33

597. ADOPTION AND FOSTER CARE INFORMATION

Legal Authority: 42 USC 679

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: NPRM, Statutory, December 31, 1988.

Abstract: Section 479 of the Social Security Act requires the Secretary to publish regulations to collect data relating to foster care and adoption in the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Joseph Mottola, Deputy Commissioner, Administration for Children, Youth and Families, Department of Health and Human Services, Office of Human Development Services, P.O Box 1182, Washington, DC 20213, 202 245-0370

RIN: 0980–AA35

598. CHILD ABUSE AND NEGLECT: TECHNICAL AMENDMENTS

Legal Authority: 42 USC 5101 et seq

CFR Citation: 45 CFR 1340

Legal Deadline: None

Abstract: Technical and conforming changes will be made in 45 CFR 1340 to implement statutory changes made by the recent reenactment of the Child Abuse Prevention and Treatment Act.

Timetable:

Action	Date	FR Cite
NPRM	03/17/89	54 FR 11246
NPRM Comment Period End	05/16/89	
Final Action	12/30/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Susan Weber, National Center on Child Abuse and Neglect, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20213, 202 245-2859

RIN: 0980–AA40

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Human Development Services (HDSO)

Final Rule Stage

599. HEAD START STAFF AND PROGRAM OPTIONS REQUIREMENTS

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1304; 45 CFR 1306

Legal Deadline: None

Abstract: The final rule will amend existing regulations related to program design to specify class size, hours of operation, and program options such as center-based and home-based Head Start services. The final rule will also include, in a new Part, the requirements for home-based Head Start services.

Timetable:

Action	Date	FR Cite
NPRM	12/08/88	53 FR 49565
NPRM Comment Period End	02/21/89	
Final Action	12/30/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Doug Klafehn, Head Start Bureau, Admin. for Children, Youth & Families, Department of Health and Human Services, Office of Human Development Services, P. O. Box 1182, Washington, DC 20013, 202 245-0531

RIN: 0980–AA18

600. HEAD START PERFORMANCE STANDARDS FOR SERVICES TO HANDICAPPED CHILDREN

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1308

Legal Deadline: None

Abstract: The final rule will establish a new part 1308 setting forth proposed performance standards that must be used in providing Head Start services to handicapped children.

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41088
NPRM Comment Period End	01/19/89	53 FR 47235
Final Action	12/31/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Jane DeWeerd, Child Development Specialist, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, D.C. 20013, 202 245-0562

RIN: 0980–AA21

601. DEVELOPMENTAL DISABILITIES PROGRAM

Legal Authority: 42 USC 6000 et seq

CFR Citation: 45 CFR 1385; 45 CFR 1386; 45 CFR 1387; 45 CFR 1388

Legal Deadline: NPRM, Statutory, April 30, 1988.

Abstract: This final rule will amend current regulations to implement statutory changes made by passage of Public Law 100-146, the Developmental Disabilities Assistance and Bill of Rights Act of 1987. The final rule will establish a peer review process for the University Affiliated Facilities program, and set forth standards to assure that States supplement and do not supplant program resources.

Timetable:

Action	Date	FR Cite
NPRM	12/07/88	53 FR 49332
NPRM Comment Period End	02/06/89	
Final Action	09/30/89	

Small Entities Affected: Organizations

Government Levels Affected: State

HHS—HDSO — Final Rule Stage

Agency Contact: Will Wolstein, Deputy Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services, Office of Human Development Services, 200 Independence Ave., S.W., Washington, DC 20201, 202 245-7719

RIN: 0980–AA36

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Human Development Services (HDSO)

Completed Actions

602. NONRECURRING COSTS OF ADOPTION

CFR Citation: 45 CFR 1356

Completed:

Reason	Date	FR Cite
Final Action	12/14/88	53 FR 50215
Final Action Effective	12/14/88	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Beverly Stubbee 202 245-0638

RIN: 0980–AA24

603. NATIVE HAWAIIAN LOAN FUND DEMONSTRATION PROJECT

CFR Citation: 45 CFR 1336

Completed:

Reason	Date	FR Cite
Final Action	01/24/89	54 FR 3452
Final Action Effective	07/25/88	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Jan Phalen 202 245-7730

RIN: 0980–AA37

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)

Proposed Rule Stage

604. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; CARDIOVASCULAR SYSTEM

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500ff Appendix 1

Legal Deadline: None

Abstract: Sections 4.00 and 104.00 of Appendix 1 of the Disability regulations (404.1501 through 404.1599) describe cardiovascular impairments considered severe enough to prevent an individual from doing any gainful or age-appropriate activities. Because of the advances in medical technologies and practice in this area we anticipate the need to revise the criteria in the Listing of Impairments to bring these sections up to date. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1756

RIN: 0960–AA99

605. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; RESPIRATORY SYSTEM

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500ff, Appendix 1

Legal Deadline: None

Abstract: Sections 3.00 and 103.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe those respiratory impairments which are considered severe enough to prevent a person from engaging in any gainful or age-appropriate activities. We are proposing revisions to require consideration of the nature and clinical manifestations of respiratory disorders and the limitations such disorders impose on the individual's ability to function. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance programs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1756

RIN: 0960–AB00

606. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM

Legal Authority: 42 USC 1302; 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500ff, Appendix 1

Legal Deadline: None

Abstract: Sections 1.00 and 101.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe those musculoskeletal impairments which are considered severe enough to prevent a person from doing any substantial gainful or age-appropriate activities. We are proposing comprehensive revisions to these sections to ensure that the medical

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evaluation criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AB01

607. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1320a-6; 42 USC 1302; 42 USC 1383; PL 98-369, Sec 2615; 42 USC 1383b; 42 USC 1327

CFR Citation: 20 CFR 404.408b; 20 CFR 416.1123; 20 CFR 416.1402(m); 20 CFR 416.1123a; 20 CFR 404.902

Legal Deadline: None

Abstract: Sec. 2615 of Pub. L. 98-369 amended sec. 1127 of the Social Security Act to eliminate loopholes that permitted some people who were paid Old-Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) benefits retroactively to receive more in total benefits for the same period than if they had been paid the benefits when regularly due. The two main changes are: (1) SSI benefits will be reduced where retroactive OASDI benefits have been paid before the SSI benefits. Under prior law, reductions could be made only in retroactive OASDI benefits and only when the retroactive SSI had been paid first. (2) OASDI or SSI benefits payable upon reinstatement following a period of suspension or termination will be reduced by the amount of SSI benefits that would not have been paid if the OASDI benefits had been paid when regularly due. We will amend our regulations to conform to the statutory changes. The program savings to SSA are estimated as $5 million a year.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 965-8471

RIN: 0960-AB38

608. SUPPLEMENTAL SECURITY INCOME PROGRAM; LIMITATION ON RECOUPMENT RATE IN CASE OF OVERPAYMENT

Legal Authority: 42 USC 1302; 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382c; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 416E

Legal Deadline: None

Abstract: These proposed rules which implement section 2612 of Pub. L. 98-369 will limit the rate at which an overpayment may be recovered from an individual still receiving benefits (SSI or federally administered supplementary payments, or both) to 10 percent of the recipient's total income (countable income plus SSI and State supplementary payments) or the recipient's payment for the month, whichever is less. The 10 percent requirement will apply only to recipients in current payment status. The 10 percent limit will not apply in situations involving conditional disposition of resources agreements, misuse of burial funds, recovery by refund, cross program adjustment for individuals not in SSI current pay or where it is determined that the overpayment occurred because of recipient fraud, willful misrepresentation, or concealment. The proposed rules, in negotiated cases, set a rate of withholding that is appropriate for the financial condition of the overpaid person after (continued)

Timetable:

Action	Date	FR Cite
NPRM	03/28/89	54 FR 12649
NPRM Comment Period End	05/30/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: factual evaluation. Such cases will also be considered initial determinations for which the recipient has appeal rights. Estimated costs are FY 1966 through FY 1989 - program costs of $18 million per year and administrative costs of $ .5 million per year.

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1795

RIN: 0960-AB40

609. ● DISCLOSURE OF INFORMATION FOR LAW ENFORCEMENT PURPOSES

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1360; 26 USC 6103; 30 USC 923; 42 USC 405(a); 42 USC 1302; 42 USC 1306

CFR Citation: 20 CFR 401.315

Legal Deadline: None

Abstract: Under present rules, disclosure to a law enforcement agency is allowed only when a violent crime has been committed and the subject of the information has been either indicted or convicted of that crime, or when relevant to the investigation or prosecution of criminal activity involving a social security program or other governmental health or income maintenance program. SSA is considering an amendment to these regulations that would expand the circumstances in which information, other than tax return information, could be disclosed to law enforcement agencies.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1795

RIN: 0960-AB66

610. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; EVALUATION GUIDES FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY (SGA)

Significance: Agency Priority

Legal Authority: PL 98-460, Sec 10

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These proposed changes will incorporate into regulations of the Social Security Administration a number of policies relating to the evaluation of a person's work activity that are now in Social Security Rulings published in 1983 and 1984.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1758

RIN: 0960-AB73

611. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSIONS FROM INCOME AND RESOURCES OF INDIAN JUDGEMENT FUNDS AND PER CAPITA DISTRIBUTIONS

Legal Authority: PL 97-458; PL 98-64; PL 100-241

CFR Citation: 20 CFR 416K Appendix; 20 CFR 416.1234; 20 CFR 416.1236

Legal Deadline: None

Abstract: The proposed regulation reflects the provisions of the following statutes: (1) Pub. L. 97-458 enacted January 12, 1983, which provides that Indian judgement funds held in trust or distributed per capita pursuant to a plan approved by Congress or the Secretary of the Interior are excluded from income and resources under the Supplemental Security Income program (2) Pub. L. 98-64 enacted August 2, 1983, which provides for the exclusion of all funds held in trust by the Secretary of the Interior for an Indian tribe and distributed per capita to a member of that tribe and (3) Pub. L. 100-241 enacted February 3, 1988, which provides for the exclusion from income and resources of certain items received by an individual Alaska native or descendent of an Alaska native from a native corporation. Some savings in program costs may result from these changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irv Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960-AB86

612. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MENTAL DISORDERS-CHILDHOOD

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: Section 112.00 of Appendix 1 to the Old-Age, Survivors, and Disability Insurance Disability Regulations 404.1501 through 404.1599 describe the medical criteria that apply only to the evaluation of mental impairments of persons under age 18. We are proposing comprehensive revisions to that section to ensure that the medical criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AB96

613. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EVALUATION CRITERIA FOR IMMUNE SYSTEM DISORDERS, INCLUDING HIV INFECTION (ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)/AIDS-RELATED COMPLEX)

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: Sections 10.00 and 110.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe immune system disorders which are severe enough to prevent a person from doing any gainful or age-appropriate activities. We are proposing to add the criteria for evaluation of AIDS to these sections. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program. The budgetary impact is unknown at this time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 695-1759

RIN: 0960-AC06

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614. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; NONPAYMENT OF BENEFITS TO PRISONERS, VOCATIONAL REHABILITATION EXCEPTION

Significance: Agency Priority

Legal Authority: 42 USC 402(x)(1); 42 USC 405

CFR Citation: 20 CFR 404D

Legal Deadline: None

Abstract: Existing regulations at 20 CFR 404.468(d) provide a vocational rehabilitation exception to the nonpayment of benefits to prisoners provision described at 20 CFR 404.468(a). Under the exception, the nonpayment provision does not apply if a prisoner who is entitled to benefits on the basis of disability is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by court of law. In addition, the Secretary must determine that the program is expected to result in the individual being able to do substantial gainful activity upon release and within a reasonable time. No benefits will be paid to the prisoner for any month prior to the approval of the program. The proposed regulations would set out more definitive criteria for applying the exception and would define terms, such as "rehabilitation program", "court of law", and "reasonable time", for purposes of applying the exception.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960–AC16

615. SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUATION OF BENEFITS AND SPECIAL ELIGIBILITY FOR CERTAIN SEVERELY IMPAIRED RECIPIENTS WHO WORK

Significance: Agency Priority

Legal Authority: PL 99-643, Sec 2; PL 99-643, Sec 4

CFR Citation: 20 CFR 416.260; 20 CFR 416.261; 20 CFR 416.262; 20 CFR 416.265; 20 CFR 416.268; 20 CFR 416.269; 20 CFR 416.1112; 20 CFR 416.1402; 20 CFR 416.1403

Legal Deadline: None

Abstract: These proposed regulations will implement statutory changes contained in sections 2 and 4 of PL 99-643. These provisions: (1) make section 1619 of the Social Security Act permanent; and (2) simplify the transitions among regular SSI status, special benefit status, and special Medicaid status.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1756

RIN: 0960–AC22

616. SUPPLEMENTAL SECURITY INCOME PROGRAM; PAYMENT OF BENEFITS DUE DECEASED RECIPIENTS

Legal Authority: 42 USC 1383(b)(1)(A)

CFR Citation: 20 CFR 416.340; 20 CFR 416.345; 20 CFR 416.536; 20 CFR 416.542; 20 CFR 416.543; 20 CFR 416.1457(c)(4)

Legal Deadline: None

Abstract: Section 8 of Pub. L. 99-643 provides that effective for benefits payable for months after May 1986, an underpayment shall be paid to any surviving spouse of a deceased SSI recipient whether or not the spouse was eligible for SSI, if such spouse was living in the same household with the recipient at the time of death, or within the 6 months immediately preceding the month of death, or to the parent(s) of a deceased disabled or blind child who was an SSI recipient if the child was living with the parent(s) at the time of death or within the 6 months immediately preceding the month of death. These proposed regulations would also reflect a policy change that would continue the appeals process (versus automatic dismissal), at the Administrative Law Judge or Appeals Council level, for the survivors' entitlement to an underpayment if they meet certain conditions. The cost estimate for these provisions is estimated to be $2 million per year in program costs and less than $1 million and 30 workyears in administrative expenses.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1795

RIN: 0960–AC28

617. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAM AND ORGANIZATION AND FUNCTIONS; CORRECTION OF EARNINGS RECORDS

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 405

CFR Citation: 20 CFR 404.810; 20 CFR 404.820; 20 CFR 404.820a; 20 CFR 404.831; 20 CFR 422.125

Legal Deadline: None

Abstract: This proposed regulation will establish rules on the evidence an individual must submit with a request to correct the Secretary's record of earnings and state the conditions under which the Secretary will assist the requester in obtaining evidence that establishes such records as incorrect. This proposed regulation will reduce the number of unproductive efforts the agency makes to investigate unsubstantiated assertions that the Secretary's records are incorrect and facilitate the correction process in many cases by relying more upon evidence readily available to the requester.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schemberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC30

618. OLD-AGE SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; PAST WORK EXPERIENCE AND ADJUSTMENT TO OTHER WORK

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1562; 20 CFR 404.1565; 20 CFR 416.962; 20 CFR 416.965

Legal Deadline: None

Abstract: We are proposing to include in our regulations vocational evaluation standards used in determining disability under titles II and XVI of the Social Security Act (the Act). The guidelines apply to assessing past work as a vocational factor and evaluating medical-vocational circumstances demonstrating an inability to make an adjustment to other work. These standards are presently contained in Social Security Rulings (SSR's) and the Program Operating Manual System (POMS).

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC39

619. OLD-AGE SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINING DISABILITY AND BLINDNESS; FEE LIMITATION POLICY FOR PURCHASE OF LABORATORY TESTS

Legal Authority: 42 USC 1302; 42 USC 1383b

CFR Citation: 20 CFR 404.1624; 20 CFR 416.1024

Legal Deadline: None

Abstract: These proposed regulations will place a limitation on the rates of payment a State may pay for laboratory tests purchased by State agencies. Under these proposed regulations a State agency will be required to limit the amounts it pays for laboratory tests to the maximum payment level contained in the Health Care Financing Administration's (HCFA) National Limitation Amounts for Laboratory Fee Schedules. Currently the only payment requirement is that the rates of payment not exceed the highest rates paid by Federal or other agencies in the State for the same or similar types of services.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC41

620. SUPPLEMENTAL SECURITY INCOME PROGRAM; PROCEEDS OF A LOAN, PAYMENT OF PRO RATA SHARE OF HOUSEHOLD OPERATING EXPENSES

Significance: Agency Priority

Legal Authority: 42 USC 1102

CFR Citation: 20 CFR 416.1103; 20 CFR 416.1133

Legal Deadline: None

Abstract: It is our policy that money borrowed (a loan) is not income for SSI purposes and therefore has no effect on a person's SSI benefits. These proposed regulations will state that only cash transactions may be considered loans. These proposed regulations will also provide that the one-third reduction rule which applies when a person who lives in another's household and receives in-kind support and maintenance will not apply if the SSI recipient pays his or her pro rata share in cash and no later than the month under consideration. No additional costs or savings are anticipated since these proposed regulations will codify existing policy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960–AC42

621. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION FROM COUNTABLE RESOURCES OF THE VALUE OF PROMISSORY NOTES IN HOME REPLACEMENT SITUATIONS

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.1212

Legal Deadline: None

Abstract: We propose to amend the regulations under the Supplemental Security Income program to provide that the current market value of an installment sales contract is excluded as part of an excluded home when certain conditions are met. The costs will be insignificant since the policy is currently in use under our operating instructions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1756

RIN: 0960–AC43

622. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EXTENSION OF SOCIAL SECURITY COVERAGE TO CERTAIN WORKERS; MEDICARE ONLY COVERAGE OF CERTAIN STATE AND LOCAL GOVERNMENT EMPLOYEES

Legal Authority: PL 100-203, Sec 9001; PL 100-203, Sec 9002; PL 100-203, Sec 9003; PL 100-203, Sec 9004; PL 100-203, Sec 9005; PL 100-203, Sec 9022; PL 99-

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272, Sec 13205; PL 99-514, Sec 1895; PL 100-647, Sec 8017

CFR Citation: 20 CFR 404.429(c)(3); 20 CFR 404.1015; 20 CFR 404.1018b; 20 CFR 404.1019; 20 CFR 404.1020; 20 CFR 404.1021; 20 CFR 404.1055; 20 CFR 404.1059; 20 CFR 404.1097

Legal Deadline: None

Abstract: These regulations reflect recently enacted statutory changes that extend social security coverage to work situations not previously covered. These newly covered work situations include: (1) Inactive duty training in the uniformed services; (2) Certain agriculture labor situations; and (3) Work for a spouse or parent. Additionally, the year for reporting corporate directors income has been changed, and Medicare coverage is provided to many previously uncovered State and local government employees. Also, a recently enacted statutory provision (section 8017 of PL 100-647) further revised our coverage provisions relating to agricultural wages.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Charles Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1794

RIN: 0960-AC45

623. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; APPLICABILITY OF GOVERNMENT PENSION TO CERTAIN FEDERAL EMPLOYEES

Significance: Agency Priority

Legal Authority: 42 USC 402(b),(c),(e),(f),(g); PL 100-203, Sec 9007; PL 100-647, Sec 8014

CFR Citation: 20 CFR 404.408a

Legal Deadline: None

Abstract: We are proposing to revise our rules on reducing the Social Security spouse's benefits of a person who is also receiving a Government pension based on noncovered employment. The Omnibus Budget Reconciliation Act of 1987 (PL 100-203, sec 9007) requires that a Federal Government employee who elects to be covered under Social Security after December 31, 1987 must work for at least 60 months after that date in order to avoid the reduction after he or she becomes entitled to Social Security spouse's benefits.That requirement is extended to the foreign service pension system by the Technical and Miscellaneous Revenue Act of 1988 (PL 100-647), which also provides that under certain circumstances the reduction does not apply to any individual who retires before his or her coverage election becomes effective.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8471

RIN: 0960-AC46

624. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXEMPTION OF CERTAIN ASSISTANCE PAYMENTS FROM RETROSPECTIVE MONTHLY ACCOUNTING

Legal Authority: PL 100-203, Sec 9106

CFR Citation: 20 CFR 416.420

Legal Deadline: None

Abstract: Section 9106 of P.L. 100-203 exempts certain income from retrospective monthly accounting in determining a person's Supplemental Security Income (SSI) benefit amount. Generally, an SSI benefit for a month is computed using income from two months prior. Section 9106, which is reflected in this regulation change, provides for the following types of income to be used only in the month received to compute the benefit amount: (1) Aid to Families with Dependent Children (AFDC); (2) Foster Care (Title IV-E); (3) Refugee Cash Assistance; (4) Cuban and Haitian Entrant Assistance; and (5) Bureau of Indian Affairs general assistance and child welfare assistance. Program costs are expected to be negligible.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960-AC49

625. SUPPLEMENTAL SECURITY INCOME PROGRAM; INCREASE IN EMERGENCY ADVANCE PAYMENTS

Legal Authority: 42 USC 1383(a); PL 100-203, Sec 9109

CFR Citation: 20 CFR 416.502; 20 CFR 416.520; 20 CFR 416.1403

Legal Deadline: None

Abstract: The proposed rules will reflect section 9109 of Pub. L. 100-203. They raise the amount of the emergency advance payment that can be paid to a person presumptively eligible for SSI payments. Because the emergency advance payment is an advance of benefits and later deducted from the benefits due an individual, no increased costs are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	02/27/89	54 FR 8215
NPRM Comment Period End	04/28/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AC50

626. SUPPLEMENTAL SECURITY INCOME PROGRAM; MODIFICATION OF INTERIM ASSISTANCE REIMBURSEMENT PROGRAM

Legal Authority: 42 USC 1302; PL 100-203, Sec 9110

CFR Citation: 20 CFR 416.1901; 20 CFR 416.1902; 20 CFR 416.1906

Legal Deadline: None

Abstract: These proposed rules reflect sec. 9110 of Pub.L. 100-203. They extend Interim Assistance Reimbursement to cases in which assistance is provided by a State while an individual's Supplemental Security Income (SSI) payments are suspended or terminated and then subsequently reinstated. Current regulations provide for reimbursement to a State only for interim assistance payments made while an individual's initial application for SSI is pending. No additional program costs are anticipated since the amount reimbursed to the State is later deducted from the individual's SSI payments.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AC51

627. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION FROM INCOME OF PAYMENTS RECEIVED FOR AND USED TO PAY LAST ILLNESS AND DEATH

Legal Authority: PL 100-203, Sec 9120

CFR Citation: 20 CFR 416.1121; 20 CFR 416.1201

Legal Deadline: None

Abstract: The regulation reflects the provisions of section 9120 of Pub. L. 100-203 by providing that payments to an individual (including gifts and inheritances) occasioned by the death of another person are not considered income for supplemental security income purposes to the extent that such payments are expended by such individual for purposes of the deceased person's last illness and burial. Also, the regulations propose a policy change to not consider the same payments as resources for one month following receipt. Any increased costs will be negligible.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960-AC52

628. SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUATION OF FULL BENEFIT STANDARD FOR PERSONS TEMPORARILY INSTITUTIONALIZED

Significance: Agency Priority

Legal Authority: PL 100-203, Sec 9115; PL 99-643, Sec 3

CFR Citation: 20 CFR 416.211; 20 CFR 416.414; 20 CFR 416.1149; 20 CFR 416.1167; 20 CFR 416.1325; 20 CFR 416.2040; 20 CFR 410; 20 CFR 412; 20 CFR 640; 20 CFR 1147

Legal Deadline: None

Abstract: These amendments require continued payment based on the full payment rate to certain persons eligible for SSI payments under Section 1619 or 1611(e) of the Act who enter certain medical and psychiatric institutions. Without these provisions, SSI benefits would be reduced or suspended.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1794

RIN: 0960-AC55

629. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISION OF CONTRIBUTIONS FOR SUPPORT RULES

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 404.366(a)

Legal Deadline: None

Abstract: This proposed rule will change one of the requirements for determining whether an insured person is contributing to the support of a child at a specific time. The requirements that contributions be made regularly and be large enough to meet an important part of a child's living expenses will be replaced by a requirement that consideration be given to the economic circumstances of both the insured person and the child and that recognition also be given to the child's needs. Because of the minimal number of persons who will be affected by these proposed changes any additional program costs will be negligible.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AC57

630. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; SUPPLEMENTAL EARNINGS REPORTS

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.455

Legal Deadline: None

Abstract: We have learned that old-age and survivors' insurance beneficiaries whose estimate of earnings for the current year is more than the exempt amount for that year, but is equal to or less than the prior year's earnings, tend to underestimate or fail to report their work for the next year which results in overpayments. We are proposing an addition to the current regulation which will clarify that our interpretation of Section 203(h)(3) and (h)(4) of the Social Security Act permits SSA to request estimates of earnings for the next taxable year as well as the current taxable year. If a beneficiary does not furnish the requested future year's earnings estimate, we will use the estimate for the current year to determine whether to withhold benefits

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HHS—SSA

Proposed Rule Stage

for the next year. We estimate savings of $3.5 million per year.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC58

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631. ● OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; REPRESENTATION OF PARTIES - SUSPENSION AND DISQUALIFICATION OF REPRESENTATIVES

Legal Authority: 42 USC 405(a); 42 USC 406; 42 USC 1302; 42 USC 1383(d)

CFR Citation: 20 CFR 404.1745; 20 CFR 404.1750; 20 CFR 404.1760; 20 CFR 404.1765; 20 CFR 404.1770; 20 CFR 404.1790; 20 CFR 404.1799; 20 CFR 416.1545; 20 CFR 416.1550; 20 CFR 416.1560; 20 CFR 416.1565; 20 CFR 416.1570; 20 CFR 416.1590; 20 CFR 416.1599

Legal Deadline: None

Abstract: This proposal amends the regulations to provide that when it appears that a person who represents claimants in dealing with the Social Security Administration (SSA) has violated one of our rules, the SSA's Associate Commissioner for Hearings and Appeals, or his or her designee, will initiate proceedings to suspend or disqualify the representative. Under the existing regulations the Office of Retirement and Survivors Insurance performed this function.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1796

RIN: 0960–AC59

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632. ● OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINATION OF DISABILITY - DETERMINING STATE AGENCY SUBSTANTIAL FAILURE

Significance: Agency Priority

Legal Authority: 42 USC 421; 42 USC 1302

CFR Citation: 20 CFR 404.1641; 20 CFR 404.1670; 20 CFR 404.1680; 20 CFR 404.1682; 20 CFR 404.1683; 20 CFR 416.1041; 20 CFR 416.1070; 20 CFR 416.1080; 20 CFR 416.1082; 20 CFR 416.1083

Legal Deadline: None

Abstract: The proposed rules contain procedures for determining when a State agency has substantially failed to make disability determinations in accordance with applicable Federal law. If it is determined that a State agency has substantially failed to make disability determinations in a manner consistent with Federal regulations or other written guidelines, the Social Security Administration, in accordance with section 221 of the Social Security Act (42 USC 421), must assume the responsibility for making the disability determinations. The costs or savings likely to result from implementation of these regulations are not predictable.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960–AC60

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633. ● OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; VOCATIONAL REGULATIONS RESTRUCTURING AND CLARIFICATION

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1520; 20 CFR 404.1545; 20 CFR 404.1550 to 404.1567, (new); 20 CFR 416.920; 20 CFR 416.945; 20 CFR 416.950 to 416.967, (new)

Legal Deadline: None

Abstract: Based upon adjudicative experience, we are proposing clarifications and a restructuring of the disability vocational evaluation regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC61

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Social Security Administration (SSA)

Final Rule Stage

634. SUPPLEMENTAL SECURITY INCOME PROGRAM; SUSPENSIONS, TERMINATIONS, AND ADVANCE NOTICE OF ADVERSE DETERMINATIONS

Legal Authority: 42 USC 1302; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c; 42 USC 1382d; 42 USC 1383; PL 99-643, Sec 3; PL 99-643, Sec 4; PL 100-203, Sec 9103; PL 100-203, Sec 9112; PL 100-203, Sec 9115

CFR Citation: 20 CFR 416M

Legal Deadline: None

Abstract: This regulation reorganizes, revises, and clarifies the rules on withholding, reducing, suspending, and terminating an SSI beneficiary's benefits. This regulation's original purpose was to make these rules easier to read and understand. However, these rules also reflect the following statutory enactments: (1) Section 3 of Pub. L. 99-643, (2) Section 4 of Pub. L. 99-643, (3) Section 9103 of Pub. L. 100-203, (4) Section 9112 of Pub. L. 100-203, and (5) Section 9115 of Pub. L. 100-203.

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	06/19/79	44 FR 35241
NPRM	05/08/86	51 FR 17057
NPRM Comment Period End	07/07/86	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles H. Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1794

RIN: 0960–AA22

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635. SUPPLEMENTAL SECURITY INCOME PROGRAM; REOPENING AND REVISING SUPPLEMENTAL SECURITY INCOME DETERMINATIONS AND DECISIONS WITHIN FOUR YEARS OF THE NOTICE OF THE INITIAL DETERMINATION

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 416.1488

Legal Deadline: None

Abstract: The proposed rules would provide for the reopening and revising of Supplemental Security Income determinations within four years of the notice of the initial determination if we discovered an error affecting a claimant's eligibility or benefit amount during this period through the use of information exchange and data gathering involving either our records or our records and those of other Federal or State agencies.

Timetable:

Action	Date	FR Cite
NPRM	08/27/86	51 FR 30499
NPRM Comment Period End	10/27/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 965-1769

RIN: 0960–AA59

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636. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; TREATMENT OF OASDI LUMP SUM AND MONTHLY PAYMENTS IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

Legal Authority: 42 USC 405; 42 USC 407; 42 USC 602; 42 USC 1302; 42 USC 1383(a)

CFR Citation: 20 CFR 404U; 20 CFR 416F

Legal Deadline: None

Abstract: These proposed rules would revise 20 CFR 404.2040, which stipulates the use of benefit payments by a representative payee, explaining that retroactive and monthly title II benefits received by a representative payee may be used for other members of the AFDC Unit. We are also proposing direct payment to a beneficiary under age 18 if the beneficiary is within 7 months of attaining age 18 and is initially filing an application for benefits. This proposed revision represents a policy change and is an extension of the 4-month period in our current regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31886
NPRM Comment Period End	10/21/88	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 965-1769

RIN: 0960–AA90

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637. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUED PAYMENT OF BENEFITS TO PERSONS IN VOCATIONAL REHABILITATION PROGRAMS

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 425; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.316; 20 CFR 404.337; 20 CFR 404.352; 20 CFR 404.902; 20 CFR 404.1586; 20 CFR 404.1596; 20 CFR 404.1597; 20 CFR 416.1321; 20 CFR 416.1338; 20 CFR 416.1331; 20 CFR 416.1402

Legal Deadline: None

Abstract: This change permits the continued payment of disability benefits to persons who medically recover while participating in a vocational rehabilitation (VR) program, without regard to whether the person was expected at the onset of the VR program to medically recover before the scheduled completion date of the program and without regard to whether the person has any residual functional limitation. These changes bring the regulations into conformity with certain recent court decisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/14/86	51 FR 17616
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations,

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6401 Security Blvd., Baltimore, MD 21235, 301 965-1753

RIN: 0960-AB05

638. SUPPLEMENTAL SECURITY INCOME PROGRAM AND MEDICAID ASSISTANCE; WHAT IS NOT INCOME

Legal Authority: 42 USC 1382a

CFR Citation: 20 CFR 416.1103(a); 42 CFR 435.725(c); 42 CFR 435.726(c); 42 CFR 435.733(c); 42 CFR 435.735(c); 42 CFR 435.832(c); 42 CFR 436.832(c)

Legal Deadline: None

Abstract: The rule changes SSI policy to consider Veterans Administration payments resulting from unusual medical expenses not to be income for SSI purposes.

Timetable:

Action	Date	FR Cite
NPRM	08/24/88	53 FR 32252
NPRM Comment Period End	10/24/88	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960-AB09

639. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; STANDARDS FOR CONSULTATIVE EXAMINATIONS; EXISTING MEDICAL EVIDENCE

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 9; 42 USC 405; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1512; 20 CFR 416.912; 20 CFR 404.1519; 20 CFR 416.919; 20 CFR 404.1502; 20 CFR 416.920; 20 CFR 404.1593; 20 CFR 416.993; 20 CFR 416.902; 20 CFR 404.1513; 20 CFR 416.913; 20 CFR 404.1520; 20 CFR 404.1545; 20 CFR 416.945; 20 CFR 404.1546; ...

Legal Deadline: None

Abstract: The regulations include standards for obtaining consultative examinations, the types of consultative examination referrals to be made, and monitoring procedures for consultative examinations and the referral process. The regulations also provide for evaluating all medical evidence of record and developing a 12-month medical history. References to "medical assessments" will be replaced by references to medical source statements as to what a person can still do despite his or her impairment(s). The regulations also set forth the standards to be used in evaluating the medical opinions of treating and other medical sources. The changes will not have any significant impact on either administrative or program costs.

Timetable:

Action	Date	FR Cite
NPRM	04/20/87	52 FR 13014
NPRM Comment Period End	06/19/87	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960-AB22

640. SUPPLEMENTAL SECURITY INCOME PROGRAM; HOW WE COUNT UNEARNED INCOME—FUNDS USED TO PAY INDEBTEDNESS

Legal Authority: 42 USC 1302; 42 USC 1382a

CFR Citation: 20 CFR 416.1123(b)

Legal Deadline: None

Abstract: The issue is whether amounts otherwise due an individual assigned to repay a legal obligation should continue to be included in income under the Supplemental Security Income (SSI) program. The regulation will clarify that we count such amounts as income. Because this clarification only will reflect current operating policy, no costs/savings are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	09/15/87	52 FR 34813
NPRM Comment Period End	11/16/87	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 965-1755

RIN: 0960-AB29

641. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINATIONS OF DISABILITY-COMPLIANCE, AND OTHER CHANGES

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 1302; PL 98-460, Sec 17; 42 USC 1383

CFR Citation: 20 CFR 404.1601; 20 CFR 416.1001; 20 CFR 404.1602; 20 CFR 416.1002; 20 CFR 404.1615; 20 CFR 416.1015; 20 CFR 404.1620; 20 CFR 416.1020; 20 CFR 404.1632; 20 CFR 416.1023; 20 CFR 404.1626; 20 CFR 416.1026; 20 CFR 404.1627; 20 CFR 416.1027; 20 CFR 404.1633; ...

Legal Deadline: None

Abstract: These regulations for administering the disability determination function make changes to improve the disability determination process by modifying our State agency monitoring and technical and management assistance procedures, administrative standards, and fiscal, audit, and appeals requirements. They also clarify when we will find that a State agency has substantially failed to make disability determinations consistent with the regulations and other written guidelines.

Timetable:

Action	Date	FR Cite
NPRM	04/25/88	51 FR 15636
NPRM Comment Period End	06/24/86	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960-AB36

642. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; PAYMENT OF COSTS OF REHABILITATION SERVICES

Legal Authority: PL 98-460, Sec 11; 42 USC 405; 42 USC 422; 42 USC 1302; 42 USC 1382d; 42 USC 1383

CFR Citation: 20 CFR 404V; 20 CFR 416V

Legal Deadline: None

Abstract: Public Law 98-460 created 2 new provisions under which SSA will pay vocational rehabilitation (VR) agencies for the costs of services provided to disabled or blind social security beneficiaries or SSI recipients. Under the first new provision, SSA will allow payment to vocational rehabilitation agencies (VRAs) for the costs of VR services provided to individuals continuing to receive payment because they are participating in a VR program after their period of disability has ceased due to their medical recovery. The second new provision allows payment to VRAs for the costs of VR services provided to beneficiaries/recipients who refuse without good cause to continue or to cooperate in a VR program in such a way as to preclude their successful rehabilitation with such refusal resulting in the nonpayment of their disability or blindness payments. It is estimated that the first year costs of this program will be less than 1 million dollars.

Timetable:

Action	Date	FR Cite
NPRM	10/10/86	51 FR 36510
NPRM Comment Period End	12/09/86	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AB37

643. OLD AGE, SURVIVORS, DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINING DISABILITY AND BLINDNESS; MULTIPLE IMPAIRMENTS

Legal Authority: PL 98-460, Sec 4; 42 USC 405; 42 USC 423; 42 USC 1302; 42 USC 1382c

CFR Citation: 20 CFR 404.1501; 20 CFR 404.1520; 20 CFR 404.1521; 20 CFR 404.1522; 20 CFR 404.1577; 20 CFR 416.901; 20 CFR 416.920; 20 CFR 416.921; 20 CFR 416.922; 20 CFR 404.1523; 20 CFR 416.923

Legal Deadline: None

Abstract: This provision of the law requires us to consider the combined effect of all of a person's impairments in determining disability regardless of whether any single impairment, if considered separately, would be of sufficient severity. If we do find a medically severe combination of impairments, the combined impact of the impairments must be considered throughout the disability determination process. When the combined effect is found to be severe, the person's impairments are evaluated throughout the full sequential evaluation process. We are revising the regulations to explain in greater detail how we consider the combined effect of multiple impairments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/05/85	50 FR 08726
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960-AB39

644. OLD-AGE, SURVIVORS, DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS: EVALUATION OF SYMPTOMS, INCLUDING PAIN

Legal Authority: 42 USC 405; 42 USC 423; 42 USC 1382c; 42 USC 1383; 42 USC 1302

CFR Citation: 20 CFR 404P; 20 CFR 416I

Legal Deadline: None

Abstract: These regulations expand the existing regulations pertaining to the evaluation of cases involving pain or other symptoms to provide a more detailed explanation of SSA's current policy for evaluating symptoms, including pain.

Timetable:

Action	Date	FR Cite
NPRM	09/14/88	53 FR 35577
NPRM Comment Period End	11/14/88	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 965-1759

RIN: 0960-AB41

645. OASDI & SSI PROGRAMS; OVERPAYMENT AND LIABILITY FOR REPAYMENT OF AN OVERPAYMENT

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.501; 20 CFR 404.502; 20 CFR 416.537; 20 CFR 404.501a

Legal Deadline: None

Abstract: These final rules implement section 12113 of Pub. L. 99-272 (Consolidated Omnibus Budget Reconciliation Act of 1985) enacted April 7, 1986. That legislation establishes a Social Security benefit overpayment or a Supplemental Security Income benefit overpayment to a joint account owner in certain cases in which the beneficiary is deceased and payment is made after death. Also, we propose to add technical corrections to the title II regulations

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Duane Heston, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8470

RIN: 0960–AB78

646. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE; BLACK LUNG; AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; AND ORGANIZATION AND PROCEDURES; APPLICATION OF CIRCUIT COURT LAW

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1395; 42 USC 1395(a)(2); 42 USC 1395hh; 5 USC 552

CFR Citation: 20 CFR 422E; 20 CFR 404J; 20 CFR 410F; 20 CFR 416N

Legal Deadline: None

Abstract: These proposed regulations withdraw the Notice of Proposed Rulemaking (NPRM) published at 52 FR 2537 on January 23, 1987. That NPRM described a new type of Social Security ruling (Social Security Acquiescence Ruling or "Acquiescence Ruling"), which is available to the public. These proposed regulations reflect a new proposed policy explaining the manner in which we will apply decisions of the United States Courts of Appeals, that we determine conflict with Social Security Administration policy in adjudicating claims under title II and title XVI of the Social Security Act and title IV, Part B of the Federal Mine Safety and Health Act of 1977. The regulation changes will become effective on the date of publication of final regulations.

Timetable:

Action	Date	FR Cite
Prior Notice of Proposed Rulemaking	01/23/87	52 FR 02557
NPRM	11/18/88	53 FR 46628
NPRM Comment Period End	01/17/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1769

RIN: 0960–AB85

647. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DECISIONS BY ADMINISTRATIVE LAW JUDGES IN CASES REMANDED BY COURTS

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383; 42 USC 401; 42 USC 421

CFR Citation: 20 CFR 404.953; 20 CFR 404.983; 20 CFR 404.984; 20 CFR 416.1453; 20 CFR 416.1483; 20 CFR 416.1484; 20 CFR 404.955; 20 CFR 404.986; 20 CFR 416.1455; 20 CFR 416.1486

Legal Deadline: None

Abstract: If the court remands a case and the SSA Appeals Council remands it to an administrative law judge (ALJ), under current regulations the ALJ returns the case to the Appeals Council with a recommended decision, and the Appeals Council must review that decision and take further action in every case before the decision becomes final. This can involve delay. The regulation would permit the ALJ to make a decision which would become final unless, within 30 days after the decision is received, the claimant files exceptions or within that period requests an extension of time to file exceptions, or within 60 days after the date of the decision the Appeals Council decides to review the decision on its own. The change will permit more timely final decisions, and result in administrative savings of about $1 million per year, due to a reduction in the number of personnel required to review the ALJ decision.It will not affect program cost.

Timetable:

Action	Date	FR Cite
NPRM	10/16/87	52 FR 38466
NPRM Comment Period End	12/15/87	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1769

RIN: 0960–AC07

648. SUPPLEMENTAL SECURITY INCOME PROGRAM: FEDERAL ADMINISTRATION OF OPTIONAL STATE SUPPLEMENTATION

Legal Authority: 42 USC 1382e; 42 USC 1302

CFR Citation: 20 CFR 416.2030(a)(2); 20 CFR 416.2040(b)

Legal Deadline: None

Abstract: 42 USC 1382e provides that at the option of a State with a federally administered optional supplementation program, the supplementation agreement between such State and the Secretary of HHS may be modified to allow Federal administration of optional supplementary payments to any individual in a medical facility where more than 50 percent of the individual's care is covered by the Medicaid program (Living Arrangements (LA) "D" recipients). The proposed regulation will reflect the amendment to the statute discussed above.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1755

RIN: 0960–AC13

649. SUPPLEMENTAL SECURITY INCOME PROGRAM; PERMANENT RESIDENCE IN THE UNITED STATES UNDER COLOR OF LAW - ADDITIONAL CATEGORY

Legal Authority: 42 USC 1382c; PL 99-603

CFR Citation: 20 CFR 416.1618; 20 CFR 416.1615

Legal Deadline: None

Abstract: This proposed regulation will add the specific categories of aliens legalized by P. L. 99-603 to be considered permanently residing in the United States under color of law or lawfully admitted for permanent residence in the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4296
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960–AC26

650. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EMPLOYMENT, WAGES, SELF-EMPLOYMENT, AND SELF-EMPLOYMENT INCOME

Legal Authority: PL 98-21; PL 99-514; PL 98-369; PL 100-203; PL 100-647

CFR Citation: 20 CFR 404.1041; 20 CFR 404.1042; 20 CFR 404.1068; 20 CFR 404.1049; 20 CFR 404.1050; 20 CFR 404.1001; 20 CFR 404.1026; 20 CFR 404.1046; 20 CFR 404.1048; 20 CFR 404.1051; 20 CFR 404.1052; 20 CFR 404.1053; 20 CFR 404.1054; 20 CFR 404.1058; 20 CFR 404.1070; ...

Legal Deadline: None

Abstract: PL 98-21 changed the timing of crediting deferred compensation for Social Security purposes. It also changed the treatment of retirement pay depending upon whether it is paid under a qualified deferred compensation plan. Further, it excluded from coverage various fringe benefits and payments under a Simplified Employee Pension Plan. Finally, the amendments codify certain provisions pertaining to meals and lodging and tax-sheltered annuities. PL 98-369 amended the wage exclusion for qualified bond purchase plans. PL 99-514 excluded from coverage payments under a cafeteria plan; amended the law for determining self- employment income when an individual works for a church or church-controlled organization which has elected not to pay social security taxes; and amended the law for receiving an exemption from social security coverage for members of religious orders, ministers, and Christian Science practitioners. We are adding to the final rule the provisions in Sec 9003 of PL 100-203 and Sec 8013 of PL 100-647 concerning wage exclusion of group life insurance payments. These regulations merely reflect the above provisions and do not add substantive rules.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24727
NPRM Comment Period End	08/29/88	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Since the new rules are mandated by legislation, any costs or effects upon small entities are a result of the legislation and not a result of the proposed regulations.

Agency Contact: Charles Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1794

RIN: 0960–AC27

651. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CONSIDERATION OF VOCATIONAL FACTORS

Significance: Agency Priority

Legal Authority: 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1560; 20 CFR 416.960

Legal Deadline: None

Abstract: These regulations reflect longstanding policies followed by the Social Security Administration in making disability determinations and remove an ambiguity which exists in the present regulations regarding the factors that are considered when it is determined that a claimant is not disabled because he or she is able to do his or her past work. These proposed regulations do not reflect a substantive change in policy and are intended only to clarify what has always been agency policy.

Timetable:

Action	Date	FR Cite
NPRM	06/09/88	53 FR 21695
NPRM Comment Period End	08/08/88	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC31

652. ORGANIZATION AND PROCEDURES, AND OASDI PROGRAMS; EVIDENCE REQUIRED FOR ORIGINAL OR DUPLICATE SOCIAL SECURITY NUMBER CARD

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 422B

Legal Deadline: None

Abstract: The proposed regulations will allow the Social Security Administration (SSA) to test procedures that will provide an exception to the current requirement that an applicant for a duplicate card must submit corroborative evidence of identity. This will enable us to test procedures that would allow us to conduct much of our business in processing applications for duplicate Social Security number cards by telephone.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC32

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653. ORGANIZATION AND PROCEDURES, AND OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; SOCIAL SECURITY NUMBER CARDS FOR ALIENS

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 422B

Legal Deadline: None

Abstract: The proposed regulation will reflect the role of the Immigration and Naturalization Service in obtaining applications for Social Security numbers from aliens when they apply for temporary legal resident status. Rules on evidence needed to support an application are being updated and revised. The proposed regulations will also reflect the role of the States in obtaining applications for Social Security numbers from welfare claimants and recipients. Savings for the Federal government are estimated to be $5.9 million for FY 1988 and $6.3 million for subsequent years.Virtually all of the savings are derived from the provision to reflect the role of the States in enumeration of welfare recipients.

Timetable:

Action	Date	FR Cite
NPRM	09/30/88	53 FR 38302
NPRM Comment Period End	11/29/88	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC34

654. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; ADDITION OF DOWN SYNDROME TO THE LISTING OF IMPAIRMENTS

Legal Authority: 42 USC 1302; 42 USC 405

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: We propose to add Down Syndrome to the multiple body systems, category of impairments, in Part B of the Listing of Impairments to provide for evaluation of Down syndrome claims according to the impairment criteria for the major system affected. The Listing of Impairments describes, for each of the major body systems, a level of severity which is considered sufficient to find a person disabled or blind under the disability program. Part B contains additional medical criteria that apply only to the evaluation of impairments of persons under age 16.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37161
NPRM Comment Period End	12/04/87	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC35

655. OLD-AGE SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CANCELLED CONSULTATIVE EXAMINATIONS

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1624; 20 CFR 416.1024

Legal Deadline: None

Abstract: We are proposing to no longer pay for consultative examinations when services are not rendered because the scheduled appointment was broken or otherwise not kept. Presently, the States decide whether to pay for these canceled examinations and such payments have already been abolished in 22 States. The total elimination of these payments will establish a uniform national policy.

Timetable:

Action	Date	FR Cite
NPRM	10/07/88	53 FR 39487
NPRM Comment Period End	12/06/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC40

656. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION OF REAL PROPERTY WHEN IT CANNOT BE SOLD; AND TRANSFER OF ASSETS FOR LESS THAN FAIR MARKET VALUE

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.1242; 20 CFR 416.1245; 20 CFR 416.1246

Legal Deadline: Final, Statutory, April 1, 1988.

Abstract: We have amended regulations under the Supplemental Security Income program to implement sections 9103 and 9104 of Pub. L. 100-203 (the Omnibus Budget Reconciliation Act of 1987) dealing with the disposition and transfer of resources in determining eligibility for SSI benefits. The cost/savings and workyear impact for these regulations have been estimated to be insignificant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/88	53 FR 13254
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1756

RIN: 0960–AC47

657. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION FROM RESOURCES OF FUNDS SET ASIDE FOR BURIAL AND BURIAL SPACES

Legal Authority: 42 USC 1302; 42 USC 1382b

CFR Citation: 20 CFR 416.1231

Legal Deadline: None

Abstract: We propose to amend our regulations to reflect the changes made by section 9105 of Pub. L. 100-203 (the Omnibus Budget Reconciliation Act of 1987) and to make other policy changes concerning the treatment of burial spaces and certain funds set aside for burial expenses in the Supplemental Security Income program. The cost/savings and workyear impact for this NPRM have been estimated to be insignificant.

Timetable:

Action	Date	FR Cite
NPRM	09/15/88	53 FR 35830
NPRM Comment Period End	11/14/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1756

RIN: 0960–AC48

658. SUPPLEMENTAL SECURITY INCOME PROGRAM; PUBLIC EMERGENCY SHELTERS FOR THE HOMELESS, EXCLUSION OF UNDERPAYMENTS, INCREASE IN PERSONAL NEEDS ALLOWANCE

Legal Authority: PL 100-203, Sec 9113; PL 100-203, Sec 9114; PL 100-203, Sec 9119

CFR Citation: 20 CFR 416.201; 20 CFR 416.211; 20 CFR 416.414; 20 CFR 416.432; 20 CFR 416.1160; 20 CFR 416.1163; 20 CFR 416.1165; 20 CFR 416.1233; 20 CFR 416.2095; 20 CFR 416.2096; 20 CFR 416.2097; 20 CFR 416.2098; 20 CFR 416.2099

Legal Deadline: None

Abstract: These interim regulations will reflect sections 9113, 9114, and 9119 of Pub.L. 100-203 by increasing the number of months an individual who resides in a public emergency shelter for the homeless may be eligible for SSI payments, by temporarily extending the time period during which any retroactive payments made under the title II and title XVI programs will be excluded from resources, and increasing the benefit rate for persons in medical institutions where Medicaid pays more than one-half the cost of their care. We anticipate only a negligible increase in program costs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1756

RIN: 0960–AC54

659. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; SOCIAL SECURITY NUMBERS FOR NEWBORN CHILDREN

Significance: Agency Priority

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 422.103

Legal Deadline: None

Abstract: Under the proposed rule, a parent will be able to request a Social Security number in the hospital when he or she provides birth registration information for a newborn child. The State vital statistics office will receive the information and the request from the hospital and electronically transmit this information to the Social Security Administration (SSA). SSA will assign a Social Security number to the child and send a card to the parents. We expect annual savings of $11.4 million. A pilot project in three States has shown this procedure to be efficient and well-received.

Timetable:

Action	Date	FR Cite
NPRM	02/14/89	54 FR 6707
NPRM Comment Period End	03/16/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC56

660. ● OLD-AGE, SURVIVORS AND DISABILITY INSURANCE; CONTINUED PAYMENT OF BENEFITS DURING APPEAL

Significance: Agency Priority

Legal Authority: PL 100-647, Sec 8006

CFR Citation: 20 CFR 404.1597a

Legal Deadline: None

Abstract: These proposed rules, which implement section 8006 of Pub. L. 100-647, extend the right to elect continuation of disability/blindness benefits and/or Medicare coverage for appeals of medical cessation determinations pending an administrative law judge decision on actions terminating benefits made through December 1989, with benefits payable through June 1990. (Effective for terminations occurring before January 1, 1990. Note: 53 FR 29011 published August 2, 1988 reflected section 9009 of PL 100-203 which was effective for terminations occurring before January 1, 1989.)

Timetable:

Action	Date	FR Cite
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1795

RIN: 0960–AC62

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)
Completed Actions

661. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; COVERAGE OF CERTAIN FEDERAL EMPLOYEES; COVERAGE OF EARNINGS OF FEDERAL JUDGES

Significance: Agency Priority

CFR Citation: 20 CFR 404.1018

Completed:

Reason	Date	FR Cite
Final Action	10/04/88	53 FR 38943

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton 301 965-9470

RIN: 0960–AA89

662. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF PROPERTY HELD IN TRUST OR OTHER SIMILAR LEGAL DEVICES WHEN THE PROPERTY IS AVAILABLE FOR A BENEFICIARY'S SUPPORT AND MAINTENANCE

CFR Citation: 20 CFR 416.1201

Completed:

Reason	Date	FR Cite
Regulation Action Discontinued	12/00/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner 301 965-1756

RIN: 0960–AB79

663. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REDUCTION BECAUSE OF ENTITLEMENT TO OTHER BENEFITS

CFR Citation: 20 CFR 404.407; 20 CFR 404.612

Completed:

Reason	Date	FR Cite
Final Action	02/06/89	54 FR 45603

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar 301 965-1795

RIN: 0960–AB87

664. OLD-AGE SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; THE HEARINGS AND APPEALS PROCESS AND REOPENING DETERMINATIONS AND DECISIONS

Significance: Agency Priority

CFR Citation: 20 CFR 404J; 20 CFR 404R; 20 CFR 410F; 20 CFR 416N; 20 CFR 416O; 20 CFR 422

Completed:

Reason	Date	FR Cite
Regulation Action Discontinued	12/00/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Berge 301 965-1769

RIN: 0960–AC15

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)
Proposed Rule Stage

665. ● WAIVERS TO REQUIREMENT THAT STATES SPEND AT LEAST A CERTAIN PORTION OF STATE BLOCK GRANT FUNDS FOR NEW MENTAL HEALTH SERVICES AND PROGRAMS

Significance: Regulatory Program

Legal Authority: PL 100-690

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: Section 2027 of Public Law 100-690 amends Section 1916 of the PHS Act to set a floor on the amount States must spend each year beginning in FY 1991 from Alcohol and Drug Abuse and Mental Health Services Block Grant funds for new mental health services and programs. However, the Secretary may grant any State that he determines to be in a financial crisis a waiver lowering that floor by up to a certain amount. The Act requires that such determinations be based on standards published in regulations. Issues to be resolved in regulations include: (a) how to determine when a State is in a financial crisis; (b) what information States must provide to assure that a waiver is needed to avoid disruption to existing and planned high priority services; (c) how to determine the extent of relief to be granted for approved waivers; and (d) imposing requirements that are cost effective.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	
Final Action	11/30/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Susan L. Becker, Deputy Associate Aministrator for, Policy Coordination, ADAMHA, Department of Health and Human Services, Public Health Service, Rm. l2C-06, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, 301 443-4111

RIN: 0905–AC99

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Centers for Disease Control (CDC)
Proposed Rule Stage

666. NIOSH REVISION OF TESTS AND REQUIREMENTS OF CERTIFICATION OF RESPIRATORY PROTECTIVE DEVICES

Significance: Regulatory Program

Legal Authority: 30 USC 801; 30 USC 844; 30 USC 957

CFR Citation: 30 CFR 11; 42 CFR 84

Legal Deadline: None

Abstract: The proposed rule addresses three major problems of the current regulation by (l) substantially upgrading laboratory performance tests for certifying respirators; (2) adding quantitative face seal performance tests; and (3) replacing current certification tests that are design- or application-specific with tests that are performance-based. The first NPRM for revising 42 CFR Part 84 was published in the Federal Register on August 27, 1987 (52 FR 32402). In response to the many comments on the first proposal, NIOSH is in the process of developing a second NPRM.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32402
First Public Hearing	01/20/88	52 FR 37639
Second Public Hearing	01/27/88	52 FR 37639
NPRM Public Comment Period End	03/28/88	53 FR 5595
Second NPRM Published	05/00/89	
Second NPRM Comment Period End	08/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $7,096,000; Yearly Recurring Cost: $6,400,000; Base Year for Dollar Estimates: 1990

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Dr. Nelson A. Leidel, Senior Science Advisor, Office of the Director, NIOSH, Department of Health and Human Services, Public Health Service, Centers for Disease Control, 1600 Clifton Road, MS D37, Atlanta, GA 30333, 404 639-3901

RIN: 0905–AB58

667. SUBCHAPTER J - NATIONAL VACCINE PROGRAM, PART 110 INFORMATION AND EDUCATION, SUBPART A - VACCINE INFORMATION MATERIALS

Significance: Agency Priority

Legal Authority: 42 USC 300aa-26; PL 99-660, Sec 311(a)

CFR Citation: 42 CFR 110

Legal Deadline: Final, Statutory, December 22, 1988.

Abstract: This new regulation is required to implement the statutory requirements of Section 2126, Title XXI, Public Health Service Act as amended. The statute requires the Secretary to develop and disseminate vaccine information materials for distribution by health care providers. These materials will be published as an appendix of this regulation. The regulation describes the vaccine information materials and the health care providers' duties to disseminate a copy of the materials to any adult to whom the provider intends to administer vaccine and to the legal representative of any child to whom the provider intends to administer vaccine. The NPRM has a 90-day comment period.

Timetable:

Action	Date	FR Cite
NPRM	03/03/89	54 FR 9181
Public Hearing	04/17/89	54 FR 11547
NPRM Comment Period End	05/31/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Walter A. Orenstein, M.D., Director, Division of Immunization, Center for Prevention Services, Department of Health and Human Services, Public Health Service, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333, 404 639-1880

RIN: 0905–AC83

668. ● INTERSTATE SHIPMENT OF BIOLOGICAL MATERIAL THAT CONTAINS OR MAY CONTAIN ETIOLOGIC AGENTS

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 264; 42 USC 271

CFR Citation: 42 CFR 72

Legal Deadline: None

Abstract: The revised regulation will clarify the requirements for packaging and shipping material containing etiologic agents. Some users have had difficulty applying the current regulation, particularly with respect to the definition of material covered. The revised regulation is not expected to have a major impact on the cost of shipping these materials and is expected to result in increased conformance so that those handling such packages will have an even lower probability of exposure to potentially infectious material.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. McVicar, D. V. M., Director, Office of Biosafety, Centers for Disease Control, Department of Health and Human Services, Public Health Service, 1600 Clifton Road NE, Atlanta, GA 30333, 404 639-3883

RIN: 0905–AC89

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Centers for Disease Control (CDC)

Final Rule Stage

669. HEALTH ASSESSMENTS AND HEALTH EFFECTS STUDIES OF HAZARDOUS SUBSTANCES RELEASES AND FACILITIES

Significance: Agency Priority

Legal Authority: 42 USC 9601 et seq, Sec 104(i) amended by Sec 110 of SARA; 42 USC 6939a(c)

CFR Citation: 42 CFR 90

Legal Deadline: None

Abstract: This regulation sets forth procedures the Agency for Toxic Substances and Disease Registry (ATSDR) will follow in determining when and how to conduct health assessments and health effects studies at hazardous substances releases and facilities. In addition to CERCLA-authorized health assessments and health effects studies, this regulation also applies to ATSDR health assessment activity under the Resource Conservation and Recovery Act (RCRA) (42 USC 6939a(c)). This proposal also contains provisions pertaining to the establishment of administrative records for ATSDR health assessments and health effects studies, for tracking costs of these studies for cost recovery purposes, and for safeguarding trade secret and other confidential information.

Timetable:

Action	Date	FR Cite
NPRM	08/24/88	53 FR 32259
NPRM Comment Period End	10/24/88	
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Ralph J. Touch, Jr., Director, Planning and Special Programs, ATSDR, Department of Health and Human Services, Public Health Service, Chamblee 27, F38, 1600 Clifton Road, Atlanta, GA 30333, 404 488-4853

RIN: 0905–AC84

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Food and Drug Administration (FDA)

Prerule Stage

670. DRUG EXPORTS

Significance: Agency Priority

Legal Authority: PL 99-660 Drug Export Amendments Act of 1986

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Drug Export Amendments Act of 1986 authorizes the export for commercial marketing abroad of veterinary and human drugs not approved for marketing in the United States. Under previous law, the export of new human and animal drugs for marketing was confined to drugs that were approved by FDA for domestic use. The law establishes three separate pathways for the export of unapproved products. Under each pathway, FDA approval is required before export is permitted. As a prerulemaking activity, FDA is developing guidance material for manufacturers instructing them as to what information must be submitted to the agency to obtain approval for the export of unapproved products. The guidance material will also identify FDA sources of information on agency practices and policies concerning the implementation of the Drug Export Amendments Act of 1986. The agency will then decide what, if any, regulations are necessary for the efficient implementation of the amendments, and establish timeframes for the development of those regulations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Wayne Mitchell, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905–AC44

671. COMPUTER PRODUCTS; POLICY GUIDANCE

Significance: Regulatory Program

Legal Authority: 21 USC 321(h)

CFR Citation: 21 CFR 800

Legal Deadline: None

Abstract: As a prerulemaking activity, FDA is developing guidance for manufacturers respecting how FDA would apply existing statutory requirements to the regulation of computer products (i.e., both hardware and software) when such products meet the definition of a medical device under the act.

On September 25, 1987, FDA made available a draft policy guidance intended to clarify how FDA would apply existing statutory requirements to the regulation of such products to provide opportunity for public participation in this activity.

Upon analysis of the public comments on the complex issues pertaining to the regulation of computer products, the agency will decide whether any additional steps are necessary to clarify which computer products meet the definition of a medical device and what level of regulation, if any, is appropriate under the act.

Timetable:

Action	Date	FR Cite
Proposed Draft Guideline	09/25/87	52 FR 36104
Final Policy Guidance	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Charles S. Furfine, Office of Standards and Regulations, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4874

RIN: 0905–AC72

HHS—PHS—FDA

Prerule Stage

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Food and Drug Administration (FDA)

Proposed Rule Stage

672. OVER-THE-COUNTER (OTC) DRUG REVIEW

Significance: Agency Priority

Legal Authority: 21 USC 321(p) Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" to be combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" to be included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" to be included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" to be included in NPRM (cont)

Timetable:

Acne (Topical) Products
- ANPRM 03/23/82 (47 FR 12430)
- NPRM 01/15/85 (50 FR 2172)
- Final Action 00/00/00

Alcohol (Topical) Products (To be merged w/other rulemkg)
- ANPRM 05/21/82 (47 FR 22324)

Anorectal Products
- ANPRM 05/27/80 (45 FR 35576)
- NPRM 08/15/88 (53 FR 30756)

Antacid Drug Products
- ANPRM 04/05/73 (38 FR 8714)
- NPRM 11/12/73 (38 FR 31260)
- Final Action 06/04/74 (39 FR 9862)

Anthelmintic Products
- ANPRM 09/09/80 (45 FR 59541)
- NPRM 08/24/82 (47 FR 37062)
- Final Action 06/01/86 (51 FR 27756)

Antibiotic First Aid Products
- ANPRM 04/01/77 (42 FR 17642)
- NPRM 07/09/82 (47 FR 29986)
- Final Action 12/11/87 (52 FR 47312)

Anticaries Products
- ANPRM 03/28/80 (45 FR 20666)
- NPRM 09/30/85 (50 FR 39854)
- NPRM 06/15/88 (53 FR 22430)
- Final Action 00/00/00

Antidiarrheal Products
- ANPRM 03/21/75 (40 FR 12924)
- NPRM 04/30/86 (51 FR 16138)
- Final Action 00/00/00

Antidotes, Toxic Ingestion Prdts (Now Poison Treatment Prdts)
- ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
- ANPRM 03/21/75 (40 FR 12934)
- NPRM 07/13/79 (44 FR 41064)
- Final Action 04/30/87 (52 FR 15886)

Antiflatulent Drug Products
- NPRM 11/12/73 (38 FR 31260)
- Final Action 06/04/74 (39 FR 19877)
- NPRM (Amendment) 01/29/88 (53 FR 2716)

Antifungal (Topical) Products
- ANPRM 03/23/82 (47 FR 12480)
- NPRM 06/00/89

Antiperspirant Products
- ANPRM 10/10/78 (43 FR 46694)
- NPRM 08/20/82 (47 FR 36492)
- Final Action 00/00/00

Antiseptic First Aid
- ANPRM 09/13/74 (39 FR 33103)
- NPRM 01/06/78 (43 FR 1210)
- Revised NPRM 09/00/89

Antiseptic Products (Professional Use)
- ANPRM 09/13/74 (39 FR 33103)
- NPRM 01/06/78 (43 FR 1210)
- Revised NPRM 09/00/89

Aphrodisiac Products
- ANPRM 10/01/82 (47 FR 43572)
- NPRM 01/15/85 (50 FR 2168)
- Final Action 06/00/89

Astringent (Wet Dressings) Prdts (To be merged w/other rulemkg)
- ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
- ANPRM 10/01/82 (47 FR 43566)
- NPRM 02/20/87 (52 FR 5406)
- Final Action 00/00/00

Boil Ointments
- ANPRM 06/29/82 (47 FR 28306)
- NPRM 01/26/88 (53 FR 2198)
- Final Action 00/00/00

Camphorated Oil Drug Products
- ANPRM 09/26/80 (45 FR 63869)
- Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
- ANPRM 02/12/80 (45 FR 9286)
- NPRM 08/24/82 (47 FR 37068)
- Final Action 06/10/83 (48 FR 27004)
- NPRM (Amendment) 08/15/88 (53 FR 30786)
- Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
- ANPRM 01/05/82 (47 FR 522)
- NPRM 02/20/87 (52 FR 5412)
- Final Action 00/00/00

Cough/Cold (Anticholinergic) Products
- ANPRM 09/09/76 (41 FR 38312)
- NPRM 07/09/82 (47 FR 30002)
- Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
- ANPRM 09/09/76 (41 FR 38312)
- NPRM 01/15/85 (50 FR 2200)
- NPRM (Amendment) 08/24/87 (52 FR 31892)
- Final Action 00/00/00

Cough/Cold (Antitussive) Products
- ANPRM 09/09/76 (41 FR 38312)
- NPRM 10/19/83 (48 FR 48576)
- Final Action 08/12/87 (52 FR 30042)

Cough/Cold (Bronchodilator) Products
- ANPRM 09/09/76 (41 FR 38312)
- NPRM 10/26/82 (47 FR 47520)
- Final Action 10/02/86 (51 FR 35326)

Cough/Cold (Combination) Products
- ANPRM 09/09/76 (41 FR 38312)
- NPRM 08/12/88 (53 FR 30522)
- Final Action 00/00/00

Cough/Cold (Expectorant) Products
- ANPRM 09/09/76 (41 FR 38312)
- NPRM 07/09/82 (47 FR 30002)
- Final Action 02/28/89 (54 FR 8494)

Cough/Cold (Nasal Decongestant) Products
- ANPRM 09/09/76 (41 FR 38312)
- NPRM 01/15/85 (50 FR 2220)
- Final Action 06/00/89

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Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 00/00/00
Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)
Diaper Rash Products (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)
Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/88 (53 FR 2706)
Final Action 00/00/00
Emetic Products
ANPRM 03/21/75 (40 FR 12939)
NPRM 09/05/78 (43 FR 39544)
Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
Final Action 00/00/00
External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32582)
NPRM (Amendment) (Poison Ivy) 06/00/89
Final Action 00/00/00
Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 00/00/00
Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)
Hair Grower and Hair Loss Prevention Products
ANPRM 11/27/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 00/00/00
Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 06/00/89
Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 00/00/00
Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69128)
NPRM 09/03/82 (47 FR 39120)
Final Action 00/00/00
Insect Bite & Sting (Relief) Prdts (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)
Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26966)
Final Action 06/17/85 (50 FR 25170)
Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/18/88 (53 FR 46204)
Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25182)
Final Action 00/00/00
Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) 10/01/86 (51 FR 35136)
Final Action 00/00/00
Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 00/00/00
Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 00/00/00
Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/86 (53 FR 46194)
Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)
Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 00/00/00
Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)
Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/26/83 (48 FR 29788)
Final Action 03/04/88 (53 FR 7076)
Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 00/00/00
Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/88 (53 FR 2436)
Final Action 00/00/00
Oral Mucosal Injury Products (Merged w/Oral Health Care)
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Final Action 07/18/86 (51 FR 26112)
Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28656)
Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27366)
Final Action 00/00/00
Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 00/00/00
Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32872)
Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13480)
Poison Ivy/Oak/Sumac Prevention (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)
Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
Final Action 00/00/00
Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
Final Action 06/00/89
Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
Final Action 04/03/89 (54 FR 13490)
NPRM (Amendment) (Astringent) 04/00/89
NPRM (Amendment) (Poison Ivy) 06/00/89
Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 00/00/00
Stimulant Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/29/88 (53 FR 6100)
Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 06/17/88 (53 FR 31270)
Sunscreen Products
ANPRM 06/25/78 (43 FR 38206)
NPRM 00/00/00
Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11846)
Final Action 06/27/80 (45 FR 43400)
Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 00/00/00
Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46694)
NPRM 00/00/00
Vitamin/Mineral Products
ANPRM 03/16/79 (44 FR 16126)
Withdrawal 11/27/81 (46 FR 57914)
Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
NPRM (Amendment) 03/27/87 (52 FR 9992)
Final Action 00/00/00
Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 00/00/00

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" to be included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" is being revised because it is being updated and split into two sections: first aid products and health care products.

SMALL BUSINESSES CONT: The effects, if any, vary depending on the individual rulemaking. However, the agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Agency Contact: William E. Gilbertson, Director, Division of OTC Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-210), 5600 Fishers Lane, Rockville, MD 20857, **301 295-8000**

RIN: 0905–AA06

673. CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS; RETROSPECTIVE REVIEW

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 360b Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 211

Legal Deadline: None

Abstract: As part of its retrospective review, FDA plans to determine the need for any changes in the current GMPs to eliminate unnecessary requirements and to allow flexibility without undermining protection of the public health.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Meyer, Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, **301 295-8049**

RIN: 0905–AA73

674. CURRENT GOOD MANUFACTURING PRACTICE (CGMP) FOR BLOOD AND BLOOD COMPONENTS; RETROSPECTIVE REVIEW

Significance: Agency Priority

Legal Authority: 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act; 5 USC 553 Administrative Procedures Act; 5 USC 702 Administrative Procedures Act; 5 USC 703 Administrative Procedures Act; 5 USC 704 Administrative Procedures Act

CFR Citation: 21 CFR 606

Legal Deadline: None

Abstract: FDA is responsible for issuing regulatory standards for blood and blood components to ensure the continued safety, purity, and potency of such products. Since 1975, CGMP regulations have been in effect that provide standards for facilities, personnel, and manufacturing procedures for blood and blood components. In accordance with the Regulatory Flexibility Act, FDA has conducted a retrospective review of its CGMP regulations for blood and blood components, to determine how the regulations may be revised to relieve regulatory burdens and increase flexibility without adversely affecting the public health. Part of the retrospective review of the CGMP will be completed through FDA's implementation of an efficacy review of blood and blood derivatives which responds to recommendations of a Committee of scientific experts--the Panel on Review of Blood and Blood Derivatives. To complete the remainder of the retrospective review program regarding the CGMP, FDA will issue a proposed rule to revise the CGMP regulations.

Timetable:

Action	Date	FR Cite
Blood & Blood Components; Retrospective Review		
NPRM	11/00/89	
Final Action	00/00/00	
Blood & Blood Derivatives; Implementation of Efficacy Review		
NPRM	12/24/85	(50 FR 52602)
Comment Period Ends	03/24/86	(50 FR 52602)
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven F. Falter, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 5600 Fishers Lane, Rockville, MD 20857, **301 295-8188**

RIN: 0905–AA75

675. NEW ANIMAL DRUG APPROVAL PROCESS

Significance: Agency Priority

Legal Authority: 21 USC 360b Federal, Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 514.1; 21 CFR 514.8

Legal Deadline: None

Abstract: Based upon an evaluation of an action issues report, the agency has concluded that it will recommend that the Secretary propose revision of the existing regulations in a manner consistent with the current procedural regulations for human drugs where appropriate. The New Animal Drug Application (NADA) revisions would articulate general requirements in regulations containing performance standards and would complement them through detailed guidelines on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. Although the guidelines would not establish regulatory requirements, persons would be able to rely on them with confidence that action taken under a guideline would be acceptable to the agency.

Timetable:

Action	Date	FR Cite
New Animal Drug Approval Process		
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Frank G. Pugliese, Supervisory Consumer Safety Officer, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-102), 5600 Fishers Lane, Rockville, MD 20857, **301 443-4500**

RIN: 0905–AA96

676. REQUIREMENTS FOR ADVERSE EXPERIENCE REPORTING FOR LICENSED BIOLOGICAL PRODUCTS

Significance: Agency Priority

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC

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374 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act

CFR Citation: 21 CFR 211; 21 CFR 310; 21 CFR 600

Legal Deadline: None

Abstract: This regulatory action is being taken to improve the safety of marketed drug products by a reporting scheme that will require serious adverse reactions associated with licensed biological products to be reported to the Food and Drug Administration (FDA).

The purpose of the regulatory action is to require prompt reporting to the agency of serious adverse experiences for all licensed biological products.

The regulatory action being considered by FDA would be consistent with the agency's requirements regarding adverse reactions reporting for approved new drugs under 21 CFR 314.80 (see February 22, 1985; 50 FR 7452). These biologic regulations would require that all "serious and unexpected" adverse experiences and any "significant increase in frequency" of a serious expected event be reported to the agency within 15 working days. Known and nonserious adverse biological product experiences would be required to be reported to the agency at quarterly or annual intervals, depending on the length of marketing experience with the product. This information (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: permits the agency to monitor effectively the safety of all licensed biological products.

Agency Contact: Steven F. Falter, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905–AB53

677. PROPOSED RULE TO IMPLEMENT THE ORPHAN DRUG AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Significance: Regulatory Program

Legal Authority: PL 97-414 Orphan Drug Act; PL 100-290

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Orphan Drug Act is intended to provide incentives for drug companies to invest in the development of drugs for rare diseases or conditions. Certain incentives are necessary because "orphan drugs" are unlikely to be profitable. The agency is required to carry out provisions of the Orphan Drug Act, e.g., by designating a drug as an orphan drug, by providing protocol assistance, and by granting seven years of exclusive approval status. The proposed rule would establish procedures whereby drug sponsors can take advantage of the incentives to encourage development of orphan drugs. While several provisions of the Orphan Drug Act call for promulgation of regulations, the agency is considering the extent to which regulations will be needed to provide the framework and guidance for implementing a program of incentives to drug sponsors and manufacturers.

Timetable:

Action	Date	FR Cite
Interim Guidelines	09/09/83	48 FR 40784
Revised Interim Guidelines	05/09/85	50 FR 19583
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Emery J. Sturniolo, Assistant to the Director, Department of Health and Human Services, Food and Drug Administration, Office of Orphan Products Development (HF-35), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4718

RIN: 0905–AB55

678. IMPLEMENTATION OF TITLE I OF THE "DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT OF 1984" (TITLE I)

Significance: Agency Priority

Legal Authority: PL 98-417, (Title I)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Until the passage of Title I of the "Drug Price Competition and Patent Term Restoration Act of 1984," abbreviated new drug application (ANDA) procedures were only available for generic products equivalent to pioneer drugs approved before 1962. Title I opened up the ANDA policy to generic copies of products approved after 1962. This rulemaking is intended to establish clear and uniform procedures for the review and timely approval of ANDAs. This should assist the generic drug industry by ending considerable confusion about the procedures governing review of ANDAs. In turn, with the availability of lower-cost generic products, it is estimated that consumers may save millions of dollars. The statute calls for promulgation of implementing regulations, however, the agency also expects to develop guidelines and other policy statements to assist in developing approvable applications. Revised target dates for this regulatory action are appropriate because many new issues have been identified in petitions and letters to the agency from trade associations and attorneys representing individual manufacturers concerning exclusivity, patent coverage, (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: and some of the complex provisions of the act. The resolution of these many minor issues will be reflected in the NPRM and will permit the agency to develop a comprehensive proposed rule.

Agency Contact: Marilyn Watson, Special Asst. to the Division Director, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-360), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8038

RIN: 0905–AB63

679. INFANT FORMULA ACT

Significance: Regulatory Program

Legal Authority: 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; PL 99-570 Infant Formula Act of 1986

CFR Citation: 21 CFR 7; 21 CFR 106

Legal Deadline: None

Abstract: The agency is preparing two proposals and one final rule which will implement the Infant Formula Act of 1986. The final rule will amend FDA's Infant Formula Recall regulations. These amended regulations will mandate the recall of infant formulas that are in violation of the Act and which have been determined by the Secretary to pose a health hazard. The first proposal will establish current good manufacturing practice regulations and strengthen the agency's existing quality control procedures for infant formulas. The second proposal will establish infant formula microbiological testing, consumer complaints, and record retention requirements.

Timetable:

Action	Date	FR Cite
Infant Form Cons Comp, Micro Test & Recd Retention Reg		
NPRM 01/26/89 (54 FR 3783)		
NPRM Comment Period End 03/27/89		
Infant Formula Current Good Practices; Qual Control Proc		
NPRM 07/00/89		
Infant Formula Recall		
NPRM 08/14/87 (52 FR 30171)		
Comment Period Ends 10/13/87 (52 FR 30171)		
Final Action 01/27/89 (54 FR 4006)		
Final Action Effective 03/28/89		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: AGENCY CONTACT CONT: For Information Concerning Infant Formula, Microbiological Testing, Consumer Complaints, Record Retention Requirements, Good Manufacturing Practices, and Quality Control Procedures Contact: Nicholas Duy, Consumer Safety Officer, Center for Food Safety and Applied Nutrition (HFF-204), Department of Health and Human Services, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, (202) 245-3117

Agency Contact: Curtis Coker, Consumer Safety Officer, (For Info Concerning Infant Formula Recalls), Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-314), 200 C Street, SW, Washington, DC 20204, 202 485-0024

RIN: 0905–AC46

680. ACTION LEVELS FOR ADDED POISONOUS OR DELETERIOUS SUBSTANCES IN FOOD (INCLUDING ANIMAL FEED)

Significance: Regulatory Program

Legal Authority: 21 USC 342(a)(1)

CFR Citation: 21 CFR 109; 21 CFR 509

Legal Deadline: None

Abstract: FDA is considering a proposed rule that would (1) amend its regulations creating and describing action levels for added poisonous or deleterious substances in food (including animal feed) to make clear that these action levels are prosecutorial guidelines rather than substantive rules, and (2) revoke the provisions for exceptions to action levels in 21 CFR Part 109 (human food) and 21 CFR Part 509 (animal feed).

Timetable:

Action	Date	FR Cite
Notice of Court of Appeals Decision	02/19/88	53 FR 5043
NPRM	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John R. Wessel, Director, Contaminants Policy Staff, Department of Health and Human Services, Food and Drug Administration, Office of Regulatory Affairs (HFC-6), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1815

RIN: 0905–AC73

681. ● LOOK-BACK REQUIREMENTS FOR BLOOD RECIPIENTS WHO ARE AT INCREASED RISK OF HIV INFECTION

Significance: Regulatory Program

Legal Authority: 21 USC 351 to 360k; 21 USC 374; 42 USC 262 to 264

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The agency currently requires that all blood and blood components intended for the manufacture of any product be tested for antibody to human immunodeficiency virus (HIV). In instances when the blood of a donor is found to contain antibodies to HIV, some blood centers have initiated a program of voluntary "look-back" in which recipients of blood and blood components obtained from the donor's prior donations are traced and tested. A well-conducted look-back program can provide an effective mechanism for identifying, testing, and counseling transfusion recipients who are at increased risk of HIV infection--those who receive blood from a donor later found to be infected with HIV. The agency is considering a proposal to establish a mandatory look-back program. The proposal would require that blood collection facilities notify the appropriate transfusion facilities as soon as an infected donor is identified and implement a system of followup to ensure that either recipients are notified or that the physician of record determined that notification was inappropriate or was not possible.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven F. Falter, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905–AC90

682. ● LEAD FROM CERAMIC PITCHERS

Significance: Agency Priority

Legal Authority: 21 USC 321; 21 USC 336; 21 USC 342(a); 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 109

Legal Deadline: None

Abstract: The agency is considering a proposal to establish a revised regulatory standard for ceramic food-service pitchers, excluding creamers, that would reduce the allowable limit of the leaching of lead from the glazes and decorations on the food-contact surface of these pitchers to below the current standard of 2.5 micrograms per milliliter of test solution. The proposal would also provide that decorative

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ceramicware that appears to be suitable for food use would be deemed to be for food use unless it bears a conspicuous, permanent label statement molded or fired onto the ceramic piece that states that the piece is not for food use, or a hole is bored through the possible food-contact surface of the piece.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry C. Troxell, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C Street, SW, Washington, DC 20204, 202 485-0229

RIN: 0905–AC91

683. ● PROFICIENCY TESTING REQUIREMENTS FOR LABORATORIES TESTING BLOOD AND BLOOD COMPONENTS BY THE FDA-REQUIRED TESTS FOR HBSAG AND ANTI-HIV

Significance: Regulatory Program

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 371; 42 USC 262; 42 USC 264

CFR Citation: 21 CFR 606; 21 CFR 810

Legal Deadline: None

Abstract: The agency is considering a proposal to amend the regulations concerning blood products to require that each establishment or laboratory, responsible for performing FDA-required tests for hepatitis B surface antigen (HBsAg) and evidence of human immunodeficiency virus (HIV), participate in an approved program to demonstrate proficiency in performing these tests. The proposal is part of an FDA program to provide increased assurance of the quality of laboratory performance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: JoAnn Minor, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905–AC92

684. ● METHADONE IN MAINTENANCE TREATMENT OF NARCOTIC ADDICTS; JOINT FDA AND NIDA PROPOSED REVISION OF CONDITIONS OF USE

Significance: Regulatory Program

Legal Authority: 21 USC 355; 21 USC 371(a); 21 USC 823(g); 42 USC 257a; 42 USC 290ee-3

CFR Citation: 21 CFR 291

Legal Deadline: None

Abstract: The Food and Drug Administration and the National Institute on Drug Abuse are considering a proposal to revise the conditions for the use of methadone in the maintenance treatment of narcotic addicts. The proposal would allow programs to provide minimum service (interim) maintenance treatment to patients awaiting placement in comprehensive maintenance treatment and require programs to provide counseling on avoidance of human immunodeficiency virus (HIV) transmission. These requirements are being considered in response to the HIV epidemic and are intended to allow more narcotic addicts into treatment more quickly, thereby decreasing the incidence of intravenous drug abuse and the transmission of HIV.

Timetable:

Action	Date	FR Cite
NPRM	03/02/89	54 FR 8973
NPRM Comment Period End	05/03/89	54 FR 13897

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Wayne H. Mitchell, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905–AC93

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Food and Drug Administration (FDA)

Final Rule Stage

685. POLICIES CONCERNING USES OF SULFITING AGENTS

Significance: Regulatory Program

Legal Authority: 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; 21 USC 321(n) Federal Food, Drug, and Cosmetic Act; 21 USC 321(s) Federal Food, Drug, and Cosmetic Act; 21 USC 336 Federal Food, Drug, and Cosmetic Act; 21 USC 341 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 182.3616; 21 CFR 182.3637; 21 CFR 182.3739; 21 CFR 182.3766; 21 CFR 182.3798; 21 CFR 182.3862; 21 CFR 100; 21 CFR 130.9

Legal Deadline: None

Abstract: Acceptable evidence and information exists to show that a subgroup of asthmatics is at moderate to severe risk for a severe reaction upon exposure to sulfites. The agency's primary tool for handling a situation where population subgroups may be at increased risk from a food ingredient that is safe for most people is to use labeling to inform those persons who need or want to avoid the ingredient. The agency issued a final rule, effective January 7, 1987, that requires that when a sulfiting agent is present in a finished food at 10 parts per million or greater, the sulfiting agent must be declared on the label. In addition, FDA issued a final rule, effective August 8, 1986, prohibiting the use of sulfiting agents on raw fruits and vegetables intended to be served or sold raw to consumers (e.g., in salad bars). On December 10, 1987, FDA announced its tentative conclusion that there is no longer a basis to find that the use of sulfiting agents on "fresh" potatoes served or sold unpackaged to consumers is GRAS. On December 19, 1988, FDA proposed to affirm, with specific limitations, that certain other uses of sulfiting agents are GRAS. (cont)

Timetable:

Food Labeling; Declaration of Sulfiting Agents	
NPRM	04/03/85 (50 FR 13306)
Final Action	07/09/86 (51 FR 25012)
Effective Date	01/09/87 (51 FR 25012)
GRAS Status of the Use of Sulfiting Agents on Potatoes	
NPRM	12/10/87 (52 FR 46968)
Final Action	06/00/89
GRAS Status of Certain Other Food Uses of Sulfiting Agents, Etc.	
NPRM	12/19/88 (53 FR 51065)
Final Action	03/00/90
Revoking Use of Sulfiting Agents on Fruits & Vegetables, Etc.	
NPRM	08/14/85 (50 FR 32836)
Final Action	07/09/86 (51 FR 25021)
Final Action Effective	08/09/86 (51 FR 25021)
Sulfiting Agents in Standardized Foods; Labeling Requirements	
NPRM	12/19/88 (53 FR 51062)
Final Action	03/00/90

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: On the same date, the agency also proposed to establish labeling requirements when sulfiting agents are used in standardized foods.

Agency Contact: Robert L. Martin, Division of Food and Color Additives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-334), 200 C Street, SW, Washington, DC 20204, 202 426-9463

RIN: 0905–AB52

686. PROVISIONALLY LISTED COLOR ADDITIVES

Significance: Agency Priority

Legal Authority: 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 376(b) to 376(d) Federal Food, Drug, and Cosmetic Act; 21 USC 378 note Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 81.1; 21 CFR 81.27

Legal Deadline: None

Abstract: Substantial progress has been made in reducing the number of provisionally listed additives and only 1 color additive remains on the provisional list. The agency is presently reviewing petitions to list the color additive permanently. Because FD&C Red No. 3 animal feeding studies have shown a treatment-related increased incidence of tumor bearing animals, the agency considered the use of quantitative risk assessment as a basis for assessing the safety of this color additive in external drugs and cosmetics. As a preliminary step in its consideration of this approach, the agency formed a scientific peer review panel of government scientists to consider whether it is possible to quantify the risk presented by the use of FD&C Red No. 3 based on the scientific data available to the agency and, if so, what level of risk is presented by the use of this color additive. The agency has received the report from the scientific review panel in which the panel estimates the risk of cancer from use of FD&C Red No. 3 in external drugs and cosmetics. Furthermore, for FD&C Red No. 3 the industry has postulated a secondary mechanism for the observed tumorigenic response in the animal feeding (cont)

Timetable:

D&C Red No. 33	
Final Action	06/30/89 (53 FR 33110)
D&C Red No. 36	
Final Action	08/02/88 (53 FR 29024)
FD&C Red No. 3	
Final Action	00/00/00
FD&C Red No. 3; Extension of Provisional Listing	
NPRM	08/30/88 (53 FR 33147)
FD&C Red No. 3; Request for Data for Specific Uses	
Notice	11/19/87 (52 FR 44485)
FD&C Red No. 3; Request for Data for Specific Uses; Postponement	
Notice	12/21/87 (52 FR 48326)

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: study. The agency asked a second scientific peer review panel of government scientists to consider data relating to the issue of a possible secondary mechanism and implications for risk assessment. The panel was also asked to determine what, if any, further studies or analyses may be necessary to resolve the issues. The panel submitted its report to the Commissioner in July 1987. The report was made available to the public in August 1987.

Agency Contact: Donna A. Dennis, Supervisor, Division of Food and Color Additives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-330), 200 C Street, SW, Washington, DC 20204, 202 426-9463

RIN: 0905–AB60

687. FOOD LABELING INFORMATION REGARDING GOOD NUTRITION AND HEALTH

Significance: Regulatory Program

Legal Authority: 15 USC 1453 Fair Packaging and Labeling Act; 15 USC 1455 Fair Packaging and Labeling Act; 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of August 4, 1987, the Food and Drug Administration (FDA) discussed an initiative concerning health-related claims or information on food labeling and the criteria it will apply in evaluating the propriety of such labeling. Consistent with this initiative, FDA proposed to amend certain regulations on food labeling to codify and to clarify its policy on the appropriate use of health-related messages. The agency also announced its intention to form a Public Health Service (PHS) committee that will attempt to develop "health messages" appropriate for use on food labeling.

FDA recognizes that this initiative represents a substantive change in past agency policy, and because of the complexity of the matter and the broad public interest, wishes to proceed cautiously and deliberately in its regulatory approach.

Pending this rulemaking proceeding, the agency will employ the criteria discussed in the preamble to the notice in evaluating the propriety of bringing enforcement action against products bearing health messages on food labeling.

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Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 28843
NPRM - Comment Period Ends	11/02/87	52 FR 28843
NPRM - Extension of Comment Period	11/02/87	52 FR 42003
NPRM - Correction of Extension of Comment Period	11/16/87	52 FR 43772
NPRM - Extension of Comment Period Ends	01/04/88	52 FR 43772
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David G. Hattan, Chief, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-204), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905–AB67

688. FOOD LABELING: DEFINITIONS OF CHOLESTEROL FREE, LOW CHOLESTEROL, AND REDUCED CHOLESTEROL

Significance: Regulatory Program

Legal Authority: 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 321(n) Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101.9; 21 CFR 101.25

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of November 25, 1986, the agency published a proposed rule that would provide a mechanism to allow relevant, truthful, and nonmisleading claims about cholesterol and fatty acid on product labeling for consumers. This proposed rule resulted from the medical and consumer interest in the association between dietary fat and cholesterol and the occurrence of coronary heart disease, the leading cause of death and disability in the United States today. The proposed rule would allow industry voluntarily to provide consumers with cholesterol and fatty acid information currently prohibited by regulations by permitting the use of meaningful descriptors of the cholesterol content of foods as established by regulation (e.g., "cholesterol free," "low cholesterol," and "reduced cholesterol"). Additionally, the proposal would allow the use of comparative claims (e.g., 50 percent less cholesterol than our original product), provided quantitative cholesterol content information is supplied. Public comments submitted in response to the proposed rule are being reviewed.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42584
NPRM Extension of Comment Period	01/23/87	52 FR 2558
NPRM Comment Period End	03/27/87	52 FR 2558
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David G. Hattan, Chief, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-204), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905–AB68

689. METHYLENE CHLORIDE

Significance: Agency Priority

Legal Authority: 21 USC 361 Federal Food, Drug, and Cosmetic Act; 21 USC 362 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 700.19

Legal Deadline: None

Abstract: Methylene chloride is used as a solvent in aerosol cosmetic products (hair sprays). Recent carcinogenicity bioassay studies, however, have shown that methylene chloride is an animal carcinogen. These studies indicate that the continued use of methylene chloride, in functional amounts, in such cosmetic products may pose a significant risk to the public health, especially in specific segments of the population that are continually exposed to aerosol cosmetics containing methylene chloride. The agency has been informed of voluntary efforts by the cosmetic industry to replace methylene chloride.

Timetable:

Action	Date	FR Cite
NPRM	12/18/85	50 FR 51551
NPRM - Comment Period Ends	02/18/86	50 FR 51551
NPRM - Comment Period Extended	02/24/86	51 FR 6494
NPRM - Extended Comment Period Ends	04/04/86	51 FR 6494
NPRM - Comment Period Reopened	12/05/86	51 FR 43935
NPRM - Reopened Comment Period Ends	01/05/87	51 FR 43935
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry C. Troxell, Division of Regulatory Guidance, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C Street, SW, Washington, DC 20204, 202 485-0229

RIN: 0905–AC00

690. COMMON OR USUAL NAME FOR DILUTED FRUIT OR VEGETABLE JUICE BEVERAGES OTHER THAN DILUTED ORANGE JUICE BEVERAGES

Significance: Regulatory Program

Legal Authority: 21 USC 321(n) Federal Food, Drug and Cosmetic Act; 21 USC 343 Federal Food, Drug and Cosmetic Act; 21 USC 371(a) Federal Food, and Cosmetic Act

CFR Citation: 21 CFR 102.33

Legal Deadline: None

Abstract: In 1980, FDA published a regulation (21 CFR 102.33) to require the declaration of the percent of juice contained in all diluted juice beverages. This regulation was published to extend the percent juice declaration required for diluted orange juice beverages (21 CFR 102.32) to all other diluted juice beverages. These two regulations were developed to provide consumers with information as to the various amounts of juice in the diluted juice beverages offered for sale. The regulation regarding percentage juice declaration for diluted orange juice beverages had been in effect for several years and functioning well before the regulation addressing all other diluted juice beverages was published. With publication of 21 CFR 102.33, a controversy developed over the applicability of the regulation to diluted cranberry juice beverages. The controversy centered around the fact that cranberry juice is a high acid juice and is not normally consumed as a single strength juice. Due to this unresolved controversy, 21 CFR 102.33 has not been made effective. In the FEDERAL REGISTER of July 16, 1987 (52 FR 26690), the agency proposed to revoke the common or usual (cont)

Timetable:

Action	Date	FR Cite
NPRM - To Revoke Regulation	07/16/87	52 FR 26690
NPRM - Comment Period Ends	09/14/87	52 FR 26690
NPRM - Extension of Comment Period	09/25/87	52 FR 36046
NPRM - Extended Comment Period Ends	12/13/87	52 FR 36046
NPRM - Comment Period Reopened	01/22/88	53 FR 1795
NPRM - Reopened Comment Period Ends	01/27/88	53 FR 1795
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: name regulation (21 CFR 102.33) for diluted fruit or vegetable juice beverages other than diluted orange juice beverages. The revocation of this regulation will allow voluntary percentage labeling of these diluted juice beverages at the discretion of the manufacturer and according to the demands of the marketplace. Diluted orange juice beverages would continue to be subject to the percentage labeling requirement that has been in effect for diluted orange juice beverages since 1973. This proposed action also withdraws the proposed rule published in the FEDERAL REGISTER of June 1, 1984 (49 FR 22831), which, among other things, exempted cranberry juice products from percentage ingredient labeling requirements.

Agency Contact: Evelyn Osman, Division of Regulatory Guidance, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C Street, SW, Washington, DC 20204, 202 485-0229

RIN: 0905–AC48

691. PROTECTION OF HUMAN SUBJECTS; INFORMED CONSENT; STANDARDS FOR INSTITUTIONAL REVIEW BOARDS FOR CLINICAL INVESTIGATIONS

Significance: Regulatory Program

Legal Authority: 21 USC 346(a) Federal Food, Drug and Cosmetic Act; 21 USC 351 to 357 Federal Food, Drug and Cosmetic Act; 21 USC 360 Federal Food, Drug and Cosmetic Act; 21 USC 360c to 360f Federal Food, Drug and Cosmetic Act; 21 USC 360h to 360j Federal Food, Drug and Cosmetic Act; 21 USC 371(a) Federal Food, Drug and Cosmetic Act; 21 USC 376 Federal Food, Drug and Cosmetic Act; 21 USC 381 Federal Food, Drug and Cosmetic Act; 42 USC 216 Public Health Service Act; 42 USC 241 Public Health Service Act; 42 USC 262 Public Health Service Act; 42 USC 263b to 263n Public Health Service Act

CFR Citation: 21 CFR 50; 21 CFR 56

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of June 3, 1986 (51 FR 20204), the Office of Science and Technology Policy (OSTP) issued for public comment a proposed Model Federal Policy for the Protection of Human Research Subjects. This Model Policy is to enhance uniformity in the implementation of a common core of regulations governing research with human subjects. FDA has concurred in the proposed Model Policy to the extent permitted by law. FDA has proposed (53 FR 45678) to amend its regulations to eliminate certain inconsistencies with the proposed Model Policy.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45678
NPRM Comment Period End	01/09/89	53 FR 45678
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bonnie M. Lee, Public Health Advisor, Health Assessment Policy Staff, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1382

RIN: 0905–AC52

692. MENSTRUAL TAMPONS; PROPOSED USER LABELING

Significance: Regulatory Program

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 360; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 801.430

Legal Deadline: None

Abstract: FDA has proposed (53 FR 37250) to require manufacturers of menstrual tampons to add to each tampon package label a letter designation of the range of absorbency of the product. The proposal would enable consumers to compare the absorbency of one brand and style of tampons with the absorbency of other brands and styles. The NPRM also proposed requiring that absorbency be determined in accordance with a specific test method.

Timetable:

Action	Date	FR Cite
NPRM	09/23/88	53 FR 37250
NPRM Comment Period End	12/22/88	53 FR 37250
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Les Weinstein, Office of Standards and Regulations, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-4874

RIN: 0905–AC54

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Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 28843
NPRM - Comment Period Ends	11/02/87	52 FR 28843
NPRM - Extension of Comment Period	11/02/87	52 FR 42003
NPRM - Correction of Extension of Comment Period	11/16/87	52 FR 43772
NPRM - Extension of Comment Period Ends	01/04/88	52 FR 43772
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David G. Hattan, Chief, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-204), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905–AB67

688. FOOD LABELING: DEFINITIONS OF CHOLESTEROL FREE, LOW CHOLESTEROL, AND REDUCED CHOLESTEROL

Significance: Regulatory Program

Legal Authority: 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 321(n) Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101.9; 21 CFR 101.25

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of November 25, 1986, the agency published a proposed rule that would provide a mechanism to allow relevant, truthful, and nonmisleading claims about cholesterol and fatty acid on product labeling for consumers. This proposed rule resulted from the medical and consumer interest in the association between dietary fat and cholesterol and the occurrence of coronary heart disease, the leading cause of death and disability in the United States today. The proposed rule would allow industry voluntarily to provide consumers with cholesterol and fatty acid information currently prohibited by regulations by permitting the use of meaningful descriptors of the cholesterol content of foods as established by regulation (e.g., "cholesterol free," "low cholesterol," and "reduced cholesterol"). Additionally, the proposal would allow the use of comparative claims (e.g., 50 percent less cholesterol than our original product), provided quantitative cholesterol content information is supplied. Public comments submitted in response to the proposed rule are being reviewed.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42584
NPRM Extension of Comment Period	01/23/87	52 FR 2558
NPRM Comment Period End	03/27/87	52 FR 2558
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David G. Hattan, Chief, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-204), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905–AB68

689. METHYLENE CHLORIDE

Significance: Agency Priority

Legal Authority: 21 USC 361 Federal Food, Drug, and Cosmetic Act; 21 USC 362 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 700.19

Legal Deadline: None

Abstract: Methylene chloride is used as a solvent in aerosol cosmetic products (hair sprays). Recent carcinogenicity bioassay studies, however, have shown that methylene chloride is an animal carcinogen. These studies indicate that the continued use of methylene chloride, in functional amounts, in such cosmetic products may pose a significant risk to the public health, especially in specific segments of the population that are continually exposed to aerosol cosmetics containing methylene chloride. The agency has been informed of voluntary efforts by the cosmetic industry to replace methylene chloride.

Timetable:

Action	Date	FR Cite
NPRM	12/18/85	50 FR 51551
NPRM - Comment Period Ends	02/18/86	50 FR 51551
NPRM - Comment Period Extended	02/24/86	51 FR 6494
NPRM - Extended Comment Period Ends	04/04/86	51 FR 6494
NPRM - Comment Period Reopened	12/05/86	51 FR 43935
NPRM - Reopened Comment Period Ends	01/05/87	51 FR 43935
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry C. Troxell, Division of Regulatory Guidance, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C Street, SW, Washington, DC 20204, 202 485-0229

RIN: 0905–AC00

690. COMMON OR USUAL NAME FOR DILUTED FRUIT OR VEGETABLE JUICE BEVERAGES OTHER THAN DILUTED ORANGE JUICE BEVERAGES

Significance: Regulatory Program

Legal Authority: 21 USC 321(n) Federal Food, Drug and Cosmetic Act; 21 USC 343 Federal Food, Drug and Cosmetic Act; 21 USC 371(a) Federal Food, and Cosmetic Act

CFR Citation: 21 CFR 102.33

Legal Deadline: None

Abstract: In 1980, FDA published a regulation (21 CFR 102.33) to require the declaration of the percent of juice contained in all diluted juice beverages. This regulation was published to extend the percent juice declaration required for diluted orange juice beverages (21 CFR 102.32) to all other diluted juice beverages. These two regulations were developed to provide consumers with information as to the various amounts of juice in the diluted juice beverages offered for sale. The regulation regarding percentage juice declaration for diluted orange juice beverages had been in effect for several years and functioning well before the regulation addressing all other diluted juice beverages was published. With publication of 21 CFR 102.33, a controversy developed over the applicability of the regulation to diluted cranberry juice beverages. The controversy centered around the fact that cranberry juice is a high acid juice and is not normally consumed as a single strength juice. Due to this unresolved controversy, 21 CFR 102.33 has not been made effective. In the FEDERAL REGISTER of July 16, 1987 (52 FR 26690), the agency proposed to revoke the common or usual (cont)

Timetable:

Action	Date	FR Cite
NPRM - To Revoke Regulation	07/16/87	52 FR 26690
NPRM - Comment Period Ends	09/14/87	52 FR 26690
NPRM - Extension of Comment Period	09/25/87	52 FR 36046
NPRM - Extended Comment Period Ends	12/13/87	52 FR 36046
NPRM - Comment Period Reopened	01/22/88	53 FR 1795
NPRM - Reopened Comment Period Ends	01/27/88	53 FR 1795
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: name regulation (21 CFR 102.33) for diluted fruit or vegetable juice beverages other than diluted orange juice beverages. The revocation of this regulation will allow voluntary percentage labeling of these diluted juice beverages at the discretion of the manufacturer and according to the demands of the marketplace. Diluted orange juice beverages would continue to be subject to the percentage labeling requirement that has been in effect for diluted orange juice beverages since 1973. This proposed action also withdraws the proposed rule published in the FEDERAL REGISTER of June 1, 1984 (49 FR 22831), which, among other things, exempted cranberry juice products from percentage ingredient labeling requirements.

Agency Contact: Evelyn Osman, Division of Regulatory Guidance, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C Street, SW, Washington, DC 20204, 202 485-0229

RIN: 0905–AC48

691. PROTECTION OF HUMAN SUBJECTS; INFORMED CONSENT; STANDARDS FOR INSTITUTIONAL REVIEW BOARDS FOR CLINICAL INVESTIGATIONS

Significance: Regulatory Program

Legal Authority: 21 USC 346(a) Federal Food, Drug and Cosmetic Act; 21 USC 351 to 357 Federal Food, Drug and Cosmetic Act; 21 USC 360 Federal Food, Drug and Cosmetic Act; 21 USC 360c to 360f Federal Food, Drug and Cosmetic Act; 21 USC 360h to 360j Federal Food, Drug and Cosmetic Act; 21 USC 371(a) Federal Food, Drug and Cosmetic Act; 21 USC 376 Federal Food, Drug and Cosmetic Act; 21 USC 381 Federal Food, Drug and Cosmetic Act; 42 USC 216 Public Health Service Act; 42 USC 241 Public Health Service Act; 42 USC 262 Public Health Service Act; 42 USC 263b to 263n Public Health Service Act

CFR Citation: 21 CFR 50; 21 CFR 56

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of June 3, 1986 (51 FR 20204), the Office of Science and Technology Policy (OSTP) issued for public comment a proposed Model Federal Policy for the Protection of Human Research Subjects. This Model Policy is to enhance uniformity in the implementation of a common core of regulations governing research with human subjects. FDA has concurred in the proposed Model Policy to the extent permitted by law. FDA has proposed (53 FR 45678) to amend its regulations to eliminate certain inconsistencies with the proposed Model Policy.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45678
NPRM Comment Period End	01/09/89	53 FR 45678
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bonnie M. Lee, Public Health Advisor, Health Assessment Policy Staff, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1382

RIN: 0905–AC52

692. MENSTRUAL TAMPONS; PROPOSED USER LABELING

Significance: Regulatory Program

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 360; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 801.430

Legal Deadline: None

Abstract: FDA has proposed (53 FR 37250) to require manufacturers of menstrual tampons to add to each tampon package label a letter designation of the range of absorbency of the product. The proposal would enable consumers to compare the absorbency of one brand and style of tampons with the absorbency of other brands and styles. The NPRM also proposed requiring that absorbency be determined in accordance with a specific test method.

Timetable:

Action	Date	FR Cite
NPRM	09/23/88	53 FR 37250
NPRM Comment Period End	12/22/88	53 FR 37250
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Les Weinstein, Office of Standards and Regulations, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-4874

RIN: 0905–AC54

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693. PRESCRIPTION DRUG MARKETING ACT OF 1987; IMPLEMENTATION

Significance: Agency Priority

Legal Authority: PL 100-293

CFR Citation: 21 CFR 399

Legal Deadline: Final, Statutory, October 20, 1988.
Statutory date applies only to issuing guidelines for State licensing of wholesale drug distributors.

Abstract: The Prescription Drug Marketing Act of 1987 (the new law) amends the Federal Food, Drug, and Cosmetic Act to: (1) require State licensing of wholesale distributors of prescription human drugs under Federal guidelines including minimum standards for storage, handling, and recordkeeping; (2) ban the reimportation of prescription human drugs produced in the United States, except when reimported by the manufacturer or for emergency use; (3) ban the sale, trade, or purchase of drug samples; (4) ban trafficking in or counterfeiting of drug coupons; (5) mandate storage, handling, and recordkeeping requirements for drug samples; (6) require practitioners to request drug samples in writing; (7) prohibit, with certain exceptions, the resale of prescription human drugs purchased by hospitals or health care facilities; and (8) set forth criminal and civil penalties for violations of these provisions. The new law requires that the guidelines under (1) above be promulgated as a regulation, through notice and comment rulemaking. It also provides that the prohibition against distribution of prescription drugs by unlicensed wholesalers becomes effective two years (cont)

Timetable:

Action	Date	FR Cite
Final Decision on Further Regulations	00/00/00	

Prescription Drug Marketing Act; Information Letter
Notice 06/06/88 (53 FR 29776)
Reimportation of Prescription Drugs; Import Alert
Notice 07/26/88 (53 FR 28069)
Wholesale Drug Distributors; Guidelines for State Licensing
NPRM 09/13/88 (53 FR 35325)
NPRM Public Comment Period End 10/13/88
Final Action 09/00/89

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: after the final regulation is published by the agency in the FEDERAL REGISTER. FDA has developed guidance information respecting other sections of the new law. After seeking comments from the regulated industry and other interested persons, the agency will decide what, if any, regulations are necessary for implementing the other sections and will establish timeframes for the development of those regulations.

Agency Contact: Richard Arkin, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, **301 295-8046**

RIN: 0905–AC81

694. ● EXPEDITING APPROVAL FOR DRUGS INTENDED TO TREAT LIFE-THREATENING AND SEVERELY-DEBILITATING ILLNESSES

Significance: Regulatory Program

Legal Authority: 21 USC 351 to 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of October 21, 1988 (53 FR 41561), FDA issued an interim rule effective upon date of publication, with opportunity for public comment, that set forth procedures designed to speed the availability of new therapies to desperately ill patients, while preserving appropriate guarantees for safety and effectiveness. These procedures are intended to facilitate the development, evaluation, and marketing of such products, especially where no satisfactory alternative therapies exist. These procedures reflect the recognition that physicians and patients are generally willing to accept greater risks or side effects from products that treat life-threatening and severely-debilitating illness. These procedures also reflect the recognition that the benefits of the drug need to be evaluated in light of the severity of the disease being treated. The procedures apply to life-threatening or severely-debilitating illnesses. The agency is reviewing the public comments submitted in response to the interim rule and preparing a FEDERAL REGISTER document that will respond to these comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/88	53 FR 41561
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven H. Unger, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, **301 295-8049**

RIN: 0905–AC94

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions
Public Health Service (PHS)—Food and Drug Administration (FDA)

695. AVAILABILITY OF BULK NEW ANIMAL DRUG SUBSTANCES FOR USE BY LICENSED VETERINARIANS

Significance: Agency Priority

CFR Citation: 21 CFR 514.1

Completed:

Reason	Date	FR Cite
Withdrawn	03/27/89	54 FR 12454

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald A. Gable, Director **301 443-1414**

RIN: 0905–AB01

696. ABBREVIATED NEW ANIMAL DRUG APPLICATIONS FOR POST-1962 ANIMAL DRUGS

Significance: Agency Priority

CFR Citation: 21 CFR 514.1; 21 CFR 514.2; 21 CFR 514.3; 21 CFR 514.11

Completed:

Reason	Date	FR Cite
Withdrawn Superseded by Title I of Generic Animal Drug Act	11/00/88	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard A. Carnevale **301 443-4314**

RIN: 0905–AB72

697. TAMPER-RESISTANT PACKAGING REQUIREMENTS FOR OVER-THE-COUNTER (OTC) DRUGS

Significance: Regulatory Program

CFR Citation: 21 CFR 211.132

Completed:

Reason	Date	FR Cite
Final Action	02/02/89	54 FR 5227
Final Action Effective	02/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Diane Goyette **301 295-8046**

RIN: 0905–AC70

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage
Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

698. NURSING POST-BACCALAUREATE FACULTY FELLOWSHIPS PROGRAM

Legal Authority: 42 USC 216; 42 USC 1

CFR Citation: 42 CFR 57, (proposed Subpart BB)

Legal Deadline: None

Abstract: These proposed regulations would implement section 830 (b) of the Public Health Service Act relating to post-baccalaureate fellowships for faculty to conform with the Nurse Education Amendments of 1985 (Pub. L. 99-92).

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-5786**

RIN: 0905–AC34

699. AREA HEALTH EDUCATION CENTER (AHEC) PROGRAM

Legal Authority: 42 USC 216; 42 USC 295g-l

CFR Citation: 42 CFR 57, Subpart MM

Legal Deadline: None

Abstract: This NPRM proposes to amend the existing regulations governing the Area Health Education Center Program, under section 781 of the Public Health Service Act, to incorporate amendments made by Pub. L. 100-607, of Title VI of the Health Professions Reauthorization Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Weaver, M.D., Director, Division of Medicine, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-6190**

RIN: 0905–AC67

700. DESIGNATION OF MENTAL HEALTH MANPOWER SHORTAGE AREAS

Legal Authority: 42 USC 216; 42 USC 254e

CFR Citation: 42 CFR 5

Legal Deadline: None

Abstract: This notice proposes an amendment to the existing regulations governing the Designation of Health Manpower Shortage Areas authorized by section 332 of the Public Health Service Act, which would replace the current criteria for designations of areas having shortages of psychiatrists with criteria for mental health manpower shortage areas to include not only psychiatrists but also other core mental health professionals (clinical psychologists, psychiatric social workers and psychiatric nurses) in a geographic area.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Director, Office of Program & Policy, Development, BHCDA, Department of Health and Human Services, Public Health Service, Room 7A08, Parklawn Building, Rockville, MD 20857, **301 443-1034**

RIN: 0905–AC68

701. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: BANKRUPTCY REVISIONS

Legal Authority: 42 USC 216; 42 USC 294 to 2941

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This NPRM would amend existing regulations governing the

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Health Education Assistance Loan (HEAL) Program, as authorized by sections 727-739 of the Public Health Service Act, to include revised procedures for handling HEAL bankruptcies.

Timetable:

Action	Date	FR Cite
NPRM	09/29/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peggy Washburn, Chief, Program Development Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-4540

RIN: 0905–AC75

702. NURSING STUDENT LOAN (NSL) PROGRAM: CASH MANAGEMENT

Legal Authority: 42 USC 216; 42 USC 297a to 297h

CFR Citation: 42 CFR 57, Subpart D

Legal Deadline: None

Abstract: This NPRM would revise the existing regulations governing the Nursing Student Loan (NSL) Program to improve the cash management practices of schools participating in the program. The revisions address recommendations made by the General Accounting Office in its report on debts owed by health professionals, including nurses, and the Office of the Inspector General as a result of several major cash management audits. This notice will also incorporate technical amendments to the existing regulations made by Pub. L. 100-607, Title VII of the Nursing Shortage Reduction and Education Extension Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peggy Washburn, Chief, Program Development Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-4540

RIN: 0905–AC76

703. HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: CASH MANAGEMENT

Legal Authority: 42 USC 216; 42 USC 294m to 294q

CFR Citation: 42 CFR 57, Subpart C

Legal Deadline: None

Abstract: This NPRM would revise the existing regulations governing the Health Professions Student Loan program to improve the cash management practices of schools participating in the program. The revisions address recommendations made by the General Accounting Office in its report on debts owed by health professionals, and the Office of Inspector General as a result of several major cash management audits. This notice will also incorporate technical amendments to the existing regulations made by Pub. L. 100-607, Title VI of the Health Professions Reauthorization Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peggy Washburn, Chief, Program Development Branch, DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-4540

RIN: 0905–AC78

704. ● GRANTS FOR COMMUNITY HEALTH CENTERS

Significance: Regulatory Program

Legal Authority: PL 100-386; PL 95-626; PL 99-280

CFR Citation: 42 CFR 51c

Legal Deadline: None

Abstract: This regulation will amend the existing regulations at 42 CFR 51c, Subpart A-E, to bring them into conformance with amendments to Section 330 of the Public Health Service Act which were enacted in 1986 and 1988. These include extension of the program authorization, addition of capital construction authority, and changes regarding program income and services. PL 99-280 requires that the Secretary consult with the Chief Executive Officer and local officials of a State in publishing MUP designation criteria and in designating or de-designating MUP. The amendment also requires the Secretary to consult with State organizations representing a majority of Community Health Centers in the State.

Timetable:

Action	Date	FR Cite
NPRM	06/13/89	
NPRM Comment Period End	08/13/89	
Final Action	12/13/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Libby Merrill, Program Analyst, Bureau of Health Care Delivery & Assistance, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1034

RIN: 0905–AC85

705. ● GRANTS FOR MIGRANT HEALTH SERVICES

Legal Authority: PL 100-386; PL 95-626

CFR Citation: 42 CFR 56

Legal Deadline: None

Abstract: This regulation will amend the existing regulations at 42 CFR 56, Subparts A-H, to bring them into conformance with amendments to section 329 of the PHS Act. They were enacted in 1986 and 1988. These include extension of the program authorization, addition of peri-natal program authorization, addition of capital construction authority, and changes regarding program income and services.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	09/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Director, Office of Program & Policy, Development, BHCDA, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1034

RIN: 0905–AC86

706. ● HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: PERFORMANCE STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 294 to 294 l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This proposed rule would amend existing regulations governing the HEAL program to establish performance standards against which school, lender, and holder default rates would be measured. These standards would provide schools, lenders, and holders a greater incentive to work to maintain low HEAL default rates and, thus, improve the long-term solvency of the Student Loan Insurance Fund.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
Final Action	01/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peggy Washburn, Chief, Program Development Branch, DSA, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 8-48, Parklawn Building, Rockville, MD 20857, 301 443-4540

RIN: 0905–AC87

707. ● NATIONAL DATA BANK FOR ADVERSE INFORMATION ON HEALTH CARE PRACTITIONERS AND PROVIDERS (SECTION 5 AMENDMENTS)

Significance: Regulatory Program

Legal Authority: 42 USC 11101 to 11152; 42 USC 1396 r-2

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: This proposed rule would amend existing regulations governing the National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners to implement section 5 of the Medicare and Medicaid Patient and Program Protection Act of 1987. This provision requires States to report to the Secretary of HHS certain adverse licensure actions taken against health care practitioners and health care entities.

Timetable:

Action	Date	FR Cite
NPRM	06/14/89	
Final Action	01/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel D. Cowell, M.D., Director, Office of Quality Assurance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Room 8-15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-2300

RIN: 0905–AC88

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) Final Rule Stage

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

708. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: IMPLEMENTATION OF PUB. L. 99-129 (ALLIED HEALTH)

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This rule implements provisions of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129).

Timetable:

Action	Date	FR Cite
NPRM	11/07/88	53 FR 44913
NPRM Comment Period End	01/06/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905–AC28

709. GRANTS FOR NURSE PRACTITIONER AND NURSE MIDWIFERY TRAINEESHIP PROGRAMS

Legal Authority: 42 USC 216; 42 USC 296m

CFR Citation: 42 CFR 57, Subpart AA

Legal Deadline: None

Abstract: These proposed regulations would implement the provisions of the Nurse Education Amendments of 1985 (Pub. L. 99-92), add debt management provisions of the Debt Collection Act of 1982 (Pub. L. 97-365), and incorporate technical amendments to the existing regulations made by Pub. L. 100-607, Title VII of the Nursing Shortage Reduction and Education Extension Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16158
NPRM Comment Period End	07/05/88	
Final Action	07/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5786

RIN: 0905–AC30

710. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS

Significance: Regulatory Program

Legal Authority: 42 USC 11136; 42 USC 11137

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HHS—PHS—HRSA — **Final Rule Stage**

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: This rule proposes to implement the Health Care Quality Improvement Act of 1986, Title IV of PL 99-660, specifically related to section 426 for the disclosure and correction of information and section 427(b) for confidentiality of information .

Timetable:

Action	Date	FR Cite
NPRM	03/21/88	53 FR 9260
NPRM Comment Period End	05/20/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel D. Cowell, M.D., Director, Office of Quality Assurance, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 8-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-2300

RIN: 0905–AC51

711. NATIONAL HEALTH SERVICE CORPS, STATE LOAN REPAYMENT AND SPECIAL REPAYMENT PROGRAMS

Significance: Regulatory Program

Legal Authority: PL 100-177

CFR Citation: 42 CFR 62.21 to 62.27; 42 CFR 62.51 to 62.56; 42 CFR 62.71 to 62.76

Legal Deadline: Final, Statutory, May 28, 1988.

Abstract: The National Health Service Corps Amendments of 1987, PL 100-177 amends the Public Health Service Act adding a new section at 338B of the Act authorizing the Secretary to establish the NHSC Loan Repayment Program. PL 100-177 also amends the PHS Act by adding a new section 338H authorizing the Secretary to establish a program of matching grants to support state loan repayment programs similar to the Federal Loan Repayment Program. PL 100- 177 also establishes a new program which is not part of the PHS Act which provides a time limited opportunity for persons in default of their scholarship obligation as of November 1, 1987 to repay these obligations through service or through a combination of service and monetary payment. The publication of the regulations beyond the statutory date will not have any impact on the funding or implementation of the programs affected by these regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/03/89	54 FR 13458
Interim Final Rule Comment Period End	06/02/89	54 FR 13458
Final Action	03/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Director, Program and Policy, Development, BHCDA, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 7A08, Rockville, MD 20857, 301 443-1034

RIN: 0905–AC65

712. GRANTS FOR FACULTY TRAINING PROJECTS IN GERIATRIC MEDICINE AND DENTISTRY

Legal Authority: 42 USC 216; 42 USC 295g-8

CFR Citation: 42 CFR 57, (proposed Subpart PP)

Legal Deadline: None

Abstract: These proposed rules would govern grants made to schools of medicine, schools of osteopathy, teaching hospitals and graduate medical education programs for the purpose of providing support, including traineeships and fellowships, for geriatric medicine training projects to train physicians and dentists who plan to teach geriatric medicine or geriatric dentistry, in accordance with PL 100-177, the Public Health Amendments of 1987.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44496
NPRM Comment Period End	01/03/89	
Final Action	07/03/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Weaver, M.D., Director, Division of Medicine, BHPr, Department of Health and Human Services, Public Health Service, Room 4c-25 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6190

RIN: 0905–AC71

713. GRANTS FOR CENTERS FOR EXCELLENCE

Legal Authority: 42 USC 295g-8a

CFR Citation: 42 CFR 57, (proposed Subpart V)

Legal Deadline: None

Abstract: This NPRM proposes to establish regulations for Grants for Centers for Excellence, authorized by section 788A of the Public Health Service Act, to make grants to health professions schools to assist such schools in supporting programs of excellence in health professions education for minority individuals.

Timetable:

Action	Date	FR Cite
NPRM	12/09/88	53 FR 49690
NPRM Comment Period End	02/07/89	
Final Action	07/19/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clay E. Simpson, Jr., Ph.D., Director, Division of Disadvantaged, Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8A-09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-2100

RIN: 0905–AC77

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Completed Actions**

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

714. GRANTS FOR RESIDENCY TRAINING AND FACULTY DEVELOPMENT IN GENERAL INTERNAL MEDICINE AND/OR GENERAL PEDIATRICS

CFR Citation: 42 CFR 57, Subpart FF

Completed:

Reason	Date	FR Cite
Final Action	12/15/88	53 FR 50407
Final Action Effective	12/15/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Weaver, M.D. 301 443-6190

RIN: 0905–AB50

715. NURSING STUDENT LOAN (NSL) PROGRAM: IMPLEMENTATION OF THE LAW (PUB. L. 99-92)

CFR Citation: 42 CFR 57, Subpart D

Completed:

Reason	Date	FR Cite
Final Action Correction Notice 12/09/88 53 FR 49824	11/17/88	53 FR 46552
Final Action Effective	11/17/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Peggy Washburn 301 443-4540

RIN: 0905–AC31

716. HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: IMPLEMENTATION OF THE LAW (PUB. L. 99-129)

CFR Citation: 42 CFR 57, Subpart C

Completed:

Reason	Date	FR Cite
Final Action Correction Notice 12/09/8853FR 49824	11/17/88	53 FR 46546
Final Action Effective	11/17/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Peggy Washburn 301 443-4540

RIN: 0905–AC32

717. GRANTS FOR HEALTH PROFESSIONS PROJECTS IN GERIATRICS

CFR Citation: 42 CFR 57, (proposed Subpart 00)

Completed:

Reason	Date	FR Cite
Final Action	02/06/89	54 FR 5615
Final Action Effective	02/06/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas L. Louden, D.D.S. 301 443-6853

RIN: 0905–AC33

718. GRANTS FOR COMMUNITY HEALTH SERVICES: CRITERIA AND PROCEDURE FOR DETERMINING MEDICALLY UNDERSERVED POPULATIONS (MUP)

CFR Citation: 42 CFR 51c

Completed:

Reason	Date	FR Cite
Withdrawn This regulation is being combined with AC85	04/00/89	

719. HEALTH MANPOWER SHORTAGE AREA DESIGNATION CRITERIA FOR CORRECTIONAL FACILITIES

CFR Citation: 42 CFR 5

Completed:

Reason	Date	FR Cite
Final Action	03/02/89	54 FR 8735
Final Action Effective	03/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams 301 443-1034

RIN: 0905–AC50

720. HEALTH EDUCATION ASSISTANCE LOAN (HEAL): LITIGATION

CFR Citation: 42 CFR 60

Completed:

Reason	Date	FR Cite
Withdrawn Superseded by Pub. L. 100-607. New action to follow	01/06/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Peggy Washburn 301 443-4540

RIN: 0905–AC69

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Proposed Rule Stage**

Public Health Service (PHS)—Indian Health Service (IHS)

721. ● INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM REGULATIONS

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: Public Law 100-713, enacted November 23, 1988, authorized a program in which health professionals would have their health professions education loans repayed in amounts up to a maximum of $25,000 per year in exchange for service in an Indian health program. The Secretary is directed to implement some provisions by regulations, i.e., waiver provision.

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HHS—PHS—IHS — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
NPRM Comment Period End	11/00/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darrell Pratt, Chief, Manpower Support Branch, Indian Health Service, Department of Health and Human Services, Public Health Service, Rm. 9A22, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, 301 443-4243

RIN: 0905–AC96

722. ● INDIAN HEALTH CATASTROPHIC HEALTH EMERGENCY FUND PROGRAM

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: Public Law 100-713, enacted November 23, 1988, authorized a new program establishing a catastrophic health emergency fund. The Secretary is directed to establish the program by regulations consistent with provisions of the Law including a definition of a catastrophic disease.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, Indian Health Service, Department of Health and Human Services, Public Health Service, Rm 6A20, Parklawn Bldg., 5600 Fishers Lave, Rockville, MD 20857, 301 443-1116

RIN: 0905–AC97

723. ● REVISION OF INDIAN SELF-DETERMINATION REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 450; PL 100-202; PL 100-446; PL 100-472; PL 100-581

CFR Citation: 42 CFR 36; 48 CFR 380.4; 48 CFR 352.280-4

Legal Deadline: NPRM, Statutory, May 5, 1989. Final, Statutory, August 5, 1989.

Abstract: Public Law 93-638 passed in 1975, requires the IHS to turn over administrative responsibility to tribes so requesting, using the mechanism of contracting. Public Law 93-638 also authorizes the IHS to make grants to tribe(s) for the planning, development, and/or operations of health programs. Public Law 100-472, enacted October 5, 1988, significantly expands the scope of programs covered beyond those administered by IHS. This Act further provided that all contracting requirements be contained in regulations promulgated in final within ten months of enactment. The Law provides for tribal consultation and participation in the development of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/03/89	
NPRM Comment Period End	09/03/89	
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div., of Legislation and Regulations, Indian Health Service, Department of Health and Human Services, Public Health Service, Rm. 6A20, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, 301 443-1116

RIN: 0905–AC96

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage

Public Health Service (PHS)—National Institutes of Health (NIH)

724. CHANGES IN NIH PROGRAM REGULATIONS DUE TO P.L. 99-158,P.L. 99-499 AND TITLE X OF P.L. 99-660

Legal Authority: PL 99-158, Sec 2; PL 99-499, Sec 128; PL 99-499, Sec 209; PL 99-660, Title X

CFR Citation: 42 CFR 4; 42 CFR 52 to 52h; 42 CFR 59a; 42 CFR 64; 42 CFR 66

Legal Deadline: None

Abstract: The regulations of the National Institutes of Health will be revised to show changed section numbers in the PHS Act and reflect program changes under the Health Research Extension Act of 1985 (P.L. 99-158), the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499), and the provisions of Title X of P.L. 99-660 concerning Alzheimer's Disease and Related Dementias Research.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Lowell D. Peart, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, 31/3B07, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AC02

725. NATIONAL INSTITUTES OF HEALTH CENTER GRANTS 42 CFR PART 52A

Legal Authority: 42 USC 216; 42 USC 285a-3; 42 USC 285b-4; 42 USC 285c-5; 42 USC 285d-6; 42 USC 285e-2

CFR Citation: 42 CFR 52a

Legal Deadline: None

Abstract: The NIH Center Grants Regulations will be revised to incorporate changes necessitated by the Health Research Extension Act of 1985 (P.L. 99-158).

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

HHS—PHS—NIH — Proposed Rule Stage

Agency Contact: Lowell D. Peart, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, 31/3B07, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AC27

726. ● VOLUNTEER SERVICES AT THE NATIONAL INSTITUTES OF HEALTH

Legal Authority: 42 USC 282(b)(10); 42 USC 284(b)(1)(k)

CFR Citation: 45 CFR 57A

Legal Deadline: None

Abstract: Sections 402 and 405 of the PHS Act authorize the Secretary, HHS, acting through the Director, NIH, and the Directors of the NIH's Institutes, to accept the uncompensated services of volunteers in carrying out the functions of the NIH. These regulations would describe the process for accepting volunteered service and for benefits and limitations on those who volunteer.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John D. Mahoney, Associate Director for Administration, NIH, Department of Health and Human Services, Public Health Service, NIH, Bldg. 1, Rm. 136, 9000 Rockville Pike, Bethesda, MD 20205, 301 496-4466

RIN: 0905–AC95

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Public Health Service (PHS)—National Institutes of Health (NIH)

727. NATIONAL LIBRARY OF MEDICINE PROGRAMS. REVISION OF GENERAL RULES FOR THE NATIONAL LIBRARY OF MEDICINE AND NATIONAL LIBRARY OF MEDICINE GRANTS

Legal Authority: 42 USC 216; 42 USC 286; 42 USC 286b-2; 42 USC 286b-3; 42 USC 286b-5; 42 USC 286b-6; 42 USC 284

CFR Citation: 42 CFR 4; 42 CFR 59a; 42 CFR 63; 42 CFR 64

Legal Deadline: None

Abstract: All of the regulations are being substantially clarified and reduced in size by eliminating out of date or otherwise available information. The regulations at 42 CFR Part 4 pertain to the access of facilities and library collections. Those at 42 CFR Part 59a deal with NLM extramural programs. Part 59a is being amended to remove the requirement that photocopies of biomedical material be provided without charge to users. The regulations at 42 CFR Part 63 deal with both NIH and NLM traineeships. Part 63 is proposed to be revised to reflect authority in section 405, PHS Act. The regulations at 42 CFR Part 64 govern the training grants of NIH and NLM.

Timetable:

Action	Date	FR Cite
NPRM	02/11/85	50 FR 05638
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Carney, Executive Officer, Department of Health and Human Services, Public Health Service, National Library of Medicine, Bethesda, MD 20894, 301 496-6491

RIN: 0905–AA66

728. MISCONDUCT IN SCIENCE

Significance: Regulatory Program

Legal Authority: 42 USC 241; 42 USC 289b

CFR Citation: 42 CFR 50

Legal Deadline: None

Abstract: Recipients of Public Health Service research and research training funds do not presently have sufficient guidance regarding their responsibility to investigate and report possible misconduct in PHS-funded research or research training. While many institutions have voluntarily established procedures for dealing with misconduct in science, they are not required to do so and in many recent instances the lack of defined procedures has delayed or compromised awardees' investigations. Institutional policies regarding reports to funding agencies vary considerably. The proposed regulation will define the point at which funding agencies are notified and will require awardees to develop procedures for dealing with misconduct in science. Section 493 of the PHS Act requires that the HHS Secretary issue regulations.

Timetable:

Action	Date	FR Cite
ANPRM	09/19/88	53 FR 36344
NPRM	09/19/88	53 FR 36347
ANPRM Comment Period End	11/18/88	
NPRM Comment Period End	11/18/88	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George J. Galasso, Ph.D., Associate Director for Extramural Affairs, Department of Health and Human Services, Public Health Service, National Inst. of Health, Bldg. 1, Rm. 111, 9000 Rockville Pike, Bethesda, MD 20892, 301 496-5356

RIN: 0905–AB91

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Proposed Rule Stage**

Health Care Financing Administration (HCFA)

729. ADMINISTRATIVE APPEALS PROCESS FOR PROVIDER PAYMENT DISPUTES INCLUDING AMENDING COST REPORTS & REOPENING INTERMEDIARY PAYMENT DETERMINATIONS & ADMINISTRATIVE REVIEW DECISIONS

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395l; 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395ww; 42 USC 1395xx; 42 USC 406; 42 USC 1395li; 42 USC 1395oo

CFR Citation: 42 CFR 405.453; 42 CFR 405.1833; 42 CFR 405.1885; 42 CFR 405.1887; 42 CFR 405.1803; 42 CFR 405.1811(a); 42 CFR 405.1813; 42 CFR 405.1837; 42 CFR 405.1841; 42 CFR 405.1863; 42 CFR 405.1877; 42 CFR 405.1889; 42 CFR 412.72(b)

Legal Deadline: None

Abstract: This proposal would clarify and establish rules governing the administrative appeals process for providing appeals of payment disputes including rules distinguishing between the amending of cost reports and the reopening of Medicare intermediary payment determinations and administrative review decisions. This proposal would provide guidance to intermediaries and the Provider Reimbursement Review Board concerning the circumstances under which those actions may be taken.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Olenick, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicare Eligibility Policy, Room 323 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4472

RIN: 0938-AA33

730. MEDICAID ELIGIBILITY AND COVERAGE REQUIREMENTS

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1302; 42 USC 1396a(f); 42 USC 1396a(a)(17); 42 USC 1396b(f)(1); 42 USC 1396d(a)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This regulation would amend the regulations for coverage of certain groups of individuals under Medicare and the requirements for determining Medicaid eligibility. The amendments would implement or conform the regulations to various statutes, including the Tax Equity and Fiscal Responsibility Act of 1982, the Omnibus Budget Reconciliation Act of 1987 and the Medicare Catastrophic Coverage Act of 1988. The amendments would also make some administrative changes to clarify policy and enhance the efficient operation of the Medicaid program (for example, clarification of policy on establishing the medically needy income level for one person).

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div of Medicaid Eligibility, Room 416, East High Rise Bldg, 6325 Security Blvd, Baltimore, MD 21207, 301 966-4451

RIN: 0938-AA58

731. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN)

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(10); 42 USC 1396a(a)(17)

CFR Citation: 42 CFR 435.732; 42 CFR 435.831; 42 CFR 436.831

Legal Deadline: None

Abstract: These regulations will permit States to revise the process by which medical expenses are considered in determining Medicaid eligibility. This process applies when an individual's income level during a budget period would ordinarily preclude eligibility except that incurred medical expenses reduce income to the eligibility level.

Timetable:

Action	Date	FR Cite
NPRM	09/02/83	48 FR 39959
NPRM Comment Period End	11/01/83	
Developing detailed study of issues	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Marinos Svolos, Director, Div. of Medicaid Eligibility, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise Bldg., 6325 Security Boulevard, Baltimore, MD 21207, 301 966-4451

RIN: 0938-AB07

732. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY SERVICES

Legal Authority: 42 USC 1395l(a)(1)(D); 42 USC 1395l(a)(2)(D); 42 USC 1395l(b)(3); 42 USC 1395l(h); 42 USC 1395cc(a)(2)(A); 42 USC 1396b(i)(7); PL 100-203, Sec 4064

CFR Citation: 42 CFR 405.439; 42 CFR 405.501; 42 CFR 405.502; 42 CFR 405.505; 42 CFR 405.511; 42 CFR 405.516; 42 CFR 405.1672; 42 CFR 405.1675; 42 CFR 405.1684; 42 CFR 431.54; 42 CFR 447.10; 42 CFR 447.300; 42 CFR 447.321; 42 CFR 447.342

Legal Deadline: None

Abstract: These regulations would implement provisions of Pub.L. 98-369, 99-272, 99-509 and 100-203 regarding payment and "assignment" for diagnostic clinical laboratory tests, establishing in regulations the methods for implementing fee schedules. This rule would set forth the methods by which the fee schedules would be updated and would allow certain adjustment or exceptions to the fee schedules. In accordance with the statute, the regulations would provide that on January 1, 1990 and thereafter, fees will be determined on a nationwide basis.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medical Services Reimbursement, Room 1-A-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938-AB50

HHS—HCFA — **Proposed Rule Stage**

733. PAYMENT FOR THE SERVICES OF PHYSICIANS FURNISHED IN TEACHING SETTINGS AND OTHER PROVIDERS

Legal Authority: 42 USC 1395xx; 42 USC 1302; 42 USC 1395l(a)(2); 42 USC 1395hh; 42 USC 1395x(b); 42 USC 1395x(v)(1)(C); 42 USC 1395x(v)(1)(D); 42 USC 1395k(a)(2)(B)(i); 42 USC 1395u(b)(7)

CFR Citation: 42 CFR 405.465; 42 CFR 405.466; 42 CFR 405.480; 42 CFR 405.481; 42 CFR 405.482; 42 CFR 405.522; 42 CFR 405.523; 42 CFR 405.524; 42 CFR 405.525; 42 CFR 405.550; 42 CFR 405.551; 42 CFR 405.552; 42 CFR 405.553; 42 CFR 405.554; 42 CFR 405.555; ...

Legal Deadline: None

Abstract: These regulations will implement provisions of section 948 of P.L. 98-499 and section 2307 of P.L. 98-369. This legislation deals with certain problems that have arisen in the Medicare program with respect to payment for physicians in the teaching setting. Specifically addressed by Congress is the problem of distinguishing between the services a physician furnishes to individual patients as a teaching physician and services furnished to the provider, as well as the method of reimbursement for these services. This rule sets forth the conditions under which physicians in teaching settings will be reimbursed on a reasonable cost basis or, alternatively, on a reasonable charge basis. It also describes the methods used to determine the customary charges for the services of those physicians. This rule will also clarify related issues of physician reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	02/07/89	54 FR 5946
NPRM Comment Period End	04/10/89	54 FR 5946
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Reimbursement, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938-AB61

734. HOSPICE/CASE MANAGEMENT

Legal Authority: 42 USC 1396d(a)(18); 42 USC 1396d(o); 42 USC 1396b(a)(13)(C); 42 USC 1396o(a)(2)(E); 42 USC 1302; 42 USC 1396n(g)

CFR Citation: 42 CFR 418.32; 42 CFR 431.50; 42 CFR 435.218; 42 CFR 435.231; 42 CFR 440.185; 42 CFR 440.190; 42 CFR 440.250; 42 CFR 441; 42 CFR 447.53; 42 CFR 447.327; 42 CFR 447.381 to 384; 42 CFR 435.726; 42 CFR 435.735; 42 CFR 436.231; 42 CFR 441.18; ...

Legal Deadline: None

Abstract: These regulations would implement 3 provisions of Pub. L. 99-272: (1) under section 9505, Medicaid coverage of hospice care at State option, the regulations would establish eligibility requirements, covered services, reimbursement procedures and conditions of participation; (2) under section 9508, Medicaid coverage of case management services, at State option case management services may be furnished to specific Medicaid groups or geographic areas within a State; (3) under section 9123 there is an indefinite extension of the Medicare hospice benefit, which was scheduled to end on 09/30/86. These regulations would also implement sections 9411, 9412, and 9435d of Pub. L. 99-509, and section 1895(c) of Pub. L. 99-514, all relating to optional State coverage of case management and hospice services for the Medicaid population.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Thomas Hoyer, Director, Div. of Provider Services & Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4607

RIN: 0938-AC52

735. REVISED EFFECTIVE DATE OF MEDICARE/MEDICAID PROVIDER AGREEMENT AND SUPPLIER PARTICIPATION

Legal Authority: 42 USC 1302; 42 USC 1395cc; 42 USC 1393ff(c); 42 USC 1395hh; 42 USC 1396i

CFR Citation: 42 CFR 440.10; 42 CFR 440.70; 42 CFR 442.13; 42 CFR 488.11; 42 CFR 489.13; 42 CFR 498.3

Legal Deadline: None

Abstract: This proposed rule would establish uniform rules for determining the effective date of participation for all Medicare and Medicaid providers and suppliers. It would also specify that those dissatisfied with a decision on their effective date of participation under Medicare are entitled to a Medicare reconsideration and hearing on the decisions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Alfreda Stanton, Program Analyst, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 966-6770

RIN: 0938-AC88

736. PRO REVIEW OF SURGICAL PROCEDURES AND REQUIREMENTS FOR SECOND OPINIONS

Legal Authority: 42 USC 1320c-13; 42 USC 1302; 42 USC 1395hh; 42 USC 1395pp

CFR Citation: 42 CFR 466.150 to 190; 42 CFR 473.12; 42 CFR 473.14; 42 CFR 473.40; 42 CFR 405.332

Legal Deadline: None

Abstract: This proposed rule would implement section 9401 of Pub.L. 99-272, which provides that, under Medicare, a physician must request from the Peer Review Organization (PRO) preadmission review for certain surgical procedures. Under section 9401, if the PRO determines that the procedure is not appropriate and medically necessary, the PRO will deny payment under Medicare. If the PRO cannot determine whether a surgical procedure is medically necessary and appropriate, the beneficiary would obtain an opinion from a second physician, or where the opinion of the second physician differs from the first physician, the beneficiary may obtain an opinion from a third

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physician. In addition, as required by section 4086(b) of Pub. L.100-203, if an assigned claim by a physician or supplier or any claim by a provider is denied because the services furnished are not reasonable and necessary or constitute custodial care and the physician, suppler or provider, but not the beneficiary, knew, or reasonably could be expected to know, that the services were not covered by Medicare. (Continued under Additional Information)

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: (Abstract Continued): the physician, supplier or provider would not be entitled to collect and retain payment from the beneficiary for those services.

Agency Contact: Richard Husk, Director, Office of Medical Review, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, **301 966-6850**

RIN: 0938–AC90

737. PAYMENT FOR THE COST OF MALPRACTICE INSURANCE FOR HOSPITALS EXCLUDED FROM THE PROSPECTIVE PAYMENT SYSTEM

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(v)(1)(A)

CFR Citation: 42 CFR 413.56

Legal Deadline: None

Abstract: Medicare's share of payment for the cost of a hospital's malpractice insurance is determined in part through the use of a scaling factor formula. In this notice, we are undertaking to develop a separate set of values for use in the scaling factor formula for hospitals excluded from the prospective payment system.

Timetable:

Action	Date	FR Cite
Notice	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Trimble, Special Assistant, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, **301 966-4509**

RIN: 0938–AC97

738. CHANGES CONCERNING THE DEFINITION OF ACCRUAL BASIS OF ACCOUNTING

Legal Authority: 42 USC 1395x(v)(1)(A); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.24

Legal Deadline: None

Abstract: This rule proposes to revise the Medicare regulations to clarify the definition of "accrual basis of accounting" to indicate that expenses must be incurred by provider of health care services before Medicare will pay its share of those expenses. This change is intended to conform the regulations with the law and to promote economy and efficiency in the administration of the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, **301 966-4513**

RIN: 0938–AD01

739. OPTIONAL PAYMENT SYSTEM FOR LOW MEDICARE VOLUME SKILLED NURSING FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395yy(d); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.200; 42 CFR 413.202; 42 CFR 413.204; 42 CFR 413.206; 42 CFR 413.210; 42 CFR 413.212; 42 CFR 413.214; 42 CFR 413.216; 42 CFR 413.220; 42 CFR 413.221; 42 CFR 413.1; 42 CFR 413.24

Legal Deadline: None

Abstract: This rule proposes to establish optional prospective payment rates for routine services furnished by certain skilled nursing facilities. The prospective rate would be on a per diem basis and would include payment for the cost of furnishing general inpatient routine services and associated capital-related costs. Ancillary services will be paid on the basis of reasonable cost. As specified in the Conference Committee Report accompanying PL 99-272, the rates paid to proprietary SNFs would include a component for the routine service portion of the return on equity capital. As specified in section 1861(v)(1)(B) of the Act, the return on equity component would only be included in the rate paid to proprietary SNFs. This rule would propose instructions for determining eligibility for payment under this system, and the methodology for calculating the prospective payment rates. Freestanding SNFs electing to be paid under this prospective payment system may file a simplified cost report.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, **301 966-4513**

RIN: 0938–AD02

740. RECOGNITION OF JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE ORGANIZATIONS' HOME CARE PROGRAM STANDARDS AND THE NATIONAL LEAGUE FOR NURSING'S STANDARDS FOR HOME HEALTH AGENCIES

Legal Authority: 42 USC 1395bb(a); 42 USC 1302

CFR Citation: Not applicable

Legal Deadline: None

Abstract: Under this final notice, hospital-based home health agencies accredited by the Joint Commission on Accreditation for Healthcare Organizations' and home health agencies accredited by the National League for Nursing are considered or "deemed" to meet the Medicare conditions of participation. Thus, these agencies will not ordinarily be subject to an inspection by State survey agencies to determine their compliance with Federal requirements. As a result of the home health agency's deemed status, a State also can choose to permit the agency to participate as a provider under the Medicaid program.

Timetable:

Action	Date	FR Cite
Proposed Notice	12/31/87	52 FR 49510
Public Comment Period End	02/29/88	52 FR 49510
Final Notice	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Anita Heygster, Program Analyst, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 431 EHR, 6325 Security Blvd., Baltimore, MD 21207, **301 966-5667**

RIN: 0938–AD13

741. MEDICAID: ELIGIBILITY GROUPS, EXTENDED COVERAGE OF SERVICES, AND CONDITIONS OF ELIGIBILITY: OBRA '87, COBRA, AND TEFRA

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1302; 42 USC 1396d(a); 42 USC 1396k(a); 42 USC 1396s; 42 USC 1383c; 42 USC 673; 42 USC 675; 42 USC 672; 42 USC 1396a(a)(25)(B); 42 USC 1396a(e)(3)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This rule will amend the Medicaid regulations to incorporate numerous eligibility groups for Medicaid coverage: pregnant women; children in adoption and foster care; certain disabled widows and widowers; certain disabled children being cared for at home; and qualified children. The rule will also provide for extended care for pregnant women after termination of pregnancy and add a condition of eligibility relating to third party liability. The amendments will conform the regulations to provisions of the Omnibus Budget Reconciliation Act of 1987, the Consolidated Omnibus Budget Reconciliation Act of 1985, and the Tax Equity and Fiscal Responsibility Act of 1982. States have been informed that these provisions of the statute are self-implementing. Manual instructions containing procedures for States to implement the requirements have been issued.

Timetable:

Action	Date	FR Cite
NPRM	02/23/89	54 FR 7798
NPRM Comment Period End	04/24/89	54 FR 7796
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, **301 966-4451**

RIN: 0938–AD16

742. MEDICAID ELIGIBILITY OF POVERTY LEVEL GROUPS AND EXTENDED COVERAGE OF SERVICES

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396a(l); 42 USC 1396a(f); 42 USC 1396a(b)(2); 42 USC 1302; 42 USC 1396a(m); 42 USC 1396a(c); 42 USC 1396b(f); 42 USC 1396b(u); 42 USC 1396r-1; 42 USC 1396a(a)(47); 42 USC 1396a(e)(6); 42 USC 1396a(e)(7); 42 USC 1396a(a)(17); 42 USC 1396a(c)(7)

CFR Citation: 42 CFR 431; 42 CFR 435; 42 CFR 436; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would amend the Medicaid regulations to incorporate changes relating to Medicaid eligibility groups and coverage of services made by the Medicare Catastrophic Coverage Act (P.L. 100-360), the Omnibus Budget Reconciliation Acts of 1987 and 1986,(P.L. 100-203 and P.L. 99-509), and the Homeless Eligibility Clarification Act of the Anti-Drug Abuse Act of 1986 (P.L. 99-570). This rule would add eligibility groups of pregnant women, infants and children, and aged and disabled individuals with incomes up to a specified percentage of the Federal poverty line; clarify eligibility of homeless individuals; add provisions for a presumptive eligibility period for pregnant women who, based on preliminary information, appear to meet income requirements under Medicaid.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, **301 966-4452**

RIN: 0938–AD17

743. TRANSFER OF ASSETS

Legal Authority: 42 USC 1302; 42 USC 1396p(c)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: These regulations would conform the Medicaid regulations with the provisions of section 303(b) of Pub.L. 100-360, which requires under certain circumstances that State Medicaid agencies, in determining an individual's eligibility for Medicaid coverage of long term care or home and community-based services, include as a resource the uncompensated value of assets such as cash or property that the individual has transferred to someone else for less than fair market value for a period up to 30 months, and the transfer was made at any time during or after the 30 month period immediately before (1) the date the individual become institutionalized (if he/she is entitled to Medicaid on that date) or (2) if not, the date he/she applies for Medicaid while institutionalized.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High

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Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938–AD18

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744. DISCONTINUATION OF PREVAILING CHARGE DIFFERENTIALS FOR SPECIALISTS

Legal Authority: 42 USC 1395u(b)(3); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405.504(b)

Legal Deadline: None

Abstract: We are proposing discontinuing the establishment of separate prevailing charge screens for physicians' services based on specialty practice.

Timetable:

Action	Date	FR Cite
Notice of Request For Comments	04/12/88	53 FR 12037
Comment period ends	06/13/88	53 FR 12037
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Director, Division of Medical Services, Reimbursement, Department of Health and Human Services, Health Care Financing Administration, Rm. 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4497

RIN: 0938–AD28

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745. MEDICARE COVERAGE OF OUTPATIENT OCCUPATIONAL THERAPY SERVICES, VISION CARE AND SERVICES FURNISHED BY PHYSICIAN ASSISTANTS

Legal Authority: 42 USC 1302; 42 USC 1395x(g); 42 USC 1395k(a)(2)(C); 42 USC 1395l(a); 42 USC 1395n(a)(2)(C); 42 USC 1395x(r); 42 USC 1395x(s)(K); 42 USC 1395x(cc); 42 USC 1395hh; 42 USC 1395l(h); 42 USC 1395u(b)(12)

CFR Citation: 42 CFR 400.202; 42 CFR 405.1230; 42 CFR 410; 42 CFR 424; 42 CFR 483; 42 CFR 486; 42 CFR 489.2

Legal Deadline: None

Abstract: This proposed rule would implement sections 9337 and 9338 of Pub.L 99-509 which provide Medicare coverage for outpatient occupational therapy services furnished by providers and independent practitioners, identical to the coverage for outpatient physical therapy, and for physician assistant services. It also would implement section 9336 of P.L. 99-509 which includes in the definition of "physician", a doctor of optometry with respect to all services the optometrist is authorized to provide by the State in which he or she provides them.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Tzvi Heftner, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Room 1-A-3, ELR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4580

RIN: 0938–AD36

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747. PRO DISCLOSURE TO LICENSING AND CERTIFICATION BODIES

Legal Authority: 42 USC 1395hh; 42 USC 1395ww; 42 USC 1302

CFR Citation: 42 CFR 400; 42 CFR 412; 42 CFR 476; 42 CFR 498; 42 CFR 1001

Legal Deadline: None

Abstract: This proposed rule would revise and clarify HCFA's authority with respect to corrective action procedures and procedures for program payment denial against those hospital providers who circumvent the prospective payment system.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Husk, Director, Office of Medical Review, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-6850

RIN: 0938–AD42

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748. REVISION OF THE MEDICARE ECONOMIC INDEX

Legal Authority: 42 USC 1395u(b)(3)

CFR Citation: 42 CFR 405.504

Legal Deadline: None

Abstract: This proposed rule would establish in regulations the revised proxy measures which we believe have a sounder economic foundation than the current ones and meet the requirements of the statute.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ross H. Arnett, III, Chief, Economics and Actuarial Analysis Branch, Department of Health and Human Services, Health Care Financing Administration, 1705 Equitable Building Room 100, 6325 Security Blvd, Baltimore, MD 21207, 301 966-7934

RIN: 0938–AD43

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749. SCHEDULE OF LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS FOR REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1989

Significance: Agency Priority

Legal Authority: 42 USC 1395x(v)(1); 42 USC 1395yy; 42 USC 1302

CFR Citation: 42 CFR 413.30

Legal Deadline: None

Abstract: This notice would set forth a revised schedule of limits on skilled nursing facility inpatient routine service costs that are reimbursed under Medicare. This schedule would apply to cost reporting periods beginning on or after October 1, 1989.

Timetable:

Action	Date	FR Cite
Notice	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938–AD48

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750. APPLICATION OF THE COMPARABLE SERVICES LIMITATION IN DETERMINING REASONABLE CHARGES

Legal Authority: 42 USC 1395u(b)(3)(B); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.508

Legal Deadline: None

Abstract: This proposed rule would clarify the circumstances under which Medicare carriers are to apply the comparable services limitation in making their determination of a reasonable charge for Medicare Part B services. Under section 1842(b)(3)(B) of the Act, carriers are prohibited from making a determination of a reasonable charge that would be higher than the charge upon which it would base payment to its own policyholders for a comparable service under comparable circumstances. Currently, there is a great deal of confusion among the carriers as to what constitutes comparable services and comparable circumstances, the result of which is that very few carriers are applying the comparable services limitation in their reasonable charge determination. We would revise the regulations to more clearly state how the comparable services limitation should be implemented by the carriers.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Reimbursement, Department of Health and Human Services, Health Care Financing Administration, 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938–AD50

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751. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY

Legal Authority: 42 USC 1396n(d); 42 USC 1302

CFR Citation: 42 CFR 435.3; 42 CFR 435.217; 42 CFR 435.728; 42 CFR 435.735; 42 CFR 436.2; 42 CFR 436.217; 42 CFR 440.190; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.350 to 441.357; 42 CFR 441.360; 42 CFR 441.365; 42 CFR 456.1; 42 CFR 456.600 to 456.603; 42 CFR 456.605 to 456.611

Legal Deadline: Final, Statutory, October 1, 1989.
Regulation must be promulgated containing methodology. Section 1914(d)(5)(B)(iii)

Abstract: This regulation would implement section 1915(d) of the Act. These rules would allow a State to provide skilled nursing facility (SNF), intermediate care facility (ICF), and home and community-based services to individuals 65 years of age and older, in exchange for a "cap" on the amount of money for which Medicaid Federal financial participation would be available. The program would be administered by means of waivers which a State could request. As currently constructed, the statute allows for waivers of statewideness, comparability, and income deeming. Home and community-based services could be made available to individuals age 65 or older who are shown by an evaluation to be likely to require the level of care provided in an SNF or ICF, the cost for which could be paid by Medicaid. For States electing this option, the waiver would replace the home and community-based services waivers available under section 1915(c) of the Act, for individuals in this age category.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Thomas Hoyer, Director, Division of, Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR ., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4607

RIN: 0938–AD55

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752. REVISIONS TO THE FREEDOM OF INFORMATION REGULATIONS

Legal Authority: 42 USC 1306; 5 USC 552; 42 USC 1302; PL 99-570; EO 12600

CFR Citation: 42 CFR 401.101 to 401.104; 42 CFR 401.110 to 401.112; 42 CFR 401.120 to 401.125; 42 CFR 401.130 to 401.138; 42 CFR 401.140 to 401.145; 42 CFR 401.150 to 401.154

Legal Deadline: None

Abstract: This rule proposes changes to the regulations implementing the Freedom of Information Act. The regulations would be revised on HCFA's experience with the FOIA in administering the Medicare and Medicaid programs. This proposed rule would also conform HCFA's FOIA regulations to regulations recently published by DHHS, as well as to guidance issued by the Office of Management and Budget and the Department of Justice to implement Presidential Executive Order 12600, and to the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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Agency Contact: Rosario Cirrincione, Chief, Freedom of Information Branch, Department of Health and Human Services, Health Care Financing Administration, Room 100 Professional Bldg., 6660 Security Blvd., Baltimore, MD 21207, 301 966-5352

RIN: 0938–AD60

753. CHARGES TO RESIDENTS' FUNDS IN NURSING HOMES

Legal Authority: 42 USC 1395i-3(f)(7); 42 USC 1395hh; 42 USC 1396v(f)(7)

CFR Citation: 42 CFR 405; 42 CFR 442

Legal Deadline: Final, Statutory, July 1, 1988.

Abstract: This proposed rule would define those costs which may be charged to the personal funds of Medicare and Medicaid patients in nursing facilities and the costs which are to be included in the payment amount for nursing facility services.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, 429 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4620

RIN: 0938–AD66

754. PRE-ADMISSION REVIEW AND AUTHORIZATION OUTPATIENT SURGERY, PRE-ADMISSION DIAGNOSTIC TESTING AND SAME DAY SURGERY UNDER MEDICAID

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(30)(A)

CFR Citation: 42 CFR 431

Legal Deadline: None

Abstract: This proposed rule would amend current Medicaid rules to require that State Medicaid plans include programs requiring pre-admission review and approval for selected surgical procedures and medical treatment; identify surgical procedures that can be safely performed on an ambulatory basis; require diagnostic testing prior to admission; and schedule hospital admission on the same day as surgery.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	10/01/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Ernestine Jones, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Room 463, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4646

RIN: 0938–AD70

755. CHANGES TO THE REASONABLE COST REGULATION CONCERNING INVESTMENT INCOME

Legal Authority: 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.153; 42 CFR 413.17; 42 CFR 413.130

Legal Deadline: None

Abstract: This rule proposes to revise 42 CFR 413.153(b)(2), which requires that "necessary interest" be offset by investment income. Rather than to offset interest expense by investment income, we propose to reduce (dollar for dollar) allowable debt principal related to patient care by the principal amount of investment funds generated from operations related to patient care and subsequently invested in nonpatient care activities or in another provider's patient care activities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William J. Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4513

RIN: 0938–AD72

756. MEDICARE SECONDARY PAYER FOR DISABLED ACTIVE INDIVIDUALS

Legal Authority: 42 USC 1302; 42 USC 1395y(b); 42 USC 1395hh

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: These rules would establish limitations on Medicare payment for services furnished to disabled "active individuals" who are also covered under a large group health plan (LGHP), and prohibit discrimination by an LGHP against such individuals.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Herbert Pollock, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Medicare Claims Payment Policy Branch, Room 323, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4474

RIN: 0938–AD73

757. CLARIFICATION OF DURABLE MEDICAL EQUIPMENT COVERAGE UNDER MEDICARE

Legal Authority: 42 USC 1395x(s)(6) and (n); 42 USC 1395hh; 42 USC 1302

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations would codify longstanding policies that concern the coverage, limitations, and exclusions applicable to durable medical equipment (DME). It would describe how all items of DME must be ordered by a physician and explain the requirements necessary for an item to be considered durable.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Higbee, Chief, Physician and Other Medical, Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 479, EHR, 6325

Security Boulevard, Baltimore, Maryland 21207, 301 966-4636

RIN: 0938–AD77

758. MEDICARE COVERAGE OF HOME HEALTH SERVICES, MEDICARE CONDITIONS OF PARTICIPATION AND HOME AIDE SUPERVISION AND DISCHARGE PLANNING

Legal Authority: 42 USC 1302; 42 USC 1395x(m) and (o); 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 409; 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would establish home health aid supervision and duty requirements applicable to all HHA's that provide services under Medicare. In addition, these regulations would codify longstanding policies that concern the limitations and exclusions applicable to home health services under Medicare.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tom Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Blvd., Room 405 EHR, Baltimore, Maryland 21207, 301 966-4607

RIN: 0938–AD78

759. PREPAID HEALTH CARE PLANS: BENEFICIARY AND OTHER RELATED PROVISIONS

Legal Authority: 42 USC 1395mm; 42 USC 1302; 42 USC 1395hh; 42 USC 1395l(a)(1)(A)

CFR Citation: 42 CFR 405; 42 CFR 417; 42 CFR 482

Legal Deadline: None

Abstract: This proposed rule would make a number of changes to the regulations governing health maintenance organizations, competitive medical plans, and health care prepayment plans that furnish Medicare covered services to Medicare beneficiaries. These proposed changes relate to the provision of services, beneficiary and plan rights and liabilities, and contracts. Most of the changes would clarify or establish policy in areas in which operational experiences have demonstrated a need for revision. Several of the changes would implement provisions of the Omnibus Budget Reconciliation Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joan Mahanes, Program Analyst, Div of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 463 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4642

RIN: 0938–AD79

760. PROHIBITION OF FFP FOR EDUCATIONAL AND VOCATIONAL TRAINING FOR INSTITUTIONALIZED INDIVIDUALS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(17)(B); 42 USC 1396a(a)(25); 42 USC 1396b(c)

CFR Citation: 42 CFR 441

Legal Deadline: None

Abstract: This proposed rule would reflect the court decision precluding the Department from using a child's individualized education program rather than the nature of services provided, to determine whether or not services provided to ICF/MR residents are reimbursable under Medicaid and the language in the Medicare Catastrophic Coverage Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Samuel W. Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, 428 EHR, 6325 Security Boulevard, Baltimore, Maryland, 301 966-4620

RIN: 0938–AD80

761. OBRA '87 LONG TERM CARE FACILITIES CONDITIONS OF PARTICIPATION

Significance: Agency Priority

Legal Authority: 42 USC 1395x; 42 USC 1395aa; 42 USC 1395l-3; PL 100-203, Sec 4201; 42 USC 1396r; PL 100-203, Sec 4211; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 483

Legal Deadline: None

Abstract: This proposed rule would implement provisions of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), PL 100-203, which long term care facilities would be required to meet to participate in the Medicare and Medicaid programs effective October 1, 1990.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 300, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4620

RIN: 0938–AD81

762. MEDIGAP POLICY STANDARDS - DIRECT TRANSMITTAL OF CLAIMS FROM MEDICARE CARRIERS TO MEDIGAP INSURERS AND RELATED USER FEES

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395kk(a); 42 USC 1395ss

CFR Citation: 42 CFR 403.200; 42 CFR 403.206; 42 CFR 403.210; 42 CFR 403.216 to 403.218; 42 CFR 403.220; 42 CFR 403.222; 42 CFR 403.232; 42 CFR 403.239; 42 CFR 403.250 to 304.258

Legal Deadline: None

Abstract: These proposed regulations would add requirements for the direct transmittal of bills submitted for services to Part B beneficiaries by participating physicians and suppliers from Medicare carriers to Medigap insurers.

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Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas E. Hoyer, Director, Div. of Provider Services & Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4607

RIN: 0938–AD82

763. COVERAGE OF PSYCHOLOGISTS' SERVICES FURNISHED AT RURAL HEALTH CLINICS

Legal Authority: 42 USC 1395x(s)(2)(M); 42 USC 1395x(aa)(1)(B); 42 USC 1302

CFR Citation: 42 CFR 405

Legal Deadline: None

Abstract: This proposed notice would provide a fee schedule for services furnished by a clinical psychologist at a rural health clinic even if not furnished under the supervision of a physician. Medicare payment would be made on an assignment related basis only.

Timetable:

Action	Date	FR Cite
Notice	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Ann Marie Hummel, Director, Div. of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 489, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4637

RIN: 0938–AD84

764. MEDICARE COVERAGE OF SCREENING MAMMOGRAPHY

Legal Authority: 42 USC 1395x(s)(13) and (kk); 42 USC 1395m(e); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 494

Legal Deadline: None

Abstract: This regulation would implement section 204 of Pub.L. 100-360 by providing coverage and payment standards for screening mammography, information on the frequency of coverage, and certification of quality standards.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anne Marie Hummel, Director, Div. of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 489, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4637

RIN: 0938–AD88

765. COVERAGE OF HOME INTRAVENOUS DRUG THERAPY SERVICES

Significance: Regulatory Program

Legal Authority: 42 USC 1395k(a)(2)(A); 42 USC 1395x(jj); 42 USC 1395l; 42 USC 1395m(d); 42 USC 1395hh; 42 USC 1302

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation would implement section 203 of Pub.L. 100-360. In particular it would define those services which could be covered as home intravenous drug therapy services, would provide payment guidelines and would require that all home intravenous therapy services be reviewed and approved by a Peer Review Organization.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Higbee, Chief, Physicians and Other Medical Services, Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4638

RIN: 0938–AD89

766. IN-HOME CARE FOR CHRONICALLY DEPENDENT INDIVIDUALS

Legal Authority: 42 USC 1395x; 42 USC 1395l(a); 42 USC 1395n(a)(2); 42 USC 1395y(a); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 408; 42 CFR 480

Legal Deadline: None

Abstract: This regulation would implement sections 205(b) through 205(e) of the Medicare Catastrophic Coverage Act of 1988 (Pub L. 100-360). It would define under the Medicare program covered services, eligible persons, payment guidelines, certification guidelines and standards for utilization of services for in-home care of chronically dependent individuals.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4607

RIN: 0938–AD90

767. COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395k; 42 USC 1395t; 42 USC 1395y(c); 42 USC 1395u(f); 42 USC 1395u(b)(3); 42 USC 1395u(h)(2); 42 USC 1395n; 42 USC 1395ll; 42 USC 1396b(i)(5); 42 USC 1395hh; 42 USC 1320a-7a

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation would implement Sec. 202 of Pub.L. 100-360 which adds outpatient drugs as a covered service under Medicare. This regulation would provide a description of covered outpatient drugs and give specific guidelines on the time period a prescription would be covered.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Marie Hummel, Director, Div. of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 489, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4637

RIN: 0938–AD91

768. SNF/NF ENFORCEMENT OF PROVISIONS: MEDICARE AND MEDICAID

Significance: Regulatory Program

Legal Authority: 42 USC 1395aa; 42 USC 1395l-3; PL 100-203, Sec 4202; 42 USC 1396r; PL 100-203, Sec 4212; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 488

Legal Deadline: None

Abstract: This proposed rule would implement provisions of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Pub.L. 100-203, which govern the process used by HCFA to survey long-term care facilities, and certify that the facilities meet the conditions of participation for the Medicare and Medicaid programs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6763

RIN: 0938–AD94

769. RECOVERY OF OVERPAYMENTS RESULTING FROM COMPUTATIONAL ERRORS

Legal Authority: 42 USC 1395gg; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.350(a)(2); 42 CFR 405.355(a)

Legal Deadline: None

Abstract: Due to computational errors, some physicians and beneficiaries receive substantial sums of incorrect payments. This proposed rule would clarify situations where being without fault relieves a recipient of the obligation to return incorrect payments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sam Guida, Director, Division of Overpayment Prevention, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-7521

RIN: 0938–AD95

770. GRACE PERIOD AND TERMINATION FOR NON-PAYMENT OF SUPPLEMENTARY MEDICAL INSURANCE (PART B) PREMIUMS FOR INSURED PERSONS

Legal Authority: 42 USC 1395j; 42 USC 1395q; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 408.8; 42 CFR 408.63

Legal Deadline: None

Abstract: Under current rules, individuals who do not pay their Part B premiums will have their coverage terminated after a grace period that allows several months lateness. The grace period for individuals eligible for monthly social security cash payments is different from that of uninsured individuals. This proposed rule would allow a uniform 3-month grace period to treat all individuals identically.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Boerschel, Program Analyst, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 233, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-5941

RIN: 0938–AD97

771. ● DRUG PAYMENT METHODOLOGY

Legal Authority: 42 USC 1395l(a)(1)(M); 42 USC 1395m(c); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: Under this proposed rule, Medicare would pay for covered outpatient drugs subject to the catastrophic drug deductible amount. The amounts payable would equal a payment percent of the lesser of the actual charge for a drug or an applicable payment limit for non-multiple source drugs and multiple source drugs with restrictive prescriptions and a payment limit for multiple source drugs without restrictive prescriptions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Janice Flaherty, Chief, Alter. Del. Syst. Reimbur. Branch, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-A-3 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4574

RIN: 0938–AD99

772. ● HOME IV DRUG THERAPY FEE SCHEDULE

Legal Authority: 42 USC 1395m(d); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 414

Legal Deadline: Other, Statutory, January 1, 1990.

Abstract: This proposed rule establishes a fee schedule for home IV drug therapy services under Medicare under which payment would be made on a per diem basis.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

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Government Levels Affected: None

Agency Contact: Charles Spalding, Chief, Pharma. & Medical Services Branch, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-5 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4496**

RIN: 0938–AE00

773. ● CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1990 RATES

Significance: Regulatory Program

Legal Authority: 42 USC 1395ww; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 412; 42 CFR 413

Legal Deadline: NPRM, Statutory, May 1, 1989. Final, Statutory, September 1, 1989.

Abstract: This proposed rule makes revisions to the inpatient hospital prospective payment system. It also includes changes in the methods, amounts and factors used to determine the prospective payment rates applicable to discharges occurring during FY 1990.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ed Rees, Acting Director, Division of Hospital Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4529**

RIN: 0938–AE02

774. ● WITHDRAWAL OF COVERAGE OF SEAT LIFT CHAIRS

Legal Authority: 42 USC 1395y(a)(1); 42 USC 1302

CFR Citation: 42 CFR 405.310(k)

Legal Deadline: None

Abstract: This notice announces the Medicare program's intent to withdraw Medicare coverage for seat lift chairs as durable medical equipment.

Timetable:

Action	Date	FR Cite
Proposed Notice	08/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Physician and Other Medical Services, Branch, Department of Health and Human Services, Health Care Financing Administration, Room 479 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4636**

RIN: 0938–AE05

775. ● DIAGNOSIS CODES ON PHYSICIAN BILLS

Legal Authority: 42 USC 1395u(p); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 424.3; 42 CFR 424.32; 42 CFR 424.34

Legal Deadline: None

Abstract: We are proposing that each bill or request for payment for a service furnished by a physician under Medicare Part B must include appropriate diagnostic coding for the diagnosis on the nature of the illness or injury for which the Medicare beneficiary received care. This rule would implement certain provisions of section 202(g) of Pub. L. 100-360.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bart McCann, M.D., Special Assistant, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 455 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4628**

RIN: 0938–AE06

776. ● PARTICIPATIONS AGREEMENTS FOR PHARMACIES

Legal Authority: 42 USC 1395(u)(o); 42 USC 1395hh; 42 USC 1302

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This proposed rule would implement those sections of Pub. L. 100-360 that set forth requirements for pharmacies wishing to participate in Medicare as suppliers of covered outpatient drugs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Higbee, Chief, Physician and Other Medical Services, Branch, Department of Health and Human Services, Health Care Financing Administration, Room 479, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4636**

RIN: 0938–AE08

777. ● HOME IV DRUG PROVIDER CONDITIONS OF PARTICIPATION

Legal Authority: 42 USC 1395x(jj)(3); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 485 Subpart C

Legal Deadline: None

Abstract: In order to participate as a home IV drug provider under Medicare an entity must meet a number of specific requirements that are necessary in the interest of the health and safety of beneficiaries who receive home IV drug services.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: David Higbee, Chief, Physician and Other Medical Services, Branch, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 479 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4636**

RIN: 0938–AE09

778. ● COVERED IV DRUG LIST

Legal Authority: 42 USC 1395x(t)(4); 42 USC 1302

CFR Citation: Not applicable

Legal Deadline: Final, Statutory, January 1, 1990.

Abstract: This proposed notice announces the home IV drugs that will be covered under Medicare.

Timetable:

Action	Date	FR Cite
Proposed Notice	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Higbee, Chief, Physician and Other Medical Services, Branch, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 479 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4636**

RIN: 0938–AE10

779. ● WITHDRAWAL OF COVERAGE OF EXTRACRANIAL-INTRACRANIAL ARTERIAL BYPASS SURGERY FOR THE TREATMENT OR PREVENTION OF STROKE

Legal Authority: 42 USC 1395y(a)(1); 42 USC 1302

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This notice announces the Medicare program's intent to withdraw Medicare coverage of extracranial-intracranial arterial bypass surgery when used to treat or prevent strokes.

Timetable:

Action	Date	FR Cite
Proposed Notice	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam DellaVecchia, Chief, Special Coverage Issues Board, Department of Health and Human Services, Health Care Financing Administration, 455 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-5316**

RIN: 0938–AE11

780. ● PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSE

Legal Authority: 42 USC 1032; 42 USC 1396r(s)

CFR Citation: 42 CFR 435.630; 42 CFR 435.632; 42 CFR 435.634; 42 CFR 435.636; 42 CFR 435.638; 42 CFR 435.640; 42 CFR 435.642; 42 CFR 435.644; 42 CFR 435.646; 42 CFR 435.648

Legal Deadline: None

Abstract: These proposed regulations would interpret section 303(a) of the Medicare Catastrophic Coverage Act of 1988, as amended by section 608(d)(16) of the Family Support Act. P.L. 100-485 which allocates incomes and resources between a spouse who is institutionalized and the spouse remaining in the community. The revision would provide the community spouse with more adequate income for meeting living expenses.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility, Policy, Department of Health and Human Services, Health Care Financing Administration, Room 416, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4452**

RIN: 0938–AE12

781. ● LIMITATION ON OUT-OF-POCKET COST-SHARING EXPENSES FOR COVERED MEDICARE PART B SERVICES

Legal Authority: 42 USC 1935kk; 42 USC 1395mm; PL 100-360, Sec 201; PL 100-360, Sec 202(b); 42 USC 1302; 42 USC 1395hh; 42 USC 1395l

CFR Citation: 42 CFR 410.110; 42 CFR 410.112; 42 CFR 410.114; 42 CFR 410.2; 42 CFR 410.1; 42 CFR 410.3; 42 CFR 410.150; 42 CFR 410.152; 42 CFR 410.160; 42 CFR 410.161; 42 CFR 410.162; 42 CFR 410.470; 42 CFR 489.21

Legal Deadline: None

Abstract: This proposed rule would establish an annual limit to the amount of costs a Medicare beneficiary shares in under Part B (the Supplemental Medical Insurance Program) beginning January 1, 1990. It also would specify the annual deductible and coinsurance amounts beneficiaries would pay for prescription drugs and insulin when they become covered items in 1990. These changes would implement section 201 and section 202(b) of the Medicare Catastrophic Coverage Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Leslie Warren, Program Analyst, Office of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, 349 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4483**

RIN: 0938–AE13

782. ● CRITERIA AND STANDARDS FOR EVALUATING INTERMEDIARIES AND CARRIERS

Legal Authority: 42 USC 1395hh; 42 USC 1395u(b); 42 USC 1302

CFR Citation: 42 CFR 421.120; 42 CFR 421.122; 42 CFR 421.124; 42 CFR 421.201; 42 CFR 421.203

Legal Deadline: None

Abstract: This is a technical revision to Medicare regulations that will simplify and improve our system for evaluating the performance of fiscal intermediaries and carriers in the administration of the Medicare program. Currently, we evaluate intermediaries using performance criteria and standards issued through an annual notice in the Federal Register. We are clarifying the methodology for establishing these criteria and standards. We are also issuing commercial requirements for the evaluation for carrier performance.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Barton, Chief, Operation Standards Branch, Office of Program Administration, Department of Health and Human Services, Health Care Financing Administration, 1-C-6 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-7403**

RIN: 0938–AE15

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783. ● MMIS SYSTEM PERFORMANCE REVIEW REVISIONS

Legal Authority: 42 USC 1396b(v); 42 USC 1302

CFR Citation: 42 CFR 433.112; 42 CFR 433.123

Legal Deadline: Final, Statutory, October 7, 1988.
Six months after enactment of Section 9503 of Pub. L. 99-272 (April 7, 1986) for only new TPL standard.

Abstract: This notice will propose revisions to the scoring and format of the system performance review of the Medicaid Management Information System (MMIS); it also proposes a new standard. The purpose of this proposal is to promote the efficiency and effectiveness of the Medicaid program.

Timetable:

Action	Date	FR Cite
Proposed Notice	05/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Frederick Harris, Program Analyst, Division of Payment Systems, Department of Health and Human Services, Health Care Financing Administration, Room 273, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-5907

RIN: 0938–AE16

784. ● INSPECTION OF CARE REVIEWS

Legal Authority: 42 USC 1302; 42 USC 1396b(g)

CFR Citation: 42 CFR 456.651; 42 CFR 456.652; 42 CFR 456.654; 42 CFR 456.650

Legal Deadline: None

Abstract: This proposed rule would eliminate the requirement for States to make quarterly showings demonstrating that a State conducted annual onsite inspection of care in skilled nursing facilities or in intermediate care facilities. A quarterly showing to the Secretary of an effective program of medical review as demonstrated by a satisfactory utilization control program would be limited to inspection of care reviews in participating intermediate care facilities for the mentally retarded and mental hospitals. This rule would implement section 4212(d) (1) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elliot Naide, Chief, Utilization Control Branch, Department of Health and Human Services, Health Care Financing Administration, 2-H-1 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-5920

RIN: 0938–AE17

785. ● HMO FISCAL SOUNDNESS AND GROUP SPECIFIC RATING

Legal Authority: 42 USC 300e(c); 42 USC 300e-1(8)(C)

CFR Citation: 42 CFR 417.104; 42 CFR 417.107

Legal Deadline: None

Abstract: This proposed regulation would set forth the circumstances under which the resources of an organization which owns or controls an HMO would be considered for purposed of fiscal soundness and insolvency protection requirements. It also authorizes HMOs, with certain limitations, to fix their rates for specific groups based on the HMO's revenue requirements for providing services to the group.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Sobel, Legal Analyst, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, Room 4360, Cohen Bldg., 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 245-0063

RIN: 0938–AE24

786. ● HMO ORGANIZATIONAL STRUCTURE AND SERVICES

Legal Authority: 42 USC 300E(a); 42 USC 300e(b)(1); 42 USC 300e(b)(3)(A)

CFR Citation: 42 CFR 417.100; 42 CFR 417.101; 42 CFR 417.103; 42 CFR 417.104

Legal Deadline: None

Abstract: This proposed regulation would provide health maintenance organizations (HMOs) which are federally qualified under Title XIII of the Public Health Service Act with greater flexibility in offering other health benefit plans in addition to their qualified HMO products. It would also authorize with certain limitations, qualified HMOs to offer out-of-plan physician services and require a reasonable deductible for those services.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Sobel, Legal Analyst, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, Room 4360, Cohen Bldg., 330 Independence Avenue, S.W., Washington, D.C., 202 245-0063

RIN: 0938–AE25

787. ● CONFORMING PROVISIONS-HMO AMENDMENTS OF 1988

Legal Authority: 42 USC 300e(c); 42 USC 300e-1 note; 42 USC 300c-9

CFR Citation: 42 CFR 417.101; 42 CFR 417.107; 42 CFR 417.151; 42 CFR 417.157

Legal Deadline: None

Abstract: These proposed regulations would amend existing regulations to conform them to sections 5(b), 6(a), and 7 of Public Law 100-517, the Health Maintenance Organization Amendments of 1988. Specifically, the proposal would: (a) require that employer contributions not financially discriminate against HMO enrollees; (b) repeal the requirement that employers, under certain circumstances, offer federally qualified HMOs to their employees (the "dual choice" requirement), effective October 24, 1995; and (c) include additional conforming changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Sobel, Legal Analyst, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, Room 4360, Cohen Bldg., 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 245-0063

RIN: 0938–AE26

788. ● GENERAL PERFORMANCE STANDARDS FOR DRUG BILL PROCESSORS UNDER CONTRACT

Significance: Agency Priority

Legal Authority: 42 USC 1395u(f); 42 USC 1302; 42 USC 1395hh

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This notice contains proposed general standards to be used to evaluate the performance of entities under contract with HCFA to implement and operate an electronic bill processing and payment and information system for covered outpatient prescription drugs furnished to Medicare beneficiaries.

Timetable:

Action	Date	FR Cite
General Notice With Comment Period	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stewart Streimer, Director, Division of Operations Standards, Office of Program Administration, Department of Health and Human Services, Health Care Financing Administration, 1-C-5 Meadows East Building, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-7409

RIN: 0938–AE27

789. ● CLINICAL LABORATORIES - CLIA '88 REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395hh; 42 USC 263A; PL 100-578

CFR Citation: 42 CFR 74.1 to 74.61; 42 CFR 405.1310 to 405.1317; 42 CFR 482.27

Legal Deadline: Final, Statutory, January 1, 1990.

Abstract: Amendments to the Clinical Laboratory Improvement Act of 1988 (CLIA) require all clinical laboratories to be regulated regardless of their ownership, location or of how few tests they perform. This proposed rule would set forth provisions of CLIA '88 that are not self-implementing. (The self-implementing provisions are contained in the final regulation "Review of Current Rules Affecting Clinical Laboratories.") This rule would contain requirements for performance standards for laboratories not regulated under CLIA as of December 31, 1988, that may vary depending on the complexity of the testing and a provision that will allow some laboratories that perform only simple examinations and procedures that have a low risk of erroneous results, a waiver from the standards and inspections. The proposed rule will also contain the requirements that would address fees for certified laboratories as well as laboratories issued a certificate of waiver from standards and inspections. The fees would be charged to meet administrative costs, as well as the cost of onsite inspections and ongoing monitoring of laboratory performance.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Building, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-6763

RIN: 0938–AE28

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage
Health Care Financing Administration (HCFA)

790. MMIS: DEFINITION OF "MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEM"

Legal Authority: 42 USC 1302; 42 USC 1396b(a)(3); 42 USC 1396b(r)

CFR Citation: 42 CFR 433.111; 42 CFR 433.112; 42 CFR 433.113; 42 CFR 433.119; 42 CFR 433.120; 42 CFR 433.121; 42 CFR 433.122; 42 CFR 433.131

Legal Deadline: None

Abstract: This rule will change the definition of "mechanized claims processing and information retrieval systems" to clarify under what circumstances we will pay Federal financial participation at a percentage higher than 50 percent for a Medicaid Management Information System or for changes to the system.

Timetable:

Action	Date	FR Cite
NPRM	08/11/88	53 FR 30317
NPRM Comment Period End	10/11/88	53 FR 30317
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard H. Friedman, Acting Director, Division of Payment Systems, Department of Health and Human Services, Health Care Financing Administration, Division of Medicaid Procedures, 233 EHR, 6305 Security Boulevard, Baltimore, MD 21207, 301 966-3292

RIN: 0938–AA63

791. WAIVER OF CERTAIN MEMBERSHIP REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS (HMOS) AND STATE OPTION FOR DISENROLLMENT RESTRICTIONS FOR CERTAIN HMOS UNDER MEDICAID

Legal Authority: 42 USC 1302; 42 USC 1396a(e)(2); 42 USC 1396b(m)

CFR Citation: 42 CFR 434.26; 42 CFR 434.27; 42 CFR 434.20; 42 CFR 435.212; 42 CFR 435.326

Legal Deadline: None

Abstract: This rule revises current Medicaid rules to expand the waiver authority of the Secretary to permit certain health maintenance organizations (HMOs) meeting certain requirements, to exceed the composition of enrollment limit to allow certain organizations to contract on a

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risk basis, to permit continuation of benefits to recipients enrolled in certain organizations after they have lost entitlement to Medicaid, and give a State the option of restricting a Medicaid enrollee's right to disenroll from certain types of risk HMOs and other organizations. These regulations would conform our regulations with authority provided in section 2364 of Pub.L. 98-369, the Deficit Reduction Act of 1984, as amended by section 9517 of Pub.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985.

Timetable:

Action	Date	FR Cite
NPRM	01/12/88	53 FR 744
NPRM Comment Period End	03/14/88	53 FR 744
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Robert E. Wren, Office Director, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Room 401 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-5861

RIN: 0938–AB54

792. MEDICARE: HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS: COORDINATED OPEN ENROLLMENT

Significance: Agency Priority

Legal Authority: 42 USC 1395mm(c)(3)(A)(ii); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: These regulations will implement section 2350 of Pub. L. 98-369 by requiring that HMOs and CMPs hold a single coordinated open enrollment period for Medicare beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	06/09/88	53 FR 21696
NPRM Comment Period End	08/08/88	52 FR 21697
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Marie Hummel, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div. of Medical Services Coverage Policy, Room 489 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4637

RIN: 0938–AB57

793. MEDICARE/MEDICAID REVALUATION OF ASSETS

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(v)(1)(O); 42 USC 1396a(a)(13)(B)

CFR Citation: 42 CFR 413.130; 42 CFR 413.134; 42 CFR 447.250; 42 CFR 447.253

Legal Deadline: None

Abstract: This final rule implements changes to the regulations as required by section 2314 of Pub. L. 98-369 and sections 9110 and 9509 of Pub. L. 99-272. This rule imposes new limitation on the valuation of assets acquired as the result of changes in ownership occurring on or after July 18, 1984. These changes will affect hospitals and skilled nursing facilities under the Medicare program and hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded under the Medicaid program.

Timetable:

Action	Date	FR Cite
NPRM	10/26/87	52 FR 39927
NPRM Comment Period End	12/28/87	52 FR 39927
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: William J. Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938–AB64

794. CLARIFICATION OF POLICY ON ADJUSTING THE HOSPITAL-SPECIFIC PORTION OF THE PROSPECTIVE PAYMENT RATE

Significance: Agency Priority

Legal Authority: 42 USC 1395ww(d)

CFR Citation: 42 CFR 412.72

Legal Deadline: None

Abstract: This final rule clarifies Medicare's policy on adjusting the hospital-specific portion of the prospective payment rate for inpatient hospital services as the result of adjustments to a hospital's target amount for events occurring in the year following its base year. It clarifies that exemptions, exceptions, or adjustments granted under section 1886(b)(4) of the Act or 42 CFR 413.30 or 413.40(e)-(h) for periods subsequent to the base year have no effect on the hospital-specific portion of the prospective payment rates.

Timetable:

Action	Date	FR Cite
NPRM	03/10/86	51 FR 8208
NPRM Comment Period End	04/19/86	51 FR 8208
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward Rees, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Payment Determination Policy Branch, DHPP, R. 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4536

RIN: 0938–AB71

795. REVISION OF MEDICAID ELIGIBILITY QUALITY CONTROL (MEQC) PROGRAM REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1396b; 42 USC 1302

CFR Citation: 42 CFR 431.800 to 431.806; 42 CFR 431.810 to 431.822; 42 CFR 431.830 to 431.836; 42 CFR 431.861 to 431.865

Legal Deadline: None

Abstract: This final rule revises the regulations governing the Medicaid eligibility quality control (MEQC) program to include more specified program requirements and to establish new time frames for completing and reporting MEQC case findings to HCFA. The final rule also establishes a performance-based threshold for States to meet before HCFA will consider good faith waiver requests of disallowance of Federal financial participation in erroneous Medicaid payments and provides more definitive criteria for evaluating States good faith efforts to meet the national standard error rate. In addition, the rule makes several technical changes and specifies that States may rebut their quarterly projected error rates when they can present evidence that the projected rates were based on erroneous data. The revisions will strengthen the MEQC program and provide flexibility and incentives to States to produce more accurate Medicaid eligibility determinations.

Timetable:

Action	Date	FR Cite
NPRM	01/26/87	52 FR 02733
NPRM Comment Period End	03/27/87	52 FR 02733
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Randolph Graydon, Director, Division of Program Performance, Department of Health and Human Services, Health Care Financing Administration, Bureau of Quality Control, 207-L ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-3294

RIN: 0938–AB85

796. REVIEW OF CURRENT RULES AFFECTING CLINICAL LABORATORIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395hh; 42 USC 263a; PL 100-578

CFR Citation: 42 CFR 405.1310 to 405.1317; 42 CFR 482.27; 42 CFR 74

Legal Deadline: None

Abstract: Currently, hospital-based and independent laboratories are subject to varying State Licensure requirements and to Medicare regulations that vary from requirements of private accreditation entities and from regulations governing laboratories performing tests under interstate commerce. One consequence is that the quality of laboratories' services is adjudged using different standards. Inconsistent standards not only create confusion regarding necessary performance levels, but may permit laboratories with substandard performance to continue furnishing covered services. This rule will establish better measures of performance and amend requirements to improve the quality of laboratory services. It will also include the self implementing provisions of the Clinical Laboratory Improvement Amendments of 1988. The self-implementing provisions of CLIA '88 that will be added to these regulations will require the issuance of certificates to clinical laboratories in lieu of licenses, and eliminate the exemptions from CLIA that apply to intrastate and low-volume laboratories. The self-implementing CLIA provisions for the issuance and renewal of certificates establishes (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/05/88	53 FR 29590
NPRM Comment Period End	11/03/88	53 FR 29590
Final Action	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: ABSTRACT CONT: the period of certification as a maximum of 2 years. These provisions also expand on procedures for suspending, revoking or limiting a certificate by allowing the suspension of a laboratory's CLIA certificate if the laboratory has been terminated from Medicare for reasons of quality.

Taken from the Regulatory Program of the United States Government 1987 - 1988 which projected final action in October 1987.

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 ME, 6325 Security Blvd., Baltimore, MD 21207, 301 966-6763

RIN: 0938–AB96

797. MEDICARE SECONDARY PAYOR AND MEDICARE RECOVERY AGAINST THIRD PARTIES

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395y(b); 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 411; 42 CFR 489

Legal Deadline: None

Abstract: This rule revises regulations to reflect recent statutory provisions regarding HCFA's right to bring an action directly against certain third parties or to join or intervene in an action against a third party. It would also place certain requirements on hospitals regarding the identification and billing of potential Medicare secondary payor cases. Additionally, it would include requirements regarding timely refunds to Medicare when collections have been made from another insurer. It also clarifies rules for Medicare payment for services furnished to an end-stage renal disease (ESRD) patient who is also covered under an employer group health plan. It would include the changes pertaining to Medicare conditional payments for ESRD beneficiaries made by section 4036(a) of the Omnibus Budget Reconciliation Act of 1987. It would update policies pertaining to Medicare payment for services covered under a workers' compensation law or plan, or under no-fault or liability insurance. It would make Medicare secondary to all kinds of no-fault insurance, not just automobile no-fault insurance.

Timetable:

Action	Date	FR Cite
NPRM	06/15/88	53 FR 22335
NPRM Comment Period End	08/15/88	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Herbert Pollock, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Medicare Claims Payment Policy Branch, Rm. 323 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4474

RIN: 0938–AC05

798. MEDICARE COVERAGE OF HEPATITIS B VACCINE FOR HIGH AND INTERMEDIATE RISK INDIVIDUALS, HEMOPHILIA CLOTTING AND CERTAIN X-RAY SERVICES

Legal Authority: 42 USC 1395x(s)(2)(I); 42 USC 1395x(s)(10)(B); 42 USC 1395l(k); 42 USC 1395rr(b)(11); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.231(r); 42 CFR 405.232(b); 42 CFR 405.232(c); 42 CFR 405.310(a); 42 CFR 405.310(e); 42 CFR 405.310(k); 42 CFR 410.10; 42 CFR 410.29; 42 CFR 410.32; 42 CFR 410.63

Legal Deadline: None

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Abstract: This final rule implements section 2323 of P.L 98-369 which provides Medicare coverage for hepatitis B vaccine for those individuals who are eligible for Medicare and at high or intermediate risk of contracting hepatitis B. It would implement section 2324 of P.L. 98-369 that provides coverage for the self-administration of hemophilia clotting factors and the items necessary for their administration to Medicare eligibles. The final rule would also clarify Medicare coverage of certain x-ray services.

Timetable:

Action	Date	FR Cite
NPRM	09/10/87	52 FR 34244
NPRM Comment Period End	11/09/87	52 FR 34244
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Rm. 479 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4636

RIN: 0938–AC07

799. CHANGES IN PAYMENT POLICY FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS

Significance: Regulatory Program

Legal Authority: 42 USC 1395ww(h); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405.521; 42 CFR 405.522; 42 CFR 412.113; 42 CFR 413.85; 42 CFR 413.86; 42 CFR 413.170

Legal Deadline: None

Abstract: This rule will set forth changes in Medicare Policy concerning payment for direct graduate medical education costs of providers associated with approved residency programs. These changes are necessary in order to implement section 1886(h) of the Social Security Act which was added by section 9202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 and amended by section 9314 of the Omnibus Budget Reconciliation Act of 1986. The changes in this rule are effective for cost reporting periods beginning on or after July 1, 1985.

Timetable:

Action	Date	FR Cite
NPRM	09/21/88	53 FR 36589
NPRM Comment Period End	11/21/88	
Final Action	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Joel Bobula, Chief, Payment Exclusions Policy Branch, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4532

RIN: 0938–AC27

800. MEDICAID: ELIGIBILITY DETERMINATIONS BASED ON DISABILITY

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396d(a); 42 USC 1302

CFR Citation: 42 CFR 435.541; 42 CFR 435.911; 42 CFR 436.541

Legal Deadline: None

Abstract: These regulations make explicit in the regulations HCFA's policy on the relationship between State Medicaid eligibility determinations based on disability and disability determinations by SSA under the Supplemental Security Income Program. The regulations incorporate the conditions under which the State agency must make independent determinations of disability and the effect of only SSA determination on Medicaid eligibility. The regulations also conform the Medicaid provisions on composition of medical review teams, required information, and the time limit for making determinations more closely to those used by SSA in making SSI determinations. Because of numerous questions raised and litigation, it is necessary to clarify our policy on the controlling nature of SSI disability determinations on Medicaid eligibility.

Timetable:

Action	Date	FR Cite
NPRM	12/14/87	52 FR 47414
NPRM Comment Period End	02/12/88	52 FR 47414
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, 436 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938–AC31

801. EFFECT OF APPEALS ON HOSPITAL-SPECIFIC PORTION OF THE PROSPECTIVE PAYMENT RATE

Significance: Agency Priority

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412.71; 42 CFR 412.72; 42 CFR 412.73; 42 CFR 412.76; 42 CFR 412.128

Legal Deadline: None

Abstract: This final rule amends and clarifies the prospective payment regulations governing administrative and judicial review of payment amounts in order to resolve confusion concerning interpretation of those regulations. In particular, the rule amends and clarifies the provisions pertaining to adjustment of the hospital-specific rate under the prospective payment system.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22028
NPRM Comment Period End	08/12/88	53 FR 22028
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Edward Rees, Acting Director, Division of Hospital Payment Policy, Department of Health and Human Services, Health Care Financing Administration, Payment Determination Policy Branch, Rm. 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4529

RIN: 0938–AC40

802. ADDITIONS TO AND DELETIONS FROM CURRENT LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS

Significance: Regulatory Program

Legal Authority: 42 USC 1395l(i)(1); 42 USC 1302

CFR Citation 42 CFR 416.65

Legal Deadline: None

Abstract: This notice announces additions to and deletions from the current list of surgical procedures for which facility services are covered when the procedures are performed in an ambulatory surgical center (ASC).

Timetable:

Action	Date	FR Cite
Proposed Notice	06/11/87	52 FR 29729
Comment period ends	10/13/87	52 FR 29729
Final Notice	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rita McGrath, Chief, Alternate Delivery Organizations Branch, Department of Health and Human Services, Health Care Financing Administration, 463 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4635

RIN: 0938–AC45

803. HOME AND COMMUNITY-BASED SERVICES AND RESPIRATORY CARE FOR VENTILATOR-DEPENDENT INDIVIDUALS

Legal Authority: 42 USC 1396n(c)

CFR Citation: 42 CFR 435.726; 42 CFR 435.735; 42 CFR 440.180; 42 CFR 441.301; 42 CFR 441.302; 42 CFR 441.303; 42 CFR 441.304; 42 CFR 441.305; 42 CFR 441.306; 42 CFR 441.307; 42 CFR 441.308; 42 CFR 441.310; 42 CFR 440.185; 42 CFR 440.250

Legal Deadline: None

Abstract: This rule revises the regulations for home and community based services as required by section 9502 of Pub.L. 99-272 and sections 9408 and 9411 of Pub.L. 99-509. Also, this rule would provide for respiratory care services as medical assistance under the State plan, in accordance with section 9408 of Pub.L. 99-509.

Timetable:

Action	Date	FR Cite
NPRM	06/01/88	53 FR 19950
NPRM Comment Period End	07/31/88	53 FR 19950
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Pol., Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4607

RIN: 0938–AC55

804. REIMBURSEMENT FOR PHYSICIAN'S OUTPATIENT MAINTENANCE DIALYSIS SERVICES

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 405.439(c)(5); 42 CFR 405.502(f)(1); 42 CFR 405.542(a); 42 CFR 405.542(b); 42 CFR 405.542(c)

Legal Deadline: None

Abstract: This rule is necessitated by a court decision requiring the Secretary to reinstate a modified version of the initial method of reimbursement for physician's dialysis services. We also are clarifying and modifying some of the principles of the monthly capitation payment method. In addition, we will clarify that physician's services reimbursable under both the initial method and the monthly capitation payment must meet the general program requirements for dialysis services furnished to patients.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37176
NPRM Comment Period End	12/04/87	52 FR 37176
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Niemann, Program Analyst, Reimbursement Policy Branch, Department of Health and Human Services, Health Care Financing Administration, 1-A-5 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4569

RIN: 0938–AC57

805. PARTICIPATION IN CHAMPUS AND CHAMPVA, HOSPITAL ADMISSIONS FOR VETERANS, DISCHARGE RIGHTS NOTICE, AND HOSPITAL RESPONSIBILITY FOR EMERGENCY CARE

Significance: Agency Priority

Legal Authority: 42 USC 1395x; 42 USC 1395cc; 42 USC 1395dd; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405.1903; 42 CFR 489.20; 42 CFR 489.24; 42 CFR 489.25; 42 CFR 489.28; 42 CFR 489.27; 42 CFR 489.53; 42 CFR 1001.202; 42 CFR 1001.203; 42 CFR 1001.211; 42 CFR 1001.221; 42 CFR 1003.100; 42 CFR 1003.101; 42 CFR 1003.102; 42 CFR 1003.103; ...

Legal Deadline: None

Abstract: This final rule will implement sections 9121 and 9122 of PL 99-272 as amended by PL 100-203. Specifically, under section 9121, Medicare participating hospitals with emergency departments would be required to provide upon request medical examinations and treatments for individuals with emergency medical conditions and women in active labor. Hospitals failing to meet those requirements may have their Medicare provider agreements suspended or terminated. In addition, the hospital and the responsible physician may each be subject to a civil money penalty for each such violation. Under section 9122, Medicare participating hospitals would be required to accept CHAMPUS and CHAMPVA payment as payment in full for services provided to CHAMPUS and CHAMPVA beneficiaries. These regulations will also implement section 233 of PL 99-576, which requires Medicare hospitals to admit veterans. They will also implement section 9305(b)(1) of PL 99-509, which requires Medicare hospitals to give patients a notice of their discharge rights.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22513
NPRM Comment Period End	08/15/88	53 FR 22513
Final Action	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Div. of Provider Services & Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4607

RIN: 0938–AC58

806. STATE PLAN REQUIREMENTS AND OTHER PROVISIONS RELATING TO STATE THIRD-PARTY LIABILITY PROGRAMS

Significance: Agency Priority

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Legal Authority: 42 USC 1396a(a)(25); 42 USC 1302

CFR Citation: 42 CFR 433.138; 42 CFR 433.139; 42 CFR 447.20; 42 CFR 447.21; 42 CFR 447.45

Legal Deadline: Final, Statutory, October 7, 1988.
Section 9503 of Pub. L. 99-272 (April 7, 1986) requires that final regulations be published within 6 months after date of enactment.

Abstract: This rule implements, in part, those portions of sec. 9503 of Pub. L. 99-272 that set forth State plan requirements and other provisions relating to State third-party liability (TPL) programs. The provisions deal with (1) the integration of a State's pursuit of third-party claims with its Mechanized Claims Processing and Information Retrieval Systems and the Secretary's responsibility to develop performance standards to assess TPL collection efforts with respect to this integration; (2) certain exceptions to the cost avoidance method of claims payment in TPL situations; and (3) provider restrictions and provider penalties related to attempts at collection of cost sharing or portions of those amounts from Medicaid recipients when third party liability has been established.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 06350
NPRM Comment Period End	04/02/87	52 FR 06350
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sue Knefley, Program Analyst, Bureau of Quality Control, Department of Health and Human Services, Health Care Financing Administration, Third Party Liability Branch, 233 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-3396

RIN: 0938–AC84

807. MEDICAID ELIGIBILITY FOR QUALIFIED SEVERELY IMPAIRED INDIVIDUALS

Legal Authority: 42 USC 1302; 42 USC 1396a(f); 42 USC 1396a(10)(A)(i)(II); 42 USC 1396a(O); 42 USC 1396d(q); 42 USC 1382h; 42 USC 1382h note; 42 USC 1396a note

CFR Citation: 42 CFR 435.120; 42 CFR 435.121; 42 CFR 435.725; 42 CFR 435.733

Legal Deadline: None

Abstract: This final rule amends the Medicaid regulations to specify for Medicaid, mandatory categorically needy eligibility for individuals who, although severely impaired, work and demonstrate ability to perform substantial gainful activity and who are considered to be Supplemental Security Income (SSI) beneficiaries by virtue of 1619 of the Act. It also specifies how States electing the option under Section 1902(f) of the Social Security Act to provide Medicaid under criteria more restrictive than SSI, will treat the "1619" individuals. It also specifies how SSI payments made to certain institutionalized individuals are to be disregarded as income under Medicaid for up to two months. The amendments conform the regulations to provisions of the Omnibus Budget Reconciliation Act of 1986 and the Employment Opportunities for Disabled.

Timetable:

Action	Date	FR Cite
NPRM	05/04/88	53 FR 15857
NPRM Comment Period End	07/05/88	53 FR 15857
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 448 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938–AC82

808. DENIAL OF PAYMENT FOR SUBSTANDARD QUALITY CARE, REVIEW OF BENEFICIARY COMPLAINTS

Significance: Regulatory Program

Legal Authority: 42 USC 1320c-3(a); 42 USC 1395cc(a)(1)(K); 42 USC 1395u; 42 USC 1395pp(b); PL 99-272, Sec 9403; PL 99-509, Sec 9353(c); PL 100-203, Sec 4096(a)(1)(A)

CFR Citation: 42 CFR 462.105; 42 CFR 466.70; 42 CFR 466.74; 42 CFR 466.83; 42 CFR 466.88; 42 CFR 466.93; 42 CFR 466.94; 42 CFR 466.98; 42 CFR 466.100; 42 CFR 466.106; 42 CFR 473.12; 42 CFR 473.14; 42 CFR 473.40; 42 CFR 476.133; 42 CFR 489.21; ...

Legal Deadline: None

Abstract: The purpose of this final rule is to implement section 9403 of PL 99-272, 9353(c) of PL 99-509,and section 4096(a)(1)(A) of PL 100-203. Under section 9403 of PL 99-272, Peer Review Organizations (PROs) are authorized to deny Medicare payment to a physician or hospital for services furnished that are of substandard quality. The PRO determinations to deny Medicare payment for these services will be made on the basis of criteria that are consistent with guidelines established by the Secretary. Under section 9353(c) of PL 99-509, PROs will conduct an appropriate review of all written complaints from beneficiaries or their representatives about the quality of services not meeting professionally recognized standards of health care. Under PL 100-203 beneficiaries are protected from liability for the cost of physician services where payment is denied because services were of substandard quality.

Timetable:

Action	Date	FR Cite
NPRM	01/18/89	54 FR 1956
NPRM Comment Period End	03/20/89	54 FR 1956
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia Booth, Director, Division of Review Programs, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 966-6880

RIN: 0938–AC84

809. CHANGES CONCERNING SUSPENSION OF MEDICARE PAYMENTS, INTEREST RATES CHARGED ON OVERPAYMENTS AND UNDERPAYMENTS, AND DETERMINATIONS OF ALLOWABLE INTEREST EXPENSE

Legal Authority: 42 USC 1320b-4; 42 USC 1395g; 42 USC 1395u; 42 USC 1395x(v)(1)(A); 42 USC 1395hh; 42 USC 1302; 42 USC 13951

CFR Citation: 42 CFR 413.153; 42 CFR 405.370; 42 CFR 405.376; 42 CFR 413.5(c)(3)

Legal Deadline: None

Abstract: This rule will change the Medicare regulations to provide for the following: (1) elimination of the requirement that in case of overpayments to health care providers, the contractor makes a determination that a suspension of payment is needed to protect the program against financial loss before the payment can be suspended; (2) elimination of the requirement that investment income of providers from gifts, grants, and endowments be offset against allowable interest expenses if that investment income is commingled with other funds; and (3) extension of the list of exceptions to the interest expense/investment income offset provision to include investment income from deferred compensation plans and self-insurance funds; and (4) permitting interest on overpayments and underpayments to be assessed at the higher of the private consumer rate or the current value of funds rate.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31886
NPRM Comment Period End	10/21/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise Building, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938–AC99

810. CRITERIA AND PROCEDURES FOR MAKING MEDICAL SERVICES COVERAGE DECISIONS THAT RELATE TO HEALTH CARE TECHNOLOGY

Significance: Regulatory Program

Legal Authority: 42 USC 1395y; 42 USC 1302; 42 USC 1395hh; 42 USC 1395xx

CFR Citation: 42 CFR 400.200; 42 CFR 400.202; 42 CFR 405.380; 42 CFR 405.381; 42 CFR 405.382; 42 CFR 405.383

Legal Deadline: None

Abstract: The rule will establish in regulations generally applicable standards and procedures for HCFA determinations as to whether and under what circumstances specific medical items and services should be paid for under Medicare. It establishes and explains the criteria relied upon for determining whether an item or service is "reasonable and necessary." The objective of the criteria and procedures set forth in this rule is to assure that Federal funds are expended only for medical services that are covered under the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4302
NPRM Comment Period End	03/31/89	54 FR 4302
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam DellaVecchia, Chief, Special Coverage Issues Branch, Department of Health and Human Services, Health Care Financing Administration, 455 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-5316

RIN: 0938–AD07

811. MEDICARE COVERAGE OF PRESCRIPTION DRUGS USED IN IMMUNOSUPPRESSIVE THERAPY

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(s)(2)(J); 42 USC 1302

CFR Citation: 42 CFR 410.10; 42 CFR 410.29; 42 CFR 410.31

Legal Deadline: None

Abstract: This rule will implement section 9335(c) of Pub.L. 99-509 which authorizes Medicare coverage of immunosuppressive drugs for a period of 1-year following a Medicare-covered organ transplant. Current regulations reflect the statutory exclusion from Medicare Part B coverage of drugs or biologicals that can be self-administered. The regulations will be amended to reflect the new statutory requirement. The final regulation will also implement section 4075 of P.L. 100-203, which expanded coverage from "immunosuppressive drugs" to "prescription drugs used in immunosuppressive therapy."

Timetable:

Action	Date	FR Cite
NPRM	01/19/88	53 FR 1383
NPRM Comment Period End	03/21/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Physician & Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 479 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4636

RIN: 0938–AD09

812. REVISIONS TO CONDITIONS OF PARTICIPATION FOR HOSPITALS AND CONDITIONS FOR COVERAGE OF SERVICES OF INDEPENDENT LABORATORIES AND SUPPLIERS OF ESRD SERVICES

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(e)(6)(B); PL 99-509, Sec 9339(d); 42 USC 1395x(ee); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.1312; 42 CFR 482.21; 42 CFR 405.2135; 42 CFR 405.2137; 42 CFR 482.27; 42 CFR 482.43

Legal Deadline: None

Abstract: These revisions will (a) require hospitals to provide a discharge planning process; and (b) allow a laboratory director to meet State standards for qualifications, rather than federal, if they differ. These revisions will conform our regulations with requirements of Pub.L. 99-509.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22506
NPRM Comment Period End	08/15/88	53 FR 22506
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wren, Director, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 966-5661

RIN: 0938–AD11

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813. EXPLANATION OF RIGHTS AND OTHER HMO/CMP PROVISIONS

Legal Authority: 42 USC 1395mm; PL 99-509, Sec 9312(a); 42 USC 1302; 42 USC 1395hh; PL 100-203, Sec 4011(b)

CFR Citation: 42 CFR 417.413; 42 CFR 417.428; 42 CFR 417.432; 42 CFR 417.436; 42 CFR 417.446; 42 CFR 417.448; 42 CFR 417.460; 42 CFR 417.640; 42 CFR 417.494; 42 CFR 417.444; 42 CFR 417.597

Legal Deadline: None

Abstract: This rule revises Medicare regulations to repeal the "two-for-one" rule for Medicare enrollees; expand required information and require annual notice of HMO/CMP enrollees rights; and add a provision to terminate a contract for noncompliance with the composition of enrollment standard requiring that no more than 50 percent of an organization's membership be comprised of Medicare or Medicaid enrollees, and would authorize sanctions when organizations fail to comply with the 50/50 rule or terms of waiver or exception to that rule.

Timetable:

Action	Date	FR Cite
NPRM	07/22/88	53 FR 27718
NPRM Comment Period End	09/20/88	53 FR 27718
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Joan Mahanes, Program Analyst, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 463 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4642

RIN: 0938–AD14

814. ELIGIBILITY OF ALIENS FOR MEDICAID

Significance: Regulatory Program

Legal Authority: 42 USC 1396b(u); PL 99-603, Sec 201; PL 99-509, Sec 9406

CFR Citation: 42 CFR 435.402; 42 CFR 436.402; 42 CFR 440.200; 42 CFR 440.250; 42 CFR 436.128; 42 CFR 436.406; 42 CFR 436.406; 42 CFR 436.2; 42 CFR 440.255; 42 CFR 435.139; 42 CFR 435.406; 42 CFR 435.406; 42 CFR 435.1; 42 CFR 435.3; 42 CFR 436.128; ...

Legal Deadline: None

Abstract: This rule revises Medicaid regulations applicable for aliens who meet eligibility requirements as categorically needy or medically needy. It establishes in the regulations that aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law may be eligible for all Medicaid services. It also identifies those aliens who may be eligible only for limited services.

Timetable:

Action	Date	FR Cite
NPRM	09/29/88	53 FR 38032
NPRM Comment Period End	11/28/88	53 FR 38032
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marinos T. Svolos, Director, Division of Medicaid Eligibiltiy Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938–AD15

815. PAYMENT FOR SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS

Legal Authority: 42 USC 1395x(s)(ll); 42 USC 1395l(l); 42 USC 1395x(bb)

CFR Citation: 42 CFR 405.553; 42 CFR 405.502; 42 CFR 413.80

Legal Deadline: NPRM, Statutory, January 1, 1989. Final, Statutory, January 1, 1989.

Abstract: Section 9320 of Pub. L. 99-509 provides for payment on a fee schedule basis for services of certified registered nurse anesthetists (CRNAs) furnished to Medicare beneficiaries on or after January 1, 1989. The payment amount will be equal to the least of 80 percent of a fee schedule established by the Secretary (and adjusted annually by the change in the Medicare economic index), 80 percent of the prevailing charge for an anesthesiologist; or 80 percent of the actual charge. CRNAs will be required to accept assignment for all Medicare services and civil monetary penalties could be imposed for violations of this requirement. Alternatively, the hospital or physician could bill for and receive payment for services of CRNAs where an employment relationship or contract so stipulates. The hospital or physician could not bill more for CRNA services than the amount the CRNA could bill directly.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3803
NPRM Comment Period End	03/27/89	54 FR 3803
Final Action	08/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services, Reimbursement, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4497

RIN: 0938–AD25

816. WITHDRAWAL OF COVERAGE OF SINGLE PHOTON ABSORPTIOMETRY AND RADIOGRAPHIC ABSORPTIOMETRY

Legal Authority: 42 USC 1395y(a); 42 USC 1302; 42 USC 1395hh

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This notice announces the Medicare program's intent to withdraw Medicare coverage (including coverage under the End-Stage Renal Disease (ESRD) program) for single photon absorptiometry and radiographic absorptiometry for measuring bone mineral density for either diagnostic or treatment purposes, and to continue noncoverage of dual photon absorptiometry.

Timetable:

Action	Date	FR Cite
Proposed Notice	09/08/88	53 FR 34898
Public Comment Period End	11/07/88	53 FR 34898
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam DellaVecchia, Chief, Special Coverage Issue Branch, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 455 EHR, 6325 Security Blvd., Baltimore. MD. 21207, 301 966-5316

RIN: 0938–AD28

817. MODIFICATION OF CERTAIN REQUIREMENTS FOR HEALTH INSURING ORGANIZATIONS

Legal Authority: 42 USC 1302; 42 USC 1396b(m)(2)(A); PL 99-272, Sec 9517(c); PL 99-514, Sec 1895(c)(4); PL 99-509, Sec 9435(e)

CFR Citation: 42 CFR 434.14; 42 CFR 434.20; 42 CFR 434.40; 42 CFR 434.42; 42 CFR 434.44; 42 CFR 434.2

Legal Deadline: None

Abstract: The final rule will describe the conditions under which a Health Insuring Organization (HIO) is subject to Medicaid Health Maintenance Organization (HMO) regulations. It would require that an HIO which becomes operational on or after January 1, 1986 and arranges for the delivery of services to recipients be subject to HMO requirements. The regulations would specify that exemptions from certain HMO requirements are permitted for HIOs which began operations on or after January 1, 1986 if the HIOs obtained a section 1915(b) waiver prior to that date, or if an HIO is otherwise identified in the law. The exemptions which are based on section 1915(b) waivers last only until the expiration of the waiver.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32406
NPRM Comment Period End	10/24/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert E. Wren, Office Director, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Rm. 401 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-5661

RIN: 0938–AD31

818. PROHIBITION ON UNBUNDLING OF HOSPITAL OUTPATIENT SERVICES

Legal Authority: 42 USC 1395y(a)(14); 42 USC 1395cc(a)(1)(H); 42 USC 1395cc(g)

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 489; 42 CFR 1003

Legal Deadline: None

Abstract: This rule, issued jointly by HCFA and OIG, will prohibit Medicare payment for nonphysician services furnished to a hospital outpatient by a provider or supplier other than the hospital, unless the services are furnished under an arrangement with the hospital. The hospital will be obligated by its provider agreement to furnish the services directly or under an arrangement. These regulations also authorize OIG to impose a civil money penalty, not to exceed $2,000, against any individual who knowingly and willfully presents, or causes to be presented, a bill or request for payment for a hospital outpatient service under Part B of Medicare in violation of an arrangement. These regulations will implement sections 9343(c)(1), (c)(2), and (c)(3 of the Omnibus Budget Reconciliation Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	08/05/88	53 FR 29486
NPRM Comment Period End	10/04/88	53 FR 29486
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tom Hoyer, Director, Division of Provider Services and, Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 405 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4607

RIN: 0938–AD33

819. PHYSICIAN LIABILITY ON NON-ASSIGNED CLAIMS

Legal Authority: PL 99-509, Sec 9332; 42 USC 1395u; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.339

Legal Deadline: None

Abstract: This regulation implements Section 9332(c) of the Omnibus Budget Reconciliation Act of 1986 under which nonparticipating physicians who provide, on an unassigned basis, services which are determined to be medically unnecessary are required to refund to the beneficiary any amounts collected for such services. Exceptions to the refund requirement will be granted only if the physician did not know and could not reasonably have been expected to know that the service was not covered, or if the beneficiary, after being informed that Medicare will not pay for the service, agrees to pay.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53025
NPRM Comment Period End	02/28/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elmer Smith, Director, Office of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 400 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-5648

RIN: 0938–AD34

820. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS

Legal Authority: 42 USC 1395y(a); 42 USC 1320(c); 42 USC 1395hh; 42 USC 1396a(a)(30)

CFR Citation: 42 CFR 405.310; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 434.53; 42 CFR 456.2; 42 CFR 456.650; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107; 41 CFR 466.71; 42 CFR 466.76; 42 CFR 466.78; 42 CFR 466.83; 42 CFR 466.93; ...

Legal Deadline: None

Abstract: This rule sets forth several changes to the Medicare regulations governing Peer Review Organizations. Some of these changes are the result of the passage of the Consolidated Omnibus Budget Reconciliation Act of 1985 and the Omnibus Budget Reconciliation Act of 1986. Other changes are of a technical nature and are intended to clarify and correct existing regulations on the Peer Review Organization Program. The rule also sets forth the policy for reimbursement of costs incurred by hospitals for photocopying medical records needed by PROs during offsite reviews.

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Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8654
NPRM Comment Period End	05/16/88	53 FR 8654
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard Husk, Director, Office of Peer Review, Department of Health and Human Services, Health Care Financing Administration, Rm. 2-D-2 Meadows East Bdlg., 6325 Security Blvd., Baltimore, MD. 21207, 301 966-6850

RIN: 0938–AD38

821. UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES FOR JULY 1, 1988

Significance: Agency Priority

Legal Authority: 42 USC 1395l(a)(4); 42 USC 1395l(i); 42 USC 1395k(a)(2)(F); 42 USC 1302

CFR Citation: 42 CFR 416.130

Legal Deadline: NPRM, Statutory, July 1, 1988.

Abstract: We will state the methodology used to determine the payment amounts for ambulatory surgical services and update payment rates, effective July 1, 1988.

Timetable:

Action	Date	FR Cite
Proposed Notice	06/16/88	53 FR 31468
Public Comment Period End	10/17/88	53 FR 31468
Final Notice	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Booth, Director, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, Room 181 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4487

RIN: 0938–AD44

822. HOME HEALTH AGENCIES: CONDITIONS OF PARTICIPATION AND REDUCTION IN RECORDKEEPING REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395hh; 42 USC 1395bbb

CFR Citation: 42 CFR 484

Legal Deadline: Final, Statutory, October 1, 1988.
Minimum standards for home health aide training and competency evaluation programs must, pursuant to P.L. 100-203, be established by October 1, 1988.

Abstract: These regulations specify requirements for home health agencies for: protecting and promoting patient rights; training and competency of home health aides; notifying State entities responsible for the licensing or certification of HHAs of changes in ownership, managing employees, and managing organizations; including an individual's plan of care as part of the individual's clinical records; and operating and furnishing services in compliance with accepted professional standards and principles that apply to professionals furnishing home health services.

Timetable:

Action	Date	FR Cite
Final With Comment Period	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of, Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405, EHR, 6325 Security Blvd, Baltimore, MD 21207, 301 966-4607

RIN: 0938–AD45

823. CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1989 RATES

Significance: Regulatory Program

Legal Authority: 42 USC 1395ww; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 412

Legal Deadline: None

Abstract: This final rule makes revisions to the inpatient hospital prospective payment system based on responses to comments received concerning changes made by Pub.L. 100-360 that are applicable to discharges during FY 1989.

Timetable:

Action	Date	FR Cite
NPRM	05/27/88	53 FR 19496
NPRM Comment Period End	07/26/88	53 FR 1948
Final Action with comments	09/30/88	53 FR 38476
Final Action generally effective	10/01/88	53 FR 38476
Final Action Public Comment Period End	11/29/88	53 FR 38476
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ed Rees, Acting Director, Division of Hospital Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4529

RIN: 0938–AD49

824. PROTOCOL FOR THE REUSE OF DIALYSIS BLOODLINES

Legal Authority: 42 USC 1395rr(a)(7); 42 USC 1302; 42 USC 1395hh; 42 USC 1395kk; 42 USC 1395x; 42 USC 1395y(a)

CFR Citation: 42 CFR 405.2150(d)

Legal Deadline: None
While the Secretary is not required to publish a regulation, ESRD facilities will not otherwise be permitted to re-use bloodlines after June 30, 1988.

Abstract: This rule would establish standards for safe and effective reuse of bloodlines. The statute forbids ESRD facilities to reuse bloodlines beginning July 1, 1988, unless the Secretary has established and the facilities follow, protocols for their reuse. The protocols would be incorporated into conditions of coverage.

Timetable:

Action	Date	FR Cite
NPRM	07/27/88	53 FR 28236
NPRM Comment Period End	09/26/88	53 FR 28236
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rita McGrath, Chief, Alternate Delivery Organization Branch, Department of Health and Human Services, Health Care Financing Administration, Room 469 EHR Bldg., 6325 Security Blvd., Baltimore. MD 21207, 301 966-4635

RIN: 0938–AD52

825. UNIFORM RELATIVE VALUE GUIDE FOR ANESTHESIA SERVICES FURNISHED BY PHYSICIANS

Legal Authority: PL 100-203, Sec 4048(b); 42 USC 1302; 42 USC 1395hh; 42 USC 1395u(b)(14)

CFR Citation: 42 CFR 405.553

Legal Deadline: Final, Statutory, January 1, 1989.
Under section 4048(b) of PL 100-203 the relative value guide is to be used for physician anesthesia services furnished on or after 01/01/89.

Abstract: This final rule will establish a relative value guide for use in all carrier localities in making payment for anesthesia services furnished by physicians under Medicare Part B. This rule will implement section 4048(b) of PL 100-203. The proposed relative value guide is designed to ensure that payments using the guide do not exceed the amount that would have been made under the current payment system. Although the statute requires that the uniform relative value guide be effective for services furnished on or after January 1, 1989, we are delaying the effective date until March 1, 1989.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3794
NPRM Comment Period End	02/27/89	54 FR 3794
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Director, Division of, Medical Services Reimbursement, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938–AD63

826. PAYMENT FOR DURABLE MEDICAL EQUIPMENT AND ORTHOTIC AND PROSTHETIC DEVICES

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395m(a); 42 USC 1395x(n)

CFR Citation: 42 CFR 405.502; 42 CFR 405.514; 42 CFR 414.200; 42 CFR 414.202; 42 CFR 414.210; 42 CFR 414.220; 42 CFR 414.222; 42 CFR 414.224; 42 CFR 414.226; 42 CFR 414.228; 42 CFR 414.230

Legal Deadline: None

Abstract: This final rule with comment period implements section 4062 of PL 100-203. It establishes fee schedules and payment methodologies that govern payments for six categories of durable medical equipment and orthotic and prosthetic devices as required by section 4062 of PL 100-203. The new payment rates are to be effective for items provided on or after January 1, 1989.

Timetable:

Action	Date	FR Cite
Final with comment period	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Director of Medical Services Reimbursement, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938–AD65

827. PERIODIC PAYMENTS FOR HOSPITALS AND OTHER PROVIDERS

Legal Authority: 42 USC 1395g(e); 42 USC 1395g (note); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 412.116

Legal Deadline: None

Abstract: In this final rule, we set forth the circumstances under which the periodic interim payment method is available for services furnished by hospitals and other providers. Generally, inpatient hospital services furnished by hospitals excluded from the prospective payment system, as well as skilled nursing facility services, home health services, and hospice care services, may be paid for on a periodic interim payment basis. With certain exceptions, inpatient hospital services furnished by prospective payment hospitals are not eligible for payment on a periodic interim payment basis.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4513

RIN: 0938–AD71

828. INHERENT REASONABLENESS FOR HOME DIALYSIS SUPPLIES AND EQUIPMENT

Legal Authority: 42 USC 1395u(b)(8); 42 USC 1302

CFR Citation: None

Legal Deadline: None

Abstract: This notice would establish a special reasonable charge payment limit for home dialysis equipment and supplies to prevent excessive payment for these items.

Timetable:

Action	Date	FR Cite
Proposed Notice	01/12/89	54 FR 1244
Comment Period End	03/13/89	
Final Notice	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bob Niemann, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Div. of Dialysis & Transplant Payment Policy, 1-A-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4569

RIN: 0938–AD74

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829. PAYMENT FOR OUTPATIENT SURGERY AT EYE SPECIALTY HOSPITALS AND EYE AND EAR SPECIALTY HOSPITALS

Legal Authority: 42 USC 1395l(l)(3)(B)(ii); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.118

Legal Deadline: None

Abstract: In accordance with section 4068(a) of PL 100-203, we will revise the payment provisions concerning hospital outpatient services furnished in connection with ambulatory surgical procedures for certain qualified eye hospitals and eye and ear hospitals. For cost reporting periods beginning on or after October 1, 1988 and before October 1, 1990, the blended payment amount applicable to these hospitals remains at 75 percent of the hospital-specified amount and 25 percent of the ambulatory surgical center amount.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3818
NPRM Comment Period End	03/27/89	54 FR 3818
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4513**

RIN: 0938–AD76

830. SWING-BED PROGRAM CHANGES

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395tt

CFR Citation: 42 CFR 413; 42 CFR 424; 42 CFR 482; 42 CFR 489

Legal Deadline: None

Abstract: These regulations revise the Medicare rules relating to approved swing-bed hospitals. They implement the provisions of Pub. L. 100-203 which expand the swing-bed program to rural hospitals with less than 100 beds. Payment for extended care services furnished by hospitals with 50-99 beds are subject to additional conditions.

Timetable:

Action	Date	FR Cite
Final with comment period	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert E. Wren, Director, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-5661**

RIN: 0938–AD85

831. FEE SCHEDULE FOR CERTIFIED NURSE-MIDWIFE SERVICES

Legal Authority: 42 USC 1395k(a)(2)(B); 42 USC 1395l(a)(1)(K) and (p); 42 USC 1395x(s)(2)(L) and (gg); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would provide for the establishment of a fee schedule for the services of certified nurse-midwives under the Medicare program. This proposal would implement section 4073 of PL 100-203 and would apply to Medicare services provided by certified nurse-midwives on or after July 1, 1988.

Timetable:

Action	Date	FR Cite
Final with comment period	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4607**

RIN: 0938–AD83

832. SECOND SURGICAL OPINION REQUIREMENTS FOR MEDICAID RECIPIENTS

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(30)(A)

CFR Citation: 42 CFR 456.900; 42 CFR 456.903; 42 CFR 456.905; 42 CFR 456.907; 42 CFR 456.909; 42 CFR 456.911; 42 CFR 456.913; 42 CFR 456.915; 42 CFR 456.921; 42 CFR 456.923; 42 CFR 456.929

Legal Deadline: None

Abstract: These regulations require each Medicaid plan to include a program for second surgical opinions for certain surgical procedures. This program is aimed at preventing unnecessary surgery and improving patient awareness of all treatment options, where alternatives to surgery are available. These regulations will be published in final 180 days following the Secretary's submission of a report to Congress, due on or before October 1, 1988, as required by the OBRA of 1986.

Timetable:

Action	Date	FR Cite
NPRM	06/17/86	
Submit Report to Congress as Required by OBRA-86	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ernestine Jones, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Room 463, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4646**

RIN: 0938–AD86

833. CONFORMING AMENDMENTS RESULTING FROM THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987

Legal Authority: 42 USC 1395x(r); 42 USC 1395l; 42 USC 1395x(s); 42 USC 1395y; 42 USC 1395x(e); 42 USC 1395r; 42 USC 426; 42 USC 1396d; 42 USC 1396n; 42 USC 1396b; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 400; 42 CFR 405; 42 CFR 406; 42 CFR 408; 42 CFR 409; 42 CFR 410; 42 CFR 413; 42 CFR 416; 42 CFR 417; 42 CFR 424; 42 CFR 430; 42 CFR 431; 42 CFR 435; 42 CFR 436; 42 CFR 440; ...

Legal Deadline: None

Abstract: These regulations conform HCFA rules to certain self-executing provisions of the Omnibus Budget Reconciliation Act of 1987. They are needed to make HCFA rules consistent with current provisions of law and to ensure that users of the regulations are not confused by outdated provisions or unclear language. Under the Medicare program's rules changes are made affecting: services of podiatrists; outpatient psychiatric services; SMI premiums; and comprehensive outpatient rehabilitative facility services. Under the Medicaid program changes are made affecting: services of dentists; clinic services; and waivers of certain State plan requirements. In addition, we make other conforming and transitional amendments.

Timetable:

Action	Date	FR Cite
Final with comment period	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Luisa V. Iglesias, Technical Assistant, Department of Health and Human Services, Health Care Financing Administration, Room 418 H.Hubert H. Humphrey Bldg., 200 Independence Avenue, SW, Washington, D.C. 20201, 202 245-0343

RIN: 0938–AD92

834. CATASTROPHIC COVERAGE CONFORMING AMENDMENTS

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395e; 42 USC 1395f; 42 USC 1395i; 42 USC 1395r; 42 USC 1396a, 42 USC 1396d; 42 USC 1395v; 42 USC 1396b

CFR Citation: 42 CFR 400; 42 CFR 406; 42 CFR 407; 42 CFR 408; 42 CFR 409; 42 CFR 410; 42 CFR 418; 42 CFR 424; 42 CFR 431; 42 CFR 435; 42 CFR 436; 42 CFR 447; 42 CFR 482; 42 CFR 489

Legal Deadline: None

Abstract: These regulations conform HCFA rules to certain self executing provisions of the Medicare Catastrophic Coverage Act of 1988 which: expand the scope of benefits under Medicare Part A; change the rules applicable to deductible and coinsurance; effect the determination and promulgation of Medicare Part A premiums; impose additional premiums for Medicare Part B; require Medicaid agencies to pay Medicare premiums deductibles and coinsurance on behalf of qualified Medicare beneficiaries and make other conforming and transitional amendments. They are needed to make HCFA rules consistent with current provisions of law and to ensure that users of the regulations are not confused by outdated provisions or unclear language.

Timetable:

Action	Date	FR Cite
Final with comment period	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Luisa V. Iglesias, Technical Assistant, Department of Health and Human Services, Health Care Financing Administration, Room 418H Hubert H. Humphrey Bldg., 200 Independence Avenue, SW, Washington, D.C. 20201, 202 245-0383

RIN: 0938–AD93

835. ● SCHEDULE OF LIMITS ON HOME HEALTH AGENCY COSTS PER VISIT FOR COST REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1989

Legal Authority: 42 USC 1302; 42 USC 1395x(v)(1)(A); 42 USC 1395x(v)(1)(L)

CFR Citation: 42 CFR 413.30

Legal Deadline: Other, Statutory, July 1, 1989.
Sec 4026(a)(2) of P.L.100-203, as amended by sec 411(d)(5)(B) of P.L.100-360, requires the application of a wage index based on wage data fm HHAs to cost rptg periods beginning July 1, 1989.

Abstract: This final notice with comment period sets forth an updated schedule of limits on home health agency costs that may be reimbursed under the Medicare program. This updated schedule of limits will be applicable to cost reporting periods beginning on or after July 1, 1989.

Timetable:

Action	Date	FR Cite
Notice	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Goeller, Director, Division of Payment and Reporting, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 ELR, 6325 Security Boulevard, Baltimo Maryland 21207, **301 966-4513**

RIN: 0938–AE03

836. ● SCHEDULE OF LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS FOR REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1989

Legal Authority: 42 USC 1395x(v)(1)(A); 42 USC 1395yy; 42 USC 1302

CFR Citation: 42 CFR 413.30

Legal Deadline: None

Abstract: This notice would set forth a revised schedule of limits on skilled nursing facility inpatient routine service costs that are reimbursed under Medicare. This schedule would apply to cost reporting periods beginning on or after October 1, 1989.

Timetable:

Action	Date	FR Cite
Notice	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4513**

RIN: 0938–AE04

837. ● PHYSICIAN INVOLVEMENT IN PHYSICAL THERAPY AND SPEECH PATHOLOGY SERVICES

Legal Authority: PL 100-647, Sec 8424

CFR Citation: 42 CFR 405.1717; 42 CFR 405.1733; 42 CFR 424.25

Legal Deadline: None

Abstract: This final rule implements section 8424 of the Technical and Miscellaneous Revenue Act of 1988. It removes from Medicare conditions of participation the requirements that providers of outpatient physical therapy and physical therapists in independent practice accept for treatment only patients referred to them by physicians, and that written plans of care be established and reviewed by

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physicians. It also extends the same exemption to providers of outpatient speech pathology and speech pathologists in independent practice. It affects care provided to non-Medicare patients only. The requirements for physician involvement continue to apply for services provided to Medicare beneficiaries. The purpose of the rule is to relieve providers of outpatient physical therapy and speech pathology and independent therapists of an unnecessary burden imposed by current Federal regulations. States would have the flexibility under State law to establish the most appropriate requirements for non-Medicare patients in need of physical therapy or speech pathology services.

Timetable:

Action	Date	FR Cite
FINAL WITH COMMENT PERIOD	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheridan Gladhill, Program Analyst, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4605

RIN: 0938–AE07

838. ● FUNCTIONS OF CONTRACTORS IN THE ADMINISTRATION OF THE MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT BEGINNING JANUARY 1, 1991

Legal Authority: 42 USC 1395u(f); 42 USC 1302; 42 USC 1395hh

CFR Citation: Not applicable

Legal Deadline: None

Abstract: Section 202(e) of the Medicare Catastrophic Coverage Act of 1988 permits the Secretary to enter into contracts with qualified entities to implement and operate electronic bill processing, payment and information systems with respect to Medicare outpatient prescription drugs dispensed to Medicare beneficiaries. This notice alerts the public to the planned separation of functions related to the Medicare outpatient prescription drug benefit among the new drug bill processors and the current Medicare carriers. It also allows the public an opportunity to comment on the new drug bill processors functions prior to the incorporation of those functions into contracts.

Timetable:

Action	Date	FR Cite
Notice with Comment	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Toba Winston, Chief, Contract Policy Branch, Office of Program Administration, Department of Health and Human Services, Health Care Financing Administration, 334 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-7426

RIN: 0938–AE14

839. ● PART B CATASTROPHIC LIMIT

Legal Authority: 42 USC 1395l(c); 42 USC 1302

CFR Citation: 42 CFR 410.110

Legal Deadline: Other, Statutory, September 1, 1989.

Abstract: This notice indicates the amount that section 1833(c) of the Social Security Act prescribes as the out-of-pocket limit on expenses a Medicare beneficiary will have to pay in 1990 for Part B services (except for drugs.)

Timetable:

Action	Date	FR Cite
Notice	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Solomon Mussey, Supervisory Actuary, Office of Medicare Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, M-1, 1705 Equitable Bldg., 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6386

RIN: 0938–AE18

840. ● INPATIENT HOSPITAL DEDUCTIBLE FOR 1990

Legal Authority: 42 USC 1395c

CFR Citation: 42 CFR 409.82

Legal Deadline: Other, Statutory, September 15, 1989.

Abstract: This notice announces the inpatient hospital deductible for calendar year 1990 under Medicare's hospital insurance program. The Medicare statute specifies the formula to be issued to determine this amount.

Timetable:

Action	Date	FR Cite
Notice	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Solomon Mussey, Supervisory Actuary, Office of Medicare Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, M-1, 1705 Equitable Bldg., 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6386

RIN: 0938–AE19

841. ● PART A PREMIUM FOR THE UNINSURED AGED FOR 1990

Legal Authority: 42 USC 1395i

CFR Citation: 42 CFR 406.22

Legal Deadline: Other, Statutory, September 30, 1989.

Abstract: This notice announces the amount of the monthly premium for uninsured Medicare beneficiaries for calendar year 1990. This amount is based on the formula specified by statute.

Timetable:

Action	Date	FR Cite
Notice	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Solomon Mussey, Supervisory Actuary, Office of Medicare Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, M-1, 1705 Equitable Bldg., 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6386

RIN: 0938–AE20

842. ● MONTHLY ACTUARIAL RATES AND PART B PREMIUM RATES BEGINNING 1/1/90

Legal Authority: 42 USC 1395r; 42 USC 1302

CFR Citation: 42 CFR 408.20

Legal Deadline: Other, Statutory, September 30, 1989.

Abstract: This notice announces the monthly actuarial rates for aged (aged 65 and over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for the 12 months beginning January 1, 1990. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning January 1, 1989.

Timetable:

Action	Date	FR Cite
Notice	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Solomon Mussey, Supervisory Actuary, Office of Medicare Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, M-1, 1705 Equitable Bldg., 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6386

RIN: 0938–AE21

843. ● SNF COINSURANCE AMOUNTS FOR 1990

Legal Authority: 42 USC 1395e(a)(3)(C)

CFR Citation: 42 CFR 409.85

Legal Deadline: Other, Statutory, September 30, 1989.

Abstract: This notice announces the daily coinsurance amounts for which Medicare beneficiaries will be responsible for days 1 through 8 of a covered stay in a skilled nursing facility in 1990.

Timetable:

Action	Date	FR Cite
Notice	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Solomon Mussey, Supervisory Actuary, Office of Medicare Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, M-1, 1705 Equitable Bldg., 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6386

RIN: 0938–AE22

844. ● UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES FOR JULY 1, 1989

Significance: Agency Priority

Legal Authority: 42 USC 1395l(a)(4); 42 USC 1395l(i); 42 USC 1395k(a)(2)(F)

CFR Citation: 42 CFR 416.130

Legal Deadline: Final, Statutory, July 1, 1989.

Abstract: This notice announces the payment rates for ambulatory surgical services effective July 1, 1989.

Timetable:

Action	Date	FR Cite
Final Notice	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Booth, Director, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, Room 181 EHR, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-4487

RIN: 0938–AE29

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions

Health Care Financing Administration (HCFA)

845. MISCELLANEOUS MEDICARE AND MEDICAID AMENDMENTS

CFR Citation: 42 CFR 405; 42 CFR 409; 42 CFR 410; 42 CFR 416; 42 CFR 421; 42 CFR 441; 42 CFR 489

Completed:

Reason	Date	FR Cite
Final Action	01/27/89	54 FR 4023
Final Action Effective	02/27/89	54 FR 4023

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Luisa Iglesias 202 245-0383

RIN: 0938–AB05

846. INDIRECT PART B PAYMENT PROCEDURE

CFR Citation: 42 CFR 424.36; 42 CFR 424.60; 42 CFR 424.66

Completed:

Reason	Date	FR Cite
Final Action	07/28/88	53 FR 28384
Final Action Effective	08/29/88	53 FR 28384

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Olenick 301 966-4472

RIN: 0938–AB59

847. HOSPITAL INSURANCE ENTITLEMENT AND SUPPLEMENTARY MEDICAL INSURANCE ENROLLMENT AND ENTITLEMENT

CFR Citation: 42 CFR 405; 42 CFR 406; 42 CFR 407

Completed:

Reason	Date	FR Cite
Final Action	11/22/88	53 FR 47199
Final Action Effective	12/22/88	53 FR 47199

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Denis Garrison 301 966-5643

RIN: 0938–AB60

848. EMPLOYERS CONTRIBUTION TO HEALTH MAINTENANCE ORGANIZATIONS OPTION

CFR Citation: 42 CFR 417.157

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Completed:

Reason	Date	FR Cite
Withdrawn Replaced by Self Impl Processes of HMO Amendments of 88	11/00/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Sobel 202 245-0197

RIN: 0938–AC48

849. USE OF THE HCFA HOSPITAL WAGE INDEX FOR DETERMINING PAYMENT TO HOSPICES

CFR Citation: 42 CFR 418.306(c)

Completed:

Reason	Date	FR Cite
Withdrawn To be combined with another regulatory document.	02/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Lovecchio 301 966-4575

RIN: 0938–AC49

850. BILLING AND VERIFICATION ADD-ON RELATING TO HOME HEALTH AGENCIES COST PER VISIT LIMITS

CFR Citation: 42 CFR 413.30

Completed:

Reason	Date	FR Cite
Final Action	10/05/88	53 FR 39150

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William J. Goeller 301 966-4513

RIN: 0938–AC56

851. PAYMENT FOR KIDNEYS SENT TO FOREIGN COUNTRIES OR TRANSPLANTED IN PATIENTS OTHER THAN MEDICARE BENEFICIARIES

CFR Citation: 42 CFR 413.179

Completed:

Reason	Date	FR Cite
Final Action	02/06/89	54 FR 5619
Final Action Effective	03/06/89	54 FR 5619

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Horney 301 966-4554

RIN: 0938–AC59

852. MEDICARE BENEFICIARY APPEALS

CFR Citation: 42 CFR 405.701; 42 CFR 405.708; 42 CFR 405.716; 42 CFR 405.717; 42 CFR 405.718a through d; 42 CFR 405.719; 42 CFR 405.720; 42 CFR 405.722; 42 CFR 405.724; 42 CFR 405.730; 42 CFR 405.801; 42 CFR 426; 42 CFR 405.702

Completed:

Reason	Date	FR Cite
Withdrawn Current Responsibility Outside HCFA	06/01/88	53 FR 20023

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold Shaffer 301 966-5765

RIN: 0938–AC81

853. REFUNDING OF FEDERAL SHARE OF OVERPAYMENTS MADE TO MEDICAID PROVIDERS

CFR Citation: 42 CFR 433.32 to 35; 42 CFR 433.112; 42 CFR 433.116; 42 CFR 433.300 to 322

Completed:

Reason	Date	FR Cite
Final Action	02/03/89	54 FR 5452
Final Action Effective	04/04/89	54 FR 5452

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: David Greenberg 301 966-3278

RIN: 0938–AC83

854. RECOGNITION OF COLLEGE OF AMERICAN PATHOLOGISTS LABORATORY ACCREDITATION PROGRAM

CFR Citation: 42 CFR 405.1310; 42 CFR 482.27

Completed:

Reason	Date	FR Cite
Withdrawn - Reassessing policy	10/00/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mike Goldman 301 966-6813

RIN: 0938–AC89

855. REQUIREMENTS FOR LONG TERM CARE FACILITIES

Significance: Regulatory Program

CFR Citation: 42 CFR 442.30; 42 CFR 442.101; 42 CFR 442.105; 42 CFR 442.300 to 442.346; 42 CFR 442.250 to 442.254; 42 CFR 483.1 to 483.75; 42 CFR 442.200 to 202; 42 CFR 447.251; 42 CFR 447.253; 42 CFR 447.255; 42 CFR 447.272

Completed:

Reason	Date	FR Cite
Final Action Final with comment period ending 05/03/89.	02/02/89	54 FR 5316
Final Action Effective	08/09/89	54 FR 5316

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Agency Contact: Samuel Kidder 301 966-4620

RIN: 0938–AD12

856. MEDICARE, MEDICAID, AND CLINICAL LABORATORIES IMPROVEMENT ACT (CLIA) PATIENT CONFIDENTIALITY RULES

CFR Citation: 42 CFR 74; 42 CFR 405; 42 CFR 441

Completed:

Reason	Date	FR Cite
Final Action	12/02/88	53 FR 48645
Final Action Effective	01/03/89	53 FR 48645

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mike Goldman 301 966-6813

RIN: 0938–AD40

857. SCHEDULES OF LIMITS ON HOME HEALTH AGENCY COSTS PER VISIT FOR COST REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1988

Significance: Agency Priority

CFR Citation: 42 CFR 413.30

Completed:

Reason	Date	FR Cite
Final Action -For Costing Reporting Periods Beginning 07/01/88	10/18/88	53 FR 40771
Final Action Effective	07/01/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Goeller 301 966-4513

RIN: 0938–AD47

858. FEE SCHEDULES FOR RADIOLOGIST SERVICES

Significance: Regulatory Program

CFR Citation: 42 CFR 405.501; 42 CFR 405.530; 42 CFR 405.531; 42 CFR 405.532; 42 CFR 405.533; 42 CFR 405.550; 42 CFR 405.551; 42 CFR 405.554; 42 CFR 405.555

Completed:

Reason	Date	FR Cite
Final Action With comment period ending 05/01/89.	03/02/89	54 FR 8994
Final Action Effective	04/01/89	54 FR 8994

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Patashnik 301 966-4497

RIN: 0938–AD62

859. ESTABLISHMENT OF MEDICARE ECONOMIC INDEX FOR 1989

CFR Citation: 42 CFR 405.504

Completed:

Reason	Date	FR Cite
Final Action Final Action Effective	09/09/88 01/01/89	53 FR 38075 53 FR 38075

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Paul Riesel 301 966-4494

RIN: 0938–AD64

860. CRITERIA FOR STANDARD AND EXTENDED HOME HEALTH AGENCY SURVEYS

CFR Citation: 42 CFR 488

Completed:

Reason	Date	FR Cite
Withdrawn Withdrawn - To be implemented via other mechanism	01/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Walter Merten 301 966-6767

RIN: 0938–AD67

861. INPATIENT HOSPITAL DEDUCTIBLE FOR 1989

CFR Citation: 42 CFR 406.22; 42 CFR 409.80; 42 CFR 409.82; 42 CFR 409.83; 42 CFR 409.85

Completed:

Reason	Date	FR Cite
Final Action	09/30/88	53 FR 38357
Final Action Effective	01/01/89	53 FR 38357

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Solomon Mussey 301 966-6386

RIN: 0938–AD68

862. HOSPICE CAP

CFR Citation: 42 CFR 418.309

Completed:

Reason	Date	FR Cite
Final Action Effective through 10/31/88	10/17/88	53 FR 40494
Final Action Effective	11/01/87	53 FR 40494

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anthony Lovecchio 301 966-4575

RIN: 0938–AD75

863. CARRIER BONUSES FOR INCREASING PHYSICIANS' PARTICIPATION OR PAYMENTS

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action Notice of request for comments	10/11/88	53 FR 39644

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis Palmieri, Jr. 301 966-7542

RIN: 0938–AD96

864. NATIONAL AVERAGE ACTUARIAL VALUE OF DUPLICATIVE PART A AND PART B MEDICARE BENEFITS

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action Part A effective 01/01/89; Part B effective 01/01/90	12/06/88	53 FR 49233

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Solomon Mussey 301 966-6386

RIN: 0938–AD98

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Family Support Administration (FSA)

Proposed Rule Stage

865. ● AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; EXTENSION OF MEDICAID ELIGIBILITY WHEN SUPPORT COLLECTIONS RESULT IN TERMINATION OF AFDC ELIGIBILITY

Legal Authority: 42 USC 606; 42 USC 1302; PL 98-378, Sec 20

CFR Citation: 45 CFR 233; 45 CFR 435; 45 CFR 436

Legal Deadline: NPRM, Statutory, September 30, 1988.

Abstract: This NPRM rule, which implements section 20 of the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) specifies that in any case where the collection or increased collection of support under title IV-D of the Social Security Act contributes wholly or partly to a family's ineligibility for AFDC, the family is deemed, but only for the purpose of Medicaid eligibility, to be receiving AFDC for a period of four calendar months after the last month of AFDC eligibility. This applies only to families who receive AFDC in three of the Six months immediately preceding the month of ineligibility. "Received" includes those individuals denied an AFDC payment solely because the payment amount is under $10, the recoupment of overpayment, or because the payment is determined to be zero as a result of rounding.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970-AA07

866. STANDARDS FOR CHILD SUPPORT ENFORCEMENT PROGRAM OPERATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 652(h); 42 USC 652(i)

CFR Citation: 45 CFR 302; 45 CFR 303; 45 CFR 304; 45 CFR 305; 45 CFR 308; 45 CFR 307

Legal Deadline: NPRM, Statutory, April 13, 1989. Final, Statutory, August 1, 1989.

Abstract: These proposed regulations will revise requirements and program standards to streamline and improve case processing within the IV-D agency. Specific standards and timeframes will be proposed for certain actions required to be taken in processing a IV-D case. Timeframes for distribution of collections will also be proposed.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Joyce Allred, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5369

RIN: 0970-AA16

867. CHILD SUPPORT ENFORCEMENT AUDIT REGULATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 603(h); 42 USC 604(d); 42 USC 652(a)(1); 42 USC 652(a)(4); 42 USC 1302

CFR Citation: 45 CFR 305

Legal Deadline: None

Abstract: OCSE is proposing to amend the current program regulations governing child support program audits. These proposed rules would streamline the current audit process and requirements and make corrections to certain inaccuracies in the audit regulations. In addition, we propose to add new performance indicators and update the scoring system.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4841
NPRM Comment Period End	04/03/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Elizabeth Matheson, Chief, Policy Branch, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5362

RIN: 0970-AA17

868. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS

Legal Authority: 42 USC 657; 42 USC 1302

CFR Citation: 45 CFR 302.51; 45 CFR 302.32

Legal Deadline: None

Abstract: OCSE is proposing to revise the child support enforcement program regulations governing the distribution of child support collections. These proposed rules would clarify the requirements that State child support enforcement agencies must adhere to when distributing collections in IV-D cases.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Michael Fitzgerald, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5365

RIN: 0970-AA18

869. ALIEN VERIFICATION PROCEDURES FOR AFDC, STATE ADMINISTERED ADULT ASSISTANCE AND MEDICAID PROGRAMS; NOTICE OF PROPOSED RULEMAKING

Significance: Agency Priority

Legal Authority: PL 99-603; Sec 121 Immigration and Reform Act of 1986

CFR Citation: 45 CFR 233; 42 CFR 435; 45 CFR 205; 45 CFR 433; 42 CFR 436

Legal Deadline: NPRM, Statutory, October 1, 1987.

HHS—FSA

Proposed Rule Stage

Abstract: Immigration Reform and Control Act imposes new procedures on the AFDC, Adult Assistance Programs and Medicaid to verify immigration status of aliens applying for benefits under these programs with the Immigration and Naturalization Service. Under the law, States must be reimbursed at 100% for costs of their implementation and operation to access the alien status verification system. This regulation will specify what costs incurred by States will be subject to 100% reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: INS must establish an alien verification system that can be accessed by States by October 1, 1987. States may claim 100% reimbursement for implementing and operating SAVE beginning October 1, 1987.

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970-AA41

870. EXCLUSION OF INDIAN TRUST FUNDS AND ALASKA NATIVE CLAIMS SETTLEMENT ACT DISTRIBUTIONS

Significance: Regulatory Program

Legal Authority: PL 97-458, Sec 4; PL 98-64, Sec 2; PL 100-241, Sec 15

CFR Citation: 45 CFR 233.20(a)(4)(ii)(n); 45 CFR 233.20(a)(4)(ii)(o); 45 CFR 233.20(a)(4)(ii)(e); 45 CFR 233.20(a)(4)(ii)(k)

Legal Deadline: None

Abstract: Would update current regulations by adding statutory exclusions for certain per capita distributions of Indian judgment funds and other funds held in trust by the Department of Interior, and initial purchases made with such funds. Additionally, would exclude the following types of distributions received from a Native Corporation pursuant to the Alaska Native Claims Settlement Act. (1) Cash to the extent that it does not in the aggregate, exceed $2,000 per individual per annum; (2) Stocks; (3) A partnership interest; (4) Land or an interest in land; and (5) An interest in a settlement trust. Regulations would reflect the statutes; therefore, no alternatives are being considered. We estimate that the Federal share of the cost of the trust funds exclusions required under PL 97-458 and PL 98-64 would be $696,960 per year, the Federal share of the cost of the Alaska Native Claims Settlement Act exclusions required under PL 100-241 would be $1,878,108 per year. Therefore, the annual result would be a cost of $3,575,068.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	04/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970-AA47

871. COOPERATION TO PURSUE THIRD PARTY HEALTH COVERAGE

Significance: Regulatory Program

Legal Authority: Sec 402(a)(26); The Social Security Act as amended by Sec 12304;; The Consolidated Omnibus Budget Reconciliation Act of 1985

CFR Citation: 45 CFR 232.13; 45 CFR 232.40; 45 CFR 232.41; 45 CFR 232.42; 45 CFR 232.43; 45 CFR 232.44; 45 CFR 232.45; 45 CFR 232.47; 45 CFR 232.48; 45 CFR 232.49; 45 CFR 234.60; 45 CFR 235.70

Legal Deadline: None

Abstract: The proposed rules specify that as a condition of eligibility for AFDC, each applicant or recipient must cooperate with the State by identifying and providing information to assist the State in pursuing any third party who may be liable to pay for care and services available under the State's plan for medical assistance under title XIX, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	
NPRM Comment Period End	05/01/89	
Final Action	11/01/89	
Final Action Effective	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970-AA49

872. OMNIBUS BUDGET RECONCILIATION ACT OF 1987

Significance: Agency Priority

Legal Authority: PL 100-203,; Sec 9133 The Omnibus Budget Reconciliation Act of 1987

CFR Citation: 45 CFR 233.53; 45 CFR 235.111; 45 CFR 233.20(a)(3)(x)

Legal Deadline: None

Abstract: These proposed rules implement sections of the Omnibus Budget Reconciliation Act regarding the support and maintenance disregard, the optional fraud control program, and treatment of foster care payments.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	06/00/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970-AA56

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873. SERVICES TO POST-AFDC AND MEDICAID ONLY FAMILIES

Significance: Agency Priority

Legal Authority: 42 USC 654(4); 42 USC 654(5); 42 USC 657(c)

CFR Citation: 45 CFR 301.1; 45 CFR 302.31; 45 CFR 302.33; 45 CFR 302.70; 45 CFR 302.51; 45 CFR 303.72; 45 CFR 303.102; 45 CFR 304.20; 45 CFR 306.50; 45 CFR 306.51

Legal Deadline: None

Abstract: This regulation would implement section 9141 of P.L. 100-203, the Omnibus Budget Reconciliation Act of 1987 under which child support agencies are required to continue to provide IV-D services to persons no longer eligible for AFDC without requiring an application or payment of an application fee. It also implements section 9142 of P.L. 100-203 which requires child support agencies to provide IV-D services to all families with an absent parent who receive Medicaid and have assigned their rights to medical support to the State.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Andrew Hagan, Program Specialist, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5375

RIN: 0970–AA61

874. ● IMMEDIATE WAGE WITHHOLDING, REVIEW AND MODIFICATION OF ORDERS, MANDATORY AUTOMATED SYSTEMS AND MONTHLY NOTICE OF SUPPORT COLLECTIONS

Significance: Regulatory Program

Legal Authority: 42 USC 654(5); 42 USC 654(16); 42 USC 654(24); 42 USC 666

CFR Citation: 45 CFR 302.54; 45 CFR 302.70; 45 CFR 302.85; 45 CFR 303.4; 45 CFR 303.100

Legal Deadline: None

Abstract: This regulation implements certain provisions of the Family Support Act of 1988 (P.L. 100-485). It requires States: (1) by November 1990, to require immediate income withholding in all cases receiving services under title IV-D of the Social Security Act with new or modified orders unless there is an alternative arrangement; (2) to develop automated tracking and monitoring systems by October 1, 1995, when enhanced funding will be eliminated; (3) to review support orders in IV-D cases by October 1993 at least every 36 months and modify the support orders in accordance with support guidelines, as appropriate; and (4) to send monthly as opposed to annual notices of the amount of support collected to AFDC families.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Betsy Matheson, Chief, Policy Branch, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5362

RIN: 0970–AA63

875. ● $50 DISREGARD, PATERNITY ESTABLISHMENT AND MANDATORY GUIDELINES

Significance: Agency Priority

Legal Authority: 42 USC 654(6); 42 USC 655(a)(1); 42 USC 657(b)(1); 42 USC 666(a)(5); 42 USC 667

CFR Citation: 45 CFR 302.50; 45 CFR 302.51; 45 CFR 302.53; 45 CFR 302.56; 45 CFR 302.70; 45 CFR 303.5; 45 CFR 303.7; 45 CFR 303.100; 45 CFR 304.20

Legal Deadline: None

Abstract: This regulation implements certain provisions of the Family Support Act of 1988 (P.L. 100-485). It requires States to use guidelines as a rebuttable presumption in setting support awards; clarifies that the $50 disregard be paid to the family if the support is paid on time; clarifies that State laws and procedures must provide for paternity establishment of any child for whom a paternity action was previously dismissed under a statute of limitations of less than 18 years; provides 90 percent federal funding of laboratory costs in establishing paternity; and requires genetic testing in contested paternity establishment cases upon request by any party.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Craig Hathaway, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5367

RIN: 0970–AA64

876. ● CHILD SUPPORT PROGRAM; STATE PLAN REQUIREMENTS

Significance: Regulatory Program

Legal Authority: PL 100-485

CFR Citation: 45 CFR 2322

Legal Deadline: Final, Statutory, July 1, 1989.

Abstract: The proposed rule will emphasize the role and the responsibility of the AFDC applicant/recipient in the establishment of paternity and the enforcement of child support obligations.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	
NPRM Comment Period End	05/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA66

877. ● JOBS PARTICIPANT EMPLOYMENT PROTECTION

Significance: Regulatory Program

Legal Authority: 42 USC 602; 42 USC 682; 42 USC 684(d)(1); 42 USC 684(d)(2)

CFR Citation: 45 CFR 251

Legal Deadline: NPRM, Statutory, April 13, 1989. Final, Statutory, October 13, 1989.

Abstract: The Family Support Act of 1988 (PL 100-485) establishes the JOBS program under title IV-A of the Social Security Act. Associated with the program are workers' issues, such as working conditions, tort claims protection, workers' compensation and displacement. The legislation, (PL 100-485) requires that necessary protections be provided for program participants.

Timetable:

Action	Date	FR Cite
NPRM	04/13/89	
NPRM Comment Period End	05/28/89	
Final Action	10/13/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Carol Callahan, Acting Director, Div. of Special Initiatives, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-4979

RIN: 0970–AA67

878. ● JOB OPPORTUNITY AND BASIC SKILLS (JOBS) TRAINING PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 602(a)(19)(g); 42 USC 602(g); 42 USC 603(e); 42 USC 603(k); 42 USC 603(l)

CFR Citation: 45 CFR 250

Legal Deadline: NPRM, Statutory, April 13, 1989. Final, Statutory, October 13, 1989.

Abstract: Current regulations provide for a number of work and training programs. Some States have designed their own programs. Many of the Federal provisions have been optional and State funding has not always permitted such programs. Lack of child care transportation, and other support services have often proved to be barriers to receiving education, training, as well as arranging and maintaining employment. The Family Support Act (Public Law 100-485), which was signed 10/13/88, establishes under title IV-F of the Social Security Act, the Job Opportunities and Basic Skills (JOBS) training program. JOBS' purpose is to assure that needy families with children obtain the education, training, and employment that will help them avoid long term dependence. The legislation mandates that all States implement a JOBS program by October 1, 1990.

Timetable:

Action	Date	FR Cite
NPRM	04/13/89	
NPRM Comment Period End	05/28/89	
Final Action	10/13/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Agency Contact: Mark Ragan, Branch Chief, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5137

RIN: 0970–AA68

879. ● RELATED AFDC AMENDMENTS UNDER THE FAMILY SUPPORT ACT OF 1988 -- RESPONSIBILITIES OF THE STATE

Significance: Regulatory Program

Legal Authority: PL 100-485, Sec 401(a); PL 100-485, Sec 402; PL 100-485, Sec 403; PL 100-485, Sec 601; PL 100-485, Sec 604(a)(3)

CFR Citation: 45 CFR 201.1(g); 45 CFR 205.44(b); 45 CFR 205.44(c); 45 CFR 205.44(e); 45 CFR 232.2; 45 CFR 233.20(a)(3)(xiii); 45 CFR 233.20(a)(6)(xi); 45 CFR 233.20(a)(11)(i)(B); 45 CFR 233.20(a)(11)(i)(C); 45 CFR 233.20(a)(11)(i)(D); 45 CFR 233.20(a)(11)(ii)(B); 45 CFR 233.20(a)(11)(vii); 45 CFR 233.100; 45 CFR 233.107

Legal Deadline: None

Abstract: Would make the following changes required by the Family Support Act: (1) Require all States to provide benefits for families with unemployed parents and provide at least 6 months of coverage; (2) Increase the standard work expense disregard to $90; (3) Increase the limit on the dependent care disregard to $175 ($200 for a child under 2); (4) Disregard earned income tax credit payments; (5) Allow States to require as a condition of eligibility that minor mothers who have never married live in a place of residence maintained by a parent, legal guardian or other adult-supervised living arrangement; (6) Adds American Samoa to the jurisdictions authorized to develop and operate an AFDC program and includes American Samoa within the quality control system and subjects it to the same error rate tolerances and sanctions that are applicable to other territorial jurisdictions.(cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONTINUED: (7) Make States responsible for assuring that benefits and services under IV-A, IV-D, and IV-F are furnished in an integrated manner and re-enforce the role and responsibility of the State in obtaining the cooperation of the applicant/recipient in the establishment of paternity and the enforcement of child support obligations.

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA69

880. ● DISREGARD OF BONA FIDE LOANS, STUDENT ASSISTANCE UNDER THE HIGHER EDUCATION TECHNICAL AMENDMENTS ACT OF 1987, AND COMPENSATION UNDER THE CIVIL LIBERTIES ACT OF 1988

Significance: Regulatory Program

Legal Authority: PL 100-50; PL 100-383

CFR Citation: 45 CFR 233.20(a)(4)

Legal Deadline: None

Abstract: Would add the following income and resource disregards to the regulations: (1) Disregard of Bona Fide Loans; (2) Disregard of Student Financial Assistance under title IV of the Higher Education Act or under Bureau of Indian Affairs Student Assistance Programs that is made

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available for attendance costs; (3) Disregard of Compensation to individuals of Japanese ancestry, and residents of the Aleutian and Pribilof Islands who were interned during World War II.

Timetable:

Action	Date	FR Cite
NPRM	05/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA70

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Family Support Administration (FSA)

Final Rule Stage

881. SCOPE OF PAYMENTS

Significance: Agency Priority

Legal Authority: 42 USC 1102; 42 USC 602

CFR Citation: 45 CFR 233.20(a)(2)(i); 45 CFR 233.20(a)(2)(v); 45 CFR 233.120

Legal Deadline: None

Abstract: These proposed regulations would clarify that States may not provide simultaneous multiple shelter allowances or special need allowances to recipients under Titles I, IV-A, X, XIV, and XVI of the Social Security Act based on the type of housing in which they reside. Also, these regulations would limit Federal matching under the Emergency Assistance program to one 30-day period in twelve consecutive months and would require States to specify the maximum amount of assistance to be provided for each type of emergency.

Timetable:

Action	Date	FR Cite
NPRM	12/14/87	52 FR 47420
NPRM Comment Period End	01/26/88	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Additional Information: Split off from Regulation on Administrative Improvement in the AFDC Program (RIN 0960-AB72).

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA00

882. RETROACTIVE MODIFICATION OF CHILD SUPPORT ARREARAGES

Legal Authority: PL 99-509, Sec 9103

CFR Citation: 45 CFR 302; 45 CFR 303; 45 CFR 304

Legal Deadline: None

Abstract: This regulation requires, as a result of the Omnibus Budget Reconciliation Act of 1986, that child support payments be judgments on and after the day they fall due as well as requires that States have procedures to prohibit the retroactive modification of child support arrearages.

Timetable:

Action	Date	FR Cite
NPRM	09/14/87	52 FR 34689
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Michael Fitzgerald, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5366

RIN: 0970–AA03

883. AID TO FAMILIES WITH DEPENDENT CHILDREN; DEFINITION OF PERMISSIBLE STATE PRACTICE-QUALITY CONTROL

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 603

CFR Citation: 45 CFR 205.40(a)(8)

Legal Deadline: None

Abstract: This rule will amend the definition of "Permissible State Practice." The rule will enable quality control to review against Federal statutes and regulations when a state plan is not amended to reflect new federal rules.

Timetable:

Action	Date	FR Cite
NPRM	06/18/85	50 FR 25269
NPRM Comment Period End	08/19/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA04

884. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; IMPLEMENTATION OF THE DEFICIT REDUCTION ACT OF 1984

Significance: Agency Priority

Legal Authority: 42 USC 1302; PL 98-369 The Deficit Reduction Act of 1984; PL 99-514 The Tax Reform Act of 1986

CFR Citation: 45 CFR 233.36; 45 CFR 237.50; 45 CFR 238.18; 45 CFR 238.20; 45 CFR 238.50; 45 CFR 239.12; 45 CFR 239.14; 45 CFR 239.16; 45 CFR 239.24; 45 CFR 239.58; 45 CFR 239.82; 45 CFR 233.10; 45 CFR 233.90; 45 CFR 232.20; 45 CFR 233.35; ...

Legal Deadline: None

Abstract: The final regulations will clarify provisions first published in the Interim Final Rules implementing the Deficit Reduction Act of 1984 and as clarified by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/10/84	49 FR 35586
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA08

885. CONSISTENCY FOR THE FOOD STAMP PROGRAM, AFDC PROGRAM, AND THE ADULT ASSISTANCE PROGRAMS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; Sec 1102, 49 Stat. 647

CFR Citation: 45 CFR 205.10(a)(4)(ii); 45 CFR 233.31(b); 45 CFR 233.20(a)(6)(v)(B); 45 CFR 205.10(a)(7); 45 CFR 205.10(a); 45 CFR 205.52; 45 CFR 233.20(a)(3)(ii)(D); 45 CFR 233.20(a)(3)(iii)

Legal Deadline: None

Abstract: The Final rule will provide increased consistency in eligibility policies and procedures between the AFDC and Food Stamp programs, within existing statutory requirements. The aim is to improve and simplify program administration and ease the burden placed upon the State agencies and individuals applying for assistance.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/85	50 FR 6970
ANPRM Comment Period End	04/22/85	50 FR 6970
NPRM	09/29/87	52 FR 36546
NPRM Comment Period End	11/30/87	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA08

886. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; GENERAL ADMINISTRATION — PUBLIC ASSISTANCE PROGRAM — QUALITY CONTROL SYSTEM

Significance: Agency Priority

Legal Authority: 42 USC 1302; PL 97-248

CFR Citation: 45 CFR 205.44

Legal Deadline: None

Abstract: These proposed rules amend the QC regulations under the AFDC program by establishing more definitive criteria to be used in determining whether waivers will be granted to states that fail to meet the statutory error standard.

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	52 FR 21
NPRM Comment Period End	04/03/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1986

Agency Contact: Sean Hurley, Director, Division of Quality Control, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5075

RIN: 0970–AA11

887. COOPERATIVE AGREEMENTS

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 654(7); 42 USC 652

CFR Citation: 45 CFR 302.34; 45 CFR 303.107; 45 CFR 304.22; 45 CFR 305.34

Legal Deadline: None

Abstract: The regulation specifies provisions that must be contained in all cooperative agreements between IV-D agencies and courts and law enforcement agencies.

Timetable:

Action	Date	FR Cite
NPRM	10/05/88	53 FR 39110
NPRM Comment Period End	12/05/88	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Andrew Hagan, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, D.C.20447, 202 252-5375

RIN: 0970–AA50

888. TARGETING OF, AND TOLERANCES FOR, INCOME AND ELIGIBILITY VERIFICATION SYSTEM DATA

Significance: Agency Priority

Legal Authority: PL 99-509, Sec 9101 Omnibus Budget Reconciliation Act of 1986

CFR Citation: 45 CFR 205.56

Legal Deadline: None

Abstract: These rules make revisions to the regulations designed to incorporate changes made by Section 9101 of PL 99-509, which amended Section 1137 of the Social Security Act to allow States flexibility in targeting uses of data through the Income and Eligibility Verification System. States will not be required to verify and act on all data. This changes earlier regulations which required 100% verification and allows the States the option to target their uses to those identified in the State Plan as most likely to be productive.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/88	53 FR 52709
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diann Dawson, Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant

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HHS—FSA — Final Rule Stage

Promenade, S.W., Washington, D.C. 20447, 202 252-5116

RIN: 0970–AA58

889. AUTOMATED DATA PROCESSING EQUIPMENT AND SERVICES; CONDITIONS FOR FEDERAL FINANCIAL PARTICIPATION II

Significance: Regulatory Program

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 95.601; 45 CFR 95.605; 45 CFR 95.611; 45 CFR 95.612; 45 CFR 95.613; 45 CFR 95.615; 45 CFR 95.617; 45 CFR 95.619; 45 CFR 95.621; 45 CFR 95.623; 45 CFR 95.624; 45 CFR 95.625; 45 CFR 95.631; 45 CFR 95.633; 45 CFR 95.641

Legal Deadline: None

Abstract: This final rule changes regulations of 45 CFR 95.600, et seq., to reduce the amount of time necessary to review and respond to State and local agency requests for FFP. The reduction in process time will be accomplished by streamlining the review process and requiring fewer points of prior approval for smaller expenditures by the Department.

Timetable:

Action	Date	FR Cite
NPRM	09/21/87	52 FR 35454
NPRM Comment Period End	11/30/87	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ron Lentz, Management Analyst, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, 202 252-4795

RIN: 0970–AA59

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Family Support Administration (FSA)

Completed Actions

890. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; ADMINISTRATIVE IMPROVEMENT IN THE AFDC PROGRAM

Significance: Regulatory Program

CFR Citation: 45 CFR 205; 45 CFR 224; 45 CFR 232; 45 CFR 233; 45 CFR 238

Completed:

Reason	Date	FR Cite
Withdrawn - superseded by provisions of Family Support Act of 1988.	01/19/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Diann Dawson 202 252-5116

RIN: 0970–AA09

891. REFUGEE RESETTLEMENT PROGRAM; REFUGEE CASH AND ASSISTANCE; REQUIREMENTS FOR JOB SEARCH, EMPLOYMENT SERVICES, AND EMPLOYMENT; REFUGEE MEDICAL ASSISTANCE; AND REFUGEE SOCIAL SERVICES

Significance: Agency Priority

CFR Citation: 45 CFR 400

Completed:

Reason	Date	FR Cite
Final Action	02/03/89	54 FR 5463
Final Action Effective	07/01/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Philip A. Holman 202 252-4566

RIN: 0970–AA10

892. ESSENTIAL PERSONS

Significance: Regulatory Program

CFR Citation: 45 CFR 233.20

Completed:

Reason	Date	FR Cite
Final Action	01/24/89	54 FR 3448

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Diann Dawson 202 252-5116

RIN: 0970–AA44

893. FEDERAL TAX REFUND OFFSET PROCESS - PRE-OFFSET NOTICE FEE

Significance: Agency Priority

CFR Citation: 45 CFR 303.72

Completed:

Reason	Date	FR Cite
Final Action	11/25/88	53 FR 47708
Final Action Effective	11/25/88	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Andrew Hagan 202 252-5375

RIN: 0970–AA52

894. EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM; INTERIM FINAL RULE WITH REQUEST FOR COMMENTS

CFR Citation: 45 CFR 1060; 45 CFR 96.12; 45 CFR 96.14; 45 CFR 96C; 45 CFR 96E; 45 CFR 96F

Completed:

Reason	Date	FR Cite
Final Action	02/09/89	54 FR 6368
Final Action Effective	02/09/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Fox 202 475-0418

RIN: 0970–AA57

[FR Doc. 89-7775 Filed 04-21-89; 8:45 am]

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federal register

Monday
April 24, 1989

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. N-89-1944; FR-2627]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual agenda, under Executive Order 12291 and the Regulatory Flexibility Act, of regulations expected to be issued and under review.

SUMMARY: In accordance with section 5 of Executive Order 12291, "Federal Regulation," the Department is publishing its agenda of proposed regulations already issued or expected to be issued, and of currently effective rules that are under review. Also, under section 602 of the Regulatory Flexibility Act, the Department has prepared a regulatory flexibility agenda of regulations expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12291 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulation," issued on February 17, 1981 (46 FR 13193), requires each agency to publish semiannually an agenda of regulations that the agency has issued or expects to issue and of currently effective regulations that are under agency review.

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires each agency to publish semiannually a regulatory flexibility agenda of rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12291 and section 605 of the Regulatory Flexibility Act each permit incorporation of the agenda it requires with any other prescribed agenda. Accordingly, the agenda set out below combines the information required by the Executive Order and by the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive Order or by the Act which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

For purposes of Executive Order 12291, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency," subject to certain exceptions. The agenda published below concentrates upon regulatory material contained, or expected to be contained, in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the **Federal Register**. As appropriate, however, issuances in the nature of general statements of policy may be published in the **Federal Register** but not for codification in the CFR.

The Department also is subject to certain requirements involving congressional review of rulemaking actions, including publication of an agenda. Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days of continuous session of Congress after transmittal of the agenda. If, within such period, either Committee notifies the Secretary that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary must submit to both Committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days of continuous session before it is published for comment. The Semiannual Agenda appearing hereinafter is the agenda transmitted to the Committees in compliance with the foregoing requirement.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publications or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the Part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected Part number. Priority rules include all regulations designated for priority development by the Department.

Items listed in this agenda are from the following Offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity; Office of Administration; and Government National Mortgage Association.

Dated: March 1, 1989.

Carolyn B. Lieberman,

Acting General Counsel.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
895	24 CFR 81.41 Secondary Market Operations of the Federal National Mortgage Association (FNMA) (S-3-81)	2501-AA10

HUD

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
896	24 CFR 0000 Denial of Federal Benefits to Drug Traffickers and Possessors (S-2-89; FR-2612)	2501-AA81
897	24 CFR 50 Departmental Policies, Responsibilities, and Procedures for Protection and Enhancement of Environmental Quality (S-4-85; FR-2206)	2501-AA30
898	24 CFR 55 Procedure for Floodplain Management and the Protection of Wetlands. Implementation of Executive Orders 11988 and 11990 (S-7-84; FR-865)	2501-AA23
899	24 CFR 56 Flood Insurance Requirements for Insurance, Loan, and Grant Programs (S-3-85; FR-2007)	2501-AA59
900	24 CFR 760 Verification of HUD Applicant and Participant Employment and Wage and Claim Justification (S-10-88; FR-2588)	2501-AA80

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
901	24 CFR 206 Home Equity Conversion Mortgage Insurance Demonstration (S-2-88; FR-2481)	2501-AA67
902	24 CFR 574 Comprehensive Homeless Assistance Plan (Implementation of 1988 McKinney Act Amendments) - (S-1-89; FR-2386)	2501-AA79
903	24 CFR 0000 Supplemental Assistance for Facilities to Assist the Homeless (S-3-89; FR-2585)	2501-AA82
904	24 CFR 17 Administrative Claim: Implementing Certain Provisions of the Debt Collection Act of 1982 (S-10-86; FR-1644)	2501-AA55
905	24 CFR 24 Debarment Suspension and Limited Denial of Participation–All- Cash Sales Exception (S-4-87; FR-2356)	2501-AA60
906	24 CFR 24 Implementation of the Drug-Free Workplace Act of 1988 (Common Rule)(S-11-88; FR-2598)	2501-AA78
907	24 CFR 58 Environmental Review Procedures for the Community Development Block Grant, Rental Rehabilitation and Housing Development Grant Programs (S-6-84; FR-1965)	2501-AA25
908	24 CFR 200 Restrictions on Housing Assistance to Ineligible Aliens (S-7-87; FR-2383 (formerly FR-1588))	2501-AA63
909	24 CFR 200 Implementation of Sec. 165 of the HCD Act of 1987–Social Security Rule (S-4-88; FR-2501)	2501-AA72
910	24 CFR 203 Insurance of Price Level Adjusted Mortgages (Indexed Mortgages) (S-5-88; FR-2518)	2501-AA73
911	24 CFR 213 Temporary Disqualification of Certain Newly Legalized Aliens from Certain HUD Programs (S-12-88; FR-2600)	2501-AA77
912	00 CFR 000 Emergency Shelter Grants Program (Implementation of 1988 McKinney Act Amendments) - (S-6-88; FR-2562)	2501-AA74
913	24 CFR 18 Disallowance of Legal Fees; Litigation Controls for HUD Assistance Recipients (S-7-88; FR-2134)	2501-AA75

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
914	24 CFR 0003 Elimination of Obsolete Regulations (S-16-86; FR-2261)	2501-AA50
915	24 CFR 10 Amending Rules on Rules and FOIA Rules (S-3-87; FR-2320)	2501-AA57
916	24 CFR 46 Protection of Human Subjects in Research (S-6-83; FR-1807)	2501-AA15
917	24 CFR 0058 Environmental Review Procedures for the Community Development Block Grant, Rental Rehabilitation and Housing Development Grant Programs (S-13-86; FR-2316)	2501-AA39
918	24 CFR 14 Fair Housing; Implementation of the Fair Housing Amendments Act of 1988 (S-8-88; FR-2565)	2501-AA76

Office of Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
919	24 CFR 203.2 Eligibility Requirements--Mortgagee Approval (H-13-88; FR-2453)	2502-AE37
920	24 CFR 3280 Manufactured Home Construction & Safety Construction on Siding & Roofing Materials & Application Criteria (H-8-87; FR2327)	2502-AE36

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Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
921	24 CFR 0000 Criteria for Determining Unutilized or Underutilized Federal Property as Suitable for Facilities to Assist the Homeless (H-3-89; FR2620)	2502-AE88
922	24 CFR 50 Coinsurance of Equity Loans (H-37-88, FR2560)	2502-AE60
923	24 CFR 200 Authorize Additional Types of Loans for Direct Endorsement Processing (H-4-88; FR-2433)	2502-AE48
924	24 CFR 200 Changes to the Minimum Property Standards (H-40-88; FR-2599)	2502-AE64
925	24 CFR 201 Revised Underwriting and Loan Origination Requirements for Title I Manufactured Home Loans (H-5-89; FR2623)	2502-AE67
926	4 CFR 203 Retention Period for Mortgagee Single Family Claim Records (H-81-84)	2502-AC50
927	24 CFR 203 Penalty for Lack of Documentation (H-80-84)	2502-AC54
928	24 CFR 203.366 Mortgagee Charges for Serious Title Defects (H-28-87; FR-2368)	2502-AE11
929	24 CFR 203.400 Deadline for Filing Single Family Supplemental Claims (H-26-88; FR-2487)	2502-AE51
930	24 CFR 203 Action to Reduce Losses under FHA Single Family Mortgage Insurance Program (H-28-88; FR-2491)	2502-AE52
931	24 CFR 207 Limitation on Prepayment of Mortgages on Multifamily Rental Housing (H-54-84; FR-1952)	2502-AC49
932	24 CFR 207 Method of Payment of Multifamily Insurance Claims (H-38-88; FR-2571)	2502-AE61
933	24 CFR 290 HUD-Owned und HUD-Held Multifamily Projects - Management and Disposition including Provision of Section 8 Assistance for Projects at Foreclosure (H-3-86; FR-2158)	2502-AD43
934	24 CFR 3282 Manufactured Home Procedural and Enforcement Regulations Interpretative Bulletins (H-31-87; FR-2380)	2502-AE10
935	24 CFR 791 Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds (S-10-84; FR-1896)	2502-AA73
936	24 CFR 882 Conforming Section 8 Existing Certificate Regulation to Housing Voucher Format (H-2-87; FR-2294)	2502-AD91
937	24 CFR 886.310 Miscellaneous Revisions of Part 886 (H-37-86; FR-2275)	2502-AD69
938	24 CFR 1710 Land Registration (H-21-86)	2502-AD54
939	24 CFR 3280.506 Manufactured Housing Energy Conservation Standards (H-29-88; FR-2497) 1987 HCD Act	2502-AE53
940	24 CFR 3280 Changes to the Manufactured Home Construction and Safety Standards from the CABO and MHCSS Committees and Others (H-4-89; FR-2622)	2502-AE66
941	24 CFR 3282 Manufactured Home Procedural and Enforcement System (H-40-86; FR-2278)	2502-AD60
942	24 CFR 3282 Manufactured Home Design Inspection System (H-41-86; FR-2279)	2502-AD61
943	24 CFR 3282.307(b) Manufactured Home Safety Standards - Monitoring Inspection Fee (H-2-89; FR-2613)	2502-AE65

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
944	00 CFR 000 Tenant Participation in Multifamily Projects (H-11-86; FR-2451) 1987 HCD Act	2502-AE35
945	00 CFR 000 Capital Improvement Flexible Subsidy Program: Loans 8 (H-34-88; FR-2541)	2502-AE55
946	00 CFR 000 Section 8 Certificate Program Project-Based Assistance (H-30-88; FR-2502)	2502-AE56
947	24 CFR 200 Applicability of Minimum Property Standards Manufactured Homes under Title II of the National Housing Act (H-82-82; FR-1578)	2502-AB24
948	24 CFR 200 Restrictions on All-Cash Sales (Amendment to Part 200) (H-30-87; FR-2374)	2502-AE12
949	24 CFR 201 Amendments to the Title I Regulations (H-19-87; FR2370)	2502-AE15
950	24 CFR 203 HUD Inspections - No Duty of Care (H-1-85; FR-2025)	2502-AC92
951	24 CFR 203 Temporary Mortgage Assistance Payments (TMAP) and Assignments to HUD (H-44-85; FR-2147)	2502-AD34
952	24 CFR 203 Criteria for Acceptability of Insured 10-Year Protection Plans (H-28-86; FR-2036)	2502-AD65
953	24 CFR 203 Deregulation of Loan Origination Fees in FHA Single Family Housing (H-18-87; FR-2333)	2502-AD98
954	24 CFR 203 Allegany Reservation of the Seneca Nation (H-32-87; FR-2382)	2502-AE09
955	24 CFR 203 Single Family Mortgage Insurance - Occupant and Investor Mortgagors (H-16-88; FR-2456) 1987 HCD Act	2502-AE40
956	24 CFR 208 Computer Automation of Required Data for Certification and Recertifications Subsidy Billing Procedures for Certain Multifamily Subsidized Projects (H-2-88; FR-2421)	2502-AE26
957	24 CFR 215 State Agency Amendments (H-70-84; FR-1997)	2502-AC73
958	24 CFR 50 Prepayment of Mortgages on Low- and Moderate-Income Housing (H-10-88; FR-2450) 1987 HCD Act	2502-AE34
959	24 CFR 280 Nehemiah Opportunity Grants Program (H-25-88; FR-2478) 1987 HCD Act	2502-AE45
960	24 CFR 882 Shared Housing in the Section 8 Moderate Rehabilitation Program (H-26-86; FR-2238)	2502-AD66
961	24 CFR 885 Management Rules and Comprehensive Housing and Community Development Amendments (H-34-83; FR-1761)	2502-AC03
962	24 CFR 885 Loans for the Elderly or Handicapped - Housing for the Handicapped (H-23-88; FR-2476) 1987 HCD Act	2502-AE47
963	24 CFR 885 Loans for Housing for the Elderly or Handicapped Duration of Section 202 Fund Reservation (H-33-88; FR-2536)	2502-AE58

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Office of Housing—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
964	24 CFR 885.415 Loans for Housing for the Elderly or Handicapped Davis-Bacon Wage Rate (H-6-89; FR-2589)	2502-AE69
965	24 CFR 890 Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals (H-1-89; FR-2539)	2502-AE62
966	24 CFR 1710 Amendments to Interstate Land Sales Registration (H-47-86; FR-2503)	2502-AD81
967	24 CFR 3500 Real Estate Settlement Procedures Act -- Controlled Business Provisions and Miscellaneous Amendments (H-45-84; FR-1942)	2502-AC09

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
968	00 CFR 000 HODAG 1987 Act Amendments (H-19-88; FR-2459)	2502-AE43
969	24 CFR 200 Minimum Property Standards (MPS) for Housing -- Water Supply Systems (H-31-86; FR-2255)	2502-AD64
970	24 CFR 203 Emergency Homeownership Counseling (H-20-88; FR-2460) 1987 HCD Act	2502-AE28
971	24 CFR 203 Disclosure of Annual Rate Changes of Adjustable Rate Mortgages (H-35-88; FR-2542)	2502-AE57
972	24 CFR 204.260 Claim Processing on Defaulted Coinsured Single-Family Mortgages (H-1-88; FR-2410)	2502-AE25
973	24 CFR 207 Revisions Relating to Full Insurance and Coinsurance of Existing Cooperatives (H-31-88; FR-2511)	2502-AE54
974	24 CFR 219 Flexible Subsidy Program; 1983 Amendments (H-50-84)	2502-AC31
975	24 CFR 219 Eligibility of Section 23 and Section 202 Housing for Flexible Subsidy (H-18-88; FR-2458) 1987 HCD Act	2502-AE42
976	24 CFR 221.55 Assignment Option (H-44-86)	2502-AD78
977	24 CFR 290 HUD-Owned Multifamily Projects-Management and Disposition (H-69-78; FR-432)	2502-AC68
978	24 CFR 735 Section 236 Rent Supplement (H-17-88; FR-2457) 1987 HCD Act	2502-AE41
979	24 CFR 850 Housing Development Grant Program (H-26-84; FR-1902)	2502-AC23
980	24 CFR 880 Section 8 Housing Assistance Payments Programs -- Revisions to Contract Rent Adjustment Regulations (H-22-88; FR-2469) 1987 HCD Act	2502-AE44
981	24 CFR 882 Interprogram Transfers of Assisted Tenants (H-8-88; FR-2436)	2502-AE32
982	24 CFR 885 Loans for the Elderly or Handicapped - Loan Interest Rate Provisions (H-24-88; FR-2477) 1987 HCD Act	2502-AE46
983	24 CFR 3280.308 Manufactured Home Construction and Safety Standards - Formaldehyde Regulations (H-10-87; FR-2332)	2502-AE02
984	24 CFR 3280.309 Notice of Formaldehyde; Manufactured Home Construction and Safety (H-23-87; FR2349)	2502-AE21

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
985	24 CFR 511 Rental Rehabilitation Program (CPD-11-88; FR-2558)	2506-AA88
986	24 CFR 570.488 Community Development Block Grants: State's Program (CPD-7-83; FR-1677)	2506-AA38
987	24 CFR 570 Miscellaneous Revisions of Part 570 - 1987 HCD Act (CPD-5-88; FR-2495)	2506-AA84
988	24 CFR 570 Community Development Technical Assistance Program (CPD-1-89; FR2616)	2506-AA90

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
989	24 CFR 236 Uniform Relocation Act Amendments of 1987-- Technical Amendments (CPD-3-89; FR2624)	2506-AA92
990	24 CFR 511 Residential Rental Rehabilitation Program (CPD-7-84; FR-1901)	2506-AA55
991	24 CFR 0570.511 Community Development Block Grant Program: Escrow Accounts (CPD-2-86; FR-2164)	2506-AA66
992	24 CFR 0570 Secretary's Discretionary Fund - Work Study Program (CPD-4-88; FR-2475) 1987 HCD Act	2506-AA81
993	24 CFR 570 Conserving Neighborhoods by Prohibiting Displacement (CPD-3-88; FR-2474) 1987 HCD Act	2506-AA82
994	24 CFR 0570 Implementation of Prohibition on Use of UDAG Grants for Business Relocation (CPD-6-88; FR-2500)	2506-AA86

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Office of Community Planning and Development—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
995	24 CFR 590 Urban Homesteading Program; Implementing of 1987 Statutory Amendments and Revision of Selected Program Procedures (CPD-1-88; FR-2461)	2506-AA79

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
996	24 CFR 510.34 Removal of Risk Premium Provisions in Section 312 Program (CPD-9-88; FR-2553)	2506-AA87
997	24 CFR 0510 Personal Liability for Repayment on Section 312 Rehabilitation Loans (CPD-10-88; FR-2557)	2506-AA89
998	24 CFR 511.1 Rental Rehabilitation Grants (CPD-2-88; FR-2472)	2506-AA80
999	24 CFR 511 '88 Amendments--Rental Rehab Program (CPD-4-89; FR-2630)	2506-AA91
1000	24 CFR 570 Technical Assistance: Discretionary Awards (CPD-6-79; FR-1115)	2506-AA30
1001	24 CFR 570 Urban Development Action Grant Applications from Consortia of Small Cities (CPD-6-87; FR2381)	2506-AA78

Government National Mortgage Association—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1002	24 CFR 390 Book-Entry Securities of GNMA (GNMA-2-85)	2503-AA03

Government National Mortgage Association—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1003	24 CFR 390 GNMA Mortgage-Backed Securities (GNMA-1-88; FR-2548)	2503-AA06

Government National Mortgage Association—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1004	24 CFR 390.17 GNMA Fees (GNMA-1-87; FR2395)	2503-AA05

Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1005	24 CFR 9.101 Nondiscrimination Based on Handicapped in Programs Conducted by HUD (FR-2163; FH&EO-2-85)	2529-AA28
1006	24 CFR 125 Fair Housing - Coordination of Executive Agency and Regulatory Agency Affirmative Administration of Programs in Connection with HUD (FH&EO-1-88; FR-2480)	2529-AA36

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Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1007	24 CFR 111 Redesign for Fair Housing Assistance Program (FHEO-2-87; FR-2403)	2529-AA33
1008	24 CFR 735 Conforming Amendments to HUD Rules to Comply with Sec. 504 of the Rehab Act and Other Authorities (FH&EO-3-88; FR-2531)	2529-AA38

Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1009	24 CFR 0000 Nondiscrimination in Housing and Community Development Programs (FHEO-1-89; FR-2629)	2529-AA42
1010	24 CFR 105 Procedure for Processing Complaints under Section 810 of the Fair Housing Act (FHEO-5-88; FR-2563)	2529-AA40
1011	24 CFR 115 Recognition of Jurisdictions with Substantially Equivalent Fair Housing Laws (FHEO-1-88)	2529-AA31
1012	24 CFR 120 Community Housing Resource Board Program (FH&EO-4-88; FR-2561)	2529-AA39
1013	24 CFR 125 The Fair Housing Initiatives Program (FH&EO-2-88; FR-2486) 1987 HCD Act	2529-AA37

Office of Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1014	24 CFR 3 Organization, Function, and Delegations of Authority Subpart C - Secretary's Delegations of Authority to Heads of Offices (ADM-2-82)	2535-AA01

Office of Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1015	48 CFR 24 HUD Acquisition Regulation (ADM-2-88; FR-2473)	2535-AA16

Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1016	24 CFR 29 OMB Cir. A-110, Uniform Administrative Requirements for Grants and Agreements with Universities, Hospitals and Other Nonprofit Organizations (ADM-1-87; FR-2376)	2535-AA15
1017	48 CFR 2401 Revisions of HUDAR to Reflect Changes in GNMA Procurement Procedures (ADM-3-88; FR-2534)	2535-AA17

Office of Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1018	48 CFR Chap. 24 Amendment of the HUD Acquisition Regulations (ADM-5-85; FR-2131)	2535-AA10
1019	24 CFR 570 Federal Procurement of Cement Containing Fly Ash (ADM-1-84; FR-1938)	2535-AA05

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Office of Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1018	48 CFR Chap. 24 Amendment of the HUD Acquisition Regulations (ADM-5-85; FR-2131)	2535-AA10
1019	24 CFR 570 Federal Procurement of Cement Containing Fly Ash (ADM-1-84; FR-1938)	2535-AA05

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1020	00 CFR 000 Public Housing Drug Elimination Pilot Program (P-20-88; FR-2592)	2577-AA76
1021	24 CFR 0060 Determination of Wage Rates for Maintenance and Technical Employees of Public Housing Agencies and Indian Housing Authorities (P-10-88; FR-2211)	2577-AA68
1022	24 CFR 0913 Public and Indian Housing; Ceiling Rents (P-2-89; FR-2529) 1987 HCD Act	2577-AA57
1023	24 CFR 812 Increase in Single Person Occupancy Limits (P-48-84; FR-2063)	2577-AA07
1024	24 CFR 965.705 Lead-Based Paint Poisoning Prevention Act -- Stewart B. McKinney Homeless Assistance Act of 1988 -- Section 1088 (P-19-88; FR-2583)	2577-AA78
1025	24 CFR 989 PHA Obligations with respect to Residual Receipts in the Public Housing, Turnkey III, and Sec. 23 Programs; (P-2-87; FR2354; formerly H-27-87)	2577-AA49
1026	24 CFR 990 Performance Funding System Revisions (87 Act)–Formal Review Process Energy Conservation Savings, Audit Responsibilities (P-12-88; FR-2504)	2577-AA71

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1027	24 CFR 970 Replacement Housing for Public Housing Demolition and Disposition (P-5-88; FR-2463) 1987 HCD Act	2577-AA58
1028	00 CFR 000 Implementation of Percentage Limit Provisions Under Section 16 of the United Housing Act of 1937 (P-7-88; FR-2465) 1987 HCD Act	2577-AA60
1029	24 CFR 905 Indian Housing Program–Revised Program Regulations (P-2-88; FR-2208)	2577-AA32
1030	24 CFR 905 Establishment of Preference for Elderly and Near Elderly Families (P-13-88; FR-2505)	2577-AA69
1031	24 CFR 960 Public Housing - Tenant Leases and PHA Grievance Hearings (P-26-79; FR-1164)	2577-AA18
1032	24 CFR 965.304 Individual Metering of Utilities of Existing PHA-Owned Projects (P-36-83; FR-1769)	2577-AA27
1033	24 CFR 965 PHA-Owned and Leased Project; Maintenance and Operation; Tenant Allowance for Utilities (P-8-88; FR-2260)	2577-AA40
1034	24 CFR 965 Change in Consolidated Supply Program (CSP) (P-11-88; FR2482)	2577-AA67
1035	24 CFR 968 Public Housing CIAP and Comprehensive Grant Program (P-8-88; FR-2488)	2577-AA66

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1036	00 CFR 000 Limitation on Public Housing Development (P-6-88; FR-2464) 1987 HCD Act	2577-AA59
1037	24 CFR 813 Indian Housing Act of 1988 (P-16-88; FR-2538)	2577-AA70
1038	24 CFR 904 Turnkey III Homeownership Opportunities Program (P-3-85; FR-2138)	2577-AA34
1039	24 CFR 968 Public and Indian Housing - Cost Containment Procedures (P-1-86; FR-2191)	2577-AA37
1040	24 CFR 905 Self-Help Homeownership Program (P-17-88; FR-2544)	2577-AA74
1041	24 CFR 906 Public Housing Homeownership Under Sec. 5(h) (P-1-89; FR-2609)	2577-AA75
1042	24 CFR 968 Public and Indian Housing Cost Containment Procedures - Comprehensive Improvement Assistance Program and Indian Housing (P-9-86; FR-2262)	2577-AA43
1043	24 CFR 968.12(i) Decontrol of Public Housing Authorities; CIAP Development (P-5-87; FR-2408)	2577-AA48
1044	24 CFR 968 Comprehensive Improvement Assistance Program–Special Purpose Modernization (P-18-88; FR-2545)	2577-AA72
1045	24 CFR 990 Revision to PFS - Insurance Costs (P-2-88; FR-2437) 1987 HCD Act	2577-AA56
1046	24 CFR 990 Annual Contributions for Operating Subsidy (P-21-88; FR-2593)	2577-AA77

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — **Prerule Stage**
Office of the Secretary (HUDSEC)

895. SECONDARY MARKET OPERATIONS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA) (S-3-81)

Legal Authority: 12 USC 1723a; 42 USC 3535(d)

CFR Citation: 24 CFR 81.41; 24 CFR 81.45

Legal Deadline: None

Abstract: This rule would amend the definition of "FNMA security" at 24 CFR 81.41(b) to delete the exclusionary parenthetical and to remove the provision in 24 CFR 81.45(b) which allows FNMA debentures in book-entry form only.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Walter T. Cassidy, Assistant General Counsel for Finance, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7260

RIN: 2501–AA10

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — **Proposed Rule Stage**
Office of the Secretary (HUDSEC)

896. ● DENIAL OF FEDERAL BENEFITS TO DRUG TRAFFICKERS AND POSSESSORS (S-2-89; FR-2612)

Legal Authority: Not yet determined

CFR Citation: 24 CFR 0000

Legal Deadline: None

Abstract: Section 5301 permits courts to declare individuals convicted of drug trafficking and possession to be ineligible for certain Federal benefits for specified periods.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	
Final Action	09/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Edward Murphy, Associate General Counsel for Legislation &, Regs, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7093

RIN: 2501–AA81

897. DEPARTMENTAL POLICIES, RESPONSIBILITIES, AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY (S-4-85; FR-2206)

Legal Authority: 42 USC 4321; PL 95-557

CFR Citation: 24 CFR 50

Legal Deadline: None

Abstract: This rule proposes revisions in the regulations governing HUD's consideration of environmental factors in decision-making under HUD programs other than the Community Development Block Grant, Urban Development Action Grant, Rental Rehabilitation, and Housing Development Grant Programs. The rule is intended to reduce regulatory burdens and procedural details based on experience under the existing regulations; reflect field office reorganization; and implement sec. 535 of the Housing Act of 1949, as amended.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Replaces RIN: 2506-AA10

Agency Contact: Walter Prybyla, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environment and Energy, 202 755-6611

RIN: 2501–AA30

898. PROCEDURE FOR FLOODPLAIN MANAGEMENT AND THE PROTECTION OF WETLANDS. IMPLEMENTATION OF EXECUTIVE ORDERS 11988 AND 11990 (S-7-84; FR-865)

Legal Authority: EO 11988; EO 11900; 42 USC 3535(d)

CFR Citation: 24 CFR 55; 24 CFR 50; 24 CFR 58; 24 CFR 200

Legal Deadline: None

Abstract: This regulation sets forth the policy, procedure and responsibilities of the Department of Housing and Urban Development to implement and enforce Executive Order 11988, Floodplain Management, and Executive Order 11990, the Protection of Wetlands. This regulation replaces a general statement of Departmental policy (44 FR 47623; August 14, 1979) implementing these Executive Orders. In addition, this rule would revise HUD's Minimum Property Standards for One and Two Family Dwellings to accord with Executive Order 11988 and FEMA's regulations for its National Flood Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard H. Broun, Director, Office of Environment & Energy, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-7894

RIN: 2501–AA23

899. FLOOD INSURANCE REQUIREMENTS FOR INSURANCE, LOAN, AND GRANT PROGRAMS (S-3-85; FR-2007)

Legal Authority: 42 USC 4012(a); 42 USC 4106(a)

CFR Citation: 24 CFR 56; 24 CFR 207; 24 CFR 232; 24 CFR 234; 24 CFR 238; 24 CFR 241; 24 CFR 242; 24 CFR 244; 24 CFR 250; 24 CFR 511; 24 CFR 570; 24 CFR 884; 24 CFR 904; 24 CFR 905

Legal Deadline: None

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Abstract: This rule would implement HUD's responsibilities under the Flood Disaster Protection Act of 1973. It would add a new Part 56 to specify HUD's responsibilities to require that flood insurance be obtained for eligible properties. This part would then be cross-referenced in the rules governing programs involving insurance, loans and grants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	04/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Replaced RIN: 2502-AC76

Agency Contact: Walter Prybyla, Deputy Director, Environmental Mgt. Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6611

RIN: 2501–AA59

900. ● VERIFICATION OF HUD APPLICANT AND PARTICIPANT EMPLOYMENT AND WAGE AND CLAIM JUSTIFICATION (S-10-88; FR-2588)

Legal Authority: 42 USC 3544; PL 100-628

CFR Citation: 24 CFR 760; 24 CFR 813; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886; 24 CFR 887; 24 CFR 900; 24 CFR 903; 24 CFR 905; 24 CFR 913; 24 CFR 960

Legal Deadline: Other, Statutory, September 30, 1989.
Section 904 statutorily takes effect on September 30, 1989 (although there is an early implementation option in the statute).

Abstract: The regulation implementing section 904 of the McKinney Amendments would require applicants and participants in certain HUD programs to sign consent forms permitting (1) HUD, PHA or owners responsible for determining eligibility for or level of benefits to verify employee income information with previous or current employers, and (2) HUD or the PHA to request wage and claim information from a State unemployment agency. Signing the consent from would be a condition of eligibility or continuing eligibility for the covered program. The rule would provide limitations on the collection, maintenance, use, and dissemination of wage and claim information obtained from a State unemployment agency. Criminal and civil penalties are also specified.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dennis A. Raschka, Director, Fraud Control Division, Department of Housing and Urban Development, Office of the Inspector General, 202 426-6493

RIN: 2501–AA80

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage

Office of the Secretary (HUDSEC)

901. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION (S-2-88; FR-2481)

Significance: Regulatory Program

Legal Authority: PL 100-242, Sec 417

CFR Citation: 24 CFR 206

Legal Deadline: None

Abstract: This regulation is intended to implement the Home Equity Conversion Mortgage demonstration program in order to meet the special needs of the elderly by permitting the conversion of a portion of accumulated home equity into liquid assets, and to encourage and increase the involvement of mortgagees and participants in the mortgage markets in the making and servicing of home equity conversion mortgages for elderly homeowners.

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 43156
NPRM Comment Period End	12/27/88	53 FR 43156
Final Action	04/00/89	
Final Action Effective	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Judith V. May, Office of Economic Affairs, Department of Housing and Urban Development, Policy Development and Research, 202 755-5537

RIN: 2501–AA67

902. ● COMPREHENSIVE HOMELESS ASSISTANCE PLAN (IMPLEMENTATION OF 1988 MCKINNEY ACT AMENDMENTS) - (S-1-89; FR-2386)

Significance: Agency Priority

Legal Authority: PL 100-628

CFR Citation: 24 CFR 574

Legal Deadline: Final, Statutory, November 7, 1989.
Final rule has statutory deadline of November 7, 1989.

Abstract: A notice implementing the 1988 McKinney amendments to the CHAP was published on December 28, 1988. The notice, which provides for public comment, will form the basis for a final rule to be published by November 1989.

Timetable:

Action	Date	FR Cite
Notice	12/28/88	53 FR 52600
Final Action	11/07/89	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Don Patch, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6587

RIN: 2501–AA79

903. ● SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS (S-3-89; FR-2585)

Legal Authority: 24 USC 11301

CFR Citation: 24 CFR 0000

Legal Deadline: Final, Statutory, November 6, 1989.

Abstract: A program to provide: (1) assistance to cover costs in excess of assistance provided under the Emergency Shelter Grants and Supportive Housing Demonstration programs that are required to meet the special needs of certain homeless populations or to facilitate the transfer and use of public buildings to assist the homeless; or (2) comprehensive assistance for particularly innovative programs for or alternative methods of, meeting the immediate and long-term needs of the homeless. No funds were appropriated for this program in FY 1989.

Timetable:

Action	Date	FR Cite
NPRM	03/27/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edwin Stromberg, Office of Policy Development, Policy Development & Research, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-1520

RIN: 2501–AA82

904. ADMINISTRATIVE CLAIM: IMPLEMENTING CERTAIN PROVISIONS OF THE DEBT COLLECTION ACT OF 1982 (S-10-86; FR-1644)

Legal Authority: 42 USC 3711; 42 USC 3717; 42 USC 3535(d)

CFR Citation: 24 CFR 17

Legal Deadline: None

Abstract: This rule would make final an interim rule published in 1984, implementing the administrative offset and salary offset provisions of the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/84	49 FR 32346
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously listed as 2535-AA09. Includes: ADM-1-82.

Agency Contact: Samuel B. Rothman, Attorney Advisor, Office of Program Enforcement, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7184

RIN: 2501–AA55

905. DEBARMENT SUSPENSION AND LIMITED DENIAL OF PARTICIPATION–ALL- CASH SALES EXCEPTION (S-4-87; FR-2356)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: This interim rule contains provisions of the common rule on Nonprocurement Debarment and Suspension which HUD could not adopt at the time that rule was published because of statutory requirements for congressional pre-publication review. These provisions relate to the application of debarment and suspension to foreign governments and organizations. The interim rule also deletes the exception for all cash sales at 24 CFR 24. The exception is being removed as a response to fraudulent practices experienced by the Department.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marylea Byrd, Attorney-Advisor, Department of Housing and Urban Development, Office of the General Counsel, 202 755-9686

RIN: 2501–AA78

906. ● IMPLEMENTATION OF THE DRUG-FREE WORKPLACE ACT OF 1988 (COMMON RULE)(S-11-88; FR-2598)

Significance: Agency Priority

Legal Authority: PL 100-690

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: This rule establishes drug-free workplace requirements for Federal contractors and grantees. OMB's Office of Federal Procurement Policy has the lead in developing a governmentwide common rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/10/88	53 FR 30049
Interim Final Rule Effective	10/01/88	53 FR 30049
Interim Final Rule Comments Due	10/11/88	53 FR 30049
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Black, Assistant General Counsel for, Inspector General & Admin Proceedings, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7200

RIN: 2501–AA60

907. ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT, RENTAL REHABILITATION AND HOUSING DEVELOPMENT GRANT PROGRAMS (S-6-84; FR-1965)

Legal Authority: 42 USC 1437o(i); 42 USC 5304(f)

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: This agenda item makes final two current interim rules. These rules provide policies and procedures by which assisted communities and participating States discharge Federal environmental review responsibilities. They also streamline and reduce environmental requirements. They include: (1) an expanded listing of block grant activities and projects exempt or categorically excluded from the NEPA requirements; (2) a definitive list of related statutes and authorities that

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must be observed by grant recipients for the release of block grant funds as required by HUD legislation; and (3) additional provisions needed to conform with and implement innovative measures included in the HUD Amendments of 1981, such as the State-administered block grant program for small cities and the assumption of the environmental oversight responsibilities by States; and (4) (CONT)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/07/84	49 FR 23610
Interim Final Rule Effective	07/31/84	49 FR 23610
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT'D: provisions for extending and adopting the environmental procedures, including historic preservation requirements, to the programs established by title III of the Housing and Urban-Rural Recovery Act of 1983.

This item also provides for the extension of the rule to the new programs authorized by the Stewart B. McKinney Homeless Assistance Act - P.L. 100-77, as amended by P.L. 100-628.

Includes: RIN 2506-AA05 (CPD-21-81; FR-1027)

Agency Contact: Charles E. Thomsen, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environmental and Energy, Environmental Management Division, 202 755-6611

RIN: 2501–AA25

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908. RESTRICTIONS ON HOUSING ASSISTANCE TO INELIGIBLE ALIENS (S-7-87; FR-2383 (FORMERLY FR-1588))

Significance: Regulatory Program

Legal Authority: 42 USC 1436a

CFR Citation: 24 CFR 200; 24 CFR 215; 24 CFR 235; 24 CFR 236; 24 CFR 247; 24 CFR 812; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886; 24 CFR 887; 24 CFR 912

Legal Deadline: None

Abstract: This rule will implement section 214 of the Housing and Community Development Act of 1980, as amended in 1981, 1986, and 1988. That Act prohibits the Secretary from providing financial assistance to substantially all illegal aliens as well as to most classes of aliens admitted for temporary purposes. The restriction applies to the Public and Indian Housing programs, the Section 8 Housing Assistance Payments programs, the Rent Supplement program, the Section 236 program, and the Section 235 homeownership assistance program.

This rule will replace the rule published on April 1, 1986, which was not made effective, but has been withdrawn. This new rule will provide that alien status must be verified with the Immigration and Naturalization Service by the entity responsible for tenant selection (or for approval of a Section 235 mortgage application).

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41038
NPRM Comment Period End	12/19/88	53 FR 41038
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information:

ADDITIONAL CONTACT PERSON (Public and Indian Housing):

Edward Whipple, Director, Rental and Occupancy Branch, Office of Public Housing, (202) 426-0744

Agency Contact: James J. Tahash, Director, Program Planning Division, Office of Multifamily Hsg. Management, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2501–AA63

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909. IMPLEMENTATION OF SEC. 165 OF THE HCD ACT OF 1987–SOCIAL SECURITY RULE (S-4-88; FR-2501)

Legal Authority: 42 USC 3543

CFR Citation: 24 CFR 200; 24 CFR 215; 24 CFR 221; 24 CFR 236; 24 CFR 290; 24 CFR 750; 24 CFR 813; 24 CFR 840; 24 CFR 841; 24 CFR 850; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 885; ...

Legal Deadline: None

Abstract: This rule would implement section 165 of the HCD Act of 1987 by providing for required disclosure of social security numbers by certain HUD program users, including applicants, managing principals, contractors, corporate officers, and other officials involved in HUD's FHA mortgage and loan insurance programs, rental assistance programs, and public housing programs.

Timetable:

Action	Date	FR Cite
NPRM	10/17/88	53 FR 40624
NPRM Comment Period End	12/16/88	53 FR 40624
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Edward Murphy, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7093

RIN: 2501–AA72

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910. INSURANCE OF PRICE LEVEL ADJUSTED MORTGAGES (INDEXED MORTGAGES) (S-5-88; FR-2518)

Legal Authority: 12 USC 1715z to 10

CFR Citation: 24 CFR 203; 24 CFR 220; 24 CFR 221; 24 CFR 234; 24 CFR 235

Legal Deadline: None

Abstract: This rule provides for the insurance of Price Level Adjusted Mortgages (PLAMs) which are intended to increase the availability of homeownership opportunities for homebuyers while protecting the FHA against default exposure.

Timetable:

Action	Date	FR Cite
NPRM	06/04/84	49 FR 23063
NPRM Comment Period End	08/03/84	49 FR 23063
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharmeen Dosky, Attorney-Advisor, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7055

RIN: 2501–AA73

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911. ● TEMPORARY DISQUALIFICATION OF CERTAIN NEWLY LEGALIZED ALIENS FROM CERTAIN HUD PROGRAMS (S-12-88; FR-2600)

Significance: Agency Priority

Legal Authority: 8 USC 1255(h); 8 USC 1255(l)

CFR Citation: 24 CFR 213; 24 CFR 221; 24 CFR 237; 24 CFR 510; 24 CFR 511; 24 CFR 570

Legal Deadline: None

Abstract: This rule will complete the action necessary to implement section 201(a) of the Immigration Reform and Control Act (IRCA) of 1986 (100 Stat. 3394, 3401) for HUD programs. That Act authorized the Attorney General to identify the programs of Federal financial assistance to which the temporary disqualification of certain newly legalized aliens applies. The Attorney General issued a proposed rule in 1987 (52 FR 31784) listing numerous HUD programs. The Attorney General's revised rule on this subject is expected to be published in early 1989, requiring that HUD publish an implementing rule for effect no later than October 1989.

Timetable:

Action	Date	FR Cite
Final Action	07/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert S. Kenison, Associate General Counsel for Assisted, Housing and Community Development, Department of Housing and Urban Development, Office of the General Counsel, 202 426-5212

RIN: 2501–AA77

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912. EMERGENCY SHELTER GRANTS PROGRAM (IMPLEMENTATION OF 1988 MCKINNEY ACT AMENDMENTS) - (S-6-88; FR-2562)

Legal Authority: PL 100-628

CFR Citation: 00 CFR 000

Legal Deadline: Final, Statutory; November 7, 1989.
Final rule has statutory deadline of November 7, 1989.

Abstract: A notice implementing the 1988 McKinney amendments to the ESG program was published on January 9, 1989. The notice, which provides for public comment, will form the basis for a final rule to be published by November 1989.

Timetable:

Action	Date	FR Cite
Notice	01/09/89	54 FR 750
Final Action	11/07/89	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Don Patch, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6587

RIN: 2501–AA74

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913. DISALLOWANCE OF LEGAL FEES; LITIGATION CONTROLS FOR HUD ASSISTANCE RECIPIENTS (S-7-88; FR-2134)

Significance: Regulatory Program

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 18

Legal Deadline: None

Abstract: This proposed rule will declare HUD policy regarding PHA legal expenses for litigation against HUD and prescribe limited litigation reporting procedures for HUD assistance recipients.

Timetable:

Action	Date	FR Cite
NPRM	10/27/88	53 FR 43610
NPRM Comment Period End	12/27/88	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of the Secretary, 202 755-6713

RIN: 2501–AA75

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of the Secretary (HUDSEC)

Completed Actions

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914. ELIMINATION OF OBSOLETE REGULATIONS (S-16-86; FR-2261)

CFR Citation: 24 CFR 0003; 24 CFR 0043; 24 CFR 0052; 24 CFR 0130; 24 CFR 0200; 24 CFR 0203; 24 CFR 0205; 24 CFR 0207; 24 CFR 0209; 24 CFR 0210; 24 CFR 0211; 24 CFR 0213; 24 CFR 0215; 24 CFR 0220; 24 CFR 0221; ...

Completed:

Reason	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Tim Coward 202 755-7055

RIN: 2501–AA50

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915. AMENDING RULES ON RULES AND FOIA RULES (S-3-87; FR-2320)

CFR Citation: 24 CFR 10; 24 CFR 15; 24 CFR 1720

Completed:

Reason	Date	FR Cite
Withdrawn	01/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Grady J. Norris 202 755-7055

RIN: 2501–AA57

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916. PROTECTION OF HUMAN SUBJECTS IN RESEARCH (S-6-83; FR-1807)

CFR Citation: 24 CFR 46

Completed:

Reason	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

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HUD—HUDSEC — **Completed Actions**

Agency Contact: Arthur S. Newburg 202 755-6230

RIN: 2501–AA15

917. ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT, RENTAL REHABILITATION AND HOUSING DEVELOPMENT GRANT PROGRAMS (S-13-86; FR-2316)

CFR Citation: 24 CFR 0058

Completed:

Reason	Date	FR Cite
Withdrawn - merged into RIN 2501-AA25 (FR-1965)	04/10/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Charles E. Thomsen 202 755-6611

RIN: 2501–AA39

918. FAIR HOUSING; IMPLEMENTATION OF THE FAIR HOUSING AMENDMENTS ACT OF 1988 (S-8-88; FR-2565)

Significance: Agency Priority

CFR Citation: 24 CFR 14; 24 CFR 105; 24 CFR 115

Completed:

Reason	Date	FR Cite
Final Action	01/23/89	54 FR 3232
Final Action Effective	03/12/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lawrence D. Pearl 202 755-5288

RIN: 2501–AA76

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — **Prerule Stage**

Office of Housing (OH)

919. ELIGIBILITY REQUIREMENTS–MORTGAGEE APPROVAL (H-13-88; FR-2453)

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 203.2

Legal Deadline: None

Abstract: This rule would clarify HUD requirements for approval of partnerships as mortgagees for mortgage insurance programs. The current rule only mentions limited partnerships with one general partner. The new rule would explain approval conditions for other limited partnerships and general partnerships.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sandra Allison, Dir., Lender Approval & Recertification Div., Department of Housing and Urban Development, Office of Housing, 202 755-6924

RIN: 2502–AE37

920. MANUFACTURED HOME CONSTRUCTION & SAFETY CONSTRUCTION ON SIDING & ROOFING MATERIALS & APPLICATION CRITERIA (H-8-87; FR2327)

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This Advance Notice of Proposed Rulemaking requests public comment on those portions of the Manufactured Home Construction and Safety Standards (Standards) that are applicable to the materials and application criteria for external coverings. The Department is concerned that certain siding and roofing materials, more common to conventional-type construction may not be compatible in important aspects with typical manufactured home construction. Consumer complaint information indicates that the current Standards do not address certain important problems areas.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald R. Fairman, Chief, Standards and Products Branch, Department of Housing and Urban Development, Office of Housing, 202 755-5718

RIN: 2502–AE06

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — **Proposed Rule Stage**

Office of Housing (OH)

921. ● CRITERIA FOR DETERMINING UNUTILIZED OR UNDERUTILIZED FEDERAL PROPERTY AS SUITABLE FOR FACILITIES TO ASSIST THE HOMELESS (H-3-89; FR2620)

Legal Authority: 42 USC 11411

CFR Citation: 24 CFR 0000

Legal Deadline: None

Abstract: This regulation would describe the criteria HUD uses to determine whether unutilized or underutilized Federal properties, described by other agencies in HUD-conducted surveys, are suitable for facilities to assist the homeless. This determination is the responsibility of HUD under the procedure in Section 501 of the McKinney Act for the identification and use of unutilized and

HUD—OH — **Proposed Rule Stage**

underutilized Federal property for facilities to assist the homeless.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Morris Bourne, Director, Transitional Housing Development, Staff, Department of Housing and Urban Development, Office of Housing, 202 755-9075

RIN: 2502–AE68

922. COINSURANCE OF EQUITY LOANS (H-37-88, FR2560)

Legal Authority: PL 100-242

CFR Citation: 24 CFR 50; 24 CFR 221; 24 CFR 236; 24 CFR 241; 24 CFR 248

Legal Deadline: None

Abstract: This rule implements the Preservation of Low Income Housing Act adopted by Congress to avoid the irreplaceable loss of income housing and irrevocable displacement of tenants due to the prepayment of FHA-insured mortgages covering subsidized projects. Pursuant to this enactment, the Secretary may offer the owner of an eligible multifamily project several inducements not to prepay the mortgage. One such inducement, provided by these regulations, is the insurance of an equity loan which the owner of the project may use as a vehicle to capture a portion of the project's appreciation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hamernick, Director, Multifamily Development, Department of Housing and Urban Development, Office of Housing, 202 755-6500

RIN: 2502–AE60

923. AUTHORIZE ADDITIONAL TYPES OF LOANS FOR DIRECT ENDORSEMENT PROCESSING (H-4-88; FR-2433)

Significance: Agency Priority

Legal Authority: 12 USC 1709; 12 USC 1715(b)

CFR Citation: 24 CFR 200; 24 CFR 203

Legal Deadline: None

Abstract: This rule proposes to make the following types of mortgages eligible for processing through the direct endorsement program as (1) those insured under sections 222 and 203(k) and (2) those insured pursuant to section 238(c) of the National Housing Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Martin, Dir., Office of Insured Single Family Hsg., Department of Housing and Urban Development, Office of Housing, 202 755-3048

RIN: 2502–AE48

924. ● CHANGES TO THE MINIMUM PROPERTY STANDARDS (H-40-88; FR-2599)

Legal Authority: 12 USC 1701 to 1715z-18

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This proposed rule would amend 24 CFR Part 200 by (1) referencing the latest editions of private sector standards presently in the MPS; (2) standardizing requirements to control termites and wood decay; (3) removing Federal agency standards for solar energy and thermal insulation standards and referencing a model energy code instead; (4) relying on EPA approved local or State water purification systems with individual sources of unsafe water and (5) revising the time for periodic changes to the MPS.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Holman, Director, Manufactured Housing and Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502–AE64

925. ● REVISED UNDERWRITING AND LOAN ORIGINATION REQUIREMENTS FOR TITLE I MANUFACTURED HOME LOANS (H-5-89; FR2623)

Legal Authority: 12 USC 1703

CFR Citation: 24 CFR 201

Legal Deadline: None

Abstract: This rule would amend the Title I regulations to require that: (1) the lender shall conduct a personal or telephone interview with the borrower to ascertain the accuracy and completeness of the credit application; (2) the manufactured home shall comply with federally prescribed site installation requirements; (3) the lender or its agent shall conduct a post-disbursement site inspection of the home to assure that the borrower and dealer certifications on the Placement Certificate are correct; and (4) the use of loan proceeds to finance the purchase of wheels and axles is prohibited.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Coyle, Director, Title I Insurance Div., Department of Housing and Urban Development, Office of Housing, 202 755-6680

RIN: 2502–AE67

926. RETENTION PERIOD FOR MORTGAGEE SINGLE FAMILY CLAIM RECORDS (H-81-84)

Legal Authority: 42 USC 3535(d)

CFR Citation: 4 CFR 203

Legal Deadline: None

Abstract: Under the new Single Family Claims System, the mortgagee is not required to provide documentation to support the fiscal data reported or entered on the new claim form. Instead, the mortgagee will be randomly audited; at that time, the mortgagee will be expected to produce all the

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supporting receipts, payment ledger records, etc.

Regulations will be changed to specify the retention period and the required file contents for records supporting single family claim payments and mortgagee reviews.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502–AC50

927. PENALTY FOR LACK OF DOCUMENTATION (H-80-84)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: The new single family claims process provides for "random audits" of mortgagees' records when single family claims for insurance benefits are filed with HUD. During the audit, the mortgagee will be required to provide specific supporting documentation. When the mortgagee cannot produce the required documentation, HUD will penalize the mortgagee for the amount not supported plus an amount representing the current interest rate on that unsupported amount from the date of payment.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ann M. Sudduth, Chief, Insured Servicing Branch, Single Family Servicing Division, Department of Housing and Urban Development, Office of Housing, 202 755-7330

RIN: 2502–AC54

928. MORTGAGEE CHARGES FOR SERIOUS TITLE DEFECTS (H-26-87; FR-2368)

Legal Authority: 12 USC 1710; 12 USC 1715(b); 12 USC 1709

CFR Citation: 24 CFR 203.366; 24 CFR 203.403

Legal Deadline: None

Abstract: Proposed rule is intended to impose graduated charges on mortgagees who convey FHA-insured properties to HUD with serious title defects. These charges would increase with the length of time required by the mortgagee to rectify the defects.

Exploring the base on which the graduated charges will be calculated; i.e., whether to use a percentage of the total insured claim or materials averages of daily holding costs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jacqueline Campbell, Dir., Single Family Property Disposition, Division, Department of Housing and Urban Development, Office of Housing, 202 755-5740

RIN: 2502–AE11

929. DEADLINE FOR FILING SINGLE FAMILY SUPPLEMENTAL CLAIMS (H-26-88; FR-2487)

Legal Authority: 12 USC 1710

CFR Citation: 24 CFR 203.400

Legal Deadline: None

Abstract: At present, there is no regulatory control over the time period during which mortgagees can submit applications for supplemental insurance benefits. The Department has instructed lenders to file these supplemental claims within one year of the date of the original insurance settlement. This information has so far been contained in the Instructions for Single Family Application for Insurance Benefits, Form HUD-27011. This rule will formalize the requirement that lenders follow this one-year filing period for supplemental claims.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert E. Falkenstein, Jr., Director, Single Family Servicing Div., Department of Housing and Urban Development, Office of Housing, 202 755-6672

RIN: 2502–AE51

930. ACTION TO REDUCE LOSSES UNDER FHA SINGLE FAMILY MORTGAGE INSURANCE PROGRAM (H-28-88; FR-2491)

Legal Authority: 12 USC 1715b; 12 USC 1735f(1); PL 100-242, Sec 407

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule proposes to implement section 407 of the Housing and Community Development Act of 1987. Where, as a result of an annual review, the Secretary finds a mortgagee with a higher than normal default and claim rate, the Secretary shall require the mortgagee to submit a report with a plan for corrective action. Failure to submit the report or complete the plan for corrective action within the timeframe required may be cause for suspension of the mortgagee from participation in FHA programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Nistler, Deputy Asst. Sec. for Single Family Hsg., Department of Housing and Urban Development, Office of Housing, 202 755-6675

RIN: 2502–AE52

931. LIMITATION ON PREPAYMENT OF MORTGAGES ON MULTIFAMILY RENTAL HOUSING (H-54-84; FR-1952)

Significance: Regulatory Program

Legal Authority: 12 USC 1715z-15; PL 100-242, Sec 261

CFR Citation: 24 CFR 207; 24 CFR 221; 24 CFR 215; 24 CFR 886; 24 CFR 245; 24 CFR 277; 24 CFR 219; 24 CFR 231; 24 CFR 242; 24 CFR 244

Legal Deadline: None

Abstract: This rule would codify HUD policies for implementing section 250(a) and (b) of the National Housing Act, as added by section 433 of the Housing and Urban-Rural Recovery Act of 1983 and amended by section 261 of the Housing and Community Development Act of 1987. This rule would restrict prepayment of multifamily project mortgages whenever Secretary has prepayment approval responsibilities. Prepayment will not be approved unless project is no longer needed for lower income housing, tenants have been given notice and opportunity to comment, and a relocation assistance plan has been put in place. Similar restrictions will apply to termination of insurance. Where the Secretary is not responsible for approving prepayment and therefore cannot restrict it, priority will be given for additional section 8 and troubled project assistance in order to discourage prepayment. Additional requirements imposed on the prepayment of multifamily project mortgages by Title II, Subtitle B of the Housing and Community Development Act of 1987 have been implemented by separate rulemaking (FR-2450; H-10-88; RIN: 2502-AE34).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James Tahash, Director, Department of Housing and Urban Development, Office of Housing, Program Planning, Office of Multifamily Housing Management, 202 755-3970

RIN: 2502–AC49

932. ● METHOD OF PAYMENT OF MULTIFAMILY INSURANCE CLAIMS (H-38-88; FR-2571)

Significance: Agency Priority

Legal Authority: 12 USC 1735(a)

CFR Citation: 24 CFR 207; 24 CFR 220; 24 CFR 221; 24 CFR 233; 24 CFR 236; 24 CFR 251; 24 CFR 255

Legal Deadline: None

Abstract: This proposed rule would revise the method of payment of insurance benefits on multifamily mortgages assigned or conveyed to the Secretary. The rule would invest the Secretary with the discretion to settle insurance claims in cash, in debentures, or in a combination of both, depending on which method the Secretary determines to be most cost effective at the time of payment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James B. Mitchell, Director, Financial Policy Division, Department of Housing and Urban Development, Office of Housing, 202 426-4325

RIN: 2502–AE61

933. HUD-OWNED AND HUD-HELD MULTIFAMILY PROJECTS - MANAGEMENT AND DISPOSITION INCLUDING PROVISION OF SECTION 8 ASSISTANCE FOR PROJECTS AT FORECLOSURE (H-3-86; FR-2158)

Significance: Regulatory Program

Legal Authority: 42 USC 1437f; 12 USC 3706; 12 USC 3717; 12 USC 1713(k); 12 USC 1701z-11; 12 USC 1701z-12

CFR Citation: 24 CFR 290; 24 CFR 886; 24 CFR 27

Legal Deadline: None

Abstract: This proposed rule would amend HUD regulations to implement section 181 of the Housing and Community Development Act of 1987 and section 1010 of the Stewart B. McKinney Homeless Assistance Amendments of 1988. Section 181 expanded the scope of section 203 of the Housing and Community Development Amendments of 1978 to include projects that are subject to a HUD-held mortgage and are delinquent, under a workout agreement, or being foreclosed upon by HUD. HUD, when it is owner or mortgagee-in-possession, and the owner in other situations now covered by section 203 must, to the greatest extent possible, maintain all such occupied projects in decent, safe, and sanitary condition and maintain full occupancy and must also maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible time. The statute directs HUD to provide not less than one of several specified forms of financial assistance to a purchaser other than HUD at foreclosure, or after sale by the Secretary. Section 1010 further amended section 203 to clarify which units in HUD-held unsubsidized projects (CONT'D)

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: (ABSTRACT CONT'D) must be preserved for low and moderate income tenants and to provide procedures under which local governments and designated State agencies have a right of first refusal to purchase HUD-owned multifamily housing projects.

Agency Contact: James J. Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3944

RIN: 2502–AD43

934. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS INTERPRETATIVE BULLETINS (H-31-87; FR-2380)

Legal Authority: 42 USC 5424

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This proposed rule would amend the Manufactured Home Procedural and Enforcement Regulations in order to remove the issuance of Interpretative Bulletins from the rulemaking process. The purpose of this procedural modification is to promote efficiency in issuing Interpretative Bulletins so that important guidance can be provided to the manufactured housing industry in a timely manner.

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Mark W. Holman, Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502–AE10

935. REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS (S-10-84; FR-1896)

Legal Authority: 42 USC 1439

CFR Citation: 24 CFR 791

Legal Deadline: None

Abstract: The rule revises HUD's regulations for the allocation of housing assistance funds to conform with statutory changes made by the Housing and Urban-Rural Recovery Act of 1983. It contains an explicit description of the allocation formula, including some modifications to the factors making up the formula; deletes specific requirements on allocating funds in accordance with approved Housing Assistance Plans; and eliminates the requirements for local consultation in the allocation process. Part 791 would also be amended to consolidate local government submission requirements and HUD criteria for review of applications for housing.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: Includes: H-4-81, FR-1512.

Agency Contact: Stephen Cooley, Office of Housing Policy, Department of Housing and Urban Development, Office of Housing, 202 755-6454

RIN: 2502–AA73

936. CONFORMING SECTION 8 EXISTING CERTIFICATE REGULATION TO HOUSING VOUCHER FORMAT (H-2-87; FR-2294)

Significance: Regulatory Program

Legal Authority: 42 USC 1437f; PL 100-242, Sec 144; PL 100-242, Sec 145; PL 100-242, Sec 146; PL 100-242, Sec 147; PL 100-242, Sec 148; PL 100-242, Sec 149; PL 100-242, Sec 282

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule will revise the Section 8 Certificate Program regulations in Part 882 to conform them to the extent practicable to the closely-related Housing Voucher Program regulations in Part 887, to implement certain statutory amendments to the Program under the Housing and Community Development Act of 1987 and to propose certain revisions based on programmatic experience. It will also implement several recent statutory amendments affecting the Certificate and Housing Voucher Programs and those amendments affecting other Section 8 Programs with respect to contract rent adjustments. The rule will propose changes in the Certificate and Voucher Programs to authorize PHAs to terminate assistance for program participants who are trafficking in drugs or who commit other crimes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FR-2469 (RIN: 2502-AE44) and FR-2584 (RIN: 2502-AE63) have been merged into this item.

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 755-6887

RIN: 2502–AD91

937. MISCELLANEOUS REVISIONS OF PART 886 (H-37-88; FR-2275)

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f

CFR Citation: 24 CFR 886.310; 24 CFR 886.330; 24 CFR 886.331; 24 CFR 886.334; 24 CFR 886.322; 24 CFR 886.333; 24 CFR 886.122

Legal Deadline: None

Abstract: This proposed rule would amend Part 886, which governs procedures for additional assistance for projects with HUD-insured or HUD-held mortgages (Subpart A) and the Section 8 housing assistance payments program for the disposition of HUD owned projects (Subpart C). This rule would (1) modify the maximum monthly rent provisions of Subpart C to reflect Section 102(b)(7) of the Housing and Community Development Amendments of 1984; (2) amend the work write-up, cost estimate and cost certification provisions governing the rehabilitation of projects under Subpart C; and (3) make other miscellaneous changes to Part 886.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This proposal was originally included as part of FR-1950.

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, 202 426-3970

RIN: 2502–AD69

938. LAND REGISTRATION (H-21-86)

Legal Authority: 15 USC 1701

CFR Citation: 24 CFR 1710

Legal Deadline: None

Abstract: This rule would adjust the reporting and registering requirements for land registration and adjust the fee payment procedures.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Lionel Cabrera, Chief, Land Sales Policy Examination Branch, Department of Housing and Urban

Development, Office of Housing, 202 755-6824

RIN: 2502–AD54

939. MANUFACTURED HOUSING ENERGY CONSERVATION STANDARDS (H-29-88; FR-2497) 1987 HCD ACT

Legal Authority: PL 100-242, Sec 568

CFR Citation: 24 CFR 3280.506

Legal Deadline: None

Abstract: The regulation would revise the Department's thermal energy standards to comport with section 568's requirements that the Department's standards be "cost-effective energy conservation standards designed to ensure the lowest total of construction and operating costs."

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Donald R. Fairman, Chief, Standards and Products Branch, Department of Housing and Urban Development, Office of Housing, 202 755-5718

RIN: 2502–AE53

940. ● CHANGES TO THE MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS FROM THE CABO AND MHCSS COMMITTEES AND OTHERS (H-4-89; FR-2622)

Legal Authority: 42 USC 5401

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This revision will contain updating of appropriate reference standards, some editorial changes and helpful clarifications and improvement of existing requirements. Major changes will deal with improved ventilation and condensation control, both within the units and in roof cavities. Roof truss testing procedures will be revised and new thermal criteria will be presented in conformance with the mandates of Section 568 of the Housing and Community Development Act of 1987. Other provisions may be added as this revision is prepared in 1989.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald R. Fairman, Chief, Standards & Products Branch, Department of Housing and Urban Development, Office of Housing, 202 755-5718

RIN: 2502–AE66

941. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT SYSTEM (H-40-86; FR-2278)

Significance: Regulatory Program

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This rule would propose revisions to HUD enforcement regulations at 24 CFR Part 3282 to improve the effectiveness of Production Inspection Primary Inspection Agencies (IPIAs).

Timetable:

Action	Date	FR Cite
ANPRM	05/08/87	52 FR 17411
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mark W. Holman, Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502–AD60

942. MANUFACTURED HOME DESIGN INSPECTION SYSTEM (H-41-86; FR-2279)

Significance: Regulatory Program

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This proposed rule will deregulate the current design inspection system on manufactured homes and substitute a procedure for manufacturer certification, among other revisions.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mark W. Holman, Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502–AD61

943. ● MANUFACTURED HOME SAFETY STANDARDS - MONITORING INSPECTION FEE (H-2-89; FR-2613)

Legal Authority: 42 USC 5419

CFR Citation: 24 CFR 3282.307(b)

Legal Deadline: None

Abstract: States with a large number of manufacturing facilities have incurred additional expenses in monitoring and inspecting those facilities. As the regulation is now written, the monitoring inspection fee paid by the manufacturers to the Secretary is distributed to the states based on the number of new manufacturer housing units whose first location after leaving the plant is on the premises of a distributor, dealer, or purchaser in that state. 24 CFR 3282.307(b) will be amended to provide a more equitable distribution of the inspection fee proceeds that will take into account the additional expenses incurred by the states in which manufacturing facilities are located.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Holman, Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502–AE65

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Final Rule Stage

Office of Housing (OH)

944. TENANT PARTICIPATION IN MULTIFAMILY PROJECTS (H-11-88; FR-2451) 1987 HCD ACT

Legal Authority: PL 100-242, Sec 183

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This rule provides for the applicability of the tenant participation requirements of section 202 of the HCDA of 1978 to section 202 elderly and handicapped projects. The rule also removes the Secretary's authority not to provide for tenant participation in certain owner actions and authorizes the application of the tenant participation requirements in the Secretary's proposal to sell a multifamily housing project.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash, Dir., Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502-AE35

945. CAPITAL IMPROVEMENT FLEXIBLE SUBSIDY PROGRAM: LOANS 8 (H-34-88; FR-2541)

Significance: Regulatory Program

Legal Authority: 12 USC 1715z-1a

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This rule implements amendments made to section 201 of the Housing and Community Development Amendments of 1978 to broaden the categories of projects eligible for assistance under the Flexible Subsidy program and to create a program of loans for capital improvements to multifamily housing projects, under specified terms and conditions set out in the statute. The rule will make these changes effective in accordance with section 1011 of the McKinney Homeless Assistance Amendments Act of 1988.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/07/89	54 FR 9708
Interim Final Rule Effective	03/07/89	54 FR 9708
Interim Final Rule Comment Period End	05/08/89	54 FR 9708
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Tahash, Director, Planning & Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502-AE55

946. SECTION 8 CERTIFICATE PROGRAM PROJECT-BASED ASSISTANCE (H-30-88; FR-2502)

Significance: Agency Priority

Legal Authority: 42 USC 1437f

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: Section 148 of the Housing and Community Development Act of 1987 amended section 8(d)(2) of the United States Housing Act of 1937 to require the Department to permit a PHA to attach not more than 15 percent of the section 8 Existing Housing Program assistance to existing structures if the owner agrees to rehabilitate the structure other than with assistance under the 1937 Act. Section 1005 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 requires the Department to permit PHA's to attach assistance, within the same 15 percent limit, to newly constructed units. This rule would implement these provisions by establishing a new Subpart G to 24 CFR Part 882 for project-based certification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/04/89	54 FR 230
Interim Final Rule	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lawrence Goldberger, Director, Office of Elderly and, Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 755-5720

RIN: 2502-AE56

947. APPLICABILITY OF MINIMUM PROPERTY STANDARDS MANUFACTURED HOMES UNDER TITLE II OF THE NATIONAL HOUSING ACT (H-82-82; FR-1578)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 200; 24 CFR 203

Legal Deadline: None

Abstract: Interim rule permits insured financing of properties with manufactured homes under Title II of the National Housing Act, as a means of broadening affordable home ownership opportunities. To qualify for such financing, the manufactured homes, foundations and sites must meet prescribed standards to insure adequate security for HUD-insured mortgages. By such action homeowners can expect reduced housing cost without sacrificing housing quality or durability.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/24/83	48 FR 7731
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Morris Carter, Director, Single Family Development, Division, Department of Housing and Urban Development, Office of Housing, 202 755-6700

RIN: 2502-AB24

948. RESTRICTIONS ON ALL-CASH SALES (AMENDMENT TO PART 200) (H-30-87; FR-2374)

Legal Authority: 12 USC 1703; 12 USC 1715b

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This interim rule is intended to prohibit assumptors of a mortgage, or other persons purchasing property subject to a mortgage, on which an insured claim has been paid by the Department, from participating in a HUD "all cash public sale."

HUD—OH

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Coonts, Deputy Director, Office of Single Family, Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AE12

949. AMENDMENTS TO THE TITLE I REGULATIONS (H-19-87; FR2370)

Legal Authority: 12 USC 1703

CFR Citation: 24 CFR 201

Legal Deadline: None

Abstract: This rule would involve the following revisions to the Title I loan insured program:(1) a requirement that affected new manufactured homes meet the thermal energy requirements in HUD's Minimum Property Standards; (2) restrictions on the use of loan proceeds for the acquisition of furniture; (3) a reduction in the length of hazard insurance coverage that can be financed; (4) an increase in the property improvement loan amount on which a security interest is required; and (5) the collection of a higher percentage of the loan insurance premium in the early years when the risks of default are greatest.

Timetable:

Action	Date	FR Cite
NPRM	08/15/88	53 FR 30697
NPRM Comment Period End	10/31/88	53 FR 39613
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert J. Coyle, Director, Title I Insurance Division, Department of Housing and Urban Development, Office of Housing, 202 755-6680

RIN: 2502-AE15

950. HUD INSPECTIONS - NO DUTY OF CARE (H-1-85; FR-2025)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203; 24 CFR 234

Legal Deadline: None

Abstract: Proposed regulation to protect HUD against suits brought under the Federal Tort Claims Act claiming negligent inspection of FHA-insured properties.

Timetable:

Action	Date	FR Cite
NPRM	04/13/88	53 FR 12431
NPRM Comment Period End	06/13/88	53 FR 12431
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen Martin, Director, Office of Insured Single, Family Housing Division, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AC92

951. TEMPORARY MORTGAGE ASSISTANCE PAYMENTS (TMAP) AND ASSIGNMENTS TO HUD (H-44-85; FR-2147)

Significance: Agency Priority

Legal Authority: 12 USC 1715b; 12 USC 1715u

CFR Citation: 24 CFR 203; 24 CFR 204

Legal Deadline: None

Abstract: Additional amendments to TMAP and Assignment rule are needed to reflect change in TMAP interest rate made by section 428 of the Housing and Community Development Act of 1987 and to assure that mortgagees inform mortgagors of the possible right to TMAP or assignment before they accept a deed in lieu of foreclosure from the mortgagor. (This rule was identified in earlier Agendas as RIN: 2502-AB79; H-29-81; FR-1415.)

Timetable:

Action	Date	FR Cite
NPRM	01/03/86	51 FR 216
NPRM Comment Period End	03/04/86	51 FR 216
Final Action	03/05/87	52 FR 6908
Revised Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen Martin, Director, Office of Insured Single, Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AD34

952. CRITERIA FOR ACCEPTABILITY OF INSURED 10-YEAR PROTECTION PLANS (H-28-86; FR-2036)

Significance: Agency Priority

Legal Authority: 12 USC 1709, Sec 203, 211; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule would revise the existing administrative criteria for acceptability of insured 10-year protection Plans (Plans). The Department began this proceeding by publishing a Notice informing the public that HUD intended to revise the criteria. This rule describes, among other things, criteria related to Plan acceptability, insurance and financial backing, Plan coverage, and methods for determining Plan obligations.

HUD acceptance of these Plans is a prerequisite to reduced inspection requirements on a property accepted for mortgage insurance before the commencement of construction. It is also a prerequisite to high loan-to-value insured financing for existing one-to-four family dwellings that are less than one year old and that were not approved and inspected by HUD or the Veterans Administration before the start of construction.

Timetable:

Action	Date	FR Cite
Notice of Solicitation Public Comments	11/14/84	49 FR 45075
NPRM	06/10/87	52 FR 21961
NPRM Comment Period End	08/10/87	52 FR 21961

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen Martin, Director, Office of Insured, Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AD65

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953. DEREGULATION OF LOAN ORIGINATION FEES IN FHA SINGLE FAMILY HOUSING (H-18-87; FR-2333)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: Origination fees in the FHA single family program will be deregulated, and the methods for determining mortgagor income would be revised.

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15406
NPRM Comment Period End	06/28/88	53 FR 15406

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Morris E. Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, 202 755-6720

RIN: 2502–AD98

954. ALLEGANY RESERVATION OF THE SENECA NATION (H-32-87; FR-2382)

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule implements Public Law 99-601. The law authorizes the Secretary of HUD, notwithstanding any contrary requirements in the National Housing Act, to insure single family mortgages covering certain properties located on lands within the Allegany Reservation of the Seneca Indian Nation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/21/87	52 FR 48197
Interim Final Rule Comments	02/19/88	52 FR 48197
Interim Final Rule Effective	03/28/88	53 FR 9869
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: Stephen Martin, Director, Office of Insured Single, Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502–AE09

955. SINGLE FAMILY MORTGAGE INSURANCE - OCCUPANT AND INVESTOR MORTGAGORS (H-16-88; FR-2456) 1987 HCD ACT

Legal Authority: 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 203; 24 CFR 213; 24 CFR 221; 24 CFR 222; 24 CFR 226; 24 CFR 233; 24 CFR 234; 24 CFR 235

Legal Deadline: None

Abstract: This rule would implement section 406 of the Housing & Community Development Act of 1987. Section 406 authorizes HUD (1) to insure single family mortgages under title II of the National Housing Act, or (2) to approve a substitute mortgagor for single family mortgages insured under title II, only if the mortgagor is to occupy the dwelling as a principal or secondary residence, as determined by HUD. Section 406 provides that this occupancy requirement only applies if the mortgage involve a principal obligation that exceeds 75 percent of the loan-to-value or equivalent calculation under the insuring authority involved. The action exempts from the occupancy requirement, mortgagors under the Rehabilitation Loan program under section 203(k) of the National Housing Act, and certain public entity, nonprofit, serviceperson, and other mortgagors under various National Housing Act activities.

Timetable:

Action	Date	FR Cite
NPRM	10/03/88	53 FR 38844
NPRM Comment Period End	12/02/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Morris Carter, Dir., Single Family Development Division, Department of Housing and Urban Development, Office of Housing, 202 755-6700

RIN: 2502–AE40

956. COMPUTER AUTOMATION OF REQUIRED DATA FOR CERTIFICATION AND RECERTIFICATIONS SUBSIDY BILLING PROCEDURES FOR CERTAIN MULTIFAMILY SUBSIDIZED PROJECTS (H-2-88; FR-2421)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 208

Legal Deadline: None

Abstract: This rule would require owners of certain multifamily subsidized projects to automate the information and transmission of HUD forms and worksheets for certification and recertification of compliance with HUD's tenant eligibility and rent procedures, and the computation of tenant rent/payment and the monthly subsidy billing forms, as applicable. This rule would apply to multifamily projects under the following program: section 236 rental assistance payments, section 8 housing assistance payments, section 221(d)(5), below market interest rate housing for low and moderate income mortgage insurance, and section 101 rent supplements.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20649
NPRM Comment Period End	07/21/88	53 FR 20649
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 426-3970

RIN: 2502–AE26

957. STATE AGENCY AMENDMENTS (H-70-84; FR-1997)

Legal Authority: 12 USC 1715z-16(b); 12 USC 1715z-16(c)

CFR Citation: 24 CFR 215; 24 CFR 221; 24 CFR 236; 24 CFR 245

Legal Deadline: None

Abstract: This rule would make the Department's regulations on prohibited lease terms applicable to section 236 projects financed by state housing agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/21/87	52 FR 48276
NPRM Comment Period End	02/19/88	52 FR 48276
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3970

RIN: 2502–AC73

958. PREPAYMENT OF MORTGAGES ON LOW- AND MODERATE-INCOME HOUSING (H-10-88; FR-2450) 1987 HCD ACT

Legal Authority: PL 100-242; PL 100-628

CFR Citation: 24 CFR 50; 24 CFR 221; 24 CFR 236; 24 CFR 241; 24 CFR 248; 24 CFR 880; 24 CFR 881; 24 CFR 883

Legal Deadline: None

Abstract: The regulation implements provisions of the Housing and Community Development Act of 1987 that provide that mortgages on "eligible low income housing" may be prepaid only in accordance with a "plan of action" approved by the Secretary. The regulation establishes procedures for the submission and negotiation of such plans of action, lists incentives which may be part of the plan of action, and provides standards which the plans of action must meet. The regulation is designed to preserve needed low income housing in cases where the project owner might otherwise prepay its mortgage and convert the project to higher-income use.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/05/88	53 FR 11224
Interim Final Rule Effective Date	05/20/88	53 FR 11224
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Tahash, Director, Planning & Procedure Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502–AE34

959. NEHEMIAH OPPORTUNITY GRANTS PROGRAM (H-25-88; FR-2478) 1987 HCD ACT

Significance: Regulatory Program

Legal Authority: PL 100-242, Sec 611

CFR Citation: 24 CFR 280

Legal Deadline: None

Abstract: This rule would implement the Nehemiah Housing Opportunity Grants Program. Under this program HUD would provide assistance to private nonprofit organizations in the form of grants. The nonprofit organizations receiving grants would use the assistance to provide loans to families purchasing homes constructed or substantially rehabilitated under the program.

Timetable:

Action	Date	FR Cite
NPRM	11/08/88	53 FR 45216
NPRM Comment Period End	01/09/89	53 FR 45216
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: Morris Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, 202 755-6720

RIN: 2502–AE45

960. SHARED HOUSING IN THE SECTION 8 MODERATE REHABILITATION PROGRAM (H-26-86; FR-2238)

Significance: Agency Priority

Legal Authority: 42 USC 1437f(p); 42 USC 3535(d)

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This final rule will permit eligible applicants and tenants to share housing units with other eligible applicants or tenants in Section 8 Moderate Rehabilitation units, in accordance with the statutory directive in 42 USC 1437f(p). A proposed rule that included this program was published in 1984.

Timetable:

Action	Date	FR Cite
NPRM	12/07/84	49 FR 48005
NPRM Comment Period End	02/05/85	49 FR 48005

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Department of Housing and Urban Development, Office of Housing, 202 755-6887

RIN: 2502–AD66

961. MANAGEMENT RULES AND COMPREHENSIVE HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS (H-34-83; FR-1761)

Legal Authority: 12 USC 1701q; 42 USC 3535(d)

CFR Citation: 24 CFR 885

Legal Deadline: None

Abstract: This final rule will amend HUD's regulations governing projects that received direct loans under section 202 of the Housing Act of 1959 and housing assistance payments under section 8 of the United States Housing Act of 1987. The regulation adds regulatory provisions to govern section 202/8 project operations and management; incorporates changes required by statutory requirements governing housing assistance payments contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/09/87	52 FR 46614
NPRM Comment Period End	02/08/88	52 FR 46614

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James J. Tahash, Director, Department of Housing and Urban Development, Office of Housing, Program Planning Division, Office of Multifamily Housing Management, 202 426-3970

RIN: 2502–AC03

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962. LOANS FOR THE ELDERLY OR HANDICAPPED - HOUSING FOR THE HANDICAPPED (H-23-88; FR-2476) 1987 HCD ACT

Significance: Regulatory Program

Legal Authority: 12 USC 1701g

CFR Citation: 24 CFR 885

Legal Deadline: None

Abstract: Section 162 of the Housing and Community Development Act of 1987 authorizes a new type of assistance payments to be made to replace section 8 assistance payments made in connection with section 202 housing for the nonelderly handicapped. This rule would establish regulations for this program.

Timetable:

Action	Date	FR Cite
NPRM	11/02/88	53 FR 44288
NPRM Comment Period End	01/03/89	53 FR 44288
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Milner, Office of Policy, Financial Management, and Administration, Department of Housing and Urban Development, Office of Housing, 202 755-6742

RIN: 2502–AE47

963. LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED DURATION OF SECTION 202 FUND RESERVATION (H-33-88; FR-2536)

Legal Authority: 12 USC 1701q

CFR Citation: 24 CFR 885

Legal Deadline: None

Abstract: This final rule amends HUD's regulations governing projects that receive direct loans under section 202 of the Housing Act of 1959 and housing assistance payments under section 8 of the United States Housing Act of 1937. The rule amends 24 CFR 885.230, duration of section 202 fund reservation (1) to permit HUD's Regional Office to extend the duration of fund reservation by an additional 12 months and (2) to add procedures governing the appeal of HUD decisions to cancel section 202 fund reservation as required by section 161(2) of the Housing and Community Development Act of 1987 (Pub. L. 100-242 approved February 5, 1988).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Wilden, Director, Assisted Elderly & Handicapped, Housing Division, Department of Housing and Urban Development, Office of Housing, 202 426-8730

RIN: 2502–AE58

964. ● LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED DAVIS-BACON WAGE RATE (H-6-89; FR-2589)

Legal Authority: 12 USC 1701(q)(c)(3)

CFR Citation: 24 CFR 885.415; 24 CFR 885.420; 24 CFR 885.422

Legal Deadline: None

Abstract: This rule will implement a statutory change in the 202 direct loan program contained in sec. 162(b)(3) of the HCD Act of 1987, providing that Davis-Bacon wages are not required whenever a 202 Project contains 12 or fewer family units. (Before the Amendment, Davis-Bacon was applied to all section 202/8 projects, without regard to project size.)

Timetable:

Action	Date	FR Cite
Final Action	06/00/89	
Final Action Effective	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Justin Logsdon, Assistant to the Secretary for, Labor Relations, Department of Housing and Urban Development, Office of the Secretary, 202 755-5370

RIN: 2502–AE69

965. ● SECTION 8 MODERATE REHABILITATION PROGRAM FOR SINGLE ROOM OCCUPANCY DWELLINGS FOR HOMELESS INDIVIDUALS (H-1-89; FR-2539)

Significance: Agency Priority

Legal Authority: PL 100-77; PL 100-404

CFR Citation: 24 CFR 890

Legal Deadline: Final, Statutory, November 7, 1989. Other, Statutory. HUD is required to establish the requirements of this program by Notice within 60 days of enactment and by final rule within 12 months of enactment.

Abstract: The purpose of the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals is to provide rental assistance for homeless individuals in rehabilitated SRO housing. A Notice of Fund Availability was published on January 9, 1989, to announce the availability of $45 million for the program and to establish the requirements for participation in the program for Fiscal Year 1989. The Notice serves as a Notice of Proposed Rulemaking and invites comments for a period of 60 days. A statutory deadline was set for issuance of a final rule by November 7, 1989.

Timetable:

Action	Date	FR Cite
Notice of Fund Availability	01/09/89	54 FR 758
Proposed Rule Cross-Reference	01/09/89	54 FR 769
Final Action	11/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 755-5720

RIN: 2502–AE62

966. AMENDMENTS TO INTERSTATE LAND SALES REGISTRATION (H-47-86; FR-2503)

Significance: Agency Priority

Legal Authority: 15 USC 1718; 42 USC 3535(d)

CFR Citation: 24 CFR 1710

Legal Deadline: None

Abstract: The Department is proposing to amend the regulatory exemption section of its regulations to provide further relief from registration requirements with no loss in consumer protection.

Timetable:

Action	Date	FR Cite
NPRM	08/12/88	53 FR 30443
NPRM Comment Period End	10/11/88	53 FR 30443
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Roger G. Henderson, Acting Director, Interstate Land, Registration Division, Department of Housing and Urban Development, Office of Housing, 202 755-0502

RIN: 2502–AD61

967. REAL ESTATE SETTLEMENT PROCEDURES ACT -- CONTROLLED BUSINESS PROVISIONS AND MISCELLANEOUS AMENDMENTS (H-45-84; FR-1942)

Significance: Agency Priority

Legal Authority: 12 USC 2601; 12 USC 2607; PL 98-181

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: The rule will implement statutory amendments established by Section 461 of the Housing and Urban Rural Recovery Act of 1983 (Pub.L.98-181). The amendments address a problem identified as "controlled business" and the manner in which Section 8 of the Real Estate Settlement Procedures Act (12 USC 2607), the kickback prohibition of RESPA, is to be applied to such arrangements. No alternatives are being considered because of the statutory mandate. The rule will also contain miscellaneous changes to clarify and update the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	05/16/88	53 FR 17424
NPRM Comment Period End	07/15/88	53 FR 17424

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Grant E. Mitchell, Department of Housing and Urban Development, Office of the General Counsel, Office of Equal Opportunity and Admin/ Law, 202 755-6550

RIN: 2502–AC09

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Completed Actions

Office of Housing (OH)

968. HODAG 1987 ACT AMENDMENTS (H-19-88; FR-2459)

CFR Citation: 00 CFR 000

Completed:

Reason	Date	FR Cite
Withdrawn	02/27/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jessica Franklin 202 755-6142

RIN: 2502–AE43

969. MINIMUM PROPERTY STANDARDS (MPS) FOR HOUSING -- WATER SUPPLY SYSTEMS (H-31-86; FR-2255)

CFR Citation: 24 CFR 200

Completed:

Reason	Date	FR Cite
Withdrawn - Merged into FR-2599 (RIN: 2502-AE64)	01/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mark W. Holman 202 755-5210

RIN: 2502–AD64

970. EMERGENCY HOMEOWNERSHIP COUNSELING (H-20-88; FR-2460) 1987 HCD ACT

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Withdrawn	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Martin 202 755-3046

RIN: 2502–AE28

971. DISCLOSURE OF ANNUAL RATE CHANGES OF ADJUSTABLE RATE MORTGAGES (H-35-88; FR-2542)

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	01/04/89	54 FR 110
Final Action Effective	03/31/89	54 FR 8321

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Falkenstein, Director 202 755-6672

RIN: 2502–AE57

972. CLAIM PROCESSING ON DEFAULTED COINSURED SINGLE-FAMILY MORTGAGES (H-1-88; FR-2410)

CFR Citation: 24 CFR 204.280; 24 CFR 204.281; 24 CFR 204.282; 24 CFR 204.283; 24 CFR 204.284; 24 CFR 204.292; 24 CFR 204.293; 24 CFR 204.294; 24 CFR 204.300; 24 CFR 204.301; 24 CFR 204.302

Completed:

Reason	Date	FR Cite
Withdrawn	02/27/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert E. Faulkenstein, Jr. 202 755-6672

RIN: 2502–AE25

973. REVISIONS RELATING TO FULL INSURANCE AND COINSURANCE OF EXISTING COOPERATIVES (H-31-88; FR-2511)

CFR Citation: 24 CFR 207; 24 CFR 255

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Completed:

Reason	Date	FR Cite
Final Action	01/24/89	54 FR 3444
Final Action Effective	03/06/89	54 FR 3444

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Martin 202 755-3046

RIN: 2502–AE54

974. FLEXIBLE SUBSIDY PROGRAM; 1983 AMENDMENTS (H-50-84)

CFR Citation: 24 CFR 219

Completed:

Reason	Date	FR Cite
Withdrawn - Merged into FR-2541 (RIN: 2502-AE55)	11/02/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash 202 426-3970

RIN: 2502–AC31

975. ELIGIBILITY OF SECTION 23 AND SECTION 202 HOUSING FOR FLEXIBLE SUBSIDY (H-18-88; FR-2458) 1987 HCD ACT

CFR Citation: 24 CFR 219

Completed:

Reason	Date	FR Cite
Withdrawn - Merged into FR-2541 (RIN: 2502-AC55)	01/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash 202 426-3944

RIN: 2502–AE42

976. ASSIGNMENT OPTION (H-44-86)

Significance: Agency Priority

CFR Citation: 24 CFR 221.55

Completed:

Reason	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Linda Gibbs 202 755-2632

RIN: 2502–AD78

977. HUD-OWNED MULTIFAMILY PROJECTS-MANAGEMENT AND DISPOSITION (H-69-78; FR-432)

Significance: Regulatory Program

CFR Citation: 24 CFR 290; 24 CFR 886

Completed:

Reason	Date	FR Cite
Final Action	07/19/88	53 FR 27158
Final Action Effective	09/19/88	53 FR 27158

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marc Harris 202 755-9280

RIN: 2502–AC68

978. SECTION 236 RENT SUPPLEMENT (H-17-88; FR-2457) 1987 HCD ACT

CFR Citation: 24 CFR 735

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Tahash 202 426-3944

RIN: 2502–AE41

979. HOUSING DEVELOPMENT GRANT PROGRAM (H-26-84; FR-1902)

CFR Citation: 24 CFR 850

Completed:

Reason	Date	FR Cite
Withdrawn	02/23/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jessica Franklin 202 755-6142

RIN: 2502–AC23

980. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS -- REVISIONS TO CONTRACT RENT ADJUSTMENT REGULATIONS (H-22-88; FR-2469) 1987 HCD ACT

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886; 24 CFR 888

Completed:

Reason	Date	FR Cite
Withdrawn - Merged into FR-2294 (RIN: 2502-AD91)	01/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash 202 426-3944

RIN: 2502–AE44

981. INTERPROGRAM TRANSFERS OF ASSISTED TENANTS (H-8-88; FR-2436)

CFR Citation: 24 CFR 882; 24 CFR 887; 24 CFR 905; 24 CFR 950

Completed:

Reason	Date	FR Cite
Withdrawn - merged into FR-2294 (RIN 2502-ad91)	02/28/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash 202 426-3944

RIN: 2502–AE32

982. LOANS FOR THE ELDERLY OR HANDICAPPED - LOAN INTEREST RATE PROVISIONS (H-24-88; FR-2477) 1987 HCD ACT

CFR Citation: 24 CFR 885

Completed:

Reason	Date	FR Cite
Final Action	11/09/88	53 FR 45265
Final Action Effective	03/03/89	54 FR 8322

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert Wilden 202 426-8730

RIN: 2502–AE46

983. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS - FORMALDEHYDE REGULATIONS (H-10-87; FR-2332)

CFR Citation: 24 CFR 3280.308; 24 CFR 3280.309; 24 CFR 3280.406

Completed:

Reason	Date	FR Cite
Withdrawn	01/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mark W. Holman 202 755-5210

RIN: 2502–AE02

984. NOTICE OF FORMALDEHYDE; MANUFACTURED HOME CONSTRUCTION AND SAFETY (H-23-87; FR2349)

CFR Citation: 24 CFR 3280.309

Completed:

Reason	Date	FR Cite
Withdrawn	01/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark W. Holman 202 755-6590

RIN: 2502–AE21

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) Office of Community Planning and Development (CPD) — Proposed Rule Stage

985. RENTAL REHABILITATION PROGRAM (CPD-11-88; FR-2558)

Legal Authority: PL 100-242, Sec 150(b); PL 100-242, Sec 150(f)

CFR Citation: 24 CFR 511

Legal Deadline: None

Abstract: This rule will implement sections 150(b) and 150(f) of the Housing and Community Development Act of 1987 which amend sections 17(a)(1)(A)and 17(k)(4), respectively, of the United States Housing Act of 1937. Section 150(b) makes eligible for rehabilitation grant funds property that will be privately owned upon completion of rehabilitation. The previous authorizing legislation and current regulations limit the use of rehabilitation grant funds to properties that are (and continue to be) privately owned. Section 150(f) expands the definition of "privately owned real property to be used primarily for residential rental purposes" (and thus eligible for rehabilitation grant funds) to include housing that is owned by a State or locally chartered, neighborhood based, nonprofit organization the primary purpose of which is the provision and improvement of housing.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Mary Kolesar, Director, Rehabilitation Management Division, Office of Urban Rehabilitation, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5970

RIN: 2506–AA88

986. COMMUNITY DEVELOPMENT BLOCK GRANTS: STATE'S PROGRAM (CPD-7-83; FR-1877)

Significance: Regulatory Program

Legal Authority: 42 USC 5301; PL 98-181, Sec 104; PL 98-181, Sec 101

CFR Citation: 24 CFR 570.488

Legal Deadline: None

Abstract: This revision would implement amendments to the State administered CDBG program made in the Housing and Urban-Rural Recovery Act (Pub. L. 98-181) approved November 30, 1983, and the Housing and Community Development Act of 1987 (Pub. L. 100-242) approved February 5, 1988. The rule includes definitions of low and moderate income persons, requirements for meeting the three national objectives, the 60% test for low and moderate income benefit, added local and state public participation, coverage of program income, performance reporting and record keeping, and consequences of States' dropping program administration after FY 85.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Richard J. Kennedy, Asst. Dir. State Small Cities Div., Department of Housing and Urban Development, Office of Community Planning and Development, Office of Block Grant Assistance, State and Small Cities Division, 202 755-6322

RIN: 2506–AA38

987. MISCELLANEOUS REVISIONS OF PART 570 - 1987 HCD ACT (CPD-5-88; FR-2496)

Legal Authority: PL 100-242

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: The proposed rule would revise the Community Development Block Grant Program rules (24 CFR Part 570) as necessary to implement certain changes made in the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988), and the Department of Housing and Urban Development - Independent Agencies Appropriations Act, 1989 (Pub. L. 100-404, approved August 19, 1988).

The proposed rule will cover the following four specific changes:

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HUD—CPD — **Proposed Rule Stage**

1. The new requirements for a citizens participation plan for entitlement and HUD-administered small cities grantees. (The requirements for States will be covered separately in the State proposed rules;

2. The circumstances under which a grant recipient may newly construct, or substantially reconstruct, housing where it is clear that such work is needed before the CDBG activity commences; (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT:

3. The circumstances under which a grant recipient may provide a 9-1-1 emergency services communication system serving an area having less than 51 percent low- and moderate-income residents and still be considered to meet the national objective of benefitting low- and moderate-income persons; and

4. The authority to use CDBG funds to pay special assessments for certain low- and moderate-income property owners to recover local costs incurred in providing public improvements serving an area having less than 51 percent low- and moderate-income persons, under the national objective of benefitting such persons.

Agency Contact: Jim Broughman, Director, Entitlement Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5977

RIN: 2506–AA84

988. ● COMMUNITY DEVELOPMENT TECHNICAL ASSISTANCE PROGRAM (CPD-1-89; FR2616)

Legal Authority: 42 USC 5307

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would revise and update the Department's procedures governing the issuance of technical assistance awards under Title I of the Housing and Community Development Act of 1974. It would clarify the Department's authority to make such awards and to make the procedures more efficient and cost-effective.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maggie H. Taylor, Technical Assistance Division, Office of PrograPolicy Development, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6090

RIN: 2506–AA90

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Community Planning and Development (CPD) — **Final Rule Stage**

989. ● UNIFORM RELOCATION ACT AMENDMENTS OF 1987– TECHNICAL AMENDMENTS (CPD-3-89; FR2624)

Legal Authority: PL 100-17

CFR Citation: 24 CFR 236; 24 CFR 290; 24 CFR 510; 24 CFR 511; 24 CFR 570; 24 CFR 571; 24 CFR 575; 24 CFR 850; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 905; ...

Legal Deadline: Final, Statutory, April 2, 1989.
The 1987 Amendments to the Uniform Act become effective April 2, 1989.

Abstract: The 1987 Amendments to the Uniform Relocation Act (P.L. 100-17) make numerous changes to the Uniform Act. Among the changes is the expansion of coverage to displacement resulting from rehabilitation, demolition or privately undertaken acquisition carried out for a federally assisted project or program. For HUD-assisted community development and housing programs, the expanded coverage will apply to displacements occurring on or after April 2, 1989. The amendments will contain the necessary conforming changes to HUD programs consistent with the final governmentwide rule implementing the 1987 Amendments to the Uniform Act. (See Federal Register (53 FR 4964) dated February 19, 1988.)

Timetable:

Action	Date	FR Cite
Final Action	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold J. Huecker, Director, Relocation & Real Estate Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6336

RIN: 2506–AA92

990. RESIDENTIAL RENTAL REHABILITATION PROGRAM (CPD-7-84; FR-1901)

Legal Authority: 42 USC 1437α; 42 USC 3535(d); PL 98-479, Sec 103; PL 98-181, Sec 302; PL 98-181, Sec 301

CFR Citation: 24 CFR 511

Legal Deadline: None

Abstract: This rule implements the Rental Rehabilitation Program authorized by section 17 of the U.S. Housing Act of 1937. The regulation (1) sets out a variety of program and other requirements to be met by grantees, State recipients and others that use or benefit from rental rehabilitation grants amounts, (2) enumerates the requirements for participating in the Rental Rehabilitation Program, (3) sets forth the formula by which allocations of rental rehabilitation grant amounts will be made to eligible grantees, (4) explains the rental housing assistance available for tenants, (5) enumerates administrative requirements for the Program, and (6) explains how HUD will review program performance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/84	49 FR 16936
Interim Rule Effective	05/24/84	49 FR 16936
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

HUD—CPD — **Final Rule Stage**

Additional Information: Includes: CPD-17-82; CPD-8-84; FR-1912; FR-2055 (RIN: 2506-AA60)

Agency Contact: Mary Kolesar, Director, Rental Rehabilitation Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5970

RIN: 2506–AA55

991. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: ESCROW ACCOUNTS (CPD-2-86; FR-2164)

Legal Authority: 42 USC 5301 to 5321

CFR Citation: 24 CFR 0570.511

Legal Deadline: None

Abstract: The Department is proposing to establish a rule that would govern the circumstances under which CDBG program recipients could establish escrow accounts for the purpose of disbursing funds to contractors expeditiously. The rule reflects U.S. Treasury Department requirements governing cash withdrawals.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37162
NPRM Comment Period End	12/04/87	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Paul D. Webster, Dir., Financial Management Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-1371

RIN: 2506–AA66

992. SECRETARY'S DISCRETIONARY FUND - WORK STUDY PROGRAM (CPD-4-88; FR-2475) 1987 HCD ACT

Legal Authority: PL 100-242, Sec 107

CFR Citation: 24 CFR 0570

Legal Deadline: None

Abstract: The proposed rule would implement section 501(b)(2) of the Housing and Community Development Act of 1987 under which HUD would use amounts set aside for the Secretary's Discretionary Fund for grants to institutions of higher education for the purposes of providing assistance to economically disadvantaged and minority students who participate on community development work-study programs.

Timetable:

Action	Date	FR Cite
NPRM	08/17/88	53 FR 31224
NPRM Comment Period End	10/17/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Turk, Technical Assistance Division, Office of Program Policy Development, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6092

RIN: 2506–AA81

993. CONSERVING NEIGHBORHOODS BY PROHIBITING DISPLACEMENT (CPD-3-88; FR-2474) 1987 HCD ACT

Significance: Regulatory Program

Legal Authority: 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This interim rule implements section 509 of the Housing and Community Development Act of 1987 which requires an antidisplacement program as a condition to CPDG or UDAG amount.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/17/88	53 FR 31234
Interim Final Rule Comments Due	10/17/88	53 FR 31234
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Harold J. Huecker, Director, Relocation and Real Estate Div., Office of Urban Rehabilitation, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6336

RIN: 2506–AA82

994. IMPLEMENTATION OF PROHIBITION ON USE OF UDAG GRANTS FOR BUSINESS RELOCATION (CPD-6-88; FR-2500)

Legal Authority: PL 100-242, Sec 16

CFR Citation: 24 CFR 0570

Legal Deadline: None

Abstract: This rule amends the regulations governing Urban Development Action Grants by revising, and adding new text to, existing provisions pertaining to prohibitions on the use of UDAG for business relocations. This proposal (1) elaborates on the existing prohibition on the use of UDAG funds for speculative projects intended to facilitate the relocation of business from one are to another to incorporate existing HUD policies regarding this prohibition, and (2) implements statutory amendments which additionally prohibit the use of UDAG funds for projects with identified intended occupants where the project is likely to facilitate the relocation of businesses from one area to another.

Timetable:

Action	Date	FR Cite
NPRM	05/18/88	53 FR 17724
NPRM Comment Period End	06/17/88	53 FR 17724
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stanley Newman, Director, Urban Development Action Grants, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6290

RIN: 2506–AA86

995. URBAN HOMESTEADING PROGRAM; IMPLEMENTING OF 1987 STATUTORY AMENDMENTS AND REVISION OF SELECTED PROGRAM PROCEDURES (CPD-1-88; FR-2461)

Significance: Agency Priority

Legal Authority: 12 USC 1706e

CFR Citation: 24 CFR 590

Legal Deadline: None

Abstract: This rule established new selection procedures for urban homesteading programs. This rule also permits States and units of government to designate qualified community organizations to act as local urban

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homesteading agencies. In addition, the rule makes procedural changes to the program requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41026
NPRM Comment Period End	12/19/88	53 FR 41026
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Richard Burk, Dir., Rehabilitation Loans & Homesteading, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5327

RIN: 2506–AA79

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Completed Actions

996. REMOVAL OF RISK PREMIUM PROVISIONS IN SECTION 312 PROGRAM (CPD-9-88; FR-2553)

CFR Citation: 24 CFR 510.34; 24 CFR 510.36

Completed:

Reason	Date	FR Cite
Final Action	10/31/88	53 FR 43865
Final Action Effective	03/03/89	54 FR 8322

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: David Cohen 202 755-5685

RIN: 2506–AA87

997. PERSONAL LIABILITY FOR REPAYMENT ON SECTION 312 REHABILITATION LOANS (CPD-10-88; FR-2557)

CFR Citation: 24 CFR 0510

Completed:

Reason	Date	FR Cite
Withdrawn	01/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard R. Burk 202 755-6367

RIN: 2506–AA89

998. ● RENTAL REHABILITATION GRANTS (CPD-2-88; FR-2472)

Legal Authority: 42 USC 1437o; PL 100-242, Sec 150

CFR Citation: 24 CFR 511.1; 24 CFR 511.3; 24 CFR 511.4; 24 CFR 511.10; 24 CFR 511.20

Legal Deadline: None

Abstract: This rule makes a number of changes in the Rental Rehabilitation Grant program. Major changes include (1) increasing the $5,000 per-unit limit on the amount of rental rehabilitation assistance for any structure by means of a sliding per-unit scale from $5,000 to $8,500, depending on the number of bedrooms in the units; (2) permitting a unit of general local government that has an ordinance requiring rehabilitation to meet seismic standards to use all its rental rehabilitation grants to rehabilitate units with one bedroom or less, if the occupants of the units will have incomes not in excess of 50 percent of the median area income; and (3) allowing States and formula cities and counties to retain up to 10 percent of any rental rehabilitation grant amounts they receive for administrative expenses in carrying out their rental rehabilitation programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/06/88	53 FR 25462
Final Action	12/06/88	53 FR 49138
Final Action Effective	03/03/89	54 FR 8322

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: Mary Ann Kolesar, Director, Rehab Management Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5970

RIN: 2506–AA80

999. ● '88 AMENDMENTS–RENTAL REHAB PROGRAM (CPD-4-89; FR-2630)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 511

Legal Deadline: None

Abstract: This rule will incorporate 1988 amendments to the Rental Rehabilitation program into the Department's permanent rules.

Timetable:

Action	Date	FR Cite
Withdrawn - merged with RIN 2506-AA55 (FR-1901)	04/10/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: David Cohen, Director, Office of Urban Rehabilitation, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5685

RIN: 2506–AA91

1000. ● TECHNICAL ASSISTANCE: DISCRETIONARY AWARDS (CPD-6-79; FR-1115)

Legal Authority: 42 USC 5307

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would amend 24 CFR 510.402 to update and clarify priorities for Technical Assistance funding and to clarify application and review procedures for awards.

Timetable:

Action	Date	FR Cite
Withdrawn	02/16/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Jerome Friedman, Director, Policy Development Division, Department of Housing and Urban

HUD—CPD — Completed Actions

Development, Office of Community Planning and Development, 202 755-6909

RIN: 2506–AA30

1001. URBAN DEVELOPMENT ACTION GRANT APPLICATIONS FROM CONSORTIA OF SMALL CITIES (CPD-6-87; FR2381)

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	12/28/88	53 FR 52414
Final Action Effective	03/03/89	54 FR 8322

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: Stanley Newman 202 755-6290

RIN: 2506–AA76

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Proposed Rule Stage

1002. BOOK-ENTRY SECURITIES OF GNMA (GNMA-2-85)

Significance: Agency Priority

Legal Authority: 12 USC 1701

CFR Citation: 24 CFR 390

Legal Deadline: None

Abstract: The regulation will provide for utilization of a book-entry system to govern the issuance and custody of GNMA securities. The system allows for maintenance of records by an Agent Bank and utilization of wire transfers. Further, the book-entry system will curtail loss, theft and repeated pledging of GNMA securities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Walter T. Cassidy, Assistant General Counsel for Finance, Department of Housing and Urban Development, Office of the General Counsel, Office of Insured Housing and Finance, 202 755-7260

RIN: 2503–AA03

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Final Rule Stage

1003. GNMA MORTGAGE-BACKED SECURITIES (GNMA-1-88; FR-2548)

Legal Authority: 42 USC 3535

CFR Citation: 24 CFR 390

Legal Deadline: None

Abstract: Rule proposes to increase net worth eligibility requirements for issuers of mortgage-backed securities.

Timetable:

Action	Date	FR Cite
NPRM	10/17/88	53 FR 40458
Notice	12/06/88	53 FR 49240
NPRM Comment Period End	12/16/88	53 FR 40458
Comments Due	02/06/89	53 FR 49240
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert P. Kalish, Vice President, Office of Mortgage Finance, Department of Housing and Urban Development, Government National Mortgage Association, 202 755-5593

RIN: 2503–AA06

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Completed Actions

1004. GNMA FEES (GNMA-1-87; FR2395)

CFR Citation: 24 CFR 390.17

Completed:

Reason	Date	FR Cite
Withdrawn	09/16/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Walter T. Cassidy 202 755-7260

RIN: 2503–AA05

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

1005. NONDISCRIMINATION BASED ON HANDICAPPED IN PROGRAMS CONDUCTED BY HUD (FR-2163; FH&EO-2-88)

Significance: Regulatory Program

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 9.101; 24 CFR 9.102; 24 CFR 9.103; 24 CFR 9.110; 24 CFR 9.111; 24 CFR 9.130; 24 CFR 9.140; 24 CFR 9.149; 24 CFR 9.150; 24 CFR 9.151; 24 CFR 9.160; 24 CFR 9.170

Legal Deadline: None

Abstract: This proposed rule would implement section 504 of the Rehab Act of 1973 (as extended by the Rehab. Comprehensive Service and Developmental Disabilities Act of 1978) for HUD-conducted programs or activities. This proposed rule will be a companion rule to the Department's rule on nondiscrimination based on handicap in federally assisted programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: David Enzel, Attorney, Department of Housing and Urban Development, Office of the General Counsel, 202 755-6207

RIN: 2529-AA28

1006. FAIR HOUSING - COORDINATION OF EXECUTIVE AGENCY AND REGULATORY AGENCY AFFIRMATIVE ADMINISTRATION OF PROGRAMS IN CONNECTION WITH HUD (FH&EO-1-88; FR-2480)

Legal Authority: 42 USC 3601

CFR Citation: 24 CFR 125

Legal Deadline: None

Abstract: The Fair Housing Law, Title VIII of the Civil Rights Act of 1968, charges the Secretary with the responsibility for the administration and enforcement of Title VIII. Section 808 of Title VIII requires the Secretary to administer programs and activities relating to housing and urban development in a manner affirmatively to further fair housing. All other Executive Agencies are required to administer programs relating to housing and urban development in a manner affirmatively to further fair housing and to cooperate with the Secretary in further fair goal of fair housing. In December 1980, Executive Order 12259 was issued to assure interagency coordination and consistent and effective implementation of Section 808. The Order reemphasizes the mandate of Tie VIII, I, stipulates the Secretary's leadership and coordination role and states the responsibilities of all Executive Agencies; includes Regulatory Agencies, in connection with the preparation and implementation of rules, regulations and procedures. The time has come to publish a rule for comment. A proposed rule in 1981 failed to be published.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Wagner D. Jackson, Acting Director, Office of Fair Housing, Enforcement and Sec. 3 Compliance, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-6836

RIN: 2529-AA36

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Final Rule Stage

1007. REDESIGN FOR FAIR HOUSING ASSISTANCE PROGRAM (FHEO-2-87; FR-2403)

Significance: Agency Priority

Legal Authority: 42 USC 3601-9

CFR Citation: 24 CFR 111

Legal Deadline: None

Abstract: This rule will change the current funding mechanism of the Fair Housing Assistance Program (FHAP) from a dual noncompetitive and competitive system to a single comprehensive noncompetitive funding mechanism. The new system will allow the same disbursement of 5 million dollars to substantially equivalent agencies. The FHAP agencies will be funded for cases processed and other eligible activities.

Timetable:

Action	Date	FR Cite
NPRM	09/07/88	53 FR 34668
NPRM Comment Period End	10/07/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Maxine Cunningham, Director, Federal, State & Local Programs, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-0455

RIN: 2529-AA33

1008. CONFORMING AMENDMENTS TO HUD RULES TO COMPLY WITH SEC. 504 OF THE REHAB ACT AND OTHER AUTHORITIES (FH&EO-3-88; FR-2531)

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 735

Legal Deadline: None

Abstract: Conforming HUD rules to comply with Sec. 504 of the Rehabilitation Act and other authorities.

Timetable:

Action	Date	FR Cite
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Ardinger, Program Compliance, Department of

HUD—FHEO

Final Rule Stage

Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-5404

RIN: 2529-AA38

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Completed Actions

1009. ● NONDISCRIMINATION IN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS (FHEO-1-89; FR-2629)

Legal Authority: 42 USC 5309

CFR Citation: 24 CFR 0000

Legal Deadline: None

Abstract: The regulation will implement Section 109 of the Housing and Community Development Act of 1974, which prohibits discrimination based on race, color, national origin, or sex in any program funded under the Act.

Timetable:

Action	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Eleanor G. Clagett, Director, Program Compliance Div., Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-5404

RIN: 2529-AA42

1010. PROCEDURE FOR PROCESSING COMPLAINTS UNDER SECTION 810 OF THE FAIR HOUSING ACT (FHEO-5-88; FR-2563)

CFR Citation: 24 CFR 105

Completed:

Reason	Date	FR Cite
Withdrawn - Merged into FR-2565 (RIN: 2501-AA76)	10/14/88	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Laurence Pearl 202 755-5288

RIN: 2529-AA40

1011. RECOGNITION OF JURISDICTIONS WITH SUBSTANTIALLY EQUIVALENT FAIR HOUSING LAWS (FHEO-1-88)

CFR Citation: 24 CFR 115

Completed:

Reason	Date	FR Cite
Withdrawn - Merged into FR-2565 (RIN: 2501-AA76)	01/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Wagner Jackson 202 755-6636

RIN: 2529-AA31

1012. COMMUNITY HOUSING RESOURCE BOARD PROGRAM (FH&EO-4-88; FR-2561)

CFR Citation: 24 CFR 120

Completed:

Reason	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Florence Maultsby 202 755-7007

RIN: 2529-AA39

1013. THE FAIR HOUSING INITIATIVES PROGRAM (FH&EO-2-88; FR-2486) 1987 HCD ACT

Significance: Agency Priority

CFR Citation: 24 CFR 125

Completed:

Reason	Date	FR Cite
Final Action	02/10/89	54 FR 6492
Final Action Effective	05/09/89	54 FR 6492

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Harry L. Carey 202 755-5570

RIN: 2529-AA37

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Prerule Stage

1014. ORGANIZATION, FUNCTION, AND DELEGATIONS OF AUTHORITY SUBPART C - SECRETARY'S DELEGATIONS OF AUTHORITY TO HEADS OF OFFICES (ADM-2-82)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 3

Legal Deadline: None

Abstract: Subpart C delegates authority from the Secretary to the Comptroller and then to certain Divisions. This subpart is almost entirely obsolete. The alternatives being considered are to eliminate Subpart C entirely or to update all of the obsolete references. The benefits of both alternatives are to eliminate a potentially confusing delegation of authority.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Albert M. Miller, Deputy Director, Department of Housing

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and Urban Development, Office of

Administration, Office of Finance and Accounting, 202 755-6310

RIN: 2535–AA01

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Proposed Rule Stage
Office of Administration (OA)

1015. HUD ACQUISITION REGULATION (ADM-2-88; FR-2473)

Legal Authority: 42 USC 3535(d)

CFR Citation: 48 CFR 24

Legal Deadline: None

Abstract: The proposed rule will update the HUD Acquisition Regulation to conform to changes in the Federal Acquisition Regulation (FAR).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, Department of Housing and Urban Development, Office of Administration, 202 755-5294

RIN: 2535–AA16

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage
Office of Administration (OA)

1016. OMB CIR. A-110, UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH UNIVERSITIES, HOSPITALS AND OTHER NONPROFIT ORGANIZATIONS (ADM-1-87; FR-2376)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 29

Legal Deadline: None

Abstract: This rule is part of a government-wide common rule to provide uniformity to the administrative requirements for grants and agreements with universities, hospitals and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
NPRM	11/04/83	53 FR 44710
NPRM Comment Period End	01/03/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Division, Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration, 202 755-5294

RIN: 2535–AA15

1017. REVISIONS OF HUDAR TO REFLECT CHANGES IN GNMA PROCUREMENT PROCEDURES (ADM-3-88; FR-2534)

Legal Authority: 42 USC 3535

CFR Citation: 48 CFR 2401; 48 CFR 2402

Legal Deadline: None

Abstract: Rule to amend HUDAR to clarify circumstances under which GNMA may exercise its "statutory procurement authority" without regard to FAR or FIRMR. The rule will direct that all HUD procurement policy regulations and procedures are the responsibility of the Assistant Secretary for Administration except transactions between GNMA and issuers of mortgage-backed securities in furtherance of GNMA's guaranty of such securities.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gladys Gines, Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration, 202 755-5294

RIN: 2535–AA17

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Completed Actions
Office of Administration (OA)

1018. AMENDMENT OF THE HUD ACQUISITION REGULATIONS (ADM-5-85; FR-2131)

CFR Citation: 48 CFR Chap. 24

Completed:

Reason	Date	FR Cite
Final Action	11/17/88	53 FR 46532
Final Action Effective	03/03/89	54 FR 8336

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gladyes Gines 202 755-5294

RIN: 2535–AA10

1019. FEDERAL PROCUREMENT OF CEMENT CONTAINING FLY ASH (ADM-1-84; FR-1938)

CFR Citation: 24 CFR 570; 24 CFR 207

HUD—OA — **Completed Actions**

Completed:

Reason	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Ed Girovasi 202 755-5294

RIN: 2535–AA05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Proposed Rule Stage
Office of Public and Indian Housing (PIH)

1020. ● PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM (P-20-88; FR-2592)

Legal Authority: PL 100-690

CFR Citation: 00 CFR 000

Legal Deadline: NPRM, Statutory, May 19, 1989.
Proposed rule has statutory deadline of May 19, 1989.

Abstract: The Public Housing Drug Elimination Act of 1988 establishes a new HUD-administered categorical grant program to help PHA's and IHA's to eliminate drug-related crime in public and Indian housing.

Timetable:

Action	Date	FR Cite
NPRM	05/19/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Wayne Hunter, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA76

1021. DETERMINATION OF WAGE RATES FOR MAINTENANCE AND TECHNICAL EMPLOYEES OF PUBLIC HOUSING AGENCIES AND INDIAN HOUSING AUTHORITIES (P-10-88; FR-2211)

Legal Authority: 42 USC 1437j

CFR Citation: 24 CFR 0060

Legal Deadline: None

Abstract: This rule would describe the Department's policies and procedures for determining or adopting prevailing wage rates for public housing maintenance employees under section 12 of the United States Housing Act of 1937.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Justin Logsdon, Assistant to the Secretary for Labor, Relations, Department of Housing and Urban Development, Office of the Secretary, 202 755-5370

RIN: 2577–AA68

1022. PUBLIC AND INDIAN HOUSING; CEILING RENTS (P-2-89; FR-2529) 1987 HCD ACT

Legal Authority: 42 USC 1437a; PL 100-242, Sec 102(a)

CFR Citation: 24 CFR 0913

Legal Deadline: None

Abstract: Rule to permit PHAs and IHAs to adopt, with HUD approval, rents for projects or dwelling units that would establish a cap, or ceiling on the income-based rent as currently calculated under 24 CFR 913.107, that are not more than the income-based rent and not less than the average monthly amount of debt service and operating expenses attributed to units by similar size in housing projects owned and operated by the PHA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA57

1023. INCREASE IN SINGLE PERSON OCCUPANCY LIMITS (P-48-84; FR-2063)

Legal Authority: 42 USC 1437a

CFR Citation: 24 CFR 812; 24 CFR 912

Legal Deadline: None

Abstract: Implements Section 202 of the Housing and Urban-Rural Recovery Act of 1983 to permit the Secretary to increase from 15 percent to 30 percent the number of units that may be occupied by single persons and are within the jurisdiction of any public housing agency. In addition, this rule would revise the procedures for HUD's approval of single person occupancy for affected dwelling units.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ADDITIONAL CONTACT PERSON: James J. Tahash; Director, Program Planning Division; Office of Multifamily Housing Management. (202) 426-3970.

Agency Contact: Edward Whipple, Chief, Occupancy Branch, Office of Public Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-0744

RIN: 2577–AA07

1024. ● LEAD-BASED PAINT POISONING PREVENTION ACT — STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT OF 1988 — SECTION 1088 (P-19-88; FR-2583)

Significance: Agency Priority

Legal Authority: 42 USC 4821; PL 100-404

CFR Citation: 24 CFR 965.705; 24 CFR 965.706; 24 CFR 965.9; 24 CFR 966.9; 24 CFR 968; 24 CFR 35

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Legal Deadline: None

Abstract: The rule will implement statutory amendments established by section 1088 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-404). The amendments make a number of changes to the Lead-Based Paint Poisoning Prevention Act, including the possible selection of the 1978 CPSC standard for lead in paint of .06 percent by weight of the dry paint film as a criteria for determining when, and to what extent, abatement in public housing will be required; adding dust containing lead to the hazard to be abated; and adding atomic absorption spectroscopy (AAS) as an acceptable method of testing for lead-based paint and dust containing lead.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Grant E. Mitchell, Senior Attorney, Department of Housing and Urban Development, Office of the General Counsel, 202 755-6550

RIN: 2577–AA78

1025. PHA OBLIGATIONS WITH RESPECT TO RESIDUAL RECEIPTS IN THE PUBLIC HOUSING, TURNKEY III, AND SEC. 23 PROGRAMS; (P-2-87; FR2354; FORMERLY H-27-87)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 989

Legal Deadline: None

Abstract: This rule would reiterate the requirement of the Annual Contributions Contract that a PHA must submit to HUD its residual receipts within 60 days of the end of its fiscal year. The rule would also prescribe the method for determining the rate of interest due when residuals are not remitted on time. The rule will contain provisions for retention of residual receipts by the PHA under certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Office of Policy & Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA49

1026. PERFORMANCE FUNDING SYSTEM REVISIONS (67 ACT)–FORMAL REVIEW PROCESS ENERGY CONSERVATION SAVINGS, AUDIT RESPONSIBILITIES (P-12-88; FR-2504)

Significance: Regulatory Program

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 990

Legal Deadline: None

Abstract: This rule would implement section 118(a) and 118(d). Section 118(a) requires HUD to amend the Performance Funding System, among other things, to provide for a formal review process for PHAs to obtain a change in allowable expense level to correct inequities in the original base year expense level, to correct for changes in operating circumstances and to reflect the level of economic distress of the locality. Section 118(d) also provides for sharing of the savings between a PHA and HUD for energy conservation improvements, and for preservation of subsidy when several units are rehabilitated and combined into fewer units.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA71

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage

Office of Public and Indian Housing (PIH)

1027. REPLACEMENT HOUSING FOR PUBLIC HOUSING DEMOLITION AND DISPOSITION (P-5-88; FR-2463) 1987 HCD ACT

Significance: Regulatory Program

Legal Authority: 42 USC 1437p; PL 100-242, Sec 121(a)-(d)

CFR Citation: 24 CFR 970

Legal Deadline: None

Abstract: This rule would establish procedures for the approval and funding of replacement housing for public housing units that have been demolished or disposed of. In addition, this rule would require that HUD may approve an application for demolition if the project is obsolete, making it unusable for housing purposes and if no reasonable program modifications are feasible to return the project to a useful life. The rule would also require HUD, in allocating assistance for public housing acquisition or development or for Section 8 moderate rehabilitation, to give consideration to housing that replaces demolished public housing units in accordance with an approved replacement plan. PHAs would be prohibited from taking any action to demolish or dispose of public housing projects without obtaining HUD's approval and satisfying pertinent statutory requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/17/88	53 FR 30984
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

HUD—PIH — Final Rule Stage

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA58

1028. IMPLEMENTATION OF PERCENTAGE LIMIT PROVISIONS UNDER SECTION 16 OF THE UNITED HOUSING ACT OF 1937 (P-7-88; FR-2465) 1987 HCD ACT

Significance: Agency Priority

Legal Authority: 42 USC 1437n

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This rule would establish admission procedures which set differing percentage limitations on admission of lower income families in separate assisted housing programs that when aggregated will achieve the overall 5 percent limitation on occupancy under public housing annual contribution contracts and section 8 housing assistance payments contracts.

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15412
NPRM Comment Period End	05/31/88	53 FR 15412
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA60

1029. INDIAN HOUSING PROGRAM–REVISED PROGRAM REGULATIONS (P-2-86; FR-2208)

Significance: Regulatory Program

Legal Authority: 25 USC 450e(b); PL 100-358

CFR Citation: 24 CFR 905

Legal Deadline: None

Abstract: This rule will consolidate relevant provisions of regulations flowing from the U.S. Housing Act of 1937, as amended by the Indian Housing Act of 1988. It is the Department's intention that this consolidated Part 905, followed with a comprehensive Indian Housing Handbook, should be the controlling regulatory authority governing the development and operation of Indian housing projects.

Timetable:

Action	Date	FR Cite
NPRM	06/29/88	53 FR 24554
NPRM Comment Period End	09/27/88	53 FR 24554
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Includes: P-31-82 (RIN: 2577-AA17)

Agency Contact: Patricia Arnaudo, Deputy Director, Office of Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-1015

RIN: 2577–AA32

1030. ESTABLISHMENT OF PREFERENCE FOR ELDERLY AND NEAR ELDERLY FAMILIES (P-13-88; FR-2505)

Legal Authority: 42 USC 1437a; PL 100-242, Sec 111

CFR Citation: 24 CFR 905; 24 CFR 960

Legal Deadline: None

Abstract: This rule would establish a preference for elderly families in projects or building designated for the elderly and a discretionary preference for "near elderly" families to be used when a PHA determines, in accordance with HUD regulations, that there are more vacant units than needed in an elderly project or building to meet the demand for units occupied by the elderly.

Timetable:

Action	Date	FR Cite
NPRM	10/14/88	53 FR 40240
NPRM Comment Period End	12/13/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Edward Whipple, Chief, Occupancy Branch, Office of Public Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-0744

RIN: 2577–AA69

1031. ● PUBLIC HOUSING - TENANT LEASES AND PHA GRIEVANCE HEARINGS (P-26-79; FR-1164)

Significance: Agency Priority

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 960; 24 CFR 966

Legal Deadline: None

Abstract: Would amend the regulations to simplify the requirements for provisions included in the lease between a PHA and its tenants and the requirements for the grievance procedure.

Timetable:

Action	Date	FR Cite
NPRM	07/23/86	51 FR 26504
NPRM Comment Period End	09/22/88	51 FR 26504
Final Action	08/30/88	53 FR 33216
Final Rule Withdrawn	02/15/89	54 FR 6686

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Edward Whipple, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-0744

RIN: 2577–AA18

1032. INDIVIDUAL METERING OF UTILITIES OF EXISTING PHA-OWNED PROJECTS (P-36-83; FR-1769)

Legal Authority: 42 USC 1437 note; 42 USC 1437a; 42 USC 1437d; 42 USC 1437g

CFR Citation: 24 CFR 965.304; 24 CFR 965.310; 24 CFR 965.404; 24 CFR 965.408

Legal Deadline: None

Abstract: Rule would revise the factors that PHAs use in estimating utility consumption savings resulting from conversions from master metered utilities systems to individually metered system and would amend energy audit provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/14/83	48 FR 51785
NPRM Comment Period End	01/13/84	48 FR 51785

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Action	Date	FR Cite
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Charles R. Ashmore, Utilities Officer, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6649

RIN: 2577–AA27

1033. PHA-OWNED AND LEASED PROJECT; MAINTENANCE AND OPERATION; TENANT ALLOWANCE FOR UTILITIES (P-8-86; FR-2260)

Significance: Regulatory Program

Legal Authority: 42 USC 1437; 42 USC 1437a; 42 USC 1437d; 42 USC 1437g

CFR Citation: 24 CFR 965

Legal Deadline: None

Abstract: HUD's procedures for the establishment and administration by PHAs of allowances for utilities and surcharges for excess consumption are contained in Part 965, Subpart E. This rule amends Subpart E to clarify how utility consumption attributable to air conditioning and certain tenant supplied major equipment will be treated under the allowance and surcharge provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/16/87	52 FR 38470
NPRM Comment Period End	12/04/87	52 FR 38470
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Charles Ashmore, Utility Specialist, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6640

RIN: 2577–AA40

1034. CHANGE IN CONSOLIDATED SUPPLY PROGRAM (CSP) (P-11-88; FR2482)

Legal Authority: 42 USC 1437; 42 USC 1437a; 42 USC 1437d; 42 USC 1427g

CFR Citation: 24 CFR 965

Legal Deadline: None

Abstract: This rule proposes to remove the requirement to use purchase agreements for buying supplies with a value not in excess of the Open Market Purchase Limitation (currently $10,000).

Timetable:

Action	Date	FR Cite
NPRM	07/06/88	53 FR 25348
NPRM Comment Period End	09/06/88	53 FR 25348
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael E. Diggs, Chief, Consolidation Supply & Procurement, Branch, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 472-4703

RIN: 2577–AA67

1035. PUBLIC HOUSING CIAP AND COMPREHENSIVE GRANT PROGRAM (P-8-88; FR-2488)

Significance: Regulatory Program

Legal Authority: PL 100-242, Sec 119

CFR Citation: 24 CFR 968

Legal Deadline: None

Abstract: Section 119 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) began a two-part legislative process designed to develop an improved means of allocating funds for the modernization of public housing for PHAs that own or operate a total of 500 or more units.

Section 119 contemplates the adoption, by the Congress, of a follow-up statute providing for a revised method for allocating assistance under the new program. Until this additional legislation is approved, HUD's current method of allocating funds will continue in effect.

The Department is developing procedural rules to govern administration of the new Comprehensive Grant Program (CGP) under the new system outlined in section 119, and has published a proposed rule on October 27, 1988. The proposed rule also proposed simplifying the current CIAP program and limiting it to PHAs that own or operate few than 500 units.

After a new statutory formula is adopted, the Department will publish a final rule linking the statutory allocation (CONT)

Timetable:

Action	Date	FR Cite
NPRM	10/27/88	53 FR 43648
NPRM Comment Period End	12/27/88	53 FR 43648

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: method with the previously proposed procedural rule, so that the Comprehensive Grant concept can be put into operation as promptly as possible.

Final action dependent on Congressional adoption of Modernization formula revisions to be submitted by HUD in 1989.

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA66

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH) — Completed Actions

1036. LIMITATION ON PUBLIC HOUSING DEVELOPMENT (P-6-88; FR-2464) 1987 HCD ACT

Significance: Agency Priority

CFR Citation: 00 CFR 000

Completed:

Reason	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm 202 755-6713

RIN: 2577–AA59

1037. INDIAN HOUSING ACT OF 1988 (P-16-88; FR-2538)

CFR Citation: 24 CFR 813; 24 CFR 905; 24 CFR 913; 24 CFR 942

Completed:

Reason	Date	FR Cite
Withdrawn - Merged into Final Rule FR-2208 (RIN: 2577-AA32)	01/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Patricia Arnaudo 202 755-1015

RIN: 2577–AA70

1038. TURNKEY III HOMEOWNERSHIP OPPORTUNITIES PROGRAM (P-3-85; FR-2138)

CFR Citation: 24 CFR 904

Completed:

Reason	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Wayne Hunter 202 755-6713

RIN: 2577–AA34

1039. PUBLIC AND INDIAN HOUSING - COST CONTAINMENT PROCEDURES (P-1-86; FR-2191)

CFR Citation: 24 CFR 968; 24 CFR 941; 24 CFR 905

Completed:

Reason	Date	FR Cite
Final Action	10/24/88	53 FR 41597
Final Action Effective	03/03/89	54 FR 8322

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm 202 755-6713

RIN: 2577–AA37

1040. SELF-HELP HOMEOWNERSHIP PROGRAM (P-17-88; FR-2544)

Significance: Agency Priority

CFR Citation: 24 CFR 905

Completed:

Reason	Date	FR Cite
Withdrawn Combined into FR-2208 (RIN:2577-AA32)	01/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Patricia Arnaudo, Deputy Director 202 755-1015

RIN: 2577–AA74

1041. ● PUBLIC HOUSING HOMEOWNERSHIP UNDER SEC. 5(H) (P-1-89; FR-2609)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 906

Legal Deadline: None

Abstract: This proposed rule would add a new Part 906 to the Department's public housing regulations, to provide a regulatory codification of the "Section 5(h) program". It reflects the way in which, over the last 14 years, the Department has been implementing the Congressional mandate for public housing homeownership opportunities under Sections 5(h) and (6)(c)(4)(D) of the United States Housing Act of 1937, and would thus make no change in established policy and practice.

In general, the proposal would provide a regulatory framework for continued implementation of these statutory authorizations for public housing agencies (PHAs) to sell public housing units to lower income tenants under viable homeownership opportunity programs for families capable of assuming the responsibilities of homeownership.

Timetable:

Action	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Wayne Hunter, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA75

1042. PUBLIC AND INDIAN HOUSING COST CONTAINMENT PROCEDURES - COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AND INDIAN HOUSING (P-9-86; FR-2262)

CFR Citation: 24 CFR 968; 24 CFR 905

Completed:

Reason	Date	FR Cite
Withdrawn	10/19/88	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Nancy Chisholm 202 755-6713

RIN: 2577–AA43

1043. DECONTROL OF PUBLIC HOUSING AUTHORITIES; CIAP DEVELOPMENT (P-5-87; FR-2408)

CFR Citation: 24 CFR 968.12(i); 24 CFR 968.15

Completed:

Reason	Date	FR Cite
Withdrawn - Merged into FR-2488 (RIN: 2577-AA66)	10/19/88	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy S. Chisholm 202 755-6713

RIN: 2577–AA48

1044. COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM—SPECIAL PURPOSE MODERNIZATION (P-18-88; FR-2545)

Significance: Agency Priority

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CFR Citation: 24 CFR 968

Completed:

Reason	Date	FR Cite
Final Action	03/03/89	54 FR 9039
Final Action Effective	04/17/89	54 FR 9039

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm 202 755-6713

RIN: 2577–AA72

1045. REVISION TO PFS - INSURANCE COSTS (P-2-88; FR-2437) 1987 HCD ACT

Significance: Agency Priority

CFR Citation: 24 CFR 990

Completed:

Reason	Date	FR Cite
Final Action	03/15/89	54 FR 10657
Final Action Effective	05/01/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm 202 755-6713

RIN: 2577–AA56

1046. ● ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY (P-21-88; FR-2593)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 990

Legal Deadline: None

Abstract: This final rule will allow housing authorities the flexibility to submit either an annual or a bi-annual operating budget to HUD.

Timetable:

Action	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Theodore Daniels, Director, Project Financial Managment &, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6145

RIN: 2577–AA77

[FR Doc. 89-6178 Filed 04-21-89; 8:45 am]
BILLING CODE 4210-01-T

federal register

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Part X

Department of the Interior

Semiannual Regulatory Agenda

CFR Citation: 24 CFR 990

Completed:

Reason	Date	FR Cite
Final Action	03/15/89	54 FR 10657
Final Action Effective	05/01/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm 202 755-6713

RIN: 2577–AA56

1047. ● ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY (P-21-88; FR-2593)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 990

Legal Deadline: None

Abstract: This final rule will allow housing authorities the flexibility to submit either an annual or a bi-annual operating budget to HUD.

Timetable:

Action	Date	FR Cite
Withdrawn	04/10/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Theodore Daniels, Director, Project Financial Managment &, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6145

RIN: 2577–AA77

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

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48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual agenda of rules scheduled for review or development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between April and October 1989. An agenda is required by Executive Order 12291 and the Regulatory Flexibility Act.

ADDRESS: Unless otherwise indicated, all Agency Contacts are located at the Department of the Interior, 18th and C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the Agency Contact. General comments relating to the agenda should be directed to the Division of Directives and Regulatory Management, Office of Management Improvement, Department of the Interior, 18th and C Streets, NW., MIB-2242, Washington, DC 20240, or on 202-343-6191.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12291 that the Department publish in April and October of each year an agenda of rules that have been issued or are expected to be issued, and currently effective rules that are scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that an agenda be published in April and October of each year identifying rules which will have significant economic effects on a substantial number of small entities; those rules which will have such effects are specifically identified in the agenda.

This agenda also identifies rules determined to be "significant" under Executive Order 12498 and which are included in this Department's 1989-90 regulatory program. A more comprehensive discussion of this program and the rules are contained in the Regulatory Program of the United States Government, which is published by the Office of Management and Budget.

Charles E. Kay,

Principal Deputy, Assistant Secretary, Policy, Budget and Administration.

Assistant Secretary for Policy, Budget, and Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1047	Natural Resource Damage Assessments	1090-AA21
1048	Natural Resource Damage Assessments	1090-AA22
1049	Certification of Non-Delinquency by Applicants for Federal Financial Assistance	1090-AA25

Assistant Secretary for Policy, Budget, and Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1050	Natural Resource Damage Assessments	1090-AA23
1051	Department of the Interior, Nonprocurement Debarment and Suspension Regulation	1090-AA24
1052	Department of the Interior Acquisition Regulation	1090-AA14

Assistant Secretary for Policy, Budget, and Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1053	Department of the Interior, Procurement Ethics Regulation	1090-AA15
1054	Department of the Interior Acquisition Regulation	1090-AA13

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Assistant Secretary for Policy, Budget, and Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1055	Natural Resource Damage Assessments	1090-AA22

Office of the Solicitor—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1056	Practices Before the Department	1092-AA00

Office for Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1057	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1091-AA02
1058	Federally Assisted Programs or Activities of the Department of the Interior, Nondiscrimination on the Basis of Handicap	1091-AA03

Office for Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1059	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1091-AA00

Office of Hearings and Appeals—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1060	Special Rules Applicable to Surface Coal Mining Hearings and Appeals	1094-AA37
1061	Special Rules Applicable to Public Land Hearings and Appeals	1094-AA25

Office of Hearings and Appeals—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1062	Special Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA31
1063	Special Rules Applicable to Public Land Hearings and Appeals	1094-AA30

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Office of Hearings and Appeals—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1064	Department Hearings and Appeals Procedures	1094-AA26
1065	Burden of Proof in Civil Penalty Proceedings	1094-AA33
1066	Amendment of Regulation Establishing Age at Which an Indian Can Execute a Will Devising Trust or Restricted Property	1094-AA35

United States Fish and Wildlife Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1067	Administrative Requirements, Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts	1018-AB15

United States Fish and Wildlife Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1068	Designated Port Status for Portland, Oregon	1018-AB21
1069	Injurious Wildlife: Importation of Live or Dead Fish, Mollusks, and Crustaceans, or Their Eggs	1018-AB13
1070	Captive Bred Wildlife	1018-AB10
1071	Proposed Determination of Nonessential Experimental Population Status for an Introduced Population of the Nashville Crayfish in Tennessee	1018-AB12
1072	Endangered and Threatened Wildlife and Plants; Special Rules for Mammals	1018-AB19
1073	Marine Mammals: Change definition of U.S. Citizen	1018-AB16
1074	Migratory Bird Hunting	1018-AA24
1075	Nontoxic Shot Regulations for Hunting Migratory Birds	1018-AA93
1076	Subsistence Take of Migratory Birds in Alaska	1018-AB03
1077	Public Entry and Use	1018-AA36
1078	Refuge-Specific Hunting Regulations	1018-AA71
1079	Refuge-Specific Sport Fishing Regulations	1018-AA50
1080	Implementation of Klamath River Basin Fishery Resources Restoration Act	1018-AB11
1081	Program Requirements, Federal Aid in Sport Fish and Federal Aid in Wildlife Restoration Acts	1018-AB24

United States Fish and Wildlife Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1082	Importation, Exportation, and Transportation of Wildlife	1018-AA79
1083	Importation, Exportation, and Transportation of Wildlife	1018-AB20
1084	Humane Transport of Wild Mammals and Birds Amendments	1018-AB22
1085	Injurious Wildlife: Mitten Crabs	1018-AB04
1086	Endangered and Threatened Wildlife and Plants	1018-AA10
1087	Endangered and Threatened Wildlife and Plants	1018-AA84
1088	Endangered and Threatened Wildlife and Plants	1018-AA85
1089	Endangered and Threatened Wildlife and Plants	1018-AA95
1090	Endangered and Threatened Wildlife and Plants	1018-AA98
1091	Endangered and Threatened Wildlife and Plants	1018-AB02
1092	Endangered and Threatened Wildlife and Plants	1018-AB06
1093	Proposed Determination of Experimental Population Status for an Introduced Population of Colorado Squawfish	1018-AB09
1094	Endangered and Threatened Wildlife and Plants	1018-AB14
1095	Endangered and Threatened Wildlife and Plants	1018-AB18
1096	Endangered and Threatened Wildlife and Plants	1018-AB23
1097	Marine Mammals: Incidental Taking by Commercial Fishing Operations	1018-AA96
1098	Marine Mammals: Take of Small Numbers Incidental to Specified Activities	1018-AB05
1099	Subsistence Take of Migratory Birds	1018-AA92

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United States Fish and Wildlife Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1100	General Permit Procedures and Migratory Bird Permits: Raptor Propagation and Falconry Regulations	1018-AB01
1101	Endangered Species Convention	1018-AA29
1102	Fish and Wildlife Restoration Grants; Interest Earned on License Fees	1018-AA97

United States Fish and Wildlife Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1103	Humane Transport of Wild Mammals and Birds	1018-AA07

National Park Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1104	Yellowstone National Park: Commercial Traffic on U.S. Highway 191 within Yellowstone National Park	1024-AB82
1105	Apostle Islands National Lakeshore: Snowmobiling	1024-AB80
1106	Alaska Region: Same-Day-Airborne Hunting Regulations	1024-AB81
1107	Indiana Dunes National Lakeshore: Zoning Standards	1024-AB79

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1108	Yosemite National Park; Wawona Zoning Regulations	1024-AB77
1109	Appalachian National Scenic Trail	1024-AB07
1110	Hawaii Volcanoes National Park: Fishing Regulations	1024-AB66
1111	Mammoth Cave NP: Fishing	1024-AA94
1112	Cape Hatteras National Seashore: Off-Road Vehicle Regulations	1024-AB54
1113	Glen Canyon National Recreation Area: Commercial Operations and Whitewater Boating Regulations	1024-AB72
1114	Sequoia and Kings Canyon National Parks: Fishing Regulations	1024-AB76
1115	Big Thicket National Preserve: Hunting Regulations	1024-AB48
1116	Cape Lookout National Seashore: Off-Road Vehicles	1024-AA89
1117	Minerals Management - Non-Federal Oil and Gas	1024-AB39
1118	Management of Mineral Development Associated with Mining Claims	1024-AB74
1119	Minerals Management: Nonfederal Rights Other Than Oil and Gas	1024-AB75
1120	Archeological and Historic Preservation Act; Department of the Interior Regulations	1024-AA49
1121	Protection of Archaeological Resources; Uniform Regulations	1024-AA51

National Park Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1122	Vehicles and Traffic Safety: Mandatory Seatbelt Regulation	1024-AB83
1123	Cuyahoga Valley NRA: Off-Road Vehicles and Snowmobiles	1024-AB44
1124	Canyon De Chelly National Monument	1024-AB47
1125	Fort Jefferson NM: Fishing; Boundary Adjustments	1024-AA96
1126	Jean Lafitte NHP: Crawfishing Regulations	1024-AB33
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1128	Lake Chelan NRA: Target Practice	1024-AB19

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National Park Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
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1130	Ross Lake NRA: Target Practice	1024-AB28
1131	Rocky Mountain National Park: Trucking Regulations	1024-AB67
1132	Big Cypress National Preserve: Indian Use and Occupancy	1024-AA07
1133	Whiskeytown National Recreation Area Fishing Regulations	1024-AB61
1134	Whiskeytown Unit, Whiskeytown - Shasta - Trinity NRA Gold Panning Regulations	1024-AB71
1135	Bighorn Canyon National Recreation Area - Fishing Regulations	1024-AB63
1136	NPS Units in Alaska: Closure Regulations	1024-AA71
1137	Katmai National Park and Preserve Fishing Regulations	1024-AB78
1138	Fire Island National Seashore: Zoning	1024-AA80
1139	National Register of Historic Places	1024-AA44
1140	Determination of Eligibility for Inclusion in the National Register of Historic Places	1024-AA46
1141	Historic Preservation Certifications Pursuant to Section 48(g) and Section 170(h) of the Internal Revenue Code of 1986	1024-AB73
1142	Curation of Federally Owned and Administered Archeological Collections	1024-AB13

National Park Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1143	Rocky Mountain National Park: Fishing Regulations	1024-AB46
1144	NPS Units in Alaska: Concessions	1024-AB18
1145	Cemetery Sites and Historical Places	1024-AA84

Bureau of Indian Affairs—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1146	Individual Indian Money Accounts	1076-AB91
1147	Revised Procedures for Implementation of the Indian Self-Determination and Education Assistance Act Amendments of 1988	1076-AC20

Bureau of Indian Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1148	Procedures for Establishing that an American Indian Group Exists as an Indian Tribe	1076-AC15
1149	The Indian Police	1076-AB98
1150	Small Estates - Osage	1076-AC18
1151	Financial Assistance and Social Services Program	1076-AB99
1152	Financial Assistance and Social Services Program	1076-AC13
1153	Administration of a Program of Employment Assistance for Adult Indians	1076-AA04
1154	School Boards	1076-AC14
1155	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AA11
1156	Certificates of Degree of Indian Blood	1076-AC19
1157	Loans to Indians from the Revolving Loan Fund	1076-AC00
1158	Loan Guaranty, Insurance, and Interest Subsidy	1076-AC01
1159	Leasing and Permitting	1076-AA29
1160	Roads of the Bureau of Indian Affairs	1076-AB05
1161	Leasing of Restricted Lands of Members of Five Civilized Tribes, Oklahoma, for Mining	1076-AB41
1162	Indian Business Development Program	1076-AA55

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Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1163	Appeals from Administrative Actions	1076-AB21
1164	Law and Order on Indian Reservations	1076-AA01
1165	Administration of the Higher Education Program	1076-AA10
1166	Administration of the Indian Adult Education Programs	1076-AA15
1167	Preparation of Rolls of Indians	1076-AC11
1168	Attorney Fee Contracts with Indian Tribes; Payment of Tribal Attorney Fees with Federally Appropriated Funds	1076-AB87
1169	Management of Osage Judgment Funds for Education and Socio-Economic Programs	1076-AB51
1170	Navajo Grazing Regulations	1076-AA33
1171	Rights-of-Way Over Indian Lands	1076-AB89
1172	Contracts for Prospecting and Mining on Indian Mineral Lands	1076-AA38
1173	Leasing of Allotted Lands for Mining	1076-AA39
1174	Oil and Gas Mineral Agreements	1076-AA82
1175	Leasing of Osage Reservation Lands for Oil and Gas Mining	1076-AC09
1176	Buy Indian Act Contracting	1076-AA56

Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1177	Education Personnel	1076-AB02
1178	Revolving Cattle Pool	1076-AC02
1179	San Carlos Indian Irrigation Project, Arizona	1076-AC08
1180	Tribal Bingo Management Contracts	1076-AC07

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1181	Amendment of Dual Accounting Requirement in Gas Valuation Regulations	1010-AB28
1182	Amendment of Valuation Benchmarks in Gas Regulations	1010-AB29
1183	Revision of Regulations Governing Interest Rate Applicable to Late Payments and Underpayments	1010-AB32
1184	Recoupments and Refunds of Excess Payments Under Federal Offshore Mineral Leases	1010-AB11
1185	Revision of Regulations Governing Appeals	1010-AB13
1186	Air Quality – Outer Continental Shelf Wide	1010-AB14
1187	Limitation of the Director's Authority for Discretionary Release of Postlease Proprietary Data and Information	1010-AB30
1188	Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS), Subpart O, Training	1010-AB21
1189	Oil and Gas and Sulphur Operations in the Outer Continental Shelf, Subpart P, Sulphur Operations	1010-AB23
1190	Amendment to 30 CFR 250.4 and 250.34(j) to Add Guidelines for the Acceptance of Contributions for Mission Activities such as the Preparation of Environmental Impact Statements	1010-AB33
1191	Amendments to 30 CFR 250.52 to Add Requirements Intended to Prevent Occurrence of Accidental Fires Caused by Falling Slag from Welding or Burning	1010-AB31

Minerals Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1192	Revision of Royalty Valuation Regulations Governing Gas Sales Under Percentage-of-Proceeds Contracts	1010-AB17
1193	Geothermal Resources Used to Generate Electricity, Product Valuation for Royalty Purposes	1010-AB22
1194	Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Safety and Pollution-Prevention Equipment	1010-AB19
1195	Air Quality - Offshore California	1010-AA61
1196	Nondiscrimination in Employment in the Outer Continental Shelf	1010-AA87

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Minerals Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1197	Valuation of Coal for Royalty Purposes from Federal and Indian Leases	1010-AA83
1198	Processing and Transportation Allowances, Return on Capital Investment	1010-AB12
1199	Amendment of Regulations, Oil and Gas Transportation Allowances and Gas Processing Allowances	1010-AB18
1200	Amendment of Oil and Gas Royalty Valuation Regulations	1010-AB24
1201	Supplemental Sales	1010-AB05
1202	Leasing of Minerals Other than Oil, Gas, and Sulphur in the Outer Continental Shelf	1010-AA82
1203	Mining Operations for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf	1010-AA81
1204	Appeals Procedures	1010-AB20

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1205	Surface Coal Mining and Reclamation Operations; Two Acre Exemption Repeal	1029-AB16
1206	Interim Program Revisions	1029-AB24
1207	Federal Lands Program	1029-AA76
1208	Definition and Criteria for Valid Existing Rights	1029-AA77
1209	Permanent Regulatory Program Definitions; Areas Unsuitable for Mining	1029-AA80
1210	Reprocessing Coal Waste	1029-AB23
1211	Assessment Conference Scheduling	1029-AB22

Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1212	Permit to Reclaim Rule	1029-AB26
1213	Permanent Regulatory Program; Requirements for Permits for Special Categories of Mining	1029-AA54
1214	Exemption for Coal Extraction Incidental to the Extraction of Other Minerals	1029-AA53
1215	Requirements for Coal Exploration–Permit Requirements for Exploration Removing More than 250 Tons of Coal	1029-AA92
1216	Federal Regulatory Programs; Permit Application Fees	1029-AB15
1217	Surface Coal Mining and Reclamation Operations on Indian Lands	1029-AB04
1218	Lands Unsuitable Regulations	1029-AA90
1219	Requirements for Permits and Permit Processing; Permit Applications Minimum Requirements for Legal Financial Civil Penalties	1029-AA66
1220	Permanent Regulatory Program - Ownership Information	1029-AA96
1221	Approximate Original Contour Variances	1029-AB27
1222	Permanent Program Performance Standards; Disposal of Coal Mine Waste	1029-AB09
1223	Permanent Program Performance Standards; Surface Mining Activities; Contemporaneous Reclamation	1029-AB02
1224	Permanent Program Performance Standards; Surface and Underground Mining Activities; Backfilling and Grading	1029-AA57
1225	Disposal of Excess Spoil on Preexisting Benches	1029-AB18
1226	Permanent Program Performance Standards; Highwall Policy	1029-AB10

Office of Surface Mining Reclamation and Enforcement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1227	Termination of Jurisdiction Under SMCRA	1029-AB07
1228	Permanent Program Performance Standards; Surface and Underground Activities; Roads	1029-AA60
1229	Permanent Regulatory Program Definition of Support Facilities	1029-AA94
1230	Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program-Ownership and Control	1029-AA56
1231	Permanent Regulatory Program; Requirements for Permits, Information on Hydrologic Impacts	1029-AB11
1232	Permanent Program Performance Standards - Surface Mining Activities, Underground Mining Activities - Impoundments	1029-AA79

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Office of Surface Mining Reclamation and Enforcement—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1233	Special Permanent Program Performance Standards; Operations on Prime Farmland	1029-AA64
1234	Surface Coal Mining Operations; Definition of "In Connection With"	1029-AB06
1235	Permanent Program Performance Standards - Surface Mining Activities, Underground Mining Activities – Revegetation	1029-AA86
1236	Improvidently Issued Permits	1029-AB20
1237	Delinquent Abandoned Mine Land Reclamation Fees	1029-AB21
1238	Abandoned Mine Land Reclamation; State Reclamation Grants	1029-AB13
1239	Tennessee Program Amendment; Significant Permit Revisions	1029-AB17

Bureau of Reclamation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1240	Reclamation States Drought Assistance Act of 1988	1006-AA19
1241	Procedure to Process and Recover the Value of Rights-of-Use and Administrative Costs Incurred in Permitting Such Use	1006-AA18

Bureau of Reclamation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1242	Acreage Limitation Rules and Regulations	1006-AA17

Bureau of Land Management—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1243	Special Laws and Rules; Restatement of Procedures for the Segregation and Opening of Public Lands; Amendment	1004-AB54
1244	Classifications	1004-AB57
1245	Leases, Permits and Easements	1004-AB51
1246	Public Availability of Minerals Resources Information	1004-AB55
1247	Mining in Military Withdrawals	1004-AB52
1248	Contract Extension	1004-AB56

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1249	Minerals (Nonmineral Entries on Mineral Lands)	1004-AB20
1250	Exchanges - General Procedures	1004-AB28
1251	Indian Allotments	1004-AB10
1252	Village Selections	1004-AB58
1253	Rights-of-Way, Principles and Procedures	1004-AB00
1254	Rights-of-Way, Trespass, and Law Enforcement - Criminal	1004-AB46
1255	Rights-of-Way under the Mineral Leasing Act	1004-AA98
1256	Exploration Activity; Oil and Gas Leasing; Geothermal Resource Leasing-General	1004-AA97
1257	Exploration Activity; Oil and Gas Leasing; Competitive Leases	1004-AB41
1258	Onshore Oil and Gas Order No. 8 - Well Workovers, Completions, Abandonments	1004-AB37
1259	Onshore Oil and Gas Order No. 7 - Disposal of Produced Water	1004-AA66

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Bureau of Land Management—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1260	Onshore Oil and Gas Order No. 6 - Hydrogen Sulfide Operations	1004-AA67
1261	Onshore Oil and Gas Order No. 9 - Waste Prevention and Beneficial Use of Oil and Gas	1004-AB47
1262	Geothermal Resource Operations	1004-AB16
1263	Sales of Forest Products; General - Preparation for Sale	1004-AB34
1264	Coal Management -- General	1004-AB44
1265	Multiple Use: Mining: Mining Claims Under the General Mining Laws	1004-AB04
1266	Mining Claims Under the General Mining Law - Nature and Classes of Mining Claims Assessment Work	1004-AB43
1267	Mining Claims Under the General Mining Laws	1004-AB36
1268	Sales of Forest Products; Conduct of Sales	1004-AB39
1269	Sales of Forest Products; Award of Contract	1004-AB40
1270	Cultural Resource Management	1004-AA69
1271	Paleontology	1004-AA27
1272	Recreation: General	1004-AA35
1273	Cadastral Survey	1004-AB07
1274	Unauthorized Use of Public Lands	1004-AA38
1275	Law Enforcement, Criminal	1004-AB48

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1276	Land Classification	1004-AB19
1277	Recreation and Public Purposes: Solid Waste Disposal	1004-AA73
1278	Onshore Oil and Gas Operations - Cooperative Agreements, Delegations of Authority and Contracts for Oil and Gas Inspection and Enforcement	1004-AB32
1279	Geothermal Resources Leasing	1004-AB53
1280	Fees, Rents, and Royalties	1004-AB45
1281	Conduct of Sales (Timber)	1004-AB35
1282	Award of Contract; Sales Administration	1004-AB49
1283	Off-Road Vehicles	1004-AB26

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1284	Onshore Oil and Gas Operations - Onshore Oil and Gas Order Number 4 - Measurement of Crude Oil	1004-AA96
1285	Onshore Oil and Gas Order No. 2 - Drilling Operations	1004-AB21
1286	Onshore Oil and Gas Order No. 3 - Site Security	1004-AB24
1287	Management of Existing Leases	1004-AB38
1288	Onshore Oil and Gas Order No. 5 - Measurement of Natural Gas	1004-AB22
1289	Coal Exploration and Mining Operations Rules	1004-AB42
1290	Operating Regulations for Exploration, Development and Production	1004-AA68

DEPARTMENT OF THE INTERIOR (DOI) — **Prerule Stage**

Assistant Secretary for Policy, Budget, and Administration (ASPBA)

1047. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: Other, Statutory, March 20, 1989.

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c) (2) (A) calls for the promulgation of simplified assessment procedures. The first type A procedure for coastal and marine environments uses a computer model known as the natural resource damage assessment model for coastal and marine environments (NRDAM/CME). Section 301(c)(3) of CERCLA requires the biennial review of these natural resource damage assessment regulations. Since type A regulations were published as a final rule in 1987, the Department will issue an advance notice of proposed rulemaking (ANPRM). This ANPRM will ask trustees, other interested parties, and members of the public to draw upon their experience with the type A procedure to advise the Department of areas where revisions to the type A procedure may be appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	
ANPRM Comment Period End	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Farrell, Director, Office of Environmental Project Review, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, Room 4239, MIB, 1801 C Street, NW, Washington, DC 20240, 202 343-2116

RIN: 1090–AA21

DOI—ASPBA — **Prerule Stage**

1048. ● NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: Other, Statutory. 42 USC 9651(c)(3) requires biennial review and revision, as appropriate, of the regulations. This ANPRM will begin the review process.

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c)(2)(B) calls for the promulgation of a set of alternative protocols for the testing, sampling, and determining compensation for natural resource damages, referred to as the type B procedures. Section 301(c)(3) requires the biennial review of these natural resource damage assessment regulations. Since the general process and type B procedures were published as a final rule in 1986, the Department will issue an advance notice of proposed rulemaking (ANPRM) to begin the second biennial review of these regulations. This ANPRM will ask trustees, other interested parties, and members of the public to draw upon their experience with the type B procedures, and the general assessment process, to advise the Department of areas where revisions to the process and the type B procedures may be desired.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/90	
ANPRM Comment Period End	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Farrell, Director, Office of Environmental Project Review, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, Room 4239, 1801 C Street, NW., Washington, DC 20240, 202 343-2116

RIN: 1090–AA22

1049. CERTIFICATION OF NON-DELINQUENCY BY APPLICANTS FOR FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 31 USC 3511; 31 USC 3512; 31 USC 3302; 31 USC 3701; 31 USC 3711; 31 USC 3716 to 3719

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This notice of proposed rulemaking proposes a regulation requiring the use of an application form which includes a question to be answered "yes" or "no" regarding whether the applicant is delinquent on any Federal debt. The Department has withdrawn the notice of proposed rulemaking published on May 11, 1988, because subsequent guidance from the Office of Management and Budget conflicted with the proposed rule.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry D. Cardwell, Director, Office of Acquisition and Property Management, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Sts., NW, Washington, DC 20240, 202 343-8668

RIN: 1090–AA25

DEPARTMENT OF THE INTERIOR (DOI) — **Proposed Rule Stage**

Assistant Secretary for Policy, Budget, and Administration (ASPBA)

1050. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: The Department has promulgated regulations, codified at 43 CFR Part 11, for the assessment of damages to natural resources injured by a release of a hazardous substance or,

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under certain circumstances, a discharge of oil. The regulations provide two types of assessment procedures: simplified procedures requiring minimal field investigation, referred to as the type A procedures; and alternative protocols for the testing, sampling, and valuing of natural resource damages, referred to as the type B procedures. The type A procedures that have been developed are for use in coastal and marine environments. The Department has stated that, when possible, it would develop additional type A procedures for other environments or natural resources. An advance notice of proposed rulemaking (ANPRM) will be issued by the Department. This ANPRM will solicit suggestions and supporting technical information for possible development of other type A procedures.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/88	53 FR 20143
ANPRM Comment Period End	07/18/88	53 FR 20143
NPRM	09/00/89	
NPRM Comment Period End	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Farrell, Director, Office of Envir. Project Review, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, Room 4239, 1801 C St., NW, Washington, DC 20240, 202 343-2116

RIN: 1090–AA23

1051. DEPARTMENT OF THE INTERIOR, NONPROCUREMENT DEBARMENT AND SUSPENSION REGULATION

Legal Authority: EO 12549; 5 USC 301

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This action proposes a revision to the Department's regulation establishing a uniform system of nonprocurement debarment and suspension. This proposed rule would implement the requirements of paragraph (a)(1) of section .110, Coverage, of common final rule on Governmentwide Debarment and Suspension (Nonprocurement).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Larry D. Cardwell, Director, Office of Acquisition and Property Management, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Sts., NW, Washington, DC 20240, 202 343-3668

RIN: 1090–AA24

1052. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

Legal Authority: 5 USC 301

CFR Citation: 48 CFR 1400

Legal Deadline: None

Abstract: This rule makes miscellaneous revisions to the Department of the Interior Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090–AA14

DEPARTMENT OF THE INTERIOR (DOI)

Assistant Secretary for Policy, Budget, and Administration (ASPBA)

Final Rule Stage

1053. DEPARTMENT OF THE INTERIOR, PROCUREMENT ETHICS REGULATION

Legal Authority: 5 USC 301; EO 11222; 43 CFR 20.735

CFR Citation: 48 CFR 1401; 48 CFR 1403; 48 CFR 1415; 48 CFR 1453

Legal Deadline: None

Abstract: This notice of proposed rulemaking proposes to provide implementing regulations in the Department of the Interior Acquisition Regulation for EO 11222 governing ethics conduct for Government employees. The proposed rule would also provide a special code of conduct for employees with procurement responsibilities in accordance with 43 CFR 20.735-2(h).

Timetable:

Action	Date	FR Cite
NPRM	05/13/88	53 FR 17086
NPRM Comment Period End	07/12/88	53 FR 17086
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Dean A. Titcomb, Chief, Division of Acquisition and Assistance, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th and C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090–AA15

1054. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

Legal Authority: 5 USC 301

CFR Citation: 48 CFR 1415

Legal Deadline: None

Abstract: This rule will establish formal source selection procedures for the Department pursuant to FAR 15.612.

Timetable:

Action	Date	FR Cite
NPRM	12/21/87	52 FR 48301
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Dean A. Titcomb, Acting Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090–AA13

DEPARTMENT OF THE INTERIOR (DOI)

Assistant Secretary for Policy, Budget, and Administration (ASPBA)

Completed Actions

1055. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: Other, Statutory, September 1, 1988.
42 USC 9651(c)(3) requires biennial review and revision as appropriate of the regulations.

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c)(2)(B) calls for the promulgation of a set of alternative protocols for the testing, sampling, and valuing of natural resource damages, referred to as the type B procedures. Section 301(c)(3) of CERCLA requires the biennial review of these natural resource damage assessment regulations. Since the general process and type B regulations were published as a final rule with an effective date of September 1, 1986, the Department will issue an advance notice of proposed rulemaking. This ANPRM will ask trustees, other interested parties, and members of the public to draw upon their experience with the type B procedures, and the general assessment process, to advise the Department of areas where revisions to the process and the type B procedures may be appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/88	53 FR 15714
ANPRM Comment Period End	07/05/88	53 FR 15714
End Review Notice in resp. to comments sta. no rev. nec. at this time.	01/23/89	54 FR 3095

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Farrell, Director, Office of Envir. Project Review, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, Room 4239, 1801 C St., NW, Washington, DC 20240, 202 343-2116

RIN: 1090–AA22

BILLING CODE 4310-RK-T

DEPARTMENT OF THE INTERIOR (DOI)

Office of the Solicitor (OSOL)

Proposed Rule Stage

1056. PRACTICES BEFORE THE DEPARTMENT

Legal Authority: 43 USC 1464

CFR Citation: 43 CFR 1

Legal Deadline: None

Abstract: This rule governs practice in administrative proceedings before the Department. It will be revised to update its provisions and assure that they are consistent with the Department's employee conduct regulations (43 CFR Part 20) and the Ethics in Government Act.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: January 1981.

Agency Contact: Barbara Abate, Paralegal, Department of the Interior, Office of the Solicitor, 18th and C Streets, NW, Washington, DC 20240, 202 343-5218

RIN: 1092–AA00

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DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)
Proposed Rule Stage

1057. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: PL 92-318 Title IX of the Education Amendment of 1972; PL 93-568; PL 94-482; 20 USC 1681 to 1686

CFR Citation: 43 CFR 17, Subpart D

Legal Deadline: None

Abstract: The Title IX regulation is intended to address the problem of discrimination on the basis of sex in any education program or activity receiving or benefiting from Federal financial assistance administered by the Department of the Interior (DOI).

No alternative for addressing problems of discrimination in DOI's education programs can be considered due to the fact that Title IX requires each Federal agency which extends Federal financial assistance to any educational program or activity, to issue rules and regulations implementing Title IX.

DOI's recipients are anticipated to incur expenses in two (2) areas: (1) Data collection and recordkeeping; (2) rectifying areas of noncompliance with Title IX. With respect to DOI, expenses will be incurred in three (3) areas: (1) Development and publication of the Title IX rule; (2) Provision of technical assistance; and (3) Accomplishing compliance reviews and enforcement activities.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Melvin C. Fowler, Supervisory Equal Opportunity Specialist, Department of the Interior, Office for Equal Opportunity, 18th and C Streets, NW., Washington, DC 20240, 202 343-3455

RIN: 1091-AA02

1058. ● FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES OF THE DEPARTMENT OF THE INTERIOR, NONDISCRIMINATION ON THE BASIS OF HANDICAP

Legal Authority: 29 USC 794, The Rehab. Act of 1973, Sec 504, as amended; EO 12250; 42 USC 4151 to 4157, The Architectural Barriers Act of 1986

CFR Citation: 43 CFR 17, Subpart B

Legal Deadline: None

Abstract: This rulemaking will amend the regulation issued by DOI at 43 CFR 17, Subpart B, for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards (UFAS). The regulatory amendment is intended to encourage DOI's recipients to follow UFAS for new construction and alteration projects. No alternative exists to issuing this regulation. This amendment was found to be appropriate and necessary, and is being issued by DOI pursuant to directions received from the Civil Rights Division of the Department of Justice under the authority of Executive Order 12250. It has been determined that this rule is nonmajor and that it has no major cost effect. This amendment will promote governmentwide consistency and minimize public confusion by referencing new architectural standards that are presently in use by the Department of Justice and fourteen other Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/16/89	
NPRM Comment Period End	08/18/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin C. Fowler, Supervisory Equal Opportunity Specialist, Department of the Interior, Office for Equal Opportunity, 18th and C Streets NW., Washington, DC 20240, 202 343-3455

RIN: 1091-AA03

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)
Completed Actions

1059. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: The Age Discrimination Act of 1975, as amended; 42 USC 6101; 45 CFR 90

CFR Citation: 43 CFR 17, Subpart C

Legal Deadline: None

Abstract: This rule will set forth guidelines for nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance from the Department.

Timetable:

Action	Date	FR Cite
NPRM	10/21/87	52 FR 39243
NPRM Comment Period End	11/20/87	52 FR 39243
Final Action	01/25/89	54 FR 3596
Final Action Effective	02/24/89	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1986

Sectors Affected: None

Additional Information: LEGAL AUTHORITY: Originally scheduled: January 1979.

Agency Contact: Melvin C. Fowler, Supervisory Equal Opportunity Spc., Department of the Interior, Office for Equal Opportunity, 18th and C Streets, NW, Washington, DC 20240, 202 343-3455

RIN: 1091-AA00

BILLING CODE 4310-RE-T

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)
Proposed Rule Stage

1060. ● SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Legal Authority: 30 USC 1256; 30 USC 1260; 30 USC 1261; 30 USC 1264; 30 USC 1268; 30 USC 1271; 30 USC 1272; 30 USC 1275; 30 USC 1293; 5 USC 301

CFR Citation: 43 CFR 4.1360 to 4.1369; 43 CFR 4.1370 to 4.1379; 43 CFR 4.1380 to 4.1388

Legal Deadline: None

Abstract: The procedures for administrative review of Office of Surface Mining Reclamation and Enforcement decisions on (1) applications for new permits, (2) applications for permit revisions, permit renewals, and the transfer, assignment, or sale of rights granted under permit, (3) permit revisions ordered by the Office, and (4) applications for coal exploration permits vary. The Office of Hearings and Appeals proposes to remove the rules containing procedures for administrative review for (2), (3), and (4) (43 CFR 4.1370-4.1379 and 4.1380-4.1388) and to revise the rules in 43 CFR 4.1360-4.1369 so they will include review of decisions presently provided for in 43 CFR 4.1370-4.1379 and 4.1380-4.1388. The Office also proposes to amend 43 CFR 4.1351 and 4.1391(b) to provide for notice of OSMRE's decisions by certified mail or by overnight delivery service rather than by publication in a local newspaper. The proposed amendments will unify administrative review procedures and make them more expedited.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9852
NPRM Comment Period End	04/07/89	
Final Action Effective	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203, 703 235-3750

RIN: 1094-AA37

1061. SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.401(c); 43 CFR 4.413

Legal Deadline: None

Abstract: Rulemaking is being proposed to amend the requirements for proof of scrvice of documents to require that a party serving a document other than the notice of appeal certify that he sent the document to the adverse party by mail.

Timetable:

Action	Date	FR Cite
NPRM	09/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wm. Philip Horton, Chief Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA25

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)
Final Rule Stage

1062. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 36 Stat. 855, as amended; 38 Stat. 586; 42 Stat. 1185, as amended; 56 Stat. 1021-1022; R.S. 463; R.S. 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4, Subpart D

Legal Deadline: None

Abstract: The agency is proposing to make changes to its regulations governing appeals to the Board of Indian Appeals in order to ensure compatibility between those regulations and proposed changes to administrative appeals regulations of the Bureau of Indian Affairs in 25 CFR Part 2. The rulemaking would incorporate two specific changes to regulations in 43 CFR Part 4, Subpart D, listed on previous agenda.

Timetable:

Action	Date	FR Cite
NPRM	11/06/87	52 FR 43009
NPRM Comment Period End	01/05/88	52 FR 43009
Final Action	04/01/89	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Kathryn Lynn, Chief Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3816

RIN: 1094-AA31

1063. SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.411

Legal Deadline: None

Abstract: The agency will propose to amend its procedural regulations to provide relief to appellants who mistakenly file their notices of appeal with the Board instead of the office specified in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 38950
NPRM Comment Period End	11/19/87	52 FR 38950
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David L. Hughes, Attorney-Advisor, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA30

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DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)
Completed Actions

1064. DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4, Subpart B

Legal Deadline: None

Abstract: Rulemaking is being proposed to make express provision for in camera review of information which is exempt, protected, or prohibited from unauthorized disclosure by Federal statute when such information is submitted in an administrative proceeding.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20755
NPRM Comment Period End	07/06/87	52 FR 20755
Final Action	12/09/88	53 FR 49658
Final Action Effective	01/09/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce A. Johnson, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3810

RIN: 1094–AA26

1065. BURDEN OF PROOF IN CIVIL PENALTY PROCEEDINGS

Legal Authority: 30 USC 1268; 5 USC 301

CFR Citation: 43 CFR 4.1155

Legal Deadline: None

Abstract: The proposed amendment of 43 CFR 4.1155 would correct the allocation of the ultimate burden of persuasion as to the fact of a violation in a civil penalty proceeding under section 518 of the Surface Mining Control and Reclamation Act of 1977 by changing it from the Office of Surface Mining Reclamation and Enforcement to the person who petitions for review of the civil penalty.

Timetable:

Action	Date	FR Cite
NPRM	10/15/87	52 FR 38246
NPRM Comment Period End	11/16/87	52 FR 38246
Final Action	11/25/88	53 FR 47693
Final Action Effective	12/27/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094–AA33

1066. AMENDMENT OF REGULATION ESTABLISHING AGE AT WHICH AN INDIAN CAN EXECUTE A WILL DEVISING TRUST OR RESTRICTED PROPERTY

Legal Authority: 25 USC 373

CFR Citation: 43 CFR 4.260

Legal Deadline: None

Abstract: The amendment to the regulation will reflect the congressional determination to reduce from 21 to 18 the age at which an Indian can execute a will devising trust or restricted property. The amendment is contained in section 2 of the Act of November 5, 1987, 101 Stat. 886, PL 100-153.

Timetable:

Action	Date	FR Cite
Final Action	12/02/88	53 FR 48648
Final Action Effective	12/02/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Parlen McKenna, Chief Administrative Law Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3800

RIN: 1094–AA35

BILLING CODE 4310-79-T

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)
Prerule Stage

1067. ADMINISTRATIVE REQUIREMENTS, FEDERAL AID IN FISH AND FEDERAL AID IN WILDLIFE RESTORATION ACTS

Legal Authority: 16 USC 669 to 669i; 16 USC 777 to 777k

CFR Citation: 50 CFR 080

Legal Deadline: None

Abstract: The Service will incorporate the requirements of the Uniform Administrative Requirements for Grants and Cooperative Agree- ments to State and Local Governments (43 CFR 12) and update and clarify program requirements for grants to State agencies.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Conley L. Moffett, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1526

RIN: 1018–AB15

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)
Proposed Rule Stage

1068. ● DESIGNATED PORT STATUS FOR PORTLAND, OREGON

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service proposes to amend the regulations in 50 CFR 14 to designate Portland, Oregon as an official Customs port- of-entry for wildlife and wildlife products as required by Section 9(f) of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 11975
NPRM Comment Period End	04/24/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Clark Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-1949

RIN: 1018–AB21

1069. INJURIOUS WILDLIFE: IMPORTATION OF LIVE OR DEAD FISH, MOLLUSKS, AND CRUSTACEANS, OR THEIR EGGS

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: Regulations regarding importation of fish or fish eggs of the fish family Salmonidae will be revised to reflect current scientific information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph J Webster, Chief, Division of Fish Hatcheries, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-1715

RIN: 1018–AB13

1070. CAPTIVE BRED WILDLIFE

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This rule will be revised to relieve certain restrictions on the public that have been determined to be outmoded, burdensome and counter productive.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall Jones, Acting Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-2093

RIN: 1018–AB10

1071. PROPOSED DETERMINATION OF NONESSENTIAL EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF THE NASHVILLE CRAYFISH IN TENNESSEE

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to reintroduce the Nashville Crayfish (Orconectes shoupi), federally listed as an endangered species, into Richland Creek, Davidson County, Tennessee, and to determine this population to be a nonessential experimental population according to Section 10(j) of the Endangered Species Act of 1973, as amended. Section 10(j) of the Act authorizes nonessential experimental populations to be treated as if they were proposed species for the purposes of Section 7 of the Act. The Nashville crayfish is presently know to inhabit Mill Creek and five of its tributaries in Davidson and Williamson Counties, Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240., 703 358-2171

RIN: 1018–AB12

1072. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULES FOR MAMMALS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

Legal Deadline: None

Abstract: This amendment brings the endangered species regulations into compliance with control procedures for African elephant ivory trade.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Clark R. Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-1949

RIN: 1018–AB19

1073. MARINE MAMMALS: CHANGE DEFINITION OF U.S. CITIZEN

Significance: Regulatory Program

Legal Authority: 16 USC 1371(a)(5); 16 USC 1371(a)(4)

CFR Citation: 50 CFR 18.27; 50 CFR 18.24

Legal Deadline: None

Abstract: Under existing regulations implementing the Marine Mammal Protection Act (MMPA), corporations organized under United States laws, but not controlled by individuals who are U.S. citizens, cannot be issued Letters of Authorization to undertake activities pursuant to any specific regulations authorizing an incidental take of marine mammals. This rule will amend the definition of U.S. citizen in the current regulations to allow corporations subject to U.S. jurisdiction to participate under the MMPA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

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Action	Date	FR Cite
Final Action	07/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Lynn B. Starnes, Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW., Washington, DC 20240, 202 632-2202

RIN: 1018–AB16

1074. MIGRATORY BIRD HUNTING

Significance: Regulatory Program

Legal Authority: 16 USC 703 to 711

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service annually publishes a series of documents establishing migratory bird hunting regulations for the 1988-89 season. This annual process consists of proposed frameworks providing outside limits for dates and hours of shooting, as well as bag and possession limits; final frameworks for hunting seasons from which States may select regulations; and final rules approving such State selections.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/89	
NPRM	06/00/89	
Final Action	09/00/89	
1988-89 frameworks for early seasons		
Final Action 08/09/88 (53 FR 29897)		
1988-89 frameworks for late seasons		
NPRM 08/12/88 (53 FR 30622)		
Final Action 09/28/88 (53 FR 37944)		

Small Entities Affected: Businesses

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SMALL BUSINESSES CONT: Small entities likely to be affected by these rules include some sporting goods stores, hardware stores, motels and hotels, restaurants, clothing stores, boat and marine equipment stores, marinas, gasoline stations, private hunting clubs, land owners' leasing hunting rights, and mail order houses selling hunting equipment and supplies. Originally scheduled: April 1985. E.O. 12291: These rules are major because of the economic values associated with migratory game bird hunting; however, the need to obtain and consider the latest population data for these migratory birds requires that the regulatory schedule be shortened. The regulatory impact analysis, as required by E.O. 12291, and the small entity flexibility analysis, as required by 5 U.S.C. 601 et seq., have been combined into one analysis as provided for by both authorities. Copies of the combined analysis will be available from the Agency Contact upon publication of the Notice of Intent in March 1985.

Agency Contact: Rollin D. Sparrowe, Chief, Migratory Bird Management Office, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 254-3207

RIN: 1018–AA24

1075. NONTOXIC SHOT REGULATIONS FOR HUNTING MIGRATORY BIRDS

Significance: Regulatory Program

Legal Authority: 16 USC 701 to 718

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service, in coordination with the States, identifies areas of migratory bird hunting where the use of conventional lead shotshells results in lead poisoning of such birds and other wildlife. The Service will review existing nontoxic shot zones for the continued need for inclusion, and propose new areas for consideration as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	10/00/89	
1988-89 nontoxic shot zones		
Final Action 06/28/88 (53 FR 24284)		
1989-90 nontoxic shot zones		
Final Action 09/00/89		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Rollin Sparrowe, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 536 Matomic, Washington, DC 20240, 202 254-3207

RIN: 1018–AA93

1076. SUBSISTENCE TAKE OF MIGRATORY BIRDS IN ALASKA

Significance: Regulatory Program

Legal Authority: 16 USC 703

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service will develop regulations that provide for subsistence harvest of migratory birds in Alaska. This action is being developed in cooperation with the State of Alaska, Alaskan Native organizations, and Canada.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The Appeals Court recently ruled that the Migratory Bird Treaty does not permit subsistence hunting.

Agency Contact: Marvin L. Plenert, Acting Assistant Director, Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, Room 3252 Interior, US Fish and Wildlife Service, Washington, DC 20240, 202 343-5333

RIN: 1018–AB03

1077. PUBLIC ENTRY AND USE

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 26

Legal Deadline: None

Abstract: Regulations will be proposed which will simplify and reduce administrative costs related to the process by which special regulations, relating to public, access use, and recreation are issued for units of the National Wildlife Refuge system. Special regulations will be used for public access use and recreation on individual national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: April 1981.

Agency Contact: Robert Karges, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-1744

RIN: 1018–AA36

1078. REFUGE-SPECIFIC HUNTING REGULATIONS

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service will review annually and prior to each hunting season may amend hunting regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
Final Action	09/00/89	
1988-89 hunting season		
NPRM 07/13/88 (53 FR 26461)		
Final Action 10/31/88 (53 FR 43889)		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: April 1983.

Agency Contact: Robert Karges, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-1744

RIN: 1018–AA71

1079. REFUGE-SPECIFIC SPORT FISHING REGULATIONS

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 33

Legal Deadline: None

Abstract: The Service will review annually, and prior to each fishing season may amend fishing regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	12/00/89	
1988-89 fishing regulations		
NPRM 11/01/88 (53 FR 44043)		
Final Action 03/14/89 (54 FR 10544)		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: October 1983

Agency Contact: Robert Karges, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-1744

RIN: 1018–AA50

1080. IMPLEMENTATION OF KLAMATH RIVER BASIN FISHERY RESOURCES RESTORATION ACT

Legal Authority: 16 USC 460

CFR Citation: 50 CFR 72

Legal Deadline: None

Abstract: This rule is necessary to implement the Klamath River Basin Fishery Resources Restoration Act. These include designation of the Klamath River Basin Conservation Area, establishment of qualifications of volunteers who carry out surveys, censuses, and other scientific studies, establishment of standards for determining the value of in-kind contributions and real and personal property provided by non-Federal sources to implement the conservation area restoration program, and establishment of the basis for determining whether matching funds will be provided in a timely and appropriate manner.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/87	52 FR 9550
ANPRM Comment Period End	05/11/87	
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Edwards, Assistant Director - Fisheries, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-6394

RIN: 1018–AB11

1081. ● PROGRAM REQUIREMENTS, FEDERAL AID IN SPORT FISH AND FEDERAL AID IN WILDLIFE RESTORATION ACTS

Legal Authority: 16 USC 669i; 16 USC 777k

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service proposes to revise 50 CFR 80 to eliminate any requirement for Grants and Cooperative Agreements to State and Local Units of Government (43 CFR 12), and to update programmatic requirements for the Federal Aid in Sport Fish and Federal Aid in Wildlife Restoration programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Conley L. Moffett, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, D.C. 20240, 703 358-2156

RIN: 1018–AB24

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DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1082. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Legal Authority: 16 USC 3376(a)(2)

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service would amend the requirements for marking and labeling containers or packages containing fish or wildlife in a joint rulemaking with the Department of Commerce. The Lacey Act Amendments of 1981 make it unlawful to import, export, or transport in interstate commerce any containers or packages containing fish or wildlife that are not marked or labeled in accordance with regulations jointly issued by the Secretaries of the Interior and of Commerce. Such regulations will be in accordance with existing commercial practices.

Timetable:

Action	Date	FR Cite
NPRM	07/07/86	51 FR 24559
NPRM Comment Period End	09/05/86	51 FR 24559
Interim Final Rule	10/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: Originally scheduled: October 1983.

Agency Contact: Clark R. Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-1949

RIN: 1018–AA79

1083. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Legal Authority: 16 USC 42; 16 USC 3371 to 3378; 16 USC 1538(d) to 1538(f); 16 USC 1540(f); 16 USC 1382; 16 USC 704; 16 USC 712; 31 USC 483(a); 16 USC 852(c)

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: General review and evaluation of 50 CFR 14, including structure of import/export and user fees.

Timetable:

Action	Date	FR Cite
NPRM	09/08/88	53 FR 34795
NPRM Comment Period End	10/11/88	
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Clark R. Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-1949

RIN: 1018–AB20

1084. ● HUMANE TRANSPORT OF WILD MAMMALS AND BIRDS AMENDMENTS

Legal Authority: PL 97-79 95 Stat. 073

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: Section 9(d) of the Lacey Act Amendments of 1981 shifted the authority for prescribing requirements for the humane and healthful transport of wild mammals and birds from the Secretary of the Treasury to the Secretary of the Interior. A final rule promulgating this authority in 50 CFR 14, was published on November 10, 1987 (52 FR 43274). The Service will review the regulations for the purpose of proposing improvements and clarifications.

Timetable:

Action	Date	FR Cite
NPRM	06/10/88	53 FR 30077
NPRM Comment Period End	09/09/88	53 FR 30077
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall Jones, Acting Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW., Washington, D.C. 20240, 703 358-2093

RIN: 1018–AB22

1085. INJURIOUS WILDLIFE: MITTEN CRABS

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: Regulations will be developed which would determine whether to add the mitten crab to the list of injurious wildlife. The Lacey Act prohibits importation and introduction into the natural eco- system of the United States any species which may pose a threat to agriculture, the health and welfare of human beings, and the welfare and survival of native wildlife species.

Timetable:

Action	Date	FR Cite
NPRM	11/14/88	53 FR 45784
NPRM Comment Period End	12/29/88	53 FR 45784
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lynn B. Starnes, Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-1717

RIN: 1018–AB04

1086. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

California freshwater shrimp
NPRM 04/22/87 (52 FR 13754)
Final Action 10/31/88 (53 FR 43884)

DOI—FWS

Final Rule Stage

Chisos Mountain hedgehog cactus
NPRM 07/06/87 (52 FR 25275)
Final Action 09/30/88 (53 FR 38453)
Kearney's blue star
NPRM 07/10/87 (52 FR 26030)
Final Action 01/19/89 (54 FR 2131)
Mathis spiderling
NPRM 07/10/87 (52 FR 26033)
Extension of comment period 07/14/88 (53 FR 26616)
Final Action 00/00/00
Sacramento prickly poppy
NPRM 07/13/87 (52 FR 26164)
Final Action 00/00/00
Tipton kangaroo rat
NPRM 07/10/87 (52 FR 26040)
Extension of comment period 09/09/87 (52 FR 33960)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Additional Information: After reviewing the biological status of candidate and listed species, the Service promptly proceeds to propose rules to list, delist, or reclassify such species as appropriate. Generally, final action on the proposed rules must be taken within one year.

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-2171

RIN: 1018–AA10

1087. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:

Thornber's fishhook cactus
NPRM 04/24/84 (49 FR 17551)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Originally scheduled: October 1984.

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-2171

RIN: 1018–AA84

1088. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify, or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:

Inyo brown towhee (critical habitat)
NPRM 08/03/87 (52 FR 28787)
Final Action 00/00/00
Inyo brown towhee(listing)
NPRM 03/07/85 (50 FR 9300)
Final Action 08/03/87 (52 FR 28717)

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Originally scheduled: April 1985.

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, 18th & C Streets, NW, Washington, DC 20240, 703 358-2171

RIN: 1018–AA85

1089. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Least Bell's vireo critical habitat
Final Action 00/00/00
Least Bell's vireo listing
NPRM 05/03/85 (50 FR 18968)
Final Action 05/02/86 (51 FR 16474)

Small Entities Affected: None

Government Levels Affected: State

Additional Information: After reviewing the biological status of candidate and listed species, the Service promptly proceeds to propose rules to list, delist, or reclassify such species as appropriate. Generally, final action on the proposed rules must be taken within one year.

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-2171

RIN: 1018–AA95

1090. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological

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information available to the Department.

Timetable:

Bruneau hot spring snail
NPRM 12/30/86 (51 FR 47033)
Final Action 00/00/00
Leopard, goral, serow in Nepal
NPRM 06/14/85 (50 FR 24917)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1975

RIN: 1018–AA98

1091. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Fish Creek Springs tui chub
NPRM 03/10/86 (51 FR 8215)
Final Action 00/00/00
Virgin River chub
NPRM 06/24/86 (51 FR 22949)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1975

RIN: 1018–AB02

1092. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 017

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Florida lizards
NPRM 01/21/87 (52 FR 2242)
Final Action 00/00/00
Miami palmetto
NPRM - Extend comment period 07/21/87 (52 FR 27437)
Final Action 06/23/88 (53 FR 23674)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1975

RIN: 1018–AB06

1093. PROPOSED DETERMINATION OF EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF COLORADO SQUAWFISH

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to introduce Colorado squawfish (Ptychocheilus lucius) into the lower Colorado River in Arizona and to determine the population to be "nonessential experimental" population according to Section 10(j) of the Endangered Species Act. The Service will propose a special rule to allow take in accordance with State law. In the past, Colorado squawfish were more widespread in the State of Arizona, occurring in several river drainages. This action is being taken in an effort to establish an additional population within the species' historic range.

Timetable:

Action	Date	FR Cite
NPRM	06/28/87	52 FR 32143
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington DC 20240, 703 235-1975

RIN: 1018–AB09

1094. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Alabama cavefish
NPRM 12/04/87 (52 FR 46106)
Final Action 09/26/88 (53 FR 37968)

Decurrent false aster
NPRM 02/25/88 (53 FR 5588)
Final Action 00/00/00
Erubia
NPRM 11/19/87 (52 FR 44580)
Final Action 00/00/00
Gila trout
NPRM 10/21/87 (52 FR 37424)
Final Action 00/00/00
Independence Valley Speckled & Clover Valley dace
NPRM 09/18/87 (52 FR 35282)
NPRM Reopen commment period until 10/31/88 (53 FR 38309)
Final Action 09/00/89

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW., Washington, D.C. 20240, 703 235-1975

RIN: 1018–AB14

1095. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Alabama canebrake pitcher plant
NPRM 04/21/88 (53 FR 13230)
Final Action 04/00/89
Anastasia Island and Southeastern beach mouse
NPRM 07/05/88 (53 FR 25185)
Final Action 07/00/89
Autumn buttercup
NPRM 07/22/88 (53 FR 27724)
Final Action 07/00/89
Bee Creek Cave harvestman
NPRM 04/19/88 (53 FR 12787)
Final Action 09/16/88 (53 FR 36029)
Cooley's meadowrue
NPRM 04/21/88 (53 FR 13220)
Final Action 02/07/89 (54 FR 5935)
Dwarf-flowered heartleaf
NPRM 04/21/88 (53 FR 13223)
Final Action 04/00/89
Kretschmarr Cave mold beetle
NPRM 04/19/88 (53 FR 12787)
Final Action 04/00/89
Little-wing pearlymussel
NPRM 04/21/88 (53 FR 1322)
Final Action 11/14/88 (53 FR 45861)
Magazine Mountain shagreen
NPRM 07/05/88 (53 FR 25179)
Final Action 07/00/89
Osterhout milkvetch
NPRM 07/05/88 (53 FR 25181)
Final Action 07/00/89
Penland beard
NPRM 07/05/88 (53 FR 25181)
Final Action 07/00/89
Speckled pocketbook mussel
NPRM 07/25/88 (53 FR 27884)
Final Action 02/28/89 (54 FR 8339)
Tooth Cave ground beetle
NPRM 04/19/88 (53 FR 12787)
Final Action 09/16/88 (53 FR 36029)
Tooth Cave pseudoscorpion
NPRM 04/19/88 (53 FR 12787)
Final Action 09/10/88 (53 FR 36029)
Tooth Cave spider
NPRM 04/19/88 (53 FR 12787)
Final Action 09/16/88 (53 FR 36029)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Acting Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW., Washington, DC 20240, 703 235-1975

RIN: 1018–AB18

1096. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based soley on the biological information available to the Department.

Timetable:

American burying beetle
NPRM 10/11/88 (53 FR 39617)
Final Action 10/00/89
Brooksville bellflower
NPRM 09/12/88 (53 FR 35210)
Final Action 09/00/89
Chimpanzee and pygmy chimpanzee
NPRM 02/24/89 (54 FR 8152)
Final Action 02/00/90
Cooley's water willow
NPRM 09/12/88 (53 FR 35215)
Final Action 09/00/89
Cracking pearly mussel
NPRM 02/17/89 (54 FR 7225)
Final Action 02/00/90
Eastern/Western Prairie fringed orchid
NPRM 10/11/88 (53 FR 39621)
Final Action 10/00/89
Florida ziziphus
NPRM 09/28/88 (53 FR 37814)
Final Action 09/00/89
Michaux's sumac
NPRM 01/06/89 (54 FR 441)
Final Action 01/00/90
Purple-spined hedgehog cactus
NPRM 01/19/89 (54 FR 2173)
Final Action 01/00/90
Roanoke logperch
NPRM 09/07/88 (53 FR 34561)
Final Action 09/00/89
Rydberg milk vetch
NPRM 10/11/88 (53 FR 39626)
Final Action 10/00/89
Scrub blazing star
NPRM 09/28/88 (53 FR 37814)
Final Action 09/00/89
Shale barren rockcress
NPRM 11/17/88 (53 FR 46479)
Final Action 11/00/89

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, D.C. 20240, 703 235-1975

RIN: 1018–AB23

1097. MARINE MAMMALS: INCIDENTAL TAKING BY COMMERCIAL FISHING OPERATIONS

Legal Authority: 16 USC 101(a)(4); 16 USC 109(h)

CFR Citation: 50 CFR 18.22; 50 CFR 18.24

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DOI—FWS

Final Rule Stage

Legal Deadline: None

Abstract: The Service will develop regulations to implement a provision contained in the 1981 amendments to the Marine Mammal Protection Act, concerning the incidental taking of marine mammals by commercial fishermen. The rules would apply to those species of marine mammals for which the Service has responsibility, i.e. sea otters, walrus, polar bears, manatees, and dugongs, except those listed as depleted.

Timetable:

Action	Date	FR Cite
NPRM	04/12/88	53 FR 12043
NPRM Comment Period End	07/28/88	52 FR 24330
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lynn Starnes, Chief, Division of Fish and Wildlife, Management Assistance, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 358-1717

RIN: 1018–AA96

1098. MARINE MAMMALS: TAKE OF SMALL NUMBERS INCIDENTAL TO SPECIFIED ACTIVITIES

Legal Authority: 16 USC 1371(a)(5)(A); 16 USC 1536(b)(4)

CFR Citation: 50 CFR 18.27; 50 CFR 402.14(i)

Legal Deadline: None

Abstract: This rule will implement the 1986 amendments to the Marine Mammal Protection Act to allow the incidental take of depleted as well as non-depleted marine mammals, modify standards for determining whether to allow incidental taking and require that the incidental take of endangered or threatened marine mammals not be authorized until authorized under the provisions of the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	03/15/88	53 FR 6473
NPRM Comment Period End	07/05/88	53 FR 17964
Final Action	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Lynn B. Starnes, Chief, Division of Fish and, Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-1717

RIN: 1018–AB05

1099. SUBSISTENCE TAKE OF MIGRATORY BIRDS

Significance: Regulatory Program

Legal Authority: 16 USC 701 to 718

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: In 1979, the United States and Canada signed a protocol to amend the 1916 treaty concerning management of migratory birds. The protocol initiated efforts to recognize historical native subsistence of such birds. A rule will be developed to implement this international agreement.

Timetable:

Action	Date	FR Cite
ANPRM	03/10/83	48 FR 10101
NPRM	05/19/86	51 FR 18349

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The protocol has been reviewed by Canadian officials and they wish to reopen negotiations. This will delay indefinitely final action on development of an international agreement.

Agency Contact: David L. Olsen, Acting Assistant Director - Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-5333

RIN: 1018–AA92

1100. GENERAL PERMIT PROCEDURES AND MIGRATORY BIRD PERMITS: RAPTOR PROPAGATION AND FALCONRY REGULATIONS

Legal Authority: 16 USC 703; 16 USC 1531

CFR Citation: 50 CFR 21; 50 CFR 13

Legal Deadline: None

Abstract: This action will examine changes to the restrictions concerning propagation of raptors and standards for falconry. The Service will expand authorized activities and de-regulate certain other activities.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/86	51 FR 18812
ANPRM Comment Period End	05/23/86	51 FR 18812
NPRM	12/28/87	52 FR 48948
NPRM Comment Period End	02/26/88	52 FR 48948
Final Action	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Clark Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 1100 Arlington Square, Washington DC 20240, 703 358-1949

RIN: 1018–AB01

1101. ENDANGERED SPECIES CONVENTION

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The regulations implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) will be clarified and revised to incorporate recommendations of the Parties.

Timetable:

Action	Date	FR Cite
NPRM	10/03/88	53 FR 38755
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marshall Jones, Acting Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-2093

RIN: 1018–AA29

1102. FISH AND WILDLIFE RESTORATION GRANTS; INTEREST EARNED ON LICENSE FEES

Legal Authority: 16 USC 669i; 16 USC 777i

DOI—FWS

Final Rule Stage

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: This action proposes to incorporate general accepted accounting principles related to interest earned on fees collected by the States through the sale of hunting and fishing licenses. The rule would require States to ensure that such interest is used in their fish and wildlife conservation programs.

Timetable:

Action	Date	FR Cite
NPRM	08/05/88	53 FR 29500
Revised NPRM	08/05/88	53 FR 29500
NPRM Comment Period End	09/19/88	53 FR 29500
NPRM Public Comment Period End	09/19/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Because of the high number of comments received suggesting modification, the rule, as proposed, was not adopted. The amended proposed rule is being proposed to accommodate the concerns expressed.

Agency Contact: Conley Moffett, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 358-2156

RIN: 1018–AA97

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1103. HUMANE TRANSPORT OF WILD MAMMALS AND BIRDS

Significance: Regulatory Program

Legal Authority: PL 97-79, 95 Stat. 073

CFR Citation: 50 CFR 14

Legal Deadline: Final, Statutory, May 16, 1982.
180 days after enactment of Public Law 97-79, dated November 16, 1981.

Abstract: Section 9(d) of the Lacey Act Amendments of 1981 shifts authority for prescribing requirements for the humane and healthful transport of wild mammals and birds from the Secretary of the Treasury to the Secretary of the Interior. This authority will be promulgated in Part 14.

Timetable:

Action	Date	FR Cite
Final Action	11/10/87	52 FR 43274
Final Action Effective	02/08/88	52 FR 43274
Begin Review	02/08/88	53 FR 3894
Final ActionDelay effective date of final rule	02/10/88	53 FR 3894
Final Action Notice of effective date and enforcement policy	04/27/88	53 FR 15042
ANPRM	08/10/88	53 FR 30077
ANPRM Comment Period End	09/09/88	53 FR 30077
NPRM	03/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: April 1982. The final rule, published on November 10, 1987 (52 FR 43274), was to have taken effect on February 8, 1988; however, because of substantial controversy, the Service delayed the effective date until August. In response to a lawsuit, a preliminary injunction order was issued which ruled that delay of the effective date was without good cause. Consequently, the rule published in November is in force and effective as of February 8, 1988, as required by Court order. The service is reviewing the regulations for the purpose of proposing improvements and clarifications. A notice of intent to propose amendments was published on August 10, 1988.

Agency Contact: Marshall Jones, Acting Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 358-2093

RIN: 1018–AA07

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DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Prerule Stage

1104. ● YELLOWSTONE NATIONAL PARK: COMMERCIAL TRAFFIC ON U.S. HIGHWAY 191 WITHIN YELLOWSTONE NATIONAL PARK

Significance: Agency Priority

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.13

Legal Deadline: None

Abstract: The proposed regulation will exempt the section of U.S. 191 within Yellowstone National Park from the prohibition on the use of National Park Service roads by commercial vehicles when such use has in no way a connection with operation of the park; delete the special regulations establishing the speed limit on U.S. 191 within Yellowstone National Park; and restrict the amount and type of hazardous materials which may be transported on U.S. 191 within Yellowstone National Park. The special regulation establishing the present fee schedule for commercial traffic within Yellowstone will be eliminated and the Superintendent provided the discretion to establish and adjust fees for such use on an annual basis.

These actions will clearly define the management and regulation of commercial traffic on U.S. 191 through Yellowstone and assure a certain measure of protection against hazardous waste spills.

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DOI—NPS

Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert D. Barbee, Superintendent, Department of the Interior, National Park Service, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, WY 82190, 307 344-7381

RIN: 1024–AB82

1105. ● APOSTLE ISLANDS NATIONAL LAKESHORE: SNOWMOBILING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.62

Legal Deadline: None

Abstract: This proposed rule designates routes and frozen water surfaces for use by snowmobiles at Apostle Islands National Lakeshore. The general regulations at 36 CFR 2.18 prohibit such use unless routes and water surfaces are specifically identified and promulgated as special regulations. The intended effect of this regulation is to remove that prohibition and allow the use of snowmobiles to conduct legislatively authorized fishing activities.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alford J. Banta, Superintendent, Department of the Interior, National Park Service, RT 1, Box 4, Bayfield, WI 54814, 715 779-3397

RIN: 1024–AB80

1106. ● ALASKA REGION: SAME-DAY-AIRBORNE HUNTING REGULATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13.21

Legal Deadline: None

Abstract: The National Park Service is proposing rules what will prohibit the hunting of certain wildlife species in the National Preserve areas in Alaska on the same day in which a hunter is airborne. Hunting will continue to be allowed pursuant to State and Federal regulations. Access to those areas by aircraft for sport hunting and other purposes is also allowed. While the State of Alaska has a similar regulation in place, commonly referred to as the "same-day-airborne" regulation, recent changes to their regulation have allowed exceptions for some species in certain State of Alaska game management units including the National Preserve areas. This exception will allow "land-and-shoot" hunting of wolves in the National Preserves. The proposed National Park Service regulation will prohibit "land-and-shoot" hunting for big game including the following species: All species of Bears, Bison, Caribou, Elk, Mountain Goat, Moose, Musk Oxen, Dall Sheep, Wolf, Wolverine, Coyote, Arctic and Red Fox, and Lynx.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steve Shackelton, Law Enforcement Specialist, Department of the Interior, National Park Service, 2525 Gambell St., Rm. 107, Anchorage, AK 99503-2892, 907 257-2548

RIN: 1024–AB81

1107. ● INDIANA DUNES NATIONAL LAKESHORE: ZONING STANDARDS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 31

Legal Deadline: None

Abstract: The National Park Service is proposing to revoke Part 31 because the Act which authorized the Secretary of Interior to promulgate minimum zoning standards 80 Stat. 1309, was repealed by Section 1 (9) of 90 Stat. 1309, on October 18, 1976.

The purpose of the regulatory action is to revoke and to eliminate the zoning standards which no longer have any purpose or authority.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Loach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4206

RIN: 1024–AB79

DEPARTMENT OF THE INTERIOR (DOI)

National Park Service (NPS)

Proposed Rule Stage

1108. YOSEMITE NATIONAL PARK; WAWONA ZONING REGULATIONS

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 61

CFR Citation: 36 CFR Not yet determined

Legal Deadline: None

Abstract: The proposed rulemaking will provide for land use controls on privately owned lands in Wawona, Yosemite National Park, CA. The rulemaking will allow residential development to occur without threat of condemnation if the development is compatible with Federal and private interests, and if it meets the specific zoning requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jack Morehead, Superintendent, Department of the Interior, National Park Service, Yosemite National Park, P.O. Box 1024, Yosemite, CA 95389, 209 375-6391

RIN: 1024–AB77

DOI—NPS

Proposed Rule Stage

1109. APPALACHIAN NATIONAL SCENIC TRAIL

Legal Authority: 16 USC 3; 16 USC 1246(i)

CFR Citation: 36 CFR 7.100

Legal Deadline: None

Abstract: The Service proposes to review the levels of resource and visitor protection on the Appalachian Trail provided by the General Regulations in 36 CFR Parts 1 and 2 and to revise 36 CFR 7.100 accordingly.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Ritchie, Project Manager, Department of the Interior, National Park Service, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, WV 25425, 304 535-2346

RIN: 1024–AB07

1110. HAWAII VOLCANOES NATIONAL PARK: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.25

Legal Deadline: None

Abstract: The Service is proposing to revise the fishing regulations that pertain to Hawaii Volcanoes National Park to clarify provisions that address Native Hawaiian fishing rights in the Kalapana extension area of the Park.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Ames, Superintendent, Hawaii Volcanoes National Park, Department of the Interior, National Park Service, Hawaii 96718-0052, 808 967-7311

RIN: 1024–AB66

1111. MAMMOTH CAVE NP: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.36

Legal Deadline: None

Abstract: This proposed regulation pertains to Mammoth Cave National Park. The regulation will allow fishing to take place in accordance with applicable Kentucky State law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024–AA94

1112. CAPE HATTERAS NATIONAL SEASHORE: OFF-ROAD VEHICLE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.58

Legal Deadline: None

Abstract: The Service proposes to designate by regulation routes available for off-road vehicle use at Cape Hatteras National Seashore, NC.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Hartman, Superintendent, Cape Hatteras National Seashore, Department of the Interior, National Park Service, Route 1, Box 675, Manteo, NC 27954, 919 473-2111

RIN: 1024–AB54

1113. GLEN CANYON NATIONAL RECREATION AREA: COMMERCIAL OPERATIONS AND WHITEWATER BOATING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.70

Legal Deadline: None

Abstract: The Service proposes to amend special regulations that apply to Glen Canyon National Recreation Area by clarifying provisions that pertain to commercial operations and deleting duplicative provisions that pertain to Colorado River Whitewater boat trips.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Lancaster, Superintendent, Department of the Interior, National Park Service, Glen Canyon National Recreation Area, Box 1507, Page, AZ 86040, 602 645-2471

RIN: 1024–AB72

1114. SEQUOIA AND KINGS CANYON NATIONAL PARKS: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.8

Legal Deadline: None

Abstract: The proposed rulemaking would revise the Parks' fishing regulation. The changes would simplify existing fishing regulation, maintain the existing variety of recreational fishing opportunities, help restore the natural distribution and abundance of native species, help retard expansion of introduced species, and open most streams to fishing which are currently closed. Anglers would have to be able to identify fish they kept, and in some areas they would be required to use single barbless hooks.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold Werner, Fish and Wildlife Biologist, Department of

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the Interior, National Park Service, Sequoia and Kings Canyon National Parks, Three Rivers, CA 93271, 209 565-3341

RIN: 1024–AB76

1115. BIG THICKET NATIONAL PRESERVE: HUNTING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.85

Legal Deadline: None

Abstract: The Service proposes to revise the hunting regulations that apply to the Big Thicket. Changes proposed include dates for open seasons, the use of temporary blinds, permits, the use of calling devices and the use of dogs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, NM 87501, 505 988-6371

RIN: 1024–AB48

1116. CAPE LOOKOUT NATIONAL SEASHORE: OFF-ROAD VEHICLES

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.98

Legal Deadline: None

Abstract: This proposed regulation pertains to Cape Lookout National Seashore and will establish criteria for the operation of vehicles in off-road situations consistent with existing NPS policy.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024–AA89

1117. MINERALS MANAGEMENT - NON-FEDERAL OIL AND GAS

Significance: Agency Priority

Legal Authority: 16 USC 1 et seq.; 16 USC 410g; 16 USC 4101; 16 USC 459d-3; 16 USC 459h-3; 16 USC 698c; 16 USC 698i; 16 USC 460-2(i); 16 USC 450kk; 16 USC 230a; PL 100-301, Sec 8; PL 100-301, Sec 8; 31 USC 9701

CFR Citation: 36 CFR 9, Subpart B

Legal Deadline: Final, Statutory, January 29, 1989.
Section 8 of the Big Cypress National Preserve Addition Act directs the Secretary of the Interior to promulgate regulations governing nonfederal oil and gas development in the (cont)

Abstract: Several sections of 36 CFR Part 9, Subpart B contain ambiguous language which has caused confusion in interpreting the existing regulations. The NPS wants to make technical revisions to clarify requirements for both applicants and the Service. Also, the existing regulations exempt two classes of operators from compliance. Because of these exemptions, the regulations apply to only 35% of the existing operations resulting in avoidable impacts to park resources and visitor values from unregulated operations. Finally, the Service intends to revise the existing regulations to incorporate congressionally mandated requirements and timetables governing nonfederal oil and gas development in the Big Cypress National Preserve Addition. Examples of such revisions include: making the regulations applicable to all oil and gas operations within all units of the National Park System; updating terms for consistency with existing policies, practices, and laws; removing the monetary ceiling and floor on bonds and security deposits so that bonds may be calculated and posted commensurate with reclamation costs; revising sections of the regulations to make them consistent with the enabling (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	
Final Action	06/00/89	
Final Action Effective	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: legislation of affected units; and, clarifying compliance issues associated with different access conditions. Revisions will decrease the potential for prolonged uncertainty among applicants.

LEGAL DEADLINE CONT: "Addition" within nine months of the date of the enactment of that statute, which was signed into law on April 29, 1988.

Agency Contact: Pam Matthes, Environmental Protection Specialist, Land Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Room 3223, 1100 L St., NW, Washington, DC 20013-7127, 202 523-5120

RIN: 1024–AB39

1118. MANAGEMENT OF MINERAL DEVELOPMENT ASSOCIATED WITH MINING CLAIMS

Significance: Agency Priority

Legal Authority: 16 USC 1901 et seq Mining in the Parks Act of 1976; 16 USC 1 et seq NPS Organic Act; 30 USC 21 et seq Mining Law of 1872

CFR Citation: 36 CFR 9, Subpart A

Legal Deadline: None

Abstract: The existing regulations at 36 CFR Part 9, Subpart A, promulgated in January of 1977, contain several provisions that are either outdated or have proven difficult to understand, enforce and comply with. Most notable is a provision regarding the use of water in connection with mining claims within National Park System units. The current language creates a "catch 22" for miners seeking to use water in connection with their claims. In order to use water in a park, a miner must have perfected water right. However, to obtain a perfected water right, a miner must use water. Herein lies the "catch 22." The National Park Service (NPS) would like to rectify this dilemma through a rule change that would eliminate the perfected water right language while at the same time preserve the Service's ability to protect water quality and quantity. Additional changes sought by the NPS are as follows: Several sections of the regulations refer to a surface disturbance moratorium (mandated by the Mining in the Parks Act of 1976, 16 USC 1901 et seq) which expired in 1980. Other sections include transitional procedures used temporarily in implementing the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	
Final Action	07/00/89	
Final Action Effective	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol McCoy, Chief, Policy and Regulations Section, Land Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Room 3223, 1100 L St., NW, Washington, DC 20013-7127, 202 523-5120

RIN: 1024–AB74

1119. MINERALS MANAGEMENT: NONFEDERAL RIGHTS OTHER THAN OIL AND GAS

Significance: Agency Priority

Legal Authority: 16 USC 1 et seq; 31 USC 9701; 5 USC 301

CFR Citation: 36 CFR 9, Subpart C

Legal Deadline: None

Abstract: Extensive nonfederal mineral rights exist within units of the National Park System. The Service presently regulates only nonfederal oil and gas activities occurring in those units. Mineral activities, other than those associated with nonfederal oil and gas, are occurring in approximately 13 units of the System. There are also 7 additional units in which nonfederal mineral development is currently proposed or has recently been proposed. The Service is charged by Congress to ensure that the development of nonfederal mineral rights within park boundaries is consistent with the purposes for which the units were established. The proposed regulation would establish procedures and standards governing nonfederal mineral development, other than nonfederal oil and gas, in a manner that protects affected park units until such time that the Service has sufficient funds to acquire the mineral right.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Determination of effects	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sharon Kliwinski, Environmental Protection Specialist, Land Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Room 3223, 1100 L Street, NW, Washington, DC 20013-7127, 202 523-5120

RIN: 1024–AB75

1120. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT; DEPARTMENT OF THE INTERIOR REGULATIONS

Legal Authority: 16 USC 469; 16 USC 470; 16 USC 470aa

CFR Citation: 36 CFR 66

Legal Deadline: None

Abstract: This rule is part of the Department's proposed overall rulemaking with respect to the Archeological and Historic Preservation Act of 1974. This guidance will facilitate the Department's coordination of activities authorized under the Act, and its reporting to Congress on the scope and effectiveness of the program, as required by section 5(c) of the Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/85	50 FR 43587
ANPRM Comment Period End	11/27/85	50 FR 43587
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Bennie C. Keel, Departmental Consulting Archeologist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-1876

RIN: 1024–AA49

1121. ● PROTECTION OF ARCHAEOLOGICAL RESOURCES; UNIFORM REGULATIONS

Legal Authority: PL 100-555; PL 100-588

CFR Citation: 43 CFR 7; 36 CFR 296; 18 CFR 1312; 32 CFR 229

Legal Deadline: None

Abstract: Amendments to the Archaeological Resources Protection Act of 1979 (PL 96-95) made by Congress in 1988 require amendments to the uniform regulations. Some of the amendments require changes in existing regulatory language, and some amendments add new responsibilities which may require additional regulatory guidance. Alternatives being considered are based upon the extent to which existing agency cultural resources management manuals address the new statutory responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Waldbauer, Archeologist, Department of the Interior, National Park Service, Archeological Assistance Division, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4113

RIN: 1024–AA51

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DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Final Rule Stage

1122. ● VEHICLES AND TRAFFIC SAFETY: MANDATORY SEATBELT REGULATION

Significance: Agency Priority

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 4.15

Legal Deadline: NPRM, Statutory, October 1988.

Abstract: This rulemaking would establish an NPS mandatory seatbelt regulation to apply in park areas that are located within States that do not have a seatbelt law in effect. This regulation would affect 100 park areas in 16 States. The regulation would apply to all of a vehicle's front seat occupants except those that are occupying a seat that was not originally equipped by the manufacturer with a seatbelt and those with a medical condition that prevents restraint by a seatbelt.

The National Park Service is required to issue the proposed rule by a provision in the Department's 1989 FY Appropriations Act.

Timetable:

Action	Date	FR Cite
NPRM	12/21/88	53 FR 51526
NPRM Comment Period End	02/21/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Loach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4206

RIN: 1024–AB83

1123. CUYAHOGA VALLEY NRA: OFF-ROAD VEHICLES AND SNOWMOBILES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.17

Legal Deadline: None

Abstract: The Service proposes to designate routes for off-road vehicles and snowmobile use in compliance with Executive Order 11644, in an area west of Riverview Road bounded by I-80 and I-271.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22662
NPRM Comment Period End	07/15/87	52 FR 22662
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian McHugh, Chief Park Ranger, Cuyahoga Valley NRA, Department of the Interior, National Park Service, 15610 Vaughn Road, Brecksville, OH 44141, 216 526-5256

RIN: 1024–AB44

1124. CANYON DE CHELLY NATIONAL MONUMENT

Significance: Regulatory Program

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.19

Legal Deadline: None

Abstract: This proposed rulemaking will establish criteria for the operation of horse rental facilities within Canyon De Chelly National Monument.

Timetable:

Action	Date	FR Cite
NPRM	05/27/87	52 FR 19735
NPRM Comment Period End	06/26/87	52 FR 19735
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, NM 87501, 505 988-6371

RIN: 1024–AB47

1125. FORT JEFFERSON NM: FISHING; BOUNDARY ADJUSTMENTS

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.27

Legal Deadline: None

Abstract: This proposed regulation pertains to Fort Jefferson National Monument and will delete references to the taking of crayfish and conch. Information will be included to redefine the park boundary. These changes are necessary to reflect a closure of park waters to the removal of crayfish and conch and to update boundary changes mandated by congressional action in 1980 that enlarged the park area.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	51 FR 28110
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024–AA96

1126. JEAN LAFITTE NHP: CRAWFISHING REGULATIONS

Legal Authority: 16 USC 3; 16 USC 230d

CFR Citation: 36 CFR 7.37

Legal Deadline: None

Abstract: The proposed rulemaking pertains to Jean Lafitte National Historical Park located in Louisiana. The rulemaking will establish criteria for the harvesting of crawfish in the Barataria Unit and will establish a recreational and subsistence season. The policy is consistent with Public Law 95-625 and existing National Park Service and Department of the Interior policies.

Timetable:

Action	Date	FR Cite
NPRM	08/18/86	51 FR 29498
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Isenogle, Superintendent, Jean Lafitte National Historical Park, Department of the Interior, National Park Service, 423 Canal Street, Rm. 206, New Orleans, LA 70130, 504 589-3882

RIN: 1024–AB33

1127. EVERGLADES NP: MINING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.45(a)

Legal Deadline: None

Abstract: This deletion applies to Everglades National Park in Florida. Section 7.45(a) will be deleted because it is a duplication of the General

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Final Rule Stage

Regulations 36 CFR, Sections 1.6, 1.7 and 2.1.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	51 FR 28108
NPRM Comment Period End	09/04/86	51 FR 28108
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FTS 242-4916.

Agency Contact: William Sturgeon, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, Southeast Regional Office, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024–AB10

1128. LAKE CHELAN NRA: TARGET PRACTICE

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.62

Legal Deadline: None

Abstract: This proposed rulemaking pertains to Lake Chelan NRA and will designate a specially designed and constructed facility and time and location for target practice.

Timetable:

Action	Date	FR Cite
NPRM	05/09/85	50 FR 19546
NPRM Comment Period End	06/10/85	50 FR 19546
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Reynolds, Superintendent, North Cascades National Park, Department of the Interior, National Park Service, 800 State Street, Sedro Wooley, WA 98284, 206 855-1331

RIN: 1024–AB19

1129. ● CAPE COD NATIONAL SEASHORE: OFF-ROAD VEHICLE REGULATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.67

Legal Deadline: None

Abstract: The Department proposes to modify the vehicle routes and travel restrictions at Cape Cod National Seashore established by the existing Cape Cod Off-Road Vehicle Regulations, which were adopted on September 3, 1985, by opening additional beach areas to off-road vehicle use and to allow use of some of the beaches at night only by off-road vehicles.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $35,000; Base Year for Dollar Estimates: 1989

Agency Contact: Anthony Bonanno, Chief Ranger, Department of the Interior, National Park Service, Cape Cod National Seashore, South Wellfleet, MA 02663, 508 349-3785

RIN: 1024–AA91

1130. ROSS LAKE NRA: TARGET PRACTICE

Legal Authority: 16 USC 1

CFR Citation: 36 CFR 7.69

Legal Deadline: None

Abstract: This proposed rulemaking pertains to Ross Lake National Recreation Area and will designate a specially designed and constructed facility and time and location for target practice.

Timetable:

Action	Date	FR Cite
NPRM	05/09/85	50 FR 19546
NPRM Comment Period End	06/10/85	50 FR 19546
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Reynolds, Superintendent, North Cascades National Park, Department of the Interior, National Park Service, 800 State Street, Sedro Wooley, WA 98284, 206 855-1331

RIN: 1024–AB28

1131. ROCKY MOUNTAIN NATIONAL PARK: TRUCKING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.7

Legal Deadline: None

Abstract: The Service proposes to revise regulations that address permit requirements and establish a fee schedule for commercial trucks that use Trail Ridge Road within Rocky Mountain National Park.

Timetable:

Action	Date	FR Cite
NPRM	09/29/86	53 FR 32924
NPRM Comment Period End	09/28/88	
Final Action	04/15/89	
Final Action Effective	05/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Essex, Chief Ranger, Rocky Mountain National Park, Department of the Interior, National Park Service, Estes Park, CO 80517, 303 586-2371

RIN: 1024–AB67

1132. BIG CYPRESS NATIONAL PRESERVE: INDIAN USE AND OCCUPANCY

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.86

Legal Deadline: None

Abstract: This rule will define the statutory rights of the Miccosukee and Seminole Indians within Big Cypress National Preserve. Although a proposed rule was published in 1981, a revised proposed rulemaking will be developed.

Timetable:

Action	Date	FR Cite
NPRM	11/21/81	46 FR 55709
NPRM	05/10/88	53 FR 16561
NPRM Comment Period End	07/11/88	53 FR 16561
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities, Department of the Interior, National Park Service, Southeast Regional Office.

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Final Rule Stage

75 Spring Street, SW, Atlanta, GA 30303, 404 242-4916

RIN: 1024–AA07

1133. WHISKEYTOWN NATIONAL RECREATION AREA FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.91

Legal Deadline: None

Abstract: The Service is proposing to allow fishing at Whiskeytown National Recreation area in any manner authorized under applicable State law.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3759
NPRM Comment Period End	03/10/88	53 FR 3759
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ray Foust, Superintendent, Department of the Interior, National Park Service, PO Box 188, Whiskeytown, CA 96095, 916 241-6584

RIN: 1024–AB61

1134. WHISKEYTOWN UNIT, WHISKEYTOWN - SHASTA - TRINITY NRA GOLD PANNING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.91

Legal Deadline: None

Abstract: The Service proposes to allow visitors to engage in limited gold panning activities, using pan and trowel only, in certain designated streams within the recreation area. Any gold recovered by such methods could be retained for personal, non-commercial use.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3759
Final Action	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ray Foust, Superintendent, Department of the Interior, National Park Service, Whiskeytown National Recreation Area, Box 188, Whiskeytown, CA 96095, 916 241-6584

RIN: 1024–AB71

1135. BIGHORN CANYON NATIONAL RECREATION AREA - FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.92

Legal Deadline: None

Abstract: The Service proposes to authorize fishing at Bighorn Canyon National Recreation area in any manner authorized under the applicable laws of Montana and Wyoming.

Timetable:

Action	Date	FR Cite
NPRM	10/10/86	51 FR 36409
NPRM Comment Period End	11/10/86	51 FR 36409
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Lake, Chief, Park Ranger, Bighorn Canyon NRS, Department of the Interior, National Park Service, PO Box 458, Ft. Smith, MT 59035, 406 666-2412

RIN: 1024–AB63

1136. NPS UNITS IN ALASKA: CLOSURE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: This rule will provide for the closure of certain areas within Denali National Park and Preserve, Glacier Bay National Park and Preserve, Gates of the Arctic National Park and Preserve and Katmai National Park and Preserve to snowmachines, motorboat and aircraft use.

Timetable:

Action	Date	FR Cite
NPRM	04/06/83	48 FR 14978
NPRM Comment Period End	06/06/83	48 FR 14978
Comment Period Extension Begin	06/06/83	48 FR 26319
Comment Period Extension Ends	08/06/83	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: April 1982.

Agency Contact: David B. Ames, Associate Regional Director, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503, 907 271-2864

RIN: 1024–AA71

1137. KATMAI NATIONAL PARK AND PRESERVE FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13.66

Legal Deadline: None

Abstract: This proposal is to modify fishing regulations for the Brooks River in Katmai National Park and Preserve. A change will be made to the open bait season on the Naknek River to remain consistent with changing State regulations.

This proposal is consistent with National Park Service General Regulations and Policies.

Timetable:

Action	Date	FR Cite
NPRM	08/08/88	53 FR 29746
NPRM Comment Period End	10/07/88	53 FR 29746
Final Action	05/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Hurd, Chief Ranger, Department of the Interior, National Park Service, P.O. Box 7, King Salmon, AK 99613, 907 246-3305

RIN: 1024–AB78

1138. FIRE ISLAND NATIONAL SEASHORE: ZONING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 28

Legal Deadline: None

Abstract: This rule will be revised to add new definitions, to amend permitted and prohibited uses and to update zoning standards to reflect Seashore policy and local zoning ordinances.

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Timetable:

Action	Date	FR Cite
NPRM	10/07/87	52 FR 37586
NPRM Comment Period End	11/06/87	52 FR 37586
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Larry Hovig, Department of the Interior, National Park Service, North Atlantic Regional Office, 15 State Street, Boston, MA 02109, 617 223-1178

RIN: 1024–AA80

1139. NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 60

Legal Deadline: None

Abstract: This rule is being amended to revise: appeals for listing nominations by persons or local governments in States without approved State historic preservation programs; procedures for nominations from State and Federal agencies; and procedures for making changes to listed properties and removals from the National Register, including appeals, and to incorporate 36 CFR Part 63.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/16/81	
NPRM	08/05/86	51 FR 28204
NPRM Comment Period End	10/06/86	51 FR 28204
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: Carol Shull, Chief, National Register Branch, Interagency Resources Division, Department of the Interior, National Park Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-9500

RIN: 1024–AA44

1140. DETERMINATION OF ELIGIBILITY FOR INCLUSION IN THE NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 63

Legal Deadline: None

Abstract: This rule incorporates certain revisions responding to the National Historic Preservation Act Amendments of 1980. In addition to responding to the new law, these changes update and revise in other minor respects the procedures for determining the eligibility of properties for the National Register. This rule will be consolidated with 36 CFR Part 60. Proposed rule (36 CFR Part 1204) was published May 23, 1980 (45 FR 34909).

Timetable:

Action	Date	FR Cite
NPRM 36 CFR 1204	05/23/80	45 FR 34909
NPRM	06/05/86	51 FR 28216
NPRM Comment Period End	10/06/86	51 FR 28216
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: July 1979.

Agency Contact: Carol Shull, Chief, National Register Branch, Interagency Resources Division, Department of the Interior, National Park Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-9539

RIN: 1024–AA46

1141. HISTORIC PRESERVATION CERTIFICATIONS PURSUANT TO SECTION 48(G) AND SECTION 170(H) OF THE INTERNAL REVENUE CODE OF 1986

Legal Authority: 16 USC 470(a)(1)(A); 26 USC 48 (g); 26 USC 170(h)

CFR Citation: 36 CFR 67, (Revised)

Legal Deadline: None

Abstract: This proposed rule restates and makes amendments to the procedures by which owners desiring tax benefits for rehabilitation of historic buildings apply for certifications pursuant to Section 48(g) and Section 170(h) of the Internal Revenue Code of 1986. These tax laws require certifications from the Secretary of the Interior in order for taxpayers to receive tax benefits.

Timetable:

Action	Date	FR Cite
NPRM	05/23/88	53 FR 18292
NPRM Comment Period End	07/22/88	53 FR 18292
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. Ward Jandl, Chief, Technical Preservation Services Branch, Department of the Interior, National Park Service, P O Box 37127, Washington, DC 20013-7127, 202 343-9584

RIN: 1024–AB73

1142. CURATION OF FEDERALLY OWNED AND ADMINISTERED ARCHEOLOGICAL COLLECTIONS

Legal Authority: 16 USC 470a; 16 USC 470dd

CFR Citation: 36 CFR 79

Legal Deadline: None

Abstract: This rule fulfills the Secretary of the Interior's responsibility to issue regulations on the disposition, exchange and curation of federally owned and administered prehistoric and historic archeological artifacts and associated records recovered under the Antiquities Act of 1906, the Reservoir Salvage Act of 1960 (as amended by the Archeological and Historic Preservation Act of 1974), Section 110 of the National Historic Preservation Act of 1966 (as amended) and the Archeological Resources Protection Act of 1979. The regulation will establish (a) minimum standards for repositories that provide long-term curatorial services; (b) guidelines for Federal agencies for entering into contracts and agreements with repositories and other parties for the care and management of collections; (c) guidelines for access to, loan of and use of collections; and (d) guidelines for the exchange and ultimate disposition of collections.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/85	50 FR 41527
ANPRM Comment Period End	11/12/85	50 FR 41527
NPRM	08/28/87	52 FR 32740

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DOI—NPS

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	10/27/87	52 FR 32740
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The proposed rule was published for public comment on August 28, 1987. Comments were received from 41 agencies and organizations, including 11 Federal agencies, 7 State agencies, 8 Indian tribes and organizations, 7 museums, 5 archeological and museum organizations, 2 industrial firms, and 1 individual. The National Park Service is in the process of analyzing the comments, making appropriate revisions, and preparing responses to the comments for publication in the preamble of the final rulemaking.

Agency Contact: Bennie C. Keel, Departmental Consulting Archeologist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-1876

RIN: 1024–AB13

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Completed Actions

1143. ROCKY MOUNTAIN NATIONAL PARK: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.7(a)

Legal Deadline: None

Abstract: The Service proposes to revise this section to further define waters closed to fishing as well as to further clarify the possession limit of fish.

Timetable:

Action	Date	FR Cite
NPRM	08/16/88	53 FR 30849
NPRM Comment Period End	09/15/88	
Final Action	01/27/89	54 FR 4019
Final Action Effective	02/27/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Stevens, Research Biologist, Department of the Interior, National Park Service, Rocky Mountain National Park, Estes Park, CO 80517, 303 586-2371

RIN: 1024–AB46

1144. NPS UNITS IN ALASKA: CONCESSIONS

Legal Authority: 16 USC 1

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: This rulemaking will establish procedures for providing commercial visitor services in certain Alaska national park areas as provided for by the Alaska National Interest Lands Act.

Timetable:

Action	Date	FR Cite
No further action will be taken at this time.	02/24/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David B. Ames, Associate Regional Director, Department of the Interior, National Park Service, Alaska Regional Office - NPS, 2525 Gambell Street, Anchorage, AK 99503, 907 271-4551

RIN: 1024–AB18

1145. CEMETERY SITES AND HISTORICAL PLACES

Legal Authority: 16 USC 3

CFR Citation: 43 CFR 2653

Legal Deadline: None

Abstract: The Service is proposing to amend 43 CFR 2653.5 by deleting all references to the Service as the consulting agency concerning the cultural value and significance of existing Alaska Native cemetery sites and historical places. This revision will relieve the Service from the responsibility of being the consulting agency for sites located on all Federal lands in Alaska, thus eliminating an expensive duplication of Federal effort.

Timetable:

Action	Date	FR Cite
No further action will be taken at this time.	02/24/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: Rich O'Guinn, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503, 907 271-2660

RIN: 1024–AA84

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DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Prerule Stage

1146. INDIVIDUAL INDIAN MONEY ACCOUNTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 43 USC 1457

CFR Citation: 25 CFR 115

Legal Deadline: None

Abstract: The Individual Indian Money Account program involves funds held in trust status for individuals. Although the rule generally prohibits voluntary accounts, except in circumstances of substantial hardship, the Bureau currently maintains many such accounts in the program. The current regulations will be revised to include specific criteria which must be met by voluntary depositors and which determine cases of "substantial hardship" as required by the regulations.

Timetable:

Action	Date	FR Cite
Revise regulations for Exception Criteria	04/00/89	
NPRM	09/00/89	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Betty L. Wilkinson, Chief, Division of Accounting Management, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4807

RIN: 1076–AB91

DOI—BIA

Prerule Stage

1147. ● REVISED PROCEDURES FOR IMPLEMENTATION OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT AMENDMENTS OF 1988

Significance: Regulatory Program

Legal Authority: 93 USC 638; 100 USC 202; 100 USC 446; 100 USC 472; 100 USC 581

CFR Citation: 25 CFR 271; 25 CFR 272; 25 CFR 274; 25 CFR 275; 25 CFR 276; 25 CFR 277; 25 CFR 286

Legal Deadline: NPRM, Statutory, August 5, 1989. Final, Statutory, October 5, 1989.

Abstract: The primary purpose of the amendments to 93 USC 638 is to permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services while maintaining the Federal Government's unique and continuing relationship with and responsibility to individual Indian tribes and to the Indian people as a whole. In addition to extensive consultation with the tribes and Native American groups, the Bureau of Indian Affairs is examining all of its planning administrative procedures from the perspective of maximizing tribal participation. Due to the broad scope of the review, an estimate of the potential cost and potential benefit is premature. The changes are one of process rather than increases or decreases in budget or program funding. The major potential cost is to the Federal Government in order to meet the insurance requirement of the law. The amount is undetermined to date.

Timetable:

Action	Date	FR Cite
ANPRM	04/05/89	
NPRM	08/05/89	
NPRM Comment Period End	09/05/89	
Final Action Effective	10/05/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Bonnie Paquin, Coordinator, Department of the Interior, Bureau of Indian Affairs, Room 4641-MIB, 18th & C Streets, NW, Washington, DC 20240, 202 343-5706

RIN: 1076–AC20

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Proposed Rule Stage

1148. PROCEDURES FOR ESTABLISHING THAT AN AMERICAN INDIAN GROUP EXISTS AS AN INDIAN TRIBE

Significance: Regulatory Program

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 83

Legal Deadline: None

Abstract: The proposed rule revision will resolve problems encountered with existing regulations published almost ten years ago. Revisions will reduce time and resources required to process petitions, clarify terms and definitions, interpret criteria, add a process whereby groups may withdraw a petition, improve the appeal process and respond to changing conditions. The revised rule will be more cost effective for the Department and Indian groups petitioning for Federal acknowledgment. The proposed revisions will be published taking into consideration ten years of experience with the regulations. Revisions will reflect recommendations received from the Congress, Indian groups and tribes, other Federal agencies and national organizations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	07/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynn Forcia, Chief, Branch of Acknowledgment and Research, Department of the Interior, Bureau of Indian Affairs, Room 4627, Main Interior, 18th & C Streets, NW, Washington, DC 20240, 202 343-3568

RIN: 1076–AC15

1149. THE INDIAN POLICE

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is revising its regulations governing the Bureau's police operations to make them consistent with contemporary enforcement policies and procedures and changes in the Interior Department Manual and the DIA Manual.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James P. Donovan, Chief, Division of Law Enforcement Services, Department of the Interior, Bureau of Indian Affairs, 1951

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Constitution Ave., NW, Room 1364, Code 430, Washington, DC 20245, 202 343-5766

RIN: 1076–AB96

1150. SMALL ESTATES - OSAGE

Legal Authority: 92 Stat. 1660

CFR Citation: 25 CFR 18

Legal Deadline: None

Abstract: This rulemaking action would permit the Field Solicitor, Pawhuska, Oklahoma, to determine the heirs, devisees and/or legatees of estates under the jurisdiction of the Osage Agency, consisting of Osage headright interest, real estate on which restrictions against alienation have not been removed, and/or funds on deposit at the Osage Agency, all of which do not exceed a valuation of $10,000 on the date of death of a decedent, when requested in writing by one or more of the heirs, devisees and/or legatees; provided, that a court of competent jurisdiction has not proceeded to administer or probate the estate. The administration of such estates by the Field Solicitor would alleviate the necessity of the employment of an attorney by the beneficiaries, approval of the will pursuant to 25 CFR Part 17, and the filing of administration or probate proceedings in State Court. Because of the size of these estates, it is financially impractical for the beneficiaries to employ attorneys for that purpose.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard Piepenbrink, Chief, Branch of Titles and Research, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 18th & C Streets, NW, Washington, DC 20240, 202 343-5473

RIN: 1076–AC18

1151. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 13; PL 98-473

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: The Bureau is amending existing Financial Assistance and Social Services Program regulations to further define the adult care services provided to Indian people. These proposed regulations define the extent of the program, establish eligibility requirements, and establish adult care services as a social services program separate and distinct from the general assistance program. The revision is needed to specifically define the Bureau's role in the provision of institutional and in-home care to Indian adults who are mentally or physically handicapped or otherwise disabled. The Bureau is also amending miscellaneous assistance provisions to conform with the congressional directive in Public Law 98-473. Miscellaneous assistance will be revised and defined as burial assistance. Emergency assistance previously provided under miscellaneous assistance was transferred to general assistance by revision of 25 CFR Part 20(c) on September 30, 1985.

Timetable:

Action	Date	FR Cite
Distribute draft rule to all Area Offices for review	04/30/89	
NPRM	06/30/89	
Final Action	09/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Delaware, Acting Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Washington, DC 20245, 202 343-6434

RIN: 1076–AB99

1152. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: This rulemaking action is being taken to further define various programmatic responsibilities of the Child Welfare Assistance and Child and Family Service Program under this part.

Timetable:

Action	Date	FR Cite
NPRM	04/30/89	
NPRM Comment Period End	06/30/89	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Delaware, Acting Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-6434

RIN: 1076–AC13

1153. ADMINISTRATION OF A PROGRAM OF EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 28

Legal Deadline: None

Abstract: The purpose of the rule is to combine the rules described in 25 CFR Part 26, Employment Assistance for Adult Indians, and 25 CFR Part 27, Vocational Training for Adult Indians, into a new 25 CFR Part 28. The application and selection process, financial assistance, program services, and employment as the objective are common to both Parts 26 and 27. Another purpose is to establish uniform procedures for administration of the employment assistance for adult Indians program and include requirements to improve the administrative efficiency of the program.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deane Poleahla, Actg. Division Chief, Job Placement and Training, Department of the Interior, Bureau of Indian Affairs, 18th & C Streets, NW, Washington, DC 20240, 202 343-3570

RIN: 1076–AA04

1154. SCHOOL BOARDS

Significance: Agency Priority

Legal Authority: 25 USC 2001 et seq

CFR Citation: 25 CFR 35

Legal Deadline: None

Abstract: The purpose of this rule is to define and delineate the duties and responsibilities of local Indian School Boards in accordance with Federal statutes and regulations. This rule will provide Bureau-wide consistency for the overall exercise of authority and control of Bureau operated schools.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 18th & C Streets, NW, Washington, DC 20240, 202 343-4872

RIN: 1076–AC14

1155. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Significance: Agency Priority

Legal Authority: 25 USC 1815; 25 USC 640

CFR Citation: 25 CFR 41, (Revision)

Legal Deadline: None

Abstract: The Secretary proposes to revise the current regulations which are used to govern the administration of grants to the Tribally Controlled Community Colleges. The revision is mandatory since the current regulations do not apply to the new requirements which were made under the Amendments Act. The revision will govern the new requirements which include: 1. Planning Grants; 2. Forward Funding; 3. Facility Construction; 4. Endowments; and 5. New Method of Counting Students.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virgil Akens, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4871

RIN: 1076–AA11

1156. CERTIFICATES OF DEGREE OF INDIAN BLOOD

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 70

Legal Deadline: None

Abstract: This rulemaking action is to add a new Part 70 to govern the issuance of Certificates of Degree of Indian Blood (CDIB's). There has been a sharp increase in the number of requests for CDIB's over the past few years. More and more programs are requiring individuals to submit CDIB's to document possession of Indian blood. This rulemaking action is intended to clarify the circumstances under which the Bureau will issue CDIB's; the documents and records on which the Bureau will base the issuance of CDIB's; and the procedures that individuals will need to follow, including any documentation requirements, to obtain CDIB's.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 18th & C Streets, NW, Washington, DC 20240, 202 343-1702

RIN: 1076–AC19

1157. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Legal Authority: 25 USC 1451; PL 93-262

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: This part is being revised to incorporate legislative changes made pursuant to the Amendments to the Indian Financing Act of 1984 and 1988, to reflect policy changes in program administration and to add clarifying language to the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
NPRM Comment Period End	08/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Nephew, Acting Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-5831

RIN: 1076–AC00

1158. LOAN GUARANTY, INSURANCE, AND INTEREST SUBSIDY

Legal Authority: 88 Stat. 77

CFR Citation: 25 CFR 103

Legal Deadline: None

Abstract: This part is being revised to incorporate legislative changes made pursuant to the Amendments to the Indian Financing Act of 1984 and 1988, to reflect policy changes in program administration and to add clarifying language to the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Nephew, Acting Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-5831

RIN: 1076–AC01

1159. LEASING AND PERMITTING

Significance: Agency Priority

Legal Authority: 25 USC 395; 25 USC 402; 25 USC 403; 25 USC 466

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: The Bureau proposes to reorganize Part 162 into subparts to facilitate the use of the regulations for easier reference and to incorporate

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requirements for grazing permits within the rule for Leasing and Permitting. The inclusion of the requirements for grazing permits in this part will result in the removal of 25 CFR Part 166, General Grazing Regulations, from the 25 CFR.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Pennington, Natural Resources Officer, Billings Area Office, Department of the Interior, Bureau of Indian Affairs, 316 North 26th Street, Billings, MT 58101, 406 657-6145

RIN: 1076–AA29

1160. ROADS OF THE BUREAU OF INDIAN AFFAIRS

Legal Authority: 25 USC 47; 25 USC 318a; 23 USC 202; 23 USC 204

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing revising 25 CFR Part 170 to reflect the current Bureau of Indian Affairs (BIA) and Federal Highway Administration (FHWA) policies for the road systems on Indian reservations, to assure funds are apportioned from the Highway Trust Fund (HTF) for construction projects on Indian reservations roads in accordance with the relative needs of the reservation, and to implement tribal self-determination.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ball, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, 18th & C Streets, NW, Washington, DC 20240, 202 343-4359

RIN: 1076–AB05

1161. LEASING OF RESTRICTED LANDS OF MEMBERS OF FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Legal Authority: Sec. 2, 35 Stat. 312; Sec. 18, 41 Stat. 426; Sec. 1, 45 Stat. 495; Sec. 1, 47 Stat. 777; 25 USC 356; Secs. 3, 11, 35 Stat. 313, 316; Sec. 8, 47 Stat. 779

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: This rule is being revised to ensure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land, the processing of lease payments through the Minerals Management Service, and the approval process for division orders. There are no alternatives being considered and the potential cost is unknown.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Keel, Chief, Division of Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076–AB41

1162. INDIAN BUSINESS DEVELOPMENT PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 1524 Indian Financing Act of 1974

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: This rule will activate an old grant program that has been granted appropriation authority since FY 1986. The Indian Financing Act amendments of 1984 authorize grants up to $250,000 to tribes and up to $100,000 to individual Indians for economic enterprises.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	
NPRM Comment Period End	08/05/89	
Final Action	08/05/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Nephew, Actg. Chief, Div. of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, Office of Trust and Economic Development, Division of Financial Assistance, Washington, DC 20240, 202 343-5831

RIN: 1076–AA55

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Indian Affairs (BIA)

Final Rule Stage

1163. APPEALS FROM ADMINISTRATIVE ACTIONS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: The present administrative appeal regulations are ambiguous and misleading. It is difficult to tell what issues may be appealed and to whom the appeal should be sent. Most deadlines are uncertain. Those that are certain are often unrealistic. It is also unclear when a final decision will be rendered by the Interior Board of Indian Appeals and when it will be rendered by the Assistant Secretary for Indian Affairs. Alternatives will be developed by reviewing the existing appeal regulations of other agencies. Consideration will be given to specifying which types of appeals go to the Assistant Secretary and which to the Board. The alternative of providing for the Assistant Secretary to make a case-by-case decision whether or not to refer the matter to the Board will also be considered. The primary benefit should be reduced frustration for both appellants and the BIA officials who handle the appeals. The greatest cost may be that both appellants and BIA officials may have to comply with more specified procedures and meet more deadlines in order for the system to work.

Timetable:

Action	Date	FR Cite
NPRM	11/06/87	52 FR 43006
NPRM Comment Period End	01/05/88	52 FR 43006
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Bolton, Management Analyst, Department of the Interior, Bureau of Indian Affairs, Room 320 - Interior South, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4669

RIN: 1076–AB21

1164. LAW AND ORDER ON INDIAN RESERVATIONS

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: The present regulations contain a very incomplete criminal code that does not cover many areas of the law that are usually in the laws of the State where the reservation is located. The current regulations also contain very sketchy provisions on criminal and civil procedure. It is proposed to update the sections on criminal offenses, and essentially create new sections on criminal procedures, domestic relations, probate proceedings, appellate proceedings and juvenile proceedings. This will provide the Courts of Indian Offenses with more complete and up to date procedures and rules. Courts will have a six month period from the date of publication of the final rule to the effective date in which to revise their court codes. It is not anticipated that this revision will have any effect on the annual case load for these courts or require additional staffing. Therefore, the initiation of these rules should not result in additional costs.

Timetable:

Action	Date	FR Cite
NPRM	10/24/85	50 FR 43235
NPRM Comment Period End	01/31/86	51 FR 400
Code revisions by courts	04/01/89	
Final Action	04/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: Maria Mendoza, Branch of Judicial Services, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-1400

RIN: 1076–AA01

1165. ADMINISTRATION OF THE HIGHER EDUCATION PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 13; PL 67-85

CFR Citation: 25 CFR 40

Legal Deadline: None

Abstract: This rule will revise established policies and provide uniform procedures to govern the higher education program administered under the authority of 25 USC 13. This rule applies only to educational grants; Bureau educational loans are governed by 25 CFR Part 91. This part has been redesignated from 25 CFR Part 32.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6482
NPRM Comment Period End	05/04/87	52 FR 11503
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Originally scheduled: January 1980.

Agency Contact: Virgil Akens, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4871

RIN: 1076–AA10

1166. ADMINISTRATION OF THE INDIAN ADULT EDUCATION PROGRAMS

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 46

Legal Deadline: None

Abstract: These proposed regulations are designed to provide standardized administrative procedures for administering and operating Indian adult education programs.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	52 FR 49172
NPRM Comment Period End	02/29/88	52 FR 49172
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virgil Akens, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4871

RIN: 1076–AA15

1167. PREPARATION OF ROLLS OF INDIANS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; PL 100-139

CFR Citation: 25 CFR 61

Legal Deadline: Final, Statutory, October 26, 1988.
One year from date of enactment for completion of the tribal membership roll.

Abstract: This rulemaking action is being taken to amend the regulations contained in 25 CFR Part 61. Part 61 contains general enrollment procedures which can be made specifically applicable in the preparation of a particular roll by the Secretary by amending section 61.4 to include the qualifications for enrollment for that particular roll. Under the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987, the Secretary has been directed to prepare certain rolls of Cow Creek Indians to be used in the implementation of the Act. The proposed amendment is, therefore, to make the procedures contained in Part 61 applicable to the preparation of the Cow Creek rolls by adding in section 61.4 the qualifications for enrollment for each of the rolls to be prepared.

Timetable:

Action	Date	FR Cite
NPRM	06/03/88	53 FR 20335
NPRM Comment Period End	07/05/88	53 FR 20335
Final Action	04/00/89	

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Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, Room 2609 Main Interior, 1951 Constitution Ave., NW, Washington, DC 20245, 202 343-1702

RIN: 1076–AC11

1168. ATTORNEY FEE CONTRACTS WITH INDIAN TRIBES; PAYMENT OF TRIBAL ATTORNEY FEES WITH FEDERALLY APPROPRIATED FUNDS

Significance: Agency Priority

Legal Authority: 5 USC 301; 25 USC 476; 25 USC 13; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 89.40 to 89.46

Legal Deadline: None

Abstract: The Bureau of Indian Affairs proposes to revise the rule concerning the circumstances under which the Bureau of Indian Affairs, in the performance of the Federal Government's trust responsibility to Indian tribes, may, in its discretion, provide Departmental funds to an Indian tribe or other Indian organization for the payment of a private attorney's legal services. The proposed revisions would not change the underlying policy of the current rule which is to pay for private counsel to represent Indian tribes only in exceptional circumstances. The principal changes involve representation in child custody proceedings, services of tribal court personnel, and non-litigation services. The proposed revision would also provide that when trust resources are involved, tribes and individual Indian allottees are eligible to apply for and receive federally appropriated funds under 25 CFR 89.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2722
NPRM Comment Period End	03/24/86	51 FR 2722
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Keel, Special Assistant, Office of Trust and Economic Development, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 201, Washington, DC 20245, 202 343-1861

RIN: 1076–AB87

1169. MANAGEMENT OF OSAGE JUDGMENT FUNDS FOR EDUCATION AND SOCIO-ECONOMIC PROGRAMS

Significance: Agency Priority

Legal Authority: 86 Stat. 1295

CFR Citation: 25 CFR 122

Legal Deadline: None

Abstract: The implementing rule for 25 CFR 122 has been reviewed and a determination was made that the portion of the regulations governing socio-economic programs is no longer needed. The rule will be revised to remove that portion of the program.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24732
NPRM Comment Period End	08/29/88	53 FR 24732
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virgil Akens, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4871

RIN: 1076–AB51

1170. NAVAJO GRAZING REGULATIONS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 640d; 25 USC 640d-28

CFR Citation: 25 CFR 167

Legal Deadline: None

Abstract: This rule will be revised to clarify the Secretary's responsibilities over grazing control and range restoration activities in the area formerly known as the Joint Use Area under the July 9, 1960 amendments to the Navajo-Hopi Settlement Act, 25 USC 640d and 640d-28. The rule will form Subpart B of the Existing Navajo Grazing Regulations, which are redesignated as Subpart A of 25 CFR Part 167.

Timetable:

Action	Date	FR Cite
NPRM	03/05/87	52 FR 6822
NPRM Comment Period End	08/03/87	52 FR 6822
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In May 1982, the District Court for the District of Arizona invalidated the regulation of 25 CFR 167 and ordered the Bureau to publish new regulations. The Bureau published interim regulations on Hopi partitioned lands on September 8, 1982. During the past year several meetings have been held with the Navajo Tribe to obtain concurrence to include Navajo partitioned land in the regulations. The Navajo Tribe expressed the desire for separate regulations and the Bureau has drafted a new regulation for Navajo Partitioned Land within the existing 25 CFR Part 167.

Agency Contact: Frank H. Khattat, Natural Resources Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-3959

RIN: 1076–AA33

1171. RIGHTS-OF-WAY OVER INDIAN LANDS

Legal Authority: 5 USC 301; 25 USC 323 to 328

CFR Citation: 25 CFR 169

Legal Deadline: None

Abstract: The Bureau of Indian Affairs intends to amend several sections of its rights-of-way regulations which impose a variety of specific requirements on grantees of rights-of-way over Indian lands. These requirements were intended to implement public laws enacted around the turn of the century which authorized the Secretary of the Interior to issue rights-of-way for various specific purposes. In 1948 Congress gave the Department comprehensive authority to grant rights-of-way for any purpose or any term of years without the antiquated restrictions of the older statutes. The regulations continue to reflect the old requirements and the result has been inconsistent application of the 1948 Act. The removal or revisions of these sections would end that practice.

Timetable:

Action	Date	FR Cite
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Hissong, Realty Specialist, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 220, Washington, DC 20245, 202 343-3611

RIN: 1076–AB89

1172. CONTRACTS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS

Significance: Agency Priority

Legal Authority: 25 USC 396; 25 USC 396d; 25 USC 415; 25 USC 476; 25 USC 477

CFR Citation: 25 CFR 211

Legal Deadline: None

Abstract: The regulations in this part govern contracts for the prospecting and mining of Indian-owned minerals, other than oil and gas. Revisions will be made which would combine rules for the review and approval of mineral development contracts on both tribal and allotted lands into one part. This part has been redesignated from 25 CFR Part 171.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
NPRM	07/12/83	48 FR 31978
NPRM	10/21/87	52 FR 39332
NPRM Public Comment Period End	12/21/87	52 FR 39332
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The rule was republished as a proposed rule on 10/21/87 (52 FR 39332) to allow for additional public comment.

Agency Contact: Frank Keel, Chief, Div. of Energy & Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076–AA38

1173. LEASING OF ALLOTTED LANDS FOR MINING

Significance: Agency Priority

Legal Authority: 25 USC 396; 35 Stat. 396

CFR Citation: 25 CFR 212

Legal Deadline: None

Abstract: As a result of the public comments on the proposed rules for 25 CFR Parts 211 and 225, it has been determined that this part will not be removed. Public response to the proposed rule contained reasonable and compelling arguments for retaining 25 CFR Part 212 and for restructuring the format of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
NPRM for removal	10/21/87	52 FR 39332
NPRM Public Comment Period End	12/21/87	52 FR 39332
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The rule was republished for proposed removal with the proposed rulemaking actions for 25 CFR Parts 211 and 225 on 10/21/87 (52 FR 39332).

Agency Contact: Frank Keel, Chief, Div. of Energy & Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076–AA39

1174. OIL AND GAS MINERAL AGREEMENTS

Legal Authority: PL 97-382; 52 Stat. 347; 35 Stat. 783

CFR Citation: 25 CFR 225

Legal Deadline: None

Abstract: The Bureau proposes to publish regulations that will govern mineral agreements for the development of Indian owned oil and gas resources pursuant to the Indian Mineral Development Act of 1982, Public Law 97-382, which authorizes the tribes to enter into negotiated agreements rather than go through the previously required competitive advertising procedure.

Timetable:

Action	Date	FR Cite
NPRM	07/12/83	48 FR 31978
NPRM	10/21/87	52 FR 39332
NPRM Public Comment Period End	12/21/87	52 FR 39332
Final Action	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Originally scheduled: April 1983.

Agency Contact: Frank Keel, Chief, Div. of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076–AA82

1175. LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

Legal Authority: Sec 3, 34 Stat. 543; Sec 1, 45 Stat. 1478; Sec 2, 45 Stat. 1478; Sec 1, 45 Stat. 1479; Sec 2, 45 Stat. 1479

CFR Citation: 25 CFR 226

Legal Deadline: None

Abstract: The rules are being amended to strengthen the management of the Osage mineral estates and relieve the Osage oil lessees from basing the payment of royalties to the Osage Tribe on the offered or posted price of a major purchaser in the Kansas-Oklahoma area. These regulations will improve the management of the Osage mineral estate and will alleviate the economic hardship placed on the oil lessees.

Timetable:

Action	Date	FR Cite
NPRM	10/16/87	52 FR 38608
NPRM Comment Period End	11/16/87	52 FR 38608
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Keel, Chief, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-2790

RIN: 1076–AC09

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DOI—BIA — Final Rule Stage

1176. BUY INDIAN ACT CONTRACTING

Legal Authority: 25 USC 47; 36 Stat. 861

CFR Citation: 48 CFR 1480

Legal Deadline: None

Abstract: This rule will be codified as the new 48 CFR 1480 instead of the old 41 CFR Part 14H to establish policies and procedures concerning the Bureau of Indian Affairs acquisition management system. This issuance pertains to contracts (excluding building construction) entered pursuant to the Act of June 25, 1910 (25 USC 47), which is usually referred to as the "Buy Indian Act."

Timetable:

Action	Date	FR Cite
Proposed	11/15/84	49 FR 45187
NPRM	06/30/88	53 FR 24738
NPRM Comment Period End	08/01/88	53 FR 24738
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: April 1982.

Agency Contact: Peter A. Campanelli, Procurement Analyst, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-3498

RIN: 1076–AA56

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Completed Actions

1177. EDUCATION PERSONNEL

Significance: Agency Priority

Legal Authority: 25 USC 2011; 25 USC 2015

CFR Citation: 25 CFR 38, (Revision)

Legal Deadline: None

Abstract: The review of this rule is to update and/or delete the requirements that apply to all individuals appointed or converted to contract education positions in the Bureau of Indian Affairs. The review applies to employees with continuing tenure in both the competitive and excepted service who incumber education positions.

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33382
NPRM Comment Period End	10/02/87	52 FR 33382
Final Action	09/27/88	53 FR 37674
Final Action Effective	10/27/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4872

RIN: 1076–AB02

1178. REVOLVING CATTLE POOL

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 102

Legal Deadline: None

Abstract: This program was transferred to the Bureau of Indian Affairs in the 1950's and is currently inactive. There have been no funds appropriated for the program; therefore, this part is proposed for removal. The terms and conditions of loans of cattle by the United States Government to tribes, tribal corporations or tribal members were prescribed in 25 CFR 102. The loans consisted of cattle repayable in kind or assignment of cattle under specific agreements.

Timetable:

Action	Date	FR Cite
Final Action	11/01/88	53 FR 44010
Final Action Effective	12/01/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Pursuant to 5 USC 553(b)(B), the Bureau of Indian Affairs has determined that notice and public procedure concerning removal of this rule are unnecessary because there is no longer an active revolving cattle pool activity under this part.

Agency Contact: Richard Nephew, Acting Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-3657

RIN: 1076–AC02

1179. SAN CARLOS INDIAN IRRIGATION PROJECT, ARIZONA

Significance: Agency Priority

Legal Authority: 43 Stat. 476, Sec 5; 45 Stat. 210; 45 Stat. 211; 5 USC 301

CFR Citation: 25 CFR 177

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is amending the pertinent sections of the regulations governing charges and costs assessed the electric power customers for the electric power, energy and associated electric power services provided by the San Carlos Indian Irrigation Project (Project), Arizona. The purpose of the regulatory amendments is to increase the costs to the public for the services provided by the electric power division of the Project. The proposed rules increase the electric power assessment rates in the residential and general service rate schedules. This action causes the generation of needed additional revenues for the Project. The increased assessment rates reflect the increased operating costs associated with labor, equipment and supplies. The electric power bills for service under the residential and general rate schedules will be increased by approximately 12.4 percent.

Timetable:

Action	Date	FR Cite
NPRM	12/10/87	52 FR 46781
NPRM Comment Period End	01/11/88	52 FR 46781
Final Action	01/04/89	54 FR 111
Final Action Effective	01/04/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel Miller, Water and Land Resources Officer, Division of Water and Land Resources, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4004

RIN: 1076–AC08

DOI—BIA — Completed Actions

1180. TRIBAL BINGO MANAGEMENT CONTRACTS

Significance: Regulatory Program

Legal Authority: 25 USC 81; 25 USC 415; 25 USC 301

CFR Citation: 25 CFR 287

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing a new rule which establishes the requirements to be met and procedures to be followed to obtain approval of management contracts for tribal bingo enterprises. This action is necessary because the Federal courts have held that such management contracts are null and void without Secretarial approval pursuant to 25 USC 81. The intended effect of this rule is to replace the administrative guidelines previously announced by the Bureau for approval of such contracts and to establish uniform minimum standards for the review and approval of all such gaming management contracts.

Timetable:

Action	Date	FR Cite
Withdrawn : no further action will be taken at this time.	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Starr, Staff Assistant, Office of the Assistant Secretary, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Washington, DC 20245, 202 343-6031

RIN: 1076–AC07

BILLING CODE 4310-02-T

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1181. ● AMENDMENT OF DUAL ACCOUNTING REQUIREMENT IN GAS VALUATION REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The existing regulations require that the value of certain processed gas that is not sold pursuant to an arm's-length contract shall be the greater of value determined by two different methods. The comparison of the two values is commonly referred to as "dual accounting." The dual accounting requirement results in the inconsistent valuation of gas depending on whether it is sold in an arm's-length or a non-arm's length situation. Regulation amendments are being developed which would eliminate the accounting for comparison requirement except where required by lease terms.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	
Final Action	09/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB28

1182. ● AMENDMENT OF VALUATION BENCHMARKS IN GAS REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The existing regulations provide for the valuation of unprocessed gas, residue gas, or any gas plant product which is not sold pursuant to an arm's-length contract to be determined in accordance with a benchmark method. In the final regulations, MMS adopted as the first benchmark the lessee's gross proceeds received under its non-arm's-length transaction if they were equivalent to the gross proceeds received under comparable arm's-length contracts for like-quality production in the same field or area. The criteria to be considered in defining comparable contracts were also outlined. However, since the adoption of the revised regulations, numerous questions have been raised as to the interpretation of the first benchmark. These questions been identified the need to further clarify MMS's intention in this regard.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	
Final Action	09/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB29

1183. ● REVISION OF REGULATIONS GOVERNING INTEREST RATE APPLICABLE TO LATE PAYMENTS AND UNDERPAYMENTS

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

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Abstract: Existing regulations at 30 CFR 218.54, 218.55, and 218.103 govern the rate of interest to be charged on underpayments or late payments of royalty by lessees and other royalty payors, and the rate of interest to be paid on late disbursements of an Indian Tribe's or Allottee's royalty or a State's share of royalty revenues. These regulations reference section 6621 of the Internal Revenue Code of 1954 for the applicable interest rate in each situation. However, section 6621 was amended by the Tax Reform Act of 1986 to provide for a different interest rate for overpayments and for underpayments. A rule amendment is required to clarify an ambiguity in the existing regulations, created by the amendment to section 6621, as to which of two different rates would apply.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	
Final Action	07/00/89	
Final Action Effective	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB32

1184. RECOUPMENTS AND REFUNDS OF EXCESS PAYMENTS UNDER FEDERAL OFFSHORE MINERAL LEASES

Significance: Regulatory Program

Legal Authority: 43 USC 1339

CFR Citation: 30 CFR 230

Legal Deadline: None

Abstract: This rulemaking is needed to add new regulations covering recoupment and refunds of excess payments made under Federal offshore mineral leases which are subject to section 10 of the Outer Continental Shelf Lands Act of 1953 (OCSLA), 43 USC 1339. This rule would establish requirements and guidelines for crediting (recouping) excess payments of royalties, rentals, bonuses, or other amounts against a current or future payment obligation or refunding such excess payment to any person lawfully entitled to receive a refund or credit for an overpayment made under an offshore lease. The new regulation is intended to lessen confusion on the part of payors, operators, and the Minerals Management Service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB11

1185. REVISION OF REGULATIONS GOVERNING APPEALS

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 243

Legal Deadline: None

Abstract: Payors who appeal a bill for payment of additional royalty, rents, bonuses, penalties, or other assessments, are required by the existing appeal regulations to submit payment of the billed amount or to post a bond in an amount adequate to indemnify the lessor from loss or damage. However, some bills for payment that have been appealed have been neither paid nor secured by an acceptable surety. An amendment to the existing regulations is needed to establish a requirement that payment must be made or that an acceptable surety must be posted within a specified period of time as a condition for acceptance of the appeal for consideration by the Director, Minerals Management Service (MMS). An amendment is also needed to permit the posting of letters of credit, in addition to bonds, in accordance with current MMS practice.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB13

1186. AIR QUALITY – OUTER CONTINENTAL SHELF WIDE

Significance: Regulatory Program

Legal Authority: 30 USC 1334

CFR Citation: 30 CFR 250.44; 30 CFR 250.45; 30 CFR 250.46; 30 CFR 250.57

Legal Deadline: None

Abstract: Amendments to the Department of the Interior (DOI) Air Quality regulation for oil and gas operations will be proposed for all Outer Continental Shelf (OCS) areas The changes would update requirements and consider the need for current information collection burdens, and provide additional safeguards for those pollutants which could be critical to air quality in areas adjoining the OCS. A determination of potential costs and benefits cannot be made until the final rulemaking has been prepared for RIN 1010-AA61, dealing with amendments to the DOI Air Quality regulation for oil and gas operations adjacent to the State of California. Considerable information has been developed during the negotiations conducted to implement that rulemaking. There have also been revisions to the related Environmental Protection Agency regulations which will affect both of these rulemakings. Timing, content, and format for this rulemaking for all OCS areas will not be determined until completion of the rulemaking RIN 1010-AA61.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
NPRM Comment Period End	04/00/90	
Final Action	07/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William S. Cook, Petroleum Engineer, Department of the Interior, Minerals Management Service,

Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7816

RIN: 1010-AB14

1187. ● LIMITATION OF THE DIRECTOR'S AUTHORITY FOR DISCRETIONARY RELEASE OF POSTLEASE PROPRIETARY DATA AND INFORMATION

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.18

Legal Deadline: None

Abstract: Amendments to the regulations providing for the discretionary release of postlease proprietary data and information will be proposed. The amendments would limit the discretion of the MMS Director to release such data and information by defining more precisely the circumstances under which such releases may be authorized and to whom the data and information may be shown. The alternative to the proposed amendment is the case-by-case determination of whether to release such proprietary data and information based on the existing less specific discretionary authority of the Director. This alternative leaves some degree of uncertainty to the lessee concerning the circumstances under which releases will be authorized, and possible changes in policy.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 11965
NPRM Comment Period End	04/24/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Senior Regulatory Policy Analyst, Department of the Interior, Minerals Management Service, MS-646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7815

RIN: 1010-AB30

1188. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF (OCS), SUBPART O, TRAINING

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.210

Legal Deadline: None

Abstract: The rules at 30 CFR Part 250 which govern oil and gas and sulphur operations in the OCS will be revised to address in greater specificity training requirements for personnel engaged in oil, gas, and sulphur drilling, development, and production operations in the OCS. Training requirements were addressed in a proposed rule to consolidate into one document the rules governing oil and gas and sulphur operations in the OCS which was published on March 18, 1988 (51 FR 9316). The training provisions of that proposed rule have been revised, updated, and consolidated under a new Subpart O, Training. Other alternatives considered were not revising the regulations and revising only those regulations identified by industry. Promulgation of the regulation is not expected to result in costs significantly more than those incurred through the unregulated use of good commercial practices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7816

RIN: 1010-AB21

1189. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF, SUBPART P, SULPHUR OPERATIONS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.250

Legal Deadline: None

Abstract: The rules at 30 CFR 250 which govern oil and gas and sulphur operations in the Outer Continental Shelf (OCS) will be revised to address sulphur exploration, development, and production operations with more specificity. Sulphur operations are currently addressed through rules applicable to oil, gas, and sulphur and through OCS Order No. 10, Sulphur Drilling Procedures, issued by the Gulf of Mexico OCS Region. Comments received as the result of the publication on March 18, 1988 (51 FR 9316), of a proposed rule to consolidate rules governing oil, gas, and sulphur operations in the OCS included recommendations for the development of regulations which treat sulphur operations in the OCS with greater specificity. Other alternatives considered were not revising the regulations. Promulgation of the regulation is not expected to result in costs significantly more than those incurred through the unregulated use of good commercial practices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7816

RIN: 1010-AB23

1190. ● AMENDMENT TO 30 CFR 250.4 AND 250.34(J) TO ADD GUIDELINES FOR THE ACCEPTANCE OF CONTRIBUTIONS FOR MISSION ACTIVITIES SUCH AS THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.4; 30 CFR 250.34(j)

Legal Deadline: None

Abstract: The Minerals Management Service (MMS) proposes to amend 30 CFR 250.4 and 250.34(j) to implement the authority provided in the Fiscal Year 1987 Department of the Interior Appropriation Act to facilitate preparations of Environmental Impact Statements associated with the approval of certain Development and Production Plans. The alternative of prescribing specific procedures for use of such funds would not allow the flexibility to respond when the use of contractors and private contributions is the most sensible approach. There may be increased cost to some lessees; however, these costs represent a voluntary users fee comparable to the

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users fee provided in the Independent Offices Appropriation Act of 1952, as amended. No increase in cost or prices would result for any other entity.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: Mario Rivero, Petroleum Engineer, Department of the Interior, Minerals Management Service, MS-646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7606

RIN: 1010-AB33

1191. ● AMENDMENTS TO 30 CFR 250.52 TO ADD REQUIREMENTS INTENDED TO PREVENT OCCURRENCE OF ACCIDENTAL FIRES CAUSED BY FALLING SLAG FROM WELDING OR BURNING

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.52

Legal Deadline: None

Abstract: The Minerals Management Service proposes to amend 30 CFR 250.52 to add requirements designed to increase personnel safety and minimize property damage by avoiding or preventing the occurrence of accidental fires caused by hot slag from welding or burning activities falling into flammable material floating on the ocean surface beneath Outer Continental Shelf (OCS) facilities. The proposed amendment was prompted by the recommendations of an investigation of a January 6, 1984, accidental fire believed to have been caused by hot welding slag igniting a layer of hydrocarbons floating on the surface of the ocean water beneath an OCS facility. Three men died and nine were burned as a consequence of that fire. The alternative considered was to send lessees advisory notices alerting them of the potential danger of welding slag; however, the alternative was considered less effective because it lacked enforcement. The proposed amendment would not result in increases in cost to lessees or consumers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mario Rivero, Petroleum Engineer, Department of the Interior, Minerals Management Service, MS-646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7606

RIN: 1010-AB31

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

Final Rule Stage

1192. REVISION OF ROYALTY VALUATION REGULATIONS GOVERNING GAS SALES UNDER PERCENTAGE-OF-PROCEEDS CONTRACTS

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The Minerals Management Service (MMS) published final revised regulations governing the valuation of gas from Federal leases onshore and on the Outer Continental Shelf and from Indian Tribal and allotted leases in the Federal Register on January 15, 1988 (53 FR 1230). The proposed gas valuation provisions of section 206.153, in part, govern the determination of value in situations where the lessee's contract for the sale of gas prior to processing provides for the value to be determined based upon a percentage of the purcheses proceeds resulting from processing the gas. However, the inclusion of these percentages-of-proceeds contracts under section 206.153 has created unreasonable burdens on lessees. Consequently, MMS is proposing to amend its regulations to provide for the valuation of gas under percentage-of-proceeds contracts to be under the unprocessed gas valuation standards of section 206.152, rather than section 206.153.

Timetable:

Action	Date	FR Cite
NPRM	12/15/88	53 FR 50422
NPRM Comment Period End	02/03/89	54 FR 1398
Final Action	09/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB17

1193. GEOTHERMAL RESOURCES USED TO GENERATE ELECTRICITY, PRODUCT VALUATION FOR ROYALTY PURPOSES

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: Existing regulations governing the valuation of geothermal resources provide insufficient guidance for the valuation of geothermal resources utilized to generate electricity in a lessee-owned power plant. Consequently, the Minerals Management Service has issued a report entitled "Valuation of Federal Geothermal Resources--Electrical Generation" which describes a "geothermal netback procedure" to value these "no sales" resources. An amendment is needed to the existing regulations to provide regulatory guidance after receipt and consideration of comments from the public to the existing geothermal netback procedure.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 354
NPRM Comment Period End	03/06/89	
Final Action	07/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB22

1194. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF; SAFETY AND POLLUTION-PREVENTION EQUIPMENT

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.1; 30 CFR 250.126

Legal Deadline: None

Abstract: The rules at 30 CFR 250.126 on the manufacture of safety and pollution-prevention equipment (i.e., surface and subsurface safety valves) are being amended. The amendment would update the American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) SPPE-1 standard from the 1985 edition to the 1988 edition and allow compliance with either the updated version of the ANSI/ASME SPPE-1 quality assurance (QA) program (1988 edition) or the proposed American Petroleum Institute (API) QA program (API Spec Q1 in combination with API Specs 14A and 14b). Other alternatives considered were not to amend the rule and to continue using ANSI/ASME SPPE-1 as the only type of certification for the QA program. The costs to lessees under the API program or the updated ANSI/ASME SPPE-1 program are not expected to be significantly different than the costs under the current program. If there is any cost difference, it is expected to be a reduction in cost since the use of the API program is an option to the use of the ANSI/ASME SPPE-1 program. Lessees would not be expected to choose the use of the more expensive of the approved QA programs.

Timetable:

Action	Date	FR Cite
NPRM	07/05/88	53 FR 25349
NPRM Comment Period End	09/29/88	53 FR 30705
Final Action	04/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: M. L. Courtois, Chief, Offshore Inspection and Enforcement Division, Department of the Interior, Minerals Management Service, Mail Stop 647, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7750

RIN: 1010-AB19

1195. AIR QUALITY - OFFSHORE CALIFORNIA

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.47

Legal Deadline: None

Abstract: Amendments to the DOI Air Quality regulation for oil and gas operations will be proposed for Outer Continental Shelf areas adjacent to California. The changes would provide additional safeguards for those pollutants which could be critical to air quality in the region. The costs have been determined to have a net present value of approximately $25M to the regulated industry; the net benefits have not been quantified but would be a reduction in any effect of emissions from OCS operations on the ozone levels in adjacent onshore areas. This may be expected to yield cost reductions in health services and other related areas. The DOI has conducted a conflict assessment to determine the likelihood of the interested and affected parties being able to reach an agreement on an air quality regulatory program. If the affected parties involved can develop a mutually agreeable set of requirements, then DOI will initiate rulemaking based on that agreement.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/85	50 FR 838
ANPRM Comment Period End	03/08/85	
Begin conflict assessment phase of negotiated rulemaking process	04/15/86	
Determine potential for negotiated agreement	07/30/86	
Complete determination of effects of rules	05/18/88	
Reach agreement on a negotiated rule or begin development of rule through standard process	12/19/88	
NPRM	01/17/89	54 FR 1846
NPRM Comment Period End	02/16/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William S. Cook, Petroleum Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, Reston, VA 22091, 703 648-7818

RIN: 1010-AA61

1196. NONDISCRIMINATION IN EMPLOYMENT IN THE OUTER CONTINENTAL SHELF

Legal Authority: 43 USC 1863; 43 USC 1331 et seq; 42 USC 2000d to 2000e

CFR Citation: 30 CFR 271

Legal Deadline: None

Abstract: There are no provisions in current Minerals Management Service regulations which provide a mechanism for remedy of unlawful discrimination in Outer Continental Shelf (OCS) employment. Rules would be developed to provide a process whereby persons who believed they had been denied employment because of unlawful discrimination would have a forum. These rules would implement the purposes of section 604 of the OCS Lands Act Amendment of 1978. Alternatives considered are no action,

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issuance of a policy statement and no rules, and proposal of extensive affirmative action rules similar to those rescinded in the past. Very few complaints are expected to arise as there has been no evidence of discrimination to date. Therefore, costs are expected to be minimal. Benefits would be the assurance that the requirements of section 604 are being fully carried out.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17770
NPRM Comment Period End	06/11/87	
Final Action	04/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary McDonald, Program Analyst, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7817

RIN: 1010–AA87

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

1197. VALUATION OF COAL FOR ROYALTY PURPOSES FROM FEDERAL AND INDIAN LEASES

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 202; 30 CFR 203; 30 CFR 206; 30 CFR 210; 30 CFR 212; 43 CFR 3480

Legal Deadline: None

Abstract: This regulation will provide consistent valuation procedures for coal for the purpose of royalty computations. It is being prepared in response to a Linowes Commission recommendation for a detailed definitive product valuation regulation which contains clear terms and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/86	51 FR 4507
ANPRM Comment Period End	04/07/86	
NPRM	01/15/87	52 FR 1640
NPRM Comment Period End	04/15/87	
Reopen Public Comment Period	07/09/87	52 FR 25887
Reopened Public Comment Period End	07/23/87	
Reopened Public Comment Period	06/12/87	52 FR 29868
Notice of Intent to Issue NPRM	11/17/87	52 FR 43919
Further NPRM	07/15/88	53 FR 26942
Further NPRM Public Comment Period End	09/13/88	
Final Action	01/13/89	54 FR 1492
Final Action Effective	03/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AA83

1198. PROCESSING AND TRANSPORTATION ALLOWANCES, RETURN ON CAPITAL INVESTMENT

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The Minerals Management Service (MMS) published new oil and gas product valuation regulations in the Federal Register on January 15, 1988 (53 FR 1184 and 53 FR 1230). If a lessee has a non-arm's-length contract or has no contract for processing or transportation of oil or gas, the new regulations provide for an allowable deduction from royalty payments based upon the lessee's reasonable actual costs during the reporting period. These actual cost deductions allow the lessee to deduct operating and maintenance expenses, overhead, and at the lessee's option, either depreciation plus a return on undepreciated capital investment in the processing plant or transportation system, or a fixed cost equal to the initial depreciable investment multiplied by a rate of return. An amendment is needed to the regulations to establish the method to be used to determine the cost of capital, i.e., rate of return, to be applied to the lessee's investment in a processing plant or transportation system.

Timetable:

Action	Date	FR Cite
Withdrawn - no rulemaking action required at this time	11/01/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB12

1199. AMENDMENT OF REGULATIONS, OIL AND GAS TRANSPORTATION ALLOWANCES AND GAS PROCESSING ALLOWANCES

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The Minerals Management Service (MMS) published final revised regulations governing the valuation of oil and gas from Federal leases onshore and on the Outer Continental Shelf and from Indian Tribal and allotted leases in the Federal Register on January 15, 1988 (53 FR 1184 and 53 FR 1230). A subsequent review of the regulations disclosed that the wording of the provisions concerning the calculation of oil and gas transportation allowances and gas processing allowances was inconsistent with MMS's intent. An amendment is needed to the provisions to clarify MMS's intent.

Timetable:

Action	Date	FR Cite
Withdrawn - no rulemaking action required at this time	11/01/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB18

1200. AMENDMENT OF OIL AND GAS ROYALTY VALUATION REGULATIONS

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The Minerals Management Service (MMS) published final revised regulations governing the valuation of oil and gas from Federal leases onshore and on the Outer Continental Shelf, and from Indian Tribal and allotted leases in the Federal Register on January 15, 1988 (53 FR 1184 and 53 FR 1230). A subsequent review of the regulations disclosed that the wording of several provisions was inconsistent with MMS's intent as discussed in the preamble to the final rules. An amendment is needed to the provisions to clarify MMS's intent.

Timetable:

Action	Date	FR Cite
Final Action	11/14/88	53 FR 45760
Final Action Effective	11/14/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB24

1201. SUPPLEMENTAL SALES

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 256.12; 30 CFR 256.28

Legal Deadline: None

Abstract: The rules at 30 CFR Part 256 will be revised to provide for supplemental sales and to establish limits on those supplemental sales. This rule is intended to allow the offering of rejected bid blocks, drainage blocks, and development blocks. The alternative is to operate under the current regulation and delay the leasing of certain blocks which may be critical to the development of an area or may be susceptible to loss of hydrocarbons.

Timetable:

Action	Date	FR Cite
NPRM	03/26/87	52 FR 9672
NPRM Comment Period End	04/27/87	
Comment Period Reopened	08/06/87	52 FR 29222
Final Action	08/09/88	53 FR 29884
Final Action Effective	09/06/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary McDonald, Program Analyst, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7820

RIN: 1010–AB05

1202. LEASING OF MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 281

Legal Deadline: None

Abstract: Proposes the desirability of new regulations to govern lease issuance on the Outer Continental Shelf (OCS) for minerals other than oil, gas, and sulphur under the authority of the OCS Lands Act; and requests comments and recommendations from interested parties. Alternative is to not have leasing requirements in regulations. Promulgation of regulation for leasing of hard mineral resources is not expected to add to the cost to industry. Regulations will ensure uniform leasing policy for all interested parties.

Timetable:

Action	Date	FR Cite
ANPRM	04/19/85	50 FR 15590
ANPRM Comment Period End	06/19/85	
NPRM	06/18/88	53 FR 31424
NPRM Comment Period End	10/03/88	
Final Action	01/18/89	54 FR 2042
Final Action Effective	02/17/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7816

RIN: 1010–AA82

1203. MINING OPERATIONS FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 282

Legal Deadline: None

Abstract: Proposes the desirability of new regulations to govern Production and Development Operations on the Outer Continental Shelf (OCS) for minerals other than oil, gas, and sulphur under the authority of the OCS Lands Act; and requests comments and recommendations from interested parties. Alternative is to specify requirements in a lease document. Promulgation of regulation is not expected to result in costs significantly

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more than those incurred through the unregulated use of good commercial practices. The regulation will require that hard mineral operations are conducted in a manner that will ensure safety and protection of the environment.

Timetable:

Action	Date	FR Cite
ANPRM	04/09/86	51 FR 12163
ANPRM Comment Period End	06/07/86	
NPRM	06/18/88	53 FR 31442
NPRM Comment Period End	10/03/88	
Final Action	01/18/89	54 FR 2058
Final Action Effective	02/17/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7816

RIN: 1010–AA61

1204. APPEALS PROCEDURES

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 290

Legal Deadline: None

Abstract: Appeals are required to be filed within 30 days of the issuance of an order or decision by a Minerals Management Service official. The rule will create a "grace period" for determining whether notices of appeals have been filed in a timely manner. Appeals will be considered timely if they are received within 10 days after the end of the initial 30 days and there is evidence of transmittal within the initial 30 days (e.g., a postmark).

Timetable:

Action	Date	FR Cite
Withdrawn No rulemaking action required at this time.	12/01/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane A. Roberts, Paralegal Specialist, Department of the Interior, Minerals Management Service, 1951 Kidwell Drive, MS 623, Vienna, VA 22180, 703 285-2990

RIN: 1010–AB20

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DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1205. SURFACE COAL MINING AND RECLAMATION OPERATIONS; TWO ACRE EXEMPTION REPEAL

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 700.11; 30 CFR 870.11

Legal Deadline: None

Abstract: Section 528(2) of the Surface Mining Control and Reclamation Act of 1977, exempted from the requirements of the Act "the extraction of coal for commercial purposes where the surface mining operation affects two acres or less." On May 7, 1987, the President signed PL 100-34 which repealed the exemption. The rule action would remove the exemption provision from the regulations at 30 CFR 700 and 30 CFR 870.

Timetable:

Action	Date	FR Cite
Notice of Suspension: Two-Acre Exemption Repeal	06/04/87	52 FR 21228
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Arthur Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5351

RIN: 1029–AB16

1206. INTERIM PROGRAM REVISIONS

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 710; 30 CFR 715; 30 CFR 716; 30 CFR 717; 30 CFR 718; 30 CFR 720; 30 CFR 721; 30 CFR 722

Legal Deadline: None

Abstract: The rule would amend those portions of the OSMRE interim regulatory program regulations which are different from the permanent regulatory program. OSMRE is undertaking this action to provide equity and regulatory consistency between the programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Dermot Winters, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5241

RIN: 1029–AB24

1207. FEDERAL LANDS PROGRAM

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; 30 USC 181 et seq; PL 100-34

CFR Citation: 30 CFR 740

Legal Deadline: None

Abstract: Various language changes will be proposed in 30 CFR 740, 745, and 746 in response to a ruling by the District Court for the District of Columbia with respect to the definition of "mining plans," the applicability of the Federal lands program, and for technical accuracy and to clarify ambiguous language that has surfaced since publication of the rules in February 1983.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

DOI—OSMRE

Proposed Rule Stage

Agency Contact: Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4560

RIN: 1029–AA76

1208. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 761.5; 30 CFR 761.11(h)

Legal Deadline: None

Abstract: OSM is repromulgating certain portions of its regulations which define "valid existing rights" and prohibit surface coal mining on lands within units of the National Park System, National Wildlife Refuge System and certain other areas designated by Congress. OSM is repromulgating these regulations as a result of a District Court decision in Round III of the present litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
Notice of EIS and RIA Scoping Meeting, Request for Comments	01/22/87	52 FR 2421
Scoping Hearings for NEPA and RIA	02/06/87	
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Annetta Cheek, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-2073

RIN: 1029–AA77

1209. PERMANENT REGULATORY PROGRAM DEFINITIONS; AREAS UNSUITABLE FOR MINING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 761

Legal Deadline: None

Abstract: The proposed rule would clarify the applicability of the prohibitions in section 522(e) of the Surface Mining Control and Reclamation Act to the surface impacts of underground mining. The issue of the relationship between section 522(e) and mining related subsidence will be addressed in the proposed rulemaking. The rulemaking will seek to clarify whether OSM's rules have the effect of prohibiting underground mining operations related to the features and facilities within the distance limitations enumerated in section 522(e) of the Act. The proposed rulemaking will address the issue of what is a "Surface Impact" incident to an underground mine.

Timetable:

Action	Date	FR Cite
ANPRM	04/03/85	50 FR 13250
ANPRM Comment Period End	08/27/85	50 FR 13250
Notice of EIS and RIA Scoping Meeting and Request for Comments	01/22/87	52 FR 2421
EIS and RIA Scoping Meeting	02/06/87	
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: The Office of Surface Mining has determined that the proposed rulemaking constitutes a major Federal action requiring an EIS to meet the requirements of the National Environmental Policy Act. OSM has also made the determination that the proposed rule may be significant within the meaning of EO 12291. Precise cost/price impacts cannot be determined prior to further development of the regulation, but such costs are anticipated to be significant in terms of EO 12291 and the Regulatory Flexibility Act. Therefore, a Preliminary Regulatory Impact Analysis and Small Entity Flexibility Analysis are being prepared.

Agency Contact: Dermot Winters, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1928

RIN: 1029–AA80

1210. REPROCESSING COAL WASTE

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 786, (New); 30 CFR 829, (New); 30 CFR 701; 30 CFR 785

Legal Deadline: None

Abstract: The rule would revise existing permitting and performance standards to take into consideration the unique circumstances and requirements for reprocessing coal waste. The rule would identify the minimum requirements for this type of activity. The action is being undertaken in response to findings and planned actions identified during OSMRE's study of remining initiatives.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Ray Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 342-1514

RIN: 1029–AB23

1211. ASSESSMENT CONFERENCE SCHEDULING

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 843; 30 CFR 845

Legal Deadline: None

Abstract: The rule would eliminate some procedural inconsistencies remaining from previous 30 CFR 843 and 845 rulemakings. In particular, the rules would allow for a more efficient and practical time frame for scheduling assessment conferences. OSMRE is undertaking this action in response to suggestions from the Interior Department's Office of the Solicitor and from OSMRE personnel involved in administering the existing 30 CFR Parts 843 and 845 requirements.

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Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Hugo Fleischman, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5364

RIN: 1029–AB22

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE) — **Final Rule Stage**

1212. PERMIT TO RECLAIM RULE

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 701; 30 CFR 740; 30 CFR 750; 30 CFR 773; 30 CFR 843

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement (OSMRE) proposes to amend its rules to provide for specific situations where a coal mine operator may be required to obtain a permit to conduct reclamation activities on a location where no coal extraction is taking place. The proposed rule would remove requirements to obtain or renew a permit when only reclamation activities must be performed.

Timetable:

Action	Date	FR Cite
NPRM	09/19/88	53 FR 36404
NPRM Comment Period End	11/03/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dr. Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4533

RIN: 1029–AB26

1213. PERMANENT REGULATORY PROGRAM REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 701.5; 30 CFR 785.19(d)

Legal Deadline: None

Abstract: This proposed rule would respond to a ruling by the District Court for the District of Columbia which stated that the definition of farming and agricultural activities was not equal as it related to Alluvial Valley Floors as defined in OSM's regulations. The Court ordered that the definition be repromulgated in a manner consistent with congressional intent. Pursuant to the Court ruling, additional guidance would be provided as to what the "essential hydrologic functions" are of AVFs.

Timetable:

Action	Date	FR Cite
NPRM	08/03/88	53 FR 29310
NPRM Comment Period End	09/19/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Doug Growitz, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1567

RIN: 1029–AA54

1214. EXEMPTION FOR COAL EXTRACTION INCIDENTAL TO THE EXTRACTION OF OTHER MINERALS

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 702

Legal Deadline: None

Abstract: The Surface Mining Act exempts mining operations that extract other minerals where coal does not exceed 16 2/3 percent of tonnage of minerals removed for sale. Evidence of abuse of this exemption has been identified. Proposed regulations would establish procedures to administer the exemption. The costs of compliance for these operations are undetermined. Benefits would be to the public in terms of protection of health, safety, and environment from detrimental effects of mining. Legitimate noncoal operators would be able to compete fairly with those operations now using the exemption to undersell their legitimate competitors.

Timetable:

Action	Date	FR Cite
NPRM	06/01/87	52 FR 20546
NPRM Comment Period End	08/10/87	52 FR 20546
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: James Fary, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5384

RIN: 1029–AA53

1215. REQUIREMENTS FOR COAL EXPLORATION—PERMIT REQUIREMENTS FOR EXPLORATION REMOVING MORE THAN 250 TONS OF COAL

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 772.11; 30 CFR 772.12; 30 CFR 772.14; 30 CFR 815.2; 30 CFR 942.772

Legal Deadline: None

Abstract: The proposed rule would comply with a court order of the District Court for the District of Columbia which remanded OSM reporting requirements for surface coal exploration. The proposed rule would revise existing requirements to include the filing of a notice by all individuals or operators planning coal exploration, and specify the information required on applications for coal exploration. The

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obligation to report is a standing requirement of existing regulations. This rule would expand the requirement to report. Because affected States already have the expanded requirement in place, no additional costs or benefits are expected to be associated with the rule.

Timetable:

Action	Date	FR Cite
NPRM	06/22/88	53 FR 23532
NPRM Comment Period End	08/08/88	53 FR 23532
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4553

RIN: 1029–AA92

1216. FEDERAL REGULATORY PROGRAMS; PERMIT APPLICATION FEES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 736; 30 CFR 740; 30 CFR 750

Legal Deadline: None

Abstract: The proposed rule would govern the collection by OSMRE of application fees for permits to conduct surface coal mining and reclamation operations, and for permits to conduct coal exploration, as well as fees for processing mining plans and for midterm review of surface coal mining and reclamation permits. Recipients of these services would be required to reimburse OSMRE for costs incurred in providing the services.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17568
NPRM Comment Period End	07/18/88	53 FR 17568
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Arthur Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5351

RIN: 1029–AB15

1217. SURFACE COAL MINING AND RECLAMATION OPERATIONS ON INDIAN LANDS

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 750

Legal Deadline: None

Abstract: The proposed rule would implement court approved settlements involving OSMRE, the State of New Mexico, and the National Coal Association/American Mining Congress Joint Committee in regard to final Indian lands regulations. The rule would delete the reference to the American Indian Religious Freedom Act and revise the requirements addressing inclusion of surface coal mining and reclamation provisions in Indian leases.

Timetable:

Action	Date	FR Cite
NPRM	02/10/88	53 FR 3992
NPRM Comment Period End	04/20/88	53 FR 3992
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Suzanne Hudak, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4540

RIN: 1029–AB04

1218. LANDS UNSUITABLE REGULATIONS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 761.5

Legal Deadline: None

Abstract: OSMRE is repromulgating certain portions of its regulations under Subchapter F which contain criteria for and describe the petition process for designating lands unsuitable for surface coal mining operations. OSM is repromulgating these regulations as a result of a District Court decision in Round III of the present litigation on OSMRE's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Jerry Schwartz, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5144

RIN: 1029–AA90

1219. REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING PERMIT APPLICATIONS MINIMUM REQUIREMENTS FOR LEGAL FINANCIAL CIVIL PENALTIES

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 773 (Revision); 30 CFR 843

Legal Deadline: None

Abstract: The existing rules pertaining to the requirements for permit and permit processing, permit applications and civil penalties are to be amended. The proposed revisions expressly establish an affirmative obligation on permittees and permit applicants to pay uncontested penalties and abate uncontested violations. Permittees and applicants for permits must meet these obligations prior to the issuance of a permit and as a condition of continued operation under existing permits.

Timetable:

Action	Date	FR Cite
NPRM	07/16/86	51 FR 25822
NPRM Comment Period End	10/24/86	51 FR 33905
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Andrew DeVito, Department of the Interior, Office of Surface Mining Reclamation and

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Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5241

RIN: 1029–AA66

1220. PERMANENT REGULATORY PROGRAM - OWNERSHIP INFORMATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 778

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement is proposing to revise 30 CFR 778 which specifies what information must be furnished in a surface coal mining permit application. The permit application requirements are being revised in order to conform them to proposed revisions in 30 CFR 773 which govern the issuance of surface coal mining permits. The proposed revisions to 30 CFR 778 will require the submission of more detailed information on the ownership and control of permit applicants. It is not anticipated that the revision will impose a substantial financial burden on those applying for permits.

Timetable:

Action	Date	FR Cite
NPRM	05/26/87	52 FR 20032
NPRM Comment Period End	08/06/87	52 FR 20032
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Andrew DeVito, Senior Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5241

RIN: 1029–AA96

1221. APPROXIMATE ORIGINAL CONTOUR VARIANCES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 785; 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement (OSMRE) proposes to amend its rules to allow issuance of a permit for nonmountaintop removal, steep slope, surface coal mining and reclamation operations which includes a variance from the requirements to restore the disturbed areas to their approximate original contour.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Suzanne Hudak, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4540

RIN: 1029–AB27

1222. PERMANENT PROGRAM PERFORMANCE STANDARDS; DISPOSAL OF COAL MINE WASTE

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: The rule will reexamine performance standards and design criteria for coal waste disposal. The action is in response to a District Court for the District of Columbia remand order which cited procedural defects in an earlier rulemaking (47 FR 44006, September 26, 1983) involving inadequate notice and comment and an inadequate administrative record.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	53 FR 43970
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Dr. C. Y. Chen, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1501

RIN: 1029–AB09

1223. PERMANENT PROGRAM PERFORMANCE STANDARDS; SURFACE MINING ACTIVITIES; CONTEMPORANEOUS RECLAMATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 816.100; 30 CFR 816.101; 30 CFR 816.104; 30 CFR 816.105

Legal Deadline: None

Abstract: The rule is being proposed in response to a remand by the Court to provide additional guidance to the regulatory authorities. The proposed rule should ensure that all reclamation efforts proceed as contemporaneously as practicable with surface coal mining operations in accordance with Section 515(b)(16) of the Surface Mining Control and Reclamation Act of 1977.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Robert Wiles, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1502

RIN: 1029–AB02

1224. PERMANENT PROGRAM PERFORMANCE STANDARDS SURFACE AND UNDERGROUND MINING ACTIVITIES BACKFILLING AND GRADING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 816.104; 30 CFR 816.105; 30 CFR 816.101

Legal Deadline: None

Abstract: The regulation will address the sections that were remanded back to OSM by the action of the Court. The regulation will provide additional guidance to the surface coal mine operator in fulfilling the performance standards of the Act. Costs will not be increased because the regulations will amplify existing requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Robert Wiles, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1502

RIN: 1029–AA57

1225. DISPOSAL OF EXCESS SPOIL ON PREEXISTING BENCHES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 816.74; 30 CFR 817.74

Legal Deadline: None

Abstract: The regulations at 30 CFR 816.74/817.74 allow, with the approval of the regulatory authority, the disposal of excess spoil through placement on preexisting benches provided that the standards set forth in sections 816.71/817.71 are met. These standards contain the general requirements for the disposal of excess spoil. Based on the draft study entitled "Encouraging Abandoned Mine Land Reclamation via Remining: A Federal, State and Industry Initiative" and comments received, OSMRE has reviewed these regulations. Based on this review, OSMRE has concluded that excess spoil, when placed on the benches is similar to backfilling and grading of a highwall and bench and therefore could be regulated under the backfilling and grading regulations in sections 816.102/817.102, in lieu of the "excess spoil" standards while maintaining the same environmental and safety standards. The proposed rule would apply the backfilling and grading requirements to disposal of excess spoil on preexisting benches.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Raymond Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1514

RIN: 1029–AB18

1226. ● PERMANENT PROGRAM PERFORMANCE STANDARDS; HIGHWALL POLICY

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 845.15; 30 CFR 846.12

Legal Deadline: None

Abstract: The proposed regulation is in accordance with a court approved settlement agreement and would provide a method of calculating civil penalties when compliance with section 816.102(a) cannot be accomplished using best technology currently available or where compliance would result in significant harm to the environment and the operation does not qualify for an exemption to total highwall elimination in accordance with 30 CFR 816.102(k).

Timetable:

Action	Date	FR Cite
NPRM	10/29/87	52 FR 41666
NPRM Comment Period End	01/07/88	52 FR 41666
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Raymond Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Washington, DC 20240, 202 343-7952

RIN: 1029–AB10

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Office of Surface Mining Reclamation and Enforcement (OSMRE)

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1227. TERMINATION OF JURISDICTION UNDER SMCRA

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 700.11

Legal Deadline: None

Abstract: The Surface Mining Control and Reclamation Act (the Act) doesn't specifically define the point at which regulatory jurisdiction ends. Therefore, a regulation is needed to define that point. The regulation in question is specific to the responsibilities of the Department of the Interior, OSMRE, and implements the Act. No other Federal agency is authorized to undertake this action on behalf of the Department. OSMRE has never addressed this issue in a rulemaking. The regulatory authority will issue a written determination ending regulatory jurisdiction under the Act when the following conditions apply. For permanent program operations, it proposed to terminate regulatory jurisdiction under the Act at the time of final bond release or when all regulatory program requirements have been met. For initial program operations, regulatory jurisdiction will end when all requirements of the regulatory program have been met.

Timetable:

Action	Date	FR Cite
NPRM	06/26/87	52 FR 24092
NPRM Comment Period End	09/04/87	52 FR 24092
Final Action	11/02/88	53 FR 44356
Final Action Effective	12/02/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Daniel Stocker, Department of the Interior, Office of

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Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1314

RIN: 1029–AB07

1228. PERMANENT PROGRAM PERFORMANCE STANDARDS SURFACE AND UNDERGROUND ACTIVITIES ROADS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 701.5; 30 CFR 816.150; 30 CFR 816.151; 30 CFR 817.150; 30 CFR 817.151; 30 CFR 780.37; 30 CFR 780.38; 30 CFR 784.24; 30 CFR 784.30; 30 CFR 815.15

Legal Deadline: None

Abstract: The regulation will address the sections that were remanded back to OSM by the action of the Court and modify some provisions that are confusing in the existing file. The changes will provide additional guidance to the surface coal mine operator in fulfilling the performance standards of the Act. Costs will not be increased because the regulations will amplify existing requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/03/87	52 FR 42259
NPRM Comment Period End	01/12/88	52 FR 42259
Final Action	11/08/88	53 FR 45190
Final Action Effective	12/08/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Patrick Boyd, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-4933

RIN: 1029–AA60

1229. PERMANENT REGULATORY PROGRAM DEFINITION OF SUPPORT FACILITIES

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 701.5

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement (OSMRE) proposes to remove the definition of "support facilities" from its regulations. In reviewing the decisions of regulatory authorities during the time periods when no definition was in effect (prior to the 1983 introduction of a definition and since the 1985 suspension of the definition), OSMRE found that the identification of facilities that support surface coal mining operations has been conducted in a manner consistent with the intent of the Surface Mining Control and Reclamation Act (SMCRA). Therefore, OSMRE has determined that a definition of "support facilities" is not needed in order to ensure that such facilities are regulated under SMCRA. This proposed rule would impose only minor costs to the coal industry since relatively few operations will be affected.

Timetable:

Action	Date	FR Cite
NPRM	06/22/88	53 FR 23522
NPRM Comment Period End	08/08/88	53 FR 23522
Final Action	11/22/88	53 FR 47378
Final Action Effective	12/22/88	53 FR 47378

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Stephen Sheffield, Physical Scientist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5950

RIN: 1029–AA94

1230. SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMANENT REGULATORY PROGRAM-OWNERSHIP AND CONTROL

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 773

Legal Deadline: None

Abstract: The proposed rule would require the regulatory authority to make findings prior to permit issuance that the applicant and persons or business entities closely connected to the applicant do not have any outstanding unabated violations, delinquent AML reclamation fee accounts, or unpaid final civil penalties.

Timetable:

Action	Date	FR Cite
NPRM	04/05/85	50 FR 13724
NPRM Comment Period End	11/04/87	52 FR 37164
Final Action	10/03/88	53 FR 38868
Final Action Effective	11/02/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Andrew F. DeVito, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5241

RIN: 1029–AA56

1231. PERMANENT REGULATORY PROGRAM; REQUIREMENTS FOR PERMITS, INFORMATION ON HYDROLOGIC IMPACTS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 780.21(f); 30 CFR 784.14(e)

Legal Deadline: None

Abstract: The rule sets a life of permit as the parameter for the determination of the probable hydrologic consequences (PHC) of the proposed operation upon the quality and quantity of surface and groundwater under seasonal flow conditions for the proposed permit and adjacent areas. The rule repromulgates the suspended 1983 rules with an expanded preamble and record to support the rule language. This was requested by the Court as a result of litigation. The rule will result in lower costs to industry and a reduction in their information collection requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/28/87	52 FR 32764
NPRM Comment Period End	11/06/87	52 FR 32764
Final Action	09/19/88	53 FR 36394
Final Action Effective	10/19/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Doug Growitz, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1507

RIN: 1029–AB11

1232. PERMANENT PROGRAM PERFORMANCE STANDARDS - SURFACE MINING ACTIVITIES, UNDERGROUND MINING ACTIVITIES - IMPOUNDMENTS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 780.25; 30 CFR 784.16; 30 CFR 816.49; 30 CFR 816.84; 30 CFR 817.46; 30 CFR 817.49; 30 CFR 817.84

Legal Deadline: None

Abstract: The regulation will address the issue addressed in a district court challenge to OSM regulations. The rule will address the problem of combination spillways and will specify a spillway configuration that must be installed to safely pass the designed precipitation event. In some cases, the rule may allow one spillway to serve as a combination principal and emergency spillway. The proposed action may reduce costs in those cases where one spillway will safely pass the design precipitation event with no corresponding decrease in environmental protection.

Timetable:

Action	Date	FR Cite
NPRM	10/21/87	52 FR 39364
NPRM Comment Period End	12/30/87	52 FR 39364
Final Action	10/27/88	53 FR 43584
Final Action Effective	11/28/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Robert Wiles, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1502

RIN: 1029–AA79

1233. SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS OPERATIONS ON PRIME FARMLAND

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 785.17; 30 CFR 823.11; 30 CFR 823.12; 30 CFR 823.14

Legal Deadline: None

Abstract: These regulations are being revised as ordered by the District Court for the District of Columbia. They will amend OSM's permanent program performance standards with respect to prime farmlands by allowing last cut lakes to remain after mining is complete only where they are beneficial or necessary to agricultural activity and allowing for a support facility exemption only for underground mines. These changes are mandated by court order, thus, no alternatives to this action are being considered.

Timetable:

Action	Date	FR Cite
NPRM	03/25/87	52 FR 9644
NPRM Comment Period End	06/03/87	52 FR 9644
Final Action	10/18/88	53 FR 40828
Final Action Effective	11/17/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dermot Winters, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1928

RIN: 1029–AA84

1234. SURFACE COAL MINING OPERATIONS; DEFINITION OF "IN CONNECTION WITH"

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 785.21; 30 CFR 827.1

Legal Deadline: None

Abstract: The proposed rule would amend the regulations to clarify the circumstances under which coal preparation plants located outside of the permit area of a mine are subject to the performance standards and permitting requirements of the Surface Mining Control and Reclamation Act (SMCRA).

Timetable:

Action	Date	FR Cite
NPRM	06/22/88	53 FR 23526
NPRM Comment Period End	08/08/88	53 FR 23526
Final Action	11/22/88	53 FR 47384
Final Action Effective	12/22/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Stephen Sheffield, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5950

RIN: 1029–AB08

1235. PERMANENT PROGRAM PERFORMANCE STANDARDS - SURFACE MINING ACTIVITIES, UNDERGROUND MINING ACTIVITIES – REVEGETATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 816.116; 30 CFR 817.116

Legal Deadline: None

Abstract: This rule is being proposed in response to an order of the U.S. District Court remanding several aspects of OSM regulations concerning revegetation which has inadequate support in the administrative record. OSM will propose rules concerning replanting of trees as a normal husbandry practice, the period for revegetation success, and rills and gullies control as a normal conservation practice. Costs and benefits of this action have not been determined since the final scope of the rule is not certain. This analysis will be based in large part on public comments received on the proposed rule.

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Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 28012
NPRM Comment Period End	02/01/88	52 FR 37334
Final Action	09/07/88	53 FR 34636
Final Action Effective	10/07/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Patrick Boyd, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-4561

RIN: 1029–AA86

1236. IMPROVIDENTLY ISSUED PERMITS

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 845

Legal Deadline: None

Abstract: This rule will clarify that OSMRE will not require the assessment of civil penalties for notices of violation or cessation orders issued to a permittee who has secured an improvidently issued permit from a State regulatory authority. OSMRE distinguishes this type of violation from an environmental violation, which would be treated differently. However, present rules do not address this type of violation, necessitating this rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn	11/00/88	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Andrew DeVito, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5954

RIN: 1029–AB20

1237. DELINQUENT ABANDONED MINE LAND RECLAMATION FEES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 35 CFR 843; 35 CFR 845

Legal Deadline: None

Abstract: The rule will clarify that when OSMRE issues a notice of violation or cessation order for delinquent AML fees, that determination of civil penalties is not to be treated as an environmental violation, but must follow a discrete procedure. Present rules do not address this circumstance, necessitating this rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn	12/00/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Daniel Lytton, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 653-2871

RIN: 1029–AB21

1238. ABANDONED MINE LAND RECLAMATION; STATE RECLAMATION GRANTS

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 886

Legal Deadline: None

Abstract: Cases have been identified where coal mine operators have also contracted with a State to conduct reclamation of abandoned mine land. This reclamation is conducted under the Abandoned Mine Land (AML) Reclamation Program and is funded by fees paid by coal operators on productions. Under the proposed rule, a reclamation contract could not be let to an operator with certain outstanding violations of the Surface Mining Control and Reclamation Act. The violations would include outstanding cessation orders and unpaid civil penalties and abandoned mine reclamation fees. The rule action is being initiated to prevent operators in violation of SMCRA from benefiting from the Act by receiving contracts funded under the AML program.

Timetable:

Action	Date	FR Cite
Withdrawn	12/00/88	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Danny Lytton, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-2866

RIN: 1029–AB13

1239. TENNESSEE PROGRAM AMENDMENT; SIGNIFICANT PERMIT REVISIONS

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 942.774

Legal Deadline: None

Abstract: The rule applies to the Federal program for Tennessee and would establish guidelines for determining whether a proposed revision to an existing coal mining permit is significant. Significant permit revisions are subject to public comment and hearing requirements. The rule would assist OSMRE in making consistent determinations concerning the significance of permit revisions in Tennessee. The rule is being proposed in response to a decision on a petition for rulemaking, submitted to the Director, OSMRE.

Timetable:

Action	Date	FR Cite
Notice of Decision on Petition for Rulemaking	03/05/87	52 FR 6827
NPRM	07/13/88	53 FR 26566
Final Action	12/05/88	53 FR 49104
Final Action Effective	01/04/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Washington, DC 20240, 202 343-4560

RIN: 1029–AB17

BILLING CODE 4310-05-T

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB) — Proposed Rule Stage

1240. ● RECLAMATION STATES DROUGHT ASSISTANCE ACT OF 1988

Legal Authority: PL 100-387

CFR Citation: 43 CFR 423

Legal Deadline: None

Abstract: The Bureau of Reclamation is proposing a revision to 43 CFR Part 423 to provide emergency drought assistance to qualified applicants for loans to purchase and transport emergency water supplies and support management and conservation activities. Actions implemented under these regulations will be to mitigate losses, or expected losses, and damage resulting from the drought conditions of 1987, 1988, and 1989.

Timetable:

Action	Date	FR Cite
NPRM	04/15/89	
Final Action	06/15/89	
Final Action Effective	07/15/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Tom Phillips, Coordinator, Project Operations Services, Department of the Interior, Bureau of Reclamation, Denver Office, P.O. Box 25007, Denver, CO 80225-0007, 303 236-1058

RIN: 1006–AA19

1241. PROCEDURE TO PROCESS AND RECOVER THE VALUE OF RIGHTS-OF-USE AND ADMINISTRATIVE COSTS INCURRED IN PERMITTING SUCH USE

Legal Authority: 43 USC 387; 31 USC 483(a)

CFR Citation: 43 CFR 429.3(a), (Revision); 43 CFR 429.3(d), (New); 43 CFR 429.6(c), (Revision)

Legal Deadline: None

Abstract: These changes to 43 CFR 429 will provide greater flexibility in determining the value of low value uses by third parties of lands administered by the Bureau of Reclamation. Currently an appraisal is required to provide the use value. A periodic review of the value of the use will also be provided. And finally, the authority of Reclamation's regional directors to modify or waive the values to be recovered is further clarified.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: Multiple

Agency Contact: Edwin W. Cramer, Department of the Interior, Bureau of Reclamation, Denver Office, P.O. Box 25007, Denver, CO 80225-0007, 303 236-8078

RIN: 1006–AA18

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB) — Completed Actions

1242. ACREAGE LIMITATION RULES AND REGULATIONS

Legal Authority: 5 USC 552; 43 USC 371; 43 USC 390

CFR Citation: 43 CFR 426

Legal Deadline: None

Abstract: This rule has been revised to incorporate amendments to the Reclamation Reform Act included in PL 100-203 (Omnibus Budget Reconciliation Act of 1987).

Timetable:

Action	Date	FR Cite
NPRM	06/10/88	53 FR 21857
NPRM Comment Period End	07/11/88	
Final Action Acreage Limitation Final Rules and Regulations	12/16/88	53 FR 50530
Final Action Effective	01/17/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Sectors Affected: All

Agency Contact: Alonzo Knapp, Chief, Lands Branch, Department of the Interior, Bureau of Reclamation, Denver Office, P.O. Box 25007, Denver, CO 80225-0007, 303 236-8503

RIN: 1006–AA17

BILLING CODE 4310-09-T

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM) — Prerule Stage

1243. ● SPECIAL LAWS AND RULES; RESTATEMENT OF PROCEDURES FOR THE SEGREGATION AND OPENING OF PUBLIC LANDS; AMENDMENT

Legal Authority: 43 USC 1202; 43 USC 851 to 852; 43 USC 869 et seq; 43 USC 641 et seq; 43 USC 321 to 323; 43 USC 231; 25 USC 334; 26 Stat 794; 25 USC 336; 16 USC 485; 72 Stat 339 to 340; 43 USC 852 note; 16 USC 818; 43 USC 315f; 43 USC 1601 et seq; ...

CFR Citation: 43 CFR 2090; 43 CFR 2091

Legal Deadline: None

Abstract: This rule will amend the existing regulations to clarify procedural aspects of specific actions covering the segregation of public lands as well as procedures under which those lands are opened to the public land and mineral laws.

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DOI—BLM

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LEGAL AUTHORITY CONT:

43 USC 321

43 USC 325

43 USC 327 to 329

Agency Contact: Dwight Hempel, Realty Specialist, Department of the Interior, Bureau of Land Management, 18th & C St., NW., Washington, DC 20240, 202 343-6486

RIN: 1004–AB54

1244. ● CLASSIFICATIONS

Legal Authority: 43 USC 315f; 43 USC 869; 43 USC 1701 et seq

CFR Citation: 43 CFR 2420

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide guidance for classification terminations or modifications.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Paugh, Department of the Interior, Bureau of Land Management, 18th & C St., NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB57

1245. ● LEASES, PERMITS AND EASEMENTS

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of Leases, Permits and Easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Theodore Bingham, Department of the Interior, Bureau of Land Management, 18th & C St., NW, Washington, DC 20240, 202 343-5441

RIN: 1004–AB51

1246. ● PUBLIC AVAILABILITY OF MINERALS RESOURCES INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 3000

Legal Deadline: None

Abstract: This rule will remove conflicts between existing mineral regulations relating to public availability of mineral resources information and the Freedom of Information Act. The rule will also remove discrepancies among the various mineral regulations regarding public release of information.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/89	
ANPRM Comment Period End	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dorothy Chambers, Management Analyst, Department of the Interior, Bureau of Land Management, Washington, DC 20240, 202 653-8853

RIN: 1004–AB55

1247. ● MINING IN MILITARY WITHDRAWALS

Legal Authority: 100 Stat 3457, sec. 12; 30 USC 22; 43 USC 1701 et seq

CFR Citation: 43 CFR 3828; 43 CFR 3811

Legal Deadline: None

Abstract: This proposed rule establishes guidelines for mining in certain military installations under the Mining Law of 1872, as amended, and for assuring the safe, uninterrupted, and unimpeded use of the lands for military purposes. The Military Lands Withdrawal Act of 1986 specifically provided for certain military lands previously withdrawn from mining to be considered for opening to the operation of the Mining Law of 1872, as amended, with certain special restrictions. Military Lands identified as suitable for mining through the Bureau of Land Management's planning system will be opened on the effective date of an opening order that will be published in the Federal Register.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Reginald E. Reid, Geologist, Department of the Interior, Bureau of Land Management, 18th & C St., NW, Washington, DC 20240, 202 343-8537

RIN: 1004–AB52

1248. ● CONTRACT EXTENSION

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5473; 43 CFR 5474

Legal Deadline: None

Abstract: It is necessary to amend existing regulations concerning extension of time for cutting and removal on timber sale contracts. Shorter contract terms and increased seasonal restrictions on operations have caused a problem with the reappraisal requirement for contract extensions. This regulation would allow contract extensions without reappraisal under certain conditions.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/89	
ANPRM Comment Period End	07/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1725 I St., NW (Premier Bldg.), Washington, DC 20006, 202 653-8864

RIN: 1004–AB56

DOI—BLM

Prerule Stage

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1249. MINERALS (NONMINERAL ENTRIES ON MINERAL LANDS)

Legal Authority: 30 USC 186; 30 USC 124

CFR Citation: 43 CFR Subpart 2093

Legal Deadline: None

Abstract: The amendments made by this rulemaking would eliminate portions of the existing regulations that refer to repealed authorities and make minor changes that reflect the merger of functions between the Bureau of Land Management and the Minerals Management Service.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Rowe, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB20

1250. EXCHANGES - GENERAL PROCEDURES

Legal Authority: 43 USC 1715; 43 USC 1716; 43 USC 1732

CFR Citation: 43 CFR 2200

Legal Deadline: Final, Statutory, August 20, 1989.

Abstract: This rule will amend the existing regulations to provide procedures to facilitate and expedite the processing of land exchanges.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	
Final Action	07/00/89	
Final Action Effective	08/20/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Herb Olson, Natural Resource Specialist, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB28

1251. INDIAN ALLOTMENTS

Legal Authority: 25 USC 334

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Rowe, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB10

1252. ● VILLAGE SELECTIONS

Legal Authority: 43 USC 1613

CFR Citation: 43 CFR 2651

Legal Deadline: None

Abstract: This rule would amend the existing regulations to allow underselected Alaska Native Village Corporations to select lands identified and made available by the Secretary enabling them to fulfill their statutory entitlement under the Alaska Native Claims Settlement Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Olivia Short, Department of the Interior, Bureau of Land Management, 18th & C St., NW, Washington, DC 20240, 202 343-6511

RIN: 1004–AB58

1253. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

Legal Authority: 43 USC 1746

CFR Citation: 43 CFR 2800

Legal Deadline: None

Abstract: This rule will be amended to provide for improved administration of rights-of-way under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Theodore Bingham, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004–AB00

1254. RIGHTS-OF-WAY, TRESPASS, AND LAW ENFORCEMENT - CRIMINAL

Legal Authority: 16 USC 433; 16 USC 4601-6a; 16 USC 670j; 16 USC 1246(i); 16 USC 1338; 18 USC 1851 to 1861; 43 USC 315(a); 43 USC 1061; 43 USC 1181a; 43 USC 1732; 43 USC 1733; 43 USC 1740; 43 USC 1761 to 1771; 43 USC 1063; 43 USC 1181b

CFR Citation: 43 CFR 2800; 43 CFR 2810; 43 CFR 2880; 43 CFR 9230; 43 CFR 9260

Legal Deadline: None

Abstract: This rule will amend the existing regulations to address administrative costs associated with trespass resolution and to establish

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penalties for willful right-of-way trespass.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Oscar Anderson, Natural Resource Specialist, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-5441

RIN: 1004–AB46

1255. RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Legal Authority: 30 USC 185

CFR Citation: 43 CFR 2880

Legal Deadline: None

Abstract: This rule will be amended to provide for improved administration of rights-of-way under the Mineral Leasing Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Theodore Bingham, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004–AA96

1256. ● EXPLORATION ACTIVITY; OIL AND GAS LEASING; GEOTHERMAL RESOURCE LEASING-GENERAL

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 16 USC 3101 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3100; 43 CFR 3200

Legal Deadline: None

Abstract: The rulemaking will issue corrections and conditions to published final rules of May 16, 1988.

Timetable:

Action	Date	FR Cite
NPRM	09/29/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Judy Reed, Mineral Leasing Specialist, Department of the Interior, Bureau of Land Management, 1725 I St., NW (Premier Bldg.), Washington, DC 20006, 202 653-2196

RIN: 1004–AA97

1257. ● EXPLORATION ACTIVITY; OIL AND GAS LEASING; COMPETITIVE LEASES

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 16 USC 3101 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3100; 43 CFR 3120

Legal Deadline: None

Abstract: The rulemaking will issue corrections and conditions to published final rules June 17, 1988.

Timetable:

Action	Date	FR Cite
NPRM	09/29/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Judy Reed, Mineral Leasing Specialist, Department of the Interior, Bureau of Land Management, 1725 I St., NW (Premier Bldg.), Washington, DC 20006, 202 653-2196

RIN: 1004–AB41

1258. ONSHORE OIL AND GAS ORDER NO. 8 - WELL WORKOVERS, COMPLETIONS, ABANDONMENTS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This order is being issued under the Oil and Gas Operations regulations as found in 43 CFR Part 3160. The order details the minimum standards of performance when conducting workover, completions, and abandonment of existing wells on Federal and Indian lands (except Osage Tribe). It also will contain enforcement actions that will result from the failure to meet the minimum standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AA66

1259. ONSHORE OIL AND GAS ORDER NO. 7 - DISPOSAL OF PRODUCED WATER

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas regulations as found in 43 CFR Part 3160. The order details the requirements for the handling, storing or disposing of water produced from oil or gas wells. It replaces NTL-2B. The order will also contain inspection standards. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AB37

1260. ONSHORE OIL AND GAS ORDER NO. 6 - HYDROGEN SULFIDE OPERATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas

regulations as found in 43 CFR Part 3160. The order details the requirements for protecting workers and the public from hydrogen sulfide. It specifies documentation needed prior to operation and measures required during drilling and production. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	10/15/84	49 FR 40354
NPRM Comment Period End	01/14/85	49 FR 46576
NPRM - Second	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AA67

1261. ONSHORE OIL AND GAS ORDER NO. 9 - WASTE PREVENTION AND BENEFICIAL USE OF OIL AND GAS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1; 43 CFR 3162.4; 43 CFR 3162.5; 43 CFR 3162.7-1; 43 CFR 3162.7-2; 43 CFR 3162.7-3; 43 CFR 3165.3; 43 CFR 3165.4

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR 3160. This order details the requirements in order to prevent wastes and promote beneficial uses of oil and gas. This order also provides the enforcement actions that will result when violations of standards occur. It also replaces NTL-4A. This order is to be referenced in the table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Division Chief, Fluid Mineral Lease & Reservoir Management, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AB47

1262. GEOTHERMAL RESOURCE OPERATIONS

Legal Authority: 30 USC 1001 to 1025

CFR Citation: 43 CFR 3200; 43 CFR 3260; 43 CFR 3270

Legal Deadline: None

Abstract: This rulemaking will revise provisions related to geothermal leasing and geothermal operations conducted on Federal lands. The changes are designed to remove burdensome and cumbersome provisions and simplify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AB18

1263. SALES OF FOREST PRODUCTS; GENERAL - PREPARATION FOR SALE

Legal Authority: PL 90-554

CFR Citation: 43 CFR 5400; 43 CFR 5420

Legal Deadline: None

Abstract: Existing regulations permit timber export and purchase volumes to "ratchet" upward at a questionable rate, leading to substitution. The existing regulations need simplification. The rule would correct both of these concerns.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004–AB34

1264. COAL MANAGEMENT – GENERAL

Significance: Regulatory Program

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will revise the exploration and mining operations, regulations, as well as other operations-related regulations, to streamline them and to have them reflect current policy and standard industry operating practices relating to Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Politzer, Chief, Division of Solid Mineral Operations, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-7722

RIN: 1004–AB44

1265. MULTIPLE USE: MINING: MINING CLAIMS UNDER THE GENERAL MINING LAWS

Legal Authority: 30 USC 22 et seq; 30 USC 521 to 540; 30 USC 601 to 615; 30 USC 621 to 625; 43 USC 2; 43 USC 1732; 43 USC 1740; 61 Stat. 681

CFR Citation: 43 CFR Group 3700; 43 CFR Group 3800

Legal Deadline: None

Abstract: These two groups of regulations will be combined into a single group, with the language being revised to remove burdensome, cumbersome and unnecessary provisions. In addition, the language will be updated and clarified and some provisions will be revised to meet the needs of today's conditions.

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DOI—BLM

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Notice of Intent to Propose Rulemaking	12/27/82	47 FR 57521
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Condit, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-3537

RIN: 1004–AB04

1266. MINING CLAIMS UNDER THE GENERAL MINING LAW - NATURE AND CLASSES OF MINING CLAIMS ASSESSMENT WORK

Legal Authority: 43 USC 1732 to 1733; 30 USC 28 - 1 - 2; 30 USC 26; 30 USC 33; 43 USC 1782

CFR Citation: 43 CFR 3800; 43 CFR 3840; 43 CFR 3850

Legal Deadline: None

Abstract: This rulemaking will amend the existing regulations to include the criteria for the standard of discovery as applied to oil shale placer mining claims and provide clarification of what constitutes substantial compliance with assessment work requirements under the Mining Law.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill Condit, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8537

RIN: 1004–AB43

1267. MINING CLAIMS UNDER THE GENERAL MINING LAWS

Legal Authority: 30 USC 22; 43 USC 1201; 43 USC 1744; 43 USC 1734; 43 USC 1740

CFR Citation: 43 CFR Subpart 3809; 43 CFR Subpart 3833

Legal Deadline: None

Abstract: The rule would make amendments to the regulatory provisions dealing with the surface management of mining claims to incorporate changes recommended by a task force that studied this area.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rick Deery, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8537

RIN: 1004–AB36

1268. SALES OF FOREST PRODUCTS; CONDUCT OF SALES

Legal Authority: 30 USC 601 et seq; 43 USC 1181a

CFR Citation: 43 CFR 5400

Legal Deadline: None

Abstract: This rule will amend the existing regulations to specify the conditions under which the provisions of this subpart are applicable to contracts that are not completed.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004–AB39

1269. SALES OF FOREST PRODUCTS; AWARD OF CONTRACT

Legal Authority: 30 USC 601 et seq; 43 USC 1181a

CFR Citation: 43 CFR 5400; 43 CFR 5450

Legal Deadline: None

Abstract: This rule will amend the existing regulations as they relate to timber sale contract performance bonds to discourage bidding at such a rate that the bidder, if awarded the contract, would be unable to perform under the terms of the contract.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004–AB40

1270. CULTURAL RESOURCE MANAGEMENT

Legal Authority: 43 USC 1701 et seq; 16 USC 470 et seq; 42 USC 4321; 16 USC 432; 16 USC 470aa et seq; 42 USC 1996; 16 USC 433; 36 CFR 800.11

CFR Citation: 43 CFR 8100; 43 CFR 8110; 43 CFR 8111; 43 CFR 8140; 43 CFR 8141; 43 CFR 8142; 43 CFR 8143

Legal Deadline: None

Abstract: The rule will adapt a Governmentwide compliance procedure to a Bureau-specific procedure, with substantial streamlining, reduction of outside consultation, quicker management decisions that are more rapidly carried out, public land users being allowed to proceed with land or resource use with less delay and cultural resources being protected as effectively as under the existing system of review.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John G. Douglas, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8353

RIN: 1004–AA69

1271. PALEONTOLOGY

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 8270

Legal Deadline: None

Abstract: This rule will be revised to provide the procedures for the management of paleontological specimens located on the public lands.

DOI—BLM

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/17/82	47 FR 35914
NPRM - Second	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Carl Barna, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-3207

RIN: 1004–AA27

1272. RECREATION: GENERAL

Legal Authority: 43 USC 1701 et seq; 43 USC 869; 43 USC 1181a; 43 USC 315; 43 USC 4321 et seq; 16 USC 460l to 461; 16 USC 1131; 16 USC 1271 to 1287; 16 USC 1241; 16 USC 670; 29 USC 794

CFR Citation: 43 CFR Subpart 8300

Legal Deadline: None

Abstract: This rule will be amended to revise the policy statement for recreation management of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bob Schneider, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-9353

RIN: 1004–AA35

1273. CADASTRAL SURVEY

Legal Authority: 43 USC 1701 et seq; 48 USC 351; 43 USC 772; 43 USC 773

CFR Citation: 43 CFR 9180

Legal Deadline: None

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Walter L. Johnson, Jr., Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 653-8815

RIN: 1004–AA38

1275. LAW ENFORCEMENT, CRIMINAL

Legal Authority: 18 USC 1852; 18 USC 1853; 43 USC 1753

CFR Citation: 43 CFR 9260

Legal Deadline: None

Abstract: It is necessary to amend existing regulations concerning the unlawful removal of forest products from public lands. Existing regulations rely on State statutes in those States with statutes, but little support is provided if State statutes do not exist. This regulation would provide this support and improve overall management of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Ryan, Forester, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-8864

RIN: 1004–AB48

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Land Management (BLM)

Final Rule Stage

1276. LAND CLASSIFICATION

Legal Authority: 43 USC 315f; 43 USC 869; 43 USC 1701 et seq

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: The rulemaking will revise the existing land classification regulations, will remove obsolete provisions, remove burdensome provisions, simplify the land classification system and provide a new protest system for use in connection with land classification decisions.

Timetable:

Action	Date	FR Cite
NPRM	10/22/87	52 FR 39542
NPRM Comment Period End	12/21/87	52 FR 39542
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Jim Paugh, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB19

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1277. RECREATION AND PUBLIC PURPOSES: SOLID WASTE DISPOSAL

Legal Authority: 43 USC 869 et seq; 43 USC 1701 et seq; 31 USC 9701

CFR Citation: 43 CFR 2740

Legal Deadline: None

Abstract: The Recreation and Public Purposes Amendment Act of 1988 (P.L. 100-648) enacted on November 10, 1988, amended the Recreation and Public Purposes Act of 1926. The regulations at 43 CFR 2740 need to be amended in order to add provisions of the new law that pertain to solid waste disposal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Rowe, Realty Specialist, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AA73

1278. ONSHORE OIL AND GAS OPERATIONS - COOPERATIVE AGREEMENTS, DELEGATIONS OF AUTHORITY AND CONTRACTS FOR OIL AND GAS INSPECTION AND ENFORCEMENT

Legal Authority: 30 USC 1701; 30 USC 1732; 30 USC 1735; 30 USC 1751

CFR Citation: 43 CFR 3190

Legal Deadline: None

Abstract: This rule will provide the procedures for implementing the provisions of the Federal Oil and Gas Royalty Management Act authorizing delegations of authority to States in connection with oil and gas operations.

Timetable:

Action	Date	FR Cite
NPRM	11/28/88	53 FR 47904
NPRM Comment Period End	12/28/88	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Pepperney, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2200

RIN: 1004–AB32

1279. ● GEOTHERMAL RESOURCES LEASING

Legal Authority: 30 USC 1001 to 1027

CFR Citation: 43 CFR 3200

Legal Deadline: None

Abstract: The rule would amend the existing regulations concerning definitions of terms, excepted areas, leasing terms, diligent exploration requirements, and review of executing agreements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Karl Duscher, Chief, Branch of Leasing Management and Resource Evaluation, Department of the Interior, Bureau of Land Management, 1725 I St. NW. (Premier Bldg.), Washington, DC 20006, 202 653-2187

RIN: 1004–AB53

1280. FEES, RENTS, AND ROYALTIES

Significance: Agency Priority

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3473.3-2(a)(3)

Legal Deadline: None

Abstract: This rule will revise the royalty rate for coal removed from an underground mine to be a fixed percentage in the range limited by 5 percent and 8 percent.

Timetable:

Action	Date	FR Cite
NPRM	07/29/88	53 FR 28822
NPRM Comment Period End	09/28/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Politzer, Chief, Division of Solid Mineral Operations, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-7722

RIN: 1004–AB45

1281. CONDUCT OF SALES (TIMBER)

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5440

Legal Deadline: None

Abstract: This rule would amend the existing regulations to define more precisely when someone may be disbarred from participating in a timber sale and would provide notice and opportunity for a hearing to those who are subject to debarment.

Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 28830
NPRM Comment Period End	10/05/87	52 FR 28830
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004–AB35

1282. AWARD OF CONTRACT; SALES ADMINISTRATION

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5450; 43 CFR 5460

Legal Deadline: None

Abstract: It is necessary to amend existing regulations concerning timber sale contract performance bonds and payments to encourage responsible bidding at such a rate that the bidder, if awarded the contract, would be able to perform the obligations under the contract.

Timetable:

Action	Date	FR Cite
NPRM	08/17/88	53 FR 31055
NPRM Comment Period End	10/17/88	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-8864

RIN: 1004–AB49

1283. OFF-ROAD VEHICLES

Legal Authority: 43 USC 1201; 43 USC 315a; 16 USC 1531 et seq; 16 USC 1281c; 16 USC 670 et seq; 16 USC 4601 to 6a; 16 USC 1241 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 8340

Legal Deadline: None

Abstract: This rule will amend the existing regulations to clarify some of the definitions to remove confusion that has arisen since the implementation of the existing regulations and to improve the public notification process provided by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/17/87	52 FR 27017
NPRM Comment Period End	09/15/87	52 FR 27017
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard E. Traylor, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Room 2661, Main Interior Bldg., Washington, DC 20240, 202 343-9353

RIN: 1004–AB26

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Completed Actions

1284. ONSHORE OIL AND GAS OPERATIONS - ONSHORE OIL AND GAS ORDER NUMBER 4 - MEASUREMENT OF CRUDE OIL

Legal Authority: 30 USC 189; 30 USC 359; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.7

Legal Deadline: None

Abstract: This document is being issued under the oil and gas operations regulations as found in 43 CFR Part 3160. The order details the requirements for the accurate measurement and recording of the volumes of crude oil and lease condensation produced and sold from Federal and Indian (except Osage) leases. This includes such production from other leases which is allocated to a covered lease. This order will also contain inspection standards. This is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	02/03/88	53 FR 3158
NPRM Comment Period End	04/04/88	
Final Action	02/24/89	54 FR 8086
Final Action Effective	08/23/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AA96

1285. ONSHORE OIL AND GAS ORDER NO. 2 - DRILLING OPERATIONS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 226; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR Part 3160. The order details the uniform national minimum standards of performance which are expected for drilling operations on Federal and Indian (except Osage) lands. It also will contain enforcement actions that will result from failure to meet the minimum standards.

Timetable:

Action	Date	FR Cite
NPRM	08/13/87	52 FR 30310
NPRM Comment Period End	10/13/87	
Final Action	11/18/88	53 FR 46798
Final Action Effective	12/19/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AB21

1286. ONSHORE OIL AND GAS ORDER NO. 3 - SITE SECURITY

Significance: Regulatory Program

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 1701 et seq; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3161.3; 43 CFR 3162.7-1; 43 CFR 3162.7-4

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR Part 3160. The order supplements the minimum standards found in the regulations at 43 CFR 3162.7-4(b), (c) and (d).

Timetable:

Action	Date	FR Cite
NPRM	08/13/87	52 FR 30282
NPRM Comment Period End	10/13/87	
Final Action	02/24/89	54 FR 8056
Final Action Effective	03/27/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AB24

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Completed Actions

1287. MANAGEMENT OF EXISTING LEASES

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 358; 30 USC 521 to 531; 30 USC 1201 et seq

CFR Citation: 43 CFR 3450

Legal Deadline: None

Abstract: This rule would eliminate the right of a lessee to object to readjusted lease terms and conditions that are mandated by law or required by regulation, and also would make the readjusted royalty and rental rates effective as of the date of the lease readjustment, regardless of whether there is a subsequent appeal of the readjusted terms and conditions.

Timetable:

Action	Date	FR Cite
NPRM	12/06/87	52 FR 46499
NPRM Comment Period End	01/07/88	52 FR 46499
Final Action	09/26/88	53 FR 37296
Final Action Effective	09/28/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harry W. Moritz, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-7722

RIN: 1004–AB38

1288. ONSHORE OIL AND GAS ORDER NO. 5 - MEASUREMENT OF NATURAL GAS

Legal Authority: 30 USC 189; 30 USC 359; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.7

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR Part 3160. The order details the requirements for the accurate measurement of the volumes of natural gas produced and sold from Federal and Indian (except Osage) leases. This includes such production from other leases which is allocated to a covered lease. The order also will contain inspection standards. This order is to be referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	02/03/88	53 FR 3168
NPRM Comment Period End	04/04/88	
Final Action	02/24/89	54 FR 8100
Final Action Effective	03/27/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AB22

1289. COAL EXPLORATION AND MINING OPERATIONS RULES

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 1201 et seq

CFR Citation: 30 CFR 3480

Legal Deadline: None

Abstract: This regulation will remove from the existing regulations language that provides that a suspension of a coal lease does not suspend the diligent development requirement.

Timetable:

Action	Date	FR Cite
NPRM	08/26/88	53 FR 32631
NPRM Comment Period End	09/26/88	
Final Action	12/13/88	53 FR 49964
Final Action Effective	01/12/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Paul Politzer, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-7722

RIN: 1004–AB42

1290. OPERATING REGULATIONS FOR EXPLORATION, DEVELOPMENT AND PRODUCTION

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3590

Legal Deadline: None

Abstract: This rule will revise the existing regulations to streamline them and to have them reflect current policy and industry operating practices relating to the leasing of minerals other than oil and gas.

Timetable:

Action	Date	FR Cite
NPRM	01/26/88	53 FR 2055
NPRM Comment Period End	03/28/88	
Final Action	10/07/88	53 FR 39459
Final Action Effective	11/07/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harry Moritz, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-7722

RIN: 1004–AA68

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[FR Doc. 88-5084 Filed 04-21-89; 8:45 am]

federal register

Monday
April 24, 1989

Part XI

Department of Justice

Semiannual Regulatory Agenda

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DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

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Regulatory Agenda

AGENCY: Justice Management Division, Justice.

ACTION: Regulatory agenda.

SUMMARY: The Department of Justice is publishing its April 1989 regulatory agenda pursuant to Executive Order No. 12291, "Federal Regulation," 3 CFR Part 127 (1981 Compilation), the Regulatory Flexibility Act, 5 U.S.C.A. 601-612 (West 1984), and Office of Management and Budget Bulletin No. 89-02, November 4, 1988.

FOR FURTHER INFORMATION CONTACT: Terry Samuels, Executive Secretariat, Justice Management Division, Department of Justice, Room 1110, 10th and Constitution Avenue, NW., Washington, DC 20530 (202-633-3123).

Dated: March 1, 1989.

Harry H. Flickinger,

Assistant Attorney General for Administration.

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
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General Administration—Proposed Rule Stage

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1292	Determination for Access to National Security Information: Eligibility, Adjudication, and Appeal Procedures	1103-AA18

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Immigration and Naturalization Service—Proposed Rule Stage

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1301	Replenishment Agricultural Workers Regulations	1115-AB05
1302	Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB12
1303	Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB13
1304	Prosecution for Escape From Service Custody	1115-AB15
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1306	Documentary Requirements: Immigrants; Waivers; Conditional Basis of Lawful Permanent Resident Status for Certain Alien Spouses and Sons and Daughters	1115-AB18
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Immigration and Naturalization Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1310	Nonimmigrant Classes	1115-AB31

Immigration and Naturalization Service—Final Rule Stage

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1313	Powers and Duties of Service Officers; Availability of Service Records	1115-AA21
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1321	Certificate of Citizenship	1115-AA67
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1341	Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB37
1342	Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB38

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Legal Activities—Proposed Rule Stage

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Office of Justice Programs—Proposed Rule Stage

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Office of Justice Programs—Final Rule Stage

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DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1291. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6103

CFR Citation: 28 CFR 42, Subpart I (New)

Legal Deadline: None

Abstract: This regulation will implement the Age Discrimination Act of 1975, as amended, in programs or activities assisted by the Department of Justice (DOJ). The statute, 42 USC 6103(a)(4), requires that Federal agencies providing Federal financial assistance promulgate implementing regulations consistent with the general regulations issued by the Secretary of Health and Human Services (HHS), and the statute provides that such agency regulations shall not be effective until approved by HHS. In 1980 the proposed rule was published for comment, modified, approved by the DOJ Office of Legal Counsel, and on November 10, 1980 a draft final rule was forwarded to HHS for approval. On July 13, 1984 HHS conditionally approved the draft regulation. On August 12, 1987 DOJ submitted to HHS a draft final regulation.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	06/18/80	45 FR 32710
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Doreen Dennis, Attorney, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66118, Washington, DC 20035-6118, 202 724-2219

RIN: 1190–AA03

DOJ—CRT

Final Rule Stage

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Proposed Rule Stage

1292. DETERMINATION FOR ACCESS TO NATIONAL SECURITY INFORMATION: ELIGIBILITY, ADJUDICATION, AND APPEAL PROCEDURES

Legal Authority: EO 12356

CFR Citation: 28 CFR 17

Legal Deadline: None

Abstract: To establish procedures for granting, denying, suspending, and revoking access to national security information originated by, or in the control of, the Department of Justice.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: D. Jerry Rubino, Director, Security and Emergency Planning Staff, Department of Justice, General Administration, 10th & Constitution Avenue, NW, Washington, DC 20530, 202 633-2094

RIN: 1103–AA18

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Final Rule Stage

1293. RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES IN CASES INVOLVING ALLEGATIONS OF UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR (CONT)

Significance: Agency Priority

Legal Authority: 5 USC 301; 5 USC 554; 8 USC 1103; 8 USC 1324a; 8 USC 1324b

CFR Citation: 28 CFR 66

Legal Deadline: None

Abstract: These regulations will provide the rules of practice and procedure in administrative hearings regarding allegations of unlawful hiring, recruiting or referring for a fee, for employment in the United States of aliens, knowing that the aliens are not authorized to work in the United States, or the continued employment of aliens in the United States knowing the aliens are (or have become) unauthorized to work in the United States, failure to comply with the employment verification requirements and unfair immigration-related employment practices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/24/87	52 FR 44972
Final Action	05/01/89	
Final Action Effective	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: TITLE CONT: Immigration-Related Employment Practices

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Executive Office for Immigration Review, 5203 Leesburg Pike, Suite 1609, Falls Church, VA 22041, 703 756-6470

RIN: 1103–AA14

1294. PROCEDURES FOR TAX REFUND OFFSETS FOR THE COLLECTION OF JUDGMENTS

Legal Authority: 31 USC 3720A; 31 USC 3718; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 11

Legal Deadline: None

Abstract: The proposed regulation will establish procedures for referring to the Department of the Treasury debts for collection by offset against Federal income tax refunds. Authority to do this program expired on June 30, 1988. In limbo at present time pending Congress' action on authorization to extend offset authority. If Congress approves authorization to extend offset authority, we will follow up with necessary action.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22026
Interim Final Rule	03/09/89	54 FR 9979
Interim Final Rule Effective	03/09/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert C. Niffenegger, Department of Justice, General Administration, 10th Street and Constitution Avenue, NW, Washington, DC 20530, 202 633-5345

RIN: 1103–AA16

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DOJ—DOJADM

Final Rule Stage

1295. JUSTICE ACQUISITION REGULATIONS TITLE 48 2822 NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DOJ CONTRACTING ACTIVITIES

Legal Authority: 29 USC 794

CFR Citation: 48 CFR 2822 (New); 48 CFR 2852, 270-1

Legal Deadline: None

Abstract: These rules will prohibit discrimination against the handicapped in agency programs or activities conducted by contractors. The rules will not have a significant cost impact on contractors but will enhance services to the handicapped and prevent discrimination.

Timetable:

Action	Date	FR Cite
NPRM	05/18/88	53 FR 17729
NPRM Comment Period End	06/18/88	53 FR 17729

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: W. L. Vann, Procurement Executive, Department of Justice, General Administration, 633 Indiana Avenue, N.W. Room 542, Washington, DC 20530, 202 272-8354

RIN: 1103–AA17

1296. ALIENS AND NATIONALITY, ASYLUM AND WITHHOLDING OF DEPORTATION PROCEEDINGS

Significance: Agency Priority

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1253

CFR Citation: 8 CFR 208.10

Legal Deadline: None

Abstract: The proposed regulation change would make certain grounds for the mandatory denial of asylum claims, such as certain serious criminal convictions, applicable in deportation and exclusion proceedings. It would clarify the authority of immigration judges to deny an application for asylum or withholding of deportation for mandatory reasons without an unnecessary evidentiary hearing into other aspects of the alien's case.

Timetable:

Action	Date	FR Cite
NPRM	07/27/88	53 FR 28231
NPRM Comment Period End	08/26/88	53 FR 28231
Final Action	05/01/89	
Final Action Effective	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Suite 1609, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103–AA19

DEPARTMENT OF JUSTICE (DOJ)

Proposed Rule Stage

Immigration and Naturalization Service (INS)

1297. NONIMMIGRANT CLASSES, SPECIAL REQUIREMENTS

Legal Authority: 8 USC 1101; 8 USC 1184

CFR Citation: 8 CFR 214.2(b)

Legal Deadline: None

Abstract: The Immigration and Naturalization Service ("the Service") proposes to restrict the types of situations under which an alien may apply for an extension of stay as a nonimmigrant visitor for pleasure (B-2). Faced with ever-increasing adjudications caseloads and with resources which fail to keep pace with those increases, the Service must continually seek ways to carry out its responsibilities in a more efficient manner. By limiting the situations under which a visitor for pleasure may seek an extension of stay, the Service will decrease the amount of resources which must be dedicated to this area and will be able to increase its efforts in other areas having higher priority.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1029-88

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3946

RIN: 1115–AA65

1298. APPLICATION FOR VERIFICATION OF INFORMATION FROM INS SERVICE RECORDS; FORM AND FEE CANCELLATION

Legal Authority: 8 USC 1103; 31 USC 9701

CFR Citation: 8 CFR 103.7

Legal Deadline: None

Abstract: The Immigration and Naturalization Service ("the Service") entertains numerous requests for Verification of Information from INS Service Records, via Form G-641. This form has been misused as a substitute document, while other INS documents are being prepared (i.e., I-94, I-551 or Certificate of Naturalization or Citizenship). Should an applicant need to have his or her status verified while waiting for one of these documents to be processed, and such verification can be satisfied by obtaining a copy of a document (certified if necessary), an FOIA/PA request can be made. If verification is needed to obtain a benefit and a copy will not suffice, the agency needing verification can make a direct request to the INS and it will be handled as appropriate.

Discontinuing the use of Form G-641 will also eliminate the need to request Form G-350, Certification of Birth Data. Requests for this document are minimal since foreign-born children are issued an alien registration receipt card or a citizenship document by INS and no other form of identification should be necessary.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

DOJ—INS

Proposed Rule Stage

Additional Information: INS Number 1044-88

Agency Contact: Ramonia Law-Hill, Information Management Specialist, Department of Justice, Immigration and Naturalization Service, 202 633-2552

RIN: 1115–AA66

1299. NONIMMIGRANT CLASSES; SPECIAL REQUIREMENTS FOR ADMISSION; EXTENSION AND MAINTENANCE OF STATUS

Legal Authority: 8 USC 1101(a)(15)(B); 8 USC 1184

CFR Citation: 8 CFR 214.2(b)

Legal Deadline: None

Abstract: This notice announces the intent of the Immigration and Naturalization Service ("the Service") to set forth, in regulatory form, the special requirements for admission, extension and maintenance of status of nonimmigrant alien visitors for business and visitors for pleasure. Much of the Service's written policy relating to this subject is now contained in the Service's Operations Instructions at O.I. 214.2(b). Because it is more appropriate for interpretations and rules to be set forth in regulatory form, this information will become part of 8 CFR 214. In addition, the proposed rulemaking will clarify the criteria for according B-1 classification to members of certain occupations (such as participants in religious programs and members of foreign film crews). By issuing this advance notice, the Service is providing an opportunity to the public to submit comments and make suggestions at an earlier stage of the process. This will result in a proposed rule which is more comprehensive in its scope and more understandable to the public.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/87	52 FR 36783
ANPRM Comment Period End	11/16/87	52 FR 36783
NPRM	06/30/89	
NPRM Comment Period End	08/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1025-89

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3946

RIN: 1115–AA68

1300. ACCEPTANCE BY OVERSEAS IMMIGRATION AND NATURALIZATION SERVICE OFFICERS AND AMERICAN CONSULATES OF JURISDICTION OF RELATIVE PETITIONS BASED ON RESIDENCE OF PETITIONERS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This amendment revises and clarifies the process used by overseas INS offices and American consulates in accepting jurisdiction of Forms I-130, petitions for alien relatives.

Timetable:

Action	Date	FR Cite
NPRM	04/28/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INS Number 1055-88

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115–AB01

1301. REPLENISHMENT AGRICULTURAL WORKERS REGULATIONS

Significance: Regulatory Program

Legal Authority: PL 99-603

CFR Citation: 8 CFR 210a

Legal Deadline: None

Abstract: This rule adds a new Part 210a of 8 CFR, to conform with the new section 210A of the Immigration and Nationality Act, established by the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603. The purpose of this proposed rule is to set forth the criteria and procedures to be used to admit or adjust the status of replenishment agricultural workers for temporary residence, and to address the rights and obligations of aliens admitted or adjusted under this section.

Timetable:

Action	Date	FR Cite
Public Notice–Notice of Availability	08/15/88	53 FR 30685
Comments due date	09/14/88	
NPRM	03/07/89	54 FR 9054
NPRM Comment Period End	04/03/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1201-89

Agency Contact: Aaron Bodin, Deputy Assistant Commissioner, Special Agricultural Workers, Department of Justice, Immigration and Naturalization Service, 425 Eye Street NW, Washington, DC 20536, 202 786-5723

RIN: 1115–AB05

1302. ● PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.4(c)

Legal Deadline: None

Abstract: This regulation will impact Service administration and public awareness on issues concerning "Subsequent Petition by Same Petitioner for Same Beneficiary".

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1208-89

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-5014

RIN: 1115–AB12

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DOJ—INS

Proposed Rule Stage

1303. ● PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.2(c)(8)

Legal Deadline: None

Abstract: This regulation will impact Service Administration and public awareness on issues concerning blood testing.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1207-89

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-5014

RIN: 1115–AB13

1304. ● PROSECUTION FOR ESCAPE FROM SERVICE CUSTODY

Legal Authority: PL 100-690

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: The regulation will create implementing language for that section of the Anti-Drug Abuse Act of 1988 that makes escape, attempted escape, or assisting in an escape from Service custody a misdemeanor offense.

Timetable:

Action	Date	FR Cite
NPRM	06/28/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1213-89

Agency Contact: Carol Jenifer, Detention and Deportation Officer, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-2276

RIN: 1115–AB15

1305. ● APPEALS, PRECEDENTS, CERTIFICATIONS, AND MOTIONS

Legal Authority: 5 USC 522(a); 8 USC 1101; 8 USC 1103; 8 USC 1160; 8 USC 1201; 8 USC 1255a; 8 USC 1303; 8 USC 1304; 8 USC 1455; 31 USC 9701; EO 12356; 3 CFR 1982 Comp., p. 166

CFR Citation: 8 CFR 103.1; 8 CFR 103.3; 8 CFR 103.4; 8 CFR 103.5

Legal Deadline: None

Abstract: The regulatory action deals with appeals, precedent decisions, certifications, and motions. It would have a beneficial impact on the public by increasing the time periods for submission of certain appeals and briefs and making requirements easier to understand. It would have a beneficial impact on the Service by increasing the number of complete appeals filed with any supporting briefs and streamlining the Service's review of certain decisions. It would also change the title of the Chief, Administrative Appeals Unit to Director, which would have a negligible impact.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1136-89

Agency Contact: Thomas Simmons, Chief, Administrative Appeals Unit, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 376-2064

RIN: 1115–AB17

1306. ● DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS; CONDITIONAL BASIS OF LAWFUL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1154; 8 USC 1181; 8 USC 1184; 8 USC 1186a; 8 USC 1203; 8 USC 1225; 8 USC 1257; 66 Stat 166; 100 Stat 3533; 100 Stat 3537; 66 Stat 173; 66 Stat 181; 66 Stat 184;...

CFR Citation: 8 CFR 211; 8 CFR 216

Legal Deadline: None

Abstract: This proposed rulemaking would amend those regulations published under the Marriage Fraud Amendments of 1986, to allow individuals who are outside the United States to file a Joint Petition to remove the conditional basis of alien's permanent resident status. It would also clarify the regulation relating to travel outside the United States once the petition has been filed and the applicant is in possession of a receipt for filing.

Timetable:

Action	Date	FR Cite
NPRM	04/28/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1134-89

Agency Contact: Michael Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-3946

RIN: 1115–AB18

1307. ● ALIENS AND NATIONALITY

Legal Authority: 8 USC 1101 et seq

CFR Citation: 8 CFR 3; 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 241; 8 CFR 242; 8 CFR 243; 8 CFR 244; 8 CFR 274a; 8 CFR 287

Legal Deadline: None

Abstract: Amendments to procedural language describing the administrative procedures used by the Immigration and Naturalization Service in apprehension, custody, hearing, and appeal processes for aliens convicted of aggravated felonies. These changes are predicated upon the amendments to the Immigration and Nationality Act contained in the Anti-Drug Abuse Act of 1988 (Subtitle J-Provisions Relating to the Deportation of Aliens Who Commit Aggravated Felonies).

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1209-89

Agency Contact: Robert A. McGraw, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-2997

RIN: 1115–AB19

DOJ—INS

Proposed Rule Stage

1308. ● FEE REMITTANCES, CASH AND PERSONAL CHECK ELIMINATION

Legal Authority: 5 USC 522(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455; 28 USC 1746; 7 USC 2243

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to modify our fee remittance policy to the acceptance of certified/cashiers checks and money orders only. This change is necessary to reduce misappropriation of funds, eliminate manpower and administrative costs, and to provide improved services to fee remitters.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1127-89

Agency Contact: Charles Thomason, Systems Accountant, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-4705

RIN: 1115–AB24

1309. ● NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1187

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This regulation amends regulations relating to temporary treaty traders and investors under 101 (a)(15)(E) of the INA. It further expands and clarifies current regulations for greater public understanding.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1203-89

1310. ● NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 CFR 2

CFR Citation: 8 CFR 214.2(k)

Legal Deadline: None

Abstract: This rule will impact Service Administration and public awareness concerning issues related to "Fiancees and fiances of United States Citizens".

Timetable:

Action	Date	FR Cite
NPRM	04/28/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1204-89

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-5014

RIN: 1115–AB31

DEPARTMENT OF JUSTICE (DOJ)

Immigration and Naturalization Service (INS)

Final Rule Stage

1311. ASYLUM PROCEDURES

Significance: Regulatory Program

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1252; 8 USC 1253; 8 USC 1283

CFR Citation: 8 CFR 208; 8 CFR 236.3; 8 CFR 242.17(c); 8 CFR 243.9; 8 CFR 253.1(f); 8 CFR 3

Legal Deadline: None

Abstract: The proposed rule would set forth procedures to be used in adjudicating asylum and withholding of deportation applications under sections 208 and 243(h) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	08/28/87	52 FR 32552
NPRM Comment Period End	10/27/87	52 FR 32552
Modification of Proposed Rule	04/06/88	53 FR 11300
Comment Period End	05/06/88	53 FR 11300
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: DOJ Order Number on revised proposed rule 1267-88.

Agency Contact: Ralph B. Thomas, Immigration Inspector, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-5463

RIN: 1115–AA13

1312. DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE; DIRECT TRANSITS

Legal Authority: 8 USC 1182

CFR Citation: 8 CFR 212.7(d)

Legal Deadline: None

Abstract: This final rule outlines requirements for approval of section 212(k) waivers, including an amended I-193 for use in making the application.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Harvey Adler, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-2725

RIN: 1115–AA19

1313. POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Legal Authority: 8 USC 1103; Office of Management and Budget Circular A-25

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to amend the fee schedule of the Immigration and Naturalization Service. This change will add fees for two new forms created as a result of the Immigration Marriage Fraud Amendments of 1986 (IMFA). These forms are the Joint Petition to Remove the Conditional Basis of Alien's Permanent Resident Status (Form I-751) and the Application for Waiver of Requirement to File Joint Petition for Removal of Conditions (Form I-752). The proposed charges reflect the estimated cost of providing the benefits and services to the public, taking into account public policy and other pertinent facts.

Timetable:

Action	Date	FR Cite
NPRM	01/27/88	53 FR 2426
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number E-88

Agency Contact: Michael Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye Street, NW, Washington, DC 20536, 202 633-3946

RIN: 1115–AA21

1314. NONIMMIGRANT CLASSES; TEMPORARY EMPLOYEES

Significance: Regulatory Program

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1258

CFR Citation: 8 CFR 214.2(h)

Legal Deadline: None

Abstract: The Immigration Reform and Control Act of 1986 (IRCA) imposes sanctions against employers who hire aliens not authorized to work. Since many of the Nation's agricultural employers have become dependent upon such workers to meet production and harvesting needs, Congress created the Special Agricultural Workers (SAW) Program and the Replenishment Agricultural Workers (RAW) Program to provide permanent resident status to certain agricultural workers. To clarify the process through which employers can employ nonimmigrant seasonal and temporary agricultural workers, Congress moved agricultural employment from H-2 classification into a separate H-2A class, and incorporated a labor certification process into the statute. This interim rule establishes special H-2A regulatory criteria. It supplements the Department of Labor's rules covering the temporary agricultural labor certification process. This rule amends Service regulations relating therefore to temporary alien workers seeking classification under section 101(a)(15)(H) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	08/08/86	51 FR 28578
NPRM Comment Period End	10/07/86	51 FR 28576
Interim Final Rule	06/01/87	52 FR 20554
Interim Rule Effective Date	06/01/87	52 FR 20554
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1008-88

Agency Contact: Michael L. Aytes, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-3946

RIN: 1115–AA25

1315. POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS; NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1351; 8 USC 1454; 8 USC 1455

CFR Citation: 8 CFR 103.1(f)(1); 8 CFR 214.4

Legal Deadline: None

Abstract: This proposed rule would revise the procedures and authority to withdraw approval of a school to enroll foreign students.

Timetable:

Action	Date	FR Cite
NPRM	11/05/86	51 FR 40207
NPRM Comment Period End	01/05/87	51 FR 40207
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number C-88

Agency Contact: Joanna London, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-2895

RIN: 1115–AA29

1316. ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR PERMANENT RESIDENCE; CREATION OF RECORDS OF LAWFUL ADMISSION OF PERMANENT RESIDENCE

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255; 8 USC 1257; 8 USC 1259; PL 100-525

CFR Citation: 8 CFR 245.1; 8 CFR 245.6; 8 CFR 245.7; 8 CFR 245.8; 8 CFR 245.9; 8 CFR 249.2; 8 CFR 103

Legal Deadline: None

Abstract: This interim rule will implement sections 117, 202, and 203 of the Immigration Reform and Control Act of 1986. Section 107 contains prohibitions on adjustment of lawful permanent resident status by certain individuals. Section 202 provides for adjustment to lawful permanent resident status by certain nationals of Cuba and Haiti. Section 203 changes the registry date for creation of record of lawful permanent residence from

DOJ—INS

Final Rule Stage

June 30, 1948 to January 1, 1972. This rule will also amend the list of applications appealable to the Associate Commissioner, Examinations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/03/87	52 FR 6320
Correction of legal citation	04/27/87	52 FR 13827
Final Action	04/28/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1003-89

Agency Contact: Joseph D. Cuddihy, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-3320

RIN: 1115–AA31

1317. BONDS

Legal Authority: 5 USC 552(A); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455; 28 USC 1746; 7 USC 2243; ...

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to eliminate surety bonds as acceptable security on immigration appearance, public charge, and maintenance of status and departure bonds. This change is necessary to increase alien appearances and minimize dollar losses to the U.S.

Timetable:

Action	Date	FR Cite
NPRM	07/01/87	52 FR 24475
NPRM Comment Period End	07/31/87	52 FR 24475
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1036-87

Agency Contact: Wanda LaBay, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, 202 376-2854

RIN: 1115–AA41

1318. TEMPORARY ALIEN WORKERS SEEKING CLASSIFICATION UNDER THE IMMIGRATION AND NATIONALITY ACT

Significance: Regulatory Program

Legal Authority: 8 USC 1101

CFR Citation: 8 CFR 214.2(h)

Legal Deadline: None

Abstract: The proposed rule amends regulations of the INS relating to Temporary Alien Workers seeking classification under section 101(a) (15) (H) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	08/08/86	51 FR 28576
NPRM Comment Period End	10/07/86	51 FR 28576
Another Proposed Rule Published	10/26/88	53 FR 43217
Comment Period End	11/25/88	53 FR 43217
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1040-88

Agency Contact: Flora Richardson, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3240

RIN: 1115–AA44

1319. STATE EMPLOYMENT AGENCIES

Significance: Agency Priority

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; PL 99-603

CFR Citation: 8 CFR 274a.6

Legal Deadline: None

Abstract: This interim rule amends the regulations at 8 CFR 274a.6, defining procedures for State employment agencies in verifying the identity and employment eligibility of individuals and certifying verifications to employers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/87	52 FR 43050
Effective date of Interim Rule	11/09/87	52 FR 43050
Comment period closes on Interim Rule	01/08/88	52 FR 43050
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS Number 1046-87

Agency Contact: Christopher Pohl, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 202 633-4495

RIN: 1115–AA50

1320. TEMPORARY DISQUALIFICATION OF CERTAIN NEWLY LEGALIZED ALIENS FROM RECEIVING BENEFITS FROM FEDERAL PROGRAMS OF FINANCIAL ASSISTANCE

Significance: Agency Priority

Legal Authority: 8 USC 1101 (Note); PL 99-603; 100 Stat. 3359

CFR Citation: 8 CFR 245a

Legal Deadline: None

Abstract: This proposed rule implements section 245A of the Immigration and Nationality Act ("ACT"), as amended by section 201 of the Immigration Reform and Control Act of 1986, PL 99-603 ("IRCA"). Section 245A(h) of the Act provides that, with certain exceptions, aliens granted lawful temporary resident status pursuant to section 245A(a) are not eligible for a period of five years after such grant to receive benefits from programs of financial assistance furnished under Federal law on the basis of financial need. The Attorney General is required by section 245A(h)(1)(A)(i) of the Act to identify such programs after consultation with other appropriate heads of the various departments and agencies of Government. This proposed rule implements such provision.

Timetable:

Action	Date	FR Cite
NPRM	08/24/87	52 FR 31784
NPRM Comment Period End	09/23/87	52 FR 31784
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

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Analysis: Regulatory Impact Analysis

Additional Information: INS Number 1038-88

Agency Contact: Paul W. Virtue, Deputy General Counsel, Department of Justice, Immigration and Naturalization Service, 202 633-2658

RIN: 1115–AA55

1321. CERTIFICATE OF CITIZENSHIP

Legal Authority: PL 99-653; 8 USC 1103; 8 USC 1409(c); 8 USC 1434; 8 USC 1444; 8 USC 1448; 8 USC 1452; 8 USC 1455

CFR Citation: 8 CFR 341

Legal Deadline: None

Abstract: This rule change will implement section 22 of P.L. 99-653, the Immigration and Nationality Act Amendments of 1986, regarding issuance of certificates of citizenship for adopted children. The effect of this rule change is to facilitate acquisition of United States citizenship by adopted alien children once they enter the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/87	52 FR 13229
Notice of Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1007-88

Agency Contact: Thomas E. Cook, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115–AA67

1322. ESTABLISHMENT OF NATIONAL FINES OFFICE

Legal Authority: PL 99-591

CFR Citation: 8 CFR 280; 8 CFR 100; 8 CFR 103

Legal Deadline: None

Abstract: This rule establishes a centralized handling of administrative fines; department established as a precursor of National Collections office. Removes workload from district examiners. It provides authority for the Director, National Fines Office to issue notices and bills, and to make adjudicative decisions on finable offenses in order to support district directors by processing such cases centrally, in an automated system.

Timetable:

Action	Date	FR Cite
Final Action	04/28/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1128-89

Agency Contact: Dwight S. Faulkner, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-2680

RIN: 1115–AA73

1323. EQUAL TREATMENT OF FATHERS

Legal Authority: PL 99-603; 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This revision is to assist in the implementation of PL 99-603, the Immigration Reform and Control Act of 1986, which recognizes, for preference petition purposes, the relationship between a biological father and his illegitimate child.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1049-87

Agency Contact: Thomas E. Cook, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115–AA76

1324. SPECIAL AGRICULTURAL WORKERS

Significance: Agency Priority

Legal Authority: PL 99-603; 100 Stat. 3359; 8 USC 1101 note; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455; 8 USC 1182; 8 USC 1252; 8 USC 1362; ...

CFR Citation: 8 CFR 103; 8 CFR 210; 8 CFR 242

Legal Deadline: None

Abstract: This rule implements a new amendment to section 210 of the INA by deleting the entry cut-off date for eligibility to file applications under section 210 in the United States; and establishing standards and procedures for processing "preliminary applications" at designated ports of entry on the southern land border. This rule clarifies and makes various grammatical and technical amendments to the regulations governing the Special Agricultural Worker Program including changes necessitated by the new amendments to section 210. The rule defines the term "preliminary application"; deletes the limitation on the authority of District Directors to deny applications at legalization offices; deletes the filing date requirement for eligible aliens apprehended prior to the application period; clarifies the provision concerning where appeals under Part 210 are to be filed; deletes the references to issuance of an Order to Show Cause and Warrant of Arrest in cases where the United States Attorney declines prosecution; clarifies the provision requiring notification of decisions to the applicant's representative; confirms that Special Agricultural Worker (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/88	53 FR 10062
Comment period closes	04/28/88	53 FR 10062

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1101-88

ABSTRACT CONT: applicants are permitted to travel outside the United States and reenter upon the presentation of a valid unexpired Form I-688A; provides for eligible applicants to be issued the Temporary Resident Card at any Legalization Office; and, deletes the transitional admission.

Agency Contact: Aaron Bodin, Deputy Assistant Commissioner, Special Agricultural Workers (SAW), Department of Justice, Immigration and Naturalization Service, 202 786-3658

RIN: 1115–AA83

1325. CHANGE OF NONIMMIGRANT CLASSIFICATION

Legal Authority: PL 99-603; 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1257; 8 USC 1258

CFR Citation: 8 CFR 248

Legal Deadline: None

Abstract: This rule change will implement section 312 of PL 99-603, the Immigration Reform and Control Act of 1986, to facilitate an application for a change to nonimmigrant (N) status while in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Effective Date	11/06/86	52 FR 11621
Interim Final Rule	05/11/87	52 FR 11621
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1000-87

Agency Contact: Thomas E. Cook, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115–AA87

1326. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS

Legal Authority: PL 99-603; 100 Stat. 3359; 8 USC 1101 (Note); PL 100-204; 101 Stat. 1331

CFR Citation: 8 CFR 245a

Legal Deadline: None

Abstract: This rule amends the regulations published in the Federal Register at 52 FR 16205 on May 1, 1987, and 52 FR 43843 published on November 17, 1987. The rule further provides for another class of eligible aliens, specifically, certain nationals of countries for which extended voluntary departure (EVD) was made available at any time during the 5 year period ending on November 1, 1987.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/21/88	53 FR 9274
Comment period closes	04/20/88	53 FR 9274
Final Action	04/20/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1106-88

Agency Contact: Terrance M. O'Reilly, Deputy Assistant Commissioner, Department of Justice, Immigration and Naturalization Service, 202 786-3658

RIN: 1115–AA97

1327. ALIEN COMMUTERS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1203; 8 USC 1225; 8 USC 1257

CFR Citation: 8 CFR 211

Legal Deadline: None

Abstract: This rule amends 8 CFR 211.5 to provide that commuter aliens, in order to retain resident status, must demonstrate either that they have not been unemployed for a continuous period of six months or that they have worked ninety days, in the aggregate, during the twelve-month period preceding their application for admission into the United States. The current regulations governing alien commuters provide for a loss of permanent resident status to commuters who have been out of regular employment in the United States for a continuous period of six months.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/88	53 FR 18259
Interim Final Rule Effective	05/23/88	53 FR 18259
Interim Final Rule Public Comment Period End	06/22/88	53 FR 18259
Final Action Effective	04/28/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS Number 1105-88

Agency Contact: Aaron Bodin, Deputy Assistant Commissioner, Special Agricultural Workers, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-5309

RIN: 1115–AB08

1328. INS/EOIR FEE REVIEW

Significance: Agency Priority

Legal Authority: 31 USC 9701

CFR Citation: 8 CFR 103.7

Legal Deadline: None

Abstract: This rule proposes to amend the existing fee schedule of the Immigration and Naturalization Service and the Executive Office for Immigration Review (EOIR). These changes are necessary to place the financial burden of providing special services and benefits which do not accrue to the public at large on the recipients of these special services and benefits. Charges have been adjusted to more nearly reflect the current recovery cost of providing these special services and benefits, taking into account public policy and other pertinent facts.

Timetable:

Action	Date	FR Cite
NPRM	12/14/88	53 FR 5030
NPRM Comment Period End	01/13/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number F-88

Agency Contact: Charles S. Thomason, Jr., Systems Accountant, Finance Branch, Department of Justice, Immigration and Naturalization Service, 425 Eye Street, NW, Washington, DC 20536, 202 633-4705

RIN: 1115–AB11

1329. ● CONDITIONS FOR RELEASE FROM CUSTODY AND/OR BOND AND FOR CHANGE OF VENUE

Legal Authority: 8 USC 1103; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; 5 USC 301; 8 USC 1182; 8 USC 1252; 8 USC 1254; 8 USC 1362; EO 12356; 100 Stat 3359; PL 95-145, Title I

CFR Citation: 8 CFR 3; 8 CFR 242

Legal Deadline: None

Abstract: This rule sets forth minimum conditions which an alien who has

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been placed in custody following the issuance of an order to show cause and a warrant of arrest must meet in order to be considered for release from custody and/or bond. It sets similar conditions which an alien in deportation proceedings must meet in order to obtain a change of venue.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/28/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1214-89

Agency Contact: Lolita Semidey, Attorney, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-2895

RIN: 1115–AB16

1330. ● ALIENS AND NATIONALITY

Legal Authority: 8 USC 1101 et seq

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: Amendments to 8 CFR 242 to add the Deputy Assistant District Director for Investigations to the list of officials authorized to issue Orders to Show Cause and Notice of Hearing and Warrants of Arrest in deportation proceedings.

Timetable:

Action	Date	FR Cite
Final Action	04/28/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1210-89

Agency Contact: Richard R. Kellner, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-3096

RIN: 1115–AB22

1331. ● ALIENS AND NATIONALITY

Legal Authority: 8 USC 1101 et seq

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: Amendments to 8 CFR 274a.6 to finalize the procedural language describing the administrative procedures to be used by state agencies involved in the issuance of employment eligibility certifications in compliance with the employment control provisions of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
Final Action	04/28/89	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: INS Number 1211-89

Agency Contact: Gregory S. Bednarz, Deputy Assistant Commissioner, Investigations, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-2997

RIN: 1115–AB23

1332. ● APPLICATIONS, PETITIONS, AND OTHER DOCUMENTS—EVIDENCE

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 103.2(b)(1)

Legal Deadline: None

Abstract: This rule should resolve the issue of who certifies a copy of an original document.

Timetable:

Action	Date	FR Cite
Final Action	04/28/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1202-89

Agency Contact: Raymond Jaroneski, Jr., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-5014

RIN: 1115–AB25

1333. ● ALIENS AND NATIONALITY; ASYLUM AND WITHHOLDING OF DEPORTATION PROCEDURES

Legal Authority: 8 USC 1101; 8 USC 1158; 8 USC 1253

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: The provisions of 8 CFR 208.10 are amended to make certain grounds for the mandatory denial of asylum claims, such as an alien's conviction of a particularly serious crime in the United States directly applicable and binding on applications for asylum that are filed during deportation or exclusion proceedings. The rule also clarifies the authority of immigration judges to deny an application for asylum or withholding of deportation for mandatory reasons without an unnecessary evidentiary hearing into other aspects of an alien's case.

Timetable:

Action	Date	FR Cite
NPRM	07/27/88	53 FR 28231
NPRM Comment Period End	09/26/88	
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number G-89

INS Contact Person: Ralph Thomas, Deputy Assistant Commissioner, Refugee, Asylum and Parole, 633-5463.

Agency Contact: Gerald Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Department of Justice, Immigration and Naturalization Service, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1115–AB27

1334. ● NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1187

CFR Citation: 8 CFR 214.2

Legal Deadline: None

Abstract: This rule defines the term "trade" as it relates to E-1 nonimmigrant treaty traders. The term has never been defined by the Service, and this definition includes trade in services, as well as trade in goods. This definition should increase the number of E-1 application, since in the past the Service has traditionally limited "Trade" to trade in goods.

Timetable:

Action	Date	FR Cite
NPRM	12/05/88	53 FR 48914
NPRM Comment Period End	01/04/89	
Final Action	04/28/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1126-89

Agency Contact: Edward Skerrett, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-3946

RIN: 1115–AB28

1335. ● NONIMMIGRANT CLASSES PURSUANT TO THE U.S.-CANADA FREE TRADE AGREEMENT

Significance: Agency Priority

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1201; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1301; 8 USC 1302; 8 USC 1303; ...

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule implements provisions of the United States-Canada Free Trade Agreement (FTA) by establishing procedures for temporary entry of Canadian citizen business persons into the United States. This rule will facilitate temporary entry on a reciprocal basis between the United States and Canada, while recognizing the continued need to ensure border security and to protect indigenous labor and permanent employment in both countries.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/03/89	54 FR 12
Comment period closes on Interim Final Rule	02/02/89	54 FR 12
Final Action	06/30/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS Number 1138-89

Agency Contact: Edward Skerrett, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-3946

RIN: 1115–AB29

1336. ● NONIMMIGRANT CLASSES; SPECIAL REQUIREMENTS FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS, CONTROL OF EMPLOYMENT OF ALIENS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1187

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule revises the regulations of the INS relating to employment authorization for dependents of certain foreign government and international organization officials classified as A-1, A-2, and G-4 nonimmigrants. It also allows employment authorization for dependents of certain foreign officials classified as G-1 Nonimmigrants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/21/88	53 FR 46850
Interim Final Rule Effective Date	11/21/88	53 FR 46851
Interim Final Rule Comment Period End	12/21/88	53 FR 46851
Final Action	04/28/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1125-89

Agency Contact: Jack Tabaka, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-3946

RIN: 1115–AB30

1337. ● SCHOOL APPROVAL AND WITHDRAWAL REGULATIONS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule requires that schools approved by the Service for attendance by foreign students report any significant changes made to their names, addresses, or curricula to ensure effective monitoring of the Student School Program. The Service will withdraw the approval of a school on notice for failure to comply with this reporting requirement. This rule also updates the regulation regarding withdrawal of school approval to reflect current school transfer procedures for F-1 nonimmigrant students.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4831
NPRM Comment Period End	03/02/89	
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1122-89

Agency Contact: Pearl Chang, Senior Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-3946

RIN: 1115–AB32

1338. ● JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION; CONTROLLED SUBSTANCE VIOLATIONS

Legal Authority: 8 USC 1103; 8 USC 1251; 8 USC 1252; 8 USC 1357

CFR Citation: 8 CFR 241

Legal Deadline: None

Abstract: This rule will require additional data to be provided by an alien seeking a judicial recommendation against deportation in order to help identify him/her to the Immigration and Naturalization Service. This change is necessary to ensure that the Service will be given sufficient information necessary to identify the alien who is the subject of a motion for a judicial recommendation against deportation. This change will permit the Service sufficient time to obtain any file relating to the alien and to prepare a response, if desired, to the alien's motion for a judicial recommendation against deportation.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/04/89	54 FR 154
NPRM Comment Period End	02/03/89	54 FR 154
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1124-89

Agency Contact: Ira Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-3098

RIN: 1115–AB33

1339. ● PUBLIC NOTICE LEGALIZATION: ENGLISH LANGUAGE/CITIZENSHIP STANDARD TEST

Legal Authority: PL 99-603

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the proposals that the INS has accepted under this program and extends the opportunity for participation in this program effort by interested and capable entities.

Timetable:

Action	Date	FR Cite
Notice of Solicitation	03/16/88	53 FR 8702
Notice of Solicitation	06/08/88	53 FR 21535
Notice of Program	01/31/89	54 FR 4920
Notice of Program Proposals due no later than	07/31/89	54 FR 4920

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: INS Number 1132-89

Agency Contact: Terrance O'Reilly, Deputy Assistant Commissioner, Legalization, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 786-3658

RIN: 1115–AB34

1340. ● AVAILABILITY OF DECISIONS AND INTERPRETIVE MATERIAL UNDER THE FREEDOM OF INFORMATION ACT

Legal Authority: 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455; 28 USC 1746; 7 USC 2243

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to eliminate the requirement to maintain a public reading room at each district office. Since public use has been minimal, INS proposes to maintain a reading room only at its Central Office in Washington, DC.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4830
NPRM Comment Period End	03/02/89	
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: INS Number 1117-89

Agency Contact: Russell Powell, Chief, FOIA/PA Section, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-1722

RIN: 1115–AB36

1341. ● PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.2(c)(8)

Legal Deadline: None

Abstract: This regulation will impact Service Administration and public awareness concerning issues related to "Relationship by Adoption".

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/28/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1206-89

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-5014

RIN: 1115–AB37

1342. ● PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.2(c)(3); 8 CFR 204.2(c)(4); 8 CFR 204.2(c)(5)

Legal Deadline: None

Abstract: This rule will impact Service Administration and public awareness.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/28/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1205-89

Agency Contact: Yolonda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-5014

RIN: 1115–AB38

DEPARTMENT OF JUSTICE (DOJ)

Immigration and Naturalization Service (INS)

Completed Actions

1343. POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

CFR Citation: 8 CFR 103.2(b)

Completed:

Reason	Date	FR Cite
Final Action	07/11/88	53 FR 26034
Final Action Effective	07/11/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joanna London 202 633-3197

RIN: 1115–AA28

1344. APPLICANT PROCESSING FOR THE LEGALIZATION PROGRAM; CONFORMING AMENDMENTS

Significance: Regulatory Program

CFR Citation: 8 CFR 100; 8 CFR 103; 8 CFR 264; 8 CFR 299

Completed:

Reason	Date	FR Cite
Final Action	10/31/88	53 FR 43984
Final Action Effective	11/30/88	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Terrance O'Reilly 202 786-3658

RIN: 1115–AA39

1345. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS

Significance: Regulatory Program

CFR Citation: 8 CFR 245a

Completed:

Reason	Date	FR Cite
Final Action	10/31/88	53 FR 43986
Final Action Effective	11/30/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Terrance O'Reilly 202 786-3658

RIN: 1115–AA52

1346. DISPLAY OF CONTROL NUMBERS

CFR Citation: 8 CFR 299.5

Completed:

Reason	Date	FR Cite
Final Action	08/31/88	53 FR 33443
Final Action Effective	08/31/88	53 FR 33443

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharon Andrade Hamann 202 633-3291

RIN: 1115–AA54

1347. DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

CFR Citation: 8 CFR 212.1(e)(3)

Completed:

Reason	Date	FR Cite
Cancelled	08/31/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Y. Peggy Wong 202 633-4033

RIN: 1115–AA59

1348. IMMIGRATION USER FEE, CONFORMING AMENDMENTS

Significance: Regulatory Program

CFR Citation: 8 CFR 232; 8 CFR 233; 8 CFR 235; 8 CFR 237; 8 CFR 238; 8 CFR 239; 8 CFR 271; 8 CFR 273; 8 CFR 280; 8 CFR 299

Completed:

Reason	Date	FR Cite
Final Action	01/04/89	54 FR 100
Final Action Effective	02/03/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Charles S. Thomason, Jr. 202 633-4705

RIN: 1115–AA81

1349. CONTRACTS WITH TRANSPORTATION LINES

CFR Citation: 8 CFR 238

Completed:

Reason	Date	FR Cite
Withdrawn at agency level no rule will be forthcoming	02/24/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Y. Peggy Wong 202 633-4033

RIN: 1115–AA88

1350. REVISION OF REGULATIONS REGARDING THE SEIZURE AND FORFEITURE OF CONVEYANCES

CFR Citation: 8 CFR 274

Completed:

Reason	Date	FR Cite
Final Action	10/26/88	53 FR 43192
Final Action Effective	10/26/88	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David Yost 202 633-2554

RIN: 1115–AA95

1351. DOCUMENTARY REQUIREMENTS; NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

CFR Citation: 8 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	10/19/88	53 FR 40866
Final Action Effective	10/19/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Janice Podolny 202 633-5594

RIN: 1115–AB00

1352. SPECIAL AGRICULTURAL WORKERS

Significance: Agency Priority

CFR Citation: 8 CFR 210

Completed:

Reason	Date	FR Cite
Final Action	01/31/89	54 FR 4756
Final Action Effective	01/31/89	54 FR 4756

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Aaron Bodin 202 786-3658

RIN: 1115–AB03

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Completed Actions

1353. ● STATEMENT OF ORGANIZATION; PORTS OF ENTRY FOR ALIENS ARRIVING BY VESSEL OR LAND TRANSPORTATION

Legal Authority: 8 USC 1103; Immigration and Nationality Act, Sec 103

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: This rule designates Dover, Delaware and Red Hook, St. Thomas, Virgin Islands as "Class A" ports of entry, and further identifies both facilities as ports of entry for all aliens. In addition, Coral Bay, St. John, Virgin Islands is designated as a "Class B" port of entry for aliens who at the time of applying for admission are lawfully in possession of valid alien registration receipt cards, or valid nonresident alien border crossing identification cards, or are admissible without documents under the documentation waivers contained in 8 CFR 212. With the increasing number of vessels arriving at these three locations, it is necessary that each be designated a port of entry, to be regularly staffed by inspectors of the United States Immigration and Naturalization Service.

Timetable:

Action	Date	FR Cite
Final Action	01/23/89	54 FR 2993
Final Action Effective	01/23/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1137-89

Agency Contact: Dwight Faulkner, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-3995

RIN: 1115–AB14

1354. ● VISA WAIVER PILOT PROGRAM; ADJACENT ISLANDS AND TRANSIT PASSENGERS

Legal Authority: 8 USC 1103; 8 USC 1187; 8 CFR 2

CFR Citation: 8 CFR 217

Legal Deadline: None

Abstract: This rule amends, the current regulations on the Visa Waiver Pilot Program as provided at section 313 of the Immigration Reform and Control Act of 1986 (Public Law 99-603) to permit the temporary absence of aliens admitted under this program to travel to certain adjacent islands as well as to foreign contiguous territory within the 90-day period of admission. In addition, the rule is amended to authorize passengers who are in transit through the United States to avail themselves of the program, if otherwise eligible. The rule will enhance international travel, and would ease the administrative burden of carriers that are responsible for passengers in transit without visas.

Timetable:

Action	Date	FR Cite
Final Action	12/13/88	53 FR 50160
Final Action Effective	12/15/88	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1135-88

Agency Contact: Yanghe Peggy Wong, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-2745

RIN: 1115–AB20

1355. ● VISA WAIVER PILOT PROGRAM

Legal Authority: 8 USC 1187

CFR Citation: 8 CFR 217

Legal Deadline: None

Abstract: This rule adds Japan as a designated country under the Visa Waiver Pilot Program as provided at section 313 of the Immigration Reform and Control Act of 1986, PL 99-603. It will facilitate international travel, streamline and reduce the work of affected agencies, and ensure that vital national interests are protected.

Timetable:

Action	Date	FR Cite
Final Action	12/13/88	53 FR 50160
Final Action Effective	12/15/88	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1131-88

Agency Contact: Yanghe Peggy Wong, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-2745

RIN: 1115–AB21

1356. ● POWERS AND DUTIES OF SERVICE OFFICERS

Legal Authority: 5 USC 522(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455; 7 USC 2243; 28 USC 1746; ...

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule amends the job title of "detention officer" and "detention service officer" to "detention enforcement officer" to reflect the actual duties of this series.

Timetable:

Action	Date	FR Cite
Final Action	09/15/88	53 FR 35799
Final Action Effective	09/15/88	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1123-88

Agency Contact: William Buddenberg, Detention and Deportation Officer, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-4049

RIN: 1115–AB35

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Prerule Stage

1357. ● NOTIFICATION OF OBLIGATIONS OF AGENTS OF FOREIGN GOVERNMENTS UNDER 18 USC 951

Legal Authority: 18 USC 951; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 73

Legal Deadline: None

Abstract: The proposed regulations will provide guidance to agents of foreign governments who must notify the Attorney General of their agency status, and of the date, place, time, manner and content of the required notification. The regulations specify the custodian of these records in a manner calculated to assure timely notice to the Departments and Agencies most concerned.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	
ANPRM Comment Period End	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joseph E. Clarkson, Chief, Registration Unit, Internal Security Section, Department of Justice, Legal Activities, 1400 New York Avenue, NW, Room 9300, Washington, DC 20530, 202 786-4923

RIN: 1105–AA06

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Proposed Rule Stage

1358. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN DEPARTMENT OF JUSTICE ADMINISTRATIVE PROCEEDINGS

Legal Authority: 5 USC 504 Equal Access to Justice Act

CFR Citation: 28 CFR 24, (Revision)

Legal Deadline: None

Abstract: The Equal Access to Justice Act was reauthorized on August 5, 1985. Various new amendments have been adopted which require revision of the procedures for applications for attorneys fees, eligible parties, and proceedings covered.

Timetable:

Action	Date	FR Cite
NPRM	04/15/89	
NPRM Comment Period End	07/15/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: Multiple

Analysis: Regulatory Impact Analysis

Agency Contact: John Wilson, Associate General Counsel, Department of Justice, Legal Activities, 633 Indiana Ave., NW, Room 1268, Washington, DC 20531, 202 724-7792

RIN: 1105–AA05

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Proposed Rule Stage

1359. CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES

Legal Authority: 42 USC 3789(g), (c) and (d)

CFR Citation: 28 CFR 23

Legal Deadline: None

Abstract: To change Office and Bureau nomenclature to comply with changes resulting from the Justice Assistance Act of 1984, PL 98-473, and to clarify policy issues relating to time periods for validation of intelligence information.

Timetable:

Action	Date	FR Cite
NPRM	04/15/89	
NPRM Comment Period End	06/15/89	
Final Action	09/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Public Compliance Cost: Initial Cost: $0

Agency Contact: John Wilson, Associate General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Ave., NW, Rm. 1254-C, Washington, DC 20531, 202 724-7795

RIN: 1121–AA12

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Final Rule Stage

1360. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM GUIDELINES

Legal Authority: 42 USC 3789d(c)

CFR Citation: 28 CFR 42.301

Legal Deadline: None

Abstract: To change Departmental nomenclature to comply with nomenclature changes in the Justice Assistance Act of 1984 and eliminate references to Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1977 which are not specifically applicable.

Timetable:

Action	Date	FR Cite
Final Action	04/15/89	
End Review	04/15/89	

Small Entities Affected: None

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Final Rule Stage

Government Levels Affected: Local, State

Agency Contact: Winifred A. Dunton, Director, Office of Civil Rights Compliance, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW, Room 1269, Washington, DC 20531, 202 724-7681

RIN: 1121–AA10

1361. NONDISCRIMINATION IN FEDERAL ASSISTED PROGRAMS – IMPLEMENTATION OF SECTION 809 (C) (1) OF THE JUSTICE ASSISTANCE ACT OF 1984

Legal Authority: 42 USC 3789d(c)

CFR Citation: 28 CFR 42.201

Legal Deadline: None

Abstract: To change Departmental nomenclature to comply with nomenclature changes in the Justice Assistance Act of 1984 and eliminate references to Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1977 which are not specifically applicable.

Timetable:

Action	Date	FR Cite
Final Action	04/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Winifred A. Dunton, Director, Office of Civil Rights Compliance, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW, Room 1269, Washington, DC 20531, 202 724-7681

RIN: 1121–AA11

1362. CRIMINAL JUSTICE INFORMATION SYSTEMS

Legal Authority: 42 USC 3789g

CFR Citation: 28 CFR 20

Legal Deadline: None

Abstract: To change Office and Bureau nomenclature to comply with changes resulting from the Justice Assistance Act of 1984, PL 98-473 and State and Local Law Enforcement Assistance Act of 1986, PL 99-570 Subtitle K, and to delete obsolete terminology.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: John J. Wilson, Associate General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Ave., NW, Room 1254-C, Washington, DC 20531, 202 724-7795

RIN: 1121–AA13

[FR Doc. 89-6179 Filed 04-21-89; 8:45 am]
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federal register

Monday
April 24, 1989

Part XII

Department of Labor

Semiannual Regulatory Agenda

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DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, and VII

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual agenda of regulations selected for review or development.

SUMMARY: This document sets forth the Department's Semiannual Agenda of Regulations which has been selected for review or development during the coming one-year period. The agenda complies with the requirements of both Executive Order 12291 and the Regulatory Flexibility Act.

DATES: The agenda includes all regulations which are expected to be under review or development between April 1989 and April 1990.

FOR FURTHER INFORMATION CONTACT: Roland G. Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, Department of Labor, 200 Constitution Avenue, NW., Room S-2312, Washington, DC 20210, (202) 523-9058.

Note: Information pertaining to a specific regulation can be obtained from the Agency Contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12291 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations.

Executive Order 12291 became effective February 17, 1981, and in substance requires the Department of Labor to publish an agenda, listing all the regulations it expects to have under active consideration for promulgation, proposal or review during the coming one-year period. It also requires the Department to conduct a Regulatory Impact Analysis for all "major" regulations being developed.

The Regulatory Flexibility Act became effective on January 1, 1981. It applies only to regulations for which a notice of proposed rulemaking was issued on or after January 1, 1981, and requires the Department of Labor to publish an agenda, listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602). For any regulation that will have this impact, the Department must conduct a Regulatory Flexibility Analysis to gauge the economic consequences of the rule, and to analyze the availability of more flexible approaches for lightening the rule's regulatory burden on "small entities."

If a proposed regulation will not have a "significant economic impact on a substantial number of small entities," the Department of Labor must publish a certification to that effect at the time of the general notice of proposed rulemaking or at the time of the publication of the final rule. That certification must be accompanied by a succinct statement explaining the reasons for the agency's determinations.

As permitted by law, the Department of Labor is combining this publication of its agendas under the Regulatory Flexibility Act and Executive Order 12291.

The regulatory reform process, of which the Unified Agenda is a part, continues to be an extremely valuable aid in the development of better regulations by the Department. We believe that our regulatory reform program has resulted in improved regulatory management, more clearly written regulations and significantly less burdensome regulations.

Further improvement is certainly needed, and we are constantly seeking new and innovative approaches in pursuit of this goal. All interested members of the public are invited and encouraged to let Departmental officials know how our regulatory reform process can be further improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

The Department of Labor's next semiannual agenda, under Executive Order 12291 and the Regulatory Flexibility Act, will be published in October 1989.

Elizabeth Dole,
Secretary of Labor.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1363	Safety and Health Standards for Federal Supply Contracts (Walsh-Healey Standards)	1290-AA09

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1364	Production or Disclosure of Information or Materials	1290-AA08

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Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1365	Child Labor Regulations, Orders and Statements of Interpretation (ESA/W-H)	1215-AA09
1366	Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity. . ." (ESA/W-H)	1215-AA14
1367	Wage Payments Under the Fair Labor Standards Act of 1938	1215-AA32
1368	Employment of Homeworkers in Certain Industries	1215-AA36

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1369	Government Contractors: Nondiscrimination and Affirmative Action Obligations (ESA/OFCCP)	1215-AA01
1370	Nondiscrimination and Affirmative Action Obligations for Disabled Veterans, Veterans of Vietnam Era, and Handicapped Workers (ESA/OFCCP)	1215-AA02
1371	General Regulations Under the Walsh-Healey Public Contracts Act	1215-AA33

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1372	Employment of Workers with Disabilities Under Special Certificates	1215-AA34
1373	Labor Standards for Foreign Agricultural Workers	1215-AA43
1374	Employee Polygraph Protection Act of 1988	1215-AA49

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1375	Labor Standards Provisions, Davis-Bacon and Related Acts (ESA/WH)	1215-AA07
1376	Claims for Compensation Under the Federal Employees' Compensation Act	1215-AA29
1377	Migrant and Seasonal Agricultural Worker Protection	1215-AA44

Employment and Training Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1378	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring and Enforcement	1205-AA37
1379	Use of Funds Transferred to the States Under Section 903(c) of the Social Security Act (Reed Act)	1205-AA43

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1380	Airline Deregulation: Employee Benefit Program	1205-AA07
1381	Job Corps Program Under Title IV-B of the Job Training Partnership Act	1205-AA54
1382	Labor Certification Process for Temporary Employment of Alien Workers in Agriculture: The H-2A Program	1205-AA59

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Employment and Training Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1383	Advances to States and Repayment of Advances; Interest on Advances	1205-AA65
1384	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66
1385	Administrative Procedure, Federal State Unemployment Compensation Program	1205-AA69
1386	State Agency Disclosure of Unemployment Insurance Wage and Claim Information to the Department of Housing and Urban Development and Public Housing Agencies	1205-AA74
1387	Title V of the Job Training Partnership Act Jobs for Employable Dependent Individuals Incentive (JEDI) Bonus Program	1205-AA75
1388	Job Opportunities and Basic Skills Training Program (JOBS)	1205-AA76

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1389	Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: Adverse Effect Wage Rate Methodology	1205-AA25
1390	Senior Community Service Employment Program	1205-AA29
1391	Disaster Unemployment Assistance Program (DUA)	1205-AA50
1392	Job Training Partnership Act Audits	1205-AA53
1393	Economic Dislocation and Worker Adjustment Assistance Program	1205-AA67
1394	Trade Adjustment Assistance for Workers (OTCA)	1205-AA72
1395	Worker Adjustment and Retraining Notification (WARN) Act	1205-AA73

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1396	Unemployment Compensation for Ex-Servicemembers	1205-AA26
1397	Federal-State Unemployment Compensation Program: Income and Eligibility Verification System	1205-AA64

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1398	Summary Annual Report	1210-AA00
1399	Individual Benefits Reporting and Recordkeeping for Multiemployer Plans	1210-AA02
1400	Individual Benefits Reporting and Recordkeeping for Single Employer Plans	1210-AA03
1401	Qualified Domestic Relations Orders Under the Retirement Equity Act	1210-AA19
1402	"Top Hat" Plans	1210-AA21
1403	Final Bonding Rules (FERSA and ERISA)	1210-AA31

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1404	Participant Directed Individual Account Plans	1210-AA08
1405	Loans to Participants	1210-AA09
1406	Adequate Consideration	1210-AA15
1407	Proposed Regulation Exempting Certain Broker-Dealers and Investment Advisers From Bonding Requirements	1210-AA25

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Pension and Welfare Benefits Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1408	Procedures for Filing and Processing Applications for Exemption from the Prohibited Transaction Provisions of ERISA, the Internal Revenue Code, and FERSA	1210-AA26
1409	Civil Penalties Under FERSA	1210-AA32
1410	Civil Penalty for Failure or Refusal to File Annual Report	1210-AA34

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1411	Allocation of Fiduciary Responsibility (FERSA)	1210-AA30

Office of Labor Management Standards—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1412	Labor Organization Annual Financial Reports	1294-AA04

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1413	Diesel-Powered Equipment for Underground Coal Mines	1219-AA27

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1414	Pattern of Violations	1219-AA04
1415	Underground Coal Mine Electrical Standards	1219-AA10
1416	Review of Metal and Nonmetal Electrical Standards	1219-AA14
1417	Explosives and Blasting in Underground Coal Mines	1219-AA16
1418	Notification, Investigation, Reports and Records of Accidents Injuries, Illnesses, Employment, and Coal Production in Mines	1219-AA33
1419	Rules of Practice for Petitions for Modification of Mandatory Safety Standards	1219-AA45
1420	Hazard Communication	1219-AA47
1421	Air Quality Standards	1219-AA48
1422	Refuse Pile and Impoundment Inspection Records	1219-AA49
1423	Mine Rescue Equipment Test and Inspection Records	1219-AA50
1424	SCSR Inspection Records	1219-AA51
1425	Safety Standards for Berms and Guardrails at Metal and Nonmetal Mines	1219-AA56
1426	Approval of Electric Cables and Splice Kits	1219-AA57
1427	Safety Standards for Roof, Face and Rib Support	1219-AA58
1428	Approval of Intrinsically Safety Battery-Powered Devices	1219-AA59
1429	Approval of Explosion-proof Enclosures	1219-AA60
1430	Approval of Electric Motor Assemblies	1219-AA61
1431	Records of Fire Drills and Programs to Instruct and Train Miners in the Locations and Use of Firefighting Equipment (Underground Coal Mines)	1219-AA62

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Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1432	Underground Coal Mine Ventilation	1219-AA11
1433	Review of Metal and Nonmetal Explosives Standards	1219-AA17
1434	Metal and Nonmetal Radiation Standards	1219-AA28
1435	Approval Criteria for Respiratory Protective Devices	1219-AA30
1436	Certification and Qualification of Persons	1219-AA36
1437	Automatic Warning Devices for Mobile Equipment	1219-AA38
1438	Electric Mine Lamps Other Than Standard Cap Lamps	1219-AA40
1439	Multiple-Shot Blasting Units	1219-AA42
1440	Safety Standards for Methane in Metal/Nonmetal Mines; Conforming Amendments	1219-AA52

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1441	Explosives and Blasting in Underground Coal Mines	1219-AA16
1442	Approval Requirements for Explosives and Sheathed Explosive Units	1219-AA23
1443	Automatic Emergency-Parking Brakes on Rubber-Tired, Self-Propelled Electric Haulage Equipment in Underground Coal Mines	1219-AA39

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1444	Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance from the Department of Labor	1291-AA02

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1445	Department of Labor Acquisition Regulation (DOLAR) (Revision)	1291-AA06
1446	Administrative Grants and Cooperative Agreements to Government and Nonprofit Institutions	1291-AA15
1447	DOL Adoption of Common Rule Implementing Drug-Free Workplace - Nonprocurement	1291-AA17

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1448	Manual Lifting (Parts 1910, 1915, 1917, 1918, 1919, 1926 and 1928)	1218-AA95
1449	Medical Surveillance Programs for Employees	1218-AB00

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Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1450	Carcinogen Policy	1218-AA01
1451	Respiratory Protection	1218-AA05
1452	Asbestos, Tremolite, Anthophyllite and Actinolite	1218-AA26
1453	Methods of Compliance	1218-AA28
1454	Oil and Gas Well Drilling and Servicing (Part 1910)	1218-AA34
1455	Benzene Exposure in Barge/Tanker Cleaning and Repair	1218-AA47
1456	Fall Protection Systems (Personal Protective Equipment) (Part 1910)	1218-AA48
1457	Confined Space (Part 1910)	1218-AA51
1458	Logging (Part 1910)	1218-AA52
1459	Safety and Health Regulations for Longshoring (Part 1918)	1218-AA56
1460	4,4'-Methylenedianiline	1218-AA58
1461	Electric Power Generation, Transmission and Distribution (Part 1910)	1218-AA59
1462	Pulp, Paper and Paperboard Mills (Part 1910)	1218-AA61
1463	Steel Erection (Part 1926)	1218-AA65
1464	Face, Head, Eye and Foot Protection (Personal Protective Equipment) (Part 1910)	1218-AA71
1465	Welding, Cutting and Brazing (Part 1910)	1218-AA72
1466	Formaldehyde	1218-AA82
1467	1,3-Butadiene	1218-AA83
1468	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol and their Acetates	1218-AA84
1469	Gear Certification (Part 1919)	1218-AA97
1470	Methylene Chloride	1218-AA98
1471	Generic Standard for Exposure Monitoring	1218-AB01
1472	Walking and Working Surfaces (Part 1910)	1218-AB04
1473	Bloodborne Infectious Diseases	1218-AB15
1474	Cadmium	1218-AB16
1475	Hazardous Materials (Part 1910)	1218-AB20
1476	Shipyard Employment: Phase II (Part 1915)	1218-AB22
1477	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1478	Occupational Exposures to Hazardous Chemicals in Laboratories	1218-AA00
1479	Ethylene Dibromide (EDB)	1218-AA06
1480	Concrete and Masonry Construction (Part 1926)	1218-AA20
1481	Electrical Safety-Related Work Practices (Part 1910)	1218-AA32
1482	Powered Platforms for Exterior Building Maintenance (Part 1910)	1218-AA35
1483	Excavations (Part 1926)	1218-AA38
1484	Fall Protection (Part 1926)	1218-AA37
1485	Underground Construction (Tunnels and Shafts)(Part 1926)	1218-AA38
1486	Scaffolds (Part 1926)	1218-AA40
1487	Control of Hazardous Energy Sources (Lockout/Tagout) (Part 1910)	1218-AA53
1488	Stairways and Ladders (Part 1926)	1218-AA57
1489	Fall Protection (Part 1915)	1218-AA66
1490	Scaffolds (Part 1915)	1218-AA68
1491	Access and Egress (Part 1915)	1218-AA70
1492	Welding, Cutting and Heating (Part 1915)	1218-AA73
1493	Personal Protective Equipment (Part 1915)	1218-AA74
1494	Explosive and Other Dangerous Atmospheres (Part 1915)	1218-AA91
1495	Hazard Communication	1218-AB02
1496	Lead (Reconsideration of the Feasibility of Compliance in Nine Industry Sectors)	1218-AB18

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Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1497	Hazardous Waste Operations and Emergency Response (Part 1910)	1218-AB13
1498	Permissible Exposure Limit Update	1218-AB17
1499	Hazardous Waste Training Course Certification (Part 1910)	1218-AB23

Office of the Assistant Secretary for Veteran's Employment & Training—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1500	Services for Veterans	1293-AA03

DEPARTMENT OF LABOR (DOL) — **Prerule Stage**
Office of the Secretary (OS)

1363. ● SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS (WALSH-HEALEY STANDARDS)

Legal Authority: 41 USC 35 et seq Walsh-Healey Act; 41 USC 351 et seq Service Contract Act; 29 USC 651 et seq Occupational Safety and Health Act; 30 USC 801 et seq Mine Safety and Health Act; 5 USC 553 Administrative Procedure Act; 20 USC 951 et seq

CFR Citation: 41 CFR 50 TO 204; 29 CFR 1910 to 1919; 29 CFR 1924; 29 CFR 1925; 30 CFR 1 to 199

Legal Deadline: None

Abstract: Part 50-204 of 41 CFR contains safety and health standards for Federal supply contracts under the Walsh-Healey Act. These standards, which also apply to Federal contracts for services under the Service Contract Act, were adopted in 1969, and were last revised in 1971. Many of the standards in Part 50-204 are duplicative of standards found in other Department of Labor regulations, primarily those issued under the Occupational Safety and Health Act (OSHA) in 29 CFR Parts 1910-1919, and the Mine Safety and Health Act (MSHA) in 30 CFR. In addition, other OSHA and MSHA standards have been revised and updated considerably since 1971, and these changes are not reflected in Part 50-204. Because employers covered by the Walsh-Healey and Service Contracts Acts are also covered by OSHA and MSHA, and thus are already required to comply with the OSHA and MSHA standards, as applicable, the Department of Labor is considering whether or not the Walsh-Healey standards should be revised by deleting redundant provisions and by substituting appropriate references (cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: to the corresponding OSHA and MSHA standards. This would clarify that the safety and health standards applied to employers under Federal supply and service contracts are the same standards which apply to them under OSHA and MSHA, and that revisions or updates of OSHA and MSHA standards also apply under the Walsh-Healey and Service Contract Acts.

Agency Contact: Cynthia Attwood, Associate Solicitor, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Room 4004, FP Building, Washington, DC 20210, 202 523-7723

RIN: 1290–AA09

DEPARTMENT OF LABOR (DOL) — **Final Rule Stage**
Office of the Secretary (OS)

1364. PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

Significance: Agency Priority

Legal Authority: 5 USC 552, as amended; EO 12600

CFR Citation: 29 CFR 70, (Revision)

Legal Deadline: Final, Statutory, April 27, 1987.

Abstract: The document proposes regulations to implement the Freedom of Information Reform Act of 1986, which requires agencies to promulgate regulations on a schedule of fees and on fee waivers, and Executive Order 12600, which requires predisclosure

DOL—OS — **Final Rule Stage**

notification to submitters of confidential business information. The proposal also revises the existing DOL Freedom of Information Act (FOIA) regulations, which currently include interpretive material on FOIA exemptions, to limit the scope principally to procedural matters.

Timetable:

Action	Date	FR Cite
NPRM	02/23/88	53 FR 5346
NPRM Comment Period End	07/18/88	53 FR 22680
Final Action	04/00/89	
Final Action Effective	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Room N2428, Washington, DC 20210, 202 523-6201

RIN: 1290–AA08

DEPARTMENT OF LABOR (DOL) — **Prerule Stage**
Employment Standards Administration (ESA)

1365. CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 203

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(1) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary also is directed to designate occupations that may be particularly hazardous for minors between 16 and 18 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14 and 15 year olds may be employed. In addition, this regulation specifies the number of hours in a day and in a week, and time periods within a day that such minors may be employed. The nonagricultural hazardous occupations orders which prohibit the employment of minors in such occupations are also contained in 29 CFR 570. Changes in technology and job content over the years require a review of these regulations. In order to increase job opportunities for such minors, while maintaining essential protection for their well-being, modifications to these regulations may be needed. The Department has established a Child (cont)

Timetable:

Action	Date	FR Cite
Notice published--decision to establish Child Labor Advisory Committee	07/21/87	52 FR 27476
Notice published--announcing meetings of Committee on March 9-10, 1988	02/17/88	53 FR 4788
Notice published--announcing meetings on October 19-20, 1988	09/27/88	53 FR 37660
Develop timetable for action	05/00/89	
End Review	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Labor Advisory Committee to advise the Secretary on the effective administration of the child labor provisions of the FLSA. The recommendations of the committee will be given careful consideration in the review of these regulations. The committee convened on March 9-10, 1988, at which time subcommittees were established to review Hazardous Order (HO) No. 2 (Motor Vehicle Operations), HO No. 10 (Slaughtering and Meat Packing), HO No. 11 (Bakery Machines), and Child Labor Regulation No. 3. The following subcommittee meetings were held: HO No. 2 on July 26, 1988; HO No. 3 on June 20-21, and July 26, 1988; HO No. 10 on May 18-19, and August 31, 1988; HO No. 11 on February 8-9, 1989; and Child Labor Regulation No. 3 on June 20-21, 1988. The full committee reconvened on October 19-20, 1988. The Department is reviewing those recommendations made by the committee. The review of committee recommendations and the development of a timetable for appropriate action will be completed in May 1989.

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA09

1366. DEFINING AND DELIMITING THE TERMS "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY. . ." (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth the criteria used in the determination of the application of the Fair Labor Standards Act exemption for "executive," "administrative," "professional" and "outside sales employees" from the minimum wage and overtime requirements of the Act. The existing regulation was targeted for review by the President's Task Force on Regulatory Relief. A final rule increasing the salary test criteria was published on 01/13/81 (46 FR 3010) and was scheduled to become effective on 02/13/81. On 02/12/81 (46 FR 11972) an indefinite stay of the final rule was

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published. On 03/27/81 (46 FR 18998) a proposal to suspend the final rule indefinitely was published with comments due by 04/28/81. As a result of numerous comments and petitions received from industry groups regarding the duties and responsibilities tests as set forth in the regulations, as well as recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed and decided to reopen the comment period and broaden the scope of the review to include all aspects of the regulations. An ANPRM was published on 11/19/85 and its comment period was (cont)

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal to suspend rule indefinitely	03/27/81	46 FR 18998
Comments due on suspension proposal	04/28/81	46 FR 18998
ANPRM	11/19/85	50 FR 47896
Extension of ANPRM Comment Period from 01/2/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525
End Review	06/00/89	
NPRM	10/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: subsequently extended to 03/22/86. Action on this regulation was delayed due to other regulatory priorities. The Department intends to conclude its review of policy options in June 1989, and publish a proposed rule in October 1989.

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Rm S3502, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8305

RIN: 1215–AA14

1367. ● WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Significance: Regulatory Program

Legal Authority: 29 USC 201 et seq

CFR Citation: 29 CFR 531

Legal Deadline: None

Abstract: These regulations contain the basic standards governing the application of section 3(m) of the Fair Labor Standards Act (FLSA). This section provides that, under certain conditions, the reasonable cost or fair value of furnishing employees with board, lodging, or other facilities may be applied towards meeting the Act's minimum wage and overtime requirements. Section 3(m) also provides that tips received by certain employees may be credited toward the payment of the statutory minimum wage (up to a maximum of 40 percent). The regulatory changes under consideration are needed to reflect amendments to the Act, current case law, and agency enforcement experience, since this rule was last revised in 1967 (32 FR 13575).

Timetable:

Action	Date	FR Cite
Begin Review	04/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Room S3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215–AA32

1368. EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

Significance: Regulatory Program

Legal Authority: 29 USC 211

CFR Citation: 29 CFR 530

Legal Deadline: None

Abstract: This regulation sets forth restrictions on industrial homework and governs the issuance of certificates authorizing the employment of homeworkers in certain industries, pursuant to Section 11(d) of the Fair Labor Standards Act (FLSA). As originally issued, these regulations restricted the employment of industrial homework in seven industries: knitted outerwear; women's apparel; jewelry; buttons and buckles; gloves and mittens; handkerchiefs; and embroideries. The ban was removed on homework in the knitted outerwear industry by the Department on 11/9/81 following extensive hearings and public comment. This action was subsequently upheld by the District Court for the District of Columbia. However, on appeal the ban was reimposed 2/29/84 by the U.S. Court of Appeals for the District of Columbia Circuit. On 3/27/84 the Department published a proposed rule rescinding the ban on homework in the knitted outerwear industry only. In addition to soliciting comments on the proposed recission, the Department sought comments on various alternatives to such action (49 FR 11786). On November 5, 1984, a final rule was published lifting the ban on homework for employers (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/21/86	51 FR 30036
NPRM Comment Period End	12/04/86	51 FR 37298
NPRM Second	03/30/88	53 FR 10342
NPRM Second -- Comment Period End	05/13/88	53 FR 15063
Final Rule	11/10/88	53 FR 45706
ANPRM	12/30/88	53 FR 53344
ANPRM Comment Period End	05/05/89	54 FR 11008

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: in the knitted outerwear industry who obtain a certificate from the Department. Based on analysis of the results of its enforcement experience under the new certification procedure, the Department is proposing to rescind the remaining restrictions in the other industries for employers who currently obtain certificates. A Notice of Proposed Rulemaking was published on August 21, 1986 (51 FR 30036). Based on the review of the comments and the Department's further examination of enforcement experience in knitted outerwear, a new proposal was published on March 30, 1988 (53 FR 10342) which included enforcement mechanisms to enhance compliance

among employers of homeworkers. The comment period was later extended to May 13, 1988 (53 FR 15063). The proposal also excluded the women's apparel industry and stated that this industry would be the subject of separate rulemaking. A final rule was published November 10, 1988 (53 FR 45706). An ANPRM concerning women's apparel homework was published December 30, 1988 (53 FR 53344). A notice of public hearings on this issue to be held in five cities during March 1989 was published on February 3, 1989.

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA36

DEPARTMENT OF LABOR (DOL)

Employment Standards Administration (ESA)

Proposed Rule Stage

1369. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP)

Significance: Regulatory Program

Legal Authority: EO 11246, as amended; 38 USC 2012; 29 USC 793; 29 USC 1781

CFR Citation: 41 CFR 60-1; 41 CFR 60-2; 41 CFR 60-4; 41 CFR 60-20; 41 CFR 60-30; 41 CFR 60-50; 41 CFR 60-60; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: NPRM, Statutory, October 1, 1983.
Rules implementing Section 481 of the 1982 JTPA (29 USC 1781). The operational aspects of such rules need to be coordinated with the pending revisions to the Executive Order 11246 program

Abstract: These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 2012), as amended, and Section 503 of the Rehabilitation Act of 1973, as amended. An NPRM published 08/25/81 and supplemented on 04/23/82, extended the effective date of a final rule published 12/30/80 and proposed amendments to that rule. OFCCP's review of regulatory options continues, and includes consideration of proposed regulations to integrate the requirements of Section 481 of the Job Training Partnership Act of 1982 (29 U.S.C. 1781) with the Executive Order 11246 program.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/81	46 FR 36213
Supplement to ANPRM	08/21/81	46 FR 42490
Previous NPRM & Suspend Eff Date	08/25/81	46 FR 42968
NPRM	04/23/82	47 FR 17770
NPRM	09/00/89	
Final Action	03/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Leonard J. Biermann, Acting Director, Office of Federal Contract Compliance Programs, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm C3325, FPBldg., Washington, DC 20210, 202 523-9475

RIN: 1215–AA01

1370. NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS FOR DISABLED VETERANS, VETERANS OF VIETNAM ERA, AND HANDICAPPED WORKERS (ESA/OFCCP)

Significance: Agency Priority

Legal Authority: 29 USC 793; 38 USC 2012

CFR Citation: 41 CFR 60-1; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: None

Abstract: This proposal would, among other things, incorporate 1978 and 1980 statutory amendments to definitions applicable to Section 503 of the Rehabilitation Act and to the Veterans' programs. However, since 1981 there have been additional amendments to the Rehabilitation Act and to the Vietnam Era Veterans' Readjustment Assistance Act affecting definitions applicable under the respective programs. All such statutorily required changes to the definitions would be incorporated into the proposed regulatory action contemplated under RIN - 1215-AA01.

Timetable:

Action	Date	FR Cite
NPRM	12/30/80	45 FR 86205
NPRM Comment Period End	03/02/81	45 FR 86205
NPRM Second	09/00/89	
Final Action	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leonard J. Biermann, Acting Director, Office of Federal Contract Compliance Programs, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm C3325, FPBldg., Washington, DC 20210, 202 523-9475

RIN: 1215–AA02

1371. GENERAL REGULATIONS UNDER THE WALSH-HEALEY PUBLIC CONTRACTS ACT

Significance: Agency Priority

Legal Authority: 41 USC 38; 41 USC 40

CFR Citation: 41 CFR 50-201.101(a)

Legal Deadline: None

Abstract: This proposed rule would amend the Walsh-Healey Public Contracts Act regulations to provide an alternative regular dealer definition applicable to information systems integration businesses which bid on contracts to furnish the government fully operational information processing ("ADP") systems. The alternative definition would relieve potential contractors in this industry from having to physically maintain inventories from which sales are made, a custom that is inconsistent with this industry's practices.

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DOL—ESA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Room S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA33

DEPARTMENT OF LABOR (DOL)

Employment Standards Administration (ESA)

Final Rule Stage

1372. EMPLOYMENT OF WORKERS WITH DISABILITIES UNDER SPECIAL CERTIFICATES

Significance: Regulatory Program

Legal Authority: 29 USC 214; 29 USC 211

CFR Citation: 29 CFR 524; 29 CFR 525; 29 CFR 529

Legal Deadline: None

Abstract: These regulations establish the terms and conditions, pursuant to section 14(c) of the Fair Labor Standards Act (FLSA), under which handicapped workers may be employed, under certificate, at wage rates less than those otherwise required by statute. The 1986 Amendments to the FLSA substantially revised section 14(c) to simplify worker certification by eliminating separate certification for more productive workers, multiple handicapped individuals, and those in evaluation or training and work activities centers. Three affected regulations (29 CFR 524, 525 and 529) were combined into a single proposed new rule which was published for public comments on May 20, 1988. The comment period closed on July 19, 1988. On October 31, 1988, a notice was published in the Federal Register (53 FR 43899) reopening the comment period for 15 days.

Timetable:

Action	Date	FR Cite
NPRM	05/20/88	53 FR 18234
NPRM Comment Period End	07/19/88	53 FR 18234
Comment Period Reopened	10/31/88	53 FR 43899

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Paula V. Smith, Administator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, RM S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA34

1373. LABOR STANDARDS FOR FOREIGN AGRICULTURAL WORKERS

Significance: Regulatory Program

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline: Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524). It will issue an amended final rule that incorporates the labor standards issued by the Employment and Training Administration and sets forth procedures for enforcement of these labor standards. (Note: Final action on these regulations has been delayed while we acquire experience in enforcing the statutory requirements applicable to temporary foreign agricultural workers.)

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	52 FR 16795
Interim Final Rule	06/01/87	52 FR 20524
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA43

1374. EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

Significance: Regulatory Program

Legal Authority: PL 100-347, Employee Polygraph Protection Act of 1988; 29 USC 2001 to 2009

CFR Citation: 29 CFR 801 (New)

Legal Deadline: Final, Statutory, September 25, 1988.

Abstract: The Employee Polygraph Protection Act of 1988 (EPPA) was enacted June 27, 1988 and takes effect December 27, 1988. EPPA prohibits most private employers from administering lie detector tests to employees or prospective employees but permits the use of polygraph tests, subject to certain safeguards, under specific circumstances. The Secretary of Labor is authorized to issue rules and regulations to implement EPPA and to enforce it, including authority to conduct investigations, assess civil money penalties for violations, and bring suit in U.S. District Courts to enjoin violations of the Act. An interim final rule was published October 21, 1988 (53 FR 41494), requesting comments by February 27, 1989. The interim final rule became effective on December 27, 1988.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/88	53 FR 41494
Final Action	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA49

DOL—ESA

Final Rule Stage

DEPARTMENT OF LABOR (DOL)

Employment Standards Administration (ESA)

Completed Actions

1375. LABOR STANDARDS PROVISIONS, DAVIS-BACON AND RELATED ACTS (ESA/WH)

Significance: Regulatory Program

Legal Authority: 40 USC 276a to 276a7; 40 USC 276c; 40 USC 327 to 332; 5 USC Appendix Reorganization Plan No. 14 of 1950; 29 USC 259

CFR Citation: 29 CFR 1; 29 CFR 5

Legal Deadline: None

Abstract: These regulations govern labor standards applicable to federally funded or assisted construction contracts subject to the Davis- Bacon and Related Acts (as well as contracts subject to the Contract Work Hours and Safety Standards Act). The revised regulations will permit contractors to expand their use of semi-skilled "helpers" on Davis-Bacon covered projects at wages lower than those paid to skilled journeymen. Revised final rules were originally published 05/28/82 (47 FR 23658), but were deferred on 07/28/82 (47 FR 32070) due to an injunction issued by the U.S. District Court. Although the U.S. Court of Appeals for the D.C. Circuit upheld most of the key provisions published in 1982, the district court enjoined certain provisions dealing with helpers. In accordance with decisions of the District and Appeals Courts, a revised proposal was published 80/19/87 (52 31366), and the comment period was later extended to 11/18/87 (52 FR 38473). A final rule was published 1/27/89 (54 FR 4234). The District Court has been asked to lift the injunction to permit the modified rule to be implemented.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31366
NPRM Comment Period End	11/18/87	52 FR 38473
Final Action Final Action Effective (see Additional Information)	01/27/89	54 FR 4234

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: After the injunction against implementation of some provisions of these regulations is lifted by the U.S. District Court for the District of Columbia, a notice will be published in the Federal Register providing an effective date 60 days thereafter.

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA07

1376. CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT

Significance: Agency Priority

Legal Authority: 5 USC 8101 et seq.

CFR Citation: 20 CFR 10

Legal Deadline: None

Abstract: Certain provisions of Final Rules published April 1, 1987, were challenged as being promulgated in violation of the APA. Those sections dealt with collection of forfeited compensation from on-going benefits. In order to ensure that any doubt as to the procedural validity of the rules was laid to rest, the Department took two actions: 1) published an interim final rule which reinstated the affected sections without the language which had been challenged; and 2) published a proposed rule with an invitation to comment, which in effect would have reinstated the April 1, 1987 rule. The proposed rule was withdrawn on November 28, 1988 (53 FR 47829). Following its review of the comments received regarding the proposal, the Department decided that the existing rules are most consistent with the Federal Employees' Compensation Act (5 U.S.C. 8101, et seq.). By withdrawing the proposed rule, the interim final rule remains in effect.

Timetable:

Action	Date	FR Cite
NPRM	04/07/88	53 FR 11596
Interim Final Rule (Reinstating Affected Sections)	04/07/88	53 FR 11594
NPRM Comment Period End	06/06/88	
Withdrawn	11/28/88	53 FR 47829

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas M. Markey, Associate Director for Federal Employees' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, RM S3229 - FPBldg., Washington, DC 20210, 202 523-7552

RIN: 1215–AA29

1377. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

Significance: Agency Priority

Legal Authority: 29 USC 1801 to 1872; PL 99-603

CFR Citation: 29 CFR 500

Legal Deadline: Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 amended the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) in a number of areas concerning the recruitment and employment of illegal aliens. Certain changes to the existing MSPA regulations are needed to conform them to the amended Act. These statutory changes became effective June 1, 1987. In addition, minor clarifying changes were made in certain definitions in the current regulations.

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Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 16859
NPRM Comment Period End	06/05/87	52 FR 16859
Final Action	03/31/89	54 FR 13326
Final Action Effective	05/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA44

DEPARTMENT OF LABOR (DOL)

Prerule Stage

Employment and Training Administration (ETA)

1378. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING AND ENFORCEMENT

Legal Authority: 29 USC 49(k)

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under Title V of the Job Training Partnership Act. It is anticipated that an ANPRM and subsequent rulemaking may result.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Ave., NW, Rm N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205–AA37

1379. USE OF FUNDS TRANSFERRED TO THE STATES UNDER SECTION 903(C) OF THE SOCIAL SECURITY ACT (REED ACT)

Legal Authority: 28 USC 3304; 42 USC 1302; 42 USC 503; 42 USC 1103

CFR Citation: 20 CFR 601; 20 CFR 651; 20 CFR 652; 20 CFR 658; 41 CFR 29 to 70

Legal Deadline: None

Abstract: This regulation sets out Reed Act requirements for States. It covers: restoration of Reed Act funds used to pay unemployment benefits; appropriation by the States and use of funds for administration; and disposition, reduced usage, and replacement of Reed Act-financed property. The regulation implements P.L. 97-248 and updates existing material issued as manuals. Alternatives being considered include: (1) Issuing a regulation, another type of directive, or nothing; (2) Limiting the scope of the regulation to areas involving compliance with Federal law or not limiting scope; and (3) which rules, if any, should be issued regarding the calculation of Reed Act balances, restorations of Reed Act funds, program income, and sales, other dispositions, and reduced usage of property acquired with Reed Act funds. Issuing a regulation will benefit grantees by reducing their uncertainty as to the applicable rules. No significant additional costs will result.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	
ANPRM Comment Period End	05/00/89	
NPRM	07/00/89	
NPRM Comment Period End	08/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Public Compliance Cost: Initial Cost: $5,000; Yearly Recurring Cost: $5,000; Base Year for Dollar Estimates: 1984

Sectors Affected: 94 Administration of Human Resource Programs

Agency Contact: David Henson, Chief, Division of Fiscal Policy, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room C5317, FPBldg., Washington, DC 20210, 202 535-8762

RIN: 1205–AA43

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Employment and Training Administration (ETA)

1380. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Significance: Regulatory Program

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: These regulations are being developed to implement the benefit provisions contained in Sec. 43 of the Airline Deregulation Act of 1978. The Act requires the Secretary of Labor to specify the percentage of prior salary which an "eligible protected employee" would receive as a benefit payment under the Act. An eligible protected employee is a person who has had at least 4 years of employment with a certificated air carrier as of October 24, 1978 and who loses his or her job during the ten years following such date in a bankruptcy or major employment contraction if and only if the Department of Transportation determines that the principal causes of such job loss was deregulation. On May 17, 1984 the U.S. District Court for the District of Columbia held that Section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that the employee protection provisions of Section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987 that the legislative veto provisions were unconstitutional but the first right-to-hire provisions were constitutional, therefore, rulemaking can proceed on the (Cont'd)

Timetable:

Action	Date	FR Cite
NPRMPrevious	03/30/79	44 FR 19146
NPRM First right of hire	09/17/82	47 FR 41304
Comments due First right of hire NPRM	10/18/82	
NPRM	07/00/89	
NPRM Comment Period End	08/00/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT (CONT'D): monetary benefit aspects of the employee protection provisions.

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm C4514, FPBldg., Washington, DC 20210, 202 535-0309

RIN: 1205–AA07

1381. JOB CORPS PROGRAM UNDER TITLE IV-B OF THE JOB TRAINING PARTNERSHIP ACT

Legal Authority: 29 USC 1579

CFR Citation: 20 CFR 684

Legal Deadline: None

Abstract: The regulations will revise and streamline the existing rules for the Job Corps program. These changes will not create new cost nor materially change the existing program. The new rules will be in compliance with Title IV-B of the Job Training Partnership Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Peter E. Rell, Director, Office of Job Corps, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4508, FPBldg., Washington, DC 20210, 202 535-0550

RIN: 1205–AA54

1382. LABOR CERTIFICATION PROCESS FOR TEMPORARY EMPLOYMENT OF ALIEN WORKERS IN AGRICULTURE: THE H-2A PROGRAM

Significance: Regulatory Program

Legal Authority: 8 USC 1101(a)(15)(H)(ii)(a)

CFR Citation: 20 CFR 655

Legal Deadline: Other, Statutory, June 1, 1987.
IRCA required publication of interim final rule by June 1, 1987. This was accomplished.

Abstract: The regulation will implement the new H-2A program created by the Immigration Reform and Control Act of 1986 (IRCA). IRCA established H-2A as a new nonimmigrant subcategory for the admission of Foreign Temporary Agricultural Workers.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16770
NPRM Comment Period End	05/19/87	52 FR 16770
Interim Final Rule	06/01/87	52 FR 20496
NPRM Second	07/00/89	
Effective Date Second NPRM	07/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205–AA59

1383. ADVANCES TO STATES AND REPAYMENT OF ADVANCES; INTEREST ON ADVANCES

Significance: Regulatory Program

Legal Authority: 42 USC 1321; 42 USC 1322

CFR Citation: 20 CFR 606

Legal Deadline: None

Abstract: Since 1981, the Congress has enacted major changes in the Federal Unemployment Tax Act (FUTA) and Social Security Act (SSA) with respect to advances to States for the payment of unemployment benefits and the repayment of such advances. A Notice of Proposed Rulemaking governing relief provisions only was published in the Federal Register on October 28, 1987. This proposed rule will address the accrual and repayment of interest associated with advances. States applying for advances will be given formal procedures and guidance to follow in the loan application and repayment process as well as the interest payment process. To date, UIPLs have been issued to SESAs describing the process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: James H. Manning, Chief, Division of Actuarial Services, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room S4519, FPBldg., Washington, DC 20210, 202 535-0640

RIN: 1205–AA65

1384. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Significance: Regulatory Program

Legal Authority: 8 USC 1182(a)(14)

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CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: Experience in administering the regulations relating to the certification of immigrant aliens for permanent employment in the United States indicates that a number of changes should be made to these regulations. The proposed amendments would be intended to make labor certification process more efficient, to prevent abuse or manipulation of the labor certification process, to clarify some apparent ambiguities in the regulations, and to make the regulations easier to read. Before the Department of State (DOS) and the Immigration and Naturalization Service (INS) may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor pursuant to section 212(a)(14) of the Immigration and Naturalization Act (INA) must certify to the Secretary of State and to the Attorney General that: (a) There are not sufficient United States workers who are able, willing, qualified and available at the time of the application for a visa and admission into the United States and at the place where the alien is to perform work; and (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: (b) The employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers (8 USC 1182(a)(14). The Department of Labor (DOL) has promulgated regulations at 20 CFR Part 656 pursuant to and to implement section 212(a)(14) of the INA (8 USC 1182(a)(14). These regulations set forth the fact finding process designed to support the granting or denial of a permanent labor certification.

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certification Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205–AA66

1385. ADMINISTRATIVE PROCEDURE, FEDERAL STATE UNEMPLOYMENT COMPENSATION PROGRAM

Significance: Agency Priority

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 601; 29 CFR 96; 29 CFR 97; 29 CFR 98

Legal Deadline: None

Abstract: This proposed rule would replace outdated administrative regulations for the unemployment insurance (UI) program grants to States with reference to more current common administrative requirements for State governments codified elsewhere by the Department of Labor (DOL). Because of certain unique needs of the UI program, this action would also cover UI program exceptions to these requirements and clarifications of Employment and Training Administration (ETA) policy in applying requirements to State grantees. As a result, the proposed rule is expected to aid States in understanding and complying with the requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	07/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The regulations proposed to be amended were last amended in 1977 and 1981, and since that time DOL has implemented changes in requirements for State governments which now need to be reflected in UI program regulations.

Agency Contact: Mary Ann Wyrsch, Director, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4231, FPBldg., Washington, DC 20210, 202 523-7831

RIN: 1205–AA69

1386. ● STATE AGENCY DISCLOSURE OF UNEMPLOYMENT INSURANCE WAGE AND CLAIM INFORMATION TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND PUBLIC HOUSING AGENCIES

Significance: Regulatory Program

Legal Authority: 42 USC 503

CFR Citation: 20 CFR 603.2(d)(5)

Legal Deadline: None

Abstract: The Employment and Training Administration proposes to make rules as required by Section 303(i)(1) of the Social Security Act regarding the disclosure of unemployment insurance wage and claim information by State agencies to the Department of Housing and Urban Development and public housing agencies.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	06/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Barbara Ann Farmer, Director, Office of Program Management, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room C4512, FPBldg., Washington, DC 20210, 202 535-0610

RIN: 1205–AA74

1387. ● TITLE V OF THE JOB TRAINING PARTNERSHIP ACT JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE (JEDI) BONUS PROGRAM

Significance: Regulatory Program

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 671

Legal Deadline: NPRM, Statutory, February 7, 1989. Final, Statutory, June 30, 1989.
The proposed regulations are to be published by February 7, 1989 and the final regulations in June 1989 as mandated by Section 510 (e) of Title V.

Abstract: These regulations will implement the above legislation as mandated by Section 510(e) of Title V as amended.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert N. Colombo, Director, Office of Employment and Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4469, FPBldg., Washington, DC 20210, 202 535-0577

RIN: 1205–AA75

1388. ● JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM (JOBS)

Significance: Regulatory Program

Legal Authority: Family Support Act of 1988; PL 100-485

CFR Citation: 45 CFR 201 Subpart A

Legal Deadline: NPRM, Statutory, April 13, 1989. Final, Statutory, October 13, 1989.
The proposed regulations are to be published by April 13, 1989 and the final regulations in September 1989.

Abstract: The regulations will implement the above legislation enactment of the Family Support Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Robert N. Colombo, Director, Office of Employment and Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4469, FPBldg., Washington, DC 20210, 202 535-0577

RIN: 1205–AA76

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Final Rule Stage

1389. ● LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE IN THE UNITED STATES: ADVERSE EFFECT WAGE RATE METHODOLOGY

Significance: Regulatory Program

Legal Authority: 8 USC 1101 et seq

CFR Citation: 20 CFR 655

Legal Deadline: None

Abstract: As mandated by Immigration Reform and Control Act of 1986 (IRCA), DOL published a proposed rule on May 5, 1987 (52 FR 20496) and an interim final rule on June 1, 1987 (52 FR 16770), for administering the H-2A temporary alien agricultural labor certification program created by IRCA. Comments received on the proposed rule were considered by DOL in developing the interim final rule. An additional 60-day comment period led to additional comments. Subsequently, litigation relating to the wage provisions in the June 1 rule, particularly the methodology for establishing adverse effect wage rates (AEWRs) was filed against DOL. In December 1987 the U.S. Court of Appeals for the D.C. Circuit remanded the interim final rule to DOL for further explanation of the AEWR methodology. DOL is publishing a proposed rule explaining its intent to adopt the same methodology set forth in the June 1, 1987 rule, based upon an expanded record.

Timetable:

Action	Date	FR Cite
NPRM	10/28/88	53 FR 43722
NPRM Comment Period End	11/28/88	53 FR 43722
Final Action	05/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205–AA25

1390. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 3056 et seq; Older Americans Community Svcs Employ Act

CFR Citation: 20 CFR 674

Legal Deadline: Final, Statutory, May 5, 1985.
PL 98-459, Section 205(c)

Abstract: The regulations will revise and update the existing rules for the Senior Community Service Employment Program. These changes will not create new cost nor materially change the existing program. However, the new rules will place the program in compliance with the 1984 Amendments to the Older Americans Act.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29606
NPRM Comment Period End	08/27/85	50 FR 34725
Extension of Comment Period to 9/19/85	08/27/85	50 FR 34725
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Paul A. Mayrand, Director, Office of Special Targeted Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4641, FPBldg., Washington, DC 20210, 202 535-0500

RIN: 1205–AA29

1391. ● DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM (DUA)

Significance: Regulatory Program

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Legal Authority: PL 100-207

CFR Citation: 20 CFR 625 (Revision)

Legal Deadline: Final, Statutory, May 21, 1989.

Abstract: Public Law 100-107 made substantial changes in the DUA programs. DUA will now be paid for up to 26 weeks after a major disaster is declared instead of up to 52 weeks. DUA will no longer be payable when an individual is eligible for State unemployment compensation or waiting period credit. An individual will now have up to 60 days to file an appeal of denial of a DUA claim and a Federal official must make a decision in 90 days.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	
Final Action	05/21/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: In addition to updating the current regulations for law changes, the anticipated changes will provide for more efficient operation of the problem.

Agency Contact: Lorenzo C. Roberts, Supervisory Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room C4514, FPBldg., Washington, DC 20210, 202 535-0309

RIN: 1205–AA50

1392. JOB TRAINING PARTNERSHIP ACT AUDITS

Significance: Agency Priority

Legal Authority: Section 164 Job Training Partnership Act; Section 169 Job Training Partnership Act

CFR Citation: 20 CFR 629.42

Legal Deadline: None

Abstract: Governors are responsible for resolving audits of their JTPA subgrantees and subcontractors. Current ETA policy requires federal review and approval of these resolutions only in cases of fraud, gross mismanagement and abuse. More routine audit resolutions are only reviewed on a sample basis during onsite compliance reviews. However, a recent legal opinion stated that the JTPA regulations as presently written could be construed as requiring federal review and approval of all Governors' audit resolutions. The regulations may have to be amended in order to implement ETA's policy.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: None

Agency Contact: David O. Williams, Administrator, Office of Financial and Administrative Management, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4671, FPBldg., Washington, DC 20210, 202 535-0690

RIN: 1205–AA53

1393. ECONOMIC DISLOCATION AND WORKER ADJUSTMENT ASSISTANCE PROGRAM

Significance: Agency Priority

Legal Authority: 29 USC 1501

CFR Citation: 20 CFR 626; 20 CFR 627; 20 CFR 628; 20 CFR 629; 20 CFR 631

Legal Deadline: None

Abstract: The Economic Dislocation and Worker Adjustment Assistance Act (EDWAA) was enacted on August 23, 1988 to amend the Job Training Partnership Act (JTPA) by substituting a completely new Title III. Title III of JTPA establishes programs of training and employment assistance for dislocated workers. The new program incorporates several important changes. Among these changes are: (1) institutionalizing a State rapid response capability, (2) changing delivery system to mandate the designation of substate grantees, (3) focusing on better resource utilization through reallotment and reallocation provisions, (4) greater emphasis on training by incorporating new features such as certificates of continuing eligibility and needs related payments while in training. In addition, greater emphasis will be placed upon coordination and linkages among major training and employment program components such as the public employment service, the UI and TAA programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/24/88	53 FR 41572
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert N. Colombo, Director, Office of Employment Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4469, FPBldg., Washington, DC 20210, 202 535-0577

RIN: 1205–AA67

1394. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS (OTCA)

Significance: Regulatory Program

Legal Authority: PL 100-418, The Omnibus Trade and Competitiveness Act of 1988; Part 3 -- Trade Adjustment Assistance, of Subtitle D of Title I

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: These regulations implement the Amendments to the trade adjustment assistance provisions of the Trade Act of 1974 in Pub. L. 100-418 by expanding the eligibility for TAA to workers in the oil and natural gas industry engaged in exploration and drilling; requiring a written notice to workers believed to be covered by a certification issued by the Department and the publication of a notice of certification in a newspaper of general circulation; making participation in training a condition for receiving trade readjustment allowances; authorizing the waiver of training for a worker when training is not feasible or appropriate; authorizing the payment of TRA to a worker during breaks in training that do not exceed 14 days; basing TAA benefits on the workers most recent separation rather than first qualifying separation as previously applied; extending the authorization of the TAA program to September 30, 1993; and, making other changes.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48474
NPRM Comment Period End	12/30/88	53 FR 48474
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Glenn M. Zech, Deputy Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 601 D Street, NW, Room 6434, PHBldg., Washington, Dc 20213, 202 376-2646

RIN: 1205–AA72

1395. WORKER ADJUSTMENT AND RETRAINING NOTIFICATION (WARN) ACT

Significance: Regulatory Program

Legal Authority: 29 USC 2101

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On August 4, 1988, the Worker Adjustment and Retraining Notification (WARN) Act became law. These regulations will require certain employers to provide sixty days advance notice prior to mass layoffs or plant closings.

Timetable:

Action	Date	FR Cite
Interim Interpretative Rule	12/02/88	
NPRM	12/05/88	53 FR 49076
NPRM Comment Period End	02/03/89	53 FR 49076
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert N. Colombo, Director, Office of Employment and Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4469, FP Bldg., Washington, DC 20210, 202 535-0577

RIN: 1205–AA73

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Completed Actions

1396. UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS

Significance: Regulatory Program

Legal Authority: 5 USC 8508; 5 USC 8521 to 8525

CFR Citation: 20 CFR 614

Legal Deadline: None

Abstract: Section 201 of Public Law 97-362 (Miscellaneous Revenue Act of 1982) amends the eligibility requirements for unemployment compensation for ex-servicemembers. The proposed regulations would implement these new requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/09/87	52 FR 46604
NPRM Comment Period End	01/08/88	52 FR 46604
Final Action	10/17/88	53 FR 40550
Final Action Effective	10/17/88	53 FR 40550

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm C4514, FPBldg., Washington, DC 20210, 202 535-0309

RIN: 1205–AA26

1397. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM: INCOME AND ELIGIBILITY VERIFICATION SYSTEM

Significance: Regulatory Program

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 603, (Revision)

Legal Deadline: None

Abstract: The Employment and Training Administration proposes to amend the regulations at 20 CFR 603, Income and Eligibility Verification System. The amendment will permit access to the State unemployment insurance information by the Federal Parent Locator Service for the purpose of child support enforcement.

Timetable:

Action	Date	FR Cite
NPRM	09/21/88	53 FR 34120
NPRM Comment Period End	10/03/88	
Memorandum of Understanding This issue will be taken up in a Memorandum of (Cont'd)	01/17/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: GOVERNMENT LEVELS AFFECTED: State and the Federal Parent Locator Service

TIMETABLE DESCRIPTION CONT: Understanding with the Social Security Administration

Agency Contact: Barbara Ann Farmer, Director, Office of Program Management, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm C4512, FPBldg., Washington, DC 20210, 202 535-0610

RIN: 1205–AA64

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DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Proposed Rule Stage

1398. ● SUMMARY ANNUAL REPORT

Significance: Regulatory Program

Legal Authority: 29 USC 1024

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rule would revise current requirements with respect to the Summary Annual Report (SAR) to eliminate unnecessary paperwork, improve the effectiveness of its contents, and include important information not currently required to be part of the SAR.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N5669, FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210-AA00

1399. INDIVIDUAL BENEFITS REPORTING AND RECORDKEEPING FOR MULTIEMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in multiemployer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the single employer plan benefit reporting regulations.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM Previous	08/08/80	45 FR 52824
Notice of Public Hearing on Previous	11/12/80	45 FR 74727
NPRM	12/00/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Katherine Lewis, Employee Benefit Plan Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm N5669, FPBldg., Washington, DC 20210, 202 523-7901

RIN: 1210-AA02

1400. INDIVIDUAL BENEFITS REPORTING AND RECORDKEEPING FOR SINGLE EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in single employer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the multiemployer plan benefit reporting regulation.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM Previous	08/01/80	45 FR 51231
Notice of Public Hearing on Previous	11/12/80	45 FR 74726
NPRM	12/00/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Katherine Lewis, Employee Benefit Plan Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm N5669, FPBldg., Washington, DC 20210, 202 523-7901

RIN: 1210-AA03

1401. QUALIFIED DOMESTIC RELATIONS ORDERS UNDER THE RETIREMENT EQUITY ACT

Legal Authority: 29 USC 1056(d)(3)(L); 29 USC 1135

CFR Citation: 29 CFR 2530

Legal Deadline: None

Abstract: This regulation would clarify the application of the qualified domestic relations order provisions of Section 206(d)(3) of ERISA added by the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Shelby Hoover, Counsel for Regulations, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9590

RIN: 1210-AA19

1402. "TOP HAT" PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes an unfunded employee benefit plan maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees ("top hat" plans) for purposes of Title I of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David L. Lurie, Employee Benefit Plan Specialist, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW,

DOL—PWBA

Proposed Rule Stage

Rm N5669, FP Building, Washington, DC 20210, 202 523-8671

RIN: 1210-AA21

1403. FINAL BONDING RULES (FERSA AND ERISA)

Significance: Regulatory Program

Legal Authority: 5 USC 8478

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, December 31, 1989.
Section 113 of the Federal Employees' Retirement System Technical Corrections Act of 1986 imposes a December 31, 1989 deadline for promulgating final bonding regulations under FERSA.

Abstract: FERSA Section 8478 requires the Secretary of Labor to promulgate regulations governing the bonding of fiduciaries and other persons who handle the funds or other property of the Thrift Savings Fund established under FERSA. The regulations set forth the required bonding procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/87	52 FR 35864
NPRM	08/00/89	
NPRM Comment Period End	10/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Judith B. Kahn, Employee Benefit Plan Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N5669, FP Building, Washington, DC 20210, 202 523-7901

RIN: 1210-AA31

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Final Rule Stage

1404. PARTICIPANT DIRECTED INDIVIDUAL ACCOUNT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1104(c); 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: The regulation would describe the kinds of participant directed individual account plans referred to in Section 404(c) of ERISA, the circumstances under which a participant or beneficiary will be considered to have exercised control over his individual account, and the consequences under section 404(c) of such an exercise of control.

Timetable:

Action	Date	FR Cite
NPRM	09/03/87	52 FR 33508
NPRM Comment Period End	11/02/87	
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Shelby Hoover, Counsel for Regulations, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9590

RIN: 1210-AA08

1405. LOANS TO PARTICIPANTS

Significance: Regulatory Program

Legal Authority: 29 USC 1135; 29 USC 1108

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: This rule describes the circumstances under which the exemption in Section 408(b)(1) of ERISA from the prohibited transaction provisions for loans by a plan to plan participants will be available.

Timetable:

Action	Date	FR Cite
NPRM	01/22/88	53 FR 1798
NPRM Comment Period End	03/22/88	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Rees, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9596

RIN: 1210-AA09

1406. ADEQUATE CONSIDERATION

Significance: Regulatory Program

Legal Authority: 29 USC 1002(3)(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes adequate consideration under Section 3(18) of ERISA for securities for which there is no generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/18/88	
Final Action	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel J. Maguire, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9596

RIN: 1210-AA15

1407. PROPOSED REGULATION EXEMPTING CERTAIN BROKER-DEALERS AND INVESTMENT ADVISERS FROM BONDING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 29 USC 1135; 29 USC 1112

CFR Citation: 29 CFR 2580

Legal Deadline: None

Abstract: The proposed regulation is intended to provide an exemption from the bonding requirements of Section 412

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(a) of ERISA for certain broker dealers and investment advisers who handle plan assets if the proposed regulation's alternative bonding requirements are met. If adopted, the regulation would permit broker-dealer and their investment adviser affiliates to substitute the fidelity bond required by the self-regulatory organizations of which they are members, subject to a minimum level of coverage, for the bond otherwise required by Section 412 of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31039
NPRM Comment Period End	05/18/88	53 FR 11886
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Laufer, Employee Benefit Plan Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Rm N5667 FP Building, Washington, DC 20210, 202 523-8671

RIN: 1210–AA25

1408. PROCEDURES FOR FILING AND PROCESSING APPLICATIONS FOR EXEMPTION FROM THE PROHIBITED TRANSACTION PROVISIONS OF ERISA, THE INTERNAL REVENUE CODE, AND FERSA

Significance: Regulatory Program

Legal Authority: 29 USC 1108; 29 USC 1135; 5 USC 8477 (C) (3)

CFR Citation: 29 CFR 2570

Legal Deadline: None

Abstract: This regulation describes the procedures for filing and processing applications for exemptions from the prohibited transaction provisions of ERISA of 1974 and IRC and FERSA of 1986. The proposed regulation updates the description of the Department's procedures to reflect changes in the Department of Labor's exemption authority and to clarify the procedures by providing a more detailed description of the prohibited transaction exemption process.

Timetable:

Action	Date	FR Cite
NPRM	06/28/88	53 FR 24422
NPRM Comment Period End	08/29/88	
Interim Final Rule	12/29/88	53 FR 52688
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Linda N. Winter, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Rm N4611, FP Building, Washington, DC 20210, 202 523-9596

RIN: 1210–AA26

1409. CIVIL PENALTIES UNDER FERSA

Significance: Regulatory Program

Legal Authority: 5 USC 8477(e)(1)(B)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Section 8477(e)(1)(B) of the Federal Employees' Retirement System Act of 1986 (FERSA) authorizes the Secretary of Labor to assess civil penalties against parties in interest who engage in prohibited transactions with the Thrift Savings Fund (Fund) established under FERSA. The regulations will govern the procedures for imposing sanctions and enable the Department to penalize persons who violate the prohibited transaction rules with respect to assets of the Fund.

Timetable:

Action	Date	FR Cite
NPRM	09/26/88	53 FR 37486
NPRM Comment Period End	11/25/88	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Rees, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Room N4611, FP Building, Washington, DC 20210, 202 523-9141

RIN: 1210–AA32

1410. CIVIL PENALTY FOR FAILURE OR REFUSAL TO FILE ANNUAL REPORT

Significance: Regulatory Program

Legal Authority: PL 100-203, Sec 9342(c)

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory, January 1, 1989.
Section 9342(d) of OBRA 1987 specifically directs the Secretary to issue not later than January 1, 1989, the regulations required to implement this provision.

Abstract: Section 502(c) of the Employee Retirement Income Security Act of 1974 (ERISA) was amended by Section 9342(c) of the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987) to authorize the Secretary of Labor to assess a civil penalty of up to $1,000 a day from the date of a plan administrator's failure or refusal to file the complete annual report required to be filed with the Secretary under section 101(b)(4) of ERISA. This regulation would carry out the requirement of OBRA 1987 that the Secretary promulgate regulations implementing the new civil penalty provision relating to a plan administrator's failure or refusal to file a complete annual report.

Timetable:

Action	Date	FR Cite
NPRM	10/17/88	53 FR 40674
NPRM Comment Period End	11/17/88	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N5669, FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210–AA34

DEPARTMENT OF LABOR (DOL) **Completed Actions**
Pension and Welfare Benefits Administration (PWBA)

1411. ALLOCATION OF FIDUCIARY RESPONSIBILITY (FERSA)

Significance: Regulatory Program

Legal Authority: 5 USC 8477(e)(1)(E)

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory, December 31, 1988.
Section 114 of the Federal Employees' Retirement System Technical Corrections Act of 1986 imposes a December 31, 1988 deadline for promulgating these regulations.

Abstract: Section 8477(e)(1)(E) of the Federal Employees' Retirement System Act of 1986 (FERSA) requires the Secretary of Labor to prescribe in regulations procedures for allocating fiduciary responsibilities among fiduciaries, including investment managers, with respect to the Thrift Savings Fund (Fund) established under FERSA. This regulation would carry out the requirement of FERSA that the Secretary promulgate regulations prescribing procedures for allocating fiduciary responsibility with respect to the Thrift Savings Fund.

Timetable:

Action	Date	FR Cite
NPRM	07/22/88	53 FR 27704
NPRM Comment Period End	08/21/88	
Final Action	12/29/88	53 FR 52684
Final Action Effective	12/29/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Shelby Hoover, Counsel for Regulation, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Room N4611, FP Building, Washington, DC 20210, 202 523-9590

RIN: 1210–AA30

DEPARTMENT OF LABOR (DOL) **Proposed Rule Stage**
Office of Labor Management Standards (OLMS)

1412. LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS

Legal Authority: 29 USC 431; 29 USC 438; 29 USC 461

CFR Citation: 29 CFR 403

Legal Deadline: None

Abstract: This proposed regulation would implement a new labor organization annual report form to replace Labor Organization Annual Report forms LM-2 and LM-3, which are incorporated in the Department's regulations at 29 CFR 403.3 and 403.4(a). It would also replace Form LM-1A, entitled "Report of Current Status: Labor Organization Information Supplement," which is incorporated in the regulations at 29 CFR 402.4(a).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue, NW, Room N5613, FPBldg., Washington, DC 20210, 202 523-7373

RIN: 1294–AA04

DEPARTMENT OF LABOR (DOL) **Prerule Stage**
Mine Safety and Health Administration (MSHA)

1413. DIESEL-POWERED EQUIPMENT FOR UNDERGROUND COAL MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 36; 30 CFR 31; 30 CFR 32

Legal Deadline: NPRM, Statutory. Under the Mine act, the advisory committee must submit recommendations within 180 days of convening.

Abstract: MSHA has established a mining equipment approval program, including evaluation criteria, and corresponding safety standards requiring the use of certain equipment. Existing approval regulations do not generally apply to the diesel equipment now being used in underground coal mines. An Advisory Committee convened in January 1988 to make recommendations concerning what standards and regulations would be appropriate for coal mines. The Advisory Committee made recommendations to the Assistant Secretary for MSHA, to write proposed regulations for approval of equipment in July 1988.

Timetable:

Action	Date	FR Cite
Establishment of Advisory Committee	10/06/87	52 FR 37381
Notice of Appointment of Committee Members and Notice of First Meeting	01/05/88	53 FR 00189
Committee Delivered Recommendations	07/27/88	
ANPRM	06/00/89	
NPRM	06/00/89	
Final Action	01/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health

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DOL—MSHA — Prerule Stage

Administration, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA27

DEPARTMENT OF LABOR (DOL) — Proposed Rule Stage
Mine Safety and Health Administration (MSHA)

1414. PATTERN OF VIOLATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 814(e); 30 USC 957

CFR Citation: 30 CFR 104

Legal Deadline: None

Abstract: This rulemaking would implement section 104(e) of the Federal Mine Safety and Health Act of 1977 which addresses mines with a pattern of repeated, significant and substantial violations. In 1985 MSHA issued an ANPRM which outlined new procedures for implementing the statutory provision for pattern of violations. The Agency reviewed comments and has been working to develop both appropriate criteria and a meaningful procedure for identifying operators who are potential pattern violators. The costs of the regulations would primarily bear upon individual mine operators receiving issuances notices. Any costs that the mine operator would incur to comply with other Federal standards would be attributed to those standards.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/85	50 FR 5470
Withdrawal of 1980 NPRM	02/08/85	50 FR 5470
Extension of Comment Period to 5/10/85	04/05/85	50 FR 13617
ANPRM Comment Period End	04/09/85	50 FR 5470
NPRM	04/00/89	
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA04

1415. UNDERGROUND COAL MINE ELECTRICAL STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.500; 30 CFR 75.600; 30 CFR 75.700; 30 CFR 75.800; 30 CFR 75.900; 30 CFR 75.1000

Legal Deadline: None

Abstract: Existing electrical standards for underground coal mines would be substantially reorganized, clarified, and updated. General incorporations by reference of the National Electric Code would be eliminated and replaced with specific standards applicable to underground coal mining operations. The Agency is in the process of developing a proposed rule that addresses the wide range of issues raised by commenters on the Agency's 1986 ANPRM.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	05/23/86	51 FR 18899
Comment Period Extended to 8/15/86	07/03/86	51 FR 24387
ANPRM Comment Period End	07/22/86	51 FR 18899
NPRM	06/00/89	
Final Action	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA10

1416. REVIEW OF METAL AND NONMETAL ELECTRICAL STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.12000; 30 CFR 57.12000

Legal Deadline: None

Abstract: The electrical standards are part of the overall review of regulations dealing with metal and nonmetal mines and mills. General incorporations by reference of the National Electric Code would be eliminated and replaced with standards applicable to metal and nonmetal mining and mills. These standards would also be substantially clarified, updated, and realigned into func- tional categories, and would include technological advances in electrical systems.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/83	45 FR 19267
ANPRM	05/20/83	48 FR 22895
ANPRM Comment Period End	07/19/83	
NPRM	06/00/89	
Final Action	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA14

1417. ● EXPLOSIVES AND BLASTING IN UNDERGROUND COAL MINES

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1300

Legal Deadline: None

Abstract: On November 18, 1988, the Mine Safety and Health Administration (MSHA) published a final rule (53 FR 46768) to revise its safety standards for explosives and blasting in underground coal mines. Prior to the effective date, MSHA stayed provision 75.1325(b) which restricts blasting to only one face in a working place to allow further review of single versus multiple face blasting. MSHA proposes to revise this and other provisions, as appropriate, allowing for further public comment.

Timetable:

Action	Date	FR Cite
Stay of Final Rule Provision	01/13/89	54 FR 1360
NPRM	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA16

DOL—MSHA — Proposed Rule Stage

1418. NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS INJURIES, ILLNESSES, EMPLOYMENT, AND COAL PRODUCTION IN MINES

Significance: Regulatory Program

Legal Authority: 30 USC 957; 30 USC 813(d)

CFR Citation: 30 CFR 50

Legal Deadline: NPRM, Statutory. This regulatory requirement is a Federal statutory provision. It implements Sections 103(d)(h) and (j) of the Mine Act.

Abstract: In response to concerns raised by members of Congress and the mining community about the nature and accuracy of existing reporting obligations, MSHA established an intra-agency task force to review its requirements for reports of accidents, injuries and illnesses in coal and metal and nonmetal mines. The Agency focused on several aspects of the reporting requirements including the definition of an occupational injury or illness, and an expanded audit program. The Agency has determined that the existing regulations in Part 50 should be clarified and improved through the rulemaking process. MSHA will clarify the definitions of reportable injuries and illnesses and solicit suggestions from the public in this effort.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/85	
Task Force Report Completed	03/03/86	
ANPRM	11/14/88	53 FR 45878
Extension of Comment Period until 02/17/89	12/29/88	53 FR 52727
ANPRM Comment Period End	01/13/89	
NPRM	10/00/89	
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA33

1419. RULES OF PRACTICE FOR PETITIONS FOR MODIFICATION OF MANDATORY SAFETY STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 44

Legal Deadline: None

Abstract: On July 10, 1987, the United States Court of Appeals for the District of Columbia invalidated the Agency's existing interim relief regulation based in part, on procedural defects, holding that it was contrary to Congressional intent. (INT. UNION v. MSHA, 823 F. 2d 608 (D.C. Cir. 1987)). Therefore, MSHA has issued a proposal addressing interim relief in situations where enforcement of a mandatory standard would result in a diminution of safety to affected miners or in emergency situations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	01/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standard, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA45

1420. HAZARD COMMUNICATION

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR Not yet determined

Legal Deadline: None

Abstract: The primary purpose of this action is to provide miners with the means to receive necessary information on the hazards of chemical to which they are exposed and the action necessary to protect their safety and health. MSHA is reviewing OSHA's hazard communication standard and is also reviewing information collected by NIOSH.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	10/00/89	
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Hearings will be held in October 1989.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA47

1421. AIR QUALITY STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 55; 30 CFR 56; 30 CFR 70; 30 CFR 71

Legal Deadline: None

Abstract: The agency is developing a NPRM which incorporates permissible exposure limits which are applicable to the hazards encountered in metal and nonmetal mines and exposure limits for most noxious and poisonous gases in

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underground coal mines. The proposal would solicit comment on which means of control would provide the necessary protection from airborne contaminants. Standards for use of respiratory protective equipment would replace an outdated incorporation by reference. The proposal would also update asbestos standards. Other issues being considered are: requirements for exposure monitoring and precautions for handling restricted-use chemicals; notification of workers of overexposures; and access to exposure limits.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	05/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This regulation combines 1219-AA21, 1219-AA41, and 1219-AA46.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA48

1422. REFUSE PILE AND IMPOUNDMENT INSPECTION RECORDS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.215

Legal Deadline: None

Abstract: This rulemaking would address whether recordkeeping burdens could be reduced in 30 CFR Part 77 standards which address refuse piles and impoundments structures. In addition the proposal would address abandonment procedures for impoundment structures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	02/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA49

1423. MINE RESCUE EQUIPMENT TEST AND INSPECTION RECORDS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 49

Legal Deadline: None

Abstract: This rulemaking would examine whether recordkeeping burdens could be reduced in 30 CFR 49.6(b) which requires records of monthly inspections and tests of mine rescue apparatus and equipment to be kept for one year.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
Final Action	08/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA50

1424. SCSR INSPECTION RECORDS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1714-3

Legal Deadline: None

Abstract: This rulemaking would examine whether recordkeeping burdens could be reduced in 30 CFR 75.1714-3 which requires records of quarterly inspections and tests of self-contained self-rescue devices.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
Final Action	08/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA56

1425. ● SAFETY STANDARDS FOR BERMS AND GUARDRAILS AT METAL AND NONMETAL MINES

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: On August 25, 1988 the Mine Safety and Health Administration (MSHA) amended its standard addressing the use of berms and guardrails on elevated roadways at metal and nonmetal mines. However, MSHA stayed the provision which allows an alternative to the use of berms or guardrails on elevated roadways for infrequently traveled roadways used by service or maintenance vehicles. This rulemaking will be limited to addressing which safety requirements are necessary for such limited use roadways when berms or guardrails are not used.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA51

1426. ● APPROVAL OF ELECTRIC CABLES AND SPLICE KITS

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing Part 18 specifications and test requirements for the approval of electric cables and incorporate a new requirement for the approval of cable splice kits as a subpart to 30 CFR Part 7. Under Part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria, establish minimum standards for the material used to repair cables, and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA57

1427. ● SAFETY STANDARDS FOR ROOF, FACE AND RIB SUPPORT

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.206(a)

Legal Deadline: None

Abstract: On January 27, 1988 (53 FR 2354), MSHA published final rules revising its safety standards for roof, face, and rib support in underground coal mines. The Agency is proposing to revise Section 75.206(a) of these standards to exempt anthracite mines from entry width and roadway support requirements when conventional roof support is used. The requirement would remain in effect, however, for bituminous coal mines.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA58

1428. ● APPROVAL OF INTRINSICALLY SAFETY BATTERY-POWERED DEVICES

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing Part 18 specifications and test requirements for the approval of intrinsically safe battery-powered devices as a subpart to 30 CFR Part 7. Under Part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Mine Safety and Health Administration, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA59

1429. ● APPROVAL OF EXPLOSION-PROOF ENCLOSURES

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing Part 18 specifications and test requirements for the approval of explosion-proof enclosures as a subpart to 30 CFR Part 7. Under Part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Mine Safety and Health Administration, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA60

1430. ● APPROVAL OF ELECTRIC MOTOR ASSEMBLIES

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing Part 18 specifications and test requirements for the approval of electric motor assemblies as a subpart to 30 CFR Part 7. Under Part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Mine Safety and Health Administration, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA61

1431. ● RECORDS OF FIRE DRILLS AND PROGRAMS TO INSTRUCT AND TRAIN MINERS IN THE LOCATIONS AND USE OF FIREFIGHTING EQUIPMENT (UNDERGROUND COAL MINES)

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1101-23

Legal Deadline: None

Abstract: This rulemaking would examine whether recordkeeping could be reduced in 30 CFR 75.1101-23(c)(1) which requires records of the participation of coal miners in quarterly fire drills. Currently, the records must include the number of persons participating, the area of the mine involved, the procedures followed and the equipment used.

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DOL—MSHA — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
Final Action	08/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA62

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Final Rule Stage

1432. UNDERGROUND COAL MINE VENTILATION

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.300

Legal Deadline: None

Abstract: The Agency published a proposed rule concerning ventilation in underground mines which included provisions for the introduction of new technology for systematic monitoring of explosive methane gas, as well as gases that may indicate a mine fire. Other important issues include ventilation of worked-out areas: timeframes for tests for methane; and using intake air that has been used to ventilate a belt conveyor entry. The existing escapeway standards contained in 30 CFR Part 75.1704 (previously RIN: 1219-AA37) are incorporated into the proposal.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	11/19/85	50 FR 47702
Extension of ANPRM Comment Period to 4/4/86	02/14/86	51 FR 5546
ANPRM Comment Period End	02/18/86	
NPRM	01/27/88	53 FR 2362
NPRM Comment Period End	08/19/88	53 FR 26449
Final Action	01/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Public hearings were held during June 1988.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA11

1433. REVIEW OF METAL AND NONMETAL EXPLOSIVES STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.6000; 30 CFR 57.6000

Legal Deadline: None

Abstract: The explosives standards are part of the overall review of regulations dealing with metal and nonmetal mines and mills. These standards would be clarified and updated consistent with technological advances, such as gaseous initiation systems, miniaturized detonating cord systems and the use of bulk mixing of explosives materials.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	08/20/84	49 FR 33087
Extension of ANPRM Comment Period to 11/16/84	09/25/84	49 FR 37640
ANPRM Comment Period End	10/19/84	
NPRM	11/10/88	53 FR 45487
Extension of NPRM Comment Period to 02/10/89	12/05/88	53 FR 48934
NPRM Comment Period End	01/09/89	
Final Action	01/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA17

1434. METAL AND NONMETAL RADIATION STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57.5037 to 57.5047

Legal Deadline: None

Abstract: MSHA is reviewing its radiation standards for underground metal and nonmetal mines and has identified certain issues with respect to regulatory action. The Agency published a proposal in December 1986 revising its existing ionizing radiation standards. Public hearings were held in August 1987.

Timetable:

Action	Date	FR Cite
ANPRM	11/19/85	50 FR 47700
ANPRM Comment Period End	02/18/86	
NPRM	12/19/86	51 FR 45678
NPRM Comment Period End	02/16/87	51 FR 45678
Final Action	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA28

1435. APPROVAL CRITERIA FOR RESPIRATORY PROTECTIVE DEVICES

Legal Authority: 30 USC 957

DOL—MSHA — **Final Rule Stage**

CFR Citation: 30 CFR 11

Legal Deadline: None

Abstract: Under the 1977 Mine Act, MSHA and the National Institute for Occupational Safety and Health (NIOSH) jointly approve respirators for use in hazardous atmospheres. New technology has been developed which has not been accommodated by the existing regulations. In addition, questions have been raised about laboratory testing and field performance of respirators. The decision has been made for NIOSH to have the lead in approval of respirators. MSHA will be involved with the devices which are uniquely adapted or required for mining. A proposed rule to remove MSHA's regulations upon completion of a concurrent NIOSH rulemaking was published in August 1987. However, further rulemaking is contingent upon NIOSH's timetables.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32313
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Completion of MSHA's final rule is contingent upon NIOSH's completion of parallel rulemaking.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va 22203, 703 235-1910

RIN: 1219–AA30

1436. CERTIFICATION AND QUALIFICATION OF PERSONS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.100; 30 CFR 75.150; 30 CFR 77.100; 30 CFR 77.105

Legal Deadline: None

Abstract: Certain MSHA regulations require persons working in coal mines to be qualified or certified to perform certain tasks, for example, testing for methane and making ventilation examinations. The existing rule requires operators to submit certification and qualification applications to MSHA every six months for recertification. The proposal eliminates the six-month limitation, permitting persons to remain certified or qualified for as long as they continue to satisfy the substantive requirements and remain employed at the same coal mine or independent contractor.

Timetable:

Action	Date	FR Cite
NPRM	04/13/88	53 FR 12250
NPRM Comment Period End	07/15/88	
Final Action	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA36

1437. AUTOMATIC WARNING DEVICES FOR MOBILE EQUIPMENT

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 77.410

Legal Deadline: None

Abstract: MSHA's existing standard requires mobile equipment to be equipped with devices which automatically sound an alarm when the equipment is put in reverse. MSHA is considering revising the standard to exclude pickup trucks if the driver has an unobstructed rear view. The Agency is also considering allowing alternatives to automatic warning devices.

Timetable:

Action	Date	FR Cite
NPRM	04/13/88	53 FR 12253
NPRM Comment Period End	07/15/88	
Final Action	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A hearing was held in Pittsburgh, Pennsylvania on August 30, 1988.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA38

1438. ELECTRIC MINE LAMPS OTHER THAN STANDARD CAP LAMPS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 20

Legal Deadline: None

Abstract: Under existing standards MSHA is limited to investigating and approving lamps which meet the design, construction and test requirements specifically set forth in 30 CFR 20. As a result, the Agency is restricted from approving lamps that incorporate alternative technology. The proposal would amend Part 20 to enable the Agency to issue approvals for lamps which, after testing, are found to be safe for their intended use and provide, at a minimum, the same degree of protection as lamps currently approved under the existing standards.

Timetable:

Action	Date	FR Cite
NPRM	04/13/88	53 FR 12250
NPRM Comment Period End	07/15/88	
Final Action	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA40

1439. MULTIPLE-SHOT BLASTING UNITS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 25

Legal Deadline: None

Abstract: The requirements for approval of blasting units are part of the overall coal review to update standards. The revision of existing Part 25 specifications was proposed as Subpart D to Part 7. Under this concept testing would be done by the applicant or a third party, subject to Agency requirements and approval.

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DOL—MSHA — Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	06/05/84	49 FR 23281
ANPRM Comment Period End	08/10/84	49 FR 23281
NPRM	06/22/88	53 FR 23506
NPRM Comment Period End	08/22/88	
Final Action	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The review of 30 CFR 25 was originally listed in the Agenda in 1984. In the October 1985 Agenda, MSHA consolidated the Review of Part 25 under 1219-AA16. A proposal was published June 22, 1988 which revises 30 CFR 25 and combines it as a subpart of 30 CFR 7.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA42

1440. SAFETY STANDARDS FOR METHANE IN METAL/NONMETAL MINES; CONFORMING AMENDMENTS

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Existing standards address the use of brattice cloth and ventilation tubing in underground metal/nonmetal mines with a history of, or potential for, methane liberation. These conforming amendments would replace a requirement that such materials have a flame spread rating of 25 or less with a requirement that brattice cloth and to ventilation tubing be approved by MSHA under 30 CFR Part 7.

Timetable:

Action	Date	FR Cite
NPRM	12/05/88	53 FR 48934
NPRM Comment Period End	02/03/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA52

DEPARTMENT OF LABOR (DOL) — Completed Actions

Mine Safety and Health Administration (MSHA)

1441. EXPLOSIVES AND BLASTING IN UNDERGROUND COAL MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1300

Legal Deadline: None

Abstract: The existing standards governing the use of explosives in underground coal mines are outdated and incomplete. MSHA's final rule substantially reorganizes, clarifies and updates these requirements. In addition, the rule recognizes new explosives technology and permits future changes in technology with assurances for a safe mining environment.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	05/08/84	49 FR 19601
ANPRM Comment Period End	07/20/84	49 FR 19601
NPRM	05/09/86	51 FR 17284
NPRM Comment Period End	07/08/86	51 FR 17284
Final Action	11/18/88	53 FR 46768
Final Action Effective	01/17/89	53 FR 46788

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: Public hearings were held in November 1986. See also RIN 1219-AA23 for abstract and timetables of related rulemaking to revise approval specifications for explosives. A supplemental public hearing was held 4/22/87 in Bruceton, PA in conjunction with public hearings on 30 CFR Part 15.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA16

1442. APPROVAL REQUIREMENTS FOR EXPLOSIVES AND SHEATHED EXPLOSIVE UNITS

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 15

Legal Deadline: None

Abstract: The requirements for approval of explosives are part of the overall coal review of high priority standards. The final rule updates and clarifies existing specifications and tests, and recognizes new provisions in the development of sheathed explosive units. Public hearings on proposed Part 15 were held during April 1987.

Timetable:

Action	Date	FR Cite
ANPRM	06/05/84	49 FR 23281
ANPRM Comment Period End	08/10/84	
NPRM	11/12/86	51 FR 41046
NPRM Comment Period End	01/12/87	51 FR 41046
Final Action	11/18/88	53 FR 46739
Final Action Effective	01/17/89	53 FR 46739

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Those manufacturers's proceeding under the provisions of the previous rule may file requests for approval or extension of approval of approval of explosives under that rule until November 20, 1989 (53 FR 46739).

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard,

DOL—MSHA — Completed Actions

Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA23

1443. AUTOMATIC EMERGENCY-PARKING BRAKES ON RUBBER-TIRED, SELF-PROPELLED ELECTRIC HAULAGE EQUIPMENT IN UNDERGROUND COAL MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.523-3

Legal Deadline: None

Abstract: In 1973, the Agency issued installation and performance requirements for automatic emergency brakes on rubber-tired, self-propelled electric face equipment for underground coal mines. However, there was not sufficient technical data to develop criteria for evaluating the designs of these braking systems. On July 30, 1974, the effective dates for compliance with 30 CFR 75.523-3 were suspended indefinitely. The Mine Safety and Health (MSHA) published a final rule to require automatic emergency-parking brakes on rubber-tired, self- propelled electric haulage equipment used in underground coal mines. This final rule also sets minimum performance standards for parking brakes required by 30 CFR 18 on other rubber-tired, self-propelled electric face equipment. This rule, replacing a suspended standard for automatic emerging parking brakes at 30 CFR 75.523-3, sets forth compliance schedule for installation and retrofitting of such brakes on designated equipment. MSHA expects that the final rule will enhance miner safety in under- ground coal mines.

Timetable:

Action	Date	FR Cite
NPRM	03/01/88	53 FR 6512
NPRM Comment Period End	05/02/88	53 FR 6512
Notice of Public Hearing	07/12/88	53 FR 22502
Comment Period-Post Hearing	07/29/88	53 FR 22502
Extended Comment Period	08/29/88	
Final Action	03/24/89	54 FR 12406
Final Action Effective	05/23/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: A public hearing was held on July 12, 1988 in Charleston, West Virginia.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm. 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA39

DEPARTMENT OF LABOR (DOL) — Proposed Rule Stage

Office of the Assistant Secretary for Administration and Management (OASAM)

1444. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Significance: Regulatory Program

Legal Authority: 15 USC 3151; 20 USC 1681 to 1683; 20 USC 1685; 20 USC 1686; 29 USC 794; 29 USC 1551; 29 USC 1574; 29 USC 1577; 29 USC 1579; 42 USC 6101 to 6107; 42 USC 2000d to 2000d-4

CFR Citation: 29 CFR 31

Legal Deadline: Final, Statutory, September 12, 1979.
Regulations to implement the ADA were required as of 09/12/79 and to implement JTPA as of 10/01/83. The regulation must be coordinated with DOJ pursuant to Executive Order 12250, (CONT'D)

Abstract: DOL's existing regulations implementing Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, as amended would be amended and revised as a single comprehensive civil rights regulation covering all DOL statutory authority relating to nondiscrimination in Federally assisted programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Public Compliance Cost: Initial Cost: $0

Sectors Affected: None

Additional Information: LEGAL DEADLINE (CONT'D) : with EEOC pursuant to E.O. 12067, and with the Office of Management and Budget pursuant to E.O. 12291, prior to publication as an NPRM.

Agency Contact: Annabelle T. Lockhart, Deputy Director, Directorate of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm N4123, FPBldg., Washington, DC 20210, 202 523-8927

RIN: 1291-AA02

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DEPARTMENT OF LABOR (DOL) — **Final Rule Stage**

Office of the Assistant Secretary for Administration and Management (OASAM)

1445. DEPARTMENT OF LABOR ACQUISITION REGULATION (DOLAR) (REVISION)

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 29

Legal Deadline: None

Abstract: Revise Department of Labor Acquisition Regulation (DOLAR) to delete duplicative material and make other editorial changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Daniel Murphy, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW, Washington, DC 20210, Rm S1522, FP Bldg., 202 523-9174

RIN: 1291–AA06

1446. ADMINISTRATIVE GRANTS AND COOPERATIVE AGREEMENTS TO GOVERNMENT AND NONPROFIT INSTITUTIONS

Significance: Agency Priority

Legal Authority: OMB Circular A-110

CFR Citation: 29 CFR 97

Legal Deadline: None

Abstract: On March 11, 1988 a common final rule was published which implemented OMB Circular A-102, Administrative Requirements for Grants and Cooperative Agreements with State and Local governments. OMB and DHHS have prepared a proposed common rule and revised Circular A-110 to conform the grants management requirements for non-governmental grantees with government grants. The common rule already published on governmental grantees will be amended to incorporate non-governmental grants.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44710
NPRM Comment Period End	01/03/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel Murphy, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW, Washington, DC 20210, Rm S1522, FP Bldg., 202 523-8904

RIN: 1291–AA15

1447. ● DOL ADOPTION OF COMMON RULE IMPLEMENTING DRUG-FREE WORKPLACE - NONPROCUREMENT

Significance: Agency Priority

Legal Authority: EO 12549; Section 5151-5160 of the Drug-Free Work Place Act of 1988; PL 100-690 Title V, Subtitle D; 5 USC 552 to 556

CFR Citation: 29 CFR 98

Legal Deadline: Final, Statutory, April 30, 1989.

The President signed the Drug Act into law on November 18, 1988. The act requires final rules within 90 days and effective date within 120 days.

Abstract: This final action is the DOL adoption of common rules that implement the Drug-Free Work Place Act of 1988. The new regulations will be housed in the DOL regulations at 29 CFR Part 98, Suspension and Debarment - Nonprocurement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Interim Final Rule Effective	03/18/89	54 FR 4947

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Daniel Murphy, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW, Room S1522, FP Building, Washington, DC 20210, 202 523-9174

RIN: 1291–AA17

DEPARTMENT OF LABOR (DOL) — **Prerule Stage**

Occupational Safety and Health Administration (OSHA)

1448. MANUAL LIFTING (PARTS 1910, 1915, 1917, 1918, 1919, 1926 AND 1928)

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Nation's number one injury problem is back injuries. These injuries account for one of five compensation claims and one of four dollars expended for compensation. The purpose of the proposed request for comments and information is to enable OSHA to determine a course of action--possibly either rulemaking or informal guidance-aimed at reducing the number of back-related injuries which result from improper manual lifting. The request will identify a number of approaches to improving manual lifting, and invite public comments and suggestions. Specific engineering and administrative controls should reduce the pain, suffering, and lost time of the workforce as well as reduce the associated economic costs.

Timetable:

Action	Date	FR Cite
Request for Information on Manual Lifting-Related Injuries	10/02/86	51 FR 35241
Reopening of Comment Period and Expansion of Scope	04/17/87	52 FR 12559

Next Action Undetermined

Small Entities Affected: Undetermined

DOL—OSHA — **Prerule Stage**

Government Levels Affected: None

Sectors Affected: All

Additional Information: The Agency has determined that it will establish an interagency work group within the Department to seek more information in the area of manual lifting. Rulemaking is, therefore, not scheduled to begin immediately.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA95

1449. MEDICAL SURVEILLANCE PROGRAMS FOR EMPLOYEES

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: OSHA is developing a modification of the Z table permissible exposure limits of 29 CFR 1910.1000 in response to current scientific data. Section 6(b) of the Act requires where appropriate, provision for medical surveillance in each 6(b) rulemaking for a harmful substance. A generic standard for medical surveillance would satisfy the requirements of the Act thus enabling the Agency to deal directly with the narrower issues of the revision of the tables. OSHA published an Advance Notice of Proposed Rulemaking on September 27, 1988, (53 FR 37595) to acquire additional information. OSHA also intends to review its compliance experience with medical surveillance provisions and seek experienced medical opinion in the form of a symposium or other public discussion.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/88	53 FR 37595
ANPRM Comment Period End	12/27/88	
Decision to Proceed With Rulemaking	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB00

DEPARTMENT OF LABOR (DOL) — **Proposed Rule Stage**

Occupational Safety and Health Administration (OSHA)

1450. CARCINOGEN POLICY

Significance: Regulatory Program

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1990

Legal Deadline: None

Abstract: The Carcinogen Policy describes the criteria and procedures OSHA will use to identify, classify, and then regulate carcinogens. The Policy also establishes a process for screening chemicals and for setting priorities for potential rulemaking activities. The Carcinogen Policy explicitly recognizes that periodic revisions are necessary in order to incorporate the latest scientific advances and techniques into the regulatory process. Hence, it is time for OSHA to review and modernize the carcinogen policy. The original standard was issued in 1980 before the Supreme Court "benzene" decision on significant risk. Thereafter, a final rule deleting provisions of the Carcinogen Policy that were inconsistent with the benzene decision was published on 1/19/81 (46 FR 4889). A proposal was published on 1/23/81 (46 FR 7402) to permit alternatives to the risk analysis section of the carcinogen policy to be addressed. The proposal was withdrawn on 3/27/81 (46 FR 19000). An advance notice of proposed rulemaking was published on 1/5/82 (47 FR 187) with comments due by 4/5/82. That document (cont'd)

Timetable:

Action	Date	FR Cite
ANPRM	01/05/82	47 FR 187
End of Comment Period on stay	02/19/82	
ANPRM Comment Period End	04/05/82	
Stay published	01/04/83	48 FR 241
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: also proposed to stay the publication of the candidate and priority lists. The final stay was published on 1/4/83 (48 FR 241). As part of its evaluation of the policy, OSHA is reviewing the public comments received in response to the document published by the Office of Science and Technology Policy entitled "Chemical Carcinogens, Review of the Science and its Associated Principles, May 1984" and is reviewing the later version of that document which was published March 14, 1935.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA01

1451. RESPIRATORY PROTECTION

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1928.103

Legal Deadline: None

Abstract: The present respiratory protection standards have been in place for more than 10 years and do not take into consideration the current state-of-the-art for respiratory protection. In addition, the general industry standard for respirators contains redundancies and includes several advisory provisions which should be eliminated or changed. OSHA has reviewed the current standards and intends to propose revisions.

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Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20603
ANPRM Comment Period End	09/13/82	
Public Comment Period onPreproposal Draft Ends	11/29/85	
NPRM	06/00/89	
Final Action	08/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA05

1452. ASBESTOS, TREMOLITE, ANTHOPHYLLITE AND ACTINOLITE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1001; 29 CFR 1926.58

Legal Deadline: None

Abstract: On June 17, 1986, OSHA issued revised standards governing occupational exposure to asbestos, tremolite, anthophyllite, and actinolite in general industry and in the construction industry. These standards replaced OSHA's previous asbestos standard promulgated in 1972. Since the issuance of the revised standards OSHA has received letters and petitions, from both rulemaking participants and nonparticipants, that contain additional comments, assertions and information that the rulemaking record may not fully reflect. These letters and petitions concern the appropriateness of regulating nonasbestiform tremolite, anthophyllite and actinolite as presenting the same health risk as asbestos. OSHA has granted a temporary stay of the effective dates of the current standards as they apply to nonasbestiform varieties of tremolite, anthophyllite and actinolite. This action was taken, in part, to enable the Agency to review letters and memoranda from the National Institute for Occupational Safety and Health as well as submissions by the R.T. Vanderbilt Company and various other (Cont'd)

Timetable:

Action	Date	FR Cite
Notice of partial admin. stay	10/17/86	51 FR 37002
Extension of partial admin. stay	04/30/87	52 FR 15722
Extension of partial admin. stay	07/20/88	53 FR 27345
NPRM	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT (CONT'D): trade associations concerning the appropriateness of regulating nonasbestiform tremolite, anthophyllite and actinolite in the revised standards. In addition, the temporary stay was imposed to allow sufficient time for OSHA to reopen the rulemaking record and conduct supplemental proceedings on the issue of whether, and how, to regulate occupational exposure to the nonasbestiform varieties of tremolite, anthophyllite and actinolite.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA26

1453. METHODS OF COMPLIANCE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000(e); 29 CFR 1910.134(a)(1)

Legal Deadline: None

Abstract: OSHA's policy concerning the use of engineering controls and respirators was targeted for review by the President's Task Force on Regulatory Relief in 1981. Current OSHA regulations require that employers implement feasible engineering controls to maintain air contaminant concentrations in the workplace at or below the prescribed permissible exposure limits. The use of respirators is permitted only in those cases where engineering controls are not feasible, not yet installed, or not adequate. This policy has been criticized as being inflexible, not cost-effective, and often unnecessary for employee health protection. OSHA believes that any changes to the policy for use of engineering controls must be closely coordinated with revisions in the respiratory protection regulations (29 CFR 1910.134). This rulemaking does not address the assessment and reduction of any absolute existing risks, but rather addresses the possible change in risk abatement associated with the use of respirators instead of engineering controls.

Timetable:

Action	Date	FR Cite
ANPRM	02/22/83	48 FR 7473
ANPRM Comment Period End	06/22/83	
NPRM	07/00/89	
NPRM Comment Period End	08/00/89	
Final Action	02/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3718, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-7075

RIN: 1218–AA28

1454. OIL AND GAS WELL DRILLING AND SERVICING (PART 1910)

Significance: Agency Priority

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.270

Legal Deadline: None

Abstract: Employees in oil and gas well drilling and servicing are exposed to a variety of safety hazards which are not specifically covered by present OSHA safety standards. It has proved difficult to apply the existing general industry standards to control the unique nature of this industry. OSHA is considering a standard which will address the unique problems of oil and gas well drilling and servicing. OSHA is reevaluating its proposed rule based on the public record and intends to reissue a proposed rule as the next action.

Timetable:

Action	Date	FR Cite
NPRM	12/28/83	48 FR 57202
NPRM Comment Period End	06/04/84	49 FR 9913
Public Hearing Held 07/24/84 thru	08/10/84	49 FR 9913

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA34

1455. BENZENE EXPOSURE IN BARGE/TANKER CLEANING AND REPAIR

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000, (Table Z-2); 29 CFR 1910.1028

Legal Deadline: None

Abstract: OSHA has amended its standard for occupational exposure to benzene by reducing the permissible exposure limit from 10 parts benzene per million parts of air (10 ppm) to an eight-hour time-weighted average of 1 ppm and by adding appropriate industrial hygiene and medical surveillance provisions necessary for the protection of employee health. This action is based on OSHA's determination that the amendments are needed to reduce the risk of leukemia and other adverse health effects associated with occupational exposure to benzene. OSHA published its final amendment to the standard on September 11, 1987. Due to technical problems associated with the completion of a detailed study of feasibility in barge and tanker cleaning and repair operations, however, OSHA exempted these operations from certain provisions of the standard. OSHA intends to issue a proposal to amend the benzene standard which will address the factors specific to the barge and tanker cleaning and repair industry.

Timetable:

Action	Date	FR Cite
NPRM	12/10/85	50 FR 50512
Notice Changing Public Hearing	01/28/86	51 FR 3474
NPRM Comment Period End	02/14/86	50 FR 50512
Public Hearings	03/11/86	50 FR 50512
Final Action	09/11/87	52 FR 34460
Final Action Effective	12/10/87	
NPRM on Barge/Tanker Cleaning and Repair Operations	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA47

1456. FALL PROTECTION SYSTEMS (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, (Subpart I)

Legal Deadline: None

Abstract: Existing standards do not contain criteria for personal fall protection systems. Consequently, requirements containing criteria for personal fall protection systems would be added to 29 CFR Part 1910; Subpart I, Personal Protection Equipment, to enhance employee protection from injury and death due to falls to different elevations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 1. 1218-AA48 will be issued concurrently with 1218-AB04.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA48

1457. CONFINED SPACE (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.146

Legal Deadline: None

Abstract: Entry into confined spaces has been responsible for many employee deaths and injuries. However, current standards do not specifically address the hazards associated with entry into confined spaces. Therefore, OSHA is proposing certain criteria and precautions which are necessary to minimize the hazards associated with employees entering confined spaces.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	06/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA51

1458. LOGGING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.266, (Revision)

Legal Deadline: None

Abstract: Logging is a very hazardous industry. It has an incidence rate nearly twice that of manufacturing, and reflecting the seriousness of the injuries incurred, a lost workday rate nearly four times as high. The purpose of the standard will be to protect workers from the ever-present hazards of chain saw operation, falling objects (trees, branches), rolling or sliding logs, falls from trees, and materials handling accidents. At present there is no OSHA standard specifically applicable to

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA52

1459. CONSTRUCTION INDUSTRY STANDARDS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA is proposing to revise its construction industry standards to update and clarify them, to eliminate unnecessary provisions, and to add provisions where necessary to protect employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA53

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logging in general. There is a standard, 29 CFR 1910.266, applicable only to pulpwood logging; however, pulpwood logging is estimated to account for less than half of the logging activity in the United States. Development of a national OSHA standard addressing all types of logging will provide coverage for those loggers not now protected. The new regulation will provide coverage where there is no approved state regulation and will set a minimum safety level for those states that chose to develop a state regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 24 Lumber and Wood Products, Except Furniture

Additional Information: A preproposal draft standard was circulated for public comment. The proposed standard will be developed to incorporate public comment as appropriate.

Agency Contact: Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA52

1459. SAFETY AND HEALTH REGULATIONS FOR LONGSHORING (PART 1918)

Significance: Regulatory Program

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshoremen's and Harborworkers Compensation Act

CFR Citation: 29 CFR 1910.16; 29 CFR 1918, (Revision)

Legal Deadline: None

Abstract: The purpose of this regulatory action would be to update and revise a standard first issued in 1960. The current language in many instances addresses the hazards to cargo handling involving methods long since abandoned, and fails to address the serious hazards of newer methods. Because much of the current standard is out of date, there are problems with compliance. These revised requirements will provide both employers and employees with a blueprint for effective and safe workpractices in the cargo handling industry. No alternative other than revision is contemplated. The annual cost of the revision is expected to be minimal -- less than five million dollars.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 44 Water Transportation

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605 FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA56

1460. 4,4'-METHYLENEDIANILINE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: 4,4'-Methylenedianiline (MDA) is a chemical used primarily to manufacture methylenediphenyl diisocyanate, which is used to make polyurethane foams and elastomers. Recent scientific data indicate that MDA is a carcinogen in animals and a potential carcinogen in humans. In 1983, OSHA and the Environmental Protection Agency participated in a joint effort to publish an advance notice of proposed rulemaking to solicit information on MDA production and use, estimates of environmental and occupational exposure, and studies of its toxic and carcinogenic effects. EPA evaluated the data received in response to the advance notice and concluded that the chemical presents an unreasonable risk of injury to the health of exposed workers. Under the provisions of section 9(a) of the Toxic Substances Control Act, EPA referred MDA to OSHA for action. OSHA responded to the EPA referral on 2/26/86. OSHA established a mediated rulemaking advisory committee composed of interested parties from labor, industry and government to assist the agency in developing a proposed standard. The Committee completed its work in June 1987 (Cont'd)

Timetable:

Action	Date	FR Cite
ANPRM	09/20/83	48 FR 42836
ANPRM Comment Period End	11/23/83	48 FR 42836
Publication of Committee Recommendation	07/16/87	52 FR 26776
NPRM	06/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT (CONT'D): and forwarded its recommendations to the Agency. OSHA published the Committee's recommendations on July 16, 1987, and intends to publish a proposed standard for MDA in April 1989.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 2( ) Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA58

1461. ELECTRIC POWER GENERATION, TRANSMISSION AND DISTRIBUTION (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.269

Legal Deadline: None

Abstract: A major area of coverage not addressed in the current OSHA electrical standards for general industry (29 CFR 1910) involves the maintenance and operation practices associated with electrical transmission and distribution lines, substations and generating stations. It is intended that the proposed standard fill this void by establishing minimum requirements for electrical safety work practices for qualified employees working on or near installations whose purpose is the generation and distribution of electricity.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4974
NPRM Comment Period End	05/01/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA59

1462. PULP, PAPER AND PAPERBOARD MILLS (PART 1910)

Significance: Agency Priority

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.261, (Revision)

Legal Deadline: None

Abstract: This regulatory action will revise the existing standards covering mills where pulp, paper, and paperboard are manufactured and converted. The revision will develop performance oriented standards that address current gaps in coverage, the use of new technology, the elimination of outmoded or redundant provisions, and the use of appropriate OSHA general industry standards.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 26 Paper and Allied Products

Additional Information: The Agency has determined that no further action be taken due to a priority reassignment of resources leading to the completion of a generic standard having a direct affect on the pulp, paper and paperboard mills standard.

Agency Contact: Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA61

1463. STEEL ERECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 40 USC 333

CFR Citation: 29 CFR 1926.750, (Revision); 29 CFR 1926.751, (Revision); 29 CFR 1926.752, (Revision)

Legal Deadline: None

Abstract: This action will consolidate, clarify, and revise the existing provisions governing steel erection assembly, flooring, holting, riveting, fitting-up, plumbing-up, and fall protection. When completed, the revised fall protection requirements may be relocated and be incorporated into Subpart M (of Part 1926) which is the general fall protection standard.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA65

1464. FACE, HEAD, EYE AND FOOT PROTECTION (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Existing standards for eye, face, head, and foot protection reference outdated national consensus standards which have been updated and improved. Consequently, criteria for personal protective equipment for eye, face, head, and foot would be revised to reflect improved developments in these types of equipment. This would allow the use of better personal protective equipment and would result in improved employee protection from eye, face, head, and foot hazards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	07/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605 FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA71

1465. WELDING, CUTTING AND BRAZING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.251; 29 CFR 1910.252; 29 CFR 1910.253; 29 CFR 1910.254

Legal Deadline: None

Abstract: OSHA proposes to revise and update its existing Subpart Q covering welding, cutting and brazing operations, and to develop performance-oriented standards designed to reduce the number of deaths and injuries due to unsafe equipment and unsafe operations. There has been no substantial revision to Subpart Q since its adoption in 1971. A complete and comprehensive revision is needed at this time to bring the standard into line with the current state-of-the art and updated consensus standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA72

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1466. ● FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq.

CFR Citation: 29 CFR 1910.1048

Legal Deadline: None

Abstract: The present occupational health standard for formaldehyde was published on December 4, 1987 (52 FR 46168). In this standard, the Occupational Safety and Health Administration (OSHA) required hazard warning labels to be placed on containers of all products composed of greater than 0.1 percent formaldehyde or capable of releasing formaldehyde into the air under any normal condition of use at concentrations reaching or exceeding 0.1 ppm. Material safety data sheets, prepared in accordance with paragraph (g) of the Hazard Communication Standard (29 CFR 1910.1200), were also required. On December 2, 1987, the Formaldehyde Institute filed an Application for Administrative Stay of the Formaldehyde Standard's cancer labeling requirement. On November 8, 1988, OSHA requested comments on whether to grant a petition for administrative stay of these provisions and whether to institute additional rulemaking. Based primarily on the comments received, OSHA stayed the provision at 29 CFR 1910.1048 (m)(l)(i) through (m)(4)(ii) for a period of (Cont'd)

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT'D : nine months, commencing December 13, 1988 (53 FR 50198). OSHA plans to propose to revoke the stayed provisions and will request alternative methods for defining a de minimis exemption for products that release trace amounts of formaldehyde. Based on public comment and the rulemaking record, OSHA will promulgate revised hazard communication provisions for formaldehyde.

Agency Contact: Charles E. Adkins, Director, Health Standards Program, Occupational Safety and Health Admin., Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N3718, FP Building, Washington, DC 20210, 202 523-7075

RIN: 1218–AA82

1467. 1,3-BUTADIENE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000, (Table Z-1)

Legal Deadline: None

Abstract: On October 10, 1985, EPA referred 1,3-butadiene (BD) to OSHA for possible regulatory action under section 9(a) of the Toxic Substance Control Act. On April 11, 1986, OSHA responded to the EPA referral indicating that the Agency has preliminarily concluded that BD poses risk to the occupationally exposed population at the current OSHA permissible exposure limit and that the risk can be reduced or prevented through the promulgation of a revised standard. On October 1, 1986 (51 FR 35003), OSHA published an ANPRM initiating regulatory action within the meaning of section 9(a) of TSCA. Comments were submitted to OSHA by December 30, 1986. OSHA plans to publish a NPRM in April 1989.

Timetable:

Action	Date	FR Cite
EPA Referral	10/10/85	50 FR 41393
Request for Comments	12/27/85	50 FR 52952
Response to EPA Referral	04/11/86	51 FR 12526
ANPRM	10/01/86	51 FR 35003
ANPRM Comment Period End	12/30/86	
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA83

1468. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL AND THEIR ACETATES

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under Section 9(a) of the Toxic Substances Control Act, stating that EPA has reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use is unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed rulemaking (ANPRM) on April 2, 1987, (52 FR 10586). OSHA will use the information received in response to the ANPRM, as well as other information and analysis, to prepare a proposed standard.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA84

1469. GEAR CERTIFICATION (PART 1919)

Legal Authority: 29 USC 655; 29 USC 941

CFR Citation: 29 CFR 1919, (Revision)

Legal Deadline: None

Abstract: In its May 7, 1987, Federal Register notice the Agency requested information to assist in the possible revision of 29 CFR Part 1919, Part 1919, entitled "Cear Certification," implements requirements located in each of OSHA's maritime standards which cover work carried out within the Federal maritime jurisdiction. Changes in the design and composition of cargo handling gear which have evolved since these rules were last amended (1969) provided questions as to the efficacy of the current rules. Additionally, the Agency sought comments that would suggest ways in which the administrative function of the accreditation program could be improved. Comment period ended: August 5, 1987.

Timetable:

Action	Date	FR Cite
Request for Information	05/07/87	52 FR 17302
Comment Period Closed	08/05/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 37 Transportation Equipment; 44 Water Transportation

Additional Information: The Agency has determined, based on input to its "Request for Comments and Information," that minor revision to Gear Certification (Part 1919) is necessary.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA97

1470. METHYLENE CHLORIDE

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: In July 1985, OSHA was petitioned by the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) to issue a hazard alert; issue an emergency temporary standard; and to begin work on a new permanent standard for methylene chloride (DCM). This request was based on information obtained from the Environmental Protection Agency and the National Toxicology Program indicating that DCM is an animal carcinogen and may have the potential to cause cancer in humans. In November 1986, OSHA notified the UAW that its petition had been granted, in part, and denied, in part. Specifically, OSHA issued a set of guidelines for controlling occupational exposure to DCM and OSHA denied that portion of the petition requesting the issuance of an emergency temporary standard. Specifically, OSHA issued a set of guidelines for controlling occupational exposure to DCM and published an Advance Notice of Proposed Rulemaking on November 24, 1986 (51 FR 42257).

Timetable:

Action	Date	FR Cite
ANPRM	11/24/86	51 FR 42257
ANPRM Comment Period End	02/23/87	51 FR 42257
NPRM	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA98

1471. GENERIC STANDARD FOR EXPOSURE MONITORING

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: OSHA is developing a modification of the Z table permissible exposure limits of 29 CFR 1910.1000 in response to current scientific data. Section 6(b)(7) of the Act requires provisions for exposure monitoring for each substance undergoing 6(b) rulemaking. A generic standard for exposure monitoring would satisfy the monitoring requirement of the Act thus enabling the Agency to deal directly with the narrower issues of the revision of the Z tables. OSHA published an Advance Notice of Proposed Rulemaking on September 27, 1988. (53 FR 37591). OSHA intends to review its compliance experience with exposure monitoring provisions to determine the appropriateness of generic exposure monitoring provisions.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/88	53 FR 37591
ANPRM Comment Period End	12/27/88	
Agency's Decision on Regulatory Action	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB01

1472. WALKING AND WORKING SURFACES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30; 29 CFR 1910.31; 29 CFR 1910.32

Legal Deadline: None

Abstract: Existing standards for walking and working surfaces need to be revised because they are out of date and restrict technological innovation. The proposed revision is performance-oriented and permits flexibility for compliance.

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DOL—OSHA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	08/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: The agenda RIN 1218-AB04 is an aggregate of RIN 1218-AA46 (Scaffolds and Similar Work Surfaces (Part 1910)) and RIN 1218-AA50 (Ladders and Similar Climbing Devices (Part 1910)).

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AB04

1473. BLOODBORNE INFECTIOUS DISEASES

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None

Abstract: Many health-care workers are exposed to blood and body fluids from patients who have active bloodborne infections or are carriers of these infections. Such exposure presents a potential risk of disease for the health-care worker. One such disease, Hepatitis B, has been shown to present a substantially increased risk for health-care workers. Hepatitis B is a serious disease that may require hospitalization and, in a small percentage of cases, is fatal. Another bloodborne disease, Acquired Immune Deficiency Syndrome (AIDS) is also of great concern to health- care workers. Only a very small number of infections, however, have been documented to have resulted from occupational exposure to the virus that causes AIDS. About half of the nation's 6 million health-care workers are at increased risk from exposure to bloodborne infectious diseases. (Cont)

Timetable:

Action	Date	FR Cite
ANPRM	11/27/87	52 FR 45438
ANPRM Comment Period End	01/26/88	52 FR 45438
NPRM	08/00/89	
Final Action	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT (CONT'D): Some examples of health-care workers at highest risk are emergency room workers, dialysis unit workers, operating room personnel, intensive care unit workers, and blood bank employees. The Occupational Safety and Health Administration (OSHA) has no standard specifically regulating occupational exposure to bloodborne infectious diseases. In 1983, the Agency issued guidelines for reducing the occupational risk of Hepatitis B infection (OSHA Instruction CPL 2-2.36). These guidelines are voluntary, however. In September 1986, OSHA was petitioned by the American Federation of State, County and Municipal Employees and other unions for the issuance of an emergency temporary standard to protect workers from occupational exposure to bloodborne infectious diseases, such as hepatitis B and AIDS. The agency plans to publish a proposal in 1989.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, Dc 20210, 209 523-7075

RIN: 1218–AB15

1474. CADMIUM

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910, (Table Z-2)

Legal Deadline: None

Abstract: On June 18, 1986, the International Chemical Workers Union and the Public Citizen Health Research Group petitioned OSHA to issue an emergency temporary standard reducing the permissible exposure limit for cadmium to one microgram of cadmium per cubic meter of air. On June 25, 1987 the union and HRG filed a petition with the Court of Appeals requesting the Court to order OSHA to promulgate an ETS. In its July 1, 1987, response to the petitioners, OSHA stated that issuance of an emergency standard was not warranted, but that exposure to cadmium at levels permitted under the current standard represented a significant risk to worker health which would be addressed through section 6(b) rulemaking procedures. On September 26, 1988, OSHA published guidelines for controlling exposure to cadmium and recommended reduced exposure levels significantly below the permissible exposure limit. OSHA plans to publish a Notice of Proposed Rulemaking in April 1989.

Timetable:

Action	Date	FR Cite
Response to Petitioners	07/01/87	
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB16

1475. HAZARDOUS MATERIALS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, (Subpart H)

Legal Deadline: None

Abstract: Standards in 29 CFR Part 1910, Subpart H, which address the storage, handling and use of hazardous materials, such as compressed gases, acetylene, hydrogen, oxygen, liquified petroleum gases, and flammable and combustible liquids, will be revised. This regulatory action will provide a new approach to the revision of Subpart H and will occur in three phases in an expanded timeframe. The three phases will be (1) Process Hazards Management, (2) Flammable and Compressed Gases, and, (3) Hazardous Liquids. The first phase of the proposed action is intended to better protect employees from unexpected releases of significant quantities of dangerous substances. The remaining phases are intended to simplify, clarify and consolidate standards on hazardous materials and assist employers and employees in general industry to better understand and better focus on the hazards inherent in the use, handling, and storage of such materials.

DOL—OSHA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	01/23/81	46 FR 7692
ANPRM Comment Period End	02/01/82	46 FR 38108
NPRM	01/00/90	
Final Action	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This action merges two previous actions, "Hazardous Materials-- Flammable and Compressed Gases (Part 1910)" and "Hazardous Materials--Flammable and Combustible Liquids (Part 1910)" and will also include storage and handling of toxic materials.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AB20

1476. SHIPYARD EMPLOYMENT: PHASE II (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq.; 29 CFR 1915.31 et seq.; 29 CFR 1915.91 et seq.; 29 CFR 1915.111 et seq.; 29 CFR 1915.131 et seq.; 29 CFR 1915.161 et seq.; 29 CFR 1915.171 et seq.; 29 CFR 1915.181; 29 CFR 1910.13; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: This regulatory action will complete the consolidation and updating of Parts 1915 and 1910 by providing shipyard employees with coverage under one comprehensive OSHA standard. This revision will involve the promulgation of 16 maritime subparts and their 1910 counterparts. Its completion will relieve shipyard owners from the burden of having to comply with two sets of rules that are complex, prescriptive, confusing and, in some cases, conflicting. OSHA has established an Advisory Committee to assist the agency in reviewing and revising these subparts. Experts from government, industry, unions and the states will be asked to work with OSHA on this project. A previously identified project, Surface Preparation and Preservation (RIN: 1218-AA96), will be included in this project.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AB22

1477. ● ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657; 5 USC 552(a); 5 USC 533

CFR Citation: 29 CFR 1910.120, (Subpart H)

Legal Deadline: None

Abstract: Public Law 99-499 requires the Secretary of Labor to promulgate a final standard for Hazardous Waste Operations and Emergency Response. Section 126 of Public Law 99-499 was amended by Congress on December 22, 1987 to require the Secretary of Labor to include in the final rule a training course certification program at least as comprehensive as the EPA's model program for asbestos abatement in public buildings. This proposed revision would add criteria and requirements for training course certification of training for workers involved in hazardous waste operations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	08/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N3605, FPBuilding, Washington, DC 20210, 202 523-8061

RIN: 1218–AB27

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA) — Final Rule Stage

1478. OCCUPATIONAL EXPOSURES TO HAZARDOUS CHEMICALS IN LABORATORIES

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1450

Legal Deadline: None

Abstract: Existing OSHA standards are designed to protect employees who are engaged in work involving exposure to only a few toxic chemicals during relatively standardized, continuous or repetitive processes. In contrast, laboratory workers are exposed to a multitude of toxic substances under frequently changing or unpredictable conditions. During this rulemaking, OSHA will examine whether prudent work practices and protective equipment, chosen for the specific facility and task, are more effective, feasible and economical for laboratory work than adhering to OSHA's current substance-specific standards. Accordingly, OSHA has proposed a special performance-oriented work practices standard that, if promulgated, would apply to laboratory workers and would contain provisions specifically designed for laboratory conditions.

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Timetable:

Action	Date	FR Cite
ANPRM	04/14/81	46 FR 21785
ANPRM Comment Period End	07/15/81	
NPRM	07/24/86	51 FR 26660
NPRM Comment Period End	10/22/86	51 FR 26660
Public Hearings	03/24/87	52 FR 1212
Final Action	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA00

1479. ETHYLENE DIBROMIDE (EDB)

Significance: Agency Priority

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1048

Legal Deadline: None

Abstract: Recent scientific studies have reported that ethylene dibromide causes cancer when administered orally, by inhalation and by skin application in laboratory animals. In addition, other studies have shown the chemical to be a mutagen, teratogen and testicular toxin in experimental animals. On the basis of these reports, OSHA has determined that its current permissible exposure limit of 20 ppm does not provide exposed workers adequate protection against cancer and other adverse health effects. A proposed standard for ethylene dibromide was published 10/07/83 (43 FR 45956). Public hearings were held in February 1984. OSHA is currently in the process of decisionmaking on the provisions to be included in the final standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/81	46 FR 61671
ANPRM Comment Period End	05/31/82	
NPRM	10/07/83	48 FR 45956
NPRM Comment Period End	11/21/83	48 FR 45956
Public Hearing Held	02/06/84	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA06

1480. CONCRETE AND MASONRY CONSTRUCTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.700; 29 CFR 1926.701; 29 CFR 1926.702; 29 CFR 1926.703; 29 CFR 1926.704; 29 CFR 1926.705; 29 CFR 1926.706

Legal Deadline: None

Abstract: A final rule for concrete and masonry construction was published in the Federal Register on June 16, 1988. However, the record was reopened to allow information and evidence obtained from the investigation of a recent major accident to be included in the record pertaining to lift-slab operations. Revised lift-slab rules were then proposed (September 15, 1988).

Timetable:

Action	Date	FR Cite
ANPRM	02/09/82	47 FR 5910
ANPRM Comment Period End	04/10/82	
NPRM	09/16/85	50 FR 37543
NPRM Comment Period End	11/15/85	50 FR 37543
Public Hearing Scheduled	04/08/86	51 FR 11945
Public Hearing Rescheduled and Held June 17-18, 1986	05/09/86	51 FR 17203
Final Action (Except Lift-Slab)	06/16/88	53 FR 22612
FINAL ACTION (EFFECTIVE DATE) (Except Lift-Slab)	08/15/88	53 FR 22612
NPRM – Reproposal of Lift-Slab Rules	09/15/88	53 FR 35972
NPRM Public Comment Period End – Reproposal of Lift-Slab Rules	11/14/88	
Final Action on Lift-Slab Rules	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: 1. 29 CFR 1926, Subpart Q currently entitled: "Concrete, Concrete Forms, and Shoring.

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA20

1481. ELECTRICAL SAFETY-RELATED WORK PRACTICES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.331; 29 CFR 1910.332; 29 CFR 1910.333; 29 CFR 1910.334; 29 CFR 1910.335; 29 CFR 1910.399; 29 CFR 1910.26(c)(3)(iii); 29 CFR 1910.67(b)(4); 29 CFR 1910.68(b)(4); 29 CFR 1910.68(c)(5)(iv)(c); 29 CFR 1910.94(a)(2)(iii); 29 CFR 1910.103(b)(3)(iii)(e); 29 CFR 1910.106(h)(7)(iii)(a); 29 CFR 1910.110, (Table H-28); 29 CFR 1910.178(c)(2); ...

Legal Deadline: None

Abstract: Standards are currently under review for the second part (Subpart S of Part 1910) of OSHA's electrical standard which would establish a performance-oriented standard for electrical safety- related work practices to complement the existing electrical installation standards. The proposed standard includes requirements for work performed on or near exposed energized and deenergized parts of electrical equipment and includes requirements for both the safe use of the electrical equipment as well as the use of personal protection devices.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45530
NPRM Comment Period End	02/29/88	52 FR 45530
Final Action	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: All

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA32

1482. POWERED PLATFORMS FOR EXTERIOR BUILDING MAINTENANCE (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.66

Legal Deadline: None

Abstract: The present standard, which requires positive engagement of a powered platform with a building face to provide stabilization, may need to be revised because many variance designs have been submitted which do not provide positive engagement of the platform, yet claim equal stability. The agency believes there may be merit to this claim. The proposal provides ffexibility in compliance through performance-oriented provisions as alternatives to positive engagement. It would also expand the scope of the current standard to include requirements covering additional suspension equipment, fall protection, and employee training.

Timetable:

Action	Date	FR Cite
ANPRM	02/11/83	48 FR 6368
ANPRM Comment Period End	03/14/83	48 FR 6368
NPRM	01/22/85	50 FR 2890
NPRM Comment Period End	03/25/85	50 FR 2890
Reopening of NPRM Comment Period to 8/1/85	07/02/85	50 FR 27307
Informal Public Hearing	02/20/86	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA33

1483. EXCAVATIONS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.650; 29 CFR 1926.651; 29 CFR 1926.652; 29 CFR 1926.653

Legal Deadline: None

Abstract: This rule prescribes the minimum measures to be taken to protect employees from injury during excavation work. A revision of the existing rule was proposed because trench and excavation sidewall failures that have resulted in death and injury to workers continue in significant numbers. Claims that the existing standards are ambiguous and too restrictive, especially with respect to the type of soil involved, have also been made.

Timetable:

Action	Date	FR Cite
NPRM	04/15/87	52 FR 12288
NPRM Comment Period End	10/14/87	52 FR 22799
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 1. 29 CFR 1926.650 through .653 currently entitled: "Excavations, Trenching, and Shoring.

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA36

1484. FALL PROTECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.104; 29 CFR 1926.105; 29 CER 1926.500; 29 CFR 1926.501; 29 CFR 1926.502; 29 CFR 1926.107(b); 29 CFR 1926.250(b)(2); 29 CFR 1926.651(t); 29 CFR 1926.951(b)(4)(i); 29 CFR 1926.107(c); 29 CFR 1926.107(f); 29 CFR 1926.651(w)

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it is poorly formatted, contains unnecessary and restrictive provisions, and does not properly address the fall protection needs of certain areas and operations. The proposal raises several significant issues including (1) when fall protection systems must be installed, (2) whether work surface inspections are necessary to insure adequate structural integrity before commencing work, and (3) whether body belt systems or body harness systems are appropriate for use as fall protection. (Subpart M revised)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8061

RIN: 1218–AA37

1485. UNDERGROUND CONSTRUCTION (TUNNELS AND SHAFTS)(PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.800

Legal Deadline: None

Abstract: The existing standards are being revised to update the treatment of hazards of construction in underground locations such as tunnels, shafts,

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chambers, passageways and covered excavations. In some cases, the existing standards are too restrictive. In addition, existing language is being rewritten to clarify the requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/05/83	48 FR 35774
NPRM Comment Period extended to 02/17/84	12/19/83	48 FR 56087
Public Hearing Held	03/13/84	
Limited Reopening of Comment Period Until 10/18/85	08/19/85	50 FR 33357
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA36

1486. SCAFFOLDS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1926.752(k)

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it is poorly formatted, contains unnecessary and restrictive provisions, and omits necessary specific coverage for certain types of scaffolds. The proposal raises several significant issues including: (1) the use of crossbraces as guardrails, (2) the use of fall protection during scaffold erection and dismantling operations, and (3) the role of engineers in scaffold design. (Subpart L, revised)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20618
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8061

RIN: 1218–AA40

1487. CONTROL OF HAZARDOUS ENERGY SOURCES (LOCKOUT/TAGOUT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.147, (New)

Legal Deadline: None

Abstract: The proposed standard will fill a major gap in our current regulations which now depend for enforcement on the general duty clause, 5(a)(1). It will apply to those situations where the unexpected energization, start up or the release of stored energy could cause injury to employees. Providing comprehensive and uniform control procedures is also expected to reduce significantly the potential for injury and death of employees because the hazards targeted for control exist in virtually every workplace. Further, the proposed standard will respond to the concerns of organized labor who petitioned OSHA in 1979 and again in 1982 for regulatory action to protect employees and to the American National Standards Institute's petition for OSHA to adopt its consensus standard ANSI Z244.1-1982. Regulatory options involve developing a comprehensive standard covering all potentially hazardous energy sources or limiting the scope and application to those certain machines or industries that are causing most of the injuries.

Timetable:

Action	Date	FR Cite
ANPRM	06/17/80	45 FR 41012
ANPRM Comment Period End	09/15/80	
NPRM	04/29/88	53 FR 15496
NPRM Comment Period End	06/28/88	53 FR 15496
Final Action	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Mr. Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm. N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA53

1488. STAIRWAYS AND LADDERS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.452; 29 CFR 1926.501; 29 CFR 1926.502; 29 CFR 1926.1050; 29 CFR 1926.1051

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it contains references to non-government voluntary regulations by topic. The proposal raises several significant issues including: (1) what is the appropriate height limit where the use of ladders as a means of access should be required, and (2) what are appropriate field tests for determining ladder strength. (New Subpart X)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20618
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: This new Subpart X is a revision of the ladder and stairway portions of existing Subparts L (ladders and scaffolds) and M (Floor and Wall Openings and Stairways). The remaining portions of Subparts L and M are being revised as Subparts L (Scaffolds) and M (Fall Protection). (RIN 1218-AA37 - Fall Protection; RIN 1218-AA40 - Scaffolds.) This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Barry White, Director, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605,

FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA57

1489. FALL PROTECTION (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.201; 29 CFR 1915.202; 29 CFR 1915.203; 29 CFR 1915.73; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.77

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering fall protection and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48166
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.21 - .23.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA66

1490. SCAFFOLDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71; 29 CFR 1910.28; 29 CFR 1910.29

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standards covering scaffolds and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.28 - .29.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA68

1491. ACCESS AND EGRESS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standards covering access and egress and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.24 - .27; 29 CFR 1910.36 - .37.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA70

1492. WELDING, CUTTING AND HEATING (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.51; 29 CFR 1915.52; 29 CFR 1915.53; 29 CFR 1915.54; 29 CFR 1915.55; 29 CFR 1915.56; 29 CFR 1915.57

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering welding, cutting, and heating. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. In addition, it will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48111
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.251 - .252.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA73

1493. PERSONAL PROTECTIVE EQUIPMENT (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.151; 29 CFR 1915.152; 29 CFR 1915.153; 29 CFR 1915.154

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DOL—OSHA

Final Rule Stage

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering personal protective equipment. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48150
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.132 through .137.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA74

1494. EXPLOSIVE AND OTHER DANGEROUS ATMOSPHERES (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.11; 29 CFR 1915.12; 29 CFR 1915.13; 29 CFR 1915.14; 29 CFR 1915.15; 29 CFR 1915.16

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering explosive and other dangerous atmospheres. This revision will develop, in part, a performance-oriented standard, address any gaps in coverage, recognize new technology, and eliminate outmoded or redundant standards.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48092
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 373 Ship and Boat Building and Repairing

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8063

RIN: 1218–AA91

1495. HAZARD COMMUNICATION

Significance: Regulatory Program

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333; 5 USC 553

CFR Citation: 29 CFR 1910.1200; 29 CFR 1915.99; 29 CFR 1917.28; 29 CFR 1918.90; 29 CFR 1926.59; 29 CFR 1928.21

Legal Deadline: None

Abstract: OSHA promulgated a final rule on August 24, 1987, that extended the protections of its Hazard Communication Standard (HCS) from the manufacturing sector to all other workplaces where employees are exposed to hazardous chemicals. The HCS requires covered employers to establish hazard communication programs for their employees, including labels on containers, material safety data sheets, and training programs. On August 8, 1988, OSHA published a NPRM to modify the final rule, and provide an opportunity for public comment. Public comments have been received, hearings have been held, and a final rule is expected to be completed in 1989.

Timetable:

Action	Date	FR Cite
ANPRM	11/27/85	50 FR 48794
ANPRM Comment Period End	02/25/86	
NPRM	08/08/88	53 FR 29822
NPRM Comment Period End	10/24/88	
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB02

1496. LEAD (RECONSIDERATION OF THE FEASIBILITY OF COMPLIANCE IN NINE INDUSTRY SECTORS)

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910.1025

Legal Deadline: Final, Judicial, June 28, 1989.

Abstract: On December 11, 1981 (46 FR 60758), OSHA published a Revised Statement of Reasons concerning the feasibility of compliance with paragraph (e)(1) of the standard for occupational exposure to lead, which had been promulgated in 1978. In this revised statement, OSHA stated that it could not reach a conclusion regarding feasibility, on the basis of the existing rulemaking record, for eight specific industry sectors: lead chromate pigments, lead chemicals, nonferrous foundries, brass and bronze ingot production, secondary copper smelting leaded steel, shipbuilding and ship repair, stevedoring, and battery breaking separate from secondary smelting, and that in addition, it wished to reexamine the applicability of the lead standard to the stevedoring industry. OSHA requested that the record (which was under review by the U.S. Court of Appeals for the District of Columbia Circuit) be remanded for supplementary administrative proceedings. The Court granted OSHA's December 1981 request on March 31, 1987, and remanded the record to OSHA for further administrative proceedings to determine the feasibility of section (e)(1) for the nine industry sectors OSHA had (Cont'd)

Timetable:

Action	Date	FR Cite
Reopening of Lead Rulemaking Records	08/03/87	52 FR 28727
End of Comment Period	09/16/87	
Public Hearings	09/29/87	
Final Action	06/00/89	

DOL—OSHA

Final Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT (CONT'D): listed. The Court further ordered OSHA to return the record on or before October 1, 1987. On June 17, 1987, OSHA filed with the Court a motion requesting a 90-day extension to January 1, 1988. On July 31, 1987 the Court granted OSHA's motion. OSHA published in the Federal Register on August 3, 1987, a notice of a limited reopening of the rulemaking record (limited to the issue of feasibility) and specified September 2, 1987 for the receipt of comments from the public and September 15, 1987 for public hearings. Thereafter, at the request of industry and labor, OSHA deferred the relevant dates for the rulemaking until September 16 and 29, 1987, respectively.OSHA requested, and was granted by the Court, an extension for final action until July 15, 1988.Because of the complexity of the issues, OSHA petitioned the court on July 15 for an extension of time for the return of the record until the end of November 1988.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB18

DEPARTMENT OF LABOR (DOL)

Completed Actions

Occupational Safety and Health Administration (OSHA)

1497. HAZARDOUS WASTE OPERATIONS AND EMERGENCY RESPONSE (PART 1910)

Significance: Agency Priority

Legal Authority: PL 99-499 Section 126 (as amended); 29 USC 655; 29 USC 657; 5 USC 552(a); 5 USC 553

CFR Citation: 29 CFR 1910.120, (Subpart H)

Legal Deadline: Final, Statutory, October 16, 1987.

Abstract: Public Law 99-499 requires the Secretary of Labor to promulgate a final standard for Hazardous Waste Operations and Emergency Response by October 17, 1987. The law requires the rule to address eleven areas: site analysis, training, medical surveillance, protective equipment, engineering controls, maximum exposure limits, informational programs, handling and labeling, new technology programs, decontamination procedures, and emergency response. The agency has developed a Regulatory Impact Analysis which is available in the docket. OSHA held public hearings in Washington, D.C. and Seattle, Washington to enhance public comment and participation in this rulemaking. On December 22, 1987 Congress amended SARA to require the Secretary of Labor to develop a training certification program at least as comprehensive as the EPA's Model Program for Asbestos Abatement in Schools. OSHA will be developing this certification program as a separate rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/19/86	51 FR 45654
NPRM	08/10/87	52 FR 29620
NPRM Comment Period End	10/05/87	52 FR 29620
Public Hearings held in Washington, DC, and Seattle, Washington	10/13/87	52 FR 37973
Final Action	03/06/89	54 FR 9294
Final Action Effective	03/06/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: All

Additional Information: SMALL ENTITIES AFFECTED CONT: Because Public Law 99-499 requires the use of trained workers, there may be some impact or subcontractors who will either need to hire trained employees, than existing employees, or not participate in the cleanup of hazardous wastes.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AB13

1498. PERMISSIBLE EXPOSURE LIMIT UPDATE

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910.1000, (Tables Z-1 to Z-3)

Legal Deadline: None

Abstract: In 1972, OSHA promulgated permissible exposure limits (PELs) for a number of toxic substances, pursuant to authority granted by section 6(a) of the Act, which allowed OSHA (for a limited period) to adopt existing Federal standards or industry consensus standards as enforceable OSHA standards. Accordingly, the lists of toxic substances now codified at 29 CFR 1910.1000, Tables Z-1 and Z-3, were Federal standards adopted under the Walsh-Healey Public Contracts Act, which, in turn, were adopted from the American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values (TLVs) for 1968. The substances listed at 29 CFR 1910.1000, Table Z-2, were adopted from American National Standards Institute standards. Industrial experience, new developments in control technology, and scientific data acquired since 1968 have led the ACGIH to make changes in its TLVs over the years. Many of the TLVs have been lowered, and limits for additional chemicals have been established. During this period, OSHA has promulgated revised standards for toxic substances on a substance-by-substance basis. This process, however, has not kept up with (Cont'd)

Timetable:

Action	Date	FR Cite
NPRM	06/07/88	53 FR 20960
NPRM Comment Period End	07/08/88	
Final Action	01/19/89	54 FR 2332
Final Action Effective	03/01/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

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DOL—OSHA **Completed Actions**

Additional Information: ABSTRACT (CONT'D): the number of changes made by ACGIH. OSHA believes that 29 CFR 1910.1000, Tables Z-1, Z-2 and Z-3 should be updated, as appropriate, to conform with current scientific and technical knowledge. OSHA intends to initiate rulemaking to accomplish this update.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB17

1499. HAZARDOUS WASTE TRAINING COURSE CERTIFICATION (PART 1910)

Significance: Regulatory Program

Legal Authority: PL 99-499 Section 126 (as amended); 29 USC 655; 29 USC 657; 5 USC 552(a); 5 USC 533

CFR Citation: 29 CFR 1910.120, (Subpart H)

Legal Deadline: None

Abstract: Public Law 99-499 requires the Secretary of Labor to promulgate a final standard for Hazardous Waste Operations and Emergency Response. Section 126 of Public Law 99-499 was amended by Congress on December 22, 1987 to require the Secretary of Labor to include in the final rule a training course certification program at least as comprehensive as the EPA's model program for asbestos abatement in public buildings. This proposed revision would add criteria and requirements for training course certification of training for workers involved in hazardous waste operations.

Timetable:

Action	Date	FR Cite
Integrated into 1218-AB27	01/27/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AB23

DEPARTMENT OF LABOR (DOL) **Proposed Rule Stage**

Office of the Assistant Secretary for Veteran's Employment & Training (ASVET)

1500. ● SERVICES FOR VETERANS

Significance: Regulatory Program

Legal Authority: 38 USC Chapter 41; PL 100-323

CFR Citation: 20 CFR 652 Subpart B

Legal Deadline: None

Abstract: To revise Title 20 CFR, as follows: 1) establish a new 20 CFR Chapter IX, Part 1000-1099, for the Assistant Secretary of Veterans' Employment and Training, 2) redesignate existing 20 CFR, Part 635, Implementing Regulations for Veterans' Employment Programs, previously published October 24, 1983 (48 FR 49198), as new 20 CFR, Part 1005, in new 20 CFR Chapter IX, 3) revise existing 20 CFR 652, Subpart B, Services for Veterans, previously published March 30, 1984 (49 FR 12918), into conformity with 38 U.S.C. Chapter 41, as amended, and redesignate it as 20 CFR Part 1001 in new 20 CFR Chapter IX. According to PL 100-323, several major provisions must be added to the regulations as follows: a) expand responsibilities of Assistant Secretary for Veterans' Employment and Training; (b) establish position of Regional Administrator for Veterans' Employment and Training; (c) expand duties of Disabled Veterans' Outreach Program Specialists; (d) establish assignment formula and duties for local Veterans; employment Representatives; (ABSTRACT CONT'D IN ADDITIONAL INFORMATION)

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	08/00/89	
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: [ABSTRACT CONT'D): (e) expand list of data items to be collected and reported to Congress annually; (f) establish permanent National Veterans' Training Institute; (g) expand membership of Secretary's Committee on Veterans' Employment; (h) set requirements for greater coordination with JTPA and OPM. Requires solution since statute requires Department of Labor to monitor and/or administer affected programs.

Agency Contact: Carlon J. Johnson, Chief, Office of Regulations and Special, Programs, Department of Labor, Office of the Assistant Secretary for Veteran's Employment & Training, 200 Constitution Avenue, NW, Room S1316, FP Building, Washington, DC 20210, 202 523-9110

RIN: 1293–AA03

[FR Doc. 89-7779 Filed 04-21-89; 8:45 am]
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federal register

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Part XIII

Department of State

Semiannual Regulatory Agenda

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DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

[Docket No. SD - 225]

Unified Agenda of Federal Regulations

AGENCY: Department of State.

ACTION: Semiannual publication of regulatory agenda.

SUMMARY: As required by Executive Order 12291 and the Regulatory Flexibility Act of 1980 (Pub. L. No. 96-354), the April 1989 agenda of regulations of the Department of State is set forth below. This agenda was prepared under the guidelines of OMB Bulletin 89-02, dated November 4, 1988. The purpose of the agenda is to provide information to the public on the Department's regulatory plans.

FOR FURTHER INFORMATION CONTACT: James H. Thessin, Assistant Legal Adviser for Management, Department of State, Room 4427A, 2201 C Street, NW., Washington, DC 20520, telephone (202) 647-2350.

Dated: March 1, 1989.

Ronald I. Spiers,

Under Secretary for Management.

DEPARTMENT OF STATE (STATE) — Prerule Stage

1501. FOREIGN MISSIONS ACT REGULATIONS

Significance: Regulatory Program

Legal Authority: 22 USC 4301 et seq; 22 USC 254(e)

CFR Citation: 22 CFR 151

Legal Deadline: None

Abstract: The Foreign Missions Act creates certain authorities for the Secretary of State relating to the regulation of foreign missions, diplomatic, consular, and international organizations. Exercise of those authorities could involve restricting or controlling the access of such missions to American vendors of goods and services. Exercise of other authorities in the Foreign Missions Act could affect the location of premises of foreign missions. Exercise of authority in the Diplomatic Relations Act, 22 USC 254(a) et seq., as amended by Title VI of PL 98-164, will have an impact on the acquisition of liability insurance coverage for the operation of motor vehicles, vessels, and aircraft by personnel of foreign missions, and could in certain situations, subject foreign missions to surcharges or fees. The regulations under consideration would provide procedures for exercise of these authorities. These regulations are at the stage of preliminary consideration. No timetable has been established other than that established in Title VI of PL 98-164.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Condayan, Acting Director, Office of Foreign Missions, Department of State, Room 2105, 2201 C Street, NW, Washington, DC 20520, 202 647-3416

RIN: 1400–AA04

1502. BANKING SERVICES - PROCEDURES FOR RESTRICTING

Legal Authority: 22 USC 4301 et seq

CFR Citation: 22 CFR 152

Legal Deadline: None

Abstract: The rule will set out the procedures that the Department of State will follow whenever the banking services of particular foreign missions are restricted pursuant to the Foreign Missions Act, 22 USC 4301 et seq.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Condayan, Acting Director, Office of Foreign Missions, Department of State, Room 2105, 2201 C Street, NW, Washington, DC 20520, 202 647-3416

RIN: 1400–AA07

1503. ESTABLISHMENT OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Legal Authority: See Additional Information.

CFR Citation: 22 CFR 92.61(3), amendment to

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the Convention, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the Convention to the Senate on July 2, 1986 with the recommendation that the Senate give its advice and consent to U.S. ratification of the Convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29).

Timetable:

Action	Date	FR Cite
Hearing of Senate Foreign Relations Committee on the Convention	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Eventual U.S. ratification of 1973 Convention providing a uniform law on the form of an international will provide the basis for establishing the Registry.

Agency Contact: Carmen A. DiPlacido, Director, Office of Citizens Consular Services, Department of State, Bureau of Consular Affairs, Washington, DC 20520, 202 647-3666

RIN: 1400–AA09

STATE — Prerule Stage

1504. FISHERMEN'S PROTECTIVE ACT PROCEDURES UNDER SECTION 7

Legal Authority: 22 USC 1977

CFR Citation: 22 CFR 33, (Revision)

Legal Deadline: None

Abstract: This regulation clarifies procedures for the administration of the Fishermen's Guaranty Fund and claims evaluation, under Section 7 of the Fishermen's Protective Act, 22 USC 1971 et seq.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stetson Tinkham, Program Administrator, Department of State, Office of Fisheries Affairs, OES/OFA, Room 5806, Washington, DC 20520, 202 647-2009

RIN: 1400–AA10

1505. DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Legal Authority: 5 USC 301; 22 USC 2658; 40 USC 486(c)

CFR Citation: 48 CFR 601 to 653

Legal Deadline: None

Abstract: Several items in the current Department of State Acquisition Regulation (DOSAR) were published as interim rules (see 53 FR 26158, July 11, 1988) and final rule action on those items awaits review by the Federal Acquisition Regulation council. Other changes are uncertain at this time.

Timetable:

Action	Date	FR Cite
NPRM	05/28/87	52 FR 19990
NPRM Comment Period End	06/29/87	52 FR 19990
Interim Final Rule	07/11/88	53 FR 26158
Final Rule	07/11/88	53 FR 26158
End Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 227, SA-6, Washington, DC 20520, 703 875-7047

RIN: 1400–AA16

1506. SOUTH AFRICA AND FAIR LABOR STANDARDS

Legal Authority: 22 USC 5034; 22 USC 5035; 22 USC 5111; 22 USC 5113

CFR Citation: 22 CFR 60 to 65

Legal Deadline: None

Abstract: Executive Order 12532 of September 9, 1985 required U.S. firms operating in South Africa to take good faith measures with respect to certain fair labor standards. A final rule was promulgated for this purpose after receiving public comments. The requirements of this Executive Order were later codified in the Comprehensive Anti-Apartheid Act of October 2, 1986, and amendments to the regulations were promulgated as a final rule on October 22, 1986. The second annual review of the labor practices of U.S. firms was published in October, 1988. The Department of State revised the questionnaire and application for registration after the first report was published in 1987. The Department is in the final stages of revising and updating the regulations (22 CFR 60-65).

Timetable:

Action	Date	FR Cite
Begin Review	10/01/88	
End Review	12/31/88	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert Bruce, Executive Director, South Africa Fair Labor Standards Program, Department of State, AF/S, 2201 C Street, NW., Washington, DC 20520, 202 647-9866

RIN: 1400–AA19

1507. INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR)

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 120 to 130

Legal Deadline: None
Statutory deadline applies only to one proposed Notice; the remainder of the proposals are not subject to a legal deadline.

Abstract: The ITAR were first published in their current form in 1955 and have been periodically amended to reflect statutory enactments and to implement foreign policy. The last substantial revision occurred in December 1984; other amendments have been effected since this date. For example, on April 4, 1988, the ITAR was amended to implement an amendment to the Arms Export Control Act (AECA) that was designed primarily to ensure that individuals or firms convicted of certain offenses or debarred by U.S. Government agencies are denied export privileges. The Office of Munitions Control is continually seeking ways to improve the administration of its export control function by seeking to clarify or amend the ITAR, as necessary. During the next few months, the Department intends to amend the ITAR to include an exemption for certain temporary imports and re-exports of defense articles. The Department also intends to publish more comprehensive changes to the ITAR, which would first be the subject comment.

Timetable:

Action	Date	FR Cite
Published "Standards Identifying High-Risk Exports"	09/26/88	53 FR 37382
Continue proposed revisions	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Chard, Deputy Director, Office of Munitions Control, Department of State, PM/RASA/MC, Room 800, Department of State Annex 6, Washington, DC 20520, 703 875-6650

RIN: 1400–AA23

1508. AUTOMOBILE LIABILITY INSURANCE REPORTING REQUIREMENTS UNDER THE FOREIGN MISSIONS ACT

Significance: Regulatory Program

Legal Authority: 22 USC 4301 et seq; 22 USC 254a

CFR Citation: 22 CFR 151

Legal Deadline: None

Abstract: The Foreign Missions Act Amendments of 1983 amended the Diplomatic Relations Act of 1978 and

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STATE — **Prerule Stage**

the Foreign Missions Act to enforce more effectively a requirement that persons connected with foreign missions carry liability insurance against risks arising from the operation in the U.S. of automobiles, vessels or aircraft by persons entitled to diplomatic or consular immunity. The Department issues and enforces pertinent regulations with the aim of ensuring that the objectives of this program are achieved. The regulations are designed to carry out the obligations of the U.S. to foreign diplomatic and consular missions, to induce concessions for U.S. diplomatic and consular missions abroad, and to protect the U.S. public against uninsured foreign drivers. The expected potential benefits to society will greatly outweigh potential costs. We continue our analysis and discussions to ensure that regulatory mechanisms chosen maximize net benefits and minimize net costs. We seek to set priorities for our regulatory goals and objectives to maximize aggregate net benefits to society. In that connection, the liability insurance regulations have first priority.

Timetable:

Action	Date	FR Cite
Determination of milestones for future action	06/00/89	
Continue discussions with insurance industry	12/30/89	
Continue Congressional review	12/30/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: John Condayan, Acting Director, Office of Foreign Missions, Department of State, Room 2105, Washington, DC 20520, 202 647-3416

RIN: 1400–AA24

DEPARTMENT OF STATE (STATE) — **Proposed Rule Stage**

1509. REGULATIONS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT

Legal Authority: PL 99-509, Sec 6104; 31 USC 3801 to 3812

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, April 21, 1987.

Abstract: Regulations implement the Program Fraud Civil Remedies Act of 1986, which establishes an administrative remedy for fraudulent claims or statements submitted to agencies. Anyone who, with knowledge or reason to know, submits a false, fictitious or fraudulent claim or statement to an agency is liable for a $5,000 penalty and an assessment of double damages.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jean Bailly, Attorney-Adviser, Department of State, L/M, Room 4427A, 2201 C Street, NW, Washington, DC 20520, 202 647-4446

RIN: 1400–AA13

DEPARTMENT OF STATE (STATE) — **Final Rule Stage**

1510. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS WITH UNIVERSITIES, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Legal Authority: 22 USC 2658

CFR Citation: 22 CFR 135

Legal Deadline: None

Abstract: This regulation established uniform administrative requirements for grants and cooperative agreements to State and local governments. The regulation is being changed to include institutions of higher education, hospitals, and other nonprofit organizations. This effort represents a merging of OMB circulars A-102 and A-110, and is being promulgated by many Federal agencies under the common rulemaking procedures.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/84	49 FR 24958
Notice of Proposed Forms	05/29/87	52 FR 20178
NPRM	06/09/87	52 FR 21820
Begin Review	06/24/87	52 FR 23729
Notice Public Comment Period End	07/28/87	52 FR 20178
NPRM Comment Period End	08/10/87	52 FR 21820
Final rule	03/11/88	53 FR 8034
NPRM	11/04/88	53 FR 44716
NPRM Public Comment Period End	01/03/89	53 FR 44716
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 227, SA-6, Washington, DC 20520, 703 875-7047

RIN: 1400–AA20

1511. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENT-WIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Legal Authority: 22 USC 2658

STATE — **Final Rule Stage**

CFR Citation: 22 CFR 137

Legal Deadline: Other, Statutory, March 18, 1989.
Interim final rule

Abstract: This regulation established a uniform system of nonprocurement debarment and suspension among 27 Federal agencies. The regulation includes coverage published as an interim rule, which will be finalized during this regulatory period, if not sooner. This regulation also has been amended to include Government requirements for drug-free workplace, pursuant to the Drug-Free Workplace Act of 1988 (PL 100-690, Title V, Subtitle D).

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 39015
NPRM Comment Period End	12/21/87	52 FR 39015
Interim Final Rule	05/26/88	53 FR 19161
Final Rule	05/26/88	53 FR 19161
OMB Notice	09/06/88	53 FR 34474
Final Rule effective	10/01/88	53 FR 19161
Final Rule and Interim Final Rule	01/31/89	54 FR 4947
Interim Final Rule effective	03/18/89	54 FR 4947
Interim Final Rule comment period end	04/03/89	54 FR 4947

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 227, SA-6, Washington, DC 20520, 703 875-7047

RIN: 1400–AA21

DEPARTMENT OF STATE (STATE) — **Completed Actions**

1512. COLLECTION OF DEBTS BY THE STATE DEPARTMENT UNDER THE DEBT COLLECTION ACT OF 1982

CFR Citation: 22 CFR 34

Completed:

Reason	Date	FR Cite
Final Action	04/03/89	54 FR 13364
Final Action Effective	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ramon A. Evon 202 875-6880

RIN: 1400–AA25

[FR Doc. 89-6180 Filed 04-21-89; 8:45 am]

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Part XIV

Department of Transportation

Semiannual Regulatory Agenda

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DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

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49 CFR Subtitle A, Chs. I-VI

[OST Docket No. 59; Notice 89-2]

Department Regulations Agenda; Semiannual Summary

AGENCY: Department of Transportation.

ACTION: Department regulations agenda.

SUMMARY: The Regulations Agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the Department's regulatory activity.

ADDRESSES: The mailing address for the initiating offices of the Department which appear in the agenda is 400 Seventh Street, SW., Washington, DC 20590, except for the Federal Aviation Administration which is located at 800 Independence Avenue, SW., Washington, DC 20591; and the U.S. Coast Guard, which is located at 2100 Second Street, SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the agenda in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, 202-366-4723.

Specific

For further information about any particular item on the agenda, contact the individual listed in the column headed "Agency Contact" for that item.

SUPPLEMENTARY INFORMATION:

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Agenda

Background

Improvement of government regulations is a prime goal of the Bush Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation ("Department") achieve these goals, and in accordance with Executive Order 12291 ("Federal Regulation"; 46 FR 13193; February 19, 1981) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual Regulations Agenda for publication in the **Federal Register**. The agenda summarizes all current and projected rulemaking, reviews of existing regulations and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding twelve months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the initiating offices in January and July each year. After these reports are consolidated for, and reviewed by, the Department Regulations Council, the Department's Regulations Agenda is prepared and published in the **Federal Register**. The Department's last agenda was published in the **Federal Register** on October 24, 1988 (53 FR 42157). The next one is scheduled for publication in the **Federal Register** in April 1989.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA), Pub. L. 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared, i.e., those regulations that would have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis is required for a rulemaking which, in the heading "Small Entities Affected," indicates an effect on small businesses, governmental jurisdictions, or organizations. If a Regulatory Flexibility Analysis will be prepared for a particular rulemaking, that fact also will be noted under the heading "Analysis."

The RFA also requires that each year the Department publish a list of those regulations that have a significant economic impact on a substantial number of small entities and are to be reviewed under the Act during the succeeding twelve months. The agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last agenda. However, it should be noted that, after a preliminary assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities and a full RFA review will be unnecessary.

Regulatory Impact Analysis

A preliminary and final Regulatory Impact Analysis is required for each proposed and final regulation, respectively, that

(1)Is likely to result in:

(a)An annual effect on the economy of $100 million or more;

DOT

(b)A major effect on the general economy in terms of costs, consumer prices, or production;

(c)A major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions;

(d)Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; or

(2)The Secretary or head of the initiating office determines requires such an analysis.

Definitions

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation* means a regulation that is not an emergency regulation and that in the judgment of the head of the initiating office, or the Secretary, or the Deputy Secretary

(a) Is a major regulation;

(b) Concerns a matter on which there is substantial public interest or controversy;

(c) Has a major impact on another operating administration or other parts of the Department or other Federal Agency;

(d) Has a substantial effect on State and local governments;

(e) Has a substantial impact on a major transportation safety problem;

(f) Initiates a substantial regulatory program or change in policy;

(g) Is substantially different from international requirements or standards; or

(h) Otherwise involves important Department policy.

(3) *Major regulation* means a significant regulation for which a Regulatory Impact Analysis is required to be prepared.

(4) *Emergency regulation* means (a) a regulation that, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the **Federal Register**; or (b) is governed by short-term statutory or judicial deadlines.

(5) *Nonsignificant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget Bulletin No. 86-16 (July 2, 1986).

First, the agenda is divided by initiating offices. Then, in accordance with the OMB Bulletin, for each initiating office the agenda is divided into four categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, and (4) completed actions. For each entry, the agenda provides the following information: (1) The "significance" of the action (i.e., whether it is significant because it is on the Regulatory Program or because of agency priority; or whether it is nonsignificant or routine and frequent); (2) a short descriptive title; (3) the legal basis for the action being taken or the regulation being reviewed; (4) the related regulatory citation in the Code of Federal Regulations; (5) an indication of any legal deadline and, if so, for what type of action (e.g., NPRM, final rule); (6) an abstract of the review or the proposed or final regulation; (7) a timetable, including the earliest expected date for a decision on whether to issue the proposed or final regulation, or complete the review and determine the corrective action to be taken. (The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12291 and the Department's Regulatory Policies and Procedures.); (8) an indication as to whether the rulemaking will affect small entities and/or levels of government and which categories of small entities or governments will be impacted; (9) if there is information that does not fit in the other categories, it will be included under a separate heading, entitled "Additional Information"; (10) a listing, where determined, of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., a Regulatory Impact Analysis or Evaluation, an Environmental Impact Statement (EIS), a Regulatory Flexibility Analysis, or an Urban Impact Analysis. (It should be noted that, even though a Regulatory Impact Analysis is not required for some items on the agenda, the Department requires an economic analysis for all of its regulations. This economic analysis is contained in the Regulatory Evaluation if a Regulatory Impact Analysis is not prepared.); (11) an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the agenda; and (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue in the **Federal Register** which may occur between agenda publications. (Departmental rulemaking documents published in the **Federal Register** now contain RIN numbers.)

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules) to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it may be provided under the "Additional Information" heading. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposed or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made

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on whether to issue the document listed. Submittal of any proposed or final rule to the Office of Management and Budget for review, under Executive Order 12291, must follow such a decision. For major rules, this review could take 60 days or more. If any document is issued, publication in the **Federal Register** would follow within a few days. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (●) preceding an entry indicates that the entry appears in the agenda for the first time.

Mailing Lists for Regulatory Documents

To assist the public in obtaining regulatory documents issued within the Department of Transportation, an Appendix A has been included in this document. The appendix contains instructions on how to be placed on mailing lists for, or to obtain, copies of regulatory documents, including the Department's Semiannual Regulations Agenda, issued by the operating administrations of the Department and the Office of the Secretary. There is no charge for this service; however, because of the costs involved, the number of copies of a document forwarded to an individual requestor may be limited. Persons already on mailing lists for particular documents within the Department will remain on those lists and should not reapply.

By following the instructions specified in the appendix, a person can be placed on a mailing list for future copies of the Department's Regulations Agenda, which will be updated and published in the **Federal Register** every year during April and October. By using the agenda, individuals can determine which Notice or Advance Notice of Proposed Rulemaking, to be issued by elements of the Department, is of interest to them. Then, using the instructions in the appendix, such persons also can be placed on a mailing list to ensure that, after the document of interest is issued, a copy will be mailed to them for their review and comment. In this way, individuals will be relieved of the burden of having to review the **Federal Register**, perhaps on a daily basis. The Department expects that this process will ensure that those people placed on mailing lists will receive early notice so that their views on the document can be adequately prepared and presented within the established comment period.

General Rulemaking Contact Persons

To assist persons desiring to obtain general information concerning the rulemaking process within the Department's operating administrations, an Appendix B has been added to the agenda. This appendix sets forth the addresses and the telephone numbers of the persons who can respond quickly to requests for general rulemaking information. Please note, however, that questions related to particular rulemaking actions should still be referred to the contact person listed with the particular rulemaking on the agenda.

Public Rulemaking Dockets

To facilitate the inspection of docket files and the submission of comments by the public, an Appendix C sets forth the addresses and working hours for the Rules Docket for each operating administration.

Request for Comments

Agenda

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information as well as make the agenda easier to use. We would also like you, the public, to make suggestions or comments on how the agenda could be further improved. For example, do you find the information presented in an easily understandable manner? Do you find it easy to follow a regulation's development from agenda to agenda? Do you find that the format for setting out the information enables you to use the agenda easily? Do you find that the presentation of the information in the agenda is clearly explained in the preamble to the agenda? Your responses to these questions or any other comments or suggestions you may have should be sent to Neil R. Eisner, whose address appears above.

Reviews

In an effort to comply further with the spirit of Executive Order 12291 and the Regulatory Flexibility Act, we are also seeking suggestions on existing regulations that should be included in our review of existing regulations; that is, which existing regulations issued by an operating administration of the Department or the Office of the Secretary do you believe need to be reviewed to determine whether they should be revised or revoked? The Department is particularly interested in obtaining information on requirements that have a "significant economic impact on small entities" and therefore must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary, at the appropriate address noted in the "Addresses" paragraph above.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that are targeted for review under the RFA. Those comments should be addressed to the "contact" person of the operating administration involved, at the appropriate address noted in the "Addresses" paragraph above.

Purpose

The Department is publishing this Regulations Agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible. This publication in the **Federal Register** does not impose any binding obligation on the Department, or any of the offices within the Department, with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded. If further information is desired on any of the items listed in the agenda, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the agenda, in general, or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, DC on March 31, 1989.

Samuel K. Skinner,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

Some Administrations within the Department differ in procedures, or as to inclusion on a mailing list. For the offices listed below, persons desiring to obtain a copy of any regulatory document to be issued, that is listed in this agenda, should communicate, either by telephone or by letter, with the contact person listed with the regulation, at the following addresses:

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 Second Street, SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street, SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590.

Urban Mass Transportation Administration (UMTA)

(Name of contact person), Urban Mass Transit Administration, 400 7th Street, SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street, SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

David A. Watson, Training Unit, DHM-51, OHMT/RSPA, 400 7th Street, SW., Washington, DC 20590.

Maritime Administration (MARAD)

James Saari, Secretary, Maritime Administration, 400 Seventh Street, SW., [Room 7300B], Washington, DC 20590, (202) 366-5746.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for Notices and Advance Notices of Proposed Rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling 202-267-3479 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-200, 800 Independence Avenue, SW., Washington, DC 20591.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Department's Regulations Agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired. Persons interested in a rulemaking document on an aviation matter (of the kind formerly handled by the CAB) will be placed on a mailing list for all OST aviation-related rulemakings if they so request.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - Bruce Novak, Marine Safety Council, USCG Headquarters Building, Room 3600, 2100 Second Street, SW., Washington, DC 20593. Telephone: 202/267-1477.

FAA - John H. Cassady, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave., SW., Room 915A, Washington, DC 20591. Telephone: 202/267-3073.

FHWA - Michael J. Laska, Office of the Chief Counsel, 400 7th Street, SW., Room 4223, Washington, DC 20590. Telephone: 202/366-1383.

FRA - Mike Haley, Office of Chief Counsel, 400 7th Street, SW., Room 8201, Washington, DC 20590. Telephone: 202/366-0767.

NHTSA - Steve Kratzke, Office of Chief Counsel, 400 7th Street, SW., Room 5219, Washington, DC 20590. Telephone: 202/366-2992.

UMTA - Linda Hart, Office of Chief Counsel, 400 7th Street, SW., Room 9316, Washington, DC 20590. Telephone: 202/366-4011.

SLSDC - Marc Owen, General Counsel's Office, 400 7th Street, SW., Room 5424, Washington, DC 20590. Telephone: 202/366-0101.

RSPA - Mary Crouter, Office of Chief Counsel, 400 7th Street, SW., Room 8420, Washington, DC 20590. Telephone: 202/366-4367.

MARAD - James Saari, Secretary, Maritime Administration, 400 7th Street, SW., Room 7300B, Washington, DC 20590. Telephone: 202/366-5746.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street, SW., Room 10424, Washington, DC 20590. Telephone: 202/366-4723.

Appendix C - Public Rulemaking Dockets

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand-deliver comments on advance notices and notices of proposed rulemaking:

USCG - Marine Safety Council, 2100 Second Street, SW., Room 3600, Washington, DC 20593. Working Hours: 7:30-4:00 (Monday-Friday).

FAA - Rules Docket, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave., SW., Room 915G, Washington, DC 20591. Working Hours: 8:30-5:00.

FHWA - Docket Room, 400 7th Street, SW., Room 4232, Washington, DC 20590. Working Hours: 8:30-3:30.

FRA - Docket Clerk, 400 7th Street, SW., Room 8201, Washington, DC 20590. Working Hours: 8:30-5:00.

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NHTSA - Docket Room, 400 7th Street, SW., Room 5109, Washington, DC 20590. Working Hours: 8:00-4:00.

UMTA - Docket Clerk, 400 7th Street, SW., Room 9316, Washington, DC 20590. Working Hours: 8:30-5:00.

SLSDC - 400 7th Street, SW., Room 5424, Washington, DC 20590. Working Hours: 8:15-4:45.

RSPA - Docket Branch, 400 7th Street, SW., Room 8426, Washington, DC 20590. Working Hours: 8:30-5:00.

MARAD - Docket Clerk, 400 7th Street, SW., Room 7300, Washington, DC 20590. Working Hours: 9:00-5:30.

OST - Docket Clerk, 400 7th Street, SW., Room 4107, Washington, DC 20590. Working Hours: 9:00-5:30.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1513	+ Consumer Protection for Default by Scheduled Air Carriers	2105-AA96
1514	+ Escrow/Bond Protection for Airline Tickets	2105-AB26
1515	Overseas Military Personnel Air-Charter Tariffs	2105-AA67
1516	Unfair and Deceptive Practices by Airline Ticket Agents	2105-AA70
1517	Direct Flights	2105-AA73
1518	Cargo Rate Changes on 30 Days' Notice	2105-AA99
1519	Comprehensive Review of CAB Consumer Rules	2105-AB03
1520	Price Advertising	2105-AB25

+ Designates significant regulation.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1521	+ Commercial Space Transportation: Financial Responsibility Requirements for Commercial Space Launch Activity	2105-AA26
1522	+ Minority Business Enterprise Program (Financial Assistance Programs)	2105-AA04
1523	+ Antidrug Programs for Department of Transportation Contractors	2105-AB40
1524	Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – State Transportation Agencies' EEO Affirmative Action Programs	2105-AA06
1525	Nondiscrimination on the Basis of Handicap (Directly Conducted Programs)	2105-AA29

+ Designates significant regulation.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1526	+ Nondiscrimination on the Basis of Handicap (Air Travel)	2105-AA18
1527	+ Electronic Filing of Tariffs	2105-AB00
1528	+ Liberalization of Air-Carrier Charter Rules	2105-AA41
1529	+ Smoking Aboard Aircraft; Notice to Passengers	2105-AA72
1530	+ Certification of Speed-Limit Enforcement	2105-AB22
1531	+ Nondiscrimination on the Basis of Handicap (Commuter Rail Programs)	2105-AB23
1532	+ Statement of Enforcement Policy on Rebating	2105-AB39
1533	+ Procedures for Transportation Workplace Drug-Testing Programs	2105-AB42
1534	+ Essential Air Service; Reductions	2105-AB43
1535	Title VI Civil Rights Regulation	2105-AA02
1536	Minority Business Enterprise Program (Direct Contracting)	2105-AA03
1537	Consolidation of Transportation Grants to U.S. Territories	2105-AA08
1538	Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs	2105-AA09
1539	Airline Time and Mileage Guides	2105-AA39
1540	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
1541	Zones for Airline Mail Rates	2105-AA44
1542	Air Travelers: Age Discrimination	2105-AA45
1543	Policy Statement on Airline Preemption	2105-AA46
1544	Insurance for On-Demand Air-Taxi Operators and Canadian Air Taxis	2105-AA47
1545	Effect of Expiration of a Bilateral on Foreign Air-Carrier Authority	2105-AA68
1546	Implementation of Statute Requiring Interest on Subsidy Claims	2105-AA77
1547	Diversion of Flights Within a Metropolitan Area	2105-AA78

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Office of the Secretary—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1548	Simplified Aviation Exemption Procedures	2105-AA82
1549	Baggage Liability Notices in International Air Transportation	2105-AA84
1550	Simplified Airline Counter-Sign Notices	2105-AA88
1551	Exemption From Prior-Approval Requirements for Certain Transactions	2105-AB20
1552	Counting UMTA Reduced-Fare Program Costs Toward 504 Cost Cap	2105-AB29
1553	Uniform Administrative Requirements for Grants and Cooperative Agreements	2105-AB46

+ Designates significant regulation.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1554	+ Continuing Review: Department-Wide Drug Regulations	2105-AB24
1555	+ Posting of Tariffs – Notice of Contract of Carriage	2105-AB38
1556	Air Carrier Cargo Tariff Publications	2105-AA31
1557	Recovery of Debts to the United States by Salary Offset	2105-AB32
1558	Collection of Claims Owed the United States	2105-AB33

+ Designates significant regulation.

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1559	SOLAS 74/83 Emergency Drinking Water and Food Approval Requirements (85-202)	2115-AC48
1560	Hydraulic Release Units for Lifesaving Equipment: SOLAS 74/83 (85-206)	2115-AC52
1561	Revision of Davit and Winch Approval Requirements: SOLAS 74/83 (85-207)	2115-AC53
1562	Radar Reflector Approval Requirements: SOLAS 74/83 (85-209)	2115-AC54
1563	Revision of Lifebuoy Approval Requirements: SOLAS 74/83 (85-210)	2115-AC55
1564	Port Access Routes; Approach to Freeport, Texas (CGD 87-038)	2115-AC78
1565	Oil Discharge Monitoring and Control System (CGD 87-057)	2115-AC85
1566	Marine Transport of Bulk Solid Hazardous Materials (87-069)	2115-AD02
1567	Port Access Routes: Approaches to Chesapeake Bay (88-041)	2115-AD09
1568	Controlling The Marine Asbestos Hazard (88-103)	2115-AD16
1569	Advance Notice of Arrival; Warsaw Pact Nationals (88-104)	2115-AD17

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1570	+ Offshore Supply Vessel Regulations (82-004)	2115-AA77
1571	+ Traffic Separation Schemes and Shipping Safety Fairways off the Coast of California (83-032)	2115-AB29
1572	+ Revisions of the Regulations on Outer Continental Shelf Activities (84-098)	2115-AB74
1573	+ Hazardous Materials Pollution Prevention: Bulk Liquids (86-034)	2115-AC29
1574	+ Lifesaving Equipment–Implementation of 1983 Amendments to SOLAS 1974 (84-069)	2115-AB72
1575	+ User Fees for Coast Guard Services (84-026)	2115-AB73
1576	+ Licensing of Officers and Operators for Mobile Offshore Drilling Units (81-59a)	2115-AB91
1577	+ User Fees: Small Passenger and Sailing School Vessels (CGD 87-020)	2115-AC74
1578	+ Subdivision and Damage Stability of Dry Cargo Vessels (CGD 87-094)	2115-AC87
1579	+ Special Cargo Requirements for Benzene (88-040)	2115-AD08
1580	+ Implementation of the Commercial Fishing-Industry Vessel Safety Act (88-079)	2115-AD12
1581	+ Safety Standards for Vapor Control Systems (88-102)	2115-AD15
1582	Tankerman Requirements (CGD 79-116)	2115-AA03
1583	Fixed Fire-Extinguishing Systems on Uninspected Vessels (74-284)	2115-AA08

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U.S. Coast Guard—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1584	Maneuvering Performance Standards for U.S. Vessels (80-136)	2115-AA53
1585	Personal Flotation Devices (81-023)	2115-AA58
1586	General Revision of 46 CFR 151, Barges Carrying Certain Bulk Dangerous Cargoes (81-082)	2115-AA70
1587	Pollution-Prevention Regulations for Tankers: General Revisions of 33 CFR 157 (82-030)	2115-AA88
1588	Outer Continental Shelf Facilities: Aids to Navigation (82-054)	2115-AA92
1589	Safety Standards for New Self-Propelled Vessels Carrying Bulk Liquefied Gases (82-058)	2115-AA95
1590	Nautical Schools: Implementing the Maritime Education and Training Act of 1980 (82-092)	2115-AB21
1591	Fire Protection Regulations to Incorporate SOLAS 1974 (83-026)	2115-AB36
1592	Reassessment of Coast Guard Marine Engineering Regulations -- Incorporation of SOLAS 74 Amendments (83-043)	2115-AB41
1593	Marine Portable Tanks (84-043)	2115-AB69
1594	Personal Flotation Device Components (84-066)	2115-AB70
1595	Mobile Offshore Drilling Unit Regulations Revision (83-071a)	2115-AB88
1596	Safety Rules for Ships Carrying Hazardous Liquids (84-085)	2115-AB92
1597	Training in the Use of Automatic Radar Plotting Aids (ARPA) (85-089)	2115-AB99
1598	Certification of Seamen (84-088)	2115-AC02
1599	Exemptions to Gulf Inland Waterways Regulations (85-096)	2115-AC03
1600	Fire Detection and Alarm Systems (85-051)	2115-AC13
1601	Revisions to the Electrical Engineering Regulations (85-063)	2115-AC20
1602	Small Passenger Vessel Inspection and Certification (CGD 85-080)	2115-AC22
1603	Inspected Fish Processing and Fish Tender Vessels (86-026)	2115-AC27
1604	Updating Approval Requirements for Breathing Apparatus (86-036)	2115-AC30
1605	Load Lines (86-013)	2115-AC37
1606	Guidelines on Navigation Bridge Visibility (85-099)	2115-AC42
1607	Fire Extinguishers (Portable and Semi-Portable) - Revising Approval Specifications and Updating Carriage Requirements (86-072)	2115-AC43
1608	SOLAS 74/83 Life Jacket Approval Requirements Revision (85-200)	2115-AC46
1609	SOLAS 74/83 Lifeboat and Rescue Boat Approval Requirements (85-201)	2115-AC47
1610	Revision of Pyrotechnic Distress Signal Approval Requirements: SOLAS 74/83 (85-203)	2115-AC49
1611	Revision of Disembarkation Ladder Approval Requirements: SOLAS 74/83 (85-204)	2115-AC50
1612	Revision to Inflatable Liferaft Approval: SOLAS 74/83 (85-205)	2115-AC51
1613	Revision of Life Jacket Light Approval Requirements: SOLAS 74/83 (85-211)	2115-AC56
1614	Tonnage Measurement of Vessels (87-015b)	2115-AC67
1615	Posting Requirements on Inspected Vessels (87-031)	2115-AC68
1616	Regattas and Marine Parades (CGD 87-087)	2115-AC84
1617	Small Passenger Vessel Manning and Personnel Qualifications (85-080a)	2115-AC93
1618	Lifeboat, Liferaft and Rescue Boat Approval Requirements - SOLAS 74/83 (85-201a)	2115-AC94
1619	Cargo Gear Inspection and Testing (87-089)	2115-AD03
1620	Private Electronic Aids to Maritime Navigation (88-011)	2115-AD04
1621	Incorporation and Adoption of Industry Standards (88-032)	2115-AD05
1622	Requirements for Marine Terminals Transferring Bulk Liquefied Hazardous Gases (88-049)	2115-AD06
1623	Automatic Auxiliary Boilers (88-057)	2115-AD11
1624	Access Documents to Waterfront Facilities (88-097)	2115-AD14
1625	Qualifications for Persons in Charge of Oil Transfer Operations (79-116a)	2115-AD18
1626	Great Lakes Pilotage Regulations (88-111)	2115-AD19
1627	Summons in Lieu of Seizure of Commercial Fishing-Industry Vessels (CGD 89-003)	2115-AD20
1628	Regulated Navigation Areas; Brownsville Ship Channel (8-89-01)	2115-AD21

+ Designates significant regulation.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1629	+ Joint U.S.-Canada Vessel Traffic Management Regulations for the Pacific Region (79-131)	2115-AA39
1630	+ Licensing of Pilots-Manning of Vessels (84-060)	2115-AB67
1631	+ Offshore Evacuation Procedures (84-096(b))	2115-AC41
1632	+ Prevention of Pollution by Plastics, Annex V of MARPOL(88-002)	2115-AC89
1633	Hopper Dredge Working Freeboard - Load Line and Stability Requirements (76-080)	2115-AA11
1634	Dealer and First-Purchaser List (77-115)	2115-AA16
1635	Standards for Vessel Piping Systems (77-140)	2115-AA17
1636	Hybrid Personal Flotation Devices: Establishment of Approval Requirements (78-174)	2115-AA29

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U.S. Coast Guard—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1637	Offshore Cranes: Standards and Operator Qualifications (79-059)	2115-AA34
1638	Launching Devices for Inflatable Liferafts (79-168)	2115-AA45
1639	General Bridge Permit Regulations (81-057)	2115-AA61
1640	Pollution Rules for Ships Carrying Hazardous Liquids (81-101)	2115-AA73
1641	Safety/Security Zone Regulations	2115-AA97
1642	Anchorage Area Regulations	2115-AA98
1643	Carriage and Use of Liquefied or Nonliquefied Flammable Gas as Cooking Fuels on Vessels Carrying Passengers for Hire (83-013)	2115-AB35
1644	Oil Pollution Prevention, MARPOL Annex I (85-026)	2115-AC11
1645	Performance Standards and Approval Procedures for Inflatable Life Jackets (78-174b)	2115-AC16
1646	Intervals for Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks (85-061)	2115-AC18
1647	Revised Approval Specifications for Noncombustibles and Prohibition of Asbestos for Commercial Vessels (86-035)	2115-AC32
1648	Cargo Lists and Tables Update (CGD 88-100 and 88-100a)	2115-AC35
1649	Advance Notice of Arrival (CGD 86-055)	2115-AC58
1650	Alternative Provisions for Reinspections of Offshore Supply Vessels in Foreign Ports (CGD 82-004a)	2115-AC86
1651	Delegation of Authority to Area Commanders When Functioning as Maritime Defense Zone Commanders (CGD 87-065)	2115-AC88
1652	Floating Electric Waterlights (85-206)	2115-AC95
1653	Anchorage Regulations (86-079)	2115-AC96
1654	Aids to Navigation System, Removal of References (88-018)	2115-AC97
1655	Documentation of Vessels - Controlling Interest (88-031)	2115-AC99
1656	Civil Appeals Procedures (88-033)	2115-AD00
1657	Mississippi River; Regulated Navigation Area (88-075)	2115-AD07
1658	Disestablishment of Vessel Traffic Service: New Orleans (88-056)	2115-AD10
1659	Written Warnings By Coast Guard Law Enforcement Officials (88-074)	2115-AD13

+ Designates significant regulation.

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1660	+ Licensing of Maritime Personnel (CGD 81 - 059)	2115-AA64
1661	+ Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel (CGD 86-067)	2115-AC45
1662	+ Regulations for Self-Elevating Offshore Service and Support Vessels (CGD 86-074)	2115-AC63
1663	Inflatable Liferaft Stability (80-113)	2115-AA50
1664	Servicing Inflatable Liferafts (81-010)	2115-AA57
1665	Boating Casualty and Accident Reporting; Accident Reporting Thresholds (82-015)	2115-AA82
1666	46 CFR Subchapter 1. Editorial Revisions and Corrections (86-033)	2115-AC28
1667	Uninspected Fish-Processing Vessels (86-025)	2115-AC34
1668	Incorporations by Reference, Voluntary Industry Standards (CGD 87-046)	2115-AC72
1669	Electrical System Standard (CGD 87-009)	2115-AC73
1670	Port Access Routes; Approach to Mobile, Alabama (CGD 88-034)	2115-AC81
1671	Documentation of Vessels - Codification of Law (88-030)	2115-AC98
1672	Suspension of Barrel Fees(88-050)	2115-AD01

+ Designates significant regulation.

Federal Aviation Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1673	+ Implementation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
1674	Review: Part 21--Certification Procedures for Products and Parts	2120-AB09
1675	Review: Part 121 -- Certification and Operations: Domestic, Flag and Supplemental Air Carriers and Commercial Operators of Large Aircraft	2120-AB27
1676	Review: Part 135 -- Air Taxi Operators and Commercial Operators	2120-AB28
1677	Flight Engineer Training	2120-AA79
1678	Instrument Flight Rule Requirements	2120-AA82

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Federal Aviation Administration—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1679	Amendment of Sections 91.171, 91.172, and Appendices E and F of Part 43	2120-AA98
1680	Composite Propellers	2120-AB05
1681	Aircraft Registration; Recording of Aircraft Titles and Security Documents	2120-AC17
1682	Temporary Flight Restrictions	2120-AC40
1683	Airport Radar Service Area (ARSA) Clarification - Two-Way Radio Communications	2120-AC89

+ Designates significant regulation.

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1684	+ Review of Parts 61, 141, 143 - Pilot, Pilot School, and Ground Instructor Rules	2120-AB12
1685	+ Review and Revision of Repair Station Requirements	2120-AC38
1686	+ Metropolitan Washington Airports Policy	2120-AA89
1687	+ Crash Resistant Fuel Systems in Small Airplanes	2120-AA57
1688	+ Airplane Cabin-Fire Protection	2120-AB22
1689	+ Primary Category Aircraft	2120-AB53
1690	+ Proposed Revision of Noise Certification of Turbojet and Large Transport Category Aircraft	2120-AB88
1691	+ Noise and Emission Standards for Aircraft Powered by Advanced Turboprop (Propfan) Engines	2120-AC20
1692	+ SST Stage 3 Compliance	2120-AC22
1693	+ Flight Attendant Requirements During Deplaning and Boarding	2120-AC32
1694	+ Type and Number of Passenger Emergency Exits Required in Transport Category Airplanes	2120-AC43
1695	+ Improved Access to Type III and Type IV Emergency Exits	2120-AC46
1696	+ Pilots Convicted of Driving While Intoxicated (DWI)/Under Influence (DUI)	2120-AC51
1697	+ Flight Plan Filing Requirements; National Airspace Review Recommendation	2120-AC56
1698	+ Exit Row Seating	2120-AC75
1699	+ Parts 121 and 135 - Training, Checking, Certification, and Qualifications Requirements	2120-AC79
1700	+ Advanced Qualification Program	2120-AC80
1701	+ Special Federal Aviation Regulation; Advanced Qualification Program	2120-AC85
1702	+ United States Control Area	2120-AC88
1703	+ Establishment and Discontinuance Criteria for Airport Traffic Control Tower Facilities	2120-AC98
1704	+ Proposed Establishment of the Phoenix Terminal Control Area and Revocation of the Phoenix Airport Radar Service Area; Arizona	2120-AD00
1705	+ Proposed Establishment of the Dulles Terminal Control Area: Virginia	2120-AD01
1706	+ Proposed Establishment of the Salt Lake City Terminal Control Area	2120-AD02
1707	+ Proposed Establishment of the Orlando, Florida, Terminal Control Area	2120-AD03
1708	+ Proposed Establishment of the Houston Hobby Terminal Control Area	2120-AD04
1709	+ Proposed Establishment of the Memphis, Tennessee, Terminal Control Area	2120-AD05
1710	+ Proposed Establishment of the Baltimore, Maryland, Terminal Control Area	2120-AD06
1711	+ Proposed Establishment of the Tampa, Florida, Terminal Control Area	2120-AD07
1712	+ Proposed Establishment of the Charlotte, North Carolina, Terminal Control Area	2120-AD08
1713	Review of Medical Standards and Certification Procedures	2120-AA70
1714	Review Part 75 for Retention or Revocation	2120-AC55
1715	Part 91, Subpart B, Review for Simplification	2120-AA07
1716	Part 77 Review, Objects Affecting Navigable Airspace	2120-AA09
1717	Fuel System Fire Protection	2120-AA49
1718	Aircraft Simulator Use in Airman Training and Certification	2120-AA83
1719	Standards for Approval for High Altitude Operation of Subsonic Airplanes	2120-AB18
1720	Transport Category Rotorcraft Performance	2120-AB36
1721	Miscellaneous Operational Amendments	2120-AB45
1722	Part 101 Review Program	2120-AB75
1723	Engine Fuel and Induction Systems	2120-AB76
1724	Amend Section 43.17 to Allow for Maintenance of U.S. Aeronautical Products in Canada in Compliance with the U.S.-Canadian Bilateral Airworthiness Agreement	2120-AB89
1725	New Rotorcraft Emergency Power Ratings	2120-AB90
1726	Turboshaft Engine Rotor Burst Protection	2120-AB91
1727	Antiblocking Device	2120-AB92
1728	Airspace Reclassification	2120-AB95
1729	Type Certification Basis for Product Type Design Change	2120-AC05
1730	Part 23 Airworthiness Review, Notice No. 5 (Equipment, Systems, and Installation)	2120-AC14

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Federal Aviation Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1731	Part 23 Airworthiness Review, Notice No. 2	2120-AC15
1732	Regulatory Changes Based on European Joint Airworthiness Requirements Proposal	2120-AC27
1733	Miscellaneous Changes to Emergency Evacuation Demonstration Procedures, Exit Handle Illumination, and PA Handsets	2120-AC45
1734	Global Positioning System Use in Terminal Control Areas	2120-AC54
1735	Non-Federal Air Traffic Control Towers	2120-AC59
1736	Proposed Revision of Part 93, Subpart O(JAX)	2120-AC65
1737	Shoulder Harness for Each Seat in Parts 27 and 29 Rotorcraft	2120-AC67
1738	Rotorcraft Crash Resistant Fuel Systems	2120-AC68
1739	Electrical and Electronic Systems Lightning Protection	2120-AC81
1740	Landing Gear Aural Warning	2120-AC82
1741	Ketchikan International Airport Traffic Rule, Part 93, Subpart M	2120-AC90
1742	Air Traffic Control Clearance Readback	2120-AC91
1743	Very High Frequency Omnirange Station (VOR) Federal Airway No. 18, Part 93, Subpart E	2120-AC92
1744	Location of Marks on Fixed-Wing Aircraft and Airships	2120-AC99

+ Designates significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1745	+ Commuter Category Airplanes: Cockpit Voice Recorder (CVR) and Flight Data Recorder (FDR) Requirements	2120-AC48
1746	+ Certification of Recreational Pilots and Annual Flight Review	2120-AA54
1747	+ Transport Category Rotorcraft Structural Fatigue Evaluation	2120-AA84
1748	+ Occupant Restraint in Normal and Transport Category Rotorcraft	2120-AB35
1749	+ Elimination of Airport Delays	2120-AB42
1750	+ Proposed Limits on the Growth of Noise from Certain Airplanes and Airplane Types	2120-AB50
1751	+ Independent Power Source for Public Address System in Transport Category Airplanes	2120-AB77
1752	+ Transponder Requirements in Coastal Air Defense Identification Zones (ADIZ)	2120-AB99
1753	+ Location of Passenger Emergency Exits in Transport-Category Airplanes	2120-AC29
1754	+ Design Standards for Fuel-Tank Access Panels	2120-AC58
1755	+ Improved Survival Equipment for Inadvertent Water Landings	2120-AC72
1756	+ Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
1757	+ Minimum Equipment List (MEL) Requirements	2120-AC86
1758	+ High-Density-Traffic Airports Slot Allocation and Transfer Methods	2120-AC96
1759	Revision of Part 91	2120-AA13
1760	Rotorcraft Regulatory Review Program Notice No. 4	2120-AA29
1761	Transport Category Airplane Airworthiness Standards	2120-AA47
1762	Miscellaneous Amendments	2120-AA50
1763	Fatigue Requirements for Small Airplanes	2120-AA58
1764	National Airspace Review (NAR): Terminal Airspace Task Group Recommendations	2120-AB02
1765	Nighttime VFR Weather Minimums	2120-AB04
1766	Airworthiness Standards: Aircraft Engines, Electrical and Electronic Engine Control Systems	2120-AB06
1767	Standards for Approval of a Reduced V1 Methodology for Takeoff on Wet and Contaminated Runways	2120-AB17
1768	Low-Fuel-Quantity Alerting System	2120-AB46
1769	Construction, Alteration, Activation, and Deactivation of Airports	2120-AB74
1770	Helicopter Instrument Flight	2120-AB87
1771	Controlled Air Space Designations in International Air Space	2120-AB93
1772	Passenger-Carrying and Cargo Air Operations for Compensation or Hire	2120-AC08
1773	Improved Structural Requirements for Pressurized Cabins and Compartments in Transport Category Airplanes	2120-AC44
1774	Fuel Venting and Exhaust-Emission Requirements for Turbine-Engine Powered Airplanes	2120-AC62
1775	Realignment of Restricted Areas in the Eglin AFB Area	2120-AC63
1776	Indemnification of Publishers of Aeronautical Charts and Maps	2120-AC73
1777	Commuter Category - Response to Final Rule Comments	2120-AC77
1778	Part 95 Instrument Flight Rules	2120-AA63
1779	Airworthiness Directives	2120-AA64
1780	Standard Instrument Approach Procedures	2120-AA65
1781	Airspace Actions	2120-AA66

+ Designates significant regulation.

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Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1782	+ Low-Altitude Windshear Equipment Requirements for Takeoffs/Landings of Transport Category Airplanes	2120-AA01
1783	+ Anti-Drug Program for Personnel Engaged in Specified Aviation Activities	2120-AC33
1784	+ Installation of Traffic Control Avoidance System in Domestic Transport Category Airplanes	2120-AC34
1785	+ Revision of Foreign Repair Station Rules	2120-AC50
1786	+ Inoperative Instruments or Equipment	2120-AA19
1787	+ Proposed Department of Energy Prohibited Areas	2120-AB39
1788	+ Proposed Revision to Noise Certification Standards for Propeller-Driven Small Airplanes	2120-AB47
1789	+ Flight Attendant Flight-Time Limitations and Rest Requirements	2120-AB97
1790	+ Flight Plan and Transponder-On Requirements in Air Defense Identification Zones (ADIZ)	2120-AC00
1791	+ Fire Protection Requirements for Cargo and Baggage Compartments - Parts 121 and 135	2120-AC04
1792	+ Terminal Control Area Classification and Pilot/Equipment Requirements	2120-AC35
1793	+ Part 129 Security Program for Foreign Air Carriers	2120-AC42
1794	+ Access To Secured Areas of Airports	2120-AC69
1795	+ Smoking Aboard Aircraft	2120-AC83
1796	Rules of Practice: FAA Civil Penalty Assessment Actions	2120-AC74
1797	Airport-Related Proceedings	2120-AC78
1798	Responsibilities of Manufacturers of Parts and Products Produced Under a Production Certificate	2120-AC93
1799	Applicability of Federal Aviation Regulations in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States Coast	2120-AC94
1800	Establishment of Warning Areas in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles from the United States Coast	2120-AC95
1801	State Block Grant Pilot Program	2120-AC97

+ Designates significant regulation.

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1802	+ Commercial Driver's License Standards; Biometric Identifier	2125-AC24
1803	Review and Preemption of State Motor-Carrier Safety Regulations	2125-AC11
1804	Minimum Levels of Financial Responsibility for Motor Carriers: Self-Insurance	2125-AB65
1805	Federal Motor Carrier Safety Regulations; Paperwork Burdens	2125-AC04
1806	Inspection, Repair and Maintenance; Brake Inspection	2125-AC25
1807	Federal Motor Carrier Safety Regulations; General; Commercial Motor Vehicle Definition	2125-AC27

+ Designates significant regulation.

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1808	+ Private Carriage of Passengers	2125-AB62
1809	+ Truck Size and Weight; Reasonable Access	2125-AB70
1810	+ Commercial Driver's License Standards; Disqualification	2125-AC19
1811	+ Labor and Employment	2125-AB37
1812	+ Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	2125-AC28
1813	Review; General Materials Requirements	2125-AA19
1814	State Highway Agency Construction Contracts; Equal Opportunity Compliance Review; Program Requirements	2125-AB08
1815	Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services)	2125-AB15
1816	Federal-Aid Programs Approval and Project Authorization	2125-AB18
1817	Administration of Contracts	2125-AB30
1818	Right-of-Way	2125-AB58
1819	Property Management, Disposals and Airspace	2125-AB60
1820	Qualification of Drivers; Diabetes	2125-AB91
1821	Advance Construction of Federal-Aid Projects	2125-AC07
1822	Construction Engineering Costs	2125-AC09
1823	Acquisition of Real Property for Rights-of-Way	2125-AC17
1824	Environmental Impact and Related Procedures; Constructive Use	2125-AC18

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National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1859	+ Uniform Tire-Quality Grading	2127-AA52
1860	+ Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection - Chest Injury Criteria and Mandatory Use of the Part 572(E) Dummy in the Standard Compliance Testing	2127-AC13
1861	+ Rollover	2127-AC64
1862	+ Federal Motor Vehicle Safety Standard No. 102, Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect	2127-AC74
1863	+ Federal Motor Vehicle Safety Standard No. 102, Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect	2127-AC75
1864	+ Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment	2127-AC78
1865	+ Federal Motor Vehicle Safety Standard No. 201, Occupant Protection in Interior Impact	2127-AC84
1866	+ Federal Motor Vehicle Safety Standard No. 205, Glazing Materials	2127-AC85
1867	+ Federal Motor Vehicle Safety Standard No. 301, Fuel-System Integrity	2127-AC89
1868	+ Reconsideration of 1989 Passenger-Car Fuel-Economy Standard	2127-AC91
1869	Review: Schoolbus Seating Systems	2127-AA65
1870	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
1871	Review: Impact Protection for the Driver from the Steering Control System	2127-AB78
1872	Review: Roof Crush Resistance and Door Locks and Door Retention Components	2127-AC20
1873	Occupant Protection in Interior Impact	2127-AB16
1874	Federal Motor Vehicle Safety Standard No. 301 - Fuel-System Integrity	2127-AB43
1875	Supplemental FMVSS No. 208 Injury Criteria - Facial Lacerations, Neck Injury, Knee Shear, Tibia and Ankle Injuries	2127-AC12
1876	Federal Motor Vehicle Safety Standard (FMVSS) No. 205, Glazing Materials	2127-AC38
1877	Federal Motor Vehicle Safety Standard No. 208 - Occupant Crash Protection	2127-AC57
1878	Federal Motor Vehicle Safety Standard No. 301 - Fuel System Integrity	2127-AC58
1879	Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment - Proposed Amendment to Permit the 9007 Bulb for Headlamps	2127-AC59
1880	Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment	2127-AC61
1881	Brake Lining	2127-AC66
1882	Battery Explosions	2127-AC67
1883	Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment	2127-AC77
1884	Federal Motor Vehicle Safety Standard No. 120, Tire Selection and Rims for Vehicles Other Than Passenger Cars	2127-AC79
1885	Federal Motor Vehicle Safety Standard No. 121, Air-Brake Systems	2127-AC80
1886	Federal Motor Vehicle Safety Standard No. 121, Air-Brake Systems	2127-AC81
1887	Establish a Standard for Safe Entry and Exit Requirements for Commercial Vehicles	2127-AC82
1888	Tractor-Trailer Fifth Wheel; False Latching	2127-AC83
1889	Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection	2127-AC86
1890	Federal Motor Vehicle Safety Standard No. 213, Child Seating Systems	2127-AC87
1891	Pedestrian Head-Protection Standard	2127-AC90
1892	Federal Motor Vehicle Theft Prevention Standard	2127-AC92
1893	Federal Motor Vehicle Safety Standard No. 202, Head Restraints	2127-AC93
1894	Federal Motor Vehicle Safety Standard No. 105, Hydraulic Brake	2127-AC94

+ Designates significant regulation.

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1895	+ Commercial Vehicle Conspicuity	2127-AA12
1896	+ Side-Impact Protection, Head/Neck Protection, and Occupant Ejection Mitigation	2127-AB85
1897	+ Lighting Simplification--Potential Amendments on Long-Term Issues to Simplify Federal Motor Vehicle Safety Standard No. 108 Lamps, Reflective Devices, and Associated Equipment	2127-AB87
1898	+ Post 1991 Light Truck Fuel Economy Standards	2127-AC51
1899	+ Heavy Duty Vehicle Brake Systems (Formerly Truck and Trailer Brake Systems)	2127-AA00
1900	+ Federal Motor Vehicle Safety Standard No. 302, Flammability of Interior Materials	2127-AA44
1901	+ Heavy Trailer Stability	2127-AB42
1902	+ Side-Impact Protection -- Light Trucks, Vans, and Multipurpose Passenger Vehicles	2127-AC43
1903	+ Federal Motor Vehicle Safety Standard No. 217, Bus Window Retention and Release	2127-AC88
1904	Procedures for Considering Environmental Impacts	2127-AB79
1905	Voluntary Vehicle Identification Standard (Theft Prevention Standard)	2127-AB93
1906	Anthropomorphic Test Dummies Representing Children	2127-AB94
1907	Anthropomorphic Test Dummies Representing Children	2127-AC09

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National Highway Traffic Safety Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1908	Anthropomorphic Test Dummies Representing Children	2127-AC10
1909	Federal Motor Vehicle Safety Standard No. 205, Glazing Materials	2127-AC14
1910	New Non-Pneumatic Tires for Passenger Cars, Tire Selection, and Rims	2127-AC18
1911	Federal Motor-Vehicle Safety Standard No. 221, Schoolbus Body Joint Strength	2127-AC19
1912	Bumper Standard	2127-AC30
1913	Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant Crash Protection	2127-AC36
1914	Odometer Disclosure Requirements	2127-AC42
1915	Federal Motor Vehicle Safety Standard No. 118 - Power-Operated Window Systems	2127-AC52
1916	Federal Motor Vehicle Safety Standard No. 106 - Brake Hoses	2127-AC55
1917	Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices and Associated Equipment - Proposed Amendment to Permit a New, Small, Sealed-Beam Headlamp	2127-AC60
1918	Federal Motor Vehicle Safety Standard No. 301 - Fuel System Integrity	2127-AC62
1919	Comprehensive Review of Visibility Topics	2127-AC69
1920	Confidential Business Information	2127-AC95
1921	Registered Importers of Nonconforming Vehicles	2127-AC97
1922	Schedule of Fees Authorized by the Imported Vehicle Safety Compliance Act	2127-AC98
1923	Nonconforming Vehicles: Eligibility for Importation	2127-AC99
1924	Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards	2127-AD00

+ Designates significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1925	+ Crashworthiness Ratings	2127-AA03
1926	+ Truck Rear Underride Protection	2127-AA43
1927	+ Pedestrian Protection	2127-AA45
1928	+ Anthropomorphic Test Dummies: Side-Impact Thorax Protection	2127-AA48
1929	+ Uniform Tire Quality Grading Standards - Treadwear Amendments	2127-AB21
1930	+ Post-1988 Passenger-Car Fuel-Economy Standards	2127-AB75
1931	+ Side-Impact Protection: Thorax Protection	2127-AB86
1932	+ Part 544, Motor Vehicle Theft Prevention; Reporting Requirements for Motor Vehicle Rental and Leasing Companies	2127-AC32
1933	+ Federal Motor Vehicle Safety Standard No. 108 - Lighting Simplification - Potential Amendments - Near-Term Issues	2127-AC53
1934	+ Federal Motor Vehicle Safety Standard No. 105, Hydraulic Brake System, and Federal Motor Vehicle Safety Standard No. 135, Passenger-Car Brake System	2127-AA13
1935	+ Vehicle Classification	2127-AA57
1936	+ Federal Motor Vehicle Safety Standard No. 222; Schoolbus Seating and Crash Protection	2127-AB84
1937	+ Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection - Rear Seat Lap/Shoulder Belts	2127-AB91
1938	+ Head Restraints	2127-AC06
1939	+ Standard No. 108, Lamps, Reflective Devices, and Associated Equipment	2127-AC22
1940	Rearview Mirror Systems: Heavy Vehicles	2127-AA21
1941	Rearview Mirror Systems: Light Vehicles	2127-AA23
1942	Air-Brake Systems	2127-AA27
1943	Part 571.3 - Definitions - Seating Reference Point/Motor Vehicle Driver's Eye Range	2127-AA46
1944	Rearview Mirrors	2127-AA88
1945	Seat-Belt-Assembly Anchorages	2127-AA95
1946	Air-Brake Systems	2127-AB12
1947	Gear Lock; Theft Protection	2127-AC24
1948	Bumper Standard	2127-AC29
1949	FMVSS No. 208 Occupant Crash Protection	2127-AC49
1950	Federal Motor Vehicle Safety Standard No. 105 - Hydraulic Brake Systems	2127-AC50
1951	Federal Motor Vehicle Safety Standard No. 102 - Transmission Shift-Lever Sequence, Starter Interlock, and Transmission Braking	2127-AC54
1952	Federal Motor Vehicle Safety Standard No. 107 - Reflecting Surfaces - Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses	2127-AC56
1953	Federal Motor Vehicle Safety Standard No. 115 - Vehicle Identification Number and Part 567 - Certification Regulation	2127-AC65
1954	Federal Motor Vehicle Safety Standard No. 108 - Lamps, Reflective Devices, and Associated Equipment	2127-AC68

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National Highway Traffic Safety Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1955	Consumer Information Regulations	2127-AC72
1956	Federal Motor Vehicle Safety Standard No. 105, Hydraulic Brake Systems and Federal Motor Vehicle Safety Standard No. 121, Air Brake Systems	2127-AC76
1957	Final Listing of High Theft Lines for 1989 Model Year; Motor Vehicle Theft Prevention Standard	2127-AC96

+ Designates significant regulation.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1958	+ Voluntary Tire Registration	2127-AB18
1959	+ Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant Crash Protection - Chest Injury Criteria	2127-AC34
1960	+ Passenger-Car Brake Systems	2127-AC63
1961	Review: Seating Systems	2127-AA69
1962	Federal Motor Vehicle Safety Standard -- Rear-View Mirrors - Sure-View Petition	2127-AC46

+ Designates significant regulation.

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1963	+ Review of Radio Communication	2130-AA34
1964	Review: Regulatory Flexibility Act Reviews	2130-AA10
1965	Review of Locomotive Cab Safety	2130-AA32
1966	Review: Special Safety Inquiry; Power Brake Regulations	2130-AA40
1967	Interior Noise Standards for On-Track Sleeping Quarters	2130-AA52

+ Designates significant regulation.

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1968	+ Rail-Highway Grade-Crossing Safety	2130-AA27
1969	+ Jurisdictional Conformity Amendments	2130-AA50
1970	+ Locomotive Operator; Qualification Standards	2130-AA51
1971	+ Train Operation Event Recorders	2130-AA53

+ Designates significant regulation.

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1972	+ Railroad Accident/Incident Reports Classification and Notification of Right to Submit Employee Supplements	2130-AA44
1973	+ Railroad Operating Practices -- Protection of On-Track Sleeping Quarters	2130-AA46
1974	+ Railroad Operating Practices; Procedures for Bridge-Worker Safety	2130-AA48
1975	+ Safety Enforcement Procedures; Disqualification of Employees	2130-AA49

+ Designates significant regulation.

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Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1976	+ Informal Safety Inquiry and Rulemaking; Control of Alcohol and Drug Use in Railroad Operations	2130-AA43
1977	+ Amendments to Railroad Safety Regulations to Increase the Maximum Civil Penalties and to Make Civil Penalties Available Against Individuals	2130-AA47
1978	+ Certification of Predeparture Inspections of Signal Devices Mounted on Locomotives	2130-AA54
1979	+ Prohibiting Tampering with Safety Devices Mounted on Locomotives	2130-AA55
1980	Adjustment of Monetary Threshold for Reporting Accidents/Incidents	2130-AA42

+ Designates significant regulation.

Urban Mass Transportation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1981	+ Major Capital Investment Projects	2132-AA22
1982	+ Implementation of Section 19 of the Urban Mass Transportation Act of 1964 as Amended -- Nondiscrimination	2132-AA01
1983	School Bus Operations	2132-AA09
1984	Bus Testing Guidelines	2132-AA30

+ Designates significant regulation.

Urban Mass Transportation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1985	+ "Buy America" Requirements of the Surface Transportation Assistance Act of 1982	2132-AA15
1986	Air Quality Procedures for Use in Federal-Aid Highway and Federally Funded Transit Programs	2132-AA19
1987	Capital Leases	2132-AA28
1988	Pre-Award and Post-Delivery Audits of Rolling-Stock Purchases	2132-AA29
1989	Project Management Oversight	2132-AA31

+ Designates significant regulation.

Urban Mass Transportation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1990	+ Control of Drug Use in Federally Funded Mass Transportation Operations	2132-AA33
1991	+ Charter Service Amendment	2132-AA32

+ Designates significant regulation.

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1992	+ Registration of Shippers and Carriers of Hazardous Materials	2137-AB43
1993	+ OST-FAA Information Rules: Standardized Regulatory Flexibility Requirements	2137-AB16
1994	Review of Commuter Air Traffic and Market Data Reporting	2137-AB18
1995	Consolidation and Revision of Requirements for the Carriage of Explosives by Vessel	2137-AA10
1996	Specification Packages of Type B and Fissile Radioactive Materials	2137-AA29
1997	Quality Assurance for Radioactive Materials Shippers	2137-AA30
1998	DOT Specification 51 Portable Tanks	2137-AA36
1999	Airline Revenue/Nonrevenue, First Class/Business Class/Coach Passengers: Revised Definitions	2137-AB00

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Research and Special Programs Administration—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2000	Subsidized Commuter Carriers and Foreign Air Carriers: Records and Retention Periods	2137-AB04
2001	Fumigation	2137-AB41
2002	Conforming Gas and Liquid Pipeline Welding Standards: Final Phase	2137-AB45
2003	Operation of Existing Rural and Offshore Gas Pipelines at Stress Levels Higher than Permitted for New Pipelines	2137-AB53
2004	Transportation of Radioactive Materials	2137-AB59
2005	Annual Report for Hazardous Liquid Pipelines	2137-AB62
2006	Transportation of Hydrogen Sulfide by Pipeline	2137-AB63

+ Designates significant regulation.

Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2007	+ Training for Hazardous Materials Transportation	2137-AB26
2008	+ Recodification of Explosive Regulations	2137-AA93
2009	+ Gas Gathering Line Definition	2137-AB15
2010	+ Proposals for Pipeline Safety	2137-AB27
2011	+ Hazardous Materials in Intrastate Commerce	2137-AB37
2012	+ Pipeline Operator Qualifications	2137-AB38
2013	+ Highway Routing Standards for Certain Types and Quantities of Hazardous Materials	2137-AB42
2014	+ Operation and Maintenance Procedures for Gas Pipelines	2137-AB44
2015	+ Pressure Testing Existing Hazardous Liquid Pipelines	2137-AB46
2016	+ Maps and Records of Pipeline Location and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48
2017	+ Pipeline Safety Grant Program: Minimum Requirements for One-Call Systems	2137-AB66
2018	Carriage of Hazardous Materials by Motor Vehicle	2137-AA07
2019	Private Carriers Licensed to Use Radioactive Materials	2137-AA28
2020	Specification 8W and 8WA Welded Steel Cylinders	2137-AA63
2021	Consolidation of Specifications for High-Pressure Seamless Cylinders and Rewrite of 49 CFR 173.34	2137-AA92
2022	Enforcement of Motor Carrier Financial Responsibility Requirements	2137-AB35
2023	Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Detection Flaws, and Other Defects of Tank Car Tanks	2137-AB40
2024	Gas Detection and Monitoring in Compressor Station Buildings	2137-AB49
2025	Determining the Extent of Corrosion on Exposed Gas Pipelines	2137-AB50
2026	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2027	Revision of Operating Requirements for Rail Carriage	2137-AB55
2028	Revision of RSPA Form 41 Report for Changes in GAAP-FAS 95 Statement of Cash Flows	2137-AB57
2029	Elevated Temperature Materials	2137-AB58
2030	Transportation Regulations; Compatibility with the International Atomic Energy Agency	2137-AB60
2031	Retest Requirements for DOT 8 and 8AL Cylinders	2137-AB61
2032	Vegetation Surveys	2137-AB64
2033	Pressure Regulators Subject to Inspection and Testing	2137-AB65
2034	Alternative Weld Defect Acceptance Criteria	2137-AB67
2035	Updating References to API 5L	2137-AB69
2036	Revised Pipeline Reporting and Enforcement Rules	2137-AB70
2037	Passage of Internal Inspection Devices	2137-AB71
2038	Transportation of Carbon Dioxide by Pipeline	2137-AB72

+ Designates significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2039	+ Performance-Oriented Packaging Standards	2137-AA01
2040	+ Requirements for Cargo Tanks	2137-AA42
2041	+ Data Collection and Reporting: Hazardous Materials Incident Reports	2137-AA51
2042	+ Natural Gas and Hazardous Liquid Pipeline Damage Prevention Program	2137-AB47
2043	Use of Interested Inspectors for Cylinder Inspections	2137-AA08

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Research and Special Programs Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2044	Odorization of LP Gas	2137-AA25
2045	Transportation of Hazardous Materials; Miscellaneous Amendments	2137-AA44
2046	Quantity Limitations Aboard Aircraft	2137-AA85
2047	Emergency Response Communication Standards	2137-AA88
2048	Hazardous Materials: Uranium Hexafluoride	2137-AB10
2049	Confirmation or Revision of Maximum Allowable Operating Pressure; Alternate Method	2137-AB20
2050	Rear Bumpers on Cargo Tank Trucks	2137-AB34
2051	Standards for Construction of Fireworks and Novelties; Approval for Transportation	2137-AB36
2052	Etiologic Agents; Proposal to Remove the 50 Milliliter Exception	2137-AB56
2053	Updating References to API 1104	2137-AB68
2054	Exceptions for Specified Quantities of Radioactive Materials	2137-AB73

+ Designates significant regulation.

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2055	+ Collection of Service Segment Data and Charter Data from Foreign Air Carriers	2137-AA97
2056	+ Alignment of Airline Uniform System of Accounts and Reports with Generally Accepted Accounting Principles	2137-AA99
2057	+ Collection of Service Segment Data and Charter Data from U.S. Air Carriers	2137-AB01
2058	+ Control of Drug Use in Natural Gas, Liquefied Natural Gas, and Hazardous-Liquid Pipeline Operations	2137-AB54
2059	+ Collection of Financial Information from the Commuter Air Carrier Industry	2137-AA98
2060	Definition of a Flammable Solid	2137-AA05
2061	Oxidizing Materials Definition, Criteria and Proposed Regulations	2137-AA11
2062	Modifications to DOT Specification 21PF-1 Overpacks	2137-AA72
2063	Exception from Pressure Testing Non-Welded Tie-In Joints	2137-AB19
2064	Deletion of Standards Affecting Iron and Copper Pipe and Other Materials	2137-AB24
2065	Shippers: Use of Tank-Car Tanks with Localized Thin Spots	2137-AB39
2066	Implementation of the ICAO Technical Provisions	2137-AB74

+ Designates significant regulation.

Maritime Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2067	+ Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Oil from Alaska in the Domestic Trade	2133-AA62
2068	+ Procedures Governing the Evaluation of Bids for the Carriage of Preferred Cargoes on Subsidized Vessels	2133-AA77
2069	Regulations and Minimum Standards for State, Territorial, or Regional Maritime Academies and Colleges	2133-AA57

+ Designates significant regulation.

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2070	+ Procedures Relating to the Conduct of Hearings Under the Merchant Marine Act, 1936	2133-AA20
2071	+ Cargo Preference – Implementation of P.L. 99-198	2133-AA55
2072	Requirements for Conducting Vessel Subsidy Condition Surveys and for Accomplishing Subsidized Vessel Maintenance and Repairs	2133-AA64
2073	Cargo Preference – U.S.-Flag Vessels; Department of Defense Sponsored and Generated Oceanborne Cargoes	2133-AA69
2074	Approval of Vessel Charters to Noncitizens	2133-AA73
2075	Federal Income Tax Aspects of the Capital Construction Fund	2133-AA78

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Maritime Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number

+ Designates significant regulation.

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2076	+ Cargo Preference, U.S.-Flag Vessels: Determination of Fair and Reasonable Rates for Bulk Vessels	2133-AA43
2077	+ Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in Worldwide Services; Exclusion of Commercial Cargoes Reserved for U.S.-Flag Carriers	2133-AA66
2078	+ Regulated Transactions Involving Documented Vessels and other Maritime Interests	2133-AA79
2079	Suspension of ODS Agreements for All or Portion of the Vessels Included Therein	2133-AA17
2080	Capital Construction Fund	2133-AA65

+ Designates significant regulation.

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2081	Marine Protection and Indemnity Insurance Instructions Under General Agency and Berth Agency Agreements	2133-AA51
2082	General Procedures for Determining Operating Differential Subsidy for Liner Vessels	2133-AA67
2083	Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in Worldwide Service	2133-AA68

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

Office of the Secretary (OST)

1513. + CONSUMER PROTECTION FOR DEFAULT BY SCHEDULED AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1381

CFR Citation: None

Legal Deadline: None

Abstract: Transamerica petitioned the CAB to investigate ways to protect consumers against service defaults by scheduled air carriers in domestic, overseas, and foreign air transportation. Transamerica suggested that the Board condition the award of operating authority to perform direct carrier scheduled service on air carriers developing a default protection plan. For foreign air travel, it suggested that the obligation be limited to outbound flights. The petitioner argued that prompt action is necessary in order to ensure continued public confidence in scheduled air service and to protect passengers from unnecessary financial hardship. DOT is considering what action should be taken on the petition.

Timetable:

Action	Date	FR Cite
Petition filed in Docket 42368	07/25/84	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA98

1514. + ESCROW/BOND PROTECTION FOR AIRLINE TICKETS

Significance: Agency Priority

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1381

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This petition, filed by Mr. Theodore Harris, addresses the problem of airline passengers whose airline goes bankrupt after they bought their ticket but before they use it. The petitioner asks that airlines be required to protect such "unearned revenue" by escrowing it or by posting a bond in an amount equal to 150% of average unearned revenue. Exemptions could be granted to airlines which file evidence of ticket insurance plans or which enter into agreements with other airlines to accept the tickets of bankrupt carriers. This rulemaking is considered significant because of substantial public interest.

DOT—OST

Prerule Stage

Timetable:

Action	Date	FR Cite
Petition for rulemaking (Dkt 44304)	06/27/86	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AB26

1515. OVERSEAS MILITARY PERSONNEL AIR-CHARTER TARIFFS

Significance: Nonsignificant

Legal Authority: 49 USC 1373; 49 USC 1386

CFR Citation: 14 CFR 372

Legal Deadline: None

Abstract: The reference to tariffs in the rule governing Overseas Military Personnel Charters (OMPC) has become obsolete, at least with respect to domestic air transportation. The CAB was considering whether to eliminate the tariff requirement for all OMPC's and replace it with consumer-protection requirements similar to those in its Public Charter rule in Part 380. This proposal is still being considered by DOT.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA67

1516. UNFAIR AND DECEPTIVE PRACTICES BY AIRLINE TICKET AGENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1378; 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Enforcement policies currently make reference to tariffs. DOT is considering whether to limit these provisions to foreign air transportation or to eliminate them entirely.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA70

1517. DIRECT FLIGHTS

Significance: Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Petition under consideration. It has been filed in Docket 41217.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA73

1518. CARGO RATE CHANGES ON 30 DAYS' NOTICE

Significance: Nonsignificant

Legal Authority: 49 USC 1373

CFR Citation: 14 CFR 221.160

Legal Deadline: None

Abstract: This rule would amend regulations to allow cargo tariffs which are within the zones established under 14 CFR 399.41 to be filed on 30 days' notice. There are two alternatives: either maintain the status quo (60 days' notice) or change cargo tariff filing regulations to 30 days' notice to be consistent with passenger tariff-filing requirements. Standardization of the regulatory tariff-filing requirements for both cargo and passenger tariffs would benefit the industry.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Tom Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 7th Street, SW, Washington, DC 20590, 202 366-2414

RIN: 2105–AA99

1519. COMPREHENSIVE REVIEW OF CAB CONSUMER RULES

Significance: Nonsignificant

Legal Authority: 49 USC 1301 et seq Federal Aviation Act of 1958, as amended

CFR Citation: 14 CFR 201.6; 14 CFR 203; 14 CFR 205; 14 CFR 221, Subpart N; 14 CFR 249; 14 CFR 250; 14 CFR 252; 14 CFR 253; 14 CFR 254; 14 CFR 296.6; 14 CFR 298.30; 14 CFR 379; 14 CFR 380; 14 CFR 382; 14 CFR 399, Subpart G; ...

Legal Deadline: None

Abstract: The Civil Aeronautics Board was an independent agency; its rules have now been transferred to DOT, a cabinet department. This review will identify any CAB rules which are not consistent with Department or Administration regulatory criteria, such as those that impose an unnecessarily high cost or those with paperwork

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burdens that can be reduced or which involve a level of benefits or costs which are either higher or lower than necessary. The review will examine all alternatives, from strengthening a given rule to eliminating it. Nonregulatory approaches, including the supplying of information by the Government, or regulation by another level of government, will be also considered. The benefits and costs will be known only after these alternatives have been developed.

Timetable:

Action	Date	FR Cite
Begin Review	02/25/85	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The committee conducting this review will examine all CAB consumer rules. Rulemaking proceedings on individual regulations may follow, depending on the committee's findings and recommendations.

Agency Contact: William C. Boyd, Senior Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Room 10222, Washington, DC 20590, 202 366-4870

RIN: 2105–AB03

1520. PRICE ADVERTISING

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380.30(e); 14 CFR 399.84

Legal Deadline: None

Abstract: The DOT rules cited above state that any price stated for air transportation, a tour or a tour component must be the entire price for that transportation, tour or component. In this petition, Mr. Donald Pevsner complains that some tour operators advertise prices which do not include additional features which must be purchased and which cost extra. He asks that the rules be amended to state that such additional features may only be priced separately if they may be purchased separately, i.e., if they are optional rather than mandatory.

Timetable:

Action	Date	FR Cite
Petition for rulemaking (Dkt 43147)	05/22/85	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AB25

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

1521. + COMMERCIAL SPACE TRANSPORTATION: FINANCIAL RESPONSIBILITY REQUIREMENTS FOR COMMERCIAL SPACE LAUNCH ACTIVITY

Significance: Regulatory Program

Legal Authority: PL 98-575; PL 100-656, Sec 15(c) to 16 Commercial Space Launch Act

CFR Citation: None

Legal Deadline: None

Abstract: Persons authorized to conduct commercial launch activities by a license issued by the Office of Commercial Space Transportation (OCST) are required to obtain liability insurance or demonstrate financial responsibility, in amounts and on terms prescribed by OCST, to protect against third-party or government property damage claims resulting from the licensed activities. In addition, persons engaged in commercial launch operations must provide proof of financial responsibility, or offer other assurances, adequate to protect the Government when its property or personnel are involved in such operations. The rulemaking sets out the criteria pursuant to which OCST would set the appropriate levels and terms of insurance and financial responsibility required to be carried by persons subject to its authority.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/85	50 FR 19280
ANPRM Comment Period End	07/08/85	50 FR 19280
NPRM	04/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/30/89

Agency Contact: Gerald Musarra, Department of Transportation, Office of the Secretary, Commercial Space Transportation, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9305

RIN: 2105–AA26

1522. + MINORITY BUSINESS ENTERPRISE PROGRAM (FINANCIAL ASSISTANCE PROGRAMS)

Significance: Agency Priority

Legal Authority: 42 USC 2000d Civil Rights Act of 1964, Title VI; 49 USC 1730; 45 USC 906; 49 USC 1615; PL 97-424, Sec 105(f); PL 100-17, Sec 106(c)

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: The Department is reviewing its regulation establishing a minority business enterprise (MBE) program in its financial assistance programs (49 CFR Part 23). This regulation has been controversial, is of interest to most DOT grant recipients and contractors, and affects the operations of all DOT financial assistance programs. Section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) extended and modified the program as applied to FHWA and UMTA; similar legislation applied the same requirements to the FAA. The Department issued a final rule to make the STURAA changes in October 1987; a similar rule for FAA programs was published in May 1988. The Department intends subsequently to issue an NPRM that would propose further changes in the regulation.

Timetable:

Action	Date	FR Cite
Final Action	03/31/80	45 FR 21172
NPRM Interim amdt. to final rule, pending revision of entire rule	03/12/81	46 FR 16282
Final Action for interim amendment	04/27/81	46 FR 23457
Interim Final Rule	10/21/87	52 FR 39225
NPRM	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/27/81 (46 FR 23457)

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AA04

1523. + ANTIDRUG PROGRAMS FOR DEPARTMENT OF TRANSPORTATION CONTRACTORS

Significance: Agency Priority

Legal Authority: 49 USC 322; 40 USC 486(c); 48 CFR 1.301; 48 CFR 1.59

CFR Citation: 48 CFR 1226.7001; 48 CFR 1252.226-70; 48 CFR 34

Legal Deadline: None

Abstract: Consistent with DOT antidrug initiatives for DOT employees and employees of regulated industries, DOT is considering requiring its contractors to establish antidrug programs (including drug testing and employee assistance programs) for employees performing sensitive safety or security functions under DOT contracts. This rulemaking is significant because of substantial public interest and departmental policy.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

1524. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION – STATE TRANSPORTATION AGENCIES' EEO AFFIRMATIVE ACTION PROGRAMS

Significance: Nonsignificant

Legal Authority: Federal-Aid Highway Act of 1968, as amended, Sec 22(a); RR Revitalization & Regulatory Reform Act of 1976, Sec 905; 49 USC 1615 Urban Mass Transportation Act of 1964, as amended; 29 USC 794 Rehabilitation Act of 1973, Sec 504

CFR Citation: 49 CFR 1.48(c); 49 CFR 2.49(u); 49 CFR 1.51(a)

Legal Deadline: None

Abstract: The proposed regulation would set forth requirements and procedures for all State Departments of Transportation (DOTs) equal employment opportunity compliance programs. It would also consolidate FHWA, FRA, and UMTA responsibilities in this area. This proposed regulation is significant because it would affect the equal opportunity employment programs of all State transportation agencies. It is needed because OST, FHWA, FRA, and UMTA each have responsibility for implementing the equal employment opportunity programs of State DOTs. This proposed rule would assure full coordination among these departmental elements, reduce the burden on the recipients, simplify reporting requirements, and eliminate duplication of effort.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorsey Thomas, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4754

RIN: 2105–AA06

1525. NONDISCRIMINATION ON THE BASIS OF HANDICAP (DIRECTLY CONDUCTED PROGRAMS)

Significance: Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 49 CFR 28

Legal Deadline: None

Abstract: This regulation would implement the 1978 amendments to section 504 of the Rehabilitation Act of 1973 which made its prohibition of discrimination on the ground of handicap applicable to the directly conducted programs of Federal agencies as well as to their financial assistance programs. The rule would apply to DOT facilities, personnel practices, and regulatory programs. It would be based on a model rule developed by the Department of Justice. The rule would also apply to DOT activities and functions transferred from the Civil Aeronautics Board after that agency's "sunset." A CAB NPRM that was being developed on this subject will be subsumed in this project. A draft NPRM is now being reviewed by the Department of Justice.

Timetable:

Action	Date	FR Cite
NPRM	04/03/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/03/89

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AA29

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DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Final Rule Stage

1526. + NONDISCRIMINATION ON THE BASIS OF HANDICAP (AIR TRAVEL)

Significance: Regulatory Program

Legal Authority: 29 USC 794; Section 404(a) of the Federal Aviation Act of 1958, as amended

CFR Citation: 49 CFR 27; 14 CFR 382

Legal Deadline: NPRM, Statutory, January 30, 1987.

Abstract: The Civil Aeronautics Board (CAB) had a regulation providing protection of the rights of handicapped air travellers. Based on recent Congressional action, DOT began enforcing this regulation on January 1, 1985. The Supreme Court's decision in U.S. Department of Transportation v. Paralyzed Veterans of America held that Section 504 of the Rehabilitation Act of 1973 does not apply to nonsubsidized air carriers. This decision left the existing regulation intact. The Air Carrier Access Act of 1986 directed DOT to publish new regulations prohibiting disability-based discrimination in air travel. The Department will use comments received in response to its August 1986 information notice on issues affecting blind passengers as part of the record for this rulemaking. The Department convened an advisory committee to pursue the rulemaking through a negotiated process. The negotiations have concluded and an NPRM has been published.

Timetable:

Action	Date	FR Cite
NPRM	06/22/88	53 FR 23574
NPRM Comment Period End	09/20/88	
Comment period extended to 12/19/88	09/23/88	53 FR 36997
Final Action	05/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/22/88 (53 FR 23574)

Additional Information: Reply comments were due 01/18/89. A cassette-tape version of the NPRM was made available to blind persons.

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AA18

1527. + ELECTRONIC FILING OF TARIFFS

Significance: Regulatory Program

Legal Authority: 49 USC 1373

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: This project is examining whether conversion from a paper document system to a computerized system of filing and monitoring air carrier tariffs can reduce paper flow, speed up processing, and allow the industry to utilize computer and technology to communicate with DOT. The alternative is to maintain the current paper tariffs system. Potential savings to the industry may be greater than to the Government, since airlines already utilize automated fare and rate systems. In addition, airlines may be able to implement changes faster, thus responding more quickly to market conditions, and may be less burdened with the cost of producing and transmitting paper documents. The Department may reduce paper flow, experience savings in processing time and staffing, and improve the accuracy and control of tariff data. In order to assure that users' needs are taken into consideration and that the private sector is involved to the maximum extent in the design, implementation, and operation of such a system, the Department established an Advisory Committee to make continuing recommendations on technical, operational, and policy objectives of the electronic tariff system.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/85	50 FR 33452
ANPRM Comment Period End	11/18/85	
Federal Register Notice Advisory Committee established	11/24/88	51 FR 42327
NPRM	07/06/88	53 FR 25615
NPRM Comment Period End	09/06/88	
Re-establishing Advisory Committee	12/29/88	53 FR 52908
Interim Final Rule	01/19/89	54 FR 2087
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 07/06/88 (53 FR 25615)

Additional Information: As a consequence of discussions with the Committee the Department is planning to experiment with existing data base and electronic mail systems, to determine whether any such systems can fulfill Departmental requirements for an electronic tariff system. The interim final rule will permit those carriers choosing to file their fares tariffs electronically with the Department the option to do so.

Agency Contact: Thomas Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2414

RIN: 2105–AB00

1528. + LIBERALIZATION OF AIR-CARRIER CHARTER RULES

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1381; 49 USC 1386

CFR Citation: 14 CFR 207; 14 CFR 208; 14 CFR 212; 14 CFR 298; 14 CFR 380

Legal Deadline: None

Abstract: The CAB proposed new charter rules for direct and indirect air carriers. The proposed rules retain the financial protections of existing rules for direct air carriers while eliminating rules restricting the types of groups (such as "affinity" or "single-entity") to whom charters may be sold. The proposal would also retain a security instrument and depository system for indirect air carriers, along with contract rules for public protection. The proposal also highlights depository bank and travel agent responsibilities in handling passenger funds. The proposal replaces one made earlier. DOT is considering what action should be taken. This rulemaking is significant because of substantial public interest.

DOT—OST

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/19/82	47 FR 7443
NPRM Comment Period End	04/20/82	
SNPRM Comment Period End 06/13/83	04/12/83	48 FR 15639

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/19/82 (47 FR 7443)

Additional Information: Docket 40336. Original NPRM was EDR-439/SPDR 86; SNPRM of 04/12/83 was EDR-456/SPDR-88.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA41

1529. + SMOKING ABOARD AIRCRAFT; NOTICE TO PASSENGERS

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386

CFR Citation: 14 CFR 252; 14 CFR 253

Legal Deadline: None

Abstract: This rule would inform passengers of their right to a seat in a nonsmoking section of an aircraft by one of two proposed alternatives. The first would require airlines to include a prescribed notice on or with their tickets. The second would include smoking in the list of subjects incorporated by reference in the contract of carriage, which would inform passengers that additional information may be obtained from the place of ticketing. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/19/82	47 FR 52190
NPRM Comment Period End	12/20/82	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: EDR-449, Docket 41009.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA72

1530. + CERTIFICATION OF SPEED-LIMIT ENFORCEMENT

Significance: Agency Priority

Legal Authority: 23 USC 141; 23 USC 154; 23 USC 118; 23 USC 315

CFR Citation: 23 CFR 659; 49 CFR 1.50; 49 CFR 1.48

Legal Deadline: None

Abstract: The Department will review the existing 55 MPH procedural regulations to determine if they can be made more efficient and to update the regulation where necessary. Provisions addressing the effect of future compliance (for a State found not to be in compliance in a given fiscal year) on the reinstatement of funds withheld will also be revised. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/11/88	53 FR 7943
NPRM Comment Period End	04/11/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sam Whiteborn, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9307

RIN: 2105–AB22

1531. + NONDISCRIMINATION ON THE BASIS OF HANDICAP (COMMUTER RAIL PROGRAMS)

Significance: Agency Priority

Legal Authority: 29 USC 704; 49 USC 1612(d)

CFR Citation: 49 CFR 27, Subpart E

Legal Deadline: None

Abstract: This notice asks comment on several alternatives for providing accessible commuter rail service, or a substitute for it, to disabled persons. The notice also requests information on the likely ridership and cost effects of the alternative approaches suggested in the notice. Comments have been received and are being reviewed. Studies have been received or are expected to be received in the near future. Final actions being considered include a number of alternatives spelled out in the notice, including various regulatory steps and taking no further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	05/23/86	51 FR 19032
NPRM Comment Period End	09/22/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 7th St., SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AB23

1532. + STATEMENT OF ENFORCEMENT POLICY ON REBATING

Significance: Agency Priority

Legal Authority: 5 USC 601; 49 USC 1301 to 1302; 49 USC 1305; 49 USC 1324(a); 49 USC 1371 to 1379; 49 USC 1381 to 1382; 49 USC 1384; 49 USC 1386; 49 USC 1461; 49 USC 1481 to 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Legal Deadline: None

Abstract: The Department is proposing to provide formal notice to the public of its enforcement policy concerning the rebating of international air fares by adopting that policy as a Policy Statement in the regulations. No change in the substance of that policy is intended. The Department also proposes to revoke an existing Policy Statement on the advertising of rebates that is contrary to DOT's current enforcement policy. The proposal responds to a request for such action by

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the American Society of Travel Agents. The proposed regulation is significant because it involves important departmental policies and substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
Extension of Comment Period to 02/21/89	02/03/89	54 FR 5497
Correction to Comment Period Document	02/10/89	54 FR 6475
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/21/88 (53 FR 41353)

Agency Contact: Samuel Podberesky, Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, Office of the Secretary, 400 Seventh St., SW., Washington, DC 20590, 202 366-9342

RIN: 2105–AB39

1533. ● + PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS

Significance: Agency Priority

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This rule codifies drug-testing guidelines developed by the Department of Health and Human Services, adapting them to fit the circumstances of employers regulated by DOT. The Department's substantive drug-testing rules require employers to conduct drug testing in accordance with these procedures. This rulemaking is significant, since it affects several operating administrations and their regulated industries.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/21/88	53 FR 47002
Interim final rule effective	12/21/88	
Interim final rule public comment end	01/23/89	
Final Action	04/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Analysis: Regulatory Evaluation 11/21/88 (53 FR 47002)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh St., SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB42

1534. ● + ESSENTIAL AIR SERVICE; REDUCTIONS

Significance: Agency Priority

Legal Authority: 49 USC 324; 49 USC 1389; PL 100-457DOT and Related Agencies Appropriations Act, 1989

CFR Citation: 14 CFR 398, (Revision)

Legal Deadline: None

Abstract: The essential Air Service (EAS) program provides subsidies to assist small communities in receiving essential air service. The 1989 fiscal year appropriation for EAS is $25 million. Current spending is at levels projected to require $31.6 million for FY 1989. A $6.6 million projected reduction in spending is needed to be within the FY 1989 appropriation. Four alternatives for reducing subsidies are being considered: (1) eliminate subsidy for air service to communities that are close to alternate air service; (2) eliminate subsidy for air service to more than one connecting airport and to certain communities close to alternate service; (3) eliminate subsidy for air service to communities with the highest annual subsidy requirements; and (4) eliminate subsidy for air service to communities that historically have enplaned the fewest passengers. This rulemaking will provide a substantial cost savings to the national economy as well as continued availability of EAS to the extent allowed by the FY 1989 appropriation. This rulemaking will result in certain increases in time and cost to utilize alternate service (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/14/88	53 FR 50233
NPRM Comment Period End	01/03/89	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Analysis: Regulatory Evaluation

Additional Information: ABSTRACT CONT: airports, and in certain lost revenues, through loss of routes, to the extent these losses are not absorbed by individual communities or carriers. The NPRM invited comments on the alternatives. This rulemaking is significant because of the substantial public interest involved.

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh St. SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB43

1535. TITLE VI CIVIL RIGHTS REGULATION

Significance: Nonsignificant

Legal Authority: 42 USC 2000d-4

CFR Citation: 49 CFR 21

Legal Deadline: None

Abstract: In 1981, the Department proposed a consolidation and expansion of its existing Title VI regulation (49 CFR Part 21). Few comments were received on this NPRM, and a final regulation was never published. The Department reviewed the existing regulation to determine if changes were needed. It was concluded that the Department can continue to enforce Title VI appropriately through the existing regulation. Consequently the Department does not anticipate further rulemaking action, and intends to withdraw the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	01/19/81	46 FR 5588
NPRM Comment Period End	04/20/81	
To be withdrawn	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/19/81 (46 FR 5588)

Agency Contact: Dorsey Thomas, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW. Washington, DC 20590, 202 366-4754

RIN: 2105–AA02

1536. MINORITY BUSINESS ENTERPRISE PROGRAM (DIRECT CONTRACTING)

Significance: Nonsignificant

Legal Authority: EO 11625; EO 12138; 45 USC 803; PL 95-507

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: As part of the NPRM that proposed its minority business program rule (49 CFR Part 23), the Department proposed rules concerning minority business involvement in direct DOT procurement. However, because of the program established by Public Law 95-507, these proposed rules became unnecessary, and were never finalized. That program provides for subcontracting plans and goals in certain direct Federal contracts as well as for disadvantaged business set-asides under the Small Business Administration 8(a) program.

Timetable:

Action	Date	FR Cite
NPRM	05/17/79	44 FR 28928
NPRM Comment Period End	07/16/79	
Final Action concerning financial assistance programs	03/31/80	45 FR 21172
To be withdrawn	04/03/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 05/17/79 (44 FR 28928)

Additional Information: The Department published a final rule concerning its financial assistance programs on March 31, 1980 (45 FR 21172). The Department has concluded that further rulemaking in the direct contracting field is unnecessary at this time, and intends to withdraw this proposed rule.

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW. Washington, DC 20590, 202 366-9306

RIN: 2105–AA03

1537. CONSOLIDATION OF TRANSPORTATION GRANTS TO U.S. TERRITORIES

Significance: Nonsignificant

Legal Authority: PL 95-134, Title V

CFR Citation: 49 CFR 29

Legal Deadline: None

Abstract: Title V of Pub. L. 95-134 permits departments and agencies to consolidate grant programs, reduce reporting requirements, and waive local matching fund requirements. This proposal is being withdrawn because of problems concerning legal requirements with changing grant conditions.

Timetable:

Action	Date	FR Cite
NPRM	01/06/79	44 FR 1765
To be withdrawn	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kristen Clark, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9669

RIN: 2105–AA08

1538. NONDISCRIMINATION ON THE BASIS OF AGE IN DOT FINANCIAL ASSISTANCE PROGRAMS

Significance: Nonsignificant

Legal Authority: PL 94-135, Title III

CFR Citation: 29 CFR 1691

Legal Deadline: None

Abstract: This regulation would prohibit age discrimination by recipients of DOT financial assistance programs. Few comments were received on the NPRM. The Department intends to publish a final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/22/79	44 FR 60946
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph Austin, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW. Washington, DC 20590, 202 366-5992

RIN: 2105–AA09

1539. AIRLINE TIME AND MILEAGE GUIDES

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: The DOT currently prohibits fares or rates based upon units of time. This rule would remove these restrictions.

Timetable:

Action	Date	FR Cite
NPRM	10/27/82	47 FR 47599
NPRM Comment Period End	12/13/82	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 00/00/00

Additional Information: EDR 448, Docket 41034. Formerly entitled: Tariffs: Removal of Requirements for Statements of Fares or Rates Based upon Units of Distance or Time.

Agency Contact: Thomas Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2414

RIN: 2105–AA39

1540. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This rule would make direct air carriers responsible for returning charter passengers stranded by strikes or other interruptions of their services by eliminating the force majeure clause from charter contracts. However, the Department is considering a comprehensive proposal (RIN 2105-

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AA41 in this agenda) to revise and simplify air charter rules. The Department's final action in this proceeding will be consistent with the comprehensive review of the charter rule.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: EDR 405, Docket 37169.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA40

1541. ZONES FOR AIRLINE MAIL RATES

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1376; 49 USC 1551(b)(1)(D)

CFR Citation: 14 CFR 233, (Proposed)

Legal Deadline: None

Abstract: This rule proposed to end the current practice of prescribing fixed rates for the transportation of mail by air, and in its place establish zones for each category of mail. The proposal will be withdrawn because it has been mooted by statutory changes with respect to domestic mail rates and the present process for determining international mail rates appears to work well for all concerned.

Timetable:

Action	Date	FR Cite
NPRM	09/07/79	44 FR 52246
NPRM Comment Period End	10/22/79	44 FR 52246
Comment Period End 02/17/81	12/19/80	45 FR 83510
SNPRM	12/19/80	45 FR 83510
To be withdrawn	04/03/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Original NPRM of 09/07/79 was EDR-387/PDR 68, Docket 46497; the SNPRM of 12/19/80 was EDR-387C/PDR-68C.

Agency Contact: Lawrence Myers, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9163

RIN: 2105–AA44

1542. AIR TRAVELERS: AGE DISCRIMINATION

Significance: Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376, (Proposed)

Legal Deadline: None

Abstract: This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975. A final rule was adopted by the CAB on April 10, 1980, and was forwarded to the Secretary of HHS for approval, as required by the Age Discrimination Act. The rule was approved by HHS on July 13, 1984, with changes. However, these changes have not been incorporated. DOT is considering combining this rulemaking with a broader DOT age discrimination rule on which work is now under way.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action adopted by the Board	04/10/80	
HHS approved Final Rule with changes	07/13/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AA45

1543. POLICY STATEMENT ON AIRLINE PREEMPTION

Significance: Nonsignificant

Legal Authority: 49 USC 1305

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: This rule will set out Department policies for regulation of the rates, routes, and services of airlines that have interstate authority. The CAB concluded that under section 105 of the Federal Aviation Act of 1958 it, not the States, was responsible for economic regulation (or deregulation, as the case may be) of all the routes, rates, or services of any airline holding either (i) a certificate of public convenience and necessity to provide interstate air transportation, or (ii) an exemption under section 416 of the Act from the requirement for such a certificate.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Request for comments on Interim Rule (PSDR-56, Docket 34684)	02/15/79	44 FR 9953
Comment Period End	04/16/79	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: PS-83, Docket 34684.

Agency Contact: Lawrence Myers, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9163

RIN: 2105–AA46

1544. INSURANCE FOR ON-DEMAND AIR-TAXI OPERATORS AND CANADIAN AIR TAXIS

Significance: Nonsignificant

Legal Authority: PL 95-504; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 205; 14 CFR 298

Legal Deadline: None

Abstract: This rule would set the minimum per-person aircraft accident liability insurance limits for U.S. and Canadian on-demand air taxi operators at $150,000, instead of at $300,000 as it is for other air carriers. The NPRM further includes alternative proposals to set the per-person limit at $75,000 or $100,000 or to eliminate all minimum amounts, requiring a public notice instead. Other rules for insurance coverage for these carriers would be as in 14 CFR Part 205, including the prohibition on safety-related exclusions.

Timetable:

Action	Date	FR Cite
NPRM	02/04/80	45 FR 7566
NPRM Comment Period End	03/12/80	45 FR 7566
SNPRM	10/27/81	46 FR 52585
SNPRM	03/10/83	48 FR 10073

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Docket 37531. Original NPRM (02/04/80) was EDR-395; the first SNPRM (10/27/81) was EDR-395B. The second SNPRM (03/10/83) was EDR-395C, and its comment period ended 05/17/83.

Agency Contact: Ron Hilgert, Assistant Chief, Regulatory Analysis Division; Office of Aviation Analysis, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1059

RIN: 2105–AA47

1545. EFFECT OF EXPIRATION OF A BILATERAL ON FOREIGN AIR-CARRIER AUTHORITY

Significance: Nonsignificant

Legal Authority: 49 USC 1159b; 49 USC 1324; 49 USC 1372; 49 USC 1386; 49 USC 1481; 49 USC 1502; 5 USC 558; 5 USC 559

CFR Citation: 14 CFR 377

Legal Deadline: None

Abstract: In the past, the CAB had held that a foreign air carrier's permit or exemption authority continues after the underlying bilateral Service Agreement expired, by virtue of section 558(c) of the Administrative Procedure Act. Further review has determined the contemplated change is unwarranted.

Timetable:

Action	Date	FR Cite
NPRM	06/03/83	48 FR 24923
NPRM Comment Period End	08/02/83	
To be withdrawn	06/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SPDR-89 and SPDR-89A, Docket 41498.

Agency Contact: Richard M. Loughlin, Chief, Licensing Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Room 6412, Washington, DC 20590, 202 366-2388

RIN: 2105–AA68

1546. IMPLEMENTATION OF STATUTE REQUIRING INTEREST ON SUBSIDY CLAIMS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1376; 49 USC 1389; PL 97-369

CFR Citation: 14 CFR 326, (Proposed)

Legal Deadline: None

Abstract: Under section 322 of the FY 1983 Transportation Appropriations Act, interest may be paid on certain "hold-in" subsidy claims by certificated air carriers under sections 419 and 406 of the Act. This rule would set procedures for payment of that interest.

Timetable:

Action	Date	FR Cite
NPRM	12/22/83	48 FR 56599
NPRM Comment Period End	02/21/84	
Reply Comment Period End	03/02/84	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/89

Additional Information: Docket 41855; PDR 87.

Agency Contact: Robert Ross, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9154

RIN: 2105–AA77

1547. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is now considering what action to take.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601. Docket 41683, EDR 468/PSDR-81.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA78

1548. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None

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Abstract: The CAB proposed updating its rules applicable to exemption procedures to conform the rules to the changes brought about by the Airline Deregulation Act and the International Air Transportation Competition Act of 1979, and to modernize the evidentiary and service requirements. The Department is evaluating comments received.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
Final Action	07/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Gwyneth Radloff, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9305

RIN: 2105–AA82

1549. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1373; 49 USC 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading.

Timetable:

Action	Date	FR Cite
NPRM	12/16/84	49 FR 49111
NPRM Comment Period End	03/19/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Docket 41660; EDR-477.

Agency Contact: Timothy Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA84

1550. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. The CAB adopted an NPRM that proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted and whether a smoking notice should be included. DOT is now considering what action to take in response to the notice and comments filed.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation

Additional Information: Docket 41971; EDR-474

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA88

1551. EXEMPTION FROM PRIOR-APPROVAL REQUIREMENTS FOR CERTAIN TRANSACTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1303; 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1378; 49 USC 1379; 49 USC 1382; 49 USC 1384; 49 USC 1386; 49 USC 1388; 49 USC 1551

CFR Citation: 14 CFR 303

Legal Deadline: None

Abstract: As the Department's review of the aviation-merger procedural regulations became moot with expiration of the Federal Aviation Act's section 408 on December 31, 1988, this action will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	05/13/88	51 FR 17490
NPRM Comment Period End	06/12/86	
To be withdrawn	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Horn, Deputy Assistant General Counsel, for International Law, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2972

RIN: 2105–AB20

1552. COUNTING UMTA REDUCED-FARE PROGRAM COSTS TOWARD 504 COST CAP

Significance: Nonsignificant

Legal Authority: 29 USC 704; 49 USC 1612(d)

CFR Citation: 49 CFR 27

Legal Deadline: None

Abstract: The Department is considering whether or not to eliminate a provision in its rule concerning mass transit services for disabled persons, which permits incremental expenditures by recipients for the off-peak, reduced-fare program for elderly and handicapped passengers on mainline mass transit services to be counted in the calculation of the three-percent limit on required expenditures. The Department has proposed withdrawing this provision.

Timetable:

Action	Date	FR Cite
NPRM	06/24/88	53 FR 23778
NPRM Comment Period End	08/23/88	
Final Action	04/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 04/03/89

Agency Contact: Robert Ashby, Deputy Ass't General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 7th St SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AB29

DOT—OST — Final Rule Stage

1553. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 18

Legal Deadline: None

Abstract: This rule is being revised to add nongovernmental grantees and to make minor revisions to the current common rule that applies to grants and cooperative agreements to State and local governments. Due to existing statutes and the desire to reduce Federal red tape, DOT does not comply with some sections of the common rule and is proposing deviations from the additional provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	
Final Action	09/05/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/04/88 (53 FR 44716)

Additional Information: The Federal Agencies published the final common rule on 03/11/88 (53 FR 21816). The Department's proposed amendments to the final rule begin on page 44791 of the November 4, 1988 issue of the Federal Register.

Agency Contact: Charles E. Ventura, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street, S.W., Washington, D.C. 20590, 202 366-4286

RIN: 2105–AB46

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions

Office of the Secretary (OST)

1554. + CONTINUING REVIEW: DEPARTMENT-WIDE DRUG REGULATIONS

Significance: Agency Priority

Legal Authority: See entries under affected modes

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Department has completed its review of the Modal drug programs, and final rules have been issued by each of the affected modes. This rulemaking project was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
End Review	02/16/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: Former title: Review of Department-Wide Drug Regulations.

Agency Contact: Samuel E. Whitehorn, Attorney, Office of the General Counsel, Department of Transportation, Office of the Secretary, Regulations and Enforcement, 400 7th St., SW, Washington, DC 20590, 202 366-9307

RIN: 2105–AB24

1555. + POSTING OF TARIFFS – NOTICE OF CONTRACT OF CARRIAGE

Significance: Agency Priority

Legal Authority: 49 USC 1373

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: Final rule allows carriers an alternative to the current requirement that they post their entire tariffs for passenger and cargo foreign air transportation in printed hard copy at each ticket-sales location. Carriers could provide more useful information to consumers using summaries, computer terminals, and printed copies of tariff information. This final rule permits international carriers the option of making their tariff information available to consumers in a manner similar to that currently used to provide notice of incorporated contract terms to airline passengers traveling in domestic air transportation. Specifically, it permits the airlines to satisfy the posting requirements quickly and economically by largely eliminating the costly and onerous medium of paper at their sales locations. The airlines could furnish information on fares, rates, and rules subject to frequent change through the use of electronic transmissions to display terminals at their sales locations. This process would also allow airlines to provide consumers with printed copies of this information upon request. Only those rules subject to infrequent

Timetable:

Action	Date	FR Cite
NPRM	07/20/88	53 FR 27351
NPRM Comment Period End	09/19/88	
Final Action	12/29/88	53 FR 52675
Final Action Effective	01/30/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/20/88 (53 FR 27351)

Additional Information: ABSTRACT CONT: changes would likely be maintained in printed form. This

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DOT—OST — Completed Actions

alternative in no way diminishes the filed tariff as the prevailing contract of carriage.

Agency Contact: Thomas G. Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2414

RIN: 2105–AB38

1556. AIR CARRIER CARGO TARIFF PUBLICATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1373; 49 USC 1482

CFR Citation: 14 CFR 221.171; 14 CFR 221.173

Legal Deadline: None

Abstract: A petition proposed to amend the requirement that air carriers post cargo tariffs at stations, offices, and locations other than their principal office. The petitioners proposed to allow carriers to maintain a memorandum tariff at each location and have a toll-free number for shippers to obtain access to complete tariff information. Action has been terminated as moot, since the relief requested has been rendered unnecessary by the new posting rules adopted in RIN AB38 on 12/29/88 (53 FR 52675).

Timetable:

Action	Date	FR Cite
Petition Filed in Docket 42660	11/27/8[illegible]	
Action terminated	01/03/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Myers Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9183

RIN: 2105–AA31

1557. ● RECOVERY OF DEBTS TO THE UNITED STATES BY SALARY OFFSET

Significance: Nonsignificant

Legal Authority: 5 USC 5514

CFR Citation: 49 CFR 92

Legal Deadline: None

Abstract: The final rule (53 FR 4170) established procedures enabling DOT to offset a debt against the pay of a current or former Federal employee who is indebted to the United States under a program administered by DOT. This action revises section 92.[illegible] (Exceptions to notice, hearings, written response, and final decision). This amendment reflects a change requested by the Office of Management and Budget to eliminate a general exception for notice, hearings, written response and final decision in administrative adjustments apart from those associated with Federal benefits programs

Timetable:

Action	Date	FR Cite
Amendment to Final Rule	12/21/88	53 FR 51279

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul B. Larsen Attorney Adviser, Department of Transportation, Office of the Secretary, 400 Seventh Street, S.W., Washington, D.C. 20590, 202 366-9161

RIN: 2105–AB32

1558. COLLECTION OF CLAIMS OWED THE UNITED STATES

Significance: Nonsignificant

Legal Authority: 31 USC 3701 to 3720[illegible]

CFR Citation: 49 CFR 89

Legal Deadline: None

Abstract: This final rule implements the Debt Collection Act of 1982. The rule provides DOT with formal procedures for the collection of claims owed the United States arising from activities under the jurisdiction of the Department

Timetable

Action	Date	FR [illegible]
NPRM	02/12/88	53 FR [illegible]
NPRM Comment Period End	04/12/88	
Final Action	12/21/88	5[illegible]
Final Action Effective	01/2[illegible]	

Small Enti

Governm

Analysis:
02/12/88 I5

Agency Contact: Paul B. Larsen [illegible] Attorney Adviser, Department of Transportation, Office of the Secretary DOT/Office of the General Counsel, 4[illegible] Seventh Street, SW Washington D.C. 20590 202 366-9167

RIN: 2105–AB3[illegible]

DEPARTMENT OF TRANSPORTATION (DOT)

U.S. Coast Guard (USCG) — Prerule Sta[illegible]

1559. SOLAS 74/83 EMERGENCY DRINKING WATER AND FOOD APPROVAL REQUIREMENTS (85-202)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish Coast Guard requirements for emergency drinking water and food meeting the 1983 Amendments to the Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. B. Berringer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington DC 2059[illegible] 0001 202 267-1444

RIN: 2115–AC48

1560. HYDRAULIC RELEASE [illegible] FOR LIFESAVING EQUIPMENT: SOLAS 74/83 (85-206)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

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DOT—USCG — Prerule Stage

Abstract: This project would establish approval requirements for hydraulic releases meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Mr. Milton Daniels, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC52

1561. REVISION OF DAVIT AND WINCH APPROVAL REQUIREMENTS: SOLAS 74/83 (85-207)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish approval requirements for davits and winches meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. Milton Daniels, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC53

1562. RADAR REFLECTOR APPROVAL REQUIREMENTS: SOLAS 74/83 (85-209)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish approval requirements for radar reflectors meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. K. Heinz, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC54

1563. REVISION OF LIFEBUOY APPROVAL REQUIREMENTS: SOLAS 74/83 (85-210)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: The project would establish approval requirements for lifebuoys meeting the 1983 Amendments of the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LTJG C. Deleo, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC55

1564. PORT ACCESS ROUTES; APPROACH TO FREEPORT, TEXAS (CGD 87-038)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 166

Legal Deadline: None

Abstract: A study of fairway anchorage sites and areas adjacent to the fairway in the approach to Freeport, Texas, has been completed and is being evaluated to determine further action.

Timetable:

Action	Date	FR Cite
Fairway study completed	07/02/87	52 FR 25039

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 2nd St., SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AC78

1565. OIL DISCHARGE MONITORING AND CONTROL SYSTEM (CGD 87-057)

Significance: Nonsignificant

Legal Authority: 33 USC 1321(j); 33 USC 1903; 46 USC 391(a); 49 USC 1655(b)

CFR Citation: 46 CFR 162; 33 CFR 157

Legal Deadline: None

Abstract: This project would revise the existing equipment approval requirements for the oil discharge monitoring and control system to bring the U.S. requirements in line with the more stringent International Maritime Organization Resolution A.586(14) "Revised Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Oil Tankers." This project does not create any new installation requirements for oil pollution prevention equipment on any class of vessels.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. B. Berringer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC85

1566. MARINE TRANSPORT OF BULK SOLID HAZARDOUS MATERIALS (87-069)

Significance: Nonsignificant

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DOT—USCG — **Prerule Stage**

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 46 CFR 148

Legal Deadline: None

Abstract: This proposal would incorporate into 46 CFR 148 the requirements for shipping certain frequently carried hazardous bulk solids. Putting these requirements into regulation would eliminate paperwork for both the Coast Guard and the shipping industry. This proposal would also incorporate requirements found in the International Maritime Organization's Code of Safe Practice For Solid Bulk Cargoes.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/89

Agency Contact: Mrs. D. Anderson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 29593-0001, 202 267-1217

RIN: 2115–AD02

1567. ● PORT ACCESS ROUTES: APPROACHES TO CHESAPEAKE BAY (88-041)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 167

Legal Deadline: None

Abstract: The Coast Guard is conducting a port access route study to determine the need for vessel routing measures in the approaches to Chesapeake Bay, VA. As a result of the study a new or modified traffic separation scheme may be proposed in the Federal Register.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. S.W., Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AD09

1568. ● CONTROLLING THE MARINE ASBESTOS HAZARD (88-103)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 43 USC 1333

CFR Citation: 46 CFR Subchapter V

Legal Deadline: None

Abstract: Asbestos has been identified as a carcinogen for which there are no safe limits of exposure. This regulatory project would limit the hazards posed by asbestos to marine industry personnel aboard Coast Guard inspected vessels, mobile offshore drilling units, Outer Continental Shelf platforms, and deepwater ports.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR M. VanHaverbeke, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-1161

RIN: 2115–AD16

1569. ● ADVANCE NOTICE OF ARRIVAL; WARSAW PACT NATIONALS (88-104)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This regulation would require advance notice to the Captain of The Port (COTP) of the presence on board certain entering vessels of any Warsaw Pact national or Non-Entrant National crew member. Such notice would enable the COTP to take appropriate measures for the removal or restriction of the crew member(s) as necessary for the protection of the United States.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR C. Crampton, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20590-0001, 202 267-0491

RIN: 2115–AD17

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage

U.S. Coast Guard (USCG)

1570. + OFFSHORE SUPPLY VESSEL REGULATIONS (82-004)

Significance: Regulatory Program

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 125 to 136; 46 CFR 174; 46 CFR 170

Legal Deadline: None

Abstract: These regulations would consolidate existing Offshore Safety Vessel standards and policy into a single subchapter and make specific revisions to accommodate the unique characteristics and methods of operation and the service in which the vessels are engaged. Rules specifically applicable to liftboats would be included. Because of public interest in certain aspects of this proposal, it has been classified as significant.

Timetable:

Action	Date	FR Cite
ANPRM	02/14/83	48 FR 6636
Comment Period Extended to 09/12/83	06/09/83	48 FR 26631

DOT—USCG — **Proposed Rule Stage**

Action	Date	FR Cite
ANPRM	06/14/83	48 FR 6636
Comment Period End		
ANPRM of consolidated RIN AC63	04/16/87	52 FR 12439
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 10/00/89

Additional Information: Coast Guard Docket 86-074 (RIN 2115-AC63) titled Regulations for Self-Elevating Offshore Service and Support Vessels was combined with this project.

Agency Contact: LCDR M. Rosecrans, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AA77

1571. + TRAFFIC SEPARATION SCHEMES AND SHIPPING SAFETY FAIRWAYS OFF THE COAST OF CALIFORNIA (83-032)

Significance: Regulatory Program

Legal Authority: 33 USC 1223; 33 USC 1224

CFR Citation: 33 CFR 166; 33 CFR 167

Legal Deadline: None

Abstract: Would implement the results of the Port Access Route Study mandated by the Ports and Waterways Safety Act. As a result of the study, the Coast Guard has preliminarily determined that potential conflicts between oil drilling and shipping require creation of a fairway system off the coast of California from the vicinity of San Francisco to Los Angeles/Long Beach and changes to the San Francisco and Santa Barbara channel traffic-separation schemes. No structures would be permitted in the fairway.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 06/00/89

Additional Information: Results of the Port Access Study for California were published in the Federal Register on June 24, 1982 (47 FR 27430) and on October 14, 1982 (47 FR 46043), and on December 5, 1985 (50 FR 49861). This rulemaking will require coordination with the Minerals Management Service of the Department of the Interior. This project was formerly titled California Offshore Routing System.

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AB29

1572. + REVISIONS OF THE REGULATIONS ON OUTER CONTINENTAL SHELF ACTIVITIES (84-098)

Significance: Regulatory Program

Legal Authority: 43 USC 1331

CFR Citation: 33 CFR 140; 33 CFR 141; 33 CFR 142; 33 CFR 143; 33 CFR 144; 33 CFR 145; 33 CFR 146

Legal Deadline: None

Abstract: This project would extend coverage of the workplace safety rules and modernize material standards for fixed platforms.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/85	50 FR 9290
Extension of Comment Period to 09/03/85	05/16/85	50 FR 20445
ANPRM Comment Period End	06/05/85	50 FR 9290
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 05/00/89

Additional Information: CGD 84-098(a)(RIN AC40) Self-Inspection of Fixed OCS Facilities split from CGD 84-098 and completed in 53 FR 18977. CGD 84-098(b)(RIN AC41) titled Offshore Evacuation Procedures separated from CGD 84-098.

Agency Contact: Mr. J. Magill, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115–AB74

1573. + HAZARDOUS MATERIALS POLLUTION PREVENTION: BULK LIQUIDS (86-034)

Significance: Regulatory Program

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 126

Legal Deadline: None

Abstract: This Project would apply the present oil pollution prevention regulations in 33 CFR Parts 154-156 to vessels and onshore and offshore facilities transferring hazardous substances. Although previously not categorized as significant, further analysis has determined this rulemaking to be significant because of safety and environmental considerations. Based on comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22118
NPRM Comment Period End	09/12/88	
SNPRM	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/13/88 (53 FR 22118)

Additional Information: Former title: Hazardous Substances Pollution Prevention.

Agency Contact: Mr. K.J. Szigety, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AC29

1574. + LIFESAVING EQUIPMENT—IMPLEMENTATION OF 1983 AMENDMENTS TO SOLAS 1974 (84-069)

Significance: Agency Priority

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 199; 46 CFR 31; 46 CFR 33; 46 CFR 35; 46 CFR 71; 46 CFR 75; 46 CFR 78; 46 CFR 91; 46 CFR 94; 46 CFR 97; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 154; 46 CFR 160; ...

Legal Deadline: None

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Abstract: This project would implement the provisions of the 1983 amendments to SOLAS 1974 (Safety of Life at Sea) which came into force in July of 1986. It would also reorganize the lifesaving equipment regulations in order to simplify, clarify, and reduce redundancy. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50745
ANPRM Comment Period End	03/01/85	
NPRM	04/03/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/03/89

Additional Information: 46 CFR 30; 46 CFR 90; 46 CFR 112; 46 CFR 113; 46 CFR 167; 46 CFR 189; 46 CFR 192; 46 CFR 196; 46 CFR 199

Agency Contact: Mr. R. Markle, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AB72

1575. + USER FEES FOR COAST GUARD SERVICES (84-026)

Significance: Agency Priority

Legal Authority: 31 USC 9701

CFR Citation: 33 CFR 27; 33 CFR 66; 33 CFR 74; 33 CFR 100

Legal Deadline: None

Abstract: This proposal would impose fees for certain Coast Guard services in keeping with the Administration's policy of recovering costs of services provided by the Federal Government to identifiable beneficiaries to extent practicable. This rulemaking is significant because it is likely to be of substantial interest to the public.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Further action must await enabling legislation.

Agency Contact: Mr. Carlton Perry, Project manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0979

RIN: 2115–AB73

1576. + LICENSING OF OFFICERS AND OPERATORS FOR MOBILE OFFSHORE DRILLING UNITS (81-59A)

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 3703; 46 USC 8105

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This project makes provision for the licensing of officers on mobile offshore drilling units and establishes manning standards for these vessels. This action is considered significant because of substantial public interest. Based on comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	08/06/83	48 FR 35920
SNPRM	10/24/85	50 FR 43316
Interim Final Rule	10/16/87	52 FR 38660
Suspended Effective Date of Interim Final Rule	02/28/89	54 FR 8334
Second SNPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/16/87 (52 FR 38660)

Additional Information: This project was split from Coast Guard docket 81-059, Licensing of Maritime Personnel, which is listed elsewhere in this agenda with the RIN 2115-AA64.

Effective date of the Interim Final Rule was suspended because comments received indicated substantive revisions to the rule are necessary.

Agency Contact: LCDR Jenkins, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0224

RIN: 2115–AB91

1577. + USER FEES: SMALL PASSENGER AND SAILING SCHOOL VESSELS (CGD 87-020)

Significance: Agency Priority

Legal Authority: PL 99-509

CFR Citation: 46 CFR 169; 46 CFR 175

Legal Deadline: None

Abstract: This proposal would enumerate selected Coast Guard services for which user fees would be charged, indicate how the charges are to be charged, indicate how the charges are to be made, and how they are to be paid. User fees are being considered for the following services to small passenger vessels and sailing school vessels: initial inspection for certification, inspection for certification, reinspection, drydock examination, licensing/certification, and documentation. This project is considered significant because of substantial public interest in the topic of user fees.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Formerly entitled Imposition of User Fees for Certain Coast Guard Services; Documentation and Licensing (CGD 87-020).

Agency Contact: Mr. M. Fell, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1483

RIN: 2115–AC74

1578. + SUBDIVISION AND DAMAGE STABILITY OF DRY CARGO VESSELS (CGD 87-094)

Significance: Agency Priority

Legal Authority: 46 USC 3301

CFR Citation: 46 CFR 174

Legal Deadline: None

Abstract: This proposal would require dry cargo vessels to meet a minimum standard of subdivision and stability.

This rulemaking is significant because of international implications.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/88	53 FR 11440
ANPRM Comment Period End	01/03/89	
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 09/00/89

Agency Contact: Lt. R. Gilbert, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2968

RIN: 2115–AC87

1579. ● + SPECIAL CARGO REQUIREMENTS FOR BENZENE (88-040)

Significance: Agency Priority

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: This proposal would update the special cargo requirements for benzene. This would include the lowering of permissible exposure limits, addition of requirements for personal protective equipment, measurement of employee exposures, training, and medical surveillance. This rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Dr. M. Parnarouskis, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Seoond St., S.W., Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AD08

1580. ● + IMPLEMENTATION OF THE COMMERCIAL FISHING-INDUSTRY VESSEL SAFETY ACT (88-079)

Significance: Agency Priority

Legal Authority: 46 USC 4502; 46 USC 4506; 46 USC 6104(c); 46 USC 10603(b)

CFR Citation: 46 CFR 27; 46 CFR 28; 46 CFR 29

Legal Deadline: None

Abstract: The Commercial Fishing Industry Act of 1988 requires the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures. Subjects to be addressed by the rulemaking include: navigation, radio, firefighting, and lifesaving equipment, as well as fuel, ventilation, and electrical systems. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM of Consolidated RIN AC34	07/09/87	52 FR 25890
ANPRM Correction of Consolidated RIN AC34	08/10/87	52 FR 29556
ANPRM	12/29/88	53 FR 52735
ANPRM Comment Period End	02/27/89	53 FR 52735
ANPRM Extension of Comment Period	03/02/89	54 FR 8765
NPRM	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 07/00/89

Additional Information: Coast Guard docket 86-024 titled Uninspected Fish-Processing Vessels (RIN AC34) has been incorporated into this project.

Agency Contact: Mr. N. Lemley, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-0001

RIN: 2115–AD12

1581. ● + SAFETY STANDARDS FOR VAPOR CONTROL SYSTEMS (88-102)

Significance: Agency Priority

Legal Authority: 46 USC 3703; 33 USC 1225

CFR Citation: 46 CFR Chapter I

Legal Deadline: None

Abstract: This project would establish minimum safety requirements for marine vapor-control systems. The requirements would include design and operating requirements for tank vessels and waterfront facilities using vapor-control systems and qualifications for personnel authorized to operate them. This rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/00/89

Agency Contact: LCDR R. Fitch, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Secons Street, S.W., Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AD15

1582. TANKERMAN REQUIREMENTS (CGD 79-116)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 8703; 46 USC 9101; 46 USC 9102

CFR Citation: 33 CFR 155; 46 CFR 12; 46 CFR 13; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 70; 46 CFR 90; 46 CFR 98; 46 CFR 105; 46 CFR 151; 46 CFR 153; 46 CFR 157

Legal Deadline: None

Abstract: Rulemaking would redefine and establish more stringent qualifying criteria for individuals engaged in transporting and transferring various categories of oil and dangerous liquid cargoes. The Port and Tanker Safety Act of 1978 mandated the establishment of personnel qualification and manning standards for tank vessels. In addition, the International Convention on the Standards for Training, Certification, and Watchkeeping for Seafarers (STCW), 1978 has entered into effect and establishes international standards for tank vessel personnel qualifications. In view of the length of time since

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publication of the NPRM, a supplemental NPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	12/16/80	45 FR 83268
NPRM Comment Period End	03/16/81	
SNPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/89

Additional Information: Former title: Qualifications of the Person in Charge of Oil Transfer Operations: Tankerman Requirements (79-116). Public meetings were held during January and February of 1981. This project is the companion to Qualifications for Persons in Charge of Oil Transfer Operations (79-116a) which is a new listing in the Agenda under RIN 2115-AD18.

Agency Contact: Mr. C. Heizer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-0224

RIN: 2115–AA03

1583. FIXED FIRE-EXTINGUISHING SYSTEMS ON UNINSPECTED VESSELS (74-284)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 4104; 46 USC 4105; 46 USC 4302; 49 USC 108

CFR Citation: 46 CFR 162.029

Legal Deadline: None

Abstract: Would establish standards for the construction and installation of Halon 1301 and other fixed fire extinguishing systems as optional systems for compliance with existing regulations. SNPRM will address new comments received requesting that industry specifications be used and incorporated by reference.

Timetable:

Action	Date	FR Cite
NPRM	04/19/82	47 FR 16648
SNPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/19/82 (47 FR 16648)

Additional Information: Docket No. CGD 74-284.

Agency Contact: Mr. K. Wahle, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA06

1584. MANEUVERING PERFORMANCE STANDARDS FOR U.S. VESSELS (80-136)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 1; 33 CFR 164

Legal Deadline: None

Abstract: Would establish requirements to improve ship maneuvering and stopping ability for new tank vessels and possibly all vessels in response to mandates in 46 USC 3703. International Maritime Organization recommendations will be considered.

Timetable:

Action	Date	FR Cite
ANPRM	09/14/81	46 FR 45631
ANPRM	07/17/84	49 FR 28893
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/00/89

Additional Information: The Subcommittee on Ship Design and Equipment, IMO, completed action on this item in May 1986 and the results are being included in the NPRM. Final action by the IMO Assembly in November 1987 has made it possible for the Coast Guard to resume action on promulgation of a rule.

Agency Contact: Mr. V. Azinovsky, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-2966

RIN: 2115–AA53

1585. PERSONAL FLOTATION DEVICES (81-023)

Significance: Nonsignificant

Legal Authority: 46 USC 1454; 46 USC 1488

CFR Citation: 33 CFR 175; 33 CFR 181

Legal Deadline: None

Abstract: This action will revoke an obsolete provision and make several editorial changes. Upon further analysis, it has been determined that an SNPRM be issued to propose incorporating a recent amendment to Underwriters Laboratories (UL) Standard 1123 by reference in lieu of prescribing the specific text that PFD manufacturers must include in PFD information pamphlets.

Timetable:

Action	Date	FR Cite
NPRM	04/12/82	47 FR 15606
SNPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/12/82 (47 FR 15606)

Additional Information: Docket No. CGD 81-023.

Agency Contact: Mr. C. Perry, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0979

RIN: 2115–AA58

1586. GENERAL REVISION OF 46 CFR 151, BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES (81-082)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 151

Legal Deadline: None

Abstract: Would revise the rules for barges carrying bulk cargoes by clarifying the language, eliminating unnecessary requirements, and upgrading some existing requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/04/84	49 FR 23085
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Additional Information: This project is being evaluated by the Chemical Transportation Advisory Committee.

Agency Contact: Mr. T.J. Felleisen, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AA70

1587. POLLUTION-PREVENTION REGULATIONS FOR TANKERS: GENERAL REVISIONS OF 33 CFR 157 (82-030)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 2104; 46 USC 3703

CFR Citation: 33 CFR 157

Legal Deadline: None

Abstract: This project would amend pollution regulations to clarify them, correct minor errors, and incorporate policy decisions and international interpretations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/00/89

Agency Contact: Mr. S. Shapiro, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AA88

1588. OUTER CONTINENTAL SHELF FACILITIES: AIDS TO NAVIGATION (82-054)

Significance: Nonsignificant

Legal Authority: 14 USC 2; 14 USC 83; 14 USC 85; 14 USC 92; 14 USC 633

CFR Citation: 33 CFR 67

Legal Deadline: None

Abstract: This item will modify existing requirements to allow for the following: central approval of aids to navigation lighting equipment, conformance to International Association of Lighthouse Authorities marking recommendations for offshore structures, and realistic light-intensity requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/89

Additional Information: Docket No. 82-054.

Formerly entitled Aids to Navigation on Outer Continental Shelf.

Agency Contact: Mr. C. B. Mosher, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1973

RIN: 2115–AA92

1589. SAFETY STANDARDS FOR NEW SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES (82-058)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 154

Legal Deadline: None

Abstract: Would revise the standards for self-propelled vessels carrying bulk liquefied gases by adopting Amendments 1 through 4 of the International Maritime Organization Code for the construction and equipment of ships carrying gases in bulk.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Mrs. D. Anderson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AA95

1590. NAUTICAL SCHOOLS: IMPLEMENTING THE MARITIME EDUCATION AND TRAINING ACT OF 1980 (82-092)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3301(2)

CFR Citation: 46 CFR 166; 46 CFR 167; 46 CFR 168

Legal Deadline: None

Abstract: Would update authority cites for Nautical Schools inspection regulations (46 CFR Subchapter "R") and update certain parts to conform with current inspection policies. Nautical school vessels operated by the United States (formerly called "Public Nautical School Ships") between 15 and 300 gross tons would be subject to inspection for the first time.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. CGD 82-092.

Agency Contact: LCDR Bennett, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AB21

1591. FIRE PROTECTION REGULATIONS TO INCORPORATE SOLAS 1974 (83-026)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306; 46 USC 3503; 46 USC 3703

CFR Citation: 46 CFR 32; 46 CFR 72; 46 CFR 92; 46 CFR 190; 46 CFR 193

Legal Deadline: None

Abstract: Would bring Coast Guard regulations into agreement with the international requirements of SOLAS 1974 (Safety of Life at Sea) and its amendments.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/84	49 FR 38672
ANPRM Comment Period End	11/30/84	
NPRM	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 07/00/89

Additional Information: Formerly titled Reassessment of Coast Guard Fire Protection Regulations to Incorporate Solas 1974.

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Agency Contact: Dr. A. Schneider, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AB36

1592. REASSESSMENT OF COAST GUARD MARINE ENGINEERING REGULATIONS -- INCORPORATION OF SOLAS 74 AMENDMENTS (83-043)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306; 46 USC 3307

CFR Citation: 46 CFR Subchapter F

Legal Deadline: None

Abstract: This project would effect a general reassessment of Subchapter F and incorporation of international requirements of Sept. 1984.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/89

Agency Contact: Lt. W. Wagnet, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AB41

1593. MARINE PORTABLE TANKS (84-043)

Significance: Nonsignificant

Legal Authority: 49 USC 1801 to 1812

CFR Citation: 46 CFR 64; 46 CFR 98.30; 46 CFR 98.33; 46 CFR 98.35

Legal Deadline: None

Abstract: This proposal would discontinue the Coast Guard specifications for Marine Portable Tanks. In their place, the Coast Guard would recognize tanks approved by the Department of Transportation, Research and Special Programs Administration as Intermodal Tanks.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Mr. F. Thompson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AB69

1594. PERSONAL FLOTATION DEVICE COMPONENTS (84-068)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 164; 46 CFR 160

Legal Deadline: None

Abstract: This project would add state-of-the-art synthetic materials as standard components, add performance requirements for nonstandard components, and upgrade out-dated requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/89

Agency Contact: Mr. K. Heinz, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AB70

1595. MOBILE OFFSHORE DRILLING UNIT REGULATIONS REVISION (83-071A)

Significance: Nonsignificant

Legal Authority: 46 USC 86; 46 USC 2104; 46 USC 2303; 46 USC 3305; 46 USC 3306; 46 USC 3311; 46 USC 3312; 46 USC 3316

CFR Citation: 46 CFR 56; 46 CFR 58; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 111; 46 CFR 174

Legal Deadline: None

Abstract: This project would revise the regulations in subchapter I-A to clarify them, bring them up to date, delete some unnecessary requirements, and incorporate the recommendations developed from major casualties. These changes are largely editorial in nature.

Timetable:

Action	Date	FR Cite
ANPRM	01/25/85	50 FR 11741
Extension of Comment Period	05/16/85	50 FR 20461
ANPRM Comment Period End	09/23/85	
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 07/00/89

Additional Information: The Maritime Safety Committee (MSC) of the International Maritime Organization is expected to take action on the Mobile Offshore Drilling Unit code by 03/89. The final draft of the NPRM pends MSC action.

Agency Contact: LCDR Dupree, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115–AB88

1596. SAFETY RULES FOR SHIPS CARRYING HAZARDOUS LIQUIDS (84-085)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 49 USC 1803

CFR Citation: 46 CFR 153

Legal Deadline: None

Abstract: This project would amend 46 CFR Part 153 to incorporate changes to the International Maritime Organization code for the construction and equipment of ships carrying dangerous chemicals in bulk.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/90

Agency Contact: Mr. F. Wybenga, Project Manager, Department of Transportation, U.S. Coast Guard, 2100

Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AB92

1597. TRAINING IN THE USE OF AUTOMATIC RADAR PLOTTING AIDS (ARPA) (85-089)

Significance: Nonsignificant

Legal Authority: 33 USC 1223; 46 USC 3703

CFR Citation: 33 CFR 164

Legal Deadline: None

Abstract: Current regulations require installation of ARPA on certain ships to improve vessel and waterway safety. Training in the use of this equipment is necessary to ensure its proper application and maximum benefit. A very small percentage of licensed personnel (those manning vessels of 10,000 GT or larger) would be required to complete an ARPA training course. The course is expected to take 5 days and cost about $600.00 per student.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/85	50 FR 53316
ANPRM Comment Period End	12/23/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mr. Robert Spears Jr., Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0214

RIN: 2115–AB99

1598. CERTIFICATION OF SEAMEN (84-088)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 7301; 46 USC 3306; 46 USC 6105

CFR Citation: 46 CFR 12; 46 CFR 15; 49 CFR 1.46

Legal Deadline: None

Abstract: This rulemaking would simplify and restructure the entire part. Among the changes contemplated are the addition of several new endorsements to seamen's documents and new ratings. An ANPRM was issued to gather necessary additional information.

Timetable:

Action	Date	FR Cite
ANPRM	02/04/85	50 FR 4875
Comment Period Extended to 08/01/85	06/03/85	50 FR 23318
ANPRM Comment Period End	08/01/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation

Agency Contact: LCDR M. Wilson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0229

RIN: 2115–AC02

1599. EXEMPTIONS TO GULF INLAND WATERWAYS REGULATIONS (85-096)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 162

Legal Deadline: None

Abstract: Contemplated action would revise and update the inland waterways navigation regulations for the Gulf Intercoastal Waterway from St. Marks, Fla. to the Rio Grande River. Certain frequently granted exemptions regarding length and width of tows would be incorporated into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 06/00/89

Additional Information: Formerly titled Inland Waterway Navigation Regulations: All Waters Tributary to the Gulf of Mexico.

Agency Contact: Mr. R. Robertson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0406

RIN: 2115–AC03

1600. FIRE DETECTION AND ALARM SYSTEMS (85-051)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 161

Legal Deadline: None

Abstract: This rulemaking would update the 30-year-old Coast Guard specification for fire detection and alarm systems to use modern terminology and address modern systems. Consensus standards would be adopted by reference.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This proposal would incorporate by reference an ASTM standard which is still being developed. No further work will be done on the project until the ASTM standard is completed.

Agency Contact: LCDR S. Johnson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AC13

1601. REVISIONS TO THE ELECTRICAL ENGINEERING REGULATIONS (85-063)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 2113; 46 USC 3301; 46 USC 3306; 46 USC 3318; 46 USC 3703; 46 USC 4104

CFR Citation: 46 CFR 110; 46 CFR 111; 46 CFR 112; 46 CFR 113

Legal Deadline: None

Abstract: This rulemaking would generally update and revise 46 CFR Subchapter J to address changes in technology, include international conventions (Amendments to SOLAS '74), clarify requirements, and reflect experience gained as a result of vessel reflaggings.

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DOT—USCG

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/89

Agency Contact: Mr. Thomas Nolan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AC20

1602. SMALL PASSENGER VESSEL INSPECTION AND CERTIFICATION (CGD 85-060)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 175 to 187

Legal Deadline: None

Abstract: This rulemaking would revise Subchapter "T" to reflect recent statutory changes, incorporate new technology, and improve safety requirements. Among the changes contemplated would be a change in inspection intervals, drydocking intervals, lifesaving equipment requirements, and fire protection requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4412
NPRM Comment Period End	05/30/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/30/89 (54 FR 4412)

Agency Contact: LCDR W. Cummins, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1161

RIN: 2115–AC22

1603. INSPECTED FISH PROCESSING AND FISH TENDER VESSELS (86-026)

Significance: Nonsignificant

Legal Authority: 46 USC Subtitle II; PL 96-364

CFR Citation: 46 CFR 105

Legal Deadline: None

Abstract: This rulemaking project would implement the provisions of the Commercial Fishing Industry Vessel Act which requires development of regulations reflecting the specialized nature and economics of fish processing and fish tender vessel operations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project currently inactive.

Agency Contact: LCDR G. Powers, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AC27

1604. UPDATING APPROVAL REQUIREMENTS FOR BREATHING APPARATUS (86-036)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160; 46 CFR 35 to 20

Legal Deadline: None

Abstract: Proposal would update the approval specifications for breathing apparatus for merchant vessels by citing present certification agencies and test schedules. It is also proposed to revise the tank vessel regulations for the carriage of approved pressure-demand type self-contained breathing apparatus.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LTJG C. DeLeo, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC30

1605. LOAD LINES (86-013)

Significance: Nonsignificant

Legal Authority: 46 USC 5115

CFR Citation: 46 CFR 41 to 48

Legal Deadline: None

Abstract: This proposal will revise 46 CFR Parts 42 and 44 through 46 and add Parts 41, 43, 47 and 48 (Subchapter E) to correct errors, replace previous omissions, incorporate new policies which have not been published and implement provisions of the new Load Line Law enacted on 21 Oct 86 and now in effect.

Timetable:

Action	Date	FR Cite
Notice	12/29/86	51 FR 46972
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/00/89

Agency Contact: Mr. P. Cojeen, Naval Architect, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AC37

1606. GUIDELINES ON NAVIGATION BRIDGE VISIBILITY (85-099)

Significance: Nonsignificant

Legal Authority: 46 USC 369; 46 USC 391a

CFR Citation: 33 CFR 164; 46 CFR 32; 46 CFR 72; 46 CFR 91; 46 CFR 92; 46 CFR 108; 46 CFR 157; 46 CFR 190

Legal Deadline: None

Abstract: Limited visibility from the navigation bridge of vessels has been identified as a factor in vessel casualties and near-misses. This action would establish standards for acceptable limits of visibility based on existing international guidelines. Because the primary focus is on new vessel design, costs are estimated to be minimal compared to potential benefits in casualties prevented.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

DOT—USCG

Proposed Rule Stage

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/89

Additional Information: Formerly entitled Navigation Bridge Visibility.

Agency Contact: Mr. E. LaRue, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0416

RIN: 2115–AC42

1607. FIRE EXTINGUISHERS (PORTABLE AND SEMI-PORTABLE) - REVISING APPROVAL SPECIFICATIONS AND UPDATING CARRIAGE REQUIREMENTS (86-072)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 162; 46 CFR 25; 46 CFR 34; 46 CFR 76; 46 CFR 95; 46 CFR 108; 46 CFR 168; 46 CFR 181; 46 CFR 193; 33 CFR 145; 33 CFR 149

Legal Deadline: None

Abstract: Action being considered would update approval specifications for portable and semiportable fire extinguishers to incorporate minimum acceptance standards, and minimum factory quality control and independent laboratory inspection levels; it would update extinguisher carriage and inspection requirements on vessels to reflect current fire extinguisher technology.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mr. Klaus Wahle, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC43

1608. SOLAS 74/83 LIFE JACKET APPROVAL REQUIREMENTS REVISION (85-200)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish Coast Guard approval requirements for lifejackets meeting the 1983 Amendments to the 1974 safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is the first in a series of projects, numbered 85-200 to 85-211, which have been split off from Coast Guard 84-069 which implemented the 1983 Amendments to SOLAS 1974. So many revisions were necessary that it was better to make several small and easily identifiable projects rather than a large and confusing one. Because of staffing assignments, the projects may not be completed in numerical order, and many cannot be given estimated completion dates.

Agency Contact: Mr. Samuel Wehr, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC46

1609. SOLAS 74/83 LIFEBOAT AND RESCUE BOAT APPROVAL REQUIREMENTS (85-201)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: The purpose of this proposal is to establish Coast Guard approval requirements for lifeboats and rescue boats which will meet the 1974 Safety of Life at Sea Convention as amended in 1983.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR S. Deno, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC47

1610. REVISION OF PYROTECHNIC DISTRESS SIGNAL APPROVAL REQUIREMENTS: SOLAS 74/83 (85-203)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: The purpose of this proposal is to develop approval requirements for pyrotechnic distress signals which meet the provisions of the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. B. Berringer, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC49

1611. REVISION OF DISEMBARKATION LADDER APPROVAL REQUIREMENTS: SOLAS 74/83 (85-204)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This proposal would establish approval requirements for disembarkation ladders meeting the 1983 Amendments to the Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR S. Deno, Project Manager, Department of Transportation, U.S. Coast Guard, 2100

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Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC50

1612. REVISION TO INFLATABLE LIFERAFT APPROVAL: SOLAS 74/83 (85-206)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish approval requirements for inflatable liferafts meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
Comment Period Extended to 10/14/85 RIN AA50	07/05/85	50 FR 27628
Comment Period Extended to 01/10/86 RIN AA50	09/09/85	50 FR 36639
NPRM	01/00/90	

Consolidated RIN AA50
ANPRM 08/29/81 (46 FR 33341)
NPRM 01/11/85 (50 FR 7558)
Consolidated RIN AA57
ANPRM 08/14/86 (51 FR 29117)
Public Meeting 12/22/86 (51 FR 45783)

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/90

Additional Information: Two related projects have been consolidated into this one: Inflatable Liferaft Stability (CGD 80-113) RIN AA50, and Servicing Inflatable Liferafts (CGD 81-010) RIN AA57.

Agency Contact: Mr. Milton Daniels, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC51

1613. REVISION OF LIFE JACKET LIGHT APPROVAL REQUIREMENTS: SOLAS 74/83 (85-211)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 161

Legal Deadline: None

Abstract: This project would establish approval requirements for life jacket lights meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR S. Deno, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC56

1614. TONNAGE MEASUREMENT OF VESSELS (87-015B)

Significance: Nonsignificant

Legal Authority: 46 USC 14102; 46 USC 14103

CFR Citation: 46 CFR 69

Legal Deadline: None

Abstract: This project would establish the International Convention on Tonnage Measurement of Ships, 1969, as the primary tonnage measurement system for measuring vessels of 79 feet and longer. The project will also extend simplified measurement to all vessels of less than 79 feet in length and eliminate all vessels of 79 feet in length and over from being measured under the simplified system.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/00/89

Additional Information: Formerly entitled Measurement of Vessels.

Agency Contact: Mr. Dennis Lamont, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593, 202 267-2992

RIN: 2115–AC87

1615. POSTING REQUIREMENTS ON INSPECTED VESSELS (87-031)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 71; 46 CFR 91; 46 CFR 167; 46 CFR 176; 46 CFR 189

Legal Deadline: None

Abstract: Various laws, international agreements, and Coast Guard regulations require the posting of specific certificates, licenses, plans, operating instructions, and warnings onboard vessels. Some of these contain essential operational data which must be accessible at all times; others are primarily informational. This rulemaking project will seek to reduce posting requirements for nonessential operational data to reduce the burden on the public. Alternatives such as having items readily available rather than being posted are being considered.

Timetable:

Action	Date	FR Cite
ANPRM	08/24/87	52 FR 31786
ANPRM Comment Period End	11/24/87	52 FR 31786

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: As a result of the ANPRM, a new project was created to remove regulations requiring merchant vessels to post Form 811. A final rule was published under docket number 87-031a (RIN 2115-AC91) on 22 July 1988 (53 FR 27686).

Agency Contact: LCDR W. C. Bennett, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-1161

RIN: 2115–AC88

1616. REGATTAS AND MARINE PARADES (CGD 87-087)

Significance: Nonsignificant

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100.15

Legal Deadline: None

Abstract: This proposal would amend current regatta and marine parade regulations to increase the lead time requirement for submitting regatta

permit applications. The rulemaking will allow the Coast Guard adequate time to review regatta permit applications, conduct appropriate coordination, and provide necessary public notice relating to regattas and marine events. In view of comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	02/04/88	53 FR 3221
NPRM Comment Period End	04/04/88	53 FR 3221
SNPRM	06/00/89	

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 02/04/88 (53 FR 3221)

Agency Contact: Mr. Carlton Perry, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0979

RIN: 2115–AC84

1617. SMALL PASSENGER VESSEL MANNING AND PERSONNEL QUALIFICATIONS (85-080A)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 49 USC 8105

CFR Citation: 46 CFR 10; 46 CFR 15; 46 CFR 185; 49 CFR 1.46

Legal Deadline: None

Abstract: This proposal would require small passenger vessels to be manned by crew members who are trained specifically for this type of vessel and the service in which it is used.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR M. Wilson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0229

RIN: 2115–AC93

1618. LIFEBOAT, LIFERAFT AND RESCUE BOAT APPROVAL REQUIREMENTS - SOLAS 74/83 (85-201A)

Significance: Nonsignificant

Legal Authority: 46 USC 3306a

CFR Citation: 46 CFR 160; 46 CFR 161; 46 CFR 162; 46 CFR 164

Legal Deadline: None

Abstract: This project would revise approval requirements for position-indicating lights, coated cloth, foam buoyancy material and laminating resin used for survival craft and lifesaving equipment to meet the requirements of the international Safety of Life at Sea (SOLAS) convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR S. Deno, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593, 202 267-1444

RIN: 2115–AC94

1619. CARGO GEAR INSPECTION AND TESTING (87-089)

Significance: Nonsignificant

Legal Authority: 46 USC 170; 46 USC 363; 46 USC 367

CFR Citation: 46 CFR 31; 46 CFR 71; 46 CFR 91

Legal Deadline: None

Abstract: This project would change the quadrennial cargo gear inspection and testing interval to five years. Improvements in material have been recognized worldwide and other nations have gone to a five-year interval.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 5642
NPRM Comment Period End	04/07/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/06/89 (54 FR 5642)

Agency Contact: LCDR S. Johnson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AD03

1620. PRIVATE ELECTRONIC AIDS TO MARITIME NAVIGATION (88-011)

Significance: Nonsignificant

Legal Authority: 14 USC 85

CFR Citation: 33 CFR 66; 33 CFR 164

Legal Deadline: None

Abstract: This proposal would amend the regulations on private aids to navigation by removing a restriction precluding the Coast Guard from permitting certain private electronic aids to navigation. The rulemaking might also amend regulations pertaining to vessels required to carry an electronic position-fixing device.

Timetable:

Action	Date	FR Cite
ANPRM	07/22/88	53 FR 27708
ANPRM Comment Period End	12/02/88	
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/89

Agency Contact: LT G. Self, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-0299

RIN: 2115–AD04

1621. INCORPORATION AND ADOPTION OF INDUSTRY STANDARDS (88-032)

Significance: Nonsignificant

Legal Authority: 33 USC 1321j; 46 USC 3306; 46 USC 3703

CFR Citation: 33 CFR 151

Legal Deadline: None

Abstract: This rulemaking would consist of a review of 33 CFR and 46 CFR and incorporate American Society of Testing and Materials (ASTM) standards or adopt the ASTM Code as

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appropriate in place of the regulations. The regulations for these items currently in Subchapter Q would be deleted.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/89

Agency Contact: Mr. F. Weidner, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AD05

1622. REQUIREMENTS FOR MARINE TERMINALS TRANSFERRING BULK LIQUEFIED HAZARDOUS GASES (88-049)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 126

Legal Deadline: None

Abstract: This project would develop requirements for marine terminals transferring bulk liquefied hazardous gases (petroleum and chemical) and establish comparable levels of safety and contingency measures for these commodities as are now required for liquefied natural gas (LNG).

Timetable:

Action	Date	FR Cite
ANPRM	09/26/88	53 FR 37792
ANPRM Comment Period End	11/26/88	
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Draft Regulatory Evaluation 07/00/89

Agency Contact: Mr. K. Szigety, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AD06

1623. ● AUTOMATIC AUXILIARY BOILERS (88-057)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 63

Legal Deadline: None

Abstract: This proposal would clarify the scope and applicability of Part 63, increase safety by preventing an increase in the air flow to a boiler's furnace immediately after an emergency trip, and substitute an industry consensus standard for existing requirements where an equivalent level of safety is provided. The time required for design approvals will be reduced by eliminating several administrative and plan review procedures. The end result should be an overall reduction in costs without compromising safety.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/89

Agency Contact: Mr. R. Crenwelge, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. S.W., Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AD11

1624. ● ACCESS DOCUMENTS TO WATERFRONT FACILITIES (88-097)

Significance: Nonsignificant

Legal Authority: EO 10277

CFR Citation: 33 CFR 125

Legal Deadline: None

Abstract: This proposal would reemphasize the Port Security Card as an access control document rather than a personal identification document.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/89

Agency Contact: LCDR Neill, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-0475

RIN: 2115–AD14

1625. ● QUALIFICATIONS FOR PERSONS IN CHARGE OF OIL TRANSFER OPERATIONS (79-116A)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 9102

CFR Citation: 33 CFR 155

Legal Deadline: None

Abstract: This project would establish qualifications of persons in charge of or assisting in the handling, transfer, and transportation of oil and hazardous liquid cargoes in bulk aboard vessels.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/89

Additional Information: This project was split from Coast Guard Docket 79-116 (RIN 2115-AA03) which is also carried in this Agenda.

Agency Contact: Mr. C. Heizer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, S.W., Washington, DC 20593-0001, 202 267-0224

RIN: 2115–AD18

1626. ● GREAT LAKES PILOTAGE REGULATIONS (88-111)

Significance: Nonsignificant

Legal Authority: 46 USC 6101; 46 USC 7701; 46 USC 8105; 46 USC 9303; 46 USC 9304

CFR Citation: 46 CFR 401; 46 CFR 403

Legal Deadline: None

Abstract: In December of 1988 the Department of Transportation completed a study of the Great Lakes Pilotage System. The Secretary has approved the study and its recommendations for improving the system. This proposal would implement those recommendations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Mr. J. Hartke, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. S.W., Washington, DC 20593-0001, 202 267-0217

RIN: 2115–AD19

1627. ● SUMMONS IN LIEU OF SEIZURE OF COMMERCIAL FISHING-INDUSTRY VESSELS (CGD 89-003)

Significance: Nonsignificant

Legal Authority: 14 USC 633; 49 USC 322

CFR Citation: 33 CFR 1

Legal Deadline: Final, Statutory, February 16, 1989.
Section 6079 of the Act (Anti-Drug Abuse Act of 1988, PL 100-690) provides that regulations shall be prescribed by not later than 90 days after enactment of the act.

Abstract: Section 6079 of the Anti-Drug Abuse Act of 1988 (PL 100-690) requires the Secretary of Transportation to prescribe joint regulations with the Secretary of the Treasury which would provide for issuance of a summons to appear in lieu of seizure of a commercial fishing-industry vessel for violations involving the possession of personal-use quantities of a controlled substance. This proposal would implement that requirement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Cdr. G. Gallion, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-1534

RIN: 2115–AD20

1628. ● REGULATED NAVIGATION AREAS; BROWNSVILLE SHIP CHANNEL (8-89-01)

Significance: Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: In recent years the port of Brownsville, Texas, has experienced several casualties involving vessels to be scrapped. This proposal would limit the possibility of future casualties by requiring advance notice of arrival and inspection for watertight integrity and the presence of hazardous gas.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Lt. Crickard, Project Manager, Department of Transportation, U.S. Coast Guard, U.S.C.G. Marine Safety Office, P.O. Box 1621, Corpus Christi, TX 78403-1621, 512 888-3192

RIN: 2115–AD21

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage
U.S. Coast Guard (USCG)

1629. + JOINT U.S.-CANADA VESSEL TRAFFIC MANAGEMENT REGULATIONS FOR THE PACIFIC REGION (79-131)

Significance: Agency Priority

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: Would implement the provisions of an agreement for a cooperative vessel traffic management system for the Pacific region. This rulemaking is significant because of international considerations.

Timetable:

Action	Date	FR Cite
NPRM	08/18/83	48 FR 37433
NPRM Comment Period End	10/03/83	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 08/18/83 (48 FR 37433)

Additional Information: All action on this proposal has been suspended pending legislative action by the Canadian Government.

Agency Contact: Lt. J. Sollosi, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0107

RIN: 2115–AA39

1630. + LICENSING OF PILOTS-MANNING OF VESSELS (84-060)

Significance: Agency Priority

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 7101; 46 USC 7109; 46 USC 7112; 46 USC 8101; 46 USC 8502

CFR Citation: 46 CFR 15.812; 46 CFR 10.700

Legal Deadline: None

Abstract: This proposal would: (1) delineate when certain inspected vessels are required to be under the direction and control of a pilot, (2) describe first class pilotage areas where local pilotage expertise is warranted, (3) allow licensed individuals to serve as pilot in areas not identified as first class pilotage areas on vessels that they are otherwise qualified to control, and (4) permit individuals with 5 years experience on towing vessel combinations of at least 5,000 gross tons while acting under the authority of a license as master, mate, or operator of uninspected towing vessels, with a minimum of 2 of the 5 years having been on towing vessels combinations of at leest 10,000 gross tons, to obtain without a written examination, an

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endorsement as first class pilot, restricted to tug and barge combinations only, for those routes over which they have made the required number of round trips. This action is considered significant because of public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 26117
NPRM Comment Period End	12/23/85	
SNPRM Supplemental	06/06/88	53 FR 20654
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/85 (50 FR 26117)

Additional Information: This proposal has been split from a previously published action identified by the same title with Coast Guard Docket number 77-084 and RIN 2115-AA04, completed in 50 FR 26106.

Agency Contact: Mr. J. Hartke, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0217

RIN: 2115–AB67

1631. + OFFSHORE EVACUATION PROCEDURES (84-098(B))

Significance: Agency Priority

Legal Authority: 43 USC 1333(d); 43 USC 1348(c); 43 USC 1356

CFR Citation: 33 CFR 140; 33 CFR 146

Legal Deadline: Final, Statutory, September 1, 1987.
Omnibus Budget Reconciliation Act of 1986 (PL 99-509)

Abstract: Would modify 33 CFR Subchapter N to require evacuation procedures for all Outer Continental Shelf (OCS) facilities on the U.S. OCS. This would apply to MODUs, both foreign and U.S.-flag; Fixed Platforms and Floating Facilities. Any designated standby vessel used as part of a plan would have to meet specific equipment requirements. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/85	50 FR 9290
Comment Period Extended to 09/03/85	05/16/85	50 FR 20445
ANPRM Comment Period End	06/05/85	
NPRM	12/24/87	52 FR 48717
NPRM Comment Period End	01/25/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 12/24/87 (52 FR 48717)

Additional Information: CGD 84-098(b) Offshore Evacuation Procedures for OCS facilities separated from CGD 84-098, RIN AB74.

Agency Contact: LCDR A. Dupree, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115–AC41

1632. + PREVENTION OF POLLUTION BY PLASTICS, ANNEX V OF MARPOL(88-002)

Significance: Agency Priority

Legal Authority: PL 100-220

CFR Citation: 33 CFR 151; 33 CFR 158

Legal Deadline: None

Abstract: This proposal would implement Annex V of the International Convention for the Prevention of Pollution by Ships, 1973. The Act to Prevent Pollution from Ships, as amended by Title II of P. L. 100-220, requires the Secretary to administer and enforce the annex. The Act would reduce the incidence of discharges of plastics, including synthetic fishing nets and other ship-generated garbage, into the oceans. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/88	53 FR 23884
ANPRM Comment Period End	07/25/88	
NPRM	10/27/88	53 FR 43622
Notice of Public Hearing	10/27/88	53 FR 43622
Correction to NPRM	11/04/88	53 FR 44617
NPRM Comment Period End	11/28/88	
Interim Final Rule	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/27/88 (53 FR 43622); Environmental Evaluation 10/27/88 (53 FR 43622)

Agency Contact: LCDR J. Whitehead, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AC89

1633. HOPPER DREDGE WORKING FREEBOARD - LOAD LINE AND STABILITY REQUIREMENTS (76-080)

Significance: Nonsignificant

Legal Authority: 43 USC 1333(d); 46 USC 3306; 46 USC 3703; 46 USC 5115

CFR Citation: 46 CFR 42; 46 CFR 44; 46 CFR 45; 46 CFR 174; 46 CFR 170

Legal Deadline: None

Abstract: Would permit self-propelled hopper dredge to load to a deeper draft (working freeboard). Only dredges desiring working freeboard must comply. This project would also establish requirements for load lines and stability.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/76	41 FR 32237
NPRM	12/10/79	44 FR 70791
SNPRM	01/24/80	45 FR 5780
SNPRM	12/14/87	52 FR 47422
SNPRM	02/22/88	53 FR 5200
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/89

Agency Contact: Mr. W. Hayden, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AA11

1634. DEALER AND FIRST-PURCHASER LIST (77-115)

Significance: Nonsignificant

Legal Authority: 46 USC 4310

CFR Citation: 33 CFR 179.01 to 179.19

Legal Deadline: None

Abstract: This rulemaking would require marine dealers to furnish boat and engine manufacturers with serial numbers of new boats and engines sold and the names and addresses of retail first purchasers of those products. Manufacturers would use the information to locate purchasers of bosts and engines recalled for defects which create a substantial risk of personal injury to the public and for failures to comply with applicable regulations. Currently many manufacturers cannot obtain sufficient first-purchaser information and their attempts to notify during recalls are inadequate.

Timetable:

Action	Date	FR Cite
NPRM	12/29/80	45 FR 85475
SNPRM	05/29/87	52 FR 20115
SNPRM	12/16/87	52 FR 47590

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/16/87 (52 FR 47950)

Additional Information: As a result of a substantial number of negative comments on the SNPRM and a substantially larger estimated annual burden on the public, the Coast Guard is looking for other ways to accomplish the objectives of the regulatory project. The next action will consist of a third SNPRM or initiation of a new regulatory project. (Former title was Defect Notification and First- Purchaser Information.)

Agency Contact: Mr. Colihan, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0961

RIN: 2115–AA16

1635. STANDARDS FOR VESSEL PIPING SYSTEMS (77-140)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 50; 46 CFR 56

Legal Deadline: None

Abstract: Would update Title 46, Subchapter F - Marine Engineering. Some facets of these regulations for shipboard piping systems have become obsolete as a result of technological developments and changes in cited codes and standards. An SNPRM was issued to include clarifying language and to delete the manufacturers' affidavit system.

Timetable:

Action	Date	FR Cite
NPRM	01/09/85	50 FR 1073
NPRM Comment Period End	03/11/85	
Comment Period Extended	03/21/85	50 FR 11397
SNPRM	05/18/88	53 FR 17868
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/09/85 (50 FR 1073)

Additional Information: Docket No. CGD 77-140. Formerly entitled Miscellaneous Changes to 46 CFR 56 and, subsequently, Vessel Piping Systems.

Agency Contact: Mr. H. Hime, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AA17

1636. HYBRID PERSONAL FLOTATION DEVICES: ESTABLISHMENT OF APPROVAL REQUIREMENTS (78-174)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish performance standards for hybrid PFDs and procedures for granting product approval to these devices.

Timetable:

Action	Date	FR Cite
ANPRM	03/15/79	44 FR 15933
NPRM	05/29/85	50 FR 21862
NPRM Comment Period End	07/15/85	
Interim Final Rule	08/22/85	50 FR 33923
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/22/85 (50 FR 33923)

Additional Information: A related project is listed in this agenda. That project is CGD 78-174b (RIN 2115-AC16), Carriage and Operational Requirements for Inflatable Life Jackets.

Agency Contact: Mr. S. Wehr, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA29

1637. OFFSHORE CRANES: STANDARDS AND OPERATOR QUALIFICATIONS (79-059)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 6101; 46 USC 6301; 49 USC 108

CFR Citation: 33 CFR 140; 33 CFR 143; 33 CFR 149; 46 CFR 107; 46 CFR 108; 46 CFR 109

Legal Deadline: None

Abstract: Would develop required qualifications for crane operators employed on the Outer Continental Shelf and standards for crane design, inspection, and testing.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/80	45 FR 2052
NPRM	02/14/86	51 FR 5547
NPRM Comment Period End	08/15/86	51 FR 21378

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/14/86 (51 FR 5547)

Additional Information: Talks are underway between the Coast Guard and the Minerals Management Service to determine who will exercise control over cranes located on offshore platforms. Work on the proposed rule is suspended pending the conclusion of those negotiations.

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Agency Contact: LDCR Stephen Johnson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AA34

1638. LAUNCHING DEVICES FOR INFLATABLE LIFERAFTS (79-168)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306

CFR Citation: 46 CFR 160; 46 CFR 163

Legal Deadline: None

Abstract: This project would establish standards, procedures, and tests for approving equipment used to launch inflatable liferafts from vessels and offshore platforms.

Timetable:

Action	Date	FR Cite
NPRM	02/13/86	50 FR 5377
NPRM Comment Period End	05/13/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/13/86 (51 FR 5377)

Agency Contact: LCDR Deno, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA45

1639. GENERAL BRIDGE PERMIT REGULATIONS (81-057)

Significance: Nonsignificant

Legal Authority: 33 USC 401

CFR Citation: 33 CFR 115

Legal Deadline: None

Abstract: This proposal would establish the general bridge-permit program. There is an initiative to transfer the Bridge Program to the Corps of Engineers. If the Corps agrees and the Congress approves, the program will be transferred.

Timetable:

Action	Date	FR Cite
NPRM	09/23/82	47 FR 41988
NPRM Supplemental	04/24/86	51 FR 15503

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/24/86 (51 FR 15503)

Additional Information: This project is inactive pending a decision on the transfer of the Bridge program from the Coast Guard to the Corps of Engineers.

Agency Contact: Mr. N. Mpras, Assistant Division Chief, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0368

RIN: 2115–AA61

1640. POLLUTION RULES FOR SHIPS CARRYING HAZARDOUS LIQUIDS (81-101)

Significance: Nonsignificant

Legal Authority: 46 USC 3507; 46 USC 3703

CFR Citation: 46 CFR 30; 46 CFR 98; 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: The Coast Guard published rules implementing Annex II of MARPOL 73/78 on 03/12/87 (52 FR 7765). Experience under this rule has disclosed several areas that require clarification. This rule would clarify requirements of the Annex. An interim final rule was effective August 31, 1988; comment period closed September 15, 1988.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/88	53 FR 28970
Final Action	04/10/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/10/89

Agency Contact: Mr. Thomas Felleison, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. S.W., Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AA73

1641. SAFETY/SECURITY ZONE REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through 10/00/90.

Timetable:

Action	Date	FR Cite
Total actions expected to end	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. M. Hegy, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AA97

1642. ANCHORAGE AREA REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through 10/00/90.

Timetable:

Action	Date	FR Cite
Total actions expected to end	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AA98

1643. CARRIAGE AND USE OF LIQUEFIED OR NONLIQUEFIED FLAMMABLE GAS AS COOKING FUELS ON VESSELS CARRYING PASSENGERS FOR HIRE (83-013)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 4104; 46 USC 4105; 46 USC 4302

CFR Citation: 46 CFR 25; 46 CFR 58; 46 CFR 147; 46 CFR 184

Legal Deadline: None

Abstract: This proposal incorporates the National Fire Protection Association's standards for liquefied flammable gas and compressed natural gas as cooking fuels on passenger vessels. The Association's standards include wood and coal stoves which were not mentioned in the NPRM for this project. An Interim Final Rule invited comments on the standards for wood and coal stoves.

Timetable:

Action	Date	FR Cite
NPRM	03/22/84	49 FR 10685
SNPRM	04/18/86	50 FR 15522
Interim Final Rule	02/10/89	54 FR 6396
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/22/84 (49 FR 10685)

Additional Information: Docket No. CGD 83-013.

Agency Contact: LCDR VanHaverbeke, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AB35

1644. OIL POLLUTION PREVENTION, MARPOL ANNEX I (85-026)

Significance: Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1902; 33 USC 1903

CFR Citation: 33 CFR 155; 33 CFR 151

Legal Deadline: None

Abstract: This rulemaking would implement various provisions of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 Relating Thereto (MARPOL 73/78). These proposed changes are largely editorial.

Timetable:

Action	Date	FR Cite
NPRM	02/07/86	51 FR 4768
NPRM Comment Period End	03/24/86	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/89

Additional Information: Formerly entitled MARPOL Pollution Prevention Regulations.

Agency Contact: CDR David Pascoe, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0421

RIN: 2115–AC11

1645. PERFORMANCE STANDARDS AND APPROVAL PROCEDURES FOR INFLATABLE LIFE JACKETS (78-174B)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 25; 46 CFR 26; 46 CFR 30; 46 CFR 33; 46 CFR 35; 46 CFR 70; 46 CFR 75; 46 CFR 78; 46 CFR 90; 46 CFR 94; 46 CFR 97; 46 CFR 108; 46 CFR 109; 46 CFR 160; 46 CFR 167; ...

Legal Deadline: None

Abstract: This project would establish approval and operating requirements for inflatable life jackets. Their use would be optional.

Timetable:

Action	Date	FR Cite
NPRM	05/29/85	50 FR 21878
NPRM Comment Period End	07/15/85	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/29/85 (50 FR 21878)

Additional Information: This project, and a companion, Recreational Hybrid PFD's (78-174a), split from the rule titled Hybrid PFD's; Establishment of Approval Requirements (78-174) (RIN: 2115-AA29), which was published as an interim final rule (50 FR 33923). The former title of the rulemaking herein was Carriage and Operational Requirements for Inflatable Life Jackets (CGD 78-174b).

Agency Contact: Mr. Wehr, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC16

1646. INTERVALS FOR INTERNAL EXAMINATION AND HYDROSTATIC TESTING OF PRESSURE VESSEL TYPE CARGO TANKS (85-061)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 38; 46 CFR 151; 46 CFR 54; 46 CFR 98

Legal Deadline: None

Abstract: The Coast Guard is proposing to amend the regulations that govern internal inspection and hydrostatic test intervals for pressure vessel cargo tanks on barges that transport liquefied gaseous cargoes and grade A flammable liquids.

Timetable:

Action	Date	FR Cite
ANPRM	12/03/85	50 FR 49536
ANPRM Comment Period End	03/03/86	
NPRM	09/08/87	52 FR 33841
Comment Period Extended to 03/07/88	12/01/87	52 FR 45665
NPRM Comment Period End	03/07/88	52 FR 45665
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/08/87 (52 FR 33841)

Agency Contact: LCDR Powers, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AC18

1647. REVISED APPROVAL SPECIFICATIONS FOR NONCOMBUSTIBLES AND PROHIBITION OF ASBESTOS FOR COMMERCIAL VESSELS (86-035)

Significance: Nonsignificant

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Legal Authority: 46 USC 3306 (a)

CFR Citation: 46 CFR 30 to 40; 46 CFR 70; 46 CFR 186 to 196; 46 CFR 140 to 154; 46 CFR 90

Legal Deadline: None

Abstract: Proposal would revise the approval specifications for noncombustible materials for merchant vessel construction to delete asbestos as an acceptable noncombustible material.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	53 FR 48557
NPRM Comment Period End	01/17/89	53 FR 48557
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/00/89

Agency Contact: Mr. K. Wahle, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC32

1648. CARGO LISTS AND TABLES UPDATE (CGD 88-100 AND 88-100A)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 49 USC 1804

CFR Citation: 46 CFR 1.46(b); 46 CFR 1.46(t); 46 CFR 1.46(u); 46 CFR 30; 46 CFR 150; 46 CFR 151; 46 CFR 153; 46 CFR 154

Legal Deadline: None

Abstract: The Coast Guard periodically issues rules listing additional cargoes which may be carried on tank vessels. Since this action is recurrent, the Coast Guard has established a continuing docket for this type of action. Notices for this rule are anticipated in Jan./Feb. of each year. Final rules will be completed prior to September 30 of each year.

Timetable:

Action	Date	FR Cite
Final Rule	06/04/87	52 FR 21036
NPRM	12/05/88	53 FR 49016
NPRM Comment Period End	01/19/89	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/05/88 (53 FR 49016)

Additional Information: Former regulation title: Noxious Liquid Substances Lists (CGD 88-100a; Bulk Hazardous Materials (CGD 88-100)(53 FR 49018). The RIN AC35 is used for both entries in the Federal Register.

Agency Contact: Dr. M. Parnarouskis/Mr. Payne, Chemical Engineer, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AC35

1649. ADVANCE NOTICE OF ARRIVAL (CGD 86-055)

Significance: Nonsignificant

Legal Authority: 33 USC 1223(a)(5)

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This revision to 33 CFR 160 Subpart C would require advance notices from all foreign commercial vessels of less than 1600 gross tons bound for ports or places in the Miami Captain of the Port zone. Currently 33 CFR 160.201(c)(1) excepts all vessels of less than 1600 gross tons from reporting advance notices of arrival. The revision would require vessels of more than 1600 gross tons to provide to the COTP crew makeup and charter information at least 24 hours prior to entering ports or places within the COTP zone.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35095
NPRM Comment Period End	10/24/88	
Final Action	05/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/09/88 (53 FR 35095)

Agency Contact: Lt. J. McDowell, Office of Marine Safety, Security and Environmental Protection, Department of Transportation, U.S. Coast Guard, Commandant (G-MPS-3), 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AC58

1650. ALTERNATIVE PROVISIONS FOR REINSPECTIONS OF OFFSHORE SUPPLY VESSELS IN FOREIGN PORTS (CGD 82-004A)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3301(3)

CFR Citation: 46 CFR 91

Legal Deadline: None

Abstract: The Coast Guard is proposing to amend the regulations concerning the reinspection of offshore supply vessels (OSVs) in foreign ports. Currently OSVs holding two year certificates of inspection are reinspected between the 10th and 14th month of the certificate's period. In recent years, more OSVs have been based overseas in remote locations. Vessel owners must reimburse the Coast Guard for inspector travel and per diem costs in connection with foreign inspections. This action would propose an alternative to the traditional Coast Guard mid-period reinspection. The benefits would be flexibility and financial savings to the OSV industry and more effective use of Coast Guard resources.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17477
NPRM Comment Period End	08/15/88	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/88 (53 FR 17477)

Agency Contact: LCDR Bennett, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AC86

1651. DELEGATION OF AUTHORITY TO AREA COMMANDERS WHEN FUNCTIONING AS MARITIME DEFENSE ZONE COMMANDERS (CGD 87-065)

Significance: Nonsignificant

Legal Authority: 50 USC 191; 33 USC 1231

CFR Citation: 33 CFR 6

Legal Deadline: None

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Abstract: Following the 1986 reorganization of the Coast Guard, Area Commanders do not have authority to establish security zones, control vessels, or perform other necessary actions. This rule would delegate that authority to the Area Commanders. Since this proposal deals with agency procedure, it will be issued as a rule with no notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR C. Crampton, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0489

RIN: 2115–AC88

1652. FLOATING ELECTRIC WATERLIGHTS (85-208)

Significance: Nonsignificant

Legal Authority: 46 USC 3306a

CFR Citation: 46 CFR 161

Legal Deadline: None

Abstract: This proposal would replace the detailed design, inspection and test requirements for floating electric waterlights with the incorporation by reference of various industry standards.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	53 FR 48558
NPRM Comment Period End	03/01/89	53 FR 48558
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/01/88 (53 FR 48558)

Agency Contact: Mr. R. Crenwelge, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AC95

1653. ANCHORAGE REGULATIONS (86-079)

Significance: Nonsignificant

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035

CFR Citation: 33 CFR 165; 33 CFR 110

Legal Deadline: None

Abstract: This proposal would update the anchorage regulations by removing non-regulatory, obsolete or duplicative language; by standardizing the anchorage description format; by publishing subparts A and B as two parts: Part 110 - Special Anchorage Areas and Part 111 - Anchorage Grounds.

Timetable:

Action	Date	FR Cite
NPRM	03/11/88	53 FR 7949
NPRM Comment Period End	05/11/88	
SNPRM expanding revisions - comments by 02/03/89	12/05/88	53 FR 48935
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/11/88 (53 FR 7949)

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AC96

1654. AIDS TO NAVIGATION SYSTEM, REMOVAL OF REFERENCES (88-018)

Significance: Nonsignificant

Legal Authority: 14 USC 85; 33 USC 1233; 43 USC 1333(d)

CFR Citation: 33 CFR 62

Legal Deadline: None

Abstract: This project would remove parenthetical references now in the regulations to an old color scheme which is no longer used.

Timetable:

Action	Date	FR Cite
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/90

Agency Contact: LTJG Wulfkuhle, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1973

RIN: 2115–AC97

1655. DOCUMENTATION OF VESSELS - CONTROLLING INTEREST (88-031)

Significance: Nonsignificant

Legal Authority: PL 100-239

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 requires that for any United States-built vessel to be eligible for a fishery license the controlling interest in any corporation which owns the vessel must be owned by individuals who are citizens of the United States. This project would implement the provisions of the Act.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 41211
NPRM Comment Period End	11/21/88	
Interim Final Rule	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/20/88 (53 FR 41211)

Agency Contact: LCDR Oxley, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1492

RIN: 2115–AC99

1656. CIVIL APPEALS PROCEDURES (88-033)

Significance: Nonsignificant

Legal Authority: 5 USC 552; 14 USC 633

CFR Citation: 46 CFR 1

Legal Deadline: None

Abstract: In order to reduce repetitive sections and improve clarity, this project would add an "Appeals" section in Part 1 of Chapter I and delete other civil appeals sections.

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Timetable:

Action	Date	FR Cite
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/89

Agency Contact: Lt. M. Raber, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001], 202 267-2997

RIN: 2115–AD00

1657. MISSISSIPPI RIVER; REGULATED NAVIGATION AREA (88-075)

Significance: Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: This proposal would eliminate the current Coast Guard requirement to record the identification of each towboat that moves a barge into, within, or out of a facility on the lower Mississippi River. The result of this proposal would be a reduction in the information collection burden imposed on the public.

Timetable:

Action	Date	FR Cite
NPRM	12/02/88	53 FR 48653
NPRM Comment Period End	01/17/89	53 FR 48653
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/02/88 (53 FR 48653)

Additional Information: Formerly entitled: Part 165–Regulated Navigation Areas and Limited-Access Areas.

Agency Contact: Mr. R. Robertson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0406

RIN: 2115–AD07

1658. ● DISESTABLISHMENT OF VESSEL TRAFFIC SERVICE: NEW ORLEANS (88-056)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: This project would eliminate references to the Vessel Traffic Service (VTS) in New Orleans since the VTS has been disestablished.

Timetable:

Action	Date	FR Cite
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/89

Agency Contact: LT Sollosi, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-0407

RIN: 2115–AD10

1659. ● WRITTEN WARNINGS BY COAST GUARD LAW ENFORCEMENT OFFICIALS (88-074)

Significance: Nonsignificant

Legal Authority: 14 USC 633

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: This proposal would clarify which Coast Guard Officials may issue written warnings for violations of statutes and regulations.

Timetable:

Action	Date	FR Cite
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/00/89

Agency Contact: LCDR B. Pickard, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-0014

RIN: 2115–AD13

DEPARTMENT OF TRANSPORTATION (DOT)

U.S. Coast Guard (USCG)

Completed Actions

1660. + LICENSING OF MARITIME PERSONNEL (CGD 81 - 059)

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 7101; 46 USC 7701; 46 USC 8105

CFR Citation: 46 CFR 10; 46 CFR 12; 46 CFR 15; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 151; 46 CFR 185; 33 CFR 155

Legal Deadline: None

Abstract: Final rule amends the licensing regulations to simplify administration and improve readability; it also provides a license structure for all mariners with which to advance in an orderly career pattern and deletes many unnecessary and outdated licenses. This regulation has been made significant because of its far-reaching impact on all licensed officers of the merchant marine.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/81	46 FR 53624
NPRM	06/06/83	48 FR 35920
Comment Period extended	11/10/83	48 FR 51650
NPRM Supplemental	10/24/85	50 FR 43316
Interim Final Rule	10/16/87	52 FR 38614
Final Action	01/04/89	54 FR 125
Final Action Effective	02/03/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/04/89 (54 FR 125)

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Additional Information: Licensing of Officers and Operators for Mobile Offshore Drilling Units (CGD 81-59a) was split from this docket and appears elsewhere in this Agenda with RIN 2115-AB91.

Agency Contact: LCDR Jenkins, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-0224

RIN: 2115–AA64

1661. + PROGRAMS FOR CHEMICAL DRUG AND ALCOHOL TESTING OF COMMERCIAL VESSEL PERSONNEL (CGD 86-067)

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7503; 46 USC 7701; 46 USC 6101

CFR Citation: 46 CFR 5; 46 CFR 16; 46 CFR 4

Legal Deadline: None

Abstract: Due to the safety and health concerns associated with drug abuse by merchant marine personnel, as well as legal restrictions on drug use, the Coast Guard promulgated rules which include: periodic drug tests (urinalysis) as part of required physical examinations; preemployment testing and random sampling programs for all marine employees as well as post-accident and reasonable-cause testing. The post-accident and reasonable cause portions of the program also involve testing for alcohol use. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/08/88	53 FR 25926
Notice of Public Hearings	07/26/88	53 FR 28024
NPRM Comment Period End	09/06/88	
Final Action	11/21/88	53 FR 47064
Final Action Effective	12/21/88	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; Regulatory Evaluation 11/21/88 (53 FR 47064)

Additional Information: This project now includes Coast Guard Docket 86-080 (RIN 2115- AC62)

Agency Contact: Mr. S. T. Connaughton, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0229

RIN: 2115–AC45

1662. + REGULATIONS FOR SELF-ELEVATING OFFSHORE SERVICE AND SUPPORT VESSELS (CGD 86-074)

Significance: Agency Priority

Legal Authority: 46 USC 3306; 46 USC 3301

CFR Citation: 46 CFR 125 to 136; 46 CFR 170; 46 CFR 173; 46 CFR 174

Legal Deadline: None

Abstract: The Coast Guard is proposing regulations that will establish safety standards for self-elevating offshore service vessels commonly known as liftboats.

Timetable:

Action	Date	FR Cite
ANPRM	04/16/87	52 FR 12439
ANPRM Comment Period End	07/16/87	52 FR 12439
Combined with RIN 2115-AA77	12/01/88	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This project was combined with Coast Guard Docket 82-004 (RIN 2115-AA77) and will appear in this agenda under that number, titled Offshore Supply Vessel Regulations.

Agency Contact: LCDR Rosecrans, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AC63

1663. INFLATABLE LIFERAFT STABILITY (80-113)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project contemplated rules for the function, size, and placement of stability appendages. It has been consolidated into CGD 85-205 (RIN 2115-AC51), Revision to Inflatable Liferaft Approval.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/81	46 FR 33341
NPRM	01/11/85	50 FR 1558
NPRM Comment Period End	04/11/85	
Comment Period Extended to 10/14/85	07/05/85	50 FR 27629
Comment Period Extended to 01/10/86	09/09/85	50 FR 36639
Consolidated with docket 85-205	10/12/88	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/11/85 (50 FR 1558)

Additional Information: This project was combined into Coast Guard docket 85-205 (RIN 2115-AC51).

Agency Contact: Mr. M. Daniels, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA50

1664. SERVICING INFLATABLE LIFERAFTS (81-010)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This proposed action would have revised inflatable liferaft servicing procedures and reduced direct Coast Guard involvement in the servicing of individual liferafts. This project has been consolidated into CGD 85-205 (RIN 2115-AC51), Revision to Inflatable Liferaft Approval.

Timetable:

Action	Date	FR Cite
ANPRM	08/14/86	51 FR 29117
Public Meeting Notice - meeting held on 01/27/87	12/22/88	51 FR 45783

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Action	Date	FR Cite
ANPRM Comment Period End	02/10/87	
Consolidated into RIN AC 51	10/12/88	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This project and docket number 85-205 were combined into a new project. The new entry is carried in this agenda under RIN 2115-AC51.

Agency Contact: Mr. Milton Daniels, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA57

1665. BOATING CASUALTY AND ACCIDENT REPORTING; ACCIDENT REPORTING THRESHOLDS (82-015)

Significance: Nonsignificant

Legal Authority: 46 USC 1486

CFR Citation: 33 CFR 173; 33 CFR 174

Legal Deadline: None

Abstract: This action amends casualty and accident reporting requirements for operators of recreational boats involved in boating accidents, by raising the threshold for requiring an accident report from $200 to $500.

Timetable:

Action	Date	FR Cite
NPRM	04/25/88	53 FR 13417
Comment Period Extended to 07/25/88	06/10/88	53 FR 21856
NPRM Comment Period End	06/24/88	53 FR 13417
Final Action	02/06/89	54 FR 5608
Final Action Effective	03/06/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 04/25/88 (53 FR 13417)

Additional Information: Formerly entitled Casualty Reporting Requirements for Recreational Boats.

Agency Contact: Mr. Carlton Perry, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0979

RIN: 2115–AA82

1666. 46 CFR SUBCHAPTER 1. EDITORIAL REVISIONS AND CORRECTIONS (86-033)

Significance: Nonsignificant

Legal Authority: 46 USC 1801 to 1812

CFR Citation: 46 CFR 2 to 195

Legal Deadline: None

Abstract: This final rule corrects or removes outdated cross-references and statutory citations related to the transportation of hazardous materials throughout 46 CFR Chapter 1.

Timetable:

Action	Date	FR Cite
Final Action	09/16/88	53 FR 36022

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/16/88 (53 FR 36022)

Additional Information: Project entailed replacement of "46 CFR" and "49 CFR" with necessary revised lead-ins.

Agency Contact: Mr. F. Thompson, Department of Transportation, U.S. Coast Guard, 2100 2nd St. SW, Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AC28

1667. UNINSPECTED FISH-PROCESSING VESSELS (86-025)

Significance: Nonsignificant

Legal Authority: PL 98-364

CFR Citation: 46 CFR 27

Legal Deadline: None

Abstract: This rulemaking project would implement the provisions of the Commercial Fishing Industry Vessel Act which requires development of regulations for uninspected fish processing vessels that enter into service after December 31, 1987 and carry more than 16 persons who are primarily employed in the preparation of fish products.

Timetable:

Action	Date	FR Cite
ANPRM	07/09/87	52 FR 25890
Correction to ANPRM	08/10/87	52 FR 29556
ANPRM Comment Period End	09/08/87	52 FR 25890
Combined into RIN AD12	12/29/88	53 FR 52735

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This project has been combined with Coast Guard Docket number 88-079 which will implement the provisions of Public Law 100-424, Commercial Fishing Industry Vessel Safety Act of 1988 (carried in the Agenda under RIN 2115-AD12).

Agency Contact: LCDR G. Powers, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1161

RIN: 2115–AC34

1668. INCORPORATIONS BY REFERENCE, VOLUNTARY INDUSTRY STANDARDS (CGD 87-046)

Significance: Nonsignificant

Legal Authority: 46 USC 4302; 49 CFR 1.46

CFR Citation: 33 CFR 183.5; 33 CFR 183.430; 33 CFR 183.435; 33 CFR 183.505; 33 CFR 183.516; 33 CFR 183.610

Legal Deadline: None

Abstract: Rule amends 33 CFR 183, Subparts I, J and K, adopting the latest versions of voluntary industry standards by incorporation by reference. These changes do not involve substantive changes and are being published as as a final rule (editorial change).

Timetable:

Action	Date	FR Cite
Final Action	09/23/88	53 FR 36970
Final Action Effective	10/23/88	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/23/88 (53 FR 36970)

Additional Information: Final rule also encompasses Electrical System Standards (CGD 87-009) RIN AC73. Incorporation by reference of UL 1426 in 33 CFR 183 is approved as of 03/22/89. Incorporations by reference of UL 1114, NFPA 70, SAEJ 378, IEEE 45, and ASTMD-1622 are approved as of 09/23/88.

Agency Contact: Mr. Alston Colihan, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0961

RIN: 2115–AC72

1669. ELECTRICAL SYSTEM STANDARD (CGD 87-009)

Significance: Nonsignificant

Legal Authority: 46 USC 4302; 49 CFR 1.46

CFR Citation: 33 CFR 183

Legal Deadline: None

Abstract: Final rule amends current regulations on electrical systems for new boats by incorporating Underwriters Laboratories (UL) Standard 1426 by reference to replace UL Standard 83 in Subpart I of Part 83. The rule also deletes a general reference to acceptable wire types in circuits of 50 volts or more. The effect is to recognize one of the most widely used wire types, UL boat cable, and to delete a very general reference that is not considered useful.

Timetable:

Action	Date	FR Cite
NPRM	11/23/87	52 FR 44918
NPRM Comment Period End	02/22/88	52 FR 44918
Final Action	09/23/88	53 FR 36970

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/23/88 (53 FR 36970)

Additional Information: This project now incorporates the provisions of Coast Guard Docket 87-046 (RIN 2115-AC72), Incorporation by Reference; Voluntary Industry Standards. Incorporation by reference of UL 1426 in 33 CFR 183 is approved on 03/22/89. Incorporations by reference of UL 1114, NFPA 70, SAEJ 378, IEEE 45, and ASTM D-1622 are approved as of 09/23/88.

Agency Contact: Mr. Alston Colihan, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0961

RIN: 2115–AC73

1670. PORT ACCESS ROUTES; APPROACH TO MOBILE, ALABAMA (CGD 88-034)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 166

Legal Deadline: None

Abstract: This rule modified the fairway in the approach to Mobile, Alabama.

Timetable:

Action	Date	FR Cite
NPRM	07/01/88	53 FR 24959
NPRM Comment Period End	08/01/88	53 FR 24959
Final Action	09/20/88	53 FR 36453
Final Action Effective	09/20/88	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 07/01/88 (53 FR 24959)

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 2nd St., SW, Washington, DC 20593, 202 267-0415

RIN: 2115–AC81

1671. DOCUMENTATION OF VESSELS - CODIFICATION OF LAW (88-030)

Significance: Nonsignificant

Legal Authority: PL 100-239

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 was recently enacted. The act prohibits United States-built fishing vessels from being extensively rebuilt overseas. This project implements the provisions of the Act.

Timetable:

Action	Date	FR Cite
Final Action	10/20/88	53 FR 41166
Final Action Effective	10/20/88	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/20/88 (53 FR 41166)

Agency Contact: LCDR Oxley, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1492

RIN: 2115–AC98

1672. SUSPENSION OF BARREL FEES(88-050)

Significance: Nonsignificant

Legal Authority: 46 USC 1811

CFR Citation: 33 CFR 135

Legal Deadline: None

Abstract: The Offshore Oil Pollution Compensation Fund balance is now within the maintenance level range required by statute. This rule suspends the barrel fee which feeds the fund until the fund balance falls below the required level.

Timetable:

Action	Date	FR Cite
NPRM	09/28/88	53 FR 37794
NPRM Comment Period End	11/14/88	
Final Action	12/30/88	53 FR 52995
Final Action Effective	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/30/88 (53 FR 52995)

Agency Contact: Mr. F. Martin, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0520

RIN: 2115–AD01

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DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Prerule Stage

1673. ● + IMPLEMENTATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449; PL 100-591

CFR Citation: 14 CFR 25

Legal Deadline: NPRM, Statutory, February 3, 1989.
Public Law 100-591

Abstract: The FAA is issuing this advance notice in compliance with Section 9(a) of Public Law 100-591, the "Aviation Safety Research Act of 1988." The objective of this preliminary action is to determine the feasibility of installing in all air-carrier aircraft crashworthy fuselage fuel tanks and fuselage fuel lines which are resistant and which disconnect and seal in the event of an accident. This advance notice solicits public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning the proposed regulatory action. This rulemaking is considered significant because of statutory requirements.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Walker, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2116

RIN: 2120-AC87

1674. REVIEW: PART 21--CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This part prescribes procedural requirements for the issuance of type certificates and changes to those certificates; the issuance of production certificates; the issuance of airworthiness certificates; and the issuance of export airworthiness approvals. In addition it prescribes rules governing the holders of these certificates and procedural requirements for the approval of certain materials, parts, processes, and appliances. The review will also evaluate the impact on small entities in accordance with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: M. C. Beard, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9372

RIN: 2120-AB09

1675. REVIEW: PART 121 -- CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1421 to 1430 Federal Aviation Act of 1958, Secs. 601-610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: Review of rules governing the certification and operations of air carriers, supplemental air carriers, and commercial air carriers engaging in: (1) interstate or overseas transportation under a certificate of public convenience and necessity; (2) foreign air transportation under a certificate of public convenience and necessity; (3) charter flights or other special service operations; and (4) carriage of persons or property in air commerce for compensation or hire. These regulations are being reviewed to comply with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Gary Martindell, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3749

RIN: 2120-AB27

1676. REVIEW: PART 135 -- AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421 to 1430 Federal Aviation Act of 1958, Secs. 601-610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: Review of rules governing: (1) air taxi operations conducted under Part 298; (2) transportation of mail by aircraft conducted under a postal service contract; and (3) carriage of persons or property for compensation or hire as a commercial operator in specified aircraft. These regulations are being reviewed to comply with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Gary Davis, Department of Transportation, Federal Aviation Administration, 800

DOT--FAA

Prerule Stage

Independence Avenue, SW, Washington, DC 20591, 202 267-8096

RIN: 2120-AB26

1677. FLIGHT ENGINEER TRAINING

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 63; 14 CFR 91; 14 CFR 125

Legal Deadline: None

Abstract: This proposed action would amend the regulations to allow the flight engineers' normal procedure practical test to be conducted in an approved flight simulator in lieu of conducting it, in flight, in an airplane.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 22781.

Formerly titled Accelerated Ground Training - Flight Engineers' Skill Requirements.

Agency Contact: Michael J. Coffey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3750

RIN: 2120-AA79

1678. INSTRUMENT FLIGHT RULE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: The FAA is considering rulemaking to revise several sections of Part 135 dealing with instrument flight rules. The proposed rule would: (1) permit IFR operations enroute with a VFR buffer zone underneath the cloud ceiling, and by permitting an IFR approach at destination; (2) change IFR takeoff minimums at U.S. military airports to be compatible with U.S. civil airport requirements, and (3) provide driftdown standards during enroute operations in IFR conditions in multiengine aircraft.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. Coffey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3750

RIN: 2120-AA82

1679. AMENDMENT OF SECTIONS 91.171, 91.172, AND APPENDICES E AND F OF PART 43

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601

CFR Citation: 14 CFR 43; 14 CFR 91

Legal Deadline: None

Abstract: This action would delay an October 15, 1992, compliance date to afford operators additional time to accomplish tests and inspections required by Sec. 91.171, correct inappropriate references, and delete a requirement for integrated system tests of ATC transponders by operators.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Al Hodges, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8177

RIN: 2120-AA98

1680. COMPOSITE PROPELLERS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 35

Legal Deadline: None

Abstract: This action would revise Part 35 Fatigue Limit Test (Propellers) to add requirement for composite propellers to include environmental effects in fatigue evaluation, bird impact, and lightning protection.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Formerly titled Fatigue Evaluation, Bird Impact, and Lightning Protection for Propellers of Composite Construction.

Agency Contact: M. Buckman, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7079

RIN: 2120-AB05

1681. AIRCRAFT REGISTRATION RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 1354; 49 USC 1401; 49 USC 1403; 49 USC 1405; 49 USC 1406; 49 USC 1502

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This is a recodification of 14 CFR Parts 47 and 49 in order to modernize these parts, making them compatible with modern business practices, in keeping with FAA policy.

The potential costs have not yet been assessed, but are considered to be negligible as the impact will be procedural and not substantive.

The potential benefits are the clarification of regulatory language and facilitation of procedures for

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DOT—FAA — Prerule Stage

registration of aircraft and recordation of conveyances affecting ownership of or interest in US civil aircraft.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alonso J. Rodriguez, Attorney Advisor, Department of Transportation, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125, 405 686-2236

RIN: 2120–AC17

1682. TEMPORARY FLIGHT RESTRICTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 3101(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.91

Legal Deadline: None

Abstract: This proposal would amend Section 91.91 to prevent interference with ground or aerial search or investigation by nonparticipating aircraft.

Timetable:

Action	Date	FR Cite
ANPRM	06/04/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 06/04/89

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983).

Regulatory Project No: ATO-200-87-9R

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AC40

1683. ● AIRPORT RADAR SERVICE AREA (ARSA) CLARIFICATION - TWO-WAY RADIO COMMUNICATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g) (Revised PL 97-449, January 12, 1983)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action proposes to clarify the intent of the two-way radio communications requirement of airport radar service areas.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Regulatory Project Number: ATO-200-88-18R.

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8783

RIN: 2120–AC89

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

1684. + REVIEW OF PARTS 61, 141, 143 - PILOT, PILOT SCHOOL, AND GROUND INSTRUCTOR RULES

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 141; 14 CFR 143

Legal Deadline: None

Abstract: The objective of this rulemaking project is to update and revise Parts 61, 141, and 143 of the Federal Aviation Regulations and determine the feasibility and need for consolidating Parts 61, 141, and 143 into a single regulation covering the entire spectrum of pilot training and certification. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Hearings	06/27/88	53 FR 24178
Comment Period Extended	08/05/88	53 FR 29582
Comment Period Extended	12/05/88	53 FR 49072
NPRM	05/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: RIN 2120-AB14 has been combined into this review.

Agency Contact: John D. Lynch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8150

RIN: 2120–AB12

1685. + REVIEW AND REVISION OF REPAIR STATION REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1427

CFR Citation: 14 CFR 145

Legal Deadline: None

Abstract: Current repair station rules were developed during the infancy of the aviation industry. Very few changes were made to those rules since they were adopted in 1952. This rulemaking project proposes to review foreign repair-station requirements and update the rules to reflect the current international and domestic environment and needs. This rulemaking is considered significant because of substantial public interest.

DOT—FAA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/89

Agency Contact: Leo Weston, Division Manager, AFS-300, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-8203

RIN: 2120–AC38

1686. + METROPOLITAN WASHINGTON AIRPORTS POLICY

Significance: Regulatory Program

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(b) Federal Aviation Act of 1958, Sec. 307(b); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposed various operational ceilings at Washington National Airport and contemplated future guidance on operation and development of National and Dulles Airports. Proposed action has been superseded by the Metropolitan Washington Airports Act of 1986 and will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	04/28/83	48 FR 19174
NPRM Comment Period End	07/27/83	
SNPRM Comment period end 07/16/84	06/14/84	49 FR 24626
To be Withdrawn	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/14/84 (49 FR 24626)

Agency Contact: David L. Bennett, Manager, Airspace and Air Traffic Law Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3491

RIN: 2120–AA89

1687. + CRASH RESISTANT FUEL SYSTEMS IN SMALL AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would amend Part 23 to include requirements for crash-resistant fuel tanks, lines and fittings. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Formerly titled Amend Part 23 to Include Requirements for Crash-Resistant Fuel Systems.

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 926-6930

RIN: 2120–AA57

1688. + AIRPLANE CABIN-FIRE PROTECTION

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes amendments to the FAR which would provide for improved cabin fire protection for transport category airplanes by requiring: (1) each lavatory to be equipped with a smoke detector system which provides warning to the cockpit or to the passenger cabin crew; (2) each lavatory trash receptacle to be equipped with a fire extinguisher which discharges automatically upon the occurrence of a fire within the receptacle; (3) the number of hand fire extinguishers in the cabins of airplanes with passenger seating capacities greater than 200 to be increased; (4) a specified number of the hand fire extinguishers in the cabin to contain Hallon 1211 or equivalent as the extinguishing agent. These safety protections are currently required for operation of airplanes used in air carrier service, but not for the full range of transport category airplanes such as those used for executive transportation. This notice also proposes to require each transport category (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/12/89	54 FR 1292
NPRM Comment Period End	07/10/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 01/12/89 (54 FR 1292)

Additional Information: ABSTRACT CONT: airplane manufactured after a specified date to incorporate these improvements. These proposals are needed to respond to investigations of inflight fires and an inspection survey of the U.S. air carrier fleet, and are needed to increase protection against possible inflight fires. This rulemaking is significant because of substantial public interest.

Agency Contact: Gary L. Killion, Manager, Regulations Branch, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120–AB22

1689. + PRIMARY CATEGORY AIRCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 42 USC 1857(f); 42 USC 4321 et seq; EO 11514; 49 USC 106(g); PL 97-449

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CFR Citation: 14 CFR 21; 14 CFR 36; 14 CFR 43; 14 CFR 91; 14 CFR 141; 14 CFR 147

Legal Deadline: None

Abstract: This action proposes to establish a new category of aircraft for type, production, and airworthiness certification. These aircraft will be designed for pleasure and personal use, and classified as a primary category aircraft. In addition, the NPRM proposed simplified type, production, and airworthiness certification procedures, special maintenance criteria, and associated changes to pilot requirements for this category of aircraft. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9738
NPRM Comment Period End	09/07/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Formerly entitled Primary Category Aircraft; Powered Ultralight; Falsification of Applications, Reports, or Records.

Agency Contact: Lyle Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9588

RIN: 2120–AB53

1690. + PROPOSED REVISION OF NOISE CERTIFICATION OF TURBOJET AND LARGE TRANSPORT CATEGORY AIRCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431(b) Federal Aviation Act of 1958, Sec. 611(b); 49 USC 1421 et seq National Environmental Policy Act, Title I; EO 11514

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None

Abstract: Contemplated action would revise certification and operational requirements for aircraft effective the date of the NPRM. On that date the current two-stage noise requirements would be replaced with a simpler single standard corresponding to the current Stage 3. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Steven Albersheim, Environmental Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120–AB88

1691. + NOISE AND EMISSION STANDARDS FOR AIRCRAFT POWERED BY ADVANCED TURBOPROP (PROPFAN) ENGINES

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423; 49 USC 1431

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: Part 36 prescribes noise standards for type certification of airplanes. A new generation of aircraft powered by prop-fan engines may present a noise problem that is not currently addressed by Part 36 in that en route noise at cruise altitude (25,000 to 30,000 ft) may require a new standard. This proposal would establish a new standard to control high altitude flyover noise from these new types of aircraft, and is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/87	52 FR 8050
ANPRM Comment Period End	06/11/87	
Comment period extended to 10/01/87	07/20/87	52 FR 27304

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulation Evaluation

Agency Contact: Harvey H. Van Wyen, Manager, Research and Engineering Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3558

RIN: 2120–AC20

1692. + SST STAGE 3 COMPLIANCE

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423; 49 USC 1431

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: Part 36 prescribes noise type certification standards for turbojet airplanes. This proposal would revise Part 36 so that new type certificated supersonic aircraft would be required to meet Stage 3 noise levels. Action is considered significant because of the substantial public interest which may be generated on the issue.

Timetable:

Action	Date	FR Cite
ANPRM	10/30/86	51 FR 39663
ANPRM Comment Period End	02/27/87	
Comment Period Reopened Until 07/01/87	03/12/87	52 FR 7618

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Draft Regulatory Evaluation 10/30/86 (51 FR 39663)

Additional Information: Docket 25109.

Agency Contact: Steven Albersheim, Environmental Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120–AC22

1693. + FLIGHT ATTENDANT REQUIREMENTS DURING DEPLANING AND BOARDING

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the regulation dealing with the required number of flight attendants to clarify the original intent of the regulation. The current regulations are confusing and not clearly understood. The proposed amendments would clarify the number of flight attendants required when passengers are onboard an airplane, during specified periods, and proposals would allow for a reduced number of flight attendants onboard an airplane during specified periods. The proposals would specify the conditions to be met to reduce the number of flight attendants at these stops. Additionally, the proposals would allow other authorized persons to be substituted for the required flight attendants at these stops, and would clearly establish the requirements for training for those authorized persons. A proposed new rule would clarify where the required flight attendants and other persons must be located when they are onboard the airplane. This action is considered significant because of the substantial public interest.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David L. Casey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8094

RIN: 2120–AC32

1694. + TYPE AND NUMBER OF PASSENGER EMERGENCY EXITS REQUIRED IN TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449; 49 CFR 1.47(a)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice will propose to revise the current requirements for passenger emergency exits and to adopt two new exit types into the regulations. These proposals are intended to provide more consistent standards with respect to exit types and quantities required for passenger seating configurations while retaining the same level of safety. This notice also will propose to reduce the maximum inflation time of an escape slide to reflect the current state of the art. These proposals resulted from the Public Technical Conference on Emergency Evacuation of Transport Airplanes held in Seattle, Washington on September 3-6, 1985. This rulemaking is considered significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Franklin Tiangsing, Regulations Branch, Transport Standards Staff, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South C-68966, Seattle, WA 98168, 206 431-2134

RIN: 2120–AC43

1695. + IMPROVED ACCESS TO TYPE III AND TYPE IV EMERGENCY EXITS

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: Notice will propose to amend Parts 25 and 121 of the FAR to provide for improved access to Type III and Type IV emergency exits. These proposals are intended to improve the ability of occupants to evacuate an airplane under emergency conditions. This rulemaking is considered to be significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Frank Tiangsing, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2121

RIN: 2120–AC46

1696. + PILOTS CONVICTED OF DRIVING WHILE INTOXICATED (DWI)/UNDER INFLUENCE (DUI)

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 65; 14 CFR 67

Legal Deadline: None

Abstract: Notice will propose to amend the existing Federal Aviation Regulations to allow pilot certification action when a pilot has been convicted of multiple DWI/DUI motor-vehicle offenses. This rulemaking is a significant FAA initiative based on the DOT/Inspector General Report of Feb. 17, 1987, entitled "Report on Audit of Airmen Medical Certification Program."

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Christie, Director, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9677

RIN: 2120–AC51

1697. + FLIGHT PLAN FILING REQUIREMENTS; NATIONAL AIRSPACE REVIEW RECOMMENDATION

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.83

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Legal Deadline: None

Abstract: This action will propose to review flight-plan filing requirements and revise according to National Airspace Review Recommendations 2-3.1.4, 2-3.1.5, 2-3.1.6, 2-3.1.7, and 2-3.1.8, i.e., to establish lower ceiling and visibility criteria for rotorcraft so as to reduce the frequency of required IFR alternate airport filings; to allow fixed-wing aircraft to file IFR alternate airports that meet the same criteria as rotorcraft; to require pilots to indicate, in their flight plans, when their aircraft is equipped with special equipment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983)

Regulatory Project No: ATO-200-85-12R RIN AC41 was consolidated into this proceeding.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AC56

1698. + EXIT ROW SEATING

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 2355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121.585; 14 CFR 135.127

Legal Deadline: None

Abstract: This action would add new regulations to require air carriers to limit seating in exit rows to those persons they determine appear to be able to perform certain functions regarding emergency evacuation. Existing air carrier policies having this intent may be inadequate and would be rendered completely ineffective by proposed 49 CFR 382.31 which would prohibit air carriers from restricting seating except in accordance with FAA regulations. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10484
NPRM Comment Period End	06/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 03/13/89 (54 FR 10484)

Additional Information: This issue will also be subsumed within the Regulatory Program proceeding entitled Nondiscrimination of the Basis of Handicap (Air Travel), RIN 2105-AA18.

Agency Contact: Irene Mields, Senior Attorney, General Legal Services Division, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3473

RIN: 2120–AC75

1699. + PARTS 121 AND 135 - TRAINING, CHECKING, CERTIFICATION, AND QUALIFICATIONS REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise and upgrade the Parts 121 and 135 training, checking, certification, and qualification requirements, including cockpit resource management. In addition, commuter air carriers conducting Part 135 commuter operations in airplanes that require two pilots would be required to meet the proposed ungraded Part 121 requirements. This action is in response to recommendations of the joint Government/Industry Task Force on Flight Crew Performance and is significant because of its safety implications.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Former title: Advanced Flight Crew Member Training.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Coffey, Project Development Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3750

RIN: 2120–AC79

1700. + ADVANCED QUALIFICATION PROGRAM

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action would propose to improve aircrew performance in air carrier and commuter operations by establishing a core of training requirements to include cockpit resource management (CRM) training, airman upgrade training, milestone schedules for training, criteria for training centers, etc. This training method would not be mandatory but rather would provide an alternative method of meeting the training requirements of Parts 121 and 135. This project includes the development of an advisory circular which would provide an acceptable means for developing an advanced flight crewmember training program. This action is in response to recommendations of the joint Government/Industry Task Force on Flight Crew Performance and is significant because of its safety implications.

Agency Contact: Larry Bedore, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8096

RIN: 2120–AC80

1701. ● + SPECIAL FEDERAL AVIATION REGULATION; ADVANCED QUALIFICATION PROGRAM

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g) Revised Pub L 97-449, January 12, 1983

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This proposed Special Federal Aviation Regulation (SFAR) would establish a voluntary alternative method for meeting the training, evaluation, certification, and qualification requirements for flight crewmembers, flight attendants, aircraft dispatchers, instructors, evaluators, and other operations personnel subject to the training requirements of 14 CFR Part 121 and Part 135. The FAA has developed this alternative method in response to recommendations made by a task force composed of representatives from the Government, airlines, aircrew professional organizations, and airline industry organizations. The proposed SFAR is designed to improve aircrew performance and would allow certificate holders that are subject to the training requirements of Part 121 and Part 135 to develop innovative training programs that incorporate the most recent advances in training methods and techniques. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/22/89	54 FR 7670
NPRM Comment Period End	04/24/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Analysis: Regulatory Evaluation 02/22/89 (54 FR 7670)

Agency Contact: David L. Casey, Manager, Project Development Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8094

RIN: 2120–AC85

1702. ● + UNITED STATES CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g) (Revised PL 97-449, January 12, 1983); EO 10854

CFR Citation: 14 CFR 71; 14 CFR 11.69

Legal Deadline: None

Abstract: This action proposes to enhance flight safety and to simplify the flight rules associated with flights conducted under visual flight rules by requiring all visual flight rules operations above a common altitude (1,200 feet above ground level) to be conducted with the same distance from clouds and visibility minimums. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/12/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Regulatory Project Number: ATO-200-87-8R.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8783

RIN: 2120–AC88

1703. ● + ESTABLISHMENT AND DISCONTINUANCE CRITERIA FOR AIRPORT TRAFFIC CONTROL TOWER FACILITIES

Significance: Agency Priority

Legal Authority: 49 USC 1343; 49 USC 1348; 49 USC 1348; 49 USC 1354(a); 49 USC 1355; 49 USC 1401; 49 USC 1421 (As amended by PL 100-223); 49 USC 1422 to 1430; 49 USC 1472(c); 49 USC 1502; 49 USC 1522; 49 USC 106(g) (Revised PL 97-449, January 12, 1983)

CFR Citation: 14 CFR 170

Legal Deadline: Final, Statutory, December 31, 1988.

Abstract: This rulemaking would prescribe benefit-cost based criteria for establishment and discontinuance of visual flight rule (VFR) airport traffic control tower facilities. It considers traffic density (number of aircraft operations without consideration of aircraft size), passengers served, and aircraft operating efficiencies along with the cost of establishing and maintaining or decommissioning a tower. The FAA utilizes these criteria to assess benefits and costs associated with establishing or decommissioning an airport traffic control tower at an airport as a part of its mission to maximize safety and efficiency throughout the airport and airway system consistent with available resources. This regulation, if promulgated, would implement the requirements of recent legislation requiring the publication of criteria for navigational aids and airport traffic control towers as a Federal regulation. This rulemaking is significant because of statutory requirements.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeanne O'Leary, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-3311

RIN: 2120–AC98

1704. ● + PROPOSED ESTABLISHMENT OF THE PHOENIX TERMINAL CONTROL AREA AND REVOCATION OF THE PHOENIX AIRPORT RADAR SERVICE AREA; ARIZONA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all

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aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking a significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/03/89

Agency Contact: Betty W. Harrison, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9254

RIN: 2120–AD00

1705. ● + PROPOSED ESTABLISHMENT OF THE DULLES TERMINAL CONTROL AREA: VIRGINIA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/09/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/09/89

Agency Contact: Jesse Bogan, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9253

RIN: 2120–AD01

1706. ● + PROPOSED ESTABLISHMENT OF THE SALT LAKE CITY TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of Substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/01/89

Agency Contact: Betty W. Harrison, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9254

RIN: 2120–AD02

1707. ● + PROPOSED ESTABLISHMENT OF THE ORLANDO, FLORIDA, TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/01/89

Agency Contact: Lewis W. Still, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9250

RIN: 2120–AD03

1708. ● + PROPOSED ESTABLISHMENT OF THE HOUSTON HOBBY TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1248(a); 49 USC 1345(a); 49 USC 1510; EO 19854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the

FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/11/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/11/89

Agency Contact: Lewis W. Still, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9250

RIN: 2120–AD04

1709. ● + PROPOSED ESTABLISHMENT OF THE MEMPHIS, TENNESSEE, TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/03/89

Agency Contact: Alton Scott, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9252

RIN: 2120–AD05

1710. ● + PROPOSED ESTABLISHMENT OF THE BALTIMORE, MARYLAND, TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace user. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/09/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/09/89

Agency Contact: Jesse Bogan, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9253

RIN: 2120–AD06

1711. ● + PROPOSED ESTABLISHMENT OF THE TAMPA, FLORIDA, TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/09/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/09/89

Agency Contact: Lewis W. Still, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9250

RIN: 2120–AD07

1712. ● + PROPOSED ESTABLISHMENT OF THE CHARLOTTE, NORTH CAROLINA, TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to

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substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/03/89

Agency Contact: Alton Scott, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-6252

RIN: 2120-AD08

1713. REVIEW OF MEDICAL STANDARDS AND CERTIFICATION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1427 Federal Aviation Act of 1958, Sec. 607

CFR Citation: 14 CFR 67

Legal Deadline: None

Abstract: These regulations specify the medical standards which must be met before a medical certificate is issued to an airman. For example, a medical certificate is required before a person can obtain a pilot license. During rulemaking involving these regulations, a considerable number of commenters expressed the belief that the current standards should and could be revised to state, in generally applicable objective terms, all those circumstances in which the FAA will issue medical certificates. In the past, some certificates have been issued on a case-by-case basis, with appropriate limitations, under exemption and waiver provisions where strict compliance with the existing standards was not essential in the interest of safety. A comprehensive review of these regulations is necessary to determine if the commenters' arguments are correct. If they are and the requested regulatory changes are possible, it could greatly reduce burdens, both on the FAA and airmen, associated with the processing of medical certificates.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FAA contracted with the American Medical Association (AMA) on August 29, 1983, to develop a comprehensive report which will be used by the FAA as part of its evaluation of Part 67 standards. AMA completed a professional review of the medical standards for civil airmen. The FAA announced the availability of the AMA report in the Federal Register on May 23, 1986 (51 FR 19040). RIN 2120-AB13 has been combined into this review.

Agency Contact: William H. Hark, M.D., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3802

RIN: 2120-AA70

1714. REVIEW PART 75 FOR RETENTION OR REVOCATION

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 106(g) (Revised PL 97-449); 14 CFR 11.69; 49 CFR 1.47

CFR Citation: 14 CFR 75

Legal Deadline: None

Abstract: This action will review Part 75 per National Airspace Review Recommendations toward revocation and establish nonrulemaking procedures for handling jet route actions.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Regulatory Project No: ATO-200-84-24R

Agency Contact: A. Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8761

RIN: 2120-AC55

1715. PART 91, SUBPART B, REVIEW FOR SIMPLIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1353; 49 USC 1354; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The agency set up a National Airspace Review Task Group for the review of 14 CFR Part 91, Subpart B. This action will cover the recommendations made by the group.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/01/89

Additional Information: LEGAL AUTHORITY CONT: 49 USC 1427; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1471; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121; 49 USC 2122; 49 USC 2123; 49 USC 2124; 49 USC 2125; 49 USC 4321 et seq: EO 11514; 49 USC 106(g) Revised Pub L 97-449 January 12, 1983 Regulatory Project ATO-200-85-28R

Agency Contact: Richard Kagehiro, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120-AA07

1716. PART 77 REVIEW, OBJECTS AFFECTING NAVIGABLE AIRSPACE

Significance: Nonsignificant

Legal Authority: 49 USC 1304 Federal Aviation Act of 1958, Sec. 104; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1431 Federal Aviation Act of 1958, Sec. 611; 49 USC 1501 Federal Aviation Act of 1958, Sec. 1101

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This action would revise and reorganize 14 CFR Part 77 in a more logical sequence and present regulatory requirements relating to proposed construction or alteration and their impact on navigable airspace. It is also intended to clarify and strengthen agency actions in determining whether a particular object would be a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/06/80	
National Airspace Review Begins	07/09/84	
NPRM	06/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Final Regulatory Evaluation 06/01/89

Additional Information: No docket number assigned; Regulatory Project ATO-200-85-15R

Agency Contact: William C. Davis, Manager, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120-AA09

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Docket 24251; formerly entitled Implementation of SAFER Propulsion System Recommendations.

Agency Contact: James M. Walker, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2116

RIN: 2120-AA49

1717. FUEL SYSTEM FIRE PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend Sec. 25.975 to require fuel tank vent protection during ground fires and Sec. 25.1189 to require design practices which maximize the probability of engine fuel supply shut-off in a potential fire situation.

1718. AIRCRAFT SIMULATOR USE IN AIRMAN TRAINING AND CERTIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 61; 14 CFR 135

Legal Deadline: None

Abstract: This notice will propose to amend Part 61 to permit additional use of and establish approval criteria for aircraft simulators and training devices for airman training and certification by amending various sections of Part 61 and appendices including additional appendices for rotorcraft and helicopters and by adding a new appendix for advanced simulation criteria. Additionally, this notice will propose to permit additional usage of aircraft simulators and training devices for the pilot-in-command proficiency requirements of Part 61 for airmen operating large or multiengine turbojet-powered aircraft.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Brian Calendine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8150

RIN: 2120-AA83

1719. STANDARDS FOR APPROVAL FOR HIGH ALTITUDE OPERATION OF SUBSONIC AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposal would review special conditions issued for high altitude operation and consolidate and incorporate these special conditions into Part 25.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 06/00/89

Agency Contact: Gary Lium, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2134

RIN: 2120-AB18

1720. TRANSPORT CATEGORY ROTORCRAFT PERFORMANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This project is to solicit public comment on possible revision and clarification of transport rotorcraft performance and airworthiness standards and to establish minimum gradients of climb during takeoff.

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Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42126
ANPRM Comment Period End	06/06/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim S. Honaker, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5169

RIN: 2120-AB36

1721. MISCELLANEOUS OPERATIONAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958 Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958 Sec. 601; 49 USC 1423 Federal Aviation Act of 1958 Sec. 603; 49 USC 1424 Federal Aviation Act of 1958 Sec. 604

CFR Citation: 14 CFR 121; 14 CFR 91; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This notice will propose to amend the regulations that deal with passenger information, safe passenger egress, child restraint, and emergency equipment. The proposals would prohibit smoking at any time in any location displaying a "no smoking" sign or placard. They would require that passengers wear safety belts at any time a "fasten seatbelts" sign is turned on. They would require that the "fasten seatbelts" sign be turned on during taxi. They would clearly establish a requirement for an assisting means of egress and the stowage of passenger service equipment prior to taxi. They would make the pilot in command or, in the case of operations under Part 121, the certificate holder responsible for informing the passengers that they may be liable for a civil penalty should they fail to comply with FAA regulations. They would require that supplementary child restraint devices be accepted by a certificate holder when requested by the child's attendant.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Gary Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-8096

RIN: 2120-AB45

1722. PART 101 REVIEW PROGRAM

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1372; 49 USC 1421; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522

CFR Citation: 14 CFR 1; 14 CFR 91; 14 CFR 101

Legal Deadline: None

Abstract: This review program is intended to provide full public participation in matters concerning FAA evaluation of the operation of moored balloons, kites, unmanned rockets, and unmanned free balloons. Pending completion of Regulatory Evaluation. NPRM is being drafted.

Timetable:

Action	Date	FR Cite
NPRM	12/03/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/03/90

Additional Information: Part 91 revision also is required to provide comprehensive treatment of manned balloon operations and to clarify the respective applicability and requirements of both Parts 91 and 101 with respect to balloon operations. Regulatory Project ATO-200-84-20R.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120-AB75

1723. ENGINE FUEL AND INDUCTION SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: Advance notice proposed the addition of a new paragraph, FAR Section 33.35(f), to incorporate requirements for the fuel mixture to go to full-rich if a disconnect occurs in the mixture linkage. NPRM would require both the fuel-air mixture control device and throttle control device to move automatically to an acceptable position for continued safe operation in event control linkage of these levers become disconnected.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Mulcahy, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7077

RIN: 2120-AB76

1724. AMEND SECTION 43.17 TO ALLOW FOR MAINTENANCE OF U.S. AERONAUTICAL PRODUCTS IN CANADA IN COMPLIANCE WITH THE U.S.-CANADIAN BILATERAL AIRWORTHINESS AGREEMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 106(g)

CFR Citation: 14 CFR 43

Legal Deadline: None

Abstract: Contemplated activity would revise Section 43.17 to provide for the acceptance of maintenance, alteration, or modification accomplished on U.S.-registered aircraft, other aeronautical products, and components, in Canada, by persons authorized by Transport Canada Airworthiness Group and approved for return to service in accordance with the U.S.-Canadian Bilateral Airworthiness Agreement.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Leo Weston, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-8203

RIN: 2120-AB89

1725. NEW ROTORCRAFT EMERGENCY POWER RATINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1523; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to revise Parts 27 and 29 to set forth qualifications and performance associated with optional 30-second/2-minute one-engine-inoperative (OEI) ratings for rotorcraft.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Formerly entitled Revised One-Engine-Inoperative Ratings for Rotorcraft.

Agency Contact: Ray Twa, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5158

RIN: 2120-AB90

1726. TURBOSHAFT ENGINE ROTOR BURST PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to revise Part 29 to require design features or other provisions to minimize the hazards of failure of high speed rotors used in turbine engines in transport category helicopters.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Former title Turbine Burst Protection for Transport Category Helicopters.

Agency Contact: Mike Mathias, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5123

RIN: 2120-AB91

1727. ANTIBLOCKING DEVICE

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 106(g) (Revised PL 97-449); 14 CFR 11.45; 49 USC 1354(a)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: Mr. John G. Rutty submitted a petition for rulemaking seeking to amend the FAR to require antiblocking and stuck microphone (ABD) relief circuitry operatively associated with aircraft voice communications radios employed in certain high-density air traffic areas. Action pending operational evaluation.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Docket Number 23755. Regulatory Project ATO-200-84-2P

Agency Contact: Richard Kagehiro, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120-AB92

1728. AIRSPACE RECLASSIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1401 to 1405; 49 USC 1421 to 1432; 49 USC 1443; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 1652(e); 49 USC 1655(c); 49 USC 1657(f)

CFR Citation: 14 CFR 1; 14 CFR 11; 14 CFR 65; 14 CFR 71; 14 CFR 75; 14 CFR 91; 14 CFR 93; 14 CFR 101; 14 CFR 103; 14 CFR 105; 14 CFR 121; 14 CFR 127; 14 CFR 137; 14 CFR 159; 14 CFR 171

Legal Deadline: None

Abstract: Users organizations recommended, under the National Airspace Review, to redesign the airspace system to a more simple system similar to the systems in place in Canada and proposed under ICAO recommendations. Adoption of these recommendations was proposed in ANPRM.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/85	50 FR 5046
ANPRM Comment Period End	06/06/85	50 FR 5046
NPRM	06/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 10/03/88

Additional Information: Docket number 24458.

Regulatory Project ATO-200-84-7R. This action incorporated RIN 2120-AC57 and will incorporate RINS 2120-AB02 and 2120-AB93.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120-AB95

1729. TYPE CERTIFICATION BASIS FOR PRODUCT TYPE DESIGN CHANGE

Significance: Nonsignificant

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Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 42 USC 1857f-10; 42 USC 4321 et seq; EO 11514; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: Contemplated action would amend the Federal Aviation Regulations governing the certification procedures applicable to the type design approval of aircraft, aircraft engines, and propellers.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Lyle Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9568

RIN: 2120–AC05

1730. PART 23 AIRWORTHINESS REVIEW, NOTICE NO. 5 (EQUIPMENT, SYSTEMS, AND INSTALLATION)

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This proposed amendment to Part 23 would allow certification of small airplanes with systems critical to safe flight that are not now approved without special conditions, exemptions, or equivalent safety findings.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This notice results from a regulatory review of Part 23 conducted in late 1984.

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 926-6930

RIN: 2120–AC14

1731. PART 23 AIRWORTHINESS REVIEW, NOTICE NO. 2

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec 313; 49 USC 1421 Federal Aviation Act of 1958, Sec 601; 49 USC 1423 Federal Aviation Act of 1958, Sec 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This project will propose design requirements applicable to advancements in technology being incorporated into current designs, allowing certification of spin resistant airplanes, reducing the regulatory burden in showing compliance with some requirements, and providing requirements for new technology that is being utilized in the development of small airplanes.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9276
NPRM Comment Period End	07/05/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/89 (54 FR 9276)

Additional Information: This notice results from a regulatory review of Part 23 conducted in late 1984.

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 426-6930

RIN: 2120–AC15

1732. REGULATORY CHANGES BASED ON EUROPEAN JOINT AIRWORTHINESS REQUIREMENTS PROPOSAL

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29; 14 CFR 27

Legal Deadline: None

Abstract: This action would propose changes to Parts 27 and 29, based primarily on proposals supported by the European Joint Airworthiness Requirements group. The proposed changes would affect systems, propulsion, and airframe components, and would introduce safety improvements, clarify existing regulations, and standardize terminology, in an effort to standardize airworthiness rules as much as possible between the United States and Europe, for the type certification of transport category rotorcraft.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Additional Information: Former title Rotorcraft Certification Requirements; Coordination with European Airworthiness Authorities Steering Committee (AASC).

Agency Contact: R. T. Weaver, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5111

RIN: 2120–AC27

1733. MISCELLANEOUS CHANGES TO EMERGENCY EVACUATION DEMONSTRATION PROCEDURES, EXIT HANDLE ILLUMINATION, AND PA HANDSETS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: Notice will propose to modify the procedures for conducting an emergency evacuation demonstration by requiring that the flight-crew take no active role in the demonstration and changing the age/sex distribution requirement for demonstration

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participants. This notice also proposes to standardize the illumination requirements for the handles of the various types of passenger emergency exits. In addition, it is proposed to add a requirement for a "push to talk" switch to the public address system. These proposals are intended to enhance the provisions of transport category airplanes for egress of occupants during emergency conditions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Tiangsing, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2121

RIN: 2120–AC45

1734. GLOBAL POSITIONING SYSTEM USE IN TERMINAL CONTROL AREAS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.90

Legal Deadline: None

Abstract: Adoption of this recommendation would allow aircraft operating in a Group I or II Terminal Control Area to be equipped with Global Position System (GPS), Very High Frequency Omnirange Station (VOR) or Tactical Air Navigation (TACAN) equipment.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983)

Regulatory Project No: ATO-200-85-17R

Agency Contact: A. Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AC54

1735. NON-FEDERAL AIR TRAFFIC CONTROL TOWERS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321; 49 USC 106(g) (Revised PL 97-449, January 12, 1983); ...

CFR Citation: 14 CFR 91; 14 CFR 105

Legal Deadline: None

Abstract: The adoption of this recommendation would allow review, study, and proposal of changes to Parts 91 and 105 of the regulations. This proposal would define the responsibilities of non-Federal air-traffic control towers as to compliance with FAA air-traffic control towers.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/15/89

Additional Information: Regulatory Project No. ATO-200-87-14R

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8781

RIN: 2120–AC59

1736. PROPOSED REVISION OF PART 93, SUBPART O(JAX)

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g)(Revised PL 97-449, January 12, 1983)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: The purpose of this proposal is to lessen the burden on the flying public by reducing the lateral size of the existing Jacksonville, Florida, Navy Airport Traffic Area.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/01/89

Additional Information: Regulatory Project No. ATO-200-87-15R

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AC65

1737. SHOULDER HARNESS FOR EACH SEAT IN PARTS 27 AND 29 ROTORCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to amend Parts 27 and 29 to require a shoulder harness for each seat in rotorcraft manufactured after December 31, 1988.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/00/89

Agency Contact: James Major, Department of Transportation, Federal Aviation Administration, PO Box 1689, Fort Worth, TX 79193-0111, 817 624-5117

RIN: 2120–AC67

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1738. ROTORCRAFT CRASH RESISTANT FUEL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to implement requirements in Parts 27 and 29 for crash-resistant fuel systems to reduce injuries or fatalities resulting from ignition of flammable fluids following an otherwise survivable crash of a rotorcraft.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Formerly entitled Fuel System Crashworthiness.

Agency Contact: Mike Mathias, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5118

RIN: 2120–AC88

1739. ELECTRICAL AND ELECTRONIC SYSTEMS LIGHTNING PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend Part 25 of the Federal Aviation Regulations (FAR) to add a new standard for transport category airplanes which would provide lightning protection requirements for installed systems. This proposal is the result of an increasing concern for the vulnerability of electronic systems to the indirect effects of lightning, and is to promulgate specific lightning protection requirements for systems which perform essential and critical functions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/89

Agency Contact: Gene Vandermolen, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2114

RIN: 2120–AC81

1740. LANDING GEAR AURAL WARNING

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 125

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplane landing gear aural warning systems and the operating rules for air carrier and air taxi operators of transport airplanes by updating the present requirements to make them more functionally oriented. This proposal is prompted by reports of nuisance or inappropriate aural warnings which have occurred in modern transport airplanes when strictly adhering to the present regulations. It is intended to enhance flight safety while decreasing the regulatory burden associated with making an equivalent level of safety finding or exemption, for those systems that do not meet the existing requirements. This proposal will not affect existing certified airplanes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gene Vandermolen, Flight Test and Systems Branch, Transport Standards Staff, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2114

RIN: 2120–AC82

1741. ● KETCHIKAN INTERNATIONAL AIRPORT TRAFFIC RULE, PART 93, SUBPART M

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g) (Revised PL 97-449, January 12, 1983)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposes to eliminate the exclusion of airspace below 600 feet mean sea level and to require reporting for traffic advisories by all pilots flying radio-equipped aircraft within the Ketchikan International Airport control zone (regardless of whether the control zone is in effect or not).

Timetable:

Action	Date	FR Cite
NPRM	06/12/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Regulatory Project Number: ATO-200-88-8R.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8783

RIN: 2120–AC90

1742. ● AIR TRAFFIC CONTROL CLEARANCE READBACK

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g) (Revised PL 97-449, January 12, 1983)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would require pilots to read back all clearances dealing with holding short, taking off, crossing, and proceeding onto a runway.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Regulatory Project Number: ATO-200-88-17R.

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8783

RIN: 2120–AC91

1743. ● VERY HIGH FREQUENCY OMNIRANGE STATION (VOR) FEDERAL AIRWAY NO. 16, PART 93, SUBPART E

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g) (Revised PL 97-449, January 12, 1983)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: Subpart E was implemented to segregate aircraft departing/arriving Luke Air Force Base Federal Airway Victor 16 (V-16) from uncontrolled aircraft operating along that airway. The United States Air Force has recently established a military approach control unit at Luke Air Force Base. Petitioner believes there is no longer a valid reason to retain this part of the regulation since the Luke Air Force Base approach control exercises control over the subject airspace and is aware of all activity in that area. Petitioner believes that safety has, therefore, been enhanced. The NPRM will invite comments.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Regulatory Project Number: ATO-200-88-3R.

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8483

RIN: 2120–AC92

1744. ● LOCATION OF MARKS ON FIXED-WING AIRCRAFT AND AIRSHIPS

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1401; 49 USC 1402; 49 USC 1421; 49 USC 1423; 49 USC 1522; 49 USC 106(g), (Revised PL 97-449, January 12, 1983)

CFR Citation: 14 CFR 45

Legal Deadline: None

Abstract: This notice proposes to update the regulations for the location of nationality and registration marks on fixed-wing aircraft and airships. This proposal would modify the requirements for the location of marks on fixed-wing aircraft and airships with configurations that are not addressed by the existing regulations. These amendments are needed because existing rules cannot be applied to unconventional aircraft/airship configurations, and the proposed rule would allow for alternative locations for nationally and registration marking

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Earl Seabrooks, Aircraft Manufacturing Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9540

RIN: 2120–AC99

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Final Rule Stage

1745. + COMMUTER CATEGORY AIRPLANES: COCKPIT VOICE RECORDER (CVR) AND FLIGHT DATA RECORDER (FDR) REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355(a); 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; 49 USC 1427; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: The FAA amends its regulations to require digital flight data recorders and cockpit voice recorders (CVRs) to be installed in a broad category of airplanes and rotorcraft operated by air carriers and commuters, as well as in selected aircraft operated in general aviation. The amendments are in response to legislation which mandates the FAA to amend its flight recorder and CVR requirements in accordance with recommendations from the National Transportation Safety Board (NTSB). The intent of this rulemaking is to provide more information to accident investigators in determining the causes of accidents and the measures needed to correct the causes. In addition, the FAA also requests additional comments regarding the general aviation requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/12/88	53 FR 4314
NPRM Comment Period End	03/28/88	53 FR 4314
Final Action	07/11/88	53 FR 26134
Correction to Final Action	08/16/88	53 FR 30838
Correction to Final Action	08/16/88	53 FR 30906
Final Action	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 07/11/88 (53 FR 26134)

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Additional Information: Additional comments were invited through October 11, 1988.

Agency Contact: Frank Rock, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9567

RIN: 2120–AC48

1746. + CERTIFICATION OF RECREATIONAL PILOTS AND ANNUAL FLIGHT REVIEW

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 Federal Aviation Act of 1958, Sec. 602

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This final rule would establish a recreational pilot certificate which would allow a student pilot to receive certification to fly certain aircraft after fewer hours of training than are currently required of a private pilot applicant. The recreational pilot certificate is intended to be a low-cost alternative to a private pilot certificate for persons interested in flying basic, experimental, or homebuilt aircraft in close proximity to a home airport that is not in airspace in which communication with an air traffic control facility is required. The rule would also establish an annual flight review requirement for noninstrument-rated private pilots with fewer than 400 flight hours. This rulemaking is significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/25/85	50 FR 26286
NPRM Comment Period End	09/24/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/25/85 (50 FR 26286)

Additional Information: Docket No. 24695

Agency Contact: Edna French, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3844

RIN: 2120–AA54

1747. + TRANSPORT CATEGORY ROTORCRAFT STRUCTURAL FATIGUE EVALUATION

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This amendment would revise Section 29.571 to add flaw tolerance to the fatigue evaluation of rotorcraft structure. This rulemaking is considered significant because it involves important safety issues.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/83	48 FR 772
ANPRM Comment Period End	04/18/83	48 FR 772
NPRM	09/22/86	51 FR 33704
NPRM Comment Period End	04/03/87	51 FR 45343
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Draft Regulatory Evaluation 09/22/86 (51 FR 33704); Regulatory Evaluation 04/00/89

Additional Information: Docket No. 23485. Public meeting held on February 8, 1983. This project was formerly entitled Rotorcraft Structural Fatigue Including Tolerance to Flaws.

Agency Contact: Robert T. Weaver, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5111

RIN: 2120–AA84

1748. + OCCUPANT RESTRAINT IN NORMAL AND TRANSPORT CATEGORY ROTORCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1344 Federal Aviation Act of 1958, Sec. 303; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604; 49 USC 1425 Federal Aviation Act of 1958, Sec. 605; 49 USC 1428 Federal Aviation Act of 1958, Sec. 608; 49 USC 1429 Federal Aviation Act of 1958, Sec. 609; 49 USC 1430 Federal Aviation Act of 1958, Sec. 810; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to amend the rotorcraft airworthiness standards in Parts 27 and 29 of the FAR. These proposals would add two dynamic crash-impact design requirement conditions for seat and occupant restraint systems, increase the static design load factors for seating devices and items of mass in the cabin or adjacent to the cabin as prescribed, prescribe a shoulder harness for each occupant, and add human impact injury criteria for the dynamic crash-impact conditions. These proposals are intended to significantly improve occupant protection levels in a survivable emergency landing impact. This rulemaking is significant because of the obvious safety improvements in crash situations, but also because of industry and operator concerns as to incurred costs due to increased weight and design effort.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20938
NPRM Comment Period End	12/30/87	
Comment period reopened to 05/06/88	03/08/88	53 FR 7479

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 06/03/87 (52 FR 20938)

Agency Contact: James Major, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5117

RIN: 2120–AB35

DOT—FAA — Final Rule Stage

1749. + ELIMINATION OF AIRPORT DELAYS

Significance: Agency Priority

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 14 CFR 11.49

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This proposed rule is designed to alleviate increased delays throughout the air-traffic system. It is significant because of its involvement with important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	08/20/84	49 FR 33082
NPRM Comment Period End	09/04/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 08/20/84 (49 FR 33082)

Additional Information: Docket No. 24206.

Agency Contact: David L. Bennett, Manager, Airspace and Air Traffic Law Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3491

RIN: 2120–AB42

1750. + PROPOSED LIMITS ON THE GROWTH OF NOISE FROM CERTAIN AIRPLANES AND AIRPLANE TYPES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431(b) Federal Aviation Act of 1958, Sec. 811(b); 49 USC 1421 et seq National Environmental Policy Act, Title I; EO 11514; 49 USC 106(g)

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None

Abstract: This proposal would revise both noise certification standards and operating noise rules to ensure that aircraft certificated within certain broad noise groups or "stages" remain within those stages. Those proposals would apply to transport category large aircraft and to turbojet powered aircraft regardless of category. The proposed rule would prohibit modification of both individual airplanes and whole airplane types where those modifications would result in the growth of noise beyond the limits of the airplane's current stage. While the proposal would not restrict airplane changes that result in lower noise, it would in some cases prohibit remodification of those aircraft to return to their original noise levels. The FAA believes that these rules are necessary to correct a defect in the current regulations and to protect airports, aircraft operators, and the public from the effects of that defect. This rulemaking is significant because of intense public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/17/87	52 FR 23144
NPRM Comment Period End	09/14/87	
Final Action	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/17/87 (52 FR 23144)

Agency Contact: Steven Albersheim, Environmental Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120–AB50

1751. + INDEPENDENT POWER SOURCE FOR PUBLIC ADDRESS SYSTEM IN TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action would amend the regulations to require an independent power source for the public address (PA) system in certain transport category airplanes. The requirement would be applicable to future type certification of airplanes that are required to have PA systems for use in air carrier service and to such airplanes manufactured after a specified date, regardless of the date of application for type certificate. This rulemaking is considered significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	05/27/86	51 FR 19140
NPRM Comment Period End	11/24/86	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/27/86 (51 FR 19140)

Additional Information: Docket No. 24995

Agency Contact: Robert Hall, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2143

RIN: 2120–AB77

1752. + TRANSPONDER REQUIREMENTS IN COASTAL AIR DEFENSE IDENTIFICATION ZONES (ADIZ)

Significance: Agency Priority

Legal Authority: 49 USC 1348; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 106(g) Revised Pub L 97-449, January 12, 1983

CFR Citation: 14 CFR 99

Legal Deadline: None

Abstract: This proposal would require aircraft to have an operating transponder when operating into, within, or out of the United States through coastal air defense identification zones (ADIZ). This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/07/86	51 FR 4756
ANPRM Comment Period End	04/10/86	
NPRM	10/12/88	53 FR 39846

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Action	Date	FR Cite
NPRM Comment Period End	11/14/88	
Final Action	08/28/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 10/12/88 (53 FR 39846)

Additional Information: Regulatory Project ATO-200-85-8R (Docket # 24903)

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AB09

1753. + LOCATION OF PASSENGER EMERGENCY EXITS IN TRANSPORT-CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21; 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This notice proposes to limit increases in passenger emergency escape path distance by establishing a new standard limiting the distance any passenger seat may be from the nearest emergency exit and the distance any exit may be from an adjacent exit. The proposal would make the standard applicable to type certification of new transport category airplane models, regardless of the date of original application for type certificate, and to airplanes operating under Part 121, except those already in operation. The standard would be applicable for issuance of standard airworthiness certificates for airplanes manufactured after the NPRM date. The proposal is a result of the recent public Emergency Evacuation Task Force and is intended to improve the likelihood of passengers safely escaping an airplane during an emergency evacuation; for this reason the rulemaking is considered significant.

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 39190
NPRM Comment Period End	12/21/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Draft Regulatory Evaluation 10/20/87 (52 FR 39190)

Agency Contact: Arthur Hayes, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9937

RIN: 2120–AC29

1754. + DESIGN STANDARDS FOR FUEL-TANK ACCESS PANELS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449; 49 CFR 1.47(a)

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This notice proposes to require that the fuel-tank access panels of transport category airplanes be designed to minimize penetration by likely foreign objects and be fire resistant. This proposed change is based on service experience and is intended to reduce the hazards associated with the loss of access panels. This notice also proposes to require that the panels of all turbine powered airplanes operated in air carrier service after a specified date meet these standards. This rulemaking is considered significant because it involves an important crashworthiness safety issue.

Timetable:

Action	Date	FR Cite
NPRM	05/23/88	53 FR 18526
NPRM Comment Period End	09/17/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/23/88 (53 FR 18526)

Agency Contact: Iven Connally, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2120

RIN: 2120–AC58

1755. + IMPROVED SURVIVAL EQUIPMENT FOR INADVERTENT WATER LANDINGS

Significance: Agency Priority

Legal Authority: 49 USC 106(g); 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1374(d); 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, June 28, 1988.
PL 100-223 Sec 303

Abstract: This notice proposes new requirements for water-survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to US-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This proposal is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The proposed requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24890)

Agency Contact: Richard Nelson, Department of Transportation, Federal Aviation Administration, Office of Air Worthiness, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9574

RIN: 2120–AC72

DOT—FAA

Final Rule Stage

1756. + RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, April 28, 1988.
PL 100-223 Sec 303

Abstract: The FAA proposes to require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways - Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/88 (53 FR 17650)

Additional Information: Docket 25611

Agency Contact: Arthur Hayes, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, Dc 20591, 202 267-9937

RIN: 2120–AC84

1757. ● + MINIMUM EQUIPMENT LIST (MEL) REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposes to amend Part 125 and Part 135 requirements for the use of a Minimum Equipment List (MEL). It also proposes to amend the Part 121 requirements for the use of a MEL to make them consistent with the amended Part 125 and Part 135 MEL requirements. Finally, it provides for the development and use of MELs for single-engine aircraft operated under Part 135. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3320
NPRM Comment Period End	03/24/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 01/23/89 (54 FR 3320)

Agency Contact: Marlene G. Livack, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, 202 267-3753

RIN: 2120–AC86

1758. ● + HIGH-DENSITY-TRAFFIC AIRPORTS SLOT ALLOCATION AND TRANSFER METHODS

Significance: Agency Priority

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g) (Revised PL 97-449, January 12, 1983)

CFR Citation: 14 CFR 93

Legal Deadline: Other, Statutory, June 30, 1989.
As mandated by PL 100-457.

Abstract: This notice proposes to amend the Federal Aviation Regulations relating to the allocation and transfer of air carrier and commuter operator slots (i.e., instrument flight rules takeoff and landing reservations) at Kennedy International Airport, LaGuardia Airport, O'Hare International Airport, and Washington National Airport. This proposal would increase the percentage of use required in order to retain allocated slots in certain circumstances. The proposed amendment would also permit withdrawal of slots, for international and other purposes, from carriers with fewer than 8 slots at an airport if the slots were not used by that carrier. This notice also requests information on the need for further changes to the slot allocation and transfer rules in accordance with recent legislation. This rulemaking is significant because of Congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	12/22/88	53 FR 51628
NPRM Correction	01/10/89	54 FR 831
NPRM Correction	01/23/89	54 FR 3079
NPRM Comment Period End	02/06/89	
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/22/88 (53 FR 51628)

Agency Contact: David L. Bennett, Airspace and Environmental Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-3491

RIN: 2120–AC96

1759. REVISION OF PART 91

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1402 Federal Aviation Act of 1958, Sec. 502; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 to 1430 Fed. Aviation Act of 1958, Secs. 602 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 91

Legal Deadline: None

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Abstract: This proposed amendment reorganizes and realigns the general operating and flight rules to make them more understandable and easier to use. Also, several changes are being made to provide more flexibility for certain operations. These changes resulted from comments received from the general public and aviation industry in response to a request for specific comments to help identify substantive areas needing review.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/79	44 FR 4571
NPRM	09/10/81	46 FR 45256
NPRM	03/20/85	50 FR 11282
NPRM Comment Period End	07/18/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/10/81 (46 FR 45256)

Additional Information: Docket No. 18334.

Agency Contact: Marion Clemens or Edna French, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8150

RIN: 2120–AA13

1760. ROTORCRAFT REGULATORY REVIEW PROGRAM NOTICE NO. 4

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This is Notice 4 of a series of notices issued as part of the FAA's comprehensive Rotorcraft Regulatory Review Program. This notice contains proposals which would amend and update the airframe and related equipment requirements in Parts 27 and 29 of the Federal Aviation Regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/14/88	53 FR 9190
NPRM Comment Period End	09/19/88	53 FR 9190

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 03/14/88 (53 FR 9190)

Agency Contact: James Major, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5117

RIN: 2120–AA29

1761. TRANSPORT CATEGORY AIRPLANE AIRWORTHINESS STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards contained in Part 25 applicable to transport category airplanes to: (1) relieve the regulatory burden wherever possible, (2) ensure the airworthiness standards are practicable for the light transport airplanes common to regional air carrier operation, and (3) update Part 25 for clarity and accuracy.

Timetable:

Action	Date	FR Cite
NPRM	12/03/84	49 FR 47358
NPRM Comment Period End	04/04/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 12/03/84 (49 FR 47358)

Additional Information: Docket No. 24344

Agency Contact: Gary Killion, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2112

RIN: 2120–AA47

1762. MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1352 Federal Aviation Act of 1958, Sec. 311; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421 to 1430 Fed Aviation Act of 1958, Secs. 601 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend various sections of the regulations. Some of the amendments are clarifying or editorial in nature or correct improper or obsolete references. Others relax certain existing requirements. Others allow issuance of special flight permits for an additional purpose, relax a requirement for passenger information signs, and eliminate the bulk erasure device on cockpit voice recorders. This action is in response to numerous complaints, suggestions, and petitions for exemption concerning several regulatory requirements received from users of the National Airspace System. These users state that these sections contain obsolete references and vague, complex, and inadequate language and that, in some instances, the cost of compliance is not justified by the benefits derived.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	48 FR 45214

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/03/83 (48 FR 45214)

Additional Information: Docket No. 23781.

Agency Contact: Jean Casciano, Department of Transportation, Federal

Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9683

RIN: 2120–AA50

1763. FATIGUE REQUIREMENTS FOR SMALL AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would provide for fatigue integrity of small airplane empennage structure where present Part 23 fatigue requirements apply only to the wing.

Timetable:

Action	Date	FR Cite
NPRM	09/22/86	51 FR 33700
NPRM Comment Period End	01/21/87	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/22/86 (51 FR 33700)

Additional Information: The FAA is evaluating additional data obtained from NASA.

This project was formerly titled Amend Part 23 to Include Empennage Fatigue Requirements.

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 426-6930

RIN: 2120–AA58

1764. NATIONAL AIRSPACE REVIEW (NAR): TERMINAL AIRSPACE TASK GROUP RECOMMENDATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a)

CFR Citation: 14 CFR 1; 14 CFR 71; 14 CFR 91

Legal Deadline: None

Abstract: This project would: (1) reclassify terminal control areas into one category; (2) apply the operating requirements of the current Group I TCA to Group II TCA's; (3) require student pilots to obtain a logbook endorsement from a certified instructor pilot prior to operating in any TCA; (4) replace the term "airport traffic area" with the term "control tower area;" (5) apply the two-way radio communications requirements of Section 91.87 for operations at an airport with an operating control tower operated by other entities; (6) adopt a new definition for airport traffic areas (control tower areas); (7) redefine control zones with a standard ceiling of 3,000 feet AGL; and (8) use nautical miles versus statute miles to describe certain terminal airspace designations.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/85	50 FR 5055
ANPRM Comment Period End	06/06/85	50 FR 5055
To be consolidated	06/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Regulatory Project ATO-200-83-17R (Docket # 24455). To be consolidated in RIN: 2120-AB95.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AB02

1765. NIGHTTIME VFR WEATHER MINIMUMS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1353; 49 USC 1354; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This proposal will increase the flight visibility and cloud clearance minimums for night operations in uncontrolled airspace. The minimum flight visibility will increase from one mile to three miles.

Timetable:

Action	Date	FR Cite
NPRM	07/23/85	50 FR 30124
NPRM Comment Period End	09/23/85	50 FR 30124
Final Action	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/23/85 (50 FR 30124)

Additional Information: LEGAL AUTHORITY CONT: 49 USC 1427; 48 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121; 49 USC 2122; 49 USC 2123; 49 USC 2124; 49 USC 2125; 42 USC 4321 et seq; EO 11514, 49 USC 106(a), Revised Pub. L. 97-449, January 12, 1983, Regulatory Project ATO-200-83-16R (Docket # 24722)

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AB04

1766. AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES, ELECTRICAL AND ELECTRONIC ENGINE CONTROL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This project proposed to add a new Section 33.28 to incorporate requirements for electronic controls for aircraft engines.

Timetable:

Action	Date	FR Cite
NPRM	02/14/85	50 FR 6186
NPRM Comment Period End	07/29/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

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Analysis: Regulatory Evaluation 02/14/85 (50 FR 6186)

Agency Contact: Cosimo J. Bosco, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 270-2492

RIN: 2120–AB06

1767. STANDARDS FOR APPROVAL OF A REDUCED V1 METHODOLOGY FOR TAKEOFF ON WET AND CONTAMINATED RUNWAYS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a) to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action proposes amendments to Parts 25, 121, and 135 of the Federal Aviation Regulations (FAR) to add new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V1) methodology for takeoff on wet and contaminated runways.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45578
NPRM Comment Period End	03/30/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/30/87 (52 FR 45578)

Additional Information: Docket 25471

Agency Contact: Bill Boxwell, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2111

RIN: 2120–AB17

1768. LOW-FUEL-QUANTITY ALERTING SYSTEM

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action contemplates possible revision to FAR 25.1305 to include a requirement to install a means to alert the flightcrew of potentially unsafe low fuel.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/12/87 (52 FR 17890)

Additional Information: Docket No 25213.

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2135

RIN: 2120–AB46

1769. CONSTRUCTION, ALTERATION, ACTIVATION, AND DEACTIVATION OF AIRPORTS

Significance: Nonsignificant

Legal Authority: 49 USC 1350; 49 USC 1354(a); 49 USC 1355

CFR Citation: 14 CFR 157

Legal Deadline: None

Abstract: This notice proposes to amend the FAR Notice of Construction, Alteration, Activation, and Deactivation of Airports, in response to a recommendation of a National Airspace Review (NAR) task group and an FAA-initiated review of this regulation. The FAA believes that the proposed changes will enhance the safety and efficiency of the use of airspace and the safety of persons and property on the surface.

Timetable:

Action	Date	FR Cite
NPRM	10/04/88	53 FR 39062
NPRM Comment Period End	01/03/89	
Final Action	09/18/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/04/88 (53 FR 39062)

Additional Information: Regulatory Project ATO-200-86-13R

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AB74

1770. HELICOPTER INSTRUMENT FLIGHT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project revises Appendix B of Parts 27 and 29 to permit IFR operations at airspeeds below the normal minimum instrument airspeed during approach and landing.

Timetable:

Action	Date	FR Cite
NPRM	06/12/86	51 FR 21488
NPRM Comment Period End	04/03/87	51 FR 45343

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/12/86 (51 FR 21488)

Additional Information: The FAA has determined that adoption of this proposal will not result in an economic burden on the public. It is a relieving rule that removes a minimum speed limitation when certain optional performance standards are met.

Agency Contact: Jim S. Honaker, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5109

RIN: 2120–AB87

1771. CONTROLLED AIR SPACE DESIGNATIONS IN INTERNATIONAL AIR SPACE

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) F.A. Act, Section 307(a); 49 USC 1354(a) F.A. Act, Section 313(a)

CFR Citation: 14 CFR 71; 14 CFR 75

Legal Deadline: None

Abstract: User organizations recommended under the National Airspace Review to simplify the classification of offshore airspace designations.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/85	50 FR 30798
ANPRM, Comment Period End	10/28/85	50 FR 30798
To be consolidated	06/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 07/29/85 (50 FR 30798)

Additional Information: Regulatory Project ATO-200-84-19R/ATO-200-84-7R. This action will be consolidated into RIN 2120-AB95.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9246

RIN: 2120–AB93

1772. PASSENGER-CARRYING AND CARGO AIR OPERATIONS FOR COMPENSATION OR HIRE

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 1485; 49 USC 106(g)

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: The FAA proposes to update and clarify the certification and operations specifications requirements for persons who operate aircraft for compensation or hire by (1) codifying the Special Federal Aviation Regulation pertaining to the certification requirements and (2) consolidating into one part the certification and operations specifications requirements for persons who operate under Part 121 or Part 135. The proposal responds to the termination of the Civil Aeronautics Board (CAB) and to changes in the air transportation industry since the Airline Deregulation Act of 1978. The proposal would provide a guide enabling persons who operate aircraft for compensation or hire to determine the certification and operations requirements with which they must comply.

Timetable:

Action	Date	FR Cite
NPRM	10/12/88	53 FR 39852
NPRM Comment Period End	01/10/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/12/88 (53 FR 39852)

Agency Contact: Michael J. Coffey, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 287-3752

RIN: 2120–AC08

1773. IMPROVED STRUCTURAL REQUIREMENTS FOR PRESSURIZED CABINS AND COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449; 49 CFR 1.47(a)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: Notice proposes to amend Part 25 of the Federal Aviation Regulations (FAR) to upgrade the structural requirements for transport category airplane pressurized cabins by (1) amending the criteria for evaluation of the secondary effects of openings in the pressure vessel, and (2) extending the area of consideration to include openings anywhere within the pressure vessel. The required opening sizes to be considered would not be changed. The proposal is the result of an FAA review of the pressurized cabin load requirements and is intended to make the pressurized cabin load requirements less design-dependent and more objective. It would require evaluation of openings in any pressurized compartment and examination of the effects of differential pressure loads on any critical structure inside or outside of the pressurized cabin.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8742
Correction to NPRM	05/19/88	53 FR 18022
NPRM Comment Period End	07/14/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/16/88 (53 FR 8742)

Agency Contact: James Haynes, Policy and Procedures Branch, Transport Standards Staff, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South C-68966, Seattle, WA 98168, 206 431-2113

RIN: 2120–AC44

1774. FUEL VENTING AND EXHAUST-EMISSION REQUIREMENTS FOR TURBINE-ENGINE POWERED AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1341(a); 49 USC 106(g)(Revised, PL 97-449, Jan. 12, 1983); 49 USC 1343(d); 49 USC 1348; 49 USC 1354(a); 49 USC 1401 to 1405; 49 USC 1421 to 1431; 49 USC 1481; 49 USC 1502

CFR Citation: 14 CFR 11; 14 CFR 21; 14 CFR 23; 14 CFR 25; 14 CFR 45; 14 CFR 91

Legal Deadline: None

Abstract: Special Federal Aviation Regulation (SFAR) 27 prescribes standards and test procedures for fuel venting and exhaust emissions for the turbine powered airplanes. This proposal would replace SFAR 27, as amended through SFAR 27-6, with a new Part 34 of the Federal Aviation Regulations which will include all of the standards and test procedures of 40

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CFR 87 previously included in SFAR 27. This will codify in a single part all of the applicable requirements of 40 CFR 87, Control of Air Pollution from Aircraft and Aircraft Engines; Emissions Standards and Test Procedures, as amended, December 30, 1982, and insert requirements to comply with Part 34 in the other affected Parts where applicable.

Timetable:

Action	Date	FR Cite
NPRM	05/23/88	53 FR 18530
NPRM Comment Period End	08/22/88	
Final Action	11/09/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/23/88 (53 FR 18530)

Agency Contact: Harvey H. Van Wyen, Manager, Research and Engineering Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3558

RIN: 2120–AC82

1775. REALIGNMENT OF RESTRICTED AREAS IN THE EGLIN AFB AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1348(a); EO 10854; 49 USC 106(g)(Revised PL 97-449, January 12, 1983); 14 CFR 11.69; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 1510; 49 USC 1522; 49 USC 2402; 49 USC 2424

CFR Citation: 14 CFR 73; 14 CFR 93

Legal Deadline: None

Abstract: This revision proposes to realign restricted areas in the Eglin AFB area to increase the availability of airspace for civil users. In addition, to include certain portions of the realigned restricted areas, when not active in Section 93.81, Special Air Traffic Rule Airspace.

Timetable:

Action	Date	FR Cite
NPRM	01/06/88	53 FR 517
NPRM Comment Period End	02/19/88	53 FR 517
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/06/88 (53 FR 517)

Additional Information: Regulatory Project No. ATO-200-87-11P

Agency Contact: Paul Gallant/Wayne Pierce, Air Traffic Control Specialists, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9253

RIN: 2120–AC63

1776. INDEMNIFICATION OF PUBLISHERS OF AERONAUTICAL CHARTS AND MAPS

Significance: Nonsignificant

Legal Authority: 49 USC 1519

CFR Citation: 49 CFR 15.10; 49 CFR 15.11; 49 CFR 15.12; 49 CFR 15.13; 49 CFR 15.14; 49 CFR 15.15; 49 CFR 15.16; 49 CFR 15.17

Legal Deadline: None

Abstract: This proposed action would revise 49 USC 1519 to provide for the filing of indemnity claims by publishers of aeronautical charts and maps, who are not presently encompassed in that section, provided they meet certain specified conditions.

Timetable:

Action	Date	FR Cite
NPRM	08/18/88	53 FR 31608
NPRM Comment Period End	10/03/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 08/18/88 (53 FR 31608)

Additional Information: This action is in response to an amendment of 49 USC 1519, which added a new section 1118 to the Federal Aviation Act of 1978, as amended.

Agency Contact: James S. Dillman, Assistant Chief Counsel, Litigation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3661

RIN: 2120–AC73

1777. COMMUTER CATEGORY - RESPONSE TO FINAL RULE COMMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would respond to and resolve comments received in response to the final rule, request for comments, which was published January 15, 1987 (52 FR 1806).

Timetable:

Action	Date	FR Cite
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Earsa L. Tanksley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SWtion, Washington, DC 20591, 816 426-6930

RIN: 2120–AC77

1778. PART 95 INSTRUMENT FLIGHT RULES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348 F.A. Act of 1958, Sec. 307; 49 USC 1510 F.A. Act of 1958, Sec. 1110

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2500. 05/00/89 - 05/00/90.

Timetable:

Action	Date	FR Cite
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Funai, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8277

RIN: 2120–AA63

1779. AIRWORTHINESS DIRECTIVES

Significance: Routine and Frequent

Legal Authority: 49 USC 1354(a) F.A. Act, Sec. 313(a); 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1423 F.A. Act, Sec. 603; 49 USC 1431(b) F.A. Act, Sec. 611(b)

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently in order to correct known or expected safety problems on type certificated products. Total actions expected--300. 05/00/89 - 05/00/90.

Timetable:

Action	Date	FR Cite
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jack McGrath, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9580

RIN: 2120–AA64

1780. STANDARD INSTRUMENT APPROACH PROCEDURES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348 F.A. Act, Sec. 307; 49 USC 1354(a) F.A. Act, Sec. 313(a); 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1510 F.A. Act, Sec. 1110

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2800. 05/00/89 - 05/00/90.

Timetable:

Action	Date	FR Cite
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Funai, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8277

RIN: 2120–AA65

1781. AIRSPACE ACTIONS

Significance: Routine and Frequent

Legal Authority: 49 USC 1348(a) F.A. Act, Sec. 307(a); 49 USC 1354(a) F.A. Act, Sec. 313(a)

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current.

Timetable:

Action	Date	FR Cite
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Huff, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3075

RIN: 2120–AA66

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions
Federal Aviation Administration (FAA)

1782. + LOW-ALTITUDE WINDSHEAR EQUIPMENT REQUIREMENTS FOR TAKEOFFS/LANDINGS OF TRANSPORT CATEGORY AIRPLANES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 135; 14 CFR 121

Legal Deadline: None

Abstract: The FAA amends Part 121 to require airborne low-altitude windshear warning and flight guidance equipment in airplanes and Parts 121 and 135 to require windshear training for flight crewmembers. The National Transportation Safety Board investigations show that low-altitude windshear has been a prime cause of air carrier accidents. This rule is expected to reduce windshear related accidents by training pilots in avoidance and escape techniques and by providing a low-altitude windshear warning system with flight guidance equipment in certain airplanes to increase the margin of safety if windshear is inadvertently encountered.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/79	44 FR 25867
ANPRM Comment Period End	08/03/79	
NPRM	06/01/87	52 FR 20560
NPRM Comment Period End	09/28/87	
Final Action	09/27/88	53 FR 37688
Correction to Final Rule	10/14/88	53 FR 40316
Final Action Effective	01/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 06/01/87 (52 FR 20560)

Additional Information: Docket No. 19110. Following the initial announcement of this proposal, it was determined that a regulatory analysis would not be required; however, an evaluation has been made and docketed.

Certain compliance and equipment requirement dates are January 2, 1991.

Agency Contact: Gary Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8096

RIN: 2120–AA01

1783. + ANTI-DRUG PROGRAM FOR PERSONNEL ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Significance: Regulatory Program

Legal Authority: 49 USC 1354; 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

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CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This final rule sets forth regulations to require domestic and supplemental air carriers, commercial operators of large aircraft, air taxi and commuter operators, certain commercial operators, certain contractors to these operators, and air traffic control facilities not operated by the FAA or the U.S. military to have an anti-drug program for employees who perform sensitive safety- or security-related functions. A special provision has been added to the rule that provides that the final rule does not apply to any person where compliance with the final rule would violate the domestic law or policy of another country. Testing under the rule will be conducted by an employer prior to employment, periodically, randomly, after an accident, based on reasonable cause, and after an employee returns to duty to perform a sensitive safety- or security-related function for an employer. The final rule also will require that an employer provide EAP education and training services to employees and supervisors. The rule is necessary (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/09/86	51 FR 44432
ANPRM Comment Period End	01/23/87	
Comment Period Extended to 02/23/87	01/23/87	52 FR 2547
NPRM	03/14/88	53 FR 8368
Notice of Public Hearings	05/20/88	53 FR 18250
NPRM Comment Period End	06/13/88	
Final Action	11/21/88	53 FR 47024
Correction to Final Rule	12/13/88	53 FR 49979
Final Action Effective	12/21/88	
Correction to Final Rule	01/12/89	54 FR 1288

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Draft Regulatory Evaluation 03/14/88 (53 FR 8368); Regulatory Evaluation 11/21/88 (53 FR 47024)

Additional Information: ABSTRACT CONT: to prohibit an employee from performing a sensitive safety- or security-related function for an employer while that employee has a prohibited drug in his or her system or if that employee has used drugs as evidenced by a drug test showing the presence of drugs or drug metabolites. The rule is intended to ensure a drug-free aviation workforce and to eliminate drug use and abuse in commercial aviation.

Former title was Control of Drugs and Alcohol Use for Personnel Engaged in Commercial and General Aviation Activities.

Agency Contact: Dennis McEachen, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3414

RIN: 2120–AC33

1784. + INSTALLATION OF TRAFFIC CONTROL AVOIDANCE SYSTEM IN DOMESTIC TRANSPORT CATEGORY AIRPLANES

Significance: Regulatory Program

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1352 to 1355; 49 USC 1401 to 1431; 42 USC 4321 et seq; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: Other, Statutory, December 30, 1991.
PL 100-223

Abstract: This final rule requires installation and use of Traffic Alert and Collision Avoidance System (TCAS) in large transport type airplanes and certain turbine powered smaller airplanes. TCAS, which utilizes the signal from existing transponders, would provide for a collision avoidance capability in the cockpit independent of the ground Air Traffic Control (ATC) system, or where there is no ATC coverage. Additionally, the rule requires that all operators of TCAS-equipped airplanes have an FAA-approved TCAS training program for flight crewmembers.

Timetable:

Action	Date	FR Cite
NPRM	08/26/87	52 FR 32268
NPRM Comment Period End	12/24/87	
Final Action	01/10/89	54 FR 940
Final Rule Correction	01/18/89	54 FR 1926
Final Action Effective	02/09/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; Regulatory Evaluation 08/26/87 (52 FR 32268)

Agency Contact: Frank Rock, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9567

RIN: 2120–AC34

1785. + REVISION OF FOREIGN REPAIR STATION RULES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355(a); 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; 49 USC 1427; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1502; 49 USC 106(g); ...

CFR Citation: 14 CFR 145

Legal Deadline: None

Abstract: The purpose of these amendments is to revise the regulations to accommodate the increasing demand for maintenance and alteration of U.S.-registered aircraft operated worldwide. These amendments modify the requirements for U.S. certification of a foreign repair station. In addition, a foreign or domestic manufacturer of a product for which it holds a U.S. type certificate and that is certificated by the FAA as a repair station will be allowed to return to service a component maintained or altered by a noncertified source, subject to specified conditions. Lastly, to be consistent with the air carrier operating rules, the air taxi/ commercial operator rules are amended to permit the airworthiness release to be signed by a person authorized by a U.S.-certificated foreign repair station. This action is part of a general project underway to review and update all Federal Aviation Regulations governing repair stations.

Timetable:

Action	Date	FR Cite
NPRM	11/24/87	52 FR 45124
NPRM Comment Period End	01/25/88	
Final Action	11/22/88	53 FR 47362
Correction to Final Rule	12/07/88	53 FR 49378
Final Action Effective	12/22/88	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 11/24/87 (52 FR 45124)

Agency Contact: Leo Weston, Manager, Aircraft Maintenance Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8203

RIN: 2120–AC50

1786. + INOPERATIVE INSTRUMENTS OR EQUIPMENT

Significance: Agency Priority

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421(a) to 1430 Fed. Av. Act 1958, Secs. 601(a) to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 43; 14 CFR 91

Legal Deadline: None

Abstract: These amendments revise the Federal Aviation Regulations (FAR) to permit rotorcraft, nonturbine-powered airplanes, gliders, and lighter-than-air aircraft, for which an approved Master Minimum Equipment List has not been developed, to be operated with inoperative instruments and equipment not essential for the safe operation of the aircraft. Furthermore, these amendments permit general aviation operators of small rotorcraft, nonturbine-powered small airplanes, gliders, and lighter-than-air aircraft, for which a Master Minimum Equipment List has been developed, the option of operating under the minimum equipment list concept or in accordance with the provisions of this final rule. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/26/81	46 FR 52278
NPRM Comment Period End	01/25/82	
SNPRM Comment Period End 03/14/88	12/15/87	52 FR 47680
Final Action	12/13/88	53 FR 50190
Final Action Effective	12/13/88	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/26/81 (46 FR 52278)

Agency Contact: John Lynch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3841

RIN: 2120–AA19

1787. + PROPOSED DEPARTMENT OF ENERGY PROHIBITED AREAS

Significance: Agency Priority

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 106(g) Revised, Pub. L. 97-449, January 12, 1983

CFR Citation: 14 CFR 11.65; 14 CFR 73

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking (ANPRM), Airspace Docket No. 83-AWA-26, which was published in the Federal Register on February 8, 1984, has been withdrawn. That ANPRM proposed to establish and/or modify prohibited airspace areas at nine Department of Energy nuclear facilities located at Aiken, SC; Golden, CO, Idaho Falls, ID; Los Alamos, NM; Oak Ridge, TN; Richland, WA; San Francisco, CA; Livermore, CA; and Amarillo, TX.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/84	49 FR 04765
ANPRM Comment Period End	04/09/84	
Public Hearings Announced	07/20/84	49 FR 29411
Comment Period Extended to 11/16/84	08/07/84	49 FR 31435
Withdrawn	10/17/88	53 FR 40452

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Paul Gallant, Special Use Airspace, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8253

RIN: 2120–AB39

1788. + PROPOSED REVISION TO NOISE CERTIFICATION STANDARDS FOR PROPELLER-DRIVEN SMALL AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431 Federal Aviation Act of 1958, Sec. 611

CFR Citation: 14 CFR 21; 14 CFR 36

Legal Deadline: None

Abstract: This rule revised noise certification standards for propeller-driven small airplanes to substitute the use of actual takeoff tests for the level flyover tests currently specified. This rule revised test procedures applicable to noise certification tests conducted on or after January 1, 1988. It revised the noise-level limit numbers to approximate the equivalent of the sound levels measured and corrected in accordance with the current standard. These proposals resulted from industry requests for certification to be more directly based upon typical inservice noise measurements and from studies conducted in several nations over a three-year period under the auspices of the International Civil Aviation Organization. In addition, this rule exempts antique airplanes and changes involving the addition of floats or skis from the acoustical change measurement and documentation requirements of Part 21. This regulation is significant because of substantial public interest.

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Timetable:

Action	Date	FR Cite
NPRM	07/14/86	51 FR 25500
NPRM Comment Period End	10/09/86	
Final Action	11/22/88	53 FR 47394
Correction to Final Rule	12/13/88	53 FR 50157
Final Action Effective	12/22/88	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/14/86 (51 FR 25500)

Agency Contact: Steven Albersheim, Environmental Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120–AB47

1789. + FLIGHT ATTENDANT FLIGHT-TIME LIMITATIONS AND REST REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: The Association of Flight Attendants and the Joint Council of Flight Attendant Unions petitioned FAA to amend Part 121 and 135 to establish maximum duty time limits and minimum hours of rest for flight attendants. Summaries of the petitions were published (50 FR 6185 and 50 FR 25252) and requested comments to assist the FAA in determining what, if any, regulatory proposals should be developed. However it was determined that further action was unnecessary and the petition was denied. This matter was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Petition Denied	02/06/89	54 FR 5637

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Bedore, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-8096

RIN: 2120–AB97

1790. + FLIGHT PLAN AND TRANSPONDER-ON REQUIREMENTS IN AIR DEFENSE IDENTIFICATION ZONES (ADIZ)

Significance: Agency Priority

Legal Authority: 49 USC 1348; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 106(g) Revised Pub L 97-449, January 12, 1983

CFR Citation: 14 CFR 99

Legal Deadline: None

Abstract: This rule requires that all aircraft operating into, within, or out of the United States through a coastal air defense identification zone be operated under a filed flight plan regardless of true airspeed. Each such operation by an aircraft equipped with a functioning air traffic control (ATC) transponder must be conducted with that transponder on and reply on the appropriate code or on a code assigned by ATC. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/24/86	51 FR 37882
NPRM Comment Period End	12/23/86	
Final Action	10/12/88	53 FR 39842
Correction to Final Rule	11/02/88	53 FR 44182
Final Action Effective	12/12/88	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/24/86 (51 FR 37882)

Additional Information: Regulatory Project ATO-200-85-13R (Docket # 25099)

Agency Contact: Reginald C. Matthews, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9245

RIN: 2120–AC00

1791. + FIRE PROTECTION REQUIREMENTS FOR CARGO AND BAGGAGE COMPARTMENTS - PARTS 121 AND 135

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449; 49 USC 1472; 49 USC 1355(a); 49 USC 1431

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action imposes requirements to improve cargo compartment fire protection for transport category airplanes operated under Parts 121 and 135 after a specified date. A new rule requires, within two years, replacement of ceiling and sidewall (including door and bulkhead) cargo compartment fire resistant liner panels in Class C and D cargo compartments greater than 200 cubic feet in volume in certain transport category airplanes. This rulemaking is significant because of substantial public interest in crashworthiness criteria.

Timetable:

Action	Date	FR Cite
NPRM	11/05/87	52 FR 42512
NPRM Comment Period End	05/03/88	
Final Action	02/17/89	54 FR 7384
Final Action Effective	03/20/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/17/89 (54 FR 7384)

Agency Contact: Gary L. Killion, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120–AC04

1792. + TERMINAL CONTROL AREA CLASSIFICATION AND PILOT/EQUIPMENT REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1348(a); 49 USC 1354(a); 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); EO 10854; 14 CFR 11.69

CFR Citation: 14 CFR 71; 14 CFR 91

Legal Deadline: None

Abstract: This rulemaking establishes a single-class TCA, requires all aircraft to be equipped with an automatic altitude reporting transponder when operating within 30 miles of a TCA primary airport, requires student pilots to receive TCA training and instructor pilot endorsement in order to conduct operations in a TCA, requires helicopters to be equipped with appropriate navigational aid equipment, and requires a private pilot license for operations at certain TCA primary airports.

Timetable:

Action	Date	FR Cite
NPRM	06/16/87	52 FR 22918
Comment Period Extended - NPRM to 09/16/87	08/06/87	52 FR 29205
NPRM Comment Period End	08/17/87	
Final Action	10/14/88	53 FR 40318
Correction to Final Rule	10/26/88	53 FR 43320
Final Action Effective	01/12/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/16/87 (52 FR 22918)

Additional Information: RIN 2120-AC36 has been combined into this proceeding. Regulatory Project No AT-200-86-21R (Docket #25304).

Helicopter navigational-equipment requirement is effective 07/01/89.

Agency Contact: Reginald C. Matthews, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9245

RIN: 2120–AC35

1793. + PART 129 SECURITY PROGRAM FOR FOREIGN AIR CARRIERS

Significance: Agency Priority

Legal Authority: 49 USC 1346; 49 USC 1345(a); 49 USC 1356; 49 USC 1357; 49 USC 1421; 49 USC 1502; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 129

Legal Deadline: None

Abstract: This final rule requires foreign air carriers that land or take off in the United States to submit to the Administrator for approval a written security program that describes the procedures, facilities, and equipment used by the foreign air carrier to provide for the protection of persons and property traveling in air transportation against acts of criminal violence and air piracy. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/06/88	53 FR 34874
NPRM Comment Period End	11/07/88	
Final Action	03/16/89	54 FR 11116
Final Action Effective	04/17/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 03/16/89 (54 FR 11116)

Agency Contact: David Smith, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3466

RIN: 2120–AC42

1794. + ACCESS TO SECURED AREAS OF AIRPORTS

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1358; 49 USC 1421; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 107

Legal Deadline: None

Abstract: This rule establishes a requirement for certain airport operators to submit to the Director of Civil Aviation Security, for approval and inclusion in their approved security programs, amendments to ensure that only those persons authorized to have access to secured areas of an airport are able to obtain that access and, also, to ensure that such access is denied immediately to individuals whose authority to have access changes. The rule provides for the installation and use of a system, method, or procedure that meets certain performance standards, or the use of an approved alternative system, method, or procedure for controlling access to security areas of airports. This rule is needed to improve control of the locations that provide access to secured areas of airports. It is intended to enhance airport security by precluding access to these areas by unauthorized persons. This rulemaking was significant because it was critical to aviation and airport security.

Timetable:

Action	Date	FR Cite
NPRM	03/18/88	53 FR 9094
NPRM Comment Period End	05/02/88	
Final Action	01/06/89	54 FR 582
Final Action Effective	02/08/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 03/18/88 (53 FR 9094)

Agency Contact: Sharan Sharp, Department of Transportation, Federal Aviation Administration, Office of Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-2947

RIN: 2120–AC69

1795. + SMOKING ABOARD AIRCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1374(d); 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: Final, Statutory, April 23, 1988.
PL 100-202

Abstract: This rule requires the "no smoking" sign to be turned on at all times on scheduled airline flights, except for flights between the United States and other countries, which are scheduled to be two hours or less in duration. This rule carries out a ban on smoking on such flights mandated by PL 100-202. The rule also makes minor changes in other, related sections of Parts 121 and 135 which affect smoking aboard air carrier aircraft during flights not covered by a total ban. Smoking in lavatories is prohibited on all air carrier

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flights. By December 31, 1988, aircraft lavatories must have placards which notify passengers that tampering with smoke detectors is prohibited by Federal law. Finally the required passenger briefing must include more detailed instructions on smoking, including all these changes and the new statutory ban on tampering with smoke alarms in aircraft lavatories. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Final Action	04/13/88	53 FR 12358
Final Action Effective	04/23/88	
Correction to Final Rule	04/26/88	53 FR 14888
Correction to Final Rule	11/02/88	53 FR 44182

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/13/88 (53 FR 12358)

Additional Information: Comments were invited through May 31, 1988.

Agency Contact: Patricia Abdullah, Operations Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 267-8756

RIN: 2120–AC83

1796. RULES OF PRACTICE: FAA CIVIL PENALTY ASSESSMENT ACTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1345(a); 49 USC 1354(c); 49 USC 1374(a); 49 USC 1401 to 1406; 49 USC 1421 to 1428; 49 USC 1471; 49 USC 1475; 49 USC 1481; 49 USC 1482(a); 49 USC 1482(b); 49 USC 1482(c); 49 USC 1484 to 1489; 49 USC 1475; 49 USC 1655(c)

CFR Citation: 14 CFR 13.15; 14 CFR 13.16; 14 CFR 13.31; 14 CFR 13.201; 14 CFR 13.202; 14 CFR 13.203; 14 CFR 13.204; 14 CFR 13.205; 14 CFR 13.206; 14 CFR 13.207; 14 CFR 13.208; 14 CFR 13.209; 14 CFR 13.210; 14 CFR 13.211; 14 CFR 13.212

Legal Deadline: Other, Statutory, December 30, 1989.
Authority to assess civil penalties and conduct on-the-record hearing terminates 12/30/89; FAA must report to Congress by 06/30/89.

Abstract: This final rule revises the initiation procedures and provides new procedural rules regarding civil penalty assessment actions. The final rule provides procedures for on-the-record hearings required by Congress in civil actions not in excess of $50,000 assessed by the FAA.

Timetable:

Action	Date	FR Cite
Final Action	09/07/88	53 FR 34646
Final Action Effective	09/07/88	
Correction to Final Rule	10/06/88	53 FR 39404

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/07/88 (53 FR 34646)

Additional Information: This final rule is in response to congressional amendment of the Federal Aviation Act of 1958 as amended.

Agency Contact: Allan H. Horowitz, Manager, Enforcement Policy Branch, Office of Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3137

RIN: 2120–AC74

1797. AIRPORT-RELATED PROCEEDINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1354(c); 49 USC 1374(a); 49 USC 1401 to 1406; 49 USC 1421 to 1428; 49 USC 1471; 49 USC 1475; 49 USC 1481; 49 USC 1482(a); 49 USC 1428(b); 49 USC 1428(c); 49 USC 1484 to 1489; 49 USC 1655(c); 49 USC 106(g)

CFR Citation: 14 CFR 13.1(a); 14 CFR 13.3(a); 14 CFR 13.20(a); 14 CFR 13.3(b)

Legal Deadline: None

Abstract: This final rule revised several applicability sections of Part 13 to include reference to the Airport and Airway Improvement Act of 1982 and the Airport and Airway Safety and Capacity Expansion Act of 1987.

Timetable:

Action	Date	FR Cite
Final Action	08/31/88	53 FR 33782
Correction to Final Rule	09/12/88	53 FR 35255
Final Action Effective	09/30/88	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: Comments were invited through September 30, 1988, the date this final rule was effective.

Agency Contact: Denise Daniels Ross, Attorney, Regulations and Enforcement Div., Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Aveune, SW, Washington, DC 20591, 202 267-3491

RIN: 2120–AC78

1798. ● RESPONSIBILITIES OF MANUFACTURERS OF PARTS AND PRODUCTS PRODUCED UNDER A PRODUCTION CERTIFICATE

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 49 USC 106(g) (Revised PL 97,449, January 12, 1983); 42 USC 1857f-10; 42 USC 4321; EO 11514

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This amendment clarified the responsibility of a production certificate holder with respect to the manufacturer of a replacement or modification part for installation on a type certificated product. The amendment is intended to ensure that such manufacturers are aware of their responsibility to determine that each part produced conforms to its approved design and is in a condition for safe operation.

Timetable:

Action	Date	FR Cite
Final Action	12/01/88	53 FR 48520
Final Action Effective	01/03/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melanie R. Miller, Aircraft Manufacturing Division,

Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8361

RIN: 2120–AC93

1799. ● APPLICABILITY OF FEDERAL AVIATION REGULATIONS IN THE AIRSPACE OVERLYING THE WATERS BETWEEN 3 AND 12 NAUTICAL MILES FROM THE UNITED STATES COAST

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 (As amended PL 100-223); 49 USC 1422 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 106(g) (Revised PL 97-449, January 12, 1983); 42 USC 4321; ...

CFR Citation: 14 CFR 71; 14 CFR 91

Legal Deadline: None

Abstract: This action extended controlled airspace and the applicability of certain air traffic rules to coincide with certain limits of territorial jurisdiction adopted by the United States. This action was taken in order to reflect presidential action extending the territorial sea of the United States, for international purposes, from 3 to 12 nautical miles from the United States coast.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/27/88	
Final Action	01/04/89	54 FR 264

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: EO 11514; EO 10854; PL 100-202; Articles 12, 29, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180).

Agency Contact: David L. Bennett, Airspace and Environmental Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-3491

RIN: 2120–AC94

1800. ● ESTABLISHMENT OF WARNING AREAS IN THE AIRSPACE OVERLYING THE WATERS BETWEEN 3 AND 12 NAUTICAL MILES FROM THE UNITED STATES COAST

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 1522; 49 USC 106(g) (Revised PL 97-449, January 12, 1983); EO 10854

CFR Citation: 14 CFR 73

Legal Deadline: None

Abstract: This action established warning areas in airspace subject to FAA jurisdiction, in order to reflect recent presidential action extending the territorial sea of the United States, for international purposes, from 3 to 12 nautical miles from the United States coast. The warning areas are established in the same location as nonregulatory warning areas previously designated over international waters. The Department of Defense will conduct hazardous military flight activities in these areas. The areas are established for a period of 1 year, to permit the FAA to consider the need for rulemaking action to meet military training needs in this airspace.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/27/88	
Final Action	01/04/89	54 FR 260

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David L. Bennett, Airspace and Environmental Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-3491

RIN: 2120–AC95

1801. ● STATE BLOCK GRANT PILOT PROGRAM

Significance: Nonsignificant

Legal Authority: 49 USC App 2201 (as amended, 49 USC App 2227)

CFR Citation: 14 CFR 156

Legal Deadline: Final, Statutory, June 30, 1988.
Airport and Airway Safety and Capacity Expansion Act of 1987

Abstract: This final rule sets forth regulations to implement the State block grant pilot program included in recent congressional legislation. The regulations are intended to provide guidance to the States regarding the application process for, and administration of, the 2-year State block grant pilot program. The final rule is necessary in order to comply with the statutory provision that requires the Secretary of Transportation to promulgate regulations to implement the State block grant pilot program.

Timetable:

Action	Date	FR Cite
Final Action	10/20/88	53 FR 41302
Correction to Final Rule	11/21/88	53 FR 46869
Final Action Effective	11/21/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Beisee, Program Guidance Branch, Office of Airport Planning and Programming, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8826

RIN: 2120–AC97

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage

Federal Highway Administration (FHWA)

1802. ● + COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Significance: Regulatory Program

Legal Authority: PL 100-202, Sec 9105

CFR Citation: 49 CFR 383

Legal Deadline: None

Abstract: This action will develop improved identification systems for truck and bus drivers as identified by the Congress in the Truck and Bus Regulatory Reform Act of 1988. Such

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high technology "unique" identifiers, when and if incorporated into the Commercial Driver's License Information System and the related State information systems, would reduce still further the opportunities for a driver to fraudulently obtain multiple licenses and to conceal disqualifying offenses. Alternatives under consideration include, but will not be limited to, retinal eye scans and advanced fingerprint technologies. Potential costs will accrue to the States for startup and operation of the upgraded identification methods, and to drivers and/or employers for incremental licensing costs passed on to them by the States. Safety benefits are expected to flow from the more accurate screening of CDL applicants and tracking of CDL holders' offenses.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Jill L. Hochman, Department of Transportation, Federal Highway Administration, 202 366-4001

RIN: 2125–AC24

1803. REVIEW AND PREEMPTION OF STATE MOTOR-CARRIER SAFETY REGULATIONS

Significance: Nonsignificant

Legal Authority: 49 USC App. 2507; 49 USC App. 2508

CFR Citation: 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 394; 49 CFR 395; 49 CFR 396; 49 CFR 397; 49 CFR 398; 49 CFR 399

Legal Deadline: None

Abstract: Sections 207-209 of the Motor Carrier Safety Act of 1984 establish a process whereby any State law or regulation pertaining to commercial motor vehicle safety in interstate commerce will be reviewed and analyzed by the Commercial Motor Vehicle Safety Regulatory Review Panel (Safety Panel). The Safety Panel is to determine if such law or regulation has the same effect as, is less stringent than, or is additional to or more stringent than the Federal Motor Carrier Safety Regulations. Based on the determination of the Safety Panel, the Secretary is to initiate a rulemaking proceeding to determine if such a law or regulation may remain in effect and enforced. This advance notice of proposed rulemaking is the initial rulemaking action for any possible preemptive action by the Secretary. It will contain alternatives for comment on ways the Secretary may satisfy the requirements of section 208 of the Act. Section 9109 of the Truck and Bus Safety and Regulatory Reform Act of 1988 extends the deadline for Secretarial preemption under certain conditions until no later than 10/30/91.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Thomas Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2961

RIN: 2125–AC11

1804. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS: SELF-INSURANCE

Significance: Nonsignificant

Legal Authority: 49 USC 10927 Note

CFR Citation: 49 CFR 387

Legal Deadline: None

Abstract: The FHWA has determined that the issues associated with its authority to permit motor carriers to self-insure need to be examined in light of the insurance crisis affecting the motor carrier industry. The FHWA is seeking public comment from interested parties concerning self-insurance as a viable and effective mechanism for demonstrating financial responsibility as required by the Motor Carrier Act of 1980.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22086
ANPRM Comment Period End	07/18/86	51 FR 22086
SANPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 04/00/89

Additional Information: An interim final rule was published on June 18, 1986, at 51 FR 22080 permitting motor carriers of property to satisfy the financial responsibility requirements of the DOT (FHWA) by self-insuring if they have received approval from the ICC to self-insure and have maintained an FHWA "satisfactory" safety rating. This rulemaking action will further analyze the issues addressed in the interim final rule. After analyzing comments received to the 6/18/86 ANPRM, the FHWA has decided to issue a supplemental ANPRM in order to further explore the issues.

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2961

RIN: 2125–AB65

1805. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; PAPERWORK BURDENS

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC App 2503

CFR Citation: 49 CFR 350 to 399

Legal Deadline: None

Abstract: By this rulemaking, the FHWA will be considering ways to reduce paperwork burdens imposed on motor carriers subject to the requirements of the Federal Motor Carrier Safety Regulations (49 CFR 350-399). Changes are being considered in accordance with the requirements of the Paperwork Reduction Reauthorization Act of 1986. This Act requires the agencies to set goals to reduce the paperwork burden imposed on motor carriers by 20 percent by September 30, 1990.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/89

Additional Information: A 90-day comment period will be provided for the ANPRM.

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2961

RIN: 2125–AC04

1806. ● INSPECTION, REPAIR AND MAINTENANCE; BRAKE INSPECTION

Significance: Nonsignificant

Legal Authority: PL 100-690, Sec 9110

CFR Citation: 49 CFR 393

Legal Deadline: Final, Statutory, December 31, 1990.
A final rule must be issued by 12/31/90.

Abstract: The FHWA is requesting public comment concerning the development and implementation of Federal standards or methods to ensure that brakes and brake systems of commercial motor vehicles are properly maintained and inspected. This action is required by Section 9110 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Pub. L. 100-690, 102 Stat. 4181).

Timetable:

Action	Date	FR Cite
ANPRM	02/03/89	54 FR 5518
ANPRM Comment Period End	04/04/89	
NPRM	10/00/89	
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 02/03/89 (54 FR 5518)

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 202 366-2961

RIN: 2125–AC25

1807. ● FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; COMMERCIAL MOTOR VEHICLE DEFINITION

Significance: Nonsignificant

Legal Authority: 49 USC 2391-2404; 49 USC App 2505; 49 USC 3102

CFR Citation: 49 CFR 350; 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is addressing the issue of the gross vehicle weight rating (GVWR) criterion used to define a "commercial motor vehicle" subject to the Federal Motor Carrier Safety Regulations (FMCSR's). The FHWA is specifically seeking public comment on the enforcement and regulatory capability regarding the rating.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/89	54 FR 7224
ANPRM Comment Period End	04/18/89	
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 02/17/89 (54 FR 7224)

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 202 366-2961

RIN: 2125–AC27

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Proposed Rule Stage

1808. + PRIVATE CARRIAGE OF PASSENGERS

Significance: Regulatory Program

Legal Authority: 49 USC 104; 49 USC 3102; 49 USC App 2503; 49 USC App 2505

CFR Citation: 49 CFR 383; 49 CFR 390 to 393; 49 CFR 395; 49 CFR 396

Legal Deadline: None

Abstract: The FHWA is proposing revisions to the requirements for private motor carriers of passengers and the drivers of private motor vehicles of passengers. The proposed revisions would require private motor carriers of passengers and drivers of private motor vehicles of passengers to operate under the Federal Motor Carrier Safety Regulations (FMCSR). However, the paperwork burden of these requirements will be minimized and several parts of the FMCSR will not apply to either private motor carriers of passengers or to drivers of such vehicles. This rulemaking is significant in that it is controversial, involving bringing new carriers under the regulatory scheme.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
NPRM	02/17/89	54 FR 7362
NPRM Comment Period End	06/19/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 02/17/89 (54 FR 7362)

Additional Information: This action was formerly entitled Minimum Requirements for Private Motor Carriers of Passengers and Drivers of Private Motor Vehicles of Passengers.

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2961

RIN: 2125–AB62

1809. + TRUCK SIZE AND WEIGHT; REASONABLE ACCESS

Significance: Regulatory Program

Legal Authority: 49 USC 2311(d); 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA has requested information and comments on the existing FHWA regulation governing reasonable access by commercial vehicles with lengths and widths authorized by the Surface

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Transportation Assistance Act of 1982 (STAA) as amended.

Timetable:

Action	Date	FR Cite
ANPRM	01/05/87	52 FR 298
ANPRM Comment Period End	05/05/87	52 FR 298
NPRM	12/30/88	53 FR 53006
NPRM Comment Period End	05/01/89	53 FR 53006
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 12/30/88 (53 FR 53006)

Additional Information: Additional agency contact: John F. Grimm (202) 366-4039.

Agency Contact: Kevin E. Heanue, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2951

RIN: 2125–AB70

1810. + COMMERCIAL DRIVER'S LICENSE STANDARDS; DISQUALIFICATION

Significance: Regulatory Program

Legal Authority: 49 USC 3102; 49 USC App. 2505; PL 99-570, Title IX

CFR Citation: 49 CFR 383; 49 CFR 391

Legal Deadline: None

Abstract: The FHWA is proposing to amend Parts 383 and 391 of the Federal Motor Carrier Safety Regulations (FMCSR's) to address certain questions that were posed in the final rule (Docket MC-125; Notice No. 87-06) published in the Federal Register on June 1, 1987. Specifically, in this document the FHWA proposes to define "excessive speeding," "reckless driving" and other serious traffic violations "and other issues pertaining to the disqualification of commercial motor vehicle (cmv) drivers." The FHWA also proposes to amend the subject parts to clarify or make minor revisions. Because of the public interest in the issue of commercial motor vehicle safety and the expected benefits of improved transportation safety, this action is considered significant under the regulatory policies and procedures of the Department of Transportation.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 5036
NPRM Comment Period End	04/03/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 01/31/89 (54 FR 5036)

Agency Contact: Jill L. Hochman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW., Washington, DC 20590, 202 366-4001

RIN: 2125–AC19

1811. + LABOR AND EMPLOYMENT

Significance: Agency Priority

Legal Authority: 23 USC 113; 23 USC 315

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: This amendment would revise the existing regulation prescribing the inclusion of prevailing wage rates determined by the Secretary of Labor in advertisements and contracts for Federal-aid highway projects. The proposed amendment would preclude the inclusion of State prevailing wage rates which are higher than those determined by the Department of Labor in Federal-aid contracts. This rulemaking is significant because of its federalism implications.

Timetable:

Action	Date	FR Cite
NPRM	09/27/85	50 FR 39137
NPRM Comment Period End	11/12/85	50 FR 39137
NPRM Supplemental	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (minimal impact) 09/27/85 (50 FR 30137)

Additional Information: Upon further review, the FHWA has determined to issue a supplemental NPRM.

Agency Contact: Kathy Markman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0780

RIN: 2125–AB37

1812. ● + FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; MOTOR VEHICLE MARKING

Significance: Agency Priority

Legal Authority: 49 USC 3102; 49 USC App 2503; 49 USC App 2505

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FHWA proposes to amend its commercial motor vehicle marking requirements to include every commercial motor vehicle subject to the Federal Motor Carrier Safety Regulations (FMCSR's) and establish general location parameters for the placement of required marking information. This action will enhance the uniform identification of commercial motor vehicles operated on the nations's highways and aid enforcement officers in carrying out their duties. This rulemaking action is considered significant because of the public interest in commercial motor carrier safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC28

1813. REVIEW: GENERAL MATERIALS REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128

CFR Citation: 23 CFR 635D

Legal Deadline: None

Abstract: This regulation would simplify procedures relating to general material requirements for Federal-aid construction work. In view of comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	01/29/81	46 FR 9642
NPRM Comment Period End	03/30/81	
SNPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 11/00/89

Agency Contact: William Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0392

RIN: 2125–AA19

1814. STATE HIGHWAY AGENCY CONSTRUCTION CONTRACTS; EQUAL OPPORTUNITY COMPLIANCE REVIEW; PROGRAM REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 112(b); 23 USC 140(a); 23 USC 315

CFR Citation: 23 CFR 230

Legal Deadline: None

Abstract: The proposed revisions would amend the existing FHWA regulation governing construction contract equal employment opportunity (EEO) compliance procedures, which concern the employment practices of construction contractors on Federal highway projects. This proposal would eliminate existing detailed compliance procedures and allow States flexibility in adopting a procedure with respect to contract compliance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Glenn R. Reed, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1587

RIN: 2125–AB08

1815. EQUAL EMPLOYMENT OPPORTUNITY ON FEDERAL AND FEDERAL-AID CONSTRUCTION CONTRACTS (INCLUDING SUPPORTIVE SERVICES)

Significance: Nonsignificant

Legal Authority: 23 USC 101; 23 USC 112; 23 USC 117; 23 USC 140; 23 USC 315

CFR Citation: 23 CFR 230; 23 CFR 640; 23 CFR 642

Legal Deadline: None

Abstract: This revision will amend and update the existing policies and procedures relative to the equal employment opportunity program on Federal and Federal-aid highway construction contracts. In addition, this revision will amend the on-the-job training (OJT) special provisions and procedures for implementation of OJT supportive services programs to increase program effectiveness and address the current need for upgrading minorities and women in the skilled construction trades.

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52470
NPRM Comment Period End	12/22/82	47 FR 52470
SNPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 11/22/82 (47 FR 52470)

Additional Information: A supplemental NPRM will be issued in order to propose updated revisions. The supplemental NPRM will address all procedures and provisions contained in 23 CFR 420. Therefore, the proposed rulemaking action explained under the entry (RIN No. 2125-AB27) formerly located in the "Proposed Rule Stage" portion of the agenda has been merged with this rulemaking action.

Agency Contact: Glenn Reed, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1587

RIN: 2125–AB15

1816. FEDERAL-AID PROGRAMS APPROVAL AND PROJECT AUTHORIZATION

Significance: Nonsignificant

Legal Authority: 23 USC 105; 23 USC 106; 23 USC 118; 23 USC 134; 23 USC 315; PL 100-17, Sec 117(e)

CFR Citation: 23 CFR 630

Legal Deadline: None

Abstract: This action addresses FHWA's programming and authorization policies and procedures for projects under the Federal-aid program. This action will revise existing regulations and implement section 117 (e) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Pub. L. 100-17). Section 117 (e) allows a State to contribute more State and/or local funds to a Federal-aid project under the minimum required by Title 23 of the United States Code.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/84	49 FR 31079
ANPRM Comment Period End	10/01/84	
NPRM	04/00/89	
Interim Final Rule	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Agency Contact: James A. Carney, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0450

RIN: 2125–AB18

1817. ADMINISTRATION OF CONTRACTS

Significance: Nonsignificant

Legal Authority: 23 USC 315; 23 USC 104(f); 23 USC 114(a); 23 USC 307(c); 23 USC 402; PL 100-17, Sec 111(b)

CFR Citation: 23 CFR 172

Legal Deadline: None

Abstract: Revisions to the existing regulation will be made to standardize the minimum requirements by including FHWA's interpretation of OMB Circular A-102 requirements. Inclusion of OMB Circular A-102 as an appendix to the regulations will be deleted. This rulemaking action will also address the changes to the selection procedures as required by section 111(b) of the

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Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Additional Information: A 60-day comment period will be provided.

Agency Contact: Si Silence, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4628

RIN: 2125–AB30

1818. RIGHT-OF-WAY

Significance: Nonsignificant

Legal Authority: 23 USC 315

CFR Citation: 23 CFR 710; 23 CFR 712; 23 CFR 720

Legal Deadline: None

Abstract: The FHWA intends to publish an NPRM to update and reorganize its right-of-way regulations for the Federal-aid highway program. Subjects to be addressed include State highway agency responsibilities, authorizations, and reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Agency Contact: Douglas A. Wubbels, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2019

RIN: 2125–AB58

1819. PROPERTY MANAGEMENT, DISPOSALS AND AIRSPACE

Significance: Nonsignificant

Legal Authority: 23 USC 315

CFR Citation: 23 CFR 713

Legal Deadline: None

Abstract: The FHWA intends to issue an NPRM proposing to update its regulations on property management, disposal, and airspace relative to the Federal-aid highway program. This rulemaking action will reflect current departmental decisions and policies as well as recent legislative mandates.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Agency Contact: Douglas A. Wubbels, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2019

RIN: 2125–AB60

1820. QUALIFICATION OF DRIVERS; DIABETES

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC App 2505; 23 USC 315

CFR Citation: 49 CFR 391.41(b)(3)

Legal Deadline: None

Abstract: This rulemaking action responds to a petition filed by the American Diabetes Association (ADA) and others. The current diabetic rule prohibits insulin-using diabetics from driving in interstate or foreign commerce. The ADA has petitioned to change the regulation to provide for exemptions. The purpose of this action is to consider the proposed exemption program.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM Comment Period End	12/28/87	53 FR 45204
Comment period extended to 02/01/88	01/04/88	53 FR 42
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2061

RIN: 2125–AB91

1821. ADVANCE CONSTRUCTION OF FEDERAL-AID PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 115; 23 USC 120(f); 23 USC 121(c); 23 USC 125; 23 USC 315; 23 USC 320; PL 100-17, Sec 113

CFR Citation: 23 CFR 630

Legal Deadline: None

Abstract: The FHWA is revising its regulations relating to the advance construction of Federal-aid highway projects. The revisions incorporate new provisions mandated by section 113 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). The procedures allow States to advance the construction of Federal-aid highway projects without requiring that Federal funds be obligated at the time the FHWA approves the project.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Agency Contact: Max I. Inman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2853

RIN: 2125–AC07

1822. CONSTRUCTION ENGINEERING COSTS

Significance: Nonsignificant

Legal Authority: 23 USC 101(e); 23 USC 114(a); 23 USC 115(b); 23 USC 120 to 122; 23 USC 315; PL 95-599, Sec 115(c); PL 100-17, Sec 114

CFR Citation: 23 CFR 140

Legal Deadline: None

Abstract: This rulemaking document will implement provisions mandated by section 114 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 114 revised 23 USC 121(d) by eliminating the 10-percent limitation on construction engineering (CE) costs and increasing the limitation to 15 percent of actual costs of construction excluding costs of right-of-way, preliminary engineering, and CE.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Agency Contact: Max I. Inman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2853

RIN: 2125–AC09

1823. ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY

Significance: Nonsignificant

Legal Authority: 23 USC 315; PL 100-17, Sec 126; PL 100-17, Sec 146

CFR Citation: 23 CFR 172; 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720; 23 CFR 740

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is proposing to revise and consolidate several right-of-way regulations to improve the organization of the subject matter and updating the content. This action will also implement sections 126 and 146 (airspace and donations) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Agency Contact: Douglas Wubbels, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2019

RIN: 2125–AC17

1824. ENVIRONMENTAL IMPACT AND RELATED PROCEDURES; CONSTRUCTIVE USE

Significance: Nonsignificant

Legal Authority: 23 USC 315; 49 USC 303

CFR Citation: 23 CFR 771

Legal Deadline: None

Abstract: The need for rulemaking in this area has been caused by recent court decisions. The courts have delayed or halted several important Federal-aid highway projects on the grounds that the proximate effects or impacts from a given highway would constructively use land from a park or historic site. In each instance the FHWA had determined that there existed no constructive use. This determination was based on an analysis of proximity impacts and whether the impacts would substantially impair the functions or values which qualified the property for protection under Section 4(f) of the DOT Act. The FHWA has been operating under an informal policy directive on constructive use since 11/12/85. This rulemaking action would formalize existing policy on constructive use, and future court decisions would address the regulation rather than be based on ad hoc interpretations of specific project facts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Agency Contact: Harter M. Rupert, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4093

RIN: 2125–AC18

1825. ● PARTS AND ACCESSORIES FOR SAFE OPERATION; EMERGENCY WARNING DEVICES

Significance: Nonsignificant

Legal Authority: PL 100-690, Sec 9106

CFR Citation: 49 CFR 393

Legal Deadline: Final, Statutory, October 31, 1989.

Final action must be taken by 10/31/89.

Abstract: The FHWA is requesting comments on several issues relating to the appropriate use of emergency warning devices for commercial motor vehicles in response to Section 9106 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Pub. L. 100-690, 102 Stat. 4181). Issues include the use of fuses as an alternative or supplement to bidirectional emergency reflective triangles, as well as all aspects of emergency warning devices, including the type allowed and exemptions and/or condition for use.

Timetable:

Action	Date	FR Cite
ANPRM	02/03/89	54 FR 5516
ANPRM Comment Period End	03/20/89	
NPRM	07/00/89	
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 02/03/89 [54 FR 5516]

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 202 266-2361

RIN: 2125–AC26

1826. ● FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; RENTAL VEHICLE LEASING

Significance: Nonsignificant

Legal Authority: 49 USC 2905

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: This rulemaking action responds to a petition filed by the Truck Rental and Leasing Association (TRALA). The FHWA is proposing to amend its commercial motor vehicle marking requirements to allow certain "rental vehicles" to be marked with the name and address of the rental company and the U.S. DOT identification number issued to the rental company in lieu of requiring the renting motor carrier to display its required identification information on the sides of the rental vehicle. This action will enhance the uniform identification of commercial motor vehicles operated on the nation's highways and aid enforcement officers

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in carrying out their duties. This rulemaking action will also reduce the marking burden placed on motor carriers which operate rental vehicles from time to time.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Mr. Thomas P. Koslowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2961

RIN: 2125–AC29

1827. MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

Significance: Routine and Frequent

Legal Authority: 23 USC 109(b); 23 USC 109(d); 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2. 12/00/89.

Timetable:

Action	Date	FR Cite
Total actions expected to end	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Reg. Evaluation (Minimal Impact) 12/00/89

Agency Contact: P. Russell, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2184

RIN: 2125–AA37

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Final Rule Stage

1826. + TRUCK SIZE AND WEIGHT; SPECIALIZED EQUIPMENT; MAXI-CUBE

Significance: Regulatory Program

Legal Authority: 23 USC 315; 49 USC 2311(d); PL 99-591, Sec 324

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: An ANPRM had been issued requesting public comment on a petition to designate a particular combination of vehicles as specialized equipment under the provisions of section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA). Upon further review, the FHWA has determined that no rulemaking action is required at this time. This rulemaking action will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/85	50 FR 52940
ANPRM Comment Period End	02/10/86	50 FR 52940
ANPRM Supplemental	02/28/86	51 FR 7085
To be withdrawn	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Philip W. Blow, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4036

RIN: 2125–AB48

1829. + AIR QUALITY PROCEDURES FOR USE IN FEDERAL-AID HIGHWAY AND FEDERALLY FUNDED TRANSIT PROGRAMS

Significance: Agency Priority

Legal Authority: 23 USC 109(h); 23 USC 109(j); 23 USC 315; 42 USC 4332; 42 USC 7401; 42 USC 7506

CFR Citation: 23 CFR 770

Legal Deadline: None

Abstract: This regulation proposes to consolidate and amend existing air quality requirements for transportation projects into a single amended air quality regulation. The amended regulation is intended to streamline and simplify (1) the process of determining which highway projects are exempt from the Federal assistance limitations of section 176(a) of the Clean Air Act (CAA), and (2) the conformity and priority procedures contained in 23 CFR 770. The amendments are also intended to provide more authority and flexibility to States and to meet the objectives of the CAA in the most cost-effective and expeditious manner. The amendments are significant because they involve important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35178
NPRM Comment Period End	11/08/88	53 FR 35178
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 09/09/88 (53 FR 35178)

Agency Contact: James M. Shrouds, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4836

RIN: 2125–AB10

1830. + CERTIFICATION OF SPEED LIMIT ENFORCEMENT

Significance: Agency Priority

Legal Authority: 23 USC 141; 23 USC 154; 23 USC 315; PL 100-17, Sec 174

CFR Citation: 23 CFR 659

Legal Deadline: None

Abstract: The FHWA and the National Highway Traffic Safety Administration (NHTSA) are amending the regulations on certification of speed limit enforcement in order to streamline the sanction process and to take into account the provisions mandated by section 174 of the Surface

Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 174 of STURAA amended 23 U.S.C. 154 by giving the States the authority to increase, without loss of Federal-aid funds, the maximum speed limit to no more than 65 miles per hour (mph) on certain Interstate System highways. A notice of proposed rulemaking was issued proposing revisions to the sanction process contained in 23 CFR Part 659. A separate final rulemaking action has been issued in order to provide the States the authority to adjust the speed sampling and analysis plan required for determining the level of 55 mph noncompliance.

Timetable:

Action	Date	FR Cite
Final Action Adjusting Sampling Plans	08/03/87	52 FR 28691
NPRM	03/11/88	53 FR 7943
NPRM Comment Period End	04/11/88	53 FR 7943
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 03/11/88 (53 FR 7943)

Additional Information: This rulemaking action, as well as the final rule on sampling plans (Supplemental), are considered significant because of the substantial public interest involved.

Agency Contact: Sheldon G. Strickland, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1993

RIN: 2125–AC00

1831. ● + TRUCK SIZE AND WEIGHT; NATIONAL NETWORK; SOUTH CAROLINA

Significance: Agency Priority

Legal Authority: 23 USC 127; 23 USC 315; 49 USC 2311; 49 USC 2313; 49 USC App 2316

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA was proposing to modify the National Network for commercial motor vehicles by deleting a certain route in South Carolina. The National Network was established by the final rule on Truck Size and Weight published at 49 FR 23302 on June 5, 1984. It is maintained under 23 CFR 658, Appendix A, as amended. However, the State has now requested that the route not be deleted and the final action will take into consideration the State's changed position. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/88	53 FR 18859
NPRM Comment Period End	07/25/88	53 FR 18859
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 05/25/88 (53 FR 18859)

Additional Information: The NPRM was published as part of the entry under RIN 2125-AC10. Since additional information and data was needed to resolve the issue of deleting the route in South Carolina, the FHWA has separated the action on South Carolina from those actions that addressed routes in Iowa and Kentucky.

Agency Contact: Mr. Kevin E. Heanue, Department of Transportation, Federal Highway Administration, 202 366-2951

RIN: 2125–AC23

1832. CONTRACT PROCEDURES

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: This revision will update and simplify existing Federal-aid contract procedures. In view of comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	08/18/78	43 FR 36645
NPRM Comment Period End	10/17/78	
SNPRM	10/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: William Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0392

RIN: 2125–AA18

1833. COMPLIANCE WITH MOTOR CARRIER NOISE STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 3102

CFR Citation: 49 CFR 325

Legal Deadline: None

Abstract: The FHWA is considering amending the noise emission standards to add a new minimum distance of 31 feet from which to measure highway noise. FHWA is also considering eliminating the correction factor which allowed a variance for noise tests taken at hard sites, e.g., asphalt, compared to those taken at soft sites, e.g., grassy areas.

Timetable:

Action	Date	FR Cite
NPRM	04/03/80	45 FR 22120
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2961

RIN: 2125–AA27

1834. RAILROAD GRADE CROSSINGS

Significance: Nonsignificant

Legal Authority: 49 USC 3102

CFR Citation: 49 CFR 392.10

Legal Deadline: None

Abstract: The FHWA had considered a revision that would make this Federal regulation more consistent with the Uniform Vehicle Code with respect to stopping requirements. However, after further review it has been determined that no further action by the FHWA is needed in this area. Therefore, the 11/18/82 ANPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	11/18/82	47 FR 51904
To be withdrawn	04/00/89	

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Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2961

RIN: 2125–AA36

1835. ACCELERATION OF PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 140; 23 USC 315; PL 97-424, Sec 129

CFR Citation: 23 CFR 630

Legal Deadline: None

Abstract: This revision was intended to expedite the processing of Federal-aid highways projects by promoting wider use of the findings and recommendations of the demonstration project carried out under section 141 of the 1976 Federal-Aid Highway Act. This action was also being taken pursuant to section 129 of the Surface Transportation Assistance Act of 1982.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/83	48 FR 38854
ANPRM Comment Period End	11/25/83	48 FR 57330
To be withdrawn	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal impact) 06/26/83 (48 FR 38854)

Additional Information: An interim policy statement was published 6/6/83 (48 FR 25181) to implement acceleration methods for selected projects within existing regulations. Initially, FHWA had considered issuing a new regulation as a vehicle for accelerating Federal-aid projects pursuant to Section 129 of the STAA of 1982. However, it has been determined that the objectives of Section 129 can be best implemented by revisions to existing regulations. Therefore, separate regulations will not be issued regarding the acceleration program. This approach received the concurrence of Deputy Administrator Lamm on April 11, 1984. This regulation will be withdrawn.

Agency Contact: S. M. Silence, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4628

RIN: 2125–AA87

1836. EROSION AND SEDIMENT CONTROL ON HIGHWAY CONSTRUCTION PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 109(g); 23 USC 315; 23 USC 109(h); 33 USC 1323

CFR Citation: 23 CFR 650

Legal Deadline: None

Abstract: The proposed rule was intended to adopt the AASHTO Guide Specifications for water pollution control. After careful consideration of comments submitted in response to the NPRM and based upon a further review by FHWA, it has been determined that rulemaking in this area is no longer necessary. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	01/18/85	50 FR 2694
NPRM Comment Period End	03/18/85	
To be withdrawn	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Philip L. Thompson, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4611

RIN: 2125–AB05

1837. CONTRACT PROCEDURES; ADVERTISING FOR BIDS; NONCOLLUSION AFFIDAVIT/DECLARATION REQUIREMENT

Significance: Nonsignificant

Legal Authority: 23 USC 112-114; 23 USC 117; 23 USC 128; 23 USC 315; 31 USC 6506; 42 USC 3334; 42 USC 4601 et seq

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is revising its regulations on contract procedures regarding advertising for bids. The revised regulation provides the State highway agencies (SHA's) with the option to permit all bidders on a Federal-aid highway project to submit an unsworn noncollusion declaration, under penalty of perjury under the laws of the United States, as an alternative to the sworn noncollusion affidavit requirement of the existing regulation.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Additional Information: Since the revisions are minor administrative adjustments and require no change to FHWA procedures, this document will be issued without a public comment period.

Agency Contact: William A. Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0392

RIN: 2125–AC16

1838. ● PUBLIC AVAILABILITY OF INFORMATION; FREEDOM OF INFORMATION ACT REGULATIONS; TECHNICAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 5 USC 552; 31 USC 9701; 49 USC 322

CFR Citation: 49 CFR 7

Legal Deadline: None

Abstract: This action amends Appendix D of the final rule published on 8/11/88 at 53 FR 30265 regarding implementation of the Freedom of Information Act by FHWA. The technical amendments are necessary in order to correct a typographical error, to remove unnecessary explanatory language, to add a paragraph on determinations to disclose records and grant or deny requests for fee waivers or reductions, and to conform paragraph designations.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Agency Contact: Mr. John H. Schnackenberg, Department of Transportation, Federal Highway Administration, 202 366-0534

RIN: 2125–AC20

1839. ● FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; EXEMPT INTRACITY ZONE; FOREIGN MOTOR CARRIERS

Significance: Nonsignificant

Legal Authority: 49 USC App 2503; 49 USC 2505; 49 USC 3102; 49 USC 3104; 49 USC 504; PL 100-690, Sec 9102

CFR Citation: 23 CFR 390; 23 CFR 391; 23 CFR 393

Legal Deadline: None

Abstract: The FHWA is amending Parts 390, 391, and 393 of the Federal Motor Carrier Safety Regulations (FMCSRs). This action amends the intracity zone exemption to make it consistent with Truck and Bus Safety and Regulatory Reform Act of 1988 (the Act) (Title IX, Subtitle B of PL 100-690, 102 Stat. 4181). It also exempts certain foreign motor carriers from the provisions of 49 CFR Part 393 for a period of one year from the date of enactment of the Act (i.e., 11/18/89). The Act also requires the Secretary to report to Congress on the effects of the delayed application and recommend "on the extent to which foreign motor carriers may or should comply with all or any of the requirements of Part 393." To comply with the Congressional mandate, the FHWA is requesting comments from all interested parties on this issue.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 04/00/89

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 202 366-2961

RIN: 2125–AC21

1840. ● DESIGN STANDARDS FOR HIGHWAYS; AASHTO PUBLICATIONS

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The American Association of State Highway Transportation Officials (AASHTO) is revising and updating two of its publications: 1) A Policy on Geometric Design of Highways and Streets, AASHTO 1984 and 2) A Policy on Design Standards Interstate System, AASHO 1967.This action will designate these two revised AASHTO publications as being acceptable to the Federal Highway Administration for application in the geometric design of highways and remove the out-of-date versions from the acceptable list.

Timetable:

Action	Date	FR Cite
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 06/00/89

Agency Contact: Seppo I. Sillan, Department of Transportation, Federal Highway Administration, 202 366-1327

RIN: 2125–AC22

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Highway Administration (FHWA)

Completed Actions

1841. + CONTROLLED SUBSTANCES

Significance: Regulatory Program

Legal Authority: 49 USC 3102; 23 USC 315; 49 USC 104; 49 USC App 2505

CFR Citation: 49 CFR 382

Legal Deadline: None

Abstract: The FHWA requested comments on a proposal which would mandate chemical testing of interstate drivers of commercial motor vehicles for the use of drugs. The impetus for this action is the safety and health concern associated with the use of drugs by these personnel. The goal of the rule is to reduce accidents and casualties that result from the use of drugs. This rule was preceded by two drug rulemaking actions which were published in the Federal Register on 5/13/86 (BMCS Docket No. MC-116, Amendment No. 83-17, 51 FR 17568; BMCS Docket No. MC-120, Notice No. 86-3, 51 FR 17572). The latter of those actions proposed a drug test plan (much less comprehensive than proposed here) for drivers of hazardous materials. The former requested comments on specific questions regarding the various aspects of a drug control program applicable to interstate drivers. The intent of the rule is to consolidate the subject matter of the previous actions and propose a comprehensive drug control program applicable to all drivers in interstate commerce. Because the impact of this proposal (cont)

Timetable:

Action	Date	FR Cite
ANPRM	09/27/82	47 FR 42383
Initial ANPRM Withdrawn	01/23/85	50 FR 2998
ANPRM	05/13/86	51 FR 17568
ANPRM Comment Period End	08/11/88	51 FR 17568
NPRM	06/14/88	53 FR 22268
Supplemental Notice of Public Hearings	07/06/88	53 FR 25353
NPRM Comment Period End	09/12/88	53 FR 22268
Final Action	11/21/88	53 FR 47134
Final Action Effective	12/21/88	53 FR 47134

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; Regulatory Evaluation 11/21/88 (53 FR 47134)

Additional Information: ABSTRACT CONT: will result in an annual effect on the economy of over $100 million, this action is considered major under Executive Order 12291. This rule established a comprehensive drug testing program that incorporates a DOT modal approach to creating a drug-free transportation environment. A notice of public hearings was published on 7/6/88 at 53 FR 25353.

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Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AA79

1842. + INSPECTION, REPAIR, AND MAINTENANCE

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 210; PL 98-554, Sec 204; 23 USC 315

CFR Citation: 49 CFR 396; 49 CFR 390; 48 CFR 393

Legal Deadline: None

Abstract: The FHWA sought public comment concerning the development of Federal commercial motor vehicle inspection standards which would be applicable to motor carriers engaged in interstate or foreign commerce. This action is required by section 210 of the Motor Carrier Safety Act of 1984. The revisions require motor carriers to comply with Federal inspection standards, a State inspection program, or an authorized self-inspection program.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/85	50 FR 1245
ANPRM Comment Period End	02/24/85	
NPRM	02/26/87	52 FR 5913
SNPRM Comment Period extended to 06/29/87	04/27/87	52 FR 13853
NPRM Comment Period End	06/29/87	52 FR 13853
Final Action	12/07/88	53 FR 49402
Final Action Effective	12/07/89	53 FR 49968

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 12/07/88 (53 FR 49402)

Additional Information: The NPRM proposed revisions after taking into account the public comments received to the ANPRM (01/10/85), 50 FR 1245). The 1/10/85 ANPRM also solicited comments on the provisions relating to the parts and accessories necessary for the safe operation of commercial motor vehicles. This section (parts and accessories) and comments made to it are the subject of a separate rulemaking action. See Completed Action Stage, RIN 2125-AB45.

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AB34

1843. + PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; GENERAL

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 110

CFR Citation: 49 CFR 393

Legal Deadline: None

Abstract: This rulemaking action responded to section 210 of the Motor Carrier Safety Act of 1984. Section 210 requires the Department to open Part 393 of the Federal Motor Carrier Safety Regulations (FMCSR), which concerns the parts and accessories necessary for the safe operation of commercial motor vehicles, for public comment and review. In essence, Part 393 is the basis for the vehicle inspection currently performed on vehicles operated by motor carriers subject to DOT jurisdiction. The resultant amendments affect requirements for axles and attached parts, brake systems, frame and frame assemblies, lights, steering systems, suspension systems, fuel systems, and other vehicle parts and accessories, and also make certain technical amendments.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/85	50 FR 1245
ANPRM Comment Period End	02/25/85	50 FR 1245
NPRM	02/26/87	52 FR 5892
SNPRM Comment Period extended to 06/29/87	04/27/87	52 FR 13853
NPRM Comment Period End	06/29/87	52 FR 13853
Final Action	12/07/88	53 FR 49380
Final Action Effective	03/07/89	53 FR 49380

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 12/07/88 (53 FR 49380)

Additional Information: For the rulemaking action specifically addressing 49 CFR 393.42 (Front Wheel Brakes), see the entry entitled "Parts and Accessories Necessary for Safe Operation; Front Wheel Brakes," in 52 FR 2801 (01/27/87).

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AB45

1844. + SAFETY FITNESS PROCEDURES

Significance: Regulatory Program

Legal Authority: PL 98-554, Sec 215; 49 USC 3102

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: Section 215 of the Motor Carrier Safety Act of 1984 required the FHWA, in cooperation with the Interstate Commerce Commission, to establish a procedure to determine the safety fitness of owners and operators of commercial motor vehicles including persons seeking new or additional operating authority as motor carriers. Comments were requested regarding the proposed changes in the current safety rating procedures and a new proposal for those carriers who have not previously been assigned a safety rating or who intend to be a new entrant into the motor carrier industry. It has been determined that this rulemaking action is a significant regulation under the regulatory policies and procedures of the Department of Transportation because of the total estimated indirect benefits that may result. A final rule was published on 12/19/88 at 53 FR 50961.

Timetable:

Action	Date	FR Cite
NPRM	06/25/86	51 FR 23088
NPRM Comment Period End	08/11/86	51 FR 23088
Final Action	12/19/88	53 FR 50961
Final Action Effective	01/18/89	53 FR 50961

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 12/19/88 (53 FR 50961)

Agency Contact: Gerald J. Davis, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2998

RIN: 2125–AB46

1845. + EMPLOYEE SAFETY AND HEALTH STANDARDS

Significance: Regulatory Program

Legal Authority: PL 98-554, Sec 206; 49 USC App 2505

CFR Citation: 49 CFR 399

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) was considering proposing to revise Part 399 of the Federal Motor Carrier Safety Regulations (FMCSR) to implement Section 206 of the Motor Carrier Safety Act of 1984. After reviewing the public comments received to the ANPRM published on January 23, 1985 (50 FR 2998), the FHWA has decided that no revisions to this Part are warranted at this time. This Part is considered reissued pursuant to the Motor Carrier Safety Act of 1984.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	04/22/85	50 FR 2998
Withdrawn	02/17/89	54 FR 7191

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AB50

1846. + DRIVING A MOTOR VEHICLE

Significance: Regulatory Program

Legal Authority: PL 98-554, Sec 206; 49 USC App 2505

CFR Citation: 49 CFR 392

Legal Deadline: None

Abstract: The FHWA had considered revising Part 392 of the Federal Motor Carrier Safety Regulations (FMCSR) in accordance with section 206 of the Motor Carrier Safety Act of 1984. After reviewing the comments received in response to the ANPRM published on January 23, 1985 (50 FR 2998), FHWA has decided not to make further revisions to Part 392 at this time. This Part is considered reissued as currently written pursuant to the Motor Carrier Safety Act of 1984.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	04/22/85	50 FR 2998
Withdrawn	02/17/89	54 FR 7191

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AB51

1847. + TRUCK SIZE AND WEIGHT; SPECIALIZED EQUIPMENT; BOAT TRANSPORTERS

Significance: Regulatory Program

Legal Authority: 23 USC 315; 23 USC 2311(d); PL 100-17, Sec 133

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: FHWA sought comments on a request to designate boat transporters as specialized equipment under provision of section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA). Of prime concern were comments and information on the following issues relating to boat transporters: maneuvering characteristics, safety, control, offtracking, crosswind effects, and the need for overall length limits on boat transporters. Information on the similarities and dissimilarities between boat transporters and auto transporters was also solicited, as well as information on the consistency of truck configurations used for hauling boats. Comments were requested regarding the need to preempt current State regulation of this vehicle, as well as an actual definition and description of boat transporters, and on the types of vehicles that should be considered as specialized equipment as well as an actual definition. Boat transporters were designated as specialized equipment by final rule published 12/2/88 at 53 FR 48634.

Timetable:

Action	Date	FR Cite
ANPRM	03/18/86	51 FR 10234
ANPRM Comment Period End	05/09/86	51 FR 10234
NPRM	01/29/88	53 FR 2602
NPRM Comment Period End	04/18/88	53 FR 2602
Final Action	12/02/88	53 FR 48634
Final Action Effective	12/02/88	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 12/02/88 (53 FR 48634)

Agency Contact: Philip W. Blow, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4036

RIN: 2125–AB55

1848. + QUALIFICATION OF DRIVERS; HAZARDOUS MATERIALS DRIVERS

Significance: Regulatory Program

Legal Authority: 49 USC 3102; 49 USC App 2505

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: The notice of proposed rulemaking published on 5/13/86 (51 FR 17572), which proposed to establish stricter driver qualification rules for drivers of vehicles containing certain classes of hazardous materials, has been withdrawn. Certain rulemaking actions mandated by the Commercial Motor Vehicle Safety Act of 1986 will supersede this action. The subject matter of this rulemaking regarding training will be addressed by RSPA in subsequent rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/13/86	51 FR 17572
NPRM Comment Period End	08/11/86	51 FR 17572
Withdrawn	02/17/89	54 FR 7191

Small Entities Affected: None

Government Levels Affected: State

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Analysis: Regulatory Evaluation 05/13/88 (51 FR 17572)

Agency Contact: Jill Hochman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4069

RIN: 2125–AB64

1849. + COMMERCIAL DRIVER TEST AND LICENSING STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 2505; 49 USC 3102; PL 99-570, Sec 12005; PL 99-570, Sec 12006; PL 99-570, Sec 12009

CFR Citation: 49 CFR 383; 49 CFR 391

Legal Deadline: Final, Statutory, July 15, 1988.

Abstract: On 7/21/88 (53 FR 27628), the FHWA amended Part 383 of the Federal Motor Carrier Safety Regulations (FMCSR's) to establish minimum standards for State testing and licensing of commercial motor vehicle (CMV) drivers. Standards established include: commercial driver licensing and testing procedures to be used by the States; knowledge, skills, and abilities which drivers of different types of CMV's must possess; and the information to be contained on the commercial drivers license (CDL) issued by the States. The standards also require that CMV drivers take and pass the appropriate knowledge and skills tests by 4/1/92. In addition, on 9/26/88 (53 FR 37313), the FHWA issued a notice of final disposition regarding waivers submitted by several groups of CMV drivers from various requirements of the regulation. In a separate rulemaking action, the FHWA will propose to define "excessive speeding," "reckless driving" and "other serious traffic violations" and other issues pertaining to the disqualification of CMV drivers. See action under RIN 2125-AC19.

Timetable:

Action	Date	FR Cite
ANPRM	08/01/86	51 FR 27567
ANPRM Comment Period End	11/05/86	51 FR 35538
NPRM	12/11/87	52 FR 47326
NPRM Comment Period End	02/09/88	52 FR 47326
Final Action	07/21/88	53 FR 27628
Final Action Effective	08/22/88	53 FR 27628
Notice of Final Disposition Waivers	09/26/88	53 FR 37313

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 07/21/88 (53 FR 27628)

Additional Information: Final action was effective 08/22/88, except 04/01/92 for Sec 383.23.

Agency Contact: Jill L. Hochman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4001

RIN: 2125–AB68

1850. + BLOOD ALCOHOL CONCENTRATION STANDARD FOR COMMERCIAL VEHICLE OPERATORS

Significance: Regulatory Program

Legal Authority: PL 99-570, Sec 12008; 49 USC App. 2505; 49 USC 3102

CFR Citation: 49 CFR 383; 49 CFR 391

Legal Deadline: Final, Statutory, October 27, 1988.

Abstract: In response to Section 12008 of the Commercial Motor Vehicle Safety Act of 1986, the FHWA requested comments on the establishment of a commercial driver blood alcohol concentration (BAC) standard for "driving under the influence." Also in response to Section 12008 of the Act, the National Academy of Sciences (NAS) conducted a study on the appropriateness of selecting one of several alternative BAC levels as the level at which a person operating a commercial motor vehicle would be deemed to be driving under the influence of alcohol. Based on the results of the study and the rulemaking comments, the Secretary of Transportation promulgated a commercial driver BAC standard. States are required to enact laws providing that any driver who operates a commercial motor vehicle at the Federal BAC level or above it is deemed to be driving under the influence of alcohol. States not enacting a BAC-level law for commercial motor vehicle drivers risk the loss of Federal-aid highway funds. The comments received were available to the NAS.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9192
ANPRM Comment Period End	05/22/87	
NPRM	05/10/88	53 FR 16656
Correction to NPRM	06/02/88	53 FR 20147
NPRM Comment Period End	06/29/88	53 FR 16656
Final Action	10/04/88	53 FR 39044
Final Action Effective	10/27/88	53 FR 39044

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/04/88 (53 FR 39044)

Agency Contact: Jill L. Hochman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4001

RIN: 2125–AB79

1851. + TRUCK SIZE AND WEIGHT; SPECIAL PERMITS

Significance: Regulatory Program

Legal Authority: 23 USC 127; 49 USC 2311; 49 USC 2313; 49 USC App. 2316; 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This rulemaking action would have deleted language pertaining to the issuance of special permits in sec. 658.17 and requested that States identify grandfather rights claimed for single and tandem axle weight, gross weight, alternate bridge formula, and special permit authority. Upon further review, the FHWA has determined that no action is required in this area at this time. Therefore, this action has been terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	12/12/88	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: John MacGowan, Department of Transportation, Federal Highway Administration, 400 Seventh

St., SW, Washington, DC 20590, 202 366-4032

RIN: 2125–AB80

1852. + UNIFORM RELOCATION ACT AMENDMENTS OF 1987; GENERAL

Significance: Agency Priority

Legal Authority: 42 USC 4601 et seq; PL 100-17, Sec 4

CFR Citation: 49 CFR 24

Legal Deadline: Final, Statutory, April 2, 1989.
A final rule must be promulgated by 4/2/89.

Abstract: This rulemaking addresses implementation of Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, 101 Stat. 132 (STURAA). Title IV of STURAA amends the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), 42 U.S.C. sections 4601 to 4655 (1982). Title IV establishes: a lead agency (FHWA) to insure consistent Federal implementation; an increase in the maximum monetary benefits that can be provided to persons forced to relocate by Federal or federally assisted projects; an expansion of the Uniform Act's coverage to insure more types of displacing activities; and an allowance for a State certification program. This rulemaking was significant because of substantial public interest involved.

Timetable:

Action	Date	FR Cite
NPRM	07/21/88	53 FR 27598
Notice of Public Meetings	07/27/88	53 FR 28239
Correction to NPRM	08/01/88	53 FR 28995
NPRM Comment Period End	09/19/88	
Final Action	03/02/89	54 FR 8912
Final Action Effective	03/02/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 03/02/89 (54 FR 8912)

Agency Contact: Robert Moore, Department of Transportation, Federal Highway Administration, 400 Seventh

St., SW, Washington, DC 20590, 202 366-0116

RIN: 2125–AB85

1853. + DRIVER'S RECORD OF DUTY STATUS; ONBOARD RECORDING DEVICES

Significance: Agency Priority

Legal Authority: 49 USC App 2505; 49 USC 3102

CFR Citation: 49 CFR 395

Legal Deadline: None

Abstract: The FHWA initiated rulemaking to address the use of onboard recording devices in motor vehicles operating in interstate commerce. This action was taken in response to a petition filed by the Insurance Institute for Highway Safety (IIHS) on 2/25/87. The original IIHS petition (10/86) requested that the FHWA require motor carriers to use onboard recording devices for recording the driver's hours of service. This rulemaking is considered significant because of the substantial public interest involved. A final rule was issued allowing the use of on-board recording devices under certain conditions.

Timetable:

Action	Date	FR Cite
ANPRM	07/13/87	52 FR 26289
ANPRM Comment Period End	10/13/87	52 FR 26289
NPRM	03/14/88	53 FR 8228
NPRM Comment Period End	04/13/88	53 FR 8228
Final Action	09/30/88	53 FR 38666
Final Action Effective	10/31/88	53 FR 38666
Correction to Final Rule	11/04/88	53 FR 44588

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 09/30/88 (53 FR 38666)

Additional Information: Devices are authorized as of 10/31/88. Devices must be in compliance with all requirements no later than 10/02/89.

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2961

RIN: 2125–AB95

1854. + TRUCK SIZE AND WEIGHT; NATIONAL NETWORK; IOWA AND KENTUCKY

Significance: Agency Priority

Legal Authority: 23 USC 127; 23 USC 315; 49 USC 2311; 49 USC 2313; 49 USC App 2316

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA has modified the National Network for commercial motor vehicles by deleting certain routes in Iowa and permitting restrictions on a route in Kentucky. A final rule on Truck Size and Weight published at 49 FR 23302 on June 5, 1984, established the National Network. It is maintained under 23 CFR 658, Appendix A, as amended. This rulemaking is considered significant because of substantial public interest. The original NPRM had also proposed deleting a certain route in South Carolina. At the time this final rule was prepared, insufficient data was available in order to make a determination on the South Carolina route. Resolution of this issue will be addressed in a separate rulemaking action. See RIN-2125-AC23.

Timetable:

Action	Date	FR Cite
NPRM	05/25/88	53 FR 18859
NPRM Comment Period End	07/25/88	53 FR 18859
Final Action	01/18/89	54 FR 1928
Final Action Effective	01/18/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 01/18/89 (54 FR 1928)

Additional Information: The final actions addressing the National Network in Kentucky and Iowa were published in separate final rules on 1/18/89. The final rule for Iowa was published at 54 FR 1930. The final rule for Kentucky was published at 54 FR 1928. Both final rules were effective on 1/18/89.

Agency Contact: Mr. Kevin E. Heanue, Department of Transportation, Federal Highway Administration, 400 Seventh

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St., SW, Washington, DC 20590, 202 366-2951

RIN: 2125–AC10

1855. PAVEMENT POLICY FOR HIGHWAYS

Significance: Nonsignificant

Legal Authority: 23 USC 109(a) to 109(c); 23 USC 315; 23 USC 101(e); 23 USC 402

CFR Citation: 23 CFR 626; 23 CFR 625

Legal Deadline: None

Abstract: The existing regulation on pavement design has been modified to eliminate unnecessary requirements and duplicative provisions. Currently, the Federal Highway Administration (FHWA) uses the "American Association of State Highway and Transportation Officials (AASHTO) Interim Guide for Design of Pavement Structures, 1972," Chapter III Revised, 1981, to evaluate the adequacy of the proposed pavement designs for Federal-aid projects. AASHTO approved a new Pavement Design Guide in 1986. FHWA has solicited comments on the revised guide and will adopt it for use on Federal-aid projects as a guide, not a standard. Each State highway agency (SHA) will be required to have a process that is acceptable to FHWA for the type selection and design of new and reconstructed pavement structures. The SHA may use the design procedures outlined in the 1986 Guide or they may use other pavement design procedures that by past performance or supported by research are satisfactory for the pertinent conditions. Each SHA shall also have a pavement rehabilitation selection process and a pavement management system which are acceptable to FHWA.

Timetable:

Action	Date	FR Cite
NPRM	01/26/88	53 FR 2041
Comment Period Extended to 05/27/88	04/11/88	53 FR 11875
SNPRM	04/11/88	53 FR 11875
NPRM Comment Period End	04/25/88	53 FR 2041
Final Action	01/13/89	54 FR 1353

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal impact) 01/13/89 (54 FR 1353)

Additional Information: Register notice was published on 04/24/85 (50 FR 16103) outlining and explaining the procedural steps the FHWA would take to effectuate Federal adoption of the revised guide.

Agency Contact: Norman Van Ness, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0341

RIN: 2125–AA88

1856. STRUCTURAL SUPPORTS FOR HIGHWAY SIGNS, LUMINAIRES, AND TRAFFIC SIGNALS

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: In May, 1985, the American Association of State Highway and Transportation Officials (AASHTO) approved its publication entitled "Standard Specification for Structural Supports for Highway Signs, Luminaires, and Traffic Signals," which is incorporated in 23 CFR 625 as a specification. FHWA is adopting the AASHTO publication for Federal-aid application. An interim final rule adopted all of the 1985 AASHTO sign and luminaires specifications except section 7, Breakaway Supports. The SNPRM contained the results of FHWA's crash testing of previously accepted luminaire support systems and opened the docket for further comments.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	51 FR 40817
NPRM Comment Period End	05/11/87	51 FR 40817
Interim Final Rule	09/28/87	52 FR 32645
SNPRM	12/14/87	52 FR 47403
Final Action	01/05/89	54 FR 276
Final Action Effective	01/05/89	
Correction to Final Rule	01/17/89	54 FR 1844

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 01/05/89 (54 FR 276)

Agency Contact: James H. Hatton, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1329

RIN: 2125–AB56

1857. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; REVISION OF UNIFORM TRAFFIC CONTROL DEVICES; PASSING AND NO-PASSING ZONE STANDARDS

Significance: Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The FHWA considered issuing a NPRM in response to a petition filed by the Center for Auto Safety (CAS) to revise no-passing zone standards. If adopted, the revised standards could be incorporated into the Manual On Uniform Traffic Control Devices (MUTCD). In response to the ANPRM published on 6/11/86 at 51 FR 21180, the FHWA has found no conclusive data to determine that the current sight distances for passing zones are inadequate. The FHWA issued a termination of rulemaking and docket closing notice on 1/17/89 at 54 FR 1728.

Timetable:

Action	Date	FR Cite
ANPRM	06/11/86	51 FR 21180
ANPRM Comment Period End	07/20/87	51 FR 21180
Withdrawn Public docket closed	01/17/89	54 FR 1728

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mr. Philip O. Russell, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0411

RIN: 2125–AB84

1858. CONSTRUCTION AND MAINTENANCE; CONTRACT PROCEDURES; STANDARDIZED CONTRACT CLAUSES

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 117; 23 USC 315; PL 100-17, Sec 111(c)

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: Regulations on contract procedures are amended to implement the provisions of Section 111(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 111(c) of STURAA amends 23 USC 112 to require a standardized contract clause in all Federal-aid contracts unless otherwise provided for by State law. The standardized contract clause provides for the equitable adjustment of contract terms: (1) where site conditions differ from those specified in the contract; (2) where work has been suspended by order of the contracting agency (other than a suspension of work caused by the fault of the contractor or by weather); and (3) where there are material changes in the scope of the work.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	52 FR 45645
NPRM Comment Period End	02/01/88	52 FR 45645
Comment Period Extended to 03/01/88	02/10/88	53 FR 3897
Final Action	01/30/89	54 FR 4269
Final Action Effective	05/01/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 01/30/89 (54 FR 4269)

Agency Contact: William A. Weseman, Chief, Construction and Maint. Division, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0392

RIN: 2125–AB87

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage
National Highway Traffic Safety Administration (NHTSA)

1859. + UNIFORM TIRE-QUALITY GRADING

Significance: Agency Priority

Legal Authority: 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: Contemplated action would include rolling resistance for tires as a substitute for top temperature resistance grade in the Uniform Tire Quality Grading Standards. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Rolling resistance is related to tire temperature rating which is already indicated on tire labels. Since excessive temperature can lead to sudden tire failure, this aspect is more important to consumer's safety than rolling resistance.

Agency Contact: Orron Kee, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AA52

1860. + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 208, OCCUPANT CRASH PROTECTION - CHEST INJURY CRITERIA AND MANDATORY USE OF THE PART 572(E) DUMMY IN THE STANDARD COMPLIANCE TESTING

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Petitions for reconsideration have raised the question of whether the Part 572(E) dummy's chest deflection limit of 2 in. is appropriate for belt restraints. The rulemaking will address the petitioner's issues. The intention is to upgrade the chest-deflection injury criteria for unrestrained occupants when vehicles are tested for the Standard compliance with the Hybrid III Dummy. The Final Rule stated that the agency will have to resolve this issue by September 1, 1990. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Former title: Mandatory Use of the Part 572(E) Dummy in FMVSS 208 Compliance Testing.

RIN AC34, involving chest injury criteria, has been consolidated herein.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC13

1861. + ROLLOVER

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: Consumers Union petitioned for rulemaking to develop a new standard to protect against unreasonable risk of rollover. The petition is under consideration. This issue is considered significant because of substantial public interest and safety factors involved.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC84

1862. ● + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 102, TRANSMISSION SHIFT LEVER SEQUENCE, STARTER INTERLOCK, AND TRANSMISSION BRAKING EFFECT

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: A petition is being considered which requests that an amendment be made which would require that automatic transmissions be designed so that they do not slip out of the PARK position. This issue is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC74

1863. ● + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 102, TRANSMISSION SHIFT LEVER SEQUENCE, STARTER INTERLOCK, AND TRANSMISSION BRAKING EFFECT

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: A rulemaking action is being considered which would amend the provisions for indication of the shift position or shift pattern for transmissions that do not have a "PARK" position. This rulemaking is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC75

1864. ● + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: A rulemaking action is being considered which would amend the provisions for location of identification and clearance lamps on vehicles that are more than 80 inches wide. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC78

1865. ● + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 201, OCCUPANT PROTECTION IN INTERIOR IMPACT

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: This action responds to a petition by Chrysler to exempt from the head-impact requirements of the standard those vehicles equipped with a passenger-side airbag complying with Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection. This rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC84

1866. ● + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 205, GLAZING MATERIALS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: A petition is being considered which requests that an amendment be made to the standard which would allow the applications of a film with 35% transmittance to the windows of motor vehicles. This project is considered significant because of the substantial public interest expected to be generated.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC85

1867. ● + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 301, FUEL-SYSTEM INTEGRITY

Significance: Agency Priority

Legal Authority: 15 USC 1407; 15 USC 1410

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: NHTSA is contemplating amending the standard to include buses over 10,000 pounds gross vehicle weight rating (GVWR) (such as intercity and transit buses) and to upgrade the standard's current requirements for all buses (including school buses) to which the standard already applies. The current standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses that have a GVWR of 10,000 pounds or less. This action is considered significant because of the safety implications involved.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC89

1868. ● + RECONSIDERATION OF 1989 PASSENGER-CAR FUEL-ECONOMY STANDARD

Significance: Agency Priority

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 531

Legal Deadline: None

Abstract: The Center For Auto Safety and Public Citizen have petitioned the agency to reconsider the Model Year 1989 passenger-car corporate average fuel-economy standard set by the agency and published 10/06/88: 53 FR 39275. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AC91

1869. REVIEW: SCHOOLBUS SEATING SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.222

Legal Deadline: None

Abstract: This regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/85	
End Review	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AA65

1870. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The standard requires passenger cars sold after Oct. 1, 1985 to be equipped with center high-mounted stop lamps. The evaluation will determine the reduction of rear-impact collisions that occurred after the lamps were introduced in the vehicle fleet, as well as the cost of the lamps.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
Preliminary evaluation report published	03/20/87	52 FR 9609
Interim Report	06/01/89	
End Review	06/15/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The preliminary evaluation report indicated that cars equipped with center high-mounted stop lamps were 22 percent less likely to be struck in the rear while braking than cars without the lamps.

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, NPP-10, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AB76

1871. REVIEW: IMPACT PROTECTION FOR THE DRIVER FROM THE STEERING CONTROL SYSTEM

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.203

Legal Deadline: None

Abstract: This review involves detailed quantitative analysis of factors limiting the performance of energy-absorbing steering assemblies in cars and an evaluation of the assemblies' fatality and injury reduction in light trucks.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/86	
End Review	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank G. Ephraim, Director, Office of Standards

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Evaluation, Department of Transportation, National Highway Traffic Safety Administration, NNP-10, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AB78

1872. REVIEW: ROOF CRUSH RESISTANCE AND DOOR LOCKS AND DOOR RETENTION COMPONENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.206; 49 CFR 571.216

Legal Deadline: None

Abstract: This program was selected for review because of costs. The evaluation will study the effect of roof crush strength and door lock improvements on the crashworthiness of passenger cars in rollover crashes.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/89

Additional Information: Title was amended to add Door Locks and Door Retention Components.

Agency Contact: Frank Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AC20

1873. OCCUPANT PROTECTION IN INTERIOR IMPACT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: This standard, which is applicable to passenger cars, light trucks and buses, and multipurpose passenger vehicles, includes requirements for padded instrument panels, seat backs, sun visors and arm rests. Its purpose is to provide impact protection for occupants. This regulation was selected for review because of costs, safety benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/86	
Evaluation report published	01/25/88	53 FR 2516
End Review	06/15/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/15/89

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AB16

1874. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 301 - FUEL-SYSTEM INTEGRITY

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: This standard, which is applicable to passenger cars, light trucks, and school buses, specifies requirements for the integrity of motor vehicle fuel systems. The purpose of the standard is to reduce deaths and injuries caused by fires which result from fuel spillage after motor vehicle crashes. This evaluation follows up and expands on a prior study on passenger cars which showed that, while the regulation was effective in preventing deaths and injuries, the incidence of crash fires appeared to be increasing. This evaluation will also provide the initial assessment of the regulation as it applies to light trucks.

Timetable:

Action	Date	FR Cite
End Review	07/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Director, Office of Program Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AB43

1875. SUPPLEMENTAL FMVSS NO. 208 INJURY CRITERIA - FACIAL LACERATIONS, NECK INJURY, KNEE SHEAR, TIBIA AND ANKLE INJURIES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The intention to apply in Federal Motor Vehicle Safety Standard No. 208 rulemaking additional injury criteria in order to prevent facial lacerations, neck injury, knee shear, tibia, and ankle trauma was announced in Notice 39 Docket 74-14. The final rule (Notice 40) stated that the agency will issue another Notice on the additional injury criteria to gain additional information about the potential effects of adopting these criteria. Alternatives and potential costs were addressed in Notice 39.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC12

1876. FEDERAL MOTOR VEHICLE SAFETY STANDARD (FMVSS) NO. 205, GLAZING MATERIALS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: The Taliq Corporation of Sunnyvale, CA, petitioned the agency to create a new category of glass-plastic glazing, AS-15. This proposed glazing would consist of a layer of tempered glass and a layer of plastic with the tempered glass layer on the outside surface when installed in the vehicle. This glazing would be permitted only in vehicle locations not requisite for driving visibility. The merits of the petition are being considered.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC38

1877. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 208 - OCCUPANT CRASH PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 208 requires safety belt systems in the front outboard seating positions of passenger cars to adjust automatically by means of emergency locking retractors. Horkey and Associates petitioned the agency to prohibit the use of emergency locking retractors as it is alleged they do not provide adequate protection against occupant rebound in rear impacts. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC57

1878. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 301 - FUEL SYSTEM INTEGRITY

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 301 specifies requirements for the integrity and security of vehicle's entire fuel system, including the fuel tank, fuel pump, lines and connections in front and rear, or lateral barrier impact tests; also fuel loss must not exceed one ounce per minute in a static rollover test following these barrier crash tests as well as not exceeding these limits after and incidental to the crash tests. Thomas Feahney petitioned the agency to amend the Standard to include simple functional testing to assure performance equivalent to fuel systems made of high density polyethylene. The petition was granted and an ANPRM requested comments.

Timetable:

Action	Date	FR Cite
ANPRM	03/08/89	54 FR 9855
ANPRM Comment Period End	05/08/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC58

1879. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT - PROPOSED AMENDMENT TO PERMIT THE 9007 BULB FOR HEADLAMPS

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 552; 49 CFR 571.108

Legal Deadline: None

Abstract: Ford has petitioned to allow Federal Motor Vehicle Safety Standard No. 108 to be amended to permit a new replaceable bulb design for headlamps and replacement use. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph J. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC59

1880. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Sylvania has petitioned National Highway Traffic Safety Administration to amend Federal Motor Vehicle Safety Standard No. 108 to permit a new multiple lamp headlamp system with integral aim capability. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph J. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AC61

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DOT—NHTSA

Prerule Stage

1881. BRAKE LINING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requesting initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and are presently under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC66

1882. BATTERY EXPLOSIONS

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: Petition to provide protection against battery explosions by providing a plastic barrier attached to battery has been received from Dr. Abraham. Ongoing analysis will determine the magnitude of the problem and benefits and costs of possible corrective actions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC67

1883. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: A petition is being considered which requests an amendment to introduce a new definition for the term "optically combined" concerning lamps.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC77

1884. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 120, TIRE SELECTION AND RIMS FOR VEHICLES OTHER THAN PASSENGER CARS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.120

Legal Deadline: None

Abstract: The agency has received a petition from Redco Corporation for amendment to the standard, to require that labels be placed on vehicles to instruct service personnel on the proper methods of servicing multi-piece wheel rims.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC79

1885. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 121, AIR-BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: Wabco has petitioned the agency to amend the standard to allow the use of a supplemental electrical connector instead of the stop lamp circuit to power the antilock brake system on air-braked trailers. The petitioner believes the use of a supplemental connector would provide better performance and protection against system malfunctions.

Timetable:

Action	Date	FR Cite
Petition Granted by Letter	03/17/88	
Request for Comments	10/12/88	53 FR 39751

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC80

1886. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 121, AIR-BRAKE SYSTEMS

Significance: Nonsignificant

DOT—NHTSA

Prerule Stage

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: The Truck Trailer Manufacturers Association has petitioned the agency to amend the standard to remove extendable and drop frame container chassis from the partial exclusions applying to heavy hauler trailers. The petitioner believes that the reasons for excluding heavy hauler trailers from certain requirements of the standard do not apply in the case of container chassis.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC81

1887. ● ESTABLISH A STANDARD FOR SAFE ENTRY AND EXIT REQUIREMENTS FOR COMMERCIAL VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The International Brotherhood of Teamsters has petitioned the agency to commence rulemaking to establish safe entry and exit requirements for commercial vehicles. The Teamsters urged that such requirements are necessary to combat frequent injuries to professional drivers from slipping and falling.

Timetable:

Action	Date	FR Cite
Petition Granted	07/03/80	45 FR 45336

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC, 202 366-0842

RIN: 2127–AC82

1888. ● TRACTOR-TRAILER FIFTH WHEEL; FALSE LATCHING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The petitioner claims that it is possible to "high-hitch" or false latch the fifth wheel and the kingpin when connecting a trailer to the towing tractor. (The fifth wheel is the coupling unit on the tractor that allows the unit to be joined and towed through a wide range of articulation.) Petitioner requested the agency to write a standard that would not allow false latching of the tractor trailer fifth wheel. The action is a request for information on separation of tractor trailers, availability of accident data, information of the cost of changing the present designs, and performance tests should a standard be considered.

Timetable:

Action	Date	FR Cite
Request for Comments and Petition Granted	08/18/88	53 FR 31378

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This project is being considered jointly with FHWA, although NHTSA is responsible for compiling the information received.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC83

1889. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 208, OCCUPANT CRASH PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This action responds to petitions for reconsideration that were received on the recent final rule on medium and heavy vehicle seat belts. The final rule enhanced the comfort and convenience of safety belts on vehicles over 10,000 pounds gross vehicle weight rating (07/06/88: 53 FR 25337).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC86

1890. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 213, CHILD SEATING SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action responds to a petition to amend the standard to provide specific requirements for restraints to be used by newborn and very small children.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety

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DOT—NHTSA — **Prerule Stage**

Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC87

1891. ● PEDESTRIAN HEAD-PROTECTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This proposal would reduce adult and child head injuries through modification of the vehicle hood structure.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC90

1892. ● FEDERAL MOTOR VEHICLE THEFT PREVENTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 541

Legal Deadline: Other, Statutory, October 24, 1990.
The Motor Vehicle Information and Cost Savings Act (P.L. 98-547) requires a Report to Congress five years after promulgation of the Federal Motor Vehicle Theft Prevention Standard.

Abstract: This standard, which applies to passenger cars, requires identifying numbers or symbols to be placed on major parts of high theft passenger motor vehicles. A comprehensive evaluation will be performed to determine the effectiveness of the regulation in reducing the incidence of motor vehicle thefts and to estimate the costs of manufacturing and applying the identifying information. The evaluation of the regulation is required by the Motor Vehicle Information and Cost Savings Act and calls for a Report to Congress five years after promulgation of the standard.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/86	
End Review	10/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AC92

1893. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 202, HEAD RESTRAINTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: This standard, which is applicable to passenger cars, includes requirements for head restraints. Its purpose is to protect occupants from neck injury in rear-impact crashes. A comprehensive evaluation was published in February 1982. The evaluation will be updated with new cost information and extensive accident data that have become available in recent years. The regulation was selected for review because of costs, safety benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/88	
End Review	06/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AC93

1894. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 105, HYDRAULIC BRAKE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: This standard regulates the performance of antilock brake systems for passenger cars and other vehicles with hydraulic brakes. The purpose of antilock brakes is to enhance the driver's control of the vehicle during emergency braking. Antilock brakes are currently available on some passenger cars. The standard, at this time, does not require them for all cars. The regulation was selected for review because of public interest in the costs and benefits of antilock brakes.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/88	
End Review	12/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AC94

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage

National Highway Traffic Safety Administration (NHTSA)

1895. + COMMERCIAL VEHICLE CONSPICUITY

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Proposed actions would improve the conspicuity of commercial vehicles by establishing in FMVSS 108 performance requirements for the total lighting and marking system of commercial vehicles (excluding headlights).

DOT—NHTSA — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	05/27/80	45 FR 35405
ANPRM Comment Period End	08/25/80	45 FR 35405
Request for Comments	09/18/87	52 FR 35345
Comment Period End	11/09/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: Docket No. 80-9.

Research underway.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1537

RIN: 2127–AA12

1896. + SIDE-IMPACT PROTECTION, HEAD/NECK PROTECTION, AND OCCUPANT EJECTION MITIGATION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.201; 49 CFR 571.205; 49 CFR 571.208; 49 CFR 571.214

Legal Deadline: None

Abstract: Contemplated action proposes amending the current standard to include head/neck protection and to mitigate ejection through side windows and doors.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/88	53 FR 31712
ANPRM Comment Period End	10/18/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB85

1897. + LIGHTING SIMPLIFICATION--POTENTIAL AMENDMENTS ON LONG-TERM ISSUES TO SIMPLIFY FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 108 LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: NHTSA proposes a comprehensive review of headlighting requirements of FMVSS No. 108 which may be simplified, while being consistent with motor-vehicle safety. The agency has concentrated its efforts into five principal areas. This action addresses the first of these, which is the feasibility of a standard directed toward onboard original-equipment headlighting performance rather than toward performance of individual aftermarket headlamps in a laboratory environment. This action is considered significant because of safety implications. Based on comments received, a second NPRM will be issued.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/85	50 FR 42735
ANPRM Comment Period End	03/06/86	51 FR 1542
NPRM	10/29/87	52 FR 49038
NPRM Comment Period End	03/28/88	
SNPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Preliminary Regulatory Evaluation 12/29/87 (52 FR 49038)

Additional Information: Docket No. 85-15, Notice 1.

Docket No. 85-15, Notice 2. Federal Register Notice (51 FR 1542) extended comments period from a closing date of Jan. 21, 1986 to March 6, 1986.

Agency Contact: Ralph Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB87

1898. + POST 1991 LIGHT TRUCK FUEL ECONOMY STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 533

Legal Deadline: Final, Statutory, March 31, 1990.
Light truck fuel economy standards are required to be set at least 18 months prior to the beginning of the Model Year.

Abstract: In accordance with the mandatory requirements of Section 502(b) of the Motor Vehicle Information and Cost Savings Act, this rulemaking will establish light truck average fuel economy standards for Model Year 1992 and later years.

Timetable:

Action	Date	FR Cite
NPRM	08/31/89	
NPRM Comment Period End	10/31/89	
Final Action	03/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AC51

1899. + HEAVY DUTY VEHICLE BRAKE SYSTEMS (FORMERLY TRUCK AND TRAILER BRAKE SYSTEMS)

Significance: Agency Priority

Legal Authority: 15 USC 1392 National Traffic & Motor Vehicle Safety Act of 1966; 15 USC 1407 National Traffic & Motor Vehicle Safety Act of 1966

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CFR Citation: 49 CFR 571.121; 49 CFR 571.105

Legal Deadline: None

Abstract: Proposed action would establish a new brake standard for all trucks, buses, and trailers with a Gross Vehicle Weight Rating (GVWR) over 10,000 pounds. This standard would replace Standard No. 121, Air Brake Systems, and that portion of Standard No. 105, Hydraulic Brake Systems, that applies to vehicles with a GVWR over 10,000 pounds. It would also establish new requirements for heavy trailers having other than air-actuated brakes. In developing the standard, the agency will consider compatibility with international regulations. Research programs in support of this new standard and possible future upgradings of the standard will investigate such long-term advanced braking system concepts as antilock systems, automatic brake adjustors, load-sensing proportioning values, air driers, and retarders for heavy trucks, buses, and trailers. This rule is considered significant because of the level of public and Congressional interest. It is necessary to prevent and reduce the severity of accidents involving heavy vehicles by providing increased accident avoidance capability.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/79	44 FR 9783
ANPRM	02/28/80	45 FR 13155

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. 79-03. ANPRM, Notice 1; Second ANPRM, Notice 3.

Research underway.

Agency Contact: R. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA00

1900. + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 302, FLAMMABILITY OF INTERIOR MATERIALS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of Standard to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	53 FR 44627

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA44

1901. + HEAVY TRAILER STABILITY

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing a new regulation to add a requirement that 102-inch wide trailers be equipped with axle tracks having a minimum axle width of 77 inches. An advanced notice of proposed rulemaking seeking comments on the safety issue raised by the petition was published on May 22, 1984 (49 FR 21551). This rulemaking is significant because of the possible substantial impact on the industry and because it is a joint venture involving two operating administrations.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/84	49 FR 21551
ANPRM Comment Period End	08/20/84	49 FR 21551

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: To Be Determined

Additional Information: This regulation is a joint endeavor of NHTSA and the Bureau of Motor Carrier Safety (BMCS). A departmental task force was formed in February 1985 to analyze the economic issues associated with this undertaking. Thus, further public action awaits the results of the task-force analysis.

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB42

1902. + SIDE-IMPACT PROTECTION – LIGHT TRUCKS, VANS, AND MULTIPURPOSE PASSENGER VEHICLES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 1.50

Legal Deadline: None

Abstract: The purpose of this advance notice is to announce that the NHTSA is considering the proposal of requirements for light trucks, vans, and multipurpose passenger vehicles intended to reduce the risk of fatalities and injuries in side impacts and other crashes where the side protection of the vehicle is a relevant factor, and to request comments to assist the agency in developing the proposal. The contemplated requirements would be part of the agency's efforts to address the serious problem of side impacts. As another part of those efforts, the agency earlier this year proposed requirements for passenger cars intended to reduce the risk of injuries to the thorax and pelvis in side impact crashes between vehicles. This rulemaking is considered significant because of the public safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/88	53 FR 31716
Comment Period Extension Denied	09/27/88	53 FR 37615
Comment Period Extension Denied	10/17/88	53 FR 40462
ANPRM Comment Period End	10/18/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 7th Street, S.W., Washington, DC 20590, 202 366-0842

RIN: 2127–AC43

1903. ● + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 217, BUS WINDOW RETENTION AND RELEASE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: This Advance Notice of Proposed Rulemaking requests comments regarding possible upgrade of the standard to increase the minimum number of emergency exits on school buses. This is a significant rulemaking action because it concerns a matter of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44623
ANPRM Comment Period End	01/03/89	53 FR 44623

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC88

1904. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Significance: Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR Parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen C. DeMeter, Ass't Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1834

RIN: 2127–AB79

1905. VOLUNTARY VEHICLE IDENTIFICATION STANDARD (THEFT PREVENTION STANDARD)

Significance: Nonsignificant

Legal Authority: 15 USC 2033

CFR Citation: 49 CFR Not yet determined

Legal Deadline: None

Abstract: NHTSA will promulgate a voluntary vehicle identification standard under which any person may elect to inscribe or affix an identifying number or symbol on major parts of any motor vehicle manufactured or owned by such person for purposes of section 511 of Title 18, United States Code, and related provisions. Compliance with this standard shall not relieve any manufacturer of motor vehicles from compliance with the requirements of the Federal motor vehicle theft prevention standard (49 CFR Part 541), or any other applicable regulation. This rulemaking supplements the statutory requirement of 15 USC 2033 by allowing consumers to protect their vehicles and parts by identifying them.

Timetable:

Action	Date	FR Cite
NPRM	10/15/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/15/89

Agency Contact: Barbara Kurtz, Senior Program Analyst, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, NRM-20, 400 Seventh St., SW, Washington, DC 20590, 202 366-4806

RIN: 2127–AB93

1906. ANTHROPOMORPHIC TEST DUMMIES REPRESENTING CHILDREN

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: Contemplated action would update the specifications of Part 572 covering the three-year-old child dummy to allow optional use of new accelerometers and a new head design.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Ralph Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB94

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1907. ANTHROPOMORPHIC TEST DUMMIES REPRESENTING CHILDREN

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: This action would add the specifications covering the 6-year-old-child/test dummy to Part 572 to allow its use in evaluation of child restraints designated for older children.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 05/00/89

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC09

1908. ANTHROPOMORPHIC TEST DUMMIES REPRESENTING CHILDREN

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: Contemplated action would add the specification covering the 9-month-old-child test dummy to Part 572 to allow its use in evaluation of restraints designated for infants and small toddlers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC10

1909. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 205, GLAZINQ MATERIALS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: Based on a petition, this action would amend the FMV Safety Standard No. 205, Glazing Materials, to revise the ball drop test No. 26 to allow clamping of glass-plastic samples. NHTSA is evaluating the petitions.

Timetable:

Action	Date	FR Cite
NPRM	06/16/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC14

1910. NEW NON-PNEUMATIC TIRES FOR PASSENGER CARS, TIRE SELECTION, AND RIMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.110; 49 CFR 571.129

Legal Deadline: None

Abstract: Based on a petition, the agency is proposing an amendment to Federal Motor Vehicle Safety Standard No. 110, Tire Selection and Rims - Passenger Cars, to allow temporary use of non-pneumatic spare tires and establish performance requirements for them in a new Federal Motor Vehicle Safety Standard No. 129, Non-Pneumatic Tires for Passenger Cars.

Timetable:

Action	Date	FR Cite
Request for Comments	09/23/87	52 FR 35740
Comment Period End	12/22/87	
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Additional Information: Former title: Non-Pneumatic Tires for Passenger Cars.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC18

1911. FEDERAL MOTOR-VEHICLE SAFETY STANDARD NO. 221, SCHOOLBUS BODY JOINT STRENGTH

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: ANPRM requested comments on three items, all related to FMVSS No. 221 Schoolbus Body Joint Strength. These are: (a) possible new standard requiring minimum floor strength for large school buses over 10,000 lbs. GVWR, (b) revision of exemption provision for maintenance access panels, and (c) revision of test procedures of FMVSS No. 221.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/87	52 FR 23314
ANPRM Comment Period End	08/03/87	52 FR 23314
Comment Period Extended to to 10/15/87	08/12/87	52 FR 29873
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/00/89

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC19

1912. BUMPER STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 581

Legal Deadline: None

Abstract: Subaru of America has petitioned to modify the test conditions for bumper compliance testing so that vehicles with variable height suspension would be tested at the normal, unraised height position. This action will consider the arguments set forth in the petition and take appropriate further action.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Final action on this petition is awaiting disposition of a petition on vehicle classification.

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Divison, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AC30

1913. FEDERAL MOTOR VEHICLE SAFETY STANDARD (FMVSS) NO. 208, OCCUPANT CRASH PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Motor Vehicle Manufacturer's Association (MVMA) petitioned to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant Crash Protection, to require that height-adjustable seats, and other adjustable seat features such as lumbar supports, be placed in the nominal design riding position specified by the manufacturer. A notice has been published, requesting comments.

Timetable:

Action	Date	FR Cite
Request for comments	05/02/88	53 FR 15576
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC36

1914. ● ODOMETER DISCLOSURE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1981

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: This final rule amends the provisions of the odometer disclosure regulation that require the transferor of a motor vehicle to disclose to his transferee, in writing, information concerning the odometer reading. This change should help minimize the costs of the transition to the new disclosure forms required after April 29, 1989. It shall remain in effect until April 29, 1989.

Timetable:

Action	Date	FR Cite
NPRM	01/19/89	54 FR 2171
NPRM Comment Period End	01/30/89	
Final Rule	02/23/89	54 FR 7772
Grant of Extensions of Time	03/02/89	54 FR 8747
NPRM	03/08/89	54 FR 9858
Interim Final Rule	03/08/89	54 FR 9809
Denial of Petitions for Reconsider-ation	03/08/89	54 FR 9816
SNPRM	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/03/89

Additional Information: This action will amend the final rule issued 08/05/88 (53 FR 29464).

Agency Contact: Judith S. Kaleta, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, DOT/NHTSA, 400 Seventh Street, SW, Room 5219, Washington, DC 20590, 202 366-1834

RIN: 2127–AC42

1915. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 118 - POWER-OPERATED WINDOW SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1409

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: Amendments are proposed to Federal Motor Vehicle Safety Standard No. 118 to extend the standard's requirements to power-operated sunroofs and either permitting external non-key locking systems to operate power windows and sunroofs or prohibiting all external operating systems.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This project has been separated from RIN 2127-AC25, entitled: Power-Operated Window Systems, which was a completed action 6/24/88 (53 FR 23766).

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC52

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1916. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 106 - BRAKE HOSES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: Volvo-White Truck Corporation petitioned to amend Federal Motor Vehicle Safety Standard No. 106 to change the definition of permanently attached end fitting to include fittings that are attached by permanent methods other than crimping or swaging. The petition is being considered.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Dirctor, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC55

1917. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES AND ASSOCIATED EQUIPMENT - PROPOSED AMENDMENT TO PERMIT A NEW, SMALL, SEALED-BEAM HEADLAMP

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 552; 49 CFR 571.108

Legal Deadline: None

Abstract: General Motors petitioned the agency for a 55X135 mm sealed-beam headlamp system. The petition is under consideration.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ralph Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC60

1918. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 301 - FUEL SYSTEM INTEGRITY

Significance: Nonsignificant

Legal Authority: 15 USC 1407; 15 USC 1410

CFR Citation: 49 CFR 552; 49 CFR 571

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard (FMVSS) No. 301 specifies requirements for the integrity of motor vehicle fuel systems so that fires that result from fuel spillage during and after motor vehicle crashes may be reduced. This standard applies to passenger cars and school buses, and to multipurpose passenger vehicles, trucks, and buses that have a gross vehicle weight rating of 10,000 pounds or less. The California Highway Patrol (CHP) petitioned the agency to specify requirements in FMVSS No. 301 to reduce fuel spills from the fuel tank or fuel lines on heavy trucks and truck tractors over 10,000 pounds. The fuel spills, according to the CHP, are due to damage caused by road debris. On May 2, 1988, the agency published a grant of petition for rulemaking in the Federal Register for the CHP petition. However, the agency is granting the petition pending the results of its forthcoming investigation of fuel-tank fires in over-the-road trucks.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC62

1919. COMPREHENSIVE REVIEW OF VISIBILITY TOPICS

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.111; 49 CFR 571.219

Legal Deadline: None

Abstract: As a result of requests for interpretation for head-up displays and other devices which affect driver visibility through vehicle windows, the agency is conducting a comprehensive review of visibility research.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC69

1920. ● CONFIDENTIAL BUSINESS INFORMATION

Significance: Nonsignificant

Legal Authority: 15 USC 1401; 15 USC 1402; 15 USC 1407; 15 USC 1418; 15 USC 1914; 15 USC 1944; 15 USC 1990d; 15 USC 2005; 15 USC 2029; 15 USC 322; 15 USC 552

CFR Citation: 49 CFR 512

Legal Deadline: None

Abstract: Revisions to the existing regulation are necessary to ensure efficient processing of business information received by the National Highway Safety Administration pursuant to Exemption 4 of the Freedom of Information Act. This action is intended to clarify certain provisions, to revise certain sections to conform to statutory and case law, to include additional class determinations and to respond to a petition from General Motors Corporation, recommending that the agency consider adding a presumptive class determination.

Timetable:

Action	Date	FR Cite
NPRM	04/30/89	
NPRM Comment Period End	05/31/89	
Final Action	08/15/89	
Final Action Effective	09/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Fox, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1834

RIN: 2127-AC95

1921. ● REGISTERED IMPORTERS OF NONCONFORMING VEHICLES

Significance: Nonsignificant

Legal Authority: PL 100-562 The Imported Vehicle Safety Compliance Act of 1988

CFR Citation: 49 CFR 592 (New)

Legal Deadline: Final, Statutory, October 31, 1989.

Abstract: This action implements those provisions of PL 100-562 that will restrict importation of nonconforming vehicles, not otherwise exempted, to persons who have registered with the Department as undertaking to provide certification that the vehicles have been conformed after entry, or to persons who have contracted with importers registered with the Department to undertake conformance work, by establishing the requirements for obtaining and maintaining registration.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Taylor Vinson, Attorney, Department of Transportation, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC, 202 366-5263

RIN: 2127-AC97

1922. ● SCHEDULE OF FEES AUTHORIZED BY THE IMPORTED VEHICLE SAFETY COMPLIANCE ACT

Significance: Nonsignificant

Legal Authority: PL 100-562 The Imported Vehicle Safety Compliance Act of 1988

CFR Citation: 49 CFR 594 (New)

Legal Deadline: Final, Statutory, September 30, 1989.

Abstract: The Act requires NHTSA to establish different fees concerning the importation of motor vehicles into the United States. NHTSA will be establishing fees relating to the administration of the registered importer program, fees to cover costs associated with the agency's determination whether a motor vehicle is eligible for importation into the United States, and fees to allow reimbursement of the U.S. Customs Service for costs incurred in processing the bond that is required when certain nonconforming vehicles are imported.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Taylor Vinson, Attorney, Department of Transportation, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5263

RIN: 2127-AC98

1923. ● NONCONFORMING VEHICLES: ELIGIBILITY FOR IMPORTATION

Significance: Nonsignificant

Legal Authority: PL 100-562 The Imported Vehicle Safety Compliance Act of 1988

CFR Citation: 49 CFR 593, (new)

Legal Deadline: Final, Statutory, October 31, 1989.

Abstract: This action will implement provisions of PL 100-562 that restrict importation of vehicles not certified as meeting Federal Motor Vehicle Safety Standards to those which NHTSA has determined in fact conform, or can be modified to conform, with such standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Taylor Vinson, Attorney, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5263

RIN: 2127-AC99

1924. ● IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Significance: Nonsignificant

Legal Authority: PL 100-562 The Imported Vehicle Safety Compliance Act of 1988

CFR Citation: 49 CFR 591 (new)

Legal Deadline: Final, Statutory, October 31, 1989.

Abstract: This action would implement those provisions of PL 100-562 that modify the existing procedures applicable to the importation into the United States of motor vehicles and equipment subject to the Federal Motor Vehicle Safety Standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Taylor Vinson, Attorney, Department of Transportation, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5263

RIN: 2127-AD00

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DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Final Rule Stage

1925. + CRASHWORTHINESS RATINGS

Significance: Regulatory Program

Legal Authority: 15 USC 1401; 15 USC 1941

CFR Citation: 49 CFR Chapter 5

Legal Deadline: None

Abstract: This action would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
Comment Period extended to 10/22/81	04/02/81	46 FR 19947
NPRM Comment Period End	04/22/81	46 FR 7025

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Draft Regulatory Evaluation 01/22/81 (46 FR 7025)

Additional Information: Docket No. 79-17. NPRM, Notice 1.

Agency Contact: Marilynne Jacobs, Director, Office, Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1740

RIN: 2127–AA03

1926. + TRUCK REAR UNDERRIDE PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This project would require protective devices to reduce vehicle penetration under the rear ends of heavy trucks and trailers (without resulting in overly severe forces being transmitted to restrained and unrestrained occupants in vehicles that crash into the devices).

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 2136
NPRM Comment Period End	04/08/81	46 FR 2136

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. 1-11. NPRM, Notice 8.

Research underway.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA43

1927. + PEDESTRIAN PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This proposal would reduce adult and child pedestrian injuries through modification of the vehicle frontal structure.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7015
NPRM Comment Period End	05/22/81	46 FR 7015

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. 78-19. NPRM, Notice 1. Research underway.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA45

1928. + ANTHROPOMORPHIC TEST DUMMIES: SIDE-IMPACT THORAX PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: Contemplated action would provide performance criteria for the adult surrogate dummies which would be required in dynamic testing of vehicles if Standard 214, Side Door Strength, is upgraded.

Timetable:

Action	Date	FR Cite
NPRM	01/27/88	53 FR 2254
Corrections to NPRM	03/17/88	53 FR 8783
NPRM Comment Period End	10/24/88	53 FR 2254

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Preliminary Regulatory Evaluation 01/27/88 (53 FR 2254)

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA48

1929. + UNIFORM TIRE QUALITY GRADING STANDARDS - TREADWEAR AMENDMENTS

Significance: Regulatory Program

Legal Authority: 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: Contemplated action would amend treadwear grading procedures of the Uniform Tire Quality Grading Standards to assure greater reliability of grading information for consumers. Test procedures would be amended to reduce variability. This regulation is significant because it involves important departmental policy.

DOT—NHTSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/19/89	54 FR 2167
NPRM Comment Period End	03/20/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Preliminary Regulatory Evaluation 01/19/89 (54 FR 2167)

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Div., Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AB21

1930. + POST-1988 PASSENGER-CAR FUEL-ECONOMY STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 531

Legal Deadline: Final, Statutory, October 1, 1988.
Amendments reducing the fuel economy standard for a particular model year are required to be made by the beginning of a model year.

Abstract: Automotive Importers of America, Inc., Austin Rover Group Ltd., Mercedes-Benz of North America, Inc., Competitive Enterprise Institute, and General Motors Corporation petitioned to lower passenger car Corporate Average Fuel Economy (CAFE) standards for Model Years 1989 and 1990. The March 1988 ANPRM sought public comment on whether to reduce the CAFE standard for MY 1989 and/or 1990, to determine whether retaining the present standard would adversely affect U.S. employment or competitiveness of the U.S. auto industry.

Timetable:

Action	Date	FR Cite
ANPRM	03/16/88	53 FR 8668
ANPRM Comment Period End	04/11/88	53 FR 8668
NPRM	08/29/88	53 FR 33080
NPRM Comment Period End	09/15/88	53 FR 33080
Final Action for Model Year 1989	10/06/88	53 FR 39275
Final Action for Model Year 1990	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/29/88 (53 FR 33080); Environmental Assessment 08/29/88 (53 FR 33080)

Additional Information: Petitioners had addressed MY 1986 and beyond; MY 1986 through 1988 were covered on 10/06/88 (51 FR 35594). Comment period ended 09/15/88 for MY 1989; comment period ended 10/28/88 for MY 1990.

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Div., Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AB75

1931. + SIDE-IMPACT PROTECTION: THORAX PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: NPRM proposes amending the current standard to upgrade thoracic protection in passenger-car side impacts.

Timetable:

Action	Date	FR Cite
NPRM	01/27/88	53 FR 2239
NPRM technical correction	03/17/88	53 FR 8782
NPRM Comment Period End	10/24/88	53 FR 2239

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/27/88 (53 FR 2239)

Agency Contact: Ralph Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB86

1932. ● + PART 544, MOTOR VEHICLE THEFT PREVENTION; REPORTING REQUIREMENTS FOR MOTOR VEHICLE RENTAL AND LEASING COMPANIES

Significance: Regulatory Program

Legal Authority: 15 USC 2032

CFR Citation: 49 CFR 544

Legal Deadline: Final, Statutory, October 25, 1989.
Rental and leasing companies who are self-insured are required to report to the agency October 25th of each year.

Abstract: This notice has proposed to require theft reports only from rental and leasing companies with combined fleets of 50,000 or more vehicles. This would result in the largest rental and leasing companies being required to file theft reports, instead of the approximately 4,000 companies currently required to do so. NHTSA has determined that reports from the largest rental and leasing companies would provide the agency with the representative sampling of the theft experience of rental and leasing companies, while reducing an unnecessary burden on smaller such companies.

Timetable:

Action	Date	FR Cite
NPRM	02/03/89	54 FR 5519
NPRM Comment Period End	03/20/89	
Final Action	07/01/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This action proposes amendment to the final rule published 01/02/87 (52 FR 59).

Agency Contact: Barbara Kurtz, Chief, Motor Vehicle Theft Group, NRM-20, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4808

RIN: 2127–AC32

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1933. + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 108 - LIGHTING SIMPLIFICATION - POTENTIAL AMENDMENTS - NEAR-TERM ISSUES

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Proposes a comprehensive review of headlighting requirements of Federal Motor Vehicle Safety Standard No. 108 which may be simplified, while being consistent with motor vehicle safety. The agency has concentrated its efforts into five principal areas. This action addresses the second through the fifth. The second is the desirability of specifications for headlamp life. The third concerns the necessity of dimensional specifications for headlamp equipment. The fourth is the issue of headlamp aim. The fifth is the elimination of obsolete photometric requirements. These issues have been separated from RIN 2127-AB87. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/85	50 FR 42735
ANPRM Comment Period End	03/06/86	51 FR 1542
NPRM	12/29/87	52 FR 49038
NPRM Comment Period End	03/28/86	52 FR 49038
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 85-15, Notice 1 (50 FR 42735) ANPRM; Docket No. 85-15, Notice 2 (50 FR 43970) extend comment period for ANPRM; Docket No. 85-15, Notice 3 (51 FR 2537) correction to ANPRM; Docket No. 85-15, Notice 5 (52 FR 49038) NPRM

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC53

1934. + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 105, HYDRAULIC BRAKE SYSTEM, AND FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 135, PASSENGER-CAR BRAKE SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105; 49 CFR 571.135

Legal Deadline: None

Abstract: Action proposes a New Standard No. 135, "Passenger Car Brake System," which would replace Standard No. 105, "Hydraulic Brake System," as it applies to that vehicle type. New Standard would differ from the existing one primarily in that it contains a revised and shortened test procedure based on a draft harmonized international procedure developed by the United Nations Economic Commission for Europe (ECE).This rulemaking is significant because of substantial public interest, which has prompted issuance of a second NPRM.

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19744
Correction to NPRM for RIN AC63	06/20/85	50 FR 25612
Comment Period Extended to 01/13/86	09/17/85	50 FR 37702
NPRM Comment Period End	10/07/85	50 FR 19744
SNPRM	01/14/87	52 FR 1474
SNPRM Comment Period End	10/13/87	
SECOND SNPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 05/10/85 (50 FR 19744)

Additional Information: Docket No. 85-06. RIN AC63, Passenger-Car Brake Systems has been consolidated into this rulemaking.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA13

1935. + VEHICLE CLASSIFICATION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407; 15 USC 2001

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the advance notice invited comment on possible amendments to the regulation with respect to the manner in which light trucks, vans, multipurpose vehicles, and certain other vehicles are classified. The October 17, 1988 Notice of Proposed Rulemaking proposed two alternative vehicle classification approaches for those vehicles now categorized as light trucks, multipurpose passenger vehicles, and passenger care. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/87	52 FR 41475
ANPRM Comment Period End	01/18/88	52 FR 41475
NPRM	10/17/88	53 FR 40463
NPRM Comment Period End	01/17/89	53 FR 40463
Interim Final Rule	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/17/88 (53 FR 40463)

Agency Contact: Deborah Parker, Special Project Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4931

RIN: 2127-AA57

1936. + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 222; SCHOOLBUS SEATING AND CRASH PROTECTION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.222

Legal Deadline: None

Abstract: Proposed rule would amend Federal Motor Vehicle Safety Standard No. 222, School Bus Passenger Seating and Crash Protection, to set requirements for safety belts when belts are voluntarily installed on school buses having gross vehicle weight ratings greater than 10,000 pounds. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/10/85	50 FR 41368
NPRM Comment Period End	11/25/85	50 FR 41368
Final Action	08/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 10/10/85 (50 FR 41368)

Additional Information: Notice grants a petition for rulemaking submitted by the Wayne Corporation and proposes an amendment to Federal Motor Vehicle Safety Standard No. 222. Previous title: Federal Motor Vehicle Safety Standards; Schoolbus Passenger Seating and Crash Protection.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB84

1937. + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 208, OCCUPANT CRASH PROTECTION - REAR SEAT LAP/SHOULDER BELTS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking requested comments on proposing an amendment to Federal Motor Vehicle Safety Standard No. 208 to require lap/shoulder belts in all forward facing rear outboard seating positions in passenger cars, light trucks, multipurpose passenger vehicles and small buses. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/16/87	52 FR 22818
ANPRM Comment Period End	07/31/87	52 FR 22818
NPRM	11/29/88	53 FR 47982
NPRM Comment Period End	01/30/89	53 FR 47982
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 11/29/88 (53 FR 47982)

Additional Information: Former title: Occupant Crash Protection.

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB91

1938. + HEAD RESTRAINTS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: This action grants a petition for rulemaking and requests comments on the NPRM's proposal to extend head restraint requirements of Federal Motor Vehicle Safety Standard No. 202 to multipurpose passenger vehicles, trucks, and buses with a GVWR of 10,000 pounds or less. This issue is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	12/13/88	53 FR 50047
NPRM Comment Period End	02/13/89	53 FR 50047

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 12/13/88 (53 FR 50047)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC06

1939. + STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Volkswagen of America petitioned to change Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment to permit an additional standardized replaceable light source for motor vehicle headlamps. The type of light source proposed was that currently used in European headlamps, the type H-4. Review of the merits of the petition found that, as used in Europe, the light source was not capable of achieving the level of performance required of U.S. light sources and NHTSA subsequently proposed a U.S. version to be known as the type HB2, which would have interchangeability and performance aspects compatible with U.S. safety needs. Comments by the U.S. and foreign lighting and vehicle manufacturers led to a supplemental notice. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/13/85	50 FR 19961
NPRM Comment Period End	06/27/85	50 FR 19961
Supplemental NPRM comment period ended 07/14/86	06/13/86	51 FR 21696

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety

1940. + STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Proposes to amend Federal Motor Vehicle Safety Standard No. 108 to require that motor vehicles be equipped with a center high-mounted stop lamp. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC07

1941. + STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Proposes to amend Federal Motor Vehicle Safety Standard No. 108 to require that motor vehicles be equipped with a center high-mounted stop lamp. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC08

1942. + FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 208, OCCUPANT CRASH PROTECTION - REAR SEAT LAP/SHOULDER BELTS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Proposes to amend Federal Motor Vehicle Safety Standard No. 208 to require lap/shoulder belts in all forward facing rear outboard seating positions in passenger cars, light trucks, multipurpose passenger vehicles and small buses. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC09

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DOT—NHTSA

Final Rule Stage

Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC22

1940. REARVIEW MIRROR SYSTEMS: HEAVY VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: Proposal would amend FMVSS No. 111 to improve mirror systems for trucks, buses, and multipurpose passenger vehicles with a GVWR over 10,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657
NPRM Comment Period End	03/06/79	43 FR 51657

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 71-3a. NPRM, Notice 4.

Research underway.

Agency Contact: R. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA21

1941. REARVIEW MIRROR SYSTEMS: LIGHT VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: Proposal would amend Federal Motor Vehicle Safety Standard No. 111 to improve mirror systems for trucks, buses, and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657
NPRM Comment Period End	03/06/79	43 FR 51657

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 71-3a. NPRM, Notice 4.

Agency Contact: R. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA23

1942. AIR-BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: This project would revise the requirements in Standard No. 121 for parking and emergency-brake functions for trailers.

Timetable:

Action	Date	FR Cite
NPRM	07/23/81	46 FR 37952
NPRM Comment Period End	08/24/81	46 FR 37952

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. 79-03. NPRM, Notice 5.

Agency Contact: R. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA27

1943. PART 571.3 - DEFINITIONS - SEATING REFERENCE POINT/MOTOR VEHICLE DRIVER'S EYE RANGE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This project would update the definition of Seating Reference Point.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/82	47 FR 9865
NPRM	06/05/86	51 FR 20536
NPRM Comment Period End	08/04/86	51 FR 20536
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulation Evaluation (Minimal) 06/05/86 (51 FR 20536)

Additional Information: Docket No. 82-05.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA46

1944. REARVIEW MIRRORS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: This proposal would amend Federal Motor Vehicle Safety Standard No. 111 by establishing requirements for passenger cars to: a) reduce the blind areas by upgrading mirror visibility using improved compliance testing procedures, b) upgrade occupant protection requirements and add pedestrian protection requirements using shatter-resistant and breakaway or foldaway tests, c) set specifications for day-night reflectance requirements to reduce headlight glare, d) set specifications for convex mirror quality and use, and e) minimize obstruction of the forward view by establishing mirror location specifications. Final Rule to permit use of passenger side convex mirrors published. Final Rule responding to petitions and clarifying 1982 Final Rule published.

DOT—NHTSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657
Final Action to permit use of passenger side convex mirrors published	09/02/82	47 FR 38698
Final Action responding to petitions and clarifying 1982 FR published	08/26/83	48 FR 38842

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 71-3a. NPRM, Notice 4; FR, Notice 6; FR, Notice 7.

Action to be terminated with respect to other issues not enumerated in the Abstract.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA88

1945. SEAT-BELT-ASSEMBLY ANCHORAGES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: This action proposes amending Standard No. 210 to harmonize the strength of the anchorage test with the United Nations Economic Commission for Europe (ECE) Regulation No. 14 and to upgrade other requirements and clarify language.

Timetable:

Action	Date	FR Cite
NPRM	02/03/87	52 FR 3293
NPRM Comment Period End	04/06/87	52 FR 3293
Final Action	05/19/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/03/87 (52 FR 3293)

Agency Contact: R. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA95

1946. AIR-BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: This project would amend the brake application and release timing requirements and test devices in Federal Motor Vehicle Safety Standard No. 121 in order to better simulate the real-world performance with respect to towing and towed units, especially multitrailer combinations. Included in the final rule will be an SNPRM initiating additional rulemaking in other phases.

Timetable:

Action	Date	FR Cite
NPRM	05/14/85	50 FR 20113
NPRM Comment Period End	06/28/85	50 FR 20113
NPRM Comment Period Extended to 12-30-85	07/01/85	50 FR 27032
Final Action	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation (Minimal) 05/14/85 (50 FR 20113)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB12

1947. GEAR LOCK; THEFT PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.114

Legal Deadline: None

Abstract: This action would amend Federal Motor Vehicle Safety Standard 114 to prevent the inadvertent knocking out of gear of the gear shift lever and potential accidents, injuries and fatalities from vehicles rolling out of control. This amendment is in response to a petition for rulemaking relating to an inadvertent knock-out-of-gear accident resulting in a fatality. In addition, FMVSS 114 is proposed to be amended to insure that, if a steering column locking device is employed, the device cannot be activated until the key is removed and the vehicle must be in park on automatic transmission to remove the key and reverse for manual transmissions.

Timetable:

Action	Date	FR Cite
NPRM	04/05/88	53 FR 11105
Comment Period Extended to 07/05/88	05/18/88	53 FR 17732
NPRM Comment Period End	05/20/88	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Prelim. Regulatory Evaluation 04/05/88 (53 FR 11105)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC24

1948. BUMPER STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 581; 49 CFR 582

Legal Deadline: None

Abstract: Consumers Union has petitioned to restore the bumper-damage criteria to the 1982 protection level of 5mph or, if this is not possible, to require automobile dealers to provide repair cost and insurance premium information related to the bumper systems on the passenger cars that they sell. The agency has completed and published a study on the cost effects and consumer interest in bumper-damageability standards. The agency will now consider the arguments set

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forth in the petition and take appropriate further action.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/15/89

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0846

RIN: 2127-AC29

1949. FMVSS NO. 208 OCCUPANT CRASH PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This amendment proposes to extend requirements for Webbing Tension Relieving Devices to include air-bag-equipped cars and to permit testing of adjustable belt-anchorage points at manufacturers' nominal position.

Timetable:

Action	Date	FR Cite
NPRM	07/06/88	53 FR 25354
NPRM Comment Period End	08/22/88	
Final Action	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/06/88 (53 FR 25354)

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AC49

1950. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 105 - HYDRAULIC BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 105 requires vehicles to have one or more brake system indicator lamps in the instrument panel area, to warn drivers about certain types of brake failure and to indicate when the parking brake is in the applied position. Section S5.3.2 of the standard requires that the brake system indicator lamps be activated automatically when the vehicle is started, to enable the driver to check whether the lamp bulb is burned out. That section also provides that in a vehicle equipped with an automatic transmission, the activation of the lamp as a check of lamp function is not required when the transmission shift lever is in a forward or reverse drive position, since the vehicle cannot be started when the transmission shift lever is in those positions. In response to a petition for rulemaking submitted by Mazda, this notice proposes to amend the standard to provide that the activation of the lamp as a check of lamp function is not required whenever the starting of a vehicle is prevented by an interlock switch.

Timetable:

Action	Date	FR Cite
NPRM	08/18/88	53 FR 31379
NPRM Comment Period End	10/17/88	53 FR 31379
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/18/88 (53 FR 31379)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC50

1951. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 102 - TRANSMISSION SHIFT-LEVER SEQUENCE, STARTER INTERLOCK, AND TRANSMISSION BRAKING

Significance: Nonsignificant

Legal Authority: 15 USC 1392

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: The current stated purpose of Federal Motor Vehicle Safety Standard No. 102 is to reduce the likelihood of shifting errors. Manufacturers have provided a permanently displayed shift lever position indicator to meet the requirement of S3.2 of this Standard. Chrysler and General Motors petitioned the agency to amend the Standard to allow the use of electronic "PRNDL" displays. As the proposed requirements would facilitate the use of electronic displays, while ensuring the information is displayed at all times, an NPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32409
NPRM Comment Period End	10/24/88	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC54

1952. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 107 - REFLECTING SURFACES - PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.107

Legal Deadline: None

Abstract: This standard requires that windshield wiper arms inside windshield moldings, horn rings, and frames and brackets of inside rearview mirrors have matte surfaces which will greatly reduce the likelihood of hazardous reflection into the driver's eyes. A petition has been filed to extend the standard to the above items which are made of non-metallic, as well as metallic, materials.

Timetable:

Action	Date	FR Cite
NPRM	11/13/87	52 FR 43628
NPRM Comment Period End	12/28/87	52 FR 43628
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC, 202 366-0842

RIN: 2127-AC56

1953. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 115 - VEHICLE IDENTIFICATION NUMBER AND PART 567 - CERTIFICATION REGULATION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1397; 15 USC 1401; 15 USC 1403; 15 USC 1407; 15 USC 1912; 15 USC 1915; 15 USC 2022; 15 USC 2028; 15 USC 2120

CFR Citation: 49 CFR 571.115; 49 CFR 567

Legal Deadline: None

Abstract: The agency proposed to amend Federal Motor Vehicle Safety Standard No. 115 and Part 567 with regard to vehicles not originally manufactured for sale in the United States and that do not comply with Federal motor vehicle safety standards, but that are imported into this country by businesses unaffiliated with the original manufacturer. These vehicles often are labelled with "homemade" 17 digit Vehicle Identification Numbers (VIN). Under the proposal, the importer would label the vehicle partially exempt from Standard No. 115 and direct interested parties to the location of the original manufacturers's number to be used in lieu of the VIN. The agency is taking this action in response to a petition from the National Automobile Theft Bureau (NATB).

Timetable:

Action	Date	FR Cite
NPRM	05/13/88	53 FR 17068
NPRM Comment Period End	06/27/88	53 FR 17068
Final Action	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC65

1954. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 108 - LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: A petition from Truck Safety Equipment Institute (TSEI) primarily requested NHTSA to update references in Federal Motor Vehicle Safety Standard No. 108 to latest version of Society of Automotive Engineers (SAE) standards for stoplamps and turn signal lamps. The NPRM proposed to incorporate by reference the current SAE standards.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35097
NPRM Comment Period End	10/24/88	53 FR 35097
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/09/88 (53 FR 35097)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC68

1955. CONSUMER INFORMATION REGULATIONS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407; 15 USC 1421; 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: This notice implements the granting of a petition by Motor Voters requesting that NHTSA require motor vehicle manufacturers to include information in their vehicle owner's manual advising owners about the agency's defect authority and providing them with the agency's Auto Safety Hotline. To encourage owners to report defects and to facilitate their doing so, this notice proposes to amend the agency's Consumer Information Regulations to require manufacturers to provide the requested information.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45527
NPRM Comment Period End	12/27/88	53 FR 45527
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/10/88 (53 FR 45527)

Agency Contact: Marvin L. Shaw, Attorney, Department of Transportation, National Highway Traffic Safety Administration, NHTSA - NCC-20, 400 7th Street, SW, Washington, DC 20590, 202 366-2992

RIN: 2127-AC72

1956. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 105, HYDRAULIC BRAKE SYSTEMS AND FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 121, AIR BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: Proposal would amend the standards to require that if a vehicle is equipped with automatic brake adjusters they must be connected

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during burnishing and testing. This amendment is proposed to provide a consistent procedure for the two standards.

Timetable:

Action	Date	FR Cite
NPRM	08/27/83	48 FR 29560
NPRM Comment Period End	08/26/83	48 FR 29560
Final Action	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC76

1957. ● FINAL LISTING OF HIGH THEFT LINES FOR 1989 MODEL YEAR; MOTOR VEHICLE THEFT PREVENTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 2021 to 2026

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The purpose of this notice is to report the results of this agency's actions for determining which car lines are subject to the marking requirements of the motor vehicle theft prevention standard for the 1989 model year, and publish a list of those car lines. NHTSA has previously published a list of the car lines that were selected as high theft car lines for prior model years, beginning with the 1987 model year. The list in this notice includes all of the car lines in the previous lists, as well as the new lines that were introduced for the 1989 model year and that have been selected as likely high theft lines. This notice is revised yearly (each model year). This notice is used by other Federal agencies in carrying out the statutory requirements under Titles II and III. Title II is Antifencing Measures, 18 USC 511, and Title III is Importation and Exportation Measures, 18 USC 553 and 19 USC 1627.

Timetable:

Action	Date	FR Cite
Final Action	04/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Barbara Kurtz, Chief, Motor Vehicle Theft Group, Department of Transportation, National Highway Traffic Safety Administration, NRM-20, 400 Seventh Street SW., Washington, DC 20590, 202 366-4807

RIN: 2127-AC96

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions
National Highway Traffic Safety Administration (NHTSA)

1958. + VOLUNTARY TIRE REGISTRATION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407; 15 USC 1418; 15 USC 1421

CFR Citation: 49 CFR 574

Legal Deadline: None

Abstract: This proposed action was considered significant because of possibly substantial public interest. However, after considering the comments received, NHTSA determined that implementation of any of the ANPRM's suggested steps would not increase the level of registration under the program. Therefore, the proposed rule was withdrawn.

Timetable:

Action	Date	FR Cite
Prelim. Evaluation Report Published	09/27/85	50 FR 188
ANPRM	12/23/86	51 FR 45916
ANPRM Comment Period End	02/06/87	51 FR 45916
Withdrawn	11/04/88	53 FR 44632
End Review	11/04/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127-AB18

1959. + FEDERAL MOTOR VEHICLE SAFETY STANDARD (FMVSS) NO. 208, OCCUPANT CRASH PROTECTION - CHEST INJURY CRITERIA

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: Other, Statutory, September 1, 1990.
Final rule requires resolution by 09/01/90.

Abstract: The intention is to upgrade the chest-deflection injury criteria for unrestrained occupants when vehicles are tested for Federal Motor Vehicle Safety Standard (FMVSS) No. 208 compliance with the Hybrid III Dummy. The Final Rule stated that the agency will have to resolve this issue by September 1, 1990. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2127-AC13	12/30/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC34

1960. + PASSENGER-CAR BRAKE SYSTEMS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.135

Legal Deadline: None

Abstract: New regulation to replace Federal Motor Vehicle Safety Standard No. 105, Hydraulic Brake Systems, as it applies to passenger cars. This new regulation will be harmonized with a corresponding new regulation to be issued by Economic Commission for Europe. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19744
CORRECTION	06/20/85	50 FR 25612
Extended Comment Period to 01/13/86	09/17/85	50 FR 37702
NPRM Comment Period End	10/07/85	50 FR 19744
Consolidated into RIN 2127-AA13	01/14/87	52 FR 1474

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20950, 202 366-0842

RIN: 2127-AC63

1961. REVIEW: SEATING SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: This regulation was selected for review because of costs. Results of this review are contained in the docket.

Timetable:

Action	Date	FR Cite
Begin Review	05/01/86	
Preliminary evaluation report published	02/10/87	52 FR 4818
End Review	10/15/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127-AA69

1962. FEDERAL MOTOR VEHICLE SAFETY STANDARD -- REAR-VIEW MIRRORS - SURE-VIEW PETITION

Significance: Nonsignificant

Legal Authority: 15 USC 1381 et. seq.

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: This is in response to a petition from Sure-View Inc., requesting the Federal Motor Vehicle Safety Standard (FMVSS) No. 111 require that all motor vehicles contain a mirror system in which a plane mirror is in the same casing as a convex mirror. Petition was denied because the standard does not prohibit convex mirrors on the driver's side as supplementary aids or on the passenger's side. Also, NHTSA was concerned that convex mirrors may distort images and distances and, therefore, may not be appropriate for all drivers.

Timetable:

Action	Date	FR Cite
Final Action Petition denied	11/08/88	53 FR 45128
Second petition denied	03/17/89	54 FR 11251

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Sure-View petitioned for reconsideration of the denial, which was treated as a second petition for rulemaking since, under the regulations, denial of a petition for rulemaking is not a rule and, hence, reconsideration petitions do not apply. The second petition was denied for the same reasons as for the original petition.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC46

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage
Federal Railroad Administration (FRA)

1963. + REVIEW OF RADIO COMMUNICATION

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437

CFR Citation: 49 CFR 220

Legal Deadline: None

Abstract: The Agency is engaged in a review of the issue of radio communication in the railroad industry. The review will evaluate possible future courses of action to enhance the safety of railroad operations involving radio communication. This review is considered significant because of public-safety considerations.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	11/04/86	51 FR 40101
Public Hearing, Washington, DC	01/27/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130-AA34

1964. REVIEW: REGULATORY FLEXIBILITY ACT REVIEWS

Significance: Nonsignificant

Legal Authority: PL 96-354

CFR Citation: None

Legal Deadline: None

Abstract: In accordance with the Regulatory Flexibility Act (RFA) review plan published in the Federal Register on June 30, 1981 (46 FR 33693), FRA has not selected any specific regulations for RFA review at this time. Instead, FRA has established a plan to develop regulatory definitions of the criteria used in the RFA for the selection of regulations to be reviewed. A notice was published in the Federal Register

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DOT—FRA

Prerule Stage

on August 3, 1981 (46 FR 39461) initiating a safety inquiry to evaluate the effectiveness of the safety regulatory program as it applies to small railroads.

Timetable:

Action	Date	FR Cite
Review Plan	06/30/81	46 FR 33693
Notice of Safety Inquiry Review	06/03/81	46 FR 39461

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lawrence I. Wagner, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0628

RIN: 2130–AA10

1965. REVIEW OF LOCOMOTIVE CAB SAFETY

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 437; 45 USC 22; 45 USC 23; 45 USC 28; 45 USC 34

CFR Citation: 49 CFR 229

Legal Deadline: None

Abstract: The Agency is engaged in a review of the issue of locomotive cab environment. The review will evaluate possible future courses of action to enhance the safety of railroad employees who occupy locomotive cabs.

Timetable:

Action	Date	FR Cite
Notice of Safety Inquiry	09/22/88	53 FR 36938

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130–AA32

1966. REVIEW: SPECIAL SAFETY INQUIRY; POWER BRAKE REGULATIONS

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 437

CFR Citation: 49 CFR 232

Legal Deadline: None

Abstract: The inquiry will obtain information to assist in evaluation of the impact of the change in the power brake regulations made in August 1982 in Docket PB-6.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	09/03/85	50 FR 35643
Notice of Change of Hearing Date	09/26/85	50 FR 39025
Public Hearing, Washington, D.C.	10/24/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket RSSI-85-1.

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130–AA40

1967. INTERIOR NOISE STANDARDS FOR ON-TRACK SLEEPING QUARTERS

Significance: Nonsignificant

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 228

Legal Deadline: None

Abstract: FRA's interpretive guidance concerning compliance with an hours-of-service statute will be extended by operation of law unless FRA acts within 6 months. FRA guidelines specify a maximum noise level for the interior of facilities used to give train crews required periods of rest under the Hours of Service Act. The statute will make the noise level applicable to on-track vehicles used as dormitories for other railroad employees unless FRA alters its guidance on this matter for the on-track vehicles. Issues that need to be examined include the appropriateness of the current guidance in the expanded context, and the availability of reasonable alternatives.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maryjo Spottswood, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0628

RIN: 2130–AA52

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Proposed Rule Stage

1968. + RAIL-HIGHWAY GRADE-CROSSING SAFETY

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437; PL 100-432

CFR Citation: None

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: If necessary, rules on the inspection and maintenance of train-activated railroad-highway grade-crossing devices must be issued. An ANPRM announced public hearings and requested comments from the public to assist in evaluating future possible courses of action to enhance public safety at railroad-highway grade crossings. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	06/18/84	49 FR 24968
Notice of Special Safety Inquiry	12/24/84	49 FR 49961

DOT—FRA

Proposed Rule Stage

Action	Date	FR Cite
ANPRM	11/23/88	53 FR 47554
Comment Period Extended to 01/17/89	01/03/89	54 FR 49
ANPRM Comment Period End	01/04/89	
Comment Period Extended to 02/01/89	01/30/89	54 FR 4320

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. RSSI - 84-3.

A related project, RIN AB45, has been consolidated into this proceeding.

Public hearings were held in St. Paul, Minn. (7/84) and Washington, DC (1/85). The Summary Report on the hearings was issued 7/16/85. A further public hearing was held in Washington, DC (12/88).

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130–AA27

1969. + JURISDICTIONAL CONFORMITY AMENDMENTS

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 229; 49 CFR 231; 49 CFR 232

Legal Deadline: None

Abstract: FRA is amending three of its older safety regulations to conform their applicability provisions to statutory changes. The older statutes and rules describe their applicability in terms of "common carrier by rail subject to the Interstate Commerce Act" until they were amended to use the more common word "railroad". This action is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/03/89

Agency Contact: Mark Tessler, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0628

RIN: 2130–AA50

1970. + LOCOMOTIVE OPERATOR; QUALIFICATION STANDARDS

Significance: Agency Priority

Legal Authority: PL 100-342, Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: FRA is required to adopt qualification standards for locomotive operators. Major elements that could be included in such standards involve initial training, retraining, performance monitoring, testing and retesting, and general fitness criteria. Issues being explored include the structure of the program to resolve questions of whether a Federal license program or a railroad licensing program meeting Federal criteria will best achieve the statutory intent. This rulemaking is significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	04/04/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/04/89

Agency Contact: Lawrence I. Wagner, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh, St., SW, Washington, DC 20590, 202 366-0628

RIN: 2130–AA51

1971. + TRAIN OPERATION EVENT RECORDERS

Significance: Agency Priority

Legal Authority: PL 100-342, Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, December 22, 1989.

Abstract: FRA is required to issue necessary rules to provide for the recording of events relating to train operations and to ensure that devices recording those events are tamper-resistant. Aspects of the issue being explored include: determining the state of the art for such devices; the recordable events appropriate for accident investigation purposes; standards for "tamper resistance"; and regulatory structure. This project is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
ANPRM	11/23/88	53 FR 47557
Public Hearing Held 01/10/89	11/23/88	53 FR 47557
ANPRM Comment Period End	03/13/89	
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/89

Agency Contact: Edwards R. English, Chief, Maintenance Program Division, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-9178

RIN: 2130–AA53

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DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Final Rule Stage

1972. + RAILROAD ACCIDENT/INCIDENT REPORTS CLASSIFICATION AND NOTIFICATION OF RIGHT TO SUBMIT EMPLOYEE SUPPLEMENTS

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: This project addresses possible problems of bias and inaccuracy in FRA's railroad data base. Although FRA investigates about 400 accidents a year and receives unsolicited information on a few more accidents, FRA's sole source of information on the great majority of railroad accidents is the railroad company itself. The proposed rule would require that the railroad provide written notification to any employee whom the railroad alleges to have caused a certain type of accident, informing the employee of the relevant allegations and of his or her right to file an accident statement with FRA. The proposed rule also would establish the format and filing procedures for such statements. Alternatives being considered are: (1) revising the reporting form itself to include boilerplate language regarding what, where, and how to file the employee statement and (2) requiring a separate notice to the employee with the same information. Potential costs have yet to be determined. This action is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	53 FR 48560
Public Hearing Notice	12/01/88	53 FR 48560
NPRM Comment Period End	01/27/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Former title: Railroad Accident/Incident Reports Classification and Investigations Permitting Employee Supplements.

Agency Contact: J. A. McNally, Director, Office of Safety Enforcement, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-9252

RIN: 2130-AA44

1973. + RAILROAD OPERATING PRACTICES -- PROTECTION OF ON-TRACK SLEEPING QUARTERS

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 218

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: Railroads use on-track equipment adapted for service as mobile sleeping quarters, in order to have large dormitories adjacent to work sites. A recently enacted statute requires FRA to establish rules to protect those vehicles from the risk of being struck by other on-track vehicles. This project is intended to accomplish that purpose and is therefore considered significant.

Timetable:

Action	Date	FR Cite
NPRM	02/17/89	54 FR 7219
NPRM Comment Period End	03/21/89	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/17/89 (54 FR 7219)

Additional Information: The NPRM also announced a public hearing in Washington, DC, for 04/05/89.

Agency Contact: J. A. McNally, Director, Office of Safety Enforcement, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-9252

RIN: 2130-AA46

1974. + RAILROAD OPERATING PRACTICES; PROCEDURES FOR BRIDGE-WORKER SAFETY

Significance: Agency Priority

Legal Authority: PL 100-342, Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: A recently enacted statute requires FRA to issue necessary rules to protect workers performing tasks on bridges. FRA is studying the casualty data, the appropriate types of protection, and the respective roles of FRA and OSHA. This proceeding is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	02/17/89	54 FR 7219
NPRM Comment Period End	03/21/89	
Interim Final Rule	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/17/89 (54 FR 7219)

Agency Contact: Edward R. English, Chief, Maintenance Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0188

RIN: 2130-AA48

1975. + SAFETY ENFORCEMENT PROCEDURES; DISQUALIFICATION OF EMPLOYEES

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: FRA has been granted legal authority to disqualify an individual railroad employee who is shown to be unfit to perform safety-sensitive functions based on a violation of FRA's safety rules. The procedures that FRA will employ in exercising this authority must include a notice and hearing for the individual. FRA must define what constitutes a safety-sensitive function; the nature of the hearing; appellate review structure; and criteria for what constitutes unfitness. This proceeding is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	12/09/88	53 FR 49695
Public Hearing Held 01/05/89	12/09/88	53 FR 49695
NPRM Comment Period End	01/10/89	

DOT—FRA

Final Rule Stage

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/09/88 (53 FR 49695)

Agency Contact: Peter J. Hannums, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh St., NW, Washington, DC 20590, 202 366-0637

RIN: 2130-AA49

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Completed Actions

1976. + INFORMAL SAFETY INQUIRY AND RULEMAKING; CONTROL OF ALCOHOL AND DRUG USE IN RAILROAD OPERATIONS

Significance: Regulatory Program

Legal Authority: 45 USC 431; 45 USC 438

CFR Citation: 49 CFR 219

Legal Deadline: None

Abstract: The rule addresses: (1) random drug testing, (2) transportation workplace drug testing, and (3) the "no use" rule. It also describes related future activities: (1) preparation of a supplemental NPRM on random drug testing implementation issues, (2) future perfecting rulemaking on issues raised by implementation of existing program, and (3) issuance of new technical amendments to the existing rule to conform to the random drug testing rule.

Timetable:

Action	Date	FR Cite
Notice of Informal Safety Inquiry	01/20/87	52 FR 2118
Public Hearing, Washington, D.C.	02/18/87	
NPRM	05/10/88	53 FR 16640
Notice of public hearings	05/24/88	53 FR 18589
NPRM Comment Period End	08/08/88	
Final Action	11/21/88	53 FR 47102
Final Rule Correction new laboratory address	11/28/88	53 FR 47819
Final Action Effective	12/21/88	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 05/10/88 (53 FR 16640); Environmental Impact 05/10/88 (53 FR 16640)

Agency Contact: Walter C. Rockey, Jr., Executive Assistant to the Associate Administrator for Safety, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 368-0897

RIN: 2130-AA43

1977. + AMENDMENTS TO RAILROAD SAFETY REGULATIONS TO INCREASE THE MAXIMUM CIVIL PENALTIES AND TO MAKE CIVIL PENALTIES AVAILABLE AGAINST INDIVIDUALS

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 209; 49 CFR 213; 49 CFR 215; 49 CFR 216; 49 CFR 217; 49 CFR 218; 49 CFR 220; 49 CFR 221; 49 CFR 223; 49 CFR 225; 49 CFR 228; 49 CFR 229; 49 CFR 231; 49 CFR 232; 49 CFR 236; ...

Legal Deadline: Final, Statutory, December 22, 1988.
Statute requires both a generic change within 30 days of enactment and a detailed change within 6 months of enactment.

Abstract: The Rail Safety Improvement Act raised the maximum civil penalty amount for violations of FRA rules and it authorized the imposition of penalties against individuals for willful violations. An interim rule (7/28/88) extended the civil penalty provisions of the safety regulations to individuals and increased the maximum penalty from $2,500 to $10,000 (to $20,000 under some circumstances). This final rule raises the penalty amounts initially assessed for particular violations and reserves the right to assess the maximum $20,000 penalty where warranted. To the extent that the final rule does not amend interim rule provisions, the interim rule provisions are now final. The final rule also includes a statement of agency policy concerning enforcement of the federal railroad safety laws. This action was significant because of substantial public interest involved.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/28/88	53 FR 28594
Final Action	12/29/88	53 FR 52918
Final Action Effective	01/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel C. Smith, Deputy Assistant Chief Counsel for Safety, Department of Transportation, Federal Railroad Administration, 400 Seventh St, SW, Washington, DC 20590, 202 366-0628

RIN: 2130-AA47

1978. + CERTIFICATION OF PREDEPARTURE INSPECTIONS OF SIGNAL DEVICES MOUNTED ON LOCOMOTIVES

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 236

Legal Deadline: Final, Statutory, September 20, 1988.

Abstract: The rule requires certification in writing of tests of automatic train control, train stop, and cab signal. While the previously existing rule requires that virtually all such tests be certified, the new rule expands that provision to require certification in writing that the test was properly performed by anyone testing the equipment. The certifications must be kept and maintained in the same manner as is presently required for daily locomotive inspections under 49 CFR Part 229. This action was considered significant because of substantial public interest and safety factors.

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DOT—FRA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	08/31/88	53 FR 33789
NPRM Comment Period End	09/14/88	
Final Action	09/26/88	53 FR 37311
Final Action Effective	12/21/88	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/31/88 (53 FR 33789)

Agency Contact: S. H. Stotts, Chief, Standards Division, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0178

RIN: 2130–AA54

1979. + PROHIBITING TAMPERING WITH SAFETY DEVICES MOUNTED ON LOCOMOTIVES

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 229; 49 CFR 236

Legal Deadline: Final, Statutory, September 20, 1988.

Abstract: FRA has issued necessary rules to prohibit tampering with certain locomotive-mounted safety systems. FRA identified which systems should be addressed and the appropriate regulatory construction for this rule. This rulemaking is considered significant because of substantial public interest and safety factors.

Timetable:

Action	Date	FR Cite
NPRM	08/31/88	53 FR 33786
NPRM Comment Period End	09/14/88	
Final Action	02/03/89	54 FR 5485
Final Action Effective	03/06/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation. 08/31/88 (53 FR 33786)

Agency Contact: Lawrence I. Wagner, Trial Attorney, Office Of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0628

RIN: 2130–AA55

1980. ADJUSTMENT OF MONETARY THRESHOLD FOR REPORTING ACCIDENTS/INCIDENTS

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 438; PL 100-342

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: This rule increases the reporting threshold from $5,200 to $5,700 for railroad accidents/incidents involving property damage that occur during calendar years 1988 and 1989. This will ensure that the FRA reporting requirements reflect cost increases that have occurred since the reporting threshold was last computed in 1986.

Timetable:

Action	Date	FR Cite
Final Action	12/01/88	53 FR 48547
Final Action Effective	01/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: Since this amendment merely adjusts the reporting threshold for accidents/incidents in accordance with 49 CFR 225.19, and imposes no additional burden on any person, FRA concludes that notice and public procedure are not necessary.

Agency Contact: Ms. Billie Stultz, Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20036, 202 366-0635

RIN: 2130–AA42

DEPARTMENT OF TRANSPORTATION (DOT)

Urban Mass Transportation Administration (UMTA)

Proposed Rule Stage

1981. + MAJOR CAPITAL INVESTMENT PROJECTS

Significance: Regulatory Program

Legal Authority: 49 USC 1602; 49 USC 1604; 49 USC 1607; 49 USC 1607a-1; 23 USC 103(e)(4); 23 USC 142

CFR Citation: 49 CFR 611

Legal Deadline: None

Abstract: This regulation would set out the process applicants for grants under the UMT Act (49 USC 1601 et seq.) and the Federal-Aid Highway Act should follow in order to be eligible for Federal financial assistance for major urban mass transportation investments. A major urban mass transportation investment is any project that involves the construction of a new fixed guideway for use by buses or rail vehicles. This regulation is significant because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
Notice of Policy	05/18/84	49 FR 21284
NPRM	04/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/03/89

Agency Contact: Don Emerson, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 7th St., SW, Room 9301, Washington, DC 20590, 202 366-0096

RIN: 2132–AA22

1982. + IMPLEMENTATION OF SECTION 19 OF THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED -- NONDISCRIMINATION

Significance: Agency Priority

Legal Authority: 49 USC 1615

CFR Citation: 49 CFR 641

Legal Deadline: None

Abstract: The proposed regulations would unify the civil rights regulations that recipients of funds under the Urban Mass Transportation Act must meet. This rulemaking is significant because substantial public interest is anticipated. Regulations are needed to implement a statutory provision which consolidates UMTA's authority to assure effective and uniform compliance with civil rights and equal employment opportunity requirements in a manner comparable to other agencies within the Department of Transportation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/00/89

Additional Information: Section 19 was added to the UMT Act in November 1978 by the Surface Transportation Assistance Act of 1978. UMTA plans to issue an NPRM in 1989.

Agency Contact: Akiro Sano, Department of Transportation, Urban Mass Transportation Administration, Office of Technical Assistance, 400 7th St., SW, Room 7412, Washington, DC 20590, 202 366-4018

RIN: 2132–AA01

DOT—UMTA

Proposed Rule Stage

1983. SCHOOL BUS OPERATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1602(g); 49 USC 1608(c)(6); 23 USC 103(e)(4); 23 USC 142(a); 23 USC 142(c)

CFR Citation: 49 CFR 605

Legal Deadline: None

Abstract: This regulation provides information regarding the restrictions imposed by section 3(g) of the UMT Act on the school bus operations by UMTA recipients. UMTA plans to issue an NPRM in 1989.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/82	47 FR 44795
ANPRM Comment Period End	11/26/82	
NPRM	10/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/00/89

Additional Information: UMTA originally issued this regulation on April 1, 1976 (41 FR 14128). UMTA reviewed this regulation and issued an ANPRM that proposed three alternatives to the current regulation: (1) retain the existing regulation, (2) modify the definition of "tripper services," and (3) define "exclusive" schoolbus service.

Agency Contact: Daniel Duff, Assistant Chief Counsel, Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 7th St., SW, Room 9316, Washington, DC 20590, 202 366-4063

RIN: 2132–AA09

1984. BUS TESTING GUIDELINES

Significance: Nonsignificant

Legal Authority: 49 USC 1608(h)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation would implement a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established by the Secretary, by law, in Altoona, Pa.

Timetable:

Action	Date	FR Cite
NPRM	04/15/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/15/89

Additional Information: Section 12(h) of the UMT Act, as amended, defines a "new bus model" as a "bus model which has not been used in mass-transportation service in the United States before the date of production of such model, or a bus model which has been used in such service but which is being produced with a major change in configuration or components." UMTA plans to issue an NPRM in 1989.

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, Room 9316, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4063

RIN: 2132–AA30

DEPARTMENT OF TRANSPORTATION (DOT)

Urban Mass Transportation Administration (UMTA)

Final Rule Stage

1985. + "BUY AMERICA" REQUIREMENTS OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Significance: Agency Priority

Legal Authority: PL 97-424, Sec 165; PL 100-17, Sec 337

CFR Citation: 49 CFR 661

Legal Deadline: None

Abstract: This rulemaking will amend UMTA's Buy America requirements to implement new statutory provisions and reflect UMTA's experience with implementing the existing regulation. It is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/29/88	53 FR 32994
Comment Period Extended to 11/14/88	10/27/88	53 FR 43457
NPRM Comment Period End	10/28/88	
Final Action	04/00/89	

Small Entities Affected: None

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Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 08/29/88 (53 FR 32994)

Additional Information: Section 337 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 amends the "Buy America" provisions of Section 165 of the Surface Transportation Assistance Act of 1982. UMTA's current "Buy America" regulation was issued as an Emergency Final Rule on September 15, 1983, 48 FR 41564.

Agency Contact: Edward J. Gill, Jr., Ass't Chief Counsel, Programs, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 7th St., SW, Room 9316, Washington, DC 20590, 202 366-4063

RIN: 2132–AA15

1986. AIR QUALITY PROCEDURES FOR USE IN FEDERAL-AID HIGHWAY AND FEDERALLY FUNDED TRANSIT PROGRAMS

Significance: Nonsignificant

Legal Authority: 23 USC 109(h); 23 USC 109(j); 23 USC 315; 42 USC 4332; 42 USC 7401; 42 USC 7506

CFR Citation: 23 CFR 770; 49 CFR 623

Legal Deadline: None

Abstract: This regulation proposes to consolidate and amend existing air quality requirements for transportation projects into a single amended air quality regulation. The amended regulation is intended to streamline and simplify (1) the process of determining which highway projects are exempt from the Federal assistance limitations of section 176(a) of the Clean Air Act (CAA), and (2) the conformity and priority procedures contained in 23 CFR 770. The amendments are also intended to provide more authority and flexibility to State and local agencies and to meet the objectives of the CAA in the most cost-effective and expeditious manner.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35176
NPRM Comment Period End	11/08/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 09/09/88 (53 FR 35178)

Additional Information: ADDITIONAL AGENCY CONTACT: James N. Shrouds, (202) 366-4836 of FHWA, RIN 2125-AB10.

Agency Contact: A. Joseph Ossi, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 7th St., SW, Room 9301, Washington, DC 20590, 202 366-0096

RIN: 2132–AA19

1987. CAPITAL LEASES

Significance: Nonsignificant

Legal Authority: 49 USC 1607a(j)

CFR Citation: 49 CFR 639

Legal Deadline: NPRM, Statutory, June 1, 1987. Final, Statutory, November 28, 1987.

Abstract: This regulation would implement a statutory provision requiring UMTA to prescribe policies and procedures governing the eligibility for capital assistance under section 9 of the UMT Act, as amended, for leases of equipment and facilities where leasing is more cost-effective than purchase or construction.

Timetable:

Action	Date	FR Cite
NPRM	05/20/88	53 FR 18222
NPRM Comment Period End	07/19/88	53 FR 18222
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/20/88 (53 FR 18222)

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 7th St., SW, Room 9316, Washington, DC 20590, 202 366-4063

RIN: 2132–AA28

1988. PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING-STOCK PURCHASES

Significance: Nonsignificant

Legal Authority: 49 USC 1608(j)

CFR Citation: 49 CFR 663

Legal Deadline: None

Abstract: This regulation would implement a statutory provision that requires an independent pre-award and post-delivery audit of the purchase of transit rolling stock with UMTA assistance to assure compliance with Federal motor-vehicle safety standards, Buy America requirements, and adherence to bid specification requirements. Manufacturer certification of compliance with this requirement is not sufficient and independent inspections and auditing are required by the statute.

Timetable:

Action	Date	FR Cite
NPRM	10/18/88	53 FR 40850
NPRM Comment Period End	12/19/88	
Final Action	06/15/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/18/88 (53 FR 40850)

Additional Information: Formerly titled Rolling Stock Purchase Audits

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 Seventh Street, SW, Room 9316, Washington, DC 20590, 202 366-4063

RIN: 2132–AA29

1989. PROJECT MANAGEMENT OVERSIGHT

Significance: Nonsignificant

Legal Authority: 49 USC 1619

CFR Citation: 49 CFR 633

Legal Deadline: NPRM, Statutory, June 1, 1987. Final, Statutory, September 29, 1987.

Abstract: This regulation would implement a statutory provision that permits UMTA to use a portion of the funding of its major capital programs to hire outside contractors to perform project management oversight of major capital projects, and require an UMTA grantee constructing a major capital project to prepare and, after UMTA approval, implement a project management plan.

Timetable:

Action	Date	FR Cite
NPRM	08/11/87	52 FR 29709
NPRM Comment Period End	10/13/87	52 FR 29709
Final Action	06/15/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 08/15/89

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation, and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 Seventh Street, SW, Room 9316, Washington, DC 20590, 202 366-4063

RIN: 2132–AA31

DEPARTMENT OF TRANSPORTATION (DOT)
Urban Mass Transportation Administration (UMTA)

Completed Actions

1990. + CONTROL OF DRUG USE IN FEDERALLY FUNDED MASS TRANSPORTATION OPERATIONS

Significance: Regulatory Program

Legal Authority: 49 USC 1601; 49 USC 1602; 49 USC 1607; 49 USC 1618

CFR Citation: 49 CFR 653

Legal Deadline: None

Abstract: The purpose of this proposal is to eliminate the use of dangerous drugs by operators of mass transit vehicles or other transit safety-sensitive workers. The rule requires a recipient of Federal transit grants to certify that it has established a drug program consistent with the requirements of the regulation and providing for chemical testing of safety-sensitive employees on a random basis as well as for pre-employment, post-accident, and reasonable suspicion.

Timetable:

Action	Date	FR Cite
NPRM	07/08/88	53 FR 25910
Notice of Public Hearings	07/12/88	53 FR 26289
Notice of Public Hearings	07/26/88	53 FR 28025
NPRM Comment Period End	09/06/88	53 FR 25910
Final Action	11/21/88	53 FR 47156
Final Action Effective	12/21/88	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 11/21/88 (53 FR 47156)

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of the Chief Counsel, Room 9316, 400 7th St., SW, Washington, DC 20590, 202 366-4063

RIN: 2132–AA33

1991. + CHARTER SERVICE AMENDMENT

Significance: Agency Priority

Legal Authority: 49 USC 1602(f); 49 USC 1608(c)

CFR Citation: 49 CFR 604

Legal Deadline: None

Abstract: Final rule amends the regulation that implements section 3(f) of the UMT Act regarding charter bus operations by UMTA recipients. Amendment concerns the ability of certain nonprofit entities to obtain handicap-accessible vehicles for charter service, or to receive service that otherwise would be unavailable to them. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/88	53 FR 18964
Notice of Public Hearings	06/06/88	53 FR 20660
NPRM Comment Period End	07/25/88	53 FR 18964
Final Action	12/30/88	53 FR 53348
Final Action Effective	01/30/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Sectors Affected: Multiple

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 05/25/88 (53 FR 18964)

Additional Information: Congress was concerned that nonprofit entities might not be able to afford the services of private charter operators, or, in the case of certain organizations, obtain the necessary handicap-accessible vehicles for charter service. This amendment addressed those concerns.

Agency Contact: Theodore Munter, Deputy Chief Counsel, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 7th St., SW, Room 9316, Washington, DC 20590, 202 366-4063

RIN: 2132–AA32

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DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Prerule Stage

1992. + REGISTRATION OF SHIPPERS AND CARRIERS OF HAZARDOUS MATERIALS

Significance: Regulatory Program

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 177

Legal Deadline: None

Abstract: DOT lacks comprehensive data on the number, volume, and other statistics characterizing the transportation of hazardous materials in commerce. Comments will be requested on the burdens and benefits associated with various alternatives that could be used to obtain such information. The registration of carriers and shippers is one such alternative.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: J. Nalevanko/H. Engrum, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4484

RIN: 2137–AB43

1993. + OST-FAA INFORMATION RULES: STANDARDIZED REGULATORY FLEXIBILITY REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1387

CFR Citation: 14 CFR 241; 14 CFR 298; 14 CFR 399

Legal Deadline: None

Abstract: The threshold for the aviation-information program for regulatory flexibility analysis is 60 seats or maximum payload of 18,000 pounds or less. Carriers operating aircraft under these limits are considered small carriers. FAA, on the other hand, uses a threshold based on the operational certificate requirements (Part 121 versus Part 135) with the threshold established at 30 seats or maximum payload of 7,500 pounds for a Part 135 certificate. FAA regulatory analysis for safety, congestion, etc., centers around the lower threshold which means much of the aviation economic information that they use has to be manipulated to fit their needs. This proposal of standardizing the threshold within the Department would save considerable resources and would eliminate much confusion in the air transportation industry. Most carriers, especially the newer ones, are familiar with FAA's requirements. This rulemaking is significant because it will achieve consistency in departmental treatment.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AB16

1994. REVIEW OF COMMUTER AIR TRAFFIC AND MARKET DATA REPORTING

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 298

Legal Deadline: None

Abstract: Currently commuter air carriers providing scheduled passenger service file two quarterly traffic schedules. One schedule summarizes nine traffic elements while the other schedule provides the origination and destination for all the carriers' on-line passengers. The Department is considering proposing a new traffic and market data system for certificated and foreign air carriers. This system could be used for commuter air carriers, providing the Department with one automated traffic and market data system for all carriers. This system would be less burdensome for the commuter air carriers and be more efficient for the user.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Project 279-78

Agency Contact: C. Strombom/F. Thompson (USCG), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA10

1996. SPECIFICATION PACKAGES OF TYPE B AND FISSILE RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173

1995. CONSOLIDATION AND REVISION OF REQUIREMENTS FOR THE CARRIAGE OF EXPLOSIVES BY VESSEL

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 46 CFR 146; 49 CFR 107; 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 176

Legal Deadline: None

Abstract: This action involves consolidation and revision of requirements for the carriage of military and commercial explosives by vessel and adoption of United Nations scheme for classification and compatibility of explosives for the water mode.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Project 279-78

Agency Contact: C. Strombom/F. Thompson (USCG), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA10

1996. SPECIFICATION PACKAGES OF TYPE B AND FISSILE RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173

DOT—RSPA

Prerule Stage

Legal Deadline: None

Abstract: The Department is considering addressing the possibility of continued use and needed modifications of certain radioactive materials package designs.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project 300-83.

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA29

1997. QUALITY ASSURANCE FOR RADIOACTIVE MATERIALS SHIPPERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: The Department is considering this proposal to solicit comments on the desirability of establishing quality assurance program requirements for all shippers of radioactive materials.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project 291-80.

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA30

1998. DOT SPECIFICATION 51 PORTABLE TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: The Department is considering revising the requirements for DOT Specification 51 Portable Tanks. Consideration will also be given to adopting certain provisions of the recommendations of the United Nations and the International Maritime Organization.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project 302-83.

Agency Contact: Helen L. Engrum, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA36

1999. AIRLINE REVENUE/NONREVENUE, FIRST CLASS/BUSINESS CLASS/COACH PASSENGERS: REVISED DEFINITIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1373

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: The present definition of revenue and nonrevenue passengers for aviation reporting purposes is stated in terms of the exemptions for free and reduced-rate transportation in section 403(b) of the Federal Aviation Act of 1958. These definitions have become outmoded in the process of air-fare deregulation. In addition, first class and coach passengers are defined in terms of the type of fare paid with premium or standard fares being the benchmark for first class. With deregulation and the proliferation of new air fares in the marketplace, such as business class, these definitions may also be outmoded. The DOT is considering several options for revising these definitions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Title was revised to include Business Class Passengers.

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AB00

2000. SUBSIDIZED COMMUTER CARRIERS AND FOREIGN AIR CARRIERS: RECORDS AND RETENTION PERIODS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 249

Legal Deadline: None

Abstract: This rule would require commuter air carriers receiving subsidy to retain certain records in support of their claims for subsidy; require foreign air carriers submitting traffic and market data to retain records in support of their submissions; modify or eliminate several of the records prescribed for retention by public charter operators and overseas operators. In addition, the proposal would transfer the record retention requirements contained in Part 374a to Part 249.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AB04

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DOT—RSPA — **Prerule Stage**

2001. FUMIGATION

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 174

Legal Deadline: None

Abstract: This proposal would revise the placarding requirements in the Hazardous Materials Regulations (HMR) to recognize the requirements of the Environmental Protection Agency (EPA) which address the placarding of commodities which have been fumigated. Those portions of the HMR which address the fumigation placard would be removed from the HMR to avoid duplication with EPA's requirements for placarding commodities which have been fumigated.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: C. Strombom/E. Pritchard (FRA), Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB41

2002. CONFORMING GAS AND LIQUID PIPELINE WELDING STANDARDS: FINAL PHASE

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: As part of a continuing policy to adopt similar requirements for gas and hazardous liquid pipelines where appropriate for safety, this action would be the last of a series of rulemakings undertaken to conform the gas and liquid pipeline welding standards.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2036

RIN: 2137–AB45

2003. OPERATION OF EXISTING RURAL AND OFFSHORE GAS PIPELINES AT STRESS LEVELS HIGHER THAN PERMITTED FOR NEW PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: This proposal would eliminate or qualify the "grandfather clause" of the natural gas pipeline safety regulations that permits operation of an existing rural or offshore gas pipeline found to be in satisfactory condition at the highest actual operating pressure to which the segment was subjected during the five years preceding July 1, 1970, or, in the case of an offshore gathering line, July 1, 1976.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: Doug Chisholm, Chief, Research Unit, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., S.W., Washington, D.C. 20590, 202 366-1640

RIN: 2137–AB53

2004. ● TRANSPORTATION OF RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805

CFR Citation: 49 CFR 177

Legal Deadline: None

Abstract: This proposal would require motor carriers of highway route controlled quantities (HRCQ) of radioactive materials to transport those materials directly from pickup points to preferred routes and directly from preferred routes to delivery points.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-164C

Agency Contact: R. Gassaway, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4488

RIN: 2137–AB59

2005. ● ANNUAL REPORT FOR HAZARDOUS LIQUID PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 2010

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This action proposes to require that operators of hazardous liquid pipelines annually report pipeline mileage, needed for user fee assessments, and other information needed to administer the pipeline safety regulatory program.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-2036

RIN: 2137–AB62

DOT—RSPA — **Prerule Stage**

2006. ● TRANSPORTATION OF HYDROGEN SULFIDE BY PIPELINE

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: In a few reported instances, excessive amounts of hydrogen sulfide were introduced into natural gas pipelines. High concentrations of hydrogen sulfide are very detrimental to steel pipelines and extremely toxic. This action examines the need to establish a maximum allowable concentration and other control measures.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: D. Chisholm, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4569

RIN: 2137–AB63

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage
Research and Special Programs Administration (RSPA)

2007. + TRAINING FOR HAZARDOUS MATERIALS TRANSPORTATION

Significance: Regulatory Program

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action will propose to establish detailed training requirements for persons involved with the transportation of hazardous materials. Establishing more detailed training requirements should diminish the number of hazardous materials transportation incidents which can be attributed to human error. At this time, the potential cost of establishing this program is unknown.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-126F

Agency Contact: C. Strombom, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB26

2008. + RECODIFICATION OF EXPLOSIVE REGULATIONS

Significance: Agency Priority

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This action would propose consolidation and revision of regulations on classification and packaging of explosives, and the alignment of these regulations with the recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-181A

Agency Contact: D. Billings/C. Ke, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA93

2009. + GAS GATHERING LINE DEFINITION

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192.3

Legal Deadline: None

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry. Action is significant because the definition is the subject of litigation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: Suggested terminology is being coordinated with the Technical Pipeline Safety Standards Committee and State agencies in advance of a formal proposal for public comment.

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1640

RIN: 2137–AB15

2010. + PROPOSALS FOR PIPELINE SAFETY

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 191; 49 CFR 192; 49 CFR 195

Legal Deadline: None

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Abstract: Based on the numerous public comments and recommendations of the Department's two pipeline safety advisory committees, many of the proposals put forth in the ANPRM will be withdrawn. Those not withdrawn will be further evaluated in special studies or become the subject of separate rulemakings.

Timetable:

Action	Date	FR Cite
ANPRM	02/11/87	52 FR 4361
ANPRM Comment Period End	03/30/87	52 FR 4361
NPRM to be withdrawn	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: B. Liebler, Office of Pipeline Safety, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-4560

RIN: 2137–AB27

2011. + HAZARDOUS MATERIALS IN INTRASTATE COMMERCE

Significance: Agency Priority

Legal Authority: 49 USC 1802 to 1808

CFR Citation: 49 CFR 171 to 179

Legal Deadline: None

Abstract: ANPRM invites comments on the need for, and possible consequences of, DOT extending the application of its Hazardous Materials Regulations to all intrastate transportation of hazardous materials in commerce. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/87	52 FR 24195
Comment Period Extended to 11/28/87	09/21/87	52 FR 35464
ANPRM Comment Period End	09/28/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: Docket No. HM-200

Agency Contact: John Gale, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB37

2012. + PIPELINE OPERATOR QUALIFICATIONS

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Training and qualification standards would be proposed for personnel involved in the operation and maintenance of gas and hazardous liquid pipelines. Special consideration would be given to operators of small gas systems to alleviate the burden of compliance. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9189
ANPRM Comment Period End	05/07/87	52 FR 9189
NPRM	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 04/00/89

Additional Information: Docket No. PS-94

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2036

RIN: 2137–AB38

2013. + HIGHWAY ROUTING STANDARDS FOR CERTAIN TYPES AND QUANTITIES OF HAZARDOUS MATERIALS

Significance: Agency Priority

Legal Authority: 49 USC 1804; 49 USC 1805

CFR Citation: 49 CFR 173.177; 49 CFR 397

Legal Deadline: None

Abstract: Currently, except for certain radioactive materials, DOT has not promulgated uniform, national standards for the highway routing of hazardous materials. The proposal would establish such standards and provide guidance to States and localities to minimize the promulgation of State and local routing requirements that are inconsistent with the Hazardous Materials Transportation Act. This rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	04/07/88	53 FR 11618
ANPRM Comment Period Extended to 12/13/88	10/05/88	53 FR 39114
ANPRM Comment Period End	10/11/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: Docket No. HM-203. Public hearings were held on June 14, 1988, in Sacramento, California, and on September 15, 1988, in Washington, DC.

Agency Contact: J. Nalevanko/B. Romo, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4484

RIN: 2137–AB42

2014. + OPERATION AND MAINTENANCE PROCEDURES FOR GAS PIPELINES

Significance: Agency Priority

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Adequate procedures for pipeline operation and maintenance, backed up by personnel training, have proven effective in minimizing the potential for accidents. Gas operators are required to have such procedures, but the existing requirements lack the clarity and specificity needed to assure a uniform, broad-based level of safety for all pipelines. Therefore, this proposal would clarify the existing requirements, make them more comprehensive, and, where appropriate, similar to the more detailed requirements applicable to the operation and maintenance of hazardous liquid pipelines. This is a significant action because of the need for adequate procedures to provide a basis for training and qualifying operator personnel.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137–AB44

2015. + PRESSURE TESTING EXISTING HAZARDOUS LIQUID PIPELINES

Significance: Agency Priority

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: Recent accidents involving petroleum product pipelines demonstrate the potential for catastrophic losses if a large spill occurs in a populated area. Studies have shown that accidents attributable to hidden material or construction defects can be prevented by restricting operation to not more than 80 percent of a prior test or operating pressure. In this regard, significant results have been achieved by imposing such an operating restriction on those product pipelines that carry highly volatile liquids. This rule would extend this existing safety standard to all hazardous liquid pipelines. This rulemaking is significant because of substantial public interest in the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2036

RIN: 2137–AB46

2016. + MAPS AND RECORDS OF PIPELINE LOCATION AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, November 1, 1989.

Abstract: Maintenance of appropriate information about pipelines is essential for emergency response, compliance with safety standards, and other purposes. As part of a continuing policy to adopt similar requirements for gas and hazardous liquid pipelines where appropriate for safety, this action proposes to equalize as far as possible the requirements that gas and liquid operators keep maps and records to show the location and other characteristics of pipelines, and keep an inventory of pipe. In addition, operators would be required to provide this information to State agencies upon request. This is a significant action because of Congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137–AB48

2017. ● + PIPELINE SAFETY GRANT PROGRAM: MINIMUM REQUIREMENTS FOR ONE-CALL SYSTEMS

Significance: Agency Priority

Legal Authority: PL 100-561, Sec 303

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, May 1, 1990.

Abstract: This rulemaking proposes the issuance of requirements for the establishment and operation of appropriate one-call notification systems in areas containing underground gas or hazardous liquid pipeline facilities. The requirements are intended for adoption by States with agencies participating in the Federal/State pipeline safety grant-in-aid program. Adoption would be a consideration in determining reimbursement of State program costs. This rulemaking is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 08/00/89

Additional Information: This action is mandated by Pub. L. 100-561.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-2036

RIN: 2137–AB66

2018. CARRIAGE OF HAZARDOUS MATERIALS BY MOTOR VEHICLE

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 177

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DOT—RSPA — **Proposed Rule Stage**

Legal Deadline: None

Abstract: This action proposes simplification and recodification of existing operating procedures for transportation of hazardous materials by motor vehicle as prescribed in Part 177.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/89

Additional Information: Project 261-78

This project was formerly entitled: Revision of Operating Procedures for Motor Vehicles.

Agency Contact: R. Gassaway/A. Coates (FHWA), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA07

2019. PRIVATE CARRIERS LICENSED TO USE RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173; 49 CFR 177

Legal Deadline: None

Abstract: The Department intends to propose exceptions from the regulations for private carriers which are licensed to use radioactive materials in the course of their businesses.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	02/15/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 01/00/90

Additional Information: Project 298-82.

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA28

2020. SPECIFICATION 8W AND 8WA WELDED STEEL CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This action would eliminate existing specifications 8 and 8AL and provide a consolidated specification for the manufacture of acetylene cylinders.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-23.

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA63

2021. CONSOLIDATION OF SPECIFICATIONS FOR HIGH-PRESSURE SEAMLESS CYLINDERS AND REWRITE OF 49 CFR 173.34

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: The Department will propose revision of requalification requirements for cylinders and proposed consolidation and revision of the specifications for high-pressure seamless cylinders. (Project No. 123-71).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders.

Agency Contact: Charles H. Hochman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA92

2022. ENFORCEMENT OF MOTOR CARRIER FINANCIAL RESPONSIBILITY REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1805; 49 USC 1808 to 1809; 49 USC 1655; 49 USC 1655(c); 49 USC 10927

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 387

Legal Deadline: None

Abstract: This notice solicits comments on the merits of a petition for rulemaking from the National Tank Truck Carriers proposing to amend the Hazardous Materials Regulations to require shippers of hazardous materials by highway, in cargo tanks, to obtain documentary proof that the motor carrier possesses the minimum level of financial responsibility required by 49 CFR Part 387.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/87	52 FR 19116
ANPRM Comment Period End	08/18/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-199

Agency Contact: J. Nalevanko/R. Gassaway, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4484

RIN: 2137–AB35

DOT—RSPA — **Proposed Rule Stage**

2023. DETECTION AND REPAIR OF CRACKS, PITS, CORROSION, LINING FLAWS, THERMAL DETECTION FLAWS, AND OTHER DEFECTS OF TANK CAR TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This rule would require tank-car owners and repair facilities to inspect for cracks and other defects after certain tank-car repairs to assure that no defects exist. A DOT Task Force assessed tank-car inspection and repair procedures and identified two major issues on which the ANPRM seeks comment: (1) the adequacy of crack detection and (2) the ability to repair detected cracks without collateral damage.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/87	52 FR 46510
ANPRM Comment Period End	02/11/88	52 FR 46510
ANPRM Comment Period Extended to 05/13/88	02/18/88	53 FR 4862

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Morris/P. Olekszyk(FRA), Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB40

2024. GAS DETECTION AND MONITORING IN COMPRESSOR STATION BUILDINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Leaking gas accumulating inside an inadequately ventilated compressor station building is a serious safety problem that has caused recent deaths and injuries. This rulemaking action proposes additional regulations to require installation of gas detection and alarm systems.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/88	53 FR 10906
ANPRM Comment Period End	06/03/88	53 FR 10906
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 09/00/89

Additional Information: Docket No. PS-100

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137–AB49

2025. DETERMINING THE EXTENT OF CORROSION ON EXPOSED GAS PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Corrosion is a major cause of gas and hazardous liquid pipeline accidents. A safety standard applicable to liquid pipelines requires operators to examine exposed pipe for evidence of external corrosion and, if harmful corrosion is found, to investigate further to determine the extent of the corrosion. As part of a continuing policy to adopt similar requirements for gas and liquid pipelines where appropriate for safety, this action proposes that exposed gas pipelines with evidence of harmful corrosion be investigated to determine the extent of the corrosion.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 05/00/89

Additional Information: National Transportation Safety Board Recommendation P-87-3 provides a basis for this action.

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137–AB50

2026. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806; 49 USC 1808

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 were discovered developing cracks during service and occasionally leaks developed resulting in loss of contents. This ANPRM is to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks. The ANPRM requests comments concerning ways to resolve the problems.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	52 FR 26027
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 07/00/89

Agency Contact: C. Hochman, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB51

2027. REVISION OF OPERATING REQUIREMENTS FOR RAIL CARRIAGE

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171; 49 CFR 174

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Legal Deadline: None

Abstract: The purpose of the rulemaking is to update and rewrite the regulations contained in 49 CFR Parts 171 and 174 which govern the transportation of hazardous materials by rail.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: C. Strombom, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., S.W., Washington, DC 20590, 202 366-4488

RIN: 2137–AB55

2028. ● REVISION OF RSPA FORM 41 REPORT FOR CHANGES IN GAAP-FAS 95 STATEMENT OF CASH FLOWS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: The accounting system that underpins the Form 41 Report is based on Generally Accepted Accounting Principles (GAAP) established by the Financial Accounting Standards Board. This board recently amended GAAP reporting disclosure standards by adding a Statement of Cash Flows. The Form 41 Report currently has a Statement of Financial Position. Unless there is some incompatibility with another aviation regulatory program, a proposed rule will be issued to replace the Statement of Financial Position with a Cash Flow Statement to maintain uniformity with GAAP. This rule would relieve large U.S. air carriers from the burden of preparing two different statements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	09/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 07/00/89

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1, Room 4125, 400 Seventh St., S.W., Washington, D.C. 20590, 202 366-4383

RIN: 2137–AB57

2029. ● ELEVATED TEMPERATURE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This rulemaking addresses regulation of hazardous materials offered for transportation at elevated temperatures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: K. Blackman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4545

RIN: 2137–AB58

2030. ● TRANSPORTATION REGULATIONS; COMPATIBILITY WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY

Significance: Nonsignificant

Legal Authority: 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: This rulemaking would align the Hazardous Materials Regulations (HMR) with the International Atomic Energy Agency (IAEA) Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6. This action is necessary to implement practices and procedures that will improve safety in the transportation of radioactive materials and to facilitate international commerce.

Timetable:

Action	Date	FR Cite
Request for Comments	11/21/88	53 FR 46973
Comment Period End	12/23/88	
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Comments were due by 12/23/88.

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4545

RIN: 2137–AB60

2031. ● RETEST REQUIREMENTS FOR DOT 8 AND 8AL CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1802 to 1804; 49 USC 1808

CFR Citation: 49 CFR 171.7

Legal Deadline: None

Abstract: This rulemaking would propose the incorporation by reference of the Compressed Gas Association's (CGA) Pamphlet C-13 entitled "Guidelines for Periodic Visual Inspection and Requalification of Acetylene Cylinders," 1985 edition. This pamphlet would set forth the guidelines for the testing and requalification of DOT cylinders used for transporting acetylene. (This proposal was previously contained in Docket No. HM-23.)

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4488

RIN: 2137–AB61

2032. ● VEGETATION SURVEYS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Many gas distribution operators look for signs of dying vegetation as a leak survey technique. This technique may not be as effective as other available methods, and leaks have occurred in areas where vegetation surveys had been conducted. This action would explore requiring the use of alternative methods to meet the leak detection survey requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4560

RIN: 2137–AB64

2033. ● PRESSURE REGULATORS SUBJECT TO INSPECTION AND TESTING

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.739

Legal Deadline: None

Abstract: This rulemaking would clarify which pressure regulators are subject to rules for inspection and testing of pressure regulating stations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/00/89

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4560

RIN: 2137–AB65

2034. ● ALTERNATIVE WELD DEFECT ACCEPTANCE CRITERIA

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 193; 49 CFR 195

Legal Deadline: None

Abstract: The safety standards for pipelines and liquefied natural gas facilities reference the workmanship standards of the American Petroleum Institute (API) "API 1104" for the acceptance of weld defects. Appendix A of the 1988 edition includes alternative acceptance criteria based on fracture mechanics. This action proposes to incorporate Appendix A by reference.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 06/00/89

Additional Information: A petition by the American Petroleum Institute (P-38) provides a basis for this rulemaking action.

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-1640

RIN: 2137–AB67

2035. ● UPDATING REFERENCES TO API 5L

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: The pipeline safety standards incorporate by reference the steel pipe manufacturing specification in "API 5L". The currently referenced edition of the document has been superseded by the 1988 edition. This rulemaking would update all references to refer to the 1988 edition.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/00/89

Additional Information: Petitions by Bethlehem Steel Corp. (P-33) and Transcontinental Gas Pipeline Corp. (P-36) provide a basis for this rulemaking action.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-2036

RIN: 2137–AB69

2036. ● REVISED PIPELINE REPORTING AND ENFORCEMENT RULES

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 190; 49 CFR 191; 49 CFR 195

Legal Deadline: None

Abstract: Reporting requirements for safety-related conditions on pipeline facilities would be clarified. Also, new penalty provisions established by P.L. 100-561 would be added to the pipeline safety enforcement procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 04/00/89

Agency Contact: L. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-2392

RIN: 2137–AB70

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DOT—RSPA

Proposed Rule Stage

2037. ● PASSAGE OF INTERNAL INSPECTION DEVICES

Significance: Nonsignificant

Legal Authority: PL 100-561, Sec 108; PL 100-561, Sec 207

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would establish minimum Federal safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. This rulemaking is mandated by P.L. 100-561.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 04/00/90

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-2036

RIN: 2137–AB71

2038. ● TRANSPORTATION OF CARBON DIOXIDE BY PIPELINE

Significance: Nonsignificant

Legal Authority: PL 100-561, Sec 211

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This action would amend the existing safety standards for hazardous liquid pipelines to include new standards necessary for the safe transportation of carbon dioxide by pipeline. This action is mandated by P.L. 100-561.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 06/00/89

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-1640

RIN: 2137–AB72

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Final Rule Stage

2039. + PERFORMANCE-ORIENTED PACKAGING STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 176; 49 CFR 178; 49 CFR 179

Legal Deadline: None

Abstract: This action will develop performance-oriented packaging standards and hazardous material classification based on the United Nations Committee of Experts on the Transport of Dangerous Goods. Rulemaking also includes former non-significant rulemakings entitled "Consolidation of Specifications and Establishment of Performance Standards for Specification Bags" (Docket No. HM-153), "Specifications for and use of Specification 17 Steel Drums" (Docket No. HM-182), and "Organic Peroxide Requirements" (Project 186-72). The rulemaking is significant because a large number of specifications for packaging in the hazardous Materials Regulations would be affected by this project. To a large extent the complexity and mass of the present Hazardous Materials Regulations are due to the detailed specification-type packaging standards contained in these regulations. To replace these with standards based on the U.N. system would both simplify the present regulations and facilitate international trade.

Timetable:

Action	Date	FR Cite
ANPRM for RIN AA05	05/07/81	46 FR 25492
ANPRM for RIN AA11	06/05/81	46 FR 31294
ANPRM	04/15/82	47 FR 16268
Correction Document and Notice of Meeting	06/17/82	47 FR 26172
Extension of Comment Period to 01/13/83	09/16/82	47 FR 40816
ANPRM Comment Period End	01/13/83	47 FR 40816
NPRM	05/05/87	52 FR 16482
NPRM Comment Period extended to 02/26/88	09/08/87	52 FR 33906
NPRM Comment Period End	11/02/87	
Supplemental NPRM	11/06/87	52 FR 42772
NPRM Commen' Period extended to 05/25/88	04/14/88	53 FR 12442
Supplemental NPRM and Extension of Comment Period to 3/9/89	11/14/88	53 FR 45868

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 05/05/87 (52 FR 16482)

Additional Information: Docket No. HM-181. A decision on whether to proceed with a final rule will be made following review and evaluation of comments to the docket. RINs 2137-AA11 and AA05 have been consolidated into this rulemaking.

Agency Contact: E. Mazzullo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA01

DOT—RSPA

Final Rule Stage

2040. + REQUIREMENTS FOR CARGO TANKS

Significance: Agency Priority

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 173; 49 CFR 177; 49 CFR 178

Legal Deadline: None

Abstract: The rule would modify cargo tank specifications in section 178.337-178.343 to improve clarity, quality control and safety and to provide for the manufacture of vacuum-loaded cargo tanks. It would also provide inspection, test, maintenance, repair, and requalification standards for cargo tanks. This rulemaking is being performed in conjunction with the FHWA. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/28/82	47 FR 27876
NPRM	09/17/85	50 FR 37767
Corrections and Clarifications	12/05/85	50 FR 49866
NPRM Comment Period End	05/22/86	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 09/17/85 (50 FR 37767)

Additional Information: Docket Nos. HM-183, 183A.

Agency Contact: J. O'Steen/ J. Pena, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA42

2041. + DATA COLLECTION AND REPORTING: HAZARDOUS MATERIALS INCIDENT REPORTS

Significance: Agency Priority

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1809

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: The current regulations require reports of hazardous material incidents. The objective of this review is to determine if the current data requirements can be modified to reduce the burden on industry but still result in the collection of the information needed for the hazardous materials safety program. Although safety programs, such as the one covered by these regulations, require data in order to function properly, it is possible that the data collection can be made less burdensome. This rulemaking is significant because of substantial public interest due to safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	03/16/84	49 FR 10042
NPRM	03/27/87	52 FR 9996
NPRM Comment Period End	07/29/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 03/27/87 (52 FR 9996)

Additional Information: Docket HM-36B.

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA51

2042. + NATURAL GAS AND HAZARDOUS LIQUID PIPELINE DAMAGE PREVENTION PROGRAM

Significance: Agency Priority

Legal Authority: 49 USC 2002(e)

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: Each year a large percentage of gas and hazardous liquid pipeline accidents are caused by excavation damage. Based on existing rules intended to reduce damage to gas pipelines in populated areas, this action would require hazardous liquid pipeline operators to provide damage prevention programs and gas operators would have to expand their programs to cover rural areas. This is a significant action because of the widespread interest in the use of "one-call" programs to prevent damage to buried pipelines.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24747
NPRM Comment Period End	08/29/88	53 FR 24747
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24747)

Additional Information: Docket No. PS-101

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2036

RIN: 2137–AB47

2043. USE OF INTERESTED INSPECTORS FOR CYLINDER INSPECTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking would end the permitting of "interested" inspectors to perform inspections and testing of domestically manufactured low-pressure gas cylinders.

Timetable:

Action	Date	FR Cite
NPRM	03/17/76	41 FR 1179

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-74A

Agency Contact: H. Mitchell, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA08

2044. ODORIZATION OF LP GAS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 172

Legal Deadline: None

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Abstract: NPRM solicited comments on the benefit of requiring LP gas to be odorized. Odorization would enhance its identification during transportation in commerce. Comments to the NPRM indicated that further study should be made before proceeding to a final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/27/84	49 FR 38164

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/27/84 (49 FR 38164)

Additional Information: Docket No. HM-126E.

Agency Contact: D. Billings, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA25

2045. TRANSPORTATION OF HAZARDOUS MATERIALS; MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. NPRM approximately every four months, with FR targeted approximately two months thereafter.

Timetable:

Action	Date	FR Cite
Periodic Update	03/19/85	50 FR 11048
NPRM	06/03/86	51 FR 19866
NPRM Comment Period End	09/04/86	51 FR 27223
Periodic Update	04/20/87	52 FR 13034
Periodic Update - NPRM	09/19/88	53 FR 36410
Final Action	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/19/88 (53 FR 36410)

Additional Information: Docket No. HM-166.

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA44

2046. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1807; 49 USC 1808

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: This action proposes removal of the fifty-pound limit on the quantity that may be stowed in an inaccessible cargo location on passenger-carrying aircraft.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	49 FR 13717
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	50 FR 6013

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/13/85 (50 FR 6013)

Additional Information: Further action to be determined based on NPRM comments.

This project was formerly entitled: Limitation Aboard Aircraft.

Agency Contact: Ann Boylan, Transportation Reg. Specialist, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA85

2047. EMERGENCY RESPONSE COMMUNICATION STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 172

Legal Deadline: None

Abstract: This proposal solicits comments on the potential benefits and consequences of requiring additional emergency response information on shipping papers and in vehicles when transporting hazardous materials.

Timetable:

Action	Date	FR Cite
ANPRM	03/16/84	49 FR 10048
Public Hearing held, Washington, D.C.	05/02/84	49 FR 10048
ANPRM Comment Period End	06/26/84	49 FR 10048
NPRM	08/20/87	52 FR 31486
NPRM Comment Period extended to 12/22/87	09/04/87	52 FR 33611
NPRM Comment Period End	09/21/87	52 FR 31486

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 08/20/87 (52 FR 31486)

Additional Information: HM-126C

Agency Contact: Helen L. Engrum, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA88

2048. HAZARDOUS MATERIALS: URANIUM HEXAFLUORIDE

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806; 49 USC 1807; 49 USC 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: RSPA proposes to amend the Hazardous Materials Regulations to permit the transport of uranium hexafluoride (UF6) in certain packagings that do not meet the requirements of either the American National Standards Institute (ANSI) Standard N14.1-1987 (ANSI N14.1-1987) or the specification for DOT Class 106 A multi-unit tank car tanks, and to permit the transport of depleted UF6 in packagings filled to a capacity not exceeding 62% by volume at 68 degrees Fahrenheit.

Timetable:

Action	Date	FR Cite
NPRM	04/11/86	51 FR 12529
NPRM Comment Period End	07/01/86	51 FR 12529
Interim Final Rule	11/18/86	51 FR 41631
Revision to Final Rule	12/24/86	51 FR 46674
Emergency Final Rule	03/12/87	52 FR 7581
NPRM New	07/06/87	52 FR 25342
Revision to Final Rule	07/06/87	52 FR 25340
Amended NPRM	04/06/88	53 FR 11320
Comment period ends	05/06/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/11/86 (51 FR 12529)

Additional Information: Docket No. HM-166V.

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AB10

2049. CONFIRMATION OR REVISION OF MAXIMUM ALLOWABLE OPERATING PRESSURE; ALTERNATE METHOD

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192.611(a)

Legal Deadline: None

Abstract: This action proposes an alternate method for confirmation or revision of the maximum allowable operating pressure of pipelines previously tested to less than 90 percent of specified minimum yield strength. The alternate method would allow operators to establish a maximum allowable operating pressure in proportion to the level permitted for pipelines tested to 90 percent of specified minimum yield strength, or more, without retesting the pipeline. Considerable cost savings are expected.

Timetable:

Action	Date	FR Cite
NPRM	01/15/88	53 FR 1043
NPRM Comment Period End	03/15/88	53 FR 1043
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 01/15/88 (53 FR 1043)

Additional Information: Docket No. PS-97.

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4568

RIN: 2137–AB20

2050. REAR BUMPERS ON CARGO TANK TRUCKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This action proposed to provide a 36-month period to allow operators of cargo tank trucks operated in combination with cargo tank full trailers to modify their front units by adding the required rear bumper. This rulemaking is being performed in conjunction with the FHWA.

Timetable:

Action	Date	FR Cite
NPRM	08/08/86	51 FR 28605
NPRM Comment Period End	09/22/86	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 08/08/86 (51 FR 28605)

Additional Information: Docket No. HM-183B.

Agency Contact: H. Mitchell/B. Byrd (FHWA), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AB34

2051. STANDARDS FOR CONSTRUCTION OF FIREWORKS AND NOVELTIES; APPROVAL FOR TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1802 to 1808

CFR Citation: 49 CFR 171; 49 CFR 173

Legal Deadline: None

Abstract: This action proposed to eliminate a requirement for fireworks examination prior to their approval for transportation by the Director, Office of Hazardous Materials Transportation.

Timetable:

Action	Date	FR Cite
NPRM	02/12/88	53 FR 4348
NPRM Comment Period End	04/04/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/12/88 (53 FR 4348)

Additional Information: Formerly entitled Standards for Construction of Fireworks and Approval for Transportation.

Agency Contact: J. Smith, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB36

2052. ETIOLOGIC AGENTS; PROPOSAL TO REMOVE THE 50 MILLILITER EXCEPTION

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This rulemaking proposes to revise the definition of an etiologic agent, and remove the 50-milliliter per package exemption for such agents.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45525
NPRM Comment Period End	01/18/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

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DOT—RSPA

Final Rule Stage

Analysis: Regulatory Evaluation 11/10/88 (53 FR 45525)

Agency Contact: Ann Boylan, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., S.W., Washington, DC 20590, 202 366-4488

RIN: 2137–AB56

2053. ● UPDATING REFERENCES TO API 1104

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 193; 49 CFR 195

Legal Deadline: None

Abstract: In the safety standards for pipelines and liquefied natural gas facilities, the references to the welding requirements of the document "API 1104" would be updated to the requirements of the 1988 edition of that document, except for the requirements of Appendix A, which is the subject of a separate rulemaking. (RIN AB67) The currently referenced edition of "API 1104" is out of print.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 04/00/89

Additional Information: A petition by the American Petroleum Institute (P-38) provides a basis for this rulemaking action.

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-1640

RIN: 2137–AB68

2054. ● EXCEPTIONS FOR SPECIFIED QUANTITIES OF RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This action renews exceptions in the Hazardous Materials Regulations to permit the continued transportation by passenger-carrying aircraft of certain small quantities of radioactive material.

Timetable:

Action	Date	FR Cite
NPRM	12/12/88	53 FR 49895
NPRM Comment Period End	01/11/89	
Final Action	04/04/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/12/88 (53 FR 49895)

Agency Contact: Ann Boylan, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AB73

DEPARTMENT OF TRANSPORTATION (DOT)

Research and Special Programs Administration (RSPA)

Completed Actions

2055. + COLLECTION OF SERVICE SEGMENT DATA AND CHARTER DATA FROM FOREIGN AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1301; 49 USC 1374; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 217; 14 CFR 241

Legal Deadline: None

Abstract: DOT has finalized a rule that requires submission to DOT of nonstop market data from foreign carriers providing scheduled service between their home countries and the United States. This information is needed to evaluate existing bilateral agreements and reciprocity between U.S. and foreign countries. In addition, international charter data currently collected from carriers will be incorporated with this reporting. This nonstop market data will virtually eliminate the Department's need for data collected by the Immigration and Naturalization Service on Form I-92. Although there will be some start-up costs, it is anticipated that over the long run there will be substantial savings for both the industry and the government. See 2137-AB01 for companion rule for U.S. air carriers.

Timetable:

Action	Date	FR Cite
NPRM	07/15/87	52 FR 26498
NPRM Comment Period End	09/14/87	
NPRM Comment Period extended to 10/14/87	09/15/87	52 FR 34889
Final Action	11/16/88	53 FR 46284
Effective Date Suspended Until Further Notice	12/28/88	53 FR 52404
Correction to Final Rule	02/17/89	54 FR 7183

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 45 Transportation by Air

Analysis: Regulatory Evaluation 11/16/88 (53 FR 46284)

Additional Information: The effective date was suspended in order to consider the petitions for reconsideration.

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AA97

2056. + ALIGNMENT OF AIRLINE UNIFORM SYSTEM OF ACCOUNTS AND REPORTS WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

Significance: Regulatory Program

DOT—RSPA

Completed Actions

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: This final rule relieves large, certificated air carriers from the burden of maintaining an accounting system that differentiates between the two sets of accounting principles: generally accepted and regulatory. It aligns the air-carrier accounting provisions in accordance with generally accepted accounting principles.

Timetable:

Action	Date	FR Cite
NPRM	03/24/88	53 FR 9653
NPRM Comment Period End	05/23/88	
Final Action	02/06/89	54 FR 5588
Correction to Final Rule	02/27/89	54 FR 8261
Correction to Final Rule	03/07/89	54 FR 9590
Final Action Effective	03/08/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 45 Transportation by Air

Analysis: Regulatory Evaluation 02/06/89 (54 FR 5588)

Agency Contact: Jack Galloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AA99

2057. + COLLECTION OF SERVICE SEGMENT DATA AND CHARTER DATA FROM U.S. AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1387

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Large U.S. air carriers file detailed service segment data in ADP format for scheduled operations, while smaller carriers file a condensed version on a hardcopy form. Charter data is filed on another form. The Department has issued a final rule which incorporates all three systems onto one automated data system by standardizing the reporting between scheduled and charter operations. Effective January 1, 1990, much of the data currently collected has been eliminated. Also much of the data reported on the hardcopy Form 41 T-Schedules has been eliminated, since data for the schedules can be extracted from the automated system. Further, the foreign air carrier traffic and market reporting (2137-AA97) is incorporated into this automated system, providing a uniform traffic and market system for the Department.

Timetable:

Action	Date	FR Cite
NPRM	07/15/87	52 FR 26498
NPRM Comment Period extended to 10/14/87	09/15/87	52 FR 34889
Final Action	11/16/88	53 FR 46284
Correction to Final Rule	02/17/89	54 FR 7183
Final Action Effective	01/01/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 45 Transportation by Air

Analysis: Regulatory Evaluation 07/15/87 (52 FR 26498)

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AB01

2058. + CONTROL OF DRUG USE IN NATURAL GAS, LIQUEFIED NATURAL GAS, AND HAZARDOUS-LIQUID PIPELINE OPERATIONS

Significance: Regulatory Program

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 193; 49 CFR 195

Legal Deadline: None

Abstract: The final rule requires operators of pipeline facilities, other than master meter systems, used for the transportation of natural gas or hazardous liquids, and operators who produce and store liquefied natural gas, to have a drug program for individuals who perform specific sensitive safety-related functions.

Timetable:

Action	Date	FR Cite
NPRM	07/06/88	53 FR 25892
Notice of Public Hearing	07/14/88	53 FR 26615
Notice of Public Hearing	08/24/88	53 FR 32263
NPRM Comment Period End	09/06/88	53 FR 25892
Final Action	11/21/88	53 FR 47084
Final Action Effective	12/21/88	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Draft Regulatory Evaluation 07/06/88 (53 FR 25892); Final Regulatory Evaluation 11/21/88 (53 FR 47084)

Additional Information: Docket No. PS-102

Agency Contact: C. DeLeon, Assistant Director for Regulation, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-1640

RIN: 2137–AB54

2059. + COLLECTION OF FINANCIAL INFORMATION FROM THE COMMUTER AIR CARRIER INDUSTRY

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 298

Legal Deadline: None

Abstract: DOT issued a final rule, effective January 1, 1989, which collects basic financial information from the commuter carriers providing scheduled passenger service. Data will be used for fitness reviews; various economic analyses such as trust-fund revenue generation; airport and airways development; econometric modeling and regulatory cost-benefit analysis to aid aviation policy and regulatory decisions; and FAA's allocation planning for its inspection resources. This rule is considered significant because of substantial public interest.

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Timetable:

Action	Date	FR Cite
NPRM	04/19/88	53 FR 12774
NPRM Comment Period End	06/20/88	53 FR 12774
Final Action	12/01/88	53 FR 48524
Final Action Effective	01/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 12/01/88 (53 FR 48524)

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AA96

2060. DEFINITION OF A FLAMMABLE SOLID

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This proposal involved new standards for classifying a material as a flammable solid. It has been incorporated into RIN 2138-AA01.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/81	46 FR 25492
Incorporated into RIN AA01	02/10/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Formerly Docket HM-178.

Agency Contact: C. Ke, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA05

2061. OXIDIZING MATERIALS DEFINITION, CRITERIA AND PROPOSED REGULATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This project involves development of new standards for classifying material as an oxidizing material and has been incorporated into RIN 2137-AA01.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/81	46 FR 31294
Consolidated into RIN AA01	02/09/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Formerly Docket HM-179.

Agency Contact: M. Morris/C. Schultz, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA11

2062. MODIFICATIONS TO DOT SPECIFICATION 21PF-1 OVERPACKS

Significance: Nonsignificant

Legal Authority: 49 USC 178; 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking responded to a Department of Energy request that DOT improve the water resistance of overpacks used in the transportation of enriched uranium hexafluoride.

Timetable:

Action	Date	FR Cite
NPRM	08/16/84	49 FR 32774
NPRM Comment Period End	09/12/84	
Final Action	09/20/88	53 FR 36548
Final Action Effective	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/16/84 (49 FR 32774)

Additional Information: Docket No. HM-190.

Agency Contact: A.W. Carriker/J.A. Gale, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA72

2063. EXCEPTION FROM PRESSURE TESTING NON-WELDED TIE-IN JOINTS

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192.503(d)

Legal Deadline: None

Abstract: The final rule excepts, from the pressure-test requirements of 49 CFR 192, nonwelded joints that tie-in pressure-tested segments of pipeline, provided such tie-in joints are leak-tested at not less than the operating pressure of the pipeline.

Timetable:

Action	Date	FR Cite
NPRM	01/15/88	53 FR 1045
NPRM Comment Period End	02/29/88	53 FR 1045
Final Action	09/16/88	53 FR 36028
Final Action Effective	10/17/88	
Amendment to Final Rule	02/03/89	54 FR 5484

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Draft Regulatory Evaluation 01/15/88 (53 FR 1045); Final Regulatory Evaluation 09/16/88 (53 FR 36028)

Additional Information: Docket No. PS-98. Final rule of 9/16/88 would have required leak testing of both welded and nonwelded tie-in joints. Based on petitions for reconsideration, RSPA deleted the requirement for leak testing of welded joints that tie in pressure-tested segments of pipelines.

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4580

RIN: 2137–AB19

2064. DELETION OF STANDARDS AFFECTING IRON AND COPPER PIPE AND OTHER MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: This final rule deletes the existing incorporation by reference of various documents intended for use in the design of gas pipelines. The materials to which the documents pertain are no longer generally used for gas pipelines so that reference to the documents can be deleted without affecting safety.

Timetable:

Action	Date	FR Cite
ANPRM	06/04/87	52 FR 21087
ANPRM Comment Period End	06/03/87	52 FR 21087
NPRM	07/01/88	53 FR 24968
NPRM Comment Period End	08/15/88	
Final Action	02/08/89	54 FR 5625
Final Action Effective	03/08/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 07/01/88 (53 FR 24968)

Additional Information: Docket No. PS-95

Agency Contact: P. Cory, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4561

RIN: 2137–AB24

2065. SHIPPERS: USE OF TANK-CAR TANKS WITH LOCALIZED THIN SPOTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This final rule will allow the use of railroad tank-car tanks with shell thicknesses in localized areas of less than the minimum currently allowed. The rule requires that tank shells be measured under specific conditions to ensure that the results of repairs do not further decrease shell thickness or result in a reduction in the level of safety. Under the former rule, owners were required to bring tanks into conformance or remove them from hazardous materials service. Final rule will allow the tank cars to conform to a less stringent standard thereby avoiding the substantial costs associated with complete restoration or purchase of a new tank car, while still ensuring an adequate level of safety.

Timetable:

Action	Date	FR Cite
NPRM	12/08/87	52 FR 46511
NPRM Comment Period End	02/11/88	52 FR 46511
SNPRM Comment Period Extended to 05/13/88	02/16/88	53 FR 4862
Final Action	02/28/89	54 FR 8336
Final Action Effective	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/08/87 (52 FR 46511)

Additional Information: Compliance with these amended regulations is authorized as of March 30, 1989.

Agency Contact: M. Morris/P. Olekszyk(FRA), Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB39

2066. ● IMPLEMENTATION OF THE ICAO TECHNICAL PROVISIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 171; 49 CFR 175

Legal Deadline: None

Abstract: This rule authorizes the offering, acceptance, and transportation by aircraft of hazardous materials when offered in conformance with the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air.

Timetable:

Action	Date	FR Cite
NPRM	09/15/88	53 FR 35968
NPRM Comment Period End	10/17/88	
Final Action Effective	01/01/89	
Final Action	01/10/89	54 FR 954

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/15/88 (53 FR 35968)

Agency Contact: Richard Barlow, Acting International Standards Coordinator, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW., Washington, DC 20590, 202 366-0656

RIN: 2137–AB74

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

Maritime Administration (MarAd)

2067. + PARTICIPATION BY VESSELS BUILT WITH CONSTRUCTION-DIFFERENTIAL SUBSIDY IN THE CARRIAGE OF OIL FROM ALASKA IN THE DOMESTIC TRADE

Significance: Agency Priority

Legal Authority: 46 USC 1114(b); 46 USC 1156

CFR Citation: 46 CFR 250

Legal Deadline: None

Abstract: This regulation now establishes conditions for MARAD approval of tanker vessels over 100,000 dwt built with CDS, for participation in the carriage of Alaskan oil from Alaska to the Panama Canal. MARAD is reassessing the need for this regulation in light of the experience in administering its provisions, its policy of allowing total repayment of CDS (46 CFR Part 276) and litigation challenging these policies. This rulemaking is significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

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DOT—MarAd — **Prerule Stage**

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances Olsen, Chief, Division of Trade Studies, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8117, Washington, DC 20590, 202 366-2262

RIN: 2133–AA62

2068. + PROCEDURES GOVERNING THE EVALUATION OF BIDS FOR THE CARRIAGE OF PREFERRED CARGOES ON SUBSIDIZED VESSELS

Significance: Agency Priority

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR 381.8

Legal Deadline: None

Abstract: This action would have solicited public comment to assist in evaluating requests received from an operator and another Department that MARAD expand the scope of its procedures concerning evaluation of bids for the carriage of preference cargoes to apply to all types of preference cargo, specifically including civilian purchased preference and military cargoes. Existing procedures apply only to bulk cargoes. While considered significant, this contemplated action is temporarily suspended because maritime procurement procedures are undergoing a comprehensive review.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arthur S. Sforza, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, 400 Seventh St. S.W. Washington, D.C. 20590, 202 366-2323

RIN: 2133–AA77

2069. REGULATIONS AND MINIMUM STANDARDS FOR STATE, TERRITORIAL, OR REGIONAL MARITIME ACADEMIES AND COLLEGES

Significance: Nonsignificant

Legal Authority: 46 USC 1295

CFR Citation: 46 CFR 310

Legal Deadline: None

Abstract: The Maritime Administration provides support to six State maritime schools for maritime education. The Federal support is outlined in agreements that have been executed between MARAD and the schools. The existing regulations will be revised to reflect changes in these agreements due to modifications in federal support.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 822 Colleges, Universities, Professional Schools, and Junior Colleges

Agency Contact: Arthur W. Friedberg, Director, Office of Maritime Labor & Training, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5755

RIN: 2133–AA57

DEPARTMENT OF TRANSPORTATION (DOT) — **Proposed Rule Stage**

Maritime Administration (MarAd)

2070. + PROCEDURES RELATING TO THE CONDUCT OF HEARINGS UNDER THE MERCHANT MARINE ACT, 1936

Significance: Agency Priority

Legal Authority: 46 USC App 1114(b); 46 USC App 1175(c); 46 USC App 1223(a)

CFR Citation: 46 CFR 203 (New)

Legal Deadline: None

Abstract: Regulations would establish procedures relating to the conduct of hearings under the Merchant Marine Act, 1936, as amended, prior to approval of applications for operating differential subsidy. The procedures to be proposed would allow MARAD to render more timely decisions by providing alternatives to the conduct of evidentiary hearings, in appropriate circumstances. This rulemaking is significant because of substantial public interest in the award or amendment of ODS contracts.

Timetable:

Action	Date	FR Cite
NPRM	06/25/79	44 FR 37003
NPRM Comment Period End	08/24/79	
SNPRM	04/04/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway

Additional Information: This rulemaking would be more limited in scope than what was to be developed in a 1979 NPRM, "Rules of Practice and Procedures for Hearing in ODS Applications." The RIN has been retained, although the title has been further revised.

Agency Contact: Murray A. Bloom, Chief, Division of Maritime Aids, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5164

RIN: 2133–AA20

2071. + CARGO PREFERENCE — IMPLEMENTATION OF P.L. 99-198

Significance: Agency Priority

Legal Authority: 46 USC 1241

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: These amendments to the existing cargo-preference regulations would implement S1142 of P.L. 99-198, the Food Security Act of 1985, that clarifies the applicability of cargo-preference requirements to the shipment of U.S. agricultural products. Action is pending disposition of litigation in the U.S. Court of Appeals for the Seventh Circuit involving allocation of preference cargoes to port ranges. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Analysis: Draft Regulatory Evaluation 06/00/89

Agency Contact: Lewis C. Paine, Director, Office of Market Development, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5517

RIN: 2133–AA55

DOT—MarAd — **Proposed Rule Stage**

2072. REQUIREMENTS FOR CONDUCTING VESSEL SUBSIDY CONDITION SURVEYS AND FOR ACCOMPLISHING SUBSIDIZED VESSEL MAINTENANCE AND REPAIRS

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b); 46 USC 1173

CFR Citation: 46 CFR 272

Legal Deadline: None

Abstract: MARAD is considering a proposal to amend its regulations concerning the requests for conducting condition surveys of subsidized vessels and accomplishing subsidized maintenance and repairs, in order to conform the regulations to reflect existing procedures of the agency and to advise the public of MARAD organizational changes.

Timetable:

Action	Date	FR Cite
NPRM	04/04/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Agency Contact: John J. Davis, Chief, Div. of Ship Management, Department of Transportation, Maritime Administration, DOT/MARAD, 400 Seventh St., SW, Washington, DC 20590, 202 366-5776

RIN: 2133–AA64

2073. CARGO PREFERENCE — U.S.-FLAG VESSELS; DEPARTMENT OF DEFENSE SPONSORED AND GENERATED OCEANBORNE CARGOES

Significance: Nonsignificant

Legal Authority: 46 USC 1241(b)

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: MARAD is formalizing procedures that have been adopted by one or more agencies within the Department of Defense (DOD) to accomplish compliance with two cargo preference statutes that require that minimum specified percentages of oceanborne cargoes sponsored and generated by DOD be carried on privately owned U.S.-flag commercial vessels, and is making each of these procedures applicable to all DOD agencies, where appropriate. Most of these procedures are now contained in internal DOD documents.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 473 Arrangement of Transportation of Freight and Cargo; 971 National Security

Agency Contact: S. Thomas Romeo, Chief, Division of National Cargo, Department of Transportation, Maritime Administration, 400 Seventh Street SW (MAR-820), Room 7209, Washington, DC 20590, 202 366-4610

RIN: 2133–AA69

2074. APPROVAL OF VESSEL CHARTERS TO NONCITIZENS

Significance: Nonsignificant

Legal Authority: 46 USC App 808; 46 USC App 839; 46 USC App 1114(b)

CFR Citation: 46 CFR 221.7

Legal Deadline: None

Abstract: MARAD has received a petition for rulemaking from an association representing oil-drilling contractors requesting that MARAD expand the scope of its general approval of charters to noncitizens (without obtaining prior MARAD approval) to include (1) intra-company charters of mobile offshore drilling units (MODUs) regardless of their duration; and (2) all bareboat charters and subcharters of MODUs to facilitate their employment in foreign business activities. MARAD will consider the need for such approvals as well as for other types of vessels.

Timetable:

Action	Date	FR Cite
ANPRM	11/02/88	53 FR 44206
ANPRM Comment Period End	01/03/89	
NPRM	03/10/89	54 FR 10168
NPRM Comment Period End	04/24/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 442 Deep Sea Domestic Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 448 Water Transportation of Passengers

Agency Contact: Jessie Fernanders, Vessel Transfer & Disposal Officer, Department of Transportation, Maritime Administration, 400 Seventh St., SW., Room 2112, Washington, DC 20590, 202 366-5111

RIN: 2133–AA73

2075. ● FEDERAL INCOME TAX ASPECTS OF THE CAPITAL CONSTRUCTION FUND

Significance: Nonsignificant

Legal Authority: 46 USC App 1114(b); 46 USC App 1177

CFR Citation: 46 CFR 391

Legal Deadline: None

Abstract: The Maritime Administration and Department of the Treasury are jointly proposing to amend the regulations for determining the tax liability of participants in a Capital Construction Fund (CCF) to give effect to amendments in the Tax Reform Act of 1986 (PL 99 514). This rulemaking has been split off from Rin 2133-AA65,

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DOT—MarAd — Proposed Rule Stage

which proposes to implement changes in regulations for administering the CCF, consistent with PL 99-514.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 449 Services Incidental to Water Transportation; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway

Agency Contact: Jean E. McKeever, Chief, Division of Capital Assets, Department of Transportation, Maritime Administration, 400 Seventh Street SW, Washington, DC, 366, 202, 202 366-1905

RIN: 2133–AA78

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage
Maritime Administration (MarAd)

2076. + CARGO PREFERENCE, U.S.-FLAG VESSELS: DETERMINATION OF FAIR AND REASONABLE RATES FOR BULK VESSELS

Significance: Regulatory Program

Legal Authority: 46 USC 1241(b); 46 USC 1114(b)

CFR Citation: 46 CFR 382. (New)

Legal Deadline: None

Abstract: This regulation would require provision of rate and cost data to MARAD so it can determine fair and reasonable rates for carriage of preference cargo in bulk vessels at the request of concerned Federal agencies. MARAD would calculate fair and reasonable rates by using aggregate averages to determine all operating costs except fuel, using the historical data submitted by the operators, dividing the ships into competitive groupings based on size and type. It would establish requirements for submission of data on which the methodology would be based. This rulemaking is significant because it concerns a matter on which there is substantial public interest. It would clarify the meaning of a statutory term.

Timetable:

Action	Date	FR Cite
NPRM	08/08/85	50 FR 31735
NPRM Comment Period End	10/07/85	
First SNPRM Comments due 03/17/87	12/17/86	51 FR 45135
Second SNPRM Comments due 08/12/88	06/28/88	53 FR 24324
Public Hearing Notice	08/22/88	53 FR 31870
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Analysis: Draft Regulatory Evaluation 12/17/86 (51 FR 45135)

Additional Information: This rulemaking has split from an earlier rulemaking: Cargo Preference - U.S. Flag Vessels - Determination of Fair and Reasonable Rates for Liners (RIN 2133-AA02). Cargo preference regulation was last revised in 1977 (46 CFR 381).

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2323

RIN: 2133–AA43

2077. + OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN WORLDWIDE SERVICES; EXCLUSION OF COMMERCIAL CARGOES RESERVED FOR U.S.-FLAG CARRIERS

Significance: Regulatory Program

Legal Authority: 46 USC 1114, (Appendix); 46 USC App 1114

CFR Citation: 46 CFR 252

Legal Deadline: None

Abstract: MARAD has proposed a rulemaking that clarifies its policy that cargoes which are not preference cargoes, but are reserved to U.S.-flag vessels by agreement of countries which receive U.S. foreign assistance in the form of cash transfers (or any similar cash assistance program), are not "commercial" cargoes, subject to foreign competition and not subsidizable.

Timetable:

Action	Date	FR Cite
NPRM	09/26/88	53 FR 37536
NPRM Comment Period End	11/25/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Draft Regulatory Evaluation 09/26/88 (53 FR 37536); Final Regulatory Evaluation 05/00/89

Agency Contact: Edmond Fitzgerald, Director, Off. of Trade Analysis & Insurance, Department of Transportation, Maritime Administration, DOT/MARAD, 400 Seventh St., SW, Washington, DC 20590, 202 366-2400

RIN: 2133–AA66

2078. ● + REGULATED TRANSACTIONS INVOLVING DOCUMENTED VESSELS AND OTHER MARITIME INTERESTS

Significance: Agency Priority

Legal Authority: 46 USC App 705; 46 USC App 802; 46 USC App 803; 46 USC App 808; 46 USC App 835; 46 USC App 839; 46 USC App 841a; 46 USC App 1195; 46 USC App 1114(b); PL 100-710

CFR Citation: 46 CFR 221

Legal Deadline: None

Abstract: Enactment of Public Law 100-710 on November 23, 1988 has made significant changes in the laws relating to vessel documentation, financing, and transfer, effective on January 1, 1989. These changes impact on MARAD's responsibilities with respect to the approval of the transfer of interests in U.S. documented vessels and the approval of commercial transactions where preferred mortgages are created, with one or more vessels as security.

DOT—MarAd — Final Rule Stage

These changes in the law are at variance with existing MARAD regulations. The legislative history of Public Law 100-710 clearly anticipated the need for contemporaneous guidelines that allow uniform application of the underlying policy and provide public guidance on that policy as of the effective date. Publication of an interim final rule permits implementation of the new law without a hiatus and would minimize transitional uncertainty among the corporate and financial communities that are affected. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/02/89	54 FR 5362
Correction to Interim Final Rule	02/27/89	54 FR 8195
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 971 National Security; 972 International Affairs

Analysis: Regulatory Evaluation 02/02/89 (54 FR 5382)

Additional Information: The interim final rule was effective 02/02/89; the comment period ended 04/03/89.

Agency Contact: Robert J. Patton, Jr., Deputy Chief Counsel, Department of Transportation, Maritime Administration, 400 7th St., SW, Washington, DC 20590, 202 366-5711

RIN: 2133–AA79

2079. SUSPENSION OF ODS AGREEMENTS FOR ALL OR PORTION OF THE VESSELS INCLUDED THEREIN

Significance: Nonsignificant

Legal Authority: 46 USC 1184; 46 USC 1114(b); PL 97-35

CFR Citation: 46 CFR 295. (New)

Legal Deadline: None

Abstract: These regulations would implement Sec. 1603 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), which adds a new Sec. 614 to the Merchant Marine Act, 1936 (46 App. U.S.C. 1184).

Timetable:

Action	Date	FR Cite
NPRM	08/18/83	48 FR 37449
To Be Withdrawn	04/04/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Additional Information: NPRM being withdrawn because the Maritime Subsidy Board final Opinion and Order in Docket S-764, that does not require CDS repayment for bulk vessels carrying preference cargoes, is a more attractive alternative for operators than ODS suspension that requires CDS repayment. Also, operator of only liner vessels to make election is in bankruptcy.

Agency Contact: Raymond Barberesi, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2256

RIN: 2133–AA17

2080. CAPITAL CONSTRUCTION FUND

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR 390.391

Legal Deadline: None

Abstract: The Maritime Administration is amending its regulations concerning the Capital Construction Fund (CCF) to give effect to amendments in the Tax Reform Act of 1986 (P.L. 99-514) relative to the operation of a CCF. This rulemaking proposes to amend the regulations at 46 CFR Part 390 governing the administration of a CCF to reflect changes made by PL 99-514. Other regulations are being developed jointly with the Department of the Treasury (IRS) to implement provisions of PL 99-514 relating to Federal Income Tax Aspects of the Capital Construction Fund (46 CFR 391). See Rin 2133-AA78.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43907
Correction to NPRM Preamble	11/14/88	53 FR 45783
Correction to NPRM	11/21/88	53 FR 46999
Comment period Extended to 01/03/89	12/12/88	53 FR 49695
NPRM Comment Period End	12/15/88	53 FR 43907
Final Action	04/30/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 449 Services Incidental to Water Transportation; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway

Analysis: Regulatory Evaluation 04/30/89

Agency Contact: Jean E. McKeever, Chief, Div. of Capital Assets Management, Department of Transportation, Maritime Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1905

RIN: 2133–AA65

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions
Maritime Administration (MarAd)

2081. MARINE PROTECTION AND INDEMNITY INSURANCE INSTRUCTIONS UNDER GENERAL AGENCY AND BERTH AGENCY AGREEMENTS

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR 326

Legal Deadline: None

Abstract: These amendments reflect existing Maritime Administration (MARAD) practices, office names and addresses concerning the handling of marine protection insurance (P&I) claims by Agents under Agreements with the United States, acting by and through the Director, National Shipping

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Authority in MARAD, with respect to vessels under MARAD control in the National Defense Reserve Fleet.

Timetable:

Action	Date	FR Cite
NPRM	05/14/86	51 FR 17659
NPRM Comment Period End	07/14/86	
Final Action	09/27/88	53 FR 37570
Final Action Effective	10/27/88	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight

Analysis: Regulatory Evaluation 09/27/88 (53 FR 37570)

Agency Contact: Edmond J. Fitzgerald, Director, Office of Trade Analysis & Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8117, Washington, DC 20590, 202 366-2400

RIN: 2133–AA51

2062. GENERAL PROCEDURES FOR DETERMINING OPERATING DIFFERENTIAL SUBSIDY FOR LINER VESSELS

Significance: Nonsignificant

Legal Authority: 46 USC App 1114(b); 46 USC App 1114(b)

CFR Citation: 46 CFR 282

Legal Deadline: None

Abstract: The Maritime Administration (MARAD) has amended the procedure for determining ODS for liner vessels operating in the foreign commerce of the United States. In determining rates for wage subsidy, MARAD will use the U.S./foreign cost relationship at a point in time that is one year earlier than the date now used, and would also use a different and longer period as the basis for calculating the respective currency exchange rates.

Timetable:

Action	Date	FR Cite
NPRM	04/26/88	53 FR 14822
NPRM Comment Period End	06/27/88	
Final Action	02/01/89	54 FR 5086
Final Action Effective	03/03/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 448 Water Transportation of Passengers

Analysis: Final Regulatory Evaluation 02/01/89 (54 FR 5086)

Additional Information: This rule is effective 03/03/89 for application to the wage rate year beginning 07/01/88, and the rate year for other items beginning 01/01/89.

Agency Contact: Arthur Sforza, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, DOT/MARAD (560) 400 Seventh Street, SW, Washington, DC 20590, 202 366-2323

RIN: 2133–AA67

2063. OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN WORLDWIDE SERVICE

Significance: Nonsignificant

Legal Authority: 46 USC App 1114(b)

CFR Citation: 46 CFR 252

Legal Deadline: None

Abstract: The Maritime Administration has amended the procedure for determining ODS for bulk cargo vessels operating in the foreign commerce of the United States. In determining rates for wage subsidy, MARAD will use the U.S./foreign cost relationship at a point in time that is one year earlier than the date now used, and would also use a different and longer period as the basis for calculating the respective currency exchange rates.

Timetable:

Action	Date	FR Cite
NPRM	04/26/88	53 FR 14821
NPRM Comment Period End	06/27/88	
Final Action	02/01/89	54 FR 5085
Final Action Effective	03/03/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 448 Water Transportation of Passengers

Analysis: Regulatory Evaluation 04/26/88 (53 FR 14821)

Additional Information: This rule is effective 03/03/89 for application to the wage rate year beginning 07/01/88, and the rate year for other items beginning 01/01/89.

Agency Contact: Arthur Sforza, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, DOT/MARAD (560) 400 Seventh Street, SW, Washington, DC 20590, 202 366-2323

RIN: 2133–AA68

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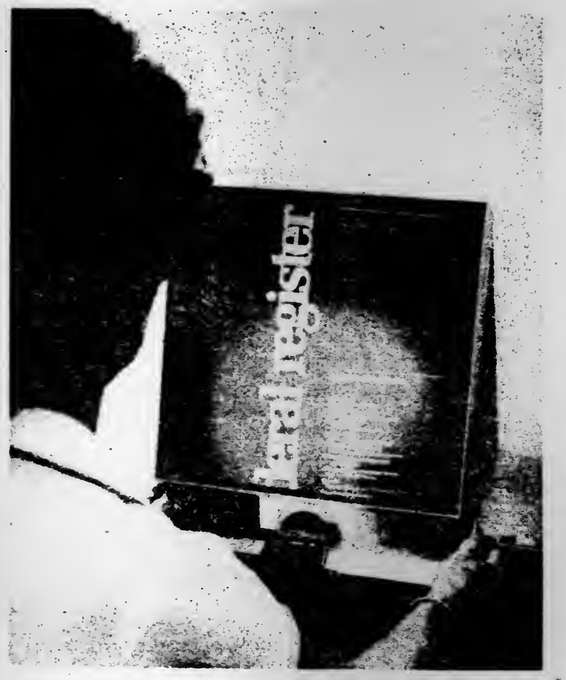
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Part XV

Department of the Treasury

Semiannual Regulatory Agenda

VOL. 54 ISS 77 AP 24 1989 UMI

DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda

AGENCY: Departmental Offices, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 ("Federal Regulation," February 17, 1981), which require the publication of a semiannual agenda of regulations. The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda Format developed by the Regulatory Information Service Center (RISC).

FOR FURTHER INFORMATION CONTACT: For additional information about a specific Departmental Offices regulation, contact the "agency contact" listed in the specific regulatory action. For general information concerning the agenda, contact Richard S. Carro, Associate General Counsel, Room 1422, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, (202) 566-2558, not a toll-free call.

Dated: March 16, 1989.

Emily L. Walker,

Executive Secretary.

Departmental Offices—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2084	31 CFR 103 Proposed Amendments to the Bank Secrecy Act Regulations Regarding Reporting and Recordkeeping Requirements by Casinos	1505-AA10
2085	31 CFR 10 Due Diligence Standards With Respect to Persons Practicing Before the Internal Revenue Service	1505-AA17
2086	31 CFR 103 Proposed Amendment to the Bank Secrecy Act Regulations Relating to Identification Required to Purchase Bank Checks, Cashier's Checks, Traveler's Checks and Money Orders	1505-AA32
2087	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Relating to Geographic Reporting of Certain Domestic Currency Transactions	1505-AA33

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2088	31 CFR 103 Bank Secrecy Act Regulations; Amendments Regarding the International Transportation and Receipt of Monetary Instruments	1505-AA31

TREAS—DO

Departmental Offices—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2089	31 CFR 103 Proposed Amendments to the Bank Secrecy Act Regulations Regarding Recordkeeping Requirements by Casinos	1505-AA30

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Proposed Rule Stage

2084. PROPOSED AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING AND RECORDKEEPING REQUIREMENTS BY CASINOS

Legal Authority: 31 USC 5311 to 5322; 12 USC 1829b; 12 USC 1951 to 1959

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: The proposed regulations contain 16 amendments to the Bank Secrecy Act regulations that are designed to respond to substantial noncompliance with the current regulations by casinos.

Timetable:

Action	Date	FR Cite
NPRM	06/18/88	53 FR 31370
NPRM Comment Period End	10/17/88	53 FR 31370
Comment Period Extension To 11/14/88	10/26/88	53 FR 43736
Comment Period Extension To 12/14/88	12/01/88	53 FR 48551

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John M. Zoscak, Jr., Attorney-Advisor, Office of the Assistant General Counsel (Enforcement), Department of the Treasury, Departmental Offices, 1500 Pennsylvania Ave., NW, Room 2000, Washington, DC 20220, 202 566-2914

RIN: 1505–AA10

2085. DUE DILIGENCE STANDARDS WITH RESPECT TO PERSONS PRACTICING BEFORE THE INTERNAL REVENUE SERVICE

Legal Authority: 5 USC 301; 31 USC 330; 31 USC 321

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: The proposed regulation would modify the current regulations governing practice before the Internal Revenue Service by clarifying the requirements relating to due diligence standards imposed on tax practitioners.

Timetable:

Action	Date	FR Cite
NPRM	08/14/86	51 FR 29113
Extend Public Comment Period to 11/13/86	06/27/86	51 FR 30510
NPRM Comment Period End	10/14/86	51 FR 29113
Extend public comment period to 02/13/87	11/06/86	51 FR 40340

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie S. Shapiro, Director of Practice, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 535-6787

RIN: 1505–AA17

2086. ● PROPOSED AMENDMENT TO THE BANK SECRECY ACT REGULATIONS RELATING TO IDENTIFICATION REQUIRED TO PURCHASE BANK CHECKS, CASHIER'S CHECKS, TRAVELER'S CHECKS AND MONEY ORDERS

Legal Authority: 12 USC 1929b; 12 USC 1951 to 1959; 31 USC 5311 to 5324; PL 100-690, Sec 6185(b)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This advance notice solicits public comments on the implementation of section 6185(b) of the Anti-Drug Abuse Act of 1988, which requires the issuance of regulations prescribing what identification shall be provided by purchasers of cashier's checks, traveler's checks, money orders and bank checks.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/88	53 FR 61846
Extension of comment period to 02/15/89	01/19/89	54 FR 02138
ANPRM Comment Period End	01/22/89	
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen A. Scott, Attorney Advisor, Department of the Treasury, Departmental Offices, Room 4320, Washington, DC 20220, 202 566-9947

RIN: 1505–AA32

2087. ● AMENDMENT TO THE BANK SECRECY ACT REGULATIONS RELATING TO GEOGRAPHIC REPORTING OF CERTAIN DOMESTIC CURRENCY TRANSACTIONS

Legal Authority: 12 USC 1730d; 12 USC 1829b; 12 USC 1951 to 1959; 31 USC 5311 to 5326; PL 100-690, Sec 6185(c)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: Section 6185(c) of the Anti-Drug Abuse Act of 1988 permits the issuance of orders to identify financial institutions in certain geographic locations for special reporting of

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TREAS—DO — **Proposed Rule Stage**

currency transactions in amounts less than $10,000 for a limited period of time. The proposal describes the procedures that would be followed in issuing such orders.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen A. Scott, Attorney Advisor, Department of the Treasury, Departmental Offices, Room 4320, Washington, DC 20220, 202 566-9947

RIN: 1505–AA33

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO) — **Final Rule Stage**

2088. ● BANK SECRECY ACT REGULATIONS; AMENDMENTS REGARDING THE INTERNATIONAL TRANSPORTATION AND RECEIPT OF MONETARY INSTRUMENTS

Legal Authority: 12 USC 1929b; 12 USC 1951 to 1959; 31 USC 5311 to 5324

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This notice defines the term "at one time" for the purposes of the international transportation and receipt of monetary instruments and proposes to clarify the definition of "monetary instruments" as it pertains to traveler's checks.

Timetable:

Action	Date	FR Cite
NPRM	11/14/88	53 FR 45774
Technical correction	11/18/88	53 FR 46634
Technical correction	12/07/88	53 FR 49378
NPRM Comment Period End	01/13/89	53 FR 45774
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen A. Scott, Attorney Advisor, Department of the Treasury, Departmental Offices, Room 4320, Washington, DC 20220, 202 566-9947

RIN: 1505–AA31

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO) — **Completed Actions**

2089. PROPOSED AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS REGARDING RECORDKEEPING REQUIREMENTS BY CASINOS

Legal Authority: 31 USC 5313

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: The proposed regulations would require that casinos otherwise subject to the regulations retain the records that they use for monitoring customers' gaming activities. The proposed regulations also would require casinos that input, retain, or store certain information on computer disk, tape, or other machine-readable media to retain such information in machine-readable form.

Timetable:

Action	Date	FR Cite
NPRM	04/07/88	53 FR 11513
NPRM Comment Period End	05/09/88	53 FR 11513
Final Action	01/12/89	54 FR 01165
Final Action Effective	02/13/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Amy G. Rudnick, Director, Office of Financial Enforcement, Department of the Treasury, Departmental Offices, 1500 Pennsylvania Ave., NW, Room 4320, Washington, DC 20220, 202 566-9022

RIN: 1505–AA30

[FR Doc. 89-7777 Filed 04-21-89; 8:45 am]

BILLING CODE 4810-25-T

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Fiscal Service

31 CFR Ch. II

Semiannual Agenda

AGENCY: Financial Management Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 (Federal Regulation, February 17, 1981), which require publication of a semiannual agenda of regulations under development or review.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation contained in this agenda, contact the "agency contact" listed in the specific regulatory action.

SUPPLEMENTARY INFORMATION: The proposed regulations are not considered to be major regulations within the meaning of E.O. 12291 and will not have a significant impact on small entities within the meaning of the Regulatory Flexibility Act.

TREAS—FMS

Dated: March 20, 1989.
W. E. Douglas,
Commissioner.

Financial Management Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2090	31 CFR 205 Revision of 31 CFR Part 205 (TDC No. 1075), Payments Between the Federal Government and Recipient Organizations	1510-AA00
2091	31 CFR 235 Time Limitation on Payment and Cancellation of Treasury Checks and Reclamation Actions and Claims	1510-AA11
2092	31 CFR 225, (Revision) Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds	1510-AA13

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2093	31 CFR 210, (Revision) Federal Payments through Financial Institutions by the Automated Clearing House Method	1510-AA09

Financial Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2094	31 CFR 223, (Revision) Regulations Governing Surety Companies Doing Business with the United States	1510-AA12

Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2095	31 CFR 203 Regulations Governing Compensation for Services Rendered	1510-AA14

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS) — **Prerule Stage**

2090. REVISION OF 31 CFR PART 205 (TDC NO. 1075), PAYMENTS BETWEEN THE FEDERAL GOVERNMENT AND RECIPIENT ORGANIZATIONS

Significance: Agency Priority

Legal Authority: 31 USC 6503

CFR Citation: 31 CFR 205

Legal Deadline: None

Abstract: Revision of 31 CFR 205 will implement a new funding technique for Federal programs. The regulation would require a State to pay interest on Federal funds from the time they are deposited to the State's account until the time those funds are paid out to redeem checks or warrants or make payments by other means. This new "Checks Issued-Interest Remitted" technique was developed in response to statutes in some States that require that funds reside in a bank account prior to the issuance of checks. This revision also provides for the remittance of interest by the Federal Government if a State disburses its own funds for program purposes in accordance with Federal law, regulation or Federal/State agreement.(cont)

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TREAS—FMS — **Prerule Stage**

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: In addition, other cash management issues discussed by the State/Federal Cash Management Reform Task Force will be addressed in this regulation.

Agency Contact: Michael C. Salapka, Manager, Treasury Programs Branch, Department of the Treasury, Financial Management Service, 401 14th Street, SW, Room 420B, Washington, DC 20227, 202 287-0590

RIN: 1510–AA00

2091. TIME LIMITATION ON PAYMENT AND CANCELLATION OF TREASURY CHECKS AND RECLAMATION ACTIONS AND CLAIMS

Significance: Agency Priority

Legal Authority: PL 100-86, Sec 1005 Title X; 31 USC 3328; 31 USC 3334; 31 USC 3712(a)

CFR Citation: 31 CFR 235; 31 CFR 240; 31 CFR 245

Legal Deadline: Final, Statutory, October 1, 1989.

The Secretary of the Treasury, using his legal authority, extended the date the amendments shall become effective to 10/01/89. The notice of the extension appears at 53 FR 3584.

Abstract: These regulations are required under PL 100-86, Sec 1005, and they will prescribe rules and procedures necessary in order to implement the time limitation on payment and cancellation of Treasury checks and reclamation actions and claims.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joan Pesata, Director, Limited Payability Project, Department of the Treasury, Financial Management Service, 3700 East-West Highway, Room 816-C, Prince Georges Center II Bldg., Hyattsville, MD 20782, 301 436-7172

RIN: 1510–AA11

2092. ACCEPTANCE OF BONDS, NOTES, OR OTHER OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES AS SECURITY IN LIEU OF SURETY OR SURETIES ON PENAL BONDS

Significance: Agency Priority

Legal Authority: 31 USC 9303

CFR Citation: 31 CFR 225, (Revision)

Legal Deadline: None

Abstract: The revision will address changes to definitions in the areas of acceptable securities.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Terry Boyer, Manager, Surety Bond Branch, Department of the Treasury, Financial Management Service, 401 14th Street, SW, Room 259, Washington, DC, 20227, 202 287-3915

RIN: 1510–AA13

DEPARTMENT OF THE TREASURY (TREAS) — **Proposed Rule Stage**
Financial Management Service (FMS)

2093. FEDERAL PAYMENTS THROUGH FINANCIAL INSTITUTIONS BY THE AUTOMATED CLEARING HOUSE METHOD

Significance: Agency Priority

Legal Authority: 5 USC 5525; 12 USC 391; 31 USC 321

CFR Citation: 31 CFR 210, (Revision)

Legal Deadline: None

Abstract: Revision of 31 CFR Part 210 will clarify the breadth of payments governed by the regulations. These include non-benefit payments such as vendor payments, miscellaneous payments. Internal Revenue Service (IRS) tax refunds, savings bonds, grants and loans. It will also include the payment of discretionary allotments of net pay of Federal employees' salaries by DD/EFT. Electronic funds thus transferred through the Federal Reserve System eliminate the possibility of checks being lost, stolen, or forged. The Federal Government's operating efficiency will be improved, productivity will be increased, and the costs associated with the current methods will be reduced.

Timetable:

Action	Date	FR Cite
NPRM	07/27/88	53 FR 144
NPRM Comment Period End	09/26/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sheryl Morrow, Manager, Policy Branch, Department of the Treasury, Financial Management Service, 401 14th Street, SW, Room 328, Washington, DC 20227, 202 287-0308

RIN: 1510–AA09

DEPARTMENT OF THE TREASURY (TREAS) — **Final Rule Stage**
Financial Management Service (FMS)

2094. REGULATIONS GOVERNING SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Significance: Agency Priority

Legal Authority: 31 USC 9301 to 9309

CFR Citation: 31 CFR 223, (Revision)

Legal Deadline: None

Abstract: The revision makes editorial changes, and contains substantive changes to sections concerning business experience, collateral and reinsurance requirements. Substantive changes include: 1) a 3-year aging requirement in order to qualify for Treasury certification, 2) elimination of the alternative to use collateral for protecting excess risks, and 3) a requirement that all reinsurance on Federal bonds be placed with companies recognized by Treasury for reinsurance purposes. The proposed regulations provide provisions for exceptions to the aging and reinsurance regulations under certain circumstances. These regulations will help Treasury ensure that certified companies are capable of carrying out their surety contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/05/87	52 FR 29039
NPRM Comment Period End	10/19/87	52 FR 37334
Final Action	11/30/89	
Final Action Effective	12/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Terry Boyer, Manager, Surety Bond Branch, Department of the Treasury, Financial Management Service, 401 14th Street, SW, Room 259, Washington, DC 20227, 202 287-3915

RIN: 1510–AA12

DEPARTMENT OF THE TREASURY (TREAS) — **Completed Actions**
Financial Management Service (FMS)

2095. REGULATIONS GOVERNING COMPENSATION FOR SERVICES RENDERED

Significance: Agency Priority

Legal Authority: 31 USC 3122; 31 USC 323; 12 USC 265; 12 USC 391

CFR Citation: 31 CFR 203; 31 CFR 214

Legal Deadline: None

Abstract: Revision of 31 CFR 203 Parts 203 and 214 will reduce the per item fees paid to depositaries for processing Federal tax deposits. The purpose of the revision is to remove specific references to the FTD fee structure from 31 CFR 203 and 214, and transfer the fee schedule to the Treasury Financial Manual.

Timetable:

Action	Date	FR Cite
NPRM	01/03/89	54 FR 40
NPRM Comment Period End	02/02/89	54 FR 40
Final Action	03/02/89	54 FR 8532
Final Action Effective	03/02/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: "OTHER (SPECIFY)"

Agency Contact: Michael C. Salapka, Manager, Treasury Programs Branch, Department of the Treasury, Financial Management Service, Room 420B, 401 14th Street, SW, Washington, DC 20227, 202 287-0590

RIN: 1510–AA14

[FR Doc. 89-7778 Filed 04-21-89; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Bureau of Alcohol, Tobacco and Firearms

27 CFR Ch. I

[Notice No. 683]

Unified Agenda of Federal Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: General notice; Unified Agenda of Federal Regulations of regulatory projects under development, consideration, and review.

SUMMARY: Pursuant to section 5 of Executive Order 12291, entitled "Federal Regulations," ATF is publishing an agenda of proposed regulations that are expected to be issued and of proposed regulations that have been issued and an agenda of existing regulations that are being reviewed under the terms of the Executive Order, within the next six months. The latter agenda also lists regulatory projects identified for review pursuant to the ATF Regulatory Reform Program. Pursuant to section 3(a) of the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 610), ATF is also indicating whether a regulatory project is likely to have a significant economic impact upon a substantial number of small entities.

This general notice is designed to give the public adequate notice of the regulatory activities being contemplated by ATF.

The agenda is based on information available at the present time. The next Unified Agenda of Federal Regulations will be published in the Federal Register of October 1989.

FOR FURTHER INFORMATION CONTACT: For information about any particular regulatory project, contact the person listed in the subheading "Agency Contact," for the regulatory project.

For general information about this general notice, contact Lori Weins, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226; (202) 566-7626.

Issuance

By Direction of the Secretary of the Treasury, this general notice reads as set forth below.

Dated: February 10, 1989.

W. T. Drake,

Acting Director.

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TREAS—BATF

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2096	27 CFR 4 Recodification of 27 CFR Part 4	1512-AA17
2097	27 CFR 4.29 Late Harvest Labeling for Wine	1512-AA31
2098	27 CFR 4 Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages; Appearance of Athletes and Depiction of Athletic Events	1512-AA50
2099	27 CFR 250 Recodification of 27 CFR Part 250 as 27 CFR Part 26	1512-AA69
2100	27 CFR 27 Recodification of 27 CFR Part 251 as 27 CFR Part 27	1512-AA72
2101	27 CFR 4.73 Standards of Fill for Wine and Distilled Spirits	1512-AA77
2102	27 CFR 16 Warning Labels on Alcoholic Beverages	1512-AA82
2103	27 CFR 285 27 CFR Part 285, Manufacture of Cigarette Papers and Tubes	1512-AA33

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2104	27 CFR 19.11 Implementation of the "Wine Impact Bill"	1512-AA06
2105	27 CFR 9 American Viticultural Areas	1512-AA07
2106	27 CFR 5.22 Standard of Identity for Vodka	1512-AA10
2107	27 CFR 197 Nonbeverage Drawback	1512-AA20
2108	27 CFR 240.180 to 240.400 Recodification of Wine Regulations (Subparts A to O)	1512-AA42
2109	27 CFR 4 Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages; Use of the Word Light (Lite)	1512-AA48
2110	27 CFR 240 Materials and Processes for the Production and Treatment of Wine	1512-AA61
2111	27 CFR 4 Winegrape Varietal Designations	1512-AA67
2112	27 CFR 4.35 Winemaking Terminology	1512-AA70
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2114	27 CFR 4.32 Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages; Disclosure of FD & C Yellow No. 6	1512-AA76
2115	27 CFR 5.39 Label Disclosure for Brandy Treated with Wood	1512-AA81
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Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2118	27 CFR 7 Use of Terms in the Labeling and Advertising of Malt Beverages Having an Alcohol Content of Less Than .5% by Volume	1512-AA73
2119	27 CFR 19 Fill Tolerance for Wine, and Technical Corrections Concerning Occupational Taxes Relating to Alcohol	1512-AA83

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)
Proposed Rule Stage

ALCOHOL

2096. RECODIFICATION OF 27 CFR PART 4

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: To revise the wine labeling and advertising regulations; where applicable, to incorporate production regulations; and due to statutory amendments requested, may result in a legislative submission.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Additional Agency Contact: Ed Reisman

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512–AA17

2097. LATE HARVEST LABELING FOR WINE

Significance: Agency Priority

Legal Authority: 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 4.29

Legal Deadline: None

Abstract: Late harvest designations, based on the Brix (percent by weight) level of the grapes at harvest would indicate to consumers that the grapes used to produce the wine were left on the vine for express purpose of increasing the sugar content. The designations would indicate additional techniques and processes were used in the production of the wine.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512–AA31

2098. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES; APPEARANCE OF ATHLETES AND DEPICTION OF ATHLETIC EVENTS

Significance: Agency Priority

Legal Authority: 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: Discusses present policy on prohibition of active athletes and requests comments on whether the policy should be relaxed, retained, expanded to include all celebrities. On athletic events, comments are requested if the present prohibition should be expanded to include any athletic event, regardless of when the participants are shown consuming, or preparing to consume, alcohol beverages.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512–AA50

2099. RECODIFICATION OF 27 CFR PART 250 AS 27 CFR PART 26

Significance: Agency Priority

Legal Authority: 26 USC 7651 to 7652; PL 85-859; 26 USC 5314; 26 USC 7805

CFR Citation: 27 CFR 250

Legal Deadline: None

Abstract: As part of the recodification of Part 250, we plan to simplify, consolidate and or eliminate as many sections of regulations as possible placing particular emphasis on reducing the number of recordkeeping requirements, forms, and customs responsibilities. Wherever possible, we plan to utilize a proprietor's commercial records in lieu of requiring the proprietor to submit public use forms. These changes to Part 250 should considerably reduce the burden hours on industry.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Langford, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20026, 202 566-7531

RIN: 1512–AA69

2100. RECODIFICATION OF 27 CFR PART 251 AS 27 CFR PART 27

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 27; 27 CFR 251

Legal Deadline: None

Abstract: To update and clarify regulations relating to the Importation of Distilled Spirits, Wine, and Beer and to incorporate related ATF Rulings into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Colleen Thea, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512–AA72

2101. STANDARDS OF FILL FOR WINE AND DISTILLED SPIRITS

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.73; 27 CFR 5.47

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TREAS—BATF — Proposed Rule Stage

Legal Deadline: None

Abstract: ATF is considering amending the standard of fill requirements for wine and distilled spirits. Based, in part, on a petition it has received, the Bureau wishes to gather information by inviting comments from the public and industry concerning the existing standards of fill.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/87	52 FR 26385
ANPRM Comment Period Extended	08/14/87	52 FR 30390
ANPRM Comment Period End	08/24/87	
ANPRM Extended Comment Period End	10/23/87	
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA77

2102. ● WARNING LABELS ON ALCOHOLIC BEVERAGES

Significance: Agency Priority

Legal Authority: 27 USC 215

CFR Citation: 27 CFR 16

Legal Deadline: Other, Statutory, February 16, 1989.
Temporary Rule with Notice

Abstract: This temporary rule implements the provisions of the Alcoholic Beverage Labeling Act of 1988, Title VIII of the Anti-Drug Abuse Act of 1988 (Public Law 100-690). The regulations implement the statute by requiring that a health warning statement appear on the labels of all containers of alcoholic beverages sold or distributed in the United States.

Timetable:

Action	Date	FR Cite
NPRM	02/16/89	54 FR 7164
Interim Final Rule	02/16/89	54 FR 7160
NPRM Comment Period End	04/03/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA82

TOBACCO PRODUCTS

2103. 27 CFR PART 285, MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Significance: Agency Priority

Legal Authority: 26 USC 7805 (68A Stat 917)

CFR Citation: 27 CFR 285

Legal Deadline: None

Abstract: To reduce or eliminate administrative and recordkeeping burdens under 27 CFR Part 285.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/84	
ANPRM Comment Period End	10/02/84	
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mary Wood, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512-AA33

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2104. IMPLEMENTATION OF THE "WINE IMPACT BILL"

Significance: Agency Priority

Legal Authority: 26 USC 5010

CFR Citation: 27 CFR 19.11; 27 CFR 19.37 to 19.40; 27 CFR 19.42; 27 CFR 19.346; 27 CFR 19.372; 27 CFR 19.402; 27 CFR 19.505; 27 CFR 19.566; 27 CFR 19.661; 27 CFR 19.748; 27 CFR 19.763; 27 CFR 19.764; 27 CFR 19.778 to 19.780; 27 CFR 170.681 to 170.691; 27 CFR 197.105; ...

Legal Deadline: None

Abstract: Restores the tax system which existed for distilled spirits products containing wine or alcoholic flavoring materials prior to the enactment of the Distilled Spirits Tax Revision Act of 1979; also permits spirits bottled for industrial purposes to be transferred in bond between distilled spirits plants.

Timetable:

Action	Date	FR Cite
NPRM	03/27/87	52 FR 9873
NPRM Comment Period End	06/25/87	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Langford, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512-AA06

2105. AMERICAN VITICULTURAL AREAS

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

TREAS—BATF — Final Rule Stage

Abstract: Establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Fredericksburg in the Texas Hill Country (contact R. White)
NPRM 02/19/88 (53 FR 4999)
NPRM Comment Period End 04/04/88
Final Action 12/22/88 (53 FR 51539)
Santa Clara Valley, CA (contact Ed Reisman)
NPRM 02/04/88 (53 FR 3214)
NPRM Comment Period End 03/07/88
Final Action 03/28/89 (54 FR 12603)
Stags Leap District, CA (contact Jim Ficaretta)
NPRM 02/11/87 (52 FR 4350)
NPRM Comment Period End 04/13/87
Final Action 01/27/89 (54 FR 4009)
Wild Horse Valley, CA (contact Ed Reisman)
NPRM 09/16/87 (52 FR 34924)
NPRM Comment Period End 11/02/87
Final Action 11/30/88 (53 FR 48244)

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: See supplemental timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA07

2106. STANDARD OF IDENTITY FOR VODKA

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22

Legal Deadline: None

Abstract: Considers clarifying the standard of identity for vodka by revoking Revenue Ruling 56-98 which permits the use of small quantities of sugar or citric acid in vodka; or would propose a new class and type of vodka which contains trace amounts of sugar or citric acid.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/82	47 FR 1148
ANPRM Comment Period End	07/11/82	
NPRM	02/19/86	51 FR 6009
NPRM Comment Period End	05/20/86	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Brokaw, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA10

2107. NONBEVERAGE DRAWBACK

Significance: Agency Priority

Legal Authority: 26 USC 5131 et seq

CFR Citation: 27 CFR 197

Legal Deadline: None

Abstract: To update, clarify, simplify, and recodify the regulations relating to drawback of tax on distilled spirits used in the manufacture of non-beverage products.

Timetable:

Action	Date	FR Cite
NPRM	07/29/87	52 FR 28286
NPRM Comment Period End	10/29/87	
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SMALL BUSINESSES COUNT: This regulation effects approximately 500 entities.

Agency Contact: Steve Simon, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA20

2108. RECODIFICATION OF WINE REGULATIONS (SUBPARTS A TO O)

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 240.180 to 240.400

Legal Deadline: None

Abstract: To update, simplify, and clarify regulations relating to wine; and to incorporate ATF rulings into the Regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/12/86	51 FR 28836
NPRM Comment Period End	11/10/86	
NPRM Comment Period Reopened	11/14/86	51 FR 41355
NPRM Reopened Comment Period End	12/31/86	
NPRM	06/17/88	53 FR 22678
NPRM Comment Period End	07/07/86	
NPRM Comment Period Extended	07/08/86	51 FR 24719
NPRM Extended Comment Period End	12/31/86	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA42

2109. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES; USE OF THE WORD LIGHT (LITE)

Significance: Agency Priority

Legal Authority: 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: "Light (Lite)" was addressed to a limited extent in Notice No. 362 (45 FR 83530). However, subsequent to its publication ATF was petitioned by the Center for Science in the Public Interest (CSPI), requesting mandatory caloric labeling on all alcohol beverages, as well as the establishment of upper limits on calories in products labeled as "light (lite)." Comments will be requested on CSPI's petition as well as other issues involving use of the term "light (lite)."

Timetable:

Action	Date	FR Cite
NPRM	08/12/86	51 FR 28836
NPRM Comment Period End	11/10/86	
NPRM Comment Period Reopened	11/14/86	51 FR 41355
NPRM Reopened Comment Period End	12/31/86	
NPRM	06/17/88	53 FR 22678

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Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	08/15/88	
NPRM Comment Period Extended	08/16/88	53 FR 30848
NPRM Extended Comment Period End	11/15/88	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA48

2110. MATERIALS AND PROCESSES FOR THE PRODUCTION AND TREATMENT OF WINE

Significance: Agency Priority

Legal Authority: 27 USC 5382

CFR Citation: 27 CFR 240

Legal Deadline: None

Abstract: Updates, clarifies, and simplifies the regulations relating to the production and treatment of wine.

Timetable:

Action	Date	FR Cite
NPRM	09/24/84	49 FR 37527
NPRM Comment Period Extended	01/22/85	50 FR 2832
NPRM Comment Period End	01/23/85	
NPRM Extended Comment Period End	03/01/85	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This was formerly part of RIN 1512-AA12 Materials and Processes for the Production and Treatment of Wine.

Agency Contact: Robert White, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA61

2111. WINEGRAPE VARIETAL DESIGNATIONS

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: This proposal would establish standardized lists of winegrape varietal names which may be used on domestic wine labels. In addition we are proposing a method by which new names may be added to the list. These standardized lists will assure more accurate and truthful identification of the wine.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4392
NPRM Comment Period End	04/07/86	
NPRM Comment Period Extended	04/08/86	51 FR 11944
NPRM Extended Comment Period End	07/07/86	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7569

RIN: 1512-AA67

2112. WINEMAKING TERMINOLOGY

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4.35

Legal Deadline: None

Abstract: ATF is proposing to define words denoting winemaking operations for use on wine labels in conjunction with the name and address of the bottler. This project partially fulfills the requirements of the court order in Wawskiewicz v. Department of the Treasury, 480 F. Supp. 739 (D.D.C. 1979), aff'd. in part, rev'd in part, 670 F.2d 296.

Timetable:

Action	Date	FR Cite
NPRM	05/29/86	51 FR 19361
NPRM Comment Period End	09/26/86	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Brokaw, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA70

2113. NON-GENERIC DESIGNATIONS OF GRAPE WINE HAVING GEOGRAPHICAL SIGNIFICANCE

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.24

Legal Deadline: None

Abstract: This proposal expands the list of names officially recognized under 27 CFR Part 4, as being non-generic for the purposes of labeling and advertising of wine. This proposal is the result of petitions from numerous foreign countries for ATF recognition of non-generic wine designations which, in their view, denote distinctive national products. This proposal is also an outgrowth of one of the commitments made by the United States, in the Exchange of Letters of July 26, 1983 with the Commission of the European Communities, to work within the regulatory framework of 27 CFR Part 4, to prevent erosion of non-generic designations of geographic significance. For practical reasons it is being proposed that only "examples" of non-generic designations be listed in Part 4 while a complete list of all non-generic designations be listed in a new Part 12.

Timetable:

Action	Date	FR Cite
NPRM	04/12/88	53 FR 12024
NPRM Comment Period End	07/11/88	
NPRM Comment Period Extended	07/13/88	53 FR 26448
NPRM Extended Comment Period End	10/11/88	

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Final Rule Stage

Action	Date	FR Cite
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Colozzi, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 535-6245

RIN: 1512-AA71

2114. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS, AND MALT BEVERAGES; DISCLOSURE OF FD & C YELLOW NO. 6

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.32; 27 CFR 5.32; 27 CFR 7.22

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations by requiring the mandatory disclosure of FD & C Yellow No. 6 on labels of alcoholic beverages, because of evidence indicating the possibility of allergic-type reactions to the color additive. As in the case of FD & C Yellow No. 5, which also requires label disclosure under existing regulations FD & C Yellow No. 6 is used infrequently in the production of alcoholic beverages being limited to mostly cocktails, liqueurs, and other specialty products.

Timetable:

Action	Date	FR Cite
NPRM	09/04/87	52 FR 33603
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA76

2115. LABEL DISCLOSURE FOR BRANDY TREATED WITH WOOD

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.39

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations in 27 CFR Part 5 concerning the wording, and placement, of the disclosure statement for brandy treated with wood.

Timetable:

Action	Date	FR Cite
NPRM	05/24/88	53 FR 18574
NPRM Comment Period Extended	08/16/88	53 FR 30848
NPRM Comment Period End	08/22/88	
NPRM Extended Comment Period End	11/22/88	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 200226, 202 566-7626

RIN: 1512-AA81

FIREARMS

2116. FIREWORKS REGULATIONS

Significance: Agency Priority

Legal Authority: 18 USC 841-848

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: Information gathering on safe handling of explosive materials in the fireworks industry is necessary due to accidental explosions causing death. Injuries and property damage have occurred at fireworks manufacturing and assembling plants. Damage has been in the millions of dollars and some regulatory changes are needed. This notice to gather information is to determine changes needed and potential costs.

Timetable:

Action	Date	FR Cite
General Notice	06/08/84	49 FR 23872
NPRM	07/20/88	53 FR 27452
NPRM Comment Period End	09/19/88	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry White, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7591

RIN: 1512-AA52

TOBACCO PRODUCTS

2117. MANUFACTURER'S IDENTIFICATION ON TOBACCO PRODUCTS PACKAGES

Significance: Agency Priority

Legal Authority: 26 USC 5723

CFR Citation: 27 CFR 270.11; 27 CFR 270.212; 27 CFR 275.163; 27 CFR 275.170; 27 CFR 275.172; 27 CFR 275.174; 27 CFR 290.11; 27 CFR 290.181; 27 CFR 290.185; 27 CFR 290.241 to 290.267; 27 CFR 295.42

Legal Deadline: None

Abstract: To liberalize requirements relating to manufacturer identification on tobacco products packages and to make other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	01/12/87	52 FR 1207
NPRM Comment Period End	03/13/87	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cliff Mullen, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512-AA28

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DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)
Completed Actions

2118. USE OF TERMS IN THE LABELING AND ADVERTISING OF MALT BEVERAGES HAVING AN ALCOHOL CONTENT OF LESS THAN .5% BY VOLUME

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: ATF is proposing to incorporate into the regulations two Rulings (Rev. Rul. 57-322 and ATF Rul. 85-11) regarding the use of the terms "Non-Alcoholic," "Alcohol-Free," "Near Beer," and "Cereal Beverage" in the labeling and advertising of Malt Beverages.

Timetable:

Action	Date	FR Cite
NPRM	10/30/86	51 FR 39866
NPRM Comment Period End	01/28/87	
Final Action	01/25/89	54 FR 3591
Final Action Effective	02/24/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA73

2119. ● FILL TOLERANCE FOR WINE, AND TECHNICAL CORRECTIONS CONCERNING OCCUPATIONAL TAXES RELATING TO ALCOHOL

Significance: Agency Priority

Legal Authority: Public Law 100-647

CFR Citation: 27 CFR 19; 27 CFR 20; 27 CFR 22; 27 CFR 194; 27 CFR 231; 27 CFR 240

Legal Deadline: None

Abstract: Provides a fill tolerance for wine; and provides exemptions from special (occupational) tax for the following: (1) agencies and instrumentalities of the United States who procure specially denatured or tax-free alcohol, (2) proprietors of taxpaid wine bottling houses (but only in regard to special tax imposed on them for making wholesale or retail sales at their taxpaid wine bottling house premises or at their principal business office), (3) wholesale (or retail) dealers in beer who subsequently become wholesale (or retail) liquor dealers at the same location in the same tax year, (4) certain educational institutions who procure less than 25 gallons of specially denatured alcohol per year for experimental or research use and (5) proprietors of small alcohol fuel plants who produce not more than 10,000 proof gallons of alcohol per year.

Timetable:

Action	Date	FR Cite
Final Action	03/28/89	54 FR 12607

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Additional Agency Contacts: James Hunt, ATF Coordinator Robert White, ATF Coordinator

Agency Contact: Steve Simon, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA83

[FR Doc. 89-7101 Filed 04-21-89; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Comptroller of the Currency

12 CFR Ch. I

Semiannual Agenda of Regulatory Actions

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: As required by the Regulatory Flexibility Act and Executive Order 12291, the Office of the Comptroller of the Currency (Office) has prepared this semiannual agenda of its rules and regulations currently under review and scheduled for review. Regulatory actions taken since the publication of the Office's previous semiannual agenda on October 24, 1988 (53 FR 42328) are also included. It is expected that this semiannual agenda will enable the public to be more aware of, and allow it to more effectively participate in, the Office's regulatory activity.

ADDRESS: The mailing address for all contacts: Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: For general information about this semiannual agenda, contact Nancy Lowther, Financial Analyst, Legislative and Regulatory Analysis Division, (202) 447-1177.

For additional information about a particular item on this semiannual agenda, contact the individual identified as the contact person.

SUPPLEMENTARY INFORMATION: The Office has determined that none of the rulemakings discussed in this semiannual agenda requires a regulatory flexibility analysis; all entries have been determined not to have a "significant impact on a substantial number of small entities," and therefore are not subject to the provisions of the Act. Additionally, none of the rules is a "major" rule as defined by Executive Order 12291. Executive Order 12291 defines a "major" rule as one likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dated: February 21, 1989.
Robert L. Clarke,
Comptroller of the Currency.

TREAS—OCC

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2120	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA04
2121	12 CFR 32.2(d) Lending Limits	1557-AA32
2122	12 CFR 19 Rules of Practice and Procedure	1557-AA43
2123	12 CFR 4.19 Production of Documents and Testimony in Litigation Where the Comptroller or the Office is Not a Party	1557-AA57
2124	12 CFR 11, (New Subsection) Securities Exchange Act Disclosure Rules	1557-AA58
2125	12 CFR 16 Securities Offering Disclosure Rules	1557-AA65
2126	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA66
2127	12 CFR 4 Supervision of Bank Operations	1557-AA67
2128	12 CFR 5.33 Merger, Consolidation, Purchase and Assumption	1557-AA71
2129	12 CFR 32 Lending Limits	1557-AA72
2130	12 CFR 12 Recordkeeping and Confirmation Requirements for Securities Transactions	1557-AA75
2131	12 CFR 4 Description of Office, Procedures, Public Information	1557-AA77
2132	12 CFR 7.3400 Leasing of Personal Property	1557-AA80
2133	12 CFR 5.49 Receivership and Conservatorship	1557-AA82
2134	12 CFR 12.7 Recordkeeping and Confirmation Requirements for Securities Transactions	1557-AA84

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2135	12 CFR 5 Rules, Policies, and Procedures for Corporate Activities	1557-AA00
2136	12 CFR 21 Reports of Crimes and Suspected Crimes	1557-AA74

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2137	12 CFR 3 Minimum Capital Ratios; Issuance of Directives	1557-AA61
2138	12 CFR 1 Investment Securities Regulation	1557-AA78
2139	12 CFR 8 Assessment of Fees; National Banks; District of Columbia Banks	1557-AA79
2140	12 CFR 11 Securities Exchange Act Disclosure Rules	1557-AA81
2141	12 CFR 7.5015 Employee Stock Option and Stock Purchase Plans; Charges by National Banks	1557-AA83

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)
Proposed Rule Stage

2120. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: Sec 1, 77 Stat 668; 12 USC 92a; 12 USC 481

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: Comments in response to a prior rulemaking Final Rule Docket No. 80-18 (46 FR 71571) published October 29, 1980 included recommendations that additional amendments should be made to 12 CFR 9. The OCC believes that the issues raised by the commenters can best be addressed through a comprehensive review of its regulations concerning national bank fiduciary powers and collective investment funds. The OCC requested comments from the public as to the desirability and

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feasibility of a comprehensive review of its trust regulations pertaining to collective investment funds, including specific matters which should be addressed. In view of the favorable disposition of litigation impacting on the fiduciary powers of national banks and collective investment funds (Investment Company Institute v. Clarke, 789 F.2d 175 (2d Cir. 1986), cert. denied, 55 U.S.L.W. 3316 (U.S. Nov. 4, 1986); Investment Company Institute v. Conover, 790 F.2d 925 (D.C. Cir. 1986), cert. denied, 55 U.S.L.W. 3316 (U.S. Nov. 4, 1986); Investment Company Institute v. Clarke, 793 F.2d 220 (9th Cir. 1986), cert. denied, 55 U.S.L.W. 3316 (U.S. Nov. 4, 1986); Investment Company Institute v. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/25/82	47 FR 27833
ANPRM Comment Period End	09/23/82	47 FR 27833
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONTINUED: Clarke No. 86-3725 (W.D.N.C. August 25, 1986), appeal withdrawn by stipulation, Jan. 6, 1987), the project has been reactivated. The effect on small entities will be considered in the development of this rulemaking.

Agency Contact: Donald N. Lamson, Assistant Director, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557–AA04

2121. ● LENDING LIMITS

Legal Authority: 12 USC 84(b)(1); 12 USC 84(d)(1); 12 USC 93a

CFR Citation: 12 CFR 32.2(d)

Legal Deadline: None

Abstract: This rulemaking will revise the definition of a "contractual commitment to advance funds" in response to comments received on the Temporary Rule on National Bank Lending Limits, at 53 FR 23752 (June 24, 1988). Comments were generally in favor of the temporary rule, but expressed concern about its impact on banks which had not experienced a decline in capital. This proposed revision will address those concerns through an amendment to the definition of a "contractual commitment to advance funds." This action should benefit banks, returning to them some flexibility in monitoring their lending limits and outstanding loan commitments. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Brenda Curry, Senior Attorney, Legislative and Regulatory Analysis Division, (202) 447-1632, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Robert L. Davis, Assistant Director, Department of the Treasury, Comptroller of the Currency, Enforcement and Compliance Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1818

RIN: 1557–AA43

2122. RULES OF PRACTICE AND PROCEDURE

Legal Authority: 12 USC 1817(j); 12 USC 1818; 12 USC 1820; 15 USC 781(h); 15 USC 781(i); 15 USC 78o-4(c); 15 USC 78u; 15 USC 78w; 5 USC 554 to 557; PL 95-630; 12 USC 3102; 12 USC 3108(a)

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The proposed regulation will set forth amendments to the hearing rules for administrative hearings. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen C. Starr, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557–AA32

2123. PRODUCTION OF DOCUMENTS AND TESTIMONY IN LITIGATION WHERE THE COMPTROLLER OR THE OFFICE IS NOT A PARTY

Legal Authority: 5 USC 301; 12 USC 481; 5 USC 552(b)(8)

CFR Citation: 12 CFR 4.19; 12 CFR 4.18(c); 12 CFR 7.6025(c); 12 CFR 4.18(a); 12 CFR 4.18(b)

Legal Deadline: None

Abstract: This rule governs the release by the OCC of confidential documents, especially reports of examination, and testimony for use in litigation in which the OCC is not a party. The OCC is considering changing the rule to spell out the exact requirements for a request for such release, and the situations under which release might be authorized. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lester N. Scall, Senior Trial Attorney, Department of the Treasury, Comptroller of the Currency, Litigation Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1893

RIN: 1557–AA57

2124. SECURITIES EXCHANGE ACT DISCLOSURE RULES

Legal Authority: 15 USC 78

CFR Citation: 12 CFR 11, (New Subsection)

Legal Deadline: None

Abstract: The proposed rule would require that more detailed and meaningful information be provided to shareholders and the OCC concerning banks' loan portfolios, including loans to borrowers in foreign countries experiencing liquidity problems, other sources of income and exposure to risks. This will assist shareholders in evaluating proposals for mergers, consolidations, acquisitions and similar matters and will assist the OCC in administering and enforcing the Securities Exchange Act of 1934 as it applies to national banks. The OCC considered not proposing the additional amendments or proposing them as a general guide rather than a rule. However, the OCC determined it was appropriate to propose the additional requirements as amendments to Part 11 because the OCC believes the proposed requirements will help to clarify the types of disclosures which the OCC, shareholders and the public would consider material in analyzing various Exchange Act filings and statements. The proposed rule will also include amendments to update Part 11 to conform with recent amendments by the Securities and Exchange Commission to its Securities Exchange Act Disclosure Rules. The (CONT)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONTINUED: effect on small entities will be considered in the development of this rulemaking.

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557–AA58

2125. SECURITIES OFFERING DISCLOSURE RULES

Legal Authority: 12 USC 1818; 12 USC 93a

CFR Citation: 12 CFR 16

Legal Deadline: None

Abstract: This regulation contains the OCC's disclosure requirements for securities offerings by national banks. The OCC is considering revisions which would clarify the coverage of the rule, specify the OCC's enforcement authority in connection with the rule, liberalize nonpublic offering requirements, provide for more meaningful disclosure requirements in public offerings, revise financial information requirements to be more consistent with 12 CFR 11, and where practicable, incorporate by reference provisions of 12 CFR 11. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	08/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557–AA65

2126. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: 12 USC 92a

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: The OCC proposes to amend this regulation to clarify the requirements concerning national bank fiduciary investment of uninvested or undistributed cash in fiduciary accounts. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barrett Aldemeyer, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Analysis Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1632

RIN: 1557–AA66

2127. SUPERVISION OF BANK OPERATIONS

Legal Authority: 12 USC 481; 5 USC 552

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: The proposed regulation will set forth amendments to the existing description of supervision of bank operations by the Office of the Comptroller of the Currency. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James F. E. Gillespie, Jr., Assistant Director, Department of the Treasury, Comptroller of the Currency, Litigation Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1893

RIN: 1557–AA67

2128. MERGER, CONSOLIDATION, PURCHASE AND ASSUMPTION

Legal Authority: 12 USC 93a; 12 USC 181; 12 USC 214a; 12 USC 215; 12 USC 215a; 12 USC 1828(c)

CFR Citation: 12 CFR 5.33; 12 CFR 11.590

Legal Deadline: None

Abstract: The OCC proposes to amend 12 CFR 5.33 to set forth the OCC's merger proxy statement filing requirements for banks that do not have a class of equity securities registered under the Securities Exchange Act of 1934 ("Exchange Act"), and to specify the disclosure that is required of such banks for various types of merger transactions. This action is expected to assist bank merger applicants in preparing their merger proxy materials, which are subject to OCC review and clearance pursuant to the OCC's merger procedures. The effect on small entities will be considered in development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

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Agency Contact: Laura Plaze, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557–AA71

2129. LENDING LIMITS

Legal Authority: 12 USC 84; 12 USC 93a

CFR Citation: 12 CFR 32

Legal Deadline: None

Abstract: The OCC is considering several amendments to the lending limits regulation to simplify, clarify and improve that regulation. A temporary rule on loan commitments has been issued. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
Technical correction to temporary rule	06/24/88	53 FR 23757
Temporary rule effective	06/24/88	53 FR 23752
Temporary rule with request for comment	06/24/88	53 FR 23752
Temporary rule comment period end	09/22/88	53 FR 23752
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James F. E. Gillespie, Jr., Assistant Director, Department of the Treasury, Comptroller of the Currency, Litigation Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1893

RIN: 1557–AA72

2130. RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Legal Authority: 12 USC 24; 12 USC 92a

CFR Citation: 12 CFR 12

Legal Deadline: None

Abstract: This rulemaking will update 12 CFR 12 in light of the final regulations issued July 24, 1987 (52 FR 27910) by the Department of the Treasury as required by the Government Securities Act of 1986. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John Kerr, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Investment Securities, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1901

RIN: 1557–AA75

2131. DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION

Legal Authority: 5 USC 552; EO 12600

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: This proposed regulation implements recent amendments to the Freedom of Information Act (FOIA). The amendments concern Exemption 7 of the FOIA (relating to law enforcement records) and the provisions of the FOIA concerning fees and fee waivers. In addition, the proposed regulation implements Executive Order 12600, which deals with predisclosure notification procedures for confidential commercial information. This proposed regulation also makes technical changes to the OCC's existing FOIA regulation. The proposed regulation, and the OCC's FOIA regulations in general, affect public disclosure of information by the OCC. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Dean DeBuck, Freedom of Information Officer, (202) 447-1800, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Sanford Brown, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557–AA77

2132. LEASING OF PERSONAL PROPERTY

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 7.3400

Legal Deadline: None

Abstract: The proposed regulation will interpret new statutory lease financing authority provided to national banks by Section 108 of the Competitive Equality Banking Act of 1987, codified at 12 USC 24(10). The OCC is considering what prudential guidelines, if any, are needed, in order to ensure that national banks conduct this new activity safely. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen C. Starr, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557–AA80

2133. ● RECEIVERSHIP AND CONSERVATORSHIP

Legal Authority: 12 USC 93a; 12 USC 191

CFR Citation: 12 CFR 5.49

Legal Deadline: None

Abstract: The proposed regulation will clarify the standards of insolvency the OCC may use in determining whether to appoint a receiver under 12 USC 191. Specifically, the rulemaking describes the net worth and liquidity tests. The rulemaking is intended to state OCC

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procedures clearly, to conform those procedures more closely to GAAP and to evaluate an insolvent bank's true financial condition. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	09/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Kennard L. Page, National Bank Examiner, Special Supervision Division, (202) 447-1719, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Ferne Fishman Rubin, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557–AA82

2134. ● RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Legal Authority: 12 USC 24; 12 USC 92a

CFR Citation: 12 CFR 12.7

Legal Deadline: None

Abstract: This rulemaking would broaden an exemption from requirements that banks maintain certain records and establish certain written policies and procedures. Under the proposal, the current exemption for banks with an average of less than 200 securities transactions per year is expanded to 1,000 transactions per year. The purpose of broadening the exemption from 200 transactions per year to 1,000 transactions per year is to reduce the regulatory burden on small banks.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Kerr, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Investment Securities, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1901

RIN: 1557–AA84

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage

Comptroller of the Currency (OCC)

2135. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

Significance: Agency Priority

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 5

Legal Deadline: None

Abstract: The OCC is engaged in a continuing review of its rules, policies, and procedures governing corporate activities. The OCC proposes to provide clarification of the OCC's ability to impose conditions on transactions between a bank and its subsidiaries; to add 12 CFR 5.36 to require notification to the OCC of certain equity investments which national banks are authorized by statute to make; to outline the responsibility of the applicants for accurate and complete filings; to centralize the OCC's distribution of forms; and to make several miscellaneous technical amendments. These proposals are expected to benefit the OCC by assisting the OCC in fulfilling its responsibility for maintaining the safety and soundness of national banks and the national banking system, and to improve OCC efficiency. The effect on small entities is considered in the development of each rulemaking. If adopted as final rules, the changes to Part 5 will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Equity Investments NPRM Public Comment Period End 03/28/89	01/27/89	54 FR 4038
Operating Subsidiaries NPRM Public Comment Period End 03/28/89	01/27/89	54 FR 4038
Applicants' Responsibility	06/00/89	
Change in Bank Control	06/00/89	
Forms Distribution	06/00/89	
Technical Amendments	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Sheila Ogilvie, National Bank Examiner/Senior Licensing Policy and Systems Analyst, Bank Organization and Structure Division, (202) 447-1184, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Randall J. Miller, Director for Licensing Policy and Systems, Department of the Treasury, Comptroller of the Currency, Bank Organization & Structure Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1184

RIN: 1557–AA00

2136. REPORTS OF CRIMES AND SUSPECTED CRIMES

Legal Authority: 12 USC 93a; 12 USC 1818; 12 USC 1881 to 1884

CFR Citation: 12 CFR 21

Legal Deadline: None

Abstract: This regulation revises the two criminal referral forms, raises the threshold for filing criminal referrals where no suspect has been identified, and clarifies the filing requirement as far as reporting financial crimes where no loss is incurred by the bank, such as money laundering, bank bribery, and Bank Secrecy Act violations. These revisions are intended to clarify the filing requirement for these reports and will tend to reduce the overall number of criminal referral reports to be filed by national banks. This regulation will not have a significant economic impact

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on a substantial number of small banks or other small entities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/11/88	53 FR 7881
Interim Final Rule Comment Period End	05/10/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Miller, Attorney, Department of the Treasury, Comptroller of the Currency, Enforcement and Compliance Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1818

RIN: 1557–AA74

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

2137. MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

Significance: Regulatory Program

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: The OCC is amending 12 CFR Part 3 by adopting an Appendix A thereto which contains risk-based capital guidelines. The OCC's current capital regulations provide a disincentive to national banks holding low risk assets, because the same amount of capital is required to be held against those assets that must be maintained against a highly risky and high yielding asset. Furthermore, the current capital regulations, which are based on total assets, do not take account of a bank's off-balance sheet activities. The effect of the risk-based capital guidelines will be to individualize bank capital requirements by tying them to the riskiness of a particular bank's assets and off-balance sheet activities. This rulemaking will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/86	51 FR 10602
ANPRM Comment Period End	06/25/86	51 FR 10602
NPRM	06/17/87	52 FR 23045
NPRM Comment Period End	08/17/87	52 FR 23045
NPRM	03/15/88	53 FR 8550
NPRM Public Comment Period End	05/13/88	
Final Action	01/27/89	54 FR 4168
Final Action Effective	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Jennifer Kelly, National Bank Examiner, Commercial Activities Division, (202) 447-1164; Larry Winter, National Bank Examiner, Multinational and Regional Bank Analysis Division, (202) 447-1747; 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Sanford Brown, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557–AA61

2138. INVESTMENT SECURITIES REGULATION

Legal Authority: PL 97-35, Sec 1342(a); 12 USC 24(7); PL 98-473, Title I

CFR Citation: 12 CFR 1

Legal Deadline: None

Abstract: The OCC is amending 12 CFR 1 to make two nonsubstantive changes in the regulation. The first change in the regulation incorporates the existing statutory authority of national banks to underwrite and deal in obligations of the African Development Bank and the Inter-American Investment Corporation. The second change deletes from the regulation an outdated and unnecessary provision describing procedures for banks to request OCC rulings. This final rule will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Final Action	01/13/89	54 FR 01333
Final Action Effective	01/13/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Owen Carney, Director, Investment Securities, (202) 447-1901, 490 L'Enfant Plaza East, SW, Washington, DC 20219

Agency Contact: Horace Sneed, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557–AA78

2139. ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

Legal Authority: 12 USC 481; 12 USC 482; 12 USC 3102; 26 DC Code 102

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: The OCC is revising the semiannual assessment schedule for national banks, District of Columbia banks, and federally licensed branches and agencies of foreign banks. The revised schedule replaces the current schedule for assessments due by January 31, 1989, and beyond. Assessments are increased by 14 percent. This revision is necessary due to a predicted revenue shortfall which results from decreased revenue growth and increased supervisory responsibilities brought on by the increasing complexity of the financial services industry and the deteriorated condition of many national banks. This action will permit the OCC to continue to fulfill its statutory responsibilities. This final rule will not have a significant impact on a substantial number of small entities.

TREAS—OCC — **Completed Actions**

Timetable:

Action	Date	FR Cite
NPRM	08/19/88	53 FR 31705
NPRM Correction	09/06/88	53 FR 34307
NPRM Comment Period End	09/19/88	
NPRM Extension of Public Comment Period	09/20/88	53 FR 36556
Final Action	12/01/88	53 FR 48624
Final Action Effective	01/03/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Roy C. Madsen, Associate Director, Financial Management Division, (202) 447-0956, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Ferne Fishman Rubin, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557–AA79

2140. ● SECURITIES EXCHANGE ACT DISCLOSURE RULES

Legal Authority: 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78p; 15 USC 78w

CFR Citation: 12 CFR 11

Legal Deadline: None

Abstract: The OCC is publishing technical amendments to its Securities Exchange Act Disclosure Rules codified at 12 CFR 11. The technical amendments involve minor adjustments or additions to the language of certain sections to conform more clearly to long-standing OCC interpretation of the sections. This final rule will not have a significant impact on a substantial number of small banks or other small entities.

Timetable:

Action	Date	FR Cite
Final Action	10/28/88	53 FR 43677
Final Action Effective	10/28/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1954

RIN: 1557–AA81

2141. ● EMPLOYEE STOCK OPTION AND STOCK PURCHASE PLANS; CHARGES BY NATIONAL BANKS

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 7.5015; 12 CFR 7.8000

Legal Deadline: None

Abstract: This final rule makes technical amendments to 12 CFR 7.5015, relating to employee stock option and stock purchase plans, and 12 CFR 7.8000, which governs charges by national banks. The rule removes from 12 CFR 7.5015 a reference to 12 CFR 13.1, which was rescinded in 1980. Separately, the rule restores to 12 CFR 7.8000 language inadvertently omitted from its codification following an amendment in 1984. This final rule will not have a significant impact on a substantial number of small banks or other small entities.

Timetable:

Action	Date	FR Cite
Final Action	12/22/88	53 FR 51535
Final Action Effective	12/22/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Horace Sneed, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1880

RIN: 1557–AA83

[FR Doc. 89-7102 Filed 04-21-89; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Customs Service

19 CFR Ch. I

Semiannual Agenda

AGENCY: Customs Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: In response to Pub. L. 96-354, the "Regulatory Flexibility Act," and Executive Order 12291, "Federal Regulations," Customs has prepared and is publishing for public information a list of regulations either under development or under review.

FOR FURTHER INFORMATION CONTACT: For additional information regarding the substance of any particular regulatory project described in the agenda, please communicate with the person identified as the "Agency Contact." All agency contact persons are located at U.S. Customs Service Headquarters, the address of which is noted below. Comments or inquiries of a general nature about the agenda itself should be directed to Harold Singer, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, Room 2119, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

Background

Public Law 96-354, the "Regulatory Flexibility Act" (RFA) and Executive Order (E.O.) 12291 of February 17, 1981, "Federal Regulations," require semiannual publication, in April and October of each year, or an agenda of regulations which are "likely to have a significant economic impact on a substantial number of small entities" and "major" regulations, respectively. The RFA and E.O. 12291 also require agencies to include in their agendas currently effective rules which are under agency review. Customs agenda includes a brief abstract of each regulatory project ("project") being considered, an indication of whether the project will have an RFA impact, the section(s) of the Code of Federal Regulations affected, the legal authority for the action being taken, the name, title, and telephone number of an agency contact and, where applicable, an

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approximate timetable of completing action on any project for which Customs has published a notice of proposed rulemaking. In addition, the status of projects referred to in previously published agendas is shown. It has been determined that none of the projects listed as being under development meets the standards required of a "major" regulation provided in E.O. 12291.

General statutory authority for the development or review of regulations relating to Customs matters is found in section 301, title 5, United States Code (5 U.S.C. 301), and in sections 66 and 1624, title 19, United States Code (19 U.S.C. 66, 1624). When appropriate, additional specific statutory authority is indicated as the legal authority for the project.

Dated: March 13, 1989.

Harvey R. Fox,

Director, Office of Regulations and Rulings.

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2142	19 CFR 19 Customs Warehouses; Duty-Free Stores	1515-AA22
2143	19 CFR 134 Country of Origin Marking	1515-AA59
2144	19 CFR 134 Country of Origin Marking of Jewelry	1515-AA66
2145	19 CFR 162 Highest Degree of Care and Diligence to Prevent Unmanifested Narcotics and Marijuana	1515-AA67
2146	19 CFR 24 Statement Processing and Automated Clearinghouse	1515-AA72
2147	19 CFR 132 Filling Absolute Quota	1515-AA76

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2148	19 CFR 4 Customs User Fees	1515-AA50
2149	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2150	19 CFR 128 Clearance of Cargo Carried by Express Consignment Operators or Carriers	1515-AA64
2151	19 CFR 192 Exportation of Used Self-Propelled Vehicles	1515-AA65
2152	19 CFR 4 Conforming Customs Regulations to Harmonized System of Tariff Classification	1515-AA68
2153	19 CFR 122 Overflight Exemptions for Private Aircraft; Fingerprinting Requirements	1515-AA69
2154	19 CFR 141 Changing Maximum Amount for Informal Entries to $1250	1515-AA70
2155	19 CFR 177 Certain Administrative Procedures	1515-AA71
2156	19 CFR 12 Import Sanctions Against the Toshiba Machine Company and The Kongsberg Trading Company	1515-AA74
2157	19 CFR 10 United States-Canada Free Trade Agreement	1515-AA75

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2158	19 CFR 141 Entry of Consolidated Shipments	1515-AA56
2159	19 CFR 113 Continuous Importation and Entry Bond Secured by Corporate Sureties	1515-AA60
2160	19 CFR 122.25 Air Ambulance Operators -- Overflight Exemptions	1515-AA62
2161	19 CFR 4.7a Unique Bill of Lading	1515-AA63
2162	19 CFR 18 Seals On Railcars	1515-AA73

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Proposed Rule Stage

2142. CUSTOMS WAREHOUSES; DUTY-FREE STORES

Legal Authority: 19 USC 1556; 19 USC 1565; 19 USC 1623

CFR Citation: 19 CFR 19; 19 CFR 144

Legal Deadline: None

Abstract: Consideration of various actions in regard to administration of duty-free stores. Actions range from abolition of stores to their designation as class of bonded warehouse and/or increased regulation. Actions necessary due to need for increased efficiency of store administration by Customs and to address enforcement problems related to stores. Public comment requested on actions under consideration, as well as store operations in general. Work Plan 83-1 approved.

Timetable:

Action	Date	FR Cite
ANPRM	07/21/83	48 FR 33318
ANPRM Comment Period End	09/19/83	
Notice of Status	07/07/86	51 FR 24535
Congressional Action PL 100-418	08/23/88	
NPRM	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorrie Rodbart, Attorney, Department of the Treasury, United States Customs Service, Room 2212, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5765

RIN: 1515-AA59

2143. COUNTRY OF ORIGIN MARKING

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendment to the Customs Regulations relating to the requirement that every imported article of foreign origin, or its container, shall be legibly and conspicuously marked to indicate to an ultimate purchaser in the U.S., the English name of the country of origin of the article. Proposal would require that whenever the full or abbreviated name of a country or place other than the country of origin, or a symbol readily associated with a country or place other than the country of origin appears anywhere on a foreign article or its container, then the actual country of origin of the article must be marked on the article or its container in close proximity to each reference to the country or place not the country of origin, or a hang tag or sticker affixed to a highly conspicuous portion of the article.

Timetable:

Action	Date	FR Cite
NPRM in Treasury Review	02/22/88	
NPRM	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John R. Holl, Operation Officer, Department of the Treasury, United States Customs Service, Room 4414, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5354

RIN: 1515-AA22

2144. COUNTRY OF ORIGIN MARKING OF JEWELRY

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202 (Gen. Hdnt. 11); 19 USC 1304; 19 USC 1624; PL 100-418, Omnibus Trade and Competitiveness Act of 1988

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendment to the Customs Regulations relating to the country of origin marking of jewelry. More permanent methods of marking are proposed to avoid removal of country of origin identifications from jewelry, particularly Native American style jewelry, after importation, but before sale to consumers often for the purpose of deceptively representing the merchandise as made in the U.S. The proposed rule will limit the permanent marking requirement to the smallest practicable portion of imported jewelry that will ensure that imported jewelry is permanently identified with the country of origin. For jewelry covered under the proposed rule, previous methods permitting country of origin marking for jewelry using adhesive labels or string tags would be permitted only where the size of the article does not permit more permanent marking methods. For other articles, the changes will require that jewelry be indelibly marked with the country of origin by cutting, die-sinking, engraving, stamping, or some other equally permanent methods, or with a similarly marked plastic or metal tag.

Timetable:

Action	Date	FR Cite
NPRM	02/10/89	54 FR 6418
NPRM Comment Period End	04/11/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: A proposed interpretive rule was published on July 15, 1986 (51 FR 25574) soliciting comments on a proposal to require that all foreign-made Native American-style jewelry be indelibly marked with the country of origin by cutting, die-sinking, engraving, stamping, or with a similarly marked plastic or metal tag. In response to the notice, 92 written comments were received. Thirty-five of the comments supported the proposal that all foreign-made Native American-style jewelry be permanently marked with the country of origin; 42 favored the permanent marking of all foreign-made silver jewelry; 11 commenters said that all foreign-made jewelry should be permanently marked; and one commenter favored permanent marking of all imported gold and silver jewelry. On August 23, 1988, Congress enacted PL 100-418, which, among other things, requires the indelible and permanent marking on all imported Native American-style jewelry. The final rule will implement this law, taking into consideration public comments on the revised proposal concerning ways in which the type of jewelry subject to permanent marking might be reduced while accomplishing the statutory objective.

Agency Contact: Lorrie Rodbart, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Ave., NW, Room 2104, Washington, DC 20229, 202 566-5765

RIN: 1515-AA66

2145. HIGHEST DEGREE OF CARE AND DILIGENCE TO PREVENT UNMANIFESTED NARCOTICS AND MARIJUANA

Significance: Agency Priority

Legal Authority: 19 USC 1584; 19 USC 1594; 19 USC 1595a; 21 USC 960; 21 USC 961; PL 99-570

CFR Citation: 19 CFR 162

Legal Deadline: None

Abstract: Amendment to the Customs Regulations relating to the liability of common carriers to penalties, seizure and forfeiture for unmanifested narcotic drugs or marijuana. The proposed changes would add to the regulations the statutory standard for the highest degree of care and diligence on the part of common carriers in preventing unmanifested drugs and marijuana. It also sets forth specific duties and procedures by which the standard is defined and against which compliance with the standard can be determined. These duties and procedures include such security measures as background investigations of employees, access restrictions to cargo areas, use of

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lighting in storage areas, and similar measures.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4835
NPRM Comment Period End	04/03/89	
Final Action	08/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harriet D. Blank, Attorney, Department of the Treasury, United States Customs Service, Room 2131, 1301 Constitution Ave., NW, Washington, DC 20229, 202 566-8317

RIN: 1515–AA67

2146. ● STATEMENT PROCESSING AND AUTOMATED CLEARINGHOUSE

Significance: Agency Priority

Legal Authority: 5 USC 301; 19 USC 58a to 58c; 19 USC 66; 19 USC 1202; 31 USC 9701; PL 99-662; 19 USC 197; 19 USC 198; 19 USC 1648

CFR Citation: 19 CFR 24; 19 CFR 132; 19 CFR 141; 19 CFR 142; 19 CFR 143

Legal Deadline: None

Abstract: Amendment to the Customs Regulations to provide users of Customs Automated Broker Interface with the option of paying their entry/entry summaries and entry summaries by the statement processing method and to require ABI filers who use statement processing to pay their statements through the use of the Automated Clearinghouse electronic payment mechanism. Further, entries of quota class merchandise and other special classes of merchandise designated by Customs Headquarters would be permitted to be paid through statement processing.

Timetable:

Action	Date	FR Cite
NPRM	03/09/89	54 FR 10019
NPRM Comment Period End	05/08/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Childress, ACS Specialist, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2343, Washington, DC 20229, 202 566-0778

RIN: 1515–AA72

2147. ● FILLING ABSOLUTE QUOTA

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 132

Legal Deadline: None

Abstract: Amend Customs Regulations to provide that importers may not transfer allotment from one port of entry to another for absolute quotas that fill at opening. Procedure will reduce labor required by Customs in processing absolute quota merchandise, expedite the release of merchandise and provide more timely statistical information.

Timetable:

Action	Date	FR Cite
NPRM	02/23/89	54 FR 7781
NPRM Comment Period End	04/24/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Cooper, Operations Officer, Department of the Treasury, United States Customs Service, Room 2379, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8592

RIN: 1515–AA76

DEPARTMENT OF THE TREASURY (TREAS) — **Final Rule Stage**

United States Customs Service (CUSTOMS)

2148. CUSTOMS USER FEES

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-272

CFR Citation: 19 CFR 4; 19 CFR 6; 19 CFR 24; 19 CFR 111; 19 CFR 123; 19 CFR 145

Legal Deadline: Final, Statutory, July 7, 1986.

Abstract: Amends Customs Regulations to provide for payment of specific fees to Customs for the processing of persons, aircraft, vehicles and merchandise arriving in the U.S. as well as for the payment of an annual fee by Customs brokers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/86	51 FR 21152
Final Rule Pending internal decision	05/01/88	
Final Action Effective	09/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Denise Crawford, Operations Officer, Department of the Treasury, United States Customs Service, Room 4133, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-9425

RIN: 1515–AA50

2149. HARBOR MAINTENANCE FEE

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 81a to 81u; 19 USC 1202; 19 USC 623; 19 USC 1624; 31 USC 9701; PL 99-272; PL 99-509; PL 99-662

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Legal Deadline: Final, Statutory, April 1, 1987.

Abstract: Amendments to the Customs Regulations to implement provisions of the Water Resources Development Act of 1986 which authorizes Customs to assess a harbor maintenance fee of 0.04 percent (.0004) on the value of commercial cargo loaded on or unloaded from a commercial vessel at a port unless specifically exempted from the fee. Proceeds of the fee are deposited in a trust fund for the U.S. Army Corps of Engineers to use for the improvement and maintenance of U.S. ports and harbors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198

TREAS—CUSTOMS — **Final Rule Stage**

Action	Date	FR Cite
Interim Final Rule Public Comment Period End	08/28/87	
Comments being analyzed	02/08/88	
Final Action	09/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia Barbare, Department of the Treasury, United States Customs Service, Room 4118, 1301 Constitution Ave., NW, Washington, DC 20229, 202 566-8301

RIN: 1515–AA57

2150. CLEARANCE OF CARGO CARRIED BY EXPRESS CONSIGNMENT OPERATORS OR CARRIERS

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1484; 19 USC 1498; 19 USC 1551; 19 USC 1555; 19 USC 1556; 19 USC 1565; 19 USC 1624

CFR Citation: 19 CFR 128

Legal Deadline: None

Abstract: Amendment to the Customs Regulations to set forth revised special informal entry procedures applicable to the entry and clearance of cargo carried by the various entities which comprise the express consignment industry and to further refine and expand upon the existing procedures which recognize the special needs of the growing express consignment industry. The member countries of the Customs Cooperation Council have recently examined the industry and associated issues and have adopted international guidelines which established various definitions, including the term "Express Consignment Operators or Carriers." The overwhelming growth of this industry requires Customs to provide more expedited clearance procedures. The amendments will promote uniform, fair and consistent treatment of the various courier and express air services, while at the same time better assuring the protection of the revenue in accord with all applicable laws and regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/16/87	52 FR 47729
NPRM Comment Period End	02/16/88	
In Treasury Review	03/09/89	
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vincent Dantone, Operations Officer, Department of the Treasury, United States Customs Service, Room 4137, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5354

RIN: 1515–AA64

2151. EXPORTATION OF USED SELF-PROPELLED VEHICLES

Legal Authority: 19 USC 66; 19 USC 1624; 19 USC 1627; 19 USC 1627a; 19 USC 1646a

CFR Citation: 19 CFR 192

Legal Deadline: None

Abstract: An amendment to the Customs Regulations to add a new part concerning the exportation of used self-propelled vehicles. It sets forth the requirements for lawful exportation of such vehicles as well as the penalties and liabilities for attempted unlawful exportation. These regulations are necessary to implement certain provisions of the Motor Theft Law Enforcement Act of 1984 and the Trade and Tariff Act of 1984 dealing with the unlawful exportation of used self-propelled vehicles.

Timetable:

Action	Date	FR Cite
NPRM	03/17/87	52 FR 8303
NPRM Comment Period End	05/18/87	
NPRM Second	08/18/88	53 FR 31367
NPRM public comment period end	10/17/88	
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: After consideration of the comments received in response to the previous notice proposing this change certain modifications were made. Accordingly, the document has been modified and is being republished to allow all affected persons an opportunity to submit comments before any final decisions are made.

Agency Contact: Louis Razzino, Operations Officer, Department of the Treasury, United States Customs Service, Room 4144, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-2140

RIN: 1515–AA65

2152. ● CONFORMING CUSTOMS REGULATIONS TO HARMONIZED SYSTEM OF TARIFF CLASSIFICATION

Significance: Agency Priority

Legal Authority: 5 USC 310; 19 USC 66; 19 USC 1624; 19 USC 1202; 19 USC 1448; 19 USC 1484; 19 USC 1557; 19 USC 1559; 19 USC 81a to 81u; 19 USC 1751; 19 USC 1401a; 19 USC 1500; 19 USC 1313; 5 USC 552; 31 USC 483a; ...

CFR Citation: 19 CFR 4; 19 CFR 7; 19 CFR 10; 19 CFR 11; 19 CFR 12; 19 CFR 18; 19 CFR 19; 19 CFR 24; 19 CFR 54; 19 CFR 101; 19 CFR 103; 19 CFR 111; 19 CFR 113; 19 CFR 114; 19 CFR 122; ...

Legal Deadline: Final, Statutory, January 1, 1989.

Abstract: Amends the Customs Regulations by removing all references to the Tariff Schedule of the United States and inserting in their stead the appropriate Harmonized Tariff Schedule of the United States reference.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/88	53 FR 51244
Comment Period End	03/21/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hubbard L. Valenick, Attorney, Department of the Treasury, United States Customs Service, Room 2146, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8530

RIN: 1515–AA68

2153. ● OVERFLIGHT EXEMPTIONS FOR PRIVATE AIRCRAFT; FINGERPRINTING REQUIREMENTS

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1509

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Amendment to Customs Regulations to provide fingerprint

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requirement as part of the application process for all usual and anticipated pilots and crew members seeking overflight exemptions for flights that do not involve air ambulance operations or the non-emergency transport of persons seeking medical treatment in the U.S. Amendment will allow Customs to conduct more thorough background investigations on applicants and thus provide better control over air traffic arriving from the direction of countries that are major sources of illegal drugs.

Timetable:

Action	Date	FR Cite
NPRM	01/24/89	54 FR 3490
NPRM Comment Period End	03/27/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Glenn Ross, Inspector, Department of the Treasury, United States Customs Service, Room 4413, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5607

RIN: 1515–AA69

2154. ● CHANGING MAXIMUM AMOUNT FOR INFORMAL ENTRIES TO $1250

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624; 19 USC 1481; 19 USC 1498; 19 USC 1315

CFR Citation: 19 CFR 141; 19 CFR 143; 19 CFR 145

Legal Deadline: None

Abstract: Amendment to Customs Regulations to raise the limit for informal entry to the statutory maximum of $1250.

Timetable:

Action	Date	FR Cite
NPRM	01/24/89	54 FR 3492
NPRM Comment Period End	03/27/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Rosoff, Chief, Entry Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2301, Washington, DC 20229, 202 566-5856

RIN: 1515–AA70

2155. ● CERTAIN ADMINISTRATIVE PROCEDURES

Significance: Agency Priority

Legal Authority: 19 USC 66; 19 USC 1624; PL 96-39; PL 100-690

CFR Citation: 19 CFR 177

Legal Deadline: Final, Statutory, April 1, 1989.

Abstract: Amendments to the Customs Regulations relating to: promoting uniformity in decisions made by Customs officers; creating district ruling program; circumstances under which the effective date of a Customs ruling can be delayed; the obligations of a recipient of a tariff classification ruling; and the elimination of the "clearly wrong" test as the standard by which Customs determines whether certain established and uniform practices should be changed.

Timetable:

Action	Date	FR Cite
NPRM	02/27/89	54 FR 8208
NPRM Comment Period End	03/29/89	
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Roth, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2211, Washington, DC 20229, 202 566-5868

RIN: 1515–AA71

2156. ● IMPORT SANCTIONS AGAINST THE TOSHIBA MACHINE COMPANY AND THE KONGSBERG TRADING COMPANY

Significance: Agency Priority

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202 (General Note 8, HTSUS); PL 100-418

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Legislatively mandated import sanctions imposed on Toshiba Machine Company and Kongsberg Trading Company products for a three-year period.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4780
Interim Final Rule Effective	01/31/89	
Comment Period End	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Interim Rule implements Executive Order 12661; issued December 28, 1988. Final Rule will be issued after analysis of comments.

Agency Contact: William Rosoff, Chief, Entry Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2301, Washington, DC 20229, 202 566-5856

RIN: 1515–AA74

2157. ● UNITED STATES-CANADA FREE TRADE AGREEMENT

Significance: Agency Priority

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1499; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 58; 19 USC 1498

CFR Citation: 19 CFR 10; 19 CFR 24; 19 CFR 148

Legal Deadline: Final, Statutory, January 1, 1989.

Abstract: Amends the Customs Regulations to implement the duty preferences of the United States-Canada Free Trade Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/88	53 FR 51762
Comment Period End	02/21/89	
Comment Period Extended	03/23/89	54 FR 10322
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Valentine, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2307, Washington, DC 20229, 202 566-8181

RIN: 1515–AA75

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS) **Completed Actions**

2158. ENTRY OF CONSOLIDATED SHIPMENTS

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141; 19 CFR 178

Legal Deadline: None

Abstract: Amendment to the Customs Regulations relating to entry procedures for consolidated shipments of imported merchandise. The amendment would ensure that if individual shipments of merchandise having various consignees are consolidated into a large shipment, the entry would not be made by a broker, or at a port of entry, designated by the consignee named in the master bill of lading or master air waybill if any individual bill of lading or individual air waybill within that shipment specifies a different broker, or port of entry, for making entry, or that entry will be made by the actual owner or purchaser.

Timetable:

Action	Date	FR Cite
NPRM	11/04/87	52 FR 42310
NPRM Comment Period End	02/18/88	
In Customs review	07/08/88	
Withdrawn	02/01/89	54 FR 5091

Small Entities Affected: None

Government Levels Affected: None

Additional Information: After consideration of the comments received in response to the previous notice proposing this change, and meetings with affected persons, it has been determined that many people did not understand the proposal. Accordingly, the document has been modified and it should be republished to allow all affected persons an opportunity to submit comments before any final decisions are made.

Agency Contact: William Rosoff, Attorney, Department of the Treasury, United States Customs Service, Room 2215, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5856

RIN: 1515–AA56

2159. CONTINUOUS IMPORTATION AND ENTRY BOND SECURED BY CORPORATE SURETIES

Legal Authority: 19 USC 66; 19 USC 1484; 19 USC 1551; 19 USC 1565; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 113

Legal Deadline: None

Abstract: Amendment to the Customs Regulations to provide that a continuous importation and entry bond secured by a corporate surety may only be filed with Customs under cover of a letter signed by an authorized officer or agent of that surety. Such an amendment would protect the Government from unnecessary delays in receiving payment from sureties of an importer's liabilities, for which the surety is also responsible, when the surety denies liability because it claims to have no record of the bond upon which the demand is made.

Timetable:

Action	Date	FR Cite
NPRM	09/18/87	52 FR 35274
NPRM Comment Period End	11/17/87	
Project Withdrawn	01/15/89	
Withdrawn - held in abeyance - no action at this time.	01/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Lawlor, Attorney, Department of the Treasury, United States Customs Service, Room 2215, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5706

RIN: 1515–AA60

2160. AIR AMBULANCE OPERATORS -- OVERFLIGHT EXEMPTIONS

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 49 USC 1474; 49 USC 1509

CFR Citation: 19 CFR 122.25

Legal Deadline: None

Abstract: Amendment to the Customs Regulations to ease restrictions on air ambulance flights.

Timetable:

Action	Date	FR Cite
TD in Customs Review	01/26/88	
Final Action	02/03/89	54 FR 5427
Final Action Effective	03/06/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Glenn Ross, Operations Officer, Department of the Treasury, United States Customs Service, Room 4416, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5607

RIN: 1515–AA62

2161. UNIQUE BILL OF LADING

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1624; 46 USC 3; 46 USC 91; 46 USC 2103

CFR Citation: 19 CFR 4.7a

Legal Deadline: None

Abstract: Amendment to the Customs Regulations to require that each bill of lading which accompanies a shipment of imported cargo carried by vessel possess a unique 12 character identifier. This identifier will serve to distinguish the particular bill of lading from other bills of lading issued by that carrier or issuer and from bills issued by others. The identifier is designed to enable Customs Automated Commercial System to more accurately track the progress of cargo from its arrival to its release.

Timetable:

Action	Date	FR Cite
NPRM	12/09/87	52 FR 46602
NPRM Comment Period End	02/08/88	
In Treasury Review	08/15/88	
Final Action	10/26/88	53 FR 43197
Final Action Effective	03/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robin Landis, Operations Officer, Department of the Treasury, United States Customs Service, Room 4140, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-8151

RIN: 1515–AA63

2162. ● SEALS ON RAILCARS

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202 (General Note 8, HTSUS); 19 USC 1551; 19 USC 1552; 19 USC 1553; 19 USC 1624; 19 USC 1322

CFR Citation: 19 CFR 18; 19 CFR 24; 19 CFR 123

Legal Deadline: None

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TREAS—CUSTOMS — **Completed Actions**

Abstract: Deletion of requirement that railcars from Canada transiting the United States in-bond be sealed with green in-bond seals.

Timetable:

Action	Date	FR Cite
Final Action	03/23/89	54 FR 11944
Final Action Effective	03/23/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michelle Struzzeri, Attorney, Department of the Treasury, United States Customs Service, Room 2222, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5656

RIN: 1515–AA73

[FR Doc. 89-7103 Filed 04-21-89; 8:45 am]

BILLING CODE 4820-02-T

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Internal Revenue Service

26 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: This semiannual agenda lists the regulations that the Internal Revenue Service will be developing from April 1, 1989, through March 31, 1990. Determinations with respect to the agenda were made as of January 31, 1989. The purpose of this semiannual agenda is to give the public adequate notice of regulatory activities of the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Robert Boyer, or Carroll Field, (202) 566-3935, (not a toll-free call), Regulations Unit, Office of the Assistant Chief Counsel (Corporate), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:CORP:T:R.

SUPPLEMENTARY INFORMATION:

General

Section 5 of Executive Order 12291 and section 602 of the Regulatory Flexibility Act both require that a semiannual agenda of regulations under development and review be published in the **Federal Register**. The next semiannual agenda of the Internal Revenue Service will be published in the **Federal Register** in October of 1989.

Description

This Semiannual Agenda of Regulations lists all projects within the Internal Revenue Service (I.R.S.) as of January 31, 1989, for the development of regulations to appear in the Code of Federal Regulations. This agenda lists existing regulations under development by the Offices of the Assistant Chief Counsel (Corporate), Assistant Chief Counsel (Financial Institutions and Products), Assistant Chief Counsel (Income Tax and Accounting), Assistant Chief Counsel (Passthroughs & Special Industries), Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Associate Chief Counsel (International), and the General Litigation Division of the Office of Chief Counsel, I.R.S. The following information is provided for each regulation project: the title, priority status; its effect, if any, on small business; the part of the Code of Federal Regulations affected; the legal authority for issuing the regulation; a brief description of the problem to be addressed in the regulation; and a timetable of action taken and to be taken. Under additional information there is provided the control number of the project within the Chief Counsel's office, and the names and telephone numbers of the drafting and the reviewing attorneys.

By direction of the Secretary of the Treasury.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Internal Revenue Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2163	26 USC 0079 Update and Gender-neutralize Mortality Table used to Determine Permanent Group-term Life Insurance Benefits	1545-AK50
2164	26 USC 0130 Income Tax--Part 1 Personal Injury Liability Assignments	1545-AF39
2165	26 USC 0183 Election to Postpone Determination with Respect to the Presumption That an Activity is Engaged In for Profit	1545-AG27
2166	26 USC 0367 (e) Regulations under Section 367 (e)	1545-AL34
2167	26 USC 0367 (e) Regulations under Section 367 (e)	1545-AL35
2168	26 USC 0368 Income Tax--Cross-Reference-Reorganizations Involving Financially Troubled Thrift Institutions	1545-AB29
2169	26 USC 0482 Section 482 Regulations	1545-AL80
2170	26 USC 0482 Section 482 Cost Sharing Regulations	1545-AM00
2171	26 USC 0834 Interest Deduction under Section 834(c)(5)	1545-AL07
2172	26 USC 0861 Income Tax - Interest and Dividends of 80-20 Companies	1545-AJ58
2173	26 USC 0897 (c) (3) FIRPTA Cleanup	1545-AJ72
2174	26 USC 0932 Source Rules within the Virgin Islands	1545-AL40
2175	26 USC 0952 Subpart F - Use of Deficits	1545-AJ71

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Internal Revenue Service—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2176	26 USC 0987 Computation of a Branch's Taxable Income Taxation of Exchange Gain or Loss on Branch Remittances	1545-AM12
2177	26 USC 4081 Modification of the Gasahol Regulations to Increase the Tolerance Allowed to the 10 Percent Alcohol Mixture and to Clarify the Later Blending Rules	1545-AM86
2178	26 USC 6700 Penalty for Promoting Abusive Tax Shelters	1545-AE99
2179	26 USC 6701 Penalty for Aiding and Abetting in the Understatement of Tax Liability	1545-AF01
2180	26 USC 7702 Definition of Life Insurance Contract	1545-AL08

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2181	26 USC 0001 Income Tax--Deduction for Bus Operating Authorities and Freight	1545-AJ18
2182	26 USC 0055 Income Tax--Alternative Minimum Tax	1545-AE80
2183	26 USC 0055 Alternative Minimum Tax for Individuals	1545-AJ86
2184	26 USC 0056 Income Tax--Inventory Adjustment for the Alternative Minimum Tax	1545-AL02
2185	26 USC 0057 Income Tax-Minimum Tax. Item of Tax Preference for Intangible Drilling Costs Incurred in Drilling Oil, Gas or Geothermal Wells	1545-AA34
2186	26 USC 0058 Tax Benefit Rule for Corporate Add-On Minimum Tax under the Internal Revenue Code of 1954	1545-AK20
2187	26 USC 0061 Taxation, Valuation, and Reporting of "Frequent Flyer" or Similar Bonus Payments	1545-AK02
2188	26 USC 0061 Amendment to the Regulations under Section 61 to Conform the Treatment of Bond Premium Income to the Consistent Yield Method	1545-AL92
2189	26 USC 0072 Loans Treated as Distributions	1545-AE41
2190	26 USC 0089 Nondiscrimination Rules for Non-Pension Employee Benefit Plans	1545-AI78
2191	26 USC 0103 To Provide Regulations Under Section 147 (b)--Relating to Limitation on Maturity of Private Activity Bonds	1545-AE69
2192	26 USC 0103 Regulations Relating to Federally Guaranteed Bonds	1545-AG84
2193	26 USC 0103 Definition of "Reissuance" Under Section 103	1545-AI65
2194	26 USC 0103A To Revise Definition of Areas of Chronic Economic Distress for Purposes of Mortgage Subsidy Bonds	1545-AG88
2195	26 USC 0108 Income Tax--Discharge of Indebtedness	1545-AA67
2196	26 USC 0111 Income Tax--Part 1--Income Tax Regulations Under Section 111 Relating to Inclusion of Tax Benefit Items	1545-AH17
2197	26 USC 0117 (d) Qualified Tuition Reductions	1545-AI13
2198	26 USC 0119 (d) Income Tax--Tax Treatment of Faculty Housing	1545-AJ21
2199	26 USC 0141 Definition of "Private Activity Bond", "Qualified Bond"	1545-AM01
2200	26 USC 0142 Tax-exempt Bonds for Residential Rental Projects	1545-AJ66
2201	26 USC 0144 Income tax--Student Loan Bonds	1545-AJ42
2202	26 USC 0145 Qualified 501 (c) (3) Bonds	1545-AJ39
2203	26 USC 0146 State Volume Cap for Tax-exempt Bonds	1545-AJ37
2204	26 USC 0148 Arbitrage Restrictions on Tax-exempt Bonds; Rebate Requirement	1545-AJ67
2205	26 USC 0148 General Revision of Arbitrage Regulations	1545-AL90
2206	26 USC 0149 Advance Refundings	1545-AL91
2207	26 USC 0162 Income Tax--To Provide Better Definitions in the Area of Political Advertising & Grassroots Lobbying	1545-AA79
2208	26 USC 0162 Deductions with respect to noncash Fringe Benefits	1545-AM40
2209	26 USC 0162 (g) Definition of Related Violation	1545-AK83
2210	26 USC 0163 Qualified Residence Interest	1545-AL67
2211	26 USC 0163 Prohibition on Foreign Targeting Obligations Backed by United States Government Securities	1545-AM19
2212	26 USC 0168 Income Tax--Normalization Requirement for Public Utility Property	1545-AA88
2213	26 USC 0168 Modification of ACRS	1545-AJ38
2214	26 USC 0168 Normalization Requirements for Public Utility Property: Inconsistent Procedures and Adjustments	1545-AM87
2215	26 USC 0170 Income Tax -- to Provide Regulations Relating to Contributions to Private Foundations	1545-AI09
2216	26 USC 0174 Definition of Research and Experimental Expenditures under Section 174 of the Code	1545-AM92
2217	26 USC 0179 Election to Expense Certain Depreciable Assets	1545-AL74
2218	26 USC 0195 Income Tax--To Add Provisions Relating to Start-Up Expenditures	1545-AB02
2219	26 USC 0245 Deduction for Dividends Received from Certain Foreign Corporations	1545-AL94
2220	26 USC 0246A Income Tax-Debt-Financed Portfolio Stock	1545-AH39
2221	26 USC 0263A Capitalization of Certain Pension, etc. Costs	1545-AI92
2222	26 USC 0263A (f) Notice of Proposed Rulemaking -- Capitalization of Interest Expense	1545-AK01
2223	26 USC 0267 (a) (3) Withholding on Accounts Payable to Related Parties	1545-AL97

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2225	26 USC 0280G Notice of Proposed Rulemaking Relating to Restrictions on Golden Parachute Payments	1545-AH49
2226	26 USC 0302 Waiver of Family Attribution by Entities	1545-AF13
2227	26 USC 0336 Certain Stock Sales and Distributions Treated as Asset Transfers	1545-AK29
2228	26 USC 0336 Cross-reference--Recognition of gain or loss on liquidating sales and distributions of property (TRA 1986; sections 631 to 633)	1545-AK90
2229	26 USC 0337 Application of General Utilities Repeal Regulatory Authority to RICs and REITs	1545-AL65
2230	26 USC 0338 Mandatory Application of MADSP Formula for Determination of Deemed Sale Price for Old Target's Assets	1545-AK25
2231	26 USC 0338 Treatment of an Affiliated Group of Corporations as a Selling Consolidated Group for Purposes of Elective Recognition under Section 338 (h) (10)	1545-AK31
2232	26 USC 0338 Treatment of an affiliated group of corporations as a selling consolidated group for purposes of elective recognition under section 338 (2)(10)	1545-AM49
2233	26 USC 0367 Section 361 Outboard Transfers of Property to Foreign Corporations	1545-AM97
2234	26 USC 0367 (b) Foreign Liquidations and Reorganizations (NPRM)	1545-AJ78
2235	26 USC 0368 Corporate Reorganization Amendments - Bankruptcy Tax Act of 1980	1545-AK33
2236	26 USC 0382 Income Tax--Limitation on Corporate Net Operating Loss Deduction	1545-AI99
2237	26 USC 0382 Computation of Section 382 Limitation	1545-AK27
2238	26 USC 0383 Special Limitations on Certain Credit and Loss Carryovers	1545-AK26
2239	26 USC 0384 Limitation on Use of Preacquisition Losses to Offset Built-in Gains	1545-AM48
2240	26 USC 0401 Defined Benefit Plan Terminations and the Reversion of Assets	1545-AF81
2241	26 USC 0401 (a) (26) Income Tax - - Part 1--Additional Participation Requirements	1545-AK46
2242	26 USC 0401 (a) (4) Nondiscrimination Requirements for Qualified Plans	1545-AM95
2243	26 USC 0403 Nondiscrimination and other Rules Applicable to Section 403(b) Annuities	1545-AI90
2244	26 USC 0404 Income Tax--Employee Stock Ownership Plan Loan Payments	1545-AD77
2245	26 USC 0409 Income Tax--Requirements for Tax Credit Employee Stock Ownership Plans, Employee Plan Credit, and Defined Contribution Plan Voting Rights	1545-AD82
2246	26 USC 0409 Inc. Tax -- Part 1; Estate Tax -- Part 20, Employee Stock Ownership Plan Rules Affected by TRA 1986	1545-AI87
2247	26 USC 0410 (b) Coverage Rules	1545-AK41
2248	26 USC 0410(b) Special Rules in Merger and Acquisition	1545-AM94
2249	26 USC 0412 Revising the Drafting of the Full Funding Limitation for Purposes of the Minimum Funding Requirement for Pension Plans	1545-AL53
2250	26 USC 0414 (r) ,Definition of Line of Business	1545-AL23
2251	26 USC 0419 Treatment of Funded Welfare Benefit Plans	1545-AG14
2252	26 USC 0442 Inc. Tax--Part 1--Amendment of section 1.442-1 to Provide Simplified Procedures for Changes of Annual Accounting Period by Certain Exempt Organizations	1545-AI68
2253	26 USC 0446 Blocked Income	1545-AL85
2254	26 USC 0453 Income Tax -- Gain or Loss on the Disposition of an Installment Obligation	1545-AB41
2255	26 USC 0453 Income Tax--Installment Sales Between Related Parties	1545-AB45
2256	26 USC 0453 Income Tax--Installment Sales Revision Act of 1980, Regulations Relating to Wrap-Around Mortgages	1545-AB46
2257	26 USC 0453 Income Tax Regulations--Part I. Installment Sales by Nontaxable Entities	1545-AF73
2258	26 USC 0453 Income Tax Regulations--Part 1--Special Rules Relating to Installment Obligations That Are Readily Tradable or Payable on Demand	1545-AG37
2259	26 USC 0457 Income Tax -- Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations	1545-AI89
2260	26 USC 0460 Accounting for Long-term Contracts	1545-AJ28
2261	26 USC 0461 (h) Income Tax Regulations--The Economic Performance Requirement	1545-AH32
2262	26 USC 0465 Extension of the At-Risk Rules	1545-AF86
2263	26 USC 0465 Aggregation of Certain Activities for Purposes of the At-Risk Rules	1545-AI02
2264	26 USC 0465 Application of At-risk Limitations to the Holding of Real Property	1545-AK08
2265	26 USC 0467 Temporary Income Tax Regulations-Deferred Payments for Use of Property or Services	1545-AG81
2266	26 USC 0469(l) Limitations on Passive Activity Losses and Credits - Definition of Activity	1545-AM38
2267	26 USC 0474 Simplified Dollar-value LIFO Method for Certain Small Businesses	1545-AK64
2268	26 USC 0514 Income Tax--Unrelated Trade or Business Income	1545-AE00
2269	26 USC 0585 Repeal of Bad Debt Reserve Method: Foreign Issues	1545-AL83
2270	26 USC 0595 Treatment of Foreclosed Property by Certain Creditors	1545-AF00
2271	26 USC 0612 Income Tax--Restoration of Depletion Deductions on Bonus and Advanced Royalties in Certain Cases	1545-AB69
2272	26 USC 0643 Property Distributed in Kind and Treatment of Multiple Trusts (Sec: 81 and 82 of The Tax Reform Act of 1984)	1545-AI06

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2274	26 USC 0667 Accumulation Trusts	1545-AM78
2275	26 USC 0672 Income Taxation of Trusts and Estates	1545-AJ20
2276	26 USC 0704 (c) Allocations of Income Gain, Loss, and Deduction with Respect to Property Contributed to a Partnership	1545-AG98
2277	26 USC 0706 Income Tax--Items Allocated to Portion of Year Partner Held Interest	1545-AB81
2278	26 USC 0707 Income Tax--Treatment of Payments to Partners Not Acting in Their Capacity as Partners	1545-AG83
2279	26 USC 0707 Amendment of Income Tax Regulations with Respect to Treatment of Disguised Sales by Partners	1545-AH22
2280	26 USC 0724 Contributions to a Partnership of Unrealized Receivables, Inventory Items or Capital Loss Property	1545-AG85
2281	26 USC 0842 (b) Foreign Insurance Companies	1545-AL82
2282	26 USC 0846 Income Tax Regulations--Discounting of Unpaid Losses of Property and Casualty Insurance Companies	1545-AJ51
2283	26 USC 0852 (b) Treatment of Certain Losses Attributable to Periods After October 31 of a Taxable Year of a Regulated Investment Company	1545-AM55
2284	26 USC 0860A Income Tax--Essential Issues Relating to Real Estate Mortgage Investment Conduits	1545-AJ35
2285	26 USC 0860F Income Tax--Real Estate Mortgage Investment Conduits (REMICs); Reporting Requirements and Other Administrative Matters	1545-AM99
2286	26 USC 0863 Transportation Income Source Rules	1545-AJ68
2287	26 USC 0863 Proposed Income Tax Regulations under the Tax Reform Act of 1986 -- Source of Income Rules for Income Derived from Space and Ocean Activities Including Telecommunications	1545-AJ84
2288	26 USC 0863 (a) Allocation of Gross Income Attributable to Interest Rate Swaps under Section 863 (a)	1545-AL25
2289	26 USC 0864 (c) (6) Treatment of Deferred Payments and Appreciation Arising Out of Business Conducted Within the US	1545-AM53
2290	26 USC 0865 Source Rules for Personal Property Sales	1545-AJ83
2291	26 USC 0871 Employment Taxes--Application of Repeal of 30 Percent Withholding by Tax Reform Act of 1984	1545-AM30
2292	26 USC 0872 (b) Income Tax - Reciprocal Exemptions for Certain Transportation Income	1545-AJ57
2293	26 USC 0876 Exclusion of Possession Source Income from Gross Income of Certain Individuals and Treatment of Corporations Organized in Guam, Samoa or CNMI	1545-AJ80
2294	26 USC 0882 Untimely Filing by Foreign Corporations	1545-AJ74
2295	26 USC 0882 Computation of Interest Expense Deduction	1545-AL84
2296	26 USC 0897 Income Tax -- Partnership Rules Regarding Taxation of Foreign Investment in United States Real Property Interests	1545-AL77
2297	26 USC 0902 Deemed Paid Credit under Sections 902 and 960 Determined on Accumulated Basis	1545-AL98
2298	26 USC 0904 (c) Carryback and Carryforward of Foreign Tax Credits	1545-AM18
2299	26 USC 0904 (d) Separate application of section 904 with respect to certain categories of Income	1545-AM54
2300	26 USC 0904 (f) Clarification of Treatment of Separate Limitation Losses	1545-AM11
2301	26 USC 0905 Treatment of Shareholders of Passive Foreign Investment Companies	1545-AC06
2302	26 USC 0905 Suspension of Requirement to File a Receipt for Foreign Taxes Paid on a Return for Foreign Taxes Accrued	1545-AM43
2303	26 USC 0907 Amendment of Regulations Under Section 907 of the Internal Revenue Code of 1954 to Conform Them to Section 211 of the Tax Equity and Fiscal Responsibility Act of 1982	1545-AE34
2304	26 USC 0932 Coordination of U.S. and Virgin Islands Taxes	1545-AJ55
2305	26 USC 0932 (b) Regulations under section 932(b)	1545-AM89
2306	26 USC 0936 (d) (4) CBI Investments of section 936 funds	1545-AM91
2307	26 USC 0936 (h) Amendment of Section 936(h) with Respect to Election of Product	1545-AK77
2308	26 USC 0953 (c) Insurance Income	1545-AJ70
2309	26 USC 0955 Subpart F Shipping Amendments	1545-AM46
2310	26 USC 0986 Tax Accounting elections in computing earnings and profits of foreign corporations	1545-AM90
2311	26 USC 0988 Section 988(d) - Integrated Hedging Rules for Foreign Exchange gain or loss	1545-AL15
2312	26 USC 0988 Taxation of Exchange Gain or Loss on Foreign Currency Denominated Transactions	1545-AL16
2313	26 USC 0993 DISC Regulations	1545-AM05
2314	26 USC 1031 Rules Relating to the Inapplicability of Section 1031 to Partnership Interests and the Limitation on the Period During Which Like Kind Exchanges May Be Made	1545-AH43
2315	26 USC 1059 Income Tax--Notice of Proposed Rulemaking - Amendment of Regulations Relating to Basis Reductions for Non-Taxed Portion of Extraordinary Dividends to Reflect TRA 1984	1545-AH41
2316	26 USC 1092 Income Tax--Tax Straddles	1545-AC21
2317	26 USC 1248 Income Tax--Gain from Sale or Exchange of Stock in Foreign Corporations	1545-AC31
2318	26 USC 1248 Gains from Certain Sales or Exchanges in Certain Foreign Corporations	1545-AL88
2319	26 USC 1248 Section 1248 Sales and Earnings and Profits	1545-AM42
2320	26 USC 1253 Income Tax--To Clarify Tax Treatment of Transfers of Franchises, Trademarks, & Trade Names	1545-AC34
2321	26 USC 1254 Income Tax--Gain from Disposition of Interest in Oil, Gas, Geothermal or Other Mineral Properties by S Corporations and their Shareholders	1545-AM98

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2323	26 USC 1276 Disposition Gain Representing Accrued Market Discount Treated as Ordinary Income; Deferral of Interest Deduction Allocable to Accrued Market Discount	1545-AH82
2324	26 USC 1286 Income Tax-Treatment of Stripped Bonds and Stripped Coupon	1545-AH75
2325	26 USC 1295 QEF Shareholder Election	1545-AM41
2326	26 USC 1361 Income Tax--Treatment of Obligations Which Purport to Represent Debt as a Second Class of Stock	1545-AC37
2327	26 USC 1366 Income Tax--Pass-Thru of S Corporation Items to Shareholders	1545-AE85
2328	26 USC 1367 Income Tax--Rules Relating to Adjustment to Basis of Stock of Shareholders of S Corporation and to Determination of Basis of Property Distribution by Corporation	1545-AE88
2329	26 USC 1371 Income Tax--Application of Subchapter C Rules to S Corporations	1545-AE90
2330	26 USC 1374 Cross-reference--Application of Section 1374 Built-in Gain Tax to C Corporation's Electing S Corporation Status	1545-AK93
2331	26 USC 1377 Income Tax--Definitions and Special Rules Pertaining to S Corporation	1545-AE94
2332	26 USC 1441 Revised Withholding Tax Regulation to Modify "As soon as Practical" Requirements	1545-AL19
2333	26 USC 1446 Withholding Tax on Payments from Partnerships to Foreign Partners	1545-AL30
2334	26 USC 1492 Nontaxable Transfers under Section 1491	1545-AL96
2335	26 USC 1502 Investment Adjustments Under the Consolidated Return Regulations	1545-AC47
2336	26 USC 1502 Income Tax--Application of Section 465 At Risk Limitations to Members that Join in Filing Consolidated Returns	1545-AC55
2337	26 USC 1502 Income Tax--Deletion of the Requirement of Section 1.1502-47 (d) (12) (v) (C) That, in Applying Tacking Rule, Profitable and Loss Life Activities Not Be Separated	1545-AI98
2338	26 USC 1502 Cross-Reference--Consolidated return investment adjustments with respect to an acquired subsidiary's built-in gains or losses	1545-AK94
2339	26 USC 1502 Consolidated Returns	1545-AL44
2340	26 USC 1502 Revision of Section 1.1502-33	1545-AL60
2341	26 USC 1502 Amendment of Consolidated Return Regulations to Address Treatment of Certain Organizations Whose Tax-Exempt Status was Revoked by the 1986 Act	1545-AL64
2342	26 USC 1502 Payment of Refunds to Certain Fiduciaries of Insolvent Members of Affiliated Groups	1545-AM74
2343	26 USC 1502 Cross Reference - Treatment of Distributors after the Sale of a Subsidiary	1545-AN01
2344	26 USC 1503 (d) Dual Resident Companies-Limitation on Consolidated Losses	1545-AM16
2345	26 USC 1504 Income Tax--Includibility in an Affiliated Group of Subsidiaries Formed to Comply with Foreign Laws	1545-AC58
2346	26 USC 1504 Income Tax – Amendment of Regulations Under Section 1504 (a) of the Code, as Amended by Section 60 of the Tax Reform Act of 1984, Defining "Affiliated Group"	1545-AH09
2347	26 USC 2001 Estate and Gift Taxes, Income Taxes-Unified Credit in Lieu of Exemptions, Unified Rate Schedule for Estate and Gift Taxes Situs of Foreign Partnerships for Estate Taxation	1545-AC60
2348	26 USC 2032 Estate Tax--Valuation of Certain Farm, etc. Real Property	1545-AC62
2349	26 USC 2036 Estate Tax - Inclusion of Estate Freezes	1545-AM59
2350	26 USC 2056 Alien Spouse Marital Deduction	1545-AM85
2351	26 USC 2663 Estate Tax-Generation-Skipping Transfer Tax	1545-AL75
2352	26 USC 3121 Amendment of the Employment Tax Regulations Under Code Section 3121 to Conform to Section 321 of the Social Security Amendments of 1983	1545-AF91
2353	26 USC 3306 Treatment of Certain Deferred Compensation and Salary Reduction Arrangements	1545-AF97
2354	26 USC 3405 Employment Tax--Withholding from Pensions, Annuities, and Other Deferred Income	1545-AE98
2355	26 USC 3405 (d) (13) Withholding on Certain Deferred Payments Outside the United States	1545-AL31
2356	26 USC 3406 To Provide Regulations Relating to Backup Withholding Under Section 3406	1545-AE20
2357	26 USC 3406 Clarifying amendments to section 35a.3406-1 regarding backup withholding due to an incorrect TIN	1545-AM51
2358	26 USC 4051 Excise Tax--Retailers Excise Taxes on Motor Vehicles	1545-AF61
2359	26 USC 4181 Revision of Section 48.4181-1(a)(2) of the Manufacturers and Retailers Excise Tax Regulations relating to the tax on firearm parts and accessories	1545-AL72
2360	26 USC 4611 Income Tax, Excise Tax, and Environmental Tax--Imposition of Taxes on Petroleum, Certain Chemicals, and Corporations and Additional Excise Taxes on Certain Fuels	1545-AJ23
2361	26 USC 4671 Tax on Certain Imported Substances	1545-AL73
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2363	26 USC 4940 Income Tax--Excise Tax--Procedure and Administration--Various Private Foundation Provisions	1545-AG18
2364	26 USC 4980 Excise Tax – Part 54, Reversion of Qualified Plan Assets to Employer	1545-AI82
2365	26 USC 6011 Electronic Filing of Tax Returns	1545-AL01
2366	26 USC 6033 Amendment of Section 1.6033-2 (g) (5) Relating to Returns by an Integrated Auxiliary of a Church	1545-AI52
2367	26 USC 6038A Information with Respect to Certain Foreign-Owned Corporations	1545-AJ56
2368	26 USC 6039D Returns, etc. on Certain Fringe Benefit Plans	1545-AI22
2369	26 USC 6039E Information Regarding Resident Status	1545-AJ93
2370	26 USC 6045 Information Reporting on Real Estate Transactions	1545-AM38
2371	26 USC 6046A Income Tax Regulations relating to Returns as to Interests in Foreign Partnerships	1545-AK75
2372	26 USC 6047 Reporting of Plan Distributions	1545-AL54

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Internal Revenue Service—Proposed Rule Stage—Continued

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2374	26 USC 6081 Extension of Time to File for Taxpayers Traveling Outside the United States	1545-AM06
2375	26 USC 6159 Agreements for Payment for Tax Liability in Installments	1545-AM66
2376	26 USC 6166 Estate Tax--Procedure and Administration--Deferral and Installment Payment of Estate Tax	1545-AD23
2377	26 USC 6244 Determination of the Tax Treatment of Subchapter S Items at the Corporate Level	1545-AE96
2378	26 USC 6311 Procedure and Administration Regulations--Payment of Taxes by Check or Money Order and Liability of Financial Institutions for Unpaid Taxes	1545-AI24
2379	26 USC 6323 Notice of Lien on Personal Property	1545-AM64
2380	26 USC 6325 Procedure and Administration--Release of Liens, Notice Before Levy, Property Exempt from Levy Redemption of Levied Real Property and Amount of Damages in Case of Wrongful Levy	1545-AE62
2381	26 USC 6326 Administrative Appeal of the Filing of Notice of Federal Tax Lien	1545-AM62
2382	26 USC 6331 Levy and Distraint	1545-AM70
2383	26 USC 6332 Effect of Honoring a Levy	1545-AM72
2384	26 USC 6416 Gasoline Excise Tax Definitions, Notification of Registration Requirements, and Section 6416 Procedures	1545-AL69
2385	26 USC 6501 Procedure and Administration Regulations--Extension of the Period for Assessment of Tax in Certain Circumstances	1545-AI23
2386	26 USC 6502 Collection After Assessment	1545-AM71
2387	26 USC 6621 Differential interest rates and expanded crediting of overpayments against underpayments	1545-AK06
2388	26 USC 6655(j) Determining Large Corporation Status for Consolidated Return Groups Paying Estimated Tax	1545-AM75
2389	26 USC 6659 Procedure & Administration--Addition to Tax in the Case of Valuation Overstatements and Understatements, and Increase in the Negligence Penalty	1545-AD39
2390	26 USC 6695 Use of Facsimile Signatures by Income Tax Return Preparers of Forms 1041, U.S. Fiduciary Income Tax Returns	1545-AL49
2391	26 USC 6867 Income Tax--Presumption of Jeopardy in the Case of Illegal Activity Cash	1545-AE30
2392	26 USC 7425 Forfeiture of Land Sales Contract With Respect to Discharge of Federal Tax Lien	1545-AK24
2393	26 USC 7425 Redemptions of Real Property Under IRC 7425 - Excess Expenses	1545-AL20
2394	26 USC 7429 Review of Jeopardy Levy and Assessment Procedures	1545-AM68
2395	26 USC 7432 Civil Damages for Failure to Release Lien	1545-AM63
2396	26 USC 7433 Civil Causes of Action for Damages Sustained Due to Certain Unauthorized Actions by I.R.S.	1545-AM65
2397	26 USC 7520 Estate and Gift Tax Valuation Tables	1545-AM81
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TREAS—IRS

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2649	26 USC 0120 Income Tax--Prepaid Legal Expenses	1545-AD62
2650	26 USC 0142 Exempt Bonds for Residential Rental Projects	1545-AM04
2651	26 USC 0263A Practical Capacity	1545-AK56
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2662	26 USC 0417 Joint and Survivor Annuities	1545-AG72
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2666	26 USC 0472 Inventory Computed by Use of Consumer or Producer Price Indexes	1545-AF65
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2668	26 USC 0679 Income Tax--Procedure & Administration--Foreign Trusts Having U.S. Beneficiaries	1545-AB79
2669	26 USC 0704 To Provide Special Rules Concerning Related Party Loans in the Case of Partnership Allocations Attributable to Nonrecourse Debt	1545-AI66
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2671	26 USC 0861 California Franchise Tax and Section 1.861-8 Allocation	1545-AM09
2672	26 USC 0864 Allocation and Apportionment of Interest Expense and Certain Other Expenses	1545-AM21
2673	26 USC 0864 (e) Allocation and Apportionment of Expenses	1545-AL21
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2685	26 USC 6011 Elimination of Form 941 Filing Requirement for Quarters in Which Seasonal Employers Pay No Wages	1545-AI56
2686	26 USC 6031 Nominee Reporting of Partnership Information	1545-AJ97
2687	26 USC 6050M Treatment of Net Capital Losses of Regulated Investment Companies and Real Estate Investment Trusts-Relationships between Chapter 44 Excise Taxes and Taxable Income	1545-AJ04
2688	26 USC 6157 Time and Manner of Making Quarterly Payments of the Railroad Unemployment Repayment Tax (NPRM)	1545-AI60
2689	26 USC 6224 Statement of Procedural Rules to Provide Procedures for Partnership-Level Proceedings with Respect to Partnership Items	1545-AI08
2690	26 USC 6323 Electronic Filing of Notice of Federal Tax Lien	1545-AK96
2691	26 USC 6402 Procedure and Administration--Reduction of Tax Overpayments by Amount of Past-due Legally Enforceable Debt Owed to Federal Agency	1545-AK45
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DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Prerule Stage

2163. UPDATE AND GENDER-NEUTRALIZE MORTALITY TABLE USED TO DETERMINE PERMANENT GROUP-TERM LIFE INSURANCE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will update and gender-neutralize the mortality table used under section 79 to determine the value of permanent group-term life insurance benefits provided to employees.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: TR-43-00412-88

Drafting attorney: Betty Clary (202) 566-4465.

Reviewing attorney: James Brokaw (202) 566-3496.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4465

RIN: 1545-AK50

2164. INCOME TAX--PART 1 PERSONAL INJURY LIABILITY ASSIGNMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 130 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will provide rules on the exclusion from gross income for amounts received for agreeing to the assignment of a liability to make periodic payments as damages on account of personal injury or sickness.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-82-83.

Drafting attorney: Rochelle Pickard (202) 566-3637.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Agency Contact: Rochelle Pickard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545-AF39

2165. ELECTION TO POSTPONE DETERMINATION WITH RESPECT TO THE PRESUMPTION THAT AN ACTIVITY IS ENGAGED IN FOR PROFIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 183 (e) (3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the election to postpone the determination whether the section 183 (d) presumption applies until the activity has been conducted for five (or seven) years. The regulations will specify who can make the election and the time and manner of making the election.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-73-84.

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545-AG27

2166. REGULATIONS UNDER SECTION 367 (E)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Whether gain should be recognized under section 367 (e) (1) and (2) on the distribution of stock, securities or other property.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-752-87

Drafting attorney: Charles P. Besecky (202) 566-3319.

Reviewing attorney: Charles C. Saverude (202) 566-5791.

Treasury attorneys: Mary Bennett & David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Charles P. Besecky, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3319

RIN: 1545-AL34

2167. REGULATIONS UNDER SECTION 367 (E)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal deals with whether gain should be recognized under section 367 (e) (1) and (2) on the distributor of stock, securities or other property.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-704-87

Drafting attorney: Charles P. Besecky (202) 566-3319.

Reviewing attorney: Charles C. Saverude (202) 566-6645.

TREAS--IRS

Prerule Stage

Treasury attorneys: Mary Bennett & David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Charles P. Besecky, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3319

RIN: 1545-AL35

2168. INCOME TAX--CROSS-REFERENCE-REORGANIZATIONS INVOLVING FINANCIALLY TROUBLED THRIFT INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 597 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would provide regulations dealing with reorganizations of financially troubled thrift institutions and with the tax consequences of financial assistance payments made to such an institution by a supervisory governmental agency, thereby giving the public needed guidance on how the Internal Revenue intends to interpret these issues.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-063-81.

Drafting attorney: Mark Schneider (202) 566-3544.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Agency Contact: Mark Schneider, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AB29

2169. SECTION 482 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 482 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To revise section 482 regulations per section 482 white paper.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-401-88

Drafting attorneys: Teresa T. Milton (202) 287-4851

and David Bower (202) 634-5404.

Reviewing attorney: Michael Patton (202) 287-4851.

Treasury attorney: Unassigned.

13 Income Taxes.

Agency Contact: Teresa T. Milton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Washington, DC 20024, 202 287-4851

RIN: 1545-AL30

2170. SECTION 482 COST SHARING REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 482 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Transfer of intangibles between affiliates; intercompany pricing issues.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-372-88

Drafting attorney: Teresa Milton & Lisa Grogan (202) 287-4851.

Reviewing attorney: Michael Patton (202) 287-4851.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: Teresa T. Milton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Washington, D.C. 20024, 202 287-4851

RIN: 1545-AM00

2171. INTEREST DEDUCTION UNDER SECTION 834(C)(5)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations clarify that in order to be deductible under section 834(c)(5), interest must relate to investment income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-110-87

Drafting attorney: William Blagg (202) 566-3294.

Reviewing attorney: Steve Hooe (202) 566-3294.

Treasury attorney: Don Rocap (202) 566-8277.

Income Taxes

Agency Contact: William L. Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AL07

2172. INCOME TAX - INTEREST AND DIVIDENDS OF 80-20 COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to the sourcing of dividends and interest paid by so-called "80-20" companies, that is, companies with 80% or more foreign source income.

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TREAS—IRS — Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-950-86

Drafting attorney: Valerie A. Mark (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 566-6645.

Treasury attorney: Mary Bennett (202) 566-5992.

13 Income taxes.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AJ58

2173. FIRPTA CLEANUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897 Internal Revenue Code of 1986; 26 USC 1445 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Reporting requirements for 5 percent shareholders; equity kickers; establish securities market definition; other related issues.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-785-87

Drafting attorney: James Sams (202) 634-5404.

Reviewing attorney: Robert Culbertson (202) 634-5404.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: James Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AJ72

2174. SOURCE RULES WITHIN THE VIRGIN ISLANDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide sourcing rules for the determination as to whether income is derived from sources within the Virgin Islands or the U.S. or is effectively connected with the conduct of a trade or business within the Virgin Islands or the U.S. To the extent possible, the rules will be similar to those set forth in IRC sections 861-865.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-613-87

Drafting attorney: John J. Brady (202) 287-4851.

Reviewing attorney: Michael Patton (202) 287-4851.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes

Agency Contact: John J. Brady, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W. Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AL40

2175. SUBPART F - USE OF DEFICITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 952 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the extent to which current year deficits in unrelated income categories or prior year deficits may reduce the amount included in the gross income of any U.S. shareholder under section 951(a)(1)(A)(i) for taxable years after 1986.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-954-86

Drafting attorney: Valerie A. Mark (202) 566-6645.

Reviewing attorney: Phyllis E. Marcus (202) 566-6645.

Treasury attorney: Peter Daub (202) 566-2964.

13 Income taxes.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AJ71

2176. COMPUTATION OF A BRANCH'S TAXABLE INCOME TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch Rules on how to translate branch income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-965-86

Drafting attorney: David Rosenberg (202) 634-5406.

Reviewing attorney: Robert Katcher (202) 634-5406.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AM12

TREAS—IRS — Prerule Stage

2177. ● MODIFICATION OF THE GASAHOL REGULATIONS TO INCREASE THE TOLERANCE ALLOWED TO THE 10 PERCENT ALCOHOL MIXTURE AND TO CLARIFY THE LATER BLENDING RULES

Legal Authority: 26 USC 4081 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will modify the tolerance allowed for the alcohol to gasoline ratio in gasahol and will clarify the later blending rules with regard to incidental dilution of gasahol at retail outlets.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-093-88

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Jeffrey Nelson (202) 566-4077.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4077

RIN: 1545–AM86

2178. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6700 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide rules and definitions relating to the penalty for promoting abusive tax shelters.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-273-82.

Drafting attorney: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn D. Miller, Jr. (202) 566-3273.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4442

RIN: 1545–AE99

2179. PENALTY FOR AIDING AND ABETTING IN THE UNDERSTATEMENT OF TAX LIABILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6701 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposal will provide rules with respect to the penalty imposed on a person who aids and abets in the understatement of a third party's tax liability. The proposal also provides the standards which will subject one to the penalty.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-274-82.

Drafting attorney: Vincent G. Surabian (202) 566-4680.

Agency Contact: Vincent G. Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4680

RIN: 1545–AF01

2180. DEFINITION OF LIFE INSURANCE CONTRACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7702 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules to define a life insurance contract.

Timetable:

Action	Date	FR Cite
ANPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-107-87

Drafting attorney: Katherine Lee Wambsgans (202) 566-3740.

Reviewing attorney: Stephen D. Hooe (202) 566-3803.

13 Income Taxes

Agency Contact: Katherine Lee Wambsgans, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3740

RIN: 1545–AL08

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS) — Proposed Rule Stage

2181. INCOME TAX--DEDUCTION FOR BUS OPERATING AUTHORITIES AND FREIGHT

Legal Authority: 26 USC 1 et seq Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules allowing taxpayers an ordinary deduction ratably over a 60-month period for the adjusted basis of bus operating authorities and freight forwarders held or acquired on certain specified dates.

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Timetable:

Action	Date	FR Cite
NPRM	07/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-110-86

Drafting attorney: Christopher Wilson (202) 566-4945.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Bryan Collins (202) 566-8277.

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4945

RIN: 1545–AJ18

2182. INCOME TAX–ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 55 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide rules for the computation of the alternative minimum tax and the computation of the credits that may be used to reduce that tax, as well as rules for determining the amount of tax preference for excluded dividends and interest, mining exploration and development costs, and circulation, research and experimental expenditures. The Regulations will also provide rules relating to the optional 10 year write off of certain tax preferences.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-235-82.

Drafting attorney: William A. Jackson (202) 566-6320.

Reviewing attorney: William Galanko (202) 566-3862.

Treasury attorneys: Ellen Aprill (202) 566-5453 and

Robert Scarborough (202) 566-4979.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545–AL02

2183. ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS

Significance: Regulatory Program

Legal Authority: 26 USC 55 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will address issues relating to the alternative minimum tax for individuals. The issues addressed will include the adjustment to inventory to take into account alternative tax depreciation, determination of the preference amount for charitable contributions of appreciated property, and application of alternative tax adjustments in determining the alternative tax liability of a trust or estate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-2-87

Drafting attorney: William A. Jackson (202) 566-6320.

Reviewing attorney: William Galanko (202) 566-3862.

Treasury attorneys: Ellen Aprill (202) 566-5453 and Robert Scarborough (202) 566-4979.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-6320

RIN: 1545–AJ86

2184. INCOME TAX–INVENTORY ADJUSTMENT FOR THE ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to inventory adjustments for the alternative minimum tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-85-87

Drafting attorney: William Jackson (202) 566-6320.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Treasury attorney: Mark Levy (202) 566-4029.

Agency Contact: William Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-6320

RIN: 1545–AL02

2185. INCOME TAX-MINIMUM TAX. ITEM OF TAX PREFERENCE FOR INTANGIBLE DRILLING COSTS INCURRED IN DRILLING OIL, GAS OR GEOTHERMAL WELLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will explain the application and determination of the tax preference item for intangible drilling costs which was added by the Tax Reform Act of 1976. The regulations will provide rules for determining a taxpayer's net income from oil and gas properties, rules for determining if a well is nonproductive and rules for determining the proper preference tax if a well proves to be nonproductive after the close of a taxable year for which a tax return has already been filed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-209-78.

Drafting attorney: Steve Toomey (202) 566-6320.

Reviewing attorney: William Galanko (202) 566-3862.

Agency Contact: Steve Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545–AA34

2186. TAX BENEFIT RULE FOR CORPORATE ADD-ON MINIMUM TAX UNDER THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for taking into account credit carryovers in applying the minimum tax benefit rule for corporations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-56-87

Drafting attorney: William A. Jackson (202) 566-6320.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Treasury attorneys: Ellen Aprill (202) 566-5453 and Robert Scarborough (202) 566-4979.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545–AK20

2187. TAXATION, VALUATION, AND REPORTING OF "FREQUENT FLYER" OR SIMILAR BONUS PAYMENTS

Legal Authority: 26 USC 61 Internal Revenue Code of 1986; 26 USC 6041 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will require information reporting with respect to "frequent flyer" or similar bonus payments in order to increase compliance. The regulation will also provide valuation rules to assist taxpayers in valuing the bonuses.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-79-86

Drafting attorney: Karin G. Gross (202) 566-3889.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Treasury attorney: Susan Scherbel (202) 535-6965.

Agency Contact: Karin G. Gross, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3889

RIN: 1545–AK02

2188. AMENDMENT TO THE REGULATIONS UNDER SECTION 61 TO CONFORM THE TREATMENT OF BOND PREMIUM INCOME TO THE CONSISTENT YIELD METHOD

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide a method for determining how to include bond premium into income. The method is the constant yield method.

Timetable:

Action	Date	FR Cite
NPRM	06/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-70-88

Drafting attorney: Mark Scott (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Agency Contact: Mark Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AL92

2189. LOANS TREATED AS DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 72 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of new rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The new loan rules are provided in new section 72(p) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-106-82.

Drafting attorney: Marjorie Hoffman (202) 566-4747.

Reviewing attorney: Michael Thrasher (202) 566-3576.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AE41

2190. NONDISCRIMINATION RULES FOR NON-PENSION EMPLOYEE BENEFIT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 89 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: These regulations will provide the following: an explanation of the eligibility, benefits and alternative tests contained in section 89; an explanation as to which plans are subject to section 89 requirements; and, rules concerning how the requirements will be applied in actual operation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-130-86

Drafting attorney: Munroe/Zech (202) 566-3251.

Reviewing attorney: Nancy Marks (202) 343-6954.

Agency Contact: David Munroe/Felix Zech, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AI78

2191. TO PROVIDE REGULATIONS UNDER SECTION 147 (B)—RELATING TO LIMITATION ON MATURITY OF PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules will provide guidance with respect to computation of weighted average economic life and weighted average maturity. Rules limit the average length of the maturity of all private activity bonds (including qualified 501 (c) (3) bonds), other than mortgage revenue bonds and student loan bonds.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-220-82.

Drafting attorney: L. Michael Wachtel (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3267.

Office of Tax Legislative Counsel reviewing attorney: Elliot Stern (202) 566-2926.

Agency Contact: L. Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AE69

2192. REGULATIONS RELATING TO FEDERALLY GUARANTEED BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would provide guidance regarding the provisions enacted by the Tax Reform Act of 1984 which denies Federal income tax exemption for bonds issued by State or local governmental units if payments of principal or interest with respect to such bonds are directly or indirectly guaranteed by the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-156-84.

Drafting attorney: Susan Jonas (202) 566-4545.

Reviewing attorney: Michael J. Montemurro (202) 566-4545.

Office of Tax Legislative Counsel reviewing attorney: Elliott Stern (202) 566-2566.

Agency Contact: Susan Jonas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4545

RIN: 1545–AG84

2193. DEFINITION OF "REISSUANCE" UNDER SECTION 103

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed Regulations would provide guidance regarding whether changes in the terms of an outstanding obligation result in that obligation being treated as retired and reissued as a new obligation.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: FI-29-86.

Drafting attorney: George Kelley (202) 566-3283.

Reviewing attorney: Michael J. Montemurro (202) 566-4085.

Treasury attorney: Margaret C. Henry (202) 533-6966.

Guidance on the definition of Issuance appeared as Notice 88-130, 1988-52 IRB 12. The rules contained in the Notice will be incorporated in the regulations.

Agency Contact: George Kelley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3283

RIN: 1545–AI65

2194. TO REVISE DEFINITION OF AREAS OF CHRONIC ECONOMIC DISTRESS FOR PURPOSES OF MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 143 Internal Revenue Code of 1986; 26 USC 103A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.103A-2

Legal Deadline: None

Abstract: The regulations will clarify the rules under section 103A relating to designations of areas of chronic economic distress. The regulations would provide objective tests to be used in analyzing requests for such designations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-307-84.

Drafting attorney: Allan Seller (202) 566-3332.

Reviewing attorney: Michael J. Montemurro (202) 566-4545.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Allan Seller, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3332

RIN: 1545–AG88

2195. INCOME TAX—DISCHARGE OF INDEBTEDNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 108 Internal Revenue Code of 1986; 26 USC 1017 Internal Revenue Code of 1986; PL 96-589, Sec 2 Bankruptcy Tax Act 1980

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposal would provide rules relating to certain income from the discharge of indebtedness, including rules relating to the election to reduce the basis of assets in lieu of recognizing income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-91-81.

Drafting attorney: Karin G. Gross (202) 566-3889.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Agency Contact: Karin G. Gross, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3889

RIN: 1545–AA67

2196. INCOME TAX—PART 1—INCOME TAX REGULATIONS UNDER SECTION 111 RELATING TO INCLUSION OF TAX BENEFIT ITEMS

Legal Authority: 26 USC 111 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will revise the rules for determining whether the recovery of an amount deducted in a prior taxable year must be included in income, to reflect changes in section 111 made by section 170 of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-303-84.

Drafting attorney: Karin G. Gross (202) 566-3889.

Reviewing attorney: Paul A. Francis (202) 566-3318.

Agency Contact: Karin G. Gross, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3889

RIN: 1545–AH17

2197. QUALIFIED TUITION REDUCTIONS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 117 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations contain rules explaining when qualified tuition reductions provided for education below the graduate level to an employee of an educational organization or to a person treated as an employee will be excluded from the employee's gross income. The proposed regulations include rules relating to tuition reductions which discriminate in favor of officers, owners or highly compensated employees and so are includible in income. The proposed regulations also provide rules relating to the treatment of tuition reductions in the case of graduate student teaching and research assistants.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-35-85.

Drafting attorney: Michael Schmit (202) 566-3826.

Reviewing attorney: William Galanko (202) 566-3862.

Agency Contact: Michael Schmit, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3826

RIN: 1545–AI13

2198. INCOME TAX—TAX TREATMENT OF FACULTY HOUSING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 119 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the definition of a "qualified appraisal". In addition, the regulations will set forth the time and manner in which the appraisal shall be reviewed and updated.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

EE-74-88.

Drafting attorney: Richard Pavel (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747

Treasury attorney: Marjorie Roberts (202) 566-2565.

Agency Contact: Richard Pavel, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AJ21

2199. DEFINITION OF "PRIVATE ACTIVITY BOND", "QUALIFIED BOND"

Significance: Regulatory Program

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Legal Authority: 26 USC 7805 Internal Revenue Code of 1985; 26 USC 141 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides a definition of the term "private activity bond".

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-72-88

Drafting attorney: Dave Selig (202) 566-4545.

Reviewing attorney: Mike Montemurro (202) 566-4545.

13 Income Tax

Agency Contact: Dave Selig, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, llll Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4545

RIN: 1545–AM01

2200. TAX-EXEMPT BONDS FOR RESIDENTIAL RENTAL PROJECTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 142 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide regulations relating to tax-exempt bonds issued to provide qualified residential rental projects.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-089-86

Drafting attorney: Susan E. Overlander (202) 566-3458.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Elliott Stern (202) 566-2926.

Agency Contact: Susan E. Overlander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3458

RIN: 1545–AJ66

2201. INCOME TAX–STUDENT LOAN BONDS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144 (b) Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to issuers of tax-exempt student loan bonds.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-80-86.

Drafting attorney: L. Michael Wachtel (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Elliott Stern (202) 566-2566.

Agency Contact: L. Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-4336

RIN: 1545–AJ42

2202. QUALIFIED 501 (C) (3) BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 145 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for qualified 501 (c) (3) bonds.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-84-86.

Drafting attorney: Dave White (202) 566-4545.

Reviewing attorney: Mike Montemurro (202) 566-4545.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-4545

RIN: 1545–AJ39

2203. STATE VOLUME CAP FOR TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 146 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide state volume cap rules for tax-exempt bonds.

Timetable:

Action	Date	FR Cite
NPRM	08/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-85-86

Drafting attorney: David Selig (202) 566-4545.

Reviewing attorney: George Kelley (202) 566-4545.

Agency Contact: David Selig, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-4545

RIN: 1545–AJ37

2204. ARBITRAGE RESTRICTIONS ON TAX-EXEMPT BONDS; REBATE REQUIREMENT

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide regulations relating to the requirement that arbitrage profits earned on tax-exempt bonds be paid to the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-91-86

Drafting attorney: Elliott Stern (202) 566-2926.

Reviewing attorney: Michael Montemurro (202) 566-4085.

Treasury attorney: Elliott Stern (202) 566-2926.

Agency Contact: George Delduke, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3347

RIN: 1545–AJ67

2205. GENERAL REVISION OF ARBITRAGE REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules regarding the arbitrage restrictions for tax-exempt bonds, other than the rebate requirement.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-48-88

Drafting attorney: George Kelley (202) 566-3283.

Reviewing attorney: Michael J. Montemurro (202) 566-4085.

Treasury attorney: Elliot Stern (202) 566-2926.

This project is being drafted at the Treasury and will be reviewed by IRS. Thus, it is impossible to establish a timetable.

Agency Contact: George P. Kelley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3283

RIN: 1545–AL90

2206. ADVANCE REFUNDINGS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986:; 26 USC 149 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules regarding advance refundings of certain private activity bonds and certain other bonds.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-50-88

Drafting attorney: Jack Malgeri (202) 566-3347.

Reviewing attorney: Michael Montemurro (202) 566-4085.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3347

RIN: 1545–AL91

2207. INCOME TAX–TO PROVIDE BETTER DEFINITIONS IN THE AREA OF POLITICAL ADVERTISING & GRASSROOTS LOBBYING

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 162 Internal Revenue Code of 1986; 26 USC 4945 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide better definitions in the area of political advertising and grassroots lobbying.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-190-77.

Drafting attorney: Karin G. Gross (202) 566-3889.

Reviewing attorney: David R. Haglund (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: Ellen

Aprill (202) 566-5453.

Agency Contact: Karin G. Gross, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3889

RIN: 1545–AA79

2208. ● DEDUCTIONS WITH RESPECT TO NONCASH FRINGE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 162 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.162-25

Legal Deadline: None

Abstract: The project is to produce proposed rules relating to an alternative way for employers to take deductions with respect to noncash fringe benefits.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-89-88

Drafting Attorney: Joel Rutstein (202) 566-4509.

Reviewing Attorney: Paul Kane (202) 566-3492.

Income Tax

Agency Contact: Joel Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-4509

RIN: 1545–AM40

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2209. DEFINITION OF RELATED VIOLATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would amend the definition of "related violations" under section 162(g) of the Internal Revenue Code of 1986 in order to update such definition in light of subsequent events.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-27-87

Drafting attorney: Joel S. Rutstein (202) 566-4509.

Reviewing attorney: John S. Bromell (202) 566-4430.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4509

RIN: 1545–AK83

2210. QUALIFIED RESIDENCE INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the definition of qualified residence interest, including the definition of acquisition debt and guidance regarding the computation of the limitation.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-27-88

Drafting attorney: Sharon L. Hall (202) 566-4811.

Reviewing attorney: John Fischer (202) 566-8131.

Treasury attorney: Reed Shuldiner (202) 566-2175.

13 Income Tax

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, Washington, D.C. 20224, 202 566-4811

RIN: 1545–AL67

2211. PROHIBITION ON FOREIGN TARGETING OBLIGATIONS BACKED BY UNITED STATES GOVERNMENT SECURITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking providing that obligations backed by United States government securities may not be foreign targeted.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-070-88

Drafting attorney: Carl M. Cooper (202) 634-5406.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2964.

13 Income Taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AM19

2212. INCOME TAX–NORMALIZATION REQUIREMENT FOR PUBLIC UTILITY PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 (e) (3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to public utilities relating to the transitional rules for the public utility normalization requirements of ACRS under section 168 (e) (3). Prior to ACRS some public utilities did not have to normalize in order to use accelerated depreciation. Under the transitional rule these utilities are given until January 1, 1983 to meet the normalization requirements of section 168 (e) (3).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-244-81.

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: Noel Sheehan (202) 566-4819.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Robert Scarborough (202) 566-2928.

Normalization Requirement

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AA88

2213. MODIFICATION OF ACRS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide rules concerning the accelerated cost recovery system.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-86-86.

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: William Dwyer (202) 566-6511.

Treasury attorney: Barksdale Penick (202) 566-5453.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3292

RIN: 1545–AJ38

2214. ● NORMALIZATION REQUIREMENTS FOR PUBLIC UTILITY PROPERTY: INCONSISTENT PROCEDURES AND ADJUSTMENTS

Legal Authority: 26 USC 168(i)(9)(B)(iii) Internal Revenue Code of 1986

CFR Citation: 26 CFR 167; 26 CFR 168

Legal Deadline: None

Abstract: Regulation to prescribe public utility ratemaking procedures and adjustments that are to be treated as inconsistent with the normalization rules under 26 USC 167 and 168. Regulation will make clear: (1) that term "tax expense" in 26 USC 168 (i)(9)(A) and (B) means total expense, including both current and preferred taxes, and (2) that reducing utility's Federal income tax expense for ratemaking purposes, either directly or indirectly, to reflect tax losses of non-regulated affiliated companies is inconsistent under 26 USC (168)(i)(9)(B) with normalization requirements of 26 USC 168(i)(9)(A).

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-3-89

Drafting attorney: Martin Schaffer (202) 566-6589.

Reviewing attorney: Noel Sheehan (202) 566-4819.

Treasury attorney: Robert Scarborough (202) 566-2928.

Income Taxes

Agency Contact: Martin Schaffer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6589

RIN: 1545–AM87

2215. INCOME TAX -- TO PROVIDE REGULATIONS RELATING TO CONTRIBUTIONS TO PRIVATE FOUNDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the percentage limitations for charitable contributions to private foundations. The regulations will also provide rules relating to "qualified appreciated stock" as that term is defined in section 170 (e) (5) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-231-84.

Drafting attorney: Karin G. Gross (202) 566-3889.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Agency Contact: Karin G. Gross, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3889

RIN: 1545–AI09

2216. ● DEFINITION OF RESEARCH AND EXPERIMENTAL EXPENDITURES UNDER SECTION 174 OF THE CODE

Legal Authority: 26 USC 7805(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.174-2; 26 CFR 1.41

Legal Deadline: None

Abstract: The regulations clarify the definition of "research and experimental expenditures" under section 174 of the Internal Revenue Code. The regulations also clarify the definition of "research and experimental expenditures" for purposes of section 41 of the Code, because section 41 relies on the definition of that item in section 174.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-002-89

Drafting attorney: David Haglund (202) 377-9851.

Reviewing attorney: Walter Woo (202) 535-9545.

Treasury attorney: Evelyn Brody (202) 535-6959.

Research and Experimental Expenditures

Agency Contact: David Hudson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4821

RIN: 1545–AM92

2217. ELECTION TO EXPENSE CERTAIN DEPRECIABLE ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 179 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules rules relating to the changes made to section 179 by the Tax Reform Act of 1986. This includes changes to the dollar limitation and recapture provision as well as the new trade or business income limitation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-52-88

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: Harold Burghart (202) 566-3292.

Treasury attorney: Ellen Aprill (202) 566-5433.

Income Tax - Election to expense depreciable business assets.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AL74

2218. INCOME TAX--TO ADD PROVISIONS RELATING TO START-UP EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 195 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers electing to amortize start-up expenditures relating to the creation or acquisition of an active trade or business.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-36-81.

Drafting attorney: Paul F. Handleman (202) 566-4121.

Reviewing attorney: James Ranson (202) 566-4944.

Agency Contact: Paul F. Handleman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4121

RIN: 1545–AB02

2219. DEDUCTION FOR DIVIDENDS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 245 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Draft regulations under section 245 of the Code, incorporating changes made by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-943-86

Drafting attorney: Kenneth Allison (202) 566-6457.

Reviewing attorney: Charles Saverude (202) 377-9060.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: Kenneth Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AL94

2220. INCOME TAX-DEBT-FINANCED PORTFOLIO STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 246A Internal Revenue Code of 1986; 26 USC 7701 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of the regulations to interpret the rule contained in section 246A of the Internal Revenue Code of 1954 relating to the dividends received deduction where portfolio stock is debt financed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-261-84.

Drafting attorney: Forest Boone (202) 566-3861.

Reviewing attorney: Vincent Cardella (202) 566-4425

Agency Contact: Forest Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AH39

2221. CAPITALIZATION OF CERTAIN PENSION, ETC. COSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance relating to the requirement that certain costs of deferred compensation must be capitalized rather than deducted currently.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-56-78

Drafting attorney: John Tolleris (202) 566-3060.

Reviewing attorney: Michael Garvey (202) 566-3251.

Agency Contact: John Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AI92

2222. NOTICE OF PROPOSED RULEMAKING -- CAPITALIZATION OF INTEREST EXPENSE

Significance: Regulatory Program

Legal Authority: 26 USC 263A (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the capitalization of certain interest expenses and the allocation interest to property subject to the capitalization rules.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-121-86.

Drafting attorney: Carol Conjura (202) 566-3024.

Reviewing attorney: John Fischer (202) 566-8131.

Treasury attorney: Adam Handler (202) 535-6964.

Agency Contact: Carol Conjura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3024

RIN: 1545–AK01

2223. WITHHOLDING ON ACCOUNTS PAYABLE TO RELATED PARTIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 267 (a) (3) Internal Revenue Code of 1986; 26 USC 163 (e) (3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Withholding tax liability and deductibility of payments on accounts payable to related parties.

Timetable:

Action	Date	FR Cite
NPRM	04/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-390-88

Drafting attorney: James K. Sams (202) 634-5404.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Unassigned.

13 Income Taxes.

Agency Contact: James K. Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AL97

2224. INCOME TAX--TO ADD PROVISIONS RELATING TO FOREIGN CONVENTIONS (AS AMENDED BY SECTION 4 OF PUBLIC LAW 96-608)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 274 (h) Internal Revenue Code of 1986; PL 96-608, Sec 4; PL 97-424, Sec 543; PL 98-67, Sec 222

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules to assist taxpayers in determining whether it is as reasonable to hold a convention, seminar, or similar meeting outside North America as within it, and thus whether expenses relating to attendance at the convention are deductible.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-114-81.

Drafting attorney: Carlos Sandoval (202) 377-9586.

Reviewing attorney: John M. Fischer (202) 566-8131.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Carlos Sandoval, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9586

RIN: 1545–AB04

2225. NOTICE OF PROPOSED RULEMAKING RELATING TO RESTRICTIONS ON GOLDEN PARACHUTE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280G Internal Revenue Code of 1986

CFR Citation: 26 CFR 280G

Legal Deadline: None

Abstract: These regulations will provide rules relating to restrictions on golden parachute payments. The regulations will provide guidance to taxpayers, who must comply with section 280G, by delineating the circumstances under which payments may be considered excess parachute payments.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-217-84.

Drafting attorney: Stuart Wessler (202) 566-3822.

Reviewing attorney: Sharon Galm (202) 566-3297.

Treasury attorney: Don Rocap (202) 566-8278.

Income Tax

Agency Contact: Stuart Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3822

RIN: 1545–AH49

2226. WAIVER OF FAMILY ATTRIBUTION BY ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 302 (c) (2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would interpret the definitions and special rule for waiver of family attribution by entities contained in section 302 (c) (2) of the Internal Revenue Code of 1954, which relates to the tax treatment of certain redemptions of corporate stock.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-189-82.

Drafting attorney: Keith G. Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3450.

Agency Contact: Keith G. Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AF13

2227. CERTAIN STOCK SALES AND DISTRIBUTIONS TREATED AS ASSET TRANSFERS

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance for making an election under section 336 (e), and the consequences which result from making such an election.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-52-87

Drafting attorney: Jean M. Whalen (202) 566-6212.

Reviewing attorney: Peter G. Lynard (202) 566-6358.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Jean M. Whalen, Attorney, Department of the Treasury,

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Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545–AK29

2228. CROSS-REFERENCE–RECOGNITION OF GAIN OR LOSS ON LIQUIDATING SALES AND DISTRIBUTIONS OF PROPERTY (TRA 1986; SECTIONS 631 TO 633)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 336 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for the recognition of gain or loss on a corporation's liquidating sales or distributions

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-79-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AK90

2229. APPLICATION OF GENERAL UTILITIES REPEAL REGULATORY AUTHORITY TO RICS AND REITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 337 (d) Internal Revenue Code 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulations project is one of several dealing with the implementation of the repeal of the General Utilities doctrine by section 631 of the Tax Reform Act of 1986. This project deals with the regulations necessary to ensure the repeal is implemented with respect to RICs and REITs.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-15-88

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: Glenn Carrington (202) 566-3430.

13 Income Tax, Normal Taxes and Surtaxes, RICs and REITs

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AL65

2230. MANDATORY APPLICATION OF MADSP FORMULA FOR DETERMINATION OF DEEMED SALE PRICE FOR OLD TARGET'S ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will require the use of the MADSP formula in a qualified stock purchase to which Section 338(h)(10) applies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-75-87.

Drafting attorney: Keith G. Medleau (202) 566-3551.

Reviewing attorney: Barry L. Isaacs (202) 566-3544.

Treasury attorney: Jud Kelly (202) 566-2175.

Agency Contact: Keith G. Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AK25

2231. TREATMENT OF AN AFFILIATED GROUP OF CORPORATIONS AS A SELLING CONSOLIDATED GROUP FOR PURPOSES OF ELECTIVE RECOGNITION UNDER SECTION 338 (H) (10)

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the guidance for making elections under section 338 (h) (10) when the selling group is an affiliated group of corporations which does not file a consolidated federal income tax return, and the consequences of making such an election.

Timetable:

Action	Date	FR Cite
NPRM	06/09/89	
NPRM Comment Period End	08/09/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-50-87

Drafting attorney: Matthew B. Krasner (202) 566-3430.

Reviewing attorney: Barry L. Isaacs (202) 566-3544.

Treasury attorney: Jud Kelly (202) 566-2175.

Agency Contact: Matthew B. Krasner, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545–AK31

2232. ● TREATMENT OF AN AFFILIATED GROUP OF CORPORATIONS AS A SELLING CONSOLIDATED GROUP FOR PURPOSES OF ELECTIVE RECOGNITION UNDER SECTION 338 (2)(10)

Legal Authority: 26 USC 7805; 26 USC 338

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the guidance for making elections under section 338 (h)(10) when the selling group is an affiliated group

of corporations which does not file a consolidated Federal income tax return and the consequences of making such election.

Timetable:

Action	Date	FR Cite
NPRM	06/09/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-50-87

Drafting Attorney: Matthew B. Krasner (202) 566-3430.

Reviewing Attorney: Barry L. Isaacs (202) 566-3544.

Treasury Attorney: Jud Kelley (202) 566-2175.

Income Tax

Agency Contact: Matthew B. Krasner, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545–AM49

2233. ● SECTION 361 OUTBOARD TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-084-89

Drafting attorney: Elizabeth U. Karzon (202) 566-3180.

Reviewing attorney: Charles Saverude (202) 566-6645.

Treasury attorney: Mary Bennett (202) 566-3992.

13 Income taxes.

Agency Contact: Elizabeth U. Karzon, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3160

RIN: 1545–AM97

2234. FOREIGN LIQUIDATIONS AND REORGANIZATIONS (NPRM)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 7

Legal Deadline: None

Abstract: Proposal would provide guidance concerning requirements relating to certain exchanges involving a foreign corporation.

Timetable:

Action	Date	FR Cite
NPRM	04/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-988-86

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Bernard Bress (202) 566-6440.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AJ78

2235. CORPORATE REORGANIZATION AMENDMENTS - BANKRUPTCY TAX ACT OF 1980

Legal Authority: 26 USC 354 Internal Revenue Code of 1986; 26 USC 355 Internal Revenue Code of 1986; 26 USC 357 Internal Revenue Code of 1986; 26 USC 358 Internal Revenue Code of 1986; 26 USC 361 Internal Revenue Code of 1986; 26 USC 362 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance with respect to amendments to the Internal Revenue Code by the Bankruptcy Tax Act of 1980, dealing with bankruptcy and other insolvency reorganizations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-74-87.

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: Barry Isaacs (202) 566-3544.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AK33

2236. INCOME TAX–LIMITATION ON CORPORATE NET OPERATING LOSS DEDUCTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will explain and illustrate the limitations provided under section 382 of the Internal Revenue Code of 1986 on a corporation's use of net operating loss carryovers.

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Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-103-86.

Drafting attorney: Keith Stanley (202) 566-3367.

Reviewing attorney: Charles M. Whedbee (202)566-3280.

Treasury attorney: Thomas Wessel (202) 566-2927.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AI99

2237. COMPUTATION OF SECTION 382 LIMITATION

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would explain the manner and method of computing the section 382 limitation under circumstances when there are successive ownership changes, capital contributions, mergers and liquidations, and in instances when one corporation controls another corporation.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-67-87

Drafting attorney: Keith E. Stanley (202) 566-3367.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Thomas Wessel (202) 566-2928.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AK27

2238. SPECIAL LIMITATIONS ON CERTAIN CREDIT AND LOSS CARRYOVERS

Legal Authority: 26 USC 383 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would specify the manner and method on applying the special limitations on certain credit and loss carryovers under section 383.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	
NPRM Comment Period End	08/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-69-87

Drafting attorney: Lori Jones (202) 566-3205.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Lori Jones, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3205

RIN: 1545–AK26

2239. ● LIMITATION ON USE OF PREACQUISITION LOSSES TO OFFSET BUILT-IN GAINS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 384 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are intended to provide guidance concerning the application of section 384 of the Internal Revenue Code. This section limits a Corporation's ability to offset gains that accrued prior to a merger or acquisition against pre-acquisition losses of a second Corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-99-88

Drafting Attorney: Robert M. Casey (202) 566-3551.

Reviewing Attorney: Glenn Carrington (202) 566-3430.

Income Tax: Corporate adjustment and distribution.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AM48

2240. DEFINED BENEFIT PLAN TERMINATIONS AND THE REVERSION OF ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations describe when, in fact, a defined benefit pension plan has been terminated so as to permit reversion to the employer of excess assets.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-106-83.

Drafting attorney: Steven T. Miller (202) 566-4503.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Treasury attorney: Harry Conaway (202) 566-8277.

Agency Contact: Steven T. Miller, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4503

RIN: 1545–AF81

2241. INCOME TAX - - PART 1– ADDITIONAL PARTICIPATION REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(26) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
02/01/88 Deadline for final regulations

Abstract: The regulations set forth rules relating to minimum participation requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/14/89	54 FR 6710
NPRM Comment Period End	04/17/89	54 FR 6710
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-44-87

Drafting attorney: Nancy J. Marks (202) 343-6954.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Agency Contact: Nancy J. Marks, Technical Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 343-6954

RIN: 1545–AK46

2242. ● NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(4) Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation is intended to provide guidance concerning the application of sections 401(a)(4) and 410(b) of Internal Revenue Code. These sections require tax-qualified pension plans to meet certain nondiscrimination requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-61-88

Drafting attorney: Rebecca Wilson (202) 566-3551.

Reviewing attorneys: Richard Wickersham and Nancy Marks

(202) 343-6954.

Agency Contact: Rebecca S. Wilson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AM95

2243. NONDISCRIMINATION AND OTHER RULES APPLICABLE TO SECTION 403(B) ANNUITIES

Legal Authority: 26 USC 403 (b) (10) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.

Abstract: The regulations will provide guidance regarding the nondiscrimination and other rules applicable to tax- sheltered section 403(b) annuities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-163-86

Drafting attorney: Nancy J. Marks (202) 343-6954.

Treasury Attorney: Priscilla Ryan (202) 566-5453.

Agency Contact: Nancy Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-6954

RIN: 1545–AI90

2244. INCOME TAX–EMPLOYEE STOCK OWNERSHIP PLAN LOAN PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 404 (a) (9) Internal Revenue Code of 1986; 26 USC 415 (c) (6) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the deduction limitations when employer contributions to an employee stock ownership plan are used to repay the principal and interest of an exempt loan that was made to the employee stock ownership plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-152-81.

Drafting attorney: Michael Gompertz (202) 566-4530.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Agency Contact: Michael Gompertz, Technical Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4530

RIN: 1545–AD77

2245. INCOME TAX–REQUIREMENTS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS, EMPLOYEE PLAN CREDIT, AND DEFINED CONTRIBUTION PLAN VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986; 26 USC 401 Internal Revenue Code of 1986; 26 USC 6699 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for electing the employee plan credit under section 46 of the Internal Revenue Code, establishing a tax credit employee stock ownership plan under section 409 of the Internal Revenue Code and providing voting rights to participants of certain defined contribution plans under section 401(a)(22) of the Internal Revenue Code. Further, the regulations provide guidance for determining the applicability of and calculating the assessable penalties relating to tax credit employee stock ownership plans under section 6699 of the Internal

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Revenue Code. The regulations reorganize and modify the current regulations which are based on section 301(d), (e), and (f) of the Tax Reduction Act of 1975, and provide a single set of rules that would apply to tax credit employee stock ownership plans established under the provisions of the Tax Reduction Act of 1975 and the 1976 Revenue Act.

Timetable:

Action	Date	FR Cite
NPRM	07/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-49-80.

Drafting attorney: John T. Ricotta (202) 566-4747.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8277.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AD82

2246. INC. TAX -- PART 1; ESTATE TAX -- PART 20, EMPLOYEE STOCK OWNERSHIP PLAN RULES AFFECTED BY TRA 1986

Legal Authority: 26 USC 409 Internal Revenue Code of 1986; 26 USC 401 (a) (28) Internal Revenue Code of 1986; 26 USC 401 (a) (23) Internal Revenue Code of 1986; 26 USC 133 Internal Revenue Code of 1986; 26 USC 404 (k) Internal Revenue Code of 1986; 26 USC 2057 Internal Revenue Code of 1986; 26 USC 1042 Internal Revenue Code of 1986; 26 USC 2210 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 20

Legal Deadline: None

Abstract: The proposed regulations would set forth requirements for the tax qualification of ESOPs and for various ESOP tax incentives.

Timetable:

Action	Date	FR Cite
NPRM	07/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-164-86

Drafting attorney: John Ricotta (202) 566-4747.

Reviewing attorney: Michael Thrasher (202) 566-3576.

Treasury attorney: Harry Conaway (202) 566-8277.

Agency Contact: John Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI67

2247. COVERAGE RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.

Abstract: Rules relating to minimum coverage requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-128-86

Drafting attorney: Nancy J. Marks (202) 343-6954.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-8277.

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 343-6954

RIN: 1545–AK41

2248. ● SPECIAL RULES IN MERGER AND ACQUISITION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986; 26 USC 401(a)(4) Internal Revenue Code of 1986; 26 USC 401(a)(26) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are intended to provide special rules for employee plans in mergers and acquisitions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-26-88

Drafting attorney: Richard M. Lent (202) 566-3774.

Reviewing attorney: Richard Wickersham (202) 566-4621.

Income Tax: Pension, Profit-Sharing, Stock Bonus Plans

Agency Contact: Richard Lent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3774

RIN: 1545–AM94

2249. REVISING THE DRAFTING OF THE FULL FUNDING LIMITATION FOR PURPOSES OF THE MINIMUM FUNDING REQUIREMENT FOR PENSION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 412 (c) (7) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, August 5, 1988.

Abstract: This project will interpret the new full funding limitation on deductible contributions to pension plans.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-62-88

Drafting attorney: Heather Wiseman (202) 566-6260.

Reviewing attorney: Richard Wickersham (202) 566-4621.

Treasury attorney: Harry Conaway (202) 566-8277.

Agency Contact: Heather Wiseman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6260

RIN: 1545–AL53

2250. DEFINITION OF LINE OF BUSINESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414 (r) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.

Abstract: Internal Revenue Code section 414 (r) defines line of business for purposes of applying the coverage requirements under section 410 (b) and the nondiscrimination requirements for certain employee benefit plans under section 89.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-144-87

Drafting attorney: Rhonda G. Migdail (202) 566-4747.

Reviewing attorney: Richard Wickersham (202) 566-4621.

Treasury attorney: Priscilla Ryan (202) 566-5435.

Agency Contact: Rhonda G. Migdail, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AL23

2251. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Legal Authority: 26 USC 419 Internal Revenue Code of 1986; 26 USC 419A Internal Revenue Code of 1986; 26 USC 1239 (d) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the treatment of contributions made by an employer to a welfare benefit plan.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-66-84.

Drafting attorney: Mark Schwimmer (202) 566-3155.

Reviewing attorney: Colene Mason (202) 566-4741.

Treasury attorney: Harry Conaway (202) 566-8277.

Agency Contact: Mark Schwimmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3155

RIN: 1545–AG14

2252. INC. TAX--PART 1--AMENDMENT OF SECTION 1.442-1 TO PROVIDE SIMPLIFIED PROCEDURES FOR CHANGES OF ANNUAL ACCOUNTING PERIOD BY CERTAIN EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 442 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Revenue Procedure 65-58 provides change of accounting period approval procedures for exempt organizations. It substantially simplifies the former procedures in Revenue Procedure 76-9. The regulations under section 1.442-1 will be amended to reflect Revenue Procedure 65-58.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-06-86.

Drafting attorney: Suzanne K. Tank (202) 566-3060.

Reviewing attorney: Paul G. Accettura (202) 566-6478.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Suzanne Ross McDowell (202) 566-8278

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3060

RIN: 1545–AI68

2253. BLOCKED INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Computation of income subject to currency or exchange restrictions.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-586-86

Drafting attorney: Charles T. Plambeck (202) 634-5406.

Reviewing attorney: Robert A. Katcher (202) 634-5406.

Treasury attorney: Peter Barnes (202) 566-5812.

13 Income Taxes.

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202-634-5406

RIN: 1545–AL85

2254. INCOME TAX -- GAIN OR LOSS ON THE DISPOSITION OF AN INSTALLMENT OBLIGATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain or loss upon the disposition of an installment obligation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

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Government Levels Affected: None

Additional Information: IA-103-81.

Drafting attorney: Michael J. Grace (202) 566-6460.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-6460**

RIN: 1545–AB41

2255. INCOME TAX–INSTALLMENT SALES BETWEEN RELATED PARTIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting installment sales between related parties.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-2-81.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 377-9581**

RIN: 1545–AB45

2256. INCOME TAX–INSTALLMENT SALES REVISION ACT OF 1980, REGULATIONS RELATING TO WRAP-AROUND MORTGAGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide regulations for reporting sales of property under a wrap-around mortgage arrangement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-147-82.

Drafting attorney: Paulette C. Galanko (202) 566-3731.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Ellen Aprill (202) 566-5953.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3731**

RIN: 1545–AB46

2257. INCOME TAX REGULATIONS–PART I. INSTALLMENT SALES BY NONTAXABLE ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to installment sales by nontaxable entities and the election provision by foreign personal holding companies.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-143-83.

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Agency Contact: James D. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3637**

RIN: 1545–AF73

2258. INCOME TAX REGULATIONS–PART 1–SPECIAL RULES RELATING TO INSTALLMENT OBLIGATIONS THAT ARE READILY TRADABLE OR PAYABLE ON DEMAND

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to installment obligations that are readily tradable or payable on demand.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-54-84.

Drafting attorney: Robert N. Deitz (202) 377-9582.

Reviewing attorney: George Wright (202) 377-9587.

Agency Contact: Robert N. Deitz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 377-9582**

RIN: 1545–AG37

2259. INCOME TAX – DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 457 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Internal Revenue Code section 457 provides an exclusion from gross income, in the case of a participant in an eligible deferred compensation plan, for any amounts deferred under the plan and any income attributable to the amounts attributable to the amounts so deferred.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-166-86

Drafting attorney: Brant Goldwyn (202) 566-3060.

Reviewing attorney: A. Thomas Brisendine (202) 566-3060.

Treasury attorney: Harry Conaway (202) 566-8277.

Agency Contact: Brant Goldwyn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3060**

RIN: 1545–AI89

2260. ACCOUNTING FOR LONG-TERM CONTRACTS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to accounting for costs incurred in the performance of long-term contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-130-86

Drafting attorney: Paulette C. Galanko (202) 566-4941.

Reviewing attorney: John M. Fischer (202) 566-8131.

Treasury attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, **202 566-4941**

RIN: 1545–AJ28

2261. INCOME TAX REGULATIONS–THE ECONOMIC PERFORMANCE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 461 (h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance relating to when economic performance occurs with respect to a liability and how the recurring item exception applies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-258-84.

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury attorney: Kathleen Ferrell (202) 566-5453.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3294**

RIN: 1545–AH32

2262. EXTENSION OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers with respect to the extension of the at-risk rules to all activities other than the holding of real property. The regulations would also provide guidance with respect to the exception to the at-risk rules for closely-held corporations actively engaged in equipment leasing, and the recapture provision.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-192-78.

Drafting attorney: Charles Alton (202) 566-6415.

Reviewing attorney: William P. O'Shea (202) 566-3244.

Treasury attorney: John H. Parcell (202) 535-6965.

Agency Contact: Charles Alton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-6415**

RIN: 1545–AF86

2263. AGGREGATION OF CERTAIN ACTIVITIES FOR PURPOSES OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity to the amount the taxpayer is at risk in the activity.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-108-85.

Drafting attorney: Jeffrey C. Golden (202) 566-6016.

Reviewing attorney: Frances D. Schafer (202) 566-3629.

Treasury attorney: John H. Parcell (202) 535-6965.

Agency Contact: Jeffrey C. Golden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-6016**

RIN: 1545–AI02

2264. APPLICATION OF AT-RISK LIMITATIONS TO THE HOLDING OF REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986; 26 USC 752 Internal Revenue Code of 1986; 26 USC 46 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will explain the application of the at risk limitations to the activity of holding real property

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and the exception for qualified nonrecourse financing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-124-86.

Drafting attorney: John Kramer (202) 377-9665.

Reviewing attorney: Michael J. Grace (202) 566-6460.

Treasury attorney: John H. Parcell (202) 535-6965.

Agency Contact: John Kramer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9665

RIN: 1545–AK08

2265. TEMPORARY INCOME TAX REGULATIONS-DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 467 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: The regulations will provide rules to the accrual of rents for the use of tangible property (and interest on rent that accrues but is not paid) under a section 467 rental agreement. A section 467 rental agreement will be defined. Certain tax avoidance transactions will be defined. Rules will be provided for the recapture of prior understated inclusions. Comparable rules for services will be provided.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-292-84.

Drafting attorney: Sharon L. Hall (202) 566-4811

Treasury attorney: Reed Shuldiner (202) 566-2175.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4811

RIN: 1545–AG81

2266. ● LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS - DEFINITION OF ACTIVITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T; 26 CFR 1.469-1T; 26 CFR 1.469-2T; 26 CFR 1.469-3T; 26 CFR 1.469-4T; 26 CFR 1.469-5T; 26 CFR 1.469-11T

Legal Deadline: None

Abstract: Pursuant to the grant of authority in section 469(l), the regulations will define "activity".

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-001-89

Drafting attorney: Robert Stoddart (202) 566-4543.

Reviewing attorney: Michael J. Grace (202) 566-4543.

Treasury attorney: John H. Parcell (202) 535-6965.

Income Taxes

Agency Contact: Robert Stoddart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4543

RIN: 1545–AM88

2267. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 474 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to certain small businesses that are eligible to elect a simplified dollar- value LIFO method of inventory valuation. This method requires the use of published government indexes.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	
Temporary Regulation	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-31-87

Drafting attorney: Richard O. Davis (202) 343-2383.

Reviewing attorney: Eric Pleet (202) 566-3261.

Treasury accountant-advisor: Marc Levy (202) 535-6966.

Agency Contact: Richard O. Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2383

RIN: 1545–AK64

2268. INCOME TAX–UNRELATED TRADE OR BUSINESS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 512 (a) Internal Revenue Code of 1986; 26 USC 514 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the issue of what constitutes real property acquired by a qualified trust The guidance provided on this issue will determine the scope of the exception under 26 USC 514(c)(9) for such acquisitions from the term acquisition indebtedness. Under 26 USC 514, the existence of such indebtedness on income producing property gives rise to unrelated debt-financed taxable income. The regulation will also address the issue of the proper allocation method to determine fixed indirect expenses connected with the unrelated trade or business use of an exempt organization's property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-27-81.

Drafting attorney: Monice Rosenbaum (202) 566-3505.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3505

RIN: 1545–AE00

2269. REPEAL OF BAD DEBT RESERVE METHOD: FOREIGN ISSUES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will address issues applicable to international banks in recapturing bad debt reserves as required by the Tax Reform Act.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-974-86

Drafting attorney: Charles T. Plambeck (202) 634-5406.

Reviewing attorney: Carolyn M. Dupuy (202) 634-5406.

Treasury attorney: Unassigned.

13 Income Taxes.

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AL83

2270. TREATMENT OF FORECLOSED PROPERTY BY CERTAIN CREDITORS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 595 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulation would amend the existing regulations relating to the treatment of amounts realized and expended with respect to property securing loans which have been foreclosed on by certain banks.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-083-82.

Drafting attorney: Susan E. Overlander (202) 566-3458.

Reviewing attorney: Alice M. Bennett (202) 566-3287.

Agency Contact: Susan E. Overlander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AF00

2271. INCOME TAX–RESTORATION OF DEPLETION DEDUCTIONS ON BONUS AND ADVANCED ROYALTIES IN CERTAIN CASES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 612 Internal Revenue Code of 1986; 26 USC 613 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the restoration of depletion deductions on bonuses and advanced royalties and the deferment of the exclusion of advanced royalties from gross income from the property.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-148-71.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AB69

2272. PROPERTY DISTRIBUTED IN KIND AND TREATMENT OF MULTIPLE TRUSTS (SEC: 81 AND 82 OF THE TAX REFORM ACT OF 1984)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 643 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax consequences when property is distributed in kind from a trust or estate, including rules specifying what gain is recognized upon distribution, who recognizes such gain, and what the basis of the distributed property is in the hands of the distributee. The regulations also explain election rules available to the distributing trust or estate. The regulations also explain rules under which certain multiple trusts will be treated as a single trust.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-34-85.

Drafting attorney: Carol E. Schultze (202) 566-3625.

Reviewing attorney: Thomas J. Hines (202) 566-6813.

Agency Contact: Carol E. Schultze, Attorney, Department of the Treasury, Infernal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3625

RIN: 1545–AI06

2273. CLARIFICATION OF SECTION 1.643 (A) (3) RELATING TO THE INCLUSION OF CAPITAL GAIN IN DISTRIBUTABLE NET INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 643 (a) (3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will revise rules specifying when capital gains will be included in distributable net income.

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Timetable:

Action	Date	FR Cite
NPRM	08/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-148-85.

Drafting attorney: Richard H. Smith, Jr. (202) 343-8558.

Reviewing attorney: Arthur H. Ernst (202) 566-3158.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Richard H. Smith, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-8558

RIN: 1545–AI31

2274. ● ACCUMULATION TRUSTS

Legal Authority: 26 USC 667 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.667(a); 26 CFR 1.641; 26 CFR 1.643; 26 CFR 1.652; 26 CFR 1.661; 26 CFR 1.666; 26 CFR 1.668

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 provides for a new method of computing the tax on distributions of income accumulated by a trust in prior years. The new method, in effect, determines the tax attributable to an accumulation distribution by averaging the distribution over the number of years during which the income was earned by the trust. This is accomplished by including, for purposes of tentative computations, a fraction of the income received from the trust in the beneficiaries' income for 3 of the 5 preceding years. Those 3 years are determined by taking from the 5 preceding years the year with the highest taxable income and the year with the lowest. The fraction of the income included in each of the 3 years is based upon the number of years during which the income is accumulated by the trust. The average yearly additional tax determined by recomputing the tax for the 3 years is then multiplied by the number of years during which the distribution was accumulated. The resulting tax so computed may be offset by a credit for any taxes previously paid by the trust with respect to the accumulated income. (Cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-184-76

Drafting attorney: James F. Hogan (202) 566-3502.

Reviewing attorney: Tom Hines (202) 566-6813.

Treasury attorney: Susan Himes(202) 566-8527.

"ABSTRACT CONT": Any remaining tax liability is then due and payable in the same year as the tax on the beneficiary's other income in the year of the distribution.

Estates and Trusts

Agency Contact: James F. Hogan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3502

RIN: 1545–AM78

2275. INCOME TAXATION OF TRUSTS AND ESTATES

Legal Authority: 26 USC 645 Internal Revenue Code of 1986; 26 USC 672 Internal Revenue Code of 1986; 26 USC 673 Internal Revenue Code of 1986; 26 USC 6654 (k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding taxable years of trusts and estates, taxation of grantor trusts, and payment of estimated tax by trusts.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-108-86.

Drafting attorney: Richard H. Smith, Jr. (202) 343-8558.

Reviewing attorney: Arthur H. Ernst (202) 566-3158.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Richard H. Smith, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-8558

RIN: 1545–AJ20

2276. ALLOCATIONS OF INCOME GAIN, LOSS, AND DEDUCTION WITH RESPECT TO PROPERTY CONTRIBUTED TO A PARTNERSHIP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules and examples relating to the requirement to allocate income, gain, loss, and deduction so as to take into account the variation between the basis of the property and its fair market value at the time of contribution.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-164-84.

Drafting attorney: Claire E. Toth (202) 566-3830.

Reviewing attorney: John B. Bromell (202) 566-4320.

Treasury attorney: Greg Marich (202) 566-4979.

Agency Contact: Claire E. Toth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3830

RIN: 1545–AG98

2277. INCOME TAX–ITEMS ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706 (d) Internal Revenue Code of 1986; 26 USC 704 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the methods to be used for allocating partnership items to partners whenever a partner's interest varies during the partnership taxable year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-265-76.

Drafting attorney: Donna K. Douglas (202) 566-4543.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Treasury attorney: Greg Marich (202)566-2927.

Agency Contact: Donna Douglas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4543

RIN: 1545–AB81

2278. INCOME TAX–TREATMENT OF PAYMENTS TO PARTNERS NOT ACTING IN THEIR CAPACITY AS PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 707 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to taxpayers relating to the treatment of certain allocations and distributions to partners for services and transfers of property where the partner is not acting in his capacity as a partner.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-234-84.

Drafting attorney: David R. Haglund (202) 343-8459.

Reviewing attorney: John B. Bromell (202) 566-4320.

Treasury attorney: Greg Marich (202) 566-4979.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-8459

RIN: 1545–AG83

2279. AMENDMENT OF INCOME TAX REGULATIONS WITH RESPECT TO TREATMENT OF DISGUISED SALES BY PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 707 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for determining when partnership transactions are to be treated as disguised sales.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-163-84.

Drafting attorney: David R. Haglund (202) 343-8459.

Reviewing attorney: John B. Bromell (202) 566-4320.

Office of Tax Legislative Counsel (Treasury) reviewing Treasury attorney: Greg Marich (202) 566-4979.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-8459

RIN: 1545–AH22

2280. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED RECEIVABLES, INVENTORY ITEMS OR CAPITAL LOSS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 724 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the character of gain or loss upon the disposition by a partnership of unrealized receivables, inventory items or capital loss property contributed to the partnership by a partner.

Timetable:

Action	Date	FR Cite

Next Action Undetermined.

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-232-84.

Drafting attorney: Noah S. Baer (202) 566-3622.

Reviewing attorney: Thomas S. Hines (202) 566-6813.

Income Tax

Agency Contact: Noah S. Baer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3622

RIN: 1545–AG85

2281. FOREIGN INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 842 Internal Revenue Code of 1986; 26 USC 864(c)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will prescribe rules for determining income effectively connected with the conduct of an insurance business in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-024-88

Drafting attorney: Philip L. Garlett (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: Philip L. Garlett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AL82

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2282. INCOME TAX REGULATIONS--DISCOUNTING OF UNPAID LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 846 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the discounting of unpaid losses of property and casualty insurance companies. It is anticipated that the regulations will provide guidance with respect to the treatment of salvage and subrogation and the use of a company's loss payment pattern.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-139-86.

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Joe Ryals (202) 566-3459.

Agency Contact: **Bill Blagg**, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, **202 566-3294**

RIN: 1545–AJ51

2283. ● TREATMENT OF CERTAIN LOSSES ATTRIBUTABLE TO PERIODS AFTER OCTOBER 31 OF A TAXABLE YEAR OF A REGULATED INVESTMENT COMPANY

Legal Authority: 26 USC 852 (b) (3) Internal Revenue Code of 1986; 26 USC 852 (b) (8) Internal Revenue Code of 1986; 26 USC 852 (c) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide rules relating to certain losses attributable to periods after October 31 of a taxable year of a regulated investment company for purposes of determining taxable income, earnings and profits, and the amount which may be designated as capital gain dividends for a taxable year.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-105-88

Drafting attorney: Lauren G. Shaw (202) 566-3828.

Reviewing attorney: William E. Coppersmith (202) 566-3336.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Regulated Investment Companies

Agency Contact: **Lauren G. Shaw**, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3828**

RIN: 1545–AM55

2284. INCOME TAX--ESSENTIAL ISSUES RELATING TO REAL ESTATE MORTGAGE INVESTMENT CONDUITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 860E Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide guidance on real estate mortgage investment conduits, a new entity established to clarify the tax treatment of investment in real estate mortgages and mortgage backed securities.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-88-86.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3458.

Reviewing attorney: Tom Lyden (202) 566-3827.

Treasury attorney: Reed Shuldiner (202) 566-2175.

Agency Contact: **Laura Ann M. Lauritzen**, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, **202 566-3458**

RIN: 1545–AJ35

2285. ● INCOME TAX--REAL ESTATE MORTGAGE INVESTMENT CONDUITS (REMICS); REPORTING REQUIREMENTS AND OTHER ADMINISTRATIVE MATTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 860G Internal Revenue Code of 1986; 26 USC 1275(c) Internal Revenue Code of 1986; 26 USC 6049(d)(7)(D) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance on how to elect REMIC status, and the reporting requirements on REMICs and brokers or middlemen holding as nominees for the actual owner.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-8-89

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3458.

Reviewing attorney: Tom Lyden (202) 566-3267.

Treasury attorney: Reed Shuldiner (202) 566-2175.

Income Tax

Agency Contact: **Laura Ann M. Lauritzen**, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3458**

RIN: 1545–AM99

2286. TRANSPORTATION INCOME SOURCE RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the source of income attributable to transportation which begins or ends in the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-947-86

Drafting attorney: Patricia A. Bray (202) 566-6645.

Reviewing attorney: Phyllis Marcus (202) 566-6645.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income taxes

Agency Contact: **Patricia A. Bray**, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-6645**

RIN: 1545–AJ68

2287. PROPOSED INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986 -- SOURCE OF INCOME RULES FOR INCOME DERIVED FROM SPACE AND OCEAN ACTIVITIES INCLUDING TELECOMMUNICATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863(d) Internal Revenue Code of 1986; 26 USC 863(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance relating to determining the source of income derived from space, and certain ocean activities (excluding mining within the continental shelf.) The regulation will also provide guidance on determining the source of income derived from international telecommunications activities.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-949-86

Drafting attorney: Joseph M. Rosenthal (202) 566-3672.

Reviewing attorney: Benedetta Kissel (202) 566-3179.

Treasury attorney: David Crowe (202) 566-8275.

13 Income taxes.

Agency Contact: **Joseph M. Rosenthal**, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3872**

RIN: 1545–AJ84

2288. ALLOCATION OF GROSS INCOME ATTRIBUTABLE TO INTEREST RATE SWAPS UNDER SECTION 863 (A)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides source rules for income and expense attributable to interest rate swap agreements. Interest rate swap agreements are basically agreements used to hedge agreement interest rate fluctuation.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-773-87

Drafting attorney: Charles T. Plambeck (202) 634-5406.

Reviewing attorney: Bob Katcher (202) 634-5406.

Treasury attorney: Peter Daub (202) 566-5991.

13 Income Taxes

Agency Contact: **Charles T. Plambeck**, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 634-5406**

RIN: 1545–AL25

2289. ● TREATMENT OF DEFERRED PAYMENTS AND APPRECIATION ARISING OUT OF BUSINESS CONDUCTED WITHIN THE US

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the treatment of certain deferred payments and property transactions in sourcing effectively connected income.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-662-88

Drafting attorney: Emerson G. Yearwood (202) 566-3490.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: **Emerson G. Yearwood**, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3490**

RIN: 1545–AM53

2290. SOURCE RULES FOR PERSONAL PROPERTY SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 865 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the source of income from sales of personal property. The regulation will set forth rules for sales by U.S. residents and non-residents and specify special rules for depreciable personal property, intangibles, sales connected with an office or other fixed place of business, and sales of a foreign affiliate by a U.S. corporation.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-946-86

Drafting attorney: Carol P. Tello (202) 634-5404.

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Reviewing attorney: Robert E. Culbertson (202) 634-5404.

Treasury attorney: Mary Bennett (202) 566-2964.

13 Income Texes.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AJ83

2291. EMPLOYMENT TAXES—APPLICATION OF REPEAL OF 30 PERCENT WITHHOLDING BY TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 35a

Legal Deadline: None

Abstract: Notice of proposed rulemaking by cross-reference to temporary regulations providing rules enforcing the exclusion from portfolio interest treatment of interest received by certain related parties.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-920-87

Drafting attorney: Carl M. Cooper (202) 634-5406.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2964.

13 Employment taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AM30

2292. INCOME TAX - RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 883 Internal Revenue Code of 1986; 26 USC 872 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-948-86

Drafting attorney: Patricia A. Bray (202) 566-6645.

Reviewing attorney: Phyllis E. Marcus (202) 566-6645.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income taxes.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AJ57

2293. EXCLUSION OF POSSESSION SOURCE INCOME FROM GROSS INCOME OF CERTAIN INDIVIDUALS AND TREATMENT OF CORPORATIONS ORGANIZED IN GUAM, SAMOA OR CNMI

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 876 Internal Revenue Code of 1986; 26 USC 881 Internal Revenue Code of 1986; 26 USC 931 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 eliminates the requirement that there be a mirrored system of taxation in Guam and the CNMI, and coordinates the tax system of these possessions and of American Samoa with the U.S. tax system. Guam the CNMI and American Samoa are granted full authority over their own local income tax systems, with respect to income of bona fide residents sourced within or effectively connected with the conduct of a trade or business within any of these possessions. This grant of authority is effective, however, only if and so long as an implementing agreement is in effect between the possession at issue and the United States which provides for elimination of double taxation, prevention of evasion or avoidance of U.S. tax exchange of information and other administrative matters. Regulations are needed to clarify who qualifies as a bona fide resident and to determine sourcing rules.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-968-86

Drafting attorney: Lilo A. Hester (202) 287-4851.

Reviewing attorney: Michael Patton (202) 287-4851.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ80

2294. UNTIMELY FILING BY FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules regarding deductibility of expenses by a foreign corporation that does not file a timely tax return.

Timetable:

Action	Date	FR Cite
NPRM	04/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-74-86

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Bernard Bress (202) 566-6440.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AJ74

2295. COMPUTATION OF INTEREST EXPENSE DEDUCTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 882 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will revise the rules for the computation of the interest expense deduction of a foreign corporation.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-309-88

Drafting attorney: Charles T. Plambeck (202) 634-5406.

Reviewing attorney: Robert A. Katcher (202) 634-5406.

Treasury attorney: Chisoon Lee (202) 566-4979.

13 Income Taxes.

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C., 202 634-5406

RIN: 1545–AL84

2296. INCOME TAX -- PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897(g) Internal Revenue Code of 1986; 26 USC 897(e)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide rules for foreign partners disposing of an interest in a partnership holding United States real property interests, to determine the amount of gain or loss from such disposition for purposes of section 897(a).

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-384-88

Drafting attorney: James Sams (202) 634-5404.

Reviewing attorney: Robert Culbertson (202) 634-5404.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: James Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AL77

2297. DEEMED PAID CREDIT UNDER SECTIONS 902 AND 960 DETERMINED ON ACCUMULATED BASIS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 902 (c)(7) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will modify the existing regulations to reflect changes in the computation of the indirect credit under the 1986 Act. The regulations will incorporate a pooling mechanism (rather than year-by-year) and will also reflect the separate basket computations under section 904(d).

Timetable:

Action	Date	FR Cite
NPRM	12/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-933-86

Drafting attorney: Kenneth Wood (202) 566-6276.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: Kenneth Wood, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6276

RIN: 1545–AL98

2298. CARRYBACK AND CARRYFORWARD OF FOREIGN TAX CREDITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding the carryback and carry forward of excess foreign tax credits under the provisions of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-945-86

Drafting attorney: Eli J. Dicker (202) 566-3490.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2964.

13 Income Taxes.

Agency Contact: Eli J. Dicker, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AM18

2299. ● SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the impact of the Technical Corrections and Miscellaneous Revenue Act of 1988

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on section 904(d), the foreign tax credit limitation.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-790-88

Drafting attorney: Caren S. Shein (202) 566-3490.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AM54

2300. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904 (f) by adding paragraph (5) at the end thereof which requires that foreign source losses with respect to any income category first offset a taxpayer's other foreign source income before such losses offset the taxpayer's U.S. source income. The regulation will provide rules for the allocation of foreign source losses.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-370-88

Drafting attorney: Willard W. Yates (202) 566-3896.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: Willard Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3896

RIN: 1545–AM11

2301. TREATMENT OF SHAREHOLDERS OF PASSIVE FOREIGN INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to the treatment of shareholders of passive foreign investment companies.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-656-87

Drafting attorney: Gayle Novig (202) 634-5404.

Reviewing attorney: T. Timothy Tuerff (202) 566-5896.

Treasury attorney: Mary Bennett (202) 566-5992.

Income Taxes.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AC06

2302. ● SUSPENSION OF REQUIREMENT TO FILE A RECEIPT FOR FOREIGN TAXES PAID ON A RETURN FOR FOREIGN TAXES ACCRUED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the suspension of the requirement to file a receipt for foreign taxes paid or a return for foreign taxes accrued.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-357-88

Drafting Attorney: Thomas D. Fuller (202) 634-5404.

Reviewing Attorney: Thomas D. Fuller (202) 634-5404.

Treasury Attorney: Unassigned.

13 Income Taxes.

Agency Contact: Thomas D. Fuller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AM43

2303. AMENDMENT OF REGULATIONS UNDER SECTION 907 OF THE INTERNAL REVENUE CODE OF 1954 TO CONFORM THEM TO SECTION 211 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 907 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would amend the regulations under section 907 of the Internal Revenue Code of 1954, relating to the foreign tax credit for taxes on oil and gas income, to conform them to section 211 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3083
NPRM Comment Period End	04/24/89	54 FR 3083
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-152-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Charles C. Saverude (202) 566-6645.

Treasury attorney: Peter Barnes (202) 566-8275.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AE34

2304. COORDINATION OF U.S. AND VIRGIN ISLANDS TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Prior to the Tax Reform Act of 1986, inhabitants of the Virgin Islands satisfied their U.S. tax liability by filing a return with the Virgin Islands. The Tax Reform Act of 1986 repealed the inhabitant rule to correct an erroneous interpretation of its operation in connection with the Virgin Islands mirror code. Section 1274 of the Tax Reform Act of 1986 clarifies the filing obligations of individuals in the Virgin Islands. Bona fide residents of the Virgin Islands are required to file only one return with the Virgin Islands in which they report worldwide income and identify the sources of income from the Virgin Islands will be required to file two identical tax returns one with the US and one with the Virgin Islands and pay a pro rata amount of tax to each. Regulations are needed to clarify who qualifies as a bona fide resident. It is anticipated that the regulations will provide a facts and circumstances test for determining bona fide resident status. It is unknown what the operational costs will be.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-969-86

Drafting attorney: Grace Perez-Navarro (202) 287-4851.

Reviewing attorney: Michael Patton (202) 287-4851.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Grace Perez-Navarro, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW, Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ55

2305. ● REGULATIONS UNDER SECTION 932(B)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address United States residents earning income in the Virgin Islands and the United States.

Timetable:

Action	Date	FR Cite
NPRM	03/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-004-89

Drafting Attorney: John Brady (202) 287-4851.

Reviewing Attorney: George Sellinger (202) 287-4851.

Treasury Attorney: Unassigned.

13 Income Taxes.

Agency Contact: John Brady, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AM89

2306. ● CBI INVESTMENTS OF SECTION 936 FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(d)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Will define investments made in qualified Caribbean Basin countries that gives rise to interests or dividends available for the section 936 credit.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-053-89

Drafting attorney: W. Edward Williams (202) 287-4851.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Chisoon Lee (202) 343-0247.

13 Income taxes.

Agency Contact: W. Edward Williams, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW, Washington, DC 20024, 202 287-4851

RIN: 1545–AM91

2307. AMENDMENT OF SECTION 936(H) WITH RESPECT TO ELECTION OF PRODUCT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936 (h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would require that once a product election was made it could not be amended.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-450-87

Drafting attorney: Patricia A. Bray (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Mary Bennett (202) 566-5992.

13 Income taxes.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AK77

2308. INSURANCE INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 953(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: The regulation defines related person insurance income; sets forth rules exceptions certain foreign corporations from section 953 (a), and sets forth rules regarding the amount of related person insurance income to be included in gross income. In addition, the regulation defines insurance income under section 953 (a), prescribes rules of allocation and apportionment of deductions, and prescribes rules for the interaction of subchapter L and subchapter N.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-939-86

Drafting attorney: Philip L. Garlett (202) 566-6645.

Reviewing attorney: T. Timothy Tuerff (202 566-5896.

Treasury attorney: Peter Barnes (202) 566-5815

13 Income Taxes.

Agency Contact: Philip L. Garlett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AJ70

2309. ● SUBPART F SHIPPING AMENDMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address statutory changes under the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-654-88

Drafting attorney: Christine E. Arquit (202) 566-6645.

Reviewing attorney: Phyllis E. Marcus (202) 566-6645.

Treasury attorney: Unassigned.

13 Income Taxes.

Agency Contact: Christine E. Arquit, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AM46

2310. ● TAX ACCOUNTING ELECTIONS IN COMPUTING EARNINGS AND PROFITS OF FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1988

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will develop procedures for foreign corporations or U.S. shareholders to make tax elections in computing functional currency earnings and profits under the 1986 Code.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-040-89

Drafting attorney: Teresa Hughes (202) 634-5406.

Reviewing attorney: Barbara Felker (202) 634-5406.

Treasury attorney: Unassigned.

13 Income Taxes.

Agency Contact: Teresa Hughes, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 202224, 202 634-5406

RIN: 1545–AM90

2311. SECTION 988(D) - INTEGRATED HEDGING RULES FOR FOREIGN EXCHANGE GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 988 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules regarding fully hedged and partially hedged nonfunctional currency denominated transactions.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-966-86

Drafting attorney: Jeffrey Dorfman (202) 634-5406

Reviewing attorney: Alice Neff (202) 566-6645

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

Agency Contact: Jeffrey Dorfman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AL15

2312. TAXATION OF EXCHANGE GAIN OR LOSS ON FOREIGN CURRENCY DENOMINATED TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 988 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides rules regarding the determination of gain or loss realized on section 988 transactions. Rules regarding the source and character of such gain or loss are also provided. The project also contains a definitional section which defines section 988 transactions, among other terms.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-936-86

Drafting attorney: Jeffrey Dorfman (202) 634-5406.

Reviewing attorney: Alice Neff (202) 566-6645.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes

Agency Contact: Jeffrey Dorfman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AL16

2313. DISC REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Conforming DISC regulations to FSC regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-104-88

Drafting attorney: Peter J. Hanley (202) 566-3499.

Reviewing attorney: Richard L. Chewning (202) 566-6384.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: Peter J. Hanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3499

RIN: 1545–AM05

2314. RULES RELATING TO THE INAPPLICABILITY OF SECTION 1031 TO PARTNERSHIP INTERESTS AND THE LIMITATION ON THE PERIOD DURING WHICH LIKE KIND EXCHANGES MAY BE MADE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance with respect to changes made to section 1031 by the Tax Reform Act of 1984 including the inapplicability of section 1031 to partnership interests and the limitation on the period during which like kind exchanges may be made.

Timetable:

Action	Date	FR Cite
NPRM	07/08/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-237-84.

Drafting attorney: D. Lindsay Russell (202) 343-2381.

Reviewing attorney: John M. Fischer (202) 566-8131.

Treasury attorney: Adam Handler (202) 566-4902.

Agency Contact: D. Lindsay Russell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-2381

RIN: 1545–AH43

2315. INCOME TAX—NOTICE OF PROPOSED RULEMAKING - AMENDMENT OF REGULATIONS RELATING TO BASIS REDUCTIONS FOR NON-TAXED PORTION OF EXTRAORDINARY DIVIDENDS TO REFLECT TRA 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1059 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of the regulations to interpret the rule contained in section 1059 of the Internal Revenue Code of 1954 relating to the non-taxed portion of extraordinary dividends. The regulations will explain what dividends are extraordinary, the operations of the required basis reduction, the application of the holding period rule in section 246 (c), etc.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-260-84.

Drafting attorney: Keith Engel (202) 566-6271.

Reviewing attorney: Peter Lynard (202) 566-6358.

Treasury attorney: Don Rocap (202) 566-8278.

Agency Contact: Keith Engel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6271

RIN: 1545–AH41

2316. INCOME TAX—TAX STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 Internal Revenue Code of 1986; 26 USC 6653 Internal Revenue Code of 1986; 26 USC 263 (g) Internal Revenue Code of 1986; 26 USC 1256 Internal Revenue Code of 1986; 26 USC 1212 Internal Revenue Code of 1986; 26 USC 1236 Internal Revenue Code of 1986; 26 USC 1234A Internal Revenue Code of 1986; 26 USC 1232 Internal Revenue Code of 1986; 26 USC 1221 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide the rules under Title 5 of the Economic Recovery Tax Act of 1981 for tax straddles. These regulations will affect the tax treatment of regulated futures contracts, forward contracts, and positions in commodities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-187-81.

Drafting attorney: James W. C. Canup (202) 566-3287.

Reviewing attorney: David Brandon (202) 566-3287.

Treasury attorney: Kathleen Ferrell (202) 566-2928.

Agency Contact: James W. C. Canup, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545–AC21

2317. INCOME TAX—GAIN FROM SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1248 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would amend existing regulations with respect to the section 1248 amount attributable to stock of lower tier subsidiaries and stock in less developed country corporations. The regulations would also provide rules for determining the section 1248 amount due to certain dispositions on which gain is not recognized. The regulations would also expand the foreign tax credit available with respect to the section 1248 amount attributable to third-tier subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-42-86

Drafting attorney: David Bergkuist (202) 566-6457.

Reviewing attorney: Benedetta Kissel (202) 566-3179.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income taxes.

Agency Contact: David F. Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AC31

2318. GAINS FROM CERTAIN SALES OR EXCHANGES IN CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Cross-reference notice of proposed rulemaking to amend regulations under section 1248 to partially suspend the application of section 1248(e) and to limit the application of section 1248(f) to those situations in which gain is not recognized.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-910-87

Drafting attorney: David Bergkuist (202) 566-6457.

Reviewing attorney: Charles Saverude (202) 377-9060.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income Taxes.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AL88

2319. ● SECTION 1248 SALES AND EARNINGS AND PROFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will close a loophole in the section 1248 regulations, which currently allow a taxpayer to "bunch" income earned over several years into a single taxable year.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-458-87

Drafting Attorney: Thomas D. Fuller (202) 634-5404.

Reviewing Attorney: Thomas D. Fuller (202) 634-5404.

Treasury Attorney: Unassigned.

13 Income Taxes.

Agency Contact: Thomas D. Fuller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AM42

2320. INCOME TAX--TO CLARIFY TAX TREATMENT OF TRANSFERS OF FRANCHISES, TRADEMARKS, & TRADE NAMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1253 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would clarify the tax treatment of the transfer of a franchise trademark, or trade name under section 1253 of the Internal Revenue Code of 1954. It would also provide guidance regarding how to allocate the basis among the portions of the sale proceeds which are treated as arising from the sale of a capital asset and other portions which are ordinary income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-183-81.

Drafting attorney: Unassigned

Reviewing attorney: John M. Coulter, Jr. (202) 566-3928.

Agency Contact: John M. Coulter, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3928

RIN: 1545–AC34

2321. ● INCOME TAX--GAIN FROM DISPOSITION OF INTEREST IN OIL, GAS, GEOTHERMAL OR OTHER MINERAL PROPERTIES BY S CORPORATIONS AND THEIR SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1254 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986; PL 94-455, Sec 205 Tax Reform Act of 1976; PL 94-455, Sec 1901 Tax Reform Act of 1976; PL 95-618, Sec 402 Energy Tax Act of 1978

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment by S corporations and their shareholders from the disposition of certain oil, gas, geothermal, or other mineral properties. Gain subject to recapture under section 1254 will be accorded ordinary income treatment. The regulations also will determine the tax treatment of sales of shares of stock in an S corporation that

holds oil, gas, geothermal, or other mineral properties.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-7-89

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: Charles Ramsey (202) 566-3553.

Treasury attorney: Barksdale Penick (202) 566-5453.

Natural Resources

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AM98

2322. HEDGING EXCEPTION TO MARK-TO-MARKET RULES FOR SECTION 1256 CONTRACTS, DEFERRAL OF CERTAIN STRADDLE LOSSES, AND WASH-SALE AND SHORT-SALE PRINCIPLES APPLICABLE TO CERTAIN STRADDLE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1256 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the hedging transaction exception for section 1256 contracts and straddles.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-11-86.

Drafting attorney: Channing E. Brackey (202) 566-3287.

Reviewing attorney: David Brandon (202) 566-3287.

13 Income Tax

Agency Contact: Channing E. Brackey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3287

RIN: 1545–AI59

2323. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME; DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1276 Internal Revenue Code of 1986; 26 USC 1278 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the Treatment of Gain Realized on the Disposition of any Market Discount Bond as Ordinary Income. These regulations will also prescribe the extent to which a deduction for interest allocable to accrued market discount is deferred.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-21-85.

Drafting attorney: Carol A. Schwartz (202) 566-3297.

Reviewing attorney: Steve R. Glickstein (202) 566-3297.

Treasury attorney: Reed Shuldiner (202) 566-2175.

Agency Contact: Carol A. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C.20224, 202 566-3297

RIN: 1545–AH82

2324. INCOME TAX-TREATMENT OF STRIPPED BONDS AND STRIPPED COUPON

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1286 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax treatment of stripped bonds and stripped coupons purchased after July 1, 1982. In particular, guidance will be given as to the proper method for allocation of basis and purchase price.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-19-85.

Drafting attorney: Carol A. Schwartz(202) 566-3297.

Reviewing attorney: Alvin J. Kraft (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: Reed Shuldiner (202) 535-6963.

Agency Contact: Carol A. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AH75

2325. ● QEF SHAREHOLDER ELECTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1295 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address QEF shareholder election as it applies to section 1295.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-579-88

Drafting Attorney: Joseph S. Henderson (202) 634-5404.

Reviewing Attorney: Thomas D. Fuller (202) 634-5404.

Treasury Attorney: Unassigned.

13 Income Taxes.

Agency Contact: Joseph S. Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service,

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1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AM41

2326. INCOME TAX–TREATMENT OF OBLIGATIONS WHICH PURPORT TO REPRESENT DEBT AS A SECOND CLASS OF STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1361 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to shareholders and debt instrument holders who must comply with the law relating to subchapter S corporations. The regulations will provide rules relating to whether or not a subchapter S corporation has more than one class of stock.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-4-73.

Drafting attorney: David R. Haglund (202) 343-8459.

Reviewing attorney: John Bromell (202) 566-4320.

Treasury attorney: Kathleen Ferrell (202) 566-5911.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-8459

RIN: 1545–AC37

2327. INCOME TAX–PASS-THRU OF S CORPORATION ITEMS TO SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1366 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the tax treatment of income and loss items passed through to the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-261-82.

Drafting attorney: Stuart G. Wessler (202) 566-3822.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing

attorney: Bryan Collins (202) 566-8277.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3822

RIN: 1545–AE85

2328. INCOME TAX–RULES RELATING TO ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS OF S CORPORATION AND TO DETERMINATION OF BASIS OF PROPERTY DISTRIBUTION BY CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1367 Internal Revenue Code of 1986; 26 USC 1368 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide rules for adjusting the basis of stock of a shareholder in an S corporation and rules for determining the treatment of property distributions by an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-264-82.

Drafting attorney: Stuart G. Wessler (202) 566-3822.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3822

RIN: 1545–AE88

2329. INCOME TAX–APPLICATION OF SUBCHAPTER C RULES TO S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1371 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal would amend the regulations under section 1371 to changes made by the subchapter S Revision Act of 1982 relating to the application of subchapter C rules to S corporations and other technical amendments under sections 2, 5, and 6 of the Act. The regulation would provide the public with guidance to comply with the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-265-82.

Drafting attorney: Judith C. Winkler (202) 377-9662.

Reviewing attorney: William O'Shea (202) 566-3244.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9662

RIN: 1545–AE90

2330. CROSS-REFERENCE–APPLICATION OF SECTION 1374 BUILT-IN GAIN TAX TO C CORPORATION'S ELECTING S CORPORATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1374 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules relating to the section 1374 built-in gains tax to C corporations electing S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	05/12/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-80-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Nelson F. Crouch (202) 566-4696.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AK93

2331. INCOME TAX–DEFINITIONS AND SPECIAL RULES PERTAINING TO S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1377 Internal Revenue Code of 1986; 26 USC 1379 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would define and interpret special rules contained in Sections 1377 and 1379 of the Internal Revenue Code of 1986, the thereby giving guidance to the public on how the Internal Revenue Service intends to interpret those sections.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-268-82.

Drafting attorney: Stuart G. Wessler (202) 566-3822.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Office of Tax Legislative Counsel Reviewing attorney:

Bryan P. Collins (202) 566-8277.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3822

RIN: 1545–AE94

2332. REVISED WITHHOLDING TAX REGULATION TO MODIFY "AS SOON AS PRACTICAL" REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will modify a requirement of Treas. Reg. section 1.1441-6(c) regarding the time for filing of Form 1001. Section 1.1441-6(a) provides that the withholding rate shall be reduced as may be provided by a treaty with any country. To secure a reduced treaty withholding rate, subsection (c) of the regulation requires the recipient of the income to file Form 1001 (ownership, exemptions, or reduced rate certificate) with the withholding agent. The regulation further provides that each such Form 1001 filed with any withholding agent shall be filed "as soon as practicable". The "as soon as practicable" requirement will be changed to a narrowed and more objective time period.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-685-87

Drafting attorney: Lilo A. Hester (202) 287-4851.

Reviewing attorney: Michael F. Patton (202) 287-4851.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 286-4851

RIN: 1545–AL19

2333. WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1446 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation explains when withholding is required under section 1446, how and when the amounts withheld are to be reported and paid over to the Internal Revenue Service, and when the taxpayer is to credit the tax withheld against its U.S. income tax liability or apply for a refund. The notice will be published simultaneously with, and will cross-reference to, temporary regulations dealing with these matters (INTL-938-86). No significant policy issues are involved.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-980-86

Drafting attorney: David Chan (202) 634-5404.

Reviewing attorney: Robert E.Culbertson, Jr. (202) 634-5404.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes

Agency Contact: David F. Chan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AL30

2334. NONTAXABLE TRANSFERS UNDER SECTION 1491

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1492 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of the regulation is to exempt transfers of property to foreign partnerships from the excise tax imposed by section 1491, on the condition that gain attributable to the property at the time of transfer is taxed

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to the transferor when subsequently disposed of by the foreign transferee partnership. The regulations will set forth the necessary conditions and exceptions to the exemption.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-260-88

Drafting attorney: Elizabeth Karzon (202) 566-3160.

Reviewing attorney: Charles Besecky (202) 566-3319.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income Taxes.

Agency Contact: Elizabeth Karzon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3160

RIN: 1545–AL96

2335. INVESTMENT ADJUSTMENTS UNDER THE CONSOLIDATED RETURN REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated return investment adjustment rules by changing the computation of earnings and profits where section 312 (k), (l), (m), or (n) applies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-222-81.

Drafting attorney: Richard Marsh (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-3877.

Agency Contact: Richard Marsh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4324

RIN: 1545–AC47

2336. INCOME TAX–APPLICATION OF SECTION 465 AT RISK LIMITATIONS TO MEMBERS THAT JOIN IN FILING CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated returns regulations to provide rules applying the at-risk limitations of section 465 of the Internal Revenue Code of 1954 to affiliated groups filing consolidated returns, thereby giving the public needed guidance as to how these rules apply to such groups.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-75-79.

Drafting attorney: Richard E. Coss (202) 566-3422.

Reviewing attorney: Peter G. Lynard (202) 566-6358.

Treasury attorney: Bryan Collins (202) 566-2175.

Agency Contact: Richard E. Coss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545–AC55

2337. INCOME TAX–DELETION OF THE REQUIREMENT OF SECTION 1.1502-47 (D) (12) (V) (C) THAT, IN APPLYING TACKING RULE, PROFITABLE AND LOSS LIFE ACTIVITIES NOT BE SEPARATED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will prospectively delete the requirement of section 1.1502-47 (d) (12) (v) (C) relating to the restriction on the separation of profitable activities from loss activities in applying the tacking rule to life insurance companies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-157-86

Drafting attorney: William Barry (202) 566-4551.

Reviewing attorney: Marcus Blumkin (202) 566-4551.

Treasury attorney: Don Rocap (202) 566-8278.

Agency Contact: William F. Barry, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4551

RIN: 1545–AI98

2338. CROSS-REFERENCE–CONSOLIDATED RETURN INVESTMENT ADJUSTMENTS WITH RESPECT TO AN ACQUIRED SUBSIDIARY'S BUILT-IN GAINS OR LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 337 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will prevent the consolidated return investment adjustments from reflecting the recognized built-in gains or losses of assets acquired in certain corporation acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	03/15/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-78-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AK94

2339. CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides revisions of consolidated return regulations under sections 1.1502-14 and 1.1502-31.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-4-88

Drafting attorney: Richard Marsh (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-3877.

13 Income Taxes

Agency Contact: Richard Marsh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4324

RIN: 1545–AL44

2340. REVISION OF SECTION 1.1502-33

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide new rules for determining earnings and profits of each member of the consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-68-88

Drafting attorney: Richard Marsh (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-3484.

Treasury attorney: Thomas Wessel (202) 566-2927 and Bryan Collins (202) 566-2175.

13 Income Tax

Agency Contact: Richard Marsh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4324

RIN: 1545–AL60

2341. AMENDMENT OF CONSOLIDATED RETURN REGULATIONS TO ADDRESS TREATMENT OF CERTAIN ORGANIZATIONS WHOSE TAX-EXEMPT STATUS WAS REVOKED BY THE 1986 ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 833 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will specify the consolidated return ramifications of the revocation of the tax-exempt status of certain organizations by section 833 of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-67-88

Drafting attorney: Jean M. Whalen (202) 566-6212.

Reviewing attorney: Edward S. Cohen (202) 566-3484.

13 Income Tax

Agency Contact: Jean M. Whalen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545–AL64

2342. ● PAYMENT OF REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS

Legal Authority: 26 USC 1502 Internal Revenue Code of 1986; 26 USC 6402 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1502; 26 CFR 6402

Legal Deadline: None

Abstract: The regulations will address in what instances a refund can be paid to the court appointed fiduciary of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return when to the extent that the Secretary determines the refund is attributable to losses or credits of the insolvent corporation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-98-88

Drafting attorney: Rose Williams (202) 566-3354.

Reviewing attorney: Lewis Brickates (202) 566-3877.

Treasury attorney: Bryan Collins (202) 566-8277.

Income Taxes

Agency Contact: Rose Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3354

RIN: 1545–AM74

2343. ● CROSS REFERENCE - TREATMENT OF DISTRIBUTORS AFTER THE SALE OF A SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-32T

Legal Deadline: None

Abstract: When a member of an affiliated group filing a consolidated return sells the stock of a subsidiary member after the subsidiary declares a dividend, but before the dividend is paid, the seller does not reduce its basis in the subsidiary stock because

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the dividend is paid after affiliation is broken. However, the subsidiary's value is reduced by its obligation to pay the dividend. Hence, the selling member could claim an unwarranted reduction in gain or increase in loss on the sale of the subsidiary. This regulation will alleviate this problem by deeming the dividend to have been made immediately before the disposition. Accordingly, the appropriate basis adjustments should be made.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-5-89

Drafting attorney: Richard Marsh (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-3484.

Treasury attorney: Bryan Collins (202) 566-2175.

Agency Contact: Richard Marsh, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4324

RIN: 1545–AN01

2344. DUAL RESIDENT COMPANIES-LIMITATION ON CONSOLIDATED LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1503 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: If a United States corporation is subject to a foreign country's tax on worldwide income, or on a residence basis as opposed to a source basis, any taxable loss it incurs cannot reduce the taxable income of any other member of a United States affiliated group for any other taxable year. Where a corporation is subject to foreign tax on a residence basis, then for United States tax purposes, its loss will be of available to offset.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-399-88

Drafting attorney: Shannon M. Votava (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

Agency Contact: Shannon M. Votava, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AM16

2345. INCOME TAX–INCLUDIBILITY IN AN AFFILIATED GROUP OF SUBSIDIARIES FORMED TO COMPLY WITH FOREIGN LAWS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to an election to treat a foreign subsidiary of a United States corporation as a domestic corporation if the subsidiary is formed in a contiguous country to comply with foreign law.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-338-88

Drafting attorney: Kenneth Allison (202) 566-6457.

Reviewing attorney: Phyllis Marcus (202) 566-6645.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: Kenneth Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AC58

2346. INCOME TAX -- AMENDMENT OF REGULATIONS UNDER SECTION 1504 (A) OF THE CODE, AS AMENDED BY SECTION 60 OF THE TAX REFORM ACT OF 1984, DEFINING "AFFILIATED GROUP"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules defining "affiliated group" for purposes of subtitle A of the Code.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-152-84.

Drafting attorney: Kenneth Cohen (202) 566-3877.

Reviewing attorney: Edward Cohen (202) 566-3484.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Agency Contact: Kenneth Cohen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3877

RIN: 1545–AH09

2347. ESTATE AND GIFT TAXES, INCOME TAXES-UNIFIED CREDIT IN LIEU OF EXEMPTIONS, UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES SITUS OF FOREIGN PARTNERSHIPS FOR ESTATE TAXATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2001 Internal Revenue Code of 1986; 26 USC 2010 Internal Revenue Code of 1986; 26 USC 2011 Internal Revenue Code of 1986; 26 USC 2012 (a) Internal Revenue Code of 1986; 26 USC 2012 (c) Internal Revenue Code of 1986; 26 USC 2013 (b) Internal Revenue Code of 1986; 26 USC 2013 (e) (1) Internal Revenue Code of 1986; 26 USC 2014 (b) (2) Internal Revenue Code of 1986; 26 USC 2035 Internal Revenue Code of 1986; 26 USC 2038 (a) Internal Revenue Code of 1986; 26 USC 2044 Internal Revenue Code of 1986; 26 USC 2052 Internal Revenue Code of 1986; 26 USC 2104 Internal Revenue Code of 1986; 26 USC 2106 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25; 26 CFR 1

Legal Deadline: None

Abstract: The unified rate schedule for estate and gift taxes and unified credit in lieu of exemptions will be implemented by the regulation. The regulations also relate to the estate tax consequences of transfers made within three years of death. In addition, the regulations clarify the situs test of foreign partnerships for purposes of the estate taxation of nonresident alien decedents. The regulations also provide rules relating to charitable remainder trusts.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-212-76.

Drafting attorney: Deborah S. Ryan (202) 535-9511.

Reviewing attorney: Lee A. Dunn (202) 566-4626.

Agency Contact: Deborah S. Ryan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 535-9511

RIN: 1545–AC60

2348. ESTATE TAX--VALUATION OF CERTAIN FARM, ETC. REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2032A Internal Revenue Code of 1986; 26 USC 2013 (f) Internal Revenue Code of 1986; 26 USC 1016 (c) Internal Revenue Code of 1986; 26 USC 1040 Internal Revenue Code of 1966

CFR Citation: 26 CFR 20; 26 CFR 1

Legal Deadline: None

Abstract: Special use valuation of certain farm and closely held business real property is available to qualifying estates. The regulation will contain definitions and rules relating to the various requirements which an estate must satisfy and will provide rules governing the imposition and payment of the "additional estate tax" should a qualified heir fail to meet the post-death requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-209-81.

Drafting attorney: Fred E. Grundeman (202) 535-9512.

Reviewing attorney: Lee Dunn (202) 566-4626.

Office of the Tax Legislative Counsel (Treasury) reviewing attorney: Not Available

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 535-9512

RIN: 1545–AC62

2349. ● ESTATE TAX - INCLUSION OF ESTATE FREEZES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2036 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: Through the use of various transactions taxpayers have been able to "freeze" the value of an enterprise by "transferring" a major portion of the enterprise while retaining managerial rights. Section 2036 (c) requires that an estate include the value of "frozen" enterprises where the transferor in effect transfers future appreciation while retaining present income or managerial rights.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-101-88

Drafting attorney: Fred G. Grundeman (202) 535-9512.

Reviewing attorney: Lee Dunn (202) 566-4626.

Treasury attorney: Not available

Estate and Gift Taxes

Agency Contact: Fred Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9512

RIN: 1545–AM59

2350. ● ALIEN SPOUSE MARITAL DEDUCTION

Legal Authority: 26 USC 2056 Internal Revenue Code of 1986; 26 USC 2056A Internal Revenue Code of 1986; 26 USC 2523 Internal Revenue Code of 1986; 26 USC 2106 Internal Revenue Code of 1986; 26 USC 6324 Internal Revenue Code of1986; 26 USC 2503 Internal Revenue Code of 1986; 26 USC 2001 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property where the surviving spouse or donee spouse is not a United States citizen. The regulations will prescribe how certain transfers to a qualified domestic trust for the benefit of an alien spouse will qualify for the estate tax marital deduction. The regulations will also describe the manner on which an estate tax is imposed in the case of any principal distribution from a qualified domestic trust before the death of the surviving spouse and upon the value of the property remaining in the trust upon the surviving spouse's death.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-102-88

Drafting attorney: Susan Hurwitz (202) 566-5983.

Reviewing attorney: Lee A. Dunn (202) 566-4626.

Estate and Gift Taxes

Agency Contact: Susan Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service,

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1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-5963

RIN: 1545-AM85

2351. ESTATE TAX-GENERATION-SKIPPING TRANSFER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26

Legal Deadline: None

Abstract: The regulations will provide rules relating to certain definitions, the allocation of the transferor's GST exemption, and the determination of inclusions ratios.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-73-88

Drafting attorney: John B. Franklin (202) 535-9514.

Reviewing attorney: Fred Grundeman (202) 535-9512.

Treasury attorney: Not Available

13 Estate and Gift Tax

Agency Contact: John B. Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 ConstitutionAvenue, N.W., Washington, D.C. 20224, 202 535-9514

RIN: 1545-AL75

2352. AMENDMENT OF THE EMPLOYMENT TAX REGULATIONS UNDER CODE SECTION 3121 TO CONFORM TO SECTION 321 OF THE SOCIAL SECURITY AMENDMENTS OF 1983

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986

CFR Citation: 26 CFR 36

Legal Deadline: None

Abstract: The regulation would provide guidance to taxpayers with respect to agreements entered into under section 3121 of the Internal Revenue Code of 1954 as that Section was amended by section 321 of the Social Security Amendments of 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-38-88.

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-6650.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545-AF91

2353. TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302 (c) Internal Revenue Code of 1886

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Proposal would provide rules concerning the treatment of certain deferred compensation and salary reduction arrangements under section 3121 (v) and section 3306 (r) of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-142-87.

Drafting attorney: Gregory J. Stull (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Agency Contact: Gregory J. Stull, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545-AF97

2354. EMPLOYMENT TAX—WITHHOLDING FROM PENSIONS, ANNUITIES, AND OTHER DEFERRED INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3405 Internal Revenue Code of 1986; 26 USC 6047 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 35

Legal Deadline: None

Abstract: Proposed regulations would clarify and amend the temporary regulations relating to withholding from pensions, annuities, and other deferred income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-115-82.

Drafting attorney: Gregory Stull (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Treasury attorney: Harry Conaway (202) 566-8277.

Agency Contact: Gregory Stull, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545-AE98

2355. WITHHOLDING ON CERTAIN DEFERRED PAYMENTS OUTSIDE THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3405 (d) (13) Internal Revenue Code of 1986

CFR Citation: 26 CFR 35

Legal Deadline: None

Abstract: The regulation will provide questions and answers dealing with circumstances under which an election for no withholding on employer deferred compensation plan payments may not be made.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-956-86.

Drafting attorney: Gerald H. Parshall, Jr. (202) 287-4851.

Reviewing attorney: Michael F. Patton (202) 287-4851.

Treasury attorney: P. Ann Fisher (202) 566-4979.

13 Income Taxes.

Agency Contact: Gerald H. Parshall, Jr., Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545-AL31

2356. TO PROVIDE REGULATIONS RELATING TO BACKUP WITHHOLDING UNDER SECTION 3406

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide that a tax equal to 20 percent of any reportable payment is required to be withheld if certain conditions exist. With respect to reportable interest or dividends, backup withholding applies if (1) no number is provided in the manner required, (2) the Service notifies the payor that the payee's taxpayer identification number is not correct, (3) the payee is subject to backup withholding due to a notified payee underreporting, and (4) the payee fails to certify when required that he or she is not subject to backup withholding due to notified payee underreporting. With respect to other reportable payments (such as rents, royalties, nonemployee compensation, broker transactions, or barter exchanges), backup withholding applies if (1) no taxpayer identification number is provided, or (2) the Service notifies the payor that the payee's taxpayer identification number is not correct.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-224-82.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3928.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545-AE20

2357. ● CLARIFYING AMENDMENTS TO SECTION 35A.3406-1 REGARDING BACKUP WITHHOLDING DUE TO AN INCORRECT TIN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: This regulation clarifies certain requirements under section 35a.3406-1 regarding backup withholding due to an incorrect TIN.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-104-88

Drafting Attorney: Renay France (202) 566-3627.

Reviewing Attorney: John Coulter (202) 566-3928.

Employment Taxes.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3627

RIN: 1545-AM51

2358. EXCISE TAX—RETAILERS EXCISE TAXES ON MOTOR VEHICLES

Legal Authority: 26 USC 4052 Internal Revenue Code of 1986; 26 USC 4051 Internal Revenue Code of 1986; 26 USC 4053 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will provide guidance as to what kinds of vehicles are taxable and how the tax is computed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-30-83.

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Michael Owens (202) 566-4077.

Treasury attorney: Ellen Aprill (202) 566-5453.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4077

RIN: 1545-AF61

2359. REVISION OF SECTION 48.4181-1(A)(2) OF THE MANUFACTURERS AND RETAILERS EXCISE TAX REGULATIONS RELATING TO THE TAX ON FIREARM PARTS AND ACCESSORIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulation will clarify the meaning of the terms "complete firearm" and "parts or accessories of firearms"

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-69-88

Drafting attorney: Donald Fidlow (202) 566-3904.

Reviewing attorney: Richard Kocak (202) 566-3434

13 Excise Tax

Agency Contact: Donald Fidlow, Tax Law Specialist, Department of the Treasury, Internal Revenue Service,

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RIN: 1545–AL72

2360. INCOME TAX, EXCISE TAX, AND ENVIRONMENTAL TAX–IMPOSITION OF TAXES ON PETROLEUM, CERTAIN CHEMICALS, AND CORPORATIONS AND ADDITIONAL EXCISE TAXES ON CERTAIN FUELS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 59A Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986; 26 USC 4042 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986; 26 USC 4611 Internal Revenue Code of 1986; 26 USC 4612 Internal Revenue Code of 1986; 26 USC 4661 Internal Revenue Code of 1986; 26 USC 4662 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 48; 26 CFR 52

Legal Deadline: None

Abstract: The regulations will provide rules for the computation of the environmental taxes on petroleum, certain chemicals, and additional excise taxes on certain fuels. The regulations will also provide rules for the computation of the environmental tax imposed on the modified alternative minimum taxable income of corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-158-86.

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Jeff Nelson (202) 566-4077.

Treasury attorney: Evelyn Brody (202) 566-4902.

Excise Tax

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AJ23

2361. TAX ON CERTAIN IMPORTED SUBSTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4671 Internal Revenue Code of 1986

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: The regulations will provide rules for the computation of the environmental tax on certain imported chemical substances.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-71-88

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Jeff Nelson (202) 566-4077.

Treasury attorney: Evelyn Brody (202) 566-4902.

13 Excise Tax

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AL73

2362. INCOME TAX–LOBBYING BY PUBLIC CHARITIES AND PRIVATE FOUNDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 501 (h) Internal Revenue Code of 1986; 26 USC 504 Internal Revenue Code of 1986; 26 USC 4911 Internal Revenue Code of 1986; 26 USC 170 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 53; 26 CFR 56

Legal Deadline: None

Abstract: The regulations will provide rules applicable to tax exempt organizations described in section 501(c)(3) that elect to have the provisions of section 501(h) and 4911 apply to their lobbying expenditures, and will also apply to lobbying expenditures by private foundations.

Timetable:

Action	Date	FR Cite
NPRM	12/23/88	53 FR 51826
NPRM Comment Period End	03/03/89	53 FR 51826
Hearing	04/03/89	53 FR 51826
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-154-78.

Drafting attorney: Jerome P. Walsh Skelly (202) 566-3505.

Reviewing attorney: Paul G. Accettura (202) 566-3505.

Agency Contact: Jerome P. Walsh Skelly, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3505

RIN: 1545–AE02

2363. INCOME TAX–EXCISE TAX–PROCEDURE AND ADMINISTRATION–VARIOUS PRIVATE FOUNDATION PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4940 Internal Revenue Code of 1986; 26 USC 4941 Internal Revenue Code of 1986; 26 USC 4942 Internal Revenue Code of 1986; 26 USC 4943 Internal Revenue Code of 1986; 26 USC 4945 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 53

Legal Deadline: None

Abstract: These regulations will amend existing rules to reflect changes made by the Tax Reform Act of 1984 relating to the excise taxes on private foundations.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-76-84.

Drafting attorney: V. A. Moore (202) 566-4503.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Agency Contact: V. A. Moore, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4503

RIN: 1545–AG16

2364. EXCISE TAX – PART 54, REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986; PL 99-514, Sec 1132

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the excise tax on reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-165-86

Drafting attorney: Vernon Carter (202) 566-3539.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-8277.

Agency Contact: Vernon S. Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3539

RIN: 1545–AI82

2365. ELECTRONIC FILING OF TAX RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance and standards to taxpayers governing the electronic filing of individual income tax returns.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-21-87

Drafting attorney: Celia Gabrysh (202) 566-6320.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Treasury attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Celia A. Gabrysh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545–AL01

2366. AMENDMENT OF SECTION 1.6033-2 (G) (5) RELATING TO RETURNS BY AN INTEGRATED AUXILIARY OF A CHURCH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 91-172, Sec 101 (d) (1) Tax Reform Act of 1969

CFR Citation: 26 CFR 1.6033-2(g)

Legal Deadline: None

Abstract: These regulations will revise the definition of integrated auxiliary of a church in Section 1.6033-2 (g) (5) of the Treasury Regulations to be consistent with Rev. Proc. 86-23, 1986-1 CB 564.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-41-86.

Drafting attorney: V.A. Moore (202) 566-4503.

Reviewing attorney: Paul Accettura (202) 566-6478.

Agency Contact: V.A. Moore, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4503

RIN: 1545–AI52

2367. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Prior to the Tax Reform Act of 1986 foreign controlled foreign corporations doing business in the US and foreign controlled US corporations are required to report transactions with related foreign corporations. The 86 Act requires such entities to report transactions with all related foreign parties, whether or not corporations. The Act also provides a new definition for the term related parties, and requires information necessary to carry out the installment sales rules, as amended by such Act, to also be reported.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-958-86

Drafting attorney: W. Edward Williams (202) 287-4851.

Reviewing attorney: Michael F. Patton (202) 287-4851.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ56

2368. RETURNS, ETC. ON CERTAIN FRINGE BENEFIT PLANS

Legal Authority: 26 USC 6039D Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance concerning a return required by specified fringe benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-117-84.

Drafting attorney: Sylvia F. Hunt (202) 566-3251.

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Reviewing attorney: Harry Beker (202) 566-3251.

Treasury attorney: Priscilla Ryan (202) 566-5453.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AI22

2369. INFORMATION REGARDING RESIDENT STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6039E Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will prescribe the information to be gathered by the State Department and Immigration and Naturalization Service on Passport and Green card applicants and the penalties to be imposed on such applicants if they do not supply the information.

Timetable:

Action	Date	FR Cite
NPRM	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-978-86

Drafting attorney: Gerald H. Parshall, Jr. (202) 287-4851.

Reviewing attorney: Michael F. Patton (202) 287-4851.

Treasury attorney: P. Ann Fisher (202) 566-4979.

13 Income Taxes.

Agency Contact: Gerald H. Parshall, Jr., Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ93

2370. ● INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 7805; 26 CFR 6045

Legal Deadline: None

Abstract: This regulation would provide additional rules relating to the reporting of real estate transactions.

Timetable:

Action	Date	FR Cite
NPRM	04/30/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: IA-94-88

Drafting Attorney: Arthur E. Davis III (202) 377-9581

Reviewing Attorney: David L. Crawford (202) 377-9590

Treasury Attorney: J. Judge Kelley (202) 566-2175

Income Tax

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AM38

2371. INCOME TAX REGULATIONS RELATING TO RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6046A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-879-86

Drafting attorney: Robert A. Walker (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Mark Beams (202) 566-5992.

13 Income Taxes.

Agency Contact: Robert A. Walker, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Washington, D.C. 20024, 202 287-4851

RIN: 1545–AK75

2372. REPORTING OF PLAN DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6047 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: Legislative changes require that increased numbers of retirees and plan participants must make complex calculations of the taxable amount of distributions they receive from qualified plans. The regulations will require the payor of a qualified plan distribution (or the plan administrator) to calculate the taxable amount and to report it on the appropriate information return.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-29-88

Drafting attorney: Gregory J. Stull (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Agency Contact: Gregory J. Stull, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AL54

2373. INCOME TAX—TO REQUIRE ISSUERS OF CERTIFICATES OF DEPOSIT TO FURNISH ISSUE PRICE TO BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would amend existing regulations to require issuers to furnish the issue price to brokers.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-63-87

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3458.

Reviewing attorney: Tom Lyden (202) 566-3287.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D. C. 20224, 202 566-3458

RIN: 1545–AK36

2374. EXTENSION OF TIME TO FILE FOR TAXPAYERS TRAVELING OUTSIDE THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: Notice by cross-reference to temporary regulations under section 6081 of the Code relating to extension of time to file income tax returns.

Timetable:

Action	Date	FR Cite
NPRM	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-461-87

Drafting attorney: Peter J. Hanley (202) 566-3499.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: Peter J. Hanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3499

RIN: 1545–AM06

2375. ● AGREEMENTS FOR PAYMENT FOR TAX LIABILITY IN INSTALLMENTS

Legal Authority: 26 USC 6159 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6159

Legal Deadline: None

Abstract: Prior law did not address the authority of the Internal Revenue Service to enter into installment payment agreements with taxpayers. New code section 6159, as added by the Technical and Miscellaneous Revenue Act of 1988, authorizes such agreements and specifies the circumstances under which the Service may modify or terminate such an agreement and when the Service must provide prior notice of a determination to modify or terminate an agreement. New regulations implementing section 6159 will be drafted in order to provide taxpayers and the Service specific guidance on the requirements and responsibilities imposed by this provision.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-708-88

Drafting attorney: Mitchel Hyman (202) 566-4620.

Reviewing attorney: Robert Miller (202) 566-3362.

Procedure and Administration

Agency Contact: Mitchel S. Hyman, Attorney, Department of the Treasury, Internal Revenue Service, 111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4620

RIN: 1545–AM66

2376. ESTATE TAX—PROCEDURE AND ADMINISTRATION—DEFERRAL AND INSTALLMENT PAYMENT OF ESTATE TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6166 Internal Revenue Code of 1986; 26 USC 6161 Internal Revenue Code of 1986; 26 USC 6151 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to extend the time for payment of estate tax where the estate contains an interest in a closely held business. The regulations will provide rules in determining what qualifies as an interest in a closely held business. In addition, the regulations will explain when the installment privileges allowed by section 6166 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-210-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD23

2377. DETERMINATION OF THE TAX TREATMENT OF SUBCHAPTER S ITEMS AT THE CORPORATE LEVEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6242 Internal Revenue Code of 1986; 26 USC 6243 Internal Revenue Code of 1986; 26 USC 6244 Internal Revenue Code of 1986; 26 USC 6233 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 51

Legal Deadline: None

Abstract: Proposed regulations would provide new rules for determining the tax treatment of any subchapter S item at the corporate level. Regulations would provide rules similar to rules for determining the tax treatment of partnership items.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-269-82.

Treasury attorney: Harry Beker (202) 566-3251.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AM22

2378. ● ESTATE TAX—DEFERRAL OF ESTATE TAX ATTRIBUTABLE TO REMAINDER INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to defer the payment of estate tax attributable to remainder interests. The regulations will provide rules in determining what qualifies as a remainder interest. In addition, the regulations will explain when the deferral privileges allowed by section 6163 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-211-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD24

2379. ● ESTATE TAX—VALUATION OF CLOSELY HELD STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to value closely held stock for estate tax purposes. The regulations will provide rules in determining what qualifies as closely held stock. In addition, the regulations will explain when the valuation privileges allowed by section 2031 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-212-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD25

2380. ● ESTATE TAX—VALUATION OF CLOSELY HELD BUSINESS INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to value closely held business interests for estate tax purposes. The regulations will provide rules in determining what qualifies as a closely held business interest. In addition, the regulations will explain when the valuation privileges allowed by section 2031 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-213-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD26

2381. ● ESTATE TAX—VALUATION OF LIFE INSURANCE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to value life insurance for estate tax purposes. The regulations will provide rules in determining what qualifies as life insurance. In addition, the regulations will explain when the valuation privileges allowed by section 2031 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-214-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD27

2382. ● ESTATE TAX—VALUATION OF PROPERTY SUBJECT TO RESTRICTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to value property subject to restrictions for estate tax purposes. The regulations will provide rules in determining what qualifies as property subject to restrictions. In addition, the regulations will explain when the valuation privileges allowed by section 2031 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-215-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD28

2383. ● ESTATE TAX—VALUATION OF PROPERTY SUBJECT TO SPECIAL USE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2032A Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to value property subject to special use for estate tax purposes. The regulations will provide rules in determining what qualifies as property subject to special use. In addition, the regulations will explain when the valuation privileges allowed by section 2032A will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-216-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD29

2384. ● ESTATE TAX—VALUATION OF QUALIFIED CONSERVATION EASEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to value qualified conservation easements for estate tax purposes. The regulations will provide rules in determining what qualifies as a qualified conservation easement. In addition, the regulations will explain when the valuation privileges allowed by section 2031 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-217-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD30

2385. ● ESTATE TAX—VALUATION OF PROPERTY SUBJECT TO OPTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to value property subject to options for estate tax purposes. The regulations will provide rules in determining what qualifies as property subject to options. In addition, the regulations will explain when the valuation privileges allowed by section 2031 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-218-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD31

2386. ● ESTATE TAX—VALUATION OF PROPERTY SUBJECT TO BUY-SELL AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to value property subject to buy-sell agreements for estate tax purposes. The regulations will provide rules in determining what qualifies as property subject to buy-sell agreements. In addition, the regulations will explain when the valuation privileges allowed by section 2031 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-219-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD32

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Drafting attorney: William J. Gregg (202) 566-3623.

Reviewing attorney: Dianna K. Miosi (202) 566-4070.

Office of Tax Legislative Counsel Reviewing attorney: Bryan Collins (202) 566-8277.

Agency Contact: William J. Gregg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3623

RIN: 1545-AE96

2378. PROCEDURE AND ADMINISTRATION REGULATIONS—PAYMENT OF TAXES BY CHECK OR MONEY ORDER AND LIABILITY OF FINANCIAL INSTITUTIONS FOR UNPAID TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6311 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will describe the circumstances under which taxpayers may pay taxes by check, money order or other guaranteed draft and the circumstances under which financial institutions on which such instruments are drawn may be liable for unpaid taxes.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-549-87.

Drafting attorney: Nancy Olszewski (202) 566-4014.

Reviewing attorney: Robert Miller (202) 566-3362.

Agency Contact: Nancy Olszewski, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4014

RIN: 1545-AI24

2379. ● NOTICE OF LIEN ON PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6323 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6323 (f)(1)(ii),(Revision); 26 CFR 1.6323 (f)(5)

Legal Deadline: None

Abstract: The purpose of these regulations is to solve the problem that arose in the case of United States v. Air Florida,Inc. 56 B.R. 732 (S.D. Fla. 1985). The regulations will provide that if a state has adopted a Federal law establishing a place for the filing of liens under a national filing system, the state is not considered to have a second office for filing of the notice of lien. The regulations will also provide that the filing of a notice of Federal tax lien is governed solely by the Internal Revenue Code and is not subject to any other Federal law establishing a national filing system.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-719-88

Drafting attorney: Holly J. Wilson (202) 566-3579.

Reviewing attorney: Robert Miller (202) 566-3362.

Procedure and Administration

Agency Contact: Holly J. Wilson, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3579

RIN: 1545-AM64

2380. PROCEDURE AND ADMINISTRATION—RELEASE OF LIENS, NOTICE BEFORE LEVY, PROPERTY EXEMPT FROM LEVY REDEMPTION OF LEVIED REAL PROPERTY AND AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6325 Internal Revenue Code of 1986; 26 USC 6331 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986; 26 USC 6337 Internal Revenue Code of 1986; 26 USC 7426 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will provide guidance in obtaining the issuance of a certificate of release of a notice of Federal tax lien. The regulation will revise existing regulations relating to the size of the exemption from levy available for certain property. The proposed regulation also increases the length of post-sale redemption period currently specified in the regulations. The proposed regulations provide rules for service employees administering the Code for providing notice of intention to levy upon the property of a delinquent taxpayer. The proposed regulations increase the amount of damages allowed where property has been levied wrongfully.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-547-87.

Drafting attorney: Kevin B. Connelly (202) 566-3975.

Reviewing attorney: Robert A. Miller (202) 566-3362.

Agency Contact: Kevin B. Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3975

RIN: 1545-AE82

2381. ● ADMINISTRATIVE APPEAL OF THE FILING OF NOTICE OF FEDERAL TAX LIEN

Significance: Agency Priority

Legal Authority: PL 100-647, Sec 6238; 26 USC 6326

CFR Citation: 26 CFR 1.6326

Legal Deadline: NPRM, Statutory, May 9, 1989.

Abstract: Section 6238 establishes a new section 6326 of the Internal Revenue Code. The new section 6326 (a) provides that the Secretary shall prescribe regulations that provide for the administrative appeal of the filing of notice of Federal tax lien. Section 6326 (b) provides that if the Secretary determines that the Service has erroneously filed a Federal tax lien, the Secretary must expeditiously and to the extent practicable, within 14 days after such determination, issue a certificate of release of the lien. This certificate must include a statement that the filing was erroneous. We currently are in the process of drafting regulations pursuant to section 6326. The regulations will address what issues are appealable under section 6326, to whom an appeal should be made, and the procedures for appeal.

Timetable:

Action	Date	FR Cite
NPRM	05/09/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-704-88

Drafting attorney: Kevin B. Connelly (202) 566-3975.

Reviewing attorney: Robert A. Miller (202) 566-3362.

Procedure and Administration

Agency Contact: Kevin B. Connelly, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3975

RIN: 1545-AM62

2382. ● LEVY AND DISTRAINT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6331 Internal Revenue Code of 1986; 26 USC 6332 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986; 26 USC 6335 Internal Revenue Code of 1986; 26 USC 6343 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6331-1; 26 CFR 301.6331-2; 26 CFR 301.6332-1; 26 CFR 301.6334-1; 36 CFR 301.6334-2; 26 CFR 301.6334-3; 26 CFR 301.6334-4; 26 CFR 301.6334-5; 26 CFR 301.6334-6; 26 CFR 301.6334-7; 26 CFR 301.6335-1; 26 CFR 301.6343-1

Legal Deadline: None

Abstract: Sections 6331, 6332, 6334, 6335, and 6343 of the Internal Revenue Code of 1986 were amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to increase certain exemptions from levy, to provide procedures for the release of levies, to preclude certain levies, to exempt a taxpayer's principal residence from levy in most instances, and to require banks to hold levied accounts for 21 days after a levy is served. The treasury regulations promulgated under those sections of the Internal Revenue Code must by changed to conform to the new statutory language.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-709-88

Drafting attorney: Anne P. Rosselot (202) 566-3441.

Reviewing attorney: Robert Miller (202) 566-3362.

Procedure and Administration

Agency Contact: Anne P. Rosselot, Docket Attorney (General Litigation Div.), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3441

RIN: 1545-AM70

2383. ● EFFECT OF HONORING A LEVY

Legal Authority: 26 USC 6332 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.632-1(c)

Legal Deadline: None

Abstract: Section 1.6332-1(c) currently provides that any person in possession of or obligated with respect to property or rights to property subject to levy and upon which levy has been made who surrenders the property or rights to property, or discharges the obligation to the district director is discharged from any obligation or liability to the delinquent taxpayer. Section 1015(t) of Technical and Miscellaneous Revenue Act of 1988 amends Section 6332 of the Internal Revenue Code to provide that a person who honors a levy is protected from any obligation or liability to any other person as well as the delinquent taxpayer. This should cause a reduction in the number of interpleader actions filed because of concerns over liability to third parties.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: GL-720-88

Drafting attorney: Charles E. Samuel (202) 566-3945.

Reviewing attorney: Robert Miller (202) 566-3362.

Procedure and Administration

Agency Contact: Charles E. Samuel, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3945

RIN: 1545-AM72

2384. GASOLINE EXCISE TAX DEFINITIONS, NOTIFICATION OF REGISTRATION REQUIREMENTS, AND SECTION 6416 PROCEDURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986; 26 USC 6416 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will provide rules relating to the gasoline excise tax definition of trader, notification of registration verification procedures required for tax-free or reduced rate of transfers of gasoline, and additional requirements under section 6416 claims.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-11-88

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-3434.

Treasury attorney: Robert Scarborough (202) 566-2928.

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Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AL69

2385. PROCEDURE AND ADMINISTRATION REGULATIONS—EXTENSION OF THE PERIOD FOR ASSESSMENT OF TAX IN CERTAIN CIRCUMSTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6501 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will describe circumstances under which the normal three-year period for the assessment and collection of tax may be extended.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-162-85.

Drafting attorney: Michael J. Grace (202) 566-6460.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3928.

Agency Contact: Michael J. Grace, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6460

RIN: 1545–AI23

2386. ● COLLECTION AFTER ASSESSMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6502-1

Legal Deadline: None

Abstract: Section 6502 of the Internal Revenue Code of 1986 was amended by section 1015(u) of the Technical and Miscellaneous Revenue Act of 1988, to provide that the statute of limitations on administrative collection is extended if a timely suit to collect is commenced and, furthermore, that the statute is extended until any judgment obtained becomes unenforceable. Treasury Regulation 301.6502-1 must be changed to conform to this new statutory provision.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-721-88

Drafting attorney: Anne P. Rosselot (202) 566-3441.

Reviewing attorney: Robert Miller (202) 566-3362.

Procedure and Administration

Agency Contact: Anne Rosselot, Docket Attorney (General Litigation Div.), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3441

RIN: 1545–AM71

2387. DIFFERENTIAL INTEREST RATES AND EXPANDED CREDITING OF OVERPAYMENTS AGAINST UNDERPAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will explain the computation of interest on underpayments and overpayments of tax, including the extent to which underpayments and overpayments will be offset in computing interest.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-123-86

Drafting attorney: Forest Boone (202) 566-3861.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Agency Contact: Forest Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AK06

2388. ● DETERMINING LARGE CORPORATION STATUS FOR CONSOLIDATED RETURN GROUPS PAYING ESTIMATED TAX

Legal Authority: 26 USC 6655(j) Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-5

Legal Deadline: None

Abstract: Section 6655(d)(2) of the IRC of 1986 requires large corporations to make estimated tax payments based on 90 percent of their current year's tax. Section 6655(g)(2) defines a large corporation as one who itself (or a predecessor corporation) had taxable income of $1,000,000 or more in any of the three previous taxable years. The regulation will address difficulties in applying the definition to an affiliated group of corporations filing a consolidated return.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-87-88

Drafting attorney: Brendan P. O'Hara (202) 566-2455.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Treasury attorney: Marc Levy (202) 566-4902.

Procedure and Administration

Agency Contact: Brendan O'Hara, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AM75

2389. PROCEDURE & ADMINISTRATION—ADDITION TO TAX IN THE CASE OF VALUATION OVERSTATEMENTS AND UNDERSTATEMENTS, AND INCREASE IN THE NEGLIGENCE PENALTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6659 Internal Revenue Code of 1986; 26 USC 6653 Internal Revenue Code of 1986; 26 USC 6660 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules and definitions with respect to the addition to tax in the case of valuation overstatements and understatements, including rules for computing the portion of an underpayment that is attributable to a valuation overstatement or understatement. The regulations would also provide rules with respect to the increase in the negligence and fraud penalties.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-272-81.

Drafting attorney: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn D. Miller (202) 566-3273.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4442

RIN: 1545–AD39

2390. USE OF FACSIMILE SIGNATURES BY INCOME TAX RETURN PREPARERS OF FORMS 1041, U.S. FIDUCIARY INCOME TAX RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6695 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6695-1 (b)

Legal Deadline: None

Abstract: Section 1.6695-1 (b) currently requires that, with one exception, income tax return preparers must manually sign returns or claims for refund signed by them. The exception does allow preparers of returns and refund claims for nonresident aliens to use facsimile signatures under certain circumstances. Section 645 (a) of the Internal Revenue Code, added by section 1403 (a) of the Tax Reform Act of 1986, requires trusts, with certain limited exceptions, to use a calendar taxable year. The calendar year requirement means that, instead of being able to spread their duty to sign trust returns over the entire course of a year, preparers must now sign all trust returns before April 15 in order to present them to clients for timely filing. To alleviate this hardship, we are examining the advisability of permitting income tax return preparers of Forms 1041, U.S. Fiduciary Income Tax Returns, to use facsimile signatures and under what conditions such use would be permitted and appropriate.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

GL-238-88

Drafting attorney: Nancy Olszewski (202) 566-4014.

Reviewing attorney: Robert A. Miller (202) 566-3362.

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Agency Contact: Nancy Olszewski, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4014

RIN: 1545–AL49

2391. INCOME TAX—PRESUMPTION OF JEOPARDY IN THE CASE OF ILLEGAL ACTIVITY CASH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6867 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6867

Legal Deadline: None

Abstract: The regulations would provide guidance for applying the presumptions that an amount of cash in excess of ten thousand dollars without an acknowledged owner (1) represents gross income to a single individual, (2) is taxable at a rate of fifty percent, and (3) that collection of the tax is in jeopardy for the purposes of sections 6851 and 6861.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-548-87.

Drafting attorney: John C. Isaacs (202) 566-3257.

Reviewing attorney: Robert A. Miller (202) 566-3362.

Agency Contact: John C. Isaacs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3257

RIN: 1545–AE30

2392. FORFEITURE OF LAND SALES CONTRACT WITH RESPECT TO DISCHARGE OF FEDERAL TAX LIEN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will address the issue of when a land sales contract is considered to be forfeited for Federal tax purposes. It may be necessary, in so doing, to provide a definition or other guidelines as to what constitutes a land sales contract for purposes of this provision.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-550-87

Drafting attorney: Richard Preston (202) 566-3257.

Reviewing attorney: Robert A. Miller (202) 566-3362.

Treasury attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Richard Preston, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3257

RIN: 1545–AK24

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2393. REDEMPTIONS OF REAL PROPERTY UNDER IRC 7425 - EXCESS EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7425 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 301.7425-4(b)(3)(ii), which deals with excess expenses incurred by a purchaser of property after a foreclosure sale and before redemption, provides that the Service may request a written itemized statement from the purchaser regarding excess expenses with 15 days, it shall be presumed that no excess expenses are payable. However, even after the 15-day period expires, a payment for excess expenses shall be made after the redemption within a reasonable time following the verification by the district director of a written itemized statement submitted by the purchaser. There is no specific time frame set for the purchaser to submit his claim after the redemption and after the expiration of the 15-day period. We are examining the feasibility of establishing a 30-day time limit within which a final claim for excess expenses must be submitted by the purchaser after the sale of the property. This will eliminate claims for reimbursement of expenses that may be submitted after redemption and sale of the property, where the liens were fully satisfied and released, and all surplus funds returned to the taxpayer.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-520-87

Drafting attorney: Barton J. Uze (202) 566-3975.

Reviewing attorney: Robert A. Miller (202) 566-3362.

13 Procedure and Administration

Agency Contact: Barton J. Uze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, D.C. 20224, 202 566-3975

RIN: 1545–AL20

2394. ● REVIEW OF JEOPARDY LEVY AND ASSESSMENT PROCEDURES

Legal Authority: 26 USC 7429 Internal Revenue Code of 1986 PL 100-647, Sec 6237; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7429

Legal Deadline: None

Abstract: Section 7429 currently provides for administrative and judicial review of jeopardy assessments, but these review procedures do not apply to jeopardy levies. The Technical and Miscellaneous Revenue Act of 1988, PL 100-647, Sec. 6237, extends the review procedures of Section 7429 to the review of jeopardy levies and provides concurrent jurisdiction to the Tax Court with Federal District courts with respect to actions challenging a jeopardy assessment or jeopardy levy, provided a Tax Court petition is filed prior to the making of the assessment or levy. We are examining whether any regulations need to be promulgated under the statutory amendment. In particular, we are examining whether any procedural guidelines for the filing of actions in the Tax Court are needed by means of regulations, or whether revision to Tax Court rules is more appropriate. We are also examining whether the revised review procedures contain any ambiguity for which clarification by way of regulation would be helpful.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: GL-710-88

Drafting attorney: John C. Isaacs (202) 566-3257.

Reviewing attorney: Robert Miller (202) 566-3362.

Procedure and Administration

Agency Contact: John C. Isaacs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3257

RIN: 1545–AM68

2395. ● CIVIL DAMAGES FOR FAILURE TO RELEASE LIEN

Legal Authority: PL 100-647, Sec 6240; 26 USC 7432

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The new section 7432 grants taxpayers the right to bring a cause of action for damages in Federal District court if any officer or employee of the Internal Revenue Service knowingly or negligently fails to release a lien under section 6325 on property of the taxpayer. Damages will not be awarded for failure to release a lien unless the court determines that the taxpayer has exhausted all administrative remedies within the Internal Revenue Service. The Secretary must provide by regulations a reasonable procedure for the taxpayer to notify the Service of a failure to release a lien on property of the taxpayer. Currently, we are considering regulations that will provide procedures for a taxpayer to notify the Service of a failure to release a lien and procedures for administrative exhaustion of remedies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-706-88

Drafting attorney: Kevin B. Connelly (202) 566-3975.

Reviewing attorney: Robert A. Miller (202) 566-3363.

Procedure and Administration

Agency Contact: Kevin B. Connelly, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3975

RIN: 1545–AM63

2396. ● CIVIL CAUSES OF ACTION FOR DAMAGES SUSTAINED DUE TO CERTAIN UNAUTHORIZED ACTIONS BY I.R.S

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 100-647, Sec 6241; 26 USC 7433

CFR Citation: 26 CFR 1.7433

Legal Deadline: None

Abstract: PL 100-647, Sec 6241, adds a new section 7433 to the Internal Revenue Code. This provision allows taxpayers to sue the Internal Revenue Service to recover economic damages if a Service employee, in connection with the collection of a tax, recklessly or intentionally disregards any provision of the Code or regulations. The new implementing regulation will establish administrative remedies for taxpayers to meet the statutory requirement that administrative remedies be exhausted prior to a court award of damages. The regulation will also outline what steps taxpayers should take to satisfy the statutory requirement that they mitigate their damages.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-707-88

Drafting attorney: Miriam A. Howe (202) 566-3257.

Reviewing attorney: Robert Miller (202) 566-3362.

Procedure and Administration

Agency Contact: Miriam A. Howe, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 ConstitutionAvenue, N.W., Washington, D.C. 20224, 202 566-3257

RIN: 1545–AM65

2397. ● ESTATE AND GIFT TAX VALUATION TABLES

Legal Authority: 26 USC 7520 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7520; 26 CFR 1.642, (Revision); 26 CFR 1.664, (Revision); 26 CFR 20.2031, (Revision); 26 CFR 25.2512, (Revision)

Legal Deadline: None

Abstract: Section 7520 of the Internal Revenue Code, as added by section 5031 of the Technical and Miscellaneous Revenue Act of 1988, requires that the value of any annuity, any interest for life or a term of years, and any remainder or reversionary interest be determined under valuation tables, revised periodically and the applicable Federal interest rate for the month of the valuation of the interest. The regulations will address the use of the tables, which will be published separately, and will contain rules for making an election where charitable transfers are involved. It will also include rules for rounding the applicable interest rates. In addition, the regulations will modify the current regulations for gift, estate, and charitable transfers of annuity trusts, and unitrusts and pooled income funds.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-100-88

Drafting attorney: William L. Blodgett (202)377-9666.

Reviewing attorney: Lee Dunn (202) 566-4626.

Treasury attorney: Unknown

Procedure Involving Taxpayer Interviews

Agency Contact: William L. Blodgett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9666

RIN: 1545–AM61

2398. ● PROCEDURES INVOLVING TAXPAYER INTERVIEWS (TIME AND PLACE OF EXAMINATION)

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7605 Internal Revenue Code of 1986; PL 100-647, Sec 6228 Taxpayer Bill of Rights 102 Stat. 3342

CFR Citation: 26 CFR 301.7605-1(a), (Revision)

Legal Deadline: NPRM, Statutory, November 10, 1989. Final, Statutory, November 10, 1992.

Abstract: Section 7605(a) of the Internal Revenue Code, 26 USC 7605(a), and section 301.7605-1(a) of the regulations currently provide the time and place of an examination shall be fixed by an officer or employee of the Internal Revenue Service and shall be reasonable under the circumstances. No regulations have been promulgated elaborating on this provision. The Taxpayer Bill of Rights requires the publication within one year of regulations enumerating standards for determining whether the selection of a time and place for interviewing a taxpayer is reasonable. These regulations are to provide that if it is generally not reasonable for the IRS to require a taxpayer to attend an examination at an IRS office within the assigned district other than the office located closest to the taxpayer's home. They will also provide it is generally not reasonable for the IRS to audit a taxpayer at his or her place of business if the business is so small that doing so will essentially require the taxpayer to close his business.

Timetable:

Action	Date	FR Cite
NPRM	11/10/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: GL-705-88

Drafting attorney: Nancy Olszewski (202) 566-4014.

Reviewing attorney: Robert Miller (202) 566-3362.

Procedure and Administration

Agency Contact: Nancy Olszewski, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4014

RIN: 1545–AM69

2399. PROCEDURE AND ADMINISTRATION - SUSPENSION OF STATUTES OF LIMITATIONS IN ABSENCE OF THIRD-PARTY RECORDKEEPER RESPONSE TO SUMMONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers with regard to the changes made to section 7609 by the Tax Reform Act of 1986. Under those changes, statutes of limitations are suspended in certain cases in which a summons is served to a third-party recordkeeper and in which there is no resolution of the third- party recordkeeper's response to the summons.

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Timetable:

Action	Date	FR Cite
NPRM	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-521-87

Drafting attorney: Mitchel S. Hyman (202) 566-4620.

Reviewing attorney: Robert A. Miller (202) 566-3362.

Agency Contact: Mitchel S. Hyman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4620

RIN: 1545–AK72

2400. ● EXTENSION OF STATUTE OF LIMITATIONS IN JOHN DOE SUMMONS DISPUTES

Legal Authority: 26 USC 7609 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7609

Legal Deadline: None

Abstract: Under prior law the statute of limitations was suspended under IRC section 7609(e)(2) only where summonses were served on third-party recordkeepers as defined in IRC section 7609(a)(3). Section 7609(e)(2) was amended by the Technical and Miscellaneous Revenue Act of 1988 so that the suspension applies to all John Doe summonses, whether or not the summoned party is a third-party recordkeeper as defined in IRC section 7609(a)(3). The new regulations will make minor changes to 26 CFR 301.7609 to conform with the 1988 Amendments.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-723-88

Drafting attorney: Mitchel Hyman (202) 566-4620.

Reviewing attorney: Robert Miller (202) 566-3362.

Procedure and Administration

Agency Contact: Mitchel S. Hyman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4620

RIN: 1545–AM67

2401. ● PROCEDURE AND ADMINISTRATION REGULATIONS—REIMBURSEMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7624 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation would provide rules relating to reimbursement to state and local law enforcement agencies for expenses incurred for information furnished to IRS that substantially contributed to recovery of taxes on illegal drug related activities.

Timetable:

Action	Date	FR Cite
NPRM	04/15/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: IA-6-89

Drafting attorney: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn D. Miller (202) 566-3273.

Procedure and Administration

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4442

RIN: 1545–AN00

2402. COVER OVER OF INCOME TAXES

Legal Authority: 26 USC 7605 Internal Revenue Code of 1986; 26 USC 7654 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to section 7654 of the Internal Revenue Code of 1986 which generally provides that net income tax collections from individuals described in sections 931 or 932(c), plus earned income of federal personnel while bona fide residents of specified possession.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-971-86

Drafting attorney: John J. Brady (202) 287-4851.

Reviewing attorney: Michael F. Patton (202) 287-4851.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: John J. Brady, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AL18

2403. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7704 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide rules relating to the classification of publicly traded partnerships.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-13-88

Drafting attorney: Stuart G. Wessler (202) 566-3822.

Reviewing attorney: Dianna Miosi (202) 566-3621.

Office of Tax Legislative Counsel Reviewing attorney: Barksdale Penick (202) 566-6964.

13 Procedure and Administration

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3822

RIN: 1545–AL57

2404. ● THE TIME AND MANNER OF MAKING CERTAIN ELECTIONS UNDER THE TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 5h.6

Legal Deadline: None

Abstract: This document contains regulations relating to the time and manner of making certain elections under the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	04/01/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-9-89

Drafting attorney: Grace Matuszeski (202) 343-2382.

Reviewing attorney: John Fischer (202) 566-8131.

Administration and Procedures

Agency Contact: Grace Matuszeski, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2382

RIN: 1545–AN03

2405. PROPOSED AMENDMENTS TO THE PROCEDURE AND ADMINISTRATION REGULATIONS UNDER THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984 RELATING TO THE REDUCTION OF TAX OVERPAYMENTS BY AMOUNTS ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 42 USC 664

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e. tax refund) by the amount of any past due support which a State has agreed to collect under section 454 (6) of the Social Security Act. The regulations explain the steps a State must take to have a tax overpayment reduced by an amount of past-due support.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-85-85.

Drafting attorney: William A. Galanko (202) 566-3862.

Reviewing attorney: David Dickinson (202) 566-6655.

TITLE CONT: of Past-Due Support Owed.

Agency Contact: William A. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AH99

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Final Rule Stage

2406. ● TREATMENT OF EXEMPT-INTEREST DIVIDENDS AS TAX PREFERENCE ITEM

Legal Authority: 26 USC 57 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 57 (a)(5) of the Internal Revenue Code of 1986 provides that regulations will be promulgated to explain that subsection. These regulations will fulfill that statutory mandate.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-97-88

Drafting Attorney: William A. Galanko (202) 566-3862

Reviewing Attorney: Vincent Cardella (202) 566-4425

Treasury Attorney: Unassigned

Agency Contact: William A. Galanko, Attorney, Assistant to the Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3862

RIN: 1545–AM39

2407. TO PROVIDE REGULATIONS RELATING TO MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.25-1 to 1.25-8T; 26 CFR 1.6709-1

Legal Deadline: None

Abstract: The regulations will provide guidance on the issuance of mortgage credit certificates rules. Guidance will be provided with respect to the various eligibility requirements that mortgagors must satisfy as well as the various program requirements that issuers must satisfy.

Timetable:

Action	Date	FR Cite
NPRM	05/08/85	50 FR 19383
NPRM Comment Period End	07/08/85	50 FR 19383
Hearing	08/14/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-245-84.

Drafting attorney: Harold N. Diamond (202) 566-3340.

Reviewing attorney: Michael J. Montemurro (202) 566-4085.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Harold N. Diamond, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3340

RIN: 1545–AH06

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TREAS—IRS

Final Rule Stage

2408. INCOME TAX–INFORMATION REPORTING FOR MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to issuers of mortgage credit certificates relating to the information to be collected with respect to each recipient of a mortgage credit certificate. The regulations will also provide guidance regarding the time and manner of filing this information with the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/03/85	50 FR 35572
NPRM Comment Period End	11/04/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-114-85.

Drafting attorney: Harold N. Diamond (202) 566-3340.

Reviewing attorney: Michael J. Montemurro (202) 566-4085.

Treasury attorney Elliot Stern (202) 566-2926.

Agency Contact: Harold N. Diamond, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3340

RIN: 1545–AI39

2409. LOW-INCOME HOUSING CREDIT ALLOCATION RULES AND INFORMATION REPORTING REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide low-income housing credit allocation and reporting rules.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23471
NPRM Comment Period End	08/21/87	52 FR 23471
Hearing	11/09/87	
Final Action	04/10/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-83-86

Drafting attorney: Donna Young (202) 566-4537.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Peg Henry (202) 535-6966.

Agency Contact: Donna Young, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-4537

RIN: 1545–AJ65

2410. CLARIFICATION OF DETERMINATION OF BAD DEBT EXPERIENCE UNDER NONACCRUAL-EXPERIENCE METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This NPRM cross-references to temporary regulations clarifying the determination of bad debt experience under the nonaccrual-experience method of accounting under IRC section 448(d)(5).

Timetable:

Action	Date	FR Cite
NPRM	04/15/88	53 FR 12534
Hearing	12/01/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: IA-62-87

Drafting attorney: James A. Orefice (202) 566-3637

Reviewing attorney: Cynthia Clark (202) 566-6302

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AK92

2411. LOW-INCOME HOUSING CREDIT FOR FEDERALLY-ASSISTED BUILDINGS ACQUIRED DURING 10-YEAR PERIOD

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules for Federally-assisted buildings acquired during a 10-year period.

Timetable:

Action	Date	FR Cite
NPRM	11/03/87	52 FR 42098
NPRM Comment Period End	01/04/88	52 FR 42098
Hearing	03/17/88	
Final Action	04/10/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-62-87

Drafting attorney: Donna Young (202) 566-4537.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Peg Henry (202) 535-6966.

Agency Contact: Donna Young, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4537

RIN: 1545–AL05

2412. LOW INCOME HOUSING CREDIT RECAPTURE RULE

Legal Authority: 26 USC 38 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986; 26 USC 142(d) Internal Revenue Code of 1986; 26 USC 179 Internal Revenue Code of 1986; 26 USC 267(b) Internal Revenue Code of 1986; 26 USC 1274(d)(1) Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986; 26 USC 6622 Internal Revenue Code of 1986

TREAS—IRS

Final Rule Stage

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance with respect to the recapture requirements of section 42(j)for the low-income housing credit. In addition, these regulations will clarify the types of housing that will qualify for the credit.

Timetable:

Action	Date	FR Cite
Temporary Regulation	07/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-108-87

Drafting attorney: Christopher J. Wilson (202) 566-4945.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Margaret Henry (202) 535-6966.

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4945

RIN: 1545–AL12

2413. TO CLARIFY THE TERMS "BUILDING" AND "PLACED IN SERVICE" FOR PURPOSES OF SECTION 42

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides definition of the term "building", "placed in service", "eligible basis", etc.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/10/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-43-88

Drafting attorney: Donna Young (202) 566-4537.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Peg Henry (202) 535-6966.

13 Income Tax

Agency Contact: Donna Young, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4537

RIN: 1545–AM03

2414. INCOME TAX–CREDIT FOR INCREASING RESEARCH ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 41 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide the extent to which taxpayers will be entitled to an income tax credit for increases in certain research activity.

Timetable:

Action	Date	FR Cite
NPRM	01/21/83	48 FR 2790
NPRM Comment Period End	03/19/83	
Hearing	04/19/83	
Final Action	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-236-81.

Drafting attorney: David S. Hudson (202) 566-4821.

Reviewing attorney: Emil O. Muhs, Jr. (202) 535-9089.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Susan Himes (202) 566-8527.

Agency Contact: David S. Hudson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4821

RIN: 1545–AA07

2415. AMENDMENT OF INCOME TAX REGULATIONS UNDER SECTIONS 47, 48 AND 196 RELATING TO BASIS ADJUSTMENT TO REFLECT INVESTMENT TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 47 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986; 26 USC 196 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide rules concerning a basis adjustment in the case of the investment tax credit.

Timetable:

Action	Date	FR Cite
NPRM	09/21/87	52 FR 35438
NPRM Comment Period End	11/20/87	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-183-82.

Drafting attorney: Patrick T. McGroarty (202) 566-6321.

Reviewing attorney: James Ranson (202) 566-4944.

Agency Contact: Patrick T. McGroarty, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6321

RIN: 1545–AF06

2416. INCOME TAX–SPECIAL RULES ADDED BY SEC 223(C) OF CRUDE OIL WINDFALL PROFIT TAX ACT 1980, RELATING TO REDUCTION OF CREDIT WHERE PROPERTY IS FINANCED BY SUBSIDIZED ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 48 (l) Internal Revenue Code of 1986; PL 96-223, Sec 223 (c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide that subsidized energy financing and proceeds of exempt industrial development bonds used to finance a facility reduce the qualified investment in the energy property contained in that facility for purposes of determining the amount of the energy tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/82	47 FR 03559
NPRM Comment Period End	03/20/82	47 FR 03559
Hearing	06/03/82	
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

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Additional Information: PS-176-80.

Drafting attorney: Winston H. Douglas (202) 786-7340.

Reviewing attorney: William J. Dwyer (202) 566-6511.

Energy Credit

Agency Contact: Winston H. Douglas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 786-7340

RIN: 1545-AA26

2417. NET BOOK INCOME ADJUSTMENT FOR U.S. BRANCHES OF FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for computing the alternative minimum tax net book income adjustment of a foreign corporation engaged in a trade or business in the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/28/88	53 FR 15234
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-55-87

Drafting attorney: Nicholas G. Bogos (202) 566-3862.

Reviewing attorney: Bill Galanko (202) 566-4404.

Treasury attorney: Mark Levy (202) 535-4902.

International Tax Counsel Reviewing attorney: Peter Daub (202) 566-5791.

Agency Contact: Nicholas G. Bogos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545-AK23

2418. INCOME TAX—INVENTORY ADJUSTMENT FOR THE ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to inventory adjustment for the alternative minimum tax.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-84-87

Drafting attorney: William Jackson (202) 566-6320.

Reviewing attorney: Vincent A. Cardella (202) 566-4029.

Treasury attorney: Mark Levy (202) 566-4029.

Agency Contact: William Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-6320

RIN: 1545-AL03

2419. TAX BENEFIT RULE FOR CORPORATE ADD-ON MINIMUM TAX UNDER THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for taking into account credit carryovers in applying the minimum tax benefit rule for corporations.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-53-87

Drafting attorney: William A. Jackson (202) 566-6320.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Treasury attorneys: Ellen Aprill (202) 566-5453 and Robert Scarborough (202) 566-4979.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545-AK21

2420. INCOME TAX—TAXATION OF FRINGE BENEFITS AND EXCLUSIONS FROM GROSS INCOME FOR CERTAIN FRINGE BENEFITS

Legal Authority: 26 USC 61 Internal Revenue Code of 1986; 26 USC 132 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide guidance on the taxation and valuation of fringe benefits. The regulations will also address the requirements for certain fringe benefit exclusions, including nondiscrimination and line of business restrictions.

Timetable:

Action	Date	FR Cite
Hearing	04/16/85	50 FR 7072
NPRM	12/23/85	50 FR 52333
Interim Final Rule	12/23/85	50 FR 52281
NPRM Comment Period End	02/21/86	50 FR 52333
Hearing	03/03/86	51 FR 2898
Hearing	04/29/86	51 FR 8517
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-63-88

Drafting attorney: Rhonda G. Migdail (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Treasury attorney: Priscilla Ryan (202) 566-5453.

Agency Contact: Rhonda G. Migdail, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Avenue, NW, Washington, DC 20224, 202 566-4747

RIN: 1545-AH73

2421. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 67 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the miscellaneous itemized deductions that are subject to the 2-percent floor and provide expense allocation rules for regulated investment companies and REMICs.

Timetable:

Action	Date	FR Cite
NPRM	03/28/88	53 FR 9951
Final Action	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-97-86.

Drafting attorney: Beverly A. Baughman (202) 566-3980.

Reviewing attorneys: George B. Baker (202) 566-9292, Charles M Whedbee (202) 566-3458, Susan T. Baker (202) 566-3294.

Treasury attorney: Don Rocap (202) 566-8277.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3980

RIN: 1545-AJ49

2422. TREATMENT OF TRANSFER OF PROPERTY BETWEEN SPOUSES, TAX TREATMENT OF ALIMONY AND SEPARATE MAINTENANCE PAYMENTS, AND DEPENDENCY EXEMPTION IN THE CASE OF CHILD OF DIVORCED PARENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 71 Internal Revenue Code of 1986; 26 USC 215 Internal Revenue Code of 1986; 26 USC 1041 Internal Revenue Code of 1986; 26 USC 152 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to assist taxpayers in determining whether alimony and separate maintenance payments are deductible from income by the payor and includible in income by the payee, whether property transferred between spouses or between spouses incident to divorce has a carryover basis and whether the custodial or noncustodial parent is entitled to the dependency exemption.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34528
NPRM Comment Period End	10/20/84	49 FR 34528
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-153-84.

Drafting attorney: Steve Toomey (202) 566-6320.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Treasury attorney: Don Rocap (202) 566-8278.

Agency Contact: Steve Toomey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545-AI49

2423. ● UNIFORM PREMIUM TABLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations extend the present uniform premium table for employees over 65 years of age.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/30/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: TR-00468-88

Drafting attorney: Betty Clary (202) 566-4465.

Reviewing attorney: James Brokaw (202) 566-3496.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4465

RIN: 1545-AM96

2424. INCOME TAX REGULATIONS—MORTALITY TABLES TO BE USED TO DETERMINE AMOUNT HELD BY INSURER WITH RESPECT TO A BENEFICIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 101 (d)(2)(B)(ii) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will prescribe the mortality table to be used to determine the amount held by an insurer with respect to a beneficiary of a life insurance contract.

Timetable:

Action	Date	FR Cite
NPRM	09/21/87	52 FR 35447
Final Action	04/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-135-86

Drafting attorney: Barry S. Landau (202) 566-3458.

Reviewing attorney: William T. Sullivan (202) 566-3458.

Treasury attorney: Don Rocap (202) 566-8277.

Agency Contact: Barry S. Landau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK14

2425. INCOME TAX—EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS FOR WATER FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 142 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: This regulation would provide guidance to determine the rules under which facilities for furnishing water to members of the general public can be financed with tax-exempt industrial development bonds under section 142 (e) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
Final Action Effective	11/07/78	
NPRM	08/22/84	49 FR 33283
NPRM Comment Period End	10/22/84	49 FR 33283
Hearing	01/30/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-190-78.

Drafting attorney: Hervey H. Kornegay (202) 566-3458.

Reviewing attorney: Alice Bennett (202) 566-3287.

Office of Tax Legislative Counsel reviewing attorney: Elliot Stern (202) 566-2926.

Agency Contact: Hervey H. Kornegay, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AA49

2426. INCOME TAX–TO DEFINE THE TERM "PRINCIPAL USER OF A FACILITY"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would define the meaning of the term "principal user of a facility" for purposes of applying the limitation set by the Internal Revenue Code upon the permissible size of a small issue of tax-exempt industrial development bonds, as diminished by certain other capital expenditures. This regulation would help identify other facilities the capital expenditures from which must be taken into account in determining whether that issue exceeds the small issue limitation.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6274
NPRM Comment Period End	04/22/86	51 FR 6274
Hearing	06/04/86	51 FR 6273

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-59-74.

Drafting attorney: Dave White (202) 566-4545.

Reviewing attorney: Mike Montemurro (202) 566-4545.

Office of Tax Legislative Counsel reviewing attorney: Elliot Stern (202) 566-2926.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N W, Washington, D C 20224, 202 566-4545

RIN: 1545–AA56

2427. INCOME TAX–MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules which interpret the provisions of section 103(a), relating to Mortgage Subsidy Bonds. Mortgage Subsidy Bonds are any obligations a significant portion of the proceeds of which are used to provide financing for owner-occupied residences.

Timetable:

Action	Date	FR Cite
NPRM - Previous	07/01/81	46 FR 34348
Hearing	11/05/81	
NPRM	11/10/81	46 FR 55513
NPRM Comment Period End	01/09/82	46 FR 55513
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-10-81.

Drafting attorney: Suzanne Reynolds (202) 566-4310.

Reviewing attorney: Michael Montemurro (202) 566-4065.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Suzanne Reynolds, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4310

RIN: 1545–AA63

2428. TO PROVIDE REGULATIONS REQUIRING CERTAIN DEBT OBLIGATIONS TO BE ISSUED IN REGISTERED FORM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 (a) Internal Revenue Code of 1986; 26 USC 163 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules will provide that certain debt obligations issued after December 31, 1982, must be in registered form. The rules will provide examples of certain obligations that are not subject to the registration requirements. The sanctions for not issuing an obligation in registered form are the denial of an interest deduction, loss of capital gains treatment, loss of an earnings and profits adjustment, and loss of tax-exempt interest status.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51414
NPRM Comment Period End	01/14/83	47 FR 51414
Hearing	01/25/83	47 FR 51414
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: FI-255-82.

Drafting attorney: Dianne O. Umberger (202) 566-4336,

Reviewing attorney: David Brandon (202) 566-3287.

Treasury attorney: Elliot Stern (202) 566-2926.

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Agency Contact: Dianne O. Umberger, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AE18

2429. TO PROVIDE REGULATIONS UNDER SECTION 103(K) AND (L)–RELATING TO PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS FOR PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal will clarify the information reporting requirements with respect to private activity bonds. Industrial development bonds must be publicly approved--failure to fulfill this requirement results in loss of tax exemption for the interest on these bonds. Issuers of student loan bonds, charitable use bonds and industrial development bonds are required to supply certain information to the Internal Revenue Service. Failure to comply with this requirement will result in the loss of tax exemption for the bond's interest.

Timetable:

Action	Date	FR Cite
NPRM	05/11/83	48 FR 21166
NPRM Comment Period End	07/11/83	48 FR 21166
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-221-82.

Drafting attorney: Eric E. Boody (202) 566-4336.

Reviewing attorney: Alice M. Bennett (202) 566-3287.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Eric E. Boody, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AE24

2430. REGULATIONS RELATING TO $40 MILLION SMALL ISSUE LIMIT ON TAX-EXEMPT BONDS PER TAXPAYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144 (a) (10) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would provide guidance regarding the provision enacted by the Tax Reform Act of 1984 which generally denies Federal income tax exemption for a small issue of development bonds if any of its beneficiaries receives the benefits of more than $40 million of prior outstanding industrial development bonds allocated to itself, including its allocated portion of the small issue in question. These regulations would also provide guidance regarding how the proceeds of an issue of industrial development bonds are to be allocated among its beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6270
NPRM Comment Period End	04/22/86	51 FR 6270
Hearing	06/04/86	51 FR 6273

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-157-84.

Drafting attorney: Dave White (202) 566-4545.

Reviewing attorney: Mike Montemurro (202) 566-4545.

Office of Tax Legislative Counsel reviewing attorney: Elliott Stern(202) 566-2926.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4545

RIN: 1545–AH19

2431. TO PROVIDE REGULATIONS RELATING TO THE TAX EXEMPTION OF OBLIGATIONS TO FINANCE MIXED-USE RESIDENTIAL RENTAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.103-8

Legal Deadline: None

Abstract: The regulations will clarify the rule relating to obligations to provide residential rented property. The regulations will make clear that a residential rental project can consist in part of non-residential rental property.

Timetable:

Action	Date	FR Cite
NPRM	10/07/85	50 FR 46303
NPRM Comment Period End	01/06/86	
Hearing	02/10/86	51 FR 1392

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-269-84.

Drafting attorney: L. Michael Wachtel (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Elliot Stern (202) 566-2566.

Agency Contact: L. Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AH68

2432. ● PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 116 Internal Revenue Code of 1986 PL 96-223, Sec 404

CFR Citation: 26 CFR 116

Legal Deadline: None

Abstract: This regulations project is necessary to conform the regulations relating to section 116 of the Internal Revenue Code of 1986 to amendments to section 404 made by the Crude Oil Windfall Profit Tax Act of 1980, P.L. 96-223. This regulation will provide guidance to individuals who administer section 116 and taxpayers who are subject to and must comply with these sections of the code. Section 116 relates to the partial exclusion of dividends and interest received by individuals.

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Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-83-80

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Unassigned.

Income Tax

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AM73

2433. EXCLUSION OF QUALIFIED SCHOLARSHIPS AND FELLOWSHIPS FROM GROSS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6041 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide rules relating to the exclusion of certain amounts received as a qualified scholarship. Regulations will also provide rules relating to withholding from certain payments and return of information requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/09/88	53 FR 21688
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-3-87

Drafting attorney: Michael Schmit (202) 566-3826.

Reviewing attorney: William Galanko (202) 566-3862.

Treasury attorney: Kathleen Ferrell (202) 566-2599.

Agency Contact: Michael Schmit, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution, N.W., Washington, DC 20224, 202 566-3826

RIN: 1545–AJ87

2434. INCOME TAX–TAX TREATMENT OF CAFETERIA PLANS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 125 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations establish rules for the tax treatment of cafeteria plans meeting certain nondiscrimination standards. A cafeteria plan permits participating employees to select the particular fringe benefits desired from a package of employer-provided benefits which include statutory nontaxable benefits and cash.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	49 FR 50733
NPRM Comment Period End	01/30/85	
Hearing	03/11/85	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-16-79.

Drafting attorney: Harry Beker (202) 566-3251.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8277.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AD63

2435. INCOME TAX-EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 126 Internal Revenue Code of 1986; 26 USC 1255 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules on the exclusion from income of certain cost sharing payments and on the amount recaptured when the property improved with government payments is sold within a certain specified period of time.

Timetable:

Action	Date	FR Cite
NPRM	05/21/81	46 FR 27723
NPRM Comment Period End	07/20/81	46 FR 27723
Hearing	12/01/81	46 FR 50808
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-222-78.

Drafting attorney: Brenda M. Stewart (202) 566-4919.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Agency Contact: Brenda M. Stewart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4919

RIN: 1545–AA73

2436. INCOME TAX–PART I EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 131 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will explain what foster child care payments may be excluded from the gross income of a foster parent.

Timetable:

Action	Date	FR Cite
NPRM	02/01/85	50 FR 4702
NPRM Comment Period End	04/02/85	50 FR 4702
Hearing	06/25/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-83-83.

Drafting attorney: Victoria J. Driscoll (202) 566-3637.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Agency Contact: Victoria J. Driscoll, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AF52

2437. INCOME TAX–PRIZES AND AWARDS

Legal Authority: 26 USC 74 Internal Revenue Code of 1986; 26 USC 132 Internal Revenue Code of 1986; 26 USC 170 Internal Revenue Code of 1986; 26 USC 274 Internal Revenue Code of 1986; 26 USC 6041 Internal Revenue Code of 1986; 26 USC 102 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will incorporate changes with respect to the tax treatment of prizes and awards and certain employee achievement awards. They will provide guidance so that effective designations and transfers of awards may be accomplished as well as rules with respect to allowance of exclusions and deductions for awards given in an employment context.

Timetable:

Action	Date	FR Cite
NPRM	01/09/89	54 FR 627
NPRM Comment Period End	03/10/89	54 FR 627
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-111-86.

Drafting attorney: Johnnel St. Germain (202) 566-4509.

Reviewing attorney: Karin Gross (202) 566-2175.

Treasury attorney: Judge Kelley (202) 566-2175.

Agency Contact: Johnnel St. Germain, Law Clerk, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4509

RIN: 1545–AJ19

2438. ARBITRAGE RESTRICTIONS ON TAX-EXEMPT BONDS; REBATE REQUIREMENT

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to the arbitrage rebate requirements for tax-exempt bonds.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/01/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-90-86

Drafting attorney: Elliot Stern (202) 566-2926

Reviewing attorney: Michael Montemurro (202) 566-4085.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: George Delduke, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3347

RIN: 1545–AJ81

2439. INFORMATION REPORTING FOR TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide information reporting rules for tax-exempt bonds.

Timetable:

Action	Date	FR Cite
NPRM	03/11/87	52 FR 7408
NPRM Comment Period End	05/11/87	52 FR 7408
Hearing	06/26/87	
Final Action	04/15/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: FI-146-86

Drafting attorney: Mark Scott (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Mark Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-4336

RIN: 1545–AJ63

2440. CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 106 (b) Internal Revenue Code of 1986; 26 USC 162 (i) (2) Internal Revenue Code of 1986; 26 USC 162 (k) Internal Revenue Code of 1986; 26 USC 4980B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: These regulations will provide guidance relating to the requirement that a group health plan provide continuation coverage to individuals who would otherwise lose coverage as a result of certain events.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22716
NPRM Comment Period End	08/14/87	52 FR 22716
Hearing	11/04/87	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-143-86

Drafting attorney: Mark Schwimmer (202) 566-3155.

Review attorney: Colene Mason (202) 566-4741.

Treasury attorney: Priscilla Ryan (202) 566-5453.

Agency Contact: Mark Schwimmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3155

RIN: 1545–AI93

2441. INCOME TAX REGULATIONS–LIMITATIONS ON DEDUCTIONS FOR NONBUSINESS INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance relating to the disallowance of a deduction for personal interest, including guidance regarding the definitions of qualified residence, qualified residence interest and qualified indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	12/22/87	52 FR 48452
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-137-86

Drafting attorney: Sharon L. Hall (202) 566-4811.

Reviewing attorney: John Fischer (202) 566-8131.

Treasury attorney: Reed Shuldiner (202) 566-2175.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4811

RIN: 1545–AK17

2442. REGISTRATION REQUIREMENTS WITH RESPECT TO CERTAIN DEBT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules regarding deductibility of interest on pass-through certificates when certificates are held by nominees.

Timetable:

Action	Date	FR Cite
NPRM	05/19/88	53 FR 17960
Final Action	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: INTL-905-87

Drafting attorney: Carl M. Cooper (202) 634-5406.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2964.

13 Income Taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AM22

2443. REGISTRATION REQUIREMENTS WITH RESPECT TO CERTAIN DEBT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Publication of section 1.163-5T inadvertently deleted 12/19/86, dealing with deductibility of interest on pass-through certificates.

Timetable:

Action	Date	FR Cite
NPRM	05/19/88	53 FR 17959
Final Action	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-990-86

Drafting attorney: Carl M. Cooper (202) 634-5406.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2964.

13 Income Taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AM22

2444. INCOME TAX REGULATIONS—TAX STRADDLES RELATING TO SECTION 108 OF THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 165 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules under section 108 of the Tax Reform Act of 1984 and section 1808 (d) of the Tax Reform Act of 1986, relating to the treatment of certain losses on straddles entered into before the effective date of the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	08/23/84	49 FR 33458
NPRM Comment Period End	10/22/84	49 FR 33458
Hearing	11/29/84	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-147-84.

Drafting attorney: Karl T. Walli (202) 566-3297.

Reviewing attorney: Steven R. Glickstein (202) 566-3297.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Karl T. Walli, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AG57

2445. ● NORMALIZATION REQUIREMENTS FOR PUBLIC UTILITY PROPERTY: INCONSISTENT PROCEDURES AND ADJUSTMENTS

Legal Authority: 26 USC 168 (i)(9)(B)(iii) Internal Revenue Code of 1986

CFR Citation: 26 CFR 167; 26 CFR 168

Legal Deadline: None

Abstract: Regulation to prescribe utility ratemaking procedures and adjustments that are to be treated as inconsistent with the normalization rules under 26 USC 167 and 168. Regulation will make clear: (1) that term "tax expense" in 26 USC 168 (i)(9)(A) and (B) means total tax expense, including both current and preferred taxes, and (2) that reducing utility's Federal income tax expense for ratemaking purposes, either directly or indirectly, to reflect tax losses of non-regulated affiliated companies is inconsistent under 26 USC 168 (i)(9)(B) with normalization requirements of 26 USC 168 (i)(9)(A).

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-107-88

Drafting attorney: Martin Schaffer (202) 566-6589.

Reviewing attorney: Noel Sheehan (202) 566-4819.

Treasury attorney: Undetermined.

Income Taxes

Agency Contact: Martin Schaffer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6589

RIN: 1545–AM60

2446. INCOME TAX—ACCELERATED COST RECOVERY SYSTEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986; 26 USC 179 Internal Revenue Code of 1986; 26 USC 1245 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 1250 Internal Revenue Code of 1986; 26 USC 57 (a) (12) Internal Revenue Code of 1986; 26 USC 312 (k) Internal Revenue Code of 1986; 26 USC 172 (b) Internal Revenue Code of 1986; 26 USC 812 (b) Internal Revenue Code of 1986; 26 USC 46 (b) Internal Revenue Code of 1986; 26 USC 53 (c) Internal Revenue Code of 1986; 26 USC 381 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide regulations under section 168 and accompanying provisions clarifying the operation of the new accelerated cost recovery scheme. This new cost recovery system generally applies to property placed in service after December 31, 1980. Generally, section 168 applies to "recovery property" which is defined as tangible property of a character subject to the allowance for depreciation which is used in a trade or business, or held for the production of income.

Timetable:

Action	Date	FR Cite
NPRM	02/16/84	49 FR 5940
NPRM Comment Period End	05/16/84	49 FR 5940
Hearing held	05/21/84	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-165-81.

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: William Dwyer (202) 566-6511.

Treasury attorney: Barksdale Penick (202) 566-5453.

Accelerated Cost Recovery System.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AA87

2447. TAX-EXEMPT ENTITY LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules concerning tax-exempt entity leasing and service contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/02/85	50 FR 27297
NPRM Comment Period End	09/03/85	50 FR 27297
Hearing	11/25/85	
Final Action	06/01/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-31-85.

Drafting attorney: Edward C. Schwartz (202) 566-3861.

Reviewing attorney: William Galanko (202) 566-3862.

Treasury attorney: Adam Handler (202) 535-6964.

Agency Contact: Edward C. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AH78

2448. DEDUCTIONS IN EXCESS OF $5000 CLAIMED BY A SUBCHAPTER C CORPORATION FOR CHARITABLE CONTRIBUTIONS OF CERTAIN PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 170 (a) (1) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide substantiation requirements with which subchapter C corporations must comply in order to take deductions for charitable contributions of certain property.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16156
Hearing	09/23/88	
Final Action	09/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-83-87

Drafting attorney: Beverly A. Baughman (202) 566-3980.

Reviewing attorney: Rudi Planert (202) 566-9293.

Treasury attorney: A.L. Spitzer (202) 566-5911.

13 Income Tax

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3980

RIN: 1545–AL09

2449. PROVISIONS RELATING TO COOPERATIVE HOUSING CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 216 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules for determining a tenant-stockholder's proportionate share of taxes or interest in the case where the

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cooperative housing corporation has made the election provided in section 216 (b) (3) (B) of the Code. These regulations also provide rules for determining whether a deduction claimed by a tenant-stockholder should be disallowed as more proper allocable to the corporation's capital account.

Timetable:

Action	Date	FR Cite
NPRM	05/27/88	53 FR 19312
Final Action	07/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-102-86.

Drafting attorney: David L. Click (202) 566-4821.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Agency Contact: David L. Click, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4821

RIN: 1545–AJ96

2450. INDIVIDUAL RETIREMENT PLANS AND SIMPLIFIED EMPLOYEE PENSIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 62 Internal Revenue Code of 1986; 26 USC 219 Internal Revenue Code of 1986; 26 USC 220 Internal Revenue Code of 1986; 26 USC 404 (h) Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 2503 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986; 26 USC 3306 Internal Revenue Code of 1986; 26 USC 4973 Internal Revenue Code of 1986; 26 USC 4974 Internal Revenue Code of 1986; 26 USC 6693 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 25; 26 CFR 31; 26 CFR 54; 26 CFR 301

Legal Deadline: None

Abstract: The regulations set forth rules for sponsors of and participants in individual retirement plans, spousal individual retirement plans, and simplified employee pensions.

Timetable:

Action	Date	FR Cite
NPRM	07/14/81	46 FR 36198
NPRM Comment Period End	09/14/81	46 FR 36198
Final Action	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-7-78.

Drafting attorney: William D. Gibbs (202) 566-3060.

Reviewing attorney: A. Thomas Brisendine (202) 566-3060.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8278.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AD59

2451. INDIVIDUAL RETIREMENT PLANS, SIMPLIFIED EMPLOYEE PENSIONS, AND QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 219 Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 415 Internal Revenue Code of 1986; 26 USC 2039 Internal Revenue Code of 1986; 26 USC 2517 Internal Revenue Code of 1986; 26 USC 6652 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25; 26 CFR 301

Legal Deadline: None

Abstract: These regulations set forth rules for individual retirement plans, simplified employee pensions, and qualified voluntary employee contributions after amendment of the Internal Revenue Code of 1954 by the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	01/23/84	49 FR 2794
NPRM Comment Period End	03/23/84	49 FR 2794
Final Action	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-148-81.

Drafting attorney: William D. Gibbs (202) 566-3060.

Reviewing attorney: A. Thomas Brisendine (202) 566-3060.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8277.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AD66

2452. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the costs incurred in the production and acquisition of property for resale in a trade or business or activity conducted for profit.

Timetable:

Action	Date	FR Cite
NPRM	03/30/87	52 FR 10118
NPRM Comment Period End	05/29/87	
Hearing	12/07/87	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-168-86.

Drafting attorney: Paulette C. Galanko (202) 566-3731.

Reviewing attorney: John M. Fischer (202) 566-8131.

Treasury attorney: Thomas Evans (202) 566-8277.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3731

RIN: 1545–AK05

2453. TEMPORARY REGULATION—CAPITALIZATION OF INTEREST EXPENSE RELATING TO PRODUCTION OF PROPERTY

Significance: Regulatory Program

Legal Authority: 26 USC 263A(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the capitalization of certain interest expenses and the allocation of interest to property subject to the capitalization rules.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-120-86.

Drafting attorney: Carol Conjura (202) 566-3024.

Reviewing attorney: John Fischer (202) 566-8131.

Treasury attorney: Adam Handler (202) 535-6964.

Agency Contact: Carol Conjura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3024

RIN: 1545–AK03

2454. REGULATIONS UNDER SECTION 267 OF THE CODE TO REFLECT SECTION 174 OF THE TAX REFORM ACT OF 1984 RELATING TO LOSSES, EXPENSES, AND INTEREST IN TRANSACTIONS BETWEEN RELATED TAXPAYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 267 Internal Revenue Code of 1986; 26 USC 706 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation deals with changes in section 267 arising from section 174 of the Tax Reform Act of 1984. It deals with the matching of payor deductions and payee income items in the case of expenses and interest where the accrual method payor and the cash method payee are related persons. The regulation also deals with the deferral and restoration of loss on the sale or exchange of property from one member of a controlled group of corporations to another member.

Timetable:

Action	Date	FR Cite
NPRM	11/30/84	49 FR 47048
NPRM Comment Period End	01/29/85	49 FR 47048
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-183-84.

Drafting attorney: Gerald A. Consalvi (202) 566-3886.

Reviewing attorney: George Baker (202) 566-9292.

Agency Contact: Gerald A. Consalvi, Attorneys Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3886

RIN: 1545–AG11

2455. INCOME TAX—PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 269A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules for determining when the Internal Revenue Service may reallocate income or tax benefits between a personal service corporation and its employee-owners.

Timetable:

Action	Date	FR Cite
NPRM	03/31/83	48 FR 13438
NPRM Comment Period End	05/31/83	48 FR 13438
Hearing	07/19/83	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-188-82.

Drafting attorney: Paul Horrell (202) 566-2457.

Reviewing attorney: Nelson Crouch (202) 566-3651.

Agency Contact: Paul Horrell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-2457

RIN: 1545–AF11

2456. INCOME TAX—SUBSTANTIATION REQUIREMENTS WITH RESPECT TO LISTED PROPERTY AND SUBSTANTIATION REQUIREMENTS RELATING TO THE TAXATION OF FRINGE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will set forth the requirements to substantiate any deduction or credit for certain business-related expenses with adequate records or sufficient evidence corroborating a taxpayer's own statement.

Timetable:

Action	Date	FR Cite
NPRM	11/06/85	50 FR 46006
NPRM Comment Period End	01/06/86	50 FR 46006
Hearing	03/04/86	51 FR 02698
Final Action	06/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-140-86.

Drafting attorney: Joel Rutstein (202) 566-4509.

Reviewing attorney: Michael Finley (202) 566-4430.

Agency Contact: Joel Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-4509

RIN: 1545–AJ40

2457. INCOME TAX—DEDUCTIONS FOR EXPENSES ATTRIBUTABLE TO BUSINESS USE OF HOMES, RENTAL OF VACATION HOMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: The regulations would provide rules for determining the deductibility of expenses incurred in connection with the business use, or rental to others, of a dwelling unit. The regulations provide rules for determining when the taxpayer uses a dwelling unit for personal use or when use by another person of the unit is treated as personal use of the unit by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	07/21/83	48 FR 33326
NPRM Comment Period End	09/21/83	
Hearing	10/04/83	
Final Action	08/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-261-76.

Drafting attorney: Joel S. Rutstein (202) 566-4509.

Reviewing attorney: Michael Finley (202) 566-4430.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4509

RIN: 1545–AB09

2458. LIMITATIONS ON AMOUNT OF DEPRECIATION AND INVESTMENT TAX CREDIT FOR LUXURY AUTOMOBILES AND CERTAIN OTHER PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will clarify the rules limiting the investment tax credit and cost recovery deductions allowable with respect to passenger automobiles and certain other "listed property."

Timetable:

Action	Date	FR Cite
NPRM	10/24/84	49 FR 42743
NPRM Comment Period End	12/24/84	49 FR 42743
Second Hearing	03/04/86	51 FR 2898
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-145-84.

Drafting attorney: John E. Moffat (202) 566-6682.

Reviewing attorney: William J. Dwyer (202) 566-6511.

Treasury attorney: John H. Parcell (202) 535-6965.

Agency Contact: John E. Moffat, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6682

RIN: 1545–AC99

2459. AFFILIATED GROUPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 304 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides proper adjustments to stock bases and earnings and profits of members of an affiliated group in section 304 (a) transfers of intragroup stock.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-2-88

Drafting attorney: Paul Horrell (202) 566-2457.

Reviewing attorney: Virginia Voorhees (202) 566-2454.

13 Income Taxes

Agency Contact: Paul Horrell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2457

RIN: 1545–AL41

2460. INCOME TAX–PART 1 TEMPORARY REGULATIONS-RECOGNITION OF GAIN OR LOSS LIQUIDATING SALES AND DISTRIBUTIONS OF PROPERTY (TRA 1986, SECTIONS 631 TO 633)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 336 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would provide rules for the recognition of gain or loss on a corporation's liquidation sales or distributions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-117-86.

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AJ01

2461. CERTAIN STOCK SALES AND DISTRIBUTIONS TREATED AS ASSET TRANSFERS

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance for making an election under section 336 (e) and the consequences which result from making such an election

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-51-87

Drafting attorney: Jean M. Whalen (202) 566-6212.

Reviewing attorney: Peter G. Lynard (202) 566-6358.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Jean M. Whalen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545–AK30

2462. APPLICATION OF GENERAL UTILITIES REPEAL REGULATORY AUTHORITY TO CERTAIN DISTRIBUTIONS UNDER SECTION 355

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are intended to cause the recognition of net gain by the distributing corporation ("parent") upon the distribution of the stock and securities of a controlled corporation ("subsidiary") in a transaction to which section 355 applies when the distribution is part of a transaction that is made with a gain avoidance purpose and within two years of the distribution a person acquires control of the parent or the subsidiary.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-78-88

Drafting attorney: Robert Casey (202) 566-3551.

Reviewing attorney: Barry Isaacs (202) 566-3544.

Treasury attorney: Thomas Wessel (202) 566-2927.

13 Income tax

Agency Contact: Robert Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AM34

2463. DEEMED SALE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will prescribe rules for computing the basis of stock purchased in certain stock acquisitions and for allocating this basis among the assets of the corporation whose stock was thus acquired.

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	51 FR 23790
NPRM Comment Period End	09/02/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-191-82.

Drafting attorney: Christopher F. Kane (202) 566-3551.

Reviewing attorney: Barry L. Isaacs (202) 566-3544.

Office of Tax Legislative Counsel reviewing attorney: Thomas Wessel (202) 566-3458.

Agency Contact: Christopher F. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AF29

2464. INCOME TAX-ELECTIONS UNDER SECTION 338, AS ADDED BY SECTION 224 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AS AMENDED BY THE TECHNICAL CORRECTIONS ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; PL 97-248, Sec 224; PL 97-448, Sec 306

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules for making elections under section 338, which permits certain stock purchases to be treated as asset acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	09/06/84	49 FR 35144
NPRM Comment Period End	11/05/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-26-83.

Drafting attorney: Christopher F. Kane (202) 566-3551.

Reviewing attorney: Barry L. Isaacs (202) 566-3544.

Treasury attorney: Thomas F. Wessel (202) 566-2927.

Agency Contact: Christopher F. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AF38

2465. REGULATIONS UNDER SECTION 338 (H) (10) AS ADDED TO THE CODE BY SECTION 306 OF THE TECHNICAL CORRECTIONS ACT OF 1982, RELATING TO SPECIAL ELECTIVE RECOGNITION OF GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would interpret the rules of section 338 (h) (10) under which a special election can be made so that target recognizes gain or loss on the deemed sale of its assets. The proposal is necessary so that affected taxpayers can make election under the provision.

Timetable:

Action	Date	FR Cite
NPRM	01/08/86	51 FR 763
NPRM Comment Period End	03/10/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-218-83.

Drafting attorney: Christopher L. Kane (202) 566-3551.

Reviewing attorney: Barry L. Isaacs (202) 566-3544.

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Office of Tax Legislative Counsel reviewing attorney: Thomas Wessel (202) 566-2927.

Agency Contact: Christopher F. Kane, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AF93

2466. QUESTIONS AND ANSWERS RELATING TO DOMESTIC MATTERS UNDER SECTION 338 OF THE INTERNAL REVENUE CODE OF 1954 - CROSS REFERENCE TO THE TEMPORARY REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance on a broad range of issues under section 338.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 16430

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-33-85.

Drafting attorney: Christopher F. Kane (202) 566-3551.

Reviewing attorney: Barry L. Isaacs (202) 566-3544.

Treasury attorney: Thomas F. Wessel (202) 566-4979.

Agency Contact: Christopher F. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AH88

2467. STATEMENTS OF ELECTION AND DUE DATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide guidance to taxpayers who make express elections under section 338 pursuant to the extended July 15, 1986, filing deadline where the statute of limitations in the target's taxable year which includes the acquisition date has expired prior to July 15, 1986, or will expire shortly thereafter.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17989
NPRM Comment Period End	07/15/86	51 FR 17989

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-8-86.

Drafting attorney: Christopher F. Kane (202) 566-3551.

Reviewing attorney: Barry L. Isaacs (202) 566-3544.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Christopher F. Kane, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AI53

2468. MANDATORY APPLICATION OF MADSP FORMULA FOR DETERMINATION OF DEEMED SALE PRICE FOR OLD TARGET'S ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will require the use of the MADSP formula in a qualified stock purchase to which section 338(h)(10) applies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-76-86

Drafting attorney: Keith G. Medleau (202) 566-3551.

Reviewing attorney: Barry L. Isaacs (202) 566-3544.

Treasury attorney: Jud Kelly (202) 566-2175.

Agency Contact: Keith G. Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AJ07

2469. TREATMENT OF AN AFFILIATED GROUP OF CORPORATIONS AS A SELLING CONSOLIDATED GROUP FOR PURPOSES OF ELECTIVE RECOGNITION UNDER SECTION 338 (H) (10)

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the guidance for making elections under section 338 (h) (10) when the selling group is an affiliated group of corporations which does not file a consolidated federal income tax return, and the consequences of making such an election.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/09/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-49-87

Drafting attorney: Matthew B. Krasner (202) 566-3430.

Reviewing attorney: Barry L. Isaacs (202) 560-3544.

Treasury attorney: Judge Kelley (202) 566-2175.

Agency Contact: Matthew B. Krasner, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545–AK32

2470. ● APPLICATION OF INSTALLMENT METHOD TO DEEMED SALE OF ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.338(h)(10)

Legal Deadline: None

TREAS—IRS **Final Rule Stage**

Abstract: The regulations will provide guidance for utilization of the installment method of reporting in a qualified stock purchase to which section 338(h)(10) applies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-88-88

Drafting attorney: Keith G. Medleau (202) 566-3551.

Reviewing attorney: Barry L. Isaacs (202) 566-3544.

Treasury attorney: Jud Kelley (202) 566-2175.

Income Taxes

Agency Contact: Keith G. Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AM84

2471. INCOME TAX–TRIANGULAR REORGANIZATIONS, BASIS AND OTHER CONSEQUENCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to basis of stock of a corporation acquiring property in exchange for stock of a corporation in control of the acquiring corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/02/81	46 FR 112
NPRM Comment Period End	03/03/81	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-993-71.

Drafting attorney: Christopher F. Kane (202) 566-3551.

Reviewing attorney: Barry L. Isaacs (202) 566-3544.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thomas Wessel 202) 566-5453.

Agency Contact: Christopher F. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AB21

2472. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Income Tax Regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-610-86

Drafting attorney: Elizabeth U. Karzon (202) 566-3160.

Reviewing attorney: Charles Saverude (202) 566-6645.

Treasury attorney: Mary Bennett (202) 566-3992.

13 Income taxes.

Agency Contact: Elizabeth U. Karzon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3160

RIN: 1545–AK74

2473. INCOME TAX–PART 1–TEMPORARY-WHETHER EARNINGS AND PROFITS SHOULD BE ALLOCATED TO AN ACQUIRING CFC FROM AN ACQUIRED CFC FOLLOWING A NON-RECOGNITION TRANSACTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 367 (b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Should earnings and profits be allocated to an acquiring CFC from an acquired CFC following a transaction which qualified for non-recognition treatment.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-76-86.

Drafting attorney: Richard Chewning (202) 566-6384.

Reviewing attorney: Bernard Bress (202) 566-6440.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 4109, Washington, D.C. 20224, 202 566-6384

RIN: 1545–AI32

2474. FOREIGN LIQUIDATIONS AND REORGANIZATIONS (TEMPORARY REGULATIONS)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b)(2) Internal Revenue Code of 1986

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CFR Citation: 26 CFR 7

Legal Deadline: None

Abstract: Temporary regulations would provide guidance concerning requirements relating to certain exchanges involving a foreign corporation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-991-86

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Bernard Bress (202) 566-6440.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AJ76

2475. INCOME TAX—TEMPORARY REGULATIONS—REORGANIZATIONS INVOLVING FINANCIALLY TROUBLED THRIFT INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986; 26 USC 597 Internal Revenue Code of 1986

CFR Citation: 26 CFR 5c

Legal Deadline: None

Abstract: Provision would provide temporary regulations dealing with reorganizations of financially troubled thrift institutions and with the tax consequences of financial assistance payments made to such an institution by a supervisory governmental agency, thereby giving the public needed guidance on how the Internal Revenue Service intends to interpret these issues.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-230-81.

Drafting attorney: Mark Schneider (202) 566-3544.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Agency Contact: Mark A. Schneider, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3544

RIN: 1545–AB26

2476. INCOME TAX—EXCHANGE FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 (a) (2) (F) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to reorganizations of undiversified investment companies.

Timetable:

Action	Date	FR Cite
NPRM	01/07/81	46 FR 1744
NPRM Comment Period End	03/08/81	46 FR 1744

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-135-76.

Drafting attorney: Christopher L. Kane (202) 566-3551.

Reviewing attorney: Barry L. Isaacs (202) 566-3554.

Agency Contact: Christopher F. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AB31

2477. INCOME TAX—OWNERSHIP CHANGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on what constitutes "ownership change" under section 382 of the Internal Revenue Code of 1986 (generally, an "ownership change" is a shift in loss corporation stock ownership (after which the corporation's net operating loss carryovers are limited)).

Timetable:

Action	Date	FR Cite
NPRM	08/11/87	52 FR 29704
NPRM Comment Period End	10/13/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-106-86.

Drafting attorney: Keith E. Stanley (202) 566-3367.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Thomas Wessel (202) 566-2928.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AJ00

2478. COMPUTATION OF SECTION 382 LIMITATION

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would explain the manner and method of computing the section 382 limitation under circumstances when there are successive ownership changes, capital contributions, mergers liquidations, and in instances when one corporation controls another corporation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	05/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

TREAS—IRS

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Additional Information:

CO-66-87.

Drafting attorney: Keith E. Stanley (202) 566-3367.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Thomas Wessel (202) 566-2928.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AK87

2479. SECTION 382 LIMITATION ON GROUPS FILING CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This temporary regulation provides rules for computation of the section 382 limitation by groups filing consolidated returns.

Timetable:

Action	Date	FR Cite
Temporary Regulation	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-132-87

Drafting attorney: David P. Madden (202) 566-3205.

Reviewing attorney: James Dahlberg (202) 566-3255.

Treasury attorney: Thomas Wessel (202) 566-2927.

Income Taxes

Agency Contact: David Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3205

RIN: 1545–AL36

2480. ALLOCATION OF A LOSS CORPORATION'S INCOME OR LOSS FOR THE TAXABLE YEAR THAT INCLUDES THE CHANGE DATE BETWEEN THE PERIODS ENDING WITH AND AFTER THE CHANGE DATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 362 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Except as provided in regulations, sections 382 (b) (3) (A) and (d) (1) of the Internal Revenue Code of 1986 provide for a ratable allocation of income or net operating loss, respectively, for the taxable year that includes the change date. Notice 87-79, 1987-2 C.B. 387, states that regulations will, in certain cases, provide taxpayers with an election to allocate income and loss between the periods ending with and after the change date on the basis of a closing of their books as of the change date (rather than on the basis of a ratable allocation). The notice also states that the regulations, in appropriate circumstances, will permit income that is realized after the date, but is properly attributable to the period ending with the change date, to be allocated to the pre-change period. The purpose of this regulation project is to provide guidance in the areas suggested by the notice and in related areas.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-49-88

Drafting attorney: Richard W. Stern (202) 566-3618.

Reviewing attorney: James Dahlberg (202) 566-3255.

Treasury attorney: Thomas Wessel (202) 566-2927.

13 Income Tax

Agency Contact: Richard W. Stern, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3618

RIN: 1545–AL58

2481. SPECIAL LIMITATIONS ON CERTAIN CREDIT AND LOSS CARRYOVERS

Legal Authority: 26 USC 383 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would specify the manner and method on applying the special limitations on certain credit and loss carryovers under section 383.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-68-87

Drafting attorney: Lori Jones (202) 566-3205.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Lori Jones, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3205

RIN: 1545–AK28

2482. INCOME TAX—REFUND OF MISTAKEN CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 (a) (2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations describe those circumstances under which an employer contribution or withdrawal liability payment to a multiemployer pension plan may be refunded due to a mistake of law or fact.

Timetable:

Action	Date	FR Cite
NPRM	03/11/83	48 FR 10374
NPRM Comment Period End	05/10/83	48 FR 10374
Final Action	07/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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Additional Information: EE-133-80.

Drafting attorney: John T. Ricotta (202) 566-4747.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8277.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AD68

2483. INCOME TAX–REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT ACCOUNTS AND PARTIAL ROLLOVERS OF INDIVIDUAL RETIREMENT ACCOUNTS

Legal Authority: 26 USC 408 (a) (6) Internal Revenue Code of 1986; 26 USC 401 (a) (9) Internal Revenue Code of 1986; 26 USC 408 (b) (3) Internal Revenue Code of 1986; 26 USC 408 (d) (3) (C) Internal Revenue Code of 1986; 26 USC 219 (d) (4) Internal Revenue Code of 1986; 26 USC 403 (b) (10) Internal Revenue Code of 1986; 26 USC 4974 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will revise the Income Tax Regulations to incorporate the changes made in the law by the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1984, and Income Tax Reform Act of 1986 concerning the required distributions from qualified plans, individual retirement accounts and 403(b) annuities and custodial accounts.

Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 28070
HEARING	12/04/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-113-82.

Drafting attorney: Marjorie Hoffman (202) 566-4747.

Reviewing attorney: Jerry Holmes/R. Wickersham (202) 566-4747.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8277.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AE95

2484. CASH OR DEFERRED ARRANGEMENTS (TAX REFORM ACT OF 1986)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 (k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, January 31, 1988.

Abstract: These regulations will provide rules relating to cash or deferred arrangements brought about because of the amendment of section 401 (k) by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	06/08/88	53 FR 29719
NPRM Comment Period End	10/07/88	53 FR 29719
Final Action	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-158-86

Drafting attorney: Catherine L. Fernandez (202) 566-3060

Reviewing attorney: Mary E. Oppenheimer (202) 566-6628.

Treasury attorney: Paul Strella (202) 566-2784.

Agency Contact: Catherine L. Fernandez, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AI79

2485. INCOME TAX -- PART 1– APPLICATION OF NONDISCRIMINATION RULES TO INTEGRATED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 (l) Internal Revenue Code of 1986; 26 USC 401 (a) (5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules with regard to the application of the nondiscrimination rules to integrated plans.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45917
NPRM Comment Period End	01/17/89	53 FR 45917
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-159-86

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Treasury attorney: Paul Strella (202) 566-8277.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI86

2486. NONDISCRIMINATION REQUIREMENTS FOR EMPLOYER MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 (m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: NPRM, Statutory, January 31, 1988.

Abstract: These regulations will provide rules relating to nondiscrimination requirements for employer matching contributions and employee contributions. The regulations will also provide rules on computing the excise tax on excess contributions made under a cash or deferred arrangement and on excess aggregate contributions.

Timetable:

Action	Date	FR Cite
NPRM	08/08/88	53 FR 29719
NPRM Comment Period End	10/07/88	53 FR 29719
Final Action	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-160-86

Drafting attorney: Catherine L. Fernandez (202) 566-3060.

Reviewing attorney: Mary E. Oppenheimer (202) 566-6628.

Treasury attorney: Paul Strella (202) 566-2784.

Agency Contact: Catherine L. Fernandez, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AI80

2487. INCOME TAX–DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 404A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans.

Timetable:

Action	Date	FR Cite
NPRM	04/08/85	50 FR 13821
NPRM Comment Period End	06/07/85	50 FR 13821
Hearing	09/20/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-14-81.

Drafting attorney: Nerman D. Hubbard (202) 566-3251.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Agency Contact: Nerman D. Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AD81

2488. ANNUAL INFORMATION REPORTS BY TRUSTEES AND ISSUERS OF INDIVIDUAL RETIREMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; PL 98-369, Sec 147

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: On June 28, 1983, the Internal Revenue Service issued news release IR-83-88 requiring new information reporting by trustees of individual retirement accounts and issuers of individual retirement annuities (including accounts and annuities that are simplified employee pensions). Form 5498, Individual Retirement Arrangement Information, was prescribed in the news release as the information return to be used for this purpose. This regulation project will amend the regulations under section 408 to conform them to the reporting requirements announced in the news release. In addition, section 147 of the Tax Reform Act of 1984 amended section 408 (i) of the Code to require that contributions be identified as to the taxable year to which they apply. This amendment will be included in this regulation period.

Timetable:

Action	Date	FR Cite
NPRM	11/16/84	49 FR 45450
NPRM Comment Period End	01/15/85	49 FR 45450
Final Action	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-65-83.

Drafting attorney: William Gibbs (202) 566-3060.

Reviewing attorney: A. Thomas Brisendine (202) 566-3060.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-8277.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AF83

2489. INC. TAX -- PART 1 -- BENEFIT ACCRUAL BEYOND NORMAL RETIREMENT AGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 411 (b) (1) (H) Internal Revenue Code of 1986; 26 USC 411 (b) (2) Internal Revenue Code of 1986; 26 USC 410 (a) (2) Internal Revenue Code of 1986; 26 USC 411 (a) (8) (B) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Final, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules with regard to benefit accruals after attainment of normal retirement age and maximum age conditions on participating in certain type of plans.

Timetable:

Action	Date	FR Cite
NPRM	04/11/88	53 FR 11876
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-184-86

Drafting attorney: Stephen H. Sherman (202) 566-3251.

Reviewing attorney: Michael Garvey (202) 566-3251.

Treasury attorney: Paul Strella (202) 566-8277

Agency Contact: Stephen H. Sherman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AI85

2490. INCOME TAX - PART 1 - MINIMUM VESTING STANDARDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410 Internal Revenue Code of 1986; PL 99-514, Sec 1113 Tax Reform Act of 1986; PL 99-514, Sec 1141 Tax Reform Act of 1986; 26 USC 411 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Final, Statutory, February 1, 1988.
Deadline set by Section 1141 of PL 99-514 "Tax Reform Act of 1986"

2491. INCOME TAX--ACCOUNTING FOR LONG-TERM CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules relating to the accounting for long-term contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45917
NPRM Comment Period End	01/17/89	53 FR 45917
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-161-86

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Treasury attorney: Paul Strella (202) 566-8277.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI87

2492. INCOME TAX--ACCOUNTING FOR INSTALLMENT SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules relating to the accounting for installment sales.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45917
NPRM Comment Period End	01/17/89	53 FR 45917
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-162-86

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Treasury attorney: Paul Strella (202) 566-8277.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI88

2493. INCOME TAX--ACCOUNTING FOR INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules relating to the accounting for installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45917
NPRM Comment Period End	01/17/89	53 FR 45917
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-163-86

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Treasury attorney: Paul Strella (202) 566-8277.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI89

2494. INCOME TAX--ACCOUNTING FOR INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules relating to the accounting for installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45917
NPRM Comment Period End	01/17/89	53 FR 45917
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-164-86

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Treasury attorney: Paul Strella (202) 566-8277.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI90

2495. INCOME TAX--ACCOUNTING FOR INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules relating to the accounting for installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45917
NPRM Comment Period End	01/17/89	53 FR 45917
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-165-86

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Treasury attorney: Paul Strella (202) 566-8277.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI91

2496. INCOME TAX--ACCOUNTING FOR INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules relating to the accounting for installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45917
NPRM Comment Period End	01/17/89	53 FR 45917
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-166-86

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Treasury attorney: Paul Strella (202) 566-8277.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI92

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TREAS—IRS **Final Rule Stage**

Abstract: These regulations will amend existing rules to reflect changes made by section 1113 of the Tax Reform Act of 1986, relating to minimum vesting standards and participation standards.

Timetable:

Action	Date	FR Cite
NPRM	01/06/88	53 FR 261
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-167-86

Drafting attorney: V.A. Moore (202) 566-4503.

Reviewing attorney: James Brokaw (202) 566-3496.

Treasury attorney: Harry Conaway (202) 566-8277.

Cross-Reference to EE-73-87

Agency Contact: V. A. Moore, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4503

RIN: 1545-AI88

2491. INCOME TAX—EXCISE TAX REGULATIONS—FUNDING FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 412 Internal Revenue Code of 1986; 26 USC 413 (b) Internal Revenue Code of 1986; PL 93-406, Sec 1013

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the minimum funding requirements for employee pension benefit plans, and to excise taxes for failure to meet the minimum funding standards.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54093
NPRM Comment Period End	01/31/83	47 FR 54093
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-99-78.

Drafting attorney: Steven T. Miller (202) 566-4503.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8277.

Agency Contact: Steven T. Miller, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4503

RIN: 1545-AD84

2492. INCOME TAX—EMPLOYEES OF AN AFFILIATED SERVICE GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414 (m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules with regard to the aggregation of employees of certain organizations for purposes of certain pension requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/28/83	48 FR 8293
NPRM Comment Period End	04/29/83	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-3-81.

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-8277.

Agency Contact: Patricia McDermott/Rhonda Migdail, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545-AD90

2493. INCOME TAX REGULATIONS—AFFILIATED SERVICE GROUPS AND EMPLOYEE LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414 (n) Internal Revenue Code of 1986; 26 USC 414 (m) (5) Internal Revenue Code of 1986; 26 USC 414 (o) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding the treatment of certain leased employees. In addition, the regulations will provide guidance regarding the aggregation of certain management companies as affiliated service groups.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32502
NPRM Comment Period End	10/26/87	
Hearing	12/02/87	52 FR 45835
Hearing	02/25/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-111-82.

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Office of Tax Legislative Counsel reviewing attorney: Harry Conaway (202) 566-8277.

Agency Contact: Patricia McDermott/Rhonda Migdail, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545-AE91

2494. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE" AND "COMPENSATION"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 99-514, Sec 1114 Tax Reform Act of 1986; PL 99-514, Sec 1115 Tax Reform Act of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules relating to the definitions of "highly compensation contained in subsections 414(q) and (s) of The Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	53 FR 4999
Final Action	12/31/89	

TREAS—IRS **Final Rule Stage**

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-129-86

Drafting attorney: Nancy J. Marks (202) 343-6954.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Office of Legislative Counsel (Treasury reviewing attorneys: Harry S. Conaway (202) 566-8277.

Cross Reference to EE-74-87

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-6954

RIN: 1545-AI91

2495. TAXABLE YEARS OF CERTAIN ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to S corporations, personal service corporations and partnerships, that must conform their taxable years, in general, to the taxable year of their owners.

Timetable:

Action	Date	FR Cite
NPRM	12/23/87	52 FR 48546
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-45-87

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Reyiewing attorney: Cynthia Clark (202) 566-6302.

Treasury accountant-advisor: Marc Levy (202) 535-6966.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545-AK83

2496. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED YEAR BY PARTNERSHIPS, S CORPORATIONS AND PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 444 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to elections of taxable years other than the required taxable year by partnerships, S corporations and personal service corporations.

Timetable:

Action	Date	FR Cite
NPRM	05/27/86	53 FR 19715
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-53-88

Drafting attorney: Arthur Davis (202) 377-9581.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury accountant-advisor: Marc Levy (202) 535-6966.

13 Income taxes

Agency Contact: Arthur Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, Washington, D.C. 20224, 202 377-9581

RIN: 1545-AL68

2497. LIMITATION OF THE USE OF THE CASH METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to certain C Corporations, partnerships with a corporate partner and tax shelters prohibited from using the cash method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	06/16/87	52 FR 22796
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-122-86.

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury attorney: Thomas Evans (202) 566-8277.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3637

RIN: 1545-AJ52

2498. NONACCRUAL-EXPERIENCE METHOD OF ACCOUNTING—CLARIFICATION OF AMOUNTS DETERMINED TO BE UNCOLLECTIBLE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448 (d) (5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will clarify amounts determined to be uncollectible with respect to the nonaccrual-experience method of accounting under section 448 (d) (5).

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-79-88

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury attorney: Thomas Evans (202) 566-8277.

13 Income Tax

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545-AM33

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2499. ACCOUNTING FOR LONG-TERM CONTRACTS; CORPORATIONS FILING CONSOLIDATED RETURNS WITH A CONTRACTOR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides rules for the manufacturer of components and subassemblies reasonably expected to be incorporated in the subject matter of an extended period long-term contract in the case of members of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	01/06/86	51 FR 3
NPRM Comment Period End	03/07/86	51 FR 3
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-121-85.

Drafting attorney: Paulette C. Galanko (202) 566-3731.

Reviewing attorney: John M. Fischer (202) 566-8131.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thomas Evans (202) 566-4902.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3731

RIN: 1545–AI19

2500. INCOME TAX–GENERAL RULES FOR INSTALLMENT SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Treasury decision will provide general rules and rules for reporting contingent installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	02/04/81	46 FR 10749
NPRM Comment Period End	04/06/81	46 FR 10749
Hearing	10/01/81	46 FR 40774
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-173-80.

Drafting attorney: Chris Rogers (202) 377-9583.

Reviewing attorney: George Wright (202) 566-9587.

Treasury attorney: Marc Levy (202) 566-4902.

Agency Contact: Chris Rogers, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9583

RIN: 1545–AB42

2501. INCOME TAX–INSTALLMENT OBLIGATIONS RECEIVED FROM A LIQUIDATING CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain in respect of installment obligations received as liquidating distributions from corporations under a plan of complete liquidation.

Timetable:

Action	Date	FR Cite
NPRM	01/13/84	49 FR 1742
NPRM Comment Period End	03/16/84	49 FR 1742
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-184-80.

Drafting attorney: Paulette C. Galanko (202) 566-3731.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Ellen Aprill (202) 566-5453.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3731

RIN: 1545–AB43

2502. INCOME TAX–INSTALLMENT OBLIGATIONS RECEIVED IN TRANSACTIONS IN WHICH GAIN OR LOSS IS GENERALLY NOT RECOGNIZED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting installment obligations that are received as boot in certain exchanges in which gain is not generally recognized.

Timetable:

Action	Date	FR Cite
NPRM	05/03/84	49 FR 18866
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-186-80.

Drafting attorney: Paulette C. Galanko (202) 566-3731.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Ellen Aprill (202) 566-5453.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3731

RIN: 1545–AB44

2503. INCOME TAX–INSTALLMENT METHOD REPORTING BY DEALERS IN PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for installment method reporting by dealers in personal property.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26909
NPRM Comment Period End	09/29/86	
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-146-81.

Drafting attorney: James A. Orefice (202) 566-3637.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Ellen Aprill (202) 566-5453.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AB47

2504. TRANSITIONAL RULE RELATING TO CERTAIN INSTALLMENT SALES BY MANUFACTURERS TO DEALERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance with respect to an exception from the general rules applicable to installment sales.

Timetable:

Action	Date	FR Cite
NPRM	07/12/88	53 FR 26279
NPRM Comment Period End	09/12/88	53 FR 26279
Final Action	07/20/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-51-88

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4902.

13 Income Taxes

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AL55

2505. INCOME TAX REGULATIONS–PART 1. INSTALLMENT SALE BY DEALERS IN PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to sales by dealers of personal property on the installment plan.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26903
NPRM Comment Period End	09/26/86	51 FR 26903
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-141-83.

Drafting attorney: James A. Orefice (202) 566-3637.

Office of Tax Legislative Counsel reviewing attorney: Ellen Aprill (202) 566-5453.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AF71

2506. CERTAIN INDEBTEDNESS TREATED AS PAYMENTS ON INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805S Internal Revenue Code of 1986; 26 USC 453C Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for treating certain indebtedness as payment on installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	09/08/88	53 FR 34778
NPRM Comment Period End	11/07/88	53 FR 34778
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-82-88

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4902.

13 Income Tax

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AM37

2507. INCOME TAX–EXCLUSION FROM GROSS INCOME WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORD RETURNS AFTER CLOSE OF TAXABLE YEAR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 458 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules on the exclusion from gross income of income attributable to the sale of magazines, paperbacks, or records that are returned.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34520
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-195-78.

Drafting attorney: Edward C. Schwartz (202) 566-3861.

Agency Contact: Edward C. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AB48

2508. TEMPORARY INCOME TAX REGULATIONS–THE ECONOMIC PERFORMANCE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 461 (h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance relating to when economic performance occurs with respect to a liability and how the recurring item exception applies.

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2509. INCOME TAX–INSTALLMENT METHOD REPORTING BY DEALERS IN REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for installment method reporting by dealers in real property.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26909
NPRM Comment Period End	09/29/86	
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-146-81.

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4902.

13 Income Taxes

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AL54

2510. INCOME TAX–INSTALLMENT METHOD REPORTING BY DEALERS IN REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for installment method reporting by dealers in real property.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26909
NPRM Comment Period End	09/29/86	
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-146-81.

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4902.

13 Income Taxes

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AL56

2511. INCOME TAX–INSTALLMENT METHOD REPORTING BY DEALERS IN REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for installment method reporting by dealers in real property.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26909
NPRM Comment Period End	09/29/86	
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-146-81.

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4902.

13 Income Taxes

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AL57

2512. INCOME TAX–INSTALLMENT METHOD REPORTING BY DEALERS IN REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for installment method reporting by dealers in real property.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26909
NPRM Comment Period End	09/29/86	
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-146-81.

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4902.

13 Income Taxes

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AL58

2513. INCOME TAX–INSTALLMENT METHOD REPORTING BY DEALERS IN REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for installment method reporting by dealers in real property.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26909
NPRM Comment Period End	09/29/86	
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-146-81.

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4902.

13 Income Taxes

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AL59

2514. INCOME TAX–INSTALLMENT METHOD REPORTING BY DEALERS IN REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for installment method reporting by dealers in real property.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26909
NPRM Comment Period End	09/29/86	
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-146-81.

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4902.

13 Income Taxes

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AL60

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Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-257-84.

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AH33

2509. INCOME TAX–LIMITATION ON DEDUCTIONS IN CASE OF FARMING SYNDICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 464 Internal Revenue Code of 1986; 26 USC 278 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that enterprises which qualify as farming syndicates must deduct expenses for feed, seed fertilizer, etcetera, only when used or consumed and to capitalize certain cost of poultry. Furthermore, farming syndicates are to capitalize certain expenses of groves, orchards and vineyards to the extent such expenses are incurred before the grove, orchard or vineyard becomes productive.

Timetable:

Action	Date	FR Cite
NPRM	11/15/83	48 FR 51936
NPRM Comment Period End	01/16/84	48 FR 51936
Hearing	03/08/84	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-144-76.

Drafting attorney: Unassigned.

Reviewing attorney: Cynthia C. Clark (202) 566-6302.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thomas Evans (202) 566-8277.

Agency Contact: Cynthia Clark, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6302

RIN: 1545–AB51

2510. INCOME TAX–DETERMINATION OF AMOUNTS AT RISK WITH RESPECT TO CERTAIN ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986; PL 94-455, Sec 204 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers for purposes of determining the amount the taxpayer is at risk in certain activities. This guidance is necessary because a taxpayer's deductions are limited to the amount the taxpayer is at risk in the activity. This at risk limit applies to most activities except the holding of real property and certain equipment leasing by closely-held corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/05/79	44 FR 32235
NPRM Comment Period End	08/06/79	44 FR 32235
Hearing	09/27/79	44 FR 49701
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-168-76.

Drafting attorney: Charles Alton (202) 566-6415.

Reviewing attorney: William P. O'Shea (202) 566-3244.

Treasury attorney: John H. Parcell (202) 535-6965.

Agency Contact: Charles Alton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6415

RIN: 1545–AB52

2511. AGGREGATION OF CERTAIN ACTIVITIES FOR PURPOSES OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This temporary regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity to the amount the taxpayer is at risk in the activity.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-155-85.

Drafting attorney: Jeffrey C. Golden (202) 566-6016.

Reviewing attorney: Frances D. Schafer (202) 566-3629.

Treasury attorney: John H. Parcell (202) 535-6965.

Agency Contact: Jeffrey C. Golden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6016

RIN: 1545–AI41

2512. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

As an alternative to a no-rule position on this issue, the Service could publish a revenue procedure that contains the terms and conditions of a plan that must be.

Abstract: The proposed regulations address essential issues in connection with passive activity losses and credits.

Timetable:

Action	Date	FR Cite
NPRM	02/25/88	53 FR 5733
Hearing	06/28/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-14-88

Drafting attorney: Robert Stoddart (202) 566-4543.

Reviewing attorney: Michael Grace (202) 566-4543.

Treasury attorney: John H. Parcell(202) 535-6965.

13 Income Tax

Agency Contact: Robert Stoddart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4543

RIN: 1545–AB26

2513. ● LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS - MISCELLANEOUS ISSUES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T; 26 CFR 1.469-6T; 26 CFR 1.469-7T; 26 CFR 1.469-8T; 26 CFR 1.469-9T; 26 CFR 1.469-10T

Legal Deadline: None

Abstract: The proposed regulations address miscellaneous issues in connection with passive activity losses and credits.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-083-88

Drafting attorney: Robert Stoddart (202) 566-4543.

Reviewing attorney: Michael J. Grace (202) 566-4543.

Treasury attorney: John H. Parcell (202) 566-6965.

Income Tax

Agency Contact: Robert Stoddart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4543

RIN: 1545–AM58

2514. ● ALLOCATION OF INTEREST EXPENSE AMONG EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (l)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.163-8T

Legal Deadline: None

Abstract: The regulations will provide final rules for allocating interest expense for purposes of applying the passive loss, investment interest and personal interest limitations.

Timetable:

Action	Date	FR Cite
NPRM	07/02/87	52 FR 25036
NPRM Comment Period End	08/31/87	52 FR 25036
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-010-87

Drafting attorney: Robert N. Deitz (202) 377-9582.

Reviewing attorney: Michael J. Grace (202) 566-6460.

Treasury attorney: Adam Handler (202) 535-6964.

Passive Activity Losses and Credits

Agency Contact: Robert N. Deitz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9582

RIN: 1545–AM83

2515. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS : DEFINITION OF ACTIVITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T; 26 CFR 1.469-1T; 26 CFR 1.469-2T; 26 CFR 1.469-3T; 26 CFR 1.469-4T; 26 CFR 1.469-5T; 26 CFR 1.469-11T

Legal Deadline: None

Abstract: Pursuant to the grant of regulatory authority in section 469(l), the regulations will define "activity".

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-48-87

Drafting attorney: Robert Stoddart (202) 566-4543.

Reviewing attorney: Michael J. Grace (202) 566-4543.

Treasury attorney: John H. Parcell (202) 535-6965.

13 Income Taxes

Agency Contact: Robert Stoddart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4543

RIN: 1545–AK62

2516. ● SPECIAL RULES FOR ALLOCATION OF INTEREST EXPENSE AMONG EXPENDITURES IN THE CASE OF PASSTHROUGH ENTITIES

Legal Authority: 26 USC 469(l) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.163-8T

Legal Deadline: None

Abstract: The regulation will address the treatment of interest expense on (1) debt allocated to distributions by passthrough entities; (2) repayment of passthrough entity debt; (3) debt allocated to expenditures for interests in passthrough entities; and (4) allocation of debt to loans between passthrough entities and interest holders.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-109-87

Drafting attorney: Dexter Johnson (202) 377-9663.

Reviewing attorney: Michael Grace (202) 566-6460.

Treasury attorney: Adam A. Handler (202) 535-6964.

Passive Activity Losses and Credits

Agency Contact: Dexter Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9663

RIN: 1545–AM79

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2517. INCOME TAX--THREE-YEAR AVERAGING FOR INCREASES IN INVENTORY VALUE WHEN ELECTING LIFO METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 472 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide for three-year averaging for increases in inventory value when electing the LIFO method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	04/11/83	48 FR 6134
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-254-81.

Drafting attorney: Richard O. Davis (202) 343-2383.

Reviewing attorney: Eric Pleet (202) 566-3261

Agency Contact: Richard O. Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-2383

RIN: 1545–AB55

2518. INCOME TAX--RULES CLARIFYING THE REGULATIONS WITH RESPECT TO THE COMPUTATION OF "GROSS INCOME" OF AN ELECTRIC COOPERATIVE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 501 (c) (12) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that electric cooperatives would take into account costs of goods sold when determining income under the 85 percent member-income test.

Timetable:

Action	Date	FR Cite
NPRM	01/10/84	49 FR 1244
NPRM Comment Period End	03/12/84	49 FR 1244
Hearingheld 5/31/84	03/26/84	49 FR 1186
Final Action	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-17-81.

Drafting attorney: William D. Gibbs (202) 566-3060.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AD99

2519. CONSENT DIVIDENDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Cross-reference notice of proposed rulemaking concerning rules relating to section 565 to limit the availability of consent dividend procedure of section 565 to only those entities entitled to a dividend paid deduction under section 561.

Timetable:

Action	Date	FR Cite
NPRM	12/15/87	52 FR 47609
Final Action	04/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-313-87

Drafting attorney: David Bergkuist (202) 566-6457.

Reviewing attorney: T. Timothy Tuerff (202) 566-5896.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AL86

2520. BAD DEBT RESERVES OF FINANCIAL INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 585 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will provide proposed regulations that relate to the repeal of the bad debt reserve for large banks.

Timetable:

Action	Date	FR Cite
Temporary Regulation	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

FI-81-86.

Drafting attorney: Susan E. Overlander (202) 566-3458.

Reviewing attorney: Sharon Galm (202) 566-3326.

Agency Contact: Susan E. Overlander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3458

RIN: 1545–AJ31

2521. INCOME TAX--LIMITATION ON ADDITIONS TO BANK LOSS RESERVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 585 Internal Revenue Code of 1986; PL 97-34, Sec 273

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would impose a requirement of a minimum addition to bad debt reserves of mutual savings banks in order to conform the treatment of these institutions to financial institutions described in section 585.

Timetable:

Action	Date	FR Cite
NPRM	12/19/83	48 FR 56083
NPRM Comment Period End	02/17/84	48 FR 56083
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-152-79.

Drafting attorney: Eric E. Boody (202) 566-4336.

Reviewing attorney: David Brandon (202) 566-3458.

Agency Contact: Eric E. Boody, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AB66

2522. INCOME TAX--SUPPLEMENTARY RULES ON LIMITATIONS ON PERCENTAGE DEPLETION FOR OIL & GAS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 613 (a) Internal Revenue Code of 1986; 26 USC 703 (a) Internal Revenue Code of 1986; 26 USC 705 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify the circumstances under which percentage depletion will be available in the case of oil and gas wells.

Timetable:

Action	Date	FR Cite
NPRM	05/13/77	42 FR 24279
Hearing	08/31/78	
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-105-75.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AB73

2523. TRANSFERS BY INDIVIDUALS TO CORPORATION UNDER SECTION 613A (C)(10)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 613A (c) (10) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide guidance to taxpayers using the section 613A(c)(10) exception to the transfer rules under section 613A(c)(9). In general section 613A(c)(9) disallows percentage depletion to the transferee of proven oil or gas property. Section 613A(c)(10) relates to the transfer of qualified property by an individual to a qualified transferee corporation solely in exchange for stock.

Timetable:

Action	Date	FR Cite
NPRM	10/03/84	49 FR 39076
NPRM Comment Period End	12/03/84	49 FR 39076
Hearing	03/15/85	
Final Action	07/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-35-81.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AB74

2524. INCOME TAX - APPLICATION OF EFFECTIVE DATE FOR NEW RULES REGARDING DEDUCTIONS FOR MEAL, TRAVEL, AND ENTERTAINMENT TO PARTNERSHIPS AND S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 702 Internal Revenue Code of 1986; 26 USC 1366 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to taxpayers relating to the effective date for new rules regarding deductions for meals, travel, and entertainment to partnerships and S corporations.

Timetable:

Action	Date	FR Cite
NPRM	03/02/88	53 FR 6670
Final Action	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-29-87

Drafting attorney: David R. Haglund (202) 343-8459.

Reviewing attorney: Marshall D. Feiring (202) 566-4060.

Treasury Attorney: Susan Himes (202) 566-2565.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-8459

RIN: 1545–AK80

2525. TAXABLE YEARS OF CERTAIN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the appropriate taxable year for certain partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/29/87	52 FR 49030
Final Action	09/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-101-86.

Drafting attorney: Beverly A. Baughman (202) 566-3980.

Reviewing attorney: Rudi Planert (202) 566-9293.

Treasury attorney: J. Richard Harvey (202) 566-4902.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3980

RIN: 1545–AJ47

2526. PARTNER'S SHARE OF PARTNERSHIP LIABILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 98-369, Sec 79 Tax Reform Act of 1984

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: These regulations revise the Income Tax Regulations under section 752 of the Internal Revenue Code of 1954 to conform such regulations to changes in the law with respect to a partner's share of partnership liabilities.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53174
NPRM Comment Period End	03/30/89	53 FR 53174
Final Action	12/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-229-84.

Drafting attorney: Mary A. Munday (202) 377-9470.

Reviewing attorney: Dianna Miosi (202) 566-4070.

Treasury attorney: Greg Marich (202) 566-2927.

Agency Contact: Mary A. Munday, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9470

RIN: 1545–AH26

2527. MORTALITY AND MORBIDITY TABLES TO BE USED FOR INSURANCE PRODUCTS FOR WHICH THERE ARE NOT APPLICABLE COMMISSIONER'S TABLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 807 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to the mortality and morbidity tables to be used in computing reserves for life insurance contracts for which there are no applicable Commissioner's standard tables.

Timetable:

Action	Date	FR Cite
NPRM	01/02/87	52 FR 0083
NPRM Comment Period End	03/03/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-71-86.

Drafting attorney: Katherine A. Hossofsky (202) 566-3458.

Treasury attorney: Don Rocap (202) 566-8277.

Agency Contact: Katherine A. Hossofsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AK04

2528. IMPUTED EARNINGS RATE FOR MUTUAL LIFE INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 809 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to mutual life insurance companies regarding the computation of the imputed earnings rate.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-159-84.

Drafting attorney: Katherine A. Hossofsky (202) 566-3458.

Agency Contact: Katherine A. Hossofsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AG63

2529. INCOME TAX REGULATIONS-DIVERSIFICATION REQUIREMENTS FOR VARIABLE ANNUITY, ENDOWMENT, AND LIFE INSURANCE CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 817 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide diversification requirements for variable annuity, endowment, and life insurance contracts. The testing of diversification for various periods and applicable effective dates.

Timetable:

Action	Date	FR Cite
NPRM	09/15/86	51 FR 32664
NPRM Comment Period End	11/14/86	51 FR 32664
Hearing	07/01/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-295-84.

Drafting attorney: Katherine A. Hossofsky (202) 566-3458.

Reviewing attorney: Stephen D. Hooe (202) 566-3294.

Treasury attorney: Donald Rocap (202) 566-8277.

Agency Contact: Katherine A. Hossofsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AG79

2530. TREATMENT OF SALVAGE AND REINSURANCE IN DETERMINING LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 832 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the treatment of salvage and reinsurance recoverable in determining the paid and unpaid losses of property and casualty insurance companies.

Timetable:

Action	Date	FR Cite
NPRM	01/05/88	53 FR 153
Hearing	08/31/88	53 FR 28018
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-65-87

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Joe Ryals (202) 566-3459.

Treasury attorney: Don Rocap (202) 566-8277.

TREAS—IRS **Final Rule Stage**

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AK49

2531. TEMPORARY INCOME TAX REGULATIONS—DISCOUNTING OF UNPAID LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 846 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the discounting of unpaid losses by property and casualty insurance companies. It is anticipated that the regulations will provide guidance with respect to the treatment of salvage and subrogation and the use of company's loss payment pattern.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-138-86.

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Joe Ryals (202) 566-3459.

Treasury attorney: Don Rocap (202) 566-8277.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3294

RIN: 1545–AI96

2532. ● TREATMENT OF DESIGNATED HEDGES BY RICS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 851 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules concerning the treatment of designated hedges by regulated investment companies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-092-88

Drafting attorney: Susan E. Overlander (202) 566-3458.

Reviewing attorney: David Brandon (202) 566-3287.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Regulated Investment Company

Agency Contact: Susan E. Overlander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AM82

2533. ● TREATMENT OF CERTAIN LOSSES ATTRIBUTABLE TO PERIODS AFTER OCTOBER OCTOBER 31 OF A TAXABLE YEAR OF A REGULATED INVESTMENT COMPANY

Legal Authority: 26 USC 852 (b)(3) Internal Revenue Code of 1986; 26 USC 852 (b)(8) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986; 26 USC 852 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide rules relating to certain losses attributable to periods after October 31 of a taxable year of a regulated investment company for purposes of determining taxable income, earnings and profits, and the amount which may be designated as capital gain dividends for a taxable year.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-86-88

Drafting attorney: Lauren G. Shaw (202) 566-3828.

Reviewing attorney: William Coppersmith (202) 566-3336.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Regulated Investment Companies

Agency Contact: Lauren G. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3828

RIN: 1545–AM56

2534. APPORTIONMENT OF EXPENSES IN THE FSC AND DISC CONTEXTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide guidance on how expenses in the DISC and FSC contexts will be apportioned.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17473
Final Action	04/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-028-86

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: T. Timothy Tuerff (202) 566-9050.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AK78

2535. CALIFORNIA FRANCHISE TAX AND SECTION 1.861-8 ALLOCATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986; 26 USC 862 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: Clarification of allocation of deduction for state income and franchise taxes. Provides guidance in situations not addressed by current examples in regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/12/88	53 FR 49893
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-041-88

Drafting attorney: David F. Chan (202) 634-5404.

Reviewing attorney: T. Timothy Tuerff (202) 566-3896.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: David F. Chan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AM08

2536. ALLOCATION OF GROSS INCOME ATTRIBUTABLE TO INTEREST RATE SWAPS UNDER SECTION 863 (A)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides source rules for income and expenses attributable to interest rate swap agreements. Interest rate swap agreements are basically agreements used to hedge against interest rate fluctuation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-987-88

Drafting attorney: Charles T. Plambeck (202) 634-5406.

Reviewing attorney: Bob Katcher (202) 634-5406.

Treasury attorney: Peter Daub (202) 566-5991.

13 Income Taxes

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AL26

2537. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking by cross-reference to temporary regulations providing rules for affiliated group allocation and apportionment of expenses other than interest that are not traceable to specific income producing activities or property of corporations.

Timetable:

Action	Date	FR Cite
NPRM	09/14/88	53 FR 35525
Hearing	02/21/89	
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-952-86

Drafting attorney: David M. Merrick (202) 566-6276.

Reviewing attorney: Charles Saverude (202) 377-9060.

Treasury attorney: Mark Beams (202) 566-2964.

13 Income Taxes.

Agency Contact: David M. Merrick, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6276

RIN: 1545–AM20

2538. TREATMENT OF RELATED PERSON FACTORING INCOME; CERTAIN INVESTMENTS IN UNITED STATES PROPERTY; AND STOCK REDEMPTIONS THROUGH RELATED CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the treatment of income derived by foreign corporations from factoring the receivables of related persons.

Timetable:

Action	Date	FR Cite
NPRM	06/14/88	53 FR 22188
NPRM Comment Period End	08/15/88	53 FR 22186
Hearing	02/09/89	53 FR 49895
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-49-86.

Drafting attorney: Steven Marcuse (202) 566-6645.

Reviewing attorney: Phyllis Marcus (202) 566-6645.

Treasury attorney: Peter Daub (202) 566-2964.

13 Income Taxes.

Agency Contact: Steven Marcuse, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AH85

2539. TEMPORARY REGULATIONS FOR SOURCE RULES FOR PERSONAL PROPERTY SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 865 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide temporary rules for determining the source of income from sales of personal property until final regulations may be promulgated.

Timetable:

Action	Date	FR Cite
Temporary regulation	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-356-88

Drafting attorney: Carol P. Tello (202) 634-5404.

Reviewing attorney: Robert E. Culbertson (202) 634-5404.

Treasury attorney: Mary Bennett (202) 566-2964.

13 Income Taxes.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitutuion Ave. N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AL78

2540. EMPLOYMENT TAXES—APPLICATION OF REPEAL OF 30 PERCENT WITHHOLDING BY TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 35a

Legal Deadline: None

Abstract: Temporary regulations providing rules enforcing the exclusion from portfolio interest of interest received by certain related parties.

Timetable:

Action	Date	FR Cite
Temporary regulation	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-921-87

Drafting attorney: Carl M. Cooper (202) 634-5404.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2964.

13 Employment Taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitutuion Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AM29

2541. BRANCH PROFITS TAX (GENERAL RULE AND DEFINITIONS) AND 2ND LEVEL WITHHOLDING TAXES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 884 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the calculation of the branch profits tax. The regulations will provide rules for the treatment of interest allocable to effectively connected income.

Timetable:

Action	Date	FR Cite
NPRM	09/02/88	53 FR 34120
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-934-86

Drafting attorney: Richard M. Elliott (202) 566-6457.

Reviewing attorney: Benedetta A. Kissel (202) 566-3179.

Treasury attorney: Peter Daub (202) 566-5791.

13 Income taxes.

Agency Contact: Richard M. Elliott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AJ73

2542. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 892 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking by Cross-reference to temporary regulations regarding the taxation of income of foreign governments and international organizations.

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	53 FR 24100
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-285-88

Drafting attorney: David A. Juster (202) 566-6384.

Reviewing attorney: Bernard T. Bress (202) 566-6440.

Treasury attorney: Peter Daub (202) 566-2964.

13 Income Taxes.

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6384

RIN: 1545–AL93

2543. INCOME TAX—PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN U.S. REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897 (e) (2) Internal Revenue Code of 1986; 26 USC 897 (g) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules for foreign partners to compute gain or loss on the sale or disposition of United States real property interests upon the sale of a partnership interest or a distribution in liquidation of a partnership interest.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-48-86

Drafting attorney: James Sams (202) 634-5404.

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Reviewing attorney: Robert Culbertson (202) 634-5404.

Treasury attorney: David Crowe (202) 566-5791.

13Income Taxes.

Agency Contact: James Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AB98

2544. NOTICE OF PROPOSED RULEMAKING—NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules concerning the effect of certain distributions including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Proposal would also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Final Action	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-491-87

Drafting attorney: Charles P. Besecky (202) 566-3319.

Reviewing attorney: Charles C. Saverude (202) 566-6008.

Treasury attorney: David Crowe (202) 566-6645.

13 Income taxes.

Agency Contact: Charles P. Besecky, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3319

RIN: 1545–AK79

2545. AMENDMENT OF SECTION 1.901-2(E)(3)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 901(i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules to implement 1986 Tax Act amendment to Section 901 concerning certain tax subsidiaries used by foreign governments. Proposal will deny foreign tax credit to the extent that there is a subsidy.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45942
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-942-86

Drafting attorney: Carol E. Murphy (202) 566-3160.

Reviewing attorney: Charles C. Saverude (202) 566-6645.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3160

RIN: 1545–A]90

2546. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 99-514, Sec 1203

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904 (f) by adding paragraph (5) at the end thereof which requires that foreign source losses with respect to any income category first offset the taxpayer's other foreign source income subject to a separate limitation for the taxable year on a proportionate basis before such losses offset the taxpayer's U.S. source income. Accordingly, the regulation will provide rules for the allocation of foreign source losses incurred in taxable years beginning before the effective date of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17472
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-932-86

Drafting attorney: Willard W. Yates (202) 566-3896.

Reviewing attorney: Carol Doran-Klein (202) 566-6419.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes

Agency Contact: Willard W. Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C., 202 566-3896

RIN: 1545–AL17

2547. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 905 (c) Internal Revenue Code of 1986; 26 USC 6689 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth

deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-61-86

Drafting attorney: Eli J. Dicker (202) 566-3499.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: David Crowe (202) 566-4791.

13 Income taxes.

Agency Contact: Eli J. Dicker, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 5531, Washington, D.C. 20224, 202 566-3499

RIN: 1545–AC09

2548. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION AND OTHER SPECIAL RULES FOR FSC

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 925 (b) (1) Internal Revenue Code of 1986; 26 USC 925 (b) (2) Internal Revenue Code of 1986; 26 USC 927 (d) (2) (B) Internal Revenue Code of 1986; 26 USC 927 (e) (1) to 927 (e) (2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for Application of the FSC Transfer Pricing Rules, Distributions, Dividends Received Deductions and Other Special FSC provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	52 FR 6467
Hearing	01/19/88	
Final Action	04/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-153-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Carol Doran Klein (202) 566-3289.

Treasury attorney: D. Crowe (202) 566-8275.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney - Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AI16

2549. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO & POSSESSION TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936 (d) (2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to what constitutes qualified possession source investment income for purposes of the Puerto Rico and possession tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-44-86

Drafting attorney: Philip L. Garlett (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Mary Bennett (202) 566-5815.

13 Income Taxes.

Agency Contact: Philip L. Garlett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AC10

2550. CBI INVESTMENTS OF SECTION 936 FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(d)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Will define investments made in qualified Caribbean Basin countries that give rise to interests or dividends available for the section 936 credit.

Timetable:

Action	Date	FR Cite
Temporary regulation	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-955-86

Drafting attorney: W. Edward Williams (202) 287-4851.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Chisoon Lee (202) 343-0247.

13 Income Taxes.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Washington, D.C. 20024, 202 287-4851

RIN: 1545–AL81

2551. CURRENT TAXATION OF FOREIGN OIL RELATED INCOME OF CONTROLLED FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would define and interpret when foreign oil related income will be subject to current taxation under section 954 of the Internal Revenue Code of 1954. Changes to the applicable law were made by section 212 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32308
NPRM Comment Period End	10/26/87	

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Action	Date	FR Cite
Final Action	04/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-57-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Charles C. Saverude (202) 566-6645.

Treasury attorney: Peter Barnes (202) 566-8275.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AE38

2552. SUBPART F DEFINITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986; 26 USC 957 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Definition of FPHC income. Particular issues include income equivalent to interest of property which does not give rise to income.

Timetable:

Action	Date	FR Cite
NPRM	07/21/88	53 FR 27532
Hearing	02/09/89	
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-362-88

Drafting attorney: Philip L. Garlett (202) 566-6645.

Reviewing attorney: Phyllis Marcus (202) 566-6645.

Treasury attorney: Peter Daub (202) 566-2964.

13 Income Taxes.

Agency Contact: Philip L. Garlett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AM15

2553. FUNCTIONAL CURRENCY

Legal Authority: 26 USC 7805 Internal Revenue Code Of 1986; 26 USC 985 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides rules for determining the currency an entity will compute gain or loss. If the entity is a foreign entity, it may be allowed to compute its gain or loss in a foreign currency and translate the net amount of such gain or loss into U.S. dollars.

Timetable:

Action	Date	FR Cite
NPRM	06/03/88	53 FR 20337
Final Action	04/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-962-86

Drafting attorney: David Rosenberg (202) 634-5406.

Reviewing attorney: Bob Katcher (202) 634-5406.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AL24

2554. PROFIT AND LOSS TRANSITION RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 987 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides transition rules for those foreign branches of United States entities who used a profit and loss method of accounting prior to the enactment of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32405
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-393-88

Drafting attorney: David Rosenberg (202) 634-5406.

Reviewing attorney: Robert Katcher (202) 634-5406.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AM13

2555. DEFINITION OF A QUALIFIED BUSINESS UNIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 989 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Certain foreign operations of a United States person or foreign corporation may have a functional currency other than the United States dollar if such operations satisfy the requirements for a qualified business unit.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20650
Final Action	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-983-86

Drafting attorney: Carl M. Cooper (202) 634-5406.

Reviewing attorney: Robert Katcher (202) 634-5406.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AM31

2556. TRANSITION RULE FOR QUALIFIED BUSINESS UNITS USING A NET WORTH METHOD OF ACCOUNTING FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1987

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 989 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides transition rules for those foreign branches of United States entities who used a net worth method of accounting prior to the enactment of the Tax Reform Act of 1986. Under the Act, foreign branches must now account for their operations under the profit and loss method as set forth in section 987 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20651
Final Action	04/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-964-86

Drafting attorney: David Rosenberg (202) 634-5406.

Reviewing attorney: P. Ann Fisher (202) 566-4979.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AL29

2557. PROPOSED INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 995 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide guidance relating to the Interest Charge imposed on DISC shareholders for taxable years ending after 1984. The regulations will explain how the Deemed Distribution is computed and how the Interest Charge is computed.

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	52 FR 3256
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-043-86.

Drafting attorney: Joseph M. Rosenthal (202) 566-3872.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: Joseph M. Rosenthal, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3872

RIN: 1545–AG71

2558. INCOME TAX–TRANSFERS OF SECURITIES UNDER CERTAIN AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1058 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that so long as the provisions of section 1058 and these regulations are met, the lender will neither recognize gain or loss on the transfer of securities nor upon the return of identical securities.

Timetable:

Action	Date	FR Cite
NPRM	07/26/83	48 FR 33912
NPRM Comment Period End	09/26/83	48 FR 33912
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-182-78.

Drafting attorney: Scott Feldstein (202) 566-3297.

Reviewing attorney: Al Kraft (202) 566-3297.

Agency Contact: Scott Feldstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AC20

2559. CUSTOMS LIMITATION ON TAXPAYER'S BASIS IN PROPERTY IMPORTED FROM RELATED PERSONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Prior to the Tax Reform Act of 1986 importers could claim a transfer price for customs purposes that was too low to be consistent with the price they claim for income tax purposes. Section 1248 of the Tax Reform Act of 1986 addressed this problem by enacting Section 1059A of the Internal Revenue Code, under which importers cannot claim a transfer price for income tax purposes that is higher than would be consistent with the value they claim for customs purposes. Regulations will be needed to provide rules for coordinating customs and tax valuation principles. It is anticipated that as a result of Section 1059A of the Internal Revenue Code, some taxpayers will claim higher transfer prices for customs purposes. No estimate has been made of the revenue.

Timetable:

Action	Date	FR Cite
NPRM	09/03/87	52 FR 33427
NPRM Comment Period End	11/02/87	
Final Action	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-960-86

Drafting attorney: W. Edward Williams (202) 287-4851.

Reviewing attorney: George Sellinger (202) 287-4851.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950

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L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ92

2560. INCOME TAX–SPECIAL ALLOCATION RULES FOR CERTAIN ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1060 Internal Revenue Code of 1986; 26 USC 755 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 1031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will explain and illustrate the application of the residual method of allocation to the purchase price in certain asset acquisitions. It will also provide certain informational reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/18/88	53 FR 27053
NPRM Comment Period End	11/15/88	53 FR 32899
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-119-86.

Drafting attorney: Judith C. Winkler (202) 377-9662.

Reviewing attorney: Charles Whedbee (202) 566-3280.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9662

RIN: 1545–AJ06

2561. ● CHARACTER OF GAINS AND LOSSES IN CASE OF STRADDLES WHERE AT LEAST ONE POSITION IS ORDINARY AND AT LEAST ONE POSITION IS CAPITAL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance with respect to the timing and character of gains and losses in case of straddles where at least one position is ordinary and at least one position is capital.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-106-88

Drafting attorney: Mark Scott (202) 566-4336.

Reviewing attorney: David Brandon (202) 566-3287.

Straddles

Agency Contact: Mark Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AM57

2562. INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO MIXED STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 (b) (1) Internal Revenue Code of 1986; 26 USC 1092 (b) (2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to mixed straddles. The regulations will explain the application of the straddle-by-straddle identification rules of mixed straddles and the establishment of mixed straddle accounts.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3351
NPRM Comment Period End	03/25/85	50 FR 3351
Hearing	05/02/85	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-299-84.

Drafting attorney: Scott D. Feldstein (202) 566-3297.

Reviewing attorney: Steve Glickstein (202) 566-3346.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Scott D. Feldstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AH59

2563. INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981 AND THE TAX REFORM ACT OF 1984, RELATING TO STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to tax straddles. The regulations will explain the general loss deferral rule under section 1092, and the application of rules similar to section 1091 and 1233 to straddles.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3352
NPRM Comment Period End	03/25/85	50 FR 3352
Hearing	05/02/85	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-297-84.

Drafting attorney: Karl T. Walli (202) 566-3297.

Reviewing attorney: Steven R. Glickstein (202) 566-3297.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Karl T. Walli, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AH60

2564. GAINS FROM CERTAIN SALES OR EXCHANGES IN CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations that amend the regulations under section 1248 to partially suspend the application of section 1248(e) and to limit the application of section 1248(f) to those situations in which gain is not required.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-039-87

Drafting attorney: David Bergkuist (202) 566-6457.

Reviewing attorney: Charles Saverude (202) 377-9060.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income Taxes.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AL89

2565. INCOME TAX–GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1254 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986; PL 94-455, Sec 205 Tax Reform Act of 1976; PL 94-455, Sec 1901 Tax Reform Act of 1976; PL 95-618, Sec 402 Energy Tax Act of 1978

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment of gain from the disposition of certain oil, gas, or geothermal property to determine how much of the gain from the disposition is subject to recapture under section 1254 and accorded ordinary income treatment. The regulations also will define intangible drilling and development costs, disposition, and oil, gas and geothermal property for purposes of section 1254.

Timetable:

Action	Date	FR Cite
NPRM	06/11/80	45 FR 39512
NPRM Comment Period End	08/11/80	45 FR 39512
Hearing	09/09/80	
Final Action	04/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-276-76.

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: Charles Ramsey (202) 566-3553.

Treasury attorney: Barksdale Penick (202) 566-5453.

Natural Resources.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AC35

2566. HEDGING EXCEPTION TO MARK-TO-MARKET RULES FOR SECTION 1256 CONTRACTS, DEFERRAL OF CERTAIN STRADDLE LOSSES, AND WASH-SALE AND SHORT-SALE PRINCIPLES APPLICABLE TO CERTAIN STRADDLE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1256 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the hedging transaction exception for section 1256 contracts and straddles.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-10-86.

Drafting attorney: Channing E. Brackey (202) 566-3287.

Reviewing attorney: David Brandon (202) 566-3287.

Agency Contact: Channing E. Brackey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3287

RIN: 1545–AI72

2567. REGULATIONS UNDER SECTION 1271 THROUGH 1275 RELATING TO TAX TREATMENT OF DEBT INSTRUMENTS HAVING ORIGINAL ISSUE DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1275 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would provide guidance as to computation of amount to be included in income by holders and amount to be deducted by issuers of certain bonds issued after July 1, 1982. With respect to these bonds, original-issue discount is computer based on constant interest accrual. Guidance is also provided as to the computation of original issue discount in special circumstances where the bond contains a variable interest rate, where put and call options are present, and in other circumstances.

Timetable:

Action	Date	FR Cite
NPRM	05/08/86	51 FR 12022
Hearing	11/17/86	51 FR 24162
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-189-84.

Drafting attorney: William E. Blanchard (202) 566-3142.

Reviewing attorney: Andrew Kittler (202) 566-4114.

Treasury attorney: Reed Shuldiner (202)-566-2175.

Agency Contact: William E. Blanchard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3142

RIN: 1545–AH46

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2568. PASSIVE FOREIGN INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1295 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance to passive foreign investment companies and their shareholders that are United States about the time, manner and other requirements for making certain elections.

Timetable:

Action	Date	FR Cite
NPRM	03/02/88	53 FR 06781
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-941-86

Drafting attorney: Gayle Novig (202) 634-5404.

Reviewing attorney: T. Timothy Tuerff (202) 566-5896.

Treasury attorney: Mary Bennett (202) 566-5992.

Income taxes.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545–AI33

2569. INCOME TAX--DEFINITION OF S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1361 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would address the following matters: (1) the number of permitted shareholders of a small business corporation, (2) the types of trusts that are permitted to be shareholders of a small business corporation, (3) whether shares are permitted to be owned as a split interest and (4) the rules relating to corporations that are ineligible to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	10/07/87	51 FR 35659
NPRM Comment Period End	12/08/87	
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-262-82.

Drafting attorney: Stuart G. Wessler (202) 566-3822.

Reviewing attorney: Thomas Hines (202) 566-6813.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Income Tax

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3822

RIN: 1545–AE86

2570. AMENDMENT OF INCOME TAX REGULATIONS UNDER CODE SECTIONS 1362 AND 1363 RELATING TO THE ELECTION, REVOCATION, AND TERMINATION OF AN S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1362 Internal Revenue Code of 1986; 26 USC 1363 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidelines for electing, revoking and terminating S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52190
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-260-82.

Drafting attorney: Stuart G. Wessler (202) 566-3822.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Treasury attorney: Bryan Collins (202) 566-8277.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3822

RIN: 1545–AE26

2571. TEMPORARY REGULATION--APPLICATION OF SECTION 1374 BUILT-IN GAIN TAX TO C CORPORATION'S ELECTING S CORPORATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1374 Internal Revenue Code of 1986; 26 USC 337 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide ruling relating to the section 1374 built-in gains tax to C corporations electing S corporation status

Timetable:

Action	Date	FR Cite
Temporary Regulation	05/12/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-6-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Nelson F. Crouch (202) 566-2456.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AK91

2572. WITHHOLDING ON ITEMS OF INCOME COVERED BY AN INCOME TAX CONVENTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: These regulations relate to the withholding on certain items of income subject to a reduced rate of, or exemption from, U.S. tax under an income tax convention to which the United States is a party. These regulations would amend the existing regulations to provide a certification requirement for obtaining reduced rates of, or exemption from, U.S. withholding tax on payments of fixed or determinable annual or periodical income and certain other income.

Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35511
NPRM Comment Period End	11/09/84	49 FR 35511
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-41-86

Drafting attorney: Lisa L. Grogan (202) 287-4851.

Reviewing attorney: Michael F. Patton (202) 566-5862.

Treasury attorney: Peter Daub (202) 566-5815.

13 Income Taxes.

Agency Contact: Lisa L. Grogan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Suite 3319, Washington, DC 20024, 202 287-4851

RIN: 1545–AH86

2573. ● WITHHOLDING RULES ON DISTRIBUTIONS ATTRIBUTABLE TO DISPOSITIONS OF US REAL PROPERTY INTEREST BY PUBLICLY TRADED PARTNERSHIPS, TRUSTS AND REITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1445 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address withholding upon proceeds of disposition of US property real interests by publicly traded partnerships, publicly traded trusts and real estate investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	12/24/86	51 FR 46688
Final Action	04/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-088-86

Drafting attorney: John Dean (202) 566-6307.

Reviewing attorney: Christine Halphen (202) 566-6645.

Treasury attorney: Chisoon Lee (202) 566-4979.

13 Income taxes.

Agency Contact: John Dean, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6307

RIN: 1545–AM50

2574. TEMPORARY REGULATION ON WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1446 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation explains when withholding is required under section 1446, how and when the amounts withheld are to be reported and paid over to the Internal Revenue Service, and when the taxpayer is to credit the tax withheld against its U.S. income tax liability or apply for a refund significant policy issues tax involved.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-938-86

Drafting attorney: David F. Chan (202) 634-5404.

Reviewing attorney: Robert E. Culbertson, Jr. (202) 634-5404.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes

Agency Contact: David F. Chan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attn: CC:INTL, Room 3042, 202 634-5404

RIN: 1545–AL32

2575. INCOME TAX--CREDIT & DEDUCTIONS ETC., FOR CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated returns regulations to clarify, among other things, the rules relating to net operating loss carrybacks of a member of an affiliated group filing consolidated returns to a year in which the member was not in existence, thereby giving the public needed guidance on what the rule is in that situation.

Timetable:

Action	Date	FR Cite
NPRM	07/31/84	49 FR 30526
NPRM Comment Period End	10/01/84	
Hearing	12/10/84	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-97-79.

Drafting attorney: Roy Hirschhorn (202) 566-3354.

Reviewing attorney: John Broadbent (202) 566-3877.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thomas Wessel (202) 566-2928.

Agency Contact: Roy A. Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3354

RIN: 1545–AC48

2576. INVESTMENT ADJUSTMENTS UNDER THE CONSOLIDATED RETURN REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated return investment adjustment rules by changing the computation of earnings and profits where section 312 (k), (l), (m), or (n) applies.

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Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-15-86.

Drafting attorney: Richard Marsh (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-3877.

Agency Contact: Richard Marsh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-4324

RIN: 1545-AI58

2577. TEMPORARY REGULATIONS-CONSOLIDATED RETURN INVESTMENT ADJUSTMENTS WITH RESPECT TO AN ACQUIRED SUBSIDIARY'S BUILT-IN GAINS OR LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will prevent the consolidated return investment adjustments from reflecting the recognized built-in gains or losses of assets acquired in certain corporate acquisitions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	03/15/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-4-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Jonathan Kushner (202) 566-2456.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545-AK95

2578. CONSOLIDATED RETURN REGULATIONS; ADJUSTMENT ON DISPOSITION OF STOCK OF SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will finalize temporary regulation 1.1502-32T concerning basis reduction accounts that are created when a subsidiary is deconsolidated but members of the affiliated group retain some stock in the deconsolidated subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	03/14/88	53 FR 8773
NPRM Comment Period End	05/16/88	53 FR 8773
Final Action	12/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-28-88

Drafting attorney: Kenneth Cohen (202) 566-3877.

Reviewing attorney: John Broadbent (202) 566-4324.

Treasury attorney: Bryan Collins (202) 566-2175 and Thomas Wessel (202) 566-2927.

13 Income Tax

Agency Contact: Kenneth Cohen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3877

RIN: 1545-AL59

2579. ADJUSTMENTS REFLECTING A RESTRUCTURING OF A CONSOLIDATED GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules for determining the basis and the earnings and profits of members of a consolidated group following certain changes in the structure of the group where the group remains in existence. This regulation also provides for alternative agents of the group if the common parent ceases to be the common parent.

Timetable:

Action	Date	FR Cite
NPRM	09/06/88	53 FR 34779
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-66-88

Drafting attorney: Richard Marsh (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-3484.

Treasury attorney: Thomas Wessel (202) 566-2927 and Bryan Collins (202) 566-2175.

13 Income Tax

Agency Contact: Richard Marsh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4324

RIN: 1545-AL62

2580. AMENDMENT OF CONSOLIDATED RETURN REGULATIONS REGARDING DEFERRAL OF GAIN OR LOSS ON COMPLETE LIQUIDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance relating to the treatment of gain recognized upon complete liquidations of corporations in a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	04/18/88	53 FR 12705
NPRM Comment Period End	06/17/88	53 FR 12705
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-47-88

Drafting attorney: Richard Marsh (202) 566-3877.

Reviewing attorney: John Broadbent (202) 566-4324.

Treasury attorney: Thomas Wessel (202) 566-2928.

13 Income Tax

Agency Contact: Richard Marsh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3877

RIN: 1545-AL63

2581. CONSOLIDATED INVESTMENT CREDIT RECAPTURE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-3(f)(2)

Legal Deadline: None

Abstract: Section 47 (a) (1) of the Internal Revenue Code and the regulations thereunder provide the general rule that if section 38 property is disposed of there shall be recapture of investment credit. Section 1.1502-3 (f) (2) provides an exception to that rule for the transfer of section 38 property between members of an affiliated group; such a transfer will not cause a disposition within the meaning of section 47 (a) (1). This exception is premised on treating the affiliated group, for investment tax credit purposes, as a single entity that continues to own the property after the transfer. Such a premise is not justified, and the exception does not apply, if at the time of the transfer there is an intent that the property subsequently leave the group in a transaction described in section 1.1502-13 (f). See Rev. Rul. 82-20, 1982-1 CB 6. In such a case, recapture is appropriate. The regulation will amend section 1.1502-3 (f) (2) to make this explicit.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-80-88

Drafting attorney: Roy Hirschhorn (202) 566-3354.

Reviewing attorney: John Broadbent (202) 566-3877.

13 Income tax

Agency Contact: Roy A. Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3354

RIN: 1545-AM35

2582. TREATMENT OF DIVIDEND DISTRIBUTIONS AFTER THE SALE OF A SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-32(T).

Legal Deadline: None

Abstract: When a subsidiary declares a dividend while a member of a consolidated group, but pays the dividend after disaffiliation from the consolidated group, the basis of the subsidiary's stock is not reduced by the amount of the dividend. The problem is caused by a difference in timing of the two events in (payment of dividend and declaration of dividend) and its effect on earnings and profits and basis. This regulation will alleviate the problem by providing that basis of the subsidiary's stock will be reduced when the subsidiary declares a dividend.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-81-88

Drafting attorney: Richard Marsh (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-3484.

Treasury attorney: Bryan Collins (202) 566-2175.

13 Income tax

Agency Contact: Richard Marsh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4324

RIN: 1545-AM36

2583. DUAL RESIDENT COMPANIES LIMITATION ON CONSOLIDATED LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1503(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: If a U.S. Corporation is subject to a foreign country's tax on worldwide income, or on a residence basis as opposed to a source basis, any taxable loss it incurs cannot reduce the taxable income of any other member of a U.S. affiliated group for any other taxable year. Where a corporation is subject to foreign tax on a residence basis, then for U.S. purposes, its loss will be available to offset income of that corporation in other years, but not income of another U.S. Corporation. Regulations may exempt a U.S. corporation from this rule to the extent that its losses do not offset the income of foreign corporations for foreign tax purposes.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-961-86

Drafting attorney: Shannon M. Votava (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 566-6645.

Treasury attorney: David Crowe (202) 566-8275.

13 Income Taxes.

Agency Contact: Shannon M. Votava, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545-AJ54

2584. CROSS-REFERENCE--ALASKA NATIVE CORPORATIONS; REQUIREMENTS FOR AFFILIATION IN ORDER TO FILE A CONSOLIDATED RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules relating to the affiliated requirements of Alaska Native Corporations with certain other corporations in order to file a consolidated return.

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Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 8471
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-23-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545-AK88

2585. ESTATE & GIFT TAXES--INCLUSION OF STOCK IN ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2036 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: These regulations will provide the extent to which the retention of voting rights by a transferor of stock will require that the value of that stock be included in the transferor's gross estate.

Timetable:

Action	Date	FR Cite
NPRM	08/03/83	48 FR 35143
NPRM Comment Period End	11/03/83	48 FR 35143
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-181-76.

Drafting attorney: Fred E. Grundeman (202) 535-9512.

Reviewing attorney: Lee Dunn (202) 566-4626. attorney: Not Available

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 535-9512

RIN: 1545-AC83

2586. ESTATE AND GIFT TAXES--INCREASE IN LIMITATIONS ON MARITAL DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2012 Internal Revenue Code of 1986; 26 USC 2014 Internal Revenue Code of 1986; 26 USC 2055 Internal Revenue Code of 1986; 26 USC 2056 Internal Revenue Code of 1986; 26 USC 2207A Internal Revenue Code of 1986; 26 USC 2519 Internal Revenue Code of 1986; 26 USC 2523 Internal Revenue Code of 1986; 26 USC 6019 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property between spouses. They will provide how an executor may elect to treat certain property as qualified terminable interest property, in which case the imposition of transfer taxes will be delayed until the latter of (1) the surviving spouse's disposition of an interest in the property or (2) the surviving spouse's death.

Timetable:

Action	Date	FR Cite
NPRM	05/21/84	49 FR 21350
NPRM Comment Period End	07/20/84	49 FR 21350
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-211-76.

Drafting attorney: Susan Hurwitz (202) 566-5983.

Reviewing attorney: Lee A. Dunn (202) 566-4626.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Susan Himes (202) 566-8527.

Agency Contact: Susan Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-5983

RIN: 1545-AC87

2587. ESTATE TAX--GENERATION SKIPPING TRANSFER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2653 Internal Revenue Code of 1986; 26 USC 2662 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26; 26 CFR 26a

Legal Deadline: None

Abstract: The regulations will provide rules relating to the effective date provisions, return requirements, definitions, and certain special rules for the tax on generation skipping transfers.

Timetable:

Action	Date	FR Cite
NPRM	03/15/88	53 FR 8469
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-128-86.

Drafting attorney: John B. Franklin (202) 535-9514.

Reviewing attorney: Fred E. Grundeman (202) 535-9512.

Treasury attorney: Not available

Agency Contact: John B. Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 535-9514

RIN: 1545-AJ11

2588. EMPLOYMENT TAX--TO REQUIRE WITHHOLDING OF SOCIAL SECURITY AND RAILROAD RETIREMENT TAX FROM CERTAIN PAYMENTS OF SICK PAY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986; 26 USC 3231 Internal Revenue Code of 1986; PL 97-123, Sec 3

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide guidance to third parties paying sick pay which is subject to social security or railroad retirement tax, employees receiving the sick pay, and employers of the employees.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/82	
NPRM	07/06/82	47 FR 29266
NPRM Comment Period End	09/06/82	

TREAS—IRS **Final Rule Stage**

Action	Date	FR Cite
Final Action	04/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-23-82.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Neal J. Sheldon (202) 566-3783.

Treasury attorney: Paul Strella (202) 535-6965.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545-AC77

2589. BACKUP WITHHOLDING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986

CFR Citation: 26 CFR 35a

Legal Deadline: None

Abstract: This regulation clarifies certain requirements under section 35a.3406-1 regarding backup withholding due to incorrect TIN.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-8-88

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: John Coulter (202) 566-3928.

Treasury attorney: Susan Himes (202) 566-8527.

13 Income Taxes

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545-AL48

2590. BACKUP WITHHOLDING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 35a

Legal Deadline: None

Abstract: This regulation relates to the requirement that certain payments must be reported to the Internal Revenue Service and that in certain instances 20% of a reportable payment must be deducted and withheld under section 3406 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	02/29/88	53 FR 05991
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-052-86

Drafting attorney: Teresa B. Hughes (202) 634-5406.

Reviewing attorney: Charles Saverude (202) 377-9060.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income Taxes.

Agency Contact: Teresa B. Hughes, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545-AL99

2591. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES--REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3508 Internal Revenue Code of 1986; 26 USC 3509 Internal Revenue Code of 1986; 26 USC 6041A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: The proposed regulations would provide rules for the treatment of real estate agents and direct sellers as independent contractors for employment tax purposes. The proposed rules would also provide guidance for the reporting requirements of sales to direct sellers. The proposed rules would also provide guidance for computing certain employer liability for employment taxes.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 619
NPRM Comment Period End	03/10/86	51 FR 619
Hearing	06/18/86	
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-37-88.

Drafting attorney: Alfred Kelley (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Treasury attorney: Harry Conaway (202) 566-8277.

Agency Contact: Alfred Kelley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545-AE62

2592. ELECTION TO HAVE CERTAIN DIESEL FUEL TAXES IMPOSED ON SALES TO RETAILERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will provide guidance to assist diesel fuel retailers in making an election to have the diesel fuel excise tax collected by the wholesaler at the time the liquid is sold to the retailer.

Timetable:

Action	Date	FR Cite
NPRM	03/01/88	53 FR 6524
NPRM Comment Period End	05/02/88	53 FR 6524
Final Action	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-114-86

Drafting attorney: Frank Boland (202) 566-4475.

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Reviewing attorney: Dick Kocak (202) 566-4077.

Treasury attorney: Ellen Aprill (202) 566-2565.

Agency Contact: Frank Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AJ13

2593. TEMPORARY REGULATION EXCISE TAXES ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS SOLD AT RETAIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4051 Internal Revenue Code of 1986; 26 USC 4052 Internal Revenue Code of 1986; 26 USC 4053 Internal Revenue Code of 1986

CFR Citation: 26 CFR 145

Legal Deadline: None

Abstract: The regulations will provide guidance to dealers in paying tax on the sale of heavy trucks, trailers, and tractors.

Timetable:

Action	Date	FR Cite
Temporary Regulation	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-142-83.

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Michael Owens (202) 566-4077.

Treasury attorney: Ellen Aprill (202) 566-5453.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4077

RIN: 1545–AF79

2594. TAXABILITY OF CONVERTER DOLLIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 145.4051

Legal Deadline: None

Abstract: The regulation will address whether converter dollies for truck semitrailers are subject to tax under section 4051 of the Code.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-59-88

Drafting attorney: Theodore Margopulos (202) 343-8555.

Reviewing attorney: Richard Kocak (202) 566-3398.

13 Excise Tax

Agency Contact: Theodore N. Margopulos, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-8555

RIN: 1545–AL71

2595. EXCISE TAX - EXCISE TAX ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS

Legal Authority: 26 USC 4052 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will clarify the definition of first retail sale.

Timetable:

Action	Date	FR Cite
NPRM	05/12/88	53 FR 16882
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-17-86.

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Michael Owens (202) 566-4077.

Treasury attorney: Ellen Aprill (202) 566-2565.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4077

RIN: 1545–AI51

2596. EXCISE TAX–COLLECTION OF EXCISE TAX IMPOSED ON THE SALE OR REMOVAL OF GASOLINE

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986; 26 USC 4082 Internal Revenue Code of 1986; 26 USC 4101 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will provide rules relating to excise tax imposed on the sale or removal of gasoline. The regulations will also provide procedural requirements for any required registration and bonding, and obtaining applicable refunds or credits relating to the excise tax.

Timetable:

Action	Date	FR Cite
NPRM	11/18/87	52 FR 44141
Hearing	01/05/88	
NPRM - withdrew one paragraph of 11/18/87 NPRM	09/27/88	53 FR 37950
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

PS-115-86.

Drafting attorney: Frank Boland (202) 566-4475.

Reviewing attorney: Dick Rocak (202) 566-3434.

Treasury attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AJ09

2597. EXCISE TAX ON DIESEL FUEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4091 to 4093 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: This regulation provides guidance on the collection of diesel fuel excise tax under the Revenue Act of 1987.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-3-88

Drafting attorney: Frank Boland (202) 566-4475.

Reviewing attorney: Dick Rocak (202) 566-4077.

Treasury attorney: Ellen Aprill (202) 566-5453.

13 Excise Taxes

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AL43

2598. GASOLINE EXCISE TAX BOND REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4101 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will provide rules relating to the bond requirement under section 4101 as it pertains to gasoline excise tax.

Timetable:

Action	Date	FR Cite
NPRM	09/27/88	53 FR 37590
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-77-88

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-3434.

Treasury attorney: Robert Scarborough (202) 566-2928.

13 Excise Tax

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Consitution Ave., N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AM32

2599. EXCISE TAX–ELECTION TO AGGREGATE LINES OF BUSINESS FOR PURPOSES OF CERTAIN FRINGE BENEFIT EXCLUSIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4977 Internal Revenue Code of 1986

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: Regulations will provide guidance in the manner of making an election under section 4977. The regulations will also provide rules concerning the requirements for making a section 4977 election.

Timetable:

Action	Date	FR Cite
NPRM	01/07/85	50 FR 836
NPRM Comment Period End	03/08/85	50 FR 836
Hearing See additional information	04/16/85	50 FR 7072
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-139-87

Drafting attorney: Rhonda G. Migdail (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Treasury attorney: Priscilla Ryan (202) 566-5453.

Proposed and temporary regulations under section 4977 were published together with other fringe benefits regulations (LR-216-84) and the subject of public hearings. Additional section 4977 regulations will be provided exclusively in this project.

Agency Contact: Rhonda G. Migdail, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-4747

RIN: 1545–AI63

2600. EXCISE TAX – EXCESS DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4981A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the amount of the excise tax on excess distributions from qualified retirement plans.

Timetable:

Action	Date	FR Cite
NPRM	12/10/87	52 FR 46782
NPRM Comment Period End	02/08/88	52 FR 46782
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-162-86

Drafting attorney: Richard Pavel (202) 566-4747.

Reviewing attorney: Jerry Holmes/Richard Wickersham (202) 566-4747/(202) 566-4621.

Treasury attorney: Paul Strella (202) 566-6958.

Agency Contact: Richard Pavel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI81

2601. EXCISE TAX–ISSUES ARISING WHERE MULTIPLE PARTIES SHARE IN PRODUCTION, INCLUDING UNITIZATIONS, PARTNERSHIPS, TRUSTS AND ESTATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4986 to 4998 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These regulations would provide rules relating to production from a unitized property of imputed stripper well crude oil, imputed heavy crude oil, and imputed newly discovered crude oil for purposes of the windfall profit tax. The regulations would provide rules for determining the amount of imputed oil and rules for allocating the imputed oil among the producers of the unitized property.

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Timetable:

Action	Date	FR Cite
NPRM	09/30/86	51 FR 34653
NPRM Comment Period End	12/01/86	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-225-81.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Treasury attorney: Bryan Collins (202) 566-2175.

Withdrawal notice in signature package.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AC94

2602. EXCISE TAX–DEFINITION OF PROPERTY UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4996 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These proposed regulations would provide rules relating to the definition of "property" for purposes of the crude oil windfall profit tax. These regulations are important because the rate of tax depends, in part, on the characteristics of the property from which the crude oil is produced.

Timetable:

Action	Date	FR Cite
NPRM	09/25/86	51 FR 34095
NPRM Comment Period End	11/24/86	51 FR 34095
Hearing	02/25/87	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-34-82.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Windfall Profits Tax

Withdrawal notice in signature package

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AD08

2603. EXCISE TAX ON "GREENMAIL"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 5881 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: This regulation provides for the manner, method, and time of reporting and paying the 50-percent excise tax imposed with respect to receipt of "greenmail."

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-7-88

Drafting attorney: Warren Joseph (202) 566-2123.

Reviewing attorney: Karin G. Gross (202) 566-3689.

Treasury attorney: J. Judge Kelley (202) 566-8278.

Excise Taxes

Agency Contact: Warren Joseph, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2123

RIN: 1545–AL47

2604. EXCISE TAX – PART 54 – PROCEDURE AND ADMINISTRATION– PART 301 – FILING OF RETURNS FOR PAYMENT OF PENSION EXCISE TAX ON REVERSIONS OF QUALIFIED PLAN ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986

CFR Citation: 26 CFR 54; 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the payment of the excise tax by employers receiving reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/02/87	52 FR 10583
NPRM Comment Period End	06/01/87	52 FR 10583
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-151-86

Drafting attorney: Suzanne K. Tank (202) 566-3060.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-8277.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AI83

2605. INCOME TAX-AMENDMENTS TO REQUIREMENTS FOR RETURN OF PARTNERSHIP INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidelines for determining when and what information a partnership must provide to its partners. The regulations also provide guidelines for determining what foreign partnerships must file information returns.

Timetable:

Action	Date	FR Cite
NPRM	01/23/86	51 FR 3075
Final Action	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-198-82.

TREAS—IRS **Final Rule Stage**

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Robert A. Berkovsky (202) 566-3851.

Treasury attorney: Mary Bennett (202) 566-5815.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545–AE40

2606. NOMINEE REPORTING OF PARTNERSHIP INFORMATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to nominee reporting of partnership interest which such nominee holds for another person. The regulations will provide the information that the nominee is required to provide and will also provide the manner in which this information is to be reported to the partnership.

Timetable:

Action	Date	FR Cite
NPRM	09/07/86	53 FR 34545
NPRM Comment Period End	11/07/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-156-86.

Drafting attorney: Vincent G. Surabian (202) 566-4680.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Office of Tax Legislative Counsel Reviewing attorney: Greg Marich (202) 566-4979.

Agency Contact: Vincent G. Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4680

RIN: 1545–AJ98

2607. INFORMATION RETURNS OF BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations in this project clarify the definition of the term "commodity" for purposes of broker reporting. Rules are provided for determining whether personal property (including gold and silver) is a commodity. Generally, the term "commodity" is defined as personal property that is deliverable in satisfaction of a regulated futures contract, certain specified personal property that the secretary determines is to be treated as a commodity or any form or quality of or any interest in such personal property. The term "commodity" does not include a security, regulated futures contract, forward contract, or a form of tangible personal property if the gross proceeds from its sale exceed by more than 15 percent its value as a commodity. The rules proposed include alternative methods (the "exact" and "approximate" methods) of tangible personal property valuation.

Timetable:

Action	Date	FR Cite
NPRM	01/05/84	49 FR 646
NPRM Comment Period End	03/05/84	49 FR 646
Hearing	03/28/84	49 FR 645
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-201-83.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AG02

2608. INFORMATION RETURNS OF BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide a special rule for broker reporting with respect to transactions made through a cash on delivery account (COD). In addition, these regulations make technical corrections to the list of recipients exempted from coverage under the reporting requirement, and expand the class of brokers which qualify for the multiple broker rule.

Timetable:

Action	Date	FR Cite
NPRM	05/29/84	49 FR 22343
NPRM Comment Period End	07/30/84	49 FR 22343
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-62-84.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AG52

2609. INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation proposed to adopt as final rules relating to the reporting of real estate transactions.

Timetable:

Action	Date	FR Cite
NPRM	04/03/87	52 FR 10774
Hearing	07/22/87	52 FR 23308
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-95-86.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Treasury attorney: Judge Kelley (202) 566-2175.

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Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 377-9581

RIN: 1545–AJ25

2610. INCOME TAX–INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide additional rules relating to the reporting of real estate transactions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-130-87

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Reviewing attorney: David L. Crawford (202) 377-9590.

Treasury attorney: Judge Kelley (202) 566-2175.

13 Income Tax

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AL06

2611. ● TO CLARIFY THE OBLIGATION OF BROKERS TO REPORT ORIGINAL ISSUE DISCOUNT ON FORM 1099

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6049 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulation explains the revised reporting requirements for original issue discount on debt instruments held by brokers and other middlemen as nominees to make it clear that a broker or middleman has an unqualified obligation to report original issue discount on certain debt instruments held as a nominee.

Timetable:

Action	Date	FR Cite
NPRM	12/17/86	51 FR 45131
NPRM Comment Period End	02/17/87	51 FR 45131

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-144-85

Drafting attorney: Carol Nachman (202) 566-3287.

Reviewing attorney: Thomas Lyden (202) 566-3287.

Original Issue Discount Reporting Requirements of Brokers

Agency Contact: Carol Nachman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545–AM80

2612. FINAL REGULATIONS RELATING TO REPORTS OF FORECLOSURES AND ABANDONMENTS OF SECURITY UNDER THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6050J Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations proposed rules relating to information reporting of foreclosures, abandonments, and other acquisitions of property securing indebtedness, including the persons and property subject to the reporting requirement and the information required to be reported, and when a person has reason to know that property has been abandoned.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34518
NPRM Comment Period End	10/31/84	49 FR 34518
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-181-84.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AG48

2613. REPORTING REQUIREMENTS PERTAINING TO RETURNS RELATING TO PERSONS RECEIVING CONTRACTS FROM FEDERAL EXECUTIVE AGENCIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6050M Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide guidance to the heads of Federal executive agencies for purposes of complying with information and reporting requirements prescribed by section 6050M.

Timetable:

Action	Date	FR Cite
NPRM	07/29/88	53 FR 28669
NPRM Comment Period End	08/29/88	
Final Action	04/03/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: IA-133-86

Drafting attorney: Keith E. Stanley (202) 566-3367.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Judge J. Kelley (202) 566-2175.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AJ05

2614. NOTICE OF PROPOSED RULEMAKING - AUTOMATIC EXTENSION OF TIME TO FILE PARTNERSHIP RETURN OF INCOME AND TRUST INCOME TAX RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Automatic Extension of Time to File Partnership Return of Income and Trust Income Tax Return.

Timetable:

Action	Date	FR Cite
NPRM	04/05/88	53 FR 11103
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-29-88

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Greg Marich (202) 566-5453.

13 Income Taxes

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AL38

2615. EXTENSION OF TIME TO FILE FOR TAXPAYERS TRAVELING OUTSIDE THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: Regulations to repeal extension of time to file income tax returns for taxpayers traveling outside the United States and Puerto Rico.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-287-88

Drafting attorney: Peter J. Hanley (202) 566-3499.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: Peter J. Hanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3499

RIN: 1545–AM07

2616. INCOME TAX-DISCLOSURE OF RETURN INFORMATION TO OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF COMMERCE FOR CERTAIN STATISTICAL PURPOSES AND RELATED ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6103 (j) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposed regulation would disclose to the Bureau of the Census additional tax return information needed to help them determine whether an individual who itemizes is over 65.

Timetable:

Action	Date	FR Cite
NPRM	12/14/88	53 FR 50243
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-42-88

Drafting attorney: Paul Winkler (202) 566-2123.

Reviewing attorney: Karin G. Gross (202) 566-3889.

13 Procedure and Information

Agency Contact: Paul W. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-2123

RIN: 1545–AM02

2617. ● IDENTIFYING NUMBERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6109 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6109-1(c), (Revision)

Legal Deadline: None

Abstract: Amend regulations to delete requirement that payor sign affidavit on transmittal for information returns regarding solicitation of payee taxpayer identification numbers.

Timetable:

Action	Date	FR Cite
NPRM	08/15/84	49 FR 32728
NPRM Comment Period End	10/15/84	49 FR 32728
Hearing held	01/17/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-142-84.

Drafting attorney: Paulette Galanko (202) 566-3731.

Reviewing attorney: Tom Luxner (202) 566-4495.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-90-88

Drafting Attorney: Margaret A. Owens (202) 566-2123.

Reviewing Attorney: Karin G. Gross (202) 566-3889.

Procedure and Administration

Agency Contact: Margaret A. Owens, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-2123

RIN: 1545–AM44

2618. PROPOSED REGULATIONS UNDER SECTIONS 6111 AND 6709, RELATING TO TAX SHELTER REGISTRATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6111 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This project will provide rules explaining what investments are tax shelters that must be registered with the Internal Revenue Service. The project will also provide rules relating to the furnishing of tax shelter registration numbers to investors in tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	08/15/84	49 FR 32728
NPRM Comment Period End	10/15/84	49 FR 32728
Hearing held	01/17/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-142-84.

Drafting attorney: Paulette Galanko (202) 566-3731.

Reviewing attorney: Tom Luxner (202) 566-4495.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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RIN: 1545–AG45

2619. MISCELLANEOUS RULES RELATING TO CONSOLIDATED ADMINISTRATIVE AND JUDICIAL PROCEEDINGS TO DETERMINE THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6222 Internal Revenue Code of 1986; 26 USC 6223 Internal Revenue Code of 1986; 26 USC 6224 Internal Revenue Code of 1986; 26 USC 6227 Internal Revenue Code of 1986; 26 USC 6230 Internal Revenue Code of 1986; 26 USC 6231 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations would set forth miscellaneous procedural rules for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items. The regulations would provide guidance for various elections under these new procedures and for filing requests for an administrative adjustment.

Timetable:

Action	Date	FR Cite
NPRM	04/18/86	51 FR 13231
NPRM Comment Period End	06/17/86	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-205-82.

Drafting attorney: William Galanis (202) 377-9470.

Reviewing attorney: Dianna Miosi (202) 566-4070.

Treasury attorney: Greg Marich (202) 566-2927.

Agency Contact: William Galanis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9470

RIN: 1545–AE51

2620. SMALL S CORPORATION EXCEPTION AND DEFINITION OF SUBCHAPTER S ITEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6241 Internal Revenue Code of 1986; 26 USC 6245 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 602; 26 CFR 51

Legal Deadline: None

Abstract: These regulations will provide a small S corporation exception to the unified corporate audit procedures of subchapter D of chapter 63 of the Internal Revenue Code. These regulations also will define subchapter S items for purposes of the income tax and windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	01/30/87	52 FR 3027
NPRM Comment Period End	03/31/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-74-86.

Drafting attorney: William J. Gregg (202) 566-3621.

Reviewing attorney: Dianna K. Miosi (202) 566-4070.

Office of Tax Legislative Counsel Reviewing attorney: Bryan P.

Collins (202) 566-8277.

Agency Contact: William J. Gregg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3621

RIN: 1545–AJ99

2621. PROPOSED REGULATIONS UNDER THE SPENDING REDUCTION ACT OF 1984, RELATING TO REDUCTION OF TAX OVERPAYMENTS BY THE AMOUNT OF PAST-DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations will provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e., tax refund) by the amount of any past-due legally enforceable debt owed to a federal agency by the taxpayer. The regulations explain which debts qualify for offset, and the steps a federal agency must make to refer a debt to the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 39713
Temporary Regulations	11/30/85	
Temporary Regulations	05/13/87	52 FR 17949
NPRM	01/06/89	54 FR 428
Temporary Regulations	01/06/89	54 FR 400
NPRM Comment Period End	03/07/89	54 FR 428
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-291-84.

Drafting attorney: Sharon L. Hall (202) 566-4811.

Reviewing attorney: David Dickinson (202) 566-6655.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4811

RIN: 1545–AG95

2622. PROCEDURE AND ADMINISTRATIVE--REDUCTION OF TAX OVERPAYMENTS BY AMOUNT OF PAST DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will amend proposed regulations published September 30, 1985 relating to the reduction of a taxpayer's overpayment of tax by the amount of past-due legally enforceable debt owed to a federal agency by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	05/13/87	52 FR 17949
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-72-86

Drafting attorney: Sharon L. Hall (202) 566-4811.

Reviewing attorney: David Dickinson (202) 566-6655.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4811

RIN: 1545–AK12

2623. PROCEDURE AND ADMINISTRATIONS--REDUCTION OF TAX OVERPAYMENTS BY AMOUNT OF PAST-DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will amend regulations published September 30, 1985. The regulations will provide a new effective date for those regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/06/89	54 FR 428
NPRM Comment Period End	03/07/89	54 FR 428
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-41-88

Drafting attorney: Sharon L. Hall (202) 566-4811.

Reviewing attorney: David Dickinson (202) 535-9543.

Treasury attorney: Barksdale Penick (202) 535-6964.

13 Procedure and Administration

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, Washington, D.C. 20224, 202 566-4811

RIN: 1545–AL66

2624. PROCEDURE AND ADMINISTRATION - ABATEMENT OF INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance on the definition of ministerial act.

Timetable:

Action	Date	FR Cite
NPRM	08/13/87	52 FR 30177
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-34-87

Drafting attorney: John J. McGreevy (202) 566-4196

Reviewing attorney: Cynthia Clark (202) 566-6302.

Agency Contact: John J. McGreevy, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4196

RIN: 1545–AK71

2625. ● ABATEMENT OF PENALTIES OR ADDITIONS TO TAX ATTRIBUTABLE TO ERRONEOUS WRITTEN ADVICE OF INTERNAL REVENUE SERVICE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 100-647, Sec 6229; 26 USC 6404 (e)Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Other, Statutory, May 10, 1989.

Abstract: These regulations relate to the abatement of a portion of any penalty or addition to tax attributable to erroneous written advice furnished to a taxpayer by the Internal Revenue Service. The regulations will provide a definition for the term "advice", and will provide procedures that must be followed to obtain an abatement.

Timetable:

Action	Date	FR Cite
Temporary Regulation	05/10/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: IA-103-88

Drafting Attorney: Steve Toomey (202) 566-6320.

Reviewing Attorney: Bill Jackson (202) 566-6320.

Abatement of penalties

Agency Contact: Steve Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-6320

RIN: 1545–AM47

2626. PROCEDURE AND ADMINISTRATION REGULATIONS--MODIFICATIONS OF INTEREST PAYMENTS FOR CERTAIN PERIODS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6611 Internal Revenue Code of 1986; 26 USC 6601 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation would provide rules for determining the period during which interest accrues on an underpayment or an overpayment of tax as provided in sections 6601 and 6611 of the Internal Revenue Code of 1954. The period would be determined, in part, by the dates the return and the claim for refund are filed and by whether they were filed in a way that they can be processed.

Timetable:

Action	Date	FR Cite
NPRM	10/09/84	49 FR 39566
NPRM Comment Period End	12/10/84	
Final Action	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-280-82.

Drafting attorney: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4442

RIN: 1545–AF10

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2627. PROCEDURE AND ADMINISTRATION REGULATIONS - INCREASED RATE OF INTEREST ON SUBSTANTIAL UNDERPAYMENTS ATTRIBUTABLE TO CERTAIN TAX MOTIVATED TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide guidance to taxpayers subject to the increased rate of interest on substantial underpayments attributable to certain tax motivated transactions. The regulations define tax motivated transaction and accounting methods that may result in a substantial distortion of income. The regulations also provide rules for determining the amount of a tax motivated underpayment and the accrual of interest at the increased rate.

Timetable:

Action	Date	FR Cite
NPRM	12/28/84	49 FR 50406
NPRM Comment Period End	02/26/85	49 FR 50406

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-180-84.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Robert A. Berkovsky (202) 566-3851.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545-AG75

2628. TO PROVIDE REGULATIONS RELATING TO ACCELERATED PAYMENT OF ESTIMATED TAXES BY CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6655 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules will provide for acceleration of estimated payments by corporations, new seasonal income exception, and clarify the annualization rules. The amount of estimated tax payments required for all corporations is increased from 80 to 90 percent of current year's tax liability.

Timetable:

Action	Date	FR Cite
NPRM	03/26/84	49 FR 11186
Hearing	06/26/84	
Final Action	04/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-228-82.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Peter J. Frederick (202) 566-3825.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545-AE37

2629. PENALTY FOR FAILURE TO INCLUDE CORRECT INFORMATION ON INFORMATION RETURNS AND PAYEE STATEMENTS

Legal Authority: 26 USC 6723 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide guidance on the penalty for failing to provide correct information on information returns and payee statements

Timetable:

Action	Date	FR Cite
NPRM	09/10/87	52 FR 34358

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-142-86.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Peter Frederick (202) 566-3825.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-3627

RIN: 1545-AJ29

2630. PROCEDURE AND ADMINISTRATION--PROPERTY SEIZED BY THE INTERNAL REVENUE SERVICE UNDER THE MONEY LAUNDERING CONTROL ACT OF 1986

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7103 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 405

Legal Deadline: None

Abstract: This regulation provides guidance with respect to property seized by the Internal Revenue Service under the Money Laundering Control Act of 1986.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-24-87

Drafting attorney: Howard Garber (202) 566-4811.

Reviewing attorney: Karin G. Gross (202) 566-3889.

Agency Contact: Howard Garber, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-4811

RIN: 1545-AL04

2631. AMENDMENT OF REGULATIONS TO PERMIT DISCLOSURE OF TAX RETURN INFORMATION BETWEEN FRANCHISEES WHO JOINTLY OPERATE A TAX SERVICE

Legal Authority: 26 USC 7216 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would allow disclosure of tax return information by tax return preparers for the purpose of monitoring quality of return preparation.

Timetable:

Action	Date	FR Cite
NPRM	11/19/85	50 FR 47563
NPRM Comment Period End	12/19/85	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-3-85.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Peter J. Frederick (202) 566-3825.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545-AH91

2632. ● RECOVERY OF ADMINISTRATIVE COSTS

Legal Authority: 26 USC 7430 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7430

Legal Deadline: None

Abstract: Section 6239 of the Technical and Miscellaneous Revenue Act expands section 7430 of the Internal Revenue Code to allow the recovery of administrative costs incurred after the earlier of the date of the receipt by the taxpayer of the notice of decision of the IRS Office of Appeals or the date of the notice of deficiency, if the taxpayer prevails against a position of the U.S. that is not substantially justified. The regulations will define essential terms in the statute and develop procedures to administer the statute.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/30/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: IA-3-89

Drafting attorney: Grace Matuszeski (202) 343-2382.

Reviewing attorney: John Fischer (202) 566-8131.

Agency Contact: Grace Matuszeski, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2382

RIN: 1545-AN02

2633. PROCEDURE AND ADMINISTRATION--AMENDMENT OF REGULATIONS RELATING TO THE TIMELY MAILING OF RETURNS, TAXES AND DEPOSITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would amend existing regulations, relating to the timely mailing of documents, to provide for the timely mailing of returns, taxes and deposits.

Timetable:

Action	Date	FR Cite
NPRM	12/11/79	44 FR 71430
NPRM Comment Period End	02/11/80	44 FR 71430
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-406-71

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Neal E. Sheldon (202) 566-3783.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: unassigned.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545-AD42

2634. ● PROCEDURE AND ADMINISTRATION REGULATIONS--REIMBURSEMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7624 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation would provide rules relating to reimbursement to State and Local law enforcement agencies for expenses incurred for information furnished to IRS that substantially contributes to recovery of taxes on illegal drug related activities.

Timetable:

Action	Date	FR Cite
Temporary regulation	04/15/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: IA-95-88

Drafting Attorney: Gail M. Winkler (202) 566-4442.

Reviewing Attorney: Norlyn D. Miller, Jr. (202) 566-3273.

Procedure and Administration

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-4442

RIN: 1545-AM45

2635. AMENDMENT OF PROCEDURE AND ADMINISTRATION REGULATIONS UNDER SECTION 7701(B) (DEFINITION OF RESIDENT ALIENS) TO REFLECT SECTION 138 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 301

Legal Deadline: None

Abstract: These regulations provide rules for determining whether an alien individual is a resident or a nonresident alien of the United States.

Timetable:

Action	Date	FR Cite
NPRM	09/10/87	52 FR 34230
NPRM Comment Period End	11/10/87	52 FR 34230
Hearing	06/15/88	
Final Action	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-55-86.

Drafting attorney: Peter Hanley (202) 566-3499.

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Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: P. Ann Fisher (202) 566-4439.

13 Income taxes.

Agency Contact: Peter J. Hanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3499

RIN: 1545–AH13

2636. EFFECTIVE DATES AND OTHER QUESTIONS ARISING UNDER EMPLOYEE BENEFIT PROVISIONS OF THE TAX REFORM ACT OF 1984

Legal Authority: PL 98-369, Sec 511 to 561

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide proposed rules relating to effective dates and other questions arising under the employee benefit provisions of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4391
Hearing	06/26/86	51 FR 15916
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-96-85.

Drafting attorney: John T. Ricotta (202) 566-4747.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Treasury attorney: Harry Conaway (202) 566-8277.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI21

2637. ● THE TIME AND MANNER OF MAKING CERTAIN ELECTIONS UNDER THE TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

Legal Authority: 26 USC 168 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986; 26 USC 832 Internal Revenue Code of 1986; 26 USC 835 Internal Revenue Code of 1986; 25 USC 219 Internal Revenue Code of 1986; 26 USC 904 Internal Revenue Code of 1986; 26 USC 865 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986; 26 USC 864 Internal Revenue Code of 1986; 26 USC 245 Internal Revenue Code of 1986; 26 USC 897 Internal Revenue Code of 1986; 26 USC 936 Internal Revenue Code of 1986; 26 USC 1296 Internal Revenue Code of 1986

CFR Citation: 26 CFR 5.6(h)

Legal Deadline: None

Abstract: This document contains temporary regulations relating to the time and manner of making certain elections under the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/01/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-096-88

Drafting attorney: Grace Matuszeski (202) 343-2382.

Reviewing attorney: John Fischer (202) 566-8131.

Administration and Procedures

Agency Contact: Grace Matuszeski, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2382

RIN: 1545–AM76

2638. ● TAXPAYER ASSISTANCE ORDERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 100-647, Sec 6230

CFR Citation: 26 CFR 1.7811

Legal Deadline: Other, Statutory, February 8, 1989.
February 8, 1989. 90 days from date on which PL 100-69 was enacted (11-10-88).

Abstract: PL 100-647, Sec. 7811, adds new section 7811 to the Internal Revenue Code. This section provides that upon application filed by a taxpayer with the Ombudsman's office, the Ombudsman may issue a taxpayer assistance order (TAO) upon a determination that the taxpayer is or about to suffer a significant hardship as a result of how the internal revenue laws are being administered by the Service. The implemental regulations will discuss the form, manner and time for filing an application for assistance, the terms of a TAO, and the suspension of applicable periods of limitation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-703-88

Drafting attorney: Joseph W. Clark (202) 566-3358.

Reviewing attorney: Robert Miller (202) 566-3362.

Procedure and Administration

Agency Contact: Joseph W. Clark, Technical Assistant to the Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3358

RIN: 1545–AM61

2639. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701 Internal Revenue Code of 1986; 26 USC 7871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide guidance to certain Indian tribal governments as to their treatment as States under designated sections of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	05/07/84	49 FR 19329
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-221-83.

Drafting attorney: Lauren G. Shaw (202) 566-3828.

Reviewing attorney: William Coppersmith (202) 566-3336.

Office of Tax Legislative Counsel: Elliot Stern (202) 566-2926.

Agency Contact: Lauren G. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3828

RIN: 1545–AF77

2640. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7872 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance to taxpayers who enter into certain below-market interest rate loan transactions. The regulations explain what type of transactions are treated as loans and what type of loans are subject to the provisions of section 7872. If the loan is subject to section 7872, the below-market loan will be recharacterized as an arm's length market-interest rate loan coupled with a payment by the lender to the borrower in an amount generally equal to the amount of imputed interest. The regulations provide rules for determining the amount and the character of the imputed transfers.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33553
NPRM Comment Period End	10/20/85	50 FR 33553
Hearing	01/09/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-165-84.

Drafting attorney: David B. Silber (202) 566-3432.

Reviewing attorney: Maura Sullivan (202) 566-3288.

Agency Contact: David B. Silber, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3432

RIN: 1545–AH72

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Completed Actions

2641. STATEMENT OF PROCEDURAL RULES—MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601; 26 CFR 602

Legal Deadline: None

Abstract: The document contains miscellaneous amendments to the Statement of Procedural Rules (SPR). The SPR sets forth the procedural rules of the Internal Revenue Service for all taxes administered by the Service as well as certain rules that apply to the Bureau of Alcohol, Tobacco and Firearms. Some amendments update the SPR to reflect changes in nomenclature. The other amendments are described in the order of the sections of the SPR being amended.

Timetable:

Action	Date	FR Cite
Closed by Memorandum	09/30/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-257-83.

Drafting author: George H. Bradley (202) 343-0231.

Reviewing attorneys: George H. Bradley (202) 343-0231 and Charles Whedbee (202) 566-3458.

Agency Contact: George H. Bradley, Staff Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 343-0231

RIN: 1545–AJ53

2642. CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 28 Internal Revenue Code of 1986; 26 USC 280C Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: These regulations will amend the Income Tax Regulations to conform the regulations to sections 28 and 280C of the Internal Revenue Code of 1986, relating to the credit for clinical testing expenses for rare diseases or conditions. The regulations will provide the public with the guidance needed to comply with the law and will affect taxpayers seeking to obtain the credit.

Timetable:

Action	Date	FR Cite
NPRM	04/23/85	50 FR 15930
NPRM Comment Period End	06/24/85	50 FR 15930
Final Action T.D. 8232	10/03/88	53 FR 38708
Final Action Effective	10/03/88	53 FR 38708

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-55-83.

Drafting attorney: Stuart C. Wessler (202) 566-3822.

Reviewing attorney: John B. Bromell (202) 377-9471.

Office of Tax Legislative Counsel Reviewing attorney: Susan

Himes (202) 566-8527.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3822

RIN: 1545–AF64

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2643. INCOME TAX–NOTICE TO EMPLOYEES OR EARNED INCOME CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 99-514.; 26 USC 6051 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the procedures necessary to implement the statutory requirement that employers noting certain employees whose wages are not subject to income tax withholding that they may be eligible for the refundable earned income credit.

Timetable:

Action	Date	FR Cite
NPRM	06/11/87	52 FR 22345
NPRM Comment Period End	08/10/87	
Final Action T.D. 8222	08/24/88	53 FR 32219

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LR-99-86

Drafting attorney: Joel S. Rutstein (202) 566-4509.

Reviewing attorney: John B. Bromell (202) 377-9471.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4509

RIN: 1545–AJ44

2644. INCOME TAX–TAX TREATMENT OF MASS ASSETS FOR INVESTMENT CREDIT PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 38 Internal Revenue Code of 1986; 26 USC 46 Internal Revenue Code of 1986; 26 USC 47 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would clarify the investment tax credit recapture treatment of mass assets thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret this area.

Timetable:

Action	Date	FR Cite
NPRM	12/20/85	50 FR 51874
Closed without regulations	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-92-73.

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: William Dwyer (202) 566-6511.

Investment Tax Credit.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AA10

2645. INCOME TAX–INCREASE IN INVESTMENT TAX CREDIT FOR QUALIFIED REHABILITATION EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules and definitions relating to terms such as qualified rehabilitated expenditures, qualified rehabilitated building, substantial rehabilitation and certified historic structure.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/82	
NPRM	06/28/85	50 FR 26794
NPRM Comment Period End	08/27/85	
Hearing	11/15/85	
Final Action T.D. 8233	10/11/88	53 FR 39589

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-238-81.

Drafting attorney: Stuart C. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Susan Himes (202) 566-8527.

Investment Tax Credit

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AA12

2646. CORPORATE ALTERNATIVE MINIMUM TAX BOOK INCOME ADJUSTMENT

Legal Authority: 26 USC 55 Internal Revenue Code of 1986; 26 USC 56(c)(1) Internal Revenue Code of 1986; 26 USC 56(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will describe rules for the computation of the alternative minimum net book income adjustment imposed on corporations.

Timetable:

Action	Date	FR Cite
NPRM	04/28/87	52 FR 15339
NPRM Comment Period End	06/29/87	
Closed merged with IA-55-87	08/26/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-107-86.

Drafting attorney: Nicholas Bogos (202) 566-3862.

Reviewing attorney: William A. Galanko (202) 566-3862.

Treasury attorney: Mark Levy (202) 535-6966.

Agency Contact: Nicholas Bogos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AJ14

2647. INCOME TAX–NONQUALIFIED SALARY REDUCTION AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 61 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide guidance regarding the tax treatment of nonqualified deferred compensation arrangements established by tax

exempt charitable organizations such as non-profit hospitals for their employees.

Timetable:

Action	Date	FR Cite
NPRM	02/03/78	43 FR 4638
NPRM Comment Period End	04/04/78	43 FR 4638
Hearing	05/14/78	
News release issued for comment	06/11/79	
Hearing	11/27/79	
Closed Merged into EE-87-88.	09/01/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LR-194-77.

Drafting attorney: John A. Tolleris (202) 566-3060.

Reviewing attorney: A. Thomas Brisendine, (202) 566-3060.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8277.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AA35

2648. INCOME TAX–TO CLARIFY THE DEFINITION OF PROPERTY WHICH IS A POLLUTION CONTROL FACILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 (b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will define the term "air or water pollution control facilities". The regulations will further determine the portion of the cost of such facilities that may be financed with tax-exempt industrial development bonds, whenever the facilities also serve certain other purposes.

Timetable:

Action	Date	FR Cite
NPRM	08/20/75	40 FR 36371
Hearing	11/21/75	
NPRM Comment Period End	11/28/75	40 FR 36371
Closed without regulations	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-9-75.

Drafting attorney: David McMunn (202) 566-6682.

Reviewing attorney: Charles Ramsey (202) 566-6682.

Tax Exempt Bonds

Agency Contact: David McMunn, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-6682

RIN: 1545–AK10

2649. INCOME TAX–PREPAID LEGAL EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 120 Internal Revenue Code of 1986; 26 USC 501 (c) (20) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the establishment and operation of a qualified group legal services plan. Employer contributions to, and benefits provided under, a qualified plan are excluded from an employee's gross income.

Timetable:

Action	Date	FR Cite
NPRM	04/29/80	45 FR 28360
NPRM Comment Period End	06/30/80	45 FR 28360
Hearing	09/04/80	
Closed without regulations	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-5-78.

Drafting attorney: Monice Rosenbaum (202) 566-3505.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3505

RIN: 1545–AD62

2650. EXEMPT BONDS FOR RESIDENTIAL RENTAL PROJECTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 142 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides rules concerning qualified residential rental projects.

Timetable:

Action	Date	FR Cite
Closed duplicate of RIN 1595-AJ66	01/12/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-089-86

Drafting attorney: Susan E. Overlander (202) 566-3458.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Elliot Stern (202) 566-2926.

13 Income Tax

Agency Contact: Susan E. Overlander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AM04

2651. PRACTICAL CAPACITY

Legal Authority: 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide guidance on specific issues relating to when section 263A applies and whether certain accounting principles are permitted in accounting for the costs of property produced or property acquired for resales.

Timetable:

Action	Date	FR Cite
NPRM	06/07/87	52 FR 29391
NPRM Comment Period End	10/06/87	
Closed without regulations merged into IA-168-86	08/09/88	

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Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: LR-37-87

Drafting attorney: Paulette C. Galanko (202) 566-3731.

Reviewing attorney: John M. Fischer (202) 566-8131.

Treasury attorney: Thomas Evans (202) 566-8277.

Agency Contact: Paulette Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3731

RIN: 1545–AK56

2652. INCOME TAX–DEDUCTIBILITY OF GIFTS BY EMPLOYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 274 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would reflect the modification by the Economic Recovery Tax Act of 1981 of the third exception to the term "gift" (i.e., the exception within certain dollar limitations for awards of tangible personal property). The regulations would define the term "qualified plan award." The regulations would clarify the existing regulations under section 274 (b) of the Internal Revenue Code of 1954 by excluding from the term "tangible personal property" any award of cash, or of a gift certificate, or of a right to choose among 5 or more different items.

Timetable:

Action	Date	FR Cite
NPRM	12/16/82	47 FR 56367
NPRM Comment Period End	02/14/83	47 FR 56367
Final Action T.D. 8230 (Final)	09/20/88	53 FR 36450

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LR-252-81.

Drafting attorney: Christopher Wilson (202) 566-4945.

Reviewing attorney: John B. Bromell (202) 377-9471.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Christopher Wilson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4945

RIN: 1545–AB06

2653. LEASED PROPERTY UNDER SECTION 280F

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides inclusion amounts for listed property leased after December 31, 1986.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8216	08/09/88	53 FR 29881

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LR-1-88

Drafting attorney: Joel Rutstein (202) 566-4509.

Reviewing attorney: Sharon Galm (202) 566-3326.

Treasury attorney: John Parcell (202) 535-6965.

13 Income Taxes

Agency Contact: Joel Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4509

RIN: 1545–AL42

2654. INCOME TAX–APPLICATION OF SECTION 338 TO STOCK AND ASSET ACQUISITIONS IN THE INTERNATIONAL CONTEXT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to section 338 as it applies to stock and asset acquisitions in the international context.

Timetable:

Action	Date	FR Cite
NPRM	02/12/86	51 FR 5208
NPRM Comment Period End	04/14/86	
Closed and transferred to CC:INTL	12/21/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-35-84.

Drafting attorney: Ken Allison (202) 566-6457.

Reviewing attorney: Benedetta Kissel (202) 566-3179.

Agency Contact: Ken Allison, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C., 20224, 202 566-6457

RIN: 1545–AG13

2655. CERTAIN STOCK PURCHASES TREATED AS ASSET ACQUISITIONS-FOREIGN IMPLICATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Finalize and simplify international section 338 regulations.

Timetable:

Action	Date	FR Cite
Closed without regulations	01/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-033-86

Drafting attorney: Kenneth Allison (202) 566-6457.

Reviewing attorney: Benedetta Kissel (202) 566-3179.

Treasury attorney: Unassigned.

13 Income Taxes.

Agency Contact: Kenneth Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AL95

2656. INCOME TAX–DISTRIBUTION OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 355 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal relates to the income tax treatment of the distribution of stock and securities of a controlled corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/21/77	42 FR 3866
NPRM Comment Period End	03/22/77	42 FR 3866
Final Action T.D. 8238	01/05/89	54 FR 283

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-936-70

Drafting attorney: Richard McManus (202) 566-3422.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Bryan Collins (202) 566-4979.

Agency Contact: Richard McManus, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545–AB20

2657. TRANSFER OF INTANGIBLES SUBJECT TO SECTION 367 OR 482 OF THE CODE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Prior to the Reform Act of 1986, U.S. taxpayers were able to shift income out of the U.S. by transferring intangibles to Section 936 possessions corporations, contributing intangibles to related foreign corporations in Section 367 transactions or selling or licensing intangibles to related foreign parties at less than arm's-length prices and transactions subject to section 482. Valuing such transfers (at the time of transfer) has proven to be difficult and non-productive. The Reform Act of 1986 provides that payments to be received by the transferor of intangibles must be commensurate with the income from the intangible. Major issue - What portion of the income from the intangible will constitute "commensurate"? Provisions will raise large amounts of revenue.

Timetable:

Action	Date	FR Cite
Closed Without Regulations	10/31/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-937-86

Drafting attorney: Bobby D. Burns (202) 287-4851.

Reviewing attorney: George Sellinger (202) 287-4851.

Treasury attorney: Mark Beams (202) 566-0247.

Agency Contact: Bobby D. Burns, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ91

2658. NOTICE, ELECTION, AND CONSENT RULES UNDER THE RETIREMENT EQUITY ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide rules relating to notices, elections and consents required under the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29436
NPRM Comment Period End	09/17/85	50 FR 29436
Final Action T.D. 8219	08/22/88	53 FR 31837

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-35-85.

Drafting attorney: William D. Gibbs (202) 566-3060

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8277.

This is included in the Regulatory Program of the United States under overall RIN 1545-AH71.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AH80

2659. INCOME TAX–TREATMENT OF CERTAIN LUMP SUM DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 402 (a) (2) Internal Revenue Code of 1986; 26 USC 402 (e) Internal Revenue Code of 1986; 26 USC 403 (a) (2) (A) (iii) Internal Revenue Code of 1986; 26 USC 411 (d) (1) Internal Revenue Code of 1986; PL 93-406, Sec 2005 Employee Retirement Income Security Act; PL 94-455, Sec 1512 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide definitions and other guidance relating to income tax treatment of certain distributions from qualified employee plans.

Timetable:

Action	Date	FR Cite
NPRM	04/30/75	40 FR 18798
Corrected NPRM	05/23/75	40 FR 22548
NPRM Comment Period End	06/16/75	40 FR 18798
Notice of Hearing	07/03/75	40 FR 28102
Hearing	08/12/75	
NPRM - Additional Comment Period until	05/31/79 07/30/79	44 FR 31228 44 FR 31228
Closed without regulations	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-14-78.

Drafting attorney: Marjorie Hoffman (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AD73

2660. INCOME TAX–COORDINATION OF VESTING AND NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 411 (d) (1) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project was developed to prescribe rules for determining if the vesting schedule of a qualified plan discriminates in favor of employees who are officers, shareholders, or highly compensated.

Timetable:

Action	Date	FR Cite
NPRM	04/09/80	45 FR 24201
Partial Revised Notice	06/12/80	45 FR 39689
Hearing	07/10/80	45 FR 29308
Closed without regulations	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-164-78.

Drafting attorney: Marjorie Hoffman (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AD83

2661. SURVIVOR BENEFITS, DISTRIBUTION RESTRICTIONS AND VARIOUS OTHER ISSUES UNDER THE RETIREMENT EQUITY ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the effective dates, transitional rules, restrictions on distributions from employee plans and other issues arising under the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29436
NPRM Comment Period End	09/17/85	50 FR 29436
Closed without regulations	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-3-85

Drafting attorney: William D. Gibbs (202) 566-3060.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Office of Tax Legislative Counsel reviewing attorney: Harry J. Conaway (202) 566-8277.

This is included in the Regulatory Program of the United States under overall RIN 1545-AH71.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AH01

2662. JOINT AND SURVIVOR ANNUITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 417 Internal Revenue Code of 1986; 26 USC 401 (a) (11) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules on how plans which intend to qualify under section 401 can comply with the qualified joint and survivor annuity rules added to the Code by the Retirement Equity Act of 1984. The regulations will deal with which plans must provide survivor annuities, in what forms the survivor annuities may be paid, the notice and election procedures for survivor annuities and restrictions on a plan's ability to cash out a participant and spouse.

Timetable:

Action	Date	FR Cite
NPRM	10/22/82	47 FR 47600
Closed without regulations	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-94-84.

Drafting attorney: William D. Gibbs (202) 566-3060.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Treasury attorney: Harry J. Conaway (202) 566-8277.

NPRM published under EE-52-78; contents of file transferred to EE-94-84.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AG72

2663. ● STOCKHOLDER APPROVAL OF INCENTIVE STOCK OPTION AND EMPLOYEE STOCK PURCHASE PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 422A Internal Revenue Code of 1986; 26 USC 423 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 14a

Legal Deadline: None

Abstract: These regulations contain amendments to the Income Tax Regulations (26 CFR Part 1) under section 432 of the Internal Revenue Code of 1954, relating to employee stock purchase plans, and to the Temporary Income Tax Regulations Relating to Incentive Stock Options (26 CFR Part 14a) under section 422A of the Code. These amendments prescribe the method and degree of stockholder approval necessary to qualify a plan under sections 423 and 422A.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8235	12/02/88	53 FR 48639

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-053-86

Drafting attorney: Michael Grace (202) 566-6460.

Reviewing attorney: Michael Grace (202) 566-6460.

Treasury attorney: John Parcell (202) 535-6965.

Agency Contact: Michael Grace, Attorney, Department of the Treasury,

Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6460

RIN: 1545–AM93

2664. CERTAIN INDEBTEDNESS TREATED AS PAYMENT ON INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453C Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance with respect to the requirement that certain indebtedness of a taxpayer be treated as a payment on certain installment obligations held by the taxpayer.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8224	09/08/88	53 FR 34716

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-93-86

Drafting attorney: Phyllis Harvey (202) 566-4440.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury attorney: Ellen Aprill (202) 566-2565.

Agency Contact: Phyllis Harvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AJ27

2665. TRANSITIONAL RULES RELATING TO INDEBTEDNESS TREATED AS PAYMENT ON INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to taxpayers in applying special rules concerning the treatment of certain installment obligations.

Timetable:

Action	Date	FR Cite
Closed Without regulations	11/21/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-20-87

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury attorney: Ellen Aprill (202) 566-2567.

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AK54

2666. INVENTORY COMPUTED BY USE OF CONSUMER OR PRODUCER PRICE INDEXES

Legal Authority: 26 USC 472 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide examples and further clarification of the existing regulations.

Timetable:

Action	Date	FR Cite
Closed without Regulations	02/19/85	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-57-83.

Drafting attorney: Arthur E. Davis (202) 377-9581.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AF65

2667. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0474 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to certain small businesses that are eligible to elect a simplified dollar- value LIFO method of inventory valuation. This method requires the use of published government indexes.

Timetable:

Action	Date	FR Cite
Merged with RIN 1545-AK64	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-30-87

Drafting attorney: Richard O. Davis (202) 343-2383.

Reviewing attorney: Eric Pleet (202) 566-3261.

Treasury accountant-advisor: Marc Levy (202) 535-6966.

Agency Contact: Richard O. Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2383

RIN: 1545–AK65

2668. INCOME TAX–PROCEDURE & ADMINISTRATION–FOREIGN TRUSTS HAVING U.S. BENEFICIARIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 679 Internal Revenue Code of 1986; 26 USC 678 (b) Internal Revenue Code of 1986; 26 USC 643 (a) Internal Revenue Code of 1986; 26 USC 643 (c) (6) (C) Internal Revenue Code of 1986; 26 USC 643 (c) (6) (D) Internal Revenue Code of 1986; 26 USC 643 (d) Internal Revenue Code of 1986; 26 USC 6048 Internal Revenue Code of 1986; 26 USC 6677 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: These regulations will provide to what extent a grantor of a foreign trust with United States beneficiaries will be treated as an

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owner of that trust, and thus taxed currently on the trust's income.

Timetable:

Action	Date	FR Cite
Closed without regulations	12/31/86	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-187-76.

Drafting attorney: Fred E. Grundeman (202) 535-9512.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 535-9512

RIN: 1545-AB79

2669. TO PROVIDE SPECIAL RULES CONCERNING RELATED PARTY LOANS IN THE CASE OF PARTNERSHIP ALLOCATIONS ATTRIBUTABLE TO NONRECOURSE DEBT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide regulations relating to loans made to a partnership by a person related to a partner of the partnership.

Timetable:

Action	Date	FR Cite
Closed without regulations	09/30/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-30-86.

Drafting attorney: Unassigned.

Reviewing attorney: John B. Bromell (202) 566-4320.

Treasury attorney: Greg Marich (202) 566-2927.

Agency Contact: John E. Bromell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-4320

RIN: 1545-AI66

2670. ● TREATMENT OF PARTNERSHIP LIABILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 98-369, Sec 79 Tax Reform Act of 1984

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations revise the Income Tax Regulations under Section 752 of the Internal Revenue Code of 1954 to conform such regulations to changes in the law with respect to a partner's share of partnership liabilities.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8237	12/30/88	53 FR 53140

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-091-88

Drafting attorney: Mary A. Munday (202) 377-9470.

Reviewing attorney: Dianna A. Miosi (202) 566-4070.

Partners and Partnerships

Agency Contact: Mary A. Munday, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9470

RIN: 1545-AM77

2671. CALIFORNIA FRANCHISE TAX AND SECTION 1.861-8 ALLOCATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986; 26 USC 862 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Clarification of allocation of deduction for state income and franchise taxes. Provides guidance in situations not addressed by current examples in regulations.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8236	12/12/88	53 FR 49673

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-078-87

Drafting attorney: David F. Chan (202) 634-5404.

Reviewing attorney: T. Timothy Tuerff (202) 566-3896.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: David F. Chan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5404

RIN: 1545-AM09

2672. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations providing rules for affiliated group allocation and apportionment of expenses other than interest that are not traceable to specific income producing activities or property of corporation.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8228	09/14/88	53 FR 35467

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-976-86

Drafting attorney: Carl M. Cooper (202) 634-5406.

Reviewing attorney: Charles Saverude (202) 377-9060.

Treasury attorney: Mark Beams (202) 566-2964.

13 Income Taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545-AM21

2673. ALLOCATION AND APPORTIONMENT OF EXPENSES

Significance: Regulatory Program

Legal Authority: 26 USC 861 (b) Internal Revenue Code of 1986; 26 USC 863 (b) Internal Revenue Code of 1986; 26 USC 864 (e) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules relating to the allocation and apportionment of expenses, including interest expense for purposes of the foreign tax credit rules and other international tax provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/11/87	52 FR 4580
NPRM Comment Period End	10/26/87	
Hearing	11/13/87	
Closed without regulations.	09/14/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-935-86

Drafting attorney: David Merrick (202) 566-6276.

Reviewing attorney: Charles Saverude (202) 377-9060.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Tax

Agency Contact: David Merrick, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6276

RIN: 1545-AL21

2674. EXEMPTIONS FROM WITHHOLDING OF NRA'S AND FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 871(i) Internal Revenue Code of 1986; 26 USC 881(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Implement regulations concerning exemptions from withholding of non-resident aliens and foreign corporations under sections 871(i) and 881(d) of the Code. Specifically, the proposed regulation will address the individual or corporation that meets the 80 percent foreign business requirements for active foreign business income.

Timetable:

Action	Date	FR Cite
Closed without regulations.	07/11/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-951-86

Drafting attorney: Riea M. Lainoff (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 566-6645.

Treasury attorney: Mary Bennett (202) 566-5992.

Agency Contact: Riea M. Lainoff, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545-AJ59

2675. BRANCH PROFITS TAX (GENERAL RULE AND DEFINITIONS) AND SECOND LEVEL WITHHOLDING TAXES (TEMPORARY REGULATIONS)

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 884 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the calculation of the branch profits tax. The regulations will provide rules for the treatment of interest allocable to effectively connected income.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8223.	09/02/88	53 FR 34045

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-979-86

Drafting attorney: Richard M. Elliott (202) 566-6457.

Reviewing attorney: Benedetta A. Kissel (202) 566-3179.

Treasury attorney: Peter Daub (202) 566-5791.

13 Income taxes.

Agency Contact: Richard M. Elliott, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545-AJ77

2676. ● LIMITATION OF FOREIGN TAX CREDIT FOR FOREIGN OIL AND GAS TAXES (TEMPORARY REGULATIONS)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 907 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would amend regulations under section 907 relating to the foreign tax credit for taxes on oil and gas income, to conform them to section 211 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8240	01/23/89	54 FR 3004

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-527-88

Drafting attorney: Richard Chewning (202) 566-6384.

Reviewing attorney: Charles C. Saverude (202) 566-6645.

Treasury attorney: Peter Barnes (202) 566-8275.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C., 202 566-6384

RIN: 1545-AM52

2677. PROFIT AND LOSS TRANSITION RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 787 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

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Legal Deadline: None

Abstract: This project provides transition rules for those foreign branches of United States entities who used a profit and loss method of accounting prior to the enactment of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8220	08/25/88	53 FR 32384

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-392-88

Drafting attorney: David Rosenberg (202) 634-5406.

Reviewing attorney: Robert Katcher (202) 634-5406.

Treasury attorney: David Crowe (202) 634-5791.

13 Income Taxes.

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 634-5406

RIN: 1545–AM14

2678. INCOME TAX–CERTAIN ELECTIONS UNDER THE SUBCHAPTER S REVISION ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1361 Internal Revenue Code of 1986; 26 USC 1362 Internal Revenue Code of 1986; 26 USC 1377 Internal Revenue Code of 1986; 26 USC 1378 Internal Revenue Code of 1986; 26 USC 1379 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations relate to the time and manner of making certain elections, consents, and refusals under the Subchapter S Revision Act of 1982 and to the taxable year which a corporation may select in order to make the election to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/26/83	48 FR 03637
NPRM Comment Period End	03/28/83	48 FR 03637
Closed without regulations	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-154-86

Drafting attorney: Robert E. Shaw (202) 343-8459.

Reviewing attorney: John Bromell (202) 566-4320.

Treasury attorney: Harry Conaway (202) 566-8277.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 343-8459

RIN: 1545–AJ94

2679. APPLICATIONS FOR EXEMPTION FROM SELF-EMPLOYMENT TAXES FOR MINISTERS, ETC

Legal Authority: 26 USC 1402 (e) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance with respect to applications for exemption from self-employment taxes under section 1402 (e) for ministers, members of a religious order and Christian Science practitioners.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/87	53 FR 33460
NPRM	04/15/87	52 FR 12194
NPRM Comment Period End	06/15/87	52 FR 12194
Final Action T.D. 8221	08/31/88	53 FR 33460

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-154-86

Drafting attorney: Robert E. Shaw (202) 343-8459.

Reviewing attorney: John Bromell (202) 566-4320.

Treasury attorney: Harry Conaway (202) 566-8277.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 343-8459

RIN: 1545–AJ94

2680. ADJUSTMENT REFLECTING A RESTRUCTURING OF A CONSOLIDATED GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules for determining the basis and the earnings and profits of members of a consolidated group following certain changes in the structure of the group, where the group remains in existence. This regulation also provides for alternative agents of the group if the common parent ceases to be the common parent.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8226	09/08/88	53 FR 34729

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-12-88

Drafting attorney: Rose Williams (202) 566-4324.

Reviewing attorney: Marc Blumkin (202) 566-3877.

Treasury attorneys: Thomas Wessel (202) 566-2927 and Bryan Collins (202) 566-2175.

13 Income Tax

Agency Contact: Rose Williams, Attorney - Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3354

RIN: 1545–AL61

2681. GASOLINE EXCISE TAX BOND REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4101 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will provide rules relating to the bond requirements under section 4101 as it pertains to gasoline excise tax.

Timetable:

Action	Date	FR Cite
Final Action Effective	04/01/88	
Final Action T.D. 8231	09/27/88	53 FR 37552

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-60-88

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-3434.

Treasury attorney: Robert Scarborough (202) 566-2928.

13 Excise Tax

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AL70

2682. EXCISE TAX–WITH RESPECT TO THE DEFINITION OF TAXABLE CRUDE OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4991 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These regulations would provide rules relating to the definitions of crude oil, condensate, and tar sand for purposes of the windfall profit tax. These definitions are important because only crude oil is subject to the windfall profit tax.

Timetable:

Action	Date	FR Cite
Closed without regulations	11/14/88	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-226-81.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AD00

2683. EXCISE TAX–INCREMENTAL TERTIARY OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4993 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: The regulations would clarify the rules relating to incremental tertiary oil. The regulations provide procedural rules for requesting approval from the Service of tertiary recovery methods which are not already approved under Department of Energy regulations. The regulations also define "project beginning date" and "tertiary injectant".

Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35517
NPRM Comment Period End	11/09/84	49 FR 35517
Hearing	07/26/85	
Closed without regulations	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-67-80.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter W. Woo (202) 535-9545.

Withdrawal notice in signature package

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AD04

2684. EXCISE TAX–OIL FROM A STRIPPER WELL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4991 Internal Revenue Code of 1986; 26 USC 4992 Internal Revenue Code of 1986; 26 USC 4994 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: The proposed regulations provide rules and definitions relating to oil from a stripper well property for purposes of tier 2 oil and exempt stripper well oil.

Timetable:

Action	Date	FR Cite
NPRM	01/20/83	48 FR 2552
NPRM Comment Period End	03/20/83	48 FR 2552
Closed without regulations	04/11/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-217-81.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Withdrawal notice in signature package

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AD01

2685. ELIMINATION OF FORM 941 FILING REQUIREMENT FOR QUARTERS IN WHICH SEASONAL EMPLOYERS PAY NO WAGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Regulations would direct the public to the instructions to Form 941 to find exceptions to the filing requirements of the form for seasonal and intermittent employers with respect to quarters in which no wages were paid.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8229	09/15/88	53 FR 35881

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-57-86.

Drafting attorney: Joel S. Rutstein (202) 566-4509.

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Reviewing attorney: John B. Bromell (202) 377-9471.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-4509

RIN: 1545–AI56

2686. NOMINEE REPORTING OF PARTNERSHIP INFORMATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These temporary regulations will provide rules relating to nominee reporting of partnership interest which such nominee holds for another person. The regulations will provide the information that the nominee is required to provide and will also provide the manner in which this information is to be reported to the partnership.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8225	09/07/88	53 FR 34488

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-155-86.

Drafting attorney: Stuart G. Wessler (202) 566-3822.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Office of Tax Legislative Counsel Reviewing attorney: Greg Marich (202) 566-4979.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3822

RIN: 1545–AJ97

2687. TREATMENT OF NET CAPITAL LOSSES OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS-RELATIONSHIPS BETWEEN CHAPTER 44 EXCISE TAXES AND TAXABLE INCOME

Legal Authority: 26 USC 852(b)(3) Internal Revenue Code of 1986; 26 USC 857(b)(3) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would establish rules pertaining to the relationship and effect of net capital losses of RICs and REITs attributable to transactions after the cut-off date for capital transactions and the taxable income if the entity for the subsequent taxable year.

Timetable:

Action	Date	FR Cite
Closed without regulations	11/09/88	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-116-86.

Drafting attorney: Lauren G. Shaw (202) 566-3828.

Reviewing attorney: William E. Coppersmith (202) 566-3336.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Agency Contact: Lauren G. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3828

RIN: 1545–AJ04

2688. TIME AND MANNER OF MAKING QUARTERLY PAYMENTS OF THE RAILROAD UNEMPLOYMENT REPAYMENT TAX (NPRM)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6157 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986; 26 USC 6071 Internal Revenue Code of 1986; 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide rules with respect to the time and manner of making quarterly payments of the railroad repayment tax.

Timetable:

Action	Date	FR Cite
NPRM	11/05/86	
NPRM Comment Period End	01/05/87	
Final Action T.D. 8227	09/08/88	53 FR 34734

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-12-86.

Drafting attorney: Joel Rutstein (202) 566-4509.

Reviewing attorney: John B. Bromell (202) 377-9471.

Treasury attorney: Jud Kelley (202) 535-2175.

Duplicate of RIN 1545-AI73

Agency Contact: Joel Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4509

RIN: 1545–AI60

2689. STATEMENT OF PROCEDURAL RULES TO PROVIDE PROCEDURES FOR PARTNERSHIP-LEVEL PROCEEDINGS WITH RESPECT TO PARTNERSHIP ITEMS

Legal Authority: 5 USC 3011 Internal Revenue Code of 1986; 5 USC 6111 Internal Revenue Code of 1986

CFR Citation: 26 CFR 601

Legal Deadline: None

Abstract: The amendment of the Statement of Procedural Rules will provide procedures for partnership-level proceedings with respect to partnership items.

Timetable:

Action	Date	FR Cite
Closed without regulations	09/05/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-237-82.

Drafting attorney: Robert E. Shaw (202) 343-8459.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-8459

RIN: 1545–AI08

2690. ELECTRONIC FILING OF NOTICE OF FEDERAL TAX LIEN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6323 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation clarifies that the term "Form 668" as used in section 6323 (f) (3) of the Code includes a notice of federal tax lien filed by the use of an electronic or magnetic medium where the law of the state in which a notice of Federal tax lien is filed permits such method of filing.

Timetable:

Action	Date	FR Cite
NPRM	02/23/88	53 FR 5279
Final Action Effective	02/23/88	
NPRM Comment Period End	04/25/88	53 FR 5279
Final Action T.D. 8234	11/25/88	53 FR 47675

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-39-87

Drafting attorney: Ada S. Rousso (202) 566-4104.

Reviewing attorney: Ada S. Rousso (202) 566-4104.

Treasury attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Ada S. Rousso, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4104

RIN: 1545–AK96

2691. PROCEDURE AND ADMINISTRATION—REDUCTION OF TAX OVERPAYMENTS BY AMOUNT OF PAST-DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will amend regulations published September 30, 1985. The regulations will provide a new effective date for those regulations.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8239	01/06/89	54 FR 400

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-17-88

Drafting attorney: Sharon L. Hall (202) 566-4811.

Reviewing attorney: David Dickinson (202) 535-9543.

Treasury attorney: Barksdale Penick (202) 535-6964.

13 Procedure and Administration

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-4811

RIN: 1545–AK45

2692. INCOME TAX—MARITIME CAPITAL CONSTRUCTION FUND

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 46 USC 1177 Merchant Marine Act of 1936; 26 USC 7518 Internal Revenue Code of 1986

CFR Citation: 26 CFR 3

Legal Deadline: None

Abstract: The proposal would provide rules for the income tax treatment with respect to capital construction funds for certain vessels.

Timetable:

Action	Date	FR Cite
NPRM	01/29/76	41 FR 04280
NPRM Comment Period End	03/29/76	41 FR 04280
Hearing	07/07/76	
Closed without regulations	04/11/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-149-75.

Drafting attorney: Patrick T. McGroarty (202) 566-6321.

Reviewing attorney: James Ranson (202) 566-4944.

Agency Contact: Patrick T. McGroarty, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-6321

RIN: 1545–AD46

2693. STATEMENT OF PROCEDURAL RULES—AMENDMENTS TO STATEMENT OF PROCEDURAL RULES—1981-1

Legal Authority: 5 USC 552; 5 USC 301

CFR Citation: 26 CFR 601

Legal Deadline: None

Abstract: Semi-annual update of the Statement of Procedural Rules.

Timetable:

Action	Date	FR Cite
Closed by Memorandum	09/30/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-154-81.

Paralegal Specialist: Carroll Field (202) 566-3935.

Agency Contact: Carroll Field, Paralegal Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3935

RIN: 1545–AD55

[FR Doc. 89-7104 Filed 04-21-89; 8:45 am]

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Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

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DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Agenda of Federal Regulations

AGENCY: Department of Veterans Affairs.

ACTION: Publication of agenda of regulations.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs will have under review, development, or revision during the 12-month period from April 1989 to April 1990. The purpose in publishing this Agency's regulatory development activities is to allow all interested persons the opportunity to participate in the rulemaking process.

ADDRESSES: Interested persons are invited to comment on the regulations listed in the agenda by contacting the individual agency contact listed for each regulation, or by writing to: Paperwork Management and Regulations Service (731), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: 38 CFR: M'Liz McLendon, (202) 233-3770; 48 CFR, Chapter 8: Sunny Huff, (202) 233-4240.

SUPPLEMENTARY INFORMATION: Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act (Pub. L. 96-354) require that executive agencies publish in the **Federal Register** in April and October of each year an agenda of regulations under development and review.

The Department of Veterans Affairs has no regulations considered major under the terms of Executive Order 12291; however, all of this Agency's proposed rules and current rules under review, except those considered to be internal agency policy management or routine regulations, have been listed in accordance with section 5(a) of the Executive Order.

This agenda incorporates those categories of information required pursuant to 5 U.S.C. 602(a) and 610(c) of the Regulatory Flexibility Act.

Because of printing deadlines, the regulatory agenda submission of the Veterans Administration was completed prior to March 15, 1989, the effective date of the redesignation of the Veterans Administration as the Department of Veterans Affairs in the Executive Branch of Government. Therefore, this preamble was approved at the direction of the Acting Administrator of the Veterans Administration; however, nomenclature and titles in this agenda reflect the redesignations.

This agenda has been prepared in accordance with OMB Bulletin 89-02.

Dated: February 21, 1989.
By direction of the Acting Administrator.
Linda M. Combs,
Acting Associate Deputy Administrator for Management.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2694	Disposition of Veteran's Personal Funds and Effects on Facility upon Death, or Discharge, or Unauthorized Absence, and of Funds and Effects Found on Facility	2900-AB61
2695	Transportation of Claimants and Beneficiaries	2900-AC70
2696	Grants to States for State Extended Care Facilities	2900-AD16
2697	Expanded Eligibility for 30-40 Percent Service-Connected Veterans	2900-AD41
2698	Treatment of U.S. Veterans Who Are Not U.S. Citizens	2900-AD45
2699	Increasing the Domiciliary Income Limitation	2900-AD46
2700	Providing Emergency Hospital Care to Community Nursing Home Patients	2900-AD47
2701	Operation of Child Care Centers at VA Facilities	2900-AD48
2702	Nondiscrimination Against Alcohol and Drug Abusers and Persons Infected with HIV	2900-AD49
2703	Confidential Quality Assurance Program Records and Documents	2900-AD73
2704	Employee Fiduciaries	2900-AB50
2705	1. Veterans Services Officer (VSO) to Select and Appoint or Recommend for Appointment the Person or Legal Entity to Receive Benefits in a Fiduciary Capacity 2. Direct Payment	2900-AB75
2706	1. Payment to the Wife or Husband of an Incompetent Veteran 2. Legal Custodian	2900-AB76
2707	Veterans Education; Federal Equal Opportunity Laws	2900-AC52
2708	Extension of Time Limit for Claims	2900-AC61
2709	Compliance with Civil Rights Provisions	2900-AC72
2710	Training Outside of State Under 38 CFR 21.130	2900-AC73
2711	Loans to Purchase Manufactured Homes	2900-AC85
2712	VA Home Loan Credit Standards; New SAH Grant	2900-AC90
2713	Definition of Fraud	2900-AD19
2714	Due Process	2900-AD27
2715	Placing Use of the Vocational Rehabilitation Panel on a Discretionary Basis	2900-AD29
2716	Assumption of VA Guaranteed Loans	2900-AD30
2717	Processing of VA Appraisals by Designated Lenders	2900-AD31
2718	Qualification Requirements for Department of Veterans Affairs Fee Appraisers	2900-AD32
2719	Requirements for Nonsupervised Automatic Lenders	2900-AD33
2720	Allowable Fees and Charges for Department of Veterans Affairs Guaranteed Loans	2900-AD34
2721	Full Disclosure of Beneficiary's Income and Assets	2900-AD35
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2723	Veterans Education; Restrictions on Making VEAP Payments to Servicepersons	2900-AD62

VA

Proposed Rule Stage—Continued

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2725	Optional Settlements on Insurance--Calculations	2900-AD65
2726	Reservists Education; Veterans' Benefits and Services Act of 1988 and the Montgomery GI Bill	2900-AD68
2727	Authority of Fiduciaries to Conduct Insurance Transactions	2900-AD74
2728	Verbal Authorization of Premium Actions	2900-AD75
2729	Extension of the Temporary Program of Vocational Training	2900-AD76
2730	Extension of Eligibility Because of the Disabling Effects of Chronic Alcoholism	2900-AD77
2731	Extension of the Temporary Program for Trial Work Period and Rehabilitation	2900-AD78
2732	On Job Training in Non-Federal Agencies on a Nominal Pay Basis	2900-AD79
2733	Use of For-Profit Agencies	2900-AD80
2734	Veterans Education; State Approving Agencies and the Montgomery GI Bill-Selected Reserve	2900-AD81
2735	Dependents Education; Eligibility of Stepchildren	2900-AD82
2736	Veterans Education; The Veterans Benefits and Programs Improvement Act and Montgomery GI Bill	2900-AD83
2737	Veterans and Dependents Education; The Veterans' Benefits and Programs Improvement Act	2900-AD84
2738	Veterans Education; The Veterans' Benefits and Programs Improvement Act and VEAP	2900-AD85
2739	Veterans Education; State Approving Agencies and VEAP	2900-AD88
2740	Reservists Education; The Veterans Benefits and Programs Improvement Act and Montgomery GI Bill	2900-AD89
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2747	Benefits at DIC Rates in Certain Cases When Death is Not Service-Connected	2900-AD98
2748	Definition of Marginal Employment	2900-AD99
2749	Appeals Regulations and Rules of Practice; Cutoff Date for Acceptance of Evidence	2900-AD14
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2752	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs and Activities	2900-AB87
2753	Inventions by Employees of the Department of Veterans Affairs, Authority Delegations	2900-AD51
2754	Suits Against Department of Veterans Affairs Employees	2900-AD72

Final Rule Stage

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2756	Quality Assurance Confidentiality	2900-AC27
2757	Contract Medical Care	2900-AC31
2758	Department of Veterans Affairs Health Professional Scholarship Program	2900-AC66
2759	Eligibility for Dental Care for Former POWs	2900-AD43
2760	Recreation Facilities to be Considered Department of Veterans Affairs Facilities	2900-AD44
2761	Claims Based on Exposure to Ionizing Radiation or Dioxin	2900-AB64
2762	Employment Services for Certain Eligible Veterans	2900-AB89
2763	Determining Entitlement Usage Under the Vocational Rehabilitation Program	2900-AC08
2764	1. Apportionment of Benefits to Dependents 2. Payment of Cost of Veteran's Maintenance in Institution 3. Recommendation for Payment	2900-AC10
2765	Providing an Initial Evaluation for a Veteran not Residing in a State	2900-AC46
2766	Procedural Due Process	2900-AC54
2767	Veterans Education; Amendments Needed to Implement Pub. L. 99-576	2900-AC76
2768	Suspension of Individual Employees of Manufactured Home Dealers	2900-AC83
2769	Diseases Subject to Presumptive Service-Connection	2900-AD53
2770	Determination of Service-Connection for Impaired Hearing	2900-AD54
2771	Veterans Education; Procedural Protections Following Loss of Dependent	2900-AD58
2772	Veterans Education; Payments During Breaks in Enrollment	2900-AD59
2773	Basic Eligibility Determinations: Education	2900-AD60
2774	Definition of Former Prisoner of War	2900-AD71
2775	Veterans Education; Procedural Due Process	2900-AD86
2776	Veterans Education; Eligibility for Dependents' Educational Assistance	2900-AD87

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Final Rule Stage—Continued

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2778	Department of Veterans Affairs Acquisition Regulation - Consulting Service	2900-AC86
2779	Acquisition Regulations; Construction Contracting Procedures	2900-AC87
2780	Appeals Regulations and Rules of Practice- Status of Legal Interns, Law Students and Paralegals	2900-AC11
2781	Appeals Regulations and Rules of Practice - Hearing Date	2900-AC88
2782	Release of VA Lists of Names and Addresses and Penalty Procedures for Unauthorized Use	2900-AC63
2783	Predisclosure of Confidential Commercial Information	2900-AD09

Completed Actions

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2784	Contract Medical Care	2900-AC69
2785	Automobile Allowance and Adaptive Equipment Eligibility; Devices to Overcome the Handicap of Deafness	2900-AD08
2786	Use of Educational Assistance Benefits as a Part of a Vocational Rehabilitation Program	2900-AC41
2787	Systemic Diseases, et al	2900-AC57
2788	Extension of the Independent Living Services Program	2900-AC82
2789	Veterans Education; Effect of Internal Department of Veterans Affairs Reorganization	2900-AD04
2790	Veterans Education; Increase in Rates Payable in the EATP	2900-AD23
2791	Evidence Suitable to Establish Dependents	2900-AD52
2792	Veterans Education; Waiver of the 85-15 Percent Ratio Requirement	2900-AD56
2793	Veterans Education; Forfeiture of Education Benefits	2900-AD57
2794	Veterans Education; Determination of Training Time During Nonstandard Terms	2900-AD61
2795	Veterans Special Life Insurance--"RS" Term Premiums	2900-AD64
2796	Veterans Education; Veterans' Benefits and Services Act of 1988 and the Vietnam Era GI Bill	2900-AD69
2797	Acquisition Regulations Relating to Cost Comparisons	2900-AC37
2798	Equal Access to Justice; Procedural Rules	2900-AC33
2799	Effect of General Counsel Opinions	2900-AB22
2800	Recognition of Organizations, Representatives, Agents, and Attorneys	2900-AC89
2801	Claims Under the Federal Tort Claims Act	2900-AD15
2802	Indemnification of Department of Veterans Affairs Employees	2900-AD70
2803	Protection of Archaeological Resources	2900-AC26
2804	Uniform Relocation Assistance Act for Real Property Acquisition and Federally Assisted Programs	2900-AD37

DEPARTMENT OF VETERANS AFFAIRS (VA) — Proposed Rule Stage

VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION

2694. DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS ON FACILITY UPON DEATH, OR DISCHARGE, OR UNAUTHORIZED ABSENCE, AND OF FUNDS AND EFFECTS FOUND ON FACILITY

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 12.0 to 12.24

Legal Deadline: None

Abstract: Section 208 of Public Law 94-581 provides that unclaimed property or funds and effects left by a dependent or survivor of a veteran receiving medical care at a Department of Veterans Affairs facility as a CHAMPVA beneficiary will be disposed of in the same or similar manner as such property left by a veteran. Also, estates of dependents or survivors of a veteran who dies intestate and without legal heirs while a patient in any Department of Veterans Affairs facility or any hospital, while being furnished care or treatment therein by the Agency will escheat to the U.S. Government. Some of these regulations have not been updated since 1948, therefore, editorial changes will be made which will not affect policy.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AB61

VA — Proposed Rule Stage

2695. TRANSPORTATION OF CLAIMANTS AND BENEFICIARIES

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.100

Legal Deadline: None

Abstract: These proposed regulations will implement Section 108 of Pub. L. 100-322 which provides that the Secretary of the Department of Veterans Affairs shall make payments for travel during the fiscal year for examination, treatment or care for which the person is eligible or in connection with vocational rehabilitation provided pursuant to Chapter 31 of Title 38, United States Code.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	09/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul C. Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AC70

2696. GRANTS TO STATES FOR STATE EXTENDED CARE FACILITIES

Legal Authority: 38 USC 5031 to 5037; PL 100-322

CFR Citation: 38 CFR 17.170 to 17.177

Legal Deadline: None

Abstract: Pub. L. 100-322 changed the date of the priority list for applications from July 1 to August 15. The Secretary is provided authority to conditionally award construction grants. If a state does not complete requirements within 90 days after conditional approval, funds will be deobligated. These proposed regulations will implement that change. Construction standards in 38 CFR 17.177 are being totally reformatted, revised and updated. The veteran population in 38 CFR 17.171 Appendix A is being updated to reflect the current information. Additionally, provisions are being established to handle large grant requests where one project may exceed the annual appropriation. Requests for projects exceeding one-half the annual appropriation will receive lower priority on the list and may be partially funded if funds are available, the project ranks high enough on the priority list for Federal funds, and the State accepts a smaller grant.

Timetable:

Action	Date	FR Cite
NPRM	04/28/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Brent Baker, Chief, State Home Construction Grants, Ofc of Geriatrics and Extended Care (182C), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3679

RIN: 2900-AD16

2697. EXPANDED ELIGIBILITY FOR 30-40 PERCENT SERVICE-CONNECTED VETERANS

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.60

Legal Deadline: None

Abstract: The proposed regulations will implement the provisions in Section 101 of Pub. L. 100-322 which provides that outpatient medical services on an ambulatory or outpatient basis shall be furnished to a specified group of veterans in preparation for hospital admission or to obviate the need for hospital admission.

Timetable:

Action	Date	FR Cite
NPRM	07/01/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AD41

2698. TREATMENT OF U.S. VETERANS WHO ARE NOT U.S. CITIZENS

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.36

Legal Deadline: None

Abstract: The proposed regulations implement Section 105 of Pub. L. 100-322 which provides that a veteran residing in Canada, who is eligible for hospital care and medical services, is provided such care and services for a service-connected condition or as a part of a rehabilitation program under Chapter 31 of Title 38, United States Code.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AD45

2699. INCREASING THE DOMICILIARY INCOME LIMITATION

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.47; 38 CFR 17.48

Legal Deadline: None

Abstract: The proposed regulations implement Section 102 of Pub. L. 100-322 which provides that domiciliary care may be provided to veterans whose incomes do not exceed the maximum applicable rate of pension for a veteran in need of regular aid and attendance.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AD46

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VA

Proposed Rule Stage

2700. PROVIDING EMERGENCY HOSPITAL CARE TO COMMUNITY NURSING HOME PATIENTS

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.506(3)

Legal Deadline: None

Abstract: These proposed regulations implement Section 104 of Pub. L. 100-322 which provides that hospital care for the treatment of medical emergencies is authorized for veterans receiving care in a community nursing home until such time as the veteran can be safely transferred to an Agency facility.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900–AD47

2701. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Legal Authority: PL 100-322, Sec 412

CFR Citation: 38 CFR 17.162, (New)

Legal Deadline: None

Abstract: Section 412 of Pub. L. 100-322 authorizes the Veterans Canteen Service to operate child care centers at Agency facilities. The centers will be established based on the demand for care and to the extent that such operation is practical and in the best interest of the Agency. The centers will be available for the children of Agency employees and, to the extent space is available, the children of other Federal and Department of Veterans Affairs affiliated employees. Also, these centers should provide an incentive for personnel recruitment. The proposed regulations will prescribe the requirements and standards for the operation of Agency child care centers.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Brenda L. Jenkins, Administrative Dietitian (133B), Veterans Canteen Service, Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 376-8149

RIN: 2900–AD48

2702. NONDISCRIMINATION AGAINST ALCOHOL AND DRUG ABUSERS AND PERSONS INFECTED WITH HIV

Legal Authority: 38 USC 4133; PL 100-322, Sec 122

CFR Citation: 38 CFR 17.48(k)

Legal Deadline: None

Abstract: This regulation is being amended to comply with Pub. L. 100-322, section 121, which prohibits the discrimination in admission or treatment in any Agency health care facility of veterans who are eligible for treatment and who are alcohol or drug abusers or are infected with human immunodeficiency virus.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900–AD49

2703. ● CONFIDENTIAL QUALITY ASSURANCE PROGRAM RECORDS AND DOCUMENTS

Legal Authority: 38 USC 3305; 38 USC 4151

CFR Citation: 38 CFR 17.500; 38 CFR 17.506(a); 38 CFR 17.507(a)(4); 38 CFR 17.509; 38 CFR 17.516

Legal Deadline: None

Abstract: 38 USC 3305 prohibits the Agency from designating any Quality Assurance (QA) program activity, for the purpose of confidentiality, unless such activity has been specified in regulation. Final regulations implementing 38 USC 3305 were made effective October 22, 1982. Those regulations govern the Agency's QA program activities and records and documents which are made confidential and privileged. Proposed rules amending 38 CFR 17.500-17.534 were issued in the Federal Register on October 27, 1988, and the public comment period ended November 38, 1988. One commenter suggested a change to those regulations that could not be accepted by the Agency without public comment. Therefore, the Agency is proposing to reorganize the description of the continuous monitoring functions, streamline programmatic QA requirements for the medical facilities and update requirements according to new standards.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Lubran, Chief, System Review Staff (10Q), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3115

RIN: 2900–AD73

VETERANS BENEFITS ADMINISTRATION

2704. EMPLOYEE FIDUCIARIES

Legal Authority: 38 USC 210

CFR Citation: 38 CFR 0.735-21

Legal Deadline: None

Abstract: The existing regulation falls under the general rules of conduct for employees. The intended change will bar most employees from becoming fiduciaries for beneficiaries of Department of Veterans Affairs benefits and establish an exemption to the bar under a limited number of circumstances such as when the employee is a close relative.

VA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900–AB50

2705. 1. VETERANS SERVICES OFFICER (VSO) TO SELECT AND APPOINT OR RECOMMEND FOR APPOINTMENT THE PERSON OR LEGAL ENTITY TO RECEIVE BENEFITS IN A FIDUCIARY CAPACITY 2. DIRECT PAYMENT

Legal Authority: 38 USC 3202(a)

CFR Citation: 38 CFR 13.55; 38 CFR 13.56

Legal Deadline: None

Abstract: 38 CFR 13.55 authorizes the VSO to select and appoint a fiduciary and defines the types of payees authorized to receive payments in fiduciary cases. The intended change updates the authority language to more closely reflect changes to 38 USC 3202; removes gender specific terminology and reference to mental illness; and, further clarifies the types of payees available for selection.

38 CFR 13.56 defines classes of beneficiaries who may be paid directly. The intended change clarifies the conditions for direct payment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900–AB75

2706. 1. PAYMENT TO THE WIFE OR HUSBAND OF AN INCOMPETENT VETERAN 2. LEGAL CUSTODIAN

Legal Authority: 38 USC 3202

CFR Citation: 38 CFR 13.57; 38 CFR 13.58

Legal Deadline: None

Abstract: 38 CFR 13.57 specifies types of Department of Veterans Affairs benefits that may be paid to spouse payee. The intended change broadens the class of payments to include Department of Veterans Affairs insurance. 38 CFR 13.58 explains in part duties expected of a legal custodian. The intended change will clarify the custodian's authority to purchase a burial agreement for the incompetent beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900–AB76

2707. VETERANS EDUCATION; FEDERAL EQUAL OPPORTUNITY LAWS

Legal Authority: 42 USC 2000d; 20 USC 1681; 29 USC 794; 42 USC 6101

CFR Citation: 38 CFR 21.4300; 38 CFR 21.4301; 38 CFR 21.4302; 38 CFR 21.4304; 38 CFR 21.4305; 38 CFR 21.4306; 38 CFR 21.4307; 38 CFR 21.4135

Legal Deadline: None

Abstract: The Agency is proposing to rescind several regulations. These regulations concern the implementation of Title VI, Civil Rights Act of 1964 in the education programs which the Agency administers. The regulations either conflict with or repeat unnecessarily other regulations which deal with the implementation of that Act. Rescinding these regulations will eliminate any confusion in the public's perception of the way the Agency is implementing this Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900–AC52

2708. EXTENSION OF TIME LIMIT FOR CLAIMS

Legal Authority: 38 USC 3013

CFR Citation: 38 CFR 21.32

Legal Deadline: None

Abstract: Under current rules a veteran's request for assistance under the vocational rehabilitation program may be adversely affected if the veteran fails to timely provide information requested by the Agency even if the Agency did not inform the veteran of the time limits for providing the information requested. The agency is proposing to change these rules to extend the period during which evidence may be submitted if the Agency did not inform the veteran of the time limits for submitting the requested information.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Policy and Program Development, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AC61

2709. COMPLIANCE WITH CIVIL RIGHTS PROVISIONS

Legal Authority: 38 USC 1515

CFR Citation: 38 CFR 21.324

Legal Deadline: None

Abstract: Compliance with civil rights provisions require that payment of

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benefits to veterans be terminated upon a finding that a veteran is attending a facility which has been found in non-compliance with applicable provisions of Part 18, Nondiscrimination in Federally Assisted Programs of the Department of Veterans Affairs. We propose to amend 38 CFR 21.324 to reflect this new requirement. This proposed regulatory amendment includes the provisions of RIN 2900-AC40, which was withdrawn from the Agenda.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 2900-AC40, Reduction or Termination Dates of Subsistence Allowance, has been merged with this RIN.

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Policy and Program Development, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AC72

2710. TRAINING OUTSIDE OF STATE UNDER 38 CFR 21.130

Legal Authority: 38 USC 1514

CFR Citation: 38 CFR 21.130

Legal Deadline: None

Abstract: The provision of training outside a State is subject to certain limitations not applicable to training pursued within the United States. The Agency is proposing to amend these provisions in the case of veterans who wish to become employed outside the United States. The purpose of the change is to help assure that vocational rehabilitation services lead to suitable employment given the special problems inherent in providing vocational rehabilitation programs outside the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Policy and Program Development, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AC73

2711. LOANS TO PURCHASE MANUFACTURED HOMES

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4202; 38 CFR 36.4204; 38 CFR 36.4222; 38 CFR 36.4232; 38 CFR 36.4283

Legal Deadline: None

Abstract: A number of regulatory changes will be proposed for the Agency manufactured home loan program. The Agency would conform to HUD's practices on certifications, invoicing and volume rebates. Lenders would be permitted to file claims upon receipt of the Agency's resale price and thereafter retain the profit or loss which results from subsequent sale of the home. Broader insurance coverage would be required to cover missing items at repossession. Actual freight costs would be allowed in the invoice, and the amounts and items which could be included in the loan would be revised.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George D. Moerman, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900–AC85

2712. VA HOME LOAN CREDIT STANDARDS; NEW SAH GRANT

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g); PL 99-576

CFR Citation: 38 CFR 4200 et seq.; 38 CFR 4300 et seq.; 38 CFR 4400 et seq.

Legal Deadline: None

Abstract: Regulations will be amended to implement the requirements of Public Law 99-576. The new law adds a new specially adapted housing grant purpose and requires that Department of Veterans Affairs home loan credit standards be in regulatory form.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George D. Moerman, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900–AC90

2713. DEFINITION OF FRAUD

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.1

Legal Deadline: None

Abstract: The definition of fraud, except for forfeiture purposes, is being placed in the general definitions section and includes acts of omission as well as acts of commission. This action will allow a finding of fraud in certain cases where a beneficiary receives or retains benefits based on a knowing failure to provide necessary information. This is a new proposal based on comments the agency received on its original proposal under RIN 2900-AC01.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900–AD19

2714. DUE PROCESS

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 21.420

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to bring procedures for informing veterans of changes in payments for dependents into conformity with the decision of the courts. Under the proposed change, the Agency will provide 60 days advance notice if the veteran loses benefits being paid for a dependent in certain cases.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10378
NPRM Comment Period End	04/12/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AD27

2715. PLACING USE OF THE VOCATIONAL REHABILITATION PANEL ON A DISCRETIONARY BASIS

Legal Authority: 38 USC 1504(a); 38 USC 1505(a); 38 USC 1506(a); 38 USC 1520

CFR Citation: 38 CFR 21.62; 38 CFR 21.74; 38 CFR 21.76; 38 CFR 21.52; 38 CFR 21.53

Legal Deadline: None

Abstract: Under current provisions, use of the Vocational Rehabilitation Panel is required in certain instances. The role of the Panel is to assist in helping seriously disabled veterans successfully pursue a rehabilitation program. The requirement for consultation was a sound policy when the vocational rehabilitation program was substantially revised and broadened in 1980. As staff have gained experience with the new policies which resulted from the revision of the rehabilitation program in 1980, the need for consultation in every case has decreased. Current field experience indicates that placing use of the Panel on a discretionary basis is in the interest of the veteran and the government.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9237
NPRM Comment Period End	04/05/89	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AD29

2716. ASSUMPTION OF VA GUARANTEED LOANS

Legal Authority: 38 USC 210(c); 38 USC 1802(b); PL 100-198

CFR Citation: 38 CFR 36.4300; 38 CFR 36.4200

Legal Deadline: None

Abstract: Pub. L. 100-198 requires that assumers of Department of Veterans Affairs loans committed to on or after March 1, 1988, meet certain criteria, including credit underwriting, before the assumption may take place. The proposed regulations will place the requirements of the law into regulatory form and will, as required by the law, set timeliness standards for processing assumed loans and the maximum that may be charged for the processing.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Acting Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3668

RIN: 2900–AD30

2717. PROCESSING OF VA APPRAISALS BY DESIGNATED LENDERS

Legal Authority: 38 USC 210(c); PL 100-198; 38 USC 1810; 38 USC 1810(b)(5); 38 USC 1831

CFR Citation: 38 CFR 36.4300

Legal Deadline: None

Abstract: Pub. L. 100-198 requires the publication of regulations authorizing certain lenders to process appraisals on Agency guaranteed loans. Such lenders will determine the value of the property, based on an appraisal by an appraiser selected by the Agency, without the Agency's approval or review of the appraisal. The regulations will set the criteria for being a designated lender and the procedures to follow.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Burke, Assistant Director for Construction, and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2691

RIN: 2900–AD31

2718. QUALIFICATION REQUIREMENTS FOR DEPARTMENT OF VETERANS AFFAIRS FEE APPRAISERS

Legal Authority: 38 USC 210(c); 38 USC 1831; PL 100-198

CFR Citation: 38 CFR 36.4339

Legal Deadline: None

Abstract: Pub. L. 100-198 requires that certain standards for being designated as a fee appraiser be published in regulatory form. The standards are to include the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers. In the past, such requirements have been published in administrative issues other than regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Burke, Assistant Director for Construction, and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue,

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RIN: 2900-AD32

2719. REQUIREMENTS FOR NONSUPERVISED AUTOMATIC LENDERS

Legal Authority: 38 USC 210(c); 38 USC 1802(d)

CFR Citation: 38 CFR 36.4300; 38 CFR 36.4300

Legal Deadline: None

Abstract: The Department of Veterans Affairs may grant lenders the authority to process loans on the automatic basis if they meet requirements set by the Agency. Currently these requirements are published in administrative issues with release to program participants. The proposed regulations will place the requirements in regulatory form to ensure proper notice. The requirements will include minimums for such items as working capital, experience of the firm and/or principal officers and its underwriters. These regulations will apply to lenders such as mortgage bankers who are not already under supervision by State or Federal entities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George D. Moerman, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900-AD33

2720. ALLOWABLE FEES AND CHARGES FOR DEPARTMENT OF VETERANS AFFAIRS GUARANTEED LOANS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)

CFR Citation: 38 CFR 36.4312; 38 CFR 36.4254

Legal Deadline: None

Abstract: Regulations allow the veteran obtaining a Department of Veterans Affairs guaranteed loan to pay the lender making the loan a one percent origination fee to cover the processing of the loan. Any other discount points required by the lender are to be paid by someone other than the veteran except in those cases where it is specifically allowed, such as refinancing loans. This regulation would clarify the instances in which a veteran may or may not pay discount points. This regulation change would also clarify that discount points may not be paid by the veteran (except when specifically allowed) to anyone, including the lender, seller or other concerned party.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George D. Moerman, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900-AD34

2721. FULL DISCLOSURE OF BENEFICIARY'S INCOME AND ASSETS

Legal Authority: PL 99-576, Sec 505; 38 USC 3202(b)

CFR Citation: 38 CFR 13.58(b)(2)(iii); 38 CFR 13.59(a); 38 CFR 13.100(a)(1); 38 CFR 13.102(b); 38 CFR 13.104(a)

Legal Deadline: None

Abstract: Federally appointed fiduciaries are not required, except under very specific circumstances, to divulge non-Agency income and assets belonging to the incompetent beneficiary. It is difficult to assess whether the fiduciary is using the beneficiary's Agency assets appropriately unless placed in the context of total income and assets available. The purpose of these changes is to lessen the potential for fraud, waste and abuse. 38 CFR 13.58(b)(2) and 13.59(a) detail the responsibilities of legal custodians and court-appointed guardians respectively. They would be amended to require the reporting of non-Agency assets. 38 CFR 13.100(a)(1) defines the authority of the Veterans Services Officer to supervise fiduciaries. The intended change would permit the Veterans Services Officer to request non-Agency financial information from fiduciaries. 38 CFR 13.102(b) and 13.104(b) define the accountability of legal custodians and court-appointed guardians respectively. The intended change requires disclosure of non-Agency financial information.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence J. Timko, Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900-AD35

2722. PAYMENT OF GUARANTY CLAIMS

Significance: Regulatory Program

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); PL 100-198

CFR Citation: 38 CFR 36.4319; 38 CFR 36.4320; 38 CFR 36.4321

Legal Deadline: None

Abstract: Regulations will be amended to implement the new requirements for payment of claims. Under the new formulas, the Agency will exclude from the guaranty claim payment the interest which accrues during periods of forbearance granted at the Agency's request, and when the veteran files for bankruptcy. As a result, we expect that a number of cases which would result in the lender being required to dispose of the property will instead result in the Agency acquiring the property and paying a smaller claim. The adjustment in an Agency-requested forbearance or bankruptcy situation will only be made if doing so will result in the Agency offering to acquire the property when the property would otherwise not be acquired by the Agency. In cases where VA is at fault for the delay in foreclosure, for example, a failure to provide bidding instructions in a timely manner, the Agency will also exclude from the calculation as to whether or not the Agency will acquire the property interest which accrues during the period of delay, but will allow such interest in the computation of the guaranty claim.

Timetable:

Action	Date	FR Cite
NPRM	03/31/89	54 FR 13321
NPRM Comment Period End	05/01/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leonard A. Levy, Acting Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3668

RIN: 2900-AD39

2723. VETERANS EDUCATION; RESTRICTIONS ON MAKING VEAP PAYMENTS TO SERVICEPERSONS

Legal Authority: 38 USC 1621; 38 USC 1631

CFR Citation: 38 CFR 21.5134

Legal Deadline: None

Abstract: The law requires that generally, an individual must contribute to the Post-Vietnam Education Assistance Program (VEAP) fund for 12 months in order to receive educational assistance. So as to encourage participation by servicemembers, the Agency has permitted a servicemember who meets all the other eligibility requirements to receive educational assistance after he or she has completed 3 months of contributions to the fund or has made a lump-sum payment which is the equivalent of at least 3 months' contributions to the fund. In order to comply with the law it has been the Agency's policy to require these servicemembers to establish a continuing allotment so that they eventually will contribute to the fund for 12 months. However, the regulation which mentions the 3 months' contributions does not mention the 12 months' participation requirement. This has led to instances where servicemembers who have been paid educational assistance, never participated for 12 months. The Agency wishes to amend the regulation to correct this.

Timetable:

Action	Date	FR Cite
NPRM	04/06/89	54 FR 13702
NPRM Comment Period End	05/05/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD62

2724. VETERANS EDUCATION; VETERANS EMPLOYMENT, TRAINING AND COUNSELING AMENDMENTS OF 1988

Legal Authority: PL 100-322; 38 USC 1434; 38 USC 1774; 38 USC 1774A; 38 USC 1782; PL 100-323, Sec 11; PL 100-323, Sec 14; PL 100-323, Sec 17

CFR Citation: 38 CFR 21.4150-4155; 38 CFR 21.4612; 38 CFR 21.4622; 38 CFR 21.4624; 38 CFR 21.4630-4632; 38 CFR 21.7200

Legal Deadline: None

Abstract: The Veterans' Employment, Training and Counseling Amendments of 1988 contains provisions which affect the relationship the Agency and the State approving agencies have with each other, and other provisions which affect the administration of the Veterans' Job Training Act. The pertinent regulations must be revised so that they implement the new law.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD63

2725. OPTIONAL SETTLEMENTS ON INSURANCE--CALCULATIONS

Legal Authority: 38 USC 706

CFR Citation: 38 CFR 6.69(a); 38 CFR 8.80; 38 CFR 8.80(c); 38 CFR 8.81; 38 CFR 8.92(a)

Legal Deadline: None

Abstract: The Agency currently pays annuities to approximately 150,000 individuals under all of its insurance programs. Of these, almost 1,500 are calculated using male/female differentiated mortality tables. Gender-differentiated mortality tables provide for lower monthly payments to female annuitants. Under this proposal, we will discontinue using female annuity tables and all new annuity awards will be based on existing male tables. All currently running female annuity payments will be raised to the male annuity payment amount, on a prospective basis.

Timetable:

Action	Date	FR Cite
NPRM	03/20/89	54 FR 11390
NPRM Comment Period End	04/19/89	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul F. Koons, Assistant Director for Insurance (29), Department of Veterans Affairs, Veterans Benefits Administration, P.O Box 8079, Philadelphia, PA 19101, 215 951-5360

RIN: 2900-AD65

2726. RESERVISTS EDUCATION; VETERANS' BENEFITS AND SERVICES ACT OF 1988 AND THE MONTGOMERY GI BILL

Legal Authority: 10 USC 2136(b); 38 USC 1788

CFR Citation: 38 CFR 21.7670; 38 CFR 21.7672

Legal Deadline: None

Abstract: The Veterans Benefits and Services Act of 1988 contains a provision which changes the method of measuring laboratory sessions for the purpose of paying educational benefits. The definition of standard class session is also changed. This proposal will bring the pertinent regulation governing the Montgomery GI Bill into agreement with the law.

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Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD68

2727. ● AUTHORITY OF FIDUCIARIES TO CONDUCT INSURANCE TRANSACTIONS

Legal Authority: 38 USC 706; 38 USC 744

CFR Citation: 38 CFR 8.211, (New); 38 CFR 8.119, (New)

Legal Deadline: None

Abstract: Under current procedures, State appointed fiduciaries may perform insurance transactions, e.g., apply for coverage or reinstate a policy, on behalf of incapacitated veterans. The ability of a fiduciary to perform a particular transaction is dependent on the authority granted to the fiduciary by State law. Such authority varies from State to State. Because of this, before any insurance transaction can be completed it must first be determined whether the fiduciary is authorized by State law to conduct the particular transaction. This entails referring the matter to a District Counsel for review. This process is time consuming and delays rendering service to our policyholders. In order to alleviate this problem and to establish a consistent approach regarding the powers of State-appointed fiduciaries, as well as federally appointed fiduciaries as they pertain to government life insurance transactions only, we are proposing regulations which will clarify and enunciate such powers.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Insurance Specialist/Attorney (290B), Department of Veterans Affairs, Veterans Benefits Administration, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5710

RIN: 2900-AD74

2728. ● VERBAL AUTHORIZATION OF PREMIUM ACTIONS

Legal Authority: 38 USC 708

CFR Citation: 38 CFR 8.8; 38 CFR 8.9

Legal Deadline: None

Abstract: Under current procedures insured veterans who wish to pay National Service Life Insurance (NSLI) premiums by monthly deductions from Department of Veterans Affairs benefits or military service retired pay must make a written request to do so. Under our proposal a written request will no longer be required. Instead, veterans wishing to make deduction action changes such as the establishment, adjustment or discontinuance of a deduction will be able to do so by telephoning their requests to the Department of Veterans Affairs for instantaneous service.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Insurance Specialist/Attorney (290B), Department of Veterans Affairs, Veterans Benefits Administration, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5710

RIN: 2900-AD75

2729. ● EXTENSION OF THE TEMPORARY PROGRAM OF VOCATIONAL TRAINING

Legal Authority: PL 100-687, Sec 1303; PL 100-227, Sec 202

CFR Citation: 38 CFR 21.6001; 38 CFR 21.6005; 38 CFR 21.6015; 38 CFR 21.6021; 38 CFR 21.6040; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6054; 38 CFR 21.6059

Legal Deadline: None

Abstract: The Veterans' Benefits Improvement Act of 1988 contains provisions which extend the vocational training program for certain veterans in receipt of a pension for three years from January 31, 1989, to January 31, 1992, and makes certain veterans awarded a pension before February 1, 1985, eligible for participation on a voluntary basis. The Veterans' Compensation and Cost of Living Adjustment Act of 1988 increases the number of veterans who may be provided assistance under this program from 2,500 to 3,500 per year. The pertinent regulations must be revised to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6496

RIN: 2900-AD76

2730. ● EXTENSION OF ELIGIBILITY BECAUSE OF THE DISABLING EFFECTS OF CHRONIC ALCOHOLISM

Legal Authority: PL 100-689, Sec 109

CFR Citation: 38 CFR 21.42

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains provisions under which the period of-eligibility of a veteran requesting assistance under the vocational rehabilitation program may be extended for the period during which the veteran could not participate in a program because of the disabling effects of chronic alcoholism. The pertinent regulations must be revised to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6496

RIN: 2900-AD77

2731. ● EXTENSION OF THE TEMPORARY PROGRAM FOR TRIAL WORK PERIOD AND REHABILITATION

Legal Authority: PL 100-687, Sec 1301

CFR Citation: 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6509; 38 CFR 21.6511; 38 CFR 21.6513; 38 CFR 21.6515; 38 CFR 21.6517; 38 CFR 21.6525

Legal Deadline: None

Abstract: The Veterans' Benefits Improvement Act of 1988 contains provisions which extend the program of trial work periods and vocational rehabilitation for veterans with total disability ratings due to individual employability for three years from January 31, 1989, to January 31, 1992. In addition, the prior requirement that veterans awarded individual unemployability after February 1, 1985, be required to participate in an evaluation, and in a program of vocational rehabilitation if this is found feasible during the evaluation, is eliminated. The pertinent regulations must be amended to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6496

RIN: 2900-AD78

2732. ● ON JOB TRAINING IN NON-FEDERAL AGENCIES ON A NOMINAL PAY BASIS

Legal Authority: PL 100-689, Sec 201

CFR Citation: 38 CFR 21.296; 38 CFR 21.299

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains provisions which allow the establishment of programs of training and work experience on a nonpay or nominal pay basis in state and local government agencies. The pertinent regulations must be revised to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/14/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6496

RIN: 2900-AD79

2733. ● USE OF FOR-PROFIT AGENCIES

Legal Authority: PL 100-689, Sec 202

CFR Citation: 38 CFR 21.160; 38 CFR 21.162; 38 CFR 21.294; 38 CFR 21.252

Legal Deadline: None

Abstract: The Veterans' Benefits Programs and Improvement Act of 1988 contains provisions which allow the Agency to utilize for-profit agencies to provide independent living services and employment services under certain conditions. The pertinent regulations must be revised to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	08/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6496

RIN: 2900-AD80

2734. ● VETERANS EDUCATION; STATE APPROVING AGENCIES AND THE MONTGOMERY GI BILL-SELECTED RESERVE

Legal Authority: 10 USC 2136; 38 USC 1774A

CFR Citation: 38 CFR 21.7700

Legal Deadline: None

Abstract: The Veterans' Employment, Training and Counseling Amendments of 1988 contains several provisions which affect the Department of Veterans Affairs relationships with the state approving agencies. This amendment will state that in administering Chapter 106, Title 10, United States Code, the Department of Veterans Affairs will apply the provisions of that new section in the same manner that it will be applied in the administration of 38 U.S.C. Chapters 34 and 36.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD81

2735. ● DEPENDENTS EDUCATION; ELIGIBILITY OF STEPCHILDREN

Legal Authority: 38 USC 1701; 38 USC 1712

CFR Citation: 38 CFR 21.3041; 38 CFR 21.4135

Legal Deadline: None

Abstract: The stepchildren of a veteran whose children are eligible for dependents educational assistance are also eligible for that assistance on the same basis as those children. Occasionally, while such a stepchild is receiving assistance, the veteran will separate from or divorce his or her spouse. The child in question then ceases to be eligible for dependents educational assistance, because he or she is no longer the veteran's stepchild. This regulation will state how the Department of Veterans Affairs will determine when to discontinue the child's assistance.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10377
NPRM Comment Period End	04/12/89	54 FR 10377
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program

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Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AD82

2736. ● VETERANS EDUCATION; THE VETERANS BENEFITS AND PROGRAMS IMPROVEMENT ACT AND MONTGOMERY GI BILL

Legal Authority: 38 USC 105; 38 USC 1411; 38 USC 1412; 38 USC 1413; 38 USC 1417; 38 USC 1418; 38 USC 1419; 38 USC 1788

CFR Citation: 38 CFR 21

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains several provisions which affect the Montgomery GI Bill-Active Duty. These include providing a death benefit under this program; permitting certain servicemembers to renounce their election not to participate under this program; liberalizing eligibility criteria; permitting cooperative training in this program; permitting refresher, remedial and deficiency training in this program; providing tutorial assistance to veterans in this program; and liberalizing the provisions for extending a veteran's period of eligibility. This proposal will acquaint the public with the way in which the Department of Veterans Affairs will administer the new provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AD83

2737. ● VETERANS AND DEPENDENTS EDUCATION; THE VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT

Legal Authority: 38 USC 1733; 38 USC 1692

CFR Citation: 38 CFR 21

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains provisions which affect both the Dependents' Educational Assistance Program and the Vietnam Era GI Bill. Refresher, remedial and deficiency training is now permitted in the former, while the amount of tutorial assistance is raised in the latter, and the provisions for extending the delimiting date is liberalized for both of them. This proposal will acquaint the public with the way in which the Department of Veterans Affairs will administer the new provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AD84

2738. ● VETERANS EDUCATION; THE VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT AND VEAP

Legal Authority: 38 USC 105; 38 USC 1602; 38 USC 1631; 38 USC 1634; 38 USC 1641; 38 USC 1652; 38 USC 1788

CFR Citation: 38 CFR 21.5021; 38 CFR 21.5042; 38 CFR 21.5072; 38 CFR 21.5130; 38 CFR 21.5132; 38 CFR 21.5138; 38 CFR 21.5139; 38 CFR 21.5230; 38 CFR 21.5250; 38 CFR 21.5270; 38 CFR 21.5296

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains several provisions which affect the Post-Vietnam Era Veterans' Educational Assistance Program. These include permitting cooperative training in this program, permitting refresher remedial and deficiency training in this program, providing tutorial assistance to veterans in this program, liberalizing the provisions for extending a veteran's period of eligibility, and reducing benefits to veterans who are incarcerated by reason of a felony conviction. Some of these changes are liberalizing. Some are more restrictive. This proposal will acquaint the public with the way in which the Department of Veterans Affairs will administer the new provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AD85

2739. ● VETERANS EDUCATION; STATE APPROVING AGENCIES AND VEAP

Legal Authority: 38 USC 1641; 38 USC 1774A

CFR Citation: 38 CFR 21.5150

Legal Deadline: None

Abstract: The Veterans' Employment, Training and Counseling Amendments of 1988 contains several provisions which affect the Department of Veterans Affairs relationships with the State approving agencies. This amendment will state that in administering Chapter 32, Title 38, United States Code, the Department of Veterans Affairs will apply the provisions of that new section in the same manner that it will be applied in the administration of 38 U.S.C. Chapters 34 and 36.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AD88

2740. ● RESERVISTS EDUCATION; THE VETERANS BENEFITS AND PROGRAMS IMPROVEMENT ACT AND MONTGOMERY GI BILL

Legal Authority: 38 USC 105; 38 USC 2131 to 2133; 38 USC 2135

CFR Citation: 38 CFR 21

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains several provisions which affect the Montgomery GI Bill-Selective Reserve. These include paying benefits for less than half-time training in certain instances; liberalizing the eligibility criteria; and liberalizing the provisions for extending a reservist's period of eligibility. This proposal will acquaint the public with the way in which the Department of Veterans Affairs will administer the new provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AD89

2741. ● IMPLEMENTATION OF PUB. L. 100-198 CONCERNING CHANGES IN AMOUNT OF ENTITLEMENT, CALCULATION OF GUARANTY AMOUNT, OCCUPANCY REQUIREMENTS, AND REQUIREMENTS FOR REFINANCING LOANS

Legal Authority: 38 USC 210(c)(1); PL 100-198; PL 100-253

CFR Citation: 38 CFR 36.4302; 38 CFR 36.4303; 38 CFR 36.4306; 38 CFR 36.4306a; 38 CFR 36.4502; 38 CFR 36.4504

Legal Deadline: None

Abstract: Regulations will be amended to implement certain provisions of Pub. L. 100-198 as amended by Pub. L. 100-253. The new law requires: (1) An increase in the maximum amount of entitlement from $27,500 to $36,000, (2) A revision of the method for calculating the guaranty amount, (3) A revision of the occupancy requirements, and (4) A revision of the requirements for refinancing loans. These regulations will formalize the implementation of these provisions since all have been put into effect administratively.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George D. Moerman, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900–AD91

2742. ● REQUIRE HOLDER TO RETAIN RECORDS FOR ONE YEAR; ELIMINATE MINIMUM PROPERTY STANDARDS

Legal Authority: 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4215; 38 CFR 36.4330; 38 CFR 36.4360(a)

Legal Deadline: None

Abstract: Regulations will be revised to require lenders to keep loan origination records for one year. This will insure that records will be available for one year should the Department of Veterans Affairs wish to audit them. The regulations will also be revised to eliminate references to the HUD Minimum Property Standards as both HUD and the Department of Veterans Affairs have discontinued use of these standards.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George D. Moerman, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900–AD92

2743. ● LOAN GUARANTY: DETERMINATION OF NET VALUE

Significance: Regulatory Program

Legal Authority: 38 USC 210(c)(1); 38 USC 1803(c)(1)

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323(e)

Legal Deadline: None

Abstract: The proposed regulations will revise the definition of the term "net value." Under the revised definition, the Government's cost of borrowing funds to cover its operating expenses in acquiring a foreclosed property will be taken into account in determining the "net value" of a property to the Secretary of the Department of Veterans Affairs.

Timetable:

Action	Date	FR Cite
NPRM	03/31/89	54 FR 13320
NPRM Comment Period End	05/01/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3668

RIN: 2900–AD93

2744. ● WAIVER/COMPROMISE OF DEBTS ESTABLISHED AS RESULT OF FORECLOSURE

Legal Authority: 38 USC 210(c)(1); 38 USC 1820

CFR Citation: 38 CFR 36.4323(e)

Legal Deadline: None

Abstract: Under 38 USC 1820 the Secretary of the Department of Veterans Affairs is authorized to waive or compromise debt collection rights prior to the completion of a GI loan foreclosure. The Department of Veterans Affairs presently uses this authority under certain circumstances. This amendment will put into regulatory form the specific conditions

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under which the Secretary's authority to waive or compromise collection of debts may be used.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3668

RIN: 2900-AD94

2745. ● INDEPENDENT MEDICAL OPINIONS

Legal Authority: 38 USC 3009

CFR Citation: 38 CFR 3.328

Legal Deadline: None

Abstract: The proposed regulation provides authority and procedures for requesting independent medical opinions in complex or controversial claims.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AD96

2746. ● EXCLUSIONS FROM INCOME

Legal Authority: PL 100-687

CFR Citation: 38 CFR 3.272

Legal Deadline: None

Abstract: This amendment excludes from countable income, for purposes of needs-based benefits, reimbursements for casualty losses and funds received from the Agent Orange litigation settlement.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AD97

2747. ● BENEFITS AT DIC RATES IN CERTAIN CASES WHEN DEATH IS NOT SERVICE-CONNECTED

Legal Authority: 38 USC 418

CFR Citation: 38 CFR 3.54

Legal Deadline: None

Abstract: This amendment liberalizes the marriage requirements for certain surviving spouses claiming death benefits equivalent to those payable for service-connected death.

Timetable:

Action	Date	FR Cite
NPRM	03/30/89	54 FR 13081
NPRM Comment Period End	05/01/89	
Final Action	07/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AD98

2748. ● DEFINITION OF MARGINAL EMPLOYMENT

Legal Authority: 38 USC 210(c); 38 USC 355

CFR Citation: 38 CFR 4.16

Legal Deadline: None

Abstract: This amendment defines the term "marginal employment" for purposes of making determinations of individual unemployability. This amendment is in response to a recommendation from the General Accounting Office.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff, Veterans Benefits Administration (211B), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AD99

BOARD OF VETERANS APPEALS

2749. APPEALS REGULATIONS AND RULES OF PRACTICE; CUTOFF DATE FOR ACCEPTANCE OF EVIDENCE

Legal Authority: 38 USC 4004; 38 USC 4005

CFR Citation: 38 CFR 19.174

Legal Deadline: None

Abstract: This regulation will be amended to specify a cutoff date for the acceptance of additional evidence, requests for hearings or changes of representation once an appeal is transferred to the Board of Veterans Appeals.

Timetable:

Action	Date	FR Cite
NPRM	03/20/89	54 FR 11375
NPRM Comment Period End	04/19/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jan Donsbach, Special (Legal) Assistant (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2978

RIN: 2900-AD14

OFFICE OF BUDGET AND FINANCE

2750. COMMITTEE ON WAIVERS AND COMPROMISES

Legal Authority: 38 USC 3102

CFR Citation: 38 CFR 1.955

Legal Deadline: None

Abstract: Currently, a panel of a Committee on Waivers and Compromises is composed of either one, three, or five members. A one-member panel is used for waiver requests on debts of $1,000 or less. The proposed revision will permit one panel member for debts of $20,000 or less and two or three-member panels for debts in excess of $20,000. We believe that this proposed revision will provide the most efficient use of Committee members.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Mulhern, Special Assistant (047F5), Department of Veterans Affairs, Ofc of Budget and Finance, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3405

RIN: 2900-AD50

OFFICE OF EQUAL OPPORTUNITY

2751. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERALLY ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Significance: Regulatory Program

Legal Authority: 20 USC 1681 et seq; 38 USC 210(a); EO 12250; EO 12067

CFR Citation: 38 CFR 18

Legal Deadline: None

Abstract: To establish standards and procedures for enforcing Title IX of the Education Amendments of 1972 in educational programs and activities receiving Federal financial assistance from the VA. Title IX prohibits discrimination on the basis of sex. There are no alternatives to the issuance of the regulations. Participants, potential participants and the public in general will benefit from Federally assisted programs provided free from prohibited discrimination based on sex.

This originally appeared as a proposed rule in the Federal Register of April 25, 1979 (44 FR 24320). Because of the extended time frame due to internal agency consultation with the Department of Justice, the Agency is planning to repropose these regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William E. Nunn, Equal Opportunity Specialist (06A), Department of Veterans Affairs, Office of Equal Opportunity, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2150

RIN: 2900-AB51

2752. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Legal Authority: 29 USC 794

CFR Citation: 38 CFR 18.423(c); 38 CFR 18.401 to 18.461, App A

Legal Deadline: None

Abstract: To incorporate a reference to the Uniform Federal Accessibility Standards (UFAS) and update the list of Federal financial assistance programs administered by the Agency. The existing regulations require that new construction and alteration of facilities be made in an accessible manner. The regulations provide that new construction or alteration of facilities in conformance with the American National Standard Specifications for Making Building and Facilities Accessible to, and Usable by, the Physically Handicapped (ANSI A117.1-1961 (B 1971)) shall constitute compliance with the accessibility requirements for new construction and alteration of facilities. The proposed revision will replace the current standard with the UFAS, published under the Architectural Barriers Act of 1968. Because some facilities subject to the accessibility requirements of section 504 of the Rehabilitation Act of 1973 are also subject to the accessibility requirements of the Architectural Barriers Act, this proposal would eliminate any potential conflict between standards enforced under the two statutes.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9971
NPRM Comment Period End	05/08/89	54 FR 9966
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William E. Nunn, Equal Opportunity Specialist (06A), Department of Veterans Affairs, Office of Equal Opportunity, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2150

RIN: 2900-AB87

OFFICE OF THE GENERAL COUNSEL

2753. INVENTIONS BY EMPLOYEES OF THE DEPARTMENT OF VETERANS AFFAIRS, AUTHORITY DELEGATIONS

Legal Authority: 15 USC 3710a; EO 12591

CFR Citation: 38 CFR 1.653, (Revision); 38 CFR 2.83, (Revision)

Legal Deadline: None

Abstract: The amendments to the two regulations cited will delegate authority from the Office of General Counsel (which has the authority, on behalf of the Secretary of the Department of Veterans Affairs, to act on all matters pertaining to patents and inventions) to directors of Agency medical centers to enter into cooperative research and development agreements (CRDAs) under the Federal Technology Transfer Act of 1986 (15 USC 3710 et. seq.) and EO 12591. EO 12591 provides heads of Federal agencies to delegate the authority to enter into CRDAs to directors of Federal laboratories. Each Agency medical center is considered a laboratory as defined in the Act. The delegation will effectuate the purposes of the Act, comply with the Executive Order, and promote cooperative medical research between the Agency and the public sector.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana M. Bloss, Deputy Assistant General Counsel (024B), Department of Veterans Affairs, Office of the General Counsel, 810

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VA — Proposed Rule Stage

Vermont Avenue, NW, Washington, DC 20420, 202 233-3651

RIN: 2900–AD51

2754. ● SUITS AGAINST DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES

Legal Authority: PL 100-694

CFR Citation: 38 CFR 14

Legal Deadline: None

Abstract: This proposal updates regulations to correspond to Department of Justice regulations implementing the Federal Employees Liability Reform and Tort Compensation Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	09/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James E. Adams, Deputy Assistant General Counsel (023A), Department of Veterans Affairs, Office of the General Counsel, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2060

RIN: 2900–AD72

DEPARTMENT OF VETERANS AFFAIRS (VA) — Final Rule Stage

VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION

2755. COMMUNITY RESIDENTIAL CARE

Legal Authority: 38 USC 630

CFR Citation: 38 CFR 17.51b to 17.51q

Legal Deadline: None

Abstract: These regulations will clarify the legal status of the Community Residential Care program, setting standards and criteria for health and safety, facility resources, guidelines for costs of care, and conditions under which the Agency may cease referrals to noncomplying facilities.

Timetable:

Action	Date	FR Cite
NPRM	03/25/88	53 FR 9778
NPRM Comment Period End	04/25/88	53 FR 9778
Final Action	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Kelly, Chief, Community Care Programs (161), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3692

RIN: 2900–AB32

2756. QUALITY ASSURANCE CONFIDENTIALITY

Legal Authority: 38 USC 3305; 38 USC 4151; 38 USC 4152

CFR Citation: 38 CFR 17.500 to 17.540

Legal Deadline: None

Abstract: Final regulations implementing 38 USC 3305 were made effective Oct. 22, 1982. Those regulations govern the Agency's QA (quality assurance) program activities and records and documents which are made confidential and privileged. Sec. 3305 prohibits the Agency from designating any QA program activity, for the purpose of confidentiality, unless such activity has been specified in regulation. Pub. L. 99-166 amends 38 USC 4151 and 4152 to require that QA program activities include and evaluation of the quality of surgical care in the Agency, as evidenced by outcome measures of mortality and morbidity; a report to Congress indicating deficiencies in the quality of care is required. 38 USC 3305 was amended to clarify that aggregate statistical data is not to be made confidential provided individuals are not identified. The existing regulations do not include a description of the Agency Medical District Initiated Peer Review Organization (MEDIPRO) program which is an integral element of the quality assurance program. No alternatives are being considered. There are no potential costs to the action. The benefits would be in the form of programmatic improvements.

Timetable:

Action	Date	FR Cite
NPRM	10/27/88	53 FR 43452
NPRM Comment Period End	11/28/88	53 FR 43452
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Lubran, Health System Specialist (10Q), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3115

RIN: 2900–AC27

2757. CONTRACT MEDICAL CARE

Significance: Regulatory Program

Legal Authority: PL 99-576

CFR Citation: 38 CFR 17.50b; 38 CFR 17.87

Legal Deadline: None

Abstract: The Department of Veterans Affairs and the Department of Health and Human Services will be proposing to amend applicable regulations to permit the Agency to pay for authorized or private hospital care in amounts based on the rates allowed by Medicare under the prospective payment system. This step will help ensure that payments made by the Agency are consistent with those made by the largest Federal health care program for similar services in the community.

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47726
NPRM Comment Period End	12/27/88	53 FR 47726
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Health Res.

VA — Final Rule Stage

Admin., 810 Vermont Avenue NW, Washington, DC 20420, 202 233-2504

RIN: 2900–AC31

2758. DEPARTMENT OF VETERANS AFFAIRS HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

Significance: Regulatory Program

Legal Authority: 38 USC 4301 to 4336

CFR Citation: 38 CFR 17.600

Legal Deadline: None

Abstract: Current regulations set forth requirements for awarding scholarships to students receiving academic training in the disciplines of medicine, osteopathy, and nursing, and if needed by the VA, students in other specified health care disciplines. Regulations are being amended to include requirements for awarding scholarships to students in disciplines currently specified as well as to students in other health care disciplines. Proposed regulations also revise selection of participants to indicate priority for individuals entering final year of training, and revise length of service obligation for full-time student participants to be one year for each year or part of a year individual was provided an award.

Timetable:

Action	Date	FR Cite
NPRM	01/18/89	53 FR 1950
NPRM Comment Period End	02/17/89	53 FR 1950
Final Action	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlotte Beason, Ed.D., Director, Health Professional Scholarship, Program (14N), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3588

RIN: 2900–AC66

2759. ELIGIBILITY FOR DENTAL CARE FOR FORMER POWS

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.123(d)

Legal Deadline: None

Abstract: These proposed regulations implement Section 106 of Pub. L. 100-322 which provides that outpatient dental services and treatment and related dental appliances, shall be furnished for a dental condition or disability from which a veteran, who is a former POW and who was detained or interned for a period of not less than 90 days, is suffering.

Timetable:

Action	Date	FR Cite
Final Action	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900–AD43

2760. RECREATION FACILITIES TO BE CONSIDERED DEPARTMENT OF VETERANS AFFAIRS FACILITIES

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.30(w)

Legal Deadline: None

Abstract: The proposed regulations amend the definition of VA facilities as required by Pub. L. 100-322 to include public or private facilities at which the Secretary of the Department of Veterans Affairs provides recreational activities for patients receiving hospital, nursing home or domiciliary care.

Timetable:

Action	Date	FR Cite
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Health Res. Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900–AD44

VETERANS BENEFITS ADMINISTRATION

2761. CLAIMS BASED ON EXPOSURE TO IONIZING RADIATION OR DIOXIN

Legal Authority: PL 98-542

CFR Citation: 38 CFR 3.311a; 38 CFR 3.311b

Legal Deadline: None

Abstract: These amendments expand the list of radiogenic diseases and modify certain manifestation periods for radiation-related cancers. Minor technical clarifications are also included.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	53 FR 48551
NPRM Comment Period End	01/03/89	53 FR 48551
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900–AB64

2762. EMPLOYMENT SERVICES FOR CERTAIN ELIGIBLE VETERANS

Legal Authority: 38 USC 1501; 38 USC 1502; 38 USC 1505(b); 38 USC 1516; 38 USC 1517

CFR Citation: 38 CFR 21.47; 38 CFR 21.51; 38 CFR 21.73; 38 CFR 21.250

Legal Deadline: None

Abstract: The Agency has determined that employment assistance may be provided a veteran eligible for Chapter 31, if the veteran though trained and qualified for suitable employment, has an employment handicap that prevents him or her from obtaining such employment, even if he or she is not a prior participant in a vocational rehabilitation program. It has previously been held that eligibility for employment services was limited to veterans who were current or prior participants under Chapter 31.

Timetable:

Action	Date	FR Cite
NPRM	02/02/88	53 FR 2855
NPRM Comment Period End	03/03/88	53 FR 2855
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

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VA — Final Rule Stage

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Policy and Program Development, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AB89

2763. DETERMINING ENTITLEMENT USAGE UNDER THE VOCATIONAL REHABILITATION PROGRAM

Legal Authority: 38 USC 1505

CFR Citation: 38 CFR Not yet determined

Legal Deadline: None

Abstract: To establish a specific method for determining entitlement changes under Chapter 31. In view of the number of education and training programs not authorized under Title 38, a specific statement of Chapter 31 policy for determining entitlement changes is needed.

Timetable:

Action	Date	FR Cite
NPRM	02/17/89	54 FR 7206
NPRM Comment Period End	03/20/89	54 FR 7206
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Policy and Program Development, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AC08

2764. 1. APPORTIONMENT OF BENEFITS TO DEPENDENTS 2. PAYMENT OF COST OF VETERAN'S MAINTENANCE IN INSTITUTION 3. RECOMMENDATION FOR PAYMENT

Legal Authority: 38 USC 210; 38 USC 3202; 38 USC 3203; PL 98-543, Sec 402

CFR Citation: 38 CFR 13.70; 38 CFR 13.71; 38 CFR 13.74

Legal Deadline: None

Abstract: 38 CFR 13.70 defines the conditions under which the Veterans Services Officer may recommend an apportionment of benefits to dependents. The proposed amendment will clarify these conditions. The amendment will also remove a reference to mental illness as the sole criteria for a rating of incompetency.

38 CFR 13.71 is to be amended to make clear that the signing of an institutional award agreement does not waive an institution's right to claim payments under 38 USC 641. This action is the result of an unpublished General Counsel opinion.

38 CFR 13.74 is based on the provisions of 38 USC Sec. 3203(b) (1)(A); however, where the law refers to more than one type of institutional care, the regulation refers only to instances of hospitalization. This would seem to preclude application of the regulation when veterans are in State run nursing homes or other institutions operated by the United States or a political subdivision. The Department of Veterans Affairs, therefore, proposes to correct this defect by substituting the terms "institution" and "institutionalization" where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	01/05/87	52 FR 300
NPRM Comment Period End	02/05/87	52 FR 300
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900–AC10

2765. PROVIDING AN INITIAL EVALUATION FOR A VETERAN NOT RESIDING IN A STATE

Legal Authority: 38 USC 111; 38 USC 1506

CFR Citation: 38 CFR 21.100; 38 CFR 21.376

Legal Deadline: None

Abstract: An initial evaluation is provided each veteran requesting assistance under the vocational rehabilitation program. The purpose of the initial evaluation is to determine eligibility and entitlement to vocational rehabilitation and plan a program of vocational rehabilitation for eligible veterans. The initial evaluation is provided by Agency counseling psychologists in the United States. Since interpersonal discussion is the essence of counseling, providing an initial evaluation to a veteran residing overseas by an Agency counselor located in this country poses logistical and other problems. We are proposing that current regulations be amended to allow for greater flexibility in providing initial evaluations to veterans not residing in a state, including those veterans residing overseas. The alternatives to the present system include, but are not limited to contracting with qualified counseling staff located in the area in which the veteran resides, to conduct a part of the evaluation. All decisions as to eligibility for services would continue to be made by Agency staff.

Timetable:

Action	Date	FR Cite
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Policy and Program Development, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AC46

2766. PROCEDURAL DUE PROCESS

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.103; 38 CFR 3.105; 38 CFR 3.109; 38 CFR 3.110; 38 CFR 3.114

Legal Deadline: None

Abstract: These changes expand the procedural due process provided to beneficiaries, especially when benefits are proposed to be reduced or terminated. There is also a clarification of the effective date rule applicable to liberalizing laws or administrative issues.

Timetable:

Action	Date	FR Cite
NPRM	09/28/88	53 FR 37797
NPRM Comment Period End	10/28/88	53 FR 37797
Final Action	08/00/89	

Small Entities Affected: None

VA — Final Rule Stage

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900–AC54

2767. VETERANS EDUCATION; AMENDMENTS NEEDED TO IMPLEMENT PUB. L. 99-576

Legal Authority: PL 99-576

CFR Citation: 38 CFR 21.1022; 38 CFR 21.3022; 38 CFR 21.3046; 38 CFR 21.4022; 38 CFR 21.4100; 38 CFR 21.4101; 38 CFR 21.4102; 38 CFR 21.4104; 38 CFR 21.4136; 38 CFR 21.4137; 38 CFR 21.4138; 38 CFR 21.4230; 38 CFR 21.4231; 38 CFR 21.4232; 38 CFR 21.4233; ...

Legal Deadline: None

Abstract: The Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 contains several provisions which affect the administration of Dependents' Educational Assistance and benefits provided under the Vietnam Era GI Bill. The most important provisions include a change to the way in which the Agency must measure certain courses which do not lead to a standard college degree; a change in the way the eligibility period is determined for some spouses eligible to receive Dependents' Educational Assistance; and a change to the provision governing receipt of benefits under the Vietnam Era GI Bill and other education programs administered by the Agency.

Timetable:

Action	Date	FR Cite
NPRM	02/23/89	54 FR 7784
NPRM Comment Period End	03/27/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900–AC76

2768. SUSPENSION OF INDIVIDUAL EMPLOYEES OF MANUFACTURED HOME DEALERS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4235

Legal Deadline: None

Abstract: Present regulations authorize the Secretary to refuse to guarantee loans to purchase manufactured homes from dealers determined by the Secretary to have engaged in contracts of sale or methods or practices which are unfair or prejudicial to veteran purchasers. It is proposed to amend this regulation to also authorize suspension of individual employees of manufactured home dealers who engage in unfair or prejudicial practices.

Timetable:

Action	Date	FR Cite
NPRM	10/18/88	53 FR 40742
NPRM Comment Period End	11/17/88	53 FR 40742
Final Action	06/00/89	
Final Action Effective	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George D. Moerman, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900–AC83

2769. DISEASES SUBJECT TO PRESUMPTIVE SERVICE-CONNECTION

Legal Authority: PL 100-321; PL 100-322

CFR Citation: 38 CFR 3.309; 38 CFR 3.812

Legal Deadline: None

Abstract: These amendments provide for presumptive service-connection for systemic lupus erythematosus arising within 1 year of discharge for peripheral neuropathy, irritable bowel syndrome and peptic ulcer disease arising in former POWs and for 13 specific cancers arising in certain radiation-exposed veterans. A bar to benefits under section 156 of Pub. L. 97-377 is also removed.

Timetable:

Action	Date	FR Cite
NPRM	12/16/88	53 FR 50547
NPRM Comment Period End	01/17/89	53 FR 50547
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900–AD53

2770. DETERMINATION OF SERVICE-CONNECTION FOR IMPAIRED HEARING

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.385

Legal Deadline: None

Abstract: This amendment defines the term "hearing within normal limits" and precludes service-connection for impaired hearing when that definition is satisfied.

Timetable:

Action	Date	FR Cite
NPRM	08/26/88	53 FR 32627
NPRM Comment Period End	09/26/88	53 FR 32627
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900–AD54

2771. VETERANS EDUCATION; PROCEDURAL PROTECTIONS FOLLOWING LOSS OF DEPENDENT

Legal Authority: 38 USC 3012 to 3013

CFR Citation: 38 CFR 21.4132

Legal Deadline: None

Abstract: The Agency is considering a veteran's due process rights when the Agency is considering reduction of the veteran's educational assistance allowance because the Agency has received evidence that the veteran has

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lost a dependent. This proposal will bring the rights granted such a veteran into agreement with the rights a veteran has when he or she is receiving disability compensation or pension and the Agency receives evidence that the veteran has lost a dependent. The effect of this proposal will be to improve and more clearly define procedural due process rights.

Timetable:

Action	Date	FR Cite
NPRM	02/07/89	54 FR 5944
NPRM Comment Period End	03/09/89	54 FR 5944
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900–AD58

2772. VETERANS EDUCATION; PAYMENTS DURING BREAKS IN ENROLLMENT

Legal Authority: 38 USC 1434; 38 USC 1780(a)

CFR Citation: 38 CFR 21.4203; 38 CFR 21.4205; 38 CFR 21.7139; 38 CFR 21.7140

Legal Deadline: None

Abstract: The Agency may make payments of educational assistance allowance to veterans and eligible persons under the various GI Bills during breaks within a certified period of enrollment when the break results from a school closing based upon an order of the President or due to an emergency situation. The Directors of Regional Offices have been delegated the authority to determine when these payments should be made. In the interest of administrative efficiency the Agency is considering permitting other Agency employees to make these determinations during some school closings.

Timetable:

Action	Date	FR Cite
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900–AD59

2773. BASIC ELIGIBILITY DETERMINATIONS: EDUCATION

Legal Authority: 38 USC 1411(a); 38 USC 1412(b); 38 USC 1602; 38 USC 1652(a)

CFR Citation: 38 CFR 3.315

Legal Deadline: None

Abstract: The Agency has a regulation which provides authority and guidelines for making a service-connected discharge determination needed to determine eligibility for Agency benefits. The Agency is considering amending the regulation to add a rule for deciding when such a determination must be made for veteran who has applied for benefits under the Montgomery GI Bill-Active Duty.

Timetable:

Action	Date	FR Cite
NPRM	11/18/88	53 FR 46635
NPRM Comment Period End	12/19/88	53 FR 46635
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Assistant Director for Educational Policy, and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900–AD60

2774. DEFINITION OF FORMER PRISONER OF WAR

Legal Authority: PL 100-322

CFR Citation: 38 CFR 3.1(y)

Legal Deadline: None

Abstract: This amendment gives the Agency the authority to make determinations on prisoner of war status for persons interned during wartime by neutral or allied governments. This expands the class of persons eligible to be declared former prisoners of war.

Timetable:

Action	Date	FR Cite
NPRM	11/18/88	53 FR 46634
NPRM Comment Period End	12/19/88	53 FR 46634
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900–AD71

2775. ● VETERANS EDUCATION; PROCEDURAL DUE PROCESS

Legal Authority: 38 USC 3001; 38 USC 3013

CFR Citation: 38 CFR 21.1032; 38 CFR 21.3032; 38 CFR 21.4131; 38 CFR 21.4136; 38 CFR 21.4137

Legal Deadline: None

Abstract: The Department of Veterans Affairs has been reviewing regulations for the purpose of improving due process procedures. This proposal provides that in certain instances if the VA does not furnish claimants or beneficiaries with notice of the time limits within which they are required to act, those time limits do not apply until notice is provided. This proposal will provide increased due process to veterans and eligible persons affected by these time limits.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 5640
NPRM Comment Period End	03/06/89	54 FR 5640
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington. DC 20420, 202 233-2092

RIN: 2900–AD86

2776. ● VETERANS EDUCATION; ELIGIBILITY FOR DEPENDENTS' EDUCATIONAL ASSISTANCE

Legal Authority: 38 USC 1712

CFR Citation: 38 CFR 21.3041

Legal Deadline: None

Abstract: Occasionally, a veteran's child will become eligible for dependents' educational assistance after the child's 18th birthday. The pertinent provision of the Code of Federal Regulations which addresses this situation incompletely states the applicable statutory requirement for determining the child's effective date of eligibility. This proposal will bring the Code of Federal Regulations into agreement with the law.

Timetable:

Action	Date	FR Cite
NPRM	02/07/89	54 FR 5945
NPRM Comment Period End	03/09/89	54 FR 5945
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler, Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AD87

2777. ● COMBINED RATINGS TABLE

Legal Authority: 38 USC 210(c); 38 USC 355

CFR Citation: 38 CFR 4.25

Legal Deadline: None

Abstract: This amendment clarifies application of the combined ratings table when there are multiple compensable disabilities due to a single service-connected disease entity, such as arthritis of multiple joints, as well as additional compensable service-connected disabilities due to different causes.

Timetable:

Action	Date	FR Cite
NPRM	02/16/89	54 FR 7067
NPRM Comment Period End	03/20/89	54 FR 7067
Final Action	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AD90

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

2778. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION - CONSULTING SERVICE

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 837

Legal Deadline: None

Abstract: This Department of Veterans Affairs regulation provides coverage regarding contracting aspects of OMB Circular A-120 consulting services.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Figg, Chief, Acquisition Policy Staff (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2334

RIN: 2900–AC86

2779. ACQUISITION REGULATIONS; CONSTRUCTION CONTRACTING PROCEDURES

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 836; 48 CFR 852

Legal Deadline: None

Abstract: This Department of Veterans Affairs regulation will update and clarify construction contracting procedures and clauses.

Timetable:

Action	Date	FR Cite
NPRM	01/21/88	53 FR 1630
NPRM Comment Period End	02/22/88	53 FR 1630
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marsha J. Grogan, Acquisition Policy Staff (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3784

RIN: 2900–AC87

BOARD OF VETERANS APPEALS

2780. APPEALS REGULATIONS AND RULES OF PRACTICE- STATUS OF LEGAL INTERNS, LAW STUDENTS AND PARALEGALS

Legal Authority: 38 USC 3401; 38 USC 3404; 38 USC 4005(b)(2)

CFR Citation: 38 CFR 19.152, (Revision)

Legal Deadline: None

Abstract: The regulation will be amended to clarify the status of attorneys to be employed by service organizations and to allow legal interns, law students and paralegals to work with these attorneys who are presenting appeals in any capacity.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20653
NPRM Comment Period End	07/07/88	53 FR 20653
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jan Donsbach, Special (Legal) Assistant (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2978

RIN: 2900–AC11

2781. APPEALS REGULATIONS AND RULES OF PRACTICE - HEARING DATE

Legal Authority: 38 USC 4002; 38 USC 4005A

CFR Citation: 38 CFR 19.159, (Revision)

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VA — Final Rule Stage

Legal Deadline: None

Abstract: This regulation will be revised to provide an appellant or representative a 60-day period in which to reschedule a hearing date. The revision will remedy scheduling conflicts created by multiple requests for a change of hearing date from the same appellant and/or representative, without abridging the appellant's right to due process.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20653
NPRM Comment Period End	07/07/88	53 FR 20653
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jan Donsbach, Special (Legal) Assistant (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2978

RIN: 2900–AC88

OFFICE OF INFORMATION MANAGEMENT AND STATISTICS

2782. RELEASE OF VA LISTS OF NAMES AND ADDRESSES AND PENALTY PROCEDURES FOR UNAUTHORIZED USE

Legal Authority: 38 USC 3301(f)

CFR Citation: 38 CFR 1.519

Legal Deadline: None

Abstract: The Agency is amending the existing regulations concerning Agency lists of names and addresses and is also proposing administrative procedures to use when these lists are used for purposes not authorized by law. This action results from the need to amend the regulations to reflect current procedures, organizational changes, and concern expressed by veterans and some service organizations regarding unsolicited mail. The proposed regulatory amendments will allow the Agency to enforce its statutory duty to protect the privacy of information concerning veterans and their dependents, establish procedures to suspend recipients who misuse Agency name and address lists of veterans/dependents, and give advance notice to recipients of what constitutes an authorized/unauthorized use of veterans/ dependents names and address lists, thereby protecting the due process rights of any recipient before penalties are enforced.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8624
NPRM Comment Period End	04/20/87	52 FR 8624
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Epps, Management Analyst (723B), Department of Veterans Affairs, Ofc of Information Mgmt & Statistics, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2545

RIN: 2900–AC63

2783. PREDISCLOSURE OF CONFIDENTIAL COMMERCIAL INFORMATION

Legal Authority: 5 USC 552(b)(4); EO 12600

CFR Citation: 38 CFR 1.554

Legal Deadline: None

Abstract: Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information, establishes certain mandatory and uniform procedures for handling Freedom of Information Act (FOIA) requests for records which may contain confidential commercial information, protected by FOIA exemption (5 U.S.C. 552(b)(4)). The Executive Order requires the notification and designation procedures be established in agency regulations. Accordingly, the revision to 38 CFR 1.554 will comply with the requirements of the Executive Order.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45944
NPRM Comment Period End	12/15/88	53 FR 45944
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gordon Boone, Chief, Records Management Div. (733), Department of Veterans Affairs, Ofc of Information Mgmt and Statistics, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-4243

RIN: 2900–AD09

DEPARTMENT OF VETERANS AFFAIRS (VA) — Completed Actions

2784. CONTRACT MEDICAL CARE

Significance: Regulatory Program

CFR Citation: 38 CFR 17.50b; 38 CFR 17.87

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2900-AC31		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus 202 233-2504

RIN: 2900–AC69

2785. AUTOMOBILE ALLOWANCE AND ADAPTIVE EQUIPMENT ELIGIBILITY; DEVICES TO OVERCOME THE HANDICAP OF DEAFNESS

CFR Citation: 38 CFR 3.807; 38 CFR 3.808; 38 CFR 17.115d; 38 CFR 17.119

Completed:

Reason	Date	FR Cite
Final Action	11/18/88	53 FR 46606
Final Action Effective	12/19/88	53 FR 46606

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frederick Downs 202 233-2011

RIN: 2900–AD08

VA — Completed Actions

2786. USE OF EDUCATIONAL ASSISTANCE BENEFITS AS A PART OF A VOCATIONAL REHABILITATION PROGRAM

CFR Citation: 38 CFR 21.22; 38 CFR 21.264

Completed:

Reason	Date	FR Cite
Final Action	01/30/89	54 FR 4282
Final Action Effective	10/19/84	54 FR 4282

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman 202 233-2886

RIN: 2900–AC41

2787. SYSTEMIC DISEASES, ET AL

CFR Citation: 38 CFR 4.16; 38 CFR 4.29; 38 CFR 4.30; 38 CFR 4.88a

Completed:

Reason	Date	FR Cite
Final Action	01/30/89	54 FR 4280
Final Action Effective	03/01/89	54 FR 4280

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White 202 233-3005

RIN: 2900–AC57

2788. EXTENSION OF THE INDEPENDENT LIVING SERVICES PROGRAM

CFR Citation: 38 CFR 21.160; 38 CFR 21.162; 38 CFR 21.294

Completed:

Reason	Date	FR Cite
Final Action	12/19/88	53 FR 50955
Final Action Effective	10/26/86	53 FR 50955

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman 202 233-6496

RIN: 2900–AC82

2789. VETERANS EDUCATION; EFFECT OF INTERNAL DEPARTMENT OF VETERANS AFFAIRS REORGANIZATION

CFR Citation: 38 CFR 2.76; 38 CFR 2.80; 38 CFR 2.81; 38 CFR 2.82; 38 CFR 2.98; 38 CFR 21.74; 38 CFR 21.98; 38 CFR 21.100; 38 CFR 21.162; 38 CFR 21.222; 38 CFR 21.254; 38 CFR 21.256; 38 CFR 21.258; 38 CFR 21.292; 38 CFR 21.382; ...

Completed:

Reason	Date	FR Cite
Withdrawn Withdrawn due to enactment of Pub. L. 100-527.	02/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler 202 233-2092

RIN: 2900–AD04

2790. VETERANS EDUCATION; INCREASE IN RATES PAYABLE IN THE EATP

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Completed:

Reason	Date	FR Cite
Final Action	12/16/88	53 FR 50520
Final Action Effective	10/01/87	53 FR 50520

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler 202 233-2092

RIN: 2900–AD23

2791. EVIDENCE SUITABLE TO ESTABLISH DEPENDENTS

CFR Citation: 38 CFR 3.204

Completed:

Reason	Date	FR Cite
Final Action	02/02/89	54 FR 5235
Final Action Effective	03/06/89	54 FR 5235

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. White 202 233-3005

RIN: 2900–AD52

2792. VETERANS EDUCATION; WAIVER OF THE 85-15 PERCENT RATIO REQUIREMENT

CFR Citation: 38 CFR 21.4201

Completed:

Reason	Date	FR Cite
Final Action	01/30/89	54 FR 4285
Final Action Effective	12/20/88	54 FR 4285

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler 202 233-2092

RIN: 2900–AD56

2793. VETERANS EDUCATION; FORFEITURE OF EDUCATION BENEFITS

CFR Citation: 38 CFR 21.4007

Completed:

Reason	Date	FR Cite
Final Action	01/30/89	54 FR 4286
Final Action Effective	12/23/88	54 FR 4286

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler 202 233-2092

RIN: 2900–AD57

2794. VETERANS EDUCATION; DETERMINATION OF TRAINING TIME DURING NONSTANDARD TERMS

CFR Citation: 38 CFR 21.4272

Completed:

Reason	Date	FR Cite
Final Action	03/30/89	54 FR 13064
Final Action Effective	02/27/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler 202 233-2092

RIN: 2900–AD61

2795. VETERANS SPECIAL LIFE INSURANCE—"RS" TERM PREMIUMS

CFR Citation: 38 CFR 8.3; 38 CFR 8.85; 38 CFR 8.113

Completed:

Reason	Date	FR Cite
Final Action	02/07/89	54 FR 5931
Final Action Effective	02/07/89	54 FR 5931

Small Entities Affected: None

Government Levels Affected: None

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VA — Completed Actions

Agency Contact: Paul F. Koons 215 951-5360

RIN: 2900–AD64

2796. VETERANS EDUCATION; VETERANS' BENEFITS AND SERVICES ACT OF 1988 AND THE VIETNAM ERA GI BILL

CFR Citation: 38 CFR 21.4200; 38 CFR 21.4270

Completed:

Reason	Date	FR Cite
Final Action	12/01/88	53 FR 48549

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan R. Zoeckler 202 233-2092

RIN: 2900–AD69

2797. ACQUISITION REGULATIONS RELATING TO COST COMPARISONS

CFR Citation: 48 CFR 807, (Revision); 48 CFR 852, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	09/26/88	53 FR 43209
Final Action Effective	10/18/88	53 FR 43209

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris A. Figg 202 233-2334

RIN: 2900–AC37

2798. EQUAL ACCESS TO JUSTICE; PROCEDURAL RULES

CFR Citation: 38 CFR 1.790

Completed:

Reason	Date	FR Cite
Withdrawn Withdrawn for further consideration.	02/15/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Sally Pfund 202 275-0430

RIN: 2900–AC33

2799. EFFECT OF GENERAL COUNSEL OPINIONS

CFR Citation: 38 CFR 14.507; 38 CFR 2.6; 38 CFR 3.101; 38 CFR 19

Completed:

Reason	Date	FR Cite
Final Action	02/06/89	54 FR 5610
Final Action Effective	03/06/89	54 FR 5610

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Mullen 202 233-2440

RIN: 2900–AB22

2800. RECOGNITION OF ORGANIZATIONS, REPRESENTATIVES, AGENTS, AND ATTORNEYS

CFR Citation: 38 CFR 14.627 to 14.637

Completed:

Reason	Date	FR Cite
Final Action	12/28/88	53 FR 52416
Final Action Effective	12/28/88	53 FR 52416

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Mullen 202 233-2440

RIN: 2900–AC89

2801. CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT

CFR Citation: 38 CFR 14.600 to 14.610; 38 CFR 2.6

Completed:

Reason	Date	FR Cite
Final Action	12/12/88	53 FR 49879
Final Action Effective	11/09/88	53 FR 49879

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Douglas Bradshaw, Jr. 202 233-2153

RIN: 2900–AD15

2802. INDEMNIFICATION OF DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES

CFR Citation: 38 CFR 14

Completed:

Reason	Date	FR Cite
Final Action	02/06/89	54 FR 5613
Final Action Effective	02/06/89	54 FR 5613

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Adams 202 233-2060

RIN: 2900–AD70

2803. PROTECTION OF ARCHAEOLOGICAL RESOURCES

CFR Citation: 38 CFR 27

Completed:

Reason	Date	FR Cite
Withdrawn VA considering other approaches for implementing law.	01/25/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel Spoon 202 233-3447

RIN: 2900–AC26

2804. UNIFORM RELOCATION ASSISTANCE ACT FOR REAL PROPERTY ACQUISITION AND FEDERALLY ASSISTED PROGRAMS

CFR Citation: 38 CFR 25

Completed:

Reason	Date	FR Cite
Final Action	03/02/89	54 FR 8912
Final Action Effective	03/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Maurer 202 233-3398

RIN: 2900–AD37

[FR Doc. 89-5839 Filed 04-21-89; 8:45 am]
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Part XVII

ACTION

Semiannual Regulatory Agenda

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ACTION (ACTION)

ACTION

45 CFR Ch. XII

Executive Order 12291, Federal Regulation, Semiannual Agenda of Regulations

AGENCY: ACTION.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations that ACTION will have under development, revision or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the Agency official listed for the particular agenda item. For other information concerning ACTION regulations or this semiannual agenda, contact Stewart A. Davis, Acting General Counsel, ACTION, 806 Connecticut Avenue, NW., Washington, DC 20525, (202) 634-9333.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

ACTION has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public; and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required under 5 U.S.C. 602.

DATED: February 13, 1989.

Donna M. Alvarado,

Director.

ACTION (ACTION) — Prerule Stage

2805. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 2000(d)(1); 42 USC 5057; 42 USC 5060

CFR Citation: 45 CFR 1203

Legal Deadline: None

Abstract: In accordance with 42 USC 2000(d)(1) ACTION will promulgate regulations implementing provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, as amended, and Section 417 of the Domestic Volunteer Service Act of 1973, as amended, which prohibit discrimination on the basis of race, color, national origin, religion or sex, in federally assisted programs. Relevant provisions of existing ACTION Title VI regulations will be subsumed into this new regulation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, Office of Compliance, ACTION, 806 Connecticut Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001–AA06

2806. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN ACTION PROGRAMS

Legal Authority: 29 USC 794; 42 USC 5057; 42 USC 5060

CFR Citation: None

Legal Deadline: None

Abstract: In accordance with Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), ACTION will promulgate implementing regulations which prohibit discrimination on the basis of handicap in federally conducted programs and activities. ACTION regulations prohibiting discrimination on the basis of handicap in federally assisted programs are contained in 45 CFR 1232.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, Office of Compliance, ACTION, 806 Connecticut Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001–AA07

2807. INSPECTION AND COPYING OF RECORDS: RULES FOR COMPLIANCE WITH PUBLIC INFORMATION ACT

Legal Authority: 5 USC 552; 42 USC 4951

CFR Citation: 45 CFR 1215

Legal Deadline: None

Abstract: In accordance with the Freedom of Information Act (5 USC 522), the Agency is updating its regulation concerning the release of Agency information.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Lowell Genebach, Director, Planning, Budget and Management Division, ACTION, 806 Conn. Ave., NW, Washington, DC 20525, 202 634-9137

RIN: 3001–AA09

2808. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL ASSISTANCE FROM ACTION

Legal Authority: 42 USC 6101; 42 USC 4951

CFR Citation: 45 CFR 1221

ACTION — Prerule Stage

Legal Deadline: None

Abstract: In accordance with 42 USC 6101 and 42 USC 4951 ACTION will promulgate regulations implementing provisions of the Age Discrimination Act of 1975, as amended, and Section 417 of the Domestic Volunteer Service Act of 1973, as amended, which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, Office of Compliance, ACTION, 806 Conn. Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001–AA10

[FR Doc. 89-5840 Filed 04-21-89; 8:45 am]

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Part XVIII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

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ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Part 810

Unified Agenda of Federal Regulations

AGENCY: Advisory Council on Historic Preservation (ACHP).

ACTION: Publication of agenda.

SUMMARY: The following ACHP regulation is scheduled for development from April 1989 through March 1990. It is submitted herein for publication in the Unified Agenda of Federal Regulations, EO 12291.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Advisory Council on Historic Preservation.

Dated: March 3, 1989.

Robert D. Bush,

Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Proposed Rule Stage

2809. FREEDOM OF INFORMATION ACT REGULATIONS

Legal Authority: 16 USC 470 Nat. Historic Preservation Act of 1966, as amended

CFR Citation: 36 CFR 810.5

Legal Deadline: None

Abstract: The regulation will increase the fees charged to requesters of information to better reflect the cost to the Government of locating and copying the documents requested. Copying charges would be increased from $0.10 to $0.13 per page; fees for searches by professional staff from $2.00 to $4.65 per quarter hour; and fees for searches by clerical staff from $1.00 to $2.30 per quarter hour. The regulation would thus impose a "user's fee" to users of the Government FOIA system which is more consistent with other agencies' fees.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	08/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Katherine Barns Soffer, Associate General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW #809, Washington, DC 20004, 202 786-0503

RIN: 3010-AA03

[FR Doc. 89-6181 Filed 04-21-89; 8:45 am]

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Part XIX

Agency for International Development

Semiannual Regulatory Agenda

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AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Ch. II

Federal Regulations; Agency Regulatory Agenda Semiannual Summary

AGENCY: Agency for International Development, IDCA.

ACTION: Agency regulations agenda.

SUMMARY: The Agency for International Development (AID) is publishing this agenda as required by section 5(a) of Executive Order 12291, Federal Regulation (46 FR 13193, February 19, 1981) and by the Regulatory Flexibility Act (Pub. L. 96-354, September 30, 1980). This agenda reports the status of those regulations currently under review and gives AID's plan for the issuance of proposed regulations during the next twelve months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in AID's rulemaking process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list, in general, contact: Mr. Fred D. Allen, Office of Information Resources Management, Agency for International Development, Washington, DC 20523, Telephone (703) 875-1573.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

Regulatory Flexibility Act (RFA)

The Agency does not have any rulemaking activity that falls within the requirements of RFA and does not anticipate any during the next reporting period.

Dated: February 16, 1989.

John F. Owens,

Acting Assistant to the Administrator for Management.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Prerule Stage

2810. ● PUBLIC INFORMATION

Legal Authority: 22 USC 2381; 5 USC 552

CFR Citation: 22 CFR 212

Legal Deadline: None

Abstract: The regulation is being updated to conform with the congressional changes made in 1987.

Timetable:

Action	Date	FR Cite
ANPRM	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Harper, Director, Office of Public Inquiries, Agency for International Development, Bureau for External Affairs, Washington, DC 20523, **202 647-4220**

RIN: 0412-AA02

2811. ● REGULATION FOR IMPLEMENTATION OF PRIVACY ACT OF 1974

Legal Authority: 22 USC 2381; 5 USC 552a; 5 USC 553

CFR Citation: 22 CFR 215

Legal Deadline: None

Abstract: The regulation is being reviewed for update. Two new systems of records are being studied for incorporation.

Timetable:

Action	Date	FR Cite
ANPRM	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Harper, Director, Office of Public Inquiries, Agency for International Development, Bureau for External Affairs, Washington, DC 20523, **202 647-4220**

RIN: 0412-AA03

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Proposed Rule Stage

2812. DONATION OF AGRICULTURAL COMMODITIES/PRODUCTS TO ASSIST NEEDY PERSONS OVERSEAS (416 PROGRAM)

Legal Authority: 7 USC 1431; PL 97-253, Sec 110

CFR Citation: 22 CFR 210, (New)

Legal Deadline: None

Abstract: This regulation sets forth provisions of the Agency for International Development (AID), acting as an agent for the USDA/Commodity Credit Corporation (CCC), to carry out part of the responsibilities for selecting, approving, administering and implementing the Section 416 program of the Agricultural Act of 1949, as amended. This program will assist needy persons overseas and reduce surplus stocks of dairy and wheat products in CCC inventory. The donation of commodities under this new authority will be coordinated with, but not replace, assistance provided under the Agricultural Trade Development and Assistance Act of 1954, as amended, PL 83-480. The Agency is not considering any alternatives for addressing the problem. There are some minor costs in administering the regulation. The potential benefits will go to needy persons overseas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/84	49 FR 22024

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jessie C. Vogler, Program Officer, Agency for International Development, Office of Food for Peace, Bureau for Food for Peace and Voluntary Assistance, Washington, DC 20523, **703 235-9193**

RIN: 0412-AA05

AID — Proposed Rule Stage

2813: TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF AND ECONOMIC DEVELOPMENT AND OTHER ASSISTANCE

Legal Authority: 7 USC 1705; 7 USC 1721 to 1723; 7 USC 1693

CFR Citation: 22 CFR 211

Legal Deadline: None

Abstract: This regulation prescribes the terms and conditions governing the transfer of agricultural commodities to foreign governments, U.S. voluntary agencies, or intergovernmental organizations. The regulation is being reviewed to assess its current procedures and requirements with an intent to improve its effectiveness and efficiency. There will be internal administrative and operational costs. There are potential benefits to aid-receiving countries.

Timetable:

Action	Date	FR Cite
Begin Review	12/15/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jessie C. Vogler, Program Officer, Agency for International Development, Office of Food for Peace, Bureau for Food for Peace and Voluntary Assistance, Washington, DC 20523, **703 235-9193**

RIN: 0412-AA06

[FR Doc. 89-5841 Filed 04-21-89; 8:45 am]

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Part XX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulations

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Submission of Unified Agenda of Federal Regulations.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of regulatory activities. This regulatory agenda may be revised and/or refined by the agency during the coming months as a result of the action taken by the Board. In addition to any regulatory actions, the Board may also consider issuing advisory standards and/or policy statements as part of its statutory responsibilities. When appropriate, these standards and policies will also be published in the **Federal Register.**

ADDRESS: U.S. Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW., Suite 501. Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact Ms. Elizabeth A. Stewart, Acting General Counsel, (202) 653-7834 (voice or TDD).

William J. Tangye,

Chair, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Final Rule Stage

2814. INFORMATION AVAILABILITY: PROCEDURES (36 CFR 1120)

Legal Authority: 5 USC 552

CFR Citation: 36 CFR 1120, (Revision)

Legal Deadline: Final, Statutory, April 25, 1987.

Abstract: This interim final rule amends the ATBCB's regulations to establish a schedule and system for collecting fees to recover certain direct costs associated with responding to Freedom of Information Act (FOIA) requests as required by the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/10/87	52 FR 43193
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elizabeth A. Stewart, Acting General Counsel, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW, Suite 501, Washington, DC 20036, **202 653-7834**

RIN: 3014–AA04

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Completed Actions

2815. MINIMUM GUIDELINES AND REQUIREMENTS FOR ACCESSIBLE DESIGN

Significance: Agency Priority

Legal Authority: 29 USC 792(b)(7) Rehabilitation Act of 1973, as amended

CFR Citation: 36 CFR 1190

Legal Deadline: None

Abstract: Specific provisions of the ATBCB Minimum Guidelines and Requirements for Accessible Design have been reserved until sufficient research information and/or field experience is obtained. At present the ATBCB is reviewing comments on the proposed rule to add provisions for leased facilities. In a separate notice of proposed rulemaking, the Board will propose the incorporation of certain technical specifications (including detectable warnings and signage) of the Uniform Federal Accessibility Standards and American National Standards Institute A117.1 (1986) standard into the ATBCB Minimum Guidelines and Requirements for Accessible Design.

Timetable:

Action	Date	FR Cite
Final Action	02/03/89	54 FR 5434
Final Action Effective	02/03/89	
ANSI/UFAS Technical Specifications		
NPRM	09/16/87	(52 FR 34955)
NPRM Comment Period End	11/16/87	
Final Action	02/03/89	(54 FR 5434)
Leased Facilities		
NPRM	02/11/87	(52 FR 4352)
NPRM Public Comment Period End	03/13/87	
Final Action	09/14/88	(53 FR 35507)

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Phone number of agency contact is voice or TDD.

Agency Contact: Elizabeth A. Stewart, Acting General Counsel, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW, Suite 501, Washington, DC 20038, **202 653-7834**

RIN: 3014–AA00

2816. PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 36 CFR 1150

Legal Deadline: None

Abstract: The current regulation sets forth procedures to ensure compliance with standards issued under the Architectural Barriers Act of 1968, PL 90-480, as amended, 42 USC 4151 et seq. The Board has published an interim rule revising this regulation to provide a 180-day period for informally resolving complaints in place of the previous 90-day period. This interim rule is expected to be published as a final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule with Request for Comment	05/22/86	51 FR 18788
Interim Final Rule Comment Period End	07/21/86	
NPRM	12/23/87	52 FR 48546
NPRM Comment Period End	02/22/88	
Final Action Effective	07/13/88	
Final Action	10/07/88	53 FR 39473

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elizabeth A. Stewart, Acting General Counsel, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW, Suite 501, Washington, DC 20036, **202 653-7834**

RIN: 3014–AA03

[FR Doc. 89-5842 Filed 04-21-89; 8:45 am]

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Monday
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Part XXI

Commission on Civil Rights

Semiannual Regulatory Agenda

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COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: U.S. Commission on Civil Rights.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 6-month period from April 1, 1989 through September 30, 1989. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda in general, contact: William H. Gillers, Solicitor, U.S. Commission on Civil Rights, 1121 Vermont Ave., NW., Room 606, Washington, DC 20425, (202) 376-8514.

Specific: For further information about any particular item on the agenda, contact the individual listed under that item.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "major" rules within the meaning of E.O. 12291 and no Regulatory Impact Analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public; nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required.

William H. Gillers,

Solicitor.

COMMISSION ON CIVIL RIGHTS (CCR) — Final Rule Stage

2817. IMPLEMENTATION OF FREEDOM OF INFORMATION REFORM ACT

Significance: Agency Priority

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552

CFR Citation: 45 CFR 704.1, (Revision)

Legal Deadline: Final, Statutory, April 25, 1987.

Abstract: The regulation implements the 1986 statutory amendments to the Freedom of Information Act (FOIA) (5 USC 552). The revised provisions modify the terms of exemption 7 and also establish new procedures regarding the charging and waiving of fees pursuant to a FOIA request.

Timetable:

Action	Date	FR Cite
NPRM	02/03/89	54 FR 5504
NPRM Comment Period End	03/06/89	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William H. Gillers, Solicitor, Commission on Civil Rights, 1121 Vermont Avenue, NW, Room 606, Washington, DC 20425, 202 376-8514

RIN: 3035-AA00.

2818. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504-HANDICAPPED DISCRIMINATION PROHIBITION

Legal Authority: 29 USC 794

CFR Citation: 45 CFR 707

Legal Deadline: None

Abstract: The proposed regulation provides for the implementation of Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Commission.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22534
NPRM Comment Period End	08/15/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Howard, General Counsel, Commission on Civil Rights, 1121 Vermont Avenue, NW, Room 600, Washington, DC 20425, 202 376-8351

RIN: 3035-AA01

[FR Doc. 89-6182 Filed 04-21-89; 8:45am]

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Monday
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Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-3537-9]

Regulatory Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA revises and issues the Regulatory Agenda semiannually, and it appears in the **Federal Register** each April and October. It provides specific information on the status of regulations that are under development, revision, and review at the Agency. The agenda is published to keep interested parties informed of the progress of EPA regulations.

ADDRESSES: If you want to be on the mailing list for future agendas, please call or write to Bridgette Dent, Regulation Management Branch, EPA, PM-223, Washington, DC 20460, (202) 382-5475.

If you have any suggestions for improving this publication, or need general information about the agenda, please call or write to Angela Suber, Regulation Management Branch, EPA, PM-223, Washington, DC 20460, (202) 382-7205.

FOR FURTHER INFORMATION CONTACT: For specific information on any item in the agenda, please contact the person listed with each entry.

SUPPLEMENTARY INFORMATION:

Statutes Covered in the Agenda

Asbestos Hazard Emergency Response Act (AHERA)
Atomic Energy Act (AEA)
Clean Air Act (CAA)
Clean Water Act (CWA)
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
Federal Food, Drug, and Cosmetics Act (FFDCA)
Hazardous and Solid Waste Amendments (HSWA)
Marine Protection, Research, and Sanctuaries Act (MPRSA)
Resource Conservation and Recovery Act (RCRA)
Safe Drinking Water Act (SDWA)
Superfund Amendments and Reauthorization Act (SARA)
Toxic Substances Control Act (TSCA)
Water Quality Act of 1987 (WQA)
General - Other Acts (including grant and procurement regulations that cut across several program areas)

Organization of the Agenda

The agenda is organized by statute, and in several cases it combines regulations with differing statutory authorities that have closely-related subject matter. For example, the Asbestos-in-Schools Inspection, Abatement, and Disposal regulation is written under AHERA, but appears with regulations under TSCA.

Within each statutory listing, the regulations are ordered numerically, by section number of the authorizing legislation. For example, all RCRA regulations under section 3001 appear before those under section 3006.

Within each statutory area the entries are further divided into four categories: (1) Prerule Stage; (2) Proposed Rule Stage; (3) Final Rule Stage; and (4) Completed Actions (regulations that EPA is deleting from the agenda because the Agency has completed, withdrawn, or postponed them indefinitely). Detailed information on each of these sections is presented below.

I. Prerulemakings

Prerulemaking actions include activities intended to determine whether or how to initiate rulemaking. These activities include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking, significant studies or analyses of the possible need for regulatory action, requests for public comment on the need for regulatory action, or important pre-regulatory policy proposals.

This section also includes existing EPA regulations that are now under review. The purpose of such reviews is to determine whether the Agency should revise the rule, rescind it, or leave it unchanged. When finished, the Agency will list these reviews in the completed section of the agenda. If EPA decides to revise or rescind the regulation, the action will appear in the proposed rule section of the next agenda, which will state the timetable for completing the revision or rescission.

For each regulation under review, the agenda provides the title, a short abstract, legal authority, CFR reference, any analysis EPA is preparing, contact person, and the schedule for completing the review. It also indicates the "review authority," which may be different from the regulation's statutory authority. EPA reviews regulations under various mandates, and some reviews satisfy more than one of these mandates. The principal mandates are:

Executive Order 12498 is intended to outline the Administration's annual Regulatory Program. It defines priority activities that federal departments and agencies will work on during the upcoming year. Its purpose is to minimize duplication and conflict among regulatory activities and enhance public understanding of the Administration's regulatory objectives.

Executive Order 12291 establishes the general policy that federal departments and agencies should review their regulations to ensure that the costs of the regulations are justified by their benefits. The Office of Management and Budget (OMB) reviews agency rules to assess their compliance with the Executive Order's goals of maximizing net social benefits.

The Regulatory Flexibility Act (RFA) requires that federal departments and agencies review existing regulations that have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governments, at least once every ten years. EPA invites public comment regarding RFA issues on the list of regulations EPA is reviewing.

Reviews EPA has targeted under the RFA are identified by a "Yes" in the "small entity" category. This year the agenda also identifies the type of entity affected (businesses, governmental jurisdictions, or organizations). Also identified is whether the regulatory action affects State, Local, or Federal governments. These changes will enable organizations representing local governments to make greater use of the agenda.

When the Agency completes reviews of regulations with a significant impact on small entities, the agenda includes an abstract that announces the Agency's decision of whether to revise, rescind, or leave the regulation unchanged. This announcement complies with the RFA and EPA's July 16, 1981 plan (46 FR 36930) for reviewing regulations under the Act.

The Paperwork Reduction Act (PRA) requires federal departments and agencies to review their information collection activities to assure that they need and will use the information and manage it efficiently. They must also ensure that the information to be collected is of high quality, appropriate for its intended use, and does not already exist at some other federal agency. In addition, the PRA requires agencies to review the cost of collecting the information, so that it will be held to a minimum for both the respondent and the agencies. Congress gave oversight authority to OMB. EPA must have OMB approval before it either collects information or requires that information be collected.

II. Proposed and Final Rules

This section includes all "significant" EPA regulations. Some are priority regulations under development that are subject to Executive Order 12498 or that the Agency has designated for priority development or revision. These regulations are also subject to certain provisions of E.O. 12291, RFA, and PRA.

EPA generally lists regulations in this category of the agenda once they are within a year of proposal or promulgation. Very important regulations under development will usually appear even if the scheduled publication dates are more than a year away.

Proposed and final rules appear as: (a) Actions that will create new CFR parts, subparts, or subsections. The word "revision" will appear in subsections; or (b) actions that revise or amend already existing CFR parts, subparts, or subsections. The word "revision" will appear in parentheses after the title of each regulation undergoing revision. All regulations appearing in the agenda for the first time are marked with bullets (●).

However, the listings exclude: (a) Specialized categories of actions (such as EPA approvals of State plans and other actions that do not apply nationally); and (b) routine actions (such as pesticide tolerances and minor amendments to existing rules).

For each proposed and final regulation, the agenda includes:
- Title
- Priority classification (if applicable)
- Legal authority
- CFR reference
- Legal deadline (if applicable)
- Short abstract
- Timetable of existing and scheduled actions
- Reference to small entity impacts (yes, no, or undetermined)
- Additional information (includes the FTS phone number for the Agency contact, the Start Action Request (SAR) number, which is assigned to the regulation for internal tracking purposes, and any other information that is not included in the abstract)
- Agency contact
- Analysis section (if the Agency is preparing a Regulatory Impact Analysis (RIA) and/or an analysis under the RFA)

III. Completed Actions

These are actions that appeared in the last agenda, which EPA is deleting because they are completed or are no longer under consideration. Information on these regulations and reviews of regulations is less detailed than for those that are still under consideration. Generally, entries include: (1) An explanation of why the Agency is deleting the regulation from the agenda, or (2) the publication date and **Federal Register** citation of the final rule.

Dated: February 24, 1989.

Robert H. Wayland, III,

Deputy Assistant Administrator for Policy, Planning and Evaluation.

EPA

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2819	SAR No. 2684 Pesticide Regulations for Pesticidal Transgenic Plants (Revision)	2070-AC02
2820	SAR No. 2351. Restricted Use Classification for Groundwater Contaminating Pesticides	2070-AB60
2821	SAR No. 2567. Registration Data Requirements for Pesticide Product Performance and Companion Pesticide Assessment Guidelines (Revision)	2070-AB82
2822	SAR No. 2337. Sale of Restricted Use Pesticides to Noncertified Persons	2070-AB48
2823	SAR No. 2446. Regulations on Certification of Pesticide Applicators (Revision)	2070-AB75
2824	SAR No. 2406. Pesticide Applicator Certification Fees for EPA Administered Programs	2070-AB76
2825	SAR No. 2445. Amendments to Experimental Use Permit Rule for Certain Microbial Pesticides (Revision)	2070-AB77
2826	SAR No. 2554. Policy on Advertising Claims Made for Registered Products	2070-AB88
2827	SAR No. 2659 Regulations on Storage, Transportation, and Disposal of Pesticides	2070-AB95
2828	SAR No. 2639 Child-Resistant Packaging Regulations (Revision)	2070-AB96
2829	SAR No. 2695 Responses to Petitions Received to Add to or Delete Chemicals from the List of Toxic Chemicals Under Section 313 of SARA	2070-AC00

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2830	SAR No. 2444. Food Additive Regulations Concerning Pesticide Residues: Procedural Regulations	2070-AB78
2831	SAR No. 2289. Labeling Requirements for Pesticides and Devices (Revision)	2070-AB46
2832	SAR No. 1703. FIFRA Good Laboratory Practice Standards (Revision)	2070-AB68

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Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2833	SAR No. 2338. Reporting Requirements for Risk/Benefits Information	2070-AB50
2834	SAR No. 1640. Worker Protection Standards (Revision)	2070-AA49

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2835	SAR No. 2314. Advertising of Unregistered Pesticides, Unregistered Uses of Registered Pesticides and FIFRA 24(c) Registrations	2070-AB47

Toxic Substances Control Act (TSCA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2836	SAR No. 2654 Scrap Metal Recycling Regulatory Controls	2070-AC01

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2837	SAR No. 2555. Toxic Chemical "Peak Release" Reporting Rule (Revision)	2070-AB86
2838	SAR No. 2658 Modification of Toxic Release Reporting under SARA 313, Title III	2070-AB98
2839	Decisions on Test Rules: Proposed Rules	2070-AB07
2840	SAR No. 2563. SARA Section 110 Chemicals Generic Test Rule	2070-AB79
2841	SAR No. 2657 Amendments to Test Rules and Consent Agreements	2070-AB97
2842	Chemical Specific Significant New Use Rules to Extend Provisions of Section 5(e) Orders	2070-AB27
2843	SAR No. 2247. Generic Significant New Use Rule for Acrylate Compounds	2070-AB56
2844	Rulemaking Concerning Certain Microbial Products ("Biotechnology")	2070-AB61
2845	SAR No. 2561. Proposal to Exempt Certain Microorganisms from PMN Requirements under TSCA 5(h)(4)	2070-AB89
2846	SAR No. 2146. Regulatory Investigation of Formaldehyde	2070-AB14
2847	SAR No. 2284. Regulatory Investigation of Chlorinated Solvents	2070-AB41
2848	SAR No. 2560. Procedures and Criteria for Termination of Polychlorinated Biphenyl Disposal Permits	2070-AB81

Toxic Substances Control Act (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2849	SAR No. 2245. Negotiated Consent/Procedural Test Rule (Revision)	2070-AB30
2850	SAR No. 1886. TSCA Good Laboratory Practice Standards (Revision)	2070-AB65
2851	Decision on Test Rules: Final Rules	2070-AB94
2852	SAR No. 1923. Follow-up Rules on Existing Chemicals	2070-AA58
2853	SAR No. 1978. Follow-up Rules on Non-5(e) New Chemicals	2070-AA59
2854	SAR No. 2375. Procedural Rule for Expedited New Chemical Follow-up	2070-AB64
2855	SAR No. 2150. Polychlorinated Biphenyls (PCBs): Applications for Exemptions from the Ban on Manufacturing, Processing, and Distribution	2070-AB20
2856	SAR No. 2296. Action Concerning Commercial and Industrial Use of Asbestos	2070-AB29
2857	SAR No. 2550. PCB Notification and Manifesting Rule	2070-AB83
2858	SAR No. 2178. Section 8 (a) Preliminary Assessment Information Rules	2070-AB08

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Toxic Substances Control Act (TSCA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2859	SAR No. 1139. Section 8(d) Health and Safety Data Reporting Rules	2070-AB11

Toxic Substances Control Act (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2860	SAR No. 2563. SARA Section 110 Chemicals Generic Test Rule	2070-AB84
2861	SAR No. 2375. Procedural Rule for Expedited New Chemical Follow-up	2070-AB67
2862	SAR No. 2297. PCB Spill Cleanup Recordkeeping Rule	2070-AB45
2863	SAR No. 2129. TSCA Section 8(a) Comprehensive Assessment Information Rule (CAIR)	2070-AB13

Clean Water Act (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2864	SAR No. 2497 Water Quality Standards - Revision	2040-AB56
2865	SAR No. 1427. Pharmaceuticals	2040-AA13
2866	SAR No. 2583. Non-Ferrous Manufacturing (Phase II)	2040-AB31
2867	SAR No. 2473. Effluent Guidelines for Pesticides Chemicals	2040-AB32
2868	SAR No. 1410 Effluent Guidelines for Pulp, Paper and Paperboard	2040-AB53
2869	SAR No. 2475. NPDES, Permits for Dredged or Fill Material, and Water Quality Standards – Revision for Indian Tribes	2040-AB36
2870	SAR No. 2587. Revisions to Regulations for Modification of Secondary Treatment Requirements for Municipal Discharge into Marine Waters	2040-AB29
2871	SAR No. 2493. NPDES Regulatory Revisions	2040-AB38
2872	SAR No. 2501. NPDES Permit Application Standard Form A and Short Form A (Revision)	2040-AB39
2873	SAR No. 2515. Citizen Suit Notice Regulation under the CWA	2040-AB50
2874	SAR No. 2496. Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AB58
2875	SAR No. 2189. Comprehensive Revisions to Ocean Dumping Regulations	2040-AA78

Clean Water Act (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2876	SAR No. 2163. National Pollutant Discharge Elimination System Sewage Sludge Permit Regulations; State Sludge Management Program Requirements	2040-AA73
2877	SAR No. 2479. Water Quality Planning and Management Grants for Indian Tribes	2040-AB35
2878	SAR No. 1722. Simplifying Construction Grants Regulations (Revision)	2040-AA70
2879	SAR No. 2585. Comprehensive Construction Grant Regulation Revision	2040-AB25
2880	SAR No. 1649. Effluent Guidelines for Offshore Oil and Gas Extraction Industry (Revision)	2040-AA12
2881	SAR No. 2525. Interpretation of Provisions of Section 304(1) of the CWA	2040-AB46
2882	SAR No. 2617 Estuary Program Grant Regulation	2040-AB54
2883	SAR No. 2200. NPDES Regulations: Stormwater Application Requirements (Revision)	2040-AA79
2884	SAR No. 2304. Future Effluent Guidelines – Standards Initiatives	2040-AA90
2885	SAR No. 2162. Sewage Sludge Use and Disposal Regulations	2040-AA74
2886	SAR No. 2546 Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions; Effective Dates; and Capacity Variances for Additional First Third Wastes (Second Sixth)	2040-AB55
2887	SAR No. 2342. EPA Administered Programs: NPDES; General Pretreatment Regulations for Existing and New Sources: Proposals to Implement the Domestic Sewage Study	2040-AA99

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Clean Water Act (CWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2888	SAR No. 2300. Guidelines for Classifying Ground Water under the EPA Ground Water Protection Strategy	2040-AA85
2889	SAR No. 1962. Secondary Treatment/Percent Removal Requirements for Combined Sewer Systems	2040-AB13
2890	SAR No. 2600. Nonferrous Metals Forming	2040-AB30
2891	SAR No. 1438 Effluent Guidelines for Aluminum Forming (Revision)	2040-AB52
2892	SAR No. 2580. Procedural Rules for Class I Administrative Penalty Proceedings under the CWA	2040-AB49
2893	SAR No. 2212. General Pretreatment Regulations: Response to PIRT (Revision)	2040-AA81
2894	SAR No. 2140. Ocean Incineration Regulation (Revision)	2040-AA72
2895	SAR No. 2301 Ocean Incineration Site Evaluation, Solicitation, and Designation	2040-AB28
2896	SAR No. 2546. Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions; Effective Dates for California List and Selected First Third Wastes	2040-AB47

Atomic Energy Act (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2897	SAR No.2590 Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes	2060-AC30
2898	SAR No. 1727. Environmental Protection Standards for Low-Level Radioactive Waste	2060-AA04
2899	SAR No. 2073. Residual Radioactivity	2060-AB31

Atomic Energy Act (AEA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2900	SAR No. 1162. Transuranium Elements	2060-AA01
2901	SAR No. 1525. Radiofrequency Radiation Guidance	2060-AA02
2902	SAR No. 1166. Groundwater Protection Standards for Inactive Uranium Tailing Sites	2060-AC03

Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2903	SAR No. 2426. Revisions to the Safe Drinking Water Act's Underground Injection Control Regulations	2040-AB27
2904	SAR No. 1755. National Primary Drinking Water Regulations: Synthetic Organic Chemicals and Inorganic Chemicals, Monitoring for Unregulated Contaminants (Phase II, 38 Contaminants)	2040-AA55
2905	SAR No. 2281. National Primary Drinking Water Regulation: Radionuclides	2040-AA94
2906	SAR No. 2340. National Primary Drinking Water Regulations: Disinfection, Disinfectants and Disinfection By-Products (Revision)	2040-AA97
2907	SAR No. 2630. National Primary Drinking Water Regulations: Inorganic and Organic Compounds (Phase V/25 Contaminants)	2040-AB11
2908	SAR No. 2381 Public Water Supply Supervision Program Administrative Enforcement Implementation Procedures	2040-AB07

Safe Drinking Water Act (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2909	SAR No. 2440. Indian Rule for the Wellhead Protection Program and Sole Source Aquifer Demonstration Program	2040-AB18
2910	SAR No. 2489. Revision to Public Water System Supervision (PWSS) State Primacy Requirements	2040-AB26

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Safe Drinking Water Act (SDWA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2911	SAR No. 2376. Criteria for Filtration and Disinfection of Surface Water and Primary Drinking Water Regulations for Microbiological Contaminants	2040-AB24
2912	SAR No. 2610 National Primary Drinking Water Regulations: Lead and Copper	2040-AB51

Safe Drinking Water Act (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2913	SAR No. 2211. Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions; Amendments To Technical Requirements for Class I Hazardous Waste Injection Wells	2040-AB03
2914	SAR No. 2131. Underground Injection Control Program on Indian Lands	2040-AA76
2915	SAR No. 2383. SDWA Indian Primacy Regulations	2040-AB04
2916	SAR No. 2378. Public Water System Supervision Program: Ban on Lead in Plumbing	2040-AB05
2917	SAR No. 2405. Criteria for Identifying Critical Aquifer Protection Areas	2040-AB23

Noise Control Act (NCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2918	SAR No. 2046. Withdrawal of Products from the Agency's Reports Identifying Major Noise Sources and Withdrawal of Proposed Rules	2060-AB24

Resource Conservation and Recovery Act (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2919	SAR No. 2434. Management of Used Oil	2050-AC17
2920	SAR No. 2572. Determination on Wastes from Combustion of Coal by Electric Utility Power Plants	2050-AC40

Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2921	SAR No. 2634 Oil Pollution Prevention Regulation	2050-AC62
2922	SAR No. 2332. Mandatory Inspections of Hazardous Waste Management Facilities	2050-AB59
2923	SAR No. 2524. No-Migration Variance for Restricted Hazardous Waste Land Disposal	2050-AC44
2924	SAR No. 2494. Municipal Waste Combustor Ash Management	2050-AC24
2925	SAR No. 2482. Identification and Listing of Hazardous Wastes - Deminimis exemption Levels	2050-AC30
2926	SAR No. 2651. Determination on Solid Waste from Selected Metallic Ore Processing Operations	2050-AC41
2927	SAR No. 2635 Exclusions for Waste Generated On-Board Ships (Revision)	2050-AC61
2928	SAR No. 2622 Hazardous Waste Management System, Amendment to Subpart C Rulemaking Petitions, use of Groundwater Data in Delisting Decisions	2050-AC65
2929	SAR No. 2676 Modification of Hazardous Waste Listing FO19	2050-AC78
2930	SAR No. 2078. Burning of Hazardous Waste in Boilers and Industrial Furnaces	2050-AA72
2931	SAR No. 2080. Liners and Leak Detection for Hazardous Waste Land Disposal Units	2050-AA76
2932	SAR No. 2303. Location Standards for Hazardous Waste Facilities	2050-AB42
2933	SAR No. 2390. Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80

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Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2934	SAR No. 2391. Landfill, Surface Impoundment, and Waste Pile Closures for Hazardous Waste Management Facilities	2050-AB81
2935	SAR No. 2453. Emission Controls for Hazardous Waste Incinerators	2050-AB90
2936	SAR No. 2461. Land Disposal Restrictions for Soil and Debris Containing Hazardous Wastes	2050-AC03
2937	SAR No. 2439. Permitting Experimental Facilities Conducting Hazardous Waste Research	2050-AC04
2938	SAR No. 2503. Corrective Action for Releases to Ground Water from Regulated Hazardous Waste Units	2050-AC28
2939	SAR No. 2570 Modification of the Definition of Wastewater Treatment Unit	2050-AC66
2940	SAR 2647 RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71
2941	SAR 2664 Definition of Hazardous Waste Tank, Surface Impoundment and Waste Pile (Revision)	2050-AC72
2942	SAR No. 2523. Land Disposal Restrictions for the Third Third of Scheduled Wastes	2050-AC73
2943	SAR No. 2675 Hazardous Waste Sump Requirements in Response to Rulemaking Petition (Revision)	2050-AC79
2944	SAR No. 2435. List (Phase 2) of Hazardous Constituents for Ground Water Monitoring	2050-AC05
2945	SAR No. 2158. Compliance Monitoring and Enforcement Requirements for State Hazardous Waste Management Programs	2050-AB01
2946	SAR No. 2527. New Requirements for State Hazardous Waste Programs	2050-AC51
2947	SAR No. 2389. Mining Waste Management Under RCRA Subtitle D	2050-AB77
2948	SAR No. 2465. Underground Storage Tanks Containing Hazardous Substances- Financial Responsibility Requirements	2050-AC15
2949	SAR No. 2642 Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements: Financial Test for Self Insurance for Local Government Entities	2050-AC67

Resource Conservation and Recovery Act (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2950	SAR No. 2653 Medical Waste Demonstration Tracking Program	2050-AC74
2951	SAR No. 2226. Identification and Listing of Hazardous Wastes - Petroleum Refinery Primary Treatment Sludge	2050-AB70
2952	SAR No. 2174 Identification and Listing of Hazardous Wastes - Wood Preserving and Surface Protection Waste	2050-AC43
2953	SAR No. 2157. Identification and Listing of Hazardous Waste - Methyl Bromide	2050-AC60
2954	SAR No. 2575 RCRA Definition of Solid Waste (Revision)	2050-AC68
2955	SAR No. 2224. Solid Waste Disposal Facility Criteria	2050-AB21
2956	SAR No. 2507. Test Methods for Evaluating Solid Waste (Manual SW846) Incorporation by Reference and Mandatory Good Laboratory Practices	2050-AC32
2957	SAR No. 2062. Identification of Hazardous Wastes by Toxicity Characteristic and Listing of Additional Organic Toxicants	2050-AA78
2958	SAR No. 2058 Forty-seven Analytical Methods Approved for Subtitle C RCRA Hazardous Waste Testing	2050-AC80
2959	SAR No. 2207. Disposal of Containerized Liquids in Hazardous Waste Landfills	2050-AA34
2960	SAR No. 2277. Ground-Water Monitoring at Hazardous Waste Facilities	2050-AB20
2961	SAR No. 2487. Delay in the Closure Period for Hazardous Waste Management Facilities	2050-AB71
2962	SAR No. 2388. Double Liner and Leachate Collection Systems for Hazardous Waste Land Disposal Units	2050-AB76
2963	SAR No. 2522. Land Disposal Restriction for Second Third of Scheduled Wastes	2050-AC55
2964	SAR No. 2397. Permitting Mobile Hazardous Waste Treatment Units	2050-AC20
2965	SAR No. 2521 Hazardous Waste Management System: Subpart C Requirements of Rulemaking Petitions (Revision)	2050-AC75
2966	SAR No. 2641 Underground Storage Tanks Containing Petroleum-Financial Responsibility Requirements; Suspension of Enforcement Procedures	2050-AC63

Resource Conservation and Recovery Act (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2967	SAR No. 2524. No-Migration Variance for Restricted Hazardous Waste Land Disposal	2050-AC56
2968	SAR No. 2174 Identification and Listing of Hazardous Wastes - Wood Preserving and Surface Protection Waste	2050-AC59
2969	SAR No. 2398. Changes to Interim Status and Permitted Facilities for Hazardous Waste Management; Procedures for Post-Closure Permitting	2050-AC29
2970	SAR No. 2510. Guideline for Federal Procurement for Retread Tires	2050-AC52
2971	SAR No. 2068. Sampling and Analysis Methods for Waste Testing	2050-AA82

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Resource Conservation and Recovery Act (RCRA)—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
2972	SAR No.2568 Air Toxicity Characteristic for Hazardous Waste	2050-AC23
2973	SAR No. 2483. Concentration-Based Relisting of Wastes from Explosives, Inorganic Chemicals, and Iron and Steel Industries	2050-AC31
2974	SAR No. 2572. Determination on Wastes from Combustion of Coal by Electric Utility Power Plants	2050-AC53
2975	SAR No. 2651. Determination on Solid Waste from Selected Metallic Ore Processing Operations	2050-AC54
2976	SAR No. 2207. Disposal of Containerized Liquids in Hazardous Waste Landfills	2050-AB12
2977	SAR No. 2303. Location Standards for Hazardous Waste Facilities	2050-AB67
2978	SAR No. 2436. Statistical Methods for Evaluating Ground Water Monitoring Data from Hazardous Waste Facilities	2050-AB92
2979	SAR No. 2460. Liability Requirements for Hazardous Waste Facilities - Other Instruments	2050-AC19
2980	SAR No. 1805. Permit Modifications for Hazardous Waste Management Facilities	2050-AC22
2981	SAR No. 2688 National Priorities List for Uncontrolled Hazardous Waste Sites - Federal Facility Sites Policy and Listing	2050-AC82
2982	SAR No. 2544. Trial Burns for Existing Hazardous Waste Incinerators	2050-AC50
2983	SAR No. 2611 Guideline for Procurement of Insulation Products Containing Recovered Materials	2050-AC69
2984	SAR No. 2255. Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements	2050-AB89
2985	SAR No. 2234. Underground Storage Tanks - State Program Approval	2050-AB31
2986	SAR No. 2643 Implementation of Title III on Indian Lands	2050-AC64

Clean Air Act (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2987	SAR No. 1920. NAAQS: Ozone (Review)	2060-AA96
2988	SAR No. 1004. NAAQS: Nitrogen Dioxide (Review)	2060-AC06
2989	SAR No. 1001. NAAQS: Carbon Monoxide (Review)	2060-AC07
2990	SAR No. 1010. NSPS: Organic Solvent Degreasing	2060-AA12
2991	SAR No. 1119. NSPS: Perchloroethylene Dry Cleaning	2060-AA14
2992	SAR No. 1695. NSPS: Organic Solvent Degreasing (111d)	2060-AA33
2993	SAR No. 2430. NSPS: Asphalt Processing and Asphalt Roofing Manufacturing Plants(Review)	2060-AC21
2994	SAR No. 1869. NESHAP:Cadmium	2060-AB92
2995	SAR No. 2360. NESHAP: Perchloroethylene Dry Cleaning	2060-AC27
2996	SAR No. 1695. NESHAP: Organic Solvent Degreasing	2060-AC31
2997	SAR No. 2365. Fuel and Fuel Additives: Health and Emissions Effects Testing	2060-AC10
2998	SAR No. 2629 General Requirements for Determination of Gasoline Metal Content	2060-AC52

Clean Air Act (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2999	SAR No. 2679 Protection of Stratospheric Ozone	2060-AC09
3000	SAR No. 1919. NAAQS: Lead (Review)	2060-AA95
3001	SAR No. 2577. NAAQS: Fine Particulate Matter	2060-AC32
3002	SAR No. 2608 New Source Review Requirements -- CMA Exhibit B	2060-AC54
3003	SAR No. 2164. NSPS: SOCMI Reactor Processes	2060-AB55
3004	SAR No. 2239. NSPS: Small Boilers	2060-AB95
3005	SAR No. 2424. NSPS: Municipal Waste Combustors	2060-AC26
3006	SAR No. 2535. NSPS: Municipal Landfills	2060-AC42
3007	SAR No. 1686. NESHAP: Coke Oven Emissions from Coke Oven Charging, Door Leaks, and Topside Leaks on Wet-Coal-Charged Batteries	2060-AA48
3008	SAR No. 1714. NESHAP: Asbestos Revision (Risk Reduction)	2060-AB51
3009	SAR No. 2181. Decisions on Regulating Various Air Pollutants	2060-AB56
3010	SAR No. 2181. NESHAP:Chromium	2060-AB83
3011	SAR No. 2386. NESHAP: Chromium--Industrial Cooling Towers	2060-AC12
3012	SAR No. 2386. NESHAP: Chromium--Electroplating	2060-AC14
3013	SAR No. 2363. NESHAP: Hazardous Organics	2060-AC19
3014	SAR No. 2484 NESHAP: Ethylene Oxide from Commercial Sterilization	2060-AC28
3015	SAR No. 2557. Guideline on Air Quality Models (Revision)	2060-AC43

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Clean Air Act (CAA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3016	SAR No. 2491. PSD Increments for PM10	2060-AC33
3017	SAR No. 2287. Emission Standards for Light-Duty Trucks (Revision)	2060-AB85
3018	SAR No. 2384. Decision on Air Pollution Regulatory Strategies for the Gasoline Marketing Industry	2060-AC04
3019	SAR No. 1315. Trading and Banking of Heavy-duty Engine NOx and PM Emission Credits	2060-AC05
3020	SAR No. 2665 Amendments to Motor Vehicle Imports Regulations Pertaining to Canadian Vehicles	2060-AC58
3021	SAR No. 2660 Interim Cold Ambient Air Temperature Carbon Monoxide Emission Standards	2060-AC59
3022	SAR No. 2589 Revisions to the Stack Height Regulation	2060-AC60
3023	SAR No. 2373. Test Procedures for Trap-Equipped Diesel Vehicles and Engines	2060-AC08
3024	SAR No. 2431. Nonconformance Penalties for 1991 through 1994 Model Year Emission Standards for Heavy-Duty Vehicles and Engines	2060-AC39
3025	SAR No. 2136. Emission Performance Warranty Regulations (Revision)	2060-AB53
3026	SAR No. 2637 Alternative Test Procedures for the Voluntary Aftermarket Part Certification Program	2060-AC50
3027	SAR No. 2366. Diesel Fuel Quality standards	2060-AC00
3028	SAR No. 2604 Fuel and Fuel Additives: Enforcement of Section 211(f)(4) Waivers	2060-AC53
3029	SAR No. 2240. Treatment, Storage, and Disposal Facility Area Source Air Emissions - RCRA Standards	2060-AB94

Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3030	SAR No. 5440 State Implementation Plans: Attainment Status Designations	2060-AC56
3031	SAR No. 1002. NAAQS: Sulfur Oxides (Revision)	2060-AA61
3032	SAR No. 1845. New Source Review Requirements -- CMA Exhibit A	2060-AA68
3033	SAR No. 2428. Federal Promulgation of State Implementation Plan to Protect Visibility	2060-AB82
3034	SAR No. 2298 New Source Review Requirements -- Surface Coal Mines and Fugitive Emissions	2060-AC40
3035	SAR No. 1618. NSPS: SOCMI Air Oxidation Process	2060-AA30
3036	SAR No. 1733. NSPS: Distillation Operations	2060-AA35
3037	SAR No. 1736. NSPS: Petroleum Refinery, FCC Regenerators	2060-AA36
3038	SAR No. 1691. NSPS: Polymer and Resin Manufacture	2060-AA37
3039	SAR No. 2044. NSPS: Automobile and Light-Duty Truck Coating Operations (Revision)	2060-AB22
3040	SAR No. 2083. NSPS: Fossil Fuel-Fired Steam Generators (Revision)	2060-AB29
3041	SAR No. 2237. NSPS: Polymeric Coating of Supporting Substrates	2060-AB67
3042	SAR No. 2559. State Implementation Plans: Approval of Post -1987 Ozone and Carbon Monoxide Plan Revisions for Areas Not Attaining the National Ambient Air Quality Standards NAAQS	2060-AB96
3043	SAR No. 2386. NESHAP: Chromium–Comfort Cooling Towers	2060-AC13
3044	SAR No. 2558. NESHAP: Benzene Reconsideration	2060-AC41
3045	SAR No. 2543. Rural Fugitive Dust Policy for PM10	2060-AC44
3046	SAR No. 2547. NESHAP: Radionuclides	2060-AC47
3047	SAR No. 1714 NESHAP for Asbestos (Compliance Revisions)	2060-AC57
3048	SAR No. 2112. Emission Standards and Test Procedures for Methanol-Fueled New Motor Vehicles	2060-AB28
3049	SAR No. 2318. Control of Excess Evaporative Emissions/Fuel Volatility	2060-AB89
3050	SAR No. 2143. Small-Volume Manufacturers Certification Procedure (Revision)	2060-AB54
3051	SAR No. 2145. Voluntary Aftermarket Parts Certification Regulations (Revision)	2060-AB58
3052	SAR No. 2638 Motor Vehicle Emissions Performance Warranty Short Tests	2060-AC51
3053	SAR No. 2214. Fuel and Fuel Additives: Gasoline Lead Content (Revision)	2060-AB60

Clean Air Act (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3054	SAR No. 2028. NSPS: Sewage Treatment Plants (Revision)	2060-AB05
3055	SAR No. 2186. NSPS: Cement Plants (Revision)	2060-AB38
3056	SAR No. 1696. NSPS: VOC Emissions from Petroleum Refinery Wastewater Systems	2060-AB81
3057	SAR No. 2387. NSPS: Coal Preparation Plants (Review)	2060-AB84
3058	SAR No. 1928. NSPS: Magnetic Tape Manufacturing	2060-AB88
3059	SAR No. 2421. PSD Regulations for NOx	2060-AC24

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Clean Air Act (CAA)—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3060	SAR No. 2416. Particulate Emission Standards for Certain 1987 and Later Model Year Light-Duty Diesel Trucks (Revision)	2060-AC18
3061	SAR No. 2385 Amendments to Selective Enforcement Auditing Regulations	2060-AC34
3062	SAR No. 2366. Diesel Fuel Quality standards	2060-AC11

Superfund (CERCLA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3063	SAR No. 2429. Reportable Quantities (RQs) for Substances on the Extremely Hazardous Substances List	2050-AC14
3064	SAR No. 2650 National Contingency Plan-Subpart K: A Roadmap to the NCP for Federal Facilities	2050-AC76
3065	SAR No. 2667 National Priorities List for Uncontrolled Hazardous Waste Sites - Update 8	2050-AC81
3066	SAR No. 2564. Response Claims Procedures for the Hazardous Substances Superfund	2050-AA90
3067	SAR No. 2498. Administrative Hearing Procedure for Superfund Claims	2050-AC26
3068	SAR No. 2674 Delisting Certain Chemicals from the List of Extremely Hazardous Substances (Revision)	2050-AC77
3069	SAR No. 2644 Emergency and Hazardous Chemical Inventory Forms and Community Right-to-Know Reporting Requirements; Implementation of Reporting Requirements for Indian Lands	2050-AB88

Superfund (CERCLA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3070	SAR No. 2336. Designation of Extremely Hazardous Substances as CERCLA Hazardous Substances	2050-AB62
3071	SAR No. 2411. Reporting Continuous Releases of Hazardous Substances	2050-AA46
3072	SAR No. 2104. Reportable Quantities for Releases of Potential Carcinogens and Other Hazardous Substances	2050-AA80
3073	SAR No. 2335. Reportable Quantities (RQs) for Releases of Radionuclides	2050-AB60
3074	SAR No. 2394. Reporting Exemptions for Federally Permitted Releases of Hazardous Substances	2050-AB82
3075	SAR No. 2538. Procedures for Planning and Implementing Off-Site Response Actions	2050-AC35
3076	SAR No. 2400. National Oil and Hazardous Substances Pollution Contingency Plan (NCP)	2050-AA75
3077	SAR No. 2566. Hazard Ranking System for Uncontrolled Hazardous Substance Releases	2050-AB73
3078	SAR No. 5358. National Priorities List for Uncontrolled Hazardous Waste Sites - Update 7	2050-AC16
3079	SAR No. 5433. National Priorities List (NPL) for Uncontrolled Hazardous Wastes Sites - Update 5	2050-AC45
3080	SAR No. 5434. National Priorities LIst (NPL) for Uncontrolled Hazardous Wastes Sites - Update 6	2050-AC47
3081	SAR No. 5357. National Priorities List for Uncontrolled Hazardous Waste Sites - RCRA Sites	2050-AC48
3082	SAR No. 0932. National Priorities List for Uncontrolled Hazardous Waste Sites - Federal Facility Policy and Listing	2050-AC57
3083	SAR No. 2455. Arbitration Procedures for Small Superfund Cost Recovery Claims	2050-AC36
3084	SAR No. 2495. Citizen Awards for Information on Criminal Violations under Superfund	2050-AC38
3085	SAR No. 2401. Technical Assistance Grants to Groups of Individuals at Superfund Sites	2050-AC10
3086	SAR No. 2464. Reporting Hazardous Substances Activity When Transferring Federal Real Property	2050-AC00
3087	SAR No. 2409. Reimbursement of Local Governments for Emergency Response to Hazardous Substance Releases	2050-AC11
3088	SAR No. 2427. Worker Protection Standards for Hazardous Waste Operations and Emergency Response	2050-AC12
3089	SAR No. 2511. Administrative Hearing Procedures for Class I Civil Penalties under CERCLA and the Emergency Planning Community Right to Know Act	2050-AC37
3090	SAR NO. 2512 Administrative Hearing Procedures for Class II Penalties under CERCLA and Emergency Planning and Community Right to Know Act	2050-AC39
3091	SAR No. 2615 Prior Notice of Citizen Suits Under CERCLA and the Emergency Planning and Community Right-to-know Act	2050-AC70

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Superfund (CERCLA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3092	SAR No. 2644 Emergency and Hazardous Chemical Inventory Forms and Community Right-to-Know Reporting Requirements; Implementation of Reporting Requirements for Indian Lands	2050-AC34

General—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3093	SAR No. 2609. Collection of Civil Penalties under Title II of the Toxic Substances Control Act, and the Asbestos Hazard Emergency Response Act	2020-AA14

General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3094	SAR No. 2196. Denial or Restriction of Disposal Sites (Revision)	2040-AB20
3095	SAR No. 5452 Evaluation Procedure for Award of Fixed Price Contracts for Commercial Supplies and Services	2030-AA09
3096	SAR No. 5451 Contractor Compliance with Information Resources Management Directives	2030-AA10
3097	SAR No. 5449 Implementation of Federal Acquisition Regulation Coverage on Ratification of Unauthorized Commitments	2030-AA12
3098	SAR No. 2683 Payment of Fee on Term Form Contracts	2030-AA15
3099	SAR No. 2662. Amendments to Part 22 Consolidated Procedural Rules	2020-AA13
3100	SAR No. 2195. Confidentiality Regulations: Special Rules Governing Certain Information Under FIFRA (Revision)	2020-AA06
3101	SAR 2536 Procedures and Requirements Implementing the National Environmental Policy Act for the Environmental Protection Agency's Research and Development Program	2030-AA14

General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3102	SAR No. 2551. Environmental Protection Agency Acquisition Regulation (EPAAR); Submission of General Financial and Organizational Information, and Purchasing System Information by Offerors	2030-AA06
3103	SAR No. 5450 Miscellaneous Delegations from the Contracting Authority	2030-AA11
3104	SAR No. 2652. EPCRA Inspection Authority and Procedures	2020-AA15
3105	SAR No. 2218. Nondiscrimination on the Basis of Age in Programs Receiving Financial Assistant from the EPA (Revision)	2090-AA09
3106	SAR No. 2476. Cooperative Agreements and Superfund State Contracts for Superfund Response Actions	2010-AA11
3107	SAR No. 2307. Notice Requirements for Citizen Suits under the SDWA	2040-AB59

General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3108	SAR No. 2552. Amending EPA Acquisition Regulation Rules Regarding Disclosure and Use of Information in Proposals	2030-AA08
3109	SAR No. 5445 Implementation of Federal Acquisition Regulation Coverage on Prompt Payment	2030-AA13
3110	SAR No. 2553. Contracting for Expert Services under the Superfund Amendment and Reauthorization Act (SARA) of 1986	2030-AA07

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Proposed Rule Stage

2819. ● PESTICIDE REGULATIONS FOR PESTICIDAL TRANSGENIC PLANTS (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136 /FIFRA 2: 7 USC 136a /FIFRA 3; 7 USC 136W /FIFRA 25; 7 USC 136c /FIFRA 5

CFR Citation: 40 CFR 152.20

Legal Deadline: None

Abstract: EPA will consider the need for an amendment to clarify that chemical pesticides produced by transgenic plants are not associated with a plant considered to be biological pest control agents and, therefore, may not be exempt from the provisions of FIFRA (the existing section 152.20 exempts from FIFRA regulation all plants that may be used as biological pest control agents). Instead, chemical pesticides produced by transgenic plants may receive regulatory oversight similar to that which is already in place for chemical pesticide products that are produced and applied by conventional means. The need for this regulation and its development will be coordinated with USDA/APHIS and other agencies, as appropriate.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2684

FTS:8-557-9307

Agency Contact: Fred Betz, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-769C), Washington, DC 20460, 703 557-9307

RIN: 2070–AC02

2820. RESTRICTED USE CLASSIFICATION FOR GROUNDWATER CONTAMINATING PESTICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136a /FIFRA 3; 7 USC 136d /FIFRA 6; 7 USC 136w /FIFRA 25

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: This rule will provide a scheme for identifying pesticides which may pose an unacceptable hazard because of the potential to leach into groundwater. The Agency will propose criteria for classifying such pesticides for restricted use. Restricted use pesticides generally may be applied only by state certified applicators.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2351.

FTS: 8-557-3942

Agency Contact: David Alexander, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, DC 20460, 703 557-3942

RIN: 2070–AB60

2821. REGISTRATION DATA REQUIREMENTS FOR PESTICIDE PRODUCT PERFORMANCE AND COMPANION PESTICIDE ASSESSMENT GUIDELINES (REVISION)

Legal Authority: 7 USC 136a/FIFRA 3; 7 USC 136w/FIFRA 25; 7 USC 136d/FIFRA 6

CFR Citation: 40 CFR 158.640

Legal Deadline: None

Abstract: The objective in revising the regulations is to further define the Agency's requirement for pesticide producers to submit qualitative/quantitative data on the field quality performance of their pesticides or alternative non-chemical practices. These data will be incorporated into the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). It is also expected that companion revised guidelines will provide protocols and methodologies for conducting the studies necessary to produce acceptable comparative performance data. Registrants may experience very minor cost increases to support registration of pesticide products. The benefits should be substantial in the form of better and more uniform data on pesticide product performance, for use by Agency analysts. Additionally, since testing of this nature is already conducted widely, improvements in protocols, methodologies, and standardization should benefit the regulated community as well.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2567.

FTS:8-557-3691

Agency Contact: Bernard A. Schneider, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-768C), Washington, DC 20460, 703 557-3691

RIN: 2070–AB82

2822. SALE OF RESTRICTED USE PESTICIDES TO NONCERTIFIED PERSONS

Legal Authority: 7 USC 136b /FIFRA 4: 7 USC 136j /FIFRA 12; 7 USC 136w /FIFRA 25

CFR Citation: 40 CFR 171.12

Legal Deadline: None

Abstract: This action is intended to develop regulations to allow the sale of restricted use pesticides to persons who are not certified under special circumstances as set forth by Congress in 1978. Regulatory development will be coordinated with the review of state plans under FIFRA Section 4 to determine both need and compatibility with State authorities and programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2337.

FTS: 8-557-7410

Agency Contact: Robert Bielarski, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-

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787C), Washington, D.C. 20460, 703 557-7410

RIN: 2070–AB48

2823. REGULATIONS ON CERTIFICATION OF PESTICIDE APPLICATORS (REVISION)

Legal Authority: 7 USC 136a /FIFRA 4; 7 USC 136b /FIFRA 4; 7 USC 136w /FIFRA 25

CFR Citation: 40 CFR 171

Legal Deadline: None

Abstract: This action is intended to revise existing regulations on certification of pesticide applicators. The current standards and requirements may need to be updated to clarify definitions and to reflect changes in technology and current needs in State programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Organizations

Government Levels Affected: State

Additional Information: SAR No. 2446.

FTS:8-557-7410

Agency Contact: John MacDonald, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-787C), Washington, DC 20460, 703 557-7410

RIN: 2070–AB75

2824. PESTICIDE APPLICATOR CERTIFICATION FEES FOR EPA ADMINISTERED PROGRAMS

Legal Authority: 31 USC 9701/FIFRA 4

CFR Citation: 40 CFR 171

Legal Deadline: None

Abstract: This rule is intended to implement a program for assessing fees for certification and training of commercial and private applicators who apply restricted use pesticides. Fees will be collected in States with Federally-administered pesticide certification and training programs, and will cover the costs of administering such programs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2406.

FTS:8-557-7410

Agency Contact: John MacDonald, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-787C), Washington, DC 20460, 703 557-7410

RIN: 2070–AB76

2825. AMENDMENTS TO EXPERIMENTAL USE PERMIT RULE FOR CERTAIN MICROBIAL PESTICIDES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136 /FIFRA 4

CFR Citation: 40 CFR 172

Legal Deadline: None

Abstract: EPA proposes to amend its experimental use permit regulations for pesticides to clarify the circumstances under which an experimental use permit is presumed not to be required and to specify that the presumption is based on risk. EPA also proposes to require notification before initiation of small-scale testing of certain genetically modified microbial pesticides. Each notification will be reviewed by the Agency, and a determination made as to whether an experimental use permit will be required. Environmental Bioassay Committees approved by EPA may participate in the review process. This notification scheme would implement provisions of the Agency's policy statement of June 26, 1986 (51 FR 23302), with some modifications, and is intended to provide sufficient oversight of the early testing of these microbial pesticides to mitigate any adverse human health or environmental effects.

Timetable:

Action	Date	FR Cite
NOTICE	02/15/89	54 FR 7026
NPRM	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2445.

FTS:8-557-9307

Agency Contact: Fred Betz, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-769C), Washington, DC 20460, 703 557-9307

RIN: 2070–AB77

2826. POLICY ON ADVERTISING CLAIMS MADE FOR REGISTERED PRODUCTS

Legal Authority: 7 USC 136j /FIFRA 12

CFR Citation: 40 CFR 153

Legal Deadline: None

Abstract: This rule interprets FIFRA section 12(a)(1)(B) which provides for the regulation of claims made when advertising registered pesticide products. The rule will establish standards for acceptable advertising claims with respect to claims made about the safety of the product.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2554.

FTS:8-557-7443

Agency Contact: Jean Jenkins, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), 703 557-7443

RIN: 2070–AB88

2827. REGULATIONS ON STORAGE, TRANSPORTATION, AND DISPOSAL OF PESTICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136q/FIFRA 19

CFR Citation: 40 CFR 165

Legal Deadline: Final, Statutory, December 24, 1991. Other, Statutory, December 24, 1990.
Regulations on container design and rinsate handling, as a part FIFRA 88, required by 12/24/91. Container study required - Report to Congress by 12/24/90.

Abstract: The 1988 amendments to FIFRA significantly expand EPA authority to regulate the storage, transportation, and disposal of pesticides. The Agency may exercise this authority through data requirements for pesticide registration, labeling provisions, procedures for recall of cancelled products, and other regulations for storage, transport, and disposal of pesticides, containers, and materials contaminated by pesticide residues.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2659

FTS:8-557-0481

Agency Contact: Bob Denny, Environmental Protection Agency, Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Pesticides and Toxic Substances (TS-766C), Washington, D.C. 20460, 703 557-0481

RIN: 2070–AB95

2828. CHILD-RESISTANT PACKAGING REGULATIONS (REVISION)

Legal Authority: 7 USC 138/FIFRA 25

CFR Citation: 40 CFR 157; 16 CFR 1700.15; 16 CFR 1700.20

Legal Deadline: None
EPA regulations should be concurrent with CPSC.

Abstract: These regulations will revise current Child Resistant Packaging regulations (CRP) to be consistent with 6 CRP protocol testing revisions the CPSC is proposing for its CRP regulations. Also, these regulations will discuss the implementation of these changes in terms of pesticide registrations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2639

FTS: 8-557-7700

Agency Contact: Rosalind L. Gross, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-769C), Washington, DC 20460, 703 557-7700

RIN: 2070–AB96

2829. ● RESPONSES TO PETITIONS RECEIVED TO ADD TO OR DELETE CHEMICALS FROM THE LIST OF TOXIC CHEMICALS UNDER SECTION 313 OF SARA

Legal Authority: 42 USC 11013 SARA 313

CFR Citation: 40 CFR 372

Legal Deadline: NPRM, Statutory, 00/00/00. Other, Statutory, 00/00/00.
For each of these petitions the Agency must either initiate rulemaking or provide an explanation for the denial in the Federal Register.

Abstract: These are various actions to grant or deny petitions received to add to or delete chemicals from the list of toxic chemicals under Section 313 of SARA. The Agency has 180 days to respond to petitions. At the end of 180 days, EPA must either grant the petition by initiating rulemaking or deny the petition with an explanation in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2695

FTS: 8-382-3667

Agency Contact: Susan Hazen, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-779), Washington, DC 20460, 202 382-3667

RIN: 2070–AC00

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — Final Rule Stage

2830. FOOD ADDITIVE REGULATIONS CONCERNING PESTICIDE RESIDUES: PROCEDURAL REGULATIONS

Significance: Regulatory Program

Legal Authority: 21 USC 346a/FFDCA 408; 21 USC 348/FFDCA 409

CFR Citation: 40 CFR 180

Legal Deadline: None

Abstract: This regulation will set forth procedures for which food additive tolerances, required by section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA), may be established, modified or revoked. The proposal also covers procedural rules governing the filing of objections, requests for hearings and hearing procedures. In the second phase, which will overlap the first, the Agency plans to develop a unified regulation that will deal with the substantive interpretations and criteria for deciding when tolerances or food additive regulations are needed, what data are needed to support a tolerance or food additive regulation and what criteria assumptions will be used by EPA to determine whether a tolerance or food additive regulation should be established, modified, or revoked.

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41126
NPRM Comment Period End	12/19/88	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2444.

FTS:8-557-7700

Agency Contact: Rosalind L. Gross, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-

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EPA—FIFRA — **Final Rule Stage**

767C), Washington, DC 20460, 703 557-7700

RIN: 2070–AB78

2831. LABELING REQUIREMENTS FOR PESTICIDES AND DEVICES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136a /FIFRA 3; 7 USC 136d /FIFRA 6; 7 USC 136w /FIFRA 25

CFR Citation: 40 CFR 156; 40 CFR 167

Legal Deadline: None

Abstract: This regulation will revise and expand the labeling requirements for pesticide products and devices. The revisions will provide for pesticide producers a comprehensive description of pesticide labeling requirements, and will result in better quality pesticide labeling for users.

Timetable:

Action	Date	FR Cite
NPRM	09/26/84	49 FR 37959
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2289.

FTS: 8-557-0944.

Agency Contact: Jean Frane, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, DC 20460, 703 557-0944

RIN: 2070–AB46

2832. FIFRA GOOD LABORATORY PRACTICE STANDARDS (REVISION)

Legal Authority: 7 USC 136a /FIFRA 3; 7 USC 136w /FIFRA 25; 21 USC 346a; 21 USC 348; 21 USC 371

CFR Citation: 40 CFR 160

Legal Deadline: None

Abstract: This action will expand the scope of the FIFRA Good Laboratory Practices (GLPs) to include 1) additional types of testing not covered by the current 40 CFR 160 and certain changes from the recent FDA GLP regulation amendments. Specifically, environmental fate, certain other chemistry tests, ecological effects and efficacy (as required by 40 CFR 158.160) are among the types of tests to be added.

Timetable:

Action	Date	FR Cite
NPRM	12/28/87	52 FR 48920
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1703.

FTS:8-382-7825

Agency Contact: Richard J. Mahler, Environmental Protection Agency, Pesticides and Toxic Substances, (EN-342), Washington, DC 20460, 202 382-7825

RIN: 2070–AB68

2833. REPORTING REQUIREMENTS FOR RISK/BENEFITS INFORMATION

Legal Authority: 7 USC 136d/FIFRA 6

CFR Citation: 40 CFR 153

Legal Deadline: None

Abstract: FIFRA Section 6(a)(2) requires that registrants report to EPA additional factual information regarding unreasonable adverse effects of their products. In September 1985, EPA revised its 1979 section 6(a)(2) enforcement policy by publishing a notice which expanded upon the types of factual information which must be reported and established uniform timeframes for compliance. In response to comments received on this notice, the Agency is revising it to clarify the types of information which registrants must report to EPA.

Timetable:

Action	Date	FR Cite
Codified Interpretive Rule		
Final Action	09/20/85	(50 FR 38115)
Enforcement Policy		
Final Action	07/12/79	(44 FR 40716)
Interpretive Rule		
Final Action	08/23/78	(43 FR 37611)
Revised Codified Interpretive Rule		
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2338.

FTS: 8-557-3942

Agency Contact: David Alexander, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, D.C. 20460, 703 557-3942

RIN: 2070–AB50

2834. WORKER PROTECTION STANDARDS (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136/FIFRA 3; 7 USC 136j/FIFRA 28; 7 USC 136w(a)/FIFRA 25

CFR Citation: 40 CFR 156; 40 CFR 170

Legal Deadline: None

Abstract: The Worker Protection Standards for agricultural pesticides will be revised to reflect new and developing requirements for the registration, reregistration and use of pesticides. The current standards need to be revised in order to increase the scope of coverage, update the provisions, clarify definitions and responsibilities, and improve implementation, compliance, and enforcement.

Timetable:

Action	Date	FR Cite
ANPRM	08/15/84	49 FR 32605
NPRM	07/08/88	53 FR 25970
Final Action	07/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1640.

FTS: 8-557-7666.

Agency Contact: Patricia Breslin, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-757C), Washington, DC 20460, 703 557-7666

RIN: 2070–AA49

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — **Completed Actions**

2835. ADVERTISING OF UNREGISTERED PESTICIDES, UNREGISTERED USES OF REGISTERED PESTICIDES AND FIFRA 24(C) REGISTRATIONS

CFR Citation: 40 CFR 153.12; 40 CFR 166.7

Completed:

Reason	Date	FR Cite
Final Action Interpretive Rulemaking	01/11/89	54 FR 1122

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Franklin Gee 703 557-9089

RIN: 2070–AB47

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Toxic Substances Control Act (TSCA) — **Prerule Stage**

2836. ● SCRAP METAL RECYCLING REGULATORY CONTROLS

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR 7

Legal Deadline: None

Abstract: Scrap metal recycling industry processing, distribution in commerce, and disposal activities are resulting in some releases of PCBs (and other hazardous substances such as lead) at levels exceeding current regulatory controls. The problem may affect all media (air, land, and water) and several hazardous materials and therefore will be best addressed by a broad mandate to evaluate the environmental regulatory options using cost/benefit analysis. The objective of the proposed rulemaking is twofold: 1) to provide relief to the shredding industry by proposing to authorize PCB-related activities that do not present unreasonable risks, and 2) to consider mechanisms under TSCA for reducing risks posed by other materials.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2654

FTS: 8-382-3866

An RIA and an RFA would not be statutorily required for this regulation because the rule would grant relief from the Toxic Substances Control Act (TSCA) processing, distributions in commerce and disposal requirements rather than impose addi- tional burdens on the regulated community. Nevertheless, we do plan to assess the economic impact of any proposed actions on industry, particularly small businesses, as part of our unreasonable risk analysis for TSCA.

Agency Contact: Martin P. Halper, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070–AC01

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Toxic Substances Control Act (TSCA) — **Proposed Rule Stage**

2837: TOXIC CHEMICAL "PEAK RELEASE" REPORTING RULE (REVISION)

Legal Authority: 42 USC 11013 /SARA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: This action proposes to add a "peak release" reporting element to the Toxic Chemical Release Inventory Reporting Form. Reporting of releases is of annual aggregate releases to all environmental media. The proposal addresses the issue of obtaining a more specific indication of this frequency and/or duration of releases in order to better assess risks to health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2555.

FTS:8-382-3667

Agency Contact: Susie Hazen, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-779), Washington, DC 20460, 202 382-3667

RIN: 2070–AB86

2838. ● MODIFICATION OF TOXIC RELEASE REPORTING UNDER SARA 313, TITLE III

Legal Authority: 42 USC 11013/SARA 0313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: This action proposes to add ten chemicals to the list of toxic chemicals under Section 313 of SARA. The addition of nine of these substances is based on concerns for carcinogenicity and chronic toxicity as reflected in determinations made under Section 102 of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA). EPA believes that these chemicals meet the criteria for addition to the list of toxic substances as established in Section 313(d)(2). EPA is also proposing a modification to include

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toluenediisocyanate (mixed isomers) on the same concern of health and environmental effects as the individual isomers already on the list.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2658

FTS:8-382-3667

Agency Contact: Susan Hazan, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-779), Washington, DC 20460, 202 382-3667

RIN: 2070–AB98

2839. DECISIONS ON TEST RULES: PROPOSED RULES

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: Other, Statutory. 12-month statutory deadline for ITC-designated chemicals

Abstract: The following table lists chemicals for which EPA will initiate rulemaking to require testing, obtain testing through negotiated consent orders, or publish a notice which provides the reasons for not doing so. The list includes chemicals which have been designated for priority testing consideration by the Interagency Testing Committee as well as those chemicals (i.e., recommended and non-designated chemicals) for which the 12-month statutory requirement does not apply. The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other EPA program offices and through EPA review processes.

Timetable:

Acid Blue 40 (ITC List 21) (SAR 5385)
NPRM 04/00/89
Acid Blue 45 (ITC list 21) (SAR 5386)
NPRM 04/00/89
Acrylates (SAR 5368)
NPRM 12/00/89
Aryl Phosphates (ITC List 2) (SAR 5369)
NPRM 12/00/89
Aryl Phosphates (ITC List 2)(SAR 5369)
ANPRM 12/29/83 (48 FR 57452)
C.I. Disperse Blue 79 (ITC List 19)(SAR 5370)
NPRM 12/00/89
Commercial Hexane (ITC List 16) (SAR 5389)
NPRM 11/09/88 (53 FR 45289)
Crotonaldehyde (ITC List 22) (SAR 5454)
NPRM 12/00/89
Disperse Blue 56 (ITC List 21) (SAR 5387)
NPRM 04/00/89
Disperse Red 60 (ITC List 21) (SAR 5388)
NPRM 12/00/89
Ethoxylated Quaternary Ammonium Compounds (SAR 5456)
NPRM 12/00/89
Glycidols (ITC List 3) (SAR 5375)
NPRM 10/00/89
Hexamethylene Diisocyanate (ITC List 22)(SAR 5453)
NPRM 04/00/89
Imidazolium Quaternary Ammonium Compounds (SAR 5455)
NPRM 12/00/89
Isopropanol (ITC List 19) (SAR 5376)
NPRM 03/16/88 (53 FR 8638)
Methyl Ethyl Ketoxime (ITC List 19) (SAR 5377)
NPRM 09/15/88 (53 FR 35838)
Methylolurea (ITC List 12)
NPRM 12/00/89
Methylolurea (ITC List 12) (SAR 5379)
ANPRM 05/21/84 (49 FR 21371)
Nonylphenol (SAR 5380)
NPRM 09/00/89
1,1,1-Trichloruethane (muta/neuro) (ITC List 2) (SAR 5384)
NPRM 06/00/89

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SEE SAR NUMBER LISTED NEXT TO EACH ACTION

FTS: 8-475-8130.

The following rules were deleted from the NPRM list of Test Rules: Anthroquinone Dyes (SAR 5367); Ethylbenzene (ITC List 20) (SAR 5373); Glycidols (ITC List 3) (SAR 5375); Oleyamine (Pharmocokinetics) (ITC List 13) (SAR 5381)

Agency Contact: Richard Troast, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070–AB07

2840. SARA SECTION 110 CHEMICALS GENERIC TEST RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: The regulation will set forth the policies and procedures for using the TSCA Section 4 testing authority to obtain toxicity and chemical fate testing to fill certain data needs identified in toxicity profiles of chemicals prepared pursuant to Section 110 of the Superfund Amendments and Reauthorization Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2563.

FTS:8-475-8130

Agency Contact: Richard Troast, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070–AB79

2841. ● AMENDMENTS TO TEST RULES AND CONSENT AGREEMENTS

Legal Authority: 15 USC 2603 /TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: This action will amend the testing consent order process to increase its efficiency. The consent order process was adopted by the Agency in June 1986. Based on experience to date, the Agency needs to make changes in the process to reduce the resources required for consent order negotiation. This rule would propose appropriate procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2657

FTS:8-475-8130

Agency Contact: Richard Troast, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-

778), Washington, DC 20460, 202 475-8130

RIN: 2070–AB97

2842. CHEMICAL SPECIFIC SIGNIFICANT NEW USE RULES TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Legal Authority: 15 USC 2604 /TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that in the absence of adequate safety data, the uncontrolled manufacture, import, processing, distribution, use or disposal of a PMN substance may present an unreasonable risk, it may issue a proposed order under section 5(e) to limit the aforementioned activities. However, section 5(e) orders apply only to the PMN submitter. Once the substance is placed on the TSCA chemical inventory, other persons are free to manufacture, import, or process the substance without controls. Therefore, EPA by rule, designates manufacture, import, or processing of the substances for use without the specified controls as a significant new use. These SNURs ensure that the original submitter is not at a competitive disadvantage and that no uncontrolled activities will occur without an opportunity for prior Agency review.

Timetable:

(83-906/908/909/910)
NPRM 09/28/84 (49 FR 38303)
(84-274) (see additional information for title) (SAR 5407)
NPRM 08/26/85 (50 FR 34505)
Final Action 06/00/89
(85-1176) (see additional information for title) (SAR 5404)
NPRM 06/00/89
(85-544) (see additional information for title) (SAR 5408)
NPRM 06/00/89
(85-564) (see additional information for title) (SAR 5405)
NPRM 06/00/89
(85-703) (see additional information for title) (SAR 5406)
NPRM 06/23/86 (51 FR 22831)
Final Action 06/00/89
Alkyl Aryl Phosphine (83-1023) (SAR 5413)
NPRM 09/20/84 (49 FR 36880)
Final Action 06/00/89
Alkyl Glycoether Acrylic Acid Derivative (84-27) (SAR 5414)
NPRM 12/24/84 (49 FR 49868)
Final Action 06/00/89
Brominated Aryl Alkyl Ether, Ethylated Amino (SAR 5415)
NPRM (83-906/908/909/910) 09/28/84 (49 FR 38303)
Final Action 06/00/89
Certain Acrylate and Methacrylate Chemicals (SAR 5416)
NPRM 03/27/85 (50 FR 12046)
Final Action 06/00/89
Certain Acrylate Chemicals (84-341-344) (SAR 5417)
NPRM 04/04/86 (51 FR 11591)
Final Action 06/00/89
Methylammonium n-Methyldithiocarbamate (84-1042) (SAR 5418)
NPRM 03/24/86 (51 FR 10027)
Final Action 06/00/89
N,N,N'N'-Tetrakis (oxiranylmethyl) (SAR 5420)
NPRM (84-7) 01/13/86 (51 FR 1396)
Final Action 06/00/89
Polyol Polyacrylate (85-718) (SAR 5419)
NPRM 06/00/89
Substituted Benzene, Halogenated (85-612) (SAR 5421)
NPRM 06/00/89
Substituted Benzene, Halogenated (84-660 and 84-704) (SAR 5422)
NPRM 03/18/86 (51 FR 9221)
Final Action 06/00/89
Substituted Bromothiophene (83-769) (SAR 5423)
NPRM 09/28/84 (49 FR 38310)
Final Action 06/00/89
Substituted Methylpyridine (83-237)(SAR 5424)
NPRM 02/06/84 (49 FR 4390)
Final Action 06/00/89
Substituted Polyester Resin (85-395)(SAR 5425)
NPRM 00/00/00
Substituted Tetrafluoro Alkanes (84-105/106/107) (SAR 5426)
NPRM 03/21/85 (50 FR 11384)
Final Action 06/00/89
2-Butenedioic Acid(z), (85-543) (SAR 5427)
NPRM 00/00/00
2-Propenoic Acid-3-Dimethylamino)-2,2-Dimethyl-Propyl (SAR 5428)
NPRM 00/00/00
2-Propenoic Acid, (85-546) (SAR 5429)
NPRM 00/00/00
2-Propenoic Acid, 3,3,5-Trimethylcyclohexylester (SAR 5430)
NPRM 00/00/00

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SEE SAR NUMBER LISTED NEXT TO EACH ACTION

FTS:8-382-3771.

(85-1176) Alcohols, C1-4, ethers with Polyethylent-polypropylene glycol mono (2-aminopropyl) ether, polymer with maleic anhydride and trimethylolpropane triacrylate

(85-564) Isocyanic acid, polymethylene-polyphenylene ester, polymer with 1,1-methylenebis ;4-isocyanatobenzene; 2-hydroxyethyl acrylate-blocked

(85-703) Poly 2-hydroelectric melamine, polymers with 5-isocyana to 1-isocyanatomethyl-1,3,3-trimethylcyclohexane 2-hydroxyethyl acrylate-blocked

(84-274) Poly(oxy-1,4-butanediyl)-alpha-(1-oxo-2-propenyl) -omega-{(1-oxo-2-propenyl)-oxy)

(85-544) 2-Propenoic Acid, 2-Methyl-7,7,9-Trimethyl-4,13-dioxo- 3,14-Dioxo-t,12-Diazahexadecane,1,16-Diyl Ester

Agency Contact: John Bowser, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3771

RIN: 2070–AB27

2843. GENERIC SIGNIFICANT NEW USE RULE FOR ACRYLATE COMPOUNDS

Legal Authority: 15 USC 2694 /TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: The generic acrylate significant new use rule may require any person who proposes to manufacture, import, or process an acrylate/methacrylate subject to the category definition contained within the proposed rule to notify EPA at least 90 days in advance of the initiation of a significant new use. The significant new use rule will apply to a subset of acrylates and methacrylates added to the inventory after the effective date of the rule. It will no longer be necessary to issue routine 5(e) orders or chemical specific SNURs for those acrylates covered by the rule.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAR No. 2247.

FTS: 8-382-3771

Agency Contact: Jane Talarico, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-

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794), Washington, D.C. 20460, 202 382-3771

RIN: 2070–AB56

2844. RULEMAKING CONCERNING CERTAIN MICROBIAL PRODUCTS ("BIOTECHNOLOGY")

Significance: Regulatory Program

Legal Authority: 15 USC 2604 /TSCA 5; 15 USC 2607 /TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 720; 40 CFR 721

Legal Deadline: None

Abstract: Under the authority of the Toxic Substances Control Act, the agency is proposing two separate regulatory actions for manufacturers, importers, and processors of certain microbial products of biotechnology. Under section 5, the Agency is proposing to amend its definition of "small quantities solely for research and development" contained in the Premanufacture Notification (PMN) Rule, thereby requiring persons to submit notices prior to testing new microorganisms in the environment. This amendment will require reporting for new microorganisms and will establish a special notification mechanism for experimental releases of microorganisms. EPA also is proposing significant new use notification requirements under section 5(a)(2), which would ensure that EPA will receive for review, notices of large scale releases of other microorganisms developed for significant new uses, and will review small-scale environmental releases, possibly with assistance from environmental biosafety committees (EBCs), peer review committees to be sponsored by researchers and accredited by EPA. (ABSTRACT CONTINUED UNDER ADDITIONAL INFORMATION)

Timetable:

Action	Date	FR Cite
NOTICE	02/15/89	54 FR 7027
NPRM	12/00/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: ABSTRACT CONT: The primary objective of these actions is to ensure uses of microorganisms in the environment do not affect human health and the environment in unforeseen and possible harmful ways.

SAR No. 2325 (SNUR for Certain Biotech Products); 2328 (PMN for Certain Biotech Products)

FTS:8-382-3856

Agency Contact: Ron Evans, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3856

RIN: 2070–AB61

2845. PROPOSAL TO EXEMPT CERTAIN MICROORGANISMS FROM PMN REQUIREMENTS UNDER TSCA 5(H)(4)

Significance: Regulatory Program

Legal Authority: 15 USC 1504/TSCA 5

CFR Citation: 40 CFR 723

Legal Deadline: None

Abstract: Under the authority of the Toxic Substances Control Act, the Agency will propose to exempt from review new microorganisms used in certain contained systems. The Agency considers it a priority to exempt from consideration organisms that can be shown to meet the statutory requirements under section 5(h)(4) of TSCA. To meet those requirements, it must be shown that the substances will not present unreasonable risks. EPA is considering public comment received and other evidence concerning use of microorganisms in closed systems and other controlled environments to determine whether those categories satisfy the requirements of section 5(h)(4) of TSCA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: SAR No. 2561.

FTS:8-382-3856

Agency Contact: Ron Evans, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3856

RIN: 2070–AB89

2846. REGULATORY INVESTIGATION OF FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6; 15 USC 2608 / TSCA 9

CFR Citation: 40 CFR 765

Legal Deadline: None

Abstract: As described in the Federal Register on May 23, 1984, the Agency has been investigating regulatory options for the reduction of three categories of exposure to formaldehyde: 1) residents exposed to formaldehyde emissions from wood products used in the construction of manufactured homes; 2) similarly exposed residents of conventional homes; 3) apparel manufacture employees exposed to formaldehyde released from treated fabrics. Because OSHA proposed a standard in December 1985 that applies to all occupational exposure, EPA has terminated its investigation with respect to apparel manufacturing employees. Investigation of risks from exposure to formaldehyde emissions from wood products is being conducted in consultation with HUD and CPSC. This investigation may lead to the initiation of various control alternatives, including section 9 referral to other agencies and/ or section 6 regulations.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/84	49 FR 21870
Section 9(d) and Notice of Termination for Apparel Workers	03/19/86	51 FR 9469
Section 9 Report, NPRM, or Statement of No Unreasonable Risk Regarding Wood Products	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2146.

FTS: 8-382-2134.

Agency Contact: George Semeniuk, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-2134

RIN: 2070–AB14

2847. REGULATORY INVESTIGATION OF CHLORINATED SOLVENTS

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6; 15 USC 2608 / TSCA 9

CFR Citation: 40 CFR 754

Legal Deadline: None

Abstract: EPA, in consultation with the Consumer Product Safety Commission, Occupational Safety and Health Administration, and Food and Drug Administration, is developing a comprehensive and integrated strategy for a regulatory investigation of methylene chloride and five other chlorinated solvents. In some cases, these chlorinated solvents are competitive and can be easily substituted for each other in a number of uses. The integrated effort is being conducted to reach general agreement on the risks associated with the solvents and to avoid ineffective risk management actions that may occur due to solvent switching or pollutant transfer among media which could be caused by piecemeal regulation. Data are being gathered for six solvents (methylene chloride, perchloroethylene, trichloroethylene, methyl chloroform, carbon tetrachloride, and CFC-113) and their potential substitutes. This regulatory investigation is focused on three major use categories: metal cleaning, paint stripping, and aerosol application. The investigation will determine whether coordinated regulatory controls are needed to eliminate or reduce exposure to these solvents.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42037
NPRM (Metal Cleaning)	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2284.

FTS: 8-382-3945.

Agency Contact: Larry Dorsey, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3777

RIN: 2070–AB41

2848. PROCEDURES AND CRITERIA FOR TERMINATION OF POLYCHLORINATED BIPHENYL DISPOSAL PERMITS

Legal Authority: 15 USC 2605/TSCA 6; 5 USC 556 et seq

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Under section 6(e) of TSCA, the Agency is considering establishing uniform procedures and criteria for the revocation of TSCA disposal permits. The regulation would establish uniform revocation procedures and criteria and thereby ensure consistency in permit revocation proceedings.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2560.

FTS:8-382-3866

Agency Contact: Martin Halper, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070–AB81

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Toxic Substances Control Act (TSCA)

Final Rule Stage

2849. NEGOTIATED CONSENT/PROCEDURAL TEST RULE (REVISION)

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: This amends the test rule development and exemptions procedural rule published October 10, 1984 (49 FR 39778) to allow for rulemaking to be conducted in a single phase (i.e., a proposed rule and a final rule covering both the effects for which testing is necessary and the testing methodology) and adds consent orders as a means of obtaining test data required under Section 4 of TSCA. In addition, this rule will simplify the procedures governing the development and implementation of testing requirements under 2-phase rulemaking, and amend the current procedures governing modification of test standards and schedules for tests required under test rules and testing consent agreements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/85	50 FR 20652
Interim Final Rule	06/30/86	51 FR 23706
Interim Final Rule (Technical Modification)	09/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2245.

FTS:8-475-8130.

Agency Contact: Richard Troast, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070–AB30

2850. TSCA GOOD LABORATORY PRACTICE STANDARDS (REVISION)

Legal Authority: 15 USC 2603 /TSCA 4

CFR Citation: 40 CFR 792

Legal Deadline: None

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Final Rule Stage

Abstract: This action would expand the scope of the existing rule to include: 1) testing conducted in the field which is not covered by the current 40 CFR 792, 2) TSCA section 4 consent agreements, 3) certain changes in the FDA GLP regulation amendment.

Timetable:

Action	Date	FR Cite
NPRM	12/28/87	52 FR 48933
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1886.

FTS:8-382-7825

Agency Contact: Richard J. Mahler, Environmental Protection Agency, Pesticides and Toxic Substances, (EN-342), Washington, DC 20460, 202 382-7825

RIN: 2070–AB65

2851. DECISION ON TEST RULES: FINAL RULES

Legal Authority: 15 USC 2603 /TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: The following table lists chemicals for which EPA has issued proposed test rules and will take final action under TSCA section 4. The Agency defines final action as promulgation of a test rule or withdrawal of a proposed test rule. (See also Decisions on Test Rules: Proposed Rules under RIN: 2070-AB07.)

Timetable:

Alkyl Phthalates (Enviro)(ITC List 1)(SAR 5365)
Final Action 10/29/87 (52 FR 41593)
Anilines (ITC List 4) (SAR 5366)
ANPRM 01/02/84 (49 FR 108)
Final Action 06/19/88 (53 FR 31804)
Cumene (ITC List 15) (SAR 5390)
NPRM 05/15/87 (52 FR 7854)
Final Action 07/27/88 (53 FR 28195)
Cyclohexane (ITC List 18) (SAR 5391)
NPRM 05/20/87 (52 FR 19096)
Cyclohexane(ITC List 18) (SAR 5391)
Final Action 06/00/89
Diethylene glycol butyl ether acrylate (ITC List 13) (SAR 5392)
ANPRM 11/19/84 (49 FR 45606)
NPRM 04/04/86 (51 FR 27880)
Final Action 02/26/88 (53 FR 5932)
Disodecyl Phenyl Phosphate (ITC List 17) (SAR 5371)
Final Action 02/24/89 (54 FR 8112)
Hexafluoropropylene Oxide (ItC List 2) (SAR 5395)
Final Action 04/00/89
Hexafluoropropylene Oxide (ITC List 2) (SAR 5395)
NPRM 12/30/83 (48 FR 57686)
Isopropanol (ITC List 19) (SAR 5376)
NPRM 03/16/88 (53 FR 8638)
Final Action 00/00/00
Mercaptobenzoethiazole (ITC List 15) (SAR 5396)
NPRM 11/06/87 (52 FR 53160)
Final Action 09/07/88 (53 FR 34514)
Methyltert-butyl ether (ITC List 19)(SAR 5378)
Final Action 03/31/88 (53 FR 10391)
Octamethylcyclotetrasiloxane (ITC List 15) (SAR 5398)
NPRM 10/30/85 (50 FR 45123)
Final Action 01/11/89 (54 FR 818)
Oleylamine (Test Standards) (ITC List 13) (SAR 5399)
NPRM 08/24/87 (52 FR 31962)
Final Action 12/01/88 (53 FR 48542)
OSW Generic Test Rule (SAR 5400)
NPRM 05/29/87 (52 FR 20336)
Final Action 06/15/88 (53 FR 22300)
Pentabromoethylebenzene (ITC List 15) (SAR 5401)
NPRM 11/13/85 (50 FR 46785)
Final Action 04/00/89
Phenylenediamines (ITC List 6) (SAR 5382)
NPRM 01/06/86 (51 FR 472)
NPRM 01/14/86 (53 FR 913)
Final Action 12/00/89
Tributyl Phosphate (ITC List 19) (SAR 5383)
Final Action 12/00/89
Triethylene glycol monomethyl, monoethyl (SAR 5402)
NPRM 05/15/86 (51 FR 17883)
Final Action 00/00/00
Vinylidene Chloride (SAR 5403)
NPRM 08/12/86 (51 FR 28840)
Final Action 00/00/00
2,6 Di-tert-butylphenol (ITC List 18)(SAR 5394)
NPRM 06/25/87 (52 FR 23862)
Final Action 04/00/89

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SEE SAR NUMBER LISTED NEXT TO EACH ACTION

FTS:8-475-8130

Agency Contact: Richard Troast, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070–AB94

2852. FOLLOW-UP RULES ON EXISTING CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under TSCA section 5 and/or 8 to require reporting by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Aromaticdiamine and Polyimide Precursors
NPRM 00/00/00
Ethylenediaminetetra (Methylenephosphonic Acid) and its Salts
NPRM 04/29/88 (53 FR 15428)
Final Action 10/02/88 (53 FR 41335)
Pentabromoethylbenzene
NPRM 11/22/88 (53 FR 47228)
Final Action 08/04/89
4-Chloro-2-methylbenzenamine
NPRM 11/16/88 (53 FR 36079)
Final Action 05/00/89

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1923.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070–AA58

2853. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to follow the commercial development of selected new chemicals that have completed premanufacture notice review. EPA will issue rules on new chemicals of concern as they are identified to require follow-up reporting under TSCA Section 5 or 8, by the manufacturers and processors of the chemicals.

Timetable:

Alkyl, Sulfonic Acid, Ammonium Salt (84-1056)
NPRM 06/11/86 (51 FR 21199)
Final Action 00/00/00

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Dinitrophenyl Azo-2,4-Diamino-5-Methoxybenzene Derivatives
NPRM 10/25/84 (49 FR 42960)
Final Action 00/00/00
Diphenyl-2,4,6-Trimethylbenzol Phosphine Oxide (87-586)
NPRM 02/02/88 (53 FR 2857)
Final Action 00/00/00
1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)
NPRM 12/08/87 (52 FR 46496)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1976.

FTS: 8-382-3771.

Agency Contact: John Bowser, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, D.C. 20460, 202 382-3771

RIN: 2070–AA59

2854. PROCEDURAL RULE FOR EXPEDITED NEW CHEMICAL FOLLOW-UP

Significance: Regulatory Program

Legal Authority: 15 USC 2604 /TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: This rulemaking would establish criteria and procedures by which certain chemicals could be administratively added to or withdrawn from a list of chemicals subject to section 5(a)(2) of TSCA. This would reduce the time and resources required to regulate individual chemicals under the new chemical follow-up program.

Timetable:

Action	Date	FR Cite
NPRM	04/29/87	52 FR 15594
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2375.

FTS:8-382-3771

Agency Contact: John Bowser, Environmental Protection Agency, Pesticides and Toxic Substances, TS-794, Washington, DC 20460, 202 382-3771

RIN: 2070–AB64

2855. POLYCHLORINATED BIPHENYLS (PCBS): APPLICATIONS FOR EXEMPTIONS FROM THE BAN ON MANUFACTURING, PROCESSING, AND DISTRIBUTION

Legal Authority: 5 USC 556 / TSCA 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(b) of TSCA provides that the Administrator may grant, by rule, exemptions from the prohibitions on the manufacture, processing and distribution in commerce of PCBs upon finding (1) that granting the exemption will not pose an unreasonable risk of injury to health or the environment, and (2) that good faith efforts have been made to develop a PCB substitute which does not pose an unreasonable risk of injury to health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	08/24/88	53 FR 32326
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2150.

FTS:8-382-3866

Agency Contact: Martin Halper, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070–AB20

2856. ACTION CONCERNING COMMERCIAL AND INDUSTRIAL USE OF ASBESTOS

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: Asbestos is a known human carcinogen. Persons are exposed to asbestos from releases to the environment during all phases of the lifecycle of asbestos products. Because of the serious risk presented to many people from exposure to asbestos during the lifecycle of asbestos products, EPA has proposed a rule under Section 6 of TSCA to ban certain asbestos products for which substitutes are currently available and to phase out all or most asbestos mining and importation over 10 years.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/79	44 FR 60057
NPRM	01/29/86	51 FR 3738
Final Action	04/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2296.

FTS: 382-3862.

Agency Contact: John Rigby, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3862

RIN: 2070–AB29

2857. PCB NOTIFICATION AND MANIFESTING RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2605/TSCA 6; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Under the authority of TSCA, EPA is considering rulemaking which would require that all PCB wastes be manifested for disposal. The purposes of the regulation would be 1) to obtain information about handlers and storers of PCB wastes; and 2) to track shipment of wastes containing PCBs. The rulemaking will also consider imposing new requirements on commercial storers of PCB wastes.

Timetable:

Action	Date	FR Cite
NPRM	09/26/88	53 FR 37436
Final Action	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2550.

FTS:8-382-3866

Agency Contact: Martin Halper, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-

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798), Washington, DC 20460, 202 382-3666

RIN: 2070–AB83

2858. SECTION 8 (A) PRELIMINARY ASSESSMENT INFORMATION RULES

Legal Authority: 15 USC 2607a / TSCA 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the TSCA Section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712). These chemicals are identified by OTS, other EPA offices, and other Agencies, as well as chemicals recommended by the Interagency Testing Committee (ITC) on the TSCA Section 4(e) priority list. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. It will also support risk assessment and test rule decisions.

Timetable:

Pesticide Inerts
NPRM 05/14/87 (52 FR 18245)
Final Action 02/28/89 (54 FR 8484)
23rd ITC List Chemicals
Final Action 11/16/88 (53 FR 18211)
24th ITC List Chemicals
Final Action 05/00/89

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2178.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20640, 202 382-3436

RIN: 2070–AB08

2859. SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Legal Authority: 15 USC 2607(d)/TSCA 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and mixtures subject to the requirements of the TSCA Section 8(d) Health and Safety Data Reporting Rule. These chemicals are identified by OTS, other EPA offices, other Agencies, as well as chemicals recommended by the Interagency Testing committee (ITC) on the TSCA Section 4(e) Priority List. Manufacturers, importers, and processors of listed substances must submit unpublished health and safety data on those listed substances.

Timetable:

Health and Safety Data Reporting Period Terminations
Final Action 09/00/88 (53 FR 38642)
Pesticide Inerts
NPRM 05/14/87 (52 FR 18245)
Final Action 02/28/89 (54 FR 8484)
23rd ITC List Chemicals
Final Action 11/00/88 (53 FR 18211)
24th ITC List Chemicals
Final Action 05/00/89

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1139.

FTS: 8-382-3938.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070–AB11

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Toxic Substances Control Act (TSCA) — Completed Actions

2860. SARA SECTION 110 CHEMICALS GENERIC TEST RULE

Significance: Regulatory Program

CFR Citation: 40 CFR 790

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2070-AB79		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Troast 202 475-8130

RIN: 2070–AB84

2861. PROCEDURAL RULE FOR EXPEDITED NEW CHEMICAL FOLLOW-UP

Significance: Regulatory Program

CFR Citation: 40 CFR 721

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2070-AB64		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Bowser 202 382-3771

RIN: 2070–AB67

2862. PCB SPILL CLEANUP RECORDKEEPING RULE

CFR Citation: 40 CFR 761

Completed:

Reason	Date	FR Cite
Withdrawn	02/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin Halper 202 382-3866

RIN: 2070–AB45

2863. TSCA SECTION 8(A) COMPREHENSIVE ASSESSMENT INFORMATION RULE (CAIR)

Significance: Regulatory Program

CFR Citation: 40 CFR 712

Completed:

Reason	Date	FR Cite
Final Action	12/22/88	53 FR 51698

Small Entities Affected: None

EPA—TSCA — Completed Actions

Government Levels Affected: Federal

Agency Contact: Barbara Ostrow 202 382-3838

RIN: 2070–AB13

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Water Act (CWA) — Proposed Rule Stage

2864. ● WATER QUALITY STANDARDS - REVISION

Significance: Agency Priority

Legal Authority: 33 USC 1313(c) /CWA 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: This action will establish requirements for the adoption of criteria for toxic pollutants in water quality standards pursuant to Section 303(c)(2)(b) of the CWA, thus bringing the water quality standards regulation into compliance with the CWA, as amended by the water quality act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	09/30/89	
Final Action	09/30/90	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2497

Agency Contact: David K. Sabock, Environmental Protection Agency, Water, 401 M St., S.W. (WH585), Washington, D.C. 20460, 202 475-7315

RIN: 2040–AB56

2865. PHARMACEUTICALS

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 439

Legal Deadline: None

Abstract: The Agency will reformulate NSPS as appropriate concurrent with rulemaking to amend BAT and PSES in accordance with future Agency action on 304(m).

Timetable:

Action	Date	FR Cite
NPRM	11/26/82	47 FR 53584
NPRM NSPS	10/27/83	48 FR 49832
Final Action	10/27/83	48 FR 49808
NOTICE	11/01/83	48 FR 50322
NOTICE	01/10/84	49 FR 1190
NPRM BCT Cost	03/09/84	49 FR 8967
NOTICE	04/26/84	49 FR 17978
NOTICE New Data	07/02/84	49 FR 27145
NOTICE	01/31/85	50 FR 4513
NOTICE	05/01/85	50 FR 18486
NOTICE New Data	09/09/85	50 FR 36638
Final Action BCT	12/16/86	51 FR 45094
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1427.

FTS:8-382-7182.

Agency Contact: Frank Hund, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7182

RIN: 2040–AA13

2866. NON-FERROUS MANUFACTURING (PHASE II)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 421

Legal Deadline: None

Abstract: The Agency will propose and promulgate amendments to the regulation previously promulgated on September 20, 1985 (50 FR 38276). These amendments are in response to settlements with six petitioners and will affect six subcategories, primary beryllium subcategory, primary molybdenum and rhenium subcategory, second molybdenum and vanadium subcategory, secondary precious metals subcategory and secondary tungsten and cobalt subcategory. The amendments will revise BPT, BAT, NSPS, and standards for pretreatment to limit the discharge of pollutants from these subcategories.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2583.

FTS:8-382-7126

Agency Contact: Ernst P. Hall, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040–AB31

2867. EFFLUENT GUIDELINES FOR PESTICIDES CHEMICALS

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 455

Legal Deadline: Final, Statutory, December 31, 1986.
Date contained in Water Quality Act of 1987

Abstract: On October 4, 1985 the EPA promulgated a final regulation establishing BAT, NSPS, PSES, PSNS for the pesticide industry under the Clean Water Act. On July 25, 1986 the final regulation was remanded to the EPA by the Eleventh Circuit Court of Appeals in response to a joint motion filed by the Agency and other parties to litigation challenging the regulation. EPA removed the BAT, NSPS, PSNS, and PSES pesticide regulation from the Code of Federal Regulations at the direction of the Court, and informed the public that the regulation is no longer effective (December 15, 1986; 51 FR 44911). The Agency intends to establish new effluent limitation guidelines and standards for the pesticide manufacturers and formulators/packagers industry in a future rulemaking. The BCT limitations published on April 25, 1978 and September 29, 1978, are still effective.

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2473.

FTS:8-382-7156

Agency Contact: Thomas Fielding, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7156

RIN: 2040–AB32

2868. EFFLUENT GUIDELINES FOR PULP, PAPER AND PAPERBOARD

Legal Authority: 33 USC 1311 /CWA 301; 33 USC 1314 /CWA 304; 33 USC 1316 /CWA 306; 33 USC 1317 /CWA 307; 33 USC 1361 /CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: The Agency will review existing BPT, BAT, PSES, PSNS, and NSPS regulations to ensure adequate control of discharges of toxic, conventional and nonconventional pollutants from existing and new source dischargers in the pulp, paper, and paperboard industry.

Timetable:

Action	Date	FR Cite
NPRM (BPT)	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1410

FTS:8-382-7184

Agency Contact: Wendy Smith, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7184

RIN: 2040–AB53

2869. NPDES, PERMITS FOR DREDGED OR FILL MATERIAL, AND WATER QUALITY STANDARDS—REVISION FOR INDIAN TRIBES

Significance: Regulatory Program

Legal Authority: 33 USC 1251 /CWA 518; 33 USC 1313; 33 USC 1342; 33 USC 1344; 33 USC 1378

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 131; 40 CFR 230; 40 CFR 231; 40 CFR 232; 40 CFR 233

Legal Deadline: Final, Statutory, August 14, 1988.

Abstract: These rules will establish the procedures by which an Indian tribe can qualify for treatment as a state for the purposes of CWA sections 303, 401, 402, and 404. The revised water quality standards regulation will also establish a mechanism to resolve unreasonable consequences arising from tribes and states adopting differing water quality standards for common bodies of water.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
Final Action	12/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: SAR No. 2475.

FTS:8-475-7315

Agency Contact: David Sabock, Environmental Protection Agency, Water, (WH-585), Washington, DC 20460, 202 475-7315

RIN: 2040–AB36

2870. REVISIONS TO REGULATIONS FOR MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR MUNICIPAL DISCHARGE INTO MARINE WATERS

Legal Authority: 33 USC 1311(h)/CWA 301(h)

CFR Citation: 40 CFR 125

Legal Deadline: None

Abstract: The revisions to the regulations primarily are intended to respond to statutory changes made to sec. 301(h) of the Clean Water Act (33 USC 1311(h)), which governs secondary treatment waivers for municipal discharges into marine waters. The statutory changes to be addressed include, among other things, new requirements for minimum treatment levels and additional requirements for pretreatment programs for certain waiver applicants. In addition, the Agency is considering revising the regulations to address more specifically procedures and requirements for the renewal of secondary treatment waivers. The revised regulations will affect only the limited number of municipal treatment plants which met the 1982 statutory deadline for applying for a secondary treatment waiver.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	10/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: SAR No. 2587.

FTS:8-475-7134

Agency Contact: Virginia Fox-Norse, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 475-7129

RIN: 2040–AB29

2871. NPDES REGULATORY REVISIONS

Legal Authority: 33 USC 1342 /CWA 402

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125; 40 CFR 403; 40 CFR 434

Legal Deadline: None

Abstract: This action will revise the NPDES Regulations pursuant to requirements contained in the 1987 Water Quality Act. In addition, several other changes will be made to clarify existing requirements and policies. These revisions will not encompass requirements mandated by Section 406 (sewage sludge) of the 1987 Water Quality Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2493.

FTS:8-475-9524

Agency Contact: Gary Hudiburgh, Environmental Protection Agency,

Water, (EN-336), Washington, DC 20460, 202 475-9524

RIN: 2040–AB38

2872. NPDES PERMIT APPLICATION STANDARD FORM A AND SHORT FORM A (REVISION)

Legal Authority: 33 USC 1342/CWA 402

CFR Citation: 40 CFR 122.21(j)

Legal Deadline: None

Abstract: This action will revise the current NPDES Permit Application Standard Form A (municipal) and Short Form A (municipal) to reflect amendments to the Clean Water Act and changes in program requirements and emphasis. The new application forms will replace the old versions and enable permit writers to obtain more pertinent information regarding expected discharges and the environmental impact of proposed operations.

Timetable:

Action	Date	FR Cite
Municipal forms		
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2501.

FTS:8-475-3716

Agency Contact: Claudia O'Brien, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 245-3716

RIN: 2040–AB39

2873. CITIZEN SUIT NOTICE REGULATION UNDER THE CWA

Legal Authority: 33 USC 1365 /CWA 505

CFR Citation: 40 CFR 135

Legal Deadline: None

Abstract: This regulation will specify on whom the copies of CWA citizen suit complaints and consent decrees should be served, the manner of service, and the addresses of such persons. This rule will amend existing 40 CFR 135.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	12/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: SAR No. 2515.

FTS:8-382-2949

Agency Contact: David Drelich, Environmental Protection Agency, Water, LE-134W, Washington, DC 20460, 202 382-2949

RIN: 2040–AB50

2874. ● GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Legal Authority: 33 USC 1251 /CWA 301, 302, 304(h), 307, 501(a), and 502

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This rule will amend 40 CFR 136 by adding new measurements end new test procedures for the analysis of pollutants under section 304(h) of the Clean Water Act. This rule will add the following: 1. methods to measure the toxicity of pollutants in effluents and receiving waters (including short-term methods for estimating the acute and chronic toxicity to freshwater and marine organisms); 2. methods to measure mutagenicity; 3. methods for monitoring viruses in wastewaters and sludges; and 4. updating citations to microbiological methods.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2496.

FTS:8-684-7306

Agency Contact: James J. Lichtenberg, Office of Research and Development, Environmental Monitoring Systems Laboratory, Environmental Protection Agency, Water, Cincinnati, Ohio 45268, 513 569-7891

RIN: 2040–AB58

2875. COMPREHENSIVE REVISIONS TO OCEAN DUMPING REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq /MPRSA

CFR Citation: 40 CFR 220 to 229

Legal Deadline: None

Abstract: These amendments are necessary to clarify the existing regulations, incorporate program experience, and respond to statutory amendments and the results of two lawsuits. Those lawsuits are the City of New York decision (543 F. Supp.1084), which involved the consideration of the need for ocean dumping and availability and impacts of land-based alternatives, and NWF v. Costle decision (629 F. 2d 118), which involved dredged material issues. Among other things, the statutory amendments to be addressed in the Regulatory Revisions include the Ocean Dumping Ban Act of 1988 (P.L. 100-688), provisions applicable to emergency and research permits, use of sewage sludge sites off the New York/New Jersey coastline, and the ocean disposal of low-level radioactive waste.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: SAR No. 2189.

FTS: 8-475-7126

Agency Contact: Darrell Brown, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 475-7180

RIN: 2040–AA78

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ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Water Act (CWA)

Final Rule Stage

2876. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM SEWAGE SLUDGE PERMIT REGULATIONS; STATE SLUDGE MANAGEMENT PROGRAM REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 33 USC 1251 et seq

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 501

Legal Deadline: Final, Statutory, December 15, 1986. Final, Judicial, April 20, 1989.
12/15/86 for state program approval procedures (Water Quality Act of 1987).

Abstract: The Agency originally proposed State Sludge Management Program requirements in 1986. The proposal includes: 1) program approval procedures; and 2) the elements of an approvable State program. The 1988 reproposal reflects new requirements of the Water Quality Act of 1987, and contains: 1) requirements and approval procedures for state sludge programs, and 2) sludge permit requirements and procedures.

Timetable:

Action	Date	FR Cite
NPRM	02/04/88	51 FR 4458
Reproposal	03/09/88	53 FR 7642
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2163.

FTS:8-475-9529

Agency Contact: Martha Kirkpatrick, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9529

RIN: 2040–AA73

2877. WATER QUALITY PLANNING AND MANAGEMENT GRANTS FOR INDIAN TRIBES

Significance: Regulatory Program

Legal Authority: 42 USC 1324 /CWA 314

CFR Citation: 40 CFR 35; 40 CFR 130

Legal Deadline: Final, Statutory, August 4, 1988.

Abstract: This regulation will enable Indian Tribes to be treated as states for the following programs: Water Pollution Control Program Grants (Section 106), Water Quality Management Planning Grants Section 205(j), Clean Lakes Implementation Grants (Section 314) and Nonpoint Source Implementation Grants (Section 319). This action is required by the Water Quality Act of 1987.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2479.

FTS:8-382-5371

Agency Contact: Patricia Morris, Environmental Protection Agency, Water, (WH-586), Washington, DC 20460, 202 382-5371

RIN: 2040–AB35

2878. SIMPLIFYING CONSTRUCTION GRANTS REGULATIONS (REVISION)

Legal Authority: 33 USC 1281/CWA 201

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: A revised interim final regulation describing allowable and unallowable costs for construction grant projects was published February 17, 1984. The Agency is revising that action as a final rule.

Timetable:

Action	Date	FR Cite
NPRM - Previous	11/06/81	46 FR 55220
NPRM	05/12/82	47 FR 20470
Interim Final Rule	05/12/82	47 FR 20450
Interim Final Rule Revised	02/17/84	49 FR 6224
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1722.

Docket No. G-81-5.

FTS: 8-382-7256.

Agency Contact: Geoffrey Cooper, Environmental Protection Agency, Water, (WH-546), Washington, DC 20460, 202 382-2287

RIN: 2040–AA70

2879. COMPREHENSIVE CONSTRUCTION GRANT REGULATION REVISION

Legal Authority: 33 USC 1281 / CWA 201; CWA 518; CWA Title VI

CFR Citation: 40 CFR 35

Legal Deadline: Final, Statutory, August 5, 1988.
Deadline applies to treatment of Indian Tribes as States.

Abstract: This regulation will amend existing regulations to implement the Water Quality Act of 1987. That Act amended the construction grants program, provided for grants to Indian Tribes under a national set-aside, and authorized EPA to award grants to capitalize state water pollution control revolving funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2585.

FTS:8-382-2287

Agency Contact: Geoffrey Cooper, Environmental Protection Agency, Water, WH-548, Washington, DC 20460, 202 382-2287

RIN: 2040–AB25

2880. EFFLUENT GUIDELINES FOR OFFSHORE OIL AND GAS EXTRACTION INDUSTRY (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 435

Legal Deadline: None
1980 consent decree contemplated promulgation of NSPS in the offshore subcategory by 1982. The Agency's listing of the oil and gas extraction category also gives rise to mandatory (cont)

Abstract: The Agency will promulgate BAT, BCT and NSPS regulations for all waste streams from offshore oil and gas extraction facilities to limit discharges of pollutants from the offshore segments of the oil and gas extraction point source category.

EPA—CWA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/26/85	50 FR 34592
NOTICE	11/13/85	50 FR 46784
NOTICE	12/31/85	50 FR 53348
NOTICE	10/21/88	53 FR 41356
NOTICE BCT Reproposal	12/05/88	53 FR 48947
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1649.

FTS:8-382-7131

LEGAL DEADLINE DESCRIPTION CONT: legal duties to promulgate NSPS under section 306 of the Clean Water Act.

Agency Contact: Dennis Ruddy, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7131

RIN: 2040–AA12

2881. INTERPRETATION OF PROVISIONS OF SECTION 304(1) OF THE CWA

Legal Authority: 33 USC 1251 /CWA 304(1)

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 130

Legal Deadline: None

Abstract: This proposed rule will provide the Agency's regulatory interpretation of section 304(l) of the Clean Water Act. It will clarify the nature of an individual control strategy under section 304(l) and the use of existing data by States to develop initial lists of waters. Further, it will describe the EPA approval/disapproval process for lists submitted in fulfillment of the requirements of Section 304(1). The proposed rule will also clarify key features of EPA's surface water toxics control program.

Timetable:

Action	Date	FR Cite
NPRM	12/12/88	54 FR 1300
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2525.

FTS:8-475-7718

Agency Contact: Paul Connor, Environmental Protection Agency, Water, EN-336, Washington, DC 20460, 202 475-7718

RIN: 2040–AB46

2882. ESTUARY PROGRAM GRANT REGULATION

Legal Authority: 33 USC 1330 /CWA 320(g)

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: This action modifies 40 CFR Part 35 to add specific requirements for grants under the National Estuary Program. These modifications specify the conditions that a grant applicant must meet to receive grant funding under the Program. Current regulations do not include specific restrictions for funds granted under the National Estuary Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2617

FTS:8-475-7378

Agency Contact: Thomas M. Armitage, Environmental Protection Agency, Water, (WH-556), Washington, DC 20460, 202 475-7378

RIN: 2040–AB54

2883. NPDES REGULATIONS: STORMWATER APPLICATION REQUIREMENTS (REVISION)

Legal Authority: 33 USC 1342 /CWA 402

CFR Citation: 40 CFR 122

Legal Deadline: Final, Statutory, February 4, 1989.

Abstract: These revisions to the NPDES permit program application requirements for stormwater discharges will reflect the 1987 amendments to the Clean Water Act and will address the deadline for application submission as a result of the rescinded September 1984 stormwater regulations.

Timetable:

Action	Date	FR Cite
Final Action - Deadline Extension	02/12/88	53 FR 4157
NPRM	12/07/88	53 FR 49416
Final Action	04/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAR No. 2200.

FTS: 8-475-9518.

Agency Contact: Tom Seaton, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9518

RIN: 2040–AA79

2884. FUTURE EFFLUENT GUIDELINES – STANDARDS INITIATIVES

Significance: Regulatory Program

Legal Authority: 33 USC 1251 /CWA 402, 301, 304(b), 304(m), 306, 307, 501

CFR Citation: 40 CFR 400

Legal Deadline: Final, Statutory, February 7, 1988.

Abstract: EPA will review existing effluent guidelines and promulgate new effluent guidelines to implement section 304(m) of the CWA, as added by the 1987 Water Quality Act (Public Law 100-4). Existing industrial categories or subcategories for which BAT effluent limitations and guidelines and NSPS have already been promulgated that EPA is currently reviewing as potential candidates for revised guidelines include: Copper Forming (40 CFR 468); Timber Products Processing (40 CFR 429); Textile Manufacturing (40 CFR 410); Pharmaceuticals Manufacturing (40 CFR 416); and Organic Chemicals Plastics and Synthetic Fibers (40 CFR 414), (reserved priority pollutants and nonconventional pollutants). EPA may revise the list of candidates as appropriate. Moreover, if and when EPA decides to initiate rulemaking for any of the candidates, it will identify the industrial category in subsequent Federal Register notices pursuant to section 304(m). Industrial categories and subcategories discharging toxic and nonconventional pollutants for which BAT effluent

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Timetable:

Action	Date	FR Cite
NOTICE	08/25/88	53 FR 32584
NOTICE	08/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2304.

FTS: 8-382-7120.

ABSTRACT CONT: for BAT effluent guidelines and NSPS. Most of these candidates were selected for review because of the Domestic Sewage Study (Report to Congress on the Discharge of Hazardous Wastes to Publicly Owned Treatment Works, U.S. EPA, Office of Water Regulations and Standards, EPA 530-SW-86-004, February 1986, prepared by EPA pursuant to the mandate of section 3018(a) of RCRA to evaluate the impact of RCRA hazardous wastes discharged to POTWs). The industrial candidates currently being examined are: hazardous waste treaters; solvent recyclers; machinery manufacturing and rebuilding; transportation; paint manufacture and formulation (40 CFR 446); industrial laundries; hospitals (40 CFR 460); waste oil refiners; and drum reconditioners; and the onshore and coastal subcategories of oil and gas extraction (40 CFR 435). If the Agency decides that rulemaking is appropriate for these or other industrial point source candidates, it will publish schedules in the Federal Register.

Agency Contact: Tom O'Farrell, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7120

RIN: 2040–AA90

2885. SEWAGE SLUDGE USE AND DISPOSAL REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1345 / CWA 405

CFR Citation: 40 CFR 503

Legal Deadline: NPRM, Statutory, November 30, 1988. Final, Statutory, August 31, 1987.

Abstract: The Agency plans to provide technical criteria and management practices by issuing technical sludge regulations under Section 405 of the Clean Water Act as amended by the Water Quality Act of 1987. These regulations will address: distribution and marketing, application of sludge to lands which are used for food and non-food chain crops, incineration, landfilling and surface disposal. Inorganic and organic pollutants are being regulated for the various reuse and disposal options.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 5646
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2162.

FTS: 8-382-7142

Agency Contact: William Diamond, Environmental Protection Agency, Water, (WH-551), Washington, DC 20460, 202 475-7301

RIN: 2040–AA74

2886. ● UNDERGROUND INJECTION CONTROL PROGRAM: HAZARDOUS WASTE DISPOSAL INJECTION RESTRICTIONS; EFFECTIVE DATES; AND CAPACITY VARIANCES FOR ADDITIONAL FIRST THIRD WASTES (SECOND SIXTH)

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 148

Legal Deadline: NPRM, Statutory, October 26, 1988.

Abstract: The Agency is required to prohibit injection of hazardous wastes under sections 3004(f) and (g) by specified deadlines unless (1) the facility demonstrates no migration through a petition or (2) the facility treats the waste to specified levels which reduce the threat to human health. The Administrator may grant variance variances for up to two years where treatment capacity is unavailable. This rule proposes effective dates for additional first thirds wastes. It also proposes to grant capacity variances for some of those wastes and extends the statutory prohibitions for two years.

Timetable:

Action	Date	FR Cite
NPRM	10/26/88	53 FR 43400
NPRM Comment Period End	12/27/88	53 FR 43400
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2546

FTS:8-382-5508

Agency Contact: Bruce Kobelski, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-5508

RIN: 2040–AB55

2887. EPA ADMINISTERED PROGRAMS: NPDES; GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES: PROPOSALS TO IMPLEMENT THE DOMESTIC SEWAGE STUDY

Significance: Regulatory Program

Legal Authority: 42 USC 6939 / RCRA 3018; 33 USC 1317 /CWA 307; 33 USC 1342 /CWA 402

CFR Citation: 40 CFR 403

Legal Deadline: Final, Statutory, August 1987.

Abstract: The Agency will prepare final changes to the NPDES and General Pretreatment Regulations that address: specific and general discharge prohibitions; controls on spills and batch discharges and discharges by liquid waste haulers; industrial user notification requirements; and local limits. These changes will be responsive to the recommendations of the Domestic Sewage Study submitted to Congress February 8, 1986 and are to improve the control of hazardous wastes discharged through sewers to publicly-owned treatment works.

Timetable:

Action	Date	FR Cite
NPRM	11/23/88	53 FR 47632
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2342.

FTS 8-475-9526.

Agency Contact: Marilyn Goode, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9526

RIN: 2040–AA99

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Water Act (CWA)

Completed Actions

2888. GUIDELINES FOR CLASSIFYING GROUND WATER UNDER THE EPA GROUND WATER PROTECTION STRATEGY

Significance: Regulatory Program

CFR Citation: 40 CFR Not applicable

Completed:

Reason	Date	FR Cite
Withdrawn	02/24/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian Mlay 202 382-7077

RIN: 2040–AA85

2889. SECONDARY TREATMENT/PERCENT REMOVAL REQUIREMENTS FOR COMBINED SEWER SYSTEMS

CFR Citation: 40 CFR 133

Completed:

Reason	Date	FR Cite
Final Action	01/27/89	54 FR 4224

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Randy Revetta 202 382-7370

RIN: 2040–AB13

2890. NONFERROUS METALS FORMING

CFR Citation: 40 CFR 471

Completed:

Reason	Date	FR Cite
Final Action	03/17/89	54 FR 11346

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: George M. Jett 202 382-7126

RIN: 2040–AB30

2891. EFFLUENT GUIDELINES FOR ALUMINUM FORMING (REVISION)

CFR Citation: 40 CFR 467

Completed:

Reason	Date	FR Cite
Final Action	12/27/88	53 FR 52366

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: George M. Jett 202 382-7126

RIN: 2040–AB52

2892. PROCEDURAL RULES FOR CLASS I ADMINISTRATIVE PENALTY PROCEEDINGS UNDER THE CWA

CFR Citation: 40 CFR 126

Completed:

Reason	Date	FR Cite
Withdrawn Replaced by RIN 2050-ac37	01/27/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elyse M. DiBiagio-Wood 202 475-8187

RIN: 2040–AB49

2893. GENERAL PRETREATMENT REGULATIONS: RESPONSE TO PIRT (REVISION)

Significance: Regulatory Program

CFR Citation: 40 CFR 403

Completed:

Reason	Date	FR Cite
Final Action	10/17/88	53 FR 40562

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: George Utting 202 475-8328

RIN: 2040–AA81

2894. OCEAN INCINERATION REGULATION (REVISION)

Significance: Regulatory Program

CFR Citation: 40 CFR 220; 40 CFR 227; 40 CFR 228; 40 CFR 234

Completed:

Reason	Date	FR Cite
Withdrawn	10/24/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darrell Brown 202 475-7180

RIN: 2040–AA72

2895. OCEAN INCINERATION SITE EVALUATION, SOLICITATION, AND DESIGNATION

CFR Citation: 40 CFR 228; 40 CFR 234

Completed:

Reason	Date	FR Cite
Withdrawn	10/24/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darrell Brown 202 475-7180

RIN: 2040–AB28

2896. UNDERGROUND INJECTION CONTROL PROGRAM: HAZARDOUS WASTE DISPOSAL INJECTION RESTRICTIONS; EFFECTIVE DATES FOR CALIFORNIA LIST AND SELECTED FIRST THIRD WASTES

Significance: Regulatory Program

CFR Citation: 40 CFR 148

Completed:

Reason	Date	FR Cite
Final Action	08/16/88	53 FR 30908
Final Action Effective	08/05/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

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EPA—CWA — Completed Actions

Agency Contact: Bruce Kobelski 202 382-5508

RIN: 2040–AB47

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Atomic Energy Act (AEA) — Proposed Rule Stage

2897. ENVIRONMENTAL STANDARDS FOR THE MANAGEMENT AND DISPOSAL OF SPENT NUCLEAR FUEL, HIGH-LEVEL AND TRANSURANIC RADIOACTIVE WASTES

Legal Authority: 42 USC 2201/AEA 161

CFR Citation: 40 CFR 191

Legal Deadline: None

Abstract: On August 15, 1985, the Agency promulgated generally applicable environmental standards for the management and disposal of spent nuclear fuel, high-level and transuranic radioactive wastes. These Standards applied to management and disposal of such materials generated by activities under the jurisdiction of the Department of Energy or regulated by the Nuclear Regulatory Commission. They established limits for the release of radioactive materials to the environment. Subsequent to promulgation of this rule, several petitions for review were filed and consolidated in the U.S. Court of Appeals for the First Circuit. As of September 23, 1987 the Court vacated and remanded Subpart B of the Standards to the Agency for revision consistent with its ruling.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No.2590

FTS:8-475-9633

Agency Contact: Daniel Egan, Environmental Protection Agency, Air and Radiation, ANR-460, Washington, DC 20460, 202 475-9633

RIN: 2060–AC30

2898. ENVIRONMENTAL PROTECTION STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 2201/AEA 274/Reorganization Plan 3 of 1970/TSCA

CFR Citation: 40 CFR 193; 40 CFR 764

Legal Deadline: None

Abstract: The Agency intends to set generally applicable standards for the management and disposal of low-level radioactive wastes, possibly to include some natural and accelerator produced radioactive wastes. The Agency is considering criteria for declaring certain wastes as below regulatory concern as part of this activity.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/83	48 FR 39563
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAR No. 1727.

FTS:8-475-9633.

Agency Contact: James M. Gruhlke, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9633

RIN: 2060–AA04

2899. RESIDUAL RADIOACTIVITY

Significance: Regulatory Program

Legal Authority: 42 USC 2201/AEA 161; 42 USC 2021/AEA 272

CFR Citation: 40 CFR 194

Legal Deadline: None

Abstract: The Agency is determining what standards and/or guidance is needed to control radiation exposure levels to the public from residual radioactivity after cleanup of sites and facilities where radionuclides were used and where unrestricted use will be allowed. This action may also control radiation exposure levels to the general public from materials contaminated with radionuclides which will be recycled into general commerce.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22264
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2073.

FTS: 8-475-9620.

Agency Contact: John L. Russell, Environmental Protection Agency, Air and Radiation, ANR-460, Washington, DC 20460, 202 475-9620

RIN: 2060–AB31

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Atomic Energy Act (AEA) — Final Rule Stage

2900. TRANSURANIUM ELEMENTS

Legal Authority: 42 USC 2021(h) /AEA 274(h) /Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This action provides Interim recommendations to Federal Agencies to establish dose rate limits for people exposed to transuranium elements in the general environment.

Timetable:

Action	Date	FR Cite
NPRM	11/30/77	42 FR 60956
Interim Final Rule	00/00/00	

EPA—AEA — Final Rule Stage

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 1162.

FTS:8-475-9620.

Agency Contact: Allan Richardson, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9620

RIN: 2060–AA01

2901. RADIOFREQUENCY RADIATION GUIDANCE

Significance: Regulatory Program

Legal Authority: 42 USC 2021(h) /AEA 274(h) /Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This guidance will serve to limit exposure of the general public to radiofrequency (RF) radiation, which may pose a potential health risk. The Agency is considering four alternative approaches to RF radiation guidance, three of which are regulatory and one nonregulatory. Upon Presidential approval of EPA guidance (to federal agencies in the formulation of radiation exposure standards), the pertinent agencies are responsible for implementation.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/82	47 FR 57338
NPRM	07/30/86	51 FR 27318
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAR No. 1525.

FTS: 8-475-9626.

Background Information Reports: a) Biological Effects of Radiofrequency Radiation, b) the Radiofrequency Radiation Environment, c) Analysis of the Radiofrequency Fields Produced by Broadcast Antennas, and d) Analysis of Economic Impact of Federal Radiation Protection Guidance (to Limit Exposure of the Public to Radiofrequency Radiation).

Agency Contact: David E. Janes, Environmental Protection Agency, Air and Radiation, (ANR-461), Washington, DC 20460, 202 475-9626

RIN: 2060–AA02

2902. GROUNDWATER PROTECTION STANDARDS FOR INACTIVE URANIUM TAILING SITES

Significance: Regulatory Program

Legal Authority: 42 USC 2022(a) /AEA 275(a)

CFR Citation: 40 CFR 192

Legal Deadline: None

Abstract: The Tenth Circuit Court of Appeals has remanded the ground water standards as 40 CFR 192.20(a)(2) and (3). The new standards will replace these remanded standards.

Timetable:

Action	Date	FR Cite
NPRM	09/24/87	52 FR 36000
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 1166.

FTS:8-475-9620

Agency Contact: Kurt Feldmann, Environmental Protection Agency, Air and Radiation, ANR-460, 202 475-9620

RIN: 2060–AC03

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Safe Drinking Water Act (SDWA) — Proposed Rule Stage

2903. REVISIONS TO THE SAFE DRINKING WATER ACT'S UNDERGROUND INJECTION CONTROL REGULATIONS

Legal Authority: 42 USC 300j-4 /SDWA 1445; 42 USC 300h-1 /SDWA 1422

CFR Citation: 40 CFR 144; 40 CFR 146

Legal Deadline: None

Abstract: These amendments to the UIC Program clarify the intent of the regulations covering authorization-by-rule requirements at 40 CFR Part 144, Subpart C. These new provisions will clarify how existing injection wells become authorized by rule and when injection is prohibited for failure to comply with authorization- by-rule requirements. EPA will also propose amendments to the noncompliance and program reporting requirements at 40 CFR 144.8; to the mechanical integrity requirements at 40 CFR 144.28(f) and 144.51(p). EPA will also propose definitions for the terms "convert" and "conversion" to help clarify when a well changes status from one well classification to another. Finally, a new regulation will codify SDWA 1445(a)(1) as it applies to the UIC program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2426.

FTS:8-382-5530

Agency Contact: Francoise Brasier, Environmental Protection Agency, Water, (WH-550E), Washington, DC 20460, 202 382-5530

RIN: 2040–AB27

2904. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SYNTHETIC ORGANIC CHEMICALS AND INORGANIC CHEMICALS, MONITORING FOR UNREGULATED CONTAMINANTS (PHASE II, 38 CONTAMINANTS)

Significance: Regulatory Program

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142; 40 CFR 143

Legal Deadline: NPRM, Judicial, April 30, 1989. Final, Judicial, December 31, 1990.

Abstract: EPA is reproposing maximum contaminant level goals (MCLGs) and proposing National Primary Drinking Water Regulations (NPDWRs) for about 38 synthetic organic chemicals and inorganic chemicals. The NPDWRs consist of proposed maximum contaminants level (MCLs), as well as

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proposed monitoring, reporting, and public notification requirements for these contaminants. This action proposes the best available technology (BAT) upon which the MCLs are based and BAT for the purposes of issuing variances and exemptions to public water systems. In addition to the NPDWRs for the synthetic organic chemicals and inorganic chemicals, the notice proposes monitoring requirements for other synthetic organic chemicals which are not regulated by NPDWRs or proposed for regulation in this notice.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM	11/13/85	50 FR 46936
NPRM	04/00/89	
Final Action	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1755.

FTS:8-382-7575.

Agency Contact: Al Havinga, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-5555

RIN: 2040–AA55

2905. NATIONAL PRIMARY DRINKING WATER REGULATION: RADIONUCLIDES

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Final, Statutory, June 19, 1989.

Abstract: EPA will propose Maximum Contaminant Levels Goals (MCLGs) and Primary Drinking Water Standards for radionuclides in drinking water. These radionuclides include radium, uranium, radon, total alpha, and beta particle and photon emitters.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
ANPRM	09/30/86	51 FR 34836
NPRM	03/31/90	
Final Action	03/31/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2281.

FTS: 8-382-7575.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, (WH-550-D), Washington, DC 20460, 202 382-7575

RIN: 2040–AA94

2906. NATIONAL PRIMARY DRINKING WATER REGULATIONS: DISINFECTION, DISINFECTANTS AND DISINFECTION BY-PRODUCTS (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Final, Statutory, June 19, 1989.
This deadline applies only to the disinfection requirements.

Abstract: EPA will propose that all public water systems use disinfection treatment processes; variance criteria will be developed. The Agency will propose MCLGs and MCLs for disinfectants and disinfection by-products.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	
Final Action	09/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2340.

FTS: 8-382-3028

Agency Contact: Stephen W. Clark, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 382-3028

RIN: 2040–AA97

2907. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INORGANIC AND ORGANIC COMPOUNDS (PHASE V/25 CONTAMINANTS)

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: NPRM, Statutory, June 19, 1989.

Abstract: This rule will set MCLGs and NPDWRs for about 25 inorganic and organic chemicals specified in the SDWA.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
ANPRM	11/13/85	50 FR 16936
Comment Period End		
NPRM	03/30/90	
Final Action	03/30/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2630.

FTS:8-382-7575

Agency Contact: Maria Gomez-Taylor, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 475-7274

RIN: 2040–AB11

2908. PUBLIC WATER SUPPLY SUPERVISION PROGRAM ADMINISTRATIVE ENFORCEMENT IMPLEMENTATION PROCEDURES

Legal Authority: 42 USC 300 / SDWA 1414

CFR Citation: 40 CFR 144; 40 CFR 148

Legal Deadline: None

Abstract: EPA is required to promulgate regulations to describe procedures for the notice and opportunity for public hearing, and conference with primacy States concerning administrative orders under Section 1414(g) of the Safe Drinking Water Act. The Agency will also amend 40 CFR Part 22 to include PWS penalty assessments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2381

FTS:8-382-5558

Agency Contact: Don Olson, Environmental Protection Agency, Water, WH-550, Washington, DC 20460, 202 382-5558

RIN: 2040–AB07

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Safe Drinking Water Act (SDWA)

Final Rule Stage

2909. INDIAN RULE FOR THE WELLHEAD PROTECTION PROGRAM AND SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 300j-11/SDWA 1451

CFR Citation: 40 CFR 35

Legal Deadline: Final, Statutory, December 19, 1987.

Abstract: The Safe Drinking Water Act Amendments of 1986 authorize the EPA Administrator to treat Indian tribes as States, where appropriate. EPA is to issue associated regulations by eighteen months after the date of enactment (signed June 19, 1986). The Indian rule for the Wellhead Protection and Sole Source Aquifer Demonstration Programs will allow eligible Indian tribes to apply for and receive grants under these two programs, in the same manner as States.

Timetable:

Action	Date	FR Cite
NPRM	12/09/87	52 FR 46712
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Additional Information: SAR No. 2440.

FTS:8-382-7077

Agency Contact: Marian Mlay, Environmental Protection Agency, Water, Office of Ground Water Protection, (WH-550G), Washington, DC 20460, 202 382-7077

RIN: 2040–AB18

2910. REVISION TO PUBLIC WATER SYSTEM SUPERVISION (PWSS) STATE PRIMACY REQUIREMENTS

Legal Authority: 42 USC 300 /SDWA 1413

CFR Citation: 40 CFR 142

Legal Deadline: None

Abstract: This action will set requirements, application procedures, and administrative process for submission of State program revisions for EPA review and approval and revise the existing primacy regulations which currently apply only to the process for initial primacy.

Timetable:

Action	Date	FR Cite
NPRM	08/02/88	53 FR 29194
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2489.

FTS:8-382-5522

Agency Contact: Carl Reeverts, Environmental Protection Agency, Water, WH-550-E, Washington, DC 20460, 202 382-5522

RIN: 2040–AB26

2911. CRITERIA FOR FILTRATION AND DISINFECTION OF SURFACE WATER AND PRIMARY DRINKING WATER REGULATIONS FOR MICROBIOLOGICAL CONTAMINANTS

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Final, Judicial, June 19, 1989.

Abstract: EPA plans to establish regulations specifying criteria that States will use to determine which surface water systems will be required to install filtration. The regulations will also address performance criteria for filtration systems. The criteria will include disinfection requirements. The regulations will constitute NPDWRs for Giardia, viruses, and other pathogens. The Agency will also set MCLGs for certain microbiological contaminants.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM	11/03/87	52 FR 42178
Notice of Additional Regulatory Options	05/06/88	53 FR 16348
Final Action	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2376.

FTS:8-382-7575.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, WH-550-D, 202 382-7575

RIN: 2040–AB24

2912. NATIONAL PRIMARY DRINKING WATER REGULATIONS: LEAD AND COPPER

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Final, Statutory, June 19, 1989.

Abstract: This rule will set MCLGs and MCL/Monitoring requirements for naturally occurring lead and copper as specified in the SDWA. This rule will also establish a treatment technique requirement for corrosion by-products.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM MCLG	11/13/85	50 FR 46936
NPRM MCLGs/MCLs & Treatment Technique	08/18/88	53 FR 31516
Final Action	00/00/00	

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EPA—SDWA — **Final Rule Stage**

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2610

FTS:8-382-5508

Agency Contact: Jeanne Briskin, Lead Task Force, Environmental Protection Agency, Water, 401 M Street, SW(WH-550A), Washington, DC 20460, 202 382-5508

RIN: 2040–AB51

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Safe Drinking Water Act (SDWA) — Completed Actions

2913. UNDERGROUND INJECTION CONTROL PROGRAM: HAZARDOUS WASTE DISPOSAL INJECTION RESTRICTIONS; AMENDMENTS TO TECHNICAL REQUIREMENTS FOR CLASS I HAZARDOUS WASTE INJECTION WELLS

Significance: Regulatory Program

CFR Citation: 40 CFR 124; 40 CFR 144; 40 CFR 146; 40 CFR 148

Completed:

Reason	Date	FR Cite
Final Action	07/26/88	53 FR 28118
Final Action Effective	08/25/88	53 FR 28118

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Bruce Kobelski 202 382-5506

RIN: 2040–AB03

2914. UNDERGROUND INJECTION CONTROL PROGRAM ON INDIAN LANDS

Significance: Regulatory Program

CFR Citation: 40 CFR 147

Completed:

Reason	Date	FR Cite
Final Action	10/25/88	53 FR 43084
Final Action Effective	11/25/88	53 FR 43084

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Donald M. Olson 202 382-5558

RIN: 2040–AA76

2915. SDWA INDIAN PRIMACY REGULATIONS

Significance: Regulatory Program

CFR Citation: 40 CFR 35; 40 CFR 141; 40 CFR 142; 40 CFR 143; 40 CFR 144; 40 CFR 145; 40 CFR 146

Completed:

Reason	Date	FR Cite
Final Action	09/26/88	53 FR 37396
Final Action Effective	10/26/88	53 FR 37396

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Al Havinga 202 382-5555

RIN: 2040–AB04

2916. PUBLIC WATER SYSTEM SUPERVISION PROGRAM: BAN ON LEAD IN PLUMBING

CFR Citation: 40 CFR 141; 40 CFR 142

Completed:

Reason	Date	FR Cite
Final Guidance	10/14/88	53 FR 40270

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Carl Reeverts 202 382-5522

RIN: 2040–AB05

2917. CRITERIA FOR IDENTIFYING CRITICAL AQUIFER PROTECTION AREAS

Significance: Regulatory Program

CFR Citation: 40 CFR 149.1

Completed:

Reason	Date	FR Cite
Final Action	02/14/89	54 FR 6836

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian Mlay 202 382-7077

RIN: 2040–AB23

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Noise Control Act (NCA) — Final Rule Stage

2918. WITHDRAWAL OF PRODUCTS FROM THE AGENCY'S REPORTS IDENTIFYING MAJOR NOISE SOURCES AND WITHDRAWAL OF PROPOSED RULES

Legal Authority: 42 USC 4904(b)(1) / NCA 5(b)(1); 42 USC 4905(a)(1)/ NCA 6(a)(1)

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: This action withdraws certain products from the Agency's report identifying major noise sources issued under authority of Section 5(b)(1) of the Noise Control Act of 1972. These products are: Truck Transport Refrigeration Units, Power Lawn Mowers, Pavement Breakers, Rock Drills, Wheel and Crawler Tractors and Buses. This action also withdraws proposed noise regulations for Wheel and Crawler Tractors, and Buses, issued under the authority of Section 6(a)(1) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54108
Final Action	12/00/89	

EPA—NCA — **Final Rule Stage**

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2046.

FTS:8-382-4996

No CFR parts pertain. This action withdraws proposals which were not codified.

Agency Contact: K.E. Feith, Environmental Protection Agency, Air and Radiation, (ANR-443), 202 382-4996

RIN: 2060–AB24

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Resource Conservation and Recovery Act (RCRA) — Prerule Stage

2919. MANAGEMENT OF USED OIL

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6925 /RCRA 3005; 42 USC 6930 /RCRA 3010; 42 USC 6935 /RCRA 3014

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 266; 40 CFR 270; 40 CFR 271

Legal Deadline: None

Abstract: EPA's decision not to list recycled oil as hazardous waste (51 FR 41900 11/19/86) was remanded by the U.S. Court of Appeals (D.C. Circuit) on 10/7/88. Therefore, EPA is considering approaches for management of used oil that is consistent with the court's decision. At this time the Agency does not have a specific schedule for issuing used oil management standards.

Timetable:

Regulatory Determination	
Notice	07/00/90

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2434.

FTS:8-475-6673

Docket No. 3014

Contact Angela Wilkes for management standards(OS-322)

Contact Robert Dellinger for listing decision (OS-332)

Agency Contact: Angela Wilkes, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 475-6673

RIN: 2050–AC17

2920. DETERMINATION ON WASTES FROM COMBUSTION OF COAL BY ELECTRIC UTILITY POWER PLANTS

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6982 /RCRA 8002

CFR Citation: 40 CFR Not yet determined

Legal Deadline: NPRM, Statutory, September 1988.

Abstract: EPA conducted a study of fly ash waste, bottom ash waste, slag waste, flue gas emission control waste and other wastes generated by the combustion of coal by electric utility power plants. The study was in response to Section 8002(n) of RCRA and culminated in a Report to Congress on March 6, 1988. EPA must determine within six months after submitting the report, holding public hearings, and allowing for public comment whether to regulate any of these wastes under Subtitle C of RCRA.

Timetable:

Regulatory Determination	
Notice	00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2572.

FTS:8-382-3608

Agency Contact: Dan Derkics, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), 202 382-3606

RIN: 2050–AC40

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Resource Conservation and Recovery Act (RCRA) — Proposed Rule Stage

2921. OIL POLLUTION PREVENTION REGULATION

Significance: Agency Priority

Legal Authority: 33 USC 1251 /CWA 311(j)(1)(c)

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major oil spill with substantial environmental impacts, an interagency task force reviewed the adequacy of regulations concerning the prevention and control of oil spills. The task force recommended a significant upgrade to the Oil Pollution Prevention Regulation and an inventory of the regulated community. A two phased regulatory approach is being pursued. In Phase I, widely accepted industry practices that are currently recommended practices in the regulation will be changed to required practices. Also, to facilitate an inventory of facilities subject to the regulation, a provision may be added requiring facilities to notify EPA of their existence. The Phase II regulatory effort will address other recommended modifications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	08/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2634

FTS:8:382-4130

Agency Contact: John M. Cunningham, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-

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210), Washington, DC 20460, 202 382-4130

RIN: 2050–AC62

2922. MANDATORY INSPECTIONS OF HAZARDOUS WASTE MANAGEMENT FACILITIES

Legal Authority: 42 USC 6925 / RCRA 3007

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action establishes requirements for mandatory inspections of treatment, storage, and disposal facilities for hazardous waste. The regulation establishes the manner, frequency, recordkeeping, and reporting of the inspections.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2332.

FTS: 8-475-9315

Agency Contact: Tim Kasten, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-520), Washington, D.C. 20460, 202 475-9360

RIN: 2050–AB59

2923. NO-MIGRATION VARIANCE FOR RESTRICTED HAZARDOUS WASTE LAND DISPOSAL

Significance: Regulatory Program

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912(a) /RCRA 2002(a); 42 USC 6921 /RCRA 3001; 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Agency will propose a regulation that interprets the statutory requirements for making a "no-migration" demonstration that would allow the land disposal of untreated hazardous waste that has been restricted from land disposal under 40 CFR 268. The regulation will define such terms as "no-migration," "responsible degree of certainty," "hazardous constituent," and various pathways by which waste can migrate and the environmental media of concern.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2524.

FTS:8-382-4678

Accompanying guidance manual to be published while rule proposal is under development. Guidance will assist facility owners and operators in characterizing environmental media of concern and environmental pathways along which constituent migration may occur.

Agency Contact: Glen R. Galen, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4678

RIN: 2050–AC44

2924. MUNICIPAL WASTE COMBUSTOR ASH MANAGEMENT

Significance: Regulatory Program

Legal Authority: 42 USC 6907 /RCRA 1008; 42 USC 6944 /RCRA 4004; 42 USC 6949 /RCRA 4010

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: Based on preliminary data, EPA has determined a need to develop a management scheme for handling and disposing of municipal waste combustor ash. The Agency is considering various options for addressing concerns over fugitive dust emissions and groundwater contamination.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	
Final Action	11/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2494.

FTS:8-382-4489

Agency Contact: Susan O'Keefe, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), 202 382-4489

RIN: 2050–AC24

2925. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - DEMINIMIS EXEMPTION LEVELS

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: None

Abstract: This action exempts from regulation any currently listed wastes that are not hazardous because the hazardous constituents are present at levels lower than the concentration levels established by this rule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2482.

FTS:8-382-4795

Entries combined, formerly titled "Concentration-Based Relisting of Wastes From Chlorinated Aliphatics" and "Concentration-Based Relisting of Wastes From Explosives, Inorganic Chemicals, and Iron and Steel Industries."

Agency Contact: Steve Cochran, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-9715

RIN: 2050–AC30

2926. DETERMINATION ON SOLID WASTE FROM SELECTED METALLIC ORE PROCESSING OPERATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6982 /RCRA 8002

CFR Citation: 40 CFR Not yet determined

Legal Deadline: NPRM, Judicial, April 7, 1989. Final, Judicial, August 18, 1989. Other, Judicial, January 31, 1991. Regulatory Determination Notice due 01/31/91. See Additional Information for other legal deadlines.

Abstract: EPA is presently developing a list of "high-volume, low- hazard" ore processing wastes for study under Section 8002(p) of RCRA, in response to an opinion of the U.S. Court of Appeals for the D.C. Circuit (EDF v. EPA, 852 F.2d 1316 (D.C. Cir. 1988). EPA will then conduct a Section 8002 study of those processing wastes excluded from Subtitle C regulation by the "Bevill Amendment" 3001(b)(3)(A) RCRA. The study will culminate in a Report to Congress in July 1990. RCRA Section 3001(b)(3) requires the Agency, after public hearing and public comment, to determine within six months of submitting the report, whether to regulate any of these wastes under RCRA Subtitle C.

Timetable:

List of Exempted Wastes		
NPRM 10/20/88 (53 FR 41288)		
NPRM 04/00/89		
Final Action 08/00/89		
NPRM 09/00/89		
Final Action 01/00/90		
Regulatory Determination		
NOTICE 01/00/91		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2651.

FTS:8-382-3608

LEGAL DEADLINE CONT:

NPRM, Judicial, September 15, 1989.

Final, Judicial, January 15, 1990.

Agency Contact: Dan Derkics, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), Washington, DC 20460, 202 382-3608

RIN: 2050–AC41

2927. EXCLUSIONS FOR WASTE GENERATED ON-BOARD SHIPS (REVISION)

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6922 /RCRA 3002

CFR Citation: 40 CFR 261.4(c)

Legal Deadline: None

Abstract: This proposed rule would amend an exemption in 40 CFR 261.4(c) which is currently limited to product or raw material vessels, so that it will apply to all vessels. The result of this change would be that all vessel operators, both product and non-product, would be regulated the same. In both cases, hazardous wastes generated on-board ships would not be subject to the RCRA regulations for storage, manifesting, etc., until the waste is removed from the ship. The discharge of any wastes while underway is governed by regulations issued under the provision of the Clean Water Act, Rivers and Harbors Act, Refuse Act, CERCLA/SARA, and others.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2635

FTS8:475-9715

Agency Contact: Steve Cochran, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-9715

RIN: 2050–AC61

2928. HAZARDOUS WASTE MANAGEMENT SYSTEM, AMENDMENT TO SUBPART C RULEMAKING PETITIONS, USE OF GROUNDWATER DATA IN DELISTING DECISIONS

Legal Authority: 42 USC 6903 /RCRA 1004; 42 USC 6912 /RCRA 2002; 42 USC 6921 /RCRA 3001; 42 USC 6926 /RCRA 3006

CFR Citation: 40 CFR 260.22

Legal Deadline: None

Abstract: This amendment will require those who submit delisting petitions for hazardous wastes to provide ground water monitoring data as part of their petition. The amended regulations will clarify the Agency's existing authority to consider the impact of a petitioned waste on groundwater and deny a petition based on groundwater contamination. EPA is seeking this amendment to clarify its authority to request and consider such data in delisting decisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	01/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAR No. 2622

FTS:8-382-4536

Agency Contact: Robert Kayser, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-343), Washington, DC 20460, 202 382-4536

RIN: 2050–AC65

2929. ● MODIFICATION OF HAZARDOUS WASTE LISTING FO19

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: None

Abstract: This rule will modify the hazardous waste listing F019, wastewater treatment sludges from the chemical conversion coating of aluminum, (40 CFR 261.31). The modification will narrow the scope of the F019 listing to exclude the zirconium phosphating of aluminum cans process because it does not use or form any Appendix VIII constituents in hazardous concentrations. There are approximately 80 facilities employing this process, which is currently within the scope of the F019 listing. This modification to F019 will not exclude facilities engaged in other types of chemical conversion coating of aluminum.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2676

FTS:8-245-3519

Agency Contact: Denise Wright, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-

333), Washington, DC 20460, 202 245-3519

RIN: 2050–AC78

2930. BURNING OF HAZARDOUS WASTE IN BOILERS AND INDUSTRIAL FURNACES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citation: 40 CFR 266

Legal Deadline: None

Abstract: Burning of hazardous waste in boilers for the purpose of heat recovery is currently exempt from regulation under RCRA. The Hazardous and Solid Waste Amendments of 1984 require the Agency to develop technical standards for the burning of hazardous waste fuels. This regulation will establish standards for controlling emissions of organic compounds, metals, and hydrogen chloride from boilers and industrial furnaces that burn hazardous waste for any purpose, including energy recovery, material recovery, or destruction.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 16982
NPRM (Supplement)	05/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2078.

FTS-8-382-7917.

Agency Contact: Dwight Hlustick, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 382-7917

RIN: 2050–AA72

2931. LINERS AND LEAK DETECTION FOR HAZARDOUS WASTE LAND DISPOSAL UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004(o); 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 260; 40 CFR 270; 40 CFR 271

Legal Deadline: NPRM, Statutory, May 8, 1987.

Abstract: EPA has proposed these regulations under the authority of section 3004(a) and 3004(o)(4) of the Resource Conservation and Recovery Act. The regulations would require: 1) new landfills, surface impoundments, waste piles, and land treatment units for the treatment, storage, or disposal of hazardous wastes to utilize an approved leak detection system; 2) double liners and leachate collection systems for waste piles, and certain landfills and surface impoundments; and 3) development of a construction quality assurance program for certain landfills and surface impoundments, as well as final covers at land treatment units. EPA originally proposed this rule on May 29, 1987 (52 FR 20218); the Agency may repropose the double liner sections of the rule.

Timetable:

Action	Date	FR Cite
NPRM	05/29/87	52 FR 20218
NPRM (Reproposal)	04/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2080.

FTS-8-382-4682.

Agency Contact: Les Otte, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-8860

RIN: 2050–AA78

2932. LOCATION STANDARDS FOR HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: Section 3004(o)(7) of RCRA authorizes EPA to promulgate standards for the location of hazardous waste treatment, storage, and disposal facilities. Two existing location standards (floodplain and seismic restrictions) at 40 CFR Part 264.18 will be amended based on new data and information. Additional standards will specify other criteria for the acceptable location of new, expanding, and existing treatment, storage and disposal facilities in a variety of sensitive environments (e.g., unstable terrains, wetlands). The Agency's goals are to enhance the effectiveness of a unit's design and operating controls by avoiding the most sensitive locations, to decrease cleanup and prospective future RCRA Corrective Action and superfund sites, and to more effectively ensure long-term protection of human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
Final Action	03/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2303.

FTS:8-382-4678.

Agency Contact: Glen R. Galen, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4678

RIN: 2050–AB42

2933. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004(u), 3004(v)

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: These regulations set forth the technical and procedural requirements for conducting corrective action to clean up significant releases to air, surface water, ground water and soil at solid waste management units (SWMUs) at operating, closed, or closing RCRA facilities. The regulations will be used to define the structure of the program, and the requirements for implementing remedial action, remedy selection and corrective measures. Currently, the permitting agencies must make case-by-case decisions on action.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2390.

Agency Contact: David Fagan, Environmental Protection Agency, Solid Waste and Emergency Response, OS-341, 202 382-4497

RIN: 2050–AB80

2934. LANDFILL, SURFACE IMPOUNDMENT, AND WASTE PILE CLOSURES FOR HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: These regulations will provide alternate closure options for EPA and authorized states to establish closure and post-closure requirements on a site-specific basis. The regulations address waste and site characteristics, potential pathways of hazardous constituent migration, and health effects. These rules allow for cover systems to be designed base on unique site and waste characteristics. EPA originally proposed this rule on March 19, 1987 (52 FR 8712); the Agency will repropose the rule.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8712
NPRM (Reproposal)	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2391.

FTS:8-475-8860

Agency Contact: Les Otte, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-8860

RIN: 2050–AB81

2935. EMISSION CONTROLS FOR HAZARDOUS WASTE INCINERATORS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925/RCRA 9005

CFR Citation: 40 CFR 264

Legal Deadline: None

Abstract: EPA intends to amend the incinerator standards of Subpart O of Part 264 by proposing additional controls on emissions of metals and residual organic compounds.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2453.

FTS:8-382-7939

Agency Contact: Shiva Garg, Environmental Protection Agency, Solid Waste and Emergency Response, OS-322, Washington DC 20460, 202 382-7939

RIN: 2050–AB90

2936. LAND DISPOSAL RESTRICTIONS FOR SOIL AND DEBRIS CONTAINING HAZARDOUS WASTES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: Final, Statutory.

Abstract: The Agency is investigating the need to set separate treatment standards for soil and debris containing hazardous wastes. By statute, these wastes do not become subject to the Land Disposal Restrictions Rule (51 FR 40572 and 52 FR 25760) for Solvents and Dioxins (RCRA 3004(e)) and the California List (RCRA 3004(d)) until 11/8/88. If necessary, the Agency will further subcategorize the waste streams to provide separate treatment standards applicable to such wastes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2461.

FTS:8-382-4770

Agency Contact: Stephen Weil, Environmental Protection Agency, Solid Waste and Emergency Response, OS-333, Washington, DC 20460, 202 382-4770

RIN: 2050–AC03

2937. PERMITTING EXPERIMENTAL FACILITIES CONDUCTING HAZARDOUS WASTE RESEARCH

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: This proposal will establish special permitting procedures for experimental facilities conducting research and development on the storage, treatment, or disposal of hazardous waste. The regulations would allow experimental facilities considerable flexibility in operating according to an approved research plan, without requiring frequent permit modifications as details of the research changed.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
Final Action	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2439.

FTS:8-382-4751

Agency Contact: Barbara Foster, Environmental Protection Agency, Solid Waste and Emergency Response, OS-341, 202 382-4751

RIN: 2050–AC04

2938. CORRECTIVE ACTION FOR RELEASES TO GROUND WATER FROM REGULATED HAZARDOUS WASTE UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 270

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Legal Deadline: None

Abstract: These regulations will amend the technical and procedural requirements for conducting corrective action to clean up significant releases to ground water from regulated hazardous waste units at operating, closed, or closing RCRA facilities. The regulations will be used to amend the structure of the program and the requirements for implementing remedial action, remedy selection and corrective measures. The requirements for regulated units will be amended to conform to the corrective action requirements for solid waste management units.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2503.

FTS:8-382-4654

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4685

RIN: 2050–AC28

2939. MODIFICATION OF THE DEFINITION OF WASTEWATER TREATMENT UNIT

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 260; 40 CFR 270

Legal Deadline: None

Abstract: Currently, wastewater treatment units and elementary neutralization units are exempt from the requirements in 40 CFR Parts 264, and 265 (see 45FR76074, November 17, 1980). This action will amend the regulations to explain more clearly that thermal treatment units, except sludge dryers, are not exempt from regulation under the "wastewater treatment unit exclusion." It was never EPA's intention that thermal treatment units be exempt from regulation. Rather, specific regulations have been developed for these devices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2570

FTS:8-382-7924

Agency Contact: William Kline, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 382-7924

RIN: 2050–AC66

2940. ● RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6924; 42 USC 6925

CFR Citation: 40 CFR 264.143(f); 40 CFR 264.145(F); 40 CFR 264.147(f); 40 CFR 265.143(e); 40 CFR 265.145(e); 40 CFR 265.147(f)

Legal Deadline: None

Abstract: This amendments will revise financial test criteria that must be satisfied by owners and operators employing the test to demonstrate RCRA financial responsibility requirements. Currently, the test does not function optimally; many financially viable and stable firms cannot pass the test whereas numerous RCRA firms that go bankrupt are able to "pass" the test. The anticipated revisions will adjust test criteria so as to increase availability of this assurance mechanism to viable firms and increase sensitivity to bankruptcy prediction.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR 2647

FTS:8-382-6259

Agency Contact: Mark Pollins, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-341), Washington, DC 20460, 202 382-6259

RIN: 2050–AC71

2941. ● DEFINITION OF HAZARDOUS WASTE TANK, SURFACE IMPOUNDMENT AND WASTE PILE (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA3004

CFR Citation: 40 CFR 260

Legal Deadline: None

Abstract: The Agency is receiving information on an increasing number of situations where it is difficult to determine whether specific types of hazardous waste management units meet the definition of a tan, pile or surface impoundment. EPA intends to clarify the difference between these units by revising the definitions for these units in 40 CFR 260.1. In particular EPA expects to address the use of liners for primary containment as well as other issues relating to the use of "earthen" and "nonearthen" materials.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	08/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR 2664

FTS:8-382-7924

Agency Contact: William Kline, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 382-7924

RIN: 2050–AC72

2942. ● LAND DISPOSAL RESTRICTIONS FOR THE THIRD THIRD OF SCHEDULED WASTES

Legal Authority: 42 USC 6924(g); 42 USC 6924(h); 42 USC 6924(j); 42 USC 6924(h); 42 USC 6924(k); 42 USC 6924(m)

CFR Citation: 40 CFR 268

Legal Deadline: Final, Statutory, May 8, 1990.
Absolute prohibition on land disposal waste of any kind for which EPA has not established a treatment standard takes effect on 5/8/90.

Abstract: This rule will establish land disposal restrictions for the Third Third of scheduled hazardous waste and promulgate treatment standards for these waste streams as required by sections 3004(g) and 3004(m) of RCRA. The schedule was published on May 6, 1986 (51FR19300).

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2523.

FTS:8-382-4627

Agency Contact: Deveraux Barnes, Environmental Protection Agency, Solid Waste and Emergency Response, OS-3330), Washington, DC 20460, 202 382-4627

RIN: 2050–AC73

2943. ● HAZARDOUS WASTE SUMP REQUIREMENTS IN RESPONSE TO RULEMAKING PETITION (REVISION)

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6921; 42 USC 6974; 42 USC 6924; 42 USC 6925

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: This regulation will address a petition for rulemaking submitted by the Boeing Company, requesting that EPA amend several hazardous waste tank system requirements as applied to certain existing sumps. A sump, being a type of tank, if used to manage a hazardous waste storage/treatment tank system. The petition focuses on those existing sumps that are situated inside of buildings and constructed as an integral part of the building's floor or foundation. The petitioner argues that because of differences in design, construction, and use, these sumps should be regulated independently of other hazardous waste storage/treatment tank systems. Companies are requesting additional time to bring these sumps into compliance with the hazardous waste tank system standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2675

FTS:8-382-7917

Agency Contact: William J. Kline, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 382-7917

RIN: 2050–AC79

2944. LIST (PHASE 2) OF HAZARDOUS CONSTITUENTS FOR GROUND WATER MONITORING

Significance: Regulatory Program

Legal Authority: 42 USC 3251 / RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: The Appendix IX of 40 CFR Part 264 is a list of hazardous constituents presently referenced in 40 CFR Part 264 for use in ground water monitoring. This proposed amendment would make minor revisions to Appendix IX and create a new list for the first part (Detection Monitoring) of the ground water monitoring program. This proposal would also include a more detailed discussion of the appropriate monitoring techniques than currently exists in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2435.

FTS: 382-4685

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington DC 20460, 202 382-4685

RIN: 2050–AC05

2945. COMPLIANCE MONITORING AND ENFORCEMENT REQUIREMENTS FOR STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

Legal Authority: 49 USC 6926 / RCRA 3006

CFR Citation: 40 CFR 271.15; 40 CFR 271.16

Legal Deadline: None

Abstract: Regulations governing State Authorization requirements for compliance monitoring and enforcement actions will be revised to reflect the Hazardous and Solid Waste Amendments of 1984. EPA will consider other changes such as requirement for states to have administrative penalty authority.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2158.

FTS: 8-475-7787.

Agency Contact: David Levenstein, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-520), Washington, DC 20460, 202 475-9325

RIN: 2050–AB01

2946. NEW REQUIREMENTS FOR STATE HAZARDOUS WASTE PROGRAMS

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912 /RCRA 2002; 42 USC 6926 /RCRA 3006

CFR Citation: 40 CFR 271

Legal Deadline: None

Abstract: EPA's authority to require capable implementation of a State's hazardous waste management program as a prerequisite to authorization will be codified. The Agency will streamline authorization and withdrawal procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
Final Action	09/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2527.

FTS:8-382-2233

Agency Contact: Michael Forlini, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-

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342), Washington, DC 20460, 202 382-2229

RIN: 2050–AC51

2947. MINING WASTE MANAGEMENT UNDER RCRA SUBTITLE D

Significance: Regulatory Program

Legal Authority: 42 USC 6941 to 6949 /RCRA 4001-4009

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: Based on the first mining waste Report to Congress submitted 12/31/85, comments on the report, and other available information, EPA has determined that regulation of wastes from the extraction and benefication of ores and minerals under Subtitle C of the Resource Conservation and Recovery Act (RCRA) is not warranted at this time (51 FR 24496). Instead, EPA plans to develop a program for mining waste under Subtitle D of RCRA, working with the States to determine the specific nature of their current mining waste activities and their future plans to administer such programs. EPA will propose a set of criteria for the proper disposal of mining wastes under RCRA Subtitle D authority. EPA will also work with other Federal agencies (e.g., DOI, USGS) to avoid duplication in regulatory efforts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2389.

FTS: 8-382-3608

Agency Contact: Dan Derkics, Environmental Protection Agency, Solid Waste and Emergency Response, OS-323, Washington, DC 20460, 202 382-3608

RIN: 2050–AB77

2948. UNDERGROUND STORAGE TANKS CONTAINING HAZARDOUS SUBSTANCES- FINANCIAL RESPONSIBILITY REQUIREMENTS

Legal Authority: 42 USC 6991 /RCRA 9003

CFR Citation: 40 CFR 280

Legal Deadline: Final, Statutory, August 8, 1988.

Abstract: This regulation will establish, under Subtitle I of RCRA (as amended by SARA), requirements for demonstrating financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by releases from underground storage tanks (USTs) containing hazardous substances. An ANPRM was published to help gather data (e.g., frequency of releases from such USTs, costs of corrective action and third-party damages, and the regulated community's financial condition and use of financial assurance mechanisms) needed for the development of a proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/88	53 FR 3818
NPRM	09/00/89	
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAR No. 2465.

FTS:8-382-7903

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7903

RIN: 2050–AC15

2949. UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM - FINANCIAL RESPONSIBILITY REQUIREMENTS: FINANCIAL TEST FOR SELF INSURANCE FOR LOCAL GOVERNMENT ENTITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6991(b) /RCRA 9003

CFR Citation: 20 CFR 280

Legal Deadline: None

Abstract: These regulations will establish a simple financial test that local governments can use for the purpose of self insuring for taking corrective action and compensating third parties for bodily injury and property damage as required by the Financial Responsibility Requirements promulgated in September 1988.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
Final Action	03/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Additional Information: SAR No. 2642

FTS:8-382-7903

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7903

RIN: 2050–AC67

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Resource Conservation and Recovery Act (RCRA) — Final Rule Stage

2950. ● MEDICAL WASTE DEMONSTRATION TRACKING PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 6992/Medical Waste Tracking Act

CFR Citation: 40 CFR 259

Legal Deadline: Other, Statutory, May 30, 1989.
The legal deadline prescribed is for an interim final by May 1989

Abstract: Because of the numerous incidents of public exposure to improperly disposed medical waste Congress passed the Medical Waste Tracking Act of 1988. The Act requires EPA to develop a demonstration tracking program for medical waste in 10 States. The demonstration program sets forth segregation, packaging, labeling, tracking, transportation, and recordkeeping requirements of medical waste generated in the covered States, and lists the wastes to be covered by the program. The emphasis of the tracking program is to assure the generator that the waste is delivered to a proper disposal facility.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/24/89	54 FR 12326
Comment Period End	05/23/89	
Effective Date	06/22/89	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2653

FTS:8-475-8551

Agency Contact: Michael J. Petruska, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-8551

RIN: 2050–AC74

2951. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - PETROLEUM REFINERY PRIMARY TREATMENT SLUDGE

Significance: Regulatory Program

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 9602

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: Other, Statutory, January 8, 1986.
Statutory deadline to determine whether to list "refining wastes" no later than January 8, 1986.

Abstract: These actions announce EPA's decision whether or not to list a waste as hazardous under RCRA. If a waste is listed as hazardous it will be subject to those requirements contained in 40 CFR Parts 262-266 and Parts 268, 270, 271 and 124.

Timetable:

Action	Date	FR Cite
NPRM	11/20/80	45 FR 74893
Notice	02/11/85	50 FR 5637
Notice	04/13/88	53 FR 12162
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2226.

RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (382-3000)

Agency Contact: Ben Smith, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 382-4791

RIN: 2050–AB70

2952. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - WOOD PRESERVING AND SURFACE PROTECTION WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 9602

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: Final, Judicial, June 30, 1990.
Best efforts to promulgate by 06/30/90.

Abstract: These actions announce EPA's decision whether or not to list a waste as hazardous under RCRA. If a waste is listed as hazardous it will be subject to those requirements contained in 40 CFR Parts 262-266 and Parts 268, 270, 271 and 124.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53282
Final Action	06/00/90	

Small Entities Affected: Businesses

Government Levels Affected: State

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2174

FTS:8-475-8551

Agency Contact: Ed Abrams, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-8551

RIN: 2050–AC43

2953. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE - METHYL BROMIDE

Significance: Agency Priority

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6921/RCRA 3001; 42 USC 6922/RCRA 3002

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: These actions announce EPA's decision whether or not to list a waste as hazardous under RCRA. If a waste is listed as hazardous it will be subject to those requirements contained in 40 CFR Parts 262-266 and Parts 270, 271 and 124.

Timetable:

Action	Date	FR Cite
NPRM	04/25/85	50 FR 16432
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2157.

For further information contact the RCRA/Superfund Hotline (800-424-9346); in the Metropolitan Area (202-382-3000)

Agency Contact: RCRA/Superfund Hotline, Environmental Protection Agency, Solid Waste and Emergency Response, Washington, DC 20460, 202 382-3000

RIN: 2050–AC60

2954. RCRA DEFINITION OF SOLID WASTE (REVISION)

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912 /RCRA 2002; 42 USC 6921 /RCRA 3001; 42 USC 6922 /RCRA 3002

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This regulation will provide: (1) the Agency's interpretation of a court opinion, concerning the Agency's authority in regulating certain recycled hazardous secondary materials and (2) amendments to the rules required by the court's opinion.

Timetable:

Action	Date	FR Cite
NPRM	01/08/88	53 FR 519
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAR No. 2575

FTS:8-475-8551

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Agency Contact: Mitch Kidwell, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-8551

RIN: 2050–AC68

2955. SOLID WASTE DISPOSAL FACILITY CRITERIA

Significance: Regulatory Program

Legal Authority: 42 USC 6907(a)(3)/RCRA 1008(a)(3); 42 USC 6944(a)/RCRA 4004(a); 42 USC 6949(c)/RCRA 4001(c); 33 USC 1345(d)/CWA 405(d); 33 USC 1345(e)/CWA 405(e)

CFR Citation: 40 CFR 257; 40 CFR 258

Legal Deadline: Final, Statutory, March 31, 1988.

Abstract: The Hazardous and Solid Waste Amendments of 1984 (HSWA) require EPA, by March 31, 1987, to revise the subtitle D criteria for facilities that may receive hazardous household wastes or hazardous wastes from small quantity generators. In response to this statutory mandate, EPA is revising the subtitle D criteria for municipal landfills. At a minimum these criteria must include ground-water monitoring requirements, location standards, and corrective action requirements as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	08/30/88	53 FR 33314
NPRM Comment Period End	11/30/88	53 FR 41210
Final Action	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2224.

FTS-382-4687

Agency Contact: Allen Geswein, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC, 202 382-4687

RIN: 2050–AB21

2956. TEST METHODS FOR EVALUATING SOLID WASTE (MANUAL SW846) INCORPORATION BY REFERENCE AND MANDATORY GOOD LABORATORY PRACTICES

Legal Authority: 42 USC 6912 /RCRA 2002

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This action proposes to update testing methods in the RCRA testing regulations to: a) permit persons to use the latest (3rd) edition of Test Methods for Evaluating Solid Waste (SW-846); and b) require that all testing conducted in support of the RCRA regulatory program to follow minimum good laboratory practices and quality control/quality assurance procedures.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3212
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2507.

FTS:8-382-4761

Agency Contact: Charles Sellers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-331), Washington, DC 20460, 202 382-3282

RIN: 2050–AC32

2957. IDENTIFICATION OF HAZARDOUS WASTES BY TOXICITY CHARACTERISTIC AND LISTING OF ADDITIONAL ORGANIC TOXICANTS

Significance: Regulatory Program

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261

Legal Deadline: Final, Statutory, March 8, 1987.
November 8, 1986 for adding additional characteristics; March 8, 1987 for revising the extraction procedure.

Abstract: The EPA is proposing to amend its hazardous waste identification regulations by introducing a new extraction procedure to be used in the Toxicity Characteristic and by expanding the Toxicity Characteristic to include approximately 38 additional organic toxicants. EPA originally proposed this rule on June 13, 1986 (51 FR 21648).

Timetable:

Action	Date	FR Cite
NPRM	06/13/86	51 FR 21648
Final Action (use of TCLP for Land Disposal Restriction program testing)	11/07/86	51 FR 40572
NPRM (Supplemental)	05/19/88	53 FR 18024
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2062.

FTS-8-382-4794.

Agency Contact: John Goodrich-Mahoney, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 382-4794

RIN: 2050–AA78

2958. ● FORTY-SEVEN ANALYTICAL METHODS APPROVED FOR SUBTITLE C RCRA HAZARDOUS WASTE TESTING

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6924 /RCRA 3004; 42 USC 6925 /RCRA 3005; 42 USC 6926 /RCRA 3006

CFR Citation: 40 CFR 260.11(a)(Revision); 40 CFR 261,Appendix III, Table 2 (Revision); 40 CFR 261.Appendix III, Table 3 (Revision)

Legal Deadline: None

Abstract: This rule promulgates 47 new analytical methods approved for RCRA Subtitle C hazardous waste testing that were originally proposed in 1984. The purpose of this rulemaking is to provide better and more complete test methods for RCRA-related testing. These 47 methods may be used to meet regulatory requirements in conjunction with, or in addition to, the methods found in the Second Edition of SW-846, as amended by Updates I and II. Except where regulations specifically require the use of certain SW-846 test methods or QC procedures, the SW-846 manual is a guidance document and is not mandatory. These 47 methods offer the regulated community in some cases refinements of existing methods that are usually used, and in other cases, new technologies that provide alternative methods to those now available for the analysis of certain analytes or parameters. Therefore, the Agency believes that the economic impact of this rule on the regulatory community will be minimal to none.

Timetable:

Action	Date	FR Cite
NPRM	10/01/84	49 FR 38786
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2058

FTS:8-382-3282

Agency Contact: Charles Sellers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-331), Washington, DC 20460, 202 382-3282

RIN: 2050–AC80

2959. DISPOSAL OF CONTAINERIZED LIQUIDS IN HAZARDOUS WASTE LANDFILLS

Significance: Regulatory Program

Legal Authority: 42 USC 6924(c) / RCRA 3004(c)

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 271

Legal Deadline: Final, Statutory, February 8, 1986.

Abstract: The Agency has proposed these regulations under the Hazardous and Solid Waste Amendment of 1984. The regulation will 1) minimize the placement of containers holding liquid hazardous waste and free liquids in hazardous waste landfills, 2) minimize the presence of free liquids in containers holding hazardous waste to be disposed of in landfills and 3) prohibit the use of absorbents that biodegrade or release liquids when compressed.

Timetable:

Action	Date	FR Cite
NPRM	12/24/86	51 FR 46824
Notice of Availability of Supplemental Information	06/24/87	52 FR 23695
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2207.

FTS:8-475-8860

Agency Contact: Les Otte, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-8860

RIN: 2050–AA34

2960. GROUND-WATER MONITORING AT HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: This action will change the Subpart F ground-water monitoring regulations. The following is a summary of the major changes:

- allow use of site-specific data on contaminant fate and transport for ground-water monitoring variances;

- allow flexibility in well installation requirements when access to waste management boundary is difficult;

- clarify the definition of waste management area and provide flexibility in determining the appropriate monitoring or response programs for individual areas;

- allow flexibility in schedules for submittal of information upon approval by the Regional Administrator (R.A.);

- base the requirement for ground-water flow rate and direction determinations upon site-specific fluctuations in water levels;

- clarify the R.A.'s authority to require monitoring of any flow pathway in the uppermost aquifer and unsaturated zone;

- authority to designate supplemental monitoring wells when justified by complicated monitoring situations; and (see additional information for completion of abstract.)

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 28160
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2277.

FTS-382-7371

ABSTRACT CONT:

- allow a return to detection or compliance monitoring as appropriate;

- add quality assurance and quality control requirements for ground-water monitoring devices and methods

Agency Contact: Joe Abe, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4654

RIN: 2050–AB20

2961. DELAY IN THE CLOSURE PERIOD FOR HAZARDOUS WASTE MANAGEMENT FACILITIES

Legal Authority: 42 USC 6924 /RCRA 3004; 42 USC 6925 /RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: The current regulations require that closure of a hazardous waste unit begin after the final receipt of hazardous wastes. The proposed rule will identify the circumstances under which a unit that ceases to receive hazardous wastes may continue to accept non-hazardous wastes. Amendments will identify conditions for the subsequent use of a unit for non-hazardous waste management and coordination with other closure activities of a hazardous waste management facility. Portions of the closure requirements (Subpart G) will be amended in both parts 264 and 265. These changes will increase the flexibility in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20738
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2487.

FTS: 8-475-6725

Agency Contact: Sharon Frey, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-341), Washington, DC 20460, 202 475-6725

RIN: 2050–AB71

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2962. DOUBLE LINER AND LEACHATE COLLECTION SYSTEMS FOR HAZARDOUS WASTE LAND DISPOSAL UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924(o) /RCRA 3004(o)

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 260; 40 CFR 270; 40 CFR 144

Legal Deadline: Final, Statutory, November 1986.

Abstract: This rule establishes minimum technology requirements (e.g., double liners and leachate collection systems) for new hazardous waste landfills and surface impoundments, as well as lateral expansions and replacements to existing landfills and surface impoundments. This rule will establish standards for these systems enabling unit owners and operators to design and construct systems that will protect human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/28/86	51 FR 10706
Notice of Availability of Information	04/17/87	52 FR 12566
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2388.

FTS: 8-382-4684

Agency Contact: Ken Skahn, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4684

RIN: 2050–AB76

2963. LAND DISPOSAL RESTRICTION FOR SECOND THIRD OF SCHEDULED WASTES

Significance: Regulatory Program

Legal Authority: 42 USC 6924(g) /RCRA 3004(g); 42 USC 6924(h) /RCRA 3004(h); 42 USC 6924(j) /RCRA 3004(j); 42 USC 6924(k) /RCRA 3004(k); 42 USC 6924(m) /RCRA 3004(m)

CFR Citation: 40 CFR 268

Legal Deadline: Final, Statutory, June 8, 1989.
Statutory hammer provision of RCRA 3004(g)

Abstract: This rule will establish land disposal restrictions for the second third of scheduled hazardous wastes and promulgate treatment standards for these waste streams as required by sections 3004(g) and 3004(m) of RCRA. The schedule was published on May 28, 1986 (51 FR 19300).

Timetable:

Action	Date	FR Cite
NPRM	01/10/89	54 FR 1056
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2522.

FTS:8-382-4770

Agency Contact: Rhonda Craig, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, 202 382-4770

RIN: 2050–AC55

2964. PERMITTING MOBILE HAZARDOUS WASTE TREATMENT UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6905 /RCRA 3005

CFR Citation: 40 CFR 260; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: This action responds to a petition submitted to EPA by the Hazardous Waste Treatment Council (HWTC). It will establish state-wide permitting procedures for mobile hazardous waste treatment units, and will modify hazardous waste delisting procedures so that hazardous waste treatment residues could be delisted as part of the permitting process. In addition, the petition response solicited comment on HWTC's request that EPA exempt certain treatment technologies from the requirements for hazardous waste management.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20914
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2397.

FTS:8-382-2223

Agency Contact: Frank McAlister, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-341), Washington, DC 20460, 202 382-2223

RIN: 2050–AC20

2965. ● HAZARDOUS WASTE MANAGEMENT SYSTEM: SUBPART C REQUIREMENTS OF RULEMAKING PETITIONS (REVISION)

Legal Authority: 42 USC 6903; 42 USC 6912; 42 USC 6921; 42 USC 6926; 42 USC 6974

CFR Citation: 40 CFR 260.22(b)

Legal Deadline: None

Abstract: This rule will amend 40 CFR Part 260.22(b) to ensure consistency with the HSWA requirement that, when evaluating exclusion petitions, the Administrator will consider factors (including additional constituents) other than those for which the waste was listed if he/she has a reasonable basis to believe that such factors could cause the waste to be a hazardous waste.

Timetable:

Action	Date	FR Cite
NPRM	05/20/88	53 FR 18107
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2521

FTS:8-475-9801

Agency Contact: Linda Cessar, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-343), Washington, DC 20460, 202 475-9828

RIN: 2050–AC75

2966. UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM-FINANCIAL RESPONSIBILITY REQUIREMENTS; SUSPENSION OF ENFORCEMENT PROCEDURES

Legal Authority: 42 USC 6991(b) /RCRA 9003

CFR Citation: 40 CFR 280

Legal Deadline: None

Abstract: This regulation will establish final procedures for suspension of enforcement from the "Financial Responsibility Requirements," which were published on October 26, 1988 (53FR43322).

Timetable:

Action	Date	FR Cite
NPRM	04/17/87	52 FR 12786
Final Action	07/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAR No. 2641

FTS:8-382-7903

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7903

RIN: 2050–AC63

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Resource Conservation and Recovery Act (RCRA) Completed Actions

2967. NO-MIGRATION VARIANCE FOR RESTRICTED HAZARDOUS WASTE LAND DISPOSAL

Significance: Regulatory Program

CFR Citation: 40 CFR 268

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2050-AC44		

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Glen R. Galen 202 382-4678

RIN: 2050–AC56

2968. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - WOOD PRESERVING AND SURFACE PROTECTION WASTE

Significance: Regulatory Program

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271; 40 CFR 302

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2050-AC43		

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Ed Abrams 202 475-8551

RIN: 2050–AC59

2969. CHANGES TO INTERIM STATUS AND PERMITTED FACILITIES FOR HAZARDOUS WASTE MANAGEMENT; PROCEDURES FOR POST-CLOSURE PERMITTING

CFR Citation: 40 CFR 265; 40 CFR 270; 40 CFR 271

Completed:

Reason	Date	FR Cite
Final Action	03/07/89	54 FR 9596
Final Action Effective	03/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Foster 202 382-4751

RIN: 2050–AC29

2970. GUIDELINE FOR FEDERAL PROCUREMENT FOR RETREAD TIRES

CFR Citation: 40 CFR 253

Completed:

Reason	Date	FR Cite
Final Action	11/17/88	53 FR 46558

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: William Sanjour 202 382-4502

RIN: 2050–AC52

2971. SAMPLING AND ANALYSIS METHODS FOR WASTE TESTING

CFR Citation: 40 CFR 261

Completed:

Reason	Date	FR Cite
Withdrawn Merged to RIN 2050-AC32	02/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Sellers 202 382-3282

RIN: 2050–AA82

2972. AIR TOXICITY CHARACTERISTIC FOR HAZARDOUS WASTE

Significance: Regulatory Program

CFR Citation: 40 CFR 261

Completed:

Reason	Date	FR Cite
Withdrawn due to changes in program priorities	01/27/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: David Topping 202 382-7737

RIN: 2050–AC23

2973. CONCENTRATION-BASED RELISTING OF WASTES FROM EXPLOSIVES, INORGANIC CHEMICALS, AND IRON AND STEEL INDUSTRIES

CFR Citation: 40 CFR 261

Completed:

Reason	Date	FR Cite
Withdrawn Merged with RIN 2050-AC30	01/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Denny Cruz 202 475-8551

RIN: 2050–AC31

2974. DETERMINATION ON WASTES FROM COMBUSTION OF COAL BY ELECTRIC UTILITY POWER PLANTS

Significance: Regulatory Program

CFR Citation: 40 CFR Not yet determined

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2050-AC40		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dan Derkics 202 382-3606

RIN: 2050–AC53

2975. DETERMINATION ON SOLID WASTE FROM SELECTED METALLIC ORE PROCESSING OPERATIONS

Significance: Regulatory Program

CFR Citation: 40 CFR Not yet determined

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2050-AC41		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Derkics 202 382-3606

RIN: 2050–AC54

2976. DISPOSAL OF CONTAINERIZED LIQUIDS IN HAZARDOUS WASTE LANDFILLS

Significance: Regulatory Program

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 271

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2050-AA34		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Les Otte 202 475-8860

RIN: 2050–AB12

2977. LOCATION STANDARDS FOR HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 270

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2050-AB42		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Glen R. Galen 202 382-4678

RIN: 2050–AB67

2978. STATISTICAL METHODS FOR EVALUATING GROUND WATER MONITORING DATA FROM HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

CFR Citation: 40 CFR 264

Completed:

Reason	Date	FR Cite
Final Action	10/11/88	53 FR 39720

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Brown 202 475-7240

RIN: 2050–AB92

2979. LIABILITY REQUIREMENTS FOR HAZARDOUS WASTE FACILITIES - OTHER INSTRUMENTS

CFR Citation: 40 CFR 264; 40 CFR 265

Completed:

Reason	Date	FR Cite
Final Action	09/01/88	53 FR 33938

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carlos Lago 202 382-4780

RIN: 2050–AC19

2980. PERMIT MODIFICATIONS FOR HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

CFR Citation: 40 CFR 270

Completed:

Reason	Date	FR Cite
Final Action	09/26/88	53 FR 37912

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank McAlister 202 382-2223

RIN: 2050–AC22

2981. ● NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES - FEDERAL FACILITY SITES POLICY AND LISTING

Significance: Regulatory Program

Legal Authority: 42 USC 9605 /CERCLA 105; 42 USC 9620 /CERCLA 120

CFR Citation: 40 CFR 300.66

Legal Deadline: None

Abstract: This action is the ninth proposed update to the National Priorities List (NPL) for uncontrolled hazardous waste sites (Appendix B of the National Contingency Plan (NCP)). CERCLA requires that the NPL be revised at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites. In this proposed update, the Agency will propose Federal facility sites to the NPL. See the related actions in the proposed and final rule sections of this Agenda.

Timetable:

Action	Date	FR Cite
NPRM (Policy)	05/13/87	52 FR 17991
NPRM (Federal Facility Sites)	07/22/87	52 FR 27643
Final Action	03/13/89	54 FR 10512

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2688

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, Solid Waste & Emergency Response (OS-230),

Washington, D.C. 20460, 800 424 - 9346 or, 202 382-3000

RIN: 2050–AC82

2982. TRIAL BURNS FOR EXISTING HAZARDOUS WASTE INCINERATORS

CFR Citation: 40 CFR 270.62(d)

Completed:

Reason	Date	FR Cite
Final Action	01/30/89	54 FR 4286

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Dellarco 202 382-4775

RIN: 2050–AC50

2983. GUIDELINE FOR PROCUREMENT OF INSULATION PRODUCTS CONTAINING RECOVERED MATERIALS

CFR Citation: 40 CFR 248

Completed:

Reason	Date	FR Cite
Final Action	02/17/89	54 FR 7328

Small Entities Affected: Businessea

Government Levels Affected: Local, State, Federal

Agency Contact: William Sanjour 202 382-4502

RIN: 2050–AC69

2984. UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM - FINANCIAL RESPONSIBILITY REQUIREMENTS

Significance: Regulatory Program

CFR Citation: 40 CFR 280

Completed:

Reason	Date	FR Cite
Final Action	10/26/88	53 FR 43322

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Sammy Ng 202 382-7903

RIN: 2050–AB89

2985. UNDERGROUND STORAGE TANKS - STATE PROGRAM APPROVAL

CFR Citation: 40 CFR 281

Completed:

Reason	Date	FR Cite
Final Action	09/23/88	53 FR 37212

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gwen Gebhard 202 475-9724

RIN: 2050–AB31

2986. IMPLEMENTATION OF TITLE III ON INDIAN LANDS

CFR Citation: 40 CFR 355; 40 CFR 370; 40 CFR 372

Completed:

Reason	Date	FR Cite
Withdrawn Merged with RIN 2050-AC34	01/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen Bishop 202 382-7912

RIN: 2050–AC64

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Air Act (CAA)

Prerule Stage

2987. NAAQS: OZONE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.9

Legal Deadline: Final, Statutory, December 31, 1980.
Statutory. Reviews due by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reassessing health and welfare information which has become available since the last revision of the standard. In order to retain a unified regulatory review package in light of the emerging data base on health and welfare effects associated with longer-term averaging times, EPA is continuing the standard review until such information is published and reviewed in an addendum to the criteria document. The major issue is whether the new information will indicate that new standards with longer-term averaging times are required to protect public health and welfare.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NOTICE: Complete review of criteria document addendum and staff paper	04/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1920.

FTS: 8-629-5656.

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AA96

2988. NAAQS: NITROGEN DIOXIDE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.11

Legal Deadline: Final, Statutory, December 31, 1980.
Statutory. Reviews by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reviewing the health and welfare information that has become available since the last review of the NO2 NAAQS was completed in June 1985. The Agency will revise the standard if needed to protect the public health and welfare.

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Timetable:

Action	Date	FR Cite
Complete review of criteria document and staff paper	02/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1004.

FTS: 8-629-5656

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, N.C. 27711, 919 541-5656

RIN: 2060–AC06

2989. NAAQS: CARBON MONOXIDE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.8

Legal Deadline: Final, Statutory, December 31, 1980.
Statutory, Review by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reviewing the health and welfare information that has become available since the last review of the CO NAAQS was completed in September 1985. The Agency will revise the standard if needed to protect the public health and welfare.

Timetable:

Action	Date	FR Cite
Complete review of criteria document and staff paper	09/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1001.

FTS: 8-629-5656

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AC07

2990. NSPS: ORGANIC SOLVENT DEGREASING

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60, Subpart JJ

Legal Deadline: Final, Statutory, August 1982.

Abstract: An NSPS was proposed for this source category in 1980. Subsequently, in 1987, the Agency solicited public participation in information gathering in preparation for a decision on whether to regulate this source category under the NESHAP program, the NSPS program or both. That regulatory decision has been delayed pending a decision on how to respond to the court's decision on vinyl chloride (see benzene reconsideration). This action could affect any manufacturing operations that employ organic solvent cleaners to remove grease and oils from parts prior to assembly.

Timetable:

Action	Date	FR Cite
NPRM	06/11/80	45 FR 39766
NOTICE -- solicitation of public participation	08/10/87	52 FR 29548
NOTICE -- decision on whether to regulate	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 1010.

Docket No. OAQPS 78-12.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AA12

2991. NSPS: PERCHLOROETHYLENE DRY CLEANING

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60, Subpart OO

Legal Deadline: Final, Statutory, August 1982.

Abstract: Some new issues have arisen, and EPA is deciding whether to go forward with this rule. The potential regulations would apply to all types of machines and could also address auxiliary equipment and safe workplace practices.

Timetable:

Action	Date	FR Cite
NPRM	11/25/80	45 FR 78174
Decision on whether to regulate	NOTICE 00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1119.

Docket No. A-79-30.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AA14

2992. NSPS: ORGANIC SOLVENT DEGREASING (111D)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: An NSPS was proposed for this source category in 1980. Section 111(d) of the CAA provides a mechanism by which EPA can require states to develop emissions standards for existing sources for certain source categories for which NSPS standards have been developed. Subsequently, in 1987, the Agency solicited public participation in information gathering in preparation for a decision on whether to regulate this source category under the NESHAP program, the NSPS program or both. That regulatory decision has been delayed pending a decision on how to respond to the court's decision on vinyl chloride (see benzene reconsideration). This action could impact any manufacturing operations that employs organic solvent cleaners to remove grease and oils from parts prior to assembly.

Timetable:

Action	Date	FR Cite
Decision on whether to regulate	NOTICE 00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 1695.

FTS:8-629-5624.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AA33

2993. NSPS: ASPHALT PROCESSING AND ASPHALT ROOFING MANUFACTURING PLANTS(REVIEW)

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA is reviewing this NSPS to determine whether revisions are warranted. The review will assess performance and costs of asphalt processing an asphalt roofing manufacturing plant control systems as well as the experience of the industry and control agencies in implementing the standard. EPA will announce the results of its review in the Federal Register.

Timetable:

Action	Date	FR Cite
Begin Review	08/00/86	
End Review	06/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2430.

FTS:8-629-5425.

Agency Contact: Kenneth Durkee, Chief, Standards Documentation Section, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5425

RIN: 2060–AC21

2994. NESHAP:CADMIUM

Significance: Regulatory Program

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list cadmium under Section 112 (50 FR 42000). EPA is investigating the need for regulation of cadmium and techniques to control the emissions from identified source categories. If EPA decides that emission standards are warranted, cadmium will be listed under section 112, and EPA will propose standards.

Timetable:

Action	Date	FR Cite
Decision on Regulation	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1869.

FTS:8-629-5602

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5602

RIN: 2060–AB92

2995. NESHAP: PERCHLOROETHYLENE DRY CLEANING

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: In 1985, the Agency published a notice of intent to list perchloroethylene under Section 112. A decision on whether to regulate this source category under the NESHAP program has been delayed pending a decision on how to respond to the court's decision on the Vinyl Chloride NESHAP (see benzene reconsideration). The potential NESHAP regulations would apply to all types of machines and could also address auxiliary equipment and safe workplace practices.

Timetable:

Action	Date	FR Cite
NOTICE -- intent to list	12/26/85	50 FR 52880
NOTICE -- decision on whether to regulate	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2360.

FTS:8-629-5608

Agency Contact: Robert E. Rosensteel, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060–AC27

2996. NESHAP: ORGANIC SOLVENT DEGREASING

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: An NSPS was proposed for this source category in 1980. Subsequently, in 1987, the Agency solicited public participation in information gathering in preparation for a decision on whether to regulate this source category under the NESHAP program, the NSPS program or both. That regulatory decision has been delayed pending a decision on how to respond to the court's decision on the Vinyl Chloride NESHAP (see benzene reconsideration). The potential NESHAP regulations would apply to organic solvent cleaners (degreasers) and would control emissions of perchloroethylene, methylene chloride, and trichlorethylene from new and existing sources. The emissions reduction techniques that would be considered would be combinations of add-on controls, hardware and improved operating practices.

Timetable:

Action	Date	FR Cite
NOTICE -- solicitation of public participation	08/17/87	52 FR 29548
NOTICE -- decision on whether to regulate	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAR No. 1695.

FTS:8-629-5608

Agency Contact: Robert E. Rosensteel, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060–AC31

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EPA—CAA — Prerule Stage

2997. FUEL AND FUEL ADDITIVES: HEALTH AND EMISSIONS EFFECTS TESTING

Legal Authority: 42 USC 7545(e) / CAA 211(e)

CFR Citation: 40 CFR 79; 40 CFR 80

Legal Deadline: Final, Statutory, August 7, 1978.

Abstract: The CAA requires that testing protocols be developed to address at a minimum, the possible carcinogenic, mutagenic, and teratogenic effects of fuels and fuel additives as well as their effect on emissions and emission control devices. This action would implement protocols for such testing, which would have to be performed prior to: 1) fuel or additive registration, and 2) introduction of the fuel or additive into the marketplace. Fuels and additives already registered or for sale would also have to undergo testing, as provided for by the CAA.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2365.

FTS:8-374-8408

Agency Contact: Glenn Passavant, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8408

RIN: 2060–AC10

2998. GENERAL REQUIREMENTS FOR DETERMINATION OF GASOLINE METAL CONTENT

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This action will add a new method(s) to a previously promulgated set of testing procedures for the determination of lead (and perhaps other metals) content in gasoline. Such action would provide flexibility to both government and private laboratories in analyzing gasoline samples.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2629

FTS:8-374-8841

Agency Contact: David Kortum, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 475-8841

RIN: 2060–AC52

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Air Act (CAA) — Proposed Rule Stage

2999. ● PROTECTION OF STRATOSPHERIC OZONE

Significance: Agency Priority

Legal Authority: 42 USC 7457(b)

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: EPA issued an Advance Notice of Proposed Rulemaking (ANPR) on August 12, 1988 seeking public comment on whether the Agency should add a regulatory fee to its current allocated-quota rule, or whether it should shift to an auction based regulation. The ANPR also asked for comment on the need for direct regulation on CEC or halon use to supplement its existing rule. This activity will follow-up on these issues.

Timetable:

Action	Date	FR Cite
ANPRM	08/12/88	52 FR 30604
ANPRM Comment Period End	11/01/88	52 FR 30604
NPRM	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAR No. 2679

FTS:8-382-2787

Agency Contact: Stephen Seidel, Environmental Protection Agency, Air and Radiation, ANR-445, Washington, DC 20460, 202 382-2787

RIN: 2060–AC09

3000. NAAQS: LEAD (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.12

Legal Deadline: Final, Statutory, December 31, 1980.
Statutory, Reviews due by December 31, 1980 and at 5-year intervals.

Abstract: EPA is reassessing the health and welfare information that has become available since the promulgation of the standard. A staff paper is in preparation for review by the Clean Air Scientific Advisory Committee (CASAC).

Timetable:

Action	Date	FR Cite
CASAC Review	05/00/89	
NPRM	06/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1919.

FTS: 8-629-5656.

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AA95

3001. NAAQS: FINE PARTICULATE MATTER

Significance: Regulatory Program

Legal Authority: 42 USC 7408 /CAA 108; 42 USC 7409 /CAA 109

CFR Citation: 40 CFR 50.7

Legal Deadline: None

Abstract: On July 1, 1987, EPA issued an ANPRM soliciting public comment on the development of a new secondary (welfare-based) NAAQS for fine particles (those particles less than 2.5 micrometers in aerodynamic diameter). This action represents a continuation of the review process for the secondary

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standards for particulate matter discussed by the Agency on March 20, 1984 (49 FR 10408). The principal welfare effect to be addressed by such a standard is impairment of visibility. Once a decision on whether and how to proceed is reached, a schedule for further action will be developed.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/87	52 FR 24670
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2577.

FTS:8-629-5656

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AC32

3002. NEW SOURCE REVIEW REQUIREMENTS – CMA EXHIBIT B

Legal Authority: 42 USC 7410 /CAA 110

CFR Citation: 40 CFR 51; 40 CFR 52

Legal Deadline: None

Abstract: This action would revise EPA's new source requirements for new major stationary sources in PSD and nonattainment areas. EPA is taking this action to implement a settlement agreement with Chemical Manufacturer's Association (CMA) and other parties who challenged the regulation amendments promulgated on August 7, 1980. This action covers the issues in Exhibit B of the agreement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2608

FTS:8-629-5592

Agency Contact: Gary McCutchen, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC, 27711, 919 541-5592

RIN: 2060–AC54

3003. NSPS: SOCMI REACTOR PROCESSES

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The scope of the Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor processes includes all reactor processes (other than air oxidation reactor processes) used to manufacture 173 synthetic organic chemicals produced in quantities of at least 100 million 1b/yr. These large-volume chemicals account for about 90 percent of the total domestic chemical production from the SOCMI.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2164.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AB55

3004. NSPS: SMALL BOILERS

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: NPRM, Judicial, June 1, 1989. Final, Judicial, September 1, 1990.

Abstract: The purpose of this action is to develop a proposal for new source performance standards for small industrial-commercial-institutional boilers with heat input capacities of 100 million Btu/hr or less.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	09/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2239.

FTS:8-629-5595

Agency Contact: Kenneth Durkee, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5595

RIN: 2060–AB95

3005. NSPS: MUNICIPAL WASTE COMBUSTORS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The EPA has completed a preliminary assessment of air emissions from municipal waste combustors (MWC). Based on this assessment, EPA has concluded that MWC emissions may reasonably be anticipated to contribute to the endangerment of public health and welfare. As a result, EPA issued a notice in the Federal Register (52 FR 25399) that announces its intent to regulate emissions from new and modified MWC under Section 111(b). Pollutants to be regulated will include one or more designated pollutants (pollutants not regulated under Sections 108-110 or 112) thus invoking Section 111(d) which will require States to develop additional emissions standards for existing MWC based on EPA guidelines.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/87	52 FR 25399
ANPRM Comment Period End	10/06/87	52 FR 37335
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	12/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2424.

FTS:8:629-5602

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Agency Contact: Alfred E. Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 2771, 919 541-5602

RIN: 2060–AC26

3006. NSPS: MUNICIPAL LANDFILLS

Significance: Agency Priority

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The purpose of this action is to develop a proposal for regulating emissions from new and modified municipal landfills under Section 111(b). Pollutants to be regulated would include one or more designated pollutants (pollutants not regulated under Section 108 - 110 or 112 of the Act) thus invoking Section 111(d). Section 111(d) would require States to develop emission standards for existing landfills based on EPA guidelines.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
Final Action	05/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2535.

FTS:8-629-5672

Agency Contact: James F. Durham, Environmental Protection Agency, Air and Radiation, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5672

RIN: 2060–AC42

3007. NESHAP: COKE OVEN EMISSIONS FROM COKE OVEN CHARGING, DOOR LEAKS, AND TOPSIDE LEAKS ON WET-COAL-CHARGED BATTERIES

Significance: Regulatory Program

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 G

Legal Deadline: NPRM, Statutory, March 1985.

Abstract: This regulation would control emissions of coke oven emissions, which have been designated as hazardous under section 112. It would require improved maintenance and operation to limit visible emissions from wet-coal-charged coke oven batteries. The standards may apply to charging and leaks from doors, lids, or offtakes for all existing or new sources. A supplemental proposal will be published to reevaluate the standard consistent with the court decision on vinyl chloride. The schedule has been delayed pending a decision on how to respond to a court decision on the Vinyl Chloride NESHAP (see benzene reconsideration).

Timetable:

Action	Date	FR Cite
NPRM	04/23/87	52 FR 13586
NPRM (Supplemental)	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1686.

Docket No. A-79-15.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AA48

3008. NESHAP: ASBESTOS REVISION (RISK REDUCTION)

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61, Subpart M

Legal Deadline: None

Abstract: The Agency is considering revising the asbestos NESHAP to reduce further the risks to public health. The schedule has been delayed pending a decision on how to respond to the court decision on the vinyl chloride NESHAP (see "benzene reconsideration"). The Agency also is considering another revision on an accelerated schedule that would address compliance and monitoring provisions only. See asbestos revision (compliance provisions).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1714.

FTS 8-629-5625.

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060–AB51

3009. DECISIONS ON REGULATING VARIOUS AIR POLLUTANTS

Significance: Regulatory Program

Legal Authority: 42 USC 7411/CAA 112

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: The Agency is reviewing the health effects, sources, emissions to the ambient air, and the public exposure of various pollutants. The Agency will publish decisions regarding whether certain pollutants should be controlled under the Clean Air Act or under other regulatory mechanisms in order to protect the public health. Decisions of regulating specific pollutants have been delayed pending decision on how to respond to the court decision on the Vinyl Chloride NESHAP (See Benzene Reconsideration).

Timetable:

Action	Date	FR Cite
Decision on Regulations Various Air Pollutants	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2181.

FTS:8-629-5647

Agency Contact: Robert G. Kellam, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5647

RIN: 2060–AB56

3010. NESHAP:CHROMIUM

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24317). EPA is further assessing the public health risks of chromium compounds. Also, EPA is investigating emissions of chromium and techniques that are available to control the emissions from 11 identified source categories. If EPA decides that emission standards are warranted, chromium or hexavalent chromium will be listed under Section 112, and EPA will propose standards. Agency actions on industrial comfort cooling towers and chromium electroplating are described separately in the agenda.

Timetable:

Action	Date	FR Cite
NPRM -- decision on whether to regulate	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2181.

FTS: 8-629-5596

Agency Contact: James Crowder, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5596

RIN: 2060–AB83

3011. NESHAP: CHROMIUM--INDUSTRIAL COOLING TOWERS

Significance: Regulatory Program

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24137). EPA is further assessing the public health risks of chromium compounds. Preliminary assessment performed by EPA has identified industrial process cooling towers as a source category for which the proposal of national emission standards may be warranted. If EPA decides, based on these investigations, that emissions standards are warranted, chromium or hexavalent chromium will be listed under Section 112 and EPA will propose standards.

Timetable:

Action	Date	FR Cite
NPRM	08/00/90	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2386.

FTS-8-629-5602

Agency Contact: Al Vervaert, Exvironmental Protection Agency, Air and Radiation, MD-13, 919 541-5602

RIN: 2060–AC12

3012. NESHAP: CHROMIUM--ELECTROPLATING

Significance: Regulatory Program

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list chromium or hexavalent chromium under Section 112 (50 FR 24317). EPA is further assessing the public health risks of chromium compounds. A preliminary assessment performed by EPA has identified chromium electroplating as a source category which emits significant quantities of chromium to the atmosphere and for which the proposal of national emission standards may be warranted. If EPA decides, based on these investigations, that emission standards are warranted, chromium or hexavalent chromium will be listed under Section 112, and standards will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2386.

FTS-8-629-5602.

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, 919 541-5602

RIN: 2060–AC14

3013. NESHAP: HAZARDOUS ORGANICS

Significance: Regulatory Program

Legal Authority: 42 USC 7412/CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: This potential regulation would control emissions of 1,3-butadiene, ethylene oxide, ethylene dichloride, chloroform, carbon tetrachloride, perchloroethylene, trichloroethylene, and methylene chloride, as hazardous pollutants under Section 112. The potential regulation would cover the production categories and some use categories for these eight pollutants. It would require installation of combustion devices to control process vents and an inspection and monitoring program to control leaks from pumps and valves. The schedule has been delayed pending a decision on how to respond to the court decision on the Vinyl Chloride NESHAP (see benzene reconsideration).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2363.

FTS:8-629-5578

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060–AC19

3014. NESHAP: ETHYLENE OXIDE FROM COMMERCIAL STERILIZATION

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: This potential standard would control ethylene oxide emissions from sterilization chambers. The emission reduction being considered would require add-on controls for sterilizers. The schedule has been delayed pending decision on how to respond to the court decision on the Vinyl Chloride NESHAP (see benzene reconsideration).

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2484

FTS:8-629-5608

Agency Contact: Robert E. Rosensteel, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060–AC28

3015. GUIDELINE ON AIR QUALITY MODELS (REVISION)

Legal Authority: 42 USC 2475(e)/CAA 165(e)

CFR Citation: 40 CFR 51.24(l); 40 CFR 52.21(m)

Legal Deadline: None

Abstract: In response to Section 320 of the Clean Air Act, EPA held the Fourth Conference on Air Quality Modeling in October 1988. Based on input provided to the Agency at or closely following this Conference, the need for additional revisions to EPA's Guideline on Air Quality Models will be evaluated. If appropriate, a NPRM will be developed.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Final Action	04/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2557.

FTS:8-629-5561

Agency Contact: Joseph Tikvart, Environmental Protection Agency, Air and Radiation, (MD-14), Research Triangle Park, NC 27711, 919 541-5561

RIN: 2060–AC43

3016. PSD INCREMENTS FOR PM10

Significance: Regulatory Program

Legal Authority: 42 USC 7476/CAA 166

CFR Citation: 40 CFR 52.21; 40 CFR 51.166

Legal Deadline: Final, Statutory, July 1, 1989.

Abstract: The purpose of this action is to prevent significant deterioration of air quality as measured by the new indicator for particulate matter, PM10. The existing PSD program has particulate matter increments based on the original TSP indicator. The EPA has now promulgated a PM10 NAAQS to replace the original TSP-based particulate matter NAAQS. Therefore, EPA is preparing to revise the PSD program by promulgating PM10 increments in accordance with section 166 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2491.

FTS:8:629-5593

Agency Contact: Daniel DeRoeck, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711, 919 541-5593

RIN: 2060–AC33

3017. EMISSION STANDARDS FOR LIGHT-DUTY TRUCKS (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: Through this action, EPA will propose more stringent hydro- carbon and CO emission standards for light-duty trucks based upon the belief that very cost-effective hydrocarbon control is available from these vehicles. The proposed standards would be set at levels which could be met by applying currently available passenger car control technology to light trucks.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/86	51 FR 32032
NPRM	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAR No. 2287.

FTS: 8-374-4496.

Agency Contact: J. Anderson, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4496

RIN: 2060–AB85

3018. DECISION ON AIR POLLUTION REGULATORY STRATEGIES FOR THE GASOLINE MARKETING INDUSTRY

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202; 42 USC 7525 / CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: Evaporative hydrocarbons emitted during vehicle refueling contribute to the failure of many urban areas to attain the National Ambient Air Quality Standard for ozone. Through this action, if deemed feasible and desirable, EPA will control emissions at the time of refueling.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31162
Supplemental NPRM	04/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2384.

FTS:8-374-8270

Agency Contact: Phil Carlson, Environmental Protection Agency, Air and Radiation, Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105, 313 668-4270

RIN: 2060–AC04

3019. TRADING AND BANKING OF HEAVY-DUTY ENGINE NOX AND PM EMISSION CREDITS

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: In March 1985 the EPA promulgated NOx and PM emission standards for heavy-duty vehicles and engines. The rulemaking included a provision for emissions averaging for the final stages of standard implementation in order to mitigate the economic impact of the stringent standards. EPA realized that the averaging mechanism could provide more benefits to manufacturers with a broader product line. In order to address this issue, EPA included in the final package a provision to study the potential for mitigating this uneven distribution of benefits through an emissions credit trading program. The study was expanded to include the concept of 'banking' emissions credits. The study has been completed and made available to the public and a technical workshop was held in January 1987. EPA is analyzing the comments received from the public and from the workshop.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 1315.

FTS: 8-374-8408

Agency Contact: Glenn Passavant, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4408

RIN: 2060–AC05

3020. ● AMENDMENTS TO MOTOR VEHICLE IMPORTS REGULATIONS PERTAINING TO CANADIAN VEHICLES

Significance: Agency Priority

Legal Authority: 42 USC 7522 /CAA 203; 42 USC 7525 /CAA 206; 42 USC 7541/CAA 207; 42 USC 7542/CAA 208; 42 USC 7601/CAA 301

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will consider amendments to the regulations in 40 CFR Part 85, Subpart P as they pertain to importers of vehicles which are originally sold in Canada and which are identical to their U.S.-certified counterparts. This action is in response to a petition for review of the imports regulations filed on November 24, 1987.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2665

Agency Contact: Randall Chaffins, Environmental Protection Agency, Air and Radiation, U.S. Environmental Protection Agency, Office of Air & Radiation (EN-340F), Washington, D.C. 20460, 202 382-2542

RIN: 2060–AC58

3021. ● INTERIM COLD AMBIENT AIR TEMPERATURE CARBON MONOXIDE EMISSION STANDARDS

Significance: Agency Priority

Legal Authority: 42 USC 7521 /CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: EPA's current Carbon Monoxide (CO) emission standards are applicable to the 68 to 86 temperature range of the current Federal Test Procedure. Since CO emissions are higher at colder ambient temperatures, and since CO ambient air quality problems occur primarily under ambient temperature conditions less than 68F, EPA is considering the adoption of CO emission standards applicable to a lower temperature range, possibly as low as 20F.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2660

FTS:8-374-8214

Agency Contact: John German, Environmental Protection Agency, Air and Radiation, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4214

RIN: 2060–AC59

3022. ● REVISIONS TO THE STACK HEIGHT REGULATION

Legal Authority: 42 USC 7411/CAA 123

CFR Citation: 40 CFR 51.100

Legal Deadline: None

Abstract: Under the Clean Air Act, emission limitations for sources are generally determined on the basis of local, ground-level concentrations of pollutants. In the absence of laws and/or regulations prohibiting such action, a source can lower the local ground-level ambient pollutant concentrations not only by reducing the amount of pollutants it emits into the air, but also by raising the physical height of its stack or using other dispersion techniques. Section 123, which was added to the CAA by the 1977 Amendments, restricts the manner in which techniques for dispersion of pollutants from a source may be considered in setting emission limitations. The EPA promulgated the current stack height regulation on July 8, 1985. On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit upheld EPA's regulation except for three provisions which were remanded to the Agency for proceedings consistent with the court's opinion. The purpose of this action is to revise the stack height regulation in accordance with the January 22, 1988 court decision.

Timetable:

Action	Date	FR Cite
NPRM	11/30/89	
Final Action	11/30/90	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2589

The court remanded two grandfathering provisions which allow dispersion credit, including credit for certain stack height increases. The decision also remanded the allowance of dispersion credit for sources with originally designed and constructed merged stacks. The court concluded that exclusion of these groups of sources from the regulation's restrictions was not adequately supported. The EPA is analyzing the court decision to determine whether further support should be offered for the current provisions or whether to revise the regulation to limit or delete these exclusionary provisions. The Agency's regulatory decisions and any rule revisions will be proposed for public comment in the Federal Register before taking final action.

Agency Contact: Doug Grano, Environmental Protection Agency, Air and Radiation, EPA(MD-15), Research Triangle Park, NC 27711, 919 541-5255

RIN: 2060–AC60

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3023. TEST PROCEDURES FOR TRAP-EQUIPPED DIESEL VEHICLES AND ENGINES

Legal Authority: 42 USC 7525 / CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: The particulate standards for 1991 and later model year heavy-duty diesel engines may require the use of trap-oxidizers for some vehicles and engines. The existing test procedures do not expressly describe how to deal with emissions and fuel economy effects during trap regeneration. If it turns out that trap oxidizers are necessary to comply with the 1991 particulate standards, the Agency will develop an appropriate test procedure.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2373.

FTS: 8-374-8496

Agency Contact: John Anderson, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4496

RIN: 2060–AC08

3024. NONCONFORMANCE PENALTIES FOR 1991 THROUGH 1994 MODEL YEAR EMISSION STANDARDS FOR HEAVY-DUTY VEHICLES AND ENGINES

Legal Authority: 42 USC 7524 /CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will address the availability of nonconformance penalties (NCPs) and specific upper limits and penalty rates for 1991 through 1994 model year emission standards for heavy-duty vehicles and engines. The availability of NCPs will allow a manufacturer, whose vehicles or engines fail to conform with certain applicable emission standards, but which do not exceed a designated upper limit, to be issued a certificate of conformity upon payment of a monetary penalty. This rule is the third phase of NCP rulemaking. The first, published August 30, 1985 established generic aspects of NCPs. The second, published December 31, 1985, addressed NCPs applicable to 1987 through 1990 model years.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2431.

FTS:8-382-2535.

Agency Contact: Richard Babst, Environmental Protection Agency, Air and Radiation, (EN-340-F), Washington, DC 20460, 202 382-2535

RIN: 2060–AC39

3025. EMISSION PERFORMANCE WARRANTY REGULATIONS (REVISION)

Legal Authority: 42 USC 7541(b) / CAA 207(b)

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This rulemaking will address the issue of establishing: (1) test procedures and standards for heavy-duty gasoline vehicles, (2) new standards for light-duty vehicles and light-duty trucks, and (3) alternative dynamometer loadings for the loaded short tests. These amendments are appropriate so that owners of heavy-duty vehicles will have emissions warranty protection and additional owners of light-duty vehicles and trucks will be entitled to warranty protection.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2136.

FTS: 8-374-8471.

Agency Contact: Jane Armstrong, Environmental Protection Agency, Air and Radiation, 2625 Plymouth Road, Ann Arbor, MI 48105, 313 668-4471

RIN: 2060–AB53

3026. ALTERNATIVE TEST PROCEDURES FOR THE VOLUNTARY AFTERMARKET PART CERTIFICATION PROGRAM

Legal Authority: 42 USC 7541 /CAA 207

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action would consider an alternative testing procedure to be used in the voluntary aftermarket parts certification program for certifying aftermarket parts. Currently only the full Federal Test Procedure is an acceptable test procedure for this program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAR No. 2637

FTS:8-374-4316

Agency Contact: Michael Sabourin, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4316

RIN: 2060–AC50

3027. DIESEL FUEL QUALITY STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 7545 / CAA 211

CFR Citation: 40 CFR 79; 40 CFR 80

Legal Deadline: None

Abstract: Trap oxidizers, the use of which may be required to meet future heavy-duty diesel particulate standards, may require the use of low sulfur diesel fuels. In promulgating the particulate standard, EPA promised to examine the potential need for low-sulfur fuel. In particular, fuel sulfur and aromatics content have been shown to have a direct effect on particulate emissions. This action will consider the costs and benefits of improving diesel fuel quality.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2366.

FTS:8-374-8339

Agency Contact: Richard Rykowski, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4339

RIN: 2060–AC00

3028. FUEL AND FUEL ADDITIVES: ENFORCEMENT OF SECTION 211(F)(4) WAIVERS

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: The purpose of this action is to establish regulations under sections 211(c) and 211(f) of the CAA for the enforcement of prohibitions against certain fuel and fuel additives not complying with CAA requirements. The regulations will also formalize the procedures for reviewing applications from manufacturers of fuel and fuel additives for waivers of the provisions of paragraphs (1), (2), and (3) of section 211(f), which the Agency may grant pursuant to section 211(f)(4).

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2604

FTS:8-374-8572

Agency Contact: Steven Hoover, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2640

RIN: 2060–AC53

3029. TREATMENT, STORAGE, AND DISPOSAL FACILITY AREA SOURCE AIR EMISSIONS - RCRA STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA 3004, 3007

CFR Citation: 40 CFR 264, Subparts I to N

Legal Deadline: None

Abstract: The purpose of this action is to investigate the magnitude of the area non-combustion source air emissions from hazardous waste treatment, storage, and disposal facilities and to develop standards for monitoring and control as needed. Area sources include surface impoundments, landfills, waste piles, land treatment operations and waste water treatment facilities. Pollutants to be considered by such standards would include volatile organic compounds, particulate matter, specific toxic substances, or a combination of these. The mandate for standards development under RCRA is to protect human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2240.

FTS:8-629-5672.

Agency Contact: James F. Durham, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5672

RIN: 2060–AB94

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Air Act (CAA)

Final Rule Stage

3030. STATE IMPLEMENTATION PLANS: ATTAINMENT STATUS DESIGNATIONS

Significance: Agency Priority

Legal Authority: 42 USC 7501/CAA 101; 42 USC 7502/CAA 102; 42 USC 7503/CAA 103; 42 USC 7504/CAA 104; 42 USC 7505/CAA 105; 42 USC 7506/CAA 106; 42 USC 7507/CAA 107; 42 USC 7508/CAA 108

CFR Citation: 40 CFR 81

Legal Deadline: NPRM, Statutory, August 31, 1988.

Abstract: On June 6, 1988 (53 FR 20722), the EPA, as directed by the Mitchell-Conte Amendment of December 22, 1987 (contained in the continuing resolution of 1987, Pub. L. 100-202), proposed to designate as nonattainment under the CAA those areas throughout the nation that have not attained the NAAQS for either ozone or carbon monoxide (CO). EPA proposed to designate as nonattainment those areas currently codified under the Clean Air Act as attainment or unclassified, and to renew the designations for areas currently codified under the Clean Air Act as nonattainment The notice also proposed for public comment 3 interpretations of the regulatory consequences of these nonattainment designations under the Mitchell-Conte amendment.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20722
NPRM Comment Period End	08/05/88	53 FR 20722
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 5440

FTS:8-629-5517

Agency Contact: Brock Nicholson, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5517

RIN: 2060–AC56

3031. NAAQS: SULFUR OXIDES (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 7409 /CAA 109

CFR Citation: 40 CFR 50.4; 40 CFR 50.5

Legal Deadline: Final, Statutory, December 31, 1980.
Reviews due by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA has reviewed the scientific criteria used as a basis for establishing ambient air quality standards for sulfur oxides. The Agency will revise the standards if and as appropriate to protect public health and

welfare. On April 26, 1988, EPA announced its proposed decision not to revise the current standards. The notice also solicited comment on the alternative of adding a new 1-hour standard and certain other revisions.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/79	44 FR 56730
NPRM	04/26/88	53 FR 14926
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1002.

Docket No. A-84-25.

FTS:8-629-5656.

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, **919 541-5656**

RIN: 2060–AA61

3032. NEW SOURCE REVIEW REQUIREMENTS – CMA EXHIBIT A

Significance: Regulatory Program

Legal Authority: 42 USC 7410/CAA 110

CFR Citation: 40 CFR 51; 40 CFR 52

Legal Deadline: None

Abstract: This action would revise EPA's new source requirements for new major stationary sources in PSD and Nonattainment areas. EPA is taking this action to implement a settlement agreement with Chemical Manufacturer's Association and other parties who challenged the regulation amendments promulgated on August 7, 1980. This action covers the issues in Exhibit A of the agreement.

Timetable:

Action	Date	FR Cite
NPRM	08/25/83	49 FR 38742
Final Action New Source Review	04/00/89	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1845.

FTS:8-629-5592.

Agency Contact: Gary McCutchen, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711, **919 541-5592**

RIN: 2060–AA68

3033. FEDERAL PROMULGATION OF STATE IMPLEMENTATION PLAN TO PROTECT VISIBILITY

Significance: Regulatory Program

Legal Authority: 42 USC 7410 /CAA 110; 42 USC 7491 /CAA 169A

CFR Citation: 40 CFR 52

Legal Deadline: NPRM, Judicial, May 14, 1989.

Abstract: Section 169A of the CAA requires that State Implementation Plans (SIPs) contain provisions to remedy existing and prevent future visibility impairment in certain national parks and wilderness areas. In 1980, EPA promulgated guideline regulations for States to follow in developing their SIP revisions (40 CFR 51.300-307). Many States failed to submit adequate visibility SIPs and EPA was sued to force the Agency to promulgate SIPs for such States. EPA entered into a consent decree under which it agreed to promulgate SIPs implementing the requirements of the visibility regulations in States that have not submitted adequate SIPs. This activity was divided into four parts, the first and second of which have been completed. Parts III and IV are being proposed and promulgated according to the schedule shown.

Timetable:

Action	Date	FR Cite
NPRM	03/12/87	52 FR 7802
Final Action	11/24/87	52 FR 45132
NPRM Remedying Existing Impairment (Part III)	09/15/88	53 FR 35956
Final Action Remedying Existing Impairment (Part III)	05/00/89	
NPRM Remedying Existing Impairment (Part IV)	08/00/89	
Final Action Remedying Existing Impairment (Part IV)	05/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2428.

FTS:8-629-5634

Agency Contact: Denise W. Scott, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, **919 541-0670**

RIN: 2060–AB82

3034. NEW SOURCE REVIEW REQUIREMENTS – SURFACE COAL MINES AND FUGITIVE EMISSIONS

Significance: Regulatory Program

Legal Authority: 42 USC 7410/CAA 110; 42 USC 7470/CAA 160; 42 USC 7471/CAA 161; 42 USC 7472/CAA 162; 42 USC 7473/CAA 163; 42 USC 7474/CAA 164; 42 USC 7475/CAA 165; 42 USC 7476/CAA 166; 42 USC 7477/CAA 167; 42 USC 7478/CAA 168; 42 USC 7479/CAA 169

CFR Citation: 40 CFR 52.21; 40 CFR 51.166; 40 CFR 52.24; 40 CFR 51, Appendix S

Legal Deadline: None

Abstract: The various EPA regulations that govern new construction under the CAA generally apply to "major" new stationary sources of air pollution and "major" modifications of existing sources. They require fugitive emissions to be included in threshold applicability determinations of whether a new source is "major," but only for 30 categories of sources. The purpose of this action is to determine if surface coal mines should be added to the existing list of 30 categories. A companion action will respond to a petition on the more general issue of including fugitive emissions in NSR applicability determinations.

Timetable:

Action	Date	FR Cite
NPRM	10/26/84	49 FR 43211
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2298

FTS:8-629-5374

Agency Contact: William Lamason, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, **919 541-5374**

RIN: 2060–AC40

3035. NSPS: SOCMI AIR OXIDATION PROCESS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart III

Legal Deadline: None

Abstract: EPA has proposed regulations which would control emissions of volatile organic compounds from the manufacture of synthetic organic chemicals via air oxidation processes.

Timetable:

Action	Date	FR Cite
NPRM	10/21/83	48 FR 48932
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1618.

FTS:8-629-5578.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, **919 541-5568**

RIN: 2060–AA30

3036. NSPS: DISTILLATION OPERATIONS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has proposed this regulation which would control emissions of volatile organic compounds from new, modified, and reconstructed distillation facilities at petroleum refineries and synthetic organic chemical plants.

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	48 FR 57538
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1733.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, **919 541-5568**

RIN: 2060–AA35

3037. NSPS: PETROLEUM REFINERY, FCC REGENERATORS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This standard will require control of sulfur dioxide from fluidized catalytic cracking units.

Timetable:

Action	Date	FR Cite
NPRM	11/08/85	50 FR 46464
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1736.

FTS:8-629-5625.

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, **919 541-5625**

RIN: 2060–AA36

3038. NSPS: POLYMER AND RESIN MANUFACTURE

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, August 1982.

Abstract: Upon promulgation, this rule will control volatile organic compound (VOC) emissions in exhaust streams from polymerization processes in the manufacture of organic polymers and resins.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	52 FR 36678
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Sectors Affected: Multiple

Additional Information: SAR No. 1691.

Docket No. A-82-19.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, **919 541-5578**

RIN: 2060–AA37

3039. NSPS: AUTOMOBILE AND LIGHT-DUTY TRUCK COATING OPERATIONS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has proposed to revise the NSPS for automobile and light-duty truck coating operations which was promulgated in December 1980 to reflect additional operational data of the best demonstrated prime coat system. This proposal does not reflect a change in the basis of the prime coat standard, but a better understanding of the performance of the prime coat system upon which the standard was originally based.

Timetable:

Action	Date	FR Cite
NPRM	07/29/82	47 FR 32743
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2044.

FTS: 8-629-5625.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, **919 541-5625**

RIN: 2060–AB22

3040. NSPS: FOSSIL FUEL-FIRED STEAM GENERATORS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111; 42 USC 7601(a)

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has proposed revisions to the existing NSPS for large fossil

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fuel-fired steam generators which would establish sulfur dioxide compliance, emission monitoring, and reporting requirements on a 30-day rolling average basis.

Timetable:

Action	Date	FR Cite
NPRM	10/21/83	48 FR 48960
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2083.

FTS: 8-629-5251.

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5251

RIN: 2060–AB29

3041. NSPS: POLYMERIC COATING OF SUPPORTING SUBSTRATES

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has proposed limits on volatile organic compounds emissions from new, modified, and reconstructed plants that coat polymeric compounds onto supporting substrates.

Timetable:

Action	Date	FR Cite
ANPRM	08/17/84	49 FR 32868
NPRM	04/30/87	52 FR 15906
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2237.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AB67

3042. STATE IMPLEMENTATION PLANS: APPROVAL OF POST -1987 OZONE AND CARBON MONOXIDE PLAN REVISIONS FOR AREAS NOT ATTAINING THE NATIONAL AMBIENT AIR QUALITY STANDARDS NAAQS

Significance: Regulatory Program

Legal Authority: 42 USC 7401 et seq/CAA

CFR Citation: 40 CFR Not applicable

Legal Deadline: None

Abstract: The EPA is developing a program to address the fact that many areas in the country have not attained the national ambient air quality standards (NAAQS) for ozone and carbon monoxide (CO) by December 31, 1987, the latest date for attainment expressly identified in the Clean Air Act. This notice describes EPA's views about how EPA should interpret the Act so as to bring those areas into attainment, the reasons for that interpretation, and the concrete steps EPA intends to take to implement that interpretation soon and in the long term. The final policy will be an advance notice of how EPA intends, in subsequent rulemakings, to judge the adequacy of State efforts to plan for attainment of the ozone and CO standards.

Timetable:

Action	Date	FR Cite
NPRM	11/24/87	52 FR 45044
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2559.

FTS:8-629-5517

Agency Contact: Brock Nicholson, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711, 919 541-5517

RIN: 2060–AB96

3043. NESHAP: CHROMIUM–COMFORT COOLING TOWERS

Significance: Regulatory Program

Legal Authority: 15 USC 2605; 15 USC 2607

CFR Citation: 40 CFR 749

Legal Deadline: None

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24317). EPA is further assessing the public health risks of chromium compounds and investigating emissions of chromium and techniques that are available to control the emissions from identified source categories. Emissions from cooling towers using chromium chemicals in the recirculating water are predominantly hexavalent. EPA analysis has indicated that emissions standards are warranted, and standards have been proposed under Section 6 of TSCA.

Timetable:

Action	Date	FR Cite
Notice of Solicitation	09/15/86	51 FR 32668
NPRM	03/29/88	53 FR 10205
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2386.

FTS-8-629-5625

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, MD-13, 919 541-5625

RIN: 2060–AC13

3044. NESHAP: BENZENE RECONSIDERATION

Significance: Regulatory Program

Legal Authority: 42 USC 7412/CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: NPRM, Judicial, June 20, 1988. Final, Judicial, August 31, 1989.

Abstract: In June 1984, the Agency promulgated a NESHAP for benzene equipment leaks and withdrew proposed NESHAPS for benzene emissions from maleic anhydride plants, ethylbenzene/styrene plants, and benzene storage tanks (49 FR 23478). This action will reevaluate the three withdrawn proposals and the benzene fugitive NESHAP, along with coke oven by-product emission, consistent with the recent court decision on the vinyl chloride NESHAP.

Timetable:

Action	Date	FR Cite
NPRM	07/28/88	53 FR 28496
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2558.

FTS:8-629-5625

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060–AC41

3045. RURAL FUGITIVE DUST POLICY FOR PM10

Significance: Regulatory Program

Legal Authority: 42 USC 7401 /et. seq CAA

CFR Citation: 40 CFR 50; 40 CFR 52

Legal Deadline: None

Abstract: Since 1977, EPA has allowed States with rural fugitive dust areas (RFDAs) to discount fugitive dust in developing and enforcing a State Implementation Plan(SIP) for attainment and maintenance of the NAAQS for particulate matter (PM). On July 1, 1987, EPA promulgated revisions to its particulate matter National Ambient Air Quality Standards (NAAQS), 52 FR 24634. In this notice, EPA also solicited comments on alternatives for SIP requirements for RFDAs and on the adequacy of the definitions which are used in identifying RFDAs, and the importance of protecting annual versus 24-hour NAAQS (52 FR 24716). The EPA will issue its decision after considering public comments on the alternatives. The EPA will continue its existing fugitive policy and apply it to implementation of the revised particulate standard until a decision is made.

Timetable:

Action	Date	FR Cite
NPRM	07/01/87	52 FR 24716
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2543.

FTS:8-629-5634

Agency Contact: Robin M. Dunkins, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5335

RIN: 2060–AC44

3046. NESHAP: RADIONUCLIDES

Significance: Regulatory Program

Legal Authority: 42 USC 7401/CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: NPRM, Judicial, February 28, 1989. Final, Judicial, August 31, 1989.
U.S. Court of Appeals for the D.C. Circuit has granted EPA's motion to remand radionuclides NESHAPs and decisions not to regulate.

Abstract: EPA addressed the risks to individuals and to populations due to radionuclide emissions to air in rulemaking decisions issued in 1985. This action will reevaluate the NESHAP regulatory decisions for: Department of Energy Facilities, Nuclear Regulatory Commission Licenses, Elemental Phosphorous plants, Radon-222 emissions from uranium mill tailings, Coal-fired boilers, uranium fuel cycle facilities, inactive uranium mill tailings, high-level radio- active waste, and phosphogypsum piles, to insure they are consistent with the recent court decision on the Vinyl Chloride NESHAP.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9612
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2547.

FTS:8-475-9610

Agency Contact: Terrence A. McLaughlin, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9610

RIN: 2060–AC47

3047. ● NESHAP FOR ASBESTOS (COMPLIANCE REVISIONS)

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61, Subpart M

Legal Deadline: None

Abstract: The Agency is considering revisions to the Asbestos NESHAP to enhance enforcement and promote compliance with the standards. The revision would require monitoring and proper operation and maintenance of air pollution control devices used by asbestos milling, manufacturing, and fabricating sources. It also would require additional work practice and recordkeeping provisions for demolition and renovation operations, including asbestos waste disposal.

Timetable:

Action	Date	FR Cite
NPRM	01/10/89	54 FR 912
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1714

FTS:8-629-5625

This action was split from the asbestos risk reduction revision (RIN 2060-AB51) so that the revised compliance revisions could be adopted on an accelerated schedule. The compliance provisions involve none of the legal issues that have delayed the risk reduction action (see "benzene reconsideration" and "asbestos revision, risk reduction").

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060–AC57

3048. EMISSION STANDARDS AND TEST PROCEDURES FOR METHANOL-FUELED NEW MOTOR VEHICLES

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This rule establishes emission standards and test procedures applicable to methanol-fueled light-duty vehicles, light-duty trucks, heavy-duty engines, and motorcycles. Current regulations apply only to gasoline-fueled and diesel-powered vehicles.

Timetable:

Action	Date	FR Cite
ANPRM	04/10/84	49 FR 14244
NPRM	08/23/86	51 FR 30984

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Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2112.

FTS: 8-374-8227.

Agency Contact: Chuck Moulis, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4229

RIN: 2060-AB28

3049. CONTROL OF EXCESS EVAPORATIVE EMISSIONS/FUEL VOLATILITY

Significance: Regulatory Program

Legal Authority: 42 USC 7414; 42 USC 7541; 42 USC 7542; 42 USC 7521 /CAA 202; 42 USC 7525 /CAA 206; 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301(a)

CFR Citation: 40 CFR 80; 40 CFR 600; 40 CFR 86

Legal Deadline: None

Abstract: In-use motor vehicle evaporative hydrocarbon emissions greatly exceed their applicable EPA emissions standards. A major reason is that the volatility of commercial gasoline is substantially greater than that of the certification test fuel specified by EPA. On March 22, EPA promulgated a rule limiting the summertime volatility of gasoline. EPA will continue to assess whether additional control of gasoline volatility is cost-effective and reasonable.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31274
Final Rule	03/22/89	54 FR 11868
Final Action (Additional Control)	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2318.

FTS:8-374-8339

Agency Contact: Richard A. Rykowski, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313 668-4339

RIN: 2060-AB89

3050. SMALL-VOLUME MANUFACTURERS CERTIFICATION PROCEDURE (REVISION)

Legal Authority: 42 USC 7525 / CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will result in amended rules to provide for certification of emissions compliance by small-volume manufacturers, including commercial importers importing vehicles into the United States. This action is appropriate to improve the certification regulations and assure compliance with the exhaust emission standards. Current rules for small-volume manufacturers were not specifically intended to apply to conversion of previously manufactured but uncertified configurations. However, increasingly large numbers of manufacturers who import vehicles for resale have applied for EPA certification as an alternative to individual vehicle importation. This will primarily impact businesses involved in importing motor vehicles. The likely impact of these changes will be increased costs to these businesses.

Timetable:

Action	Date	FR Cite
NPRM	03/09/88	53 FR 7676
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2143.

FTS: 8-374-8444.

Agency Contact: Charlie Cole, Environmental Protection Agency, Air and Radiation, 2625 Plymouth Road, Ann Arbor, MI 48105, 313 668-4444

RIN: 2060-AB54

3051. VOLUNTARY AFTERMARKET PARTS CERTIFICATION REGULATIONS (REVISION)

Legal Authority: 42 USC 7541(b) /CAA 207(b)

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: The U.S. Court of Appeals for the D.C. Circuit has directed EPA to amend the aftermarket parts certification regulations. There were four specific areas which the Court directed EPA to revisit. EPA was directed to develop better procedures for determining adequate grounds for manufacturer denial of a warranty claim; reconsider inclusion of specialty parts into the certification system; improve the procedure for resolution of warranty cost claims by vehicle manufacturers against certified parts manufacturers; and labeling for certified parts.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	52 FR 924
Final Action	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2145.

FTS: 8-374-8316

Agency Contact: Mike Sabourin, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4316

RIN: 2060-AB58

3052. MOTOR VEHICLE EMISSIONS PERFORMANCE WARRANTY SHORT TESTS

Legal Authority: 42 USC 7541 /CAA 207

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will consider allowing alternative dynamometer specifications for an existing loaded-mode short test approved for use in State and local inspection/maintenance programs in conjunction with the federal emissions performance warranty regulations. The alternative specifications the Agency is considering would allow lower loading, perhaps varying by engine size. Such a change could improve overall test effectiveness for identifying excess in-use emissions and correlation with the Federal Test Procedure.

Timetable:

Action	Date	FR Cite
NPRM	12/23/88	53 FR 51956
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2638

FTS:8-374-4471

Agency Contact: Jane Armstrong, Environmental Protection Agency, Air and Radiation, Emission Control Technology Division, 2565 Plymouth Rd, Ann Arbor, MI 48105, 313 668-4471

RIN: 2060-AC51

3053. FUEL AND FUEL ADDITIVES: GASOLINE LEAD CONTENT (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601(a) /CAA 301(a)

CFR Citation: 40 CFR 80

Legal Deadline: None
No deadline for final rulemaking. Report to Congress and the President due 10/28/88.

Abstract: EPA is examining information relevant to a ban on the use of lead in gasoline. The Agency is considering a set of alternatives ranging from no regulatory action to a ban. The Agency recently completed a cooperative study with the U.S. Department of Agriculture to assess the effects of a lead ban on farm equipment. A report to the President and Congress was prepared and submitted in September 1988. A notice of availability of the report was published in the Federal Register on October 7, 1988 (53 FR 39516).

Timetable:

Action	Date	FR Cite
NPRM	03/07/85	50 FR 9386
NOTICE - announcement of findings and recommendations	10/07/88	53 FR 39516

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2214.

FTS: 8-382-2633.

Agency Contact: Richard Kozlowski, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2633

RIN: 2060-AB60

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Air Act (CAA) Completed Actions

3054. NSPS: SEWAGE TREATMENT PLANTS (REVISION)

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	10/06/88	53 FR 39412
Final Action Effective	10/06/88	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Al Vervaert 919 541-5602

RIN: 2060-AB05

3055. NSPS: CEMENT PLANTS (REVISION)

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	12/14/88	53 FR 50354
Final Action Effective	12/14/88	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Doug Bell 919 541-5568

RIN: 2060-AB38

3056. NSPS: VOC EMISSIONS FROM PETROLEUM REFINERY WASTEWATER SYSTEMS

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	11/23/88	53 FR 47616
Final Action Effective	11/23/88	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Fred Dimmick 919 541-5625

RIN: 2060-AB81

3057. NSPS: COAL PREPARATION PLANTS (REVIEW)

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
End Review	04/03/89	54 FR 13384

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Al Vervaert 919 541-5602

RIN: 2060-AB84

3058. NSPS: MAGNETIC TAPE MANUFACTURING

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	10/03/88	53 FR 38892
Final Action Effective	10/23/88	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Fred Dimmick 919 541-5625

RIN: 2060-AB88

3059. PSD REGULATIONS FOR NOX

Significance: Regulatory Program

CFR Citation: 40 CFR 51; 40 CFR 52

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EPA—CAA — **Completed Actions**

Completed:

Reason	Date	FR Cite
Final Action	10/17/88	53 FR 40656
Final Action Effective	10/17/88	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Eric Noble 919 541-5362

RIN: 2060–AC24

3060. PARTICULATE EMISSION STANDARDS FOR CERTAIN 1987 AND LATER MODEL YEAR LIGHT-DUTY DIESEL TRUCKS (REVISION)

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	10/31/88	53 FR 43870

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: David Robertson 202 382-2525

RIN: 2060–AC18

3061. AMENDMENTS TO SELECTIVE ENFORCEMENT AUDITING REGULATIONS

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	01/19/89	54 FR 2118

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen Sinkez 202 382-4104

RIN: 2060–AC34

3062. DIESEL FUEL QUALITY STANDARDS

Significance: Regulatory Program

CFR Citation: 40 CFR 79; 40 CFR 80

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2060-AC00		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Richard Rykowski 313 668-4339

RIN: 2060–AC11

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Superfund (CERCLA)

Proposed Rule Stage

3063. REPORTABLE QUANTITIES (RQS) FOR SUBSTANCES ON THE EXTREMELY HAZARDOUS SUBSTANCES LIST

Significance: Regulatory Program

Legal Authority: 42 USC 11002 / SARA 302; 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: This action will adjust the reportable quantities (RQs) for 232 substances on the Extremely Hazardous Substances List, which EPA has proposed for designation as CERCLA hazardous substances. These RQ adjustments will reduce unnecessary reporting of releases to local, State, and Federal officials.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2429.

FTS:8-382-5650

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, OS-210, Washington, DC 20460, 202 382-5650

RIN: 2050–AC14

3064. ● NATIONAL CONTINGENCY PLAN-SUBPART K: A ROADMAP TO THE NCP FOR FEDERAL FACILITIES

Legal Authority: 42 USC 9605 /CERCLA 105

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: Subpart K will serve as a roadmap to the NCP for requirements pertaining to Federal agencies conducting response actions at Federal facilities where the release is on or where the sole source is from their facility. Subpart K will not reopen language or revisit issues already developed and agreed upon by the NCP workgroup for the proposed NCP.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2650

FTS:8-475-9801

Agency Contact: Linda Southerland, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 475-9801

RIN: 2050–AC76

3065. ● NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES - UPDATE 8

Legal Authority: 42 USC 9605(a)(8)(b)/CERCLA 105(a)(8)(b)

CFR Citation: 40 CFR 300.66

Legal Deadline: None

Abstract: This action revises the National Priorities List (NPL) for uncontrolled hazardous waste sites in the National Contingency Plan (NCP). CERCLA requires that the NPL be revised at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites. See the related actions in the proposed and final rule sections of this Agenda.

EPA—CERCLA — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2667

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, 401 M St., S.W. (OS-230), Washington, D.C. 20460, 202 382-3000

RIN: 2050–AC81

3066. RESPONSE CLAIMS PROCEDURES FOR THE HAZARDOUS SUBSTANCES SUPERFUND

Legal Authority: 42 USC 9612 / CERCLA 112

CFR Citation: 40 CFR 307

Legal Deadline: None

Abstract: This action prescribes the forms and procedures for persons other than governments to recover response costs incurred in carrying out the National Contingency Plan.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2564.

FTS: 8-382-4645.

Agency Contact: William O. Ross, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-220), Washington, DC 20460, 202 382-4645

RIN: 2050–AA90

3067. ADMINISTRATIVE HEARING PROCEDURE FOR SUPERFUND CLAIMS

Legal Authority: 42 USC 9612(b) /CERCLA 112(b)

CFR Citation: 40 CFR 305

Legal Deadline: None

Abstract: Section 112(b)(2) of CERCLA as amended, provides that a person who has made a claim against the Superfund and is dissatisfied with the award by EPA may request an administrative hearing. Such hearings shall be before an administrative law judge. The purpose of this rule would be to establish procedures for conducting administrative hearings. The procedures of this rule would replace the Arbitration procedures, formerly codified at 40 CFR Part 305, revoked as a result of the amendments to section 112.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2498.

FTS:8-382-4645

Agency Contact: William O. Ross, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-220), Washington, DC 20460, 202 382-4645

RIN: 2050–AC26

3068. ● DELISTING CERTAIN CHEMICALS FROM THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES (REVISION)

Legal Authority: 42 USC 11013 /SARA 302

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: This proposed rule will amend the Title III List of Extremely Hazardous Substances by delisting certain chemicals from the list. Review of the technical background documents indicate that at least one and perhaps other chemicals may not meet the criteria originally established for listing the substances.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2874

FTS:8-382-7912

Agency Contact: Kathleen Bishop, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 382-7912

RIN: 2050–AC77

3069. EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORMS AND COMMUNITY RIGHT-TO-KNOW REPORTING REQUIREMENTS; IMPLEMENTATION OF REPORTING REQUIREMENTS FOR INDIAN LANDS

Significance: Regulatory Program

Legal Authority: 42 USC 11011(b)/SARA 311(b); 42 USC 11012(b)/SARA 312(b); 42 USC 11002/SARA 302; 42 USC 11004/SARA 304; 42 USC 11013/SARA 313; 42 USC 11028/SARA 323

CFR Citation: 40 CFR 350; 40 CFR 355; 40 CFR 370; 40 CFR 372

Legal Deadline: None

Abstract: Under Title III of SARA, EPA has authority to establish thresholds below which facilities do not have to report. In the rule published on October 15, 1987, EPA set reporting thresholds for the first two years of reporting. At the same time, the Agency made a commitment to further evaluate the appropriate level for a permanent threshold. The proposed rule sets forth the proposed permanent threshold for reporting as well as proposed amendments to the sections 302, 304, and 313 final rules.

Timetable:

Action	Date	FR Cite
NPRM	03/29/89	54 FR 12992
NPRM Comment Period End	05/30/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2644

FTS:8-472-8353

Agency Contact: Kathleen Brody, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-120), Washington, DC 20460, 202 475-8353

RIN: 2050–AB88

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ENVIRONMENTAL PROTECTION AGENCY (EPA) —Superfund (CERCLA)

Final Rule Stage

3070. DESIGNATION OF EXTREMELY HAZARDOUS SUBSTANCES AS CERCLA HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: This rule may propose to designate 232 non-CERCLA extremely hazardous substances (EHS), as defined in Section 302 of SARA Title III, as hazardous substances pursuant to Section 102 of CERCLA. Currently, only releases of those EHSs that are also CERCLA hazardous substances are required to be reported to the National Response Center under CERCLA Section 103. Upon designation, potential confusion concerning the different SARA Title III and CERCLA requirements might be reduced by ensuring consistent procedures for reporting releases of all EHSs.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3388
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2336.

RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (202-382-3000)

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, D.C. 20460, 202 382-5850

RIN: 2050–AB62

3071. REPORTING CONTINUOUS RELEASES OF HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 / CERCLA 102

CFR Citation: 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: The purpose of this action is to clarify the reduced reporting requirements pursuant to Section 103(f)(2) of CERCLA for facilities that have continuous and stable releases of hazardous substances in amounts at or above their reportable quantities.

Timetable:

Action	Date	FR Cite
NPRM	04/19/88	53 FR 12868
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2411.

For further information contact the RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (202-382-3000)

Agency Contact: Hubert Watters, Environmental Protection Agency, Solid Waste and Emergency Response, OS-210, Washington, DC 20460, 202 382-2463

RIN: 2050–AA46

3072. REPORTABLE QUANTITIES FOR RELEASES OF POTENTIAL CARCINOGENS AND OTHER HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 / CERCLA 102; 33 USC 1321 / CWA 311; 33 USC 1361/CWA 501(a); E.O. No. 11735

CFR Citation: 40 CFR 117; 40 CFR 302

Legal Deadline: NPRM, Statutory, December 31, 1986. Final, Statutory, April 30, 1988.

Abstract: In March 1987 the Agency proposed adjusting, where appropriate, the statutory reportable quantities (RQs) for 273 of the hazardous substances identified in Section 101(14) of CERCLA, as amended. Most (269) of these substances were evaluated for potential carcinogenicity. SARA 202 amends CERCLA 306 to require the Department of Transportation (DOT) to list and regulate as hazardous materials all CERCLA hazardous substances. These regulations require that when these materials are shipped in quantities equal to or greater than their RQs, they be identified as hazardous substances on shipping papers and package markings. DOT promulgated this rule with an effective date of July 1, 1987. The DOT has received several inquiries concerning six frequently transported CERCLA hazardous substances that had their RQs proposed to be adjusted upward in the March 16, 1987 rule. EPA has decided to expedite the final RQ adjustments for these six substances to relieve the regulatory burden on industry. In addition, in this final rule EPA will promulgate the RQs for lead and five lead compounds that were proposed in March 2, 1988 (53 FR 6762).

Timetable:

Action	Date	FR Cite
NPRM	03/16/89	52 FR 8140
Final Action	04/00/89	
Final Action for six substances	04/00/89	
Final Action for 267 substances	04/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2104.

For further information contact the RCRA/Superfund Hotline (800-424-9346); in Metropolitan D.C. (382-3000).

Agency Contact: Ivette O. Vega, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, DC 20460, 202 382-2463

RIN: 2050–AA80

3073. REPORTABLE QUANTITIES (RQS) FOR RELEASES OF RADIONUCLIDES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 /CERCLA 102; 33 USC 1321/CWA 311; 33 USC 1361/CWA 501(a)

CFR Citation: 40 CFR 302

Legal Deadline: NPRM, Statutory, December 31, 1986. Final, Statutory, April 30, 1988.

Abstract: EPA is adjusting the statutory one-pound reportable quantity (RQ) for radionuclides pursuant to Section 102 of CERCLA. Radionuclides consist of approximately 1,500 radioactive isotopes whose release represents differing degrees of potential harm to human health and the environment. The Agency has proposed individual adjusted RQs for 757 radionuclides, and an RQ of one curie for all of the remaining radionuclides.

Timetable:

Action	Date	FR Cite
NPRM	03/16/87	52 FR 8172
Final Action	04/00/89	

Small Entities Affected: None

EPA—CERCLA

Final Rule Stage

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2335.

For further information contact the RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (202-382-3000)

Agency Contact: Pamela Harris, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, D.C. 20460, 202 475-9814

RIN: 2050–AB60

3074. REPORTING EXEMPTIONS FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: In the May 25, 1983 NPRM (48 FR 23552) that proposed to adjust certain reportable quantities (RQs) for releases of hazardous substances, EPA explained the Agency's interpretation of each of the types of releases exempted by the definition of "federally permitted release" in Section 101(10) of CERCLA. Because of the amount of time that has passed and additional analysis undertaken since that NPRM, this action reproposes regulations to clarify the statutory language in Section 101(10) of CERCLA.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2394.

RCRA/Superfund Hotline 800-424-9346, in Washington DC 202-382-3000

Agency Contact: Hubert Watters, Environmental Protection Agency, Solid Waste and Emergency Response, OS-210, 202 382-2463

RIN: 2050–AB82

3075. PROCEDURES FOR PLANNING AND IMPLEMENTING OFF-SITE RESPONSE ACTIONS

Significance: Regulatory Program

Legal Authority: 42 USC 9604(c)/CERCLA 104(c); 42 USC 9621(d)(3)/CERCLA 121(d)(3); 33 USC 1321(c)(2)/CWA 311(c)(2)

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: This rule interprets and codifies (1) the requirements of Section 121(d)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) and (2) the revised off-site policy directive (November 13, 1987). Section 121(d)(3) and the directive describe procedures that must be observed when a response action funded under CERCLA or using a CERCLA authority involves off-site transfer of CERCLA wastes. Section 121(d)(3) of SARA specifies that wastes from removal or remedial actions under CERCLA: 1) only be transferred to facilities that are in compliance with Sections 3004 and 3005 of the Resource Conservation and Recovery Act (RCRA), other applicable Federal laws and State laws, and 2) only be transferred to units at hazardous waste land disposal facilities that are not leaking and where releases from other (non-receiving) units at the facility are under a corrective action program.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48218
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2538.

FTS:8-382-4808

Agency Contact: Susan Bromm, Acting Director, RCRA Enforcement Division, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-520), Washington, DC 20460, 202 382-4808

RIN: 2050–AC35

3076. NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN (NCP)

Significance: Regulatory Program

Legal Authority: 33 USC 1321 / CWA 311; 42 USC 9605 / CERCLA 105

CFR Citation: 40 CFR 300

Legal Deadline: NPRM, Statutory, April 17, 1988.

Abstract: The National Contingency Plan (NCP) is the primary regulation directing government and responsible party response to and cleanup of discharges of oil, and releases of hazardous substances, pollutants and contaminants. The Superfund Amendments and Reauthorization Act of 1986 mandated that the NCP be revised within 18 months of the date of enactment to incorporate statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	12/21/88	53 FR 51394
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2400.

FTS-8-475-8406.

Agency Contact: Tod Gold, Environmental Protection Agency, Solid Waste and Emergency Response, OS-240, Washington, DC 20460, 202 475-8406

RIN: 2050–AA75

3077. HAZARD RANKING SYSTEM FOR UNCONTROLLED HAZARDOUS SUBSTANCE RELEASES

Significance: Regulatory Program

Legal Authority: 42 USC 9605(a)(8)(A) / CERCLA 105(a)(8)(A); 42 USC 9605(c) / CERCLA 105(C); 42 USC 9618/CERCLA 118; 42 USC 9625/CERCLA 125

CFR Citation: 40 CFR 300

Legal Deadline: Final, Statutory, April 17, 1988.

Abstract: This action revises the Hazard Ranking System (HRS) which is Appendix A of the National Contingency Plan. The HRS is a system

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for determining the relative risk among releases of hazardous substances. The HRS is the primary mechanism for establishing the National Priorities List under CERCLA. CERCLA requires that the HRS be amended to assure, to the extent feasible, that it accurately assesses relative risk to public health and the environment. CERCLA specifically requires that the HRS take into consideration natural resource damages that may affect the human food chain as well as potential air contamination. The HRS must also appropriately assess human health risks associated with contamination of surface waters for drinking or recreation.

Timetable:

Action	Date	FR Cite
ANPRM	04/09/87	52 FR 11513
NPRM	12/23/88	53 FR 51962
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2566.

FTS: 8-382-4604

Agency Contact: Steve Caldwell and Jane Metcalfe, Environmental Protection Agency, Solid Waste and Emergency Response, OS-230, Washington, DC 20460, 202 382-3000

RIN: 2050–AB73

3078. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES - UPDATE 7

Significance: Regulatory Program

Legal Authority: 42 USC 9605 /CERCLA 105; 42 USC 9620 /CERCLA 120

CFR Citation: 40 CFR 300.66

Legal Deadline: Other, Statutory. Annual Update.

Abstract: This action is the seventh proposed update to the National Priorities List (NPL) for uncontrolled hazardous waste sites that the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites.

Timetable:

Action	Date	FR Cite
NPRM	06/24/88	53 FR 23988
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 5358.

Superfund/RCRA Hotline 800-424-9346 or in Metropolitan Area 202-382-5000

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, 202 382-3000

RIN: 2050–AC16

3079. NATIONAL PRIORITIES LIST (NPL) FOR UNCONTROLLED HAZARDOUS WASTES SITES - UPDATE 5

Significance: Regulatory Program

Legal Authority: 42 USC 9605(a)(8)(B)/CERCLA 105(a)(8)(B); 42 USC 9620(d)(2)/CERCLA 120(d)(2)

CFR Citation: 40 CFR 300.66

Legal Deadline: Other, Statutory. Annual Update.

Abstract: This action is the fifth final update to the National Priorities List (NPL) for uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites.

Timetable:

Action	Date	FR Cite
NPRM	06/10/86	51 FR 21099
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 5433.

RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (382-3000)

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, 202 382-3000

RIN: 2050–AC45

3080. NATIONAL PRIORITIES LIST (NPL) FOR UNCONTROLLED HAZARDOUS WASTES SITES - UPDATE 6

Significance: Regulatory Program

Legal Authority: 42 USC 9605(a)(8)(B)/CERCLA 105(a)(8)(B); 42 USC 9620(d)(2)/CERCLA 120(d)(2)

CFR Citation: 40 CFR 300.66

Legal Deadline: Other, Statutory. Annual Update

Abstract: This action is the sixth final update to the National Priorities List (NPL) for uncontrolled hazardous waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites.

Timetable:

Action	Date	FR Cite
NPRM	01/22/87	52 FR 2492
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 5434.

RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (382-3000)

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, 202 382-3000

RIN: 2050–AC47

3081. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES - RCRA SITES

Significance: Regulatory Program

Legal Authority: 42 USC 9605/CERCLA 105

CFR Citation: 40 CFR 300.66

Legal Deadline: Other, Statutory. Annual Update

Abstract: This action proposes revisions to the National Priorities List (NPL), Appendix B to the National Contingency Plan (NCP). This action is proposed for sites in accordance with the NPL policy concerning sites subject to the Subtitle C corrective action authorities of the Resource Conservation and Recovery Act (RCRA). This action reproposes thirteen RCRA sites there were previously proposed for the NPL and proposes to drop 30 RCRA sites from the proposed NPL.

Timetable:

Action	Date	FR Cite
NPRM	06/24/88	53 FR 23978
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 5357.

RCRA/Superfund Hotline 800-424-9346, in Washington DC 202-382-3000.

Agency Contact: Henry Stevens, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, 202 382-3000

RIN: 2050–AC48

3082. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES - FEDERAL FACILITY FOLICY AND LISTING

Significance: Regulatory Program

Legal Authority: 42 USC 9605/CERCLA 105; 42 USC 9620/CERCLA 120

CFR Citation: 40 CFR 300.66

Legal Deadline: Other, Statutory. Annual Update.

Abstract: This action revises the National Priorities List (NPL) for uncontrolled hazardous waste sites in the National Contingency Plan (NCP). CERCLA requires that the NPL be revised at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites. The Agency will propose Federal facility sites. See the related actions in the proposed and final rule sections of this Agenda.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10512
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 0932.

FTS:8-382-3412

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, 800 424-9346, 202 382-3000

RIN: 2050–AC57

3083. ARBITRATION PROCEDURES FOR SMALL SUPERFUND COST RECOVERY CLAIMS

Legal Authority: 42 USC 9607(a)/CERCLA 107(a); 42 USC 9622(h)/SARA 122(h)

CFR Citation: 40 CFR 304

Legal Deadline: None

Abstract: This regulation will establish and govern the procedures for arbitration of small CERCLA 107(a) cost recovery claims pursuant to the authority granted EPA by SARA 122(h)(2). The regulation will provide a voluntary procedure by which EPA and PRPs at a site may agree to submit a cost recovery claim for resolution by arbitration. Arbitration may be used only when the total response costs for the facility concerned do not exceed $500,000, excluding interest. Arbitration is an alternative dispute resolution technique that should provide a faster and less costly method of case resolution than traditional litigation and negotiations.

Timetable:

Action	Date	FR Cite
NPRM	08/04/88	53 FR 29428
NPRM Comment Period End	10/03/88	53 FR 29428
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2455.

FTS:8-382-3077

Agency Contact: Janice Linett, Attorney/Advisor, Environmental Protection Agency, Solid Waste and Emergency Response, Environmental Protection Agency, Office of Enforcement and Compliance, Monitoring LE-134S, Wash. DC 20460, 202 382-3077

RIN: 2050–AC36

3084. CITIZEN AWARDS FOR INFORMATION ON CRIMINAL VIOLATIONS UNDER SUPERFUND

Legal Authority: 42 USC 6909(d)/CERCLA 109(d)

CFR Citation: 40 CFR 303

Legal Deadline: None

Abstract: This regulation is being promulgated in response to the requirements established by Section 109(c) of the Superfund Amendments and Reauthorization Act (SARA), codified as CERCLA Section 109(d). This statutory provision authorizes the President to pay an award of up to $10,000 to any individual for information leading to the successful prosecution of any person for a criminal violation of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. Section 109(d) also requires the President to prescribe by regulation criteria for such an award. On January 23, 1987 by Executive Order No. 12580, the President delegated to the Administrator of EPA the authority to promulgate the within regulation, and thereafter to carry out the Section 109(d) award program. This regulation is being promulgated on an interim-final basis in order to permit the more expeditious protection of the public health and the environment, as directed by Congress for this provision of SARA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/05/88	53 FR 16066
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2495.

FTS:8-475-9666

Agency Contact: Keith Onsdorff, Senior Attorney - Advisor, Environmental Protection Agency, Solid Waste and Emergency Response, Environmental Protection Agency, 401

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M Street SW LE-134, Washington, DC 20460, 202 475-9666

RIN: 2050–AC38

3085. TECHNICAL ASSISTANCE GRANTS TO GROUPS OF INDIVIDUALS AT SUPERFUND SITES

Legal Authority: 42 USC 9617 / SARA 117

CFR Citation: 40 CFR Subpart M

Legal Deadline: None

Abstract: Superfund Amendments and Reauthorization Act 1986 requires that EPA develop grant regulations for technical assistance for citizen groups. Under Section 117(e) groups of individuals may apply for the technical assistance grants only at NPL sites. The grants are limited to $50,000 per site and require matching funds. This limit may be waived.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/87	52 FR 22244
Interim Final Rule	03/24/88	53 FR 9736
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2401.

FTS:8-382-2460

Agency Contact: Daphne Gemmill, Environmental Protection Agency, Solid Waste and Emergency Response, U.S. Environmental Protection Agency, 401 M St., S.W. (OS-220), Washington, D.C. 20460, 202 382-2460

RIN: 2050–AC10

3086. REPORTING HAZARDOUS SUBSTANCES ACTIVITY WHEN TRANSFERRING FEDERAL REAL PROPERTY

Legal Authority: 42 USC 9601/SARA 120

CFR Citation: 40 CFR 373

Legal Deadline: Final, Statutory, April 17, 1988.

Abstract: Section 120(h) of SARA requires that EPA, in consultation with the General Services Administration, promulgate rules which will require the disclosure of the type and quantity of any hazardous substances that have been stored, released or disposed of on federally owned land when such land is sold or otherwise transferred by the United States. This section of SARA also requires that: (1) the agencies holding such land provide, at the time of transfer, a covenant warranting that all remedial actions necessary for protection of human health and the environment have been taken; and (2) any additional action found to be necessary after the transfer will be undertaken by the U.S. EPA is not required to develop rules concerning these latter requirements and is not doing so.

Timetable:

Action	Date	FR Cite
NPRM	01/13/88	53 FR 850
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2464.

FTS:8-382-5647

Agency Contact: Sherry Sterling, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-510), Washington, DC 20460, 202 382-5646

RIN: 2050–AC00

3087. REIMBURSEMENT OF LOCAL GOVERNMENTS FOR EMERGENCY RESPONSE TO HAZARDOUS SUBSTANCE RELEASES

Legal Authority: 42 USC 9623 / SARA 123; 42 USC 9611(c)(11)

CFR Citation: 40 CFR 310

Legal Deadline: Final, Statutory, October 17, 1987.

Abstract: This provision authorizes reimbursement of local governments for costs incurred in providing temporary emergency measures in response to releases of hazardous substances. Reimbursement is limited to $25,000 per incident and is not intended to supplant local funds normally provided for response.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/87	52 FR 39386
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: SAR No. 2409.

FTS:8-382-3382

Agency Contact: Karen Z. Burgan, Environmental Protection Agency, Solid Waste and Emergency Response, OS-210, Washington DC 20460, 202 382-3382

RIN: 2050–AC11

3088. WORKER PROTECTION STANDARDS FOR HAZARDOUS WASTE OPERATIONS AND EMERGENCY RESPONSE

Legal Authority: 42 USC 9626(f) /SARA Sec 126(f)

CFR Citation: 40 CFR Not yet determined

Legal Deadline: Other, Statutory. 90 days after the Department of Labor promulgates standards.

Abstract: The Superfund Amendments and Reauthorization Act of 1986 (SARA) required the Secretary of Labor, within one year of the date of enactment, to promulgate standards for the health and safety protection of employees engaged in hazardous waste operations. SARA requires the Administrator of EPA to promulgate identical standards applicable to employees of State and Local governments in each State (currently 30) that does not have in effect an approved State Plan under Section 18 of the Occupational Safety and Health Act of 1970.

Timetable:

Action	Date	FR Cite
NPRM	10/17/88	53 FR 40692
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: SAR No. 2427.

FTS:8-382-6741

Agency Contact: Rodney Turpin, Environmental Protection Agency, Solid Waste and Emergency Response, 201 321-6741

RIN: 2050–AC12

3089. ADMINISTRATIVE HEARING PROCEDURES FOR CLASS I CIVIL PENALTIES UNDER CERCLA AND THE EMERGENCY PLANNING COMMUNITY RIGHT TO KNOW ACT

Legal Authority: 42 USC 9609/SARA 325

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: The purpose of the rulemaking is to propose regulations which will govern the conduct of administrative hearings for (1) Class I penalties to be assessed under SARA Section 325(b), and (2) other similar penalties assessed under SARA Section 325(d). The action is expected to have negligible economic impact on consumers industries, or governmental agencies, but will provide the benefit of uniform procedures for assessing penalties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2511.

FTS:8-475-9437

Agency Contact: Sandra Connors, Environmental Protection Agency, Solid Waste and Emergency Response, OECM, Waste Division, Washington, DC 20460, 202 382-3110

RIN: 2050–AC37

3090. ADMINISTRATIVE HEARING PROCEDURES FOR CLASS II PENALTIES UNDER CERCLA AND EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT

Legal Authority: 42 USC 9609/SARA 325

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: This rule will govern the conduct of administrative hearings for (1) Class II penalties to be assessed under CERCLA Section 109 and SARA Section 325(b) and (2) other similar penalties assessed under SARA Section 325(c). The rule provides the procedures for these penalty assessments. The action is expected to have negligible economic impact on consumers, industries, or governmental agencies, but will provide the benefit of uniform procedures for assessing penalties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR NO. 2512

FTS:8-475-9437

Agency Contact: Sandra Connors, Environmental Protection Agency, Solid Waste and Emergency Response, U.S. Environmental Protection Agency, OECM Waste Division, Washington, DC 20460, 202 382-3110

RIN: 2050–AC39

3091. PRIOR NOTICE OF CITIZEN SUITS UNDER CERCLA AND THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Legal Authority: 42 USC 9659/SARA 326; 42 USC 11046/CERCLA 310

CFR Citation: 40 CFR 310; 40 CFR 326

Legal Deadline: None

Abstract: These regulations are promulgated under Section 326 of Title III of SARA and Section 310 of CERCLA. They govern the notice required to be given 60 days prior to the filing of a citizen suit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3918
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2615

FTS:8-382-2860

Agency Contact: Belinda Holmes, Environmental Protection Agency, Solid Waste and Emergency Response, OECM, Washington, DC 20460, 202 382-2860

RIN: 2050–AC70

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Superfund (CERCLA)

Completed Actions

3092. EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORMS AND COMMUNITY RIGHT-TO-KNOW REPORTING REQUIREMENTS; IMPLEMENTATION OF REPORTING REQUIREMENTS FOR INDIAN LANDS

Significance: Regulatory Program

CFR Citation: 40 CFR 350; 40 CFR 355; 40 CFR 370; 40 CFR 372

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN: 2050-AB88		

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Kathleen Brody 202 475-8353

RIN: 2050–AC34

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ENVIRONMENTAL PROTECTION AGENCY (EPA) —General — Prerule Stage

3093. ● COLLECTION OF CIVIL PENALTIES UNDER TITLE II OF THE TOXIC SUBSTANCES CONTROL ACT, AND THE ASBESTOS HAZARD EMERGENCY RESPONSE ACT

Legal Authority: 15 USC 2647

CFR Citation: 40 CFR 22.38

Legal Deadline: None

Abstract: This rule amends the Agency's Consolidated Rules of Practice Governing the Administrative Agreement of Civil Penalties. The Asbestos Hazard Emergency Response Act (AHERA) of 1986 establishes requirements for Local Educational Agencies (LEAs). Section 207 of AHERA provides for civil penalties collected from LEAs to be deposited in the Asbestos Trust Fund, which is established under AHERA Section 5. This rulemaking will simply confirm the existing Consolidated Rules of Practice to the AHERA requirements.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: SAR No. 2609.

FTS:8-475-8690

Agency Contact: Jon Silberman, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-134P), Washington, DC 20460, 202 475-8690

RIN: 2020–AA14

ENVIRONMENTAL PROTECTION AGENCY (EPA) —General — Proposed Rule Stage

3094. DENIAL OR RESTRICTION OF DISPOSAL SITES (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1344 /CWA 404(c)

CFR Citation: 40 CFR 231

Legal Deadline: None

Abstract: This action will revise EPA's existing 404(c) regulations, in effect since October 9, 1979. It will amend the procedures to be used when EPA is considering the use of Section 404(c) of the CWA to prevent the discharge of dredged or fill material into a defined area of the waters of the United States. Section 404(c) gives the Administrator authority to prohibit or withdraw the specification of a site as a disposal site or to deny or restrict use of a disposal site. The revisions will reflect our experiences to date under Section 404(c), and more clearly address use of 404(c) in advance of a specific proposed discharge.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2196.

FTS: 8-475-7799

Agency Contact: Suzanne E. Schwartz, Environmental Protection Agency, Water, (A-104F), Washington, DC 20460, 202 475-7799

RIN: 2040–AB20

3095. EVALUATION PROCEDURE FOR AWARD OF FIXED PRICE CONTRACTS FOR COMMERCIAL SUPPLIES AND SERVICES

Legal Authority: EPAAR

CFR Citation: 48 CFR 1515; 48 CFR 1552

Legal Deadline: None

Abstract: The rule will result in the addition of an evaluation procedure to EPA Aquisition Regulation for making award of certain fixed price contracts for commercial supplies or services the procedure will provide for award to the lowest price offeror whose technical proposal meets the minimum needs of the government.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 5452

FTS:8-382-5035

Agency Contact: Eleanor Norment, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5035

RIN: 2030–AA09

3096. CONTRACTOR COMPLIANCE WITH INFORMATION RESOURCES MANAGEMENT DIRECTIVES

Legal Authority: EPAAR

CFR Citation: 48 CFR 1510; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will require contractor compliance with Agency directives for contracts involving information resources management. Examples of such contracts include the acquisition or modification of a computer program, data communications, and ADP or word processor equipment or services.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 5451

FTS:8-382-5028

P.L. 98-377, Sec. 302

Agency Contact: Edward Chambers, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5028

RIN: 2030–AA10

EPA—GENERAL — Proposed Rule Stage

3097. IMPLEMENTATION OF FEDERAL ACQUISITION REGULATION COVERAGE ON RATIFICATION OF UNAUTHORIZED COMMITMENTS

Legal Authority: EPAAR

CFR Citation: 48 CFR 1501

Legal Deadline: None

Abstract: Federal Acquisition Circular 84-33, dated February 8, 1988 amended the Federal Acquisition Regulation to provide coverage on ratification of unauthorized commitments. This rule will delete duplicative FAR information in the EPA Acquisition Regulation, and implement policies and procedures unique to EPA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 5449

FTS:8-382-5035

Agency Contact: Eleanor Norment, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5035

RIN: 2030–AA12

3098. ● PAYMENT OF FEE ON TERM FORM CONTRACTS

Legal Authority: EPAAR

CFR Citation: 48 CFR 1516; 48 CFR 1552

Legal Deadline: None

Abstract: The proposed ruie will address the payment of fees on cost-reimbursable term form contracts. The rule will recommend a change to the current procedure of making provisional payments of fee as a percentage of cost incurred to a method based on the number of direct hours performed in relation to the total level of effort in the contract.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2683

FTS:8-245-3755 P.L. 98-377 Section 302

Agency Contact: Carolyn Williams, Environmental Protection Agency, Administration and Resource Management, PM-214F, Washington, DC 20460, 202 245-3755

RIN: 2030–AA15

3099. ● AMENDMENTS TO PART 22 CONSOLIDATED PROCEDURAL RULES

Legal Authority: 7 USC 1361(a); 15 USC 2615(a); 33 USC 1415(a); 42 USC 7545; 42 USC 7601; 42 USC 6928

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: The Agency is proposing technical amendments to the Consolidated Rules of Practice under 40 CFR Part 22. These amendments will include correction of the address to which penalty payments are sent, lengthening the period to file an appeal, and modifying the specified procedures for service of process. The Agency will solicit other technical amendments and incorporate them in the rules as appropriate.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2662.

FTS:8-475-8781

Agency Contact: Larry Blackwood, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-130a), Washington, DC 20460, 202 475-8781

RIN: 2020–AA13

3100. CONFIDENTIALITY REGULATIONS: SPECIAL RULES GOVERNING CERTAIN INFORMATION UNDER FIFRA (REVISION)

Legal Authority: 5 USC 552 / Freedom of Information Act ; 7 USC 136h / FIFRA 10

CFR Citation: 40 CFR 2.307

Legal Deadline: None

Abstract: This action would make changes in EPA's procedures for handling business information under FIFRA to reflect amendments to Section 10 of the Act. It would also clarify existing regulations on the treatment of confidential business information under FIFRA.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2195.

FTS: 8-382-5460

Agency Contact: Jane Roemer, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-132G), Washington, DC 20460, 202 382-5460

RIN: 2020–AA06

3101. ● PROCEDURES AND REQUIREMENTS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT FOR THE ENVIRONMENTAL PROTECTION AGENCY'S RESEARCH AND DEVELOPMENT PROGRAM

Legal Authority: 42 USC 4321

CFR Citation: 40 CFR 6.700

Legal Deadline: None

Abstract: This action amends EPA's Environmental Policy Act (NEPA) regulation in 40 CFR Part 6, Subpart C which addresses the environmental review procedures for research and development projects undertaken by EPA's Office of Research and Development (ORD). The purpose of this rulemaking is to develop procedures for categorically excluding classes of ORD actions having no significant impact on the environment. from the requirement to prepare an environmental assessment (EA) or an environmental impact statement (EIS). The rulemaking also clarifies the criteria under which EPA would be required to prepare an EIS. This rulemaking will enable EPA to focus its resources on assessing research and development projects which have the potential to significantly affect the environment. The revisions are consistent with the Council on Environmental Quality's NEPA regulation in 40 CFR Parts 1500-1508.

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EPA—GENERAL — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR 2536

FTS:8-382-5905

Agency Contact: Judith Troast, Environmental Protection Agency, Administration and Resource Management, (A-104), Washington, DC 20460, 202 382-5905

RIN: 2030–AA14

ENVIRONMENTAL PROTECTION AGENCY (EPA) —General — **Final Rule Stage**

3102. ENVIRONMENTAL PROTECTION AGENCY ACQUISITION REGULATION (EPAAR); SUBMISSION OF GENERAL FINANCIAL AND ORGANIZATIONAL INFORMATION, AND PURCHASING SYSTEM INFORMATION BY OFFERORS

Legal Authority: EPAAR

CFR Citation: 48 CFR 1515; 48 CFR 1552

Legal Deadline: None

Abstract: General financial and organizational information is only required from offerors in the competitive range. This information does not include information on the offerors purchasing systems. The proposed rule will require that all offerors provide general financial and organizational information, which includes purchasing system information.

Timetable:

Action	Date	FR Cite
NPRM	02/16/89	54 FR 7072
Final Action	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAR No. 2551.

FTS:8-382-5028

PL 98-577 Sec. 302

Agency Contact: Edward N. Chambers, Environmental Protection Agency, Administration and Resource Management, PM-214F, 202 382-5028

RIN: 2030–AA06

3103. MISCELLANEOUS DELEGATIONS FROM THE CONTRACTING AUTHORITY

Legal Authority: EPAAR

CFR Citation: 48 CFR 1501; 48 CFR 1503; 48 CFR 1506; 48 CFR 1514; 48 CFR 1515; 48 CFR 1516; 48 CFR 1517; 48 CFR 1522; 48 CFR 1530; 48 CFR 1531; 48 CFR 1532; 48 CFR 1536; 48 CFR 1545

Legal Deadline: None

Abstract: This rule will amend the EPA Aquisition Regulations to reflect delegations made by the head of contracting activity to other aquisition officials for the exercise of various authorities in the acquisition process. Examples include source selection, approval of termination settlements, and approval of award fee plans.

Timetable:

Action	Date	FR Cite
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 5450

FTS:8-382-5028

P.L. 98-377, Section 302

Agency Contact: Carolyn Williams, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-2363

RIN: 2030–AA11

3104. ● EPCRA INSPECTION AUTHORITY AND PROCEDURES

Legal Authority: 15 USC 11048

CFR Citation: 40 CFR 375

Legal Deadline: None

Abstract: This regulation sets out EPA's authority to inspect under the Emergency Planning and Community Right-to-Know Act (EPCRA). It will also set out EPA's guidelines for conducting these inspections.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2652.

FTS:8-475-8693

Agency Contact: Vincent Giordanis, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-134P), Washington, DC 20460, 202 475-8693

RIN: 2020–AA15

3105. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS RECEIVING FINANCIAL ASSISTANT FROM THE EPA (REVISION)

Legal Authority: 42 USC 6101 /Age Discrimination Act of 1979

CFR Citation: 40 CFR 7

Legal Deadline: None

Abstract: This action is necessary to add age as a basis for nondiscrimination to EPA's Federally-Assisted Nondiscrimination Regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/09/81	46 FR 2306
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2218.

FTS: 8-382-4567

Agency Contact: Nereid Maxey, Environmental Protection Agency, Office of the Administrator, Office of Civil Rights, (A-105), Washington, DC 20460, 202 382-4567

RIN: 2090–AA09

3106. COOPERATIVE AGREEMENTS AND SUPERFUND STATE CONTRACTS FOR SUPERFUND RESPONSE ACTIONS

Legal Authority: 42 USC 9601 /CERCLA 104(c)

CFR Citation: 40 CFR 31

Legal Deadline: None

EPA—GENERAL — **Final Rule Stage**

Abstract: Under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, there are provisions for recovering clean-up costs from responsible parties. In order for the cost recovery provisions to be effective, recipients of Superfund Assistance Agreements must adhere to strict management practices in all aspects of administering the Agreement. Therefore, EPA will issue this regulation to set forth all administrative requirements for Superfund Assistance Agreements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/27/89	54 FR 4132
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: SAR No. 2476.

FTS:8-382-5268

Agency Contact: Richard Johnson, Environmental Protection Agency, Policy Planning and Evaluation, (PM-216F), Washington, DC 20460, 202 382-5296

RIN: 2010–AA11

3107. NOTICE REQUIREMENTS FOR CITIZEN SUITS UNDER THE SDWA

Legal Authority: 42 USC 300j-8 /SDWA 1449

CFR Citation: 40 CFR 135

Legal Deadline: None

Abstract: These regulations will specify on whom the notice of intent to file suit should be served, the manner of service, where such service should be sent, and the contents of the notice. These regulations are similar to those implementing the notice provisions of the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA).

Timetable:

Action	Date	FR Cite
NPRM	08/15/86	51 FR 29426
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2307.

FTS:8-382-7706

Agency Contact: Randy Hill, Environmental Protection Agency, Water, (LE-132W), Washington, D.C. 20460, 202 382-7700

RIN: 2040–AB59

ENVIRONMENTAL PROTECTION AGENCY (EPA) —General — **Completed Actions**

3108. AMENDING EPA ACQUISITION REGULATION RULES REGARDING DISCLOSURE AND USE OF INFORMATION IN PROPOSALS

CFR Citation: 48 CFR 1515

Completed:

Reason	Date	FR Cite
Final Action	09/30/88	53 FR 38292

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph Nemargut 202 475-9790

RIN: 2030–AA08

3109. IMPLEMENTATION OF FEDERAL ACQUISITION REGULATION COVERAGE ON PROMPT PAYMENT

CFR Citation: 48 CFR 1532; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Final Action	03/06/89	54 FR 9215
Final Action Effective	03/06/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph Nemargut 202 475-9790

RIN: 2030–AA13

3110. CONTRACTING FOR EXPERT SERVICES UNDER THE SUPERFUND AMENDMENT AND REAUTHORIZATION ACT (SARA) OF 1986

CFR Citation: 48 CFR 1505; 48 CFR 1506

Completed:

Reason	Date	FR Cite
Final Action	08/22/88	53 FR 31871

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ed Murphy 202 382-5034

RIN: 2030–AA07

[FR Doc. 89-7105 Filed 04-21-89; 8:45 am]
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Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission is publishing its Semiannual Regulatory Agenda pursuant to Executive Order No. 12291, 3 CFR Part 127 (1981 Compilation) and the Regulatory Flexibility Act, 5 U.S.C. Chapter 6. The agenda contains all regulations which are scheduled for review or development during the next twelve months.

FOR FURTHER INFORMATION CONTACT: Irene L. Hill, Assistant Legal Counsel for Coordination, Office of the Legal Counsel, Equal Employment Opportunity Commission, 2401 "E" Street, NW., Washington, DC 20507; telephone (202) 634-7581.

SUPPLEMENTARY INFORMATION: The Commission identified eleven current and projected rulemakings for inclusion in the agenda. Five are currently under development or review by Commission staff. Two of the listings have been published as ANPRMS. Two are awaiting review by another agency. One listing is being terminated. No action is presently occurring on one listing.

Signed in Washington, DC, this 28th day of February, 1989.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3111	Early Retirement Plans	3046-AA36
3112	Possible Revisions to Interpretations Relating to Benefits Under Employee Benefit Plans	3046-AA37

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3113	Uniform Guidelines on Employee Selection Procedures	3046-AA00
3114	Procedures for Administrative Exemptions under Section 9 of the Age Discrimination in Employment Act	3046-AA22
3115	Uniform Guidelines on Employee Selection Procedures	3046-AA24

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3116	Coordination of Federal Equal Employment Opportunity Programs	3046-AA10
3117	Enforcement of Nondiscrimination on the Basis of Handicap in Equal Employment Opportunity Commission Programs	3046-AA30
3118	Pension Accruals and Contributions Under ADEA	3046-AA31

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3119	Equal Employment Opportunity in the Federal Government; Individual and Class EEO Complaints Processing	3046-AA11
3120	Equal Employment in the Federal Government; Processing of Complaints Filed under the Equal Pay Act	3046-AA16
3121	Equal Employment Opportunity in the Federal Government: Handicap	3046-AA23

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Prerule Stage

3111. EARLY RETIREMENT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 628

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None

Abstract: The ADEA prohibits discrimination on the basis of age with respect to an employee's compensation, terms, conditions, or privileges of employment. In light of recent amendments to the ADEA and several cases dealing with early retirement, questions have arisen regarding the legality of early retirement plans in general and of specific plans. Since the use of early retirement has expanded greatly in recent years, the Commission deems it appropriate to consider the issuance of regulatory guidance in the area. The ANPRM seeks comment on issues such as voluntariness, plan structuring and eligibility to participate.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/88	53 FR 26789
ANPRM Comment Period End	10/13/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046–AA36

3112. POSSIBLE REVISIONS TO INTERPRETATIONS RELATING TO BENEFITS UNDER EMPLOYEE BENEFIT PLANS

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625.10

Legal Deadline: None

Abstract: The current interpretive regulations at 29 CFR 1625.10 were framed in 1979. Since that time the ADEA has been amended in a manner that necessitates considering revisions to the regulations, for example, the addition of sec. 4(g) to the Act and the lifting of the age 70 cap. Accordingly, the Commission is requesting public comment to determine whether revisions are necessary and, if so, the nature and scope of any such revision.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/88	53 FR 26788
ANPRM Comment Period End	10/13/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046–AA37

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Proposed Rule Stage

3113. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Agency Priority

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1607

Legal Deadline: None

Abstract: UGESP Recordkeeping Provisions. On March 15, 1983, the Commission voted to review those portions of the recordkeeping provisions of the Guidelines which relate to the maintenance of data necessary to determine adverse impact. Pursuant to that vote, the Commission published in the Federal Register a notice seeking public comment in general and on several specific questions about UGESP recordkeeping. 48 Fed. Reg. 34766 (Aug. 1, 1983). Approximately 45 comments were received. The Commission is currently reviewing the comments and is considering further action. On June 12, 1984, the Commission voted to prepare an NPRM concerning certain UGESP recordkeeping requirements. Prior to publication for comment, co-signatories to UGESP will engage in discussion of recommended changes and other affected agencies will be consulted under EO 12067.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is included in the Regulatory Program of the United States under the overall RIN 3046-AA24.

Agency Contact: Nicholas Inzeo, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046–AA00

3114. PROCEDURES FOR ADMINISTRATIVE EXEMPTIONS UNDER SECTION 9 OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Legal Authority: 29 USC 628 Age Discrimination in Employment Act

CFR Citation: 29 CFR 1627.15

Legal Deadline: None

Abstract: The purpose of the proposed amendment to 29 CFR 1627.15 is to give those covered by the ADEA more specific information about what they should do if they wish to seek an exemption from any or all of the ADEA's prohibitions. The advantage is that the establishment of a specific procedure will facilitate the processing of exemption requests.

Timetable:

Action	Date	FR Cite
Submission of Staff Recommendations to Commission	03/13/84	

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EEOC — **Proposed Rule Stage**

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046-AA22

3115. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Regulatory Program

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1607

Legal Deadline: None

Abstract: On March 15, 1983, the Commission voted to review the recordkeeping portions of the Guidelines. During that review process, several questions arose which pertained to the substantive, non-recordkeeping provisions of the Guidelines. Consequently, the Commission decided to review the substantive portions of the Guidelines. The major substantive areas under review are: 1) the purpose of the Guidelines and whether there is still a need for the Guidelines; 2) the theory of adverse impact and the method of determining when such impact is significant; and 3) how to establish test validity. When the review is completed, the Commission will decide whether any regulatory revisions are needed.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/84	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: This action resulted from splitting previous entry RIN 3046-AA00, Uniform Guidelines on Employee Selection Procedures.

It is included in the Regulatory Program of the United States under overall RIN 3046-AA25.

Agency Contact: Philip Lyons, Special Assistant to the Chairman, Office of the Chairman, Equal Employment Opportunity Commission, 202 634-6700

RIN: 3046-AA24

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — **Final Rule Stage**

3116. COORDINATION OF FEDERAL EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Legal Authority: EO 12067 Sec 1-303; EO 12067 Sec 1-304

CFR Citation: 29 CFR 1690

Legal Deadline: None

Abstract: These amendments to 29 CFR 1690 will implement an agreement reached by EEOC and the Department of Justice with the Office of Management and Budget which clarified the sequence to be followed when agencies are required to seek prepublication clearance of equal employment opportunity rules from EEOC under EO 12067, DOJ under EO 12250, and from OMB under EO 12291 and the Paperwork Reduction Act. In addition to clearance by the EEOC under EO 12067, equal employment opportunity rules issued under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, or any other provision of Federal statutory law which prohibits discrimination under any program or activity receiving Federal financial assistance, require clearance from DOJ under EO 12250.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Thornton, Associate Legal Counsel, Coordination and Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046-AA10

3117. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PROGRAMS

Significance: Agency Priority

Legal Authority: 29 USC 794

CFR Citation: 29 CFR 1615, (Proposed)

Legal Deadline: None

Abstract: This proposed regulation provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Equal Employment Opportunity Commission.

Timetable:

Action	Date	FR Cite
NPRM	11/05/87	52 FR 42450
Final Action	05/30/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Thornton, Associate Legal Counsel, Coordination & Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046-AA30

3118. PENSION ACCRUALS AND CONTRIBUTIONS UNDER ADEA

Significance: Agency Priority

Legal Authority: 29 USC 628 The Age Discrimination in Employment Act of 1967; PL 99-509, Sec 9204

CFR Citation: 29 CFR 1625.10

Legal Deadline: Final, Statutory, February 1, 1988.
Rule will be completed when the Department of the Treasury completes its regulatory review.

Abstract: Regulations, as may be necessary, to carry out congressional enactments regarding pension accruals and contributions under ADEA.

Timetable:

Action	Date	FR Cite
NPRM	11/27/87	52 FR 45360
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046-AA31

EEOC — **Final Rule Stage**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — **Completed Actions**

3119. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; INDIVIDUAL AND CLASS EEO COMPLAINTS PROCESSING

Significance: Agency Priority

CFR Citation: 29 CFR 1614, (Proposed)

Completed:

Reason	Date	FR Cite
No action presently occurring	09/14/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas Inzeo 202 634-6592

RIN: 3046-AA11

3120. EQUAL EMPLOYMENT IN THE FEDERAL GOVERNMENT; PROCESSING OF COMPLAINTS FILED UNDER THE EQUAL PAY ACT

CFR Citation: 29 CFR 1613

Completed:

Reason	Date	FR Cite
Proposal determined to be unnecessary	09/14/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas M. Inzeo 202 634-6592

RIN: 3046-AA16

3121. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT: HANDICAP

Significance: Regulatory Program

CFR Citation: 29 CFR 1613.701 et seq

Completed:

Reason	Date	FR Cite
Determined that Commission management directives more appropriate than regs.	01/27/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard D. Komer 202 634-6460

RIN: 3046-AA23

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Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

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FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual agenda.

SUMMARY: Pursuant to section 5 of Executive Order 12291 ("Federal Regulations") the Federal Emergency Management Agency is publishing its semiannual agenda for FEMA. The agenda lists regulations that will be under development or review during the period April 1, 1989 to March 31, 1990.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 840, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: For general information, contact Susan Kantor Bank, Office of General Counsel, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3973. For additional information about a specific regulation, contact the person listed as the contact point in the agenda.

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulations," directs each Executive agency to adopt procedures to improve existing and future regulations. Publication of an agenda of significant regulations is called for at least semiannually in order to give the public adequate notice of agency rulemaking activities; also publication of a regulatory flexibility agenda concerning rules likely to have a significant impact on a substantial number of small entities must be published in accordance with 5 U.S.C. 601 *et seq.*

In fulfillment of requirements imposed by the Executive Order and 5 U.S.C. 601 *et seq.*, this agenda describes current and projected regulations, and regulations which will be under review during the period April 1, 1989 to March 31, 1990. This agenda also contains information on regulations on which action was completed since the last FEMA semiannual agenda published October 24, 1988 at 53 FR 42576.

Public comment on the agenda, including that by State and local governments, is invited and should be submitted to the Rules Docket Clerk.

The agenda is not limited to major or significant rules and contains as much information as possible concerning all FEMA regulations to be published in the next 12 months except for routine flood elevation determinations, listing of eligible communities under the National Flood Insurance Program, listing of suspended communities and similar designations, and organizational and management matters.

Dated: February 28, 1989.

George W. Watson,

Acting General Counsel.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3122	Comprehensive Cooperative Agreement (CCA) Policies, Procedures, and Associated Programs	3067-AB18
3123	Graduated Mobilization Response	3067-AB35
3124	Federal Emergency Management Agency Acquisition Regulations	3067-AB40
3125	Protection of Essential Resources and Facilities	3067-AB46

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3126	Nondiscrimination in Federally-Assisted Programs	3067-AA00
3127	Individual and Family Grant Program Changes	3067-AA64
3128	Review and Approval of State and Local Emergency Response Plans	3067-AA76
3129	Radiological Emergency Planning and Preparedness	3067-AA77
3130	Flood Insurance Rating System Changes	3067-AA98
3131	Criteria for Hurricane Preparedness Assistance to State and Local Governments	3067-AB11
3132	National Flood Insurance Program Elevation Requirements for Manufactured Homes	3067-AB25
3133	National Flood Insurance Program Changes	3067-AB32
3134	Federal Crime Insurance Program Rate Increase	3067-AB33
3135	National Flood Insurance Program Changes for Structures on Land Subject to Imminent Collapse or Subsidence	3067-AB42
3136	Temporary Housing Assistance	3067-AB43
3137	National Flood Insurance Program Criteria for Evaluating Coastal Flood Control Structures	3067-AB44
3138	Disaster Assistance; Hazard Mitigation Planning	3067-AB45

FEMA

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3139	Permanent Relocation Assistance	3067-AA84
3140	Civil Defense: State and Local Emergency Management Assistance Program (EMA)	3067-AB14
3141	Nondiscrimination in Federally Assisted Programs on the Basis of Age	3067-AB16
3142	Disaster Assistance	3067-AB37
3143	Disaster Assistance; Great Lakes Planning Assistance	3067-AB41

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3144	Temporary Relocation Assistance - Superfund	3067-AA72
3145	Disaster Preparedness Assistance	3067-AB05
3146	National Flood Insurance Program Payment of Flood Insurance for Structures on Land Subject to Imminent Collapse or Subsidence	3067-AB23
3147	Disaster Assistance: Subpart J (General Insurance Requirements); Subpart K (Flood Insurance Requirements)	3067-AB28
3148	Individual and Family Grant Program; State Plans	3067-AB29
3149	Testimony, Production or Disclosure of Information by FEMA Employees	3067-AB30
3150	Collection of Debts by the Government Under the Debt Collection Act of 1982	3067-AB31

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Prerule Stage

3122. COMPREHENSIVE COOPERATIVE AGREEMENT (CCA) POLICIES, PROCEDURES, AND ASSOCIATED PROGRAMS

Legal Authority: 50 USC 2286; 50 USC 2251; 42 USC 5121; 42 USC 5151; 42 USC 7701; 42 USC 4001; PL 95-224; PL 96-295; PL 99-499; PL 93-288; PL 95-124; PL 90-488; PL 93-234; PL 90-577; EO 12148

CFR Citation: 44 CFR 305; 44 CFR 302; 44 CFR 360; 44 CFR 301; 5 CFR 900

Legal Deadline: None

Abstract: The comprehensive aspect of the CCA process itself was not created by legislation or even by regulation; Presidential emphasis on grants consolidation and FEMA policy on integrating programs created the CCA. The cooperative agreement aspect of the CCA process is based on PL 95-224, the Federal Grant and Cooperative Agreement Act of 1977. Cooperative agreements are used when stimulating a public purpose (the multiple programs delivered in each CCA are aimed at stimulating public purposes, primarily civil defense). The Federal Civil Defense Act of 1950, as amended, authorizes the major portion of CCA programs and assistance dollars, and is therefore the major legislative authority underpinning the CCA process. Various Civil Preparedness Guides, primarily CPG 1-38 and CPG 1-3 address the CCA process and associated programs. However, a regulation would provide complete notice to States and interested parties and complete the policy and procedural requirements identified by the Office of General Counsel. Specific quantitative estimates cannot be cited.

Timetable:

Action	Date	FR Cite
Interim Final Rule Public comment period end	10/01/98	
ANPRM	04/28/89	
ANPRM Comment Period End	07/28/89	
Interim Final Rule	09/29/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Nancy J. Holt, Program Analyst, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3505

RIN: 3067–AB18

3123. ● GRADUATED MOBILIZATION RESPONSE

Significance: Regulatory Program

Legal Authority: 50 USC 404; 50 USC App. 2061 et seq; EO 12656

CFR Citation: 44 CFR 334

Legal Deadline: None

Abstract: Provides policy and guidance to Federal departments and agencies on the Graduated Mobilization Response system. The Graduated Mobilization Response system is part of the National Security Emergency Preparedness program of planning mobilization actions that will permit a timely reaction to early warning indicators. Graduated Mobilization Response policy guidance is to be incorporated in department and agency mobilization preparedness planning.

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Timetable:

Action	Date	FR Cite
ANPRM	03/01/89	
ANPRM Comment Period End	05/01/89	
NPRM	08/01/89	
NPRM Comment Period End	10/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Carmel Cassidy, Industry Specialist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20572, 202 646-2852

RIN: 3067–AB35

3124. ● FEDERAL EMERGENCY MANAGEMENT AGENCY ACQUISITION REGULATIONS

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 44

Legal Deadline: None

Abstract: The Agency's Procurement Regulation as it relates to rights to technical data and computer software will be revised to conform to procurement regulatory reform reporting requirements.

Timetable:

Action	Date	FR Cite
Begin Review	03/01/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Christine A. Makris, Chief, Policy & Evaluation Division, Office of Acquisition Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3743

RIN: 3067–AB40

3125. ● PROTECTION OF ESSENTIAL RESOURCES AND FACILITIES

Legal Authority: 50 USC 404; 50 USC App. 2061 et seq; EO 12656

CFR Citation: 44 CFR 335

Legal Deadline: None

Abstract: Provides policy and guidance for Federal departments and agencies on how to carry out their responsibilities for national assets protection under section 204 of Executive Order 12656.

Timetable:

Action	Date	FR Cite
ANPRM	04/01/89	
ANPRM Comment Period End	06/01/89	
NPRM	09/01/89	
NPRM Comment Period End	11/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry Hyatt, Physical Scientist, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3567

RIN: 3067–AB46

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Proposed Rule Stage

3126. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

Legal Authority: 42 USC 2000d-1; 29 USC 794; 20 USC 1682; 42 USC 6103; 42 USC 5151; Reorganization Plan No. 3 of 1978; EO 12127; EO 12148

CFR Citation: 44 CFR 7

Legal Deadline: None

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and Section 311 of the Disaster Relief Act of 1974. A draft regulation is undergoing interagency review. The notice of proposed rulemaking will be issued as soon as interagency clearances are obtained.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	
NPRM Comment Period End	01/01/90	
Final Action	12/01/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Katherine H. Shannon, Director, Office of Personnel & Equal Opportunity, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3962

RIN: 3067–AA00

3127. INDIVIDUAL AND FAMILY GRANT PROGRAM CHANGES

Legal Authority: 42 USC 5178

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: The following revisions to the regulations are being considered: establishing a group flood insurance policy for all IFG recipients for each flood declaration; reduce the application period for IFG assistance; change references to obsolete forms; reduce the amount of applicant recordkeeping required by States; revise the formula for calculating State administrative costs; include guidance on current IG audit report procedures, and revise the requirements for the IFG State administrative plan.

Timetable:

Action	Date	FR Cite
NPRM	07/01/89	
NPRM Comment Period End	09/01/89	
Final Action	11/01/89	
Final Action Effective	12/01/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Donna M. Dannels, Emergency Management Specialist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3662

RIN: 3067–AA64

3128. REVIEW AND APPROVAL OF STATE AND LOCAL EMERGENCY RESPONSE PLANS

Legal Authority: 50 USC app. 225g; EO 12148

FEMA — **Proposed Rule Stage**

CFR Citation: 44 CFR 350

Legal Deadline: None

Abstract: Updates existing regulation governing policies and procedures for review and approval of State and local emergency plans and preparedness for the offsite effects of a radiological emergency which might occur at a commercial nuclear power plant.

Timetable:

Action	Date	FR Cite
NPRM	05/30/89	
NPRM Comment Period End	07/31/89	
Interim Final Rule	08/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marshall Sanders, Chief, Program Development Branch, State and Local Programs Directorate, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-4131

RIN: 3067–AA76

3129. RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS

Legal Authority: EO 12148; EO 12241

CFR Citation: 44 CFR 351

Legal Deadline: None

Abstract: Updates regulations which set out Federal Agency roles and assigns tasks regarding Federal assistance to States and local governments in their radiological emergency planning and preparedness activities connected with radiological accidents at commercial nuclear power plants.

Timetable:

Action	Date	FR Cite
NPRM	05/30/89	
NPRM Comment Period End	08/31/89	
Final Action	09/30/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Marshall Sanders, Chief, Program Development Branch, State & Local Programs Directorate, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-4131

RIN: 3067–AA77

3130. FLOOD INSURANCE RATING SYSTEM CHANGES

Significance: Regulatory Program

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: National Flood Insurance Program premium rating system changes under consideration include a community rating system and a system to use revised FIRMs producing higher rates for existing policyholders, subject to a rate cap. The community rating system would be designed to recognize circumstances within local communities that mitigate or exacerbate the flooding risk, such as the inaction of a community in addressing flood problems or the performance of a community that goes beyond minimum NFIP floodplain management requirements. The use of revised FIRMs for existing policyholders would replace the current practice of allowing premium rates for such policyholders to be based on the map in existence at the time of construction so long as the construction met the requirements at that time.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/87	52 FR 24482
ANPRM Comment Period End	08/31/87	
NPRM	12/01/89	
NPRM Comment Period End	01/30/90	
Final Action	05/30/90	
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Francis V. Reilly, Deputy Administrator, FIA, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2782

RIN: 3067–AA98

3131. CRITERIA FOR HURRICANE PREPAREDNESS ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Significance: Agency Priority

Legal Authority: 42 USC 5131; 50 USC App. 2251 to 2297; EO 12148; EO 12381

CFR Citation: 44 CFR 362

Legal Deadline: None

Abstract: Under PL 93-288, the Federal Emergency Management Agency provides financial and technical assistance to States and local governments in their hurricane preparedness planning. Except for some instances, FEMA has provided 100 percent funding to designated States that have high risk hurricane hazard areas for the development of population preparedness and property protection studies. This proposed rulemaking will establish a plan for having States share the cost of these activities. These changes to 44 CFR 300.6 will affect only the hurricane preparedness portion of this rule; the earthquake hazards reduction portion will be revised in a separate concurrent rulemaking effort.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	
NPRM Comment Period End	01/15/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Dennis Kwiatkowski, Assistant Associate Director, Office of Natural & Technological Hazards Programs, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2858

RIN: 3067–AB11

3132. NATIONAL FLOOD INSURANCE PROGRAM ELEVATION REQUIREMENTS FOR MANUFACTURED HOMES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 60

Legal Deadline: None

Abstract: Revisions to National Flood Insurance Program regulations regarding the elevation of manufactured homes placed in existing mobile home parks and subdivisions in special flood hazard areas that were effective

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October 1, 1986, were suspended effective June 30, 1987. There are three possible options: (1) lifting the suspension so that the October 1, 1986, revisions go back into effect; (2) continuing the suspension indefinitely; or (3) making some revisions different from the October 1, 1986 revisions.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	
NPRM Comment Period End	06/30/89	
Final Action	09/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Michael F. Robinson, Chief, Program Policy & Compliance Div., Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, **202 646-2717**

RIN: 3067–AB25

3133. NATIONAL FLOOD INSURANCE PROGRAM CHANGES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 65; 44 CFR 72

Legal Deadline: None

Abstract: Possible changes to the National Flood Insurance Program regulations include minor modifications to the definitions of the terms "substantial improvement" and "new construction", providing for mapping on the basis of future conditions, clarifying the use of alternative hydraulic or hydrologic methodologies in requests for map revisions, specifying requirements for requests for map revisions for alluvial fan areas, and adjustment of the labor rate charged for processing requests for conditional approval of map changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	08/15/89	
Final Action Effective	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Chief, Regulations & Underwriting Division, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, **202 646-3422**

RIN: 3067–AB32

3134. FEDERAL CRIME INSURANCE PROGRAM RATE INCREASE

Legal Authority: 12 USC 1749 bbb et seq; EO 12127

CFR Citation: 44 CFR 83

Legal Deadline: None

Abstract: A Federal Crime Insurance Program premium rate increase is planned.

Timetable:

Action	Date	FR Cite
NPRM	03/01/89	
NPRM Comment Period End	05/01/89	
Final Action	05/15/89	
Final Action Effective	06/14/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. DeHenzel, Chief, Urban Property Insurance Operations, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, **202 646-3440**

RIN: 3067–AB33

3135. ● NATIONAL FLOOD INSURANCE PROGRAM CHANGES FOR STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE

Legal Authority: 42 USC 4002 et seq; EO 23227

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 61; 44 CFR 62

Legal Deadline: None

Abstract: Section 544 of the Housing and Community Development Act of 1987 provided a new benefit to National Flood Insurance Program policyholders: Payment for demolition or relocation of an insured structure if it is located "along the shore of a lake or other body of water and is certified by appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels." FEMA published interim regulations on this subject on September 23 and November 2, 1988, and commissioned an investigation through the National Academy of Sciences to provide a basis for further regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/01/90	
NPRM Comment Period End	07/31/90	
Final Action	09/01/90	
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Donald L. Collins, Assistant Administrator, IPATS, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, **202 646-3419**

RIN: 3067–AB42

3136. ● TEMPORARY HOUSING ASSISTANCE

Legal Authority: 42 USC 5174

CFR Citation: 44 CFR 206.101

Legal Deadline: None

Abstract: Revisions to the method of providing assistance being considered would require revision to those sections of the regulations covering the types of assistance available, particularly the home repairs and rental assistance. Another change is the removal of the provision for State governments to administer the program.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	
NPRM Comment Period End	02/28/90	
Final Action	05/31/90	
Final Action Effective	06/30/90	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: F. Scott Martin, Emergency Management Officer, Federal Emergency Management Agency, 500 C Street, SW, Washing.on, DC 20472, **202 646-3650**

RIN: 3067–AB43

FEMA — **Proposed Rule Stage**

3137. ● NATIONAL FLOOD INSURANCE PROGRAM CRITERIA FOR EVALUATING COASTAL FLOOD CONTROL STRUCTURES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 65

Legal Deadline: None

Abstract: Regulations will be developed defining criteria for evaluating the effectiveness of coastal flood control structures in preventing or reducing 100-year flooding or damage. The criteria will be used to determine whether areas protected by such structures will be included in, or excluded from, Special Flood Hazard Area designations and/or Coastal High Hazard Area (V-zone) designations on Flood Insurance Rate Maps prepared for the National Flood Insurance Program. The criteria will be based on the results of a special study by the U.S. Army Corp's Coastal Engineering Research Center entitled "Development of Criteria for Evaluating Coastal Flood Control Structures."

Timetable:

Action	Date	FR Cite
NPRM	06/01/90	
NPRM Comment Period End	07/31/90	
Final Action	09/01/90	
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Donald L. Collins, Assistant Administrator, IPATS, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, **202 646-3419**

RIN: 3067–AB44

3138. ● DISASTER ASSISTANCE; HAZARD MITIGATION PLANNING

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq; PL 100-707

CFR Citation: 44 CFR 206.100

Legal Deadline: None

Abstract: This proposed rule addresses hazard mitigation planning requirements of the Robert T. Stafford Disaster Relief and Emergency Assistance Planning requirements with the section 404 Hazard Mitigation Grant Program and other hazard mitigation programs.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	
NPRM Comment Period End	08/01/89	
Final Action	10/01/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Patricia Stahlschmidt, Mitigation Assistance Program Specialist, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, **202 646-3678**

RIN: 3067–AB45

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Final Rule Stage

3139. PERMANENT RELOCATION ASSISTANCE

Significance: Regulatory Program

Legal Authority: 42 USC 9601 et seq

CFR Citation: 44 CFR 221

Legal Deadline: None

Abstract: This part prescribes the policies to be followed by the Federal Emergency Management Agency or any State or local government when implementing permanent relocation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended.

Timetable:

Action	Date	FR Cite
NPRM	11/22/88	53 FR 47232
NPRM Comment Period End	01/23/89	
Final Action	03/15/89	
Final Action Effective	04/15/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Charles D. Robinson, Chief, Superfund & Relocation Assistance Br., Disaster Assistance Program, SLPS, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, **202 646-3805**

RIN: 3067–AA84

3140. CIVIL DEFENSE: STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE PROGRAM (EMA)

Legal Authority: 50 USC app 2253; Reorganization Plan No. 3 of 1978; EO 12148

CFR Citation: 44 CFR 302, (Revision)

Legal Deadline: None

Abstract: Changes within existing regulation to delete one allocation formula factor.

Timetable:

Action	Date	FR Cite
NPRM	08/26/87	52 FR 32140
NPRM Comment Period End	10/26/87	52 FR 32140
Interim Final Rule	10/01/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: John McKay, Assistant Associate Director for Civil Defense, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, **202 646-4252**

RIN: 3067–AB14

3141. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS ON THE BASIS OF AGE

Legal Authority: 42 USC 6103

CFR Citation: 44 CFR 7, Subpart E

Legal Deadline: None

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Abstract: This rule effectuates for FEMA the nondiscrimination requirements of the Age Discrimination Act of 1975.

Timetable:

Action	Date	FR Cite
NPRM	01/14/88	53 FR 922
NPRM Comment Period End	03/14/88	53 FR 922
Final Action	03/15/90	
Final Action Effective	05/15/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Alan Clive, Equal Employment Manager, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3957

RIN: 3067–AB16

3142. ● DISASTER ASSISTANCE

Significance: Regulatory Program

Legal Authority: 42 USC 5121 et seq; PL 100-707

CFR Citation: 44 CFR 206

Legal Deadline: Other, Statutory, May 23, 1989.

Abstract: This interim rule will cover certain aspects of the disaster relief program authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (PL 93-288, as amended): Individual assistance, public assistance, fire suppression assistance, community disaster loans, and hazard mitigation planning. Based on comments received during a 60-day period while the rule is effective, a final rule will also be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/89	
Final Action	06/15/89	
Final Action Effective	07/23/89	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Gregg Chappell, Assistant Associate Director, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3615

RIN: 3067–AB37

3143. ● DISASTER ASSISTANCE; GREAT LAKES PLANNING ASSISTANCE

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq; 33 USC 428p note; PL 100-707

CFR Citation: 44 CFR 206; 44 CFR 207

Legal Deadline: Final, Statutory, May 23, 1989.

Abstract: This interim rule will complete action on disaster relief authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (PL 93-288, as amended), and will also implement Title II of PL 100-707, relating to Great Lakes damage reduction grants. The document will cover emergency assistance, the disaster declaration procedure, and the Great Lakes grant program. Based on comments received during a 60-day period while the rule is effective, a final rule will also be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/15/89	
Final Action	07/15/89	
Final Action Effective	08/15/89	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Gregg Chappell, Assistant Associate Director, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3615

RIN: 3067–AB41

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Completed Actions

3144. TEMPORARY RELOCATION ASSISTANCE - SUPERFUND

CFR Citation: 44 CFR 220

Completed:

Reason	Date	FR Cite
Final Action	01/23/89	54 FR 30321
Final Action Effective	02/22/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Karen Forbes 202 646-3807

RIN: 3067–AA72

3145. DISASTER PREPAREDNESS ASSISTANCE

CFR Citation: 44 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	01/19/89	54 FR 2127
Final Action Effective	01/01/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gregory S. Jones 202 646-3668

RIN: 3067–AB05

3146. NATIONAL FLOOD INSURANCE PROGRAM PAYMENT OF FLOOD INSURANCE FOR STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 61; 44 CFR 62

Completed:

Reason	Date	FR Cite
Final Action	11/02/88	53 FR 44193
Final Action Effective	11/02/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald F. Collins 202 646-3419

RIN: 3067–AB23

3147. DISASTER ASSISTANCE; SUBPART J (GENERAL INSURANCE REQUIREMENTS); SUBPART K (FLOOD INSURANCE REQUIREMENTS)

Significance: Regulatory Program

CFR Citation: 44 CFR 205, Subpart J; 44 CFR 205, Subpart K

Completed:

Reason	Date	FR Cite
Merged with 3067-AB37	02/24/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Alex Burns 202 646-3670

RIN: 3067–AB28

3148. INDIVIDUAL AND FAMILY GRANT PROGRAM; STATE PLANS

Significance: Regulatory Program

CFR Citation: 44 CFR 205.54

Completed:

Reason	Date	FR Cite
Merged with 3067-AA64	02/24/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Agnes C. Mravcak 202 646-3660

RIN: 3067–AB29

3149. TESTIMONY, PRODUCTION OR DISCLOSURE OF INFORMATION BY FEMA EMPLOYEES

CFR Citation: 44 CFR 5

Completed:

Reason	Date	FR Cite
Final Action	03/22/89	54 FR 11713
Final Action Effective	03/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leneta G. Gregorie 202 646-4111

RIN: 3067–AB30

3150. COLLECTION OF DEBTS BY THE GOVERNMENT UNDER THE DEBT COLLECTION ACT OF 1982

CFR Citation: 44 CFR 11.30; 44 CFR 11.50(4)(c)

Completed:

Reason	Date	FR Cite
Final Action	11/22/88	53 FR 47210
Final Action Effective	12/22/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard S. Buck 202 646-4091

RIN: 3067–AB31

[FR Doc. 89-6163 Filed 04-21-89; 8:45 am]

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Part XXV

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

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FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Semiannual agenda required by the Regulatory Flexibility Act of 1980.

SUMMARY: The Federal Mediation and Conciliation Service is redrafting one regulation subject to the Regulatory Flexibility Act during the six month period from April 1989 to October 1989. That regulation is Arbitration Policy and Practice.

FOR FURTHER INFORMATION CONTACT: Ted M. Chaskelson, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, (202) 653-5305.

Dated: February 22, 1989.

Robert P. Baker,

Acting Director.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Final Rule Stage

3151. REVIEW OF EXISTING ARBITRATION REGULATION

Significance: Agency Priority

Legal Authority: 29 USC 172; 5 USC 552; 29 USC 173

CFR Citation: 29 CFR 1404

Legal Deadline: None

Abstract: The Federal Mediation and Conciliation Service is in the process of redrafting its existing Arbitration Services regulation at 29 CFR 1404. The Service has completed its initial draft and is presently analyzing comments received. A final rule will be published soon.

Timetable:

Action	Date	FR Cite
NPRM	04/20/88	53 FR 12952
NPRM Comment Period End	06/30/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted M. Chaskelson, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW, Washington, DC 20427, 202 653-5305

RIN: 3076–AA01

[FR Doc. 89-5844 Filed 04-21-89; 8:45 am]

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Part XXVI

General Services Administration

Semiannual Regulatory Agenda

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GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, 105, and 201

48 CFR Ch. 5

Unified Agenda of Federal Regulations

AGENCY: General Services Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those actions that were completed since October 1988. This agenda was developed under the guidelines in OMB Bulletin 89-02, dated November 4, 1988. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Chief, Directives and Correspondence Management Branch (202) 566-0666.

SUPPLEMENTARY INFORMATION: None of the regulations will have an effect on small businesses or other entities. None of the regulations listed are considered major under Executive Order 12291, Federal Regulations.

Dated: February 21, 1989.

Richard G. Austin,

Acting Administrator of General Services.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3152	Negotiated Disposal of Personal Property	3090-AD29
3153	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	3090-AC48
3154	Nondiscrimination on the Basis of Race, Color, National Origin, and where applicable, sex	3090-AC49
3155	Federal Property Management Regulations; Annual Real Property Inventories	3090-AC74

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3156	Multiple Award Schedule Program (GSAR 5-38A)	3090-AC61
3157	Federal Property Management Regulations; Revises the Reporting Requirements for Real Property	3090-AB31
3158	FIRMR Improvement Project	3090-AD04
3159	Restructuring and Simplification of Federal Information Resources Management Standards	3090-AD21
3160	Information Resources Management Reviews Codification Amendment for FIRMR Temporary Regulation 10	3090-AD22
3161	Revisions of FIRMR Policies to Simplify the Procurement Process	3090-AD38
3162	Assignment and Utilization of GSA Space	3090-AD42

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3163	General Services Administration Acquisition Regulation Change Subpart 46.7 (GSAR 5-91)	3090-AB82
3164	Miscellaneous Changes on the Acquisition of Leasehold Interests in Real Property (GSAR 5-155)	3090-AC59
3165	Multiyear Contracts and Contracts with Options (GSAR 5-106)	3090-AC68
3166	General Services Administration Acquisition Regulation (GSAR) Proposed Rule, Utility Contracts, GSAR Case 5-65	3090-AD10
3167	General Services Administration Acquisition Regulation; Economic Price Adjustment Clause for Multiple Award Schedule Contracts, (GSAR 5-268)	3090-AD40
3168	General Services Administration Acquisition Regulation; Inspection of Supplies, (GSAR 5-173)	3090-AD41
3169	Revision of Public Voucher for Transportation Charges, Standard Form 1113	3090-AB69
3170	Outline for Explanatory Statements for Negotiated Sales	3090-AD32
3171	Donation of Abandoned and Forfeited Personal Property	3090-AA24
3172	Utilization, Donation, Sale, Abandonment or Destruction of Hazardous Materials	3090-AA42
3173	Revision of Standard Form 1170, Redemption of Unused Tickets	3090-AD13
3174	Use of Electronic Data Interchange to Document and Pay Transportation Bills	3090-AD27
3175	Submission of Paid Freight Bills/Invoices, CBL's, GTR's, Passengers Coupons, and Supporting Documentation Covering Transportation Services Under Cost-Reimbursement Contracts	3090-AD35
3176	Update of Governmentwide Telecommunications Policies and Regulations	3090-AB08
3177	Establishment of Policies and Procedures for Federal Agencies' Management of Electronic Recordkeeping, Project 86.83A	3090-AC54

GSA

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3178	Implementation of Title VIII, Paperwork Reduction Reauthorization Act of 1986, P.L. 99-500 Regarding Automatic Data Processing Equipment	3090-AD03
3179	Update Regulations Regarding FTS 2000 Usage (FIRMR Interim Rule 1)	3090-AD20

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3180	General Services Administration Acquisition Regulation, Miscellaneous Changes, Change 56 (GSAR 5-87)	3090-AB83
3181	Contract Closeout Procedures (GSAR 5-96)	3090-AC67
3182	GSAR Acquisition Circular (AC-88-2) Administration of Small and Small Disadvantaged Business Subcontracting Plan	3090-AC69
3183	General Services Administration Acquisition Regulation, Novation Agreements, Change 58, (GSAR 5-264)	3090-AD30
3184	General Services Administration Acquisition Regulation, Implement FAC 84-34, Change 59 (GSAR 5-214)	3090-AD31
3185	General Services Administration Acquisition Regulation: Value Engineering, (GSAR 5-257)	3090-AD34
3186	General Services Administration Acquisition Regulation; Acquisition Circular AC-88-2, Changes to the Government Procurement Code	3090-AD37
3187	General Services Administration Acquisition Regulation; Implement FAC 84-31 and Monitoring Contractor Compliance With Subcontracting Plans, Change 57 (GSAR 5-203/5-215)	3090-AD39
3188	National Defense Stockpile Disposal Regulations	3090-AA40
3189	Reporting of Excess Real Property - Asbestos	3090-AD05
3190	Responsibility of disposal agency; disposals to public agencies	3090-AD28
3191	Disposal of Federal Surplus Real Property	3090-AD33
3192	Revision of ADPE Reutilization Policies and Procedures Including Instructions for SF 120, Project 86.14A	3090-AC25
3193	Office Equipment Accessibility for the Handicapped	3090-AD02
3194	Telecommunications Accessibility for the Hearing and Speech Impaired	3090-AD36

GENERAL SERVICES ADMINISTRATION (GSA) — Prerule Stage

FEDERAL SUPPLY AND SERVICES

3152. ● NEGOTIATED DISPOSAL OF PERSONAL PROPERTY

Legal Authority: 40 USC 486(e)

CFR Citation: 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46

Legal Deadline: None

Abstract: This regulation will implement the personal property sales provisions and reporting requirements of the Federal Managements of the Federal Property Management Improvement Act of 1988. There should be no significant costs to the public as a result of this rule. The rule will significantly reduce time and workload in preparing reports to Congress and improve the efficiency and effectiveness of personal property sales by expanding on negotiated sales procedures.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Stanley M. Duda, Director, Property Management Division (FBP), General Services Administration, Washington, DC 20406, 703 557-1240

RIN: 3090–AD29

OFFICE OF ORGANIZATION AND PERSONNEL

3153. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

Legal Authority: PL 95-602, Sec 119

CFR Citation: 41 CFR 105-8

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement the above cited laws. These statutes prohibit discrimination on the basis of handicap as it applies to any programs or activities conducted by GSA.

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GSA

Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This proposed rule has been circulated internally and externally for comments. Comments have been received from the Equal Employment Opportunity Commission. We are still waiting for the Department of Justice's approval and comment on the regulation. Employment Opportunity Commission. The Department of Justice's comments on regulation with respect to GSA's role as the Federal Government landlord have been received. Comments regarding the program portion of the regulation have not been received. Comments regarding the program portion of the regulation were received on June 4, 1987 from the Department of Justice (DOJ). Reconciling of comments with Public Building Services and DOJ is presently occurring.

Agency Contact: Thomas E. Henderson, Equal Employment Specialist (CTC), General Services Administration, General Services Administration, 18th and F Streets, NW, Washington, DC 20405, 202 566-1368

RIN: 3090-AC48

3154. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, AND WHERE APPLICABLE, SEX

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-8.2

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement all of the above cited Federal laws. These statutes prohibit discrimination, in whole or in part, so that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program activity receiving Federal assistance from the General Services Administration. In addition, the objectives of the regulation are to streamline certain administrative procedural requirements by consolidating prohibitions of discrimination into one regulation and to make requirements clear and convenient for applicants and recipients to comply with, as well as making the regulation manageable for GSA to administer.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas E. Henderson, EEO Specialist, General Services Administration, General Services Administration, 18th and F Streets, NW, Washington, DC 20405, 202 566-1368

RIN: 3090-AC49

PUBLIC BUILDINGS SERVICE

3155. FEDERAL PROPERTY MANAGEMENT REGULATIONS; ANNUAL REAL PROPERTY INVENTORIES

Legal Authority: EO 12411

CFR Citation: 41 CFR 101-3

Legal Deadline: None

Abstract: This regulation will be reviewed and updated in light of the governmentwide space reduction and utilization improvement initiatives mandated in Executive Order 12411--Government Work Space Management Reform--and FPMR Temporary Regulation D-73-- Quality Workplace Environment.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Judy Maretta, Director, Governmentwide Policy Div., General Services Administration, GSA Office of Governmentwide Real Property, Policy and Oversight (PG), Washington, DC 20405, 202 566-0507

RIN: 3090-AC74

GENERAL SERVICES ADMINISTRATION (GSA)

Proposed Rule Stage

ACQUISITION POLICY

3156. MULTIPLE AWARD SCHEDULE PROGRAM (GSAR 5-38A)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 515; 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation will be amended to revise Section 515.804-3 to add instructions on claiming and granting exemptions to the requirement for submission on cost or pricing data in the multiple award schedule (MAS) contracting process; to add Section 515.804-70 to provide the format of the discount schedule and marketing data sheets to be used in MAS solicitations; to add Part 538 to provide procedures on the GSA schedule contracting process; and to add Section 552.238-70 to provide text of the price reductions clause to be used in certain MAS solicitations and contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/12/86	51 FR 31344

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marjorie Asbby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC61

GSA

Proposed Rule Stage

OFFICE OF THE COMPTROLLER

3157. FEDERAL PROPERTY MANAGEMENT REGULATIONS; REVISES THE REPORTING REQUIREMENTS FOR REAL PROPERTY

Legal Authority: EO 12411

CFR Citation: 41 CFR 101-3

Legal Deadline: None

Abstract: This regulation revises FPMR 101-3 with changes and additions to the data elements currently collected as part of the World-Wide Real Property Inventory System. It also displays the revised forms to be used when supplying this information. These changes are necessary to monitor governmentwide space reduction initiatives mandated by Executive Order 12411 - Government Work Space Management Reforms and Temporary Regulation D-70-Work Space Management Plans.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Bobby Daniel, Accounting Specialists, General Services Administration, GSA Office of Governmentwide Real Property, Policy and Oversight(PG), Washington, DC 20405, 202 566-1426

RIN: 3090-AB31

OFFICE OF INFORMATION RESOURCES MANAGEMENT

3158. FIRMR IMPROVEMENT PROJECT

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: In response to recommendations by users of the FIRMR to revise the regulation to make it more readable and useful, GSA plans to restructure the FIRMR during the next few years. This restructuring will include: the separation of policies and procedures, the separation of contracting from management and use provisions, the reorganization of FIRMR contracting provisions for consistency with the Federal Acquisition Regulations, and the reorganization of the FIRMR's management and use provisions into a life cycle format. As the final draft of each subchapter is completed, GSA will seek public comment on the subchapter through a notice of proposed rulemaking. Subchapter E, which deals with acquisition, will be completed first and, if possible, issued as a final rule before publication of the entire FIRMR. An advanced notice of proposed rulemaking describing the project was published in the Federal Register in January 1988. The next planned action is a notice of proposed rulemaking for revised FIRMR Part 39. This action will consolidate all FIRMR contracting policies and procedures for acquiring ADP and telecommunications resources into a single part, consistent with the FAR.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/88	53 FR 620
ANPRM Comment Period End	03/11/88	53 FR 620
NPRM	04/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: David Mullins, Chief, Policy Branch, General Services Administration, GSA, IRMS/KMPR, Washington, D.C. 20405, 202 535-7462

RIN: 3090-AD04

3159. RESTRUCTURING AND SIMPLIFICATION OF FEDERAL INFORMATION RESOURCES MANAGEMENT STANDARDS

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-8; 41 CFR 201-13; 41 CFR 201-39

Legal Deadline: None

Abstract: This project revises the FIRMR to simplify provisions on the use and implementation of Federal automatic data processing and telecommunications standards. It results in major changes in the regulatory coverage and presentation of FIRMR provisions on standards. The intent is to remove redundant and nonregulatory provisions from the FIRMR that may be found in other agency issuances and to reorganize provisions, consistent with the FAR so that users may more readily locate standards provisions relevant to their particular need.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mary Anderson/Margaret Truntich, Computer Specialist/Chief, Reg. Branch, General Services Administration, Regulations Branch (KMPR), 18th and F St., Washington, DC 20405, 202 566-0194

RIN: 3090-AD21

3160. INFORMATION RESOURCES MANAGEMENT REVIEWS CODIFICATION AMENDMENT FOR FIRMR TEMPORARY REGULATION 10

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-19

Legal Deadline: None

Abstract: This project revises the FIRMR by codifying certain provisions contained in FIRMR Temporary Regulation 10 regarding the Federal Information Resources Management Reviews Program (triennial reviews). Temporary Regulation 10 describes the policies and procedures for GSA - Federal agencies to follow in carrying out their information resources management review responsibilities under the Paperwork Reduction Act. It also established GSA as the primary agency for collecting, assessing, and reporting on information resources management review results to OMB. This amendment will codify Governmentwide policies for triennial

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reviews in the FIRMR. A bulletin will be issued describing review procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stewart Randall, Management Analyst, General Services Administration, Regulations Branch (KMPR), 18th & F Streets, Washington, DC 20405, 202 566-0194

RIN: 3090–AD22

3161. ● REVISIONS OF FIRMR POLICIES TO SIMPLIFY THE PROCUREMENT PROCESS

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: This regulation revises a number of FIRMR management and acquisition policies, primarily to remove unnecessary detail and redundancy, provide consistency with the Federal Acquisition Regulations and clarify confusing provisions in the FIRMR.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William Loy/Margaret Trumbich, Procurement Analyst/Chief, Regulations Branch, General Services Administration, Regulations Branch (KMPR), 18th & F Streets, NW., Washington, DC 20405, 202 566-0194

RIN: 3090–AD38

PUBLIC BUILDINGS SERVICE

3162. ● ASSIGNMENT AND UTILIZATION OF GSA SPACE

Significance: Agency Priority

Legal Authority: 40 USC 486(c), Sec. 205(c), 63 Stat. 390

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: This regulation is being issued to refine GSA's space assignment criteria and to modify and/or clarify certain space-related policies and requirements. It will replace those portions of FPMR Temporary Regulation D-73 dealing with the assignment and utilization of GSA-controlled space. This regulation will not produce a major impact on the economy, and its potential benefits outweigh potential costs. The regulation primarily affects those Federal agencies for whom GSA provides office space and related facilities.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	
NPRM Comment Period End	06/14/89	
Final Action	09/29/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Ward, Director of Real Estate, Office of Real Property Development, General Services Administration, 18th and F Streets, NW., Washington, DC 20405, 202 566-1025

RIN: 3090–AD42

GENERAL SERVICES ADMINISTRATION (GSA) — Final Rule Stage

ACQUISITION POLICY

3163. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION CHANGE SUBPART 46.7 (GSAR 5-91)

Legal Authority: 40 USC 486(c) Sec. 205(c), 63 Stat. 390

CFR Citation: 48 CFR 546

Legal Deadline: None

Abstract: GSA to issue a GSAR amendment to implement and supplement the FAR Subpart 46.7 by providing agency policies and procedures on the use of Warranties.

Timetable:

Action	Date	FR Cite
Final Action	04/02/89	
Final Action Effective	04/02/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Sts., NW Room 4026, Washington, DC 20405, 202 523-3822

RIN: 3090–AB82

3164. MISCELLANEOUS CHANGES ON THE ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY (GSAR 5-155)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 570

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to codify in the regulation the revised contract clauses approved for use in lease contracts.

Timetable:

Action	Date	FR Cite
Final Action	04/02/89	
Final Action Effective	04/02/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090–AC59

3165. MULTIYEAR CONTRACTS AND CONTRACTS WITH OPTIONS (GSAR 5-106)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 517

GSA — Final Rule Stage

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to incorporate the deviation from FAR 52.217-1, Limitations of Price and Contractor Qualifications and FAR 52.217-2, Cancellation of Items; and to consider the applicability of FAR Part 17 to Federal Supply Service multiyear contracts and contracts with options.

Timetable:

Action	Date	FR Cite
Final Action	04/02/89	
Final Action Effective	04/02/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090–AC88

3166. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR) PROPOSED RULE, UTILITY CONTRACTS, GSAR CASE 5-65

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 553

Legal Deadline: None

Abstract: This proposed General Services Administration Acquisition Regulation will revise Part 508 to clarify the Federal Acquisition Regulation definition of utility services, to prescribe policies governing the acquisition of utility services, to prescribe procedures for precontract review for utility contracts, to provide for annual rate reviews, to provide for use of GSA forms for acquiring utility services; and to revise Part 553 to illustrate GSA Forms 1533, Utilities Contract; 1663, Negotiated Electric Utility Contract, and 1664, Technical Provisions (Electric Utility Contract).

Timetable:

Action	Date	FR Cite
NPRM	12/24/87	52 FR 48729
Final Action	04/02/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA, Off. of GSA Aquisition Policy and Regs., 18th & F Streets, NW 20405, Washington, D.C., 202 523-3822

RIN: 3090–AD10

3167. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; ECONOMIC PRICE ADJUSTMENT CLAUSE FOR MULTIPLE AWARD SCHEDULE CONTRACTS, (GSAR 5-268)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise Alternate I of the clause entitled "Economic Price Adjustment-FSS Multiple Award Schedule Contracts" at GSAR 552.216-71 to provide for price adjustments in multi-year contracts that are for periods of more than 3 years.

Timetable:

Action	Date	FR Cite
NPRM	11/09/88	53 FR 45293
NPRM Comment Period End	12/09/88	
Final Action	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy and Regulations, 18th & F Street, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD40

3168. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; INSPECTION OF SUPPLIES, (GSAR 5-173)

Legal Authority: 8 USC 486(c)

CFR Citation: 48 CFR 512; 48 CFR 546; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise section 512.104 to amend the prescription for use of the Availability for Inspection, Testing and Shipment/Delivery clause; delete section 546.301; amend section 546.302, 546.302-70 and 546.302-71 to revise the sections to prescribe the new Source Inspection by Quality Approved Manufacturer and the Source Inspection clause; delete sections 546.302-72, 546.316 and 546.316–70; amend section 552.216-72 to combine the two availability for Inspection, Testing and Shipment/Delivery clauses currently used into a single clause with an alternate; amend section 552.242-70 to revise the Status Report of Order and Shipments clause to change the reporting frequency from twice a month to once a month, retitle section 552.246-70 and revise the section to provide the text of the new Source Inspection by Quality Approved Manufacturer clause; delete section 552.246-72 and make other miscellaneous changes for clarity.

Timetable:

Action	Date	FR Cite
NPRM	11/23/88	53 FR 47551
NPRM Comment Period End	12/23/88	
Final Action	04/01/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy and Regulations, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD41

OFFICE OF THE COMPTROLLER

3169. REVISION OF PUBLIC VOUCHER FOR TRANSPORTATION CHARGES, STANDARD FORM 1113

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This rule revises Public Voucher for Transportation Charges, Standard Form 1113, to eliminate various information blocks because certain agency fiscal control numbers are no longer required. This change will

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reduce the amount of time agencies spend in processing these documents.

Timetable:

Action	Date	FR Cite
Final Action	04/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gracie Jones, Transportation Specialist, General Services Administration, Regulations and Procedures Section (FWCP/R), Washington, DC 20405, 202 786-3007

RIN: 3090-AB69

FEDERAL PROPERTY RESOURCES SERVICE

3170. ● OUTLINE FOR EXPLANATORY STATEMENTS FOR NEGOTIATED SALES

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.4911

Legal Deadline: None

Abstract: The General Services Administration is amending its regulations concerning the disposal of Federal surplus real property to implement the provisions of Public Law 100-77, as amended by Public Law 100-628. Public Law 100-77 amended the Federal Property and Administrative Services Act of 1959, as amended, and contains provisions which affect congressional oversight of negotiated sales.

Timetable:

Action	Date	FR Cite
Final Action	03/00/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie L. Lomax, Director, Policy and Planning Division (DRP), Federal Property Resources Service, General Services Administration, 18th and F Street, NW., Washington, DC 20405, 202 535-7062

RIN: 3090-AD32

FEDERAL SUPPLY AND SERVICES

3171. DONATION OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Legal Authority: 26 USC 5688(a)

CFR Citation: 41 CFR 101-48.2

Legal Deadline: None

Abstract: This rule would emphasize that all forfeited distilled spirits, wine, or malt beverages donated to eleemosynary institutions are to be used only by their inpatients for medicinal purposes. Allegations of misuse of these donated spirits have created a need for this regulation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-1240

RIN: 3090-AA24

3172. UTILIZATION, DONATION, SALE, ABANDONMENT OR DESTRUCTION OF HAZARDOUS MATERIALS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46; 41 CFR 101-48; 41 CFR 101-49

Legal Deadline: None

Abstract: Revisions and additions to existing rules are proposed to establish a separate regulatory section concerning the utilization, donation, sale, abandonment or destruction of hazardous materials.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Proposals are to be circulated among Federal agencies on an information basis before rulemaking consideration.

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-1240

RIN: 3090-AA42

3173. REVISION OF STANDARD FORM 1170, REDEMPTION OF UNUSED TICKETS

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101

Legal Deadline: None

Abstract: The current Standard Form (SF) 1170, Redemption of Unused Tickets, format is not suitable for automated preparation. This rule proposes to make the SF 1170 available in electronic data processing (EDP) format to facilitate form preparation on either a typewriter or an automated printer.

Timetable:

Action	Date	FR Cite
NPRM	06/01/88	53 FR 19946
Final Action	04/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Carolyn West, Transportation Specialist, General Services Administration, GSA/FWCP/R, 18th & F Streets, NW, Washington, D.C., 202 786-3005

RIN: 3090-AD13

3174. USE OF ELECTRONIC DATA INTERCHANGE TO DOCUMENT AND PAY TRANSPORTATION BILLS

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101

Legal Deadline: None

Abstract: This regulation permits Federal agencies to electronically transmit carrier billings and backup documentation for freight and passenger transportation services as an alternative to issuing the hard copy standard forms prescribed in 41 CFR 101-41.

Timetable:

Action	Date	FR Cite
NPRM	09/23/88	53 FR 37068
Final Action	04/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sandfort, Chief, Regulations, Procedures, and Review, Branch (FWCP), General Services Administration, 18th & F Streets, NW, Washington, DC 20405, 202 786-3065

RIN: 3090-AD27

3175. ● SUBMISSION OF PAID FREIGHT BILLS/INVOICES, CBL'S, GTR'S, PASSENGERS COUPONS, AND SUPPORTING DOCUMENTATION COVERING TRANSPORTATION SERVICES UNDER COST-REIMBURSEMENT CONTRACTS

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This temporary regulation revises the Federal Property Management Regulations to include the submission of Government Transportation Requests and passenger coupons to the General Service Administration (GSA) for audit. Currently, agencies must ensure only that contractors doing business with the Government under a cost-reimbursement contract submit paid freight bills/invoices, commercial bills a lading, and supporting documentation to GSA for audit.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carolyn West, Transportation Specialist, Federal Supply Service, General Services Administration, 18th & F Street, NW., Washington, DC 20405, 202 786-3005

RIN: 3090-AD35

OFFICE OF INFORMATION RESOURCES MANAGEMENT

3176. UPDATE OF GOVERNMENTWIDE TELECOMMUNICATIONS POLICIES AND REGULATIONS

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-21; 41 CFR 201-23; 41 CFR 201-38; 41 CFR 201-39; 41 CFR 201-41

Legal Deadline: None

Abstract: This project revises FIRMR Provisions relating to Federal Telecommunications acquisition and management. It will include changes brought about by the Federal Communications Commission Computer II inquiry and the divestiture of AT&T. This regulation will update GSA policies and provisions impacting Governmentwide telecommunication management and will specifically address the need for requirements definition and analysis for local and intercity service. It will revise "major change" requirements and state what GSA needs from agencies if GSA is expected to provide services or if GSA is reviewing service for individual agency acquisitions. All obsolete provisions will be eliminated.

Timetable:

Action	Date	FR Cite
NPRM	09/23/87	52 FR 35736
NPRM Comment Period End	11/23/87	52 FR 35736
Final Action Effective	07/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Anthony Trenkle, Communications Specialist, General Services Administration, Regulations Branch (KMPR), Information Resources Management Service, Washington, DC 20405, 202 566-0194

RIN: 3090-AB08

3177. ESTABLISHMENT OF POLICIES AND PROCEDURES FOR FEDERAL AGENCIES' MANAGEMENT OF ELECTRONIC RECORDKEEPING, PROJECT 86.83A

Legal Authority: 40 USC 486(f); 40 USC 751(f)

CFR Citation: 41 CFR 201-22; 41 CFR 201-45

Legal Deadline: None

Abstract: This project establishes a new Subpart 201-45.2 in the FIRMR to establish governmentwide policies and procedures for the management of electronic recordkeeping. Specifically responsibilities for the creation, maintenance, use, and disposition of electronic records will be prescribed.

Timetable:

Action	Date	FR Cite
NPRM	12/05/88	53 FR 48947
NPRM Comment Period End	01/04/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: R. Stewart Randall, Management Analyst, General Services Administration, Regulations Branch (KMPR), Information Resources Management Service, Washington, DC 20405, 202 566-0194

RIN: 3090-AC54

3178. IMPLEMENTATION OF TITLE VIII, PAPERWORK REDUCTION REAUTHORIZATION ACT OF 1986, P.L. 99-500 REGARDING AUTOMATIC DATA PROCESSING EQUIPMENT

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-1; 41 CFR 201-2; 41 CFR 201-23; 41 CFR 201-24

Legal Deadline: None

Abstract: This regulation implements certain selected portions of the Paperwork Reduction Reauthorization Act of 1986. Among the other changes, it clarifies the applicability of the FIRMR to the management acquisition, and use of various information resources by Federal agencies. The amendment prescribes FIRMR policies and procedures for use in determining whether any particular procurement must be conducted under GSA's exclusive procurement authority. It also streamlines the Delegations Program by establishing uniform procedures, uniform blanket delegations of procurement authority, Agency Procurement Requests for all ADP and telecommunications resources.

Timetable:

Action	Date	FR Cite
NPRM	08/15/88	53 FR 30706
NPRM Comment Period End	09/23/88	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

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Agency Contact: William Loy/Margaret Truntich, Procurement Analyst/Chief, Regulation Branch, General Services Administration, GSA, IRMS/KMPR, Washington, D.C. 20405, 202 566-0194

RIN: 3090–AD03

3179. UPDATE REGULATIONS REGARDING FTS 2000 USAGE (FIRMR INTERIM RULE 1)

Significance: Agency Priority

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-1; 41 CFR 201-41

Legal Deadline: None

Abstract: FIRMR Interim Rule 1, regarding the mandatory use of the FTS 2000 network, was published on July 29, 1988, to meet the requirements of the Conference Report for PL 100-202. PL 100-440 was subsequently enacted on September 22, 1988, to include more specific provisions regarding use of FTS 2000. This proposed interim rule will update Interim Rule 1 to incorporate the provisions of PL 100-440.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/88	53 FR 28638
Interim Final Rule Public Comment Period End	08/29/88	
Interim Final Rule Effective Date	10/01/88	
Interim Final Rule	07/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William B. Loy, Procurement Analyst, General Services Administration, Regulations Branch (KMPR), 18th & F Sts., Washington, DC 20405, 202 566-0194

RIN: 3090–AD20

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

3180. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION, MISCELLANEOUS CHANGES, CHANGE 56 (GSAR 5-87)

CFR Citation: 48 CFR 504; 48 CFR 514; 48 CFR 515; 48 CFR 522; 48 CFR 532; 48 CFR 534; 48 CFR 536; 48 CFR 537; 48 CFR 552; 48 CFR 553

Completed:

Reason	Date	FR Cite
Final Action	08/16/88	53 FR 30841
Final Action Effective	08/16/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margorie Ashby 202 523-3822

RIN: 3090–AB83

3181. CONTRACT CLOSEOUT PROCEDURES (GSAR 5-96)

CFR Citation: 48 CFR 504

Completed:

Reason	Date	FR Cite
Withdrawn	01/04/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090–AC67

3182. GSAR ACQUISITION CIRCULAR (AC-88-2) ADMINISTRATION OF SMALL AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN

CFR Citation: 48 CFR 519; 48 CFR 552

Completed:

Reason	Date	FR Cite
Final Action	12/05/88	53 FR 48910
Final Action Effective	12/02/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090–AC69

3183. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION, NOVATION AGREEMENTS, CHANGE 58, (GSAR 5-264)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 542

Legal Deadline: None

Abstract: General Services Administration Acquisition Regulation (GSAR) was amended by adding Subpart 542.12 to establish a uniform policy for processing novation agreements for GSA contracts that were set aside for small business.

Timetable:

Action	Date	FR Cite
NPRM	07/11/88	53 FR 26092
NPRM Comment Period End	08/10/88	53 FR 26092
Final Action	09/02/88	53 FR 34089
Final Action Effective	09/15/88	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Flexibility Analysis

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy and Regulations, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD30

3184. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION, IMPLEMENT FAC 84-34, CHANGE 59 (GSAR 5-214)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 522; 48 CFR 552; 48 CFR 553

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation (GSAR) was amended to revise section 501.105 to delete certain OMB control numbers relating to data collections

that have been incorporated in the Federal Acquisition regulation (FAR) and to change the section reference of GSA Form 618-D assigned OMB Control No. 1215-0149; to revise part 522 to supplement the FAR by identifying the individuals in GSA who are responsible for making determinations regarding liquidated damages, to add text to identify the individuals responsible for requesting extensions of the period for application of wage determinations, to provide for the use of GSA Form 618-A, Transmittal of Contract Award, to inform contractors of their obligations under the labor standards clauses, to provide for submission of GSA Form 618-D, "Statement to be Submitted when Work is to be Performed Personally" (by contractors or subcontractors), to require reports to be submitted to the Department of Labor: to revise part 552 to delete sections 552.222-70 through 552.222-80 from the text and the clause matrixes; and to revise part 553 to delete reference to GSA Forms 2428 and 3017.

Timetable:

Action	Date	FR Cite
Final Action	12/20/88	53 FR 51107
Final Action Effective	12/28/88	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy and Regulations, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD31

3185. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION: VALUE ENGINEERING, (GSAR 5-257)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 548; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation that would delete the current material in Part 548 and add material to provide: agency policy for the use of value engineering techniques, value engineering proposal submission and processing requirements for certain types of contracts, agency policy with respect to shared saving on certain types of contracts, and to prescribe a clause entitled "Value Engineering Program--Architect-Engineer." Part 552 would also be amended to add the text of the clause.

Timetable:

Action	Date	FR Cite
NPRM	08/30/88	53 FR 33155
Final Action	01/03/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy and Regulation, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD34

3186. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; ACQUISITION CIRCULAR AC-88-2, CHANGES TO THE GOVERNMENT PROCUREMENT CODE

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 505; 48 CFR 514; 48 CFR 525

Legal Deadline: None

Abstract: This Acquisition Circular temporarily amends Parts 505, 514 and 525 of the General Services Administration Acquisition Regulation to implement Item II of Federal Acquisition Circular 84-38, published in the Federal Register on July 20, 1988. Item II of the FAC revised the Federal Acquisition Regulation to implement amendments to the Agreement on Government Procurement that were negotiated by the United States Trade Representative.

Timetable:

Action	Date	FR Cite
Final Action	08/01/88	53 FR 38885
Final Action Effective	08/01/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy and Regulations, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD37

3187. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; IMPLEMENT FAC 84-31 AND MONITORING CONTRACTOR COMPLIANCE WITH SUBCONTRACTING PLANS, CHANGE 57 (GSAR 5-203/5-215)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 519

Legal Deadline: None

Abstract: General Services Administration Acquisition Regulation (GSAR) was amended to revise section 519.502-1 to delete material that is repetitive of the Federal Acquisition Regulation and inconsistent with the intent of Congress is enacting Pub. L. 99-661; incorporate material in Acquisition Circular AC-87-3 into the regulation, and to cancel the circular. Section 519.770-1 was also revised to clarify to whom the SF-295 is to be submitted.

Timetable:

Action	Date	FR Cite
Final Action	09/01/88	53 FR 33812
Final Action Effective	09/20/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090–AD39

3188. NATIONAL DEFENSE STOCKPILE DISPOSAL REGULATIONS

CFR Citation: 41 CFR 101-14.4

Completed:

Reason	Date	FR Cite
Withdrawn	07/01/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: J. Wayne Kulig 202 535-7671

RIN: 3090–AA40

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3189. REPORTING OF EXCESS REAL PROPERTY - ASBESTOS

CFR Citation: 41 CFR 101-47.202-2

Completed:

Reason	Date	FR Cite
Final Action	08/09/88	53 FR 29892
Final Action Effective	08/09/88	53 FR 29892

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Marjorie L. Lomax 202 535-7052

RIN: 3090-AD05

3190. RESPONSIBILITY OF DISPOSAL AGENCY; DISPOSALS TO PUBLIC AGENCIES

CFR Citation: 41 CFR 101-47.303-2

Completed:

Reason	Date	FR Cite
Withdrawn	10/25/88	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Marjorie L. Lomax 202 535-7052

RIN: 3090-AD28

3191. ● DISPOSAL OF FEDERAL SURPLUS REAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.301-2; 41 CFR 101-47.304-9; 41 CFR 101-47.304-9(d); 41 CFR 101-47.304-12

Legal Deadline: None

Abstract: The General Services Administration is amending its regulations as follows in order to implement the provisions of Public Law 100-612: 41 CFR 101-47.301-2 is revised to change the criteria for seeking anti-trust advice from the Attorney General from $1,000,000 acquisition cost to $3,000,000 estimated fair market value; 41 CFR 101-47.304-9 is revised to authorized the disposal of surplus real property by negotiation when the estimated fair market value of the property does not exceed $15,000; 41 CFR 101-47.304-9(d) is added to require the Administrator of General Services to submit an annual report to Congress concerning negotiated disposals; and 41 CFR 101-47.304-12 is revised to identify required conditions leading to Congressional review of proposed negotiated disposals of surplus real property.

Timetable:

Action	Date	FR Cite
Final Action	03/24/89	54 FR 2198
Final Action Effective	03/24/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Marjorie L. Lomax, Director, Policy and Planning Division (DRP), Federal Property Resources Service, General Services Administration, 18th and F Street, NW., Washington, DC 20405, 202 535-7052

RIN: 3090-AD33

3192. REVISION OF ADPE REUTILIZATION POLICIES AND PROCEDURES INCLUDING INSTRUCTIONS FOR SF 120, PROJECT 86.14A

Significance: Agency Priority

CFR Citation: 41 CFR 201 to 33

Completed:

Reason	Date	FR Cite
Final Action	01/19/89	54 FR 2125
Final Action Effective	01/19/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mary Anderson/Margaret Truntich 202 566-0194

RIN: 3090-AC25

3193. OFFICE EQUIPMENT ACCESSIBILITY FOR THE HANDICAPPED

Significance: Regulatory Program

CFR Citation: 41 CFR 201

Completed:

Reason	Date	FR Cite
Final Action	10/13/88	53 FR 40066
Final Action Effective	11/14/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mary Anderson/Margaret Truntich 202 566-0194

RIN: 3090-AD02

3194. ● TELECOMMUNICATIONS ACCESSIBILITY FOR THE HEARING AND SPEECH IMPAIRED

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: Final, Statutory, October 24, 1989.

Abstract: The Telecommunication Accessibility Enhancement Act of 1988 (PL 100-542) directs GSA to prescribe regulations that make the Federal Telecommunications System fully accessible to hearing and speech impaired individuals. GSA plans to issue a FIRMR rule requiring agencies to use telecommunications devices for the deaf (TDD's) or related equipment and update TDD directories. A FIRMR bulletin will probably also be issued to describe the types of TDD's and related devices available to agencies.

Timetable:

Action	Date	FR Cite
Final Action	08/01/88	53 FR 38885
Final Action Effective	08/01/88	
Interim Final Rule	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Anthony Trenkle, Communications Specialist, General Services Administration, Regulations Branch (KMPR), Information Resources Management Service, Washington, DC 20405. 202 566-0194

RIN: 3090-AD36

[FR Doc. 89-5845 Filed 04-21-89; 8:45 am]

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Part XXVII

Merit Systems Protection Board

Semiannual Regulatory Agenda

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MERIT SYSTEMS PROTECTION BOARD (MSPB)

MERIT SYSTEMS PROTECTION BOARD

5 CFR Ch. II

Regulatory Agenda

AGENCY: Merit Systems Protection Board.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Merit Systems Protection Board (MSPB) regulations are scheduled for review or development from April 1989 through March 1990. They are submitted herein for publication in the Unified Agenda of Federal Regulations, E.O. 12291. Regulatory action may not be limited to the items listed.

FOR FURTHER INFORMATION CONTACT: Paul D. Mahoney, Director, Office of Management Analysis, (202) 653-8892.

Dated: February 22, 1989.

Merit Systems Protection Board.

Daniel R. Levinson,

Chairman.

MERIT SYSTEMS PROTECTION BOARD (MSPB) — Prerule Stage

3195. PART 1205 - PRIVACY ACT

Legal Authority: 5 USC 552a Privacy Act

CFR Citation: 5 CFR 1205

Legal Deadline: None

Abstract: Pursuant to 5 USC 552a(f), the Board is required to promulgate regulations pursuant to notice and receipt of public comment establishing procedures for responding to individual requests for access to records covered by the Privacy Act; for the amendment of records covered by the Act and for appeals of adverse rulings on such requests; and for fees to be charged for copying requested records. Such regulations were issued in 44 FR 43448, July 24, 1979. The Board proposes to review these regulations to ensure that they are easily understood by all persons. If indicated by the review, the Board plans to publish these regulations in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	09/00/87	
Republish in "plain English"	04/00/89	
End Review	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael H. Hoxie, Director, Information Services Division, Merit Systems Protection Board, 1120 Vermont Ave., NW, Washington, DC 20419, 202 653-7200

RIN: 3124–AA05

3196. PART 1206 - OPEN MEETINGS

Legal Authority: 5 USC 552b Government in the Sunshine Act

CFR Citation: 5 CFR 1206

Legal Deadline: None

Abstract: Pursuant to 5 USC 552b, the Board is required to promulgate regulations, pursuant to notice and receipt of public comment, establishing procedures by which it will conduct open meetings. Such regulations were issued in 44 FR 43448, July 24, 1979. The Board proposes to review these regulations to ensure that they are easily understood by all persons. If indicated by the review, the Board plans to publish these regulations in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
Republish in "plain English"	04/00/89	
End Review	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael H. Hoxie, Director, Information Services Division, Merit Systems Protection Board, 1120 Vermont Ave., NW, Washington, DC 20419, 202 653-7200

RIN: 3124–AA06

3197. PART 1207 - ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS CONDUCTED BY THE MERIT SYSTEMS PROTECTION BOARD

Legal Authority: 29 USC 791

CFR Citation: 5 CFR 1207.1 to 1207.99

Legal Deadline: None

Abstract: The Board published final regulations in 53 FR 25880, July 8, 1988. The Board plans to monitor those regulations carefully to ensure that they are easily understood. If indicated by the review, the Board plans to rewrite them in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	07/00/88	
End Review	12/00/89	
Publish regulations in "plain English"	04/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Robert U. Hernandez, Director, Equal Employment Division, Merit Systems Protection Board, 1120 Vermont Ave., NW, Washington, DC 20419, 202 653-6180

RIN: 3124–AA09

MERIT SYSTEMS PROTECTION BOARD (MSPB) — Proposed Rule Stage

3198. PART 1203 - HEARING PROCEDURES FOR ORIGINAL JURISDICTION CASES

Legal Authority: 5 USC 1205(a)(4); 5 USC 1205(e); 5 USC 1205(g)

CFR Citation: 5 CFR 1203.1 to 1203.18

Legal Deadline: None

Abstract: The Board proposes to review the regulations in this part to ensure that these regulations are easily understood by all persons. If indicated by the review, the Board plans to republish these regulations in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
Publish regulations in "plain English"	04/00/89	
End Review	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Paul D. Mahoney, Director, Office of Management Analysis, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-8892

RIN: 3124–AA07

3199. PART 1204 - FREEDOM OF INFORMATION ACT

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 1204.1 to 1204.22

Legal Deadline: None

Abstract: The Board issued interim final regulations in 52 FR 28123, July 28, 1987. The interim regulations became final regulations on December 1, 1987, in 52 FR 45597. The Board proposes to monitor these regulations carefully to ensure that they are easily understood. If indicated by the review, the Board plans to rewrite them in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	06/00/87	
Republish in "plain English"	04/00/89	
End Review	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Michael H. Hoxie, Director, Information Services Division, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-7200

RIN: 3124–AA08

3200. PART 1201 - PRACTICES AND PROCEDURES

Legal Authority: 5 USC 1205; 5 USC 7701

CFR Citation: 5 CFR 1201.1 to 1201.199

Legal Deadline: None

Abstract: The Board proposes to review the regulations in this part to ensure that these regulations are easily understood by all persons appearing before the Board. If indicated by the review, the Board plans to republish these regulations in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
Publish regulations in "plain English"	04/00/89	
End Review	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Paul D. Mahoney, Director, Office of Management Analysis, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-8892

RIN: 3124–AA10

MERIT SYSTEMS PROTECTION BOARD (MSPB) — Completed Actions

3201. ● PART 1200–BOARD ORGANIZATION

Legal Authority: 5 USC 1205(g); 5 USC 1205(i)

CFR Citation: 5 CFR 1200

Legal Deadline: None

Abstract: Part 1200 is revised to reflect current organizational units and the primary functions assigned to those units.

Timetable:

Action	Date	FR Cite
Final Action	11/21/88	53 FR 46843
Final Action Effective	11/21/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Paul D. Mahoney, Director, Office of Management Analysis, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Rm. 884, Washington, DC 20419, 202 653-8892

RIN: 3124–AA04

3202. ● PART 1201–PRACTICES AND PROCEDURES

Legal Authority: 5 USC 1205; 5 USC 7701(j)

CFR Citation: 5 CFR 1201

Legal Deadline: None

Abstract: Appendix II to Part 1201 is amended to correct the address of the Denver Regional Office.

Timetable:

Action	Date	FR Cite
Final Action	10/13/88	53 FR 40015
Final Action Effective	10/13/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mark Kelleher, Deputy Executive Director for Regional, Operations, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Rm.

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RIN: 3124–AA12

3203. ● PART 1205–PRIVACY ACT

Legal Authority: 5 USC 552a

CFR Citation: 5 CFR 1205.16; 5 CFR 1205.31; 5 CFR 1205.32

Legal Deadline: None

Abstract: The Board is amending the fee schedule for providing records under the Privacy Act. The Board is also amending its administrative appeal procedures to provide for appeal of denial of requests for amendment of records to the Executive Director.

Timetable:

Action	Date	FR Cite
Final Action	12/09/88	53 FR 49649
Final Action Effective	12/09/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert E. Taylor, Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Rm. 806, Washington, DC 20419, 202 653-7282

RIN: 3124–AA13

3204. ● PART 1201–PRACTICES AND PROCEDURES

Legal Authority: 5 USC 1205; 5 USC 7701(j)

CFR Citation: 5 CFR 1201.118(b)

Legal Deadline: None

Abstract: Part 1201.118(b) is revised to provide OPM 35 days after service of the Board's final order within which to file a petition for reconsideration rather than 30 days of the date of the final order as previously required.

Timetable:

Action	Date	FR Cite
Final Action	01/19/89	54 FR 2083
Final Action Effective	01/19/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Paul D. Mahoney, Director, Office of Management Analysis, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-8892

RIN: 3124–AA14

3205. ● PART 1201–PRACTICES AND PROCEDURES

Legal Authority: 5 USC 1205; 5 USC 7701(j)

CFR Citation: 5 CFR 1201

Legal Deadline: None

Abstract: Appendix II to Part 1201 is amended to correct the address of the Seattle Regional Office.

Timetable:

Action	Date	FR Cite
Final Action	12/01/88	53 FR 48505
Final Action Effective	12/01/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mark Kelleher, Deputy Executive Director for Regional Operations, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Rm. 800, Washington, DC 20419, 202 653-7980

RIN: 3124–AA15

3206. ● PART 1201–PRACTICES AND PROCEDURES

Legal Authority: 5 USC 1205; 5 USC 7701(j)

CFR Citation: 5 CFR 1201

Legal Deadline: None

Abstract: Appendix II to Part 1201 is amended to correct the address of the New York Regional Office.

Timetable:

Action	Date	FR Cite
Final Action	11/29/88	53 FR 47927
Final Action Effective	11/29/88	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mark Kelleher, Deputy Executive Director for Regional Operations, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Rm. 800, Washington, DC 20419, 202 653-7980

RIN: 3124–AA16

[FR Doc. 89-5846 Filed 04-21-89; 8:45 am]

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Part XXVIII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration.

ACTION: Regulatory agenda.

SUMMARY: This regulatory agenda describes the proposed regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESS: Director, General Management Division (Code NPN), Office of Management, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, 202/453-2922.

SUPPLEMENTARY INFORMATION: OMB Bulletin No. 89-02, "Regulatory Program of the United States Government (April 1, 1989 - March 31, 1990) and Unified Agenda of Federal Regulations for April 1989," Executive Order 12291, "Federal Regulation," and NASA Management Instruction 1410.10F, "Federal Register: Delegation of Authority and Requirements for Publication of NASA Documents," require a regulatory agenda of proposed regulations under development and review be published in the **Federal Register** each April and October.

Philip A. Waller,

Director, General Management Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3207	General Provisions Regarding Flight of Reimbursable Payloads Aboard the Space Shuttle	2700-AA14
3208	Space Transportation System; Mementos Aboard Space Shuttle Flights	2700-AA18
3209	Personnel Security Adjudication and Procedures	2700-AA31
3210	Space Transportation System; Reimbursement for Shuttle Services Provided to Non-U.S. Government Users; Reimbursement for Shuttle Services Provided to Civil U.S. Government Users and Foreign Etc	2700-AA45
3211	Delegation of Authority of Certain Civil Rights Functions to the Department of Health, Education, and Welfare	2700-AA47
3212	Payload Specialists for NASA or NASA Related Payloads	2700-AA52
3213	Extraterrestrial Exposure	2700-AA53
3214	Policy Concerning Data Obtained from Space Science Flight Investigations	2700-AA54
3215	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Assistance by NASA	2700-AA69
3216	National Space Grant College and Fellowship Program	2700-AA75
3217	Care and Use of Animals in the Conduct of NASA Activities	2700-AA78
3218	Limited Arrest Authority and Use of Force by NASA Security Force Personnel	2700-AA80

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3219	Space Transportation System; Insurance and Indemnification of NASA Space Vehicle Users	2700-AA00
3220	Space Transportation System; Reimbursement for Spacelab Services	2700-AA01
3221	Tracking and Data Relay Satellite System (TDRSS); Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3222	Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs	2700-AA32
3223	Availability of Agency Records to Members of the Public	2700-AA49
3224	Nondiscrimination in Federally-Assisted Programs of NASA	2700-AA50
3225	Duty-Free Entry of Space Articles	2700-AA62
3226	Policy On The Protection Of Human Subjects	2700-AA76
3227	Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug Free Workplace (Grants)	2700-AA81
3228	Processing of Monetary Claims (General)	2700-AA82

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3229	NASA Information Security Program	2700-AA05
3230	Delegation of Authority to Make Determinations in Original Classification Matters	2700-AA06

NASA

Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3231	Space Transportation System; Nonscientific Payloads	2700-AA19
3232	Inspection of Persons and Personal Effects on NASA Property	2700-AA20
3233	Standards of Conduct	2700-AA30
3234	Source Evaluation Board Handbook	2700-AA39
3235	NASA Information Security Program Committee	2700-AA64
3236	Implementation of the Program Fraud Civil Remedies Act of 1986	2700-AA71
3237	Freedom of Information Act Submitter Notice	2700-AA74

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Proposed Rule Stage

3207. GENERAL PROVISIONS REGARDING FLIGHT OF REIMBURSABLE PAYLOADS ABOARD THE SPACE SHUTTLE

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, "Subpart 1"

Legal Deadline: None

Abstract: Sets forth the general provisions regarding flight of reimbursable payloads aboard the NASA Space Shuttle. Incorporates pricing principles for the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 2700-AA13 merged with RIN 2700-AA14.

Agency Contact: Lowell E. Primm, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1911

RIN: 2700-AA14

3208. SPACE TRANSPORTATION SYSTEM; MEMENTOS ABOARD SPACE SHUTTLE FLIGHTS

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, "Subpart 6"

Legal Deadline: None

Abstract: Clarifies policy on carrying mementos aboard Space Shuttle flights and use of both official flight kits and personal preference kits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome Verba, NASA Security Office, Code NIS, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2946

RIN: 2700-AA31

3209. PERSONNEL SECURITY ADJUDICATION AND PROCEDURES

Legal Authority: 42 USC 2451 et seq.; 5 USC 552 A; 5 USC 5596; EO 10450; EO 12356; 5 USC 7312; 5 USC 7531 TO 7533

CFR Citation: 14 CFR 1203, "Subpart J"

Legal Deadline: None

Abstract: 14 CFR Part 1203 is amended by adding this new Subpart J, "Emergency Personnel Security Adjudication and Procedures." This proposed rule sets forth NASA's personnel security adjudication policy and procedures. The intended effect of this proposed rule is to inform individuals of the procedures within NASA with respect to those individuals whose employment with NASA may not be clearly consistent with the interests of national security.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wanda J. Dockery, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1923

RIN: 2700-AA18

3210. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO NON-U.S. GOVERNMENT USERS; REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO CIVIL U.S. GOVERNMENT USERS AND FOREIGN ETC

Legal Authority: PL 85-568, Sec 203; 42 USC 2473; PL 87-624, Sec 201(b); 47 USC 721(b)

CFR Citation: 14 CFR 1214, "Subpart 1"; 14 CFR 1214, "Subpart 2"

Legal Deadline: None

Abstract: This revision will incorporate provisions for scheduled shared-flight retrieval service and for equitable charging for use of the downweight capability of the shuttle.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: TITLE CONT: Users Who Have Made Substantial Investment in the STS Program

Agency Contact: Lowell E. Primm, Office of Space Flight, Code MC, National Aeronautics and Space

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Administration, NASA Headquarters, Washington, DC 20546, 202 453-1911

RIN: 2700–AA45

3211. DELEGATION OF AUTHORITY OF CERTAIN CIVIL RIGHTS FUNCTIONS TO THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Legal Authority: 42 USC 2473(b)(1); 42 USC 2473(b)(3); 42 USC 2473(b)(5); 42 USC 2473(b)(6); 42 USC 2473(b)(14)

CFR Citation: 14 CFR 1204.508

Legal Deadline: None

Abstract: Amends existing NASA regulation to reflect changes in the Federal sector and to include new civil rights laws enacted since the original regulation was published.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewin S. Warren, Office of Equal Opportunity Programs, Code U, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2163

RIN: 2700–AA47

3212. PAYLOAD SPECIALISTS FOR NASA OR NASA RELATED PAYLOADS

Legal Authority: PL 85-568, Sec 203; 42 USC 2473; PL 87-624, Sec 201(b); 47 USC 721(b)

CFR Citation: 14 CFR 1214, "Subpart 3"

Legal Deadline: None

Abstract: Revises existing regulation to reflect current practices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry J. Fitts, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2347

RIN: 2700–AA52

3213. EXTRATERRESTRIAL EXPOSURE

Legal Authority: 42 USC 2455; 42 USC 2456; 42 USC 2473; 18 USC 799

CFR Citation: 14 CFR 1211

Legal Deadline: None

Abstract: Revision updates the existing regulation to conform to current agency practices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephan W. Fogleman, Office of Space Science and Applications, Code EB, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1530

RIN: 2700–AA53

3214. POLICY CONCERNING DATA OBTAINED FROM SPACE SCIENCE FLIGHT INVESTIGATIONS

Legal Authority: 42 USC 2454

CFR Citation: 14 CFR 1205, "Subpart 1"

Legal Deadline: None

Abstract: Amends regulation to reflect current agency practices.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Hunolt, Office of Space Science and Applications, Code EC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2132

RIN: 2700–AA54

3215. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM ASSISTANCE BY NASA

Legal Authority: 20 USC 1681 et seq

CFR Citation: 14 CFR 1253

Legal Deadline: None

Abstract: This regulation proposes to establish for NASA a set of rules prohibiting sex discrimination in educational programs or activities receiving financial assistance from NASA. Under authority provided by the Education Amendments of 1974, this regulation seeks to ensure that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefit of, or otherwise be subject to discrimination under any program or activity receiving Federal financial assistance from NASA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewin S. Warren, Office of Equal Opportunity Program, Code U, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2163

RIN: 2700–AA69

3216. NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

Legal Authority: PL 100-147

CFR Citation: 14 CFR 1259

Legal Deadline: None

Abstract: Formalizes and expands upon NASA's policy and procedures for implementing the National Space Grant College and Fellowship Program.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10357
NPRM Comment Period End	04/12/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elaine Schwartz, University Programs Branch, Code XEU, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8344

RIN: 2700–AA75

3217. CARE AND USE OF ANIMALS IN THE CONDUCT OF NASA ACTIVITIES

Legal Authority: 42 USC 2451; PL 89-544, as amended; 7 USC 2131; 39 USC 3001; PL 99-158, Sec 495

CFR Citation: 14 CFR 1232

Legal Deadline: None

Abstract: This proposed rule establishes the policy, implementation procedures, and management authority and responsibility for the care and use of vertebrate animals in the conduct of NASA activities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thora Halstead, Office of Space Science and Applications, Code EB, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1527

RIN: 2700–AA78

3218. ● LIMITED ARREST AUTHORITY AND USE OF FORCE BY NASA SECURITY FORCE PERSONNEL

Legal Authority: 42 USC 2456(e); 42 USC 2456(f); EO 12356

CFR Citation: 14 CFR 1203 "Subpart B"

Legal Deadline: None

Abstract: NASA proposes to implement 42 USC 2456(e), (f), and EO 12356 by establishing centralized control over the exercise of arrest authority at NASA Headquarters and ensuring that NASA Security Force personnel at NASA Installations exercise such arrest authority, including the use of force to effect such an arrest in a manner consistent with both NASA's security objectives and recognized legal standards.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erwin V. Minter, NASA Security Office, Code NIS, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2953

RIN: 2700–AA80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Final Rule Stage

3219. SPACE TRANSPORTATION SYSTEM; INSURANCE AND INDEMNIFICATION OF NASA SPACE VEHICLE USERS

Legal Authority: PL 85-568, Sec 203; 42 USC 2473 Sec 308 of the Space Act as amended; 42 USC 2458(b)

CFR Citation: 14 CFR 1214, "Subpart 13"

Legal Deadline: None

Abstract: Describes the policy on when users of the Space Transportation System must obtain financial protection against third-party claims and the conditions under which NASA will provide insurance or indemnification of users. Comments on the proposed rule were received from several individuals.

Timetable:

Action	Date	FR Cite
NPRM	11/10/80	45 FR 74499
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Wojtal, Office of General Counsel, Code GK, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2446

RIN: 2700–AA00

3220. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SPACELAB SERVICES

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, "Subpart 8"

Legal Deadline: None

Abstract: Describes the policy for Spacelab services provided by NASA to users during the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/30/85	50 FR 30807
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lowell E. Primm, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1911

RIN: 2700–AA01

3221. TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS); USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Legal Authority: PL 85-568 Sec 203; 42 USC 2473

CFR Citation: 14 CFR 1215

Legal Deadline: None

Abstract: Annual revision of Appendix A to reflect each Calendar Year rate change for TDRSS services.

Timetable:

Action	Date	FR Cite
Final Action for CY 1990 Rate Change	03/15/89	54 FR 10627
Final Action for CY 1991 Rate Change	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene Ferrick, Office of Space Operations, Code T, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2043

RIN: 2700–AA29

3222. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

Legal Authority: 42 USC 4601 Note

CFR Citation: 14 CFR 1208

Legal Deadline: None

Abstract: Designates Department of Transportation (DOT) as lead agency in implementation of Uniform Act.

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NASA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/17/87	52 FR 48017
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gitta G. Haber, Facilities Management Office, Code NXG, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1958

RIN: 2700–AA32

3223. ● AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

Legal Authority: 42 USC 2473; 5 USC 552 as amended; PL 93-504; PL 99-507

CFR Citation: 14 CFR 1206

Legal Deadline: None

Abstract: In accordance with Executive Order 12600, NASA is establishing formal notice procedures to notify submitters of commercial information in the event NASA receives a request for such information pursuant to the Freedom of Information Act. This action will result in a regulatory procedure which is consistent with NASA's long-standing policy and practice.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48278
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia M. Riep, Freedom of Information Act Officer, Code LN, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2939

RIN: 2700–AA49

3224. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF NASA

Legal Authority: Title VI of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Age Discrimination Act of 1975; EO 12250

CFR Citation: 14 CFR 1250

Legal Deadline: None

Abstract: NASA is revising 14 CFR Part 1250, "Nondiscrimination in Federally-Assisted Programs of NASA," to reflect changes in the NASA organization and processes through which this regulation is implemented. The purpose of this Part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964, as amended.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewin S. Warren, Office of Equal Opportunity Programs, Code U, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2163

RIN: 2700–AA50

3225. DUTY-FREE ENTRY OF SPACE ARTICLES

Legal Authority: PL 98-573 Sec 124; PL 97-446 Sec 116 and Sec 156; 19 USC 1202 note

CFR Citation: 14 CFR 1214, "Subpart 15"

Legal Deadline: None

Abstract: Amending 14 CFR Subpart 1214.15 to reflect the changes on the duty-free entry of communication satellites imposed by PL 98-573.

Timetable:

Action	Date	FR Cite
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Wojtal, Office of General Counsel, Code GK, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2446

RIN: 2700–AA62

3226. POLICY ON THE PROTECTION OF HUMAN SUBJECTS

Legal Authority: 42 USC 2451

CFR Citation: 14 CFR 1230

Legal Deadline: None

Abstract: NASA will be one of a few Federal Agencies to adopt a Model Federal Policy for the Protection of Human Subjects which was prepared by the Office of Science and Technology Policy. This NPRM will implement a Model Federal Policy for the Protection of human subjects of research conducted, supported or regulated by NASA.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45668
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Arnauld E. Nicogossian, National Aeronautics and Space Administration, Life Sciences Division, Code EB, Office of Space Science and Applications, Washington, DC 20546, 202 453-1530

RIN: 2700–AA76

3227. ● GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG FREE WORKPLACE (GRANTS)

Legal Authority: EO 12549; PL 100-690; 41 USC 701 et seq; PL 85-568, as amended

CFR Citation: 14 CFR 1265 "Subpart F"

Legal Deadline: Other, Statutory, March 18, 1989.

Abstract: The purpose of this rule is to add Subpart F and to implement other changes to the current nonprocurement suspension and debarment and sets forth standards for what constitutes a Drug Free Workplace (Grants).

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4946
Interim Final Rule Effective	03/18/89	
Comment Period End	04/03/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: David K. Beck, Office of Procurement, Code HP, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2085

RIN: 2700–AA81

NASA — Final Rule Stage

3228. ● PROCESSING OF MONETARY CLAIMS (GENERAL)

Legal Authority: 31 USC 2371, et seq

CFR Citation: 14 CFR 1261

Legal Deadline: None

Abstract: NASA is amending 14 CFR Part 1261 by correcting the authority citation and by revising subpart 1261.102 to comply with Public Law 100-565, dated October 31, 1988.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sara Najjar, Office of General Counsel, Code GG, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2465

RIN: 2700–AA82

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Completed Actions

3229. NASA INFORMATION SECURITY PROGRAM

CFR Citation: 14 CFR 1203, "Subpart 2(f)(g)"

Completed:

Reason	Date	FR Cite
Final Action	11/09/88	53 FR 45259

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erwin V. Minter 202 453-2953

RIN: 2700–AA05

3230. DELEGATION OF AUTHORITY TO MAKE DETERMINATIONS IN ORIGINAL CLASSIFICATION MATTERS

CFR Citation: 14 CFR 1203, "Subpart H"

Completed:

Reason	Date	FR Cite
Final Action	11/09/88	53 FR 45259

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erwin V. Minter 202 453-2953

RIN: 2700–AA06

3231. SPACE TRANSPORTATION SYSTEM; NONSCIENTIFIC PAYLOADS

CFR Citation: 14 CFR 1214 "Subpart 16"

Completed:

Reason	Date	FR Cite
Final Action	11/29/88	53 FR 47949

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Pedersen 202 453-8305

RIN: 2700–AA19

3232. INSPECTION OF PERSONS AND PERSONAL EFFECTS ON NASA PROPERTY

CFR Citation: 14 CFR 1204, "Subpart 10"

Completed:

Reason	Date	FR Cite
Final Action	01/19/89	54 FR 2099

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erwin V. Minter 202 453-2953

RIN: 2700–AA20

3233. ● STANDARDS OF CONDUCT

Legal Authority: 18 USC 201 to 219; PL 96-19; PL 96-28; EO 11222

CFR Citation: 14 CFR 1207 "Subpart G"; 14 CFR 1207 "Subpart H"; 5 CFR 734; 5 CFR 735; 5 CFR 737; 5 CFR 738; 5 CFR 755

Legal Deadline: None

Abstract: Amends existing NASA rule to include Subparts G and H that were inadvertently left out of the last revision.

Timetable:

Action	Date	FR Cite
Final Action	01/27/89	54 FR 4002

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth Siegel, Office of General Counsel, Code GG, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2465

RIN: 2700–AA30

3234. SOURCE EVALUATION BOARD HANDBOOK

CFR Citation: 48 CFR 00

Completed:

Reason	Date	FR Cite
Final Action	09/30/88	53 FR 38414

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David S. Sudduth 202 453-8652

RIN: 2700–AA39

3235. NASA INFORMATION SECURITY PROGRAM COMMITTEE

CFR Citation: 14 CFR 1203, "Subpart I"

Completed:

Reason	Date	FR Cite
Final Action	02/15/89	54 FR 6881

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erwin V. Minter 202 453-2953

RIN: 2700–AA64

3236. ● IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Legal Authority: 31 USC 3809; 42 USC 2473(c)(1); 31 USC 3801 et seq.

CFR Citation: 14 CFR 1264

Legal Deadline: None

Abstract: NASA is amending existing regulation by making editorial and

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Completed Actions

word changes, and by adding clarifying language consistent with suggestions by the President's Council on Integrity and Efficiency, in compliance with the Model Regulation.

Timetable:

Action	Date	FR Cite
Final Action	01/09/89	54 FR 599

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sara Najjar, Office of General Counsel, Code GC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2465

RIN: 2700-AA71

3237. FREEDOM OF INFORMATION ACT SUBMITTER NOTICE

CFR Citation: 14 CFR 1206

Completed:

Reason	Date	FR Cite
Final Action Merged with RIN 2700-AA49	11/30/88	53 FR 48276

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela J. vonSoosten 202 453-2439

RIN: 2700-AA74

[FR Doc. 89-5847 Filed 04-21-89; 8:45 am]

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federal register

Monday
April 24, 1989

Part XXIX

National Archives and Records Administration

Semiannual Regulatory Agenda

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: National Archives and Records Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since October 1988. This agenda was developed under the guidelines in OMB Bulletin No. 89-02, dated November 4, 1988. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to provide a systematic means of monitoring regulatory activity in NARA. None of the regulations listed in the agenda are considered major under Executive Order 12291, Federal Regulation.

FOR FURTHER INFORMATION CONTACT: John A. Constance, Acting Chief, Information Management and Directives Branch, (202) 523-3214.

Dated: February 24, 1989.

Don W. Wilson,

Archivist of the United States.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3238	Transfers to the National Personnel Records Center	3095-AA15

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3239	Restrictions on Access to Archival Records	3095-AA21
3240	Micrographics Records Management	3095-AA22
3241	Uniform Administrative Requirements for Grants and Cooperative Agreements	3095-AA23
3242	NARA Standards of Conduct	3095-AA25
3243	NARA Fee Schedule	3095-AA33
3244	National Historical Publications and Records Commission Grant Program Procedures	3095-AA43
3245	Creation of Records; Adequacy of Documentation	3095-AA45
3246	Disposition of Federal Records	3095-AA46

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3247	Electronic Records Management	3095-AA29
3248	Freedom of Information Act Access Procedures	3095-AA34
3249	Governmentwide Requirements for Drug-Free Workplace (Grants)	3095-AA44

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3250	Membership on State Historical Records Advisory Boards	3095-AA20
3251	NARA Implementation of Presidential Records Act	3095-AA24
3252	Loans of Original Records for Exhibition Purposes	3095-AA37
3253	Procedures for Transfers to Federal Records Centers	3095-AA41
3254	Transfer of Records to the National Archives	3095-AA42

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Prerule Stage

3238. TRANSFERS TO THE NATIONAL PERSONNEL RECORDS CENTER

Legal Authority: 44 USC 3101

CFR Citation: 36 CFR 1228.154

Legal Deadline: None

Abstract: Consideration is being given to acceptance of individual earnings and pay cards and comprehensive payrolls in microfiche or computer output microfilm format only.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	
End Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gregory A. Pomicter, Dir., Field Operations Division (NCF), National Archives and Records Administration, Washington, DC 20408, 202 653-8388

RIN: 3095-AA15

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Proposed Rule Stage

3239. RESTRICTIONS ON ACCESS TO ARCHIVAL RECORDS

Legal Authority: 44 USC 2108(a); 44 USC 2104(a)

CFR Citation: 36 CFR 1256.40

Legal Deadline: None

Abstract: This rule will add specific agency restrictions on the use of certain accessioned archival records. The restrictions will be in conformity with the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	08/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA21

3240. MICROGRAPHICS RECORDS MANAGEMENT

Legal Authority: 44 USC 2907; 44 USC 3302; 44 USC 3312

CFR Citation: 36 CFR 1230

Legal Deadline: None

Abstract: This rule will update existing regulations on micrographics records management to correct references to Federal and industry micrographics standards.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	53 FR 44716

Next Action Undetermined

Small Entities Affected: Governmental jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, D.C. 20408, 202 523-3214

RIN: 3095-AA22

3241. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 44 USC 2104; 44 USC 2504

CFR Citation: 36 CFR 1207

Legal Deadline: None

Abstract: This action proposes a common rule updating and replacing agencies' implementation of OMB Circular A-110 with a single, government-wide common rule establishing consistency and uniformity among Federal agencies in the administration of grants and cooperative agreements to institutions of higher education, hospitals, other nonprofit organizations, and commercial or for-profit entities. This result is achieved by amending the common rule issued by the agencies on March 11, 1988, to similarly update and replace implementation of OMB Circular A-102. The provisions of the common rule are largely drawn from the existing departmental rules issued by the several agencies which in the past developed a single, comprehensive rule implementing the circulars. This proposed common rule contains fiscal and administrative requirements applicable to grantees.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	53 FR 44716

Next Action Undetermined

Small Entities Affected: Governmental jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, D.C. 20408, 202 523-3214

RIN: 3095-AA23

3242. NARA STANDARDS OF CONDUCT

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1204

Legal Deadline: None

Abstract: These regulations will establish standards of conduct for NARA employees.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Brooks, Designed Agency Ethics Official,

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National Archives and Records Administration, Washington, DC 20408, 202 523-3618

RIN: 3095–AA25

3243. ● NARA FEE SCHEDULE

Legal Authority: 44 USC 2104(a); 44 USC 2116(c)

CFR Citation: 36 CFR 1258

Legal Deadline: None

Abstract: NARA will revise fees charged for reproduction of records created by other Federal agencies and transferred to the custody of the Archives of the United States, donated historical materials and records filed with the Office of the Federal Register. The fees will be changed to reflect the current costs of providing the reproduction services.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	
Final Action	06/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095–AA33

3244. ● NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION GRANT PROGRAM PROCEDURES

Legal Authority: 44 USC 2104(a); 44 USC Chapter 25

CFR Citation: 36 CFR 1206

Legal Deadline: None

Abstract: Revises and updates NHPRC's regulations to conform with governmentwide grants management regulations. Incorporating RIN 3095-AA20, "Membership on State Historical Records Advisory Boards", which restructures the State Historical Records Advisory Boards and redefines their function in the grant review process.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	
Final Action	06/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Richard A. Jacobs, Executive Director, National Historical Publications and Records Commission, National Archives and Records Administration, Washington, DC 20408, 202 523-1701

RIN: 3095–AA43

3245. ● CREATION OF RECORDS; ADEQUACY OF DOCUMENTATION

Legal Authority: 44 USC 2901 to 2909; 44 USC 3101 to 3107

CFR Citation: 36 CFR 1222; 36 CFR 1224

Legal Deadline: None

Abstract: The National Archives is revising its regulations relating to the creation and preservation of adequate and proper documentation by Federal agencies of the organization, functions, policies, decisions, procedures, and essential transactions of the government. The revision will clarify and expand the description of adequate and proper documentation and provide additional standards for records creation and maintenance.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	
NPRM Comment Period End	09/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mary Ann Wallace, Director, Agency Services Division, National Archives and Records Administration, Washington DC 20408, 202 724-1453

RIN: 3095–AA45

3246. ● DISPOSITION OF FEDERAL RECORDS

Legal Authority: 44 USC 2104; 44 USC 2107; 44 USC 2901 to 2909; 44 USC 3101 to 3107; 44 USC 3301 to 3314

CFR Citation: 36 CFR 1220; 36 CFR 1228

Legal Deadline: None

Abstract: The National Archives has revised its regulations relating to the disposition of Federal records to ensure clarity and conformity with current practices. This revision updates, clarifies, and reorganizes records disposition procedures. It was developed to provide additional information to assist agencies in carrying out their responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jean Keeting, Deputy Director, Records Appraisal and, Disposition Division, National Archives and Records Administration, Washington, DC 20408, 202 724-1457

RIN: 3095–AA46

3247. ELECTRONIC RECORDS MANAGEMENT

Legal Authority: 44 USC 2904; 44 USC 3102

CFR Citation: 36 CFR 1234

Legal Deadline: None

Abstract: Federal agencies increasingly are recording their policies and authorities electronically. The proposed regulation will provide comprehensive standards for the creation, maintenance, use and disposition of electronic records.

Timetable:

Action	Date	FR Cite
NPRM	12/05/88	53 FR 48936
NPRM Comment Period End	02/03/89	53 FR 52202
Final Action	07/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Mary Ann Wallace, Director, Agency Services Division (NIA), National Archives and Records Administration, Washington, DC 20408, 202 724-1453

RIN: 3095–AA29

3248. ● FREEDOM OF INFORMATION ACT ACCESS PROCEDURES

Legal Authority: 44 USC 2104(a); 5 USC 552; EO 12600

CFR Citation: 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: This rule will implement the procedural requirements of EO 12600 of June 23, 1987, governing the disclosure to the public of information that may be of a commercially confidential nature.

Timetable:

Action	Date	FR Cite
NPRM	11/02/88	53 FR 44203
NPRM Comment Period End	12/02/88	53 FR 44203
Final Action	04/00/89	
Final Action Effective	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington DC 20408, 202 523-3214

RIN: 3095–AA34

3249. ● GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Legal Authority: EO 12549; PL 100-690, Drug-Free Workplace Act of 1988; 44 USC 2104(a)

CFR Citation: 36 CFR 1209

Legal Deadline: Final, Statutory, March 18, 1989.

Abstract: NARA is joining in the common grants rule to implement the Drug-Free Workplace Act of 1988. The rule will affect the National Historical Publications and Records Commission grants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Comments on interim final rule	04/03/89	54 FR 4947

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095–AA44

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) Completed Actions

3250. MEMBERSHIP ON STATE HISTORICAL RECORDS ADVISORY BOARDS

CFR Citation: 36 CFR 1206

Completed:

Reason	Date	FR Cite
Withdrawn Incorporated into RIN 3095-AA43.	01/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Nancy Sahli 202 523-5386

RIN: 3095–AA20

3251. NARA IMPLEMENTATION OF PRESIDENTIAL RECORDS ACT

CFR Citation: 36 CFR 1270

Completed:

Reason	Date	FR Cite
Final Action	12/15/88	53 FR 50404
Final Action Effective	12/15/88	53 FR 50404

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary Brooks 202 523-3618

RIN: 3095–AA24

3252. LOANS OF ORIGINAL RECORDS FOR EXHIBITION PURPOSES

CFR Citation: 36 CFR 1254

Completed:

Reason	Date	FR Cite
Withdrawn Difficulty on agreement of terms and conditions.	01/23/89	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John A. Constance 202 523-3214

RIN: 3095–AA37

3253. PROCEDURES FOR TRANSFERS TO FEDERAL RECORDS CENTERS

CFR Citation: 36 CFR 1228.152

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NARA — Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	01/26/89	54 FR 3778
Final Action Effective	01/26/89	54 FR 3778

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gregory A. Pomicter 202 653-6368

RIN: 3095–AA41

3254. TRANSFER OF RECORDS TO THE NATIONAL ARCHIVES

CFR Citation: 36 CFR 1228.180

Completed:

Reason	Date	FR Cite
Final Action	01/19/89	54 FR 2111
Final Action Effective	01/19/89	54 FR 2111

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John A. Constance 202 523-3214

RIN: 3095–AA42

[FR Doc. 89-5848 Filed 04-21-89; 8:45 am]
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Part XXX

National Capital Planning Commission

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NATIONAL CAPITAL PLANNING COMMISSION (NCPC)

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Ch. IV

Regulatory Agenda

AGENCY: National Capital Planning Commission (NCPC).

ACTION: Regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the NCPC as required by Executive Order 12291. This information will allow the public to participate in the Commission's decision-making at an early stage.

FOR FURTHER INFORMATION CONTACT: Linda Dodd-Major, Legal Counsel, National Capital Planning Commission, 1325 G Street, NW., Washington, DC 20576, Telephone (202) 724-0187.

DATED: March 21, 1989.

Reginald W. Griffith,

Executive Director.

NATIONAL CAPITAL PLANNING COMMISSION (NCPC) — Final Rule Stage

3255. ● GUIDELINES AND SUBMISSIONS REQUIREMENTS FOR INSTALLATION OF ANTENNAS ON FEDERAL PROPERTY IN NATIONAL CAPITAL REGION

Legal Authority: 40 USC 71d; PL 90-553 International Center Act of 1968, as amended

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These amended guidelines, intended to supplement submissions requirements for installation of microwave antennas on Federal sites in the Nation's Capital, permit Federal agencies to install certain other classes of antennas "as a matter of right" and delegate authority to the Executive Director to approve antennas consistent with approved master plans.

Timetable:

Action	Date	FR Cite
NPRM	02/10/89	54 FR 6461
NPRM Comment Period End	03/10/89	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert E. Gresham, Assistant Executive Director for Operations, National Capital Planning Commission, 1325 G Street, NW., Washington, DC 20576, 202 724-0206

RIN: 3125–AA03

[FR Doc. 89-7774 Filed 04-21-89; 8:45 am]

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Part XXXI

National Endowment for the Arts

Semiannual Regulatory Agenda

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NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Agenda of Regulations

AGENCY: National Endowment for the Arts.

ACTION: Publication of the semiannual agenda.

SUMMARY: Pursuant to Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 605), the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Mr. Frederic R. Kellogg, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 or call (202) 682-5418.

Peter J. Basso,

Deputy Chairman for Management, National Endowment for the Arts.

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Proposed Rule Stage

3256. COLLECTION OF CLAIMS

Significance: Agency Priority

Legal Authority: PL 97-365; 31 USC 3711; 31 USC 3716 to 3718; 5 USC 5514; 5 USC 552a

CFR Citation: 45 CFR 1150

Legal Deadline: None

Abstract: The proposed rule amends the National Endowment for the Arts regulation for collecting debts. Principally, the amendments implement the Debt Collection Act of 1982 (PL 97-365), which amended the Federal Claims Collection Act of 1966 (31 USC 3711, 3716-3718) to authorize among other things, charging of interest penalties and administrative costs, and the use of administrative offset, private collection agencies and credit agencies by the government. The amendments also implement government-wide regulations issued by the Department of Justice and the General Accounting Office (49 FR 8889) and Office of Personnel Management (49 FR 27470).

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
NPRM Comment Period End	09/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frederic R. Kellogg, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA01

3257. NONDISCRIMINATION ON THE BASIS OF AGE

Significance: Agency Priority

Legal Authority: 42 USC 6101 et seq

CFR Citation: 45 CFR 1154

Legal Deadline: None

Abstract: This rule prohibits discrimination on the basis of age in programs and activities receiving assistance from the National Endowment for the Arts. These regulations are proposed pursuant to the requirements of the Age Discrimination Act and consistent with the general government-wide regulations issued by the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
NPRM	10/02/79	44 FR 56725
NPRM Comment Period End	11/15/79	
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Frederic R. Kellogg, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA03

3258. CLAIMS COLLECTION: SALARY OFFSET

Legal Authority: 5 USC 5514; EO 11809 (redesignated EO 12107); 5 CFR 550, Subpart K

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation provides procedures for the collection by administrative offset of a Federal employee's salary without his/her consent to satisfy certain debts owed to the Federal Government. The regulation outlines certain procedural protections that must be accorded to an employee prior to commencing offset.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Murray R. Welsh, Director, Administrative Services Division, National Endowment for the Arts, 1100 Pennsylvania Ave., NW, Washington, DC 20506, 202 682-5401

RIN: 3135-AA04

[FR Doc. 89-5849 Filed 04-21-89; 8:45 am]

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Part XXXII

National Endowment for the Humanities

Semiannual Regulatory Agenda

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NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: National Endowment for the Humanities.

ACTION: Publication of the unified agenda of regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, and Executive Order 12291, "Federal Regulations," dated February 17, 1981, the National Endowment for the Humanities is required to publish in April and October of each year an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; 202/786-0322.

Lynne V. Cheney,
Chairman.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Proposed Rule Stage

3259. ● NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Legal Authority: 42 USC 2000d to 2000d4

CFR Citation: 45 CFR 1110; 45 CFR 1173

Legal Deadline: None

Abstract: This proposed regulation implements Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs and activities, with respect to programs and activities receiving federal financial assistance from the National Endowment for the Humanities.

Programs and activities receiving federal financial assistance from the National Endowment for the Humanities are currently covered by a regulation implementing Title VI that was issued by the National Foundation on the Arts and the Humanities in 1973 (45 CFR 1110). The proposed rule will remove NEH programs from the coverage of the earlier rule and replace it with a new part applicable only to NEH-assisted programs and activities. Programs and activities assisted by the National Endowment for the Arts remain covered under the existing regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	
NPRM Comment Period End	05/15/89	
Final Action	06/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol Gordon, EEO Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Room 419, Washington, DC 20506, 202 786-0410

RIN: 3136-AA11

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Final Rule Stage

3260. ● GOVERNMENT REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Legal Authority: PL 100-690, Title V, Subtitle D, Secs 5151 to 5160; EO 12549

CFR Citation: 45 CFR 1189

Legal Deadline: Final, Statutory, February 16, 1989.
Section 5156 of the Drug-Free Workplace Act of 1988 requires agencies to issue regulations 90 days after the Act is signed into law.

Abstract: This rule is for the purpose of implementing the statutory requirements of the Drug-Free Workplace Act of 1988 which requires that recipients of Federal grants certify that they will maintain a drug-free workplace. If the grantee is an individual, certification that his or her conduct under the grant will be drug-free is required. This rule directs that grantees submit certifications and establish sanctions of violation for drug-free workplace requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4964
Interim Final Rule Effective	03/18/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rex O. Arney, General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Room 530, Washington, DC 20506, 202 786-0322

RIN: 3136-AA12

3261. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: Budget and Accounting Act of 1921, as amended; Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; EO 11541; 31 USC 6301 to 6308; Pres. Memo. for Heads of Exec. Depts & Agencies (Mar. 12, 1987)

CFR Citation: 45 CFR 1174

Legal Deadline: None

Abstract: This action proposes a common rule to be published by various agencies establishing consistency and uniformity in the administration of grants and cooperative agreements to state, local, and federally-recognized Indian tribal governments, as well as institutions of higher education, hospitals, and other nonprofit organizations, and commercial or for profit entities.

NEH — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44718
NPRM Comment Period End	01/03/89	
Final Action	08/15/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Room 530, Washington, DC 20506, 202 786-0322

RIN: 3136-AA13

[FR Doc. 89-5850 Filed 04-21-89; 8:45 am]
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Part XXXIII

National Science Foundation

Semiannual Regulatory Agenda

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NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Federal Regulation; Semiannual Regulations Agenda

AGENCY: National Science Foundation.

ACTION: Publication of semiannual regulations agenda.

SUMMARY: The National Science Foundation (NSF) publishes its semiannual agenda of regulations under development or review as required by Executive Order 12291, Federal Regulation (46 FR 13193, February 17, 1981). This agenda has been prepared in accordance with OMB Bulletin No. 89-02, Unified Agenda of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory action contained in the agenda, contact the individual identified as the contact person in the agenda. Comments or inquiries of a general nature about the agenda should be directed to Sukari S. Smith, Office of the General Counsel, National Science Foundation, Washington, DC 20550, (202) 357-9435.

Dated: February 23, 1989.

Sukari S. Smith,

Regulatory Contact.

NATIONAL SCIENCE FOUNDATION (NSF) — Final Rule Stage

3262. PATENTS

Legal Authority: 42 USC 1870(a) The Natl. Sci. Found. Act of 1950, as amended; 35 USC 200 et seq The Bayh-Dole Act, as amended

CFR Citation: 45 CFR 650

Legal Deadline: None

Abstract: The Bayh-Dole Act (34 USC 200 et seq) was amended by Title V of PL 98-620 (98 Stat. 3364, 3368). The Department of Commerce has prepared a government-wide implementing regulation. The Foundation's Patents regulation (45 CFR 650) conforms to it. Because the revision to the NSF patents regulation will merely echo a government-wide regulation on which the public will have had an opportunity to comment, the Foundation expects that the revision will be published as a final rule. No additional costs will be imposed on the public as a result of the revision.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The notable changes to be made in the revision of the NSF patents regulation will be: elimination of restrictions on the licensing of NSF-supported inventions by nonprofit organizations, including universities; modification of the criteria and procedures for determining that "exceptional circumstances" warrant restricting a grantee's right to retain principal patent rights to its employees' NSF-supported inventions; and elimination of the Foundation's authority to waive the government license and "march-in" rights in awards not subject to the Bayh-Dole Act. All these changes are required by amendments to the Bayh-Dole Act.

Agency Contact: John Chester, Intellectual Property Attorney, National Science Foundation, Office of the General Counsel, Room 501, Washington, DC 20550, 202 357-9435

RIN: 3145–AA07

NATIONAL SCIENCE FOUNDATION (NSF) — Completed Actions

3263. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN NATIONAL SCIENCE FOUNDATION

CFR Citation: 45 CFR 606. (New): 45 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	01/31/89	54 FR 4784
Final Action Effective	04/03/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brenda Brush 202 357-9619

RIN: 3145–AA05

3264. AMENDMENTS/ADDITIONS TO 45 CFR 670 - CONSERVATION OF ANTARCTIC ANIMALS AND PLANTS ENTITLED "ENFORCEMENT AND HEARING PROCEDURES" (SUBPART K)

Significance: Agency Priority

CFR Citation: 45 CFR 670.50 (New); 45 CFR 670.60 (New)

Completed:

Reason	Date	FR Cite
Final Action	02/16/89	54 FR 7132
Final Action Effective	03/20/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Andersen 202 357-9435

RIN: 3145–AA12

[FR Doc. 89-5851 Filed 04-21-89; 8:45 am]

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Part XXXIV

Office of Management and Budget

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OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III

Federal Regulations; OMB Circulars and Policy Letters Included in the Semiannual Agenda of Upcoming Activities

AGENCY: Office of Management and Budget.

ACTION: Publication of semiannual agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities on OMB Circulars and Office of Federal Procurement Policy Letters (OFPP Policy Letters). This action is in accordance with OMB's internal procedures for implementing Executive Order No. 12291. OMB policy guidelines are issued under authority derived from several sources including: Subtitles I, II, and V of Title 31, United States Code, Executive Order No. 11541, and other specific authority as cited. The agenda includes actions on issuances which are not guidelines, but which are of public interest.

OMB Circulars and OFPP Policy Letters are policy guidelines that communicate government-wide policy of a continuing nature. For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs, and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Darrell A. Johnson (202/395-7250) at the above address.

Darrell A. Johnson,

Assistant Director for Administration.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3265	Policies on Government Publications (Circular No. A-3)	0348-AA77
3266	Management of Federal Audiovisual Activities (Circular No. A-114)	0348-AA84
3267	Policies on Management of Federal Information Resources (Circular No. A-130)	0348-AA76

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3268	Writing and Administering Performance Work Statements (Part II of Supplement to Circular No. A-76)	0348-AA34
3269	Enhancing Governmental Productivity Through Competition (Circular No. A-76)	0348-AA45
3270	Prompt Payment (Circular No. A-125)	0348-AA67

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3271	Federal Government User Charges Policy (Circular No. A-25)	0348-AA41
3272	Policy Governing Charges for Rental Quarters and Other Facilities (Circular No. A-45)	0348-AA85
3273	Cost Principles for State and Local Governments (Circular No. A-87)	0348-AA83
3274	Audits of Institutions of Higher Education and Other Nonprofit Organizations (Proposed Circular No. A-133)	0348-AA68
3275	Grants and Cooperative Agreements (OMB Circular No. A-XXX)	0348-AA69
3276	Statistical Policy Directives	0348-AA43
3277	Policy Guidance for Development of Government-Wide Regulations Concerning "Procurement Integrity"	0348-AA87

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3278	Major System Acquisitions (Circular No. A-109)	0348-AA12

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Prerule Stage

3265. POLICIES ON GOVERNMENT PUBLICATIONS (CIRCULAR NO. A-3)

Significance: Agency Priority

Legal Authority: 44 USC 1108

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-3, "Government Publications", last revised in May 1985, prescribes policies and procedures for approving funding for government periodicals to fulfill the requirements of 44 USC 1108, and for reporting periodicals and non-recurring publications. OMB is proposing to incorporate this Circular, with minor revisions, into OMB Circular No. A-130, "Management of Federal Information Resources", and published a proposed revision for comment on January 4, 1989.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/88	
Advanced Proposal to Replace Circular	01/04/89	54 FR 214
Comment Period End	04/10/89	
Second Advanced Proposal to Replace Circular	05/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Timothy Sprehe, Statistician, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-4814

RIN: 0348-AA77

3266. MANAGEMENT OF FEDERAL AUDIOVISUAL ACTIVITIES (CIRCULAR NO. A-114)

Legal Authority: Budget and Accounting Act of 1950

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-114 was issued to produce policies governing the consolidation, use, and management of federal audiovisual resources. OMB is reviewing this Circular pursuant to the Sunset Review Provision of the Circular as revised on March 20, 1985.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/88	
End Review	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Donna Fossum, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348-AA84

3267. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Significance: Agency Priority

Legal Authority: 44 USC 35; 5 USC 552a; 40 USC 759; 40 USC 487; 31 USC 11

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-130, "Management of Federal Information Resources", issued December 12, 1985, establishes policy for the management of Federal information resources, and provides certain procedural and analytic guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for consistency with the Computer Security Act of 1987 (PL 100-235). OMB published for comment on January 4, 1989, a proposed further policy on dissemination of information that includes electronic dissemination of information and user charges for government information products.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/88	
Advanced Proposal of Changes to Circular	01/04/89	54 FR 214
Comment Period End	04/10/89	
Second Advanced Proposal of Changes	05/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Timothy Sprehe, Statistician, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-4814

RIN: 0348-AA76

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Proposed Rule Stage

3268. WRITING AND ADMINISTERING PERFORMANCE WORK STATEMENTS (PART II OF SUPPLEMENT TO CIRCULAR NO. A-76)

Legal Authority: 31 USC 501 et seq; 41 USC 401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: This document describes a systematic means for developing Performance Work Statements and Quality Assurance Surveillance plans for Government management of commercial activities. It also includes procedures for contracting personnel who develop, review, award, and administer service contracts.

Timetable:

Action	Date	FR Cite
Draft for Public Comment	05/01/89	
Final Action	08/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David L. Muzio, Deputy Associate Administrator for Policy Development, Office of Management and Budget, Office of

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OMB — Proposed Rule Stage

Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348–AA34

3269. ENHANCING GOVERNMENTAL PRODUCTIVITY THROUGH COMPETITION (CIRCULAR NO. A-76)

Legal Authority: 31 USC 501 et seq; 41 USC 401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-76, last revised in August 1983, sets forth the policy of acquiring commercial products and services from the private sector, and provides guidance on the development of performance work statements and on comparing the cost of Government performance with contractor performance. This Circular is currently under revision to incorporate changes required by Executive Order No. 12615, and to provide more management flexibility to directly contract certain functions.

Timetable:

Action	Date	FR Cite
Draft for Public Comment	05/01/89	
Final Action	08/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David L. Muzio, Deputy Associate Administrator for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348–AA45

3270. PROMPT PAYMENT (CIRCULAR NO. A-125)

Legal Authority: 31 USC 65 et seq; 41 USC 401 et seq; 31 USC 3901 et seq; See preamble

CFR Citation: None

Legal Deadline: None

Abstract: The Office of Management and Budget will propose amendments to Circular No. A-125 to implement changes made by the Prompt Payment Act Amendments of 1988, PL 100-496.

Timetable:

Action	Date	FR Cite
Proposal to Revise Circular	04/15/89	
Comment Period End	06/01/89	
Final Action	07/01/89	
Final Action Effective	07/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne Duval, Management Analyst, Office of Management and Budget, Financial Management Division, Credit and Cash Management Branch, Washington, D.C. 20503, 202 395-6107

RIN: 0348–AA67

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Final Rule Stage

3271. FEDERAL GOVERNMENT USER CHARGES POLICY (CIRCULAR NO. A-25)

Legal Authority: Title V of Independent Offices Appropriations Act of 1952; 31 USC 9701

CFR Citation: None

Legal Deadline: None

Abstract: General policies for Federal agencies on administering user charges and formulating legislative proposals regarding user charges are set forth in OMB Circular No. A-25. Public comments have been received on a revised draft of the Circular. They are currently being considered.

Timetable:

Action	Date	FR Cite
Draft Published for Comment	07/01/87	52 FR 24890
Public Comment Period End	08/01/87	
Final Publication	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Joel Friedman, Financial Economist, Office of Management and Budget, Budget Review Division, Fiscal Analysis Branch, Washington, D.C. 20503, 202 395-4574

RIN: 0348–AA41

3272. POLICY GOVERNING CHARGES FOR RENTAL QUARTERS AND OTHER FACILITIES (CIRCULAR NO. A-45)

Legal Authority: 5 USC 5911 (F); EO 11609 (Section 9)

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-45 was issued to provide policy guidance regarding charges for rental quarters and other Government facilities. OMB is reviewing this Circular pursuant to the provisions of paragraph 9 of the Circular, dated March 28, 1984.

Timetable:

Action	Date	FR Cite
Begin Review	07/01/88	
Final Action	06/30/89	
End Review	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A. Ong, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348–AA85

3273. COST PRINCIPLES FOR STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-87)

Legal Authority: 64 Stat 832

CFR Citation: None

Legal Deadline: None

Abstract: This review will develop proposed changes to update the Circular.

OMB — Final Rule Stage

Timetable:

Action	Date	FR Cite
Draft Circular Published for Public Comment	10/14/88	53 FR 40352
Circular to be Issued	07/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jimmie D. Brown, Chief, Financial Systems and Policy Branch, Office of Management and Budget, Financial Management Division, Washington, DC 20503, 202 395-3993

RIN: 0348–AA83

3274. AUDITS OF INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT ORGANIZATIONS (PROPOSED CIRCULAR NO. A-133)

Significance: Agency Priority

Legal Authority: 31 USC 65 et seq; 41 USC 401 et seq; See preamble

CFR Citation: None

Legal Deadline: None

Abstract: The review will develop requirements for "single audit" of universities and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
Published in the Federal Register for Public Comment	11/06/85	50 FR 46244
Publish Revised Proposal for Comment	11/10/88	53 FR 45744
Circular to be Issued	07/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Current policy for independent audits of universities is contained in Circular No. A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations". The proposed revision will be merged with current policy for Federal audits of universities contained in Circular No. A-88.

Agency Contact: Jimmie D. Brown, Chief, Financial Systems and Policy Branch, Office of Management and Budget, Financial Management Division, Washington, D.C. 20503, 202 395-6823

RIN: 0348–AA68

3275. GRANTS AND COOPERATIVE AGREEMENTS (OMB CIRCULAR NO. A-XXX)

Significance: Agency Priority

Legal Authority: Budget and Accounting Act of 1921, as amended; Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; EO 11541

CFR Citation: None

Legal Deadline: None

Abstract: The proposed circular would replace OMB Circulars No. A-102, "Grants and Cooperative Agreements with State and Local Governments", and No. A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations", to contain guidance to Federal agencies on grants management issues which are internal to the Federal agencies. Simultaneously, the Federal agencies are proposing a common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements", which contains fiscal and administrative requirements for grantees.

Timetable:

Action	Date	FR Cite
Begin Review	06/15/87	
Invitation for Comments	06/24/87	52 FR 23729
Proposed Circular	11/04/88	53 FR 44710
Final Circular	06/30/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Jonathan D. Breul, Management Analyst, Office of Management and Budget, Financial Management Division, Washington, DC 20503, 202 395-3050

RIN: 0348–AA69

3276. STATISTICAL POLICY DIRECTIVES

Legal Authority: 31 USC 1104 Budget & Accounting Procedures Act 1950 (Sec 103); PL 96-511 Paperwork Reduction Act of 1980; See preamble

CFR Citation: None

Legal Deadline: None

Abstract: The Directives give general policies for gathering, compiling, analyzing, publishing, and disseminating statistical information by the agencies in the Executive Branch of the Federal Government. A draft Circular was issued for public comment on January 20, 1988. The public comment period was subsequently extended to July 15, 1988. The final Circular is planned for issuance in October 1989.

Timetable:

Action	Date	FR Cite
Draft Circular for Public Comment	01/20/88	53 FR 1542
Final Circular	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzann K. Evinger, Statistical Policy Analyst, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, 202 395-3093

RIN: 0348–AA43

3277. ● POLICY GUIDANCE FOR DEVELOPMENT OF GOVERNMENT-WIDE REGULATIONS CONCERNING "PROCUREMENT INTEGRITY"

Significance: Agency Priority

Legal Authority: PL 100-679, Sec 6 OFPP Act Amendments of 1988

CFR Citation: None

Legal Deadline: Final, Statutory, May 17, 1989.
Sec 6(a) provides that regulations and guidelines are required to be issued 180 days after enactment of PL 100-679 (November 17, 1988).

Abstract: Section 6 of PL 100-679 establishes a "Procurement Integrity" requirement applicable to all government contractors having contracts with federal agencies that are subject to the Office of Federal Procurement Policy Act. The Policy and Regulations will cover: Prohibited Conduct by Competing Contractors; Prohibited Conduct by Procurement Officials; Disclosure of Information to Unauthorized Persons; Post-Employment Restrictions on Government Officials; Contractual Penalties; Administrative Actions; Criminal Penalties; and Civil Penalties.

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OMB — **Final Rule Stage**

The statutory provision mandates federal action by requiring implementation in the Federal Acquisition Regulation. No alternative approach is permitted. Potential cost and benefits undetermined.

Timetable:

Action	Date	FR Cite
Final Action Effective	05/16/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Kindred LaBorde, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348-AA87

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Completed Actions

3278. MAJOR SYSTEM ACQUISITIONS (CIRCULAR NO. A-109)

Legal Authority: PL 93-400; See preamble

CFR Citation: None

Legal Deadline: None

Abstract: Some agencies report difficulty working under the Circular. A review, in light of experience gained, is warranted with a goal of revision and simplification while maintaining the current general policy thrust of Circular No. A-109.

Timetable:

Action	Date	FR Cite
A review has determined that change is not necessary	02/24/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Cooper, Procurement Analyst, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348-AA12

[FR Doc. 89-8167 Filed 04-21-89; 8:45 am]
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federal register

Monday
April 24, 1989

Part XXXV

Office of Personnel Management

Semiannual Regulatory Agenda

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OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Personnel Management regulations are scheduled for development or review from April 1, 1989, through March 31, 1990. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12291, Federal Regulation, and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: JoAnn G. Blackler, (202) 632-0373.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3279	Executive Assignment System	3206-AC03
3280	Suitability -- Suitability Disqualification/Rating Actions	3206-AC19
3281	Personnel Security and Related Programs	3206-AC21
3282	Investigations	3206-AB92

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3283	Organization of the Government for Personnel Management; Personnel Management in Agencies	3206-AA66
3284	Performance Management System	3206-AD22
3285	Employment in the Excepted Service	3206-AD73
3286	Executive and Management Development	3206-AC12
3287	Prevailing Rate Systems	3206-AC82
3288	Prevailing Rate Systems	3206-AD70
3289	Pay Administration (General); Severance Pay	3206-AC41
3290	Pay Administration under the FLSA: Compliance	3206-AA40
3291	Absence and Leave; Coverage of D.C. Government Employees	3206-AC47
3292	Political Activity of Federal Employees	3206-AA47
3293	Corrective Action and Reporting Requirements Relating to Agency Ethics Programs	3206-AD71
3294	Retirement; Credit and Deposits for Military Service	3206-AB73
3295	Retirement; CSRS Offset Service	3206-AD58
3296	Retirement; Disability Retirement	3206-AB77
3297	Retirement; Recovery of Annuity Overpayments	3206-AB78
3298	Retirement; FERS Cost-of-Living Adjustments	3206-AD62
3299	Federal Employees Group Life Insurance	3206-AB80
3300	Additional Optional Life Insurance and Family Optional Life Insurance under the Federal Employees Life Insurance Program (FEGLI)	3206-AD75
3301	Removing Age 36 Barrier for Electing/Adding Option B Life Insurance Coverage and Other Miscellaneous Changes	3206-AD77
3302	Federal Employees Health Benefits Program; Technical Corrections	3206-AB83
3303	Federal Employees Health Benefits Program (FEHBP) Enrollment Process for Federal Employees' Retirement System (FERS) Minimum Retirement Annuity Eligibles	3206-AD53
3304	Miscellaneous Federal Employees Health Benefits Program (FEHBP) Amendments	3206-AD55
3305	Conversion Privilege for Family Members Who Lose Coverage Under the Federal Employees Health Benefits Program (FEHBP)	3206-AD56
3306	Federal Employees Health Benefits Program; Continuation of Enrollment and Discontinued Plan Enrollment Changes	3206-AB88
3307	Federal Employees Health Benefits Program; Temporary Continuation of Coverage	3206-AD66
3308	Modification of Federal Employees Health Benefits Acquisition Regulation (FEHBAR) Provisions and Clauses	3206-AD78
3309	OPM Procurement Regulations	3206-AB28

OPM

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3310	Availability of Official Information	3206-AD05
3311	Employment (General); Employment Practices	3206-AB41
3312	Amendment to Selective Service Registration Requirements	3206-AD68
3313	Employment in the Senior Executive Service	3206-AC81
3314	Removal from the Senior Executive Service; Guaranteed Placement in Other Personnel Systems	3206-AA21
3315	Removal from the Senior Executive Service; Guaranteed Placement in Other Personnel Systems	3206-AA23
3316	Training	3206-AD06
3317	Reduction in Grade and Removal Based on Unacceptable Performance	3206-AB21
3318	Pay Under the General Schedule	3206-AD44
3319	Grade and Pay Retention	3206-AD45
3320	Processing Garnishment Orders for Child Support and/or Alimony	3206-AB42
3321	Allowances and Differentials; Cost of Living Allowance and Post Differential--Nonforeign Areas	3206-AB34
3322	Absence and Leave; Voluntary Leave Transfer Program	3206-AD41
3323	Absence and Leave; Voluntary Leave Bank Program	3206-AD69
3324	Executive Personnel Financial Disclosure Requirements	3206-AA93
3325	Post Employment Conflict of Interest; 1988 Designation of Certain Positions and Agencies	3206-AD72
3326	Retirement; Implementing Regulations for Civil Service Retirement Spouse Equity Act of 1984	3206-AB75
3327	Retirement; Implementing Regulations for Civil Service Retirement Spouse Equity Act of 1984	3206-AD48
3328	Retirement; Deposits for Military Service	3206-AB35
3329	Retirement; Crediting Personal Service Contract Service	3206-AD59
3330	Retirement; Federal Employees' Retirement System Act of 1986	3206-AC94
3331	Retirement; Federal Employees' Retirement System Act of 1986	3206-AD65
3332	Retirement; FERS--Annual Pay Computation for Less than Full-Time Employees	3206-AD63
3333	Retirement; Reemployment of Annuitants	3206-AD60
3334	Retirement; FERS Disability Benefits	3206-AD61
3335	Federal Employees' Group Life Insurance; Annual Rates of Pay for Employees Who Work Less Than Full Time	3206-AD50
3336	Federal Employees Health Benefits for Former Spouses of CIA and Foreign Service Employees	3206-AD28
3337	Federal Employees Health Benefits Program/Withdrawal of Carrier and Plan Approval	3206-AD37
3338	Definition of Medicare Eligible Individuals	3206-AD49
3339	Health Insurance Coverage for Certain Temporary Employees	3206-AD79
3340	Federal Employees Health Benefits Program; Reenrollment of Certain Annuitants	3206-AD23
3341	Debarments, Civil Monetary Penalties and Assessments Imposed on Health Care Practitioners and Providers of Services or Supplies for Cited Offenses	3206-AD76
3342	Computer Security Training	3206-AD43
3343	"Adjusted Community Rating" and Price Adjustments for Defective Community Rating under the Federal Employees Health Benefits Program	3206-AD74

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3344	Employment (General); Time-in-Grade Restrictions	3206-AC01
3345	Government Use of Private Sector Temporaries	3206-AD67
3346	Appointment, Reassignment, Transfer, and Reinstatement in the Senior Executive Service	3206-AA09
3347	Appointment, Reassignment, Transfer and Reinstatement in the Senior Executive Service (SES Career Appointment by Reinstatement)	3206-AA11
3348	General Recruitment/Placement Principles	3206-AC07
3349	Promotion and Internal Placement	3206-AA90
3350	Medical Qualification Determinations	3206-AA91
3351	Executive and Management Development	3206-AC12
3352	Pay and Performance Under the Senior Executive Service	3206-AB29
3353	Prevailing Rate Systems	3206-AC59
3354	Pay Administration (General); Back Pay	3206-AD39
3355	Pay Administration (General); Overtime Pay Computation	3206-AC98
3356	Pay Administration Under the Fair Labor Standards Act	3206-AD40
3357	Absence and Leave; Restoration of Annual Leave	3206-AD42
3358	Post Employment Conflict of Interest; 1987 Designation of Certain Positions and Agencies	3206-AD04
3359	Retirement; Processing Court Orders for Apportionment of Civil Service Retirement System Annuity and Competing Claims for Survivor Benefits	3206-AC93
3360	Retirement; Court Orders Affecting Retirement	3206-AD64

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Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3361	Retirement; Alternative Form of Annuity	3206-AD35
3362	Federal Employees' Group Life Insurance: Premium Reduction for Basic Life Insurance Coverage Continued During Retirement	3206-AD54
3363	Continuation of Health and Life Insurance Coverage During Retirement	3206-AD34
3364	Letter of Credit Access to Federal Employees Health Benefits Program (FEHBP) Carrier Reserves	3206-AD52
3365	Federal Employees Health Benefits Program (FEHBP) Plan Advertising in Violation of FEHBP Contract Provisions	3206-AD36
3366	Letter of Credit Access to Federal Employees Health Benefits Program (FEHBP) Carrier Reserves	3206-AD51

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Prerule Stage

3279. EXECUTIVE ASSIGNMENT SYSTEM

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3324; EO 10577

CFR Citation: 5 CFR 305

Legal Deadline: None

Abstract: Review of regulations on executive assignment system (GS-16/18). Regulations need to be reviewed in light of the establishment of the Senior Executive Service, which incorporated most GS-16/18 positions, and delegations to agencies under the CSRA.

Timetable:

Action	Date	FR Cite
Begin Review	03/01/89	
End Review	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4486

RIN: 3206–AC03

3280. SUITABILITY -- SUITABILITY DISQUALIFICATION/RATING ACTIONS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731, Subparts B and C

Legal Deadline: None

Abstract: Comprehensive review of suitability standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel suitability standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances A. Sclafani, Associate Director, Investigations Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206–AC19

3281. PERSONNEL SECURITY AND RELATED PROGRAMS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: Comprehensive review of security standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel security standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances A. Sclafani, Associate Director, Investigations Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206–AC21

3282. INVESTIGATIONS

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: Review of Governmentwide background investigations standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel investigations standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances A. Sclafani, Associate Director, Investigations Group, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, 202 632-4426

RIN: 3206–AB92

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Proposed Rule Stage

3283. ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT; PERSONNEL MANAGEMENT IN AGENCIES

Legal Authority: 5 USC 1104; 5 USC 1302; 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 230; 5 CFR 250

Legal Deadline: None

Abstract: Deletes Part 230 and transfers its regulations to Part 250, to maintain parallel structure with 5 U.S.C. Combines material formerly in Part 230 with regulations now found in Part 250 to present all regulations on agencies' authorities for personnel management in a single part of the Code of Federal Regulations. Changes improve the technical integrity of the CFR by eliminating redundancies and improving the efficiency of OPM's regulations. No change in the coverage or substance of affected regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/20/83	48 FR 22728
NPRM	05/30/89	
Final Action	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Oland, Chief, Program Development Division, Office of Personnel Management, Agency Compliance and Evaluation, Personnel Systems and Oversight Group, 1900 E St., NW, Washington, DC 20415, 202 632-4466

RIN: 3206–AA66

3284. PERFORMANCE MANAGEMENT SYSTEM

Significance: Regulatory Program

Legal Authority: 5 USC Ch 43; 5 USC Ch 45; 5 USC Ch 53; 5 USC Ch 54; 5 USC 552; EO 12107; 5 USC 1103; 5 USC 1104; 5 USC 1302; 5 CFR 7.2; EO 9830

CFR Citation: 5 CFR 293; 5 CFR 430

Legal Deadline: None

Abstract: Revises requirements for the Performance Management Systems for General Schedule, Prevailing Rate, and SES employees. Regulations will be streamlined to eliminate impediments to management flexibility while still assuring pay-for-performance systems. The section on filing and transfer of performance records contains a technical change that would bring the Official Personnel Folder (OPF) subpart into conformance with the Employee Performance Folder (EPF) subpart, indicating that performance ratings of record, and the performance plans on which they are based, may be filed in either the OPF or the EPF.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Frank Carrick, Chief, Performance Management Division, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-7630

RIN: 3206–AD22

3285. ● EMPLOYMENT IN THE EXCEPTED SERVICE

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 302

Legal Deadline: None

Abstract: Regulations will respond to substantive issues raised during revision of Part 302 in FY 88: (1) distinction between candidates who should receive priority consideration for reemployment and other reemployment candidates (currently all are referred on same list); (2) delegation to agencies of authority to establish alternative ranking plans under 5 CFR 302.105.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Holum, Assistant Director, Office of Staffing Policy and Operations, Office of Personnel Management, Career Entry and Employee Development Group, 1900 E St., NW; Washington, DC 20415, 202 632-6817

RIN: 3206–AD73

3286. ● EXECUTIVE AND MANAGEMENT DEVELOPMENT

Legal Authority: 5 USC 3397

CFR Citation: 5 CFR 412

Legal Deadline: None

Abstract: Regulations to reconstruct executive and management development program authority.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Loftis, Chief, Management and Oversight Division, Office of Personnel Management, Career Entry and Employee Development Group, 1121 Vermont Ave., NW; PO Box 7230, Washington, DC 20044, 202 632-0255

RIN: 3206–AC12

3287. PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Proposed rule would revise Monroney regulations by removing DOD employees from the employee count in determining whether a dominant industry exists in a wage area. The proposed rule would also limit the use of private sector specialized industry data obtained outside a wage area in setting pay rates for positions in that area.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Summers, Acting Chief, Wage Systems Division, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-7830

RIN: 3206–AC82

3288. ● PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None.

Abstract: Proposed rule would move material that is of a regulatory nature

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from FPM Supplements 532-1 and 532-2 to 5 CFR Part 532.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Summers, Acting Chief, Wage Systems Division, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-7830

RIN: 3206–AD70

3289. PAY ADMINISTRATION (GENERAL); SEVERANCE PAY

Significance: Regulatory Program

Legal Authority: 5 USC 5595; EO 11228

CFR Citation: 5 CFR 550, Subpart G

Legal Deadline: None

Abstract: Proposed regulations would make eligibility for involuntary retirement and severance pay parallel, since the same circumstances give rise to both. Proposed regulations also would clarify severance pay coverage for certain employees serving under time-limited appointments and make other changes related to eligibility for severance pay.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jan Karicher, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-5656

RIN: 3206–AC41

3290. PAY ADMINISTRATION UNDER THE FLSA: COMPLIANCE

Legal Authority: 29 USC 204(f); 5 USC 1103(a)(5)

CFR Citation: 5 CFR 551, Subpart F

Legal Deadline: None

Abstract: Proposed new regulation covering the FLSA Compliance Program and simplifying the FLSA claims handling process.

Timetable:

Action	Date	FR Cite
NPRM	10/09/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Tapping, Personnel Management Specialist, Office of Personnel Management, Personnel and Systems and Oversight Group, Agency Compliance and Evaluation, 1900 E St., NW, Washington, DC 20415, 202 632-4530

RIN: 3206–AA40

3291. ABSENCE AND LEAVE; COVERAGE OF D.C. GOVERNMENT EMPLOYEES

Legal Authority: 5 USC 6311; DC Law 2-139, as amended

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: Current regulations contain obsolete references to certain D.C. government employees who are no longer covered by chapter 63 of title 5 of the United States Code. Regulations would delete these obsolete references.

Timetable:

Action	Date	FR Cite
NPRM	02/27/85	50 FR 7922
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Derby, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-5656

RIN: 3206–AC47

3292. POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

Legal Authority: 5 USC 1308; 5 USC 3301; 5 USC 3302; 5 USC 7301; 5 USC 7321 to 7325; 5 USC 7327; 42 USC 2729; EO 10577 3 CFR, 1954-1958 Comp. p. 218; 5 USC 7701 et seq; EO 12107

CFR Citation: 5 CFR 733

Legal Deadline: None

Abstract: Prescribes (1) regulations under the Hatch Act and related provisions of law that restrict the political activity of Federal employees; (2) definitional and structural revisions; and (3) possible addition and/or recision of partial exceptions by the Director for municipalities or political subdivisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: JoAnn Chabot, Attorney, Office of Personnel Management, Office of the General Counsel, 1900 E St., NW, Room 7538, Washington, DC 20415, 202 632-5030

RIN: 3206–AA47

3293. ● CORRECTIVE ACTION AND REPORTING REQUIREMENTS RELATING TO AGENCY ETHICS PROGRAMS

Significance: Regulatory Program

Legal Authority: 5 USC App 402; PL 100-598

CFR Citation: 5 CFR 738; 5 CFR 735

Legal Deadline: None

Abstract: Proposed new regulation to implement portions of 5 CFR Part 738 by adding new Subpart D - Correction of Agency Programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Analyze Comments	05/15/89	
Final Action	08/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie Wilcox, Staff Attorney, Office of Personnel Management, Office of Government Ethics, PO Box 14108, Washington, DC 20044, 202 632-7642

RIN: 3206–AD71

3294. RETIREMENT; CREDIT AND DEPOSITS FOR MILITARY SERVICE

Legal Authority: PL 97-253, Sec 306(b); PL 98-94, Sec 1257; PL 98-369, Sec 2205

CFR Citation: 5 CFR 831, Subparts C and U

Legal Deadline: None

Abstract: Public Laws 97-253, 98-94, and 98-369 amend the provisions of the retirement law that deal with crediting military service and making deposits for military service. Proposed regulations would revise the affected regulations to implement these laws.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-4682

RIN: 3206–AB73

3295. RETIREMENT; CSRS OFFSET SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart J

Legal Deadline: None

Abstract: The Federal Employees' Retirement System Act of 1986 provided that certain employees would continue to be covered by both the Civil Service Retirement System and social security. Their CSRS deductions are offset by social security taxes (FICA), and, when they retire, their CSRS benefits are offset by the value of this service in their social security benefits. The regulations will implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gay Gardner, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206–AD58

3296. RETIREMENT; DISABILITY RETIREMENT

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart L

Legal Deadline: None

Abstract: Comprehensive revision of disability retirement regulations to clarify (1) OPM'S authority to find a disability annuitant recovered from a disability when the annuitant is reemployed in the Federal service in a position equivalent in grade to the one from which he or she retired, and (2) the rules used to determine whether a disability annuitant has been restored to earning capacity.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gay Gardner, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206–AB77

3297. RETIREMENT; RECOVERY OF ANNUITY OVERPAYMENTS

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart M

Legal Deadline: None

Abstract: Proposed regulations to add further guidelines on debt collection activities under the Debt Collection Act of 1982. Current regulations need to be expanded to (1) exclude collections made by Treasury under 31 CFR 210.10 from OPM procedures for recovery of debts, and (2) add provisions for collecting debts due the Civil Service Retirement Fund from a deceased debtor.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., N.W.; Washington, D.C. 20415, 202 632-4682

RIN: 3206–AB78

3298. RETIREMENT; FERS COST-OF-LIVING ADJUSTMENTS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 841, Subpart G

Legal Deadline: None

Abstract: The Federal Employees' Retirement System Act of 1986 provides basic rules for adding cost-of-living adjustment (COLA's) to annuities of FERS retirees and their survivors. These regulations implement and clarify these provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206–AD62

3299. FEDERAL EMPLOYEES GROUP LIFE INSURANCE

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873

Legal Deadline: None

Abstract: Technical and conforming amendments to bring current regulations up to date by correcting reference errors, deleting obsolete provisions, etc.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bonnie Rose, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and

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Insurance Group, 1900 E St., NW; Washington, D.C. 20415, 202 632-4634

RIN: 3206–AB80

3300. ● ADDITIONAL OPTIONAL LIFE INSURANCE AND FAMILY OPTIONAL LIFE INSURANCE UNDER THE FEDERAL EMPLOYEES LIFE INSURANCE PROGRAM (FEGLI)

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 872; 5 CFR 873

Legal Deadline: None

Abstract: Regulations to eliminate certain restrictions to obtaining additional optional life insurance and family optional life insurance under the FEGLI Program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry Schleicher or Bill Smith, Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206–AD75

3301. ● REMOVING AGE 36 BARRIER FOR ELECTING/ADDING OPTION B LIFE INSURANCE COVERAGE AND OTHER MISCELLANEOUS CHANGES

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 872; 5 CFR 873

Legal Deadline: None

Abstract: Regulations to (1) eliminate requirement to be under age 36 in order to cancel a declination of additional optional life insurance, (2) clarify payment of family life insurance proceeds when covered family member dies within 31 days of death of employee, and (3) eliminate requirement to be in a pay and duty status for the cancellation of a declination of family insurance to become effective.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith, Pay and Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206–AD77

3302. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; TECHNICAL CORRECTIONS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Technical and conforming amendments to bring current regulations up to date by correcting errors, deleting obsolete provisions, etc.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206–AB83

3303. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP) ENROLLMENT PROCESS FOR FEDERAL EMPLOYEES' RETIREMENT SYSTEM (FERS) MINIMUM RETIREMENT ANNUITY ELIGIBLES

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to clarify FEHBP enrollment process and "immediate annuity" for individuals eligible for FERS Minimum Retirement Annuity.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4634

RIN: 3206–AD53

3304. MISCELLANEOUS FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP) AMENDMENTS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to establish earlier effective date of coverage for former spouses; to clarify the treatment of former spouse health benefits if former spouse is or becomes a Federal employee or is covered under the Federal enrollment of another; and to clarify the current provision on continued coverage while confined in a hospital at the time of change of plan.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4634

RIN: 3206–AD55

3305. CONVERSION PRIVILEGE FOR FAMILY MEMBERS WHO LOSE COVERAGE UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP)

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to clarify current practice giving conversion privilege to family members who lose coverage under the FEHBP when an employee or annuitant changes from family to self only enrollment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4634

RIN: 3206–AD56

3306. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; CONTINUATION OF ENROLLMENT AND DISCONTINUED PLAN ENROLLMENT CHANGES

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart C

Legal Deadline: None

Abstract: Regulations to reflect established OPM practice of (1) allowing surviving family members to continue FEHBP participation under multiple enrollments in split-award survivor annuity cases; and (2) setting an alternative time and effective date for a change of enrollment when a one-option health benefits plan is discontinued at the end of the contract period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206–AB88

3307. ● FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; TEMPORARY CONTINUATION OF COVERAGE

Significance: Regulatory Program

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart K

Legal Deadline: Final, Statutory, January 1, 1990.

Abstract: Regulations to permit temporary continuation of health benefits coverage for certain employees, children, and former spouses who would otherwise lose coverage due to loss of covered appointment, loss of status as unmarried dependent child, or dissolution of marriage.

Timetable:

Action	Date	FR Cite
NPRM	05/26/89	
Final Action	11/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears, Pay and Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206–AD66

3308. ● MODIFICATION OF FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATION (FEHBAR) PROVISIONS AND CLAUSES

Legal Authority: 5 USC 8913; 40 USC 486(c)

CFR Citation: 48 CFR 16

Legal Deadline: None

Abstract: Proposed regulations to improve OPM's administration of the Federal Employees Health Benefits Program (FEHBP).

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206–AD78

3309. OPM PROCUREMENT REGULATIONS

Legal Authority: 48 CFR Chapter 1

CFR Citation: 48 CFR 17

Legal Deadline: None

Abstract: Regulations to implement and supplement the Federal Acquisition Regulations (FAR). The FAR were effective April 1, 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alfred F. Chatterton III, Acting Chief, Acquisition Division, Office of Personnel Management, Administration Group, 1900 E Street, NW, Washington, DC 20415, 202 632-5476

RIN: 3206–AB28

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Final Rule Stage

3310. AVAILABILITY OF OFFICIAL INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: Revisions in response to (a) comments received on interim final rule; (b) fee waiver policy guidance from the Department of Justice; (c) the requirements of E.O. 12600 regarding confidential commercial information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/87	52 FR 13215
Final Action	04/00/89	

Small Entities Affected: None

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OPM — **Final Rule Stage**

Government Levels Affected: None

Agency Contact: C. Ronald Trueworthy, Chief, Reports and Forms Management Branch, Office of Information Management, Office of Personnel Management, Administration Group, 1900 E Street, NW; Room 6410, Washington, DC 20415, 202 632-0261

RIN: 3206–AD05

3311. EMPLOYMENT (GENERAL); EMPLOYMENT PRACTICES

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3304

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Clarification of the policy and appeal procedures used in developing and implementing employment practices in the recruitment, measurement and selection of individuals for appointments and promotion within the competitive service. The proposed amendments would remove a non-statutory appeal procedure which was created to provide a simple, streamlined administrative review procedure but which has, instead, become a time-consuming, convoluted process. Additionally, the proposed changes would avoid a duplicative enforcement procedure currently subject to review by OPM and MSPB, which is, more properly, within the sole jurisdiction of the EEOC.

Timetable:

Action	Date	FR Cite
EEOC Coordination	04/01/88	
NPRM	06/20/88	53 FR 23123
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James S. Green, Associate General Counsel, Office of Personnel Management, Office of the General Counsel, 1900 E Street, NW, Washington, DC 20415, 202 632-5087

RIN: 3206–AB41

3312. ● AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300, Subpart G

Legal Deadline: None

Abstract: We will issue a final rule delegating authority to agencies to determine whether a Federal job applicant's failure to register with the Selective Service System was knowing and willful. This change was authorized by an amendment to 5 USC 3328 which imposes the selective service registration requirement as a condition of employment in Federal executive agencies. The delegation will permit faster decisions for interested job seekers and reduce paperwork.

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15400
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas O'Connor, Personnel Staffing Specialist, Office of Personnel Management, Career Entry and Employee Development Group, Staffing Policy Division, 1900 E St., NW; Washington, DC 20415, 202 653-9407

RIN: 3206–AD68

3313. EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

Significance: Regulatory Program

Legal Authority: 5 USC 3392; 5 USC 3393; 5 USC 3394; 5 USC 3397; 5 USC 1302; 5 USC 3595; 5 USC 3596; 5 USC 5383; 5 USC 5385; 5 USC 7543

CFR Citation: 5 CFR 317; 5 CFR 359; 5 CFR 430; 5 CFR 534; 5 CFR 752

Legal Deadline: None

Abstract: This is a Regulatory Program entry that combines RINs 3206-AA09, 3206-AA21, 3206-AA23, 3206-AB29, and 3206-AA50.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/31/79	44 FR 44815
Interim Final Rule	12/05/80	45 FR 80468
NPRM	07/22/88	53 FR 27895
NPRM	08/08/88	53 FR 29685
NPRM	08/10/88	53 FR 30061
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kirke Harper, Director, Office of Executive Personnel, Office of Executive Administration, Office of Personnel Management, 1900 E St., N.W., Washington, DC 20415, 202 632-4486

RIN: 3206–AC81

3314. REMOVAL FROM THE SENIOR EXECUTIVE SERVICE; GUARANTEED PLACEMENT IN OTHER PERSONNEL SYSTEMS

Legal Authority: 5 USC 1302; 5 USC 3594; 5 USC 3596

CFR Citation: 5 CFR 359

Legal Deadline: None

Abstract: Regulations on (1) the removal of SES career appointees during probation or for less than fully successful executive performance, (2) the removal of other than career appointees, (3) placement rights in other personnel systems of certain SES career appointees. These actions are authorized by law. The regulations establish procedures for implementing previous law and the new Pub. L. 98-615, November 8, 1984.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/31/79	44 FR 44815
NPRM	08/10/88	53 FR 30061
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA09, 3206-AA23, 3206-AB29, and 3206-AA50.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4486

RIN: 3206–AA21

3315. REMOVAL FROM THE SENIOR EXECUTIVE SERVICE; GUARANTEED PLACEMENT IN OTHER PERSONNEL SYSTEMS

Legal Authority: 5 USC 3595; 5 USC 3596

CFR Citation: 5 CFR 359

Legal Deadline: None

Abstract: Regulations to add a new subpart to implement Pub. L. 97-35, August 13, 1981, as amended by Pub.L. 97-346, October 15, 1982, and Pub. L. 98-615, November 8, 1984, which added provisions to Title 5 to govern SES reduction-in-force actions affecting career executives. Regulations are needed to cover certain areas not in the law, such as notification to employees and retention of records, and to implement the provisions in the law dealing with OPM's responsibility to help place career executives identified for reduction in force and with "fallback" rights following a RIF.

Timetable:

Action	Date	FR Cite
NPRM	08/10/88	53 FR 30061
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA09, 3206-AA21, 3206-AB29, and 3206-AA50.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4486

RIN: 3206–AA23

OPM — **Final Rule Stage**

3316. TRAINING

Legal Authority: 5 USC 4118

CFR Citation: 5 CFR 410

Legal Deadline: None

Abstract: Revision of training regulations to remove obsolete or unessential reporting requirements and remove or modify any other outmoded regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/10/89	54 FR 822
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Lofus, Chief, Management and Oversight Division, Office of Personnel Management, Career Entry and Employee Development Group, 1121 Vermont Avenue, NW; P.O. Box 7236, Washington, DC 20044, 202 632-0255

RIN: 3206–AD06

3317. REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Legal Authority: 5 USC 4303; 5 USC 4305

CFR Citation: 5 CFR 432

Legal Deadline: None

Abstract: Regulations would clarify the procedures agencies must follow in removing or reducing in-grade employees whose performance is unacceptable. These changes are necessary due to changing legal requirements brought about by court decisions and OPM interpretations of 5 U.S.C. chapter 43 requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/04/88	53 FR 38954
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tim Dirks, Chief, Employee Relations Division, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, NW, Washington, DC 20415, 202 653-8551

RIN: 3206–AB21

3318. PAY UNDER THE GENERAL SCHEDULE

Legal Authority: 5 USC 5334(a); 5 USC 5338

CFR Citation: 5 CFR 531

Legal Deadline: None

Abstract: Under current regulations, Federal agencies must request prior OPM approval to use a special rate as an employee's "highest previous rate" upon reassignment to another position. The proposed regulations would revise the "highest previous rate" provisions of the regulations to remove this requirement and to clarify an agency's authority to establish an employee's rate of basic pay upon promotion, demotion, reassignment, transfer, reemployment, or change in type of appointment.

Timetable:

Action	Date	FR Cite
NPRM	03/31/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Gatewood, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E Street, NW., Washington, DC 20415, 202 632-5056

RIN: 3206–AD44

3319. GRADE AND PAY RETENTION

Legal Authority: 5 USC 5365

CFR Citation: 5 CFR 536

Legal Deadline: None

Abstract: Proposed regulations would provide for the application of current pay retention rules when a Federal prevailing rate (wage) schedule is reduced as a result of a decline in the local private sector economy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/88	53 FR 49545
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jan Karicher, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E Street, NW., Washington, DC 20415, 202 632-5056

RIN: 3206–AD45

3320. ● PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Legal Authority: 42 USC 659; 42 USC 661; 42 USC 662; 15 USC 1673; EO 12105

CFR Citation: 5 CFR 581

Legal Deadline: None

Abstract: Update regulation in response to ongoing suggestions and corrections, especially changes to Appendix A which contains an obsolete list of agents designated to accept legal process.

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OPM — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/26/86	51 FR 15787
NPRM	09/08/88	53 FR 34305
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Murray Meeker, Attorney, Office of Personnel Management, Office of the General Counsel, 1900 E St., NW; Room 7544, Washington, DC 20415, 202 632-5060

RIN: 3206–AB42

3321. ALLOWANCES AND DIFFERENTIALS; COST OF LIVING ALLOWANCE AND POST DIFFERENTIAL–NONFOREIGN AREAS

Significance: Regulatory Program

Legal Authority: 5 USC 5941; EO 10000

CFR Citation: 5 CFR 591, Subpart B

Legal Deadline: None

Abstract: Current regulations need to be revised to bring the allowance-setting program into conformity with APA requirements, and to establish a methodology for measuring living costs and setting allowance rates that will fulfill the requirements of law and Executive order.

Timetable:

Action	Date	FR Cite
NPRM	10/21/85	50 FR 42531
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Hearne, Pay Specialist, Office of Pay and Performance, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, NW, Washington, DC 20415, 202 632-7184

RIN: 3206–AB34

3322. ABSENCE AND LEAVE; VOLUNTARY LEAVE TRANSFER PROGRAM

Significance: Regulatory Program

Legal Authority: 5 USC 6311; 5 USC 6332; PL 100-202; PL 100-284; PL 100-440; PL 100-566

CFR Citation: 5 CFR 630

Legal Deadline: Final, Statutory, January 31, 1989.

Abstract: Public Law 100-202 authorized the Office of Personnel Management to establish a program under which Federal employees may transfer annual leave to other employees who need such leave because of a "personal emergency." Interim regulations issued in 1988 established administrative procedures for Federal agencies to permit the transfer of annual leave for this purpose. The statutory authority for this program has been extended through FY 89. In addition, Public Law 100-566 authorized a 5-year experimental voluntary leave transfer program, which will expire on October 31, 1993. Regulations to implement the new program by Public Law 100-566 will supersede previous regulations governing this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/08/88	53 FR 7325
Interim Final Rule	04/26/88	53 FR 14775
Interim Final Rule	11/15/88	53 FR 45886
Interim Final Rule	01/31/89	54 FR 4749
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Regarding the interim rules published 3/8/88, 4/26/88, and 11/15/88: The initial program will be phased-out as agencies implement the new program, and these regulations will not be published as final actions. Regarding the interim rule published January 31, 1989: These regulations implement the new program, and will be followed by a final action.

Agency Contact: Martha Hoehn, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance Management, Personnel Systems and Oversight Group, 1900 E St., NW., Washington, DC 20415, 202 632-5056

RIN: 3206–AD41

3323. ● ABSENCE AND LEAVE; VOLUNTARY LEAVE BANK PROGRAM

Significance: Regulatory Program

Legal Authority: 5 USC 6362; PL 100-566

CFR Citation: 5 CFR 630

Legal Deadline: Final, Statutory, April 30, 1989.

Abstract: Public Law 100-566 authorizes the Office of Personnel Management to establish a 5-year experimental voluntary leave bank program to be implemented in at least 3 executive agencies. Under the voluntary leave bank program, employees can donate annual leave to a common leave fund within each agency, and then can apply to withdraw leave from the fund if they encounter a medical emergency. The regulations will establish the administrative procedures for participating agencies to permit the contribution and use of annual leave for this purpose. The statutory authority for this program expires on October 31, 1993. Further action is dependent upon whether continuing or permanent authorization is enacted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This item is combined in the Regulatory Program with the Leave Transfer regulations (under RIN 3206-AD41).

Agency Contact: Martha Hoehn, Pay and Benefits Specialist, Office of Personnel Management, Personnel Systems and Oversight Group, Office of Pay and Performance Management, 1900 E St., NW; Washington, DC 20415, 202 632-5056

RIN: 3206–AD69

3324. EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 5 USC App 207(a); PL 95-521

CFR Citation: 5 CFR 735

Legal Deadline: None

Abstract: Final regulation to supersede portions of 5 CFR Part 735 dealing with confidential financial disclosure for grades below GS-16.

OPM — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/02/88	51 FR 43359
Analyze comments	02/15/89	
Final Action	05/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Gressman, Staff Attorney, Office of Government Ethics, Office of Personnel Management, P.O. Box 14108, Washington, DC 20044, 202 632-7642

RIN: 3206–AA93

3325. ● POST EMPLOYMENT CONFLICT OF INTEREST; 1988 DESIGNATION OF CERTAIN POSITIONS AND AGENCIES

Legal Authority: 18 USC 207(b)(1)(c); PL 95-521

CFR Citation: 5 CFR 737

Legal Deadline: None

Abstract: Final regulation to meet the annual requirement to designate senior employees (for CY 1988) who are subject to the conflict-of-interest provisions of the Ethics in Government Act.

Timetable:

Action	Date	FR Cite
Final Action	11/05/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melanie Dorsey, Staff Attorney, Office of Personnel Management, Office of Government Ethics, PO Box 14108, Washington, DC 20044, 202 632-7642

RIN: 3206–AD72

3326. RETIREMENT; IMPLEMENTING REGULATIONS FOR CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984

Legal Authority: 5 USC 8347; PL 98-615

CFR Citation: 5 CFR 831, Subparts F, and T

Legal Deadline: None

Abstract: The Civil Service Retirement Spouse Equity Act of 1984 includes provisions for new benefits available to former spouses of deceased Federal employees and provisions governing survivor benefits for current spouses. These regulations are necessary to implement the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/85	50 FR 20064
Interim Final Rule – Revised	09/08/86	51 FR 31927
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Paralegal Specialist, Retirement and Insurance Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-4682

RIN: 3206–AB75

3327. RETIREMENT; IMPLEMENTING REGULATIONS FOR CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984

Legal Authority: 5 USC 8347; PL 98-615

CFR Citation: 5 CFR 831, Subpart Q

Legal Deadline: None

Abstract: The Civil Service Retirement Spouse Equity Act of 1984 includes provisions for new benefits available to former spouses of deceased Federal employees and provisions governing survivor benefits for current spouses. These regulations are necessary to implement the Act and provide procedures when there are competing claims from applicants for survivor benefits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/85	50 FR 20064
Interim Final Rule	09/08/86	51 FR 31927
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-4682

RIN: 3206–AD48

3328. RETIREMENT; DEPOSITS FOR MILITARY SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart U

Legal Deadline: None

Abstract: Final regulations to extend eligibility to make deposits for military service to separated individuals who were prevented from making a timely deposit due to administrative error or misinformation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/84	49 FR 20631
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206–AB35

3329. RETIREMENT; CREDITING PERSONAL SERVICE CONTRACT SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: Public Law 100-238, enacted January 8, 1988, provides qualifying employees and annuitants with an opportunity to credit certain service performed under the auspices of a personal services contract with a Federal agency. These regulations will implement this provision of law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/25/88	53 FR 42934
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littleford, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206–AD59

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3330. RETIREMENT; FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 842; 5 CFR 846

Legal Deadline: None
New system took effect January 1, 1987.

Abstract: Final regulations to implement the statutory provision for a new Federal Employees' Retirement System, alternative annuities for FERS retirees under section 6001 of Public Law 100-203, and conforming changes to the current Civil Service Retirement System.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/86	51 FR 47185
Interim Final Rule	01/16/87	52 FR 2056
Interim Final Rule	02/11/87	52 FR 4472
Final Action	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Rosenblatt, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-5560

RIN: 3206-AC94

3331. RETIREMENT; FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 841

Legal Deadline: None

Abstract: Final regulations to implement the statutory provision for a new Federal Employees' Retirement System and conforming changes to the current Civil Service Retirement System.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/87	52 FR 4472
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-5560

RIN: 3206-AD65

3332. RETIREMENT; FERS--ANNUAL PAY COMPUTATION FOR LESS THAN FULL-TIME EMPLOYEES

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 841; 5 CFR 843

Legal Deadline: None

Abstract: These regulations provide a methodology for computing the amount of the basic employee death benefit under the Federal Employees' Retirement System (FERS) Act of 1986 for employees whose tour of duty is less than full time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/88	53 FR 16535
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206-AD63

3333. RETIREMENT; REEMPLOYMENT OF ANNUITANTS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 841, Subpart K; 5 CFR 846

Legal Deadline: None

Abstract: Public Law 100-238, enacted January 8, 1988, amended the Federal Employees' Retirement System Act provisions concerning reemployment of FERS annuitants and CSRS annuitants who transfer to FERS. These regulations implement this provision of law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littleford, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206-AD60

3334. RETIREMENT; FERS DISABILITY BENEFITS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 844

Legal Deadline: None

Abstract: These regulations implement Subchapter V of chapter 84, the Federal Employees' Retirement System Act disability provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/31/88	53 FR 33433
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gay Gardner, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20425, 202 632-4682

RIN: 3206-AD61

3335. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE; ANNUAL RATES OF PAY FOR EMPLOYEES WHO WORK LESS THAN FULL TIME

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870, Subpart C

Legal Deadline: None

Abstract: Regulations to establish a new method of arriving at annual rates of pay for life insurance purposes for employees on less than full-time schedules.

Timetable:

Action	Date	FR Cite
NPRM	10/14/88	53 FR 40232
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and

Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4634

RIN: 3206-AD50

3336. FEDERAL EMPLOYEES HEALTH BENEFITS FOR FORMER SPOUSES OF CIA AND FOREIGN SERVICE EMPLOYEES

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to implement Sections 302 and 303 of the Intelligence Authorization Act of 1986 and Sections 831 and 832 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, by describing the conditions under which certain former spouses of Central Intelligence Agency and Foreign Service employees, and former spouses of former employees of those agencies, previously omitted from spouse equity legislation may enroll in the Federal Employees Health Benefits (FEHB) Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/88	53 FR 45069
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD28

3337. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM/WITHDRAWAL OF CARRIER AND PLAN APPROVAL

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to clarify OPM's minimum standards for a health plan's or carrier's participation in FEHB and OPM's right to withdraw approval, with due process.

Timetable:

Action	Date	FR Cite
NPRM	02/16/89	54 FR 7039
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW., Washington, DC 20415, 202 632-4634

RIN: 3206-AD37

3338. DEFINITION OF MEDICARE ELIGIBLE INDIVIDUALS

Legal Authority: PL 100-360

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to define "Medicare eligible individual" for purposes of implementation of Section 422, Rate Reduction for Medicare Eligible Federal Annuitants, of P.L. 100-360, the Medicare Catastrophic Coverage Act of 1988. The effective date is January 1, 1989.

Timetable:

Action	Date	FR Cite
NPRM	10/14/88	53 FR 40203
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret C. Randall, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street NW., Washington, DC 20415, 202 632-4634

RIN: 3206-AD49

3339. ● HEALTH INSURANCE COVERAGE FOR CERTAIN TEMPORARY EMPLOYEES

Significance: Regulatory Program

Legal Authority: PL 100-654

CFR Citation: 5 CFR 890

Legal Deadline: Final, Statutory, March 14, 1989.

Abstract: Regulation to implement Title III of the Federal Employees Health Benefits (FEHB) Amendments Act of 1988 (Pub. L. 100-654) giving certain temporary employees, who were previously excluded, the opportunity to participate in the FEHB Program. The effective date is March 14, 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret C. Randall, Pay and Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD79

3340. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; REENROLLMENT OF CERTAIN ANNUITANTS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart C

Legal Deadline: None

Abstract: Regulations to permit reenrollment of annuitants who cancelled FEHB enrollment to enroll in a Health Maintenance Organization or Competitive Medical Plan under a Medicare risk contract and need to return to FEHB coverage.

Timetable:

Action	Date	FR Cite
NPRM	08/08/88	53 FR 29686
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD23

3341. ● DEBARMENTS, CIVIL MONETARY PENALTIES AND ASSESSMENTS IMPOSED ON HEALTH CARE PRACTITIONERS AND PROVIDERS OF SERVICES OR SUPPLIES FOR CITED OFFENSES

Significance: Regulatory Program

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Final Rule Stage

Legal Authority: 5 USC 8913; PL 100-654

CFR Citation: 5 CFR 890, Subpart J

Legal Deadline: None

Abstract: Regulations to implement title I of Public Law 100-654, the "Federal Employees Health Benefits Amendments Act of 1988." Title I of Pub. L. 100-654 permits OPM to exclude from further participation in the FEHB Program any health care provider (1) convicted of fraud or various other cited examples of unethical professional conduct, or (2) determined by OPM to have committed various cited offenses against the FEHB Program. The above cited debarment authority is for an offense committed on or after January 1, 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Ray, Pay and Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD76

3342. COMPUTER SECURITY TRAINING

Legal Authority: PL 100-235

CFR Citation: 5 CFR 930, Subpart C

Legal Deadline: Final, Statutory, July 10, 1988.

Abstract: Regulations for government-wide training requirement in computer security.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/13/88	53 FR 26562
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Loftis, Chief, Management and Oversight Division, Career Entry and Employee Development Group, Office of Personnel Management, 1121 Vermont Ave., NW., P.O. Box 7230, Washington, DC 20044, 202 632-0255

RIN: 3206-AD43

3343. ● "ADJUSTED COMMUNITY RATING" AND PRICE ADJUSTMENTS FOR DEFECTIVE COMMUNITY RATING UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Legal Authority: 5 USC 8913

CFR Citation: 48 CFR 16

Legal Deadline: None

Abstract: Regulations to clarify (1) under what circumstances an "adjusted community rate" will be accepted under the FEHB Program, and (2) how defective community rates will be resolved following audit/discovery.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/89	
Final Action	09/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry Schleicher or John Ray, Benefits Specialist, Office of Personnel Management, Retiremnt and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD74

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Completed Actions

3344. EMPLOYMENT (GENERAL); TIME-IN-GRADE RESTRICTIONS

CFR Citation: 5 CFR 300, Subpart F

Completed:

Reason	Date	FR Cite
Withdrawn	01/19/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Holum 202 632-6817

RIN: 3206-AC01

3345. ● GOVERNMENT USE OF PRIVATE SECTOR TEMPORARIES

Legal Authority: 5 USC 552; 5 USC 1103 (a)(5); 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: We will issue a final rule establishing criteria and conditions under which agencies may consider using temporary help service firms for meeting short term temporary work needs. The rule responds to agencies' requests for flexibility to provide public services and to maintain productivity. As a result of this rule, agencies will have an optional, additional tool for meeting short term needs which has long been available to other public and private organizations.

Timetable:

Action	Date	FR Cite
NPRM	10/17/88	53 FR 40546
Final Action	01/25/89	54 FR 3762
Final Action Effective	02/24/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas O'Connor, Personnel Staffing Specialist, Office of Personnel Management, Staffing Policy Division, Career Entry and Employee Development Group, 1900 E St., NW; Washington, DC 20415, 202 653-0407

RIN: 3206-AD67

3346. APPOINTMENT, REASSIGNMENT, TRANSFER, AND REINSTATEMENT IN THE SENIOR EXECUTIVE SERVICE

CFR Citation: 5 CFR 317

Completed:

Reason	Date	FR Cite
Final Action	03/08/89	54 FR 9755
Final Action Effective	04/07/89	

Small Entities Affected: None

OPM

Completed Actions

Government Levels Affected: None

Agency Contact: Neal Harwood 202 632-4486

RIN: 3206-AA09

3347. APPOINTMENT, REASSIGNMENT, TRANSFER AND REINSTATEMENT IN THE SENIOR EXECUTIVE SERVICE (SES CAREER APPOINTMENT BY REINSTATEMENT)

CFR Citation: 5 CFR 317, Subpart G

Completed:

Reason	Date	FR Cite
Final Action	03/08/89	54 FR 9755
Final Action Effective	04/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood 202 632-4486

RIN: 3206-AA11

3348. GENERAL RECRUITMENT/PLACEMENT PRINCIPLES

CFR Citation: 5 CFR 330; 5 CFR 351

Completed:

Reason	Date	FR Cite
Final Action	11/08/88	53 FR 45065
Final Action Effective	12/08/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Holum 202 632-6817

RIN: 3206-AC07

3349. PROMOTION AND INTERNAL PLACEMENT

Significance: Regulatory Program

CFR Citation: 5 CFR 335

Completed:

Reason	Date	FR Cite
Withdrawn	01/19/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raleigh M. Neville 202 632-6817

RIN: 3206-AA90

3350. MEDICAL QUALIFICATION DETERMINATIONS

CFR Citation: 5 CFR 339

Completed:

Reason	Date	FR Cite
Final Action	03/08/89	54 FR 9761
Final Action Effective	04/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raleigh Neville 202 632-6817

RIN: 3206-AA91

3351. EXECUTIVE AND MANAGEMENT DEVELOPMENT

CFR Citation: 5 CFR 412, Subparts A and E

Completed:

Reason	Date	FR Cite
End Review	01/19/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold Segal 202 632-5574

RIN: 3206-AC12

3352. PAY AND PERFORMANCE UNDER THE SENIOR EXECUTIVE SERVICE

CFR Citation: 5 CFR 430, Subpart C; 5 CFR 534, Subpart D

Completed:

Reason	Date	FR Cite
Final Action	01/23/89	54 FR 2985
Final Action Effective	02/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood 202 632-4486

RIN: 3206-AB29

3353. PREVAILING RATE SYSTEMS

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into broadened and revised RIN 3206-AC82.	01/18/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Pokoyk 202 632-7830

RIN: 3206-AC59

3354. PAY ADMINISTRATION (GENERAL); BACK PAY

Significance: Regulatory Program

CFR Citation: 5 CFR 550

Completed:

Reason	Date	FR Cite
Final Action	11/15/88	53 FR 45685
Final Action Effective	12/15/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Cahill 202 632-5056

RIN: 3206-AD39

3355. PAY ADMINISTRATION (GENERAL); OVERTIME PAY COMPUTATION

CFR Citation: 5 CFR 550, Subpart A

Completed:

Reason	Date	FR Cite
Withdrawn	02/03/89	54 FR 5494

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward I. Magee 202 632-5056

RIN: 3206-AC98

3356. PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

CFR Citation: 5 CFR 551

Completed:

Reason	Date	FR Cite
Final Action	07/19/88	53 FR 27147
Final Action Effective	08/18/88	

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: James E. Matteson 202 632-5856

RIN: 3206–AD40

3357. ABSENCE AND LEAVE; RESTORATION OF ANNUAL LEAVE

CFR Citation: 5 CFR 630

Completed:

Reason	Date	FR Cite
Final Action	10/25/88	53 FR 42933
Final Action Effective	11/25/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James E. Matteson 202 632-5856

RIN: 3206–AD42

3358. POST EMPLOYMENT CONFLICT OF INTEREST; 1987 DESIGNATION OF CERTAIN POSITIONS AND AGENCIES

CFR Citation: 5 CFR 737

Completed:

Reason	Date	FR Cite
Final Action	12/02/88	53 FR 48756
Final Action Effective	12/02/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Bovard/Bob Flynn 202 632-7642

RIN: 3206–AD04

3359. RETIREMENT; PROCESSING COURT ORDERS FOR APPORTIONMENT OF CIVIL SERVICE RETIREMENT SYSTEM ANNUITY AND COMPETING CLAIMS FOR SURVIVOR BENEFITS

CFR Citation: 5 CFR 831, Subparts A and Q

Completed:

Reason	Date	FR Cite
Withdrawn - Combined with RIN 3206-AB75.	01/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester 202 632-4682

RIN: 3206–AC93

3360. RETIREMENT; COURT ORDERS AFFECTING RETIREMENT

CFR Citation: 5 CFR 831; 5 CFR 841

Completed:

Reason	Date	FR Cite
Final Action	12/05/88	53 FR 48895
Final Action Effective	01/04/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman 202 632-4682

RIN: 3206–AD64

3361. RETIREMENT; ALTERNATIVE FORM OF ANNUITY

CFR Citation: 5 CFR 831

Completed:

Reason	Date	FR Cite
Final Action	03/10/89	54 FR 10135
Final Action Effective	04/10/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Rosenblatt 202 632-4682

RIN: 3206–AD35

3362. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE: PREMIUM REDUCTION FOR BASIC LIFE INSURANCE COVERAGE CONTINUED DURING RETIREMENT

CFR Citation: 5 CFR 870, Subpart D

Completed:

Reason	Date	FR Cite
Final Action	10/18/88	53 FR 40715
Final Action Effective	12/01/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith 202 632-4634

RIN: 3206–AD54

3363. CONTINUATION OF HEALTH AND LIFE INSURANCE COVERAGE DURING RETIREMENT

CFR Citation: 5 CFR 870; 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	10/18/88	53 FR 40715
Final Action Effective	11/17/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith 202 632-4634

RIN: 3206–AD34

3364. LETTER OF CREDIT ACCESS TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP) CARRIER RESERVES

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	12/23/88	53 FR 51741
Final Action Effective	01/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer 202 632-4634

RIN: 3206–AD52

3365. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP) PLAN ADVERTISING IN VIOLATION OF FEHBP CONTRACT PROVISIONS

CFR Citation: 48 CFR Ch 16

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into RIN 3206-AD78.	01/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer 202 632-4634

RIN: 3206–AD38

3366. LETTER OF CREDIT ACCESS TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP) CARRIER RESERVES

CFR Citation: 48 CFR 16

Completed:

Reason	Date	FR Cite
Final Action	12/23/88	53 FR 51781
Final Action Effective	01/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer 202 632-4634

RIN: 3206–AD51

[FR Doc. 89-5852 Filed 04-21-89; 8:45 am]

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Part XXXVI

Panama Canal Commission

Semiannual Regulatory Agenda

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PANAMA CANAL COMMISSION (PANAMA)

PANAMA CANAL COMMISSION

35 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: Panama Canal Commission.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Panama Canal Commission. This information will allow the public to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact Michael Rhode, Jr., Assistant to the Chairman and Secretary, Panama Canal Commission, 2000 L Street, NW., Suite 550, Washington, DC 20036-4996, (202) 634-6441 TDD; or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, APO Miami 34011-5000.

SUPPLEMENTARY INFORMATION: Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* require that executive agencies publish in the Federal Register a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the agency's regulatory review and development process. This agenda was prepared under the guidelines established by OMB Bulletin No. 89-02.

Dated: February 23, 1989.

Michael Rhode, Jr.,

Assistant to the Chairman and Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Prerule Stage

3367. TOLLS FOR USE OF CANAL

Significance: Agency Priority

Legal Authority: PL 96-70, Sec 1601

CFR Citation: 35 CFR 133. (Revision)

Legal Deadline: None

Abstract: Due to operating cost increases, including inflation, since the last toll rate increase (March 1983), the Panama Canal Commission is currently considering increasing the rates of tolls charged vessels transiting the Canal. An increase will be proposed effective in FY 1990 to achieve the Commission's regulatory requirement to recover from users all costs of operating and maintaining the waterway.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Rhode, Jr., Secretary, Panama Canal Commission, 2000 L Street NW, Suite 550, Washington, DC 20036-4996, 202 634-6441

RIN: 3207-AA04

3368. TOLLS FOR USE OF CANAL RULES FOR MEASUREMENT OF VESSELS

Significance: Agency Priority

Legal Authority: PL 96-70, Sec 1601

CFR Citation: 35 CFR 133.32; 35 CFR 133.34; 35 CFR 135.285(a); 35 CFR 135.352

Legal Deadline: None

Abstract: The proposed changes correct authority to issue Panama Canal Tonnage Certificate (no financial impact); eliminate the "125 percent of engine room as measured" limitation for ballast rate (negligible negative impact on canal revenues); increase size limitation on manholes to water ballast spaces from 30 to 34 inch diameter, to align our rules with I.M.O.'s (small negative impact on canal revenues); allow deductible items located in the engine room to be deducted as part of engine room rather than separately, to streamline the method by which propulsion power deduction is determined (negligible impact on canal revenues).

These changes will not impact on most vessels already measured for Panama Canal tonnages. Vessels that qualify for increased deductions may choose to be remeasured.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Michael Rhode, Jr., Secretary, Panama Canal Commission, 2000 L Street NW, Suite 550, Washington, DC 20036-4996, 202 634-6441

RIN: 3207-AA17

3369. INSPECTION AND REGISTRATION OF VESSELS

Significance: Agency Priority

Legal Authority: 22 USC 3811; EO 12215; 44 USC 3501

CFR Citation: 35 CFR 121.2, (Revision); 35 CFR 121.3, (Revision); 35 CFR 121.41, (Revision); 35 CFR 121.43, (Revision); 35 CFR 121.45, (Revision); 35 CFR 121.47, (Revision); 35 CFR 121.58(a)(b), (Revision); 35 CFR 121.63, (Revision); 35 CFR 121.65(a)(b), (Revision); 35 CFR 121.66, (Revision); 35 CFR 121.67, (Revision); 35 CFR 121.68, (Revision); 35 CFR 121.69, (Revision); 35 CFR 121.70, (Revision); 35 CFR 121.71, (Revision); ...

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to make procedural changes to bring its regulations into conformity with internal reorganization which changed units responsible for inspection and registration of vessels and to bring vessel equipment requirements into compliance with International Regulations for Preventing Collisions at Sea, 1972.

PANAMA — Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. William V. Clark, II, Assistant to Marine Director, (Marine Safety), Panama Canal Commission, Marine Bureau, APO Miami, FL 34011-5000, 202 634-6441

RIN: 3207-AA18

3370. DANGEROUS CARGOES RADIO COMMUNICATION

Significance: Agency Priority

Legal Authority: 22 USC 3811; EO 12215

CFR Citation: 35 CFR 113.3(a), (Revision); 35 CFR 113.4(a), (Revision); 35 CFR 113.5, (Revision); 35 CFR 113.21, (Revision); 35 CFR 113.22, (Revision); 35 CFR 113.26(a), (Revision); 35 CFR 113.29(b), (Revision); 35 CFR 113.29(c), (Revision); 35 CFR 113.42, (Revision); 35 CFR 113.43(c), (Revision); 35 CFR 113.45, (Revision); 35 CFR 113.49(b)(c), (Revision); 35 CFR 113.50(c)(e)(1)(2), (Revision); 35 CFR 123.4(a), (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to amend its regulations to make minor technical changes and clarifications.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Capt. William V. Clark II, Assistant to Marine Director, (Marine Safety), Panama Canal Commission, Marine Bureau, APO Miami, FL 34011-5000, 202 634-6441

RIN: 3207-AA19

3371. ARRIVING AND DEPARTING VESSELS: VARIOUS COMMUNICATION, DOCUMENTATION, SANITATION AND ADMEASUREMENT REQUIREMENTS

Significance: Agency Priority

Legal Authority: 22 USC 3811

CFR Citation: 35 CFR 101.10(e), (Revision); 35 CFR 101.10(f), (Revision)

Legal Deadline: None

Abstract: The purpose of the proposed changes is to make minor technical corrections by requiring that cargo manifests and loading plans show international Maritime Organization Division in addition to class.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Capt. William V. Clark II, Assistant to Marine Director, (Marine Safety), Panama Canal Commission, Marine Bureau, APO Miami, FL 34011-5000, 202 634-6441

RIN: 3207-AA20

PANAMA CANAL COMMISSION (PANAMA) — Proposed Rule Stage

3372. PANAMA CANAL COMMISSION ACQUISITION REGULATION

Significance: Agency Priority

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR Chapter 35. (New)

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to issue the Panama Canal Commission Acquisition Regulation (PAR) as Chapter 35 of Title 48 Code of Federal Regulations. The proposed PAR implements and supplements the Federal Acquisition Regulation (FAR), which is the primary acquisition regulation that governs the contracting process of all executive agencies or otherwise controls the relationship between such agencies and their contracts or prospective contractors. This action is necessary to provide regulatory coverage pertinent to Commission acquisitions that is not otherwise provided in the FAR.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: R. D. Morgan, Procurement Executive, Panama Canal Commission, APO Miami 34011-5000, 202 634-6441

RIN: 3207-AA10

3373. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 22 USC 3622

CFR Citation: 35 CFR 255. (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to amend its regulations to implement the Ethics in Government Act, the Commission's Code of Conduct as approved by its Board of Directors, and supplementary regulations that clarify certain provisions of the Code of Conduct.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carolyn H. Twohy, Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011-5000, 202 634-6441

RIN: 3207-AA16

[FR Doc. 89-5853 Filed 04-21-89; 8:45 am]

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Part XXXVII

Peace Corps

Semiannual Regulatory Agenda

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PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Executive Order 12291, Federal Regulations, Semiannual Agenda of Regulations

AGENCY: Peace Corps.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 12-month period from April 1, 1989 through March 31, 1990. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the Agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Robert Martin, Associate General Counsel, Peace Corps, 1990 K Street, NW., Washington, DC 20526, (202) 254-3114.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291, Federal Regulations, and the Regulatory Flexibility Act (5 U.S.C. 605) executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by Peace Corps are not "major" rules within the meaning of E.O. 12291 and no Regulatory Impact Analysis is required. Peace Corps has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public; and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required under 5 U.S.C. 602.

Margaret H. Thome,

Associate Director for Management.

PEACE CORPS (PEACE) — Proposed Rule Stage

3374. EMPLOYEE DISCRIMINATION COMPLAINT PROCEDURE

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 22 CFR 310

Legal Deadline: None

Abstract: Comprehensive regulations for processing individual and class EEO complaints of Peace Corps employees. Under development.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharon L. Solomon, Assistant Director for Equal Opportunity, Peace Corps, 1990 K Street, NW, Washington, DC 20526, 202 254-8320

RIN: 0420-AA01

3375. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURES

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 22 CFR 306

Legal Deadline: None

Abstract: Comprehensive regulations for processing individual and class EEO complaints of Peace Corps Volunteers. Under development.

Timetable:

Action	Date	FR Cite
NPRM	09/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon L. Solomon, Assistant Director for Equal Opportunity, Peace Corps, 1990 K Street, NW, Room 5050, Washington, DC 20526, 202 254-8320

RIN: 0420-AA02

3376. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504 - HANDICAPPED DISCRIMINATION PROHIBITION

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 311

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) which prohibits discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Scales, General Counsel, Peace Corps, 1990 K Street, NW, Room 849, Washington, DC 20526, 202 254-3114

RIN: 0420-AA03

[FR Doc. 89-5854 Filed 04-21-89; 8:45 am]

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Pennsylvania Avenue Development Corporation

Semiannual Regulatory Agenda

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PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC)

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Ch. IX

Unified Agenda of Federal Regulations

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: This document sets forth the Pennsylvania Avenue Development Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The Agenda lists regulations currently under rulemaking review that PADC expects to have as a final rule during the next twelve months.

FOR FURTHER INFORMATION CONTACT: Talbot J. Nicholas II, Attorney, Office of the General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, NW., Washington, DC 20004; (202) 724-9088.

Dated: March 9, 1989.

M. J. Brodie,

Executive Director.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Prerule Stage

3377. PROCEDURES AND UNIFORM STANDARDS FOR PUBLIC USE OF PARKS AND PLAZAS

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 912

Legal Deadline: None

Abstract: The Pennsylvania Avenue Development Corporation (PADC) has received an increasing number of requests for public use of parks and plazas within the Pennsylvania Avenue Development Area. The proposed regulations would ensure equality of opportunity for use of PADC parks and plazas while protecting public property, safety, and tranquility.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Madeleine B. Schaller, Deputy General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, NW, Washington, DC 20004, 202 724-9068

RIN: 3208–AA01

3378. DEVELOPMENT POLICIES AND PROCEDURES

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 911, (New)

Legal Deadline: None

Abstract: The Corporation is studying ways to apply past experience to update its Development Policies and Procedures.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Madeleine B. Schaller, Deputy General Counsel, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW, Suite 1220 North, Washington, DC 20004, 202 724-9068

RIN: 3208–AA06

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Final Rule Stage

3379. ● UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Significance: Agency Priority

Legal Authority: 42 USC 4601

CFR Citation: 36 CFR 904

Legal Deadline: Final, Statutory, April 2, 1989.

Abstract: This final rule provides for the implementation of the Uniform Relocation Act Amendments of 1987. The Pennsylvania Avenue Development Corporation is able to comply with the provisions of the 1987 Amendments and the provisions of the final rule on this subject (FHWA Docket No. 87-22, distributed to agencies dated December 27, 1988 for review & comment; see NPRM 53 FR 27589, July 21, 1988).

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/17/87	52 FR 48021
NPRM	07/21/88	53 FR 27598
NPRM Comment Period End	09/19/88	
Final Action	04/02/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Reginald Robinson, Director, Business Relations, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW, Suite 1220N, Washington, DC 20004, 202 724-9068

RIN: 3208–AA09

[FR Doc. 89-7106 Filed 04-21-89; 8:45 am]

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Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

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PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Agenda of regulations.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or that PBGC expects to have under development during the next twelve months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESS: Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact J. Ronald Goldstein, Attorney, Office of the General Counsel, 202-778-8850. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's Order on Federal Regulation, Executive Order 12291, 46 FR 13193, each agency is required to publish in April and October an agenda of regulations currently or soon to be under development. The Executive Order requires that the agenda also include those currently effective regulations that are being reviewed by the agency pursuant to the Executive Order. The Regulatory Flexibility Act, Pub. L. 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines (OMB Bulletin No. 89-02) prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next twelve months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

3380. TRANSFERS FROM MULTIEMPLOYER PLANS TO SINGLE-EMPLOYER PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1412; 29 USC 1414

CFR Citation: 29 CFR 2678

Legal Deadline: None

Abstract: Sections 4232 and 4234 of ERISA prescribe rules governing the transfer of liabilities and assets from a multiemployer plan to a single-employer plan and prohibit certain transfers unless approved by PBGC. The regulation will establish procedures for requesting and criteria for PBGC approval of transfers which require approval and guidelines for satisfying the statutory requirements pertaining to other transfers. The regulation will also establish standards for the PBGC's waiver of a multiemployer plan's contingent liability arising from the transfer of unfunded vested benefits to a single-employer plan.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Publication of this proposed regulation was delayed because of the need to revise the portions dealing with waiver of a multiemployer plan's contingent liability to reflect certain changes in related statutory provisions made by the Single-Employer Pension Plan Amendments Act of 1986. Work on this rule was subsequently deferred because the enactment of SEPPAA and the 1987 Pension Protection Act amendments required that staff be reassigned to work on higher priority regulations necessitated by those laws.

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA20

3381. PLAN RULES FOR REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1387(b)

CFR Citation: 29 CFR 2647 (Amendment)

Legal Deadline: None

Abstract: Under section 4207(a) of ERISA, the PBGC has issued a regulation [29 CFR Part 2647] providing for the reduction or waiver of an employer's liability for complete withdrawal upon the employer's resumption of participation under the plan from which it withdrew. The statute also requires the PBGC to prescribe procedures and standards under which multiemployer plans may adopt their own rules abating complete withdrawal liability upon an employer's return to the plan (section 4207(b)).

The purpose of letting plans adopt their own abatement rules is obvious: a specific rule adopted by a plan may well work better under the facts and circumstances of that particular plan than the broad rules adopted by the PBGC. This regulation will permit a plan to fashion the rules it needs to encourage the return of withdrawn employers, while at the same time protecting the plan from the loss of withdrawal liability payments without a compensating resumption of contributions to the plan by a formerly withdrawn employer. The PBGC is unable to (cont)

PBGC — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: quantify the benefits and costs of this regulation because it cannot predict how many plans will exercise the authority conferred by this regulation.

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA38

3382. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: 29 CFR 2624

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. This regulation will contain rules and policies relating to the payment of such benefits. The regulation will enable the PBGC to process and administer PBGC-trusteed plans more efficiently with resultant cost savings. It also will reduce costs to the public and the PBGC by providing payment rules, thereby reducing the number of requests for administrative review.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
NPRM Comment Period End	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mrs. Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA35

3383. EMPLOYER LIABILITY FOR WITHDRAWALS FROM AND TERMINATIONS OF SINGLE-EMPLOYER PLANS: INTEREST RATE

Legal Authority: 29 USC 1302(b); 29 USC 1362 to 1364; 29 USC 1367 to 1368

CFR Citation: 29 CFR 2622

Legal Deadline: None

Abstract: The PBGC's employer liability regulation incorporates by reference the interest rate charged under section 6601 of the Internal Revenue Code as the interest rate charged, or credited, on late payments, or overpayments, of employer liability. The Tax Reform Act of 1986 significantly changed the way in which the section 6601 rate is established and creates two interest rates: one for underpayments and another, lower rate for overpayments. Because of these changes, the PBGC plans to conduct a new rulemaking proceeding to determine whether it should continue to use the section 6601 interest rates under the employer liability regulation or whether it should adopt a new rate(s) for this purpose.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Therese Cleary, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8823

RIN: 1212-AA48

3384. PAYMENTS BY PBGC OF UNFUNDED NONGUARANTEED BENEFITS

Significance: Regulatory Program

Legal Authority: PL 100-203, Sec 9312(b)(3)

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None

Abstract: The Pension Protection Act repealed ERISA section 4049 and 4062(c). Those provisions established new employer liability to plan participants and beneficiaries in the event of a distress termination or involuntary termination by the PBGC of a plan without sufficient assets to pay all benefit commitments; the section 4049 trust was the vehicle for collecting and distributing these liability amounts. This system proved flawed in several respects, however, and Congress therefore created a new scheme by which to channel employer liability recoveries to plan participants and beneficiaries, amended ERISA section 4022(c).

Under section 4022(c), participants no longer have a direct claim for employer liability. Instead, the PBGC's claim covers both its shortfall (unfunded guaranteed benefits) and participants' losses (unfunded benefit liabilities in excess of guaranteed benefits). In turn, the PBGC is to pay a portion of its employer liability recovery to participants and beneficiaries. The amount to be paid is based on the PBGC "recovery ratio" (as defined in amended sec. 4022(c)(3)).(cont)

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
NPRM Comment Period End	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This new statutory rule contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures necessary to make this system work. The regulation will, for example, contain rules on how the PBGC will value its employer liability recoveries for purposes of computing the recovery ratio, whether the allocation of amounts payable under this provision will be done as part of the regular section 4044 asset allocation, and whether the PBGC will pay these benefits by increasing the amount of annuity payments it is making to participants or making lump sum payments.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA54

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PBGC — **Proposed Rule Stage**

3385. RETIREMENT EQUITY ACT AMENDMENTS - VALUATION OF PLAN BENEFITS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341

CFR Citation: 29 CFR 2619

Legal Deadline: None

Abstract: The Retirement Equity Act of 1984 ("REA") requires plans to provide certain benefits, prohibits the elimination of benefit options and certain early retirement benefits and retirement- type subsidies, and mandates the range of interest rates that may be used in calculating the amount of a non-consensual lump sum benefit. The Tax Reform Act of 1986 ("TRA '86") slightly modified the interest rate restrictions and extended them to the calculation of all lump sum benefits.

These rules necessitate several amendments to the PBGC's valuation of benefits regulation (29 CFR Part 2619). The major changes will address the rules on determining the form of benefit to be valued on plan termination and the interest rate rules for lump sum payments in standard terminations.

The PBGC had planned to issue the amendments to the valuation of benefits regulation concurrently with the two revised termination regulations. However, work on these amendments has been delayed pending PBGC's efforts with the Internal Revenue Service to develop a definition of the term "benefit liabilities", which was introduced by the Pension (cont.)

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
Interim Final Rule	02/00/90	
NPRM Comment Period End	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: (Cont'd Abstract) Protection Act. So as not to delay further the issuance of the termination regulations, the PBGC has dropped its plans to issue all of these rules simultaneously.

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8824

RIN: 1212-AA55

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — **Final Rule Stage**

3386. RULES UNDER SECTIONS 4041A AND 4281 FOR PLANS TERMINATED BY MASS WITHDRAWAL

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1341A ERISA; 29 USC 1441 ERISA

CFR Citation: 29 CFR 2675

Legal Deadline: None

Abstract: Section 4041A of ERISA provides rules with respect to the termination of multiemployer plans and the payment of benefits under those plans. Under section 4041A(f)(2), PBGC is authorized to prescribe rules for the administration of those plans that are appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the insurance system. Under section 4281(b), the plan sponsor of a plan that has terminated by mass withdrawal is required annually to determine the value of the plan's nonforfeitable benefits and assets. If the value of the benefits exceeds the value of the assets, the sponsor must amend the plan to eliminate benefits not eligible for PBGC's guarantee under section 4022A(b), to the extent necessary to insure that the plan assets are sufficient to pay all nonforfeitable benefits. This determination of sufficiency is to be made in accordance with rules prescribed by PBGC. This regulation would establish the rules for administering plans that have terminated by mass withdrawal, including the rules for determining sufficiency in the circumstances described above. The primary purpose (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/07/86	51 FR 24536
NPRM Comment Period End	09/05/86	
Final Action	04/00/89	
Final Action Effective	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: and benefit of this regulation will be to establish rules that encourage the efficient administration of these plans. By thus helping to preserve plan assets, these rules will, in the first instance, benefit plan participants and beneficiaries and secondarily, the multiemployer insurance system and premium payers. PBGC lacks adequate data to be able to quantify these benefits.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA19

3387. REDUCTION OR WAIVER OF PARTIAL WITHDRAWAL LIABILITY

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1388(e)(3)

CFR Citation: 29 CFR 2646

Legal Deadline: None

Abstract: Section 4208 of ERISA provides for the reduction or elimination under certain circumstances of an employer's partial withdrawal liability arising from a 70 percent reduction in contribution base units. That section also authorizes the PBGC to prescribe rules for the reduction or elimination of partial withdrawal liability under other conditions. The regulation will provide for the abatement of partial withdrawal liability arising from the cessation of the obligation to contribute under a collective bargaining agreement or with respect to a facility. Section 4208 also requires the PBGC to issue a regulation under which a multiemployer plan may adopt rules for the reduction or elimination of partial withdrawal liability. This regulation will allow plans to ease the statutory partial withdrawal liability rules where, for example, the rules are harmful to the plan because they discourage an employer from increasing its participation under the plan, or where the statutory rules create administrative burdens which outweigh the protections afforded by the rules.

Timetable:

Action	Date	FR Cite
NPRM	06/05/87	52 FR 21319
NPRM Comment Period End	08/04/87	
Final Action	09/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Debra Bisco, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8824

RIN: 1212-AA22

3388. ADJUSTMENT OF WITHDRAWAL LIABILITY FOR A WITHDRAWAL SUBSEQUENT TO A PARTIAL WITHDRAWAL

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1386(b)

CFR Citation: 29 CFR 2649

Legal Deadline: None

Abstract: Under section 4206(b) of ERISA, if an employer partially or completely withdraws from a multiemployer plan subsequent to an earlier partial withdrawal from that plan, the employer's liability for the second withdrawal must be reduced by the amount of its liability for the earlier partial withdrawal. The purpose of this credit is to avoid plans double-charging employers for the same unfunded liabilities. Section 4206(b) also requires the PBGC to prescribe regulations adjusting this credit to ensure that the employer's liability for its second withdrawal properly reflects the employer's share of liability with respect to the plan.

PBGC — **Final Rule Stage**

The need for this adjustment to the credit can be seen from the following example. In a plan that uses the rolling-5 allocation method, an employer's withdrawal liability is based on its last five years' participation in the plan. If an employer's second withdrawal occurs more than five years after its partial withdrawal, the liability for the second withdrawal is based solely on plan participation subsequent to the partial (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/06/87	52 FR 37329
NPRM Comment Period End	12/07/87	
Final Action	09/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: withdrawal. Thus, there is no double-charging with respect to the old liabilities and no reason to give the employer a credit against its liability for the second withdrawal. However, without this regulation, the employer would get that credit under the statute. There are many other possible situations in which the employer's credit should similarly be reduced in order to ensure equitable treatment of the withdrawing employer vis-a-vis the other employers still contributing to the plan.

This regulation will result in some shifting of liabilities among employers contributing to a multiemployer plan. An employer that has another withdrawal following a partial withdrawal may incur greater liability for the second withdrawal because of the reduction in the credit for the prior partial withdrawal. However, this increase in liability would reduce the unfunded vested benefits allocable to other employers that withdraw thereafter. In the aggregate, the regulation will impose no new costs.

Agency Contact: Ms. Debra Bisco, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8824

RIN: 1212-AA37

3389. DETERMINATION OF WITHDRAWAL LIABILITY FOLLOWING A MERGER

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1391(f)

CFR Citation: 29 CFR 2642 (Amendment)

Legal Deadline: None

Abstract: The merger of two multiemployer plans creates a problem as to how the successor plan's unfunded vested benefits are to be allocated in order to determine withdrawal liability for post-merger withdrawals. Frequently, the two plans will have been using different allocation methods prior to the merger. Even if they were using the same method, if they had different plan years, that would create different allocations.

For this reason, section 4211(f) of ERISA requires the PBGC to issue regulations prescribing rules for the post-merger allocation of unfunded vested benefits. The PBGC proposes to establish rules that parallel the statutory allocation methods: i.e., there would be a presumptive allocation method that would apply to plans unless they chose otherwise, and plans would be permitted to adopt certain modifications to this presumptive method without the PBGC's approval and other more significant modifications with the PBGC's approval. (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/09/87	52 FR 43082
NPRM Comment Period End	01/08/88	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: This regulation will remove a significant impediment to multiemployer plan mergers by eliminating employers' concern and confusion over how their withdrawal liability would be calculated after a merger. Plan mergers are generally to be encouraged since a larger plan is typically a stronger plan because of its broader contribution base, and because portability of

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benefits is increased. This regulation will impose no new costs.

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA39

3390. PAYMENT OF PREMIUMS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307; PL 100-203, Sec 9331

CFR Citation: 29 CFR 2610

Legal Deadline: None

Abstract: The Pension Protection Act substantially altered the rules pertaining to single-employer plan premiums that are paid to the PBGC. Under the Act, there is a flat per capita charge (increased from that under prior law) plus a new variable rate charge tied to the value of a plan's unfunded vested benefits. The new premium rules are effective for plan years beginning after December 31, 1987.

On June 30, 1988, the PBGC issued an interim regulation implementing these rules. Because of the need to issue the regulation quickly to provide guidance for 1988 premium payments, the PBGC did not solicit public comment before issuing the regulation. For the same reason, the interim regulation did not address certain relevant, but secondary, issues pertaining to the new rules. Therefore, on October 5, 1988, the PBGC issued a notice of proposed rulemaking in order to permit public comment on the interim regulation. The NPRM also addressed problems or questions raised by the public in response to the interim regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/30/88	53 FR 24906
NPRM	10/05/88	53 FR 39200
NPRM Comment Period End	12/05/88	
Final Action	06/00/89	
Final Action Effective	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The PBGC expects to issue the final regulation in June 1989, effective for 1989 premium payment. As set forth in the proposed regulation, the final regulation will contain some new provisions further simplifying the rules for determining a plan's unfunded vested benefits and excluding more plans from having to calculate unfunded vested benefits.

Agency Contact: Mr. Harold Ashner, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, D.C. 20006, 202 778-8823

RIN: 1212-AA53

3391. DISTRESS TERMINATIONS OF SINGLE-EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: PL 99-272, Sec 11007; PL 99-272, Sec 11009; PL 100-203, Sec 9312(c) to 9312(d); PL 100-203, Sec 9313(b) to 9313(c); PL 100-203, Sec 9314(a)

CFR Citation: 29 CFR 2616

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 substantially revised ERISA section 4041 dealing with the voluntary termination of single-employer pension plans. Under amended section 4041, a plan may voluntarily terminate only if the termination satisfies the statutory conditions for a standard or distress termination. These rules were further modified by the 1987 Pension Protection Act, which increased the benefits that must be provided, or for which the employer maintaining the plan is liable, upon plan termination. Thus, under current law, unless a plan has sufficient assets to satisfy all plan benefit liabilities, it may voluntarily terminate only in a "distress" termination; i.e., a termination in which the plan sponsor and all members of its controlled group are able to demonstrate either such financial hardship or unduly burdensome pension costs that, as a practical matter, they are unable to continue to maintain the plan. CONT.

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33318
NPRM Comment Period End	11/02/87	
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT:

The statutory rules and procedures for distress terminations are substantially different from the prior rules and procedures for terminating insufficient plans. Therefore, it is necessary to revise the PBGC's plan termination regulations to reflect these new rules and procedures. This regulation covering distress terminations and a companion rule covering standard terminations (to be codified in Part 2617) will replace the PBGC's principal termination regulations on notices of intent to terminate and termination of sufficient plans (existing Parts 2616 and 2617).

Although the notice of proposed rulemaking for this regulation was issued prior to enactment of the Pension Protection Act, the final rule will reflect the relevant statutory changes from that Act.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA41

3392. STANDARD TERMINATIONS OF SINGLE-EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: PL 99-272, Sec 11007; PL 99-272, Sec 11008; PL 100-203, Sec 9311; PL 100-203, Sec 9313(a); PL 100-203, Sec 9313(c); PL 100-203, Sec 9314(a)

CFR Citation: 29 CFR 2617

Legal Deadline: None

Abstract: Under ERISA Section 4041, as amended by the Single-Employer Pension Plan Amendments Act of 1986 and the Pension Protection Act, absent a showing of financial hardship or unduly burdensome pension costs that would satisfy the requirements for a distress termination, a single-employer plan may be voluntarily terminated only if it is sufficient for all benefit liabilities (i.e., all benefits provided under the plan on the termination date, whether or not vested). This is referred to as a "standard" termination. SEPPAA also modified many of the termination rules and procedures that

applied under prior law, both to increase the protections afforded plan participants and beneficiaries and to simplify and expedite the PBGC's processing of these sufficient plan terminations. It is, therefore, necessary to promulgate this new regulation implementing the new rules and procedures for standard terminations. This regulation and its companion regulation covering distress terminations (to be codified in Part 2616) will replace the PBGC's principal termination regulations on notices of intent to terminate and termination of sufficient plans (existing Parts 2616 and 2617). (CONT)

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33318
NPRM Comment Period End	11/02/87	
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Although the notice of proposed rulemaking for this regulation was issued prior to enactment of the Pension Protection Act, the final rule will reflect the relevant statutory changes from that Act.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA47

3393. MISCELLANEOUS SEPPAA/PPA AMENDMENTS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b); 29 USC 1322; 29 USC 1343; 29 USC 1344; 29 USC 1362 to 1364; 29 USC 1367 to 1368; PL 99-272, Sec 11008 to 11011; PL 99-272, Sec 11016; PL 100-203, Sec 9311 to 9314; PL 100-203, Sec 9331

CFR Citation: 29 CFR 2606; 29 CFR 2615; 29 CFR 2622; 29 CFR 2623

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") and the Pension Protection Act ("PPA") made several changes in Title IV rules and procedures that affect and, in some cases, override portions of several PBGC regulations. For this reason, these regulations - administrative review of agency decisions, benefit reductions in terminated plans, reportable events and employer liability - must be amended to conform them to the current law. For example, because SEPPAA altered the determinations that the PBGC may make with respect to voluntary plan terminations, the list in 29 CFR 2606.1(b) of determinations subject to agency review must be amended.

Similarly, SEPPAA contained, for distress terminations, specific benefit cutback rules. These rules differ somewhat from those set forth in 29 CFR Part 2623 and, therefore, conforming amendments to Part 2623 are required. SEPPAA and the PPA significantly changed the rules on employer liability to the PBGC in distress and involuntary terminations. Now, an employer is liable to the PBGC for the total plan underfunding. (CONT)

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: i.e., for all unfunded benefit liabilities. Further, the 30 percent of net worth limitation is now relevant only in determining the amount subject to PBGC's statutory lien and the status of PBGC's claim in bankruptcy. The employer liability regulation needs to be amended to reflect these changes.

Agency Contact: Mr. Stephen Schreiber, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8824

RIN: 1212-AA50

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Completed Actions

3394. ALLOCATING UNFUNDED VESTED BENEFITS: FULLY FUNDED PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(c)

CFR Citation: 29 CFR 2642

Legal Deadline: None

Abstract: The PBGC is canceling this project in order to devote staff resources to more important regulatory projects and in recognition of the fact that there has been little expression of public interest in this project.

Timetable:

Action	Date	FR Cite
Withdrawn Low agency priority and little public interest.	01/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA51

[FR Doc. 89-5855 Filed 04-21-89; 8:45 am]

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Part XL

Railroad Retirement Board

Semiannual Regulatory Agenda

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RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Agenda of regulations under development or review.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next twelve months, and regulations that are scheduled to be reviewed in that period.

ADDRESS: 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, (312) 751-4935 (FTS 386-4935).

SUPPLEMENTARY INFORMATION: Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda.

Dated: February 24, 1989.
By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3395	Part 220 Determining Disability	3220-AA01
3396	Eligibility for an Annuity	3220-AA15
3397	Recovery of Overpayments	3220-AA44
3398	Sickness Benefits	3220-AA45
3399	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act	3220-AA51
3400	General Administration	3220-AA56
3401	Family Relationships	3220-AA57
3402	Computing Employee, Spouse, and Divorced Spouse Annuities	3220-AA58
3403	Survivor Annuity Computations	3220-AA59
3404	Social Security Overall Minimum	3220-AA60
3405	Reduction and Non-Payment of Annuities by Reason of Work	3220-AA61
3406	Medicare	3220-AA64
3407	Available for Work	3220-AA65
3408	Exhaustion of Rights to Benefits	3220-AA67
3409	Remuneration	3220-AA68
3410	Railroad Employers' Reports and Responsibilities; Lump-Sum Payments	3220-AA69
3411	Military Service	3220-AA70
3412	Qualified Employee	3220-AA71
3413	Monthly Compensation Base	3220-AA72
3414	Initial Determinations Under the Railroad Unemployment Insurance Act and Reviews of and Appeals from Such Determinations	3220-AA73
3415	Registration and Claims for Benefits	3220-AA74
3416	Voluntary Quit	3220-AA75
3417	Mileage or Work Restrictions and Stand-By or Lay-Over Rules	3220-AA76
3418	Recovery of Benefits	3220-AA77
3419	Employers' Contributions and Contribution Reports	3220-AA79
3420	Determination of Daily Benefit Rates	3220-AA82

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3421	Annuity Beginning and Ending Dates	3220-AA13
3422	Evidence Required for Payment	3220-AA14
3423	Application for Annuity or Lump Sum	3220-AA16
3424	Employees Under the Railroad Retirement Act	3220-AA52
3425	Contributions Under Special Transition Rule for Public Commuter Railroads	3220-AA78

RRB

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3426	Primary Insurance Amount Determinations	3220-AA02
3427	Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Railroad Retirement Board	3220-AA22
3428	Recovery of Debts Owed to the United States Government by Employees	3220-AA49
3429	Employment Relation	3220-AA53
3430	Employee Representative	3220-AA55
3431	Payment of Social Security Benefits	3220-AA62
3432	Reduction in Unemployment and Sickness Benefits; Rate of Railroad Unemployment	3220-AA80
3433	Collection of Debts by Federal Tax Refund Offset	3220-AA81

RAILROAD RETIREMENT BOARD (RRB) — Proposed Rule Stage

3395. PART 220 DETERMINING DISABILITY

Significance: Regulatory Program

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 220

Legal Deadline: None

Abstract: The Board's regulations with respect to disability determinations have not been updated for several years and they are, in certain respects, obsolete. When revised, this regulation should ease the administration of disability benefits and result in greater consistency in disability determinations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Agency Contact: Grace Koester, Regulations Project Director, Bureau of Hearings and Appeals, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4793

RIN: 3220–AA01

3396. ELIGIBILITY FOR AN ANNUITY

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 216

Legal Deadline: None

Abstract: Part 216 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA15

3397. RECOVERY OF OVERPAYMENTS

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 255

Legal Deadline: None

Abstract: Part 255 is being revised to clarify when and how erroneous payments under the Railroad Retirement Act must be recovered. (Previously titled Erroneous Payments.)

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA44

3398. SICKNESS BENEFITS

Legal Authority: 45 USC 362; 45 USC 355

CFR Citation: 20 CFR 335

Legal Deadline: None

Abstract: Part 335 will be amended to delete obsolete provisions and to simplify and clarify the language of that part.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Witkovich, Regulations and Legal Specialist, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4750

RIN: 3220–AA45

3399. EMPLOYERS UNDER THE RAILROAD RETIREMENT ACT; EMPLOYERS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 202; 20 CFR 301

Legal Deadline: None

Abstract: The Board's regulations with respect to employer status have not

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been updated in recent years and may, in some respects, be obsolete. Parts 202 and 301 will be amended to conform them to current law, delete obsolete provisions, and to simplify and clarify the language of these parts.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA51

3400. GENERAL ADMINISTRATION

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 200; 20 CFR 262

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to amend 20 CFR Part [illegible] of Part 262 into [illegible] appropriately under General [illegible]tration.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA56

3401. FAMILY RELATIONSHIPS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 222

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to add 20 CFR Part 222 to define any family relationship requirements needed to establish eligibility and entitlement for any monthly annuity or lump-sum payment under the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA57

3402. COMPUTING EMPLOYEE, SPOUSE, AND DIVORCED SPOUSE ANNUITIES

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 228

Legal Deadline: None

Abstract: The Railroad Retirement Board's regulations on the computation of employee, spouse, and divorced spouse annuities must be updated to conform to the Railroad Retirement Act of 1974 and to amendments to the Act made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA58

3403. SURVIVOR ANNUITY COMPUTATIONS

Legal Authority: 45 USC 231f(f)(5)

CFR Citation: 20 CFR 228

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to add 20 CFR Part 228 to describe how survivor annuities are computed in accordance with the Railroad Retirement Act of 1974, and amendments to that Act made in 1981 and 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA59

3404. SOCIAL SECURITY OVERALL MINIMUM

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 229

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to add 20 CFR Part 229 to describe when the social security overall minimum annuity computation applies and how it is computed for retirement annuities under the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA60

3405. REDUCTION AND NON-PAYMENT OF ANNUITIES BY REASON OF WORK

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to amend 20 CFR Part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA61

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3406. MEDICARE

Legal Authority: 45 USC 231f(d)

CFR Citation: 20 CFR 238

Legal Deadline: None

Abstract: The Board proposes to add this part to explain its role in the administration of medicare benefits to qualified railroad retirement beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4513

RIN: 3220–AA64

3407. AVAILABLE FOR WORK

Legal Authority: 45 USC 362(b)

CFR Citation: 20 CFR 327

Legal Deadline: None

Abstract: This proposed rule will amplify the meaning of "available for work" under the Railroad Unemployment Insurance Act in light of recent legal opinions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4513

RIN: 3220–AA65

3408. EXHAUSTION OF RIGHTS TO BENEFITS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 336

Legal Deadline: None

Abstract: This proposed amendment will remove obsolete provisions and clarify the meaning of the term extended benefit period as provided for in section 2(c) of the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4513

RIN: 3220–AA67

3409. REMUNERATION

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 322

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend Part 322 of its regulations under the Railroad Unemployment Insurance Act to remove obsolete language and to clarify the meaning of remuneration in light of recent legal opinions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4513

RIN: 3220–AA68

3410. ● RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES; LUMP-SUM PAYMENTS

Legal Authority: 45 USC 231(f)

CFR Citation: 20 CFR 209; 20 CFR 239

Legal Deadline: None

Abstract: Provides for payment of a new lump-sum benefit as authorized by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA69

3411. ● MILITARY SERVICE

Legal Authority: 45 USC 231(f)

CFR Citation: 20 CFR 212

Legal Deadline: None

Abstract: Adds additional period for which military service is creditable under the Railroad Retirement Act as provided for by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA70

3412. ● QUALIFIED EMPLOYEE

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 317

Legal Deadline: None

Abstract: This new Part explains how an individual qualifies for benefits, under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA71

3413. ● MONTHLY COMPENSATION BASE

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 318

Legal Deadline: None

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RRB — Proposed Rule Stage

Abstract: This new Part will explain how the monthly compensation base is computed under the Railroad Unemployment Insurance Act and its effect on benefits under that statute.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA72

3414. ● INITIAL DETERMINATIONS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND REVIEWS OF AND APPEALS FROM SUCH DETERMINATIONS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 320

Legal Deadline: None

Abstract: Part 320 is being revised to provide for employer intervention rights provided for by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA73

3415. ● REGISTRATION AND CLAIMS FOR BENEFITS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 325

Legal Deadline: None

Abstract: Part 325 is being revised to provide for mail-in registration for unemployment benefits and to make certain other changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA74

3416. ● VOLUNTARY QUIT

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new Part 328 is being added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA75

3417. ● MILEAGE OR WORK RESTRICTIONS AND STAND-BY OR LAY-OVER RULES

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 332

Legal Deadline: None

Abstract: Part 332 is being revised to provide that an employee in interdivisional service will be considered to have a regular assignment and thus not eligible for unemployment insurance benefits on days when the employee is standing by or laying over between assignments.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA76

3418. ● RECOVERY OF BENEFITS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 340

Legal Deadline: None

Abstract: Part 340 is being revised to further define when waiver of an overpayment will be required under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA77

3419. ● EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 345

Legal Deadline: None

Abstract: Part 345 is being revised to reflect experience rating as provided for in the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, P.L. 100-647.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA79

RRB — Proposed Rule Stage

3420. ● DETERMINATION OF DAILY BENEFIT RATES

Legal Authority: 45 USC 362(i); 45 USC 362(l)

CFR Citation: 20 CFR 330

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend Part 330 of its regulations under the Railroad Unemployment Insurance Act. Part 330 sets forth the Board's procedures for computing (1) an employee's daily benefit rate for a given benefit year, and (2) the maximum daily benefit rate authorized by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Walter P. Witkovich, Regulations and Legal Specialist, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4750

RIN: 3220–AA82

RAILROAD RETIREMENT BOARD (RRB) — Final Rule Stage

3421. ANNUITY BEGINNING AND ENDING DATES

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 218

Legal Deadline: None

Abstract: Part 218 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44477
NPRM Comment Period End	02/06/89	53 FR 44477
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA13

3422. EVIDENCE REQUIRED FOR PAYMENT

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 219

Legal Deadline: None

Abstract: Part 219 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	02/16/89	54 FR 7045
NPRM Comment Period End	03/20/89	54 FR 7045
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA14

3423. APPLICATION FOR ANNUITY OR LUMP SUM

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 217

Legal Deadline: None

Abstract: Part 217 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 40901
NPRM Comment Period End	11/18/88	53 FR 40901
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA16

3424. EMPLOYEES UNDER THE RAILROAD RETIREMENT ACT

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None

Abstract: The Board's regulations with respect to employee status have not been updated in recent years and may, in some respects, be obsolete. Part 203 will be amended to conform it to current law, delete obsolete provisions, and to simplify and clarify the language of this part.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 318
NPRM Comment Period End	02/06/89	54 FR 318
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 40 Railroad Transportation

Additional Information: The Comment Period shown in 54 FR 318 has been extended 30 days (to 03/08/89) for those who made formal requests for such extension.

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law,

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RRB — Final Rule Stage

Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA52

3425. ● CONTRIBUTIONS UNDER SPECIAL TRANSITION RULE FOR PUBLIC COMMUTER RAILROADS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 344

Legal Deadline: None

Abstract: Temporary rule providing for assessment of contributions under the Railroad Unemployment Insurance Act under a special transition rule for public commuter railroads as provided for in the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA78

RAILROAD RETIREMENT BOARD (RRB) — Completed Actions

3426. PRIMARY INSURANCE AMOUNT DETERMINATIONS

CFR Citation: 20 CFR 225

Completed:

Reason	Date	FR Cite
Final Action	03/29/89	54 FR 12901
Final Action Effective	03/29/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA02

3427. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE RAILROAD RETIREMENT BOARD

CFR Citation: 20 CFR 365; 28 CFR 41; 28 CFR 41.3(f); 28 CFR 41.5(b)(2); 28 CFR 41.31; 28 CFR 41.32; 28 CFR 41.51; 28 CFR 41.56 to 41.58; 29 CFR 1613; 41 CFR 101-19.600 to 101-19.607

Completed:

Reason	Date	FR Cite
Final Action	10/27/88	53 FR 43429
Final Action Effective	12/27/88	53 FR 43429

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael C. Litt 312 751-4929

RIN: 3220-AA22

3428. RECOVERY OF DEBTS OWED TO THE UNITED STATES GOVERNMENT BY EMPLOYEES

CFR Citation: 20 CFR 361

Completed:

Reason	Date	FR Cite
Final Action	11/09/88	53 FR 45261
Final Action Effective	11/09/88	53 FR 45261

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA49

3429. EMPLOYMENT RELATION

CFR Citation: 20 CFR 204

Completed:

Reason	Date	FR Cite
Final Action	02/02/89	54 FR 5223
Final Action Effective	02/02/89	54 FR 5223

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA53

3430. EMPLOYEE REPRESENTATIVE

CFR Citation: 20 CFR 205

Completed:

Reason	Date	FR Cite
Final Action	10/06/88	53 FR 39255
Final Action Effective	10/06/88	53 FR 39255

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA55

3431. PAYMENT OF SOCIAL SECURITY BENEFITS

CFR Citation: 20 CFR 235

Completed:

Reason	Date	FR Cite
Final Action	02/02/89	54 FR 5525
Final Action Effective	02/02/89	54 FR 5525

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA62

3432. ● REDUCTION IN UNEMPLOYMENT AND SICKNESS BENEFITS; RATE OF RAILROAD UNEMPLOYMENT

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 302; 20 CFR 337

Legal Deadline: None

Abstract: The Railroad Retirement Board is removing Part 302, Reduction in Unemployment and Sickness Benefits, and Part 337, Rate of Railroad Unemployment, because these parts are now obsolete.

Timetable:

Action	Date	FR Cite
Final Action	02/02/89	54 FR 5226
Final Action Effective	02/02/89	54 FR 5226

RRB — Completed Actions

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA80

3433. ● COLLECTION OF DEBTS BY FEDERAL TAX REFUND OFFSET

Legal Authority: 45 USC 231f(b)(5); 31 USC 3720A

CFR Citation: 20 CFR 366

Legal Deadline: None

Abstract: The Railroad Retirement Board amended its regulations by adding Part 366 to establish a procedure whereby delinquent debts owed to the Agency will be referred to the IRS for collection by offset against Federal income tax refunds. Title 31 USC 3720A authorizes agencies to notify the IRS of a past-due, legally enforceable debt, for the purpose of offsetting the debtor's tax refund. This regulation applies to tax refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1988, and on or before January 10, 1994. This regulation had to become effective on the date of publication in the FR in order for the Board to participate in the Calendar Year 1989 Federal Tax Refund Offset Program.

Timetable:

Action	Date	FR Cite
Final Action	01/06/89	54 FR 397
Final Action Effective	01/06/89	54 FR 397

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael C. Litt, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4929

RIN: 3220-AA81

[FR Doc. 89-5856 Filed 04-21-89; 8:45 am]
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Part XLI

Selective Service System

Semiannual Regulatory Agenda

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SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*). This information will allow the public to participate in the System's decision-making at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, DC 20435, telephone (202) 724-1167.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12291. Selective Service Regulations appear in 32 CFR Chapter XVI.

Dated: March 10, 1989.

Samuel K. Lessey Jr.,

Director of Selective Service.

SELECTIVE SERVICE SYSTEM (SSS) — Prerule Stage

3434. SELECTIVE SERVICE REGULATIONS

Legal Authority: 50 USC App. 451 et seq Military Selective Service Act

CFR Citation: 32 CFR Chapter XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR Chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1023 31st Street, NW, Washington, DC 20435, 202 724-1167

RIN: 3240–AA01

[FR Doc. 89-7107 Filed 04-21-89; 8:45 am]

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federal register

Monday
April 24, 1989

Part XLII

Small Business Administration

Semiannual Regulatory Agenda

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SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the semiannual agenda of regulations under review or development by the Small Business Administration.

SUMMARY: This is SBA's 20th semiannual agenda of regulations. Although not a regulatory Agency, SBA has attempted to draft agendas that meet both the criteria and the spirit of the regulatory review process. This agenda is published pursuant to Executive Order 12291 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, Pub. L. 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual Agency official listed for the particular item.

For information concerning SBA overall Regulatory Review and Development Program or for general semiannual agenda questions, contact Martin D. Teckler, Deputy General Counsel, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, 202/653-6644.

SUPPLEMENTARY INFORMATION: The SBA agenda will contain many regulations which are limited in public impact, but they are included to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on SBA's previous agendas have been general, and all were positive. None were directed at specific contents, nor were any changes suggested or recommended.

The agenda format has four parts. Part I, Pre-Rulemakings, includes investigations and reviews to be conducted prior to deciding whether or not to propose a rule or rule change. Part II, Proposed Rules, includes rulemaking which will be proposed during the six-month period covered by the agenda. Part III, Final Rules, includes proposed rules which will be finalized during the period covered by the agenda. Part IV, Completed Actions, includes regulations completed or withdrawn, and reviews completed since the preceding agenda.

Publication of this agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Additional regulatory action not listed on the agenda is not precluded.

Dated: February 24, 1989.

James Abdnor,

Administrator.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3435	Size Standards: Timber Industry	3245-AB34
3436	Business Loans	3245-AB81
3437	Business Loan Policy	3245-AB84
3438	Business Loan Policy	3245-AB85

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3439	Small Business Investment Company Regulations: Compliance Audits	3245-AB07
3440	Small Business Investment Companies	3245-AB29
3441	Small Business Institutes - Counseling Fees	3245-AB32
3442	Loans to State and Local Development Companies	3245-AB35
3443	Nondiscrimination in Federally-Assisted Programs	3245-AB36
3444	Nondiscrimination in Financial Assistance Programs	3245-AB37
3445	User Fees for SBA Programs	3245-AB44
3446	Procurement: Subcontracting Limitations	3245-AB62
3447	Accrual of Interest Payable by SBA in Secondary Market	3245-AB69
3448	Minority Small Business and Capital Ownership Development	3245-AB76
3449	Business Loan Policy	3245-AB86
3450	Small Business Size Regulation	3245-AB88

SBA

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
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3452	Size Standards, Export Trading Companies	3245-AA83
3453	Regulations Applying Small Business Size Standards	3245-AA84
3454	Small Business Investment Companies	3245-AB12
3455	Small Business Development Centers	3245-AB17
3456	Small Business Size Standards: Residual Size Standards	3245-AB57
3457	Small Business Size Standards: Nonmanufacturers	3245-AB58
3458	Uniform Administrative Requirements for Grants and Cooperative Agreements; Proposed Revision of Circular A-110	3245-AB67
3459	Business Loans, Fees	3245-AB71
3460	Small Business Size Standards: Size Standard for Commodity Contracts Brokers and Dealers	3245-AB72
3461	Surety Bond Guarantee	3245-AB77
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Completed Actions

Sequence Number	Title	Regulation Identifier Number
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3466	Minority Small Business	3245-AB26
3467	Program Fraud Civil Remedies Regulations	3245-AB27
3468	Small Business Lending Companies	3245-AB30
3469	Minority Small Business and Capital Ownership Development Assistance	3245-AB31
3470	Small Business Size Standards for Construction	3245-AB38
3471	Small Business Size Standards: Hazards Waste Treatment	3245-AB53
3472	Small Business Size Standards: Naval Architecture and Marine Engineering	3245-AB54
3473	Small Business Size Standards: Aircraft, Guided Missiles, and Space Vehicle Research and Development	3245-AB59
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3475	Small Disadvantaged Business Status Appeals Procedures	3245-AB63
3476	Revision of Rules on Advanced Payments, Business Development Expense and Contracts	3245-AB68
3477	Size Standard for Refuse and Garbage Collection Services	3245-AB70
3478	Disaster Loans	3245-AB74
3479	Small Business Size Standards for Surveying and Mapping Services	3245-AB75
3480	Loans to State and Local Development Companies	3245-AB78
3481	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	3245-AB79
3482	Small Business Size Standards	3245-AB80
3483	Business Loans	3245-AB83

SMALL BUSINESS ADMINISTRATION (SBA) — Prerule Stage

3435. SIZE STANDARDS: TIMBER INDUSTRY

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Study related to natural resources sales program to determine whether rule change is needed.

Timetable:

Action	Date	FR Cite
Begin Review	10/15/87	
End Review	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, D.C. 20416, 202 653-6373

RIN: 3245-AB34

3436. ● BUSINESS LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); PL 100-590

CFR Citation: 13 CFR 122

Legal Deadline: None

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SBA — **Prerule Stage**

Abstract: This regulation implements statutory changes contained in the Small Business Administration Reauthorization Act (PL 100-590) which authorizes SBA to guaranty loans of up to $1,000,000 to finance pollution control facilities.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Everett Shell, Director, Office of Business Loans, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-6470

RIN: 3245–AB81

3437. ● BUSINESS LOAN POLICY

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h); PL 100-590

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This regulation is designed to implement a limit, by SBA, in its guaranty of a Preferred Lenders Program loan to no more than 5 percentage points below the percent guaranteed for other loans. The regulation would also limit the Preferred Lenders Program to loans over $155,000, and would prohibit preferred lenders from selling all or part of the unguaranteed portion of the loan.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Deputy Associate Administrator for, Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804D, Washington, DC 20416, 202 653-6574

RIN: 3245–AB84

3438. ● BUSINESS LOAN POLICY

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h); PL 100-590

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This regulation implements a provision of the Small Business Administration Reauthorization Act (PL 100-590) which establishes a certified lenders program.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Deputy Associate Administrator for, Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804D, Washington, DC 20416, 202 653-6574

RIN: 3245–AB85

SMALL BUSINESS ADMINISTRATION (SBA) — **Proposed Rule Stage**

3439. SMALL BUSINESS INVESTMENT COMPANY REGULATIONS: COMPLIANCE AUDITS

Legal Authority: 15 USC 687(b)

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Establishment of new system of periodic compliance audits of small business investment companies by independent certified public accountants.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel Peyser, Counsel to the Inspector General, Small Business Administration, 1441 L Street, NW, Room 1018, Washington, DC 20416, 202 653-6370

RIN: 3245–AB07

3440. SMALL BUSINESS INVESTMENT COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Major revision to Part 107 of title 13 governing Small Business Investment Companies. The regulation will cover changes to ownership or control of a licensee, definition of private capital, deposits and investments of idle funds, other permissible financing, leverage for Section 301(d) SBICs, definition of small business concern , control of small concern, operational requirements, cost of money, funds to licensee, conflicts of interest provisions, redemptions, commitments, the purchase, sale or guarantee of securities evidencing leverage, and the filing of SBA Form 468.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph L. Newell, Director, Office of Investment, Small Business Administration, 1441 L Street,N.W., Room 808, Washington, DC 20416, 202 653-6584

RIN: 3245–AB29

3441. SMALL BUSINESS INSTITUTES - COUNSELING FEES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 129

Legal Deadline: None

Abstract: User fees for training conducted by SBA cosponsors under Section 8(b)(1) of the Small Business Act for training (management and/or technical), and for training and counseling provided by Small Business Institutes.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

SBA — **Proposed Rule Stage**

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: The Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act of 1989 (PL 100-459) prohibits SBA from using appropriated funds to establish or increase user fees. Therefore, no action will be taken on this rule at this time. Future actions will depend upon FY 90 Appropriations legislation.

Agency Contact: John Cox, Associate Administrator for Business, Development, Small Business Administration, 1441 L Street, N.W., Room 317, Washington, D.C. 20416, 202 653-6881

RIN: 3245–AB32

3442. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: Complete revision of the Section 502 local development company rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: LeAnn Oliver, Financial Analyst, Small Business Administration, 1441 L Street, N.W., Room 720, Washington, D.C. 20416. 202 653-6416

RIN: 3245–AB35

3443. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1

CFR Citation: 13 CFR 112

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if recipients of assistance under any of SBA's programs are found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: George Robinson, Director, Equal Employment Opportunity & Compliance, Small Business Administration, 1441 L Street, N.W., Room 501, Washington, D.C. 20416, 202 653-6050

RIN: 3245–AB36

3444. NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS

Legal Authority: 15 USC 634(b)(6); PL 85-536; 15 USC 633; 15 USC 634; 15 USC 687; 15 USC 1691; 20 USC 1681, et seq.; 29 USC 794

CFR Citation: 13 CFR 113

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if a beneficiary of one of SBA's financial assistance programs is found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance or accelerating a loan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: George Robinson, Director, Equal Employment Opportunity & Compliance, Small Business Administration, 1441 L Street, N.W., Room 501, Washington, D.C. 20416, 202 653-6050

RIN: 3245–AB37

3445. USER FEES FOR SBA PROGRAMS

Legal Authority: 15 USC 687(c); 15 USC 687d; 15 USC 687g; 15 USC 694a; 15 USC 694b; 5 USC App. 1; 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 631; 15 USC 637(b); 15 USC 636(i); 15 USC 636(j); PL 93-113

CFR Citation: 13 CFR 101; 13 CFR 107; 13 CFR 115; 13 CFR 121; 13 CFR 124; 13 CFR 125; 13 CFR 129

Legal Deadline: None

Abstract: Establishment or modification of user fees for the following: use of SBA's Office of Advocacy database, guaranty of debentures issued by Small Business Investment Companies, guaranty of surety bonds, appeals of size determinations and standard industrial classification code designations, application to the Minority Small Business (Section 8(a)) Program, training sponsored by the Service Corps of Retired Executives (SCORE), SBA's Office of Women's Business Ownership, and SBA's Office of Veterans Affairs, counseling by Small Business Institutes and application for a Certificate of Competency.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: The Small Business Administration is prohibited under the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act of 1989 (PL 100-459) from using appropriated funds to establish or increase user fees. Therefore, no action will be taken on this rule at this time. Future actions will depend upon FY 90 Appropriations legislation.

Agency Contact: Ramona Powell, Attorney Adviser, Small Business Administration, 1441 L Street, N.W., Room 722, Washington, DC 20416, 202 653-6437

RIN: 3245–AB44

3446. PROCUREMENT: SUBCONTRACTING LIMITATIONS

Legal Authority: PL 99-591; PL 99-661; 15 USC 634(b)(6)

CFR Citation: 13 CFR 125

Legal Deadline: None

Abstract: Guidelines for application of subcontracting limitations imposed by Public Laws 99-591 and 99-661.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	07/00/89	

Small Entities Affected: Businesses

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SBA — Proposed Rule Stage

Government Levels Affected: Federal

Agency Contact: Monika E. Harrison, Associate Administrator for Procurement, Assistance, Small Business Administration, 1441 L Street, N.W., Room 600, Washington, DC 20416, 202 653-6635

RIN: 3245–AB62

3447. ACCRUAL OF INTEREST PAYABLE BY SBA IN SECONDARY MARKET

Legal Authority: 15 USC 634(f); 15 USC 634(g); 15 USC 634(h); 15 USC 634(b)(6); 15 USC 636(a)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: The proposed regulation would spell out the process of calculating accrued interest payable by SBA to an investor. The payment by SBA is triggered by a borrower defaulting on an SBA guaranteed loan.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
NPRM Comment Period End	09/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Alan S. Mandel, Assistant Deputy Associate Administrator, for Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-6696

RIN: 3245–AB69

3448. ● MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 124

Legal Deadline: NPRM, Statutory, March 15, 1989. Final, Statutory, June 12, 1989.

Abstract: Substantive changes to criteria and processes applicable to 8(a) program eligibility and business development during program participation.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 12054
NPRM Comment Period End	04/24/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Joseph Montes, Associate Administrator for Minority Small, Business and Capital Ownership Development, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6407

RIN: 3245–AB76

3449. ● BUSINESS LOAN POLICY

Legal Authority: 15 USC 636; PL 100-590

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This proposed rule would implement a provision of the Small Business Administration Reauthorization and Amendment Act (PL 100-590). The legislation authorizes Certified and Preferred Lender to keep one-half of the two percent guaranty fee chargeable to borrowers for loans of $50,000 or less with maturities in excess of one year.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9233
NPRM Comment Period End	04/05/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Allan S. Mandel, Assistant Deputy Associate Administrator for, Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-6696

RIN: 3245–AB86

3450. ● SMALL BUSINESS SIZE REGULATION

Legal Authority: 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: Final, Statutory, June 15, 1989.

Abstract: Rule to establish procedures for requesting/granting waivers to the nonmanufacturers rule when there are no small business manufacturers in the Federal market.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Monika Edwards Harrison, Associate Administrator for, Procurement Assistance, Small Business Administration, 1441 L Street, N.W., Room 600, Washington, DC 20416, 202 653-6635

RIN: 3245–AB88

SMALL BUSINESS ADMINISTRATION (SBA) — Final Rule Stage

3451. CERTIFICATE OF COMPETENCY

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 125.5

Legal Deadline: None

Abstract: Overall revision to Certificate of Competency regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22015
NPRM Comment Period End	08/12/88	
Final Action	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Moffitt, Deputy Associate Administrator for, Procurement Assistance, Small Business Administration, 1441 L Street, NW,

SBA — Final Rule Stage

Room 626, Washington, DC 20416, 202 653-6582

RIN: 3245–AA74

3452. SIZE STANDARDS, EXPORT TRADING COMPANIES

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Propose size standard for Export Trading Companies.

Timetable:

Action	Date	FR Cite
NPRM	06/07/88	53 FR 20857
NPRM Comment Period End	08/08/88	
Final Action	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245–AA83

3453. REGULATIONS APPLYING SMALL BUSINESS SIZE STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Revision of substantive rules governing compliance with small business size standards.

Timetable:

Action	Date	FR Cite
NPRM	08/31/87	52 FR 32870
NPRM Comment Period End	10/30/87	
Final Action	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David R. Kohler, Associate General Counsel, Small Business Administration, 1441 L Street, NW, Room 706, Washington, DC 20416, 202 653-6660

RIN: 3245–AA84

3454. SMALL BUSINESS INVESTMENT COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 320

CFR Citation: 13 CFR 107

Legal Deadline: Other, Statutory, June 7, 1986.

Abstract: Establishment of mechanism for selling to the public certificates of interest backed by pools of SBIC guaranteed debentures and of a system of registration of such sales.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/86	51 FR 21484
Final Action	09/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert G. Lineberry, Deputy Associate Administrator/Investment, Small Business Administration, 1441 L Street, NW, Room 808, Washington, DC 20416, 202 653-6848

RIN: 3245–AB12

3455. SMALL BUSINESS DEVELOPMENT CENTERS

Significance: Agency Priority

Legal Authority: PL 96-302; PL 98-395

CFR Citation: 13 CFR 129

Legal Deadline: None

Abstract: Comprehensive regulations governing the Small Business Development Center Program.

Timetable:

Action	Date	FR Cite
NPRM	10/23/86	51 FR 37580
Comment period extended to 1/21/87	11/24/86	51 FR 42255
NPRM Comment Period End	01/27/87	

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: The Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act of 1989 (PL 100-459) prohibits the Small Business Administration from using appropriated funds to adopt or implement any rules or regulations for the Small Business Development Center program. Therefore, no action will be taken on this rule at this time. Future actions will depend upon FY 90 Appropriations legislation.

Agency Contact: Janice Wolf, Deputy Associate Administrator for Business Development, Small Business Administration, 1441 L Street, NW, Room 317, Washington, DC 20416, 202 653-6768

RIN: 3245–AB17

3456. SMALL BUSINESS SIZE STANDARDS: RESIDUAL SIZE STANDARDS

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishes size standard for industries for which no size standard has been previously established.

Timetable:

Action	Date	FR Cite
NPRM	02/09/89	54 FR 6298
NPRM Comment Period End	03/13/89	
Final Action	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245–AB57

3457. SMALL BUSINESS SIZE STANDARDS: NONMANUFACTURERS

Significance: Agency Priority

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishes size standard for nonmanufacturers.

Timetable:

Action	Date	FR Cite
NPRM	04/26/88	53 FR 15232
NPRM Comment Period End	05/13/88	
Final Action	07/00/89	

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Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AB58

3458. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS; PROPOSED REVISION OF CIRCULAR A-110

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 143

Legal Deadline: None

Abstract: This regulation establishes a uniform administrative rule for the SBA's grants and cooperative agreements.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44710
NPRM Comment Period End	01/03/89	
Final Action	06/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Patricia R. Forbes, Chief Counsel for Legislation, Small Business Administration, 1441 L Street, N.W., Room 722, Washington, DC 20416, 202 653-6573

RIN: 3245-AB67

3459. BUSINESS LOANS, FEES

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a)

CFR Citation: 13 CFR 120.104-2(e)

Legal Deadline: None

Abstract: A lender or associate will be permitted to charge an applicant for an SBA loan reasonable fees for packaging and/or other services. SBA will not ordinarily review such fees but it will investigate if an applicant complains.

Timetable:

Action	Date	FR Cite
NPRM	08/30/88	53 FR 33141
NPRM Comment Period End	10/31/88	
Final Action	05/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles R. Hertzberg, Deputy Associate Administrator for, Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804-D, Washington, DC 20416, 202 653-6574

RIN: 3245-AB71

3460. SMALL BUSINESS SIZE STANDARDS: SIZE STANDARD FOR COMMODITY CONTRACTS BROKERS AND DEALERS

Significance: Regulatory Program

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishment of size standard of $3.5 million annual receipts for commodity contracts brokers and dealers, Standard Industrial Classification (SIC) Code 6221, for which no size standard exists at present.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/09/88	53 FR 29876
Final Action	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AB72

3461. ● SURETY BOND GUARANTEE

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 687(c); 15 USC 694(d); PL 100-590

CFR Citation: 13 CFR 115

Legal Deadline: Final, Statutory, May 2, 1989.

Abstract: This regulation implements changes necessitated by the Preferred Surety Bond Guarantee Program Act of 1988, Title II of Pub. L. 100-590. The regulation changes the method of computing the guarantee fee charged by SBA to the surety from a flat dollar amount to 20 percent of the premium. It also provides for additional guarantee fees or refunds, whenever the contract amount is increased or decreased in excess of 25 percent or $50,000, whichever is less.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: James W. Parker, Jr., Director, Office of Surety Guarantees, Small Business Administration, 4040 N. Fairfax Drive, Suite 500, Arlington, VA 22203, 703 235-2900

RIN: 3245-AB77

3462. ● BUSINESS LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); PL 100-418

CFR Citation: 13 CFR 122

Legal Deadline: None

Abstract: This regulation will implement changes contained in the Omnibus Trade and Competitiveness Act of 1988, relating to export loans.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52187
NPRM Comment Period End	02/27/89	
Final Action	06/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Gail Hepler, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-6570

RIN: 3245-AB82

3463. ● SMALL BUSINESS SIZE REGULATIONS

Significance: Agency Priority

Legal Authority: 15 USC 636(b)(6); PL 100-590

CFR Citation: 13 CFR 121

Legal Deadline: NPRM, Statutory, March 15, 1989. Final, Statutory, May 3, 1989.

Abstract: Rule to establish a procedure for appeal to SBA against award of a small business set-aside procurement to a nonprofit organization for the handicapped.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	
Final Action	05/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Monika Edwards Harrison, Associate Administrator for, Procurement Assistance, Small Business Administration, 1441 L Street, N.W., Room 600, Washington, DC 20416, 202 653-6635

RIN: 3245-AB87

3464. ● LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; MINIMUM AMOUNT OF POOL CERTIFICATES

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697; 15 USC 697a; 15 USC 697b

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: This regulation reduces the minimum amount of Development Company debenture pool certificates from the present $100,000 to $25,000.

Timetable:

Action	Date	FR Cite
NPRM	10/03/88	53 FR 38737
NPRM Comment Period End	11/02/88	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Edwin Holloway, Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, DC 20416, 202 653-6632

RIN: 3245-AB89

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

3465. SIZE STANDARD: REAL ESTATE AGENTS

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishing a size standard for the real estate agents industry for the first time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 27418
Final Action	02/09/89	54 FR 6267

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AA88

3466. MINORITY SMALL BUSINESS

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: Regulations governing the participation of Indian tribes in the Section 8(a) program.

Timetable:

Action	Date	FR Cite
Thia regulation has been merged into RIN 3245-AB76	02/24/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This regulation has been subsumed into RIN 3245-AB76, regulations promulgated under the Business Opportunity Development Reform Act of 1988.

Agency Contact: Joseph Montes, Acting Associate Administrator, Minority, Small Business/Capital Ownership Development, Small Business Administration, 1441 L Street, N.W., Room 602, Washington, D.C. 20416, 202 653-6407

RIN: 3245-AB26

3467. PROGRAM FRAUD CIVIL REMEDIES REGULATIONS

Legal Authority: PL 99-501, Sec 6103

CFR Citation: 13 CFR 141

Legal Deadline: NPRM, Statutory, April 21, 1987.

Abstract: Regulations implementing the Program Fraud Civil Remedies Act

Timetable:

Action	Date	FR Cite
NPRM	05/21/87	52 FR 19156
NPRM Comment Period End	06/22/87	52 FR 19156
Final Action	02/09/89	54 FR 6271

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Patricia R. Forbes, Chief Counsel for Legislation, Small Business Administration, 1441 L Street, N.W., Room 722, Washington, D.C. 20416, 202 653-6573

RIN: 3245-AB27

3468. SMALL BUSINESS LENDING COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 120.302

Legal Deadline: None

Abstract: Cancellation of participation authority of Small Business Lending Companies that have not been active for five years or more.

Timetable:

Action	Date	FR Cite
Withdrawn	01/09/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SBA determined that the right of Small Business Lending Companies would be more fully protected in individual

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hearings before disinterested administrative judges. These hearing procedures are already established. Therefore, regulatory change is not needed.

Agency Contact: Jean P. LaForce, Acting Director, Office of Financial Institutions, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-2585

RIN: 3245–AB30

3469. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT ASSISTANCE

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: Technical corrections and substantive changes to provisions on 8(a) program eligibility.

Timetable:

Action	Date	FR Cite
This regulation has been merged into RIN 3245-AB76	02/24/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This regulation has been subsumed into RIN 3245-AB76, regulations promulgated under the Business Opportunity Development Reform Act of 1988.

Agency Contact: Francisco Marrero, Director, Office of Program Eligibility/, MSB/COD, Small Business Administration, 1441 L Street, N.W., Room 602, Washington, D.C. 20416, 202 653-6407

RIN: 3245–AB31

3470. SMALL BUSINESS SIZE STANDARDS FOR CONSTRUCTION

Significance: Regulatory Program

Legal Authority: PL 99-591; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Rule to amend size standards for the construction industry division (except heavy construction, not elsewhere classified, and dredging). Size standard amendments and subcontracting limitations are made pursuant to requirements in PL 99-591 and PL 99-661.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/87	52 FR 08261
ANPRM Comment Period End	04/16/87	52 FR 08261
NPRM	12/17/87	52 FR 47937
NPRM Comment Period End	02/16/88	
Withdrawn PL 100-656 repealed this requirement.	01/13/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: PL 99-591 and PL 99-661 directed SBA to revise its size regulation for construction. The Business Opportunity Development Reform Act of 1988 (PL 100-656) prohibits SBA from changing the size standards in effect on September 30, 1988 until December 31, 1992.

Agency Contact: Gene VanArsdale, Director, Office of Procurement Policy and Liaison, Small Business Administration, 1441 L Street, N.W., Room 600, Washington, D.C. 20416, 202 653-6588

RIN: 3245–AB38

3471. SMALL BUSINESS SIZE STANDARDS: HAZARDS WASTE TREATMENT

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Study of hazardous waste treatment industry.

Timetable:

Action	Date	FR Cite
Withdrawn PL 100-656 repealed the requirement for this regulation.	01/12/89	
Begin Review	09/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SBA has decided not to pursue this study at the present time.

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Washington, DC 20416, 202 653-6373

RIN: 3245–AB53

3472. SMALL BUSINESS SIZE STANDARDS: NAVAL ARCHITECTURE AND MARINE ENGINEERING

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Study of Naval architecture and Marine engineering for size standards purposes.

Timetable:

Action	Date	FR Cite
Withdrawn PL 100-656 repealed the requirement for this regulation.	01/13/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Business Opportunity Development Reform Act (PL 100-656) prohibits SBA from raising the size standard for architecture and engineering services. Naval Architecture is within this industry category. Thus, there is no need for this study at the present time.

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245–AB54

3473. SMALL BUSINESS SIZE STANDARDS: AIRCRAFT, GUIDED MISSILES, AND SPACE VEHICLE RESEARCH AND DEVELOPMENT

Significance: Agency Priority

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishes small business size standard for aircraft, guided missiles and space vehicles.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/88	53 FR 10244
Final Action	10/27/88	53 FR 43422
Final Action Effective	10/27/88	53 FR 43422

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245–AB59

3474. SMALL BUSINESS SIZE STANDARDS: REFUSE SYSTEMS AND SURVEYING AND MAPPING

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Review of refuse systems and surveying and mapping industries for size standard purposes.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/88	
Withdrawn	01/13/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PL 99-691 and PL 99-661 directed SBA to revise its size regulation for refuse system and surveying and mapping. The Business Opportunity Development Reform Act of 1988 (PL 100-656) repealed this requirement.

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245–AB61

3475. SMALL DISADVANTAGED BUSINESS STATUS APPEALS PROCEDURES

Significance: Agency Priority

Legal Authority: 15 USC 634(b)(6); PL 99-66, Sec 1207(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Procedural rules to be used whenever SBA is asked to make a determination concerning disadvantaged status of a small business concern.

Timetable:

Action	Date	FR Cite
NPRM	06/08/88	53 FR 21482
NPRM Comment Period End	07/08/88	
Final Action	03/13/89	54 FR 10271
Final Action Effective	03/13/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Joseph Montes, Acting, Associate Administrator for Minority Small, Business & Capital Ownership Development, Small Business Administration, 1441 L Street, N.W., Room 602, Washington, DC 20416, 202 653-6407

RIN: 3245–AB63

3476. REVISION OF RULES ON ADVANCED PAYMENTS, BUSINESS DEVELOPMENT EXPENSE AND CONTRACTS

Legal Authority: 15 USC 637(a)

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: Revision of sections on Advanced Payments, Business Development Expense and Contracts. Technical changes and clarifications. Possible substantive changes to section on subcontracting limitations.

Timetable:

Action	Date	FR Cite
This regulation has been merged into RIN 3245-AB76	02/24/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This regulation has been subsumed into RIN 3245-AB76, regulations promulgated under the Business Opportunity Development Reform Act of 1988.

Agency Contact: Joseph Montes, Acting Associate Administrator for Minority, Small Business/Capital Ownership Development, Small Business Administration, 1441 L Street, N.W., Room 602, Washington, DC 20416, 202 653-6407

RIN: 3245–AB68

3477. SIZE STANDARD FOR REFUSE AND GARBAGE COLLECTION SERVICES

Significance: Regulatory Program

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 99-591; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishment of size standard of $1.5 million for refuse and garbage collection services within Standard Industrial Classification (SIC) Codes 4212 (Local Trucking Without Storage) and 4953 (Refuse Systems) in compliance with PL 99-591 and PL 99-661 which direct the SBA to revise its size standards for refuse systems and related services if the total dollar value of small business set-aside and section 8(a) program awards for these activities exceed 30 per cent of the dollar value of overall Federal procurements for these activities.

Timetable:

Action	Date	FR Cite
NPRM	08/15/88	53 FR 30691
Correction	08/26/88	53 FR 32821
NPRM Comment Period End	10/14/88	53 FR 36990
Final Action	01/13/89	
Withdrawn Repealed by PL 100-656.	01/13/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: PL 99-591 and 99-661 directed SBA to revise its size regulations for refuse and garbage collection services. The Business Opportunity Development Reform Act of 1988 (PL 100-656) repealed this requirement.

Agency Contact: Monika E. Harrison, Chairperson, Size Policy Board, Small Business Administration, 1441 L Street, N.W., Room 600, Washington, DC 20416, 202 653-6635

RIN: 3245–AB70

3478. DISASTER LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); PL 98-270, Title III; PL 99-272, Sec 18006

CFR Citation: 13 CFR 123

Legal Deadline: None

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Abstract: Amend disaster loan regulation by authorizing SBA to establish a flexible repayment schedule during the first two years of a disaster loan, reflecting the borrower's ability to pay. Rule would also harmonize SBA's disaster loan making authority with the Federal Emergency Management Administration's (FEMA) standard flood insurance policy.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 29691
NPRM Comment Period End	10/07/88	
Final Action	02/09/89	54 FR 6268
Final Action Effective	02/09/89	54 FR 6268

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Bernard Kulik, Deputy Associate Administrator for, Disaster Assistance, Small Business Administration, 1441 L Street, N.W., Room 820, Washington, DC 20416, 202 653-6879

RIN: 3245–AB74

3479. SMALL BUSINESS SIZE STANDARDS FOR SURVEYING AND MAPPING SERVICES

Significance: Regulatory Program

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 99-591, Sec 921; PL 99-661, Sec 921

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Review of size standards for surveying and mapping services pursuant to the National Defense Authorization Act of 1987 (PL 99-661). Purpose of the review is to ensure that small business set-aside plus 8(a) contracts together account for no more than approximately 30 percent of the total value of Federal contracts for each industry covered by the legislation. Adjustment of the size standard for both surveying and mapping services in Standard Industrial Classification (SIC) Code 8713 to $.75 million in gross annual receipts.

Timetable:

Action	Date	FR Cite
NPRM	06/15/88	53 FR 30689
NPRM Comment Period End	09/14/88	
Final Action	01/13/89	
Withdrawn PL 100-656 repealed the requirement for this regulation.	01/13/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: PL 99-661 directed SBA to revise its size regulations for surveying and mapping services. The Business Opportunity Development Reform Act of 1988 (PL 100-656) repealed this requirement.

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245–AB75

3480. ● LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697; 15 USC 697a; 15 USC 697b; 15 USC 697c; PL 100-590

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: This rule implements changes to the Development Company regulations required by PL 100-590.

Timetable:

Action	Date	FR Cite
Final Action This rule implements statutory changes in PL 100-590.	02/09/89	54 FR 6225

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LeAnn Oliver, Financial Analyst, Small Business Administration, 1441 L Street, N.W., Room 720, Washington, DC 20416, 202 653-6966

RIN: 3245–AB78

3481. ● GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Agency Priority

Legal Authority: EO 12549; 41 USC 701, et seq; 15 USC 634(b)(6)

CFR Citation: 13 CFR 145

Legal Deadline: None

Abstract: Governmentwide common rule to implement the Drug-free Workplace Act of 1988.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Final Action This rule becomes effective on March 18, 1989	03/18/89	
Final Action Effective	03/18/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This rule becomes effective on March 18, 1989.

Agency Contact: Katherine C. Powers, Attorney Advisor, Small Business Administration, 1441 L Street, N.W., Room 706, Washington, DC 20416, 202 653-5628

RIN: 3245–AB79

3482. ● SMALL BUSINESS SIZE STANDARDS

Significance: Agency Priority

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This regulation segments the industry category of shipbuilding and ship repair.

Timetable:

Action	Date	FR Cite
Emergency final rule	02/16/89	54 FR 7029

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245–AB80

3483. ● BUSINESS LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h); PL 100-590

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This rule implements the issuance by SBA of trust certificates representing ownership of all or a fractional part of the SBA-guaranteed portions of financings more to State and local development companies. The regulation remakes the exclusion of such loans from the eligibility for pool formation and requires that such certificates be separately issued.

Timetable:

Action	Date	FR Cite
Final Action - this rule implements statutory changes in PL 100-590.	03/07/89	54 FR 9424
Final Action Effective	03/07/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Deputy Associate Administrator for, Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804D, Washington, DC 20416, 202 653-6574

RIN: 3245–AB83

[FR Doc. 89-5857 Filed 04-21-89; 8:45 am]

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Monday
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Part XLIII

Tennessee Valley Authority

Semiannual Regulatory Agenda

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TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates very few regulations. However, TVA has two regulations under development and also has published a notice of intent with regard to a third regulation. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order No. 12291.

FOR FURTHER INFORMATION CONTACT: For further information please contact the persons listed.

W. F. Willis,

Executive Vice President and Chief Operating Officer.

TENNESSEE VALLEY AUTHORITY (TVA) — Proposed Rule Stage

3484. PROTECTION OF ARCHAEOLOGICAL RESOURCES

Legal Authority: 16 USC 470aa to 470ll

CFR Citation: 18 CFR 1312

Legal Deadline: None

Abstract: The planned regulations will implement provisions of the Archaeological Resources Protection Act of 1979 by providing protection of archaeological resources on public lands in TVA custody and control. TVA will seek to protect such resources through permits authorizing excavation or removal of resources, through civil penalties for unauthorized excavation or removal, through preservation of archaeological resource collections and data, and through assuring confidentiality of information about resources when disclosure would threaten the resources. The planned regulations will supplement existing uniform regulations by assigning specific responsibilities within TVA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxwell D. Ramsey, Manager, Cultural Resources, Tennessee Valley Authority, 238 Natural Resources Building, Norris, TN 37828, 615 632-1585

RIN: 3316–AA02

3485. ALTERNATIVE PROGRAM FOR SHARING PATENT-RELATED INCOME

Legal Authority: 15 USC 3710, amended by PL 99-502

CFR Citation: 18 CFR Not yet determined

Legal Deadline: Final, Statutory, October 1988.
The royalty-sharing program under the statute must be implemented if the alternative program has not been implemented by October 1988; however, the statute does not preclude (cont)

Abstract: Pursuant to new section 14 of the Stevenson-Wydler Act, TVA has elected to promulgate regulations providing for an alternative program for sharing royalties and other patent-related income with its employee-inventors.

Timetable:

Action	Date	FR Cite
ANPRM	01/14/87	52 FR 1469
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL DEADLINE CONT: implementations of an alternative program at a later date.

Agency Contact: H. Brown Wright, Program Coordinator Manager, Manufacturing, Technology Utilization, Tennessee Valley Authority, 601 West Summit Hill Drive, OCH 2D 46B-K, Knoxville, TN 37902-1499, 615 632-6435

RIN: 3316–AA05

3486. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATIONAL PROGRAMS

Legal Authority: 20 USC 1682; 16 USC 831 to 831dd

CFR Citation: 18 CFR Not yet determined

Legal Deadline: None

Abstract: This regulation implements 20 USC 1681 which assures nondiscrimination on the basis of sex in educational programs or activities receiving financial assistance from Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Freddie L. Hogan, Manager, Contracts and Community Assistance Section, Tennessee Valley Authority, 417 Chemical Engineering Building, Muscle Shoals, AL 35660, 205 872-2048

RIN: 3316–AA13

[FR Doc. 89-7108 Filed 04-21-89; 8:45 am]

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federal register

Monday
April 24, 1989

Part XLIV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

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DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. I

Semiannual Agenda

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council, in compliance with Executive Order 12291, Federal Regulation. This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The FAR Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions, however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, (202) 523-4755.

SUPPLEMENTARY INFORMATION: DOD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the Federal Acquisition Regulation (FAR) and prescribe the FAR system. Revisions to the FAR are made through periodic issuance of Federal Acquisition Circulars (FAC's). None of the regulations listed in this agenda are considered major under Executive Order 12291, Federal Regulation.

Dated: February 14, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3487	Amendment to Federal Acquisition Regulation (FAR Case 87-43)	9000-AC06

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3488	Federal Acquisition Regulation (FAR) - Federal Acquisition Circular 84-10(FAR Case 85-32)	9000-AA00
3489	Federal Acquisition Regulation (FAR) - Federal Acquisition Circular 84-9	9000-AA01
3490	Federal Acquisition Regulation (FAR) - Federal Acquisition Circular 84-11	9000-AA02
3491	Amendment to Federal Acquisition Regulation (FAR Case 84-45)	9000-AA29
3492	Amendment to Federal Acquisition Regulation (FAR Case 85-16)	9000-AA35
3493	Amendment to Federal Acquisition Regulation (FAR Cases 88-12 and 88-35)	9000-AA97
3494	Amendment to Federal Acquisition Regulation (FAR Case 86-33)	9000-AB18
3495	Amendment to Federal Acquisition Regulation (FAR Case 86-51)	9000-AB37
3496	Amendment to Federal Acquisition Regulation (FAR Case 86-69)	9000-AB55
3497	Amendment to Federal Acquisition Regulation (FAR Case 87-13)	9000-AB73
3498	Amendment to Federal Acquisition Regulation (FAR Case 87-24)	9000-AB83
3499	Amendment to Federal Acquisition Regulation (FAR Case 87-25)	9000-AB84
3500	Amendment to Federal Acquisition Regulation (FAR Case 87-37)	9000-AC00
3501	Amendment to Federal Acquisition Regulation (FAR Case 87-41)	9000-AC04
3502	Amendment to Federal Acquisition Regulation (FAR Case 87-51)	9000-AC14
3503	Amendment to Federal Acquisition Regulation (FAR Case 87-54)	9000-AC17
3504	Amendment to Federal Acquisition Regulation (FAR Case 88-6)	9000-AC19
3505	Amendment to Federal Acquisition Regulation (FAR Case 88-7)	9000-AC20
3506	Amendment to Federal Acquisition Regulation (FAR Case 88-9)	9000-AC22
3507	Amendment to Federal Acquisition Regulation (FAR Case 88-10)	9000-AC23
3508	Amendment to Federal Acquisition Regulation (FAR Case 88-15)	9000-AC28
3509	Amendment to Federal Acquisition Regulation (FAR Case 88-16)	9000-AC29
3510	Amendment to Federal Acquisition Regulation (FAR Case 88-19)	9000-AC32
3511	Amendment to Federal Acquisition Regulation (FAR Case 88-22)	9000-AC35
3512	Amendment to Federal Acquisition Regulation (FAR Case 88-25)	9000-AC37
3513	Amendment to Federal Acquisition Regulation (FAR Case 88-26)	9000-AC38
3514	Amendment to Federal Acquisition Regulation (FAR Case 88-29)	9000-AC41
3515	Amendment to Federal Acquisition Regulation (FAR Case 88-30)	9000-AC42
3516	Amendment to Federal Acquisition Regulation (FAR Case 88-31)	9000-AC43

FAR

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3517	Amendment to Federal Acquisition Regulation (FAR Case 88-36)	9000-AC47
3518	Amendment to Federal Acquisition Regulation (FAR Case 88-37)	9000-AC48
3519	Amendment to Federal Acquisition Regulation (FAR Case 88-42)	9000-AC53
3520	Amendment to Federal Acquisition Regulation (FAR Case 88-43)	9000-AC54
3521	Amendment to Federal Acquisition Regulation (FAR Case 88-44)	9000-AC55
3522	Amendment to Federal Acquisition Regulation (FAR Case 88-47)	9000-AC58
3523	Amendment to Federal Acquisition Regulation (FAR Case 88-49)	9000-AC60
3524	Amendment to Federal Acquisition Regulation (FAR Case 88-54)	9000-AC65
3525	Amendment to Federal Acquisition Regulation (FAR Case 88-56)	9000-AC67
3526	Amendment to Federal Acquisition Regulation (FAR Case 88-57)	9000-AC68
3527	Amendment to Federal Acquisition Regulation (FAR Case 88-60)	9000-AC71
3528	Amendment to Federal Acquisition Regulation (FAR Case 88-61)	9000-AC72
3529	Amendment to Federal Acquisition Regulation (FAR Case 88-62)	9000-AC73
3530	Amendment to Federal Acquisition Regulation (FAR Case 88-63)	9000-AC74
3531	Amendment to Federal Acquisition Regulation (FAR Case 88-64)	9000-AC75
3532	Amendment to Federal Acquisition Regulation (FAR Case 88-66)	9000-AC77
3533	Amendment to Federal Acquisition Regulation (FAR Case 88-67)	9000-AC78
3534	Amendment to Federal Acquisition Regulation (FAR Case 88-68)	9000-AC79
3535	Amendment to Federal Acquisition Regulation (FAR Case 88-70)	9000-AC80
3536	Amendment to Federal Acquisition Regulation (FAR Case 88-69)	9000-AC81
3537	Amendment to Federal Acquisition Regulation (FAR Case 88-71)	9000-AC82
3538	Amendment to Federal Acquisition Regulation (FAR Case 88-72)	9000-AC83
3539	Amendment to Federal Acquisition Regulation (FAR Case 89-6)	9000-AC84
3540	Amendment to Federal Acquisition Regulation (FAR Case 89-7)	9000-AC85
3541	Amendment to Federal Acquisition Regulation (FAR Case 89-8)	9000-AC86
3542	Amendment to Federal Acquisition Regulation (FAR Case 89-9)	9000-AC87
3543	Amendment to Federal Acquisition Regulation (FAR Case 89-10)	9000-AC88
3544	Amendment to Federal Acquisition Regulation (FAR Case 89-11)	9000-AC89
3545	Amendment to Federal Acquisition Regulation (FAR Case 89-12)	9000-AC90
3546	Amendment to Federal Acquisition Regulation (FAR Case 89-13)	9000-AC91

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3547	Amendment to Federal Acquisition Regulation (FAR Case 86-58)	9000-AB44
3548	Amendment to Federal Acquisition Regulation (FAR Case 86-67)	9000-AB54
3549	Amendment to Federal Acquisition Regulation (FAR Case 87-33)	9000-AB88
3550	Amendment to Federal Acquisition Regulation (FAR Case 87-34)	9000-AB97
3551	Amendment to Federal Acquisition Regulation (FAR Case 87-36)	9000-AB99
3552	Amendment to Federal Acquisition Regulation (FAR Case 87-39)	9000-AC02
3553	Amendment to Federal Acquisition Regulation (FAR Case 87-42)	9000-AC05
3554	Amendment to Federal Acquisition Regulation (FAR Case 87-50)	9000-AC13
3555	Amendment to Federal Acquisition Regulation (FAR Case 88-17)	9000-AC30
3556	Amendment to Federal Acquisition Regulation (FAR Case 88-21)	9000-AC34
3557	Amendment to Federal Acquisition Regulation (FAR Case 88-27)	9000-AC39
3558	Amendment to Federal Acquisition Regulation (FAR Case 88-28)	9000-AC40
3559	Amendment to Federal Acquisition Regulation (FAR Case 88-32)	9000-AC44
3560	Amendment to Federal Acquisition Regulation (FAR Case 88-34)	9000-AC45
3561	Amendment to Federal Acquisition Regulation (FAR Case 88-24)	9000-AC46
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3563	Amendment to Federal Acquisition Regulation (FAR Case 88-39)	9000-AC50
3564	Amendment to Federal Acquisition Regulation (FAR Case 88-40)	9000-AC51
3565	Amendment to Federal Acquisition Regulation (FAR Case 88-41)	9000-AC52
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3567	Amendment to Federal Acquisition Regulation (FAR Case 88-46)	9000-AC57
3568	Amendment to Federal Acquisition Regulation (FAR Case 88-48)	9000-AC59
3569	Amendment to Federal Acquisition Regulation (FAR Case 88-50)	9000-AC61
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Completed Actions—Continued

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3574	Amendment to Federal Acquisition Regulation (FAR Case 88-58)	9000-AC69
3575	Amendment to Federal Acquisition Regulation (FAR Case 88-59)	9000-AC70
3576	Amendment to Federal Acquisition Regulation (FAR Case 88-65)	9000-AC76

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE

Proposed Rule Stage
ADMINISTRATION (FAR)

3487. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-43)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 31

Legal Deadline: None

Abstract: To invite comments concerning the development of changes to the FAR on the allowability of costs incident to mergers and other business combinations.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/87	52 FR 41474
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC06

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE

Final Rule Stage
ADMINISTRATION (FAR)

3488. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-10(FAR CASE 85-32)

Legal Authority: 40 USC 486(c); 42 USC 2473(c); 10 USC Chapter 137

CFR Citation: 48 CFR 7; 48 CFR 15; 48 CFR 19; 48 CFR 34; 48 CFR 52

Legal Deadline: Final, Statutory, May 1, 1985.

Abstract: (1) Implement Sec. 1213 of Pub. L. 98-525 and Sec. 201 of Pub. L. 98-577 by (a) requiring that the contracting officer, prior to contracting, review the acquisition history of the supplies or services and the description of the supplies, and (b) specifying new requirements applicable to planning for the solicitation of a major system production contract; (2) Implement Sec. 1245 of Pub. L. 98-525 and Sec. 501 of Pub. L. 98-577 by specifying that offerors/contractors (a) are required to distribute costs within contracts on a basis that ensures that unit prices of supplies are in proportion to the item's base cost, (b) may be required to identify supplies that they will not manufacture or to which they will not contribute significant value, and (c) are required to flow the requirement down to subcontractors; (3) Implement Sec. 1216 of Pub. L. 98-525 and Sec. 204 of Pub. L. 98-577 by requiring offerors/contractors in certain acquisitions to certify that the prices offered for those items of supply that the contractor offers for sale to the public are no higher than any lower price charged to any other customer during the preceding 60 days, or submit a written justification for any (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 27560
Final Action FAR Case 85-23, Small Business Subcontracting Policy	07/29/86	51 FR 27114
Final Action FAR Case 85-28, Integrity of Unit Prices	07/29/86	51 FR 27114
Final Action FAR Case 85-11, Definition of Major System	07/29/86	51 FR 27114
Final Action FAR Case 85-30, Planning for Future Competition	07/29/86	51 FR 27114
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: differences; (4) Implement Sec. 402 of Pub. L. 98-577 by (a) widening the area where subcontracting possibilities are considered to exist, (b) further specifying the types of acquisitions that are to be considered for contracting and subcontracting with small and small disadvantaged business concerns, and (c) stating the policy of the United States that its prime contractors establish procedures to ensure timely payments to small and small disadvantaged subcontractors; and (5) Implement Sec. 1211 of Pub. L. 98-525 and Sec. 102 of Pub. L. 98-577 by specifying a definition of "major system."

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA00

FAR

Final Rule Stage

3489. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-9

Legal Authority: 40 USC 486(c); 42 USC 2473(c); 10 USC Chapter 137

CFR Citation: 48 CFR 12; 48 CFR 33; 48 CFR 52

Legal Deadline: None

Abstract: To revise the FAR to comply with revised Department of Justice advice concerning the General Accounting Office (GAO) "stay" provisions in 31 U.S.C. 3553(c) and (d) and the GAO "damages" provision in 31 U.S.C. 3554(c) regarding payment of costs of filing and pursuing a protest and preparing the bid and proposal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/85	50 FR 25680
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA01

3490. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-11

Legal Authority: 40 USC 486(c); 42 USC 2473(c); 10 USC Chapter 137

CFR Citation: 48 CFR 3; 48 CFR 7; 48 CFR 9; 48 CFR 14; 48 CFR 15; 48 CFR 52

Legal Deadline: Final, Statutory, May 1, 1985.

Abstract: To revise the FAR to (1) Prohibit contractors and subcontractors from asserting or agreeing to unreasonable restrictions on direct sales by subcontractors to the Government; (2) Prescribe policies, procedures, and a solicitation provision for gathering and using information from offerors to assist the Government in planning the most advantageous quantities in which supplies should be purchased; and (3) Prescribe policies, procedures, and a solicitation provision regarding the establishment and enforcement of qualification requirements for sources and products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/85	50 FR 35474
Final Action FAR Case 85-37 Unreasonable Restrictions on Subcontractor Sales	07/29/86	51 FR 27114
Final Action FAR Case 85-36 Economic Order Quantities	08/12/87	52 FR 30074
Final Action FAR Case 85-38 merged into FAR Case 86-67	08/08/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA02

3491. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-45)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 3

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to implement OFPP Letter 84-1 on Federally Funded Research and Development Centers.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA29

3492. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 52

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to provide guidance under the rules of sealed bidding with respect to acceptable evidence in establishing the date of mailing of a late bid.

Timetable:

Action	Date	FR Cite
NPRM	03/22/85	50 FR 11522
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA35

3493. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASES 86-12 AND 88-35)

Legal Authority: 40 USC 486(c); 42 USC 2473(c); 10 USC Chapter 137

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: To amend the Federal Acquisition Regulation to revise Standard Form 1417 to (1) eliminate unnecessary delays in securing solicitation documents by requiring construction contractors to obtain a certified check or cashiers check, and (2) require inclusion of the contractor's telephone number on the SF 1417.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA97

3494. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-33)

Legal Authority: 40 USC 486(c); 42 USC 2473(c); 10 USC Chapter 137

CFR Citation: 48 CFR 48; 48 CFR 52

Legal Deadline: None

Abstract: To amend the Federal Acquisition Regulation to incorporate changes to provide improved value engineering coverage, as well as those changes necessitated by OMB Circular A-131, Value Engineering.

Timetable:

Action	Date	FR Cite
NPRM	09/02/86	51 FR 31197
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB18

3495. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-51)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR regarding penalties charged under DOD contracts for submission of defective cost or pricing data and interest charged from the date of overpayment on all Government contracts in defective pricing cases.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB37

3496. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-69)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 31; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to include more specific regulatory coverage concerning the termination of overfunded defined benefit pension plans and the resultant employer withdrawal of excess pension fund assets.

Timetable:

Action	Date	FR Cite
NPRM	02/09/87	52 FR 4084
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB55

3497. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-13)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5; 48 CFR 13; 48 CFR 19; 48 CFR 52

Legal Deadline: Final, Statutory, April 16, 1987.

Abstract: To amend the Federal Acquisition Regulation to (1) raise the threshold for publicizing proposed acquisitions, other than sole source acquisitions, from $10,000 to $25,000, (2) require posting of notices of solicitations expected to exceed $10,000 but not to exceed $25,000, and (3) raise the limitation for small business, small purchase set-asides from $10,000 to $25,000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/87	52 FR 21885
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB73

3498. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-24)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 44; 48 CFR 52

Legal Deadline: None

Abstract: To amend the Federal Acquisition Regulation concerning debarment and suspension procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/31/87	52 FR 28642
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB83

3499. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-25)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend the Federal Acquisition Regulation concerning guaranteed maximum shipping weights and dimensions.

Timetable:

Action	Date	FR Cite
NPRM	08/21/87	52 FR 31722
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB84

3500. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-37)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to provide a simplified contract format and allow annual submission of contractor's representations and certifications.

Timetable:

Action	Date	FR Cite
NPRM	10/27/87	52 FR 41390
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC00

3501. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-41)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to prescribe and illustrate the latest edition of Standard Form 1409, Abstract of Offers, and Standard Form 1409A, Abstract of Offers-Continuation Sheet.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC04

3502. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-51)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 28; 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to prescribe uniform procedures regarding nonpersonal services contracts for health care services.

Timetable:

Action	Date	FR Cite
NPRM	01/27/88	53 FR 2464
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC14

3503. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-54)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 33

Legal Deadline: None

Abstract: To amend the FAR to clarify the policy of the Government concerning demands for payment of contract debts owed to the Government.

Timetable:

Action	Date	FR Cite
NPRM	01/28/88	53 FR 2577
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC17

3504. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-6)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 17; 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify procedures applicable when converting an acquisition from sealed bidding to negotiation.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3814
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC19

3505. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-7)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to permit contracting offices an option provision which enables the Government to require continued performance of any services within the limits and at the rate specified in a contract.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3814
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat),

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RIN: 9000–AC20

3506. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-9)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to specify that the subcontracting plans for contracts containing options that meet the required threshold for requiring such plans must separately address both the basic and option quantities.

Timetable:

Action	Date	FR Cite
NPRM	02/26/88	53 FR 5928
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC22

3507. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-10)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1; 48 CFR 5; 48 CFR 22; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to incorporate the implementation of the Department of Labor regulations regarding the Service Contract Act.

Timetable:

Action	Date	FR Cite
NPRM	02/22/88	53 FR 5928
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC23

3508. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-15)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32

Legal Deadline: None

Abstract: To amend the FAR to allow the contracting officer the authority to limit progress payments on first article work by a stated dollar amount or percentage.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8734
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC28

3509. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14

Legal Deadline: None

Abstract: To amend the FAR to clarify the obligation of the contracting officer to disclose all appropriate information when requesting additional evidence to support a contractor's bid when there is a basis to believe that the bid might contain a mistake.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8734
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC29

3510. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-19)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4

Legal Deadline: None

Abstract: To amend the FAR to extend the record retention period for contractors who submit late annual indirect cost rate proposals and clarify the meaning of "record" to include computer input data.

Timetable:

Action	Date	FR Cite
NPRM	06/17/88	53 FR 23105
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC32

3511. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-22)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require that, if a contractor or subcontractor, obtains a reduction of its U.S. income tax liability because of foreign tax credits under the IRS, the amount of the reduction shall be credited back to the U.S. Government at the time the foreign tax credit is given.

Timetable:

Action	Date	FR Cite
NPRM	04/14/88	53 FR 12501
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat),

18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC35

3512. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-25)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 36; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to revise SF 1419, Abstract of Offers--Construction, to make the form more functional when recording offers from seven or more offerors and/or recording offers when the construction contract solicitation requires individual offers on 14 or more line items.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC37

3513. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-26)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to consolidate and amplify requirements dealing with subcontract pricing.

Timetable:

Action	Date	FR Cite
NPRM	07/07/88	53 FR 25572
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC38

3514. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-29)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require contractors to provide advance notice of shipment for categories of material requiring preparation by the consignee for safety and security consideration.

Timetable:

Action	Date	FR Cite
NPRM	07/01/88	53 FR 25102
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC41

3515. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-30)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to clarify FAR plant clearance policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/01/88	53 FR 25084
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 13th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC42

3516. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-31)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5; 48 CFR 14; 48 CFR 15; 48 CFR 17; 48 CFR 25

Legal Deadline: Final, Statutory, February 14, 1988.

Abstract: To amend the FAR to incorporate changes necessitated by a major renegotiation of the Government Procurement Code by the U.S. Trade Representative.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/20/88	53 FR 27460
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC43

3517. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-36)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to provide clear policy and uniform procedures or furnishing or acquiring special tooling under fixed-price contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/29/88	53 FR 33020
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 13th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC47

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3518. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-37)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 12; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to increase delivery of excess quantities threshold from $100 to $250 and to modify the clause title accordingly.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32561
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC48

3519. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-42)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8

Legal Deadline: None

Abstract: To amend the FAR to withdraw coverage pertaining to requirements in 44 USC 501(2) for approval, by the Congressional Joint Committee on Printing, of requirements for acquisition of printing.

Timetable:

Action	Date	FR Cite
NPRM	08/29/88	53 FR 33017
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC53

3520. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-43)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to add coverage to provide for contractors to submit their taxpayer identification number (TIN) and certain related information to the appropriate contracting office.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/26/88	53 FR 43386
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC54

3521. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-44)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to add language prescribing the use of the clause at 52.225-14, Inconsistency Between English Version and Translation of Contracts, when translating a contract into a foreign language.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32558
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC55

3522. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-47)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to permit contracting officers to authorize shipment of material F.o.b. origin on prepaid commercial bills of lading and for contractors to be reimbursed for transportation costs.

Timetable:

Action	Date	FR Cite
NPRM	09/30/88	53 FR 38656
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC58

3523. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-49)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to add coverage on the use of master solicitations.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41535
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC60

3524. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-54)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

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CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to clarify and strengthen the current cost principle to provide a sufficient basis to adequately question consultant costs.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41530
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC65

3525. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-56)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify standards for procedures governing Commercial Bills of Lading (CBL's) documentation, payment, and audit.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45742
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC67

3526. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-57)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 28; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR concerning individual surety procedures. Among other things, the revisions would require a pledge of assets by an individual surety, prescribe the type of acceptable assets to be submitted, provide for exclusion of individual sureties for cause, revise Standard Form 28, and add an Optional Form.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44564
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC68

3527. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-60)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to revise Standard Form 294, Subcontracting Report for Individual Contracts, and Standard Form 295, Summary Subcontract Report.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48495
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC71

3528. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-61)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 28

Legal Deadline: None

Abstract: To amend the FAR to clarify existing policy regarding the requirement for bid guarantees.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53279
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC72

3529. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-62)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to recognize electronic and automated inventory techniques.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC73

3530. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-63)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to increase the threshold for mandatory use of make-or-buy procedures in negotiated contracts from $2 million to $5 million.

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Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC74

3531. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-64)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 22; 48 CFR 23; 48 CFR 36; 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to add coverage concerning hazardous material.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC75

3532. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-66)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: To amend the FAR to implement the Joint Office of Procurement Policy and Small Business Administration policy directive implementing Title VII of the Business Opportunity Development Act of 1988 (Pub. L. 100-656).

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 5052
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC77

3533. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-67)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 23; 48 CFR 52

Legal Deadline: Other, Statutory, February 16, 1989.

Abstract: To amend the FAR to implement the requirements of the Drug-Free Workplace Act (Pub. L. 100-690).

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4967
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC78

3534. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-68)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 14; 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to provide notice to offerors and guidance to Government contracting personnel concerning unbalanced bids and proposals.

Timetable:

Action	Date	FR Cite
NPRM	01/27/89	54 FR 4230
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC79

3535. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-70)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: Other, Statutory, January 1, 1989.

Abstract: To amend the FAR to implement the United States-Canada Free-Trade Agreement and the United States-Canada Free-Trade Implementation Act of 1988, which added requirements with respect to acquisitions from Canada.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/88	53 FR 53340
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC80

3536. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-69)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: Final, Statutory, April 1, 1989.

Abstract: To amend the FAR to incorporate Pub. L. 100-496, Prompt Payment Amendments of 1988.

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Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53364
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC81

3537. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-71)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5

Legal Deadline: None

Abstract: To amend the FAR to provide a means for agencies to indicate in synopses if they are willing to accept electronic requests for solicitation packages.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC82

3538. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-72)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify that the Buy American List of Exempt Items is provided for information only and that each agency is responsible for making a determination that an item is exempt from the provisions of the Buy American Act.

Timetable:

Action	Date	FR Cite
NPRM	02/08/89	54 FR 6251
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC83

3539. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-6)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to reflect a new amount for evaluating proposals to determine if a multiple award would be economically advantageous to the Government. The amount is increased for evaluation purposes from $250 to $500.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC84

3540. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-7)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5

Legal Deadline: None

Abstract: To amend the FAR to accommodate the updated Commerce Business Daily Numbered Notes and to establish a system to review and revise Numbered Notes.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC85

3541. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-8)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25

Legal Deadline: None

Abstract: To amend the FAR to add an item, 50 denier rayon yarn, to the Buy American List of Exempt Items.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC86

3542. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-9)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25

Legal Deadline: None

Abstract: To amend the FAR to add an item, rabbit fur felt, to the Buy American List of Exempt Items.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat),

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RIN: 9000–AC87

3543. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-10)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: To amend the FAR to be consistent with the Department of Defense implementation of section 803, Pub. L. 100-456, which authorizes delegation of the authority of the Under Secretary of Defense for Acquisition to approve justifications for other than full and open competition in excess of $10,000,000.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC88

3544. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-11)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to revise the clause at 52.228-5, Insurance-Work on a Government Contract, to eliminate the administrative burden on contracting officers to maintain copies of subcontractor's certificates of insurance. The change does not alter insurance requirements or the documentation to be held by the prime contractor.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC89

3545. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-12)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to bring the cost principle on unfunded pension costs in line with Cost Accounting Standard 412.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC90

3546. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-13)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31; 48 CFR 37; 48 CFR 52

Legal Deadline: Other, Statutory, March 28, 1989.

Abstract: To amend the FAR to assure that severance payments to foreign nationals employed under a service contract performed outside the United States do not exceed the typical rate of severance pay in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC91

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

3547. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-58)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to (1) clarify service of protest requirements and (2) provide for designation of officials or locations where an information copy of the protest must be delivered.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42805
NPRM Comment Period End	01/26/87	
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB44

3548. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-67)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify what constitutes a "qualification requirement" and to whom or what it applies.

Timetable:

Action	Date	FR Cite
NPRM	02/09/87	52 FR 4082
NPRM Comment Period End	04/10/87	
Final Action	09/02/88	53 FR 34224

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB54

3549. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-33)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the Federal Acquisition Regulation to delete certain language affecting severance pay.

Timetable:

Action	Date	FR Cite
NPRM	09/17/87	52 FR 35191
Final Action	09/02/88	53 FR 34224

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB88

3550. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-34)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 29; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement agency agreements with the State of New Mexico that provide for use of "Nontangible Transaction Certificates" by Government cost reimbursement contractors when they purchase tangible property.

Timetable:

Action	Date	FR Cite
NPRM	09/24/87	52 FR 35996
Final Action	09/02/88	53 FR 34224

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB97

3551. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-36)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to require that a contractor's system of record maintenance be sufficient to adequately control Government property and, as a minimum, be equivalent to the contractor's system for maintaining its own property.

Timetable:

Action	Date	FR Cite
NPRM	10/07/87	52 FR 37595
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB99

3552. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-39)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement amendments made to sections 8 and 15 of the Small Business Act by section 921, Pub. L. 99-661. The revisions (i) adopt the statutory prohibition against award of set-aside and 8(a) contracts at a price exceeding fair market price; (ii) require that a fair proportion of Government contracts within each industrial category be awarded to small business concerns; and (iii) implement statutory restrictions concerning the extent of subcontracting permitted under set-aside and 8(a) contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/14/87	52 FR 38188
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC02

3553. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-42)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5

Legal Deadline: None

Abstract: To amend the FAR to make optional the synopsizing of advance notices of interest in research and development fields, and to clarify the purpose of such notices.

Timetable:

Action	Date	FR Cite
NPRM	11/05/87	52 FR 42519
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC05

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3554. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-50)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 7; 48 CFR 10

Legal Deadline: None

Abstract: To amend the FAR to include Governmentwide policies and procedures regarding the use of acquisition streamlining efforts to more efficiently and effectively use resources to develop, produce, or display quality systems.

Timetable:

Action	Date	FR Cite
NPRM	01/04/88	53 FR 100
Final Action	09/02/88	53 FR 34224

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC13

3555. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-17)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement procurement restrictions contained in Section 109, Pub. L. 100-202 (The FY 1988 Continuing Resolution on Appropriations). The restrictions prohibit any funds appropriated for FY 88 by Pub. L. 100-202 or any other law to be obligated or expended on any contract for construction, alteration, or repair of any public building or public work with any contractor or subcontractor of a foreign country or any supplier of products of a foreign country that is identified by the United States Trade Representative (USTR).

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/12/88	53 FR 12128
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC30

3556. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-21)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 43; 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to delete the clause at 52.247-27, Contract Not Affected by Oral Agreement, and its prescription at 47.207-8(b); and to add optional clause 52.243-8, Authorities and Limitations, and its corresponding prescription at 43.106(b).

Timetable:

Action	Date	FR Cite
NPRM	04/08/88	53 FR 11795
Withdrawn	01/25/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC34

3557. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-27)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9

Legal Deadline: None

Abstract: To amend the FAR to eliminate redundant portions of the text already stated in FAR 22.608-2.

Timetable:

Action	Date	FR Cite
Final Action	09/02/88	53 FR 34224

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC39

3558. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-28)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47

Legal Deadline: None

Abstract: To amend the FAR to remind contracting officers that the terms and conditions contained in FAR Subpart 47.3 are applicable to fixed-price contracts, and are only to be used as a guide for cost-reimbursement contracts.

Timetable:

Action	Date	FR Cite
Final Action	09/02/88	53 FR 34224

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC40

3559. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-32)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 33

Legal Deadline: None

Abstract: To amend the FAR to reflect changes to the regulations governing bid protests to the GAO. The revisions would allow the protestor to file a request for documents it believes relevant to the protest, and to provide for two types of conferences, one on the merits of the protest and a fact-finding conference.

Timetable:

Action	Date	FR Cite
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC44

3560. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-34)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 13

Legal Deadline: None

Abstract: To amend the FAR to allow annual review of BPA files by the ordering officer to ensure procedural compliance with the FAR on a random sample basis instead of a semiannual review.

Timetable:

Action	Date	FR Cite
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC45

3561. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-24)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: To amend the FAR to clarify the requirement to obtain certified cost or pricing data for negotiated construction contracts.

Timetable:

Action	Date	FR Cite
Final Action	09/02/88	53 FR 34224

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC46

3562. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-38)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to allow for the computer generation of standard and optional forms by Federal agencies.

Timetable:

Action	Date	FR Cite
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC49

3563. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-39)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to allow procurements of perishable subsistence to be exempt from the requirement for submission of signed and completed copies of bids/proposals subsequent to submission of telegraphic offers.

Timetable:

Action	Date	FR Cite
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC50

3564. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-40)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify that when a solicitation amendment changes one aspect of a solicitation and does not mention other aspects of the solicitation, then those other aspects remain unchanged. The revision is necessary because of an inconsistency in interpretation of the FAR by the General Accounting Office and the General Services Board of Contract Appeals.

Timetable:

Action	Date	FR Cite
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC51

3565. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-41)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9

Legal Deadline: None

Abstract: To amend the FAR to require the chief of the contracting office (unless the agency designates a higher level official) to approve the contracting officer's plan for dealing with potential organizational conflicts of interest.

Timetable:

Action	Date	FR Cite
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC52

3566. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-45)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

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CFR Citation: 48 CFR 25

Legal Deadline: None

Abstract: To amend the FAR to expedite transmittal of changes in the lists of excess and near-excess currencies.

Timetable:

Action	Date	FR Cite
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC56

3567. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-46)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to prescribe revised Standard Forms 279 and 281 for reporting contract actions to the Federal Procurement Data Center.

Timetable:

Action	Date	FR Cite
Final Action	10/26/88	53 FR 43386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC57

3568. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-48)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 37

Legal Deadline: None

Abstract: To amend the FAR to incorporate the changes called for in the revised OMB Circular A-120, Guidelines for Use of Consulting Services, in an effort to provide greater control over the contracting for advisory and assistance services.

Timetable:

Action	Date	FR Cite
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC59

3569. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-50)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 16

Legal Deadline: None

Abstract: To amend the FAR to clarify when contract file documentation is required for contract type selection. For firm fixed-price type contracts, documentation is only required for major systems and research and development contracts.

Timetable:

Action	Date	FR Cite
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC61

3570. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-51)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 22

Legal Deadline: None

Abstract: To amend the FAR to permit award of a contract under the urgency or substantial hardship conditions permitted by DOL Regulations (41 CFR 50-201(b)(iii)(A)) when it is found that an otherwise qualified small business concern may be ineligible due to the provisions of Section 35(a) of the Walsh-Healey Act and the case has been forwarded to SBA or DOL for review and final disposition.

Timetable:

Action	Date	FR Cite
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC82

3571. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-52)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: FAR 6.401 requires contracting officers to document their reasons for not using the sealed bid method of contracting. The Competition in Contracting Act of 1984 requires that sealed bidding be used if certain criteria are met. The FAR has been amended to modify the FAR coverage to require only that the contracting officer briefly explain, in writing, which of the four conditions in FAR 6.401(a) was not met.

Timetable:

Action	Date	FR Cite
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC63

3572. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-53)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 17

Legal Deadline: None

Abstract: To amend the FAR to (1) lower the authority necessary to waive the requirements in FAR 17.204(e), and (2) clarify that the 5-year limitation on contracts containing options is not based on statute.

Timetable:

Action	Date	FR Cite
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC64

3573. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-55)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR cost principles and CAS 412 on unfunded pension costs.

Timetable:

Action	Date	FR Cite
Withdrawn	01/19/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC66

3574. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-58)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 17; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to eliminate terminology that restricts use of the clause at 52.217-9 in solicitations and contracts for services. The clauses at 52.204-1 and 52.217-6 through 52.217-9 and related clause prefaces are also revised to make them "fill-in-the-blank" type clauses rather than requiring necessary additional information to be provided elsewhere in the contract (i.e., in the contract Schedule, rather than in Section I).

Timetable:

Action	Date	FR Cite
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC69

3575. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-59)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4

Legal Deadline: None

Abstract: To amend the FAR to revise the requirements for the retention and disposition of copies of unsuccessful offers and quotations to clarify that the nonunique portions of such offers and quotations need not be retained in the official contract file.

Timetable:

Action	Date	FR Cite
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC70

3576. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-65)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require (when carrier rates are not publicly filed with any regulatory body) that contractors supply documentation supporting proposals for adjustment submitted under the Changes clause when the place of delivery is changed by the Government, resulting in an increase or decrease in the cost of the performance.

Timetable:

Action	Date	FR Cite
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC76

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Part XLV

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

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COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESS: Comments should be sent to: Gerry Smith, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 (202) 254-6090.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* ("RFA"), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and (3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

5 U.S.C. 602(a). Accordingly, the Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1] In addition, the Commission notes that it has withdrawn its proposal entitled "Exchange Recordkeeping Regarding Clearing Organizations' Trade Registers" which proposed adding certain customer type indicator codes and was published on June 6, 1988 at 53 FR 21490.

The Commission's agenda represents its best estimate of significant rules which will be considered over the next twelve months.[2] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission is publishing its April 1989 Regulatory Flexibility Agenda as part of the Unified Agenda of Federal Regulations. The Unified Agenda of Federal Regulations is coordinated by the Office of Management and Budget pursuant to Executive Order 12291. While participation by executive agencies in the Agenda is mandatory, independent agencies, such as the Commission, participate in the Unified Agenda on a voluntary basis.

The Commission's April 1989 Regulatory Flexibility Agenda is set forth below.

Issued in Washington, DC on March 23, 1989, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3577	Distribution of "Risk Disclosure Statement" by Futures Commission Merchants and Introducing Brokers	3033-AA64

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3578	Minimum Financial and Related Reporting Requirements for Futures Commission Merchants	3038-AA10
3579	Rules Relating to Commission Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration and Member Responsibility Actions	3038-AA57

[1] The Commission has published its definition of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (April 30, 1982). Pursuant to those definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. *See* 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, listing of an event in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations.

[2] In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, an advisory which list rules that the Commission is considering or will consider in the near future.

CFTC

Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3580	Regulation of Hybrid and Related Instruments	3038-AA58

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3581	Regulations Permitting the Grant, Offer and Sale of Options on Physical Commodities (Dealer Options)	3038-AA03
3582	Recordkeeping and The Exchange of Futures for Cash Commodities or of Futures in Connection with Cash Commodity Transactions	3038-AA62
3583	Indemnification of CFTC Employees	3038-AA63
3584	Leverage Transactions	3038-AA65

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Prerule Stage

3577. ● DISTRIBUTION OF "RISK DISCLOSURE STATEMENT" BY FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Legal Authority: 7 USC 6(b); 7 USC 6b; 7 USC 6g(1); 7 USC 6o; 7 USC 12a(5); 7 USC 24

CFR Citation: 17 CFR 1.55; 17 CFR 30.6; 17 CFR 190.10

Legal Deadline: None

Abstract: The Commission is considering whether to amend Rule 1.55, its basic rule with respect to risk disclosure by futures commission merchants and introducing brokers. Any such amendments would be designed to further simplify risk disclosure with respect to trading of domestic and foreign futures products so as to reduce the number of separate risk disclosure documents required by the Commission, the National Futures Association and other self regulatory organizations (SROs), including foreign SROs. The Commission may also consider whether the current rules need to be clarified regarding disclosure of the risk of bankruptcy and disclosures required when an account is transferred from one futures commission merchant or introducing broker to another futures commission merchant or introducing broker.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581, 202 254-8955

RIN: 3038–AA64

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

3578. MINIMUM FINANCIAL AND RELATED REPORTING REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS

Legal Authority: 7 USC 6c; 7 USC 6f; 7 USC 6g; 7 USC 12a

CFR Citation: 17 CFR 1.12; 17 CFR 1.17

Legal Deadline: None

Abstract: The Commission adopted two amendments to its minimum financial and related requirements for futures commission merchants (FCMs). One amendment preserves the one-day grace period for debit/ deficit accounts unless the account had been in debit/deficit status on the previous business day and the previous day's debit or deficit was not timely satisfied in its entirety by the deposit of new funds. The second amendment is an enhancement of the financial early warning system which requires an FCM to notify its designated self-regulatory organization and the Commission immediately when it determines that an account it is carrying is undermargined by an amount which exceeds its adjusted net capital. The Commission also reproposed a rule to clarify the requirements for and treatment of a guaranteed account.

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Timetable:

Action	Date	FR Cite
NPRM	06/25/80	45 FR 42633
NPRM	12/01/80	45 FR 79498
NPRM	08/05/85	50 FR 31612
NPRM	07/29/87	52 FR 28281
NPRM Comment Period End	09/28/87	52 FR 28281

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Two final rules published 7/29/87, 52 FR 28246 and 52 FR 28248. Effective date: 8/28/87. Guaranteed account rule reproposed on 7/29/87, 52 FR 28281.

Agency Contact: Lawrence Patent/Gary Miller, Assoc. Chief Counsel/Asst. Chief Acct., Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA10

3579. RULES RELATING TO COMMISSION REVIEW OF NATIONAL FUTURES ASSOCIATION DECISIONS IN DISCIPLINARY, MEMBERSHIP DENIAL, REGISTRATION AND MEMBER RESPONSIBILITY ACTIONS

Legal Authority: 7 USC 21(h); 7 USC 21(i); 7 USC 21(o)(2); 7 USC 12(a)(5); 7 USC 4a

CFR Citation: 17 CFR 3; 17 CFR 171

Legal Deadline: None

Abstract: The Commission proposes to adopt rules establishing standards and procedures for Commission review of decisions of registered futures associations such as the National Futures Association ("NFA"). The Commission is proposing specific standards of review for decisions by NFA in four types of actions - disciplinary actions, membership denial actions, registration actions and member responsibility actions. The proposed rules would establish a common procedure for seeking review and a stay of a final decision by NFA in disciplinary, membership denial and registrations actions. The proposed rules would also establish a procedure for seeking review of and a stay of decisions by NFA in a member responsibility action. In proposing these rules, the Commission seeks to promulgate standards for review that will permit NFA to exercise its expertise and independent judgment in the proceedings subject to these rules while providing a person aggrieved by the result of NFA's action an effective means to obtain relief from prejudicial errors in NFA's determination. The Commission also seeks to establish an appellate process that is comprehensive, balanced, efficient and fair.

Timetable:

Action	Date	FR Cite
NPRM	04/03/89	
NPRM Comment Period End	05/03/89	
Final Action	06/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Richards, Deputy Chief, Options Section, Office of General Counsel, Commodity Futures Trading Commission, 2033 K St. N.W., Washington, D.C. 20581, 202 254-7110

RIN: 3038-AA57

3580. REGULATION OF HYBRID AND RELATED INSTRUMENTS

Legal Authority: 7 USC 2; 7 USC 6c; 7 USC 12a

CFR Citation: 17 CFR 34

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is proposing to adopt regulations concerning certain "hybrid" instruments that combine characteristics of commodity option contracts with debt or depository interests. The development of hybrid instruments with commodity-related components has raised questions concerning the status of such instruments under the Commodity Exchange Act and Commission regulations. The proposed rules would establish an exemption from CFTC regulations under the Act for hybrid instruments with limited commodity option components, based upon the limited nature of the option component and deference to other existing regulatory standards applicable to the noncommodity component of such instruments. In addition, the proposed rules would establish a notice requirement for hybrid instruments qualifying for the proposed exemption.

Timetable:

Action	Date	FR Cite
ANPRM	12/11/87	52 FR 47022
ANPRM Comment Period End	04/11/88	
NPRM	01/11/89	54 FR 1128
NPRM Comment Period End	04/06/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert H. Rosenfeld, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581, 202 254-6990

RIN: 3038-AA58

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Final Rule Stage

3581. REGULATIONS PERMITTING THE GRANT, OFFER AND SALE OF OPTIONS ON PHYSICAL COMMODITIES (DEALER OPTIONS)

Legal Authority: 7 USC 6c(b); 7 USC 6c(d); 7 USC 12(a)(5)

CFR Citation: 17 CFR 1; 17 CFR 3; 17 CFR 32

Legal Deadline: None

Abstract: Congress has directed the Commission to issue regulations permitting grantors and futures commission merchants to grant, offer and sell so-called "dealer options" on certain physical commodities subject to certain conditions specified by statute and such other uniform and reasonable requirements as the Commission may prescribe. At present, the only persons who may lawfully grant dealer options are United States domiciles who, on

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May 1, 1978, were in the business of buying, selling, producing or otherwise using that commodity. The Commission has reproposed rules, principally concerning registration of dealer option grantors, requirements for the segregation of customer funds, disclosure to customers and prospective customers, and minimum financial requirements. The Commission intends to re-evaluate the proposed rules in light of regulatory changes that have occurred since 1980.

Timetable:

Action	Date	FR Cite
NPRM	12/20/78	43 FR 59396
NPRM	04/27/81	46 FR 23469
ANPRM	03/18/85	50 FR 10788

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Robert H. Rosenfeld, Esquire, Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA03

3582. RECORDKEEPING AND THE EXCHANGE OF FUTURES FOR CASH COMMODITIES OR OF FUTURES IN CONNECTION WITH CASH COMMODITY TRANSACTIONS

Legal Authority: 7 USC 6; 7 USC 6c(a); 7 USC 6g; 7 USC 7; 7 USC 7a; 7 USC 12; 7 USC 12(a)(5)

CFR Citation: 17 CFR 1.35 (a)(2)

Legal Deadline: None

Abstract: The proposed regulation is necessary to ensure proper monitoring of exchanges of futures for physicals. The regulation would require records of customer cash transactions underlying EFPs which are now difficult to access to be routinely retained and provided to the contract market or the Commission upon request. The records would be used to monitor and ensure the bona fides of EFPs. The proposed regulation is intended to constitute the least burdensome method of achieving the Commission's goal of monitoring EFPs.

Timetable:

Action	Date	FR Cite
NPRM	11/16/88	53 FR 46089
NPRM Comment Period End	01/17/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia C. Apfelbaum, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA62

3583. ● INDEMNIFICATION OF CFTC EMPLOYEES

Legal Authority: 7 USC 4a(j)

CFR Citation: 17 CFR 140; 28 CFR 50.15

Legal Deadline: None

Abstract: The potential liability of individual CFTC employees for tortious conduct occurring within the scope of their employment has increased in the wake of recent Supreme Court decisions. Presently, the CFTC has no rules to indemnify Commission employees who are sued in their individual capacities and who suffer an adverse judgment as a result of conduct taken within the scope of their employment. The prospect of personal liability might adversely affect Commission operations, decision-making, and policy determination. A partial solution was provided when the "Federal Employees Liability Reform and Tort Compensation Act of 1988" (P.L. 100-694) was enacted. This new law removes the potential personal liability of federal employees for common law torts committed within the scope of their employment and provides that the exclusive remedy for such torts is through an action against the U.S. under the Federal Tort Claims Act. However, this does not extend to a civil action against a federal employee which is brought for a violation of the Constitution or federal statute which would authorize such action. A change to permit indemnification would help alleviate this problem.

Timetable:

Action	Date	FR Cite
Final Action	04/03/89	
Final Action Effective	04/03/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: David W. Kuhnsman, Attorney, Commodity Futures Trading Commission, 2033 K. Street, NW, Washington, DC 20581, 202 254-9880

RIN: 3038-AA63

3584. ● LEVERAGE TRANSACTIONS

Legal Authority: 7 USC 12a (5); 7 USC 23

CFR Citation: 17 CFR 1.3 (f); 17 CFR 3.2; 17 CFR 3.3; 17 CFR 3.18; 17 CFR 3.20; 17 CFR 3.21; 17 CFR 3.31; 17 CFR 3.32; 17 CFR 3.33; 17 CFR 3.40; 17 CFR 3.43; 17 CFR 31; 17 CFR 145.5(d)(2)(i)(H); 17 CFR 147.3(b)(4)(i)(A)(8)

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission has proposed rules which will permit additional participation in the leverage business, as directed by Congress in the Futures Trading Act of 1986. The proposed amendments to existing rules and the proposed new rules are essentially procedural in nature. They are designed to provide for a regulatory structure of direct supervision by the National Futures Association (NFA) under Commission oversight. Such a structure is consistent with the other regulatory programs administered by the Commission under the Commodity Exchange Act. Under the proposed rules, each leverage transaction merchant (LTM) would be required to be a member of the NFA, which would be required to adopt rules establishing minimum financial, cover, segregation and sales practice requirements, and related reporting requirements. With respect to each area, these rules would have to be as least as stringent as the standards currently set forth by the Commission in Part 31 of its rules. The NFA also would be required to have an arbitration procedure to settle leverage customer claims and grievances.

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Timetable:

Action	Date	FR Cite
NPRM	01/24/89	54 FR 3496
NPRM Comment Period End	03/27/89	
Final Action	08/10/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Stret NW, Washington, DC 20581, 202 254-8955

RIN: 3038–AA65

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Monday
April 24, 1989

Part XLVI

Consumer Product Safety Commission

Semiannual Regulatory Agenda

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CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of regulatory flexibility and unified agendas.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish twice each year a regulatory flexibility agenda listing the rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governmental units. In this document, the Commission publishes its semiannual regulatory flexibility agenda.

Additionally, although not required to do so, the Commission has elected to comply voluntarily with those provisions of Executive Order 12291 which require executive agencies to publish an agenda of regulatory actions expected to be under development or review by the agency during the succeeding 12 months and which further provide that such an agenda may be combined with an agency's regulatory flexibility agenda published in accordance with the RFA.

DATE: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by June 30, 1989.

ADDRESS: Comments on the regulatory flexibility agenda should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6800, and should be titled "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6980. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601-612, contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the Act. 5 U.S.C. 602, requires each agency to publish twice each year a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated which is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule, the objectives and legal basis for the rule, and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking. The Regulatory Flexibility Agenda shall also contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

In addition, Executive Order 12291 requires executive agencies to publish, twice each year, a regulatory agenda of proposed regulations under development or current regulations under review and further states that such an agenda may be combined with an agenda published under the RFA. While the Commission, as an independent regulatory agency, is not required to follow Executive Order 12291, the Commission is complying voluntarily with those provisions concerning publication of a regulatory agenda.

The regulatory flexibility agenda published below lists, for a 12-month period, the regulatory activities expected to be under development or review. These include all such activities, not only those which may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

Dated: March 22, 1989.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3585	Requirements for the special packaging of household substances; revision of test protocol for child resistant packaging	3041-AA22
3586	Rule review	3041-AA24
3587	Rule review	3041-AA25
3588	All-terrain vehicles	3041-AA53
3589	Requirements to make cigarette lighters child resistant	3041-AA73
3590	Method for identifying toys and other articles intended for children under 3 years of age which present choking, aspiration, or ingestion hazards because of small parts	3041-AA76
3591	Petition CP -89-2 requesting development of a standard for electric heat tape	3041-AA78
3592	Petition CP 89-3 for safety standard for hand-held electric hair dryers	3041-AA79

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Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3593	Petition HP 89-1 for rule to ban certain crib toys	3041-AA83
3594	Petition CP 89-1 for safety standard for saunas	3041-AA85
3595	Petition PP 88-2 for rules to require child-resistant packaging for products containing acetonitrile or sodium bromate	3041-AA86

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3596	Proposed rule to exempt electronic video games from electrical toy regulations	3041-AA41
3597	Household substances containing methylene chloride; status as hazardous substances; proposed rule	3041-AA59

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3598	Poison Prevention Packaging Act requirements for certain effervescent acetaminophen tablets, proposed amendment of exemption	3041-AA69
3599	Poison Prevention Packaging Act requirements for certain unflavored aspirin in powder form, proposed amendment of exemption	3041-AA70
3600	Poison Prevention Packaging Act requirements for certain medroxyprogesterone acetate tablets, proposed amendment of exemption	3041-AA71
3601	Proposed rule to exempt medroxyprogesterone acetate tablets from Poison Prevention Packaging Act requirements for child-resistant packaging	3041-AA77
3602	Application for exemption from preemption; proposed rule	3041-AA82
3603	Proposed rule to exempt medroxyprogesterone acetate tablets from Poison Prevention Packaging Act requirements for child-resistant packaging	3041-AA84

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3604	Rule review	3041-AA20
3605	Petition HP 87-1 requesting a ban of certain household products containing more than 0.01 percent tremolite	3041-AA63
3606	Petition CP 87-1 requesting development of a product safety rule for kerosene heaters and requiring a label to warn against flare-up	3041-AA68
3607	Possible standard or ban to address injuries to children caused by children playing with lawn darts	3041-AA72
3608	Poison Prevention Packaging Act requirements for certain conjugated estrogens, proposed amendment of exemption	3041-AA74
3609	Petition CP 87-2 requesting a warning label on hot air paint removal tools	3041-AA75
3610	Proposed rule to exempt medroxyprogesterone acetate tablets from Poison Prevention Packaging Act requirements for child-resistant packaging	3041-AA77
3611	Commission participation and Commission employee involvement in voluntary standards	3041-AA88

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CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Prerule Stage

3585. REQUIREMENTS FOR THE SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES; REVISION OF TEST PROTOCOL FOR CHILD RESISTANT PACKAGING

Legal Authority: 15 USC 1472 Poison Prevention Packaging Act; 15 USC 1473 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.20

Legal Deadline: None

Abstract: On January 19, 1983, the Commission published an Advance Notice of Proposed Rulemaking soliciting comments on ways to amend the existing requirements for child-resistant packaging to improve the effectiveness and efficiency of these requirements. In June 1985, the Commission staff completed testing to determine the feasibility of using some of the alternate procedures for evaluation of child-resistant packaging described in the ANPR. In August 1987, the Commission considered the comments received in response to the ANPR and the staff's recommendations regarding revision of existing requirements for child-resistant packaging. The Commission directed the staff to prepare draft proposals to amend the test protocols used to evaluate the effectiveness of child-resistant packaging. The staff is preparing a briefing package concerning specific revisions to the child test protocol and the adult test protocol. The staff anticipates that it will transmit the briefing package to the Commission in April 1989.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/83	48 FR 2389
ANPRM Comment Period End	03/21/83	48 FR 2389
Staff sends briefing package to Commission	04/00/89	
NPRM	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia A. White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA22

3586. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700; 16 CFR 1701; 16 CFR 1702; 16 CFR 1704

Legal Deadline: Other, Statutory, December 31, 1990.

Abstract: The Commission plans to publish a Federal Register notice listing four (4) rules and standards issued under the Poison Prevention Packaging Act and soliciting comments on those rules. The Commission will review these rules under the provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	04/14/89	
Public comment period ends	06/16/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA24

3587. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500; 16 CFR 1501; 16 CFR 1505; 16 CFR 1507; 16 CFR 1508; 16 CFR 1509; 16 CFR 1510; 16 CFR 1511; 16 CFR 1512

Legal Deadline: Other, Statutory, December 31, 1990.

Abstract: On February 22, 1984, the Commission published a Federal Register notice listing nine (9) rules and standards issued under the Federal Hazardous Substances Act and soliciting comments on those rules. The Commission will review these rules under provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	02/22/84	49 FR 6504
Public comment period ends	04/23/84	49 FR 6504
End Review	11/30/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA25

3588. ALL-TERRAIN VEHICLES

Significance: Agency Priority

Legal Authority: 15 USC 2051 et seq Consumer Product Safety Act; 15 USC 1262(f) Federal Hazardous Substances Act

CFR Citation: 16 CFR 00

Legal Deadline: None

Abstract: On May 31, 1985, the Commission published an advance notice of proposed rulemaking (ANPR) to announce its preliminary determination that an unreasonable risk of injury may be associated with all-terrain vehicles. An all-terrain vehicle (ATV) is a three- or four-wheeled motorized machine, designed for off-road use, and intended to be ridden by one person. A consent decree in the U.S. District Court of the District of Columbia in U.S. v. American Honda Motor Co. et al., approved on April 28, 1988, Civil Act. No. 87-3525 GAG), required ATV manufacturers to attempt in good faith to reach agreement on a voluntary standard for the Commission's consideration. The Commission accepted that standard, along with an industry agreement concerning lateral stability, on October 28, 1988. Except for lateral stability and youth models, the Commission will defer rulemaking for a time sufficient for the voluntary standard to be adopted by the American National Standards Institute. Also, the Commission concluded that for labeling, manuals, age recommendations, advertising, training, point-of-purchase materials, and other

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Timetable:

Action	Date	FR Cite
ANPRM	05/31/85	50 FR 23139
ANPRM Comment Period End	09/30/85	50 FR 31391
Staff sends status report to Commission	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT. aspects of manufacturing and marketing of ATVs which are controlled by the consent decree, rulemaking is no longer required. The staff plans to send a status report to the Commission in August concerning progress on the voluntary standard and development of requirements for lateral stability of ATVs.

Agency Contact: Carl Blechschmidt, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D. C. 20207, 301 492-6554

RIN: 3041-AA53

3589. REQUIREMENTS TO MAKE CIGARETTE LIGHTERS CHILD RESISTANT

Legal Authority: 15 USC 2051 et seq Consumer Product Safety Act; 15 USC 1261 et seq Federal Hazardous Substances Act; 15 USC 1471 et seq Poison Prevention Packaging Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: On March 3, 1988, the Commission published an Advance Notice of Proposed Rulemaking (ANPRM) to announce its preliminary determination that unreasonable risks of death and injury may be associated with cigarette lighters because they are not sufficiently resistant to operation by children. The Commission staff is analyzing comments received in response to the ANPRM. A test protocol using panels of children and adults is under development. The test protocol will be used to determine the child resistance of lighters now on the market and to evaluate lighter modifications reported to be more child resistant. A child resistant cigarette lighter standard will be developed using the test protocol as a basis.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/88	53 FR 6833
ANPRM Comment Period End	05/02/88	53 FR 6833
Staff sends briefing package on NPRM to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: L. James Sharman, Fire Programs Officer, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D. C. 20207, 301 492-6554

RIN: 3041-AA73

3590. METHOD FOR IDENTIFYING TOYS AND OTHER ARTICLES INTENDED FOR CHILDREN UNDER 3 YEARS OF AGE WHICH PRESENT CHOKING, ASPIRATION, OR INGESTION HAZARDS BECAUSE OF SMALL PARTS

Legal Authority: 15 USC 1261 to 1262 Federal Hazardous Substance Act

CFR Citation: 16 CFR 1501

Legal Deadline: None

Abstract: The Commission has a regulation applicable to toys and other articles intended for children under three years old that prescribes a test cylinder to determine if articles, or detachable parts of such articles, present a choking hazard to young children. Articles or components which fit within the test cylinder are banned. Although this regulation has been in effect since January 1980, choking incidents have occurred since it went into effect involving products which either pass the test or which are exempt from the regulation. The Commission has established a project to gather information about the nature and causes of these incidents and to determine what, if any, additional measures are needed to reduce injuries and deaths from such incidents, including possible modification of the small parts test cylinder. The Commission published an ANPRM on June 7, 1988, to solicit comments on ways to address choking hazards to young children, including specific modifications of the test cylinder requested in a petition from the Consumer Federal of America and the New York State Attorney General's Office.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/88	53 FR 20865
ANPRM Comment Period End	08/08/88	53 FR 20865
Notice announcing establishment of medical advisory committee	01/19/89	54 FR 2198

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: In the Federal Register of January 19, 1989, the Commission published a notice to announce the establishment of a medical advisory committee which will consist of five to seven physicians with specialized training or experience in children's asphyxiation accidents and injuries. The advisory committee will provide expert medical advice to the Commission on appropriate modifications of the test fixture specified by the small parts regulations and other topics relevant to this rulemaking proceeding.

Agency Contact: Elaine A. Tyrrell, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA76

3591. ● PETITION CP -89-2 REQUESTING DEVELOPMENT OF A STANDARD FOR ELECTRIC HEAT TAPE

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2056 Consumer Product Safety Act; 15 USC 2058 Consumer Product Safety Act; 15 USC 2076(e) Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: On December 22, 1988 Christian B. Stegeman, III and others petitioned the Commission to begin a proceeding under provisions of the Consumer Product Safety Act for

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development of a safety standard for electric heat tape. The petition requests the Commission to develop a standard with requirements for the design and performance of electric heat tape and for instructions and warnings to accompany the product. If the Commission grants the petition, it will begin a rulemaking proceeding under the Consumer Product Safety Act.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to Commission	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carl Blechschmidt, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA78

3592. ● PETITION CP 89-3 FOR SAFETY STANDARD FOR HAND-HELD ELECTRIC HAIR DRYERS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: On September 5, 1988, David A. Snow, President of the Michele Snow Foundation, petitioned the Commission to issue a consumer product safety standard for hand-held electric hair dryers. The petition alleges that hand-held electric hair dryers are associated with five to ten fatal electrocutions of children each year. The petition requests the Commission to issue a safety standard for hand-held electric hair dryers to require immersion detection circuit interrupters to protect against electric shock injuries if the hair dryer accidentally falls into water. The Commission staff is preparing a briefing package for consideration by the Commission when deciding whether to grant or deny the petition. If the Commission grants the petition, it will begin a proceeding under the Consumer Product Safety Act for development of a consumer product safety standard.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to Commission	04/17/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Linda Glatz, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA79

3593. ● PETITION HP 89-1 FOR RULE TO BAN CERTAIN CRIB TOYS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act; 15 USC 2079(d) Consumer Product Safety Act

CFR Citation: 16 CFR 1500.18

Legal Deadline: None

Abstract: On November 17, 1988, Consumer Federation of American and the New York State Attorney General's Office petitioned the Commission to begin a proceeding for issuance of a rule to ban certain crib toys and mobiles described in the petition. The petition alleges that these toys present risks of strangulation to infants. If the Commission grants the petition, it will begin a proceeding under the Federal Hazardous Substances Act for issuance of the requested banning rule.

Timetable:

Action	Date	FR Cite
Staff sends briefing package on petition to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elaine A. Tyrrell, Project Manager, Consumer Product Safety Commission, Consumer Product Safety Commission, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA83

3594. ● PETITION CP 89-1 FOR SAFETY STANDARD FOR SAUNAS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: On October 4, 1988, Edward Press, M.D. petitioned the Commission to issue a safety standard for saunas. A sauna is a wood-walled enclosure equipped with benches and a heater. The petition alleges that saunas are associated with risks of death and injury from heat stroke or hypothermia, cardiac arrhythmia and cardiac arrest, myocardial infarction, and syncope or fainting. The petition requests the Commission to issue a safety standard for saunas with requirements for signs to warn about hazards associated with use of saunas; a switch outside the sauna enclosure to limit operating time of the sauna to a maximum of ten minutes per setting; a switch inside the sauna enclosure to shut off the sauna when the dry-bulb temperature exceeds 195 degrees F.; adequate ventilation of the sauna enclosure; and an alarm signal which can be activated inside the sauna enclosure to summon aid. The staff is preparing a briefing package for consideration by the Commission when deciding whether to grant or deny the petition. If the Commission grants the petition, it will begin a proceeding for development of a consumer product safety standard under provisions of the Consumer Product Safety Act.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to the Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Elder, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA85

CPSC — **Prerule Stage**

3595. ● PETITION PP 88-2 FOR RULES TO REQUIRE CHILD-RESISTANT PACKAGING FOR PRODUCTS CONTAINING ACETONITRILE OR SODIUM BROMATE

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1471 Poison Prevention Packaging Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: On June 27, 1988, the American Association of Poison Control Centers, Inc. petitioned the Commission to issue rules under provisions of the Poison Prevention Packaging Act to require child-resistant packaging for two types of cosmetics: products containing acetonitrile used to remove sculptured nails; and home cold-wave permanent kits containing sodium bromate. The petition alleges that children have suffered serious injuries after accidentally ingesting the products which are the subject of the petition. The staff is preparing a briefing package for consideration by the Commission when deciding whether to grant or deny the petition. If the Commission grants the petition it will begin a proceeding under the Poison Prevention Packaging Act to issue rules requiring child-resistant packaging of household products containing acetonitrile or sodium bromate.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA86

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Proposed Rule Stage

3596. PROPOSED RULE TO EXEMPT ELECTRONIC VIDEO GAMES FROM ELECTRICAL TOY REGULATIONS

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1505

Legal Deadline: None

Abstract: In correspondence dated December 21, 1983, the Consumer Electronic Group of the Electronic Industries Association petitioned the Commission to amend the regulation on electrical toys to exempt electronic video games from coverage. The Commission granted the petition on September 27, 1988, and expects to publish a proposed exemption in July 1989.

Timetable:

Action	Date	FR Cite
Commission decision	09/27/88	
NPRM	07/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Thome, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA41

3597. HOUSEHOLD SUBSTANCES CONTAINING METHYLENE CHLORIDE; STATUS AS HAZARDOUS SUBSTANCES; PROPOSED RULE

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500.12(a)(2)

Legal Deadline: None

Abstract: On August 20, 1986, the Commission proposed a rule to declare that household products containing methylene chloride are hazardous substances under the Federal Hazardous Substances Act. These products include some paint strippers and spray paints. The Commission's concern arises from animal tests showing that methylene chloride is a carcinogen by inhalation and studies indicating a significant human exposure as a result of reasonably foreseeable use of products containing methylene chloride. The initiation of this rulemaking proceeding granted one part of a petition (HP 85-1) from the Consumer Federation of America. The staff provided an analysis of the comments on the proposed rule to the Commission in June 1987. In August 1987, the Commission determined that there was insufficient controversy over the status of methylene chloride as a hazardous substance; therefore, the Commission suspended the rulemaking and issued a statement of enforcement policy stating the Commission's view that household products that contain methylene chloride and that expose consumers to significant levels of methylene chloride are (cont.)

Timetable:

Action	Date	FR Cite
NPRM	08/20/86	51 FR 29778
NPRM Comment Period End	10/20/86	51 FR 29778
Policy published	09/14/87	52 FR 34698

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: subject to the FHSA's labeling requirements.The rulemaking proceeding is suspended pending a determination of the extent of compliance with the enforcement policy.

Agency Contact: Sandra Eberle, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA59

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CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Final Rule Stage

3598. POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CERTAIN EFFERVESCENT ACETAMINOPHEN TABLETS, PROPOSED AMENDMENT OF EXEMPTION

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1471 et seq Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Regulations implementing the Poison Prevention Packaging Act exempt effervescent acetaminophen tablets containing less than 10 per cent acetaminophen from requirements for child-resistant packaging. In the Federal Register of October 20, 1988, the Commission published a proposed amendment of those regulations to increase the acetaminophen content of tablets exempted from requirements for child-resistant packaging from less than ten per cent to not more than 15 per cent. In March 1989 the staff expects to transmit a briefing package to the Commission which analyzes comments received in response to the proposed amendment and contains a draft notice to issue the proposed amendment on final basis.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 41200
NPRM Comment Period End	12/19/88	53 FR 41200
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA69

3599. POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CERTAIN UNFLAVORED ASPIRIN IN POWDER FORM, PROPOSED AMENDMENT OF EXEMPTION

Legal Authority: 5 USC 553 Administrative Procedure Act;; 15 USC 1471 et seq Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Regulations issued under provisions of the Poison Prevention Packaging Act exempt certain unflavored aspirin in powder form which is packaged in unit doses providing not more than 13 grains of aspirin per unit dose from requirements for child-resistant packaging. In the Federal Register of October 20, 1988, the Commission proposed an amendment of those regulations to exempt unflavored aspirin in powder form which is packaged in unit doses providing not more than 15.4 grains of aspirin per dose from requirements for child-resistant packaging. In March 1989, the staff expects to transmit a briefing package to the Commission which analyzes comments received in response to the proposed amendment and contains a draft notice to issue the proposed amendment on a final basis.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 4199
NPRM Comment Period End	12/19/88	53 FR 4199
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA70

3600. POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CERTAIN MEDROXYPROGESTERONE ACETATE TABLETS, PROPOSED AMENDMENT OF EXEMPTION

Legal Authority: 5 USC 553 Administrative Procedure Act;; 15 USC 1471 et seq Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: In the Federal Register of October 20, 1988, the Commission proposed a rule under provisions of the Poison Prevention Packaging Act to exempt medroxyprogesterone acetate tablets dispensed in mnemonic packages containing not more than 100 milligrams of the drug from requirements for child-resistant packaging. In March 1989, the staff expects to transmit a briefing package to the Commission which analyzes comments received in response to the proposal and contains a draft notice to issue the proposed rule on a final basis.

Timetable:

Action	Date	FR Cite
NPRM	10/30/88	53 FR 41202
NPRM Comment Period End	12/19/88	53 FR 41202
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA71

3601. ● PROPOSED RULE TO EXEMPT MEDROXYPROGESTERONE ACETATE TABLETS FROM POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CHILD-RESISTANT PACKAGING

Legal Authority: 5 USC 55(e) Administrative Procedure Act; 15 USC et seq Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: In the Federal Register of January 12, 1989, the Commission published a proposed rule under provisions of the Poison Prevention Act to exempt medroxyprogesterone acetate tablets from requirements for child-resistant packaging. In April 1989, the staff expects to transmit a briefing package to the Commission which analyzes comments received in response to the propose rule and contains a draft notice to issue the proposed rule on a final basis.

Timetable:

Action	Date	FR Cite
NPRM	01/12/89	54 FR 1187
NPRM Comment Period End	03/13/89	54 FR 1187
Final Action	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program

CPSC — Final Rule Stage

Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA77

3602. ● APPLICATION FOR EXEMPTION FROM PREEMPTION; PROPOSED RULE

Legal Authority: 15 USC 2075 Consumer Product Safety Act; 15 USC 1261n Federal Hazardous Substances Act; 15 USC 1203 Flammable Fabrics Act; 15 USC 1476 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1061; 16 CFR 1604; 16 CFR 1704

Legal Deadline: None

Abstract: In the Federal Register of December 26, 1988, the Commission published a proposed regulation to establish procedures for submission and consideration of applications by state and local governments for exemption from preemption by statutes, standards, and regulations of the Consumer Product Safety Commission. The proposed regulation would implement provisions of the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, and the Poison Prevention Packaging Act which authorize state and local governments to petition the Commission for exemption from preemption of state and local laws by requirements enforced by the Consumer Product Safety Commission, and specify the conditions under which the Commission may grant such petitions.

Timetable:

Action	Date	FR Cite
NPRM	12/26/88	53 FR 52432
NPRM Comment Period End	01/27/89	53 FR 52432
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Stephen Lemberg, Assistant General Counsel, Consumer Product Safety Commission, Office of the General Counsel, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA82

3603. ● PROPOSED RULE TO EXEMPT MEDROXYPROGESTERONE ACETATE TABLETS FROM POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CHILD-RESISTANT PACKAGING

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: In the Federal Register of January 12, 1989, the Commission published a proposed rule under provisions of the Poison Prevention Packaging Act to exempt medroxyprogesterone acetate tablets from requirements for child-resistant packaging. In April 1989, the staff expects to transmit a briefing package to the Commission which analyzes comments received in response to the proposed rule and contains a draft notice to issue the proposed rule on a final basis.

Timetable:

Action	Date	FR Cite
NPRM	01/12/89	54 FR 1187
NPRM Comment Period End	03/13/89	54 FR 1187
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA84

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Completed Actions

3604. RULE REVIEW

CFR Citation: 16 CFR 1608; 16 CFR 1610; 16 CFR 1611; 16 CFR 1615; 16 CFR 1616; 16 CFR 1630; 16 CFR 1631; 16 CFR 1632

Completed:

Reason	Date	FR Cite
End Review	01/09/89	54 FR 601

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Allen F. Brauninger 301 492-6980

RIN: 3041-AA20

3605. PETITION HP 87-1 REQUESTING A BAN OF CERTAIN HOUSEHOLD PRODUCTS CONTAINING MORE THAN 0.01 PERCENT TREMOLITE

CFR Citation: 16 CFR 1500

Completed:

Reason	Date	FR Cite
Petition denied	12/30/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sandra Eberle 301 492-6554

RIN: 3041-AA63

3606. PETITION CP 87-1 REQUESTING DEVELOPMENT OF A PRODUCT SAFETY RULE FOR KEROSENE HEATERS AND REQUIRING A LABEL TO WARN AGAINST FLARE-UP

CFR Citation: 00 CFR 00

Completed:

Reason	Date	FR Cite
Petition Denied	12/04/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Hoebel 301 492-6554

RIN: 3041-AA68

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3607. POSSIBLE STANDARD OR BAN TO ADDRESS INJURIES TO CHILDREN CAUSED BY CHILDREN PLAYING WITH LAWN DARTS

CFR Citation: 16 CFR 1500.18(a)(4); 16 CFR 1500.86(a)(3); 16 CFR 1306

Completed:

Reason	Date	FR Cite
Final Action	11/16/88	53 FR 46828
Final Action Effective	12/19/88	53 FR 46828

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Thome 301 492-6554

RIN: 3041–AA72

3608. POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CERTAIN CONJUGATED ESTROGENS, PROPOSED AMENDMENT OF EXEMPTION

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Final Action	10/20/88	53 FR 41159
Final Action Effective	10/20/88	53 FR 41159

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White 301 492-6554

RIN: 3041–AA74

3609. PETITION CP 87-2 REQUESTING A WARNING LABEL ON HOT AIR PAINT REMOVAL TOOLS

CFR Citation: 16 CFR 1200; 16 CFR 1400

Completed:

Reason	Date	FR Cite
Petition denied	12/20/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sandra Eberle 301 492-6554

RIN: 3041–AA75

3610. PROPOSED RULE TO EXEMPT MEDROXYPROGESTERONE ACETATE TABLETS FROM POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CHILD-RESISTANT PACKAGING

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Petition granted	12/30/88	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia White 301 492-6554

RIN: 3041–AA77

3611. ● COMMISSION PARTICIPATION AND COMMISSION EMPLOYEE INVOLVEMENT IN VOLUNTARY STANDARDS

Legal Authority: 15 USC 2051 Consumer Product Safety Act; 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1191 Flammable Fabrics Act

CFR Citation: 16 CFR 1031; 16 CFR 1032

Legal Deadline: None

Abstract: The Commission has revised its regulations governing the Commission's participation in voluntary standards activities to reflect the policies set forth by Congress in the 1981 amendments of the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act. The revised regulation make several changes in the Commission's policies governing participation by the Commission staff in voluntary standards development activities.

Timetable:

Action	Date	FR Cite
NPRM	11/07/88	53 FR 44892
NPRM Comment Period End	12/07/88	53 FR 44892
Final Action	02/14/89	54 FR 6646
Final Action Effective	03/16/89	54 FR 6646

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Colin Church, Voluntary Standards Coordinator, Consumer Product Safety Commission. Office of the Executive Director, Washington, D.C. 20207, 301 492-6550

RIN: 3041–AA88

[FR Doc. 89-7776 Filed 04-21-89; 8:45 am]

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Monday
April 24, 1989

Part XLVII

Farm Credit Administration

Semiannual Regulatory Agenda

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FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulations

AGENCY: Farm Credit Administration.

ACTION: Department Unified Agenda of Regulations and review list.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency in voluntary compliance with Executive Order 12291, sets forth the following agenda of regulations which it will have under development and review during the period of April 1989 through October 1989.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Farm Credit Administration regulations which apply to Farm Credit System banks and associations do not and will not have a substantial impact on small entities. None of the entities regulated by the FCA fall within the definition of small entities in the Regulatory Flexibility Act. While many associations through which banks lend are smaller in size than their banks, they are not independently operated, as they are closely supervised by the banks, which must approve most of their operating policies. The associations rely exclusively on their supervising banks for their source of funds. Furthermore, the associations do not compete with each other since, as with their supervising banks, each serves only a particular geographic area.

While FCA is an independent agency exempt from Executive Order 12291, we believe that participating in this joint publication will further the public interest by including FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations.

Dated: February 24, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3612	Releasing Information; Examinations and Investigations; General Provisions; Releasing Information	3052-AA05
3613	Organization: Director Compensation	3052-AA09
3614	Eligibility and Scope of Financing; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Coordination; General Provisions; Definitions	3052-AA94
3615	Debt Collection Act	3052-AB02
3616	Organization and Functions: Service of Process	3052-AB07
3617	Personnel Administration: Human Resources Management	3052-AB08

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3618	Personnel Administration; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions: Prior Approvals	3052-AB06

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3619	Organization; Personnel Administration; General Provisions; Disclosure to Shareholders: Mergers	3052-AA00
3620	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions: Capital Adequacy	3052-AA79
3621	Regulatory Accounting Practices: RAP	3052-AA82
3622	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations: Capital Adequacy Related	3052-AA88
3623	Organization: Receiver	3052-AA92
3624	Loan Policies and Operations; Disclosure to Shareholders; Accounting and Reporting Requirements: Secondary Market	3052-AA96
3625	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations: Funding Corporation	3052-AA97
3626	General Provisions: Member Insurance	3052-AB03
3627	Loan Policies and Operations: Borrower Rights	3052-AB04

FARM CREDIT ADMINISTRATION (FCA) — Proposed Rule Stage

3612. RELEASING INFORMATION; EXAMINATIONS AND INVESTIGATIONS; GENERAL PROVISIONS; RELEASING INFORMATION

Legal Authority: PL 92-181; PL 99-205; 12 USC 2252(a)(10)

CFR Citation: 12 CFR 602; 12 CFR 617; 12 CFR 618

Legal Deadline: None

Abstract: Clarify existing policies and procedures with respect to the release of information and/or documents obtained in or resulting from the conduct of official business by employees of the Farm Credit Administration and the Farm Credit System.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Monica Michelizzi, Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052–AA05

3613. ORGANIZATION: DIRECTOR COMPENSATION

Legal Authority: PL 92-181; PL 96-592; 12 USC 2211; 12 USC 2252(a)(10); PL 99-205

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Agricultural Credit Act of 1987 requires revision to FCA regulations to ensure the rights of shareholders to obtain a copy of the district board policy regarding compensation of district directors and also to inspect and copy the supporting records.

Timetable:

Action	Date	FR Cite
NPRM	11/09/87	52 FR 43081
NPRM Comment Period End	01/08/88	52 FR 43081

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703) 883-4020

Agency Contact: Dennis Carpenter, Senior Credit Specialist, Financial Analysis & Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4498

RIN: 3052–AA09

3614. ELIGIBILITY AND SCOPE OF FINANCING; LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; COORDINATION; GENERAL PROVISIONS; DEFINITIONS

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2073; 12 USC 2075; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2143; 12 USC 2243; 12 USC 2252; 12 USC 2279a; ...

CFR Citation: 12 CFR 613; 12 CFR 614; 12 CFR 615; 12 CFR 616; 12 CFR 618; 12 CFR 619

Legal Deadline: None

Abstract: Revise due to Agricultural Credit Act of 1987

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	53 FR 44438

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Dennis Carpenter, Senior Credit Specialist, Financial Analysis & Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4498

RIN: 3052–AA94

3615. DEBT COLLECTION ACT

Legal Authority: 12 USC 2252(a)(10)

CFR Citation: 12 CFR Not yet determined

Legal Deadline: None

Abstract: GAO and Justice have issued standards for issuance of regulations

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Rob Brammer, Chief, Budget & Accounting Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4122

RIN: 3052–AB02

3616. ● ORGANIZATION AND FUNCTIONS: SERVICE OF PROCESS

Legal Authority: 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 600

Legal Deadline: None

Abstract: Establishes the method to be used in order to serve legal process upon the agency, including, identification of the agency official designated to receive such process.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R.

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Proposed Rule Stage

Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Gary L. Bohlke, Associate General Counsel, Litigation and Enforcement, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4020

RIN: 3052-AB07

3617. ● PERSONNEL ADMINISTRATION: HUMAN RESOURCES MANAGEMENT

Legal Authority: 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 612

Legal Deadline: None

Abstract: Establishes a broader description of the responsibilities and requirements for human resources management in the Farm Credit System.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Charles R. Row, Chief, Human Resources Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4135

RIN: 3052-AB08

FARM CREDIT ADMINISTRATION (FCA)

Final Rule Stage

3618. ● PERSONNEL ADMINISTRATION; LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; GENERAL PROVISIONS: PRIOR APPROVALS

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 612; 12 CFR 614; 12 CFR 615; 12 CFR 618

Legal Deadline: None

Abstract: Eliminates prior approval portions of certain regulations requiring institutions to submit certain proposed policies, procedures, programs and activities to FCA for its approval prior to the institution implementing such policies, procedures, programs and activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/89	54 FR 1149

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: John C. Moore, Deputy Chief, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4402

RIN: 3052-AB06

FARM CREDIT ADMINISTRATION (FCA)

Completed Actions

3619. ● ORGANIZATION; PERSONNEL ADMINISTRATION; GENERAL PROVISIONS; DISCLOSURE TO SHAREHOLDERS: MERGERS

Legal Authority: 12 USC 2011; 12 USC 2020; 12 USC 2031; 12 USC 2071; 12 USC 2076; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2218; 12 USC 2221; 12 USC 2243; 12 USC 2244; 12 USC 2252; ...

CFR Citation: 12 CFR 611; 12 CFR 612; 12 CFR 618; 12 CFR 620

Legal Deadline: None

Abstract: Due to 1987 legislation, major changes will be required to implement merger and restructuring provisions.

Timetable:

Action	Date	FR Cite
ANPRM	02/16/88	53 FR 4416
ANPRM Comment Period End	02/29/88	53 FR 4416
Interim Final Rule	05/11/88	53 FR 16695
NPRM	06/06/88	53 FR 20637
NPRM Comment Period End	07/06/88	53 FR 20637
Final Action Interim Rule	08/05/88	53 FR 29445
Final Action Section 611.1145	10/05/88	53 FR 39079
Final Action All prior amendments	12/15/88	53 FR 50381
Final Action Effective	02/22/89	
Notice of Effective Date	02/23/89	54 FR 758

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: James Thies, Assistant Chief, Financial Analysis & Standards, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia, 703 883-4475

RIN: 3052-AA00

3620. ● FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; GENERAL PROVISIONS: CAPITAL ADEQUACY

Legal Authority: 12 USC 2154; 12 USC 2183; 12 USC 2243; 12 USC 2244; 12 USC 2252; PL 100-233, Sec 301(a)

CFR Citation: 12 CFR 615; 12 CFR 618

Legal Deadline: None

Abstract: Regulations to ensure adequate capital is maintained by Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/88	53 FR 4642
ANPRM Comment Period End	03/01/88	53 FR 4642
NPRM	05/12/88	53 FR 16948
Public Hearing Capital Adequacy	05/12/88	53 FR 16963
NPRM Comment Period End	06/10/88	53 FR 16948
Resolicitation of Comments Capital Adequacy	08/10/88	53 FR 30071
Final Action	10/06/88	53 FR 39229
Final Action All prior amendments	10/06/88	53 FR 39229
Final Action Effective	02/01/89	54 FR 5074

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: William Dunn, Chief, Financial Analysis & Standards, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4489

RIN: 3052-AA79

3621. REGULATORY ACCOUNTING PRACTICES: RAP

Legal Authority: 12 USC 2001; 12 USC 2013; 12 USC 2073; 12 USC 2093; 12 USC 2122; 12 USC 2159; 12 USC 2252; 12 USC 2254

CFR Citation: 12 CFR 624

Legal Deadline: None

Abstract: Utilization of regulatory accounting practices by Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
NPRM	05/12/88	53 FR 16968
NPRM Comment Period End	06/13/88	53 FR 16968
Final Action	10/13/88	53 FR 40049
Final Action Effective	02/09/89	54 FR 6265

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Thomas Dalton, Staff Accountant, Accounting and Corporate Affairs, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4460

RIN: 3052-AA82

3622. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS: CAPITAL ADEQUACY RELATED

Legal Authority: 12 USC 2132; 12 USC 2146; 12 USC 2154; 12 USC 2160; 12 USC 2202b; 12 USC 2243; 12 USC 2252; 12 USC 2278b; 12 USC 2278b-6

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Revisions to various regulations relating to capital adequacy and minimal capital requirements for Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/88	53 FR 4642
ANPRM Comment Period End	03/01/88	53 FR 4642
NPRM	09/02/88	53 FR 34109
NPRM Comment Period End	09/16/88	53 FR 34109
Final Action	10/13/88	53 FR 40033
Final Action Effective	02/09/89	54 FR 6264

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020

Agency Contact: William Dunn, Chief, Financial Analysis & Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4489

RIN: 3052-AA88

3623. ORGANIZATION: RECEIVER

Legal Authority: 12 USC 2011; 12 USC 2031; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2182; 12 USC 2183; 12 USC 2243; 12 USC 2244; 12 USC 2250; 12 USC 2252; PL 100-233, Sec 412

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Revise due to Agricultural Credit Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	05/12/88	53 FR 16934
Interim Final Rule	05/24/88	53 FR 18810
NPRM Comment Period End	06/13/88	53 FR 16934
NPRM Insolvency definition	10/31/88	53 FR 43897
Final Action All prior amendments	01/12/89	54 FR 1146
Final Action Effective	02/23/89	
Notice of Effective Date	02/23/89	54 FR 7756
NPRM - Resolicitation of Comments Insolvency definition	00/00/00	00 FR 00000

FCA

Completed Actions

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Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 703-883-4020

Agency Contact: Eldon Stoehr, Field Division A Chief, Office of Examinations, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4251

RIN: 3052–AA92

3624. LOAN POLICIES AND OPERATIONS; DISCLOSURE TO SHAREHOLDERS; ACCOUNTING AND REPORTING REQUIREMENTS: SECONDARY MARKET

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121; ...

CFR Citation: 12 CFR 614; 12 CFR 620; 12 CFR 621

Legal Deadline: None

Abstract: Implement Agricultural Credit Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	10/11/88	53 FR 39609
NPRM Comment Period End	11/10/88	53 FR 39609
Final Action All prior amendments	01/12/89	54 FR 1153
Final Action Effective	02/23/89	
Notice of Effective Date	02/23/89	54 FR 7759

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: George Irwin, Assistant Deputy Director, Office of Analysis & Supervision, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4050

RIN: 3052–AA96

3625. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS: FUNDING CORPORATION

Legal Authority: 12 USC 2154; 12 USC 2160; 12 USC 2202(b); 12 USC 2243; 12 USC 2252; 12 USC 2278b-6; PL 100-233, Sec 301(a)

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Implement Agricultural Credit Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	05/12/88	53 FR 16963
NPRM Comment Period End	06/13/88	53 FR 16963
Resolicitation of Comments Funding Corporation	10/05/88	53 FR 39099
Final Action All prior amendments	01/12/89	54 FR 1156
Final Action Effective	02/23/89	
Notice of Effective Date	02/23/89	54 FR 7759

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Larry Edwards, Director, Special Examination Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4229

RIN: 3052–AA97

3626. ● GENERAL PROVISIONS: MEMBER INSURANCE

Legal Authority: 12 USC 2183; 12 USC 2218; 12 USC 2243; 12 USC 2244; 12 USC 2252

CFR Citation: 12 CFR 618

Legal Deadline: None

Abstract: Revise due to Agricultural Credit Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20647
NPRM Comment Period End	07/06/88	53 FR 20647
Final Action	09/13/88	53 FR 35303
Final Action Effective	10/19/88	53 FR 40867

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Dennis Carpenter, Senior Credit Specialist, Financial Analysis & Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4498

RIN: 3052–AB03

3627. ● LOAN POLICIES AND OPERATIONS: BORROWER RIGHTS

Legal Authority: 12 USC 2184; 12 USC 2199; 12 USC 2201; 12 USC 2202; 12 USC 2202a; 12 USC 2202c; 12 USC 2202d; 12 USC 2202e; 12 USC 2219a; 12 USC 2219b; 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 614.4367(c)(1); 12 CFR 614.4367(d)(1)

Legal Deadline: None

Abstract: Disclosure of new effective interest rate based on change in stated contract rate and disclosure of new effective interest rate based on change in stock or participation certificate requirement.

Timetable:

Action	Date	FR Cite
Supplemental Proposed Rule Effective interest rate	11/08/88	53 FR 45101
Final Action Effective interest rate	01/12/89	54 FR 1151
Final Action Effective	02/23/89	
Notice of Effective Date	02/23/89	54 FR 7758

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Andrea J. Cali, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4020

RIN: 3052–AB04

[FR Doc. 89-5859 Filed 04-21-89; 8:45 am]

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Part XLVIII

Federal Communications Commission

Semiannual Regulatory Agenda

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FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulations; April 1989

AGENCY: Federal Communications Commission.

ACTION: Publication of the Unified Agenda of Federal Regulations.

SUMMARY: Twice a year, the Commission publishes a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. The agenda also provides the CFR Citations and Legal Authorities which govern these proceedings. The Regulatory Flexibility Act (94 Stat. 1167: 5 U.S.C. 605) includes notations on the applicability of the Regulatory Flexibility Act to each item.

The Unified Agenda is published in the **Federal Register** in April and October of each year.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tenecia Moncrief, Office of Managing Director, (202) 632-3906.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings.

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB publishes the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

A Docket Number - is assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry in regard to the matter under consideration. Since January 1, 1978, the Commission has used docket numbers which consist of the last two digits of the calendar year in which the docket was established plus a sequential number which begins at 1 with the first docket initiated during a calendar year (e.g., Docket 80-1 or Docket 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "MM Docket 79-164" which indicates that the responsible Bureau is the Mass Media Bureau. When a docket number consists of only five digits (e.g., Docket 29622), this indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) - issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM) - issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Memorandum Opinion and Order (MO&O) - issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number - assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

Report & Order (R&O) - issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

Donna R. Searcy,

Secretary, Federal Communications Commission.

COMMON CARRIER BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3628	Satellite Communications	3060-AD70
3629	Jurisdictional Separations: Mixed Use Special Access	3060-AD93
3630	Deregulation of Certain Basic Services	3060-AE02
3631	Regulatory Policies and International Telecommunications: Notice of Inquiry and Proposed Rulemaking	3060-AE03
3632	Jurisdictional Separations Procedures: Central Office Equipment Category 3, Local Switching Equipment	3060-AE06
3633	Jurisdictional Separation Procedures: Central Office Equipment (Circuit Equipment) and Cable and Wire Facilities	3060-AE14
3634	Policy and Rules concerning Rates for Dominant Carriers, CC Docket No. 87-313	3060-AE38
3635	Telephone Company Cable Television Cross-Ownership Rules Sections 63.54-63.56	3060-AE40
3636	Request of telco for a declaratory ruling that Nonwireline Cell. Carriers shouldn't be required to provide resale svc. to wireline carriers in the same market	3060-AE57

COMMON CARRIER BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3627	Jurisdictional separations procedures: Reconsideration of the decision to exclude access revenues from the allocation of marketing expenses	3060-AE07

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COMMON CARRIER BUREAU—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3638	Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons	3060-AE39

OFFICE OF ENGINEERING AND TECHNOLOGY—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3639	900 MHz G/NG Fixed	3060-AD55

OFFICE OF ENGINEERING AND TECHNOLOGY—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3640	216 - 225 MHz Allocations	3060-AC91
3641	LTTS Reallocation	3060-AD67
3642	Part 15 Review (Auditory Assistance and Iggulton Petitions to be Disposed of Concurrent with this Action)	3060-AD68
3643	Cordless Telephones	3060-AD95
3644	Alternative Type Acceptance Procedure	3060-AD99
3645	Verification of Parts 73, 74, and Devices	3060-AE00
3646	Cellular Flexibility	3060-AE15
3647	Scanning Receiver Labelling	3060-AE18
3648	Proposal to Create a New Air-to-Ground Public Switched Telephone Network (PTSN) Interconnected Service	3060-AE36
3649	Part 15 Measurement Procedures	3060-AE37
3650	Part 15 Measurement Procedures	3060-AE54
3651	L-Band Reconsideration	3060-AE55
3652	Lo-Jack Vehicle Recovery System	3060-AE56

OFFICE OF ENGINEERING AND TECHNOLOGY—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3653	Public Safety National Plan	3060-AD66

FIELD OPERATIONS BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3654	In the matter of an Automatic Transmitter Identification System (ATIS) for Radio Transmitting Equipment (Gen. Doc. #86-337)	3060-AE25

MASS MEDIA BUREAU—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3655	Non-Stock Entities	3060-AE31

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MASS MEDIA BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3656	Section 73.37(e): Petition for Reconsideration	3060-AD63
3657	Broadcast EEO: Reconsideration	3060-AD73
3658	Radio Multiple Ownership & Cross Ownership Rules	3060-AD78
3659	Satellite Television Stations	3060-AD79
3660	AM Expanded Band: Domestic	3060-AD92
3661	Wireless Cameras	3060-AE10
3662	FM Translators: Moody Bible	3060-AE11
3663	FM/TV Directional Antenna	3060-AE12
3664	Channels 14/69 Interference: NOI/NPRM	3060-AE13
3665	FM Translators: NOI/NPRM	3060-AE23
3666	Advanced Television Systems	3060-AE24
3667	Comparative Renewal	3060-AE27
3668	AM: Skywave Propagation	3060-AE28
3669	AM: Ground Propagation: FNOI/FNPRM	3060-AE29
3670	FM Class C3 and Class A FM Upgrade Petitions	3060-AE30
3671	TV Networks Rules: Two-year Rule	3060-AE32
3672	Cable System Definition	3060-AE34
3673	AM: Enhanced Nighttime Operation	3060-AE35
3674	Interference Reduction Agreements	3060-AE51
3675	Comparative New Criteria	3060-AE52
3676	Syndex for TVROs	3060-AE53

MASS MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3677	Technical Deregulation: Part 73: TV	3060-AD58
3678	FM Technical Clean-up: Reconsideration	3060-AD74
3679	Radio Reading Services	3060-AD80
3680	Daytimers Issues	3060-AD85
3681	Premature Construction	3060-AE33

PRIVATE RADIO BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3682	Wireline Common Carriers - Operation of SMRS	3060-AD54
3683	Multiple Address Systems	3060-AE09
3684	Amend Part 80 to preclude accidental or intentional off- frequency operation of externally controlled synthesized radio transmitters	3060-AE41
3685	Subpart M&S Reconsideration	3060-AE42
3686	National Public Safety Plans	3060-AE43
3687	Secondary Fixed Tone Signalling	3060-AE44
3688	Conditional Licensing	3060-AE45
3689	Wireline Common Carriers-Operation of SMRS	3060-AE46
3690	Trunking of conventional channels (800 mhz & above)	3060-AE47
3691	Special Emergency Radio Private Carriers	3060-AE49

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PRIVATE RADIO BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3692	Amend Part 80 to preclude accidental or intentional off- frequency operation of externally controlled synthesized radio transmitters	3060-AE48

PRIVATE RADIO BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3693	Part 90 Review - Subparts M&S incl. ASNA pet., Subpart S Wait List	3060-AD69

FEDERAL COMMUNICATIONS COMMISSION (FCC) —COMMON CARRIER BUREAU

Proposed Rule Stage

3628. SATELLITE COMMUNICATIONS

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 553

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: The Commission seeks to develop a record & to solicit comments on the proposed rules. These proposed rules are designed to implement recommendations made by the joint industry/government Advisory Committee on 2 degree satellite spacing; and they will codify basic applications requirements for satellite services. The proposed rules would apply to all entities including small entities who seek authorization under Part 25 of the Commission's rules to construct and operate Fixed-Satellite communications facilities. The proposed rules would establish operational and technical procedures designed to alleviate adjacent satellite interference and may increase the reporting and cost burdens on all satellite licensees. The rules codifying basic applications requirements are codifications of existing policies. Will impose no additional burdens, and may, in fact, reduce the burden by eliminating several current requirements. In order to be effective, these rules must apply to all licensees and thus there is no significant alternative.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	52 FR 6175
ANPRM Comment Period End	11/01/87	
Final App. Proc. Rules	09/01/89	
Final Technical Rules	12/30/89	
Final Action	12/00/89	
Final Action Effective	02/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Rosalee Gorman or Fern Jarmulnek, Staff Attorneys, Federal Communications Commission, 2025 M Street, N.W., Room 6324, Washington, D.C. 20554, 202 634-1624

RIN: 3060–AD70

3629. JURISDICTIONAL SEPARATIONS: MIXED USE SPECIAL ACCESS

Significance: Agency Priority

Legal Authority: 47 USC 410; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 218

CFR Citation: 47 CFR 36; 47 CFR 69

Legal Deadline: None

Abstract: This proceeding concerns the allocation between the state and federal jurisdictions of the costs of special access lines (including those used with WATS service) that carry both interstate and intrastate traffic.

Timetable:

Action	Date	FR Cite
NPRM	06/01/88	
Joint Board Recommended Decision	01/10/89	
Order	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Claudia Pabo, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C., 202 632-4047

RIN: 3060–AD93

3630. DEREGULATION OF CERTAIN BASIC SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 218; 47 USC 220; 47 USC 303(g); 47 USC 303(r); 47 USC 403; 47 USC 404; 5 USC 553

CFR Citation: 47 CFR 1.48; 47 CFR 1.49; 47 CFR 1.419

Legal Deadline: None

Abstract: Proposed reduction of regulation for certain basic services offered by dominant carriers based on a service-by-service analysis of

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competition. Contract services and packet switched services are targeted for such potential deregulation.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	
NPRM Comment Period End	04/10/87	
Supplemental NPRM/Order	09/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CC Docket 86-421

Agency Contact: William Maher, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-4047

RIN: 3060–AE02

3631. REGULATORY POLICIES AND INTERNATIONAL TELECOMMUNICATIONS: NOTICE OF INQUIRY AND PROPOSED RULEMAKING

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 214; 47 USC 218 to 222; 47 USC 301; 47 USC 302

CFR Citation: 47 CFR 63.01; 47 CFR 63.701; 47 CFR 68.226; 47 CFR 63.703; 47 CFR 63.10; 47 CFR 63.702; 47 CFR 68.01; 47 CFR 69.01

Legal Deadline: None

Abstract: The Report and Order adopted certain information gathering measures designed to increase the Commission's knowledge of the extent of participation in the U.S market by foreign companies and service providers. Four petitions for reconsideration were filed in response to the Report and Order. Reporting requirement were modified to address concerns raised by the petitioners.

Timetable:

Action	Date	FR Cite
NPRM	01/30/87	
NPRM Comment Period End	05/22/87	
R&O	03/25/88	
Order on Reconsideration	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William J. Kirsch, Deputy Asst. Bureau Chief/International, Federal Communications Commission, 1919 M Street, N.W. Room 544, Washington, D.C. 20554, 202 632-4047

RIN: 3060–AE03

3632. JURISDICTIONAL SEPARATIONS PROCEDURES: CENTRAL OFFICE EQUIPMENT CATEGORY 3, LOCAL SWITCHING EQUIPMENT

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36

Legal Deadline: None

Abstract: We are seeking comments on the development of other relative use allocators, including Switched Minutes of Use (SMOU) to allocate Central Office Equipment investment included in the Local Switching Equipment Category in the Part 36 Separations Manual.

Timetable:

Action	Date	FR Cite
Order Inviting Comments	05/07/86	51 FR 21000
Recommended Decision and Order (Joint Board)	04/08/87	52 FR 15354
R&O	05/01/87	52 FR 17228
Order Inviting Comments	09/01/87	
R&O	07/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: CC Docket 80-286

Agency Contact: Michael Wilson, Chief, Cost Analysis Branch, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-7500

RIN: 3060–AE06

3633. JURISDICTIONAL SEPARATION PROCEDURES: CENTRAL OFFICE EQUIPMENT (CIRCUIT EQUIPMENT) AND CABLE AND WIRE FACILITIES

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36; 47 CFR 69

Legal Deadline: None

Abstract: With the issuance of this Order inviting comments and requests for data, we are seeking information concerning the jurisdictional separations separations treatment of investment in Cable and Wire Facilities and in Circuit Equipment.

Timetable:

Action	Date	FR Cite
Order Inviting Comments	05/07/86	51 FR 21000
R&O	05/01/87	52 FR 17228
Order inviting comments	10/15/87	52 FR 43206

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CC Docket No. 78-72 CC Docket No. 80-286 CC Docket No. 86-297

Agency Contact: Michael Wilson, Chief, Cost Analysis Branch, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-7500

RIN: 3060–AE14

3634. POLICY AND RULES CONCERNING RATES FOR DOMINANT CARRIERS, CC DOCKET NO. 87-313

Significance: Agency Priority

Legal Authority: 47 USC 154(j); 47 USC 154(i); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 303(r); 47 USC 403; 47 USC 553

CFR Citation: 47 CFR 1.773; 47 CFR 61.3; 47 CFR 61.32; 47 CFR 61.33; 47 CFR 61.38; 47 CFR 61.39; 47 CFR 61.41; 47 CFR 61.42; 47 CFR 61.43; 47 CFR 61.44; 47 CFR 61.45; 47 CFR 61.47; 47 CFR 61.58; 47 CFR 61.46; 47 CFR 65.1; ...

Legal Deadline: None

Abstract: The Commission has issued a specific plan for implementing a proposed change in regulation of the rates of dominant carriers which would replace the current rate-of-return regulatory model with one that directly limits rates by means of price caps. The plan applies to dominant carriers other than Comsat and Alascom. The Commission reaffirms its tentative finding that the price cap method of regulation will promote efficiency and

innovation and benefit consumers more effectively than rate-of-return regulation

Timetable:

Action	Date	FR Cite
NPRM	08/21/87	52 FR 33962
NPRM Comment Period End	02/17/88	
Further Notice of Proposed Ruling	05/23/88	53 FR 22356
FNPRM Public Comment Period End	08/26/88	53 FR 22356
Order	06/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mary Brown, Senior Attorney, Tariff Division, Federal Communications Commission, 202 632-6387

RIN: 3060–AE38

3635. TELEPHONE COMPANY CABLE TELEVISION CROSS-OWNERSHIP RULES SECTIONS 63.54-63.56

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 309(e) to 309(h); 47 USC 313; 47 USC 405; 47 USC 412; 47 USC 522

CFR Citation: 47 CFR 63.54; 47 CFR 63.55; 47 CFR 63.56; 47 CFR 63.57; 47 CFR 63.58

Legal Deadline: None

Abstract: This proceeding addresses the statutory restrictions which prohibit telephone companies from providing cable television service within their telephone service areas. The FCC has tentatively concluded that the statutory restrictions should be repealed. The Commission is soliciting comments and will decide whether to recommend to Congress whether the restrictions should be repealed. The Commission also issued an NPRM to modify the standards of affiliation between cable companies and telephone companies.

Timetable:

Action	Date	FR Cite
NOI adopted 07/16/87	07/16/87	52 FR 34818
Further NOI and NPRM	09/28/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patrick J. Donovan, Attorney, Federal Communications Commission, 202 634-1832

RIN: 3060–AE40

3636. ● REQUEST OF TELCO FOR A DECLARATORY RULING THAT NONWIRELINE CELL. CARRIERS SHOULDN'T BE REQUIRED TO PROVIDE RESALE SVC. TO WIRELINE CARRIERS IN THE SAME MARKET

Significance: Agency Priority

Legal Authority: 47 USC 201(a)(b)

CFR Citation: None

Legal Deadline: None

Abstract: In a NPRM, the Commission will determine whether to continue to apply its previous resale policies to resale by cellular entities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Abraham Leib, Chief, Legal Branch, Mobile Svcs. Div., Federal Communications Commission, 1919 M St., N.W., Washington, D.C. 20554, 202 632-6450

RIN: 3060–AE57

FEDERAL COMMUNICATIONS COMMISSION (FCC) —COMMON CARRIER BUREAU

Final Rule Stage

3637. JURISDICTIONAL SEPARATIONS PROCEDURES: RECONSIDERATION OF THE DECISION TO EXCLUDE ACCESS REVENUES FROM THE ALLOCATION OF MARKETING EXPENSES

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36; 47 CFR 69

Legal Deadline: None

Abstract: With the issuance of this order we are addressing the petitions for reconsideration filed by parties urging the FCC to reconsider its decision to exclude access revenues from the allocation factor for marketing expenses. We also are initiating a further proceeding to re-examine the separations treatment of marketing expenses.

Timetable:

Action	Date	FR Cite
Final Action	04/01/89	
R&O	09/30/89	
Final Action Effective	01/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CC Docket 78-72 CC Docket 80-286 CC Docket 86-297

Agency Contact: Michael Wilson, Chief, Cost Analysis Branch, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-7500

RIN: 3060–AE07

3638. ACCESS TO TELECOMMUNICATIONS EQUIPMENT AND SERVICES BY THE HEARING IMPAIRED AND OTHER DISABLED PERSONS

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154(i)

CFR Citation: 47 CFR 68.312(c); 47 CFR 68.4; 47 CFR 68.5

Legal Deadline: Final, Statutory, May 16, 1989. Other, Statutory, July 27, 1989. Hearing Aid Compatibility Act of 1988. Telecommunications Accessibility Enhancement Act of 1988

Abstract: Proceeding designed to determine whether disabled persons have reasonable access to telecommunications services and equipment. FCC proposes to expand definition of essential telephones to

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require card-operated telephones to be Hearing Aid Compatible as well as telephones located in common areas in a hearing impaired employee's workplace. In addition, the FCC will consider the feasibility of implementing an Interstate Relay System for users of telecommunications devices for the deaf. This proceeding will consist of two phases; one dealing with the telephone hearing aid compatibility issue and the other will address the implementation of an interstate relay system for users of telecommunications devices for the deaf. Congress has instructed the FCC to adopt hearing aid compatibility rules consistent with P.L. 100-394 by May 16, 1989 and complete the NOI regarding the interstate relay system by July 27, 1989.

Timetable:

Action	Date	FR Cite
NPRM	03/29/88	
Further NPRM	02/28/89	
Final Action	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert James, Electronics Engineer, Federal Communications Commission, 202 634-1831

RIN: 3060–AE39

FEDERAL COMMUNICATIONS COMMISSION (FCC) —OFFICE OF ENGINEERING AND TECHNOLOGY — Prerule Stage

3639. 900 MHZ G/NG FIXED

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 74; 47 CFR 94

Legal Deadline: None

Abstract: Development of operating rules and sharing arrangement for use of the 932-935 and 941-943 MHz bands for G/NG fixed services.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	
NPRM Comment Period End	11/02/87	
R&O	06/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: 82-243

Agency Contact: Rodney Small, Federal Communications Commission, 2025 M St., NW, Rm. 7332, Washington, DC 20554, 202 653-8116

RIN: 3060–AD55

FEDERAL COMMUNICATIONS COMMISSION (FCC) —OFFICE OF ENGINEERING AND TECHNOLOGY — Proposed Rule Stage

3640. 216 - 225 MHZ ALLOCATIONS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Proceeding to reallocate frequencies in the 218 - 225 MHz band including reallocation of 220 - 225 MHz from amateur to Land Mobile Services.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	
NPRM Comment Period End	12/12/87	
R&O	09/06/88	
MO&O	06/30/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Gen. 87-14

Agency Contact: Fred Thomas, Federal Communications Commission, 2025 M St., N.W., Rm. 7320, Washington, D.C. 20554, 202 653-8112

RIN: 3060–AC91

3641. LTTS REALLOCATION

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 74

Legal Deadline: None

Abstract: Reallocation of the Local Television Transmission Service (LTTS) from the 11.7-12.2 GHz band to the 14.2-14.4 GHz band. This reallocation is designed to permit improved frequency sharing between the LTTS and the fixed-satellite services.

Timetable:

Action	Date	FR Cite
NPRM	07/09/87	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 87-138

Agency Contact: Ray LaForge, Federal Communications Commission, 2025 M Street, N.W., Room 7328, Washington, D.C. 20554, 202 653-8117

RIN: 3060–AD67

3642. PART 15 REVIEW (AUDITORY ASSISTANCE AND IGGULTON PETITIONS TO BE DISPOSED OF CONCURRENT WITH THIS ACTION)

Significance: Agency Priority

Legal Authority: 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 4(i)

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: A comprehensive revision of Part 15 which proposes to allow marketing and use of a greater variety of devices, and to reduce the regulatory burden on the public.

Timetable:

Action	Date	FR Cite
NPRM	10/02/87	
NPRM Comment Period End	05/09/88	

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Action	Date	FR Cite
FNPRM	06/00/89	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 87-389

Agency Contact: John Reed, Federal Communications Commission, 2025 M Street, N.W., Room 7122, Washington, D.C. 20554, 202 653-7313

RIN: 3060–AD68

3643. CORDLESS TELEPHONES

Significance: Agency Priority

Legal Authority: 47 USC 301

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: A petition from EIA requesting extension of time for manufacture of cordless telephones at 46/49 MHz under Part 15 and a petition from TIA requesting that the Commission require the use of coding to address the problem of false dialing will be addressed concurrently.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RM-5320

Agency Contact: George Harenberg, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-7314

RIN: 3060–AD95

3644. ALTERNATIVE TYPE ACCEPTANCE PROCEDURE

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Legal Deadline: None

Abstract: That proceeding in Docket No. 85-171 proposed a new technique that would allow maximum flexibility in getting innovative new equipment designs into the marketplace. This proposal will be a new approach to solve some of the technical and administrative problems identified in Docket 85-171.

Timetable:

Action	Date	FR Cite
NPRM	02/25/88	
NPRM Comment Period End	02/25/88	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 85-171

Agency Contact: Ken Nichols, Federal Communications Commission, 7435 Oakland Mills Road, Guilford, MD 21045, 301 725-1585

RIN: 3060–AD99

3645. VERIFICATION OF PARTS 73, 74, AND DEVICES

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 73; 47 CFR 74; 47 CFR 78

Legal Deadline: None

Abstract: Proposal for relaxation of the rules to change the equipment authorization procedure for certain devices subject to Parts 73, 74, and 78 from notification to the less burdensome verification procedure.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	02/01/88	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Harenberg, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-8107

RIN: 3060–AE00

3646. CELLULAR FLEXIBILITY

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 22

Legal Deadline: None

Abstract: Proceeding will investigate approach to relax technical standards for new cellular spectrum at 800 MHZ in order to provide flexibility to licensees for implementation of new technologies and new service offerings.

Timetable:

Action	Date	FR Cite
NPRM	06/30/87	
NPRM Comment Period End	10/15/87	
R&O	12/12/88	
FNPRM	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 84-1231

Agency Contact: Julius Knapp, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-8106

RIN: 3060–AE15

3647. SCANNING RECEIVER LABELLING

Significance: Agency Priority

Legal Authority: 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 4(i)

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Consideration of a petition requesting changes to Part 15 to require scanner manufacturers to label their receivers to alert users that it is not legal to listen to certain transmissions taking place on specified bands.

Timetable:

Action	Date	FR Cite
NPRM	06/01/88	
NPRM Comment Period End	06/14/88	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 88-281

Agency Contact: Paul Marrangoni, Federal Communications Commission, 2025 M St., N.W. Rm. 7336, Washington, D.C. 20554, 202 653-8107

RIN: 3060–AE18

3648. PROPOSAL TO CREATE A NEW AIR-TO-GROUND PUBLIC SWITCHED TELEPHONE NETWORK (PTSN) INTERCONNECTED SERVICE

Significance: Agency Priority

Legal Authority: 47 USC 303

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CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Legal Deadline: None

Abstract: The Commission proposes to amend Parts 2 and 22 and/or Parts 2 and 90 of its rules to permit use of four megahertz of reserve spectrum at 849/851/894-896 MHz for an air-to-ground telephone service. This action also proposes licensing policies and technical guidelines for the air-to-ground service.

Timetable:

Action	Date	FR Cite
NPRM	04/27/88	
NPRM Comment Period End	04/27/88	
R&O	07/31/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rodney Small, Federal Communications Commission, 202 653-8116

RIN: 3060–AE36

3649. PART 15 MEASUREMENT PROCEDURES

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Proposal to revise the Commission's Measurement Procedure (MP-4) recommended for testing of computing devices, based on the Part 15 revision in Docket No. 87-389, and on a proposal by CBEMA to revise the MP.

Timetable:

Action	Date	FR Cite
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Art Wall, Federal Communications Commission, 202 725-1585

RIN: 3060–AE37

3650. ● PART 15 MEASUREMENT PROCEDURES

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: In support of the revision of Part 15, MP-12 (international radiators above 30 MHz); MP-14(unintentional radiators above 30 MHz); and MPs 1 and 11 (remote control and security devices) will be revised to conform with the new format and prepared as separate NPRMs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Art Wall, Federal Communications Commission, 202 725-1585

RIN: 3060–AE54

3651. ● L-BAND RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Respond to petitions from certain aviation parties for further reconsideration of the mobile satellite service allocation at L-band.

Timetable:

Action	Date	FR Cite
MO&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ray Laforge, Federal Communications Commission, 202 653-8117

RIN: 3060–AE55

3652. ● LO-JACK VEHICLE RECOVERY SYSTEM

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 90

Legal Deadline: None

Abstract: In response to petition from Lo-Jack Corporation, allocate 173.075 MHz for a stolen vehicle recovery system.

Timetable:

Action	Date	FR Cite
NPRM	12/21/88	
NPRM Comment Period End	12/21/88	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Fred Thomas, Federal Communications Commission, 202 653-8112

RIN: 3060–AE56

FEDERAL COMMUNICATIONS COMMISSION (FCC) —OFFICE OF ENGINEERING AND TECHNOLOGY

Completed Actions

3653. PUBLIC SAFETY NATIONAL PLAN

Significance: Agency Priority

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action	09/07/88	
Final Action Effective	09/07/88	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Fred Thomas 202 653-8112

RIN: 3060–AD66

FEDERAL COMMUNICATIONS COMMISSION (FCC) —FIELD OPERATIONS BUREAU

Proposed Rule Stage

3654. IN THE MATTER OF AN AUTOMATIC TRANSMITTER IDENTIFICATION SYSTEM (ATIS) FOR RADIO TRANSMITTING EQUIPMENT (GEN. DOC. #86-337)

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 302; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 25

Legal Deadline: NPRM, Statutory, October 20, 1986. Other, Statutory, September 14, 1987.
Further Notice of Proposed Rulemaking

Abstract: This proceeding looks to establish a means by which radio emissions might be encoded with a distinct automatically transmitted identifier to benefit orderly management of the radio spectrum by identifying the source of radio frequency interference to other radio signals. For video satellite uplink stations regulated under Part 25 of the Commission's rules, it proposes rules regarding such identifiers. There are no significant alternatives being considered that are consistent with stated objectives. Every operator of a satellite video uplink would be required to purchase and operate a device to insert identification on all transmissions. Approximately 1,000 stations would be involved. Each encoder would cost under $2000. Operating upkeep expenses should be minimal.

Timetable:

Action	Date	FR Cite
NPRM	06/07/86	51 FR 32223
Further NPRM	07/09/87	52 FR 26538
R&O	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John Hudak, Chief, Signal Analysis Branch, Federal Communications Commission, Enforcement Division, Room 744, 1919 M St., N.W., Washington, D.C. 20554, 202 632-6977

RIN: 3060–AE25

FEDERAL COMMUNICATIONS COMMISSION (FCC) —MASS MEDIA BUREAU

Prerule Stage

3655. NON-STOCK ENTITIES

Significance: Agency Priority

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider a Notice of Inquiry concerning Commission treatment of corporations and other organizational structures that are not traditional commercial corporations.

Timetable:

Action	Date	FR Cite
NOI	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Marilyn Mohrman-Gillis, Federal Communications Commission, 202 632-7792

RIN: 3060–AE31

FEDERAL COMMUNICATIONS COMMISSION (FCC) —MASS MEDIA BUREAU

Proposed Rule Stage

3656. SECTION 73.37(E): PETITION FOR RECONSIDERATION

Legal Authority: 47 USC 307

CFR Citation: 47 CFR 73.37(e)

Legal Deadline: None

Abstract: Petition for reconsideration of the deletion of non-technical AM application acceptance criteria in Section 73.37(e).

Timetable:

Action	Date	FR Cite
NPRM	02/13/85	
R&O	10/31/85	
MO&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: mm-077 NPRM mm-85-39 R&O

Agency Contact: L. Stevens, Federal Communications Commission, 202 632-7792

RIN: 3060–AD63

3657. BROADCAST EEO: RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.2080

Legal Deadline: None

Abstract: The Commission has adopted new Equal Employment Opportunity (EEO) rules and reporting requirements for broadcasters that emphasize a licensee's overall EEO efforts rather than the numerical composition of its workforce. Reconsideration requested.

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	
R&O	04/16/87	
MO&O	06/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: mmb-298 NPRM mm-85-350 FNPRM

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Agency Contact: Marcia Glauberman, Federal Communications Commission, 202 632-6302

RIN: 3060-AD73

3658. RADIO MULTIPLE OWNERSHIP & CROSS OWNERSHIP RULES

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: The FCC refined its prohibition against the common ownership of radio and television stations in the same TV market. Specifically it is retaining the "one-to-a-market" or radio-television cross-ownership rules but will entertain waivers on a case-by-case basis if certain criteria are met.

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	
NPRM Comment Period End	01/15/87	
R&O	12/12/88	
MO&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: mmb-414 NPRM

Agency Contact: Michele Farquhar, Federal Communications Commission, 202 632-7792

RIN: 3060-AD78

3659. SATELLITE TELEVISION STATIONS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: Report and Order to establish policy with respect to television satellite stations.

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	
NPRM Comment Period End	01/15/87	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: mmb-421 NPRM

Agency Contact: Diane Hofbauer, Federal Communications Commission, 202 632-7792

RIN: 3060-AD79

3660. AM EXPANDED BAND: DOMESTIC

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: Inquiry into domestic issues resulting from expansion of the Am broadcasting band.

Timetable:

Action	Date	FR Cite
FNOI	02/25/88	
FNPRM	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Diane Hofbauer, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-7792

RIN: 3060-AD92

3661. WIRELESS CAMERAS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 74.602; 47 CFR 74.604; 47 CFR 74.636; 47 CFR 74.637; 47 CFR 74.802

Legal Deadline: None

Abstract: Proposal to permit low power wireless cameras to operate on vacant UHF and VHF TV channels.

Timetable:

Action	Date	FR Cite
NPRM	05/04/87	
NPRM Comment Period End	05/04/87	
FNPRM	05/04/87	
R&O	06/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: MM-85-36(a)

Agency Contact: Hank Van Deursen, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-9660

RIN: 3060-AE10

3662. FM TRANSLATORS: MOODY BIBLE

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 74.501; 47 CFR 74.531; 47 CFR 74.532; 47 CFR 74.1231

Legal Deadline: None

Abstract: This proceeding addresses the possible use of satellite and microwave facilities to deliver signals to noncommercial FM translators that are owned and operated by parties other than their primary station.

Timetable:

Action	Date	FR Cite
NPRM	03/24/88	
R&O	12/31/88	
2nd R&O	06/00/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: mmb-311 RM-5219

Agency Contact: Tatsu Kondo, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-6302

RIN: 3060-AE11

3663. FM/TV DIRECTIONAL ANTENNA

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73.315; 47 CFR 73.316

Legal Deadline: None

Abstract: The FCC adopted new rules permitting limited short-spacing of FM station assignments by using directional antennas.

Timetable:

Action	Date	FR Cite
NPRM	03/25/88	
R&O	12/12/88	
MO&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Bernard Gorden, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-9660

RIN: 3060-AE12

3664. CHANNELS 14/69 INTERFERENCE: NOI/NPRM

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 304

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: In the Report and Order the Commission will consider spacing criteria for TV applicants for channel 14 or 69 in order to protect adjacent band land mobile operations. The Further Notice would propose rules to permit flexible use of channels 14 and 69.

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	
NPRM Comment Period End	10/20/87	
NOI/NPRM	10/20/87	
FNPRM/R&O	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: David Siddal, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-7792

RIN: 3060-AE13

3665. FM TRANSLATORS: NOI/NPRM

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 74.1202; 47 CFR 74.1203; 47 CFR 74.1231; 47 CFR 74.1232; 47 CFR 74.1235

Legal Deadline: None

Abstract: The NOI in this proceeding initiated a study of the role of FM translators in the radio broadcast service. The objective of this proceeding is to examine and, where necessary or appropriate, to revise FCC policy regarding the authorization and operation of FM translators consistent with the Commission's overall allocations plan.

Timetable:

Action	Date	FR Cite
NOI	03/24/88	
NPRM/MO&O	06/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Marcia Glauberman, Federal Communications Commission, 202 632-6302

RIN: 3060-AE23

3666. ADVANCED TELEVISION SYSTEMS

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 73.610; 47 CFR 73.682; 47 CFR 73.687

Legal Deadline: None

Abstract: Report/NPRM to address: (1) how existing or new broadcasters will be permitted to implement advanced televisions systems (ATV); (2) what, if any, additional spectrum will be made available to each licensee for ATV broadcasting; (3) whether and how standards should be promulgated to govern this new type of TV broadcasting; and (4) what transition mechanisms, if any, should be implemented.

Timetable:

Action	Date	FR Cite
Tent. Decision/FNOI	09/01/88	
Report/NPRM	06/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Additional Information: RM-5811 NOI

Agency Contact: David R. Siddall, Federal Communications Commission, 202 632-7792

RIN: 3060-AE24

3667. COMPARATIVE RENEWAL

Significance: Agency Priority

Legal Authority: 47 USC 311(d); 47 USC 309(e)

CFR Citation: 47 CFR 73.3525; 47 CFR 73.3584

Legal Deadline: None

Abstract: Inquiry into reforms of license renewal process and methods to prevent abuse of license renewal process.

Timetable:

Action	Date	FR Cite
FNOI	06/23/88	
Policy Statement	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: M. Mohrman-Gillis, Federal Communications Commission, 202 632-7792

RIN: 3060-AE27

3668. AM: SKYWAVE PROPAGATION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.190

Legal Deadline: None

Abstract: Proposal to improve the skywave propagation model utilized by the Commission.

Timetable:

Action	Date	FR Cite
NOI	07/16/87	
NPRM	12/01/88	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Olson, Federal Communications Commission, 202 254-3394

RIN: 3060-AE28

3669. AM: GROUND PROPAGATION: FNOI/FNPRM

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.183; 47 CFR 73.184

Legal Deadline: None

Abstract: The Commission will consider proposals to refine its rules for calculating groundwave field strength contours.

Timetable:

Action	Date	FR Cite
NOI	07/16/87	
NPRM	12/01/88	

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FCC—MMB — Proposed Rule Stage

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Olson, Federal Communications Commission, 202 254-3394

RIN: 3060–AE29

3670. FM CLASS C3 AND CLASS A FM UPGRADE PETITIONS

Significance: Agency Priority

Legal Authority: 47 USC 303(e); 47 USC 303(f)

CFR Citation: 47 CFR 73.207; 47 CFR 73.210; 47 CFR 73.211; 47 CFR 73.506; 47 CFR 73.1690

Legal Deadline: None

Abstract: Proposal to raise maximum power for Class A FM stations to 6kW from 3 kW, and to establish for FM stations in Zone II a new Class C3 (25 kW, 100m. HAAT) to close gap between upgrade Class A (6 kW, 100m.) and Class C2 (50 kW, 150m.)

Timetable:

Action	Date	FR Cite
NPRM	06/20/88	
NPRM Comment Period End	06/20/88	
R&O	08/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jay Jackson, Federal Communications Commission, 202 632-9660

RIN: 3060–AE30

3671. TV NETWORKS RULES: TWO-YEAR RULE

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 308; 47 USC 309; 47 USC 403

CFR Citation: 47 CFR 73.658(c)

Legal Deadline: None

Abstract: The Commission will examine the possibility of eliminating the two-year cap on affiliates contract with network on grounds that this rule is no longer necessary due to changed market conditions and actually inhibit competition.

Timetable:

Action	Date	FR Cite
NPRM	08/04/88	
NPRM Comment Period End	06/04/88	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Eugenia Hull, Federal Communications Commission, 202 632-7792

RIN: 3060–AE32

3672. CABLE SYSTEM DEFINITION

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 522(6)(B)

CFR Citation: 47 CFR 76.5

Legal Deadline: None

Abstract: The Commission will seek comment on the need for clarification or amendment of the Commission's definition or its interpretation of the definition, of a cable television system in view of a recent Federal District Court decision construing the statutory definition of a cable system in the Cable Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	
R&O	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Barrett Brick, Federal Communications Commission, 202 254-3407

RIN: 3060–AE34

3673. AM: ENHANCED NIGHTTIME OPERATION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.21

Legal Deadline: None

Abstract: Proposal for nighttime operation by daytime only AM radio stations.

Timetable:

Action	Date	FR Cite
NPRM	10/13/88	
NPRM Comment Period End	10/13/88	
R&O	06/30/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Diane Hofbauer, Federal Communications Commission, 202 254-3394

RIN: 3060–AE35

3674. ● INTERFERENCE REDUCTION AGREEMENTS

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider proposal to allow licensees to enter into agreements on the matter of interference.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Diane Hofbauer, Federal Communications Commission, 202 254-3394

RIN: 3060–AE51

3675. ● COMPARATIVE NEW CRITERIA

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(g); 47 USC 303(r); 47 USC 309(i)

CFR Citation: 47 CFR 73.3584; 47 CFR 1.1601

Legal Deadline: None

Abstract: The Commission has proposed implementing a random lottery procedure (random selection) for new AM, FM and television stations in lieu of the present comparative hearing process.

FCC—MMB — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	
NPRM Comment Period End	01/30/89	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Rhodes, Federal Communications Commission, 202 632-7792

RIN: 3060–AE52

3676. ● SYNDEX FOR TVROS

Significance: Agency Priority

Legal Authority: 47 USC 712

CFR Citation: None

Legal Deadline: None

Abstract: As directed by the Satellite Home Viewer Act of 1988, this proceeding is being initiated to determine the feasibility of imposing syndicated programming exclusivity rules for satellite carriage of broadcast signals and to adopt such rules if feasible.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Horowitz, Federal Communications Commission, 202 632-7792

RIN: 3060–AE53

FEDERAL COMMUNICATIONS COMMISSION (FCC) —MASS MEDIA BUREAU

Completed Actions

3677. TECHNICAL DEREGULATION: PART 73: TV

CFR Citation: 47 CFR 73.685; 47 CFR 73.688; 47 CFR 73.691; 47 CFR 73.698; 47 CFR 73.699

Completed:

Reason	Date	FR Cite
Final Action R&O adopted	02/07/89	
Final Action Effective	02/07/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Gorden 202 632-9660

RIN: 3060–AD58

3678. FM TECHNICAL CLEAN-UP: RECONSIDERATION

Significance: Agency Priority

CFR Citation: 47 CFR 73.211; 47 CFR 73.206; 47 CFR 73.207; 47 CFR 73.213

Completed:

Reason	Date	FR Cite
Final Action	04/19/88	53 FR 42767
Final Action Effective	04/19/88	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jay Jackson 202 632-9660

RIN: 3060–AD74

3679. RADIO READING SERVICES

Significance: Agency Priority

CFR Citation: 47 CFR 73.593

Completed:

Reason	Date	FR Cite
Final Action	10/13/88	53 FR 42767
Final Action Effective	10/13/88	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Louis Whitsett 202 632-7792

RIN: 3060–AD80

3680. DAYTIMERS ISSUES

Significance: Agency Priority

CFR Citation: 47 CFR 73.21

Completed:

Reason	Date	FR Cite
Withdrawn no further action require.	02/06/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Louis Stephens 202 632-6955

RIN: 3060–AD85

3681. PREMATURE CONSTRUCTION

Significance: Agency Priority

CFR Citation: 47 CFR 73

Completed:

Reason	Date	FR Cite
Withdrawn no further action required.	02/06/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Fawn Wilderson 202 632-7792

RIN: 3060–AE33

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FEDERAL COMMUNICATIONS COMMISSION (FCC) —PRIVATE RADIO BUREAU

Proposed Rule Stage

3682. WIRELINE COMMON CARRIERS - OPERATION OF SMRS

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90.603

Legal Deadline: None

Abstract: The FCC has proposed amending Subparts M & S of Part 90 of its rules governing private land mobile radio to permit wireline common carriers to be eligible to apply for a license in the Specialized Mobile Radio Service.

Timetable:

Action	Date	FR Cite
NPRM	01/03/86	51 FR 2910
NPRM Comment Period End	07/03/86	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gay Ludington, Federal Communications Commission, 202 634-2443

RIN: 3060–AD54

3683. MULTIPLE ADDRESS SYSTEMS

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 94

Legal Deadline: None

Abstract: The FCC has modified the rules and policies governing 900 MHz multiple address system (MAS) operations. A number of rule sections were revised and clarified.

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	52 FR 4161
NPRM Comment Period End	04/07/87	
R&O	02/25/88	53 FR 11855
MO&O	06/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Herb Zeller/Molly Nichols, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 634-2443

RIN: 3060–AE09

3684. AMEND PART 80 TO PRECLUDE ACCIDENTAL OR INTENTIONAL OFF-FREQUENCY OPERATION OF EXTERNALLY CONTROLLED SYNTHESIZED RADIO TRANSMITTERS

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 46 CFR 80

Legal Deadline: None

Abstract: The FCC has proposed on its own motion to restrict the operation of VHF ship radio transmitters with external programming and selection capability.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: W. Berges, Federal Communications Commission, 202 632-7175

RIN: 3060–AE41

3685. SUBPART M&S RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC amended its rules applicable to communications entrepreneurs who operate SMR stations. Loading standards, waiting list procedures and eligibility requirements were affected.

Timetable:

Action	Date	FR Cite
NPRM	10/16/86	51 FR 45025
R&O	02/15/88	53 FR 12154
MO&O	06/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Irene Bleiweiss, Federal Communications Commission, 202 634-2443

RIN: 3060–AE42

3686. ● NATIONAL PUBLIC SAFETY PLANS

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC amended its rules to meet the telecommunications requirements of state and local public safety authorities. As regional plans are filed, the Bureau, in conjunction with OET, will make them available for public comment.

Timetable:

Action	Date	FR Cite
OT	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Marty Liebman, Federal Communications Commission, 202 632-6497

RIN: 3060–AE43

3687. ● SECONDARY FIXED TONE SIGNALLING

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC proposes to extend secondary fixed use for tone signalling to all Part 90 eligibles.

Timetable:

Action	Date	FR Cite
NPRM	12/12/88	53 FR 52743
R&O	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Eugene Thomson, Federal Communications Commission, 202 634-2443

RIN: 3060–AE44

3688. ● CONDITIONAL LICENSING

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC proposes to amend its rules to enable applicants for new stations to commence operations under a temporary permit upon completion of self certification to a number of conditions and submission of application to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	12/12/88	54 FR 1733
NPRM	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Jerry Feldman, Federal Communications Commission, 202 632-7125

RIN: 3060–AE45

3689. ● WIRELINE COMMON CARRIERS-OPERATION OF SMRS

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC has proposed amending Subpart S of Part 90 of its rules governing private land mobile radio to permit wireline common carriers to be eligible to apply for a license in the SMRS.

Timetable:

Action	Date	FR Cite
NPRM	01/03/86	51 FR 2910
NPRM	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ron Netro, Federal Communications Commission, 202 634-2443

RIN: 3060–AE46

3690. ● TRUNKING OF CONVENTIONAL CHANNELS (800 MHZ & ABOVE)

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC has proposed to amend the rules to increase the number of frequencies available for trunked technology.

Timetable:

Action	Date	FR Cite
NOI	06/10/87	52 FR 25265
NPRM	12/12/88	54 FR 1967
R&O	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Mike Lewis, Federal Communications Commission, 202 634-2443

RIN: 3060–AE47

3691. ● SPECIAL EMERGENCY RADIO PRIVATE CARRIERS

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90.35

Legal Deadline: None

Abstract: The FCC adopted a proposal allowing private carriers to be licensed in the Special Emergency Radio Service. Petitions have been filed to reconsider private carrier aspect and modify MED channel restriction.

Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 35281
R&O	05/18/88	53 FR 25607
MO&O	06/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Irene Bleiweiss, Federal Communications Commission, 202 634-2443

RIN: 3060–AE49

FEDERAL COMMUNICATIONS COMMISSION (FCC) —PRIVATE RADIO BUREAU

Final Rule Stage

3692. ● AMEND PART 80 TO PRECLUDE ACCIDENTAL OR INTENTIONAL OFF- FREQUENCY OPERATION OF EXTERNALLY CONTROLLED SYNTHESIZED RADIO TRANSMITTERS

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 80

Legal Deadline: None

Abstract: The FCC has proposed on its own motion to restrict the operation of VHF ship radio transmitters with external programming and selection capability.

Timetable:

Action	Date	FR Cite
NPRM	10/13/88	53 FR 44210
NPRM Comment Period End	02/24/89	
R&O	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: W. Berges, Federal Communications Commission, 202 632-7175

RIN: 3060–AE48

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FEDERAL COMMUNICATIONS COMMISSION (FCC) —PRIVATE RADIO BUREAU

Completed Actions

3693. PART 90 REVIEW - SUBPARTS M&S INCL. ASNA PET., SUBPART S WAIT LIST

Significance: Agency Priority

CFR Citation: 47 CFR 90.364; 47 CFR 90.627

Completed:

Reason	Date	FR Cite
Final Action MO&O adopted 12/2/88	02/15/88	53 FR 12154
Final Action Effective	02/15/88	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Nia Cresham 202 634-2443

RIN: 3060–AD69

[FR Doc. 89-6214 Filed 04-21-89; 8:45 am]

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federal register

Monday
April 24, 1989

Part XLIX

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

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FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is hereby publishing items for the April 1989 Regulatory Agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. The address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979; 49 FR 7288, February 28, 1984).

The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

Interested persons may petition the FDIC for the issuance, amendment or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Dated: March 3, 1989.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3694	12 CFR 309 Disclosure of Information	3064-AA65
3695	12 CFR 311 Rules Governing Public Observation of Meetings of the Corporation's Board of Directors	3064-AA66
3696	12 CFR 330 Clarification and Definition of Deposit Insurance Coverage	3064-AA68
3697	12 CFR 304 Prior Notice by Insured Banks of Intent To Directly or Indirectly Engage in Nontraditional Banking Activities and of Intent To Acquire or Establish a Nontraditional Subsidiary	3064-AA29

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3698	12 CFR 355 Salary Offset	3064-AA93
3699	12 CFR 344 Securities Recordkeeping and Confirmations	3064-AA30
3700	12 CFR 335 Securities of Insured Nonmember Banks	3064-AA45
3701	12 CFR 304 Prior Notice of Rapid Growth in Insured Banks	3064-AA88

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3702	12 CFR 303 Delegations of Authority to Act on Applications	3064-AA84
3703	12 CFR 330 Insurance Coverage; Unit Investment Trust	3064-AA73
3704	12 CFR 354 Deposit Liabilities	3064-AA92
3705	12 CFR 348 Foreign Banks; Delegations of Authority	3064-AA78

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Completed Actions

Sequence Number	Title	Regulation Identifier Number
3706	12 CFR 325 Capital; Risk-Based Capital Guidelines	3064-AA37
3707	12 CFR 303 Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control	3064-AA90
3708	12 CFR 308 Rules of Practice and Procedures	3064-AA64
3709	12 CFR 329 Interest on Deposits	3064-AA32
3710	12 CFR 336 Employee Responsibilities and Conduct	3064-AA07
3711	12 CFR 348 Foreign Banks; Country Exposure Concentrations	3064-AA89

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Prerule Stage

3694. DISCLOSURE OF INFORMATION

Legal Authority: 5 USC 552; 12 USC 1819

CFR Citation: 12 CFR 309

Legal Deadline: None

Abstract: Part 309 sets forth the basic policies of the FDIC regarding the information it maintains and the procedures for obtaining access to such information.

This regulation has been selected for review under the FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Dudine, Chief, Special Activities Section, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6750

RIN: 3064–AA65

3695. RULES GOVERNING PUBLIC OBSERVATION OF MEETINGS OF THE CORPORATION'S BOARD OF DIRECTORS

Legal Authority: 5 USC 552b; 12 USC 1819

CFR Citation: 12 CFR 311

Legal Deadline: None

Abstract: Part 311 implements the policy of the "Government in the Sunshine Act," section 552b of Title 5, United States Code, which is to provide the public with as much information as possible regarding the decision-making processes of certain Federal agencies, including the FDIC, while preserving the rights of individuals and the ability of the agency to carry out its responsibilities.

This regulation has been selected for review under the FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3813

RIN: 3064–AA66

3696. CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

Legal Authority: 12 USC 1813; 12 USC 1817; 12 USC 1821; 12 USC 1822

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: Part 330 provides for the determination by the FDIC of the insured depositors of an insured bank and the amount of their insured deposit accounts. It sets forth the rules for determining the insurance coverage of deposit accounts maintained by depositors.

This regulation has been selected for review under the FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. William Via, Jr., Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3733

RIN: 3064–AA68

3697. ● PRIOR NOTICE BY INSURED BANKS OF INTENT TO DIRECTLY OR INDIRECTLY ENGAGE IN NONTRADITIONAL BANKING ACTIVITIES AND OF INTENT TO ACQUIRE OR ESTABLISH A NONTRADITIONAL SUBSIDIARY

Legal Authority: 12 USC 1816; 12 USC 1817; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1819; 12 USC 1820; 12 USC 1821(f)

CFR Citation: 12 CFR 304; 12 CFR 332

Legal Deadline: None

Abstract: The FDIC is considering amending its regulations to require any FDIC-insured bank to provide 30-day prior written notice to the regional director of the FDIC region in which the bank is located of the bank's intent to engage in certain "nontraditional" banking activities and of its intent to acquire or establish a nontraditional subsidiary. The nontraditional banking activities being considered are real estate investment and brokerage activities, insurance underwriting, securities brokerage, underwriting, dealing or mutual fund activities, manufacturing, merchandising, and mortgage banking. The planned rule

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also would require notice to the regional director of the FDIC region in which the bank is located not more than 10 days after the activity is started or the subsidiary is established or acquired.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel M. Gautsch, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6912

RIN: 3064–AA29

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

3698. ● SALARY OFFSET

Legal Authority: 5 USC 5514; 12 USC 1819

CFR Citation: 12 CFR 355

Legal Deadline: None

Abstract: The FDIC is planning to propose new regulations to implement salary offset procedures required by 5 USC 5514 and 5 CFR 550, Subpart K. The proposal would set out procedures to be used by the FDIC to offset the salary of any FDIC employee who is indebted to the United States and refuses to pay voluntarily. The proposal would also enumerate procedures through which the FDIC may request another agency to offset the salary of one of its employees to satisfy a debt that employee may owe the FDIC.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Noreen M. Adams, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3727

RIN: 3064–AA93

3699. SECURITIES RECORDKEEPING AND CONFIRMATIONS

Legal Authority: 12 USC 1817; 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 344

Legal Deadline: None

Abstract: The FDIC expects to propose an amendment to 12 CFR Part 344, which governs an insured nonmember bank's recordkeeping and confirmation requirements for securities transactions. The proposed amendment would expand an existing exception under Part 344 for low activity. The exception would be increased to allow banks which effect an average of fewer than 1,000 securities transactions per year to be exempt from certain recordkeeping and written policymaking requirements. The current "low-activity" threshold is 200 transactions per year. The amendment is needed to eliminate unnecessary paperwork burden and is intended to reduce the impact of FDIC's regulation on insured nonmember banks that engage in a low number of securities transactions per year.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John F. Harvey, Review Examiner, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6762

RIN: 3064–AA30

3700. SECURITIES OF INSURED NONMEMBER BANKS

Legal Authority: 12 USC 1819 Federal Deposit Insurance Act; 15 USC 78l(i) Securities Exchange Act of 1934

CFR Citation: 12 CFR 335

Legal Deadline: None

Abstract: The Securities Exchange Act of 1934 requires the FDIC to issue regulations substantially similar to regulations of the Securities and Exchange Commission, or publish reasons for not doing so. The staff is currently preparing such conforming amendments for public comment based on recent rulemaking actions by the Commission.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence H. Pierce, Securities Activities Officer, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-8902

RIN: 3064–AA45

3701. ● PRIOR NOTICE OF RAPID GROWTH IN INSURED BANKS

Legal Authority: 5 USC 552; 12 USC 1817; 12 USC 1818; 12 USC 1819; 12 USC 1820

CFR Citation: 12 CFR 304

Legal Deadline: None

Abstract: The FDIC plans to substitute for its current regulation on reporting fully insured brokered deposits and fully insured deposits placed directly by other depository institutions (12 CFR 304.6) a new requirement calling for the reporting of planned rapid growth by whatever means, including the solicitation and acceptance of brokered deposits and direct deposits by other depository institutions. Essentially the new rule would require an insured bank to report by means of a check-off question on its Reports of Condition and Income any intention to grow rapidly, that is, by more than nine percent during the following three months.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Hrindac, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6892

RIN: 3064–AA88

FDIC — **Proposed Rule Stage**

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Final Rule Stage

3702. DELEGATIONS OF AUTHORITY TO ACT ON APPLICATIONS

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1817; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1829; 15 USC 1607

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: The FDIC is preparing final amendments to Part 303 of its rules and regulations to clarify and, in some cases, to modify the delegations of authority for acting on a variety of applications (e.g., mergers, branches, relocations, deposit insurance, trust and banking powers, change in control, and management interlocks). The amendments do not alter any rights or obligations of any person, bank, or other applicant.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy L. Alper, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3720

RIN: 3064–AA84

3703. ● INSURANCE COVERAGE; UNIT INVESTMENT TRUST

Legal Authority: 12 USC 1813; 12 USC 1817; 12 USC 1821; 12 USC 1822

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: The FDIC proposed amending Part 330 of its rules and regulations. Under the proposed rule, unit investment trusts would no longer be treated as corporations for purposes of insurance coverage limits where deposits in any one insured bank are insured to the maximum of $100,000. Instead, the proposal, if adopted, would result in deposit insurance up to $100,000 as to each beneficial owner of the trust's deposits.

Timetable:

Action	Date	FR Cite
NPRM	10/12/88	53 FR 39746
NPRM Comment Period End	12/12/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Douglas Birdzell, Special Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3716

RIN: 3064–AA73

3704. ● DEPOSIT LIABILITIES

Legal Authority: 12 USC 1813; 12 USC 1819

CFR Citation: 12 CFR 354

Legal Deadline: None

Abstract: The FDIC issued for public comment a proposed regulation expanding the definition of the term "deposit." The proposed rule would find that a bank's liability on a promissory note, bond, acknowledgement of advance, or similar obligation that is issued or undertaken by the insured bank as a means of obtaining funds is a deposit liability.

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47723
NPRM Comment Period End	01/24/89	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katharine H. Haygood, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3732

RIN: 3064–AA92

3705. FOREIGN BANKS; DELEGATIONS OF AUTHORITY

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817; 12 USC 1818; 12 USC 1819; 12 USC 1820; 12 USC 1828; 12 USC 1829; 12 USC 3103; 12 USC 3104; 12 USC 3108; 15 USC 1607

CFR Citation: 12 CFR 346; 12 CFR 303

Legal Deadline: None

Abstract: The FDIC has proposed changes to its regulations pertaining to insured branches of foreign banks. Substantial changes are proposed to the current provisions relating to exemptions from the deposit insurance requirement, the capital equivalency requirement, and the country exposure provision. Changes are also being proposed to the pledge of assets requirement and to the delegations of authority concerning it (12 CFR Part 303.8), as well as to miscellaneous provisions throughout the regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 41180
NPRM Comment Period End	12/19/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles V. Collier, Assistant Director, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6850

RIN: 3064–AA78

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FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Completed Actions

3706. CAPITAL; RISK-BASED CAPITAL GUIDELINES

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The FDIC has amended Part 325 of its rules and regulations by adding an appendix to Part 325 regarding a statement of policy on risk-based capital that applies to all insured state nonmember banks. The risk-based capital framework reflected in the policy statement was developed jointly with representatives from the Federal Reserve System and the Office of the Comptroller of the Currency. It is largely based on the December 10, 1987, consultative paper prepared by the Basle Committee on Banking Regulations and Supervisory Practices.

Timetable:

Action	Date	FR Cite
Notice of Proposed Guidelines	03/15/88	53 FR 8550
Proposed Guidelines Comment Period End	05/13/88	
Final Action	03/21/89	54 FR 11500
Final Action Effective	04/20/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-8904

RIN: 3064–AA37

3707. APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

Legal Authority: 12 USC 1817(j)(13); 12 USC 1819; PL 99-570, Sec 1360

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: The FDIC amended section 303.4 of Part 303 of its regulations to implement certain amendments to the Change in Bank Control Act made by section 1360 of the Anti-Drug Abuse Act of 1986. Under the final rule, the FDIC may waive the newspaper publication or comment solicitation requirements of the regulation, or may act on a proposed change in control prior to the expiration of the comment period. The final rule also provides that the FDIC may shorten the public comment period to a period of not less than 10 days.

Timetable:

Action	Date	FR Cite
NPRM	09/20/88	53 FR 36464
NPRM Comment Period End	11/21/88	
Final Action	12/27/88	53 FR 52111
Final Action Effective	12/27/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katharine H. Haygood, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3732

RIN: 3064–AA90

3708. RULES OF PRACTICE AND PROCEDURES

Legal Authority: 5 USC 504; 12 USC 1819; 12 USC 1972; 15 USC 78w

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: The FDIC adopted a revised Part 308 to its rules and regulations which governs the conduct of administrative proceedings before the FDIC. The changes include a reorganization of existing sections of Part 308, revisions of some sections that existed previously, and the addition of new sections. The purpose of the revised regulation is to secure a just and orderly determination of administrative proceedings before the FDIC. The revised Part 308 is a result of the review conducted under FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
NPRM	02/24/88	53 FR 5392
NPRM Comment Period End	04/25/88	
Final Action	12/22/88	53 FR 51656
Final Action Effective	01/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Alper, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3720

RIN: 3064–AA64

3709. ● INTEREST ON DEPOSITS

Legal Authority: 12 USC 1819; 12 USC 1828(g); 12 USC 1832(a)

CFR Citation: 12 CFR 329

Legal Deadline: None

Abstract: The FDIC amended Part 329 of its rules and regulations to reflect a recent change in the law that gives nonprofit political organizations the right to hold NOW accounts.

Timetable:

Action	Date	FR Cite
Final Action	11/23/88	53 FR 47523
Final Action Effective	11/23/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jules Bernard, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3731

RIN: 3064–AA32

3710. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 12 USC 1819; EO 11222; EO 12565

CFR Citation: 12 CFR 336

Legal Deadline: None

Abstract: The FDIC adopted a revised Part 336 to its rules and regulations which governs the standards of ethical and other conduct of FDIC employees. Significant changes include identifying certain employees subject to reporting requirements and credit restrictions by position description series code; clarifying the permissible conditions of acceptance of food, refreshments, entertainment, and mementos; modifying existing credit restrictions with regard to credit cards; and other matters.

Timetable:

Action	Date	FR Cite
NPRM	07/12/88	53 FR 26262
NPRM Comment Period End	09/12/88	
Final Action	11/29/88	53 FR 47929

FDIC — Completed Actions

Action	Date	FR Cite
Final Action Effective	11/29/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katherine A. Corigliano, Ethics Program Manager, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-7272

RIN: 3064–AA07

3711. ● FOREIGN BANKS; COUNTRY EXPOSURE CONCENTRATIONS

Legal Authority: 12 USC 1815; 12 USC 1817; 12 USC 1819; 12 USC 1820; 12 USC 3103; 12 USC 3104; 12 USC 3108

CFR Citation: 12 CFR 346

Legal Deadline: None

Abstract: The FDIC amended section 346.23 of its rules and regulations to change the deadline for complying with the limitations on country exposures of insured U.S. branches of foreign banks from December 31, 1988, to a provision providing that thirty days prior notice will be given before compliance is required.

Timetable:

Action	Date	FR Cite
Final Action	12/20/88	53 FR 51093
Final Action Effective	12/20/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles V. Collier, Assistant Director, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6850

RIN: 3064–AA89

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Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

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FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In response to Office of Management and Budget Bulletin No. 89-02, the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 16 rulemakings listed, 15 are current and projected rulemakings and 1 is a completed action.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESS: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

Lois D. Cashell,

Secretary.

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Prerule Stage

3712. ● BLANKET SALES CERTIFICATES FOR FIRST SELLERS OF NATURAL GAS

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w (1982); EO 12009 3 CFR 1978 Comp., p. 142; 15 USC 3301 to 3432 (1982); 42 USC 7101 to 7352 (1982)

CFR Citation: 18 CFR 270; 18 CFR 271

Legal Deadline: None

Abstract: The proposed rule would grant blanket sales authority to first sellers of natural gas (except gas marketers) to make sales for resale in interstate commerce. Marketers would be required to apply individually for this authorization. The rule would eliminate virtually all of the certificate and filing requirements presently applicable to these sales. (This NOPR would consolidate Docket No. RM88-20-000 into this rule.) Docket No. RM89-2-000.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, 202 357-5597

RIN: 1902–AB11

3713. ● REGULATIONS GOVERNING SUBMITTAL OF PROPOSED HYDROPOWER LICENSE CONDITIONS, AND OTHER MATTERS

Significance: Agency Priority

Legal Authority: 16 USC 792a et seq. (1982 and Supp. 1987) Federal Power Act; 16 USC 661 et seq. (1982) Fish and Wildlife Coordination Act; 42 USC 4321 et seq (1982) National Environmental Policy Act

CFR Citation: 18 CFR 1

Legal Deadline: None

Abstract: This rulemaking will propose improvements in the coordination between the Commission and Federal and State fish and wildlife agencies concerning appropriate conditions and other measures to be taken in proceedings on the granting of licenses to applicants for hydroelectric facilities subject to the Commission's jurisdiction. Docket No. RM89-7-000.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, 202 357-5597

RIN: 1902–AB12

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Proposed Rule Stage

3714. FEES FOR HYDROPOWER PROJECTS

Legal Authority: 31 USC 9701 Independent Offices Appropriations Act; 16 USC 803 Federal Power Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 381

Legal Deadline: None

Abstract: The rulemaking would establish a fee for services performed by the Commission under the Federal Power Act for hydropower projects. The rule would cover permits, licenses and exemptions. Docket No. RM83-33-000.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: No action expected in the next 12 months.

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North

FERC — **Proposed Rule Stage**

Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AA48

3715. STANDARDS OF CONDUCT

Significance: Agency Priority

Legal Authority: EO 11222

CFR Citation: 18 CFR 3c

Legal Deadline: None

Abstract: This rulemaking proceeding would update and revise the Commission's Standards of Conduct for employees and Commissioners. Docket No. RM88-8-000.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB01

3716. OPTIONAL CERTIFICATES FOR CONSTRUCTION RELATED TO TRANSPORTATION

Significance: Agency Priority

Legal Authority: 15 USC 717f

CFR Citation: 18 CFR 157

Legal Deadline: None

Abstract: The rulemaking will consider revision of the Commission's regulations, codified at 18 C.F.R. Part 157, Subpart E, governing optional procedures to obtain a certificate for transportation and sale of natural gas facilities under Section 7 of the Natural Gas Act. Docket No. RM88-11-000.

Timetable:

Action	Date	FR Cite

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB03

3717. 5-YEAR TAKE-OR-PAY MAKE-UP PROVISIONS IN NATURAL GAS PRODUCER-PIPELINE CONTRACTS

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w (1982) Natural Gas Act; 42 USC 7101 to 7352 (1982) Dept. of Energy Organ. Act; EO 12009 (1978) 3 CFR Part 142; 31 USC 9701 (1970) Independent Offices Approp. Act

CFR Citation: 18 CFR 154

Legal Deadline: None

Abstract: This notice of proposed rulemaking eliminates the requirement in the Commission's regulations that a gas purchase contract between an independent natural gas producer and an interstate natural gas pipeline must allow the pipeline a minimum 5-year make-up period in which to take gas for which payment has already been made. The Commission believes that this requirement, established in 1967, may no longer be necessary in light of current efforts by pipelines and producers to resolve take-or-pay issues and to enter into market-responsive contracts for future gas supplies. Docket No. RM88-20-000.(See Docket No. RM89-2-000).

Timetable:

Action	Date	FR Cite
NPRM	07/14/88	53 FR 27704
NPRM Comment Period End	08/15/88	53 FR 27704

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB08

3718. ● ESTABLISHMENT OF DEADLINES FOR FIRST SELLERS TO MAKE AND REPORT REFUNDS

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352 (1982); EO 12009 3 CFR 1978 Comp., p. 142; 16 USC 792 to 825r (1982); 15 USC 3301 to 3402 (1982); 15 USC 717 to 717w (1982); 16 USC 2601 to 2645 (1982); 16 USC 4321 to 4370a (1982)

CFR Citation: 16 CFR 2; 18 CFR 154; 18 CFR 157; 18 CFR 250; 18 CFR 375; 18 CFR 381; 18 CFR 389

Legal Deadline: None

Abstract: This notice of proposed rulemaking would revise the Commission's regulations for carrying out wellhead pricing refund requirements under the Natural Gas Policy Act of 1978. The proposed revisions establish specific time limits by which first sellers must make refunds of overcollections or unauthorized collections of prices and file refund reports. (Docket No. RM89-6-000).

Timetable:

Action	Date	FR Cite
NPRM	03/01/89	54 FR 8557
NPRM Comment Period End	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Smoler, Assistant General Counsel, for Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, 202 357-5597

RIN: 1902–AB10

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FEDERAL ENERGY REGULATORY COMMISSION (FERC)

Final Rule Stage

3719. CALCULATION OF CASH WORKING CAPITAL ALLOWANCE FOR PUBLIC UTILITIES

Legal Authority: 16 USC 791a to 828c

CFR Citation: 18 CFR 35

Legal Deadline: None

Abstract: The proposed rule would provide that the cash working capital requirements of a public utility that files an electric rate schedule will be presumed to be zero dollars, and thus will not affect the utility's rate base, unless the utility shows there is a significant difference between the time it pays certain current operating expenses and the time it receives revenues from ratepayers. The proposed rule would establish a threshold standard that must be met to support a cash working capital adjustment to a utility's rate base, the expense elements to be considered in calculating cash working capital adjustments to rate base, and criteria applicable to studies submitted in support of a request for an adjustment to rate base. Docket No. RM84-9-000.

Timetable:

Action	Date	FR Cite
NPRM	04/05/84	49 FR 14384
NPRM Comment Period End	06/04/84	49 FR 14384
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AA33

3720. REGULATION OF NATURAL GAS PIPELINES AFTER PARTIAL WELLHEAD DECONTROL

Significance: Agency Priority

Legal Authority: 42 USC 7102 to 7352 (1982); EO 12009 3 CFR 1978 Comp., p.142; 5 USC 551 to 557 (1982); 15 USC 717 to 717w (1982); 16 USC 791 to 828c (1982); 15 USC 3301 to 3402 (1982); 16 USC 2601 to 2645 (1982)

CFR Citation: 18 CFR 2; 18 CFR 284.10; 18 CFR 284.8; 18 CFR 284.9; 18 CFR 2.104; 18 CFR 2.105

Legal Deadline: None

Abstract: Order No. 500 is an interim rule that readopted the regulations promulgated in Order No. 436 with one addition and one deletion. Order No. 500 added a requirement that producers submit an offer of take-or-pay credits to an open access pipeline in order to make the pipeline's gas eligible for transportation (unless the pipeline and producer agree to a different arrangement); it deleted the customers' contract demand reduction option. Order No. 500 also adopted a policy on passthrough mechanisms for take-or-pay buyout and buydown costs and on gas inventory charges. Order Nos. 500-A, 500-B, 500-C and 500-D made changes to the crediting provisions and extended certain deadlines. Rehearing of the Order No. 500 interim rule was denied in Order No. 500-E. Docket No. RM87-34-000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/87	52 FR 30334
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: See Order Explaining Crediting (Oct. 16, 1987) and Order Nos. 500-A, 500-B, 500-C, 500-D and 500-E for more details.

Agency Contact: Andrea Wolfman, Assistant General Counsel, for Pipeline Rates and Valuation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8448

RIN: 1902–AA97

3721. REGULATIONS GOVERNING BIDDING PROGRAMS

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352 (1982); EO 12009 3 CFR 142 (1978); 31 USC 9701 (1982); 16 USC 7919 to 8252 (1982); 16 USC 2601 to 2645 (1982)

CFR Citation: 18 CFR 35; 18 CFR 293

Legal Deadline: None

Abstract: The Commission proposed to adopt regulations authorizing state regulatory authorities and nonregulated electric utilities to implement bidding procedures as a means of establishing rates for power purchases from qualifying facilities (QFs) under section 210 of PURPA. Docket No. RM88-5-000.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9323
NPRM Comment Period End	06/14/88	53 FR 9323
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AA98

3722. REGULATIONS GOVERNING INDEPENDENT POWER PRODUCERS

Significance: Agency Priority

Legal Authority: PL 99-509, Sec 3401; 42 USC 7101 to 7352 (1982); EO 12009 3 CFR (1978) Comp., p. 142; 5 USC 551 to 557 (1982); 15 USC 717 to 717w (1982); 16 USC 791a to 828c (1982); 15 USC 3301 to 3432 (1982); 16 USC 2601 to 2645 (1982); 49 USC 1 to 27 (1976)

CFR Citation: 18 CFR 38; 18 CFR 382

Legal Deadline: None

Abstract: The Commission proposed to streamline regulation of a class of non-traditional utility suppliers, called independent power producers (IPPS). The proposed regulations would: (1) authorize rates for IPPS to be determined through competition or rate negotiation subject to a price cap, thereby freeing IPPS from cost-based ratemaking while ensuring that rates fall within a zone of reasonableness: (2) authorize IPPs to file rate schedules without having to provide extensive cost support; (3) exempt IPPS from cost-related accounting, reporting and recordkeeping requirements; (4) streamline the corporate and financial regulation of IPPS; (5) provide the blanket prior authorizations to engage in certain corporate activities; and (6) adopt and advance certification procedures to qualify as an IPP. Docket No. RM88-4-000.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9327
NPRM Comment Period End	06/16/88	53 FR 9327
Final Action	00/00/00	

Small Entities Affected: None

FERC

Final Rule Stage

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AA99

3723. ADMINISTRATIVE DETERMINATION OF FULL AVOIDED COSTS, SALES OF POWER TO QUALIFYING FACILITIES AND INTERCONNECTION FACILITIES

Significance: Agency Priority

Legal Authority: PL 99-495; 42 USC 7101 to 7352 (1982); EO 12009 3 CFR (1978) Comp., p. 142; 31 USC 9701 (1982); 16 USC 791a to 825r (1982); 16 USC 2601 to 2645 (1982)

CFR Citation: 18 CFR 292

Legal Deadline: None

Abstract: The Commission is proposing to amend its regulations governing purchases and sales of electricity between electric utilities and qualifying cogeneration facilities and qualifying small power production facilities (QFs). Docket No. RM 88-6-000.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9331
NPRM Comment Period End	06/14/88	53 FR 9331
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB00

3724. RELICENSING REGULATIONS UNDER THE FEDERAL POWER ACT

Significance: Agency Priority

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 42 USC 7101 to 7352; EO 12009 3 CFR 142 (1978)

CFR Citation: 18 CFR 4; 18 CFR 16

Legal Deadline: None

Abstract: In this notice of proposed rulemaking, the Commission proposes to revise its regulations governing the relicensing of hydroelectric power projects. The proposed changes include revised requirements for an application for a new license, a process for pre-filing consultation with resource agencies, a new standard and factors for evaluating a relicensing application for a nonpower license, a minor license, and an exemption from licensing upon expiration of an existing license and would provide for acceleration of a license expiration date and site access for competing applicants. The proposal implements in part changes made to the Federal Power Act by the Electric Consumers Protection Act of 1986. Docket No. RM87-33-000.

Timetable:

Action	Date	FR Cite
NPRM	05/24/88	53 FR 21844
NPRM Comment Period End	09/08/88	53 FR 21844
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB02

3725. BROKERING OF INTERSTATE NATURAL GAS PIPELINE CAPACITY

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w (1982) Natural Gas Act; 15 USC 3301 to 3432 (1982) Natural Gas Policy Act of 1976; 42 USC 7101 to 7352 (1982) Dept. of Energy Organ. Act; EO 12009, 3 CFR 1978 Comp., p.142; 4 USC 551 to 557 (1982) Administrative Procedures Act; 31 USC 9701 (1982) Independent Offices Approp. Act; 16 USC 7901 to 825r (1982) Federal Power Act; 16 USC 2601 to 2645 (1982) Public Utilities Reg. Pol. Act; 49 USC 1 to 27 (1982) Interstate Commerce Act

CFR Citation: 18 CFR 284; 18 CFR 385

Legal Deadline: None

Abstract: Under this notice of proposed rulemaking, the Commission proposed to allow holders of firm transportation rights on an interstate natural gas pipeline to sell or assign (broker) those rights. Rights to the pipeline's system storage could also be brokered to the extent that these rights are subject to Secs. 284.8 and 284.9 of the Commission's regulations. Docket No. RM88-13-000

Timetable:

Action	Date	FR Cite
NPRM	04/27/88	53 FR 15061
NPRM Comment Period End	05/19/88	53 FR 15061
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB06

3726. REGULATIONS GOVERNING THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352 (1982) Dept. of Energy Organ. Act; EO 12009, 3 CFR 1978, Comp., p. 142; 31 USC 9701 (1982) Independent Offices Approp. Act; 16 USC 791a to 825r (1982) Federal Power Act; 16 USC 2601 to 2645 (1982) Public Util. Regulatory Pol. Act

CFR Citation: 18 CFR 292

Legal Deadline: None

Abstract: Under this notice of proposed rulemaking, the Commission is proposing to amend its regulations governing the implementation of Title II of the Public Utility Regulatory Policies Act of 1978 (PURPA). This rule addresses problems with the criteria and procedures under Section 201 of PURPA by which qualifying small power production and cogeneration facilities can obtain PURPA benefits. Docket No. RM88-17-000.

Timetable:

Action	Date	FR Cite
NPRM	07/29/88	53 FR 31021
NPRM Comment Period End	10/27/88	53 FR 31021
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North

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FERC — Final Rule Stage

Capitol Street, NE, Washington, DC 20426, 202 357-5597
RIN: 1902-AB07

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Completed Actions

3727. REGULATIONS UNDER SECTION 5 OF THE OUTER CONTINENTAL SHELF LANDS ACT (OCSLA) GOVERNING TRANSPORTATION OF NATURAL GAS ON THE OUTER CONTINENTAL SHELF

Significance: Agency Priority

CFR Citation: 18 CFR 284

Completed:

Reason	Date	FR Cite
Final Action	12/19/88	53 FR 50925
Final Action Effective	02/17/88	53 FR 50925

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Barry M. Smoler 202 357-5597
RIN: 1902-AB09
[FR Doc. 89-5860 Filed 04-21-89; 8:45 am]
BILLING CODE 6717-01-T

federal register

Monday
April 24, 1989

Part LI

Federal Home Loan Bank Board

Semiannual Regulatory Agenda

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FEDERAL HOME LOAN BANK BOARD (FHLBB)

FEDERAL HOME LOAN BANK BOARD

12 CFR Ch. V

[No. 89-325]

Agenda of Federal Regulations

AGENCY: Federal Home Loan Bank Board.

ACTION: Publication of agenda items.

SUMMARY: The Federal Home Loan Bank Board is hereby publishing items for the "April Unified Agenda of Federal Regulations."

ADDRESS: Information Services Division, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: See persons listed below for specific agenda items.

Dated: February 22, 1989.
By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Proposed Rule Stage

3728. ● RELEASE OF CUSTOMER FINANCIAL RECORDS BY FEDERAL ASSOCIATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1425a; 12 USC 1425b; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1728; 12 USC 1728; 12 USC 1730; 12 USC 1730a

CFR Citation: 12 CFR 545.131; 12 CFR 545.132; 12 CFR 545.141; 12 CFR 552.11

Legal Deadline: None

Abstract: The Bank Board is proposing to revise its regulations concerning the releases by federally chartered savings and loan associations and savings banks of customer financial records. It would generally authorize a Federal association to disclose the names and addresses of its customers to any party unless the customer objects, but would prohibit the disclosure of confidential information regarding customers' savings or loan accounts subject to specific exceptions. It would also modify the requirement that Federal mutual associations obtain the prior approval of either the Board or a Supervisory Agent before releasing their customer records.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 5629
NPRM Comment Period End	04/07/89	54 FR 5629

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeffrey R. Williams, Attorney-Advisor, Regulations and Legislation Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6559

RIN: 3068–AA86

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Final Rule Stage

3729. INSURANCE TERMINATION PROVISIONS

Legal Authority: 12 USC 1464; 12 USC 1727; 12 USC 1730

CFR Citation: 12 CFR 565

Legal Deadline: None

Abstract: The Bank Board is reviewing a number of issues relating to the extent to which institutions insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") that terminate their insured status in connection with transfers by operation of law must pay a final insurance premium to the FSLIC. As part of its review, the Bank Board is soliciting public comment to ascertain whether to issue a proposal in this area. On October 7, 1986, the Bank Board adopted a clarifying amendment to the definition of "transfers" set forth in its statement of policy regarding mergers and transfers of assets. (12 CFR 571.5(a)). However, as the clarification indicates, the interpretation did not specifically address the separate issues of whether an insured institution undertaking a transfer of assets and liabilities by operation of law in which the surviving entity is not FSLIC-insured must pay a final insurance premium to the FSLIC, and if so, the amount of such payment. The Bank Board has been reviewing this so-called "exit premium" issue on an ongoing basis and as yet has made no final determination with respect to this matter.

Timetable:

Action	Date	FR Cite
ANPRM	05/08/87	52 FR 17408
ANPRM Comment Period End	07/07/87	52 FR 17408
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: In view of the continued importance of this issue as it relates to the financial condition of the FSLIC insurance fund, the Bank Board is hereby soliciting public comment on this subject.

Since the proposal is only an advance notice of proposed rulemaking, the potential costs and benefits of a proposed regulation on the industry have not been quantified

Agency Contact: John A. Buchman, Assistant Deputy Director, Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 906-6963

RIN: 3068–AA28

3730. INVESTMENT PORTFOLIO POLICY AND ACCOUNTING GUIDELINES

Significance: Agency Priority

FHLBB — Final Rule Stage

Legal Authority: 12 USC 1730; 12 USC 1464; 12 USC 1725 to 1726; 15 USC 78c

CFR Citation: 12 CFR 571.19; 12 CFR 563c

Legal Deadline: None

Abstract: The Board is proposing to amend its regulations governing institutions insured by the Federal Savings and Loan Insurance Corporation by adopting a statement of policy and by amending its rules to clarify that insured institutions must account for securities held for investment sale and/or trading in accordance with generally acceptable accounting procedures ("GAAP"). The proposed policy statement requires an insured institution's board of directors to document and monitor its investment in policy and strategies; discuss the appropriate documentation of investment decisions; summarize GAAP applicable to securities held for investment,sale, and/or trading; and offer guidance on the application of GAAP by insured institutions in determining when securities should be accounted for as a security held for trading. The Board's intent is to provide guidance and clarifications to insured institutions on the accounting for and classification of investment in securities within the confines of existing accounting literature.

Timetable:

Action	Date	FR Cite
NPRM	06/21/88	53 FR 23247
NPRM Comment Period End	09/20/88	53 FR 31363

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Julie A. Gerschick, Professional Accounting Fellow, Office of Regulatory Activities, Federal Home Loan Bank Board, 801 17th Street, N.W., Washington, D.C. 20006, 202 331-4583

RIN: 3068–AA62

3731. RULES OF PRACTICE AND PROCEDURE

Significance: Agency Priority

Legal Authority: 12 USC 1730; 12 USC 1464; 12 USC 1730q; 12 USC 1730a; PL 89-695; PL 89-630

CFR Citation: 12 CFR 509; 12 CFR 512

Legal Deadline: None

Abstract: The Bank Board is proposing revisions to 12 CFR Parts 509 and 512 respectively, its regulations governing rules of practice and procedure in adjudicatory proceedings. The proposed revisions to Part 509 would streamline prehearing procedures with a view toward expediting the proceedings, clarify the authority of Administrative Law Judges appointed to conduct the proceedings, and add several new provisions. The proposed revisions to Part 512 would be of a clarifying and technical nature and would update several provisions of the rules relating to the conduct of investigative and formal examination proceedings.

There are no alternatives that would be less burdensome than the proposed amendments in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulations on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	09/29/88	53 FR 40432
NPRM Comment Period End	12/16/88	53 FR 40432

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Gary A. Gegenheimer, Senior Attorney, Office of Enforcement, Federal Home Loan Bank Board, 1735 Eye Street, N.W., Washington D.C. 20552, 202 906-7110

RIN: 3068–AA64

3732. TRANSACTIONS WITH AFFILIATES

Significance: Agency Priority

Legal Authority: 12 USC 1730a; 12 USC 1425a; 12 USC 1462; 12 USC 1724; PL 100-86

CFR Citation: 12 CFR 584.3

Legal Deadline: None

Abstract: The Bank Board is proposing to amend its regulations pertaining to transactions between institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation and affiliates of those institutions. The proposed amendments (1) define and clarify the applicability of the limitations and prohibitions specified in sections 23A and 23B of the Federal Reserve Act and (2) clarify the applicability of the limitations and prohibitions specified in the Board's regulations existing prior to the Competitive Equality Banking Act (CEBA). The proposed amendments are intended to further the Congressional intent codified in CEBA by providing parity between a bank and a thrift holding company with respect to the treatment of transactions between the subsidiary depository institution and its affiliates engaged in activities permissible for a bank holding company under the Bank Holding Company Act and the regulations thereunder

There are no alternatives that would be less burdensome than the proposed rule in addressing the concerns expressed above.

The potential costs and benefits of the regulation on (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/10/88	53 FR 21838
NPRM Comment Period End	08/09/88	53 FR 21838
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: ABSTRACT CONT: the industry have not been quantified.

Agency Contact: Steven J. Gray, Attorney, Corporate and Securities Division, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington DC 20552, 202 906-7506

RIN: 3068–AA65

3733. READMISSION OF FEDERAL HOME LOAN BANK MEMBERS TERMINATING THEIR STATUS AS INSURED INSTITUTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1730(i); PL 89-695; 12 USC 1426(i)

CFR Citation: 12 CFR 523

Legal Deadline: None

Abstract: The Bank Board is proposing to amend its regulations governing applications for membership in the

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Federal Home Loan Bank ("FHLBank") System by institutions that have been removed from membership under the National Housing Act by virtue of the termination of Federal Savings and Loan Insurance Corporation ("FSLIC") insurance of their accounts. Specifically, the proposal would amend Part 523 of the Board's Rules and Regulations for the Federal Home Loan Bank System, to provide that an FHLBank member that terminates its status as an FSLIC-insured institution and is thereby removed from FHLBank membership (as well as any other member whose membership is terminated pursuant to section 6(i) of the Federal Home Loan Bank Act), may be readmitted as a member only after the expiration of a five year period following its departure from the FHLBank System.

There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	06/15/88	53 FR 30686
NPRM Comment Period End	10/14/88	53 FR 30686
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: John A. Buchman, Assistant Deputy Director, Corporate and Securities Division, Federal Home Loan Bank Board, 1700 G Street N.W., Washington, DC 20552, 202 906-6963

RIN: 3068–AA66

3734. ● BONDS FOR DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS; FORM AND AMOUNT OF BONDS

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563.19

Legal Deadline: None

Abstract:

The Bank Board is proposing to amend 12 CFR 563.19 by deleting the current schedule for calculating the permissible deductible amount for bonds for directors, officers, employees, and agents of FSLIC-insured institutions. A new method for calculating the permissible deductible would be instituted making the maximum permissible deductible the higher of either five percent of tangible capital as defined in 12 CFR 563.9-8(b)(12) or $50,000, with some exceptions.

In addition, the allowance for institutions to increase the permissible deductible to a maximum of three times the permissible amount if losses under the bond exceed 50 percent of the premium would be eliminated as it would become unnecessary with the increase in permissible deductibles.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45484
NPRM Comment Period End	01/09/89	53 FR 45484

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Cindy L. Hausch, Financial Analyst, Office of, District Banks, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7488

RIN: 3068–AA71

3735. ● ELECTION OF DIRECTORS OF THE FEDERAL HOME LOAN BANKS

Significance: Agency Priority

Legal Authority: 12 USC 1425b; 12 USC 1426; 12 USC 1427; 12 USC 1437; 12 USC 1464; 12 USC 1725; 12 USC 1726; 12 USC 1730; 18 USC 207; 42 USC 8101 et seq.

CFR Citation: 12 CFR 522

Legal Deadline: None

Abstract:

The Bank Board is proposing to amend its rules and regulations governing the Election of Directors of the Federal Home Loan Banks ("Banks") due to its concern about the appearance of conflicts of interest that may exist when officers or directors of institutions that are of regulatory concern are elected to positions as directors of the Banks. The Board feels that it may not be appropriate for persons who have been the subject of regulatory concern to serve on the boards of the Banks as they are an important part of the supervision and regulation of the thrift industry.

Timetable:

Action	Date	FR Cite
ANPRM	11/03/88	53 FR 44437
ANPRM Comment Period End	12/05/88	53 FR 44437

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Carey, Director, Bank Liason Division, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6656

RIN: 3068–AA72

3736. ● REGULATORY CAPITAL REQUIREMENTS FOR INSURED INSTITUTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 561.13; 12 CFR 563.13

Legal Deadline: None

Abstract:

The Bank Board is proposing to amend its regulations concerning capital requirements for FSLIC-insured institutions. The proposal is more risk-based than the Board's current capital regulations, in order to ensure that institutions engaging in higher risk activities are adequately capitalized. The proposal also addresses interest-rate risk and collateralized borrowing.

Timetable:

Action	Date	FR Cite
NPRM	12/23/88	53 FR 51800
NPRM Comment Period End	03/23/89	53 FR 51800

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Fishman, Senior Policy Analyst, Office of,

Regulatory Activities, Federal Home Loan Bank Board, 801 17th Street, N.W., Washington, D.C. 20006, 202 331-4592

RIN: 3068–AA73

3737. ● EQUITY-RISK INVESTMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563.9-8

Legal Deadline: None

Abstract:

The Bank Board is proposing to amend 12 CFR 563.9-8 concerning investments by FSLIC-insured institutions in equity securities, real estate, service corporations, operating subsidiaries, and certain land loans and non-residential construction loans. The proposal would extend the current equity-risk investment regulation until August 14, 1989 to give the Board the opportunity to analyze the results of its recent regulatory capital proposal and the report on equity-risk investment due to Congress on February 10, 1989.

In addition, the proposal would remove the exclusion for Fannie Mae and Freddie Mac stock purchases by insured institutions, on or after an appropriate date, from the definition of "equity security" found in 12 CFR 563.9-8(b)(2).

Timetable:

Action	Date	FR Cite
NPRM	01/04/89	54 FR 155
NPRM Comment Period End	02/03/89	54 FR 155

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard M. Schwartz, Attorney, Regulations and Legislation, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6897

RIN: 3068–AA74

3738. ● REQUIRED CAPITAL LEVELS FOR INSURED INSTITUTIONS; REGULATORY INTERVENTION

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724; 12 USC 1725 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract:

In conjunction with its current proposal to amend its regulations to establish minimum capital requirements for FSLIC-insured institutions, the Bank Board is addressing whether the final capital regulation should contain specific language defining a particular level of capital as an "unsafe and unsound condition to transact business" for the purpose of activating the Board's statutory authority to appoint a conservator or receiver for an institution. The Board is considering setting its floor capital requirement at a level of 1.5% of total assets, to be held in the form of core equity capital.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/89	54 FR 826
ANPRM Comment Period End	02/09/89	54 FR 826

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Theresa Stark, Attorney, Regulations and Legislation, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7054

RIN: 3068–AA75

3739. ● ISSUANCE AND USE OF SUBORDINATED DEBT SECURITIES

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563.8-1

Legal Deadline: None

Abstract:

The Bank Board is proposing to amend 12 CFR 563.8-1, its regulations governing the issuance of subordinated debt securities by insured institutions, to codify certain interpretations of the rule and to incorporate technical revisions to the rule which are necessary due to recently- enacted legislation.

The proposal would also modify the bases for supervisory objection to approval of a subordinated debt application by giving the Office of Regulatory Activities ("ORA") the authority to develop guidelines outlining the bases for supervisory objection to the issuance of subordinated debt. The Principal Supervisory Agent ("PSA") would be given the authority to approve or deny subordinated debt applications, subject to an appeal process.

The proposal also includes a standard set of conditions which would apply to approvals of applications to include subordinated debt in regulatory capital.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	54 FR 1379
NPRM Comment Period End	03/14/89	54 FR 1379

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul D. Glenn, Attorney, Corporate and Securities, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6203

RIN: 3068–AA76

3740. ● MUTUAL SAVINGS AND LOAN HOLDING COMPANIES

Significance: Agency Priority

Legal Authority: 12 USC 1437; 12 USC 1725

CFR Citation: 12 CFR Chapter V

Legal Deadline: None

Abstract:

The Bank Board is reviewing issues to be addressed through the implementation of the mutual holding company provisions of the National Housing Act ("NHA") added by the Competitive Equality Banking Act of 1987 ("CEBA"). The provisions permit any insured institution to reorganize to form a holding company by chartering an interim savings institution whose stock is wholly-owned by the mutual institution and transferring substantially all of the mutual institution's assets and liabilities

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(including all insured liabilities) to the interim savings institution.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/88	53 FR 41343
ANPRM Comment Period End	12/05/88	53 FR 44436

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeff Miner, Assistant Deputy Director, Corporate and, Securities Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7546

RIN: 3068–AA77

3741. ● ACQUISITION OF CONTROL OF INSURED INSTITUTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1730; 12 USC 1730a

CFR Citation: 12 CFR 574.7

Legal Deadline: None

Abstract:

The Bank Board is proposing revisions to its applications processing regulations with regard to the approval of the formation of savings and loan holding companies by insured institutions. The revisions would include automatic approval of applications for routine reorganizations involving the formation of savings and loan holding companies, subject to certain requirements. Applications would be automatically approved 30 calendar days after filing if the Board has not notified the applicant in writing that more information is required, that it is materially deficient, or that it is denied.

The proposed revisions also provide for an improved approval process for permission to organize an interim federal institution for insurance of accounts, for Federal Home Loan Bank Membership and merger of any interim institution that is part of the reorganization transaction.

Timetable:

Action	Date	FR Cite
NPRM	01/27/89	54 FR 4040
NPRM Comment Period End	03/28/89	54 FR 4040

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Howard C. Bluver, Attorney, Corporate and Securities, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7504

RIN: 3068–AA79

3742. ● ACQUISITION OF CONTROL OF INSURED INSTITUTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1730; 12 USC 1730a

CFR Citation: 12 CFR 574.6

Legal Deadline: None

Abstract:

The Bank Board is proposing to adopt a short-form application for use by insured institutions seeking approval for routine reorganizations involving the formation of savings and loan holding companies. The proposal is intended to improve the application process by limiting the required contents of routine reorganization applications to that which is necessary for the FSLIC to make informed decisions.

Timetable:

Action	Date	FR Cite
NPRM	01/27/89	54 FR 4043
NPRM Comment Period End	03/28/89	54 FR 4043

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Howard Bluver, Attorney, Corporate and Securities Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7504

RIN: 3068–AA80

3743. ● CORPORATE GOVERNANCE, PART I

Significance: Agency Priority

Legal Authority: 12 USC 1464

CFR Citation: 12 CFR 541.0 et seq.; 12 CFR 542.1 et seq.

Legal Deadline: None

Abstract: The Bank Board is proposing extensive revisions to its regulations regarding the corporate governance of Federal associations in order to update and clarify these regulations. Due to the magnitude of the revisions, the Bank Board has presented the proposal in parts, issued separately for public comment. The proposed regulations would reorganize portions of Subchapter C (the regulations for federally chartered associations) and amend and add sections to provide a more cohesive and complete body of rules for the corporate governance of Federal associations. Part I would provide definitions and rules for the organization and incorporation of Federal associations.

The proposed rule would apply equally to all insured institutions.

Timetable:

Action	Date	FR Cite
NPRM	09/25/85	50 FR 38832
NPRM Comment Period End	02/01/88	52 FR 42116

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: V. Gerard Comizio, Director, Corporate and Securities, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Stree, N.W., Washington, D.C. 20552, 202 906-6411

RIN: 3068–AA82

3744. ● CORPORATE GOVERNANCE, PART II

Significance: Agency Priority

Legal Authority: 12 USC 1464

CFR Citation: 12 CFR 543.1 et seq.; 12 CFR 544.1 et seq.

Legal Deadline: None

Abstract: The Bank Board is proposing extensive revisions to its regulations regarding the corporate governance of Federal associations in order to update and clarify these regulations. Due to the magnitude of the revisions, the Bank Board has presented the proposal in parts, issued separately for public comment. The proposed regulations would reorganize portions of Subchapter C (the regulations for federally chartered associations) and amend and add sections to provide a more cohesive and complete body of rules for the corporate governance of Federal associations. Part II would contain provisions regarding the corporate structure and governing processes for Federal stock associations and Federal mutual associations.

Timetable:

Action	Date	FR Cite
NPRM	12/24/85	50 FR 52482
NPRM Comment Period End	02/01/88	52 FR 42116
Partial Withdrawal	02/06/89	54 FR 5629

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: V. Gerard Comizio, Director, Corporate and Securities, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Stree, N.W., Washington, D.C. 20552, 202 906-6411

RIN: 3068–AA83

3745. ● DRUG-FREE WORKPLACE REQUIREMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1437(a)

CFR Citation: 12 CFR 516; 12 CFR 516.305; 12 CFR 516.320

Legal Deadline: Final, Statutory, February 16, 1989.

Abstract: The Bank Board is implementing the Drug-Free Workplace Act of 1988 (Pub.L. 100-690, Title V, Subtitle D). The Act requires contractors and grantees of Federal agencies to certify that they will provide drug-free workplaces.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4946

Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Caroline Morris, Attorney, Legal Counsel Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6431

RIN: 3068–AA85

3746. ● CONFORMING AND TECHNICAL AMENDMENTS TO THE CLASSIFICATION OF ASSETS SYSTEM

Significance: Agency Priority

Legal Authority: 12 USC 1425a; 12 USC 1425b; 12 USC 1464; 12 USC 1730a; 12 USC 1462; 12 USC 1724 to 1730; 12 USC 1421 et seq.; 12 USC 1437; 12 USC 1461 et seq.; 12 USC 3806; 15 USC 78c; 12 USC 1730g; 5 USC 552; 5 USC 559; 12 USC 1431

CFR Citation: 12 CFR 545.45; 12 CFR 545.73; 12 CFR 545.74; 12 CFR 545.112; 12 CFR 546.2; 12 CFR 561.17; 12 CFR 563.7-5; 12 CFR 563.8; 12 CFR 563.8-1; 12 CFR 563.8-4; 12 CFR 563.9-7; 12 CFR 563.9-8; 12 CFR 563.17-2; 12 CFR 563.22; 12 CFR 563b.101; ...

Legal Deadline: None

Abstract: The Bank Board is proposing to amend its regulations by removing references to scheduled items and specified assets to ensure that they conform with the classification of assets system mandated by the Competitive Equality Banking Act of 1987 (Pub.L. 100-86, 101 Stat. 552).

Timetable:

Action	Date	FR Cite
NPRM	02/14/89	54 FR 6685
NPRM Comment Period End	03/16/89	54 FR 6685

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeffrey R. Williams, Attorney-Advisor, Regulations and, Legislation Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6559

RIN: 3068–AA90

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Completed Actions

3747. CONSERVATORS AND RECEIVERS

Legal Authority: 12 USC 1464; 12 USC 1724(d); 12 USC 1729; PL 99-120, Sec 6

CFR Citation: 12 CFR 547; 12 CFR 548; 12 CFR 549; 12 CFR 563.8-3; 12 CFR 563.39(a); 12 CFR 569a; 12 CFR 569b; 12 CFR 569c

Legal Deadline: None

Abstract: The Board is proposing extensive revisions to its regulations governing the conservatorship and receivership of associations chartered by the Board or the accounts of which that are insured by the Federal Savings and Loan Insurance Corporation. The Board will unify the appointment of receiver procedures for state and federal institutions; adopt procedures for appointment of receivers under section 406(c)(1)(B) of the National Housing Act; and address the priorities in liquidation and participation interests in liquidation, which are absent from or inadequately covered in the present regulations. The Board is also proposing that its regulations cover topics such as the effect of the receivership appointment on executory contracts, employment agreements, certain "Golden Parachute" agreements, participation agreements, repurchase agreements, and on agreements relating to secured and unsecured borrowings by an insured institution, including agreements providing for prepayment or default penalties. The proposed regulations provide for new rules of general applicability in the areas previously mentioned, clarify existing provisions, and reorganize and recodify all the (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/08/85	50 FR 46970
NPRM Publication of Board Action	11/27/85	50 FR 48970
NPRM Comment Period End	01/22/86	
Period of consideration elapsed	12/01/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

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Additional Information: ABSTRACT CONT: regulations governing conservatorships and receiverships.

There are no alternatives being considered by the Board in lieu of the proposed regulation that would have less impact on small institutions, consistent with the intended result, than the concerns expressed in the supplementary information to the proposed rule and the existing statutory requirements concerning receiverships and conservatorships.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

On July 5, 1988, the Board promulgated as a final rule certain portions of this proposed rule (53 FR 25129). The final rule establishes a priority structure for unsecured claims applicable to all FSLIC receiverships under a new Part 569c of Title 12 of the Code of Federal Regulations.

The time period for Board consideration of the proposal elapsed on December 1, 1988. It is expected that the proposal will be formally withdrawn and reproposed at a later date.

Agency Contact: Lawrence W. Hayes, Deputy General Counsel for FSLIC, O.G.C., Federal Home Loan Bank Board, 1700 G St. NW, Washington, DC 20552, 202 906-6428

RIN: 3068–AA07

3748. CORPORATE GOVERNANCE, PARTS III AND IV

Legal Authority: 12 USC 1464; 12 USC 2609

CFR Citation: 12 CFR 501.12; 12 CFR 543.10-5; 12 CFR 544.9-2; 12 CFR 544.10-5; 12 CFR 545.2; 12 CFR 545.3; 12 CFR 545.12; 12 CFR 545.21; 12 CFR 454.32; 12 CFR 545.33; 12 CFR 545.34; 12 CFR 545.46; 12 CFR 545.74; 12 CFR 545.91; 12 CFR 545.95; ...

Legal Deadline: None

Abstract: The Bank Board is proposing extensive revisions to its regulations regarding the corporate governance of Federal associations in order to update and clarify these regulations. Due to the magnitude of the revisions, the Bank Board has presented the proposal in parts, issued separately for public comment. The proposed regulations would reorganize portions of Subchapter C (the regulations for federally chartered associations) and amend and add sections to provide a more cohesive and complete body of rules for the corporate governance of Federal associations. Part III proposes revisions to the rules governing operations of and charter conversion from and to Federal associations. Part IV proposes provisions regarding conservatorships, receiverships, trust powers, miscellaneous provisions, Board rulings, and statements of policy. The proposed rule would apply equally to all insured institutions.

The time period for Board consideration of the proposal elapsed on August 1, 1988. It is expected that the proposal will be formally withdrawn and reproposed at a later date. (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/09/87	52 FR 25870
NPRM Comment Period End	02/01/88	52 FR 42116
Period for consideration elapsed	08/01/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: CFR CITATION CONT: 12 CFR 545.114, 12 CFR 545.121, 12 CFR 545.123, 12 CFR 545.131, 12 CFR 546.1, 12 CFR 546.2, 12 CFR 546.3, 12 CFR 546.4, 12 CFR 546.5, 12 CFR 546.6, 12 CFR 546.7, 12 CFR 546.8, 12 CFR 546.9, 12 CFR 546.10, 12 CFR 546.11, and 12 CFR 551.

ABSTRACT CONT:

There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Agency Contact: Kathleen M. Ulrich, Staff Attorney, Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 906-7049

RIN: 3068–AA25

3749. ACCOUNTING POLICY RELATING TO ACQUISITION, DEVELOPMENT AND CONSTRUCTION LOANS

Legal Authority: Notice to Practitioners on ADC Loans, CPA Letter, Feb 10, 1986

CFR Citation: 12 CFR 571.17

Legal Deadline: None

Abstract: The Bank Board proposed to amend its statement of accounting policy relating to acquisition, development and construction ("ADC") loans used by all institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") or affiliates thereof when preparing reports or financial statements for filing with the Bank Board or the FSLIC. The amendments relate to the recent "Notice to Practitioners" issued by the American Institute of Certified Public Accountants, which superseded two prior notices issued in November 1983 and November 1984, and to the public position regarding the effective date of the recent notice taken by the Chief Accountant of the Securities and Exchange Commission. By proposing this amendment to its statement of policy, the Bank Board is adhering to its policy that insured institutions are expected to apply the guidance of the accounting profession for determining whether a transaction characterized as an ADC loan is in fact a loan or whether, in substance, it is a real estate investment or a joint venture. The proposed rule would apply equally to all insured institutions. (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/13/87	52 FR 7887
NPRM Comment Period End	05/12/87	52 FR 7887
Withdrawn	11/10/88	53 FR 45454
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: ABSTRACT CONT:

There are no alternatives that would be less burdensome than the proposed rule in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Agency Contact: Deborah Dakin, Regulatory Counsel, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 906-6445

RIN: 3068–AA27

3750. INDEMNIFICATION OF DIRECTORS, OFFICERS AND EMPLOYEES OF FEDERAL HOME LOAN BANKS

Legal Authority: 5 USC 553

CFR Citation: 12 CFR 522.72

Legal Deadline: None

Abstract: The Bank Board is proposing to amend its regulations governing the indemnification of directors, officers, and employees of the Federal Home Loan Banks ("FHL Banks"). This amendment would clarify that expenses incurred by FHL Bank directors, officers, and employees in connection with litigation are to be reimbursed as they are incurred, but that, by majority vote of its board of directors, a FHL Bank could require repayment of expenses that it finds to have been beyond the scope of the Bank Board's indemnification regulation. The proposal applies only to directors, officers, and employees of the FHL Banks, none of which falls within the definition of a "small financial institution" given by the Small Business Administration.

There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed above.

The potential costs and benefits of the proposal on the industry have not been quantified.

The only portions of this proposal which reached the final rule stage were procedural clarifications and modifications.

Timetable:

Action	Date	FR Cite
NPRM	04/16/87	52 FR 12425
NPRM Comment Period End	06/15/87	52 FR 12425
Final Action	12/29/88	53 FR 52653
Final Action Effective	12/29/88	53 FR 52653

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Joan Van Berg, Attorney, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 906-7023

RIN: 3068–AA30

3751. ASSESSMENT AND ADJUSTMENT OF ADDITIONAL PREMIUMS

Significance: Agency Priority

Legal Authority: 12 USC 1727

CFR Citation: 12 CFR 563.15; 12 CFR 563.18

Legal Deadline: None

Abstract: The Bank Board is proposing to amend its Insurance Regulations by adding a new regulation regarding the assessment of additional insurance premiums against institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC").The proposal would implement by regulation the FSLIC's authority to assess additional insurance premiums and would provide for an adjustment of such premiums based on insured institutions' capital levels. In the Board's view, it is important to base the amount of additional insurance premiums assessed on the amount of capital held by an insured institution because capital provides the most effective buffer against loss and risk to the FSLIC fund.The primary purpose of the proposal is to offer insured institutions an incentive to raise capital.

There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed above.

The time period for Board action elapsed on December 6, 1988.

Timetable:

Action	Date	FR Cite
NPRM	04/21/88	53 FR 13131
NPRM Comment Period End	06/06/88	53 FR 13131
Period of Consideration Elapsed	12/06/88	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Richard Schwartz, Staff Attorney, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6897

RIN: 3068–AA60

3752. PREAPPROVED SECURITIES BROKERAGE SERVICE CORPORATION ACTIVITIES

Significance: Agency Priority

Legal Authority: 12 USC 1464; 12 USC 1425a; 12 USC 1725 to 1726; 12 USC 1730

CFR Citation: 12 CFR 545.74

Legal Deadline: None

Abstract: The Board is proposing to adopt amendments to 12 CFR 545.74, its service corporation regulations, by inserting a new paragraph 545.74(c)(4) "security brokerage activities" and renumbering subsequent paragraphs. The purpose to the proposed amendments is to enable service corporations to commence certain types of securities brokerage activities, without preparing an application and obtaining individual Board approval. The amendments designate certain types of securities brokerage activities as preapproved service corporation activities.

Other alternatives, such as the present rules, may tend to prolong the waiting period for permission to engage in brokerage activities. More liberal provisions may raise questions of statutory authority.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

The time period for Board consideration of the proposal elapsed on December 6, 1988. It is expected that the proposal will be formally withdrawn and reproposed at a later date.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16148
NPRM Comment Period End	06/06/88	53 FR 16148

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Action	Date	FR Cite
Period of Consideration Elapsed	12/06/88	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Dean V. Shahinian, Deputy Director for Corporate Activities, Corporate and Securities Division, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7289

RIN: 3068–AA61

3753. ● PURCHASE AND SALE OF FREDDIE MAC PREFERRED STOCK BY CERTAIN INSURED INSTITUTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563.13-3

Legal Deadline: None

Abstract:

The Bank Board is adopting a final rule relating to the purchase and sale of Freddie Mac stock by insured institutions that fail to meet either their minimum or fully phased-in regulatory capital requirements. Any insured institution which fails to meet its minimum regulatory capital requirement must obtain prior approval from its Principal Supervisory Agent ("PSA") or his designee, subject to clearance by the Office of Regulatory Activities, in order to purchase or sell Freddie Mac preferred stock.

The rule also requires that any insured institution not meeting its fully phased-in capital requirement must obtain prior approval from its PSA in order to take certain actions based upon any purchase or sale of Freddie Mac stock that could adversely impact its ability to meet its fully phased-in capital requirement.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/89	54 FR 393
Final Action	01/06/89	54 FR 393

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Deborah Dakin, Regulatory Counsel, Regulations and, Legislation Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6445

RIN: 3068–AA70

3754. ● CHARTER AND BYLAW AMENDMENTS; DELEGATIONS OF AUTHORITY

Significance: Agency Priority

Legal Authority: 12 USC 1464; 12 USC 1725; 12 USC 1726; 12 USC 1730; 12 USC 1425a; 12 USC 1425b; 12 USC 1462; 12 USC 1724; 12 USC 1728; 12 USC 1729; 12 USC 1730a

CFR Citation: 12 CFR 544.2; 12 CFR 544.5; 12 CFR 552.4; 12 CFR 552.5

Legal Deadline: None

Abstract:

The Bank Board is amending its regulations concerning delegations of authority to grant or deny preliminary approval of charter amendments and to approve or deny bylaw amendments in order to delegate such authority to the Principal Supervisory Agent ("PSA"). The PSA is given the authority to grant or deny preliminary approval of charter amendments for mutual and stock associations, and to approve or deny bylaw amendments for such associations, provided that they do not include anti-takeover provisions and do not raise a significant issue of law or policy.

Any charter or bylaw amendments not eligible to be processed under this delegation of authority may be acted upon by the Office of General Counsel.

The Bank Board has also amended its related provisions concerning filing requirements and procedures.

Timetable:

Action	Date	FR Cite
Final Action	01/30/89	54 FR 4257
Final Action Effective	01/30/89	54 FR 4257

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kevin L. Petrasic, Staff Attorney, Corporate and, Securities Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6542

RIN: 3068–AA78

3755. ● ELECTION OF DIRECTORS OF THE FEDERAL HOME LOAN BANKS

Significance: Agency Priority

Legal Authority: 12 USC 1426b; 12 USC 1428 to 1427; 12 USC 1437; 12 USC 1464; 12 USC 1725 to 1726; 12 USC 1730; 18 USC 207; 42 USC 8101 et seq.

CFR Citation: 12 CFR 522.28a

Legal Deadline: None

Abstract: The Bank Board has adopted a temporary rule for the purpose of implementing special procedures for the election of directors to the boards of Federal Home Loan Banks ("Banks") during 1988. The rule states that candidates for Bank directorships may not be currently serving as directors or officers of member institutions failing to meet their minimum regulatory capital requirements. The rule became effective on October 25, 1988 and expired on December 31, 1988.

Timetable:

Action	Date	FR Cite
Temporary Rule	11/03/88	53 FR 44394

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Carey, Director, Bank Liason Division, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6656

RIN: 3068–AA81

3756. ● NONPROCUREMENT DEBARMENT AND SUSPENSION

Significance: Agency Priority

Legal Authority: 12 USC 1437(a)

CFR Citation: 12 CFR 516.100 et seq.

Legal Deadline: None

Abstract: The Bank Board is adopting a common rule that establishes among federal agencies a uniform system of procurement debarment and suspension in order to prevent waste, fraud and abuse in Federal nonprocurement transactions.

Timetable:

Action	Date	FR Cite
Final Action	01/31/89	54 FR 4722
Final Action Effective	03/01/89	54 FR 4722

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Caroline Morris, Attorney, Legal Counsel Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6431

RIN: 3068–AA84

3757. ● ASSIGNMENT OR PLEDGE OF ASSETS HELD BY THE FSLIC IN ITS CORPORATE CAPACITY

Significance: Agency Priority

Legal Authority: 12 USC 1725; 12 USC 1729

CFR Citation: 12 CFR 578.1

Legal Deadline: None

Abstract: The Bank Board is adopting an interpretive rule, which asserts the FSLIC's right to assign or pledge assets it holds in its corporate capacity. The regulation also provides an explanation of the manner in which assignments or pledges of FSLIC assets may be perfected.

Timetable:

Action	Date	FR Cite
Final Action Effective	02/06/89	54 FR 6108
Final Action	02/07/89	54 FR 6108

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6428

RIN: 3068–AA87

3758. ● RECOGNITION BY RECEIVERS OF THE FSLIC'S CLAIM AS SUBROGEE OF INSURED DEPOSITORS AND ASSIGNMENTS OR PLEDGES OF SUCH CLAIMS

Significance: Agency Priority

Legal Authority: 12 USC 1464; 12 USC 1725; 12 USC 1729

CFR Citation: 12 CFR 569c.7-1

Legal Deadline: None

Abstract: The Bank Board is adopting a regulation concerning the FSLIC as receiver for federal and state institutions. It provides for recognition on the books of the receiver of claims to which the FSLIC, in its corporate capacity has been subrogated by payment of insurance and for recognition of transfers of such subrogated claims.

Timetable:

Action	Date	FR Cite
Final Action Effective	02/06/89	54 FR 6109
Final Action	02/07/89	54 FR 6109

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6428

RIN: 3068–AA88

3759. ● COLLATERAL FOR BANK ADVANCES

Significance: Agency Priority

Legal Authority: 12 USC 1430; 12 USC 1437

CFR Citation: 12 CFR 525.7

Legal Deadline: None

Abstract: The Bank Board is amending its regulations regarding Federal Home Loan Bank Advances to specify that eligible collateral for Bank advances includes FSLIC claims against receiverships, which the FSLIC acquired by subrogation or otherwise and assignments or pledges of such claims.

Timetable:

Action	Date	FR Cite
Final Action Effective	02/06/89	54 FR 6112
Final Action	02/07/89	54 FR 6112

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6428

RIN: 3068–AA89

3760. ● TRUST POWERS OF FEDERAL ASSOCIATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1464(n); 12 USC 1725 to 1726; 12 USC 1730

CFR Citation: 12 CFR 550.2; 12 CFR 550.14

Legal Deadline: None

Abstract: The Bank Board is amending its regulations concerning trust powers of Federal associations by delegating additional authority to the Principal Supervisory Agent ("PSA"), authorizing him to approve or disapprove any trust powers application which does not present any unusual policy determinations. The PSA would also be authorized to issue certification to associations surrendering approved trust powers.

Timetable:

Action	Date	FR Cite
Final Action	02/21/89	54 FR 7395
Final Action Effective	02/21/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robyn Dennis, Financial Analyst, Office of Regulatory Affairs, Federal Home Loan Bank Board, 801 17th Street, N.W., Washington, D.C. 20006, 202 331-4572

RIN: 3068–AA91

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Federal Maritime Commission

Semiannual Regulatory Agenda

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FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Unified Regulatory Agenda

AGENCY: Federal Maritime Commission.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to section 5 of E.O. 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration during the period from April 1, 1989 to March 30, 1990 actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Joseph C. Polking, Secretary, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 5 of Executive Order 12291 also requires executive agencies to publish a regulatory agenda; the Commission voluntarily complies with this section.

The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's Unified Regulatory Agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

Joseph C. Polking,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3761	Costs of Proceedings	3072-AA45
3762	Automated Tariff Filing	3072-AA61
3763	Index of Documents for Agreements	3072-AA64
3764	User Fees to Recover Agency Costs	3072-AA70
3765	Independent Action - Miscellaneous Provisions	3072-AA83
3768	Rates Quoted Subject to Booking	3072-AA86
3767	Financial Reports of Vessel Operating Common Carriers by Water in the Domestic Offshore Trades	3072-AA93
3768	Cancellation of Tariffs for Failure to Either File Anti-Rebate Certifications or Publish Appropriate Notices in Tariffs	3072-AB09

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3769	Practices of Ocean Common Carriers Regarding Effective Date of Rate Changes - Docket No. 88-19	3072-AB04
3770	Regulations to Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States - Docket No. 88-24	3072-AB13
3771	Equipment Interchange Agreements - Tariff Publication of Free Time and Detention Charges - Docket No. 89-4	3072-AB14
3772	Definitions of "Conference Agreement" and "Joint Service/ Consortium Agreement" - Docket No. 88-26	3072-AB15
3773	Tariff Filing Exemption for Port-to-Port Service in Hawaii - Docket No. 89-3	3072-AB16
3774	Rules Implementing Report in Fact Finding 17 - Rates and Charges Provided at Marine Terminal Facilities	3072-AB17
3775	Rules Implementing Report in Fact Finding 15 -- Practices of Entities Acting as Intermediaries in Ocean Transportation of Goods in U.S. Commerce	3072-AB18

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3776	Service Contract Provisions; Most Favored Shippers and Liquidated Damages Clauses	3072-AA95
3777	Foreign-to-Foreign Agreements; Exemption	3072-AB03
3778	Service Contract Regulation Amendment to Permit Correction of Clerical or Administrative Errors in Essential Terms--Docket No. 88-16	3072-AB08

FMC

Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3779	Interpretive Rule that Carriers or Conferences May Not Require Production of Justice Department Business Review Letter as Part of Service Contract Negotiation Process with Shippers Association	3072-AB10

FEDERAL MARITIME COMMISSION (FMC)

Prerule Stage

3761. COSTS OF PROCEEDINGS

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1716; 46 USC app 1717(a)(4)

CFR Citation: 46 CFR 502

Legal Deadline: Other, Statutory. September 20, 1989.

Abstract: Section 18(a)(4) of the Shipping Act requires the Commission to collect and analyze data concerning the impact of the Act on the costs of major types of regulatory proceedings before the Commission. This action will provide the regulations needed to obtain this information.

Timetable:

Action	Date	FR Cite
End Review	06/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA45

3762. AUTOMATED TARIFF FILING

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 816; 46 USC app 817; 46 USC app 841a; 46 USC app 1707; 46 USC app 1708; 46 USC app 1715; 46 USC app 1716; 46 USC app 1717

CFR Citation: 46 CFR 515; 46 CFR 550; 46 CFR 580

Legal Deadline: None

Abstract: The Commission is considering the development of a fully automated system whereby tariff matters can be made available to the public and to the Commission through automatic data processing in order to reduce paperwork and other burdens. An Industry Advisory Committee is assisting the Commission in the project.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/84	
Notice of Intent to form Advisory Committee	04/12/85	50 FR 14453
Notice of Second Meeting	05/19/86	51 FR 18376
Notice of Third Meeting	10/21/86	51 FR 37347
Notice of Inquiry on System Functionality	12/22/87	52 FR 48504
Further Notice	06/13/88	53 FR 22048
Second Report on System Functionality	12/29/88	53 FR 52785
End Review	01/00/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA61

3763. INDEX OF DOCUMENTS FOR AGREEMENTS

Legal Authority: 5 USC 553; 46 USC app 1703 to 1706; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714; 46 USC app 1716; 46 USC app 1717

CFR Citation: 46 CFR 572.704

Legal Deadline: None

Abstract: Section 572.704 of Title 46 Code of Federal Regulations requires agreement parties who are required to file minutes to maintain an index of certain reports, studies and documents used for certain decisions, and to file such an index quarterly with the Commission. This requirement is being considered along with requirements to file minutes and other reports and with record retention provisions.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA64

3764. USER FEES TO RECOVER AGENCY COSTS

Significance: Agency Priority

Legal Authority: 5 USC 552 to 553

CFR Citation: 46 CFR 503.43

Legal Deadline: None

Abstract: The Commission is reviewing existing fees for services in order to determine whether they are adequate to recover costs.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	05/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime

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FMC — Prerule Stage

Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AA70

3765. INDEPENDENT ACTION - MISCELLANEOUS PROVISIONS

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717; 46 USC app 1718

CFR Citation: 46 CFR 572; 46 CFR 580

Legal Deadline: None

Abstract: Review would attempt to analyze certain conference practices to ensure that they do not unduly inhibit the right of individual members to take independent action as provided by the Shipping Act of 1984.

Timetable:

Action	Date	FR Cite
Begin Review	01/10/86	
End Review	06/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AA83

3766. RATES QUOTED SUBJECT TO BOOKING

Legal Authority: 5 USC 553; 46 USC app 812; 46 USC app 814 to 815; 46 USC app 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841a; 46 USC app 843 to 847; 46 USC app 1702 to 1705; 46 USC app 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718

CFR Citation: 46 CFR 550; 46 CFR 580

Legal Deadline: None

Abstract: Review would determine the necessity of regulations governing the parties of quoting rates subject to booking. Related to FMC Spec. Dkt. 1343.

Timetable:

Action	Date	FR Cite
Begin Review	02/14/86	
End Review	05/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AA86

3767. FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

Legal Authority: 5 USC 553; 46 USC app 817(a); 46 USC app 820; 46 USC app 841a; 46 USC app 843; 46 USC app 844; 46 USC app 845a; 46 USC app 847

CFR Citation: 46 CFR 522

Legal Deadline: None

Abstract: Current rule providing for domestic rate-making and justification methodology is being reviewed to determine if requirements can be made less stringent.

Timetable:

Action	Date	FR Cite
Begin Review	01/09/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AA93

3768. CANCELLATION OF TARIFFS FOR FAILURE TO EITHER FILE ANTI-REBATE CERTIFICATIONS OR PUBLISH APPROPRIATE NOTICES IN TARIFFS

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1707; 46 USC app 1709; 46 USC app 1714; 46 USC app 1716

CFR Citation: 46 CFR 580; 46 CFR 582

Legal Deadline: None

Abstract: Rule would minimize noncompliance with the requirements to file Anti-Rebate Certifications (46 CFR 582) and to publish anti-rebate provisions in tariffs (46 CFR 580.5(c)(2)).

Timetable:

Action	Date	FR Cite
Begin Review	12/27/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB09

FEDERAL MARITIME COMMISSION (FMC) — Final Rule Stage

3769. PRACTICES OF OCEAN COMMON CARRIERS REGARDING EFFECTIVE DATE OF RATE CHANGES - DOCKET NO. 88-19

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1707

CFR Citation: 46 CFR 580

Legal Deadline: None

Abstract: Requested rule would state that tariff rates and rules may not be applicable to cargo that is received by the carrier or its agent prior to the effective date of the tariff provision.

Timetable:

Action	Date	FR Cite
Petition for Rulemaking	12/30/87	52 FR 49205
End Review	06/01/88	
NPRM	08/30/88	53 FR 33153
Extend time for comments to 11/01/88	10/04/88	53 FR 38969
NPRM Comment Period End	10/14/88	
Final Action	04/02/89	

Small Entities Affected: Undetermined

FMC — Final Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB04

3770. ● REGULATIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES - DOCKET NO. 88-24

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 876 (1)(b); 46 USC app 1712(b)(5); 46 USC app 1714; 46 USC app 1716; 46 USC app 10002; Reorg. Plan No. 7 of 1961 (75 Stat 840)

CFR Citation: 46 CFR 585; 46 CFR 587; 46 CFR 588 (New)

Legal Deadline: None

Abstract: The action will implement the Foreign Shipping Practices Act of 1988, 46 USC App 10002.

Timetable:

Action	Date	FR Cite
NPRM	11/01/88	53 FR 44039
NPRM Comment Period End	01/15/89	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5740

RIN: 3072–AB13

3771. ● EQUIPMENT INTERCHANGE AGREEMENTS - TARIFF PUBLICATION OF FREE TIME AND DETENTION CHARGES - DOCKET NO. 89-4

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 812; 46 USC app 814; 46 USC app 815; 46 USC app 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841; 46 USC app 843; 46 USC app 845a; 46 USC app 847; 46 USC app 1702 to 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; ...

CFR Citation: 46 CFR 550; 46 CFR 580; 46 CFR 581

Legal Deadline: None

Abstract: Action would provide guidelines for filing equipment interchange agreement tariffs and similar provisions in service contracts. This will simplify the filing of equipment interchange agreements.

Timetable:

Action	Date	FR Cite
NPRM	02/03/89	54 FR 5506
NPRM Comment Period End	03/20/89	54 FR 5507
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Legal Authority Cont: 46 USC app 1718

Agency Contact: Robert G. Drew, Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5796

RIN: 3072–AB14

3772. ● DEFINITIONS OF "CONFERENCE AGREEMENT" AND "JOINT SERVICE/ CONSORTIUM AGREEMENT" - DOCKET NO. 88-26

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None

Abstract: Action would amend the definitions of "conference agreement" and "joint service/consortium agreement" in rules governing the filing of agreements.

Timetable:

Action	Date	FR Cite
NPRM	12/06/88	53 FR 42910
Final Action	05/00/89	
NPRM Comment Period End	12/06/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Trade Monitoring, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5787

RIN: 3072–AB15

3773. ● TARIFF FILING EXEMPTION FOR PORT-TO-PORT SERVICE IN HAWAII - DOCKET NO. 89-3

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 817; 46 USC app 833a; 46 USC app 841a; 46 USC app 844

CFR Citation: 46 CFR 550

Legal Deadline: None

Abstract: Action would permit carriers in the port-to-port service in the Hawaiian domestic offshore trade to publish on one day's notice reductions in existing commodity rates, and rates on new tariff items.

Timetable:

Action	Date	FR Cite
NPRM	02/02/89	54 FR 5253
NPRM Comment Period End	03/06/89	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5740

RIN: 3072–AB16

3774. ● RULES IMPLEMENTING REPORT IN FACT FINDING 17 - RATES AND CHARGES PROVIDED AT MARINE TERMINAL FACILITIES

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 814; 46 USC app 816; 46 USC app 817(a); 46 USC app 820; 46 USC app 821; 46 USC app 833a; 46 USC app 841a; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 515; 46 CFR 560; 46 CFR 572

Legal Deadline: None

Abstract: Action would address issues of tariff and agreement filing requirements for marine terminal and stevedoring services.

Timetable:

Action	Date	FR Cite
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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FMC — Final Rule Stage

Agency Contact: Robert G. Drew, Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5796

RIN: 3072–AB17

3775. ● RULES IMPLEMENTING REPORT IN FACT FINDING 15 -- PRACTICES OF ENTITIES ACTING AS INTERMEDIARIES IN OCEAN TRANSPORTATION OF GOODS IN U.S. COMMERCE

Significance: Agency Priority

Legal Authority: 5 USC 553

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Action would address issues regarding the definition of "shipper" and untariffed NVOCC's.

Timetable:

Action	Date	FR Cite
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB18

FEDERAL MARITIME COMMISSION (FMC) — Completed Actions

3776. SERVICE CONTRACT PROVISIONS; MOST FAVORED SHIPPERS AND LIQUIDATED DAMAGES CLAUSES

Legal Authority: 5 USC 553; 46 USC app 1707(c)

CFR Citation: 46 CFR 580

Legal Deadline: None

Abstract: The Commission is reviewing the service contract regulations to determine the legality of permitting clauses involving liquidated damages or most favored shippers. Docket No. 88-7

Timetable:

Action	Date	FR Cite
Petition for rulemaking	01/22/87	52 FR 2443
Begin Review	01/22/87	52 FR 2443
Extend time for comments	02/11/87	52 FR 4384
NPRM	03/17/88	53 FR 8775
NPRM Comment Period End	05/02/88	53 FR 8775
Final Action	11/07/88	53 FR 44879
Final Action Effective	12/07/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AA95

3777. FOREIGN-TO-FOREIGN AGREEMENTS; EXEMPTION

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None

Abstract: The action would exempt certain foreign-to-foreign agreements on contiguous trades from notice, waiting period, and information requirements of the Shipping Act of 1984. Docket No. 87-24.

Timetable:

Action	Date	FR Cite
NPRM	12/08/87	52 FR 46501
NPRM Comment Period End	02/08/88	52 FR 46501
Withdrawn Petition for Reconsideration Due 03/01/89	12/14/88	53 FR 50264

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB03

3778. SERVICE CONTRACT REGULATION AMENDMENT TO PERMIT CORRECTION OF CLERICAL OR ADMINISTRATIVE ERRORS IN ESSENTIAL TERMS--DOCKET NO. 88-16

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1702, 1706, 1707, 1709, 1712, 1714, 1715, 1716, 1718

CFR Citation: 46 CFR 581.7(a)

Legal Deadline: None

Abstract: Rule would amend Service Contract regulation to permit correction of clerical or administrative errors in essential terms.

Timetable:

Action	Date	FR Cite
NPRM	06/24/88	53 FR 23776
NPRM Comment Period End	08/24/88	53 FR 26091
Final Action	01/13/89	54 FR 1363
Final Action Effective	01/30/89	54 FR 1363

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB08

3779. INTERPRETIVE RULE THAT CARRIERS OR CONFERENCES MAY NOT REQUIRE PRODUCTION OF JUSTICE DEPARTMENT BUSINESS REVIEW LETTER AS PART OF SERVICE CONTRACT NEGOTIATION PROCESS WITH SHIPPERS ASSOCIATION

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1706, 1707, 1709 and 1716

CFR Citation: 46 CFR 571, (New)

FMC — Completed Actions

Legal Deadline: None

Abstract: Docket No. 88-17. Rule is intended to help eliminate unnecessary impediments to the operation of shippers associations and the negotiation of service contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27178
NPRM Comment Period End	08/18/88	53 FR 27178
Final Action	10/26/88	53 FR 43696
Final Action Effective	10/28/88	53 FR 43696

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB10

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Federal Reserve System

Semiannual Regulatory Agenda

federal register

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FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual agenda.

SUMMARY: The Board is issuing this Agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period from April 1 through October 1, 1989. The next Semiannual Agenda will be published in October 1989.

DATE: Comments about the form or content of the Agenda may be submitted any time during the next six months.

ADDRESS: Comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its April 1989 Agenda as part of the April 1989 Unified Agenda of Federal Regulations, which is coordinated by the Office of Management and Budget under Executive Order 12291. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's Agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next six months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further.

A dot (●) preceding an entry indicates a new matter that was not a part of the Board's previous Agenda, and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3780	Regulation: B - Equal Credit Opportunity	7100-AA97
3781	Regulation: E - Electronic Fund Transfers	7100-AA77
3782	Regulation: G - Securities Credit by Persons Other Than Banks, Brokers, or Dealers; and Regulation: U - Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks	7100-AA99
3783	Regulation: K - International Banking Operations	7100-AA67
3784	Regulation: K - International Banking Operations	7100-AA92
3785	Regulation: K - International Banking Operations	7100-AA98
3786	Regulation: P - Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks	7100-AA69
3787	Regulation: T - Credit by Brokers and Dealers	7100-AA72
3788	Regulation: T - Credit by Brokers and Dealers	7100-AA93
3789	Private Sector Presentment (Docket Number: R-0631)	7100-AA96
3790	Proposals for Long-Term Improvement to the Check Collection System (Docket Number: R-0622)	7100-AA94

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3791	Regulation: D - Reserve Requirements of Depository Institutions (Docket Number: R-0571)	7100-AA62
3792	Regulation: K - International Banking Operations (Docket Number: R-0550)	7100-AA58
3793	Regulation: Q - Interest on Deposits (Docket Number: R-0514)	7100-AA56
3794	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0537)	7100-AA52
3795	Regulation: Y - Bank Holding Companies and Change in Bank Control and Regulation H - Membership of State Banking Institutions (Docket Number: R-0616)	7100-AA88
3796	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0614)	7100-AA89
3797	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number R-0652)	7100-AA41
3798	Regulation: Z - Truth in Lending (Docket Number: R-0655)	7100-AA91
3799	Regulation: Z - Truth in Lending (Docket Number R-0654)	7100-AB00
3800	Regulation: CC - Availability of Funds and Collection of Checks (Docket Number: R-0639)	7100-AA95
3801	Regulation: CC - Availability of Funds and Collection of Checks (Docket Number: R-0648)	7100-AB01
3802	Regulation: CC - Availability of Funds and Collection of Checks (Docket Number: R-0649)	7100-AB02
3803	Further Proposals to Reduce Risks on Large-Dollar Wire Transfer Systems (Docket Number: R-0592)	7100-AA76

FRS

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3804	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0636)	7100-AA86
3805	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0637)	7100-AA87

FEDERAL RESERVE SYSTEM (FRS)

Proposed Rule Stage

3780. ● REGULATION: B - EQUAL CREDIT OPPORTUNITY

Legal Authority: 15 USC 1691 *et seq* as amended Equal Credit Opportunity Act

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: During the next four months the Board will propose for public comment revisions to Regulation B to implement amendments to the Equal Credit Opportunity Act that were part of H.R. 5050, enacted on October 25, 1988. The statutory amendments deal with the notice and record retention requirements applicable in business credit transactions. Once the revised regulation takes effect, covered lenders will be required to give notice of a business applicant's right to a written statement of reasons for a credit denial and will have to maintain records on credit applications for a minimum of one year.

Because the new requirements apply to all depository institutions, there will be some economic impact on a substantial number of small financial institutions.

Timetable:

Action	Date	FR Cite
Board will consider revisions to Regulation B during the next four months	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dolores S. Smith, Assistant Director, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100-AA97

3781. REGULATION: E - ELECTRONIC FUND TRANSFERS

Legal Authority: 15 USC 1693 *et seq* Electronic Fund Transfer Act

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: During the next six months, the Board will conduct a review of Regulation E, which implements the Electronic Fund Transfer Act, and establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services (whether or not these institutions hold the consumer's account). The review will consider whether any provisions of the regulation are in need of updating and whether any substantive changes are necessary because of technological and other developments. The Board will also consider whether to make any legislative recommendations for statutory changes.

Public comment will be requested on any regulatory proposals that may be developed following the review. It is not anticipated that the revisions would have a significant economic impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board will consider revisions to Regulation E during the next six months	08/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dolores S. Smith, Assistant Director, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100-AA77

3782. ● REGULATION: G - SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS; AND REGULATION: U - CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 221; 12 CFR 207

Legal Deadline: None

Abstract: During the next three months the Board may address the ability of lenders subject to Regulations G and U to transfer a credit between these two types of lenders without treating the transaction as creating a new extension of credit. The regulations currently permit a transfer only between lenders subject to the same regulation. Several law firms have expressed an interest in such a deregulatory amendment.

It is not anticipated that this proposal will affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board may address transfer provisions in Regulations G and U	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Securities Credit Officer, Federal

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Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA99

3783. REGULATION: K - INTERNATIONAL BANKING OPERATIONS

Legal Authority: 12 USC 601 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: The Board will consider an amendment to its regulation governing the establishment of foreign operating subsidiaries by member banks. The amendment would eliminate the requirement in section 211.3(b)(9) of Regulation K that a member bank's operating subsidiary be established only where required by local law or regulation. The revision is intended to promote the efficiency of member banks' foreign operations. Because the revision would remove a restriction, it is not anticipated that comment will be requested.

The proposal would not have a significant economic impact on a substantial number of small businesses because it affects only U.S. banks operating abroad.

Timetable:

Action	Date	FR Cite
Final Action by	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3786

RIN: 7100-AA87

3784. REGULATION: K - INTERNATIONAL BANKING OPERATIONS

Legal Authority: 12 USC 1843 (c)(13); 12 USC 601 to 604a; 12 USC 611 to 631

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: The Board will consider whether to publish for public comment a proposed amendment to Regulation K to permit U.S. banking organizations to engage in a broader range of activities abroad. Specifically, the Board will consider whether U.S. banking organizations should be permitted to underwrite, distribute, and deal in equity securities outside the United States in excess of the current restriction in Regulation K, which prohibits a subsidiary of a U.S. banking organization from making an underwriting commitment for shares of an issuer in excess of: (i) $2 million, or (ii) 20 percent of the capital and surplus of the issuer's voting shares, unless covered by binding commitments from subunderwriters or other purchasers.

In addition, the Board will consider whether the purchases of shares of companies held in trading accounts should continue to be subject to the investment procedures set out in Regulation K at 12 CFR 211.5(c).

It is not expected that the proposal would have a significant economic impact on a substantial number of small businesses, because it applies to U.S. banking organizations involved (cont)

Timetable:

Action	Date	FR Cite
Board may consider an amendment to Regulation K	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: in international securities activities.

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3786

RIN: 7100-AA92

3785. ● REGULATION: K - INTERNATIONAL BANKING OPERATIONS

Legal Authority: 12 USC 221 et seq; 12 USC 1841 et seq; 12 USC 3101 et seq

CFR Citation: 12 CFR 211

Legal Deadline: Other, Statutory, December 1989.
Section 3(b) of the International Banking Act of 1978 requires that Board review and revise Subpart A of Regulation K every five years, beginning in 1979.

Abstract: In 1989, the Board will conduct a zero-based review of Subpart A of Regulation K (International Operations of United States Banking Organizations), as required every five years by the International Banking Act. This review will include consideration of the powers of Edge corporations and additional overseas activities of U.S. banking organizations. In addition, Subpart B (Foreign Banking Organizations) will be reviewed, particularly with respect to the effect of the revisions of the Standard Industrial Classification (SIC) codes on that Subpart. Subpart C (Export Trading Companies) will be reviewed with a view toward bringing that Subpart into conformity with the Export Trading Company Act Amendments of 1988.

Separate, but related to this review of Regulation K, is the consideration of the liberalization of overseas securities activities (RIN: 7100-AA92).

It is not expected that any revisions would have an adverse impact on a substantial number of small banking organizations.

Timetable:

Action	Date	FR Cite
Board will conduct review by	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3786

RIN: 7100-AA98

3786. REGULATION: P - MINIMUM SECURITY DEVICES AND PROCEDURES FOR FEDERAL RESERVE BANKS AND STATE MEMBER BANKS

Legal Authority: 12 USC 1881 to 1884

CFR Citation: 12 CFR 216

Legal Deadline: None

Abstract: During the next two months, the Board will conduct a zero-based review of Regulation P, which implements the Bank Protection Act of 1968, and establishes minimum security standards for Federal Reserve Banks and for State member banks. The review will consider whether any provisions of the regulation are outdated and whether any substantive changes are necessary because of new technological developments. The regulation will also be reorganized and revised for simplicity and clarity. Public comment will be requested following the zero-based review. It is not anticipated that the revised regulation will have a significant economic impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board will consider revisions to Regulation P	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas A. Durkin, Regulatory Planning and Review Director, Federal Reserve System, Office of the Secretary, 202 452-2326

RIN: 7100-AA69

3787. REGULATION: T - CREDIT BY BROKERS AND DEALERS

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Legal Deadline: None

Abstract: During the next three months the Board may consider proposing amendments to Regulation T to accommodate settlement and clearance of foreign securities in accounts covered by Regulation T. A request has been made that extensive amendments be proposed because of the growing internationalization of the securities markets.

It is not anticipated that any proposals in this area would affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board may review a proposal to amend Regulation T	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA72

3788. REGULATION: T - CREDIT BY BROKERS AND DEALERS

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Legal Deadline: None

Abstract: Several national securities exchanges have proposed trading new stock-index-related products, often called "index participations." Because these products may not fit the existing categories of securities in Regulation T, it is expected that the Board will address the marginability of these products at broker-dealers.

It is not anticipated that this proposal will affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board may address marginability of new exchange-traded products under Regulation T	05/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA93

3789. PRIVATE SECTOR PRESENTMENT (DOCKET NUMBER: R-0631)

Legal Authority: 12 USC 4008(c)

CFR Citation: None

Legal Deadline: None

Abstract: In April 1988, the Board requested comment on whether it should require paying banks to pay for checks presented by private sector collecting banks before 2:00 p.m. in same-day funds and without imposing presentment fees (53 FR 11911, April 11, 1988). The purpose of such a regulation would be to speed the forward collection of checks by requiring paying banks to accept checks without charging a fee later in the day, thus increasing the number of checks that can be collected that day. It would give private sector collecting banks the same rights vis-a-vis paying banks as the Federal Reserve Banks now have.

The Board has not yet made a specific proposal to amend its regulation in this regard. Rather, it is merely requesting comment on the idea of same-day payment in private sector presentments. If such a regulation were to be adopted, small entities that might be affected include small banks and State and local governments.

The Board will review the public comments and determine whether to propose specific regulations.

Timetable:

Action	Date	FR Cite
Board requests comment	04/11/88	53 FR 11911
Board extends comment period to December 1, 1988	07/21/88	53 FR 27565
Board will review further	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Louise L. Roseman, Assistant Director, Federal Reserve System, Div. of Federal Reserve Bank Operations, 202 452-3874

RIN: 7100-AA96

3790. PROPOSALS FOR LONG-TERM IMPROVEMENT TO THE CHECK COLLECTION SYSTEM (DOCKET NUMBER: R-0622)

Legal Authority: 12 USC 4001 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In December 1987, the Board published for comment several proposals that have the potential to improve the check collection system (52 FR 47112, December 11, 1987). They are, however, long-term proposals that are not likely to be implemented in the immediate future. They include bar-code endorsements, digitized image processing of checks, electronic clearing zones, and an electronic clearing house.

If these were to be introduced, they would likely have a significant economic impact on a substantial number of small banks and small

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entities including State and local governments that use their services.

The Board will review the public comments and may take further action within the next twelve months.

Timetable:

Action	Date	FR Cite
Board issued proposals for comment	12/11/87	52 FR 47112
Board may take further action	04/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Gale Thompson, Program Leader, Federal Reserve System, Div. of Federal Reserve Bank Operations, 202 452-2934

RIN: 7100–AA94

FEDERAL RESERVE SYSTEM (FRS) — Final Rule Stage

3791. REGULATION: D - RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0571)

Legal Authority: 12 USC 248(k); 12 USC 461(a)

CFR Citation: 12 CFR 204

Legal Deadline: None

Abstract: In May 1986, the Board issued for comment rules to clarify the definition of "deposit" in Regulation D to include the interest or liability associated with a borrowing in the form of certain sales of assets and related transactions by a depository institution (51 FR 16855, May 7, 1986). These transactions include a sale of assets that involves a full guarantee by the institution that, in effect, substitutes the institution's credit standing for that of the ultimate borrower and in which the institution retains the risk of borrower default after the asset is sold.

Further, the regulation currently treats obligations of an affiliate as deposits of the depository institution to the extent the proceeds are provided to the depository institution. The Board proposes to exclude proceeds received from a sale of assets without recourse to the affiliate. The proposal also would clarify the application of Regulation D to certain of these transactions involving organizations effectively controlled by the depository institution even though not formally affiliated. Finally, the proposal would (cont)

Timetable:

Action	Date	FR Cite
Board proposed revisions to Regulation D	05/07/86	51 FR 16855
Comment period extended	07/10/86	51 FR 25069
Further Board action by	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: clarify how the Board measures the "maturity" of an obligation for the purposes of Regulation D. The proposal requests comment on any alternatives that the public believes may be preferable to the Board's proposed amendments. Suggested alternatives will be considered when comments are analyzed.

The proposed rule would apply to all depository institutions. It is not anticipated that the proposal will have a negative impact on the ability of small depository institutions to attract deposits.

The Board will review the comments and take further action in the near future.

Agency Contact: John Harry Jorgenson, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3778

RIN: 7100–AA62

3792. REGULATION: K - INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0550)

Legal Authority: 12 USC 611 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In August 1985, the Board published for comment proposed regulations that would restrict lending by an Edge Corporation to its affiliates where the Edge Corporation is not subject to the restrictions of Section 23A of the Federal Reserve Act (12 USC 371c) because it is not owned by a U.S. insured bank (50 FR 35238, August 30, 1985). In taking this action, the Board noted the increasing number of owners of Edge Corporations that are not subject to Federal banking supervision and the potential adverse effects that might result from such affiliations, such as the impairment of the Edge's ability to act as an impartial arbiter of credit. The Board requested comment on the effect of the proposal on existing Edge Corporations, especially those owned by foreign banks and whether any exemptions from the restrictions are appropriate.

It is not expected that the proposal would have a significant economic impact on a substantial number of small businesses, because it applies only to organizations involved in international banking. (cont)

Timetable:

Action	Date	FR Cite
Board proposed revisions to Regulation K	08/30/85	50 FR 35238
Further Board action by	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The Board is continuing to evaluate whether this proposal should be adopted and will consider it in a zero-based review of Regulation K expected during the next eight months.

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3786

RIN: 7100–AA58

3793. REGULATION: Q - INTEREST ON DEPOSITS (DOCKET NUMBER: R-0514)

Legal Authority: 12 USC 371b

CFR Citation: 12 CFR 217

Legal Deadline: None

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Abstract: In January 1986, the Board issued for comment proposals to clarify, update, and simplify the advertising provisions of Regulation Q (51 FR 1379, January 13, 1986). The revisions incorporate and supersede the proposals of March 1984 concerning advertising of split-rate deposits and IRA/Keogh (HR 10) Plan accounts. The proposal is not expected to have a significant adverse effect on small banks.

The Board will review the comments and is expected to take further action within the next six months.

It is also anticipated that the Board will consider at that time various options with regard to providing written disclosures to consumers about their accounts.

Timetable:

Action	Date	FR Cite
Board proposed revisions	01/13/86	51 FR 1379
Further Board action by	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick J. McDivitt, Attorney, Federal Reserve System, Legal Division, 202 452-3818

RIN: 7100–AA56

3794. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0537)

Legal Authority: 12 USC 1841 Bank Holding Company Act; 12 USC 221 Federal Reserve Act; 12 USC 3901 International Lending Supervision Act of 1983

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: In December 1986, the Board requested public comment on a proposal to permit bank holding companies to engage in real estate investment activities within certain limits (52 FR 543, January 7, 1987). The proposed limits are designed to ensure that conduct of the activity does not result in unsafe or unsound practices, unfair competition, conflicts of interest or other adverse effects.

The Board requested public comment on a number of specific items, including whether real estate investment activities may be deemed to be closely related to banking and a proper incident thereto for purposes of Section 4(c)(8) of the Bank Holding Company Act; whether the proposed limits on the size, scope, and manner in which the activity would be conducted are appropriate; whether nonbank companies owned by holding company banks should be prohibited from conducting these activities; and whether the Board should establish special capital requirements for bank holding companies that control banks directly engaged in these activities.

The proposal, if adopted, would permit bank holding (CONT)

Timetable:

Action	Date	FR Cite
ANPRM	01/31/85	50 FR 4519
Board issues proposal for public comment	01/07/87	52 FR 543
Further Board action indefinite	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: companies to engage in limited real estate investment activities that bank holding companies are not now permitted to conduct and would not impose more burdensome requirements on bank holding companies than are currently applicable. Moreover, the proposal includes provisions designed to permit small bank holding companies to participate meaningfully in the proposed activities. The proposal does not impose any limitations on the direct real estate investment activities of holding company banks. (See Docket Number R-0616, for additional information on proposed real estate investment limitations.)

It is not expected that the Board would take action on this proposal until after resolution of pending rulemaking to rescind the Regulation Y provision permitting bank holding companies to acquire, through their subsidiary state banks, shares of companies engaged in activities that the bank is permitted to conduct under state law, so-called operations subsidiaries (R-0652).

Agency Contact: J. Virgil Mattingly, Deputy General Counsel, Federal Reserve System, Legal Division, 202 452-3430

RIN: 7100–AA52

3795. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL AND REGULATION H - MEMBERSHIP OF STATE BANKING INSTITUTIONS (DOCKET NUMBER: R-0616)

Legal Authority: 12 USC 1843 (c)(8); 12 USC 371c; 12 USC 3901

CFR Citation: 12 CFR 225.13(b)(1); 12 CFR 225, Appendix; 12 CFR 208.14

Legal Deadline: None

Abstract: In November 1987, the Board requested comment on whether, in evaluating proposals submitted under section 3 of the Bank Holding Company Act, the Board should consider the impact of real estate activities of the bank to be acquired by the bank holding company on the financial condition of the bank and bank holding company, and, where appropriate, should prohibit banks and savings banks that are acquired by bank holding companies from directly engaging in real estate investment and development activities (52 FR 42301, November 4, 1987).

The Board also requested comment on whether member banks that are not in a bank holding company should be made subject to the interaffiliate lending restrictions of section 23A of the Federal Reserve Act in their dealings with real estate investment and development subsidiaries of the bank.

Finally, the Board requested comment on whether the Board should impose special capital requirements on real estate subsidiaries of banks in a bank holding company, under the Board's authority in the International Lending Supervision Act. These three proposals supplement the Board's earlier (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	11/04/87	52 FR 42301
Further Board action indefinite	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: request for comment in

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December 1986 regarding whether the Board should permit bank holding companies to engage in real estate investment activities.

This proposal is not expected to have a significant economic impact on small companies because the Board believes that very few small banks are currently engaged in real estate investment and development activities, and bank holding companies are not generally permitted to engage in these activities.

It is not expected that the Board would take action on this proposal until after resolution of pending rulemaking to rescind the Regulation Y provision permitting bank holding companies to acquire, through their subsidiary state banks, shares of companies engaged in activities that the bank is permitted to conduct under state law, so-called operations subsidiaries (R-0652).

Agency Contact: Scott G. Alvarez, Assistant General Counsel, Federal Reserve System, Legal Division, 202 452-3583

RIN: 7100–AA88

3796. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0614)

Legal Authority: 12 USC 1843 (c)(8)

CFR Citation: 12 CFR 225.25 (b)(9)

Legal Deadline: None

Abstract: In September 1987, the Board requested public comment on whether the Board should authorize bank holding companies to acquire thrift institutions as a general matter under section 4(c)(8) of the Bank Holding Company Act (52 FR 36041, September 25, 1987). The Board currently permits bank holding companies to acquire thrift institutions only if the thrift is failing or has failed, and the acquisition is likely to result in revitalization of the thrift.

The Board has requested comment on whether changes in the economic and regulatory environment, in particular, the expansion of the powers of thrifts and the growth in state initiatives authorizing interstate banking, justify revisions of the Board's policy and the authorization of thrift acquisitions by bank holding companies. The Board also requested comment on what, if any, conditions the Board should impose on bank holding companies seeking to acquire thrifts.

The Board's proposal, if adopted, is not expected to impose a substantial economic burden on small bank holding companies because this action, if taken, would permit all bank (CONT)

Timetable:

Action	Date	FR Cite
Board requested public comment	09/25/87	52 FR 36041
Further Board action during next six months	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: holding companies to acquire thrift institutions, and would not impose different requirements on companies based on their size.

It is expected that the Board will consider this matter further during the next six months.

Agency Contact: Michael J. O'Rourke, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3288

RIN: 7100–AA89

3797. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER R-0652)

Legal Authority: 12 USC 1843 Bank Holding Company Act; 12 USC 1844(b) Bank Holding Company Act

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: A provision of Regulation Y permits a State bank subsidiary of a bank holding company to engage through a nonbank subsidiary in any activity that is permissible under State law for the bank subsidiary itself, subject to the same limits as if the bank engages in the activity directly. (A similar rule applies to national bank subsidiaries regarding activities permissible for such banks under Federal law.) The Board received comments on this provision in connection with its general request for comments in May 1983 regarding the proposed revision of Regulation Y. Some of the commenters challenged the Board's authority to issue this provision, although it has been part of Regulation Y since 1971. In taking final action on the revision of Regulation Y, the Board deferred consideration of the comments on this provision and allowed the existing rule to remain in effect in the interim (49 FR 794, January 5, 1984).

In December 1988, the Board requested public comment regarding whether this rule, as it applies to nonbanking companies owned by state banks in a holding company system, continues to be valid and appropriate in light of enactment of the (cont)

Timetable:

Action	Date	FR Cite
Board requested comments	05/25/83	48 FR 23520
Board allows existing rule to remain in effect	01/05/84	49 FR 794
Board requested comment	12/05/88	53 FR 48915
Further Board action by	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Garn-St Germain Act and certain recent court decisions (53 FR 48915, December 5, 1988). The Board has also scheduled an informal public hearing on this matter for April 7, 1989. The Board has not proposed revising its current rule regarding subsidiaries of national banks in a holding company. A determination to reverse the Board's state bank rule could have an adverse impact on small banks that are subsidiaries of holding companies because they might be required to restructure their nonbanking activities or to take other action. The Board is expected to take further action within the next six months.

Agency Contact: J. Virgil Mattingly, Deputy General Counsel, Legal Division, Federal Reserve System, 202 452-3430

RIN: 7100–AA41

3798. REGULATION: Z - TRUTH IN LENDING (DOCKET NUMBER: R-0655)

Legal Authority: 15 USC 1604, as amended, Truth in Lending Act

CFR Citation: 12 CFR 226

Legal Deadline: Other, Statutory.

Board's rules will apply to open-end credit plans entered into five months after promulgation of final regulations.

Abstract: In January 1989, the Board published a proposal to amend Regulation Z to implement provisions of the Home Equity Loan Consumer Protection Act of 1988, which requires creditors to provide consumers with more information for open-end credit plans secured by the consumer's dwelling, and imposes substantive limitations on these plans (54 FR 3063, January 23, 1989). The law superseded the Board's December 1987 proposal to amend Regulation Z to change the disclosure requirements for home equity lines of credit secured by the consumer's principal dwelling (52 FR 48702, December 24, 1987).

Under the new law, creditors would have to provide additional information at the time an application is provided to the consumer, including information about the payments terms, fees imposed under the plans, and, for variable-rate plans, information about the index and a fifteen-year history of changes in the index values. Creditors also would be required to provide consumers with a brochure prepared by the Board (or with one (cont)

Timetable:

Action	Date	FR Cite
Board proposed amendment	01/23/89	54 FR 3063
Further Board action by	05/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: ABSTRACT CONT: substantially similar) that describes home equity plans. In addition, new duties would be imposed on third parties who provide applications to consumers, and the rules relating to advertisements for home equity plans would be modified. The January 1989 proposal would also amend Regulation Z to implement new substantive limitations imposed by the law on home equity plans.

If the Board adopts the proposal, small institutions engaged in home equity lending could incur additional expenses, including costs to revise and reprint disclosure forms, to acquire and distribute the home equity brochures, and possibly to modify their contracts. They also would need to review and possibly modify their advertisements for home equity plans. Before adopting any final amendments to its rule, the Board would consider appropriate steps to minimize the burdens and costs of compliance.

The Board will review the public comments and take further action within the next three months.

Agency Contact: Sharon Bowman, Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-3667

RIN: 7100–AA91

3799. ● REGULATION: Z - TRUTH IN LENDING (DOCKET NUMBER R-0654)

Legal Authority: 15 USC 1604 as amended Truth in Lending Act

CFR Citation: 12 CFR 226

Legal Deadline: Final, Statutory, April 3, 1989.
Implementary rule to be in place 150 days from enactment of the law.

Abstract: In December 1988, the Board proposed for comment revisions to Regulation Z to implement amendments to the Truth in Lending Act that were part of H.R. 515, the Fair Credit and Charge Card Disclosure Act of 1988, enacted on November 3, 1988 (53 FR 51785, December 23, 1988). The statutory amendments require credit and charge card issuers to provide certain credit disclosures in telephone solicitations and in direct mail and other applications and solicitations to open credit and charge card accounts. Card issuers will also be required to give cardholders written notice regarding the renewal of their credit and charge card accounts before a cardholder has to pay a fee to renew the account. In addition, the law requires credit card issuers to provide cardholders with written notice of a change in the entity providing credit insurance on credit card accounts.

Regardless of size, most commercial banks offer credit card plans to consumers. The proposed regulations do not distinguish between large and small creditors. Consequently, creditors of all sizes will incur similar types of costs. However, the magnitude of these expenses will depend upon the level of a (cont)

Timetable:

Action	Date	FR Cite
Board proposed amendment to Regulation Z	12/23/88	53 FR 51785
Further Board action by	04/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: particular creditor's credit card plan operation and the type of marketing employed. With respect to bank cards, the majority of credit card accounts are held by a relatively small number of large card issuers. These institutions also probably account for a substantial proportion of the credit card solicitations. Consequently, large card issuers will probably incur a larger aggregate cost, relative to smaller card issuers, to comply with the new rules, although on a cost-per-solicitation or cost-per-account basis these costs will probably be relatively small.

The Board will review the public comments and take further action within the next two months.

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100–AB00

3800. REGULATION: CC - AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-0639)

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229.36

Legal Deadline: None

Abstract: In June 1988, the Board issued for comment a proposed amendment to Regulation CC that would prohibit banks from issuing teller's checks unless a depositary bank located in the same check processing region as the issuing bank would normally receive credit for the check as early as credit for a check drawn on the issuing bank (53 FR 24093, June 27, 1988). The purpose of the amendment is to address the problems connected with certain delayed disbursement practices.

The rule will affect all banks regardless of size. It is not expected that the proposal will impose significant costs on small banks other than the costs of changing paying banks and purchasing

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new check stock for those banks that do not currently meet the equivalent availability standards.

Since the original proposal, the Board, in response to commenters' concerns, has determined that such an amendment would not be effective April 1, 1989 (54 FR 5495, February 3, 1989). If and when a final rule is adopted, the Board will allow such lead time as it determines to be reasonable for the industry to implement any necessary changes. (cont)

Timetable:

Action	Date	FR Cite
Board requested comment on a proposed amendment to Regulation CC	06/27/88	53 FR 24093
Further Board action by	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Following review of public comments and meetings with industry representatives, the Board may take further action within the next six months.

Agency Contact: Louise L. Roseman, Assistant Director, Federal Reserve System, Div. of Federal Reserve Bank Operations, 202 452-3874

RIN: 7100–AA95

3801. ● REGULATION: CC - AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-0648)

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: In November 1988, the Board adopted a rule to amend its Regulation CC to treat "bank payable through checks" as local or nonlocal based on the location of the bank on which they are written rather than the location of the bank through which they are payable (53 FR 44324, November 2, 1988). In conjunction with the final rule, the Board issued proposed amendments to Regulation CC designed to alleviate the operational difficulties and additional risks resulting from the final rule (53 FR 44335, November 2, 1988).

The proposed rule would affect all institutions that issue payable through checks. A number of these institutions would be small banks, generally credit unions.

The Board will review the public comments and is expected to take further action within the next four months.

Timetable:

Action	Date	FR Cite
Board issued proposals for comment	11/02/88	53 FR 44335
Further Board action by	06/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Louise L. Roseman, Assistant Director, Federal Reserve System, Div. of Federal Reserve Bank Operations, 202 452-3874

RIN: 7100–AB01

3802. ● REGULATION: CC - AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-0649)

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: The Board's Regulation CC requires banks to make funds available to their customers within specific times, to disclose their fund availability policies to their customers, and to handle returned checks expeditiously. Since the publication of Regulation CC, the Board has received numerous requests from banks and others for clarification of various provisions of the regulation. In November 1988, the Board issued for comment proposed changes to Regulation CC that respond to many of the questions and provide assistance to banks in understanding and complying with the regulation (53 FR 44343, November 2, 1988).

Adoption of the proposed amendments would not result in any significant economic impact on small entities.

The Board will review the public comments and is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board request comment on proposed changes	11/02/88	53 FR 44343
Further Board action by	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Martin, Attorney, Federal Reserve System, Legal Division, 202 452-3198

RIN: 7100–AB02

3803. FURTHER PROPOSALS TO REDUCE RISKS ON LARGE-DOLLAR WIRE TRANSFER SYSTEMS (DOCKET NUMBER: R-0592)

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In December 1986, the Board requested comment on several proposals that would refine its policy statement on payment system risk (51 FR 45042, December 16, 1986). The proposals included modifying automated clearing house transactions to reduce risks (R-0591) and various proposals to charge a fee for daylight overdrafts as a way of reducing risks associated with them (R-0592). It is not expected that these actions will have a significant economic impact on a substantial number of small entities, because small entities do not usually participate in large-dollar wire transfer systems. In December 1987, following review of public comments, the Board approved changes in the automated clearing house mechanism to reduce risk (52 FR 49086, December 29, 1987). Action on pricing of daylight overdrafts (Docket No. R-0592) is expected by June 1989.

Further, the Board will be conducting a zero-based review of its risk reduction policy during 1989.

Timetable:

Action	Date	FR Cite
Board requested comment	12/16/86	51 FR 45042
Board adopted proposal in part	12/29/87	52 FR 49086
Further Board action by	06/00/89	

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Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward C. Ettin, Deputy Director, Federal Reserve System, Division of Research and Statistics, 202 452-3368

RIN: 7100–AA76

FEDERAL RESERVE SYSTEM (FRS) — Completed Actions

3804. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0636)

Legal Authority: 12 USC 248; 12 USC 321 to 338; 12 USC 486; 12 USC 1814; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 208.17

Legal Deadline: None

Abstract: In June 1988, the Board issued for comment an amendment to Regulation H designed to facilitate the fullest possible dissemination of publicly available information regarding the condition of State member banks (53 FR 19308, June 3, 1988). The amendment would require such banks to make available upon request their year-end reports of condition or other suitable documents describing their condition.

Under the amendment to Regulation H, state member banks must make available to the public, upon request, one free copy of certain information that is presently prepared by banks. State member banks must also notify the public and shareholders of the availability of the information. Although many commenters to the proposal focused on the cost of such additional regulation, especially to small banks, the Board does not believe that the cost would be substantial. The amendment does not require the banks to prepare any new documents. Notification to the public can be accomplished by means as inexpensive as lobby posters, and notification to shareholders must be in the form of a written announcement that may be included with the (cont)

Timetable:

Action	Date	FR Cite
Proposal regulation issued for public comment	06/03/88	53 FR 19308
Final rule adopted	02/08/89	54 FR 6115

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: notice of the annual shareholders meeting.

In February 1989, after review of the public comments, the Board approved the proposal with modifications (54 FR 6115, February 8, 1989).

Agency Contact: Stephen L. Siciliano, Special Assistant to the General Counsel, Federal Reserve System, Legal Division, 202 452-3920

RIN: 7100–AA86

3805. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0637)

Legal Authority: 12 USC 1843

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: In June 1988, the Board proposed for comment amendments to Regulation Y to implement the limitations on grandfathered nonbank banks and industrial banks set forth in the Competitive Equality Banking Act of 1987 (CEBA) (53 FR 21462, June 1, 1988). The limitations in CEBA on nonbank banks include restrictions on new activities, joint-marketing with affiliates, annual growth, and overdrafts. Only the overdraft restriction applies to industrial banks.

The overdraft restriction requires nonbank banks and industrial banks to keep records of their affiliates' transactions in order to measure overdrafts. Because the overdraft restriction is required by CEBA, small entities cannot be exempted from this recordkeeping requirement.

Following an informal hearing on the public comments, the Board, in September 1988, adopted the amendments with minor changes (53 FR 37733, September 28, 1988).

Timetable:

Action	Date	FR Cite
Board requested public comment	06/01/88	53 FR 21462
Board adopted the proposal	09/28/88	53 FR 37733

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elaine Boutilier, Senior Attorney, Federal Reserve System, Legal Division, 202 452-2418

RIN: 7100–AA87

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Federal Trade Commission

Semiannual Regulatory Agenda

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FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and section 610(c) of the Regulatory Flexibility Act, 5 U.S.C. 610(c). Each projected event reflects the FTC staff's assessment of events that it expects will occur in the listed proceedings during the coming year. No Commission determination on the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the projected events included in this agenda.

Several agenda items concern proceedings that may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Whether any such proceeding will result in a rule which is likely to have a significant economic impact on such entities depends upon final Commission determinations on the need for and the substance of a trade regulation rule.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself. The Commission will address the issues presented on the rulemaking record in the final consideration of each proceeding.

Agenda items include the projected timing of certain future actions. In most instances the dates of future events are listed by month, not a specific day. Further details may be obtained from the agency contact responsible for a particular proceeding. Discovery of new information, change of circumstances, or changes in the law may alter the information set forth in this agenda.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the agency contact responsible for a particular proceeding.

By direction of the Commission.

Donald S. Clark,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3806	Mail Order Merchandise	3084-AA19
3807	Informal Dispute Settlement Procedures	3084-AA30
3808	Franchise Rule	3084-AA38

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3809	Amendment to Trade Regulation Rule Concerning Preservation of Consumers Claims and Defenses ("Holder-in-Due Course Rule")	3084-AA08
3810	Games of Chance in the Food Retailing and Gasoline Industries Rule	3084-AA24
3811	Transistor Rule	3084-AA37

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3812	Review of the Funeral Industry Practices Rule	3084-AA05
3813	Retail Food Store Advertising and Marketing Practices	3084-AA17
3814	Review of the Premerger Notification Rules and Report Form	3084-AA23
3815	Appliance Labeling Rule -- Energy Policy and Conservation Act	3084-AA26

FTC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3816	Ophthalmic Practice Rules	3084-AA03
3817	Cooling-Off Period for Door-to-Door Sales	3084-AA18

FEDERAL TRADE COMMISSION (FTC) — Prerule Stage

3806. MAIL ORDER MERCHANDISE

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 435

Legal Deadline: None

Abstract: The Commission's rule concerning mail order merchandise was promulgated on October 22, 1975. The rule requires mail order sellers to possess a reasonable basis for any claims made concerning shipping dates or, in the absence of any specifically stated date, to ship the ordered merchandise within thirty (30) days of receipt of an order. In the event of delays in shipment, the rule establishes notification procedures whereby buyers have the option either to agree to the delay or to cancel the order and receive a prompt refund. The Commission's rule is designed to address a number of significant consumer problems described on the record of the rulemaking proceeding, including failure to deliver ordered merchandise, unexplained delays in delivery, failure to make prompt (or any) refunds upon cancellation of an order, and inability to obtain responses to inquiries about pending orders. The rule enables consumers to obtain ordered merchandise within a reasonable time period or, if delays occur, to cancel the order and obtain a prompt refund, so that losses due to undelivered merchandise, delays, and inadequate or nonexistent refunds can be avoided. By subjecting sellers (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	10/22/75	40 FR 49492
Begin Reg Flex Act Review	10/20/83	
End Reg Flex Review	06/10/86	51 FR 20991
ANPR	10/27/88	53 FR 43448
Commission Consideration of Staff Recommendations	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: who solicit orders they cannot fill within a reasonable time to the risk of cancellation, the rule may provide competitive benefits, since buyers may shift their business to more efficient merchants. Costs relating to the rule may include the cost of establishing a system for monitoring and recording orders, shipments, delays, cancellations, consents to delays, and refunds; the costs of complying with the rule's notification requirements regarding delays (printing, postage, etc.); the cost of processing refunds; and additional inventory costs. Staff is considering whether to recommend to the Commission that the rule be amended to cover orders placed by telephone or any other means, and whether the rule's definition of "properly completed order" for credit sales should be amended to mean the time the seller receives sufficient information to charge the buyer's account. On October 27, 1988, the Commission published an ANPR inviting public comment on these questions. After analyzing these comments and other information, the staff will recommend that the Commission either publish an NPRM or end the inquiry.

Agency Contact: Joel N. Brewer, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-2967

RIN: 3084-AA19

3807. INFORMAL DISPUTE SETTLEMENT PROCEDURES

Legal Authority: 15 USC 2309; 15 USC 2310(a)(2) Magnuson-Moss Warranty--FTC Improvements Act

CFR Citation: 16 CFR 703

Legal Deadline: None

Abstract: The Magnuson-Moss Warranty Act, enacted on January 4, 1975, requires that the Federal Trade Commission promulgate a rule prescribing the minimum requirements for any informal dispute settlement procedure which is incorporated into the terms of a written warranty subject to the Act. Because warrantors are not required to incorporate such procedures into warranties, the rule applies only to warrantors who choose to do so. The present rule sets forth detailed procedural, recordkeeping, and reporting requirements for dispute settlement mechanisms designed to insure their fairness. To assess whether any changes are needed, the Commission conducted a regulatory negotiation process in which an advisory committee was charged to recommend to the Commission revisions to the rule that would facilitate the Congressional (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	12/31/75	
Initial Notice of Intent to Form Advisory Committee	02/12/86	51 FR 5205
Convene Advisory Committee	09/23/86	
Facilitator Report to Commission	12/10/87	

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Action	Date	FR Cite
Commission Consideration of Petition to Amend Rule	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: objective of encouraging warrantors to establish and participate in informal dispute settlement mechanisms. The committee met for the last time on June 17, 1987, and failed to reach a consensus on rule revisions. The Commission and its staff will continue to monitor the impact of the current informal dispute settlement procedures rule. On April 11, 1988, the FTC received a petition from the Motor Vehicle Manufacturers Association and the Automobile Importers Association to amend this rule in order to preempt certain state "lemon" laws. The Commission will consider this petition and take appropriate action.

Agency Contact: Gary Laden, Federal Trade Commission, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, 202 326-3118

RIN: 3084–AA30

3808. ● FRANCHISE RULE

Legal Authority: 15 USC 41 et seq., Federal Trade Commission

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: On December 21, 1978, the Commission issued a trade regulation rule applicable to franchises and other business opportunity ventures. The franchise rule took effect on October 21, 1979. The rule requires franchisors to give pre-sale disclosures to prospective investors before they pay money or become legally bound to pay. The disclosures provide material information and are designed to assure that potential investors have the information they need to investigate the franchise offer so they can make an informed investment decision. The Commission is considering whether to amend its trade regulation rule concerning franchises and business opportunity ventures. In particular, the Commission is considering whether to amend the rule's earnings claim and preemption provisions.

Timetable:

Action	Date	FR Cite
ANPR	02/16/89	
Staff Recommendations to Commission	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Craig Tregillus, Franchise Rule Coordinator, PC-H-238, Federal Trade Commission, Division of Marketing Practices, Washington, D.C. 20580, 202 326-2970

RIN: 3084–AA38

FEDERAL TRADE COMMISSION (FTC) — Proposed Rule Stage

3809. AMENDMENT TO TRADE REGULATION RULE CONCERNING PRESERVATION OF CONSUMERS CLAIMS AND DEFENSES ("HOLDER-IN-DUE COURSE RULE")

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 433

Legal Deadline: None

Abstract: The objective of the proposed amendment was to ensure that a purchaser's duty to pay is not separated from the seller's duty to perform when a consumer sale is financed by a third party creditor or purchase money lender. The original rule requires sellers to ensure that credit contracts used in consumer installment sales and purchase money loans contain a provision that makes any holder of the contract subject to all legal claims and defenses related to the sale transaction which the buyer may have against the seller. The proposed amendment would have extended to creditors the duty to ensure that credit contracts contain the required provision. In November, 1988, the Commission decided to end the rulemaking proceeding without issuing an amended rule. Because the rule affects many sales that are financed by closed-end or open-end consumer credit, it may have a significant effect on a substantial number of small entities. The Commission has solicited comments and data on this issue and, if the rule has had such an effect, whether it should be amended to minimize

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendment	11/18/75	40 FR 53530
Rule & Statement of Basis & Purpose	11/18/75	40 FR 53506
Final Notice of Proposed Amendment	02/05/76	41 FR 5305
Guidelines on TRR	05/14/76	41 FR 20022
Statement of Enforcement Policy	08/16/76	41 FR 34594
Open End Consumer Credit Contracts	09/16/77	42 FR 46509
Presiding Officer's Report	02/16/78	43 FR 6810
Staff Report	11/24/78	43 FR 54950
Tentative Cmsn Approval and Request for Comment	11/15/79	44 FR 65771
Amendment Proceeding Ended	11/03/88	53 FR 44456
Commission Consideration of Staff Recommendations	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: what kinds of costs the rule has imposed on small entities, how the rule has affected the availability and cost of credit for small entities, and how creditors and sellers have adapted to the rule. This information will be used

FTC — Proposed Rule Stage

to determine whether the Commission should amend or repeal the Rule.

Agency Contact: Jonathan D. Jerison, Federal Trade Commission, Division of Credit Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3223

RIN: 3084–AA08

3810. GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES RULE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 419

Legal Deadline: None

Abstract: The Commission's trade regulation rule concerning games of chance became effective on October 17, 1969. The rule establishes requirements for food and gasoline retailers in conducting and advertising games of chance by requiring disclosure of odds-of-winning and prize information in broadcast and print advertisements, as well as in point of sale information. In January, 1983, the Commission granted a temporary partial exemption to allow supermarkets and gas stations to advertise their games on radio and television without disclosing full information on prizes and odds-of-winning. In addition, the Commission also published an advance notice of proposed rulemaking on whether to make the broadcast exemption permanent. Finally, the Commission has proposed to reduce the recordkeeping requirements of the rule from three years to one year in keeping with the goals of the Paperwork Reduction Act, and requested public comment on other possible areas where amendments to the rule may be appropriate. The rule benefits consumers by allowing contestants to enter games of chance with full knowledge of all material information to enable equal competition for (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	08/19/69	34 FR 13302
ANPRM	01/04/83	48 FR 265
Temporary Partial Exemption	01/10/83	48 FR 1046
NPRM	07/07/88	53 FR 25503
Staff Report	04/17/89	
Presiding Officer Report	05/15/89	
Final Action	08/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: prizes. The major costs to industry are the possible burdensomeness of the electronic media disclosure and recordkeeping provisions of the rule, both of which have been reconsidered. The Commission issued an NPRM on July 7, 1988 to consider amendments that would reduce the burden of the rule's recordkeeping and disclosure requirements.

Agency Contact: John M. Mendenhall, Federal Trade Commission, Cleveland Regional Office, Suite 520A, 668 Euclid Ave., Cleveland, Ohio 44114, 216 522-4207

RIN: 3084–AA24

3811. ● TRANSISTOR RULE

Legal Authority: 15 USC 41 et seq., Federal Trade Commission Act

CFR Citation: 16 CFR 414

Legal Deadline: None

Abstract: The Transistor Count Rule states that it is an unfair method of competition and an unfair or deceptive act or practice in connection with the sale of radio receivers (including transceivers) to represent that a radio set contains a specified number of transistors when the transistors counted do not function to detect, amplify, or receive radio signals. The rule was adopted May 4, 1968 and became effective on December 10, 1968. The Commission seeks comment on whether or not changes in technology and marketing over the last twenty years have rendered the rule obsolete and therefore no longer in the public interest. The Commission has issued an ANPR asking for comment on the continued viability of the rule and whether it should be repealed.

Timetable:

Action	Date	FR Cite
ANPR	02/01/89	54 FR 5090
NPRM (if appropriate)	07/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert E. Easton, Special Assistant - Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202 326-3029

RIN: 3084–AA37

FEDERAL TRADE COMMISSION (FTC) — Final Rule Stage

3812. REVIEW OF THE FUNERAL INDUSTRY PRACTICES RULE

Legal Authority: 15 USC 45; 15 USC 46(g); 15 USC 57(a)

CFR Citation: 16 CFR 453

Legal Deadline: None

Abstract: The funeral industry practices rule, which became effective on April 30, 1984, seeks to increase consumer access to accurate information about prices and legal requirements prior to and at the time of purchase of funeral goods and services. The Rule: (1) requires funeral directors to provide consumers with itemized pre-sale disclosures; (2) prohibits misrepresentation of legal and cemetery requirements and the preservative or protective value of embalming, caskets, and vaults; (3) prohibits funeral directors from requiring a casket for cremations, or any other tie-in arrangements; (4) prohibits funeral directors from charging for goods and services not specifically ordered, such as embalming, unless required by law; and (5) requires funeral directors to give, on request, price information over the telephone. The Rule provides that no later than four years after its effective date, the Commission will begin a rulemaking to determine whether the Rule should be amended or terminated. Recently, the Commission has issued the Notice of Proposed Rulemaking for public comment and held informal public (cont)

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Final Rule Stage

Timetable:

Action	Date	FR Cite
Rule Promulgated	09/24/82	47 FR 42260
Prohibitions Effective Date	01/01/84	
Affirmative Requirements Effective Date	04/30/84	
ANPRM	12/09/87	52 FR 46706
NPRM	05/31/88	53 FR 19864
Hearings Ended	02/03/89	
Final Action	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: hearings in the cities of Washington, Chicago, and San Francisco. The subsequent steps include the publication of a staff recommendation and a report from the presiding officer. Thereafter, the Commission will make its final determination.

Agency Contact: Raouf M. Abdullah, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, D.C. 20580, 202 326-3024

RIN: 3084–AA05

3813. RETAIL FOOD STORE ADVERTISING AND MARKETING PRACTICES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 424

Legal Deadline: None

Abstract: The Commission's Rule on Retail Food Store Advertising and Marketing Practices states that it is a violation of Section 5 of the Federal Trade Commission Act for grocery stores to advertise products at a particular price unless such products are in stock and conspicuously and readily available for sale at the advertised price during the effective period of the advertisement. If a store runs out of advertised products, it is in violation of the rule even if the store noted the limitations on availability in its advertisement and even if the store provides rainchecks or substitute items. The rule is intended to benefit consumers by ensuring that advertised items are available, that advertising-induced purchasing trips are not fruitless, and that store prices accurately reflect the prices appearing in the ads. The rule may cause costs to be incurred in maintaining sufficient inventory to meet anticipated demand, and costs associated with the monitoring of price changes, changing marked prices, training employees to comply with the rule and keeping records to prove compliance. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/10/84	49 FR 48059
ANPRM Comment Period End	02/08/85	
NPRM	10/24/85	50 FR 43224
NPRM Comment Period End	01/24/86	
Commission Decision to Amend the Rule	04/21/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The rule may also discourage the advertising of certain kinds of products, such as perishables or goods that are available to the store only in limited supply. The staff concluded from a careful review of the rule's effects that the costs the rule imposes on consumers in the form of higher grocery prices significantly exceeds its benefits. On April 21, 1988, the Commission decided to modify the rule so that a store could comply by clearly and adequately disclosing in its advertisements that there are limitations on availability, or by offering rainchecks or substitute items if supplies run out. The Commission expects to publish a final rule as amended with a statement of basis and purpose early in 1989.

Agency Contact: Walter Gross, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3319

RIN: 3084–AA17

3814. REVIEW OF THE PREMERGER NOTIFICATION RULES AND REPORT FORM

Significance: Agency Priority

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801; 16 CFR 802; 16 CFR 803; 16 CFR 803, (Apendix)

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. In September 1988, the Commission proposed to amend these rules to exempt the acquisition of small percentages of an issuer's voting securities, and proposed two alternative amendments that would provide other special treatment for acquisitions of small percentages of voting securities. (cont)

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
NPRM -- De Minimis Exemption	09/22/88	53 FR 36831
ANPR -- Partnerships	02/24/89	54 FR 7960
Final Action -- De Minimis Exemption	04/00/89	
NPRM -- Partnerships (if appropriate)	07/00/89	
FINAL ACTION -- Partnerships (if appropriate)	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: In fiscal year 1989 the Commission expects to take final action on these proposals. The Commission also has issued an ANPR seeking comment on options for amending the rules to modify their treatment of transactions involving partnerships.

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Final Rule Stage

Agency Contact: Roberta S. Baruch, Deputy Assistant Director, Federal Trade Commission, Bureau of Competition, Washington, DC 20580, 202 326-3300

RIN: 3084–AA23

3815. APPLIANCE LABELING RULE – ENERGY POLICY AND CONSERVATION ACT

Legal Authority: 42 USC 6294 National Energy Conservation Policy Act; PL 94-163 Energy Policy and Conservation Act, Sec 324, 1975

CFR Citation: 16 CFR 305

Legal Deadline: Final, Statutory, July 1, 1989.
See section 2(d)(2)(B) of Pub. L. 100-357, June 28, 1988, 102 Stat. 672.

Abstract: The Energy Policy and Conservation Act (EPCA) required the Commission to consider labeling rules for the disclosure of energy information, based on standard test procedures prescribed by the Department of Energy, for at least 13 categories of major household appliances. The Commission adopted a labeling rule for seven appliance categories: (1) refrigerators and refrigerator- freezers; (2) freezers; (3) dishwashers; (4) clothes washers; (5) water heaters; (6) room air conditioners; and (7) furnaces. The Commission exempted five other categories of appliances. In 1987, the Commission amended the rule to include central air conditioners and heat pumps and to include two new types of furnace under the rule's coverage. The provisions took effect on June 7, 1988. Since the Commission's rule implements the requirements of EPCA, most of the costs imposed on industry members may not be attributable to the rule. The rule applies mainly to manufacturers of household appliances but does impose some burdens on distributors and retailers. Some of those entities may be small businesses under section 610 of the Regulatory Flexibility Act. Therefore, the Commission (cont)

Timetable:

Action	Date	FR Cite
Begin Reg Flex Act Review	04/08/85	50 FR 13820
End Reg Flex Review	06/13/88	53 FR 22106
NPRM (comprehensive review)	06/13/88	53 FR 22022
NPRM (Fluorescent Light Ballasts)	01/12/89	54 FR 1182
Final Action (Ballasts)	07/01/89	
Final Action (comprehensive review)	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: has reviewed the rule to determine whether it has had a significant economic effect on a substantial number of small entities. The Commission has terminated that review and has begun another rulemaking to consider several amendments that would make the rule's energy usage disclosure scheme more efficient for consumers and business. The Commission has estimated that the proposals will reduce the paperwork burden of compliance by 5 percent. Recent amendments to EPCA require the Commission to issue a rule prescribing labeling requirements for fluorescent light ballasts (transformers).

Agency Contact: James Mills, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3035

RIN: 3084–AA26

FEDERAL TRADE COMMISSION (FTC)

Completed Actions

3816. OPHTHALMIC PRACTICE RULES

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 456, (Revision)

Legal Deadline: None

Abstract: On March 17, 1989, the Commission promulgated a trade regulation rule that would prohibit certain state restrictions on optometrists' commercial practices. The rule prohibits state restrictions within the following four categories: (1) limitations on the number of branch offices that optometrists may own or operate; (2) prohibitions on the practice of optometry in commercial locations, such as shopping malls; (3) prohibitions on optometrists' use of trade names; and (4) prohibitions on employer-employee or other affiliations between optometrists and persons who are not optometrists. The rule also continues a requirement that optometrists and ophthalmologists release eyeglass lens prescriptions to their patients upon completion of an eye examination.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/80	45 FR 79823
ANPRM Comment Period End	02/02/81	
NPRM	01/04/85	50 FR 598
NPRM Comment Period End	04/05/85	
Staff Report	11/17/86	51 FR 43217
Presiding Officer Report	11/26/86	51 FR 43217
Oral Presentations to the Commission	01/29/88	
Commission Decision to Issue Amended Rule	02/10/88	
Final Action	03/13/89	54 FR 10285
Final Rule Published	03/00/89	
Final Rule Effective	07/00/89	
Final Action Effective	09/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Renee Kinsheck, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3287

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3817. COOLING-OFF PERIOD FOR DOOR-TO-DOOR SALES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 429

Legal Deadline: None

Abstract: The rule states that sellers of consumer goods or services with a purchase price of $25.00 or more who sell away from their place of business must furnish to the buyer certain information regarding the buyer's right to cancel sales within three business days and must give the buyer a full refund of any down payment upon the buyer's cancellation. The rule requires a seller to furnish the buyer with a complete receipt or copy of a contract, along with a notice informing the buyer of the right to cancel the transaction, and to furnish the buyer with a completed Notice of Cancellation. The rule is intended to benefit consumers by permitting them to reflect on their purchase and the terms of any contract, to compare the purchase with offerings of other sellers, and to ascertain the accuracy of any representations made. The resulting costs to sellers include the costs associated with cancellation (processing cancelled orders, returning downpayments, retrieving delivered goods, and returning traded-in merchandise) and the additional cost of printing the required cancellation notices. Since the rule affects all door-to-door sellers, it may have a significant economic effect on a (cont)

Timetable:

Action	Date	FR Cite
Begin Reg Flex Act Review	03/03/83	48 FR 9032
NPRM	08/10/87	52 FR 29539
End Reg Flex Review	08/10/87	52 FR 29507
Final Action	11/10/88	53 FR 45455
Final Action Effective	12/12/88	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: substantial number of small entities. The Commission has completed its review of the Rule in accordance with Section 610 of the Regulatory Flexibility Act. The Commission concluded, based on this review, that there is no reason to believe that the Rule has had a significant impact on a substantial number of small entities. Therefore, the Commission did not make any changes to the Rule. However, for reasons described in another notice published the same day, the Commission proposed certain non-substantive Rule amendments, and proposed exemptions. The Commission considered the comments responding to the NPRM soliciting comments on changes in the Rule's notice requirements and possible exemptions from the Rule, and has taken final action. The Commission issued final, non- substantive amendments to section 429(a) and (b) of the Rule. The amendments permit alternative methods of complying with notice requirements of the Rule. The Commission also granted exemptions from the Rule to sellers of automobiles at public auctions and tent sales, who have at least one permanent place of business, and sellers of arts and crafts at fairs.

Agency Contact: Joyce Plyler, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3021

RIN: 3084-AA16

[FR Doc. 89-6185 Filed 04-21-89; 8:45 am]

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federal register

Monday
April 24, 1989

Part LV

Interstate Commerce Commission

Semiannual Regulatory Agenda

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INTERSTATE COMMERCE COMMISSION (ICC)

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 420 (Sub-No. 16)]

Semiannual Regulatory Agenda

AGENCY: Interstate Commerce Commission.

ACTION: Notice of semiannual regulatory agenda to be part of a Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to OMB Bulletin No. 89-02, issued under section 6(b) of E.O. 12291 to implement the provisions of section 5 of the Executive Order concerning Regulatory Agendas, the Commission is publishing an agenda of: (1) current and projected rulemakings; and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: A list of proceedings appears below containing information about subject areas in which the Commission is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda also identifies regulations likely to have a significant economic impact on a substantial number of "small entities." Accordingly, this information will satisfy the requirements of section 602 of the Regulatory Flexibility Act, 5 U.S.C. 602.

Finally, this agenda will comprise part of a Unified Agenda of Federal Regulations compiled by the Office of Management and Budget which is to be published in a single issue of the **Federal Register** in April 1989. The purpose of the Unified Agenda is to provide the public with more comprehensive documentation of the Federal government's current regulatory plans, and to provide a systematic means of monitoring regulatory activity in each agency.

This notice is issued pursuant to 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: February 6, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley and Phillips.

Noreta R. McGee,
Secretary.

INTERSTATE COMMERCE COMMISSION (ICC) — Prerule Stage

3818. REVIEW OF CAR-HIRE REGULATION, EX PARTE NO. 334 (SUB-NO. 6)

Legal Authority: 49 USC 10321; 49 USC 10706; 49 USC 10734; 49 USC 11122; 5 USC 553

CFR Citation: 49 CFR 1033; 49 CFR 1036

Legal Deadline: None

Abstract: The Commission is considering whether regulation of railroad car-hire charges (except charges for boxcars) should be retained, modified, or eliminated.

Timetable:

Action	Date	FR Cite
ANPRM	04/29/85	50 FR 16724
ANPRM Comment Period End	06/28/85	50 FR 27031
Supplemental Comment Period	02/07/86	50 FR 52972
Comments under Internal Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This proceeding embraces the proposals and record developed in Zone of Reasonableness for Car-Hire Charges, Ex Parte No. 334 (Sub-No. 5), RIN 3120-AA13. In a related proceeding, Ex Parte No. 334 (Sub-No. 7), Suspension of Car-Hire Updates, all further updates of car-hire charges have been suspended pending completion of Review of Car-Hire Regulation, Ex Parte No. 334 (Sub-No. 6). Notice of suspension appeared at 51 FR 263 on 01/03/86.

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120–AA13

3819. EXEMPTION OF DEMURRAGE FROM REGULATION, EX PARTE NO. 462

Significance: Agency Priority

Legal Authority: 49 USC 10505; 49 USC 10750; 49 USC 11121 to 11122; 5 USC 553

CFR Citation: 49 CFR 1033

Legal Deadline: None

Abstract: The Commission is considering whether to exempt in whole or in part rail demurrage from regulation.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/85	50 FR 51565
ANPRM Comment Period End	01/17/86	50 FR 51565
Extension of Public Comment Period	01/21/86	51 FR 2740
Comment Period End	03/18/86	51 FR 2740
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120–AB35

ICC — Prerule Stage

3820. RAIL ABANDONMENTS; USE OF RIGHTS-OF-WAY AS TRAILS; SUPPLEMENTAL TRAILS ACT PROCEDURES, EX PARTE NO. 274 (SUB-NO. 13)

Significance: Agency Priority

Legal Authority: 11 USC 1170; 16 USC 1247(d); 49 USC 10321; 49 USC 10362; 49 USC 10505; 49 USC 10903 et seq; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1152

Legal Deadline: None

Abstract: The Commission has reopened this proceeding at the request of the National Association of Reversionary Property Owners to consider whether the rules implementing section 1247(d) of the National Trails System Act should be amended to require: (1) Railroads and trail groups to report to the Commission on the outcome of negotiations to transfer railroad rights-of-way for interim trail use and rail banking purposes and (2) additional reporting if an interim trail use agreement is reached.

Timetable:

Action	Date	FR Cite
ANPRM	05/31/88	53 FR 19807
ANPRM Comment Period End	06/30/88	
Extension of Public Comment Period to 08/18/88	08/03/88	53 FR 29245
Comments under review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The purpose of the proposal is to create a Commission record of who holds the present interest in rights-of-way that are the subject of interim trail use and rail banking certificates and notices under section 1247(d) so that persons holding reversionary interests in such rights-of-way can contact the Commission to find out who is responsible for maintenance and taxes and to protect property interests in the rights-of-way.

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7278

RIN: 3120–AB45

3821. CLASS EXEMPTION FOR RAIL CONSTRUCTION, EX PARTE NO. 392 (SUB-NO. 3)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10901; 5 USC 553; 5 USC 559; 5 USC 704

CFR Citation: 49 CFR 1150.35

Legal Deadline: None

Abstract: The Commission is considering whether to exempt from regulation all applications under 49 USC 10901 for construction and operation of new lines of railroad.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/87	52 FR 20632
ANPRM Comment Period End	07/02/87	52 FR 20632
Comments under evaluation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7278

RIN: 3120–AB50

3822. ● AMENDMENTS TO RAIL CARRIER COST RECOVERY TARIFFS, EX PARTE NO. 290 (SUB-NO. 6)

Legal Authority: 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1312

Legal Deadline: None

Abstract: The Commission is considering whether its regulations should be revised by changing the regulations governing the form and volume of supplemental matter to rail carrier cost recovery tariffs filed pursuant to Ex Parte No. 290 (Sub-No. 2), Railroad Cost Recovery Procedures. Present regulations provide that such tariffs be published with expiration dates and they may be maintained without regard to the amount of supplemental matter in effect. Informal criticisms have been received by the Commission which indicate that the tariffs have become extremely cumbersome to follow and apply. In view of these criticisms, the Commission is concerned that the tariffs are not being published in a manner which is consistent with the public interest. Comments dealing with problems encountered by users of the rail carrier cost recovery tariffs are sought as well as suggestions for rule changes.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/88	53 FR 31720
ANPRM Comment Period End	11/07/88	53 FR 40922
Comments under review	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lawrence C. Herzig, Chief, Section of Rates and Informal Cases, Interstate Commerce Commission, 12th and Constitution Ave., NW, Room 4310, Washington, DC 20423, 202 275-7358

RIN: 3120–AB56

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INTERSTATE COMMERCE COMMISSION (ICC) — **Proposed Rule Stage**

3823. ADOPTION OF UNIFORM RAIL COSTING SYSTEM FOR DETERMINING VARIABLE COST FOR JURISDICTIONAL THRESHOLD AND SURCHARGE PURPOSES (URCS), EX PARTE NO. 431

Significance: Agency Priority

Legal Authority: 49 USC 10705(a); 49 USC 10709

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Develops new cost methodology applicable to the rail industry as mandated in the 1976 4-R Act and the 1980 Staggers Rail Act.

Timetable:

Action	Date	FR Cite
NPRM	01/31/83	48 FR 4562
NPRM Comment Period End	09/28/83	48 FR 25290
Decision to hold in abeyance until further notice	11/13/84	49 FR 45080
Draft notice of study being prepared	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Ex Parte No. 431 has been held in abeyance pending the development of cost accounting principles by the Railroad Accounting Principles Board. These principles were published on September 1, 1987, and included a recommendation that further research be performed into certain identified subject areas of the Uniform Railroad Costing System before the system is implemented. This is to be done within 18 months of the Board's report.

Agency Contact: William T. Bono, Chief, Section of Cost Development, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7354

RIN: 3120–AA63

3824. RAIL GENERAL EXEMPTION AUTHORITY - MISCELLANEOUS MANUFACTURED COMMODITIES, EX PARTE NO. 346 (SUB-NO. 24)

Legal Authority: 49 USC 10505

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: 49 USC 10505 requires that the Commission exempt from regulation the movement by rail of traffic for which it finds continued regulation no longer necessary to serve the Nation's transportation policy objectives and to protect shippers from abuse of market power by the railroads. In examining the transportation characteristics and markets of various commodities moving by rail, there appear to be many products for which sufficient competition exists among transportation alternatives so that regulation may no longer be necessary. Exemption of such commodities should provide increased rate and service flexibility for railroads to meet shippers' needs and to compete more effectively for the subject traffic. Anticipated benefits include lower rates and improved service, at a possible "cost" of increased price instability and competition to alternative transport firms.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3900
NPRM Comment Period End	05/16/88	53 FR 9672
Comments under review	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Lundy, Economist, Interstate Commerce Commission, Washington, DC 20423, 202 275-6853

RIN: 3120–AB08

3825. PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (REVISION OF OPERATIONAL REGULATIONS), EX PARTE NO. MC-19 (SUB-NO. 36)

Legal Authority: 49 USC 11110

CFR Citation: 49 CFR 1056

Legal Deadline: None

Abstract: This proceeding involves a plenary review of the household goods regulations in which the Commission invites public comment and proposals which would minimize the regulatory burden on movers to the maximum extent consistent with the protection of individual shippers.

Timetable:

Action	Date	FR Cite
ANPRM	10/26/83	48 FR 49561
ANPRM Comment Period End	01/12/84	48 FR 49561
NPRM	07/00/89	
NPRM Comment Period End	08/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia M. Schulze, Transportation Industry Analyst, Interstate Commerce Commission, OCCA, Washington, DC 20423, 202 275-7841

RIN: 3120–AB17

3826. RATE GUIDELINES - NON-COAL PROCEEDINGS, EX PARTE NO. 347 (SUB NO. 2)

Significance: Agency Priority

Legal Authority: 49 USC 10301; 49 USC 10321; 49 USC 10328; 49 USC 10701a; 49 USC 10704; 49 USC 10707; 49 USC 11701; 5 USC 553

CFR Citation: None

Legal Deadline: None

Abstract: Proposal to adopt maximum rate reasonableness guidelines for captive non-coal commodities. Request for comments on alternative guidelines for small shippers including small coal shippers.

Timetable:

Action	Date	FR Cite
Notice of proposed policy stmt.	05/22/86	51 FR 18811
Notice of Intent to Participate due	06/02/86	
Comments due	07/21/86	
Begin Review	07/24/87	
End Review	09/30/87	
Comments under internal evaluation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leslie J. Selzer, Assistant to the Director, Interstate Commerce Commission, 12th &

ICC — **Proposed Rule Stage**

Constitution Ave., NW, Washington, DC 20423, 202 275-7627

RIN: 3120–AB41

3827. CLASS EXEMPTION FOR THE CONSTRUCTION OF CONNECTING TRACKS UNDER 49 USC 10901, EX PARTE NO. 392 (SUB-NO. 2)

Significance: Agency Priority

Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 10901; 49 USC 10505

CFR Citation: 49 CFR 1150

Legal Deadline: None

Abstract: The Commission proposes to exempt from the prior approval requirements of 49 USC 10901, the construction of rail connecting tracks, except those construction projects that would result in a major market extension as defined at 49 CFR 1180.3(c).

Timetable:

Action	Date	FR Cite
NPRM	07/24/86	51 FR 26563
NPRM Comment Period End	08/25/86	
Internal review of comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120–AB43

3828. COST RATIO FOR RECYCLABLES - COMPLIANCE PROCEDURES, EX PARTE NO. 394 (SUB-NO. 3)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10731; 5 USC 553

CFR Citation: 49 CFR 1134; 49 CFR 1135; 49 CFR 1145

Legal Deadline: None

Abstract: The Commission is proposing rules that will establish procedures by which the Commission annually will (a) announce the revenue-to-variable cost ratio required by 49 USC 10731(e) to apply for the following calendar year; (b) monitor and take necessary action to ensure continued compliance by the railroads with 49 USC 10731(e); and (c) prohibit further rate increases, including those authorized under 49 USC 10707a(a)-(d), on recyclables having revenue/variable cost ratios in excess of the statutory cap level until such rates fall to below the cap level or the statutory cap level increases by Commission order.

Timetable:

Action	Date	FR Cite
ANPRM	06/16/86	51 FR 21780
Extension of time for filing comments on ANPRM; new date: 10/15/86	08/12/86	51 FR 28847
ANPRM Comment Period End	09/15/86	51 FR 21780
NPRM	04/23/87	52 FR 13482
NPRM Comment Period End	07/22/87	52 FR 13482
Notice of Environmental assessment and request for comments	05/06/88	53 FR 16296
Comments under evaluation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120–AB47

3829. ENVIRONMENTAL DOCUMENTATION IN RAIL PROCEEDINGS, EX PARTE NO. 55 (SUB-NO. 22A)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10903 to 10906; 16 USC 1247(d); 42 USC 4332; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1105

Legal Deadline: None

Abstract: The Commission is considering whether to modify its procedures to increase certain environmental notice periods and the information included in those notices. The modifications would also require service of environmental notices on designated parties, would substitute a revamped environmental notice for the former report requirement, and would reclassify some categories of actions for which environmental analyses are required.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120–AB53

3830. ● EX PARTE NO. 55 (SUB-NO. 69), RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY -- REVISION OF FORM OP-1

Legal Authority: 5 USC 551(a); 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 10101; 49 USC 10321; 49 USC 10541; 49 USC 10921; 49 USC 10922; 49 USC 10923; 49 USC 10924; 49 USC 10928; 49 USC 10931; 49 USC 11102

CFR Citation: 49 CFR 1003; 49 CFR 1160; 49 CFR 1162; 49 CFR 1168

Legal Deadline: None

Abstract: The Commission proposes to revise significantly the general licensing application form (Form OP-1) and to make corresponding revisions in its regulations governing licensing procedures at 49 CFR 1160, 1162, and 1168 and the list of forms at 49 CFR 1003. The proposed OP-1 replacement form would integrate the information presently required in and supersede: (1) the existing Form OP-1 used by applicants for motor and water carrier, property broker, and household goods freight forwarder authority; and (2) Form OCCA-95 used by applicants for temporary and emergency temporary authority. The proposed form revisions are intended to simplify and unify the temporary and permanent authority licensing processes, minimize the application filing burdens on applicants and, in turn, create a more efficient application process, both for the public and the Commission.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Suzanne O'Malley, Principal Attorney, Motor Section, Interstate Commerce Commission,

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ICC — Proposed Rule Stage

Room 2353, Washington, DC 20423, 202 275-7292

RIN: 3120-AB57

INTERSTATE COMMERCE COMMISSION (ICC) — Completed Actions

3831. REVISION OF ACCOUNTING AND REPORTING REQUIREMENTS FOR MOTOR CARRIERS OF PROPERTY, DOCKET NO. 38904

Significance: Agency Priority

CFR Citation: 49 CFR 1207; 49 CFR 1249

Completed:

Reason	Date	FR Cite
Final Action	10/12/88	53 FR 40428
Final Action Effective	11/16/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Lee 202 275-7510

RIN: 3120-AA84

3832. ELECTRONIC FILING OF TARIFFS, EX PARTE NO. 444

CFR Citation: 49 CFR 1312; 49 CFR 1314

Completed:

Reason	Date	FR Cite
Final Action	02/10/89	54 FR 6403
Final Action Effective	03/13/89	54 FR 6403

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Charles E. Langyher, III 202 275-7739

RIN: 3120-AA99

3833. CERTAIN INTERLOCKING DIRECTORATES; EXEMPTION, EX PARTE NO. 474

Significance: Agency Priority

CFR Citation: 49 CFR 1185

Completed:

Reason	Date	FR Cite
Final Action	10/05/88	53 FR 39096
Final Action Effective	11/04/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar 202 275-7245

RIN: 3120-AB54

[FR Doc. 89-5864 Filed 04-21-89; 8:45 am]

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federal register

Monday
April 24, 1989

Part LVI

National Credit Union Administration

Semiannual Regulatory Agenda

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NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Semiannual agenda of regulations.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemaking, reviews of existing regulations, and completed actions as of December 31, 1988. NCUA will also include this agenda in the "Unified Agenda of Federal Regulations."

DATE: This information is current as of December 31, 1988.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing, at the above address or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA, and to enable interested parties to more effectively participate in that process. The agenda is divided into three parts: (1) Actions completed since the last agenda; (2) actions proposed but not completed; and (3) actions planned but not yet proposed to the NCUA Board. Interpretive Rulings and Policy Statements (IRPS) promulgated by NCUA are also included in the agenda.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2 ("Developing and Reviewing Government Regulations," 52 FR 35231, September 18, 1987). Executive Order No. 12291 does not require independent executive agencies such as NCUA to publish a regulatory agenda, but NCUA has voluntarily decided to do so by including this agenda in the Office of Management and Budget's next publication of its "Unified Agenda of Federal Regulations."

Approved by the NCUA Board on February 8, 1989.

Becky Baker,

Secretary of the Board.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3834	Reserves	3133-AA12
3835	Nondiscrimination Requirements	3133-AA17
3836	Management Interlocks	3133-AA19
3837	Definitions	3133-AA47
3838	Loan Participation	3133-AA49
3839	Purchase, Sale and Pledge of Eligible Obligations	3133-AA50
3840	Records Preservation Programs	3133-AA56
3841	Share, Share Draft and Share Certificate Accounts	3133-AA82
3842	Liquidation Priorities and Adjudication of Claims	3133-AA84
3843	Investment and Deposit Activities	3133-AA87
3844	Regulation Required by the Competitive Equality Banking Act of 1987	3133-AA88
3845	Federal Credit Union Field of Membership and Chartering Policy	3133-AA89
3846	Credit Union Service Contracts	3133-AA95
3847	Retirement Benefits for Employees of Federal Credit Unions	3133-AA96

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3848	FCU Ownership of Fixed Assets	3133-AA06
3849	Treasury Tax and Loan Accounts	3133-AA16
3850	Other Applications	3133-AA44
3851	Federal Credit Unions Acting as Depositories and Financial Agents of the Government	3133-AA53
3852	Employee Responsibility and Conduct	3133-AA64
3853	Organization and Operations of Federal Credit Unions; Fidelity Bond and Insurance Coverage for Federal Credit Unions	3133-AA99

NCUA

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3854	Description of NCUA; Requests for Agency Actions	3133-AA98

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3855	Administrative Actions, Adjudicative Hearings and Rules of Practice and Procedure	3133-AA24
3856	Liquidation Manual	3133-AA65
3857	Corporate Credit Unions	3133-AA68
3858	Report of Crime or Catastrophic Act and Bank Secrecy Act Compliance	3133-AA71
3859	Federal Credit Unions; Payments on Shares by Public Units and Nonmembers and Requirements for Insurance	3133-AA97

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Prerule Stage

3834. RESERVES

Legal Authority: 12 USC 1762; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 702

Legal Deadline: None

Abstract: NCUA has asked for suggestions from the public on whether assets other than loans--primarily investments--should be provided for in reserves. No decision has been made on amending the regulations in this regard.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/87	52 FR 38771
ANPRM Comment Period End	02/05/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Michael Riley, Director, Office of Examination and Insurance, (202) 682-9640.

Agency Contact: Robert Fenner, General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133-AA12

3835. NONDISCRIMINATION REQUIREMENTS

Legal Authority: 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1786; 12 USC 1789; 24 USC 3601 to 3610; 24 USC 1981; 15 USC 1601 et seq

CFR Citation: 12 CFR 701.31

Legal Deadline: None

Abstract: This regulation sets forth prohibitions against discrimination by Federal credit unions in making real estate related loans and appraisals. The regulation also sets forth guidelines for compliance with the Fair Housing Act and court decisions rendered thereunder.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41609
ANPRM Comment Period End	01/23/89	53 FR 41609

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Hattie M. Ulan, Acting Assistant General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133-AA17

3836. MANAGEMENT INTERLOCKS

Legal Authority: 12 USC 3201

CFR Citation: 12 CFR 711

Legal Deadline: None

Abstract: This part implements the provisions of the Depository Institution Management Interlocks Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41614
ANPRM Comment Period End	01/23/89	53 FR 41614

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133-AA19

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NCUA — Prerule Stage

3837. DEFINITIONS

Legal Authority: 12 USC 1752(5); 12 USC 1757(6); 12 USC 1766(a)

CFR Citation: 12 CFR 700.1

Legal Deadline: None

Abstract: This section sets forth basic definitions applicable in all NCUA regulations. The definitions will be reviewed for need, accuracy and clarity.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie M. Ulan, Acting Assistant General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA47

3838. LOAN PARTICIPATION

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.22

Legal Deadline: None

Abstract: This section sets forth definitions and requirements for Federal credit unions wishing to participate in making loans with other credit unions, credit organizations, or financial organizations. The regulation will be reviewed to determine what changes are needed in this area and how the regulation can be simplified and clarified.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41613
ANPRM Comment Period End	01/23/89	53 FR 41613

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA49

3839. PURCHASE, SALE AND PLEDGE OF ELIGIBLE OBLIGATIONS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.23

Legal Deadline: None

Abstract: This section sets forth definitions and requirements for Federal credit unions that wish to purchase, sell, or pledge a loan or group of loans. This section will be reviewed to determine whether any changes are necessary.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41613
ANPRM Comment Period End	01/23/89	53 FR 41613

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA50

3840. RECORDS PRESERVATION PROGRAMS

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 749

Legal Deadline: None

Abstract: This part mandates that Federal credit unions maintain a records preservation program. It sets forth program implementation procedures and also lists what records must be stored. Staff is reviewing this part to determine whether it can be deleted, updated, or simplified.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA56

3841. SHARE, SHARE DRAFT AND SHARE CERTIFICATE ACCOUNTS

Legal Authority: 12 USC 1752; 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1782; 12 USC 1789

CFR Citation: 12 CFR 701.35

Legal Deadline: None

Abstract: An FCU's payment of dividends on share, share draft and share certificate accounts is limited to available earnings and cannot be guaranteed in advance. Staff is considering recommending to the Board that a statement to this effect be included in NCUA's share account regulation, in light of problems which NCUA has encountered with certain liquidated credit unions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA82

3842. LIQUIDATION PRIORITIES AND ADJUDICATION OF CLAIMS

Legal Authority: 12 USC 1787

CFR Citation: None

Legal Deadline: None

Abstract: Staff is studying two liquidation issues: priority of payout and the administrative procedure for adjudicating creditor claims.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

NCUA — Prerule Stage

Agency Contact: Allan Meltzer, Assistant General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA84

3843. INVESTMENT AND DEPOSIT ACTIVITIES

Legal Authority: 12 USC 1757; 12 USC 1766

CFR Citation: 12 CFR 703

Legal Deadline: None

Abstract: NCUA staff is undertaking a comprehensive review of FCU investment authority in light of changes in the marketplace, e.g., increased availability of mutual funds geared primarily toward FCU's new instruments based on permissible FCU investments, new investment structures, statutory expansions of FCU investment authority.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA87

3844. REGULATION REQUIRED BY THE COMPETITIVE EQUALITY BANKING ACT OF 1987

Legal Authority: 12 USC 1766; PL 100-86

CFR Citation: None

Legal Deadline: None

Abstract: Amendments by Competitive Equality Banking Act of 1987 permit the NCUA Board to increase the present maturity limit on second mortgage, mobile home and home improvement loans. Comment was requested on this issue.

Timetable:

Action	Date	FR Cite
ANPRM	10/25/88	53 FR 42953
ANPRM Comment Period End	01/23/89	53 FR 42953

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA88

3845. FEDERAL CREDIT UNION FIELD OF MEMBERSHIP AND CHARTERING POLICY

Legal Authority: 12 USC 1752; 12 USC 1753; 12 USC 1759

CFR Citation: None

Legal Deadline: None

Abstract: The NCUA Board is conducting a comprehensive review of its policies on chartering new Federal credit unions and expansions of existing Federal credit unions, to ensure NCUA policy is implemented fairly and consistently.

Timetable:

Action	Date	FR Cite
Begin Review	08/29/87	52 FR 36429
ANPRM	09/29/87	52 FR 36428
ANPRM Comment Period End	11/27/87	
ANPRM	06/17/68	53 FR 22656
ANPRM Comment Period End	08/16/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hattie M. Ulan, Acting Assistant General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA89

3846. CREDIT UNION SERVICE CONTRACTS

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.26

Legal Deadline: None

Abstract: This section authorizes, subject to certain requirements, an FCU to enter into a contractual agreement with one or more credit unions or other organizations for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets, or engaging in activities and/or services relating to the daily operations of credit unions. Staff will review this section to determine if it needs to be clarified or otherwise amended.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA95

3847. RETIREMENT BENEFITS FOR EMPLOYEES OF FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1766; 12 USC 1761b

CFR Citation: 12 CFR 701.19; 12 CFR 701.24

Legal Deadline: None

Abstract: Section 701.19 sets forth an FCU's authority to provide retirement benefits to employees and officers. Section 724 describes when an FCU can act as a trustee or custodian of pension plans.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General

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NCUA — Prerule Stage

Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA96

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Proposed Rule Stage

3848. FCU OWNERSHIP OF FIXED ASSETS

Legal Authority: 12 USC 1757(4); 12 USC 1766

CFR Citation: 12 CFR 701.36

Legal Deadline: None

Abstract: This section sets forth limitations on an FCU's ownership of fixed assets. The proposed rule clarifies and simplifies the regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 42953
NPRM Comment Period End	01/23/89	53 FR 42953

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tim Hornbrook, Director of Supervision, National Credit Union Administration, Office of Examination & Insurance, 1776 G Street, NW, Washington, DC 20456, 202 682-9640

RIN: 3133–AA06

3849. TREASURY TAX AND LOAN ACCOUNTS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1767; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.37-1

Legal Deadline: None

Abstract: These sections set forth the authority for and requirements of FCU's when serving as Treasury tax and loan depositaries, and depositaries of public funds and financial agents of the United States Government.

Timetable:

Action	Date	FR Cite
NPRM	10/24/88	53 FR 41611
NPRM Comment Period End	01/23/89	53 FR 41611

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA16

3850. OTHER APPLICATIONS

Legal Authority: 12 USC 1766(a)

CFR Citation: 12 CFR 701.5

Legal Deadline: None

Abstract: This section specifies the manner in which applications, requests, or submittals to NCUA, not addressed in other sections of the NCUA Regulations, are to be presented to the Agency. This section has been designated to be removed and incorporated into Part 790.

Timetable:

Action	Date	FR Cite
NPRM	12/11/87	52 FR 47014
NPRM Comment Period End	02/09/88	52 FR 47014
NPRM	10/25/88	53 FR 42955
NPRM Comment Period End	01/23/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA44

3851. FEDERAL CREDIT UNIONS ACTING AS DEPOSITORIES AND FINANCIAL AGENTS OF THE GOVERNMENT

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1767; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.37-2

Legal Deadline: None

Abstract: This section sets out the authority for and requirements of Federal credit unions when they serve as depositories and financial agents of the United States Government. It also lists the functions credit unions may perform in this capacity. The proposed rule updates the regulations to current standard uses and requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/24/88	53 FR 41611
NPRM Comment Period End	01/23/89	53 FR 41611

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA53

3852. EMPLOYEE RESPONSIBILITY AND CONDUCT

Legal Authority: EO 11222; 5 CFR 735.104; 12 USC 1766

CFR Citation: 12 CFR 792

Legal Deadline: None

Abstract: This regulation sets forth the rules governing NCUA employees. The rule does not affect credit unions. The NCUA Board proposed to redesignate Part 792 to Part 796 in order to streamline NCUA Rules and Regulations (53 FR 41610 10/24/88).

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 42955
NPRM Comment Period End	01/23/89	53 FR 42955

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

NCUA — Proposed Rule Stage

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA64

3853. ● ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS; FIDELITY BOND AND INSURANCE COVERAGE FOR FEDERAL CREDIT UNIONS

Significance: Agency Priority

Legal Authority: 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a to 1761b; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; 12 USC 1798

CFR Citation: 12 CFR 701.20(c)

Legal Deadline: None

Abstract: The proposed change would require a provision in FCU bonds assuring that surety notifies NCUA whenever bond coverage of a credit union is terminated in its entirety, or when it is terminated on an individual employee or official.

Timetable:

Action	Date	FR Cite
NPRM	10/24/88	53 FR 41610
NPRM Comment Period End	01/23/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Meltzer, Assistant General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA99

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Final Rule Stage

3854. ● DESCRIPTION OF NCUA; REQUESTS FOR AGENCY ACTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1766; 12 USC 1789; 12 USC 1795f

CFR Citation: 12 CFR 790

Legal Deadline: None

Abstract: This is the final step in a restructuring and clarifying of regulations concerning NCUA internal operations. When it is completed, three consecutive parts will address NCUA operations as follows: Part 790, NCUA organization and structure; Part 791, rules and NCUA board procedure; and Part 792, information and privacy laws.

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 42955
NPRM Comment Period End	01/23/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie Ulan, Acting Assistant General Consel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA98

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Completed Actions

3855. ● ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS AND RULES OF PRACTICE AND PROCEDURE

Legal Authority: 12 USC 1766; 12 USC 1786; 12 USC 1789; 12 USC 1795c

CFR Citation: 12 CFR 747.501

Legal Deadline: None

Abstract: This final amendment conforms the NCUA's Rules and Regulations to the changes made to section 206(g) of the FCU Act by the Competitive Equality Banking Act of 1987. The Amendment expands NCUA's removal, prohibition and suspension powers.

Timetable:

Action	Date	FR Cite
Final Action	08/05/88	53 FR 29446
Final Action Effective	08/05/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA24

3856. LIQUIDATION MANUAL

Legal Authority: 12 USC 1766(a); 12 USC 1786; 12 USC 1789

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Involuntary Liquidation Manual project has been suspended until further notice is published in the Federal Register.

Timetable:

Action	Date	FR Cite
Withdrawn	02/08/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Timothy Hornbrook/Allan Meltzer, Director of Supervision/Assistant General Counsel, National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW, Washington, DC 20456, 202 682-9640

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Completed Actions

3857. CORPORATE CREDIT UNIONS

Legal Authority: 12 USC 1762; 12 USC 1766(a); 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 704

Legal Deadline: None

Abstract: The final rule makes changes to the regulation, including addition of a definition of "average daily assets," clarification of items that may be excluded from assets prior to the reserve transfer computation, and specifying that the annual CPA audit must be an opinion audit.

Timetable:

Action	Date	FR Cite
NPRM	06/02/88	53 FR 20122
NPRM Comment Period End	08/01/88	
Final Action	10/25/88	53 FR 42942
Final Action Effective	10/25/88	53 FR 42942

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Groth, Corporate Credit Union Specialist, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9640

RIN: 3133–AA68

3858. ● REPORT OF CRIME OR CATASTROPHIC ACT AND BANK SECRECY ACT COMPLIANCE

Legal Authority: 12 USC 1766; 12 USC 1786; 31 USC 534

CFR Citation: 12 CFR 748.1(c)

Legal Deadline: None

Abstract: This final amendment updates the procedures for FCU's to report crimes and suspected crimes.

Timetable:

Action	Date	FR Cite
Final Action	07/12/88	53 FR 26232
Final Action Effective	07/12/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John K. Ianno, Staff Attorney, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA71

3859. ● FEDERAL CREDIT UNIONS; PAYMENTS ON SHARES BY PUBLIC UNITS AND NONMEMBERS AND REQUIREMENTS FOR INSURANCE

Significance: Agency Priority

Legal Authority: 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a to 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; 12 USC 1781

CFR Citation: 12 CFR 701.32; 12 CFR 741.5

Legal Deadline: None

Abstract: New Section 701.32 requires that FCU's obtain NCUA approval prior to receiving nonmember funds in excess of 20% of total shares. Credit unions exceeding 20% at the time the regulation was adopted must, within 60 days, come into compliance or request NCUA approval. A change to Section 741.5 of the Regulations requires that federally-insured, state chartered credit unions comply with these limitations.

Timetable:

Action	Date	FR Cite
Interim final rule effective	12/19/88	
Final Action	12/19/88	53 FR 50918
Comment period ends	02/20/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA97

[FR Doc. 89-5865 Filed 04-21-89; 8:45 am]

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Monday
April 24, 1989

Part LVII

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

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NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual publication of NRC regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual Regulatory Agenda in accordance with Pub. L. 96-354, "the Regulatory Flexibility Act," and Executive Order 12291, "Federal Regulations." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on October 24, 1988 (53 FR 42842).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be hand delivered between 7:30 a.m. and 4:15 p.m. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying at a cost of ten cents per page at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555. Single copies of the NRC quarterly agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. Customers may call (202) 275-2060 or (202) 275-2171.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact Michael Lesar, Acting Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-7758. Persons outside the Washington, DC, metropolitan area may call toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: Although publication of the agenda is only required semiannually in April and October, the NRC has chosen to update and publish its agenda each quarter. However, the information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on October 24, 1988 (53 FR 42842).

Within each group, the rules are ordered from the lowest to the highest part within Title 10 of the Code of Federal Regulations (Title 10) and when more than one rule appears under the same part, the rules are arranged within that part according to the date of most recent publication. If a rule contains changes to more than one Title 10 part, the rule is listed under the lowest affected part.

The Information in this agenda has been updated through February 24, 1989. The date under the heading, "Timetable," for the next scheduled action is the date the rule is scheduled to be published in the **Federal Register.** The date is considered tentative and is not binding on the Commission or its staff. This regulatory agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the regulatory agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The Executive Director for Operations (EDO) initiated a procedure for the review of the regulations being prepared by staff offices that report to him to ensure that staff resources were being allocated to achieve most effectively NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

Rules that have received EDO approval to date are identified by the symbol (+) at the beginning of the title. As additional rules receive EDO approval, they will be identified in subsequent editions of this agenda.

The NRC agenda lists rulemaking actions. Of these, no rulemaking items are considered to be priority or major as defined in section 1(b) of Executive Order 12291.

Four rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Bethesda, Maryland, this 24th day of February 1989.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3860	Personnel Access Authorization Program	3150-AA90
3861	Acceptance of Products Purchased for Use in Nuclear Power Plant Structures, Systems, and Components	3150-AD10

NRC

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3862	Comprehensive Quality Assurance in Medical Use and a Standard of Care	3150-AC42
3863	Medical Use of Byproduct Material: Training and Experience Criteria	3150-AC99
3864	Criteria for Licensing the Custody and Long-Term Care of Uranium Mill Tailings Sites	3150-AC56
3865	Regulation of Uranium Enrichment Facilities	3150-AC71
3866	Nuclear Plant License Renewal	3150-AD04
3867	Night Firing Qualifications for Security Guards at Nuclear Power Plants	3150-AC88
3868	Indemnification of Licensees that Manufacture, Produce, Possess or Use Radiopharmaceuticals or Radioisotopes for Medical Purposes	3150-AD13
3869	Sequestration of Witnesses Interviewed Under Subpoena	3150-AD06
3870	Basic Quality Assurance in Radiation Therapy	3150-AC65
3871	Revised Rules of Practice for Domestic Licensing Proceedings	3150-AB66
3872	Availability of Official Records	3150-AC07
3873	Revision of Definition of Meeting	3150-AC78
3874	Twenty-Four Hour Notification of Incidents	3150-AC91
3875	Palladium-103 for the Interstitial Treatment of Cancer	3150-AD11
3876	Licensees and Radiation Safety Requirements for Large Irradiators	3150-AC93
3877	Safety Related and Important to Safety in 10 CFR Part 50	3150-AB88
3878	Codes and Standards for Nuclear Power Plants (ASME Code, Section XI, Division 1, Subsection IWE)	3150-AC93
3879	Pressurized Thermal Shock Rule	3150-AD01
3880	Codes and Standards for Nuclear Power Plants (ASME Code, 1986/1987 Addenda)	3150-AD05
3881	Minor Amendments to Physical Protection Requirements	3150-AD03
3882	Storage of Spent Nuclear Fuel in NRC Approved Casks at Civilian Nuclear Power Reactor Sites	3150-AC76
3883	NRC Acquisition Regulation (NRCAR)	3150-AC01

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3884	Radioactive Waste Below Regulatory Concern; Generic Rulemaking	3150-AC35
3885	Licensee Action During National Security Emergency	3150-AC83
3886	Procedures Involving the Equal Access to Justice Act: Implementation	3150-AA01
3887	Modifications to the NRC Hearing Process (Limited Interrogatories and Factual Basis for Contentions)	3150-AA35
3888	NEPA Review Procedures or Geologic Repositories for High-Level Waste	3150-AC04
3889	Issuance or Amendment of Power Reactor License or Permit Following Initial Decision	3150-AC15
3890	Rules of Practice for Domestic Licensing Proceedings–Procedural Changes in Hearing Process	3150-AC22
3891	Rule on the Submission and Management of Records and Documents Related to the Licensing of a Geologic Repository for the Disposal of High-Level Radioactive Waste	3150-AD02
3892	Standards for Protection Against Radiation	3150-AA38
3893	Disposal of Waste Oil by Incineration from Nuclear Power Plants	3150-AC14
3894	Proposed Revisions to the Criteria and Procedures for the Reporting of Defects and Noncompliance	3150-AA68
3895	Fitness For Duty Program	3150-AC81
3896	Emergency Preparedness for Fuel Cycle and Other Radioactive Materials Licensees	3150-AA41
3897	Informal Hearing Procedures for Materials Licenses Proceedings	3150-AB83
3898	Safety Requirements for Industrial Radiographic Equipment	3150-AC12
3899	Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors	3150-AA86
3900	Education and Experience Requirements for Senior Reactor Operators and Supervisors at Nuclear Power Plants	3150-AC26
3901	Flow Control Conditions for the Standby Liquid Control System in Boiling Water Reactors	3150-AC72
3902	Ensuring the Effectiveness of Maintenance Programs for Nuclear Power Plants	3150-AD00
3903	Tables S-3 and S-4, Addition of Radon-222 and Technetium-99 Radiation Values, and Addition of Appendix B, "Table S-3 Explanatory Analysis"	3150-AA31
3904	Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Reactors	3150-AC61
3905	Elimination of Inconsistencies between NRC Regulations and EPA Standards	3150-AC03
3906	Disposal of Radioactive Wastes	3150-AB89
3907	Transportation Regulations: Compatibility With the International Atomic Energy Agency (IAEA)	3150-AC41
3908	Criteria for an Extraordinary Nuclear Occurrence	3150-AB01
3909	Financial Protection Requirements and Indemnity Agreements; Miscellaneous Amendments Necessitated by Changes in the Price-Anderson Act	3150-AD08
3910	Reasserting NRC's Sole Authority for Approving Onsite Low-Level Waste Disposal in Agreement States	3150-AC57
3911	Debt Collection Procedures	3150-AC87

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Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3912	Extension of Time for the Implementation of the Decontamination Priority and Relationship Provisions of Property Insurance Requirements	3150-AC94
3913	Freedom of Information Act; Appeal Authority for Deputy Executive Director for Operations	3150-AD14
3914	Access to Safeguards Information	3150-AD12

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3915	Reorganization of Functions Within the Office of Administration and Resources Management and Minor Corrective Amendments	3150-AD09
3916	Licensing Requirements for the Storage of Spent Fuel and High- Level Radioactive Wastes	3150-AB70
3917	Acceptance Criteria for Emergency Core Cooling System (ECCS) for Light Water Nuclear Power Reactors	3150-AA44
3918	Alternative Methods for Leakage Rate Testing	3150-AC54
3919	Licensee Announcement of Inspectors	3150-AC73
3920	Criteria and Procedures for Emergency Access to Non-federal and Regional Low-Level Waste Disposal Facilities	3150-AC24
3921	Centralization of Material Control and Accounting Responsibilities for Non-Reactor Facilities	3150-AD07
3922	Safeguards Requirements for Fuel Facilities Possessing Formula Quantities of Strategic Special Nuclear Material	3150-AC62
3923	Restrictions Against Ownership of Certain Security Interests by Members of Advisory Committee on Nuclear Waste; Gifts, Entertainment, and Favors	3150-AC92
3924	Relocation of NRC's Public Document Room; Other Minor Nomenclature Changes	3150-AC89
3925	Revision of Fee Schedules	3150-AC80
3926	Rule on the Submission and Management of Records and Documents Related to the Licensing of a Geologic Repository for the Disposal of High-Level Radioactive Waste	3150-AC44
3927	Enforcement of Nondiscrimination on the Basis of Handicap in Federal Assisted Programs	3150-AC64
3928	Emergency Planning and Preparedness Requirements for Nuclear Power Plant Fuel Loading and Initial Low-Power Operations	3150-AC86
3929	Facility Form Nuclear Liability Insurance Policy; Miscellaneous Amendments	3150-AC82
3930	Minor Amendments to Physical Protection Requirements	3150-AC96
3931	Deletion of Part 11 Requirement for Renewal of "R" Clearances	3150-AC58

NUCLEAR REGULATORY COMMISSION (NRC)

Prerule Stage

3860. ● PERSONNEL ACCESS AUTHORIZATION PROGRAM

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 073

Legal Deadline: None

Abstract: The Commission has concluded that it is appropriate for each licensee who operates a nuclear power plant to establish an access authorization program to ensure that individuals who require unescorted access to protected areas or vital areas of their facilities are trustworthy, reliable, emotionally stable, and do not pose a threat to commit radiological sabotage. Accordingly, the NRC published a proposed rule on August 1, 1984, which would require an access authorization program at nuclear power plants (42 FR 30726).

An alternative proposal by the Nuclear Utility Management and Resource Committee (NUMARC) was submitted as a public comment on this proposed rule. The alternative proposed a voluntary industry commitment to implement an access authorization program at nuclear power plants based upon industry guidelines. Major provisions of this program include background investigation, psychological evaluation, and behavioral observation.

Timetable:

Action	Date	FR Cite
Proposed Policy Statement Published	03/09/88	53 FR 7534

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information:

On June 18, 1986, the Commission approved developing a policy statement endorsing industry guidelines as an alternative to the proposed rulemaking. Commitments to adhere to these guidelines would be formalized through amendments to the physical security plans and be subject to inspection and enforcement by NRC.

Agency Contact: Sandra Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3773

RIN: 3150-AA90

NRC

Prerule Stage

3861. ● ACCEPTANCE OF PRODUCTS PURCHASED FOR USE IN NUCLEAR POWER PLANT STRUCTURES, SYSTEMS, AND COMPONENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission is proposing to develop regulations requiring enhanced receipt inspection and testing of products purchased for use in nuclear power plant structures, systems, and components. These regulations are believed to be necessary to provide an acceptable level of assurance that products purchased for use in nuclear power plants will perform as expected to protect the public health and safety. An Advance Notice of Proposed Rulemaking (ANPRM) will be published to solicit public comments on the need for additional regulatory requirements and to obtain an improved understanding of alternatives to regulatory requirements.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Max J. Clausen, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-0969

RIN: 3150-AD10

NUCLEAR REGULATORY COMMISSION (NRC)

Proposed Rule Stage

3862. COMPREHENSIVE QUALITY ASSURANCE IN MEDICAL USE AND A STANDARD OF CARE

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission is considering whether to amend its regulations to require a comprehensive quality assurance program for medical licensees using byproduct materials. The purpose of this rulemaking action is to address each source of error that can lead to a misadministration. An advance notice of proposed rulemaking was published to request public comment on the extent to which, in addition to the basic quality assurance steps (being addressed by another rulemaking action, entitled "Basic Quality Assurance in Radiation Therapy"), a more comprehensive quality assurance requirement is needed and invites advice and recommendations on about 20 questions that will have to be addressed in the rulemaking process.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/87	52 FR 36949
ANPRM Comment Period End	12/31/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3797

RIN: 3150-AC42

3863. MEDICAL USE OF BYPRODUCT MATERIAL: TRAINING AND EXPERIENCE CRITERIA

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The Commission is considering whether its training and experience criteria for individuals involved in medical use of byproduct material need to be revised. Rulemaking may be needed to reduce the change of misadministrations. The Commission may proceed with rulemaking, assist in the development of national voluntary training standards, or issue a policy statement recommending increased licensee attention to training. If the Commission proceeds with rulemaking, the NRC could publish criteria in its regulations or recognize medical specialty certificates. The NRC is not able to project costs or benefits at this time, and has requested cost/benefit comments in an Advance Notice of Proposed Rulemaking published May 25, 1988. The NRC has hired a contractor to study training, accreditation and certification programs that are now in place. The NRC staff will analyze the study results and the comments received to determine whether regulatory action is necessary.

Timetable:

Action	Date	FR Cite
ANPRM	05/25/88	53 FR 18945
ANPRM Comment Period End	08/24/88	53 FR 18845

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Norman L. McElroy, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 492-3417

RIN: 3150-AC99

3864. CRITERIA FOR LICENSING THE CUSTODY AND LONG-TERM CARE OF URANIUM MILL TAILINGS SITES

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 40

Legal Deadline: None

Abstract: The proposed rulemaking would amend 10 CFR Part 40 (Domestic Licensing of Source Material), to include a procedure for licensing a custodian for the post-closure, long-term control of uranium mill tailings sites required by the Uranium Mill Tailings Radiation Control Act of 1987 (UMTRCA). This amendment would establish a general license for custody

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and long-term care of uranium mill tailings by the Department of Energy, other designated Federal agencies, or States when applicable. The general license would be formulated so that it would become effective for a particular site when (1) NRC concurs in the DOE determination that the site has been properly constructed and (2) a surveillance and maintenance plan that meets the requirements of the general license has been received by NRC. No significant impact to the public or industry is expected as a result of this proposed action.

Timetable:

Action	Date	FR Cite
ANPRM	08/25/88	53 FR 32396
ANPRM Comment Period End	10/24/88	
NPRM	06/00/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3877

RIN: 3150–AC56

3865. REGULATION OF URANIUM ENRICHMENT FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 76

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission is considering whether to amend its regulations to create a new part that would pertain to uranium enrichment facilities. The construction and operation of these facilities are currently licensed under the regulations for other production and utilization facilities (e.g., nuclear power plants) in 10 CFR Part 50. An advance notice of proposed rulemaking requested comments on whether a separate set of regulations for uranium licensing is desirable. Comments have been received are are being reviewed.

Timetable:

Action	Date	FR Cite
ANPRM	04/22/88	53 FR 13286
ANPRM Comment Period End	10/22/88	53 FR 35827

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Peter Loysen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 492-0685

RIN: 3150–AC71

3866. ● NUCLEAR PLANT LICENSE RENEWAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking announces that the Commission is developing regulations for extending nuclear power plant licenses beyond 40 years. To inform the public, industry, and other government agencies of this activity, the Commission has published NUREG--1317, "Regulatory Options for Nuclear Plant License Renewal," and is requesting comments on it.

Timetable:

Action	Date	FR Cite
ANPRM	08/29/88	53 FR 32919
ANPRM Comment Period End	10/28/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Donald Cleary, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3556

RIN: 3150–AD04

3867. NIGHT FIRING QUALIFICATIONS FOR SECURITY GUARDS AT NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Legal Deadline: None

Abstract: The proposed rule would ensure that security force effectiveness at nuclear power plants is not dependent on the time of day. Security guards currently are required to perform night firing for familiarization only. There is no requirement for standards to measure their effectiveness. The proposed rule would change that by requiring that security guards at nuclear power plants qualify for night firing. The only alternative to rulemaking is to retain the current status.

Part 73, Appendix B, Part IV, will be amended to require reactor security guards to qualify annually in an NRC-approved night firing course with their assigned weapons. The proposed amendment will standardize training and qualification in night firing and prepare power reactor guard forces to more effectively respond in the event of an incident occurring in limited lighting conditions. The cost to industry should be relatively modest since licensees already operate daylight firing training and qualification facilities and programs. The costs to NRC will also be minimal because it will only (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: require minor licensing, inspection and other regulatory actions. There is no occupational exposure.

It is estimated that 0.4 staff-years of effort over 2 years by the NRC will be required for the rulemaking.

Agency Contact: Dr. Sandra D. Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3773

RIN: 3150–AC88

3868. ● INDEMNIFICATION OF LICENSEES THAT MANUFACTURE, PRODUCE, POSSESS OR USE RADIOPHARMACEUTICALS OR RADIOISOTOPES FOR MEDICAL PURPOSES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 140

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission (NRC) is required to conduct a negotiated rulemaking to determine whether to enter into indemnity agreement with persons licensed by the Commission or by an Agreement State for the manufacture, production, possession, or use of radioisotopes or radiopharmaceutical for medical purposes. The Price Anderson Amendments Act requires the NRC to conduct the negotiated rulemaking proceedings. Upon completion of proceedings, the designated convenor for the proceedings will provide recommendations on whether the NRC should enter into indemnity agreements with radiopharmaceutical licensees. If the convenor recommends that the NRC indemnify any of the licensees, a proposed rule will be drafted to set forth the terms and conditions of indemnification.

Timetable:

Action	Date	FR Cite
NPRM	11/14/88	53 FR 45768
NPRM Comment Period End	01/10/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Carolyn F. Evans, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1632

RIN: 3150–AD06

3869. ● SEQUESTRATION OF WITNESSES INTERVIEWED UNDER SUBPOENA

Legal Authority: 41 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 019

Legal Deadline: None

Abstract: The proposed rule would give the agency official conducting the investigation (after consultation with the Office of the General Counsel), the authority to exclude counsel when there is a reasonable basis to believe that the attendance of the particular attorney might prejudice, impede, or impair the investigation by reason of that attorney's dual representation of other interests. The proposed rule also provides for the separation of multiple interviewees during the conduct of interviews and defines sequestration. The proposed action is necessary because the NRC has encountered difficulties in conducting investigative interviews of individuals in an atmosphere free of outside influences. The proposed rule is intended to clarify and delineate the rights and responsibilities of the agency, interviewees, and the licensees during the conduct of agency investigations and inspections. The proposed amendments are not expected to have any economic impact on the NRC or its licensees.

Timetable:

Action	Date	FR Cite
Notice of Intent	10/14/88	53 FR 40233
NPRM	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Francis X. Cameron, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1623

RIN: 3150–AD13

3870. BASIC QUALITY ASSURANCE IN RADIATION THERAPY

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission is proposing to amend its regulations concerning the medical use of byproduct material. The proposed amendments would require its medical licensees that use byproduct material to implement a written basic quality assurance program that will avoid simple human errors and promptly detect and correct any errors that occur. The proposed action is necessary to provide for improved patient safety and serve as a basis for enforcement action in case of a therapy misadministration. The proposed amendment, which is intended to reduce the potential for and severity of therapy misadministrations, would primarily affect hospitals, clinics, and individual physicians.

Timetable:

Action	Date	FR Cite
NPRM	10/02/87	52 FR 36942
NPRM Comment Period End	12/01/87	52 FR 36942

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3797

RIN: 3150–AC65

3871. REVISED RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841; 5 USC 552

CFR Citation: 10 CFR 0; 10 CFR 1; 10 CFR 2; 10 CFR 9; 10 CFR 50

Legal Deadline: None

Abstract: Chairman Zech has requested re-submission of this proposed rule for possible re-consideration by the Nuclear Regulatory Commission. The Commission had deferred further consideration of this proposal which would have revised the Commission's procedural rules governing the conduct of all adjudicatory proceedings, with the exception of export licensing proceedings under 10 CFR Part 110. The proposed rule would shorten and simplify existing Commission procedural rules applicable to domestic licensing proceedings by comprehensively restating the current practice, and revising and reorganizing the statement of those rules to reflect current practice. The changes in this proposed rule would enable the Commission, directly and through its adjudicatory offices, to render decisions in a more timely fashion, eliminate the stylistic complexity of the existing rules, and reduce the burden and expense to the parties participating in agency proceedings.

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Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Sebastian Aloot, Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, DC 20555, 301 492-7787

RIN: 3150-AB66

3872. AVAILABILITY OF OFFICIAL RECORDS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed amendment would conform the NRC's regulations pertaining to the availability of official records to existing case law and agency practice. The amendment would reaffirm that the terms of 10 CFR 2.790(c) provide submitters of information a qualified right to have their information returned upon request. This amendment informs the public of three exceptions to the right to withdraw, pursuant to 10 CFR 2.790(c) of the NRC's regulations, i.e., information submitted in a rulemaking proceeding that subsequently forms the basis for the final rule, information which has been made available to an advisory committee or was received at an advisory committee meeting, and information that is subject to a pending Freedom of Information Act request.

Additionally, the proposed amendment would add a notice statement to 10 CFR Part 2 that submitters of documents and information to the NRC should be careful in submitting copyrighted works. The agency in receiving submittals and making its normal distributions routinely photocopies submittals, makes microfiche of such submittals and insures that these (con't)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: fiche are distributed to the PDR, LPDRs, all appropriate internal offices, and to the National Technical Information Service Center. This broad distribution and reproduction is made to satisfy the congressional mandate of Section 142(b) of the Atomic Energy Act by increased public understanding of the peaceful uses of atomic energy. Accordingly, copyright owners are on notice that their act of submitting such works to the agency will be considered as the granting to the NRC an implied license to reproduce and distribute according to normal agency practice. Naturally, this notice does not prevent submitters from applying 10 CFR 2.790(b)(1) procedures to information that contains trade secrets or privileged or confidential commercial or financial information (proprietary information) and it is recognized that some information in those categories may be copyrighted. The key factor is that it is their proprietary information status that exempts them from public disclosure and not their copyright designation. Lastly, this implied license is not applicable to fair use of copyrighted works or the incorporation by reference of copyrighted works in agency submittals.

Agency Contact: Mary Kathryn Hembree, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1559

RIN: 3150-AC07

3873. REVISION OF DEFINITION OF MEETING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 9

Legal Deadline: None

Abstract: The proposed rule would return the definition of "meeting" to its pre-1985 wording. The proposal is based on a study of comments submitted on an interim final rule published on May 21, 1985 (50 FR 20889), and the 1987 recommendations and report of the American Bar Association (ABA). Since the pre-1985 wording of the definition of meeting is fully adequate to permit the types of non-Sunshine Act discussions that the NRC believes would be useful, the proposal calls for the NRC to reinstitute its pre-1985 definition of meeting, with the intention of conducting its non-Sunshine Act discussions in accordance with the guidelines recommended by the ABA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Peter Crane, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1634

RIN: 3150-AC78

3874. TWENTY-FOUR HOUR NOTIFICATION OF INCIDENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: This rulemaking would amend 10 CFR Part 20.403(a) and (b) to clarify the licensees' reporting requirements. While 10 CFR 20.403(a) and (b) are reasonably clear in terms of licensee reporting requirements for events involving "exposures" and "releases" of radioactive materials, these sections are not clear concerning events involving "loss of operation" and "damage to property." "Loss of operation" should be clarified in terms of loss of use of facilities, devices or equipment. "Damage to property" should be clarified to include contamination clean-up if the corrective action is equal to or greater than a certain cost. In addition, the rulemaking should also define "immediate" in actual time, e.g., within 1 hour, for reporting requirements.

This rulemaking action will clarify a current Commission regulation; there is no other appropriate procedure to accommodate the clarification. This rulemaking activity is considered to be a high priority item by NMSS.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: The health and safety of the public will be better protected because improved reporting requirements will reduce the potential risk of exposure to radiation from damaged or contaminated material. Clarifying the reporting requirements will simplify regulatory functions and free the staff from unnecessary additional investigation and, at the same time, protect the industry from unnecessary and unexpected fines. The offices of OE, NMSS, and RES are significantly affected by this clarification. ARM and the regions are affected, but to a much lesser degree.

Agency Contact: Joseph J. Mate, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3795

RIN: 3150-AC91

3875. ● PALLADIUM-103 FOR THE INTERSTITIAL TREATMENT OF CANCER

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning the medical use of byproduct material to add Palladium-103 sealed source as seeds to the list of sources permitted for use in cancer treatment under 10 CFR 35.400. Under current NRC regulations. Each potential user would be required to obtain a license amendment before they would be permitted to use Palladium-103 seeds in brachytherapy. The proposed rule, developed in response to a petition for rulemaking (PRM-35-7), would allow the use of Palladium-103 seeds by each potential user, about 700 licensees, without requiring each user to obtain a license amendment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3797

RIN: 3150-AD11

3876. LICENSEES AND RADIATION SAFETY REQUIREMENTS FOR LARGE IRRADIATORS

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 036

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission is developing regulations to specify radiation safety requirements and license requirements for the use of licensed radioactive materials in large irradiators. Irradiators use gamma radiation to irradiate products to change their characteristics in some way. The requirements would apply to large panoramic irradiators (those in which the radioactive sources and the material being irradiated are in a room that is accessible to personnel while the source is shielded) and certain large self-contained irradiators in which the source always remains under water. The rule would not cover small self-contained irradiators, instrument calibrators, medical uses of sealed sources (such as teletherapy), or non-destructive testing (such as industrial radiography).

The alternative to a regulation is continuing to license irradiators on a case-by-case basis using license conditions. The formalization would make the NRC's requirements better understood and possibly speed the licensing of irradiators. Development of the rule will require 2 staff-years.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	05/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Stephen A. McGuire, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3757

RIN: 3150-AC98

3877. SAFETY RELATED AND IMPORTANT TO SAFETY IN 10 CFR PART 50

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission proposes to clarify its regulations on the use of the terms "important to safety" and "safety related" by adding definitions of these two terms and of "facility licensing documents" to 10 CFR Part 50 and by discussing how these definitions will be applied in NRC licensing reviews. Significant issues concerning the meaning of these terms as they are used in this part have arisen in Commission licensing proceedings. This proposed rule would define these terms and clarify the nature and extent of their effect on quality assurance requirements, thereby resolving these issues.

Rulemaking was chosen as the method of resolving this issue as a result of the Commission's directive to resolve the issue by rulemaking contained in the Shoreham licensing decision (CLI-84-9, 19 NRC 1323, June 5, 1984).

A position paper requesting approval of the staff proposed definitions and additional guidance from the Commission was signed by the EDO on May 29, 1986. In addition to rulemaking, the position paper discusses the alternative of the Commission (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: issuing a policy statement concerning the definitions and their usage.

Since the proposed rule is only clarifying existing requirements, there is no impact on the public or the industry as a result of this rulemaking. It is anticipated that the NRC will expend 3.2 to 4.4 staff years in developing the final rule over a two year period. The manpower and time frame will depend on Commission guidance received on

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the extent to which 10 CFR usage of the terms is to be consistent, i.e., 10 CFR Part 50 only or all of 10 CFR. The timetable for this rule is on hold based on a decision by the Commission.

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3729

RIN: 3150–AB88

3878. ● CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (ASME CODE, SECTION XI, DIVISION 1, SUBSECTION IWE)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would incorporate by reference Subsection IWE, "Requirements for Class MC Components of Light-Water Cooled Power Plants," of Section XI (Division 1) of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code). Subsection IWE provides the rules and requirements for inservice inspection, repair, and replacement of Class MC pressure retaining components and their integral attachments, and of metallic shell and penetration liners of Class CC pressure retaining components and their integral attachments in light-water cooled power plants.

Incorporation by reference of Subsection IWE will provide systematic examination rules for containment structure for meeting Criterion 53 of the General Design Criteria (Appendix A of 10 CFR Part 50) and Appendix J of 10 CFR Part 50. Age-related degradation of containments has occurred, and additional and potentially more serious degradation mechanisms can be anticipated as nuclear power plants age. (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: If the NRC did not take action to endorse the Subsection IWE rules, the NRC position on examination practices for containment structure would have to be established on a case-by-case basis and improved examination practices for steel containment structures might not be implemented. The other alternatives of incorporating these detailed examination requirements into the American National Standard ANSI/ANS 56.8-1981 or into Appendix J are not feasible.

Incorporating by reference the latest edition and addenda of Subsection IWE will save applicants/licensees and the NRC staff both time and effort by providing uniform detailed criteria against which the staff can review any single submission. Adoption of the proposed amendment would permit the use of improved methods for containment inservice inspection.

Agency Contact: Wallace E. Norris, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3938

RIN: 3150–AC93

3879. PRESSURIZED THERMAL SHOCK RULE

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The Pressurized Thermal Shock (PTS) Rule, published July 23, 1985, established a screening criterion, a limit on the degree of radiation embrittlement of PWR reactor vessel beltline materials beyond which operation cannot continue without additional plant-specific analysis. The rule prescribes how to calculate the degree of embrittlement as a function of the copper and nickel contents of the controlling material and the neutron fluence. The proposed amendment revises the calculative procedure to be consistent with that given in Revision 2 of Regulatory Guide 1.99. The guide provides an updated correlation of embrittlement data, which received CRGR approval for publication in final form on December 9, 1987.

The need to amend the PTS rule to be consistent with the guide became apparent when it was found that some medium-copper, high-nickel materials embrittlement is worse now than predicted using the PTS rule. A number of PWR's will reach the screening criterion sooner than previously thought, and three plants will need to make plant-specific analyses (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: in the next 10 years. Therefore, a high priority is being given to this effort.

An unacceptable alternative to this amendment from the safety standpoint is to leave the present PTS rule in place. The staff's plant-by-plant analyses found four plants whose reference temperatures are 52 to 68 degrees F higher than previously thought, based on the present rule. This is beyond the uncertainties that were felt to exist when the proposed rule was published. Another unacceptable alternative that has been evaluated is to change the calculative procedure for the reference temperature and also change the screening criterion. Failure probabilities for the most critical accident scenarios in three plants, when recalculated using the new embrittlement estimates, were somewhat lower, but were quite dependent on the plant configuration and the scenario chosen. Furthermore, the screening criterion was based on a variety of considerations besides the probabilistic analysis. Reopening the question of where to set the screening criterion was not considered productive because of plant-to-plant differences.

Agency Contact: Pryor N. Randall, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3842

RIN: 3150–AD01

3880. ● CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (ASME CODE, 1986/1987 ADDENDA)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would incorporate by reference the 1986 Addenda and 1987 Addenda to the 1986 Edition of Section III, Division 1, and

Section XI, Division 1, of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code). In addition, an editorial revision is proposed that would separate the requirements for inservice testing from those for inservice inspection by placing the requirements for inservice testing in a separate paragraph. The ASME Code provides rules for the construction of light-water-reactor nuclear power plant components in Section III, Division 1, and provides rules for the inservice inspection and inservice testing of those components in Section XI, Division 1.

The proposed rule would update the existing reference to the ASME Code and would thereby permit the use of improved methods for the construction, inservice inspection, and inservice testing of nuclear power plant components. Incorporating by reference the latest addenda of the ASME Code would save applicants applicants/licensees and the NRC staff both time and effort by providing uniform detailed criteria against which the (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: staff could review any single submission.

This action will be handled as a routine updating of 10 CFR 50.55a of the NRC regulations. There is no reasonable alternative to rulemaking action. The proposed amendment will be issued for public comment. The task to develop and publish the proposed amendment is scheduled for a period of 7.5 months with an estimated staff effort of 400 p-hrs. This is a priority A rulemaking.

Agency Contact: Gilbert C. Millman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3848

RIN: 3150–AD05

3881. ● MINOR AMENDMENTS TO PHYSICAL PROTECTION REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 070; 10 CFR 072; 10 CFR 073; 10 CFR 075

Legal Deadline: None

Abstract: The Safeguards Interoffice Review Group (SIRG) of the NRC has been conducting a systematic review of the agency's safeguards regulations and guidance documents. This review has identified areas in the regulations that are out of date, susceptible to differing interpretations, or in need of clarification. In addition, the staff has identified other areas in the regulations where minor changes are warranted. In response to these efforts, specific amendments to the regulations are being proposed. The proposed changes would: (1) limit the use of the 100 rems per hour at 3 feet dose exemption to a reduction of no more than one physical protection category and not allow a drop below the lowest category, (2) add definitions for common terms not currently defined by frequent use, (3) delete action dates that no longer apply, (4) correct outdated terms and cross references, (5) clarify wording that is susceptible to differing interpretations, (6) correct typographical errors, and (7) make other minor changes.(cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: The alternative to rulemaking would be to allow the status quo to continue. Except for the change in the impact of a high radiation field on physical protection requirements, these minor amendments affect the public, industry and the NRC only in so far as they make the regulations easier to understand, implement, and enforce. Limiting the use of the 100 rem per hour at 3 feet dose exemption to a reduction of no more than one physical protection category, and not allowing a drop below the lowest category, could affect two non-power reactor licensees. It is estimated that 0.4 staff-years of NRC effort over 2 years will be required for the rulemaking. This is a low priority rulemaking.

Agency Contact: Stan Dolins, Nuclear Regulatory Commission, Washington, DC 20555, 301 492-3745

RIN: 3150–AD03

3882. STORAGE OF SPENT NUCLEAR FUEL IN NRC APPROVED CASKS AT CIVILIAN NUCLEAR POWER REACTOR SITES

Legal Authority: 42 USC 10153; 42 USC 10198

CFR Citation: 10 CFR 72; 10 CFR 73; 10 CFR 74; 10 CFR 170

Legal Deadline: None

Abstract: The proposed rule is in response to the Nuclear Waste Policy Act (NWPA) section 218 (a) which states in part, that the Secretary of DOE shall establish a demonstration program, in cooperation with the private sector, for dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the Commission may, by rule, approve for use at sites of civilian nuclear power reactors. The NWPA also requires that the NRC establish procedures for the licensing of any technology approved by the Commission under section 218(a) for use at the site of any civilian nuclear power reactor.

The staff anticipates a significant increase in the demand for use of dry spent fuel storage casks starting in the early 1990s, thus processing of this proposed rule would be timely. NRC resource requirements are anticipated to be about two staff years.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William R. Pearson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3764

RIN: 3150–AC76

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3883. ● NRC ACQUISITION REGULATION (NRCAR)

Legal Authority: 42 USC 2201; 41 USC 401

CFR Citation: 48 CFR 020

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish provisions unique to the NRC concerning the acquisition of goods and services. The NRC Acquisition Regulation is necessary to implement and supplement the government-wide Federal Acquisition Regulation. This action is necessary to ensure that the regulations governing the procurement of goods and services within the NRC satisfy the needs of the agency. The NRC Acquisition Regulation implements the Federal Acquisition Regulation within the agency and includes additional policies, procedures, solicitation provisions, or contract clauses needed to meet specific NRC needs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ronald D. Thompson, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-9647

RIN: 3150–AC01

NUCLEAR REGULATORY COMMISSION (NRC) — Final Rule Stage

3884. RADIOACTIVE WASTE BELOW REGULATORY CONCERN; GENERIC RULEMAKING

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 2; 10 CFR 20

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) sought comments on a proposal to amend NRC regulations to address disposal of radioactive wastes that contain sufficiently low quantities of radionuclides that their disposal does not need to be regulated as radioactive.

The NRC has already published a policy statement providing guidance for filing petitions for rulemaking to exempt individual waste streams (August 29, 1986; 51 FR 30839). It is believed that generic rulemaking could provide a more efficient and effective means of dealing with disposal of wastes below regulatory concern. Generic rulemaking would supplement the policy statement which was a response to Section 10 of the Low-Level Radioactive Policy Amendments Act of 1985 (Pub. L. 99-240). The public was asked to comment on 14 questions. The ANPRM requested public comment on several alternative approaches that the NRC could take. The evaluation of public comment together with the results from a proposed research contract will help to determine whether and how NRC should proceed on the matter.

Timetable:

Action	Date	FR Cite
ANPRM	12/02/86	51 FR 43367
ANPRM Comment Period End	03/02/87	51 FR 43367

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stanley Neuder, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3737

RIN: 3150–AC35

3885. LICENSEE ACTION DURING NATIONAL SECURITY EMERGENCY

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would allow a licensee during a national security emergency to deviate from a license condition or a technical specification. The Commission previously has granted authority to nuclear power reactor licensees to take reasonable action that departs from a license condition or a technical specification in an emergency when the action is immediately necessary to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent. This proposed rule will provide the same flexibility to licensees, but for the purpose of attaining national security objectives during a declared national emergency due to nuclear war or natural disaster.

The proposed rule change does not significantly impact state and local governments, health, safety, and the environment; or costs to licensees.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27174
NPRM Comment Period End	08/18/88	53 FR 27174

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joan Aron, Nuclear Regulatory Commission, Office of Assessment and Evaluation of Operational Data, Washington, DC 20555, 301 492-9001

RIN: 3150–AC83

3886. PROCEDURES INVOLVING THE EQUAL ACCESS TO JUSTICE ACT: IMPLEMENTATION

Legal Authority: 5 USC 504

CFR Citation: 10 CFR 1; 10 CFR 2

Legal Deadline: None

Abstract: The proposed rule would implement the Equal Access to Justice Act (EAJA) by providing for the payment of fees and expenses to certain eligible individuals and businesses that prevail in agency adjudications when the agency's position is determined not to have been substantially justified. This proposed regulation is modeled after rules issued by the Administrative Conference of the United States (ACUS) and have been modified to conform to NRC's established rules of practice. The proposed rule would further the EAJA's intent to develop government-wide, "uniform" agency regulations and would describe NRC procedures and requirements for the filing and disposition of EAJA applications. A draft final rule was sent to the Commission in June 1982, but Commission action was suspended pending a decision by the Comptroller General on the availability of funds to pay awards to intervenor parties. This issue was also the subject of litigation in Business and Professional People for the Public Interest v. NRC, 793 F. 2d 1366 (D.C. Cir. 1986). This litigation is being evaluated to determine what if any changes may be necessary in the proposed rule. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/28/81	46 FR 53189
NPRM Comment Period End	11/28/81	46 FR 53189

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Additionally, in August 1985, the President signed into law an enactment renewing the EAJA after its expiration under a statutory sunset requirement. This legislation, Pub. L. No. 99-80 revises the EAJA, and these revisions are being evaluated to determine whether further conforming changes may be necessary in the proposed rule.

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1634

RIN: 3150–AA01

3887. MODIFICATIONS TO THE NRC HEARING PROCESS (LIMITED INTERROGATORIES AND FACTUAL BASIS FOR CONTENTIONS)

Legal Authority: 42 USC 2239

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed rule would expedite conduct of NRC adjudicatory proceedings by requiring intervenors in formal NRC hearings to set forth the facts on which contentions are based and the sources or documents used to establish those facts and limit the number of interrogatories that a party may file in an NRC proceeding. The proposed rule would expedite the hearing process by, among other things, requiring intervenors to set forth at the outset the facts upon which their contention is based and the supporting documentation to give other parties early notice of intervenor's case so as to afford opportunity for early dismissal of contentions where there is no factual dispute. Expediting the hearing process should ultimately provide cost savings to all participants in the process. The content of this rule is being considered as part of the regulatory reform rulemaking package.

Timetable:

Action	Date	FR Cite
NPRM	06/08/81	46 FR 30349
NPRM Comment Period End	06/29/81	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen D. Cyr, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1637

RIN: 3150–AA05

3888. NEPA REVIEW PROCEDURES FOR GEOLOGIC REPOSITORIES FOR HIGH-LEVEL WASTE

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 02; 10 CFR 51; 10 CFR 60

Legal Deadline: None

Abstract: The proposed rule would provide procedures for performing an environmental review of High Level Waste (HLW) geologic repositories. Part 51 contains no provisions for the environmental review of a license application for a HLW repository. The Nuclear Waste Policy Act of 1982 established requirements for environmental reviews which are at variance with the environmental reviews that the NRC performs in licensing other types of nuclear facilities. This issue must be addressed in order to avoid delay in the U.S. HLW Program. The proposed rule would benefit the public, industry, and NRC by clarifying licensing procedures, thus avoiding case determinations and possible litigation during HLW geologic repository licensing. Minor revisions to Part 60 will be necessary to conform to the environmental requirements of the NWPA.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16131
NPRM Comment Period End	08/03/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James R. Wolf, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1641

RIN: 3150–AC04

3889. ISSUANCE OR AMENDMENT OF POWER REACTOR LICENSE OR PERMIT FOLLOWING INITIAL DECISION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's "immediate effectiveness" regulation that specifies when an initial adjudicatory decision authorizing the issuance or amendment of a license or permit becomes effective. The proposed rule would (1) remove the existing provision governing the effectiveness of initial decisions regarding power reactor construction permits and (2) revise the Commission's existing practice regarding "effectiveness reviews" for full-power operating licenses. The proposed rule also would delete language in the existing regulation emanating from Three Mile Island-related regulatory policies, for which action has now been completed.

The proposed rule supersedes two prior proposed rules entitled "Possible Amendments to 'Immediate Effectiveness' Rules," published May 22, 1980 (45 FR 43279), and "Commission Review Procedures for

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Power Reactor Construction Permits; Immediate Effectiveness Rule," published October 25, 1982 (47 FR 47260).

Timetable:

Action	Date	FR Cite
NPRM	02/04/87	51 FR 3442
NPRM Comment Period End	05/06/87	51 FR 11475

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1634

RIN: 3150–AC15

3890. RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS—PROCEDURAL CHANGES IN HEARING PROCESS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission (NRC) is considering amendments to its rules of practice which address the following aspects of the hearing process: admission of contentions, discovery against NRC staff, use of cross examination plans, timing of motions for summary disposition and limitations on matters and issues that may be included in proposed findings of fact or conclusions of law, or in an appellate brief submitted by a person who does not have the burden of proof or who has only a limited interest in the proceeding. These proposals were initially developed by the Regulatory Reform Task Force and published for public comment, together with a number of other proposals, as suggestions for procedural changes in the licensing of nuclear power plants (49 FR 14698; April 12, 1984). The Commission has decided not to proceed with the April 1984 proposals, except to the extent that they were included in this proposed rule. Therefore, the April 1984 proposals have been deleted from the regulatory agenda.

The NRC is also considering related amendments on the process of intervention that were developed by former Commissioner (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/03/86	51 FR 24365
NPRM Comment Period End	10/17/86	51 FR 31340

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Asselstine. The staff is analyzing public comments received on the proposals and expects to forward a recommendation for the Commission's consideration.

Agency Contact: Karen D. Cyr, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1637

RIN: 3150–AC22

3891. ● RULE ON THE SUBMISSION AND MANAGEMENT OF RECORDS AND DOCUMENTS RELATED TO THE LICENSING OF A GEOLOGIC REPOSITORY FOR THE DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 002; 10 CFR 060

Legal Deadline: None

Abstract: The Nuclear Waste Policy Act (NWPA) provides three years for the NRC to reach a decision on construction authorization for a high-level waste repository. In order for the NRC to be able to make its decision within the allotted time, ready access to all pertinent records must be assured to all parties in the licensing proceeding. The DOE has committed to develop an electronic information management system to be used for the licensing proceeding. The NRC staff intends to use the process of negotiated rulemaking to develop a proposed rule that would revise the Commission's discovery procedure and motion practice in 10 CFR Part 2 for the high-level waste licensing proceeding. This rule would require the DOE license application and all supporting records to be provided in a standardized electronic format. All parties to the licensing proceeding would be required to submit all relevant data to this system. In turn, all parties would have access to the data base.

Resource estimates currently under development.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44411
NPRM Comment Period End	12/05/88	
Final Action	04/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Francis X. Cameron, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1623

RIN: 3150–AD02

3892. STANDARDS FOR PROTECTION AGAINST RADIATION

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: Radiation protection philosophy and technology have changed markedly since the present Part 20 was promulgated nearly thirty years ago. Since Part 20 contains the NRC standards for protection against radiation that are used by all licensees and affects exposures of workers and members of the public, it should be the most basic of the NRC regulations. However, because the present Part 20 has become outdated, most radiation protection actions occur through licensing actions independent of Part 20. A complete revision is necessary to provide better assurance of protection against radiation; establish a clear health protection basis for the limits; reflect current information on health risk, dosimetry, and radiation protection practices and experience; provide NRC with a health protection base from which it may consider other regulatory actions taken to protect public health; be consistent with recommendations of world authorities (ICRP); and apply to all licensees in a consistent manner.

Alternatives to the complete revision considered were no action; (cont)

Timetable:

Action	Date	FR Cite
ANPRM	03/20/80	45 FR 18023
ANPRM Comment Period End	06/18/80	45 FR 18023
NPRM	12/20/85	50 FR 51992
NPRM Comment Period End	10/31/86	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: delay for further guidance, and partial revision of the standards. These were rejected as ignoring scientific advancements, being unresponsive to international and national guidance, and correcting only some of the recognized problems with the present Part 20.

Benefits would include updating the regulations to reflect contemporary scientific knowledge and radiation protection philosophy; implementing regulations which reflect the ICRP risk-based rationale; reducing lifetime doses to individuals receiving the highest exposures; implementing provisions for summation of doses from internal and external exposures; providing clearly identified dose limits for the public; and providing an understandable health-risk base for protection.

Initial estimates of the cost of implementing the revision is about $33 million for all NRC and Agreement State licensees in the initial year and about $8 million in each subsequent year. This cost does not include any savings which might also be realized by the revision.

Agency Contact: Harold Peterson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3640

RIN: 3150–AA38

3893. DISPOSAL OF WASTE OIL BY INCINERATION FROM NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 2167; 42 USC 2073

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The proposed rule, which is being initiated in partial response to a petition filed by Edison Electric Institute and Utility Nuclear Waste Management Group (PRM-20-15, dated July 31, 1984), would amend NRC regulations to allow onsite incineration of waste oil at nuclear power plants subject to specified conditions. Currently, the only approved disposal method for low-level, radioactively contaminated waste oil from nuclear power plants involves absorption or solidification, transportation to, and burial at a licensed disposal site. There is a clear need to allow, for very low activity level wastes, the use of alternative disposal methods which are more cost effective from a radiological health and safety standpoint and which conserve the limited disposal capacity of low-level waste burial sites.

Increased savings to both the public and the industry could thereby be achieved without imposing additional risk to the public health and safety. There would be an estimated industry-wide economic savings of approximately $3 million to $12 million per year if such a rule were promulgated. (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/29/88	53 FR 32914
NPRM Comment Period End	10/28/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Alternatives to this rulemaking action are to maintain the status quo or to wait until the Environmental Protection Agency develops standards on acceptable levels of radioactivity which may be released to the environment on an unrestricted basis. It is estimated that approximately 1-2 person years of NRC staff time will be required to process this rule.

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3638

RIN: 3150–AC14

3894. PROPOSED REVISIONS TO THE CRITERIA AND PROCEDURES FOR THE REPORTING OF DEFECTS AND NONCOMPLIANCE

Legal Authority: 42 USC 2201; 42 USC 2282; 42 USC 5841; 42 USC 5846

CFR Citation: 10 CFR 21; 10 CFR 50

Legal Deadline: None

Abstract: This proposed rule would amend Part 21 and sec. 50.55(e), both of which require the reporting of safety defects by licensees. In addition, Part 21 requires reporting by non-licensees. This proposed amendment was prompted by TMI Action Plan Task II, J.4, and NRC staff experience with Part 21 and section 50.55 (e) reporting. The main objectives of the rulemaking effort are: (1) elimination of duplicate evaluation and reporting of safety defects; (2) consistent threshold for safety defect reporting in Part 21 and section 50.55(e); (3) establishment of consistent and uniform content of reporting under Part 21 and section 50.55 (e) and (4) establishment of consistent time limits for reporting defects.

Approximately 300 reports are submitted to the Commission annually under Part 21. Approximately 900 reports are submitted to the Commission annually under section 50.55 (e). These reports identify both plant-specific and generic safety defects for further NRC regulatory action. Under current rules, these reports have formed the basis for NRC issuance of numerous NRC generic communications. (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44594
NPRM Comment Period End	01/03/89	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Alternatives to this rulemaking approach which were considered, varied from establishment of a single rule for all reporting of safety defects and operating reactors events to maintaining status quo for defect reporting. All alternatives were rejected since they would not substantially

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improve the current safety defect reporting situation.

Current costs of reporting under Part 21 and section 50.55 (e) are estimated at $6.67 million annually for industry and $670,000 annually for NRC evaluations. It is anticipated that the annual industry reporting burden should be reduced by approximately $1.0 million; while NRC burden should remain the same. Additional industry burden, though minimal, is anticipated in the area of reissuing procedures for reporting and record keeping.

Agency Contact: William R. Jones, Nuclear Regulatory Commission, Office of Analysis and Evaluation of Operational Data, Washington, DC 20555, 301 492-4442

RIN: 3150–AA68

3895. FITNESS FOR DUTY PROGRAM

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The proposed rule would create a new part to the Commission's regulations to require licensees authorized to operate nuclear power reactors to implement a fitness for duty program that will provide reasonable assurance that activities associated with nuclear power plant operations are carried out in an environment that is free from the effects of alcohol and drug abuse. The proposed rule provides for basic fitness for duty program elements such as the development of written policy and procedures, provisions for the training of supervisors and employees, standards for drug testing requirements for employee assistance programs, management actions, and appeal procedures.

The proposed rule represents the culmination of several years of effort in developing a fitness for duty program. On August 5, 1982, the Commission published a proposed rule (47 FR 33980). Based on comments received and staff analysis, final rulemaking was deferred and a policy statement was published on August 4, 1986 (51 FR 27921). On December 1, 1987, the Commission was briefed on the experiences gained to date under the policy statement and on the status of implementation. The Commission

Timetable:

Action	Date	FR Cite
NPRM	09/22/88	53 FR 36795
NPRM Comment Period End	11/21/88	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: then requested the staff to prepare a new proposed rule.

The estimated incremental cost to industry is between $160.7 million and $243.3 million for the life of the current plants. NRC costs to review and oversee implementation and operation of the programs will involve 6 staff persons for a cost between $4 million and $6 million for a 25-year period.

Agency Contact: Loren L. Bush, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-0944

RIN: 3150–AC81

3896. EMERGENCY PREPAREDNESS FOR FUEL CYCLE AND OTHER RADIOACTIVE MATERIALS LICENSEES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70

Legal Deadline: None

Abstract: The proposed rule would require about 30 fuel cycle and other radioactive materials licensees to submit an emergency plan that would, among other actions, require the notification of local authorities in case of an accident and that the licensee recommend protective actions for the public. The proposed rule is intended to further protect the public from accidental exposure to radiation. The affected licensees are those whose possession limits indicate the potential for an accident that could deliver a radiation dose offsite exceeding one rem effective dose equivalent or 5 rems to the thyroid or could cause a soluble uranium inhalation of 2 milligrams (a chemical toxicity hazard).

Currently, the proposed requirements are, for the most part, required by order. However, the Commission decided that a regulation was needed for the long term. The cost of the rule to licensees was estimated to be between $26,000 and $73,000 per year per licensee. The cost to NRC was estimated to be $4,000 per year per licensee. The NRC will expend about 2 staff-years of effort to promulgate the rule.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/81	46 FR 29712
ANPRM Comment Period End	08/03/81	46 FR 29712
NPRM	04/20/87	52 FR 12921
NPRM Comment Period End	07/20/87	52 FR 12921

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Agency Contact: Michael Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3918

RIN: 3150–AA41

3897. INFORMAL HEARING PROCEDURES FOR MATERIALS LICENSES PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2111

CFR Citation: 10 CFR 02

Legal Deadline: None

Abstract: This proposed rule, being prepared at Commission direction, would provide comprehensive treatment of hearing procedures to be implemented by the Commission for materials licensing proceedings. There are no reasonable alternatives to rulemaking for implementing these informal hearing procedures. The procedures are expected to reduce the economic burden imposed on a participant in a proceeding.

Timetable:

Action	Date	FR Cite
NPRM	05/29/87	52 FR 20089
NPRM Comment Period End	08/28/87	52 FR 27821

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1634

RIN: 3150–AB83

3898. SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC EQUIPMENT

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233

CFR Citation: 10 CFR 34

Legal Deadline: None

Abstract: The proposed rule would amend the present regulations to establish performance standards for industrial radiography exposure devices. Overexposures of radiographers (and occasionally the general public) are more than double that of other radiation workers and have been a concern to the NRC for some time. Approximately 25-35% of the radiography overexposures are associated with equipment malfunction. The issue of safety requirements for these devices is a primary concern since the devices use relatively high intensity, high energy gamma-ray emitting sources with the potential for serious overexposures. Although a consensus standard for radiographic exposure devices was published in 1981 (American National Standard N432), it is not clear that all manufacturers are adopting the standard.

The alternatives considered were to take no action at this time, amend the regulations to require performance standards for radiographic devices plus a requirement for radiographers to wear alarm dosimeters and simultaneously issue a regulatory guide endorsing the consensus standard, supplemented by such other performance standards deemed necessary, and incorporate (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/15/88	53 FR 8460
NPRM Comment Period End	08/16/88	53 FR 18096
Final Action	04/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: the consensus standard by reference in the regulations supplemented by such other performance standards as deemed necessary, plus a requirement for radiographers to wear alarm dosimeters.

The proposed rule would require licensees to modify radiographic devices to meet the performance standards through design changes and quality control procedures. Costs of incorporating the proposed changes are estimated to be a one-time cost of $1,625 per licensee to purchase alarm dosimeters and $850 annually for replacement of devices and alarm dosimeters, annual calibration of dosimeters, and annual maintenance costs. Determination of the benefits to be derived from the proposed rule are difficult to determine on a monetary basis, but the potential hazards that might be averted include radiation sickness, injury, and even death. NRC resources required for processing this rule to final publication are estimated to be 0.4 person-years.

Agency Contact: Donald O. Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3628

RIN: 3150–AC12

3899. PRIMARY REACTOR CONTAINMENT LEAKAGE TESTING FOR WATER-COOLED POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would update and revise the 1973 criteria for preoperational and periodic pressure testing for leakage of primary containment boundaries of water-cooled power reactors. Problems have developed in application and interpretation of the existing rule. These result from changes in testing technology, test criteria, and a relevant national standard that needs to be recognized.

The revision is urgently needed to resolve continuing conflicts between licensees and NRC inspectors over interpretations, current regulatory practice that is no longer being reflected accurately by the existing rule, and endorsement in the existing regulation of an obsolete national standard that was replaced in 1981.

The benefits anticipated include elimination of inconsistencies and obsolete requirements, and the addition of greater usefulness and a higher confidence in the leak-tight integrity of containment system boundaries under post-loss-of-coolant accident conditions. The majority of the effort needed by NRC to issue the rule has already been expended. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/29/86	51 FR 39538
NPRM Comment Period End	04/24/87	52 FR 2416

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

A detailed analysis of costs, benefits, and occupational exposures is available in the NRC Public Document Room, and indicates possible savings to industry of $14 million to $300 million and an increase in occupational exposure of less than 1 percent per year per plant due to increased testing.

Agency Contact: Gunter Arndt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3945

RIN: 3150–AA86

3900. EDUCATION AND EXPERIENCE REQUIREMENTS FOR SENIOR REACTOR OPERATORS AND SUPERVISORS AT NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50; 10 CFR 55

Legal Deadline: None

Abstract: The Commission is considering an amendment to its regulations to require that applicants for a senior operator license of a nuclear power plant hold a bachelor's degree in engineering, engineering technology, or physical science from an accredited institution four years after the effective date of this rule. Other bachelor's degrees from an accredited institution may be accepted on a case-

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by-case basis. This contemplated rulemaking action is due to a Commission decision to enhance the levels of engineering and accident management expertise on shift.

The Commission will also issue policy statement concurrently with this rule related to utility implementation of an accredited degree program for reactor operators.

Timetable:

Action	Date	FR Cite
ANPRM	05/31/86	51 FR 19561
ANPRM Comment Period End	09/29/86	
NPRM	12/29/88	53 FR 52716
NPRM Comment Period End	02/27/89	
Final Action	07/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Morton Fleishman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3794

RIN: 3150–AC26

3901. FLOW CONTROL CONDITIONS FOR THE STANDBY LIQUID CONTROL SYSTEM IN BOILING WATER REACTORS

Legal Authority: 42 USC 2136

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would clarify the Commission's regulations pertaining to boiling water reactors (BWR). The current regulations require that all boiling water reactors must have a standby liquid control system (SLCS) with a minimum flow capacity and boron content equivalent in control capacity to 86 gallons per minute (gpm) of 13 weight percent of sodium pentaborate solution. In January 1985, a generic letter was issued to all appropriate licensees that provided clarification of the phrase "equivalent in control capacity" contained in 10 CFR 50.62 (c) (4). This letter provided the basis for the flow and weight percent of sodium pentaborate decahydrate requirements and described how equivalency could be achieved for smaller plants. The NRC staff considers the contents of the generic letter to be technically correct and desires that this position be established in the regulations.

This proposed rule would clarify a Commission regulation; thus no other procedure is appropriate. The technical proposals in the rule were analyzed for safety as part of the original rulemaking procedure, although they were not specifically mentioned. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/24/88	53 FR 41607
NPRM Comment Period End	12/23/88	
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: This rule will not adversely affect the health and safety of the public.

Agency Contact: William R. Pearson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3764

RIN: 3150–AC72

3902. ENSURING THE EFFECTIVENESS OF MAINTENANCE PROGRAMS FOR NUCLEAR POWER PLANTS

Legal Authority: 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would provide functional requirements for the maintenance of nuclear power plants and allow industry initiatives to develop the details of maintenance programs to meet such requirements. The proposed rule would apply to all components, systems and structures of nuclear power plants and wold be applicable to existing and future plants. The proposed rule would also require each licensee to develop, implement and maintain a maintenance program, and to formally commit to follow the program.

The scope of maintenance activities addressed in the rule will be within the framework of the Commission's Policy Statement on Maintenance of Nuclear Power Plants which was issued on March 23, 1988 (53 FR 9430).

It is estimated that about 3 staff-years of effort and $600,000 for contract services will be required to process the final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/28/88	53 FR 47822
NPRM Comment Period End	01/27/89	
Final Action	06/15/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Moni Dey, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3730

RIN: 3150–AD00

3903. TABLES S-3 AND S-4, ADDITION OF RADON-222 AND TECHNETIUM-99 RADIATION VALUES, AND ADDITION OF APPENDIX B, "TABLE S-3 EXPLANATORY ANALYSIS"

Legal Authority: 42 USC 2011; 42 USC 2201; 42 USC 4321; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 51

Legal Deadline: None

Abstract: The proposed rule provides a narrative explanation of the numerical values established in Table S-3, "Table of Uranium Fuel Cycle Environmental Data," that appears in the Commission's environmental protection regulations. The proposed rule describes the basis for the values contained in Table S-3, the significance of the uranium fuel cycle data in the table, and the conditions governing the use of the table. The proposed rule amends Section 51.52 to modify the enrichment value of U-235 and the maximum level of average fuel irradiation. The narrative explanation also addresses important fuel cycle impacts and the cumulative impacts of the nuclear fuel cycle for the whole nuclear power industry so that it may be possible to consider these impacts generically rather than repeatedly in individual licensing proceedings, thus reducing litigation time and costs for both NRC and applicants.

The proposed revision of 10 CFR 51.51 and the addition of Appendix B was published for public review and comment on March 4, 1981 (46 FR 15154). The final rulemaking was deferred pending the outcome of a suit (Natural Resources Defense Council, et al. v. NRC, No. 74-1486) in the U.S. Circuit) decision of (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	46 FR 15154
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: April 27, 1982, invalidated the entire Table S-3 rule. The Supreme Court reversed this decision on June 6, 1983. The proposed rule to provide an explanatory analysis for Table S-3 has been revised to reflect new developments during the time the rulemaking was deferred. Final action on the Table S-3 rule was held in abeyance until new values for radon-222 and technetium-99 could be added to the table and covered in the narrative explanation. The rule is being reissued as a proposed rule because the scope has been expanded to include radiation values for radon-222 and technetium-99 and the narrative explanation has been extensively revised from that published on March 4, 1981 (46 FR 15154).

The staff's estimate is that the completion of a final Table S-3 rule covering the new values for radon-222 and technetium-99 and the revised explanatory analysis will be completed in 1989. A Commission paper presenting the final rulemaking plan and schedule was submitted on August 16, 1986 (SECY 86-242). On September 8, 1986, SECY 86-242 was approved by the Commission.

Agency Contact: Stanley Turel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3739

RIN: 3150–AA31

3904. EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282; 42 USC 4842; 42 USC 5841; 42 USC 5846

CFR Citation: 10 CFR 52

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission is considering adding a new part to its regulations to improve the reactor licensing process. The proposed rule would provide for the issuance of early site permits, standard design certifications, and combine construction permits and conditional operating licenses for nuclear power reactors. The proposed action is intended to achieve the early resolution of licensing issues, thereby enhancing the safety and reliability of nuclear power plants, and reducing the complexity and uncertainty of the licensing process. Early resolution of licensing issues should afford public participation in the licensing process an earlier entry into that process. They are designed to implement as much of the Commission's proposed "Nuclear Power Plant Standardization and Licensing Act of 1987" as is permissible under its existing statutory authority. The proposed legislation is based on an earlier proposal that was developed by the Commission's Regulatory Reform Task Force.

Timetable:

Action	Date	FR Cite
NPRM	08/23/88	53 FR 32060
NPRM Comment Period End	10/24/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Steven Crockett, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-6100

RIN: 3150–AC61

3905. ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA STANDARDS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 60

Legal Deadline: None

Abstract: The Nuclear Waste Policy Act of 1982 (NWPA) directs NRC to promulgate criteria for the licensing of high-level waste (HLW) geologic repositories. Section 121(c) of this act states that these criteria must be consistent with standards to be developed by EPA for the disposal of HLW in deep geologic repositories. The proposed rule is needed in order to eliminate several inconsistencies with the EPA standards, thus fulfilling the statutory requirement.

Because the NWPA directs NRC to eliminate inconsistencies between Part 60 and the EPA standard, the alternatives to the proposed action are limited by statute.

The public, industry, and NRC will benefit from eliminating inconsistencies in Federal HLW regulations. NRC resources needed would be several staff years but will not include contract resources.

Because the Federal Court invalidated the EPA standards, action on this rule, which is in response to the EPA standards, is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	06/19/86	51 FR 22288
NPRM Comment Period End	08/18/86	51 FR 22288

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Melvin Silberberg/Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3810

RIN: 3150–AC03

3906. DISPOSAL OF RADIOACTIVE WASTES

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 61

Legal Deadline: None

Abstract: The Commission instructed the staff to analyze the need to revise the definition of high-level radioactive waste (HLW) in Part 60 to conform with the definition in the Nuclear Waste Policy Act (NWPA). An ANPRM was published on February 27, 1987 (52 FR 5992), which recommended a revision based either wholly or partially on concentrations of radionuclides in the waste. After assessing the public comments on the ANPRM, and also taking into account recent information, the staff is now recommending against any revision of the definition of HLW. Instead, amendments to Part 61 are being recommended that would require geologic repository disposal of all above-Class C low-level radioactive

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waste (LLW) unless an alternative has been approved by the Commission. This would accomplish the objective of establishing suitable disposal requirements for radioactive waste with a minimal impact on cost burdens.

Alternatives are (1) revise the definition of HLW so that additional above Class C LLW is reclassified as HLW; or (2) proceed to develop a waste classification system like that outlined in the ANPRM.

Timetable:

Action	Date	FR Cite
ANPRM	02/27/87	52 FR 5992
ANPRM Comment Period End	06/29/87	52 FR 16403
NPRM	05/18/88	53 FR 17709
NPRM Comment Period End	07/18/88	53 FR 17709
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information:

The public and industry would benefit from this clarification of waste disposal options for above Class C LLW. NRC staff time for preparing this rulemaking is estimated to be two-staff years.

Agency Contact: Melvin Silberberg/Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3810

RIN: 3150–AB89

3907. TRANSPORTATION REGULATIONS: COMPATIBILITY WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 71

Legal Deadline: None

Abstract: The proposed rule, would in conjunction with a corresponding rule change by the U.S. Department of Transportation, make the United States Federal regulations for the safe transportation of radioactive material consistent with those of the International Atomic Energy Agency (IAEA). The IAEA regulations can be found in IAEA Safety Series No. 6 "Regulations for the Safe Transport of Radioactive Material," 1985 Edition.

Consistency in transportation regulations throughout the world facilitates the free movement of radioactive materials between countries for medical, research, industrial, and nuclear fuel cycle purposes. Consistency of transportation regulations throughout the world also contributes to safety by concentrating the efforts of the world's experts on a single set of safety standards and guidance (those of the IAEA) from which individual countries can develop their domestic regulations. Perhaps as important, the accident experience of every country that bases its domestic regulations on those of the IAEA can be applied by every other country with consistent regulations to improve its safety program. The action will be handled as a routine (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/08/88	53 FR 21550
NPRM Comment Period End	03/06/89	53 FR 51289

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: updating of NRC transportation regulations. There is no reasonable alternative to rulemaking action. These changes should result in a minimal increase in costs to affected licensees. Proposed changes to 10 CFR Part 71, based on current IAEA regulations, have been issued for public comment. The task will be scheduled over a 2-year interval ending June 1989 and will consume 2-3 staff years of effort, depending on the number and difficulty of conflicts to be resolved.

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3784

RIN: 3150–AC41

3908. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Legal Authority: 42 USC 2201; 42 USC 2210; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 140

Legal Deadline: None

Abstract: The final rule will revise the Extraordinary Nuclear Occurrence (ENO) criteria to eliminate the problems that were encountered in the Three Mile Island ENO determination. It is desirable to get revised criteria in place in the event they are needed.

There are no alternatives to this rulemaking, as the current ENO criteria are already embodied in Subpart E of 10 CFR Part 140. The only way to modify these criteria, as this rule seeks to do is through rulemaking.

There is no safety impact on public health or safety. The ENO criteria provide legal waivers of defenses. Industry (insurers and utilities) claims that a reduction in the ENO criteria could cause increases in insurance premiums. The final rule would also be responsive to PRM-140-1.

It is estimated that approximately 1 staff year of NRC time will be required to process the final rule. No contract funding is anticipated.

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	09/06/85	50 FR 13978
Final Action	05/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Harold Peterson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3738

RIN: 3150–AB01

3909. ● FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS; MISCELLANEOUS AMENDMENTS NECESSITATED BY CHANGES IN THE PRICE-ANDERSON ACT

Legal Authority: 42 USC 2201; 42 USC 2210; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 140

Legal Deadline: None

Abstract: The proposed rule would implement the statutory requirements of the Price-Anderson Act of 1988. The proposed rule would amend NRC regulations to coincide, as statutorily required, with the increase in the level of the primary layer of insurance provided by private nuclear liability insurance pools. The proposed changes would provide additional insurance to pay public liability claims arising out of a nuclear incident. Because this rule is necessary to implement the recent statutory requirement of the Price Anderson Amendments Act of 1988, there is no suitable alternative to rulemaking for this action.

Timetable:

Action	Date	FR Cite
NPRM	12/20/88	53 FR 51120
NPRM Comment Period End	01/04/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ira Dinitz, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-1289

RIN: 3150–AD08

3910. REASSERTING NRC'S SOLE AUTHORITY FOR APPROVING ONSITE LOW-LEVEL WASTE DISPOSAL IN AGREEMENT STATES

Legal Authority: 42 USC 2201; 42 USC 2021; 42 USC 5841

CFR Citation: 10 CFR 150

Legal Deadline: None

Abstract: This rulemaking would establish NRC's sole authority for approving onsite disposal of low-level waste at all NRC licensed reactors and at Part 70 fuel cycle facilities. There is a need to amend 10 CFR 150.15 to authorize one agency (the NRC) to regulate all onsite disposal of low-level waste in order to provide a more comprehensive regulatory review of all onsite waste management activities and to avoid unnecessary duplication of effort. Uniform review by the NRC will provide for greater assurance that the radioactive material will not present a health hazard at a later date after the site is decommissioned.

Timetable:

Action	Date	FR Cite
NPRM	06/22/88	53 FR 31880
NPRM Comment Period End	10/21/88	
Final Action	06/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Stewart, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3618

RIN: 3150–AC57

3911. DEBT COLLECTION PROCEDURES

Legal Authority: 31 USC 3711; 31 USC 3717; 31 USC 3718; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 15

Legal Deadline: None

Abstract: The proposed rule would amend the regulations concerning the procedures that the NRC uses to collect the debts which are owed to it. The proposed amendments are necessary to conform NRC regulations to the amended procedures contained in the Federal Claims Collection Standards issued by the General Accounting Office and the U.S. Department of Justice. The proposed action is intended to allow the NRC to further improve its collection of debts due to the United States. Because the proposed regulation is necessary to implement the Debt Collection Act of 1982, there is no suitable alternative to rulemaking for this action. No comments were received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	10/07/88	53 FR 39480
NPRM Comment Period End	11/21/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Graham D. Johnson, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7535

RIN: 3150–AC87

3912. EXTENSION OF TIME FOR THE IMPLEMENTATION OF THE DECONTAMINATION PRIORITY AND RELATIONSHIP PROVISIONS OF PROPERTY INSURANCE REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission proposes to amend the implementation schedule or the decontamination priority and trusteeship provisions of its property insurance regulations continued in 10 CFR 50.54(w)(5)(i) to change the effective date from October 4, 1988 to April 1, 1990. This delay in implementation is necessary because the insurers that offer property insurance for power reactors have informed the Commission that they will be unable to include the decontamination priority and trusteeship provisions in their policies within the time currently provided by 10 CFR 50.54(w). Concurrently, the extension of the effective date of the rule will allow the NRC to consider recently submitted petitions for rulemaking that propose changes to improve the efficacy of the NRC's decontamination priority and trust provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/19/88	53 FR 36338
NPRM Comment Period End	10/19/88	
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert S. Wood, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-1280

RIN: 3150–AC94

3913. ● FREEDOM OF INFORMATION ACT; APPEAL AUTHORITY FOR DEPUTY EXECUTIVE DIRECTOR FOR OPERATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 009

Legal Deadline: None

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NRC — Final Rule Stage

Abstract: The Nuclear Regulatory Commission is amending its regulations to reflect the recent reorganization within the Office of the Executive Director for Operations. This amendment will permit a Deputy Executive Director for Operations to respond to appeals in lieu of the Executive Director for Operations.

Timetable:

Action	Date	FR Cite
Final Action	04/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnie H. Grimsley, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7211

RIN: 3150–AD14

3914. ● ACCESS TO SAFEGUARDS INFORMATION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: This final rule would amend the Commission's requirements for access to Safeguards Information to conform with a provision of Pub. L. 99-399, "The Omnibus Diplomatic Security and Anti-Terrorism Act of 1986." The provision of the law requires nuclear power reactor licensees and applicants to conduct Federal Bureau of Investigation criminal history checks of certain individuals with access to information protected as Safeguards Information. This technical amendment cross references 10 CFR 73.21 and 10 CFR 73.57 with respect to individuals authorized access to safeguards information by power reactor applicants and licensees. Since this amendment contains no new requirements and has been developed solely to achieve internal consistency between NRC regulations and Federal law, notice of proposed rulemaking and public procedures thereon are unnecessary under 5 U.S.C. 553.

Timetable:

Action	Date	FR Cite
Final Action	05/08/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark L. Au, Nuclear Regulatory Commission, Washington, DC 20555, 301 492-3749

RIN: 3150–AD12

NUCLEAR REGULATORY COMMISSION (NRC) — Completed Actions

3915. ● REORGANIZATION OF FUNCTIONS WITHIN THE OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT AND MINOR CORRECTIVE AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 001; 10 CFR 002; 10 CFR 009; 10 CFR 055; 10 CFR 073

Legal Deadline: None

Abstract: The final rule codified nomenclature changes required by a reorganization of NRC staff activities within the Office of Administration and Resources Management. The amendments were necessary to reflect the reorganization of functions reporting to the Deputy Director for Administration. The final rule informed the public of the administrative changes to NRC regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/30/88	53 FR 52993
Final Action Effective	12/30/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnie H. Grimsley, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7211

RIN: 3150–AD09

3916. LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL AND HIGH- LEVEL RADIOACTIVE WASTES

Legal Authority: 42 USC 2021; 42 USC 2071; 42 USC 2073; 42 USC 2077; 42 USC 2093; 42 USC 2095; 42 USC 2099; 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2234; 42 USC 2236; 42 USC 2237; 42 USC 2282

CFR Citation: 10 CFR 2; 10 CFR 19; 10 CFR 20; 10 CFR 21; 10 CFR 51; 10 CFR 70; 10 CFR 72; 10 CFR 73; 10 CFR 75; 10 CFR 150

Legal Deadline: None

Abstract: The final rule revised existing regulations to establish specific licensing requirements for the storage of spent nuclear fuel and high-level radioactive waste in a monitored retrievable storage installation (MRS). The revision will ensure that the Commission has in place the appropriate regulations to fulfill the requirements contained in the Nuclear Waste Policy Act of 1982 concerning the licensing of facilities which could be part of the MRS program. Paragraph (d) of Section 141 of the NWPA requires that any monitored retrievable storage installation pursuant to Section 141 shall be subject to licensing by the Commission. The Commission could await further development of the MRS option before proposing its MRS rules. However, this approach could result in unnecessary delay in reviewing a license application if Congress authorizes construction of an MRS.

There is no appropriate alternative to rulemaking, the vehicle used by NRC to establish its licensing procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/27/86	51 FR 19106
NPRM Comment Period End	08/25/86	51 FR 21560
Final Action	08/19/88	53 FR 3165
Final Action Effective	09/19/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

The basic requirements for storage of spent fuel in an independent spent fuel storage installation currently codified in 10 CFR Part 72 are not being changed, thus no incremental impact on NRC.

NRC — Completed Actions

3917. ACCEPTANCE CRITERIA FOR EMERGENCY CORE COOLING SYSTEM (ECCS) FOR LIGHT WATER NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2132; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The final rule amends regulations concerning acceptance criteria for emergency core cooling systems (ECCS) by allowing the use of realistic methods to demonstrate that an ECCS would protect the nuclear reactor core during a loss-of-coolant accident.

Use of the realistic evaluation model may result in up to a 5 percent power upgrade for some plants. The present value of energy replacement cost savings resulting from a potential upgrade has been estimated to range between $5 and $127 million, depending on the location and age of a specific plant.

Timetable:

Action	Date	FR Cite
ANPRM	12/06/78	43 FR 57157
ANPRM Comment Period End	02/05/79	43 FR 57157
NPRM	03/03/87	52 FR 6334
NPRM Comment Period End	07/17/87	52 FR 6334
Final Action	09/16/88	53 FR 35996
Final Action Effective	10/17/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Harry Tovmassian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3566

RIN: 3150–AA44

3918. ALTERNATIVE METHODS FOR LEAKAGE RATE TESTING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission has amended its regulations to clarify a question of interpretation in regard to leakage testing of containments of light-water cooled nuclear power plants. This amendment explicitly permits the continued use of a statistical data analysis technique that the NRC has considered to be an acceptable method of calculating containment leakage rates.

Timetable:

Action	Date	FR Cite
NPRM	02/29/88	53 FR 5985
NPRM Comment Period End	03/30/88	
Final Action	11/15/88	53 FR 45890
Final Action Effective	11/15/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: E. Gunter Arndt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3945

RIN: 3150–AC54

3919. LICENSEE ANNOUNCEMENT OF INSPECTORS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission has amended its regulations to ensure that the presence of NRC inspectors on power reactor sites is not announced to licensee and contractor personnel without the expressed request to do so by the inspector. This change will allow the NRC inspector, who is badged at the facility, to observe ongoing activities as they are being performed without licensee or contractor personnel having advance notice of the inspection.

Timetable:

Action	Date	FR Cite
NPRM	03/18/88	53 FR 8924
NPRM Comment Period End	04/18/88	53 FR 8924
Final Action	10/25/88	53 FR 42939
Final Action Effective	10/25/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: George Barber, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-1296

RIN: 3150–AC73

3920. CRITERIA AND PROCEDURES FOR EMERGENCY ACCESS TO NON-FEDERAL AND REGIONAL LOW-LEVEL WASTE DISPOSAL FACILITIES

Legal Authority: 42 USC 2021

CFR Citation: 10 CFR 62

Legal Deadline: None

Abstract: The final rule established procedures and criteria for fulfilling NRC's responsibilities associated with action on requests by low-level radioactive waste generators, or State officials on behalf of those generators, for emergency access to operating non-Federal or regional low level radioactive waste disposal facilities under Section 6 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPAA). Section 6 of the LLRWPAA authorizes the NRC to grant emergency access to any non-Federal low-level waste disposal facility, if necessary, to eliminate the immediate and serious threat to the public health and safety of the common defense and security, provided the threat cannot be mitigated by any alternative.

Timetable:

Action	Date	FR Cite
NPRM	12/15/87	52 FR 47578
NPRM Comment Period End	02/12/88	52 FR 47578
Final Action	02/03/89	54 FR 5409
Final Action Effective	03/06/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

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Agency Contact: Janet Lambert, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3857

RIN: 3150–AC24

3921. ● CENTRALIZATION OF MATERIAL CONTROL AND ACCOUNTING RESPONSIBILITIES FOR NON-REACTOR FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 070; 10 CFR 074

Legal Deadline: None

Abstract: The rule amended 10 CFR Parts 70 and 74 to reflect a phased centralization in NRC Headquarters of Regional Material Control and Accounting (MC&A) inspection and 10 CFR 70.32(c) licensing reviews for non-reactor facilities. This centralization was needed because the relatively small annual workload requirements for these functions in a majority of Regions foreclose the possibility of maintaining within each Region the full spectrum of the knowledge, skills and discipline needed for these activities. Centralization in Headquarters will assure the maintenance of a viable and adequate national MC&A inspection program for non-reactor facilities. Nationwide, there are sixteen non-reactor facilities that require MC&A inspections (10 fuel cycle and 6 others). Transfer of MC&A functions from Regions I, III, and V to the Division of Safeguards and Transportation/NMSS is planned to be effective by December 2, 1988. The Region II MC&A program for non-reactor facilities will be phased-out through attrition or over a two-year period, whichever occurs first. Region IV has no affected facilities.

Timetable:

Action	Date	FR Cite
Final Action	02/15/89	54 FR 6876
Final Action Effective	02/15/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

The 10 CFR 70.32(c) licensing reviews will also be centralized in SGTR/NMSS at the same time the MC&A inspection functions are transferred.

Agency Contact: Stan Dolins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3745

RIN: 3150–AD07

3922. SAFEGUARDS REQUIREMENTS FOR FUEL FACILITIES POSSESSING FORMULA QUANTITIES OF STRATEGIC SPECIAL NUCLEAR MATERIAL

Legal Authority: 42 USC 2073; 42 USC 2167; 41 USC 2201; 42 USC 5841; 42 USC 5844

CFR Citation: 10 CFR 73

Legal Deadline: None

Abstract: In a staff requirements memorandum dated June 8, 1987, the Commission directed the staff to publish a proposed rule within 120 days that would implement improved safeguards requirements based on the findings of a review team that compared DOE and NRC safeguards programs (SECY 87-28; CNSI). Primary focus was in the following areas: (1) security system performance evaluations, (2) night firing qualifications for guards, (3) 100 percent entrance searches, (4) armed guards at material access area control points, (5) two protected area fences, and (6) revision of the design basis threat.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	52 FR 49418
NPRM Comment Period End	03/30/88	52 FR 49418
Final Action	11/10/88	53 FR 45447
Final Action Effective	12/12/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Dr. Sandra D. Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3773

RIN: 3150–AC62

3923. RESTRICTIONS AGAINST OWNERSHIP OF CERTAIN SECURITY INTERESTS BY MEMBERS OF ADVISORY COMMITTEE ON NUCLEAR WASTE; GIFTS, ENTERTAINMENT, AND FAVORS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 0

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission amended its regulations governing the ownership by NRC employees of stocks, bonds, and other security interests in companies that fall within any one of five reactor-related or fuel cycle-licensed categories. The group of affected employees now includes those special Government employees who serve as members of the Advisory Committee on Nuclear Waste. The Commission also amended its regulations on acceptance of gifts, entertainment, and favors to permit acceptance of travel expenses from an otherwise prohibited source when proffered in connection with a job interview and to permit acceptance of food and refreshments at widely-attended events sponsored by certain groups whose membership is composed of prohibited sources.

Timetable:

Action	Date	FR Cite
Final Action	09/13/88	53 FR 35301
Final Action Effective	09/13/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Susan Fonner, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1632

RIN: 3150–AC92

3924. RELOCATION OF NRC'S PUBLIC DOCUMENT ROOM; OTHER MINOR NOMENCLATURE CHANGES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 1; 10 CFR 2; 10 CFR 7; 10 CFR 9; 10 CFR 15; 10 CFR 19; 10 CFR 20; 10 CFR 21; 10 CFR 30; 10 CFR 35; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 53; 10 CFR 55; ...

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission has amended its regulations to indicate that its Public Document Room has moved to a new location in the District of Columbia. The hours remain unchanged: 7:45 a.m. to 4:15 p.m. weekdays. These amendments are being made to inform NRC licensees and members of the public of this relocation. This rule also makes minor changes in NRC organization nomenclature to reflect new internal organizational titles.

Timetable:

Action	Date	FR Cite
Final Action	10/27/88	53 FR 43419
Final Action Effective	10/27/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnie H. Grimsley, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7211

RIN: 3150–AC89

3925. REVISION OF FEE SCHEDULES

Legal Authority: 31 USC 9701; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170; 10 CFR 171

Legal Deadline: None

Abstract: The final rule revised the fees charged for licensing services provided by the NRC and charged to persons who operate nuclear power reactors. The effect of this revision was to (1) remove fee ceilings, increase the amount charged for a license application, and revise the flat fees set out in part 170; (2) revise the hourly rate for NRC professional time spent providing various regulatory services; (3) increase the ceiling on annual charges; (4) add a deadline for filing exemptions to 10 CFR 171.11; and (5) include monies from the Department of Energy High-Level Waste Fund. Because the regulation is necessary to implement the most recent fee legislation enacted by Congress, there is no suitable alternative to rulemaking for these actions. All applicants and licensees that are currently subject to fees collections under the current regulations are affected by the final rule.

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24077
NPRM Comment Period End	07/27/88	
Final Action	12/29/88	53 FR 52632
Final Action Effective	01/30/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: H. Lee Hiller, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7351

RIN: 3150–AC80

3926. RULE ON THE SUBMISSION AND MANAGEMENT OF RECORDS AND DOCUMENTS RELATED TO THE LICENSING OF A GEOLOGIC REPOSITORY FOR THE DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 2; 10 CFR 60

Legal Deadline: None

Abstract: The Nuclear Waste Policy Act (NWPA) provides three years for the NRC to reach a decision on construction authorization for a high level waste repository. In order for the NRC to be able to make its decision within the allotted time, ready access to all pertinent records must be assured to all parties in the licensing proceeding. The DOE has committed to develop an electronic information management system to be used for the licensing proceeding. The NRC staff intends to use the process of negotiated rulemaking to develop a proposed rule that would revise the Commission's discovery procedure and motion practice in 10 CFR Part 2 for the high level waste licensing proceeding. This rule would require the DOE license application and all supporting records to be provided in a standardized electronic format. All parties to the licensing proceeding would be required to submit all relevant data to this system. In turn all parties would have access to the data base.

Resource estimates currently under development.

Timetable:

Action	Date	FR Cite
See description. This rule is now being tracked under RIN AD02.	01/13/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Francis Cameron, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1623

RIN: 3150–AC44

3927. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERAL ASSISTED PROGRAMS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 4

Legal Deadline: None

Abstract: The proposed rule would amend regulations concerning the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in Federally assisted programs or activities to include a cross reference to the Uniform Federal Accessibility Standards (UFAS).

Timetable:

Action	Date	FR Cite
Withdrawn	03/30/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Edward E. Tucker, Nuclear Regulatory Commission, Office of Small and Disadvantaged Business Utilization /Civil Rights, Washington, DC 20555, 301 492-7697

RIN: 3150–AC64

3928. EMERGENCY PLANNING AND PREPAREDNESS REQUIREMENTS FOR NUCLEAR POWER PLANT FUEL LOADING AND INITIAL LOW-POWER OPERATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission has amended its regulations to establish more clearly what emergency planning and preparedness requirements are needed for fuel loading and low-power operation of nuclear power plants, current rules provide for a finding prior to fuel loading and low-power on the licensee's plans and state of preparedness for dealing with accidents that could affect persons onsite. Current rules also provide that no finding regarding the planning or preparedness of offsite agencies for dealing with

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accidents that could affect persons offsite is required at this stage. The Commission is not proposing to change these aspects of the current rules. However, practice under the current rule has been to consider also, as part of review of licensees' plans, certain offsite elements of those plans that seem unnecessary for low-power operation in view of the low degree of risk posed to offsite persons by fuel loading and low-power operation (up to 5 percent of rated power). It is the purpose of this proposed rulemaking to consider whether this practice should be discontinued or modified. Specifically, the (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/09/88	53 FR 16435
NPRM Comment Period End	06/23/88	53 FR 19930
Final Action	09/23/88	53 FR 36955
Final Action Effective	10/24/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Commission is considering amending Section 50.47(d) to include, as prerequisites for low-power operation, seven standards with offsite aspects that are believed to be appropriate for fuel loading and low-power operation. The capability for prompt notification of the surrounding populace (as distinct from the capacity to keep offsite emergency planning agencies informed promptly of plant accidents) is not included in the rule as a requirement for fuel loading and low-power operations. Nothing in this proposed rule is intended to change the emergency planning standards that must be satisfied before operations are at full power.

Agency Contact: Michael Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC20555, **301 492-3918**

RIN: 3150–AC86

3929. FACILITY FORM NUCLEAR LIABILITY INSURANCE POLICY; MISCELLANEOUS AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 140

Legal Deadline: None

Abstract: The NRC has amended its regulations by making several minor changes in the Facility Form nuclear liability insurance policy furnished as evidence of financial protection. The two nuclear insurance pools have submitted endorsements to the Facility Form policy that make available a single insurance policy to cover onsite worker claims. This new Master Worker Policy reflects different rating and underwriting treatment than is utilized in the Facility Form policy. The supplementary insurance provided by the new policy enhances protection to the public since payments under its provisions for routine claims by onsite nuclear workers will not reduce the financial protection for the public under the primary and secondary nuclear liability insurance policies provided as evidence of financial protection under the Price-Anderson Act.

Timetable:

Action	Date	FR Cite
NPRM	04/27/88	53 FR 15049
NPRM Comment Period End	05/27/88	53 FR 15049
Final Action	08/18/88	53 FR 31282
Final Action Effective	09/19/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ira Dinitz, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 492-1289**

RIN: 3150–AC82

3930. MINOR AMENDMENTS TO PHYSICAL PROTECTION REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 070; 10 CFR 072; 10 CFR 073; 10 CFR 075

Legal Deadline: None

Abstract: The Safeguards Interoffice Review Group (SIRG) of the NRC has been conducting a systematic review of the agency's safeguards regulations and guidance documents. This review has identified areas in the regulations that are out of date, susceptible to differing interpretations, or in need of clarification. In addition, the staff has identified other areas in the regulations where minor changes are warranted. In response to these efforts, specific amendments to the regulations are being proposed. The proposed changes would (1) limit the use of the 100 rems per hour at 3 feet dose exemption to a reduction of no more than one physical protection category and not allow a drop below the lowest category, (2) add definitions for common terms not currently defined by frequent use, (3) delete action dates that no longer apply, (4) correct outdated terms and cross references, (5) clarify wording that is susceptible to differing interpretations, (6) correct typographical errors, and (7) make other minor changes. (cont)

Timetable:

Action	Date	FR Cite
This rule is now being tracked under RIN AD03.	02/13/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: The alternative to rulemaking would be to allow the status quo to continue. Except for the change in the impact of a high radiation field on physical protection requirements, these minor amendments affect the public, industry, and the NRC only in so far as they make the regulations easier to understand, implement, and enforce. Limiting the use of the 100 rem per hour at 3 feet dose exemption to a reduction of no more than one physical protection category, and not allowing a drop below the lowest category, could affect two non-power reactor licensees. It is estimated that 0.4 staff-years of NRC effort over 2 years will be required for the rulemaking. This is a low priority rulemaking.

Agency Contact: Stan Dolins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3745**

RIN: 3150–AC96

3931. DELETION OF PART 11 REQUIREMENT FOR RENEWAL OF "R" CLEARANCES

Legal Authority: 42 USC 2201(i); 42 USC 5841

CFR Citation: 10 CFR 11

Legal Deadline: None

Abstract: This rule is terminated due to changes and potential changes in the NRC and DOE access authorization program. The current regulations require licensees to renew "R" clearances every 5 years. This level of clearance corresponds to the "L" clearances used by NRC and DOE which do not require renewal. Because of this equivalence, the renewal requirement for the "R" level licensee clearance is deemed unnecessary.

Timetable:

Action	Date	FR Cite
Terminated	10/18/88	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sandra D. Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3773**

RIN: 3150–AC58

[FR Doc. 89-5860 Filed 04-21-89; 8:45 am]

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Part LVIII

Securities and Exchange Commission

Semiannual Regulatory Agenda

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SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-6824, 34-26596, 35-24832, 39-2208 IC-16848, IA-1157; File No. S7-7-89]

Regulatory Flexibility Agenda and Rules Scheduled for Review

AGENCY: Securities and Exchange Commission.

ACTION: Publication of regulatory flexibility agenda and rules scheduled for review.

SUMMARY: The Securities and Exchange Commission is today publishing an agenda of its open and anticipated rulemaking actions, pursuant to Chapter Six of the Administrative Procedure Act and Office of Management and Budget Bulletin 89-02. The agenda is a general announcement to the public intended to provide advance notice of rulemaking actions which may have a significant economic impact on a substantial number of small entities. The Commission invites questions and public comment on individual agenda entries.

DATE: Public comments are due by June 30, 1989.

ADDRESSES: Persons wishing to submit written views should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-7-89, and will be available for public inspection at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: William J. Atkinson, Office of Economic Analysis, Securities and Exchange Commission, 450 5th Street, NW., Room 9200, Stop 9-1, Washington, DC 20549 (202-272-7100). The names of the person(s) to contact regarding specific entries are identified with each entry.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act ("RFA") (Pub. L. No. 96-354, 94 Stat. 1164 [September 19, 1980]) requires each federal agency during April and October of each year to publish in the **Federal Register** a regulatory flexibility agenda identifying rules which the agency expects to propose or adopt which are likely to have a significant economic impact on a substantial number of small entities (the "significant impact criterion").[1]

The RFA also requires the Commission to publish a plan for the periodic review of all rules issued by the agency which have or will have a significant economic impact on a substantial number of small entities.[2] The Commission published such a plan in 1981.[3] The plan provides for the review of all rules in effect on January 1, 1981 within ten years of that date and for the review of all rules adopted thereafter within ten years of their adoption as final rules. The RFA further requires publication each year of a list of those rules which are to be reviewed during the succeeding twelve months.[4]

The Commission's continuing review of its rules, begun before the effective date of the statute (January 1, 1981), extends beyond the requirements of the RFA. Consequently, some rules listed in this part of the agenda may not be subject to RFA review requirements. The Commission is identifying them here in order to inform the public of its intention to review them. The agenda also identifies the rulemaking actions which have been completed (or withdrawn) since the last RFA release was approved by the Commission.[5]

The statute specifically provides that the agenda does not preclude the Commission from considering or acting on any matter not included, nor is the Commission required to consider or act on any matter which is included.[6] Furthermore, the inclusion of a rule in the Commission's agenda reflects only the staff's preliminary judgment that the rule, if adopted or as it exists, may have a significant economic impact on a substantial number of small entities.[7] This preliminary judgment may be changed upon further analysis.

The Commission's entries to the April 1989 Unified Agenda of Federal Regulations are listed below. The Commission's agenda includes new entries as well as items carried over from the October 1988 publication. New entries are marked with a bullet in front of the Sequence Number. Priority items are identified under the heading Significance.

Copies of this preamble and a list of the entries (which includes next action dates and identifies a staff contact) are available from Commission's Office of Public Affairs (Room 1015). The agenda also is available for inspection and copying in the Public Reference Room (Room 1026) (File S7-7-89), as noted above.

The Commission invites public comment on the individual entries in its regulatory agenda.

Dated: March 6, 1989.

By the Commission.

Jonathan G. Katz,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3932	17 CFR 210.9-03(7)(e) Financial Statement Disclosure by Bank Holding Companies About Loans to Related Parties	3235-AB45
3933	17 CFR 210 Request for timely review of quarterly financial information	3235-AD31
3934	17 CFR 240. 3a12-10 Exemption of Sales of Certain Interests and Participations Issued in Connection with H.R. 10 Plans from Section 15(a)	3235-AC16

[1] 5 U.S.C. 602(a).
[2] 5 U.S.C. 610(a).
[3] Securities Act Release No. 6362 (June 24, 1981) [46 FR 33287].
[4] 5 U.S.C. 610(c).
[5] Securities Act Release No. 6794 (October 24, 1988) [53 FR 42868].
[6] 5 U.S.C. 602(d).
[7] The agenda relies on the definitions of the term "small entity" for purposes of the RFA which were adopted by the Commission for the various categories of regulated entities. *See* Securities Act Release No. 6380 (January 28, 1982) [47 FR 5215].

SEC

Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3935	17 CFR 240. 17Ad-8 Rule 17Ad-8 of the Securities Exchange Act	3235-AC29

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3936	17 CFR 210 Technical Amendments to Regulation S-X	3235-AD32
3937	17 CFR 239.16b Form S-8 Registration Statement under the Securities Act of 1933	3235-AB79
3938	00 CFR Not yet determined Rulemaking for Operational Edgar System	3235-AC48
3939	17 CFR 230. Rule 153 Definition of Preceded by a Prospectus as used in Section 5(b)(2) in relation to Certain Transactions	3235-AC61
3940	17 CFR 210 Multi-Jurisdictional Registration	3235-AC64
3941	17 CFR 230 Classification of Small Issuers for Reporting Purposes	3235-AC66
3942	17 CFR 229.303 Management's Discussion and Analysis of Financial Condition and Results of Operations	3235-AD03
3943	17 CFR 240.13d-1 Regulation 13D-G	3235-AD09
3944	17 CFR 230.134 Communications not Deemed a Prospectus	3235-AD22
3945	17 CFR 240 Disclosure of Block Repurchases by an Issuer or Affiliate	3235-AD25
3946	17 CFR 240.14a-7 Shareholder Lists	3235-AD41
3947	17 CFR 240.14a-102 Disclosure of Significant Equity Participants in Control Transactions	3235-AD42
3948	17 CFR 230.112 Lock-Box Rules	3235-AD43
3949	17 CFR 230.801 Rule 801	3235-AD44
3950	17 CFR Not yet determined Disclosure of Fairness Belief in Certain Negotiated Transactions	3235-AD53
3951	17 CFR 230.169 Rule 169 - Disclosure Requirements for Certain Offerings Relating to Probable Acquisitions	3235-AD54
3952	17 CFR 240. 15c2-10 Rule 15c2-10	3235-AC94
3953	17 CFR 230.180 Amendment to Rule 180 -- Exemption from Registration of Certain Interests and Participations in Certain H.R. 10 Plans	3235-AA08
3954	00 CFR Not yet determined Mutual Fund Governance	3235-AA44
3955	17 CFR 270.17j-1 Rule 17j-1 under the Investment Company Act of 1940	3235-AA68
3956	17 CFR 240.14a-1 to 240.14a-102 Revision of Investment Company Proxy Rules	3235-AA69
3957	17 CFR 239.14 Amendments to Form N-2	3235-AB40
3958	17 CFR 275.206 (3)-3 Method for Compliance with Section 206(3) of the Investment Advisers Act of 1940 with Respect to Certain Transactions	3235-AB74
3959	17 CFR 270.3a-6 Proposed Rule 3a-6 under the Investment Company Act(the "ICA")	3235-AC03
3960	17 CFR 275.206 (4)-1 Advertising by Investment Advisers	3235-AC09
3961	17 CFR 274.11A N-1A Technical Amendments	3235-AC25
3962	17 CFR 270.10f-3 Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate	3235-AC28
3963	17 CFR 270. 12d3-2 Proposed Rule 12d3-2under the Investment Company Act	3235-AC36
3964	00 CFR Not yet determined Advertising by Unit Investment Trusts	3235-AC70
3965	17 CFR 270.3a-7 Two-Tier Real Estate Companies	3235-AC84
3966	17 CFR 270.17f-5 Rule 17f-5 under the Investment Company Act of 1940	3235-AC85
3967	17 CFR 270.12d3-1 Proposed Amendments to Rule 12d3-1 under the Investment Company Act of 1940	3235-AD19
3968	17 CFR 230.139a Information that Broker-Dealers may Disseminate about Investment Companies	3235-AD20
3969	17 CFR 275. Revisions to the registration and the annual supplement forms used by Investment Advisers	3235-AD21
3970	17 CFR 270.36a-1 Proposed Rule 36a-1 under the Investment Company Act the ("ICA")	3235-AD33
3971	17 CFR 270.17f-6 Custody of Investment Company Assets with Registered Futures Commission Merchants	3235-AD34
3972	17 CFR 230.485 Revisions to Rules 485 and 486	3235-AD55
3973	17 CFR 274.11A Revisions to Annual Report to Shareholders	3235-AD56
3974	17 CFR 270.32a-3 Proposed rule 32a-3 under the Investment Company Act of 1940	3235-AD57

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3975	17 CFR 210.5-02 Proposals Regarding Industry Segment and Other Interim Financial Reporting Matters, Management's Discussion and Analysis, and Off Balance Sheet Financing Disclosures	3235-AB15
3976	17 CFR 210 Independent Accountants - Mandatory Peer Review	3235-AC79
3977	17 CFR 229 Report of Management's Responsibilities	3235-AD29

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Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3978	17 CFR 240.13e-2 Acquisitions of Substantial Amounts of Securities and Related Activities during and following a Tender Offer for those Securities	3235-AA50
3979	17 CFR 240.16a-1 to 240.16a-11 Reports of Directors, Officers and Principal Stockholders	3235-AB14
3980	17 CFR 230.144A Private Resales of Securities to Institutions	3235-AC65
3981	17 CFR 230.433 Prospectus Delivery Requirements in Firm Commitment Underwritten Offerings of Securities Made for Cash (Rule 433)	3235-AC80
3982	17 CFR 230.901-906 Regulation S - Rules governing Offers and Sales made outside the United States without Registration under the Securities Act of 1933	3235-AD23
3983	17 CFR 230.465 Automatically Effective Post-Effective Amendments for Acquisitions by Certain Limited Partnerships	3235-AD24
3984	17 CFR 240.15a-6 Exemption of certain foreign brokers or dealers	3235-AD27
3985	17 CFR 240.15c2-12 Municipal Securities Disclosure	3235-AD58
3986	17 CFR 270.3a-4 Proposed Rule 3a-4 – Individualized Investment Management Services	3235-AA12
3987	17 CFR 270.11a-3 Proposed Rules 11a-3 and 11c-1 Under the Investment Company Act	3235-AA14
3988	17 CFR 270.17g-1 Proposed Amendment to Rule 17g-1 Under the Investment Company Act	3235-AA16
3989	17 CFR 239.16 Simplification of Registration Statements Filed by Unit Investment Trusts	3235-AA47
3990	17 CFR 270.24f-3 Registration Under The Securities Act of 1933 of an Indefinite Number of Certain Investment Company Securities	3235-AC10
3991	17 CFR 270.12b-1 Proposed amendments to Rules 12b-1 and 17d-3 under the Investment Company Act of 1940, and to item 7 of Form N-1A under the Securities Act of 1933	3235-AC11
3992	17 CFR 230.134 Disclosure of Security Ratings in Registration Statements of Money Market Funds	3235-AC24
3993	17 CFR 270.6c-10 Proposed Rule 6c-10 under the Investment Company Act of 1940 and to item 2 of Form N-1A under the Securities Act of 1933	3235-AD18
3994	17 CFR 270.17f-1 Forms for Filings by accountants	3235-AD37
3995	17 CFR 275.203(b)(1) -1 Exemption from Registration Under the Advisers Act for certain Smaller Investment Advisers	3235-AD38
3996	17 CFR 250.17 Diversification by Exempt Holding Companies	3235-AD39

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3997	17 CFR 229 Amendments to Regulation S-K Regarding changes in Accountants; Acceleration of the timing for filing forms 8-K relating to changes in Accountants and Resignations of Directors	3235-AD30
3998	17 CFR 230.144 Section 16(a) Compliance	3235-AD04
3999	17 CFR 210.3-12 Reporting Requirements for Change in Fiscal Year End	3235-AD05
4000	17 CFR 215. Regulation D	3235-AD45
4001	17 CFR 240.10b-21(T) Rule 10b-21(T) Short Sales in Connection with a Public Offering	3235-AC95
4002	17 CFR 249.617 Form X-17A-5 (paragraph (a) of Rule 17a-5 of the Securities Exchange Act	3235-AD59
4003	17 CFR 239.17a Variable Annuity Fee Table	3235-AD36

SECURITIES AND EXCHANGE COMMISSION (SEC)

Prerule Stage

Accounting Rules

3932. FINANCIAL STATEMENT DISCLOSURE BY BANK HOLDING COMPANIES ABOUT LOANS TO RELATED PARTIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77a (25); 15 USC 77a (26); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a)

CFR Citation: 17 CFR 210.9-03(7)(e)

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose amendments to its rules in Article 9 of Regulations S-X requiring disclosure by bank holding companies about loans to related parties. Assertions have been made that accumulation of the required information may be unreasonably costly.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

SEC

Prerule Stage

Government Levels Affected: Undetermined

Agency Contact: Jeffrey Jones, Professional Accounting Fellow, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235–AB45

3933. REQUEST FOR TIMELY REVIEW OF QUARTERLY FINANCIAL INFORMATION

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s (a); 15 USC 77aa (25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o (d); 15 USC 78w (a); 15 USC 79c (b); 15 USC 79n; 15 USC 79t (a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 229

Legal Deadline: None

Abstract: The Commission has stated that if intents to issue a concept release soliciting comments on whether the Commission's rules should be amended to require independent public accountants to review interim financial data before it is files with the Commission. The staff is preparing such a release.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jack C. Parsons, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235–AD31

Securities Markets and Securities Industry Rules

3934. EXEMPTION OF SALES OF CERTAIN INTERESTS AND PARTICIPATIONS ISSUED IN CONNECTION WITH H.R. 10 PLANS FROM SECTION 15(A)

Legal Authority: 15 USC 78c(a)(12); 15 USC 78o; 15 USC 78w; 15 USC 77c(a)(12); 15 USC 77s(a)

CFR Citation: 17 CFR 240. 3a12-10; 17 CFR 230.180

Legal Deadline: None

Abstract: The proposed rule would specify certain conditions under which persons engaged in the sale of interests and participation issued in connection with certain tax-qualified retirement plans ("H.R.10" or "Keogh" plans) would not be required to register as broker-dealers under Section 15(a) of the Securities Exchange Act of 1934. In 1981, the Commission adopted Rule 180 under the Securities Act of 1933 exempting from the registration requirements of that Act interests and participations issued in connection with H.R. 10 plans. The proposed rule provides a parallel exemption from broker-dealer registration for sales of such interests and participations in H.R. 10 plans. As an alternative the staff could consider granting no-action or exemptive requests on a case-by-case basis. However, such procedure would be inefficient and needlessly expensive for both the public and the Commission staff. In addition, the Commission is proposing to amend Rule 180 to clarify that, under paragraph (a)(3)(ii) of that Rule, the employer only needs to obtain investment advice prior to the investment of plan assets. This proposal codifies a previous staff position.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan J. Walters, Branch Chief, Legal Interpretations, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2417

RIN: 3235–AC16

3935. RULE 17AD-8 OF THE SECURITIES EXCHANGE ACT

Legal Authority: 15 USC 17b; 15 USC 78g-1; 15 USC 78w(a)

CFR Citation: 17 CFR 240. 17Ad-8

Legal Deadline: None

Abstract: Rule 17Ad-8 requires a registered clearing agency, at the request of an issuer, to provide the issuer with a "securities position listing." A securities position listing is a list of the clearing agency's participants on whose behalf the clearing agency holds the issuer's securities as well as participants' positions as of a specified date. The Rule further provides that the clearing agency may charge a reasonable fee for providing the list.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas C. Etter, Jr., Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth Street, N.W., Washington, DC 20549, 202 272-2782

RIN: 3235–AC29

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SECURITIES AND EXCHANGE COMMISSION (SEC)

Proposed Rule Stage

Accounting Rules

3936. TECHNICAL AMENDMENTS TO REGULATION S-X

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s (a); 15 USC 77aa (25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o (d); 15 USC 78w (a); 15 USC 79 (c) (b); 15 USC 79n; 15 USC 79 (t)a; 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose amendments to Regulation S-X to conform that regulation to recently adopted changes in generally accepted accounting principles and generally accepted auditing standards.

Timetable:

Action	Date	FR Cite
NPRM	02/27/89	54 FR 8202
NPRM Comment Period End	04/28/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Teresa Iannaconi, Staff Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235–AD32

Disclosure Rules

3937. FORM S-8 REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 239.16b

Legal Deadline: None

Abstract: The Commission will consider whether to revise the disclosure requirements under the federal securities laws relating to registration under the Securities Act of 1933 of securities to be offered to employees of an issuer pursuant to certain plans. Such registration currently is made on Form S-8 (17 CFR 239.16b). The Commission staff is developing proposals in this area and considering alternative approaches to the problem of reducing burdens while ensuring the availability of sufficient information to employees, particularly where they already have access to much of the required information under ERISA. In the context of this rulemaking, Form S-8 will be fully reviewed for purposes of the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larisa Dobriansky, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235–AB79

3938. RULEMAKING FOR OPERATIONAL EDGAR SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 77a to 77aa; 15 USC 78a to 78ii; 15 USC 79 to 79z-6; 15 USC 77aaa to 77bbb; 15 USC 80a-1 to 80a-52

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rulemaking encompasses the changes necessary to mandate and accommodate electronic filing in the operational Edgar system, as well as to update the rules to take advantage of the efficiencies of electronic filing and processing.

Timetable:

Action	Date	FR Cite
ANPRM	07/02/86	51 FR 24155
ANPRM Comment Period End	09/05/86	
NPRM	07/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian J. Lane, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235–AC48

3939. RULE 153 DEFINITION OF PRECEDED BY A PROSPECTUS AS USED IN SECTION 5(B)(2) IN RELATION TO CERTAIN TRANSACTIONS

Legal Authority: 15 USC 77e

CFR Citation: 17 CFR 230.

Legal Deadline: None

Abstract: The prospectus delivery requirement for certain transactions effectuated on a national securities exchange may be satisfied by delivery to the exchange. The Commission will consider whether this procedure should be available for certain transactions on the NASDAQ Inter Dealer Quotation System.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235–AC61

3940. MULTI-JURISDICTIONAL REGISTRATION

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 77ddd; 15 USC 77eee; 15 USC 77fff; 15 USC 78c(b); 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78w; 15 USC 78x

CFR Citation: 17 CFR 210; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249; 17 CFR 260

Legal Deadline: None

Abstract: The Commission issued a concept release in February 1985 addressing numerous regulatory issues raised by multinational offerings. At that time, the Commission published for comment two conceptual approaches to facilitating such offerings--a "common prospectus" approach and a "reciprocal" approach. The staff currently is developing a multi-jurisdictional registration system that is based upon the reciprocal approach. The current staff proposal is intended to facilitate multi-jurisdictional and cross-jurisdictional offerings of securities by Canadian issuers. The proposal is intended to form the basis of a system of multi-jurisdictional registration that may eventually be expanded to encompass a number of jurisdictions and a wide variety of transactions.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/85	50 FR 9281
ANPRM Comment Period End	07/15/85	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sara Hanks, Chief, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3246

RIN: 3235–AC64

SEC

Proposed Rule Stage

3941. CLASSIFICATION OF SMALL ISSUERS FOR REPORTING PURPOSES

Legal Authority: 15 USC 78l; 15 USC 78m

CFR Citation: 17 CFR 230; 17 CFR 240; 17 CFR 244; 17 CFR 260

Legal Deadline: None

Abstract: Other appropriate criteria are being sought to establish the threshold level for companies to enter into the Securities Exchange Act of 1934 reporting system, which would complement or be substituted for the present size criteria of 500 shareholders and total assets of $5 million.

Timetable:

Action	Date	FR Cite
ANPRM	07/08/86	51 FR 25369
ANPRM Comment Period End	09/30/86	
NPRM	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235–AC66

3942. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Legal Authority: 15 USC 78w(a)

CFR Citation: 17 CFR 229.303

Legal Deadline: None

Abstract: The Commission has solicited public comment on issues relating to Management's Discussion and Analysis of Financial Condition and Results of Operations as required by Item 303 of Regulation S-K. This requirement is the subject of recommendations from members of the accounting profession calling for a more specific approach to requiring disclosure of business risks and uncertainties, as well as additional board of director scrutiny and independent auditor association with these disclosures. The Commission staff intends to issue an interpretive release on this subject.

Timetable:

Action	Date	FR Cite
ANPRM	04/24/87	52 FR 13715
ANPRM Comment Period End	06/23/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul N. Edwards, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D. C. 20549, 202 272-3205

RIN: 3235–AD03

3943. REGULATION 13D-G

Significance: Agency Priority

Legal Authority: 15 USC 78m(d); 15 USC 78m(g); 15 USC 78m(a)

CFR Citation: 17 CFR 240.13d-1; 17 CFR 240.13d-2; 17 CFR 240.13d-7; 17 CFR 240.13d-101; 17 CFR 240.13d-102

Legal Deadline: None

Abstract: The Commission will consider proposing revisions of Regulation 13D-G to close certain disclosure gaps, to make the disclosure more meaningful and to broaden the pool of persons allowed to use the short-form beneficial ownership report on Schedule 13G so as to lessen the costs and burdens of compliance. In connection with this rulemaking project, a review of Rules 13d-1 through 13d-7 and Schedules 13D and 13G will be conducted.

Timetable:

Action	Date	FR Cite
NPRM	03/14/89	54 FR 10552
NPRM Comment Period End	05/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard E. Baltz, Deputy Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3097

RIN: 3235–AD09

3944. COMMUNICATIONS NOT DEEMED A PROSPECTUS

Legal Authority: 15 USC 77b; 15 USC 77s

CFR Citation: 17 CFR 230.134

Legal Deadline: None

Abstract: The Commission will consider proposing amendments to Rule 134 of the Commission's rules and regulations under the Securities Act of 1933 that would permit direct participation programs such as state limited partnerships to include additional information in their Rule 134 tombstone advertisements.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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Agency Contact: William E. Morley, Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2573

RIN: 3235–AD22

3945. DISCLOSURE OF BLOCK REPURCHASES BY AN ISSUER OR AFFILIATE

Legal Authority: 15 USC 78m; 15 USC 78w(a)

CFR Citation: 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The staff is developing proposals to require either pre - or post transactional disclosure of issuer or affiliate repurchases of securities of the issuer over a certain threshold percentage. The staff has yet to determine the appropriate percentage level.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3097

RIN: 3235–AD25

3946. SHAREHOLDER LISTS

Legal Authority: 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 240.14a-7; 17 CFR 240.14d-5

Legal Deadline: None

Abstract: The Commission staff is developing proposals to amend the proxy and tender offer rules to give a security holder the right, under specified circumstances, to obtain a list of the names, addresses and securities positions of certain of the registrant's shareholders.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann D. Wallace, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235–AD41

3947. DISCLOSURE OF SIGNIFICANT EQUITY PARTICIPANTS IN CONTROL TRANSACTIONS

Legal Authority: 15 USC 78c(b); 15 USC 78m(d); 15 USC 78n; 15 USC 78v

CFR Citation: 17 CFR 240.14a-102; 17 CFR 240.13d-101; 17 CFR 240.13e-100; 17 CFR 240.14d-100

Legal Deadline: None

Abstract: The Commission staff is developing proposals that would require disclosure of a person with a significant equity interest in an entity affecting a control transaction. In connection with this rulemaking project, a review of Rule 13e-3 and Schedule 13E-3 will be conducted.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10360
NPRM Comment Period End	05/12/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard E. Baltz, Deputy Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3097

RIN: 3235–AD42

3948. LOCK-BOX RULES

Legal Authority: 15 USC 77s(a); 15 USC 78w(a); 15 USC 77f

CFR Citation: 17 CFR 230.112; 17 CFR 240.0-12; 17 CFR 230.456

Legal Deadline: None

Abstract: The Commission staff is developing proposals that would address procedures regarding payment of fees to the lock-boxes designated at 17 CFR 202.3a with respect to 1933 Act filings and 1934 Act change of control transactional filings.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anne M. Krauskopf, Special Counsel, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2573

RIN: 3235–AD43

3949. RULE 801

Significance: Agency Priority

Legal Authority: 15 USC 77c(b); 15 USC 77s

CFR Citation: 17 CFR 230.801

Legal Deadline: None

Abstract: The Commission staff is developing proposals that would provide an exemption from the registration requirements of the Securities Act of 1933 for certain rights offerings to the existing security holders of non-reporting issuers.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jonathan Gottlieb, Attorney Fellow, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235–AD44

3950. ● DISCLOSURE OF FAIRNESS BELIEF IN CERTAIN NEGOTIATED TRANSACTIONS

Significance: Agency Priority

Legal Authority: 15 USC 78m; 15 USC 78n; 15 USC 78w

CFR Citation: 17 CFR Not yet determined

Legal Deadline: None

Abstract: The staff is developing proposals that would require disclosure of factors considered in formulating a fairness belief regarding the transaction or recommending the transaction to security holders; any reports, opinions or appraisals received from a third party and conflicts of interest the third party may have in rendering the report, opinion or appraisal; and a summary of any reports, opinions or appraisals.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard E. Baltz, Deputy Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3097

RIN: 3235–AD53

3951. ● RULE 169 - DISCLOSURE REQUIREMENTS FOR CERTAIN OFFERINGS RELATING TO PROBABLE ACQUISITIONS

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77s(a)

CFR Citation: 17 CFR 230.169

Legal Deadline: None

Abstract: The staff is developing proposals that would require certain issuers offering registered securities through outstanding warrants, rights or convertible securities, or through a secondary offering to file post-effective amendments when an acquisition becomes probable in order to furnish information, including audited financial statements about the company to be acquired.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235–AD54

Securities Markets and Securities Industry Rules

3952. RULE 15C2-10

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78k(A)-1; 15 USC 78o(c)(1); 15 USC 78o(c)(2); 15 USC 78w(a)

CFR Citation: 17 CFR 240. 15c2-10

Legal Deadline: None

Abstract: The Commission has proposed for comment a rule that would govern the operation of proprietary securities trading systems that are not operated as facilities of a national securities association or exchange.

Timetable:

Action	Date	FR Cite
NPRM	04/30/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Gordon K. Fuller, Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth St., N.W., Washington, D.C. 20549, 202 272-2414

RIN: 3235–AC94

Investment Management Rules

3953. AMENDMENT TO RULE 180 -- EXEMPTION FROM REGISTRATION OF CERTAIN INTERESTS AND PARTICIPATIONS IN CERTAIN H.R. 10 PLANS

Legal Authority: 15 USC 77c(a)(2); 15 USC 77s(a)

CFR Citation: 17 CFR 230.180

Legal Deadline: None

Abstract: Rule 180 provides an exemption from the registration requirements of the Securities Act for interests and participations issued in connection with certain qualified H.R. 10 plans. In order for interests in funding media issued to plans established by financially inexperienced employers to qualify for the rule's exemption, the rule, as adopted, requires those employers to obtain financial advice from an independent expert prior to adopting the H.R. 10 plan. Among other things, the Commission is considering proposing an amendment to Rule 180 that would codify a present "no-action" position regarding the situation where a financially unsophisticated employer has already established a plan for its employees without obtaining advice from an independent expert, and intends either to change the funding medium or add another funding medium to the choices already available to employees. The issuer of the funding medium in such a case would be in compliance with the rule if the issuer has reasonable grounds to believe and, after having made reasonable inquiry, does believe, that an independent financial expert reviewed the funding medium prior to the investment of the (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: plan's assets in that funding medium. The type of amendment being considered would impose no additional compliance cost, and would increase the flexibility of existing plans and the number of investment choices available to participating employees.

Agency Contact: Brian P. Kindelan, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N. W. (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235–AA08

3954. MUTUAL FUND GOVERNANCE

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On December 10, 1982, the Commission issued an advance concept release (Investment Company Act Release No. 12888, (47 FR 56509)) soliciting public comment on whether the Commission should propose rules or recommend legislation which would

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provide for an alternative form of mutual fund governance. Specifically, this release requests comment on whether mutual funds should be exempted from shareholder voting and/or director requirements under the Investment Company Act of 1940 (the "Act") and, if so, whether conditions could be fashioned which would adequately insure against loss of investor protection. Although such changes might be effected through rulemaking, the Commission has indicated that, in its preliminary judgment, changes of this magnitude should be effected through legislative rather than administrative action. Since the costs and benefits of providing for an alternative scheme of mutual fund governance cannot be estimated at the present time, the release solicits specific comment on the costs and benefits which would result from such changes. Extension of comment period until April 18, 1983 was announced in Investment Company Act Release No. 13012 (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/10/82	47 FR 56509
Extended Comment Period to 4/18/83	02/07/83	48 FR 6354
ANPRM Comment Period End	04/18/83	48 FR 6354

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: (February 7, 1983) 48 FR 6354.

Agency Contact: Brian P. Kindelan, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235–AA44

3955. RULE 17J-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17j-1

Legal Deadline: None

Abstract: Rule 17j-1 requires every access person of a registered investment company, or of an investment adviser of or principal underwriter for the investment company to report to the investment company certain of his securities transactions. The Commission is considering whether to propose an amendment to this rule which would reduce the reporting requirement for investment company directors who are interested persons with respect to the investment company by reason of their affiliation with a registered broker-dealer. Members of the industry have characterized these reporting requirements as unnecessarily burdensome in some instances. Any such rule amendment would have the effect of lessening the reporting requirements currently imposed by the rule. As a result, the staff believes that the costs, which should be insignificant, of complying with any amendment would be significantly less than the benefits it would provide. The Commission is also considering whether to amend Rule 17 j-1 to define specified acts as fraudulent, deceptive or manipulative or to require certain minimum standards to be set forth on a company's code of ethics.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-3042

RIN: 3235–AA68

3956. REVISION OF INVESTMENT COMPANY PROXY RULES

Legal Authority: 15 USC 78n; 15 USC 78w; 15 USC 80a-20; 15 USC 80a-37

CFR Citation: 17 CFR 240.14a-1 to 240.14a-102; 17 CFR 240.14b-1; 17 CFR 240.14c-1 to 240.14c-101; 17 CFR 270.20a-1; 17 CFR 270.20a-2; 17 CFR 270.20a-3

Legal Deadline: None

Abstract: Absent an exception, every solicitation of a proxy, authorization or consent in respect of any security with respect to which a registered investment company is the issuer, is subject to rules adopted pursuant to the Securities Exchange Act of 1934 and the Investment Company Act of 1940 concerning solicitations of proxies. Solicitations to which the rules apply may not commence unless each person solicited is furnished or has previously been furnished with a proxy statement containing specified information prepared in accordance with certain rules and the material has been filed with the Commission. The existing proxy rules were adopted in piecemeal fashion and have been the subject of frequent changes. This has led to certain duplicative and, in certain cases, complex requirements. To the extent that a proxy statement contains repetitive material or is overly complicated and difficult to read, it may not effectively perform its intended function of communicating meaningful information to security holders in order that they may make informed voting decisions. In order to update the proxy regulations and, in doing so, improve the (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: readability of proxy statements and eliminate unnecessary disclosure costs, the Commission has commenced a comprehensive review of the proxy regulations as they relate to investment companies. There does not currently exist a basis upon which to quantify the reduced costs and burdens of such action on those registrants affected. Since the action will apply to all registered investment companies soliciting proxies, unless the solicitation is excepted, the Action is expected to have a significant impact on a substantial number of small entities. However, the contemplated revisions are still in the developmental stage and have not yet been formally proposed by the Commission. Thus, the extent of the revision actually proposed and the attendant reductions in costs and burdens are as yet largely unknown, but are anticipated to be significant.

Agency Contact: Dorothy M. Donohue, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2107

RIN: 3235–AA69

3957. AMENDMENTS TO FORM N-2

Legal Authority: 15 USC 80a-8 Investment Company; 15 USC 77g Securities Act; 15 USC 77j Securities Act

CFR Citation: 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None

Abstract: Form N-2 is the registration statement form under the Investment Company Act of 1940 and the Securities Act of 1933 for closed-end management investment companies other than small business investment companies and companies which issue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. Included within the registration statement are the companies' prospectuses used in offering their securities to the public. The Commission believes a simplified prospectus is necessary because current prospectuses have become too cumbersome for the average investor to understand and because current requirements result in the disclosure of much information that is not necessarily material to an investment decision. For N-2 is the registration form under the Securities Act of 1933 and Investment Company Act of 1940 for closed-end management investment companies other than small business investment companies. The Commission is considering proposing structured as a three-part form, one part of which would be a new Amendments to revise the format of the closed-end fund disclosure documents to provide for a simplified prospectus the (con't)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Delivery of which will satisfy the requirements of Section 5 of the Securities Act, and a statement of additional information which will be available to investors upon request. The Amendments will also update current disclosure requirements. Accordingly, the Commission is proposing a new form N-2A that most likely would be structured as a three-part form, one part of which would be a new simplified prospectus. There does not currently exist a basis upon which to quantify the reduced costs and burdens of such action on those registrants affected. The contemplated amendments are still in the developmental stage and have not yet been formally proposed by the Commission. Thus, the extent of the simplification of investment companies' prospectuses actually proposed and the attendant reductions in costs and burdens are as yet largely unknown, but are expected to reduce the cost of registration for both the industry and Government.

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2107

RIN: 3235–AB40

3958. METHOD FOR COMPLIANCE WITH SECTION 206(3) OF THE INVESTMENT ADVISERS ACT OF 1940 WITH RESPECT TO CERTAIN TRANSACTIONS

Legal Authority: 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.206 (3)-3

Legal Deadline: None

Abstract: Section 206(3) of the Investment Advisers Act of 1940 makes it unlawful for any investment adviser, by use of the mail or any means or instrumentality of interstate commerce, directly or indirectly, knowingly to effect a securities transaction (a) with a client while acting as principal or (b) for a client while acting as broker for a person other than such client, without disclosing in writing to such client before the completion of the transaction the capacity on which he is acting and obtaining the consent of the client to the transaction. The Commission is considering whether to propose a rule that would provide a nonexclusive method for compliance with the provisions of Section 206(3) of the Investment Advisers Act of 1940 in connection with purchases of securities from an underwriting syndicate for an advisory client under specified conditions. Because the proposed rule is still in the developmental stages, its potential effect on small entities and its potential costs and benefits as a whole are unknown at this time.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ernest P. Francis, Staff Attorney, Securities and Exchange Commission, Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235–AB74

3959. PROPOSED RULE 3A-6 UNDER THE INVESTMENT COMPANY ACT(THE "ICA")

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-6

Legal Deadline: None

Abstract: The Commission is considering whether to propose a rule that would provide exemptive relief from all provisions of the ICA to persons that issue securities collateralized by partial pool agency certificates.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Pfordte, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2811

RIN: 3235–AC03

3960. ADVERTISING BY INVESTMENT ADVISERS

Legal Authority: 15 USC 80b-6(4)

CFR Citation: 17 CFR 275.206 (4)-1

Legal Deadline: None

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Abstract: Rule 206(4)-1 contains a wide range of restrictions on advertising by investment advisers including prohibitions on the use of testimonials. The rule was adopted in 1962 and has not been revised since. The Commission is considering whether to amend the rule in a manner which would permit greater flexibility to investment advisers in their advertising and protect the investing public from potential abuse. Because the proposed amendments to the rule are still in the developmental stages, the potential effect on small entities and its potential costs and benefits as a whole are uncertain at this time.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert E. Plaze, Chief of Office, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2098

RIN: 3235–AC09

3961. N-1A TECHNICAL AMENDMENTS

Legal Authority: 15 USC 580a-8(b)

CFR Citation: 17 CFR 274.11A

Legal Deadline: None

Abstract: The Commission is considering several modifications to Form N-1A including: reducing the number of copies to be filed with the Commission; conforming the language of Form N-1A with Forms N-3 and N-4; and clarifying many of the current disclosure requirements.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth street, N. W., Washington, DC 20549, 202 272-2107

RIN: 3235–AC25

3962. EXEMPTION OF ACQUISITION OF SECURITIES DURING THE EXISTENCE OF UNDERWRITING SYNDICATE

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.10f-3

Legal Deadline: None

Abstract: The conditions in existing Rule 10f-3, which allow purchases from affiliated underwriters during the existence of an underwriting syndicate, may no longer be appropriate in today's financial markets. The Commission is investigating possible alternative provisions and soliciting comment on these alternatives.

Timetable:

Action	Date	FR Cite
ANPRM	01/29/86	51 FR 4386
ANPRM Comment Period End	04/07/86	51 FR 4386

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3042

RIN: 3235–AC28

3963. PROPOSED RULE 12D3-2UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270. 12d3-2

Legal Deadline: None

Abstract: The Commission is considering whether to propose a rule that would set forth the conditions under which registered investment companies may engage in repurchase agreement transactions with persons engaged in securities related businesses.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian Kindelan, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235–AC36

3964. ADVERTISING BY UNIT INVESTMENT TRUSTS

Legal Authority: 15 USC 77j; 15 USC 77s; 15 USC 80a-37(a)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Currently unit investment trusts advertise their performance by means of an "estimated current return" which shows estimated cash flow. However, because there is no uniform method of computing the estimated current return, they cannot be compared by prospective investors. This rulemaking project will endeavor to create such a uniform method. A uniform method of computation will permit investors to make more informed investment decisions by enabling them to compare the performance of different trusts.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Diane C. Blizzard, Securities and Exchange Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235–AC70

3965. TWO-TIER REAL ESTATE COMPANIES

Legal Authority: 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.3a-7; 17 CFR 270.6c-11

Legal Deadline: None

Abstract: The regulation will be designed to codify numerous exemptions from the provisions of the Investment Company Act of 1940 ("Act") granted to two-tier real estate limited partnerships. Exemptions from the Act pursuant to Section 6(c) of the Act have generally been granted where: 1) the two-tier partnership invests in limited partnerships engaged in the development and building of housing for low and moderate income persons; 2) the limited partnership interests are sold only to suitable investors; and 3) requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer are included in the basic organizational documents of the partnership. The regulation will reduce the number of exemptive relief applications received by the Office of Investment Company Regulation requesting exemptions for two-tier real estate limited partnerships.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian P. Kindelan, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2048

RIN: 3235–AC84

3966. RULE 17f-5 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-5

Legal Deadline: None

Abstract: Rule 17f-5 permits U.S. registered Investment Companies to maintain certain Securities and other assets in the custody of an "Eligible Foreign Custodian," as that term is defined in the rule. In response to comments that the present definition of Eligible Foreign Custodian and other provisions of the rule are too restrictive, the Commission is considering whether to propose amendments to the rule.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Rochelle G. Kauffman, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2048

RIN: 3235–AC85

3967. PROPOSED AMENDMENTS TO RULE 12D3-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.12d3-1

Legal Deadline: None

Abstract: The Commission is considering whether to propose amendments to Rule 12d3-1 under the Investment Company Act of 1940, which provides exemptive relief from the Act's prohibition against investment company acquisitions of securities issued by persons engaged in certain securities-related businesses. If adopted, the proposed amendments would expand the exemptive relief provided by the rule to permit, under certain conditions, investment companies to acquire equity securities issued by persons organized outside the United States that are engaged in securities related businesses.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: C. Christopher Sprague, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D. C. 20549, 202 272-7779

RIN: 3235–AD19

3968. INFORMATION THAT BROKER-DEALERS MAY DISSEMINATE ABOUT INVESTMENT COMPANIES

Legal Authority: 15 USC 77s(a)

CFR Citation: 17 CFR 230.139a

Legal Deadline: None

Abstract: The Commission is considering proposing a rule that would provide a safe harbor under Section 5 of the Securities Act of 1933 for certain broker-dealer publications that contain information about investment companies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Diane C. Blizzard, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235–AD20

3969. REVISIONS TO THE REGISTRATION AND THE ANNUAL SUPPLEMENT FORMS USED BY INVESTMENT ADVISERS

Legal Authority: 15 USC 78o(b)(1); 15 USC 78w(a); 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-6A; 15 USC 80b-11; 15 USC 80b-1

CFR Citation: 17 CFR 275.; 17 CFR 279.

Legal Deadline: None

Abstract: The Commission is considering a proposal that would revise the Amendment and updating requirements and procedures for an advisers registration form and annual report. The Commission would propose such revisions in order to facilitate the review of investment adviser registration forms and resolve certain administrative difficulties.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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Agency Contact: Dorothy M. Donohue, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235–AD21

3970. PROPOSED RULE 36A-1 UNDER THE INVESTMENT COMPANY ACT THE ("ICA")

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.36a-1

Legal Deadline: None

Abstract: The Commission is considering whether to propose a rule that would require non-resident directors of registered management investment companies to designate a resident agent for service of process in any action before the Commission or in any appropriate court of the United States with respect to any action arising under the provisions of the securities acts.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wendy B. Finck, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2048

RIN: 3235–AD33

3971. CUSTODY OF INVESTMENT COMPANY ASSETS WITH REGISTERED FUTURES COMMISSION MERCHANTS

Legal Authority: 15 USC 80a-37

CFR Citation: 17 CFR 270.17f-6

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending rulemaking to permit registered investment companies to maintain initial margin and excess variation margin in the custody of certain futures commission merchants if appropriate conditions can be developed to ensure the safety and integrity of the assets thus maintained.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian P. Kindelan, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2048

RIN: 3235–AD34

3972. ● REVISIONS TO RULES 485 AND 486

Legal Authority: 15 USC 77g; 15 USC 77h; 15 USC 77s(2); 15 USC 78d-1; 15 USC 78d-2; 15 USC 802-37

CFR Citation: 17 CFR 230.485; 17 CFR 230.486; 17 CFR 200.30-5

Legal Deadline: None

Abstract: The Commission is considering proposing revisions which would make changes in the circumstances under which post effective amendments to registration statements may become effective pursuant to rules 485 and 486 and would permit the Commission to suspend use of rules 485(b) and 486(b) in cases of misuse of those rules.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ernest P. Francis, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235–AD55

3973. ● REVISIONS TO ANNUAL REPORT TO SHAREHOLDERS

Legal Authority: 15 USC 77g; 15 USC 77h; 15 USC 77s(2); 15 USC 802-8; 15 USC 802-29(d); 15 USC 802-30(c); 15 USC 802-37(2)

CFR Citation: 17 CFR 274.11A

Legal Deadline: None

Abstract: The Commission is considering proposing revisions that would permit mutual funds to provide a summary portfolio schedule to shareholders in their annual reports.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ernest P. Francis, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235–AD56

3974. ● PROPOSED RULE 32A-3 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37; 15 USC 80a-38

CFR Citation: 17 CFR 270.32a-3

Legal Deadline: None

Abstract: The Commission has proposed Rule 32a-3 under the Investment Company Act of 1940, which would provide exemptive relief to certain registered management investment companies from the proviso in section 32(a)(1) of the Act that the independent public accountant be selected at a board of directors meeting held within 30 days before or after the beginning of the fiscal year or before the annual meeting of stockholders in that year. If adopted, the proposed rule would provide such companies, under certain conditions, with expanded time periods in which to select the independent public accountant.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9843
NPRM Comment Period End	05/08/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Christopher Sprague, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-7779

RIN: 3235–AD57

SECURITIES AND EXCHANGE COMMISSION (SEC) — Final Rule Stage

Accounting Rules

3975. PROPOSALS REGARDING INDUSTRY SEGMENT AND OTHER INTERIM FINANCIAL REPORTING MATTERS, MANAGEMENT'S DISCUSSION AND ANALYSIS, AND OFF BALANCE SHEET FINANCING DISCLOSURES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa (25) to 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80-29

CFR Citation: 17 CFR 210.5-02; 17 CFR 210.10-01; 17 CFR 210.11-02; 17 CFR 229.303

Legal Deadline: None

Abstract: The Commission proposed amendments to require (1) presentation of certain industry segment information for interim periods; (2) a discussion of reportable segments in management's discussion and analysis; and (3) modifications of other miscellaneous interim reporting requirements. The release also provides advance notice of possible future rulemaking regarding (1) additional segment reporting disclosures and (2) uniform disclosure of off balance sheet financing arrangements. The proposals are designed to enhance analysis of financial information. They may entail some new recordkeeping but any such costs have not been determined. The Commission's interim reporting rules will be reviewed as a part of this action.

Timetable:

Action	Date	FR Cite
NPRM	02/15/84	49 FR 6737
NPRM Comment Period End	05/15/84	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This entry replaces the following three entries from the October 1983 agenda. RIN 3235-AA53 -- Off Balance Sheet Obligations. RIN 3235-AA54 -- Segment Information. RIN 3235-AA55 -- Quarterly Financial Reporting.

Agency Contact: John W. Albert, Assistant Chief Accountant, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235–AB15

3976. INDEPENDENT ACCOUNTANTS - MANDATORY PEER REVIEW

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa (25) to 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210

Legal Deadline: None

Abstract: The Commission has proposed amendments to its rules that would require accountants' reports included in Commission filings be signed by an independent accountant who has undergone a peer review of its accounting and audit practice within the past three years.

Timetable:

Action	Date	FR Cite
NPRM	04/01/87	52 FR 11665
NPRM Comment Period End	09/01/87	52 FR 11665
Final Action	04/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Burns, Chief Counsel, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235–AC79

3977. REPORT OF MANAGEMENT'S RESPONSIBILITIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77i; 15 USC 77s(a); 15 USC 77aa (25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o (d); 15 USC 78w (a); 15 USC 79c (b); 15 USC 79n; 15 USC 79t (a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 229; 17 CFR 240; 17 CFR 249; 17 CFR 270; 17 CFR 274

Legal Deadline: None

Abstract: The Commission has proposed rules to require registrants to include a report of management's responsibilities in Forms 10-K and N-SAR and annual reports to security holders. The management report would contain a description or statement of management's responsibilities for the preparation of the registrant's financial statements and other financial information and for establishing and maintaining a system of internal control directly related to financial reporting, with management's assessment of the effectiveness of the registrant's internal control system.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 28009
NPRM Comment Period End	10/24/88	53 FR 28009
Final Action	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John W. Albert, Assistant Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235–AD29

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Disclosure Rules

3978. ACQUISITIONS OF SUBSTANTIAL AMOUNTS OF SECURITIES AND RELATED ACTIVITIES DURING AND FOLLOWING A TENDER OFFER FOR THOSE SECURITIES

Legal Authority: 15 USC 78c(b); 15 USC 78m(e); 15 USC 78n(d); 15 USC 78w(a); 15 USC 78o(c); 15 USC 78t(b)

CFR Citation: 17 CFR 240.13e-2; 17 CFR 240.14d-11

Legal Deadline: None

Abstract: The Commission proposed Rules 13e-2 and 14d-11 that would require that, subject to certain exceptions, purchases, offers to purchase, arrangements or understandings to purchase and solicitations of offers to sell securities undertaken during and shortly after a tender offer that would increase any person's ownership of the class of securities subject to the tender offer by 10% or more of the class be made in compliance with the statutory provisions and rules applicable to tender offers. The proposed rules would apply to all persons from the formal commencement of a tender offer until 10 business days after the scheduled expiration date. A proposed rule also would subject a bidder to the same requirements from the time it commenced a tender offer by public announcement until it either formally commenced a tender offer by some other means or 30 business days after it made a subsequent public announcement stating that it had determined not to continue with the tender offer.

Timetable:

Action	Date	FR Cite
ANPRM	07/31/88	51 FR 28096
ANPRM Comment Period End	12/01/86	
NPRM	10/01/87	52 FR 37472
NPRM Comment Period End	12/07/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, DC 20549, 202 272-3097

RIN: 3235–AA50

3979. REPORTS OF DIRECTORS, OFFICERS AND PRINCIPAL STOCKHOLDERS

Legal Authority: 15 USC 78m(d); 15 USC 78p(a); 15 USC 78p(b); 15 USC 78p(c); 15 USC 78p(e); 15 USC 78w(a)

CFR Citation: 17 CFR 240.16a-1 to 240.16a-11; 17 CFR 240.16b-1 to 240.16b-11; 17 CFR 240.16c-1 to 240.16c-3; 17 CFR 240.16e-1; 17 CFR 249.103; 17 CFR 249.104; 17 CFR 240.12h-2; 17 CFR 270.30f-1

Legal Deadline: None

Abstract: The Commission published for comment a comprehensive revision of its rules promulgated under section 16 of the Securities Exchange Act. The proposed rules would define certain key terms, change trade reporting obligations, change exemptions from Section 16(b) short-swing profit recovery, and promulgate new forms and instructions. The proposal was published on 13 December.

Timetable:

Action	Date	FR Cite
NPRM	12/02/88	53 FR 49997
NPRM Comment Period End	03/13/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Brian J. Lane, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, DC 20549, 202 272-2589

RIN: 3235–AB14

3980. PRIVATE RESALES OF SECURITIES TO INSTITUTIONS

Legal Authority: 15 USC 77d (1); 15 USC 77d (3); 15 USC 77s(a)

CFR Citation: 17 CFR 230.144A

Legal Deadline: None

Abstract: The Securities and Exchange Commission has published for comment proposed Rule 144A that would provide a safe harbor from the registration requirements of the Securities Act of 1933 for the resale of securities to institutional investors. The rule would provide a safe harbor for three tiers of transactions. The Commission also published for comment an amendment to Rule 144 under the Act to define the required holding period for restricted securities as commencing at the time of sale by the issuer or its affiliate.

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 44016
NPRM Comment Period End	01/31/89	53 FR 50038

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sara Hanks, Chief, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3246

RIN: 3235–AC65

3981. PROSPECTUS DELIVERY REQUIREMENTS IN FIRM COMMITMENT UNDERWRITTEN OFFERINGS OF SECURITIES MADE FOR CASH (RULE 433)

Legal Authority: 15 USC 77b(10); 15 USC 77s(a); 15 USC 77j(a)(4); 15 USC 77j(d)

CFR Citation: 17 CFR 230.433

Legal Deadline: None

Abstract: The Commission proposed two alternative versions of a new Rule 433 that would provide a safe harbor from the requirement to deliver a final prospectus prior to or contemporaneously with a confirmation of sale in a firm commitment offering of securities for cash. Both proposals would permit, if all conditions of the rule are satisfied, the sending of a final prospectus no later than five business days after a confirmation of sale is sent to an investor in such an offering.

Timetable:

Action	Date	FR Cite
NPRM	08/06/87	52 FR 29206
NPRM Comment Period End	10/05/87	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ann D. Wallace, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235–AC80

3982. REGULATION S - RULES GOVERNING OFFERS AND SALES MADE OUTSIDE THE UNITED STATES WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77b; 15 USC 77d; 15 USC 77s

CFR Citation: 17 CFR 230.901-906

Legal Deadline: None

Abstract: The extraterritorial reach of Section 5 of the Securities Act of 1933 has become of critical importance with the development of major markets abroad and the growth of transnational investment. As a result of these developments, the Commission has published for comment proposed Regulation S intended to clarify the extraterritorial application of the registration provisions of the Securities Act of 1933. The Regulation would provide generally that any offer or sale that occurs outside the United States is not subject to Section 5.

Timetable:

Action	Date	FR Cite
NPRM	06/10/88	53 FR 53226
NPRM Comment Period End	10/31/88	53 FR 33147

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sara Hanks, Chief, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3246

RIN: 3235–AD23

3983. AUTOMATICALLY EFFECTIVE POST-EFFECTIVE AMENDMENTS FOR ACQUISITIONS BY CERTAIN LIMITED PARTNERSHIPS

Significance: Agency Priority

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s

CFR Citation: 17 CFR 230.465; 17 CFR 230.424; 17 CFR 229.801(c); 17 CFR 230.406

Legal Deadline: None

Abstract: The Commission is proposing for comment two alternative forms of a new Rule 465 that would provide for the automatic effectiveness of post-effective amendments filed by limited partnerships during the distribution period, provided that such amendments relate to significant acquisitions and contain required financial statements, financial information and textual information.

Timetable:

Action	Date	FR Cite
NPRM	07/08/88	53 FR 26718
NPRM Comment Period End	09/12/88	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Alexander D. Shtofman, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235–AD24

3984. EXEMPTION OF CERTAIN FOREIGN BROKERS OR DEALERS

Significance: Agency Priority

Legal Authority: 15 USC 78c; 15 USC 78j; 15 USC 78o; 15 USC 78q; 15 USC 78w; 15 USC 78dd

CFR Citation: 17 CFR 240.15a-6

Legal Deadline: None

Abstract: Proposed Rule 15a-6 is the Commission's response to the cross-border activities of foreign broker-dealers, which may not be aware of or clearly understand U.S. broker-dealer registration requirements. The proposed rule would exempt from these requirements foreign entities that engage in securities transactions with certain non-U.S. persons, or with specified U.S. institutional investors under certain limited conditions. The staff believes that this alternative is superior to relying on the interpretive process, since the internationalization of the world's securities markets has increased greatly the number of requests for interpretive advice received by the staff. The Commission believes that, to the extent that the proposed rule, if adopted, would impose any costs on registered broker-dealer affiliates of eligible foreign broker-dealers or have a competitive effect on other domestic broker-dealers, those costs are not significant and would not impact on a substantial number of small domestic broker-dealers; also, the exemption under the rule would be limited to foreign broker-dealers, which need not be considered under 5 USC 603.

Timetable:

Action	Date	FR Cite
NPRM	06/14/88	53 FR 23645
NPRM Alternative Proposal	10/04/88	53 FR 38967
NPRM Comment Period End	10/31/88	53 FR 33147

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Polanin, Jr., Attorney, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street N.W., Mail Stop 5-1, Washington, D.C. 20549, 202 272-2848

RIN: 3235–AD27

Securities Markets and Securities Industry Rules

3985. ● MUNICIPAL SECURITIES DISCLOSURE

Significance: Agency Priority

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78j; 15 USC 78o; 15 USC 78o-4; 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c2-12

Legal Deadline: None

Abstract: Proposed Rule 15c2-12 is designed to improve the quality and timeliness of disclosure in the municipal securities markets. The rule would require underwriters participating in offerings of municipal securities exceeding $10 Million to: obtain and review copies of nearly final official statements prior to bidding for or purchasing an offering; contract with

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the issuers or their agents to obtain final official statements in sufficient quantities to make them available in accordance with rules established by the Municipal Securities Rulemaking board; and make available copies of preliminary and final official statements to interested persons on request. The Commission has requested comment on a number of alternatives, including lower or higher thresholds for the rule, and specific exemptions for types of securities or transactions.

Timetable:

Action	Date	FR Cite
NPRM	09/28/88	53 FR 37778
NPRM Comment Period End	12/27/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edward L. Pittman, Assistant Chief Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2848

RIN: 3235–AD58

Investment Management Rules

3986. PROPOSED RULE 3A-4 -- INDIVIDUALIZED INVESTMENT MANAGEMENT SERVICES

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-4

Legal Deadline: None

Abstract: In Investment Company Act Release No. 11391 (October 10, 1980) (45 FR 69479) the Commission proposed for public comment Rule 3a-4, which would deem investment management services providing their clients with individualized treatment not to be investment companies for purposes of the Act. The rule provides a "safe harbor" for any investment manager providing its clients with treatment based on the needs and goals of each client. Under such circumstances, regulation of investment management services under the Act appears unnecessary. The proposed rule was intended to clarify the Commission's position on the question of "mini-accounts" by providing a safe harbor for certain investment management services and thereby provide some certainty to the public. The Commission does not expect any final action taken on the proposal to significantly affect the cost of providing investment management services. The public comment letters on the proposal have been reviewed and alternatives for final action are being considered.

Timetable:

Action	Date	FR Cite
NPRM	10/10/80	45 FR 69479
NPRM Comment Period End	01/31/81	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: NPRM is Release No. IC-11391 (10/10/80)

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3042

RIN: 3235–AA12

3987. PROPOSED RULES 11A-3 AND 11C-1 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-11(a); 15 USC 80a-37

CFR Citation: 17 CFR 270.11a-3; 17 CFR 270.11c-1

Legal Deadline: None

Abstract: The proposed rules would exempt certain persons from the requirements of Section 11(a) of the Investment Company Act. That section prohibits any registered open-end investment company and its principal underwriter from making an offer to a shareholder to exchange his security for another security on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms have been submitted to and approved by the Commission or comply with rules the Commission may prescribe. Section 11(c) states in part that the terms of any offer of exchange involving the securities of registered unit investment trusts must also be submitted to and approved by the Commission or comply with rules the Commission may prescribe. Proposed rule 11a-3 would permit a mutual fund or its principal underwriter to make certain exchange offers to its own shareholders or to shareholders of another fund in the same family of funds. Proposed rule 11c-1 would permit a unit investment trust or its sponsor to make certain exchange offers to unit holders of the same series or another series of the same trust or to unit holders of another unit investment trust

Timetable:

Action	Date	FR Cite
NPRM	12/23/86	51 FR 47260
NPRM Comment Period End	03/31/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: ABSTRACT CONT: having the same sponsor. By codifying standards for a variety of exchanges, these proposed rules are intended to significantly reduce the number of exemptive applications filed with the Commission under Section 11.

Agency Contact: Wendy B. Finck, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235–AA14

3988. PROPOSED AMENDMENT TO RULE 17G-1 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-17(g); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17g-1

Legal Deadline: None

Abstract: The Commission is considering whether to adopt an amendment to Rule 17g-1 under the Investment Company Act. The amendment was proposed for public comment in Investment Company Act Release No. 11193 (June 2, 1980) (45 FR 38407). Rule 17g-1 requires every registered investment company to provide and maintain a bond against larceny and embezzlement covering officers and employees of the company. In some circumstances, the officers and employees of a company's depositor, trustee, investment adviser or other

manager and various affiliates of such persons, because they have access to the company's assets, function as officers and employees of the investment company. The proposed amendment to the rule would clarify the scope of the rule by explicitly requiring the bonding of such persons. The principal cost associated with this rule would be the cost of a bond. That cost would vary according to the persons required to be bonded by the rule. In this regard, before adopting any amendment to the rule, the Commission will carefully consider what persons should be bonded to protect investors adequately, weighing the benefits of the protection against the cost of a bond.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3042

RIN: 3235–AA16

3989. SIMPLIFICATION OF REGISTRATION STATEMENTS FILED BY UNIT INVESTMENT TRUSTS

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Legal Deadline: None

Abstract: On March 9, 1987, the Commission reproposed for public comment Form N-7, a new form for registering unit investment trusts("VITS") and their securities under the Investment Company Act of 1940 and the Securities Act of 1933. Form N-7 was originally proposed by the Commission on May 14, 1985. Adoption of Form N-7 would (i) codify the disclosure requirements for VITS into one form; (ii) codify the disclosure standards that have been developed for VITS; and (iii) shorten and simplify the prospectus used in connection with the sale of units in both the initial offering and in the secondary market maintained by the sponsor. As reproposed, a one-part prospectus originally proposed, but the prospectus would retain a series specific part and a generic part. The requirement for audited financial statements would be eliminated under certain circumstances. The requirement that registrants include certain third party financial statements in the registration statement would be extended to insurers as well as guarantors of portfolio securities of the trust under the reproposal.

Timetable:

Action	Date	FR Cite
NPRM	05/23/85	50 FR 21282
NPRM Comment Period End	12/31/87	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Agency Contact: Diane C. Blizzard, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3040

RIN: 3235–AA47

3990. REGISTRATION UNDER THE SECURITIES ACT OF 1933 OF AN INDEFINITE NUMBER OF CERTAIN INVESTMENT COMPANY SECURITIES

Legal Authority: 15 USC 80a-37; 15 USC 80a-24

CFR Citation: 17 CFR 270.24f-3

Legal Deadline: None

Abstract: On March 9, 1987, the Commission published for public comment a new rule 24f-3 under the Investment Company Act of 1940 that would simplify filing requirements under section 24(f) of the Investment Company Act by allowing a unit investment trust to register an indefinite number of securities solely for secondary market purposes and to pay no registration fee on secondary market sales. The Commission is considering whether to adopt such amendments.

Timetable:

Action	Date	FR Cite
NPRM	03/17/87	52 FR 8302
NPRM Comment Period End	05/15/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235–AC10

3991. PROPOSED AMENDMENTS TO RULES 12B-1 AND 17D-3 UNDER THE INVESTMENT COMPANY ACT OF 1940, AND TO ITEM 7 OF FORM N-1A UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 80a-12(b); 15 USC 80a-17(d); 15 USC 80a-39; 15 USC 77a, et seq.

CFR Citation: 17 CFR 270.12b-1; 17 CFR 270.17d-3; 17 CFR 239.15A

Legal Deadline: None

Abstract: The Commission has proposed for comment amendments to Rule 12b-1 under the Investment Company Act to redefine the Circumstances under which investment companies may finance distribution of fund assets. The Commission has also proposed amendments to Rule 17d-3 to allow affiliated investment companies to jointly finance distribution activities under certain conditions. Finally, the Commission has proposed amendments to Form N-1A which would require an additional disclosure to be made regarding the amount of payments under distribution plans.

Timetable:

Action	Date	FR Cite
NPRM	06/21/88	53 FR 23258
NPRM Comment Period End	12/14/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rochelle G. Kauffman, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2048

RIN: 3235–AC11

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SEC — Final Rule Stage

3992. DISCLOSURE OF SECURITY RATINGS IN REGISTRATION STATEMENTS OF MONEY MARKET FUNDS

Legal Authority: 15 USC 77(g); 15 USC 77(i); 15 USC 77(s)(a)

CFR Citation: 17 CFR 230.134; 17 CFR 230.436; 17 CFR 230.482

Legal Deadline: None

Abstract: The Commission proposed amendments to Rules 134, 436, and 482 under the Securities Act of 1933 on March 14, 1986. The amendments would, if adopted, permit certain investment companies to use in their statutory and omitting prospectuses security ratings assigned by a nationally recognized statistical rating organization (NRSRO) without first obtaining the NRSRO'S consent to being named pursuant to Section 7 of the Securities Act. The Commission is now considering whether to adopt such amendments.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	05/16/86	51 FR 9838

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ernest P. Francis, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235–AC24

3993. PROPOSED RULE 6C-10 UNDER THE INVESTMENT COMPANY ACT OF 1940 AND TO ITEM 2 OF FORM N-1A UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-22(c); 15 USC 80a-37; 15 USC 80a-39; 15 USC 77a, et. seq.

CFR Citation: 17 CFR 270.6c-10; 17 CFR 239.15A

Legal Deadline: None

Abstract: The Commission has proposed for public comment rule 6c-10 under the Investment Company Act to provide a registered open-end management investment company, other than a registered insurance company separate account, and certain relaxed persons with exemptions from the Act to the extent necessary to permit the fund to impose sales loads on a deferred basis. The Commission has also proposed amendments to Form N-1A, the registration statement for funds to accommodate the deferred sales loads that would be permitted if rule 6c-10 is adopted.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Proposed rule 6c-10 was formerly included with the proposed amendments to rules 12b-1 and 17d-3 under the Investment Company Act. Proposed rule 6c-10 has been split from that entry to comprise a separate item on the agenda.

Agency Contact: Rochelle G. Kauffman, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D. C. 20549, 202 272-2048

RIN: 3235–AD18

3994. FORMS FOR FILINGS BY ACCOUNTANTS

Legal Authority: 15 USC 80a-17(f); 15 USC 80b-6

CFR Citation: 17 CFR 270.17f-1; 17 CFR 270.17f-2; 17 CFR 275.206(4)-2

Legal Deadline: None

Abstract: The Commission is proposing three new forms to serve as cover sheets to examination certificates filed by accountants in compliance with rules 17f-1(b)(4) and 17f-2(f) under the Investment Company Act of 1940 and rule 206(4)-2(a)(5) under the Investment Advisers Act of 1940. These forms, and related rule amendments, are intended to ensure that examination certificates are properly filed and thus easily accessible. Because the forms are only cover sheets for documents currently required to be filed, there would be no significant cost or burden for compliance.

Timetable:

Action	Date	FR Cite
NPRM	08/09/88	53 FR 29914
NPRM Comment Period End	09/23/88	
Final Action	06/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ernest P. Francis, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235–AD37

3995. EXEMPTION FROM REGISTRATION UNDER THE ADVISERS ACT FOR CERTAIN SMALLER INVESTMENT ADVISERS

Legal Authority: 15 USC 80b-6A

CFR Citation: 17 CFR 275.203(b)(1) -1; 17 CFR 275.203(b)(3) -2

Legal Deadline: None

Abstract: The Commission proposed rules that, if adopted would exempt smaller investment advisers from most federal adviser regulation, other than the general antifraud provisions, if the advisers are registered in all states in which they do business. The proposed exemptions should significantly diminish the costs and paperwork associated with dual federal and state regulation of small advisory businesses. The proposed rules would rely on the states to assume responsibility for the detailed regulation that, at the federal level, would no longer be applicable to small advisers exempt under these rules. The proposed rules, which include both an interstate and an intrastate exemption, would determine eligibility for the exemptions by reference to the size of the adviser's business; whether the adviser has custody of client funds or securities; and whether the adviser is registered as an adviser in the state or states in which it does business. The proposed exemptions, together with the amendment of several rules, would eliminate costs of registration and reporting as well as compliance with the brochure rule, the recordkeeping rule, the performance for rule, the cash (con't)

SEC — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/23/88	53 FR 36997
NPRM Comment Period End	11/22/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: solicitation rule, the advertising rule, and the Act's regulation of principal and agency cross transactions for advisers exempt under the proposed rules that choose not to register or to deregister with the Commission.

Agency Contact: Dorothy M. Donohue, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235–AD38

3996. DIVERSIFICATION BY EXEMPT HOLDING COMPANIES

Legal Authority: 15 USC 79c(a)(1); 15 USC 79t(a)

CFR Citation: 17 CFR 250.17; 17 CFR 250.2; 17 CFR 259.402

Legal Deadline: None

Abstract: Proposed Rule 17 clarifies under what conditions diversification into non-utility enterprises would not be deemed detrimental to the public interest or the interest of investors or consumers within the meaning of the "unless and except" clause of S3(a)(1) of the Public Utility Holding Company Act of 1935. The rule would provide two alternative "safe harbors". A companion proposed amendment to rule 2 under the Act would require after three years from its adoption, claims of exemption under rule 2, in order to be effective, would require that the claimant meet one of the safe harbor provisions of rule 17. Also proposed is an amendment to Form U-3A-2, the statement filed annually by holding companies claiming exemptions under rule 2, that would request information necessary to determine whether a rule 2 claim of exemption by an intrastate holding company was meritorious in light of the requirement added to rule 2. These proposals could significantly increase regulatory compliance costs for those intrastate public utility holding companies that have diversified operations, or that intend to do so. The proposals could require such a company to forego acquisition of an unrelated (con't)

Timetable:

Action	Date	FR Cite
NPRM	02/07/89	54 FR 6701
NPRM Comment Period End	05/15/89	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: non-utility interest or to divest such an interest previously acquired; or alternatively, to seek enactment by the legislature in its state of organization of a unified comprehensive utility holding company statute that addresses diversification activities.

Agency Contact: William C. Weeden, Assistant Director, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-7683

RIN: 3235–AD39

SECURITIES AND EXCHANGE COMMISSION (SEC) — Completed Actions

3997. AMENDMENTS TO REGULATION S-K REGARDING CHANGES IN ACCOUNTANTS; ACCELERATION OF THE TIMING FOR FILING FORMS 8-K RELATING TO CHANGES IN ACCOUNTANTS AND RESIGNATIONS OF DIRECTORS

CFR Citation: 17 CFR 229; 17 CFR 249

Completed:

Reason	Date	FR Cite
Final Action	03/08/89	54 FR 9770
Final Action Effective	04/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John M. Riley 202 272-2130

RIN: 3235–AD30

3998. SECTION 16(A) COMPLIANCE

CFR Citation: 17 CFR 230.144; 17 CFR 239.300; 17 CFR 240.16a-1; 17 CFR 249.103; 17 CFR 249.104; 17 CFR 249.308a; 17 CFR 249.310

Completed:

Reason	Date	FR Cite
Merged with RIN 3235-AB14	12/02/88	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Brian J. Lane 202 272-2589

RIN: 3235–AD04

3999. REPORTING REQUIREMENTS FOR CHANGE IN FISCAL YEAR END

CFR Citation: 17 CFR 210.3-12; 17 CFR 240.12b-25; 17 CFR 240.13a-10; 17 CFR 240.13a-13; 17 CFR 240.14a-3; 17 CFR 240.15d-10; 17 CFR 249.15d-13; 17 CFR 249.220f; 17 CFR 249.308; 17 CFR 249.308a; 17 CFR 249.310; 17 CFR 270.322; 17 CFR 270.8b-16; 17 CFR 274.30b1-2; 17 CFR 274.101

Completed:

Reason	Date	FR Cite
Final Action	03/13/89	54 FR 10306
Final Action Effective	04/12/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Emanuel D. Strauss 202 272-2573

RIN: 3235–AD05

4000. REGULATION D

Significance: Agency Priority

CFR Citation: 17 CFR 215.; 17 CFR 501.; 17 CFR 502.; 17 CFR 507.; 17 CFR 508.

Completed:

Reason	Date	FR Cite
Final Action	03/20/89	54 FR 11369
Final Action Effective	04/19/89	

Small Entities Affected: Businesses

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SEC

Completed Actions

Government Levels Affected: Local

Agency Contact: William Toomey 202 272-2844

RIN: 3235-AD45

4001. RULE 10B-21(T) SHORT SALES IN CONNECTION WITH A PUBLIC OFFERING

CFR Citation: 17 CFR 240.10b-21(T)

Completed:

Reason	Date	FR Cite
Final Action	08/15/88	53 FR 33455
Final Action Effective	09/30/88	53 FR 33455

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ivette Lopez 202 272-2848

RIN: 3235-AC95

4002. ● FORM X-17A-5 (PARAGRAPH (A) OF RULE 17A-5 OF THE SECURITIES EXCHANGE ACT

Legal Authority: 15 USC 78q

CFR Citation: 17 CFR 249.617

Legal Deadline: None

Abstract: Form X-17A-5 of the Securities Exchange Act of 1934, 15 U.S.C. 78q (paragraph) (a) of Rule 17a-5) is a form on which every broker-dealer registered under Section 15 must file certain specified monthly and quarterly reports. The form, which is required under Rule 17a-5 (17 C.F.R. 240.17a-5), is also known as the Financial and Operational Combined Uniform Single ("FOCUS") Report, and must be filed at the Commission's principal office in Washington, D.C. and at the regional office for the region where the broker-dealer's principal place of business is located. The FOCUS Report was designed to eliminate all of the overlapping regulatory reports required by various self-regulatory groups and the Commission and to reduce reporting burdens as much as possible.

Timetable:

Action	Date	FR Cite
End Review	01/10/89	40 FR 59713

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Abramovitz, Staff Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2398

RIN: 3235-AD59

4003. VARIABLE ANNUITY FEE TABLE

CFR Citation: 17 CFR 239.17a; 17 CFR 274.11b; 17 CFR 239.17b; 17 CFR 274.11c; 17 CFR 239.15A; 17 CFR 274.11A

Completed:

Reason	Date	FR Cite
Final Action	01/31/89	54 FR 4772

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Rappa 202 272-2061

RIN: 3235-AD36

[FR Doc. 89-6186 Filed 04-21-89; 8:45 am]

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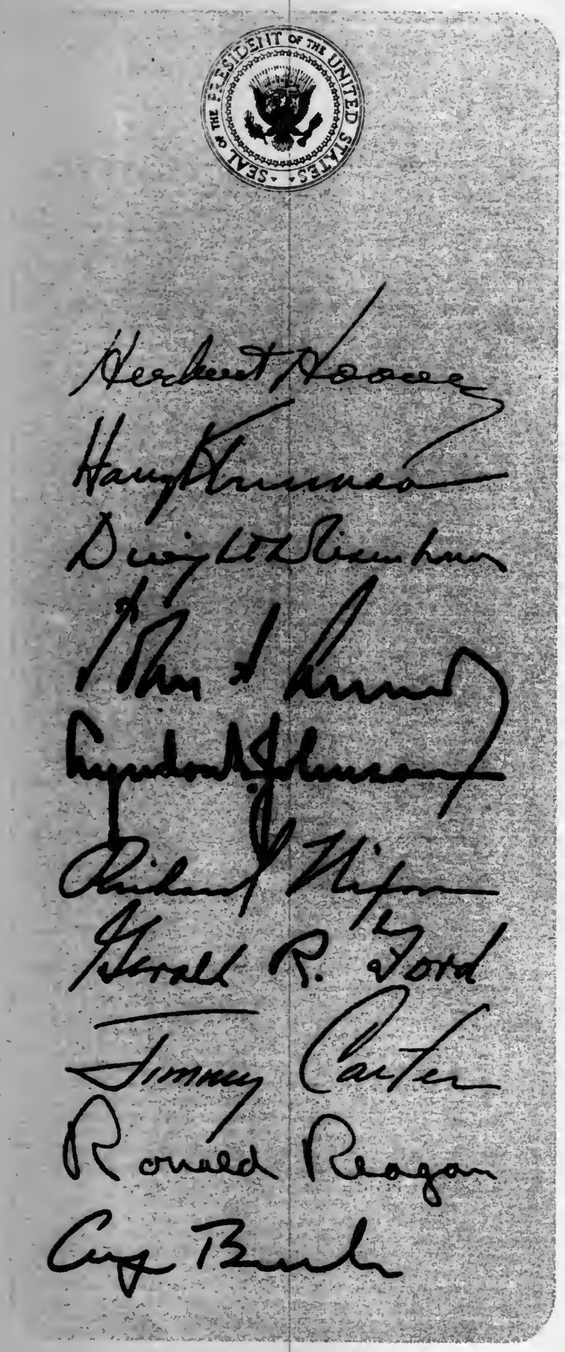
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Federal Register
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Tuesday, April 25, 1989

Presidential Documents

Title 3—

The President

Proclamation 5957 of April 19, 1989

National Recycling Month, 1989

By the President of the United States of America

A Proclamation

As we approach the last decade of the 20th century, the United States faces a growing problem in the management of solid waste. This Nation currently generates 160 million tons of solid waste per year. While that amount is increasing, the number of available landfills is shrinking dramatically. This situation underscores the importance of recycling.

The benefits of recycling solid waste are substantial. Recycling waste helps to preserve our limited landfill space. Recycling also reduces the need to extract resources from their natural environment and thus helps to prevent the pollution such removal efforts create. It also saves energy and provides a less expensive alternative to landfills and incineration. Finally, communities can use the materials recovered through recycling to generate revenue.

Some cities and States, recognizing the important role recycling can play in waste management, have enacted mandatory recycling laws. Numerous towns and counties across America now boast effective voluntary recycling programs. A well-developed system of recycling facilities has emerged in the United States for scrap metals, paper, and glass. Nonetheless, Americans still do not recycle enough municipal waste. Nearly 80 percent of the municipal solid waste in this country is deposited in landfills, while 10 percent is incinerated. Only 10 percent of our Nation's waste is recycled.

Every American household and community can play a major role in solving the problems associated with solid waste disposal by recycling—either through municipal programs or voluntary drives sponsored by local service organizations. The Environmental Protection Agency has set a national goal of 25 percent waste recycling by 1992. While the ability to meet this goal may vary from town to town, such efforts are useful steps toward eliminating America's solid waste problems.

In recognition of the importance of recycling, the Congress, by House Joint Resolution 102, has designated April 1989 as "National Recycling Month" and has authorized and requested the President to issue a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim April 1989 as National Recycling Month. I urge the people of the United States to observe this month by actively participating in community recycling efforts and teaching their children about the benefits of such efforts. I also encourage community leaders to consider the advantages of a comprehensive recycling program as a means of managing municipal solid waste.

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IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.

George Bush

[FR Doc. 89-9908
Filed 4-20-89; 2:38 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 89-13 of April 12, 1989

Certification With Respect to Section 1307 of the National Defense Authorization Act, Fiscal Year 1989

Memorandum for the Secretary of State

Pursuant to Section 1307 of the National Defense Authorization Act, Fiscal Year 1989, I hereby certify that Saudi Arabia does not possess biological, chemical, or nuclear warheads for the intermediate-range ballistic missiles purchased from the People's Republic of China.

You are hereby authorized and directed to publish this certification in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, April 12, 1989.

Doc. 89-9940
Filed 4-20-89; 4:27 pm]
Billing code 3195-01-M

Editorial note: For a justification, dated Apr. 13, regarding the continuation of arms sales to Saudi Arabia, see the *Weekly Compilation of Presidential Documents* (vol. 25, p. 541).

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Presidential Documents

Executive Order 12675 of April 20, 1989

Establishing the National Space Council

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to provide a coordinated process for developing a national space policy and strategy and for monitoring its implementation, it is hereby ordered as follows:

Section 1. *Establishment and Composition of the National Space Council.*

(a) There is established the National Space Council ("the Council").

(b) The Council shall be composed of the following members:

(1) The Vice President, who shall be Chairman of the Council;

(2) The Secretary of State;

(3) The Secretary of the Treasury;

(4) The Secretary of Defense;

(5) The Secretary of Commerce;

(6) The Secretary of Transportation;

(7) The Director of the Office of Management and Budget;

(8) The Chief of Staff to the President;

(9) The Assistant to the President for National Security Affairs;

(10) The Assistant to the President for Science and Technology;

(11) The Director of Central Intelligence; and

(12) The Administrator of the National Aeronautics and Space Administration.

(c) The Chairman shall, from time to time, invite the following to participate in meetings of the Council:

(1) The Chairman of the Joint Chiefs of Staff; and

(2) The heads of other executive departments and agencies and other senior officials in the Executive Office of the President.

Sec. 2. *Functions of the Council.* (a) The Council shall advise and assist the President on national space policy and strategy, and perform such other duties as the President may from time to time prescribe.

(b) In addition, the Council is directed to:

(1) review United States Government space policy, including long-range goals, and develop a strategy for national space activities;

(2) develop recommendations for the President on space policy and space-related issues;

(3) monitor and coordinate implementation of the objectives of the President's national space policy by executive departments and agencies; and

(4) foster close coordination, cooperation, and technology and information exchange among the civil, national security, and commercial space sectors, and facilitate resolution of differences concerning major space and space-related policy issues.

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(c) The creation and operation of the Council shall not interfere with existing lines of authority and responsibilities in the departments and agencies.

Sec. 3. *Responsibilities of the Chairman.* (a) The Chairman shall serve as the President's principal advisor on national space policy and strategy.

(b) The Chairman shall, in consultation with the members of the Council, establish procedures for the Council and establish the agenda for Council activities.

(c) The Chairman shall report to the President on the activities and recommendations of the Council. The Chairman shall advise the Council as appropriate regarding the President's directions with respect to the Council's activities and national space policy generally.

(d) The Chairman shall authorize the establishment of such committees of the Council, including an executive committee, and of such working groups, composed of senior designees of the Council members and of other officials invited to participate in Council meetings, as he deems necessary or appropriate for the efficient conduct of Council functions.

Sec. 4. *National Space Policy Planning Process.* (a) The Council will establish a process for developing and monitoring the implementation of national space policy and strategy.

(b) To implement this process, each agency represented on the Council shall provide such information regarding its current and planned space activities as the Chairman shall request.

(c) The head of each executive department and agency shall ensure that its space-related activities conform to national space policy and strategy.

Sec. 5. *Establishment of Vice President's Space Policy Advisory Board.* (a) The Vice President shall establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), governing Presidential advisory committees, an advisory committee of private citizens to advise the Vice President on the space policy of the United States ("the Board").

(b) The Board shall be composed and function as follows:

(1) The Board shall be composed of members appointed by the Vice President.

(2) The Vice President shall designate a Chairman from among the members of the Board. The Executive Secretary of the National Space Council shall serve as the Secretary to the Board.

(3) Members of the Board shall serve without any compensation for their work on the Board. However, they shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by law, for persons serving intermittently in the Government service (5 U.S.C. 5701–5707), to the extent funds are available for that purpose.

(4) Necessary expenses of the Board shall be paid from funds available for the expenses of the National Space Council.

(5) Notwithstanding the provisions of any other Executive order, the responsibilities of the President under the Federal Advisory Committee Act, as amended, except that of reporting annually to the Congress, which are applicable to the Board established by this order, shall be performed on a reimbursable basis by the Director of the Office of Administration in the Executive Office of the President, in accordance with the guidelines and procedures established by the Administrator of General Services.

Sec. 6. *Microgravity Research Board.* Section 1(c) of Executive Order No. 12660 is amended by deleting "Economic Policy Council" and inserting in lieu thereof "National Space Council."

Sec. 7. *Administrative Provisions.* (a) The Office of Administration in the Executive Office of the President shall provide the Council with such administrative support on a reimbursable basis as may be necessary for the performance of the functions of the Council.

(b) The President shall appoint an Executive Secretary who shall appoint such staff as may be necessary to assist in the performance of the Council's functions.

(c) All Federal departments, agencies, and interagency councils and committees having an impact on space policy shall extend, as appropriate, such cooperation and assistance to the Council as is necessary to carry out its responsibilities under this order.

(d) The head of each agency serving on the Council or represented on any working group or committee of the Council shall provide such administrative support as may be necessary, in accordance with law and subject to the availability of appropriations, to enable the agency head or its representative to carry out his responsibilities.

Sec. 8. *Report.* The Council shall submit an annual report setting forth its assessment of and recommendations for the space policy and strategy of the United States Government.

George Bush

THE WHITE HOUSE,
April 20, 1989.

[FR Doc. 89-9941
Filed 4-20-89; 4:48 pm]
Billing code 3195-01-M

Editorial note: For a White House announcement, dated Mar. 1, on the appointment of the director of the staff of the National Space Council, and the President's remarks of April 20 on the establishment of the Council, see the *Weekly Compilation of Presidential Documents* (vol. 25, nos. 9 and 16).

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Proclamation 5958 of April 20, 1989

National Organ and Tissue Donor Awareness Week, 1989 and 1990

By the President of the United States of America

A Proclamation

Few advances in medicine inspire more awe than successful organ and tissue transplants. In recent years, we have witnessed the restoration of sight to the blind through new corneas; we have watched cancer patients regain their health through bone marrow transplants; and we have seen gravely ill men and women get another chance at life with a new heart, lung, or kidney. These wonderful success stories would not have been possible without the generosity of those Americans who were willing to donate their organs and tissues to others.

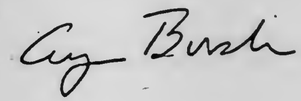
Much has been done in recent years to encourage public support of organ and tissue donation. Through the American Council or Transplantation, regional donor programs, community leadership, and media support, millions of Americans have learned about donation and have signed donor cards. Unfortunately, despite these efforts and the success of transplant programs around the world, many seriously ill persons still await organ transplants. That is why I encourage each and every American to give careful thought to becoming an organ and tissue donor.

I encourage every American to learn the facts about organ and tissue transplants and to discuss any moral or ethical concerns about donation with your family and doctor. Organ and tissue transplants give us cause to reflect upon the precious gift of human life, as well as our responsibility to treat it with care and reverence. Just as we give thanks for the life and health with which God has blessed us, so, too, must we solemnly consider the profound act of sharing life with others through organ and tissue donation.

The Congress, by House Joint Resolution 112, has designated the weeks of April 23 through 29, 1989, and April 23 through 29, 1990, as "National Organ and Tissue Donor Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the weeks of April 23 through 29, 1989, and April 23 through 29, 1990, as National Organ and Tissue Donor Awareness Week. I ask health care professionals, public and private service organizations, and all Americans to join in supporting this humanitarian cause.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.



[FR Doc. 89-10017]
Filed 4-21-89; 2:51 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5959 of April 21, 1989

Law Day, U.S.A., 1989

By the President of the United States of America

A Proclamation

For more than 30 years, our Nation has paused each May 1 to observe Law Day, U.S.A. On this day, we celebrate America's legacy of liberty and self-government, guaranteed under law and preserved with the aid of our legal system.

The American legal system plays a vital role in maintaining the balance between individual freedom and civil order. Our Nation's leaders, past and present, have supplemented our rich common law heritage with statutes, rules, and regulations at every level of government. This body of laws not only provides protection for the freedoms guaranteed by our Constitution, it also provides a framework for peacefully resolving disputes, vindicating the rights of individuals, and punishing criminal conduct.

Our Nation has long been committed to ensuring that this system serves all who seek redress of their grievances. That commitment is reflected in the solemn oath taken by all Federal judges before they assume office: the vow to "administer justice without respect to persons, and do equal right to the poor and to the rich." Under that oath, judges must decide every citizen's claim on its merits, not on the basis of the claimant's status.

Despite its many accomplishments, however, our legal system still exhibits a number of imperfections. There remain members of our society for whom the promise of redress for their grievances has not yet been fully realized. Delay in court proceedings and the cost of pursuing legal remedies make it difficult for many Americans to have their claims adjudicated, regardless of their economic means. Others face large hurdles and tremendous frustration—even if they ultimately obtain vindication—because of the frivolous use of legal processes. These problems are particularly distressing to the poor. Many indigent persons are simply precluded from pursuing legal remedies to their grievances. All too often, this exclusion invites disrespect for our judicial system and subsequently undermines the strength of our democracy.

On this Law Day, which is dedicated to the theme of "Access to Justice," we remind ourselves that it is everyone's responsibility to ensure the effectiveness and accessibility of the American justice system. Our Founders asserted that the second goal of the U.S. Constitution was "to establish justice." Because of the central role of the rule of law in preserving our freedom in this constitutional democracy, all Americans should concern themselves with improving the Nation's justice system. All of us can participate in this process by developing a better understanding of its purpose and operations. We can encourage the organizations to which we belong to initiate educational programs aimed at the general public, and we can give of our own time to help those with valid claims to obtain redress.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, in accordance with Public Law 87–20 of April 7, 1961, do hereby proclaim Monday, May 1, 1989, as Law Day, U.S.A. I urge the people of the United States to mark this occasion by reflecting upon the importance of the justice system to the preservation of our democracy, as well as the importance of access to that system for all who will make responsible use of it. I urge the

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legal profession, schools, libraries, government agencies, the media, clergy, and businesses, as well as civic and voluntary service organizations, to join in efforts to focus public attention on the importance of making access to justice a reality for all persons. I also call upon all public officials to display the flag of the United States on all government buildings on this day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.

George Bush

[FR Doc. 89-10043]
Filed 4-21-89; 4:23 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5960 of April 21, 1989

Death of American Servicemen on Board the USS IOWA

By the President of the United States of America

A Proclamation

As a mark of respect for the American servicemen who died as a result of the accident aboard the USS IOWA, which occurred on April 19, 1989, I hereby order, by the authority vested in me as President of the United States of America by section 175 of title 36 of the United States Code, that the flag of the United States shall be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and Possessions until sunset, Tuesday, April 25, 1989. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.

George Bush

[FR Doc. 89-10044
Filed 4-21-89; 4:24 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks of Apr. 21 on signing Proclamation 5960, see the *Weekly Compilation of Presidential Documents* (vol. 25, no. 16).

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Notice of April 21, 1989

Continuation of Nicaraguan Emergency

On May 1, 1985, by Executive Order No. 12513, President Reagan declared a national emergency to deal with the threat to the national security and foreign policy of the United States constituted by the situation in Nicaragua. On April 25, 1988, the President announced the continuation of that emergency beyond May 1, 1988. Because the actions and policies of the Government of Nicaragua continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on May 1, 1985, and subsequently extended, must continue in effect beyond May 1, 1989. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Nicaragua. This notice shall be published in the **Federal Register** and transmitted to the Congress.

George Bush

April 12, 1989.
THE WHITE HOUSE,

[FR Doc. 89-10055
Filed 4-21-89; 4:55 pm]
Billing code 3195-01-M

Editorial note: For the texts of two separate letters, dated Apr. 21, to the Speaker of the House of Representatives and the President of the Senate, on the continuation of the emergency, see the *Weekly Compilation of Presidential Documents* (vol. 25, no. 16).

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Rules and Regulations

Federal Register
Vol. 54, No. 78
Tuesday, April 25, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1785

Cushion of Credit Account; Computations and Procedures

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: The Rural Electrification Administration is correcting an error in the cushion of credit account computation procedures which appeared in the Federal Register on April 5, 1989 (54 FR 13668).

FOR FURTHER INFORMATION CONTACT: Robert D. Ruddy, Director, Fiscal Accounting Division, Rural Electrification Administration, Washington, DC 20250–1500, telephone number (202) 382–8823.

SUPPLEMENTARY INFORMATION: The borrower's option to make a one time election to have computations regarding its cushion of credit account made as of April 5, 1989, instead of October 2, 1987, as specified in § 1785.70(a), is corrected by specifying the date by which the borrower must exercise this option. Any borrower wishing to elect April 5, 1989, as the computation date must notify REA to that effect within 30 days from the date this notice of correction is published. REA is correcting the last sentence of 7 CFR 1785.70(a) by adding the words "on or before May 25, 1989."

For the convenience of the public, 7 CFR 1785.70(a) as corrected by this notice is reprinted in full below.

§ 1785.70 Application of RETRF cushion of credit payments.

(a) If a maturing installment on an REA note or a note which has been guaranteed by REA is not received by its due date, funds will be withdrawn from the borrower's cushion of credit account and applied as of the installment due date beginning with the oldest of such notes as follows: first, to current interest then due on all notes; second, to the accumulated interest due, if any, on all notes; and third, to the principal then due on all notes. In those instances where a borrower has prior to October 2, 1987, maintained an advance payment account with REA, its cushion of credit account will be applied in accordance with the provisions of this section prior to using any balance remaining in its advance payment account to pay interest and principal installments on notes. Computations required under this section have been made by REA as of October 2, 1987; however, on or before May 25, 1989 any borrower may make a one time irrevocable election to have all such computations made as of April 5, 1989, by filing written notice to that effect with Robert D. Ruddy, Director, Fiscal Accounting Division, Rural Electrification Administration, Washington, DC 20250–1500.

* * * * *

Dated: April 19, 1989.

Jack Van Mark,

Acting Administrator.

[FR Doc. 89–9812 Filed 4–24–89; 8:45 am]
BILLING CODE 3410–15–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

Access to Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations for access to Safeguards Information to be consistent with "The Omnibus Diplomatic Security and Anti-Terrorism Act of 1986," which requires nuclear power reactor applicants and licensees to conduct Federal Bureau of Investigation (FBI) criminal history checks of certain individuals with access to information protected as Safeguards Information. This action is necessary to ensure that all applicable NRC regulations reflect this requirement.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: M.L. Au, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3749.

SUPPLEMENTARY INFORMATION: Section 606 of Pub. L. 99–399, "The Omnibus Diplomatic Security and Anti-Terrorism Act of 1986," requires nuclear power reactor applicants and licensees to conduct criminal history checks through the use of FBI criminal history data on individuals with access to Safeguards Information. The Act, signed by President Reagan on August 27, 1986, required the NRC to issue regulations to establish conditions for the use and control of the criminal history data received from the FBI. NRC published its implementing regulations March 2, 1987, as a new § 73.57 to 10 CFR Part 73. NRC requirements for the protection of Safeguards Information, 10 CFR 73.21, were published October 22, 1981, prior to enactment of the legislation. This technical amendment conforms 10 CFR 73.21 with the provisions of 10 CFR 73.57 which require certain individuals to undergo FBI criminal history checks prior to gaining access to Safeguards Information. Individuals who are exempted from fingerprinting under 10 CFR 73.57 will continue to be exempt under this rule.

Because this amendment is of a technical nature only, and does not add a new requirement, or revoke any existing regulation, good cause exists for finding that notice of proposed rulemaking and public procedure is unnecessary until Title 5 U.S.C. section 553. Accordingly, the amendment is being published for codification as a final rule.

Environmental Impact: Categorical Exclusion

The NRC has determined that this regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore neither an environmental impact statement nor environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et

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seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150-0002.

Regulatory Analysis

No regulatory analysis has been prepared for this rule because the action represents an administrative cross-referencing between two existing sections in the regulations.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required for this final rule, because these amendments are mandated by Pub. L. 99-399.

List of Subjects in 10 CFR Part 73

Hazardous materials-transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

For reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendment to 10 CFR Part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIAL

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 53, 161, 66 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273; §§ 73.21, 73.37(g), and 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, and 73.57 are issued under sec. 1611, 68 Stat. 949, as amended (42 U.S.C. 2201(i); and §§ 73.20(c)(1), 73.24(b)(1), 73.26 (b)(3), (h)(6), and (k)(4), 73.27 (a) and (b), 73.37(f), 73.40 (b) and (d), 73.46 (g)(6) and (h)(2), 73.50 (g)(2), (3)(iii)(B), and (h), 73.55 (h)(2) and (4)(iii)(B), 73.57, 73.70, 73.71, and 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 73.21, paragraph (c)(1)(i) is revised to read as follows:

§ 73.21 Requirements for the protection of safeguards information.

* * * * *

(c) * * *

(1) * * *

(i) An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government. However, an individual to be authorized access to Safeguards Information by a nuclear power reactor applicant or licensee must undergo a Federal Bureau of Investigation criminal history check to the extent required by 10 CFR 73.57;

* * * * *

Dated at Rockville, Maryland, this 4th day of April, 1989.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 89-9662 Filed 4-24-89; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 88F-0333]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl as an antioxidant for 4-methylpentene-1 copolymers used in contact with food. This action is in response to a petition filed by Sandoz AG.

DATES: Effective May 26, 1989, objections by May 25, 1989.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administation, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 25, 1988 (53 FR 43043), FDA announced that a food additive petition (FAP 8B4100) had been filed by Sandoz AG, CH-4402, Basel, Switzerland, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to include the use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl as an antioxidant for 4-methylpentene-1 copolymers used in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended in § 178.2010 in the table of paragraph (b) by revising item 1. under the heading "Limitations" for the entry "Di-*tert*-butylphenyl phosphonite condensation product with biphenyl * * *".

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before May 25, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be present in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.2010 is amended in the table of paragraph (b) by revising item 1. under the heading "Limitations" for the entry "Di-*tert*-butylphenyl phosphonite condensation product with biphenyl * * *" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
Di-*tert*-butylphenyl phosphonite condensation product with biphenyl * * *.	For use only: 1. At levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 2.1, 2.2, 3.1, 3.2, or 3.3. * * *

Dated: April 14, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-9844 Filed 4-24-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Copper Disodium Edetate Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Veterinary Research and Development, Inc., providing for the use of Bovi-Cu (copper disodium edetate) injection in beef cattle and beef calves to prevent copper deficiency alone or in association with molybdenum toxicity.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Veterinary Research and Development, Inc., P.O. Box 1299, Truckee, CA 95734, filed NADA 140-904 which provides for the use of Bovi-Cu (copper disodium edetate) injection in beef cattle and beef calves to prevent copper deficiency alone or in association with molybdenum toxicity. The application is approved and the regulations are amended in 21 CFR 510.600(c) and in 21 CFR Part 522 by adding a new § 522.514. The basis for approval is discussed the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegatd to the Center for Veterinary Medicine, Parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Section 510.600 is amended in the table of paragraph (c)(1) by alphabetically adding an entry for "Veterinary Research and Development, Inc.", and in the table of paragraph (c)(2) by numerically adding and entry for "057428" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Veterinary Research and Development, Inc., P.O. Box 1299, Truckee, CA 95734	057428
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
057428	Veterinary Research and Development, Inc., P.O. Box 1299, Truckee, CA 95734

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

4. New § 522.514 is added to Part 522 to read as follows:

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§ 522.514 Copper disodium edetate injection.

(a) *Specifications.* Each milliliter of sterile, glycerol-aqueous solution contains 400 milligrams of copper disodium edetate (equivalent to 60 milligrams of copper).

(b) *Sponsor.* See 057428 in § 510.600(c) of this chapter.

(c) *Conditions of Use*—(1) *Amount.* 1 milliliter for calves weighing 300 pounds or less; 2 milliliters for calves weighing over 300 pounds and adult cattle.

(2) *Indications for use.* For beef cattle and beef calves to prevent copper deficiency alone or in association with molybdenum toxicity.

(3) *Limitations.* For subcutaneous use only. Repeat dose after 3 months in young calves and after 6 months in cattle of feeder age or older. Discontinue use 30 days before treated animals are slaughtered for food use.

Dated: April 17, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-9843 Filed 4-24-89; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3560-9]

Wisconsin; Schedule of Compliance for Modification of Hazardous Waste Program

AGENCY: Environmental Protection Agency, Region V.

ACTION: Notice of Wisconsin's Compliance Schedule to Adopt Program Modifications.

SUMMARY: On September 22, 1986, U.S. EPA promulgated Amendments to the deadlines for State program modifications and published requirements for States to be placed on a compliance schedule to adopt necessary program modifications, if they cannot meet the prescribed deadlines. U.S. EPA is today publishing a compliance schedule for Wisconsin to modify its program, in accordance with § 271.21(g) to adopt Federal program modifications.

FOR FURTHER INFORMATION CONTACT: Brian Barwick, Wisconsin Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 230 South Dearborn Street, 5HR-JCK-13, Chicago, Illinois 60604, (312) 886-6085, (FTS: 8-886-6085).

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous waste program within the State is granted by U.S. EPA, if the Agency finds that the State program: (1) Is "equivalent" to the Federal program; (2) is "consistent" with the Federal program and other State programs; and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6926(b)). U.S. EPA regulations for final authorization appear at 40 CFR 271.1-271.24. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986, for a complete discussion of these procedures and deadlines.

B. Wisconsin

Wisconsin received final authorization of its hazardous waste program on January 31, 1986 (see 51 FR 3783, January 30, 1986). Today U.S. EPA is publishing a compliance schedule for Wisconsin to complete program revisions for the following Federal program requirements:

(1) Financial Responsibility; Settlement Agreement
(51 FR 16443-16459, May 2, 1986)
(2) Radioactive Mixed Waste
(51 FR 24504-24505, July 3, 1986)
(3) Liability Coverage-Corporate Guarantee
(51 FR 25350-25356, July 11, 1986)
(4) Hazardous Waste Tank Systems
(51 FR 25470-25486, July 14, 1986)
(5) Correction to Listing of Commercial Chemical Products and Appendix VIII Constituents
(51 FR 28296-28310, August 6, 1986)
(6) Correction to the Hazardous Waste Tank Systems Rule
(51 FR 29430-29431, August 15, 1986)
(7) Revised Manual SW-846 Amended Incorporation by Reference
(52 FR 8072-8073, March 16, 1987)
(8) Closure/Post-Closure Care for Interim Status Surface Impoundments
(52 FR 8704-8709, March 19, 1987)
(9) Definition of Solid Waste Technical Corrections
(52 FR 21306-21307, June 5, 1987)
(10) Amendments to Part B Information Requirements for Disposal Facilities
(52 FR 23447-23450, June 22, 1987)

Following is an explanation of why Wisconsin needs additional time to complete these program revisions.

The adoption deadline under 40 CFR 271.21 for Financial Responsibility; Settlement Agreement was July 1, 1987. In the preamble to the Federal rule (51 FR 16443-16459, May 2, 1986) and in other official U.S. EPA guidance, U.S. EPA indicated that certain provisions of this Federal rule were not required to maintain authorization, because those provisions were less stringent than pre-existing Federal rules. States are not required to make program revisions with respect to new Federal requirements which are less stringent than pre-existing Federal rules.

U.S. EPA has now determined that the preamble and the official U.S. EPA guidance mischaracterized certain Federal provisions as less stringent. Many of the Federal provisions that were mischaracterized are in fact more stringent than pre-existing Federal rules and, therefore, are required program revisions for authorization maintenance (see 53 FR 7740-7741, March 10, 1988).

When Wisconsin adopted rules analogous to the Federal rules, the State omitted those Federal provisions which were mischaracterized in the preamble and official U.S. EPA guidance as less stringent provisions. As a result, through no fault of its own, Wisconsin cannot receive authorization for Financial Responsibility—Settlement Agreement until it makes further program revisions in accordance with U.S. EPA's revised guidance. Wisconsin has agreed to make these additional program revisions.

The adoption deadline under 40 CFR 271.21 for the other Federal rules listed above was July 1, 1988. For the most part, State program revisions for these rules have been delayed because the State is currently reorganizing and recodifying its hazardous waste rules. This State effort should greatly enhance the public's ability to comprehend the requirements of Wisconsin's hazardous waste rules. In addition, some Federal rules other than those specified above, will be incorporated into the State rules as a part of this effort. For these reasons, U.S. EPA supports the State's reorganization and recodification effort and, therefore, has granted the State additional time to complete its program revisions.

The State has agreed to complete the needed program revisions according to the following schedule:

(1) Draft State rules, October 1988-March 1989.
(2) Submit draft State rules to U.S. EPA for review, December 1988 through March 1989.
(3) Hold a public hearing on the new State rules, April 15, 1989.
(4) Submit rule adoption request greensheet to appropriate State officials, July 1, 1989.
(5) Submit new State rules to the Wisconsin legislature for approval, August 31, 1989.

(6) New State rules become effective, December 31, 1989.

Wisconsin expects to submit an application to U.S. EPA for authorization of the above-mentioned program revisions by February 28, 1990.

Authority: This notice is issued under the authority of sections 200 (a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 89-9873 Filed 4-24-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50567B; FRL-3561-1]

Benzenamine, 4-Chloro-2-Methyl-; Benzenamine, 4-Chloro-2-Methyl, Hydrochloride; Benzenamine, 2-Chloro-6-Methyl-; Significant New Use of Chemical Substances; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in a Significant New Use Rule (SNUR) that was published in the Federal Register of March 27, 1989.

EFFECTIVE DATE: This document is effective April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M Street SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 27, 1989 (54 FR 12445), EPA issued a SNUR under section 5(a)(2) of the Toxic Substances Control Act which will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of benzenamine, 4-chloro-2-methyl-(CAS Number 95-69-2); benzenamine, 4-chloro-2-methyl-, hydrochloride (CAS Number 3165-93-3); or benzenamine, 2-chloro-6-methyl- (CAS Number 87-63-8) for any use. In the codified section of that document, the CAS Number for the chemical substance benzenamine, 2-chloro-6-methyl was incorrectly listed. This document corrects the typographical error that appeared in § 721.462(a)(1).

Dated: April 17, 1989.

Charles L. Elkins,

Director, Office of Toxic Substances.

Therefore, 40 CFR Part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for Part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

§ 721.462 [Amended]

2. In § 721.462(a)(1) by correcting the "CAS Number 87-63-6" to read "CAS Number 87-63-8".

[FR Doc. 89-9877 Filed 4-24-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6724

[AK-932-09-4214-10; AA-6047]

Partial Revocation of Powersite Classification No. 443 for Selection of Land by the State of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes Powersite Classification No. 443 of February 13, 1958, insofar as it effects approximately 1,800 acres at Caribou Creek. The land is no longer needed for the purpose for which it was withdrawn. This action will open the land for selection by the State of Alaska, if such land is otherwise available. If not selected by the State, the land will be subject to the terms and conditions of Public Land Order Nos. 5180 and 5186, both as amended. By virtue of overlapping withdrawals, the land has been and remains closed to surface entry, nonmetalliferous mining, and mineral leasing, but has been and remains open to metalliferous mining.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 West Seventh Street, No. 13, Anchorage, Alaska 99513-7599, 907-271-3342.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 85 Stat. 708 and 709; 43 U.S.C. 1616(d)(1), it is ordered as follows:

1. Powersite Classification No. 443 is hereby revoked insofar as it affects the following described land:

Seward Meridian

Located within Tps. 20 and 21 N., R. 10 E., partially surveyed, and more particularly described as:

Beginning at a point on Caribou Creek approximately 4½ miles upstream from highway bridge on Glenn Highway, longitude 147°39'03" W., latitude 61°50'13" N. All lands upstream from this point below the 2,500 foot contour.

The area described contains approximately 1,800 acres.

2. Subject to valid existing rights, the land described above is hereby opened to selection by the State of Alaska under either the Alaska Statehood Act, 72 Stat. 339, *et seq.*; 48 U.S.C. prec. 21, or section 906(b) of the Alaska National Interest Lands Convervation Act, 94 Stat. 2371, 2437-2438; 43 U.S.C. 1635.

3. As provided by section 6(g) of the Alaska Statehood Act, the State of Alaska is provided a preference right of selection for the land described above, for a period of ninety-one (91) days from the date of publication of this order, if the land is otherwise available. Any of the land described herein that is not selected by the State of Alaska will be subject to the terms and conditions of Public Land Order Nos. 5180 and 5186, both as amended, and any other withdrawal of record.

Earl Gjelde,

Under Secretary of the Interior.

April 18, 1989.

[FR Doc. 89-9806 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-JA-M

43 CFR Public Land Order 6725

[CO-930-09-4214-10; C-39289]

Withdrawal of Public Land for Cheney Reservoir Disposal Site; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 340 acres of public land from surface entry and mining for 5 years as requested by the Department of Energy to preserve and protect the Cheney Reservoir Disposal Site. The lands have been and continue to be open to mineral leasing.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, 303-236-1768.

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By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), to protect and preserve the Cheney Reservoir Disposal Site;

Ute Principal Meridian

T. 3 S., R. 2 E.,
Sec. 11, E½SE¼SW¼, S½SE¼;
Sec. 12, W½SW¼SW¼;
Sec. 13, W½NW¼SW¼;
Sec. 14, NE¼, E½E½NW¼.

The area described aggregates 340 acres of public land in Mesa County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws. This order does not transfer jurisdiction of this land from Department of the Interior to any other agency of the Federal Government.

3. This withdrawal will expire 5 years from the effective date of this order unless as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Earl Gjelde,
Under Secretary of the Interior.
April 18, 1989.
[FR Doc. 89-9608 Filed 4-24-89; 8:45 am]
BILLING CODE 4310-JB-M

43 CFR Public Land Order 6726

[CA-940-09-4214-10; CACA-19057]

Partial Revocation of Executive Order Dated July 2, 1910; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive order insofar as it affects 45.93 acres of public land withdrawn for Powersite Reserve No. 85. The land is no longer needed for the purpose for which it was withdrawn. This action will open the land to surface entry to permit consummation of a proposed land exchange. The land has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825, 916-978-4815.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order dated July 2, 1910, which withdrew public land for Powersite Reserve No. 85, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 36 N., R. 6 E.,
Sec. 3, lot 3.

The area described contains 45.93 acres in Lassen County.

2. At 10 a.m. on May 25, 1989, the land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on May 29, 1989, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land remains open to the mining and mineral leasing laws.

Earl Gjelde,
Under Secretary of the Interior.
April 18, 1989.
[FR Doc. 89-9607 Filed 4-24-89; 8:45 am]
BILLING CODE 4310-40-M

43 CFR Public Land Order 6727

[AK-932-09-4214-10; F-14223]

Modification of Public Land Order No. 5150, as Amended; Classification and Opening of Land, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies a public land order insofar as it affects 25.86 acres of public land withdrawn for a utility and transportation corridor. The land is located within the community of Wiseman, Alaska. This order also classifies the land as suitable for and opens the land to disposal by sale; however, this order does not otherwise change the provisions or limitations of Public Land Order Nos. 5150 and 5180, as amended, or other withdrawals of record.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 West Seventh Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-3342.

By virtue of the authority vested in the Secretary of the Interior by section 17(d)(1) and section 22(h)(4) of the Alaska Native Claims Settlement Act, 85 Stat. 708 and 709, and 714; 43 U.S.C. 1616(d)(1) and 1621(h)(4), it is ordered as follows:

1. Public Land Order No. 5150, as amended, which withdrew public land for a utility and transportation corridor, is hereby modified to allow for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2750; 43 U.S.C. 1713, insofar as it affects the following described land:

Wiseman, Alaska

U.S. Survey No. 5276, lots 1 to 17, inclusive, and lots 19 to 26, inclusive.

The area described contains 25.86 acres.

2. Subject to valid existing rights, the land described above is hereby classified, pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act, as suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976.

3. At 10 a.m. on May 25, 1989, the land described above will be opened to disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976.

4. This order does not change any provisions or limitations of Public Land Order Nos. 5150 and 5180, as amended, or any other withdrawals of record except as expressly provided above.

Earl Gjelde,
Under Secretary of the Interior.
April 18, 1989.
[FR Doc. 89-9610 Filed 4-24-89; 8:45 am]
BILLING CODE 4310-JA-M

43 CFR Public Land Order 6728

[MT-930-09-4214-10; SDM-42954]

Partial Revocation of Public Land Order No. 725; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes Public Land Order No. 725 insofar as it affects 100 acres of National Forest System land used for the Dark Canyon Administrative Site. The land is no longer needed for an administrative site. This action is needed to permit an exchange. The land will be opened to such forms of disposition as may by law be made of National Forest System land and to mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-657-6090.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 725 which withdrew National Forest System land for the Forest Service's Dark Canyon Administrative Site is hereby revoked insofar as it affects the following described land:

Black Hills, Meridian

T. 1 N., R. 6 E.,
Sec. 13, NW¼ NE¼, NE¼ NW¼ and E½ NW¼ NW¼.

The area described contains 100 acres in Pennington County.

At 9 a.m. on May 25, 1989, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, including location and entry under the United States mining laws. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

April 18, 1989.
Earl Gjelde,
Under Secretary of the Interior
[FR Doc. 89-9609 Filed 4-24-89; 8:45 am]
BILLING CODE 4310-DN-M

43 CFR Public Land Order 6729

[AZ-920-09-4214-10; A-6641]

Modification of Secretarial Order Dated July 10, 1908, as Amended; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies Secretarial Order of July 10, 1908, insofar as it affects 6.09 acres of public land withdrawn for use by the United States Forest Service as a part of the Sedona Administrative Site. This 6.09 acres has been identified for disposal by exchange, pursuant to the General Exchange Act of March 20, 1922, as amended and supplemented, and section 206 of the Federal Land Policy and Management Act. The land described below will be opened to disposal by exchange but will remain closed to all other forms of surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 241-5531.

By virtue of the authority vested in the Secretary of the Interior by section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, *it is ordered as follows:*

1. The Secretarial Order dated July 10, 1908, which withdrew public land for the United States Forest Service's Sedona Administrative site is hereby modified to allow for the disposal by exchange pursuant to the General Exchange Act of March 20, 1922, and section 206 of the Federal Land Policy and Management Act, 90 Stat. 2756; 43 U.S.C. 1716. The affected land is described as follows:

Gila and Salt River Meridian

T. 17 N., R. 6 E.,
Sec. 7, NE¼SW¼SW¼SE¼, NW¼SE¼ SW¼SE¼, W½W½NE¼SE¼SW¼ SE¼ NW¼NW¼SE¼SE¼SW¼SE¼, N½NE¼SW¼SE¼SW¼SE¼.

The area described contains 6.09 acres in Coconino County.

2. At 9:00 a.m. on May 25, 1989, the land described in paragraph 1 will be opened to such forms of exchange as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. The land will remain closed to mining entry. The land has been and will remain open to mineral leasing.

April 18, 1989.

Earl Gjelde,
Under Secretary of the Interior.

[FR Doc. 89-9611 Filed 4-24-89; 8:45 am]
BILLING CODE 4310-32-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[DA 89-312]

Recognizing Certain Radio Astronomy Observatories in the 1350-1400 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action the Commission is amending § 2.106, 47 CFR Part 2 by adding a new United States footnote to recognize specific radio astronomy observatories in the 1350-1400 MHz band. This footnote will urge Government administrations to exercise caution when making new assignments that may affect astronomy observations.

EFFECTIVE DATE: April 25, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Damon C. Ladson, Frequency Allocations Branch, Office of Engineering and Technology, (202) 653-8106.

SUPPLEMENTARY INFORMATION: This is a summary of the commission's order, DA 89-312, adopted March 3, 1989, and released April 12, 1989.

The full text of the Commission decisions available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street Northwest, Suite 140, Washington, DC 20037.

Summary Of Order

1. The Commission is amending § 2.106, 47 CFR Part 2, by adding a new United States footnote to recognize certain radio astronomy observatories operating in the 1350-1400 MHz band. This band is allocated to the Government radiolocation service on a primary basis and Government fixed and mobile services on a secondary basis. There is no non-Government allocation in this band.

2. The new footnote, US311, will urge Government administrations to exercise caution when making assignments in this band that may affect radio astronomy observatories. The footnote also lists radio astronomy observatories that may be affected. No other non-

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Government entities are affected by the new footnote.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

List of Subjects in 47 CFR Part 2

Radio.

Rule Changes

Part 2 of the Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation in Part 2 continues to read as follows:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended by listing footnote US311 in column 4 for the 1350–1400 MHz band and adding the text of footnote US311 to the list of footnotes at the end of the table as follows:

§ 2.106 Table of Frequency Allocations.

United States table

Government Allocation (MHz) (4)
• • •
1350–1400
RADIOLOCATION.
Fixed.
Mobile.
714 718 720
G2 G27 G114
US311
• • •

• • • • • •

United States (US) Footnotes

• • • • • •

US311—Radio astronomy observations may be made in the 1350–1400 MHz band on an unprotected basis at certain Radio Astronomy Observatories indicated below:

National Astronomy and Ionosphere Center, Arecibo, Puerto Rico

Rectangle between latitudes 17° 30′ N and 19° 00′ N and between longitudes 65° 10′ W and 66° 00′ W.

National Radio Astronomy Observatory, Socorro, New Mexico

Rectangle between latitudes 32° 30′ N and 35° 30′ N and between longitudes 106° 00′ W and 109° 00′ W.

National Radio Astronomy Observatory, Green Bank, West Virginia

Rectangle between latitudes 37° 30′ N and 39° 15′ N and between longitudes 78° 30′ W and 80° 30′ W.

National Radio Astronomy Observatory 50 mile radius circles centered on:

Very long baseline array stations	Latitude (North)	Longitude (West)
Pie Town, NM	34° 18′	108° 07′
Kitt Peak, AZ	31° 57′	111° 37′
Los Alamos, NM	35° 47′	106° 15′
Fort Davis, TX	30° 38′	103° 57′
North Liberty, IA	41° 46′	91° 34′
Brewster, WA	48° 08′	119° 41′
Owens Valley, CA	37° 14′	118° 17′
Saint Croix, VI	17° 46′	64° 35′
Mauna Kea, HI	19° 49′	155° 28′
Hancock, NH	42° 56′	71° 59′

Every practicable effort will be made to avoid the assignment of frequencies in the band 1350–1400 MHz to stations in the fixed and mobile services which could interfere with radio astronomy observations within the geographic areas.

[FR Doc. 89-9658 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 15

[GEN Docket No. 87-389, FCC 89-103]

Operation of Radio Frequency Devices Without an Individual License

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts a comprehensive revision of the technical and administrative provisions for the operation of a Part 15, non-licensed radio frequency device. This item standardizes the emission limitations between various devices and establishes a number of general usage frequency bands. These standards are designed to minimize the potential that Part 15 devices will cause interference to the authorized radio services. Further, these standards will permit the manufacture of many new types of devices that can be operated without obtaining a license from the Commission.

EFFECTIVE DATE: June 23, 1989.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Technical Standards Branch, Office of Engineering and Technology, (202) 653–7313.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in Gen. Docket No. 87–389, FCC 89–103, Adopted March 30, 1989, and Released April 18, 1989.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

The public reporting burden for these collections of information is estimated to vary from 2.5 to 30 hours per response, with an average of 18 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060–0329; 3060–0397; 3060–0398), Washington, DC 20503.

Summary of the Report and Order

1. The Commission has permitted the non-licensed operation of certain types of radio frequency (RF) devices, such as receivers and low power transmitters, for approximately 50 years. The regulations governing such devices are set forth in Part 15 of the rules and are designed in such a manner as to reduce the probability of interference being caused to the authorized radio services. The original regulations were based on a general field strength limit. As devices were designed to operate at higher frequencies, this standard was found to be too restrictive. Since that time, the Commission has adopted numerous amendments to the Part 15 rules to enable the operation of specific new types of devices in response to petitions for rule making. This ad hoc approach of adopting device-specific regulations has resulted in a number of inconsistencies and inequities in the technical standards, generally as a result of the timing of the petitions. Because the rules now require compliance with specific definitional and operational restrictions, they no longer provide the flexibility they were originally intended to provide. In addition, the standards need to protect against interference have changed over the years due to improvements in the sensitivity of equipment used in the licensed services, the increased proliferation of licensed and non-licensed operations, and changes in frequency allocations.

2. The Part 15 regulatory plan being adopted in this Report and Order is designed to restore the technical flexibility originally envisioned for the operation of non-licensed devices, enabling manufacturers to market new RF devices without waiting for the conclusion of rule making considering the interference potential of the devices. We expect the new rules to encourage the development of significant numbers of new types of low power RF systems and devices to meet the strong consumer demand for this type of equipment.

3. To the extent possible, we have eliminated all unnecessary and overly restrictive regulations by adopting minimal standards on operational frequencies, bandwidth, modulation techniques and other parameters. We also have carefully considered the concerns of commenting parties who argue that expanded operation of Part 15 devices could lead to increases in the level of background RF "noise" that tends to cause interference to authorized services that depend on reception of very low level signals. In some instances, the decision to permit greater flexibility required a further reduction in the levels of unwanted emissions. In a few instances, we have taken this opportunity to adopt more restrictive standards on the permitted levels of unwanted emissions in order to provide a "cleaner" RF environment. However, we have provided a liberal transition period, permitting the continued manufacture and importation of equipment under the former regulations for five years for most RF devices. Receivers may be manufactured and imported under the former regulations for ten years unless the receiver is associated with a transmitter that could not have been authorized under the former regulations.

4. The following is a brief summary of some of the more substantial changes to the regulations:

—With certain exemptions, radiated field strength limits below 1000 MHz are specified using measurement instrumentation with a CISPR quasi-peak detector; radiated emission limits above 1000 MHz are specified using measurement instrumentation with an average detector; and, in those instances where use of average detectors are permitted, a limit on peak emissions corresponding to 20 dB above the maximum permitted average emission level is specified;

–A power line conducted limit of 250 uV in the frequency range of 450 kHz to 30 MHz, as measured with a 50 ohm/50 uH LISN and a CISPR quasi-peak detector, is adopted for all devices except carrier current systems operating within that frequency band and Class A digital devices;

–Receivers operating within the frequency ranges of 901–935 MHz and 940–960 MHz will be subject to the regulations; further, the frequency range over which emissions from the receivers must be measured is expanded for some devices and reduced for others;

–The emission limits for unintentional radiators, e.g. receivers, are reduced to the emission limits currently applied to Class B computing devices for the frequency range of 30 to 960 MHz and to 500 uV/m at 3 meters for frequencies above 960 MHz;

–New general operation bands are established at 13.553–13.567 MHz, 26.96–27.28 MHz, 40.66–40.70 MHz, 902–928 MHz, 2400–2483.5 MHz, 5725–5875 MHz, and 24.0–24.25 GHz; and,

–The emission limits for intentional radiators, i.e. transmitters, operating under the general provisions are as follows:

Band of operation (MHz)	Emission limit (μV/m)	Measurement distance (meters)
0.009–0.490	2400/F (in kHz)	300
0.490–1.705	24000/F (in kHz)	30
1.705–30	30	30
30–88	100[1]	3
88–216	150[1]	3
216–960	200[1]	3
Above 960	500	3

[1] NOTE: Except for non-residential perimeter protection systems operating in the bands 54–72 MHz or 76–88 MHz, operation under the general limits in the television broadcast bands is not permitted.

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, this proceeding will have a significant economic impact on a number of small entities. By providing the regulatory flexibility needed to permit general operation frequency bands, this action is expected to foster an effective competitive marketplace in the area of low power telecommunications, providing small entities, the opportunity to develop systems that were not previously permitted under the regulations. Some standards regarding spurious and other undesired emissions from receivers and certain transmitters are tightened. The manufacturers of certain transmitters also may be impacted by the addition of restricted frequency bands. The rules as herein amended will continue to provide for marketing of radio frequency equipment subject to the Commission's equipment authorization procedures.

6. Accordingly, *it is ordered* That under the authority contained in Sections 4(i), 301, 302, 303(e), 303(f), 303(r), 303(s), 304 and 307 of the Communications Action of 1934, as amended, Parts 2 and 15 of the Commission's Rules and Regulations are amended as set forth below. These rules and regulations are effective June 23, 1989.

List of Subjects

47 CFR Part 2

Communications equipment, Imports; Radio, Reporting and recordkeeping requirements, Television.

47 CFR Part 15

Communications equipment, Computer technology, Labeling, Radio, Reporting and recordkeeping requirements, Security measures, Telephone, Wiretapping, Electronic surveillance

Rule Changes

A. Title 47 of the Code of Federal Regulations, Part 2, is amended as follows:

PART 2—[AMENDED]

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, and 307, unless otherwise noted.

2. Section 2.801 is amended by revising paragraph (b) to read as follows:

§ 2.801 Radiofrequency device defined.

• • • • • •

(b) The incidental, unintentional and intentional radiators defined in Part 15 of this chapter.

• • • • • •

3. Section 2.805 is revised to read as follows:

§ 2.805 Equipment that does not require Commission approval.

In the case of a radiofrequency device that, in accordance with the rules in this chapter, does not have to have a grant of equipment authorization issued by the Commission, e.g., a device subject to verification, but, nevertheless, must comply with specified technical standards prior to use, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purposes of selling or leasing or offering for sale or lease, any such

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radiofrequency device unless, prior thereto, such device complies with the applicable administrative and technical provisions (including verification of the equipment, where required) specified in the Commission's rules.

4. Section 2.806 is revised in its entirety to read as follows:

§ 2.806 Exemption for a digital device.

(a) Notwithstanding the provisions in § 2.803, the announcement and offer for sale of a digital device, subject to verification under the provisions in Part 15 of this chapter, that is in the conceptual, developmental, design or preproduction stage is permitted prior to verification of compliance *Provided* the prospective buyer is advised in writing at the time of announcement or offer for sale that such equipment is subject to the FCC rules and that such equipment shall comply with the appropriate FCC rules before final delivery to the buyer or to centers of distribution.

(b) Parties responsible for verification of Class A digital devices, as defined in Part 15 of this chapter, shall have the option of ensuring compliance with the applicable technical specifications of this chapter at each end user's location after installation, provided that the purchase or lease agreement includes a proviso that such a determination of compliance be made and is the responsibility of the party responsible for verification of the equipment.

(c) A digital device subject to the provisions of this chapter may be operated prior to a determination of compliance under the following conditions:

(1) Any digital device may be operated for the purpose of compliance testing.

(2) Any digital device may be operated for the purpose of demonstration at a trade show provided there is displayed a conspicuous notice that the device has not been tested for compliance. If a digital device subject to verification is offered for sale or lease at the show, the provisions of § 2.806(a) shall apply. A digital device subject to a grant of equipment authorization from the Commission may not be offered for sale or lease prior to issuance of the grant of authorization by the FCC, but may be advertised or displayed as provided by § 2.803.

(3) Any digital device may be operated at the manufacturer's facilities during developmental, design or preproduction states for evaluation of product performance and determination of customer acceptability.

(4) Where customer acceptability of a Class A digital device cannot be determined at the manufacturer's facilities because of size or unique capability of the device, that device may be operated at the user's site during development, design or preproduction stages for evaluation of product performance and determination of customer acceptability.

(5) For the purpose of paragraphs (c)(3) and (c)(4) of this section, the manufacturer's facilities are considered to include the facilities of the party responsible for compliance with the regulations, the manufacturer, and other entities working under the authorization of the responsible party in connection with the development and manufacture, but not marketing, of the equipment.

§ 2.909 [Redesignated as § 2.911]

5. Section 2.909 is redesignated as § 2.911.

§ 2.910 [Redesignated as § 2.913]

6. Section 2.910 is redesignated as § 2.913.

7. A new § 2.909 is added before the heading "Application Procedures for Equipment Authorizations", to read as follows:

§ 2.909 Responsible party.

The following parties are responsible for the compliance of radiofrequency equipment with the applicable technical standards after a grant of equipment authorization is issued by the Commission or the equipment is verified:

(a) In the case of equipment which requires the issuance by the Commission of a grant of equipment authorization, the party to whom that grant of authorization is issued (the grantee).

(b) In the case of equipment subject to authorization under the verification procedure, the manufacturer or, in the case of imported equipment, the importer.

8. A new § 2.948 is added to read as follows:

§ 2.948 Description of measurement facilities.

(a) Each party making measurements of equipment that is subject to an equipment authorization under Part 15 or Part 18 of this chapter, regardless of whether the measurements are filed with the Commission or kept on file by the party responsible for compliance of equipment marketed within the U.S. or its possessions, shall compile a description of the measurement facilities employed.

(1) If the measured equipment is subject to the verification procedure, the description of the measurement facilities shall be retained by the party responsible for verification of the equipment.

(i) If the equipment is verified through measurements performed by an independent laboratory, it is acceptable for the party responsible for verification of the equipment to rely upon the description of the measurement facilities retained by or placed on file with the Commission by that laboratory. In this situation, the party responsible for verification of the equipment is not required to retain a duplicate copy of the description of the measurement facilities.

(ii) If the equipment is verified based on measurements performed at the installation site of the equipment, no specific site calibration data is required. It is acceptable to retain the description of the measurement facilities at the site at which the measurements were performed.

(2) If the equipment is to be authorized by the Commission under the certification or the notification procedure, the description of the measurement facilities shall be filed with the Commission's Laboratory in Columbia, Maryland. The data describing the measurement facilities need only be filed once but must be updated as changes are made to the measurement facilities or as otherwise described in this Section. At least every three years, the organization responsible for filing the data with the Commission shall certify that the data on file is current.

(b) The description shall contain the following information:

(1) Location of the test site.

(2) Physical description of the test site accompanied by photographs 8" x 10" in size. Smaller photographs may be used if they clearly show the details of the test site and are mounted on full size sheets of paper.

(3) A drawing showing the dimensions of the site, physical layout of all supporting structures, and all structures within 5 times the distance between the measuring antenna and the device being measured.

(4) Description of structures used to support the device being measured and the test instrumentation.

(5) List of measuring equipment used.

(6) Information concerning the calibration of the measuring equipment, i.e., the date the equipment was last calibrated and how often the equipment is calibrated.

(7) If desired, a statement as to whether the test site is available to do measurement services for the public on a fee basis.

(8) A plot of site attenuation data taken pursuant to FCC Bulletin OET 55 using a tuned dipole antenna (this provision does not apply to equipment that is not measured on an open field test site).

(9) A description of the types of equipment intended to be measured or other information regarding the types of measurements that would be performed at the test facility.

(c) The Commission will publish a list of those parties who have filed the information required by this section, provided they indicate that they wish to perform measurement services for the public on a fee basis. However, it should be noted that the Commission does not endorse or approve any facility on this list.

9. Section 2.955 is amended by adding new paragraphs (a)(3) and (a)(4) to read as follows:

§ 2.955 Retention of records.

(a) * * *

(3) A record of the measurements made on an appropriate test site that demonstrates compliance with the applicable regulations. The record shall identify the measurement procedure that was used and shall include all the data required to show compliance with the appropriate regulations.

(4) For equipment subject to the provisions in Part 15 of this chapter, the records shall indicate if the equipment was verified pursuant to the transition provisions contained in § 15.37 of this chapter.

* * * * *

10. Section 2.975 is amended by revising paragraph (a)(5) and by adding new paragraphs (a)(7), (f) and (g) to read as follows:

§ 2.975 Application for notification.

(a) * * *

(5) For devices operated under the provisions of Part 15 of this chapter, photographs showing the general appearance and the controls available to the user. Photographs should be 8 by 10 inches in size. Smaller photographs may be submitted provided they are sharp and clear, show the necessary detail, and are mounted on paper between 8 by 10½ inches and 8½ by 11 inches. Line sketches may be submitted in lieu of photographs provided those sketches are sufficiently detailed to allow identification of the equipment. For devices operated under the provisions of any other part and where it is specifically required under the rule section(s) under which the device is to be operated, photographs of the equipment of sufficient clarity to reveal its external appearances and size, both front and back;

* * * * *

(7) For equipment subject to the provisions of Part 15 of this chapter, the application shall indicate if the equipment is being authorized pursuant to the transition provisions in § 15.37 of this chapter.

* * * * *

(f) For a composite system that incorporates only devices subject to certification, verification and/or notification and that are contained in a single enclosure, a separate application, FCC Form 731, with the appropriate fee shall be submitted for each type of device within the enclosure. At the option of the applicant, a single FCC identifier may be requested for that system. Fees are based on the number of devices and types of authorizations.

(g) The records of measurement data, measurement procedures, photographs, circuit diagrams, etc. for the device to which the application applies shall be retained for two years after the manufacture of said equipment has been permanently discontinued, or until the conclusion of an investigation or proceeding if the holder of the grant of equipment authorization is officially notified that an investigation or any other administrative proceeding involving the equipment has been instituted.

11. Section 2.1033 is amended by revising paragraphs (b) and (c) to read as follows:

§ 2.1033 Application for certification.

* * * * *

(b) The application shall be accompanied by a technical report containing the following information:

(1) The full name and mailing address of the manufacturer of the device and the applicant for certification.

(2) FCC identifier.

(3) A copy of the installation and operating instructions to be furnished the user. A draft copy of the instructions may be submitted if the actual document is not available. The actual document shall be furnished to the FCC when it becomes available.

(4) A brief description of the circuit functions of the device along with a statement describing how the device operates. This statement should contain a description of the ground system and antenna, if any, used with the device.

(5) A block diagram showing the frequency of all oscillators in the device. The signal path and frequency shall be indicated at each block. The tuning range(s) and intermediate frequency(ies) shall be indicated at each block. A schematic diagram also is required for intentional radiators.

(6) A report of measurements of radiated and conducted emissions. This shall identify the test procedure used (e.g., indicate the FCC test procedure used or, if an alternate test procedure was used, a description of the test procedure and the reason it was necessary to use an alternate procedure), the date the measurements were made, the location where the measurements were made, and the device tested (model and serial number, if available). It shall also include a sample calculation showing how the obtained measurements were converted to the levels specified in the applicable rule sections.

(7) A sufficient number of photographs to clearly show the exterior appearance, the construction, the component placement on the chassis, and the chassis assembly. The exterior views shall show the overall appearance, the antenna used with the device (if any), the controls available to the user, and the required identification label in sufficient detail so that the name and FCC identifier can be read. In lieu of a photograph of the label, a sample label (or facsimile thereof) may be submitted together with a sketch showing where this label will be placed on the equipment. Photographs shall be 8 by 10 inches in size. Smaller photographs may be submitted provided they are sharp and clear, show the necessary detail, and are mounted on paper between 8 by 10½ inches and 8½ by 11 inches in size. A sample label or facsimile together with the sketch showing the placement of this label shall be on the same size paper.

(8) If the equipment for which certification is being sought must be tested with peripheral or accessory devices connected or installed, a brief description of those peripherals or accessories. The peripheral or accessory devices shall be unmodified, commercially available equipment.

(9) For equipment subject to the provisions of Part 15 of this chapter, the application shall indicate if the equipment is being authorized pursuant to the transition provisions in § 15.37 of this chapter.

(10) For a device used in decoding the Emergency Broadcast System Attention Signal, as defined in § 73.906 of this chapter, the value of the necessary voltage (RMS) or range of voltages of the attention signal to be applied to the input terminals of the decoder which will cause the desired-response of the device. In the event that input signals other than the attention signal

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(excluding signals which in combination form the attention signal), including signals outside this voltage range, will cause false responses by the device, a description of such signals and their input voltage levels that cause such false responses shall be specified in the application and appropriate warnings shall be included in the instructions furnished to the user. The susceptibility of the device to false responses and any lack of reliability in responding to the attention signal at input levels within the rated voltage range may be regarded by the Commission as cause to deny certification.

(c) For a composite system that incorporates only devices subject to certification, verification and/or notification and that are contained in a single enclosure, a separate application, FCC Form 731, shall be submitted with the appropriate fee for each type of device within the enclosure. At the option of the applicant, a single FCC identifier may be requested for that system. Fees are based on the number of devices and types of authorizations.

12. Section 2.1043 is amended by revising paragraphs (a) and (c) and adding a new paragraph (b)(3) to read as follows:

§ 2.1043 Changes in certificated equipment.

(a) Changes to the basic frequency determining and stabilizing circuitry (including clock or data rates), frequency multiplication stages, basic modulator circuit or maximum power or field strength ratings shall not be performed without application for and authorization of a new grant of certification. Variations in electrical or mechanical construction, other than these indicated items, are permitted provided the variations either do not affect the characteristics required to be reported to the Commission or the variations are made in compliance with the other provisions of this section.

(b) * * *

(3) Permissive changes, as detailed above, shall be made only by the holder of the grant of certification. Changes by any party other than the grantee require a new application for and grant of certification.

(c) A grantee desiring to make a change other than a permissive change shall file an application on FCC Form 731 accompanied by the required fees. The grantee shall attach a description of the change(s) to be made and a statement indicating whether the change(s) will be made in all units (including previous production) or will be made only in those units produced after the change is authorized.

* * * * *

13. Section 2.1201 is amended by adding a new paragraph (c) after the Note to read as follows:

§ 2.1201 Purpose.

* * * * *

(c) The provisions of this Subpart shall not apply to musical greeting cards, quartz watches and clocks, modules of quartz watches and clocks, radio frequency devices (including digital devices) whose radio frequency stage has a power consumption not exceeding 6 nW, hand-held calculators and electronic games that do not require connection to the AC power lines, and digital devices in which both the highest frequency generated and the highest frequency used are less than 1.705 MHz and that do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines.

B. Title 47 of the Code of Federal Regulations, Part 15, is amended as follows:

1. Part 15 is revised in its entirety to read as follows:

PART 15—RADIO FREQUENCY DEVICES

Subpart A—General

Sec.
15.1 Scope of this part.
15.3 Definitions.
15.5 General conditions of operation.
15.7 Special temporary authority.
15.9 Prohibition against eavesdropping.
15.11 Cross reference.
15.13 Incidental radiators.
15.15 General technical requirements.
15.17 Susceptibility to interference.
15.19 Labelling requirements.
15.21 Information to user.
15.23 Home-built devices.
15.25 Kits.
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Authority: Sec. 4, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, 304, and 307.

Subpart A—General

§ 15.1 Scope of this part.

(a) This part sets out the regulations under which an intentional, unintentional, or incidental radiator may be operated without an individual license. It also contains the technical specifications, administrative requirements and other conditions relating to the marketing of Part 15 devices.

(b) The operation of an intentional or unintentional radiator that is not in accordance with the regulations in this part must be licensed pursuant to the provisions of section 301 of the Communications Act of 1934, as amended, unless otherwise exempted from the licensing requirements elsewhere in this chapter.

(c) Unless specifically exempted, the operation or marketing of an intentional or unintentional radiator that is not in compliance with the administrative and technical provisions in this part, including prior Commission authorization or verification, as appropriate, is prohibited under section 302 of the Communications Act of 1934, as amended, and Subpart I of Part 2 of this chapter. The equipment authorization and verification procedures are detailed in Subpart J of Part 2 of this chapter.

§ 15.3 Definitions.

(a) *Auditory assistance device.* An intentional radiator used to provide auditory assistance to a handicapped person or persons. Such a device may be used for auricular training in an education institution, for auditory assistance at places of public gatherings, such as a church, theater, or auditorium, and for auditory assistance to handicapped individuals, only, in other locations.

(b) *Biomedical telemetry device.* An intentional radiator used to transmit measurements of either human or animal biomedical phenomena to a receiver.

(c) *Cable input selector switch.* A transfer switch that is intended as a means to alternate between the reception of broadcast signals via connection to an antenna and the reception of cable television service.

(d) *Cable locating equipment.* An intentional radiator used intermittently by trained operators to locate buried cables, lines, pipes, and similar structures or elements. Operation entails coupling a radio frequency signal onto the cable, pipes, etc. and using a receiver to detect the location of that structure or element.

(e) *Cable system terminal device (CSTD).* A TV interface device that serves, as its primary function, to connect a cable system operated under Part 76 of this chapter to a TV broadcast receiver or other subscriber premise equipment. Any device which functions as a CSTD in one of its operating modes must comply with the technical requirements for such devices when operating in that mode.

(f) *Carrier current system.* A system that transmits radio frequency energy by conduction over the electric power lines. A carrier current system can be designed such that the signals are received by conduction directly from connection to the electric power lines (unintentional radiator) or the signals are received over-the-air due to radiation of the radio frequency signals from the electric power lines (intentional radiator).

(g) *CB receiver.* Any receiver that operates in the Personal Radio Services on frequencies allocated for Citizens Band (CB) Radio Service stations, as well as any receiver provided with a separate band specifically designed to receive the transmissions of CB stations in the Personal Radio Services. This includes the following: (1) A CB receiver sold as a separate unit of equipment; (2) the receiver section of a CB transceiver; (3) a converter to be used with any receiver for the purpose of receiving CB transmissions; and, (4) a multiband receiver that includes a band labelled "CB" or "11-meter" in which such band can be separately selected, except that an Amateur Radio Service receiver that was manufactured prior to January 1, 1960, and which includes an 11-meter band shall not be considered to be a CB receiver.

(h) *Class A digital device.* A digital device that is marketed for use in a commercial, industrial or business environment, exclusive of a device which is marketed for use by the general public or is intended to be used in the home.

(i) *Class B digital device.* A digital device that is marketed for use in a residential environment notwithstanding use in commercial, business and industrial environments. Examples of such devices include, but are not limited to, personal computers, calculators, and similar electronic devices that are marketed for use by the general public.

Note: The responsible party may also qualify a device intended to be marketed in a commercial, business or industrial environment as a Class B device, and in fact is encouraged to do so, provided the device complies with the technical specifications for a Class B digital device. In the event that a particular type of device has been found to repeatedly cause harmful interference to radio communications, the Commission may classify such a digital device as a Class B digital device, regardless of its intended use.

(j) *Cordless telephone system.* A system consisting of two transceivers, one a base station that connects to the public switched telephone network and the other a mobile handset unit that communicates directly with the base station. Transmissions from the mobile unit are received by the base station and then placed on the public switched telephone network. Information received from the switched telephone network is transmitted by the base station to the mobile unit.

Note: The Domestic Public Cellular Radio Telecommunications Service is considered to be part of the switched telephone network. In addition, intercom and paging operations are permitted provided these are not intended to be the primary modes of operation.

(k) *Digital device.* (Previously defined as a computing device). An unintentional radiator (device or system) that generates and uses timing signals or pulses at a rate in excess of 9,000 pulses (cycles) per second and uses digital techniques; inclusive of telephone equipment that uses digital techniques or any device or system that generates and uses radio frequency energy for the purpose of performing data processing functions, such as electronic computations, operations, transformations, recording, filing, sorting, storage, retrieval, or transfer. A radio frequency device that is specifically subject to an emanation requirement in any other FCC Rule part or an intentional radiator subject to Subpart C of this part that contains a digital device is not subject to the standards for digital devices, provided the digital device is used only to enable operation of the radio frequency device and the digital device does not control additional functions or capabilities.

Note: Computer terminals and peripherals that are intended to be connected to a computer are digital devices.

(l) *Field disturbance sensor.* A device that establishes a radio frequency field in its vicinity and detects changes in that field resulting from the movement of persons or objects within its range.

(m) *Harmful interference.* Any emission, radiation or induction that endangers the functioning of a radio navigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with this chapter.

(n) *Incidental radiator.* A device that generates radio frequency energy during the course of its operation although the device is not intentionally designed to generate or emit radio frequency energy. Examples of incidental radiators are dc motors, mechanical light switches, etc.

(o) *Intentional radiator.* A device that intentionally generates and emits radio frequency energy by radiation or induction.

(p) *Kit.* Any number of electronic parts, usually provided with a schematic diagram or printed circuit board, which, when assembled in accordance with instructions, results in a device subject to the regulations in this part, even if additional parts of any type are required to complete assembly.

(q) *Perimeter protection system.* A field disturbance sensor that employs leaky cables as the radiating source. These cables are installed in a manner

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that allows the system to detect movement within the protected area.

(r) *Peripheral device.* An input/output unit of a system that feeds data into and/or receives data from the central processing unit of a digital device. Peripherals to a digital device include any device that is connected external to the digital device, any device internal to the digital device that connects the digital device to an external device by wire or cable, and any circuit board or card designed for interchangeable mounting, internally or externally, that increases the operating or processing speed of a digital device, e.g., "turbo cards" and "enhancement boards". Examples of peripheral devices include terminals, printers, external floppy disk drives and other data storage devices, video monitors, keyboards, control cards, interface boards, external memory expansion cards and other input/output devices that may or may not contain digital circuitry. However, an internal device that contains the central processing unit of a digital device is not a peripheral even though such a device may connect to an external keyboard or other components.

(s) *Personal computer.* An electronic computer that is marketed for use in the home, notwithstanding business applications. Such computers are considered Class B digital devices. Computers which use a standard TV receiver as a display device or meet all of the following conditions are considered examples of personal computers:

(1) Marketed through a retail outlet or direct mail order catalog.

(2) Notices of sale or advertisements are distributed or directed to the general public or hobbyist users rather than restricted to commercial users.

(3) Operates on a battery or 120 volt electrical supply.

If the responsible party can demonstrate that because of price or performance the computer is not suitable for residential or hobbyist use, it may request that the computer be considered to fall outside of the scope of this definition for personal computers.

(t) *Power line carrier systems.* An unintentional radiator employed as a carrier current system used by an electric power utility entity on transmission lines for protective relaying, telemetry, etc. for general supervision of the power system. The system operates by the transmission of radio frequency energy by conduction over the electric power transmission lines of the system. The system does not include those electric lines which connect the distribution substation to the customer or house wiring.

(u) *Radio frequency (RF) energy.* Electromagnetic energy at any frequency in the radio spectrum between 9 kHz and 3,000,000 MHz.

(v) *Scanning receiver.* For the purpose of this part, this is a receiver that automatically switches among four or more frequencies in the range of 30 to 960 MHz and which is capable of stopping at and receiving a radio signal detected on a frequency. Receivers designed solely for the reception of the broadcast signals under Part 73 of this chapter or for operation as part of a licensed station are not included in this definition.

(w) *Television (TV) broadcast receiver.* A device designed to receive television pictures that are broadcast simultaneously with sound on the television channels authorized under Part 73 of this chapter.

(x) *Transfer switch.* A device used to alternate between the reception of over-the-air radio frequency signals via connection to an antenna and the reception of radio frequency signals received by any other method, such as from a TV interface device.

(y) *TV interface device.* An unintentional radiator that produces or translates in frequency a radio frequency carrier modulated by a video signal derived from an external or internal signal source, and which feeds the modulated radio frequency energy by conduction to the antenna terminals or other non-baseband input connections of a television broadcast receiver. A TV interface device may include a stand-alone RF modulator, or a composite device consisting of an RF modulator, video source and other components devices. Examples of TV interface devices are video cassette recorders and terminal devices attached to a cable system or used with a Master Antenna (including those used for central distribution video devices in apartment or office buildings).

(z) *Unintentional radiator.* A device that intentionally generates radio frequency energy for use within the device, or that sends radio frequency signals by conduction to associated equipment via connecting wiring, but which is not intended to emit RF energy by radiation or induction.

§ 15.5 General conditions of operation.

(a) Persons operating intentional or unintentional radiators shall not be deemed to have any vested or recognizable right to continued use of any given frequency by virtue of prior registration or certification of equipment, or, for power line carrier systems, on the basis of prior notification of use pursuant to § 90.63(g) of this chapter.

(b) Operation of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused and that interference must be accepted that may be caused by the operation of an authorized radio station, by another intentional or unintentional radiator, by industrial, scientific and medical (ISM) equipment, or by an incidental radiator.

(c) The operator of a radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference. Operation shall not resume until the condition causing the harmful interference has been corrected.

(d) Intentional radiators that produce Class B emissions (damped wave) are prohibited.

§ 15.7 Special temporary authority.

(a) The Commission will, in exceptional situations, consider an individual application for a special temporary authorization to operate an incidental, intentional or unintentional radiation device not conforming to the provisions of this part, where it can be shown that the proposed operation would be in the public interest, that it is for a unique type of station or for a type of operation which is incapable of being established as a regular service, and that the proposed operation can not feasibly be conducted under this part.

(b) No authorization is required in order to perform testing of equipment for determining compliance with these regulations. Except as provided in Subpart I of Part 2 of this chapter, this provision does not permit the providing of equipment to potential users in order to determine customer acceptance of the product or marketing strategy, nor does this provision permit any type of operation other than a determination of compliance with the regulations. During this testing, the provisions of §§ 15.5 and 15.205 apply.

§ 15.9 Prohibition against eavesdropping.

Except for the operations of law enforcement officers conducted under lawful authority, no person shall use, either directly or indirectly, a device operated pursuant to the provisions of this part for the purpose of overhearing or recording the private conversations of others unless such use is authorized by all of the parties engaging in the conversation.

§ 15.11 Cross reference.

The provisions of Subparts A, H, I, J and K of Part 2 apply to intentional and unintentional radiators, in addition to the provisions of this part. Also, a cable system terminal device and a cable input selector switch shall be subject to the relevant provisions of Part 76 of this chapter.

§ 15.13 Incidental radiators.

Manufacturers of these devices shall employ good engineering practices to minimize the risk of harmful interference.

§ 15.15 General technical requirements.

(a) An intentional or unintentional radiator shall be constructed in accordance with good engineering design and manufacturing practice. Emanations from the device shall be suppressed as much as practicable, but in no case shall the emanations exceed the levels specified in these rules.

(b) An intentional or unintentional radiator must be constructed such that the adjustments of any control that is readily accessible by or intended to be accessible to the user will not cause operation of the device in violation of the regulations.

(c) Parties responsible for equipment compliance should note that the limits specified in this part will not prevent harmful interference under all circumstances. Since the operators of Part 15 devices are required to cease operation should harmful interference occur to authorized users of the radio frequency spectrum, the parties responsible for equipment compliance are encouraged to employ the minimum field strength necessary for communications, to provide greater attenuation of unwanted emissions than required by these regulations, and to advise the user as to how to resolve harmful interference problems (for example, see § 15.105(b)).

§ 15.17 Susceptibility to interference.

(a) Parties responsible for equipment compliance are advised to consider the proximity and the high power of non-Government licensed radio stations, such as broadcast, amateur and land mobile stations, and of U.S. Government radio stations when choosing operating frequencies during the design of their equipment so as to reduce the susceptibility for receiving harmful interference. Information on non-Government use of the spectrum can be obtained by consulting the Table of Frequency Allocations in § 2.106 of this chapter.

(b) Information on U.S. Government operations can be obtained by contacting: Director, Spectrum Plans and Policy, National Telecommunications and Information Administration, Department of Commerce, Room 4096, Washington, DC 20230.

§ 15.19 Labelling requirements.

(a) In addition to the requirements in Part 2 of this chapter, a device subject to certification, notification, or verification shall be labelled as follows:

(1) Receivers associated with the operation of a licensed radio service, e.g., FM broadcast under Part 73 of this chapter, land mobile operation under Part 90, etc., shall bear the following statement in a conspicuous location on the device:

This device complies with Part 15 of the FCC Rules. Operation is subject to the condition that this device does not cause harmful interference.

(2) A stand-alone cable input selector switch, shall bear the following statement in a conspicuous location on the device:

This device is verified to comply with Part 15 of the FCC Rules for use with cable television service.

(3) All other devices shall bear the following statement in a conspicuous location on the device:

This device complies with Part 15 of the FCC Rules. Operation is subject to the following two conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received, including interference that may cause undesired operation.

(b) Where a device is constructed in two or more sections connected by wires and marketed together, the statement specified in this section is required to be affixed only to the main control unit.

(c) When the device is so small or for such use that it is not practicable to place the statement specified in this section on it, the information required by these paragraphs shall be placed in a prominent location in the instruction manual or pamphlet supplied to the user or, alternatively, shall be placed on the container in which the device is marketed. However, the FCC identifier or the unique identifier, as appropriate, must be displayed on the device.

§ 15.21 Information to user.

The users manual or instruction manual for an intentional or unintentional radiator shall caution the user that changes or modifications not expressly approved by the party responsible for compliance could void the user's authority to operate the equipment.

§ 15.23 Home-built devices.

(a) Equipment authorization is not required for devices that are not marketed, are not constructed from a kit, and are built in quantities of five or less for personal use.

(b) It is recognized that the individual builder of home-built equipment may not possess the means to perform the measurements for determining compliance with the regulations. In this case, the builder is expected to employ good engineering practices to meet the specified technical standards to the greatest extent practicable. The provisions of § 15.5 apply to this equipment.

§ 15.25 Kits.

A TV interface device, including a cable system terminal device, which is marketed as a kit shall comply with the following requirements:

(a) All parts necessary for the assembled device to comply with the technical requirements of this part must be supplied with the kit. No mechanism for adjustment that can cause operation in violation of the requirements of this part shall be made accessible to the builder.

(b) At least two units of the kit shall be assembled in exact accordance with the instructions supplied with the product to be marketed. If all components required to fully complete the kit (other than those specified in paragraph (a) of this section which are needed for compliance with the technical provisions and must be included with the kit) are not normally furnished with the kit, assembly shall be made using the recommended components. The assembled units shall be certified or notified, as appropriate, pursuant to the requirements of this part.

(1) The measurement data required for a TV interface device subject to certification shall be obtained for each of the two units and submitted with an application for certification pursuant to Subpart J of Part 2 of this chapter.

(2) The measurement data required for a TV interface device subject to notification shall be obtained for the units tested and retained on file pursuant to the provisions of Subpart J of Part 2 of this chapter.

(c) A copy of the exact instructions that will be provided for assembly of the device shall be submitted with an application for certification or notification. Those parts which are not normally furnished shall be detailed in the application for equipment authorization.

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(d) In lieu of the label required by § 15.19, the following label, along with the label bearing the FCC identifier and other information specified in §§ 2.925 and 2.926, shall be included in the kit with instructions to the builder that it shall be attached to the completed kit:

(Name of Grantee)

(FCC Identifier)

This device can be expected to comply with Part 15 of the FCC Rules provided it is assembled in exact accordance with the instructions provided with this kit. Operation is subject to the following conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received including interference that may cause undesired operation.

(e) For the purpose of this section, circuit boards used as repair parts for the replacement of electrically identical defective circuit boards are not considered to be kits.

§ 15.27 Special accessories.

(a) Equipment marketed to a consumer must be capable of complying with the necessary regulations in the configuration in which the equipment is marketed. Where special accessories, such as shielded cables and/or special connectors, are required to enable an unintentional or intentional radiator to comply with the emission limits in this part, the equipment must be marketed with, i.e., shipped and sold with, those special accessories. However, in lieu of shipping or packaging the special accessories with the unintentional or intentional radiator, the responsible party may employ other methods of ensuring that the special accessories are provided to the consumer, without additional charge, at the time of purchase. Information detailing any alternative method used to supply the special accessories shall be included in the application for a grant of equipment authorization or retained in the verification records, as appropriate. The party responsible for the equipment, as detailed in § 2.909 of this chapter, shall ensure that these special accessories are provided with the equipment. The instruction manual for such devices shall include appropriate instructions on the first page of the text concerned with the installation of the device that these special accessories must be used with the device. It is the responsibility of the user to use the needed special accessories supplied with the equipment.

(b) If a device requiring special accessories is installed by or under the supervision of the party marketing the device, it is the responsibility of that party to install the equipment using the special accessories. For equipment requiring professional installation, it is not necessary for the responsible party to market the special accessories with the equipment. However, the need to use the special accessories must be detailed in the instruction manual, and it is the responsibility of the installer to provide and to install the required accessories.

(c) Accessory items that can be readily obtained from multiple retail outlets are not considered to be special accessories and are not required to be marketed with the equipment. The manual included with the equipment must specify what additional components or accessories are required to be used in order to ensure compliance with this part, and it is the responsibility of the user to provide and use those components and accessories.

(d) The resulting system, including any accessories or components marketed with the equipment, must comply with the regulations.

§ 15.29 Inspection by the Commission.

(a) Any equipment or device subject to the provisions of this part, together with any certificate, notice of registration or any technical data required to be kept on file by the operator, supplier or party responsible for compliance of the device shall be made available for inspection by a Commission representative upon reasonable request.

(b) The owner or operator of a radio frequency device subject to this part shall promptly furnish to the Commission or its representative such information as may be requested concerning the operation of the radio frequency device.

(c) The party responsible for the compliance of any device subject to this part shall promptly furnish to the Commission or its representatives such information as may be requested concerning the operation of the device, including a copy of any measurements made for obtaining an equipment authorization or demonstrating compliance with the regulations.

(d) The Commission, from time to time, may request the party responsible for compliance, including an importer, to submit to the FCC Laboratory in Columbia, Maryland, various equipment to determine that the equipment continues to comply with the applicable standards. Shipping costs to the Commission's Laboratory and return shall be borne by the responsible party. Testing by the Commission will be performed using the measurement procedure(s) that was in effect at the time the equipment was authorized or verified.

§ 15.31 Measurement standards.

(a) The following measurement procedures are used by the Commission to determine compliance with the technical requirements. Copies of these procedures are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 or from the Commission's current duplicating contractor whose name and address are available from the Commission's Consumer Assistance Office.

(1) FCC/OET MP–1: FCC Methods of Measurements for Determining Compliance of Radio Control and Security Alarm Devices and Associated Receivers.

(2) FCC/OET MP–2: Measurement of UHF Noise Figures of TV Receivers.

(3) FCC/OET MP–3: FCC Methods of Measurements of Output Signal Level, Output Terminal Conducted Spurious Emissions, Transfer Switch Characteristics, and Radio Noise Emissions from TV Interface Devices.

(4) FCC/OET MP–4: FCC Procedure for Measuring RF Emissions from Computing Devices.

(5) FCC/OET MP–9: FCC Procedure for Measuring Cable Television Switch Isolation.

(b) All parties making compliance measurements on equipment subject to the requirements of this part are urged to use these measurement procedures. Any party using other procedures should ensure that such other procedures can be relied on to produce measurement results compatible with the FCC measurement procedures. The description of the measurement procedure used in testing the equipment for compliance and a list of the test equipment actually employed shall be made part of an application for certification or included with the data required to be retained by the party responsible for devices subject to notification or verification.

(c) For swept frequency equipment, measurements shall be made with the frequency sweep stopped at those frequencies chosen for the measurements to be reported.

(d) Field strength measurements shall be made, to the extent possible, on an open field site. Test sites other than open field sites may be employed if they are properly calibrated so that the measurement results correspond to what would be obtained from an open field site. In the case of equipment for which measurements can be performed only at the installation site, such as perimeter protection systems, carrier current

systems, and systems employing a "leaky" coaxial cable as an antenna, measurements for verification or for obtaining a grant of equipment authorizaton shall be performed at a minimum of three installations that can be demonstrated to be representative of typical installation sites.

(e) For intentional radiators, measurements of the variation of the input power or the radiated signal level of the fundamental frequency component of the emission, as appropriate, shall be performed with the supply voltage varied between 85% and 115% of the nominal rated supply voltage. For battery operated equipment, the equipment tests shall be performed using a new battery.

(f) To the extent practicable, the device under test shall be measured at the distance specified in the appropriate rule section. The distance specified corresponds to the horizontal distance between the measurement antenna and the closest point of the equipment under test, support equipment or interconnecting cables as determined by the boundary defined by an imaginary straight line periphery describing a simple geometric configuration enclosing the system containing the equipment under test. The equipment under test, support equipment and any interconnecting cables shall be included within this boundary.

(1) At frequencies equal to or above 30 MHz, measurements may be performed at a distance closer than that specified provided this does not result in measurements taken in the near field. When performing measurements at a closer distance than specified, the results shall be extrapolated to the specified distance using an inverse linear distance extrapolation factor (20 dB/decade). Measurement at a distance greater than specified is not permitted unless the responsible party can demonstrate the measurements at the specified distance are impractical because of the size of the equipment, the location of the equipment, or other factors, or unless the responsible party can demonstrate that such a measurement would take place in the near field, as could occur when performing measurements on some large digital devices and perimeter protection systems. Measurements shall not be performed at a distance greater than 30 meters unless it can be demonstrated that measurement at a distance of 30 meters or less is impracticable and, further, that the signal level needed to be determined at the distance employed can be detected by the measuring equipment. When performing measurements at a distance greater than that specified, the results shall be interpolated to the specified distance using an inverse linear distance interpolation factor (20 dB/decade).

(2) At frequencies below 30 MHz, measurements may be performed at a distance closer than that specified in the regulations; however, an attempt should be made to avoid making measurements in the near field. Pending the development of an appropriate measurement procedure for measurements performed below 30 MHz, when performing measurements at a closer distance than specified, the results shall be extrapolated to the specified distance by either making measurements at a minimum of two distances on at least one radial to determine the proper extrapolation factor or by using the square of an inverse linear distance extrapolation factor (40 dB/decade).

(3) The applicant for a grant of certification shall specify the interpolation or extrapolation method used in the application filed with the Commission. For equipment subject to notification or verification, this information shall be retained with the measurement data.

(4) When measurement distances of 30 meters or less are specified in the regulations, the Commission will test the equipment at the distance specified unless measurement at that distance results in measurements being performed in the near field. When measurement distances of greater than 30 meters are specified in the regulations, the Commission will test the equipment at a closer distance, usually 30 meters, extrapolating the measured field strength to the specified distance using the methods shown in this section.

(5) Measurements shall be performed at a sufficient number of radials around the equipment under test to determine the radial at which the field strength values of the radiated emissions are maximized. The maximum field strength at the frequency being measured shall be reported in an application for certification.

(g) Equipment under test shall be adjusted, using those controls that are readily accessible to or are intended to be accessible to the consumer, in such a manner as to maximize the level of the emissions. For those devices to which wire leads may be attached by the consumer, tests shall be performed with wire leads attached. The wire leads shall be of the length to be used with the equipment if that length is known. Otherwise, wire leads one meter in length shall be attached to the equipment. Longer wire leads may be employed if necessary to interconnect to associated peripherals.

(h) For a composite system that incorporates devices contained either in a single enclosure or in separate enclosures connected by wire or cable, testing for compliance with the standards in this Part shall be performed with all of the devices in the system functioning. If an intentional radiator incorporates more than one antenna or other radiating source and these radiating sources are designed to emit at the same time, measurements of conducted and radiated emissions shall be performed with all radiating sources that are to be employed emitting.

(i) If the device under test provides for the connection of external accessories, including external electrical input signals, the device shall be tested with the accessories attached. The device under test shall be fully exercised with these external accessories. The emission tests shall be performed with the device and accessories configured in a manner that tends to produce maximized emissions within the range of variations that can be expected under normal operating conditions. In the case of multiple accessory external ports, an external accessory shall be connected to one of each type of port. Only one test using peripherals or external accessories that are representative of the devices that will be employed with the equipment under test is required. All possible equipment combinations do not need to be tested. The accessories or peripherals connected to the device being tested shall be unmodified, commercially available equipment.

(j) If the equipment under test consists of a central control unit and an external or internal accessory(ies) (peripheral) and the party verifying the equipment or applying for a grant of equipment authorization manufactures or assembles the central control unit and at least one of the accessory devices that can be used with that control unit, testing of the control unit and/or the accessory(ies) must be performed using the devices manufactured or assembled by that party, in addition to any other needed devices which the party does not manufacture or assemble. If the party verifying the equipment or applying for a grant of equipment authorization does not manufacture or assemble the central control unit and at least one of the accessory devices that can be used with that control unit or the party can demonstrate that the central

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control unit or accessory(ies) normally would be marketed or used with equipment from a different entity, testing of the central control unit and/or the accessory(ies) must be performed using the specific combination of equipment which is intended to be marketed or used together. Only one test using peripherals or accessories that are representatve of the devices that will be employed with the equipment under test is required. All possible equipment combinations are not required to be tested. The accessories or peripherals connected to the device being tested shall be unmodified, commercially available equipment.

(k) A composite system is a system that incorporates different devices contained either in a single enclosure or in separate enclosures connected by wire or cable. If the individual devices in a composite system are subject to different technical standards, each such device must comply with its specific standards. In no event may the measured emissions of the composite system exceed the highest level permitted for an individual component. For digital devices which consist of a combination of Class A and Class B devices, the total combination of which results in a Class A digital device, it is only necessary to demonstrate that the equipment combination complies with the limits for a Class A device. This equipment combination may not be employed for obtaining a grant of equipment authorization or verifying a Class B digital device. However, if the digital device combination consists of a Class B central control unit, e.g., a personal computer, and a Class A internal peripheral(s), it must be demonstrated that the Class B central control unit continues to comply with the limits for a Class B digital device with the Class A internal peripheral(s) installed but not active.

(l) Measurements of radio frequency emissions conducted to the public utility power lines shall be performed using a 50 ohm/50 uH line-impedance stabilization network (LISN).

Note: Receivers tested under the transition provisions contained in § 15.37 may be tested with a 50 ohm/5 μH LISN.

(m) Measurements on intentional radiators or receivers, other than TV broadcast receivers, shall be performed and, if required, reported for each band in which the device can be operated with the device operating at the number of frequencies in each band specified in the following table:

Frequency range over which device operates	Number of frequencies	Location in the range of operation
1 MHz or less	1	Middle.
1 to 10 MHz	2	1 near top and 1 near bottom.
More than 10 MHz	3	1 near top, 1 near middle and 1 near bottom.

(n) Measurements on TV broadcast receivers shall be performed with the receiver tuned to each VHF frequency and also shall include the following oscillator frequencies: 520, 550, 600, 650, 700, 750, 800, 850, 900 and 931 MHz. If measurements cannot be made on one or more of the latter UHF frequencies because of the presence of signals from licensed radio stations or for other reasons to be detailed in the measurement report, measurements shall be made with the receiver oscillator at a nearby frequency. If the receiver is not capable of receiving channels above 806 MHz, the measurements employing the oscillator frequencies 900 and 931 MHz may be omitted.

(o) The amplitude of spurious emissions from intentional radiators and emissions from unintentional radiators which are attenuated more than 20 dB below the permissible value need not be reported unless specifically required elsewhere in this part.

§ 15.33 Frequency range of radiated measurements.

(a) For an intentional radiator, the spectrum shall be investigated from the lowest radio frequency signal generated in the device, without going below 9 kHz, up to at least the tenth harmonic of the highest fundamental frequency or to 40 GHz, whichever is lower. If the intentional radiator contains a digital device, regardless of whether this digital device controls the functions of the intentional radiator or the digital device is used for additional control or function purposes other than to enable the operation of the intentional radiator, the frequency range shall be investigated up to the higher of the tenth harmonic of the highest fundamental frequency designed to be emitted by the intentional radiator or the upper frequency of the measurement range applicable to the digital device, as shown in paragraph (b)(1) of this section.

(b) For unintentional radiators:

(1) Except as otherwise indicated in paragraphs (b)(2) or (b)(3) of this section, for an unintentional radiator, including a digital device, the spectrum shall be investigated from the lowest radio frequency signal generated or used in the device, without going below the lowest frequency for which a radiated emission limit is specified, up to the frequency shown in the following table:

Highest frequency generated or used in the device or on which the device operates or tunes (MHz)	Upper frequency of measurement range (MHz)
Below 1.705	30.
1.705–108	1000.
108–500	2000.
500–1000	5000.
Above 1000	5th harmonic of the highest frequency or 40 GHz, whichever is lower.

(2) A unintentional radiator, excluding a digital device, in which the highest frequency generated in the device, the highest frequency used in the device and the highest frequency on which the device operates or tunes are less than 30 MHz and which, in accordance with § 15.109, is required to comply with standards on the level of radiated emissions within the frequency range 9 kHz to 30 MHz, such as a CB receiver or a device designed to conduct its radio frequency emissions via connecting wires or cables, e.g., a carrier current system not intended to radiate, shall be investigated from the lowest radio frequency generated or used in the device, without going below 9 kHz (25 MHz for CB receivers), up to the frequency shown in the following table. If the unintentional radiator contains a digital device, the upper frequency to be investigated shall be that shown in the table below or in the table in paragraph (b)(1) of this section, as based on both the highest frequency generated and the highest frequency used in the digital device, whichever range is higher.

Highest frequency generated or used in the device or on which the device operates or tunes (MHz)	Upper frequency of measurement range (MHz)
Below 1.705	30
1.705–10	400
10–30	500

(3) Except for a CB receiver, a receiver employing superheterodyne techniques shall be investigated from 30 MHz up to at least the second harmonic of the highest local oscillator frequency generated in the device. If such receiver is controlled by a digital device, the frequency range shall be investigated up to the higher of the second harmonic of the highest local oscillator frequency

generated in the device or the upper frequency of the measurement range specified for the digital device in paragraph (b)(1) of this section.

(c) The above specified frequency ranges of measurements apply to the measurement of radiated emissions and, in the case of receivers, the measurement to demonstrate compliance with the antenna conduction limits specified in § 15.111. The frequency range of measurements for AC power line conducted limits is specified in §§ 15.107 and 15.207 and applies to all equipment subject to those regulations. In some cases, depending on the frequency(ies) generated and used by the equipment, only signals conducted onto the AC power lines are required to be measured.

(d) Particular attention should be paid to harmonics and subharmonics of the fundamental frequency as well as to those frequencies removed from the fundamental by multiples of the oscillator frequency. Radiation at the frequencies of multiplier states should also be checked.

§ 15.35 Emission limits.

The conducted and radiated emission limits shown in this part are based on the following, unless otherwise specified elsewhere in this part:

(a) On any frequency or frequencies below or equal to 1000 MHz, the limits shown are based on measuring equipment employing a CISPR quasi-peak detector function and related measurement bandwidths, unless otherwise specified. The specifications for the measuring instrument using the CISPR quasi-peak detector can be found in Publication 16 of the International Special Committee on Radio Interference (CISPR) of the International Electrotechnical Commission. As an alternative to CISPR quasi-peak measurements, the responsible party, at its option, may demonstrate compliance with the emission limits using measuring equipment employing a peak detector function, properly adjusted for such factors as pulse desensitization, as long as the same bandwidths as indicated for CISPR quasi-peak measurements are employed.

Note: For pulse modulated devices with a pulse-repetition frequency of 20 Hz or less and for which CISPR quasi-peak measurements are specified, compliance with the regulations shall be demonstrated using measuring equipment employing a peak detector function, properly adjusted for such factors as pulse desensitization, using the same measurement bandwidths that are indicated for CISPR quasi-peak measurements.

(b) On any frequency or frequencies above 1000 MHz, the radiated limits shown are based on the use of measurement instrumentation employing an average detector function. When average radiated emission measurements are specified in the regulations, including emission measurements below 1000 MHz, there is also a limit on the radio frequency emissions, as measured using instrumentation with a peak detector function, corresponding to 20 dB above the maximum permitted average limit for the frequency being investigated. Measurements of AC power line conducted emissions are performed using a CISPR quasi-peak detector, even for devices for which average radiated emission measurements are specified.

(c) When the radiated emission limits are expressed in terms of the average value of the emission, and pulsed operation is employed, the measured field strength shall be determined by averaging over one complete pulse train, including blanking intervals, as long as the pulse train does not exceed 0.1 seconds. As an alternative (provided the transmitter operates for longer than 0.1 seconds) or in those cases where the pulse train exceeds 0.1 seconds, the measured field strength shall be determined from the average absolute voltage during a 0.1 second interval during which the field strength is at its maximum value. The exact method of calculating the average field strength shall be submitted with any application for certification or shall be retained in the measurement data file for equipment subject to notification or verification.

§ 15.37 Transition provisions for compliance with the rules.

Equipment may be authorized, manufactured and imported under the rules in effect prior to June 26, 1989 in accordance with the following schedules:

(a) *For all intentional and unintentional radiators, except for receivers.* Radio frequency equipment verified by the responsible party or for which an application for a grant of equipment authorization is submitted to the Commission on or after June 23, 1992 shall comply with the regulations specified in this part. Radio frequency equipment that is manufactured or imported on or after June 23, 1994, shall comply with the regulations specified in this part.

(b) *For receivers.* Receivers subject to the regulations in this Part that are manufactured or imported on or after June 23, 1999 shall comply with the regulations specified in this part. However, if a receiver is associated with a transmitter that could not have been authorized under the regulations in effect prior to June 26, 1989, e.g., a transmitter operating under the provisions of §§ 15.209 or 15.249 (below 960 MHz), the transition provisions in this section do not apply. Such receivers must comply with the regulations in this part.

(c) There are no restrictions on the operation or marketing of equipment complying with the regulations in effect prior to June 26, 1989.

Subpart B—Unintentional Radiators

§ 15.101 Equipment authorization of unintentional radiators.

(a) Except as otherwise exempted in §§ 15.23, 15.103, and 15.113, unintentional radiators shall be authorized by the Commission or verified prior to the initiation of marketing, as follows:

Type of device	Equipment authorization required [1]
TV broadcast receiver	Verification.
FM broadcast receiver	Do.
CB receiver	Certification.
Superregenerative receiver	Do.
Scanning receiver	Do.
All other receivers subject to Part 15.	Notification.
TV interface device	Certification.
Cable system terminal device	Notification.
Stand-alone cable input selector switch.	Verification.
Class B personal computers & peripherals.	Certification.
Other Class B digital devices & peripherals.	Verification.
Class A digital devices & peripherals.	Do.
External switching power supplies.	Do.
All other devices	Do.

[1] See additional provisions in this section and in § 15.103 of this part.

(b) Only those receivers that operate (tune) within the frequency range of 30–960 MHz and CB receivers are subject to the authorizations shown in paragraph (a) of this section. However, receivers indicated as being subject to notification that are contained within a transceiver, the transmitter portion of which is subject to type acceptance, certification or notification, shall be authorized under the verification procedure. Receivers operating above 960 MHz or below 30 MHz, except for CB receivers, are exempt from complying with the technical provisions of this part but are subject to § 15.5.

(c) Personal computer mother boards (the circuit board performing the central processing) that are marketed assembled with an enclosure and a

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power supply must be certificated with that enclosure and power supply.

(d) Peripheral devices, as defined in § 15.3(r), shall be certified or verified, as appropriate, prior to marketing. However, if a peripheral always will be marketed with a specific personal computer, it is not necessary to obtain a separate grant of certification for that peripheral, provided the specific combination of personal computer and peripheral has received a grant of certification.

(e) Subassemblies to digital devices are not subject to the technical standards in this part unless they are marketed as part of a system in which case the resulting system must comply with the applicable regulations. Subassemblies include: Those devices that are enclosed solely within the enclosure housing the digital device and are not included in the definition of peripherals in § 15.3(r), such as internal disc drives and memory expansion units; digital devices marketed to another manufacturer to be incorporated into a final product; circuit boards containing the central processing unit that are marketed without an enclosure or power supply; and, switching power supplies that are separately marketed and are solely for use internal to a digital device.

(f) The procedures for obtaining a grant of certification or notification and for verification are contained in Subpart J of Part 2 of this chapter.

§ 15.103 Exempted devices.

The following devices are subject only to the general conditions of operation in §§ 15.5 and 15.29 and are exempt from the specific technical standards and other requirements contained in this part. The operator of the exempted device shall be required to stop operating the device upon a finding by the Commission or its representative that the device is causing harmful interference. Operation shall not resume until the condition causing the harmful interference has been corrected. Although not mandatory, it is strongly recommended that the manufacturer of an exempted device endeavor to have the device meet the specific technical standards in this part.

(a) A digital device utilized exclusively in any transportation vehicle including motor vehicles and aircraft.

(b) A digital device used exclusively as an electronic control or power system utilized by a public utility or in an industrial plant. The term public utility includes equipment only to the extent that it is in a dedicated building or large room owned or leased by the utility and does not extend to equipment installed in a subscriber's facility.

(c) A digital device used exclusively as industrial, commercial, or medical test equipment.

(d) A digital device utilized exclusively in an appliance, e.g., microwave oven, dishwasher, clothes dryer, air conditioner (central or window), etc.

(e) Specialized medical digital devices (generally used at the direction of or under the supervision of a licensed health care practitioner) whether used in a patient's home or a health care facility. Non-specialized medical devices, i.e., devices marketed through retail channels for use by the general public, are not exempted. This exemption also does not apply to digital devices used for record keeping or any purpose not directly connected with medical treatment.

(f) Digital devices that have a power consumption not exceeding 6 nW.

(g) Joystick controllers or similar devices, such as a mouse, used with digital devices but which contain only non-digital circuitry or a simple circuit to convert the signal to the format required (e.g., an integrated circuit for analog to digital conversion) are viewed as passive add-on devices, not themselves directly subject to the technical standards or the equipment authorization requirements.

(h) Digital devices in which both the highest frequency generated and the highest frequency used are less than 1.705 MHz and which do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines. Digital devices that include, or make provision for the use of, battery eliminators, AC adaptors or battery chargers which permit operation while charging or that connect to the AC power lines indirectly, obtaining their power through another device which is connected to the AC power lines, do not fall under this exemption.

(i) Responsible parties should note that equipment containing more than one device is not exempt from the technical standards in this part unless all of the devices in the equipment meet the criteria for exemption. If only one of the included devices qualifies for exemption, the remainder of the equipment must comply with any applicable regulations. If a device performs more than one function and all of those functions do not meet the criteria for exemption, the device does not qualify for inclusion under the exemptions.

§ 15.105 Information to the user.

(a) For a Class A digital device or peripheral, the instructions furnished the user shall include the following or similar statement, placed in a prominent location in the text of the manual:

Note: This equipment has been tested and found to comply with the limits for a Class A digital device, pursuant to Part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference when the equipment is operated in a commercial environment. This equipment generates, uses, and can radiate radio frequency energy and, if not installed and used in accordance with the instruction manual, may cause harmful interference to radio communications. Operation of this equipment in a residential area is likely to cause harmful interference in which case the user will be required to correct the interference at his own expense.

(b) For a Class B digital device or peripheral, the instructions furnished the user shall include the following or similar statement, placed in a prominent location in the text of the manual:

Note: This equipment has been tested and found to comply with the limits for a Class B digital device, pursuant to Part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference in a residential installation. This equipment generates, uses and can radiate radio frequency energy and, if not installed and used in accordance with the instructions, may cause harmful interference to radio communications. However, there is no guarantee that interference will not occur in a particular installation. If this equipment does cause harmful interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one or more of the following measures:

—Reorient or relocate the receiving antenna.
—Increase the separation between the equipment and receiver.
—Connect the equipment into an outlet on a circuit different from that to which the receiver is connected.
—Consult the dealer or an experienced radio/TV technician for help.

(c) The provisions of paragraphs (a) and (b) of this section do not apply to digital devices exempted from the technical standards under the provisions of § 15.103.

(d) For systems incorporating several digital devices, the statement shown in paragraph (a) or (b) of this section needs to be contained only in the instruction manual for the main control unit.

§ 15.107 Conducted limits.

(a) Except for Class A digital devices, for equipment that is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies within the band 450 kHz to 30 MHz shall not exceed 250 microvolts. Compliance with this provision shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminals.

(b) For a Class A digital device that is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies within the band 450 kHz to 30 MHz shall not exceed the limits in the following table. Compliance with this provision shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminals. The lower limit applies at the band edges.

Frequency of emission (MHz)	Conducted limit (microvolts)
0.45 to 1.705	1000
1.705 to 30.0	3000

(c) For carrier current systems used as unintentional radiators whose emissions are contained within the frequency range 450 kHz to 30 MHz, the provisions of this section shall not apply. Such systems are subject to radiated emission limits as provided in § 15.109(e).

(d) Measurements to demonstrate compliance with the conducted limits are not required for devices which only employ battery power for operation and which do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines. Devices that include, or make provision for, the use of battery chargers which permit operating while charging, AC adaptors or battery eliminators or that connect to the AC power lines indirectly, obtaining their power through another device which is connected to the AC power lines, shall be tested to demonstrate compliance with the conducted limits.

§ 15.109 Radiated emission limits.

(a) Except for Class A digital devices, the field strength of radiated emissions from unintentional radiators at a distance of 3 meters shall not exceed the following values:

Frequency of emission (MHz)	Field strength (microvolts/meter)
30–88	100
88–216	150
216–960	200
Above 960	500

(b) The field strength of radiated emissions from a Class A digital device, as determined at a distance of 10 meters, shall not exceed the following:

Frequency of emission (MHz)	Field strength (microvolts/meter)
30–88	90
88–216	150
216–960	210
Above 960	300

(c) In the emission tables above, the tighter limit applies at the band edges. Sections 15.33 and 15.35 which specify the frequency range over which radiated emissions are to be measured and the detector functions and other measurement standards apply.

(d) For CB receivers, the field strength of radiated emissions within the frequency range of 25–30 MHz shall not exceed 40 microvolts/meter at a distance of 3 meters. The field strength of radiated emissions above 30 MHz from such devices shall comply with the limits in paragraph (a) of this section.

(e) Carrier current systems used as unintentional radiators or other unintentional radiators that are designed to conduct their radio frequency emissions via connecting wires or cables and that operate in the frequency range of 9 kHz to 30 MHz, including devices that deliver the radio frequency energy to transducers, such as ultrasonic devices not covered under Part 18 of this chapter, shall comply with the radiated emission limits for intentional radiators provided in § 15.209 for the frequency range of 9 kHz to 30 MHz. At frequencies above 30 MHz, the provisions of paragraph (a) of this section apply.

(f) For a receiver which employs terminals for the connection of an external receiving antenna, the receiver shall be tested to demonstrate compliance with the provisions of this section with an antenna connected to the antenna terminals unless the antenna conducted power is measured as specified in § 15.111(a). If a permanently attached receiving antenna is used, the receiver shall be tested to demonstrate compliance with the provisions of this section.

§ 15.111 Antenna power conduction limits for receivers.

(a) In addition to the radiated emission limits, receivers that operate (tune) in the frequency range 30 to 960 MHz and CB receivers that provide terminals for the connection of an external receiving antenna may be tested to demonstrate compliance with the provisions of § 15.109 with the antenna terminals shielded and terminated with a resistive termination equal to the impedance specified for the antenna, provided these receivers also comply with the following: With the receiver antenna terminal connected to a resistive termination equal to the impedance specified or employed for the antenna, the power at the antenna terminal at any frequency within the range of measurements specified in § 15.33 shall not exceed 2.0 nanowatts.

(b) CB receivers and receivers that operate (tune) in the frequency range 30 to 960 MHz that are provided only with a permanently attached antenna shall comply with the radiated emission limitations in this part, as measured with the antenna attached.

§ 15.113 Power line carrier systems.

Power line carrier systems, as defined in § 15.3(t), are subject only to the following requirements:

(a) A power utility operating a power line carrier system shall submit the details of all existing systems plus any proposed new systems or changes to existing systems to an industry-operated entity as set forth in § 90.63(g) of this chapter. No notification to the FCC is required.

(b) The operating parameters of a power line carrier system (particularly the frequency) shall be selected to achieve the highest practical degree of compatibility with authorized or licensed users of the radio spectrum. The signals from this operation shall be contained within the frequency band 9 kHz to 490 kHz. A power line carrier system shall operate on an unprotected, non-interference basis in accordance with § 15.5 of this part. If harmful interference occurs, the electric power utility shall discontinue use or adjust its power line carrier operation, as required, to remedy the interference. Particular attention should be paid to the possibility of interference to Loran C operations at 100 kHz.

(c) Power line carrier system apparatus shall be operated with the minimum power possible to accomplish the desired purpose. No equipment authorization is required.

(d) The best engineering principles shall be used in the generation of radio

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frequency currents by power line carrier systems to guard against harmful interference to authorized radio users, particularly on the fundamental and harmonic frequencies.

(e) Power line carrier system apparatus shall conform to such engineering standards as may be promulgated by the Commission. In addition, such systems should adhere to industry approved standards designed to enhance the use of power line carrier systems.

(f) These provisions for power line carrier systems apply only to systems operated by a power utility for general supervision of the power system and do not permit operation on electric lines which connect the distribution substation to the customer or house wiring.

§ 15.115 TV interface devices, including cable system terminal devices.

(a) Measurements of the radiated emissions of a TV interface device shall be conducted with the output terminal(s) of the device terminated by a resistance equal to the rated output impedance. The emanations of a TV interface device incorporating an intentional radiator shall not exceed the limits in § 15.109 or Subpart C of this part, whichever is higher for each frequency. Where it is possible to determine which portion of the device is contributing a particular radio frequency emission, the emissions from the TV interface device portion shall comply with the emission limits in § 15.109, and the emissions from the intentional radiator shall comply with Subpart C of this part.

(b) Output signal limits:

(1) At any RF output terminal, the maximum measured RMS voltage, in microvolts, corresponding to the peak envelope power of the modulated signal during maximum amplitude peaks across a resistance (R in ohms) matching the rated output impedance of the TV interface device, shall not exceed the following:

(i) For a cable system terminal device or a TV interface device used with a master antenna, 692.8 times the square root of (R) for the video signal and 155 times the square root of (R) for the audio signal.

(ii) For all other TV interface devices, 346.4 times the square root of (R) for the video signal and 77.5 times the square root of (R) for the audio signal.

(2) At any RF output terminal, the maximum measured RMS voltage, in microvolts, corresponding to the peak envelope power of the modulated signal during maximum amplitude peaks across a resistance (R in ohms) matching the rated output impedance of the TV interface device, of any emission appearing on frequencies removed by more than 4.6 MHz below or 7.4 MHz above the video carrier frequency on which the TV interface device is operated shall not exceed the following:

(i) For a cable system terminal device or a TV interface device used with a master antenna, 692.8 times the square root of (R).

(ii) For all other TV interface devices, 10.95 times the square root of (R).

(3) The term "master antenna" used in this paragraph refers to TV interface devices employed for central distribution within large buildings such as apartments, hospitals, office buildings, etc.

(c) A TV interface device shall be equipped with a transfer switch for connecting the antenna terminals of a receiver selectively either to the receiving antenna or to the radio frequency output of the TV interface device, subject to the following:

(1) When measured in any of its set positions, transfer switches shall comply with the following requirements:

(i) For a cable system terminal device or a TV interface device equipped for use with a cable system or a master antenna, as defined in paragraph (b)(3) of this section, the isolation between the antenna and cable input terminals shall be at least 80 dB from 54 to 216 MHz and at least 60 dB from 216 to 550 MHz. The 80 dB limit applies at 216 MHz. In the case of a transfer switch requiring a power source, the required isolation shall be maintained in the event the device is not connected to a power source or power is interrupted.

(ii) For all other TV interface devices, the maximum voltage, corresponding to the peak envelope power of the modulated video signal during maximum amplitude peaks, in microvolts, appearing at the receiving antenna input terminals when terminated with a resistance (R in ohms) matching the rated impedance of the antenna input of the switch, shall not exceed 0.346 times the square root of (R).

(iii) Measurement to determine compliance with the transfer switch limits shall be made using a connecting cable, where required, between the TV interface device and the transfer switch of the type and length:

(A) Provided with the TV interface device,

(B) Recommended in the instruction manual, or

(C) Normally employed by the consumer.

(2) A TV interface device shall be designed and constructed, to the extent practicable, so as to preclude the possibility that the consumer may inadvertently attach the output of the device to the receiving antenna, if any, without first going through the transfer switch.

(3) A transfer switch is not required for a TV interface device that, when connected, results in the user no longer having any need to receive standard over-the-air broadcast signals via a separate antenna. A transfer switch is not required to be marketed with a cable system terminal device unless that device provides for the connection of an external antenna. A transfer switch is not required for a device that is intended to be used as an accessory to an authorized TV interface device.

(4) An actual transfer switch is not required for a TV interface device, including a cable system terminal device, that has an antenna input terminal(s); provided, the circuitry following the antenna input terminal(s) has sufficient bandwidth to allow the reception of all TV broadcast channels authorized under Part 73 of this chapter and: For a cable system terminal device that can alternate between the reception of cable television service and an antenna, compliance with the isolation requirement specified in paragraph (c)(1)(i) of this section can be demonstrated; and, for all other TV interface devices, the maximum voltage appearing at the antenna terminal(s) does not exceed the limit in paragraph (c)(1)(ii) of this section.

(5) If a transfer switch is not required, the following label shall be used in addition to the label shown in § 15.19(a):

This device is intended to be attached to a receiver that is not used to receive over-the-air broadcast signals. Connection of this device in any other fashion may cause harmful interference to radio communications and is in violation of the FCC Rules, Part 15.

(d) A TV interface device, including a cable system terminal device, shall incorporate circuitry to automatically prevent emanations from the device from exceeding the technical specifications in this part. These circuits shall be adequate to accomplish their functions when the TV interface device is presented, if applicable, with video input signal levels in the range of one to five volts; this requirement is not applicable to a TV interface device that uses a built-in signal source and has no provisions for the connection of an external signal source. For devices that contain provisions for an external signal source but do not contain provisions for the input of an external baseband signal, e.g., some cable system terminal devices, compliance with the provisions of this paragraph shall be demonstrated with a radio frequency input signal of 0 to 25 dBmV.

(e) For cable system terminal devices and TV interface devices used with a master antenna, as defined in paragraph (b)(3) of this section, the holder of the grant of authorization shall specify in the instruction manual or pamphlet, if a manual is not provided, the types of wires or coaxial cables necessary to ensure that the unit complies with the requirements of this part. The holder of the grant of authorization must comply with the provisions of § 15.27. For all other TV interface devices, the wires or coaxial cables used to couple the output signals to the TV receiver shall be provided by the responsible party.

(f) A TV interface device which is submitted to the Commission as a composite device in a single enclosure containing a RF modulator, video source and other component devices shall be submitted on a single application (FCC Form 731) and shall be authorized as a single device.

(g) An external device or accessory that is intended to be attached to a TV interface device shall comply with the technical and administrative requirements set out in the rules under which it operates. For example, a personal computer must be certificated to show compliance with the regulations for digital devices.

§ 15.117 TV broadcast receivers.

(a) All TV broadcast receivers shipped in interstate commerce or imported from any foreign country into the United States, for sale or resale to the public, shall comply with the provisions of this section. The reference in this section to TV broadcast receivers also includes devices, such as TV interface devices, that incorporate the tuner portion of a TV broadcast receiver and that are equipped with an antenna or antenna terminals that can be used for the off-the-air reception of TV broadcast signals, as authorized under Part 73 of this chapter.

(b) TV broadcast receivers shall be capable of adequately receiving all channels allocated by the Commission to the television broadcast service.

(c) On a given receiver, use of the UHF and VHF tuning systems shall provide approximately the same degree of tuning accuracy with approximately the same expenditure of time and effort: *Provided, however,* That this requirement will be considered to be met if the need for routine fine tuning is eliminated on UHF channels.

(1) *Basic tuning mechanism.* If a TV broadcast receiver is equipped to provide for repeated access to VHF television channels at discrete tuning positions, that receiver shall be equipped to provide for repeated access to a minimum of six UHF television channels at discrete tuning positions. Unless a discrete tuning position is provided for each channel allocated to UHF television, each position shall be readily adjustable to a particular UHF channel by the user without the use of tools. If 12 or fewer discrete tuning positions are provided, each position shall be adjustable to receive any channel allocated to UHF television.

Note: The combination of detented rotary switch and pushbutton controls is acceptable, provided UHF channels, after their initial selection, can be accurately tuned with an expenditure of time and effort approximately the same as that used in accurately tuning VHF channels. A UHF tuning system comprising five pushbuttons and a separate manual tuning knob is considered to provide repeated access to six channels at discrete tuning positions. A one-knob (VHF/UHF) tuning system providing repeated access to 11 or more discrete tuning positions is also acceptable, provided each of the tuning positions is readily adjustable, without the use of tools, to receive any UHF channel.

(2) *Tuning controls and channel readout.* UHF tuning controls and channel readout on a given receiver shall be comparable in size, location, accessibility and legibility to VHF controls and readout on that receiver.

Note: Differences between UHF and VHF channel readout that follow directly from the larger number of UHF television channels available are acceptable if it is clear that a good faith effort to comply with the provisions of this section has been made.

(d) If equipment and controls that tend to simplify, expedite or perfect the reception of television signals (e.g., AFC, visual aids, remote control, or signal seeking capability referred to generally as tuning aids) are incorporated into the VHF portion of a TV broadcast receiver, tuning aids of the same type and comparable capability and quality shall be provided for the UHF portion of that receiver.

(e) If a television receiver has an antenna affixed to the VHF antenna terminals, it must have an antenna designed for and capable of receiving all UHF television channels affixed to the UHF antenna terminals. If a VHF antenna is provided with but not affixed to a receiver, a UHF antenna shall be provided with the receiver.

(f) The picture sensitivity of a TV broadcast receiver averaged for all channels between 14 and 69 inclusive shall not be more than 8dB larger than the peak picture sensitivity of that receiver averaged for all channels between 2 and 13 inclusive.

(g) The noise figure for any television channel 14 to 69 inclusive shall not exceed 14 dB. A TV receiver model is considered to comply with this noise figure if the maximum noise figure for channels 14–69 inclusive of 97.5% of all receivers within that model does not exceed 14 dB.

(1) The responsible party shall measure the noise figure of a number of UHF channels of the test sample to give reasonable assurance that the UHF noise figure for each channel complies with the above limit.

(2) The responsible party shall insert in his files a statement explaining the basis on which it will rely to ensure that at least 97.5% of all production units of the test sample that are manufactured have a noise figure of no greater than 14 dB.

(3) Within one year after a specific TV receiver model has been verified for compliance, the responsible party shall file a report with the Commission giving the actual UHF noise figure performance of units of that model actually measured during that year. The report, as an alternative, may be filed by the party responsible for the marketing of that model TV broadcast receiver within this country.

(4) In the case of a TV tuner built-in as part of a video tape recorder that usea a power splitter between the antenna terminals of the video tape recorder and the input terminals of the TV tuner or a TV broadcast receiver that uses a power splitter between the antenna terminals of two or more UHF tuners contained within that receiver, 4 dB may be subtracted from the noise figure measured at the antenna terminals of the video tape recorder or TV broadcast receiver for determining compliance of the UHF tuner(s) with the 14 dB noise figure limit.

(h) For a TV broadcast receiver equipped with a cable input selector switch, the selector switch shall provide in any of its set positions isolation between the antenna and cable input terminals of at least 80 dB from 54 to 216 MHz, and of at least 60 dB from 216 to 550 MHz. At MHz, the 80 dB isolation standard applies. In the case of a selector switch requiring a power source, the required isolation shall be maintained in the event the device is not connected to a power source or power is interrupted. A physical cable input selector switch is not required for a TV broadcast receiver that can alternate between the reception of cable television service and an antenna, provided compliance with the isolation requirement specified in this paragraph can be demonstrated and the circuitry

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following the antenna input terminal(s) has sufficient bandwidth to allow the reception of all TV broadcast channels authorized under this chapter.

Subpart C—Intentional Radiators

§ 15.201 Equipment authorization requirement.

(a) Intentional radiators operated as carrier current systems and devices operated under the provisions of §§ 15.211, 15.213 and 15.221 shall be verified pursuant to the procedures in Subpart J of Part 2 of this chapter prior to marketing.

(b) Except as otherwise exempted in paragraph (c) of this section and in § 15.23 of this part, all intentional radiators operating under the provisions of this part shall be certificated by the Commission pursuant to the procedures in Subpart J of Part 2 of this chapter prior to marketing.

(c) For devices such as perimeter protection systems which, in accordance with § 15.31(d), are required to be measured at the installation site, each application for certification must be accompanied by a statement indicating that the system has been tested at three installations and found to comply at each installation. Until such time as certification is granted, a given installation of a system that was measured for the submission for certification will be considered to be in compliance with the provisions of this chapter, including the marketing regulations in Subpart I of Part 2 of this chapter, if tests at that installation show the system to be in compliance with the relevant technical requirements. Similarly, where measurements must be performed on site for equipment subject to verification, a given installation that has been verified to demonstrate compliance with the applicable standards will be considered to be in compliance with the provisions of this chapter, including the marketing regulations in Subpart I of Part 2 of this chapter.

(d) For perimeter protection systems operating in the frequency bands allocated to television broadcast stations operating under Part 73 of this chapter, the holder of the grant of certification must test each installation prior to initiation of normal operation to verify compliance with the technical standards and must maintain a list of all installations and records of measurements. For perimeter protection systems operating outside of the frequency bands allocated to television broadcast stations, upon receipt of a grant of certification, further testing of the same or similar type of system or installation is not required.

§ 15.203 Antenna requirement.

An intentional radiator shall be designed to ensure that no antenna other than that furnished by the responsible party shall be used with the device. The use of a permanently attached antenna or of an antenna that uses a unique coupling to the intentional radiator shall be considered sufficient to comply with the provisions of this section. The manufacturer may design the unit so that a broken antenna can be replaced by the user, but the use of a standard antenna jack or electrical connector is prohibited. This requirement does not apply to carrier current devices or to devices operated under the provisions of § 15.211, 15.213, 15.217, 15.219, 15.221, or 15.247. Further, this requirement does not apply to intentional radiators that must be professionally installed, such as perimeter protection systems and some field disturbance sensors, or to other intentional radiators which, in accordance with § 15.31(d), must be measured at the installation site. However, the installer shall be responsible for ensuring that the proper antenna is employed so that the limits in this part are not exceeded.

§ 15.205 Restricted bands of operation.

(A) Except as shown in paragraph (d) of this section, only spurious emissions are permitted in any of the frequency bands listed below:

MHz	MHz	MHz	GHz
0.090–0.110	162.0125–167.17	2310–2390	9.3–9.5.
0.49–0.51	167.72–173.2	2436.5–2500	10.6–12.7.
2.1735–2.1905	240–285	2655–2900	13.25–13.4.
8.362–8.366	322–335.4	3260–3267	14.47–14.5
13.36–13.41	399.9–410	3332–3339	15.35–16.2.
25.5–25.67	608–614	3345.8–3358	17.7–21.4.
37.5–38.25	960–1240	3600–4400	22.01–23.12.
73–75.4	1300–1427	4500–5250	23.6–24.0.
108–121.94	1435–1626.5	5350–5460	31.2–31.8.
123–138	1660–1710	7250–7750	36.43–36.5.
149.9–150.05	1718.8–1722.2	8025–8500	Above 38.6.
156.7–156.9	2200–2300	9000–9200	

(b) Except as provided in paragraph (d) of this section, the field strength of emissions appearing within these frequency bands shall not exceed the limits shown in § 15.209. At frequencies equal to or less than 1000 MHz, compliance with the limits in § 15.209 shall be demonstrated using measurement instrumentation employing a CISPR quasi-peak detector. Above 1000 MHz, compliance with the emission limits in § 15.209 shall be demonstrated based on the average value of the measured emissions. The provisions in § 15.35 apply to these measurements.

(c) Except as provided in paragraph (d) of this section, regardless of the field strength limits specified elsewhere in this subpart, the provisions of this section apply to emissions from any intentional radiator.

(d) The following devices are exempt from the requirements of this section:

(1) Swept frequency field disturbance sensors operating between 1.705 and 37 MHz provided their emissions only sweep through the bands listed in paragraph (a) of this section, the sweep is never stopped with the fundamental emission within the bands listed in paragraph (a) of this section, and the fundamental emission is outside of the bands listed in paragraph (a) of this section more than 99% of the time the device is actively transmitting, without compensation for duty cycle.

(2) Transmitters used to detect buried electronic markers at 101.4 kHz which are employed by telephone companies.

(3) Cable locating equipment operated pursuant to § 15.213.

§ 15.207 Conducted limits.

(a) For an intentional radiator which is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted

back onto the AC power line on any frequency or frequencies within the band 450 kHz to 30 MHz shall not exceed 250 microvolts. Compliance with this provision shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminals.

(b) The limit in paragraph (a) of this section shall not apply to intentional radiators operated as carrier current systems in the frequency range of 450 kHz to 30 mHz. Such systems are subject to radiated emission limits as provided in §§ 15.205 and 15.209.

(c) Measurements to demonstrate compliance with the conducted limits are not required for devices which only employ battery power for operation and which do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines. Devices that include, or make provision for, the use of battery chargers which permit operating while charging, AC adaptors or battery eliminators or that connect to the AC power lines indirectly, obtaining their power through another device which is connected to the AC power lines, shall be tested to demonstrate compliance with the conducted limits.

§ 15.209 Radiated emission limits, general requirements.

(a) Except as provided elsewhere in this Subpart, the emissions from an intentional radiator shall not exceed the field strength levels specified in the following table:

Frequency (MHz)	Field strength (microvolts/meter)	Measurement distance (meters)
0.009–0.490	2400/F(kHz)	300
0.490–1.705	24000/F(kHz)	30
1.705–30.0	30	30
30–88	[1] 100	3
88–216	[1] 150	3
216–96	[1] 200	3
Above 960	500	3

[1] Except as provided in paragraph (g), fundamental emissions from intentional radiators operating under this Section shall not be located in the frequency bands 54–72 MHz, 76–88 MHz, 174–216 MHz or 470–806 MHz.

(b) In the emission table above, the tighter limit applies at the band edges.

(c) The level of any unwanted emissions from an intentional radiator operating under these general provisions shall not exceed the level of the fundamental emission. For intentional radiators which operate under the provisions of other sections within this part and which are required to reduce their unwanted emissions to the limits specified in this table, the limits in this table are based on the frequency of the unwanted emission and not the fundamental frequency. However, the level of any unwanted emissions shall not exceed the level of the fundamental frequency.

(d) The emission limits shown in the above table are based on measurements employing a CISPR quasi-peak detector except for the frequency bands 9–90 kHz, 110–490 kHz and above 1000 MHz. Radiated emission limits in these three bands are based on measurements employing an average detector.

(e) The provisions in §§ 15.31, 15.33, and 15.35 for measuring emissions at distances other than the distances specified in the above table, determining the frequency range over which radiated emissions are to be measured, and limiting peak emissions apply to all devices operated under this part.

(f) In accordance with § 15.33(a), in some cases the emissions from an intentional radiator must be measured to beyond the tenth harmonic of the highest fundamental frequency designed to be emitted by the intentional radiator because of the incorporation of a digital device. If measurements above the tenth harmonic are so required, the radiated emissions above the tenth harmonic shall comply with the general radiated emission limits applicable to the incorporated digital device, as shown in § 15.109 and as based on the frequency of the emission being measured, or, except for emissions contained in the restricted frequency bands shown in § 15.205, the limit on spurious emissions specified for the intentional radiator, whichever is the higher limit. Emissions which must be measured above the tenth harmonic of the highest fundamental frequency designed to be emitted by the intentional radiator and which fall within the restricted bands shall comply with the general radiated emission limits in § 15.109 that are applicable to the incorporated digital device.

(g) Perimeter protection systems operating under the provisions of this Section in the frequency bands allocated to TV broadcast stations, as shown in Part 73 of this chapter, shall contain their fundamental emissions within the frequency bands 54–72 MHz and 76–88 MHz. Further, the use of such perimeter protection systems is limited to industrial, business and commercial applications.

§ 15.211 Tunnel radio systems.

An intentional radiator utilized as part of a tunnel radio system may operate on any frequency provided it meets all of the following conditions:

(a) Operation of a tunnel radio system (intentional radiator and all connecting wires) shall be contained solely within a tunnel, mine or other structure that provides attenuation to the radiated signal due to the presence of naturally surrounding earth and/or water.

(b) Any intentional or unintentional radiator external to the tunnel, mine or other structure, as described in paragraph (a) of this section, shall be subject to the other applicable regulations contained within this part.

(c) The total electromagnetic field from a tunnel radio system on any frequency or frequencies appearing outside of the tunnel, mine or other structure described in paragraph (a) of this section, shall not exceed the limits shown in § 15.209 when measured at the specified distance from the surrounding structure, including openings. Particular attention shall be paid to the emissions from any opening in the structure to the outside environment. When measurements are made from the openings, the distances shown in § 15.209 refer to the distance from the plane of reference which fits the entire perimeter of each above ground opening.

(d) The conducted limits in § 15.207 apply to the radiofrequency voltage on the public utility power lines outside of the tunnel.

§ 15.213 Cable locating equipment.

An intentional radiator used as cable locating equipment, as defined in § 15.3(d), may be operated on any frequency within the band 9–490 kHz, subject to the following limits: Within the frequency band 9 kHz, up to, but not including, 45 kHz, the peak output power from the cable locating equipment shall not exceed 10 watts; and, within the frequency band 45 kHz to 490 kHz, the peak output power from the cable locating equipment shall not exceed one watt. If provisions are made for connection of the cable locating equipment to the AC power lines, the conducted limits in § 15.207 also apply to this equipment.

Radiated Emission Limits, Additional Provisions

§ 15.215 Additional provisions to the general radiated emission limitations.

(a) The regulations in §§ 15.217 through 15.251 provide alternatives to the general radiated emission limits for intentional radiators operating in specified frequency bands. Unless otherwise stated, there are no restrictions as to the types of operation permitted under these sections.

(b) In most cases, unwanted emissions outside of the frequency bands shown in these alternative provisions must be attenuated to the emission limits shown

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in § 15.209. In no case shall the level of the unwanted emissions from an intentional radiator operating under these additional provisions exceed the field strength of the fundamental emission.

(c) For those bands of frequencies where alternative radiated emission limitations apply and for which a frequency stability is not specified, it is recommended that the fundamental frequency be kept within at least the central 80% of the permitted band in order to minimize the possibility of out-of-band operation.

(d) Where the following sections specify limits on the bandwidth of the emissions, the bandwidth limits include the effects of frequency sweeping, frequency hopping, and other modulation techniques which may be employed.

§ 15.217 Operation in the band 160–190 kHz.

(a) The total input power to the final radio frequency stage (exclusive of filament or heater power) shall not exceed one watt.

(b) The total length of the transmission line, antenna, and ground lead (if used) shall not exceed 15 meters.

(c) All emissions below 160 kHz or above 190 kHz shall be attenuated at least 20 dB below the level of the unmodulated carrier. Determination of compliance with the 20 dB attenuation specification may be based on measurements at the intentional radiator's antenna output terminal unless the intentional radiator uses a permanently attached antenna, in which case compliance shall be demonstrated by measuring the radiated emissions.

§ 15.219 Operation in the band 510–1705 kHz.

(a) The total input power to the final radio frequency stage (exclusive of filament or heater power) shall not exceed 100 milliwatts.

(b) The total length of the transmission line, antenna and ground lead (if used) shall not exceed 3 meters.

(c) All emissions below 510 kHz or above 1705 kHz shall be attenuated at least 20 dB below the level of the unmodulated carrier. Determination of compliance with the 20 dB attenuation specification may be based on measurements at the intentional radiator's antenna output terminal unless the intentional radiator uses a permanently attached antenna, in which case compliance shall be deomonstrated by measuring the radiated emissions.

§ 15.221 Operation in the band 525–1705 kHz.

(a) The provisions of this section are restricted to the operation of an AM broadcast station on a college or university campus or on the campus of any other educational institution. Operation is restricted to the ground of the campus. For the band 535–1705 kHz, the frequency of operation shall be chosen such that operation is not within the protected field strength contours of licensed AM stations.

(b) On the campus, the field strength of emissions appearing outside of this frequency band shall not exceed the general radiated emission limits shown in § 15.209 as measured from the radiating source. There is no limit on the field strength of emissions appearing within this frequency band, except that the provisions of § 15.5 continue to apply.

(c) At the perimeter of the campus, the field strength of any emissions, including those within the frequency band 525–1705 kHz, shall not exceed the general radiated emission limits in § 15.209.

(d) The conducted limits specified in § 15.207 apply to the radio frequency voltatge on the public utility power lines outside of the campus. Due to the large number of radio frequency devices which may be used on the campus, contributing to the conducted emissions, as an alternative to measuring conducted emissions on the AC power lines outside of the campus, it is acceptable to demonstrate compliance with this provision by measuring each individual intentional radiator employed in the system at the point where it connects to the AC power lines. As provided in § 15.207(b), if only a carrier current system is employed, the AC power line conducted limits do not apply. However, the radiated emission limits provided in this section apply to carrier current systems.

(e) A grant of equipment authorization is not required for a campus radio system. In lieu thereof, a campus radio system shall be verified for compliance with the regulations in accordance with Subpart J of Part 2 of this chapter. This data shall be kept on file at the location of the studio, office or control room associated with the transmitting equipment. In some cases, this may correspond to the location of the transmitting equipment.

§ 15.223 Operation in the band 1.705–10 MHz.

(a) The field strength of any emission within the band 1.705–10.0 MHz shall not exceed 100 microvolts/meter at a distance of 30 meters. However, if the bandwidth of the emission is less than 10% of the center frequency, the field strength shall not exceed 15 microvolts/meter or (the bandwidth of the device in kHz) divided by (the center frequency of the device in MHz) microvolts/meter at a distance of 30 meters, whichever is the higher level. For the purposes of this section, bandwidth is determined at the points 6 dB down from the modulated carrier. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35(b) for limiting peak emissions apply.

(b) The field strength of emissions outside of the band 1.705–10.0 MHz shall not exceed the general radiated emission limits in § 15.209.

§ 15.225 Operation within the band 13.553–13.567 MHz.

(a) The field strength of any emissions within this band shall not exceed 10,000 microvolts/meter at 30 meters.

(b) The field strength of any emissions appearing outside of this band shall not exceed the general radiated emission limits shown in § 15.209.

(c) The frequency tolerance of the carrier signal shall be maintained within ±0.01% of the operating frequency over a temperature variation of −20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

§ 15.227 Operation within the band 26.96–27.28 MHz.

(a) The field strength of any emission within this band shall not exceed 10,000 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(b) The field strength of any emissions which appear outside of this band shall not exceed the general radiated emission limits in § 15.209.

§ 15.229 Operation within the band 40.66–40.70 MHz.

(a) Unless operating pursuant to the provisions in § 15.231, the field strength of any emissions within this band shall not exceed 1,000 microvolts/meter at 3 meters.

(b) The field strength of any emissions appearing outside of this band shall not exceed the general radiated emission limits in § 15.209.

(c) The frequency tolerance of the carrier signal shall be maintained within ±0.01% of the operating frequency over a temperature variation of −20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

§ 15.231 Periodic operation in the band 40.66–40.70 MHz and above 70 MHz.

(a) The provisions of this section are restricted to periodic operation within the band 40.66–40.70 MHz and above 70 MHz. Except as shown in paragraph (e) of this section, the intentional radiator is restricted to the transmission of a control signal such as those used with alarm systems, door openers, remote switches, etc. Radio control of toys is not permitted. Continuous transmissions, such as voice or video, and data transmissions are not permitted. The prohibition against data transmissions does not preclude the use of recognition codes. Those codes are used to identify the sensor that is activated or to identify the particular component as being part of the system. The following conditions shall be met to comply with the provisions for this periodic operation:

(1) A manually operated transmitter shall employ a switch that will automatically deactivate the transmitter within not more than 5 seconds of being released.

(2) A transmitter activated automatically shall cease transmission within 5 seconds after activation.

(3) Periodic transmissions at regular predetermined intervals are not permitted. However, polling or supervision transmissions to determine system integrity of transmitters used in security or safety applications are allowed if the periodic rate of transmission does not exceed one transmission of not more than one second duration per hour for each transmitter.

(4) Intentional radiators which are employed for radio control purposes during emergencies involving fire, security, and safety of life, when activated to signal an alarm, may operate during the pendency of the alarm condition

(b) In addition to the provisions of § 15.205, the field strength of emissions from intentional radiators operated under this section shall not exceed the following:

Fundamental frequency (MHz)	Field strength of fundamental (microvolts/meter)	Field strength of spurious emissions (microvolts/meter)
40.66–40.70	2,250	225
70–130	1,250	125
130–174	[1] 1,250 to 3,750	[1] 125 to 375
174–260	3,750	375
260–470	[1] 3,750 to 12,500	[1] 375 to 1,250
Above 470	12,500	1,250

[1] Linear interpolations.

(1) The above field strength limits are specified at a distance of 3 meters. The tighter limits apply at the band edges.

(2) Intentional radiators operating under the provisions of this Section shall demonstrate compliance with the limits on the field strength of emissions, as shown in the above table, based on the average value of the measured emissions. As an alternative, compliance with the limits in the above table may be based on the use of measurement instrumentation with a CISPR quasi-peak detector. The specific method of measurement employed shall be specified in the application for equipment authorization. If average emission measurements are employed, the provisions in § 15.35 for averaging pulsed emissions and for limiting peak emissions apply. Further, compliance with the provisions of § 15.205 shall be demonstrated using measurement instrumentation with a CISPR quasi-peak detector.

(3) The limits on the field strength of the spurious emissions in the above table are based on the fundamental frequency of the intentional radiator. Spurious emissions shall be attenuated to the average limits shown in this table or to the general limits shown in § 15.209, as measured with a CISPR quasi-peak detector, whichever limit permits a higher field strength.

(c) The bandwidth of the emission shall be no wider than 0.25% of the center frequency for devices operating above 70 MHz and below 900 MHz. For devices operating above 900 MHz, the emission shall be no wider than 0.5% of the center frequency. Bandwidth is determined at the points 20 dB down from the modulated carrier.

(d) For devices operating within the frequency band 40.66–40.70 MHz, the bandwidth of the emission shall be confined within the band edges and the frequency tolerance of the carrier shall be ± 0.01%. This frequency tolerance shall be maintained for a temperature variation of −20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

(e) Intentional radiators may operate at a periodic rate exceeding that specified in paragraph (a) of this section and may be employed for any type of operation, including operation prohibited in paragraph (a) of this section, provided the intentional radiator complies with the provisions of paragraphs (b) through (d) of this section, except the field strength table in paragraph (b) of this section is replaced by the following:

Fundamental frequency (MHz)	Field strength of fundamental (microvolts/meter)	Field strength of spurious emission (microvolts/meter)
40.66–40.70	1,000	100
70–130	500	50
130–174	500 to 1,500 [1]	50 to 150 [1]
174–260	1,500	150
260–470	1,500 to 5,000 [1]	150 to 500 [1]
Above 470	5,000	500

[1] Linear interpolations.

In addition, devices operated under the provisions of this paragraph shall be provided with a means for automatically limiting operation so that the duration of each transmission shall not be greater than one second and the silent period between transmissions shall be at least 30 times the duration of the transmission but in no case less than 10 seconds.

§ 15.233 Operation within the bands 46.60–46.98 MHz and 49.66–50.0 MHz.

(a) The provisions shown in this section are restricted to cordless telephones.

(b) An intentional radiator used as part of a cordless telephone system shall operate on one or more of the following frequency pairs:

Channel	Base transmitter (MHz)	Handset transmitter (MHz)
1	46.610	49.670
2	46.630	49.845
3	46.670	49.860
4	46.710	49.770
5	46.730	49.875
6	46.770	49.830
7	46.830	49.890
8	46.870	49.930
9	46.930	49.990
10	46.970	49.970

(c) The field strength of the fundamental emission shall not exceed 10,000 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The

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provisions in § 15.35 for limiting peak emissions apply.

(d) The fundamental emission shall be confined with a 20 kHz band centered on the actual carrier frequency. Modulation products outside of this 20 kHz band shall be attenuated at least 26 dB below the level of the unmodulated carrier or to the general limits in § 15.209, whichever permits the higher emission levels. Emissions on any frequency more than 20 kHz removed from the center frequency shall consist solely of unwanted emissions and shall not exceed the general radiated emission limits in § 15.209.

(e) All emissions exceeding 20 microvolts/meter at 3 meters are to be reported in the application for certification. Tests to determine compliance with this requirement shall be performed using an appropriate input signal as prescribed in § 2.989 of this chapter.

(f) If the device provides for the connection of external accessories, including external electrical input signals, the device must be tested with the accessories attached. The emission tests shall be performed with the device and accessories configured in a manner which tends to produce the maximum level of emissions within the range of variations that can be expected under normal operating conditions.

(g) The frequency tolerance of the carrier signal shall be maintained within ±0.01% of the operating frequency. The tolerance shall be maintained for a temperature variation of −20 degrees C to +50 degrees C at normal supply voltage, and for variation in the primary voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

(h) For equipment authorization, a single application form, FCC Form 731, may be filed for a cordless telephone system, provided the application clearly identifies and provides data for all parts of the system to show compliance with the applicable technical requirements. When a single application form is submitted, both the base station and the portable handset must carry the same FCC identifier. The application shall include a fee for certification of each type of transmitter and notification or certification, if appropriate, for each type of receiver included in the system.

(i) A cordless telephone which is intended to be connected to the public telephone network shall also comply with the applicable regulations in Part 68 of this chapter. A separate application for registration under Part 68 is required.

(j) The label required under Subpart A shall also contain the following statement: "Privacy of communications may not be ensured when using this phone."

(k) The box or other package in which the individual cordless telephone is to be marketed shall carry a statement in a prominent location, visible to the buyer before purchase, which reads as follows:

Notice: The base units of some cordless telephones may respond to other nearby units or to radio noise resulting in telephone calls being dialed through this unit without your knowledge and possibly calls being misbilled. In order to protect against such occurrences, this cordless telephone is provided with the following features: (to be completed by the responsible party).

An application for certification of a cordless telephone shall specify the complete text of the statement that will be carried on the package and indicate where, specifically, it will be located on the carton.

§ 15.235 Operation within the band 49.82–49.90 MHz.

(a) The field strength of any emission within this band shall not exceed 10,000 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(b) The field strength of any emissions appearing between the band edges and up to 10 kHz above and below the band edges shall be attenuated at least 26 dB below the level of the unmodulated carrier or to the general limits in § 15.209, whichever permits the higher emission levels. The field strength of any emissions removed by more than 10 kHz from the band edges shall not exceed the general radiated emission limits in § 15.209. All signals exceeding 20 microvolts/meter at 3 meters shall be reported in the application for certification.

(c) For a home-built intentional radiator, as defined in § 15.23(a), operating within the band 49.82–49.90 MHz, the following standards may be employed:

(1) The RF carrier and modulation products shall be maintained within the band 49.82–49.90 MHz.

(2) The total input power to the device measured at the battery or the power line terminals shall not exceed 100 milliwatts under any condition of modulation.

(3) The antenna shall be a single element, one meter or less in length, permanently mounted on the enclosure containing the device.

(4) Emissions outside of this band shall be attenuated at least 20 dB below the level of the unmodulated carrier.

(5) The regulations contained in § 15.23 of this part apply to intentional radiators constructed under the provisions of this paragraph.

(d) Cordless telephones are not permitted to operate under the provisions of this section.

§ 15.237 Operation in the bands 72.0–73.0 MHz and 75.4–76.0 MHz.

(a) The intentional radiator shall be restricted to use as an auditory assistance device.

(b) Emissions from the intentional radiator shall be confined within a band 200 kHz wide centered on the operating frequency. The 200 kHz band shall lie wholly within the above specified frequency ranges.

(c) The field strength of any emissions within the permitted 200 kHz band shall not exceed 80 millivolts/meter at 3 meters. The field strength of any emissions radiated on any frequency outside of the specified 200 kHz band shall not exceed 1500 microvolts/meter at 3 meters. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

§ 15.239 Operation in the band 88–108 MHz.

(a) Emissions from the intentional radiator shall be confined within a band 200 kHz wide centered on the operating frequency. The 200 kHz band shall lie wholly within the frequency range of 88–108 MHz.

(b) The field strength of any emissions within the permitted 200 kHz band shall not exceed 250 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(c) The field strength of any emissions radiated on any frequency outside of the specified 200 kHz band shall not exceed the general radiated emission limits in § 15.209.

(d) A custom built telemetry intentional radiator operating in the frequency band of 88–208 MHz and used for experimentation by an educational institute need not be certified provided the device complies with the standards in this Part and the educational institution notifies the Engineer in Charge of the local FCC office, in writing, in advance of operation, providing the following information:

(1) The dates and places where the device will be operated;

(2) The purpose for which the device will be used;

(3) A description of the device, including the operating frequency, RF power output, and antenna; and,

(4) A statement that the device complies with the technical provisions of this part.

§ 15.241 Operation in the band 174–216 MHz.

(a) Operation under the provisions of this section is restricted to biomedical telemetry devices.

(b) Emissions from the device shall be confined within a 200 kHz band which shall lie wholly within the frequency range of 174–216 MHz.

(c) The field strength of any emissions radiated within the specified 200 kHz band shall not exceed 1500 microvolts/meter at 3 meters. The field strength of emissions radiated on any frequency outside of the specified 200 kHz band shall not exceed 150 microvolts/meter at 3 meters. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

§ 15.243 Operation in the band 890–940 MHz.

(a) Operation under the provisions of this section is restricted to devices that use radio frequency energy to measure the characteristics of a material. Devices operated pursuant to the provisions of this section shall not be used for voice communications or the transmission of any other type of message.

(b) The field strength of any emissions radiated within the specified frequency band shall not exceed 500 microvolts/meter at 30 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(c) The field strength of emissions radiated on any frequency outside of the specified band shall not exceed the general radiated emission limits in § 15.209.

(d) The device shall be self-contained with no external or readily accessible controls which may be adjusted to permit operation in a manner inconsistent with the provisions in this section. Any antenna that may be used with the device shall be permanently attached thereto and shall not be readily modifiable by the user.

§ 15.245 Operation within the bands 902–928 MHz, 2435–2465 MHz, 5785–5815 MHz, 10500–10550 MHz, and 24075–24175 MHz.

(a) Operation under the provisions of this section is limited to intentional radiators used as field disturbance sensors, excluding perimeter protection systems.

(b) The field strength of emissions from intentional radiators operated within these frequency bands shall comply with the following:

Fundamental frequency (MHz)	Field strength of fundamental (millivolts/meter)	Field strength of harmonics (millivolts/meter)
902–928	500	1.6
2435–2465	500	1.6
5785–5815	500	1.6
10500–10550	2500	25.0
24075–24175	2500	25.0

(1) Field strength limits are specified at a distance of 3 meters.

(2) Emissions radiated outside of the specified frequency bands, except for harmonics, shall be attenuated by at least 50 dB below the level of the fundamental or to the general radiated emission limits in § 15.209, whichever is the lesser attenuation.

(3) The emission limits shown in the above table are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

§ 15.247 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz.

(a) Operation under the provisions of this section is limited to frequency hopping and direct sequence spread spectrum intentional radiators that comply with the following provisions:

(1) For frequency hopping systems, at least 75 hopping frequencies, separated by at least 25 kHz, shall be used. The average time of occupancy on any frequency shall not be greater than 0.4 seconds within a 30 second period. The maximum bandwidth of the hopping channel is 25 kHz.

(2) For direct sequence systems, the minimum 6 dB bandwidth shall be at least 500 kHz.

(b) The maximum peak output power of the intentional radiator shall not exceed one watt.

(c) Radio frequency output power outside these frequency bands over any 100 kHz bandwidth shall be at least 20 dB below that in any 100 kHz bandwidth within the band that contains the highest level of the desired power.

Note: Spread spectrum systems are sharing these bands on a noninterference basis with systems supporting critical Government requirements that have been allocated the usage of these bands, secondary only to ISM equipment operated under the provisions of Part 18 of this chapter. Many of these Government systems are airborne radiolocation systems that emit a high EIRP which can cause interference to other users. Also, investigations of the effect of spread spectrum interference to U. S. Government operations in the 902–928 MHz band may require a future decrease in the power limits allowed for spread spectrum operation.

§ 15.249 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, 5725–5875 MHZ, and 24.0–24.25 GHz

(a) The field strength of emissions from intentional radiators operated within these frequency bands shall comply with the following:

Fundamental frequency	Field strength of fundamental (millivolts/meter)	Field strength of harmonics (microvolts/meter)
902–928 MHz	50	500
2400–2483.5 MHz	50	500
5725–5875 MHz	50	500
24.0–24.25 GHz	250	2500

(b) Field strength limits are specified at a distance of 3 meters.

(c) Emissions radiated outside of the specified frequency bands, except for harmonics, shall be attenuated by at least 50 dB below the level of the fundamental or to the general radiated emission limits in § 15.209, whichever is the lesser attenuation.

(d) As shown in § 15.35(b), for frequencies above 1000 MHz, the above field strength limits are based on average limits. However, the peak field strength of any emission shall not exceed the maximum permitted average limits specified above by more than 20 dB under any condition of modulation.

§ 15.251 Operation within the bands 2.9–3.26 GHz, 3.267–3.332 GHz, 3.339–3.3458 GHz, and 3.358–3.6 GHz.

(a) Operation under the provisions of this section is limited to automatic vehicle identification systems (AVIS) which use swept frequency techniques for the purpose of automatically identifying transportation vehicles.

(b) The field strength anywhere within the frequency range swept by the signal shall not exceed 3000 microvolts/meter/MHz at 3 meters in any direction. Further, an AVIS, when in its operating position, shall not produce a field strength greater than 400 microvolts/meter/MHz at 3 meters in any direction within ± 10 degrees of the horizontal

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plane. In addition to the provisions of § 15.205, the field strength of radiated emissions outside the frequency range swept by the signal shall be limited to a maximum of 100 microvolts/meter/MHz at 3 meters, measured from 30 MHz to 20 GHz for the complete system. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(c) The minimum sweep repetition rate of the signal shall not be lower than 4000 sweeps per second, and the maximum sweep repetition rate of the signal shall not exceed 50,000 sweeps per second.

(d) An AVIS shall employ a horn antenna or other comparable directional antenna for signal emission.

(e) Provision shall be made so that signal emission from the AVIS shall occur only when the vehicle to be identified is within the radiated field of the system.

(f) In addition to the labelling requirements in § 15.19(a), the label attached to the AVIS transmitter shall contain a third statement regarding operational conditions, as follows:

" " " and, (3) during this device (the antenna) may not be pointed within ± " " degrees of the horizontal plane.

The double asterisks in condition three (" ") shall be replaced by the responsible party with the angular pointing restriction necessary to meet the horizontal emission limit specified in paragraph (b) of this section.

(g) In addition to the information required in Subpart J of Part 2, the application for certification shall contain:

(1) Measurements of field strength per MHz along with the intermediate frequency of the spectrum analyzer or equivalent measuring receiver;

(2) The angular separation between the direction at which maximum field strength occurs and the direction at which the field strength is reduced to 400 microvolts/meter/MHz at 3 meters;

(3) A photograph of the spectrum analyzer display showing the entire swept frequency signal and a calibrated scale for the vertical and horizontal axes; the spectrum analyzer settings that were used shall be labelled on the photograph; and,

(4) The results of the frequency search for spurious and sideband emissions from 30 MHz to 20 GHz, exclusive of the swept frequency band, with the measuring instrument as close as possible to the unit under test.

Federal Communications Commission.
Donna R. Searcy,
Secretary
[FR Doc. 89-9660 Filed 4-24-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-465; RM-6393]

Radio Broadcasting Services; Sitka, AK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 276C2 to Sitka, Alaska, as that community's first local commercial FM service, in response to a petition for rule making filed on behalf of Alaska Broadcast Communications, Inc. Coordinates used for Channel 276C2 at Sitka are 57-03-00 and 135-20-00. With this action, the proceeding is terminated.

DATES: Effective June 5, 1989; the window period for filing applications on Channel 276C2 at Sitka, Alaska, will open on June 6, 1989, and close on June 9, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-465, adopted March 28, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Alaska, is amended by revising the entry for Sitka, by adding Channel 276C2.

Federal Communications Commission.
Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 89-9793 Filed 4-24-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-184; RM-6116]

Radio Broadcasting Services, Ridgecrest, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 224B1 for Channel 224A at Ridgecrest, California, and modifies the Class A license of Bel Air Broadcasting Corporation for Station KZIQ-FM, as requested, to specify operation on the higher class channel, thereby providing that community with its first wide coverage area FM service. Coordinates at the petitioner's perferred site for Channel 224B1 at Ridgecrest are 35-28-39 and 117-41-57. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 5, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-184, adopted March 28, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for California, is amended by revising the entry for Ridgecrest, by deleting Channel 224A and adding Channel 224B1.

Federal Communications Commission.
Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 89-9792 Filed 4-24-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-76; RM-6054]

Radio Broadcasting Services; Alma and Dublin, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of State Broadcasting Company, Inc., substitutes Channel 240C2 for Channel 240A at Dublin, Georgia, and modifies its license for Station WQZY(FM) to specify operation on the higher powered channel. In addition, the Commission substitutes Channel 282A for Channel 240A at Alma, Georgia, and modifies the license of Queen City Broadcasting System, Inc. for Station WKXH-FM accordingly. Both channels can be allotted in compliance with the Commission's minimum distance separation requirements and can be used at their respective station's present transmitter sites. The coordinates for Channel 240C2 at Dublin are North Latitude 32-33-51 and West Longitude 82-52-18. The coordinates for Channel 282A at Alma are North Latitude 31-36-26 and West Longitude 82-32-46. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 2, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-76, adopted March 28, 1989, and released April 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Georgia is amended by removing Channel 240A and adding Channel 282A to Alma and by removing Channel 240A and adding Channel 240C2 to Dublin.

Federal Communications Commission.
Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 89-9849 Filed 4-24-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-494; RM-6412]

Radio Broadcasting Services; Clarinda, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The commission, at the request of G.O. Radio, Ltd., substitutes Channel 291C2 for Channel 292A at Clarinda, Iowa, and modifies its license for Station KQIS-FM to specify operation on the higher-powered channel. Channel 291C2 can be allotted to Clarinda in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.3 kilometers (5.8 miles) east to avoid a short-spacing to unused but applied for Channel 290A at Omaha, Nebraska. The coordinates for this allotment are North Latitude 40-42-42 and West Longitude 94-55-55. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 2, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-494, adopted March 29, 1989, and released April 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Clarinda, Iowa, is amended by removing Channel 292A and adding Channel 291C2.

Federal Communications Commission.
Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 89-9848 Filed 4-24-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-525; RM-6475]

Radio Broadcasting Services; Marion, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 236C2 for Channel 236A at Marion, Mississippi, in response to a petition filed by Marion Broadcasting Company, Inc. We shall also modify the license of Station WQIC(FM) to specify operation on Channel 236C2 in lieu of Channel 236A in accordance with § 1.420(g) of the Commission's Rules. The coordinates for Channel 236C2 are 32-20-00 and 88-44-00. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 5, 1989.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-525, adopted March 29, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

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§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Mississippi is amended by deleting Channel 236A and adding Channel 236C2 at Marion.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9795 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-498; RM-6486]

Radio Broadcasting Services; Wahpeton, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Guderian Broadcasting, Inc., substitutes Channel 295C2 for Channel 296A at Wahpeton, North Dakota, and modifies its construction permit for Station KGWB to specify operation on the higher powered channel. Channel 295C2 can be allotted to Wahpeton in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.6 kilometers (5.3 miles) northeast to avoid a short-spacing to Station KGIM-FM, Channel 294C1, Aberdeen, South Dakota. The coordinates for this allotment are North Latitude 46°16'00" and West Longitude 96°29'50". With this action, this proceeding is terminated.

EFFECTIVE DATE: June 2, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-498, adopted April 5, 1989, and released April 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Wahpeton, North Dakota, is amended by removing Channel 296A and adding Channel 295C2.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9850 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-453; RM-6456]

Radio Broadcasting Services; Franklin, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 255A to Franklin, Texas, as that community's first local FM service, at the request of Franklin Community Radio Company. The channel allotment can be made in compliance with the Commission's minimum distance separation requirements, at coordinates 31-01-36 and 96-29-00. With this action, this proceeding is terminated.

DATES: Effective June 5, 1989; the window period for filing applications will open on June 6, 1989, and close on July 6, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-453, adopted April 3, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended by adding Franklin, Channel 255A under Texas.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9794 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

48 CFR Parts 951 and 952

Acquisition Regulations; Government Travel Discounts to Cost Reimbursement

AGENCY: Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: This rule amends the Department of Energy Acquisition Regulation (DEAR) to implement General Service Administration (GSA) Bulletin Federal Property Management Regulations (FPMR) A-95, Availability of Government Travel Discounts to Cost Reimbursement Type Contractors, dated August 19, 1988. (The proposed rule referenced FPMR A-90 which was superseded by A-95.) The GSA bulletin requests agencies to make information available to contracting officers and, where appropriate, to cost-reimbursable contractors (CRCs) regarding the use of discount air fares through specified airlines, reduced hotel/motel rates and reduced car rental rates. This rulemaking affects three parts of the DEAR: an addition to 48 CFR Part 951, Use of Government Sources by Contractors, which outlines the travel discount air fares program being made available to employees of CRCs; 48 CFR Part 952, Solicitation provisions and Contract Clauses, which sets forth the provision to be included in solicitations and the clause to be included in eligible contracts and contract modifications to effect availability of the travel discounts; and 48 CFR Part 970, DOE Management and Operating (M&O) Contracts, which references the two preceding regulations as they apply to M&O contracts.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT:

Gwen Cowan, Business and Financial Policy Division (MA-422), Office of the Deputy Assistant Secretary for Procurement and Assistance Management, Washington, DC 20585, (202) 586-8159

Prentis Cook, Office of the Assistant General Counsel for Procurement and Finance (GC-34), Washington, DC 20585, (202) 586-1526

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements
A. Review Under Executive Order 12291
B. Review Under the Regulatory Flexibility Act
C. Paperwork Reduction Act
D. National Environmental Policy Act
E. Review Under Executive Order 12612
F. Public Hearing
III. Public Comments
IV. Other Changes

I. Background

Under section 644 of the DOE Organization Act, Pub. L. 95-91 (42 U.S.C. 7254), the Secretary of Energy is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the DEAR was promulgated with an effective date of April 1, 1984 (49 FR 11992, March 28, 1984), 48 CFR Chapter 9.

The purpose of this rulemaking is to revise the DEAR, as necessary, to implement GSA Bulletin FPMR A-95, Availability of Government Travel Discounts to Cost Reimbursement Type Contractor, dated August 19, 1988. The bulletin, which superseded A-90, announced the conditions of availability of the GSA contract airline discount fares, reduced hotel/motel rates and car rental rates to CRCs. Regulations governing the use of contract airlines are contained in FPMR Temporary Regulation A-30, dated October 1, 1986, as amended by Supplements 1-3, which provides that CRCs working for the Government may use the same discounted contract air fares available to Federal employees while traveling of Government business, provided the contract airline agrees to the arrangement and the destination(s) are included in the city-pairs contracts negotiated by GSA with the airline(s). The regulation also provides that eligible CRC employees, with a proper identification letter from the authorizing agencies, may use a Government Transportation Request (GTR), Standard Form 1169, cash or a personal credit card, depending upon the requirements of the airline, to obtain discount air fares.

Identification of the participating contract airlines and airline city-pairs schedules are contained in the Federal Travel Director (FTD) (ISSN: 0278-0941), published monthly by GSA. The FTD also contains the names of participating car rental agencies and hotel/motels. Copies are available through the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402, telephone (202) 783-3238.

DEAR Part 951, Use of Government Sources by Contractors, is amended by the addition of DEAR 951.70, entitled "Contractor Employee Travel Discounts," which describes the scope, policy, and responsibilities for administering the travel discount program.

DEAR Part 952, Solicitation Provisions and Contract Clauses, is amended by the addition of DEAR 952.251-70, entitled "Contractor Employee Travel Discounts," which provides the authorizing solicitation provision and contract and contract modification clause for cost-reimbursable contracts.

DEAR Part 970, DOE Management and Operating (M&O) Contracts, is amended by the addition of DEAR 970.5204-53, Contractor Employee Travel Discounts, which provides that the solicitation provisions and contract clauses at DEAR 952.251.70 are to be incorporated in DOE M&O contracts.

II. Procedural Requirements

A. Review Under Executive Order 12291

This Executive order, entitled "Federal Regulations," requires that certain regulations be reviewed by the Office of Management and Budget (OMB) prior to their promulgation. OMB Bulletin 85-7 exempts all but certain types of procurement regulations from such review. This proposed rule does not involve any of the topics requiring prior review under the bulletin and is, accordingly, exempt from such review.

B. Review Under the Regulotory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96-354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities; the costs of goods or services or other direct economic factors. It will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because this final rule does not impose additional reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq. Responsibility for recordkeeping and paperwork burden associated with collecting GTR information rests directly with GSA. GTR reporting is required by FPMR 101-41.2 and is submitted directly from the using agency/agent to GSA.

D. National Environmental Policy Act

DOE has concluded that promulgation of this rule would not represent a major Federal action having a significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432, *et seq.*, 1976), or the Council on Environmental Quality Regulations (40 CFR Part 1020), and therefore does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

E. Review Under Executive Order 12612

The Department has concluded that this proposed rule does not involve issues which are expected to have a substantial direct effect on traditional state functions or their institutional interest and thus the "federalism" assessment requirements of Executive Order 12612 (52 FR 41685, October 30, 1987) do not apply.

F. Public Hearing

DOE has concluded that this rule does not involve a substantial issue of fact or law and that it should not have a substantial impact on the nation's economy or large numbers of individuals or businesses. Therefore, pursuant to Pub. L. 95-91, the DOE Organization Act, the DOE did not hold a public hearing on this rule.

III. Public Comments

This final rule is based on the Notice of Proposed Rulemaking (NOPR), which DOE published in the **Federal Register** on December 29, 1986 (51 FR 46884), wherein public comments were invited. Public comments were received from three universities. The public comments and DOE's responses and actions taken in response thereto are summarized in the paragraphs that follow:

Comment: Three commenters stated that many airlines, hotels/motels, and/or car rental companies do not offer Government discounts to CRCs, or that discount service is not acceptable because of poor schedules or unreliable service.

Response: The intent of this rule is to ensure that CRCs are aware of and use the Government discount program within the confines of availability and

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meeting contract objectives. If a needed travel service is not available to a CRC employee or does not reasonably meet the needs of the traveler in fulfilling contract objectives, then there is not requirement to use Government sources. As to the matter of service, GSA and Military Traffic Management Command (MTMC) have included minimum requirements in their contracts for travel services. The FTD contains information on whom to notify if these minimum acceptable levels of service are not provided.

Comment: Three commenters stated that they are sometimes able to obtain discounts on travel services which are greater than those offered in the Government discount program.

Response: CRCs are not mandatory users of the Government discount program and DOE did not intend to make them so. To clarify the language of the rule in this regard, DOE has deleted the phrase "To the maximum extent practicable * * *" from Subpart 952.251–70 and inserted the wording "* * * when use of these discounts would result in lower overall trip costs and the discounted services are reasonably available. * * *"

Comment: One commenter objected to the final sentence of Subpart 952.251–70, paragraph (d)(1), which required CRCs to obtain the lowest available airfare.

Response: It was not the intent of DOE to require contractors to check on each and every trip with all air carriers serving a particular city-pair and document that the air carrier used offered the absolutely lowest available fare. DOE desires that its CRCs become aware of the availability of Government travel discounts and institute a system which provides reasonable assurance that the contractor is taking full advantage of these discounts when doing so will reduce overall travel costs. In some cases, it is recognized that subjective decisions must be made in determining whether a Government discount air carrier can adequately meet the travel requirements of the contractor; this kind of business judgment falls within the Federal Acquisition Regulation (FAR) definition of reasonableness of costs. To avoid any misinterpretation, the final sentence of paragraph (d)(i) of Subpart 952.251–70 of the NOPR has been deleted.

Comment: Three commenters objected to the requirement of the NOPR that CRCS make use of Government discounts whenever available and suggested either dropping the NOPR entirely or altering the requirements of the proposed contract clause.

Response: DOE recognizes the benefits of contractors having flexibility in performing the travel requirements of their contracts and does not desire to unnecessarily reduce this flexibility. However, at the same time, DOE wishes to assure that contract travel costs are kept as low as reasonably possible. DOE believes it to be completely appropriate to require contractors to obtain the lowest cost travel services which are reasonably available and fulfill the contractor's requirements. DOE has revised the wording of Subpart 952.251–70 to clarify that use of Government discount travel services is not mandatory for CRCs, but that Government discounts shall be used when less costly and reasonably available.

Comment: One commenter stated that the proposed rule should be in the FAR and appply to all Government agencies.

Response: In response to such concerns, DOE delayed publication of this final rule while participating in the development of similar coverage to be issued in FAR. It is now DOE's understanding that the FAR Councils have decided that FAR coverage on this subject will not be issued. Therefore, the DEAR coverage is now being published.

Comment: One commenter stated that requesting GTRs for each trip under a contract would delay contractor employees and suggested that blanket GTRs be issued for the entire contract period.

Response: GTRs are controlled documents which, in some cases, obligate the Government to make payments to air carriers. GSA policy does not allow the issuance of blanket GTRs for periods longer than one month. Accordingly, for the limited cases in which GTRs are the only accepted method of payment, it will be necessary for CRCs to obtain either individual trip or one-month blanket GTRs from the cognizant DOE contracting officer. Currently, only two air carriers insist upon GTRs for payment of CRC airfares; GTRs are required to obtain Government discounts for hotels/motels or car rentals.

Comment: One commenter expressed concern that CRC identification letters could be abused by CRC employees to obtain Government discounts for personal travel.

Response: The recommended format of the CRC identification letter contained in the NOPR has been modified by adding the phrase "* * * for contract related travel * * *" to the authorization to obtain discounts. DOE relies upon the integrity of its contractors to use Government discounts only as intended and authorized.

IV. Other Changes

In addition to modifications to the NOPR which were made as a result of public comments, DOE has made minor revisions to the NOPR to reflect changes in the publication of GSA Bulletin FPMR A–95, the FTD, and in the procedures for obtaining services. Also, minor editorial changes were made as required.

List of Subjects in 48 CFR Parts 951, 952, and 970

Government procurement.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, DC, on April 14, 1989.

Berton J. Roth,

Deputy Assistant Secretary for Procurement and Assistance Management.

1. The authority citation for Parts 951, 952 and 970 continues to read as follows:

Authority: Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), and section 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254).

PART 951—USE OF GOVERNMENT SOURCES BY CONTRACTORS

2. Subpart 951.70, Contractor employee travel discounts, is added as follows:

Subpart 951.70—Contractor Employee Travel Discounts

951.7000 Scope of subpart.
951.7001 General policy.
951.7002 Responsibilities.

Subpart 951.70—Contractor Employee Travel Discounts

951.7000 Scope of subpart.

The General Services Administration (GSA) and, in some cases, the Department of Defense (DOD) Military Traffic Management Command negotiate agreements with commercial organizations to provide certain discounts to contractors performing travel under Government cost-reimbursable contracts. In the case of discount air fares and hotel/motel room rates, the GSA has established agreements with certain airlines and thousands of hotels/motels to extend discounts which were previously only available to Federal employees on official travel status. DOD has negotiated agreements with car rental companies for special rates with unlimited mileage which were also to be used by only Federal employees on official Government business. GSA Bulletin Federal Property Management Regulations (FPMRs) A–95, dated August 19, 1988, makes these three travel discounts available to Government cost-reimbursable contractors at the option of the vendor.

951.7001 General policy.

Contracting officers will encourage DOE cost-reimbursable contractors (CRCs) to use Government travel discounts to the maximum extent practicable in accordance with contractual terms and conditions. Vendors providing the service may require that Government contractor employees furnish a letter of identification signed by the authorizing contracting officer. Contracting officers shall provide CRCs with a "Standard Letter of Identification" when appropriate to do so. An example of a "Standard Letter of Identification" is included as an attachment to GSA Bulletin A–95 and at 952.251–70(e).

(a) FPMR Temporary Regulation A–30 governs the use of contract airlines and provides that CRCs working for the Government are authorized, but not required, to obtain the same contract fares offered to Federal employees if the contract air carrier has agreed to such an arrangement. FPMR Temporary Regulation A–30 further provides that CRCs may obtain contract fares by use of a Government Transportation Request, Standard Form 1169, cash or personal credit card. The Federal Travel Directory (FTD) (ISSN: 0278–0941), published monthly by GSA, identifies air carriers that have agreed to permit CRCs to purchase contract fares when traveling on official Government business.

(b) The Hotel/Motel Discount Section of the FTD lists all participating lodging locations with which GSA has negotiated rates for use by Federal travelers. The directory lists rates and facilities, and identifies those which also offer their Federal discount rates to Government contractors. Hotels/motels participating in travel discounts may, at their option, extend the reduced rates to not only CRCs but to employees of firms working under any type of Government contract. Hotels/motels usually require identification signed by the contracting officer (see above).

(c) Participating car rental firms offering discounted rates to Federal travelers, including those offering discount rates to Government contractor employees, are published in the "Rental Car Information" section of the FTD. Car rental firms which extend the discounted rates to CRCs are identified and should be used as the first source of supply for contractor car rental needs. GSA Bulletin FPMR G–173 and supplement 1 thereto provide guidelines and overall procedures to be used in obtaining discount car rental rates. CRCs should check with the individual car rental firms for details and identification requirements. Accepted methods of payment include cash and personal credit cards.

951.7002 Responsibilities.

Contracting officers will include in all cost-reimbursable solicitations and resulting contracts, or contract modifications, the provision or clause, as applicable, at 952.251–70 when significant costs involving travel by air carrier, ground transportation by rental car and lodging at a hotel or motel will be required in connection with the performance of the contract. Contracting officers may furnish Government contractors with the identification letter for presentation to contract airline, hotel/motel or car rental firm (see 951.7001 above), depending upon the requirements of the vendor.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 952.251–70, Contractor employee travel discounts, is added as follows:

952.251–70 Contractor employee travel discounts.

As prescribed in Subpart 951.70, the following provision/clause will be included in all cost-reimbursable solicitations and resulting contracts, or contract modifications, as applicable. Consistent with contract-authorized travel requirements, contractor employees shall make use of the travel discounts offered to Federal travelers, through use of contracted airlines discount air fares, hotels and motels lodging rates and car rental companies, when use of such discounts would result in lower overall trip costs and the discounted services are reasonably available to contractor employees performing official Government contract business. Vendors providing these services may require that the contractor employee traveling on Government business be furnished with a letter of identification signed by the authorized contracting officer.

(a) *Contracted airlines.* Airlines participating in travel discounts are listed in the Federal Travel Directory (FTD), published monthly by the General Services Administration (GSA). Regulations governing the use of contracted airlines are contained in the Federal Property Management Regulation (FPMR), Temporary Regulation A–30. Temporary Regulation A–30 stipulates that cost-reimbursable contractor employees may obtain discount air fares by use of a Government Transportation Request (GTR), Standard Form 1169, cash or personal credit cards. When the GTR is used, contracting officers may issue a blanket GTR for a period of not less than two weeks nor more than one month. In unusual circumstances, such as prolonged or international travel, the contracting officer may extend the period for which a blanket GTR is effective to a maximum of three months. Contractors will ensure that their employees traveling under GTR's provide the GTR number to the contracted airlines for entry on individual tickets and on month-end billings to the contractor.

(b) *Hotels/motels.* Participating hotels and motels which extend discounts are listed in the FTD, which shows rates, facilities, and identifies by code those which offer reduced rates to cost-reimbursable contractor employees while traveling on official contract business.

(c) *Car rentals.* The Military Traffic Management Command (MTMC) Department of Defense, negotiates rate agreements with car rental companies for special flat rates and unlimited mileage. Participating car rental companies which offer these terms on to cost-reimbursable contractor employees while traveling on official contract business are listed in the FTD.

(d) *Procedures for obtaining service.* (1) Identification and method of payment requirements for participating Federal contracted airlines are listed in the FTR. Travel discount air fares may be ordered by the issuance of a GTR either directly to the contractor, or to a Scheduled Airline Travel Office (SATO) or Federal Travel Management Center (FTMC), provided the letter of identification signed by the cognizant contracting officer accompanies the order. In appropriate instances, such as geographical proximity, contractors may obtain discount air fares through a DOE office or a cooperating local travel agency when neither a SATO or FTMC is available. Some airlines allow the purchase of discounted air fares with cash or credit card. (2) In the case of hotel and motel accommodations, reservations may be made by the contractor employee directly with the hotel or motel but the employee must display, on arrival, the letter of identification and any other identification required by the hotel or motel proprietorship. (3) For car rentals, generally the same procedures as in (d)(2) above will be followed in

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arranging reservations and obtaining discounts.

(e) *Standard letter of identification.* Contractors shall prepare for the authorizing contracting officer a letter of identification based on the following format:

Format for Government Contractors to Qualify for Travel Discounts (To be typed on agency official letterhead)

To: (*Source of ticketing, accommodations or rental*)

Subject: Official Travel of Government Contractor

(*Full name of traveler*), bearer of this letter, is an employee of (*company name*) which is under contract to this agency under the Government contract (*contract number*). During the period of the contract (*give dates*), the employee is eligible and authorized to use available discount rates for contract-related travel in accordance with your contract and/or agreement with the Federal Government.

(*Signature, title and telephone number of the contracting officer*)

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

4. Section 970.5204–53 is added as follows:

970.5204–53 Contractor employee travel discounts.

Insert the contract clause at 952.251–70 when the circumstances described in 951.7002 apply.

[FR Doc. 89–9909 Filed 4–24–89; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 80732–9079]

Taking and Importing of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is issuing this rule to establish the basic living accommodations acceptable for observers placed by the Federal Government on U.S. tuna vessels and further to establish the minimum adjustments in living arrangements that will be required to accommodate a female observer on a vessel with an all male crew. NOAA has determined that it is necessary to implement minimal standards to address problems that have arisen in the past relating to accommodations for male observers and to avoid problems that may arise with the placement of female observers on tuna boats with all-male crews.

EFFECTIVE DATE: This rule is effective on June 9, 1989, until superseded or rescinded.

ADDRESS: E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Regional Director, NMFS, Telephone: 213/514–6196.

SUPPLEMENTARY INFORMATION:

Background

Biological technicians are placed under the authority of the Federal Government to serve as "tuna/porpoise observers" aboard privately-owned, U.S.-flag tuna purse seine vessels which fish in the eastern tropical Pacific Ocean under the Marine Mammal Protection Act (MMPA) General Permit issued to the American Tunaboat Association. Fishing trips for these vessels usually range between 500 and 3,000 miles from San Diego and are at sea for 45 to 120 days with few or no port stops. These observers are college graduates with majors in biology and an emphasis in marine science or fisheries. They are trained to record data on marine mammal safety gear, marine mammals observed in the wild, fishing operations involving marine mammals, and the dissection of marine mammals that are killed incidentally during fishing.

Since 1976 more than 400 persons have been hired as observers and trained and placed on approximately 1,000 purse seine fishing trips. In August 1986, NOAA decided not to continue seeking waivers from the Office of Personnel Management which allowed the hiring of only males for the positions of observers. This decision was prompted by a complaint alleging sex discrimination by the National Marine Fisheries Service (NOAA Fisheries) Tuna/Porpoise program for not hiring females and a subsequent recommendation from the NOAA Office of Civil Rights to hire and place female observers. From the beginning of the observer program in the mid-1970s, only men had been hired and placed as observers. The basis for his limited hiring policy stemmed from the nature of the observer's living and work environment, including the fact that all vessels had all-male crews. These conditions persist but NOAA believes that, with reasonable adjustments by tuna vessels, women can be placed as observers without violating the personal privacy of either the crew members or the observer.

NOAA Fisheries attempted to place qualified and trained female observers aboard tuna vessels starting in January 1987. Two women successfully completed trips collecting the data necessary for the marine mammals program. After these two placements, preliminary injunctions issued by the United States District Court in San Diego enjoined NOAA from placing other female observers. That injunction was later lifted by the Ninth Circuit Court of Appeals, but the litigation is still underway in the District Court. NOAA has not attempted to place female observers pending completion of this rule. A hearing on the merits of the case has not been scheduled yet.

Comments on the Proposed Rule and Responses

NOAA Fisheries published a proposed rule for observer accommodations on August 19, 1988 (53 FR 31725) for public comment. Comments were received from the American Tunaboat Association and the attorneys representing vessel owners and crew members who are plaintiffs in the litigation to prevent placement of female observers. Also during this period, NOAA has gathered more information on the experience in other programs that place observers aboard foreign and U.S.-flag fishing vessels. This new information further supports the position of the Government relative to the placement of female observers. The comments received are summarized below.

Comment 1: The presence of a female observer on board violates NOAA's own regulations which prohibit the observer from interfering with the fishing operation.

Response: The regulation in question establishes limits on the role of an observer aboard a vessel. For example, an observer is not authorized to halt or in any way direct fishing operations to ensure compliance with marine mammal protection regulations. The assertion that the mere presence of a female observer during the fishing operation has a substantially greater influence over the conduct of that operation than would the presence of a male observer is not supported by the experience in other fisheries and the experience gained from the use of the two female observers who did complete fishing trips aboard U.S. tuna purse seine vessels.

Comment 2: Requiring an officer of the vessel to surrender his cabin to an observer would jeopardize that officer's ability to discipline the crew members.

would be demeaning to the officer who earned the right to a cabin through years of service, and would violate collective bargaining agreements between the vessel owners and the labor union representing the vessel crew.

Response: The rule does not require that the vessel captain's cabin be considered for either sharing or for assignment to an observer. Below the level of the captain, the Government's responsibility to provide equal employment opportunity for women outweighs the speculative damage to an officer's prestige and authority related to sharing or surrendering his cabin. Regarding the concern raised about violating a collective bargaining agreement, such an agreement cannot take precedence over the right to equal employment opportunity for tuna boat observers. No comments of any kind were received from the union regarding the collective bargaining agreement or the proposed regulations.

Comment 3: The vessel owners cannot insure against their liability stemming from intentional torts, including sexual harassment, over which they have little, if any, control.

Response: To the extent that owners are liable for intentional torts of any nature by crew members, owners would likely have the same liability for actions taken by a crew member against a female observer. To our knowledge, insurance against such a risk is not available. However, owners are not insured against intentional torts by a crew member involving a male observer. To date that issue has not been raised by an observer nor have any claims been filed by an observer against a vessel owner for intentional torts. To improve understanding of what constitutes harassment, and sexual harassment particularly, this final rule includes a definition of harassment, including sexual harassment, which was not in the proposed rule but is based upon the regulations in 50 CFR 611.2 and 611.7 governing the treatment of Government authorized observers on foreign-flag fishing vessels.

Comment 4: Under the criteria for granting an exemption from carrying a female observer in the proposed rule, no vessels in the current certificated fishing fleet would qualify for such a waiver. All vessels in the fleet have at least one private or semi-private cabin in addition to the captain's cabin.

Response: The exemption criteria are based upon the concept of providing an exemption in a situation where the obligation to carry a female observer could not be met without unreasonable, financially burdensome modifications to the existing living accommodations aboard a vessel. The criteria were not intended to provide waivers to a predetermined percentage of the certificated fleet, as this comment seems to anticipate.

Comment 5: Establishing a schedule for sharing toilet and shower facilities between the crew and a female observer is impractical given the erratic and unpredictable schedule of activity on the vessel which is driven by timing of the fishing operation.

Response: Having a female observer time-share the only toilet and shower facility aboard a vessel available for crew members on a vessel with an all-male crew is not the preferred arrangement from the Government's standpoint, as well. This situation could be made to work, if it did exist, with but minor inconvenience to the crew, with the establishment of reasonable time-sharing procedures as provided for in these regulations. However, there are in most, if not all vessels, additional toilet and shower facilities (other than the captain's facilities), separate from the crew's larger group facilities, that can be provided for the female observer's exclusive use or for time-sharing with one or two officers. Vessels that have private or semi-private cabins with their own adjoining toilet and shower facilities would not need to establish a time-sharing schedule because that facility could be assigned to the exclusive use of the female observer. If a time-sharing schedule were the choice of the vessel in this situation, it would only have to involve the observer and one other person, a very minor inconvenience if an inconvenience at all.

Comment 6: Several comments revolved around concerns for the disruption of crew members' family lives and the potential for a breakdown of crew discipline due to the presence of a female aboard the vessel.

Response: These same concerns have accompanied nearly every argument against the introduction of women into a previously all-male work environment. Experience in other cases indicates that their significance is reduced after women become an established part of the program. Female observers are now employed in other fisheries around the nation. NOAA Fisheries has gathered information on the use of female observers in programs of the State of Alaska and NOAA Fisheries on both the West and East Coasts. In some of these fisheries, the observer's assignment aboard the fishing vessel is as lengthy as the tuna fishing trips. In each of the domestic programs, problems arising from the presence of a female observer have not been reported. A few incidents against female observers aboard foreign fishing vessels in the course of this nation-wide program which has been in place for over ten years have occurred and resulted in legal actions. These few incidents, however, are not a legitimate basis for denying equal employment opportunities.

Comment 7: An environmental impact statement (EIS) should have been prepared for this rule.

Response: NOAA Fisheries prepared an environmental assessment (EA), as required by the National Environmental Policy Act (NEPA) and its implementing regulations. That assessment led the Assistant Administrator to determine that his action would not result in a significant impact on the human environment, except the social impacts. Regulations implementing NEPA do not require preparation of an EIS when the impacts to the human environment are limited to economic and social impacts. Therefore, NOAA has determined that preparation of an EIS is not required and would not add substantial new information to the decision process.

Changes From the Proposed Rule

The only substantive change to the proposed rule that is included in this final rule adds a definition of harassment and sexual harassment to 50 CFR 216.24(f)(5). This definition is drawn from the Federal regulations governing the treatment of U.S. observers on foreign-flag fishing vessels and is added to remove any uncertainty on the part of vessel owners and crews as to what constitutes harassment of an observer.

Description of the Provisions of the Final Rule

In order to ensure that Government observers aboard U.S.-flag tuna vessels are provided suitable living accommodations that will not hinder them in their performance of official duties nor unduly disrupt vessel operations, NOAA amends 50 CFR 216.24(f) to set minimum standards for such accommodations. The amended regulation requires that all observers must be provided sleeping, toilet and eating accommodations at least equivalent to a full crew member. A mattress or futon on the floor or a cot is not an acceptable replacement for a regular bunk. Meals and other galley privileges must be the same for the observer as for other crew members.

NOAA believes that it is reasonable to require standard crew member accommodations for observers because the program has been requiring that these vessels carry observers on a sample of their fishing trips since 1976.

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Further, the schedule for placing observers is announced well in advance of the actual trip and, under the current 100 percent coverage (required by the 1988 amendments to the MMPA), a vessel owner knows that an observer will be placed on each trip of his vessel. Finally, NOAA reimburses the vessel owner for the costs of providing the observer with living accommodations and food during the trip. For these reasons, the vessel owner is expected to plan for adequate space and provisions for the assigned observer.

For female observers, additional adjustments to toilet and sleeping accommodations are required under this regulation. Female observers on a vessel with an all-male crew must be provided a bunk either in a single-person cabin or in a two-person cabin shared with a licensed officer of the vessel if reasonable privacy can be ensured by installing a curtain or other temporary room divider. If the cabin assigned to the female observer does not have attached toilet and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing toilet and shower facilities must be established before the placement meeting and approved by NOAA Fisheries and must be adhered to during the entire trip. In the event there are one or more female crew members, the female observer may be provided a bunk in a cabin shared solely with female crew members, and provided toilet and shower facilities shared solely with these female crew members.

This regulation also provides vessel owners with an all-male crew a procedure for seeking an exemption from carrying female observers, under explicit criteria. The Southwest Regional Director of NOAA Fisheries may grant an exemption from the requirement to carry female observers if the vessel owner demonstrates the following:

1. The vessel will have an all-male crew; and
2. The vessel has fewer than two private (single-person) and semi-private (two-person) cabins in total, excluding the captain's cabin; and
3. A curtain or other temporary room divider cannot be installed in any of the private or semi-private cabins (excluding the captain's cabin) to provide reasonable privacy; and
4. There are no other areas (excluding the captain's cabin) that can be converted to a sleeping room without either significant expense or significant sacrifice to the crew's quarters.

Under these criteria, a vessel with two or more private or semi-private cabins, in addition to the captain's cabin, cannot qualify for an exemption and must carry an assigned observer regardless of gender. The exclusion criteria do provide that the vessel certificate of inclusion holder can qualify for the exemption without having to provide the captain's cabin for the observer.

Application for an exemption must be made by the vessel certificate of inclusion holder (or the owner in the case of a new applicant for a vessel certificate of inclusion) in writing to the Southwest Regional Director when applying for the vessel certificate of inclusion. An accurate diagram of the vessel's living areas, and other areas possibly suitable for sleeping, is required to be provided. Additional documents, such as conversion cost estimates, and an inspection of the vessel may be required to substantiate that the vessel does meet the criteria for granting an exemption. An exemption once granted is valid for the calendar year which coincides with the period that the certificate of inclusion is valid. Exemptions must be renewed annually to remain valid. The vessel certificate of inclusion holder is responsible for reporting to the Regional Director any modifications to the vessel which may affect the continued eligibility for an exemption. Upon reasonable notice NOAA Fisheries may inspect a vessel holding an exemption to determine whether the criteria for an exemption are still satisfied. The Regional Director will revoke an exemption if the exemption criteria are no longer met.

Classification

NOAA Fisheries prepared an environmental assessment as a part of developing this rule and determined that there will be no significant impact on the environment as a result of this rule. A copy of the EA is available on request (see **ADDRESS**).

The Under Secretary for Oceans and Atmosphere has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The present action will not have a cumulative effect on the economy of $100 million or more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse effects on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises are anticipated.

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small businesses. There are currently 29 tuna purse seine vessels that would be subject to this rule and the individual business' cost to comply with the propose requirements would be minimal. For the most part, the cost would involve placement of a temporary room divider or, at most, the installation of one additional bunk on some vessels. Therefore, a regulatory flexibility analysis was not prepared.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). Information will be required to be submitted by vessel certificate of inclusion holders who choose to apply for an exemption that would allow them to carry only male observers. The information collection in this rule has been approved by the Office of Management and Budget under section 3504(h) of the PRA and assigned control number 0648-0208.

Public reporting burden for this collection of information is estimated to average two hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Based on comments from industry representatives responding to the publication of the proposed rule, we expect that two or fewer vessel certificate of inclusion holders will submit information required to obtain a waiver from carrying female observers. Therefore, the total information collection burden is expected to be four hours per year or less. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Southwest Regional Director, NOAA Fisheries, 300 South Ferry Street, Terminal Island, CA 90731; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612. This rule does not directly affect the coastal zone of any state with an approved coastal zone management plan.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Date: April 18, 1989.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for 50 CFR Part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Section 216.3 is amended by adding, in alphabetical order, a new definition for "sexual harassment" to read as follows:

§ 216.3 [Amended]

* * * * *

"Sexual harassment" means any unwelcome sexual advance, request for sexual favors, or other verbal and physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

* * * * *

3. Section 216.24 is amended by revising paragraph (f)(5) and adding new paragraphs (f)(6) and (f)(7) to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(f) * * *

(5) It is unlawful for any person to forcibly assault, impede, intimidate, interfere with, or to influence or attempt to influence an observer, or to harass (including sexual harassment) an observer by conduct which has the purpose or effect of unreasonably interfering with the observer's work performance, or which creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(6)(i) All observers must be provided sleeping, toilet and eating accommodations at least equal to that provided to a full crew member. A mattress or futon on the floor or a cot is not acceptable in place of a regular bunk. Meal and other galley privileges must be the same for the observer as for other crew members.

(ii) Female observers on a vessel with an all-male crew must be accommodated either in a single-person cabin or, if reasonable privacy can be ensured by installing a curtain or other temporary divider, in a two-person cabin shared with a licensed officer of the vessel. If the cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing common facilities must be established before the placement meeting and approved by NMFS and must be followed during the entire trip.

(iii) In the event there are one or more female crew members, the female observer may be provided a bunk in a cabin shared solely with female crew members, and provided toilet and shower facilities shared solely with these female crew members.

(7)(i) A vessel certificate of inclusion holder (or vessel owner in the case of a new application) may seek an exemption from carrying a female observer on a vessel by applying to the Southwest Regional Director when applying for the vessel certificate of inclusion until July 10, 1989 and establishing the following:

(A) The vessel will have an all-male crew;

(B) The vessel has fewer than two private (one-person) and semi-private (two-person) cabins in total (excluding the captain's cabin);

(C) A temporary divider like a curtain cannot be installed in the private or semi-private cabin (excluding the captain's cabin) to provide reasonable privacy; and

(D) There are no other areas (excluding the captain's cabin) that can be converted to a sleeping room without either significant expense or significant sacrifice to the crew's quarters.

(ii) The exclusion criteria in paragraph (f)(7)(i) of this section can be met without having to provide the captain's cabin for the observer. The application for an exemption must also include an accurate diagram of the vessel's living areas, and other areas possibly suitable for sleeping. Additional documentation to support the application may also be required, as may an inspection of the vessel. The exemption, once granted, is valid for the same calendar year as the vessel certificate of inclusion, and the exemption must be renewed annually to remain valid. The vessel certificate of inclusion holder is responsible for reporting to the Regional Director any changes aboard the vessel within 15 days of the change which might affect the continued eligibility for an exemption. The Southwest Regional Director will revoke an exemption if the criteria for an exemption are no longer met.

* * * * *

[FR Doc. 89-9720 Filed 4-24-89; 8:45 am]
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Proposed Rules

Federal Register
Vol. 54, No. 78
Tuesday, April 25, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 949

[Docket No. FV-AO-88-2; AMS-88-034]

Irish Potatoes Grown in the High Plains Area of Texas and New Mexico; Secretary's Decision and Referendum Order on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes the issuance of a marketing agreement and order regulating the handling of Irish potatoes grown in the High Plains area of Texas and New Mexico, and directs that a referendum be conducted to determine if potato producers favor the proposed order. The order would authorize regulations to establish grade, size, quality, maturity, pack and container for potatoes grown in 21 designated counties in Texas and 10 designated counties in New Mexico. In addition, the order would authorize production and marketing research and market development projects for High Plains potatoes. The program would be administered by a committee of six producers, four handlers and a public member, and would be financed by assessments levied on potato handlers. The primary objective of the program would be to improve the quality of potatoes shipped to fresh markets. This should reduce marketing losses, improve quality for consumers, and result in improved returns to growers.

DATES: The referendum shall be conducted from May 1 through May 12, 1989. The representative period for the purpose of the referendum herein ordered is January 1, 1988 to December 31, 1988.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Marketing Specialist, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, TX 78501, telephone (512) 682-2833; or Robert F. Matthews, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 447-2431.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued March 30, 1988 and published in the **Federal Register** on April 4, 1988 (53 FR 10887); and Recommended Decision and Opportunity to File Written Exceptions issued January 25, 1989 and published in the **Federal Register** on January 31, 1989 (54 FR 4805).

Preliminary Statement

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code, and therefore is excluded from the requirements of Executive Order 12291.

This decision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.SC. 601 *et seq.*), hereinafter referred to as the "Act", and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The proposed marketing agreement and order were formulated on the record of a public hearing held at Hereford, Texas on April 19, 1988. Notice of the hearing was published in the April 4, 1988, issues of the **Federal Register**. The notice set forth a proposed order submitted by the Texas-New Mexico Potato Steering Committee on behalf of potato producers and handlers in the proposed production area. The order would authorize regulations to establish grade, size, quality, maturity, pack and container requirements for potatoes produced in the proposed production area. In addition, production and marketing research and market development projects would be authorized.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service (AMS) on January 25, 1989, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision providing opportunity to file written exceptions thereto by March 2, 1989. One exception was received from Jim Cramer, a potato shipper in Muleshoe, Texas. This exception to the Recommended Decision is discussed and ruled upon in this document.

Small Business Consideration

In accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000. Small agricultural service firms, which would include handlers under this proposed order, are defined as those with gross annual revenues of less than $3.5 million.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders and rules issued thereunder are unique in that they are brought about through group action of essentially small entities for their own benefit. Thus, both the RFA and the Act have small entity orientation and compatibility.

There are approximately 30 handlers of potatoes in the High Plans area, who handled 2,848,000 hundredweight of potatoes for fresh market in 1988 with an estimated crop value of about $26.3 million. While there is a variance in size of individual handler operations, most, if not all, of the handlers that would be regulated under this proposed order would qualify as small firms under SBA's definition. In addition, there are about 110 potato growers in the High Plains area, the majority of which could be classified as small businesses.

While the proposed order would likely impose regulations on handlers, the burden of these regulatory requirements should not be significant compared to the benefits which should accrue to such businesses. The expected impact on persons acting in a handling capacity who could be classified as small businesses was discussed in detail in the Recommended Decision. In summary, the proposed order should be operated in as efficient and economical

a manner as will tend to effectuate the declared policy of the Act. In this way all entities, small and large, would be subject to minimal regulatory requirements under the proposed order. In addition, the proposed order contains the authority to exempt from regulation special purpose shipments, as well as minimum quantities, and the order should be operated in a way that would incorporate sound business practices and efficiencies which would minimize the burden on all regulated business entities.

Regulations promulgated under the proposed order could be expected to remove from fresh market channels less desirable grades and sizes of potatoes and divert them to other outlets, such as livestock feed. An extensive cattle-feeding industry exists within the proposed production area which could serve as an outlet for culls, or low grade potatoes. Moreover, as the lower grades and smaller sizes are removed from fresh market channels, prices to growers for the resulting higher quality supplies should increase, reflecting consumer preference for this level of quality. This should outweigh any loss to growers for cull potatoes, since such quality even on the fresh market historically returns little or nothing to the producer.

Although a somewhat larger proportion of a producer's potatoes may be marketed in secondary outlets at a lower price, the greater part of production, which includes the higher or fresh market grades, should yield a greater return. Thus, the proposed order could be expected to have a positive impact on grower returns.

The impact of the proposed order upon handlers is also expected to be positive. Most handlers perform their services for an established fee based on the quantity of potatoes handled for a producer. It is anticipated that most potatoes shipped to fresh market would be required to meet certain quality and size requirements. It is also expected that an expansion of existing markets and the development of new ones would result from the increase in quality.

Further, the burden placed on handlers by the proposed order with respect to reporting and recordkeeping requirements should be negligible. Most of the information that would be reported to the committee is already compiled by handlers for other uses and is readily available.

Reporting and recordkeeping requirements issued under comparable potato marketing order programs impose an average annual burden on each regulated handler of about four hours. It is reasonable to expect that a comparable burden may be imposed under this proposed order on the estimated 30 handlers of High Plains potatoes.

The Act requires that prior to the issuance of a marketing order, a referendum be conducted of affected producers to determine whether they favor issuance of the order. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the ballot material that will be used in the referendum herein ordered has been submitted to and approved by the Office of Management and Budget (OMB) and has been assigned OMB No. 0581-0159. It has been estimated that it will take an average of 10 minutes for each of the approximately 110 High Plains potato growers to participate in the voluntary referendum balloting. Additionally, it has been estimated that it will take about 10 minutes for each of the 30 handlers to complete the marketing agreement. The reporting and recordkeeping requirements to be imposed under the proposed order, would likewise be submitted to OMB and would not become effective prior to OMB approval.

In determining that the proposed order would not have a significant economic impact on a substantial number of small entities, all of the issues discussed above were considered. The proposed order provisions have been carefully reviewed and every effort has been made to eliminate any unnecessary costs or requirements. Although the order may impose some additional costs and requirements on handlers, it is anticipated that the programs under the proposed order would help to increase demand for potatoes grown in the High Plains area. Therefore, any additional costs should be offset by the benefits derived from expanded markets and sales benefiting handlers and producers alike.

Accordingly, it is determined that the proposed marketing order would not have a significant impact on small handlers or producers.

Moreover, potatoes grown in more than one State would be regulated under the proposed order in order to effectuate the declared purposes of the Act. Thus, any marketing orders, or their equivalent, authorized under respective State statutes could not achieve the same results as an alternative to a Federal marketing order. In accordance with the principle and purpose of Executive Order 12612, consideration has been given as to whether the proposed order would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

It has been determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Findings and Conclusions

The findings and conclusions included in the discussion of the material issues and the rulings and general findings of the Recommended Decision set forth in the January 31, 1989, issue of the **Federal Register** (54 FR 4805) are hereby approved and adopted subject to the following modifications and corrections.

Based on the exception filed by Mr. Cramer, the findings and conclusions in material issue number 5(b) of the Recommended Decision concerning committee nomination are amended by adding the following paragraph after the 34th paragraph of material issue 5(b) to read as follows:

The exception received from Mr. Jim Cramer, a shipper from Muleshoe, Texas, opposed the 11-member committee to recommend regulations. However, record evidence shows a committee is necessary to administer the provisions of the order. Moreover, the proposed order includes provisions for the establishment and membership on the committee, procedures for nominating committee persons so that all producers and handlers will have representation, and provisions for terms of office, selection of committee members and the powers and duties of the committee. Accordingly, the committee should provide for reasonable judgment and deliberation with respect to recommendations made to the Secretary and in discharge of other committee duties. Therefore, this point of his exception is found to be without merit and is hereby denied.

Based upon the exception filed by Mr. Cramer, the findings and conclusions of material issue 5(e) of the Recommended Decision are hereby amended by adding the following paragraph after the 27th paragraph of material issue 5(e) as follows:

In his exception Mr. Cramer stated that requiring potatoes to be inspected would not guarantee quality, nor would the use of the U.S. standards as inspection criteria. Mr. Cramer also stated that the crop generally lacks full maturity because of early harvest, and that establishing maturity requirements would delay harvest. Such a delay would move the harvest and shipping period closer to that of competing producing areas and would thus put downward pressure on growers' prices.

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The proposed order would authorize the committee to recommend to the Secretary a handling regulation that could require that shipments meet specified grade, size, quality, pack and container requirements. Such a regulation therefore would provide a minimum quality for the commodity shipped from the proposed production area and would serve as a basis to increase the quality of High Plains potato shipments to the benefit of growers and handlers and would be in the public interest. The proposed order could be expected to improve grower returns and expand existing markets and develop new ones. These requirements, when implemented, would provide a means of carrying out the declared policy of the Act.

Therefore, for the above reasons the exceptions concerning quality and maturity are deemed without merit and are denied.

Based upon the exception filed by Mr. Cramer, the findings and conclusions in material issue 5(f) of the Recommended Decision concerning mandatory inspection and certification are amended by adding the following paragraphs after the second paragraph of material issue 5(f) to read as follows:

In his exception, Mr. Cramer stated that the results of inspections performed at the terminal market sometimes were different from those made at shipping point resulting in a "down graded" product. No corroborative evidence was presented to confirm this statement. However, since potatoes are a perishable commodity, particularly so when less than fully mature as is typical of High Plains shipments, some deterioration may occur in transit. Nevertheless, the results of inspection of potatoes grown in the production area at shipping point would keep buyers, sellers and other interested persons informed as to the quality of the load at shipping point and as a result they would have a better indication of quality at destination. The inspection and certification of shipments are, according to record evidence, necessary. Further, they provide the most practicable way to assure that the handling of potatoes complies with the regulations that may be issued pursuant to the proposed order.

Mr. Cramer also stated that he believed not all inspectors were sufficiently well qualified. In actuality, all inspectors of the Federal and Federal-State Inspection Service are fully trained and well qualified in their positions before they are assigned to grade a commodity.

Mr. Cramer, in his exception, posed the question whether all handlers in the State of Texas would be subject to inspection requirements adopted under the order. The only handlers of whom such inspection requirements would be required would be those subject to the proposed order and its implementing regulations. The production area would be limited to 31 designated counties in the panhandle of Texas and eastern New Mexico as the High Plains. This area has been determined to constitute the smallest regional production area that is practicable and consistent with carrying out the declared policy of the Act. All industry members and interested persons in the proposed production area have had the opportunity to participate in developing the proposed order. This included a public hearing in Hereford, Texas, on April 19, 1988. Testimony at that hearing and the decision resulting from it indicate that the potato industry in the proposed production area would benefit from a locally administered regulatory program.

For the reasons stated above, the comments with respect to material issue 5(f) are hereby denied.

Rulings on Exceptions

In arriving at the findings and conclusions and the regulatory provision of this decision, the exceptions to the Recommended Decision were carefully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with the exceptions, such exceptions are hereby denied for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents entitled, respectively, "Order Regulating the Handling of Irish Potatoes Grown in the High Plains Area of Texas and New Mexico" and "Marketing Agreement Regulating the Handling of Irish Potatoes Grown in the High Plains Area of Texas and New Mexico". These documents have been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical to those contained in the order as hereby proposed by the annexed order which is published with this decision.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*) to determine whether the issuance of the annexed order regulating the handling of Irish potatoes grown in the High Plains area of Texas and New Mexico is approved or favored by producers, as defined under the terms of the proposed order, who during the representative period were engaged in the production of Irish potatoes in the aforesaid production area.

The representative period for the conduct of such referendum is hereby determined to be January 1, 1988 to December 31, 1988.

The agents of the Secretary to conduct such referendum are hereby designated to be Belinda G. Garza, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, 1313 E. Hackberry, McAllen, Texas 78501, telephone (512) 682–2833; and Robert F. Matthews, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–2431.

List of Subjects in 7 CFR Part 949

Marketing agreements and orders, Potatoes, Texas, New Mexico.

Dated: April 19, 1989.

Kenneth A. Gilles,

Assistant Secretary for Marketing and Inspection Services.

Order Regulating the Handling of Irish Potatoes Grown in the High Plains Area of Texas and New Mexico [1]

Findings and Determinations Upon the Basis of the Hearing Record

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and order regulating the handling of Irish potatoes grown in the High Plains area of Texas and New Mexico.

Upon the basis of the record it is found that:

(1) The proposed marketing agreement and order and all of the terms and conditions thereof will tend to effectuate the declared policy of the Act;

(2) The proposed marketing agreement and order regulate the handling of Irish potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the proposed marketing agreement and order upon which a hearing has been held;

(3) The proposed marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) There are no differences in the production and marketing Irish potatoes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of Irish potatoes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date thereof, all handling of Irish potatoes grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said marketing agreement and order as follows:

The provisions of the proposed marketing agreement and order contained in the Recommended Decision issued by the Administrator on January 25, 1989 and published in the **Federal Register** on January 31, 1989 (54 FR 4805) shall be and are the terms and provisions of this order and are set forth in full herein. Those sections identified with an asterisk (*) apply only to the proposed marketing agreement and not to the proposed marketing order.

It is proposed that Title 7, Chapter IX be amended by adding Part 949 to read as follows:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

PART 949—IRISH POTATOES GROWN IN THE HIGH PLAINS AREA OF TEXAS AND NEW MEXICO

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Authority: Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Definitions

§ 949.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department of Agriculture who has been delegated, or who may hereafter be delegated the authority to act for the Secretary.

§ 949.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*).

§ 949.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 949.4 Production area.

"Production area" means the counties of: Bailey, Briscoe, Castro, Cochran, Dallam, Donley, Deaf Smith, Floyd, Gaines, Hale, Hall, Hartley, Hockley, Lamb, Lubbock, Motley, Oldham, Parmer, Swisher, Terry, and Yoakum located in the State of Texas, and the countries of Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Roosevelt, Torrance, Union, and Quay located in the State of New Mexico.

§ 949.5 Potatoes.

"Potatoes" means and includes all varieties of *Solanum tuberosum*, commonly known as Irish potatoes, grown in the production area.

§ 949.6 Seed potatoes.

"Seed potatoes" or "seed" means any potatoes which have been certified by the official seed certification agency of the States of Texas or New Mexico, or other seed certification agencies recognized by the Secretary, and which bear the official tags, seals, or other appropriate identification indicating such certification.

§ 949.7 Handler.

"Handler" is synonymous with "shipper" and means any person, except a common or contract carrier of potatoes owned by another person, who handles potatoes or causes potatoes to be handled.

§ 949.8 Handle or ship.

"Handle" or "ship" means to grade, package, sell, transport, or in any other way to place potatoes grown in the production area, or cause such potatoes to be placed, in the current of commerce within the production area or between the production area and any point

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outside thereof. Such term shall not include the transportation, sale, or delivery within the production area of field-run potatoes to storage or to a person for the purpose of having such potatoes prepared for market.

§ 949.9 Producer.

"Producer" is synonymous with "growers" means any person engaged in a proprietary capacity in the production of potatoes for market.

§ 949.10 Fiscal period.

"Fiscal period" means the 12-month period beginning on June 1 and ending May 31 of the following year, or such other period that may be recommended by the committee and approved by the Secretary.

§ 949.11 Committee.

"Committee" means the administrative committee known as Texas-New Mexico Potato Committee established pursuant to § 949.20.

§ 949.12 Grade, size and maturity.

"Grade" means any of the officially established grades of potatoes, "Size" means any of the officially established sizes of potatoes , and "Maturity" means any of the stages of development or condition of the outer skin (epidermis) of potatoes, as defined in the United States Standards for Potatoes issued by the United States Department of Agriculture (§ § 51.1540 to 51.1556, inclusive of this title), including amendments, modifications, or variations thereof, or, such other grades, sizes, and maturities as may be recommended by the committee and approved by the Secretary.

§ 949.13 Varieties.

"Varieties" means all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 949.14 Pack.

"Pack" means a quantity of potatoes in any type of container, which falls within specific weight limits, numerical limits, grade limits, size limits, or any combination of these recommended by the committee and approved by the Secretary.

§ 949.15 Container.

"Container" means a sack, bag, crate, box, basket, barrel, or bulk load or any other receptacle used in the packaging, transportation, sale or other handling of potatoes.

§ 949.17 District.

"District" means each of the geographic divisions of the production area initially established pursuant to § 949.23 or as reestablished pursuant to § 949.24.

§ 949.18 Export.

"Export" means the shipment of potatoes to any destination which is not within the 50 States, or the District of Columbia, of the United States.

Committee

§ 949.20 Establishment and membership.

(a) There is hereby established a committee, consisting of 11 members, to administer the terms and provision of this part. Six members shall be producers, four members shall be handlers, and one shall be a public member. Each committee member shall have an alternate who shall have the same qualifications as the member.

(b) Each member, other than the public member, shall be an individual who is, prior to selection and during such term of office a resident of the production area, and a producer or handler, or an officer or employee of a producer or handler.

(c) Four members shall be producers from District 1 and two members shall be producers from District 2. Three members shall be handlers from District 1 and one member shall be a handler from District 2. Any person who operates in more than one district or is engaged in both producing and handling potatoes shall elect one classification, and one district from which to be represented on the committee.

(d) The public member shall be a resident of the production area and be neither a producer nor a handler and shall have no direct financial interest in the commercial production, financing, buying, packing or marketing of potatoes, except as a consumer, nor shall such person be a director, officer or employee of any firm so engaged.

§ 949.21 Alternates.

An alternate member of the committee shall act in the place and stead of the member for whom such person is an alternate, during such member's absence or when designated to do so by such member. In the event both a member of the committee and that member's alternate are unable to attend a committee meeting, the member, the alternate, or the committee, in that order, may designate another alternate from the same district and the same classification (handler or producer) to serve in such member's stead. In the event of the death, removal, resignation, or disqualification of a member, that member's respective alternate shall serve until a successor of such member is selected and has qualified. The Committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ 949.22 Term of office.

(a) Except as otherwise provided in paragraph (b) of this section, the term of office of committee members and their respective alternates shall be for three years and shall begin as of January 1 and end the last day of December or for such other three-year period as the committee may recommend and the Secretary approve. Members and alternates shall serve in such capacity for the portion of the term of office for which they are selected, and until their respective successors are selected. No member or alternate may serve more than two consecutive terms on the committee unless specifically exempted from this requirement by the Secretary.

(b) The term of office of the initial members and alternates shall begin as soon as possible after the effective date of this subpart. As determined by the Secretary, approximately one-third of the initial committee members and alternates shall serve for a one-year term and approximately one-third of the initial committee members and alternates shall serve for a two-year term. The remainder of the initial committee members and alternates shall serve for a three-year term. Those members serving initial terms of one year or less may serve two additional, consecutive three-year terms.

§ 949.23 Districts.

To determine a basis for selecting committee members, the following districts of the production area are hereby initially established:

(a) District 1: All production area counties located within the State of Texas;

(b) District 2: All production area counties located within the State of New Mexico.

§ 949.24 Redistricting and reapportionment.

At least every five years the committee shall review the geographic distribution of potato production in the production area and, if warranted, recommend to the Secretary the reapportionment of members among districts, and the reestablishment of districts within the production area. In recommending any such changes, the Committee shall give consideration to:

(a) Shifts in potato acreage within the districts and within the production area during recent years;

(b) The importance of new production in its relation to existing districts;

(c) The equitable relationship of committee membership and districts; and

(d) Other relevant factors. No change in districting or in apportionment of members within districts may become effective less than 30 days prior to the date on which terms of office begin each year and no recommendations for such redistricting or reapportionment may be made less than 6 months prior to such date.

§ 949.25 Nominations.

(a) *Initial members.* The nomination process for the initial committee shall be conducted by the Secretary. The nominations for each of the 6 initial producer and 4 initial handler members of the committee, together with the nominations for the initial alternate members for each position, shall be made as soon as practicable after the effective date of this subpart. The nominee for the initial public member shall be submitted to the Secretary not later than 90 days after the first meeting of the committee.

(b) *Successor members.* (1) The committee shall hold or cause to be held not later than October 1 of each year, or such other date as may be specified by the Secretary, a meeting or meetings of producers and handlers in each district for the purpose of designating at least one nominee for each position as member and for each position as alternate member of the committee. In the alternative, the committee may conduct nominations by mail in a manner recommended by the committee and approved by the Secretary.

(2) The names of nominees shall be submitted to the Secretary at such time and in such manner and form as may be prescribed;

(3) Only producers may participate in designating producer nominees and only handlers may participate in designating handler nominees to the committee;

(4) Only producers and handlers who are present at such nomination meetings, or represented at such meetings by a duly authorized employee, may participate in the nomination and election of nominees for members and their alternates.

(5) Any person who operates in more than on district or is engaged in both producing and handling potatoes shall elect the classification, and the district in which to participate in designating nominees.

(6) Regardless of the number of districts in which a person produces or handles potatoes, such persons are entitled to cast only one vote for each position to be filled in the district and classification in which the person is eligible and elects to vote in designating nominees for committee members and alternates. Such vote would be cast on behalf of the voter, the voter's agents, subsidiaries, affiliates, and representatives.

(c) The public member shall be nominated by the members of the committee. The committee may establish procedures for receiving names of persons to be considered for nomination as the public member. The name of the person nominated as the public member shall be submitted by the incumbent committee to the Secretary by November 1, or such other date recommended by the committee and approved by the Secretary, of the year the term expires together with information deemed pertinent by the committee or as requested by the Secretary.

§ 949.26 Selection.

Committee members and alternates shall be selected by the Secretary on the basis of representation provided for in § 949.20 or as modified pursuant to § 949.24.

§ 949.27 Failure to nominate.

If nominations are not made within the time and manner prescribed in § 949.25, the Secretary may, without regard to nominations, select the members and alternates on the basis of the representation provided for in § 949.20 or as modified pursuant to § 949.24.

§ 949.28 Acceptance.

Any person prior to selection as a member or alternate member of the committee shall qualify by filing with the Secretary a written acceptance within the time period specified by the Secretary of the person's willingness to serve.

§ 949.29 Vacancies.

To fill any vacancy caused by the death, removal, resignation, or disqualification of a member or alternate, a successor for the unexpired term may be selected by the Secretary from nominations made pursuant to § 949.25, from previously unselected nominees on the current noninee list, or from other eligible persons.

§ 949.30 Expenses.

Members and alternates, when serving as members of the committee, shall serve without compensation but shall be reimbursed for such expenses authorized by the committee and necessarily incurred by them in attending committee meetings and in the performance of their duties under this part: Provided, that the committee at its discretion may request the attendance of one or more alternates at an or all meetings notwithstanding the expected, or actual, presence of the respective members and may pay expenses as aforesaid.

§ 949.31 Procedure.

(a) A majority of all members of the committee shall be necessary to constitute a quorum or to pass any motion or approve any committee action.

(b) The committee may provide for the members thereof, including the alternate members when acting as members, to vote by mail, telegraph, telephone, or other means of communication, provided that any such vote cast orally shall be confirmed promptly in writing. If any assembled meeting is held all votes shall be cast in person.

§ 949.32 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this subpart as specified herein;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 949.33 Duties.

The committee shall have, among others, the following duties:

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees, to adopt such rules, regulations, and bylaws for the conduct of its business as it deems necessary, and to recommend nominees for the public member and alternate;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as may be requested;

(d) To appoint such employees, agents, and representatives as it may deem necessary, to determine the compensation and define the duties of each such person, and to protect the handling of committee funds.

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(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes;

(f) To recommend research and development projects to the Secretary in accordance with this part;

(g) To notify handlers of each meeting of the committee to consider recommendations for regulations and of all regulatory actions taken, and to provide such notification to producers through appropriate news releases or such other means as may be available to the committee;

(h) To give the Secretary the same notice of meetings of the committee and its subcommittee(s) as is given to its members;

(i) To prepare a marketing policy;

(j) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee. Such minutes, books, and records shall be subject to examination at any time by the Secretary or the Secretary's authorized agent or representative. Minutes of each committee meeting shall be reported promptly to the Secretary;

(k) Prior to the beginning of each fiscal period, to submit to the Secretary a budget of projected income and expenses for such fiscal period, together with a report thereon;

(l) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to producers and handlers for examination at the office of the committee;

(m) To prepare and submit to the Secretary, an annual report, and make a copy available to each producer and grower who requests it. This annual report shall contain at least:

(1) A complete review of the regulatory operations during the fiscal period;

(2) An appraisal of the effect of such regulatory operations upon the potato industry; and

(3) Any recommendations for changes in the program.

(n) To cause the books of the committee to be audited by a certified public accountant at least once each fiscal period and at such other times as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. Two copies of such report shall be furnished to the Secretary. A copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; however, confidential information shall be removed from the report; and

(o) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper activities and objectives under this part.

Expenses and Assessments

§ 949.40 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for purposes determined to be appropriate for administration of this part. Handlers shall share expenses upon the basis of a fiscal period. Each handler's share of such expenses shall be proportionate to the ratio between the total quantity of potatoes handled by such handler as the first handler thereof during a fiscal period and the total quantity of potatoes handled by all handlers as first handlers thereof during such fiscal period.

§ 949.41 Budget.

Sixty days prior to the beginning of each fiscal period, or at such other time as may be specified by the Secretary, the committee shall prepare an estimated budget of income and expenditures necessary for its administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall submit such budget to the Secretary with an accompanying report showing the basis for its calculations. An amended budget may be submitted as provided in § 949.42(c).

§ 949.42 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart or from voluntary contributions for projects pursuant to § 949.48. Each person who first handles potatoes under this part shall pay assessments to the committee which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's budget, recommendations, and other available information. Such rates may be applied to specified containers used in the production area.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the established rate of assessment.

(d) The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(e) The committee may impose a late payment charge or an interest charge on any handler who fails to pay any assessment in a timely manner. Such time and the rates shall be recommended by the committee and approved by the Secretary.

(f) In order to provide funds for the administration of this part before sufficient operating income is available from assessments, the committee may accept advance assessments and may also borrow money for such purpose. Advance assessments received from a handler shall be credited toward assessments levied against that handler during the fiscal year.

§ 949.43 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately to the persons from whom it was collected.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That the reserves are less than approximately two fiscal period's expenses. Such reserve funds may be used to:

(i) Defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses;

(ii) Cover deficits incurred during any fiscal period when assessment income is less than expenses;

(iii) Defray expenses incurred during any period when any provisions of this part are suspended or are inoperative;

(iv) Cover necessary expenses of liquidation in the event of termination of this part.

Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified herein. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in such member's possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

(d) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and, upon determining such action is appropriate, the Secretary may direct that such person or persons shall act as trustee or trustees for such committee.

Research and Development.

§ 949.48 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and development projects, not including paid advertising, design to assist, improve, or promote the marketing, distribution, consumption, or efficient production of potatoes. The expense of such projects shall be paid from funds collected pursuant to § 949.42.

Regulation

§ 949.50 Marketing policy.

Prior to beginning of each fiscal year, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing season. Additional reports shall be submitted if it is deemed advisable by the committee to adopt a new marketing policy because of changes in the demand or supply situation with respect to potatoes. The committee shall publicly announce the submission of each such marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or any handler. In determining each such marketing policy the committee shall give due consideration to the following:

(a) Supply of potatoes by grade, size, quality, and maturity in the production area;

(b) Estimates of supplies of potatoes in the production area and in competing areas;

(c) Estimates of supplies of other competing commodities;

(d) Market prices by grades, sizes, containers, and packs;

(e) Anticipated marketing problems;

(f) Level and trend of consumer income; and

(g) Other relevant factors.

§ 949.51 Recommendations for regulations.

(a) Whenever the committee's marketing policy considerations deem it advisable to regulate the handling of any variety or varieties of potatoes in a manner provided in §§ 949.53, 949.54, or 949.55 it shall recommend to the Secretary grade, size, quality, maturity, or pack regulation, or any combination thereof, or amendment thereto, or modification, suspension, or termination thereof.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for potatoes during the period or periods when it is proposed that such regulations should be effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

§ 949.53 Issuance of regulations.

(a) The Secretary shall issue regulations on the handling of potatoes whenever the Secretary finds from recommendations and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit the handling of particular grades, sizes, qualities, maturities, or packs of any or all varieties of potatoes, or any combination of the foregoing during any period.

(2) Limit the handling of particular grades, sizes, qualities, maturities or packs of potatoes differently, for different varieties, for different containers, for different packs, for different purposes under § 949.55, or for any combination of the foregoing, during any period.

(3) Fix the size, capacity, weight, dimensions, pack or marking of the container or containers which may be used in the packaging or handling of potatoes, or both.

(4) Establish in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level.

(b) The Secretary shall notify the committee of each regulation issued pursuant to this section. The committee shall give reasonable notice thereof to handlers.

(c) Nothing in this subpart shall authorize any regulation eliminating shipment of potatoes in bulk.

§ 949.54 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 949.53 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments in order to effectuate the declared policy of the act, the Secretary shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, the Secretary shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ 949.55 Handling for special purposes.

(a) Upon the basis of recommendations and information submitted by the committee, or other available information, the Secretary, may modify, suspend, or terminate requirements in effect pursuant to § 919.42 or §§ 949.51 to 949.53 inclusive, or § 949.60 or any combination thereof, to facilitate handling of potatoes for:

(1) Relief or charity;

(2) Livestock feed;

(3) Export;

(4) Seed;

(5) Potatoes, other than certified seed, sold to a producer exclusively for planting within specific geographic limits;

(6) Other purposes recommended by the committee and approved by the Secretary.

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(b) The committee, with the approval of the Secretary, shall prescribe rules and regulations to prevent potatoes handled pursuant to this section from entering trade channels other than those authorized by regulations and by such rules as may be necessary and incidental thereto.

Inspection

§ 949.60 Inspection and certification.

(a) During any period in which the handling of potatoes is regulated pursuant to §§ 949.53 through 949.55, inclusive, no handler shall handle potatoes unless such potatoes are inspected by an authorized representative of the Federal or a Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved of such requirements by §§ 949.54, 949.55, or 949.60(b).

(b) The committee may, with the approval of the Secretary, issue rules requiring inspection on regraded, resorted or repacked lots, or providing for special inspection requirements or relief therefrom. Such rules may provide distinctions, insofar as practical, between handling at shipping point and handling in receiving markets within the production area.

(c) Upon recommendation of the committee and approval by the Secretary, any or all potatoes so inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the container by the handler under the direction and supervision of a Federal or Federal-State Inspector or the committee. Master containers may bear the identification instead of the individual containers within said master container.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When potatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(f) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of potatoes by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or other evidence of inspection acceptable to the Secretary such as a Positive Lot Identification stamp, to indicate that such inspection has been performed. Such certificate or document shall be surrendered to such authority as may be designated.

Reports and Recordkeeping

§ 949.80 Reports and recordkeeping.

Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and form and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to, the following:

(1) The quantities of potatoes received by variety by a handler during any or all periods of a season;

(2) The quantities disposed of by the handler, segregated as to quantities subject to regulation, and where necessary, segregated as to types of outlets and special or modified regulations applicable to alternative outlets, and including quantities not subject to regulation;

(3) The date of each such disposition and the identification of the carrier transporting such potatoes;

(4) Information essential to identification of any or all specific quantities, lots, and disposition or potatoes handled under §§ 949.53 to 949.55, inclusive, which may include identification of inspection certificates, exemption certificates, certificates of privilege, or other appropriate identification, including the destination of each special shipment, where necessary.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of an individual handler identity or operations.

(c) Each handler shall maintain for at least 2 succeeding years such records and documents on potatoes received by such handler as may be necessary to verify reports submitted to the committee pursuant to this section.

(d) For the purpose of assuring compliance with recordkeeping requirements and verifying reports of handlers, the Secretary and the committee, through their duly authorized employees or agents, shall have access to any premises where applicable records are located, and where potatoes are handled, and at any time during reasonable business hours shall be permitted to inspect such handler's premises and any potatoes held by such handler and examine any and all records of such persons with respect to matters within the purview of this part.

Compliance

§ 949.81 Compliance.

No person shall handle potatoes except in conformity with the provisions of this subpart and the regulations issued thereunder.

Miscellaneous Provisions

§ 949.82 Right of the Secretary.

The members of the committee (including successors and alternates) and any agent or employee appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 949.84 Termination or suspension.

(a) The Secretary may terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

(b) Producer referendum.

(1) The Secretary shall terminate in accordance with section 8(c)(16)B of the Act, the provisions of this part at the end of any fiscal period whenever the Secretary finds that such termination is favored by a majority of producers, who during a representative period, as determined by the Secretary have been engaged in the production of potatoes for market: *Provided,* That such majority has, during such representative period, produced for market more than fifty percent of the volume of such potatoes produced for market: *Provided further,* That termination shall be announced before the beginning of the ensuing fiscal period.

(2) The Secretary shall conduct a referendum every sixth fiscal year with the first such referendum to be conducted within 6 years from the effective date of this section, to ascertain whether continuance of this subpart is favored by producers. The Secretary may terminate the provisions of this part at the end of any fiscal year in which the Secretary has found that continuance of this subpart is not favored by producers who, during a representative period determined by the Secretary, have been engaged in the production for market of potatoes in the production area. Such termination of the part shall be announced on or before the end of the fiscal year.

(c) The provisions of this part shall in any event terminate whenever the provisions of the Act authorizing them cease to be in effect.

§ 949.85 Proceedings after termination.

(a) Upon the termination of the provisions of this part the then functioning members of the committee shall continue as joint trustees for the purpose of liquidating the affairs of the committee of all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustee.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of said committee and of the trustees, to such person as the Secretary may direct; and shall upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in said committee or the trustees pursuant to this part.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members pursuant to this section shall be subject to the same obligations imposed upon the members of the committees and upon the said trustees.

§ 949.86 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart or the issuance of any amendments to either thereof, shall not affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart; or release or extinguish any violation of this subpart or of any regulations issued under this subpart; or affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

§ 949.87 Duration of immunities.

The benefits, privileges and immunities conferred upon any person by virtue of this part shall cease upon the termination of this part, except with respect to acts done under and during the existence of this part.

§ 949.88 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the United States, or name any agency in the United States Department of Agriculture, to act as the Secretary's agent or representative in connection with any of the provisions of this part.

§ 949.89 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the Act or otherwise, or in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 949.90 Personal liability.

No member or alternate of the committee or any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willfull misconduct or gross negligence.

§ 949.91 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstances or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstances or thing shall not be affected thereby.

§ 949.92 Amendments.

Amendments to this subpart may be proposed from time to time by the committee or by the Secretary.

Marketing Agreement

*** § 949.97 Counterparts.**

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

*** § 949.98 Additional parties.**

After the effective date thereof, any handler may become a party to this agreement if a counterpart is executed by such handler and delivered to the Secretary. This agreement shall take effect as to such new contracting part at the time such counterpart is delivered to the Secretary, and the benefits, privileges and immunities conferred by this agreement shall then be effective as to such new contracting party.

*** § 949.99 Order with marketing agreement.**

Each signatory hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of potatoes in the same manner as is provided for in the agreement.

[FR Doc. 89-9890 Filed 4-20-89; 3:43 pm]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1933 and 1944

Self-Help Technical Assistance Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise and redesignate its regulation for Self-Help Housing Technical Assistance Grants. This action is necessary to comply with OMB circulars and Departmental regulations. The intended effect is to encourage more communities to participate in the program by permitting an organization with fewer employees to participate. It also permits the use of a predevelopment agreement to test the feasibility of the program in a community before making a major commitment of resources. It requires that organizations have a local membership base, and increases the amount of family labor in the building of homes. It references or directly quotes, Departmental regulations that significantly affect participating grantees.

DATE: Comments must be received on or before June 26, 1989.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written

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comments will be available for public inspection during regular work hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Submit any comment to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 22053.

FOR FURTHER INFORMATION CONTACT: Cliff Herron, Senior Loan Officer, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5346, South Agriculture Building, Washington, DC 20250, Telephone 202-382-1484.

SUPPLEMENTARY INFORMATION: This action was reviewed under USDA procedures established on Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined to be nonmajor, because the annual effect on the economy is less than $100 million. There is no major increase in cost or prices for consumers, individual industries, Federal, State, or local competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This program/activity is listed in the Catalog of Federal Domestic Assistance under number 10.420. This program/activity is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See 7 CFR 3015, Subpart V (48 FR 291115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (Available in any FmHA Office).

This proposed rule replaces proposed rule, "Self-Help Technical Assistance Grants," which was published in the **Federal Register** on pages 6532-6549 on February 13, 1989. The proposed rule published on Feruary 13, 1989, is withdrawn because it was an earlier version that the Office of Management and Budget reviewed and required several significant modifications. It was inadvertently published without those modifications.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354), the Administrator of the Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because fewer than 100 rural communities will be affected annually.

The proposed changes to the regulation decrease the role and involvement of the National Office by placing more decision making authority at the state and district level. The proposal also requires a greater level of involvement by the communities being served than previously required. It further directs the program to assist those most in need of houses, who generally are families below 50 percent of area median income, living in substandard housing and/or otherwise lack the skills to be good homeowners. It requires a greater amount of family participation in the construction of their own homes. It is anticipated that this change will increase the amount of borrower labor by more than 30 percent over what was previously required.

It changes the method used for accounting for borrower labor. The current regulation accounts for borrower labor by the number of hours contributed. The new method accounts for labor by the number of tasks performed. This method permits the use of modern construction techniques whereas the current regulation discourages their use because it could reduce the number of hours contributed.

It restricts the families who can participate in this program only to those who are approved for a section 502 loan. Previously, they could obtain other assistance as well; however, virtually everyone participating in this program in the past has done so by obtaining a section 502 loan. Therefore, it was decided to drop the reference to other sources of credit.

It gives the State Director more flexibility in directing the program to communities that may best benefit. The current method of determining the success of the program is based on the amount of saving as the difference between the cost of a contract built house and the cost of a self-help built house. This method has many flaws. It is difficult to establish the benchmark value, thereby, permitting generous funding of grantees in high cost areas and inadequate funding in low cost areas. As proposed, the State Director has greater flexibility in the use of the program and in determining the value to be placed on the self-help effort. The State Director can negotiate with the grantee on the method, amount of borrower contribution, and level of grant funding which will permit the program to be useful in rehabilitation and repair of dwellings.

The proposed regulation strengthens the supervision of the grantee by requiring the grantee to report quarterly on progress and for FmHA to determine whether their quarterly progress is on schedule. It requires FmHA to put delinquent grantees on notice and to offer them assistance so they will be successful. If after a 90 day period, the grantee is still unsuccessful, they will be terminated. This proposed change should assist more grantees to be successful.

List of Subjects 7 CFR Parts 1933 and 1944

Grant program—Housing and community development; Indians; Low and moderate income housing; Nonprofit organizations; and Rural housing.

PART 1933—LOAN AND GRANT PROGRAM (GROUP) [REMOVED AND RESERVED]

PART 1944—HOUSING

1. The authority citation for Part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. As proposed, Part 1933 is removed and reserved; and in Part 1944, Subpart I, consisting of §§ 1944.401–1944.450 and Exhibits A–G, is added to read as follows:

Subpart I—Self-Help Technical Assistance Grants

Sec.

§ 1944.401 Objective.
§ 1944.402 Grant purposes.
§ 1944.403 Definitions.
§ 1944.404 Eligibility.
§ 1944.405 Authorized use of grant funds.
§ 1944.406 Prohibited use of grant funds.
§ 1944.407 Limitations.
§ 1944.408 [Reserved]
§ 1944.409 Executive Order 12372.
§ 1944.410 Processing preapplications, applications and completing grant dockets.
§ 1944.411 Conditions for approving a grant.
§ 1944.412 Docket preparation.
§ 1944.413 Grant approval.
§ 1944.414 [Reserved]
§ 1944.415 Grant approval and other approving authorities.
§ 1944.416 Grant closing.
§ 1944.417 Servicing actions after grant closing.
§ 1944.418 [Reserved]
§ 1944.419 Final grantee evaluation.

Sec.
§ 1944.420 Extension or revision of the grant agreement.
§ 1944.421 Refunding of an existing grantee.
§ 1944.422 Audit and other report requirements.
§ 1944.423 Loan packaging and 502 RH application submittal.
§ 1944.424 Dwelling construction and standards.
§ 1944.425 Handling and accounting for borrower loan funds.
§ 1944.426 Grant closeout, suspension, and termination.
§ 1944.427 Grantee self-evaluation.
§ 1944.428–1944.450 [Reserved]

Exhibits to Subpart I

Exhibit A Self-Help Technical Assistance Grant Agreement.
Exhibit B Mutual Self-Help Housing Guidelines.
Exhibit B–1 Association Membership Agreement.
Exhibit C Evaluation Report of Self-Help Technical Assistance (TA) Grants.
Exhibit C–1 Instructions for Preparation of Evaluation Report of Self-Help Technical Assistance Grants.
Exhibit C–2 Breakdown of Construction Development for Determining Percentage Construction Completed.
Exhibit C–3 Pre-Construction and Construction Phase Breakdown.
Exhibit D Amendment to Self-Help Technical Assistance Grant Agreement.
Exhibit E Self-Help Technical Assistance Grant Predevelopment Agreement.
Exhibit F Guidance for Recipients of Self-Help Technical Assistance Grants.
Exhibit G Site Option Loan to Technical Assistance Grantees.

Subpart I—Self-Help Technical Assistance Grants

1944.401 Objective.

This subpart sets forth the policies and procedures and delegates authority for providing Technical Assistance (TA) funds to eligible applicants to finance programs of technical and supervisory assistance for self-help housing as authorized under section 523 of the Housing Act of 1949. This financial assistance may pay part or all of the cost of developing, administering, or coordinating programs of technical and supervisory assistance to aid needy very low- and low-income families in carrying out self-help housing efforts in rural areas. The primary purpose is to fund organizations that are willing to locate and work with families that otherwise do not qualify as homeowners. Generally these are families below 50 percent of median incomes, living in substandard housing, and/or lacking the skills to be good homeowners. Grantees will comply with the nondiscrimination regulation Subparf E of Part 1901 of this chapter which states that no person in the United States shall, on the grounds of race, color, national origin, sex, religion, marital status, mental or physical handicap, or age be excluded from participating in, be denied the benefits of, or be subject to discrimination in connection with the use of grant funds.

§ 1944.402 Grant purposes.

FmHA may contract or make a grant to an organization to:

(a) Give technical and supervisory assistance to eligible very low- and low-income families as defined in Exhibit C of Subpart A of this part, in carrying out self-help housing efforts.

(b) Assist other organizations to provide technical and supervisory assistance to eligible families.

(c) Develop a final application, recruit families and related activities necessary to participate under paragraph (a) of this section.

§ 1944.403 Definitions.

(a) *Agreement.* The Self-Help Technical Assistance Agreement which is a document signed by Farmers Home Administration (FmHA) and the grantee which sets forth the terms and conditions under which TA funds will be made available. (Exhibit A of this subpart).

(b) *Agreement period (or grant period).* The period of time for which an agreement is in force.

(c) *Date of completion.* The date when all work under a grant is completed or the date in the TA grant agreement, or any supplement or amendment to it, when Federal assistance ends.

(d) *Disallowed costs.* Those charges to a grant which FmHA determines cannot be authorized.

(e) *Equivalent units.* Equivalent units represent the "theoretical number of units" arrived at by adding the equivalent percentage of completion figure for each family in the self-help program (pre-construction and actual construction) together at any given date during program operations. The sum of the percentage of completion figures for all participant families represent the total number of "theoretical units" completed at any point in time. Equivalent units are useful in measuring progress during the period of the grant and are not a measurement of actual accomplishments.

(f) *Equivalent value of modest housing.* The equivalent value of modest housing is the typical cost of recently constructed (within the last 12 months) FmHA financed homes in the area plus the actual or projected cost of the site and site development. If no construction has taken place during the last twelve months, the value will be established by use of the Marshall and Swift cost handbook or a similar type of handbook. This value is established by FmHA.

(g) *Mutual self-help.* The construction method by whcih participating families organized in groups of 4 to 10 families utilize their own labor to reduce the construction cost of their homes. Participating families complete construction work on their homes by an exchange of labor with one another. The mutual self-help method must be used for new construction unless an exception is obtained from the National Office under § 1944.427 of this subpart.

(h) *Organization.*

(1) A State, political subdivision, or public nonprofit corporation (including Indian Tribes or Tribal corporations); or

(2) A private nonprofit corporation that is owned and controlled by private persons or interests and is organized and operated for purposes other than making gains or profits for the corporation and is legally precluded from distributing any gains or profits to its members.

(i) *Paticipating family.* Individuals and/or their families who agree to build homes by the mutual self-help method. Participants are families with low incomes who qualify for and will receive interest credits. Participating families must have the ability to furnish their share of the required labor input regardless of the age or sex of the head of household. The participating family must be approved for a section 502 RH Loan before the start of construction, have sufficient time available to assist in building their own homes, and show a desire to work with other families. Each family in the group must contribute labor on each other's homes to accomplish the mandatory tasks plus at least 20 percent of the other tasks values listed in Exhibit C–2 of this subpart.

(j) *Self-Help.* The construction method by which an individual family utilize their labor to reduce the construction cost of their home without an exchange of labor between participating families. Unless otherwise authorized by the District Director, this method is only funded for repair and rehabilitation type construction.

(k) *Sponsor.* An existing entity that is willing and able to assist an applicant, with or without charge, in applying for a grant and in carrying out responsibilities under the agreement. Examples of sponsors are local rural electric cooperatives, institutions of higher education, community action agencies and other self-help grantees. Also, when available, regional technical and management assistance contractors may

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qualify to serve as a sponsor at no charge.

(l) *Termination of a grant.* The cancellation of Federal assistance, in whole or in part, at any time before the date of completion.

(m) *Technical assistance.* The organizing and supervising of groups of families in the construction of their own homes including:

(1) Recruiting families who are interested in sharing labor in the construction of each other's homes and assisting such families in obtaining housing loans.

(2) Conducting meetings of the families to explain the self-help program and subjects related to home ownership, such as loan payments, taxes, insurance, maintenance, and upkeep of the property.

(3) Helping families in planning and developing activities that lead to the acquisition and development of suitable building sites.

(4) Assisting families in selecting or developing house plans for homes which will meet their needs and which they can afford.

(5) Assisting families in obtaining cost estimates for construction materials and any contracting that may be required.

(6) Providing assistance in the preparation of loan applications.

(7) Providing construction supervision and training for families while they construct their homes.

(8) Providing financial supervision to individual families with section 502 Rural Housing (RH) loans which will minimize the time and effort required by FmHA in processing borrower expenditures for materials and contract services.

(9) Assisting families in solving other housing problems.

§ 1944.404 Eligibility.

To receive a grant, the applicant must:

(a) Be an organization as defined in § 1944.403(h) of this subpart.

(b) Have the financial, legal, administrative, and actual capacity to assume and carry out the responsibilities imposed by the Agreement. To meet the requirement of actual capacity it must either:

(1) Have necessary background and experience with proven ability to perform responsibly in the field of mutual self-help or other business management or administrative ventures which of mutual self-help; or

(2) Be sponsored by an organization with background, experience, ability, which agrees in writing to help the applicant to carry out its responsibilities.

(c) Legally obligate itself to administer TA funds, provide adequate accounting of the expenditure of such funds, and comply with the Agreement and FmHA regulations.

(d) If the organization is a private nonprofit corporation, meet the following conditions:

(1) Be a corporation organized for the primary purpose of assisting very low- and low-income families to obtain adequate housing.

(2) Have a local membership base of at least 30 people.

(3) Adopt, if it is being newly organized, Articles of Incorporation and Bylaws, which include the purposes and powers of an eligible applicant under this subpart.

(4) Have a Board of Directors which consist of not less than five but generally not more than nine members.

(5) If currently engaged or plan to become engaged in activities other than the operation of the TA grant, provide documentation as to the percentage of salaries, cost of space, phones, etc., that will be charged to each activity.

§ 1944.405 Authorized use of grant funds.

(a) Payment of salaries of personnel as authorized in the Agreement.

(b) Payment of necessary and reasonable office expenses such as office rental, office utilities, and office equipment rental. The purchase of office equipment is permissible when the grantee determines it to be more economical than renting.

(c) Purchase of office supplies such as paper, pens, pencils, and trade magazines.

(d) Payment of necessary administrative costs including but not limited to items such as Worker's Compensation, liability insurance, audit reports, travel and training, and employer's share of social security and health benefits.

(e) Purchase, lease, or maintenance of power or specialty tools such as a power saw, electric drill, sabre saw, ladders, and scaffolds, which are needed by the participating families. The participating families, however, are expected to provide their own hand tools such as hammers and handsaws.

(f) Funding a tax deferred pension plan for permanent employees. The organization's contribution, in any year, may not exceed 5 percent of the employee's salary or $2,000, whichever is less.

(g) Payment of reasonable fees for training of grantee personnel including board members. This may include the cost of travel and per diem to attend in or out-of-State training as authorized by the board of directors and, when necessary, for the employee to do the current job.

(h) Payment of services rendered by a sponsor or other organization after the grant is closed and when it is determined the sponsor can provide the necessary services which will result in an overall reduction in the cost of assistance. Typically, this will be limited to new grantees and an existing grantee for the period of time that its size or activity does not justify a full staff. A full staff is a full or part-time director, project worker, secretary-bookkeeper, and a construction supervisor.

(i) Payment of certain consulting and legal costs required in the administration of the grant if such service is not available without cost. This does not include legal expenses for claims against the Federal Government. (Legal costs that may be incurred by the organization for the benefit of the participating families may be paid with prior approval of the State Director).

(j) Payments of the cost of an accountant to set up an accounting system and perform audits that may be required.

(k) Payments of reasonable expenses of board members for attending regular or special board meetings.

§ 1944.406 Prohibited use of grant funds.

(a) Hiring personnel specifically for the purpose of performing any of the construction work for participating families in the self-help projects.

(b) Buying real estate or building materials or other property of any kind for participating families.

(c) Paying any debts, expenses, or costs which should be the responsibility of the participating families in the self-help projects.

(d) Paying for training of an employee which is beyond what is necessary for the employee to perform his or her current job or that would give him or her an advantage for future advancement.

(e) Paying costs (including salaries) that are not directly related to helping very low- and low-income families obtain housing consistent with the objectives of this program.

§ 1944.407 Limitations.

The amount of the TA grant depends on the experience and capability of the applicant and must be justified based on the number of families to be assisted. As a guide, the maximum grant amounts for any grant period will be limited to:

(a) An average TA cost per unit of no more than 12 percent of the cost of equivalent value of modest homes built in the area. (Upon request, the County Supervisor will provide the grantee the average cost of modest homes for the area); or

(b) An average TA cost per unit that does not exceed the difference between the equivalent value of modest homes in the area and the average mortgage of the participating families plus $1,000; or

(c) A TA cost that does not exceed an amount established by the State Director. The State Director may authorize a greater TA cost than paragraph (a) or (b) of this section when needed to accomplish a particular objective, such as requiring the grantee to serve very low-income families, remote areas, or similar situations; or

(d) A negotiated amount for repair and rehabilitation type proposals.

§ 1944.408 [Reserved]

§ 1944.409 Executive Order 12372.

The Self-Help Program is subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under Subpart J of Part 1940 of this chapter, "Intergovernmental Review of Farmers Home Administration Program Activities," (available in any FmHA office), new applicants for the Self-Help Program must submit their Statement of Activities to the State single point of contact prior to submitting their preapplication to FmHA. The name of the point of contact is available from the FmHA State Office.

§ 1944.410 Processing preapplications, applications, and completing grant dockets.

(a) *Form SF-424, "Application for Federal Assistance."* Form SF-424 in an original and one copy must be submitted by the applicant to the District Director. It will be used to establish communication between the applicant and FmHA, determine the applicant's eligibility, determine how well the project can compete with similar applications from other organizations and eliminate any proposals which have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application. In addition, the following information will be attached to and become a part of the preapplication:

(1) Complete information about the applicant's previous experience and capacity to carry out the objective of the agreement.

(2) If the applicant is already formed, a copy of or an accurate reference to the specific provisions of State law under which the applicant is organized; a certified copy of the applicant's Articles of Incorporation and Bylaws or other evidence of corporate existence; certificate of incorporation for other than public bodies; evidence of good standing from the State when the corporation has been in existence 1 year or more; the names and addresses of the applicant's members, directors, and officers; and, if another organization is a member of the applicant-organization, its name, address, and principal business. If the applicant is not already formed, attach copies of the proposed organizational documents as outlined in § 1944.404(d)(3) of this subpart.

(3) A current (less than 6 months) dated and signed financial statement showing the amounts and specific nature of assets and liabilities together with information on the repayment schedule and status of any debt owed by the applicant. If the applicant is being sponsored by another organization, the same type of financial statement also must be provided by the applicant's sponsor.

(4) A narrative statement which includes information about the amount of the grant funds being requested, area(s) to be served, need for self-help housing in the area(s), the number of self-help units proposed to be buit, rehabilitated or repaired during the agreement period, housing conditions of low-income families in the area and reasons why families need self-help assistance. Evidence should be provided that the communities support the activity and that there are low-income families willing to contribute their labor in order to obtain adequate housing. The pre-application may contain information such as census materials, local planning studies, surveys, or other readily available information which indicates a need in the area for housing of the type and cost to be provided by the proposed self-help TA program.

(5) A plan of how the organization proposes to reach very low-income families living in houses that are deteriorated, dilapidated, overcrowded, and/or lack plumbing facilities.

(6) A proposed budget which will be prepared on SF-4244 "Budget Information—Non-Construction Programs" will be completed to address applicable assurances as outlined in § 3015.205 of 7 CFR Part 3015. State and local Government will include an assurance that the grantee shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. The State and Local governments shall also comply with 7 CFR 3016.

(7) A preliminary survey as to the availability of lots and projected cost of the sites.

(8) A list of other activities the applicant is engaged in and expects to continue and a statement as to other sources of funding and whether it will have sufficient funds to asssure continued operation of the other activities for at least the period of the agreement.

(9) Whether assistance under paragraph (d) of this section is requested and a brief narrative identifying the need, amount of funds needed, and projected time period.

(b) *Preapplication review.* (1) The District Director, within 30 days of receipt of the preapplication, Form SF-424 and all other required information and material will complete a thorough review for completeness, accuracy, and conformance to program policy and regulations. Incomplete preapplications will be returned to the applicant for completion. The applicant should be given the name of the regional technical assistance contractor. The County Supervisor in the prospective county will be contracted as to the need for the program in the proposed area and if the necessary resources are available to the grantee. This will include a discussion of the number of 502 and 504 units that will need to be committed to the grantee and the potential work impact on the office during the grant period. If it is determined that the county office lacks the resources (either personnel or funds) to process all loan requests in a timely manner, the District Director must communicate this need to the State Director along with a recommended solution. (Lack of resources at the county level are not grounds to deny a request). After the District Director has determined that the preapplication is complete and accurate, the District Director will assemble the material in an applicant case file and forward it to the State Director. The case file, as a minimum, must contain the following:

(i) Form SF-424, "Application for Federal Assistance",

(ii) Original and one copy of Form FmHA 1940-20, "Request for Environmental Information," and

(iii) Eligibility recommendations.

(2) The State Director may, if needed, submit the organizational documents with any comments or questions to OGC for a preliminary opinion as to whether the applicant is or will be a legal organization of the type required by these regulations and for advice on any other aspects of the preapplication.

(3) The State Director, if unable to determine eligibility or qualifications with the advice of the OGC, may submit the preapplication to the National Office for review. The preapplication will contain all memoranda from OGC giving the results of its review. The State

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Director will identify in the transmittal memorandum to the National Office the specific problem and will recommend possible solutions and any information about the applicant which would be helpful to the National Office in reaching a decision.

(4) After an eligibility determination has been made—which should be completed within 30 days unless OGC is involved—the State Director will:

(i) If the applicant is eligible, contact the National Office as to the availability of funds or submit the proposal to the National Office for authorization if the requested amount exceeds the State Director's approving authority. If funds are available, the final review officer, either the State Director or the Assistant Administrator, Housing will issue a letter of conditions that the applicant must meet and direct the District Director to issue Form AD–622, "Notice of Preapplication Review Action."

(ii) If the applicant is determined not eligible, the State Director will direct the District Director to issue Form AD–622, "Notice of Preapplication Review Action."

(c) *Form AD–622, "Notice of Preapplication Review Action."* (1) If the applicant is eligible and after the State Director has returned the preapplication information and the executed original Form FmHA 1940–20 to the District Office, the District Director will, within 5 days, prepare and issue Form AD–622, "Notice of Preapplication Review Action." The original Form AD–622 will be signed and delivered to the applicant along with the letter of conditions, a copy to the applicant's case file, a copy to the County Supervisor, and a copy to the State Director.

(2) If the applicant is not eligible and after the State Director has returned the preapplication information, the District Director will within 5 days notify the applicant on Form AD–622. The notification will inform the applicant that an appeal of the decision may be made to the National Appeals Staff under Subpart B of Part 1900 of this chapter.

(3) If the applicant is eligible and no funds are available, the State Director will return the preapplication information to the District Director who will, within 5 days, notify the applicant on Form AD–622. The notification will explain the facts concerning the lack of funding and that FmHA will notify them when funding will be available. This is not an appealable decision.

(d) *Self-help technical assistance grant Predevelopment agreement.* If the grantee requested predevelopment assistance and the State Director determines that the applicant lacks the financial resources to meet the conditions of grant approval, a grant of up to $10,000 and for up to six months will be made in order for the applicant to provide what is required by paragraph (e) of this section. This is a one time grant and is available only after the letter of conditions has been issued. Denial of this assistance is an appealable decision under Subpart B of Part 1900 of this chapter.

(e) *Form SF–424, "Application for Federal Assistance."* The applicant will submit Form SF–424 in an original and one copy to the District Director. The application should provide a detailed proposal of its goals including:

(1) Names, addresses, number in household, and total annual household income of families who have been contacted by the applicant and are interested in participating in a self-help housing project. Community organizations including minority organizations may be used as a source of names of people interested in self-help housing.

(2) Proof that the first group of prospective participating self-help families have qualified for financial assistance from FmHA.

(3) Evidence that lots are optioned by the prospective participating self-help families for the first group. Evidence that lots are available for the remaining groups.

(4) Detailed cost estimates of houses to be built by the mutual self-help method. Plans and specifications should be submitted with the cost estimates.

(5) Proposed staffing need, including qualifications, experience, proposed hiring schedule, and availability of any prospective employees.

(6) Name, address, and official position of the applicant's representative or representatives authorized to act for the applicant and work with FmHA.

(7) Budget information including a detailed budget for the Agreement period based upon the needs outlined in the proposal. Standard Form 424A will be completed to furnish the budget information.

(8) Indirect or direct cost policy and proposed indirect cost rate developed in accordance with 7 CFR Part 3015, Uniform Federal Assistance Regulations, and 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

(9) Personnel procedures and practices that will be established or are in existence. Forms to be used should be submitted with the application.

(10) A proposed monthly activities schedule showing the proposed dates for starting and completing the recruitment, loan processing and construction phases for each group of participant families.

§ 1944.411 Conditions for approving a grant.

A grant may be approved for an eligible applicant when the conditions in the letter of conditions are met and the following conditions are present:

(a) The applicant has or can hire, or contract directly or indirectly with, qualified people to carry out its responsibilities in administering the grant.

(b) The applicant has met all of the conditions listed in § 1944.410(e) of this subpart.

(c) The grantee furnishes a signed statement that it complies with the requirements of the Departmental regulations found at 7 CFR Part 3015, Uniform Federal Assistance Regulations, and 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

(d) A resolution has been adopted by the board of directors which authorizes the appropriate officer to execute Exhibit A, "Self-Help Technical Assistance Grant Agreement," and Form FmHA 400–1, "Equal Opportunity Agreement."

(e) The grantee has fidelity bonding as covered in 7 CFR 3015 if a nonprofit organization, or, if a State and Local Government, to the extent required in 7 CFR 3016.

(f) The grantee has agreed by completing SF 424A, Assurances that it will establish a recordkeeping system that is certifiable by a certified public accountant that it adequately meets the Agreement.

(g) The grantee has established an interest bearing checking account on which at least two bonded officials will sign all checks issued and understands that interest earned in excess of $100 annually must be submitted to FmHA quarterly. (The use of minority depository institutions is encouraged.)

(h) The grantee has developed an agreement to be executed by the grantee and the self-help participants which clearly sets forth what is expected of each and has incorporated Exhibit C–2, "Breakdown of Construction Development," as a part of it which clearly shows what work is expected of the participating family.

§ 1944.412 Docket preparation.

When the application and all items required for the complete docket have been received, the District Director will thoroughly examine it to insure the application has been properly and accurately prepared and that it includes the required dates and signatures. The docket items will be assembled and distributed by the District Director in the following order:

Form No.	Name of form or document	Total No. of copies	Signed by applicant	Number for agreement docket	Copy for applicant
SF–424	Application for Federal Assistance	3	1	1–O&1–C	1–C
AD–622	Notice of Preapplication Review Action.	2		1–C	1–O
FmHA 1940–1	Request for Obligation of Funds	4	2	3–O&2–C	1–C
FmHA 400–4	Assurance Agreement	2	1	1–O	1–C
	Certified Copy Authorizing Resolution	1	1	1–O	
	Self-Help Technical Assistance Grant Agreement (Exhibit A).	2	1	1–O	1–C
	Any Personnel Forms to be used	2		1–O	1–C

O=Original.
C=Copy.

§ 1944.413 Grant approval.

(a) *Approval of grant.* Within 30 days of the grantee meeting the conditions of § 1944.411 of this subpart, the approving official will:

(1) Execute and distribute Form FmHA 1940–1 in accordance with the Forms Manual Insert (FMI).

(2) Prepare and distribute Form FmHA 071–1, "Project Information Card," in accordance with FmHA Instruction 2015–C (available in any FmHA State Office.)

(3) After the Finance Office acknowledges that funds are obligated, request an initial advance of funds on Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request," in accordance with the FMI. The amount of this request should cover the applicant's needs for the remainder of the month in which the grant is closed plus the next month. Subsequent advances will cover only a one month period.

(b) *Cancellation of an approved grant.* An approved grant may be canceled before closing if the applicant is no longer eligible, the proposal is no longer feasible, or the applicant requests cancellation. Cancellation will be accomplished as follows:

(1) The District Director will prepare Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation," according to the (FMI) and send it to the State Director with the reasons for cancellation. If the State Director approves the request, Form FmHA 1940–10 will be returned to the District Office for processing in accordance with the FMI.

(2) The District Director will notify the applicant of the cancellation and the right to appeal under Subpart B of Part 1900 of this chapter. If the applicant requested the cancellation, no appeal rights are provided, but the applicant will still be notified of the cancellation.

(c) *Disapprovol of grant.* If a grant is disapproved after the docket has been developed, the approving official will state the reason on the original Form FmHA 1940–1, or in a memorandum to the District Director. The District Director will notify the applicant in writing of the disapproval and the reason for disapproval. Also, the notification will inform the applicant of its appeal rights under Subpart B of Part 1900 of this chapter.

§ 1944.414 [Reserved]

§ 1944.415 Grant approval and other approving authorities.

(a) The State Director is authorized to approve or disapprove TA grants under this subpart. For a grant in excess of $300,000, or in the case of a grant amendment when the amount of the grant plus any unexpended funds from a previous grant will exceed $400,000, prior written consent of the National Office is required. In such cases, the docket along with the State Director's recommendations must be submitted to the National Office for review.

(b) The State Director may approve a grant not to exceed $10,000 to an eligible organization under § 1944.410(d) of this subpart. This grant must be limited to 6 months and funds must be used for the development of the final application, family recruitment, and related activities.

(c) The authority to contract for services is limited to the Administrator of FmHA.

(d) Monthly expenditures of the grantee will normally be approved by the District Director unless:

(1) The grantee operates in only one county, in which case the authority may be delegated to the County Supervisor.

(2) The grantee operates in more than one FmHA District, in which case the State Director will designate the approving official.

(3) The grantee operates in more than one State Director's jurisdiction, in which case the Administrator will designate the approving official.

(4) The expenditure is under contract authority, in which case the Contracting Official Representative will approve the monthly expenditure.

§ 1944.416 Grant closing.

The grant is closed on the date the Agreement is executed as defined in § 1944.403(a) by the applicant and the government. Funds may not be advanced prior to the signing of the Agreement. The District Director or Assistant District Director are authorized to execute the Agreement for the Farmers Home Administration. Person(s) authorized by resolution may sign for the applicant.

1944.417 Servicing actions after grant closing

FmHA has a responsibility to help the grantee be successful and help the grantee avoid cases of fraud and abuse. Servicing actions also include correlating activities between the grantee and FmHA to the benefit of the participating families. The amount of servicing actions needed will vary in accordance with the experience of the grantee, but as a minimum the following actions are required:

(a) Monthly, the grantee will provide the District Director with a request for additional funds on Form SF–270, "Request for Advance or Reimbursement." This request need only show the amount of funds used during the previous month, amount of unspent funds, projected need for the next 30 days, and written justification if the request exceeds the projected need for the next 30 days. This request must be in the District Director's office fifteen days prior to the beginning of the month. Upon receipt of the grantee's request, the District Director will:

(1) If the request appears to be in order, process Form FmHA 440–57 so that delivery of the check will be possible on the first of the next month.

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(2) If the request does not appear to be in order, immediately contact the grantee to resolve the problem. After the contact:

(i) If the explanation is acceptable, process Form FmHA 440–57 so delivery may be possible by the first of the next month, or

(ii) If the explanation is not acceptable, request the amount of funds that appear reasonable for the next 30 days on Form FmHA 440–57. The unapproved funds request will be held in abeyance until further explanation is received and then either disapproved or added to the next month's request.

(b) Quarterly, the grantee will submit Exhibit C of this subpart (Evaluation Report of Self-Help Technical Assistance Grants) in an original and three copies to the County Supervisor on or before January 15, April 15, July 15 and October 15 which will verify its progress toward meeting the objectives stated in the Agreement and the application. The County Supervisor will immediately complete the County Office Review part and forward the report to the District Office. After Exhibit C is received in the District Office a meeting should be scheduled between the grantee, District Director, and the County Supervisor since this is an opportune time for both the grantee and FmHA to review progress to date and make necessary adjustments for the future. This meeting is required if the grantee was previously identified as a problem grantee or will be identified as a problem grantee at this time. Regardless of whether a meeting will be held, the following will be done:

(1) Exhibit C and other information will be evaluated to determine progress made to date. The District Director will comment on Exhibit C as to whether the grantee is ahead or behind schedule in each of the following areas:

(i) *Assisting the projected number of families.*

(ii) *Serving very low-income applicants.* Is the grantee reaching a minimum of 40 percent very low-income families with each group?

(iii) *Equivalent units (EUs).* Is the number of EUs completed representative of lapse in time of the grant? For example, if 25 percent of the grant period has elapsed, are 25 percent of the number of EUs completed?

(iv) *Labor contributions by the family.* Are the families working together and are they completing the labor tasks as established on Exhibit C–2?

(v) *Use of grant funds.* Are grant costs within the limits defined in § 1944.407 of this subpart?

(2) The District Director will submit Exhibit C to the State Director who will evaluate the quarterly report along with the District Director's comments. If the State Director determines the grantee is progressing satisfactorily, the State Director will sign and forward Exhibit C to the National Office. However, if the State Director determines the grantee is not performing as expected, the State Director will notify the grantee that they have been classified a "High Risk" grantee. The notice will specify the deficiencies and inform the grantee of proposed remedies for noncompliance. If the grantee is a nonprofit organization Subpart N, Grant and Subgrant Closeout, Suspension and Termination, of 7 CFR 3015 will apply and for State and Local Governments, §§ 3016.43 and 3016.44 of Subpart C, Post-Award Requirements, of 7 CFR 3016 will apply. The State Director will have to have the written authorization of the National Office prior to implementing any closeout, suspension and termination actions due to noncompliance. The notice will advise the grantee the FmHA is available to assist and provide the name and address of an organization that is under contract with FmHA to assist them. The State Director will forward a copy of Exhibit C, District Directors comments, and the reasons for classifying them as "High Risk" to the National Office, Single Family Housing, Special Programs Branch. When the period of time provided for corrective action has expired, an assessment will be made of the progress by the grantee toward correcting the situation. If the State Director determines:

(i) The situation has been corrected or reasonable progress has been made toward correcting the situation, the "High Risk" status will be lifted and the grantee so notified.

(ii) The situation has not been corrected but it is correctable if additional time is granted, an extension will be issued.

(iii) The situation has not been corrected and it is unlikely to be corrected if given additional time, the grant will be terminated under § 1944.426(b)(1) of this subpart.

§ 1944.418 [Reserved]

§ 1944.419 Final grantee evaluation.

Between the 18th and 24th month of the grant period, an evaluation of the grantee will be conducted by FmHA. The State Director may use FmHA employees or an organization under contract to FmHA to provide the evaluation. The evaluation is to determine how successful the grantee was in meeting goals and objectives as defined in the agreement, application, this regulation, and any amendments.

(a) This is a quantitative evaluation of the grantee to determine if it met its goals in:

(1) Assisting the projected number of families in obtaining adequate housing.

(2) Meeting the goal of assisting very low-income families.

(3) Meeting the family labor requirement in § 1944.411(h) and Exhibit C–2 of this subpart.

(4) Keeping costs within the guide set in § 1944.407, and

(5) Meeting other objectives in the Agreement.

(b) The evaluation is a narrative addressed to the State Director with a copy to the National Office, Single Family Housing Processing Division. It will be in 3 parts, namely; findings, recommendations, and an overall rating. The rating will be either unacceptable, acceptable, or outstanding, as follows:

(1) Outstanding if the grantee met or exceeded all of the goals in paragraph (a) of this section.

(2) Acceptable if the grantee met or exceeded all of the goals as defined in paragraph (a) except two, or

(3) Unacceptable if the grantee failed to obtain an acceptable rating.

(c) After the State Director has reviewed the evaluation, a copy will be mailed to the grantee. The grantee may request a review of the evaluation with the District Director. This review is for clarification of the material and to dispute the findings if they are known to be wrong. The rating is not open for discussion except to the extent it can be proven that the findings do not support the rating. If this is the case, the District Director will file an amendment to the State Director.

§ 1944.420 Extension or revision of the grant agreement.

The State Director may authorize the District Director to execute on behalf of the Government Exhibit D of this subpart, "Amendment to Self-Help Technical Assistance Grant Agreement," at any time during the grant period provided:

(a) The extension period is for no more than one year from the final date of the existing Agreement,

(b) The need for the extension is clearly justified,

(c) If additional funds are needed, a revised budget is submitted with complete justification, and

(d) The grantee is within the guidelines in § 1944.407 of this subpart or the State Director determines that the best interest of the government will be served by the extension.

§ 1944.421 Refunding of an existing grantee.

Grantees wishing to continue with self-help efforts after the end of the current grant plus any extensions should file Form SF–424, "Application For Federal Assistance," in accordance with § 1944.410(e). It is recommended that it be filed at least 6 months before the end of the current grant period. Funds from the existing grant may be used to meet the conditions of a new grant provided the area to be served is the same geographic area, as defined in the current grant. In addition to meeting the conditions of an applicant as defined in § 1944.411 of this subpart, the grantee must also have received or will receive an acceptable rating on its current grant unless an exception is granted by the State Director. The State Director may grant an exception to the rating if it is determined that the reasons causing the previous unacceptable rating have been removed or will be removed with the approval of this grant.

§ 1944.422 Audit and other report requirements.

The grantee must submit an audit to the appropriate FmHA District Office annually (or biannually if a State or local government with authority to do a less frequent audit requests it) and within 90 days of the end of the grant period or termination of the grant. The audit, conducted by the grantee's auditors, is to be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS), using the publication, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions," developed by the Comptroller General of the United States in 1981, and any subsequent revisions. In addition, the audits are also to be performed in accordance with 7 CFR Part 3015, Uniform Federal Assistance Regulations and 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and FmHA requirements as specified in this subpart.

(a) *Nonprofit organizations and others.* These organizations are to be audited in accordance with FmHA requirements, and 7 CFR Part 3015, Uniform Federal Assistance Regulations. These requirements also apply to public hospitals, public colleges, and universities if they are excluded from the audit requirements of paragraph (b) of this section.

(1) An audit conducted by the grantee's auditor shall be supplied to the FmHA District Director as soon as possible but in no case later than ninety (90) days following the period covered by the grant agreement.

(2) Auditors shall promptly notify USDA OIG Regional Inspector General and the FmHA District Office, in writing, of any, indication of fraud, abuse, or illegal acts in grantees use of grant funds or in the handling of borrowers accounts.

(3) Nonprofit organizations that receive less than $25,000 a year in Federal financial assistance need not be audited.

(b) *State and local governments and Indian tribes.* These organizations are to be audited in accordance with this subpart and 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments of the audits being forwarded by the grantee to the FmHA District Director and the appropriate Federal cognizant agency. "Cognizant agency" means the Federal agency assigned by OMB Circular A–128. Within the Department of Agriculture (USDA), the OIG shall fulfill cognizant agency responsibilities. Smaller grantees not assigned a cognizant agency by OMB should contract the Federal agency that provided the most funds. When USDA is designated as the cognizant agency or when it has been determined by the borrower that FmHA provided the major portion of Federal financial assistance, the State Director will contact the appropriate USDA OIG Regional Inspector General. FmHA and the borrower shall coordinate all proposed audit plans with the appropriate USDA OIG.

(1) State and local governments and Indian tribes that receive $25,000 or more a year in Federal financial assistance shall have an audit made in accordance with 7 CFR Part 3016.

(2) State and local and Indian tribes that receive less than $25,000 a year in Federal financial assistance shall be exempt from 7 CFR Part 3016.

(3) Public hospitals and public colleges and universities may be excluded by the State Director from OMB Circular A–128 audit requirements. If such entities are excluded, audits shall be made in accordance with paragraph (a) of this section.

§ 1944.423 Loan packaging and 502 RH application submittal.

A grantee is required to assist 502 RH applicants in submitting their application for a rural housing loan. Loan packaging will be performed in accordance with Exhibit A of Subpart A of Part 1944 of this chapter, therefore, it is important that the grantee be trained at an early date in the packaging of rural housing loans. Typically this training should take place before the first applications are submitted to the County Office and before the grant is closed. A grantee should become very knowledgeable of FmHA's eligibility requirements but must understand that only FmHA can approve or deny an applicant assistance. A grantee should never place itself in a position where it appears to disagree with the eligibility decision of FmHA. However, the grantee may ask for clarification that may be helpful in working with future applicants. Grant funds may not be used to pay any expense in connection with an appeal that the applicant may file or pursue.

§ 1944.424 Dwelling construction and standards.

All construction will be performed in accordance with Subpart A of Part 1924 of this chapter. The planned work must meet the building requirements of Subpart A of Part 1944 of this chapter and meet the building codes as defined Subpart A of Part 1944 of this chapter and in any local codes. Building sites must conform to the requirements of Subpart C of Part 1924 of this chapter.

§ 1944.425 Handling and accounting for borrower loan funds.

Grantees will be required to administer borrower loan funds during the construction phases. The extent of their involvement will depend on the experience of the grantee and the amount of authority delegated to them by the District Director in accordance with § 1924.6(c) of Subpart A of Part 1924 of this chapter.

§ 1944.426 Grant closeout.

(a) *Grant purposes completed.* Promptly after the date of completion, grant closeout actions will be taken to allow the orderly discontinuance of grantee activity.

(1) The grantee will immediately refund to FmHA any balance of grant funds advanced that are not committed for the payment of authorized expenses as prescribed in § 1951.58(j) of FmHA Instruction 1951–B (available in any FmHA Office).

(2) The grantee will furnish Form SF–269A (Financial Status Report) to FmHA within 90 days after the date of completion of the grant. All other financial, performance, and other reports required as a condition of the grant also will be completed.

(3) After the grant closeout, FmHA retains the right to recover any disallowed costs which are discovered as a result of the final audit. Subpart M

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of Part 1951 of this chapter will be used by FmHA to recover any unauthorized expenditures.

(4) The grantee will provide FmHA an audit conforming to those requirements established in this part, including audits of self-help borrower accounts.

(5) Upon request from the recipient, any allowable reimbursable cost not covered by previous payments shall be promptly paid by FmHA.

(b) *Grant purposes not completed.*

(1) *Notification of terminotion.* The State director will promptly notify the grantee and the National Office in writing of the termination action including the specific reasons for the decision and the effective date of the termination. The notification to the grantee will specify that if the grantee believes the reason for the proposed termination can be resolved, the grantee should, within 15 calendar days of the date of this notification, contact the State Director in writing requesting a meeting for further consideration. The meeting will be an informal proceeding at which the grantee will be given the opportunity to provide whatever additional information it believes should be considered in reaching a decision concerning the case. The grantee may have an attorney or any other person present at the meeting if desired. Within 7 calendar days of the meeting, the State Director will determine what action to take.

(i) If the State Director determines that termination is not necessary, the grantee will be informed by letter along with the District Director.

(ii) If the State Director determines that termination of the grant is appropriate, he/she will promptly inform the grantee by the use of Exhibit B–3 of Subpart B of Part 1900 of this chapter.

(2) *National Office review.* (i) Upon receipt of a request from a grantee that the decision of the State Director be reconsidered, the National Office will make a preliminary decision concerning the continued funding of the grantee during the appeal period. Written notification of the decision will be given to the State Director and grantee.

(ii) The National Office will then obtain a comprehensive report on the matter from the State Office. This information will be considered together with any additional information that may be provided by the grantee.

(c) *Grant Suspension.* When the grantee has failed to comply with the terms of the agreement, the District Director will promptly report the facts to the State Director. The State Director will consider termination or suspension of the grant. When the State Director determines that the grantee has a reasonable potential to correct deficiencies the grant may be suspended. The State Director will request written authorization from the National Office to suspend a grantee. The suspension will adhere to 7 CFR Part 3015, Uniform Federal Assistance Regulations and 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

The grantee will be notified of the grant suspension in writing by the State Director. The State Director will also promptly inform the grantee of its rights to appeal the decision by use of Exhibit B–3 of Subpart B of Part 1900 of this chapter.

(d) *Grant Termination.* The State director may terminate the grant agreement whenever FmHA determines that the grantee has failed to comply with terms of the Agreement. The reasons for termination may include, but are not limited to, such problems as listed in paragraph (e)(3)(i) of the "Self-Help Technical Assistance Grant Agreement" (Exhibit A). The State Director may also withhold further disbursement of grant funds and prohibit the grantee from incurring additional obligations of grant funds with written approval of the National Office. FmHA will allow all necessary and proper costs which grantee could not reasonably avoid.

(1) *Termination for cause.* The grant agreement may be terminated in whole, or in part, at any time before date of completion, whenever FmHA determines that the grantee has failed to comply with terms of the Agreement. The State Director will notify the grantee in writing giving the reasons for the action and inform the grantee of its rights of appeal by use of Exhibit B–3 of Subpart B of Part 1900 of this chapter.

(2) *Termination for convenience.* FmHA or the grantee may terminate the grant in whole, or in part, when both parties agree that the continuation of the grant would not produce beneficial results. The two parties will agree in writing to the termination conditions including the effective date. No notice of rights of appeal will be issued by FmHA.

§ 1944.427 Grantee self-evaluation.

Annually or more often, the board of directors will evaluate their own self-help program. Exhibit F to this part is provided for that purpose. It is also recommended that they review their personnel policy, any audits that may have been conducted and other reports to determine if they need to make adjustments in order to prevent fraud and abuse and meet the goals in the current grant agreement.

§§ 1944.428–1944.450 [Reserved]

Exhibit A.—Self-Help Technical Assistance Grant Agreement

This Grant Agreement dated _____, 19____

is between_____

a nonprofit corporation ("Grantee"), organized and operating under_____

_____

(authorizing State statute)

and the United States of America acting through the Farmers Home Administration, Department of Agriculture ("FmHA").

In consideration of financial assistance in the amount of $_____ (called "Grant Funds") to be made available by FmHA to Grantee under section 523(b)(1)(A) of the Housing Act of 1949 to be used in (specify area to be served) _____ for the purpose of providing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts, Grantee will provide such a program in accordance with the terms of this Agreement and FmHA regulations.

Definitions

"Date of Completion" means the date when all work under a grant is completed or the date in the TA Grant Agreement, or any supplement or amendment thereto, on which Federal assistance ends.

"Disallowed costs" are those charges to a grant which the FmHA determines cannot be authorized.

"Grant Closeout" is the process by which the grant operation is concluded at the expiration of the grant period or following a decision to terminate the grant.

"Termination" of a grant means the cancellation of Federal assistance, in whole or in part, under a grant at any time prior to the date of completion.

Terms of Agreement

(a) This Agreement shall terminate _____ years from this date unless extended or sooner terminated under paragraphs (e) and (f) of this Agreement.

(b) Grantee shall carry out the self-help housing activity described in the application docket which is attached to and made a part of this Agreement. Grantee will be bound by the conditions set forth in the docket, 7 CFR Part 1944, Subpart I, and the further conditions set forth in this Agreement. If any of the conditions in the docket are inconsistent with those in the Agreement or Subpart I of Part 1944, the latter will govern. A waiver of any condition must be in writing and must be signed by an authorized representative of FmHA.

(c) Grantee shall use grant funds only for the purposes and activities specified in FmHA regulations and in the application docket approved by FmHA including the approved budget. Any uses not provided for in the approved budget must be approved in writing by FmHA in advance.

(d) If Grantee is a private nonprofit corporation, expenses charged for travel or per diem will not exceed the rates paid FmHA employees for similar expenses. If Grantee is a public body, the rates will be those that are allowable under the customary practice in the government of which Grantee is a part; if none are customary, the FmHA rates will be the maximum allowed.

(e) Grant closeout and termination procedures will be as follows:

(1) Promptly after the date of completion or a decision to terminate a grant, grant closeout actions are to be taken to allow the orderly discontinuation of Grantee activity.

(i) Grantee shall immediately refund to FmHA any uncommitted balance of grant funds.

(ii) Grantee will furnish to FmHA within 90 days after the date of completion of the grant a "Financial Status Report," Form SF–269 A. All financial, performance, and other reports required as a condition of the grant will also be completed.

(iii) Grantee shall account for any property acquired with technical assistance (TA) grant funds, or otherwise received from FmHA.

(iv) After the grant closeout, FmHA retains the right to recover any disallowed costs which may be discovered as a result of any audit.

(2) When there is reasonable evidence that Grantee has failed to comply with the terms of this Agreement, the State Director may determine Grantee as "high risk". "High risk" Grantee will be supervised to the extent necessary to protect the government's interest and to help Grantee overcome the deficiencies.

(3) Grant termination will be based on the following:

(i) *Termination for cause.* This grant may be terminated in whole, or in part, 90 days after a Grantee has been classified as "high risk" if the State Director determines that Grantee has failed to correct previous deficiencies and is unlikely to correct such items if additional time is allowed. The reasons for termination may include, but are not limited to, such problems as:

(A) Actual TA costs significantly exceeding the amount stipulated in the proposal.

(B) The number of homes being built is significantly less than proposed construction or is not on schedule.

(C) The cost of housing not being appropriate for the self-help program.

(D) Failure of Grantee to only use grant funds for authorized purposes.

(E) Failure of Grantee to submit adequate and timely reports of its operation.

(F) Failure of Grantee to require families to work together in groups by the mutual self-help method in the case of new construction.

(G) Serious or repetitive violation of any of the provisions of any laws administered by FmHA or any regulation issued thereunder.

(H) Violation of any nondiscrimination or equal opportunity requirement administered by FmHA in connection with any FmHA programs.

(I) Failure to establish an accounting system acceptable to FmHA.

(J) Failure to serve very low-income families.

(K) Failure to recruit families from substandard housing.

(ii) *Termination for convenience.* FmHA or Grantee may terminate the grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in case of partial termination, the portion to be terminated.

(4) To terminate a grant for cause, FmHA shall promptly notify Grantee in writing of the determination and the reasons for and the effective date of the whole or partial termination. Grantee will be advised of its appeal rights under 7 CFR Part 1900, Subpart B.

(f) An extension of this grant agreement may be approved by FmHA provided in its opinion, the extension is justified and there is a likelihood that the grantee can accomplish the goals set out and approved in the application docket during the period of the extension.

(g) Grant funds may not be used to pay obligations incurred before the date of this Agreement. Grantee will not obligate grant funds after the grant termination or completion date.

(h) As requested and in the manner specified by FmHA, the grantee must make quarterly reports, Exhibit C of this subpart (on 1/15, 4/15, 7/15 and 10/15 of each year,) and a financial status report at the end of the grant period, and permit on-site inspections of program progress by FmHA representatives. FmHA may require progress reports more frequently if it deems necessary. The Grantee must also comply with the audit requirements found in § 1944.422 of Subpart I of 7 CFR Part 1944, if applicable. Grantee will maintain records and accounts, including property, personnel and financial records, to assure a proper accounting of all grant funds. These records will be made available to FmHA for auditing purposes and will be retained by grantee for three years after the termination or completion of this grant.

(i) Title to personal property acquired with grant funds shall vest in the grantee, subject to the following: Grantee shall not sell, assign, lease, encumber, or otherwise dispose of such property or any interest in the property without the written consent of FmHA during the grant period. At FmHA's option if the grant is completed, terminated, or cancelled for any reason, Grantee may keep such personal property provided the State Director determines it is still needed to enable Grantee to continue a self-help housing program. Grantee may transfer all such personal property to another grantee approved by FmHA, convey the property manner approved by the State Director.

(j) Results of the program assisted by grant funds may be published by Grantee without prior review by FmHA, provided that such publications acknowledge the support provided by funds pursuant to the provisions of Title V of the Housing Act of 1949, 42 U.S.C. 1471, *et seq.*, and that five copies of each such publication are furnished to the local representative of FmHA.

(k) Grantee certifies that no person or organization has been employeed or retained to solicit or secure this grant for a commission, percentage, brokerage, or contingent fee.

(l) Grantee will comply with 7 CFR Part 1901, Subpart E which states that no person in the United States shall, on the grounds of race, religion, color, age, sex, marital status, national origin, or mental or physical handicap, be excluded from participating in, be denied the benefit of, or be subject to discrimination in connection with the use of grant funds.

(m) In all hiring or employment made possible by or resulting from this grant, grantee: (1) Will not discriminate against any employee or applicant for employment because of race, religion, color, sex, marital status, national origin, age, or mental or physical handicap, and (2) will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, marital status, national origin, or mental or physical handicap. This requirement shall apply to, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In the event Grantee signs a contract which would be covered by any Executive Order, law, or regulation prohibiting discrimination, Grantee shall include in the contract the "Equal Employment Clause" as specified by FmHA.

(n) It is understood and agreed by Grantee that any assistance granted under this Agreement will be administered subject to the limitations of Title V of the Housing Act of 1949 as amended, 42 U.S.C. 1471 *et seq.*, and related regulations, and that rights granted to FmHA in this Agreement or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the assistance, and protect FmHA's financial interest.

(o) Grantee will maintain a code or standards of conduct which will govern the performance of its officers, employees, or agents. Grantee's officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from suppliers, contractors, or others doing business with the grantee. To the extent permissible by State or local law, rules, or regulations such standards will provide for penalties, sanctions, or other disciplinary actions to be taken for violations of such standards.

(p) Grantee shall not hire or permit to be hired any person in a staff position or as a participant if that person or a member of that person's immediate household is employed in an administrative capacity by the organizaiton, unless waived by the State Director. (For the purpose of this section, the term "household" means all persons sharing the same dwelling, whether related or not).

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(q) Grantee's board members or employees shall not directly or indirectly participate, for financial gain, in any transactions involving the organization or the participating families. This includes activities such as selling real estate, building material, supplies, and services.

(r) Grantee will retain all financial records, supporting documents, statistical records, and other records pertinent to this agreement for 3 years.

By _____
(Signature)

_____
(Title)

Grantee

By _____
(Signature)

_____
(Title)

Farmers Home Administration

Exhibit B.—Mutual Self-Help Housing Guidelines

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Introduction
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Introduction

How to give low-income rural people an opportunity to have a decent home of their own is a major challenge in rural America. To help such persons have an adequate home at a cost they can afford, the Farmers Home Administration (FmHA) makes Rural Housing (RH) loans to individual persons to enable them to participate in a mutual self-help housing project. This program is designed to help families, that otherwise do not qualify as homeowners, work together to build modest homes of their own.

Eligible applicants may obtain rural housing loans to buy materials, pay for labor and contract costs required for work on their own homes, and if necessary, buy a building site. Families helping each other will provide most of the construction labor. The exchange of labor, without a cash cost to the families, is the key to the mutual self-help housing program. There also may be a savings in the cost of materials purchased. This use of family labor for cash can reduce the cost of homes enough to bring the price of a modest home within reach of very low-income rural families.

Leadership and Supervision

The grantee will provide the leadership and supervision of the families. FmHA will determine who is eligible to participate and receive a Rural Housing loan.

Rural housing loans will be made by FmHA to those who participate in a self-help housing group and who:

1. Meet the low or very low-income requirements in Exhibit C to (available in any FmHA office) Subpart A of part 1944 of this chapter.
2. Are creditworthy by FmHA standards and can comply with all other eligibility requirements for rural housing loans.
3. Desire to build a home of their own that is modest in design, structurally sound, and low in cost.

The following basic conditions are essential to the success of a self-help housing venture and must be provided by the grantee:

1. A sincere spirit of cooperation on the part of all participants.
2. Competent leadership and technical supervision.
3. A complete understanding of the responsibilities involved in Mutual Self-Help.
4. Adequate supervision of participants at times convenient for the families to do the work.
5. Development of sufficient skills among the members of the group to do the basic construction tasks as outlined in Exhibit C–2 of this subpart.
6. Four to 10 families who can and are willing to work together satisfactorily.

Organization and Agreements

An understanding must be reached on important items such as when the individuals in the group will be available to work, the amount of work to be performed, the number to be involved in the various work groups and the amount of time each will spend working on the homes. The group will develop a written agreement which is binding upon all members signing it. Exhibit B–1, Membership Agreement, is a suggested form of such an agreement. All participating members will sign the Membership Agreement and each applicant will be given a copy. If a document is used which is different than Exhibit B–1, it must be reviewed and approved by FmHA for legal adequacy and compliance with applicable State laws and FmHA regulations.

Preconstruction Meetings

The successful conduct of a mutual self-help housing program requires a series of meetings with those participating. These meetings are to discuss the planning, construction, and maintenance of a home, the responsibilities of home ownership, and the requirements for a FmHA rural housing loan. These meetings also familiarize the applicants with the self-help approach, develop mutual confidences among participants and develop the interest of community leaders in the project.

The actual number of meetings held will depend on the rate at which the group progresses toward reaching a full understanding of the responsibilities involved. Experience indicates that from 8 to 10 meetings are needed. Local people should be used to discuss appropriate subjects in the meetings. This will help in making the local community aware of the self-help program, and also help obtain local acceptance and support for the project list of subjects to be discussed.

The first meeting should be explanatory in nature. The grantee should discuss the basic principles involved in mutal self-help housing, together with a brief explanation of the purposes and limitations of and the requirements for rural housing loans including loan payments, taxes, insurance, and maintenance. The members of the group should be considering a name for the organization and the persons best suited for the various positions in order that the officers and committees can be selected at the next meeting.

At the second meeting, an association should be formed and the officers and committees selected. They might include the following:

1. President
2. Vice-President
3. Secretary-Treasurer
4. Labor Manager
5. Purchasing Committee
6. Program Committee

Additional meetings are essential, but the order in which the subjects are presented or the number of subjects included in any meeting may vary. The following topics are suggested for a series of meetings.

1. *Site Planning and Building Codes.* An architect, code official, or a good builder could be invited to discuss factors in selecting house size, safety, and health code requirements.
2. *Plans and Specifications.* The group will probably have questions and need individual help in making decisions concerning plans and specifications for their homes. The construction supervisor should help each applicant develop suitable plans that will meet the household's individual need and the requirement of § 1944.16 of Subpart A of 7 CFR Part 1944.
3. *Cost of Materials.* The purchasing committee will review prices of materials and contract work. At one of the last meetings to be held before the construction starts, the purchasing committee should report on its recommendations for buying materials and awarding contracts.
4. *Taxes.* A discussion of the method of tax appraising could be given by the local tax assessor including an estimate of expected taxes on the proposed houses.
5. *Insurance.* A local insurance agent may be asked to speak on types of insurance policies available such as fire and extended coverage, household policies, and liability insurance.
6. *Mortage Requirements.* The grantee should discuss the FmHA mortgage and related requirements. A local attorney might be asked to discuss other legal aspects of the program.
7. *Maintenance Costs.* The construction supervisor should discuss the importance of proper maintenance for a home. They should emphasize how money spent for maintenance improves appearance, helps maintain value and saves money in the long run.
8. *Money Management.* The grantee discuss the necessity of following the basic principles of money management such as keeping records, following a budget, and not overspending on non-essentials.
9. *Labor Sharing Arrangement.* The group needs to reach an understanding as to how the members will share labor, how records will be kept of time worked, how to make sure that labor will be exchanged on a basis that is fair to all members and how to evidence and record these decisions.
10. *Use of Tools.* One or more of the meetings should include demonstrations and training by the construction supervisor of the safe and proper use of tools. Special attention should be given to the use of basic tools such as level, square, rule, saw, and any power tools that might be used in the construction.
11. *Construction and Work Procedures.* The authority and duties of the construction supervisor will be discussed in detail. The procedures for actual construction will be discussed including labor sharing, work teams, order of development, function of committees, time reporting for work completed and future hours available.
12. *Ground Breaking Plans.* The final preconstruction meeting should be more of a social get-together than a business meeting. This is also the logical time to plan a ground breaking ceremony for the day the loans are closed.

Construction

The basic work is performed, largely on a labor exchange basis, by the participating families under the guidance of the construction supervisor.

The group may, depending on the skills of the individuals, plan to do as much of the work as possible such as installing kitchen cabinets and equipment, excavating for basements, and dry-wall finishing. Highly skilled or specialized jobs will be contracted when such services are not available in the group.

Work should start on all houses and each stage of construction be finished on all before starting the next stage of construction on any house, to the extent with good construction practices, except as provided in paragraph 3, Labor Exchange Agreement of the Membership Agreement (Exhibit B–1).

To effect savings, materials for all the houses may be purchased from the one or several suppliers who offer the lowest prices. Also, all contracts for members of the group may be awarded to the same contractors. To illustrate, the plumbing contractor offering the lowest price ordinarily should perform the plumbing for all of the dwellings.

Each borrower will pay the material supplier for materials used, and the contractor for work done, on his/her own home. All deliveries of materials will be itemized separately for each home. The grantee, after considering the suggestions of the purchasing committee, will recommend the suppliers from whom materials will be purchased and the contractors to whom the contracts will be awarded.

The construction supervisor will divide the group into work teams. Work teams should be organized on the basis of skills, compatability, and availability. For example, one team could lay out and pour footings and another team cold lay bricks. The third team could begin framing as soon as the foundation is ready.

A firm understanding will be reached that no changes in construction from the approved plans and specifications may be made without furnishing the County Supervisor with full cost figures and obtaining approval in advance. If any change results in a need for additional funds, they must be furnished by the borrower before approval. All homes should be finished at or about the same time and none should be occupied prior to completion of them all.

The Association should have brief meetings, at least once a week, to:

1. Report on performance and hours of work performed.
2. Settle any disagreements.
3. Plan work schedule and purchases for the coming week.

Exhibit B–1.—Association Membership Agreement

Association Membership Agreement

I/We understand that by signing this agreement I/we will become members in the _____ Association when we receive adequate credit to finance the home we intend to build. We have read the agreement or have had it read to us and agree to comply with all its provisions.

Purpose

The purpose of this association is to provide a way whereby each member can help his/herself and every other member to build his/her house.

Membership

Membership will be limited to those persons who:

1. Do not own an adequate home;
2. Are willing to work with the other members of the Association in building their homes;
3. Have a commitment to obtain financing for the cash cost of their home; and
4. Sign the Membership Agreement.

Applicants and co-applicants must both sign the Membership Agreement. As used in the agreement the term "Applicant" means both applicant or co-applicant when both sign the agreement, or the person signing when only one signs.

Voting Rights

Each household has one vote in the election of officers and all other matters involving a decision by the membership.

Officers

The officers of the Association will be a President, Vice-President and a Secretary-Treasurer. Each will be elected, at a meeting, by a majority vote and will continue to hold office unless the officer resigns, dies, is incapacitated, or is removed by vote of two-thirds of all the members at a called meeting for the purpose of considering such removal. The duties of the officers will be as follows:

The President will:

1. Call membership meetings and officers' meetings;
2. Preside over all meetings;
3. Work closely with the construction supervisor; and
4. See that committees and members carry out their responsibilities in connection with mutual self-help projects.

The Vice-President will:

1. Act for the President in the President's absence, and
2. Be chairman of the Program Committee.

The Secretary-Treasurer will:

1. Keep the minutes of each meeting.
2. Handle Correspondence of the Association.
3. Collect and handle, through a checking account in the Association's name, funds the organization may need. These may include items such as stationery, stamps, and record book.
4. Maintain other records of the Association at the direction of the President.

Appointed Committees and Positions

The Officers by majority vote will appoint the following from the membership:

1. A Labor Manager will assist the construction supervisor in keeping records of the tasks completed by each member and notify the construction supervisor as to the availability of members for work on the housing.
2. A Purchasing Committee of three members who will review prices and cost estimates obtained by the grantee for the houses to be built and recommend contractors and suppliers to be used by the members.
3. Two of the three members of the Program Committee. The third member will be the Vice-President, who will be chair-person. This committee will plan meetings and assist in obtaining outside speakers.

Meetings

Meetings of officers and meetings of members will be held as often as necessary to successfully complete the mutual self-help housing. Meetings may be called by the President when considered advisable and will be called by the President at the written request of not less than _____ member, at the request of the grantee or the Farmers Home Administration. Each officer or member will be notified at least three days before the meeting as to the time, date and place of each meeting by mail, telephone or by announcement at the preceding meeting.

Labor Exchange Agreement

Each member agrees to perform the task for the construction of houses of the other members of this Association in return for labor from other members in the actual construction of their house. The construction tasks to be performed are identified on a copy of Exhibit C–2 of this subpart and are part of this agreement.

The number of tasks performed by each member or by any other person for any applicant credit will be verified by the grantee. If any member because of death, illness, or injury is unable to make its full labor contribution personally or from other sources as required, that member may be excused to that extent from performing its labor agreement, if approved by a majority of the membership, and all the other members will assist such a member in completing its house and will contribute the additional amount of labor for all the houses which otherwise the stricken member would have furnished.

We agree to exchange labor on the following basis:

1. Equal time will be allowed for labor performed by members in the actual

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construction of the homes regardless of the type of work involved.

2. Time allowances for labor performed by persons other than members, will be determined by the grantee with the approval of the grantee.

3. A member may not work alone on the member's own house unless the job can be done alone and the consent of the construction supervisor has been obtained. However, the grantee may authorize persons to work on their own house when only interior painting, landscaping and general cleanup remain to be done.

4. The task performed will be reported by each worker to the construction supervisor each day. The construction supervisor will verify in a worksheet and credit the percent of task completed to that member's account.

General Agreement

We agree that:

1. The Association, by majority vote, will determine the supplier of materials and contractors for any skilled work. However, each member shall pay the cost of materials and contractor in connection with its own home.

2. The Association will collect cost of operation of the Association from members, not to exceed $_____ from each member.

3. The Association will act for the group in other matters related to the project when authorized by a majority of the members.

4. Property insurance will be obtained by the members as required by the Farmers Home Administration. Members also will obtain worker's compensation insurance as required by State law and public liability insurance against claims of others.

Dissolution

After a determination is made by the officers that the last house is completed and that all obligations of the Association are paid, upon majority vote of the members and with the consent of the Farmers Home Administration the Association will terminate.

Amendments

Amendments to this agreement may be made by a majority vote of the members, at a meeting called for the announced purpose of considering amendments, to take effect upon approval by the Farmers Home Administration District Director; but no amendments may decrease the rights or increase the liability of any member without such member's consent.

Membership Termination

We understand that this membership may be terminated under the following conditions:

1. Failure to provide the required labor to perform the identified task.

2. Failure to comply with the terms of this agreement.

3. Failure to cooperate fully with other members of the association in the mutual self-help housing program.

4. Voluntary withdrawal from association.

Cause for termination may be recommended by:

1. The majority of the association members, or

2. The grantee.

However, a final termination must be in writing from the FmHA supervising official and will provide for an appeal pursuant to 7 CFR Part 1900, Subpart B. Upon the conclusion of the termination action FmHA may take action to liquidate the account.

Date _____
Signed _____
Date _____
Signed _____
Applicant
Co-applicant
Date _____
Signed _____
Date _____
Signed _____
Applicant
Co-applicant
Date _____
Signed _____
Date _____
Signed _____
Applicant
Co-applicant
Date _____
Signed _____
Grantee Representative

Exhibit C.—Evaluation Report of Self-Help Technical Assistance (TA) Grants

Evaluation for Quarter Ending: (1), 19____

1. a. Name of Grantee: (2)
   b. Address: (3)
   c. Area the Grant serves: (4)
2. a. Date of Agreement: (5) Time Extended (6)
3. a. Equivalent unit increase during quarter:
(7) _____
First Month
(8) _____
Second Month
(9) _____
Third Month
   b. Cumulative total number of Equivalent Units since beginning of Grant:
(10) _____
Total to Date
4. a. Method of Construction:
Stick built ____%, Manufactured ____%, Combined ____%
   b. Number of bedrooms per house built this Grant period:
____ 2 BR, ____ 3 BR, ____
   c. Household size this Quarter:
1 person ____, 2 persons ____, 3 persons ____
4 persons ____, 5 persons ____
   d. Number of houses under construction this Grant period but started during previous Grant period: ____
5. a. Number of houses proposed under this Grant: (11)
   b. Number of houses completed under this Grant: (12)
   c. Number of houses currently under construction: (13)
   d. Number of families in preconstruction: (14)
   e. Number of Construction Supervisors: (15)
   f. Number of TA employees: (16)
6. a. Average time needed to construct a single house: (17)
   b. Number of months between submission of Self-Help borrower's docket and approval/rejection: (18)
   c. Number of percentage of loan docket rejections during reporting period:
____ (19)
7. a. Did any of the following adversely affect the Grantee's ability to accomplish program objectives?

	Yes	No
TA Staff Turnover	____	____
FmHA Staff Turnover	____	____
Bad Weather	____	____
Loan Processing Delays	____	____
Site Acquisition and Development	____	____
Unavailable Loan/ Grant Funds	____	____
Lack of Participants	____	____
Communication between FmHA/ Grantee	____	____

8. Attach information concerning number of families contacted, number who have indicated a willingness to be a participating family, number of mutual self-help groups organized, progress on any construction started, and any problems relating to the operation of this grant.

I certify that the statements made above are true to the best of my knowledge and belief.

(20) _____
(Date)
(21) _____
(Title) GRANTEE
(22) _____
(Signature)

County Office Review

I have reviewed the above information which I have found to be substantially correct. Must be completed by County Office.

Comment: Must be completed (23)

Average appraisal value of units financed this Quarter: _____

Average amount loan per unit financed this Quarter: _____

(24) _____
(Date)
(25) _____
County Supervisor

District Office Review

Comment: Must be completed (26)

(27) _____
Date
(28) _____
District Director

State Office Review

Comments: Must be completed (29)

(30) _____
Date
(31) _____
State Office Representative

Exhibit C–1.—Instructions for Preparation of Evaluation Report of Self-Help Technical Assistance Grants

Exhibit C will be used by all Technical Assistance grantees obtaining self-help technical assistance grants. This attachment provides the grantee and FmHA a uniform method of reporting the performance progress of self-help projects. The TA Grantee will prepare an original and 4 copies of the attachment. The TA Grantee will sign the original and 3 copies and forward it to the local FmHA County Office. The TA Grantee will keep the unsigned copy for its records.

The evaluation report will be completed in accordance with the following:

1. Enter the date the quarter ends either March 31, June 30, September 30, or December 31 and the year.

2. Enter the full name of the TA Grantee organization.

3. Enter the complete mailing address of the TA grantee organization.

4. Enter the area served by the Grant.

5. Enter the date of the initial self-help technical assistance grant agreement.

6. Enter the time of any extension self-help technical assistance grant agreement(s).

7. Insert the number of EU's completed the first month of the quarter using steps 1, 2, and 3 of this Exhibit.

8. Insert the number of EU's completed the second month of the quarter by using steps 1, 2, and 3 of this Exhibit.

9. Insert the number of EU's completed the third month of the quarter by using steps 1, 2, and 3 of Exhibit.

10. Add items (14), (15), and (16) to the total from the previous quarterly report to obtain the cumulative total number of EU's. This total is the cumulative total number of EU's for the project.

11. Enter the number of house planned in the TA Grantee proposal(s).

12. Enter the number of houses completed and occupied since the beginning of the grant.

13. Enter the number of houses that are under construction at the end of this quarter.

14. Enter the number of families in the preconstruction phase.

15. Enter the total number of construction supervisor(s) paid with TA grant funds.

16. Enter the number of employees paid with TA grant funds including those listed in item 28.

17 Insert the average elapsed time needed per house from excavation to final inspection by FmHA to complete construction of a house. If no self-help homes have been completed by this grantee, use other projects or your best estimate as a guide.

18. Enter the number of months it takes on average to approve or reject a borrowers docket once it's submitted.

19. Enter number and percent of docket submitted and rejected this quarter.

20. Enter date of Exhibit submittal.

21. Insert title of the grantee or their authorized representative.

22. Signature of grantee or his/her authorized representative.

23. County Supervisor must answer questions concerning market value and loan amount and also should insert comments concerning progress of constuction, success of the project and any problems that the organization may have.

24. Insert date of County Supervisor's review.

25. Signature of County Supervisor.

26. Distict Director representative should insert his/her comments concerning items listed in § 1944.417(b)(1) of 1944–I.

27. Insert date of District Director review.

28. Signature of Distict Director or representative.

29. Insert State Office review.

30. Insert date of State Office review.

31. Signature of State Office representative.

Exhibit C–2.—Breakdown of Construction Development for Determining Percentage Construction Completed

	With slab on grade (percent)	With crawl space (percent)	With basement (percent)	Selected self-help tasks (X)
1. Excavation	3	5	6	
2. Footing, foundations, columns	8	8	11	
3. Floor slab or framing	8	4	4	
4. Subflooring	0	1	1	
5. Wall framing sheathing	7	7	6	(X)
6. Roof and ceiling framing, sheathing	6	6	5	(X)
7. Roofing	5	5	4	(X)
8. Siding, exterior trim, porches	7	7	6	(X)
9. Windows and exterior doors	9	9	8	
10. Plumbing—roughed in	3	2	3	
11. Sewage disposal	1	1	1	
12. Heating—roughed in	1	1	1	
13. Electrical—roughed in	2	2	2	(X)
14. Insulation	2	2	2	(X)
15. Dry wall or plaster	8	8	7	
16. Basement or porch floor, steps	1	1	6	
17. Heating—finished	3	3	3	
18. Flooring	6	6	5	
19. Interior carpentry, trim, doors	8	8	5	(X)
20. Cabinets and counter tops	1	1	1	(X)
21. Interior painting	4	4	3	(X)
22. Exterior painting	1	1	1	(X)
23. Plumbing—complete fixtures	4	4	3	
24. Electrical—complete fixtures	1	1	1	(X)
25. Finish hardware	1	1	1	(X)
26. Gutters and downspouts	1	1	1	(X)
27. Grading, paving, landscaping	3	3	3	(X) [2]
Total percent	100	100	100	

[1] Unless prohibited by local ordinance.
[2] Landscaping only.
(X) Mandatory Self-Help Tasks.

Name of T/A Grantee _____
Association Name _____
Date _____

Exhibit C–3.—Pre-Construction and Construction Phase Breakdown

I. General

This Exhibit will be used by FmHA and the grantee in determining grantee performance as required in § 1944.417(b) of this subpart.

II. Determining Technicol Assistance Cost Per Unit

A. Equivalent units are used to measure progress at any time during the period of the grant. It is necessary because self-help grantees have several groups of families in various stages of progress during the period of the grant. The following formula has been developed to provide a more accurate method of determining progress.

Formula		
Phase breakdown	Value of each phase (percent)	Cumulative (percent)
Pre-Construction:		
Phase I	10	10
Phase II	10	10
Construction:		
Phase III	80	21–100

B. Using the *Description of Phase Breakdown* as a guide, the project staff selects the total percentage pertinent to the stage and self-help group is in and multiplies that percentage by the number of families (units) in the group. The result is the *equivalent number of units completed.* No credit may be given for Phase I, if the application is rejected. When this computation has been completed for each group that falls within Phase I–III, the total number of equivalent units is divided into the total grant funds *expended* to that date. The result is the TA cost per unit at that stage of the program's progress.

C. The definition of pre-construction and construction phases described are follows:

Pre-Construction

Phase I: Hold community meetings; conduct interviews; obtain house plans; prepare cost estimates; begin search for land; submit family applications to the Farmers, Home Administration (FmHA); FmHA runs credit check; applications. FmHA either approves or rejects.

Phase II: Organize an association of Section 502 RH eligible families; association conducts weekly meetings at which required FmHA forms are discussed and completed; house plans and land sites are selected; outside speakers explain and discuss taxes, insurance, how to keep a checking account, how interest is computed, home maintenance, decorating, and landscaping; etc.; completed loan dockets for each family are submited to FmHA. Family loan dockets are reviewed and recommendations made as to the loan amounts requested; the FmHA County Supervisor reviews family loan dockets; preliminary title search of each proposed building site is begun; requests loan check from Finance Office; when check arrives, final title search is made, loan closed, checking accounts opened, and construction begun.

Construction

The grantee will utilize Exhibit C–2 which outlines 27 construction tasks to determine the percentages of completed construction activities.

D. The computation of equivalent units and TA costs will be computed as follows:

Exhibit C will be used for recording the following information and construction in this example which starts January 1.

Step 1

Both the grantee and FmHA review the FmHA loan application records to determine the percentage of completion for each family in the preconstruction phase of the program. These are Phases I–III. Total these percentages to find the number of "Equivalent Units" (EU's) completed at that date during preconstruction. For example, if there are eight families in Group #2 and all have completed the 20 percent phase of preconstruction, then there would be 1.6 EU's in the pre-construction phase of the program as of that date. Each phase must be completed before it is considered in the calculation.

Step 2

Refer to the records of construction progress for families in the construction Phase III. As of that date, the director totals the percentage of completion figures for each family as followings:

Askew	.45
Whited	.40
Martinez	.40
Conzalez	.38
Sherry	.34
Duran	.33
Johnson	.13
Harvey	.31
	2.92 EU's

Total production in the construction phase is therefore 2.92 EI's as of that date.

Step 3

Add the pre-construction and construction subtotals together:

Pre-construction	1.60
Construction	2.92
Total EU's	4.52

This provides the total EU's of production during the first two months of operation. Steps 1, 2, and 3 will be used to complete Items 16, 17 and 18 of Exhibit C of this Subpart. (Evaluation Report of Self-Help Technical Assistance.)

III. Preparation

Compile Exhibit C of this Subpart in an original and four copies. The exhibit will be signed by the TA Grantee. Submit the original and three copies of the exhibit quarterly to FmHA County Office on or before January 15, April 15, July 15, and October 15, of each year for the quarters ending March 31, June 30, September 30, and December 31 of each year. The District Director will keep the original and forward two copies to the State Office. The State Office will forward one copy to the National Office. The State Office will prepare information concerning TA grants closed within 30 days of the end of a quarter on the next quarterly report.

Exhibit D—Amendment to Self-Help Technical Assistance Grant Agreement

This Agreement dated _____ 19 ____ between _____ a nonprofit corporation ("Grantee"), organized and operating under _____ (authorizing State Statute) and the United States of America acting through the Farmers Home Administration, Department of Agriculture ("FmHA"), amends the "Self-Help Technical Assistance Grant Agreement" between the parties dated _____ 19 ____, ("Agreement").

The Agreement is amended by providing additional financial assistance in the amount of _____ to be made available by FmHA to Grantee pursuant to section 523 of Title V of the Housing Act of 1949 for the purpose of assisting in providing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts; or

The Agreement is amended by changing the completion date specified in convenant 1 from _____ to _____ and by making the following attachments to this amendment: (List and identify proposal and any other documents pertinent to the grant.)

Agreed to this n_____ day of _____ 19____.

_____
(Name of Grantee)
By _____
(Signature)

_____
(Title)

United States of America
By _____
(Signature)

_____
(Title)

Farmers Home Administration

Exhibit E—Self-Help Technical Assistance Grant Predevelopment Agreement

This Grant Predevelopment Agreement dated, _____ 19____, is between

_____
(authorizing State statute) and the United States of America acting through the Farmers Home Administration, Department of Agriculture ("FmHA").

In consideration of financial assistance in the amount of $_____ "Grant Funds") to be made available by FmHA to Grantee under section 523(b)(1)(A) of the Housing Act of 1949 to be used in (specify area to be served)

_____
for the purpose of developing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts, Grantee will provide such a program in accordance with the terms of this Agreement and FmHA regulations.

Grant funds will be used for authorized purposes as contained in § 1944.410(d) of 7 CFR Part 1944, Subpart A, as necessary, to develop a complete program for a self-help technical assistance grant. This will include recruitment, screening, loan packaging and related activities for prospective self-help participants.

Agreed to this _____ day of _____ 19____.

_____
(Name of Grantee)
By _____
(Signature)

_____
(Title)

United States of America
By _____
(Signature)

_____
(Title)

Farmers Home Administration

Exhibit F.—Guidance For Recipients of Self-Help Technical Assistance Grants (Section 523 of Housing Act of 1949)

7 CFR Part 1944, Subpart I provides the specific details of this grant program. The following is a list of some functions of the grant recipients taken from this subpart. With the list are questions we request be answered by the recipients to reduce the potential for fraud, waste, unauthorized used or mismanagement of these grant funds. We suggest the Board of Directors answer these questions every six months by conducting their own review. Paid staff should not be permitted to complete this evalution.

A. Family Labor Contribution:

1. Does your organization maintain a list of each family and a running total of hours worked (when and on what activity)? Yes No
2. Are there records of discussions with participating families counselling them when the family contribution is falling behind? Yes No
3. Are there obstacles which prevent the family from performing the required tasks? Yes No

B. Use Use of Grant Funds:

1. Were grant funds used to pay salaries or other expenses of personnel not directly associated with this grant? Yes No
2. Were grant funds used to pay for construction work for participating families? Yes No
3. Were all purchases or rentals (item and cost) of office equipment authorized? Yes No
4. Are all office expenses authorized by Subpart I of Part 1944 of 7 CFR? Yes No
5. Was a record of long distance telephone calls maintained and was that log and telephone checked? Yes No
6. Was all travel and mileage incurred for official business properly authorized in advance? Yes No
7. Were mileage and per diem rates within authorized levels? Yes No
8. Were participating families charged for use of these tools, Yes No
9. Were grant funds expended to train grant personnel? Yes No
10. Was training appropriate for the individual trainee? Yes No
11. Were any technical or consultant services obtained for participating families? Yes No
12. Were the provided technical or consultant services appropriate in type and cost? Yes No

C. Financial Responsibilities:

1. Does each invoice paid by the grant recipient match the purchase order? Yes No
2. Does each invoice paid by the borrower and FmHA match the purchase order? Yes No
3. Were purchases made from the appropriate vendors? Yes No
4. Are the invoices and itemized statements totalled for materials purchased for individual families? Yes No
5. Is there a record of deposits and withdrawals to account for all loan funds? Yes No
6. Are checks from grant funds signed by the Board Treasurer and executive Director? Yes No
7. Are grant funds deposited in an interest bearing account? Yes No
8. Are checks from loan funds prepared by the grant recipient for the borrower's and FmHA's signature? Yes No
9. Are checks from loan funds accompanied by accurate invoices? Yes No
10. Are any borrower loan funds including interest, deposited in grantee accounts? Yes No
11. Are checks from loan funds submitted to FmHA more often than once every 30 days? Yes No
12. Is the reconciliation of bank statements for both grant and loan funds completed on a monthly basis? Yes No
13. If the person who issues the checks also reconciles them, does the Executive Director review this activity? Yes No
14. Are materials purchased in bulk approved by the Executive Director? Yes No
15. Was the amount of materials determined by both the Executive Director and Construction staff? Yes No
16. Were any participating families consulted about the purchase of materials? Yes No
17. Were savings accompliished by the bulk purchase method? Yes No
18. Did the Executive Director review the purchase order and the ultimate use of the materials? Yes No
19. Are materials covered by insurance when stored by grantee? Yes No

D. Reporting:

1. Are "Requests for Advance or Reimbursement" made once monthly to the FmHA District Office? Yes No
2. Has the grant recipient engaged a Certified Public Accountant (CPA) or CPA firm to review their operations on a regular basis: (Annually is preferable but every two years and at the end of the grant period are requirements)? Yes No
3. Are the quarterly evaluation reports submitted on time to the District Supervisor? Yes No

What, if any, problems exist that need to be corrected for effective management of the grant project?
Date _____

_____
President, Board of Directors
(Period covered by report _____)

ANSWER KEY

[The following answers should help you organization in assessing its vulnerability to fraud, waste, and abuse. You should take actions to correct practices that now generate an answer different from the key]

Question	Answer
A. 1	Yes.
A. 2	Yes.
A. 3	Yes.
B. 1	No.
B. 2	No.
B. 3	Yes.
B. 4	Yes.
B. 5	Yes.
B. 6	Yes.
B. 7	Yes.
B. 8	Yes.
B. 9	No.
B. 10	Yes.
B. 11	Yes.
B. 12	Yes.
C. 1	Yes.
C. 2	Yes.
C. 3	Yes.
C. 4	Yes.
C. 5	Yes.
C. 6	Yes.
C. 7	No.
C. 8	Yes.
C. 9	Yes.
C. 10	No.
C. 11	No.
C. 12	Yes.
C. 13	Yes.
C. 14	Yes.
C. 15	Yes.
C. 16	Yes.
C. 17	Yes.
C. 18	Yes.

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ANSWER KEY—Continued

[The following answers should help you organization in assessing its vulnerability to fraud, waste, and abuse. You should take actions to correct practices that now generate an answer different from the key]

Question	Answer
C. 19	Yes.
D. 1	Yes.
D. 2	Yes.
D. 3	Yes.

Exhibit G.—Site Option Loan to Technical Assistance Grantees

I. Objectives

The objective of a Site Option (SO) loan under Section 523(b)(1)(B) of Title V of the Housing Act of 1949 is to enable Technical Assistance (TA) grantees to establish revolving fund accounts to obtain options on land needed to make sites available to families that will build their own homes by the self-help method. An SO loan will be considered only when sites cannot be made available by other means including a regular Rural Housing Site (RHS) loan.

II. Eligibility Requirements

To be eligible for an SO loan, the applicant must be a TA grantee that is currently operating in a satisfactory manner under a TA grant agreement. If the SO loan applicant has applied for TA funds but is not already a TA grantee and its appears that the TA grant will be made, the SO loan may be approved but not closed until the TA Grant is closed.

III. Loan Purposes

Loans may be made only as necessary to enable eligible applicants to establish revolving accounts with which to obtain options on land that will be needed as building sites by self-help families participating in the TA self-help housing program. Loans will not be made to pay the full purchase price of land but only for the minimum amounts necessary to obtain an option from the seller. The option should be for as long as necessary but in no case should the option be for less than 90 days.

IV. Limitotions

(A) If the amount of an SO loan will exceed $10,000, the prior consent of the National Office shall be obtained before approval.

(B) The amount of the SO loan should not exceed 15 percent of the purchase price of the land expected to be under option at any one time, unless a higher percent is authorized by the State Director when other land is not available or the particular area requires more down payment than elsewhere or similar circumstances exist.

(C) Form FmHA 440–34, "Option to Purchase Real Property," will be used without modification in all cases for obtaining options under this subpart.

(D) The limitations of § 1822.266(b)(1) and (2) of Subpart F of Part 1822 of this chapter (FmHA Instruction 444.8, paragraph VI B(1) and (2)) concerning land purchase will apply to options purchased under this subpart.

V. Rates and Terms

(A) *Interest.* Loans will be made at an interest rate of 3 percent.

(B) *Repayment period.* Each SO loan will be repaid in one installment which will include the entire principal balance and accrued interest. The maximum repayment period for each SO loan will be the applicant's remaining TA grant funding period.

(1) A shorter repayment period will be established if SO funds will not be needed for the entire TA grant funding period.

(2) If a regular RHS loan is to be processed, the SO loan should be scheduled for repayment when RHS loan funds will be available to purchase the land and repay the amount of SO funds advanced on the option, unless SO loan funds will still be needed to purchase other options. Under no circumstances, however, will the repayment period exceed the applicant's remaining TA grant funding period.

VI. Processing Application

(A) *Form of application:* The application for assistance will be in the form of a letter to the Farmers Home Administration (FmHA) County Supervisor having jurisdiction over the area of the proposed site to be optioned. The letter will be signed by the applicant or its authorized representative and contain, as a minimum, the following information:

(1) A copy of the proposed option that shows a legal description of the land, option price, purchase price, and terms of the option. If more than one site is to be purchased, a schedule of the proposed options should be included.

(2) Information to verify that a regular RHS loan cannot be processed in time to secure the option.

(3) Proposed method repayment of the SO loan.

(4) Resolution from the applicant's governing body authorizing the application for an SO loan from FmHA.

(B) *Responsibility of the County Supervisor.* Upon receipt of an SO loan application, the County Supervisor will:

(1) Determine whether the applicant is eligible. If the applicant is not eligible, or the loan cannot be made for other reasons, the application may be rejected by the County Supervisor with the concurrence of the District Director. The reasons for the rejection should be clearly stated and provided, in writing to the applicant. The applicant will have the right to have the decision reviewed following the procedure established in Subpart B of Part 1900 of this chapter.

(2) Review and verify the accuracy of the information provided.

(3) Make an inspection and a memorandum appraisal of each proposed site "as is." The appraisal will include a narrative statement as to whether the site has been recently sold, verify that the seller is the owner of the property, and indicate whether the purchase price is acceptable based on the selling price of similar properties in the area.

(4) Indicate whether or not it appears that, considering the location and cost of development, adequate building sites can be provided at reasonable costs.

(5) If the option is for a tract of land on which 5 or more sites are proposed, the County Supervisor will forward to the District Director with recommendations as defined in § 1924.119 of Subpart C of Part 1924 of this chapter.

(6) If approval is recommended, prepare and have the applicant execute Form FmHA 1940–1, "Request for Obligation of Funds," for the amount needed. Copies of the form will be distributed as provided in the FMI.

(7) Forward the SO loan application and the applicant's TA application or TA docket to the State Director. The submission will include the appraisal report and the County Supervisor's comments and recommendations.

VII. Loan Approval Authority and State Office Actions

The State Director is authorized to approved SO loans developed in accordance with this Exhibit. The approval or disapproval of the loan will be handled in the same manner as provided in § 1822.272 of Subpart F of Part 1822 of this chapter (FmHA Instruction 444.8, paragraph XII). SO loans will be established in AMAS using Form FmHA 1944–51, "Multiple Family Housing Obligation Fund Analysis". The MIC transaction will be used to request a check for SO loans.

VIII. Loan Closing

(A) *General.* Loan closing instructions will be provided by the Office of the General Counsel (OGC) to assure that the Promissory Note is properly completed and executed. The County Supervisor may then close the loan.

(B) *Security for the loan.* The loan will be secured by a Promissory Note properly executed by the grantee using Form FmHA 440–16, "Promissory Note." A lien on the optioned real estate will not be taken.

(1) The "kind of loan" block on the note will read "SO loan."

(2) The note will be modified to show that the only installment on the loan will be the final installment.

(C) *Loan is closed.* The loan will be considered closed when the note is executed and the loan check delivered to the grantee.

IX. Establishment of SO loan Revolving Account

(A) Supervised bank accounts will not be used for SO loans.

(B) Grantee will deposit SO loan funds in a depository institution of its choice. The use of minority institutions is encouraged. Such funds will remain separate from any other account of the grantee and shall be established as a SO revolving account.

(C) Checks drawn on the revolving account will be for the sole purpose of purchasing land options and must be signed by at least two authorized officials of the grantee who have been properly bonded in accordance with §§ 1944.411 (e) and (g) of this subpart.

(D) Grantees will not expend funds for any options until the site and the option form have been reviewed and approved by the County Supervisor.

(1) Site option funds will not be left unused in the revolving account in excess of 60 days.

(2) If the funds are not used for the intended purpose within the 60 days specified above, the unused portion will be refunded on the account.

(E) When funds become available for repayment of the SO loan, such funds will be deposited in the revolving account for the purchase of additional site options if needed. If such funds are not needed to purchase more options, they will be applied on the SO loan.

X. Source of Funds

SO loans will be funded from the self-help housing land development fund.

Date: March 27, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–9606 Filed 4–24–89; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1306

Prescriptions; Extension of Comment Period

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking; extention of comment period.

SUMMARY: This will extend the comment period for the notice of proposed rulemaking published on March 16, 1989, 54 FR 11006, regarding an amendment to the requirements for the issuance of prescriptions to patients in Long Term Care Facilities (LTCF) and to the terminally ill. The comment period will now extend to May 25, 1989.

DATE: Comments will be accepted until May 25, 1989.

ADDRESS: Written comments should be submitted in quadruplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, State and Industry Section, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, (202) 633–1216.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 16, 1989 (54 FR 11006), a notice of proposed rulemaking was published to amend certain provisions of the regulations relating to prescriptions for Schedule II controlled substances. The proposal was designed to facilitate the issuance and filling of Schedule II prescriptions for individuals in a LTCF and individuals who are terminally ill. Several comments have been received in response to this notice. In addition, two organizations, the American Psychiatric Association and the National Association of State Controlled Substances Authorities, have requested that the comment period be extended so that more of their members may comment on the proposal. The Drug Enforcement Administration has determined that an extension of the comment period would be in the public interest. Accordingly, the comment period is hereby extended to May 25, 1989.

Dated: April 18, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 89–9839 Filed 4–24–89; 8:45 am]

BILLING CODE 4410–09–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3560–6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA proposes to approve a site-specific revision to the Indiana State Implementation Plan (SIP) for ozone. The revision, if finally approved, will provide for a daily weighted-average for the American Can Company (American Can) facility located in Hammond, Lake County, Indiana. This SIP revision will allow American Can to demonstrate compliance with the food and beverage can's end sealing lines through the use of a daily weighted-average. USEPA's action is based upon a February 26, 1986, State submittal and several amendments.

DATE: Comments on this revision and on the proposed USEPA action must be received by June 26, 1989.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886–6031, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street—26th Floor, Chicago, Illinois 60604.

Air Management Division, Indiana Department of Environmental Management, 105 South Meridian Street, Indianapolis, Indiana 46225.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:

Uylaine E. McMahan, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6031.

SUPPLEMENTARY INFORMATION: On February 24, 1986, and in subsequent submittals, the Indiana Air Pollution Control Board (Board) submitted to USEPA a request for a site-specific revision revising its ozone SIP. This revision consists of a daily weighted-average for the can coating lines located at American Can in Lake County, Indiana, which is designated as an urban nonattainment area for ozone.

Under the existing federally approved SIP, each can coating line is subject to the VOC limitation contained in Rule 325 IAC–8–2–3. Rule 325 IAC–8–2–3 requires American Can to maintain compliance with a reasonably available control technology (RACT)[1] limit of 5.5 pounds of solvent per gallon of coating applied, excluding water, delivered to the coating applicator for three-piece can side-seam operations. USEPA approved this rule as meeting the RACT requirements of the Clean Air Act on February 10, 1986 (51 FR 4912).

USEPA's December 8, 1980, policy entitled "Compliance with VOC Emission Limitations For Can Coating Operations", (45 FR 80824), explains why a daily weighted-average in conjunction with a plantwide emission limitation can be approved as part of a SIP for can coaters. "This is because of the severe practical problems faced by can manufacturing plants where a number of lines apply as many as 50 different coatings, depending on the end uses of the cans". The 1980 policy suggested that compliance be determined by use of a standardized

[1] A definition of RACT is contained in a December 9, 1976, memorandum from Roger Strelow, former Assistant Administrator for Air and Waste Management. RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

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equation expressing the weight of VOC per gallon of coating, less water, in terms of weight of VOC per gallon of solids to compare total actual emissions to total allowable emissions. This is the method that American Can must use to demonstrate its compliance with the limitations set forth herein.

American Can operates 5 varnish coating lines, 6 sheet coating lines and 10 food and beverage can end sealing lines. The VOC emissions from the varnish and sheet coating lines are controlled by afterburners with control efficiencies of 87 percent and 83 percent, respectively. The food and beverage can end sealing lines are presently uncontrolled and use noncomplying end sealing compounds. The food and beverage can end sealing lines are exceeding the limits required by Rule 325 IAC–8–2–3.

VOC Proposed Limits

It is USEPA's understanding that the facility is operating in compliance with the SIP Rule 325 IAC 8–2–3 by establishing emission limits based on total actual emissions calculated from daily units of production. This method of determining compliance is consistent with USEPA's 1980 policy memorandum referred to the above. The proposed actual emission limits are as follows:

VOC EMISSIONS (POUNDS PER DAY)

Source	Line number	Control efficiency	VOC emissions	
			Proposed limits	Under existing SIP
Varnish	3	87	38	124
	4	87	38	124
	5	87	38	124
	6	87	38	124
	7	87	38	124
Coating	21	83	153	499
	22	83	153	499
	23	83	153	499
	24	83	153	499
	25	83	153	499
	26	83	153	499
Food Ends	51	0	118	48
	52	0	118	48
Beer and Beverage Ends	52	0	224	141
	55	0	224	141
	56	0	224	141
	57	0	224	141
	59	0	224	141
	62	0	224	141
	63	0	224	141
	64	0	224	141
			3440	4995

In addition to the above line by line daily limits, and the overall plant daily limit (3440 pounds per day), the compliance method set forth in USEPA's December 8, 1980, policy memorandum must be used by American Can to demonstrate compliance with the SIP emission limits.

Conclusion

USEPA is proposing to approve this SIP revision because it represents a compliance alternative that is consistent with USEPA's December 8, 1980, policy memorandum. This proposed SIP revision will not increase the VOC emissions from the American Can Lake County facility.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Authority: 42 U.S.C. 7401–7642.

Dated: March 18, 1987.

Valdas V. Adamkus,

Regional Administrator.

Editorial Note: This document was received by the Office of the Federal Register April 20, 1989.

[FR Doc. 89–9872 Filed 4–24–89; 8:45am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–87, RM–6637]

Television Broadcasting Services; Bessemer and Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Channel 17 Associates, Inc., licensee of UHF Television Station WDBB(TV), Channel 17, Tuscaloosa, Alabama, proposing to amend the Television Table of Allotments, § 73.606(b) of the Commission's Rules, by changing the community of license of Channel 17 from Tuscaloosa to Bessemer, Alabama, and to modify petitioner's license accordingly, in order to provide Bessemer with its first local television service. The site coordinates of petitioner's transmitter will remain as 33–28–51 and 87–24–03.

DATES: Comments must be filed on or before June 12, 1989, and reply comments on or before June 27, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Howard M. Weiss and Mark N. Lipp, Mullin, Rhyne, Emmons and Topel, P.C., 1000 Connecticut Avenue—Suite 500, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–87, adopted April 3, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–9852 Filed 4–24–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–85, RM–6406]

Radio Broadcasting Services; El Dorado, AR and Bastrop, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Noalmark Broadcasting Corporation, licensee of Station KAYZ(FM), Channel 276A, El Dorado, Arkansas, seeking the substitution of Channel 277C1 for Channel 276A and modification of its license accordingly. Additionally, Channel 247A is proposed as a substitute for Channel 277A at Bastrop, Louisiana, to accommodate the El Dorado proposal. Reference coordinates utilized for Channel 277C1 at El Dorado are 33–14–01 and 92–56–27, while those used for channel 247A at Bastrop are 32–45–46 and 91–57–35.

DATES: Comments must be filed on or before June 12, 1989, and reply comments on or before June 27, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Dennis P. Corbett and Laura B. Humphries, Esqs., Leventhal, Senter & Lerman, Suite 600, 2000 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–85, adopted March 2, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–9796 Filed 4–24–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–86, RM–6604]

Radio Broadcasting Services; San Rafael, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Marin Broadcasting Company, Inc., licensee of Station KTID(FM), Channel 265A, San Rafael, California, seeking the substitution of Channel 264A for Channel 265A and modification of its license accordingly.

DATES: Comments must be filed on or before June 12, 1989, and reply comments on or before June 27, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Roy R. Russo and Lauren M. Bloom, Esqs., Cohn and Marks, 1333 New Hampshire Avenue, NW., Suite 600, Wash., DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–86, adopted April 3, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

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List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9851 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-504, RM-6444]

Radio Broadcasting Services; Ossian, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: The Commission dismisses the request of Mega Media, Ltd. to allot Channel 241A to Ossian, Iowa, since neither the petitioner nor any other party filed comments expressing a continuing interest in use of the channel. With this action, the proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-504, adopted March 28, 1989, and released April 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W. Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC. 20037.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9853 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-84, RM-6656]

Radio Broadcasting Services; Mason, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Roy E. Henderson, d/b/a Hill Country Communications, the sole applicant for Channel 250C2 at Mason, Texas, proposing the substitution of Channel 249C2 for Channel 250C2 at Mason, Texas, a site restriction of 28.2 kilometers (17.5 miles) southeast of the city has been suggested, at coordinates 30-31-00 and 99-07-00. Concurrence by the Mexican government must be obtained for the proposal.

DATES: Comments must be filed on or before June 9, 1989, and reply comments on or before June 26, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Roy E. Henderson, Hill Country Communications, 839 Timber Cove, Seabrook, Texas 77586 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-84, adopted April 3, 1989, and released April 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing precedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9854 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 591

[Docket No. 89-5; Notice 1]

RIN 2127-AD00

Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to propose procedures that would govern the importation of motor vehicles and equipment subject to Federal safety standards on and after January 31, 1990. In most instances, these proposals are mandated by the Imported Vehicle Safety Compliance Act of 1988. The proposals would substantially modify the procedures and exemptions that have been in effect, relatively unchanged, since January 1, 1968. Requirements concerning declarations to be made to the U.S. Customs Service regarding vehicles and equipment that conform to the Federal safety standards, and regarding nonconforming equipment, would remain unchanged.

Exemptions from the statutory prohibition against importing noncomplying motor vehicles would still be provided for foreign diplomatic and military personnel. The 1988 amendments would remove some exemptions, while adding others. New exemptions would be provided for vehicles 25 years old or older, vehicles needing further manufacturing operations to perform their function, and vehicles imported solely for research, investigations, studies, demonstrations or training, or competitive racing events. Nonconforming vehicles imported by exempted persons need not be brought into conformance with the standards.

With one exception, if a nonexempted person offered a nonconforming vehicle for entry on and after January 31, 1990, that person would have to be either someone who has registered with NHTSA to undertake the obligation to bring the vehicle into compliance, or someone who has a conformance contract with a NHTSA registrant. The exception would be that the present rule allowing entry and conformance of any motor vehicle by any non-registered person would continue in effect for vehicles imported for personal use not later than October 31, 1992, by any individual whose assigned place of employment was outside the United States on October 31, 1988, and who owned the vehicle (or had ordered it) as of October 31, 1988.

Nonconforming vehicles imported by nonexempted persons would have to be brought into conformance with the standards. Not all vehicles, however, would be eligible for importation by nonexempted persons. A vehicle cannot be imported at all by a nonexempted person unless NHTSA determines that it is capable of modification to meet the Federal safety standards.

DATES: Comment closing date for the proposal is June 26, 1989. The effective date of the final rule after publication in the **Federal Register** would be January 31, 1990.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh St., SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, (202-366-5263).

SUPPLEMENTARY INFORMATION: On October 31, 1988, the President signed Pub. L. 100-562, the Imported Vehicle Safety Compliance Act of 1988. Notice of its enactment was published by the agency in the **Federal Register** on December 5, 1988 (53 FR 49003). As the notice stated, the Safety Compliance Act amends those provisions of the National Traffic and Motor Vehicle Safety Act of 1966 ("the Vehicle Safety Act") that relate to the importation of motor vehicles subject to the Federal motor vehicle safety standards (section 108(b), 15 U.S.C. 1397(b)).

Specifically, the 1988 amendments revoke sections 108(b)(3), and (b)(4) of the Vehicle Safety Act, effective January 31, 1990. These sections authorized the issuance of regulations jointly by the Secretaries of Transportation and Treasury to prohibit the importation of motor vehicles and equipment not complying with the Federal motor vehicle safety standards, except under such terms and conditions as may appear to them appropriate to ensure that a noncomplying vehicle or equipment item will be brought into conformance or will be exported or abandoned to the United States. The temporary admission of nonconforming used vehicles and equipment items by exempted persons was also permitted. Pursuant to this authority, the two Secretaries issued an implementing regulation, 19 CFR 12.80, which has governed the importation of merchandise subject to Federal motor vehicle safety standards since 1968, and will continue to do so through January 31, 1990.

Under the 1988 amendments, new sections (c) through (j) are added to section 108 to replace revoked sections (b)(3) and (b)(4). The authority to issue joint regulations is replaced by a rulemaking authority vested alone in the Secretary of Transportation (and delegated to NHTSA through existing delegations of authority).

The purpose of this notice is explain how importation of motor vehicles and equipment will be affected by this new authority, and to propose a regulation that implements it. First of all, the existing regulation, 19 CFR 12.80, will continue to be a regulation under the joint authority of the two Departments with respect to the importation provisions of the Motor Vehicle Information and Cost Savings Act under which the Bumper Standard (49 CFR Part 581) was issued. With respect to the Vehicle Safety Act, however, the proposed new NHTSA regulation, 49 CFR Part 591, will become the primary importation regulation and 19 CFR 12.80, the conforming regulation of the U.S. Customs Service. In the future, substantive changes to importation procedures will be effected by NHTSA alone, through amendments to Part 591, and Customs will make conforming amendments to § 12.80, if necessary.

A similar relationship presently exists between regulations of the Environmental Protection Agency ("EPA") and Customs (See, respectively, 40 CFR 85. 1501 *et seq.* and 19 CFR 12.73). This relationship has established a precedent for Customs to amend it regulations without notice and opportunity for comment on the basis that full notice and opportunity had been offered by EPA in promulgating its regulations, and that the amendments by Customs were merely conforming in nature (See 53 FR 28240).

NHTSA is attempting in this rulemaking action to formulate a program that will ensure that all imported motor vehicles conform to the Federal motor vehicle safety standards without imposing unnecessary burdens on importers. Therefore, NHTSA has tried in this proposal to impose only those requirements that are mandated by the 1988 Act, with amplifications only where it appeared necessary to implement the safety intent of the statute. NHTSA encourages commenters to provide suggestions as to ways to reduce burdens without compromising safety, within the framework of the 1988 Act, in order to assist the agency in developing the final rule.

Importation of Motor Vehicles

Under existing § 12.80, a motor vehicle offered for importation into the United States is admitted pursuant to one of nine declarations regarding the status of the vehicle in relation to the motor vehicle safety and bumper standards. The requirements of the 1988 Act affect some of these declarations, and establish new exceptions. A discussion of these changes follows.

1. The Vehicle is Not a "Motor Vehicle"

Under 19 CFR 12.80(b)(1)(viii), a vehicle is not required to be brought into compliance if it is not a motor vehicle as defined by the Vehicle Safety Act, i.e., that it was not designed primarily for use on the public streets, roads, and highways. This exemption remains § 591.5(a)(i)) because this agency has no jurisdiction regarding non-motor vehicles under the Vehicle Safety Act and the 1988 Act makes no jurisdictional change.

2. The Vehicle Conforms and is so Certified.

A motor vehicle is allowed immediate entry without the posting of bond upon a declaration that it conforms to all applicable Federal motor vehicle safety standards and bears a certification label to that effect permanently affixed by the original manufacturer § 12.80(b)(l)(ii)). This same section also allows immediate entry if a vehicle is only technically noncompliant, i.e., because readily attachable equipment items such as windshield wipers and mirrors have been removed to facilitate shipping, but will be installed before the vehicle is offered for sale. The 1988 Act makes no change affecting these declarations, and they are provided in the proposed regulation § 591.5(b)).

The agency interprets the new amendments, however, as imposing new restrictions upon the importation of vehicles that may have been conformed prior to entry but bear a certification by a person other than the original manufacturer. The 1988 amendments amend Section 1397(a)(1)(A) to add the words "and is covered by a certification issued under section 114" as an addition to the existing requirement that a vehicle may not be imported "unless it is in conformity". A certification issued under section 114 is that of the original

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manufacturer, and not a converter. To reflect this amendment, the agency is proposing a definition of the term "original manufacturer" so that it excludes converters outside the United States who certify and conform vehicles to the standards after the vehicles have been designed, engineered, and manufactured in fully assembled form by a person other than the converter. The agency believes that the 1988 amendments justify this interpretation. An interpretation that would allow free entry of a vehicle pursuant to a declaration of conformity and a certification by a person other than its original manufacturer could well result in the importation of vehicles for which the Administrator had made no determination of capability of modification to meet Federal standards, and defeat the purpose of the 1988 amendments. Further, under this interpretation, even if the converted vehicle is one that the Administrator has deemed eligible for entry and is certified as conforming by its converter, it can enter the country only through a registered importer, or one who has a contract with a registered importer. This also fulfills one of the purposes of the 1988 amendments. i.e., that there be a responsible party who provides NHTSA with certification of conformance of vehicles not originally manufactured in accordance with the standards, and who will assume notification and remedy responsibilities should the statutory preconditions occur. This means that a motor vehicle that has been modified after its manufacture and before entry, and which is certified by a party other than its original manufacturer, will be treated as a nonconforming motor vehicle, and subject to the same entry requirements.

3. The Vehicle is Intended Solely for Export

A nonconforming vehicle is allowed immediate entry without bond upon the declaration that the importation is solely for purposes of export, and bears a label to that effect (12.80(b)(1)(iv)). This declaration is allowed pursuant to a specific statutory exclusion in the Vehicle Safety Act, section 108(b)(5). Under the 1988 amendments, the section becomes 108(b)(3), but is otherwise unchanged, and the exclusion remains § 591.5(c)).

4. Nonresident Temporary Importations

If the importer is a nonresident of the United States and is importing the nonconforming vehicle primarily for personal use for a period of 1 year or less, the current regulations allow entry without bond and conformance, but the declaration must also state that the importer will not sell the nonconforming vehicle in the United States during that period [§ 12.80(b)(1)(v)).

This provison was intended to benefit two classes of importers. The first class is comprised of U.S. citizens who are between foreign work assignments, and need to use their noncomplying cars while in transit, on home leave, or on temporary assignment in the U.S. The second class of importer is comprised of non-U.S. citizens. They may be Mexican or Canadian residents who use the American roads on an infrequent basis, or citizens of other countries who bring their tour buses, campers, or cars with them to facilitate their vacations in the U.S.

One authority for the previously existing allowance was section 1397(b)(4) which authorized the adoption of regulations allowing the "temporary importation" of noncomplying vehicles or equipment items. This authority has been deleted by the 1988 amendments. However, a further authority has been deleted by the 1988 amendments. However, a further authority for the nonresident exemption was the existence of two international treaties to which the United States is a signatory that address the movement of vehicles among various countries (I. Customs Convention on the Temporary Importation of Private Road Vehicles opened for signature June 4, 1954, 8 U.S.T. 2097, T.I.A.S. No. 3943, entered into force December 15, 1957. II. Convention on the Regulation of Inter-American Automotive Traffic, opened for signature December 15, 1943, 61 Stat. 1129, T.I.A.S. No. 1567, entered into force October 29, 1946). NHTSA believes that elimination of the present allowance may be inconsistent with the intent of the treaties, and is retaining it in clarified form, allowing the temporary importation of any vehicle by a nonresident that is registered in a country other than the United States, provided it is for personal use, imported for a period not to exceed one year, will not be resold in the U.S. during that time, and will be exported at the end of that time (§ 591.5(d)).

5. The Vehicle Does Not Conform to Federal Sofety Standards

This is the category of motor vehicle whose importation is most affected by the 1988 amendments. Under 19 CFR 12.80, a nonconforming vehicle is imported pursuant to a declaration that it will be brought into conformance within 120 days of entry. The importer gives a bond for the production of a statement, after conformance, certifying that the conformance work has been accomplished. The statement describes the conformance work, identifies the conformer, and certifies that the vehicle will not be sold until NHTSA has issued an approval letter to the district director of Customs that the bond may be released. The bond is for the dutiable value of the vehicle (§ 12.80(b)(1)(iii) and (e)).

The 1988 amendments impose criteria which motor vehicles must meet in order to be imported. Under new section 108(c)(3)(A), a vehicle cannot be imported at all (with certain exceptions set out below) unless NHTSA determines that it is capable of modification to meet the Federal safety standards. Determinations may be made on NHTSA's own initiative, or upon petition of any registered importer (see discussion below) or any motor vehicle manufacturer, and will be subject to public comment.

A nonconforming vehicle that is not offered for importation under one of the exemptions listed below may be imported under either of the following two scenarios. The first scenario, specified by section 108(c)(3)(A)(i)(I), will involve the making of two determinations: (1) That the nonconforming vehicle is substantially similar to a motor vehicle of the same model year originally manufactured for importation into and sold in the U.S., (and thus in compliance with the safety standards) and (2) that the vehicle is capable of being readily modified to conform.

The second scenario, specifed by section 108(c)(3)(A)(i)(II), will arise if the agency does not make a determination of substantial similarity regarding a vehicle. In that case, it will still be permissible to import the vehicle if the agency determines that the vehicle's safety features comply with the U.S. standards, or are capable of being modified to comply with those standards, "based on destructive crash data or such other evidence" as NHTSA determines is adequate.

Under either scenario, a positive determination regarding a vehicle will permit any registered importer to modify vehicles of the same model covered by the determination.

If the agency makes a negative determination regarding a model's ability to be modified, the agency will be temporarily prohibited from taking up the issue of that model's importability again. If the negative determination was made in response to a petition, section, 108(c)(3)(C)(ii) of the Act prohibits the agency from considering a petition regarding the same model of vehicle until at least 3 months after that decision. If the negative determination was made in a proceeding begun at the agency's own initiative, the agency will not be able to make another determination regarding the same model of motor vehicle until at least 3 months after the negative one (section 108(c)(3)(C)(iii)). The agency addresses these matters in companion notices of proposed rulemaking published simultaneouly with this one, Part 592, *Registered Importers of Noncomforming Vehicles*, and Part 593, *Determinations That a Nonconforming Vehicle is Eligible for Importation.*

Once a vehicle has been determined eligible for importation, it may then be imported by a registered importer who will undertake to conform it with the safety standards (§ 591.5(f)(i)). The importer is required by section 106(c)(2) to give a bond to ensure conformance or alternatively that the vehicle will be exported or abandoned to the United States. The bond is to be not less than the dutiable value of the vehicle as determined by the Secretary of the Treasury, and not more than 150 per cent of the dutiable value. Both NHTSA and the U.S. Customs Service view this bond as one that is separate from the general importation bond, which will continue to be required. Further, the statute is interpreted as requiring a separate bond for each vehicle imported. This means that the 1988 Act requires an individual bond to be given for each vehicle imported. A bond is not blanket in nature, covering any vehicle that may be imported by a registered importer. In other words, the required bond will be of a single entry nature, and not of a continuous nature.

6. The Vehicle Requires Further Manufacturing Operations

Under new section 108(e), a vehicle may be imported without violating section 108(a)(1)(A) if it requires further manufacturing operations to perform its intended function. Currently, pursuant to § 12.80(b)(1)(ix), a vehicle may be imported without bond or conformance documentation if it is an "incomplete vehicle" as defined by 49 CFR Part 568 *Vehicles Built in Two or More Stages.* The justification for this exception is that the vehicle must conform, and be certified as conforming, upon completion by its final stage manufacturer, and that this is an obligation that exists independent of the importation process. Under Part 568, an incomplete vehicle must be accompanied by a document listing the standards that will apply to the completed vehicle, and containing representations of the incomplete vehicle manufacturer with respect to the status of the incomplete vehicle vis-a-vis each standard. Section 108(e) of the Vehicle Safety Act includes this exception but broadens it to apply to any motor vehicle that "requires further manufacturing to perform its intended function (as determined under regulations prescribed by the Secretary)", and is accompanied by a written statement of the manufacturer indicating the applicable safety standard(s) with which the unfinished vehicle does not comply. The question of the type and extent of manufacturing required for performance of intended function, will, of course, vary. However, the existing requirements for alterers of certified vehicles (§ 568.8) afford a basis for proposing criteria that distinguish between completed vehicles and those that require further manufacturing. Accordingly, if a vehicle requires more than the addition of readily attachable equipment components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, its importer may enter it pursuant to proposed § 591.5(e).

Instances have arisen in the past in which an importer offered for importation a motor vehicle without its engine, or other running gear parts, claiming that the merchandise is, in fact, equipment to which no standard applies, and the importer separately imported the engine or parts. The agency has treated these cases as de facto importations of noncomplying motor vehicles, and required them to be entered as nonconforming motor vehicles and evidence of conformity to be subsequently submitted. This type of importation will now be covered by section 108(e).

7. The Importer has a Contract With a Registered Importer

The primary eligibility requirements placed by the 1988 amendments on persons importing nonconforming vehicles are that they will have to be, subject to certain exceptions, registered as importers, or they will have to have contracts with registered importers to conform the vehicles. The latter, at the time of entry, will have to furnish an appropriate bond (which, under the 1988 amendments, is not less than 100 percent of the dutiable value of the vehicle and not more than 150 percent; this directive will become part of 19 CFR 12.80), a copy of the contract or other agreement with a registered importer, and certification that an affirmative decision has been made regarding the eligibility of the vehicle for importation. For good cause shown, the importer may be allowed additional time to furnish a copy of the contract, but not more than 30 days after the date on which the vehicle was offered for importation. These matters, specified in section 108(f), are covered in the proposals published as § 591.5(f)(ii). Under § 591.6(c), a copy of the contract or agreement would be submitted with the declaration, or, alternatively, a copy of a letter from the Administrator finding good cause shown for affording a period of up to 30 days from the date of declaration in which to provide the contract copy. Under § 591.7(b) an importer seeking permission for delayed submission must present reasons in justification in advance of the arrival of the vehicle. The purpose of the new requirements is to increase the likelihood that nonconforming vehicles will be properly modified and actually brought into compliance with the safety standards.

8. The Importer is Eligible to Import Under Present Requirements

Nonresidents are affected in another way by the 1988 amendments. Under certain circumstances, and for a limited time, section 108(g) of the Vehicle Safety Act permits a nonresident (including any member of the Armed Forces) to continue to import a vehicle under the present regulation, that is, to have it conformed by a person other than a registered importer. This exception applies to a single vehicle imported, for personal use and not for resale, between January 31, 1990, and October 31, 1992, by an individual whose assigned place of employment was outside the United States for the total period between October 31, 1988, and the date of importation, provided that the vehicle was acquired (or was subject to a binding contract to acquire) before October 31, 1988, and that the individual has not previously imported a nonconforming motor vehicle. This amendment is reflected in proposed § 591.5(g).

9. Importation by Diplomats and Foreign Military Personnel

Any person who is a member of the armed forces of a foreign country on assignment in the U.S., or any person who is a member of the Secretariat of a public international organization so designated under the International Organization Immunities Act and who is within the class of persons for whom free entry of motor vehicles has been authorized by the Secretary of State currently may import a nonconforming vehicle for the duration of their stay pursuant ot the declaration that the vehicle is for personal use only § 12.80(b)(1)(vi)). Section 108(h) of the Vehicle Safety Act specifically retains

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this exclusion, but in addition requires NHTSA to ensure that any such vehicle will be exported or abandoned when the importer ceases to reside in the U.S. It also forbids the sale while within the United States or any motor vehicle imported under this provision.

The enforcement of this provision would appear to rest with the Office of Foreign Missions of the Department of State. NHTSA understands that foreign personnel in the exempted categories who import nonconforming vehicles into the United States, are required to register their vehicles with this Office. Under the registration process, the Office takes possession of the foreign title of the vehicle, and issues registration plates to the importer after verifying that the vehicle is insured. The importer does not take repossession of the title until the registration plates are returned to the Office. At that time, the Office asks for an explanation. The usual reason is that the importer's assignment in the United States has ended, and that s(he) is leaving the country. Documentary proof is required, such as a copy of the importer's orders. Heretofore, however, no documentary proof has been required that the vehicle is being, or has been, exported. Thus, it is possible that a nonconforming vehicle could be sold between the time the importer repossesses the title and actually leaves the country, but the Office believes that this is only an infrequent occurrence. NHTSA has informally approached the Office as to the possibility that it could require proof of exportation of diplomatic vehicles, and has found the Office amenable to that suggestion. This approach appears less cumbersome than requiring a bond for the exportation of diplomatic vehicles. Accordingly, NHTSA is proposing that one of the declarations an importer make under § 595.5(h) is that s(he) will provide the Office of Foreign Missions, at the conclusion of a tour of duty and before depature from the United States, with documentary proof that the vehicle is being, or has been, exported.

Under the existing law and regulations, it has been the practice to allow an exempted diplomatic importer to sell his nonconforming vehicle to another person in one of the exempted categories. The justification for this practice is that the exempted buyer is himself eligible to import a nonconforming vehicle. The agency does not construe the 1988 Act as forbidding this type of sale between exempted importers.

However, the 1988 amendments do affect another practice. Heretofore, sale of a nonconforming vehicle has been permitted, provided that the importer undertook to conform it to applicable Federal safety standards before the sale. If this practice is to continue, it will have to be greatly modified. If an exempted importer wishes to sell a nonconforming vehicle in the United States, NHTSA proposes that (s)he be prohibited from doing so unless (1) the vehicle is one which the Administrator has determined is modifiable to conform to the safety standards, and (2) the vehicle will be conformed through a registered importer. NHTSA believes that this type of transaction is also within the intent of the 1988 Act, and that otherwise, a nonconforming vehicle may not be sold if imported pursuant to this type of exemption. However, if NHTSA determines during the pendency of this proposal, or on the basis of comments received, that this type of transaction is administratively infeasible, the final rule may forbid any sale other than between exempted importers.

10. The Vehicle is 25 or More Years Old

A motor vehicle is allowed immediate entry under 12.80(b)(1)(i) if it were manufactured on a date when no applicable Federal motor vehicle safety standards were in effect. All motor vehicles, other than motorcycles, manufactured on or after January 1, 1968, have been covered by safety standards. Accordingly, this declaration has been used only for the entry of vehicles manufactured before January 1, 1968. Under section 108(i), added by the 1988 Act, a motor vehicle may be allowed entry without the necessity of conformance if it is 25 years old or older. Thus, after January 1, 1993, vehicles that were manufactured on or after January 1, 1968, will be relieved of the necessity to conform as they reach 25 years of age. The existing declaration will be retained until January 1, 1993, although clarified by specifying the January 1, 1968 date (§ 591.5(i)). This is necessary to prevent the importers of vehicles which are less than 25 years old but manufactured before January 1, 1968, from being inadvertently required to enter their vehicles pursuant to the 1988 amendments. During 1992, the agency will amend § 591.5(i) to implement the 25-year old exclusion effective January 1, 1993.

11. Importation for Research, Investigation, Studies, etc.

Importation of nonconforming vehicles without bond is presently allowed if the importation is solely for the purpose of show, test, experiment, competition, repair, or alteration (§ 12.80(b)(1)(vii)). If the vehicle is imported for test or experiment, it may be licensed for use on the public roads for a period not to exceed one year, extendable for two successive year periods, or a period of three years in all. Importation for show, etc., has been permitted pursuant to the implied statutory authority that motor vehicle safety would not be affected by the temporary importation of noncomplying motor vehicles not generally used on the public roads, and whose appearance on them would be limited.

Section 108(j) of the Vehicle Safety Act modifies these categories. It provides NHTSA with authority to exempt a vehicle upon such terms and conditions as may be necessary solely for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events. It does not include the terms "show" and "repair" currently in use. Prospective importers ought not to be unduly concerned at this. In NHTSA's experience, importation for repair has averaged, perhaps, one vehicle every two years. Manufacturers who have imported nonconforming products for display at auto shows to gauge public reaction to new styling or engineering features will not be precluded from declaring that such importation is for "research" or "demonstrations." And museums will be able to bring in nonconforming vehicles under the 25-year exception. NHTSA is proposing to allow importation for the statutory purposes specified, provided that the declaration is accompanied by certain information and statements. If this information indicates that on-road use for a period that is greater than 1 year is required for these purposes, the importer will not be required to petition NHTSA for yearly extensions, as is presently the case. At the end of 3 years, the importer is subject to termination of the Customs Temporary Importation Bond under which the vehicle entered. At that point, the vehicle may be conformed, destroyed, exported, or permanently entered if duties are paid. If permanently entered, the vehicle remains subject to the original declaration under which it entered, and under the proposed regulation its importer must inform NHTSA of the option chosen for the vehicle at the end of the 3-year period. The proposed regulation would also prohibit an importer of a vehicle imported for competitive racing events from licensing it for use on the public roads, unless it has been brought into conformance with applicable standards.

NHTSA envisions that a registered importer who intends to file a petition under Part 593 for a determination that a vehicle is eligible for importation because it is capable of modification could avail itself of the demonstration exception to import such vehicles as may be necessary in order to develop the documentation needed to demonstrate the vehicle's capability for modification.

Importation of Motor Vehicle Equipment

Under 19 CFR 12.80, the first seven of the nine declarations applicable to motor vehicles also apply to motor vehicle equipment. The primary focus of the 1988 amendments is upon motor vehicles, however, and some of the new exceptions do not apply to motor vehicle equipment. An analysis of the equipment provisions and proposals follows.

The 25-year old exception for motor vehicles does not extend to motor vehicle equipment. This means that equipment covered by an equipment standard continues to be importable without the necessity for conformance (absent other exceptions) only if manufactured on a date before a standard applied to it.

An equipment item that is certified as conforming to applicable equipment standards continues to be admissible without the necessity for bond.

A nonconforming equipment item is not subject to the registered importer and determinations of substantial similarity provisions. The present requirements will continue to apply to it.

Because the importation for export exception is provided for by the Vehicle Safety Act, and not affected substantively by the 1988 Act, noncomforming equipment may continue to be imported for export, provided that it or its container bears a label or tag to that effect at the time of importation. (See section 108(b)(5) of the Vehicle Safety Act, redesignated as 108(b)(3) by the 1988 amendments.)

Under new section 108(e), an equipment item need not comply upon importation if it requires further manufacturing to perform its intended function.

The new provisions regarding importation for purposes of research, investigation, studies, demonstrations or training, or competitive racing events (section 108(j)) expressly include motor vehicle equipment as well as vehicles, and thus supersede existing requirements.

Impacts

NHTSA has considered the impacts of this rulemaking action and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation." It implements Pub. L. 100–562 under which primary authority to establish regulations governing the importation of motor vehicles and equipment into the United States is shifted to NHTSA, rather than being jointly shared with the U.S. Customs Service. As such, it establishes the rights and duties of those who may import nonconforming motor vehicles, and the types of nonconforming motor vehicles that may be imported. It is not significant under Department of Transportation regulatory policies and procedures. Less than 3000 motor vehicles a year are currently imported, and it is anticipated that this number will not increase. There is no substantial impact upon a major transportation safety program, and the action does not involve any substantial public interest or controversy. There is no substantial effect on state and local governments. The impact upon the Federal government is that certain present obligations of the U.S. Customs Service are transferred to the Department of Transportation. As discussed previously, many of the new requirements are specified by the 1988 amendments, and thus do not reflect any exercise of agency discretion. These include not only importation through or by contract with a registered importer, but also importation of vehicles and equipment requiring further manufacturing to perform their intended function, importation of vehicles by specified foreign diplomatic and military personnel, importation of vehicles more than 25 years old, and importation of vehicles for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events, and importation under a separate performance bond.

The agency has also considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic impact upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles may be small businesses within the meaning of the Regulatory Flexibility Act, there is no restriction prohibiting them from registering as importers under the proposal. Although a registered importer will have to pay a fee or fees to the agency, as required by statute, the agency does not view this requirement as resulting in a significant impact. Further, small organizations and governmental jurisdictions would not be significantly affected as they are not generally importers and purchasers of nonconforming motor vehicles. However, a Regulatory Flexibility Analysis has been prepared covering all regulations proposed to implement the 1988 Act, and will be placed in the public docket.

NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported under the rule would not vary significantly from that existing before promulgation of the rule. However, to the extent that a rule would result in a larger number of vehicles being brought into compliance with the standards, the use of materials used in conforming vehicles would increase.

The declaration requirements in this proposal are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 Part 1320. Although they are modifications of declarations presently existing in agency form HS–7, these proposed declarations are being submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attn: Desk Officer for NHTSA. It is requested that comments sent to the OMB also be sent to the NHTSA rulemaking docket for this proposed action.

The proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 "Federalism", and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief

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Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512.).

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 591

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that a new Part 591 *Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards* be added to Title 49, Chapter V, to read as follows:

PART 591—IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Sec.

591.1 Scope.
591.2 Purpose.
591.3 Applicability.
591.4 Definitions.
591.5 Declarations required for importation.
591.6 Documents accompanying declarations.
591.7 Restrictions of importations; entry bond.

Authority: Pub. L. 100-562, delegations of authority at 49 CFR 1.50 and 501.8.

§ 591.1 Scope.

This part establishes procedures governing the importation of motor vehicles and motor vehicle equipment subject to the Federal motor vehicle safety standards.

§ 591.2 Purpose.

The purpose of this part is to ensure that motor vehicles and motor vehicle equipment permanently imported into the United States conform with, or are brought into conformity with, all applicable Federal motor vehicle safety standards issued under Part 571 of this chapter, and to ensure that vehicles and equipment items imported on a temporary basis, are ultimately either exported or abandoned to the United States.

§ 591.3 Applicability.

This part applies to any person offering a motor vehicle or item of motor vehicle equipment into the United States. Regulations prescribing further procedures for importation of motor vehicles and items of motor vehicle equipment into the Customs territory of the United States, as defined in 19 USC 1202, are set forth in 19 CFR 12.80.

§ 591.4 Definitions.

All terms used in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration.

"NHTSA" means the National Highway Traffic Safety Administration.

"Original manufacturer" means the entity responsible for the original design, engineering, and manufacture of a motor vehicle, and does not include any person other than such manufacturer who converts the motor vehicle after its manufacture to conformance with the Federal motor vehicle safety standards.

§ 591.5 Declarations required for importation.

No person shall import a motor vehicle or item of motor vehicle equipment into the United States unless, at the time it is offered for importation, its importer files a declaration, in duplicate, which declares or affirms one of the following:

(a)(1) The vehicle was not manufactured primarily for use on the public roads and thus is not a motor vehicle; or

(2) The equipment item is not a system, part, or component of a motor vehicle.

(b) The vehicle or equipment item conforms with all applicable safety standards (or the vehicle will conform when readily attachable equipment items carried within it are attached), and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle or to the equipment item or its delivery container.

(c) The vehicle or equipment item does not comply with all applicable Federal motor vehicle safety standards, but is intended solely for export, and the vehicle or equipment item, and the outside of the container of the equipment item, if any, bears a label or tag to that effect.

(d) The vehicle item does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because (s)he is a nonresident of the United States and the vehicle is registered in a country other than the United States, and the importer is temporarily importing the vehicle for personal use for a period not to exceed one year, will not sell it during that time, and will export it at the end of that time.

(e) The vehicle or equipment item requires further manufacturing operations to perform its intended function, other than the addition of readily attachable equipment items, or minor finishing operations.

(f) The vehicle does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because:

(1) The importer has registered with NHTSA pursuant to Part 592 of this chapter, and such registration has not been revoked or suspended, and the Administrator has determined pursuant to Part 593 of this chapter that the model and model year of the vehicle to be imported is eligible for importation into the United States; or

(2) The importer has executed (or will within 30 days of the date of the declaration execute) a contract (or other agreement) with an importer who has registered with NHTSA pursuant to Part 592 of this chapter and whose registration has not been suspended or revoked; the Administrator has determined pursuant to Part 593 of this chapter that the model and model year of the vehicle to be imported is eligible for importation into the United States; and the vehicle is being imported for personal use and not for purposes of resale.

(g) The vehicle does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because:

(1) The importer's assigned place of employment has been outside the United States at all times between October 31, 1988, and the date the vehicle is entered into the United States;

(2) The importer has not previously imported a motor vehicle into the United States that was subject to the Federal motor vehicle safety standards;

(3) The importer had acquired (or entered into a binding contract to acquire) the vehicle before October 31, 1988; and

(4) The vehicle will be entered into the United States not later than October 31, 1992.

(h)(1) The vehicle does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because (s)he is a member of:

(i) The armed forces of a foreign country on assignment in the United States; or

(ii) The Secretariat of a public international organization so designated under the International Organizations Immunities Act (22 USC 288), as listed in 19 CFR 148.47, on assignment in the United States; or

(iii) The personnel of a foreign government for whom free entry of vehicles has been authorized by the Department of State;

(2) Will not sell the vehicle to any person in the United States, except to a person eligible to import a vehicle under this subsection; and

(3) Will provide the Office of Foreign Missions of the State Department, before departing the United States at the conclusion of a tour of duty, with documentary proof that the vehicle is being, or has been, exported.

(i)(1) The vehicle was manufactured before January 1, 1968; or

(2) The equipment item was manufactured on a date when no applicable safety standards were in effect.

(j) The vehicle or equipment item does not conform with all applicable Federal motor vehicle safety standards, but is being imported for a temporary period solely for:

(1) research;

(2) investigations;

(3) studies;

(4) demonstrations or training; or

(5) competition racing events;

and will not be licensed for use on the public roads.

§ 591.6 Documents accompanying declarations.

Declarations of eligibility for importation made pursuant to § 591.5 must be accompanied by the following certification and documents, where applicable.

(a) A declaration made pursuant to § 591.5(a) shall be accompanied by a statement substantiating that the vehicle was not manufactured for use on the public roads, or that the equipment item was not manufactured for use on a motor vehicle or is not an item of motor vehicle equipment.

(b) A declaration made pursuant to § 591.5(e) shall be accompanied by a written statement issued by the manufacturer of the vehicle or equipment item which states the applicable Federal motor vehicle safety standard(s) with which the vehicle or equipment item is not in compliance, and describing the further manufacturing required for the vehicle or equipment item to perform its intended function.

(c) A declaration made pursuant to § 591.5(f) by an importer who is not a Registered Importer shall be accompanied by a copy of the contract or other agreement that the importer has with a Registered Importer to bring the vehicle into conformance with all applicable Federal motor vehicle safety standards, or, alternatively, a copy of a letter from the Administrator granting such importer a period not more than 30 days from the date of the declaration in which to provide the Administrator with a copy of the contract (or other agreement).

(d) A declaration made pursuant to § 591.5(g) shall be accompanied by certification, including appropriate documentary proof that the vehicle for which declaration is made had been acquired by the importer as of October 31, 1988, or, if not so acquired, by a copy of a contract to acquire the vehicle, dated before October 31, 1988, which was binding upon the importer.

(e) A declaration made pursuant to § 591.5(h) shall be accompanied by a copy of the importer's official orders, or, if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the embassy to which the importer is accredited.

(f) A declaration made pursuant to § 591.5(j) shall be accompanied by a full and complete statement identifying the specific purpose(s) of importation, describing the use to be made of the vehicle or equipment item, and stating the estimated period of time necessary to use the vehicle or equipment item on the public roads, if any, and the disposition to be made of the vehicle or equipment item after completion of the purpose for which it is imported. If the importer does not intend to conform, export or destroy the vehicle or equipment item not later than 3 years after its entry, the importer shall request permission in writing from the Administrator for the vehicle or equipment item to remain in the United States for an additional period of time, subject to the limitations of § 591.7(c).

§ 591.7 Restrictions on importations; entry bond.

(a) A vehicle for which entry is sought under a declaration made pursuant to § 591.5(e) is a vehicle that requires further manufacturing operations to perform its intended function, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting.

(b) A vehicle for which entry is sought under a declaration made pursuant to § 591.5(f) may not be entered into the United States without a copy of a contract (or other agreement) with a Registered Importer, unless the Administrator has found, for good cause shown, that a copy of such contract (or other agreement) may be submitted to the Administrator within 30 calendar days after entry of the vehicle. Any person seeking such a finding should inform NHTSA in writing at least 10 days before a vehicle is offered for importation.

(c) A vehicle or equipment item which has entered the United States under a declaration made pursuant to § 591.5(j), and for which a Temporary Importation Bond has been provided to the Secretary of the Treasury, shall not remain in the United States for a period that exceeds 3 years from its date of entry, unless it has been conformed to meet all applicable Federal motor vehicle safety standards, or unless the conditions of the Bond have been satisfied.

(d) A vehicle or equipment item which has entered the United States under a declaration made pursuant to § 591.5(j), and for which duty has been paid, shall not remain in the United States for a period that exceeds 5 years from its date of entry, unless it has been conformed to meet all applicable Federal motor vehicle safety standards.

(e) An importer of a vehicle which has entered the United States under a declaration made pursuant to § 591.5(j) may license it for use on the public roads only if such use is an integral part of the research, investigations, studies, demonstration or training for which it is imported. An importer of a vehicle imported for competitive racing events shall not license it for use on the public roads, unless it has been brought into conformance with all applicable Federal motor vehicle safety standards.

(f) In the case of any vehicle imported pursuant to a declaration made under § 591.5(f), the importer of the vehicle shall furnish to the Secretary of the

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Treasury (acting on behalf of the Administrator) an appropriate performance bond.

Issued on April 19, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-9828 Filed 4-24-89; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 592

[Docket 89-6; Notice 1]

RIN 2127-AC97

Registered Importers of Nonconforming Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: With certain exceptions, the National Traffic and Motor Vehicle Safety Act, as amended by the Imported Vehicle Safety Compliance Act of 1988, will permit a motor vehicle not conforming to Federal motor vehicle safety standards to be imported only by a person who has registered with this agency, or by an individual who has a contract with a Registered Importer for making the modification necessary for bringing the vehicle into conformance with applicable safety standards.

In partial implementation of the 1988 amendments, this notice proposes procedures and requirements regarding the registration of importers and the duties and obligations of registered importers. In most instances, the particular provisions of these procedures and requirements are mandated by the 1988 amendments.

The notice proposes eligibility requirements for persons wishing to acquire and maintain registration. Among the requirements are ones regarding recordkeeping, allowance of inspection of records and facilities relating to the motor vehicles which the importer has imported and/or modified, certification to the Administrator that the vehicles have been brought into compliance, and insurance that the importer will be able technically and financially to carry out noncompliance and defect notification and remedy responsibilities should they arise. It also proposes procedures for persons to apply for registration and procedures for this agency's revocation or suspension of registration (and reinstatement) for failures to pay required fees or comply with regulations, or for filing a misleading or false certification. The notice also sets forth proposed inspection and bond release procedures.

Regulations intended to implement the remaining portions of the 1988 Act are being proposed simultaneously with this one. They are Part 591, *Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards*, and Part 593, *Determinations That a Nonconforming Vehicle is Eligible for Importation*, and Part 594 *Schedule of Fees Authorized by the Imported Vehicle Safety Compliance Act.*

DATES: Comment closing date for the proposal is June 26, 1989. The effective date of the final rule would be 30 days after publication of the final rule in the Federal Register.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).

SUPPLEMENTARY INFORMATION: On October 31, 1988, the President signed Pub. L. 100-562, the Imported Vehicle Safety Compliance Act of 1988. Notice of its enactment was published by the agency in the Federal Register on December 5, 1988 (FR 49003). As the notice stated, the Compliance Safety Act amends those provisions of the National Traffic and Motor Vehicle Safety Act of 1966 ("the Vehicle Safety Act") (15 U.S.C. 1381, at 1397) that relate to the importation of motor vehicles subject to the Federal motor vehicle safety standards. Specifically, the amendments strike paragraphs (3) and (4) of subsection (b) of 15 U.S.C. 1397. (Section 1397 may also be cited as section 108 of the Vehicle Safety Act), redesignates paragraph (5) as paragraph (3), redesignates subsection (c) of 15 U.S.C. 1397 as subsection (k), and adds new subsections (c) through (j).

The category of importer primarily affected by the amendments is the importer of a motor vehicle that does not conform, at the time of importation, to the Federal motor vehicle safety standards that applied to vehicles of its type at the time of its original manufacture. Under the current regulation, 19 CFR 12.80(b)(1)(iii), a nonconforming vehicle may be imported by any person. Under the 1988 amendments, an importer will have to be, subject to certain exceptions, a "Registered Importer" (one who meets the statutory criteria and has registered with the agency pursuant to the terms and conditions of the regulation that this notice proposes), or an individual who has contracted with a Registered Importer. The principal obligations of the Registered Importer with respect to the nonconforming vehicles it imports are (1) to bring those vehicles into compliance, either directly or through agents, (2) to provide the Administrator with certification that it has done so, and (3) in the event that noncompliances or safety related defects occur in vehicles it certifies, to notify owners, and provide a remedy. With respect to those vehicles it imports for resale, a Registered Importer falls within the long-standing definition of "manufacturer" under the Vehicle Safety Act and is responsible for notification of purchasers and remedy of noncompliances and safety related defects determined to exist in those vehicles. The 1988 amendments add a further responsibility; it makes the Registered Importer responsible for notification and remedy covering any vehicle covered by its certificate of conformity to the standards, whether or not it imported or modified the vehicle, if a noncompliance or defect is determined to exist in substantially similar vehicles originally manufactured and certified for sale in the United States. However, the manufacturer or Registered Importer would be afforded an opportunity to demonstrate to NHTSA that the vehicles covered by the certification do not contain the noncompliance or defect.

NHTSA is attempting in this rulemaking action to formulate a program that will ensure that all imported motor vehicles conform to the Federal motor vehicle safety standards without imposing unnecessary burdens on importers. Therefore, NHTSA has tried in this proposal to impose only those requirements that are mandated by the 1988 Act, with amplifications only where it appeared necessary to implement the safety intent of the statute. NHTSA encourages commenters to provide suggestions as to ways to reduce burdens without compromising safety, within the framework of the 1988 Act, in order to assist the agency in developing the final rule.

Requirements for Registration as Importer

Under the regulation proposed by this notice, any person who wishes to become a Registered Importer, and who has not previously had a registration revoked, may file an application with the Administrator (new section 108(c)(3)(D)(i)). This section also provides that registration may be denied "to any person who is or was, directly or indirectly, owned or controlled by, or under common ownership or control

with, a person who has had a registration revoked * * *." Therefore, as part of the application, an applicant would be required to disclose the names of its owners, shareholders, or partners. The agency does not construe the statute as requiring a Registered Importer to be the person who also physically conforms the vehicles, but the Registered Importer, and not its agent for such work, must conform to all requirements imposed by this regulation. Thus, if an applicant intends to contract with an agent for the performance of conformance work, it must identify such third parties.

Chief among the registration requirements stated in section 108(c)(3)(D)(ii) is proof of financial ability to carry out notification and remedy responsibilities should a noncompliance or safety related defect be found in any vehicle the Registered Importer has imported and/or for which it has furnished the Administrator a certificate of conformity. Implementation of this complex provision is discussed in full later in the notice. The 1988 Act also requires that the regulation contain "provision for ensuring that the importer (or any successor in interest) will be able * * * to carry out the importer's responsibilities * * * relating to discovery, notification, and remedy of defects". The agency proposes that the applicant show that it will maintain a system of VINs, and names and addresses of owners of vehicles for which it provides certifications. With respect to "successors in interest", the regulation makes clear that registrations are not transferable, and that a Registered Importer must notify NHTSA upon any change in its status, such as ownership interest. As required by the 1988 amendments, a registration regulation shall include requirements for "recordkeeping, inspection of records, and facilities, relating to the motor vehicles for which such person has imported, modified, or both". NHTSA has proposed appropriate requirements for each of these, and has specified that it may choose to inspect facilities while an application is pending. Such a provision is included, as well as the applicant's obligation to ensure that representatives of NHTS have equal access to the facilities of third parties with which it contracts to perform conformance work. NHTSA also proposes that such records be kept for a minimum of 8 years, the period specified in the National Traffic and Motor Vehicle Safety Act for which a manufacturer is obliged to remedy a noncompliance or safety related defect at no cost to the vehicle owner. A registration would continue indefinitely until revoked or suspended. However, a registrant, in order to maintain its registration, would be required to affirm annually that there has been no change in previously provided information. This should ensure that the financial ability of a Registered Importer can be monitored, and that fees are received in a timely manner.

Section 108(c)(3)(D)(iii) requires the Secretary to establish procedures for revoking or suspending the registration of any registered importer for failure to comply with any requirement of section 108 of the Vehicle Safety Act or of any regulation issued under that section. Those procedures are also required to provide for automatically suspending the registration of a registered importer which knowingly files a false or misleading certification, or fails to pay a required fee in a timely manner. To cover the expenses of the registration program and certain other activities, the statute provides that each Registered Importer will have to pay an annual fee; this fee will be established on a fiscal year basis. A Registered Importer under suspension may be reinstated when the cause giving rise to the suspension ceases to exist. In determining revocation and suspension, other than automatic suspension as provided by section 108(c)(3)(D)(iii) for nonpayment of fees or for knowingly filing a false or misleading certification, the Administrator would provide notice in writing to the Registered Importer, affording it an opportunity to present data, views, and arguments as to why its registration should not be suspended or revoked. Other than its provision for automatic suspension, the 1988 amendments does not distinguish suspension from revocation; either may be invoked for failure to comply with any requirement of section 108 or the regulations issued under section 108. The agency interprets the 1988 amendments as leaving the decision whether to suspend or to revoke to the discretion of the Administrator, with the exception of the automatic suspension provisions discussed above.

As is currently required, an importer of record, whether a Registered Importer or one who has a conformance contract with a Registered Importer, would have to furnish the Secretary of the Treasury (the U.S. Customs Service, acting for NHTSA), a bond for each vehicle it imports to ensure that the vehicle is brought into compliance with the safety standards. When the modifications of an imported vehicle are completed, the Registered Importer would have to attach its label to the vehicle stating that it complies with the safety standards, and certify that conformance to NHTSA. If the vehicle is one that the Administrator determined to be substantially similar to one certified by its original manufacturer for sale in the U.S., the Registered Importer could rely in making its certification on the original manufacturer's certification with respect to identical safety features if it certified to the Administrator that its modifications did not affect compliance of the vehicle's safety features. In substantiation of certification, the agency proposes that the initial certification submitted by a Registered Importer for a specific model and model year be accompanied by complete substantiating documentation and photographs. A submission would not be required to substantiate certifications for the same specific model and model year, but a Registered Importer would prepare and retain in its files documentation packages for these vehicles which could be inspected by the agency upon demand. This should shorten the certification review process, and enhance the ability of the agency to authorize release of vehicles in a relatively short period of time after certification was received. The Registered Importer would be able to license the vehicle, or release the vehicle from its custody for licensing 30 days after its submission of the certification to NHTSA. NHTSA, however, could demand an inspection of the vehicle within the 30-day period, or ask for certification verification. In that event, the vehicle could be released only upon the agency's written notice of its acceptance of the certification or written notice of its completion of an inspection that does not show any failure to comply. The vehicle and the bond could be released immediately upon issuance of either notification. Section 108(c)(3)(E)(v), added by the 1988 amendments, provides that any release of bond, however, does not constitute a determination under section 152 of the Vehicle Safety Act that the vehicle conforms with all applicable standards.

In developing a provision addressing the financial ability of a Registered Importer to carry out its notification and remedial obligations, the agency has been guided by the experience of the Environmental Protection Agency ("EPA") in developing and promulgating regulatory provisions addressing the financial ability of Independent Commercial Importers ("ICI"s) to honor emissions warranties. (40 CFR 85.1510(b)(2)(i), 52 FR 36136). ICIs are importers of motor vehicles and engines.

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who have registered with the EPA, some of whom may be importers who will be registering with NHTSA. Thus, a NHTSA requirement that parallels the EPA one is not likely to add significantly to the regulatory burden of those who import nonconforming vehicles subject to Federal regulations.

Commenters on EPA's regulations at the proposal stage, principally original equipment vehicle and engine manufacturers, and the State of California, suggested that ICIs acquire prepaid insurance and/or bonds to cover ICI warranty and recall liability for the useful life of each vehicle. There was no opposition from ICIs regarding this concept. Based on its experiences under the California emissions standards for motor vehicles, the California Air Resources Board (CARB) noted that the modification industry is composed of small businesses, and argued that it is likely that a number of firms will fall over time. Without a requirement for an insurance policy or bond to cover warranty and recall repairs, owners of vehicles obtained from firms that are no longer in business would have to bear the warranty costs. CARB offers modifiers a choice between obtaining insurance or a bond.

EPA decided to require a prepaid mandatory service insurance policy that, in effect, assures effective warranty coverage. That agency reasoned that it was unnecessary to require a bond to assure an effective recall and warranty program. Because the prepaid mandatory service insurance policy seemed acceptable to modifiers as a means of assuring their performance regarding recalls and warranties, NHTSA is proposing that Registered Importers be required to have a similar insurance policy, to assure fulfillment of the notification and remedial duties imposed by the 1988 amendments. As part of a registration application, a copy of a policy, or a contract to acquire such insurance, would be submitted, which would become effective upon grant of the application. However, NHTSA has no knowledge of the burden the insurance requirement might impose upon an applicant, and requests comments on this point. NHTSA also requests comments upon alternate appropriate means of assuring financial ability to carry out notification and remedial activities.

Finally, NHTSA requests comments on the amount of insurance that would be necessary to demonstrate "sufficient financial responsibility." (section 108(d)(2)). The premium paid for such a policy would appear to encompass the relatively low costs of notification (i.e., discerning through records or R.L. Polk the names and addresses of vehicle owners), and the somewhat higher costs of remedy (through repair, repurchase, or replacement), as affected by the yearly number of vehicles for which the registered importer estimates it will submit certification. NHTSA understands that only one company is currently insuring ICI's under EPA's program, but given the difference between Federal safety and emission standards the cost experience is not directly comparable.

Impacts

After considering the impacts of this rulemaking action, NHTSA has determined that the action is not major within the meaning of Executive Order 12291 "Federal Regulation", because it will not have an impact upon the economy in excess of $100 million. Nor is it significant under Department of Transportation regulatory policies and procedures. The proposed action involves no substantial public interest or controversy. It has no substantial effect on state and local governments. There is no substantial impact on a major transportation safety program. The number of vehicles to be processed through Registered Importers is estimated to be less than 3000.

NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported through registered importers would not vary significantly from that existing before promulgation of the rule. However, to the extent that a rule would result in a higher percentage of vehicles being brought into compliance with the standards, the materials added to bring the vehicles into conformance would increase.

The agency has also considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant effect upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles may be small businesses within the meaning of the Regulatory Flexibility Act, the agency has no reason to believe that a substantial number of these companies could not qualify. However, small businesses currently conforming vehicles may not choose to register as importers because of the recordkeeping and other requirements, and the obligation to notify/remedy in the event of the occurrence of a noncompliance or safety related defect, and these businesses would no longer be able to perform conformance work after January 31, 1990. The cost to owners or purchasers of modifying nonconforming vehicles to conform with the safety standards may be expected to increase to the extent necessary to reimburse the registered importer for the fees payable to the agency for the cost of administering the registration program and to compensate Customs for its bond processing costs. Governmental jurisdictions would not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles. However, a Regulatory Flexibility Analysis covering all regulations proposed to implement the 1988 Act has been prepared, and will be placed in the public docket.

The agency has analyzed the proposed rule in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The registration requirements in this proposal are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these proposed requirements are being submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attn: Desk Officer for NHTSA. It is requested that comments sent to the OMB also be sent to the NHTSA rulemaking docket for this proposed action.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 592

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that a new Part 592, *Registered Importers of Nonconforming Vehicles*, be added to Title 49, Chapter V, to read as follows:

PART 592—REGISTERED IMPORTERS OF NONCONFORMING VEHICLES

Sec.

592.1 Scope.
592.2 Purpose.
592.3 Applicability.
592.4 Definitions.
592.5 Requirements for registration and its maintenance.
592.6 Duties of a registered importer.
592.7 Revocation, suspension and reinstatement of registration.
592.8 Inspection; release of vehicle and bond.

Authority: Pub. L. 100-562; delegations of authority at 49 CFR 1.50 and 501.8.

§ 592.1 Scope.

This art establishes procedures under section 108(b)(3)(D) of the National Traffic and Motor Vehicle Safety Act, as amended (15 U.S.C. 1397(b)(3)(D)), for the registration of importers of motor vehicles that do not comply with all applicable Federal motor vehicle safety standards at the time the vehicles are offered for entry into the United States. This part also establishes the duties of Registered Importers.

§ 592.2 Purpose.

The purpose of this part is to provide content and format requirements for persons who desire to register with the Administrator as importers of nonconforming motor vehicles, to provide procedures for the registration of importers and for the suspension, revocation and reinstatement of registration, and to set forth the duties required or Registered Importers.

§ 592.3 Applicability.

This part applies to any person who wishes to register with the Administrator as an importer of nonconforming vehicles, and who has not previously had a registration revoked by the Administrator, and to any person who is registered as an importer.

§ 592.4 Definitions.

All terms in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391) are used as defined therein.

"Administrator" means the Administrator, National Highway Traffic Safety Administration.

"NHTSA" means the National Highway Traffic Safety Administration.

"Registered Importer" means any person that the Administrator has registered as an importer pursuant to § 592.5(b).

§ 592.5 Requirements for registration and its maintenance.

(a) Any person wishing to register as an importer of noncomplying motor vehicles must file an application which:

(1) Is headed with the words "Application for Registration as Importer", and submitted in three copies to: Administrator, National Highway Traffic Safety Administration, Washington, DC 20590, Attn: Importer Registration.

(2) Is written in the English language.

(3) Sets forth the full name, address, and title of the person preparing the application, and the name, address, and telephone number of the person for whom application is made.

(4) Sets forth, as applicable, the names of all owners, including shareholders, partners, or sole proprietors, of the person for whom application is made.

(5) If any of the owners listed in paragraph (a)(4) of this section are corporations, sets forth the names of all shareholders of such corporation whose ownership interest is 10 percent or greater.

(6) Contains a statement that the applicant has never had a registration revoked pursuant to § 592.7, nor is it or was it, directly or indirectly, owned or controlled by, or under common ownership or control with, a person who has had a registration revoked pursuant to § 592.7.

(7) Contains a certified check payable to the Treasurer of the United States, for the amount of the initial annual fee established pursuant to Part 594 of this chapter.

(8) Contains a copy of a contract to acquire, effective upon its registration as an importer, a prepaid mandatory service insurance policy underwritten by an independent insurance company, in an amount sufficient to ensure that the applicant will be able financially to remedy any noncompliance or safety related defect determined to exist in any vehicle for which it has furnished a certificate of conformity to the Administrator, through repair, replacement, or repurchase of such vehicle, in accordance with Part 573 and Part 577 of this chapter.

(9) Sets forth in full data, views, and arguments of the applicant sufficient to establish that the applicant will be able, through a records system of acquiring and maintaining names and addresses of owners of vehicles for which it furnishes a certificate of conformity, and VINs of such vehicles, to notify such owners that a noncompliance or safety related defect exists in such vehicles, and that it will be financially able to remedy a noncompliance or safety related defect through repurchase or replacement of such vehicles, or technically able through repair of such vehicles, in accordance with Part 573 and Part 577 of this chapter.

(10) Segregates and specifies any part of the information and data submitted under this part that the applicant wishes to have withheld from public disclosure in accordance with Part 512 of this chapter.

(11) Contains a statement whether the applicant will modify the vehicles for which it will furnish certificates of conformity to the Administrator.

(12) If the answer to (11) is negative, provides the name and address of all agents who will modify the vehicles.

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(13) Contains a statement that the applicant will fully comply with all duties of a registered importer as set forth in § 592.6, and will ensure that any agent with whom it may contract to perform modifications will also fully comply with such duties as if it were the applicant.

(14) Has the applicant's signature acknowledged by a notary public.

(b) If the information submitted is incomplete, the Administrator notifies the applicant of the areas of insufficiency, and that the application is in abeyance.

(c) If the Administrator deems it necessary for a determination upon the application, NHTSA conducts an inspection of the applicant and/or its agents. Subsequent to the inspection, NHTSA calculates the costs attributable to such inspection, and notifies the applicant in writing that such costs comprise a component of the initial annual fee and must be paid before a determination is made upon its application.

(d) When the application is complete (and, if applicable, when a sum representing the inspection component of the initial annual fee is paid), it is reviewed and a determination made whether the applicant should be granted the status of Registered Importer. Such determination may be based, in part, upon an inspection by NHTSA of the conformance, storage, and recordkeeping facilities of the applicant and agents, if any. If the Administrator determines that the application is acceptable, (s)he informs the applicant in writing that its application is approved, and issues it a Registered Importer Number. If the information is not acceptable, the Administrator informs the applicant in writing that its application is not approved. No refund is made of those components of the initial annual fee representing the costs of processing the application, and conducting an inspection. Refund is made of that component of the initial annual fee representing the remaining costs of administration of the registration program.

(e) In order to maintain its registration, a Registered Importer shall provide an annual statement that affirms that all information provided under subsection (a) of this section remains correct. Such statement shall be titled "Yearly Statement of Registered Importer", and shall be filed not later than October 31 of each year. A Registered Importer shall also pay such annual fee or fees as the Administrator may from time to time establish under Part 594 of this chapter. An annual fee shall be paid not later than October 31 of any calendar year, and shall be the annual fee for the fiscal year that began on October 1 of that calendar year. Any other fee shall be payable not later than 30 calendar days after the date that the Administrator has notified the Registered Importer of it in writing.

(f) A Registered Importer shall notify the Administrator in writing of any change that occurs in the information which it submitted in its application, not later than the end of the 30th calendar day after such change.

(g) A registration granted under this part is not transferable.

§ 592.6 Duties of a registered importer.

(a) Each Registered Importer shall:

(1) With respect to each motor vehicle that it imports into the United States, furnish to the Secretary of the Treasury (acting on behalf of the Administrator) a bond in an amount not less than the dutiable value of the vehicle, as determined by the Secretary of the Treasury, nor more than 150 per cent of such value to ensure that such vehicle either will be brought into conformity with all applicable Federal motor vehicle safety standards prescribed under Part 571 of this chapter within 120 calendar days after such importation, or will be exported (at no cost to the United States) by the importer or the Secretary of the Treasury, or abandoned to the United States.

(2) Establish, maintain, and retain for 8 years from the date of entry of any nonconforming vehicle for which it furnishes a certificate of conformity pursuant to paragraph (a)(5) of this section, organized records, correspondence and other documents relating to the importation, modification, and substantiation of certification of conformity to the Administrator, including but not limited to:

(i) The declaration required by § 591.5 of this chapter, and 19 CFR 12.80.

(ii) All vehicle or equipment purchase or sales orders or agreements, principal or agent agreements, conformance agreements with importers other than Registered Importers, and correspondence between the Registered Importer and (1) any agent who performs conformance work on its behalf, and (2) the owner or purchaser of each vehicle for which it has furnished a certificate of conformity.

(iii) The last known name and address of the owner or purchaser of each motor vehicle for which it has furnished a certificate of conformity, and the VIN number of such vehicle.

(iv) Records, both photographic and documentary, reflecting the modifications made and submitted to the Administrator pursuant to subsection (5).

(v) Records, both photographic and documentary, sufficient to substantiate each subsequent certificate furnished to the Administrator for a vehicle of the same model and model year for which documentation has been furnished NHTSA in support of the initial certificate.

(3) Permanently affix to each motor vehicle, upon completion of modifications, a label that meets the requirements of Sec. 567.4 of this chapter, which identifies the Registered Importer, and provide to the Administrator a photocopy of the label attesting that such vehicle has been brought into conformity with all applicable Federal motor vehicle safety and bumper standards.

(4) Certify to the Administrator, upon completion of modifications, that the vehicle has been brought into conformity with all applicable Federal motor vehicle safety and bumper standards, and that it is the person legally responsible for bringing the vehicle into conformity.

(5) In substantiation of the initial certification provided for a specific model and model year, submit to the Administrator photographic and documentary evidence of conformance with each applicable Federal motor vehicle safety and bumper standard, and with respect to subsequent certifications of such model and model year, such information, if any, as the Administrator may request.

(6) With respect to any motor vehicle for which it has furnished a certificate of conformity to the Administrator, provide notification and remedy according to Part 573 and Part 577 of this chapter, upon any determination that a vehicle to which it is substantially similar, as determined under Part 593 of this chapter, incorporates a safety related defect or fails to conform with an applicable Federal motor vehicle safety standard. However, this obligation does not exist if the manufacturer of the vehicle or Registered Importer demonstrates to the Administrator that the defect or noncompliance is not present in such vehicle.

(7) In order to allow the Administrator to determine whether a Registered Importer is meeting its statutory responsibilities, admit representatives of NHTSA during operating hours, upon demand, and upon presentation of credentials, to copy documents, or to inspect, monitor, or photograph any of the following:

(i) Any facility, whether or not owned or controlled by the Registered Importer, where any vehicle, for which a Registered Importer has the responsibility of providing a certificate of conformity to applicable safety standards, is being modified, tested, or stored;

(ii) Any facility, whether or not owned or controlled by the Registered Importer, where any record or other document relating to modification, testing, or storage of vehicles being conformed, is filed;

(iii) Any part or aspect of activities relating to the modification, testing, and/or storage of vehicles, by the Registered Importer or any agent.

(iv) Any motor vehicle for which it has provided a certification of conformity to the Administrator, and which remains in its custody or under its control.

(8) With respect to any vehicle that it imports, provide notification and remedy pursuant to Part 573 and Part 577 of this chapter, upon any determination that the vehicle incorporates a safety related defect or fails to conform with an applicable Federal motor vehicle safety standard, without reference to whether such may exist in a vehicle to which it is substantially similar.

(9) Maintain in effect a prepaid mandatory service insurance policy underwritten by an independent insurance company as a guarantor of its performance under paragraph (a) (6) and (8) of this section.

§ 592.7 Revocation, suspension and reinstatement of registration.

(a) If the Administrator has not received any fee assessed and owing by the end of the 30th calendar day after such fee is due and payable, a registration is automatically suspended at the beginning of the 31st calendar day, and the Registered Importer is immediately notified in writing of the suspension at the address contained in its most recent annual statement or amendment thereof.

(b) If the Administrator has reason to believe that a Registered Importer has knowingly filed a false or misleading certification, and that its registration should be automatically suspended or revoked, (s)he notifies the Registered Importer in writing of the facts giving rise to such reason to believe, affording an opportunity to present data, views, and arguments, either in writing or in person, within 30 calendar days after receipt of the Administrator's letter, as to whether it has submitted false or misleading certification, and as to why the registration ought not to be revoked or suspended. The Administrator then makes a decision after the 30-day period on the basis of all information then available. If, after consideration of all the data available, the Administrator determines that the Registered Importer has knowingly filed a false or misleading certification, the registration is automatically suspended or revoked, and the Registered Importer notified in writing. Any suspension or revocation is effective as of the date of the Administrator's determination. The Administrator shall state the period of any suspension in the notice to the Registered Importer.

(c) The Administrator may suspend a registration if a Registered Importer fails to comply with any requirement set forth in 15 U.S.C. 1397(c)(3)(D), § 592.5(c), or § 592.6, or if s(he) denies an application filed under § 592.5(d). The Administrator may revoke a registration after any failure to comply with any such requirement, or if (s)he denies an application filed under § 592.5(d). If the Administrator has reason to believe that there has been such a failure to comply and that the Registered Importer's registration should be revoked or suspended, (s)he notifies the Registered Importer in writing, affording an opportunity to present data, views, and arguments, either in writing or in person, within 30 calendar days after receipt of the Administrator's letter, as to whether there has been a failure to comply and as to why the registration ought not to be revoked or suspended. The Administrator then makes a decision after the 30-day period on the basis of all information then available. If the Administrator determines that a registration should be revoked or suspended, (s)he notifies the Registered Importer in writing. A revocation is effective immediately. A suspension is effective beginning with a date specified in the written notification.

(d) A Registered Importer whose registration has been revoked or suspended may request reconsideration of the revocation or suspension if the request is supported by factual matter which was not available to the Administrator at the time the registration was suspended or revoked.

(e) If its registration has been revoked, a Registered Importer is ineligible to apply for reregistration under this part. No refund is provided of any annual or other fees the Registered Importer has paid for the fiscal year in which its registration is revoked. If its registration has been suspended, it may file an application for reinstatement of its registration.

(f) The Administrator shall reinstate a suspended registration if the cause that led to the suspension no longer exists, as determined by the Administrator, either upon the Administrator's motion, or upon the submission of further information or fees by the Registered Importer.

§ 592.8 Inspection; release of vehicle and bond.

(a) With respect to any motor vehicle for which it is obligated to provide a certificate of conformity to the Administrator as requested by § 592.6(a)(4), a Registered Importer shall not obtain licensing or registration of the motor vehicle for use on the public roads, or release custody of it for such licensing and registration, except in accordance with the provisions of this section.

(b) When conformance modifications to a motor vehicle have been completed, a Registered Importer shall submit the certification required by § 592.6(a)(4) to the Administrator. In certifying a vehicle that the Administrator has determined to be substantially similar to one that has been certified by its original manufacturer for sale in the United States, the Registered Importer may rely on any certification by the original manufacturer with respect to identical safety features if it also certifies that any modification that it undertook did not affect the compliance of such safety features. Each submission shall either be mailed by certified mail, return receipt requested, to: Administrator, National Highway Traffic Safety Administration, Washington, DC, 20590 ATTN: NEF–32, or be submitted electronically in a manner to be specified by NHTSA. Each submission shall identify the location where the vehicle will be stored and is available for inspection, pending NHTSA action upon the submission.

(c) Before the end of the 30th calendar day after receipt of certification of a motor vehicle pursuant to § 592.6(a)(4), the Administrator may inform the Registered Importer in writing that an inspection of the vehicle is required to ascertain the veracity of the certification. Written notice includes a proposed inspection date, which is as soon as practicable. If inspection of the vehicle indicates that the vehicle has been properly certified, at the conclusion of the inspection the Registered Importer is provided an instrument of release, and the Administrator provides a copy of the instrument to the Department of Treasury as soon as practicable in order to effect release of bond. If inspection of the vehicle shows that the vehicle has not been properly certified, the

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Registered Importer shall either make the modifications necessary to substantiate its certification, and provide a new certification for the standard(s) in the manner provided for in subsection (b), or export the vehicle. Before the end of the 30th calendar day after receipt of new certification, the Administrator may require a further inspection in accordance with the provisions of this subsection.

(d) The Administrator may by written notice request certification verification by the Registered Importer before the end of the 30th calendar day after the date the certification was received by the Administrator. If the basis for such request is that the certification is false or contains a misrepresentation, the Registered Importer shall be afforded an opportunity to present written data, views, and arguments as to why the certification is not false or misleading or does not contain a misrepresentation. The Administrator may require an inspection pursuant to paragraph (c) of this section. The motor vehicle and bond involved shall not be released unless and until the Administrator is satisfied with the certification.

(e) If a Registered Importer has received no written notice from the Administrator by the end of the 30th calendar day after it has furnished a certification to the Administrator, the Registered Importer may release the vehicle from custody that is covered by the certification, or have it licensed or registered for use on the public roads.

(f) If the Administrator accepts a certification without requiring an inspection, (s)he notifies the Department of Treasury in writing that it may release the bond on the vehicle covered by the certification, as of a date certain, and provides a copy to the importer of record. Such notification shall be provided not later than the 25th calendar day after the Administrator has received such certification.

(g) Release of bond shall constitute acceptance of certification or completion of inspection of the vehicle concerned, but shall not preclude a subsequent determination by the Administrator pursuant to section 152 of the Act (15 USC 1451) that the vehicle fails to conform to any applicable Federal motor vehicle safety standard.

Issued on April 19, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-9829 Filed 4-24-89; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 593

[Docket No. 89-7; Notice 1]

RIN 2127-AC99

Determinations That a Nonconforming Vehicle is Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Effective January 31, 1990, the National Traffic and Motor Vehicle Safety Act, as amended by the Imported Vehicle Safety Compliance Act of 1988, will place new limits on the importation of foreign motor vehicles not manufactured to meet Federal motor vehicle safety standards. In most instances, these vehicles will be allowed to be imported into the United States only by an importer that has registered with the Department of Transportation and who will subsequently certify to NHTSA that the vehicle has been modified to conform with the standards, or by a private individual who has a contract with a Registered Importer for such certification.

The 1988 amendments prohibit, with certain exceptions, the importation of a vehicle that does not meet Federal motor vehicle safety standards unless it belongs to a model that meets specified eligibility criteria. The criteria is that the model is determined by this agency to be substantially similar to one that was originally manufactured for importation and sale into the United States, and that it is capable of being readily modified to conform to the Federal safety standards. Alternatively, for a model for which there is not a substantially similar vehicle, the agency must determine that the safety features of the model comply or are capable of being modified to comply with the safety standards. This notice proposes procedural regulations for making determinations regarding the meeting of these criteria. Most details of the proposal are dictated by the 1988 amendments.

Other notices proposing regulations to implement the amendments are being published simultaneously with this one. They are Part 591, *Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards* and Part 592, *Registered Importers of Nonconforming Vehicles*, and Part 594, *Schedule of Fees Authorized by the Imported Vehicle Safety Compliance Act*.

DATES: Comment closing date is June 26, 1989. The effective date of the final rule would be 30 days after publication of the final rule in the Federal Register.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).

SUPPLEMENTARY INFORMATION: On October 31, 1988, the President signed into law the Imported Vehicle Safety Compliance Act of 1988, Pub. L. 100-562. The Act amends those provisions of the National Traffic and Motor Vehicle Safety Act of 1966 ("the Vehicle Safety Act") that relate to the importation of motor vehicles subject to the Federal motor vehicle safety standards (section 108(b), 15 U.S.C. 1397(b)). The 1988 amendments impose restrictions upon the eligibility of motor vehicles for importation. The principal restriction upon a motor vehicle is that it cannot be imported at all unless NHTSA determines that the motor vehicle model is capable of modification to meet the Federal safety standards. Determinations will be made on NHTSA's own initiative, or upon petition of any registered importer (see discussion below) or any motor vehicle manufacturer, and will be subject to public comment.

A nonconforming vehicle may be imported under either of the following two scenarios. The first scenario will involve the making of two determinations by the agency: that the nonconforming model is substantially similar to a model of the same "model year" which was originally manufactured for importation into and sale in the United States and was certified as conforming to the Federal safety standards, and that a vehicle belonging to the model is capable of being readily modified to conform fully with the applicable standards.

The second scenario will arise if the agency has not made a substantial similarity determination regarding a model. In that case, it will still be permissible to import a vehicle of that model if the agency determines that its safety features comply with the United States standards, or are capable of being modified to comply with those standards, "based on destructive crash data or such other evidence" as NHTSA determines is adequate.

Under either scenario, a positive determination regarding a model will permit any Registered Importer to import vehicles of the same model that are covered by that determination.

If the agency makes a negative determination regarding a model's ability to be modified, the agency will be temporarily prohibited from taking up the issue again. If the decision was made in response to a petition, the 1988 amendments prohibit the agency from considering a petition regarding the same model of vehicle until at least 3 months after that decision. If the negative determination was made in a proceeding begun at the agency's own initiative, the agency will not be able to make another determination regarding the same model of motor vehicle until at least 3 months after the negative one.

NHTSA is attempting in this rulemaking action to formulate a program that will ensure that all imported motor vehicles conform to the Federal motor vehicle safety standards without imposing unnecessary burdens on importers. Therefore, NHTSA has tried in this proposal to impose only those requirements that are mandated by the 1988 Act, with amplifications only where it appeared necessary to implement the safety intent of the statute. NHTSA encourages commenters to provide suggestions as to ways to reduce burdens without compromising safety, within the framework of the 1988 Act, in order to assist the agency in developing the final rule.

Petitions for Determinations

Section 108(c)(3)(C)(i)(I) requires the Administration to make eligibility determinations "on the petition of any Registered Importer or any manufacturer". Under the National Traffic and Motor Vehicle Safety Act, a "manufacturer" is defined to include any person who imports motor vehicles for resale. Thus, "manufacturer" excludes the individual who imports a vehicle, through a Registered Importer, for his or her own use. It also excludes the general public and trade associations.

This notice proposes basic procedural requirements for a petition that are similar to those the agency specifies for other petitions: that they be in the English language, state the full name and address of the petitioner, be submitted in 3 copies to the Administrator, and state the basis upon which petition is made.

The agency does not intend to specify by regulation the number and types of components that must be identified as capable of modification in order to demonstrate compliance. (The petitioner must, of course, show that a vehicle is readily modifiable, or capable of modification, as the case may be, so that it will comply with all applicable safety standards.) The Federal motor vehicle safety standards are performance standards and the NHTSA believes that registered importers, like original manufacturers, should be free to reach individual design solutions. Whether a petitioner's arguments are persuasive will be reflected in the agency's eventual determination, and NHTSA's conclusions will be discussed in a notice of determination published in the **Federal Register**. The agency will encourage arguments that reflect a performance orientation. To the extent that a petition contains information relating to the specific methodology by which that petitioner intends to achieve conformity, the agency will consider a request for confidentiality on the basis that it is a trade secret or otherwise subject to confidentiality under 49 CFR Part 512.

Specifically, if the basis of the petition is that the model for which a determination is sought is substantially similar to one that was originally manufactured for importation into and sale in the United States, and which bore a certification of compliance affixed by its original manufacturer, the petitioner must identify the original manufacturer of the certified vehicle, and the model and model year of the vehicle to be compared. It must also submit data, views, and arguments, with respect to each applicable Federal motor vehicle safety standard, that the vehicle is capable of being readily modified to meet that standard. The phrases "substantially similar" and "capable of being readily modified" are not defined by the 1988 amendment. However, NHTSA begins with the assumption that a vehicle that is "substantially similar" to one that was originally manufactured for importation and sale in the United States which bore its original manufacturer's certification is one whose visual appearance and structural details are "substantially similar" to the certified model. Under this hypothetical, a Renault 21 manufactured in France would be viewed as "substantially similar" to the Renault/Eagle Medallion, manufactured in France and certified by Renault for sale in the United States because its exterior sheetmetal appears virtually identical. On the other hand, a Renault 25 manufactured in France would not be viewed as substantially similar to the Eagle Premier manufactured in Canada and certified by Chrysler for sale in the United States, even though Chrysler purchases the platform and drive train of the Premier from Renault. Both its exterior and interior appearance and components differ from that of the Premier. There is no common exterior sheetmetal, different dash panels and seats are provided, and there is no interchangeability between doors and glazing. Comments are requested on the degree of interior and exterior similarity of appearance and structural details, and on the extent of parts interchangeability necessary to support a determination of substantial similarity. What parts are most critically related to compliance with the standards, particularly those standards which specify dynamic vehicle crash testing or other types of destructive testing?

Obviously, if a vehicle already conforms to a safety standard, the question of modification capability is not reached. To substantiate that no modifications are required with respect to that standard, a petition may be supported by a letter from the vehicle's original manufacturer confirming that the vehicle model under consideration was manufactured to comply with the standard. This method of substantiation would be appropriate for petitions based on substantial similarity as well as for petitions which are not so based.

As for whether a vehicle is "capable of being readily modified", as the first level of decision, NHTSA suggests that many components that are visible when the vehicle is fully assembled may be considered capable of being readily modified when they may be easily replaced with parts intended as replacement for conforming parts on substantially similar certified vehicles. For passenger cars, these components would include, but are not limited to, tires Standard No. 109), rims (Standard No. 110), and wheel covers (Standard No. 211), glazing marking (Standard No. 205), reflecting surfaces (Standard No. 107), controls and displays (Standard No. 101), and lighting devices (Standard No. 108). Other components, not readily visible, are also easily replaced with conforming parts. These include brake hoses (Standard No. 106), and brake fluid (Standard No. 116). In this event, the petitioner could provide in its petition the part numbers of the components that would be substituted to achieve conformance.

However, this first level of decision, based upon replacement of parts, could not determine conformance with vehicle rather than equipment standards. Visual inspection would not indicate whether the steering column would need to be replaced so that the vehicle would comply with Standard No. 204, or whether the interior fabrics (other than leather) would meet the flammability resistance required by Standard No. 302.

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because these tests incorporate destructive demonstration procedures. The second level of decision then rests upon the question whether the modifications necessary for conformance are "readily" achievable. In this instance, a petitioner would be expected to submit data showing that conformance can be achieved without extensive modifications, i.e. information demonstrating that compliance can be achieved without major structural modifications or destructive component testing. A major structural modification could mean, for example, strengthening of the rear frame bars in order to achieve conformance with Standard No. 301. A non-major structural modification could be installation of windshield retaining clips for conformance with Standard No. 212. On the assumption that a "substantially similar" vehicle may be more likely to incorporate structural features of certified vehicles, than vehicles for which there is no U.S. certified model, the Administrator may be more willing to accept data other than crash data to indicate that a vehicle is readily modifiable to achieve conformance. On the other hand, a vehicle would not appear to be capable of being readily modified if major structural modifications are required for compliance, though such modifications might be acceptable to demonstrate capability of modification. Although each petition for substantial similarity determinations will be decided on the merits of the arguments presented, it does not appear that the following components can be readily modified to achieve conformance with the applicable standards: automatic restraints (Standard No. 208), seat belt anchorages (Standard No. 210), roof structure (Standard No. 216), windshield intrusion (Standard No. 219), and fuel system components (Standard No. 301).

NHTSA requests comments on its assumptions and tentative interpretations of "substantially similar" and "capable of being readily modified". In addition, NHTSA is concerned about the possibility that vehicles which appear "substantially similar" to the eye are much less so under the exterior sheetmetal. Therefore, NHTSA also requests comments on the similarity of structural components in such vehicles, such as similarity of dimensions behind the dashboard, roof rails, engine compartment, trunk space, and other structural areas for vehicles that are visually similar. Further, it would like comments on the degree of similarity in the dynamic crush and crush pulse signature of the imported vehicles in front and rear end impacts. At the present time, the agency is not fully sure about the degree of the under-skin similarity of vehicles, and these factors may have to be taken into account in petitions and determinations. The agency is particularly concerned with these issues as they relate to passenger cars manufactured by Mercedes-Benz, BMW, and Jaguar during the past 10 years. On the basis of past experience, NHTSA anticipates that well over 90 percent of vehicles to be imported under the new requirements will be products of these manufacturers.

Similar considerations apply if a vehicle is not substantially similar to any vehicles that have been or are being certified as complying with the FVMSSs and imported into the United States. For such a vehicle, the basis of a petition would be that its safety features comply with, or are capable of being modified to comply with the safety standards to which it would have been subject at the time of its manufacture had it been originally intended for importation into the United States. Because there is no substantially similar model certified for sale in the United States, the statute does not specify that determinations be made with reference to model years. Cognizant of the fact that foreign vehicles may be produced for a number of years without major changes, the Administrator could make a determination applicable to vehicles produced within a model year, or manufactured during a stated inclusive period. Tentatively choosing a conservative approach, the agency is proposing that "capability of modification" determinations also be made on a model year basis.

With respect to the alternative basis of petitions, as with "substantially similar" vehicles, a determination "that the vehicle's safety features comply"could be made on the basis of a letter of confirmation from the vehicle's original manufacturer, or through visual inspection. However, the Act assumes that full conformance with the safety standards may be more difficult to achieve for a non-similar vehicle than for a vehicle that is "substantially similar" to a certified one, as it states that NHTSA's determination shall be "based on destructive test data or such other evidence as the [Administrator] determines to be adequate". In this instance, it would appear that far more detailed information might be required to demonstrate capability of modification with those standards listed at the end of the prior discussion on substantially similar vehicles. Crash test data may be preferable to demonstrate that vehicles are capable of being modified to conform with those standards that incorporate barrier impact demonstration procedures (Standards Nos. 201, 204, 208, 212, 219, and 301). NHTSA contemplates that a registered importer, or a group of registered importers, planning to import a large number of a particular model might sacrifice one or more such vehicles to crash tests in order to generate data to file with a petition. If a petitioner did not wish to conduct a crash test, then the question arises as to the "adequacy" of alternate means of demonstration that the vehicle is capable of modifications to achieve conformance. NHTSA therefore requests specific comments as to the adequacy of computer simulations, engineering analysis, and mathematical calculations as alternative bases of demonstrating compliance with the six safety standards listed above, as well as others, such as Standard No. 105 *Hydraulic brake systems.* It calls attention to the fact that, in the final rule, with respect to these standards, it may be satisfied with nothing less than crash data, or a letter from the vehicle's original manufacturer confirming compliance.

The agency also requests comments with respect to alternate types of evidence of compliance, and their suitability with respect to each of the other standards with complex laboratory demonstration procedures. For example, are computer simulations or mathematical calculations acceptable with respect to the ability of components such as door latches and hings (Standard No. 206) or seat anchorages (Standard No. 207) to withstand certain specified minimum forces? Neither method would appear to be acceptable as a demonstration of the lack of flammability of interior materials (Standard No. 302). For demonstrations of compliance with Standard No. 302, it might be necessary to submit an analysis or the fabric, or to test fabric actually from the vehicle, for example. The Administrator would determine the adequacy of the alternative types of evidence.

The proposed petition requirements are drafted in somewhat general terms, so as to afford petitioners flexibility in presenting arguments and solutions of a performance, rather than of a design nature in keeping with the definition of the Federal motor vehicle safety standards. It is possible that, on the basis of comments, the final rule will be more detailed as to the types of data required to substantiate compliance with each of the safety standards.

If a petition is filed on the basis that the vehicle is "substantially similar" to a certified one, and the Administrator cannot make such a determination, that does not mean that the petition is automatically denied. In that event, the Agency may inform the petitioner that it cannot make a determination on the basis petitioned for, but is willing to proceed to a consideration on the alternative basis, and make a determination on conformance, or capability of conformance, of the vehicle's safety features, on the basis of such further supporting information as the petition may care to submit. A petition for a determination of "substantial similarity" would identify the model and model year of the vehicle for which a determination is sought, and a "capability" determination, the model year. At this time, the agency does not find it necessary to propose a definition of "model". It believes that petitioners will identify with sufficient clarity the vehicles that it wishes to import, and that comparable U.S. models will have comparable designations. For example, Mercedes and BMW use the same series designations for both U.S. and European models, though secondary nomenclature may differ in minor respects, reflecting variations in the type of engines. Although the agency has defined the term "model year" in regulating contents of VINs (49 CFR Part 565), it does not find that definition adequate for purposes of determinations of "substantial similarity". In Part 565 "model year" means "the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced so long as the actual period is less than two calendar years". It is to be noted in the first instance that Part 565 does not apply to vehicles imported under bond for the production of a conformance statement, the types of vehicles that will be the subject of similarity petitions. In the second instance, the Part 565 definition requires a manufacturer to have determined a model year, and such a determination may not have been made by manufacturers not subject to its jurisdiction.

More specifically, the "model year of the vehicle to be compared" should be easily ascertainable, as it is the practice in the United States for manufacturers to designate their products by model years. Further, that has been the practice of foreign manufacturers selling passenger cars in the United States. However, that has not necessarily been the practice of foreign manufacturers with respect to their domestic products, which are the vehicles for which determinations will be sought. If the manufacturer has not designated a model year, then NHTSA must designate it. In recent years, NHTSA has, with respect to major standards, designated September 1 as the effective date of new requirements, although in earlier years, the effective date was frequently January 1. Accordingly, NHTSA is proposing that "model year" be defined as either the model year designated by the manufacturer,or, in the absence of a designation, that it be a period that begins on September 1 of a year and ends on August 31 of the next succeeding year.

The procedural aspects of eligibility determinations are similar to other agency regulations regarding petitions and their dispositions (see, for example, 49 CFR 555.7 on temporary exemptions from safety standards). Notice of a petition (or agency initiative) will be published in the **Federal Register** and an opportunity afforded for comment. No public hearing, argument, or other formal proceeding will be held directly on the matter before a determination is made. After a decision, the agency will publish a second notice in the **Federal Register** constituting the determination whether the vehicle is eligible or ineligible for importation. If the vehicle is eligible for importation, the determination will extend to all vehicles covered by the determination, whether or not imported by the petitioner. If the vehicle is ineligible for importation, the notice will contain the earliest date on which the Administrator is statutorily able to consider the matter anew. In order to demonstrate that a vehicle is capable of compliance, the agency is willing to permit a registered importer to import a nonconforming vehicle for modification and demonstration purposes under the appropriate provision of Part 591.

Agency Determinations of Eligibility

The 1988 Act also provides that the agency may make determinations on its own initiative. NHTSA will proceed with such determinations in a manner similar to those made by petition. A notice requesting public comment will appear in the **Federal Register**, specifying the basis upon which the Administrator is considering a determination. No formal proceeding will be held. A second notice containing the decision will be published in the **Federal Register**. The agency will publish annually in the **Federal** Register a list of vehicles for which determinations have been made. This will appear as an Annex to Part 593, so that it may also, appear in the Code of Federal Regulations. The agency intends to publish the first list before September 30, 1990, because the CFR publishes NHTSA regulations in revised form as of October 1 of each year.

The agency intends to make available for public inspection in the agency docket room all publicly available information relevant to a determination, whether made pursuant to a petition or on the Administrator's initiative. However, as discussed previously, the agency realizes that a petition by a registered importer may contain arguments as to capability of modification that reflect the methodology by which that petitioner intends to achieve conformance, and which may qualify as a trade secret or confidential information for which confidential treatment may be requested. In that instance, the agency may conclude that considerations of confidentiality outweigh the interests of full disclosure.

Impacts

NHTSA has considered the impacts of this rulemaking action and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation." However, it would require the agency to make a determination of capability of modification to meet Federal safety standards with respect to vehicles that did not comply with those standards prior to the time they are offered for importation into the United States. This is a responsibility that did not heretofore exist. It is not significant under Department of Transportation regulatory policies and procedures. Less than 3000 nonconforming vehicles a year that would be affected by this regulation are being imported into the United States. The proposed action has no substantial impact upon a major transportation safety program, nor does it involve any substantial public interest or controversy. There is no substantial impact upon state and local governments.

NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment because it is anticipated that the annual volume of noncomplying motor vehicles imported as a result of eligibility determinations would not vary significantly from that existing before promulgation of the rule. However, the modification of vehicles to bring them into compliance involves the addition of materials to those vehicles. To the extent that the eligibility

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determinations would result into a larger number of vehicles being brought into compliance with the standards, the materials used in conforming vehicles will increase.

The agency has also considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant effect upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles may be small businesses within the meaning of the Regulatory Flexibility Act, there is no restriction prohibiting them from applying for registration as importers under the proposal. Further, small organizations and governmental jurisdictions would not be significantly affected as they are not generally importers and purchasers of nonconforming motor vehicles. However, a Regulatory Flexibility Analysis covering all regulations proposed to implement the 1988 Act has been prepared, and will be placed in the public docket.

The petition procedures in this proposal are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 Part 1320. Accordingly, these proposed requirements are being submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attn: Desk Officer for NHTSA. It is requested that comments sent to the OMB also be sent to the NHTSA rulemaking docket for this proposed action.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 "Federalism," and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 593

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that a new Part 593 *Determinations That a Nonconforming Vehicle Is Eligible for Importation* be added to Title 49, Chapter V, to read as follows:

PART 593—DETERMINATIONS THAT A NONCONFORMING VEHICLE IS ELIGIBLE FOR IMPORTATION

Sec.

593.1 Scope.
593.2 Purpose.
593.3 Applicability.
593.4 Definitions.
593.5 Petitions for eligibility determinations.
593.6 Basis for petition.
593.7 Processing of petitions.
593.8 Determinations on the agency's initiative.
593.9 Effect of affirmative determinations; lists.
593.10 Availability for public inspection.

Authority: Pub. L. 100-562; delegations of authority at 49 CFR 1.50 and 501.8.

§ 593.1 Scope.

This part establishes procedures under section 108(c) of the National Traffic and Motor Vehicle Safety Act, as amended (15 U.S.C. 1397(c)), for making determinations whether a vehicle that does not comply with all applicable Federal motor vehicle safety standards, and is not otherwise eligible for importation under Part 591 of this chapter, may be imported into the United States because it can be modified to meet the Federal standards.

§ 593.2 Purpose.

The purpose of this part is to provide content and format requirements for registered importers and manufacturers who wish to petition the Administrator for a determination that a nonconforming vehicle is eligible to be imported into the United States because it can be modified to meet the Federal motor vehicle safety standards. The purpose of this part is also to specify procedures under which the Administrator makes eligibility determinations pursuant to those petitions as well as eligibility determinations on the agency's initiative.

§ 593.3 Applicability.

This part applies to a motor vehicle that was not originally manufactured and certified by its original manufacturer to conform with all applicable Federal motor vehicle safety standards which is offered for importation into the United States.

§ 593.4 Definitions.

All terms in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391) are used as defined therein.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration.

"Model year" means the year used by a manufacturer to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced, or, if a manufacturer has not made such a designation, the calendar year that begins on September 1 and ends on August 31 of the next calendar year.

"NHTSA" means the National Highway Traffic Safety Administration.

"Registered Importer" means any person who has been granted registered importer status by the Administrator pursuant to § 592.5(b) of this chapter, and whose registration has not been revoked.

§ 593.5 Petitions for eligibility determinations.

(a) A manufacturer or Registered Importer may petition the Administrator for a determination that a vehicle that does not comply with all applicable Federal motor vehicle safety standards is eligible for importation, either

(1) On the basis that the vehicle

(i) is substantially similar to a vehicle which was originally manufactured for importation into and sale in the United States and which bore a certification affixed by its manufacturer pursuant to Part 567 of this chapter, and

(ii) is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards; or

(2) On the basis that the vehicle has safety features that comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards.

(b) Each petition filed under this part must—

(1) Be written in the English language;

(2) Be headed with the words "Petition for Import Eligibility Determination" and submitted in three copies to: Administrator, National Highway Traffic Safety Administration, Washington, DC 20590, Attn: Import Eligibility Determinations;

(3) State the full name and address of the petitioner. If the petitioner is a Registered Importer, include the Registered Importer Number assigned by NHTSA pursuant to Part 592 of this chapter.

(4) Set forth the basis for the petition and the information required by § 593.6 (a) or (b), as appropriate;

(5) Specify any part of the information and data submitted which petitioner requests be withheld from public disclosure in accordance with Part 512 of this chapter.

(6) Submit a certified check payable to the Treasurer of the United States, for the amount of the vehicle eligibility petition fee established pursuant to Part 594 of this chapter.

(c) The knowing and willful submission of false, fictitious or fraudulent information may subject the petitioner to the criminal penalties of 18 U.S.C. 1001.

§ 593.6 Basis for petition.

(a) If the basis for the petition is that the vehicle is substantially similar to a vehicle which was originally manufactured for importation into and sale in the United States, and which was certified by its manufacturer pursuant to Part 567 of this chapter, and that it is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards, the petitioner shall provide the following information:

(1) Identification of the original manufacturer, model, and model year of the vehicle for which a determination is sought.

(2) Identification of the original manufacturer, model, and model year of the vehicle which the petitioner believes to be substantially similar to that for which a determination is sought.

(3) Substantiation that the manufacturer of the vehicle identified by the petitioner under paragraph (a)(2) of this section originally manufactured it for importation into and sale in the United States, and permanently affixed a label to it certifying that it complied with all applicable Federal motor vehicle safety standards.

(4) Data, views and arguments demonstrating that the vehicle identified by the petitioner under paragraph (a)(1) of this section is substantially similar to the vehicle identified by the petitioner under paragraph (a)(2) of this section.

(5) With respect to each Federal motor vehicle safety standard that applied to the vehicle identified by the petitioner under paragraph (a)(2) of this section, data, views, and arguments demonstrating that the vehicle identified by the petitioner under paragraph (a)(1) of this section either was originally manufactured to conform to such standard, or is capable of being readily modified to conform to such standard.

(b) If the basis of the petition is that the vehicle's safety features comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards, the petitioner shall provide the following information:

(1) Identification of the model and model year of the vehicle for which a determination is sought.

(2) With respect to each Federal motor vehicle safety standard that would have applied to such vehicle had it been originally manufactured for importation into and sale in the United States, data, views, and arguments demonstrating that the vehicle has safety features that comply with or are capable of being modified to conform with such standard, and after such modifications, will conform with such standard.

§ 593.7 Processing of petitions.

(a) NHTSA will review each petition upon its receipt for its sufficiency under §§ 593.5 and 593.6. If the petition does not contain all the information required by this part, NHTSA notifies the petitioner, pointing out the areas of insufficiency, and stating that the petition will not receive further consideration until the required information is provided. If the additional information is not provided within the time specified by NHTSA in its notification, NHTSA may dismiss the petition as incomplete, and so notify the petitioner. When the petition is complete, its processing continues.

(b) NHTSA publishes in the **Federal Register**, affording opportunity for comment, a notice of each petition containing the information required by this part.

(c) No public hearing, argument, or other formal proceeding is held on a petition filed under this part.

(d) If the Administrator is unable to determine that the vehicle in a petition submitted under § 593.6(a) is one that is substantially similar, or (if it is substantially similar) is capable of being readily modified to meet the standards, (s)he notifieds the petitioner, and offers the petitioner the opportunity to supplement the petition by providing the information required for a petition submitted under § 593.6(b).

(e) If the Administrator determines that the petition does not demonstrate that the vehicle model is eligible for importation, (s)he denies it and notifies the petitioner in writing. (S)he also publishes in the **Federal Register** a notice of denial and the reasons for it. A notice of denial also states that the Adminstrator will not consider a new petition covering the model that is the subject of the denial until at least 3 months from the date of the notice of denial. There is no administrative reconsideration available for petition denials.

(f) If the Administrator determines that the petition demonstrates that the vehicle model is eligible for importation, (s)he grants it and notified the petitioner. (S)he also publishes in the **Federal Register** a notice of grant and the reasons for it.

§ 593.8 Determinations on the agency's initiative.

(a) The Administrator may make a determination of eligibility on his or her own initiative. The agency publishes in the **Federal Register**, affording opportunity for comment, a notice containing the information available to the agency (other than confidential information) relevant to the basis upon which eligibility may be determined.

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(b) No public hearing, argument, or other formal proceeding is held upon a notice published under this section.

(c) The Administrator publishes a second notice in the **Federal Register** in which (s)he announces his or her determination whether the vehicle is eligible or ineligible for importation, and states the reasons for the determination. A notice of ineligibility also announces that no further determination for the same model of motor vehicle will be made for at least 3 months following the date of publication of the notice. There is no administrative reconsideration available for a decision of ineligibility.

§ 593.9 Effect of affirmative determinations; lists.

(a) A notice of grant is sufficient authority for the importation by persons other than the petitioner of any vehicle of the same model specified in the grant.

(b) The Administrator publishes annually in the **Federal Register** a list of determinations made under §§ 593.7 and 593.8.

§ 593.10 Availability for public inspection.

(a) Except as specified in paragraph (b) of this section, information relevant to a determination under this part, including a petition and supporting data, and the grant or denial of the petition or the making of a determination on the Administrator's initiative, is available for public inspection in the Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Copies of available information may be obtained, as provided in Part 7 of this chapter.

(b) Except for release of confidential information authorized under Part 512 of this chapter, information made available for inspection under paragraph (a) does not include information for which confidentiality has been requested and granted in accordance with Part 512, and 5 U.S.C. 552(b). To the extent that a petition contains material relating to the methodology by which the petitioner intends to achieve conformance with a specific standard, the petitioner may request confidential treatment of such material on the grounds that it contains a trade secret or confidential information in accordance with Part 512 of this chapter.

Issued on: April 19, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-9830 Filed 4-24-89; 8:45 am]
BILLING CODE 4910-59-M

49 CFR Part 594

[Docket No. 89-6; Notice]

RIN 2127-AC96

Schedule of Fees Authorized by the Imported Vehicle Safety Compliance Act

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Traffic and Motor Vehicle Safety Act, as revised by the Imported Vehicle Safety Compliance Act of 1988 (Pub. L. 100-562), provides that motor vehicles not conforming to Federal motor vehicle safety standards may nevertheless be imported into the United States under certain circumstances. In general, a nonconforming vehicle may be imported under bond for its conformance, or exportation in the event it is not conformed, by those who have registered with NHTSA as importers, provided that NHTSA has determined that the nonconforming vehicle is capable of being conformed to meet the safety standards.

The Safety Act authorizes NHTSA to establish fees to cover its cost of administering the registration program, and of making conformance capability determinations, and to reimburse the U.S. Customs Service its costs in processing the importation bond. The purpose of this notice is to propose the fee schedules that will implement the statutory authorization. The agency has tentatively concluded that the initial annual fee for the registration program should be $255. The fee to accompany a petition for a determination that a vehicle is eligible for importation would be either $1560 or $2150, depending upon the basis of the petition. The fee required to reimburse the U.S. Customs Service for bond processing costs is proposed to be $125 per bond.

DATES: Comment closing date for the proposal is June 26, 1989. The effective date of the final rule would be 30 days after its publication in the **Federal Register.**

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, (202-366-5263).

SUPPLEMENTARY INFORMATION:

Introduction

On December 5, 1988, the National Highway Traffic Safety Administration published a notice of the amendment of section 108 of the National Traffic and Motor Vehicle Safety Act by Pub. L. 100-562, the Imported Vehicle Safety Compliance Act of 1988 (53 FR 49003). The effective date of the amendments is January 31, 1990. On and after that date, with the exceptions sepcified in the notice, motor vehicles that have not been manufactured to conform to the Federal motor vehicle safety standards may be imported only by persons who have registered with NHTSA as undertaking to bring the vehicle into conformance, or by persons who have contracts with Registered Importers to perform conformance work. In addition, a nonconforming vehicle may not be imported unless NHTSA has determined that it is capable of being conformed to the standards. The agency may make such a determination in a response to a petition by a Registered Importer, or on its own initiative. Each nonconforming vehicle permitted entry must be accompanied by a bond given to secure performance of the conformance work, or, to ensure its exportation or abandonment to the United States in the event that the vehicle is not brought into full conformance.

Proposals have been issued to implement the new import provisions of the Vehicle Safety Act described above, and are being published simultaneously with this notice. They are 49 CFR Part 591, *Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards;* Part 592, *Registered Importers of Nonconforming Vehicles;* and Part 593, *Determinations That a Nonconforming Vehicle is Eligible for Importation.*

The new provisions also specifically authorize NHTSA to impose fees to cover certain administrative costs incurred in implementation of the new importation procedures. There are two or more types of fees to cover three types of costs for which fees may be charged: an annual fee to cover the costs of administration of the importer registration program, an annual fee or fees to cover the costs of processing the bond furnished to the Customs Service, and an annual fee or fees to cover the costs of making import eligibility determinations.

The purpose of this notice is propose a fee schedule that appears appropriate for recovery of each cost, and to explain the rationale behind each of these fees. In identifying those agency activities that may form the cost basis of a fee authorized by the new import provisions, the agency has been guided by the experience of other agencies in collecting users fees under the Independent Offices Authorization Act (31 U.S.C. 9701), and the Consolidated Omnibus Budget Reconciliation Act (Pub. L. 99-272). Thus, the agency intends to identify each service it provides, to explain why NHTSA is entitled to recover the cost of providing that service, to identify each type of expenditure incurred in providing that service, to explain the criteria used to include or exclude a particular expenditure and to calculate the amount of each such expenditure.

1. Annual Fee for Administration of the Importer Registration Program.

Section 108(c)(3)(A) of the Vehicle Safety Act provides that registered importers must pay "such annual fee as the Secretary establishes to cover the cost of administering the registration program * * *." (15 U.S.C. 1397(c)(3)(A)(iii)).

The first issue addressed by the agency is whether the term "registration program" is inclusive of all activities under section 108 (except for the other activities for which a fee may be imposed), or whether it is restricted to activities relating directly to the registration process, such as reviewing registration applications and acting upon them. The agency has interpreted "registration program" conservatively, concluding that it refers only to activities connected with the development and maintenance of the registration process, including monitoring, and enforcement activities resulting in suspension or revocation of a registration. Although it could be argued that NHTSA's verification of the certification submitted by a registered importer is relevant to the maintenance by that registered importer of its status, this agency believes that Congress did not intend to include such an activity in the registration program. Specifically, section 108(c)(3)(B)(i) prohibits the application of fees collected under the Vehicle Safety Act to NHTSA's inspection of vehicles for which certifications have been filed. Thus, NHTSA has excluded, from the fee structure of the registration program, activities connected with processing of certificates and compliance documentation of motor vehicles.

The second issue addressed by NHTSA, and relevant to the other authorized fees as well, is whether the agency can recover both direct and indirect costs associated with its activities. It notes that there is no modifier of the word "costs," and has concluded that both direct and indirect costs may be recovered. Such costs include all costs of administering the program, including salaries and other personnel costs (retirement, insurance and leave), travel, postage, maintenance and depreciation of equipment, supplies, and a proportionate share of agency management and supervisory costs as well as accrued liabilities, which include severance pay, unemployment compensation, workers compensation, and unused leave costs.

The initital annual fee attributable to the registration program that NHTSA proposes to establish contains three components. The first component is one that would cover the cost of processing an application by a person seeking to become a Registered Importer. It would not be refundable in the event of a denial. The second component represents the costs attributable to such inspection as the agency may deem necessary to conduct prior to a decision on an application. The third component is intended to cover the remaining costs. The first and third components of the initial annual fee would be paid at the time that an applicant seeks to become a Registered Importer. The second component would be paid only if an inspection is actually conducted, and would be payable by the end of the tenth calendar day after notification by the agency. If the application is denied, the amount of the fee representing the third component would be refunded to the applicant.

Annual fees after the initial annual fee would also have three components. Instead of a component attributable to processing an application, the first component of a regular annual fee would cover the costs of processing the Registered Importer's annual statement (or mid-year changes) attesting to no material change in its condition and that it is maintaining its financial and technical ability to meet its statutory obligations. The second component would cover the cost, if any, of such inspections the agency might have conducted with respect to the Registered Importer during the year. The third component is again intended to cover remaining costs.

With respect to the first component of the initial annual fee, the relatively simple, discrete activities involved in processing and acting upon registration applications permit a uniform first component sum to be developed, payable by all who seek to become Registered Importers. Similarly, the agency tasks involved in processing and reviewing annual statements appear to permit a uniform first component sum to be developed. The direct costs that the agency will consider in this regard are the amount of time spent in reviewing applications or annual statements for form and content, analysis, and drafting of documents relating to the analysis and disposition of the application or annual statement, including direct supervisory time. Other direct costs associated, such a postage, computer time, and meetings to discuss the merits of an application or annual statement, may be included in the free structure. However, while the application is pending, NHTSA may wish to inspect the premises of the applicant or its agent. The costs of this inspection would form the basis of the second component of the fee that would be paid before a determination was made on the merits of the application. Inspections conducted after registration has been granted (the second component of the regular annual fee) would be reflected in the next annual fee payable by the registered importer concerned.

The agency would consider indirect costs as well. For example, if one-third of a staffer's time at a word processing terminal is spent in drafting documents relative to an application determination, then a third of the cost of maintaining the space and the terminal may be factored into a registration fee. Indirect general and administrative costs can be included in the fee structure as a pro rata share of the costs attributable to running the program.

Once a registration has been granted, section 108(d)(2) imposes an obligation on a Registered Importer to maintain evidence "satisfactory to the Secretary (of Transportation)" that the Registered Importer continues to be financially able to meet its statutory responsibilities "relating to discovery, notification, and remedy of motor vehicle defects." Further, section 108(c)(3)(D)(ii) directs the agency to set requirements for Registered Importers, including at a minimum (1) requirements for record-keeping; and (2) requirements for records and facilities inspection for Registered Importers. Activities associated with satisfying the agency of financial ability and meeting other specified responsibilities may be included in the cost basis of the registration program annual fee. The initial annual fee would be based upon NHTSA's estimates of costs for the first fiscal year that the registration program is in effect. If the amount of the annual fee for a succeeding year is adjusted, the adjustment would take into account NHTS'a actual experience in the year preceding.

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Under proposed § 592.6(a)(7), the agency may inspect a facility or the records which the Registered Importer must keep to fulfill its program responsibilities. There are two purposes for which such inspections may be conducted. The first is to verify that the regulatory criteria for obtaining or maintaining the status of Registered Importer are met. These inspections are directly related to administration of the registration program. The agency may include direct and indirect costs associated with these inspection activities in the fee structure for the program. The second purpose for which an inspection may be conducted is to verify that a certification filed by a Registered Importer is supported by the conformance work performed. This activity is not part of the registration program. Consequently, if inspecting a facility for compliance with registration requirements also involves vehicle inspection, agency staff would be instructed to segregate costs to exclude those attributable to the inspection of vehicles, and only those costs directly attributable to the registration program would be included in the second component of the next regular annual fee.

As with processing an initial application or annual statement, all direct and indirect costs associated with the suspension of Registered Importer status are recoverable, as well as reinstatement of registration. These include costs associated with notifying a registrant that the agency is considering suspension, plus the costs of allowing it to present its opposition to suspension under proposed § 592.7(b), and costs associated with processing a registrant's request that NHTSA reconsider a suspension under proposed § 592.7(e). The final associated cost would be that of notifying the registrant of the determination regarding its suspension.

Similarly, the costs associated with revoking a registration would be recoverable. These include notifying a Registered Importer in writing that NHTSA intends to revoke registration under proposed § 592.7(b), or that the agency has revoked a registration under proposed § 592.7(c) because the registrant knowingly filed a false or misleading certification. Further recoverable costs would be those associated with reviewing, analyzing and responding to the registrant's written opposition to a preliminary decision to revoke its registration.

The agency may include whatever activities are associated with making a determination under proposed § 592.7(d) that the basis for a suspension no longer exists. The nature of the reinstatement process would vary depending on the reason for the suspension. For example, the process would be comparatively simple if the suspension was for failure to pay a fee.

2. Fee for Making Vehicle Eligibility Determinations

Section 108(c)(3)(A)(iii)(II) also requires Registered Importers to pay "such other annual fee or fees as the Secretary reasonably establishes to cover the cost of * * * making the determinations under this section." These determinations are whether the vehicle sought to be imported is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, and certified as meeting the Federal standards, and whether it is capable of being readily modified to meet those standards, or, alternatively, where there is no substantially similar U.S. motor vehicle, whether the safety features of the vehicle comply with or are capable of being modified to comply with the U.S. standards. These determinations are made pursuant to petitions submitted by Registered Importers or manufacturers, or pursuant to determinations made upon the Administrator's initiative.

In developing this regulation, the agency considered the type and frequency of fees that would best implement the purpose of the 1988 Act. With respect to making eligibility determinations, it considered an "annual fee", in which total costs attributable to eligibility determinations would be divided equally among all registered importers. Such a fee would be payable at the time of the next regular annual fee for administration of the registration program. This type of fee appears equitable in the sense that more than one registered importer may benefit from an eligibility determination, and that the costs would not be borne by the petitioner alone. However, if the phrase "annual fee or fees" is construed so that "fees" is not modified by "annual", this construction permits a fee to be charged attributable to individual determinations of eligibility. The benefit of this approach is that permits "pay-as-you-go", under which costs are more quickly recovered. This fee would be payable by a petitioner for a determination, or by the importer who first benefits from a determination made on the agency's initiative (see further discussion below).

The agency requests comments on each approach. For purposes of this notice, however, the agency has chosen the second approach (though calling attention to the fact that, in the final rule, it may chose the first approach). Under the proposed approach, a petition by a manufacturer or registered importer for a determination would be accompanied by the fee specified in Part 594. The payment of this fee by the petitioner is premised upon the likelihood that the petitioner would be the immediate beneficiary of any favorable determination, and therefore ought to pay the costs authorized by statute for consideration of its petition. The immediate beneficiary of a favorable determination made upon the Administrator's initiative would be the first registered importer, or other person, who imports a vehicle that is covered by the determination. Therefore, NHTSA proposes to establish a fee that would be payable by the registered importer who furnishes a certificate of conformity covering the first vehicle imported under a declaration filed after notice of the Administrator's initiative determination has appeared in the **Federal Register**. The notice would include a discussion of the fee to be paid and the basis for it. Subsequently, upon receipt of the first declaration covering the vehicle, NHTSA would notify the registered importer concerned that the stated fee is due at the time the certificate of conformity covering the vehicle is received. However, NHTSA is aware that such costs would remain unrecoverable until such time as (and unless) a declaration is filed on such a vehicle.

Regardless of which approach is chosen, the activities that may form the cost basis for petitions appear identical. These include logging-in, notifying the petitioner of receipt, and evaluating the petition. If the agency grants a written request for the petitioner to appear to discuss a petition under proposed § 593.7(c), it may recover the cost of processing the written request and discussing the petition. Although the Act does not require an actual demonstration of conformance, only that a vehicle is capable of conformance, a petitioner may wish to substantiate its arguments with presentation of a modified vehicle. In that event, it may be necessary for NHTSA to inspect the modified vehicle as part of its role in determining whether the vehicle is eligible for importation. The cost of that inspection would be properly recoverable. The new import provisions require publication of a notice in the **Federal Register**; thus the agency may also recover costs associated with preparing and processing **Federal Register** documents generated in connection with the petition, processing and analyzing comments submitted in connection with a **Federal Register** document; and notifying a petitioner of the agency's decision.

When NHTSA makes a determination on the agency's initiative, it would also publish a notice in the **Federal Register** and receive and evaluate comments on it.

The new import provisions do not require the agency to publish a second **Federal Register** notice immediately after a decision is made. Section 108(c)(3)(C)(iv), however, does require NHTSA to publish annually in the **Federal Register** a list of all vehicles determined to be eligible for import under the Act. Compiling and publishing this list is connected with making and announcing eligibility determinations, and the costs may be included in the fee structure.

3. Fee to Recover the Costs of Processing the Bond

Section 108(c)(3)(A)(iii)(II) also requires a registered importer to pay "such annual fee or fees as the Secretary reasonably establishes to cover the cost of processing the bond furnished to the Secretary of the Treasury" upon the importation of a nonconforming vehicle to ensure that the vehicle will be brought into compliance within a reasonable time, or if the vehicle is not brought into compliance within such time, that it is exported without cost to the United States, or abandoned to the United States.

The statute contemplates that NHTSA make a reasonable determination of the cost to the United States Custom Service of processing the bond. The agency has met with representatives of the Customs Service to obtain such information as would allow it to include the cost basis of processing the bond in the fee structure. NHTSA will ensure that Customs follows the same guidelines as the agency does to determine whether each activity associated with processing the bond gives rise to a recoverable cost.

NHTSA believes that the cost of processing a bond is susceptible to expression as a uniform amount. For administrative reasons, it appears far simpler to impose this fee on each bond given, instead of totalling the sums at the end of a year and assessing an "annual fee" at that time, to be payable at the same time as the next regular annual fee. For this purpose, therefore, the "annual fee" would be the amount that Customs determines is attributable to the cost of processing each bond, and it would be paid on an incremental basis by the registered importer at the time the bond is furnished under this proposal.

4. Calculations of the Agency's Costs in Setting Fees

The agency does not read the statute as directing it to impose a *uniform* fee or fees, as long as a fee is established for the statutory purposes. To the extent possible, each such fee would be based upon an accounting of each discrete activity involved in the process. Thus, the fees imposed by Part 594 would include the agency's best direct and indirect cost estimates of the man-hours involved in each activity, on both the staff and supervisory levels, the costs of computer and word processor usage, postage costs, costs attributable to travel, salary and benefits, and maintenance of work space to name the ones set forth in the proposed regulation.

Specifically, each fee would be calculated on the basis of the direct and indirect costs associated with the activity for which the fee is paid. The direct costs include the average cost per professional staff-hour, computer and word processor time, stationery and postage, and transportation.

The average cost per professional staff-hour is calculated based upon the full costs for time spent (to the nearest quarter-hour) using the following applicable professional staff rates:

(A) Office of Vehicle Safety Compliance—Clerical staff—$13 per hour. Computer contract staff—$25 per hour. Review staff—$26 per hour. Supervisors—$26 per hour.

(B) Office of Chief Counsel—$41 per hour.

The average cost per computer-hour is calculated at the rate of $100 per hour.

The average cost for postage is calculated to be $3.00.

The indirect costs include a pro rata allocation of the average salary and benefits of persons employed in processing the applications and recommending decisions on them, and a pro rata allocation of the costs attributable to maintaining the office space, and the computer or word processor. The staff rates above include benefits; the costs associated with office space, equipment maintenance, communications and other overhead amount to an additional $6.71 per hour.

The cost for determing the salary and benefits of persons employed is calculated based upon the time spent multiplied by the employee's hourly wage.

The cost of maintaining the computer or word processor is calculated based upon maintenance, time sharing, and staff operations.

The cost of maintaining the office space is calculated based upon standard government regulations based upon grade levels.

The cost of travel is based upon an estimated round trip air fare of $250, and a 3-day per diem of $100 a day, for a total trip cost of $550.

A. Registration Program Fee

The Registration Program Annual Fee will have two and in some instances three components: a portion attributable to the registration process, a portion attributable to any inspection of an applicant that the agency deems needed to verify information submitted in an application for registration, and a portion attributable to other activities occurring in the registration program. Exclusive of the inspection portion, the agency has tentatively decided that the initial Annual Registration Program fee shall be $255.

The initial component of the Registration Program Fee is the portion of the fee attributable to processing and acting upon registration applications. The agency estimates this portion of the fee as $85.99.

In calculating the direct costs of processing registration applications, NHTSA estimates that one staff member and one supervisor will spend a total of one man-hour in processing, reviewing, and acting upon applications, that a quarter hour of computer, and computer-operator time will be required to verify that the applicant has not had a registration revoked, that a half hour of clerical time will be required, and that a postal charge will be incurred. These costs are estimated at $74.25.

In calculating the indirect costs of processing registration applications, NHTSA has estimated that these will average $6.71 per hour spent. Processing will require a total of 1.75 hours per application, thus NHTSA estimates that indirect costs will total $11.74. Thus the total direct and indirect costs of this component appear to be $85.99.

With respect to other costs attributable to maintenance of the registration program, these appear to consist principally of reviewing a registrant's annual statement verifying the continuing validity of information already submitted, and processing annual fees. These costs would also appear to include costs attributable to revocation or suspension of a registration.

In calculating the direct costs of administering the registration program other than costs connected with the initial application, NHTSA estimates that one staff member and one

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supervisor will spend a total of 1.5 man-hours in administrative activities, that one half-hour of computer time, and computer operator time will be required, that 1.5 hours of clerical and recordkeeping time will be needed, and a postal charge will be incurred. The total direct charges for administering the registration program are estimated at $131.50. The total overhead costs of the 3.5 hours involved are $23.49, or a total of $154.99. These costs, of course, are exclusive of costs associated with revocation or suspension.

At this point it appears fairest that a suspended registrant bear the costs associated with suspension and reinstatement, to be included in its next annual fee. However, it will not be feasible to recover costs from an importer whose registration has been revoked. Equitably, those costs appear best borne by each registered importer paying a pro rata share in its annual fee. Obviously, before the effective date of the 1988 amendments NHTSA has no knowledge of how many Registered Importers there will be or how many suspensions or revocations may occur in the first year of the program. However, for purposes of determining this portion of the registration fee, NHTSA estimates that there will be 20 Registered Importers during the fiscal year beginning October 1, 1989, and ending September 30, 1990, and that there will be one revocation. Under proposed Part 592 the procedures that the agency will follow in determining whether a registration should be revoked or suspended are identical. This means that the direct and indirect costs should also be identical, up to the point of an agency determination. Because a suspended registration may be reinstated, either upon expiration of the term stated in the agency's letter of suspension, or upon cure of the cause giving rise to the suspension, there will be a slight additional cost commensurate with the clerical aspects of ending the suspension.

NHTSA contemplates that its Enforcement Office will recommend suspensions or revocations to the Office of Chief Counsel, and that 1 hour of staff time, and .25 hour computer operator time will be involved in recommendations. In addition, .25 hour of computer time will be used. The Office of Chief Counsel will require 1.75 hours to review the recommendation and draft a letter to the registrant, and an additional 1.75 hours to review the registrant's reply and to draft a letter of suspension, or revocation, or declining to take further action. Postal charges will total $6.00. The total direct costs associated with this procedure are $206.75, and the overhead costs for 4.75 hours of agency time, $34.87. The sum of $238.62 divided by the 20 estimated Registered Importers gives a figure of $11.93 to be added to the portion of the annual fee representing maintenance of the registration program (for reinstatement, to be borne by the registrant, NHTSA estimates that the total direct and indirect costs will be $40.36, representing .25 hour of clerical time, .25 hour of computer time, and .25 hour of computer operator time).

Thus, the total portion attributable to maintenance of the registration program, as estimated by NHTSA, is approximately $166.92. When added to the $85.99 representing the registration application component, the cost per applicant equals $252.91. Therefore, NHTSA proposes that the initial annual registration fee, for the period October 1, 1989 through September 30, 1990, be $255. In the event that an application is denied or withdrawn, NHTSA will refund all but $86 of this amount, or $169.

B. Fee for Vehicle Eligibility Petitions

In calculating the direct costs of processing and acting upon a petition for a determination of eligibility, NHTSA estimates that the costs involved for determinations involving substantially similar vehicles will require substantially less agency time than those for non-similar vehicles. For purposes of this determination, NHTSA has chosen passenger cars and multipurpose passenger vehicles, the most frequently imported types of motor vehicles. The agency estimates the total direct and indirect costs for a determination involving a substantially similar vehicle at $1,558.68, and for a non-similar vehicle at $2,151.61. In this light, a fee of $1,560 for substantially similar vehicle determinations, and one of $2,150 for those that are not substantially similar, appears to fulfill the statutory directive.

More specifically, the following cost breakdown has been estimated for substantially similar (and non-similar) vehicles. The process will result in personnel costs related to 2 (5) supervisory hours, 24 (35) staff hours, .25 (.25) hour computer time, .25 (2) hour(s) data entry time, .50 (2) hour(s) clerical time, and .25 (.50) hour recordkeeping time. In addition, .25 hour of computer time would be used for each. However, costs associated with preparing and publishing the two **Federal Register** notices, and evaluating comments to the first notice, should be identical. Each notice may require two columns of space ($125 per column), for a cost of $250 per notice, and total publication costs of $500. Following agency practice with other petitions, the notices will be prepared by the Office of Chief Counsel. It is estimated that each notice will require 1 hour of preparation time, and .50 hour of clerical time, or a total of 3 hours for both notices. The estimated total direct charges for determinations of eligibility will be $1,342 ($1,817.50).

In calculating the indirect costs of processing and acting upon eligibility petitions, NHTSA estimates that the process, including the **Federal Register** preparation time, will take 30 (47.50) man hours, for a cost of $201.30 ($318.73), or a total of $1,543.30 ($2,136.23). These totals include .25 hour of computer time. To this must be added the pro rata cost of the yearly **Federal Register** notice. It is estimated that this will require 1 hour of Office of Chief Counsel time, .50 hour clerical time, and two columns in the **Federal Register**. The total direct costs to fulfill this statutory requirement would be $297.50. The overhead costs, $10.07. The total of $307.57 divided among the estimated 20 Registered Importers adds $15.38 to each petition cost, or a total of $1,558.68 ($2,151.61). Therefore, a petition fee of $1,560 ($2,150) is being proposed. At this point, costs appear similar for determinations made upon the agency's own initiative, and the same fee will be used in recovery of costs.

C. Bond Processing Costs

With respect to the costs attributable to processing the bond furnished the Secretary of the Treasury, the agency was informed in 1986 by the U.S. Customs Service that the figure was $115. Based on an evaluation of increases in Federal pay rates between 1986 and 1989, yields a 1989 cost of $125 per bond.

Effective Date

Section 108(c)(3)(B) requires that the amount or rate of fees shall be reviewed, and, if appropriate, adjusted by NHTSA at least every 2 years. It also requires that the fee applicable in any fiscal year shall be established by NHTSA before the beginning of each such year. Therefore, a final rule on this proposal will be issued not later than Friday, September 29, 1989, so that the fees it establishes will be applicable in Fiscal Year 1990, which begins October 1, 1989.

Impacts

After considering the impacts of this rulemaking action, NHTSA has determined that the action is not major within the meaning of Executive Order 12291 "Federal Regulation", because it will not have an impact upon the economy in excess of $100 million. Nor is it significant under Department of Transportation regulatory policies and procedures. The proposed action does not involve any substantial public interest or controversy. Nor is there any substantial effect upon state and local governments. There is no substantial impact upon a major transportation safety program. Both the number of registered importers and vehicles for which determinations are estimated to be comparatively small, and the number of vehicles imported per year is estimated to be less than 3000.

NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported through registered importers would not vary significantly from that existing before promulgation of the rule even with the imposition of fees to be paid by registered importers.

The agency has also considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant effect upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles may be small businesses within the meaning of the Regulatory Flexibility Act, the agency has no reason to believe that a substantial number of these companies could not pay the fees imposed by this proposed regulation. However, small businesses currently conforming vehicles may not choose to register as importers because of the fee and other requirements, and these businesses would no longer be able to perform conformance work after January 31, 1990. The cost to owners or purchasers of modifying nonconforming vehicles to conform with the safety standards may be expected to increase to the extent necessary to reimburse the registered importer for the fees payable to the agency for the cost of administering the registration program and to compensate Customs for its bond processing costs. Governmental jurisdictions would not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles.

The agency has analyzed the proposed rule in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 594

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that a new Part 594, *Schedule of Fees Authorized by the Imported Vehicle Safety Compliance Act* be added to title 49, chapter V, to read as follows:

PART 594—SCHEDULE OF FEES AUTHORIZED BY THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT

Sec.
594.1 Scope.
594.2 Purpose.
594.3 Applicability.
594.4 Definitions.
594.5 Establishment and payment of fees.
594.6 Annual fee for administration of registration program.
594.7 Fee for filing petition for a determination whether a vehicle is eligible for importation.
594.8 Fee for importing a vehicle pursuant to a determination made on the Administrator's initiative.
594.9 Fee for reimbursement of bond processing costs.

Authority: Sec. 2(b), Pub. L. 100-562, 102 Stat. 2818 (15 U.S.C. 1397); sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); delegations of authority at 49 CFR 1.50 and 501.8.

§ 594.1 Scope.

This part establishes the fees payable by Registered Importers, and applicants for Registered Importer status, and manufacturers who are not Registered Importers who petition the Administrator for a determination pursuant to Part 593 of this chapter, as authorized by the National Traffic and Motor Vehicle Safety Act.

§ 594.2 Purpose.

The purpose of this part is to ensure that NHTSA is reimbursed by persons who apply to become Registered Importers, for costs incurred in processing applications, and by those who are granted that status, for costs incurred in administering the registration program, in making determinations whether a nonconforming vehicle is eligible for importation into the United States, and in processing the bond furnished to the Secretary of the Treasury given to ensure that an imported nonconforming vehicle is brought into compliance with the Federal motor vehicle safety standards, or will be exported, or abandoned to the United States.

§ 594.3 Applicability.

This part applies to any person who applies to NHTSA to be granted the status of a Registered Importer, and to any person who has been granted such status.

§ 594.4 Definitions.

All terms used in this part that are defined in section 102 of the National

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Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration.

"NHTSA" means the National Highway Traffic Safety Administration.

"Registered Importer" means any person who has been granted the status of registered importer under Part 592 of this chapter, and whose registration has not been revoked.

§ 594.5 Establishment and payment of fees.

(a) The fees established by this part continue in effect until adjusted by the Administrator. The Administrator reviews the amount or rate of fees established under this part and, if appropriate, adjusts them by rule at least every 2 years.

(b) The fees applicable in any fiscal year are established before the beginning of such year. Each fee is calculated in accordance with this part, and is published in the Federal Register not later than September 30 of each year.

(c) An applicant for status as Registered Importer shall submit an initial annual fee with the application. A fee for a determination that a vehicle is eligible for importation shall be submitted with the petition for a determination. No application or petition will be accepted for filing or processed before payment of the full amount specified. Except as provided in § 594.8(d), a fee shall be paid irrespective of NHTSA's disposition of the application or petition, or of a withdrawal of an application or petition.

(d) A Registered Importer annual fee, other than the initial annual fee, is payable not later than October 31 of each year.

(e) A fee attributable to a determination of eligibility made on the Administrator's initiative shall be paid by a Registered Importer in accordance with § 594.8(b).

(f) A fee for reimbursement for bond processing costs shall be filed with each certificate of conformity furnished the Administrator.

(g) Any other annual fee is payable not later than October 31 of each year. Any other fee is payable not later than 30 calendar days after the date of written notification by the Administrator.

(h) Fee payments shall be by check, draft, money order, or Electronic Funds Transfer System made payable to the Treasurer of the United States.

§ 594.6 Annual fee for administration of the registration program.

(a) Each person filing an application to be granted the status of a Registered Importer pursuant to Part 592 of this chapter during the period October 1, 1989, through September 30, 1990, shall pay an initial annual fee of $255, as calculated below, based upon the direct and indirect costs attributable to:

(1) Processing and acting upon such application;

(2) Any inspection deemed required for a determination upon such application; and

(3) The estimated remaining activities of administering the registration program in the fiscal year in which such application is intended to become effective.

(b) That portion of the initial annual fee attributable to the processing of the application for applications filed from October 1, 1989, through September 30, 1990, is $85.99. The sum of $86, representing this portion, shall not be refundable if the application is denied or withdrawn.

(c) If, in order to make a determination upon an application, NHTSA must make an inspection of the applicant's facilities, or those of any agent, NHTSA notifies the applicant in writing after the conclusion of any such inspection, that a supplement to the initial annual fee in a stated amount is due upon receipt of such notice to recover the direct and indirect costs associated with such inspection and notification, and that no determination will be made upon the application until such sum is received. Such sum is not refundable if the application is denied or withdrawn.

(d) That portion of the initial annual fee attributable to the remaining activities of administering the registration program from October 1, 1989, through September 30, 1990, is set forth in paragraph (i) of this section. This portion shall be refundable if the application is denied, or withdrawn before final action upon it.

(e) Each Registered Importer who wishes to maintain the status of Registered Importer shall pay a regular annual fee based upon the direct and indirect costs of administering the registration program, including the suspension and reinstatement, and revocation of such registration.

(f) The elements of administering the registration program that are included in the regular annual fee are:

(1) Calculating, revising, and publishing the fees to apply in the next fiscal year, including such coordination as may be required with the U.S. Customs Service.

(2) Processing and reviewing the annual statement attesting to the fact that no material change has occurred in the Registered Importer's status since filing its original application.

(3) Processing the annual fee.

(4) Processing and reviewing any amendments to an annual statement received in the course of a fiscal year.

(5) Verifying through inspection or otherwise that a Registered Importer is complying with the requirements of § 592.6(a)(3) of this chapter for recordkeeping.

(6) Verifying through inspection or otherwise that a Registered Importer is able technically and financially to carry out its responsibilities pursuant to 15 U.S.C. 1411 *et seq.*

(7) Invoking procedures for suspension of registration and its reinstatement, and for revocation of registration pursuant to § 592.7 of this chapter.

(g) The direct costs included in establishing the annual fee for maintaining registered importer status are the estimated costs of professional and clerical staff time, computer and computer operator time, and postage, per Registered Importer. The direct costs included in establishing the annual fee for a specific Registered Importer are costs of transportation and *per diem* attributable to inspections conducted with respect to that Registered Importer in administering the registration program, which have not been included in a previous annual fee.

(h) The indirect costs included in establishing the annual fee for maintaining Registered Importer status are a pro rata allocation of the average salary and benefits of persons employed in processing annual statements, or changes thereto, in recommending continuation of Registered Importer status, and a pro rata allocation of the costs attributable to maintaining the office space, and the computer or word processor. NHTSA estimates this cost at $6.71 per man-hour for the period October 1, 1989, through September 30, 1990.

(i) Based upon the elements, and indirect costs of paragraphs (f), (g), and (h) of this section, the component of the initial annual fee attributable to administration of the registration program, covering the period from October 1, 1989, through September 30, 1990, is $166.92. When added to the component representing the costs of registration of $85.99, as set forth in paragraph (b) of this section, the costs per applicant to be recovered through the annual fee is $252.91. The annual registration fee for the period October 1, 1989, through September 30, 1990, is $255.

§ 594.7 Fee for filing petition for a determination whether a vehicle is eligible for importation.

(a) Each manufacturer or registered importer who petitions NHTSA for a determination that:

(1) A nonconforming vehicle is substantially similar to a vehicle originally manufactured for importation into and sale in the United States and of the same model year as the model for which petition is made, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards, or

(2) A nonconforming vehicle has safety features that comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards shall pay a fee based upon the direct and indirect costs of processing and acting upon such petition.

(b) The direct costs attributable to processing a petition filed pursuant to paragraph (a) of this section include the average cost per professional staff-hour, computer and computer operator time, and postage. The direct costs also include those attributable to any inspection of a vehicle requested by a petitioner in substantiation of its petition.

(c) The indirect costs attributable to processing and acting upon a petition filed pursuant to paragraph (a) of this section include a pro rata allocation of the average salary and benefits of persons employed in processing the petitions and recommending decisions on them, and a pro rata allocation of the costs attributable to maintaining the office space, and the computer or word processor.

(d) The direct costs attributable to acting upon a petition filed pursuant to paragraph (a) of this section, also include the cost of publishing a notice in the Federal Register seeking public comment, the costs of publishing a second notice with the agency's determination, and pro rata share of the costs of publishing an annual list of nonconforming vehicles determined to be eligible for importation.

(e) The fee payable for a petition for a determination that a nonconforming vehicle is eligible for importation into the United States for petitions filed from October 1, 1989, through September 30, 1990, is $1560 if a petition is filed under paragraph (a)(1) of this section, and $2150 if filed under paragraph (a)(2) of this section, when the petitioner does not request inspection of a vehicle. When the petitioner requests an inspection of a vehicle, the sum of $550 shall be added to such fee. No portion of this fee is refundable if the petition is withdrawn or denied.

§ 594.8 Fee for importing a vehicle pursuant to a determination made on the Administrator's initiative.

(a) A fee shall be established to cover the direct and indirect costs incurred by NHTSA in determinations made under § 593.8(a) of this part, pursuant to its own initiative, that a vehicle is eligible for importation into the United States. The basis of such fee is that set forth in § 594.7 (b), (c), and (d). If the basis of the determination is that a vehicle meets the criteria of paragraph (a)(1) of § 594.7, the fee is $1560. If the basis of the determination is that a vehicle meets the criteria of paragraph (a)(2) of § 594.7, the fee is $2150. These fees are applicable to each determination made from October 1, 1989, through September 30, 1990.

(b) After NHTSA has made a determination on its own initiative, the notice published in the Federal Register announcing the determination includes a fee attributable to NHTSA's direct and indirect costs incurred pursuant to such determination, and an advisory that such fee shall be payable by the Registered Importer who furnishes a certificate of conformity pursuant to § 592.6(a)(3)(vi) of this chapter, on behalf of the first person who files a declaration pursuant to § 591.5(f) of this chapter that the vehicle is eligible for importation.

(c) After receipt of the first declaration covering a vehicle eligible for importation because of a determination made pursuant to the Administrator's initiative, NHTSA informs the appropriate Registered Importer that a fee in the stated amount shall accompany the certificate of conformity that the Registered Importer must furnish for the vehicle. No certificate shall be accepted for filing or processing unless and until such fee has been paid. A certificate for which no remittance is received may be returned to the registered importer.

§ 594.9 Fee for reimbursement of bond processing costs.

(a) Each Registered Importer shall pay a fee based upon the direct and indirect costs of processing each bond furnished to the Secretary of the Treasury with respect to each vehicle for which it furnishes a certificate of conformity to the Administrator pursuant to § 591.7(e) of this chapter.

(b) The direct and indirect costs attributable to processing a bond are provided to NHTSA by the U.S. Customs Service.

(c) Based upon information from the U.S. Customs Service, the bond processing fee for each vehicle for which a certificate of conformity is furnished from October 1, 1989, through September 30, 1990, is $125.

Issued on April 19, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-9827 Filed 4-24-89; 8:45 am]

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VOL 54 ISS 78 AP 25 1989 UMI

Notices

Federal Register
Vol. 54, No. 78
Tuesday, April 25, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Agency Information Collection Activities Under OMB Review

AGENCY: Action.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the Federal Domestic Volunteer Agency.

Background: Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [requests for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Need and Use: Information from project sponsors on numbers of volunteers, volunteer hours delivered, volunteer activities, volunteer stations, etc. is needed for program management, required reporting to the U.S. Congress, and planning.

To Obtain Information About or To Submit Comments on This Proposed Information Collection, Please Contact Both:

Melvin E. Bettle, Clearance Officer, ACTION, Room M–600, 806 Connecticut Ave., NW., Washington, DC 20525. Tel: (202) 634–9321.

and

James Houser, Desk Officer for ACTION, Office of Management and Budget, New Executive Office Bldg., Room 3002, Washington, DC 20503. Tel: (202) 395–7316.

Office of ACTION Issuing the Proposal: Office of Older American Volunteer Programs/Domestic & Anti-Poverty Operations

Title of Forum: OAVP Project Profile and Volunteer Activity Survey

Type of Request and Respondent's Obligation To Reply: Annual Project activity questionnaire; voluntary

General Description of Respondents: Project Directors of 1139 grantees for FGP, SCP, and RSVP

Estimated Response Burden: Overall Figure in Burden Hours—8087

Number of respondents by group	Average burden minutes per response	Frequency of response
252 FGP project directors.	5.2 hrs	once/year.
143 SCP project directors.	4.2 hrs	once/year.
744 RSVP project directors.	8.3 hrs	once/year.

Dated: April 19, 1989.

Melvin E. Beetle,

Clearance Officer, ACTION.

[FR Doc. 89–9845 Filed 4–24–89; 8:45 am]

BILLING CODE 6050–28–M

Agency Information Collection Activities Under OMB Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the Federal Domestic Volunteer Agency.

BACKGROUND: Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [requests for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

NEED AND USE: Need: To assure that projects fulfill legislated purpose to monitor progress.

Uses: To provide standard performance reports by which progress is measured and determine need for technical assistance.

To Obtain Information About or to Submit Comments on This Proposed Information Collection, Please Contact Both:

Melvin E. Beetle, Clearance Officer, ACTION, Room M–600, 806 Connecticut Ave. NW., Washington, DC 20525. Tel: (202) 634–9321.

and

James Houser, Desk Officer for ACTION, Office of Management And Budget, New Executive Office Bldg., Room 3002, Washington, DC 20503. Tel: (202) 395–7316.

Office of ACTION Issuing the Proposal: Domestic Operations.

Title of Form: Quarterly Project Progress Reports

Type of Request and Respondent's Obligation to Reply: Quarterly project progress report—Obligatory to obtain/retain benefits.

General Description of Respondents: Public agencies and private, non-profits, including small organizations.

Estimated Response Burden: Overall Figure in Burden Hours—11,868

Number of respondents by group	Average burden minutes per response	Frequency of response
OAVP=1139	120 minutes	quarterly.
VISTA=600	90 minutes	quarterly.
SCS=114	60 minutes	quarterly.
Title I, Part "C"=125.	90 minutes	quarterly.
Totals: 1978.	Average: 1½ hr/ea.	

Melvin E. Beetle,

Clearance Officer, ACTION.

Dated: April 19, 1989.

[FR Doc. 89–9846 Filed 4–24–89; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Soybean, Research and Field Test Data, Equipment Approval, Program Procedures

AGENCY: Fedeal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: On February 23, 1989, the Federal Grain Inspection Service (FGIS) published a proposal to offer soybean oil and protein testing as official criteria under the United States Grain Standards Act (7 U.S.C. 71 *et seq.*) A public meeting is scheduled for May 10, 1989, to discuss equipment type-evaluation results, field test results, and other informaton that would be related to the program if a decision is made to provide soybean oil and protein testing.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., USDA, FGIS, Resources Management Division, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090–6454– telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION: On February 23, 1989, FGIS published a proposal in the **Federal Register** (54 FR 7778) to offer soybean oil and protein testing as official criteria effective September 4, 1989, and requested comments on the constant moisture basis to be used in reporting the oil and protein results. In the same publication, FGIS also requested comments on a proposed rule to amend § 800.162 of the regulations (7 CFR 800.162) to require such information on all soybean certificates for grade beginning September 2, 1991. Coments on these issues were due April 24, 1989.

The purpose of the public meeting is to review with the industry and interested parties information concerning: research data, proposed analytical procedures, near-infrared (NIR) calibration data and procedures, field test data, equipment type-evaluation data, and the program and inspection procedures if a decision is made to provide soybean oil and protein testing beginning September 4, 1989. The merits of the proposed actions in the February 23, 1989 publication will not be discussed. Interested parties will be offered an opportunity at the meeting to present any data they may have. Oral presentations should be limited to not more than 10 minutes each.

The meeting will be held May 10, 1989, at 8:00 a.m., at the Embassy Suites Hotel, Kansas City International Airport, 7640 Northwest Tiffany Springs Parkway, Kansas City, Missouri 64154; telephone (816) 891–7788. The meeting is open to the public and public participation is invited. Persons who wish to submit written or oral statements at the meeting should contact Lewis Lebakken, Jr., telephone (202) 475–3428. (Pub. L. 94–582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*))

Dated: April 20, 1989.

W. Kirk Miller,

Administrator.

[FR Doc. 89–9884 Filed 4–24–89; 8:45 am]

BILLING CODE 3410–EN–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 7–89]

Proposed Foreign-Trade Zone—Brown County, WI (Green Bay Port of Entry); Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Brown County, Wisconsin, requesting authority to establish a general-purpose foreign-trade zone on a site encompassing the Austin Straubel Airport and two surrounding parcels (2,364 acres). The site includes land in the village of Ashwaubenon, the Town of Hobart and the reservation of the Oneida Tribe of Indians in Wisconsin in Brown County, within the Green Bay Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 14, 1989. Brown County is authorized to make this application pursuant to secton 182.50 of the 1985–86 Wisconsin Statutes.

The proposed zone would consist of three parcels: Parcel A (60 acres) is located at South Point Road and Airport Road, Ashwaubenon, and is owned by the County and the Oneida Indian Tribe; Parcel B (1,654 acres) consists of the county-owned Airport facility located in Ashwaubenon and Hobart; and, Parcel C (650 acres), also located in Ashwaubenon and Hobart, includes the Ashwaubenon Industrial Park at Adam Drive and Ridge Road, part of which is owned by the Village of Ashwaubenon.

The application contains evidence of the need for zone services in the Green Bay area. Several firms have indicated an interest in using zone procedures for warehousing/distribution activity, including glassware, auto parts, machinery and marine equipment. Specific manufacturing approvals are not being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr., (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Richard Rudin, District Director, U.S. Customs Service, North Central Region, 517 E. Wisconsin Avenue, Room 554, Milwaukee, Wisconsin 53202; and Colonel John D. Glass, District Engineer, U.S. Army Engineer District, Detroit, P.O. Box 1027, Detroit, Michigan 48231–1027.

As part of its investigation, the examiners committee will hold a public hearing on May 17, 1989, beginning at 9 a.m., in the Brown County Board Chambers, Room 203, Green Bay City Hall, 100 North Jefferson Street, Green Bay, WI 54301.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by May 10, 1989. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through June 19, 1989.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 2077 Airport Drive, Straubel Field, Green Bay, WI 54303.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Room 2835, Washington, DC 20230.

Dated: April 18, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89–9801 Filed 4–24–89; 8:45 am]

BILLING CODE 3510–DS–M

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International Trade Administration

[A-307-801]

Initiation of Antidumping Duty Investigation: Aluminum Sulfate from Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of aluminum sulfate from Venezuela are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of aluminum sulfate materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 15, 1989. If that determination is affirmative, we will make a preliminary determination on or before September 5, 1989.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Eleanor Shea, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-0184.

SUPPLEMENTARY INFORMATION:

The Petition

On March 29, 1989, we received a petition filed in proper form by General Chemical de Puerto Rico on behalf of a U.S. aluminum sulfate industry. In compliance with the filing requirements of 19 CFR 353.36, petitioner alleges that imports of aluminum sulfate from Venezuela are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

Petitioner has alleged it has standing to file the petition. Specifically, petitioner has alleged that it is an interested party as defined under section 771(9)(C) of the Act and that it has filed the petition on behalf of a U.S. industry producing the product that is subject to this investigation. If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support for, or opposition to, this petition, please file written notification with the Commerce officials cited in the "FOR FURTHER INFORMATION CONTACT" section of this notice.

United States Price and Foreign Market Value

Petitioner's estimate of United States price (USP) is based on a delivered price per ton of aluminum sulfate imported from Venezuela. This price is set forth in a contract between a U.S. customer and the Venezuelan supplier named in the petition. USP was adjusted to account for inland freight to the liquification plant, liquification in Puerto Rico, inland freight in Puerto Rico from the liquification site to the customer, Venezuelan excise tax, packaging for ocean shipment, and ocean freight and insurance. Petitioner's estimate of foreign market value (FMV) is based on a f.o.b. plant price quote dated March 10, 1989. Petitioner made no adjustments to FMV. Based on a comparison of FMV to USP, petitioner alleges a dumping margin of 96.30 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on aluminum sulfate from Venezuela and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of aluminum sulfate from Venezuela are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make a preliminary determination by September 5, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). The product covered by this investigation is aluminum sulfate from Venezuela, which is used in water purificatioin, in waste water treatment, and for other industrial applications. Prior to Janaury 1, 1989, such merchandise was classifiable under item 417.1600 of the *Toriff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classifiable under HTS item 2833.22.00. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 15, 1989, whether there is a reasonable indication that imports of aluminum sulfate from Venezuela materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

April 17, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-9802 Filed 4-24-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-101]

Greige Polyester/Cotton Printcloth From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Tentative Determination To Revoke

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review and tentative determination to revoke.

SUMMARY: In response to a request by the respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on greige polyester/cotton printcloth from the People's Republic of China.

The review covers the one known manufacturer/exporter of this merchandise to the United States and the period September 1, 1987 through August 31, 1988. There were no shipments of this merchandise to the United States by the firm during the period.

As a result of our review, we tentatively determine to revoke the antidumping duty order. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Maura Kim or Laurie A. Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130.

SUPPLEMENTARY INFORMATION:

Background

On February 12, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 5805) the final results of its last administrative review of the antidumping duty order on greige polyester/cotton printcloth from the PRC (48 FR 41614, September 16, 1983). The respondent, China National Textiles Import and Export Corporation ("Chinatex"), requested in accordance with 19 CFR 353.53a(a) that we conduct an administrative review. We published a notice of initiation of antidumping duty administrative review on December 5, 1988 (53 FR 48951). On January 31, 1989, we published a corrected initiation notice (54 FR 4871). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of greige polyester/cotton printcloth, other than 80 × 80 type. Greige polyester/cotton printcloth is unbleached and uncolored printcloth. The term "printcloth" refers to plain woven fabric, not napped, not fancy or figured, of singles yarn, not combed, of average yarn number 26 to 40, weighing not more than 6 ounces per square yard, of a total count of more than 85 yarns per square inch, of which the total count of the warp yarns per inch and the total count of the filling yarns per inch are each less than 62 percent of the total count of the warp and filling yarns per square inch.

During the review period such merchandise was classifiable under items 326.26 through 326.40 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under HTS item 5513.11.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of greige polyester/cotton printcloth, Chinatex, and the period September 1, 1987 through August 31, 1988.

Preliminary Results of Review and Tentative Determination to Revoke

Chinatex made no shipments to the United States for the period September 1, 1984 through August 31, 1988 and has requested revocation of the order. As provided for in 19 CFR 353.54(e), Chinatex has agreed in writing to an immediate suspension of liquidation and reinstatement of the order under circumstances specified in the written agreement. If this tentative determination to revoke is made final, it will apply to all unliquidated entries of this merchandise manufactured and exported to the United States, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttal comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication.

The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Furthermore, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties shall be required for shipments of this merchandise. The rate currently in effect for Chinatex is 22.4 percent. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after August 31, 1988, and who is unrelated to Chinatex, a cash deposit of 22.4 percent shall be required.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and 19 CFR 353.53a and 353.54.

Date: April 17, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-9799 Filed 4-24-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-084]

Spun Acrylic Yarn From Italy: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Commerce

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner and one exporter, the Department of Commerce has conducted an administrative review of the antidumping duty order on spun acrylic yarn from Italy. The review covers five manufacturers/exporters of this merchandise to the United States and the period April 1, 1986 through March 31, 1987. The review indicates the existence of dumping margins during this period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

We used best information available for two firms which failed to respond or provided an inadequate response to our request for information. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 25, 1989.

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FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1960, the Department of Commerce ("the Department") published in the **Federal Register** (45 FR 23684) an antidumping duty order on spun acrylic yarn from Italy. The petitioner and one exporter requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on May 20, 1987 (52 FR 18837). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classsified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of worsted spun acrylic plied yarn for machine knitting, excluding four-ply craft yarn and certain brushed yarns. During the review period, such merchandise was classifiable under items 310.5015 and 310.5049 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 5509.3200. The HTS item number(s) are provided for convenience and Customs purposes. The written discription remains dispositive.

The review covers five manufacturers/exporters of spun acrylic yarn from Italy and the period April 1, 1986 through March 31, 1987. Only three manufacturers/exporters with shipments during the period responded adequately to our requests for information. Turriddo Torracchi did not respond to our questionnaire. Mister Joe's response to the Department's questionnaire was inadequate because it provided self-selected home market sales and did not provide any adjustments to U.S. or home market sales. Therefore, the Department used the best information available for these two firms, which was the rate published in the antidumping duty order (45 FR 23684, April 8, 1980). While the petitioner had requested that the Department conduct a review of an additional firm, that firm had no shipments during the period and we have no evidence that it is a manufacturer or exporter of the subject merchandise.

United States Price

In calculating United States price, the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed c.i.f., f.o.b., or delivered price to unrelated purchasers in the United States. We made adjustments for brokerage and handling, foreign inland freight, ocean freight, marine insurance, and U.S. inland freight.

We disallowed an addition for income due to currency exchange hedging because no provision is made for this adjustment in section 751 administrative reviews. Moreover, although respondent did not request that the income from currency hedging be used as a circumstance of sale adjustment, no circumstance of sale adjustment could be made because the income is not directly related to the sales under consideration. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used third-country price or constructed value as defined in section 773 of the Tariff Act. Third-country price was based on the packed f.o.b. or c.i.f. price to unrelated purchasers in third countries. We made adjustments for foreign inland feight and for differences in credit, packing, and physical characteristics of the merchandise. No other adjustments were claimed or allowed.

We calculated constructed value as the sum of the cost of the materials, fabrication, general expenses and packing, plus profit. The amount added for general expenses was either the actual cost or 10 percent of the sum of the materials and fabrication where the general expenses were less than the statutory minimum of 10 percent. The amount added for profit was either the actual amount of 8 percent of the sum of the costs of materials, fabrication and general expenses where profit was less than the statutory minimum of 8 percent.

The Department determined that Gruppo Bertrand's sales in the home market and to third countries were sold below its cost of production. As a result, we requested that Gruppo Bertrand demonstrate that its sales during the period were at prices which permit recovery of all costs within a reasonable period of time, in the normal course of trade. Gruppo Bertrand did not provide us with any information to establish that its costs could be recouped over time. Therefore, in the absence of any information to the contrary, we assume that Gruppo Bertrand's sales were at prices which do not permit recovery of costs within a reasonable period of time, in this case, the period of review.

Since insufficient quantities of such or similar merchandise were sold at or above the cost of production to provide an adequate basis for comparison, we used constructed value as defined in section 773 of the Tariff Act.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period April 1, 1986 through March 31, 1987.

Manufacturer/Exporter	Margin (percent)
Maniffattura Emmepi S.p.A.	0
Gruppo Bertrand (a.k.a. Fantasia, Cofisa, and Saberfil)	16.21
Lanificio DiNervesa Della Battaglia S.p.A./International Fibre Industries, Ltd.	3.84
Turriddo Torracchi	48.05
Mister Joe	48.05

We are not covering Enichem Fibre S.p.A (a.k.a. Ancifibre S.p.A.) because this firm is not known to be a manufacturer or exporter of the subject merchandise. If the firm should begin to export the subject merchandise, we will treat them as a new exporter.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. For shipments from the remaining known manufacturers and exporters not covered by this review, the cash deposit will continue to be at the latest rate applicable for each of those firms (47 FR 5280, Feburuary 4, 1982; 48 FR 37682, August 19, 1983; and, 50 FR 35849, September 4, 1985).

For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after March 31, 1987, and who is unrelated to any reviewed firm, a cash deposit of 16.21 percent shall be required.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a(a) of the Commerce Regulations (19 CFR 353.53a).

Date: April 18, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Adminstration.

[FR Doc. 89–9905 Filed 4–24–89; 8:45am]

BILLING CODE 3510–DS–M

[A–429–601]

Solid Urea From the German Democratic Republic; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from one manufacturer/exporter, the Department of Commerce has conducted an administrative review of the antidumping duty order on solid urea from the German Democratic Republic. The review covers one manufacturer/exporter of this merchandise to the United States, Chemie Export-Import, and the period January 2, 1987 through June 30, 1988. There were no known shipments of this merchandise to the United States by Chemie during the period and there are no known unliquidated entries.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Room B–099, 14th Street & Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 26366) the antidumping duty order on solid urea from the German Democratic Republic. A manufacturer/exporter, Chemie Export-Import ("Chemie"), requested in accordance with 19 CFR 353.53a(a) that we conduct an administrative review. We published a notice of initiation on August 30, 1988 (53 FR 33163). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* ("HTS") as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). Imports covered in this review are shipments of solid urea. During this review such merchandise was classifiable under item number 480.3000 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 0511.99.40. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The review covers one manufacturer/exporter of this merchandise to the United States, Chemie, and the period January 2, 1987 through June 30, 1988. There were no known shipments of this merchandise to the U.S. by Chemie during the period and there are no known unliquidated entries.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margin exists:

Manufacturer/exporter	Time period	Margin (percent)
Chemie	1/2/87—6/30/88	*48.80

*No shipments during the period; margin from the last period on which there were shipments.

Parties to the proceeding may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 35 days after the date of publication or the first workday thereafter.

Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in any such comments or at a hearing.

Further, as provided for by 19 CFR 353.48(b), a cash deposit of estimated antidumping duties based on the above margin shall continue to be required for all manufacturers/exporters. This deposit requirement is effective for all shipments of East German solid urea entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.53a.

Date: April 17, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89–9800 Filed 4–24–89; 8:45 am]

BILLING CODE 3510–DS–M

University of Pennsylvania, et al.; Consolidated Decision on Applications for Duty-free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301).

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Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 88–064. *Applicant:* University of Pennsylvania, Philadelphia, PA 19104–6085. *Instrument:* Flash Photolysis Device. *Manufacturer:* Gert Rapp, West Germany. *Intended Use.* See notice at 53 FR 1812, January 22, 1988. *Reasons for this Decision:* The foreign instrument provides focusing optics and pulse shaping optimized for initiating contractile events in muscle fibers. *Advice Submitted By:* National Institutes of Health, May 17, 1988.

Docket No.: 88–259. *Applicant:* Oklahoma State University, Stillwater, OK 74078–0447. *Instrument:* Mass Spectrometer, Model ZAB–2SE. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* See notice at 53 FR 37018, September 23, 1988. *Reasons for this Decision:* The foreign instrument is a high resolution (50 000 10% Valley definition) MS cable of scan speeds to 0.1 sec/decade and MS/MS analysis. *Advice Submitted by:* National Institutes of Health, November 1, 1988.

Docket No.: 88–211. *Applicant:* Louisiana State University and A&M College, Baton Rouge, LA 70803. *Instrument:* 252–CF–Plasma Desorption T–O–F Mass Spectrometer, Model BIN–20K. *Manufacturer:* Bio-Ion Nordic AB, Sweden. *Intended Use:* See notice at 53 FR 46106, November 16, 1988. *Reasons for this Decision:* The foreign instrument provides radioactive isotope ionization and mass accuracy to 0.1% in the range of 6000 to 15 000 amu. *Advice Submitted By:* National Institutes of Health, September 21, 1988.

Docket No.: 88–283. *Applicant:* University of California, Berkeley, Berkeley, CA 94720. *Instrument:* NMR Spectrometer, Model AM 300wb. *Manufacturer:* Bruker Analytische GmbH, West Germany. *Intended Use:* See notice at 53 FR 37018, Septemer 23, 1988. *Reasons for this Decision:* The foreign instrument provides (1) fiber optical light access probes with light pipes outside the sample cavity and (2) the fastest array processor. *Advice Submitted By:* National Institutes of Health, November 1, 1988.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–9906 Filed 4–24–89; 8:45 am]

BILLING CODE 3510–DS–M

Vanderbilt University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Accessories

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 88–244. *Applicant:* Vanderbilt University, Nashville, TN 37325. *Instrument:* Excimer Laser, Model EMG 160T MSC. *Manufacturer:* Lambda Physik, West Germany. *Intended Use:* See notice at 53 FR 32420, August 25, 1988. *Reasons for this Decision:* The foreign article provides a narrow bandwidth of 0.001 nm tuneable to within ±1 nm.

Docket No.: 88–256. *Applicant:* U.S. Geological Survey, Reston, VA 22092. *Instrument:* Gas Isotope Ratio Mass Spectrometer System, Model 251. *Manufacturer:* Finnigan, MAT, West Germany. *Intended Use:* See notice at 53 FR 37017, September 23, 1988. *Reasons for this Decision:* The foreign instrument provides a multi-element/multiple Faraday collector system, sample size capability of 0.03 micro-mole and a precision of 0.002°/oo.

Docket No.: 88–284 and 88–293. *Applicant:* U.S. Geological Survey, Denver, CO 80225 and State of New Jersey, Department of Environmental Protection, Trenton, NJ 08625. *Instrument:* Time Domain Electromagnetic Systems. *Manufacturer:* Geonics, Canada. *Intended Use:* See notices at 53 FR 43462–43463, October 27, 1988. *Reasons for this Decision:* The foreign articles provide a linear turnoff waveform and a 6μs response time after transmitter turnoff.

Docket No.: 88–300. *Applicant:* University of California, Lawrence Livermore National Laboratory, Livermore, CA 94550. *Instrument:* Streak Camera, Model IMACON 500. *Manufacturer:* Hadland Photonics, Ltd., United Kingdom. *Intended Use:* See notice at 53 FR 43464, October 27, 1988. *Reasons for this Decision:* The foreign article provides a temporal resolution of 2ps with seam speeds up to 25 ps/mm.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–9907 Filed 4–24–89; 8:45 am]

BILLING CODE 3510–DS–M

Travel and Tourism Administration

Study on Rural Tourism and Small Businesses

Take notice that by Congressional mandate, the U.S. Travel & Tourism Administration (USTTA) in the Department of Commerce is presently working on a two-part study to explore ways in which rural tourism and small businesses can be promoted through travel and tourism activities. The study will require cooperation and coordination among federal agencies, state and local officials, and the private sector. The study is scheduled to be completed and presented to Congress this summer.

Development of tourism in rural regions is fast becoming an important area of interest, particularly where natural attractions predominate or where special social and cultural opportunities exist. The potential of tourism to enhance local, regional, state, and national economies has been increasingly recognized by Congressional representatives, public officials and economic planners throughout the country over the last decade. The "Study on Rural Tourism and Small Businesses" will attempt to evaluate the diverse ways in which small businesses in rural areas can be promoted through travel and tourism.

In addition, this study will contribute to the U.S. government's efforts in assessing the need for a federal policy concerning the development and promotion of small businesses in rural communities through travel and tourism, and whether there should be a special federal effort to support such a policy.

USTTA welcomes any comments on this initiative. All interested persons wishing to submit information pertaining to this study should contact Mr. Praful B. Shah, Vice President of Economics Research Associates, the U.S. Department of Commerce's contractor for this study. The address is 6321 Old Courthouse Road, Suite 320, Vienna, Virginia 22180. The telephone number is (703) 8953–1560.

Eric C. Peterson,

Acting Under Secretary for Travel and Tourism, U.S. Department of Commerce.

[FR Doc. 89–9821 Filed 4–24–89; 8:45 am]

BILLING CODE 3510–11–M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Extension of Approval of Information Collection Requirements; Flammability Standards for Carpets and Rugs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through April 30, 1992, of information collection requirements in regulations implementing flammability standards for carpets and rugs. The regulations are codified at 16 CFR Parts 1630 and 1631, and prescribe requirements for testing and recordkeeping by persons and firms issuing guaranties for products subject to the Standard for the Surface Flammability of Carpets and Rugs and the Standard for the Surface Flammability of Small Carpets and Rugs.

Additional Details About the Requested Extension of Approval of Requirements for Collection of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Standard for the Flammability of Carpets and Rugs (FF 1–70), 16 CFR Part 1630; Standard for the Flammability of Small Carpets and Rugs (FF 2–70), 16 CFR Part 1631.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of goods manufactured or imported.

General description of respondents: Manufacturers and importers of products subject to the flammability standards for carpets and rugs.

Estimated number of respondents: 120.

Estimated average number of hours for each respondent: 532 per year.

Estimated total hours for all respondents: 63,840.

Comments: Comments on this requested extension of approval of information collection requirements should be addressed to Pamela Barr, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: April 18, 1989.

Sadye E. Dunn,

Secretary, Consumer Product Sofety Commission.

[FR Doc. 89–9892 Filed 4–24–89; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: May 17–19, 1989

Time of Meeting: 0900–1700 hours each day

Place: Denver, Colorado

Agenda: The Army Science Board Subgroup on Toxic and Hazardous Waste Management will conduct its fourth meeting with emphasis on a review of Army activities at the Rocky Mountain Arsenal, Army compliance with Federal and State laws, and the public involvement program. Briefings will be conducted by representatives of the Army, EPA and the State of Colorado. Past, current, and planned actions will be discussed in accordance with the Terms of Reference. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89–9867 Filed 4–24–89; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Record of Decision To Establish the Southeast Alaska Acoustic Measurement Facility (SEAFAC), Behm Canal, Ketchikan Gateway Borough, AK

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), the U.S. Navy announces its decision to construct and operate the Southeast Alaska Acoustic Measurement Facility (SEAFAC), in Behm Canal, Ketchikan Gateway Borough, Alaska.

The United States Navy has a continuing program to reduce the radiated noise of its submarines. This has resulted in producing successively quieter designs based upon detailed acoustic measurements of preceding submarine classes. These same measurements are also used to define methods for reducing the noise level of current operational submarines. Operational requirements dictate that the Navy must maintain separate measurement facilities to support the east and west coast submarine fleets.

The capability to obtain measurements of submarine radiated noise is essential both to defining current submarine vulnerability and to furthering the goals of the U.S. silencing program.

Measurement of the radiated noise levels of submarines is currently accomplished on the west coast at Carr Inlet, near Tacoma, Washington, and at Santa Cruz Island, near Santa Barbara, California. Two factors have combined to erode the capability to adequately measure submarine radiated noise at these sites: reductions in U.S. submarine noise levels and the increasing ambient noise levels at the sites. This situation can only be corrected by developing a new measurement facility at a quieter location.

The Navy's proposed action includes establishing an acoustic measurement facility in the western arm of Behm Canal, Southeast Alaska, to measure and define the acoustic signature of quiet operating submarines and predict their vulnerability to detection. The

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Behm Canal facility will consist of three major parts: an underway measurement site, located in the central portion of the canal; a static measurement site, located northwest of Back Island; and the use of approximately 15 acres of National Forest land on Back Island for shore support facilities.

The action also includes the designation of five Restricted Areas that will be marked on National Ocean Survey charts. Four of the Restricted Areas will be in effect continuously and are necessary to alert the public to hazards to navigation and to protect both Navy and privately owned equipment and instrumentation. The fifth Restricted Area, which affects traffic transiting the area, will be estalished and will only be in effect during times when the Navy is actually conducting operations at the facility. The Navy anticipates that operations will require activation of this Restricted Area between 10 and 15 times per year and will usually last about 5 days at a time. These operations are not limited to any specific seasonal period, but may occur at any time throughout the year.

Scheduling of operations will take into account the existing uses of Behm Canal by both commercial and recreational boaters. When establishing the operational schedule for acoustic measurements, the Navy will work closely with those groups and agencies that sponsor and control activity in the Behm Canal area. The Navy recognizes that there are times during the commercial fishing season when salmon returns are greater than forecasted and that the Alaksa Department of Fish and Game (ADFG) extends fishing opportunities. These additional fishing oppportunities, or "unscheduled openings," have occurred in western Behm Canal in the past and are expected to continue. If an unscheduled opening occurs while the Navy is conducting tests, all reasonable steps will be taken to allow passage through or fishing in the operating area.

The following sections describe the five Restricted Areas:

Restricted Area No. 1 Area No. 1 is circular in shape and is to be centered at the underway measurement site, located at approximately 55°36' N. latitude and 131°49' W. longitude. The area is approximately 2,000 yards in diameter, and covers about 1 square mile. The Restricted Area is being established to protect privately owned equipment, as well as Navy equipment located at the center of the range course. The regulation allows boaters to transit the area; however, it stipulates that no vessel anchor, tow a drag of any kind, deploy a net, or dump any material within the boundaries of the area. The area will be marked on National Ocean Survey charts; however, the Navy does not intend to install surface buoys or other types of markers to identify the area boundaries became these markers would impose an unnecessary hazard to surface navigation. The subsurface buoys that suspend the measurement arrays will be set approximately 100 feet below the surface, deeper than the draft of any vessel transiting the area.

Restricted Area No. 2 Area No. 2 is also a cricle approximately 2,000 yards in diameter that encompasses the static measurement site and is centered at approximately 55°34' N. latitude and 131°48' W. longitude. The area is being established to protect private and Navy equipment. This equipment and instrumentation will include a power barge, suspension barges, mooring buoys, and underwater measurement arrays. The regulation stipulates that no vessel shall at any time anchor, tow a drag of any kind, deploy a net, dump any material, moor, or tie up to or loiter alongside or near moored structures in the area. The boundaries of the Restricted Area will not be marked, but the power and suspension barges and mooring buoys on the surface will be lighted, and will provide a visible reference for location. The area will also be marked on National Ocean Survey charts.

Restricted Area No. 3 Area No. 3 is being established to protect underwater cables and instrumentation located on or near the bottom from damage that could occur from anchoring or grappling, as in any other underwater cable crossing area. Area No. 3 encloses a triangular shaped section from the edge of Back Island towards the central portion of the canal. The northwestern edge of the triangle is formed by a line extending from near Bittersweet Rock north towards Francis Cove. The southern boundary of the triangle extends from Back Island towards Smugglers Cove in a northwesterly direction to a point south of Trunk Island where it intersects the northwest boundary. The northern boundary extends from Back Island toward Point Francis in a northerly direction to a point where it intersects the northwest boundary. The regulations allow transiting the area, and only exclude anchoring, towing a drag within 100 feet of the bottom, and dumping of material. In establishing this area, the Navy has no intention of prohibiting anchoring along the shores of Back Island, except where electrical and other cables are brought to shore and within 100 yards of the pier and dock facility located on the northwest shore of the island. The Navy anticipates that the underwater cables will be brought to shore along a single route in the vicinity of the facility. The termination location of the cable on the land will be clearly marked with a warning sign that will be visible from the water.

Restricted Area No. 4 Area No. 4 is approximately 500 yards wide, and is being established to protect underwater communication and power transmission cables from Revillagigedo Island to Back Island. The regulations stipulate that no vessel be allowed to anchor, tow a drag on the bottom, or dump any material. In establishing this area, the Navy has no intention of prohibiting anchoring along the shores of Back Island, except as noted for Restricted Area No. 3.

Restricted Area No. 5. The regulations associated with Area No. 5 will only be in effect while the Navy is actually conducting operations in western Behm Canal. The area encompasses a portion of western Behm Canal near the acoustic measurement facility. Boaters who wish to transit Area No. 5 will be able to contact a Navy Range Operations Officer by radio so that their expected time of arrival at the edge of the area can be considered when scheduling acoustic measurement tests. For craft not equipped with radios, the Navy will install flashing beacons to alert boaters when it is safe to pass through the area at any speed. A flashing green beacon means the facility is not operational and vessels can proceed safely through the area at any speed. A flashing red beacon means that a measurement is in progress and vessels should wait for the beacon to change to green to ensure safe passage through the area. Notifying the Range Operations Officer by radio in advance will assist the Navy in coordinating boat movements with the acoustic measurement tests. Depending on the status of the acoustic measurement in progress, if notification of a transit is not received in time, the Navy may require the vessel intending to transit the area to delay 15 to 20 minutes in order to complete the acoustical test in progress. Restrictions for area No. 5 apply to both underway and static acoustic measurement.

The Navy realizes that most boat use for fishing and recreation takes place within 500 yards of the shoreline. Therefore, there will be no restrictions placed on small craft in Area No. 5 that remain within 500 yards of the shoreline and keep their speed below 5 knots, with the exception of the restrictions identified for Restriction Area No. 3.

Submorine Operation Area. An area measuring approximately 3000 yards wide and 10,000 yards long, located roughly along the centerline of Area No. 5, will be used by submarines either operating submerged or surfacing during tests. Since these operations represent a potentially hazardous situation involving the collision of surface vessels and submarines, all vessels will have to clear this area and remain out until signaled by the Navy that the tests have been completed. This area was formerly called the "Danger Zone."

Figures 3.10 and 3.11 of the Final Environmental Impact Statement (FEIS) show locations of the restricted areas.

The Navy has established the same kind of restricted area regulations for the acoustic measurement facility in Carr Inlet near Tacoma, Washington. These regulations have been in effect for over 35 years, and during that time an excellent working relationship has been established between commercial and recreational users of the area and the Navy.

The Navy will notify the public of operations in western Behm Canal by publication in the USCG "Notice to Mariners," publication in the local Ketchikan paper, and radio broadcasts.

A Notice of Intent to prepare an Environmental Impact Statement (EIS) was published in the **Federal Register** on December 17, 1986. Early in the planning stages for this project, the Navy requested public comments to consider siting a proposed submarine acoustic measurement facility in Behm Canal, Southeast Alaska. A media briefing and public open house were also held in Ketchikan to further explain the proposed project and to again request public comments. Those comments and concerns expressed during the scoping process were evaluated and considered in the NEPA analysis. The Notice of Availability of the Draft Environmental Impact Statement (DEIS) was published in the **Federal Register** on September 25, 1987, and the DEIS was distributed to over 250 individuals and agencies. In addition to receiving written public comment on the DEIS, a public hearing was held in Ketchikan, Alaska, on October 15, 1987. Comments received during both the public hearing and the comment period were addressed in a Final Environmental Impact Statement (FEIS). The Notice of Availability for the FEIS was published in the **Federal Register** on May 20, 1988.

In February 1989, the Navy published an Addendum to the FEIS and distributed copies to the recipients of the FEIS. Comments were requested during a 30 day review period. The addendum contained three separate appendices to the FEIS: Revised Appendix A, new Appendix C, and new Appendix D. Appendix B, which was published with the FEIS, was not revised. Appendix A was a revised Subsistence Evaluation performed by the U.S. Forest Service. Appendix C was a detailed description of the SEAFAC site selection process and a consolidation of mitigative measures. The primary purpose of the Appendix C was to further clarify the process that resulted in selecting Behm Canal as the only viable site on the west coast of the United States for conducting submarine acoustic measurements and Back Island as the optimal location within Behm Canal for the required shore facilities. Appendix C also further clarified and summarized the action that will be taken to mitigate possible impacts to the environment, as discussed in the FEIS. Appendix D was a Permit Application and Public Notice issued by the Army Corps of Engineers.

During the NEPA analysis, the comments of other cognizant federal and state agencies were considered. The U.S. Department of Agriculture, Forest Service, and the U.S. Department of the Army, Corps of Engineers were cooperating agencies during the preparation and review of the NEPA documents and both organizations concur in the Navy decision indicated in this ROD. State agency comments were coordinated through the Alaska State Office of the Governor, Division of Governmental Coordination.

Various sites within the Western Pacific Region were investigated, but no other site was found which fulfills operational criteria. All areas under the jurisdiction of the United States in the eastern and central Pacific Ocean basin were examined. International political and information security considerations precluded foreign site selection.

A preliminary screening of Pacific coastal waters resulted in the identification of 14 potential sites. Five of the sites were already being used by the Navy for underwater testing. Acoustic measurement capability varied with each site. The two developed sites in Washington were found to be marginally quiet, but were too shallow for submarine operations at all speeds. The other three developed sites, two in California and one in Hawaii, were too noisy for measuring quiet submarines. None of the current sites with Navy installations was found to be adequate for future submarine noise measurements.

There were nine undeveloped sites identified as potential locations: one in Washington, four in Hawaii, and four in Alaska. Of these, all but two were rejected, primarily because of unsuitable weather conditions and excessive ambient noise. The area to the southwest of the big island of Hawaii required further study, since a large wind shadow suggested that quiet conditions could exist. However, acoustic characterization measurements showed the area to be unsuitable.

Similar acoustic and meteorological measurements were obtained at Behm Canal. This area met all critical requirements. Additional environmental measurements confirmed this conclusion. Although the site is somewhat remote from fleet home ports, the overriding need for a quiet site, operationally compatible with submarine maneuverability, leads to the conclusion that Behm Canal is the only viable site for conducting acoustical measurements well into the next century.

Once Behm Canal was selected, the area was surveyed for a suitable location to locate the shore facilities. Nine sites were evaluated using factors such as accessibility, ease of construction, view of the test area, and environmental impact.

After careful consideration of both the engineering and environmental consequences of establishing a shore facility at a specific site around the margin of western Behm Canal, Back Island was chosen as the preferred location. Access will be unencumbered and there is a considerable sheltered area for maneuvering. The site is easily accessible to Ketchikan, without disturbing acoustic measurement operations, and offers an excellent view of the range location. The pier does not require a breakwater or dredging and only requires minimal fill for the shore facility. As a result, the impact on the marine environment will be minimal.

Since the island is relatively flat, road and shore facilities can be constructed with comparative ease, and the impact on the terrestrial environment will also be minimal. A sizable buffer of trees, at least 50 feet wide, will be maintained to insure that most of the facility is screened from view from the water. Where, for operational reasons, there has to be a clear view of the canal, the buildings will be painted to blend into the surrounding forest canopy.

Three alternatives for routing of the submarine power transmission cable from the bottom of Clover Pass to Back Island were identified in the FEIS. Alternative #3, routing the cable across the northern part of Back Island, has been chosen as the preferred alternative for engineering reasons.

Throughout the course of the SEAPAC planning and design, the Navy has conducted extensive coordination with

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the U.S. Forest Service and the U.S. Fish and Wildlife Service to minimize impacts to nesting bald eagles and insure compliance with the Bald Eagle Protection Act. The access road has been designed to pass no closer than 200 feet from an existing eagle nest, and clear cutting on each site of the road will be reduced from a more typical 20 feet on each side, to 10 feet. In addition, construction blasting will be scheduled around sensitive eagle nesting periods. To monitor this schedule, a trained ornithologist will be at the site to evaluate the behavior of any eagles at active nest locations.

Based on the analysis developed in the EIS, the Navy concludes that adverse biological and physical impacts on the environment caused by the construction and operation of SEAFAC will be minor. In addition, all practicable means have been adopted to avoid adverse impact. Moreover, site activities at SEAFAC will comply with applicable state and federal statutes, including the Clean Water Act, the Endangered Species Act, the Clean Air Act, and the Fish and Wildlife Coordination Act. The potential environmental impacts addressed in the analysis, although relatively minor, included (1) short-term impacts on the physical environment from site preparation and facilities construction, (2) impacts on air and water quality from operations, and (3) impacts on the public from operations. The EIS also addresses the potential social and economic impacts and the potential of a ship accident while conducting tests.

Construction and operation of SEAFAC will cause the release of waste products including diesel exhausts from emergency electrical generators, solid wastes, and domestic waste water. Air emissions from construction will be similar to any other small construction job and will, therefore, have a minimal impact on the environment. Solid wastes from construction and operation will be transported to a commercial landfill in Ketchikan. Treated sewage effluent will meet applicable state and federal standards and will be released into Behm Canal from treatment systems at the rate of about 2 gallons per minute during operation.

Socioeconomic impacts on commercial and sport fishing and navigation in the Behm Canal area have also been assessed and would depend upon the time of year and how operations at the site are actually conducted. If, for example, site operations are conducted so that delays to transit the zone are rare, the economic impact from site operations on sport charters and other commercial traffic would be minor or non-existent. If delays are frequent, sport charters and related business could be adversely affected. In consideration of the many public comments on this matter, the proposed restricted zones have been modified to allow passage of vessels within Behm Canal past the facility. In addition, the Navy has mitigated possible impacts by agreeing to attempt to schedule tests around major sport fishing events. To the extent possible, unscheduled commercial fishing season openings will also be accommodated to allow the maximum practicable public use of the area. Because of these mitigative measures the Navy considers the likelihood of socioeconomic impact from these restrictions to be very low. Several comments were received during the FEIS and Addendum review regarding the possible impact of the restrictions of the range operations on commercial and sports fishing within western Behm Canal. These comments raise essentially the same issues as previously raised and are sufficiently addressed in the FEIS. The Navy has collected and analyzed a substantial amount of data regarding the socioeconomic environment of the area and the potential adverse effects on that environment, including the potential impact on commercial and sports fishing. These data are summarized extensively in the FEIS and no further studies are warranted in order to reach a reasoned choice among the alternatives presented.

Comments were also received suggesting that the economic impact to commercial and sport fishing would be mitigated if the shore facility was moved from Back Island to an area outside the Clover Pass Scenic Area, such as to Francis Cove. This assumption is incorrect. Operational impacts would not be lessened by moving the shore facility because the operating range and the restricted areas would remain as shown in the FEIS to allow sufficient area for submarines to maneuver safely.

The Ketchikan Gateway Boroughs has asked for mitigation in the form of economic compensation to offset the potential negative impacts of operations on the charter and sports fisheries in the Behm Canal area. As stated above and in the NEPA documents, the Navy is planning to work closely with local groups to mitigate potential impacts on fisheries, and therefore feels economic losses, if any, would be minor. A Navy response to the Ketchikan Gateway Borough request stated that "the Department of Defense, Office of Economic Adjustment, has determined that the SEAFAC project does not meet the legal requirements for community impact planning assistance, and that any further studies would be impractical due to the uncertainty of whether there will be any economic impacts."

Other comments questioned whether there would be increased traffic through Clover Pass as a result of Restricted Area No. 5 in Behm Canal. Because the Navy feels delay of boater traffic would be infrequent, any increased boater traffic through Clover Pass would be minimal.

Several individuals commented on the existence of local land use plans and the apparent inconsistency between the proposed action and those plans. The FEIS states that "the [Ketchikan] Borough Assembly will evaluate the compatibility of the proposed SEAFAC with the intent of the scenic area classification." On 18 July 1988, in support of some 1200 signatures to a petition not to change the existing scenic designation, the Ketchikan Gateway Borough Assembly found the Navy's proposed submarine acoustic measurement facility in Western Behm Canal to be inconsistent with the Clover Pass Scenic Area designation in the Borough's Comprehensive Plan and voted not to change the designation. As described in the FEIS and the Addendum to the FEIS, the Navy has identified mitigative measures which will be taken to reconcile the proposed action with the recreational and scenic character of the Clover Pass Area. In accordance with 40 CFR 1502.16(c) and 1506.2(d), the Navy has considered the conflict between the proposed action and the objectives of the local land use plans and finds that the proposed action is consistent to the maximum extent practicable with the Borough's Comprehensive Plan, given safety and mission requirements.

Comments also questioned how Restricted Area No. 5 would affect cruise ships and recreational activities such as scuba diving. Navy testing will have minimal effect on cruise ship traffic within Clarence Strait. Cruise ships which transit western Behm Canal during periods of testing would be subject to the same restrictions as the other vessels. However, coordination between the Navy and either the Southeast Alaska Coast Pilots Association or the particular cruise ship line should eliminate any potential for noticeable delay. Recreational water sports such as SCUBA diving would not be affected by the implementation of Restricted Area No. 5. Transit to and from diving locations, if using a motorized vessel, while the restricted area is in effect would be subject to the same limitations and conditions previously described in the FEIS.

Other comments questioned the potential effect of a submarine traveling at flank speed on migrating salmon. The Carr Inlet Acoustic Range in southern Puget Sound and the Santa Cruz Acoustic Range Facility in southern California have both been used to measure the radiated noise from submarines operating at low and high speeds. There has never been any indication that the speed at which the submarine was operating while being tested had either a direct or indirect long term effect on fish mortality. The relative abundance of salmon migrating through Carr Inlet has been consistent with the relative abundance of salmon within south Puget Sound.

The effects of submarine wakes from both surface travel and underway testing were identified as a potential adverse effect. While within western Behm Canal and operating on the surface, submarines will be restricted to speeds comparable to those used by cruise ships within Tongass Narrows. The surface wake from a submarine traveling at these speeds would be about the same size as that produced by a small crusie ship traveling at the same speed. The speed of submarines during underway testing is classified, however the submarine hulls are designed to minimizelwakes and the Navy has not experienced any effects from operations in Carr Inlet due to submarine wakes.

Another comment suggested that boater communications would become "scrambled" as a result of the Navy conducting operations. Navy communications will be conducted on military frequencies and will not affect frequencies used by boaters.

All other comments received during the processing of the FEIS and the Addendum to the FEIS deal with issues already addressed in the NEPA documents.

Before the implementation of this Decision the Navy will obtain all applicable authorizations and permits. The U.S. Forest Service (USFS) proposes to issue a Special Use Permit for Navy use of Back Island and to amend the current designation of the Back Island Land Use Designation II (LUD II) to allow an exception for the proposed facility. The exception would apply only to Back Island and no other LUD II areas on the Tongass National Forest. The USFS Record of Decision (ROD) for these actions will be signed concurrently with this ROD. The USFS ROD will not be published in the **Federal Register**, however the ROD will be distributed to those on the USFS mailing list and will be available for public review at the following locations:

Forest Supervisor Office, Federal Building, Ketchikan, AK
Ketchikan District Ranger Office, 3031 Tongass Ave., Ketchikan, AK
Ketchikan Public Library, 629 Dock St., Ketchikan, AK

A Biological Assessment has been prepared and submitted to the National Marine Fisheries Service and the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act. Both agencies concurred with the Navy Biological Assessment finding of no effect on Endangered or Threatened Species.

The Navy will obtain authorization to construct the in-water facilities for SEAFAC from the U.S. Army, Corps of Engineers as required by the Clean Water Act and the River and Harbor Act. A Coastal Consistency Determination has also been prepared and submitted to the State of Alaska as required by the Coastal Zone Management Act.

Date: April 20, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-9900 Filed 4-24-89; 8:45 am]

BILLING CODE 3570-AE

Naval Research Advisory Committee; Closed Meeting

Notice was published April 10, 1989, at 54 FR 14277 that the Naval Research Advisory Committee will meet on May 4–5, 1989, at the Naval Submarine Base, Kings, Bay, Georgia. The meeting has been conceled. In accordance with 5 U.S.C. 552(e)(2), the meeting cancellation is publicly announced at the earliest practical time.

Date: April 19, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-9901 Filed 4-24-89; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Notice Inviting Individuals To Apply To Serve as Field Readers for the Student Literacy Corps Program

AGENCY: Department of Education.

ACTION: Notice inviting individuals to apply to serve as field readers for the Student Literacy Corps Program.

SUMMARY: The Assistant Secretary for Postsecondary Education invites interested individuals to apply as field readers to evaluate grant applications for the Student Literacy Corps Program. This program provides direct grants to eligible institutions of higher education (IHEs) to develop literacy projects at public community agency facilities in which volunteer undergraduates will serve as unpaid tutors

Duties and Compensation of Field Readers

Field readers will review applications according to the applicable selection criteria published in the Notice inviting applications for Fiscal Year 1989. All reviews of applications will take place in Washington, DC. Each field reader will serve for a period of approximately 3 days. Each field reader will receive compensation for certain travel expenses, and an honorarium:

Field Reader Qualifications

Each field reader must have the expertise necessary to accurately assess the grant proposals submitted to the Department of Education. Field readers are sought who meet one or more of the following qualifications: (a) Can function as generalists encompassing a wide range of specialized activities relating to literacy, from the teaching of traditional disciplines (such as sociology, economics and education), to working with volunteers in public community agencies serving youth, the handicapped and disabled veterans as well as individuals in public institutions ranging from schools to prisons; (b) have had direct experience counseling or tutoring educationally or economically disadvantaged individuals limited in basic skills in school, at home or at work; (c) have had experience in administering or teaching in community outreach programs (under the Department's Special Programs for Students from Disadvantaged Backgrounds, Title IV–A of the Higher Education Act of 1965, as amended, cooperative education programs or similar programs) jointly conducted by an IHE and a public community agency; (d) have had experience teaching reading, writing and arithmetis in a secondary school; (e) have provided supervision to undergraduates or others as tutors in community outreach programs.

Application Process

Any individual interested in serving as a field reader should mail his/her resume to the address below indicating that he or she is interested in serving as

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a field reader for the Student Literacy Corps Program.

Applicable Regulations

The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hosptials and Nonprofit Organizations), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), and Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

FOR FURTHER INFORMATION CONTACT: Dr. Donald N. Bigelow, Office of Higher Education Programs, U.S. Department of Education, ROB-3, Room 3082, 400 Maryland Avenue, SW., Washington, DC 20202-5131. (202) 732-5596.

Program Authority: 20 U.S.C. 1018-1018f.
Dated: April 14, 1989.

(Catalog of Federal Domestic Assistance Program Number 84.219)

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 89-9814 Filed 4-24-89; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No: 84.040]

Invitation of Fiscal Year 1989 Applications Under the School Construction in Areas Affected by Federal Activities Program for Fiscal Year 1990 Funds.

Purpose of Program: Notice is given that the Secretary of Education has established a closing date for the transmittal of applications for assistance under sections 5 and 9 of Pub. L. 81-815, based on increase periods ending June 1989 or June 1990. (An increase period is a period of four consecutive regular school years during which a school district has experienced a substantial increase in school membership as a result of new or increased Federal activities.) This closing date also applies to applications for assistance under section 14 and for supplemental assistance under section 8 of Pub. L. 81-815. (Section 14 authorizes assistance for certain school districts that serve children residing on Indian lands, or that are significantly burdened by the presence of nontaxable Federal property. Section 8 authorizes assistance that supplements certain awards made under sections 5, 9, and 14 of Pub. L. 81-815.)

Approval of these applications is subject to availability of funds.

Deadline for Transmittal of Applications: June 30, 1989.

Deadline for Intergovernmental Review Comments: August 31, 1989.

Available Funds: The fiscal year 1990 budget request for sections 5 and 14(c) is $2,964,000, the same as the fiscal year 1989 appropriation. The fiscal year 1990 budget request for sections 14(a) and 14(b) is $12,746,000, while the fiscal year 1989 appropriation for these sections is $11,856,000.

Applications Available: Application forms may be obtained from the appropriate State educational agency that serves the applicant local educational agency.

Applicable Regulations: (a) The regulations governing the School Construction Program (34 CFR Parts 218 and 221), and (b) the Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75, 77, 79, and 80).

For Information Contact: School Facilities Branch, Impact Aid Program, Program Operations Division, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2117, Washington, DC 20202-6244.

Telephone: (202) 732-4660.

Program Authority: 20 U.S.C. 631-645
Dated: April 17, 1989.

Daniel F. Bonner,

Acting Assistant Secretary for Elementary and Secondary Education.

(Catalog of Federal Domestic Assistance No. 84.040 School Assistance in Federally Affected Areas—Construction)

[FR Doc. 89-9813 Filed 4-24-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under 350(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) collection number(s); (3) current OMB docket number (if applicable); (4) collection title; (5) type of request, e.g., new, revision, or extension; (6) frequency of collection; (7) response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) affected public; (9) an estimate of the number of respondents per report period; (10) an estimate of the number of responses annually; (11) an estimate of the average hours per response; (12) the estimated total annual respondent burden, and (13) a brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before May 25, 1989.

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards, at the address below.)

FOR FURTHER INFORMATION CONTACT: Jay Casselberry, Office of Statistical Standards (FI-70), Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586-2171.

SUPPLEMENTARY INFORMATION: If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, you should advise the OMB DOE Desk Officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the DOE contact listed above.)

The energy information collection submitted to OMB for review was:

1. Fossil Energy
2. FE-748
3. 1901-0291
4. Enhanced Oil Recovery Annual Report
5. Extension
6. Annually
7. Voluntary
8. Businesses or other for profit
9. 48 respondents
10. 150 responses annually
11. The estimated average hours per response for each of the respondents is 2 burden hours.
12. The estimated total reporting hours are 300.
13. FE-748 collects data on changes in well data and description of operation, and average monthly production and injection on projects in the enhanced oil recovery incentive program. Data are published. Respondents are individuals or companies that had enhanced oil recovery projects approved for the incentive program.

Statutory Authority: Section 5(a), 5(b), 13(b), and 52, Pub. L. No. 93-275, Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, April 18, 1989.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 89-9803 Filed 4-24-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 1981-002, et al.]

Hydroelectric Applications; Wisconsin Dept. of Natural Resources, et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Amendment of License

b. *Project No:* 1981-002

c. *Date Filed:* September 19, 1984; amended September 22, 1987.

d. *Applicant:* Wisconsin Department of Natural Resources

e. *Name of Project:* Stiles Dam Project

f. *Location:* The Stiles Dam Project is located on Oconto River in Oconto County, Wisconsin

g. *Filed Pursuant to:* 18 CFR 385.207 (1988)

h. *Applicant Contact:*
Mr. Michael Caine, Wisconsin Department of Natural Resources, P.O. Box 7921, Madison, WI 53707, (608) 266-2177.

i. *FERC Contact:* Edward L. Melisky, (202) 376-9255.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The Oconto Electric Cooperative (licensee) operates the Stiles Dam Project as a peaking facility. The project generates electricity during early mornings and late evening hours on weekdays. The licensee normally curtails generation on weekends to refull the project reservoir. During periods when the project does not generate electricity, the flows downstream of the dam are substantially reduced.

l. *Purpose of Petition:* To maintain fish habitat in the project reservoir and to protect aquatic resources and recreation in the Oconto River downstream of the project, the Wisconsin Department of Natural Resources (DNR) has requested that the Commission require changes in project operation. The DNR requests that the Commission require the licensee to maintain: (a) The elevation of the reservoir between 108.8 and 110 feet (assumed datum); and (b) minimum flows in the Oconto River downstream of the project according to a schedule that ranges from 345 cubic feet per second (cfs) in February to 1,242 cfs in April.

m. *This notice also consists of the following standard paragraphs:* B, C, and D2.

2 a. *Type of Applicotion:* New Major License

b. *Project No.:* 2327-002

c. *Dote Filed:* February 1, 1989

d. *Applicant:* James River—New Hamsphire Electric, Inc.

3. *Name of Project:* Cascade Project

f. *Location:* on the Androscoggin River in Coos County, New Hamsphire

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)—825(r)

h. *Applicant Contacts:*
Mr. David L. Dunham, Vice President, James River-New Hamsphire Electric, Inc., 650 Main Street, Berlin, NH 03570-2469, (603) 752-4600.
William J. Madden, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L. Street, NW., Washington, DC 20005-3502, (202) 371-5715.
Kleinschmidt Associates, Consulting Engineers, Attn: Mr. Andrew E. Sims, P.O. Box 576, Pittsfield, ME 04967, (207) 487-3328

i. *FERC Contact:* Steven H. Rossi, (202) 376-9814

j. *Comment Dote:* June 8, 1989.

k. *Competing Applicotion:* Alpine Project No. 9713-001 *Date Filed:* July 21, 1988

1. *Description of Project:* The existing operating project commenced operation in 1916 and was issued an initial license in 1964, which will expire in 1993. The licensee has filed for a new license for the continued operation of the project. The licensee also proposes major modifications to the existing licensed project. The proposed project would consist of: (1) An existing 53-foot-high and 583-foot-long concrete gravity dam with 3-foot-high flashboards; (2) an existing reservoir with gross storage capacity of 200 acre-feet; (3) an existing headworks structure and forebay; (4) an existing powerhouse with two turbine-generator units rated at 2,400 kW each and one rated at 3,120 kW for a total installed capacity of 7,920 kW; (5) a new intake at the opposite end; (6) a new 18-foot-diameter and 7,400-foot-long steel penstock; (7) a new powerhouse containing a single turbine-generator unit rated at 14,300 kW; and (8) appurtenant facilities. The project would generate an average of 103,300 MWh annually. The dam is owned by the applicant. The existing project would be subject to Federal takeover under sections 14 and 15 of the Federal Power Act. The cost of the project would be $26,359,000.

m. *Purpose of Project:* Project power would be sold to the customers of James River-New Hamsphire Electric, Inc.

n. *This notice also consists of the following standard paragpahs:* B, C and D1.

3 a. *Type of Application:* New Minor License

b. *Project No.:* 2497-002

c. *Dote Filed:* November 28, 1988

d. *Applicant:* Linweave, Inc.

e. *Nome of Project:* Mt. Tom Mill

f. *Location:* On the Holyoke Canal, tributary to the Connecticut River, in the City of Holyoke, County of Hamden, Massachusetts

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r)

h. *Applicant Contact:* Mr. Robert Belsky, 10 Linweave Drive, Holyoke, MA 01040, (413) 536-6410

i. *FERC Contact:* Charles T. Raabe, (202) 376-9778

j. *Comment Date:* June 1, 1989

k. *Description of Project:* The existing, operating project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) an 8-foot-diameter penstock 230 feet long; (3) a 500-kW generating unit located in the Mt. Tom Mill building; (4) a 9-foot-wide by 8-foot-high arched brick-lined tailrace tunnel 205 feet long extending from the draft tube to a concrete outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line 90 feet long that connects the project to an existing transmission line; and (7) appurtenant facilities.

The license for Project No. 2497 was issued April 2, 1975, for a period effective March 1, 1941, and terminating February 28, 1991. The average annual energy production is 2,560 MWh. Project power is sold to Fitchburg Gas & Electric Light Company. The project is not subject to Federal takeover under section 14 of the Federal Power Act and is not subject to the provisions of section 15 of the Federal Power Act. No changes to the project are proposed.

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1. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, D1.

4 a. *Type of Application:* New Minor License

b. *Project No.:* 2768–002

c. *Date Filed:* November 25, 1988

d. *Applicant:* Linweave, Inc.

e. *Name of Project:* Albion Mill (D Wheel)

f. *Location:* On the Holyoke Canal, tributary to the Connecticut River, in the City of Holyoke, County of Hamden, Massachusetts

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r)

h. *Applicant Contact:* Mr. Robert Belsky, 10 Linweave Drive, Holyoke, MA 01040, (413) 536–6410

i. *FERC Contact:* Charles T. Raabe, (202) 376–9778

j. *Comment Date:* June 1, 1989

k. *Description of Project:* The existing, operating project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) a 9-foot-diameter penstock 190 feet long; (3) a 500-kW generating unit located in the Albion Mill building; (4) a 9-foot-wide by 12-foot-high arched brick-lined tailrace tunnel 205 feet long extending from the draft tube to a concrete outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line 475 feet long that connects the project to an existing transmission line; and (7) appurtenant facilities.

The license for Project No. 2766 was issued July 6, 1977, for a period effective March 1, 1941, and terminating February 28, 1991. The average annual energy production is 2,382 MWh. Project power is sold to Ficthburg Gas & Electric Light Company. The existing project is not subject to Federal takeover under sections 14 and 15 of the Federal Power Act. No changes to the project are proposed.

1. *This notice also consists of the following standard paragraphs:* B, C, D1.

5 a. *Type of Application:* New Minor License

b. *Project No.:* 2768–002

c. *Date Filed:* November 25, 1988

d. *Applicant:* Linweave, Inc.

e. *Name of Project:* Albion Mill (A Wheel)

f. *Location:* On the Holyoke Canal, tributary to the Connecticut River, in the City of Holyoke, County of Hamden, Massachusetts

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r)

h. *Applicant Contact:* Mr. Robert Belsky, 10 Linweave Drive, Holyoke, MA 01040, (413) 536–6410

i. *FERC Contact:* Charles T. Raabe, (202) 376–9778

j. *Comment Date:* June 1, 1989

k. *Description of Project:* The existing, operating project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) an 8-foot-diameter penstock 180 feet long; (3) a 312-kW generating unit located in the Albion Mill building; (4) a 16-foot-wide by 9-foot-high arched brick-lined tailrace tunnel 260 feet long extending from the draft tube to a concrete outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line 475 feet long that connects the project to an existing transmission line; and (7) appurtenant facilities.

The license for Project No. 2768 was issued July 6, 1977, for a period effective March 1, 1941, and terminating February 28, 1991. The average annual energy production is 1,795 MWh. Project power is sold to Ficthburg Gas & Electric Light Company. The project is not subject to Federal takeover under sections 14 and 15 of the Federal Power Act. No changes to the project are proposed.

1. *This notice also consists of the following standard paragraphs:* B, C, D1.

6 a. *Type of Filing:* Transfer of License

b. *Project No.:* 3863–002

c. *Date Filed:* March 23, 1989

d. *Applicant:* Floyd N. Bidwell (Transferor) and Highland Hydro Construction, Inc. (Transferee)

e. *Name of Project:* Lost Creek No. 1

f. *Location:* On Lost Creek, within Lassen National Forest in Shasta County, California

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:*

Transferor: Mr. Floyd N. Bidwell, Rt. 2, Box 447, Cassel, CA 96106, (916) 335–2797

Transferee: Mr. Mearl Williams, Highland Hydro Construction, Inc., 2576 Hartnell Avenue, Redding, CA 96002, (916) 222–1414

i. *Commission Contact:* Mr. James Hunter, (202) 376–1943

j. *Comment Date:* May 30, 1989

k. *Description of Proposed Action:* On May 18, 1988, a minor license was issued to the Transferor for the construction, operation, and maintenance of the Lost Creek No. 1 project. It is proposed to transfer the license to the Transferee. The proposed transfer will not result in any changes to the proposed development. The Transferor certifies that he has fully complied with the terms and conditions of the license. The Transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

l. *This notice also consists of the following standard paragraphs:* B and C.

7 a. *Type of Application:* Major License

b. *Project No.:* 4437–006

c. *Date Filed:* October 24, 1984

d. *Applicant:* Glacier Energy Company

e. *Name of Project:* Diobsud Creek

f. *Location:* On Diobsud Creek, partially within Mt. Baker-Snoqualmie National Forest in Skagit County, Washington

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:*

Mr. William L. Devine, W.L.D. Glacier Energy Company, P.O. Box 68, 8040 Mt. Baker Highway, Maple Falls, WA 98266, (206) 599–2927

i. *FERC Contact:* Mr. James Hunter, (202) 376–1943

j. *Comment Date:* June 5, 1989

k. *Description of Project:* The proposed project would consist of: (1) An 8-foot-high, 38-foot-wide concrete diversion structure at elevation 1,030 feet; (2) an 8-foot-wide, 48-foot-long inlet chamber; (3) a 48-inch-diameter, 6,000-foot-long low pressure pipeline; (4) a 48-inch-diameter, 2,500-foot-long penstock; (5) a 36-foot-square powerhouse at elevation 470 feet containing a generating unit rated at 5.0 MW, producing an average annual generation of 26 GWh; (6) a 72-inch-wide, 200-foot-long flume tailrace; (7) a 37.5-kV, 7,900-foot-long underground transmission line connecting to an existing Puget Power Company line; and (8) access roads totalling 11,000 feet in length. The project would have an estimated cost of $7,742,442 in 1986 dollars. This application has been accepted for filing as of October 29, 1981, the submittal date of the Applicant's original exemption application, pursuant to Eagle Power Company et al., 28 FERC ¶61,061, issued July 18, 1984.

l. *Purpose of Project:* Project output would be sold to a local utility or industrial user.

m. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, and D1.

8 a. *Type of Application:* Surrender of license

b. *Project No.:* 5058–001

c. *Date Filed:* February 16, 1989

d. *Applicant:* Glenn-Colusa Irrigation District

e. *Name of Project:* Tehama-Colusa/Glen-Colusa Intertie

f. *Location:* On Tehama-Colusa/Glen-Collusa Canal Intertie, near Maxwell, in Colusa County, California

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Robert Clark, Glen-Colusa Irrigation District, P.O. Box 150, Willows, CA 95988

i. *FERC Contact:* Michael Spencer at (202) 376–1689

j. *Comment Date:* May 30, 1989

k. *Description of Proposed Action:* The proposed run-of-the-canal project would utilize the U.S. Bureau of Reclamation's Tehama-Colusa/Glen Colusa Canal Interie No. 1. The Licensee seeks to surrender its license claiming that Pacific Gas and Electric Company has transmission constraints and could not receive the generation from this project.

The Licensee states that no construction has been done.

l. *This notice also consists of the following standard paragraphs:* B, C, and D2

9 a. *Type of Application:* Surrender of License

b. *Project No.:* 5350–005

c. *Date Filed:* March 20, 1989

d. *Applicant:* Tehama Power Authority

e. *Name of Project:* South Fork Battle Creek

f. *Location:* On South Fork Battle Creek in Tehama County, California

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Mr. Burt Bundy, Tehama Power Authority, P.O. Box 728, Red Bluff, CA 96080, (916) 527–4655

i. *Commission Contact:* Mr. William Roy-Harrison, (202) 376–9830

j. *Comment Date:* June 1, 1989

k. *Description of Project:* The project would have consisted of a diversion structure, a canal, a penstock, a powerhouse containing a generating unit with a rated capacity of 5,000 kW, and a transmission line. The licensee states that the project is not economically feasible to develop at this time. Therefore, the licensee requested that its license be terminated. The licensee has not commenced construction of the project.

l. *This notice also consists of the following standard paragraphs:* B, C, and D2

10 a. *Type of Application:* Surrender of License

b. *Project No.:* 7895–007

c. *Date Filed:* March 28, 1989

d. *Applicant:* Independence Electric Corporation

e. *Name of Project:* Pearl River Hydroelectric Project

f. *Location:* At the Ross Barnett Dam on the Pearl River in Hinds, Rankin, Madison, Scott, and Leake Counties, Mississippi

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* G. William Miller, President, Independence Electric Corporation, 1215 19th Street, NW., Washington, DC 20036, (202) 429–1780

i. *FERC Contact:* Mary Nowak, (202) 376–9634

j. *Comment Date:* June 5, 1989

k. *Description of Project:* The license for this project was issued on August 5, 1987, for an installed capacity of 9.5 megawatts. The licensee states that it has determined that the project would be economically infeasible. No construction has commenced at the project site.

l. *This notice also consists of the following standard paragraphs:* B and C.

11 a. *Type of Application:* Minor License

b. *Project No.:* 9222–001

c. *Date Filed:* October 26, 1988

d. *Applicant:* Niagara Mohawk Power Corporation

e. *Name of Project:* Yaleville

f. *Location:* On the Raquette River in St. Lawrence County, New York

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Mr. Michael W. Murphy, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 428–6941

i. *FERC Contact:* Steven H. Rossi, (202) 376–9814

j. *Comment Date:* June 5, 1989

k. *Description of Project:* The proposed project would consist of: (1) An existing 15-foot-high, 170-foot-long concrete gravity dam; (2) a reservoir with a surface area of 95 acres, a storage capacity of 720 acre-feet, and a normal water surface elevation of 305.2 feet m.s.l. with; (3) new 2-foot-high wood flashboards; (4) an existing 67-foot-long concrete intake structure; (5) an existing 60-foot-wide, 275-foot-long concrete forebay; (6) an existing concrete and brick powerhouse (west side) containing one existing generating unit with a capacity of 500 KW, one existing generating until with a capacity of 200 kW, and a new concrete powerhouse (east side) containing one new generating unit with a capacity of 800 kW for a total installed capacity of 1,500 kW; (7) an existing 50-foot-wide, 200-foot-long concrete and rock-lined tailrace; (8) an existing 70-foot-long transmission line, and a new transmission line, 300 feet long; and (9) appurtenant facilities. The applicant estimates the average facilities. The applicant estimates the average annual generation would be 9,170,000 kWh. The existing dam is owned by the Niagara Mohawk Power Corporation.

l. *Purpose of Project:* Project power would be sold to the customers of the Niagara Mohawk Power Corporation.

m. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, and D1.

12 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10731–000.

c. *Date Filed:* February 16, 1989.

d. *Applicant:* South Hadley Electric Light Department.

e. *Name of Project:* Red Bridge Hydro Project.

f. *Location:* On the Chicopee River, in Ludlow Township, in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Wayne D. Doerpholz, South Hadley Electric Light Department, 85 Main Street, South Hadley, MA 01075, (413) 536–1050.

i. *FERC Contact:* Mary Nowak (202) 376–9634.

j. *Comment Date:* May 30, 1989.

k. *Competing Application:* Project No. 10676; Date filed: October 13, 1988.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 51-foot-high and 827-foot-long dam; (2) an existing reservoir having a normal maximum surface elevation of 272.3 feet mean sea level, a storage capacity of 530 acre-feet, and a surface area of 185 acres; (3) two existing penstocks 13 feet in diameter by 100 feet long; (4) an existing powerhouse containing two existing generating units having an installed capacity of 3,600 kW; (5) an existing 13.8-kV transmission line 4.8 miles long; and (6) appurtenant facilities. The existing dam is owned by the Western Massachusetts Electric Company. The applicant estimates that the cost of the studies under permit would be $115,500. The applicant estimates that the average annual generation is 17,859 MWh.

m. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

13 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10732–000.

c. *Date Filed:* February 16, 1989.

d. *Applicant:* South Hadley Electric Light Department.

e. *Name of Project:* Indian Orchard Hydro Project.

f. *Location:* On the Chicopee River, in Springfield, in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Wayne D. Doerpholz, South Hadley Electric Light Department, 85 Main Street, South Hadley, MA 01075, (413) 536–1050.

i. *FERC Contact:* Mary Nowak (202) 376–9634.

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j. *Comment Date:* May 30, 1989.

k. *Competing Application:* Project No. 10678; Date filed: October 13, 1988.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing stone masonry overflow spillway dam 20 feet high and 402 feet long; (2) an existing reservoir with a surface area of 74 acres, a storage capacity of 70 acre-feet, and a normal maximum surface elevation of 161.0 feet mean sea level; (3) two existing penstocks, one 190 feet long and 11 feet in diameter and the other 160 feet long and 16 feet in diameter; (4) an existing powerhouse containing two existing generating units having a total installed capacity of 3,700 kW; (5) an existing 13.8-kV transmission line 1.4 miles long; and (6) appurtenant facilities. The existing dam is owned by the western Massachusetts Electric Company. The applicant estimates that the cost of studies under permit would be $115,000. The applicant estimates that the average annual generation is 12,821 MWh.

m. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

14 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10733–000.

c. *Date Filed:* February 16, 1989.

d. *Applicant:* South Hadley Electric Light Department.

e. *Name of Project:* Dwight Hydro Project.

f. *Location:* On the Chicopee River, in Ludlow Township, in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Wayne D. Doerpholz, South Hadley Electric Light Department, 85 Main Street, South Hadley, MA 01075, (413) 536–1050.

i. *FERC Contact:* Mary Nowak (202) 376–9634.

j. *Comment Date:* May 30, 1989.

k. *Competing Application:* Project No. 10675; Date filed: October 13, 1988.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing stone masonry overflow spillway dam 15 feet high and 306 feet long; (2) an existing reservoir with a surface area of 32 acres, a storage capacity of 70 acre-feet, and a normal maximum surface elevation of 78.8 feet mean sea level; (3) three existing penstocks, each 168 feet long and 7 feet in diameter; (4) an existing powerhouse containing three existing generating units rated at 480 kW each for a total installed capacity of 1,440 kW; (5) an existing 13.8-kV transmission line 3.2 miles long; and (6) appurtenant facilities. The existing dam is owned by the Western Massachusetts Electric Company. The applicant estimates that the cost of studies under permit would be $115,000. The applicant estimates that the average annual generation is 8,520 MWh.

m. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

15 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10734–000.

c. *Date Filed:* February 16, 1989.

d. *Applicant:* South Hadley Electric Light Department.

e. *Name of Project:* Putts Bridge Hydro Project.

f. *Location:* On the Chicopee River, in Ludlow Township, in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Wyne D. Doerpholz, South Hadley Electric Light Department, 85 Main Street, South Hadley, MA 01075, (413) 536–1050.

i. *FERC Contact:* Mary Nowak, (202) 376–9634.

j. *Comment Date:* May 30, 1989.

k. *Competing Application:* Project No. 10677; Dated filed: October 13, 1989.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing concrete overflow spillway dam 22 feet high and 221 feet long; (2) an existing reservoir having a normal maximum surface elevation of 205.2 feet mean sea level, a surface area of 64.5 acres, and a storage capacity of 323 acre-feet; (3) two existing penstocks 20 feet long and 12 feet in diameter; (4) an existing powerhouse containing two existing generating units with a total installed capacity of 3,200 kW; (5) an existing 11.5-kV transmission line 0.1 miles long; and (6) appurtenant facilities. The existing dam is owned by the Western Massachusetts Electric Company. The applicant estimates that the average annual generation is 15,397 MWh. The applicant estimates that the cost of the studies under permit would be $115,500.

m. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

16 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10745–000.

c. *Date Filed:* March 13, 1989.

d. *Applicant:* Robert Hoe.

e. *Name of Project:* Braendly Project.

f. *Location:* On the Fishkill Creek in Dutchess County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert Hoe, 737 Cornelia Place, Philadelphia, PA 19118, (215) 735–1772.

i. *FERC Contact:* Steven H. Rossi, (202) 376–9814.

j. *Comment Date:* June 6, 1989.

k. *Description of Project:* The proposed project would consist of: (1) An existing dam, approximately 130 feet long and 18 feet high, constructed of cut stone with a concrete cap and having a spillway section and two-foot-high flashboards to an elevation of 121.5 feet m.s.l.; (2) a reservior having minimal pondage; (3) a new intake structure, at the right river bank, with gates and trashracks; (4) a new steel penstock, 8 feet in diameter and approximately 400 feet long; (5) an existing powerhouse containing a new turbine-generator unit with a rated capacity of 925 kW; (8) a tailrace returning flow to Fishkill Creek approximately 350 feet downstream of the dam; (7) a 13.8-kV transmission line, approximately 50 feet long, connecting to existing lines; and (8) appurtenant facilities.

The applicant estimates the average annual generation would be 3,300,000 kWh. The applicant estimates that the cost of studies under permit would be $10,000.

1. *Purpose of Project:* Project power would be sold to Central Hudson Gas and Electric Company.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2

Standard Paragraphs

A3. *Development Application*—Any qualified devclopment applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such application. Submission of a timely notice of intent to file a development application allows an interested person to file a competing application no later than 120 days after the specified comment date for the particular application. A competing license application must confirm with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. *Preliminary Permit*—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. *Notice Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an applicant may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 203–RB, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other Federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: April 19, 1989, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 89–9818 Filed 4–24–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI89–348–000, et al.]

Natgas U.S. Inc., et al.; Applications for Blanket Certificates With Pregranted Abandonment

April 19, 1988.

Take [1] notice that each Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for a blanket certificate with pregranted abandonment authorization for an unlimited term, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 9, 1989, filed with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

Docket No.	Date filed	Applicant
CI89-348-000	3-24-89	NATGAS U.S. Inc., 500, 707 Eighth Avenue SW., Calgary, Alberta, Canada, T2P 3V3.
CI89-361-000 [1]	4-13-89	Equitable Resource Marketing Company, Suite 2900, 330 Grant Street, Pittsburgh, PA 15219.

[1] Applicant requests authorization to resell all natural gas subject to the Commission's NGA jurisdiction including gas sold under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales of surplus system supply.

[FR Doc. 89-9620 Filed 4-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-4-29-001]

Transcontinental Gas Pipe Line Corp.; Filing

April 19, 1989.

Take notice that on April 10, 1989, Transcontinental Gas Pipe Line Corporation (Transco) filed a letter to supplement its March 31, 1989 filing in Docket No. TQ89-4-29-000, and to request that the Commission order the suspension of the recovery of the remaining uncollected balance of certain "transition gas costs" effective May 1, 1989, pending the outcome of the ongoing litigation in Docket Nos. TA85-3-29-000, *et al.*, because a Stipulation and Agreement in Docket Nos. RP88-68-000, *et al.*, filed by Transco on April 3, 1989, (Agreement) provides for, among other things, suspension of the recovery of Transco's currently effective transition gas cost surcharge of 15.3 cents per dt, and commits the parties to enter into negotiations no later than May 1, 1989 in an attempt to achieve a settlement of the transition gas cost proceeding.

Transco states that on March 31, 1987, it filed its regularly scheduled, semi-annual PGA in Docket No. TA87-4-29-000 to be effective May 1, 1987. Transco states that in that filing it proposed to recover its then-remaining "transition cost" balance over a three-year period commencing May 1, 1987.

Transco states that the Commission accepted its proposal for a three-year amortization for recovery of the transition cost balance, granted any necessary waivers, and permitted it to take effect as of May 1, 1987. Transco points out that the Commission stated that such recovery is to be subject to refund and to the outcome of the proceedings in Docket Nos. TA85-3-29-000, *et al.*

Transco states that by May 1, 1989, it will have completed the first two years of the three-year collection period for its transition gas costs. For the annual period commencing May 1, 1989 (which includes the instant PGA period), Transco anticipates making very few CD sales. Transco points out that this is a result of the Agreement which accords Transco's firm sales customers 100 percent conversion rights to firm transportation service for a minimum one year period. Transco states that all but two of its major customers are signatories and those two also may eventually decide to joint the Agreement. Transco states there could be few, if any, CD customers remaining on its system during the term of the Agreement. Transco points out that it would be unfair to the remaining CD customers, or unfair to Transco if there are no remaining CD customers, to provide for the third year of collection of Transco's transition cost balance at this time.

In view of the foregoing, Transco requests that the Commission order:

(i) The suspension effective May 1, 1989, of Transco's collection of its transition gas costs balance;

(ii) That such suspension preserves Transco's right to reinstitute, after notice to the Commission and the parties, the third year of such collection subject to the outcome of the litigation in Docket Nos. TA85-3-29-000, *et al.*; and

(iii) That Transco be entitled to accrue interest effective May 1, 1989 on 50 percent of the transition cost balance of March 31, 1989.

Transco requests that the Commission grant any waiver of its regulations which may be necessary in order that the requested suspension be made effective May 1, 1989 without prejudice to Transco's right subsequently to reinstitute collection of its transition gas costs balance in the manner described above.

Transco states that it is serving this letter to all its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before April 26, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9619 Filed 4-24-89; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

[DA89-361; CC Docket 87-339]

Pleading Cycle Established for Comments on Joint Board's Recommendation To Change Frequency and Timing of Monitoring Reports and Bypass Reports

Released: April 10, 1989.

On March 24, 1989, the Federal-State Joint Board in CC Docket No. 80-286 released its *Second Study and Report* (FCC 89J-3) reviewing the impact of its non-traffic sensitive (NTS) cost recovery program.[1] The Joint Board has recommended that (1) the frequency of future Monitoring Reports be reduced from four times a year to twice a year. (2) future Monitoring Reports be released in January and July of each year through 1992, and (3) that the frequency of bypass reports from the regional Bell companies and GTE be reduced from twice a year to once a year, to be filed by the end of April of each year through 1992.[2]

[1] MTS and WATS Market Structure, Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, Establishment of a Program to Monitor the Impact of Joint Board Decisions, CC Docket Nos. 78-72, 80-286, and 87-339, FCC 89J-3, Second Study and Report, released March 24, 1989.

[2] *Id.* at para. 52 and 66.

The Joint Board provided the following reasons in support of these changes: Unnecessary paperwork should be eliminated from the monitoring process. The NTS recovery program has not produced any harmful result to date. No urgent matters requiring frequent reports are pending. There are no further changes in the NTS recovery program that are designed to provide additional deterrence to bypass. At present, the only data received more often than semi-annually are penetration data (received three time a year and reported separately in subscribership reports), price index data (available monthly from the Bureau of Labor Statistics), and aggregate usage and pool data (received monthly from the National Exchange Carrier Association).

Before acting on these recommendations, this Commission seeks comments on them. Interested parties should file comments on the Joint Board's recommendations by May 1, 1989, and reply comments by May 22, 1989, with the Secretary, FCC, 1919 M Street NW., Washington, DC 20554. Copies should also be sent to the members and staff of the Joint Board and to the Commission's contractor for public service records duplication: International Transcription Services, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037.

For further information contact Alexander Belinfante, Industry Analysis Division of the Common Carrier Bureau, at (202) 632-0745.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9647 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee to Hold Meeting Wednesday, May 10, 1989

April 19, 1989.

The Technical Subgroup of the Advisory Committee on Radio Broadcasting will hold a meeting on Wednesday, May 10, 1989, at 10:00 a.m. in the Vincent Wasilewski Room of the National Association of Broadcasters, 1771 N Street, NW., Washington, DC.

The Subgroup will consider the following matters:

—adjacent channel interference standards for AM stations;

—engineering standards for FM broadcasting; and,

—other business relating to radio broadcasting.

The Subgroup's meetings are continuing ones, and may be resumed after the May 10, 1989, session at such time and place as may be decided at that session. All meetings of the Technical Subgroup are open to the public. All interested persons are invited to participate in these meetings.

For further information, please call the Subgroup Chairman, Wallace E. Johnson at (703) 824-5660.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9902 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of FMCS Forms R-19, R-22, R-43 and F-53 submitted for review to the Office of Management and Budget.

Pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Federal Mediation and Conciliation Service (FMCS) has submitted to the Office of Management and Budget (OMB) requests for review of four FMCS Forms, as follows:

FMCS Form R-19, Arbitrator's Report and Fee Statement

This Form advises FMCS of the date of the arbitration award, the types of issues involved and the costs of the arbitration process. The request to OMB seeks approval for minor technical changes and to extend expiration of the Form to February 29, 1992. Information pertaining to the Form is as follows:

Form Number: FMCS R-19, OMB 3076-0003.

Frequency: Once—after each arbitration case.

Respondents: Arbitrators.

Obligation: Mandatory.

Burden: Approximately 14,000 responses per year; approximately 2,333 reporting hours per year; approximately 10 minutes per response.

Need and Use: Form R-19 is needed so that FMCS can monitor the arbitrations conducted by arbitrators who are appointed from its roster. The information furnished is used to inform FMCS of the time elapsed between appointment of the arbitrator and conclusion of the arbitration, the types of issues involved and costs of arbitration to the parties.

FMCS Form R-22, Arbitrator's Personal Data Questionnaire.

This Form advises FMCS of the background, education and experience of the arbitrator. The request to OMB seeks approval for minor technical changes and to extend expiration of the Form to February 29, 1992. Information pertaining to the Form is as follows:

Form Number: FMCS R-22, OMB 3076-0001.

Frequency: On occasion.

Respondents: Arbitrators.

Obligation: Mandatory.

Burden: Approximately 250 responses per year; approximately 375 reporting hours per year; approximately one hour and thirty minutes per response.

Need and Use: Form R-22 provides FMCS with the background, education and experience of the arbitrator. This information is needed so that a determination of suitability for the FMCS roster can be made. It is used for purposes of admission to the roster and to assist parties electing an arbitrator, by advising them as to qualifications.

FMCS Form R-43, Request for Arbitration Services.

This Form advises FMCS that parties wish to obtain a panel of arbitrators. The request to OMB seeks approval only to extend the expiration of the Form to January 31, 1990. Information pertaining to the Form is as follows:

Form Number: FMCS R-43, OMB 3076-0002.

Frequency: On occasion.

Respondents: Parties desiring to select an arbitrator.

Obligation: Required to obtain a benefit.

Burden: Approximately 27,000 responses per year; approximately 4,500 reporting hours per year; approximately ten minutes per response.

Need and Use: This Form advises FMCS that parties wish to obtain the services of an arbitrator. The information is needed so that FMCS may furnish lists of arbitrators from its roster to these parties. It is used to send the lists to the parties, by proper name and address, so they may make their selections.

FMCS Form F-53, Notice to Federal Mediation and Conciliation Services.

This Form is used to notify FMCS of a dispute in the Federal sector; that is between a Federal agency and the union

BEST COPY AVAILABLE

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representing that agency's employees. The request to OMB seeks approval for a substantial change to the Form and for authorization to publish a Notice of Proposed Rulemaking relating to a change in the Form and in FMCS regulations pertaining to the Form. Extension of the current Form F–53 is sought to September 31, 1989. Information pertaining to Form F–53 is as follows:

Form Number: FMCS F–53, OMB 3076–0005.

Frequency: On occasion.

Respondent: Parties to a Federal sector dispute.

Obligation: Voluntary.

Burden: Approximately 600 responses per year; approximately 100 reporting hours per year; approximately 10 minutes per response.

Need and Use: The information is needed to advise FMCS of Federal sector disputes. It is used in order to make assignments of cases to FMCS mediators.

The OMB Desk Officer for all of the above FMCS Forms is Scott Jacobs, 399–6880. Copies of the request for review for Forms R–19, R–22 and R–43 may be obtained from Jewell L. Myers, Director, Arbitration Services, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, (202) 653–5820. Copies of the request for review for Form F–53 may be obtained from Eileen B. Hoffman, Federal Sector Coordinator, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, (202) 653–5390.

DATE: Comments pertaining to these requests for review should be submitted within 30 days of the date of this notice as follows: for Forms R–19, R–22 and R–43 to Jewell L. Myers, Director, Arbitration Services, Federal Mediation and Conciliation Services, 2100 K Street, NW, Washington, DC 20427, (202) 653–5280; for Form R–53 to Eileen B. Hoffman, Federal Sector Coordinator, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, (202) 653–5390. Copies of all comments must also be provided to Scott Jacobs, OMB Desk Officer, Room 3100, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Dated: April 18, 1989.

Robert P. Baker,

Acting Director.

[FR Doc. 89–9683 Filed 4–24–89; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200240

Title: Global Terminal & Container Services, Inc. Terminal Agreement

Parties: Global Terminal & Container Services, Inc. Atlantic Coast Stevedores, Inc.

Synopsis: The Agreement provides for the sharing by the parties of certain staff personnel used in connection with stevedoring and terminal services for car-carrying vessels calling at Jersey City/Bayonne marine terminal.

By Order of the Federal Maritime Commission.

Dated: April 19, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–9796 Filed 4–24–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

People's Savings Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 12, 1989.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *People's Savings Financial Corp.*, New Britain, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of The People's Savings Bank of New Britain, New Britain, Connecticut, which engages in the sale of Connecticut Savings Bank Life Insurance.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *North Georgia National Bancshares, Inc.*, Woodstock, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of North Georgia National Bank, Woodstock, Georgia, a *de novo* bank.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Busey Corporation*, Urbana, Illinois; to acquire 100 percent of the voting shares of St. Joseph Bancorp, Inc., St. Joseph, Illinois, and thereby indirectly acquire The State Bank of St. Joseph, St., Joseph, Illinois.

2. *Illinois Financial Services, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of PDB Investment Corporation, Norridge, Illinois, and thereby indirectly acquire Plaza Bank, Norridge, Illinois, Norridge, Illinois.

3. *Michigan National Corporation*, Farmington Hills, Michigan; to acquire 82.15 percent of the voting shares of First State Bank and Trust, Port Lavaca, Texas.

D. Federal Reserve Bank of St. Louis *Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:*

1. *Independent Southern Bancshares, Inc.*, Brownsville, Tennessee; to acquire at least 80 percent of the voting shares of MidSouth Bancshares, Inc., Millington, Tennessee. In connection with this application, MidSouth Bancshares, Inc., Millington, Tennessee, has applied to become a bank holding company by acquiring at least 85 percent of Tennessee Bank and Trust, Millington, Tennessee, which engages in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the bank.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commercial Security Bancshares, Inc.*, Stockton, Missouri; to become a bank holding company by acquiring 34.67 percent of the voting shares of Sac River Valley Bank, Stockton, Missouri.

2. *Mountain West Bancshares, Inc.*, Denver, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger of its wholly-owned subsidiary, Mountain West Transitory Company, Denver, Colorado, and International Bancorp, Denver, Colorado, and thereby indirectly acquire International Bank, Denver, Colorado; International Bank-Englewood, Englewood, Colorado; International Bank-North, Federal Heights, Colorado; and International Bank of Wheat Ridge, Wheat Ridge, Colorado, which engage in the sale of credit-related life insurance.

Board of Governors of the Federal Reserve System, April 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9835 Filed 4–24–89; 8:45 am]

BILLING CODE 6210–01–M

Change in Bank Control Notice; Acquisition of Shares in Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 817(j)(7)).

The notices area available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 8, 1989.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Roger L. Siegert*, Plymouth, Wisconsin; to increase his share of voting shares of Eastern Wisconsin Bancshares, Inc., Howards Grove, Wisconsin, to 15.79 percent as the result of a stock redemption and thereby indirectly acquire State Bank of Howards Grove, Howards Grove, Wisconsin.

Board of Governors of the Federal Reserve System, April 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9836 Filed 4–24–89; 8:45 am]

BILLING CODE 6210–01–M

Fair Housing Advertising and Poster Requirements; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Order; correction.

SUMMARY: The Board is correcting a technical error in its order of fair housing advertising and fair housing poster requirements, which appeared in the **Federal Register** on March 21, 1989 (54 FR 11567). The fair housing logo was inadvertently omitted from the part of the order containing the text of the fair housing lender poster.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Hurt, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412.

SUPPLEMENTARY INFORMATION:

Corrections

The following corrections are made in FR Doc. 89–6516, Fair Housing Advertising and Poster Requirements:

1. On page 11567, second column, first full paragraph, line 6, "22.444" should read "22,444."

2. On page 11567, third column, under *"Nondiscriminiatory Advertising"* parargraph (b), line 5, "exculusion" should read "exclusion."

3. On page 11568, first column, the following logo should be inserted after the third line in paragraph (b):



4. On page 11568, first column, under "Equal Housing Lender," line 5, "sex handicap" should read "sex, handicap."

By order of the Board of Governors of the Federal Reserve System, dated April 19, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89–9837 Filed 4–24–89; 8:45 am]

BILLING CODE 6210–01–M

Northside Bancshares, Inc., et al.; Application to Engage de Nova in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 12, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Northside Bancshares, Inc.*, doing business as Southern Bank Group, Inc., Roswell, Georgia; to engage *de novo*

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through its subsidiary, Southern Mortgage Group, Inc., Roswell, Georgia, in mortgage lending activities pursuant to section 225.25(b)(1)(iii) of the Board's Regulation Y.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Irwin Union Corporation,* Columbus, Indiana; to engage *de novo* through its subsidiary, Objective Financial Solutions, Inc., Columbus, Indiana, in consumer financial counseling pursuant to § 225.25(b)(20) of the Board's Regulation Y. Comments on this application must be received by May 5, 1989.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Tokai Bank, Limited,* Nagoya, Japan; to engage *de novo* through its subsidiary, Tokai Securities, Inc., New York, New York, in securities brokerage service and underwriting and dealing in government obligations and money market instruments, obligations of the United States, general obligations of the states and their political subdivisions and money market instruments such as bankers' acceptances and certificates of deposit to the same extent as is authorized to Federal Reserve member banks pursuant to §§ 225.25 (b)(15) and (b)(16) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-9834 Filed 4-24-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Open Meeting of the Commissioner with Representatives of Health Professional Organizations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming open meeting of the Commissioner of Food and Drugs with representatives of health professional organizations. The meeting will be chaired by Commissioner Frank E. Young. The focus of the agenda is food safety and nutrition. Presentations will be made regarding food labeling, health messages, pesticides, microbiological contaminants, and tampering.

DATE: The meeting will be held on Monday, May 1, 1989, 2 p.m. to 4 p.m.

ADDRESS: The meeting will be held at the Hubert H. Humphrey Bldg., Conference Rm. 503A, 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Robert Veiga, Office of Health Affairs (HFY-40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5470.

Dated: April 18, 1989.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-9791 Filed 4-19-89; 3:01 pm]

BILLING CODE 4160-01-M

Office of Human Development Services

[Program Announcement No. 13672-893]

Minority Children Placements, Post Legal Adoption Services, and Placement of Foster Care Children

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS).

ACTION: Announcement of the availability of funds and request for applications for projects to support adoption of children.

SUMMARY: The Office of Human Development Services announces the availability of funds for three programs for grants to public or private nonprofit child welfare and adoption agencies, organizations and adoptive parent groups to assist in providing programs directed to: (A) Increasing the placements in adoptive families of minority children who are in foster care and have the goal of adoption with a special emphasis on recruitment of minority families; (B) post-legal adoption services for families who have adopted special needs children; and (C) increasing the rate of placement of children in foster care legally free for adoption.

Funding for these grants is authorized under Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Pub. L. 95-266 as amended).

DATE: The closing date for receipt of applications is June 26, 1989.

ADDRESSES: Applications should be sent to: Office of Human Development Services, Grants and Contracts, Management Division, HDS/OMS, 200 Independence Avenue SW., Room 345-F, Hubert H. Humphrey Building, Washington, DC 20201, Attention: Mary White.

FOR FURTHER INFORMATION CONTACT: Delmar Weathers, (202) 245-0624.

SUPPLEMENTARY INFORMATION:

Part I: General Information

Background

Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (The Act) (Pub. L. 95-266) was amended on April 25, 1988 by Pub. L. 100-294. The Adoption Opportunities program was established to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs. The new amendments (Pub. L. 100-294) authorize additional funds for demonstration priorities in three specific program areas: (A) Minority children placements; (B) post-legal adoption services; and (C) placement of foster care children legally free for adoption.

A. Minority Children Placements

The purpose of section 202(a) of Pub. L. 100-294 is to provide (directly or by grant or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) programs aimed at increasing adoptive placements for the minority children, who are in foster care and have the goal of adoption with a special emphasis on the recruitment of minority families.

Minority children continue to be disproportionately represented among children receiving child welfare services and awaiting adoption. It is estimated that roughly half of the 31,000 children free for adoption and awaiting placement are minority children. Some of these children are older and handicapped and may wait even longer for families.

There is an insufficient pool of minority applicants available to adopt waiting children. The new law (Pub. L. 100-294) directs the Secretary to develop programs to increase the number of minority children adopted with a special emphasis on the recruitment of minority individuals. This announcement solicits applications in this area.

The study on *Adoption Sources for Waiting Minority and Non-Minority Children,* conducted by WESTAT in 1986, found that "when an agency had both an active recruitment program and foster family resources 79 percent of the minority children were in placement as

compared to 75 percent of the non-minority children."

A study conducted by the Department's Office of the Inspector General on minority adoptions cited a number of obstacles to minority placements. Some of the obstacles cited included the changing of fees by agencies, in addition to the usual legal fees, which Black families associate with buying and selling babies; agencies' preference for couples over single applicants, a practice which single applicants view as discriminatory; feelings by minority applicants that they were scrutinized more closely than white applicants by workers; and the insensitivity of some workers toward minority clients, who consider the workers to be rigid, denigrating and condescending in behavior. In a number of agencies, the persons providing the adoption services do not reflect the racial composition of the clients served. Cultural sensitivity training is continually needed to help staff recruit and prepare minority families for the placement of minority children.

We have previously funded numerous projects in these areas. Applicants may replicate the established models described below or develop new models. Activities may include:

- Outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;
- Recruitment of prospective adoptive families for such children;
- Expediting, where appropriate, the legal process to free children for adoption;
- Expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;
- The formation of prospective adoptive family support groups;
- Training in adoption recruitment and cultural sensitivity for personnel of public agencies, private nonprofit child welfare, and adoption agencies that are licensed by the State;
- The establishment of working relationships with adoptive parents organizations and community-based organizations with experience in working with minority populations; and,
- The use of volunteers and adoptive parent groups.

The Children's Bureau has funded a number of highly successful minority focused projects in recent years. The projects include:

- The "Homes for Black Children" project in Detroit, Michigan, which trained agency leaders and workers in selected sites to place minority children;
- The New York City Chapter of the Association of Black Social Workers which trained professional Black social workers who volunteered to recruit and screen adoptive applicants for referral to voluntary child placement agencies;
- The National Black Child Development Institute which developed a user manual for States on the adoption of Black children and convened a national conference on Black Adoptions to improve the effectiveness of child welfare services provided to Black children and their families;
- The New York Council on Adoptable Children project which recruited Hispanic families and trained 300 child welfare professionals working with Hispanic families on cultural issues including maintaining the child's cultural identity in placement planning;
- The One Church-One Child program, a collaborative effort between Father George Clements and the Illinois Department of Children and Family Services which recruited Black adoptive families and was replicated in 22 States;
- The Friends of Black Children program, a project of the North Carolina Department of Human Resources, which used community councils to recruit Black adoptive families and this project was replicated in Tennessee;
- The Spaulding Southwest project, located in Texas, which recruited adoptive parents for Mexican American children; and
- The One Company-One Kid program of Cornell University, in which 20 child welfare agencies and 70 businesses in the New York City metropolitan area collaborated to recruit adoptive families for the placement of minority children.

Information on these projects can be obtained from the National Resource Center for Special Needs Children, 366 Waltrous Road, P.O. Box 337, Chelsea, Michigan 48118, Telephone: (313) 475-8693.

B. Post-Legal Adoption Services

Recognition of special issues in adoption in the past decade has led adoption professionals to reconsider the concept that agency services to adoptive families ends with the legal consummation of the adoption. Historically, once the adoption was consummated the newly formed family was likely to be considered the same as any other family. There is now a growing ackowledgment that adoption is a life-long process and that service providers need to understand the unique interpersonal dynamics of adoption in order to provide effective post-legal adoption services (those provided after legalization of the adoption) to families who seek help.

The purpose of section 202 of Pub. L. 100-294 is to provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups) for the provision of post-legal adoption services for families who have adopted special needs children. Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes. Services may include individual, group, and/or family counseling; case management; training public agency adoption personnel and personnel of private, nonprofit child welfare and adoption agencies licensed by the State to provide adption services, as well as mental health services professionals and other support personnel to provide services under this subsection; assistance to adoptive parent organizations; and assistance to support groups for adoptive parents, adopted children, and siblings of adopted children.

Through the Coordinated Discretionary Funds Program (CDP), OHDS has actively promoted the development and implementation of post-legal adoption services. A number of projects have been funded. The first, Children's Aid Society of Mercer County, Pennsylvania, was funded in FY 1984 to develop and provide training for mental health professionals on the issues of foster care and adoption.

The following year four grants were awarded to provide training to mental health professionals, child welfare workers and, in some instances, adoptive families to heighten their sensitivity to the need for post-legal adoption services and to learn how to provide such services. Reference and Resource Guides were developed and disseminated as the result of all the projects. These projects were:

- The Georgetown University Child Development Center, "Special Needs Adoption: A Collaborative Model;"
- The Connecticut Council on Adoption, "Training for Professionals to Support the Adoptive Families of Special Needs Children;"
- The Connecticut Department of Children and Youth Services, Division of Children and Protective Services, "Training of Agencies Related to Developmental Disabilities and Special Needs Adoption to Support Adoptive Families in Connecticut;" and,
- The Children's Aid Society of Mercer County, Pennsylvania, "Training

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Mental Health Professionals to Enhance Community Resources to Adoptive Children and Their Families."

In FY 1988, OHDS funded five projects which focused specifically on post adoption/post leval services to adopted children with severe emotional problems, particularly children who were adopted as adolescents. These projects addressed the provision of mental health services for children with special needs and their adoptive families. These projects, listed below, produced some excellent models which were disseminated nationally.

- The Medina Children's Service, Seattle, Washington, "Homebuilders/ Adoption Service Continuum;"
- The Illinois Department of Children and Family Services, "Illinois Special Needs Post Placement/Post Legal Adoption Services Project;"
- The University of Southern Maine, Center for Research and Advanced Study, "Expanding Mental Health and Other Post-Placement Services to Special Needs Adopted Children and Their Families;"
- The Family Service of Burlington County, Mt. Holly, New Jersey, "Adoption Support for Special Needs Children and Their Families;" and,
- The Kentucky Department for Mental Health-Mental Retardation Services, Children and Youth Branch, "Mental Health, Educational and Support Services for Adoptive Parents with Special Needs Children".

In the FY 1988 Coordinated Discretionary Program announcement, OHDS requested proposals on post-adoption services to develop new models or to refine or replicate existing models for the purpose of establishing ongoing programs. Nine projects were funded under this announcement to the following agencies:

- Montana Department of Family Services;
- Three Rivers Adoption Service, Pennsylvania;
- Plan Loving Adoptions Now, Inc, McMinnville, Oregon;
- Ohio Bureau of Enrichment;
- Illinois Department of Children and Family Services;
- Oregon Children's Services Division;
- North American Council on Adoptable Children;
- Lutheran Social Services, Michigan; and,
- DePelchin Children's Services, Texas.

It is expected that these new projects, as well as a number of earlier ones, will result in on-going programs in their locales.

Information on these projects can be obtained from the National Resource Center for Special Needs Children, 366 Waltrous Road, P.O. Box 337, Chelsea, Michigan 48118, Telephone: (313) 475–8693.

C. Placement of Foster Care Children

Children in foster care who are free for adoption do not always move smoothly through the child welfare system into placement with a permanent familiy. OHDS has sponsored two State Adoption Specialists National Meetings and funded a variety of projects to assist the States to improve and increase adoption of children in foster care programs. States have received grants to make systemic changes in their adoption programs; to provide computer hardward, software and fees for membership in the National Adoption Network; and to develop a consortium to share knowledge to improve and enhance the special needs adoption programs and to increase placement of children residing in the nine consortium States.

More than half of the States have received grants to improve adoption services; however, only a small number have been able to sustain the efforts. Increasingly, children entering foster care have more complex problems which require more intensive services. Permanent families must be continuously recruited and prepared to parent the growing population of children who cannot return to their birth families. Supportive services must be added or improved upon so that the children in foster care who are legally free for adoption can move into adoption in a more timely manner. Further, agencies must commit resources for the ongoing support of adoptive families not only at placement, but also after legalization of the adoption. Past projects demonstrate that systemic changes allow for greater improvements in placing these children through eliminating barriers to placement such as the lack of sufficient, trained and experienced staff; lack of administrative commitment to adoption; limited resources; and lack of coordinated community based effort.

The purpose of this grant program is to improve State efforts to increase the placement of foster care children legally free for adoption according to a pre-established plan and goals for improvement. Grants funded under section 202(c) of Public Law 100–294 must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption and the successes and failures of the initiative. Only States, the District of Columbia, the Virgin Islands and Puerto Rico may apply for grants under this priority area, Part I. C.: Placement of Foster Care Children.

Part II: Priorities for Projects

The applicant must provide all information requested under the evaluation criteria (Part IV, below), the information requested by the Standard Form 424, and must include specific information and assurances as follows:

A. Minority Children Placement Grants

OHDS will accept applications which are aimed at increasing the number of minority children placed in adoptive families with a special emphasis on the recruitment of minority individuals. Applicants may: (1) Replicate the established models cited above or develop new models to include outreach/public education or media campaigns to inform the public about waiting minority children; (2) recruit and prepare families (including single applicants) to adopt these children; (3) expedite, as appropriate, the legal availability of these children for adoption; and (4) provide cultural sensitivity training to all relevant staff to effectively serve minority children and families. Services under these grants shall supplement, but not supplant, services from any other funds available for the same general purposes.

Applicants must:

(1) Describe existing minority child placement and recruitment programs, if any; the number of minority children in foster care with the goal of adoption; the number freed for adoption; and the need to expand or develop a new program;

(2) Describe how they propose to move the newly recruited families through the process resulting in adoptive placement;

(3) Establish a specific number of children to be adopted as a result of this effort, if applicable;

(4) Document how the program developed will be continued as part of the agency's on-going program and describe the specific steps which will be taken to accomplish this;

(5) Address the need for the training of workers to provide culturally sensitive and appropriate services which meet the needs of minority children and families;

(6) Provide for at least one person from the project to attend the annual Adoption Opportunities Grantees Meeting in Washington, DC; and,

(7) Document that the project will be staffed and implemented within 90 days of the notification of the grant award.

B. Post-Legal Adoption Services

OHDS will accept applications to develop, implement and maintain as part of the agency or organization's on-going program a system to provide ongoing post-legal adoption services. These services may include individual, group and family counseling; case management; training for the adoption personnel of public and nonprofit child welfare and adoption agencies licensed by the State to provide adoption services, mental health professionals and other support personnel; and assistance to adoptive parent organizations and support groups for adoptive parents, adopted children, and siblings of adoptive children. Services under these grants must supplement, but not supplant, the services from any other funds available for the same general purposes.

Applicants must:

(1) Describe existing post legal adoption services, if any, and the need for expanded or new services;

(2) Describe plans for the development, implementation, and institutionalization of enhanced and new services;

(3) Provide specific written commitments from collaborating or cooperating agencies, if any;

(4) Document and describe how the project will be an on-going part of the agency or organization's program, and the steps the applicant will take to accomplish this;

(5) Provide for at least one person from the project to attend the annual Adoption Opportunities Grantees meeting in Washington, DC; and,

(6) Document that the project will be staffed and implemented within 90 days of the notification of the grant award.

C. Placement of Foster Care Children

OHDS will accept applications from State agencies which will provide a plan to increase the rate of placement of foster care children free for adoption into permanent families. The applicant must: (1) Describe the pre-established plan and goals for improvement in the State system, and (2) include an evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption and which addresses the successes and failures of the initiative.

Each State applicant must:

(1) Identify and verify the number of foster care children legally free for adoption currently waiting for adoptive placement;

(2) Verify the rate of placement of foster care children placed in adoption in the year preceding the application (the rate of placement is the number of children placed divided by the number of children waiting for adoption);

(3) Describe the plan to increase the rate of placement of foster care children into adoption and the goals for improvement to be achieved in the 12 months of the grant;

(4) Describe an evaluation component for the project which outlines the innovations used to improve the placement of special needs children in foster care who are legally free for adoption and which addresses the successes and failures of the project. The evaluation shall include the collection and analysis of data to determine placement rates and the types of clients served (e.g., waiting children, prospective adoptive families). Statistics shall also be collected to determine the availability of adoptive families during the program period. The evaluation shall also include descriptive information on the process and procedures for implementing the program. This information shall be used to explain placement rates and success or failure of the innovative program methodologies used.

(5) Describe how the proposed improvement, if successful, will continue in the absence of Federal funds;

(6) Agree that at least one person from the project will attend the annual Adoption Opportunities Grantees Meeting in Washington, DC; and,

(7) Certify that all grant funds will be obligated by the State in the 12-month project period. The project cannot be extended beyond 12 months.

Part III: Eligibility and Funding Information

A. Eligible Applicants

Eligibility for *Minority Children Placements Grants* is limited to States, local governmental entities, public or private nonprofit licensed child welfare or adoption agencies or incorporated adoptive family groups and community-based organizations with experience in working with minority populations.

Eligibility for *Post-Legal Adoption Service Grants* is limited to States, local governmental entities, public or private nonprofit licensed child welfare or adoption agencies or incorporated adoptive family groups.

Eligibility for *Placement of Foster Care Children Grants* is limited to State social service agencies.

B. Available Funds

Total funding appropriated for fiscal year 1989 for Minority Children Placement Grants, the Post-Legal Adoption Service Grants, and Placement of Foster Care Children grants is $2,000,000.

Minority Children Placements

OHDS proposes to award grants of no more than $75,000 per grant for programs not to exceed 17 months aimed at increasing the number of minority children placed in adoptive families with a special emphasis on the recruitment of minority families. These grants may be renewed if the programs developed are successful in demonstrating that appropriate and sufficient placements of such children have occurred during the grant period, and if funds are available. The minimum cost sharing or match, if the Federal share of $75,000 is requested is $25,000.

Post-Legal Adoption Services

OHDS proposes to award grants of no more than $100,000 per year, per project, for a period not to exceed 24 months, to develop, implement and institutionalize a system to provide ongoing post-legal adoption services. The minimum cost sharing or match, if the Federal share of $100,000 is requested, is $33,333 for each year. A second year award of funds will depend on satisfactory performance by the grantee and on the availability of appropriated funds.

Placement of Foster Care Children

OHDS proposes to award grants to State social service agencies up to $100,000 per year, per project, for a period not to exceed 12 months to increase the rate of placement of foster care children legally free for adoption into permanent families. The minimum cost sharing or match, if the Federal share of $100,000 is requested, is $33,333 for each year.

C. Grantee Share of the Project

Under this grant program, OHDS will not make awards for the entire project cost. Successful applicants must contribute at least $1, secured from non-Federal sources, for every $3 received in Fedcral funding. This grantee share amounts to 25 percent of the total project cost. For example, if the total project cost is $100,000, the maximum Federal share is $75,000 and the non-Federal share is $25,000. To compute the required cost sharing, divide the requested Federal share by three.

The non-Federal share of total project costs may be in the form of third party in-kind contributions or cash. The

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amount of the non-Federal share required will be the amount specified in the approved grant. If the required non-Federal share is not met by a grantee, OHDS will disallow any unmatched Federal dollars. Applicants will be required to include in their budget justification and explanation of any funds proposed as the non-Federal share.

Part IV: Application Process

A. Application Requirements

(1) Preparation of copies: In order to be considered applications for grant support under Minority Children Placements, Post-Legal Adoption Services, and Placement of Foster Care Children must be submitted on Standard Forms (SF) 424, 424A and 424B, and must include all the information and assurances set forth in this announcement. Each SF 424 and 424B must be signed by the Chief Executive Officer of the applicant organization or the individual authorized to assume responsiblity for the obligations imposed by the terms and conditions of the grant award.

(2) Application Submission: One signed original and two copies of the grant application, including all attachments, are required. The original SF 424 and SF 424B should be signed in blue ink. A copy of SFs 424, 424A and 424B may be found at the end of this announcement. Completed applications must be sent to: Office of Human Development Services, Grants and Contracts, Management Division, HDS/OMS, 200 Independence Avenue, SW., Room 345–F Hubert H. Humphrey Building, Washington, DC 20201, Attention: Mary White.

Hand delivered applications will be accepted at the above address during the normal working hours of 8:30 a.m. to 5:00 p.m. Monday through Friday.

(3) Length: The narrative portion of the application must meet minimum and maximum length requirements. It must be at least six double-spaced pages (or three single-spaced pages) but must not exceed twenty-five double-spaced pages (or twelve single-spaced pages) typewritten on one side of the paper. Appendices/attachments cannot exceed 10 pages and may include resumes, letters of commitment, or position descriptions.

(4) Summary Description/Abstract: The summary description of the project should be typed on a separate sheet of 8½ X 11 plain paper, clearly marked with the applicant's name as shown in item 5 of the SF 424, and should not exceed 1,200 characters, including spaces and punctuation. The summary description should accurately and concisely reflect the proposal, should describe the objectives of the project, the approach(es) to be used and the outcome(s) expected and include a list of major products that will result from the proposed project. This information, in conjunction with the information on the SF 424, becomes the project's "abstract", and will be the major source of information about the proposed project; it is the first information that the reviewers read in evaluating the application.

B. Application Consideration

Applications conforming to the requirements of this program announcement will be grouped by category (Minority Children Placements and Post-Legal Adoption Services and Placement of Foster Care Children) and reviewed and scored competitively against the evaluation criteria specified in Part V of this announcement by non-Federal experts in the field of adoption and/or child welfare services. The results of this review will be a primary factor considered in making funding decisions about an application. Applications which do not meet the screening requirements listed in C below will not be reviewed and will receive no further consideration for funding.

In reviewing applications under the category placement of foster care children, we will give priority to grantees who propose improvements designed to continue in the absence of Federal funds.

C. Screening Requirements

Applications that do not meet the following requirements will be screened out, will not be reviewed, and the applicants will be so informed. These Requirements Will Be Rigorously Enforced.

1. *Deadline.* Applications shall be considered as meeting an announced deadline if they are either:

a. Received on or before the deadline date at a place specified in the program announcement, or

b. Sent on or before the deadline date and received by the granting agency in time for the independent review. (Applicants must be cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late applications.* Applications which do not meet the criteria in paragraph 1. of this section are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

3. *Extension of deadlines.* The Administration for Children, Youth and Families may extend the deadline for all applicants because of acts of God such as flood, hurricanes, etc., or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

4. *Eligibility requirements.* Applicants must meet any eligibility requirements specific to the priority areas under which they are applying (e.g., eligible organization, funding limit and match, duration of project).

Applications which do not meet these screening requirments will not be referred to reviewers.

D. Assurances

These programs are not covered under Executive Order 12372. All assurances relevant to non-discrimination under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and assurance of compliance with 45 CFR Part 74 and OMB circulars, Certification Regarding Drug-Free Workplace Requirements and such other assurances that are required by Standard Form 424B are applicable.

Part V: Criteria for Review and Evaluation of Applications

In considering how the grantee will carry out the responsibilities under Part IV of this announcement, competing applications will be reviewed and evaluated against the following criteria:

A. Objectives and Need for Assistance (20 points)

The application describes the problem requiring a solution; demonstrates the need for the assistance; and states the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Relevant data based on planning studies should be included or footnoted.

In addition, information provided in response to Part II, in the relevant program areas (A. Minority Children Placement, B. Post-Legal Adoption Services, and C. Placement of Foster Care Children) of this Announcement will be used to review and evaluate applicants on the above criteria.

B. Results or Benefits Expected (25 points)

Identify results and benefits to be derived. The application describes how

the proposed project will result in a measurable increase in the placement of minority children; in the provision of post-legal adoption services to sustain adoptive families; or an increase in the rate of adoptive placement of foster care children legally free for adoption.

The anticipated contribution to practice should be indicated. In addition, information provided in response to Part II, in the relevant program areas (A. Minority Children Placement; B. Post-Legal Adoption Services and C. Placement of Foster Care Children) of this Announcement will be used to review and evaluate applicants on the above criteria.

C. Approoch (30 points)

Outline a plan of action pertaining to the scope of the project and detail how the proposed work will be accomplished. Cite factors which might accelerate or decelerate the work and the reasons for taking this approach as opposed to others. Describe any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements. Provide quantitative projections of the accomplishments to be achieved, if possible. When accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments and their target dates. Identify the kinds of data to be collected and maintained. Discuss the criteria to be used to evaluate the results and success of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. List each organization, cooperator, consultant, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

In addition, information provided in response to Part II, in the relevant program areas (A. Minority Children Placement, B. Post-Legal Adoption Services, and C. Placement of Foster Care Children) of this Announcement will be used to review and evaluate applicants on the above criteria.

D. Staff Background and Experience (25 points)

Include the resumes of the program director and key project staff (including names, addresses, social security numbers, training, background and other qualifying experience) and the organization's experience that will demonstrate the ability to effectively and efficiently administer a project of this size, complexity and scope. Reflect the staff and organization's ability to use and coordinate activities with other agencies. Describe the relationship between this project and other work planned, anticipated or underway under Federal assistance, if applicable.

In addition, information provided in response to Part II, in the relevant program areas (A. Minority Children Placement;

B. Post-Legal Adoption Services and C. Placement of Foster Care children of this Announcement will be used to review and evaluate applicants on the above criteria.

E. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for grant applications by OMB.

F. Notification Under Executive Order 12372

Applicants for this announcement are exempt from Executive Order 12372 (Form 424, Item 16).

Part VI: Instructions for Completing Applications

A. The Components of an Application

A complete application consists of the following in this order:

1. Application Cover Sheet, SF 424, (Rev. 4–88);

2. Budget Information, SF 424A (4–88); Section A (Budget Summary), Section B (Budget Categories), and Section E (Budget Estimates of Federal Funds Needed for Balance of the Project);

3. Budget justification not to exceed three pages;

4. Project summary description;

5. Program Narrative, (Part II of this announcement) organized with sections addressing the following four areas:

a. Objectives and need for assistance,

b. Results or benefits expected,

c. Approach, and

d. Staff background and experience;

6. Assurances, SF 424B (4–88);

7. Appendices/attachments not to exceed 10 pages.

B. Preparing the Application

1. The SF 424, SF 424A and SF 424B have been reprinted for your convenience in preparing the application. Single-sided copies of all required forms must be used for submitting your application. You must reproduce single-sided copies from the reprinted form and type your application on the copies. Please do not forms directly from the Federal Register announcement as they are printed on both sides of the page.

2. When specific information is not required under this program, N/A (not applicable) has been preprinted on the form. These items are not to be completed.

C. The SF 424, SF 424A and 424B, and the instructions for their completion are in Appendix 1 of this announcement.

Dated: March 24, 1989.

Dodie Truman Borup,

Commissioner, Administration for Children, Youth and Families.

Approved: March 30, 1989.

Sydney Olson,

Assistant Secretary for Human Development Services.

[FR Doc. 89–9822 Filed 4–24–89; 8:45 am]

BILLING CODE 4130–01–M

National Institutes of Health

Meeting of the Acquired Immunodeficiency Syndrome Program Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Acquired Immunodeficiency Syndrome (AIDS) Program Advisory Committee on June 19–20, 1989, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 9:00 a.m. to 4:30 p.m. on June 19, and from 9:00 a.m. to 12:30 p.m. on June 20, in Building 31, C Wing, Conference room 10. The meeting will be open to the public.

The purpose of the meeting is to discuss special considerations in the treatment of HIV infection, particularly children and minorities.

Anthony S. Fauci, M.D., Associate Director for AIDS Research, National Institutes of Health, Shannon Building, Room 201, Bethesda, Maryland 20892, (301) 496–0357, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Date: April 19, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–9894 Filed 4–24–89; 8:45 am]

BILLING CODE 4140–01–M

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Meeting of the Extramural Researchers' Financial Conflicts of Interest

Notice is hereby given that the National Institutes of Health (NIH) and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) are in the process of developing appropriate further guidance concerning financial conflicts of interest for investigators receiving Government funds. An open meeting will be held on June 27 and 28, 1989 in Masur Auditorium of the Warren G. Magnuson Clinical Center at NIH to provide opportunity for comments from all parties. All interested parties are encouraged to attend this meeting or to submit written comments. You may submit these comments to: Dr. Katherine L. Bick, Deputy Director for Extramural Research, National Institutes of Health, Shannon Building, Room 144, Bethesda, Maryland 20892.

There are growing expressions of concerns about circumstances that might affect investigators' objectivity, or where researchers might unduly influence, or might be perceived to influence, NIH/ADAMHA-funded R&D projects in directions favorable to personal financial interests of themselves, their spouses, children, close professional associates, or organizations where they have appointments or other relationships.

A variety of topics on real, or perceived, conflicts of interests, will be discussed at the June 27–28 meeting, such as whether investigators and consultants participating in NIH/ADAMHA-funded studies should hold finacial interests in organizations or entities that produce drugs, devices, or other interventions that are evaluated under those awards. Following this meeting, NIH/ADAMHA intend to develop appropriate guidance for such relationships. Guidelines would seek to clarify pertinent types of research situations and personal financial interests, in accord with the PHS Grants Policy Statement, January 1, 1987, revision, concerning Standards of Conduct for Employees for awardee organizations, and to define appropriate distributions of governance between NIH/ADAMHA and awardee organizations. Points to consider in such guidance include requirements for disclosure, approval, and/or restrictions in certain situations as well as possible exceptions to restrictions to permit investigators with unusual skills and expertise to conduct studies which might otherwise be proscribed. (These guidelines should be concern financial benefits resulting from logical steps in product research/development/testing under NIH awards, e.g., Small Business Innovation Research.) The proposed meeting is designed to elicit comment from concerned and interested individuals and institutions prior to development of general guidelines; we invite broad attendance.

Further information concerning this meeting, including planned discussion topics, will be published in the GUIDE TO GRANTS AND CONTRACTS in May or may be obtained from: Mark S. Brown, Social and Scientific Systems, Inc., 7101 Wisconsin Avenue, Suite 610, Bethesda, Maryland 20814–4805, (301) 986–4870.

Date: April 18, 1989.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 89–9695 Filed 4–24–89; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Applications and Prevention Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Application, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 1–2, 1989.

The meeting will be held in the Federal Building, Conference Room B119, 7550 Wisconsin Avenue, Bethesda, Maryland on June 1 and will be open to the public from 9:00 a.m. to recess. On June 2 the meeting will be held in Building 31, Conference Room 9, 9000 Rockville Pike, Bethesda, Maryland and will be open to the public from 8:30 a.m. to adjournment to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. William R. Harlan, Director, Division of Epidemiology and Clinical Applications, Federal Building, Room 212, Bethesda, Maryland 20892, (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health.)

Dated: April 19, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–9696 Filed 4–24–89; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the months of May and June 1989:

Name: Health Services Developmental Grants Review Subcommittee.

Date and Time: May 23–24, 1989, 8:30 a.m.

Place: Days Inn—Congressional Park, Room To Be Announced, 1775 Rockville Pike, Rockville, Maryland. Open May 23, 8:30 a.m. to 9:00 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing to do analysis of data derived from experiments and demonstrations designed to test the cost-effectiveness or efficiency of particular methods of health services delivery and financing, for the research grants program administered by the National Center for Health Services Research and Health Care Technology Assessment.

Agenda: The open session of the meeting of May 23 from 8:30 a.m. to 9:00 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552b(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Gerald E. Calderone, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

Name: Health Services Research Review Subcommittee.

Date and Time: June 7–9, 1989, 8:00 a.m.

Place: Holiday Inn—Crowne Plaza, Woodmont Room, 1750 Rockville Pike, Rockville, Maryland. Open June 7, 8:00 a.m. to 8:30 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the National Center for Health Services Research and Health Care Technology Assessment.

Agenda: The open session of the meeting on June 7 from 8:00 a.m. to 8:30 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. During the closed session, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552b(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. The information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mr. B. William Lohr, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

Nome: Health Care Technology Study Section.

Dote ond Time: June 12–14, 1989, 8:30 a.m.

Place: Parklawn Building, Maryland Room, 5600 Fishers Lane, Rockville, Maryland. Open June 12, 3:30 p.m. to 4:00 p.m. Closed for remainder of meeting.

Purpose: The Study section is charged with conducting the initial review of health services research grant applications addressing the effects of health care technologies and procedures, including those in the area of information sciences, as well as those addressing the process of diffusion and adoption of new technologies and procedures.

Agenda: The open session on June 12 from 3:00 p.m. to 4:00 p.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. The closed sessions of the meeting will be devoted to a review of health services research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552b(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. The information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

Agenda items are subject to change as priorities dictate.

Date: April 18, 1989.

J. Michael Fitzmaurice,

Director, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 89–9868 Filed 4–24–89; 8:45 am]

BILLING CODE 4160–17–M

National Vaccine Advisory Committee; Public Meeting

AGENCY: Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health are announcing the forthcoming meeting of the National Vaccine Advisory Committee.

DATE: Date, Time and Place: June 15, 1989, at 9:00 a.m.; June 16, 1989, at 8:30 a.m.; Hubert Humphrey Building, Room 703A, 200 Independence Avenue, SW., Washington, DC 20201. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate should be sent to Yuth Nimit, Ph.D., Executive Secretary, National Vaccine Advisory Committee, National Vaccine Program, 5600 Fishers Lane, Park Building, Room 1–24, Rockville, Maryland 20857, (301) 443–0715.

Agenda—Open Public Hearing: Interested persons may formally present data; information, or views orally or in writing on issues pending before the Advisory Committee or on any of the duties and responsibilities of the Advisory Committee as described below. Those desiring to make such presentations should notify the contact person before May 15, 1989 and submit a brief statement of the information they wish to present to the Advisory Committee. Those requests should include the names and addresses of proposed participants and an indication of the approximate time required to make their comments. A maximum of 15 minutes will be allowed for a given presentation. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make an oral presentation at the conclusion of the meeting, if time permits, at the chairperson's discretion.

Open Advisory Committee Discussion: Discussion at this meeting will be directed to an update of the National Vaccine Program; report on the Advisory Commission on Childhood Vaccines meeting; Medicaid-Medicare, Catastrophic Health Care Reimbursement; plenary discussion on resources and financing; plenary discussion on vaccine supply; plenary discussion on vaccine utilization; the Fiscal Year 1990 Budget; and the National Vaccine Plan development. Meetings of the Advisory Committee shall be conducted, insofar as is practical, in accordance with the agenda published in the **Federal Register** notices. Changes in the agenda will be announced at the beginning of the meeting.

Persons interested in specific agenda items may ascertain from the contact person the approximate time of discussion. A list of Advisory Committee members and the charter of the Advisory Committee will be available at the meeting. Those unable to attend the meeting may request this information from the contact person. Summary minutes of the meeting will be made available upon request from the contact person.

Dated: April 14, 1989.

Yuth Nimit,

Executive Secretary, NVAC.

[FR Doc. 89–9797 Filed 4–24–89; 8:45 am]

BILLING CODE 4160–17–M

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-89-1917; FR-2906]

Unutilized and Underutilized Federal Buildings and Real Property Determined To Be Suitable for Use for Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

DATE: April 25, 1989.

ADDRESS: For further information, contact Morris Bourne, Department of Housing and Urban Development, Room 9140, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-9075; TDD number for the hearing- and speech-impaired (202) 426-0015. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, D.C.D.C. No. 88-2503-OG, HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Date: April 19, 1989.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 89-9891 Filed 4-24-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Modification of Realty Action; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Modification of notice, C-47721.

SUMMARY: The legal description for the public lands identified for direct sale to Golden Cycle Corporation in the notice published on December 15, 1988 (53 FR 50464) has been changed following preparation of a final survey plat as follows.

T.14 S., R.70 W., 6th P.M., Colorado
Sec. 25, Lot 31 (formerly MS 14357)
T. 15 S., R. 70 W., 6th P.M., Colorado
Sec. 3, Lots 72, 73, 76, 77, 78, 79, 80, 83, 85, 86, 87, 93, 95, 96, 97, 100, 101, 102, 105, 111, 112, and 116
Containing 46.63 acres.

Golden Cycle Corp. must file application for federally owned mineral interests on these lands. Transfer of mineral rights will occur simultaneously with the surface upon payment of appropriate fees. The lands are hereby segregated from all appropriations, including mineral entry, except for sale under the Federal Land Policy and Management Act, until issuance of patent or for two years following publication of this notice.

Donnie R. Sparks,

District Manager.

[FR Doc. 89-9885 Filed 4-24-89; 8:45am]

BILLING CODE 4310-JB-M

[CA-940-09-4520-12; C-1-89, C-2-89]

Filing of Plat of Survey; California

April 18, 1989.

1. These supplemental plats of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Calaveras County
T. 2 N., R. 12 E.

2. These supplemental plats of (1) Section 30, Township 2 North, Range 12 East, Mount Diablo Meridian, California, and (2) Section 19, Township 2 North, Range 12 East, Mount Diablo Meridian, California, were accepted on March 30, 1989.

3. These supplemental plats will immediately become the basic record of describing the land for all authorized purposes. These plats have been placed in the open files and is available to the public for information only.

4. These supplemental plats were executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2811, Sacramento, California, 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 89-9886 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-09-4520-12; Group 1022]

Plat of Survey; California

April 17, 1989.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Trinity County
T. 38 N., R. 5 W.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and Course 2 of the Tamarack Location, Boulder Consolidated Quartz Mine, Mineral Survey No. Township 38 North, Range 5 West, Mount Diablo Meridian, California, under Group No. 1022 California, was accepted March 20, 1989.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Shasta National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California, 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 89-9887 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-09-4520-12; Group 811]

Plat of Survey; California

April 17, 1989.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Shasta County
T. 37 N., R. 2 W.

2. This plat, representing the dependent resurvey of the east and north boundaries, a portion of the south boundary, and the subdivisional lines, and the survey of the subdivision of Sections 5, 6 and 7, Township 37 North, Range 2 West, Mount Diablo Meridian, California, under Group 811 California, was accepted March 28, 1989.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Shasta Trinity National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 89-9888 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-40-M

Bureau of Reclamation

[INT-DES-89-06]

AB Lateral Hydropower Facility, Uncompahgre Valley Hydropower Project, Colorado

AGENCY: Bureau of Reclamation (USBR), Interior.

ACTION: Notice of availability of draft environmental impact statement (DEIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) has prepared a DEIS on a proposed hydropower project that would be constructed and operated by private parties using facilities of the existing Uncompahgre Valley Reclamation Project in Montrose and Delta Counties in western Colorado. Water for the hydropower plant would be diverted from the Gunnison River. Reclamation is considering signing a lease of power privilege on the project.

DATES: A 60-day public review of the DEIS commences with the publication of this notice. Comments should be submitted to the regional director at the address below within the 60-day review period.

ADDRESSES: Single copies of the DEIS can be obtained by contacting the Regional Director or Projects Manager at the address below:

Regional Director, Bureau of Reclamation, Upper Colorado Region, 125 South State Street, P.O. Box 11568, Salt Lake City, Utah 84147; Telephone (801) 524-5580; or
Projects Manager, Bureau of Reclamation, Grand Junction Projects Office, 2597 B 3/4 Road, P.O. Box 1869, Grand Junction, Colorado 81502, Telephone (303) 248-6100.

Copies of the DEIS are available for inspection in libraries in the project vicinity and are also available for public inspection at the following locations:

Bureau of Reclamation, Environment and Planning Branch, U.S. Department of the Interior, 18th and C Streets, NW., Room 7455, Washington, DC 20240; Telephone: (202) 343-4662.

Bureau of Reclamation, Denver Office Library, Denver Federal Center, 6th and Kipling, Building 67, Room 167, Denver, Colorado 80225; Telephone (303) 236-6963.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Sersland (Regional Environmental Officer, Upper Colorado Region, Salt Lake City, UT), (801) 524-5580; or Mr. Steve McCall (Environmental Specialist, Grand Junction Projects Office, Grand Junction, Colorado), (303) 248-6105.

SUPPLEMENTARY INFORMATION: The hydropower facility would be funded, built, and operated by Montrose Partners and the Uncompahgre Valley Water Users Association. These organizations plan to construct the facility using, in part, existing features of the Uncompahgre Valley Project, a Reclamation irrigation project. They are seeking a lease of power privilege with Reclamation, which would permit use of Uncompahgre Project features for the purpose of generating hydroelectric power. The facility would be located in west-central Colorado in Montrose County. Reclamation serves as the lead Federal agency responsible for NEPA compliance on the project.

The project would use the existing Gunnison Diversion Dam and Tunnel to divert water from the Gunnison River year round. Alternative penstock and powerplant locations are addressed, as well as alternative operational plans. A non-action alternative is also presented.

Dated: April 20, 1989.

J. Austin Burke,

Acting Deputy Commissioner.

[FR Doc. 89-9870 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Construction of a Marina on Lake Michigan in and by the City of Gary, Indiana; Availability of a Draft Environmental Impact Statement (DEIS)

This notice announces the availability of a DEIS for the proposed construction of a marina on Lake Michigan by the City of Gary, Indiana. This notice also announces a public meeting for the purpose of receiving public comments on the DEIS.

The City of Gary's and the NPS's preferred alternative for marina location is identified in the DEIS as Site 1, which is behind an existing breakwater on land currently owned by the Gary Works of USX Corporation. The City of Gary's preferred alternative for marina access is Option D, the extension of Lake Street, as an intial short-term access road; and Option B, the extension of Clay Street from the east, as a long-term access road to be developed at a later date. The NPS preferred alternative for marina access of Option A, construction of an access road along the abandoned Indiana Harbor Belt Railroad bed from the west.

Comments on the DEIS should be received no later than June 20, 1989. A public meeting regarding the document will be held at the City/Council Chamber, Gary City Hall, 401 Broadway, Gary, Indiana 46402, on Monday May 15, 1989, at 7:00 p.m. The 60-day public comment period will end June 20, 1989. The DEIS also serves as the instrument of compliance with Executive Order 11990, Protection of Wetlands.

Comments on the DEIS should be submitted to: Mr. Dale Engquist, Superintendent, Indiana Dunes National Lakeshore, 1100 N. Mineral Springs Road, Porter, Indiana 46304, (219-926-7561).

Public reading copies of the DEIS will be available for review at the following locations:

Office of Public Affairs, National Park Service, Room 3426, Department of the Interior, 18th and C Streets NW., Washington, DC 20240, (202-343-6843).
Headquarters; and Visitors Center (corner of Hwy 12 and Kemil Road), Indiana Dunes National Lakeshore, 1100 N. Mineral Springs Road, Porter, Indiana 46304, (219-926-7561)
City Hall, City of Gary, 401 Broadway, Gary, Indiana 46402, (219-881-1332)
Gary Public Library, City of Gary, 220 West 5th Avenue, Gary, Indiana 46402, (219-886-2484)

A limited number of copies of the DEIS are available on request from the Office of the Mayor of Gary, Indiana (refer to City Hall address above).

Date: March 24, 1989.

Don H. Castleberry,

Regional Director, Midwest Region, National Park Service.

[FR Doc. 89-9832 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-70-M

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National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 15, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington DC 20013–7127. Written comments should be submitted by May 10, 1989.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Taylor County

Perry Post Office, Old, 201 E. Green St., Perry, 89000404

Taylor County Jail, Old, 400 blk. N. Washington St., Perry, 89000414

Volusia County

Women's Club Of New Smyrna, 403 Magnolia, St., New Smyrna Beach, 89000410

GEORGIA

McDuffie County

Thomson Commercial Historic District, Roughly bounded by Journal St., Greenway St., Hendricks St., and Church St., Thomson, 89000413

INDIANA

Porter County

Beverly Shores South Shore Railroad Station, Broadway Ave, and US 12, Beverly Shores, 89000411

IOWA

Cerro Gordo County

Mason City Public Library, 208 E. State St., Mason City, 8900405

KANSAS

Osage County

Osage City Santa Fe Depot, 508 Market, Usage City, 89000386

Sedgwick County

Sternberg, William, House, 1065 M. Waco, Wichita, 89000387

KENTUCKY

Floyd County

Callihan, G.D., House (Prestonsburg MPS), 105 W. Graham St., Prestonsburg, 89000389

Combs, B.F., House (Prestonsburg MPS), 41 N. Arnold Ave., Prestonsburg, 89000390

Fitzpatrick-Harmon House (Prestonsburg MPS), 102 E. Court St., Prestonsburg, 89000388

Front Street Historic District (Prestonsburg MPS), Roughtly Front St. between W. Court St. and Ford St., Prestonsburg, 89000396

Harkins Law Office Building (Prestonsburg MPS), 1S. Arnold Ave., Prestonburg, 89000395

Harkins, Joseph D., House (Prestonsburg MPS), 204 N. Arnold Ave., Prestonsburg, 89000394

May—Fitzpatrick House (Prestonsburg MPS), 39 S. Arnold Ave., Prestonsburg, 89000392

May—Latta House (Prestonsburg MPS), 33 N. Arnold Ave., Prestonsburg, 89000393

Methodist Episcopal Church, South (Prestonsburg MPS), S. Arnold Ave. between Ford St. and W. Graham St., Prestonsburg, 89000391

Town Branch Bridge (Prestonsburg MPS), Co. Rd. 1334 over Levisa Fork, Prestonsburg, 89000396

US Post Office—Prestonsburg (Prestonsburg MPS), Central Ave. and E. Court St., Prestonsburg, 89000417

West Prestonsburg Bridge (Prestonsburg MPS), Over Levisa Fork between Prestonsburg and West Prestonsburg, Prestonsburg, 89000397

LOUISIANA

De Soto Parish

Stribling House, US 84 Mansfield, 89000403

MARYLAND

Frederick County

Shoemaker, Henry, Farmhouse, 2136 Old National Pike, Middletown vicinity, 89000416

Baltimore Independent City

Douglass, Frederick, High School, 1601 N. Calhoun St., Baltimore (Independent City), 89000412

OREGON

Clackamas County

White—Kellogg House, 19000 S. Central Point Rd., Oregon City vicinity, 89000415

PUERTO RICO

Dorado Municipality

Casa del Rey, Calle Mendez Vigo 292, Dorado, 89000408

San Juan Municipality

Excuela Graduado Jose Celso Barbosa (Early Twentieth Century Schools in Puerto Rico TR), Ponce de Leon Ave., San Juan, 89000406

San Lorenzo Municipality

Residencia Machin-Ramos, Calle Eugenio Sanchez Lopez, San Lorenzo, 89000407

RHODE ISLAND

Providence County

Glenark Mills, 64 East St., Woonsocket, 89000409

WASHINGTON

Clallam County

Masonic Temple, 622 S. Lincoln St., Port Angeles, 89000400

US Guarantine Station Surgeon's Residence101 Discovery Way, Diamond Point, Sequin, 89000401

Douglas County

Smith Hospital and Douglas County Press Building109 N. Chelan, Waterville, 89000402

Snohomish County

Rucker Hill Historic District, Roughly bounded by 32nd, Tulalip Ave., Snohomish Ave, Laurel, and Warren, Everett, 89000399

[FR Doc. 89–9831 Filed 4–24–89; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau's clearance office at the phone number listed below. Comments and suggestions on the requirements should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029–0063), Washington, DC 20253, telephone (202) 395–7313.

Title: Coal Production and Reclamation Fee Report, Form OSM–1

OMB Number: 1029–0063.

Abstract: In order to ensure compliance with 30 CFR Part 870, a quarterly record is required of coal produced for sale, transfer or use nationwide. Individual reclamation fee payment liability is based on this information.

Bureau Form Number: OSM–1.

Frequency: Quarterly.

Description of Respondents: Coal Operators.

Annual Responses: 22,000.

Annual Burden Hours: 5,867.

Estimated Completion Time: 16 minutes.

Bureau Clearance Officer: Nancy Ann Baka (202) 343–5864.

Date: March 14, 1989.

Judith Saunders,

Acting Chief, Division of Regulatory Development.

[FR Doc. 89–9889 Filed 4–24–89; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–1 (Sub-No. 225X)]

Chicago and North Western Transportation Co.; Abandonment Exemption of Railroad Line in Sheboygan County, WI

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 7-mile line of railroad between milepost 8.0 near Sheboygan Falls and milepost 15.0 near Plymouth, in Sheboygan County, WI.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years and that overhead traffic has been rerouted; and (2) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 25, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by May 5, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by May 15, 1989 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Christopher A. Mills, Senior Commerce Counsel, Chicago and North Western Transportation Company, One North Western Center, Chicago, Illinois 60606.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by April 28, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275–7316. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 19, 1989

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–9898 Filed 4–24–89; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C. 2d 400 (1988). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440–48446).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Information Collections Under Review

April 19, 1989.

The Office of Management and Budget (OMB) has been sent the following proposals for the collection of information for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The title of the form or collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; (6) an estimate of the total public burden (in hours) associated with the collection; and, (7) an indication as to whether Section 3504(h) of Pub. L. 96–511 applies. Comments and/or suggestions regarding the item(s) contained in this notice, especially those regarding the estimated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 633–4312. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collection

(1) Request for the return of original document.
(2) G–884. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This form standardizes existing INS procedures for requesting the return of original documents contained in the Alien Files. Requires the requester to provide two forms of identification or proof of relationship with subject file in order to obtain the documents.
(5) 2,500 respondents at .25 hours per response.
(6) 625 estimated annual burden hours.
(7) Not applicable under 3504(h).

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Application for procurement quota for controlled substances.
(2) DEA 250. Drug Enforcement Administration.
(3) Annually.

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(4) Businesses or other for-profit. Section 1303.12 requires registered dosage from manufacturers who wish to purchase controlled substances in Schedule II to apply on DEA–250 for procurement quotas which limits purchase quantities.
(5) 132 respondents, averaging 2.58 responses at 1 hour per response.
(6) 341 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Petition for prospective immigrant employee.
(2) I–140. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. The Immigration and Nationality Act provides for persons who meet the provisions in sections 203(A)(3) and (6) to be eligible for admission into the United States. This data is required to determine that eligibility.
(5) 50,000 respondents at 1 hour each.
(6) 50,000 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Application for employment by a (G–4) spouse or unmarried son or daughter of an official or an international organization.
(2) I–566. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This form provides a formal procedure under which these persons may apply for permission to be employed in the United States; data is used to determine eligibility.
(5) 2,000 annual respondents at .25 hours each.
(6) 500 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Petition for alien relative.
(2) I–130. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This data will be used by the INS to determine eligibility for the benefits sought.
(5) 825,000 respondents at .5 hours per response.
(6) 412,500 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Certificate of Eligibility for nonimmigrant student (F–1) status—for academic and language students.
(2) I–20A&B/ID. Immigration and Naturalization Service.
(3) On occasion.
(4) Businesses or other for-profit, non-profit institutions. In accordance with section 101(A)(15)(F)(1) of the Immigration and Nationality Act, Consular and immigration officials use the form to determine if an alien student is eligible for an F–1 student visa.
(5) 210,000 respondents at .5 hours each.
(6) 105,000 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Alien address report card.
(2) I–104. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. To be used by aliens to report current addresses, when required under section 265 of the I&N Act. Form is currently not used, but remains on inventory with 10 day notice of activism.
(5) No respondents (carried as 1 for inventory purposes only) at no burden hours each (carried as 1 hour for inventory purposes).
(6) No estimated annual responses (carried as 1 hour for inventory purposes).
(7) Not applicable under 3504(h).

(1) Petition for alien fiance(E).
(2) I–129F. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. By filing this form, a citizen of the United States may facilitate the entry of his/her fiance(e) into the United States so that a marriage between the U.S. citizen and the alien fiance(e) may be concluded.
(5) 16,440 estimated respondents at .5 hours each.
(6) 8,220 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Application for stay of deportation.
(2) I–246. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. Necessary so that the INS District Director that has jurisdiction over the place where the alien is at the time of filing, may, in his discretion, grant a stay of deportation for such time and under such conditions as he may deem appropriate.
(5) 2,500 annual respondents at .25 hours per response.
(6) 625 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Application for waiver of grounds of excludability.
(2) I–690. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. IRCA applicants excludable under section 212(a) of the I&NS can nevertheless be found admissible if the grounds of exclusion are waived. This is the form to be used for such a request. Permanent residents can file up to June 1992.
(5) 100,000 estimated annual respondents at .25 hours each.
(6) 25,000 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Petition for approval of school for attendance by nonimmigrant students.
(2) I–17. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. Information is used by learning institutions to determine acceptance of nonimmigrant students, as well as the INS to establish a listing of schools or campuses within school systems or districts with multiple locations, as to which schools are bonafide institutions.
(5) 1,700 annual responses at 1 hour each.
(6) 1,799 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Baggage and personal effects of detained aliens.
(2) I–43. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. Form is used to protect the Government from claims that detained aliens were not given an opportunity to obtain their personal effects before deportation.
(5) 600,000 annual responses at .017 hours each.
(6) 10,200 estimated annual burden hours.
(7) Not applicable under 3504(h).

Larry E. Miesse,
Department Clearance Officer, Department of Justice.
[FR Doc. 89–9855 Filed 4–24–89; 8:45 am]
BILLING CODE 4410–10–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; OSI/Network Management Forum

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), the OSI/Network Management Forum, (the "Forum") has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to its membership. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On October 21, 1988, the Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 8, 1988, 53 FR 49615. On December 23, 1988, the Forum filed an additional written notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) on January 26, 1989, 54 FR 3870.

The identities of the additional parties to the venture are given below:

Additional Voting Members

Societa Finanziaria Telefonica, p.a. Coso d'Italia, 41–00198 Rome, Italy

Additional Associate Members

Data General Corporation, 4400 Computer Drive, MS–B214, Westboro, Massachusetts 01580
Ericsson Business Communication AB, Esplanaden 3D, S–172 93, Sundbyberg, Sweden
Gartner Group, 56 Top Gallant Road, Stamford, CT 06904
Hitachi Telecom (USA), Inc., 2990 Gateway Drive, Suite 1000, Norcross, Georgia 30071
Protocols Standards and Communications (PSC), Inc., 1757 Bank Steet, Ottawa, Ontario KIV 7 Z4, Canada
Retix, 2644 30th Street, Santa Monica, CA 90405
Synoptics Communications, Inc., 505 East Middelfield Road, Mountain View, CA 94043–4015
Alcatel N.V., Francis Wellesplein 1, B–2018 Antwerp, Belgium
Atlantic Research Corporation, 7401 Boston Boulevard, Springfield, VA 22153
Case Communications Ltd., P.O. Box 254, Caxton Way, Watford Business Park, Watford Herts, England
Ing. C. Olivetti & C. S.p.A, Via Jervis 77, 10015 Ivrea, Italy
Novell, Inc., 122 East 1700 South, Provo, Utah 84606
OKI Electric Industry Co., Ltd., 11–22 Shibaura 4–chome, Minato-ku, Tokyo 108, Japan
Racal-Milgo Ltd., Landata House, Station Road, Hook, Hants RG279PE, England
Sirti S.P.A., Via G.G. Pirelli, 20, 20124 Milano, Italy
Systems Reliability PLC, 400 Dallow Road, Luton, Beds, Great Britain LUI 1UR, England
Telenet Communications Corp., 12490 Sunrise Valley Drive, Reston, VA 22096
Vance Systems, Inc., 3901-V Centerview Drive, Chantilly, VA 22021

Joseph H. Widmar,
Director of Operations, Antitrust Division.
[FR Doc. 89–9823 Filed 4–24–89; 8:45 am]
BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984; Portland Cement Association

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission on March 13, 1989 disclosing that there has been a change in the membership of PCA. Specifically, Magotteaux-Siegten Companies has become a participating associate effective March 1, 1989. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Accordingly, at present the members of the PCA are those companies listed below:

United States

Aetna Cement Corporation
Alamo Cement Company
Alaska Basic Industries
Ash Grove Cement Company
Ash Grove Cement West, Inc.
Blue Circle Atlantic, Inc.
Blue Circle, Inc.
Blue Circle West Inc.
Calaveras Cement Company
CalMat Co.
Capitol Aggregates, Inc.
Capitol Cement Corporation
Continental Cement Company Inc.
Coplay Cement Company
Davenport Cement Company
Dragon Products Company
Dundee Cement Company
Glens Falls Cement Company, Inc.
Hawaiian Cement
Ideal Basic Industries, Inc.
Independent Cement Corporation
Lafarge Corporation
Lehigh Portland Cement Company
LoneStar-Falcon
Lone Star Industries, Inc
Lone Star Northwest
Medusa Cement Corporation
Missouri Portland Cement Company
The Monarch Cement Company
National Cement Company Inc.
National Cement Company of California, Inc.
Northwestern States Portland Cement Co.
Phoenix Cement Company
Rinker Materials Corporation
RMC Lonestar
Rochester Portland Cement Corporation
St. Marys Peerless Cement Compnay
St. Marys Wisconsin Inc.
The South Dakota Cement Plant
Southwestern Portland Cement Company
Tarmac-LoneStar, Inc.
Tilbury Cement Company

Canada

Federal White Cement Ltd.
Ideal Cement Company Ltd.
Inland Cement Limited
Lafarge Canada Inc.
Lake Ontario Cement Limited
North Star Cement Limited
St. Lawrence Cement Inc.
St. Marys Cement Corporation
Tilbury Cement Limited

Mexico

Instituto Mexicano del Cemento y del Concreto (IMCYC)
Cementos Acapulco, S.A
Cementos Apasco, S.A.
Cementos de Chihuahua, S.A.
Cementos Mexicanos, S.A.
Cementos Moctezuma, S.A.
Cooperative de Cementos Cruz Azul
Cooperative de Cementos Hidalgo

Affiliate Members

Cement and Concrete Promotion Council of Texas
Florida Concrete and Products Association
Mississippi Concrete Industries Association
North Central Cement Promotion Association
Northern California Cement Promotion Group
Northwest Concrete Promotion Group
Rocky Mountain Cement Promotion Council
South Central Cement Promotion Association
Southern California Cement Group

In addition, the following equipment suppliers are involved as "Participating Associates together with FCA members. in the activities of the Manufacturing Process Subcommittee of PCA's General Technical Committee:

Baker-Dolomite (DBCA)
C–E Raymond
Holderbank Consultng Ltd.
Humboldt Wedag Company
F.L. Smidth and Company
Claudius Peters, Inc.
Magotteaux-Siegten Companies
Polysius Corp.
The Fuller Compnay
W.R. Grace & Company

On January 7, 1985, PCA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 5, 1985, 50 FR 5015. On March 14, 1985, August 13, 1985, January 3, 1986, February 14, 1986, May 30, 1986, July 10, 1986, December 31, 1986, February 3, 1987, April 17, 1987, June 3, 1987, July 29, 1987, August 6, 1987, October 9, 1987, February 18, 1988, March 9, 1988, March

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11, 1988, July 7, 1988, August 9, 1988, August 23, 1988, January 23, 1989, and February 24, 1989, PCA filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on April 10, 1985 (50 FR 14175), September 16, 1985 (50 FR 37594), February 4, 1986 (51 FR 440), March 12, 1986 (51 FR 8573), June 27, 1986 (51 FR 23479), August 14, 1986 (51 FR 29173), February 3, 1987 (52 FR 3356), March 4, 1987 (52 FR 6635), May 14, 1987 (52 FR 18295), July 10, 1987 (52 FR 26183), August 28, 1987 (52 FR 32185), November 17, 1987 (52 FR 43953), March 28, 1988 (53 FR 9999), August 4, 1988 (53 FR 29307), September 15, 1988 (53 FR 35935), September 28, 1988 (53 FR 37883), February 23, 1989, and March 20, 1989 (54 FR 11455), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-9624 Filed 4-24-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council; Meetings and agenda

The Spring meetings of committees of the Labor Research Advisory Council will be held on May 9, 10, and 11 in the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows:

Tuesday, May 9, Room N-3437 A and B

1:30 p.m.—Committee on Wages and Industrial Relations

1. Review of work in progress
2. Update on the survey of white-collar pay and benefits
3. Linking the Employment Cost Index and the Employee Benefit Survey
4. Discussion of an experimental model on health care claims
5. Other business

Wednesday, May 10, Room S-2217

9:30 a.m.—Employment and unemployment Statistics

1. Discussion of program budget
2. Status reports on:

a. Current Population Survey redesign

b. New Local Area Unemployment Statistics methodology

c. Business Establishment List initiative

3. Discussion of Plant Closing and Mass Layoff reporting: LRAC suggestions
4. Continuing issues in measurement of labor shortages
5. Comparability of establishment and household survey data

11:30 a.m.—Council Meeting

Informal meeting with the Commissioner

2:00 p.m.—Committee on Occupational Safety and Health Statistics

1. Program Redesign

a. Status of current pilot surveys

b. Guidelines

c. Fatalities

d. Illnesses

2. Annual Survey Bulletin
3. Supplementary Data Systems status
4. Work Injury Report status
5. Other business

Thursday, May 11, Room S-2217

9:30 a.m.—Price and Living Conditions

1. Medical care

a. Consumer Price Index

b. Producer Price Index

2. Computer pricing—status report
3. International prices—monthly pricing
4. Overview of field operations

1:30 p.m.—Productivity, Technology and Economic Growth and Foreign Labor and Trade

1. Results of Hours at Work Survey and future plans
2. Update on 2-digit multifactor productivity work
3. International Productivity Service
4. Status report—revised 2000 Projections
5. Department-to-ministry program (work with Israel, China, and Russia)
6. ILO convention on labor statistics

The meetings are open. It is suggested that persons planning to attend as observers contact Henry Lowenstern, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1327.

Signed at Washington, DC, this 18th day of April 1989.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 89-9661 Filed 4-24-89; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA-W-21,350 et al]

Grace Drilling Co., Inc. and BOMAC/Grace Drilling Co. Inc.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the matter of Grace Drilling Company, Incorporated operating at various locations in the following states:

TA-W-21, 350	Odessa, Texas.
TA-W-21, 350A	Shreveport, Louisiana.
TA-W-21, 350B	Lafayette, Louisiana.
TA-W-21, 350C	Ft. Smith, Arkansas.
TA-W-21, 350D	Houston, Texas.
TA-W-21, 350E	Oklahoma City, Oklahoma.
TA-W-21, 350F	Golden, Colorado.
TA-W-21, 350G	Dallas, Texas, Corporate Headquarters.
TA-W-21, 350H	Casper, Wyoming.
TA-W-21, 350I	Montana.
TA-W-21, 350J	Utah.
TA-W-21, 350K	Alaska.
TA-W-21, 350L	California.
TA-W-21, 350K	South Dakota.

And BOMAC/Grace Drilling Company, Incorporated

TA-W-21, 399	Williston, North Dakota.

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 20, 1988 applicable to all workers of Grace Drilling Company, operating in the various States.

The certification notice was amended to include the corporate headquarters in Dallas, Texas on February 7, 1989. The Department is amending the certification again, on its own motion to include the States of Wyoming, Montana, Utah, and South Dakota where layoffs from Grace Drilling have occurred since October 1985 and in Alaska and California where layoffs have occurred since 1986.

The intent of the certification is to cover all workers of the Grace Drilling Company in all of its locations. The amended notice applicable to TA-W-21, 350 and TA-W-21, 399 is hereby issued as follows.

All workers of Grace Drilling Company, Inc., operating at the various locations in the States listed below who became totally or partially separated from employment on or after October 1, 1985 and before January 1, 1987 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-21, 350	Odessa, Texas.
TA-W-21, 350A	Shreveport, Louisiana.
TA-W-21, 350B	Lafayette, Louisiana.
TA-W-21, 350C	Ft. Smith, Arkansas.
TA-W-21, 350D	Houston, Texas.
TA-W-21, 350E	Oklahoma City, Oklahoma.
TA-W-21, 350F	Golden, Colorado.
TA-W-21, 350G	Dallas, Texas, Corporate Headquarters.
TA-W-21, 350H	Casper, Wyoming.
TA-W-21, 350I	Montana.
TA-W-21, 350J	Utah.
TA-W-21, 350K	Alaska.
TA-W-21, 350L	California.
TA-W-21, 350K	South Dakota.
TA-W-21, 399	Williston, North Dakota.

Signed at Washington, DC, this 17th Day of April 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-9666 Filed 4-24-89; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of March 1989.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proporation of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-22,283; Herbick & Held Printing Co., Pittsburg, PA

TA-W-22,312; Casco Belton, Inc., Lewiston, ME

TA-W-22,518; Brighton Metal Products, Inc., Caseville, MI

TA-W-22,449; George Koch Sons, Inc., Evansville, IN

TA-W-22,259; Stowell Products, Inc., Bryant Pond, ME

TA-W-22,375; White Swan Lumber Co., White Swan, WA

TA-W-21,765D; Tesoro Refining, Marketing & Supply Co.

TA-W-21,765E; Land & Marine Rental Co.

TA-W-22,412; Shortway Products, Clearfield, PA

TA-W-22,220; Energx Corp., Lecenter, MN

TA-W-22,421; Whirlpool Corp., Findlay Div., Findlay, OH

TA-W-22,455; Marine Electronic, Lisbon, MA

TA-W-22,271; Fabric Leather Corp., Division of Borden Chemical, Glen Cove, NY

TA-W-22,349; Farmland Refinery, Coffeyville, KS

TA-W-22,215; Continental Can Corp, Milwaukee, WI

TA-W-22,282; General Textile Printing Co., Branford, CT

TA-W-22,457; NCS Development, Solon, OH

TA-W-22,456; Magnetek, Inc., Louis Allis Div., Milwaukee, WI

TA-W-22,361; Model Expo, Inc., Wharton, NJ

TA-W-21,716; Energy Fuels, Nuclear, Inc., Fredonia, AZ

TA-W-22,453; Lorbrook Corp., Hudson, NY

TA-W-22,362; National Tool & Manufacturing Co., Kenilworth, NJ

TA-W-22,209; Brook's Woolen Co., Inc., Sanford, ME

TA-W-22,454; Machlett Laboratories, Stamford, CT

TA-W-22,344; Certified Metals, Clifton, NJ

TA-W-22,445; Control Data Corp., Government Systems Manufacturing Div., Eden Prairie, MN

TA-W-21,860A; Hadson Corp., Oklahoma City, OK;

TA-W-21,860B; Hadson Gas Systems, Oklahoma City, OK

TA-W-21,860C; Hadson New Mexico, Hobbs, NM

TA-W-21,860D; Hadson Energy Risk Management, New York, NY

TA-W-22,443; Columbus Rope Co., Guntown, MS

TA-W-22,094; Wurlitzer, Inc., (Currently Known as Wurltech, Inc, Corinth, MS

TA-W-22,272; Becton Dickinson, East Rutherford, NJ

TA-W-22,413; Simmonds, Precision Co., Operative Industries, Chester, NJ

TA-W-22,414; Stanton Foundry, Inc., Paramus, NJ

In the following cases, the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-22,372; Sundown Well Service, Brownfield, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,323; Jimco Electric & Construction, Inc., Big Spring, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,278; Consolidated NDE, Inc., Woodbridge, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,279; Edwards Pipeline Testing, Inc., Tulsa, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,115; Cenex Refinery Petroleum Transportation Dept., Laurel, MT

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,417; Teledyne Columbia-Summerville, Pittsburgh, PA

The investigation revealed that criterion (1) has not been met.

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Employment did not decline during the relevant period as required for certification.

TA-W-22,321; General Motors Corp., CPC Lakewood, Atlanta, GA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,464; Terra Resources, Inc., Irving, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,511; Venerable Managing General Agency, Inc., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,273; Charms Candy Corporate Headquarters, Colts Neck, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,547; Saber Construction & Operating Co., Albion, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,395; Edde Motors, Falls City, NE

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,391; Data General Corp., Fountain, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,409; Rogers Structural Steel, Corry, PA

U.S. imports of fabricated structural steel declined absolutely and relative to domestic production in 1987 compared to 1986 and absolutely in the first three months of 1988 compared to the same period in 1987.

TA-W-21,425; Associated Electric Cooperative, Inc., Mining Div., Nemo Coal, Inc., Mine #1, Moberly, MO

U.S. imports of coal are negligible.

TA-W-22,295; North American Inspection, Inc., Laurys Station, PA

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,309; Wisconsin Industrial Testing, Brookfield, WI

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,307; Testmaster Inspection, Perrysburg, OH

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,288; Jan X Ray Service, Parma, MI

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,327; Manhattan Industries, Glen Rock, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,448; Gage Fina Truck Stop, Sweetwater, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,329; Professional Geophysics, Inc., New Orleans, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,516; Bethenergy Mines, Inc., Mine #84 Complex, Cokeburg, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,340; Basin Well Service of Odessa, Inc., Odessa, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,613; W & C Contracting Co., Inc., Farmington, NM

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,222; General Oil Field Supply Co., Evansville, IN

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,226; Gregory & Cook, Inc., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,387; Weyerhauser Co., North Bend, OR

U.S. imports of softwood lumber declined absolutely and relative to domestic product in the first three quarters of 1988 compared to the same period in 1987. U.S. imports of logs are negligible.

TA-W-22,381; AT & T Network Systems, Microlectronics Group, Lee's Summit, MO

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,512; Village Shoe & Boot Repair, Fort Collins, CO

The worker's firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,450; H.R. Johnson, Keyport, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,478; Fina Oil & Chemical Co., Windsor, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,392; Dirigo Lumber Co., Greenville Junction, ME

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,926; Phillips Petroleum Co., Tioga Gas Processing Plant Tioga, ND

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,446; Cooper Industries, Flow Control Div., Missouri City, TX

U.S. imports of oilfield machinery are negligible.

TA-W-22,401; Koypro Corp. Headquartered in Solano Beach, CA Operating in the State of Texas

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,411; Sherwood Medical Co., Sherburn NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,354; Goebel United States, Pennington, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,372; Sundown Well Service, Brownfield, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,368; Rosanna Optical Case, Inc., Patterson, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,317; Explosives Technologies International, Inc., Morris, IL

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,274; Cleveland Xray Inspection, Cleveland, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,333; Sunbelt Mining Co., Inc., Farmington, NM

U.S. imports of bituminous steam coal are negligible.

TA-W-22,319; Florsheim Shoe Co., Herman, MO

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-22,133; Envirogas, Inc., Mayville, NY

Section 1421 of the Omnibus Trade and Competitiveness Act of 1988 does not apply to workers engaged in production of crude oil or refined petroleum products if such workers were eligible for certification under the Trade Act prior to passage of the Omnibus Trade and Competitiveness Act of 1988.

TA-W-22,415; Stewart Well Service, Mt. Yernon, IL

The workers' firm does not produce an article as required or certification under section 222 of the Trade Act of 1974.

TA-W-22,593; Weatherford Oilfield Services, Laurel, MS

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,343; Box Pipe & Supply, Inc., Odessa, TX

The workers' firm does not produce an article as required or certification under section 222 of the Trade Act of 1974.

TA-W-22,366; Portage Mills Co., Portage, WI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,302; Quest International Flavors, U.S.A. Inc., East Hanover, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,376; Abex Corp., Engineered Products Div., Medina, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,353; Geer Tonk Trucks, Inc., Jackson, TX

The workers' firm does not produce an article as required or certification under section 222 of the Trade Act of 1974.

TA-W-22,383; Newton Exploration Co., Sidney, MT

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,397; Gesell Pump Sales & Service, Inc., Benton, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,322; Iselin Preparation Co., Indiana, PA

U.S. imports of bituminous steam coal, lignite and anthracite were negligible.

TA-W-22,385; Tractech, Warren, MI

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA-W-22,447; Eaton Corp., Electric Drives Div., Kenosha, WI

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,400; Irvin Industries, Inc., Plant #2, Aerospace Div., Richmond, VA

The investigation revealed that criterion (2) has not been met Sales or production did not decline during the relevant period as required for certification.

TA-W-22,280; Fina Oil and Chemical Co., Corpus Christi, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,451; Harnischfeger Corp. Construction Equipment Div., Cedar Rapids, IA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,586; Mabee Petroleum Corp., Midland TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,365; Petrofina Delaware, Inc., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,406; Muskogee Inspection Co., Muskogee, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,546; S.A.I.M.A. America, Inc., New York, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,641; Northwestern Supply Co., Inc., Plainville, KS

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,481; General Motors Corp., General Motors Service Parts Operation, St. Louis, MO

Increased Imports did not contribute importantly to workers separations at the firm.

Affirmative Determination

TA-W-22,402; Lady Bird Apparel, Inc., Roanoke, VA

A certification was issued covering all workers separated on or after January 18, 1988.

TA-W-22,356; Honeywell Bull Phoenix Operation, Phoenix, AZ

A certification was issued covering all workers separated on or after November 28, 1988.

TA-W-22,373; Thomson Electron Tubes & Services & Devices Corp., Dover, NJ

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A certification was issued covering all workers separated on or after December 19, 1987.

TA-W-22,336; Vatco Industries Corp., Andover, MA

A certification was issued covering all workers separated on or after December 12, 1987.

TA-W-22,350; Garden Drilling Co., Salem, IL

A certification was issued covering all workers separated on or after December 18, 1987.

TA-W-22,326; The Louisiana Land and Exploration Co., Houston Div., Houston, TX

A certification was issued covering all workers separated on or after December 9, 1987.

TA-W-22,360; Martin-Copeland Co., East Providence, RI

A certification was issued covering all workers separated on or after December 16, 1987 and before January 31, 1989.

TA-W-22,357; Imprimis Technology, Inc., Aberdeen, SD

A certification was issued covering all workers separated on or after December 19, 1987.

TA-W-22,358; Leverenze Shoe Co., Valders, WI

A certification was issued covering all workers separated on or after November 28, 1987.

TA-W-22,359 A and B; Leverenze Shoe Co., New Holstein, WI and Sheboygan, WI

A certification was issued covering all workers separated on or after November 26, 1987.

TA-W-22,369; Schlumberger Well Service, Traverse City, MI

A certification was issued covering all workers separated on or after October 1, 1988.

TA-W-22,369A; Schlumberger Well Service, Mount Pleasant, MI

A certification was issued covering all workers separated on or after October 1, 1988.

TA-W-22,241; Lozier Corp., AFI Div., Joplin, MO

A certification was issued covering all workers separated on or after November 8, 1987.

TA-W-22,378; Pride Well Service, Andrews, TX

A certification was issued covering all workers separated on or after January 3, 1988.

TA-W-22,334; Texas Apparel Co., Carrizo Springs, TX

A certification was issued covering all workers separated on or after December 1, 1987.

TA-W-22,335; Troytown Shirt Corp., Cohoes, NY

A certification was issued covering all workers separated on or after December 1, 1987.

TA-W-22,311; Vassarette, Hamilton, AL

A certification was issued covering all workers separated on or after December 1, 1988 and before January 31, 1989.

TA-W-22,485; Halliburton Logging Services, Hays, KS

A certification was issued covering all workers separated on or after January 31, 1988 and before March 1, 1989.

TA-W-22,408; Rector & Stone Drilling Co., Inc., Carmi, IL

A certification was issued covering all workers separated on or after January 5, 1988.

TA-W-22,342; Blackhawk Drilling & Exploration, Inc., Midland, TX

A certification was issued covering all workers separated on or after December 19, 1987.

TA-W-22,526; Emhort Industries, Inc., Hardware Div., Padlock Product Line, Berlin, CT

A certification was issued covering all workers separated on or after September 18, 1988 and before June 1, 1989.

TA-W-22,346; D.L. Ray, Inc., Richardson, TX

A certification was issued covering all workers separated on or after December 1, 1988 and before March 15, 1989.

TA-W-22,346A; D.L. Ray, Inc., Operating in Various Locations in TX

A certification was issued covering all workers separated on or after December 1, 1988 and before March 15, 1989.

TA-W-21,860; Hadson Petroleum (U.S.A.), Inc., Oklahoma City, OK

A certification was issued covering all workers separated on or after November 15, 1987.

TA-W-21,860E; Hadson Petroleum Fuels, Inc., Tulsa, OK

A certification was issued covering all workers separated on or after November 15, 1987.

TA-W-22,355; Dresser Industries, Inc., Guiberson Div., Houston, TX

A certification was issued covering all workers separated on or after August 1, 1988.

TA-W-22,394; Dresser Industries, Inc., Guiberson Div., Dallas, TX

Certification was issued covering all workers separated on or after August 1, 1988.

TA-W-22,380; Texas Fishing Tools, Inc., Kilgore, TX

A certification was issued covering all workers separated on or after December 29, 1988.

TA-W-22,019; Clyde Sportswear, Brooklyn, NY

A certification was issued covering all workers separated on or after October 1, 1985 and before September 30, 1986.

TA-W-22,276; Coleman Products Co., Nogales, AZ

A certification was issued covering all workers separated on or after December 7, 1987.

TA-W-22,405; Moore's Well Service, Inc., Duck, WV

A certification was issued covering all workers separated on or after January 3, 1988.

TA-W-22,403; Machen Contracting, Inc., Midland, TX

A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-22,345; Cliffs Drilling Co., Scott, LA

A certification was issued covering all workers separated on or after November 15, 1987.

TA-W-22,410; Siemens Energy & Automation, New Orleans, LA

A certification was issued covering all workers separated on or after January 6, 1988 and before April 3, 1989.

TA-W-22,367; Clinton Garment, Clinton, IA

A certification was issued covering all workers separated on or after November 30, 1987 and before July 30, 1988.

TA-W-22,377; Pool Well Service Co., Andrews, TX

A certification was issued covering all workers separated on or after January 3, 1988.

TA-W-22,371; Silva Creek Oil and Gas, Inc., Wichita, KS

A certification was issued covering all workers separated on or after December 18, 1987.

TA-W-22,491; Malouf Co., Daingerfield, TX

A certification was issued covering all workers separated on or after January 16, 1988.

TA-W-22,486; Jenifer Dale, Inc., Ozone Park, NY

A certification was issued covering all workers separated on or after February 7, 1988.

TA-W-22,426; Carroll Shoe Co., Summersville, WV

A certification was issued covering all workers separated on or after January 18, 1988.

TA-W-22,473; Cyclone Drilling, Inc., Gillette, WY

A certification was issued covering all workers separated on or after January 30, 1988.

TA-W-22,386; Transco Exploration Partners Limited, New Orleans, LA

A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-22,542; Phil Lloyd, Inc., Operating in Various Locations in OK

A certification was issued covering all workers separated on or after February 27, 1988 and before June 1, 1988.

TA-W-22,543; Phil Lloyd, Inc., Canadian, TX

A certification was issued covering all workers separated on or after February 27, 1988 and before June 1, 1988.

I hereby certify that the aforementioned determinations were issued during the month of March 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: April 18, 1989.

[FR Doc. 89-9863 Filed 4-24-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,089]

Victory Energy Development Co., Indiana, PA; Negative Determination Regarding Application for Reconsideration

By an application of March 6, 1989 counsel for the workers requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on January 31, 1989 and published in the **Federal Register** on March 27, 1989 (54 FR 12502).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Counsel claims that Victory Energy meets the definition of a producer by virtue of the fact that it manages and oversees the actual drilling of the oil and gas leases, procures the pipelines and transports the gas to market.

The Department's considered Victory Energy as a producer in its initial negative determination since a substantial portion of its revenues were derived from the production and sale of its own natural gas. The findings also show that Victory Energy receives revenues from operating its partnerships' wells, contracting out drilling for its partnerships and marketing its partnerships' gas.

As a producer Victory Energy would not fall under the retroactive provisions contained in the Omnibus Trade and Competitiveness Act (OTCA) of 1988. The retroactive provisions contained in section 1421(a)(1)(B) of OTCA pertain only to workers in independent firms engaged in exploration and drilling for oil or natural gas with unaffiliated firms in the oil and gas industry.

Investigation findings show that the worker petition for Victory Energy did not meet the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974. The "contributed importantly" test is generally demonstrated by means of a customer survey. The major customers of the subject firm were surveyed and none of the respondents imported natural gas in the period applicable to the petition. Other findings show that the average number of production workers at Victory Energy did not decline in the period applicable to the petition.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the laws of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 17th day of April 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-9864 Filed 4-24-89; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act; Migrant and Seasonal Farmworker Programs; Proposed Planning Estimates

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed State planning estimates and allocation formula; request for comments.

SUMMARY: The Employment and Training Administration is publishing the proposed State planning estimates for Program Year 1989 (July 1, 1989–June 30, 1990) for the Job Training Partnership Act section 402 migrant and seasonal farmworker programs, the allocation formula, and the rationale used in arriving at the planning estimates.

DATE: Written comments on this notice are invited and must be received on or before May 25, 1989.

ADDRESS: Written comments shall be submitted to Mr. Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, U.S. Department of Labor, Room N-4641, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Charles C. Kane, Chief, Division of Seasonal Farmworker Programs. Telephone: (202) 535-0500 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: As required by section 162 of the Job Training Partnership Act (JTPA), the Employment and Training Administration publishes for comment the proposed State planning estimates for migrant and seasonal farmworker programs in Program Year (PY) 1989. Section 402 grantees will be competitively selected for a two-year period on July 1, 1989. The closing date for the submission of proposals was October 17, 1988. Since PY 1989 will be the first year of a two-year designation period, grantees will be funded for PY 1990, unless the actions called for at 20 CFR 633.315 of the JTPA regulations (replacement, corrective action, termination) are appropriate. Applications, therefore, will not be accepted from other organizations for that second year.

Allocation Formula

The planning estimates reflect: (1) No hold-harmless provision; and (2) that States which would receive less than $60,000 by application of the formula (Alaska, Rhode Island, and the District of Columbia) will receive no allotment, since the amount they would receive is deemed insufficient to effectively operate a program.

Although the Department of Labor (Department) reserves the right not to allocate any funds for use in a State whose allocation is less than $120,000 in accordance with 20 CFR 633.105(b)(2), jurisdictions which would receive more than $60,000 but less than $120,000 (Delaware and New Hampshire) will be given an allocation of at least $125,000. The total State allocations also include a PY 1989 supplemental allocation of $8,866,033. This represents the amount available after setting aside funds for the section 402 national account and maintaining State base allocations at PY 1988 levels. Half of these additional funds was distributed using the current section 402 formula while the other 50 percent of the increase was distributed based on the most recent Special Agricultural Worker data provided by the Immigration and Naturalization Service. The Department views these allocation methods as a fair and reasonable approach to serving the currently eligible and the newly eligible legalized migrant and seasonal farmworkers resulting from the Immigration Reform and Control Act of 1986. Also, this method is consistent with that used for the PY 1988 increase.

Allotments

The allotments set forth in the appendix to this notice reflect the allocation methods described above. These allocation methods are applied to a total amount to be distributed of $66,188,033. This figure represents the appropriated Fiscal Year 1989 (Pub. L. 100-436) level of $68,540,000 reduced by $2,351,967 which is being held in the JTPA section 402 national account. The migrant housing program and the Migrant Farm Labor Center in Hope, Arkansas, will be funded from that account.

Signed at Washington, DC, this 14th day of April 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
PY 1989 MSFW ALLOTMENT TO STATES
03-23-1989

	BASE		CENSUS		INS		TOTAL
	DOLLARS	PERCENT	DOLLARS	PERCENT	DOLLARS	PERCENT	DOLLARS
Alabama	820,907	1.432	63,357	1.434	6,335	0.143	890,819
Alaska	0	0.000	0	0.000	0	0.000	0
Arizona	1,062,000	1.853	82,223	1.855	197,388	4.453	1,341,611
Arkansas	1,209,803	2.111	93,667	2.113	8,225	0.186	1,311,695
California	8,283,649	14.451	641,347	14.468	2,324,546	52.437	11,249,542
Colorado	748,430	1.306	57,946	1.307	45,609	1.029	851,985
Connecticut	192,032	0.335	14,868	0.335	6,729	0.152	213,629
Delaware	120,000	0.209	6,628	0.150	2,991	0.067	129,619
District of Columbia	0	0.000	0	0.000	0	0.000	0
Florida	3,625,815	6.325	280,722	6.333	441,881	9.968	4,348,418
Georgia	1,607,124	2.804	124,429	2.807	65,048	1.467	1,796,601
Hawaii	255,713	0.446	19,798	0.447	3,365	0.076	278,876
Idaho	844,322	1.473	65,370	1.475	34,767	0.784	944,459
Illinois	1,116,636	1.948	86,454	1.950	109,909	2.479	1,312,999
Indiana	807,155	1.408	62,493	1.410	5,981	0.135	875,629
Iowa	1,372,720	2.395	106,280	2.397	2,617	0.059	1,481,617
Kansas	700,484	1.222	54,234	1.223	12,711	0.287	767,429
Kentucky	1,423,392	2.483	110,204	2.486	748	0.017	1,534,344
Louisiana	828,340	1.445	64,133	1.447	4,112	0.093	896,585
Maine	342,437	0.597	26,513	0.598	1,495	0.034	370,445
Maryland	291,517	0.509	22,570	0.509	7,851	0.177	321,938
Massachusetts	298,083	0.520	23,079	0.521	17,197	0.388	338,359
Michigan	886,074	1.546	68,603	1.548	14,206	0.320	968,883
Minnesota	1,336,792	2.332	103,499	2.335	1,869	0.042	1,442,160
Mississippi	1,524,488	2.660	118,031	2.663	1,122	0.025	1,643,641
Missouri	1,145,998	1.999	88,727	2.002	2,991	0.067	1,237,716
Montana	701,847	1.224	54,339	1.226	748	0.017	756,934
Nebraska	798,111	1.392	61,792	1.394	5,608	0.127	865,511
Nevada	140,741	0.246	10,897	0.246	16,823	0.379	168,461
New Hampshire	120,000	0.209	6,916	0.156	748	0.017	127,664
New Jersey	271,075	0.473	20,988	0.473	36,263	0.818	328,326
New Mexico	491,974	0.858	38,090	0.859	48,226	1.088	578,290
New York	1,456,843	2.542	112,793	2.544	152,901	3.449	1,722,537
North Carolina	2,996,198	5.227	231,975	5.233	64,675	1.459	3,292,848
North Dakota	493,213	0.860	38,186	0.861	374	0.008	531,773
Ohio	942,320	1.644	72,957	1.646	4,112	0.093	1,019,389
Oklahoma	595,919	1.040	46,138	1.041	19,066	0.430	661,123
Oregon	881,861	1.538	68,277	1.540	101,685	2.294	1,051,823
Pennsylvania	1,230,245	2.146	95,250	2.149	18,318	0.413	1,343,813
Puerto Rico	3,043,276	5.309	235,620	5.315	23,552	0.531	3,302,448
Rhode Island	0	0.000	0	0.000	0	0.000	0
South Carolina	1,112,919	1.942	86,166	1.944	10,841	0.245	1,209,926
South Dakota	730,218	1.274	56,536	1.275	0	0.000	786,754
Tennessee	998,815	1.742	77,331	1.744	2,991	0.067	1,079,137
Texas	4,794,610	8.364	371,214	8.374	451,601	10.187	5,617,425
Utah	228,085	0.398	17,659	0.398	17,197	0.388	262,941
Vermont	224,244	0.391	17,362	0.392	374	0.008	241,980
Virginia	1,004,886	1.753	77,801	1.755	32,524	0.734	1,115,211
Washington	1,500,577	2.618	116,179	2.621	97,573	2.201	1,714,329
West Virginia	228,580	0.399	17,697	0.399	1,122	0.025	247,399
Wisconsin	1,282,651	2.238	99,307	2.240	4,112	0.093	1,386,070
Wyoming	208,881	0.364	16,172	0.365	1,869	0.042	226,922
FORMULA TOTAL	57,322,000	100.000	4,433,017	100.000	4,433,016	100.000	66,188,033
TA/MOUS.	2,351,967		0		0		2,351,967
GRAND TOTAL	59,673,967		4,433,017		4,433,016		68,540,000

[FR Doc. 89-9862 Filed 4-24-89; 8:45 am]
BILLING CODE 4510-30-C

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Job Training Partnership Act (JTPA) Advisory Committee Meetings

The Job Training Partnership Act Advisory Committee was established by Notice dated June 16, 1988, and published June 28, 1988, 53 FR 24379 to advise the Department of Labor on a comprehensive review of the JTPA program. A review of experience to date of the JTPA program and request for comments on the issues to be addressed in the review were provided by Notice published August 12, 1988, 53 FR 30483. The Committee to date has met six times.

Notice is hereby given of the next two meetings of the Advisory Committee:

Date: May 16–18, 1989. The meeting will be held at the Fort Magruder Inn, Rte. 60 East, Williamsburg, Virginia 23187. The meeting will begin at 9:00 a.m. May 16 and adjourn at noon on May 18.

Date: June 27, 1989. The meeting will be held at the Vista Hotel, 1400 M Street, NW., Washington, DC 20005. The meeting will begin at 9:30 a.m. and adjourn at 4:00 p.m.

The meetings are open to the public.

For further information, contact Hugh Davies, Office of Job Training Programs, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue,. NW., Room N–4709, Washington, DC 20210. Telephone 202–535–0580.

Signed at Washington, DC, this 14th day of April, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 89–9860 Filed 4–24–89; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–89–44–C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1403–8(b) (track haulage roads) to its Blacksville No. 1 Mine (I.D. No. 46–01867) located in Monongalia County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that track haulage roads have a continuous clearance on one side of at least 24 inches from the farthest projection of normal traffic.

2. In order to comply with the 24-inch clearance requirement the track in numbers 10 and 11 headings will have to be realigned and arches used for roof support will have to be removed thereby exposing miners to hazardous conditions.

3. As an alternate method, petitioner proposes the following procedures:

(a) Luminous signs designating "Close Clearance" would be posted at the track entrances to the affected areas;

(b) No person would be allowed to enter the area on foot without permission from the dispatcher and dumper;

(c) Telephones would be provided at the entrances to the affected areas;

(d) The dispatcher would notify all locomotive operators or other haulage vehicle operators of the location of work crews in the affected areas; and

(e) The dispatcher and dumper would be notified when the persons leave the affected areas.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 25, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: April 19, 1989.

[FR Doc. 89–9856 Filed 4–24–89; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–89–48–C)

Eastside Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standards

Eastside Coal Company, Inc., P.O. Box 161, Silt, Colorado 81652 has filed a petition to modify the application of 30 CFR 75.1100–2(b) (belt conveyors) to its Eastside Mine (I.D. No. 05–02421) located in Garfield County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that waterlines be installed parallel to the entire length of belt conveyors and equipped with firehose outlets with valves at 300-foot intervals along each belt conveyor and at tailpieces.

2. Due to freezing problems with subsequent loss of firefighting capability, the waterline along the belt line cannot be charged during the winter months.

3. As an alternate method, petitioner proposes not to charge the waterline parallel to the conveyor belt line for the first 800 feet plus approximately 200 feet of the charging line from October through March.

4. In support of this request, petitioner states that the waterline could be fully charged within five minutes or less. Signs would be posted at strategic valve locations. All personnel would be instructed in the location of the valves and also instructed in the method to charge the line in the event of an emergency. They would be instructed again every 90 days thereafter in conjunction with fire drills.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 25, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: April 19, 1989.

[FR Doc. 89–9857 Filed 4–24–89; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–89–33–C]

Island Creek Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Island Creek Coal Company, P.O. Box 11430, Lexington, Kentucky 40575 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Providence No. 1 Mine (I.D. No. 15–02156) located in Hopkins County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use belt air to ventilate the working faces and to remove restrictions on the velocity of air in the belt entries.

3. In support of this request, petitioner proposes to install an early warning fire detection system utilizing a low-level carbon monoxide (CO) detection system in all belt entries used as intake aircourses and at each belt drive and tailpiece located in intake aircourses. The monitoring devices would be capable of giving warning of a fire for four hours should the power fail; a visual alert signal would be activated when the CO level is 10 parts per million (ppm) above ambient air and an audible signal would sound at 15 ppm above ambient air. All persons would be withdrawn to a safe area at 10 ppm and evacuated at 15 ppm. The fire alarm signal would be activated at an attended surface location where there is two-way communication. The CO system would be capable of identifying any activated sensor, monitoring electrical continuity and detecting electrical malfunctions.

4. The CO system would be visually examined at least once each coal-producing shift and tested weekly to ensure the monitoring system is functioning properly. The monitoring system would be calibrated with known concentrations of CO and air mixtures at least monthly.

5. If the CO monitoring system is deenergized for routine maintenance or for failure of a sensor unit, the belt conveyor would continue to operate and qualified persons would patrol and monitor the belt conveyor using hand-held CO detecting devices.

6. The details for the fire detection system, and the permanent stoppings separating the conveyor belt entries from the intake escapeway would be included as part of the ventilation system, methane and dust control plan.

7. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 25, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: April 18, 1989.

[FR Doc. 89–9858 Filed 4–24–89; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–89–38–C]

R&B Mining; Petition for Modification of Application of Mandatory Safety Standard

R&B Mining, R.D. 4, Box 393–A, Pine Grove, Pennsylvania 17936 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its No. 2 Slope (I.D. No. 36–07877) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute. The minimum quantity is required to be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine. Ignition, explosion, and mine fire history are nonexistent for the mine. There is no history of harmful quantities of carbon monoxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Extremely high velocities in small cross-sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

(a) The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

(b) The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

(c) The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interestd in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 25, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

April 18, 1989.

[FR Doc. 89–9859 Filed 4–24–89; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts/National Assembly of State Arts Agencies/National Assembly of Local Arts Agencies Sub-Committee to the National Council on the Arts will be held on May 11, 1989, from 3:00 p.m.–5:00 p.m. in Room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506

This meeting will be open to the public on a space available basis. The topics for discussion will be policy issues.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment of the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

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April 19, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-9817 Filed 4-24-89; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Design Advancement/Individuals Section) to the National Council on the Arts will be held on May 17-18, 1989, from 9:00 a.m.-5:30 p.m. and May 19, 1989, from 9:00 a.m.-5:00 p.m. in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 19, 1989 from 2:30 p.m.-5:00 p.m. The topics for discussion will be policy issues.

The remaining portion of this meeting on May 17-18, 1989 from 9:00 a.m.-5:30 p.m. and May 19, 1989, from 9:00 a.m.-2:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

April 19, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-9815 Filed 4-24-89; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships Section) to the National Council on the Arts will be held on May 16-18, 1989, from 9:00 a.m.-5:30 p.m. in Room M-14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 18, 1989 from 4:00 p.m.-5:30 p.m. The topics for discussion will be policy issues and guidelines.

The remaining portion of this meeting on May 16-17, 1989 from 9:00 a.m.-5:30 p.m. and May 18, 1989, from 9:00 a.m.-4:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

April 19, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-9816 Filed 4-24-89; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Anchorage, Alaska, on Marine Accident

In connection with its investigation of the accident involving the Grounding of the Tankship EXXON VALDEZ in Prince William Sound, Alaska, on March 24, 1989, the National Transportation Safety Board will convene a public hearing at 9:00 a.m. (local time), on Tuesday, May 16, 1989, in the Discovery Ball Room, Hotel Captain Cook, 939 West 5th Avenue, Anchorage, Alaska. For more information contact Durcella Andersen, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, DC 20594, telephone (202) 382-6603.

Bea Hardesty,

Federal Register Liaison Officer.

April 19, 1989.

[FR Doc. 89-9840 Filed 4-24-89; 8:45]

BILLING CODE 7533-01-M

Public Hearing in Kansas City, Missouri, on Series of KPL Pipeline Accidents

In connection with the investigation of a series of KPL Pipeline Accidents in Kansas and Missouri, the National Transportation Safety Board will convene a public hearing at 1:00 p.m. (local time), on Wednesday May 3, 1989, in the Summit Ballroom of the Embassy on the Park Hotel, 1215 Wyandotte, Kansas City, Missouri. For more information contact Ted Lopatkiewicz, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, DC 20594, telephone (202) 382-6605.

April 19, 1989.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 89-9841 Filed 4-24-89; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on May 3-6, in Room P-110, 7920 Norfolk Avenue, Bethesda, MD and One White Flint North, Rockville, Maryland. Notice of this meeting was published in the **Federal Register** on March 21, 1989.

Wednesday, May 3, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

12:00 Noon-1:30 p.m.: Preparation for Meeting with NRC Commissioners (Open)—The Committee will discuss

ACRS reports to NRC regarding Generic Issue 99, Improved Reliability of Residual Heat Removal Capability in PWRs (reports dated September 14, 1988 and February 16, 1989); Unresolved Safety Issue A-45, Shutdown Decay Heat Removal Requirements (report dated September 14, 1988); and Further ACRS Comments on Implementation of the Safety Goal Policy (report dated February 16, 1989).

Commissioners Conference Room (Lobby), One White Flint North, Rockville, Maryland

2:00 p.m.-3:30 p.m.: Meeting with NRC Commissioners (Open)—The Committee will meet with the NRC Commissioners to discuss the reports noted above.

Thursday, May 4, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.-8:45 a.m.: Comments by ACRS Chairman (Open)—The ACRS Chairman will report on items of current interest.

8:45 a.m.-10:30 a.m.: Limerick Nuclear Station, Unit 2 (Open/Closed)—The Committee will review and comment regarding proposed operation of this nuclear power plant.

Portions of this session will be closed as necessary to discuss safeguards and security information regarding this facility.

10:45 a.m.-12:00 Noon: Evaluation of Operating Experience at Nuclear Plants (Open)—The Committee will be briefed by representatives of the NRC staff regarding reports evaluating reactor operating experience, including loss of decay heat removal capability, inadequate NPSH in high pressure safety systems, and deficiencies in control room ventilation systems in nuclear power plants.

1:00 p.m.-3:00 p.m.: Reactor Risk Reference Document (Open)—The Committee will review and comment on the proposed uses and content of NUREG-1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants," Second Draft.

3:15 p.m.-4:45 p.m.: Radiobiological Exposure Criteria (Open)—The Committee will review and comment on the proposed NRC generic letter on evaluation of radiation exposure/dose from "hot particles."

4:45 p.m.-6:15 p.m.: Performance Indicator Program (Open)—The Committee will be briefed regarding development and use of performance indicators for evaluation of operations at nuclear power plants.

Friday, May 5, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.-10:30 a.m.: Valve Surveillance and Testing (Open)—The Committee will meet with the NRC Staff and also hold a discussion of proposed ACRS comments regarding proposed NRC testing and surveillance requirements for motor-operated valves in nuclear power plants.

10:45 a.m.-12:00 Noon and 1:00 p.m.-2:30 p.m.: Human Factors (Open)—The Committee will review and comment on the proposed NRC research program plan on human factors and related NRC initiatives.

2:45 p.m.-3:15 p.m.: Future ACRS Activities (Open)—The Committee will discuss anticipated ACRS subcommittee activities and matters proposed for consideration by the full committee.

3:15 p.m.-5:45 p.m.: Emergency Planning (Open)—A briefing will be given by representatives of the NRC Staff and industry regarding the status of emergency planning and preparedness for nuclear power plants.

Saturday, May 6, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.-12:00 Noon and 1:00 p.m.-2:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed reports to NRC regarding items considered during this meeting.

2:00 p.m.-3:00 p.m.: ACRS Subcommittee Activities (Open)—The Committee will hear and discuss reports of the status of ACRS subcommittee activities regarding designated areas including the status of implementation of ATWS and scope of ACRS activities.

3:00 p.m.-3:15 p.m.: Appointment of ACRS Members (Open/Closed)—The Committee will hear a status report regarding appointment of ACRS members.

Portions of this session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 27, 1988 (53 FR 43487). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)) and to discuss safeguards information (5 U.S.C. 552b(c)(3)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492-8049), between 8:15 a.m. and 5:00 p.m.

Date: April 18, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89-9787 Filed 4-24-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 55-20449; ASLBP No. 89-588-01-SP]

Rodger W. Ellingwood, Senior Operator License for Catawba Nuclear Station; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, a presiding officer is designated in the following proceeding:

Rodger W. Ellingwood, Senior Operator License for Catawba Nuclear Station

By letter dated December 7, 1988, Rodger W. Ellingwood, an applicant for a senior operator license for the Catawba Nuclear Station, was informed

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by NRC's Region II office that he did not pass the written examination taken on September 26, 1988, and that it is proposed that his application be denied. On December 20, 1988, Mr. Ellingwood requested reconsideration of the proposed denial of his license application. However, the Office of Nuclear Reactor Regulation sustained the license denial on March 1, 1989. In accordance with directions in the letter of denial, Mr. Ellingwood on March 16, 1989 requested a hearing pursuant to 10 CFR 2.103(b)(2).

The presiding officer in this proceeding is Administrative Judge John H. Frye III.

Following consultation with the Panel Chairman, pursuant to the provisions of 10 CFR 2.722, the Presiding Officer has appointed Administrative Judge Frederick J. Shon to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Frye and Judge Shon in accordance with 10 CFR 2.701. Their addresses are:

Administrative Judge John H. Frye III, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Administrative Judge Frederick J. Shon, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 17th day of April 1989.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 89-9788 Filed 4-24-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Co., et al.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative (the licensee) to withdraw a portion of its October 14, 1986 application for an amendment to Facility Operating License No. DPR-49 for the Duane Arnold Energy Center located in Linn County, Iowa.

The proposed amendment would have revised the Technical Specifications to allow qualified personnel to screen proposed procedure changes on behalf of the plant Operations Committee.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on February 26, 1987 (52 FR 5857). However, by letter dated March 25, 1987, the licensee withdrew a portion of the proposed change.

For further details with respect to this action, see the application for amendment dated October 14, 1986 and the licensee's letter dated March 25, 1987 which withdrew a portion of the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Cedar Rapids Public Library, 500 First Street, SE., Cedra Rapids, Iowa 52401.

Dated at Rockville, Maryland this 18th day of April 1989.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects-III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-9680 Filed 4-24-89; 8:45 am]

BILLING CODE 7590-01-M

Philadelphia Electric Co.; Establishment of Atomic Safety and Licensing Board

[Docket Nos. 50-352-OL and 50-353-OL; ASLBP No. 89-587-03-OL-R]

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 FR 28710 (1972), and sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

Philadelphia Electric Company, Limerick Generating Station, Units 1 and 2, Facility Operating License No. NPF-39, Facility Construction Permit No. CPPR-107.

This Atomic Safety and Licensing Board is being designated pursuant to the provisions of an Order issued by the Commission on April 14, 1989 with respect to an opinion issued February 28, 1989 by the United States Court of Appeals for the Third Circuit granting a petition for review filed by intervenor Thomas Martin, who represents a group of inmates at the State Correctional Institution in Graterford, Pennsylvania. *Martin* v. *NRC*, No. 87-3190, slip op. at 77. In granting that petition, the Court ordered the Commission to give additional consideration to an inmate contention questioning whether the radiological emergency plan relating to the Graterford Institution complies with the standard of 10 CFR 50.47(b)(15) that radiological response emergency training is provided to civilian personnel (*e.g.*, bus and ambulance drivers) who may be called upon to assist in the event of an emergency that would require evacuation of the Graterford prison. *Id.* at 69-71.

The Board is comprised of the following administrative judges:

Morton B. Margulies, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Jerry Harbour, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

Issued at Bethesda, Maryland, this 14th day of April, 1989.

[FR Doc. 89-9789 Filed 4-24-89; 8:45 a.m.]

BILLING CODE 7590-01-M

[Docket Nos. 50-352-OL, 50-353-OL; ASLBP No. 89-587-03-OL-R]

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2); Prehearing Conference

April 18, 1989.

Before Administrative Judges Morton B. Margulies, Chairman, Jerry Harbour, Jerry R. Kline.

Please take notice that in the captioned proceeding a prehearing conference will be held on May 12, 1989, at 9:30 a.m. in the U.S. Customs House, Courtroom 300, Second and Chestnuts Streets, Philadelphia, Pennsylvania.

The conference is called pursuant to the Order of the Commission of April 14, 1989, calling for a Licensing Board to conduct proceedings to consider the contention of an inmate questioning whether the radiological emergency response plan relating to the Graterford Institution complies with the standard of 10 CFR 50.47(b)(15) that radiological response emergency training is provided to civilian personnel (e.g., bus and ambulance drivers) who may be called upon to assist in the event of an emergency that would require evacuation of the Graterford prison. The Commission action was taken in furtherance of an opinion issued February 28, 1989, by the United States Court of Appeals for the Third Circuit granting a petition for review filed by Intervenor Thomas Martin. *Martin* v. *NRC*, No. 87-3190, slip op. at 69-71, 77.

The following matters will be considered:

(1) Simplication, clarification, and specification of the issue;

(2) The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;

(3) Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;

(4) The setting of a hearing schedule; and

(5) Such other matters as may aid in the orderly disposition of the proceeding.

The parties or their counsel are directed to appear.

For the Atomic Safety and Licensing Board.

Morton B. Margulies,

Chairman, Administrative Law Judge.

Dated at Bethesda, Maryland, this 18th day of April, 1989.

[FR Doc. 89-9790 Filed 4-24-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards; Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulation Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-43, issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensee), for operation of the Kewaunee Nuclear Power Plant, located in Kewaunee County, Wisconsin.

The amendment would change the expiration date for the Kewaunee Plant Operating License from August 6, 2008, to December 21, 2013. The Technical Specifications for the plant would not be affected.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination is provided below.

The current term of the KNPP Operating License is 40 years commencing with the issuance of the construction permit (August 6, 1968). Accounting for the time required for plant construction, this represents an effective operating license term of only 35 years. Current NRC practice is to issue an operating license with a term of 40 years from the date of issuance. This amendment proposes to extend the operating license in accordance with current practices.

The licensee's request for extension of the Operating License is based primarily on the fact that the facility is designed for 40 years of operation at a load factor of 0.85. Although this does not mean that some components will not wear out during the plant lifetime, design features were incorporated to maximize the inspectability of structures, systems and equipment. Surveillance and maintenance practices which have been implemented in accordance with the ASME code and the facility Technical Specifications provide assurance that any unexpected degradation in plant equipment will be identified and corrected.

The design of the reactor vessel and its internals considered the effects of 40 years of operation at a load factor of 0.85 and a comprehensive vessel material surveillance program is maintained in accordance with 10 CFR Part 50, Appendix H. Analyses showing compliance with the NRC pressurized thermal shock screening criteria have demonstrated that expected cumulative neutron fluences will not be a limiting consideration. In addition to these calculations, surveillance capsules placed inside the reactor vessel provide a means of monitoring the cumulative effects of power operation.

Aging analyses have been performed for all safety-related electrical equipment in accordance with 10 CFR 50.49, "Environmental qualifications of electrical equipment important to safety for nuclear power plants," identifying qualified lifetimes for this equipment. These lifetimes have been incorporated into a plant preventative maintenance program and replacement practices will ensure that all safety-related electrical equipment remains qualified and available to perform its safety function regardless of the overall age of the plant.

The environmental impacts associated with a 40-year operating period were considered in the licensing of the Kewaunee Plant. The population estimates, as provided in the 1970 census data and used for licensing projections, were only carried out for 2010, three years less than the 40-year period. However, overall population has declined in the area and within the limits of projecting future populations, the 2013 plant area forecast population will be smaller than the originally forecast 2010 plant area population. Modifications to the plant and its surroundings, since the Operating License was issued in 1973, have resulted in improving the reliability of plant safety and reducing the environmental impact of plant operations.

The NRC staff concludes that extension of the operating license for the Kewaunee Nuclear Power Plant to allow a 40-year service life is consistent with the safety analysis in that all issues associated with plant aging have already been addressed. Since the proposed amendment involves no changes in the Technical Specifications or safety analyses, the staff concludes that the proposed amendment would not: (1) Involve any significant increase in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve any reduction in the margin of safety.

Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the Federal Register notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments

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received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 25, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to David Baker, Esq., Foley and Lardner, P.O. Box 2193, Orlando, Florida 31082, attorney for the licensee.

Nontimely filings of peititons for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 23, 1986, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Dated at Rockville, Maryland, this 16th day of April 1989.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III–3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–9661 Filed 4–24–89; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Leesa Martin, (202) 632–0728.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on March 27, 1989 (54 FR 12512). Individual authorities established or revoked under Secedule A, B, or C between March 1, 1989, and March 31, 1989, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

No Schedule A authorities were established or revoked during March.

Schedule B

No Schedule B authorities were established or revoked during March.

Schedule C

Department of Agriculture

Two Confidential Assistants to the Administrator. Effective March 9, 1989.

One Staff Assistant to the Administrator. Effective March 9, 1989.

One Private Secretary to the Secretary of Agriculture. Effective March 20, 1989.

Department of Commerce

One Confidential Assistant to the Director of the Office of Commercial Space Programs. Effective December 30, 1988. Note: This position should have appeared in the listing dated Wednesday, January 25, 1989; FR 54 3702.

One Confidential Assistant to the Secretary. Effective March 24, 1989.

One Director, Office of Business Liaison, to the Secretary of Commerce. Effective March 8, 1989.

One Director, Office of Private Sector Initiatives, to the Director, Office of Business Liaison. Effective March 20, 1989.

One Confidential Assistant to the Director General, U.S. and Foreign Commercial Service. Effective March 22, 1989.

One Confidential Assistant to the Secretary of Commerce. Effective March 22, 1989.

Department of Energy

One Staff Assistant to the Chief of Staff. Effective March 13, 1989.

One Director, Intergovernmental Affairs Division, to the Director, Office of External Affairs. Effective March 27, 1989.

One Staff Assistant to the Chief of Staff. Effective March 24, 1989.

One Staff Assistant to the Deputy Secretary. Effective March 29, 1989.

Department of Education

One Special Assistant to the Secretary. Effective March 10, 1989.

Department of Housing and Urban Development.

One Special Assistant to the Secretary. Effective March 22, 1989.

Two Special Assistants to the Secretary. Effective March 23, 1989.

One Special Assistant to the Secretary. Effective March 29, 1989.

Department of Labor

One Special Assistant to the Secretary of Labor. Effective March 1, 1989.

Two Special Assistants to the Assistant Secretary for Public and Intergovernmental Affairs. Effective March 3, 1989.

One Special Assistant to the Secretary for Policy. Effective March 3, 1989.

One Special Assistant to the Assistant Secretary for Congressional Affairs. Effective March 27, 1989.

One Senior Legislative Officer to the Assistant Secretary for Congressional Affairs. Effective March 30, 1989.

Department of State

One Special Assistant to the Under Secretary for Management. Effective March 3, 1989.

One Protocol Officer to the Chief of Protocol. Effective March 8, 1989.

One Staff Assistant to the Counselor. Effective March 13, 1989.

One Staff Assistant to the Director, Policy Planning Staff. Effective March 24, 1989.

Department of Treasury

One Special Assistant to the Director of Scheduling. Effective March 1, 1989.

One Legislative Assistant to the Assistant Secretary for Legislative Affairs. Effective March 3, 1989.

One Special Assistant to the Deputy Assistant Secretary for Departmental Finance and Management. Effective March 8, 1989.

One Special Assistant to the Assistant Secretary for Policy Development. Effective March 13, 1989.

One Confidential Assistant to the Secretary. Effective March 15, 1989.

One Director, Office of Intergovernmental Affairs to the Deputy Assistant Secretary. Effective March 29, 1989.

Action

One Assistant Director for Vista/Student Community Service Programs to the Associate Director. Effective March 10, 1989.

Office of Management and Budget

One Special Assistant to the Associate Director for Congressional Affairs. Effective March 10, 1989.

One Deputy Director of External Affairs to the Director of External Affairs. Effective March 14, 1989.

One Confidential Assistant to the Associate Director for Congressional Affairs. Effective March 15, 1989.

One Confidential Assistant to the Director, Office of Management and Budget. Effective March 24, 1989.

United States Tax Court

One Confidential Assistant to a Judge. Effective March 9, 1989.

Authority: 5 U.S.C. 3301, 3302; E.O. 10555, 3 CFR 1954–1958 Comp., P. 218.

Constance Horner,

Director, U.S. Office of Personnel Management.

[FR Doc. 89–9625 Filed 4–24–89; 8:45 am]

BILLING CODE 6325–01–M

POSTAL SERVICE

Implementation of Final Express Mail International Service Revised Rates

AGENCY: Postal Service.

ACTION: Notice of change in express mail international service rates.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, effective April 25, 1989, the Postal Service will implement a lower half-pound rate for On-Demand Express Mail International Service. A special introductory rate will precede the regular rate, which will take effect July 1, 1989. The Postal Service is reducing these rates in order to provide persons and companies in international trade with readily available, fast, economical delivery of important documents, which the half-pound pieces are most likely to contain.

EFFECTIVE DATE: 12:01 am. April 25, 1989 and 12:01 a.m. July 1, 1989.

FOR FURTHER INFORMATION CONTACT: Eugene Columbo, (202) 268–2286.

By mail: Eugene Columbo, General Manager, Market Development Division, Room 5437, U.S. Postal Service, Washington, DC 20260–6339.

SUPPLEMENTARY INFORMATION: This document provides notice that the Postal

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Service is implementing a lower half-pound rate for On-Demand Express Mail International Service shipments. The lower rate will be $10.75 for pieces weighing eight ounces or less. In addition, the Postal Service is implementing a special introductory rate of $8.75 for pieces weighing eight ounces or less that will be in effect from 12:01 a.m. April 25, 1989 until 12:01 a.m. July 1, 1989. The $10.75 rate will take effect at 12:01 a.m. July 1, 1989.

Express Mail International Service is the Postal Service's premium international service. It is available to almost 100 countries and can deliver international documents and parcels in three days or less, depending on the destination and availability of transportation.

International trade is increasingly important to the United States. Persons and companies engaged in international trade need readily available, fast, economical delivery of important documents. In response to this need, the Postal Service is reducing its rate for On-Demand Express Mail International Service pieces most likely to contain documents, pieces weighing eight ounces or less. This action has been facilitated by foreign postal administrations in agreements which significantly lower the imbalance charges associated with this category of mail. The Postal Service expects this rate not only to make expedited international delivery service more affordable for those who already use it, but also to make expedited international delivery service available to new users who until now have considered expedited delivery service too expensive. In particular, lower rates are expected to benefit smaller businesses. Although it is not possible to quantify, the provision of less expensive expedited document service is expected to stimulate growth in international trade generally and in expedited parcel shipments via the Postal Service as well as via other carriers.

In view of the above considerations, the Postal Service hereby adopts a special introductory half-pound rate of $8.75 for On-Demand Express Mail International pieces that will be in effect from 12:01 a.m. April 25, 1989 until 12:01 a.m. July 1, 1989, when the rate for such pieces will be $10.75.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89-9893 Filed 4-24-89; 8:45 am]

BILLING CODE 7710-12-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-55]

Unfair Trade Practices; Icicle Seafoods; Determination and Hearing

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of rebuttal date and correction or room number where public hearing will be held.

On March 31, 1989, a notice was published in the **Federal Register** (54 FR 13264) announcing that a public hearing in this matter would be held on April 28, 1989, in Court Room A, Room 100 of the U.S. International Trade Commission, 500 E Street SW., Washington, DC. The purpose of this notice is to change the original Court Room number as published in 54 FR 13264 and to give the deadline for filing rebuttal briefs. The new room number is Court Room B, Room 100 of the U.S. International Trade Commission, 500 E Street, SW., Washington, DC.

In order to assure each party an opportunity to contest the information provided by other parties, the Section 301 Committee will entertain rebuttal briefs filed by any party, in accordance with 15 CFR 2006.8(c), by noon on May 5, 1989. Rebuttal briefs may be addressed to Ms. Dorothy Balaban, Staff Assistant to the section 301 Committee, Office of the U.S. Trade Representative, Room 222, 600 17th Street, NW., Washington, DC 20506.

A. Jane Bradley,

Chairwoman, Section 301 Committee.

[FR Doc. 89-10016 Filed 4-24-89; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S-849]

Seabulk Transmarine I, Inc., et al., Application for Permission Under Section 805(a) of the Merchant Marine Act, 1936, as Amended

By letter dated April 20, 1989, Seabulk Transmarine I, Inc., Seabulk Transmarine II, Inc., and Seabulk Transmarine III, Inc. (the Seabulk companies) requested all determinations and permissions required pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended (Act).

Each of the Seabulk companies is a wholly-owned subsidiary of Hvide Marine International, Inc., which is in turn a wholly-owned subsidiary of Hvide Shipping, Incorporated (Hvide) and are operators under Operating-Differential Subsidy Agreements (ODSA), Contracts MA/MSB-440, MA-MSB-441, and MA/MSB-442.

In 1981 the Maritime Subsidy Board (Board) granted permission, pursuant to section 805(a) of the Act, with respect to Hvide's domestic operation of the harbor tugs FORT LAUDERDALE, CAPTAIN NELSON, EVERGLADES, CAPTAIN BRINN, and BREVARD (ex-HOLLYWOOD) in the harbors of Port Everglades and Port Canaveral, Florida. In granting that permission the Board observed that the applicants had made "no representation and [did] not concede that the employment of said harbor tugs constitutes engagement in the intercoastal or coastwise service." Minutes of the Maritime Subsidy Board, March 17, 1981 (at p. 12,808).

Since 1981 Hvide has added to its Port Everglades and Port Canaveral operations the harbor tugs BROWARD and CAPE CANAVERAL, which tugs are utilized exclusively in the assisting of vessels docking, undocking and shifting within the harbors. Because the Seabulk companies have been of the view that harbor tugs utilized in such "ship assist" activities are not engaged "in the domestic intercoastal or coastwise service," they did not seek permission under section 805(a) to be affiliated with the owner of such tugs. They understand, however, that Crowley Maritime Corporation, an intervenor in the pending proceedings in Docket No. S-844, contends that such tugs are engaged in such "service" within the meaning of section 805(a) and is pressing the Maritime Administration to discontinue subsidy payments to the Seabulk companies until permission covering the BROWARD and CAPE CANAVERAL has been granted.

In an effort to resolve this controversy, and without prejudice to their position that no such permission is required, the Seabulk companies request permission under section 805(a) to be affiliated with the owner and operator of the harbor tugs BROWARD and CAPE CANAVERAL.

Any person, firm, or corporation having any interest in the application for section 805(a) permission and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, by the close of business 5:00 p.m. on May 2, 1989. If such comments deal with section 805(a) issues, they should be accompanied by a petition for leave to intervene. The petition should state clearly and concisely the grounds of interest and the alleged facts relied on for relief.

If no petitions for leave to intervene on section 805(a) issues are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will to be receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or international service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic operations.

(Catalog of Federal Domestic Assistance Programs Nos. 20.804 Operating-Differential Subsidies (ODS)).

By Order of the Maritime Administrator.

Date: April 20, 1989.

James E. Saari,

Secretary.

[FR Doc. 89-9936 Filed 4-24-89; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.[1]

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2744.

[1] On March 15, 1989, the Veterans Administration became the Department of Veterans Affairs (see 54 FR 10478).

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Office, within 30 days of this notice.

Dated: April 11, 1989.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

Extension

1. Veterans Benefits Administration.
2. Offer to Purchase and Contract of Sale & Credit Statement of Prospective Purchaser.
3. VA Forms 26-6705 and 26-6705b.
4. VA Form 26-6705 serves as an offer to purchase and contract of sale for submitted purchase offers to VA on properties acquired through operation of the guaranteed and direct loan programs. VA Form 26-6705b is used to collect credit and income information necessary to determine whether an applicant qualifies to purchase a VA-owned property.
5. On occasion.
6. Individuals or households.
7. 165,212 responses.
8. .2347 hour.
9. Not applicable.

[FR Doc. 89-9842 Filed 4-24-89; 8:45 am]

BILLING CODE 8320-01-M

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Sunshine Act Meetings

Federal Register
Vol. 54, No. 78
Tuesday, April 25, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:18 p.m. on Tuesday, April 18, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) matters relating to the possible closing of certain insured banks; and (2) a memorandum regarding the Corporation's liquidation activities.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded, by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC

Dated: April 20, 1989.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Assistant Executive Secretary.

[FR Doc. 89-9974 Filed 4-21-89; 11:13 am]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Change in Previously Scheduled Meetings

April 20, 1989.

TIME AND DATE: The meeting previously scheduled for April 26, 1989 at 10:00 a.m. has been cancelled.

The meeting scheduled for Thursday, April 27, 1989 at 10:00 a.m. will be as follows:

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Otis Elevator Company,* Docket Nos. PENN 87-25-R, etc. and PENN 86-262. (Issues include whether Otis Elevator is an independent contractor under the Mine Act and thus liable for violations and several mandatory safety standards.)

Any person attending this meeting who needs special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

TIME AND DATE: Immediately following oral argument.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Otis Elevator Company,* Docket No. PENN 87-25-R, etc. (see oral argument listing).

2. *Pennsylvania Electric Company,* Docket No. PENN 88-227. (Issues include consideration of procedural motions.)

3. *Sec. of Labor on behalf of Jerry Dale Aleshire et al. v. Westmoreland Coal Co.,* Docket No. WEVA 84-344-D. (Issues include whether the judge erred in finding that the operator did not discriminate against the complainant miners under section 105(c) of the Mine Act. 30 U.S.C. 815(c)(1).)

It was determined by a unanimous vote of Commissioners that these items be considered in closed session.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 566-2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-9959 Filed 4-21-89; 10:54 am]

BILLING CODE 6735-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 24, May 1, 8, and 15, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of April 24

Tuesday, April 25

10:00 a.m.—Briefing on the Status of Generic Issues (Public meeting)

Thursday, April 27

10:00 a.m.—Periodic Briefing by Advisory Committee on Nuclear Waste (ACNW) (Public meeting)

3:30 p.m.—Affirmation/Discussion and Vote (Public meeting)

a. Final Rulemaking—Fitness-for-Duty Programs (Tentative)

Week of May 1 (Tentative)

Tuesday, May 2

10:00 a.m.—Briefing on Severe Accident Research Plan (Public meeting)

2:00 p.m.—Briefing on Results of Maintenance Team Inspections (Public meeting)

Wednesday, May 3

10:00 a.m.—Briefing on Status of Second Draft of NUREG-1150 (Public meeting)

2:00 p.m.—Periodic Briefing by Advisory Committee on Reactor Safeguards (ACRS) (Public meeting)

3:30 p.m.—Affirmation/Discussion and Vote (Public meeting) (if needed)

Week of May 8 (Tentative)

Wednesday, May 10

10:00 a.m.—NPOC Briefing on the State of the Nuclear Industry (Public meeting)

2:00 p.m.—Briefing on Status of Operator Licensing Activities in the Area of Requalification Exams (Public meeting)

3:30 p.m.—Affirmation/Discussion and Vote (Public meeting) (if needed)

Week of May 15 (Tentative)

Monday, May 15

2:00 p.m.—Briefing on Interim Report on Accident Study for Plutonium Air Transport Packages (Public meeting)

Thursday, May 18

3:30 p.m.—Affirmation/Discussion and Vote (Public meeting) (if needed)

Friday, May 19

10:00 a.m.—Briefing on Final Rule and Regulatory Guide for Maintenance of Nuclear Power Plants (Public meeting)

ADDITIONAL INFORMATION: By a vote of 3-0 (Commissioner Carr was not present and Commissioner Curtiss was on travel and unavailable to participate) on April 17, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Affirmation of Commission Order Responding to a Motion to Quash Subpoena" (Public Meeting) scheduled for April 17, be held on less than one week's notice to the public.

By a vote of 3-0 (Commissioner Carr was not present and Commissioner Curtiss was on travel and unavailable to participate) on April 20, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Affirmation of Shoreham Full Power Authorization and Issues Raised by Joseph J. Macktal in the Comanche Peak Proceedings Including a Motion to Reconsider CLI-88-12" (Public Meeting) scheduled for April 20, be held on less than one week's notice of the public.

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (recording)—(301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

William M. Hill, Jr.,

Office of the Secretary.

April 20, 1989.

[FR Doc. 89-10003 Filed 4-21-89; 2:24 pm]

BILLING CODE 7590-01-M

UNITED STATES INSTITUTE OF PEACE

TIME AND DATE: 2:30-5:15 p.m., Tuesday, May 9, 1989.

PLACE: Cyprus Room, Carter Presidential Center, Emory University, Atlanta, Georgia.

STATUS: Open.

PURPOSE AND AGENDA: "Morality and Foreign Policy" is the eighth of a monthly series of Public Workshops scheduled by the United States Institute of Peace. This Workshop, cosponsored by the Carter Presidential Center at Emory University in Atlanta, will be a roundtable on the issue of morality and foreign policy. Both the theory and practice of the relationship will be focused upon—first, through a discussion of a new piece of work on morality and national security by University of Virginia theologian David Little and, second, by a discussion (chaired by Institute of Peace President and former U.S. Ambassador to Israel Samuel W. Lewis) of real-world situations in which morality and national security come into conflict. Panelists will be drawn from the scholarly and policy-making worlds and include former President Jimmy Carter. Public observance is welcomed.

CONTACT: Ms. Aileen C. Hefferren, Telephone 202-457-1700 or the Carter Center at 404-420-5162.

Dated: April 21, 1989.

Charles Duryea Smith,

General Counsel.

[FR Doc. 89-10018 Filed 4-21-89; 3:31 pm]

BILLING CODE 3155-01-M

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Corrections

Federal Register
Vol. 54, No. 78
Tuesday, April 25, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1785

Cushion of Credit Account Computations and Procedures

Correction

In rule document 89-8022 beginning on page 13668 in the issue of Wednesday, April 5, 1989, make the following corrections:

1. On page 13669, in the first column, in the table of sections for Subpart A, the section number "1786.17" should read "1785.17".

§ 1785.17 [Corrected]

2. On the same page, in the same column, in Subpart A, a line of five asterisks should follow the heading for § 1785.17 to indicate that the text of that section remains unchanged.

BILLING CODE 1505-01-D

COMMODITY FUTURES TRADING COMMISSION

Establishment of the Commodity Futures Trading Commission Regulatory Coordination Advisory Committee

Correction

In notice document 89-9115 beginning on page 15245 in the issue of Monday, April 17, 1989, make the following corrections:

1. On page 15245, in the second column, the subject heading should read as it appears above.

2. On page 15245, in the second column, under **ACTION**, in the second line, "advisory commission" should read "advisory committee".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

34 CFR Part 690

Pell Grant Program

Correction

In rule document 89-8645 beginning on page 14788 in the issue of Wednesday, April 12, 1989, make the following correction:

On page 14788, in the first column, under **EFFECTIVE DATE**, in the second line, "May 30, 1989," should read "45 days after publication in the **Federal Register**".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-09-4214-10; I-08544]

Termination of Proposed Withdrawal and Reservations of Lands; Idaho

Correction

In notice document 89-6837 beginning on page 12024 in the issue of Thursday, March 23, 1989, make the following correction:

On page 12025, in the first column, under "T. 12 N., R. 12 E., (unsurveyed)", the second line should read "Sec. 6, SE¼SE¼;".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

Establishment of Second Local Public Document Room for the High-Level Waste Geologic Repository Site, Yucca Mountain, NV

Correction

In notice document 89-8619 beginning on page 14713 in the issue of Wednesday, April 12, 1989, the subject heading was inaccurate and should read as set forth above.

BILLING CODE 1505-01-D

federal register

Tuesday
April 25, 1989

Part II

Department of Labor

Employment and Training Administration

Research, Evaluation, and Pilot and Demonstration Projects Program: Availability of Funds (FY 1989) and Request for Applications (FY 1989 and 1990); Notice

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DEPARTMENT OF LABOR

Employment and Training Administration

Research, Evaluation, and Pilot and Demonstration Projects Program: Availability of Funds for Fiscal Year 1989 and Request for Applications for Fiscal Years 1989 and 1990

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of availability of funds and of solicitation for grant applications.

SUMMARY: The Employment and Training Administration announces the availability of funds for Fiscal Year (FY) 1989 for its Stewart B. McKinney Homeless Assistance Act Job Training for the Homeless Demonstration Program and is soliciting applications for FY 1989 and FY 1990.

DATES: The closing for receipt of applications under this announcement is 2:00 p.m. est on June 9, 1989. Applications submitted by mail and postmarked no later than June 5, 1989 will be considered.

Hand delivered means delivery by any private individual, messenger, courier or commercial delivery service with the exception of the U.S. Postal Service.

The term "postmark" means a printed, stamped or otherwise placed impression (exclusive of postage meter machine impression) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employees of the U.S. Postal Service.

ADDRESS: It is preferred that applications be mailed. Mail or hand deliver applications to: U.S. Department of Labor, Employment and Training Administration, Office of Financial and Administrative Management, Division of Acquisition and Assistance, Room C-4305, 200 Constitution Avenue NW., Washington, DC 20210, Attention: John Mitchka, Reference: SGA/DAA 89-301. To obtain an application package, contact John Mitchka, Division of Acquisition and Assistance, Telephone: (202) 535-0884.

FOR FURTHER INFORMATION CONTACT: John Mitchka, Division of Acquisition and Assistance, Telephone: (202) 523-7092.

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) announces the availability of funds for its Job Training for the Homeless Demonstration Program for FY 1989 and a Solicitation for Grant Applications under that program for FY 89 and FY 90. Funding for these grants is authorized by the Stewart B. McKinney Homeless Assistance Act, Pub. L. 100-77, section 731(a), 42 U.S.C. 11441, as amended by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628).

This program announcement consists of four parts. Part I provides background information on the ETA Research, Evaluation, and Pilot and Demonstration Projects Program. It describes the need for and the legislative background of job training for the homeless. Part II describes the program for which ETA solicits applications for funding of job training projects for homeless individuals. Part III describes the grant application process, and Part IV provides guidance on how to prepare and submit an application.

Part I—Background

A. ETA's PY 1988 and FY 1989 Research, Evaluation, and Pilot and Demonstration Program

This Solicitation for Grant Applications (SGA) notice, covering the general subject of job training for the homeless, is one of a series of such notice pertaining to different subject areas for which grant and contract awards will be made by ETA during Program Year (PY) 1988 (July 1, 1988-June 30, 1989) and during Fiscal Year (FY) 1989 (October 1, 1988-September 30, 1989), for research, evaluation, and pilot and demonstration (REP&D) projects.

These projects support the Department of Labor's (DOL) Workforce 2000 mission. According to recent DOL studies, the bulk of labor force entrants between now the year 2000 will consist of groups that have been traditionally underutilized or have experienced labor market barriers—*e.g.*, women, minorities, immigrants, and the homeless. At the same time, the employment base of the economy is changing in structure from that of manufacturing to services. Many new jobs will require higher levels of reading, communication, mathematical and problem-solving skills than at present.

We now face an unprecedented opportuntiy and need to help prepare those who have suffered chronic unemployment or underemployment—including homeless individuals—to meet the evolving requirements for workforce participation. The purpose of this program announcement is to solicit projects that will provide the information and data that are necessary before a national policy on training for the homeless may be developed.

In FY 1989, ETA will make grant awards for demonstration projects that provide for job training activities for homeless individuals. It is anticipated that a maximum of $6.809 million will be available in FY 1989 to support approximately 35 demonstration projects nationwide. The maximum amount for any of these grants will be $600,000. ETA intends to make grant awards during the fourth quarter of FY 1989 with a starting date of October 1, 1989. These funds must be expended by grantees by September 30, 1990. EPA may, at its option, extend these grants in FY 1990 and provide additional funding, if funds are available, performance has been acceptable, and it is determined to be in the best interest of the Government to do this. ETA may also, if funds are available for FY 1990, support additional projects from applications submitted under this notice.

B. The Homeless—Their Need for Employment and Training

No one knows exactly how many homeless people live in the United States. The estimates range from 250,000 to over 3 million individuals. It follows, therefore, that the number of proportion of the homeless who are employed, unemployed or employable is also unknown.

We do know that homeless persons often have a history of poverty. Further, while there are multiple and interrelated factors contributing to homelessness, the factor most often cited as contributing to homelessness is unemployment. Other factors often mentioned are the decline in the supply of low-income housing, and the deinstitutionalization of mentally ill patients.

We also know that the composition of the homeless population has changed. Unlike the stereotype of the Skid Row inhabitant of the past, in the 1980s the homeless are a heterogeneous population comprised of many subgroups. The homeless population is becoming younger, with an increase in minorities, women and families. There are more children (including runaways), veterans, immigrants, migrants, abuse victims, elderly, and handicapped people who are homeless. Many of the homeless are high school graduates and, despite unemployment being cited as a contributing factor to homelessness, many are employed.

While the unemployment rate has gone down dramatically since 1983, the impact the lower rate is having on those already homeless is unknown. Many homeless people acquire new problems from living on the streets and may not now be able to hold a job. Having no fixed address or home phone number compounds the difficulty in finding jobs.

C. Legislative Background

In July 1987, the Stewart B. McKinney Homeless Assistance Act (McKinney Act) become law. It is the first comprehensive Federal law to address the complex problem of homelessness in America. The law was amended effective November 7, 1988 (Pub. L. 100-628).

The McKinney Act was the result of Congress responding to its findings that the Nation faces a crisis due to lack of shelter for a growing number of individuals and families. Congress further found that the problem is expected to become worse because "the causes of homelessness are many and complex, and homeless individuals have diverse needs; [and] there is no single, simple solution to the problem because of the * * * different causes of homelessness, and the different needs of homeless individuals". McKinney Act, section 102(a) (3) and (4), 42 U.S.C. 1130(a) (3) and (4).

As part of the McKinney Act's comprehensive approach to addressing the problems of the homeless, section 731 of the McKinney Act (42 U.S.C. 11441) authorizes the Secretary of Labor to award grants for new job training demonstration projects for homeless individuals. The grants are administered by ETA. The overall program is called the Job Training for the Homeless Demonstration Program (JTHDP). It is intended to develop knowledge for future policy decisions on job training for the homeless. It authorizes funds for grants on a competitive basis to projects throughout the country that represent promising employment and training approaches for the homeless. Authorized activities for JTHDP grantees include remedial education, job search, job training, basic skills instruction, supportive services, outreach and coordination with related community programs. The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628), section 503, extended eligibility for grants to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. It also extended authorization for the program through FY 1990.

For FY 88, an appropriation of $7.7 million was received in December 1987. The Employment and Training Administration (ETA) began developing a grant solicitation notice in the fall of 1987 to move quickly when the money became available. The notice of fund availability and solicitation for grant applications was published in the **Federal Register** in April 1988. Applications were due June 20. As a result of the solicitation, ETA received 175 applications. These applications were reviewed by a technical panel. Thirty-three grants were awarded in late September and the grantees are currently operating projects.

ETA also administers the Job Training Partnership Act (JTPA), the Nation's major job training program for economically disadvantaged adults and youth. 29 U.S.C. 1501 *et seq.* JTPA does not specifically target programs on homeless individuals, although JTPA funds are being used to provide job training for homeless individuals in a number of localities. The job training demonstration program in the McKinney Act thus represents the first Federal effort specifically addressing employment-related problems of *all types* of homeless individuals.

In 1987, prior to the passage of the McKinney Act, the Office of the Assistant Secretary for Veterans' Employment and Training (OASVET) began targeted assistance for one subgroup of the homeless—the Jobs for Homeless Veterans Program—with discretionary funds set aside from Title IV, Part C, of JTPA (Veterans' Employment Programs). 29 U.S.C. 1721. Grantees (governmental units in selected cities) hire, trained and supervised veterans who have experienced homelessness to perform outreach to homeless veterans.

The McKinney Act at section 738 (42 U.S.C. 11448) provides for Homeless Veterans' Reintegration Projects (HVRP). The experience of the Jobs for Homeless Veterans Program will be used in the design and implementation of the HVRP. This program is administered by OASVET. The HVRP has also been reauthorized through FY 1990. It is a separate effort from the job training demonstration program discussed in this solicitation.

Part II—Program Description

A. Program Purpose and Goals

ETA's demonstration program is designed to be highly responsive to the intent of the McKinney Act. It has an overall purpose and two supporting goals. The overall purpose is:

—To provide information and direction for the future of job training programs for homeless Americans. The conferees acknowledged "that additional information and data are necessary before a detailed national policy on training for the homeless may be developed."

The supporting goals are:

—To gain information on how to provide effective employment and training services to homeless individuals to address the employment-related causes of homelessness and their job training needs; and

—To learn how States, local public agencies, private nonprofit organizations, and private businesses can develop effective systems of coordination to address the causes of homelessness and meet the needs of the homeless, including attainment of transitional or permanent housing outside of shelters.

The focus is on knowledge building to inform national policy, program content, and system development.

Recognizing the diversity of subgroups within the homeless population, ETA intends that the demonstration program as a whole will include the full spectrum of homeless people—not only the most job ready or those easiest to serve. Applicants may, however, propose projects that emphasize assistance to *subgroups* within the homeless population. These include—but are not limited to—the chronically mentally ill, substance abusers, families with children, single men, single women, and homeless youth. Because there is a separate program for homeless veterans under section 738 of the McKinney Act, 42 U.S.C. 11448, applicants may not propose programs that are limited solely to veterans.

ETA suggests that the "case management" approach is a preferred method for providing job training for the homeless. That is, one or more managers are charged with moving an individual through all the services necessary for placement and retention (for at least 13 weeks) in a stable job. The case management approach provides homeless individuals with a personal advocate to help negotiate bureaucratic obstacles. This approach has proved useful where there are multiple problems and an array of individual needs. This is not the only model, however, and other approaches will be considered.

B. Target Population

For purposes of this solicitation, the target population includes persons 14 years of age or older who are homeless. The term "homeless" or "homeless individual" includes persons who lack a fixed, regular, and adequate nighttime residence. It also includes persons whose primary nighttime residence is either a supervised public or private shelter designed to provide temporary living accommodations; an institution that provides a temporary residence for

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individuals intended to be institutionalized; or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

C. Activities for Which Support Is Available

ETA is interested in demonstrating innovative and replicable approaches to providing job training to the target population. Each project must: (1) Provide coordination and outreach activities designed to achieve referral of homeless people to these demonstration projects; (2) provide in-shelter outreach and assessment activities and, where practicable, pre-employment services in order to increase participation of the target population; and (3) provide or contract for job training activities. These activities must include one or more of the following:

—Remedial education activities and basic skills instruction;

—Basic literacy instruction;

—Job search activities;

—Job counseling;

—Job preparatory training, including resume writing and interviewing skills; and

—Any other activities described in section 204 of JTPA (29 U.S.C. 1604) which will contribute to carrying out the purposes and goals of these demonstration projects. (See Appendix A of this notice for the language of JTPA, section 204, 29 U.S.C. 1604).

Five of the activities in JTPA section 204 (29 U.S.C. 1604) that ETA wishes to single out as especially important to the homeless population for placement and retention in stable jobs are institutional skill training, on-the-job training, work experience, followup services, and supportive services.

Given the multiple problems and needs of many homeless individuals, ETA will give special consideration to applications that emphasize approaches to job training for adults (over age 21) that provide a continuity of service to individuals from application through the end of the retention-in-employment period. Applications that propose to serve homeless youth (ages 14 through 21) may emphasize approaches that emphasize employability enhancement, such as high school completion, rather than job placement.

D. Evaluation Component

All grantees will be required to participate in an evaluation process. Evaluation will be conducted at two levels: (1) Individual project evaluations; and (2) national evaluation across all grantee projects.

The national evaluation is being managed by ETA as specified in section 736 of the McKinney Act, 42 U.S.C. 11446. It must complete a report to the President, to the Congress, and to the Interagency Council by April 1, 1990. The national evaluation is anticipated to continue past the April 1990 reporting date in order to capture the experience of projects that continue in operation past that date. In addition to the Department of Labor's evaluation, the Interagency Council must evaluate each project receiving assistance.

Both individual project evaluations and the national evaluation shall include (as specified by section 736(b) of the McKinney Act, 42 U.S.C. 11446), information on:

—The number of homeless individuals served;

—The number of homeless individuals placed in jobs;

—The average length of training time under the project;

—The average training cost under the project; and

—The average retention rate of placements of homeless individuals after training. ETA defines the period over which retention is to be measured as 13 weeks.

Other measures, such as the number of homeless individuals placed in transitional or permanent housing outside of shelters, may be added to the national evaluation.

Grantees will participate in this effort by providing staff to administer the project evaluation, make data available for the project and national evaluations, and submit preliminary and final individual project evaluation reports. Grantee budgets must include expected costs for evaluation activities. A grant will not be awarded to an applicant unless it has included an evaluation component in its application.

The national evaluation is being conducted to (1) determine the effectiveness of the national demonstration program and (2) compare, to the extent possible, outcomes in different programs and/or communities. Effectiveness will be measured primarily in terms of the degree to which grantees have met program performance standards. The national evaluation staff will provide technical assistance to grantees on all aspects of the evaluation (including developing formats for acquiring compatible information from the grantees), conduct aggregate-level data analysis, and prepare the preliminary and final national evaluation reports.

E. Coordination

Section 732 of the McKinney Act (42 U.S.C. 11442) requires States to describe in their Comprehensive Homeless Assistance Plan (CHAP) how the State will coordinate job training demonstration projects with other services for homeless individuals under the Act. The CHAP is required in section 401 of the McKinney Act (42 U.S.C. 11361). To assist in this coordination, all applications must be reviewed for consistency prior to submittal to ETA by the organization in each State responsible for development of the CHAP.

F. Reporting Requirements

The grantee shall furnish the reports and documents listed below:

1. Financial Reports

The grantee shall submit quarterly, to the Grant Officer, Department of Labor, an original and two copies of standard form 269, Financial Status report.

2. Program Reports

(a) *Quarterly Progress Reports.* The grantee shall submit to the Federal Representative within 20 days following the end of each quarter, three copies of a quarterly progress report, which provides a detailed account of services provided during each quarter of grant performance. Reports shall include, in brief narrative form, such information as:

(1) A description of overall progress of work activities accomplished during the reported period;

(2) An indication of any current problems which may delay performance, and proposed corrective action, if any; and

(3) Program status and financial data/information relative to expenditure rate versus budget, anticipated staff changes, etc.

(b) *Detailed Content Outline of the Evaluation Report.* Five copies must be submitted.

(c) *Preliminary Evaluation Report.* This report shall summarize project activities and results and shall be submitted in 10 copies.

(d) *Final Evaluation Report.* This report shall summarize project activities and results and shall be submitted in 10 copies by the grant expiration date.

Part III—Application Process

A. Eligible Applicants

As specified in section 731(a) of the McKinney Act, 42 U.S.C. 11441(A), applications for 12 month projects may be submitted by State and local public agencies, by private non-profit organizations, and by private businesses. Applications may also be submitted by Indian tribes as specified in section 762(b) of the McKinney Act, 42 U.S.C. 11472.

Eligible applicants include—but are clearly *not* limited to—JTPA Private Industry Councils (PICs) and/or JTPA administrative entities at the State and local level. Individuals are not eligible to apply. ETA encourages applications that are developed jointly by State and local agencies, by private non-profit organizations and/or by private businesses because this helps to coordinate resources and achieve maximum benefit from the grant funds.

B. Federal Fiscal Requirements

Section 735 of the McKinney Act (42 U.S.C. 11445) limits the Federal share of the cost of activities. ETA will make grant awards for at least 50 percent and no more than 90 percent of the cost of activities described in the application. Applicants are encouraged to provide the highest feasible non-Federal share of the cost of the project. High cost-sharing demonstrates applicant commitment to continue the activities and enables limited Federal resources to produce the maximum amount of information useful for the future of job training programs for homeless Americans.

As specified in section 762(a)(1) of the McKinney Act, 42 U.S.C. 11472(a)(1), a minimum of 1.5 percent of the FY 1989 and 1990 appropriations will be allocated to Indian-tribe applicants.

Pursuant to section 735(c) of the McKinney Act 42 U.S.C. 11445(c) ETA will not make grants in any State under this solicitation in an aggregate in excess of 15 percent of the amount appropriated in FY 1989 and FY 1990 for this grant program. Grants to Indian tribes will count toward this per-State aggregate limitation.

C. Criteria for Screening and Review

All applications that meet the deadline will be screened to determine completeness and conformity to the requirements of this announcement. Complete, conforming applications will then be reviewed and evaluated competitively against the evaluation criteria specified below in 2.) Evaluation Criteria.

1. Screening Requirements

In order for an application to be in conformance it must include the following:

(a) SF 424, application for Federal Assistance.

(b) SF 424A, Budget information-non construction.

SF 424 and SF 424A with instructions may be obtained by contacting John Mitchka, Division of Acquisition and Assistance, Telephone: (202) 523-7092.

(c) Applicants are required to assure that they will pay the non-Federal share of the activities from non-Federal sources. The non-Federal share may be in cash or in kind, fairly evaluated, including plant, equipment and resources. The Non-Federal share specified in the application shall not be less than ten percent and not be more than 50 percent of total estimated costs.

(d) Project Narrative: The narrative portion of the application must not exceed twenty (20) double-spaced pages, typewritten on one side of the paper only. The capability statement must not exceed two doubled-spaced typewritten pages.

The narrative must address the elements specified in Section 733 of the McKinney Act, 42 U.S.C. 11443:

—A description of activities for which assistance is sought (what the project will do and how the project will be conducted);

—Plans for coordination and outreach activities, particularly with case managers and care providers, designed to achieve referral to the proposed project;

—Plans to offer in-shelter outreach and assessment activities and, where practicable, pre-employment services, to increase participation of homeless individuals;

—A description of the standards by which performance will be measured under the project (these standards need not bear any relationship to those required by JTPA section 106, 29 U.S.C. 1516, for adult and youth programs under JTPA Title IIA).

—Assurance that a preliminary evaluation will be completed not later than the end of the first calendar year of project assistance; and

—Assurance that the applicant will pay the non-Federal share of the activities from non-Federal sources.

(e) Letter from the relevant State agency indicating that the application has been reviewed for consistency with the Comprehensive Homeless Assistance Plan, as specified above in II E.

(f) Certification regarding a drug-free workplace

(a) Definitions. As used in this provision,

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11–1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

"Drug-free workplace" means a site for the performance of work done in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) By submission of its offer, the offeror, if other than an individual, who is making an offer that equals or exceeds $25,000, certifies and agrees, that with respect to all employees of the offeror to be employed under a contract resulting from this solicitation, it will—

(1) Publish a statement notifying such employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish a drug-free awareness program to inform such employees about—

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this provision;

(4) Notify such employees in the statement required by subparagraph (b)(1) of this provision, that as a condition of continued employment on the contract resulting from this solicitation, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug statute conviction for a

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violation occurring in the workplace no later than five (5) days after such conviction;

(5) Notify the contracting officer within ten (10) days after receiving notice under subdivision (b)(4) (ii) of this provision, from an employee or otherwise receiving actual notice of such conviction; and

(6) Within 30 days after receiving notice under subparagraph (a)(4) of this provision of a conviction, impose the following sanctions or remedial measure on any employee who is convicted of drug abuse violations occurring in the workplace;

(i) Take appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this provision.

(c) By submission of its offer, the offeror, if an individual who is making an offer of any dollar value, certifies and agrees that the offeror will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of the contract resulting from this solicitation.

(d) Failure of the offeror to provide the certification required by paragraphs (b) or (c) of this provision, renders the offeror unqualified and ineligible for award. (See FAR 9.104–1(g) and 19.602–1(a)(2)(i).)

(e) In addition to other remedies available to the Government, the certification in paragraphs (b) or (c) of this provision concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

2. Evaluation Criteria

Reviewers will score the applications, basing their scoring decisions on the following criteria.

(a) *Need for the Project: 10 points.* The application shall describe, in concrete terms, the problems of homeless individuals that prompt the applicant to propose the project. The application must discuss the need for the project in terms of its State and/or local significance, including estimates of the number of homeless individuals of the type proposed to be served in the area to be served. It must describe the importance of the issues to be addressed and how they relate to sec. 102 (Findings and Purpose) of the McKinney Act (42 U.S.C. 11301).

(b) *Project Service Methodology: 25 points.* The application must describe specific plans for conducting the project in terms of the tasks to be performed.

Project service methodology includes the following application elements, as specified in section 733 of the McKinney Act, 42 U.S.C. 11443:

—A description of activities for which assistance is sought (what the project will do and how the project will be conducted);

—Plans for coordination and outreach activities, particularly with case managers and care providers, designed to achieve referral to the proposed project. Coordination includes other services for homeless individuals discussed in the State CHAP;

—Plans to offer in-shelter outreach and assessment activities and, where practicable, pre-employment services, to increase participation of homeless individuals;

In addition to these elements of the application contained in the McKinney Act, the application must include:

—Discussion of the "plausibility" of the proposed project—the key assumptions underlying the project and evidence to support why the approach proposed is likely to accomplish the project objectives.

—Discussion (preferably incorporating a chart) providing a time-phasing of tasks and their interrelationships and demonstrating how the project will be started up, operated and phased out or supported when the grant period ends on September 30, 1990, and

—Discussion (preferably including client flow chart) which depicts the planned sequence of services to be provided to clients and the role of each participating organization.

(c) *Evaluation Methodology: 15 points.* Evaluation methodology includes the following application element, as specified in section 733 of the McKinney Act, 42 U.S.C. 11443:

—Assurance that a preliminary evaluation will be completed not later than the end of the first year of project assistance.

The application will also be scored on its description of evaluation activities, including methodology, measures, data sources, organization arrangements. This description must be consistent with the "Evaluation Component" section of Part II D, above, and should be consistent with the description of "Expected Outcomes," below.

(d) *Expected Outcomes: 10 points.* The proposed project is intended to result in a measurable, concrete reduction of a significant problem associated with homelessness that can be addressed by job training. Outcomes as opposed to process measures are preferred. These outcomes must include a clear description of project's performance standards as required by section 733(4) of the McKinney Act, 42 U.S.C. 11443(4). For the homeless population, ETA is especially interested in a high number of placements for adults and a high retention rate of placements over at least a 13-week period.

(e) *Level of Effort: 10 points.* The resources needed to conduct the project must be specified including personnel, time, funds, and facilities. These resources should be adequate to the work described in the application. The staff should be qualified and should have the skills required and demonstrated ability to produce the expected outcomes. The staffing pattern must clearly link responsibilities to project tasks. The total cost of the project must be reasonable in view of anticipated results. Collaborative efforts with other agencies or organizations must be clearly identified and written assurances referenced. A description by category (personnel, travel, etc.) of the total funds required and of the sources of outside support that will be used to meet the matching requirements must be included. The funds (total of Federal share and non-Federal share) must be specified. Projects proposing a higher non-Federal share will be considered more favorably under this criterion.

(f) *Organizational Capability: 30 points.* The application must provide a (maximum 3 pages double-spaced) background description of how the applicant organization (or the particular division of a larger organization which will have responsibility for this project) is organized and the types and quality of services it provides. It may include descriptions of any current or previous relevant experience in administrating and evaluating projects similar to those proposed for support in this solicitation (e.g., job training programs for homeless persons) and/or describe the competence of the project team and its demonstrated ability to produce service and evaluation results of the type proposed for support. It may include a description of the qualifications of key staff described in a few paragraphs rather than in formal vitae. This statement must include the names of contact persons from two organizations to which the applicant organization has provided services within the past 6 months. (If the applicant organization does not provide services to other organizations, the contact persons listed should be persons who can supply an independent assessment of the organizational capacity of the organization.) The statement must include the position of these contact persons within their organizations and their telephone numbers.

These evaluation criteria correspond to the narrative section of the application as specified in Part IV below. The descriptions of the six criteria above should be considered in developing the program narrative.

Applicants are advised that discussions may be necessary in order to clarify any inconsistencies in their applications. The final decision on the award will be based on what is most advantageous to the Federal Government as determined by the ETA Grant Officer. Evaluation by reviewers are advisory only to the Grant Officer.

Part IV—Instructions for Completing Applications

A. Contents

You are required to send an original and two copies of an application. Each application must contain five parts.

1. SF 424.

2. Project Narrative—should be no more than twenty (20) double-spaced typewritten pages, using one side of the paper only. Your narrative should provide information on how the application meets the evaluation criteria in Part III of this announcement.

We strongly recommend that you follow this format and page suggestions for the narrative:

a. Need for the Project (2 pages double-spaced).

b. Project Service Methodology (5–6 pages double-spaced).

c. Evalulation Methodology (2–3 pages double-spaced).

d. Expected Outcomes (3 pages double-spaced).

e. Level of Effort (2 pages double-spaced).

f. Organizational Capability Statement (3 pages double-spaced).

3. Letter from the appropriate State Agency reviewing application for consistency with the CHAP.

4. Certification Regarding a Drug-Free Workplace

The application may also contain letters that show collaboration or substantive commitment to the project by organizations other than the applicant organization. ETA suggests but does not require that applicants obtain such letters from local Private Industry Councils (PIC) and from chief elected officials (as defined in JTPA, section 4(4), 29 U.S.C. 1503(4), the State Governor or the governing body within a Service Delivery Area). Such letters are not part of the narrative and, therefore, are not counted against the twenty-page limit for the narrative. Letters received after the closing date will not be considered in the evaluation process.

5. SF 424 A. (Non-Construction)

Signed at Washington, DC, on April 17, 1989.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

Appendix A—Section 204 of the Job Training Partnership Act (29 U.S.C. 1604)

Sec. 204. Services which may be made available to youth and adults with funds provided under this title may include, but need not be limited to—

(1) Job search assistance,
(2) Job counseling,
(3) Remedial education and basic skills training,
(4) Institutional skill training,
(5) On-the-job training,
(6) Programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment,
(7) Training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply,
(8) Outreach to make individuals aware of, and encourage the use of employment and training services,
(9) Specialized surveys not available through other labor market information sources,
(10) Programs to develop work habits and other services to individuals to help them obtain and retain employment,
(11) Supportive services necessary to enable individuals to participate in the program and to assist them in retaining employment for not to exceed 8 months following completion of training,
(12) Upgrading and retraining,
(13) Education-to-work transition activities,
(14) Literacy training and bilingual training,
(15) Work experience,
(16) Vocational exploration,
(17) Attainment of certificates of high school equivalency,
(18) Job development,
(19) Employment generating activities to increase job opportunities for eligible individuals in the area,
(20) Pre-apprenticeship programs,
(21) Disseminating information on program activities to employers,
(22) Use of advanced learning technology for education, job preparation, and skills training,
(23) Development of job openings,
(24) On-site industry-specific training programs supportive of industrial and economic development,
(25) Followup services with participants placed in unsubsidized employment,
(26) Coordinated programs with other Federal employment-related activities,
(27) Needs-based payments necessary to participation in accordance with a locally developed formula or procedure, and
(28) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training.

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Tuesday
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Part III

Office of Management and Budget

Cumulative Report on Recissions and Deferrals; Notice

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OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

April 1, 1989.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of April 1, 1989 of six rescission proposals and 14 deferrals contained in the first three special messages of FY 1989. These messages were transmitted to the Congress by President Ronald Reagan on September 30 and November 29, 1988, and January 9, 1989.

Rescissions (Table A and Attachment A)

As of April 1, 1989, there are no funds being withheld related to rescission proposals. Two of the six rescission proposals made by the prior Administration (R89-5 and R89-6, as described in Attachment A) continue to be supported by President Bush as offsets to supplemental requests.

Deferrals (Table B and Attachment B)

As of April 1, 1989 $6,448.2 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1989.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals covered by this cumulative report are printed in the **Federal Register** listed below:

Vol. 53, FR p. 39679, Wednesday, October 12, 1988

Vol. 53, FR p. 49530, Wednesday, December 7, 1988

Vol. 54, FR p. 1650, Friday, January 13, 1989

Richard G. Darman,

Director.

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TABLE A

STATUS OF 1989 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by President Reagan.....	143.1
Accepted by the Congress as of April 1, 1989.....	0
Funding made available.....	123.1
Funding never withheld.....	20.0

NOTE: President Bush continues to support two rescission proposals (identified as R89-5 and R89-6 in Attachment A) as offsets to pending supplemental requests, even though the related funds have been made available. They total $6.4 million.

****

TABLE B

STATUS OF 1989 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by President Reagan.....	8,942.5
Routine Executive releases through April 1, 1989.. (OMB/Agency releases of $2,500.3 million and cumulative adjustments of $6.0 million)	-2,494.3
Overturned by the Congress.....	0
Currently before the Congress.....	6,448.2

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1989

As of April 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congression Action
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs:								
Subsidized housing programs.....	R89-1	20,000		1-9-89		(See note below.)		
Community Planning and Development:								
Urban development action grants.....	R89-2	51,651		1-9-89		51,651	2-28-89	
DEPARTMENT OF THE INTERIOR								
Fish and Wildlife Service:								
Land acquisition.....	R89-3	30,000		1-9-89		30,000	2-28-89	
National Park Service:								
Land acquisition and State assistance.....	R89-4	35,000		1-9-89		35,000	2-28-89	
DEPARTMENT OF JUSTICE								
Office of Justice Programs:								
Justice assistance.....	R89-5	5,000		1-9-89		5,000	3-16-89	
DEPARTMENT OF LABOR								
Employment Standards Administration:								
Black lung disability trust fund.....	R89-6	1,445		1-9-89		1,445	3-16-89	
TOTAL, RESCISSIONS.....		143,096				123,096		

NOTE. - The $20 million proposed for rescission in Rescission Proposal No. 89-1 was never withheld from obligation. Therefore, there was no need to release the funds.

Attachment B - Status of Deferrals - Fiscal Year 1989

As of April 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change (+)	Date of Message	Cumulative OMB/Agency Releases (-)	Congressionally Required Releases (-)	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 4-1-89
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit.....	D89-11	4,122,750		11-29-88	1,267,000				2,855,750
Economic support fund.....	D89-01	592,760		09-30-88					
	D89-01A		2,054,000	11-29-88	1,014,034				1,632,726
Military assistance.....	D89-12	457,000		11-29-88	141,500				315,500
International military education and training.....	D89-13	37,400		11-29-88	37,400				0
Agency for International Development									
International disaster assistance.....	D89-14	18,125		11-29-88	15,164				2,961
Special Assistance for Central America									
Promotion of stability and security in Central America.....	D89-2	1,000		09-30-88	1,000				0
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal.....	D89-3	144,649		09-30-88	751				143,898
Cooperative work.....	D89-4	335,263		09-30-88					335,263
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense.....	D89-5	1,212		09-30-88					1,212
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Southwestern Power Administration, Operation and maintenance.....	D89-6	2,800		09-30-88					2,800

Attachment B - Status of Deferrals - Fiscal Year 1989

As of April 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change (+)	Date of Message	Cumulative OMB/Agency Releases (-)	Congressionally Required Releases (-)	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 4-1-89
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction).....	D89-7	6,745		09-30-88					6,745
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund.....	D89-8	90,000		09-30-88					90,000
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive.....	D89-9	26,135		09-30-88					
	D89-9A		27,000	11-29-88	23,492			6,001	35,644
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	D89-10	823,608		09-30-88					
	D89-10A		202,084	11-29-88					1,025,692
TOTAL, DEFERRALS.....		6,659,446	2,283,084		2,500,341	0		6,001	6,448,190

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federal register

Tuesday,
April 25, 1989

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

Fair Housing Initiatives Program; Competitive Solicitation; Notice

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N-89-1960; FR-2618]

Fair Housing Initiatives Program; Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of funding availability.

SUMMARY: This notice solicits applications, from eligible State and local fair housing agencies and from public or private organizations formulating or carrying out programs to prevent or eliminate discriminatory housing practices, for funding under the Fair Housing Initiatives Program (FHIP). Applicants must meet specific eligibility criteria set forth in this notice and in 24 CFR Part 125 in order to qualify for consideration under this program. This notice pertains to competitive funding applications under the Education and Outreach Initiative which are State, local or regional in scope and to applications under the Private Enforcement Initiative. A separate notice will announce the funding of applications under the Education and Outreach Initiative which are national in scope.

FOR FURTHER INFORMATION CONTACT: Maxine B. Cunningham, Director, Federal, State and Local Programs Division, Office of Fair Housing and Equal Opportunity, Room 5212, 451 Seventh Street SW., Washington, DC 20410-2000. Telephone: (202) 755-0455. (V and TDD) (This is not a toll-free number.) Application kits are available upon written or telephone request from the above. To ensure a prompt response, it is suggested that requests for application kits be made by telephone.

DATES: An application for funding under this notice must be submitted between May 16, 1989 and June 16, 1989, unless it qualifies for a late application exception as specified in the application kit and is received before funds are awarded.

SUPPLEMENTARY INFORMATION: The legislation creating the Fair Housing Initiatives Program (FHIP), approved by the President on February 5, 1988, authorizes the Secretary to provide funding to State and local government or their agencies, public or private non-profit organizations, or other public or private entities formulating or carrying out programs to prevent or eliminate discriminatory housing practices. These funds will enable the recipients to carry out activities designed to obtain inforcement of the rights granted by the Federal Fair Housing Act or by substantially equivalent State or local fair housing laws, and education and outreach activities designed to inform the public concerning rights and obligations under such Federal, State or local laws prohibiting discrimination. Funding of enforcement of Fair Housing laws may include activities involving use of judical as well as administrative enforcement procedures.

The FHIP has three funding categories: The Administrative Enforcement Initiative, the Education and Outreach Initiative, and the Private Enforcement Initiative. This notice announces the availability of funding under the Education and Outreach Initiative for applications that are State, local or regional in scope and the availability of funding under the Private Enforcement Initiative.

Funds under the Education and Outreach Initiative which are State, local or regional in scope are available to State and local fair housing agencies, Community Housing Resources Boards, traditional civil rights organizations and other governmental, public and private agencies and organizations. Funding will be based upon the submission of applications for projects designed to inform and educate the general public and housing groups about fair housing rights and responsibilities under Federal, State and local fair housing laws and upon applications for outreach projects which promote specialized support and coordinated methods to provide for fair housing.

Funds under the Private Enforcement Initiative are available to non-profit organizations and other private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. The purpose of these awards is to assist in developing, implementing, carrying out, or coordinating programs or activities designed to obtain enforcement of the rights granted by the Fair Housing Act or State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in the Fair Housing Act. Projects eligible for funding include: (1) Conducting investigations to document systemic discrimination in housing, (2) professionally conducting testing or other investigative support for administrative and judicial enforcement, (3) linking fair housing organizations regionally to address broader market discriminatory practices, and (4) establishing effective means of meeting legal expenses related to the litigation of fair housing cases.

Background

Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3600-20 (The Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Federal Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and to render technical assistance to public or private entities carrying out programs to prevent or eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987 (Pub. L. 100-242) established the Fair Housing Initiatives Program to strengthen the Department's effort to enforce the Federal Fair Housing Act and to further fair housing. This program is intended to assist projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws.

Other Matters

The program components of the Fair Housing Initiatives Program are described in the Catalog of Federal Domestic Assistance at 14.408, Administrative Enforcement Initiative; 14.409, Education and Outreach Initiative, and 14.410, Private Enforcement Initiative.

Application requirements associated with this program have been approved by OMB and assigned approval number 2529-0033.

An independent evaluation of the FHIP Testing Guidelines will be conducted during the implementation of the programs funded under this notice. This evaluation will be conducted by HUD's Office of Policy Development and Research. Recipients of funds will be required to cooperate fully with this evaluation, including collecting and reporting a minimal amount of information.

I. General Provisions Governing Applications for Assistance

Each application for funding under the Fair Housing Initiatives Program must contain the items set forth below. Each application will be assessed against the general selection criteria set forth in this Notice of Funding Availability.

Recipients will be expected to comply with the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and 24 CFR Part 8. Section 504 prohibits discrimination based on handicap in federally assisted programs.

A. A description of the practice (or practices) at the community, regional or national level which has affected adversely the achievement of the goal of fair housing. This description must include a discussion and analysis of the housing practices identified, including available information and studies relating to discriminatory housing practices and their historical background, and relevant demographic data indicating the nature and extent of the impact of such practices on persons seeking dwellings or services related to the sale, rental and financing of dwellings, in the general location where the applicant proposes to undertake activities;

B. A description of the specific activities to be conducted with FHIP funds, including the final products and any reports to be produced, the cost of each activity proposed and a schedule for completion of the funded activities;

C. A description of the applicant's experience in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

D. A statement indicating the need for Federal funding in support of the proposed project; and an estimate of such other public or private resources as may be available to assist the proposed activities;

E. A description of the procedures to be used by the applicant for monitoring the conduct and for assessing the results of the proposed activities;

F. A description of the benefits which successful completion of the project will produce to enhance fair housing and the concerns identified, and the indicators by which these benefits are to be measured; and

G. A description of the expected long term viability of project results.

II. General Selection Criteria for Ranking Applications for Assistance

All projects proposed in applications will be ranked on the basis of the following criteria for selection:

A. The anticipated impact of the project proposed on the concerns identified in the application (25 points);

B. The extent to which the applicant's professional and organizational experience will further the achievement of project goals (25 points);

C. The extent to which the project will provide benefits in support of fair housing after funded activities have been completed 20 points);

D. The extent to which the project utilizes other public or private resources that may be available 20 points); and

E. The extent to which the project will provide the maximum impact on the concerns identified in a cost-effective manner (10 points).

F. Further Clarification of Factors for Award

1. In determining the anticipated impact of the proposed project, HUD will consider the degree to which a proposed project addresses problems and issues that are significant fair housing problems and issues within the jurisdiction, as explained in the application or based upon other information available to HUD. Clarity and thoroughness of project description can be considered in this determination.

2. In determining the extent to which the applicant's professional and organizational experience will further the achievement of project goals, HUD will consider the experience and qualifications of existing personnel identified for key project positions, or a description of the process and qualifications to be used for selection of key personnel, including subcontractors/consultants, as well as the organization's past and current experience. Such experience should include both fair housing experience and experience in implementing education or outreach programs.

3. In determining the extent to which the project will provide the maximum impact on the concerns identified in a cost-effective manner, HUD will consider reasonableness of the proposed timetable for implementation and completion of the project, as well as the adequacy and clarity of proposed procedures to be used by the agency for monitoring progress of the project and ensuring timely completion. HUD will also consider information provided regarding how the project is cost effective.

4. In determining the extent to which the project will provide benefits after funded activities have been completed, HUD will consider the degree to which other project is of continuing use in dealing with housing discrimination.

5. In determining the extent to which other public or private resources are available, HUD will consider both monetary and in-kind resources.

G. Cost Factors—Cost will be the deciding factor when complete and eligible applications are evaluated against the factors for award and considered to be technically equivalent. Furthermore, an application may not be funded when costs are determined to be unrealistically low or unreasonably high.

H. Program Policy Factor-After eligible applications are evaluated against the factors for award, the Assistant Secretary will review the geographical distribution of potential recipients. In making awards, the Assistant Secretary may exercise discretion to make awards out of rank order for the purpose of ensuring equitable geographic distribution, or to minimize duplication of education and outreach efforts in a given State, region or locality.

II. The Education and Outreach Initiative

A. Eligibility

The following types of organizations are eligible to receive funding under the Education and Outreach Initiative:

1. State or local governments;

2. Public or private non-profit organizations or institutions, and other public or private entities (including Community Housing Resource Boards) that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices.

B. Scope

Applications are solicited for specialized project proposals as described in 24 CFR 125.303 and in this section III.B.

This notice announces funding under this Initiative for the development of State, regional or local media campaigns or other special efforts to educate the general public and housing industry groups about fair housing rights and obligations.

All projects must address or have relevance to housing discrimination based on race, color, religion, sex, handicap, familial status or national original.

Educational projects that may be funded under the Education and Outreach Initiative may include (but are not limited to) the following:

1. Developing informative material on fair housing rights and responsibilities;

2. Developing fair housing and affirmative marketing instructional material for education programs for State, regional and local housing industry groups;

3. Providing educational seminars and working sessions for civic associations, community-based organizations and other groups; and

4. Developing educational material targeted at persons in need of specific or additional information on their fair housing rights.

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Outreach projects that may be funded under the Educational and Outreach Initiative may include (but are not limited to) the following:

1. Developing State, regional or local media campaigns regarding fair housing;
2. Bringing housing industry and civic or fair housing groups together to identify illegal real estate practices and to determine how to correct them;
3. Designing specialized outreach projects to inform persons of the availability of housing opportunities;
4. Developing and implementing a response to new or more sophisticated practices that result in discriminatory housing practices; and
5. Developing mechanisms for the identification of and quick response to housing discrimination cases involving the threat of physical harm.

C. Applications for Funding

In addition to meeting the application requirements contained in Section I. above, all applications for Education and Outreach Initiative funding must describe how the activities or the final products of the project can be used by other agencies and organizations within the jurisdiction and in other jurisdications and what modifications, if any, would be necessary.

D. Coordination of Activities

Each non-governmental applicant for funding which is located within the jurisdiction of a State or local enforcement agency or agencies administering a fair housing law which has been recognized by the Department under 24 CFR Part 115 as being a substantially equivalent fair housing law must provide with its application evidence that it is has consulted with the agency or agencies to coordinate activities to be funded under the Education and Outreach Initiative.

E. Program Totals and Funding Estimates

Approximately $300,000 is available under this Notice for Education and Outreach funding. HUD estimates that approximately ten applications will be funded.

F. Applications

An applicant may submit only one application, but may propose more than one type of activity under this Initiative. Applicants must submit all information required in the application kit and must include sufficient information to establish that the application meets the criteria set forth at sections I., II. and III.C. above.

Applicants must provide information to establish that they meet the eligibility criteria in III.A. above. Projects should be no longer than 12 months in duration.

Projects shall not be proposed that are planned for implementation with applicant funds and would simply substitute FHIP funds for applicant funds. Projects that appear to be aimed solely or primarily at research or data gathering unrelated to existing or planned fair housing education or outreach programs will not be approved. Data gathering activities will require OMB approval under the Paperwork Reduction Act before commencement of the activity.

G. Award Procedures

Applications for funding under this initiative will be evaluated competitively, and awarded points based on the Factors for Award identified in section II above. Applications will be reviewed by a HUD Technical Evaluation Panel. The final decision rests with the Assistant Secretary or the Assistant Secretary's designee.

IV. Private Enforcement Initiative

A. Eligibility

The types of organizations which are eligible to receive assistance under the Private Enforcement Initiative are private non-profit organizations and other private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. Organizations which can be eligible include, for example, private non-profit fair housing and civil rights groups.

All applications for funding must have relevance to matters pertaining to housing discriminations based on race, color, religion, sex, handicap, familial status or national origin.

B. Scope

Applications are solicited for specialized project proposals as described in 24 CFR 125.403 and 125.404 and in this notice.

Project applications may involve:

1. Conducting investigations of systemic housing discrimination;
2. Professionally conducting testing or other investigative support for administrative and judicial enforcement;
3. Linking fair housing organizations regionally in enforcement activities designed to combat broader market discriminatory practices; and
4. Establishing effective means of meeting legal expenses in support of litigation of fair housing cases.

No recipient of assistance under the Private Enforcement Initiative may use any funds provided by the Department for the payment of expenses in connection with litigation ag inst the United States.

Recipients of funds under this initiative shall be required to record in a standardized format, to be supplied by HUD, information appropriate to the funded project relating to the number of complaints or allegations of discrimination received; the basis of these complaints; type and number of tests utilized in the investigation of each allegation; time of case processing, including administrative or judicial case processing; the cost of testing activities and case processing; and case outcome or relief provided.

C. Applications for Funding

In addition to meeting the application requirements contained in Section I. above, all proposals for testing under the Private Enforcement Initiative must include:

1. Documentation that the applicant has at least one year of experience in carrying out a program to prevent or eliminate discriminatory housing practices and has sufficient knowledge of fair housing testing to enable the applicant to implement a testing program successfully;
2. A certification providing that the applicant will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant for a 12-month period following a test;
3. A description of the process to be used to recruit testers;
4. A description of the tester training program;
5. Copies of forms used to document allegations and to record the experience of testers; and
6. A written agreement to cooperate fully with the HUD sponsored evaluation of this program.

A recipient failing to comply with the testing requirements or the procedures set forth in its application for funding shall be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the initiative, reduction or limitation of further funding for investigatory activities, and denial of further participation in programs of the Department or of any Federal agency.

The recipient must agree to notify HUD of all complaints of all cases involving matters cognizable under the Federal Fair Housing Act.

D. Guidelines for Conduct of Funded Testing

Testing activities funded under the Private Enforcement Initiative must conform to the guidelines in 24 CFR 125.405. These guidelines are not intended to restrict individuals or entities participating in the Fair Housing Initiatives Program from pursuing any right or remedy guaranteed by Federal law, or from the conduct of other testing or other investigative activities not funded under the Private Enforcement Initiative.

Eligible testing activities must be conducted in accordance with procedures contained in the application for assistance. These procedures shall include the following:

1. A formal recruitment process designed to obtain a pool of credible and objective persons to serve as testers. Recuits must not have prior felony convictions or convictions of crimes involving fraud or perjury.
2. A tester training program which will
   a. Require the careful recordation of all relevant information on standardized forms, signed by the respective testers, following completion of the test;
   b. Prohibit any communication between pairs of testers relating to the conduct of the test or to testing experiences or results until all information has been recorded and the testers debriefed by the testing coordinator;
   c. Require that the same or substantially equivalent type of housing accommodations, financing, or service be requested; and
   d. Require that, to the extent practicable, testers identify themselves as having the same or substantially equivalent housing needs and demographic profile as the person who made the bona fide allegation, except for the race, color, religion, sex, handicap, familial status, nationality, or other attribute which is the basis of the alleged discrimination. In cases of testing for systemic discrimination (e.g., a pattern or practice of discriminatory housing practices by a housing provider or lender), demographic profiles may vary from that of the person who made the bona fide allegation so long as the test of each agent or owner is a "paired" test. For the purpose of these guidelines, a "paired test" means that the two testers who conduct the "paired test" shall
   i. Have the same or substantially similar demographic profiles except for their race, color, religion, handicap, familial status, sex, nationality, or other attribute which is the basis of the alleged discrimination;
   ii. Have the same or substantially similar housing requirements;
   iii. Initiate the test at the same office or in the same or substantially similar transactional conditions and circumstances; and
   iv. Conduct the test in a timely manner.
3. A tester assignment and control system which will assure that neither the tester, nor the organization conducting the test, including its employees and agents
   a. Has an economic interest in the outcome of the test, (without prejudice to the right of any person or entity to recover damages for any cognizable injury); or
   b. Has a specific bias toward either the person who made the bona fide allegation or the respondent; is a relative of one of the parties in the case; has had any employment or affiliation within one year with the person or organization to be tested; is a licensed competitor of such person or organization in the listing, rental, sale, or financing of real estate property; or has any other specific bias or conflict of interest which would prevent or limit his or her objectivity or fairness.

E. Program Totals and Funding Estimates

Approximately $3,000,000 is available under this notice for the Private Enforcement Initiative. Approximately $2,550,000 will be reserved for funding of testing activities; however, HUD retains the right to shift funds to other activities if we do not receive sufficient number of acceptable applications for testing activities. Acceptability will be determined based upon criteria for eligibility, completeness of budget information, and factors for award. HUD anticipates that approximately 30 projects will be funded.

F. Applications

Applicants may submit only one application; but may propose more than one type of activity in that application. Applicants must submit all information required in the application kit and must include sufficient information to establish that the application meets the criteria set forth at sections I. and IV.C., above.

Projects should be no longer than 12 months in duration. Projects that appear to be aimed solely or primarily at research or data gathering unrelated to existing or planned fair housing enforcement programs will not be approved. Data gathering activities will require OMB approval under the Paperwork Reduction Act before commencement of the activity.

G. Award Procedures

Applications for funding under this initiative will be evaluated competitively, and awarded points based on the Factors for Award identified in section II above. HUD will review the applications and assess them against the materials submitted by the applicant in its application. The final decision rests with the Assistant Secretary or the Assistant Secretary's designee.

V. Applicant Notification and Award Procedures

The following procedures are applicable to all funding under this notice.

A. Notification

No information will be available to applicants during the period of HUD evaluation except for notification in writing to those applicants that are determined to be ineligible. Awards are expected to be announced by HUD within three months of the closing date.

B. Negotiations

After HUD has ranked the applications and made an initial determination of applicants whose scores are above the funding threshold (but before the actual award), HUD may require that applicants in this group participate in negotiations and submit application revisions resulting from those negotiations. In cases where it is not possible to conclude the necessary negotiations successfully, awards will not be made. Negotiations will not be used to raise the rankings of applications that would otherwise fall below the funding threshold.

If an award is not made to an applicant whose application above the initial funding threshold because of an inability to complete successful negotiations, and if funds are available to fund any applications that may have fallen below the initial threshold, HUD will establish a new funding threshold and proceed as described in the preceding paragraph.

C. Funding Instrument

HUD expects to award a cost reimbursable cooperative agreement to each successful applicant. HUD reserves the right, however, to use the form of assistance agreement determined to be most appropriate after negotiation with the applicant.

Authority: Section 561 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988); Title VIII, Civil Rights Act of 1968 (42 U.S.C. 3600-

20); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Date: April 17, 1989.

Thomas D. Casey,

Acting General Deputy, Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 89-9653 Filed 4-24-89; 8:45 am]

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Part V

Department of Transportation

Urban Mass Transportation Administration

49 CFR Part 611

Major Capital Investment Projects; Proposed Rulemaking

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DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 611

[Docket No. 89-A]

RIN 2132-AA22

Major Capital Investment Projects

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is issuing this notice of proposed rulemaking to implement the requirements of section 303 of the Surface Transportation and Uniform Relocation Assistance Act of 1987. The proposed regulation defines the procedures applicants must follow in developing fixed guideway (i.e., "new start") projects. It further sets forth the means by which UMTA will evaluate cost-effectiveness, the results of alternatives analysis, and the degree of local financial commitment as required by law.

DATES: Comment due date: Written comments should be received by June 26, 1989.

ADDRESS: Written comments should be addressed to: U.S. Department of Transportation, Urban Mass Transportation Administration, Office of the Chief Counsel, Docket No. 89-A, 400 Seventh Street, SW., Room 9316, Washington, DC, 20590. Comments will be available for review by the public at this address from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Samuel L. Zimmerman, Director, Office of Planning Assistance, UMTA, Washington, DC, (202) 366-2360.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Government has provided a large share of the Nation's capital investment in urban mass transportation since the early 1970's. By the mid-1970's, because of the magnitude and scheduled duration of commitments being proposed, the Department found it useful to publish a statement of Federal policy to ensure that available Federal resources would be utilized in the most prudent and effective manner. Such a statement was issued in 1976, and was supplemented and revised in 1978, 1980, and 1984. The policy statements defined the procedures to be followed to advance proposed fixed guideway projects to the point where a commitment of Federal discretionary funds could be considered. In addition, in the 1984 policy, a rating system was established for identifying those projects that were considered to be the best candidates for the limited Federal discretionary funding available. The rating system was deemed to be necessary because the demand for Federal new start funding far exceeded the amount of discretionary funding that was likely to be available.

The key precepts of these policy statements were incorporated into law when Congress enacted the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). In section 303 of STURAA, which added subsection 3(i) to the Urban Mass Transportation Act of 1964, as amended (UMT Act), Congress established a set of criteria to be used to determine fixed guideway transit projects eligible for Federal discretionary funding. Specifically, the law states that "[n]o grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may be made under this section unless the Secretary determines that the proposed project (1) is based on the results of an alternatives analysis and preliminary engineering, (2) is cost-effective, and (3) is supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension." Section 303 further directs the Secretary to promulgate a regulation setting forth the means "by which the Secretary will evaluate cost-effectiveness, results of alternatives analysis, and the degree of local financial commitment." In section 304 of STURAA, the Congress directs the Secretary to transmit, by January 20 of each year, a report which contains "a proposal of the allocation of the funds to be made available to finance grants and loans for the construction of new fixed guideway systems and extensions of fixed guideway systems among applicants for such assistance."

This proposed rulemaking would constitute the regulation called for by STURAA section 303. Readers should note that the proposed regulation consists of three parts: the text of proposed §§ 611.1 through 611.15, and Appendices A and B. Appendix A to Part 611 sets out the policies and procedures for the development of major urban mass transportation investments. Appendix B to Part 611 explains the rating system the Department would use each year to prepare its recommended allocation of section 3 new start funds.

It also should be noted that, for the past several years, the Department has opposed a continuation of the section 3 program, including discretionary funding for new starts. Specifically, the Department proposed to terminate the discretionary transit grant program funded by one penny of the Federal gasoline tax and distribute these funds by formula. This proposal reflected the need to reduce the Federal budget deficit through reductions in spending. The purpose of this notice of proposed rulemaking is to comply with the requirements of STURAA section 303, and readers of this notice should not infer that the current Administration supports a continuation of the section 3 New Start Program.

Agency Policy Statements

A brief review of the elements of the earlier agency policy statements provides a useful perspective. Experience with these policies has shown that fixed guideway transit systems are not, in many cases, as cost-effective as less capital intensive solutions to local transportation problems. Nevertheless, rail transit and bus guideway projects may be cost-effective solutions to local transportation problems in heavily traveled corridors with large concentrations of employment and other urban activities.

A 1976 policy statement established a process-oriented approach, designed to allow each urban area to take into account its unique characteristics in the planning, design and implementation of transportation improvements. It required as a condition of eligibility for Federal assistance that alternative investment strategies be considered in order to determine which investment best served the locality's transportation needs, promoted its social, economic, environmental and urban development goals, and supported national aims and objectives. Cost-effectiveness was defined in these general terms and a demonstration of cost-effectiveness was required for projects to be advanced for Federal funding assistance. The 1976 statement stressed the need to consider combinations of transit modes and technologies appropriate to the transportation service requirements of specific corridors, and required major fixed guideway systems to be implemented incrementally, with priority given to the most immediate needs of the locality. It called for the analysis of a comprehensive Transportation System Management (TSM) alternative, representing the best that can be done to improve transit service without making a major capital investment. These TSM actions typically include expanded bus service, paratransit, ridesharing, traffic engineering and regulatory and pricing strategies (but not fixed guideways) to facilitate transit and high-occupancy vehicle flow on existing highway facilities. It also called for actions to enhance a project's accessibility and convenience, and to improve the quality of transportation service in other parts of the metropolitan area which would not be served by the fixed guideway project. Finally, the 1976 statement emphasized the importance of public involvement throughout the development process.

A 1978 agency policy reinforced the 1976 policy and added further considerations. It explicitly stated that approval of a preliminary engineering grant would not imply any commitment to finance construction of a project. It required the development of a stable and reliable source of funding to cover operating deficits, and specified that construction grant contracts would be negotiated with a fixed ceiling on the Federal contribution, subject to a defined method of adjustment for inflation (the full funding contract). The 1978 statement suggested that the formal pledge of assistance known as the Letter of Intent be considered after preliminary engineering. Finally, it required local commitment to enhance prospects for economic viability of fixed guideway projects; for example, zoning policies and development incentives to stimulate high density private real estate development around selected transit stations.

A 1980 revised agency policy linked project development procedures more closely to the environmental impact statement (EIS) process. It allowed conceptual engineering studies during the preparation of the alternatives analysis and draft EIS, and completion of the final EIS during preliminary engineering rather than before that stage. The 1980 revised policy specified that a Letter of Intent would be considered only upon completion of circulation of the final EIS, and that it had to be based upon a comparison of the proposed project with other projects then pending. However, neither this statement nor the earlier ones specified how such an intercity comparison of projects might be made, describing only a process for sorting out alternatives within each urban area.

On May 18, 1984, UMTA published a revised Statement of Policy on Major Urban Mass Transportation Capital Investments in the Federal Register (49 FR 21284). The basic tenets and processes of the earlier statements were essentially retained and described anew in a section entitled "Project Development Process and Procedures," which also took into account recent legislation. The important addition, however, was that UMTA's own evaluation process was made more explicit. The policy described an intention to use more quantifiable techniques for evaluating proposals. Two primary criteria—cost-effectiveness and local fiscal effort—were established for rating new start projects and identifying those most worthy of Federal discretionary funding. The policy also identified threshold criteria that must be met before a project would be advanced from system planning to alternatives analysis and from alternatives analysis to preliminary engineering. In these respects, the 1984 statement was an attempt to make more operational the policy framework developed in earlier statements. It also responded to the legislative history of the Surface Transportation Assistance Act of 1982 which spoke to financing cost-effective fixed guideway projects and to extra local fiscal effort being taken into account. Specifically, the 1984 statement reflected language in the 1984 Senate Appropriation Report, Adopted in the Conference Report, suggesting that the principal factors to be considered should be the results of alternatives analysis, cost-effectiveness, and the degree of local financial commitment, including evidence of stable and reliable funding sources to maintain and operate the system. The conference report also suggested that UMTA consider the degree of local government support, private sector support, community support, and participation of minority business in new start projects.

The position taken in the 1984 statement was that if these policy tenets were given better definition and clarity in an operational rating system, fixed guideway investments had a place in the array of projects which would be considered for Federal transit funding. The alternative of trying to cope with unconstrained local demand without a clear evaluation system was viewed as unworkable.

With the enactment of section 303 of STURAA, Congress specifically has endorsed the principle that UMTA fund only those new start projects most deserving of Federal investment. As further noted in the STURAA legislative history, Congress clearly has directed that new start projects which are recommended for funding should be those, based on the results of alternatives analysis and preliminary engineering, which best contribute to the achievement of program goals, are cost-effective relative to other projects, and are supported by an acceptable degree of financial commitment, including evidence of stable and dependable funding sources to construct, maintain and operate the proposed project, along with the rest of the transit system in the area.

II. Today's Proposed Rule

This proposed rulemaking would constitute the regulation called for by section 3(i) of the UMT Act, as added by section 303 of STURAA. This rule, once promulgated, would be used by UMTA to evaluate cost-effectiveness, the results of alternatives analysis, and the degree of local financial commitment. This section of the preamble discusses the major elements of the proposed rule.

To a large degree, this proposed regulation builds upon the 1984 policy statement. It contains three parts: the text of proposed §§ 611.1 through 611.15, and two appendices. In gist, the text of proposed §§ 611.1 through 611.15 is drawn from the "Project Development Process and Procedures" section of the 1984 policy statement. The process for developing major urban mass transportation investments includes four general phases prior to actual construction: system planning, alternatives analysis, preliminary engineering, and final design. Approval by the UMTA Administrator is required before initiating the alternatives analysis, preliminary engineering, and final design phases. As proposals are advanced through these phases, estimates of their costs, effects, and impacts are developed and refined.

Appendix A, entitled "Policies and Procedures on the Development of Major Urban Mass Transportation Investments," is similarly an extension of the "Project Development Process and Procedures" section of the 1984 policy statement. Appendix B, "Description of the Major Investment Rating System," is drawn from the section of the 1984 policy statement entitled "Description of the Rating System."

This proposed rule also reflects UMTA's new incentive program for discretionary transit grants. On March 13, 1989, Secretary of Transportation Samuel Skinner announced a number of proposals to encourage transit agencies to "overmatch" Federal grant funds (i.e., to provide more than the legally stipulated non-Federal matching share of 25 percent).

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A. Cost-Effectiveness

In this NPRM, UMTA is proposing to rely upon the cost-effectiveness criteria and cost-effectiveness thresholds established by the 1984 policy statement to determine whether or not a project is cost-effective per section 3(i) of the UMT Act.

The cost-effectiveness indices and thresholds are derived from the statutory objectives expressed in section 2 of the UMT Act. These objectives recognize that, while the primary responsibility for mass transit rests with State and local governments, there is a Federal interest in the provision of an essential level of urban mobility for the public by financially assisting the development of efficient urban mass transportation networks. The Federal interest is not necessarily an interest in networks which may provide maximum comfort, convenience, amenity and other such benefits.

Projects that fail to meet one of UMTA's cost-effectiveness thresholds will not be considered eligible for Federal participation under section 3 of the UMT Act. These thresholds rely on numerical indices that represent the ratio formed by dividing project-related costs by measures of transportation benefit. Appendix B explains how these indices are computed.

In summary, two cost-effectiveness indices are used to provide a quantitative measure of cost-effectiveness: The "new trip index" and the "user benefit index." The new trip index, introduced in UMTA's 1984 Major Capital Investment Policy, recognizes two measures of benefit for fixed guideway projects: changes in transit ridership and travel time savings for existing riders. The index is computed as a ratio in which annualized capital and operating costs comprise the numerator, and ridership changes constitute the denominator. Travel time savings are converted to their monetary equivalent using an average value of time, and are incorporated in the index as an offset to costs. The index takes the form of incremental cost (annualized capital and operating, less travel time offsets) per new transit trip.

The user benefit index has been developed to overcome several computational problems UMTA has encountered in using the new trip index over the past four years, as well as to respond to comments on the 1984 policy statement. This new measure combines ridership increases with travel time savings into a single measure of user benefits, and takes the form of cost (annualized capital and operating) per hour of user benefit. In theory, the user benefit measure should provide a more valid basis for project evaluation, but it has not been tested widely in practice and many local studies have not yet produced the data needed to compute user benefits. UMTA is requesting local agencies currently engaged in major investment project planning to prepare information that can be used to compute the user benefit measure. UMTA intends to use both the old measures of benefit (ridership increases and travel time savings) and the new user benefit measure to determine cost-effectiveness.

The thresholds to be used in UMTA's cost-effectiveness determination are based upon the value of a new transit rider and the value of an hour of user benefit. The thresholds identify, from the Federal perspective, the point beyond which the cost of achieving new transit ridership or user benefits is clearly excessive. Thus, these thresholds delineate the point beyond which a project cannot be considered cost-effective, and should not be funded.

For the new trip index, UMTA proposes a threshold of $6 per new trip, which matches the threshold that UMTA established for entering preliminary engineering under the 1984 policy statement. This threshold is based upon a 1984 study which found that a new transit trip would produce, on average, about $2.80 in direct user benefits. The calculation of direct user benefits in this study was based on a generous estimate of potential savings in parking costs, travel time, and auto operating costs for the average commuter who shifts from auto to transit. UMTA has factored the estimate from this study upward to $6, recognizing that fixed guideways may also produce indirect benefits, such as reduced emissions of air pollutants and support for desirable urban development. UMTA believes that this factoring—which is essentially a doubling of direct benefits—gives the benefit of any doubt to projects that might otherwise be deemed of questionable merit.

For the user benefit index, UMTA proposes a threshold of $8 per hour of user benefit. This threshold assumes that the perceived value of travel time for work trips is $4 per hour, reflecting 1984 wage rates and the relationship between wage rates and travel time values established by research literature. The perceived value of travel time also was factored upward to recognize potential indirect benefits. As with the cost per trip index, direct benefits have been doubled to establish this threshold value.

These thresholds are currently under review to make sure they relect the current cost of owning and operating an automobile and current wage rates. Accordingly, the final rule may contain updated values for the thresholds. Interested parties are encouraged to review and comment on the proposed thresholds.

The cost-effectiveness indices and thresholds that UMTA chooses to use in evaluating projects will directly reflect a project's ability to save travel time for existing transit users and to attract new transit riders. These measures are used because there is a close relationship between them and a project's ability to advance the essential goal of the Federal transit program, which is to assist in providing a basic level of public mobility. The achievement of other goals and objectives of public transportation investments, such as the reduction of energy consumption and air polluant emissions and the promotion of economic development, also are closely related to a project's ability to improve the level of transit service for existing transit riders and attract new riders. Thus, projects that provide substantial travel time savings and ridership increases are likely to not only satisfy the basic mobility objective, but also meet transit's other objectives as well.

B. Local Financial Commitment

Appendix A identifies the threshold criteria UMTA proposes to use to evaluate the degree of local financial commitment. The importance of the financial commitment criterion reflects the reality that some transit agencies do not have sufficient financial capacity to construct, operate, and maintain a new fixed guideway project while at the same time continuing to operate and maintain their existing transit systems. Recently, in fact, some urban areas have found it necessary to reduce bus service to provide capital and operating resources for new fixed guideway projects. This invariably has led to lower total public transportation usage, the opposite of what the Federal government is trying to achieve with its mass transportation grant programs.

Specifically, Appendix A sets forth several factors that UMTA will consider in assessing a potential grantee's financial capacity to undertake a new fixed guideway project. UMTA will focus, principally, on a grantee's proposed capital financing commitment, to ensure that all necessary State, local, and private revenues are indeed committed or dedicated to the project. UMTA also will consider a region's historical support for transit, and the grantee's projected operating costs and revenues. Where UMTA determines, based on this assessment, that the prospective grantee lacks the necessary financial capacity to undertake a new start, the project will be deemed ineligible for funding under the discretionary program.

In considering a region's historical support for transit, specifically, UMTA will be focusing on the stability and reliability of the applicant's funding sources over the recent past. Where an applicant can demonstrate a consistent or growing level of support for transit over time, there is less risk that that applicant would be unable to operate the new fixed guideway as planned, or would be compelled to reduce bus service in order to operate the fixed guideway. To assess an applicant's historical support for transit, UMTA will consider how well the applicant has maintained its existing mass transit equipment and facilities. UMTA also will consider whether the applicant has reduced service over the most recent three year period due to financial constraints.

It should be understood clearly that it is not UMTA's intention to favor grantees that historically have enjoyed comparatively large support from State and local revenues—given, for example, that they have had fixed guideway transit systems in place for many years—as opposed to grantees in younger, growing localities that have never had a guideway system. In short, UMTA will favor applicants in the best of fiscal health. Indeed, many of the potential applicants that are now in the best fiscal health are those serving younger, growing metropolitan areas.

In evaluating a grantee's financial planning, UMTA will take an approach similar to that used by bond rating agencies such as Moody's and Standard & Poor's. Fundamentally, UMTA will compare a grantee's financial forecasts with past performance. UMTA expects that most financial planning will rely on forecasts of farebox revenues; State, local, and Federal subsidies, both dedicated and appropriated (e.g., sales tax revenues); systemwide operating and maintenance costs, based on future levels of operations; and normal capital replacement needs. UMTA anticipates, also, that some grantees' financial planning will rely on assumptions regarding population, economic growth in the region, and other factors affecting transit ridership, such as auto operating costs, fares, and parking fees. UMTA will examine all of these forecasts and assumptions critically. Where these forecasts or assumptions differ from past trends, or are implausible, UMTA may choose to require revisions or further explanations before allowing a grantee to proceed to final design and construction.

In sum, UMTA will evaluate the logic and the health of a grantee's financial plan. In the usual course of events, some forecasts will not be realized, and some assumptions will prove inaccurate. UMTA is concerned that an overall local financial commitment to transit be strong and realistic enough that deviations from forecasts and assumptions will not require curtailments of mass transit service or excessive fare increases. Toward this end, UMTA will evaluate a composite financial plan, and the components of that plan, not to determine whether the specific figures are necessarily the most likely figures, but whether the local financial commitment is sufficient to absorb the fiscal shortfalls that could occur from a failure to achieve the forecasts. Thus, UMTA will analyze a financial plan from the vantage of a prudent banker or investor, whose primary concern would be that the plan make allowances for managing project costs under all normal variations in forecasting for the project. To define what variations might be reasonably expected for a project, UMTA will closely examine past trends for both the grantee's operations and the region, and experience across the Nation.

Interested parties are urged to provide comments on these proposed mechanisms for implementing the requirements of section 3(i) of the UMTA Act, and to suggest alternative mechanisms for meeting the intent of the law.

C. Rating System

The new start rating system, which was established in the 1984 policy statement, will be used to prioritize those projects that meet the threshold requirements of section 3(i) as outlined above. The agency anticipates that a number of the new start projects currently advancing through the project development process may satisfy section 3(i), and that Federal funding availability will not be sufficient to support all of these proposals. Thus, there will be a continuing need to identify, from among those projects eligible for section 3 funding, those which are most deserving of Federal assistance. This need is recognized in section 304 of the STURA Act (section 3(j) of the UMT Act) which directs the Department to provide Congress with a recommended allocation of section 3 funds. It is expected that the rating system would be the basis for the Department's funding recommendations for the new start program.

The new start rating system is proposed to be Appendix B to Part 611. As described in this Appendix, the primary factors affecting a project's rating will be cost-effectiveness and local financial commitment. Appendix B reflects the agency's 1984 policy, as amended to reflect response to comments raised about the policy, as well as an incentive program for discretionary grants that Secretary Skinner announced on March 13, 1989.

Secretary Skinner's initiative embraces several provisions from the 1984 policy, namely the rating system's emphasis on capital overmatch and the preference for cash rather than in-kind local share. What is new is that, other things being equal, under this proposal, a privately raised overmatch will rank an application higher than a publicly raised overmatch. Special priority will be given to applications containing innovative funding techniques which maximize local efforts to leverage and encourage private sector funding contributions in a manner that will reduce the net public cost of the system.

Appendix B also reflects agency response to comments received on the 1984 policy. First, as noted above, a second cost-effectiveness measure has been developed to overcome shortcomings in the cost per new trip index. Both the cost per new trip index and the cost per hour of user benefit index will be used in the rating system. Second, Appendix B explicitly recognizes the need to expand the scope of the evaluation beyond cost-effectiveness and local financial commitment. Other factors—such as the degree of local support, the status of local efforts to attain and maintain the National Ambient Air Quality Standards, and disadvantaged business enterprise participation—will be used to distinguish between projects that rate similarly in terms of cost-effectiveness and local financial commitment.

UMTA at this point has not established measures for comparing projects in terms of these other factors. Local officials are invited to provide whatever supporting information they can provide. In terms of community support, however, UMTA would be particularly interested in receiving information on: (1) Local commitments to land use and transportation policies that enhance the proposed project's cost-effectiveness and financial feasibility; (2) overall levels of local funding for the transit system over the most recent 5 year period; and (3) a comparison between local funding commitments and local ability to generate revenues for transit.

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III. Section-By-Section Analysis

A. Section 611.1: Purpose and contents

This section states that this part defines the process applicants must follow to be considered eligible for a UMTA capital grant for a major urban mass transportation investment. It further states that the proposed regulation would serve as the rule mandated by section 3(i) of the UMT Act. It further specifies that the proposed regulation is comprised of §§ 611.1 through 611.15 and Appendices A and B.

B. Section 611.3: Applicability

This section states that this part applies to all major urban mass transportation investment projects proposed for UMTA funding. This basic principle is the same as that of the 1984 policy statement, that the project development process applies to all major urban mass transportation investments. The 1984 policy further stated that the rating system would not apply to proposals fully funded through the formula allocated programs. This is still UMTA's intent, as discussed in proposed Appendix B. The applicability of the threshold criteria to projects funded under both the discretionary and formula programs is discussed in proposed Appendix A.

C. Section 611.5: Definitions

The key terms in this part are defined in this section. These definitions are essentially unchanged from the 1984 policy statement, except that the proposed rule adds a definition for the term "cost-effectiveness evaluation."

In the 1984 policy, the definition of "major urban mass transportation investment" stated that, typically, the cost of a major investment will be in excess of $100 million. This statement was intended as a general guide to the order of magnitude of projects covered by the policy, not as an absolute threshold, but was often misinterpreted. To eliminate any confusion, and to reflect the requirements of section 3(i), which does not identify any such threshold, the reference to $100 million has been deleted from the definition. All grantees seeking UMTA funding for a new fixed guideway facility or extension will be expected to meet the requirements of this rule.

The definition of "fixed guideway" in the proposed rule is slightly different from the definition in section 12 of the UMT Act. In the UMT Act, public transportation systems that utilize a fixed catenary system (i.e., overhead wires) are included within the definition of fixed guideway. In the proposed rule, fixed catenary systems are not mentioned because some such projects—electrically powered trolley buses being the best example—are generally much less costly than projects with an exclusive right-of-way, do not normally require the same level of analysis and evaluation, and are not funded under the new start category. Fixed catenary systems that involve a reserved right-of-way or rails, such as light rail projects, do fall within the definition of fixed guideway in the proposed rule.

D. Section 611.7: Project development process

This section identifies the four phases of project planning and development, the general requirements applicable to these phases, and provisions regarding public involvement. These requirements have been extracted from the Project Development Process and Procedures section of the 1984 policy.

The need to obtain UMTA approval before initiating alternatives analysis, preliminary engineering, and final design stages is stipulated in this section. The threshold criteria to be used in evaluating these requests are spelled out in this section (and are further explained in Appendix A). These threshold criteria are intended to screen out, early in the process, those projects that are unlikely to meet the requirements of section 3(i) of the UMT Act. UMTA approval to advance through the project development process should be expected only where there is a reasonable possibility that a project will emerge that is cost-effective and supported by an acceptable degree of local financial support.

It should be noted that UMTA presently is reconsidering the cost-effectiveness threshold for entering the alternatives analysis phase. Since 1984, the threshold for entering alternatives analysis has been set at $10 per new transit trip, significantly higher than the $6 per new trip index for entering preliminary engineering. This was done to recognize the preliminary nature of cost and ridership estimates at the start of alternatives analysis. Experience has shown, however, that cost estimates tend to increase as a project advances through the project development process while ridership forecasts decline. This suggests that the threshold for entering alternatives analysis should be no higher than the threshold for entering preliminary engineering. The results of this reconsideration will be reflected in the final rule.

Paragraph (e) of this section, Project Management Oversight, refers to Part 633 of this title. Part 633 is still being developed. A Notice of Proposed Rulemaking was published in the **Federal Register** on August 11, 1987 (52 FR 29709).

E. Section 611.9: System planning phase

This section presents the requirements applicable to the system planning phase of project development. It consists of those critical system planning provisions of the 1984 policy statement.

The remaining provisions of the 1984 statement appear in Appendix A.

F. Section 611.11: Alternatives analysis phase

This section presents the requirements applicable to the alternatives analysis phase of project development. It consists of those critical alternatives analysis provisions of the 1984 policy statement. The remaining provisions of the 1984 statement appear in Appendix A.

G. Section 611.13: Preliminary engineering phase

This section presents the requirements applicable to the preliminary engineering phase of project development. It consists of those critical preliminary engineering provisions of the 1984 policy statement. The remaining provisions of the 1984 statement appear in Appendix A.

As noted in the 1984 policy statement, the preliminary engineering effort will encompass not only the locally preferred alternative but also a transportation system management (TSM) alternative and, in some cases, one or more guideway alternatives found to be cost-effective in the alternatives analysis phase.

H. Section 611.15: Final design phase

Federal funding commitments for project construction are considered at the time a project moves into the final design stage. This section identifies the requirements that must be met before UMTA will commit to funding a project. For new start projects proposed for funding under section 3, UMTA will not approve the initiation of final design until the requirements of section 3(i) have been satisfied. This requires a formal determination by UMTA that the project is cost-effective, is based on the results of alternatives analysis and preliminary engineering, and is supported by an acceptable degree of local financial commitment. (Projects that were in preliminary engineering, final design or construction on January 1, 1987, are not subject to this requirement, as stipulated in section 303 of the STURA Act of 1987.)

The criteria UMTA will use to make its determinations under section 3(i) are amplified in Appendix A. Specifically, Appendix A spells out the mathematical threshold values that must be met before a project will be considered cost-effective. Appendix A also details the factors that UMTA will consider in assessing the degree of local financial commitment.

For new start projects funded under section 9 and/or the formula portion of the Interstate Transfer Program, but not section 3, § 111.15(e) of the proposed rule requires grantees to provide certain certifications as to a project's cost-effectiveness, its safety, and local financial capacity. This requirement has been a part of UMTA's Section 9 Grant Application Instructions (Circular 9030.1A) since 1983, and is included here because of its regulatory nature. The intent is to avoid situations in which a recipient commences a new start project with formula funds and then looks to section 3 funding to complete the project or to fund routine capital needs which were superseded by the new start funding decision. For the cost-effectiveness certification, grantees may apply their own criteria but are expected to show that there is at least a minimum transit benefit associated with the project as demonstrated by an increase in ridership when compared with a transportation system management alternative.

IV. Request for Written Comments

UMTA seeks written comments from all interested parties on this proposed rule. UMTA's final rule will reflect the agency's consideration of all comments received within 60 days of the date of publication in the **Federal Register**.

UMTA welcomes comments on any and all matters related to the proposed rule, but there are a number of specific issues where comments would be particularly helpful. The questions below highlight matters on which UMTA specifically requests comments and supporting data.

A. Specific Issues for Comment

1. UMTA believes that the two indices described in this proposed rule—the "new trip index" and the "user benefit index"—provide a rational basis for identifying those projects that are cost-effective for the purpose of section 3(i) and for grouping cost-effective projects according to their investment worthiness. Of the two indices proposed by UMTA, are there compelling arguments that either one provides the better measure of project merit? Are there reasons to believe that the use of other evaluation techniques, such as cost benefit analysis or net present value analysis, would have significant advantages over the use of the UMTA indices?

2. Does the UMTA approach to cost-effectiveness assessment place unreasonable demands on the technical analysis process, given the state of the art in travel demand forecasting and cost estimation, and given the need to ensure consistency between cities? If so, what specific changes should be considered? To what degree would this rule create a need for additional UMTA-sponsored training and technical guidance?

3. The cost-effectiveness thresholds defined in this proposal are based upon a generous estimate of the operating cost, parking cost, and travel time savings for a typical auto commuter who shifts to a guideway transit mode of travel. The user cost savings thus derived has been doubled to recognize the existence of less quantifiable non-user benefits such as support for economical and desirable urban development and other socio-economic and environmental benefits such as reductions in air pollutant emissions and energy conservation. Commenters are invited to provide current data that could be used to help UMTA estimate the average user costs for urban work trips by automobile. Does the doubling of user costs provide a reasonable proxy for non-user benefits? Are there any other recommended approaches for determining cost-effectiveness thresholds and, if so, what data are available for calculating a threshold value?

4. In this proposed rule, a higher threshold is suggested for entering alternatives analysis than for entering preliminary engineering, recognizing the imprecision of cost and ridership estimates at the end of system planning. However, it also is recognized that system planning cost estimates are usually low and system planning ridership forecasts are usually high. Cost-effectiveness indices computed at this stage often greatly exaggerate a project's cost-effectiveness. To compensate, should the cost-effectiveness threshold for entering alternatives analysis be the same as the threshold for entering preliminary engineering?

5. The cost-effectiveness thresholds proposed by UMTA reflect technical considerations of project merit, not budgetary considerations. Should UMTA instead set the threshold at a budget-driven level, such that the proposed Federal share of all projects meeting the threshold would equal approximately the funds authorized for the new start program? Or should UMTA set an even more generous threshold level, thus allowing a larger number of projects to meet the threshold and compete for the limited supply of Federal new start funds?

6. Should the same cost-effectiveness threshold be used in all cities despite differences in traffic congestion, travel delays, wage rates, parking costs, air quality, and other factors? If not, how might UMTA develop and maintain the data base needed to calcuate different thresholds for different cities?

7. To address the requirements of section 3(i), UMTA proposes to evaluate the degree of local financial commitment by assessing the soundness of the capital financing plan, the region's historical support for transit, and the grantee's projected operating costs and revenues. Are there other financial indicators that UMTA should consider? Should more quantifiable threshold criteria be established for local financial commitment and, if so, what should they be?

8. In Appendix B, UMTA has identified a number of "other factors" that would be used to differentiate, in the ratings process, between projects with similar degrees of cost-effectiveness and local financial commitment. These factors include the level of community support, efforts to obtain the participation of the private sector, and agreements to limit the use of section 9 funds for operating assistance, and the status of local efforts to attain and maintain the National Ambient Air Quality Standards. Are there additional considerations that should be added to the list of "other factors"?

9. Secretary Skinner's incentive program for discretionary grants includes several proposals affecting new starts. In the new starts ratings process, UMTA proposes to give preference to cost-effective projects that are supported by a non-Federal matching share in excess of 25 percent. Participation by the private sector in raising the non-Federal overmatch dollars especially is encouraged. To be considered as bona fide overmatch, non-Federal funds should be in cash, not in-kind contributions. Requests will be considered for relaxation of UMTA's one corridor at a time policy, depending on the level of Federal assistance being sought. For those new start projects whose Federal participation is 30 percent or less, as well as for those projects seeking relatively small sums of new start assistance thanks to substantial local overmatch, expedited UMTA review is promised. Are those

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proposals appropriate means for achieving UMTA's goal of rewarding grantees who are ready and willing to increase the percentage of non-Federal participation? What other proposals might be considered for reaching this goal?

B. Procedural steps to comment

To ensure consideration, comments must be received by June 26, 1989. All comments should be addressed to: U.S. Department of Transportation, Urban Mass Transportation Administration, Office of the Chief Counsel, Docket No. 89–A, 400 Seventh Street, SW., Room 9316, Washington, DC 20590.

Any commenter wishing acknowledgement of receipt of the comment should include a self-addressed, stamped postcard with the comment. The Docket Clerk will stamp the card with the date and time the comment is received and mail the card to the commenter.

V. Regulatory Impacts

A. Regulatory Analysis

This action has been reviewed under Executive Order 12291, and UMTA has determined that this is not a major rule. If promulgated, this rule would not result in an annual effect on the economy of $100 million or more, nor would it create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises in domestic or export markets. However, the proposed regulation would be a "significant" rule, as defined by the Department's Policies and Procedures on Improving Governmental Regulations, because it involves important departmental policy and will generate substantial public interest. Accordingly, a draft regulatory evaluation has been prepared and is available for public inspection as part of the docket.

B. Executive Order 12612

This proposed rule has been reviewed under Executive Order 12612 on "Federalism," and UMTA has determined that it does not have implications for principles of Federalism that warrant the preparation of a Federalism Assessment. If promulgated, this rule will not limit the policymaking and administrative discretion of the States, nor will it affect the States' abilities to discharge traditional State governmental functions or otherwise affect any aspects of State sovereignty.

Indeed, consistent with the fundamental principles of Federalism as described in Executive Order 12612, the programs and policies of the Urban Mass Transportation Administration are purposely structured to place primary responsibility on States and local governments for the provision of mass transportation services to their communities, and to encourage States and local governments to achieve their objectives for mass transportation through cooperative effort. As is true for all UMTA programs and policies, this action grants maximum administrative discretion to States and local governments.

C. Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, UMTA certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities within the meaning of the Act.

D. Paperwork Reduction Act

The proposed regulation does not establish any new reporting or recordkeeping requirements.

List of Subjects in 49 CFR Part 611

Government contracts; Grant programs—Transportation; Mass transportation.

Accordingly, for the reasons described in the preamble, 49 CFR Chapter VI is proposed to be amended as follows:

A new Part 611 would be added to read as follows:

PART 611—MAJOR CAPITAL INVESTMENT PROJECTS

Sec.

611.1 Purpose and contents.
611.3 Applicability.
611.5 Definitions.
611.7 Project development process.
611.9 System planning phase.
611.11 Alternatives analysis phase.
611.13 Preliminary engineering phase.
611.15 Final design phase.

Appendix A to Part 611—UMTA Policies and Procedures on the Development of Major Urban Mass Transportation Investments

Appendix B to Part 611—Description of UMTA's New Start Rating System

Authority: 49 U.S.C. 1601 *et seq.*, 1602(i); 23 U.S.C. 103(e)(4); 23 U.S.C. 142; 40 CFR Parts 1500–1508.

§ 611.1 Purpose and contents.

(a) This part defines the process that State and local agencies must follow in developing major urban mass transportation investment projects that are to be considered for capital grants from UMTA. This part also implements section 3(i) of the UMT Act by setting forth the means by which UMTA will evaluate cost-effectiveness, the results of alternatives analysis, and the degree of local financial commitment.

(b) This part is comprised of §§ 611.1 through 611.15 and Appendices A and B to Part 611.

§ 611.3 Applicability.

(a) This part applies to all proposals for discretionary and formula grants authorized by sections 3 and 9 of the UMT Act, 23 U.S.C. section 103(e)(4) (Interstate Transfer Program), and 23 U.S.C. section 142 (Federal Aid Urban System Program).

(b) This part does not apply to, affect, or alter decisions, approvals, authorizations, or other actions made by UMTA before the effective date of this regulation.

§ 611.5 Definitions.

In this part: "Cost-effectiveness evaluation" means the comparison of the estimated capital and operating costs of a project (or alternative) with various measures of goal achievement (i.e., effectiveness). Both costs and effectiveness are computed relative to lower cost alternatives. The results of a cost-effectiveness evaluation are expressed as ratios, such as added cost per new transit trip or added cost per unit of user benefit.

"Fixed guideway" means any public transportation facility which utilizes and occupies a separate right-of-way or rails. This includes, but is not limited to, rapid rail, light rail, commuter rail, automated guideway transit, people movers, and exclusive facilities for buses and other high occupancy vehicles.

"Major urban mass transportation investment" means any project that involves the construction of a new fixed guideway segment or extension of an existing fixed guideway for use by mass transit vehicles. The construction of short guideway facilities for the purpose of localized operational improvements, including improved access to terminals or stations, will not be considered major urban mass transportation investments.

"The UMT Act" means the Urban Mass Transportation Act of 1964, as amended.

"Transportation system management (TSM) alternative" means a package of low to moderate cost improvements designed to make more efficient use of an existing transportation system. TSM alternatives typically include such actions as expanded bus service, high occupancy vehicle lanes that do not require major new construction, fringe parking, paratransit and ridesharing incentives, traffic engineering, and regulatory and pricing strategies to increase ridesharing and transit use.

"UMTA" means the Urban Mass Transportation Administration.

§ 611.7 Project development process.

(a) *Project phases.* The four phases of the process for developing a major urban mass transportation investment before construction are:

(1) The system planning phase;
(2) The alternatives analysis phase;
(3) The preliminary engineering phase; and
(4) The final design phase.

(b) *UMTA approval.* UMTA approval must be obtained before the initiation of alternatives analysis, preliminary engineering, and final design. Appendix A to this part sets forth the criteria UMTA will apply in reviewing a request to proceed to the alternatives analysis phase and preliminary engineering phase. Section 611.15 sets forth the criteria that UMTA will apply in reviewing a request to proceed to the final design phase. Approval to initiate one phase is not a commitment that UMTA will participate in a subsequent phase.

(c) *General requirements.* A proposal for a major urban mass transportation investment must be consistent with the urban area's comprehensive plan which articulates the overall direction for metropolitan development and identifies major transportation corridors.

(d) *Public involvement.* Local officials must provide full opportunities for the involvement of members of the general public, private interest groups, local elected officials, and all levels of government throughout the four phases of project development for a major urban mass transportation investment. Involvement shall be initiated early so that the public has an opportunity to influence the process in a timely and constructive fashion, particularly as to the alternatives and evaluation criteria to be considered, priority actions for implementation, and steps to avoid or minimize adverse environmental effects.

(e) *Project management oversight.* During the course of project development, project management plans must be prepared and implemented in accordance with Part 633 of this title (Project Management Oversight).

§ 611.9 System planning phase.

(a) System planning refers to the continuous, comprehensive, and cooperative transportation planning process that is conducted in each urbanized area under the requirement of 23 CFR Part 450 (Planning Assistance and Standards). System planning results in plans and programs which are consistent with the comprehensively planned development of the area and which support transportation improvements and project development activities.

(b) Where local officials choose to pursue UMTA funding for a major urban mass transportation investment, the system planning phase must result in:

(1) The selection of the corridor(s) to be proposed for advancement into alternatives analysis;

(2) The identification of the corridor's current and future transportation problems;

(3) The identification of a small set of promising alternatives for addressing those problems; and

(4) The assessment of the region's financial capacity to successfully undertake a major urban mass transportation investment while continuing to operate, maintain, and reinvest in the existing transit system.

§ 611.11 Alternatives analysis phase.

(a) To be eligible for UMTA capital funding for a major urban mass transportation investment, local officials must perform a corridor-level analysis of mode and alignment alternatives. At least one alternative must be a TSM alternative.

(b) For each alternative, the analysis must include:

(1) An estimation of capital, operating, and maintenance costs;

(2) An assessment of impacts on highway and transit service levels and transit ridership;

(3) A cost-effectiveness evaluation;

(4) An assessment of funding options, including an assessment of the stability and reliability of funding sources for meeting the costs of the existing transit system and proposed improvements;

(5) An assessment of institutional arrangements, such as the roles and responsibilities of State agencies, local governments, and the private sector in project implementation and operation; and

(6) An assessment of social, economic, and environmental impacts of importance to a decision on mode and alignment.

(c) Once UMTA accepts the technical results of these analyses, the results will be summarized in a draft environmental impact statement or environmental assessment that meets the requirements of 40 CFR Parts 1500 and 1508 (Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act) and 23 CFR Part 771 (Environmental Impact and Related Procedures), if required.

(d) During the circulation period for the draft environmental impact statement, the applicant must hold at least one formal public hearing covering the analysis of alternatives and the environmental document.

(e) Following the environmental impact statement's circulation period or the environmental assessment's availability period, local officials must select a preferred mode and alignment alternative that will be referred to as the locally preferred alternative, and must adopt a plan for financing its capital and operating costs. Local officials must prepare a report documenting these decisions.

§ 611.13 Preliminary engineering phase.

(a) To maintain eligibility for UMTA capital funding for a major urban mass transportation investment, local officials must perform preliminary engineering on the locally preferred alternative and a TSM alternative. Preliminary engineering also may include one or more additional alternatives found to be cost-effective in the alternatives analysis phase.

(b) The preliminary engineering phase must include:

(1) An analysis of design alternatives leading to local decisions on the proposed project's major design features;

(2) A refinement of the capital and operating cost, level of service, ridership, environmental impact, and cost-effectiveness information developed during alternatives analysis;

(3) The implementation of the financial plan including, as appropriate, the negotiation of local agreements on the allocation and timing of existing financial resources, establishment of new revenue sources, and commitments to private financing;

(4) The completion of environmental requirements in accordance with 40 CFR Parts 1500 and 1508 (Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act) and 23 CFR Part 771 and 49 CFR Part 613 (Environmental Impact and Related Procedures); and

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(5) Development of an early and systematic approach to promoting the participation of the private sector and, in particular, disadvantaged business enterprises in accordance with Part 23 of this title.

(c) UMTA must be provided early opportunities to review and concur in the methods of these analyses.

(d) If it is required that UMTA issue a final environmental impact statement, UMTA will do so only when UMTA accepts the technical findings and analyses of the statements.

§ 611.15 Final design.

(a) The final design phase for a major urban mass transportation investment will include:

(1) The acquisition of rights of way;

(2) The relocation of utilities;

(3) The preparation of final construction plans, detailed specifications, estimates and bid documents; and

(4) The negotiation of a full funding agreement between UMTA and the recipient of UMTA funds for the major urban mass transportation investment.

(b) Final design activities, property acquisition (with the exception of hardship or protective buying as defined in 23 CFR 712.204(d)), vehicle procurement, and construction may not be undertaken until the requirements of the National Environmental Policy Act have been satisfied.

(c) Where major urban mass transportation investments are proposed for funding under section 3 of the UMT Act or the discretionary authorities of the Interstate Transfer Program, UMTA approval to undertake final design will reflect decisions made under the rating system described in Appendix B.

(d) Major urban mass transportation investments proposed for funding under section 3 of the UMT Act will not be advanced into the final design phase unless:

(1) UMTA approved the initiation of preliminary engineering, final design, or construction before January 1, 1987, or

(2) UMTA determines that the proposed project is based on the results of alternatives analysis and preliminary engineering, is cost-effective, and is supported by an acceptable degree of local financial commitment. For the purpose of this determination a project is:

(i) Based on the results of alternatives analysis and preliminary engineering if alternatives analysis and preliminary engineering were completed as described herein, or the project fully satisfied the UMTA requirements that were in effect when planning and project development occurred;

(ii) Cost-effective if the results of alternatives analysis and preliminary engineering yield a cost-effectiveness index that either does not exceed $6.00 per new daily transit trip or does not exceed $8.00 per hour of user benefit; and

(iii) Supported by an acceptable degree of local financial commitment if sufficient funds are available to construct, operate, and maintain the project and its supporting feeder system while continuing to operate and maintain the existing transit system. The local financial commitment will be evaluated through an assessment of the capital financing committed to the project and the stability and reliability of the applicant's sources of operating revenue, as described in Appendices A and B to this part.

(e) Where major urban mass transportation investments are proposed for funding under section 9 of the UMT Act or the formula portion of the Interstate Transfer Program, the applicant must certify that:

(1) Sufficient funds are available to construct, operate, and maintain the project and its supporting feeder system while continuing to operate and maintain the existing transit system;

(2) The project is cost-effective based on the results of alternatives analysis and preliminary engineering;

(3) The project will meet minimum design criteria to ensure safe system construction and operation; and

(4) The applicant will not seek assistance under section 3 of the UMT Act for routine capital needs.

Appendix A to Part 611—UMTA Policies and Procedures on the Development of Major Urban Mass Transportation Investments

These policies and procedures are applicable to proposals for discretionary grants authorized by section 3 of the Urban Mass Transportation Act of 1964, as amended (UMT Act), and 23 U.S.C. section 103(e)(4) (Interstate Transfer Program). In addition, these policies and procedures apply to grants under the authority of section 9 of the UMT Act, and 23 U.S.C. section 142 (Federal-Aid Urban System Program). The purpose of this Appendix is to amplify the procedures set forth at 49 CFR Part 611, Major Capital Investment Projects.

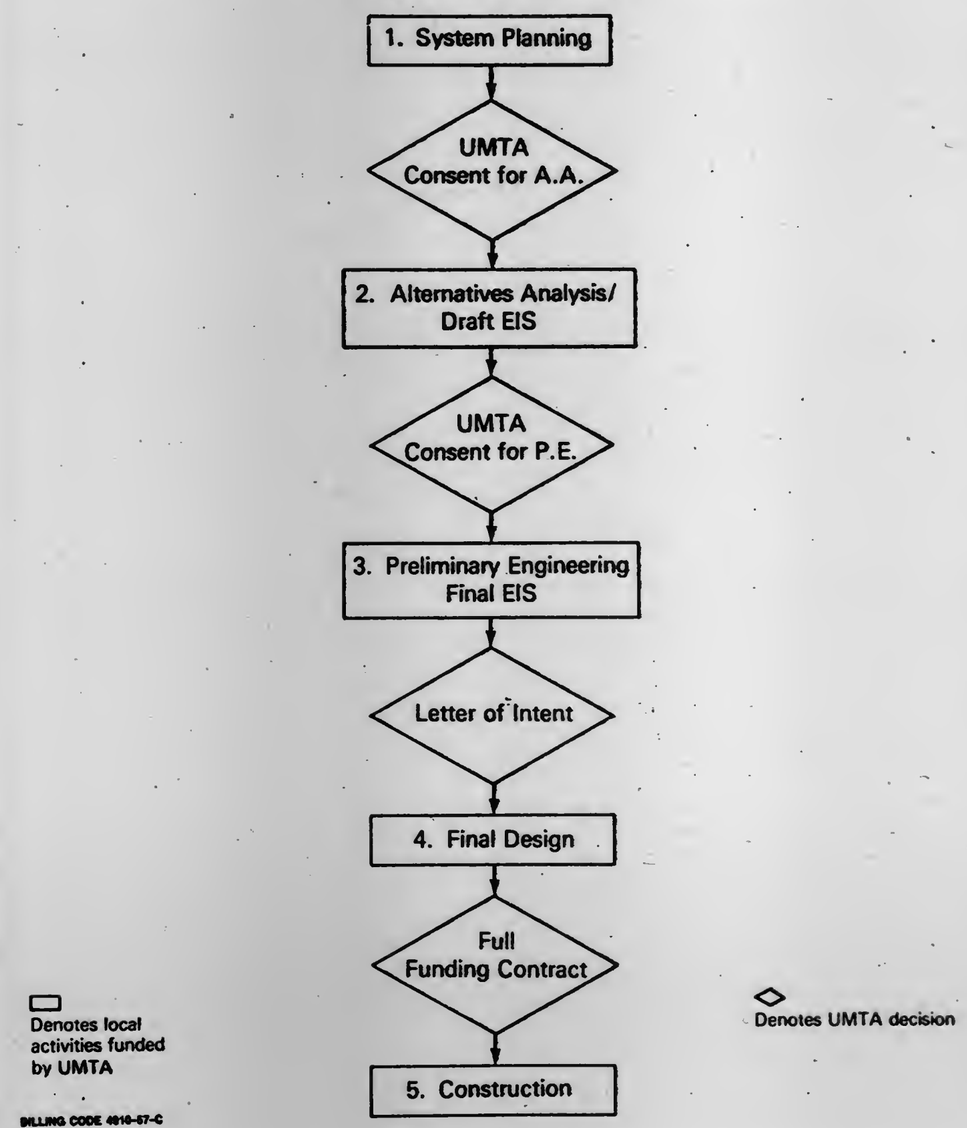
Projects to rehabilitate or modernize existing fixed rail transit lines are outside the scope of this Appendix. However, major elements of modernization programs (e.g., electrification of existing services) may be financed under full funding agreements and be subjected to a similar evaluation approach. This will help ensure that Federal discretionary funds are directed toward projects that are cost-effective and supported by an adequate degree of local financial commitment.

General Description

The process for developing major urban mass transportation investments includes four general phases before actual construction: System planning, alternatives analysis, preliminary engineering, and final design. Approval by the UMTA Administrator is required before initiating the alternatives analysis, preliminary engineering, and final design phases. The planning and project development process is illustrated in Figure 1.

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FIGURE 1



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As proposals are advanced through these phases, estimates of their costs, effects, and impacts (as well as the costs, effects, and impacts of alternative courses of action) are developed and refined. The applicant's financial capacity is established, financing plans are developed, and local financial commitments are obtained. This allows local officials and UMTA to identify the options that are most cost-effective and that are supported by an acceptable degree of local financial commitment. The application of a similar process for over ten years has shown that a careful and systematic analysis of present and future transportation needs, followed by a detailed analysis of the relative costs and benefits of alternative courses of action for addressing them, improves the quality of both local and Federal decisionmaking and thus results in better use of limited Federal funds.

System Planning

This first phase of project development is the continuous, comprehensive, and cooperative transportation planning process that is carried out in each urbanized area under the Urban Transportation Planning requirements of 23 CFR Part 450 and 49 CFR Part 613. System planning is assisted financially by UMTA's section 8 planning grants, issued to the designated metropolitan planning organizations, together with planning funds provided by the Federal Highway Administration. System planning also may be supported by formula grants available under sections 9 and 9A of the UMT Act.

The system planning phase typically includes the examination of urban development trends, the collection of travel and economic data, and the forecasting of future travel. System planning includes an analysis of the region's general financial condition and its financial capability to operate the existing transit system, modernize outdated facilities, replace equipment as it wears out, and undertake new initiatives. Based on these preliminary studies, local officials identify current and future transportation problems and evaluate policies and investment options for addressing these problems. This leads to the adoption of a transportation plan that is consistent with the urban area's comprehensive plan and that includes, as necessary, strategies for obtaining necessary financial resources.

Long range regional transportation plans should not identify specific mass transit modes and alignments. The scale and time horizon of long range regional planning studies do not allow for the detailed analyses needed to support mode and alignment decisions.

The transportation plan should reflect an awareness that different types of transportation facilities and services may be most appropriate in different parts of the metropolitan area. Some parts of the area may be most suitable for highway improvements, while others are suitable for transit or multi-modal solutions to identified problems. To reach these decisions, the planning process should identify major transportation corridors, and each major corridor should be considered individually to determine the facilities and services that will best meet its projected requirements. Corridors which do not require new fixed guideway facilities should be provided with levels and types of transit appropriate to their needs, with the level of service being progressively upgraded as demand develops. The planning process should consider the need for local community-level transit service as well as for express line-haul connections that foster regionwide accessibility.

The comprehensive plan should be revised periodically as part of the continuing transportation planning process. Plan revisions will allow local decisionmakers to reflect changes in local goals, priorities, long-range forecasts, and financial realities; respond to new land development and travel patterns; adapt to new technologies as they are developed; and adjust to the impact of previously implemented actions.

If the transportation plan includes a corridor where a major urban mass transportation investment is proposed, the system planning process should identify a small set of promising mode and alignment alternatives that address the corridor's transportation problems and warrant detailed study in subsequent project development phases. Factors to be considered in identifying promising alternatives include cost-effectiveness, the region's financial capacity, and potential environmental impacts.

If local transportation plans call for major urban mass transportation investments in more than one corridor, only one corridor at a time will normally be considered for advancement as a potential candidate for discretionary section 3 funding. Each corridor will be considered for funding on its own merits. The one corridor at a time policy reflects the reality of a scarce capital resource, and the resulting need for projects to be capable of independent justification irrespective of the probability of obtaining additional Federal funds. The policy also helps ensure that limited Federal funds are equitably distributed throughout the nation; that the most cost-effective segments receive priority attention; and that maximum flexibility is preserved to modify the system in response to subsequent advances in technology, changes in growth patterns, and other unforeseen circumstances.

UMTA will look to the designated metropolitan planning organization to select the corridor to be advanced as a candidate for UMTA discretionary funding. Establishment of regional investment priorities is rightfully a local concern.

In saying that regional systems shall be developed in stages, one corridor at a time, UMTA does not intend to imply any direct connection between the term "region" and the geographic area covered by a single metropolitan planning organization (see 23 CFR 450.106). UMTA is aware that some metropolitan planning organizations (MPO's) oversee the planning process for several Standard Metropolitan Statistical Areas (SMSA). Within the geographic areas covered by these MPO's, there may be separate centers of population and employment, without close economic and social relationships, and there may be separate transit agencies and/or separate sources of local capital and operational funds. In such areas, UMTA is prepared to consider, on a case by case basis, advancing one corridor in each SMSA.

While UMTA is generally unwilling to consider exceptions to its one corridor at a time policy, it will do so in cases where local officials agree to provide a substantial overmatch to any Federal assistance being sought where the amount of Federal assistance sought is comparatively small. Exceptions also may be considered in cases where all of the prospective fixed guideway alternatives are relatively low in cost (that is, less than $100 million).

Alternatives Analysis

Any metropolitan area which ultimately intends to apply for UMTA capital assistance for a major urban mass transportation investment must perform an analysis of transportation alternatives that serves the corridor in question. This phase of project development leads to the selection of a locally preferred mode and alignment alternative and adoption of a financing plan. Alternatives analysis may be assisted financially by planning grants under section 8 of the UMT Act, supplemented as necessary by section 9 formula grants. It is UMTA policy that funds available under section 3 of the UMT Act will not be used for alternatives analysis. Funding for alternatives analysis should appear in the region's unified planning work program.

Approval by the UMTA Administrator is required before the alternatives analysis phase is undertaken. Approval will be given where the results of system planning demonstrate that there is a reasonable possibility that the fixed guideway alternatives proposed for study will meet the requirements of section 3(i) of the UMT Act, namely, alternatives which are potentially cost-effective and which can be expected to have an acceptable degree of local financial commitment. The UMTA Administrator can be expected to approve for alternatives analysis only those projects that meet the following threshold criteria:

1. Current transit ridership in the corridor proposed for study exceeds 15,000 daily transit trips. This threshold ensures that at least a modest transit market already exists in the corridor.

2. The alternatives proposed for study do not have excessive costs compared to their benefits. To address this criterion, preliminary cost-effectiveness indices are developed based on the results of system planning. (See Appendix B to this Part for an explanation of the cost-effectiveness index.) The threshold value for entering alternatives analysis is currently set at $10 per new daily transit trip, or $12 per hour of user benefit, using the total cost-effectiveness index as the basis for evaluation. This threshold value is based upon a generous estimate of the operating cost, parking cost, and travel time savings for a typical auto commuter who shifts to a guideway transit mode of travel. This estimate is factored upward to recognize indirect benefits and the preliminary nature of cost and ridership estimates at this stage.

3. The transit implementing agency is in reasonably sound financial condition. It should have, or have a realistic chance of obtaining, the financial capability to successfully undertake any of the proposed major transit investment alternatives while continuing to operate, maintain, and reinvest in the existing transit system.

If local officials make a commitment not to seek discretionary funds for construction, UMTA may approve the initiation of alternatives analysis even if the threshold tests are not satisfied. The alternatives analysis would then be used to address the environmental and other requirements that apply to projects supported with formula funds. These requirements include the financial, cost-effectiveness, and safety certifications called for in § 611.15(e) of this part.

The alternatives analysis phase considers the promising mode and alignment alternatives identified in system planning. In addition to any high cost options that show promise, the set of alternatives should include both medium- and low-cost options as well as a no-action alternative. Each of the build alternative should include TSM actions to increase the efficiency of the existing transit and highway system. One alternatives should consist solely of such TSM actions in order to provide a baseline that represents the most that can be done to address the corridor's transportation problems without a major investment.

The number of alternatives, as well as the scale of the analysis, should be commensurate with the magnitude of the transportation problem, the cost of the alternatives, and the significance of potential impacts. Early in the alternatives analysis phase, local officials and UMTA will agree on the range of alternatives to be addressed and a work plan for the analysis.

The analysis will assess each alternative's capital, operating, and maintenance costs; anticipated ridership; and impacts on highway and transit level of service. Social, economic and environmental impacts of importance to a decision on mode and alignment will be evaluated along with other factors considered important by the local community. The financial feasibility of each alternative will be assessed in terms of local, State, and private sector funding options and the availability of stable and dependable resources to cover the predicted operating and maintenance costs of the transit system. The analysis also will include an evaluation of the cost-effectiveness of the alternatives, where cost-effectiveness is measured as described in Appendix B to this Part. Local agencies should provide UMTA an early opportunity to review and concur in the methods and results of these analyses; only those methods and results that UMTA accepts will be used in UMTA's determination of cost-effectiveness.

During the alternatives analysis phase, UMTA and the applicant will prepare a draft Environmental Impact Statement (EIS) or Environmental Assessment (EA) in accordance with Council of Environmental Quality regulations (40 CFR Parts 1500 to 1508) and UMTA's environmental regulations (23 CFR Part 771 and 49 CFR Part 613). UMTA is responsible for ensuring that the environmental instrument fulfills Federal requirements and presents a complete and objective basis for mode and alignment decisions. Thus, UMTA will not approve an environmental instrument unless and until UMTA accepts the technical findings and analyses of the study. Following the EIS circulation period (for EA availability period), local officials will complete the alternatives analysis phase by selecting a preferred alternative and adopting a plan for financing its capital and operating costs.

Preliminary Engineering

This phase leads to the selection of the major design and operational features of the preferred alternative, development of a cost estimate with a high confidence level, and implementation of the financial plan. Preliminary engineering may be financed from section 9 formula program funds. Funding for preliminary engineering should appear in the region's transportation improvement program.

Written approval of the UMTA Administrator is required before fixed guideway projects may be advanced into preliminary engineering. Where the financial plan adopted in alternatives analysis shows that capital funding under section 3 of the UMT Act is envisioned, UMTA approval to proceed into preliminary engineering can be expected only if the locally preferred alternative does not have excessive costs compared to its benefits. This determination will be based upon the cost-effectiveness indices developed in alternatives analysis. The threshold value for entering preliminary engineering currently is set at $6 per new daily transit trip, or $8 per hour of user benefit, using the total index as the basis for evaluation.

Approval to enter preliminary engineering also will be predicated on the quality of the proposed financing plan for the locally preferred alternative. This will be measured on the basis of the region's capability to implement, operate, and maintain the project, including ancillary services and facilities such as feeder buses, and to operate and maintain the remainder of the region's transit system over the project's useful life.

In cases where local officials commit, through their financial plan, to construct the locally preferred alternative without section 3 funding, these threshold tests will not apply. However, there must be a minimun transit benefit associated with the project as indicated by an increase in ridership or user benefits compared with the TSM alternative. In addition, the applicant should be cognizant of the certifications required by § 6112.15(e) of this part.

During the preliminary engineering (PE), phase, local project sponsors refine the design of the proposal, taking into consideration all reasonable design alternatives. In addition, environmental requirements are completed. This will typically involve preparation of a final EIS – (and in some cases, a supplemental draft EIS). UMTA is responsible for ensuring that the EIS fulfills Federal requirements and provides a complete and objective basis for decisions on the design, operations, and mitigation measures for the guideway facility. UMTA will review and concur in the technical environmental and design work performed by local agencies and participate in the preparation of the EIS consistent with UMTA's responsibilities under the National Environmental Policy Act of 1969.

It is UMTA policy to encourage the application of value engineering techniques to all construction projects, and to require its use on major capital projects (see UMTA Order 9004.1, "Use of Value Engineering on Urban Mass Transportation Projects"). Generally, value engineering is performed toward the end of the PE phase by an independent consultant team. UMTA also encourages peer reviews.

The PE process results in estimates of project costs and impacts which have a high confidence level. Project management concepts also are finalized during preliminary engineering. The project management concepts define the scope of project implementation during the final design, construction, and start-up operation stages, including the establishment of policies for activities such as quality assurance, quality control, and safety.

The financial plan adopted at the end of alternatives analysis is implemented during PE. Agreements are reached on the allocation of existing financial resources, any required new revenue sources are put in place, and specific private financing commitments are obtained. By the conclusion of PE, all necessary State, local, and private revenues should be committed or dedicated to the project, subject in no case to legislative action or popular referendum.

Preliminary engineering encompasses not only the locally preferred and the TSM alternatives, but may also include one or more lower cost alternatives found to be cost-effective in the alternatives anlaysis phase. As necessary, estimates of the capital cost of each cost-effective alternative will be refined, together with forecasts of transit ridership and travel time. Estimates of future operating and maintenance expenses of cost-effective alternatives will also be updated.

Localities also are encouraged to incorporate into their planning at this stage, and to implement, a program of local supportive policies and actions designed to enhance the proposed project's cost-effectiveness and the degree of local financal commitment. These might include:

1. Land use plans, zoning policies, and development incentives that support high density development, particularly joint development, around transit stations.

2. Coordinated bus and/or paratransit feeder services to the guideway system.

3. Pricing, regulatory, or traffic control measures aimed at reducing the peak-period use of automobiles within transit guideway corridor (e.g., traffic metering and tolls, parking management strategies, employer subsidized transit fares).

4. Financing mechanisms which make use of taxes and/or fees paid by developers and property owners benefiting from the transit investment.

Localities seeking Federal assistance for a major urban mass transportation investment

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will, in the course of preliminary engineering, be expected to develop an early and systematic approach to promoting the participation of small, disadvantaged, and women's business enterprises (DBEs and WBEs). In addition to addressing the requirements of UMTA's DBE regulations (49 CFR Part 23), they should revise their existing DBE and WBE plans in accordance with the nature of the proposed project, establishing specific policies and procedures designed to maximize the opportunities for DBEs and WBEs in the entire range of transit activities, from planning to final design, construction, and operations. Intensive outreach and technical assistance programs, contract specifications for DBE and WBE awards, and professional staffing to identify opportunities for DBE and WBE participation and qualified firms are some of the strategies that should be considered.

Federal funding commitments are ultimately considered at the conclusion of the PE phase. These decisions are based on the decision criteria outlined in the "Final Design" section below and, for projects proposed for funding with discretionary resources, the rating system described in Appendix B to this part. Commitments will be considered only for operable segments that can be completed within UMTA's available program authorization.

Final Design

This is the last phase of project development before construction and typically is financed with section 3 or Interstate Transfer funds. The final design phase includes the acquisition of right-of-way; utility relocation; and the preparation of final construction plans including construction management plans, detailed specifications, estimates and bid documents. Section 611.15 of this part sets forth the requirements that must be met before approval will be given to initiate the final design phase.

Where projects are proposed for funding under section 9, the initiation of final design will reflect decisions made under the new start rating system described in Appendix B to this part. Additional requirements apply to section 3 funded projects that were not in preliminary engineering, final design, or construction on January 1, 1987. In accordance with section 3(i) of the UMT Act, these projects will be advanced into final design only if UMTA determines that they are based on the results of alternatives analysis and preliminary engineering, are cost-effective, and are supported by an acceptable degree of local financial commitment.

UMTA's determination on cost-effectiveness will be based upon the threshold criteria for entry into preliminary engineering. As noted above, the threshold currently is set at $6 per new transit trip and $8 per hour of user benefit, using the total index as the basis for evaluation.

To determine whether a project is supported by an acceptable degree of local financial commitment, UMTA will evaluate both the capital financing committed to the project and the stability and reliability of the applicant's operating revenue. Three factors will be considered:

1. Adequacy of the capital financing commitment. To satisfy this criterion, the applicant will need to provide a capital finance plan that fully covers the projected non-Federal share of the capital costs, including provision for contingent cost overruns.

2. History of adequate financial support for transit. Dedicated funding sources should be in place, or there should be a clear pattern of general appropriations from State and local governments that demonstrates a consistent support for mass transit. In this regard, UMTA will consider how well existing facilities have been maintained, and will look with disfavor on applicants that have reduced service over the most recent three year period because of financial constraints.

3. Projected operating costs and revenues. Financial projections should show that, in all likelihood, the applicant will have sufficient financial resources to operate and maintain the proposed project and to operate, maintain, and reinvest in its existing transit system without new sources of revenue.

When a project has been selected for funding with section 3 funds, UMTA normally will approve funding for final design and may at that time issue a Letter of Intent. The Letter of Intent is a formal pledge which documents UMTA's intention to obligate funds for a particular project, but is not a Federal obligation or administrative commitment. The total amount of potential Federal obligations covered by all outstanding Letters of Intent cannot exceed the amount allocated for new starts under section 3, less an amount necessary for other grants not covered by Letters of Intent.

Once the final design phase has been initiated, regardless of the source of Federal funding to be used, UMTA and the grantee will negotiate a construction grant contract (i.e., a full funding agreement) with a fixed ceiling on the Federal contribution, subject to a defined method of adjustment for inflation. Localities will be required to complete construction of the project, as defined to the point of initiation of revenue operations, and to absorb any additional costs incurred, except under certain specified extraordinary circumstances. The full funding agreement also will include a mutually agreeable schedule for anticipated Federal contributions during the construction period. Specific annual contributions under the Letter of Intent and full funding agreement will be subject to the availability of Federal funds and the ability of the grant recipient to use the funds effectively.

The full funding agreement will incorporate any local commitments to fund the non-Federal capital match (including the overmatch used to rate the project), to dedicate resources to finance projected operating deficits, and to forego the use of section 9 for operating assistance. The full funding agreement will also provide for the implementation of supporting feeder bus systems and will document local commitments to supportive policies and actions.

Appendix B to Part 611.—Description of UMTA's New Start Rating System

Fixed guideway projects are developed in four phases before actual construction: system planning, alternatives analysis, preliminary engineering, and final design. This process is described fully in the foregoing regulation and in Appendix A to this part, "Policies and Procedures for the Development of Major Urban Mass Transportation Investments." This Appendix B describes the rating process UMTA will use to evaluate major urban mass transportation investments and identify those most worthy of Federal capital assistance.

This rating system applies to proposals for discretionary grants authorized by section 3 of the Urban Mass Transportation Act of 1964, as amended (UMT Act). In addition, it applies to grants under the authority of section 9 of the UMT Act, 23 U.S.C. 142 (Federal-Aid Urban System Program), and 23 U.S.C. 103(e)(4) (Interstate Transfer Program) if they supplement discretionary grants.

The rating system complements the UMTA determinations mandated by section 3(i) of the UMT Act, enacted as part of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Under UMT Act section 3(i), new start funds can be used for only those projects that are based on the results of alternatives analysis and preliminary engineering, that are cost-effective, and that are supported by an acceptable degree of local financial commitment. The rating system is used to compare those projects that meet the requirements of section 3(i). It identifies those projects most deserving of Federal discretionary assistance from among those projects that meet the minimum acceptable levels of cost-effectiveness and local financial commitment.

The rating system will be applied annually during preparation of the report mandated by section 3(j) of the UMT Act. This report is compiled in the first quarter of each fiscal year to guide decisions for the succeeding fiscal year. This report will provide the Congress, the Secretary of Transportation, the Office of Management and Budget, and the public with information on projects that have completed alternatives analysis, and projects that have completed preliminary engineering, and their respective ratings. An explanatory narrative will accompany the ratings.

Statutory Objectives and the Federal Interest

UMTA's new starts rating system is founded on UMT Act statutory objectives. Two fundamental objectives, set by section 2 of the Urban Mass Transportation Act, are "to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development," and "to provide assistance to State and local governments and their instruments in financing such systems, to be operated by public or private mass transportation companies as determined by local needs."

Consistent with these fundamental objectives, the Federal interest underlying

UMTA's new starts rating system is the provision of an essential level of urban mobility for the public by financially assisting the development of efficient urban mass transportation networks. The Federal government is not necessarily interested in networks which may provide maximum comfort, convenience, amenities, and other like benefits. This rating system does not preclude local authorities from proposing projects which tend to maximize such benefits, but it identifies the extra costs and accounts for them in the rating process. It should also be understood that, while the rating system recognizes a Federal interest in mass transit, the primary responsibility for mass transit rests with State and local governments.

Rating Criteria

UMTA's new starts rating system is driven by the two primary criteria mandated by UMT Act section 3(i): Cost-effectiveness and local financial commitment. Implicit in the consideration of these criteria is consideration of the results of alternatives analysis and preliminary engineering, also mandated by UMT Act section 3(i). UMTA is mindful, also, of the legislative history of STURAA in which the Congress expressed concerns regarding community support and disadvantaged business enterprise participation in UMTA-funded new starts. Thus, the rating system provides for consideration of these factors when projects rate similarly in terms of cost-effectiveness and local financial commitment.

Because the two primary criteria, cost-effectiveness and local financial commitment, are quantifiable, it is possible to formulate numerical indices of Federal investment worthiness as a primary guide to ratings. These two criteria and their use in such indices are given further definition as follows.

Cost-Effectiveness

The cost-effectiveness evaluation assesses the investment worthiness of a fixed guideway alternative by comparing its costs and benefits with the costs and benefits of a transportation system management (TSM) alternative. TSM alternatives typically include such actions as expanded bus service, high occupancy vehicle lanes that do not require major new construction, fringe parking, paratransit and ridesharing incentives, traffic engineering, and regulatory and pricing strategies to discourage single-occupant auto use. The costs of the fixed guideway and TSM alternatives are annualized to account for the different time streams of capital and operating expenditures as well as the different expected lifetimes of each alternative. The annualized costs and benefits of the TSM alternative are then subtracted from the annualized costs and benefits of the fixed guideway alternative, so that the added costs of the fixed guideway can be compared with its added benefits. Two cost-effectiveness indices are used to provided a quantitative measure of cost-effectiveness: the new trip index and the user benefit index.

The new trip index was introduced in UMTA's 1984 Major Capital Investment Policy (49 FR 98, May 18, 1984). The index recognizes two measures of benefit for fixed guideway projects: changes in transit ridership and travel time savings for existing riders. The index is computed as a ratio in which annualized capital and operating costs comprise the numerator, and ridership changes constitute the denominator. Travel time savings are converted to their monetary equivalent using an average value of time, and are incorporated in the index as an offset to costs. The index takes the form of incremental cost (annuallized capital and operating, less travel time offsets) per new transit trip.

The two measures of benefit included in the new trip index have proved to be good indicators of the benefits of primary Federal interest as well as general proxies for a wide range of other benefits associated with major investment projects. Additional ridership is a measure of how well a transit facility improves transit service, and also reflects many of transit's potential secondary benefits such as the structuring of urban development patterns and reductions in congestion, pollutant emissions, and energy consumption. The travel time savings for existing riders measure accounts for improved travel conditions for those already using transit, and is a good indicator of improved mobility for the transit dependent.

The user benefit index has been developed in responses to comments on the 1984 policy statement. This new measure combines ridership increases with travel times savings into a single measure of user benefits, and takes the form of cost (annualized capital and operating) per hour of user benefit. In theory, the user benefit measure should provide a more valid basis for project evaluation, but it has not been tested in practice, and many local studies have not yet produced the data needed to compute user benefits. UMTA is requesting local agencies currently engaged in major investment project planning to prepare information that can be used to compute the user benefit measure. Meanwhile, UMTA intends to use both the old measures of benefit (ridership increases and travel time savings) and the new user benefit measure in applying the rating system.

The new trip index and the user benefit index are calculated two ways. The "total index" is computed on the basis of total captial costs and reflects project merit irrespective of the source of funding. The "Federal index" reflects transportation benefits and operating cost savings noted above, and focuses on the capital costs of specific interest to the Federal Government: namely, the requested Federal contribution to capital costs.

In computing the indices of project merit, UMTA will consider the extent to which the alternatives analysis has indicated that another guideway alternative in the corridor would be more cost-effective than the locally preferred project. Where there is a more cost-effective guideway alternative, the rating of the locally preferred project will be reduced. Furthermore, where there is a lower cost guideway alternative which produces more benefits than the locally preferred project, a larger local capital contribution will be required for an applicant to be able to construct the locally preferred project.

Local Financial Commitment

The degree of local financial commitment is a particularly important criterion because it encourages communities to provide a larger capital match, and to develop stable and reliable sources for operating, maintenance, and capital replacement expenses. Thus, this criterion both leverages and protects limited Federal resources. A large local capital match will stretch scarce Federal dollars and permit Federal support for a larger number of worthy projects. The development of stable and reliable revenue sources reduces the risk that, after making a very large Federal capital investment, the grantee will not be able to adequately maintain and operate the project and other elements of its transit system. Private sector urban development also is taken into account to the extent that the private sector is committed to supporting transit capital or operating costs. Such commitments show that the private sector sees merit in the project, and are thus an indicator of investment worthiness.

The rating system uses the local financial commitment criterion to differentiate between projects that exhibit similar degrees of cost-effectiveness. Four factors are taken into account in this evaluation: the amount of capital overmatch as a percentage of the project's capital costs, the strength of the local plan of capital financing, the source of the local capital overmatch, and the stability and reliability of the financial resources to operate and maintain the applicant's transit system. Among projects which rate similarly in terms of cost-effectiveness, preference will be given to projects where:

1. The applicant agrees to provide substantially more than the statutory minimum capital match.

2. The applicant's capital finance plan is considered to be unusually sound in terms of its coverage of projected non-Federal capital costs and allowances for cost overruns.

3. The private sector participates in the raising of the non-Federal overmatch dollars. (Other things being equal, a privately raised overmatch will rank an application higher than a publicly raised one. Special priority will also be given to applications which contain innovative funding techniques which maximize local efforts to leverage and encourage private sector funding contributions in a manner that will reduce the net public cost of the system.)

4. Financial projections clearly show that the applicant has more than adequate financial capacity to operate the proposed project, to undertake other programmed improvements, and to operate, maintain, and reinvest in its existing transit system with a margin of safety for cost overruns and funding shortfalls.

With respect to the source of funds to provide the local share of net project cost, applicants utilizing a cash rather than an in-kind source would be judged to be making the greater local fiscal effort. In any case, in-kind local share would not qualify for overmatch credit.

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Other Factors

Additional evaluation factors may be taken into account in order to distinguish between projects that rate similarly in terms of cost-effectiveness and local financial commitment. Such factors could include:

1. Level of community support, as demonstrated by local commitments to supportive land use and transportation policies;
2. Efforts to obtain the participation of disadvantaged businesses;
3. The status of local efforts to attain and maintain the National Ambient Air Quality Standards; and
4. Any preferred agreements to limit the long term use of section 9 funds for operating assistance. Such commitments and agreements will ultimately be included in the terms and conditions of the full funding agreement.

Development of the Ratings

Early in the first quarter of each fiscal year, UMTA intends to rate the projects that are candidates for funding in the following fiscal year. The ratings would be used in preparing a report to Congress, as called for by UMT Act section 3(j), containing the Department's proposal as to the amount of Section 3 discretionary funding that should be made available for new start projects, rail modernization, and bus improvements in the coming fiscal year.

The report also would contain a recommended allocation of the section 3 new start funds, reflecting existing funding commitments and the ratings of proposed new projects.

The ratings will focus on those projects that have completed or are completing the preliminary engineering phase, since these are the most likely candidates for capital funding in the following fiscal year. Projects that are in the early stages of preliminary engineering or which are completing alternatives analysis may also be rated for information purposes, so as to indicate potential out-year funding requests. Ratings will be updated for projects completing preliminary engineering after the first quarter. The allocation of uncommitted funds will be re-evaluated, if feasible, at subsequent points in the Federal budget cycle.

As a set of projects is selected for possible Federal support, consideration will be given to the amount of uncommitted funds in the UMTA budget authorization allocated for fixed guideway projects. A Letter of Intent or a full funding agreement will not be executed for a single project which would consume all, or substantially all, of UMTA's unobligated budget authority. In addition, by law, the sum of all the Letters of Intent and full funding agreements cannot exceed the unobligated budget authority.

Summary

UMTA's new start ratings system relies upon cost-effectiveness indices to identify those projects which are clearly superior, those with some merit, and those which are obviously least worthy. Those which rate most highly in terms of cost-effectiveness are placed in the top group, and projects which rate less well are placed in a separate group or groups. (Projects that fail to meet the cost-effectiveness thresholds and are not supported by an acceptable degree of local financial commitment are eliminated from consideration, consistent with section 3(i) of the UMT Act.) The final position of projects within each group is then determined by applying several measures of local financial commitment and possibly other factors. It is expected that the project ratings would provide the technical basis for UMTA's annual funding recommendations to the Congress.

The rating system extracts objective indices of project merit from the technical information developed in the local planning and project development process. The system recognizes the margin of error implicit in any forecast and avoids an automatic, discrete ranking of projects on the basis of a single, composite criterion. By avoiding a mechanical reliance on forecast data, it permits the application of informed judgment and emphasis on selected policy objectives. This approach to rating potential investments is similar to that used by private financial institutions to evaluate or grade investment options and assess risk and uncertainty. Private institutions typically use a set of objective criteria to place investment options into broad groups with similar worthiness and then, if necessary, apply judgmental criteria to determine the final positioning of projects within the groups. In the UMTA rating system, the cost-effectiveness indices are the objective measures of project merit or investment worthiness, and the degree of local financial commitment is the most important judgmental criterion.

Issued on: April 18, 1989.

Alfred A. DelliBovi,
Administrator.

[FR Doc. 89-9706 Filed 4-24-89; 8:45 am]
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federal register

Tuesday
April 25, 1989

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 14 and 15
Federal Acquisition Regulation (FAR); Additional Awards; Proposed Rule

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 14 and 15

Federal Acquisition Regulation (FAR); Additional Awards

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to 14.407–1(c)(4) and 15.1002 to require that, when an award is made to an offeror for less than all of the items that may be awarded to that offeror, and additional items are being withheld for subsequent award, the award notice shall state that the Government may make subsequent awards on those additional items within the offer acceptance period, and to clarify that notice of potential subsequent award must be provided with each award that may be followed by a subsequent award. The current language requires notice only with the first award.

DATE: Comment should be submitted to the FAR Secretariat at the address shown below on or before June 26, 1989 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89–20 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities and analysis of the proposed revision indicates that it is not a "significant revision" within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 3501, *et seq.* because it does not have a significant effort beyond the internal operating procedures of individual contracting offices.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recodkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 14 and 15

Government procurement.

Dated: April 14, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Parts 14 and 15 are amended as set forth below:

1. The authority citation for 48 CFR Parts 14 and 15 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 14—SEALED BIDDING

2. Section 14.407–1 is amended by revising paragraph (c)(4) to read as follows:

14.407–1 General.

* * * * *

(c) * * *

(4) When an award is made to a bidder for less than all of the items that may be awarded to that bidder and additional items are being withheld for subsequent award, the award shall state that the Government may make subsequent awards on those additional items within the bid acceptance period.

* * * * *

PART 15—[AMENDED]

3. Section 15.1002 is amended by adding a second sentence to read as follows:

15.1002 Notification to successful offeror.

* * * When an award is made to an offeror for less than all of the items that may be awarded to that offeror and additional items are being withheld for subsequent award, each notice shall state that the Government may make subsequent awards on those additional items within the offer acceptance period.

[FR Doc. 89–9746 Filed 4–24–89; 8:45 am]

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federal register

Tuesday
April 25, 1989

Part VII

Department of Education

National Institute on Disability and Rehabilitation Research; Funding Priorities for Research Activities and Invitation of Applications for New Awards Under Certain Programs for Fiscal Year 1989; Notices

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DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Funding Priorities for Research Activities

AGENCY: Department of Education.

ACTION: Notice of Final Funding Priorities for Fiscal Years 1989–1990.

SUMMARY: The Secretary of Education announces final funding priorities for some of the research activities to be supported under the Rehabilitation Research and Training Center (RRTC), Rehabilitation Engineering Center (REC), Research and Demonstration (R & D), and Knowledge Dissemination and Utilization (D & U) programs of the National Institute on Disability and Rehabilitation Research (NIDRR) in fiscal years 1989 and 1990. NIDRR intends to provide funding support for some of these priorities in fiscal year 1989. Information concerning priorities to be supported in fiscal 1989 is contained in a separate consolidated application package published elsewhere in this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute on Disability and Rehabilitation Research, Department of Education, 400 Maryland Avenue SW., Room 3070, Switzer Building, Washington, DC 20202–2601.

EFFECTIVE DATE: These priorities take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

SUPPLEMENTARY INFORMATION: On November 15, 1988, NIDRR published proposed funding priorities for two fiscal years under several NIDRR programs in the **Federal Register** at 53 FR 46062. NIDRR's regulations authorize the Secretary to establish research priorities by reserving funds to support particular research activities (see 34 CFR 352.32). The publication of final funding priorities does not bind the Federal Government to fund projects in any of these areas, except as otherwise directed by statute. Funding of particular projects depends on the availability of funds and on the quality of the applications that are received. The following priorities represent areas of research derived from "state-of-the-art" meetings, planning conferences, and other participatory activities. This notice presents each program separately, with a description of the program followed by the final funding priorities for that program.

Analysis of Comments and Changes

NIDRR received a substantial number of comments on many of the proposed priorities. A synopsis and an analysis of comments received on these priorities and the Secretary's responses to them follow.

Rehabilitation Research and Training Centers (RRTCs) Rehabilitation for Persons With Long-Term Mental Illness

Comment: One commenter suggested that the research on families be broadened to include peers and other members of a client's support system. The commenter made two additional suggestions: (1) that a study of the impact of consumer management on vocational outcomes be added to the priority and (2) that studies of coping strategies and stress interventions successfully employed by ex-patients merit inclusion. Another commenter recommended that there be a study of the use of computers in rehabilitation of persons with long-term mental illness.

Discussion: The Secretary agrees that these are important concerns. However, most of these suggestions can be incorporated by an applicant in response to the present priority. NIDRR prefers to limit the required elements of a priority, and not to specify the approach to be used. An applicant may include peers and ex-patients as well as families in its studies of support mechanisms. Similarly, an applicant may develop model vocational rehabilitation interventions that include either consumer management or computer applications, or both. However, NIDRR will not require that all applicants test these specific interventions.

Changes: None.

Research and Training Center in Independent Living (IL)

Comment: Many commenters responded to this priority by objecting to the publication of proposed priorities for two years, without any indication of which priorities are proposed for funding in which fiscal year. Many commenters also objected to the lack of systematic involvement of representatives of the independent living field in the development of the priority. They further urged that funding levels should be included in notices of proposed priorities, to permit the public to judge the feasibility of implementing the priorities within program and funding constraints.

Most of these commenters contended that the scope and magnitude of the proposed priority are too extensive to be accomplished by one Center. Many commenters recommended that two RRTC's should be funded: one focusing on social policy issues related to achieving the goals of independent living, and another focusing on issues related to the management and improvement of Independent Living Center operations.

The general thrust of a large number of comments was that the priorities for the RRTC on Independent Living should focus on policy issues affecting independent living, with an emphasis on consumer involvement, consumer accessibility, and consumer control. The commenters further recommended that an emphasis be added to the priority on the identification and reduction of barriers to independent living, accessibility, and equal opportunity.

A group of commenters recommended that NIDRR delete or modify priority statements referring to long-term-care institutions and to specialized Independent Living Centers (ILCs) as those institutions are innately antithetical to the Independent Living concept. Commenters also recommended deleting priority statements relating to the study of patterns of funding and the study comparing specialized and generic ILCs. They believed that the study of funding patterns would be duplicative of another study already in progress.

Discussion: The Secretary has proposed priorities for two years at a time in order to simplify the processing and publication of notices, to give the field early notice of some of the pending priorities, and to give the agency greater flexibility in selecting priorities for funding in either or both years. The Department is required to publish priorities for public comment because priorities impose restrictions on applicants beyond those imposed by the statute, and thus they are considered to be regulatory. The Department is required by law to provide a period of public comment on regulatory actions. However, funding levels are not proposed for public comment since they are not regulatory in nature.

NIDRR regrets that the need to afford the field early notice of fiscal year 1990 priorities precluded the participatory planning meeting on the independent living priority that was to be held in 1989. However, the agency did consult with the staff of the Independent Living Program Division in the Rehabilitation Services Administration, and there is an ongoing channel of communication between the current RRTCs in Independent Living and their NIDRR Project Officer. Also, the Notice of Proposed Rulemaking process does

provide an opportunity for the field to make suggestions regarding the content of NIDRR priorities. The Department will consider alternative approaches for future fiscal years.

NIDRR agrees that the scope of activities identified in the proposed priority for an RRTC in independent living is too broad and diffuse for one Center. Therefore, NIDRR has modified the priorities to comprise two separate Centers.

With respect to the first activity in the proposed priority, NIDRR agrees with the commenters that the development of model approaches to improving consumer accessibility is important. With respect to the second activity, NIDRR believes that it is important to investigate the potential relevance of independent living concepts and programs in preparing individuals in a variety of long-term care settings to develop independent living skills and attitudes to facilitate their transition from institutions to living in the community. NIDRR agrees that a redundant study of funding patterns should not be undertaken.

NIDRR also agrees that, although some types of specialized IL Centers do exist, there is no pressing research objective to be met by comparing generic and specialized Centers.

Changes: NIDRR has divided the priority to create core areas for two RRTCs in Independent Living research, one in management and one in policy. One Center will include primarily those elements related to improving the operation of Independent Living Centers and services. The other RRTC will investigate policy issues related to independent living. NIDRR also has consolidated specific references to projects on long-term care settings, and eliminated references to studies of specialized ILCs and funding patterns. NIDRR has amended the priority to include a requirement to ". . . develop and test models to improve the accessibility of general community services to people with disabilities and integrate those services with Independent Living services," as requested by a large number of commenters.

A further change has been added to the priority to "develop and disseminate model strategies for ILCs to promote community accessibility in such areas as removal of architectural barriers, communications, employment, housing, and transportation." NIDRR also has eliminated the requirement for a study of funding patterns.

Community Integration for Persons With Mental Retardation

Comment: A number of commenters emphasized the need for more technical assistance to States and communities. Some of these commenters questioned the need for further research on community integration, arguing that dissemination of best practices was more important at this time. One commenter suggested that the target group should be expanded to include other developmental disabilities. Several commenters recommended that NIDRP place additional requirements in the priority, such as a requirement for state-of-the-art conferences for dissemination and for dissemination to a broad range of specific audiences, including generic service providers, policymakers, administrators, and parents.

Discussion: Although RRTCs do have a mandate for training and related activities, generally interpreted to include information dissemination and some technical assistance, NIDRR notes that its mandate and resources for in-depth technical assistance are limited. Most RRTCs provide technical assistance through their information services or through training. Alternatively, an RRTC may develop models for States and communities to acquire technical assistance with other resources. However, it will not be a major component of this RRTC. Similarly, the authority for RRTCs stipulates that they be research Centers. NIDRR believes that there is a need for new knowledge on many issues of community integration for persons with mental retardation, and thus is announcing a priority for an RRTC to conduct research and related activities in this area.

NIDRR believes there is a need for further research and, therefore, that the focus of the priority should be community integration of individuals with mental retardation. However, because individuals with other developmental disabilities are often in the same institutional populations or subject to similar segregation, NIDRR would not constrain the Center from including individuals with other developmental disabilities in its scope of work.

Finally, NIDRR prefers not to add requirements and restrictions to the priority. Applicants are free to propose whatever approaches to the stated problems they believe will be effective.

Changes: None.

Rehabilitation Engineering Centers (RECs) the Application of Computer-Assisted Design and Computer-Assisted Manufacture Methods to Prosthetics and Orthotics

Comment: A number of commenters stated that the proposed priority would be duplicative of substantial work now being done in computer-assisted design and computer-assisted manufacture (CAD–CAM) at various establishments, including the Rehabilitation Engineering Center at Northwestern University. They also noted that there is a capacity to support these endeavors in the private sector; the prosthetics and orthotics industry is a mature one that routinely uses CAD–CAM. One respondent stated that it would be inappropriate for NIDRR to devote an REC to the refinement of one tool—CAD–CAM—rather than to focus on solving problems of individuals with disabilities. Several commenters also stressed that innovations in prosthetics and orthotics are likely to come through small projects generated by the numerous practitioners and small businesses in the field.

Discussion: NIDRR proposed the priority with the goal of ensuring that state-of-the-art technological approaches would be applied to developing devices to benefit individuals with disabilities. The consensus of the commenters was that the potential use of CAD–CAM is already being widely tested and the priority would be unlikely to advance knowledge in that area.

NIDRR agrees that additional field-initiated research is likely to be a productive approach to developing improved prostheses and orthoses.

Therefore, NIDRR will withdraw the proposed priority for further consideration, while encouraging researchers to submit applications in the investigator-initiated programs—Innovation Grants and Field-Initiated Research.

Changes: The proposed priority has been withdrawn.

Applications of Technology to the Rehabilitation of Children With Orthopedic Disabilities

Comments: NIDRR received several comments that suggested the scope of the priority was too narrow, as it appeared to focus on prostheses for amputees. They recommended a more inclusive target group and a range of broader goals and objectives for the Center. Commenters urged that the Center focus on the special developmental needs of children.

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Discussion: NIDRR intended for the REC to have a broad scope, focusing on children with all types of neuromuscular and musculoskeletal disabilities. NIDRR believes that the Center should be concerned with: (1) A wide range of prosthetic and orthotic systems, devices, controls, materials, fabrication and techniques; (2) increasing the utility of devices by making them more cosmetically acceptable; and (3) developing techniques to assist children and their families to identify, acquire, finance, and use appropriate devices. The development of these systems and devices should be done with an awareness of the special needs of children in various developmental phases.

Changes: The priority has been revised to include neuromuscular as well as musculoskeletal impairments, to incorporate an emphasis on sensitivity to the developing needs of the child, and to clarify the scope of work as discussed above.

Personal Licensed Transportation Systems for Disabled Persons

Comment: One commenter urged that there be more emphasis on driver assessment, technology for matching drivers to adaptive equipment, and development of standards for licensing drivers with disabilities. Some commenters suggested that there should be a separate REC to focus on driver assessments. Several commenters urged that the successful applicant would have to be associated with a service delivery system, since there would be insufficient time or resources to establish a service system within the framework of the grant award.

Discussion: NIDRR agrees that the REC should develop and evaluate equipment that could be used to match driver capacity with adaptive equipment. However, because NIDRR believes this REC should focus on adaptive equipment, the development of standards (whether for drivers or for automotive equipment), should not be part of this priority. NIDRR prefers that driver training programs be supported through other sources. If research on driver training or driver assessment is needed, potential investigators are urged to consider the Field-Initiated and Innovation grants programs. NIDRR agrees that it would not be realistic or an effective use of grant monies for the grantee to establish a service system.

Changes: The priority has been modified to include the development and testing of equipment to properly match disabled individuals with adaptive equipment. The phrase, "establish * * * a service delivery system * * *" has been deleted.

Blindness and Low Vision Sensory Aids

Comment: NIDRR received a number of substantive suggestions from two major organizations. Both commenters urged that the Center should study the issues surrounding diagnosis of vision disorders in infants and young children. One commenter suggested that the private sector could better develop improved access to bank teller machines. Commenters also suggested that the evaluation of human factors could lead to a more satisfactory explanation of the underutilization of reading machines.

Discussion: NIDRR agrees that it is important to investigate methods for early diagnosis of visual impairment in infants and young children. NIDRR also agrees that there is a need to assess the impact of human factors, such as ability to read, upon the use of reading machines. While access to automated bank tellers was cited only as an example in the proposed priority, NIDRR agrees that the use of the example may have been misleading.

Changes: The reference to bank teller machines has been deleted. A statement has been added that the Center shall "Develop and Disseminate enhanced technology and methods for neonatal and early infancy detection and monitoring of developing visual impairments." The priority has also been expanded to include the evaluation of human factors in the use of reading machines as well as the technology of reading machines.

Research and Demonstration Program

Chronic Low Back Pain

Comment: A few commenters stated that the scope of activities under the proposed priority is too extensive for a project of the customary size, and would require a substantial Center or several smaller projects. The commenters also stated that the vocational objectives and general rehabilitation studies were the most important components of the project.

Discussion: The Secretary agrees that the proposed priority prescribed a scope of activities that is too extensive and varied for a single discrete project. NIDRR believes that the component activities can be divided logically between those that relate to general rehabilitation for persons with low back pain and those that focus on vocational implications of low back pain. NIDRR further agrees that the activities requiring collaborative prospective studies are too extensive for the scope of these projects.

Changes: The Secretary is announcing two different final priorities. One will focus on the vocational aspects of rehabilitation of low back pain and one will focus on general rehabilitation issues. One priority will be funded in fiscal year 1989. Two of the specific project activities requiring collaborative prospective studies have been eliminated from the priority.

Knowledge Dissemination and Utilization Program Networking With Independent Living Centers (ILCs) and Independent Living Service Providers (ILSPs)

Comment: A number of commenters urged that this priority be retained and expanded to include access to the network by all Independent Living Centers. They also noted that many nonparticipating ILCs and ILSPs need more implementation assistance if they are to take advantage of the network programs.

Discussion: NIDRR agrees that a national network is the desired objective.

At the same time that a national network using the best available technology is created, it is important to include in the project a component of knowledge about and responsiveness to the needs and capacities of the ILCs and ILSPs. NIDRR is convinced that the earlier demonstration projects have indicated that a national network, using commonly available personal computer technology and telecommunications, is now feasible as well as desirable. While there should be a single national network, there should also be regionalized satellites to provide implementation assistance to ILCs as well as information brokerage.

Changes: NIDRR has revised the priority to call for one national network, with regional satellites to provide implementation assistance, information brokerage, and training on the use of the system.

General Comments

Comment: One commenter recommended that there be priorities directed to the rehabilitation of individuals after traumatic brain injury (TBI). The commenter also suggested that individuals with TBI should be included specifically as target populations in many of the existing priorities.

Discussion: NIDRR agrees that TBI is a very important problem for rehabilitation research. In the past year, NIDRR has funded four RRTCs devoted to research and training on TBI, as well as 13 discrete research projects, and five comprehensive care model demonstrations. The funds devoted to research and related activities exclusively in TBI amount to over five million dollars, or approximately one-tenth of the NIDRR budget. In addition, NIDRR supports programs to train researchers in the area of TBI, and TBI is included in the research populations and beneficiaries of numerous other activities, including recreation, attendant care, and vocational research projects. NIDRR believes it is important to have the findings from some of this ongoing research before planning future research priorities in TBI.

In those priorities in which a target population is not specified, applicants are free to propose research relating to any disability group that they consider a suitable population that could benefit from the proposed research. NIDRR prefers not to restrict applicants under these priorities to any particular disability groups. To do so could exclude researchers who do not have access to certain target populations in all of the relevant generic priorities, such as rural programs, stress, supported employment, and the vocational rehabilitation projects.

Changes: None.

Background

Authority for the Rehabilitation Research and Training Centers (RRTC) program of NIDRR is contained in section 204(b)(1) of the Rehabilitation Act of 1973, as amended. Under the RRTC program, awards are made to institutions of higher education, or to public and private organizations, including Indian tribes and tribal organizations, that are affiliated with institutions of higher education. RRTCs conduct programmatic, multidisciplinary, and synergistic research, training, and information dissemination in designated areas of high priority.

A program of RRTCs has been established to conduct coordinated and advanced programs of rehabilitation research and to provide training to rehabilitation personnel engaged in research or the provision of services. RRTCs must be operated in collaboration with institutions of higher education and must be associated with rehabilitation service programs. Each Center conducts a synergistic program of research, evaluation, and training activities focused on a particular rehabilitation problem area. Each Center is encouraged to develop practical applications for all of its research findings. Centers generally disseminate and encourage the utilization of new rehabilitation knowledge through such means as writing and publishing undergraduate and graduate texts and curricula and publishing findings in professional journals. All materials that the Centers develop for dissemination and training must be accessible to individuals with a range of handicapping conditions. RRTCs also conduct programs of in-service training for rehabilitation practitioners, education at the pre-doctoral and post-doctoral levels, and continuing education. Each RRTC must conduct an interdisciplinary program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research. Centers must also conduct state-of-the-art studies in relevant aspects of their priority areas. Each RRTC must also provide training to individuals with disabilities and their families in managing and coping with disabilities.

Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. Continued funding of a Center depends at all times on satisfactory performance and accomplishment, in accordance with the provisions of 34 CFR 75.253(a).

Final Funding Priorities for RRTCs (3)

Rehabilitation for Persons With Long-Term Mental Illness (LTMI)

There are over two million persons with long-term, severe mental illness. Improved rehabilitation interventions and service delivery models are needed to afford better opportunities for this population to remain out of institutions and to attain satisfactory lives in their communities. The population of adults with severe psychiatric disabilities spans all ages.

Results of research and practice indicate that specialized rehabilitative interventions can increase the likelihood of community adjustment for persons with long-term mental illness. It is important to continue to develop and test more effective rehabilitative interventions, including especially those that contribute to improvements in education, vocational status, and general health care.

NIDRR, with the cooperation of the National Institute of Mental Health, intends to fund an RRTC to address these issues. Any Center to be funded under this priority must involve persons with long-term mental illness and their family members in the planning, conduct, and evaluation of the research and training activities.

An absolute priority is announced for an RRTC to:

- Analyze employment patterns, obstacles to employment, and employment options for individuals with long-term, severe mental illness;
- Develop and test model rehabilitative program interventions to improve employment outcomes, and assess the cost-effectiveness of these options;
- Analyze the role of rehabilitative interventions in the management of crisis episodes, study the relationship between crisis assistance programs and rehabilitation, and develop and test models for appropriate management of crises in rehabilitation;
- Analyze the relationship between psychiatric and mental health treatment regimens and rehabilitation interventions, and develop and test model programs for integrating mental health treatment with rehabilitation;
- Identify the most effective techniques to assist families with individuals with long-term severe mental illness both to maintain family functioning and to maximize the effective contribution of family members to the rehabilitation process;
- Develop and test new rehabilitation intervention techniques and systems of rehabilitative care, examining methods to integrate effectively a range of discrete community or hospital-based services in planning, implementing, financing, and evaluating client rehabilitation;
- Conduct at least one study of the state-of-the-art in one of the above areas; and
- Provide training to relevant parties, including vocational rehabilitation counselors, family members, and other service providers, and disseminate all findings to appropriate audiences.

Research and Training Center in Independent Living

The concept of Independent Living (IL) has emerged as an important service program as well as an important principle for individuals with disabilities. This concept embraces such goals as self-determination, self-help, deinstitutionalization, and barrier-free access to services and opportunities previously unavailable to persons with disabilities. The Congress acknowledged the importance of this theme in the passage of Title VII of the Rehabilitation Amendments of 1978, establishing a separate authority for Independent Living service programs.

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The 1984 amendments to the 1978 Act appropriated funds to implement Part A of Title VII by State agencies to implement statewide IL delivery systems. The Rehabilitation Act Amendments of 1986 mandated the development of program standards and performance indicators to assess the performance of the federally-funded Independent Living programs.

Implementation of the Independent Living programs of the Act requires an understanding of the boundaries of the program (e.g., eligibility, types of services), high quality program management, and the goals, philosophy, and social policy implications of Independent Living. Continuing research is needed to support the development and refinement of the independent living concept and to enhance the quality of services and the success of the programs.

NIDRR is announcing final funding priorities for two RRTCs in independent living: one Center to focus on improving the effectiveness of ILCs and ILSPs, and the other Center to focus on the refinement and extension of independent living concepts and services.

Improving Management Effectiveness in Independent Living Centers

An absolute priority is announced for an RRTC to:

- Develop research-based management models and management training programs and provide training and technical assistance to independent living program staff to enhance management performance;
- Develop and test models for independent living programs to assist in the transition of individuals from both long- and short-term rehabilitation care facilities into independent living in the community;
- Develop, on the basis of assessments and analyses, and test models whereby IL programs can be involved most effectively in the effort to improve the delivery of rehabilitation engineering services and technological aids and devices to persons with disabilities;
- Assess the potential of ILCs to provide services to previously underserved populations, such as those with cognitive impairments and emotional disorders, those with low-incidence disabilities, and minority populations;
- Develop and test research-based models to coordinate IL with vocational rehabilitation programs and with supported employment programs in order to enhance the effectiveness of all three types of programs and improve outcomes for individuals with disabilities; and
- Develop and test research-based training programs and provide training to relevant staff of IL programs at the State and Center levels on the findings of the research and disseminate findings widely throughout the IL and rehabilitation fields.

Research in Policy Issues in Independent Living

An absolute priority is announced for an RRTC to:

- Study and test strategies to support and enhance the effectiveness of individuals with disabilities in setting policies for independent living programs and in achieving personal independent living objectives;
- Assess the quality of community services available to individuals with disabilities, evaluate the impact of those services on independent living, and develop and test models to improve the accessibility of general community services to people with disabilities and integrate general community services with IL services to enhance the ability of persons with disabilities to live independently;
- Develop and disseminate model strategies for ILCs to promote community accessibility in such areas as removal of architectural barriers, communications, employment, housing, and transportation;
- Identify two significant policy issues affecting the achievement of independent living objectives and conduct one study of the state-of-the-art in research and best practices in each of these two areas over the course of the project period; and
- Develop and test training programs and provide training to relevant staff of independent living programs at the State and Center levels on the findings of the research and disseminate findings widely throughout the independent living and rehabilitation fields.

Community Integration for Persons With Mental Retardation

Professionals and policymakers are realizing that children and adults with mental retardation fare best in natural community environments. It is no longer a matter of whether people with the most severe disabilities can be served in their communities. It is a question of how to best support people with severe mental retardation to enable them to remain and thrive in their communities. However, it is not good enough to be "in" the community; people with severe mental retardation must be part of their communities. The objective of this Center is to develop and disseminate state-of-the-art technologies for achieving this goal.

Families and communities must have current information regarding best practices and creative funding mechanisms for developing and staffing family-scale living arrangements for people with mental retardation. One of the major problems facing the field is that of staff burn-out and excessive turnover. Effective strategies are needed to recruit, train, and retain direct care staff so that turnover rates, which now exceed twenty percent annually, can be reduced. Families need information that will help them identify the characteristics of high quality living environments and community-based vocational and recreational programs. States and communities need information that will enable them to modify service delivery systems and community-based programs in order to meet the individual needs of persons with mental retardation who are leaving large public and private institutions. They need to know how to identify and replicate existing programs and how to design new programs that will maximize the independence, productivity, and social integration of persons with mental retardation. In addition, social agencies need information to develop better methods to coordinate the delivery of social, educational, transportation, and vocational services and to reduce the existing fragmentation of services.

Generic community-based services and programs offer ideal settings for the enhancement of social networks for people with mental retardation. Community-based service providers need to learn how to identify generic programs that can be helpful to persons with mental retardation and help them to integrate the target group into general community social programs.

The Center is to conduct a program of coordinated research and training activities and to disseminate rehabilitation approaches that will assist States, communities, and families to develop strategies for ensuring the full participation of people with mental retardation in their communities.

Any Center to be supported in response to this priority should involve persons with mental retardation and their families in the design, implementation, and evaluation of Center activities.

An absolute priority is announced for an RRTC to:

- Identify best practices and creative funding mechanisms that will allow for the development of family-scale living arrangements and develop and disseminate strategies that will promote the adoption of these best practices;
- Develop and test research-based models for recruiting, training, and retaining direct care personnel in agencies providing services to individuals with mental retardation;
- Identify, develop, and evaluate strategies that will enable States and communities to facilitate successful integration into the community of persons with mental retardation who are leaving institutions;
- Conduct a study to identify and analyze Federal, State, and local funding available for the rehabilitation of persons with mental retardation and suggest ways to improve the coordination of funding mechanisms;
- Identify best practices and the characteristics of natural environments that are successful in enhancing the independence, productivity, and social integration of persons with mental retardation and develop materials that will help families and service providers design new and evaluate existing community-based programs;
- Develop and test research-based models for the integration of persons with mental retardation into generic social service programs;
- Develop a database on community integration information and serve as a national resource for information in this area; and
- Conduct at least two studies of the state-of-the-art on community integration of persons with mental retardation and disseminate the research findings.

Rehabilitation Engineering Centers (RECs)

Authority for the Rehabilitation Engineering Center program of NIDRR is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended. Under this program, awards are made to public and private agencies and organizations including institutions of higher education, Indian tribes, and tribal organizations.

NIDRR supports a program of Rehabilitation Engineering Centers (RECs) that conduct coordinated programs of advanced research of an engineering or technological nature. RECs work to develop systems for the exchange of technical and engineering information and to improve the distribution of technological devices and equipment to individuals with handicaps. Each REC must be located in a clinical rehabilitation setting and is encouraged to collaborate with institutions of higher education. Each REC conducts a program of research, scientific evaluation, and training that advances the state-of-the-art in technology or its application; contributes substantially to the solution of rehabilitation problems; and becomes an acknowledged center of excellence in a given subject area. RECs are encouraged to develop practical applications for their research through scientific evaluation activities that validate their findings as well as related findings of other centers. RECs generally conduct training programs to disseminate and encourage utilization of new rehabilitation engineering knowledge through such means as development of or contribution to undergraduate and graduate texts and curricula, in-service training, continuing education, and the distribution of information and appropriate technology. Each REC must ensure that all training and information materials developed by the Center are presented in several formats that will be accessible to individuals with various types of sensory and mobility impairments.

NIDRR will conduct, not later than three years after the establishment of any REC, one or more reviews of the activities and achievements of the Center, to include review by peers. Continued funding depends at all times on satisfactory performance and accomplishment in accordance with the provisions of 34 CFR 75.253(a).

Final Funding Priorities for RECs (3)

Personal Licensed Transportation Systems for Disabled Persons

The ability to move from place to place rapidly, conveniently, safely, and economically is a prerequisite to full participation in American society. Although both private and public transportation systems exist, private transportation in a personal vehicle is frequently the only means of transportation available for the handicapped person. There are, however, no commonly accepted standards for the adaptation of personal vehicles to accommodate disabled individuals as drivers or passengers. Adaptations may compromise the structural stability and safety of the vehicle, may not provide easy boarding or safe and rapid exit from the vehicle, and may include unsafe or ineffective control devices. Seating systems and systems for securing wheelchairs in the vehicles are often unsafe and ineffective.

Any Center to be funded in response to this priority should include persons with disabilities, their families and the community rehabilitation service providers in the planning, implementation and assessment of Center activities, especially in the assessment of needs, the identification of devices and systems to be tested, and the dissemination of information.

The Center shall be associated with a service delivery system that provides means of personal automotive transportation for persons with disabilities, and shall serve as a national model for the evaluation, testing, and collection of information regarding real-world performance of adapted vehicles as a mechanism for increasing the flow of information and communication between the researchers, consumers, service providers, and the automotive industry.

The Center shall establish and maintain mechanisms for collaborating and cooperating with: agencies and organizations responsible for the development and maintenance of any standards for adaptive motor vehicles; with the private sector to promote the manufacture, distribution, and testing of new devices and systems; with the REC in wheelchair modifications for technology sharing in wheelchair designs, and with the rehabilitation service delivery system to ensure the transfer of information to service providers.

The Center shall serve as a national resource for information on personal vehicle designs and adaptations for disabled persons and maintain a database on national and international research and development activities in this area for reference and dissemination.

An absolute priority is announced for an REC to:

- Evaluate existing vehicle modification devices and equipment and develop and test new devices and systems that include personal vehicle safety systems such as wheelchair tie-downs, occupant restraints, emergency exit systems, alerting devices for hearing impaired drivers, and primary and secondary control systems that do not compromise the vehicle's compliance with standards set by the Society of Automotive Engineers and the United States Department of Transportation;
- Evaluate, and develop if necessary, equipment to be used in assessing disabled individuals' needs for adaptive equipment and matching individuals and equipment;
- Develop and evaluate access and exit systems including ramps, lifts, and wheelchair loading devices that provide access to personal vehicles while maintaining the structural integrity of the vehicle;
- Develop materials for national dissemination of information on the

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adaptive vehicle devices and provide training to engineers, disabled drivers, personal attendants, and rehabilitation counselors in the proper use of these devices;

• Disseminate materials to automobile manufacturers and educate them on the benefits of producing and marketing such devices; and

• Conduct at least one comprehensive study of the state-of-the-art in personal vehicle transportation systems for disabled persons to increase the knowledge base and to provide recommendations for future research in the area.

Applications of Technology to the Rehabilitation of Children with Orthopedic Disabilities

Orthopedic impairments sufficient to cause disability account for one-third of all disabilities in children. The prevalence of orthopedic impairments, neuromuscular impairments, and musculoskeletal anomalies for children from birth to age 17 presents serious problems for the development of these children and for the quality of their lives.

Although technology is now available for restoring some lost functions, there continues to be a marked delay in the acquisition of devices needed to restore function and prevent further limitation in children. There is a lack of available professionally-trained clinicians to attend to the needs of disabled children for advanced technology as well as for maintenance and repair at local levels.

A Center to be established in response to this priority must undertake all activities with a concern for the effects of functional restoration and adaptive devices on the development of children. They must be aware of the changing developmental needs of children and be responsive to those concerns.

An absolute priority is announced for an REC to:

• Develop and evaluate prosthetic and orthotic systems and related adaptive devices to meet the needs of children with neuromuscular or musculoskeletal impairments;

• Identify and assess the suitability of appropriate materials for use in these devices, including considerations of weight, utility, and cosmetic acceptability;

• Develop improved methods for fabricating assistive devices for children;

• Develop and evaluate improved body-powered and externally-powered terminal devices for enhancing strength of grasp, externally-powered elbows and shoulders, and adjustable sockets for children;

• Develop and evaluate new control systems to enable children to operate externally-powered components more effectively;

• Develop innovative strategies to enable children and their families to learn about, finance, and use the new technology; and

• Develop and demonstrate dissemination centers that enable children and families, as well as clinicians, to see and test available equipment.

Blindness and Low Vision Sensory Aids

Blindness and visual impairment lead to severe handicaps in education, employment, recreation and daily living. The National Center for Health Statistics and other authorities variously estimate the number of legally blind persons in the United States at 400,000 to 600,000, with another 1.4 million who are severely visually impaired. More than 10 million others have significant visual impairment which cannot be further improved with corrective lenses. Aside from those with reduced visual acuity and fields, there are also large and rapidly increasing numbers of older individuals with impairments in contrast, binocularity, and adaptation which handicap their performance in a wide variety of everyday tasks.

Other increasingly complicating factors are the ever-greater numbers of persons with other (often auditory) impairments combined with visual disability, and the growing incidence of premature infants at risk for visual handicap.

Technological innovations arising from the development of new scientific and medical knowledge can have a positive impact on these problems. Progress has already been made in this field, including advances in communication, computer access, educational and vocational aids, and optical amplifiers for low vision, orientation and mobility aids, and improved functional vision assessment. However, in addition to further improvements in these areas, there are emerging areas of technology to be explored. Some of these new areas are related to the changing demographics of the visually impaired population, particularly the increasing need for rehabilitation of those whose visual impairments are due to progressive diseases. Other emerging challenges are due to the rapid advance in computer applications (including computer graphics), communications, and other technologies which must be made accessible to the blind individual for the future.

An absolute priority is announced for an REC to:

• Develop a range of electronic education aids to assist the teaching of perceptual, manipulative, and cognitive skills to the child with visual or multiple handicaps;

• Develop and disseminate enhanced technology and methods for neonatal and early infancy detection and monitoring of developing visual impairments;

• Develop improved characterizations of the disease processes underlying such progressive visual disorders as age-related maculopathy (ARM), in order to adapt to the changing rehabilitation needs, including the relation of ARM to other diseases of the geriatric population;

• Develop a collaborative team approach incorporating clinicians in vision and audition, pediatricians, neurologists, and researchers, to develop innovative methods to refine diagnosis, prognosticate developmental anomalies, and devise optimal rehabilitative strategies for multifaceted problems such as vision/hearing multihandicaps and cortical blindness;

• Apply new scientific and medical knowledge to the design and selection of improved low vision aids for filtering, magnification, and illumination, with improved matching between the device, environmental modifications, and the underlying disease characteristics;

• Develop population data to better define the potential markets for various classes of sensory aid technology;

• Develop new technology and methods for improving access by blind and visually impaired persons to computers, including better approaches for obtaining overviews of screen and file contents and access to the increasingly graphics-oriented computer hardware and software coming into general use;

• Explore technology to promote easier access by blind persons to other computerized equipment and information such as music synthesizers, bar code readers, electronic databases and communication systems, and to enable them to benefit from computer-assisted instruction;

• Evaluate reading machine technology and the human factors involved in the use of reading machines to address the reasons for the present apparent underutilization of these systems;

• Develop and test specialized job-site modifications, using the latest available technology, to enhance employment opportunities for blind individuals;

• Develop and test new and responsive technology for communication, employment, and daily living to meet the needs of deaf-blind persons;

• Provide information on sensory aids to consumers and professionals, and develop a method to obtain feedback on needs and satisfaction; and

• Design and conduct appropriate training activities for rehabilitative personnel, clinicians, and consumers to disseminate and encourage utilization of new rehabilitation engineering knowledge.

Research and Demonstration Program (R&D)

Research and Demonstration Projects (R&D) support research and demonstrations in single project areas on problems encountered by individuals with handicaps in their daily activities. These projects may conduct research on rehabilitation techniques and services, including analysis of medical, industrial, vocational, social, psychiatric, psychological, recreational, economic, and other factors to improve the rehabilitation of individuals with disabilities. The authority for this program is contained in Section 204(a) of the Rehabilitation Act of 1973, as amended.

Final Funding Priorities for R&D (10)

Supported Employment Programs for Persons With Long-Term Mental Illness

The Advisory Group on Psychiatric Disability and Supported Employment of the Rehabilitation Services Administration (RSA) has considered service and research needs for persons with long-term mental illness. Recent developments, including the Rehabilitation Act Amendments of 1986 and the supported employment "State-Change" demonstration projects, have greatly expanded the number of supported employment activities for persons with long-term mental illness. There has been a growing number of requests to the University of Oregon Supported Employment Technical Assistance project for assistance in organizing supported employment activities and in identification of project components for individuals with mental illness. State agencies and mental health organizations will benefit from research results at this time. Results are also needed to report to the Congress on program developments. Project materials will be used to implement and improve local and state-supported employment activities for persons with long-term mental illness.

An absolute priority is announced for a project to:

• Examine the organizational configuration, staff training and characteristics, service population, service and caseload mix, caseload size, and funding approaches for supported employment programs for this target population;

• Identify organizational interrelationships of mental health, vocational rehabilitation, and psychosocial rehabilitation programs and test models for optimum services; and

• Identify effective program features and client outcomes, including types of employment, methods of long term support, service strategies, and funding patterns.

Chronic Low Back Pain

A major goal of the treatment of patients with chronic low back pain should be to increase functional capacity, probably the most important factor in preventing recurrence of low back injury. More directly, improved functional capacity allows the patient with chronic back pain to enter a more active and productive life, minimizing associated disability. Current information on functional capacity is based primarily on data acquired on injured athletes, and the database should be expanded. There is a need for more information on the cost/benefit characteristics of various physical training programs as they relate to all patients with chronic back pain. There is little information available, as well, on the relative importance of specific muscle group and regional flexibility training compared to whole body work-hardening programs, which include more eccentric loading and coordination demands. Two priorities are announced—one to focus on the vocational aspects of the rehabilitation of individuals with low back pain and one to focus on general rehabilitation issues.

Studies in the Rehabilitation of Individuals With Low Back Pain

An absolute priority is announced for a project to:

• Determine the relative importance of physical, psychological, and occupational components of the multidisciplinary programmatic approach to treatment of patients with chronic low back pain;

• Study the importance of patient independence and self care on rehabilitation of low back pain and prevention of recurrence; and

• Evaluate successful rehabilitation programs to determine their cost/effectiveness.

Studies on the Vocational Aspects of Low Back Pain Rehabilitation

An absolute priority is announced for a project to:

• Develop a generic test battery to determine capability for return to work and activities of daily living without recurrence of low back pain, including minimal clinical evaluation, psychological evaluation, and physical (whole body), mechanical, and physiological tests;

• Determine minimum outcome criteria for grading pain versus disability, to include: pain relief, level of function, return to work, medication, utilization of health care system, quality of life, litigation, recurrence, and profiles of health care providers; and

• Develop and test methods of early identification of those who will not return to work.

Research in Adventitious Hearing Impairment

Most research on adult onset hearing loss has focused on diagnostic and amplification technologies and on neurological, anatomical and physiological changes in the cochlea, august nerve, brain stem, and cortex. Aural rehabilitation models have been published. However, despite the prevalence of hearing loss, and despite abundant anecdotal accounts of its human and economic costs, there has been surprisingly little research to examine the psychosocial effects of hearing loss in adulthood.

In 1986, NIDRR convened a conference on aging and rehabilitation; in one segment of that conference, a number of research scientists, health care professionals, and persons from service-delivery agencies met to discuss priorities for collaborative research on adult onset hearing loss. This priority is based on research needs identified at that conference. NIDRR announced this priority for competition in fiscal year 1988, but none of the applicants was deemed suitable for funding. Therefore, a new competition will be held.

An absolute priority is announced for a project to:

• Analyze characteristics of adults who have adjusted successfully to hearing impairment, including such variables as personality factors, nature and severity of the hearing loss, communication styles, support networks, and interventions with professionals;

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• Identify successful rehabilitation strategies, emphasizing professional attitudes toward persons with hearing loss and behaviors that may impede or facilitate adjustment;

• Investigate interactions between biological and psychosocial phenomena, with an emphasis on assessing the extent to which these interactions exacerbate disability caused by hearing loss in middle and later life; and

• Evaluate existing databases on health status, psychological characteristics, and behavioral patterns to determine the impact of adventitious hearing impairment.

Rural Job Development and Job Placement

Small businesses are the primary sources of employment in rural areas. With the decline in the number of active farms, small businesses that depend on farms are also in economic jeopardy. Farmers who are disabled in farm accidents (200,000 disabling injuries occur in the agriculture industry each year, amounting to 58 per 1,000 active farmers) may not be able to return to farming. Alternative employment placements will have to be developed and retraining provided for primary employment or for secondary employment to supplement low farm prices for those who do go back to farming.

An absolute priority is announced for a project to:

• Analyze employment patterns and the hiring practices of various categories of employers in rural areas and project future employment opportunities in various industry sectors and occupational classifications; and

• Develop and test research-based strategies for use by rehabilitation agencies and community-based organizations in developing new placement opportunities and providing training for those new opportunities.

Community-Based Rural Projects

There are fledgling community-based independent living and service delivery programs in rural areas that need technical assistance in order to develop or continue. Some have received RSA Independent Living or other Federal or State support in the start-up process; others are entirely community-level efforts.

Programs in rural areas encounter unique difficulties. For example, the lack of transportation and the high cost of communication and travel barriers are burdens to programs in rural communities. Rural independent living programs need assistance to develop mutual supports, combine resources, keep abreast of information resources, and implement new ideas into practice. It is important that such programs be "owned" by the communities and, therefore, continue when Federal funding has expired.

An absolute priority is announced for a project to:

• Identify exemplary rural independent living programs that have successfully assembled unique resources to increase the potential of persons with disabilities for living independently in rural areas;

• Verify the effectiveness of these programs and develop strategies to replicate these practices in other areas for similar groups, including an assessment of a variety of factors unique to rural areas such as cultural and historical patterns, unique employment settings, exceptional terrain or climatic conditions, and extremely depressed economic conditions; and

• Share information from this nationwide project with the Research and Training Center on Rural Rehabilitation Services at the University of Montana for further refinement and dissemination.

Effective Client-Counselor Interactions in Vocational Rehabilitation

Basic principles of rehabilitation formed in law and in professional training emphasize that the consumer of services must play an active, expressive role in reaching his or her objectives. All individuals served through the State-Federal vocational rehabilitation program must have an Individualized Written Rehabilitation Program (IWRP) that reflects their substantial involvement. The psychosocial rehabilitation approach that was designed to foster the independence and development of people with emotional disabilities has been described, in part, as directed to the development of full human capacity, self-determination and normalization through a deprofessionalized, non-medical model, environmentally sensitive work-centered process. Similar principles are incorporated in the ideals of supported employment. However, these idealistic models of active consumer self-determination often are not verified in empirical studies of client satisfaction and case management. Continuous identification and verification of these factors is essential to effective counseling.

An absolute priority is announced for a project to:

• Identify specific techniques, attributes, skills, characteristics, features, and related factors of client-counselor interaction that increase the participation of individuals, particularly severely disabled people, in making decisions regarding their rehabilitation; and

• Develop models and recommendations for ongoing processes and information-sharing or training programs to promote effective client-counselor interaction and to reach the audiences concerned with enhanced individual client self-advocacy in rehabilitation.

Developing Vocational Rehabilitation Programming for Low-Incidence Geographically Dispersed Disabled Populations

Statistical compilations on the prevalence of need for assistance in activities of daily living (ADL) among disabled adults, the incidence of selected congenital malformations per 10,000 total births, and of handicapping conditions of persons enrolled in various education and rehabilitation programs reveal a pattern of numerous conditions for which there are not precise or reliable estimates of prevalence. Some examples of these low-incidence or low-prevalence conditions from National Health Interview Surveys, 1983–1985, include Spina Bifida, absence of arms or hands, skin cancer, bone cancer, leukemia, absence of fingers-toes-feet, and certain anemias.

State vocational rehabilitation agencies, special education programs, medical rehabilitation facilities, disability income benefits programs, and disability researchers have identified the need for improved knowledge of the rehabilitation needs of, and effective programming for, such populations. There is particular need for collaborative planning models for human service provider organizations to use in developing and exchanging information, making individual referrals, supporting family members of low-incidence groups, and collaborating with self-help and advocacy organizations.

An absolute priority is announced for a project to:

• Conduct an extensive literature review and programmatic survey to identify, classify, and prioritize for project investigation major problem areas in the rehabilitation of low-incidence disabled populations

• Develop and demonstrate improved methods of programming for low-incidence, geographically dispersed disabled populations, including information exchanges, referral networks, advocacy group involvement, and identification of "best practices" and

• Convene a National State-of-the-Art Conference and implement a national dissemination and utilization plan to highlight findings of the project.

Issues in the Expansion of Private-Sector Rehabilitation Services

A recent report, *Private Sector Rehabilitation: Lessons and Options for Public Policy*, prepared for the U.S. Department of Education under contract No. 300–85–D141, identified a variety of innovative patterns of collaboration between proprietary rehabilitation providers and public rehabilitation agencies. In particular, "fee-for-service" units staffed by salaried State employees and operated with State funding appear to offer a viable, "Fair Competition" public sector alternative to private providers in areas such as rehabilitation of injured workers. Also, State use of private vendors to deliver case management in providing services to traditional State vocational rehabilitation agency clients was determined to be a possible option in an Arizona study. However, existing data are inadequate for determining long-term benefit-cost implications for these and related alternatives in public-private rehabilitation collaboration.

An absolute priority is announced for a project to:

• Analyze variables associated with use of "fee-for-service" and "vendor service" arrangements in the delivery of rehabilitation services to workers' compensation claimants, with special emphasis on the effects of litigation, settlements, re-entry to public rehabilitation services systems, availability of public versus private services, and eligibility questions;

• Analyze the extent to which disabled persons are served outside of the State vocational rehabilitation system, and determine the characteristics of the clients, the nature and costs of services, and outcomes; and

• Develop and assess research-based management strategies to assist public rehabilitation managers to operate services in collaboration with or parallel to those of private service providers.

Supported Employment and Enhanced Maximizing Human Potential

A number of research studies have identified the need to address the impact of supported employment on the "quality of life" of supported employees and their families. Although many studies have addressed the remunerative outcomes of supported employment, published reports have not yet fully explored "intangible benefits" or qualitative factors in individuals' lives that change as a result of supported employment. Suggested areas for study include those related to individual behavior and skills, physical health, community participation, mental health and self-concept, and family satisfaction of supported employees. Research on this topic has been impeded by the lack of accepted definitions of "quality of life," inadequate qualitative measures, and analytical problems such as unintrusive access to personal and job information and limitations in structuring comparison groups of individuals in supported employment versus comparable non-vocational or non-supported employment settings.

An absolute priority is announced for a project to:

• Conduct an empirical investigation of one or more supported employment disability populations, such as developmentally disabled individuals, physically disabled individuals, persons who have traumatic brain injury or long-term mental illness, to determine the qualitative impact of supported employment in terms of behavior, physical and mental health, community integration, family satisfaction, and such additional areas as the investigator deems significant; and

• Report the results of the study in a national conference with substantial participation of consumers, providers, family members, employers, researchers, and public officials.

Stress and Disability Management

Stress has been described as a feeling of being under pressure, of not being able to cope, of feeling irritable, anxious, and as if things are out of control (Department of Health and Human Services Employee Assistance Service). Stress affects individuals in different ways; some manifestations of stress include decreased job productivity, increased absenteeism, increased worker dissatisfaction, deteriorating health, problems in interpersonal relationships, and increased use of alcohol and drugs. Many of these same factors have been associated with the onset of disability in employed persons, whether due to accident on or off the job, a chronic health problem, or the sudden appearance of a health problem. The combination of loss of control, emotional distress, and disability often becomes a constraint to communication and redress of difficulties for disabled workers. Disabled workers, due to the stress they may be experiencing, are often unwilling or unable to seek the help of disability management resources such as trained supervisors, employee assistance programs, or rehabilitation referrals. Moreover, cooperation of the disabled worker is necessary for active employee participation in achieving the optimum person-environment fit on the job based on individual and organizational characteristics.

An absolute priority is announced for a project to:

• Analyze the relationship between stress factors and disability management components to identify barriers and incentives which, when addressed in employment settings, will improve on-the-job assistance to disabled workers in such areas as coping strategies, redesigning jobs, person-environment fit, relaxation training, and health risk awareness; and

• Conduct controlled demonstrations of the use of disability management techniques with "at risk" high stress groups (medical texts associate cardiovascular disease, gastro-intestinal disorders, musculoskeletal problems, and deficient immune systems with stress), providing appropriate measurement of results in productivity, absenteeism, employee satisfaction, employer satisfaction, benefits use, interpersonal communications between worker and supervisor, and related variables.

Knowledge Dissemination and Utilization Program (D&U)

Knowledge Dissemination and Utilization Projects (D&U) ensure that rehabilitation knowledge generated from projects and centers funded by NIDRR and others is utilized fully to improve the lives of handicapped persons. The authority for this program is contained in Sections 202 and 204 (a) and (b)(5) of the Rehabilitation Act of 1973, as amended.

Final Funding Priorities for D & U (5)

Regional Information Exchanges

There is a need to promote the widespread use of new, validated rehabilitation practices and exemplary rehabilitation programs in selected priority areas in order to improve the service delivery system for disabled individuals. NIDRR proposes to address this need by establishing one or more regional information exchanges similar to the regional diffusion networks that are now operating. NIDRR believes that these exchanges will be most effective if they focus on facilitating the adoption of program models developed locally or within the same region. Also, NIDRR believes that this information exchange will be strengthened by the inclusion of expert consultants available to provide

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specific technical assistance aimed at rehabilitation agencies.

Priority areas for diffusion efforts during the period of this priority will include the use of rehabilitation technology in vocational rehabilitation, barrier-free environments, and transitional employment programs, and other topic areas that are of concern to the specific region or that are agreed upon by NIDRR and the recipient of the award.

An absolute priority is announced for one or more projects to:

- Develop criteria for identifying exemplary rehabilitation programs, and develop information collection instruments which include measurements related to the identified criteria;
- Solicit nominations of exemplary programs in the priority area from program operators, consumer organizations, and other relevant parties in the selected region, giving consideration to inclusion of special demonstration projects funded by the Rehabilitation Services Administration or other Federal agencies;
- Develop and implement a procedure to select the most promising programs for further consideration and arrange independent peer reviews of those programs to determine exemplary programs for diffusion purposes;
- Develop public relations and marketing approaches to make the wide audience of rehabilitation service providers and special educators aware of the exemplary programs and stimulate their interest in adopting or adapting similar models, assisted by the diffusion network;
- Facilitate the exchange of technical assistance between the exemplary program and the requesting adopter program through onsite demonstrations, training materials, and direct consultation;
- Develop and maintain a referral system of expert consultants in these priority areas of the project to facilitate the linkage of service providers and disabled consumers to knowledgeable resources; and
- Maintain appropriate data on the diffusion network to support an evaluation of its effectiveness.

Networking with Centers for Independent Living and Independent Living Service Providers

There are approximately 360 independent living centers (ILCs) and independent living service providers (ILSPs) providing services on the local level throughout the United States. Over one-half of those receive funding from the Rehabilitation Services Administration.

For the past two years NIDRR has funded three projects to develop, demonstrate and evaluate the effectiveness and utilization of computer networking among ILCs and ILSPs. The projects surveyed ILCs and ILSPs regarding computer capacity, communication and information needs. The projects developed and provided information databases on management techniques and simplified software, resources, policy and program developments. The projects also created bulletin boards for communication and information sharing among centers and established access to a national database.

These projects demonstrated the interest and capability of ILCs and ILSPs to utilize networks and databases effectively, share techniques and data among centers, and serve as local information and referral sources for information compiled on the national level (e.g., the ABLEDATA and REHABDATA information bases). The projects also demonstrated a need for aggregating local and regional databases for use at the national level. Competent information brokers are needed to provide training and technical assistance and facilitate access to national databases and information.

Any project to be funded under this priority must directly involve disabled persons, including those who have experience with independent living service provision, in the planning, development and conduct of the project activities;

An absolute priority is announced for a project to:

- Establish and maintain, with adequate staff and hardware and software support, a national computer information network in IL using a toll-free telecommunications system;
- Establish three to five multiregional network support satellites adequate to provide support to a nationwide network, to provide assistance, training, and information brokerage services to ILCs and ILSPs to facilitate their roles as brokers of information within their communities;
- Provide, through the multiregional satellites, technical assistance and training to promote use of the system by ILCs and ILSPs;
- Develop computer databases on available resources and information including management, planning and evaluation materials and software, employment opportunities, conferences and educational opportunities, funding opportunities, housing, IL services and resources, policy issues, and related resources important to independent living
- Develop computer conferencing capability to enable network members to communicate among ILCs and ILSPs on issues and problems of concern and participate in group educational sessions;
- Facilitate access to national databases, including REHABDATA and ABLEDATA, and designate a knowledgeable and trained staff person to serve as the Project Information Broker to provide information, training and technical assistance on the databases to the IL-based information broker;
- Provide on-line access to databases created by NIDRR-funded projects and others, including the databases compiled by this project;
- Develop a database system to collect and compile "experiential" data for systemwide information and referral, using consistent terminology and indexing for data input at the State and local levels;
- Facilitate creation of such experiential databases among local ILCs and aggregate them on a multiregional basis; and
- Conduct annual evaluations to ensure the system is meeting the needs of the participants.

Demographic Data Analysis

Effective planning for research, services, or policy related to the disabled population requires detailed information about the size and characteristics of the population. This information is needed by Federal, State, and local agencies to plan services, transportation, housing, income maintenance, and recreation.

Federal, State and private administrators and planners have identified a need for a central source for demographic and other data on disability, and a comprehensive system for the collection of those data. A number of Federal agencies, some States, and many private research institutions collect information, analyze some of it, and often produce public use tapes that also include great amounts of analyzed data. As a consequence, much of the most critical data on disability are not analyzed or are poorly disseminated, or both. There is a continuing demand for information on the incidence and prevalence of disability and its distribution among various population groups. Other data such as service use, distribution of benefits, earnings, and costs of care would be invaluable to disabled individuals and their organizations, planners, researchers, and policymakers.

Information developed through this activity should be made available to a variety of potential users, and potential users should be involved in the planning, implementation and evaluation of the project.

An absolute priority is announced for a project to:

- Develop and update estimates of the incidence, prevalence, and distribution of various disabilities, using existing data;
- Develop a database of information from governmental and nongovernmental data collection efforts, encompassing information on specific disability conditions, limitations in activities of daily living, patterns of service use, needs for assistive devices, employment and earnings, benefits payments, insurance, and demographic data;
- Conduct secondary analysis of major data files, such as the Survey of Income and Program Participation and the Health Interview Survey, and others to provide needed information; and
- Develop and disseminate to consumers and professionals information on the characteristics of the disabled population.

The International Exchange of Information and Experts in Rehabilitation

There are rehabilitation practices and research projects in other nations that can serve as the impetus for improvements in rehabilitation research and service delivery in the United States. For example, the now widely accepted practice of immediate post-surgical fitting of prostheses was developed in Poland; the concept of disability management at the workplace was brought to U.S. attention as a result of concepts uncovered in past international exchanges; and Functional Electrical Stimulation programs in the United States owe much to early work done in Yugoslavia. In addition, there are practices in the United States that could be extremely beneficial to foreign professionals and researchers.

Fostering such cross-cultural collaboration and providing networks to maintain collegial contacts requires personal exposure of researchers and professionals to other cultures. In addition, the good practices and knowledge derived from abroad need to be disseminated to U.S. audiences through monographs and utilization conferences.

An absolute priority is announced for a project to:

- Identify areas of policy and practice that are of significant concern to NIDRR and to disabled persons and the rehabilitation community generally in the United States and in which there are significant developments in other countries that could provide useful guidance for United States agencies;
- Develop and implement a plan for United States experts to study specific policies, practices, programs and research results in other nations;
- Provide for the preparation of monographs on rehabilitation research topics by foreign experts or U.S. experts who have had beneficial study visits abroad;
- Conduct utilization conferences to disseminate information on selected topics of international significance to rehabilitation; and
- Evaluate the impact on specific rehabilitation practices in the United States of international exchange of information and experts arranged for under the project.

Developing Consumer Group Capacity to Facilitate Technology Transfer

There is a major new emphasis on delivering technological aids and devices to consumers in a timely, appropriate, and effective manner. The development of technological knowledge and assistive devices far exceeds the mechanisms for transferring those aids into regular use. NIDRR and OSERS are involved in major new efforts to improve the delivery and use of aids and devices.

Independent living organizations, parent organizations, and other consumer groups have direct contacts with individuals with disabilities and often first-hand knowledge of their technology needs. These groups could be invaluable resources in assisting in the spread of knowledge, the acquisition of technology, the appropriate use of technology, and consumer feedback on the effectiveness of the technology. The potential contributions of such organizations to the national effort to improve technology service delivery need to be explored and augmented.

An absolute priority is announced for a project to:

- Explore the optimum roles for independent living programs, parent groups, and other consumer organizations in identifying and promoting the acquisition, use, and assessment of technological aids and assistive devices by persons with disabilities;
- Investigate opportunities for innovative involvement of consumer groups with RECs, State rehabilitation agencies, and technology delivery programs; and
- Develop and test research-based models to involve organizations representing consumers in facilitating the appropriate use of assistive technology.

Authority: 29 U.S.C. 760–762.

Dated: March 30, 1989.

(Catalog of Federal Domestic Assistance Nos. 84.133A, 84.133B, 84.133D, and 84.133E, National Institute on Disability and Rehabilitation Research)

Lauro F. Cavazos,

Secretary of Education.

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DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

[CFDA Nos.: 84.133A, 84.133D, and 84.133E]

National Institute on Disability and Rehabilitation Research; Invitation of Applications for New Awards Under Certain Programs for Fiscal Year 1989

Note to Applicants

This notice is a complete application package. The notice contains information, application forms, and instructions needed to apply for a grant under these competitions. The priorities for these programs are published in a separate part of this issue of the **Federal Register.**

The estimates of funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

Applicable Regulations

The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 79, 80, and 85; and the following program regulations:

Research and Demonstration Program (CFDA No. 84.133A) 34 CFR Parts 350 and 351.

Knowledge Dissemination and Utilization Program (CFDA No. 84.133D) 34 CFR Parts 350 and 355.

Rehabilitation Engineering Centers Program (CFDA No. 84.133E) 34 CFR Part 353.

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PROGRAM TITLE: RESEARCH AND DEMONSTRATION APPLICATION NOTICES FOR FISCAL YEAR 1989

CDFA No.	Program title	Funding priority	Deadline for transmittal of applications	Estimated No. of awards	Estimated size of awards	Project period (months)
84.133A	Research and demonstration.	Studies on the vocational aspects of low back pain rehabilitation.	July 9, 1989	1	$175,000	36
		Research in adventitious hearing impairment		1	175,000	36
		Rural job development and job placement		1	175,000	36
		Issues in the expansion of private sector rehabilitation services.		1	175,000	36

Selection Criteria: The Secretary uses the following selection criteria in 34 CFR 350.34 to evaluate applications under this program.

(a) *Potential Impact of Outcomes: Importance of Program* (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The proposed activity relates to the announced priority;

(2) The research is likely to produce new and useful information (research activities only);

(3) The need and target population are adequately defined;

(4) The outcomes are likely to benefit the defined target population;

(5) The training needs are clearly defined (training activities only);

(6) The training methods and developed subject matter are likely to meet the defined need (training activities only); and

(7) The need for information exists (utilization activities only).

(b) *Potential Impact on Outcomes: Dissemination/Utilization* (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The research results are likely to become available to others working in the field (research activities only);

(2) The means to disseminate and promote utilization by others are defined;

(3) The training methods and content are to be packaged for dissemination and use by others (training activities only); and

(4) The utilization approach is likely to address the defined need (utilization activities only).

(c) *Probability of Achieving Proposed Outcomes: Program/Project Design* (Weight 5.0). The Secretary reviews each application to determine to what degree—

(1) The objectives of the project(s) are clearly stated;

(2) The hypothesis is sound and based on evidence (research activities only);

(3) The project design/methodology is likely to achieve the objectives;

(4) The measurement methodology and analysis is sound;

(5) The conceptual model (if used) is sound (development/demonstration activities only);

(6) The sample populations are correct and significant (research and development/demonstration activities only);

(7) The human subjects are sufficiently protected (research and development/demonstration activities only);

(8) The device(s) or model system is to be developed in an appropriate environment;

(9) The training content is comprehensive and at an appropriate level (training activities only);

(10) The training methods are likely to be effective (training activities only);

(11) The new materials (if developed) are likely to be of high quality and uniqueness (training activities only);

(12) The target populations are linked to the project (utilization activities only); and

(13) The format of the dissemination medium is the best to achieve the desired result (utilization activities only).

(d) *Probability of Achieving Proposed Outcomes: Key Personnel* (Weight 4.0). The Secretary reviews each application to determine to what degree—

(1) The principal investigator and other key staff have adequate training and/or experience and demonstrate appropriate potential to conduct the proposed research, demonstration, training, development, or dissemination activity;

(2) The principal investigator and other key staff are familiar with pertinent literature and/or methods;

(3) All required disciplines are effectively covered;

(4) Commitments of staff time are adequate for the project; and

(5) The applicant is likely, as part of its nondiscriminatory employment practices, to encourage applications for employment from persons who are members of groups that traditionally have been underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly.

(e) *Probability of Achieving Proposed Outcomes: Evaluation Plan* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) There is a mechanism to evaluate plans, progress and results;

(2) The evaluation methods and objectives are likely to produce data that are quantifiable; and

(3) The evaluation results, where relevant, are likely to be assessed in a service setting.

(f) *Program/Project Management: Plan of Operation* (Weight 2.0). The Secretary reviews each application to determine to what degree—

(1) There is an effective plan of operation that insures proper and efficient administration of the project(s);

(2) The applicant's planned use of its resources and personnel is likely to achieve each objective;

(3) Collaboration between institutions, if proposed, is likely to be effective; and

(4) There is a clear description of how the applicant will include eligible project participants who have been traditionally underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly.

(g) *Program/Project Management: Adequacy of Resources* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) The facilities planned for use are adequate;

(2) The equipment and supplies planned for use are adequate; and

(3) The commitment of the applicant to provide administrative support and adequate facilities is evident.

(h) *Program/Project Management: (Budget and Cost Effectiveness)* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) The budget for the project(s) is adequate to support the activities;

(2) The costs are reasonable in relation to the objectives of the project(s); and

(3) The budget for subcontracts (if required) is detailed and appropriate.

Eligible Applicants

Parties eligible to apply for grants under this program are public and private nonprofit and for-profit agencies and organizations, including institutions of higher education and Indian tribes and tribal organizations.

Authority: 29 U.S.C. 761a and 762.

PROGRAM TITLE: KNOWLEDGE DISSEMINATION AND UTILIZATION APPLICATION NOTICES FOR FISCAL YEAR 1989

CDFA No.	Program title	Funding priority	Deadline for transmittal of applications	Estimated No. of awards	Est. size of awards	Project period (months)
84.133D	Knowledge Dissemination and Utilization.	Networking with Centers for Independent Living Centers and Independent Living Service Providers.	June 9, 1989	1	$400,000	46
		Developing Consumer Group Capacity to Facilitate Technology Transfer.		1	150,000	36

Selection Criteria: The Secretary uses the selection criteria in 34 CFR 350.34 to evaluate applications under this program. Those criteria are the same as those published above under the Research and Demonstration Program, 84.133A.

Authority: 29 U.S.C. 761(a), 762(a), and 762(b)(5).

PROGRAM TITLE: REHABILITATION ENGINEERING CENTERS APPLICATION NOTICES FOR FISCAL YEAR 1989

CDFA No.	Program title	Funding priority	Deadline for transmittal of applications	Estimated No. of awards	Est. size of awards	Project period (months)
83.133E	Rehabilitation Engineering Centers.	Personal Licensed Transportation Systems for Disabled Persons.	June 9, 1989	1	$500,000	60

Selection Criteria: The Secretary uses the following selection criteria in 34 CFR 353.31 to evaluate applications under this program.

(a) *Relevance and importance of the research program* (25 points). The Secretary reviews each application to determine to what degree—

(1) The proposed activities are responsive to a priority established by the Secretary and address a significant need of a disabled target population and rehabilitation service providers;

(2) The overall research program of the Center includes appropriate interdisciplinary and collaborative research activities, is likely to lead to new and useful knowledge in the priority area and to the development of new technology or new applications of existing technology, and is likely to become a nationally recognized source of information on technology in the priority area; and

(3) The applicant demonstrates that all component activities of the Center are related to the overall objectives of the Center, and will build upon and complement each other to enhance the likelihood of finding solutions to significant rehabilitation problems.

(b) *Quality of the research design* (25 points). The Secretary reviews each application to determine to what degree—

(1) The applicant proposes a comprehensive program of research for the total project period, including at least three interrelated research projects;

(2) The research design and methodology of each proposed activity are meritorious in that—

(i) The literature review is appropriate and indicates familiarity with the state-of-the-art and current research in rehabilitation technology;

(ii) The research hypotheses are important and scientifically relevant;

(iii) The sample populations are appropriate and significant;

(iv) The data collection and measurement techniques are appropriate and likely to be effective;

(v) The data analysis methods are appropriate; and

(vi) The applicant assures that human subjects, animals, and the environment are adequately protected;

(3) The plan for development, clinical testing, and evaluation of new devices and technology is likely to yield significant products; and

(4) The application discusses the anticipated research results and demonstrates how those results would satisfy the original hypotheses and could be used for planning additional research, including the generation of new hypotheses where applicable.

(c) *Quality of the dissemination and utilization program* (25 points). The Secretary reviews each application to determine the degree to which—

(1) The proposed plan for dissemination provides evidence that research results will be effectively disseminated and utilized based on the identification of appropriate and accessible target groups; the proposed activities are relevant to the regional and national needs of the rehabilitation field; and dissemination packages will be prepared in a form usable by individuals with all types of disabilities;

(2) The proposed plan for dissemination and utilization of the research and development provides for—

(i) Orientation programs for rehabilitation service personnel to improve the application of rehabilitation technology;

(ii) Programs which specifically demonstrate means for utilizing rehabilitation technology;

(iii) Technical assistance and consultation that are responsive to

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concerns of service providers and consumers; and

(iv) Dissemination of research findings through publication in professional journals, textbooks, and consumer and other publications, and through other appropriate media such as audiovisual materials and telecommunications, in an effort to make research results accessible to manufacturers, rehabilitation service providers, and researchers, educators, disabled individuals and their families, and others; and

(3) There is an appropriate plan to ensure the distribution and utilization of new devices and technology.

(d) *Quality of the organization and management* (25 points). The Secretary reviews each application to determine the degree to which—

(1) The staffing plan for the Center provides evidence that the principal investigator and other personnel have appropriate training and experience in disciplines required to conduct the proposed activities; the commitment of time for all staff is adequate to conduct all proposed activities; and the Center, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) The budgets for the Center and each of the proposed activities are reasonable, adequate, and cost-effective for the proposed activities;

(3) The facilities, equipment, and other resources are adequate and are appropriately accessible to persons with disabilities;

(4) The plan of operations is adequate to accomplish the Center's objectives and to ensure proper and efficient management of the Center;

(5) The proposed relationships with Federal, State, and local rehabilitation service providers and consumer organizations are likely to ensure that the Center program is relevant and applicable to the needs of consumers and service providers;

(6) The past performance and accomplishments of the applicant indicate an ability to complete successfully the proposed scope of work;

(7) The application demonstrates appropriate commitment and support by the host institution and opportunities for interdisciplinary activities and collaboration with other institutions; and

(8) The plan for evaluation of the Center will assess annually the outcomes of the discrete and interrelated research projects, the impact of the training and dissemination activities on the target populations, and the extent to which the overall objectives have been accomplished.

Authority: 29 U.S.C. 760, 762(b)(2).

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, DC time] on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

PART II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

PART III: Application narrative.

PART IV: Estimated Public Reporting Burden. Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Debarment, Suspension, and Other Responsibility Matters: Primary Covered Transactions (ED Form GCS–006) and instructions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form GCS–009) and instructions. (NOTE: ED Form GCS–009 is intended for the use of primary participants and should not be transmitted to the Department.)

One or both of the following, as appropriate:

Certification Regarding Drug-Free Workplace Requirements: Grantees Other than Individuals (ED 80–0004).

Certification Regarding Drug-Free Workplace Requirements: Grantees Who Are Individuals (ED 80–0005).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: The National Institute on Disability and Rehabilitation Research, 400 Maryland Avenue SW., Washington, DC 20202. Telephone: (202) 732–1207; deaf and hearing-impaired persons may call (202) 732–1198 for TDD services.

Authority: 29 U.S.C. 760–762.

Dated: April 17, 1989.

Patricia McGill Smith,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

BILLING CODE 4000-01-M

Appendix

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FREQUENT QUESTIONS

1. CAN I GET AN EXTENSION OF THE DUE DATE?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the Federal Register. However, there are no extensions or exceptions to the due date made for individual applicants.

2. WHAT SHOULD BE INCLUDED IN THE APPLICATION?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is not useful to

include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. WHAT FORMAT SHOULD BE USED FOR THE APPLICATION?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. MAY I SUBMIT APPLICATIONS TO MORE THAN ONE PROGRAM COMPETITION NIDRR OR MORE THAN ONE APPLICATION TO A PROGRAM?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. WHAT IS THE ALLOWABLE INDIRECT COST RATE?

The limits on indirect costs vary according to the program

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and the type of application.

Applications that are for training activities should limit indirect charges to the lesser of the actual indirect costs or eight percent of the total direct costs of the program, as noted in the Education Department General Administrative Regulations (EDGAR).

All other applicants in the R&D, D&U, and REC programs should limit indirect charges to the organization's approved rate. If the organization does not have an approved rate, the application should include an estimated actual rate.

6. CAN PROFITMAKING BUSINESSES APPLY FOR GRANTS?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. CAN INDIVIDUALS APPLY FOR GRANTS?

No. Only organizations are eligible to apply for grants under NIDRR programs.

8. IS THERE A COST-SHARING OR MATCHING REQUIREMENT?

Cost-sharing is required in the Research and Demonstration Projects program, with certain exceptions noted in the law; and the Knowledge Dissemination and Utilization program. For the Rehabilitation Engineering Centers, the Secretary has the option to require matching. It is generally the practice of the agency to require cost-sharing under this program.

There is no set rate for cost-sharing. The cost-sharing is negotiated at the time an award is made and is not part of the

evaluation of the application.

9. CAN NIDRR STAFF ADVISE ME WHETHER MY PROJECT IS OF INTEREST TO NIDRR OR LIKELY TO BE FUNDED?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

10. HOW DO I ASSURE THAT MY APPLICATION WILL BE REFERRED TO THE MOST APPROPRIATE PANEL FOR REVIEW?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including the title of the priority to which they are responding.

11. HOW SOON AFTER SUBMITTING MY APPLICATION CAN I FIND OUT IF IT WILL BE FUNDED?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

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12. CAN I CALL NIDRR TO FIND OUT IF MY APPLICATION IS BEING FUNDED?

No! When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

13. IF MY APPLICATION IS SUCCESSFUL, CAN I ASSUME I WILL GET THE REQUESTED BUDGET AMOUNT IN SUBSEQUENT YEARS?

No. Those budget projections are necessary and helpful for planning purposes. However, a complete budget and budget justification must be submitted for each year of the project and there will be negotiations on the budget each year.

14. WILL ALL APPROVED APPLICATIONS BE FUNDED?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2 DATE SUBMITTED	Applicant Identifier
3 DATE RECEIVED BY STATE	State Application Identifier
4 DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name	Organizational Unit
Address (give city, county, state, and zip code)	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A State; B County; C Municipal; D Township; E Interstate; F Intermunicipal; G Special District; H Independent School Dist.; I State Controlled Institution of Higher Learning; J Private University; K Indian Tribe; L Individual; M Profit Organization; N Other (Specify) _____

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A Increase Award; B Decrease Award; C Increase Duration; D Decrease Duration; Other (specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐.☐☐☐
TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.)

13. PROPOSED PROJECT: Start Date; Ending Date

14. CONGRESSIONAL DISTRICTS OF: a Applicant; b Project

15. ESTIMATED FUNDING:

a Federal	$ .00
b Applicant	$ .00
c State	$ .00
d Local	$ .00
e Other	$ .00
f Program Income	$ .00
g TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a Typed Name of Authorized Representative	b Title	c Telephone number
d Signature of Authorized Representative		e Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION
(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

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INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

Research and Demonstration (84.133A)

Knowledge Dissemination and Utilization (84. 133D)

Rehabilitation Engineering Centers (84.133E)

Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820-0027, Washington, D.C. 20503.

(Information collection approved under OMB control number 1820-0027.

Expiration date: September 30, 1990.)

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OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

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Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the U.S. Department of Education, Grants and Contracts Service, 400 Maryland Avenue, S.W. (Room 3633 GSA Regional Office Building No. 3), Washington, D.C. 20202-4725, telephone (202) 732-2505.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name | PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature | Date

ED Form GCS-008, (REV.12/88)

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

ED Form GCS-008, (REV. 12/88)

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Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name | PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature | Date

ED Form GCS-009, (REV. 12/88)

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

ED Form GCS-009, (REV. 12/88)

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Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 34 CFR Part 85, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment (see 34 CFR Part 85, Sections 85.615 and 85.620).

The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;
(2) The grantee's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--

(1) Abide by the terms of the statement; and
(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

ED 80-0004

[FR Doc. 89-9605 Filed 4-24-89;8:45am]
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federal register

Tuesday
April 25, 1989

Part VIII

Department of Labor

Employment and Training Administration

Job Training Partnership Act; State Designations of Entities as Dislocated Worker Units Under Title III, As Amended by Economic Dislocation and Worker Adjustment Assistance Act; Notice

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DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act; State Designations of Entities as Dislocated Worker Units Under Title III, as Amended by Economic Dislocation and Worker Adjustment Assistance Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor is publishing for public information names, addresses, and telephone numbers of entities designated by State as Dislocated Worker Units.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Employment and Training Administration, Department of Labor, Room N-4469, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202-535-0577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title III of the Job Training Partnership Act (JTPA), as amended by the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA), provides that the Department of Labor (DOL or Department) shall fund programs for States to assist dislocated workers. Section 311(b)(2) of JTPA provides that States will designate or create an identifiable State Dislocated Worker Unit (DWU) or office with the capability to respond rapidly, onsite, to permanent plant closures and substantial layoffs throughout the State. The DWU is a key feature of the States' implementation of the new programs under EDWAA.

On March 6, 1989, the Assistant Secretary of Labor sent a letter to each of the Governors to verify a listing of their State DWU designated entity. After consideration of written responses received, and further verification by telephone, DOL is publishing this notice. Periodic updates of this listing will be published, based on revisions received by the Department.

Signed at Washington, DC, this 19th day of April 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

Dislocated Worker Units Nationwide

Alabama

Mrs. Ruth Ott, Employment and Training Division, Department of Economic and Community Affairs, 3465 Norman Bridge Road, P.O. Box 250347, Montgomery, Alabama 36205-0939, Telephone: 205-284-8800.

Alaska

Mr. William Mailer, JTPA Program Manager, Rural Development Division, Department of Community and Regional Affairs, 949 East 36th Avenue, Suite 403, Anchorage, Alaska 99508, Telephone: 907-563-1955.

Arizona

Ms. Delia Walters, Department of Economic Security, Division of Employment and Rehabilitation Services, 1300 West Washington, 3rd Site Code 901A, Phoenix, Arizona 85005, Telephone: 602-542-4910.

Arkansas

Mr. William D. Gaddy, Administrator, Arkansas Employment Security Division, P.O. Box 2981, Little Rock, Arkansas 72203, Telephone: 501-682-2121.

California

Mr. Werner O. Schink, Acting Chief, Job Training Partnership Division MIC 69, Employment Development Department, California Response Team, P.O. Box 942880, Sacramento, California 94280-0001, Telephone: 916-322-4440.

Colorado

Mr. Dick Rautio, Director, DWU, Governor's Job Training Office, 1391 N. Speer Boulevard, #440, Denver, Colorado 80204, Telephone: 303-620-4400.

Connecticut

Mr. Arthur Franklin, Director, State Department of Labor Dislocated Worker Unit, 200 Folly Brook Boulevard, Whethersfield, Connecticut 06109, Telephone: 203-566-7433.

Delaware

Ms. Alice Mitchell, Technical Services Manager, Delaware Department of Labor, P.O. Box 9499, Newark, Delaware 19714-9499, Telephone: 302-368-6913.

District of Columbia

Ms. Brenda Boykins, Division Chief, Division of Program Operations, Department of Employment Services, Office of Employability Development, 500 C Street, NW, Room 301, Washington, DC 20001, Telephone: 202-639-1289.

Florida

Mr. Shelton Kemp, Chief, Bureau of Job Training, Division of Labor, Employment and Training, Department of Labor and Employment Security, 1320 Executive Center Drive, Suite 201, Tallahassee, Florida 32399-0667, Telephone: 904-488-9250.

Georgia

Ms. Andrea Harper (All correspondence should be addressed to Mr. James A. Lowe), Georgia Department of Labor, Sussex Place, Suite 600, 148 International Boulevard N.E., Atlanta, Georgia 30303, Telephone: 404-656-3031.

Hawaii

Mr. Mario Ramil, Director, Department of Labor and Industrial Relations, 830 Punchbowl Street, Room 321, Honolulu, Hawaii 96813, Telephone: 808-548-3150.

Idaho

Ms. Julie Kilgrow, Director, Department of Employment, 317 Main Street, Boise, Idaho 83735-0001, Telephone: 208-334-6110.

Illinois

Mr. John Taylor, Manager, Job Training Programs Division, Illinois Dept. of Commerce and Comm. Affairs, 620 E. Adams Street, Springfield, Illinois 62704, Telephone: 217-785-6006.

Indiana

Ms. Nina White, Manager, Operational Planning and Support, Program Operations Division, Indiana Department of Employment and Training Service, 10 N. Senate Avenue, Room 325, Indianapolis, Indiana 46204, Telephone: 317-232-8066.

Iowa

Mr. Jeff Nall, Administrator, Job Training Division, Department of Econ. Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: 515-281-3759.

Kansas

Mr. Patrick Pritchard, Director, Program and Support Services, Department of Human Resources, 401 Topeka Avenue, Topeka, Kansas 66603, Telephone: 913-296-2063.

Kentucky

Mr. Charles Furr, Director, Division for Job Training, Department for Employment Services, 275 East Main, 2 West, Frankfort, Kentucky 40621, Telephone: 502-564-5380.

Louisiana

Mrs. Phyllis C. Mouton, Secretary of Labor, ATTN. DWU, Copy to: Robert Dupre, Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, Louisiana 70804-9094, Telephone: 504-342-3016.

Maine

Mr. James H. McGowan, Director, Bureau of Labor Standards, Department of Labor, State House Station #45, Augusta, Maine 04333, Telephone: 207-289-6400.

Maryland

Mr. Vernon J. Thompson, Director, Contracts and Operations, Office of Employment Training, Department of Economic and Employment Development, 1100 N. Eutaw Street, Rm. 310, Baltimore, Maryland 21201, Telephone: 301-333-5149.

Massachusetts

Dr. Patricia Hanratty, Executive Director, Industrial Services Program, One Ashburton Place, Room 1413, Boston, Massachusetts 02108, Telephone: 617-727-6158.

Michigan

Mr. James Houck, Manager, Dislocated Workers Unit, Michigan Department of Labor, Governor's Office For Job Training, 222 Hollister Building, P.O. Box 30039, Lansing, Michigan 48909, Telephone: 517-373-6227.

Minnesota

Mr. Edward Retka, Employment and Training Specialist III, Minnesota Department of Jobs and Training, State Job Training Office, 690 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101, Telephone: 612-296-7916.

Mississippi

Ms. Jane Black, Director, DWU, Department of Job Development and Training, Governor's Office of Federal-State Programs, 301 West Pearl Street, Jackson, Mississippi 39203-3089, Telephone: 601-949-2128.

Missouri

Mr. Michael Hartmann, Director, Department of Econ. Dev., Division of Job Development and Training, 221 Metro Drive, Jefferson City, Missouri 65109, Telephone: 314-751-7796.

Montana

Ms. Patricia Gross, Program Manager, DWU, Employment Policy Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624, Telephone: 406-444-4500.

Nebraska

Ms. Patricia Meisenholder/Mr. Edward Kosark, Nebraska Department of Labor, Job Training Program Division, 550 South 16th Street, Box 95004, Lincoln, Nebraska 68509-5004, Telephone: 402-471-2127.

Nevada

Ms. Barbara Weinberg, State Job Training Office, Capitol Complex, Carson City, Nevada 89710, Telephone: 702-885-4310.

New Hampshire

Mr. Robert Steiner, Director, Dislocated Worker Unit, NH Job Training Coordinating Council, 64B Old Suncook Road, Concord, New Hampshire 03301, Telephone: 603-228-9500.

New Jersey

Mr. Thomas Draybik, Coordinator, New Jersey Department of Labor Response Team, New Jersey Department of Labor Room 1013, John Fitch, Plaza, Trenton, New Jersey 08625, Telephone: 609-292-2074.

New Mexico

Mr. Patrick Newman, Chief, Dislocated Worker Unit, State Administrative Entity, P.O. Box 4218, 1596 Pacheco Street, Santa Fe, New Mexico 87501, Telephone: 505-827-6824.

Copy to: Mr. Paul Garcia, Secretary, New Mexico Department of Labor, P.O. Box 1928, Albuquerque, New Mexico 87102.

New York

Mr. David Mance, Early Warning Notification Unit, Room 162, Building 12, State Office Building Campus, Albany, New York 12240, Telephone: 518-457-0206 (Within State =1-800-548-1158).

North Carolina

Mr. Joel C. New, Director, Division of Employment and Training, P.O. Box 27687, Raleigh, North Carolina 27611-7687, Telephone: 919-733-6383.

North Dakota

Mr. James Hirsch, Director, Employment and Training Division, Job Service of ND, P.O. Box 1537, Bismarck, North Dakota 58502, Telephone: 701-224-2843.

Ohio

Ms. Ellen O'Brien Saunders, Administrator, Ohio Bureau of Employment Services, 145 S. Front Street, Columbus, Ohio 43215, Telephone: 614-466-8032.

Oklahoma

Mr. Eddie Foreman, Supervisor, EDWAA Unit, Oklahoma Employment Security Commission, Will Rodgers Building, Room 308, 22401 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Telephone: 405-557-7128.

Oregon

Ms. Gale Castillo, Manager, Job Training Partnership Administration, Economic Development Department, 155 Cottage Street, N.E., Salem, Oregon 97310, Telephone: 503-373-1995.

Pennsylvania

Dr. Alice Hoffman, Director, Dislocated Worker Unit, 11th Floor, Labor and Industry Building, 7th and Forster Streets, Harrisburg, Pennsylvania 17120, Telephone: 717-783-9844.

Rhode Island

Mr. Richard D'Iorio, Director, The Dislocated Workers Resources Center, 555 Valley Street, Building 51, Providence, Rhode Island 02908, Telephone: 401-277-2090.

South Carolina

Ms. Regina D. Ratterree, Program Coordinator, South Carolina Employment Security Commission, Manpower Training Unit, Rapid Response Unit, 1550 Gadsden Street, Columbia, South Carolina 29201-3430, Telephone: 803-737-2800.

South Dakota

Dislocated Worker Unit, South Dakota Department of Labor, 700 Governor's Drive, Pierre, South Dakota 57501, Telephone: 005-773-5017.

Tennessee

Mr. Jimmy White, Commissioner, Tennessee Department of Labor, Dislocated Worker Unit, 501 Union Building, 6th Floor, Nashville, Tennessee 37219-5388, Telephone: 615-741-2582.

Texas

Ms. Joyce Leidy, Associate Director, Texas Department of Commerce, Industrial Development Training, P.O. Box 12728, Austin, Texas 78711, Telephone: 512-834-6237.

Utah

Mr. Gary Gardner, Director, DWU, Office of Job Training and Economic Development, 6136 State Office Building, Salt Lake City, Utah 84114, Telephone: 801-538-3619.

Vermont

Mr. Thomas Douse, Director, Office of Employment and Training Programs, Department of Employment and Training, P.O. Box 488, Montpelier, Vermont 05602, Telephone: 802-229-0311.

Virginia

Mr. Ralph Cantrell, Commissioner, Virginia Employment Commission, P.O. Box 1358, 703 E. Main Street, Richmond, Virginia 23211, Telephone: 804-786-3001.

Copy to:

Dr. James E. Price, Executive Director, Governor's Employment and Training Department, P.O. Box 12083, Richmond, Virginia 23241, Telephone: 804-786-5696.

Washington

Ms. Susan Dunn, Commissioner, Employment Security Department, Training and Employment Analysis Division, 605 Woodview Drive, S.E., KG 11, Olympia, Washington 98504, Telephone: 206-438-4611.

West Virginia

Mr. Paul Skaff, Administrative Manager, State, DWU, Employment and Training Division, Governor's Office of Community and Industrial Development, 5790-A Mac Corkle Avenue S.E., Charleston, West Virginia 25304, Telephone: 304-348-5920.

Wisconsin

Mr. Dan Bond, Division of Employment and Training Policy, State Job Training Program Section, Jobs Bureau—DILHR, 201 E. Washington Avenue, P.O. Box 7972, Madison, Wisconsin 53707, Telephone: 608-266-0745.

Wyoming

Mr. Jerry Baldwin, Coordinator, DWU, Department of Employment, Job Training Administration, Barrett Building, 3rd Floor, 2301 Central Avenue, Cheyenne, Wyoming 82002, Telephone: 307-777-7745.

Puerto Rico

Mr. Jose Reyes Herrerro, Director, DWU, Office of Economic Opportunity, La Fortaleza, Call Box 50067, Old San Juan, Puerto Rico 00901, Telephone: 809-724-7900.

[FR Doc. 89-9865 Filed 4-24-89; 8:45 am]

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Part IX

Department of Transportation

Federal Aviation Administration

14 CFR Parts 27 and 29

Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirements Proposals; Notice of Proposed Rulemaking

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket No. 25885; Notice No. 89-10]

RIN: 2120-AC27

Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirements Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes changes to the type certification requirements for both normal and transport category rotorcraft. The changes would revise airworthiness standards for systems, propulsion, and airframes, and would introduce safety improvements, clarify existing regulations, and standardize terminology. The changes are based on some of the proposals that were submitted to the FAA by the European Joint Airworthiness Requirements (JAR) 29 group. These proposals are intended to encourage the European community's acceptance of the Federal Aviation Regulations' rotorcraft type certification requirements and to obviate the development of a new and different European standard. Adoption of these changes will achieve increased commonality of airworthiness standards among the respective countries.

DATES: Comments must be received on or before October 23, 1989.

ADDRESSES: Comments related to this proposal should be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Docket No. 25885; 800 Independence Avenue SW., Washington, DC 20591, or delivered in duplicate to: Room 915-G, 800 Independence Avenue SW., Washington, DC. Comments must be marked "Docket No. 25885." Comments may be inspected in Room 915-G between 8:30 a.m. and 5 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert T. Weaver, FAA, Regulations Group, ASW-111, Rotorcraft Directorate, Aircraft Certification Service, Southwest Region, Fort Worth, Texas 76193-0111, telephone number (817) 624-5111.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting written data, views, or arguments as they may desire, including comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in this notice. Communications should identify the regulatory docket and be submitted in duplicate to the address above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 25885." The postcard will be date/time stamped and returned to the commenter.

For convenience, each proposal in this notice is numbered separately. When submitting comments, please refer to proposals by these numbers and by the section of the FAR to which they relate.

Availability of this Notice

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, ATTN: Public Inquiry Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

At a meeting between FAA representatives and the European Airworthiness Authorities Steering Committee (AASC) held in Washington, DC, in April 1983, the AASC agreed to provide the FAA with a comprehensive list of recommended changes for FAR Part 29 suitable for adoption as airworthiness standards by AASC members. The AASC subsequently established a JAR 29 group to develop transport category rotorcraft airworthiness standards for European type certification programs. This JAR 29 group was tasked with providing a recommended list of changes for Part 29.

The FAA wrote to the AASC and industry groups on May 9, 1983, soliciting comments on key issues. The initial responses to that solicitation were published in the Federal Register (49 FR 19309, May 7, 1984). Subsequently, on September 15, 1984, the AASC submitted a more comprehensive list of proposals for Part 29. The 92 proposals contained in the revised list suggested changes to Part 29 as amended through Amendment 29-16. An FAA review found that 34 of these proposals had either been incorporated, at least in part, in Part 29, as revised by Amendments 29-17 through 29-24, or were being considered in active rulemaking projects. Of the 58 proposals remaining, 25 were rejected, in whole or in part, for various reasons involving failure to meet Executive Order 12291 or DOT rulemaking requirements. The results of the FAA review were provided to the JAR 29 group by letter on March 18, 1985, and included a status report on the proposals being considered in active rulemaking projects.

During further review of the remaining AASC proposals not included in existing rulemaking projects, the FAA determined that several of the proposals warranted public discussion by interested persons. Accordingly, the FAA announced that a public meeting would be held in Fort Worth, Texas, May 1-2, 1986 (51 FR 4504; February 5, 1986), and that the AASC proposals were available for public review. Over 50 persons attended the meeting which convened on May 1, 1986, and remained in session until each proposal not already in rulemaking had been discussed. A transcript of those discussions is included in the docket for this notice.

Although the AASC proposals were confined to Part 29, and only Part 29 proposals were discussed at the May 1-2, 1986, meeting, this notice proposes changes to the rotorcraft certification rules in both Parts 27 and 29. This is for reasons of: (1) Efficiency in processing rulemaking actions, and (2) standardization between Parts 27 and 29 where nearly identical sections presently exist.

An appendix at the end of this notice includes a list of AASC proposals which the FAA has decided not to include in this notice. The reasons for deferring or rejecting the proposals are specified in the appendix.

Regulatory Evaluation Summary

With the exception of proposed new § 29.929, each of the proposed regulatory changes contained in this notice has been determined to have negligible or no economic impact. These proposed changes are either editorial or clarifying in nature, or they codify current industry or FAA certification practice and procedure, or conformity with them could be accomplished at a negligible cost. No estimates of specific costs or savings are made for these proposals. The proposals having a negligible impact on certification costs are not discussed in this economic evaluation, but are listed in the preliminary regulatory evaluation filed in the docket for this notice.

The only proposal with an economic impact is proposed new § 29.929 which contains an additional requirement for a flight endurance test. The estimated incremental cost of proposed new § 29.929 is derived from information provided to the FAA by rotorcraft industry certification experts, and reflects the best judgment of the FAA at this time. These estimates are subject to change contingent upon additional information that might be provided during the public comment period.

Initial estimates of the cost that might be incurred in conducting the flight test range from $450,000 to $750,000. The exact amount depends on the size and complexity of the rotorcraft involved. These estimates are based on 150 hours of engineering flight testing at $3,000 to $5,000 per hour. The cost includes one flight test helicopter, an engineering flight test crew comprised of one or two pilots and a flight test engineer, maintenance personnel, instrumentation, and use of an engineering department for data reduction. Over the next 10 years, three newly certificated models are forecast. However, these initial estimates of cost do not take into account the fact that a significant amount of the testing conducted in accordance with this proposal normally would serve as credit for the function and reliability testing already required by § 21.35. Therefore, assuming credit for such testing, the extent of the proposed required test and its cost would be diminished. The estimated cost of this proposal on a rotorcraft certification program would more accurately be $200,000 to $400,000 if approximately half of the § 29.929 flight test requirements could be credited to the function and reliability testing requirements in § 21.35.

Historic transport category rotorcraft accident data do not provide a totally adequate basis for evaluating the effectiveness of flight endurance testing in mitigating casualty losses in survivable accidents. The FAA invites specific comments regarding proposed § 29.929 that address the following questions:

1. Have there been rotorcraft accidents which can be related to the lack of flight endurance testing of drive system components for 150 hours as this NPRM proposes?

2. Are the current methods of endurance testing in accordance with § 29.923 and flight function and reliability testing of § 21.35 (b) and (f) as effective in preventing drive system and airframe interference problems as the proposed § 29.929 endurance testing?

3. Are there alternative methods of accomplishing the objectives of the proposal; e.g., to supplement ground endurance tests of § 29.923 with the more realistic loads and flexibilities of flight tests and to limit more specifically replacement of components during testing than § 21.35 allows?

Although the FAA is not aware of historic accident data for transport category rotorcraft which provide a complete basis for an evaluation of the effectiveness of flight endurance testing in mitigating casualty losses in survivable accidents, the benefits of the proposed rule would equate with its cost if this proposal would prevent one fatality over the next 10 years. For purposes of analysis, the FAA assumes the minimum value of a human life at $1 million dollars and the estimated range of the incremental cost of compliance at $200,000 to $400,000 per helicopter certification for three anticipated certifications over the next 10 years. The estimated range of the incremental cost of compliance takes into account the significant amount of function and reliability testing that already is required to conform with the requirements of § 21.35.

Regulatory Flexibility Determination

The FAA has determined that under the criteria of the Regulatory Flexibility Act (RFA) of 1980, the amendments to Parts 27 and 29 proposed in this notice, at promulgation, would not have a significant economic impact on a substantial number of small entities. The RFA requires agencies specifically to review proposed rules which may have a "significant economic impact on a substantial number of small entities." The FAA has adopted criteria and guidelines for rulemaking officials to apply when determining if a proposed or existing rule has a significant economic impact on a substantial number of small entities. The FAA criteria for a small entity define a small helicopter manufacturer as an independently owned and operated firm having fewer than 75 employees. According to the FAA size standard criteria only one of the present ten rotorcraft manufacturers subject to the certification changes to Parts 27 and 29 meets these criteria. Accordingly, the proposed amendments to Parts 27 and 29 contained in this notice will not impact a substantial number of small entities.

International Trade Statement

The FAA believes that the certification cost which may be imposed by these proposals will not result in a competitive trade disadvantage or advantage for U.S. manufacturers in domestic or foreign markets. This assumption is based on the fact that foreign manufacturers must comply with the certification standards of Parts 27 and 29 as a condition to entry into U.S. markets. Considering the size of the U.S. market, foreign manufacturers are likely to comply with certification standards of the United States, which is the largest segment of their export market. Foreign and U.S. manufacturers are expected to pass the new certification costs on to consumers in their respective domestic and foreign markets.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this document involves proposed regulations which are not considered major under the procedures and criteria prescribed in Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the person identified in the section entitled "**FOR FURTHER INFORMATION CONTACT.**" For the reasons stated in the regulatory evaluation, I certify that these regulations, if promulgated, would not have a significant economic impact on a substantial number of small entities. In addition, these proposals, if adopted, would have little or no impact on trade

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opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects 14 CFR Parts 27 and 29

Air transportation, Aircraft, Aviation safety, Safety, Rotorcraft.

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Parts 27 and 29 of the FAR (14 CFR Parts 27 and 29) as follows:

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

1. The authority citation for Part 27 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449; January 12, 1983).

§§ 27.401 and 27.403 [Removed]

2. By removing §§ 27.401 and 27.403.

Explanation: The AASC proposal pointed out that § 29.401(a) is simply a reference to § 29.923 and the structural strength requirements of § 29.401(b) are covered adequately in §§ 29.337, 29.339, and 29.341. The structural strength requirements of § 29.403 also are covered adequately in §§ 29.337, 29.339, and 29.341. No commenters at the public meeting objected to the proposed removal of §§ 29.401 and 29.403. Since the corresponding sections in Part 27 have identical requirements to the above referenced sections in Part 29, §§ 37.401 and 27.403 would be removed for similar reasons.

§ 27.413 [Removed]

3. By removing § 27.413.

Explanation: The AASC proposal at the public meeting for removing § 29.413 is based on the specification of the arbitrary loads by § 29.413 and by its requirements for combined gust and maneuver loads not specified for other structure. The structural strength requirements of § 29.413 are covered adequately in §§ 29.337, 29.339, and 29.341. No objections to the proposed removal of § 29.413 were received at the public meeting. Therefore, § 27.413, which is identical to § 29.413, would be removed for similar reasons.

4. By revising § 27.775 to read as follows:

§ 27.775 Windshields and windows.

Windshields and windows must be made of material which will not break into dangerous fragments.

Explanation: The proposal would clarify that transparency materials other than glass may be used in windshields and windows if they "will not break into dangerous fragments." For additional information see the explanation for the proposed revision to § 29.775.

5. By amending § 27.787 by revising paragraph (c) to read as follows:

§ 27.787 Cargo and baggage compartments.

* * * * *

(c) Under the emergency landing conditions of § 27.561, cargo and baggage compartments must either—

(1) Be positioned so that if the contents break loose they are unlikely to cause injury to the occupants or restrict any of the escape facilities provided for use after an emergency landing; or

(2) Have sufficient strength to withstand the conditions specified in § 27.561 together with the means of restraint, and their attachments, required by paragraph (b) of this section when containing the maximum authorized weight of cargo and baggage at the critical loading distribution.

* * * * *

Explanation: The current rule specifies only that occupant protection be provided for forward inertia loads on cargo and baggage. The proposal would require occupant protection for all emergency landing loads on cargo and baggage; i.e., vertical and sideward as well as forward loads. The proposal would also clarify that the requirement can be met either by containing the cargo and baggage under emergency landing loads *or* by positioning the cargo or baggage not to injure occupants or impede emergency egress when subjected to emergency landing loads.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

6. The authority citation for Part 29 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449; January 12, 1983).

§§ 29.401 and 29.403 [Removed]

7. By removing §§ 29.401 and 29.403.

Explanation: The AASC proposal pointed out that § 29.401(a) is simply a reference to § 29.923 and the structural strength requirements of § 29.401(b) are covered adequately in §§ 29.337, 29.339, and 29.341. The structural strength requirements of § 29.403 also are covered adequately in §§ 29.337, 29.339, and 29.341. No participants at the public meeting objected to the proposed removal of §§ 29.401 and 29.403.

§ 29.413 [Removed]

8. By removing § 29.413.

Explanation: The AASC proposal at the public meeting for removing § 29.413 is based on the specification of arbitrary loads by § 29.413 and by its requirements for combined gust and maneuver loads not specified for other structure. The structural strength requirements of § 29.413 are covered adequately in §§ 29.337, 29.339, and 29.341. No objections to the proposed removal of § 29.413 were received at the public meeting.

9. By revising § 29.775 to read as follows:

§ 29.775 Windshields and windows.

Windshields and windows must be made of material which will not break into dangerous fragments.

Explanation: The proposal would clarify that transparency materials other than glass may be used in windshields and windows if they "will not break into dangerous fragments." The current rule specifies only that "nonsplintering safety glass must be used."

An AASC proposal also recommended that a material that will not suddenly turn opaque in use be required. This is redundant to existing § 29.773; however, additional guidance is appropriate for advisory circular material.

An accompanying AASC proposal to prohibit "danger of fire or structural failure" in the event of failure of any windshield heating system is adequately covered in § 29.1309 which requires failure analyses to be conducted, and accordingly has not been included here.

10. By amending § 29.783 by adding a new paragraph (h) as follows:

§ 29.783 Doors.

* * * * *

(h) Nonjettisonable doors used as ditching emergency exits must have means to enable them to be secured in the open position and remain secure for emergency egress in sea state conditions prescribed for ditching.

Explanation: The proposal is based on service experience where an unsecured door proved a serious impediment to use of the exit for launching and boarding a liferaft. The proposal would require that means be provided to secure the door in the open position.

11. By amending § 29.787 by revising paragraph (c) to read as follows:

§ 29.787 Cargo and baggage compartments.

* * * * *

(c) Under the emergency landing conditions of § 29.561, cargo and baggage compartments must either—

(1) Be positioned so that if the contents break loose they are unlikely to cause injury to the occupants or restrict any of the escape unlikely to cause injury to the occupants or restrict any of the escape facilities provided for use after an emergency landing; or

(2) Have sufficient strength to withstand the conditions specified in § 29.561 together with the means of restraint, and their attachments, required by paragraph (b) of this section when containing the maximum authorized weight of cargo and baggage at the critical loading distribution.

* * * * *

Explanation: See the explanation for the proposed change to § 27.787.

12. By amending § 29.811 by revising paragraph (a) to read as follows:

§ 29.811 Emergency exit marking.

(a) Each passenger emergency exit, its means of access, and its means of opening must be conspicuously marked for the guidance of occupants using the exits in daylight or in the dark of the night. For rotorcraft equipped for overwater flights such markings must remain adequate if the rotorcraft is capsized and the cabin is submerged.

* * * * *

Explanation: In recent years, offshore helicopter operations have increased dramatically. Several ditchings have occurred, and some ditched helicopters have capsized. These service experiences have demonstrated a need to improve emergency exit markings for the low light conditions of nighttime and for submerged cabins. The proposal would add a general requirement for emergency exit markings to be lighted or of luminous paint and for rotorcraft equipped for overwater flights to have markings which would remain adequate in a submerged cabin of a capsized helicopter.

13. By amending § 29.903 by revising paragraph (c); by removing the "[Reserved]" designation after paragraphs (d)–(e); by redesignating paragraph (f) as paragraph (d); and by adding a new paragraph (e) as follows:

§ 29.903 Engines.

* * * * *

(c) *Category A; control of engine rotation.* For each Category A rotorcraft, there must be a means for stopping the rotation of any engine individually in flight, except, that, for turbine engine installations, the means for stopping the engine need be provided only where necessary for safety. In addition—

(1) Each component of the engine stopping system that is located on the engine side of the firewall, and that might be exposed to fire, must be at least fire resistant; or

(2) Duplicate means must be available for this purpose and the controls must be where all are not likely to be damaged at the same time in case of fire.

* * * * *

(e) *Restart capability:* (1) Means to restart any engine in flight must be provided.

(2) Except for the in-flight shutdown of all engines, engine restart capability must be demonstrated throughout a flight envelope for the rotorcraft.

(3) Means independent of the engine-driven electrical power generating system must be provided to permit in-flight engine restart following the in-flight shutdown of all engines.

Explanation. Existing § 29.903(c) requires "means for stopping and restarting any engine individually in flight." It has been industry practice to provide means for restarting engines in flight which will function even when all engines are shut down. It has not been industry practice to develop and demonstrate an envelope of altitude and airspeed for restarting engines in the event of in-flight shutdown of all engines (because of obvious hazards), but it has been industry practice to develop and demonstrate an envelope of altitude and airspeed for restarting each engine after in-flight shutdown of that engine alone. In a recent helicopter project, the issue arose of whether current § 29.903(c) requires a means for restarting individual engines after the in-flight shutdown of all engines. To clarify this issue, proposed paragraph (e)(3) would make it explicit that means to permit in-flight engine restart following the in-flight shutdown of all engines are required. Further, proposed paragraph (e)(2) would make it clear that although means are required to restart each engine after in-flight shutdown of all engines, in-flight demonstration of these means is not required for certification.

The JAR group also proposed the establishment of a minimum delay period following a false start before another attempted start. The FAA agrees with the concept of a delay period; however, we will propose it as future advisory circular material.

14. By revising § 29.923 by adding a new paragraph (p) as follows:

§ 29.923 Rotor drive system and control mechanism tests.

* * * * *

(p) *Endurance tests; lubricant operating limitations.* Unless equivalent alternative testing is accomplished, lubricants to be approved for use in transmissions and gearboxes must be limited to those used during the tests prescribed by this section, and in addition—

(1) At least three 10-hour cycles required by this section must be conducted with transmission and gearbox lubricant temperatures, at the location prescribed for measurement, not lower than the maximum operating temperature for which approval is requested;

(2) For pressure lubricated systems, at least three 10-hour cycles required by this section must be conducted with the lubricant pressure, at the location prescribed for measurement, not higher than the minimum operating pressure for which approval is requested;

(3) The test conditions of paragraphs (p)(1) and (2) of this section must be applied simultaneously and must be extended to include operation at any one-engine-inoperative rating for which approval is requested; and

(4) Ten acceleration tests must be conducted with transmission and gearbox lubricants and lubrication systems at the minimum temperature selected by the applicant to be suitable for operating above ground idle speed. These tests must be accomplished as follows:

(i) Initiate an engine start (or release the rotorbrake, if installed) and accelerate the rotors and rotor drive system at the normal rate to the maximum power-on speed with the rotors in flat pitch.

(ii) Increase rotor pitch at the maximum rate to achieve maximum continuous torque and maintain for 1 minute.

(iii) Decrease rotor pitch to minimum and stop the rotor.

Explantion: This proposal would provide a standardized basis for qualification of lubricants to be used in rotorcraft drive system transmissions and gearboxes. This proposal would require that tests be conducted to verify that adequate lubrication is provided to these transmissions and gearboxes during routine operating conditions and at the limits of lubricant temperatures and pressures to expected in service.

The FAA recognizes that § 29.1305 does not require a transmission or gearbox lubricant oil temperature indicator to enable the flightcrew to determine when lubricant temperature is suitable for acceleration above idle. However, when an oil temperature indicator is not provided for a specific

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design, a schedule of ambient temperature versus delay time can be developed and presented by placard or flight manual data to enable the crew to avoid possible transmission damage by premature acceleration during cold weather operation.

15. By adding a new § 29.929 to read as follows:

§ 29.929 Flight endurance test.

Unless otherwise accomplished under § 21.35 of this chapter or other flight conducted on a representative rotorcraft, functioning and compatibility of the rotors and rotor drive system must be demonstrated by a flight endurance test consisting of not less than 150 hours. The test must include representative rotorcraft mission profiles, including one-engine-inoperative conditions, and be conducted in accordance with a plan acceptable to the Administrator. No intervening disassembly or parts replacement of the rotors or the rotor drive system may be accomplished unless acceptable to the Administrator, and all parts of the rotor drive system must be serviceable at the completion of the test.

Explanation: This proposed test would demonstrate the overall compatibility and proper functioning of the drive system with the rotorcraft as a whole under conditions likely to be encountered in normal operation. This test is necessary because no other specific rule in Part 29 addresses the overall compatibility of the drive system with the rotorcraft. This proposal would require that tests be conducted under the type certification rules so that test procedures may be controlled and posttest inspections for serviceability may be monitored. This proposal would extend the concept of endurance testing the rotor drive system to include flight testing in addition to ground or tethered testing. This is a more realistic and comprehensive endurance test program than just ground testing.

Appendix B to Part 29—Airworthiness Criteria for Helicopter Instrument Flight

16. By amending Appendix B to Part 29 by adding a new paragraph VIII(c) to read as follows:

* * * * *

VIII * * *

(c) *Thunderstorm lights.* In addition to the instrument lights required by § 29.1361(a), thunderstorm lights which provide high intensity white flood lighting to the basic flight instruments must be provided. The thunderstorm lights must be installed to meet the requirements of § 29.1361(b).

Explanation: The AASC originally proposed to add a new § 29.1361(c) to read: "For Category A rotorcraft certificated for instrument flight, high intensity white lighting must be provided for the illumination of basic flight instruments so that pilots are not dazzled by lightning discharge when the rotorcraft is being flown solely by reference to instruments."

The FAA has determined that since this proposal pertains to a special type of instrument flight, it would more appropriately belong in Appendix B to Part 29 along with the other specific requirements for instrument flight. The lights would be designated "thunderstorm lights" to provide a qualitative differentiation from the normal "instrument lights" required by § 29.1381. The name "thunderstorm lights" also describes the intent of the proposal for these lights; i.e., to prevent the pilots from being dazzled or temporarily blinded by lightning while the rotorcraft is being operated solely by reference to instruments.

Editorial note: This appendix will not appear in the Code of Federal Regulations.

Appendix—Miscellaneous Proposals Removed From Consideration

Based on the FAA review of the discussions at the May 1–2, 1986, public meeting, in conjunction with written comments also received, the following proposals presented for review during the meeting are not considered because they did not receive full support from the JAR 29 group.

FAR section	Proposal
29.53	Add a new paragraph (c)
29.55	Add a new § 29.55
29.65	Amend paragraph (a)
29.65	Remove paragraph (c)
29.65	Add a new paragraph (e)
29.67	Amend (a)(2)(ii), (a)(3)(ii), and (b)
29.73	Amend paragraph (a)
29.141	Add a new paragraph (d)
29.143	Amend paragraph (a)(2)(v)
29.143	Add a new paragraph (a)(3)
29.143	Add a new paragraph (f) or § 29.672
29.161	Add a new § 29.162
29.171	Add a new paragraph (b)
29.235	Add a new paragraph (b)
29.305	Add a new paragraph (c) or § 29.563
29.341	Amend § 29.341
29.485	Amend § 29.485
29.497	Amend § 29.497
29.501	Amend paragraph (a)(3) and remove paragraphs (a)(3) (i) and (ii)
29.547	Amend paragraph (d)(1)
29.601	Add new paragraphs (c) and (d)
29.613	Amend paragraph (c)
29.669	Add a new paragraph (a)(3)
29.725	Amend paragraph (a)
29.727	Amend paragraph (a) and remove paragraph (c)
29.729	Amend paragraph (b)
29.771	Add a new paragraph (e)
29.773	Add a new paragraph (c)
29.777	Add a new paragraph (b)
29.801	Amend paragraphs (b), (c), (d), and (e)
29.807	Remove paragraphs (d) (1) and (2)
29.901	Add a new paragraph (f)
29.903	Amend paragraph (f)
29.907	Add new paragraphs (c) and (d)
29.908	Amend § 29.908
29.917	Amend paragraph (a)
29.917	Amend paragraph (b)(3)
29.917	Amend paragraph (b)(4)
29.917	Add a new paragraph (c)
29.917	Add new paragraphs (d) and (e)
29.917	Add a new paragraph (f)
29.917	Add a new paragraph (g)
29.917	Add a new paragraph (h)
29.923	Add a new paragraph (a)(7)
29.923	Add a new paragraph (a)(8)
29.927	Remove paragraph (e)
29.927	Add a new paragraph (f)
29.927	Add a new paragraph (h)
29.953	Add new paragraphs (c) and (d)
29.997	Add a new paragraph (e)
29.1019	Add a new paragraph (c)
29.1305	Amend paragraph (a)(6)
29.1305	Add a new paragraph (a)(20)
29.1305	Amend paragraphs (b)(3) and (c)(3)
29.1329	Amend paragraph (a)
29.1337	Add a new paragraph (e)
29.1359	Add a new paragraph (e)
29.1435	Amend paragraph (a)(3)
29.1521	Add paragraphs (b)(7) and (c)
29.1547	Add a new paragraph (e)
29.1557	Amend paragraph (c)(2)
New 29.64	Add a new § 29.64
New 29.177/.181	Add a new § 29.177/.181
New 29.178	Add a new § 29.178
New 29.1507	Add a new § 29.1507
New 29.1518	Add a new § 29.1518

The following proposals received full support from the JAR Group but are being removed from consideration for the following reasons:

Proposal for § 29.161. This proposal would add direction controls to the trim requirement section and permit control (out of trim) force of up to 5 pounds at airspeeds below V_Y or V_{MIN}. This concept was reviewed in the Rotorcraft Regulatory Review Program, specifically in Amendment No. 2 (49 FR 44422; November 6, 1984), and trimming to other than zero force was not found acceptable. Friction devices that would hold directional controls in any position are acceptable without a trim control and would meet the zero force criteria.

Proposal for § 29.561. This proposal would increase the emergency landing load factors. The FAA is already evaluating such a change in a current occupant restraint regulatory project, Notice No. 87–4 (52 FR 20938; June 3, 1987).

Proposal for § 29.563. This proposal would specify vertical speeds, forward speeds, and yaw angles for ditching entry. The FAA is already evaluating similar requirements in the Rotorcraft Regulatory Review Program Notice No. 4 (53 FR 9190; March 21, 1988) project.

Proposal for § 29.605. This proposal would add an explicit requirement to § 29.605 that strength be maintained "under all conditions anticipated in operation." Since current § 29.609(a) requires that structure "be suitably protected against deterioration or loss of strength in service" and since § 29.1529 and Appendix A to Part 29 contain explicit requirements for instructions for continued airworthiness in service, this proposal is unnecessary.

Proposal for § 29.613(d). This proposal would remove explicit references to publications containing approved design values for materials and replace these with references to more general documents which must be accepted (approved) by the cognizant authority. Since a similar proposal is being considered in Rotorcraft Regulatory Review Program Notice No. 4, no further action is warranted.

Proposal for a new § 29.631. This proposal would add a bird strike requirement to the rotorcraft design. This proposal is already under consideration in Rotorcraft Regulatory Review Program Notice No. 4.

Proposal for § 29.783 (b) and (c). This proposal would add consideration of the possible danger of engine intake and efflux proximity to persons entering or egressing the aircraft. The rule currently requires that doors not be located near rotor discs to endanger persons. The proposal would also add a requirement that passenger crowding against a door would not prevent it from being opened. This proposal is currently under consideration in Rotorcraft Regulatory Review Program Notice No. 4.

Proposal for § 29.865. This proposal would add a paragraph (b)(4) which states that external load release devices must be arranged to minimize the possibility of inadvertent operation. This is adequately covered by existing § 29.777(a) which requires that cockpit controls be located to prevent confusion and inadvertent operations.

Proposal for a new § 29.899. This proposal would add an extensive electrical bonding requirement for protection against lightning and static electricity. This requirement has already been added by Rotorcraft Regulatory Review Program Amendment No. 2, in a new § 29.610, and no futher action is necessary.

Proposal for new § 29.901(e). This proposal would require designs to minimize the risk of incorrect assembly. Proposal No. 3–42 of Rotorcraft Regulatory Review Program Amendment No. 3 (53 FR 34198; September 2, 1988) includes this same requirement.

Proposal for new § 29.955. This proposal would add a requirement for fuel systems to be designed to prevent interruption of fuel flow to the engine, without attention by the flightcrew, when fuel is depleted in the supply tank and another tank contains usable fuel. This requirement is covered by Rotorcraft Regulatory Review Program Amendment No. 3.

Proposal for new § 29.959(b). This proposal would add a new paragraph to § 29.959 which would require the flight manual to include data on the amount of unusable fuel as a result of a pump failure. This proposal is not included because of general agreement reached at the public meeting that this aspect would be more approximately covered by advisory circular material.

Proposal for new § 29.963(e). This proposal would add a new paragraph (e) which would limit the allowable temperature of components in fuel tanks to not more than 200 °C. This proposal was included in Rotorcraft Regulatory Review Program Amendment No. 3.

Proposal to revise § 29.1103(b). A proposal was presented to revise § 29.1103(b) to substitute wording to require intake ducts or systems to withstand loads resulting from cyclic engine surge and to require intake ducts to be fire resistant if located in a fire zone. This proposal is not included because no significant evidence could be found where engine surges had caused intake duct failures. Furthermore, existing § 29.1103(b) already requires structural evaluation of engine surge loads.

Proposal for § 29.1183(c). This proposal would require components, controls, ducts, etc., located in fire zones to be fireproof if fire damage to these items could be hazardous. This proposal is not included because the same fire protection is required by application of §§ 29.861, 29.901(c), and 29.1103(d).

Proposal for §§ 29.1517 and 29.1583(f). This proposal would remove the requirement that the height-speed envelope be a limit. This proposal was addressed in Rotorcraft Regulatory Review Program Amendment No. 2 and is being readdressed in Notice No. 85–19 (50 FR 42128; October 17, 1988). Transport Category Rotorcraft Performance.

Issued in Washington, DC, on April 19, 1989.

Thomas E. McSweeny,

Acting Director, Aircraft Certification Service.

[FR Doc. 89–9833 Filed 4–24–89; 8:45 am]

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Part X

Environmental Protection Agency

Intent to Form an Advisory Committee to Negotiate a New Approach for Control of Volatile Organic Chemical Equipment Leaks; Notice

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 3662-6]

Intent to Form an Advisory Committee to Negotiate a New Approach for Control of Volatile Organic Chemical Equipment Leaks

SUMMARY: EPA is considering establishing an Advisory Committee under the Federal Advisory Committee Act (FACA). The Committee's purpose would be to negotiate issues leading to a new approach for regulation of equipment leaks under Sections 111 and 112 of the Clean Air Act as amended. The Committee would consist of representatives of parties that are substantially affected by the outcome of the proposed rule.

EPA requests public comment on whether:

- It should establish a Federal Advisory Committee;
- It has properly identified interests it believes are affected by the key issues listed above;
- Regulatory negotiation is appropriate for this rulemaking, and the extent to which the issues, and procedures are adequate and appropriate.

This notice also announces that an informational meeting will be held on May 15 from 10 am to 4 pm at the Hall of States, 444 N. Capitol St., room 337, Washington, DC to discuss the issues involved in the regulation of equipment leaks, and whether the Committee should be formed and negotiations proceed.

This meeting is open and any parties interested in the negotiation are encouraged to attend.

DATE: EPA must receive comments and suggestions by May 10, 1989.

ADDRESS: Comments should be submitted (in duplicate, if possible) to Air Docket (LE-131) Room M-1500, Environmental Protection Agency, Attention Docket #A89-10, 401 M Street, SW., Washington, DC 20460. A copy should also be sent to Boy Ajax, MD-13, U.S. EPA, Research Triangle Park, NC 27711. Docket #A89-10, containing materials relevant to this rulemaking may be inspected at U.S. EPA between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information pertaining to the establishment of the negotiation committee and associated administrative matters contact: Deborah Dalton, Deputy Director, Regulatory Negotiation Project, Information and Regulatory System Division, U.S. EPA (PM-223), 401 M Street SW., Washington, DC, 20460 (202) 382-5495.

For information pertaining to the regulation of equipment leaks and the regulatory issues to be addressed in the negotiation, contact: Bob Ajax, MD-13, U.S. EPA, Research Triangle Park, NC 27711 (919) 541-5579.

SUPPLEMENTARY INFORMATION:

Outline of Notice

I. EPA's Regulatory Negotiation Project
II. Volatile Organic Chemical Equipment Leak Fugitive Emissions
  A. Need for Rule Revision
  B. Selection as a Negotiation Item
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I. EPA's Regulatory Negotiation Project

EPA established the Regulatory Negotiation Project in 1983 to explore and demonstrate the value of negotiation and other consensus-building techniques for developing better regulations which could be implemented in a less adversarial setting.

Negotiations are conducted through Advisory Committees chartered under the Federal Advisory Committee Act (FACA). The goal of the Committee is to reach consensus on the language or issues involved in a rule. If consensus is reached, it is used as the basis of the Agency's proposal. All procedural requirements of the Administrative Procedure Act and other applicable statutes continue to apply.

EPA has developed criteria for evaluation of potential items for negotiation. To qualify under EPA's selection criteria, an item must:

- Be planned for proposal;
- Have a relatively small number of identifiable parties, in an appropriate balance and mix, who have a good faith interest in negotiating;
- Present a limited number of related issues, for which sufficient information is available for resolution; and
- Have a time factor that lends some urgency to reaching consensus.

The seven negotiations conducted to date have aided the Agency in better defining the issues and in crafting better approaches. The seven regulatory negotiations were:

- Nonconformance Penalties under the Clean Air Act, as amended; Final rule: August 30, 1985
- Emergency Pesticide Exemptions under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Final rule: January 15, 1986
- Farmworker Protection Standards for Agricultural Pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Proposed rule: July 8, 1988
- Asbestos Containing Materials in Schools under the Asbestos Hazard Emergency Responsibility Act of 1986 (AHERA); Final rule: October 30, 1987
- New Source Performance Standards for Woodburning Stoves under the Clean Air Act; Final rule: February 26, 1988
- Underground Injection of Hazardous Waste under the Hazardous and Solid Waste Amendments of 1984. Final rule: July 26, 1988
- Minor Permit Modifications under the Resource Conservation and Recovery Act (RCRA); Final rule: September 28, 1988

In December 1986, the Program Evaluation Division of EPA's Office of Policy Planning and Evaluation completed an assessment of the regulatory negotiations program. The study confirmed that negotiation is especially appropriate in situations which involve the resolution of a limited number of related issues, none of which involve fundamental questions of value or extremely controversial national policy. The study further concluded that:

- Negotiated rulemaking can produce rules that are more pragmatic with better environmental results while still meeting statutory requirements.
- Negotiated rules are also more likely to be acceptable to the affected industries, the public interest sector, and state and local governments involved in developing them.
- Negotiation may also result in earlier implementation of a rule by reducing the time it takes to proceed from proposed to final rulemaking.

EPA believes that the benefits to all parties of regulatory negotiation are substantial, and is committed to continued use of regulatory negotiation and other consensus-based processes for rulemaking when appropriate.

II. Volatile Organic Chemical Equipment Leak Fugitive Emissions

A. Need for Rule Revision

Fugitive emissions of volatile organic compounds (VOCs) from equipment leaks (valves, etc.) contribute significantly to air quality problems. Current regulations adopted under sections 111 and 112 of the Clean Air Act and in State Implementation Plans (SIPs) have been effective in heightening awareness of the significance of this source and in stimulating control efforts. The rules basically require that equipment in place be inspected quarterly for leaks with a portable hydrocarbon detector. If concentrations in excess of 10,000 ppm are found, the component is identified as a leaker and maintenance is required. EPA studies in the early 1980s showed that typical refineries and chemical plants have an uncontrolled leak frequency of 11 to 12 percent. Maintenance studies indicate this can be reduced by about 60-70 percent with the current leak detection and repair program. However, the actual frequency rate, and associated emissions in particular, vary widely and are believed to be a function of original design (e.g., number of valves) and age of the process unit, equipment selected, quality of maintenance, standard operating procedures used by the company, training provided to employees, and motivation. Recent data for highly toxic chemicals demonstrate that frequencies in the 0.0 to 2 percent range can be achieved in some situations. However, no one is sure what combination of factors guarantees such results nor how to require them through enforceable regulations.

More importantly, regulatory approaches currently being used do not provide for quantification of emissions. Specified quantified emission estimates levels are necessary to establish a baseline and EPA needs residual emissions and risk assessments to make regulatory decisions. For example, the analyses of EPA proposed rules that would limit benzene emissions (FR Vol. 53, No. 145, July 28, 1988) are based on emission estimates from leak frequencies typical of the refinery industry. These may significantly overestimate emissions of benezene.

EPA sees the need for a new regulatory approach, based on performance and/or emissions, that will result in quantifiable emission levels, give credit for original plant design and motivate innovation. Developing such an approachusing EPA's traditional data gathering and analysis approach would be very difficult, costly, time consuming and controversial. Initial contacts suggest that the major industrial organizations, environmental groups and state government associations will be receptive, and there is good potential for identifying new approaches through negotiation that are compatible with our needs and the complexity of the problems.

The negotiation would address primarily technical issues and would not be policy oriented. The specific goal of the negotiation would be to develop a new regulatory approach that could be an alternative to or replacement for the current 40 CFR 61, Subpart V equipment leak rules. The negotiation would address the form of the approach and the relationship between it and actual emissions but would not address stringency. Depending upon the timing and degree of success, the results could be used to implement the Agency's upcoming decision on benzene equipment leaks. If this is not possible, the results would be used in the next equipment leak standard, which will probably be the hazardous organic National Emission Standards for Hazardous Air Pollutants (NESHAPs).

B. Selection as a Negotiation Item

EPA believes that the equpment leak regulations may be appropriate for development through the regulatory negotiation process. EPA has made a preliminary inquiry of potential parties and representatives of identified interests to determine if this item satisfies EPA's selection criteria for negotiated rulemaking. On the basis of this preliminary inquiry, EPA believes that this item meets its selection criteria and that negotiations can be successful. Affected interests are small in number, and EPA's initial contacts indicate that an appropriate balance and mix of groups will be willing to participate in good faith. EPA's lead program office has identified a number of basic issues for which sufficient information is in hand (or will be developed during the neogitations) for resolution.

C. Key Issues for Negotiation

EPA anticipates the key negotiation questions will focus on how to establish a regulatory approach that will:

1. Achieve predictable, quantifiable emission results
2. Result in the application of the best available technology
3. Be enforceable
4. Exhibit maximum regulatory consistency (e.g., with state permitting requirements; SARA reporting requirements)
5. Provide incentives for better designs (e.g., designs that involve fewer components that have the potential to leak)
6. Provide maximum flexibility in achieving specified results
7. Minimize administative burdens
8. Provide for predictable compliance
9. Provide time that may be needed to identify, assess, and implement work practices, equipment and designs that will meet emission goals.

EPA expects to address the following specific questions:

1. Is leak detection and repair an appropriate approach? If so, how can the results be quantified? Should the definition of a leak be lowered?
2. Should leak detection and repair be required for flanges and, if so, what frequency and leak defintion should be applied?
3. Is an emission limit (or a limit on the number of leaking components) an appropriate approach? How should such an approach be implemented?
4. Is an emission limit on a per component basis (or a limit on percent leaking components) an appropriate approach? How should such an approach be implemented?
5. Is there an effective approach that is a combination of the above?

D. Potential Interests and Participants

EPA has tentatively identified the following list of possible interests and parties:

—Chemical manufacturing industry
—Petroleum refining industry
—Industries that handle organic chemicals in equipment that includes valves, pumps, compressions, flanges or open-ended lines
—Environmental Interest Groups
—State and local air pollution control agencies
—Manufacturers of pumps and valves
—Consulting firms involved in plant design and equipment specification
—Contractors involved in construction of chemical plants and petroleum refineries
—Labor unions
—Other Federal agencies

III. Formation of the Negotiating Committee

A. Procedure for Establishing an Advisory Committee

As a general rule, an agency of the Federal government is required to comply with the requirements of FACA when it establishes or uses a group which includes non-Federal members as a source of advice. Under FACA, an Advisory Committee is established only after both consultation with GSA and receipt of a charter. EPA has prepared a

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charter and has initiated the requisite consultation process. Only upon the successful completion of this process and the receipt of the approved charter will EPA form the Committee and commence negotiations.

B. Participants

The number of participants in the group is estimated to be about 15 and should not exceed 25 participants. A number larger than this could make it difficult to conduct effective negotiations. One purpose of this notice is to help determinme whether the standard that EPA is developing would substantially affect interests not adequately represented by the proposed participants. We do not believe that each potentially affected organization or individual must necessarily have its own representative. However, we firmly believe that each interest must be adequately represented. Moreover, we must be satisfied that the group as a whole reflects a proper balance and mix of interests.

C. Requests for Representation

If, in response to this Notice, an additional individual or representative of an interest requests membership or representation in the negotiating group, the Agency, in consultation with the facilitator, will determine whether that individual or representative should be added to the group. EPA will make that decision based on whether the individual or interest:

- Would be substantially affected by the rule;
- Is already adequately represented in the negotiating group.

D. Final Notice

After evaluating the results of the informational and organizational meetings, and reviewing any comments on this Notice and requests for representation, EPA will issue a final notice. That notice will announce the establishment of a Federal Advisory Committee and the date of the first meeting, unless (1) EPA decides, based on comments and other relevant considerations, that such action is inappropriate, or (2) in the event EPA's charter request is disapproved. The negotiation process will begin once the Committee is appropriately chartered and notice is published in the **Federal Register**.

E. Tentative Schedule

EPA will hold an informational meeting on *May 15, 1989 (10 am)* until completion, at The Hall of States, 444 N. Capitol St., Washington, DC. This meeting is open, and potential participants are encouraged to attend.

The purpose of this meeting is to: discuss whether negotiations should proceed, and if so, consider what issues and topics should and should not be covered, answer questions, and address any other procedural issues which may arise.

If an adequate mix and balance of parties attending the informational meeting are interested in participating in a negotiation, EPA will host an organizational meeting within two weeks to discuss how the negotiations would proceed and how the Committee would function. If the organizational meeting is successful and charter approved, EPA would hold the first meeting of the Advisory Committee within three weeks of the organizational meeting. At this meeting, participants would complete action on any procedural matters outstanding from the organizational meeting, determine how best to address the principal issues, and begin to address them.

Subsequent meetings of the Committee would be held once or twice a month either in Washington, DC, or in Research Triangle Park, NC, as determined by the Committee.

Though EPA has not set a final deadline for completion of the negotiation, it expects the negotiations may last up to six months. The Agency intends to terminate the activities of the Committee if it does not appear likely to reach consensus on a schedule that is consistent with Agency rulemaking needs.

IV. Negotiation Procedures

The following procedures and guidelines will apply to the Committee, if formed, unless they are modified as a result of comments received on this Notice or during the negotiating process.

A. Facilitator

EPA will use a neutral facilitator. The facilitator will not be involved with the substantive development or enforcement of the regulation. The facilitator's role is to:

- Chair negotiating sessions;
- Help the negotiation process run smoothly; and
- Help participants define and reach consensus.

B. Good Faith Negotiation

Since participants must be willing to negotiate in good faith and be authorized to do so, each organization must designate a senior official to represent its interests. This applies to EPA as well, and Bob Ajax, Chief, Standards Development Branch, Office of Air Quality Planning and Standards, will be EPA's representative.

C. Administrative Support and Meetings

EPA's Information and Regulatory Systems Division will supply logistical, administrative and management support. Meetings will be held in the Washington area or in Research Triangle Park, NC, at the convenience of the Committee. To support the negotiations, EPA has pledged funds to a resource pool which the National Institute for Dispute Resolution will administer. EPA expects that funds from private foundations might also be available. The parties may use the funds for such activities as training, technical support, and other assistance which the Committee deems useful. To give committee members maximum freedom, subject to any applicable legal constraints, they will determine the procedures under which requests for funds will be made and approved.

D. Committee Procedures

Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, the members will establish the detailed procedures for Committee meeting which they consider most appropriate.

E. Defining Consensus

The goal of the negotiating process is consensus. In the negotiations completed to date, consensus has meant that each interest concurs in the result. We expect the participants to fashion their own working definition of this term.

F. Failure of Advisory Committee to Reach Consensus

In the event the Committee is unable to reach consensus, EPA will proceed to develop its own approach. Parties to the negotiation may withdraw at any time. if this happens, the remaining Committee should continue.

G. Record of Meetings

In accordance with FACA's requirements, EPA will keep a record of all Advisory Committee meetings. This record will be placed in the public docket for this rulemaking. EPA will announce Committee meetings in the **Federal Register**. Such meetings will be open to the public.

Dated: April 21, 1989.

Robert H. Wayland,

Acting Assistant Administrator, Office of Policy, Planning and Evaluation.

[FR Doc. 89-10063 Filed 4-24-89; 10:17 am]
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Last List: April 24, 1989

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H.R. 666/Pub. L. 101–17

To allow an obsolete Navy drydock to be transferred to the city of Jacksonville, Florida, before the expiration of the otherwise applicable 60-day congressional review period. (Apr. 20, 1989; 103 Stat. 45; 1 page) Price: $1.00

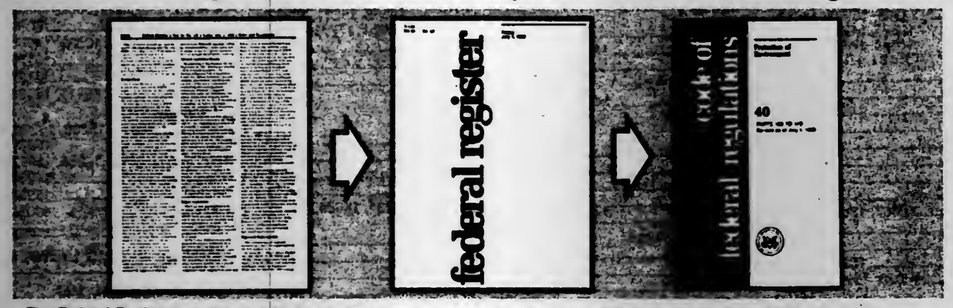
H.J. Res. 112/Pub. L. 101–18

Designating April 23, 1989, through April 29, 1989, and April 23, 1990, through April 29, 1990, as "National Organ and Tissue Donor Awareness Week". (Apr. 20, 1989; 103 Stat. 46; 1 page) Price: $1.00

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231 and 241

[Release Nos. 33-6832; 34-26745; File No. S7-1-89]

Statement of the Commission Regarding Disclosure by Issuers of Interests in Publicly Offered Commodity Pools; Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: On February 6, 1989, the Securities and Exchange Commission ("Commission") published in the Federal Register an interpretive statement regarding disclosure requirements in connection with publicly offered commodity pools (54 FR 5600 (Feb. 6, 1989)). The Commission requested comment on matters relating to the disclosure of prior performance data and the presentation of fees, commissions and expenses incurred by publicly offered commodity pools. The Commission's interpretive statement was published simultaneously with an interpretive statement of the Commodity Futures Trading Commission ("CFTC") addressing substantially the same issues. The interpretive statements provided a period for public comment that ended April 7, 1989.

Several potential commentators have requested the Commission and the CFTC to extend the comment period for the agencies' interpretive statements. Such additional time has been requested in order to allow associations representing commodity pool operators and commodity trading advisers to receive and analyze the comments of their memberships and present them to the respective agencies. The CFTC has determined that an extension is appropriate to enhance the opportunity for interested parties to comment on the issues raised in its interpretive statement. The Commission believes that it is appropriate to extend its comment period consistent with the CFTC's extension.

DATE: All comments on the Commission's interpretive statement must be received by May 5, 1989.

ADDRESS: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Comment letters should refer to File No. S7-1-89.

FOR FURTHER INFORMATION CONTACT: Daniel W. Rumsey, Attorney, at (202) 272-3246, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549.

By The Commission.
Jonathan G. Katz,
Secretary.
Dated: April 19, 1989.

[FR Doc. 89-9912 Filed 4-25-89; 8:45 am]
BILLING CODE 8010-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9F3732/R1020; FRL-3561-5]

Pesticide Tolerance for Hexythiazox

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the acaricide hexythiazox, trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide (hexythiazox) and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as parts per million (ppm) of the parent compound) in or on the raw agricultural commodity (RAC) pears. This regulation to establish the maximum permissible level for residues of the chemical was requested pursuant to a petition by the E.I. du Pont de Nemours and Co., Inc.

EFFECTIVE DATE: April 26, 1989.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 2708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocca, Product Manager (PM) 15, Registration Division (H-7504C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 200, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2400.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of March 23, 1989 (54 FR 12010), which announced that E.I. du Pont de Nemours and Co., Inc., Walker's Mill Building, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, had submitted pesticide petition (PP) 9F3732 proposing to establish a tolerance in or on the RAC pears at 0.3 ppm for the combined residues of the acaricide hexythiazox, trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as ppm of the parent compound).

No comments were received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerance include a 12-month feeding study in dogs with a no-observed-effect level (NOEL) of 100 ppm (2.5 milligrams (mg)/kilogram (kg)/day); a 24-month rat feeding/oncogenicity study with dietary levels of 0, 60, 430, and 3,000 ppm with a systemic NOEL of 430 ppm (21.5 mg/kg/day) with no evidence of oncogenicity at 3,000 ppm, which was the highest dose tested (HDT); a 24-month mouse feeding/oncogenicity study with dietary levels of 0, 40, 250, and 1,500 ppm with a systemic NOEL of 250 ppm (37.5 mg/kg/day) in which there were significant increases in liver carcinomas and adenoma/carcinoma in high-dose females at 1,500 ppm (225 mg/kg/day) HDT; a two-generation rat reproduction study with a maternal toxicity NOEL of 400 ppm (20 mg/kg/day) and reproduction toxicity NOEL greater than 2,400 ppm (120 mg/kg/day) HDT; a rat teratology study with maternal and developmental toxicity NOFLs of 240 mg/kg/day; and a rabbit teratology study with a maternal

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and developmental toxicity NOEL greater than 1,080 mg/kg/day (HDT). All of the genotoxicity studies submitted were negative, including a reverse mutation (Ames) assay in *Salmonella typhimurium;* a chromosome aberration study with Chinese hamster ovary (CHO) cells; an unscheduled DNA synthesis study with rat hepatocytes; and a forward mutation study involving the thymidine kinase (TK) locus in mouse lymphoma cells.

The Agency has classified hexythiazox as a Class C (possible human) oncogen based on a significantly increased incidence of hepatocellular carcinomas ($p=0.028$), and adenomas/carcinomas combined ($p=0.024$) in female mice at the HDT (1,500 ppm) when compared to the controls as well as a significantly increased ($p<0.001$) incidence of preneo-plastic hepatic nodules in both males and females at the highest dose tested (1,500 ppm).

The decision supporting a Category C classification (rather than a Category B classification) was based primarily on the fact that only one species was affected (mouse), mutagenicity assays did not support upgrading to a B classification, and the structure-activity relationship of hexythiazox to other compounds supported a C classification. In classifying hexythiazox as a Category C oncogen, the Agency concluded that a quantitative estimation of the oncogenic potential for humans should be calculated because of the increased incidence of malignant and combined benign/malignant liver tumors in the female mouse. Thus, a Q^{1*} of $3.9X10^{-2}$ $(mg/kg/day)^{-1}$ in human equivalents has been calculated.

A full review of the data indicates that although hexythiazox is an oncogen in mice, the risks would be extremely small from the proposed use on pears. Estimated dietary oncogenic risk to the general population based on the highly conservative assumption that all pears are treated with hexythiazox and would bear residues at the proposed tolerance level is estimated to be 10^{-6}. The Agency believes that actual exposure and risk would be lower. The basis for this is that the risk of 10^{-6} reflects a worst-case dietary exposure because it assumes that 100 percent of the United States pear crop is treated with hexythiazox and that all quantities of the food consumed will bear residue levels as high as the proposed tolerance. In reality, the Agency knows that all pears would not be treated with this pesticide. Based upon an analysis of the market penetration of currently registered acaricides, the Agency expects the percent of crop treated with hexythiazox in a typical year would be about 30 percent. Likewise, the Agency believes that residue levels in pear juice and nectar will not exceed the established tolerance of 0.30 ppm in or on the RAC pears. The maximum residue level in pear juice would be expected to be less than 50 percent of the residue level in whole fruit. In addition, since there are no animal feed items involved with pears and the petitioner has included the label restriction "Do not graze or feed livestock or cover crops growing in treated areas," no secondary residues in meat or milk are expected.

Based on an assessment of the risks of the proposed use of hexythiazox, the Agency believes that the proposed use of hexythiazox on pears will pose an extremely small risk to humans and that the proposed tolerance level is acceptable and should be established.

The acceptable daily intake (ADI), based on a NOEL of 2.5 mg/kg/day from a 1-year dog feeding study and a safety factor of 100 is 0.025 mg/kg body weight/day. The theoretical maximum residue contribution from the proposed tolerance is 0.000037 mg/kg body weight/day. This is equivalent to about 7.4 percent of the ADI.

The metabolism of the chemical in plants for this use on pears is adequately understood. An analytical method (gas liquid chromatography with an electron capture detector) is available for enforcement. Prior to its publication in the *Pesticide Analytical Manual*, Vol. II, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide enforcement when requested from: By mail: Information Service Section (H–7504C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Room 200, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–3262.

The tolerance established by amending 40 CFR Part 180 is adequate to cover residues in or on pears.

There are currently no actions pending against the registration of this product. This pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the above information and data considered, the Agency concludes that the tolerance would protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after the date of publication in the **Federal Register**, file written objections with the Hearing Clerk (address above). Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601–612)), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from the tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(c), 72 Stat. 1786 (21 U.S.C. 346(c)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 12, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. New § 180.448 is added, to read as follows:

§ 180.448 Hexythiazox; tolerance for residues.

A tolerance is established for the combined residues of the acaricide hexythiazox, trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as parts per million of the parent compound) in or on the following commodity:

Commodity	Part per million
Pears	0.30

[FR Doc. 89–9874 Filed 4–25–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 7E3556/R1018; FRL–3561–3]

Pesticide Tolerance for Aluminum Tris(O-Ethylphosphonate)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide aluminum tris(O-ethylphosphonate) in or on the raw agricultural commodity ginseng. The Interregional Research Project No. 4 (IR–4) petitioned for this tolerance.

EFFECTIVE DATE: April 26, 1989.

ADDRESS: Written objections, identified by the document control number [PP 7E3556/R1018], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail:

Hoyt Jamerson, Emergency Response and Minor Use Section Registration Division (H–7505C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703) 557–2310

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of February 23, 1989 (54 FR 7798), in which it was announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 7E3556 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Station of Wisconsin.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the fungicide aluminum tris(*O*-ethylphosphonate) in or on the raw agricultural commodity fresh ginseng root at 0.1 part per million (ppm). The petitioner proposed that use of the pesticide on ginseng be limited to Wisconsin based on the geographical representation of the data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 11, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.415(b) is amended by adding and alphabetically inserting the listing for the raw agricultural commodity fresh ginseng root, to read as follows:

§ 180.415 Aluminum tris(O-ethylphosphonate); tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Ginseng root, fresh	0.1
* * * * *	

[FR Doc. 89–9875 Filed 4–25–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 7F3506/R1001; FRL–3561–2]

Bensulfuron Methyl Ester; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide bensulfuron methyl ester in or on rice and rice straw. This regulation to establish the maximum permissible level for residues of the herbicide in or on the raw agricultural commodities (RACs) was requested by the E.I. du Pont de Nemours & Co., Inc.

EFFECTIVE DATE: April 26, 1989.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557–1830.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** of May 13, 1987 (52 FR 18020), which announced that E.I. du Pont de Nemours & Co., Inc., Agricultural Products Department, Walker's Mill Building, Barley Mill Plaza, Wilmington, DE 19898, had filed a pesticide petition (PP7F3506) with EPA. The petition proposed amending 40 CFR Part 180 by establishing a regulation to permit the residues of the herbicide bensulfuron methyl ester [methyl-2[[[[[[4-6-

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dimethoxy-pyrimidin-2-yl]amino] carbonyl]amino]sulfonyl] methyl]benzoate) in or on rice at 0.02 part per million (ppm). No comments were received in response to the notice of filing.

The petitioner subsequently amended the petition by proposing a tolerance for residues of bensulfuron methyl ester in rice straw at 0.05 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought.

The data considered in support of the tolerance include:

1. Plant and animal metabolism studies.

2. An acute oral rat study with an LD_{50} greater than (>) 5,000 milligrams (mg)/kilogram (kg) (limit test).

3. A 90-day dog feeding study with a no-observed-effect level (NOEL) of 1,000 ppm (32.1 and 36.3 mg/kg/day male/female (M/F)).

4. A 90-day mouse feeding study with a NOEL of 1,000 ppm (132 and 133 mg/kg/day, M/F).

5. A 90-day rat feeding study with a NOEL of 1,500 ppm (93 and 111 mg/kg/day, M/F).

6. A rat teratology study with a developmental NOEL of 1,320 mg/kg/day, the highest dose tested (HDT).

7. A rabbit teratology study with a developmental NOEL of 300 mg/kg/day.

8. A two-generation rat reproduction study with a reproductive NOEL of 7,500 ppm (309 and 405 mg/kg/day, M/F) (HDT).

9. A *Salmonella*/Mammalian Activation Assay, negative with and without metoblic activation.

10. An *in vivo* bone marrow chromosome study in rats with no evidence of induced chromosome aberration in bone marrow.

11. An *in vitro* sister chromatid exchange assay in CHO cells with a slight increase in SCE frequency in nonactivated system at maximum concentration, but negative in the activated system at the same concentration.

12. A 1-year dog feeding study with a NOEL of 750 ppm (21.4 and 19.9 mg/kg/day, M/F).

13. A 2-year mouse chronic feeding/oncogenicity study with a NOEL of 2,500 ppm (226 and 227 mg/kg/day, M/F) for systemic effects and with no oncogenic potential observed under conditions of the study up to 5,000 ppm (455 and 460 mg/kg/day, M/F) (HDT).

14. A 2-year rat chronic feeding/oncogenicity study with a NOEL of 750 ppm (30 and 40 mg/kg/day, M/F) for systemic effects and with no oncogenic potential observed under conditions of the study up to 7,500 ppm (309 and 405 mg/kg/day, M/F) (HDT).

Based on a NOEL of 19.9 mg/kg/day in the 1-year dog feeding study and a hundredfold safety factor, the acceptable daily intake (ADI) has been set at 0.2 mg/kg/day. These tolerances have a theoretical maximum residue contribution of 0.000003 mg/kg/day and would utilize 0.0016 percent of the ADI.

There are no regulatory actions pending against the registration of bensulfuron methyl ester. The metabolism of bensulfuron methyl ester in plants and animals is adequately understood for purposes of the tolerances set forth below. An analytical method, high-pressure liquid chromatography using a photoconductivity detector, is available for enforcement purposes. Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the *Pesticide Analytical Manual*, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested by mail from:

William Gross, Chief, Information Service Branch, Program Management and Support Division (TS-767C) Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Rm. 223, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

There is no expectation of secondary residues in meat, milk, poultry, and eggs. The Agency concludes that the pesticide is considered useful for the purposes for which the tolerances are sought and that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 11, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. New § 180.445 is added, to read as follows:

§ 180.445 Bensulfuron methyl ester; tolerances for residues.

Tolerances are established for residues of the herbicide bensulfuron methyl ester (methyl-2[[[[[[4,6-dimethoxy-pyrimidin-2-yl]amino]carbonyl]amino] sulfonyl]methyl]benzoate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Rice	0.02
Rice, straw	0.05

[FR Doc. 89-9876 Filed 4-25-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 580

[Docket No. 87-09: Notice 4HH]

Odometer Disclosure Requirements, Kentucky

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of petition for extension of time (Kentucky).

SUMMARY: This is in response to a petition for an extension of time filed by the Kentucky Transportation Cabinet, Department of Vehicle Regulation, (Kentucky). Kentucky cannot issue title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Kentucky an extension of time, until September 1990, to achieve compliance. Because Kentucky has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Kentucky's petition for an extension of time. Kentucky has until September 1, 1990 to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Kentucky's Petition

The Kentucky Transportation Cabinet, Department of Vehicle Regulation, (Kentucky) submitted a petition for an extension of time. In support of its petition, Kentucky states that in 1987, Kentucky attempted to comply with the requirements of the Truth in Mileage Act by contracting to have its title set forth by a secure printing process. The current Kentucky title is intaglio printed and contains latent images. However, Kentucky states that it has examined the title in light of the Federal disclosure requirements and finds that the title does not meet all the requirements. For example, Kentucky notes that the title does not include a space for the signatures and printed names of the seller and buyer. Kentucky states that it has begun to redesign and reformat its titles and that it is attempting to familiarize County Clerks, who initially review motor vehicle title applications, with the new requirements. Finally, Kentucky asserts that is has a one and one-half year supply of titles and that replacement of the titles "would create a severe financial burden". For these reasons, Kentucky requests that it be granted an extension of time until September 1990. Redesigning the title and training County Clerks would continue while the extension is in effect.

NHTSA's Response to the Petition

NHTSA finds that Kentucky has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Immediately after the enactment of the Truth in Mileage Act, Kentucky increased the security of its title document by contracting to have the titles printed by the intaglio method and to include latent images. However, Kentucky recognizes that the title does not meet all the Federal disclosure requirements and has begun to redesign its title. The State will be notified by letter of the changes that are necessary. In addition, Kentucky has begun to train its County Clerks to ensure that the disclosure on the title is properly completed.

In light of Kentucky's past and planned actions, and in order to allow Kentucky to expend their current supply of titles, we grant Kentucky's request for an extension of time until September 1, 1990, to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 19, 1989.

Kathleen C. DeMeter

Assistant Chief Counsel for General Law.

[FR Doc. 89-9949 Filed 4-25-89; 10:55 am]

BILLING CODE 4910-59-M

49 CFR Part 580

[Docket No. 87-09: Notice 4II]

Odometer Disclosure Requirements; Louisiana

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of petition for extension of time (Louisiana).

SUMMARY: This is in response to a petition for an extension of time filed by the Louisiana Department of Public Safety and Correction, Office of Motor Vehicles, (Louisiana). Louisiana cannot issue title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Louisiana an extension of time, until January 1, 1990, to achieve compliance. Because Louisiana has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Louisiana's petition for an extension of time. Louisiana has until January 1, 1990 to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202) 366-1834.

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons

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why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Louisiana's Petition

The Louisiana Department of Public Safety and Corrrection, Office of Motor Vehicles, (Louisiana) submitted a petition for an extension of time. In support of its petition, Louisiana states that in October 1988, Louisiana appointed a task force to review its laws, rules, regulations, policies, and title documents for conformity with the new Federal requirements. Although its efforts have been hampered by the lack of a full-time legal counsel, Louisiana has determined that its laws conform to the basic requirements of the Federal laws and regulations. Some changes to its regulations may be necessary. Louisiana states that it revised its title in November 1987, but that the title does not appear to conform. Although Louisiana finds that the title is set forth by a secure process, Louisiana recognizes that the title does not meet all the Federal requirements concerning odometer disclosure. Louisiana states that it plans to redesign its title document and is requesting monies to purchase new titles. The fiscal year begins July 1, 1989. A four month lead time to order and receive the titles is also necessary. Louisiana explains that it has an eleven month supply of titles at a cost of approximately $32,000 and asserts that a "grave financial crisis" is facing the State. The replacement of the current supply "would create a severe financial burden." For these reasons, Louisiana requests that it be granted an extension of time until January 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that Louisiana has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

After the enactment of the Truth in Mileage Act, Louisiana revised its title document. However, Louisiana recognizes that the title does not meet all the Federal disclosure requirements and plans to redesign and reformat the title. Louisiana will be advised by letter of the changes that are necessary to bring the title into conformity with the Federal requirements. Louisiana has requested funding to purchase the new titles and additional time is necessary to order the titles and have them printed. Louisiana may also amend some of its titling regulations.

In light of Louisiana's past and planned actions, and in order to allow Louisiana to expend their current supply of titles, we grant Louisiana's request for an extension of time until January 1, 1990, to meet the Federal Criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 19, 1989.

Kathleen C. DeMeter,

Assistant Chief Counsel for General Law

[FR Doc. 89-9950 Filed 4-21-89; 10:55 am]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket Number 87-09; Notice 4JJ]

Odometer Disclosure Requirements; Michigan

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of petition for extension of time (Michigan).

SUMMARY: This is in response to a petition for an extension of time filed by the Michigan Department of State (Michigan). Michigan cannot conform its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Michigan an extension of time, until April 29, 1990, to achieve compliance. Because Michigan has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Michigan's petition for an extension of time. Michigan has until April 29, 1990 to revise its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Michigan's Petition

The Michigan Department of State (Michigan) submitted a petition for an extension of time. In support of its petition, Michigan states that, on December 27, 1988, Governor James J. Blanchard signed into law legislation enabling Michigan to conform its title documents, recordkeeping procedures, and vehicle sales practices to the Truth in Mileage Act of 1986. Michigan notes that on April 1, 1989, it began to print the odometer reading on every title it issues, and one of the following brands: "ACTUAL MILEAGE", "NOT ACTUAL MILEAGE", or "MILEAGE EXCEEDS MECHANICAL LIMITS". Michigan states that it also began to require transferors to complete the disclosure on the reverse side of the Michigan title. Michigan states that it recognizes that its title does not meet all the Federal requirements and explains that it is currently designing a new title. In particular, Michigan notes that the disclosure statement on the reverse side of the title must be revised, additional security features must be incorporated, and a space must be provided to describe the vehicle model. Michigan will also redesign its reassignment documents or secure legislation to eliminate them. Based on its experience when it redesigned its title in 1987, Michigan states that the process—bids, funding, vendor time, and computer changes—may take as long as eighteen months. During this period, Michigan plans to educate the public of the new requirements. Finally, Michigan has approximately 2,000,000 nonconforming titles on hand. Michigan explains that replacement with conforming titles prior to exhausting this supply would be "cost prohibitive". For these reasons, Michigan requests that it be granted an extension of time until April 29, 1990.

NHTSA's Response to the Petition

NHTSA finds that Michigan has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Michigan drafted legislation to amend its odometer statutes to bring them into conformity with the Truth in Mileage Act of 1986. A bill was passed by the Michigan Legislature and was signed by the Governor. This new law permits Michigan to issue titles with the odometer reading and the appropriate brand. This new law also requires transferors to complete the disclosure on the title. In addition, Michigan has been redesigning and reformatting its title document and requested funding in order to purchase new, conforming titles.

In light of Michigan's past and planned actions, and in order to allow Michigan to expend its current supply of titles documents, we grant Michigan's request for an extension of time until April 29, 1990, to revise its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 19, 1989.

Kathleen C. DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-9951 Filed 4-21-89; 10:55 am]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket No. 87-09: Notice 4KK]

Odometer Disclosure Requirements; Oklahoma

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of petition for extension of time (Oklahoma).

SUMMARY: This is in response to a petition for an extension of time filed by the Oklahoma Tax Commission, Motor Vehicle Division (Oklahoma). Oklahoma cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Oklahoma an extension of time, until January 1, 1990, to achieve compliance. Because Oklahoma has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Oklahoma's petition for an extension of time. Oklahoma has until January 1, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Oklahoma's Petition

The Oklahoma Tax Commission, Motor Vehicle Division (Oklahoma), submitted a petition for an extension of time. In support of its petition, Oklahoma states that the Oklahoma Legislature enacted legislation requiring new titles. This legislation was signed by Governor Henry Bellmon on June 10, 1988, and became effective on January 1, 1989. Oklahoma states that these titles are intaglio printed and include latent images, fluorescent inks, micro print, and void background. However, they do not meet all the Federal regulatory requirements concerning the disclosure of odometer information. Therefore, Oklahoma states that it has redesigned its title. Oklahoma explains that, in an effort to comply with the Federal odometer regulations, House Bill 1292 has been introduced before the Oklahoma Legislature. This bill would exempt a transferor of a vehicle ten years old and older from disclosing the mileage to his transferee and authorize Oklahoma to print the odometer reading on every title that it issues with a brand that would explain whether or not the odometer reading reflects the actual mileage or the mileage in excess of the mechanical limits of the odometer. Oklahoma points out that the legislation includes an emergency clause. This clause would make the bill effective immediately upon passage and signature of the Governor. Finally, Oklahoma states that it has a one year supply of titles and that replacement with "conforming titles prior to exhausting the current supply will create a severe financial burden". For these reasons, Oklahoma requests that it be granted an extension of time until January 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that Oklahoma has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Oklahoma has made its title more secure. Oklahoma titles are now intaglio printed and contain several other security features. In addition, Oklahoma has redesigned its title to meet the Federal regulatory requirements concerning disclosure. The State will be advised in writing as to whether the draft title meets all requirements. In addition, Oklahoma has drafted legislation to amend its odometer statutes to bring them into conformity with the Truth in Mileage Act of 1986. This legislation has been introduced and is currently pending in the Oklahoma legislature.

In light of Oklahoma's past and planned actions, and in order to allow Oklahoma to expend its current supply of titles documents, we grant Oklahoma's request for an extension of time until January 1, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 19, 1989.

Kathleen C. DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-9952 Filed 4-21-89; 10:55 am]

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49 CFR Part 580

[Docket No. 87-06; Notice 4EE]

Odometer Disclosure Requirements; California

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition for Extension of Time (California).

SUMMARY: This is in response to a petition for an extension of time filed by the California Business, Transportation and Housing Agency, Department of Motor Vehicles, (California). California cannot conform its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant California an extension of time, until July 1, 1990, to achieve compliance. Because California has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted California's petition for an extension of time. California has until July 1, 1990 to revise its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION: .

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

California's Petition

The California Business, Transportation and Housing Agency, Department of Motor Vehicles, (California) submitted a petition for an extension of time. In support of its petition, California states that it has been working to achieve compliance with the Federal requirements. California asserts that legislation to implement the requirements of the regulation and to cover implementation costs was drafted and introduced on February 18, 1988, during the 1987/1988 California legislative session. Due to the prospect of a severe budget shortfall, the proposed legislation did not pass the appropriations committee. California explains that conforming legislation, including a request for an appropriation to implement the program, has been rewritten and will be introduced during the 1988/1989 legislative session. Additionally, California states that it has developed a title that will conform, with minor changes, to the regulation and a bid has been awarded to produce the new titles. This title would be printed on security paper and California estimates that it will take between eight and nine months from the time the titles are ordered until the delivery date. To permit California to enact necessary legislation which includes funding for implementation, reprogram data processing systems, produce conforming titles and rewrite its procedures manual, California requests an extension of time until July 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that California has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

In February 1988, California drafted and submitted legislation to implement the requirements of the Federal regulation, including a request for an appropriation to cover the implementation costs. Because the proposed legislation did not pass the appropriations committee, the proposed legislation was rewritten for submission to the 1988/1989 legislative session. Additionally, California has developed a title that will conform, with minor changes, to the regulation and a bid has been awarded to produce the new titles. California has submitted a sample of a proposed title and the State will be notified in a letter of the changes that are necessary to bring the title document into compliance. California will also reprogram its data processing system and rewrite its procedures manual.

In light of California's past and planned actions, we grant California's request for an extension of time until July 1, 1990, to revise its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 19, 1989.

Kathleen C. DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-9946 Filed 4-21-89; 10:55 am]

BILLING CODE 4910-59-M

49 CFR Part 580

[Docket Number 87-09; Notice 4DD]

Odometer Disclosure Requirements; Florida

AGENCY: National Highway Traffic Safety Administration, DoT.

ACTION: Grant of Petition for Extension of Time (Florida).

SUMMARY: This is in response to a petition for an extension of time filed by the Florida Department of Highway and Motor Vehicles, Division of Motor Vehicles (Florida). Florida cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Florida an extension of time, until April 29, 1990, to achieve compliance. Because Florida has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Florida's petition for an extension of time. Florida has until April 29, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Florida's Petition

The Florida Department of Highway Safety and Motor Vehicles, Division of Motor Vehicles (Florida), submitted a petition for an extension of time. In support of its petition, Florida states that it has been working to redesign the title document with regard to the reassignment and disclosure information on the reverse side. Florida notes that the title does not contain a space for the signature and printed name of the transferee because the current title size is not large enough. To remedy the problem, Florida states that it will propose legislation to eliminate the requirement that the signature of the seller on the title document be notarized. Furthermore, the legislation will seek additional appropriations to cover a larger title document, higher postage resulting from the larger title, and the printing of reassignment documents by a secure process. The Florida Legislature will meet from April to June 1989. Florida explains that it is also planning to redesign its data processing system so that the title includes the odometer reading and a statement as to whether or not it reflects the actual mileage or exceeds the mechanical limits of the odometer. Finally, Florida states that its current supply of titles will be exhausted by April 1990. For these reasons, Florida requests that it be granted an extension of time until April 29, 1990.

NHTSA's Response to the Petition

NHTSA finds that Florida has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Acts and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Florida has been working to redesign its title and reassignment forms to meet the statutory and regulatory requirements. The draft title which Florida included with its petition does not appear to conform with the Federal requirements. The State will be advised by letter of the necessary changes. Legislative action is being sought to amend the current State laws that require that the seller's signature on the title document be notarized and to seek appropriations necessary to print new documents. In addition, Florida is planning changes to its data processing system to ensure that the title that will be issued by the State includes an odometer reading and a notation or "brand" as to whether or not the reading reflects the actual mileage or exceeds the odometer's mechanical limits.

In light of Florida's past and planned actions, and in order to allow Florida to expend its current supply of title documents, we grant Florida's request for an extension of time until April 29, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 19, 1989.

Kathleen C. DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-9945 Filed 4-21-89; 10:55am]

BILLING CODE 4910-59-M

49 CFR Part 580

[Docket No. 87-09; Notice 4GG]

Odometer Disclosure Requirements; Illinois

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition for extension of time (Illinois).

SUMMARY: This is in response to a petition for an extension of time filed by the State of Illinois, Office of the Secretary of State, Vehicle Services Department, (Illinois). Illinois cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Illinois an extension of time, until January 1, 1990, to achieve compliance. Because Illinois has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Illinois' petition for an extension of time. Illinois has until January 1, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Illinois' Petition

The State of Illinois, Office of the Secretary of State, Vehicle Services Department, (Illinois), submitted a petition for an extension of time. In support of its petition, Illinois states that immediately after enactment of the Truth in Mileage Act of 1986, Illinois undertook extensive data processing changes in order to develop the capability to print the mileage disclosure required by the Act. Illinois explains that it initiated efforts to revise its titles to meet the Federal disclosure requirements in February 1988 and that revisions were finalized in August 1988. Currently, the power of attorney form is being revised. Illinois states that it needs to bring its statutes into conformity with the Truth in Mileage Act and, in order to do so, has prepared

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and submitted legislation for the upcoming legislative session. Illinois expects that the legislation will pass the legislature and be signed by the Governor in the fall of this year. The effective date would be January 1, 1990. Finally, Illinois has an eleven-month supply of nonconforming titles on hand. Replacement of this supply with conforming title documents would cost in excess of $200,000. For these reasons, Illinois requests that it be granted an extension of time until January 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that Illinois has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Illinois drafted legislation to amend its odometer statutes to bring them into conformity with the Truth in Mileage Act of 1986 and this legislation has been submitted for the upcoming legislative session. The Governor is expected to sign the legislation in the fall of 1989. The legislation will become effective on January 1, 1990. Illinois has also been redesigning its title documents and power of attorney forms. Finally, Illinois has begun to make extensive data processing programming changes.

In light of Illinois' past and planned actions, and in order to allow the State to expend its current supply of title documents, we grant Illinois' request for an extension of time until January 1, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50 (f) and 501.8(e).

Issued on April 19, 1989.

Kathleen C. DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-9948 Filed 4-21-89; 10:55 am]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket No. 87-09; Notice 4FF]

Odometer Disclosure Requirements; Rhode Island

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition for extension of time (Rhode Island).

SUMMARY: This is in response to a petition for an extension of time filed by the Rhode Island Department of Transportation, Division of Motor Vehicles, (Rhode Island). Rhode Island cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Rhode Island an extension of time, until April 29, 1990, to achieve compliance. Because Rhode Island has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Rhode Island's petition for an extension of time. Rhode Island has until April 29, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Rhode Island's Petition

The Rhode Island Department of Transportation, Division of Motor Vehicles, (Rhode Island) submitted a petition for an extension of time. In support of its petition, Rhode Island states that it has reviewed its title documents and laws. Although the current title is set forth by a secure printing process and contains a space for a disclosure by a transferor, the disclosure on the title does not meet all the regulatory requirements. In addition, Rhode Island notes that the separate reassignment is not set forth by a secure printing process and the disclosure does not meet the Federal requirements. Rhode Island will draft legislation to amend its odometer tampering law in order to change the disclosures on the title and reassignment form with the Federal odometer disclosure requirements. Rather than waiting for the legislative amendment, Rhode Island states that it is in the process of redesigning its title and reassignment forms. Rhode Island is also considering computer programming changes that would permit the State to issue a title that includes an odometer reading and a notation as to whether or not the reading reflects the actual mileage or the mileage in excess of the designed mechanical limits of the odometer. However, Rhode Island has a fourteen-month supply of nonconforming titles on hand and replacement of these titles with conforming documents would create "a financial burden". For these reasons, Rhode Island requests that it be granted an extension of time until April 29, 1990. Until the current supply is depleted, Rhode Island will require that a conforming odometer disclosure statement accompany the title document.

NHTSA's Response to the Petition

NHTSA finds that Rhode Island has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Rhode Island reviewed its title and reassignment documents and its laws. Rhode Island drafted legislation to amend its odometer tampering statutes to bring them into conformity with the Truth in Mileage Act of 1986 and NHTSA's final rule. In addition, Rhode

Island has been redesigning and reformatting its title document and is contemplating computer programming changes.

In light of Rhode Island's past and planned actions, and in order to allow Rhode Island to expend its current supply of titles documents, we grant Rhode Island's request for an extension of time until April 29, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 19, 1989.

Kathleen C. DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-9947 Filed 4-21-89; 10:55 am]

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Proposed Rules

Federal Register
Vol. 54, No. 79
Wednesday, April 26, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1944 and 1955

Sale of Inventory Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations regarding the sale of Single Family Housing (SFH) inventory property to public bodies and nonprofit organizations to provide transitional housing for the homeless, provide the authority to enter into pilot projects to dispose of inventory property and make other changes consistent with the authorizing statute. This action is necessary to assist with the plight of the homeless and provide additional authorities to dispose of inventory property. The intended effect is to assist the homeless and make our regulations more responsive to the needs of the Agency and public.

DATE: Comments must be submitted on or before June 26, 1989.

ADDRESSES: Submit written comments in *duplicate* to the Chief, Directives and Forms Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this publication will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Joyce M. Halasz, Senior Loan Specialist, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5309—South Agriculture Building, Washington, DC 20250, telephone (202) 382–1452.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rulemaking action has been reviewed under USDA procedures established in Departmental Regulations 1512–1, which implements Executive Order 12291 and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in cost or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions. Furthermore, there will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or import markets. This action is not expected to substantially affect budget outlay or affect more then one Agency or to be controversial. The net result is to provide better service to rural communities.

Background/Discussion

On September 14, 1988, FmHA published an interim rule (53 FR 35638) implementing certain provisions of the Agricultural Credit Act of 1987 which includes revisions to 7 CFR Part 1955. That rulemaking action primarily affects farmer program (CONACT) portions of Part 1955. This proposed rulemaking action affects housing programs only, except the provisions on pilot projects and sealed bid sales, and has no impact on the intent of changes to 7 CFR Part 1955 being amended as a result of the Agricultural Credit Act of 1987.

On July 25, 1988, FmHA published a proposed rule (53 FR 27863) which contained provisions for the leasing of SFH inventory property to community based organizations to provide transitional housing for the homeless. All comments surrounding this segment of the proposed rule suggested revisions to Subpart C of Part 1955 regarding the sale of SFH inventory property to public bodies and nonprofit organizations to provide transitional housing to the homeless. Based upon the comments received, FmHA is proposing changes to Subpart C to provide for the sale of SFH inventory property to provide transitional housing for the homeless. The following is a brief summary of the pertinent features:

1. Upon request, FmHA will provide a list of inventory property to public bodies and nonprofit organizations desiring to purschase property to provide transitional housing for the homeless. Upon notice of intent to purchase an SFH inventory property, FmHA will withdraw the property from the market for up to 15 days to permit sufficient time for a public body or nonprofit organization to execute a sales contract.

2. A 10 percent discount off the most recent offered price will be offered on nonprogram (NP) properties. A similar discount was considered on program properties, however, this would permit entities to purchase the property at a lower price than offered to program applicants. This would place FmHA program applicants at a disadvantage to purchase program properties thus conflicting with the intent of the Section 502 housing program.

3. If necessary, FmHA will repair any property to decent, safe, and sanitary (DSS) standards; however, the sale price will be adjusted to reflect any resulting change in value. The purchaser will be responsbile for any cosmetic repairs and meeting thermal performance standards.

4. No earnest money deposit will be required. A 2 percent downpayment will be paid at closing and financing will be available at current NP interest rates for 10 years, payments being amortized over 20 years with a balloon payment due after 10 years.

Although comments on the sale of properties may have been submitted previously, FmHA encourages additional comments on this issue from housing advocacy groups, FmHA personnel and the public.

A change is also proposed to § 1955.114(a)(1)(iv) which deals with the sale of SFH inventory property. On July 25, 1988, FmHA promulgated changes (53 FR 27819) to this section which provided for a five day waiting period to consider offers for the purchase of SFH property listed for sale under an exclusive broker contract. This five day waiting period gave all real estate brokers equal opportunity to submit offers. After publication of the regulation, several comments were received suggesting the five day waiting period be expanded to all sales of SFH property, not just those under an exclusive broker contract. This would provide potential purchasers with the opportunity to make a prudent decision about submitting an offer and

real estate brokers with sufficient time to present contracts.

The authorities contained in §§ 1955.118(f), 1955.130(f) and 1955.147 regarding 20-year amortization on NP financing, special effort sales bonuses and sealed bid sales to promote the sale of inventory property, are clarified and expanded to give the State Director authority to utilize these marketing efforts on a broader basis to assist with the timely sale of inventory and help reduce the cost of retaining property.

FmHA is also publishing a new section regarding the use of pilot projects. FmHA has successfully utilized pilot projects throughout various aspects of loan making, loan servicing and property management. To assist with the responsiveness and feasibility of pilot projects, FmHA intends to publish a notice in the **Federal Register** outlining the nature, scope and duration of the pilot project.

In addition, § 1944.17(d) of Subpart A of Part 1944 of this chapter, which authorizes a maximum loan amount in excess of the market value by one percent of the sale price, for a subsequent loan for closing costs with a credit sale, is expanded to permit the same for transfers, enhancing the availability of program properties through transfers directly from existing borrowers to low and very-low income applicants.

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Nos:

10.404 Emergency Loans
10.405 Farm Labor Housing Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
10.417 Very Low Income Housing Repair Loan and Grants
10.418 Water and Waste Disposal Systems for Rural Communities
10.419 Watershed Protection and Flood Prevention Loans
10.421 Indian Tribes and Tribal Corporation Loans
10.422 Business and Industrial Loans
10.423 Community Facility Loans
10.427 Rural Rental Assistance Payments

Intergovernmental Consultation

For the reasons set forth in the Final Rule related Notice(s) to 7 CFR Part 2015, Subpart V, the following programs are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials: 10.404—Emergency Loans; 10.406—Farm Operating Loans; 10.407—Farm Ownership Loans; 10.410—Low Income Housing Loans; 10.416—Soil and Water Loans; 10.417—Very Low Income Housing Repair Loan and Grants. The following programs are subject to intergovernmental consultation with State and local officials: 10.405—Farm Labor Housing Loans and Grants; 10.411—Rural Housing Site Loans; 10.414—Resource Conservation and Development Loans; 10.415—Rural Rental Housing Loans; 10.418—Water and Waste Disposal Systems for Rural Communities; 10.419—Watershed Protection and Flood Prevention Loans; 10.421—Indian Tribes and Tribal Corporation Loans; 10.422—Business and Industrial Loans; 10.423—Community Facility Loans; 10.427—Rural Rental Assistance Payments.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1949, Pub. L. 91–90, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a large number of small entities.

List of Subjects

7 CFR Part 1944

Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mobile homes, Mortgages, Rural Housing, Subsidies.

7 CFR Part 1955

Government acquired property, Sale of government acquired property, Surplus government property.

Therefore, as proposed, Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

PART 1944—HOUSING

1. The authority citation for Part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations.

2. In § 1944. 17, paragraph (d) is revised to read as follows:

§1944.17 Maximum loan amounts.

* * * * *

(d) When a subsequent loan for closing costs only is made simultaneously with a credit sale (as provided in § 1955.117(f) of Subpart C of Part 1955 of this chapter) or a transfer, the total indebtedness may exceed the market value of the security property by no more than one percent of the sale price of the property.

* * * * *

PART 1955—PROPERTY MANAGEMENT

3. The authority citation for Part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart C—Disposal of Inventory Property

4. The title and text of § 1955.111 is revised to read as follows:

§ 1955.111 Sale or real estate for RH purposes (housing).

Sections 1955.112 through 1955.120 of this subpart pertain to the sale of acquired property pursuant to the Housing Act of 1949, as amended (RH property). Single family units (generally which secured loans made under section 502 or 504 of the Housing Act of 1949, as amended) are referred to as single family housing (SFH) property. All other property is referred to as multiple family housing (MFH) property. Notwithstanding the provisions of §§ 1955.112 through 1955.118, 1955.119 is the governing section which deals with the sale of SFH units to public bodies or nonprofit organizations with the intent to provide transitional housing for the homeless.

5. In § 1955.114, paragraph (a)(1)(iv) is revised to read as follows:

§ 1955.114 Sales steps for program property (housing).

(a) * * *

(1) * * *

(iv) Offers may be received at any time after the effective date the property

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is available for sale, however will not considered or accepted until five business days after the effective date the property is available for sale or any reduction in price. Offers received during the five business day period will be considered to be received at the same time on the 6th day along with offers received on the same (6th) day.

* * * * *

6. In § 1955.118, an additional sentence is added to the end of paragraph (f)(1)(ii) to read as follows:

§ 1955.118 Processing cash sales or credit sales on NP terms (housing).

* * * * *

(f) * * *

(1) * * *

(ii) * * * If it appears prudent, to facilitate the sale of NP properties the State Director may authorize 20-year amortization on a group, county, district or state-wide basis.

* * * * *

7. § 1955.119 is redesignated as § 1955.120, and a new § 1955.119 is added to read as follows:

§ 1955.119 Sale of SFH inventory property to public bodies or nonprofit organizations.

This section contains provisions for the sale of SFH inventory property to public bodies or nonprofit organizations which intend to utilize the property for transitional housing for the homeless. Notwithstanding the provisions of § 1955.111 through § 1955.118, this section applies whenever FmHA is approached by such an entity to purchase SFH inventory property for transitional housing. A public body and nonprofit organization is a nonprogram (NP) applicant.

(a) *Method of sale.* The method of sale will follow § 1955.112. Upon request from a public body or nonprofit organization, FmHA will provide a list of inventory property, regardless of whether the property is listed for sale with real estate brokers. When the list is provided, it will clearly indicate whether the dwelling is a "program" or "nonprogram (NP)" property. If FmHA is approached by a public body or nonprofit organization desiring to purchase a specific inventory property not under a sale contract, FmHA will withdraw the property from the market, regardless of suitability classification, upon written notice from such an entity of its intent to purchase the property. The property may be held off the market for a period not to exceed 15 days to provide the public body or nonprofit organization sufficient time to execute Form FmHA 1955-45, "Standard Sales Contract—Sale of Real Property By The United States."

(b) *Price.* The sale price of the property will follow § 1955.113. However, should a public body or nonprofit organization desire to purchase a nonprogram (NP) property, a discount of 10 percent off the most recent sale price will be granted. No such discount applies to program properties.

(c) *Decent, safe and sanitary (DSS) standards.* If FmHA is approached by a public body or nonprofit organization to purchase a NP property which does not meet DSS standards. FmHA will make repairs necessary to remove any health or safety hazards, unless FmHA determines the repairs are so extensive that it is not prudent to make such repairs. The sale price will be adjusted to reflect any resulting change in value. If the cost of repairs to remove health and/or safety hazards exceeds $7,500, prior approval from the Assistant Adminstrator, Housing, is required before accepting the sales contract. Repairs necessary to remove health and/or safety hazards may include, but are not limited to providing adequate, safe and operable heating, plumbing, electrical, water, and sewage disposal systems. Cosmetic type repairs such as painting, floor covering, landscaping, etc., and meeting thermal performance standards will be the responsibility of the public body or nonprofit organization. All repairs/renovations to make the property habitable and meet DSS standards will be discussed, outlined in writing, and made part of the sale contract before execution of Form FmHA 1955-45 by the entity. The public body or nonprofit organization must demonstrate they have the resources available to perform repairs/renovations which are their responsibility. All repairs/renovations will be performed after loan closing, and those which are FmHA's responsibility will be charged directly to the Rural Housing Insurance Fund (RHIF) as a a program related expense. Applicable DSS restrictions will be placed in the deed in accordance with § 1955.116.

(d) *Approval and closing.* Processing cash sales or credit sales on NP terms will be handled in accordance with § 1955.188, except as follows:

(1) *Earnest money deposit.* No earnest money deposit is required from a public body or nonprofit organization.

(2) *Downpayment.* A downpayment of 2 percent of the purchase price will be paid at closing.

(3) *Term of note.* No more than 10 years with payments amortized using up to a 20-year factor with payment in full (balloon payment) due not later than 10 years from the date of closing.

8. In § 1955.130, a sentence is added to the end of paragraph (f)(2) to read as follows:

§ 1955.130 Real estate broker.

* * * * *

(f) * * *

(2) * * * If it appears prudent, to facilitate the sale of NP properties the State Director may authorize use of special effort sales bonuses on a group, county, district or state-wide basis.

* * * * *

9. § 1955.132 is added under the undesignated heading "General" to read as follows:

§ 1955.132 Pilot projects.

From time to time FmHA conducts pilot projects to test concepts related to the management and disposal of inventory property which may deviate from the provisions of this subpart, but will not be inconsistent with the provisions of the authorizing statute, or other applicable Acts affecting the management and disposal of inventory property. Prior to initiation of a pilot project, FmHA will publish in the **Federal Register** a Notice outlining the nature, scope, and duration of the pilot. The pilot projects may be handled by FmHA employees and/or under contract with persons, firms or other entities in the private sector.

10. In § 1955.147, the following sentence is added after the sixth sentence in the introductory text to read as follows:

§ 1955.147 Sealed bid sales.

* * *When a group of properties are to be sold at one time, advertising may indicate that FmHA will consider bids on individual properties or a group of properties and FmHA will accept the bid or bids which are in the best financial interest of the Government.* * *

* * * * *

Dated: April 12, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89-9937 Filed 4-25-89; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AD17

Informal Hearing Procedures for Nuclear Reactor Operator Licensing Adjudications

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing an amendment of its regulations to provide rules of procedure for the conduct of informal adjudicatory hearings in nuclear reactor operator licensing proceedings. The Atomic Energy Act of 1954 requires that the NRC, in any proceeding for the granting, suspending, revoking, or amending of an NRC license, including licensing as an operator or senior operator at a nuclear reactor, afford an interested person, upon request, a "hearing." This proposed rule would include reactor operator licensing proceedings under the informal hearing procedures already established for materials licensing procedings.

DATE: Comment period expires June 26, 1989.

Comments received after this date will be considered if it is practicable to do so, but assurance of consideration can be given only for comments filed on or before that date.

ADDRESSES: Submit written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Hand deliver comments to Docketing and Service Branch, One White Flint North, 11555 Rockville Pike, Rockville, MD, between 8:15 a.m. and 5:00 p.m.

Examined comments received at: The NRC Public Document Room, 2120 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karla Smith or Paul Bollwerk, Attorneys, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-1600.

SUPPLEMENTARY INFORMATION: Section 189a of the Atomic Energy Act of 1954 (AEA) (42 U.S.C. 2239(a)) provides that in any proceeding for the granting, suspending, revoking, or amending of any license, the NRC shall grant a hearing upon the request of any person whose interest may be affected by the proceeding. Among the licenses issued by the NRC are those for operators and senior operators of nuclear reactors (AEA section 107, 42 U.S.C. 2137; 10 CFR Part 55).

The Commission's rules of practice generally provide for two types of hearing procedures for licensing proceedings—formal and informal. Under 10 CFR Part 2, Subpart G, those requesting a hearing with respect to a reactor licensing action or any agency enforcement activity affecting a license generally are provided a formal, trial-type hearing conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 554-557 and 10 CFR Part 2, Subpart G. On the other hand, a request for a hearing regarding an NRC materials licensing action generally entitles an interested person to an informal, legislative-type hearing in accordance with 10 CFR Part 2, Subpart L.

NRC regulations presently do not specify the type of hearing to be afforded in the event that an interested person, including an applicant for a reactor operator license or a licensee, requests a hearing with regard to agency action concerning a reactor operator license. Previously, the Commission has declared in individual orders responding to operator hearing requests that an applicant for an operator license whose application is denied is entitled only to an informal hearing in accordance with procedures like those now embodied in Subpart L. E.g., David W. Held (Senior Operator License for Beaver Valley Nuclear Power Station, Unit 1), Docket No. 55-60402 (Comm. Aug. 7, 1987). In the wake of NRC's recent adoption of Subpart L (54 FR 8696), the Commission has decided that the Commission's rules should reflect the practice followed in the individual orders. Accordingly, the Commission proposes to amend Subpart L to include within its scope proceedings for the grant, renewal, or licensee-initiated amendment of a reactor operator's license. The proposed rule also specifies that any reactor operator licensing proceeding that was initiated by a notice of hearing issued under § 2.104, a notice of proposed action under § 2.105, or a request for hearing under Subpart B of 10 CFR Part 2 on an order to show cause, an order for modification of license, or a civil penalty is to be conducted in accordance with the procedures for formal hearings set forth in Subpart G of 10 CFR Part 2.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Review

This proposed rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Regulatory Analysis

The Atomic Energy Act affords interested persons the right to a hearing regarding a reactor operator licensing proceeding. As the Commission previously indicated in its decision in Kerr-McGee Corp. (West Chicago Rare Earths Facility), CLI-82-2, 15 NRC 232, 241 (1982), aff'd sub nom., City of West Chicago v. NRC, 701 F.2d 632 (7th Cir. 1983), the use of informal procedures generally involves less cost and delay for the parties and the Commission than the use of formal, trial-type procedures, the principal other procedural alternative. Also, procedures must be in place to allow for the orderly conduct of those adjudications. Codifying the informal hearing procedures for operator licensing proceedings is preferable to the present practice of establishing the procedures to be followed on a case-by-case basis. By codifying the procedures, the Commission will avoid the expenditure of time and resources necessary to prepare the individual orders that previously have been used to designate those procedures. This proposed rule is the preferred alternative and the cost entailed in its promulgation and application is necessary and appropriate. The foregoing discussion constitutes the regulatory anlaysis for this proposed rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, 5 U.S.C. 605(b), the NRC hereby certifies that this rule, if promulgated, will not have a significant economic impact upon a substantial number of small entities. Many operator license applicants or operator licensees fall within the definition of small businesses found in section 34 of the Small Business Act, 15 U.S.C. 632, or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121, or the NRC's size standards published December 9, 1985 (50 FR 50241). While the proposed rule would reduce the litigation cost burden upon applicants or licensees because of the informal nature of the hearing, the requirement that they submit filings and documentary

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information detailing contested legal and factual issues is still required. Some cost reduction in comparison to the cost of participating in a formal adjudicatory hearing can be anticipated, although it is problematic whether that reduction as a whole will be significant. Certainly, the use of informal procedures will not increase significantly the burden upon applicants or licensees to engage in hearings.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and, therefore, that a backfit analysis is not required for this proposed rule, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 2:

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. The heading of Subpart L of Part 2 is revised to read as follows:

Subpart L—Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings

3. Section 2.1201 is revised to read as follows:

§ 2.1201 Scope of subpart.

(a) The general rules of this subpart govern procedure in any adjudication initiated by a request for a hearing in a proceeding for—

(1) The grant, transfer, renewal, or licensee-initiated amendment of a materials license subject to Part 30, 32 through 35, 39, 40, or 70 of this chapter; or

(2) The grant, renewal, or licensee-initiated amendment of an operator or senior operator license subject to Part 55.

(b) Any adjudication regarding a materials license subjectd to Parts 30, 32 through 35, 39, 40, or 70, or an operator or senior operator license subject to Part 55 that is initiated by a notice of hearing issued under § 2.104, a notice of proposed action under § 2.105, or a request for hearing under Subpart B of 10 CFR Part 2 on an order to show cause, an order for modification of license, or a civil penalty, is to be conducted in accordance with the procedures set forth in Subpart G to 10 CFR Part 2.

Dated at Rockville, MD, this 20th day of April, 1989.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 89–10004 Filed 4–25–89; 8:45 am]

BILLING CODE 7590–01–M

10 CFR Part 50

[Docket No. PRM–50–48]

University of Missouri; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM–50–48) filed by Mr. William F. Reilly, Manager, Reactor Upgrade Project, and endorsed by Dr. Don M. Alger, Associate Director, Research Reactor Facility of University of Missouri. The petition is being denied because: (1) The existing regulations are adequate to ensure protection to public health and safety in licensing test reactors and testing facilities; (2) the proposed amendments would not sufficiently protect the public health and safety; and (3) the need for the clarifications proposed is not otherwise demonstrated by the documentation provided by the petitioner. The petition requested that NRC amend its regulation to add a new definition for the term "research reactor" and redefine the terms "testing facility" and "testing reactor" based on the function of the facility and its power level. The petitioner stated that the current definition of "testing facility" results in excessive and unnecessary regulatory requirements being applied to research reactors which are contrary to Congressional intent in the Atomic Energy Act of 1954.

ADDRESS: Copies of the petition for rulemaking, the public comments received, and the NRC's letter to the petitioner are available for public inspection or copying in the NRC Public Document Room at 2120 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark L. An, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–3749.

SUPPLEMENTARY INFORMATION:

I. The Petition
II. Basis for Request
III. Public Comments on the Petition
IV. Analysis of Public Comments
V. Reasons for Denial

The Petition

In a letter dated November 19, 1987, Dr. Don M. Alger, Associate Director, Research Reactor Facility, University of Missouri, filed with NRC a petition for rulemaking (PRM–50–48). The petitioner requested that NRC amend its regulations to add a new definition for the term "research reactor" and redefine the term "testing facility" based on the function of the facility and its power level. The proposed petition was published in the Federal Register on March 1, 1988 (53 FR 6159). The 60-day public comment period ended May 2, 1988.

Fifteen letters were received commenting on the petition. These letters came from universities, government agencies, industry, public interest groups, and an individual. Eleven comments favored the petition and four opposed the petition. The significant comments supporting the petition are summarized below:

1. Clarifications are necessary to specify which regulations apply to research reactors. These clarifications would eliminate the confusion associated with commingled power reactor regulations.

2. A clear distinction among the terms "research reactor," "testing facility" and "testing reactor" should be established.

3. The arbitrary designation for testing facility based on power level threshold that has little, if any, technical basis, should be eliminated; thereby allowing certain vital research to be performed in a more expeditious manner.

The significant comments opposing the petition are summarized below:

1. It is not prudent to ignore power level in the classification of research reactors used for research purposes from that of power reactors and testing facilities.

2. Protection of public health and safety should be foremost consideration when amending the regulations in 10 CFR Chapter I.

3. Recourse to seek exemption from regulation should be on a case-by-case basis.

4. The proposed definition implies that testing would be done only at "research reactors" and prevents use of a "testing facility" for other types of work for which it may be suited.

5. Research can be conducted adequately at present or lower power levels.

Basis for Request

The petitioner bases the petition on the fact that the current definition of "testing facility" in 10 CFR Part 50 results in excessive and unnecessary routine regulatory requirements being applied to research reactors which is contrary to Congressional intent in the Atomic Energy Act of 1954. The petitioner also proposed to add a definition in 10 CFR Part 50 for "research reactor" to be consistent with the definition used by the American Nuclear Society (ANS) and American National Standards Institute (ANSI). The petitioner currently operates a research reactor at a maximum power level of 10 MW(t), and plans are being developed to upgrade the power to approximately 30 MW(t). This power upgrade would result in the change of the "research reactor" designation to that of a "testing facility." The petitioner contends that such a designation would place unnecessary and burdensome regulatory requirements on research reactors similar to those required of power reactors.

The petitioner believes the petition establishes a balanced regulatory program for the University of Missouri and future research reactors to ensure the public health and safety without inhibiting the conduct of vital research in the areas of medical research, radioisotope production, material research, neutron activation analysis, radiation effects, and others. The petitioner further believes that test facilities were intended by Congress to be encompassed in section 104c of the Atomic Energy Act of 1954 (construction application of testing facility). Although this section of the Act does not mention nor define "testing facility," the Commission could issue licenses to persons applying for utilization and production facilities useful in the conduct of research and development activities.

Public Comments on the Petition

A notice of receipt of petition for rulemaking was published in the Federal Register on March 1, 1988 (53 FR 6159). Interested persons were invited to submit written comments concerning the petition during the 60-day public comment period which ended May 2, 1988.

Analysis of Public Comments

Two commenters made the comment that the proposed rule would clarify in the regulations where research reactor regulations apply and would eliminate confusion with power reactor regulations.

In response, the NRC staff recognizes that the regulatory requirements for test and research reactors appear throughout Title 10 of the Code of Federal Regulations. However, upon review of any particular part or section of the regulations, it is clear what reactor types are being addressed. This petition would change the definitions for "testing facility", "testing reactor", and "research reactor." Where these definitions appear or do not appear in the regulations would not change. Therefore, the clarity of the regulations would not be affected by the petition for rulemaking.

One commenter stated that the petition would establish clear distinction between terms "research reactor" and "testing facility."

In response, these terms are clearly and specifically defined in the existing Title 10 of the Code of Federal Regulations. To date, there have not been any instances where uncertainty about a facility has occurred. The petition, if implemented, would replace the existing definitions with no significant improvement in clarity.

Seven commenters stated that adopting this proposal would eliminate the arbitrary designation for testing facility based on a 10 MW thermal power threshold that holds little, if any, technical basis.

In response, when the current definition of testing facility was proposed in 1959, the Atomic Energy Commission (AEC) adopted a definition based on the type of facility that would involve a significant hazards consideration. The Advisory Committee on Reactor Safeguards (ACRS) reviewed and agreed on this definition. These definitions are still valid and conservative when considered in light of current technology.

One commenter indicated that the petition would allow vital research to be performed in a more expeditious manner.

In response, it is true that a higher power research reactor has a higher neutron flux and the ability to conduct research that would be difficult or very time consuming at a lower power level. However, a licensee can apply to operate a research reactor with a power level greater than 10 MW(t) if it follows the current licensing process for a testing facility. Because the existing regulations for testing facilities and testing reactors are of greater complexity than those for research reactors, it may require a longer time to complete a testing reactor licensing action. Nevertheless, ensuring the health and safety of the public takes precedence over arbitrarily relaxing licensing requirements for operation.

Two commenters stated that it is not prudent to ignore power level in the classification of reactors used for research purposes.

In response, the regulatory process used in any licensing action must be of sufficient detail to ensure protection of the health and safety of the public. The proposed changes in the definitions would change the existing regulatory process for reactors with power levels

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above 10 MW(t). The NRC staff considers the power level of the facility and postulated accidents to be important safety considerations when evaluating licensing actions on research reactors and testing facilities. The present regulatory options available to the staff for research reactors (such as referring an application to the ACRS) will continue to exist and will be used by the staff if warranted.

Reasons for Denial

The decision to deny the petition was based on: (1) NRC considering the contents of the petition, (2) the public comments received, and (3) the current regulatory structure affecting the licensing of research reactors, testing reactors, and testing facilities. The discussion that follows addresses the significant points in the petitioner's proposal and NRC's response to these points.

The petitioner proposed that the Commission adopt a regulation that would add a new definition for the term "research reactor" and redefine the terms "testing facility" and "testing reactor" based on the function of the facility and its power level.

Proposed New Definition

"Research reactor" means a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of § 50.21(c) of this chapter for research, developmental, educational, training, or experimental purposes, and which may have provision for production of non-fissile radioisotopes.

Proposed New Definition

"Testing facility" means a nuclear reactor of a type described in § 50.21(c) to be used for testing reactor components and designs at reduced or uncertain safety margins, and for which an application has been filed for a license authorizing operation at:

(a) A thermal power level in excess of 10 megawatts; or

(b) A thermal power level in excess of 1 megawatt; if the reactor is to contain:

(i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or

(ii) A liquid fuel loading; or

(iii) An experimental facility in the core in excess of 16 square inches in cross-section.

The definition of research reactor appears in the existing regulations in § 107.3(h). If a non-power reactor is not a test reactor or test facility, it is a research reactor; therefore, a need for clarification does not exist. Because of power levels and postulated accident considerations, the existing regulatory process for testing facilities and testing reactors is intended to be more comprehensive than that for research reactors.

The petitioner suggests adding to the definition for testing reactor and testing facility the function of the reactor by including the testing of reactor components and designs at reduced or uncertain safety margins. The petitioner does not provide justifications as to what levels of reduction in safety margin is acceptable. The petitioner's proposal does not demonstrate why the existing regulatory process is not sufficient to protect the health and safety of the public and the environment.

In the petitioner's proposed definition, it is not clear where a research reactor (the type of reactor described in 10 CFR 170.3(h) or 10 CFR 50.21(c)), that operates at a thermal power level of 10 megawatts or less, or that does not operate at a thermal power level in excess of 1 megawatt with a circulating loop, liquid fuel loading, or an experimental facility in the core in excess of 16 square inches in cross-section that would be used for testing reactor components and designs at reduced or uncertain safety margins, would be considered under the proposed regulations. The petitioner-proposed definitions of testing facility and testing reactor involve both reactor function and power level. This is an area of uncertainty that has not been addressed by the petitioner in any of the documentation submitted.

The changes in the definition that the petitioner has proposed would result in facilities being regulated as research reactors at thermal power levels above 10 megawatts if the facility did not engage in testing reactor components and designs at reduced or uncertain safety margins. Facilities with thermal power levels above 10 megawatts are currently regulated as testing facilities. Thus, this represents a decrease in the scope of the regulatory requirements. The petitioner has not stated if a reactor thermal power level exists where the scope of the regulatory process should be increased. The petitioner has not provided any justification to show that reactor power level is independent of the potential hazard to the health and safety of the public and environment. Also, the petitioner does not justify the decrease in the scope of the regulatory process except to state that the current definitions are arbitrary. In addition to reviewing the petition and comments from the public, the petition was also examined against the existing regulatory requirements affecting test reactors. These regulations are briefly listed as follows:

1. *10 CFR 50.2* defines "testing facility" as a nuclear reactor which is of a type described in 10 CFR 50.21(c) and for which an application has been filed for a license authorizing operation at:

(a) A thermal power level in excess of 10 megawatts; or

(b) A thermal power level in excess of 1 megawatt, if the reactor is to contain:

(i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or

(ii) A liquid fuel loading; or

(iii) An experimental facility in the core in excess of 16 square inches in cross-section.

2. *10 CFR 50.21(c)* describes a requirement for a production or utilization facility for conducting research and development activities of the types specified in section 31 of the Act, and which is not a facility of the type specified in paragraph (b) of this section or in 10 CFR 50.22.

3. *10 CFR 50.30(f)* requires an environmental report to be submitted with application for testing facility construction permit or operating license.

4. *10 CFR 50.58* requires ACRS review and report for testing facility construction permit or operating license.

5. *10 CFR 50.92(a)* requires a construction permit for a material alteration to a licensed facility and public notice according to 10 CFR 2.105 (30 days' notice and opportunity for hearing where an amendment to a license involves a significant hazard consideration).

6. *10 CFR 140.3(k)* defines "testing reactor" as a nuclear reactor of a type described in 10 CFR 50.21(c) of this chapter and for which an application has been filed for a license authorizing operation at:

(a) A thermal power level in excess of 10 megawatts; or

(b) A thermal power level in excess of 1 megawatt, if the reactor is to contain:

(i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or

(ii) A liquid fuel loading; or

(iii) An experimental facility in the core in excess of 16 square inches in cross-section.

7. *10 CFR 170.3(h)* defines "research reactor" as a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of 10 CFR 50.21(c) of this chapter for operation at a thermal power level of 10 megawatts or less, which is not a testing facility as defined by paragraph (m) of this section.

8. *10 CFR 170.3(m)* defines "testing facility" as a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of 10 CFR 50.21(c) of this chapter for operation at:

(a) A thermal power level in excess of 10 megawatts; or

(b) A thermal power level in excess of 1 megawatt, if the reactor is to contain:

(i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or

(ii) A liquid fuel loading; or

(iii) An experimental facility in the core in excess of 16 square inches in cross-section.

All the distinctions between research and test reactors cited in the above regulations have been promulgated by NRC to ensure the protection of public health and safety and the environment. These distinctions reflect the importance of reactor power level, postulated accidents, and facility function in NRC licensing decisions. The NRC, in light of this petition, has reexamined its regulations and determined that no additional action is required at this time.

Accordingly, the Commission determines that rulemaking is not necessary at this time.

Dated at Rockville, Maryland, this 5th day of April 1989.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 89-9997 Filed 4-25-89; 8:45 am]

BILLING CODE 7590-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3559-4]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to approve a revision to the Wisconsin State Implementation Plan (SIP) for ozone. The revision allows the Continental Can Company to use internal offsets in conjunction with daily weighted emission limits at its Milwaukee and Racine can manufacturing plants. This revision to the Wisconsin SIP was submitted by the Wisconsin Department of Natural Resources (WDNR) on August 20, 1985. USEPA is approving the revision because it meets USEPA's requirements for can coating operations (December 8, 1980; 45 FR 80824), and does not interfere with the attainment of the National Ambient Air Quality Standards (NAAQS) for ozone in southeastern Wisconsin.

DATE: Comments on this revision are due by May 26, 1989.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460.

Wisconsin Department of Natural Resources, Bureau of Air Management (AIR/3), 101 South Webster, Madison, Wisconsin 53707.

Written comments should be sent to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On August 20, 1985, the WDNR submitted a revision to its ozone SIP for Continental Can. This revision is in the form of a variance for six can coating lines at the Continental Can's Milwaukee plant and a variance for two can coating lines at the Continental Can Racine plant. Both plants are located in Wisconsin.

On September 9, 1986 (51 FR 32075), USEPA announced the availability of this revision to the Wisconsin SIP and took final action to approve it (51 FR 32075). In the notice, USEPA advised the public that it was deferring the effective date of its approval for 60 days, until November 10, 1986, to provide an opportunity for submittal of comments on this revision. USEPA announced that if within 30 days it received notice that someone wished to submit adverse or critical comments, we would withdraw the approval and begin a new rulemaking by proposing the action and establishing a 30-day comment period. USEPA also published a general notice announcing this special "direct final" procedure on September 4, 1981 (46 FR 44476). USEPA has received a December 3, 1986, letter from a commentor which lists some of its concerns regarding this proposed SIP revision. This also constitutes the commentor's notice of its intention to submit critical comments regarding the approval. Therefore, in accordance with the procedure described above, USEPA is today taking final action elsewhere in today's Federal Register to withdraw its September 9, 1986, approval of this revision to Wisconsin Ozone SIP and, in this notice, is proposing to approve this revision.

Background

The Continental Can Company has can manufacturing plants in two cities in Wisconsin, Milwaukee and Racine. Both facilities are subject to the requirements for can coating operations identified at NR 154.13(4)(c) of the Wisconsin Administrative Code. On November 14, 1984, Continental Can requested permission from the State to use internal offsets as a method of compliance for each of the two facilities. One internal offset would be applicable to six can coating lines at the Milwaukee plant, and another would be applicable two can coating lines at the Racine plant. The Wisconsin Department of Natural Resources (WDNR) approved the use of internal offsets for both plants, subject to certain conditions, and submitted the offsets to USEPA as a State Implementation Plan (SIP) revision on August 20, 1985. A discussion of the SIP revision is presented below.

Internal Offset

Continental Can Company has proposed the use of internal offsets at both its Milwaukee and Racine facilities, meaning that the VOC emissions from each facility would be limited to a daily weighted average emission limit from all can coating lines at that facility, as determined by the formula identified at NR 154.13(13)(b) of the Wisconsin Administrative Code. The internal offset allows Continental Can credit for those coatings and coating lines that reduce, to offset emissions from other coatings and coating lines that exceed the SIP-allowable limit. The emissions allowed by the internal offsets are equivalent to those that would occur if each coating used were at the limits specified in the SIP. The daily weighted average changes daily as production levels change. The combined emissions from all the coating lines at each facility have to meet that facility's computed daily weighted average for that day. The daily weighted average is computed using the allowable emission rate for each coating or printing line, as defined in section NR 154.13(4)(c) of the Wisconsin Administrative Code. The proposed compliance plan also specifies maximum hourly VOC emission limits

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for each coating line, as required by NR 154.13(13)(b)2.a. of the Wisconsin Administrative Code. These limits cannot be exceeded regardless of changes in production.

In addition, Continental Can is required to keep records of coating and solvent characteristics, as well as daily consumption of solvent and coatings, for both plants. The daily weighted average is federally enforceable, base upon this recordkeeping requirement which specifies that these records be available for inspection, as well as the emission limits contained in NR 154.13(4)(c). Continental Can has developed a computer program to aid the calculation of actual and allowable emissions and the scheduling of production, in order to comply with the emission limits contained in NR 154.13(4)(c). This computer program was developed based on the December 8, 1980 (45 FR 80824), **Federal Register**, which contains USEPA's policy regarding compliance with VOC emission limitations for can coaters.

The proposed compliance plan is subject to the following conditions:

(1) Continental Can will perform tests to determine the efficiencies of the capture system and emission reduction requipment of the sheet coating line at the Milwaukee plant.

(2) Continental Can will maintain records of coating and solvent characteristics, as well as daily consumption of coatings and solvents, for both plants. The records will contain sufficient detail for the WDNR to determine compliance with the daily allowable emissions rate. These records will be maintained at each facility and will be available for inspection.

The internal offsets became effective in the State of Wisconsin on September 11, 1985, when a civil enforcement action filed by USEPA against Continental Can was resolved. A consent decree was lodged on that date.

Conclusion

USEPA has reviewed a compliance plan for the Continental Can Company which consists of internal offsets for two can manufacturing plants located in Milwaukee and Racine, respectively. The compliance plan incorporates the use of a daily weighted average at each plant, a computer program to aid in emission calculation and production scheduling, as well as specified testing and recordkeeping conditions. However, the variances do not explicity identify test methods to be used to determine capture and control efficiencies of control equipment and VOC content of coating. USEPA has determined that the proposed compliance plan meets USEPA's requirements for air pollution control from can coating operations. USEPA has also determined that the use of internal offsets at the two facilities will not cause an increase in VOC emissions and, consequently, will not interfere with attainment of the ozone NAAQS in southeastern Wisconsin. Therefore, USEPA is proposing approval of the internal offsets contingent upon WNDR specifying the test methods to be used in determining compliance.

It should be noted that Milwaukee and Racine are both included (as part of the Milwaukee Metropolitan Statistical Area) in Appendix A of the November 24, 1987, Proposed Post-1987 Ozone Policy (52 FR 45044). Table A–1 in Appendix A lists "Potential 1988 SIP Areas-Ozone." Milwaukee is listed as an area which will exceed the Ozone standard in the period from 1985–1987. Finally, on May 26, 1988, USEPA notified the governor of Wisconsin that Wisconsin Ozone SIP is substantial inadequate to assure attainment of the Ozone NAAQS.

Interested persons are invited to submit comments on this proposed approval. USEPA will consider all comments received within 30 days of the publication of this notice.

Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Authority: 42 U.S.C. 7401–7642.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 89–9992 Filed 4–25–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 8E3619, 8E3645/P481; FRL–3561–4]

Pesticide Tolerances for Iprodione

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances established for the combined residues of the fungicide iprodione, its isomer, and its metabolite in or on the raw agricultural commodities cherries (sweet), nectarines, peaches, and plums be amended to allow residues of the pesticide in or on these commodities resulting from postharvest application. The proposed amendments to the tolerances for iprodione were requested in petitions submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number [PP 8E3619, 8E3645/P481], must be received on or before May 26, 1989.

ADDRESS: By mail, submit written comments to:

Public Docket and Freedom of Information Section, Field Operations Division (H–7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW.,

In person, bring comments to:

Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By Mail:

Hoyt Jamerson, Emergency Response and Minor Use Section (H–7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the named Agricultural Experiment Stations. These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose amendments to tolerances established for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-N-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide in or on certain raw agricultural commodities. IR–4 requested that tolerances established for residues of iprodione in or on cherries (sweet), peaches (including nectarines), and plums be amended to allow residues resulting from postharvest application at the existing tolerance level of 20 parts per million (ppm), which is established for residues resulting from preharvest application of the fungicide to these commodities.

1. *PP 8E3619.* Petition submitted on behalf of the California Agricultural Experiment Station proposed amending the existing tolerance for residues of iprodione on sweet cherries at 20 parts per million (ppm) to allow residues resulting from postharvest use of the fungicide.

2. *PP 8E3645.* Petition submitted on behalf of the California Agricultural Experiment Station proposed amending the existing tolerance for residues of iprodione on peaches (including nectarines) and plums at 20 ppm to allow residues of the fungicide resulting from postharvest application of the herbicide.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed amendments include:

1. A three-generation rat reporduction study with a no-observed-effect level (NOEL) of 500 ppm (25 milligrams (mg)/kilogram (kg) of body weight per day), a reproductive lowest-effect level (LEL) of 2,000 ppm (100 mg/kg/day), and a systemic NOEL equal to or greater than 2,000 ppm (100 mg/kg/day, highest dose tested).

2. A rabbit teratology study in which doses administered by gavage at 0, 20, 60, and 200 mg/kg/day indicate a maternal NOEL of 20 mg/kg/day and a NOEL for developmental toxicity at 60 mg/kg/day. Developmental toxicity (skeletal variations) was demonstrated at 200 mg/kg/day.

3. A 24-month rat feeding/oncogenicity study using dosage levels of 125, 250, and 1,000 ppm (equivalent to 6.25, 12.5, and 50 mg/kg body weight/day), which showed no oncogenic effects under the conditions of the study and resulted in a systemic NOEL equal to or greater than 1,000 ppm.

4. An 18-month oncogenicity study in mice using dosage levels of 200, 500, and 1,250 ppm (equivalent to 28.6, 71.4, and 178.6 mg/kg body weight/day), which showed no oncogenic effects under the conditions of the study.

5. A 1-year dog feeding study with a NOEL of 4.2 mg/kg body weight/day (equivalent to 160 ppm).

6. A 90-day dog feeding study using dosage levels of 800, 2,400 and 7,200 ppm (20, 60, and 180 mg/kg body weight/day) with a NOEL of 2,400 ppm and a LEL of 7,200 ppm (liver hypertrophy).

7. A mammalian cell forward mutation study, a Chinese hamster ovary (CHO) metaphase analysis study, and a sister chromatid exchange study which were negative for mutagenic effects and a DNA damage study which was positive for DNA damage at the highest dose tested, 20.6 microgram/disc.

The acceptable daily intake (ADI), based on the 1-year dog feeding study with a NOEL of 4.2 mg/kg/day and using a 100-fold safety factor, is calculated to be 0.04 mg/kg of body weight/day. The theoretical maximum residue contribution (TMRC) from existing tolerances is calculated to be 0.044028 mg/kg/day; the current action will not increase the TMRC. The current action will not utilize any additional percent of the ADI; tolerances for the commodities, which are established for pre-harvest application of iprodione, are also adequate to cover residues resulting from postharvest application.

The nature of the residues is adequately understood and an adequate analytical method, gas liquid chromatography using an electron capture detector, is available in FDA's *Pesticide Analytical Manual* (PAM), Vol. II, for enforcement purposes. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency and the fact that cherries, peaches, nectarines, and plums are not considered animal feed commodities, the proposed amendments to 40 CFR 180.399 would protect the public health. Therefore, it is proposed that the tolerances be amended as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 8E3619, 8E3645/P481]. All written comments filed in response to these petitions will be available in the Public Docket and Freedom of Information Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: April 12, 1989.

Frank Sanders,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.399(a) is amended by revising the entries for cherries (sweet), nectarines, peaches, and plums, to read as follows:

§ 180.399 Iprodione; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Cherries (sweet) (pre- and postharvest)	20.0
* * * * *	
Nectarines (pre- and postharvest)	20.0
* * * * *	
Peaches (pre- and postharvest)	20.0
* * * * *	
Plums (pre- and postharvest)	20.0
* * * * *	

[FR Doc. 89–9871 Filed 4–25–89; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 69

[CGD 87-015b]

RIN 2115-AC67

Tonnage Measurement of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a major revision of its vessel tonnage measurement regulations. The proposal would incorporate the system of measurement established under the International Convention on Tonnage Measurement of Ships, 1969, and provide a framework for phasing in the Convention Measurement System as the method of measuring ships domestically to establish uniformity in vessel measurement. The availability of the alternate domestic measurement systems would be continued for regulatory purposes so that the application of the laws of the United States would be preserved in order that vessels engaged in domestic commerce would not be adversely affected.

This revision is necessary to implement the statutory mandate calling for these changes. In the process of incorporating these changes into the regulations, the Coast Guard is proposing to rearrange and renumber the regulations in a more current and readable format.

This proposal should carry out the intent of Congress, while facilitating the use of these complex regulations by the maritime industry.

DATE: Comments must be received on or before June 26, 1989.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3600) (CGD 87-015b), U.S. Coast Guard, Washington, DC 20593-0001. Comments received may be inspected or copied at the Office of the Marine Safety Council, U.S. Coast Guard, Room 3600, 2100 Second Street SW., Washington DC, 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis A. Lamont, Tonnage Survey Branch, (202) 267-2292.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each letter should include the name and address of the person submitting the comments, reference the document number (CGD 87-015b) and the specific section of the proposal to which each comment applies, and give the reasons for each comment. If acknowledgment of receipt of comments is desired, a stamped, addressed post card or envelope should be enclosed.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. The proposal may be changed in view of the comments received. No public hearing is planned but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Mr. Dennis A. Lamont, Project Manager, and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

Scope of this Rulemaking

This rulemaking is limited in scope to—

(a) The addition of regulations necessary to implement the International Convention on Tonnage Measurement of Ships, 1969, (Convention) and to comply with other tonnage measurement requirements of Pub. L. 99-509 (Part J of 46 U.S.C. Subtitle II); and

(b) The reorganization and clarification of the regulations presently found in Part 69 of Title 46 of the Code of Federal Regulations (46 CFR Part 69) concerning the Standard, Dual, and Simplified Measurement Systems, without substantive change not called for under Pub. L. 99-509.

A great effort has been made not to omit or substantively change the existing regulations not affected by Pub. L. 99-509. However, we ask that you review this proposal carefully in light of the existing regulations and notify the Coast Guard (see **"ADDRESS"**) of any omission or addition which would vary the meaning or effect of the existing regulations. In doing so, we ask that you reference the existing provision and the corresponding proposed provision, if any. Additional changes recommended for improving the tonnage measurement regulations or process that are outside of the scope of the present rulemaking may have to be considered at a later time under a separate rulemaking.

Background

Tonnage is a measure of a vessel's volume and is used for international, customs, and regulatory purposes, such as applying international maritime agreements, setting customs duties, and determining the size and licensing of the crew. The ancient practice of measuring (admeasuring) a vessel to determine its earning capacity (i.e. the volume of its commercial cargo and passenger spaces) evolved internationally into a host of complex schemes which often produced widely varying tonnages from country to country with little relationship to the vessel's actual size. Internationally, the problem was addressed in the International Convention on Tonnage Measurement of Ships, 1969, (Convention) which established a universal system of measurement for vessels engaged on a foreign voyage. The Convention came into effect in the United States on February 10, 1983. Domestically, Congress addressed the problem in the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99-509; October 21, 1986) by authorizing the promulgation of regulations—

(a) For phasing in the Convention Measurement System as the method for measuring ships domestically in order to establish uniformity in measurement; and

(b) For retaining the existing domestic systems (i.e. the Standard, Dual, and Simplified Measurement Systems) as alternative systems for use in applying domestic laws based on tonnage, in order that the vessels engaged in domestic activities will not be adversely affected.

Changes Resulting from Pub. L. 99-509

Public Law 99-509 made major revisions to the domestic measurement laws and consolidated them into a new Part J of 46 U.S.C. Subtitle II. Part J authorizes the Secretary of the Department of Transportation (Coast Guard) to promulgate the following regulations:

(a) The Convention Measurement System would be the primary system for measuring all U.S. vessels of 79 feet or more in length. Vessels that are measured under the Convention Measurement System and that will engage on a foreign voyage are issued an International Tonnage Certificate (1969), as required by the Convention. The tonnage listed on this Certificate is used for the application of all U.S. laws based on tonnage, except as under paragraph (b) of this section.

(b) The existing Standard and Dual Measurement Systems would be retained for measuring (1) vessels under 79 feet in length, (2) vessels measured under the Convention Measurement System which the owner chooses also to have measured under the Standard or Dual Measurement Systems for the purpose of applying certain laws and regulations based on tonnage, and (3) vessels operating only on the Great Lakes.

(c) The Simplified Measurement System would be extended to all vessels of less than 79 feet in overall length. All vessels of 79 feet or more in overall length would be excluded from using this system.

Discussion of the Proposed Rule

This proposed rule completely reorganizes the existing regulations in Part 69, deletes out-of-date definitions, terms, and tables, incorporates the Convention Measurement System requirements, and renumbers each section according to current practices. (See the "Derivation and Distribution Tables" section in this preamble.) Proposed Part 69 is divided into five subparts (Subpart A—General, B—Convention Measurement System, C—Standard Measurement System, D—Dual Measurement System, and E—Simplified Measurement System) to clearly differentiate the various measurement systems and identify the general rules.

(a) *Subpart A—General.* This contains the provisions of existing Subpart 69.01 of Part 69 and other provisions applicable to measurement procedures and processes in general.

Proposed § 69.9 contains definitions of terms used in Subpart A and throughout the remaining subparts. In working with one measurement system's subpart, these definitions are used in addition to the definitions for that subpart.

Of particular interest is proposed § 69.11; which is intended to assist the individual vessel owner in identifying the specific measurement system or systems applicable to the vessel without the owner having to read Part 69 in its entirety. Proposed § 69.11 indicates that the Convention Measurement System is the required system for vessels of 79 feet or more in length unless specifically exempted, establishes the Standard and Dual Measurement Systems as those that may, at the owner's option, be used in applying certain U.S. laws and regulations based on tonnage, and limits the Simplified Measurement System to vessels under 79 feet in length that their owners choose not to have measured under the Standard or Dual Measurement Systems.

Proposed § 69.15 restates existing § 69.01-11, concerning measurement organizations authorized to measure vessels under Part 69. The delegation of the measurement function for certain vessels to the American Bureau of Shipping (ABS) was published as a final rule on May 1, 1987, (52 FR 15947).

Proposed § 69.21 on appeals of measurement decisions is similar to existing § 69.01-17, as amended on May 1, 1987, (52 FR 15947), except that appeals must be submitted to the Commandant via the measurement organization.

Proposed § 69.23 on fees charged by measurement organizations is derived from § 69.01-19, as amended on May 1, 1978, (52 FR 15947).

Proposed § 69.27 restates the recent regulation concerning the application process for organizations seeking delegation of authority to measure vessels under Part 69. The existing provision (§ 69.01-20) became effective on June 6, 1988, (53 FR 20619).

(b) *Subpart B—Convention Measurement System.* This proposed subpart implements the Convention and those provisions of Pub. L. 99-509 relating to the Convention (46 U.S.C. 14301 through 14307) and states the procedures for measuring a vessel under the Convention Measurement System.

(c) *Subpart C—Standard Measurement System.* This proposed subpart implements 46 U.S.C. 14512 and contains the regulations in existing Part 69, Subpart 69.03, which states the procedures for measuring a vessel under the Standard Measurement System. The proposed subpart incorporates the relevant definitions and figures in existing Part 69, Subparts 69.07, 69.09, 69.11, and 69.13. In the present regulations, the Standard and the Dual Measurement Systems are referred to as "formal measurement systems". The term "formal measurement systems" would be deleted as confusing and unnecessary under this proposal.

(d) *Subpart D—Dual Measurement System.* This proposed subpart implements 46 U.S.C. 14513 and incorporates the regulations in existing Part 69, Subpart 69.15, which states the procedures for measuring a vessel under the Dual Measurement System. As discussed in paragraph (c) above, this system no longer would be referred to as a "formal measurement system" under this proposal. The table and figures used in this proposed subpart have been redrafted to delete unnecessary information on vessel dimensions and to add examples, where helpful.

(e) *Subpart E—Simplified Measurement System.* This proposed subpart implements 46 U.S.C 14522 and incorporates the regulations in existing Part 69, Subpart 69.05, which states the procedures for measuring a vessel under the Simplified Measurement System.

Derivation and Distribution Tables

The material in existing Part 69 would be entirely rearranged and renumbered using the current regulatory format. The following tables should assist the reader in locating the source of or Congressional authority for the material in this proposal.

DERIVATION TABLE

New section	Old section
69.1	69.01-1
69.3	69.01-3(a)
69.5	69.01-3(a), 69.01-5
69.7	69.01-3(b), 69.01-9(a)
69.9	69.01-7
69.11	69.01-9, 69.05-1
69.13	69.01-9(b)
69.15	69.01-3(c), 69.01-11
69.17	69.01-13
69.19	69.01-15, 69.05-9
69.21	69.01-17
69.23	69.01-19
69.25	New—46 U.S.C. Chapter 147
69.27	69.01-20
69.29	69.01-21
69.51-69.75	New—46 U.S.C. Chapter 143
69.101	69.01-1
69.103	69.03-11, 13, 15, 17, 19, 25, 29 and Subparts 69.09 and 69.11
69.105	69.01-13
69.107	69.01-07
69.109	69.03-11, 21, 25, 27, 29, 31, 33, 35, 37, 39, 41, 45, 47, 51, 53, 73
69.111	69.03-55
69.113	69.03-57
69.115	69.03-59
69.117	69.03-63, 65, 67, 69, 71
69.119	69.03-75, 77, 78 and Subpart 69.11
69.121	69.03-79, 81, 83, 85, 87, 89, 91, 93, 95
69.123	69.07-1
69.151	69.15-17
69.153	NVIC 3-68
69.155	69.15-5
69.157	69.15-1, 35
69.159	69.15-39
69.161	69.15-13, 15
69.163	69.15-7
69.165	69.15-9
69.167	69.15-11
69.169	69.15-3
69.171	69.15-19 (e) and (f)
69.173	69.15-17
69.175	69.15-17
69.177	69.15-19, 21, 23, 25, 27, 29, 31, 33, 37
69.179	69.15-41
69.181	69.15-25, 29 Figure 57
69.183	69.15-19 Figures 54, 55, 56
69.201	69.05-1
69.203	69.05-3
69.205	69.05-5
69.207	69.05-5
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69.01-03(a)	69.3
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Old section	New section
69.01-09(a)-(a)(4)	69.11
69.01-09(a)(5)-(a)(9).	69.7
69.01-09(b)	69.13(b)
69.01-09(c)	Unnecessary.
69.01-09(d)	Unnecessary—all new vessels are measured under the Convention Measurement System.
69.01-11	69.15
69.01-13	69.17, 69.105
69.01-15	69.19
69.01-17	69.21
69.01-19	69.23
69.01-20	69.27
69.01-21	69.29
69.03-1	Unnecessary.
69.03-3	Unnecessary.
69.03-5	Unnecessary.
69.03-7	Unnecessary.
69.03-9	Unnecessary.
69.03-11	69.103, 69.109(j)
69.03-13	Unnecessary—the Convention Measurement System registered length in 69.53 and 69.103 is the only length required to be recorded.
69.03-15	Unnecessary—the Convention Measurement System registered breadth in 69.53 and 69.103 is the only breadth required to be recorded.
69.03-17	Unnecessary—the Convention Measurement System molded depth in 69.53 and 69.103 is the only breadth required to be recorded.
69.03-19	69.103, 69.109(d)
69.03-21	69.109(d)
69.03-23	Unnecessary.
69.03-25	Redundant—69.103 and 69.109(h)(1) are adequate.
69.03-27	Redundant—69.103 and 69.109(h)(1) are adequate.
69.03-29(a)	69.103 and 69.109(c)
69.03-29(b)	69.103 and 69.109(e)
69.03-29(c)	69.109(d)
69.03-31	69.109(f)
69.03-33(a)	69.109(h)
69.03-33(b)	Redundant—69.103 and 69.109(j) are adequate.
69.03-33(c)	69.109(j)
69.03-33(d)-(f)	69.109(h)(2)-(3)
69.03-35	69.109(h)(4)
69.03-37	69.109(i)
69.03-39	69.109(f)
69.03-41	69.109(g)
69.03-43	Unnecessary.
69.03-45(a)	69.109(k)
69.03-45(b)	69.109(l)
69.03-47	69.109(m)
69.03-49	Unnecessary.
69.03-51	69.109(n)—the procedures and mathematical formula indicated for a particular shaped shaft tunnel is not considered necessary.
69.03-53	69.109(f)(2)
69.03-55	69.111
69.03-57	69.113
69.03-59	69.115
69.03-61	Unnecessary—this information is no longer required to be listed on vessel document.
69.03-63(a)-(f)	69.117(a)-(b)
69.03-63(g)	69.117(f)
69.03-63(h)	69.117(b)(8)
69.03-63(i)	69.117(b)(9)
69.03-65	69.117(c)
69.03-67	69.117(d)
69.03-69	69.117(e)
69.03-71	69.117(d)(5)
69.03-73	69.109(o)
69.03-75(a)	69.119(a)
69.03-75(b)	69.119(b)
69.03-75(c)	69.119(p)
69.03-75(d)	69.119(g)
69.03-75(e)	69.119(e)
69.03-75(f)	69.119(h)
69.03-75(g)-(i)	69.119(c)
69.03-77(a)	69.119(b)(c)(i)
69.03-77(b)	69.119(c)
69.03-77(c)	69.119(d)
69.03-77(d)	69.119(e)
69.03-77(e)	69.119(f)
69.03-77(f)	69.119(k)
69.03-77(g)	69.119(f)
69.03-77(h)	69.119(l)
69.03-77(i)	69.119(m)
69.03-78	69.119(n)
69.03-79	69.121(a)-(b)(1)
69.03-81	69.121(b)(2)
69.03-83	69.121(b)(3)-(5)
69.03-85	Redundant—69.121(b)(1)-(3) is adequate.
69.03-87	Redundant—69.121(b)(1)-(4) is adequate.
69.03-89	69.121(b)(6)-(12)
69.03-91	Incorporated in 69.121(b)(1)-(12).
69.03-93	69.121(e)
69.03-95(a)-(c)	69.121(d)
69.03-95(d)	Unnecessary example.
69.03-97(a)	Unnecessary.
69.03-97(b)	Obsolete.
69.05-1	69.11(d) and 69.201
69.05-3	69.203
69.05-5(a)	69.205 and 69.207(b)
69.05-5(b)	69.207(a)
69.05-5(c)	Unnecessary—indicated on application.
69.05-5(d)	69.207(c)
69.05-7	69.209
69.05-9(a)	69.19(a)
69.05-9(b)	69.11(d)
69.05-11	Unnecessary.
69.07-1	69.123—obsolete and unnecessary figures are deleted.
69.07-3	Unnecessary.
69.07-5	Unnecessary.
69.07-7	Unnecessary.
69.07-9	Unnecessary.
69.07-11	Unnecessary.
69.09-1 through 69.09-21.	69.103—obsolete and unnecessary definitions are deleted.
69.11-1 through 69.11-15.	Incorporated in 69.119(b)—unnecessary definitions are deleted.
69.13-1 through 69.13-157.	Unnecessary—although structural terms are used in the new section, a separate definition section is not necessary.
69.15-1	69.157
69.15-3	69.169
69.15-5	69.155
69.15-7	69.163
69.15-9	69.165
69.15-11	69.167
69.15-13	69.161(a)(4)
69.15-15	69.161
69.15-17(a)	69.173
69.15-17 (b) and (c).	69.175
69.15-19(a)-(d)	69.177
69.15-19(e)-(f)	69.171
69.15-19—Figure	69.185(a)
69.15-21	69.177(a)(4)
69.15-23	69.177(a)(5)-(6)
69.15-23—Figures	69.185(b)-(c)
69.15-25	69.181(b)
69.15-27	69.157(b) and 69.161(a)
69.15-29	69.177(a)(5)
69.15-31	69.177(a)(5)
69.15-33	69.177(d)
69.15-35	69.177(c)
69.15-37	69.177(a)
69.15-39	69.17 and 69.159
69.15-41	69.179

E.O. 12291 and DOT Regulatory Policies and Procedures

These proposed regulations are considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation (DOT) regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal has been found to be so minimal that further evaluation is unnecessary.

As required by Pub. L. 99-509, this proposal would change the measurement system under which some vessels are measured and is administrative in nature. This proposal would affect barges and recreational vessels of 79 feet or more in length by eliminating the option of having these vessels measured under the Simplified Measurement System. However, measurement of these vessels, if they will not engage on a foreign voyage, is and would continue to be at the owner's option. Measurement is usually a one-time expenditure that is insignificant in terms of the overall cost of owning and operating the vessel. Further, it is noted that this proposal would not affect vessels presently measured and documented under laws of the United States until those vessels are altered.

The potential impacts that this proposal might have on States and local governments with laws or regulations based on Federally-assigned tonnage would result from statutory mandate, as discussed under "Federalism Implications" in this preamble.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 through 612), the Coast Guard must consider whether this proposal would have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The economic impact of this proposal is expected to be minimal. This proposal would affect the measurement requirements for certain larger vessels and would limit the option of measurement under the Simplified Measurement System to smaller vessels. No new application costs, burdens, or procedures would be imposed and the larger vessels presently required to be measured under two systems would be required to be measured under only one system. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if promulgated, would not have a significant economic impact on a substantial number of small entities. If, however, you feel that your business may qualify as a small entity and that the proposed rules would have a significant economic impact on your business, please notify the Coast Guard (see "ADDRESS") and explain why you feel your business qualifies and in what way and to what degree the proposed rules would affect your business economically.

Paperwork Reduction Act

This proposed rulemaking reorganizes without substantive change sections already containing information collection requirements. These items have been submitted to the Office of Management and Budget (OMB) for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been approved by OMB. The section numbers and the corresponding OMB approval numbers are as follows: §§ 69.17, 69.19, and 69.21—OMB Control Numbers 2115-0080 and 2115-0086; § 69.27—OMB Control Number 2115-0567; §§ 69.55, 69.105, 69.121(d), 69.159, and 69.179—OMB Control Number 2115-0080; and § 69.205—OMB Control Number 2115-0086. A request has been submitted to OMB to consolidate all information collection requirements in Part 69 under one OMB Control Number.

This proposed rulemaking would impose no new paperwork burden requirements but merely changes the measurement system under which some larger vessels are measured. An estimated 10 percent of all vessels of 79 feet or more in length are presently required to acquire two tonnage certificates. This proposal would reduce that requirement to one certificate for each vessel.

As required by Pub. L. 99-509, this proposal also would eliminate the option to have barges and recreational vessels of 79 feet or more in length measured under the Simplified Measurement System. Although the existing and proposed regulations do not require these vessels to be measured under any system (unless they will engage on a foreign voyage), the proposal would permit these vessels to be measured under the Convention Measurement System or, if the vessel is to operate only on the Great Lakes, under the Standard or Dual Measurement System. This proposal might cause an estimated 34 additional vessels per year to be measured under the Convention. Standard, or Dual Measurement Systems, rather than under the Simplified Measurement System.

Federalism Implications

Based on the information available to it at the present time, the Coast Guard is unable to determine whether the proposed rule would have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The information available to the Coast Guard indicates that the proposed regulations would have a minimal effect on State or local laws and regulations based on Federally-assigned tonnages by requiring or permitting vessels presently eligible to be measured under one system to be measured under another system. Measurement under another system would produce a different tonnage. However, these proposed changes and their resulting effect on the States and local governments would be due to specific statutory mandate under Pub. L. 99-509 and not to discretionary action by the Coast Guard. Any effect on State or local governments most likely would be temporary because they could amend their laws or regulations as necessary to maintain the status quo.

The Coast Guard specifically requests public comment (see "ADDRESSES") on any substantial direct effect this proposal would have on—

(a) A State or a unit of local government or other political subdivision established by the State (a "State");

(b) The relationship between the Federal government and a State; or

(c) The distribution of power and responsibilities among the various levels of government.

Environmental Assessment

The Coast Guard has considered the environmental impact of the proposed regulations and concluded that, under section 2.B.2.1. of Commandant Instruction M16475.1B, the proposed regulations are categorically excluded from further environmental documentation. This proposal is an administrative and procedural regulation concerning the procedures for measuring vessels and clearly has no environmental impact.

List of Subjects in 46 CFR Part 69

Measurement standards, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, 46 CFR Part 69 is proposed to be amended as follows:

1. By revising Part 69 to read as follows:

PART 69—MEASUREMENT OF VESSELS

Subpart A—General

Sec.
69.1 Purpose.
69.3 Applicability.
69.5 Vessels required or eligible to be measured.
69.7 Vessels transiting the Panama and Suez Canals.
69.9 Definitions.
69.11 Determining the measurement system or systems for a particular vessel.
69.13 Deviating from the provisions of a measurement system.
69.15 Organizations authorized to measure vessels.
69.17 Application for measurement services.
69.19 Remeasurement and adjustment of tonnage.
69.21 Appeals.
69.23 Fees.
69.25 Penalties.
69.27 Delegation of authority to measure vessels.
69.29 OMB control numbers assigned under the Paperwork Reduction Act.

Subpart B—Convention Measurement System

69.51 Purpose.
69.53 Definitions.
69.55 Application for measurement services.
69.57 Gross tonnage.
69.59 Enclosed spaces.
69.61 Excluded spaces.
69.63 Net tonnage.
69.65 Calculation of volumes.
69.67 Marking of cargo spaces.
69.69 Issuance of an International Tonnage Certificate (1969).
69.71 Change of net tonnage.
69.73 Variance from the prescribed method of measurement.
69.75 Figures.

Subpart C—Standard Measurement System

69.101 Purpose.
69.103 Definitions.
69.105 Application for measurement services.
69.107 Gross and net tonnages.
69.109 Under-deck tonnage.
69.111 Between-deck tonnage.
69.113 Superstructure tonnage.
69.115 Excess hatchway tonnage.
69.117 Spaces exempt from inclusion in gross tonnage.
69.119 Spaces deducted from gross tonnage.
69.121 Engine room deduction.
69.123 Figures.

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Subpart D—Dual Measurement System

69.151 Purpose.
69.153 Application of other laws.
69.155 Measurement requirements.
69.157 Definitions.
69.159 Application for measurement services.
69.161 Gross and net tonnages.
69.163 Under-deck tonnage.
69.165 Between-deck tonnage.
69.167 Superstructure tonnage.
69.169 Spaces exempt from inclusion in gross tonnage.
69.171 When the tonnage mark is considered submerged.
69.173 Tonnage assignments for vessels with only one deck.
69.175 Tonnage assignments for vessels with a second deck.
69.177 Markings.
69.179 Certification of markings.
69.181 Locating the line of the second deck.
69.183 Figures.

Subpart E—Simplified Measurement System

69.201 Purpose.
69.203 Definitions.
69.205 Application for measurement services.
69.207 Measurements.
69.209 Calculation of tonnages.

Authority: 46 U.S.C. 14102, 14103; 49 CFR 1.46. Section 69.27 issued under 44 U.S.C. 3507; 49 CFR 1.45.

Subpart A—General

§ 69.1 Purpose.

This part implements legislation concerning the measurement of vessels to determine their tonnage (Part J of 46 U.S.C. Subtitle II). Tonnages are required before a vessel may be documented as a vessel of the United States. Also, tonnages are used to apply commercial vessel safety regulations based on tonnage, to meet the requirements of the International Convention on Tonnage Measurement of Ships, 1969, and to determine Federal and State regulatory fees and private operational charges based on tonnage. Tonnages are determined by the physical measurement of a vessel (Convention, Standard, and Dual Measurement Systems) or by application of a formula based on the vessel's dimensions provided by the owner (Simplified Measurement System). This part indicates the particular measurement system or systems under which the vessel is required or eligible to be measured, describes the application and measurement procedures for each system, identifies the organizations authorized to measure vessels under this part, and provides for the appeal of measurement organizations' decisions.

§ 69.3 Applicability.

This part applies to vessels of the United States over five net tons (as that tonnage is determined under this part) which are required or eligible to be measured under this part, a Federal law, or an international agreement or which are subject to a Federal law or international agreement based on the vessel's tonnage.

§ 69.5 Vessels required or eligible to be measured.

(a) The following vessels (including public vessels) are required to be measured under this part:

(1) Vessels that are to be documented as a vessel of the United States.

(2) Vessels of 79 feet or more in overall length that engage on a foreign voyage.

(3) Vessels subject to a Federal law or regulation based on vessel tonnage.

(4) Vessels determined by the Commandant to require measurement under this part.

(b) The following vessels are not required to be measured under this part but are eligible to be measured, if the owner requests:

(1) Public vessels that are not to be documented and will not engage on a foreign voyage.

(2) Vessels of war.

§ 69.7 Vessels transiting the Panama and Suez Canals.

(a) All vessels intending to transit the Panama Canal, other than vessels of war, must be measured and certificated under the system prescribed in 35 CFR Part 135.

(b) All vessels intending to transit the Suez Canal must be measured and certificated under the Arab Republic of Egypt Suez Canal Authority Rules of Navigation, Part IV.

(c) Panama Canal and Suez Canal tonnage certificates are in addition to tonnage certificates issued under this part.

(d) Tonnage measurement services for Panama Canal and Suez Canal certificates are provided by measurement organizations authorized by the respective canal authority.

§ 69.9 Definitions.

As used in this part—

"Commandant" means Commandant of the Coast Guard at the following address: Commandant (G–MVI), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

"Convention" means the International Convention on Tonnage Measurement of Ships, 1969.

"Convention Measurement System" means the system under Subpart B of this part.

"Dual Measurement System" means the system under Subpart D of this part.

"Great Lakes" means the Great Lakes of North America and the St. Lawrence River west of a rhumb line drawn from Cap des Rosiers to West Point, Anticosti Island, and, on the north side of Anticosti Island, the meridian of longitude 63 degrees west.

"Gross tonnage" means a vessel's approximate volume. Under the Convention Measurement System, it means the total volume of all enclosed spaces modified by a coefficient. Under the Standard and Dual Measurement Systems, it means the total volume of all enclosed spaces less certain exempt spaces. Under the Simplified Measurement System, it means the product of a vessel's length, depth, and breadth modified by a coefficient.

"Net tonnage" means a measure of a vessel's earning capacity. Under the Convention Measurement System, it means the volume of the actual cargo and passenger spaces modified by a formula based on the vessel's volume. Under the Standard and Dual Measurement Systems, it means the gross tonnage less certain deducted spaces. Under the Simplified Measurement System, it means the gross tonnage modified by a coefficient.

"Overall length" means the horizontal distance between the foremost part of a vessel's stem to the aftermost part of its stern, excluding fittings and attachments.

"Simplified Measurement System" means the system under Subpart E of this part.

"Standard Measurement System" means the system under Subpart C of this part.

"Tonnage" means the volume of a vessel's enclosed spaces as calculated under a measurement system in this part. Tonnage calculated under the Standard, Dual, or Simplified Measurement Systems is based on tons of 100 cubic feet each. Tonnage calculated under the Convention Measurement System is based on tons of 100 cubic feet modified by a logarithmic function.

"Vessel engaged on a foreign voyage" means a vessel—

(a) Arriving at a place under the jurisdiction of the United States from a place in a foreign country;

(b) Making a voyage between places outside of the United States;

(c) Departing from a place under the jurisdiction of the United States for a place in a foreign country; or

(d) Making a voyage between a place within a territory or possession of the United States and another place under the jurisdiction of the United States not within that territory or possession.

"Vessel of war" means "vessel of war" as defined in 46 U.S.C. 2101.

§ 69.11 Determining the measurement system or systems for a particular vessel.

(a) *Convention Measurement System (Subpart B).* (1) Except as otherwise provided in this section, this system applies to a vessel documented or to be documented under Part 67 of this chapter and to a vessel engaged on a foreign voyage.

(2) This system does not apply to the following vessels:

(i) A vessel of less than 79 feet in overall length.

(ii) A vessel operating only on the Great Lakes, unless the owner requests measurement under this system.

(iii) A vessel that is not engaged on a foreign voyage and that had its keel laid or was at a similar stage of construction before January 1, 1986, unless the owner requests measurement under the Convention Measurement System or unless the vessel undergoes a change that the Commandant finds substantially affects the vessel's gross tonnage.

(iv) Before July 19, 1994, an existing vessel, unless the owner requests or unless the vessel undergoes a change that the Commandant finds substantially affects the vessel's gross tonnage.

(v) A vessel of war.

(3) A vessel made subject to this system at the request of the owner may be remeasured only under this system.

(4) For the purpose of vessel documentation, a vessel measured under this system is not required to be measured under another system.

(5) After July 18, 1994, a vessel the keel of which was laid or that was at a similar stage of construction before July 18, 1982, (except a vessel measured under this system at the request of the owner or because of a change that substantially affects the vessel's gross tonnage) may retain its tonnages in effect on July 18, 1994, for the application of relevant requirements under an international agreement (except the Convention) or other laws of the United States. However, if the vessel undergoes a change after July 18, 1994, that the Commandant finds substantially affects the vessel's gross tonnage, the vessel must be remeasured only under this system.

(6) A tonnage assignment under this system does not affect the applicability to the vessel of international agreements to which the United States Government is a party that are not in conflict with the Convention or with the application of International Maritime Organization (IMO) Resolutions A.494(XII) of November 19, 1981, A.540(XIII) of November 17, 1983, and A.541(XIII) of November 17, 1983. When applicable to the vessel, these Resolutions provide interim schemes for using the vessel's existing gross tonnage, instead of the gross tonnage under the Convention Measurement System, for applying the International Convention for the Safety of Life at Sea (SOLAS), the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, (STCW), and the International Convention for the Prevention of Pollution from Ships, 1973, (MARPOL), respectively.

(b) *Standard Measurement System (Subpart C).* This system applies to a vessel not required to be measured under the Convention Measurement System if the vessel is to be documented or if the application of a law of the United States to the vessel depends on the vessel's tonnage. Upon request of the owner, this system also applies to a documented vessel measured under the Convention Measurement System when Standard Measurement System tonnages are to be used in applying the provisions of a law under 46 U.S.C. 14305.

(c) *Dual Measurement System (Subpart D).* This system may be applied, at the owner's option, instead of the Standard Measurement System, to a vessel eligible or required to be measured under the Standard Measurement System.

(d) *Simplified Measurement System (Subpart E).* This system may be applied, at the owner's option, instead of the Standard Measurement System to a vessel under 79 feet in overall length.

§ 69.13 Deviating from the provisions of a measurement system.

(a) In measuring a vessel under a measurement system in this part, all provisions of that system applicable to the vessel must be observed.

(b) The provisions of more than one measurement system may not be applied interchangeably or combined.

§ 69.15 Organizations authorized to measure vessels.

(a) Except as under paragraphs (c) and (d) of this section, all U.S. vessels to be measured or remeasured under the Convention, Standard, or Dual Measurement Systems must be measured by the American Bureau of Shipping (ABS). Applications for measurement must be directed to the American Bureau of Shipping, P.O. Box 910 (45 Eisenhower Drive), Paramus, New Jersey 07653–0910, (201) 712–5092.

(b) All vessels to be measured or remeasured under the Simplified Measurement System must be measured by the Coast Guard. Applications for measurement under the Simplified Measurement System are obtainable from any Coast Guard documentation office.

(c) All U.S. Coast Guard vessels and all U.S. Navy vessels of war to be measured or remeasured under any measurement system must be measured by the Coast Guard.

(d) At the option of the Commandant, the Coast Guard may measure any vessel to determine its tonnage.

(e) The appropriate certificate of measurement is issued by the measuring organization as evidence of the vessel's measurement under this part.

§ 69.17 Application for measurement services.

(a) Applications for measurement are available from and, once completed, are submitted to the measurement organization listed in § 69.15 that will perform the service. The contents of the application are described in this part under the requirements for each system.

(b) Applications for measurement under more than one system may be combined.

(c) For vessels under construction, the application must be submitted before the vessel is advanced in construction. Usually, this means as soon as the decks are laid, holds cleared of encumbrances, engine and boilers installed, and accommodations partitioned.

§ 69.19 Remeasurement and adjustment of tonnage.

(a) If a vessel that is already measured is to undergo a structural alteration or if the use of a space within that vessel is to be changed, a remeasurement may be required. Vessel owners shall report immediately to a measurement organization listed in § 69.15 any intent to structurally alter the vessel or to change the use a space within the vessel. The organization advises the owner if remeasurement is necessary. Spaces not affected by the alteration or change need not be remeasured.

(b) When there is a perceived error in the application of a regulation or in the tonnage calculations, the vessel owner should contact the responsible measurement organization. If the error is verified, the tonnage is adjusted as necessary.

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(c) If a remeasurement or adjustment of tonnage is required, the organization will issue a new tonnage certificate. If the vessel is documented, the vessel's owner must surrender the Certificate of Documentation as required under Part 67, Subpart 67.25, of this chapter.

(d) A vessel of less than 79 feet in overall length measured under the Standard or Dual Measurement Systems may be remeasured at the owner's request under the Simplified Measurement System.

§ 69.21 Appeals.

(a) The Commandant determines the appropriate application and interpretation of U.S. laws and regulations and international agreements as they are applied to vessels under this part.

(b) Appeals of decisions made by a measurement organization listed in § 69.15 must be submitted in writing with all supporting data to the measurement organization. The measurement organization then forwards the submittals to the Commandant for consideration of the appeal.

(c) While an appeal is in progress, the decision upon which the appeal is based remains in effect. The decision of the Commandant is final agency action.

§ 69.23 Fees.

Organizations listed in § 69.15(a) are authorized to charge a fee for measurement services. Information on fees is available directly from the organizations.

§ 69.25 Penalties.

(a) *General violation.* The owner, charterer, managing operator, agent, master, and individual in charge of a vessel in violation of a regulation in this part are each liable to the United States Government for a civil penalty of not more than $20,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

(b) *False Statements.* A person knowingly making a false statement or representation in a matter in which a statement or representation is required by this part is liable to the United States Government for a civil penalty of not more than $20,000 for each false statement or representation. The vessel also is liable in rem for the penalty.

§ 69.27 Delegation of authority to measure vessels.

(a) Under 46 U.S.C. 14103 and 49 CFR 1.46, the Coast Guard is authorized to delegate to a "qualified person" the authority to measure vessels and to issue appropriate certificates of measurement for U.S. vessels that are required or eligible to be measured as vessels of the United States.

(b) Authority to measure and certify U.S. vessels under the Convention, Standard, and Dual Measurement Systems may be delegated to an organization that—

(1) Is a full member of the International Association of Classification Societies (IACS);

(2) Is incorporated under the laws of the United States, a State of the United States, or the District of Columbia;

(3) Is capable of providing all measurement services under the Convention, Standard, and Dual Measurement Systems for vessels domestically and internationally;

(4) Maintains a tonnage measurement staff that has practical experience in measuring U.S. vessels under the Convention, Standard, and Dual Measurement Systems; and

(5) Enters into a Memorandum of Agreement, as described in paragraph (d) of this section.

(c) Applications for delegation of authority under this section must be forwarded to the Commandant and include the following information on the organization:

(1) Its name and address.

(2) Its organizational rules and structure.

(3) The location of its offices that are available to provide measurement services under the Convention, Standard, and Dual Measurement Systems.

(4) The name, qualifications, experience, and job title of each full-time or part-time employee or independent contractor specifically designated by the organization to provide measurement services under the Convention, Standard, or Dual Measurement Systems.

(5) Its tonnage measurement training procedures.

(d) If, after reviewing the application, the Coast Guard determines that the organization is qualified to measure and certify U.S. vessels on behalf of the Coast Guard, the organization must enter into a Memorandum of Agreement with the Coast Guard which—

(1) Defines the procedures for administering and implementing the tonnage measurement and certification processes, including the roles and responsibilities of each party;

(2) Outlines the Coast Guard's oversight role;

(3) Prohibits the organization from using an employee or contractor of the organization to measure and certify the tonnage of a vessel if that employee or contractor is acting or has acted as a tonnage consultant for that same vessel; and

(4) Requires the organization to—

(i) Accept all requests to perform delegated services without discrimination and without regard to the vessel's location, unless prohibited from doing so under the laws of the United States or under the laws of the jurisdiction in which the vessel is located;

(ii) Physically inspect each vessel before issuing a tonnage certificate;

(iii) Provide the Coast Guard with current schedules of measurement fees and related charges;

(iv) Maintain a tonnage measurement file for each U.S. vessel that the organization measures and permit access to the file by any person authorized by the Commandant;

(v) Permit observer status representation by the Coast Guard at all formal discussions that may take place between the organization and other vessel tonnage measurement organizations pertaining to tonnage measurement of U.S. vessels or to the systems under which U.S. vessels are measured;

(vi) Comply with and apply all laws and regulations relating to tonnage measurement of U.S. vessels within the scope of authority delegated; and

(vii) Comply with all other provisions, if any, of the Memorandum of Agreement.

(e) Upon delegation of authority, the organization is listed in § 69.15(a), Organizations authorized to measure vessels.

§ 69.29 OMB control numbers assigned under the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and record keeping requirements in this part by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Coast Guard intends that this part comply with 44 U.S.C. 3507(f), which requires that agencies display the current control number assigned by the Director of OMB for each approved agency information collection requirement.

(b) *Display.*

Section of 46 CFR Part 69	Currently assigned OMB control no.
69.17	2115-0060 and 2115-0066.
69.19	Do.
69.21	Do.

Section of 46 CFR Part 69	Currently assigned OMB control no.
69.27	2115-0567.
69.55	2115-0060.
69.105	Do.
69.121(d)	Do.
69.159	Do.
69.179	Do.
69.205	2115-0066.

Subpart B—Convention Measurement System

§ 69.51 Purpose.

This subpart prescribes the requirements for measuring a vessel in order to comply with the International Convention on Tonnage Measurement of Ships, 1969 (Convention), and 46 U.S.C. Chapter 143.

§ 69.53 Definitions.

As used in this subpart—

"Amidships" means the midpoint of the registered length, as "registered length" is defined in this section.

"Cargo space" means an enclosed space appropriated for the transport of cargo which is to be discharged from the vessel. The term does not include a space which qualifies as an excluded space under § 69.61.

"Enclosed space" is defined in § 69.59.

"Excluded space" is defined in § 69.61.

"Gross tonnage" or "GT" means the tonnage determined under § 69.57.

"Line of the upper deck" means a longitudinal line at the underside of the upper deck or, if that deck is stepped, the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck.

"Molded depth" means the vertical distance amidships between the following points:

(a) From the line of the upper deck at the vessel's side or, if the vessel has rounded gunwales, from the intersection of the line of the upper deck extended to the molded line of the shell plating as though the gunwales were of angular design.

(b) To the top of the flat keel, to the lower edge of the keel rabbet if the vessel is of wood or composite structure, or to the point where the line of the flat of the bottom extended inward cuts the side of the keel if the vessel's lower part is hollow or has thick garboards.

"Molded draft" means—

(a) For vessels assigned a load line under Parts 42, 44, 45, or 47 of this chapter, the draft corresponding to the Summer Load Line (other than a timber load line);

(b) For passenger vessels assigned a load line under Part 46 of this chapter, the draft corresponding to the deepest subdivision load line assigned;

(c) For vessels to which Parts 42, 44, 45, 46, or 47 of this chapter do not apply but which otherwise have been assigned a load line, the draft corresponding to the Summer Load Line so assigned;

(d) For vessels to which no load line has been assigned but the draft of which is restricted under any Coast Guard requirement, the maximum draft permitted under the restriction; and

(e) For other vessels, 75 percent of the molded depth.

"Net tonnage" or "NT" means tonnage determined under § 69.63.

"Passenger" means a person on board a vessel other than—

(a) The master, a member of the crew, or other person employed or engaged in any capacity in the business of the vessel; and

(b) A child under one year of age.

"Registered breadth" means the maximum breadth of a vessel measured amidships to the molded line of the frame in a vessel with a metal shell and to the outer surface of the hull in all other vessels.

"Registered length" means either 96 percent of the length on a waterline at 85 percent of the least molded depth measured from the top of the flat keel or the length from the fore side of the stem to the axis of the rudder stock on that waterline, whichever is greater. In vessels designed with a rake of keel, this length is measured on a waterline parallel to the design waterline.

"Upper deck" means the uppermost complete deck exposed to weather and sea, which has permanent means of weathertight closing of all openings in the weather part of the deck, and below which all openings in the sides of the vessel are fitted with permanent means of watertight closing.

"Weathertight" means secure against penetration of water into the vessel in any sea condition.

§ 69.55 Application for measurement services.

Applications for measurement under this subpart must include the following information and plans:

(a) Type of vessel.

(b) Vessel's name, official number (if assigned), and intended port of documentation.

(c) Builder's name and the vessel hull number assigned by builder.

(d) Place and year built.

(e) Date keel was laid.

(f) Overall length, breadth, and depth of vessel.

(g) Lines plan.

(h) Booklet of offsets at stations.

(i) Capacity plans for tanks and cargo compartments.

(j) Hydrostatic curves.

(k) Construction plans showing measurements and scantlings of deck structures, hatches, appendages, recesses, and other enclosed spaces.

(l) Arrangement plans.

§ 69.57 Gross tonnage.

Gross tonnage (GT) is determined by the following formula $GT=K_1V$, in which V=total volume of all enclosed spaces in cubic meters and $K_1=0.2+0.02\log_{10}V$.

§ 69.59 Enclosed spaces.

"Enclosed space" means a space which is bounded by the vessel's hull, by fixed or portable partitions or bulkheads, or by decks or coverings other than permanent or movable awnings. No break in a deck, nor any opening in the vessel's hull, in a deck or in a covering of a space, or in the partitions or bulkheads of a space, nor the absence of a partition or bulkhead precludes the space from being included in the enclosed space.

§ 69.61 Excluded spaces.

(a) "Excluded space" means an enclosed space which is excluded from volume (V) in calculating gross tonnage. Except as under paragraph (g) of this section, this section lists the excluded spaces.

(b) A space that is within a structure and that is opposite an end opening extending from deck to deck (except for a curtain plate of a height not exceeding by more than one inch the depth of the adjoining deck beams) and having a breadth equal to or greater than 90 percent of the breadth of the deck at the line of the opening is an excluded space, subject to the following:

(1) Only the space between the actual end opening and a line drawn parallel to the line or face of the opening at a distance from the opening equal to one half of the breadth of the deck at the line of the opening is excluded. (See § 69.75, Figure 1.)

(2) If, because of any arrangement (except convergence of the outside plating as shown in § 69.75, Figure 3), the breadth of the space is less than 90 percent of the breadth of the deck, only the space between the line of the opening and a parallel line drawn through the point where the athwartship breadth of the space is equal to 90 percent or less of the breadth of the deck is excluded. (See § 69.75, Figures 2 and 4.)

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(3) When any two spaces, either of which is excluded under paragraph (b)(1) or (b)(2) of this section, are separated by an area that is completely open except for bulwarks or open rails, these two spaces must not be excluded if the separation between the two spaces is less than the least half breadth of the deck in way of the separation. (See § 69.75, Figures 5 and 6.)

(4) When the deck at the line of an opening has rounded gunwales, the breadth of the deck is the distance between the tangent points indicated in § 69.75, Figure 11.

(c) A space that is open to the weather and that is under an overhead deck covering with no connection on the space's exposed sides between the covering and the deck other than the stanchions necessary for the covering's support is an excluded space. An open rail or bulwark fitted at the vessel's side does not disqualify the space from being an excluded space if the height between the top of the rail or bulwark and the overhead structure or curtain plate (if fitted) is not less than 2.5 feet or one-third of the height of the space, whichever is greater. (See § 69.75, Figure 7.)

(d) A space in a side-to-side structure directly in way of opposite side openings not less than 2.5 feet in height or one-third of the height of the structure, whichever is greater, is an excluded space. If the opening is only on one side of the structure, the space to be excluded is limited inboard from the opening to a maximum of one-half of the breadth of the deck in way of the opening. (See § 69.75, Figure 8.)

(e) A space in a structure immediately below an uncovered opening in the deck overhead is an excluded space, if the opening is exposed to the weather and the space to be excluded is limited to the area of the opening. (See § 69.75, Figure 9.)

(f) A recess in the boundary bulkhead of a structure which is exposed to the weather and which has an opening that extends from deck to deck without a means of closing is an excluded space, if the interior width of the space is not greater than the width of the opening and extension of the space into the structure is not greater than twice the width of the opening. (See § 69.75, Figure 10.)

(g) Any space described in paragraphs (b) through (f) of this section which fullfills at least one of the following conditions is not an excluded space:

(1) The space is fitted with shelves or other means designed for securing cargo or stores.

(2) The opening that would otherwise permit the space to be excluded space is fitted with a means of closure.

(3) Other features of the space make it possible for the space to be closed.

§ 69.63 Net tonnage.

Net tonnage (NT) is determined by the formula:

$$NT = K_2 V_c \left(\frac{4d}{3D}\right)^2 + K_3 \left(N_1 + \frac{N_2}{10}\right)$$, in which:

V_c = total volume of cargo spaces in cubic meters.

$K_2 = 0.2 + 0.02 \log_{10} V_c$.

$$K_3 = 1.25 \left(\frac{GT + 10{,}000}{10{,}000}\right)$$

D = molded depth amidships in meters, as "olded depth" is defined in § 69.53.

d = molded draft amidships in meters, as "molded draft" is defined in § 69.53.

N_1 = number of passengers in cabins with not more than eight berths, as "passenger" is defined in § 69.53.

N_2 = number of other passengers, as "passenger" is defined in § 69.53.

GT = cross tonnage as determined under § 69.57.

N_1 plus N_2 must equal the total number of passengers the vessel is permitted to carry as indicated on the Ship's Passenger Certificate. If N_1 plus N_2 is less than 13, both N_1 and N_2 are zero.

$\left(\frac{4d}{3D}\right)^2$ must not be greater than unity.

$K_2 V_c \left(\frac{4d}{3D}\right)^2$ must not be less than 0.25 GT.

NT must not be less than 0.30 GT.

§ 69.65 Calculation of volumes.

(a) Volumes V and Vc used in calculating gross and net tonnages, respectively, must be measured and calculated according to accepted naval architectural practices for the spaces concerned.

(b) The volume of the hull below the upper deck is determined as follows:

(1) If the number and location of sections originally used in making other calculations which relate to the form of the vessel (such as displacement volumes and center of buoyancy) are reasonably available, Simpson's first rule may be applied using those sections.

(2) If the number and location of stations originally used are not reasonably available or do not exist and the hull is of conventional design with faired lines, Simpson's first rule may be applied using a number and location of stations not less than those indicated in § 69.109(g)(1).

(3) If the hull is of standard geometric shape, a simple geometric formula that yields a more accurate volume may be used.

(4) If the lines of the hull are not fair, the volume may be measured by using a combination of methods under this section.

(c) The volume of structures above the upper deck may be measured by applying the superstructure provisions in § 69.113 or by any accepted method or combinations of methods.

(d) Measurements must be taken, regardless of the fitting of insulation or the like—

(1) To the inner side of the shell or structural boundary plating, in vessels constructed of metal; and

(2) To the outer surface of the shell or to the inner side of structural boundary surfaces, in all other vessels.

(e) When determining the volume of a cargo space, measurements must be taken without consideration for insulation, sparring, or ceiling fitted within the space.

(f) Measurements must be to the nearest one-twentieth of a foot.

(g) Calculations must be made on a worksheet and must be sufficiently detailed to permit easy review. The measurement procedures used must be identified on the worksheet.

§ 69.67 Marking of cargo spaces.

Cargo spaces used in determining volume (Vc) for calculating net tonnage must be permanently marked with the letters "CC" (cargo compartment) which are at least four inches in height and positioned so as to be visible at all times.

§ 69.69 Issuance of an International Tonnage Certificate (1969).

On request of the vessel owner, an International Tonnage Certificate (1969) is issued for a vessel measured under this subpart that is 79 feet or more in registered length and that will engage on a foreign voyage. The Certificate is issued to the vessel owner or master and must be maintained on board the vessel when it is engaged on a foreign voyage.

§ 69.71 Change of net tonnage.

(a) When a vessel is altered so that the net tonnage is increased, the new net tonnage must be applied immediately.

(b) A vessel concurrently assigned load lines under both the International Convention on Load Lines (Part 42, 44, 45, or 47 of this chapter) and either the International Convention for the Safety of Life at Sea (SOLAS) (Part 46 of this chapter) or other international agreement must be assigned only one net tonnage. The net tonnage assigned must be the net tonnage applicable to the load line assigned under the International Convention on Load Lines or SOLAS for the trade in which the vessel is engaged.

(c) When a vessel is altered so that the net tonnage is decreased or the vessel's trade is changed so that the load line assigned for that trade under paragraph (b) of this section is no longer appropriate and results in a decrease in its net tonnage, a new International Tonnage Certificate (1969) incorporating that net tonnage may not be issued until twelve months after the date on which the current Certificate was issued. However, if one of the following apply, a new Certificate may be issued immediately:

(1) The vessel is transferred to the flag of another nation.

(2) The vessel undergoes alterations or modifications which the Coast Guard deems to be of a major character, such as the removal of a superstructure which requires an alteration of the assigned load line.

§ 69.73 Variance from the prescribed method of measurement.

(a) When application of this subpart to a novel type vessel produces unreasonable or impractical results, the Commandant may determine a more suitable method of measurement.

(b) Requests for a determination must be submitted to the Commandant, explain the problem, and include plans and sketches of the spaces in question.

§ 69.75 Figures.

O = excluded space.
C = enclosed space.
I = space to be considered as an enclosed space.
B = breedth of deck in way of the opening.

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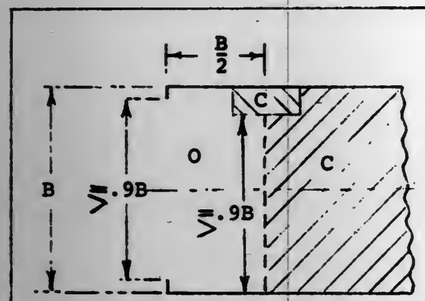


Figure 1

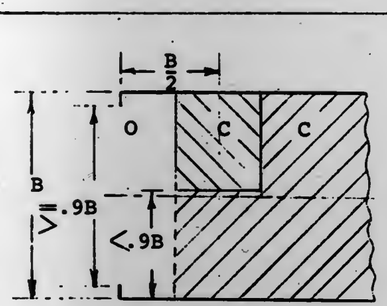


Figure 2

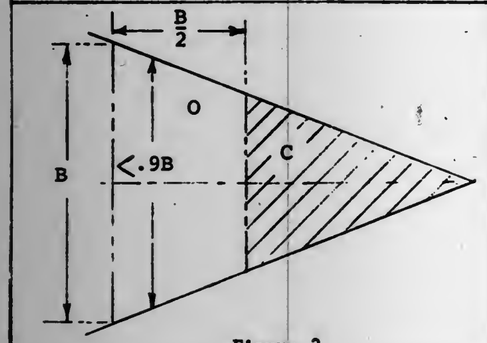


Figure 3

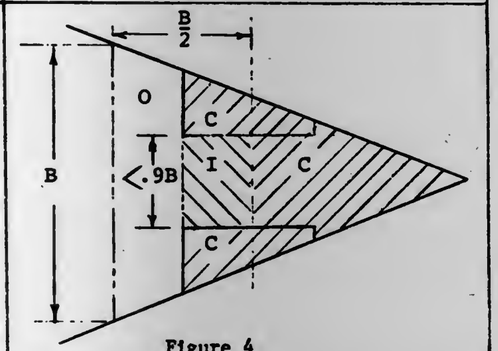


Figure 4

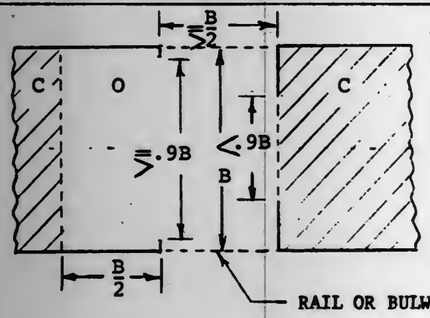


Figure 5

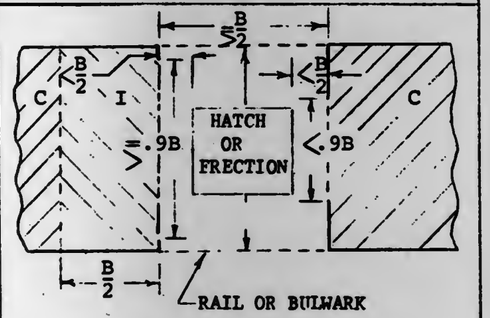


Figure 6

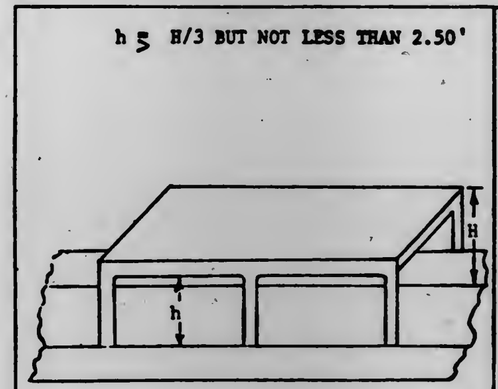


Figure 7

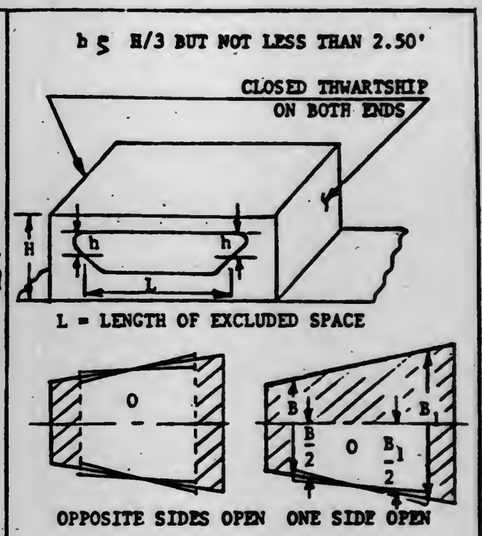


Figure 8

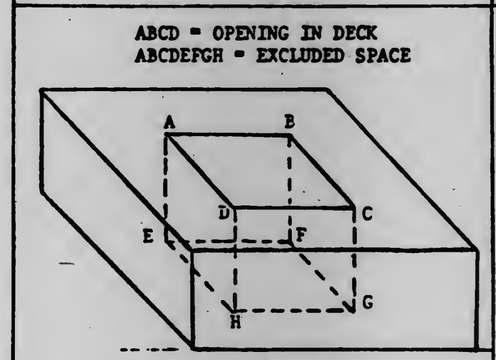


Figure 9

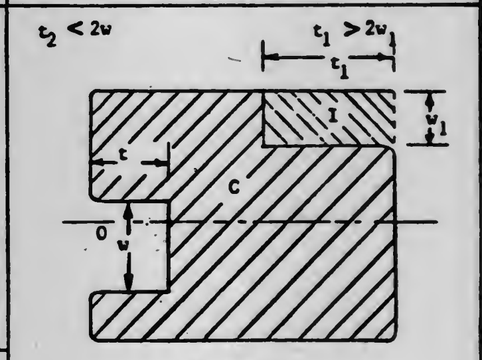


Figure 10

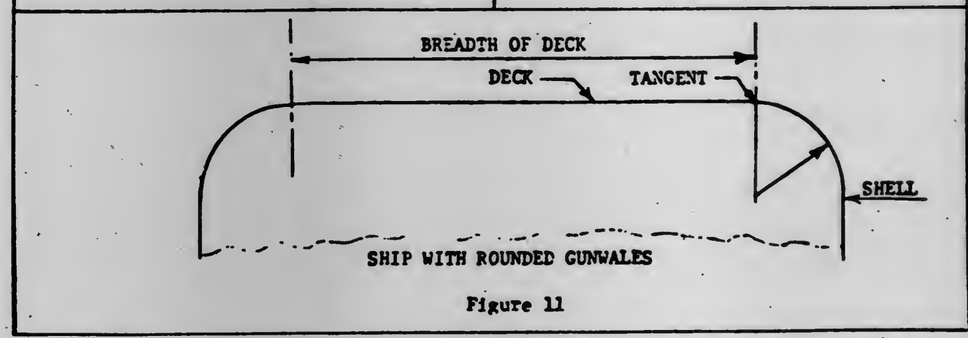


Figure 11

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Subpart C—Standard Measurement System

§ 69.101 Purpose.

This subpart prescribes the procedures for measuring a vessel under the Standard Measurement System described in 46 U.S.C. 14512.

§ 69.103 Definitions.

As used in this subpart—

"Between-deck" means the space above the line of the tonnage deck and below the line of the deck next above.

"Break" means the space between the line of a deck and the upper portion of that deck, in cases where that deck is stepped and continued at a higher elevation.

"Camber" means the perpendicular rise or crown of a deck at the centerline of the vessel measured above the skin of the vessel at the vessel's sides.

"Ceiling" means the permanent planking or plating fitted directly on the inboard side of frames, floors, or double bottom and includes cargo battens and refrigeration insulation but does not include false ceiling which stands off from the framing.

"Coaming" means both the vertical plating around a hatch or skylight and the sill below an opening in a bulkhead.

"Deckhouse" means a structure that is on or above the uppermost complete deck and that does not extend from side to side of the vessel. The term includes cabin trunks and closed-in spaces over the holds of vessels.

"Depth of frame" means the perpendicular depth of a bottom frame and the athwart distance between the inboard and outboard faces of a side frame.

"Double bottom" means a space at the bottom of a vessel between the inner and outer bottom plating and used solely for water ballast.

"Floor" means a vertical plate or timber extending from bilge to bilge in the bottom of a vessel. In a wooden vessel, "floor" means the lowermost timber connecting the main frames at the keel when that timber extends the full depth of the frames to which it is fastened. In a double bottom, floors usually extend from the outer to the inner bottom.

"Gross tonnage" is defined in § 69.107(a).

"Hatch" means an opening in a deck through which cargo is laden or discharged.

"Line of tonnage deck" means the line determined under § 69.109(e).

"Line of uppermost complete deck" means the line determined under § 69.111(b).

"Net tonnage" is defined in § 69.107(b).

"Registered breadth" is defined in § 69.53.

"Registered depth" means "molded depth" as defined in § 69.53.

"Registered length" is defined in § 69.53.

"Shelter deck" means the uppermost deck that would have qualified as the uppermost complete deck had it not been fitted with a middle line opening.

"Step" means a cutoff in a deck or in the bottom, top, or sides of a space resulting in varying heights of a deck or varying heights or widths of a space.

"Superstructure" means all permanent structures (such as forecastle, bridge, poop, deckhouse, and break) on or above the line of the uppermost complete deck or, if the vessel has a shelter deck, on or above the line of the shelter deck.

"Tonnage deck" is defined in § 69.109(c).

"Tonnage length" is defined in § 69.109(f).

"Uppermost complete deck" means the uppermost deck—

(a) Which extends from stem to stern and from side to side at all points of its length;

(b) The space below which is enclosed by the sides of the vessel;

(c) Through which there is no opening that would exempt the space below from being included in gross tonnage; and

(d) Below which there is no opening through the hull that would exempt the space below from being included in gross tonnage.

§ 69.105 Application for measurement services.

Applications for measurement services under this subpart must include the following information and plans:

(a) Type of vessel.

(b) Vessel name, official number, and intended port of documentation.

(c) Builder's name and the vessel hull number assigned by the builder.

(d) Place and year built.

(e) Date keel was laid.

(f) Overall length, breadth, and depth of vessel.

(g) Lines plan.

(h) Booklet of offsets.

(i) Capacity plans for tanks.

(j) Construction plans showing measurements and scantlings of hull and superstructure.

(k) Tonnage drawing showing tonnage length in profile and tonnage sections.

(l) Arrangement plans.

§ 69.107 Gross and net tonnages.

(a) Gross tonnage is the sum of the following tonnages, less certain spaces exempt under § 69.117:

(1) Under-deck tonnage (§ 69.109).

(2) Between-deck tonnage (§ 69.111).

(3) Superstructure tonnage (§ 69.113).

(4) Excess hatchway tonnage (§ 69.115(c)).

(5) Tonnage of framed-in propelling machinery spaces included in calculating gross tonnage (§ 69.121(d)(1)).

(b) Net tonnage is gross tonnage less deductions under § 69.119 and § 69.121.

§ 69.109 Under-deck tonnage.

(a) *Defined.* "Under-deck tonnage" means the tonnage of the space below the line of the tonnage deck, as that volume is calculated under this section.

(b) *Method of calculating tonnage.* Under-deck tonnage is calculated by applying Simpson's first rule using the tonnage length and the areas of the transverse sections prescribed by this section.

(c) *Identifying the tonnage deck.* In vessels with two or less decks, the tonnage deck is the uppermost complete deck. In vessels with more than two decks, the tonnage deck is the second deck from the keel as determined in paragraph (d) of this section.

(d) *Enumerating the decks to identify the second deck from the keel.* Only decks without openings that permit space below to be exempt from inclusion in under-deck tonnage are enumerated. Partial decks are not considered decks for the purpose of enumerating decks. However, the presence of engine and boiler casings, peak tanks, or cofferdams that penetrate a deck do not disqualify the deck from being enumerated.

(e) *Identifying the line of the tonnage deck.* (1) If the tonnage deck runs in a continuous line from stem to stern, the line of the tonnage deck is the longitudinal line at the underside of the tonnage deck.

(2) If the tonnage deck runs at different levels from stem to stern, the line of the tonnage deck is the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck. (See § 69.123, Figure 1 and 2.) Spaces between the line of the tonnage deck and the higher portions of that deck are not included in under-deck tonnage.

(f) *Tonnage length.* (1) "Tonnage length" means the length of a horizontal straight line measured at the centerline of the vessel from the point forward where the line of the tonnage deck intersects the line of the inboard faces of the ordinary side frames to the point aft where the line of the tonnage deck intersects the inboard face of the transom frames or cant frames. (See § 69.123, Figure 3.)

(2) For a vessel having a headblock or square end with framing which extends from the tonnage deck to the bottom of the vessel, the tonnage length terminates on the inboard face of the head block or end framing. When a headblock extends inboard past the face of the end side frames or when the headblock plates are excessive in length, the tonnage length terminates at the extreme end of the vessel less a distance equal to the thickness of an ordinary side frame and shell plating. (See § 69.123, Figure 4.)

(3) For a vessel having a square bow or stern and a tonnage deck with camber, the effect of the camber on the tonnage length must be considered. The tonnage length must be measured below the tonnage deck at a distance equal to one-third of round camber and one-half of straight pitch camber.

(g) *Division of vessel into transverse sections.* (1) Except as under paragraph (m)(1)(iii) of this section, the tonnage length is divided into an even number of equal parts as indicated in the following table:

Class	Tonnage length	Divisions
1	50 ft. or less	8
2	Over 50 ft. but not exceeding 100 ft.	8
3	Over 100 ft. but not exceeding 150 ft.	10
4	Over 150 ft. but not exceeding 200 ft.	12
5	Over 200 ft. but not exceeding 250 ft.	14
6	Over 250 ft.	16

(2) Transverse sections are cut at each end of the tonnage length and at each point of division of the tonnage length. Intervals and one-third intervals between the points of division are measured to the nearest thousandth of a foot. (See § 69.123, Figures 5 and 6.)

(h) *Depths of transverse sections.* (1) Transverse section depths are measured at each point of division of the tonnage length at the centerline of the vessel from a point below the line of the tonnage deck equal to one-third of the camber or to one-half of the pitch of the beam down to the upper side of the ordinary frames, floors, longitudinals, or tank top of a cellular double bottom, as the case may be.

(2) When a depth falls at a point where the tank top of a double bottom rises from the centerline to the wings, the depth terminates at one-half the dead rise. (See § 69.123, Figure 8.)

(3) When a depth falls at a point where the tank top of a double bottom has a straight fall from centerline to the wings, the depth terminates at one-half the height of fall. (See § 69.123, Figure 9.)

(4) The depth at the midpoint of the tonnage length or, when a vessel is measured in parts, the depth at the midpoint of each part determines the number of equal parts into which each depth is divided, as follows:

(i) If the midpoint depth is 16 feet or less, each depth is divided into four equal parts. If the midpoint depth exceeds 16 feet, each depth is divided into six equal parts. (See § 69.123, Figure 7.)

(ii) The interval between the points of division of a depth and one-third intervals are carried to the nearest hundredth of a foot.

(i) *Breadths of transverse sections.* (1) Transverse section breadths are measured horizontally at each point of division of each depth and also at the upper and lower points of each depth. Breadths are measured to the inboard face of the ordinary frames or to the line of the ordinary frames. Breadths are measured parallel to each other and at right angle to the vessel's centerline. (See § 69.123, Figure 7.)

(2) Upper breadths are not reduced by measuring to deck-beam brackets. In cases of camber where an upper breadth passes through the deck (see § 69.123, Figure 7), the breadth is measured to the line of the side frames at the under side of the deck projected vertically up to the height of the upper breadth.

(3) Bottom breadths are measured only as far as the flat of the floor extends. (See § 69.123, Figures 7 and 10.) When bottom frames rise immediately from the flat keel, bottom breadths are equal to the breadth of the flat keel. Where there is no double bottom and where there is dead rise of the bottom out to the sides of the vessel, bottom breadths are equal to the part of the bottom plating not affected by dead rise.

(4) Bottom breadths falling in way of a double bottom, the top of which rises or falls from centerline to the wings, are measured between the inboard faces of the frame brackets which connect the double bottom with the frames. (See § 69.123, Figures 8 and 9.)

(j) *Measuring spaces having ceiling.* The maximum allowance for terminating measurements on ceiling is three inches on the bottom frames or tank top and three inches on each side frame. When ceiling is less than three inches thick, only the actual thickness is allowed. When ceiling is fitted on a platform directly above the bottom frames, depths are measured down through the platform to the upper side of the frames and the allowable ceiling on the platform is then deducted.

(k) *Area of transverse sections.* (1) A transverse section at an end of the tonnage length may not yield area, except in vessels (such as barges) with an upright bow or stern.

(2) The breadths of each transverse section are numbered from above, the upper being "1", the second down being "2", and so on to the lowest.

(3) Multiply the even numbered breadths by four and the odd numbered breadths by two, except for the first and last breadths, which are multiplied by one.

(4) Add together the products from paragraph (k)(3) of this section.

(5) Multiply the sum from paragraph (k)(4) of this section by one-third of the interval between the breadths. The product is the area of the transverse section.

(l) *Tonnage.* (1) Number the transverse sections successively "1", "2", and so forth, beginning at the bow.

(2) Multiply the area of the even numbered sections by four and the area of the odd numbered sections by two, except the first and last sections, which are multiplied by one.

(3) Add together the products from paragraph (l)(2) of this section and multiply the sum by one-third of the interval between the sections. The product is the volume under-deck.

(4) The volume under-deck is divided by 100 and is, subject to exemptions, the under-deck tonnage.

(m) *Steps in double bottom.* (1) The tonnage length of a vessel having a step exceeding six inches in height in its double bottom is divided into longitudinal parts at the step. Each part is subdivided as follows to determine the number of transverse sections:

(i) Parts 20 feet or under in length are divided into two equal parts.

(ii) Parts over 20 feet and under 40 feet in length are divided into four equal parts.

(iii) Parts 40 feet or over are divided as provided in paragraph (g)(1) of this section.

(2) The tonnage of each part is calculated separately. The sum of the tonnages of the parts is the under-deck tonnage.

(n) *Outside shaft tunnel exclusion.* Any portion of an outside shaft tunnel included in tonnage through the process of measurement is subtracted from the under-deck tonnage.

(o) Open vessels. (1) An open vessel is one of any length without a deck or with one or more partial decks, the total length of which is less than one-half the tonnage length.

(2) The line of the tonnage deck for an open vessel is the upper edge of the

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upper strake. Depths of transverse sections are taken from this line.

(3) Any vessel, other than one having a mechanically refrigerated hold, that is not an open vessel and that has a tonnage length of less than 50 feet is measured as an open vessel, if the distance between the line of its tonnage deck and the upper edge of the upper strake is more than one-sixth of the midship depth. "Midship depth" means the depth measured from the line of the upper edge of the upper strake to the point in the bottom used for measuring tonnage depths.

§ 69.111 Between-deck tonnage.

(a) *Defined.* "Between-deck tonnage" means the tonnage of the space above the line of the tonnage deck and below the line of the uppermost complete deck.

(b) *Identifying the line of the uppermost complete deck.* (1) If the uppermost complete deck runs in a continuous line from stem to stern, the line of the uppermost complete deck is the longitudinal line of the underside of the uppermost complete deck.

(2) If the uppermost complete deck runs at different levels from stem to stern, the line of the uppermost complete deck is the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck. Spaces between the line of the uppermost complete deck and the higher portions of that deck are included in superstructure tonnage.

(c) *Method for calculating tonnage.* The tonnage of each level of the between-deck space is calculated separately, as follows:

(1) The length of each level is measured at the mid-height between the line of the deck above and the line of the deck below. Measure from the point forward where the continuation of the line of the inboard face of the normal side frames intersects the center line of the vessel aft to the forward face of the normal transom framing.

(2) Divide the length under paragraph (c)(1) of this section into the same number of equal parts into which the tonnage length is divided under § 69.109(g)(1).

(3) Measure at mid-height between the faces of the normal side frames the inside breadth of the space at each end and at each point of division of the length. Number the breadths successively "1", "2", and so forth, beginning at the bow.

(4) Multiply the even numbered breadths by four and the odd numbered breadths by two, except the first and last, which are multiplied by one.

(5) Add together the products under paragraph (c)(4) of this section and multiply the sum by one-third of the interval between the points at which the breadths are taken. The product is the square foot area of the space at mid height.

(6) Multiply the area of the space at mid-height by the average of the heights taken at each point of division of the space. The product divided by 100 is the tonnage of that space.

(7) The between-deck tonnage is the sum of the tonnage of each level within the between-deck space.

§ 69.113 Superstructure tonnage.

(a) *Defined.* "Superstructure tonnage" means the tonnage of all permanent structures, such as forecastle, bridge, poop, deckhouse, and break, on or above the line of the uppermost complete deck (or line of shelter deck, if applicable).

(b) *Method of calculating tonnage.* The tonnage of all structures on each level on or above the uppermost complete deck (or shelter deck, if applicable) is calculated separately as follows:

(1) The length of each structure is measured along its centerline at mid-height between the line of the inboard face of the framing on one end to the line of the inboard face of the framing on the other end. (See § 69.123, Figure 11.)

(2) Divide the length under paragraph (b)(1) of this section into an even number of equal parts most nearly equal to those into which the tonnage length is divided under § 69.109.

(3) Measure at mid-height the inside breadth at each end and at each point of division of the length. Number the breadths successively "1", "2", and so forth, beginning at the extreme forward end of the structure. If an end of the structure is in the form of a continuous arc or curve, the breadth at that end is one-half the nearest breadth. If an end is in the form of an arc or curve having a decided flat, the breadth at that end is two-thirds of the nearest breadth.

(4) Multiply the even numbered breadths by four and the odd numbered by two, except the first and last breadth, which are multiplied by one.

(5) Add together the products under paragraph (b)(4) of this section and multiply the sum by one-third of the interval between the points at which the breadths are taken. The product is the square foot area of the structure at mid-height.

(6) Multiply this area by the average of the heights taken at each point of division of the structure between its decks or the line of its decks. The product divided by 100 is the tonnage of that structure.

(c) A structure having steps in its deck or side must be measured in parts.

(d) The superstructure tonnage is the sum of tonnages of each level above the line of the uppermost complete deck (or shelter deck, if applicable).

(e) When a structure is located over a cut-away portion of the tonnage deck, the structure's height is measured from the under side of its overhead deck to the line of the tonnage deck. If the tonnage deck has no camber, allow for camber in the overhead deck.

(f) For structures of a standard geometric shape, a simple geometric formula that yields an accurate volume may be used.

§ 69.115 Excess hatchway tonnage.

(a) Hatchways that are above the tonnage deck and are either open to the weather or within open structures are measured to determine excess hatchway tonnage. Hatchways that are in between-deck spaces, on decks within closed-in structures, or on open structures are not measured.

(b) The tonnage of a hatchway is its length times breadth times mean depth divided by 100. Mean depth is measured from the under side of the hatch cover to the top of the deck beam.

(c) From the sum of the tonnage of the hatchways under this section, subtract one-half of one percent of the vessel's gross tonnage exclusive of the hatchway tonnage. The remainder is added as excess hatchway tonnage in calculating gross tonnage.

§ 69.117 Spaces exempt from inclusion in gross tonnage.

(a) *Purpose.* This section lists spaces which are exempt from inclusion in gross tonnage.

(b) *Spaces on or above the line of the uppermost complete deck.* The following spaces or portions of spaces on or above the line of the uppermost complete deck are exempt if the spaces or portions are reasonable in extent and adapted and used exclusively for the purpose indicated:

(1) Spaces for anchor gear, including capstan, windlass, and chain locker, are exempt.

(2) Companions and booby-hatches protecting stairways or ladderways leading to spaces below are exempt, whether or not the spaces below are exempt.

(3) Galley or other spaces fitted with a range or oven for cooking food to be consumed onboard the vessel are exempt.

(4) Spaces designed to provide light or air to propelling machinery are exempt, as follows:

(i) When propelling machinery is located entirely on or above the line of the uppermost complete deck, the entire propelling machinery space and all fuel bunker spaces that are also located above that line are exempt as light or air spaces. (See exception in § 69.121(d)(1) for framed-in spaces.)

(ii) When part of the propelling machinery projects above the line of the uppermost complete deck into a space used exclusively to provide light or air to the propelling machinery, the entire space is exempt as light or air space. When any portion of this space is used for purposes other than providing light or air, only the portion of the space used for light or air, the space occupied by the propelling machinery itself, and a propelling machinery working space allowance under § 69.121 limited to two feet, if available, on each side of the propelling machinery are exempt.

(iii) Any part of an escape shaft, or a companion sheltering an escape shaft, above the line of the uppermost complete deck is exempt as light or air space.

(iv) Space that would otherwise be exempt as a light or air space is not exempt when propelling machinery is boxed-in and does not extend above the line of the uppermost complete deck. Any portion of the boxed-in space above the line of the uppermost complete deck is exempt.

(5) Skylights affording light or air to a space below, other than to propelling machinery spaces. Space immediately below the line of the deck on which a skylight is located is exempt only when there is an opening in the next lower deck directly below the skylight to permit light or air to an even lower deck.

(6) Machinery spaces, other than for propelling machinery under § 169.121.

(7) Spaces for steering gear.

(8) Water closet spaces that are fitted with at least a toilet and are intended for use by more than one person.

(9) The space in a wheelhouse necessary for controlling the vessel.

(c) *Passenger spaces.* (1) As used in this section, the term "passenger" includes officers and enlisted men on military vessels who are not assigned ship's duties and not entered on the ship's articles.

(2) As used in this section, "passenger space" means a space reserved exclusively for the use of passengers and includes, but is not limited to, berthing areas, staterooms, bathrooms, toilets, libraries, writing rooms, lounges, dining rooms, saloons, smoking rooms, and recreational rooms. The space need not be part of or adjacent to a berthing area to be considered a passenger space.

(3) A passenger space located on or above the first deck above the uppermost complete deck is exempt from gross tonnage.

(4) A passenger space located on the uppermost complete deck is exempt from gross tonnage only when it has no berthing accommodations and is an open structure under paragraph (d) of this section.

(d) *Open structures.* (1) Structures that are located on or above the line of the uppermost complete deck that are under cover (sheltered) but open to the weather are exempt from gross tonnage.

(2) A structure is considered "open to the weather" under paragraph (d)(1) of this section when an exterior end bulkhead of the structure is open and, except as provided in paragraph (d)(4) of this section, is not fitted with any means of closing. To be considered "open to the weather", the end bulkhead must not have a coaming height of more than two feet in way of any required opening and have one of the following:

(i) Two openings, each at least three feet wide and at least four feet high in the clear, one on each side of the centerline of the structure.

(ii) One opening at least four feet wide and at least five feet high in the clear.

(iii) One opening at least 20 square feet in the clear with a breadth in excess of four feet and a height of not less than three feet.

(3) A compartment within an open structure is considered open to the weather only when an interior bulkhead of that compartment has an opening or openings that meet the requirements for end bulkheads under paragraphs (d)(2)(i) through (d)(2)(iii) of this section. Other compartments within the structure are not considered open to the weather.

(4) An interior or exterior opening that is temporarily closed by shifting boards dropped into channel sections at the sides of the opening or by plates or boards held in place by hook bolts is considered open to the weather—

(i) If the hook bolts are spaced at least one foot apart and hook over a stiffener bar around the perimeter of the opening;

(ii) If the cover plates fay against the bulkhead;

(iii) If battening, caulking, or gaskets of any material are not used; and

(iv) If cleats, stud bolts, hinges, bolts through the bulkhead, or other attachments (other than hook bolts) that may be used in conjunction with the temporary cover as a means of closing the opening are not installed at the edge of opening. (See § 69.123, Figure 12.)

(5) A structure with its aft end entirely open from the under side of its overhead stiffeners down to the deck, to the line of the deck, or to a coaming not exceeding three inches in height and open athwartship between the inboard faces of the side stiffeners is considered open to the weather. The opening may be covered by a wire mesh screen or temporarily closed by canvas secured at the top and lashed or buttoned in place.

(e) *Open space between the shelter deck and the next lower deck.* (1) Space that is between the shelter deck and the next lower deck and that is under cover (sheltered) but open to the weather is exempt from gross tonnage when all openings in the uppermost complete deck are provided with a watertight means of closing.

(2) A space is considered "open to the weather" under paragraph (e)(1) of this section when the shelter deck above the space has a middle line opening which conforms to the following:

(i) The middle line opening must be at least four feet long in the clear and at least as wide as the after cargo hatch on the shelter deck, but not less than one-half the width of the vessel at the midpoint of the length of the opening. The opening may have rounded corners not exceeding a nine inch radius. When a greater radius is required by the Coast Guard or a Coast Guard recognized classification society under § 42.05-60 of this chapter, notification of that requirement must be submitted to the Commandant.

(ii) The middle line opening must be located so that the distance between the aft edge of the middle line opening and the vessel's stern is not less than one-twentieth of the tonnage length of the vessel and the distance between the fore edge of the opening and the vessel's stem is not less than one-fifth of the tonnage length of the vessel.

(iii) The middle line opening must not be within a structure of any type.

(iv) If the middle line opening is guarded by rails or stanchions, the rails and stanchions must not be used to secure or assist in securing a cover over the opening.

(v) The coaming of the middle line opening must not exceed one foot mean height above the shelter deck. Bolts must not pass through the stiffeners or flanges on the coaming, nor may there be any other attachments on the coaming for fastening a cover. Portable wood covers may be fitted over the middle line opening if held in place only by lashings fitted to the under side of the covers. Metal covers may be fitted if held in place only by hook bolts spaced not less than 18 inches apart that pass through the cover and hook over angle stiffeners or flanges fitted to the outside of the coaming.

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(vi) The space below the middle line opening must have a minimum length of four feet throughout its entire breadth and height and be in the clear at all times.

(vii) A scupper having a five inch minimum inside diameter and fitted with a screw down non-return valve geared to and operated from the shelter deck must be fitted on each side of the upper deck in way of the middle line opening.

(3) When the shelter deck space forward or aft of the middle line opening is divided by interior bulkheads, only those compartments with at least two openings that progress to the middle line opening are considered "open to the weather" under paragraph (e)(1) of this section. Each required opening must be at least three feet wide and at least four feet high in the clear, must not have a coaming height of more than two feet, and must not be fitted (except as provided in paragraph (d)(4) of this section) with any means of closing. Other compartments within the shelter deck space are not considered "open to the weather" under paragraph (e)(1) of this section.

(f) *Water ballast spaces.* A space, regardless of location, adapted only for water ballast and not available for stores, supplies, fuel, or cargo (other than water to be used for underwater drilling, mining, and related purposes, including production), upon request, may be exempt from gross tonnage if the following are met:

(1) The space must be available at all times only for water ballast that is piped through a system independent of other systems (except fire fighting and bilge suction systems). Pumps, pipes, and other equipment for loading and unloading water ballast must be of a size suitable for the efficient handling of the water ballast within a reasonable time frame. All manholes providing access to a water ballast space must be oval or circular and not greater than 34 inches in diameter. Except for those on a deck exposed to the weather, the manholes may have a coaming not exceeding six inches in height. Existing hatches over spaces being converted to water ballast spaces must have a watertight cover plate welded to the hatch and a manhole, as described in this paragraph, fitted in the plating.

(2) The primary purpose of the water ballast must be to afford a means of maintaining the vessel's stability, immersion, trim, pre-loading conditions, or seakeeping capabilities.

(3) If the space is in a vessel that is subject to inspection under 46 U.S.C. 3301, the space must be considered when determining the adequacy of the vessel's stability under 46 CFR Chapter I.

(4) If the total of all water ballast spaces to be exempted from gross tonnage exceeds 30% of the vessel's gross tonnage (excluding the water ballast spaces), a justification of the operating conditions that require the water ballast must be submitted to the measuring organization. The measuring organization reviews the submittal for completeness and, when complete, forwards the submittal to the Commandant for approval. Although a single condition may justify all water ballast spaces, several conditions may be necessary in other cases. However, a particular tank is not justified by a condition if another tank already justified by another condition could be used as effectively. The justification must—

(i) Designate the vessel's service;

(ii) Explain for what purpose under paragraph (f)(2) of this section the water ballast is being used;

(iii) Provide the calculations required in paragraphs (f)(4)(vi) through (f)(4)(ix) of this section for those uses on a form similar to Coast Guard Stability Test Form CG–993–9;

(iv) Include the capacity, tank arrangement, and piping plans for the vessel;

(v) Include a statement certifying that the spaces will be used exclusively for water ballast as prescribed by this section;

(vi) If water ballast is used for stability, describe each loading condition and the resultant metacentric height (GM) and include calculations;

(vii) If water ballast is used for immersion or trim, describe those conditions and include loading and trim calculations;

(viii) If water ballast is used for pre-loading, describe how it is used and include strength and weight calculations; and

(ix) If water ballast is used for seakeeping, describe each loading condition, GM, period of roll, and, if speed is involved, speed versus trim and draft and include calculations.

(5) If the water ballast space or its use, purpose, or piping are changed, the vessel owner or operator must report the change promptly to a measurement organization listed in § 69.15 for a determination as to whether a tonnage remeasurement is required.

(g) *Methods for measuring exempt spaces.* (1) If the exempt space is located within the superstructure, the exempt space is measured using the same procedures used to measure superstructure tonnage under § 69.113.

(2) If the exempt space is located between-deck, the space is measured using the same procedures used for between-deck tonnage under § 69.111(c), except that the length of the exempt space is divided into the even number of spaces most equal to the number of spaces into which the between-deck was divided.

(3) If the exempt space is located under-deck, the space is measured using the same procedures used for under-deck tonnage under § 69.109, except that the length of the exempt space is divided into the even number of spaces most equal to the number of spaces into which the under-deck was divided.

§ 69.119 Spaces deducted from gross tonnage.

(a) *Purpose.* This section lists the requirements for spaces (other than propelling machinery spaces under § 69.121) which, though included in calculating gross tonnage (i.e., are not exempt under § 69.117), are deducted from gross tonnage in deriving net tonnage.

(b) *General.* (1) A deductible space must be used exclusively for, and be reasonable in size for, its intended purpose.

(2) When a space is larger than necessary for the safe and efficient operation of deductible equipment, only the space occupied by the equipment plus a two foot maximum working space on each side of the equipment, if available, is deductible.

(3) Space specified in this section may be located anywhere within the vessel, unless otherwise specified.

(c) *Anchor gear.* A space below the line of the uppermost complete deck occupied by the anchor gear, capstan, windlass, and chain locker is deductible. A fore peak used exclusively as chain locker is measured by the method prescribed under § 69.117(g)(3).

(d) *Boatswain's stores.* A space containing oils, blocks, hawsers, rigging, deck gear, or other boatswain's stores for daily use is deductible. The maximum deduction allowed for vessels less than 100 gross tons is one ton and, for vessels 100 gross tons or over, is one percent of the gross tonnage, not to exceed 100 tons.

(e) *Chart room.* A space for keeping charts and nautical instruments and for plotting the vessel's course is deductible. For a combined wheelhouse and chart room, that part not exempted as wheelhouse under § 69.117(b)(9) is deductible. For small vessels in which the only space for a chart room is in a cabin or saloon, one half the space not to exceed 1.5 tons is deductible as chart room.

(f) *Donkey engine and boiler.* Donkey engine and boiler space is deductible when connected with the main (non-cargo) pumps of the vessel, except as follows:

(1) If the space is within the engine room or within the casing above the engine room and if the donkey engine is an auxiliary to the main propelling machinery, the space is an engine room deduction under § 69.121(b).

(2) If the space is above the line of the uppermost complete deck and if the donkey engine is not an auxiliary to the main propelling machinery, the space is exempt under § 69.117(b).

(g) *Spaces for the exclusive use of officers or crew.* (1) The following spaces, regardless of their location (unless otherwise noted), are deductible if not used by passengers:

(i) Sleeping rooms.

(ii) Bathrooms with a bath tub or shower but without a water closet.

(iii) Water closets below the line of the uppermost complete deck serving more than one person, with or without a bath tub or shower. Water closets, regardless of location, that serve only one person or that are accessible only through a stateroom or bedroom serving one person are considered as part of the space they serve and are deductible only if that space is deductible.

(iv) Clothes drying rooms.

(v) Drinking water filtration or distilling plant below the line of the uppermost complete deck.

(vi) Hospitals.

(vii) Mess rooms.

(viii) Office of the chief engineer.

(ix) Oil skin lockers.

(x) Pantries.

(xi) Recreation rooms.

(xii) Smoking rooms.

(xiii) Galleys below the line of the uppermost complete deck.

(2) Shops for engineers, carpenters, plumbers, or butchers and offices for clerks, pursers, or postmasters are not deductible, wherever located.

(h) *Master's cabin.* The master's sleeping room, dressing room, bathroom, observation room, reception room, sitting room, water closet, and office are deductible.

(i) *Radio room.* Spaces in which radio apparatus is installed and messages are sent and received and which may provide off-duty operator accommodations are deductible.

(j) *Steering gear.* Spaces for steering gear below the line of the uppermost complete deck are deductible.

(k) *Generators.* Spaces for generators below the line of the uppermost complete deck are deductible regardless of what space the generators serve. These spaces may include other equipment necessary for the generator's operation.

(l) *Pump room.* Spaces below the line of the uppermost complete deck containing pumps that are not capable of handling cargo and that are not fuel oil transfer pumps considered part of the propelling machinery under § 69.121(b)(2)(v) are deductible.

(m) *Sail stowage.* A space for stowing sails on a vessel propelled only by sails is deductible up to two and one half percent of the vessel's gross tonnage.

(n) *Waste material space.* (1) A tank or collection space, regardless of location, used for the carriage or collection of sewage, garbage, galley waste, trash, slop-oil mixture, tank cleaning residue, bilge residue, or other waste material generated aboard the vessel is deductible.

(2) Space below the line of the uppermost complete deck used exclusively to separate, clarify, purify, or otherwise process waste material generated aboard the vessel is deductible.

(o) *Passageways.* A passageway or companionway is deductible—

(1) If it serves deductible spaces only; or

(2) If it serves deductible spaces and is also the sole means of access to one of the following non-deductible spaces:

(i) Lockers of less than two tons each, containing medicine, linen, mops, or other items for the free use of the crew.

(ii) A ship's office.

(iii) Spare rooms (not exceeding two) used by a pilot, customs officer, reserve engineer, or employee or agent of the vessel's owner or operator.

(p) *Markings for deductible spaces.* (1) Each space deducted under this section must be marked with the words "Certified_____" (inserting the space designation, such as "Seaman", "Generator", "Office of Chief Engineer", "Hospital", or "Anchor Gear"). If a deductible space berths more than one crew member, the marking must indicate the number of crew members berthed, such as "Certified_____Seamen" (inserting the number of crew).

(2) The abbreviations "Cert." for "certified" and "W.C." for "water closet" may be used.

(3) The markings must be in Roman letters and Arabic numerals at least 1/2 inch in height, must be painted in a light color on a dark background, must be embossed, center-punched, carved, or permanently cut in a bulkhead or metal plate, and must be placed in a legible location over a doorway on the inside of the space. A metal plate, if used, must be permanently fastened in place by welding, riveting, lock screws, or a Coast Guard-approved bonding agent.

(q) *Method for measuring deductible spaces.* (1) A rectangular space must be measured by taking the product of its length, breadth, and height.

(2) A space with curved sides on or above the tonnage deck is measured according to § 69.109.

(3) Spaces less than 15 feet in length may be measured by any practical method.

(4) Spaces below the tonnage deck exceeding 15 feet in length and bounded by a curved surface conforming to the side of the vessel must be measured by the formula used for measuring the superstructure under § 69.113.

(5) The height of a space located on a platform in the hull must be measured from the top of the bottom hull frames, if the platform is used only to form a flat surface at the bottom of the space, if the platform is not more than one foot above the top of the bottom frames, and if the space below the platform is not usable.

(6) The height of a space is measured through any ceiling, paneling, false overhead, or other covering, to the space's structural boundary; unless the space enclosed by the covering is available for a non-deductible use.

§ 69.121 Engine room deduction.

(a) *General.* The engine room deduction is either a percentage of the vessel's total propelling machinery spaces or a percentage of the vessel's gross tonnage.

(b) *Propelling machinery spaces.* (1) Propelling machinery spaces are the spaces occupied by the main propelling machinery and auxiliary machinery and spaces reasonably necessary for the operation and maintenance of the machinery. Propelling machinery spaces do not include spaces for fuel tanks, spaces exempt from gross tonnage under § 69.117, and spaces not used or not available for use in connection with the propelling machinery.

(2) Propelling machinery spaces are—

(i) Space below the crown. The crown is the top of the main space of the engine room to which the heights of the main space are taken. The crown is either the underside of a deck or, if the side bulkheads are sloping, the uppermost point at which the slope terminates. (See § 69.123, Figures 13 and 14.)

(ii) Framed-in space located between the crown and the uppermost complete deck and used for propelling machinery or for the admission of light or air to propelling machinery spaces. (See § 69.123, Figures 13 and 14.)

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(iii) Shaft tunnel space and thrust block recess space.

(iv) Space below the uppermost complete deck used for escape shafts or trunked ladderways leading from the aft end of the shaft tunnel to the deck above.

(v) Space containing a fuel oil transfer pump located in a separate space and not used for bunkering the vessel. When the pump serves both ballast and fuel oil, only one-half of the pump's space is considered a propelling machinery space.

(vi) Spaces containing fuel oil settling tanks used solely for the main boilers. The space must not exceed one percent of the vessel's gross tonnage.

(vii) Spaces for engineers' stores and workshops located below the uppermost complete deck and either open to a propelling machinery space or separated from a propelling machinery space only by a screen bulkhead. The space must not exceed three-quarters of one percent of the vessel's gross tonnage.

(viii) Framed-in space located above the line of the uppermost complete deck and used for propelling machinery or for the admission of light or air to a propelling machinery space, when requested under paragraph (d) of this section.

(ix) If the propelling machinery is boxed-in below the tonnage deck, the boxed-in space plus the spaces outside of the boxing for the shaft, auxiliary engines, and related propelling machinery. If a portion of the boxed-in space extends above a platform or partial deck that is below the uppermost complete deck, that portion is also considered part of the propelling machinery space.

(c) *Methods for measuring propelling machinery spaces.* (1) If the propelling machinery space is bulkheaded off or is not larger than necessary for the safe operation and maintenance of the propelling machinery, the entire space, or, if bulkheaded off, the portion bulkheaded off, is measured for the engine room deduction.

(2) If the propelling machinery space is not bulkheaded off or is larger than necessary for the safe operation and maintenance of the propelling machinery only the space occupied by the propelling machinery itself plus a working space of two feet, if available, on each side of the propelling machinery is measured for the engine room deduction. If the working space overlaps another working space not related to the propelling machinery, only one-half of the overlapping working space is included in the propelling machinery space. The height of the working space is measured as provided in paragraph (c) of this section.

(3) If the propelling machinery is located in more than one space, each space must be measured separately.

(4) If the propelling machinery is located in a space with a step in the bottom or side lines, each stepped portion of the space must be measured separately.

(5) The length of a space under paragraph (c)(1) of this section is measured from the bulkhead just forward of the propelling machinery to the bulkhead just aft of the propelling machinery. The length of a space under paragraph (c)(2) of this section is measured from the forward edge of the working space to the aft edge of the working space.

(6) If the boundaries of the propelling machinery space form a rectangle, the product of the length, breadth, and height, divided by 100, is the tonnage of the space.

(7) If the boundaries of the propelling machinery space are continuous fair lines, heights are measured at the fore and aft ends and at the center of the space from the bottom frames, floors, or tank top of a double bottom up to the line of the crown. A breadth is measured at half-height of each height. The product of the length, mean breadth, and mean height, divided by 100, is the tonnage of the space.

(8) If the propelling machinery space is in the aft end of the hull, extends from side to side of the hull, and has a continuous bottom line, the length of the space is divided into the even number of equal parts most nearly equal to the number of parts that the tonnage length under § 69.109(g) was divided. The tonnage is then calculated by the same method used for calculating the under-deck tonnage in § 69.109(1).

(9) The tonnage of a framed-in space located between the crown and the uppermost complete deck and used for propelling machinery or for the admission of light or air to the propelling machinery space, is the product of its length, breadth, and height, divided by 100.

(10) The tonnage of a shaft tunnel, or a thrust block recess, having a flat top is the product of its length, breadth, and height, divided by 100. If the shaft tunnel or thrust block recess top is not flat, the space above must be calculated by using the appropriate geometrical formula. If the space aft of the shaft tunnel extends from side to side of the vessel, the tonnage of the space is found by the formula for measuring peak tanks in § 69.109(1).

(11) The length and breadth of the space for a shaft tunnel, or a thrust block recess, when not cased is that which is necessary for maintenance of the shaft. The height allowed for thrust block recess space must not exceed seven feet. The mean height allowed for the shaft tunnel space must not exceed six feet. In a multi-screw vessel where the shaft tunnel or thrust block recess space is open from side to side, measure only the space used for purposes of propelling the vessel.

(12) When the propelling machinery is on a bed at the vessel's bottom, the height of the propelling machinery space is measured from the top of the bottom frames or floors.

(d) *Request to treat certain framed-in engine room spaces as part of a propelling machinery space.* (1) Under § 69.117(b)(4), framed-in spaces located above the line of the uppermost complete deck and used for propelling machinery or for admitting light or air to a propelling machinery space are exempt from inclusion in gross tonnage. However, upon written request to a measurement organization listed in § 69.15, the vessel owner may elect to have these spaces included in calculating gross tonnage, then deducted from gross tonnage as propelling machinery spaces under paragraph (b)(2)(viii) of this section.

(2) The framed-in space must be safe, seaworthy, and used only for propelling machinery or for the admission of light or air to the propelling machinery space. The length of the space must not exceed the length of the propelling machinery space and the breadth must not exceed one half of the extreme inside midship breadth of the vessel. Portions of the framed-in space that are plated over are not included in the propelling machinery space.

(3) To exercise the option in paragraph (d)(1) of this section, all of the framed-in space need not be treated as propelling machinery space, but only that portion required to entitle the vessel to have 32 percent of its gross tonnage deducted as an engine room deduction under paragraph (e) of this section.

(e) *Calculating the engine room deduction.* (1) The engine room deduction is based on a percentage of the vessel's gross tonnage or a percentage of the totai propelling machinery space.

(2) For vessels propelled in whole or in part by screw,—

(i) If the total propelling machinery space is 13 percent or less of the vessel's gross tonnage, deduct 32/13 times the total propelling machinery space.

(ii) If the total propelling machinery space is more than 13 but less than 20 percent of the vessel's gross tonnage, deduct 32 percent of the vessel's gross tonnage; or

(iii) If the total propelling machinery space is 20 percent or more of the vessel's gross tonnage, deduct either 32 percent of the vessel's gross tonnage or 1.75 times the total propelling machinery space, whichever the vessel's owner elects.

(3) For vessels propelled in whole or in part by paddle-wheel,

(i) If the total propelling machinery space is 20 percent or less of the vessel's gross tonnage, deduct 37/20 times the total propelling machinery space.

(ii) If the total propelling machinery space is more than 20 but less than 30 percent of the vessel's gross tonnage, deduct 37 percent of the vessel's gross tonnage; or

(iii) If the total propelling machinery space is 30 percent or more of the vessel's gross tonnage, deduct either 37 percent of the vessel's gross tonnage or 1.5 times the total propelling machinery space, whichever the vessel's owner elects.

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§ 69.123 Figures.

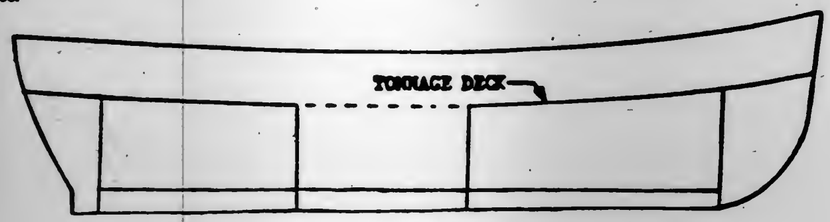


Figure 1

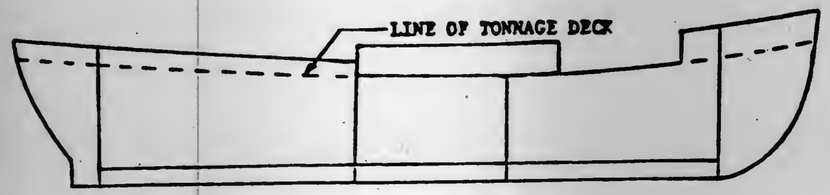


Figure 2

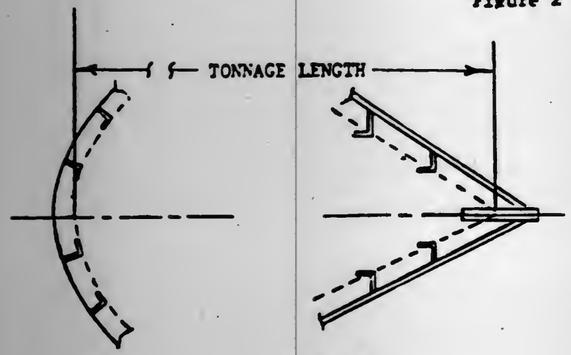


Figure 3

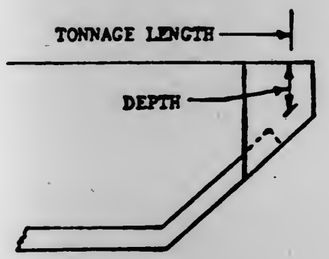


Figure 4

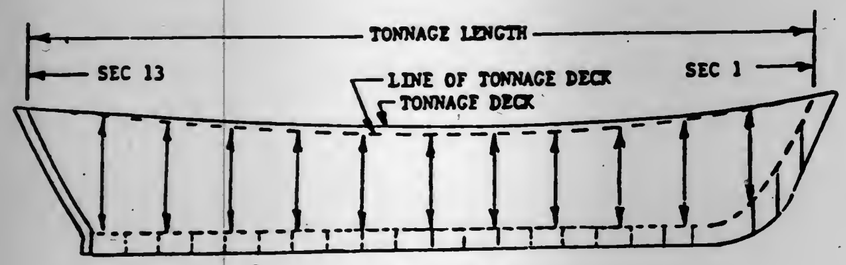


Figure 5

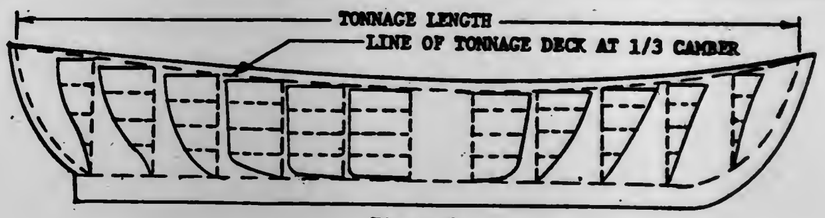


Figure 6

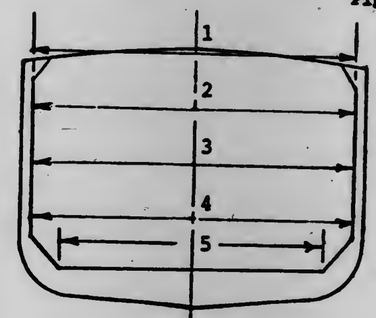


Figure 7

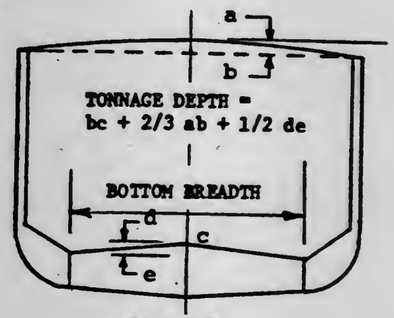


Figure 8

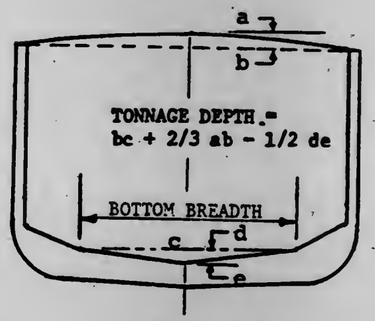


Figure 9

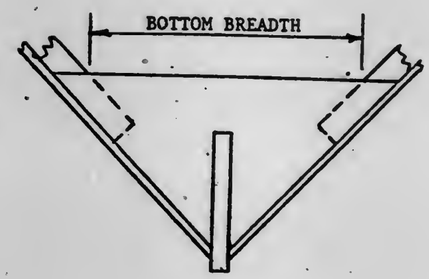


Figure 10

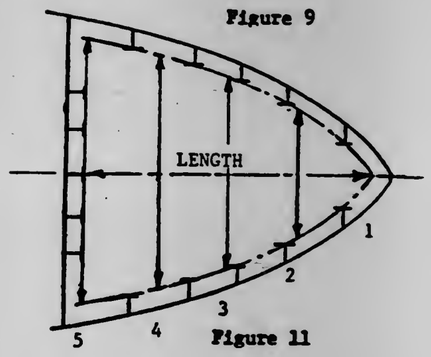


Figure 11

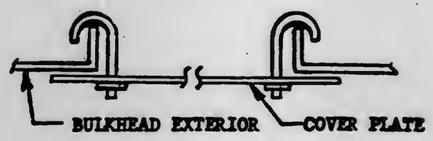


Figure 12

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H = Height of main space.
H' = Height between crown and upper deck.
L/A = Light or air space above the upper deck.

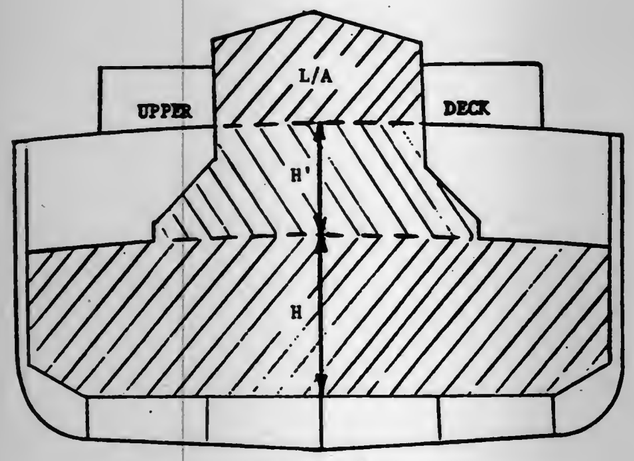


Figure 13

H = Height of main space.
H' = Height between crown and upper deck.
L/A = Light or air space above the upper deck.

Figure 14

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Subpart D—Dual Measurement System

§ 69.151 Purpose.

This subpart prescribes measurement requirements for the assignment of either one gross and one net tonnage or two gross and two net tonnages to vessels under the Dual Measurement System.

§ 69.153 Application of other laws.

(a) If a vessel is assigned two gross tonnages under § 69.175(b), the higher gross tonnage is the tonnage used when applying inspection, manning, and load line laws and regulations to the vessel.

(b) Tonnage marks are not to be construed as additional load line marks. Whether or not a tonnage mark is submerged under § 69.171 has no effect on the applicability of load line laws and regulations.

§ 69.155 Measurement requirements.

Except as otherwise required by this subpart, the measurement requirements under the Standard Measurement System in Subpart C of this part apply to the measurement of vessels under the Dual Measurement System.

§ 69.157 Definitions.

(a) Terms used in this subpart that are defined in § 69.103 have the same meaning as in § 69.103, except as in paragraph (b) of this section.

(b) As used in this subpart—

"Gross tonnage" is defined in § 69.161(a).

"Line for fresh and tropical waters" means the line described in § 69.177(b)(2).

"Line of the second deck" means the line described in § 69.161.

"Line of the uppermost complete deck" means a longitudinal line at the underside of the uppermost complete deck or, if that deck is stepped, the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck.

"Net tonnage" is defined in § 69.161(b).

"Second deck" means the next deck below the uppermost complete deck that meets the following:

(1) Is continuous athwartships and in a fore-and-aft direction at least between peak bulkheads, even though the deck may have interruptions or openings due to propelling machinery spaces, to hatch and ventilation trunks not extending longitudinally completely between main transverse bulkheads, to ladder and stairway openings, to chain lockers, or to cofferdams.

(2) Is fitted as an integral and permanent part of the vessel.

(3) Has proper covers to all main hatchways.

(4) Does not have steps the total of which exceed 48 inches in height.

"Tonnage deck" means, for a vessel with only one deck, the uppermost complete deck and, for a vessel with a second deck, the second deck.

"Tonnage mark" means the line described in § 69.177(a)(2).

§ 69.159 Application for measurement services.

Applications for measurement services under this subpart must include the application information and plans required for the Standard Measurement System under § 69.105. The application must indicate whether a line for fresh and tropical waters is requested under § 69.177(b) and, for vessels with more than one deck, indicate whether one or two sets of tonnages are desired under § 69.175.

§ 69.161 Gross and net tonnages.

(a) "Gross tonnage" means the tonnage of a vessel, less certain spaces exempt under § 69.169, and is the sum of the following:

(1) Under-deck tonnage (§ 69.163).

(2) Between-deck tonnage (§ 69.165).

(3) Superstructure tonnage (§ 69.167).

(4) Excess hatchway tonnage (§ 69.115).

(5) Tonnage of framed-in propelling machinery spaces included in calculating gross tonnage (§ 69.121(d)(1)).

(b) "Net tonnage" means gross tonnage less deductions under §§ 69.119 and 69.121.

§ 69.163 Under-deck tonnage.

The under-deck tonnage provisions in § 69.109 apply; except that, under the Dual Measurement System, spaces between the line of the tonnage deck and the tonnage deck itself due to a stepped tonnage deck are included in under-deck tonnage.

§ 69.165 Between-deck tonnage.

The between-deck tonnage provisions in § 69.111 apply, except that, under the Dual Measurement System, between-deck space extends from the tonnage deck to the uppermost complete deck, rather than from the line of the tonnage deck to the line of the uppermost complete deck.

§ 69.167 Superstructure tonnage.

The superstructure tonnage provisions in § 69.113 apply; except that, under the Dual Measurement System, spaces between the line of the uppermost complete deck and the uppermost complete deck itself due to a stepped uppermost complete deck are not included in the superstructure tonnage.

§ 69.169 Spaces exempt from inclusion in gross tonnage.

The tonnage of the following spaces is exempt from inclusion in gross tonnage:

(a) Spaces listed in § 69.117(b) when located within the superstructure.

(b) Spaces listed in § 69.117(c) (1) through (3) when located above, but not on, the uppermost complete deck.

(c) Spaces listed in § 69.117(f), regardless of location.

(d) Spaces available for carrying dry cargo and stores when located on or above the uppermost complete deck.

(e) When a vessel is assigned a tonnage mark and the tonnage mark is not submerged—

(1) Spaces listed in § 69.117(b) when located between the uppermost complete deck and the second deck;

(2) Spaces listed in § 69.117(c) (1) through (3) when located on the uppermost complete deck; and

(3) Spaces available for carrying dry cargo and stores when located between the uppermost complete deck and the second deck.

§ 69.171 When the tonnage mark is considered submerged.

For the purpose of this subpart, a tonnage mark is considered submerged when—

(a) In salt or brackish water, the upper edge of the tonnage mark is submerged; and

(b) In fresh or tropical water, the upper edge of the line for fresh and tropical waters is submerged.

§ 69.173 Tonnage assignments for vessels with only one deck.

A vessel without a second deck is assigned only one gross and one net tonnage. In calculating the gross tonnage, only the exemptions in § 69.169 (a) through (d) are allowed. Markings under § 69.177 are not permitted on these vessels.

§ 69.175 Tonnage assignments for vessels with a second deck.

(a) At the option of the vessel owner, a vessel having a second deck is assigned either two gross and two net tonnages or one gross and one net tonnage.

(b) If two gross and two net tonnages are assigned, the higher tonnages (i.e. those based only on exemptions under § 69.169(a) through (d)) are applicable when the upper edge of the tonnage mark is submerged and the lower tonnages (i.e. those based only on all exemptions under § 69.169) are applicable when the upper edge of the tonnage mark is not submerged.

(c) If only the low gross and low net tonnages, as calculated under paragraph

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(b) of this section, are assigned, these tonnages are applicable at all times. On these vessels, the tonnage mark must be located in accordance with § 69.177(a)(6) at the level of the uppermost part of the load line grid.

§ 69.177 Markings.

(a) *Tonnage mark.* (1) All vessels with a second deck that are measured under the Dual Measurement System must have, on each side of the vessel, a tonnage mark, and an inverted triangle identifying the tonnage mark, as described and located under this section. (See the figure in § 69.183(a).) Vessels with only one deck are not assigned markings under this section.

(2) The tonnage mark is a horizontal line 15 inches long and one inch wide. The tonnage mark must be designated by a welded bead or other permanent mark 15 inches long placed along the top edge of the tonnage mark.

(3) Above the tonnage mark is placed an inverted equilateral triangle, each side of which is 12 inches long and one inch wide, with its apex touching the upper edge of the center of the tonnage mark.

(4) If the vessel has a load line mark, the longitudinal location of the center of the tonnage mark must be between 21 inches and six feet six inches aft of the vertical centerline of the load line ring. (See the 1, figures in § 69.183(b) and (c).) If the vessel does not have a load line mark, the center of the tonnage mark must be located amidships.

(5) Except as under paragraph (a)(6) of this section, the upper edge of the tonnage mark must be located below the line of the second deck at the distance indicated in Table 69.177(a)(5). (See the figure in § 69.183(b).)

Table 69.177(a)(5)— Minimum Distance in Inches Between the Tonnage Mark and the Line of the Second Deck

L (in feet)	L divided by D								
	12	13	14	15	16	17	18	19	20
220 and under	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
230	3.2	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
240	4.7	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
250	6.3	3.3	2.0	2.0	2.0	2.0	2.0	2.0	2.0
260	8.0	4.8	2.1	2.0	2.0	2.0	2.0	2.0	2.0
270	9.9	6.4	3.5	2.0	2.0	2.0	2.0	2.0	2.0
280	11.8	8.1	4.9	2.1	2.0	2.0	2.0	2.0	2.0
290	13.9	9.9	6.5	3.5	2.0	2.0	2.0	2.0	2.0
300	16.0	11.7	8.1	4.9	2.1	2.0	2.0	2.0	2.0
310	18.3	13.7	9.8	6.4	3.5	2.0	2.0	2.0	2.0
320	20.7	15.8	11.7	8.1	4.9	2.1	2.0	2.0	2.0
330	23.2	18.0	13.6	9.8	6.4	3.5	2.0	2.0	2.0
340	25.9	20.4	15.7	11.6	8.1	4.9	2.1	2.0	2.0
350	28.7	22.9	17.9	13.6	9.8	6.5	3.8	2.0	2.0
360	31.7	25.5	20.2	15.7	11.7	8.2	5.0	2.2	2.0
370	34.7	28.3	22.7	17.9	13.6	9.9	6.6	3.7	2.0
380	38.0	31.1	25.3	20.2	15.7	11.8	8.3	5.2	2.4
390	41.3	34.1	27.9	22.6	17.9	13.8	10.1	6.8	3.8
400	44.8	37.2	30.7	25.0	20.1	15.8	11.9	8.4	5.3
410	48.2	40.3	33.5	27.7	22.6	18.1	14.0	10.4	7.2
420	51.5	43.4	36.4	30.4	25.2	20.6	16.4	12.7	9.7
430	54.6	46.5	39.4	33.3	27.9	23.2	19.0	15.2	11.8
440	58.4	49.9	42.6	36.4	30.9	26.0	21.7	17.8	14.4
450	62.1	53.4	46.0	39.8	33.9	29.0	24.6	20.6	17.1
460	65.9	57.0	49.5	42.9	37.1	32.1	27.6	23.5	19.9
470	69.8	60.7	53.0	46.3	40.4	35.2	30.6	26.5	22.8
480	73.7	64.4	56.5	49.7	43.7	38.4	33.7	29.5	25.7
490	77.5	68.1	60.0	53.0	46.9	41.5	36.7	32.4	28.5
500	81.2	71.6	63.4	56.2	50.0	44.5	39.6	35.2	31.2
510	84.9	75.1	66.7	59.4	53.0	47.4	42.4	37.9	33.9
520	88.4	78.4	69.9	62.4	55.9	50.2	45.1	40.5	36.4
530	91.8	81.6	72.9	65.3	58.7	52.9	47.7	43.0	38.8
540	95.2	84.8	75.9	68.1	61.4	55.5	50.2	45.4	41.2
550	98.4	87.8	78.6	70.9	64.0	58.0	52.6	47.8	43.4
560	101.6	90.8	81.6	73.6	66.6	60.5	55.0	50.1	45.6
570	104.8	93.8	84.4	76.3	69.2	62.9	57.3	52.3	47.8
580	107.9	96.8	87.2	78.9	71.7	65.3	59.6	54.5	49.9
590	111.0	99.7	90.0	81.5	74.2	67.7	61.9	56.7	52.0
600	114.0	102.5	92.6	84.0	76.5	69.9	64.0	58.8	54.0
610	117.0	105.3	95.2	86.5	78.9	72.1	66.2	60.8	56.0
620	120.0	108.0	97.8	88.9	81.2	74.4	68.3	62.8	58.0
630	122.9	110.7	100.4	91.3	83.5	76.6	70.4	64.8	59.9
640	125.7	113.4	102.9	93.7	85.8	78.7	72.4	66.6	61.7
650	128.6	116.1	105.4	96.1	88.0	80.8	74.4	68.7	63.6
660	131.4	118.7	107.8	98.3	90.1	82.8	76.3	70.6	65.3
670	134.2	121.2	110.2	100.6	92.2	84.6	78.3	72.4	67.1
680	136.9	123.6	112.6	102.9	94.3	86.6	80.2	74.2	68.9
690	139.6	126.3	115.0	105.1	96.4	88.6	82.1	76.0	70.6
700	142.3	128.6	117.3	107.3	98.5	90.6	83.9	77.8	72.3
710	144.9	131.3	119.6	109.4	100.5	92.7	85.7	79.5	73.9
720	147.5	133.7	121.8	111.5	102.5	94.6	87.5	81.2	75.5
730	150.1	136.1	124.0	113.6	104.5	96.5	89.3	82.9	77.1
740	152.7	138.5	126.2	115.7	106.5	98.3	91.5	84.5	78.7
750	155.3	140.8	128.5	117.8	108.4	100.1	92.8	86.1	80.3
760	157.8	143.1	130.6	119.7	110.3	101.9	94.4	87.8	81.7
770	160.2	145.4	132.7	121.7	112.1	103.6	96.0	89.3	83.2
780	162.6	147.6	134.8	123.7	113.9	105.3	97.6	90.8	84.7
790	165.1	149.9	136.9	125.6	115.7	107.0	99.2	92.3	86.1

Table 69.177(a)(5)— Minimum Distance in Inches Between the Tonnage Mark and the Line of the Second Deck—Continued

L (in feet)	L divided by D								
	12	13	14	15	16	17	18	19	20
800	167.5	152.1	138.9	127.4	117.4	106.6	100.8	93.8	87.4

L=the length in feet of the line of the second deck at the centerline of the vessel from the inner surface of the frames at the vessel's stem to the inner surface of the frames at the vessel's stern.

D=The vertical distance in feet from the top of the flat keel of the vessel to the line of the second deck.

Example (1) For a vessel in which L=450 feet and L/D=15 feet, read down from the L/D column "15" and to the right on the column "450" to where the two columns intersect at 39.8. The tonnage mark must be located 39.8 inches below the line of the second deck.

Example (2) If L or L/D is an intermediate number, the distance "a" between the tonnage mark and the line of the second deck must be obtained by linear interpolation. For a vessel in which L=424.80 feet and L/D= 15.17:

L	Table L/D=15	Actual Table L/D=15.17	Table L/D=18
Table 420	30.4		25.2
Actual 424.80	r	a	s
Table 430	33.3		27.9

Interpolation:
r=30.4+0.48 (33.3−30.4)=31.79
s=25.2+0.48 (27.9−25.2)=26.50
a=r−0.17 (r−s)=31.79−0.17 (31.79−26.50)=30.89 inches

(6) For the following vessels with a load line mark, the upper edge of the tonnage mark must be located at the level of the uppermost part of the load line grid:

(i) Vessels assigned only one gross and one net tonnage under § 69.175(c).

(ii) Vessels for which a load line assigning authority certifies that the vessel's load line mark was located as though the second deck were the freeboard deck.

(b) *Line for fresh and tropical waters.* (1) Except as under paragraph (b)(4) of this section, a horizontal line for fresh and tropical waters may be assigned at the vessel owner's request.

(2) The line must be nine inches long and one inch wide and located above and to the left of the tonnage mark at a distance equal to one forty-eighth of the distance from the top of the flat keel to the tonnage mark. The tonnage mark and the line for fresh and tropical waters must be connected by a vertical line one inch wide. (See the figure in § 69.183(a).)

(3) The line for fresh and tropical waters must be designated by a welded bead or other permanent mark nine inches long placed along the upper edge of the line.

(4) For vessels with a load line mark, if the load line assigning authority certifies that the load line mark was located as though the second deck were the freeboard deck, a line for fresh and tropical waters must not be placed on the vessel.

(c) *Freeboard deck mark.* A vessel assigned two gross and two net tonnages which has more than one deck and no load line mark assigned must have a mark on each side of the vessel with the same dimensions and location as the freeboard deck line mark under § 42.13–20 of this chapter, except that the mark must be located directly above the tonnage mark.

(d) *The line of the second deck.* The line of the second deck must not be marked on the side of the vessel.

(e) *Color of markings.* All markings under this section must be maintained in either a light color on a dark background or a dark color on a light background.

§ 69.179 Certification of markings.

(a) Before a certificate of measurement is issued for a vessel requiring a tonnage mark, a certification by a measurement organization under § 69.15 that all markings meet the requirements of this subpart is required.

(b) The Coast Guard, at any time, may verify markings under this subpart.

§ 69.181 Locating the line of the second deck.

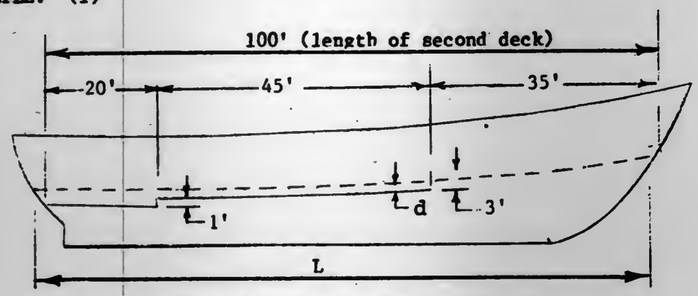
(a) If the second deck is not stepped, the line of the second deck is the longitudinal line of the underside of the second deck at the side of the hull.

(b) If the second deck is stepped (as in the examples following this paragraph), the line of the second deck is a longitudinal line extended parallel to each portion of the second deck and located at the height of the underside of the amidships portion of the second deck at the side of the hull—

(1) Plus, for each stepped portion of the second deck higher than the second deck at amidships, a distance equal to the length of the stepped portion divided by the total length of the second deck times the height that the step is above the height of the amidship portion of the second deck; and

(2) Minus, for each stepped portion of the second deck lower than the second deck at amidships, a distance equal to the length of the stepped portion divided by the total length of the second deck times the height that the amidship portion of the second deck is above the height of the step.

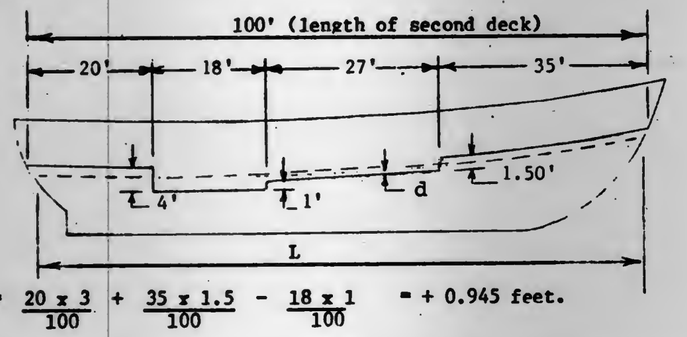
EXAMPLE: (1)



L = Length of the line of the second deck.
d = Distance from amidship portion of second deck to line of second deck.

$$d = \frac{35 \times 3}{100} - \frac{20 \times 1}{100} = +0.85 \text{ feet.}$$

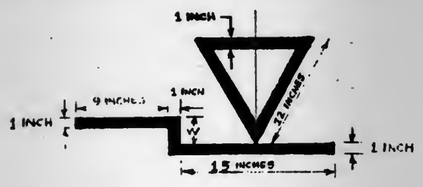
EXAMPLE: (2)



$$d = \frac{20 \times 3}{100} + \frac{35 \times 1.5}{100} - \frac{18 \times 1}{100} = +0.945 \text{ feet.}$$

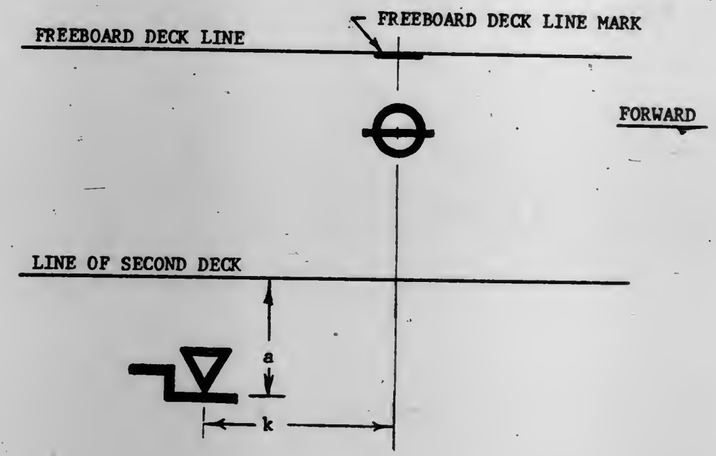
§ 69.163 Figures.

(a) *Tonnage mark with an equilateral triangle and a line for fresh and tropical waters.*



W = 1/48 of the distance from the top of the flat keel to the tonnage mark. (See § 69.177(b)(2).)

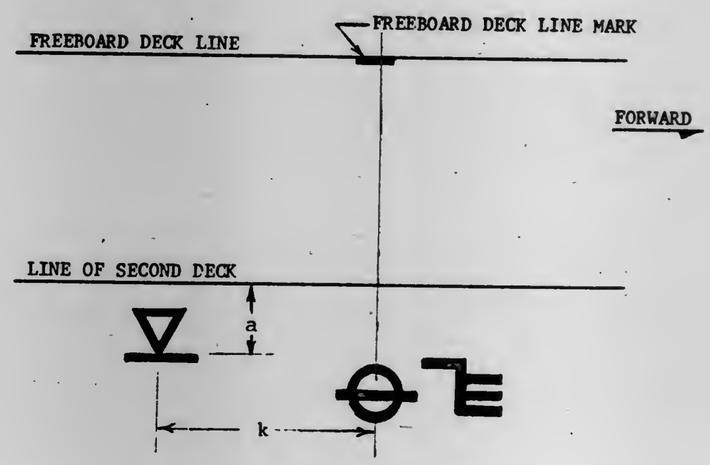
(b) *Tonnage mark location if the load line mark is not placed as though the second deck were the freeboard deck.*



k = a distance between 21 inches and six feet six inches.

a = distance derived from Table 69.177(a)(5).

(c) *Tonnage mark location if the load line mark is placed as though the second deck were the freeboard deck.*



k = a distance between 21 inches and six feet six inches.

a = the distance between the line of the second deck and the uppermost part of the load line grid.

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Subpart E—Simplified Measurement System

§ 69.201 Purpose.

This subpart prescribes the procedures for measuring a vessel under the Simplified Measurement System described in 46 U.S.C. Chapter 145, Subchapter III.

§ 69.203 Definitions.

As used in this subpart and in Coast Guard Form CG–5397 under § 69.205—

"Overall breadth" means the horizontal distance taken at the widest part of the hull, excluding rub rails, from the outboard side of the skin (outside planking or plating) on one side of the hull to the outboard side of the skin on the other side of the hull.

"Overall depth" means the vertical distance taken at or near midships from a line drawn horizontally through the uppermost edges of the skin (outside planking or plating) at the sides of the hull (excluding the cap rail, trunks, cabins, and deckhouses) to the outboard face of the bottom skin of the hull, excluding the keel. For a vessel that is designed for sailing and has a keel faired to the hull, the keel is included in "overall depth" if the distance to the bottom skin of the hull cannot be determined reasonably.

"Overall length" means the horizontal distance between the outboard side of the foremost part of the stem and the outboard side of the aftermost part of the stern, excluding rudders, outboard motor brackets, and other similar fittings and attachments.

"Registered breadth" means—

(a) For a single-hull vessel, the vessel's overall breadth; and

(b) For a multi-hull vessel, the horizontal distance taken at the widest part of the complete vessel between the outboard side of the skin (outside planking or plating) on the outboardmost side of one of the outboardmost hulls to the outboard side of the skin on the outboardmost side of the other outboardmost hull, excluding rubrails.

"Registered depth" means—

(a) For a single-hull vessel, the vessel's overall depth; and

(b) For a multi-hull vessel, the overall depth of the deepest hull.

"Registered length" means—

(a) For a single-hull vessel, the vessel's overall length; and

(b) For a multi-hull vessel, the horizontal distance between the outboard side of the foremost part of the stem of the foremost hull and the outboard side of the aftermost part of the stern of the aftermost hull, excluding fittings or attachments.

"Vessel designed for sailing" means a vessel which has the fine lines of a sailing craft and is capable of being propelled by sail, whether or not the vessel is equipped with an auxiliary motor, a decorative sail, or a sail designed only to steady the vessel.

§ 69.205 Application for measurement services.

To apply for measurement under the Simplified Measurement System, the owner of the vessel must complete the current issue of Coast Guard Form CG–5397 and submit the form to the Coast Guard Port of Documentation Office at the port where the vessel will be documented. (See Part 67, Appendix D, of this chapter for a list of these offices.)

§ 69.207 Measurements.

(a) All lengths and depths must be measured in a vertical plane at centerline and breadths must be measured in a line at right angles to that plane. All dimensions must be expressed in feet and inches or in feet and tenths of a foot.

(b) For a multi-hull vessel, each hull must be measured separately for overall length, breadth, and depth and the vessel as a whole must be measured for registered length, breadth, and depth.

(c) The Coast Guard may verify dimensions of vessels measured under this subpart.

§ 69.209 Calculation of tonnages.

(a) *Gross tonnage.* (1) Except as in paragraphs (a)(2) through (5) of this section, the gross tonnage of a vessel designed for sailing is one half of the product of its overall length, overall breadth, and overall depth (LBD) divided by one hundred (i.e., 0.50 LBD/100), and the gross tonnage of a vessel not designed for sailing is 0.67 LBD/100.

(2) The gross tonnage of a vessel with a hull that approximates in shape a rectangular geometric solid (barge-shape) is 0.84 LBD/100.

(3) The gross tonnage of a multi-hull vessel is the sum of all the hulls as calculated under this section.

(4) If the volume of the principal deck structure of a vessel that is indicated as a houseboat on Coast Guard Form CG–5397 is as large as, or larger than, the volume of the vessel's hull, the volume of the principal deck structure in tons of 100 cubic feet is added to the tonnage of the hull to establish the vessel's gross tonnage. The volume of the principal deck structure of a vessel is determined by the product of its average dimensions.

(5) If the overall depth of a vessel designed for sailing includes the keel, only 75 percent of that depth is used for gross tonnage calculations.

(b) *Net tonnage.* (1) For a vessel having propelling machinery in its hull—

(i) The net tonnage is 90 percent of its gross tonnage, if it is a vessel designed for sailing; or

(ii) The net tonnage is 80 percent of its gross tonnage, if it is not a vessel designed for sailing.

(2) For a vessel having no propelling machinery in its hull, the net tonnage is the same as its gross tonnage.

Dated: March 31, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89–9557 Filed 4–25–89; 8:45 am]

BILLING CODE 4910–14–M

46 CFR Parts 170, 171, 173, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, and 185

[CGD 85–080]

RIN 2115–AC22

Small Passenger Vessel Inspection and Certification; Extension of Comment Period and Announcement of Public Meeting and Hearings

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; extension of comment period and notice of meeting and hearings.

SUMMARY: On January 30, 1989, the Coast Guard published in the **Federal Register** (54 FR 4412) a notice of proposed rulemaking to revise the regulations governing small passenger vessels (Title 46, Code of Federal Regulations, Subchapter T). Subchapter T contains the regulations for the inspection and certification of small passenger vessels including requirements for construction, outfitting of lifesaving and fire protection equipment, machinery and electrical installations, and operations. The term "small passenger vessel" generally includes any vessel of less than 100 gross tons carrying more than six passengers.

Because of requests for additional time to comment on the proposed rulemaking, the deadline for receipt of comments is extended to July 31, 1989.

The Coast Guard will hold one public meeting and six public hearings on this proposal on the dates and at the locations specified below.

DATES: Comments must be received on or before July 31, 1989. The dates for the public meeting and the hearings are listed in **SUPPLEMENTARY INFORMATION** below.

ADDRESSES: Written comments should be submitted to The Executive Secretary, Marine Safety Council (G–LRA–2/3600)(CGD 85–080), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. Comments may be delivered to and will be available for inspection or copying, and the materials referenced in this notice will be available for examination and copying, at the Marine Safety Council (G–LRA–2), Room 3600, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, (202) 267–1477, between 8 a.m. and 3 p.m., Monday through Friday, except holidays.

The locations of the public meeting and hearings are listed in **"SUPPLEMENTARY INFORMATION"** below.

FOR FURTHER INFORMATION CONTACT: LCDR William P. Cummins, Project Manager, Office of Merchant Marine Safety, Security, and Environmental Protection, (G–MVI), phone (202) 267–1181.

SUPPLEMENTARY INFORMATION:

Written Comments

The Notice of Proposed Rulemaking published on January 30, 1989, invited and encouraged interested persons to participate in this proposed rulemaking by submitting written comments, including views, data, or arguments, on the proposal by May 31, 1989. Several persons requested an extension of the comment period citing the size of the rulemaking and the difficulty in studying and providing meaningful responses within the original 120 day comment period. Because of these requests and in order to schedule additional hearings also requested by the public, the deadline for receipt of comments is extended to July 31, 1989.

Persons submitting comments should include their name and address, reference the rulemaking docket number (CGD 85–080), give the specific section of the proposed regulations to which each comment applies, and include supporting documents or sufficient detail to indicate the reason for each comment. Both comments supporting or opposing specific proposed regulations are encouraged. Persons desiring an acknowledgment that their comments were received should include a stamped, self-addressed envelope or postcard. This proposal may be changed in light of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

Public Meeting

The Coast Guard will hold a public meeting on the proposed rulemaking in Washington, DC, at 1:30 p.m. on Thursday, May 4, 1989. The location will be: U.S. Department of Transportation Headquarters, Nassif Building, Room 2230, 400 7th St. SW., Washington, DC.

The propose of the public meeting is to give the public an opportunity to ask questions on the intent of specific proposed requirements, ask questions on the methods of developing the costs associated with specific proposed requirements, and to request clarification of any of the requirements which may not be understood. The meeting will be conducted in an informal question and answer format. The questions which are raised will be addressed by a panel of Coast Guard technical personnel involved with the development of the rulemaking. Comments objecting to the proposed requirements, contesting cost estimates stated in the regulatory evaluation, or recommending alternative actions will not be accepted at the public meeting but may be made in writing before the end of the comment period or presented orally at a public hearing, the first of which will be held in Washington, DC on May 5, 1989.

Public Hearings

The Notice of Proposed Rulemaking published on January 30, 1989, stated that the Coast Guard planned to hold public hearings on this rulemaking in Washington, DC, New Orleans, LA, and San Francisco, CA. The Notice of Proposed Rulemaking also stated that hearings may be held in other locations if requested in writing by interested persons who can demonstrate that other

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opportunities to make an oral presentation will aid this rulemaking. The hearings will permit the public to orally present their views on the regulatory proposal, suggest alternative actions, and provide supportive information for their positions.

Numerous written comments were received requesting additional hearings in certain locations. As a result of those requests and in order to give the public adequate opportunity to make oral presentations on the proposed rulemaking, the Coast Guard will hold public hearings on the below listed dates at the indicated locations. Each hearing will begin at 10:00 a.m. and end at 5:00 p.m. or earlier if all the speakers have been heard.

The hearing schedule is as follows:

—Washington, District of Columbia; Friday, May 5, 1989. Department of Transportation Headquarters, Nassif Building, Room 2230, 400 7th St., SW., Washington, DC.

—St. Louis, Missouri; Tuesday, May 9, 1989. Holiday Inn Clayton Plaza, 7730 Bonhomme St., St. louis, MO; Telephone No. (314) 863–0400

—New Orleans, Louisiana; Wednesday, June 7, 1989. Hale-Boggs Federal Building, Room 1120, 500 Camp St., New Orleans, LA.

—San Francisco, California; Thursday, June 8, 1989. Travel Lodge, 250 Beach St., San Francisco, CA; Telephone No. (415) 392–6700

—Chicago, Illinois; Wednesday, June 14, 1989. Executive House Hotel, Illinois Room, 71 East Wacker Dr., Chicago, IL; Telephone No. (312) 346–7100

—Boston, Massachusetts; Friday, June 23, 1989. Boston Marine Society, National Historical Park Building #32, Charlestown Navy Yard, Charlestown, MA.

Interested persons are invited to participate in these hearings. Those wishing to make an oral statement should register at least 2 days before the date of the particular hearing at which the statement is to be made. Oral statements by individuals without prior registration will be allowed only if time permits. The Coast Guard reserves the right to impose time limits an oral presentations. To register, write or call the Executive Secretary, Marine Safety Council (G–LRA–2/3600) (CGD 85–080), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001; telephone number (202) 267–1477.

April 21, 1989.

M.J. Schiro,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89–10006 Filed 4–25–89; 8:45 am]

BILLING CODE 4910–14–M

Notices

Federal Register

Vol. 54, No. 79

Wednesday, April 26, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Slate and Coy Compartments; Red Hill Timber Sale; Sequoia National Forest, Tulare County, California Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement (EIS) for a proposal to harvest timber in the Slate Roadless Area in the Slate and Coy Compartments of the Tule River District of the Sequoia National Forest.

The Sequoia National Forest Land and Resource Management Plan has been prepared. One of the management emphasis in the plan is to harvest timber on lands within the Slate and Coy Compartments.

The alternatives to be considered will range from no action to harvesting volumes up to eighteen million board feet. Within the context of these alternatives, alternative rotation lengths and alternative average yarding distances for standards designated as helicopter yarding will be considered.

Federal, State, and local agencies; the Tule River Indian Reservation; potential purchasers of the timber; and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

To determine the scope of issues to be addressed and for identifying significant issues related to the proposed timber sale, the Tule River District Ranger will be sending to known interested individuals, agencies, and organizations scoping letters inviting comments on the proposed timber sale. A press release for area media will be prepared to invite comments from the public. The Tule River District Ranger will also respond to requests for meetings with organizations and individuals.

James A. Crates, Forest Supervisor, Sequoia National Forest, Porterville, California, is the responsible official.

The analysis is expected to take about 17 months. The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and be available for a 45 day public review period by October 1989. At that time EPA will publish a notice of availability of the draft EIS in the Federal Register. It is very important that those interested in the management of the Slate and Coy Compartments participate at that time. To be most helpful, address adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, Vermont Yankee Nuclear Power Corp. v NRDC, 435 U.S. 519,553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS, Wisconsin Heritages, Inc. v. Harris, 490 F Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made availsble to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

After the comment period ends of the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final environmental impact statement is scheduled to be completed by July 1990. In the final EIS, the Forest Service is required to respond to comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to appeal.

Written comments and suggestions concerning the analysis should be sent to Del Pengilly, District Ranger, Sequoia National Forest, Tule River Ranger District, 32588 Highway 190, Springville, California 93265, by June 1, 1989. This date is necessary to provide the interdisciplinary team with public concerns prior to their field analysis.

Questions about the proposed action and environmental impact statement should be directed to John Gerritsma, Planning Forester, Tule River Ranger District, phone 209–539–2607.

Date: April 14, 1989.

James A. Crates,

Forest Supervisor.

[FR Doc. 89–9960 Filed 4–25–89; 8:45 am]

BILLING CODE 3410–11–M

CIVIL RIGHTS COMMISSION

Rhode Island Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a community forum sponsored by the Rhode Island Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:30 p.m. on May 8, 1989, at the Senate Hearing Room, State House, Smith St., Providence, RI 02903. The forum will host four panels, dealing with (1) trends and causes of incidents of bigotry and violence; (2) collecting information on incidents of bigotry and violence; (3) incidents of bigotry and violence from the victim's perspective; and (4) incidents of bigotry and violence from the law enforcement perspective.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson David H. Sholes, (401/463–5600) or John I. Binkley, Director of the Eastern Regional Division of the Commission at 202/523–5264 or TDD 202/376–8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the regional division at least five (5) working days before the scheduled date of the meeting.

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The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 12, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89-9964 Filed 4-25-89; 8:45am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Business Development Center Applications; Brooklyn, NY

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $285,000 in Federal funds and a minimum of $50,294 in non-Federal contributions for the budget period October 1, 1989, to September 30, 1990. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Brooklyn, NY, SMSA geographic service area.

The funding instrument for the MBDCwill be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points) the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

DATE: The closing date for applications is June 12, 1989. Applications must be postmarked on or before June 12, 1989.

ADDRESS: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Bldg., Room 3720, New York, New York 10278, Area Code/ Telephone Number (212) 264-3262.

FOR FURTHER INFORMATION CONTACT: Gina A. Sanchez, Regional Director, New York Regional Office. (212) 264-3262.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address. A Pre-application Conference to assist all interested applications will be held on May 15, 1989, from 10:00 a.m. until 3:00 p.m. in Manhattan, New York, at the Jacob K. Javitts Federal Building, 26 Federal Plaza, Room 305-B. For further information please contact the NYRO at (212) 264-3262.

William R. Fuller,

(Deputy) Regional Director, New York Regional Office.

Date: April 17, 1989.

[FR Doc. 89-9942 Filed 4-25-89; 8:45 am]

BILLING CODE 3510-21-M

National Institute of Standards and Technology

[Docket No. 90401-9101]

National Voluntary Laboratory Accreditation Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Publication of NVLAP Directory Supplement.

SUMMARY: The National Institute of Standards and Technology (NIST) announces laboratory accreditation actions taken to date during the second quarter of 1989. The accompanying table lists 221 testing laboratories receiving initial accreditation to perform bulk asbestos analysis in accordance with 40 Code of Federal Regulations Chapter I (1-1-87 edition) Part 763, Subpart F, Appendix A pages 293-299 or the current U.S. Environmental Protection Agency method for the analysis of asbestos in building materials by polarized light microscopy.

FOR FURTHER INFORMATION CONTACT: Laboratory Accreditation, ADMIN A527, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301) 975-4016. Also current information can be obtained by communicating by computer with the NVLAP computer electronic bulletin board on 301-948-2058.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology periodically publishes supplements to the NVLAP Directory of Accredited Laboratories. This supplement is issued at this time to announce the large number of new actions taken and is published pursuant to § 7.6(b) of the National Voluntary Laboratory Accreditation Program Procedures (Title 15, Part 7, of the Code of Federal Regulations).

Raymond G. Kammer,

Acting Director.

Date: April 20, 1989.

Laboratories Accredited by NVLAP to Perform Bulk Asbestos Analysis (Alphabetically Listed by State)

BCM Engineers Inc., 104 St. Francis Street, Suite 400, P.O. Box 1784, Mobile, AL 36633, Phone: 205-433-0517

Chem-Ray, Inc., P.O. Box 821, Florence, AL 35631, Phone: 205-766-4345

EnviroChem Inc., 762 Downtowner Loop West, Mobile, AL 36609, Phone: 205-344-7711

Harmon Engineering Associates, 1550 Pumphrey Avenue, Auburn, AL 36830 Phone: 205-821-9250

Law Engineering, Inc., 3608 7th Court, South/P.O. Box 10244, Birmingham, AL 35202, Phone: 205-252-9901

Weston-ATC Mobile Facility, 1635 Pumphrey Avenue, Auburn, AL 36830, Phone: 205-828-6100

Weston-ATC, Inc., 1635 Pumphrey Avenue, Auburn, AL 36830, Phone: 205-828-6100

Arkansas Department of Health, 4815 West Markham, Little Rock, AR 72205, Phone: 501-661-2389

Environmental Services Company, Inc., 13715 West Markham, Little Rock, AR 72211, Phone: 501-221-2565

Fiberquant, Inc., 4824 S. 35th St., Phoenix, AZ 85040, Phone: 602-276-6138

ACCULAB Environmental Services, 3700 Lakeville Hwy., Petaluma, CA 94952, Phone: 707-778-4160

Aerojet TechSystems Company, Quality Assurance Testing Laboratory, P.O. Box 13222, Dept. 9410, Bldg. 2004, Sacramento, CA 95813, Phone: 916-355-3496

Asbestos Detection Co., Inc., 12755 Brookhurst Street, Suite 206, Garden Grove, CA 92640, Phone: 714-530-1922

California Water Labs, 1430 Carpenter Lane, Modesto, CA 95352, Phone: 209-527-4050

Certified Engineering & Testing Co., Inc., 725 Greenwich St., #204, San Francisco, CA 94133, Phone: 415-986-6872

Dan Napier & Associates, 15342 Hawthorne Boulevard, Suite 207, P.O. Box 1540, Lawndale, CA 90260, Phone: 213-644-1928

Dyer Laboratories, Inc., 2531 West 237th Street, #121, Torrance, CA 90505, Phone: 213-530-3322

EMS Laboratories, Inc., 211 Pasadena Avenue, South Pasadena, CA 91030, Phone: 213-257-2002

Environmental Innovations Corp. (EIC), 675 Hegenberger Road, Suite 110, Oakland, CA 94621, Phone: 415-632-0140

Forensic Analytical Specialties, Inc., 3777 Depot Road, Suite 408, Hayward, CA 94545, Phone: 415-887-8828

Kellco Services, Inc., 44814 Osgood Road, Fremont, CA 94539, Phone: 415-659-9751

Kellco Services, Inc., 8421 Auburn Avenue, Citrus Heights, CA 95610, Phone: 916-722-7997

Los Angeles City, Department of Water & Power, P.O. Box 111, 1630 North Main St., Bldg. 7, Los Angeles, CA 90051, Phone: 213-481-6691

Med-Tox Associates, Inc., San Diego Office, 1229 Morena Boulevard, San Diego, CA 92110, Phone: 619-276-8843

Microanalytical Services, Inc., 201 South Lake Avenue, Suite 402, Pasadena, CA 91101, Phone: 818-356-7400

National Asbestos Laboratories Inc., 2235 Polvorosa Ave., Suite 220, San Lendro, CA 94577, Phone: 415-786-0801

PACE Laboratories, Inc., 11 Digital Drive, Novato, CA 94949, Phone: 415-883-6100

Particle Diagnostics, Inc., 1274 Morena Boulevard, San Diego, CA 92110, Phone: 619-276-2200

RJ Lee Group, Inc., 2424 Sixth Street, Berkeley, CA 94710, Phone: 415-486-8319

Schwein/Christensen Engineering, Ltd., 3397 Mt. Diablo Blvd., Suite E, Lafayette, CA 94549, Phone: 415-284-3311

South Coast Air Quality Management Dist., 9150 Flair Drive, El Monte, CA 91731, Phone: 818-572-6430

Thermo Analytical Inc./TMA-Norcal, 2030 Wright Avenue, Richmond, CA 94804, Phone: 415-235-2633

Analytica, Inc., 593C McIntyre Street, Golden, CO 80403, Phone: 303-279-2583

DCM Science laboratory, 12975 West 24th Place, Golden, CO 80401, Phone: 303-237-0110

Aetna Life & Casualty Co., 575 Pigeon Hill Road, Windsor, CT 06095, Phone: 203-683-3647

Brooks Laboratories, Inc., 44 Codfish Lane, Weston, CT 06883, Phone: 203-226-6384

Chemscope, Inc., P.O. Box 389, Fair Haven Station, New Haven, CT 06513, Phone: 203-468-0055

Connecticut Dept. of Health Services, 10 Clinton Street, P.O. Box 1689, Hartford, CT 06106, Phone: 203-566-5626

Hartford Steam Boiler, Environmental Services Laboratory, One State Street, Hartford, CT 06102, Phone: 203-722-5476

Batta Environmental Assoc., Inc., 2608 Eastburn Center, P.O. Box 9722, Newark, DE 19714, Phone: 302-737-3376

Medlab, Inc., P.O. Box 2045, Wilmington, DE 19899, Phone: 302-994-5764

Advanced Industrial Hygiene Services, Inc., 2131 Southwest 2nd Ave., Miami, FL 33129, Phone: 305-854-7554

KNL Laboratory Services, 2742 N. Florida Ave., P.O. Box 1833, Tampa, FL 33601, Phone: 813-229-2879

Law Engineering, Inc., 4919 West Laurel Street, Tampa, FL 33607, Phone: 813-289-0750

Micro Analytical Laboratories, Inc., 3618 Northwest 97th Boulevard, Gainesville, FL 32606, Phone: 904-332-1701

PACE Laboratories, Inc., 5480 Beaumont Center Boulevard, Tampa, FL 33634, Phone: 913-884-8268

Southeastern Marine Chemists Inc., Southeastern Chemists Laboratories, 170 Arlington Road, Jacksonville, FL 32211, Phone: 904-725-2040

Thornton Laboratories, Inc., 1145 E. Cass St., Tampa, FL 33602, Phone: 813-223-9702

Clayton Environmental Consultants, Inc., 400 Chastain Center Boulevard NW., Suite 490, Kennesaw, GA 30144, Phone: 404-499-7500

Electron-Microscopy Service Labs, Inc., 1800 Peachtree Street NW., Suite 305, Atlanta, GA 30309, Phone: 404-355-4046

Environmental Analytical Laboratories, Cobb Corporate Center, Suite 300, 350 Franklin Road, Marietta, GA 30067, Phone: 404-425-9901

Materials Analytical Services, Inc., 3597 Parkway Lane, Suite 250, Norcross, GA 30092, Phone: 404-448-3200

Soil & Material Engineers, 3980 DeKalb Technology Parkway, Atlanta, GA 30340, Phone: 404-452-1911

Ames Environmental Inc., 3910 Lincoln Way, Ames, IA 50010, Phone: 515-292-3400

CHART Services Ltd., 4725 Merle Hay Road, Suite 214, Des Moines, IA 50322, Phone: 515-278-3642

Midwestern Testing Labs, Inc., 55½ North Main, P.O. Box 1657, Fairfield, IA 52556, Phone: 515-472-1881

Net Midwest, Inc., P.O. Box 625, 704 Enterprise Drive, Cedar Falls, IA 50613, Phone: 319-277-2401

University of Iowa, University Hygienic Laboratory, Iowa City, IA 52240, Phone: 319-335-4500

ABS Environmental Labs Inc., 605 Brookside, Frankfurt, IL 60423, Phone: 815-469-4464

Analytical Laboratory for Environmental Excellence Inc., 485 Frontage Road, Burr Ridge, IL 60521, Phone: 312-789-6060

Anasbestics Company, 7206 West 90th Place, Bridgeview, IL 60455, Phone: 312-598-2921

Beling Consultants, Inc., 1001 16th Street, Moline, IL 61265, Phone: 309-757-9800

Daily Analytical Laboratories, 1621 West Candletree Drive, Peoria, IL 61614, Phone: 309-692-5252

Fay Goldblatt Laboratories, Inc., 2111 Parkview Ct., Wilmette, IL 60091, Phone: 312-251-8338

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ITL/Bascor, 5960 North Milwaukee Avenue, Chicago, IL 60646, Phone: 312–792–2454
Mathes Asbestos Services, Inc., 210 West Sand Bank Road, P.O. Box 330, Columbia, IL 62236, Phone: 618–281–7173
Randolph & Associates, Inc., 8901 North Industrial Rd., Peoria, IL 61615, Phone: 309–692–4160
Randolph & Associates, Inc., 5440 North Cumberland Ave., Suite 111, Chicago, IL 60656, Phone: 312–693–6030
Sea, Earth & Air Environmental Consult, 5797 North Lincoln Avenue, Chicago, IL 60659, Phone: 312–878–6337
Stat Analysis Corporation, Chicago Technology Park, 2201 West Campbell Park Drive, Chicago, IL 60612, Phone: 312–763–3400
Suburban Environmental Consultants Ltd., 17121 Whitman, Hazel Crest, IL 60429, Phone: 312–335–1807
Asbestos Compliance Technology, Inc., of Indiana, 5353 North Tacoma Avenue, Indianapolis, IN 46220, Phone: 317–257–5096
EIS Environmental Engineers, Inc., 1701 North Ironwood Drive, South Bend, IN 46635, Phone: 219–277–5715
Environmental Analytical Laboratories, 314 South State Avenue, Indianapolis, IN 46201, Phone: 317–269–3618
Micro Air, Inc., 7168 Zionsville Road, Indianapolis, IN 46268, Phone: 317–293–1533
Micro Air, Inc., 7132 Lakeview Parkway Drive, West, Indianapolis, IN 46268, Phone: 317–293–1533
Walker & Ward, 9119 Formington Drive, P.O. Box 12015, Evansville, IN 47712, Phone: 812–985–7877
ALERT Analytical Laboratories, 1900 West 47th Place, Westwood, KS 66205, Phone: 913–831–4516
CHART Services Ltd., 12616 W. 62nd Terrace, Suite 118, P.O. Box 18, Shawnee, KS 66216, Phone: 913–268–0715
Metro Service Laboratories, Inc., 6309 Fern Valley Pass, Louisville, KY 40228, Phone: 502–964–0665
Central Analytical Laboratories, Inc., 2600 Marietta Street, Kenner, LA 70062, Phone: 504–469–3511
Certified Engineering & Testing Co., Inc., 25 Mathewson Drive, Weymouth, MA 02189, Phone: 617–337–7867
Dennison Environmental, Inc., 35 Industrial Parkway, Woburn, MA 01801, Phone: 617–932–9400
ESA Laboratories, Inc., 43 Wiggins Avenue, Bedford, MA 01730, Phone: 617–275–0100
Enviro-Lab, Inc., 154 Grove Street, Chicopee, MA 01020, Phone: 413–592–0030
Hygeia, Inc., 2303 Bear Hill Road, Waltham, MA 02514, Phone: 617–890–4999
Massachusetts Materials Research, Inc., 241 West Boylston Street, P.O. Box 810, West Boylston, MA 01583, Phone: 617–835–6262
ATEC Associates, Industrial Hygiene Div., 8989 Hermann Dr., Columbia, MD 21045, Phone: 301–381–0232
Apex Environmental, Inc., 7930 Old Georgetown Rd., Bethesda, MD 20814, Phone: 301–657–2739
Biospherics Incorporated, 12051 Indian Creek Court, Beltsville, MD 20705, Phone: 301–369–3900
Geo-Environmental Services, Inc., 444 North Frederick Ave., Suite L–148, Gaithersburg, MD 20877, Phone: 301–353–0338
OMC, Inc., 4451 Parliament Place, Lanham, MD 20706, Phone: 202–488–7990
DeLisle Consulting & Laboratories, Inc., 6946 East N Avenue, Dalamazoo, MI 49001, Phone: 616–343–9698
ERT Testing Services, Inc., 211 Glendale, Suite 425, Highland Park, MI 48203, Phone: 313–865–0600
Sierra Analytical & Consulting Services, 307 North First Street, Ann Arbor, MI 48103, Phone: 313–662–1155
Testing Engineers, and Consultants, Inc., 1333 Rochester Rd., P.O. Box 249, Troy, MI 48099, Phone: 313–588–6200
Braun Environmental Laboratories, Inc., 6800 South County Road 18, P.O. Box 35108, Minneapolis, MN 55435, Phone: 612–941–5600
Institute For Environmental Assessment, 2829 Verndale Avenue, Anoka, MN 55303, Phone: 612–427–5310
NOVA Environmental Services, Inc., Suite 420, 1107 Hazeltine Boulevard, Chaska, MN 55318, Phone: 612–448–8888
PACE Laboratories, Inc., 1710 Douglas Drive N., Minneapolis, MN 55422, Phone: 612–544–5543
Twin City Testing Corporation, 662 Cromwell Avenue, St. Paul, MN 55114, Phone: 612–649–5000
Industrial Testing Laboratories, Inc., 2350 South 7th Blvd., St. Louis, MO 63104, Phone: 314–771–7111
Microscopic Analysis, Inc., 989 Gardenview Office Parkway, St. Louis, MO 63141, Phone: 314–993–2212
Midwest Environmental Testing & Training, 612 West 3rd Street, Unit B, Lee's Summit, MO 64063, Phone: 816–525–6681
University of Missouri—Kansas City, Chemistry Department, Kansas City, MO 64110, Phone: 816–276–2289
Bonner Analytical Testing Company, Rt. 14, Box 509, Hattiesburg, MS 39402, Phone: 601–264–2854
Northern Engineering & Testing, Inc., 600 South 25th St., Billings, MT 59107, Phone: 406–248–9161
Asbestos Analysis & Information Service, P.O. Box 837, Four Oaks, NC 27524, Phone: 919–894–2804
E.I. du Pont de Nemours & Company, Inc., Cape Fear Plant—PD, P.O. Box 2042, Wilmington, NC 28402, Phone: 919–371–4257
Ecosafe Industrial Hygiene Laboratory, 1713 Chapel Hill Road, Durham, NC 27707, Phone: 919–493–2612
EnviroSciences Inc., 3810 F. Merton Drive, Raleigh, NC 27609, Phone: 919–782–1487
NSI–ERS Analytical Services Laboratory, 2 Triangle Drive, P.O. Box 12313, Research Triangle Park, NC 27709, Phone: 919–549–0611
TEI Environmental, Inc., 308A Pomona Dr., Greensboro, NC 27407, Phone: 919–852–0316
CHART Services Ltd., 7912 Davenport Street, Omaha, NE 68114, Phone: 402–393–0155
New Hampshire Division of Public Health, Public Health Laboratory, 6 Hazen Drive, Concord, NH 03301, Phone: 603–271–4657
Applied Environmental Technology, Inc., 316 Cooper Center, Pennsauken, NJ 08109, Phone: 609–488–9200
Atlantic Environmental, Inc., 2 East Blackwell Street, Suite 24, Dover, NJ 07801, Phone: 201–366–4660
Atlantic Environmental, Inc., 2 East Blackwell Street, Suite 24, Dover, NJ 07801, Phone: 201–366–4660
Bulava Environmental, Inc., 13 Hunt Club Rd., Belle Mead, NJ 08502, Phone: 201–874–6207
Corning Environmental Services, One Malcolm Ave., Teterboro, NJ 07608, Phone: 201–393–5647
Electron-Microscopy Service Labs, Inc., 106 Haddon Avenue, Westmont, NJ 08108, Phone: 609–858–4800
Exxon Biomedical Sciences, Inc., Industial Hygiene Analyst Services Lab, Mettlers Road—CN 2350, East Millstone, NJ 08875, Phone: 201–873–6033
Powell Environmental Services, Inc., Suite 9A, Camp Meeting Grounds, Delanco, NJ 08075, Phone: 609–764–8886
Princeton Testing Laboratory, Inc., P.O. Box 3108, Princeton, NJ 08543, Phone: 609–452–9050
New Mexico State University, Electron Microscope Laboratory, Box 3EML, Las Cruces, NM 88003, Phone: 505–646–3734
Ambient Labs, Inc., 119 West 23rd Street, New York, NY 10011, Phone: 212–962–4242
Buck Environmental Labs., Inc., 100 Tompkins St., Cortland, NY 13045, Phone: 607–753–3403

Calibrations, Inc., 802 Watervaliet Shaker Road, Lathan, NY 12110, Phone: 518–786–1865
Certified Engineering & Testing Co., Inc., of Upstate New York, 288 Genesee St., Utica, NY 13502, Phone: 315–732–3826
Chopra-Lee Laboratory, 1741 Baseline Road, Grand Island, NY 14072, Phone: 716–733–6748
Comprehensive Analytical Group, 147 Midler Park Drive, P.O. Box 254, Syracuse, NY 13206, Phone: 315–432–0855
Environmental Management Systems, Inc., 14 Sarafian Road, New Platz, NY 12561, Phone: 914–255–1034
Galson Technical Services, Inc., 6601 Kirkville Road, East Syracuse, NY 13057, Phone: 315–432–0506
Hygeia, Inc., 276 Fifth Avenue, Suite 503, New York, NY 10001, Phone: 212–545–7822
Independent Asbestos Labs, Inc., 5900 Butternut Drive, East Syracuse, NY 13057, Phone: 315–437–1122
OBG Laboratories, Inc., 1304 Buckley Road, Syracuse, NY 13221, Phone: 315–451–4700
Suffolk County Public & Env. Health Lab, Bldg. 77, Veterans Memorial Highway, Hauppauge, NY 11788, Phone: 516–360–5528
TAKA Asbestos Analytical Services, Inc., 8 Pine Hill Court, Northport, NY 11768, Phone: 516–261–2117
TAKA Asbestos Analytical Services, Inc., Environmental Testing, 324 Larkfield Road, E. Northport, NY 11731, Phone: 516–261–2117
American Analytical Laboratories, Inc., 100 Lincoln Street, Akron, OH 44308, Phone: 216–535–1300
Bruce Menkel and Associates, Inc., 235 Industrial Drive, P.O. Box 159, Franklin, OH 45005, Phone: 513–746–9300
Deyor Laboratories, Inc., Industrial Laboratory, 7855 Market Street, Suite 2500, Youngstown, OH 44512, Phone: 216–758–5788
Electro-Analytical, Inc., 7118 Industrial Park Blvd., Mentor, OH 44060, Phone: 216–951–3514
Environmental Consultants, Inc., 1810 North 12th Street, P.O. Box 2104, Toledo, OH 43603, Phone: 419–241–7127
Gelles Laboratories, Inc., 2836 Fisher Road, Columbus, OH 43204, Phone: 614–276–2957
Martin Marietta Energy Systems, Inc., Portsmouth Gaseous Diffusion Plant, P.O. Box 628, Piketon, OH 45661, Phone: 614–289–2331
Micro View Consulting, 416 East Catawba Ave., Akron, OH 44301, Phone: 216–773–8330
Monarch Analytical Laboratories, P.O. Box 2990, Toledo, OH 43606, Phone: 419–535–1780
PEI Associates, Incorporated, 11499 Chester Road, Cincinnati, OH 45246, Phone: 513–782–4700
Ricerca, Inc., 7528 Auburn Road, P.O. Box 1000, Painesville, OH 44077, Phone: 216–357–3261
SEA Inc., 7349 Worthington-Galena Road, Columbus, OH 43085, Phone: 614–888–4160
Tremco Inc., 10701 Shaker Blvd., Cleveland, OH 44104, Phone: 216–292–5000
Diversified Environmental Technologies, 132 West Main Street, Suite 110, Norman, OK 73069, Phone: 405–360–7929
Marshall Environmental Management, Inc., 3801 Northwest 63rd Street, Suite 162, Oklahoma City, OK 73116, Phone: 405–842–3415
Environmental Consulting Services, Inc., 1259 Willamette Street, Eugene, OR 97401, Phone: 503–345–6790
Environmental Consulting Services, Inc., 3601 Northwest Yeon, Suite 134, Portland, OR 97210, Phone: 503–227–7210
Oregon Analytical Laboratory, 14655 Southwest Old Schools Ferry Road, Beaverton, OR 97007, Phone: 503–644–5300
AGX, Inc., Freedom Professional Building, Suite 3B, 1341 Old Freedom Road, Mars, PA 16046, Phone: 412–776–1905
Accredited Environmental Tech., Inc., 28 North Pennell Road, Lima, PA 19037, Phone: 215–891–0114
Alcoa Environmental Health Laboratory, Alcoa Technical Center, Alcoa Center, PA 15069, Phone: 412–337–2154
Allegheny Asbestos Analysis, Inc., 300 Mt. Lebanon Blvd., Suite 2217, Pittsburgh, PA 15234, Phone: 412–563–3744
Allegheny Mountain Research, Inc., Environmental Consultants, R.D.I., Box 243A, Berlin, PA 15530, Phone: 814–267–4404
Altest Environmental Laboratories, 28 West Main St., Plymouth, PA 18651, Phone: 717–779–5377
Cumberland Analytical Laboratories Inc., 56 North Second St., Chambersburg, PA 17201, Phone: 717–263–5943
Free-Col Laboratories, P.O. Box 557 Cotton Road, Meadville, PA 16335, Phone: 814–724–6242
Galson Technical Services, Inc., 5170 Campus Drive, Plymouth Meeting, PA 19462, Phone: 315–834–7288
MDS Laboratories, 4418 Pottsville Pike, Reading, PA 19605, Phone: 215–921–9191
Pennsylvania DER Bureau of Laboratories, 3rd & Reily St., P.O. Box 1467, Harrisburg, PA 17120, Phone: 717–787–4669
RJ Lee Group, Inc., 350 Hochberg Road, Monroeville, PA 15146, Phone: 412–325–1776
SSI Environmental Consultants, Expressway Park, Gulf Lab Road—Harmarville, Pittsburgh, PA 15238, Phone: 412–295–2399
Spotts, Stevens and McCoy, Inc., 345 North Wyomissing Blvd., P.O. Box 6307, Reading, PA 19610, Phone: 215–376–6581
R.I. Analytical Laboratories, Inc., 1040 Mineral Spring Ave., North Providence, RI 02904, Phone: 401–725–4190
Azimuth, Inc., 9229 University Blvd., Charleston, SC 29418, Phone: 803–553–9456
Davis & Floyd, Inc., 616 East Durst Street, Greenwood, SC 29646, Phone: 803–229–5211
Environmental Engineering Company, Inc., 500 Rivermont Road, Columbia, SC 29210, Phone: 803–256–7846
Envirosciences, Inc., 187 North Church Street, Suite 705, Spartanburg, SC 29301, Phone: 803–585–4900
Soil & Material Engineers, 840 Low Country Boulevard, Mt. Pleasant, SC 29464, Phone: 803–884–0005
ATC Environmental, Inc., 1515 East Tenth Street, Sioux Falls, SD 57103, Phone: 605–338–0555
Specialized Assays, Inc., 210 12th Avenue S., Nashville, TN 37203, Phone: 615–255–5786
Aegis Associates, 44 East Ave.; Suite 100, Austin, TX 78701, Phone: 512–474–8789
Aegis Associates—El Paso, 1280 Hawkins, Suite 120, El Paso, TX 79925, Phone: 915–592–6556
Building Environmental Systems, Inc., 3501 North MacArthur, Suite 400B, Irving, TX 75062, Phone: 214–257–0787
E.O.S. Engineers & Laboratories, Inc., 1450 Empire Central, Suite 116, Dallas, TX 75247, Phone: 214–631–0862
East Texas Testing Laboratory, Inc., 1717 East Erwin, Tyler, TX 75702, Phone: 214–595–4421
Environmental Research Institute, Inc., P.O. Box 2024, Tyler, TX 75710, Phone: 214–877–9314
Envirotest, Inc., 9504 Richmond, Suite 414, Houston, TX 77063, Phone: 713–782–4101
Maxim Engineers, Inc., 2342 Fabens, Dallas, TX 75229, Phone: 214–247–7575
Maxim Engineers, Inc., 11601 North Lamar, Austin, TX 78753, Phone: 512–837–8851
McClelland Management Services, Inc., 6100 Hillcroft, Suite 220, Houston, TX 77061, Phone: 713–995–9000
Microanalysis Laboratory D/FW-P.E.I., P.O. Box 612383 (Trailer #12), D/FW

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Airport, TX 75261, Phone: 214–574–1700
Microanalysis Laboratory, Inc., 8499 Greenville Avenue, Suite 201, Dallas, TX 75231, Phone: 214–340–0890
NUS Corporation, 900 Gemini Avenue, Houston, TX 77058, Phone: 713–488–1810
Raba-Kistner Consultants, Inc., 12821 West Golden Lane, San Antonio, TX 78249, Phone: 512–699–9090
Southwestern Public Service Co., System Lab, P.O. Box 1261, Amarillo, TX 79170, Phone: 806–381–6360
Technology Serving People, Inc., 5373 West Alabama, Suite 450, Houston, TX 77056, Phone: 713–621–0067
Texaco Chemical Co., PTS Laboratory, 6001 Highway 366, P.O. Box 847, Port Neches, TX 77651, Phone: 409–724–4460
Texas Research Institute, 9063 West Bee Caves Road, Austin, TX 78733, Phone: 512–263–2101
Professional Service, Industries, Inc., 2955 South West Temple St., Salt Lake City, UT 84115, Phone: 801–484–8827
American Medical Laboratories, Inc., 11091 Main Street, Fairfax, VA 22030, Phone: 703–691–0100
American Medical Laboratories, Inc., 2000 Bremo Road, #204 Richmond Medical Park, Richmond, VA 23226, Phone: 804–282–1324
Analytics Laboratory Inc., 1415 Rhoadmiller Street, Richmond, VA 23220, Phone: 804–353–8973
Analytics Laboratory Inc., 205 South Whiting Street, Suite 405, Alexandria VA 22304, Phone: 703–751–3803
Analytics Laboratory Inc., 1003 Norfolk Square, Norfolk, VA 23502, Phone: 804–857–0675
Med-Tox Associates, Inc., 10366 Battleview Parkway, Manassas, VA 22110, Phone: 703–368–7880
Pacific Environmental Services, Inc., 11440 Isaac Newton Square, Suite 209, Reston, VA 22090, Phone: 703–471–8383
Schneider Laboratories, Inc., 1427 West Main Street, Richmond, VA 23220, Phone: 804–353–6778
Scientific and Environmental, 202 Bishop Road, Blacksburg, VA 24060, Phone: 703–951–9283
Versar Inc., 6850 Versar Center, Springfield, VA 22151, Phone: 703–750–3000
Shelburne Laboratories, Inc., P.O. Box 9479, 74 Ethan Allen Drive, S Burlington, VT 05403, Phone: 802–985–3379
Amtest, Inc., 14603 Northeast 87th St., Redmond, WA 98052, Phone: 206–885–1664
Hanford Environmental Health Foundation, NHS, Inc., 805 Goethals Drive, Richland, WA 99352, Phone: 509–376–6980
Henford Environmental Health Foundation, NHS, Inc., 2950C George Washington Way, Richland, WA 99352, Phone: 509–376–6980
M&M Environmental, Inc., 3902 North 34th Street, Tacoma, WA 98407, Phone: 206–572–2772
Microlab Northwest, 7609 140th Pl. NE., Redmond, WA 98052, Phone: 206–885–9419
Puget Sound Naval Shipyard, Code 1343, Bremerton, WA 98314, Phone: 206–476–8092
Allis Memorial Hospital, Industrial Toxicology Laboratory—West, 8901 West Lincoln Avenue, West Allis, WI 53227, Phone: 414–546–6313
C.G. Technologies, Inc., University Research Park, 505 Science Drive, Suite D, Madison, WI 53711, Phone: 608–271–2292
Chem-Bio Corporation, 140 East Ryan Road, Oak Creek, WI 53154, Phone: 414–764–7870
Wisconsin Occupational Health Laboratory, 979 Jonathan Drive, Madison, WI 53713, Phone: 608–263–6550
Chatfield Technical Consulting Limited, 2071 Dickson Road, Mississauga, Ontario, L5B 1Y8, CANADA, Phone: 416–896–7611
Pinchin Harris Holland Associates Ltd., #200–1285 West Pender Street, Vancouver, BC, V6E 4B1, CANADA, Phone: 604–669–5979

[FR Doc. 89–1000 Filed 4–25–89; 8:45 am]
BILLING CODE 3510–13–M

National Telecommunications and Information Administration

Advisory Committee on Advanced Television; Partially Closed Meeting

A meeting of the Commerce Advisory Committee on Advanced Television will be held May 10, 1989, 9:00 a.m. to 11:30 a.m., in the Secretary's Conference Room, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC.

The Committee advises the Secretary on the impact of advanced television on the competitiveness of U.S. industry, what policies may be pursued to heighten the development of advanced television in the public interest, and other related issues. The meeting is scheduled to consist of a discussion of the impact of advanced television on the competitiveness of U.S. industry and the development of Federal Government policies in this area.

The General Session of the meeting will be open to the public and a limited number of seats will be available on a first-come first-served basis. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on November 2, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4), and (c)(9)(B). The discussions are likely to disclose privileged or confidential commercial information and information for which premature disclosure would likely significantly frustrate the implementation of proposed agency actions. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 6628, Department of Commerce.)

FOR FURTHER INFORMATION CONTACT: Richard M. Firestone, Chief Counsel, Office of the Chief Counsel, National Telecommunications and Information Administration, Room H4717, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone 202–377–1816.

Date: April 21, 1989.

Richard M. Firestone,

Acting Assistant Secretary, National Telecommunications and Information Administration.

[FR Doc. 89–10056 Filed 4–25–89; 8:45 am]
BILLING CODE 3510–60–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Youth Attitude Tracking Study, no form required, OBM Control Number 0704–0069.

Type of Request: Extension.

Average Burden Hours/Minutes Per Response: 30 minutes.
Frequency of Response: 1.
Number of Respondents: 10,050.
Annual Burden Hours: 5,025.
Annual Responses: 10,050.
Needs and Uses: This survey determines and evaluates knowledge of and attitudes toward military service of Americans 16–24 years of age. It provides annual cross-sectional data on propensity to serve and on other key issues for trend analyses. The survey data are used by DOD components to develop recruiting strategies, incentive programs, advertising strategies, Congressional testimony, resource allocation and special studies.
Affected Public: Individuals.
Frequency: On occasion/Annually.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Dr. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 20, 1989.

[FR Doc. 89–9970 Filed 4–25–89; 8:45 am]
BILLING CODE 3810–01–M

Office of the Secretary

Commercial Activities Inventory Report and Five Year Review Schedule for Fiscal Year 1988

AGENCY: Office of the Secretary, DoD.
ACTION: Notice.

SUMMARY: This notice announces the publication of the DoD Commercial Activities Inventory Report and Five Year Review Schedule For FY 1988 (DoD 4100.33–INV). This document may be obtained by writing to the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402, referring to stock number 008–000–00520–6, and enclosing a check in the amount of $21.00, payable to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Mr. Dom Miglionico, Office of the Assistant Secretary of Defense (Production and Logistics) Installations Support Division, Pentagon, Washington, DC 20301–8000, telephone (202) 325–0537.

SUPPLEMENTARY INFORMATION: This document is published under the provisions of OMB Circular A–76, which requires the Department of Defense to publish an annual inventory report of all commercial activities. The OMB also requires that the Department of Defense publish a five year schedule for reviewing all in-house method of operation should continue or whether an in-house versus contract cost comparison should be performed to determine the most cost effective method of operation.

April 20, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–9973 Filed 4–25–89; 8:45 am]
BILLING CODE 3810–01–M

Defense Science Board Task Force on Follow on Forces Attack; Meeting

ACTION: Notice of Advisory Committee meetings.

SUMMARY: The Defense Science Board Task Force on Follow on Forces Attack (FOFA) will meet in closed session on May 18, 1989 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will continue to review, in detail, classified material associated with conventional military capabilities in NATO to include special targeting requirements.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

April 20, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–9971 Filed 4–25–89; 8:45 am]
BILLING CODE 3810–01–M

Strategic Defense Initiative Advisory Committee; Meeting

ACTION: Notice of Advisory Committee meetings.

SUMMARY: The Strategic Defense Initiative (SDI) Advisory Committee will meet in closed session in Washington, DC, on May 22–23, 1989.

The mission of the SDI Advisory Committee is to advise the Secretary of Defense and the Director, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on May 22–23, 1989 the committee will discuss status of SDI research and management issues.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C., App. II, (1982)), it has been determined that this SDI Advisory Committee meeting concerns matters listed in 5 U.S.C., 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

April 20, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–9972 Filed 4–25–89; 8:45 am]
BILLING CODE 3810–01–M

Department of the Army

Availability of Draft Record of Decision for Remediation of Landfill No. 26, Hamilton Air Force Base, Novato, CA

The Department of Army will release the Draft Record of Decision for the selection of the remedial alternatives for the remediation of Landfill 26, Hamilton Air Force Base, Novato, California on April 24, 1989.

The Draft Record of Decision specifically describes and addresses the selected remedial alternatives to clean up the landfill and the associated groundwater. The landfill was identified in the 1987 remedial investigation at Hamilton AFB as a site containing soil and refuse that, in some locations, exceeds criteria developed by the State of California for identification of hazardous waste. The Feasibility Study released to the public on January 9, 1989, describes eight remedial alternatives for addressing contamination in the soil/refuse. These alternatives range from no action (requiring continued groundwater monitoring) to excavation and disposal of contaminated soil/refuse in

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appropriate commercial landfills and range in costs from $2.8 million to $53.5 million.

Remediation of soil/refuse will subsequently require localized groundwater remediation at the landfill. The Draft Feasibility Study describes six groundwater remedial alternatives utilizing various processes ranging in cost from $4.7 million to $18 million.

The Draft Record of Decision selects Fixation and Class II Closure of the Landfill (Alternative 4A) and Trickling Filter-Equalization (Alternative 6B) for the soil/refuse operable unit and groundwater operable unit, respectively. Here is a brief description of the alternatives:

Landfill Soil/Refuse Operable Unit—Alternative 4A: All contaminated soil/refuse exceeding levels appropriate for Class II landfill closure will be excavated and fixed with Portland cement or similar reagents. This fixed material would be redeposited into Landfill 26. A variance from the State of California for Class II closure would be required as fixed contaminated would still exceed Class II closure level requirements. The landfill would be capped and closed as a Class II landfill. Estimated cost—$13.2 million.

Groundwater Operable Unit—Alternative 6B: Contaminated groundwater will be extracted from wells located both downgradient and within Landfill 26. Extracted water will pass through an oil/water separator to capture free hydrocarbons and then be treated in a trickling filter to remove trace organics. Treated effluent will be stored on-site in an equalization tank for pH control and time-released to a sanitary treatment facility. Estimated cost—$4.7 million.

The Corps of Engineers has been conducting environmental investigations at Hamilton AFB since May, 1985. To date, clean up actions on the property have included removal of containerized hazards (1985) and removal of 65 underground fuel structures (1986). Total cost expenditure for the Hamilton AFB clean up and investigations to date has been $13.8 million.

Copies of the Draft Record of Decision for Landfill 26 may be obtained by calling the Sacramento District Corps of Engineers, (916) 551–2254, or by writing the Sacramento District Corps of Engineers, ATTN: CESPK–ED–M (ISS), 650 Capitol Mall, Sacramento, California 95814–4794. A limited number of copies of the Draft Record of Decision will also be available at the Hamilton Army Airfield Installation Manager's Office, Building No. 501, Hamilton Army Arifield.

Copies of the document will also be available for review in the local geographic area of surrounding Hamilton at the following locations:

Marin County Library, Civic Center, San Rafael, California

Santa Rosa City Library, Main Branch, Santa Rosa, California

Building 501, Hamilton Army Airfield, Novato, California

6th Army Public Affairs Office, Bldg. 38, Presidio of San Francisco, San Francisco, California

Presidio of San Francisco Public Affairs Office, Bldg. 37, Presidio of San Francisco, San Francisco, California

All interested individuals, organizations, and agencies are invited to provide comments in writing. Written comments may be mailed to the Corps of Engineers' Sacramento address. Comments received by May 24, 1989, will become part of the official responsiveness summary in the final Record of Decision for remediation of Landfill No. 2, Hamilton Air Force Base.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I&L).

[FR Doc. 89–10001 Filed 4–25–89; 8:45 am]

BILLING CODE 3710–08–M

Science Board Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: May 18, 1989.

Time of Meeting: 0800–1700 hours.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup for Tactical Explosive System (TEXS) will meet to review information presented at previous meeting, review a trade-off analysis performed by the US Army Engineering School, and also to update and draft a final report. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89–9962 Filed 4–25–89; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.220]

Extension of Closing Date for Transmittal of Applications for New Awards for Fiscal Year 1989 Under the Centers for International Business Education Program

AGENCY: Department of Education.

ACTION: Extension of closing date for transmittal of applications for new awards for Fiscal Year 1989 under the Centers for International Business Education Program.

The Secretary extends to May 19, 1989 the closing date by which an institution may submit an application for new awards for fiscal yar 1989 under the Centers for International Business Education Program. On March 7, 1989, the Secretary published a notice establishing a closing date of May 10, 1989 for transmittal of applications for new awards for fiscal year 1989 for the Centers for International Business Education Program (54 FR 9686). The previous closing date is being extended to allow participants additional time to prepare applications because the Secretary has determined that erroneous information regarding the nature of the competition was received by eligible applicants.

FOR FURTHER INFORMATION CONTACT: For further information, contact Susanna C. Easton, Center for International Education, U.S. Department of Education, Office of Postsecondary Education, Room 3053, ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202–5332. Telephone (202) 732–3302.

(20 U.S.C. 1130a-b)

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

April 20, 1989.

[FR Doc. 89–10149 Filed 4–25–89; 8:45 am]

BILLING CODE 4001–01–M

National Board of the Fund for the Improvement of Postsecondary Education; Closed Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: On May 11, 1989 from 8:00 a.m. to 7:00 p.m., and on May 12, 1989 from 8:00 a.m. to 7:00 p.m.

ADDRESSS: The Carlyle Suites, 1731 New Hampshire Avenue, NW., Washington, DC 20009.

FOR FURTHER INFORMATION CONTACT: Charles Karelis, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets, SW., Washington, DC 20202 (202) 732–5750.

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under section 1001 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a–1). The National Board of the Fund is authorized to recommend to the Director of the Fund and the Assistant Secretary for Postsecondary Education priorities for funding and approval or disapproval of grants of a given kind.

The meeting of the National Board is closed to the public. The meeting is for the purpose of reviewing and evaluating grant applications submitted to the Fund under the Comprehensive Program.

The meeting of the National Board will be closed to the public on May 11, from 8:00 a.m. to 7:00 p.m., and on May 12, from 8:00 a.m. to 7:00 p.m. The meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 2) and under exemptions (4) and (6) of 5 U.S.C. 552b(c) (Pub. L. 94–409). The review and discussions of the applications and the qualifications of proposed staff may disclose commercial or financial information obtained from a person and privileged or confidential or which would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement of Postsecondary Education, Room 3100, Regional Office Building #3, 7th & D Street SW., Washington, DC 20202 from the hours of 8:00 a.m. to 4:30 p.m.

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 89–9988 Filed 4–25–89; 8:45 a.m]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Energy Information Administration

Form EIA–767, "Steam-Electric Plant Operation and Design Report"

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of the Proposed Revision and Extension of the Form EIA–767, "Steam-Electric Plant Operation and Design Report," and Solicitation of Comments.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. 3501 *et seq*), conducts a consultation program to provide the general public with an opportunity to comment on proposed and continuing reporting forms. This program ensures that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed revision and extension to the Form EIA–767, "Steam-Electric Plant Operation and Design Report."

DATE: Written comments must be submitted on or before May 26, 1989.

ADDRESS: Send written comments to Mr. Al Breuel (EI–541), Energy Information Administration, Department of Energy, Mail Stop: 2C–090, 1000 Independence Avenue, SW., Washington DC 20585, Telephone (202) 586–6541. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the DOE contact listed in this notice of your intention to do so as soon as possible.

FOR FURTHER INFORMATION CONTACT: *For further information or to obtain copies of the proposed form and instructions:* Requests for additional information, or copies of the form and instructions should be directed to Mr. Breuel at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93–275) and the Department of Energy (DOE) Organization Act (Pub. L. 95–91), the Energy Information Administration is obliged to publish, and otherwise make available to the public, high-quality statistical data that reflect current and prospective electric power plant operations.

The revised Form EIA–767 remains an annual form that collects data on the operation and design of steam-electric plants. The form collects data required by the following sponsors: the Environmental Protection Agency (EPA), the DOE Office of the Assistant Secretary for Environment, Safety, and Health (EH), the DOE Office of the Assistant Secretary for Fossil Energy (FE), the Federal Energy Regulatory Commission (FERC), and the Bureau of Economic Analysis (BEA) of the Department of Commerce. Most of the data elements on this form are required by more than one sponsor. EPA uses the data to develop, assess, reform, and enforce the regulations required by the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*), and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 and other sections). EH uses the data to assess the environmental impacts of electric energy plans and projections, and the impact of environmental regulations on the generation of electric power. EPA, FE, and EH use the data to perform emission trends and analyses required of them as participants in the Interagency Acid Precipitation Task Force established by the Energy Security Act of 1980 (42 U.S.C. 8901 *et seq.*). FE uses the data to evaluate the inventory of pollution control technology and generation technology. FERC uses the data to evaluate fuel use in utility rate-making proceedings and the use of alternate fuels. BEA uses the data to assess the impact of pollution abatement and control expenditures on the Gross National Product. EIA, in coordination

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with the sponsors, designed the revised form and is responsible for collecting and processing the data. Within EIA, the data are used to develop a comprehensive electric power data base that supports EIA models. Other data users include Congress, state environmental regulatory bodies, trade associations, universities, manufacturers, electric utilities, and other Federal agencies.

II. Current Actions

In keeping with its mandated responsibilities, EIA proposes to extend the Form EIA-767 for 3 years. EIA and the sponsors propose the following revisions to the form:

Page 5—Footnotes have been added to items 4 and 5 indicating that flue gas desulfurization units that also remove particulate matter and flue gas particulate collectors that also remove sulfur dioxide, respectively, must be included.

Page 7—Item 3 has been modified for sulfur dioxide emission standards to include both an emission rate and a percent scrub if both standards are required.

Page 7—Item 3 has been clarified to indicate that the most stringent statutes or regulations that govern air emissions should be entered. A new item 4 is added that requires the identification of the type of standards under which the boiler is operating (e.g., not covered under the new source performance standards (NSPS), covered under NSPS Subpart D, or covered under NSPS Subpart Da).

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed extension and revisions within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden for this collection is estimated to average 84 hours per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of other Federal, State, or local agencies that collect similar data? If you do, specify the agency, the data elements, and the means of collection.

As a potential user:

A. Can you use data at the levels of detail indicated on the form?

B. For what purposes would you use the data? Be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their views on the need for the collection of the information contained in the electric power surveys.

Comments submitted in response to this notice will be summarized and/or included in the requests for OMB approval of these data surveys; they also will become a matter of public record.

Statutory Authority: Sections 5(a), 5(b), 13(b), and 52 of Pub. L. 93-275, Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC April 20, 1989.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 89-9910 Filed 4-25-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. EC89-10-000 et al.]

Consumers Power Co., et al; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 19, 1989.

Take notice that the following filings have been made with the Commission:

1. Consumers Power Company

[Docket No. EC89-10-000]

Take notice that on April 11, 1989, Consumers Power Company (Consumers) submitted an application for Authority to sell Facilities to Palisades Generating Company (PGC).

Pursuant to the Asset Purchase Agreement dated as of December 7, 1988 between Consumers and PGC, Consumers proposes to sell to PGC certain transmission facilities located in the vicinity of Consumers Palisades Nuclear Generating Plant in Covert Township, Van Buren County, Michigan. The estimated consideration for the proposed sale is approximately $5 million.

Sale of the transmission facilities will facilitate the sale of electric energy by PGC to Consumers pursuant to the Power Purchase Agreement dated as of February 1, 1989 filed with the Federal Energy Regulatory Commission in Docket No. ER89-256-000. Consumers requests approval of its Application pursuant to section 203(a) of the Federal Power Act.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Idaho Power Company

[Docket No. ER89-336-000]

Take notice that on April 11, 1989, Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's First Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during January and February 1989, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company
Supplement No. 81
Sierra Pacific Power Company
Supplement No. 81
Pacific Power & Light Company
Supplement No. 27
Portland General Electric
Supplement No. 63
Montana Power Company
Supplement No. 60
Washington Water Power Company
Supplement No. 61
Puget Sound Power & Light Company
Supplement No. 36
Pacific Gas & Electric Company
Supplement No. 36

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Central Hudson Gas & Electric Corporation

[Docket No. ER89-331-000]

Take notice that Central Hudson Gas and Electric Corporation (Cental Hudson) on April 6, 1989, tendered for filing, as a rate schedule an executed Agreement dated November 1, 1988 between Central Hudson and United Illuminating Company (United Illuminating). The proposed rate

schedule provides for the sale and purchase of capacity and related energy, supplemental power and residual energy for the period November 1, 1988 to April 30, 1989.

United Illuminating shall pay Central Hudson monthly $60MW day for the capacity and supplemental capacity made available which charge includes the use of Central Hudson's transmission facilities required to deliver and transmit energy. Energy charges will be agreed upon in advance of the purchase by United Illuminating in accordance with section 6B of the Agreement.

Central Hudson states that copies of the subject filing was served upon United Illuminating Company.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Company Services, Inc.

[Docket No. ER89-334-000]

Take notice that on April 7, 1989, Southern Company Services, Inc. (Southern Companies) tendered for filing an Amended and Restated Energy Purchase and Sale Agreement between Cajun Electric Power Cooperative, Inc. and Southern Companies.

Southern Companies requests an effective date of April 1, 1989.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Consolidated Edison Company of New York

[Docket No. ER89-332-000]

Take notice that on April 6, 1989, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing Supplements to its Rate Schedules FERC Nos. 60, 66 and 78, agreements to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplements provide for an increase in the monthly transmission charge from $0.82 to $1.05 per kilowatt for transmission of power and energy sold by the Authority to Brookhaven National Laboratory, Grumman Corporation and the Long Island Municipal Distribution Agencies, thus increasing annual revenues under the Rate Schedules by a total of $126,834.54. Con Edison requests waiver of the Commission's notice requirements so that the increase can be made effective as of July 1, 1988.

Con Edison states that a copy of this filing has been served by mailed upon the Authority.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Company

[Docket No. ER89-329-000]

Take notice that on April 4, 1989, Florida Power & Light Company (FP&L) tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 99 between FP&L and Seminole Electric Cooperative, Inc.

FP&L requests an effective date of April 1, 1989.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Service Utilities Company

[Docket No. ER89-330-000]

Take notice that on April 6, 1989, Northeast Utilities Service Company (NUSCO) tendered for filing a Notices of Termination of the following rate schedules:

Purchase Agreement with respect to various gas turbine unit sales between Connecticut Light & Power Company, (CL&P) Western Massachusetts Electric Company, (WMECO) and the Town of Wallingford, Connecticut, (Wallingford) dated June 1, 1986 (CL&P Rate Schedule FERC 366 and WMECO Rate Schedule FERC 291). (Agreement A)

Transmission Agreement between CL&P, WMECO, and Wallingford dated September 16, 1983 (CL&P Rate Schedule FERC 305, Supple. 1 to 305 and Supple. 1 to Supple. 2 and WMECO Rate Schedule FERC No. 243). (Agreement B)

NUSCO requests an effective date of April 26, 1989 for Agreement A and November 1, 1988 for Agreement B.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Utah Power & Light Company

[Docket No. ER89-324-000]

Take notice that on April 5, 1989, Utah Power & Light Company (Utah) tendered for filing a General Transfer Agreement between Bonneville Power Administration and Utah Power & Light Company. The Agreement supercedes the Exchange and Transfer Agreement dated April 3, 1973 (FERC Rate Schedule No. 113).

Utah requests that the notice requirements be waived, and that the Agreement be made effective retroactively as of April 12, 1988, the date service first commenced.

Copies of this filing were served on the Bonneville Power Administration and the Idaho Public Utilities Commission.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. San Diego Gas & Electric Company

[Docket No. ER89-327-000]

Take notice that on April 4, 1989 San Diego Gas & Electric Company (SDG&E) tendered for filing rate schedule changes to the following agreements between SDG&E and Southern California Edison Company (Edison):

1. Short Term Firm Transmission Service Agreement, Rate Schedule FERC No. 58.
2. Interruptible Transmission Service Agreement, Rate Schedule FERC No. 59.
3. Firm Transmission Service Agreement, Rate Schedule FERC No. 60.

Under the terms of the agreements, SDG&E will make available to Edison firm and interruptible transmission service between points near the U.S.-Mexico boarder and San Onofre.

SDG&E has requested an effective date of January 1, 1989 and therefore, requests waiver of the prior notice requirements.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power & Light Company

[Docket No. ER89-348-000]

Take notice that on April 4, 1989, Florida Power & Light Company (FP&L) tendered for filing Support Schedules C and F, which have been updated to reflect current costs of providing service under Schedules A and B of the referenced contract filed in Docket No. ER80-58, and Attachment No. 2, support information as described in Article III of the Offer of Settlement in Docket no. ER80-58.

FP&L states that the revised rates are to become effective on June 1, 1989.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket ER89-333-000]

Take notice that on April 7, 1989, Northeast Utilities Company (NUSCO) tendered for filing a Letter Agreement between UNITIL and NUSCO, as agent for (CL&P) and Western Massachusetts Electric Company (WMECO), dated February 28, 1989, amended (i) a Purchase Agreement with respect to South Meadow Units 11, 12, 13, and 14 (Gas Turbine Agreement) between CL&P and UNITIL Power Corp. (UNITIL), dated August 1, 1986, and (ii) Sales Agreement with respect to Montiville

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and Middletown Units between CL&P and UNITIL, dated June 1, 1986 (Fossil Unit Agreement) (both Agreements previously submiterd and filed as FERC Rate schedules Nos. CL&P 363, Supplement Nos. 1 through 4 thereto, and Supplement No. 1 to Supplement No. 4, and FERC Rate Schedule No. CL&P 358).

NUSCO states that the rate schedule changes were made by mutual agreement of the parties. The rate schedule changes provide for (i) additional unit sales under the Gas Turbine Agreement, (ii) the admission of WMECO as a party to the Gas Turbine Agreement, and (iii) additional unit sales under the Fossil Unit Agreement.

NUSCO states that copies of this rate schedule have been mailed or delivered to CL&P, WMECO, and UNITIL.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9922 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST89-2078-000 et al.]

Tennessee Gas Pipeline Co.; Self-Implementing Transactions

April 21, 1989.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to section 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a motion to intervene with the Secretary of the Commission on or before May 12, 1989.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

Lois D. Cashell,

Secretary.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST89-2078 Tennessee Gas Pipeline Co	Nashville Gas Co	2-01-89	B		
ST89-2079 Tennessee Gas Pipeline Co	Midwestern Gas Transmission Co	2-01-89	G		
ST89-2080 Transcontinental Gas Pipe Line Corp	Union Gas Co	2-01-89	B		
ST89-2081 El Paso Natural Gas Co	Hondo Oil & Gas Co	2-01-89	G-S		
ST89-2082 Natural Gas Pipeline Co. of America	Texas Eastern Transmission Corp	2-01-89	G		
ST89-2083 Trunkline Gas Co	Richmond Gas Corp	2-01-89	B		
ST89-2084 Panhandle Eastern Pipe Line Co	Amoco Production Co	2-01-89	G-S		
ST89-2085 Panhandle Eastern Pipe Line Co	Amoco Production Co	2-01-89	G-S		
ST89-2086 Panhandle Eastern Pipe Line Co	Kansas Power and Light Co	2-01-89	B		
ST89-2087 Panhandle Eastern Pipe Line Co	Marathon Oil Co	2-01-89	G-S		
ST89-2088 Panhandle Eastern Pipe Line Co	Kansas Power and Light Co	2-01-89	B		
ST89-2089 Panhandle Eastern Pipe Line Co	National Steel Corp	2-01-89	G-S		
ST89-2090 Texas Gas Transmission Corp	United Cities Gas Co	2-01-89	B		
ST89-2091 Texas Gas Transmission Corp	Sun Operating Limited Partnership	2-01-89	G-S		
ST89-2092 Northwest Pipeline Corp	Texaco, Inc	2-01-89	G-S		
ST89-2093 Northwest Pipeline Corp	Normandy Oil & Gas Co., Inc	2-01-89	G-S		
ST89-2094 Williams Natural Gas Co	Phillips Petroleum Co	2-01-89	G-S		

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (c/MMBTU)
ST89-2095 Williams Natural Gas Co	Farmland Industries, Inc	2-01-89	G-S		
ST89-2096 Transok, Inc	Natural Gas Pipeline Co. of America	2-01-89	C	7-01-89	32.50
ST89-2097 ANR Pipeline Co	Coastal Gas Marketing Co	2-01-89	G-S		
ST89-2098 ANR Pipeline Co	Wisconsin Natural Gas Co	2-01-89	B		
ST89-2099 ANR Pipeline Co	Northern Indiana Public Service Co	2-01-89	B		
ST89-2100 ANR Pipeline Co	Hadson Gas Systems, Inc	2-01-89	G-S		
ST89-2101 ANR Pipeline Co	Unicorp Energy, Inc	2-01-89	G-S		
ST89-2102 ANR Pipeline Co	Entrade Corp	2-01-89	G-S		
ST89-2103 ANR Pipeline Co	Central Soya Company, Inc	2-01-89	G-S		
ST89-2104 ANR Pipeline Co	Enron Gas Marketing	2-01-89	G-S		
ST89-2105 ANR Pipeline Co	Mobil Vanderbilt-Beaumont Pipeline Co	2-01-89	B		
ST89-2106 ANR Pipeline Co	NGC Intrastate Pipeline Co	2-01-89	B		
ST89-2107 ANR Pipeline Co	Battle Creek Gas Co	2-01-89	B		
ST89-2108 ANR Pipeline Co	Access Energy Pipeline Co	2-01-89	B		
ST89-2109 Texas Eastern Transmission Corp	Coastal States Gas Transmission Co	2-02-89	B		
ST89-2110 Texas Eastern Transmission Corp	Niagara Mohawk Power Corp	2-02-89	B		
ST89-2111 Texas Eastern Transmission Corp	Southern Connecticut Gas Co	2-02-89	B		
ST89-2112 Natural Gas Pipeline Co. of America	Texarkoma Transportation Co	2-02-89	G-S		
ST89-2113 Natural Gas Pipeline Co. of America	Coastal Gas Marketing Co	2-02-89	G-S		
ST89-2114 Equitrans, Inc	Vincehtian Home, Inc	2-03-89	G-S		
ST89-2115 Equitrans, Inc	West Penn Hospital	2-03-89	G-S		
ST89-2116 ANR Pipeline Co	Michigan Consolidated Gas Co	2-03-89	B		
ST89-2117 Tennessee Gas Pipeline Co	Mississippi Valley Gas Co	2-03-89	B		
ST89-2118 Transok, Inc	Panhandle Eastern Pipe Line Co	2-03-89	C	7-03-89	32.50
ST89-2119 Natural Gas Pipeline Co. of America	Anadarko Trading Co	2-03-89	G-S		
ST89-2120 ARKLA Energy Resources	Hanley and Bird	2-03-89	B		
ST89-2121 ARKLA Energy Resources	New Ulm Public Utilities Commission	2-03-89	B		
ST89-2122 ARKLA Energy Resources	Reliance Gas Pipeline Co	2-03-89	B		
ST89-2123 ARKLA Energy Resources	Northern Intrastate Pipeline Co	2-03-89	B		
ST89-2124 ARKLA Energy Resources	Mobil Vanderbilt-Beaumont Pipeline Co	2-03-89	B		
ST89-2125 Tennessee Gas Pipeline Co	Energy Marketing Exchange, Inc	2-06-89	G-S		
ST89-2126 Enserch Gas Transmission Co	Trunkline Gas Co	2-06-89	C		
ST89-2127 Acadian Gas Pipeline System	Columbia Gas Transmission Corp	2-06-89	C		
ST89-2128 Red River Pipeline	United Gas Pipe Line Co	2-06-89	C	7-06-89	36.00
ST89-2129 Columbia Gulf Transmission Co	Equitrans, Inc	2-03-89	G		
ST89-2130 ANR Pipeline Co	Columbia Gas of Pennsylvania, Inc	2-03-89	B		
ST89-2131 ANR Pipeline Co	Texas Eastern Transmission Corp	2-03-89	G		
ST89-2132 ANR Pipeline Co	Michigan Consolidated Gas Co	2-03-89	B		
ST89-2133 Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	2-06-89	B		
ST89-2134 Trunkline Gas Co	Anadarko Trading Co	2-06-89	G-S		
ST89-2135 Northern Natural Gas Co	PSI, Inc	2-06-89	G-S		
ST89-2136 Trunkline Gas Co	TXG Gas Marketing Co	2-07-89	G-S		
ST89-2137 Natural Gas Pipeline Co. of America	Entrade Corp	2-07-89	G-S		
ST89-2138 Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	2-07-89	B		
ST89-2139 Natural Gas Pipeline Co. of America	Illinois Power Co	2-07-89	B		
ST89-2140 Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co	2-07-89	B		
ST89-2141 Southern Natural Gas Co	Apache Transmission Corp	2-07-89	G-S		
ST89-2142 Southern Natural Gas Co	Chevron U.S.A., Inc	2-07-89	G-S		
ST89-2143 Southern Natural Gas Co	Stellar Gas Co	2-07-89	G-S		
ST89-2144 Southern Natural Gas Co	South Carolina Pipeline Corp	2-07-89	B		
ST89-2145 Southern Natural Gas Co	Alabama Gas Corp	2-07-89	B		
ST89-2146 Southern Natural Gas Co	South Carolina Pipeline Corp	2-07-89	B		
ST89-2147 Southern Natural Gas Co	Atlanta Gas Light Co	2-07-89	G-S		
ST89-2148 South Georgia Natural Gas Co	SNG Intrastate Pipeline, Inc	2-07-89	B		
ST89-2149 Southern Natural Gas Co	Columbia Nitrogen Corp	2-07-89	G-S		
ST89-2150 Colorado Interstate Gas Co	Cheyenne Light, Fuel & Power Co	2-07-89	B		
ST89-2151 Texas Gas Transmission Corp	Alabama Gas Corp., Et Al	2-08-89	B		
ST89-2152 Texas Gas Transmission Corp	NGC Intrastate Pipeline Co	2-08-89	B		
ST89-2153 Texas Gas Transmission Corp	Mobay Corp	2-08-89	G-S		
ST89-2154 Transwestern Pipeline Co	Apache Marketing, Inc	2-08-89	G-S		
ST89-2155 Natural Gas Pipeline Co. of America	Natural Gas Clearinghouse, Inc	2-08-89	G-S		
ST89-2156 Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co	2-08-89	B		
ST89-2157 ONG Transmission Co	Natural Gas Pipeline Co. of America	02-08-89	C	7-08-89	24.32
ST89-2158 ONG Transmission Co	Panhandle Eastern Pipe Line Co	2-08-89	C	7-08-89	24.32
ST89-2159 ONG Transmission Co	Phillips Gas Pipeline Co	2-08-89	C	7-08-89	24.32
ST89-2160 Northwest Pipeline Corp	Williams Gas Marketing Co	2-08-89	G-S		
ST89-2161 Northwest Pipeline Corp	TXO Production Corp	2-08-89	G-S		
ST89-2162 Northern Natural Gas Co	City of West Bend	2-08-89	B		
ST89-2163 Northern Natural Gas Co	Minnegasco, Inc	2-08-89	B		
ST89-2164 Colorado Interstate Gas Co	Access Energy Pipeline Co	2-08-89	B		
ST89-2165 United Gas Pipe Line Co	Texaco Gas Marketing, Inc	2-08-89	G-S		
ST89-2166 United Gas Pipe Line Co	Sabine-DeSoto Pipeline Co., Inc	2-08-89	B		
ST89-2167 Northern Natural Gas Co	Polaris Corp	2-08-89	B		
ST89-2168 ONG Transmission Co	Kansas Power and Light Co	2-09-89	C	7-09-89	24.32
ST89-2169 Trunkline Gas Co	CSX NGL Corp	2-09-89	G-S		
ST89-2170 Trunkline Gas Co	Central Illinois Public Service Co	2-09-89	B		
ST89-2171 Trunkline Gas Co	ANR Gathering Co	2-09-89	G-S		

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Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST89-2172 Trunkline Gas Co	Bishop Pipeline Corp	2-09-89	B		
ST89-2173 Trunkline Gas Co	Central Illinois Light Co	2-09-89	B		
ST89-2174 Trunkline Gas Co	Conoco, Inc	2-09-89	G-S		
ST89-2175 Tennessee Gas Pipeline Co	South Carolina Pipeline Corp	2-09-89	B		
ST89-2176 Transok, Inc	Valero Interstate Transmission Co	2-09-89	C	07-09-89	32.50
ST89-2177 Texas Eastern Transmission Corp	Valero Transmission, L.P	2-09-89	B		
ST89-2178 Texas Eastern Transmission Corp	Philadelphia Electric Co	2-09-89	B		
ST89-2179 Williams Natural Gas Co	Washburn Univ. of Topeka	2-09-89	G-S		
ST89-2180 Williams Natural Gas Co	ARMCO, Inc	2-09-89	G-S		
ST89-2181 Williams Natural Gas Co	Mountain Iron & Supply Co	2-09-89	G-S		
ST89-2182 Williams Natural Gas Co	End Users Supply System	2-09-89	G-S		
ST89-2183 United Gas Pipe Line Co	Houston Gas Exchange Corp	2-09-89	G-S		
ST89-2184 United Gas Pipe Line Co	Polaris Corp	2-09-89	G-S		
ST89-2185 United Gas Pipe Line Co	Health Petra Resources, Inc	2-09-89	G-S		
ST89-2186 Transcontinental Gas Pipe Line Corp	Philadelphia Electric Co	2-09-89	B		
ST89-2187 Transcontinental Gas Pipe Line Corp	Taylor Energy Co	2-09-89	G-S		
ST89-2188 Colorado Interstate Gas Co	Exxon Corp	2-09-89	G-S		
ST89-2189 Natural Gas Pipeline Co. of America	Coastal Gas Marketing Co	2-10-89	G-S		
ST89-2190 Natural Gas Pipeline Co. of America	Illinois Power Co	2-10-89	B		
ST89-2191 Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	2-10-89	B		
ST89-2192 Columbia Gulf Transmission Co	Chevron U.S.A., Inc	2-13-89	G-S		
ST89-2193 Transcontinental Gas Pipe Line Corp	Washington Gas Light Co	2-10-89	B		
ST89-2194 Transcontinental Gas Pipe Line Corp	Orange and Rockland Utilities, Inc	2-10-89	B		
ST89-2195 Transcontinental Gas Pipe Line Corp	Southwestern Virginia Gas Co	2-10-89	B		
ST89-2196 Brooklyn Union Gas Co	Clinton Newberry Nat. Gas Authority	2-13-89	D		
ST89-2197 ONG Transmission Co	Northern Natural Gas Co	2-13-89	C	07-13-89	24.32
ST89-2198 Northern Border Pipeline Co	Northern Natural Gas Co	2-13-89	G		
ST89-2199 Tennessee Gas Pipeline Co	Texas-Ohio Gas, Inc	2-13-89	G-S		
ST89-2200 Tennessee Gas Pipeline Co	NYCOTEX Gas Transport, Inc	2-13-89	B		
ST89-2201 Tennessee Gas Pipeline Co	United Gas Pipe Line Co	2-13-89	G		
ST89-2202 Northwest Pipeline Corp	Northwest Natural Gas Co	2-13-89	B		
ST89-2203 Northwest Pipeline Corp	Southern California Gas Co	2-13-89	B		
ST89-2204 Northwest Pipeline Corp	Presidio Exploration, Inc	2-13-89	G-S		
ST89-2205 Northwest Pipeline Corp	Cascade Natural Gas Corp	2-13-89	B		
ST89-2206 Northwest Pipeline Corp	Williams Gas Marketing Co	2-13-89	G-S		
ST89-2207 Transok, Inc	Natural Gas Pipeline Co. of America	2-13-89	C	07-13-89	32.50
ST89-2208 Natural Gas Pipeline Co. of America	North Shore Gas Co	2-14-89	B		
ST89-2209 Natural Gas Pipeline Co. of America	Llano, Inc	2-14-89	B		
ST89-2210 Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	2-14-89	B		
ST89-2211 Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	2-14-89	B		
ST89-2212 Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co	2-14-89	B		
ST89-2213 Natural Gas Pipeline Co. of America	Central Illinois Light Co	2-14-89	B		
ST89-2214 Natural Gas Pipeline Co. of America	North Shore Gas Co	2-14-89	B		
ST89-2215 Transwestern Pipeline Co	Southern California Gas Co	2-14-89	B		
ST89-2216 Northern Natural Gas Co	Northern Border Pipeline Co	2-14-89	G		
ST89-2217 Northern Natural Gas Co	Enron Gas Marketing, Inc	2-14-89	G-S		
ST89-2218 Northern Natural Gas Co	Wisconsin Gas Co	2-14-89	B		
ST89-2219 Northern Natural Gas Co	Phillips 66 Natural Gas Co	2-14-89	G-S		
ST89-2220 Northern Natural Gas Co	Energy Dynamics, Inc	2-14-89	G-S		
ST89-2221 Northern Natural Gas Co	Centram Corp	2-14-89	G-S		
ST89-2222 Williams Natural Gas Co	Victoria Gas Corp	2-14-89	G-S		
ST89-2223 Williams Natural Gas Co	Conoco, Inc	2-14-89	G-S		
ST89-2224 Northwest Pipeline Corp	Cascade Natural Gas Corp	2-14-89	B		
ST89-2225 Northwest Pipeline Corp	Northwest Natural Gas Co	2-14-89	B		
ST89-2226 Columbia Gulf Transmission Co	Commonwealth Gas Co	2-14-89	B		
ST89-2227 Columbia Gulf Transmission Co	Alabama-Tennessee Natural Gas Co	2-14-89	B		
ST89-2228 Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	2-15-89	B		
ST89-2229 Williston Basin Interstate P/L Co	NGC Intrastate Pipeline Co	2-15-89	B		
ST89-2230 Williston Basin Interstate P/L Co	Associated Intrastate Pipeline Co	2-15-89	B		
ST89-2231 Williston Basin Interstate P/L Co	Quivira Gas Co	2-15-89	B		
ST89-2232 Williston Basin Interstate P/L Co	Wyoming Gas Co	2-15-89	B		
ST89-2233 Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	2-15-89	B		
ST89-2234 Williston Basin Interstate P/L Co	Cody Gas Co	2-15-89	B		
ST89-2235 Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	2-15-89	B		
ST89-2236 Southern Natural Gas Co	City of Lafayette	2-15-89	G-S		
ST89-2237 Enserch Gas Transmission Co	Trunkline Gas Co	2-15-89	C		
ST89-2238 Natural Gas Pipeline Co. of America	Entex, Inc	2-15-89	B		
ST89-2239 Enogex Inc	Arkla Energy Resources	2-02-89	C	07-02-89	28.50
ST89-2240 Enogex Inc	Phillips Gas Pipeline Co	2-02-89	C	07-02-89	28.50
ST89-2241 Enogex Inc	Phillips Gas Pipeline Co	2-02-89	C	07-02-89	28.50
ST89-2242 Enogex Inc	Phillips Gas Pipeline Co	2-02-89	C	07-02-89	28.50
ST89-2243 Enogex Inc	Phillips Gas Pipeline Co	2-02-89	C	07-02-89	28.50
ST89-2244 Southern Natural Gas Co	City of Sylvania	2-15-89	G-S		
ST89-2245 Southern Natural Gas Co	City of Dyersburg, Et al	2-15-89	B		
ST89-2246 Southern Natural Gas Co	Chattanooga Gas Co	2-15-89	B		
ST89-2247 Southern Natural Gas Co	City of Warner Robins	2-15-89	G-S		
ST89-2248 Southern Natural Gas Co	Mississippi Valley Gas Co	2-15-89	B		

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST89-2249 Southern Natural Gas Co	W.R. Grace & Co	2-15-89	G-S		
ST89-2250 Southern Natural Gas Co	PSI, Inc	2-15-89	G-S		
ST89-2251 Southern Natural Gas Co	City of Hawkinsville	2-15-89	G-S		
ST89-2252 Southern Natural Gas Co	Sonat Marketing Co	2-15-89	G-S		
ST89-2253 Southern Natural Gas Co	Sonat Marketing Co	2-15-89	G-S		
ST89-2254 Texas Eastern Transmission Corp	Baltimore Gas and Electric Co	2-15-89	B		
ST89-2255 Texas Eastern Transmission Corp	Bayou Industrial Gas Corp	2-15-89	B		
ST89-2256 Natural Gas Pipeline Co. of America	Clinton Gas Transmission, Inc	2-16-89	G-S		
ST89-2257 Natural Gas Pipeline Co. of America	Mississippi Valley Gas Co	2-16-89	B		
ST89-2258 Natural Gas Pipeline Co. of America	Indiana Gas Co., Inc	2-16-89	B		
ST89-2259 Natural Gas Pipeline Co. of America	Clinton Gas Transmission, Inc	2-16-89	G-S		
ST89-2260 Natural Gas Pipeline Co. of America	Archer Daniels Midland Co	2-16-89	G-S		
ST89-2261 BP Gas Transmission Co	ANR Pipeline Co., et al	2-16-89	C	07-16-89	13.70
ST89-2262 Lone Star Gas Co	El Paso Natural Gas Co	2-16-89	C		
ST89-2263 United Gas Pipeline Co	Laser Marketing Co	2-16-89	G-S		
ST89-2264 United Gas Pipeline Co	Entrade Corp	2-16-89	G-S		
ST89-2265 United Gas Pipeline Co	Midcon Marketing Corp	2-16-89	G-S		
ST89-2266 United Gas Pipeline Co	Natural Gas Clearinghouse, Inc	2-16-89	G-S		
ST89-2267 United Gas Pipeline Co	Elizabeth Natural Gas Co	2-16-89	G-S		
ST89-2268 United Gas Pipeline Co	Midcon Marketing Corp	2-16-89	G-S		
ST89-2269 United Gas Pipeline Co	Midcon Marketing Corp	2-16-89	G-S		
ST89-2270 United Gas Pipeline Co	Midcon Marketing Corp	2-16-89	G-S		
ST89-2272 Northwest Pipeline Corp	Natural Gas Clearinghouse, Inc	2-16-89	G-S		
ST89-2273 Northwest Pipeline Corp	Williams Gas Marketing Co	2-16-89	G-S		
ST89-2274 Northwest Pipeline Corp	Utah Gas Service Co	2-17-89	G-S		
ST89-2275 Northwest Pipeline Corp	James River II, Inc	2-17-89	G-S		
ST89-2276 Northwest Pipeline Corp	CP National Corp	2-17-89	G-S		
ST89-2277 Northwest Pipeline Corp	Universal Frozen Foods Corp	2-17-89	G-S		
ST89-2278 Natural Gas Pipeline Co. of America	Winnie Pipeline Co	2-17-89	B		
ST89-2279 Natural Gas Pipeline Co. of America	Wisconsin Natural Gas Co	2-17-89	B		
ST89-2280 Michigan Gas Storage Co	Consumers Power Co	2-21-89	B		
ST89-2281 Gas Co. of NM (Div. Public Serv. Co. NM)	El Paso Natural Gas Co	2-21-89	G-HT		
ST89-2282 United Texas Transmission Co	United Gas Pipe Line Co., et al	2-21-89	C		
ST89-2283 Paiute Pipeline Co	CP National Corp	2-21-89	G-S		
ST89-2284 Natural Gas Pipeline Co. of America	Memphis Light, Gas and Water Division	2-21-89	B		
ST89-2285 Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	2-21-89	B		
ST89-2286 Natural Gas Pipeline Co. of America	TransAmerican Gas Transmission Corp	2-21-89	B		
ST89-2287 United Gas Pipe Line Co	Victoria Gas Corp	2-21-89	G-S		
ST89-2288 United Gas Pipe Line Co	Texican Gas Marketing Co	2-21-89	G-S		
ST89-2289 United Gas Pipe Line Co	OXY U.S.A., Inc	2-21-89	G-S		
ST89-2290 United Gas Pipe Line Co	Entrade Corp	2-21-89	G-S		
ST89-2291 United Gas Pipe Line Co	Tejas Power Corp	2-21-89	G-S		
ST89-2292 United Gas Pipe Line Co	Reliance Pipeline Co	2-21-89	B		
ST89-2293 United Gas Pipe Line Co	Sabine-DeSoto Pipeline Co., Inc	2-21-89	B		
ST89-2294 Tennessee Gas Pipeline Co	City of Savannah	2-21-89	B		
ST89-2295 Tennessee Gas Pipeline Co	Brooklyn Union Exploration Co., Inc	2-21-89	G-S		
ST89-2296 United Gas Pipe Line Co	Entrade Corp	2-21-89	G-S		
ST89-2297 Williams Natural Gas Co	Certainteed Corp	2-21-89	G-S		
ST89-2298 Texas Eastern Transmission Corp	Monument Pipeline Co	2-21-89	B		
ST89-2299 Texas Eastern Transmission Corp	Louisville Gas & Electric Co	2-21-89	B		
ST89-2300 Texas Eastern Transmission Corp	Indiana Gas Co., Inc	2-21-89	B		
ST89-2301 Louisiana Intrastate Gas Corp	Creole Gas Pipeline Corp	2-21-89	C	07-21-89	27.44
ST89-2302 Trunkline Gas Co	Baltimore Gas & Electric Co., et al	2-21-89	B		
ST89-2303 Arkla Energy Resources	City of Bessemer City	2-21-89	B		
ST89-2304 Columbia Gulf Transmission Co	Olin Corp	2-21-89	G-S		
ST89-2305 Columbia Gulf Transmission Co	Monterey Pipeline Co	2-21-89	B		
ST89-2306 Columbia Gulf Transmission Co	System Supply for End-Users, Inc	2-21-89	G-S		
ST89-2308 United Gas Pipe Line Co	Pennzoil Gas Marketing Corp	2-21-89	G-S		
ST89-2309 United Gas Pipe Line Co	Entex, Inc	2-21-89	B		
ST89-2310 United Gas Pipe Line Co	Connecticut Light & Power Co	2-22-89	B		
ST89-2311 United Gas Pipe Line Co	NGC Intrastate Pipeline Co	2-22-89	B		
ST89-2312 United Gas Pipe Line Co	Houston Gas Exchange Corp	2-22-89	G-S		
ST89-2313 United Gas Pipe Line Co	First Chemical Corp	2-22-89	G-S		
ST89-2314 United Gas Pipe Line Co	Mississippi River Transmission Corp	2-23-89	G		
ST89-2315 Natural Gas Pipeline Co. of America	OXY NGL, Inc	2-22-89	G-S		
ST89-2316 Natural Gas Pipeline Co. of America	Natural Gas Clearinghouse, Inc	2-22-89	G-S		
ST89-2317 Moraine Pipeline Co	Wisconsin Natural Gas Co	2-22-89	B		
ST89-2318 Moraine Pipeline Co	Wisconsin Natural Gas Co	2-22-89	B		
ST89-2319 United Gas Pipe Line Co	Houston Gas Exchange Corp	2-22-89	G-S		
ST89-2320 Trunkline Gas Co	Louisiana Gas Marketing Co	2-22-89	B		
ST89-2321 Enserch Gas Transmission Co	Trunkline Gas Co	2-22-89	C		
ST89-2322 Texas Eastern Transmission Corp	Public Service Electric and Gas Co	2-22-89	B		
ST89-2323 Enogex Inc	National Gas Pipeline Co. of America	2-22-89	C	07-22-89	28.50
ST89-2324 Enogex Inc	National Gas Pipeline Co. of America	2-22-89	C	07-22-89	28.50
ST89-2325 ANR Pipeline Co	Wisconsin Public Service Corp	2-22-89	B		
ST89-2326 ANR Pipeline Co	Northern Indiana Fuel & Light Co	2-22-89	B		
ST89-2327 ANR Pipeline Co	Memphis Light, Gas and Water Division	2-22-89	B		

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Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST89-2328 ANR Pipeline Co	Peoples Natural Gas Co	2-22-89	B		
ST89-2329 ANR Pipeline Co	ANR Gathering Co	2-22-89	G-S		
ST89-2330 ANR Pipeline Co	Louisex Energy, Inc	2-22-89	G-S		
ST89-2331 ANR Pipeline Co	Centran Corp	2-22-89	G-S		
ST89-2332 ANR Pipeline Co	Fremont Co	2-22-89	G-S		
ST89-2333 ANR Pipeline Co	Entrade Corp	2-22-89	G-S		
ST89-2334 ANR Pipeline Co	Coastal Gas Marketing Co	2-22-89	G-S		
ST89-2335 ANR Pipeline Co	PSI, Inc	2-22-89	G-S		
ST89-2336 ANR Pipeline Co	Entrade Corp	2-22-89	G-S		
ST89-2337 ANR Pipeline Co	BP Gas Transmission Co	2-22-89	B		
ST89-2338 United Gas Pipe Line Co	Laster Marketing Co	2-22-89	G-S		
ST89-2339 Enogex Inc	British Petroleum	2-23-89	C	07-23-89	28.50
ST89-2340 Enogex Inc	ANR Pipeline Co	2-23-89	C	07-23-89	28.50
ST89-2341 Enogex Inc	Arkla Energy Resources	2-23-89	C	07-23-89	28.50
ST89-2342 Natural Gas Pipeline of America	Sun Gas Transmission L. P	2-23-89	G-S		
ST89-2343 Texas Gas Transmission Corp	Reed Minerals Div. Harsco Corp	2-23-89	G-S		
ST89-2344 Texas Gas Transmission Corp	Southern Gas Co	2-23-89	G-S		
ST89-2345 Texas Gas Transmission Corp	Polaris Pipeline Corp	2-23-89	G-S		
ST89-2346 Texas Gas Transmission Corp	Proctor & Gamble Manufacturing Co	2-23-89	G-S		
ST89-2347 Texas Gas Transmission Corp	Entrade Corp	2-23-89	G-S		
ST89-2348 Texas Gas Transmission Corp	Coastal Gas Marketing Co.	2-23-89	G-S		
ST89-2349 Tennessee Gas Pipeline Co	Shell Western E & P, Inc	2-23-89	G-S		
ST89-2350 Tennessee Gas Pipeline Co	Catamount Natural Gas, Inc	2-23-89	G-S		
ST89-2351 Tennessee Gas Pipeline Co	Shell Offshore Inc	2-23-89	G-2		
ST89-2352 Cranberry Pipeline Corp	Tennessee Gas Pipeline Co., et al	22-4-89	C	07-24-89	81.70
ST89-2353 United Texas Transmission Co	United Gas Pipe Line Co., et al	2-24-89	C		
ST89-2354 United Texas Transmission Co	United Gas Pipe Line Co.	2-24-89	C		
ST89-2355 United Texas Transmission Co	Natural Gas Pipeline Co. of America	2-24-89	C		
ST89-2356 Natural Gas Pipeline Co. of America	Southern California Gas Co	2-24-89	B		
ST89-2357 Natural Gas Pipeline Co. of America	V.H.C. Pipeline, L.P	2-24-89	B		
ST89-2358 Natural Gas Pipeline Co. of America	Southern California Gas Co	2-24-89	B		
ST89-2359 Natural Gas Pipeline Co. of America	Iowa-Illinois Gas & Electric Co	2-24-89	B		
ST89-2360 Natural Gas Pipeline Co. of America	UGI Corp	2-24-89	B		
ST89-2361 Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	2-24-89	B		
ST89-2362 Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	2-24-89	B		
ST89-2363 Natural Gas Pipeline Co. of America	Memphis Light, Gas and Water Division	2-24-89	B		
ST89-2364 Natural Gas Pipeline Co. of America	Mississippi Valley Gas Co	2-24-89	B		
ST89-2365 Natural Gas Pipeline Co. of America	North Shore Gas Co	2-24-89	B		
ST89-2366 Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	2-24-89	B		
ST89-2367 Natural Gas Pipeline Co. of America	Texas Industrial Energy Co	2-24-89	B		
ST89-2368 Oasis Pipe Line Co	Northern Natural Gas Co	2-24-89	C		
ST89-2369 Oasis Pipe Line Co	El Paso Natural Gas Co	2-24-89	C		
ST89-2370 Oasis Pipe Line Co	El Paso Natural Gas Co	2-24-89	C		
ST89-2371 Oasis Pipe Line Co	El Paso Natural Gas Co	2-24-89	C		
ST89-2372 Oasis Pipe Line Co	Natural Gas Pipeline Co of America	2-24-89	C		
ST89-2373 Houston Pipe Line Co	Natural Gas Pipeline Co. of America	2-24-89	C		
ST89-2374 Houston Pipe Line Co	Black Marlin Pipeline Co	2-24-89	C		
ST89-2375 Houston Pipe Line Co	Natural Gas Pipeline Co. of America	2-24-89	C		
ST89-2376 Houston Pipe Line Co	El Paso Natural Gas Co	2-24-89	C		
ST89-2377 Houston Pipe Line Co	Florida Gas Transmission Co	2-24-89	C		
ST89-2378 Houston Pipe Line Co	Natural Gas Pipeline Co. of America	2-24-89	C		
ST89-2379 Houston Pipe Line Co	Natural Gas Pipeline Co. of America	2-24-89	C		
ST89-2380 Houston Pipe Line Co	Transwestern Pipeline Co	2-24-89	C		
ST89-2381 Houston Pipe Line Co	Texas Eastern Transmission Corp	2-24-89	C		
ST89-2382 Houston Pipe Line Co	El Paso Natural Gas Co	2-24-89	C		
ST89-2383 Oasis Pipe Line Co	Transwestern Pipeline Co	2-24-89	C		
ST89-2384 Oasis Pipe Line Co	El Paso Natural Gas Co	2-24-89	C		
ST89-2385 Northern Natural Gas Co	Florida Gas Transmission Co	2-24-89	G		
ST89-2386 Northern Natural Gas Co	Hadson Gas Systems, Inc	2-24-89	G-S		
ST89-2387 Northern Natural Gas Co	Northern Minnesota Utilities	2-24-89	B		
ST89-2388 Northern Natural Gas Co	Damson Oil Corp	2-24-89	G-S		
ST89-2389 Northern Natural Gas Co	Enron Gas Marketing, Inc	2-24-89	G-S		
ST89-2390 Northern Natural Gas Co	Chevron U.S.A., Inc	2-24-89	G-S		
ST89-2391 Northern Natural Gas Co	Meridian Oil Hydrocarbons, Inc	2-24-89	B		
ST89-2392 United Gas Pipe Line Co	Lasalle Marketing Co	2-24-89	G-S		
ST89-2393 United Gas Pipe Line Co	Gulf States Pipeline Corp	2-24-89	B		
ST89-2394 United Gas Pipe Line Co	Mississippi Valley Gas Co	2-24-89	B		
ST89-2395 Northwest Pipeline Corp	FINA Oil and Chemical Co	2-24-89	G-S		
ST89-2396 Tennessee Gas Pipeline Co	Coastal Gas Marketing Co	2-24-89	G-S		
ST89-2397 Tennessee Gas Pipeline Co	Amtex Gas & Minerals, Inc	2-24-89	G-S		
ST89-2398 El Paso Natural Gas Co	Meridian Oil Hydrocarbons, Inc	2-24-89	B		
ST89-2399 El Paso Natural Gas Co	Hondo Oil & Gas Co	2-24-89	G-S		
ST89-2400 Monterey Pipeline Co	Trunkline Gas Co., et al	2-27-89	C	7-27-89	24.40
ST89-2401 Utah Gas Service Co	Northwest Pipeline Corp	2-24-89	C	7-24-89	18.00
ST89-2402 Utah Gas Service Co	Northwest Pipeline Corp	2-24-89	C	7-24-89	18.00
ST89-2403 Utah Gas Service Co	Northwest Pipeline Corp	2-24-89	C	7-24-89	18.00
ST89-2404 BP Gas Transmission Co	Texas Eastern Trans. Corp., et al	2-27-89	C	7-27-89	21.00

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST89-2405 Palute Pipeline Co	Natural Gas Clearinghouse, Inc	2-24-89	G-S		
ST89-2406 BP Gas Transmission Co	Texas Eastern Trans. Corp., et al	2-27-89	C	7-27-89	21.00
ST89-2407 United Gas Pipe Line Co	Marathon Oil Co	2-27-89	G-S		
ST89-2408 United Gas Pipe Line Co	Houston Gas Exchange Corp	2-27-89	G-S		
ST89-2409 United Gas Pipe Line Co	Laser Marketing Co	2-27-89	G-S		
ST89-2410 United Gas Pipe Line Co. of America	Northern Indiana Public Service Co	2-27-89	B		
ST89-2411 United Gas Pipe Line Co. of America	Public Service Electric and Gas Co	2-27-89	B		
ST89-2412 United Gas Pipe Line Co	Centran Corp	2-27-89	G-S		
ST89-2413 United Gas Pipe Line Co	Catamount Natural Gas, Inc	2-27-89	G-S		
ST89-2414 United Gas Pipe Line Co	Louisex Energy, Inc	2-27-89	G-S		
ST89-2415 Colorado Interstate Gas Co	Sun Gas Transmission L. P	2-27-89	B		
ST89-2416 Colorado Interstate Gas Co	Wyoming Gas Co	2-27-89	B		
ST89-2417 Williams Natural Gas Co	Amoco Production Co	2-27-89	G-S		
ST89-2418 Brooklyn Union Gas Co	Piedmont Natural Gas Co	2-28-89	D		
ST89-2419 Tennessee Gas Pipeline Co	Baltimore Gas & Electric Co., et al	2-28-89	B		
ST89-2420 Tennessee Gas Pipeline Co	Phillips Petroleum Co	2-28-89	G-S		
ST89-2421 Ozona Residue Systems Co	Northern Natural Gas Co	2-17-89	C		
ST89-2422 Natural Gas Pipeline Co. of America	Valero Interstate Transmission Co	2-28-89	G		
ST89-2423 BP Gas Transmission Co	ANR Pipeline Co., et al	02-28-89	C	7-28-89	13.70
ST89-2424 BP Gas Transmission Co	ANR Pipeline Co., et al	02-28-89	C	7-28-89	13.70
ST89-2425 Texas Gas Transmission Corp	Columbia Gas Transmission Corp	02-28-89	G		
ST89-2426 United Gas Pipe Line Co	Citizens Gas Supply Corp	02-28-89	G-S		
ST89-2427 Southern Natural Gas Co	South Carolina Pipeline Corp	02-28-89	B		
ST89-2428 Southern Natural Gas Co	South Georgia Natural Gas Co	02-28-89	G-S		
ST89-2429 Southern Natural Gas Co	Enron Gas Marketing, Inc	02-28-89	G-S		
ST89-2430 South Georgia Natural Gas Co	Access Energy Pipeline Corp	02-28-89	B		
ST89-2431 Southern Natural Gas Co	Texican Natural Gas Co	02-28-89	G-S		
ST89-2432 Southern Natural Gas Co	United Cities Gas Co	02-28-89	B		
ST89-2433 Southern Natural Gas Co	SNG Intrastate Pipeline, Inc	02-28-89	B		
ST89-2434 Southern Natural Gas Co	South Georgia Natural Gas Co	02-28-89	G-S		
ST89-2435 Southern Natural Gas Co	Shell Gas Trading Co	02-28-89	G-S		
ST89-2436 Southern Natural Gas Co	United Cities Gas Co	02-28-89	B		
ST89-2437 Southern Natural Gas Co	Texas-Ohio Gas, Inc	02-28-89	G-S		
ST89-2438 Columbia Gulf Transmission Co	Bridgeline Gas Distribution Co	02-28-89	B		
ST89-2439 Columbia Gulf Transmission Co	Texas Eastern Gas Pipeline Co	02-28-89	G		
ST89-2440 Columbia Gulf Transmission Co	Nashville Gas Co	02-28-89	B		
ST89-2441 Williams Natural Gas Co	City of Hamilton	02-28-89	G-S		
ST89-2442 Williams Natural Gas Co	City of Howard	02-28-89	G-S		
ST89-2443 Texas Eastern Transmission Corp	Neches Gas Distribution Co	02-28-89	B		
ST89-2444 Texas Eastern Transmission Corp	Philadelphia Electric Co	02-28-89	B		
ST89-2445 Texas Eastern Transmission Corp	Philadelphia Electric Co	02-28-89	B		
ST89-2446 Texas Eastern Transmission Corp	Monterey Pipeline Co	02-28-89	B		
ST89-2447 Texas Eastern Transmission Corp	Tomcat	02-28-89	B		
ST89-2448 Texas Eastern Transmission Corp	United Cities Gas Co	02-28-89	B		
ST89-2449 Texas Eastern Transmission Corp	City of Charlottesville	02-28-89	B		
ST89-2450 Texas Eastern Transmission Corp	Seagull Shoreline System	02-28-89	B		
ST89-2451 Texas Eastern Transmission Corp	City of Anna	02-28-89	B		
ST89-2452 Texas Eastern Transmission Corp	Baltimore Gas and Electric Co	02-28-89	B		
ST89-2453 Texas Eastern Transmission Corp	Union Electric Co	02-28-89	B		
ST89-2454 Texas Eastern Transmission Corp	Memphis Light, Gas and Water Co	02-28-89	B		
ST89-2455 Texas Eastern Transmission Corp	Louisiana Gas Marketing Co	02-28-89	B		
ST89-2456 Texas Eastern Transmission Corp	South Jersey Gas Co	02-28-89	B		
ST89-2457 Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	02-28-89	B		
ST89-2458 Texas Eastern Transmission Corp	Cincinnati Gas and Electric Co	02-28-89	B		
ST89-2459 Texas Eastern Transmission Corp	Orange and Rockland Utilities, Inc	02-28-89	B		
ST89-2460 Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	03-01-89	C		
ST89-2461 Delhi Gas Pipeline Corp	El Paso Natural Gas Co	03-01-89	C		
ST89-2462 Delhi Gas Pipeline Corp	Transwestern Pipeline Co	03-01-89	C	7-29-89	35.00
ST89-2463 Delhi Gas Pipeline Corp	Northern Natural Gas Co	03-01-89	C	7-29-89	35.00
ST89-2464 Enogex Inc	Southern California Gas Co	02-28-89	C	7-28-89	28.50
ST89-2465 Enogex Inc	Phillips Gas Pipeline Co	02-28-89	C	7-28-89	28.50

[1] Notice of transactions does not constitute a determination that filings comply with Commission Regulations in accordance with Order No. 436 (Final Rule and Notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

[2] The Intrastate Pipeline has sought Commission approval of its Transportation Rate pursuant to Section 284.123(B)(2) of the Commission's Regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 89-9920 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1212-000, et al.]

Williams Natural Gas Company, et al.; Natural Gas Certificate Filings

April 19, 1989.

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Company

[Docket No. CP89-1212-000]

Take notice that on April 14, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-1212-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide transportation for National Energy Systems, Inc. (National) under WNG's blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

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WNG requests authorization to transport, on an interruptible basis, up to a maximum of 280 MMBtu equivalent of natural gas per day for National from various receipt points in Kansas, Missouri, Oklahoma, Texas and Wyoming to various delivery points on WNG's pipeline system located in Kansas. WNG anticipates transporting 140 MMBtu equivalent of natural gas on an average day and 51,100 MMBtu equivalent of natural gas on an annual basis. WNG states that no new facilities are required to effectuate this proposal. WNG states that it has no knowledge of any agency relationship under which a local distributing company or an affiliate of National will receive natural gas on behalf of National. WNG states that the transportation of natural gas for National commenced on February 22, 1989, as reported in Docket No. ST89-2791-000, for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to WNG in Docket No. CP86-631-000.

Comment date: June 5, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Company Division of Enron Corp.

[Docket No. CP89-1194-000]

Take notice that on April 11, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP89-1194-000 a request pursuant to Northern's blanket authority granted on September 1, 1982, in Docket No. CP82-401-000 and §§ 157.205 and 157.212 of the Commission's Regulations (18 CFR 157.205 and 157.212) for authority to realign certain firm sales entitlements among existing delivery points for Wisconsin Gas Company (Wisconsin Gas), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern requests authority to realign certain firm sales entitlements under Rate Schedule CD-1 among existing delivery points at communities served by Wisconsin Gas. Northern indicates that the proposed realignment of entitlements would not affect the total level of certificated firm sales service provided by Northern to Wisconsin Gas. Northern states that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to its other customers.

Comment date: June 5, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Questar Pipeline Company

[Docket No. CP89-1074-000]

Take notice that on March 24, 1989, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP89-1074-000 a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to transport natural gas on behalf of Chevron U.S.A., Inc. (Chevron), under Questar's blanket certificate issued in Docket No. CP88-650-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Questar proposes to transport, on an interruptible basis, up to 14,000 MMBtu equivalent on a peak day, 14,000 MMBtu equivalent on an average day and 5,110,000 MMBtu equivalent on an annual basis for Chevron. It is stated that Questar would receive the gas at existing points on Questar's system in Sublette County, Wyoming, and would deliver equivalent volumes at an existing interconnection with Northwest Pipeline Corporation in Sublette County, Wyoming. It is asserted that Questar would use existing facilities for the transportation service and no construction of additional facilities would be required. It is explained that the transportation service commenced March 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-2793.

Comment date: June 5, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Questar Pipeline Company

[Docket No. CP89-1075-000]

Take notice that on March 24, 1989, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP89-1075-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Exxon Corporation (Exxon), under its blanket certificate issued in Docket No. CP88-650-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Questar states that pursuant to a transportation agreement dated February 24, 1989, under its Rate Schedule T-2, it would transport up to 115,000 MMBtu per day equivalent of natural gas for Exxon from various receipt points on its system in Wyoming. Questar further states that it would redeliver the natural gas to Exxon or for Exxon's account in Colorado and Wyoming. Questar indicates the average daily and estimated annual quantities would be equivalent to 50,000 MMBtu and 18,250,000 MMBtu, respectively.

Questar states that it commenced the transportation of natural gas for Exxon on March 1, 1989, as reported in Docket No. ST89-2794-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulation (18 CFR 284.223(a)).

Comment date: June 5, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Williams Natural Gas Company

[Docket No. CP89-1228-000]

Take notice that on April 17, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-1228-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of the City of Neodesha, Kansas (Neodesha), a local distribution company, under WNG's blanket certificate issued in Docket No. CP86-631-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

WNG requests authorization to transport, on an interruptible basis, up to a maximum of 3,000 MMBtu of natural gas per day for Neodesha from receipt points located in Kansas, Missouri, Oklahoma, Texas and Wyoming to delivery points on WNG's pipeline located in Kansas. WNG anticipates transporting, on an average day 645 MMBtu and an annual volume of 235,425 MMBtu.

WNG states that the transportation of natural gas for Neodesha commenced March 17, 1989, as reported in Docket No. ST89-2805-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to WNG in Docket No. CP86-631-000.

Comment date: June 5, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. El Paso Natural Gas Company

[Docket No. CP89-1207-000]

Take notice that on April, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas, 79978, filed a request for authorization at Docket No. CP89-1207-000, pursuant to §§ 157.205 and 284.223(b) of the Federal Energy Regulatory Commission's (Commission) Regulations Under the Natural Gas Act, to provide interruptible transportation service for Phillips Natural Gas Company (Shipper), under its blanket certificate issued at Docket No. CP88-433-000, all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

El Paso requests authority to transport up to 126,000 MMBtu of natural gas per day for Shipper from any point of receipt on El Paso's system to various delivery points located in Arizona and Texas. El Paso states that the estimated daily and annual quantities would be 84,400 MMBtu and 30,806,000 MMBtu, respectively. El Paso further states that this transportation service under § 284.223(a) commenced on March 10, 1989, as reported with the Commission at Docket No. ST89-2851-000

Comment date: June 5, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Northern Natural Gas Company Division of Enron Corporation

[Docket No. CP89-1172-000]

Take notice that on April 7, 1989, Northern Natural Gas Company, Division of Enron Corporation (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, Houston, Texas 77251-1188 filed in Docket No. CP89-1172-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Transco Energy Marketing Company (Transco), under the certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that it proposes to transport up to 100,000 MMBtu of natural gas per day for Transco, on a peak day, 75,000 MMBtu on an average day, and 36,500,000 MMBtu annually, under Rate Schedule IT-1. This service was reported to the Commission in Docket No. ST89-2754-000. Northern further states that construction of facilities will not be required to provide the proposed service.

Comment date: June 5, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9923 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-968-000]

ANR Pipeline Co.; Request Under Blanket Authorization

March 13, 1989.

Take notice that on March 8, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-968-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of The Fremont Company (Fremont), under ANR's blanket certificate issued in Docket No. CP88-532-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR requests authorization to transport, on an interruptible basis, up to a maximum of 700 dekatherms of natural gas per day for Fremont, a marketer of natural gas, from a receipt point located in Vermilion Parish, Louisiana to a delivery point located in Van Wert County, Ohio. ANR anticipates transporting an annual volume of 255,500 dekatherms.

ANR states that the transportation of natural gas for Fremont commenced January 25, 1989, as reported in Docket No. ST89-2332-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to ANR in Docket No. CP88-532-000.

Any person or the Commission's staff may, within 45 days issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9933 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-45-017]

Arkla Energy Resources, a Division of Arkla, Inc.; Proposed Change in FERC Gas Tariff

April 20, 1989.

Take notice that on April 17, 1989, Arkla Energy Resources (AER), a division of Arkla, Inc. tendered for filing the following tariff sheet to its FERC Gas Tariff, Original Volume No. 1-A:

First Substitute Second Revised Sheet No. 82

and the following tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1:

First Substitute Twelfth Revised Sheet No. 12D.

AER states that on February 17, 1989, it tendered for filing tariff sheets in compliance with the Commission's order approving the Stipulation and Agreement Regarding Interim Rates. Due to clerical and pagination error, the Commission Staff requested that AER make changes in its filing. This filing represents those changes.

Also, AER is withdrawing, from its February 17, 1989 filing, the following tariff sheets from its FERC Gas Tariff, Original Volume No. 1-A:

Third Revised Sheet Nos. 32 through 40.

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These sheets had already been accepted by the Commission and were inadvertently added to the filing.

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed by April 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9924 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-75-001]

Black Marlin Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 20, 1989.

Take notice that Black Marlin Pipeline Company (Black Marlin) on April 17, 1989, tendered for filing a revision in its FERC Gas Tariff in compliance with the Commission's Order dated March 31, 1989 in this proceeding. Black Marlin states that the filing reflects revisions in its FTS/OCS, ITS/OCS Transportation Rate Schedule as prescribed by the Commission in that Order. Black Marlin has requested that the proposed filing be made effective April 1, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before April 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9925 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-80-002]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 20, 1989.

On April 14, 1989, CNG Transmission Corporation ("CNG") submitted for filing, as part of its FERC Gas Tariff Original Volume No. 1, the following tariff sheet:

Substitute Original Sheet No. 127-A.

CNG has requested that the Commission permit this filing to become effective as of April 1, 1989. This tariff sheet is being filed in compliance with Commission Order Nos. 509 and 509-A, and the letter order dated March 31, 1989.

CNG states that copies of the filing were served upon all of its Volume No. 1 customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules and Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests shall be filed on or before April 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9926 Filed 4-25-89 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-37-000 and RP89-62-000]

High Island Offshore System; Informal Settlement Conference

April 20, 1989

Take notice that an informal settlement conference will be convened in the above-designated proceeding on May 10, 1989, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426.

High Island is now scheduled to distribute its settlement proposal to the parties and Staff on May 4, 1989. The parties and Staff are invited to attend in order to begin settlement negotiations. Persons wishing to become a party to this proceeding must move to intervene pursuant to the Commission's Regulations (18 CFR 385-214 (1985)) and have their motion granted.

For additional information, please contact Staff Counsel Robert L. Woods at (202) 357-8549.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9934 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-259-010]

Northern Natural Gas. Co., Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

April 20, 1989.

Take notice that Northern Natural Gas Company, Division of Enron Corp., (Northern) on April 17, 1989, tendered for filing revised changes in its F.E.R.C. Gas Tariff in compliance with the Commission's Order dated March 31, 1989 in this proceeding.

The Company states that copies of the filing have been mailed to each of its customers purchasing gas and receiving transportation and gathering services under its F.E.R.C. Gas Tariff and to interested State Commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Stret NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests must be filed on or before April 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9927 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-4-29-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

April 20, 1989.

Take notice that on April 17, 1989, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following tariff sheets to its FERC Gas Tariff Original Volume No. 1:

To Be Effective September 29, 1988

Third Substitute Original Sheet No. 3-C.7

Third Substitute Original Sheet No. 3-C.8

Third Substitute Original Sheet No. 3-C.9

To Be Effective November 28, 1988

Second Substitute Original Sheet No. 3-C.13

Second Substitute Original Sheet No. 3-C.14

Second Substitute Original Sheet No. 3-C.15

Panhandle states that the proposed tariff sheets are being filed in compliance with Ordering Paragraph (B) of the Commission's September 28, 1988 Order in Docket No. RP88-240-000 and Ordering Paragraph (D) of the Commission's November 25, 1988 Order in Docket Nos. RP89-10-000 and RP88-240-000 which required Panhandle, *inter alia*, to track any modifications to Panhandle's pipeline supplier, Trunkline Gas Company (Trunkline)'s take-or-pay charges ordered by the Commission in Docket Nos. RP88-239-000 and RP89-11-000, respectively. Specifically, the tariff sheets submitted herewith, reflect the revised take-or-pay charges filed by Trunkline on April 10, 1989 in compliance with the Commission's Order Granting Rehearing dated March 24, 1989 in Docket No. RP88-239-006.

Panhandle states that copies of the filing were sent to all of Panhandle's jurisdictional sales customers and interested state commissions, as well as the parties to the above-captioned proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before April 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 89-9928 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-73-002]

Pelican Interstate Gas System; Compliance Filing

April 20, 1989.

Take notice that on April 14, 1989, Pelican Interstate Gas System (Pelican) filed certain tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to be effective April 1, 1989.

Pelican states that these tariff sheets are filed in compliance with the Commission Order issued March 31, 1989. Pelican states that a new § 5.7 has been added to Rate Schedule FTS to redefine the processing fee in terms of a prepayment of a reservation charge and to provide for a refund of the prepayment. Pelican states that Section 8 of Rate Schedule FTS has also been revised to clarify that if Pelican elects to construct facilities for one shipper, Pelican will do so for other shippers on a non-discriminatory basis.

Pelican states that the March 31, 1989 order also required Pelican to set forth the method by which it will reallocate firm capacity in compliance with 18 CFR 284.305(e). Pelican points out that section § 3.2 of Rate Schedule FTS, Original Sheet No. 36, already so specifies in that it states that that section also applies to the reallocation of firm transportation rights purusant to 18 CFR 284.304(c).

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214. 385.211 (1988)). All such motions or protests should be filed on or before April 27, 1989. Protests all be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9929 Filed 4-25-89 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-1095-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

April 3, 1989.

Take notice that on March 28, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1095-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to provide interruptible transportation service on behalf of ARCO oil and Gas Company's, a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it would transport 15,450 MMbtu on a peak and average day and 5,639,250 MMbtu on an annual basis.

United further states that it has commenced service under the 120-day automatic authorization and reported such service in Docket No. ST89-2651, pursuant to § 284.223(a) of the Regulations.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9930 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-1093-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

April 3, 1989.

Take notice that on March 28, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1093-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to provide interruptible transportation service on behalf of Enron Gas Marketing, Inc., a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the

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request on file with the Commission and open to public inspection.

United states that it would transport 515,000 MMbtu on a peak and average day and 18,975,000 MMbtu on an annual basis.

United further states that it has commenced service under the 120-day automatic authorization and reported such service in Docket No. ST89-2652, pursuant to § 284.223(a) of the Regulations.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9931 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-67-001]

West Texas Gathering Co.; Tariff Filing

April 20, 1989.

Take notice that on April 17, 1989, West Texas Gathering Company ("West Texas") 550 Westlake Park Blvd., Suite 170, Houston, Texas 77079, submitted for filing a compliance tariff filing pursuant to the Commission's March 17, 1989, Order issued to West Texas.

West Texas states that its tariff filing is designed to bring West Texas' open-access tariff into full compliance with Part 284 of the Commission's Regulations, 18 CFR Part 284 and with the Commission's March 17, 1989, Order.

The tariff sheets provide that they are filed to be made effective on February 15, 1989. West Texas has requested such waiver of the Commission's regulations as may be required in order to permit the proposed effective date.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's regulations. All such motions or protests must be filed on or before April 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9932 Filed 4-25-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3561-7]

Chesapeake Bay Program; 1987 Agreement; Proposal for Review

The 1987 Chesapeake Bay Agreement, signed by the Governors of Maryland, Virginia and Pennsylvania, the Mayor of the District of Columbia, and Chairman of the Chesapeake Bay Commission and the Administrator of the U.S. Environmental Protection Agency for the Federal Government, requires signatories to develop Bay-wide Fishery Management Plans for oysters, blue crabs and American shad and a Management Strategy for Submerged Aquatic Vegetation. Draft documents to fulfill these requirements will be available for public review in certain libraries throughout the Bay Basin for a 30-day period starting April 28, 1989, and ending May 27, 1989. For more information about the locations where the documents may be reviewed, call the Chesapeake Regional Information Service toll-free by dialing 800/662-CRIS. In the Washington metropolitan area, you may call 881-8678.

Charles S. Spooner,

Director, Chesapeake Bay Liaison Office.

[FR Doc. 89-9993 Filed 4-25-89; 8:45 am]

BILLING CODE 6560-50-M

[PP 7G3551/T576; FRI-3561-6]

Triasulfuron; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the herbicide triasulfuron in or on certain raw agricultural commodities. These temporary tolerances were requested by Ciba-Geigy Corp.

DATE: These temporary tolerances expire December 31, 1990.

FOR FURTHER INFORMATION CONTACT: By mail:

Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-1800

SUPPLEMENTARY INFORMATION: Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, has requested in pesticide petition (PP) 7G3551 the establishment of temporary tolerances for residues of the herbicide triasulfuron [2-(2-chloroethoxy)-N-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl-amino)carbonyl]benezenesulfonamide] in or on the raw agricultural commodities wheat and barely grain at 0.1 part per million (ppm); wheat and barely straw at 0.5 ppm; wheat and barely forage at 5.0 ppm; wheat and barely hay (dry forage) at 15 ppm, milk at 0.1 ppm; meat, fat, and meat byproducts (excluding liver and kidney) of cattle, goats, hogs, horses, and sheep at 0.05 ppm; liver of cattle, goats, hogs, horses, and sheep at 0.1 ppm; and kidney of cattle, goats, hogs, horses, and sheep at 0.5 ppm. These temporary tolerance will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 100-EUP-90, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaulated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire December 31, 1990. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: (21 U.S.C. 346a(j)).

Dated: April 10, 1989.

Frank Sanders,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-9878 Filed 4-25-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. 89-1338]

Power of Receiver and Conduct of Receiverships; Repurchase Agreements; Lincoln Savings and Loan Association, Los Angeles, CA

Date: April 18, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Federal Home Loan Bank Board ("Board") is supplementing Board Resolution No. 84-572 to clarify its position concerning the protections afforded to those dealing with insured savings and loan associations in "repos" of government and mortgage backed securities. With particular reference to Lincoln Savings and Loan Association, Los Angeles, California ("Lincoln"), which has engaged in a substantial volume of such "repo" transactions, the Board wishes to make it clear that the protections given to securities dealers and others in the "repo" market by amendments to the Bankruptcy Code would also be afforded to securities dealers and others engaged in repo transactions with Lincoln.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Hayes, Deputy General Counsel for FSLIC, (202) 906-6428; or Deborah E. Siegel, Attorney, Office of General Counsel, (202) 906-6848, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The Board has adopted the following resolution:

Whereas, The Federal Home Loan Bank Board ("Board"), by Resolution No. 89-1328, dated April 14, 1989, appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") as Conservator for Lincoln Savings and Loan Association, Los Angeles, California ("Lincoln"); and

Whereas, The Board has considered the particular importance of Repos (as defined below) in providing liquidity and funding for Lincoln, the accounts of which are insured by FSLIC, and the potential disruption to the markets in such Repos that could arise as a result of a receivership, conservatorship, or similar proceeding with respect to Lincoln, which disruption could have additional negative effects on the cost of the funding and liquidity of Repo Assets (as defined below) for other FSLIC insured institutions and institutions chartered by the Board; and

Whereas, The Board as operating head of the FSLIC has decided, pursuant to its powers under Section 5(d)(11) of the Home Owners Loan Act of 1933, as amended, and Section 406(c)(3) of the National Housing Act, as amended, to adopt the following resolutions.

Now, therefore, the Board resolves as follows

1. The Board commits that it shall use its powers under the National Housing Act to ensure that any receivership (and to the fullest extent permitted by law, any conservatorship or similar proceeding) with respect to Lincoln shall be conducted solely by the FSLIC (and not the Commissioner, Department of Savings and Loan for the State of California) as receiver, conservator or similar officials ("Receiver") under federal law and regulations, Board Resolution No. 84-572, and these resolutions.

2. The Receiver will perform all of Lincoln's obligations under Repos outstanding at the time of its appointment according to their then existing terms and conditions (including payment and margin maintenance terms) and will perform all obligations under any New Repos (as defined below) in accordance with their terms and conditions.

3. The Receiver shall have the power to renew, extend, or modify any Repo, and to enter into new Repos (collectively, "New Repos"), but may only exercise such power with the consent of the Repo counterparty.

4. In any termination of the receivership of Lincoln or disposition of Lincoln's liabilities under any Repo or New Repo, the Board and the Receiver shall provide for the performance of obligations and the exercise of remedies under Repos and New Repos in a manner consistent with Board Resolution No. 84-572 and these resolutions.

5. Notwithstanding any other provision of law, regulation, or these resolutions, if the Receiver does not perform all such obligations in accordance with their terms, the counterparty to such Repos or New Repos shall have the absolute right to exercise all of its rights and remedies with respect to such Repos and New Repos (including liquidation of Repo Assets).

6. In the event of a Cross-Default (as defined below), a counterparty to a Repo or New Repo shall have the absolute right to accelerate the repurchase and other obligations thereunder (without notice to the Receiver) and exercise all of its rights and remedies with respect to such Repos and New Repos (including liquidation of Repo Assets to satisfy such accelerated obligations).

7. The failure or delay of a counterparty to exercise any of its rights or remedies upon a failure to perform or a Cross-Default shall not constitute a waiver of any rights or remedies in connection therewith.

8. In connection with a Repo or New Repo counterparty's exercise of remedies upon failure to perform or a Cross-Default, neither the Board nor the Receiver shall object to or seek to oppose or stay such exercise or assert or seek to assert any adverse claims (including stop-transfer instructions) against the Repo Assets or any holder or transferee thereof in connection therewith.

9. The Receiver may enforce its claim to any excess received by a counterparty upon the exercise of such remedies over the stated repurchase price (including interest to the date of liquidation of the Repo Assets) and

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reasonable expenses of liquidation; provided, however, that nothing herein shall be construed to limit any set-off rights that such counterparty shall have against any such excess.

10. Notwithstanding any provision of law or regulation, neither the Board nor the Receiver shall seek to avoid or recover any payment or transfer of Repo Assets or funds made in connection with any Repo or New Repo or the liquidation thereof as a preferential transfer or fraudulent conveyance (other than any fraudulent conveyance made by Lincoln, voluntarily or involuntarily, with actual intent to hinder, delay or defraud its creditors; provided, however, any transferee of such a transfer that takes for value and in good faith has a lien on or may retain any interests transferred, and shall not be subject to a fraudulent conveyance claim in respect to such transfer, in each case to the extent that such transferee gave value to Lincoln in exchange for such transfer and provided further that in no event shall the Board or the Receiver make any such fraudulent conveyance claim against any Repo Assets).

11. Nothing herein shall limit the power of the Board or the Receiver to make a claim against a counterparty (but not Repo Assets) based on such counterparty's fraud or failure to liquidate a Repo or a New Repo in a commercially reasonable manner. In light of the substantial volume of Lincoln's Repos, the Board and the FSLIC hereby confirm that liquidation of Repo Assets over a period, not in excess of 90 days from the date of termination of a Repo or New Repo, would constitute a liquidation of a Repo or New Repo in a commercially reasonable time, and that the counterparty shall be entitled (but in the case of a Repo only from the proceeds of liquidation of Repo Assets or by way of set-off) to interest, at the contract rate, accruing during such period, provided, however, that a liquidation of Repo Assets at any point during such period or after a longer period of time shall not in and of itself constitute a commercially unreasonable time.

12. In connection with any Repo or New Repos, the Board and the FSLIC, in its corporate capacity, each irrevocably waives compliance by counterparties to Repos or New Repos with the FSLIC right or notice and purchase (12 CFR 563.B–2) and the contractual language required thereby, if applicable to any Repo Assets.

13. Nothing herein shall limit the exercise by a counterparty to a Repo or New Repo of its rights and remedies thereunder in reliance on the Board's Resolution No. 84–572, which Resolution shall continue in full force and effect; provided, however, that paragraphs 2, 4, 5, 6, 7, 8, 10 and 12, the proviso to paragraph 9, and the second sentence of paragraph 11 of these resolutions shall not apply to a termination of a Repo prior to the stated repurchase or maturity date therefor based solely on the appointment of the Receiver for Lincoln.

14. In recognition of the reliance counterparties to Repos and New Repos place and will place on Resolution No. 84–572 and these resolutions in continuing to renew and enter into Repos with Lincoln, the Board intends itself, the FSLIC, in its corporate capacity, and the Receiver to be bound by Resolution No. 84–572 and these resolutions, and will not amend or rescind them without appropriate public notice of a least 45 days and any such amendment or rescission shall operate only prospectively.

"Cross Default" means, as to any counterparty to a Repo or New Repos, the failure by Lincoln or the Receiver to make any payment of funds or delivery of additional Repo Asset to any other Repo or New Repo counterparty when due, (b) the failure by Lincoln or the Receiver to make any payment of funds or delivery of securities under any "securities contract" or "commodities contract" (each as defined in the Federal Bankruptcy Code), or interest rate exchange agreement, when due, or (c) such counterparty is unable to finance or sell under repo, on reasonable terms and conditions, any Repo Assets (whether due to market insecurity, a breach by the Board of its commitments hereunder, or otherwise).

"Repo Assets" means assets that are "liquid assets" under 12 CFR 523.10 or assets that would be so "liquid" but for their remaining term to maturity, "mortgage-related securities" (as defined in section 3(a)(41) of the Securities Exchange Act of 1934).

"Repo" means an agreement, whether documented as a purchase and sale transaction or a secured loan transaction, by Lincoln (or the Receiver, in the case of New Repos) pursuant to which Lincoln or the Receiver transfers Repo Assets to a counterparty that is a registered broker-dealer (including a registered government securities broker-dealer) or an affiliate thereof, the Federal Home Loan Mortgage Corporation, or (to the extent that Repo Assets are securities that are direct obligations of or that are fully guaranteed as to principal and interest by the United States or any agency thereof, the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Association) a Federal Home Loan Bank, against the transfer of funds with a simultaneous agreement by the counterparty to retransfer such Repo Assets to Lincoln or the Receiver on a date certain or on demand against the transfer of funds.

Resolved further, That these resolutions shall be effective immediately upon their adoption by the Board.

Resolved further, That the Secretary to the Board shall forward this resolution for publication in the Federal Register.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89–9986 Filed 4–25–89; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Tropical Federal Savings and Loan Association; Miami, FL

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly replaced the Federal Savings and Loan Insurance Corporation as conservator for Tropical Federal Savings and Loan Association, Miami, Florida, with the Federal Savings and Loan Association as sole receiver for the association, on April 12, 1989.

Dated: April 21, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89–9985 Filed 4–25–89; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance); Aloha Pacific Cruises, Inc.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Aloha Pacific Cruises Limited Partnership and S.S. Monterey Limited Partnership, 510 King Street, #501, Alexandria, VA 22314–3132.

Vessel: Monterey.

Date: April 21, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–10002 Filed 4–25–89; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants; C.H. Robinson International, Inc., et al.

Notice is given that the following applicant have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reasons why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

C.H. Robinson International, Incorporated, 7525 Mitchell Rd., Eden Prairie, MN 55344
Officers: Scott K. Flora, President, Bernard Michael Madej, Director, Darvin S. Dahlke, Dir./Secre./Treas., Barry W. Butzow, Director.

Logistic Distribution Systems USA Inc., 433 Blair Road, Avenel, NJ 07001
Officers: Salvatore Salomone, President/Director, Vincenzo Rossi, Vice President, Riccardo Del Mastro, Asst. Vice President, Nisith Mitra, Treasurer, George M. Pavia, Secretary, Bruno Bigi, Director, Massimo Petrozzi, Director.

Ransar International, Inc., 1034 Jericho Turnpike, Smithtown, New York 11787
Officers: Fortunato C. Rana, President, Rosalina Sarigumba, Vice President.

John Clark International, Inc., 1659 Sherman Avenue, Evanston, IL 60201
Officers: John Clark McGary, President, Richard D. Nashan, Vice President, James M. Nashan, Secretary/Treasurer.

Sun Express America, Inc., 8939 S. Sepulveda Blvd., #530, Los Angeles, CA 90045
Officers: Soo Ock Kim, Chief Exec. Officer, Mal Bok Kim, Director, Jung Woo Kim, Director.

Rical Express, Inc., 9400 W. Foster, Suite 100, Chicago, IL 60656
Officers: Ricky C.K. Leung, President, Calvin Ng, Stockholder, Charles Ozburn, V. Pres./Secre./Asst. Treas., Austin Chen, Stockholder.

S.B.R. International Corporation, 1425 N.W. 88th Avenue (2nd FL), Miami, Fl 33172
Officers: Alfredo A. Suarez, President/Dir./Stockh., Raul J. Suarez, V. President/Dir./Stockh., Alfredo D. Suarez, Chairman/Dir./Stockh., Jorge H. Suarez, Treasurer/Director, Jorge L. Suarez, V. President/Dir./Stockh., Alex A. Bastidas, Manager.

Advanced International Services, 3555 Timmons Lane, Suite 1010, Houston, TX 77027
Officer: Thomas Michael Gillespie, Sole Proprietor.

Fairway Express, Inc., 420 E. Hyde Park Blvd., Inglewood, CA 90302
Officers: Wooyoung Choi, Pres./Dir./Stockh., Youkyoung L. Choi, Dir./Secre./Chief Financial Ofc.

NNR Aircargo Service (USA) Inc., 765 Dillion Drive, Wood Dale, IL 60191
Officers: Yoshio Nogami, Chairman of Board of Directors, Iwao Saski, Pres./Dir./Secre., Daisuke Itch, Dir./Exec. President, Akira Nokuo, Treasurer/Asst. Secre., Yoichiro Hayashida, Director.

By the Federal Maritime Commission.

Dated: April 20, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–9953 Filed 4–25–89; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Request for Nominations of Candidates To Serve on the Mine Health Research Advisory Committee

The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), is soliciting nominations for membership on the Mine Health Research Advisory Committee (MHRAC). On December 23, 1989, four vacancies will occur. The MHRAC, which is authorized by the Federal Mine Safety and Health Act of 1977, advises the Department of Health and Human Services on matters related to intramural and extramural health research for the nation's miners. The direction, scope, and scientific quality of the NIOSH mine health research program are considered by the Committee.

Nominations in the disciplines of occupational medicine, industrial hygiene engineering, plumonary medicine, epidemiology, and toxicology are sought. Mining experience is desirable, but is not necessary for every position on the Committee. Emphasis is placed on scientific credentials.

The Department of Health and Human Services gives close attention to equitable geographic distribution and to minority and female representation; therefore, nominations from these groups are encouraged.

The following information is requested: name, affiliation, address, telephone number, and a recent curriculum vitae. Nominations should be sent by May 20, 1989, to: Mr. Melvin L. Myers, Executive Secretary, MHRAC, NIOSH, CDC, D–37, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephones: FTS: 236–3901, Commercial: 404/639–3901.

Dated: April 20, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89–9943 Filed 4–25–89; 8:45 am]

BILLING CODE 4160–19–M

National Institutes of Health

Meeting of the Advisory Committee to the Director

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, on May 18, 1989. The meeting will take place from 8:30 a.m. to 4:30 p.m. in Building 60, Lecture Hall, Mary Woodard Lasker Center for Health Research and Education (The Cloister), National Institutes of Health, Bethesda, Maryland 20892. The meeting will be open to the public.

The meeting will be devoted to discussions of "Biomedical Research: The Next Generation of Scientists."

The Executive Secretary, Jay Moskowitz, Ph.D., National Institutes of Health, Shannon Building, Room 103, Bethesda, Maryland 20892, (301) 496–3152, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Date: April 18, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–9975 Filed 4–25–89; 8:45 am]

BILLING CODE 4140–01–M

John E. Fogarty International Center for Advanced Study in the Health Sciences; Meeting

Notice of Meeting of the Fogarty International Center Advisory Board Pursuant to Pub. L. 92–463, notice is hereby given by the twelfth meeting of

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the Fogarty International Center (FIC) Advisory Board, May 23, 1989, in the Stone House (Building 16), at the National Institutes of Health.

The meeting will be open to the public from 10:00 a.m. to 4:00 p.m. The morning agenda will include a report by the Director of the FIC, and a report on the scientific and professional accomplishment of former International Research Fellows (supported by the FIC). The afternoon session will include a report on the meeting of the Advisory Committee to the Director, NIH, on "Biomedical Reseach: The Next Generation"; a discussion of coordination between FIC and NIH research institutes; and the report of a workship on "Pathogenesis and Prevention of Hepatocellular Carcinoma."

In accordance with the provisions set forth in section 552b(c)(9)(B), Title 5, U.S.C. the Board meeting will be closed to the public from 8:30 to 10:00 a.m. for discussion of specific long-range initiatives, the premature disclosure of might hinder the implementation of such initiatives.

In accordance with the provisions of sections 552(b)(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will also be closed to the public from 4:00 p.m. to adjournment for the review, discussion, and evaluation of research fellowship applications. The closed session will also review Scholar-in-Residence nominations, and Scholars' conference proposals, and proposals for international studies. These materials contain information of a proprietary nature, including detailed research protocols, designs, and other technical information; and personal information about individuals associated with the applications.

Myra Halem, Committee Management Officer, Fogarty International Center, Building 38A, Room 609, National Institutes of Health, Bethesda, Maryland 20892 (301-496-1491), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Coralie Farlee, Assistant Director for Planning and Evaluation, Fogarty International Center (Executive Secretary), Building 38A, Room 609, telephone 301-496-1491, will provide substantive program information.

Dated: April 4, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-9980 Filed 4-25-89; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of Cancer Biology-Immunology Contracts Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Biology-Immunology Contracts Review Committee, National Cancer Institute, National Institutes of Health, June 12-13, 1989, Building 31A, Conference Room 2, Bethesda, Maryland 20892.

This meeting will be open to the public on June 12 from 9 a.m. to 9:30 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 12 from 9:30 a.m. to recess and on June 13 from 9 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Wilna A. Woods, Executive Secretary, Cancer Biology-Immunology Contracts Review Committee, 5333 Westbard Avenue, Room 807, Bethesda, Maryland 20892 (301/496-7153) will furnish substantive program information.

Dated: April 4, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-9981 Filed 4-25-89; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, June 1 and 2, 1989, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7N214, Bethesda, Maryland 20892.

This meeting will be open to the public from 9 a.m. to 4 p.m. June 1 and from 9:00 a.m. to 12 noon on June 2 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisons set forth in section 552(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 12 noon to adjournment June 2 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Board members. Substantive program information may be obtained from Dr. Edward D. Korn, Executive Secretary and Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7N214, phone (301) 496-2116.

Dated: April 3, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-9977 Filed 4-25-89; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of the National Cholestrol Education Program Coordinating Committee

Notice is hereby given of the meeting of the National Cholestrol Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute on Tuesday, June 6, 1989, from 10 a.m. to 3:30 p.m., at the Holiday Inn Crown Plaza, 1750 Rockville Pike, Rockville, Maryland 20850, (301) 468-1100.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National Cholestrol Education Program. Attendance by the public will be limited to space available.

For the agenda, list of participants, and meeting summary, contact: Dr. James I. Cleeman, Coordinator, National Cholestrol Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, C-200, Bethesda, Maryland 20892, (301) 496-0554.

Dated: April 17, 1989.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 89-9978 Filed 4-25-89; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meetings of the National Heart, Lung, and Blood Advisory Council and Its Research Subcommittee and Training Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, May 25-26, 1989, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Training Subcommittee of the above Council will meet on May 24, the Research Subcommittee at 1 p.m. in Building 31, Conference Room 9 and the Training Subcommittee at 8 p.m. in Building 31, Conference Room 9.

The Council meeting will be open to the public on May 25 from 9 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., 10(d) of Pub. L. 92-463, the Council meeting will be closed to the public from approximately 3:30 p.m. on May 25 to adjournment on May 26 for the review, discussion and evaluation of individual grant applications. The meetings of the Research Subcommittee and the Training Subcommittee of the above Council on May 24, will be closed from 1 p.m. and 8 p.m., respectively, to adjournment for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the Council members.

Ms. Arlene Zimmerman, Executive Secretary, National Heart, Lung, and Blood Advisory Council, Westwood Building, Room 7A-15, National Institutes of Health, Behesda, Maryland 20892, (301) 496-7548, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 4, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-9979 Filed 4-25-89; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the Board of Scientific Counselors

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), May 4, 5, and 6, 1989, National Institutes of Health, Building 2, Room 102, Bethesda, Maryland 20892. This meeting will be open to the public on May 4 from 8 p.m. to 10 p.m., May 5 from 9 a.m. to 12 noon and again from 2 p.m. to 4:30 p.m., and May 6 from 9 a.m. to 10:30 a.m. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIDDK Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 4 from 7:30 p.m. to 8 p.m., May 5 from 12 noon to 2 p.m. and again from 4:30 p.m. to recess, and May 6 from 10:30 a.m. to adjournment for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIDDK, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Diabetes and Digestive and Kidney Diseases, Building 31, Room 9A19, Bethesda, Maryland 20892. Further information concerning the meeting may be obtained by contacting the office of Dr. Jesse Roth, Executive Secretary, Board of Scientific Counselors, National Institutes of Health, Building 10, Room 9N-222, Bethesda, Maryland 20892, (301) 496-4128.

Dated: April 3, 1989.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 89-9982 Filed 4-25-89; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Aging; Meeting of the Board of Scientific Counselors

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, May 22-23, 1989, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 9:00 a.m. on Monday, May 22 until approximately 4:00 p.m. and will again be open to the public from 9:00 a.m. on Tuesday, May 23, until 4:00 p.m. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 22 from 4:00 p.m. until recess, and again on May 23 from 4:00 p.m. until adjournment for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NIA, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2C05, National Institutes of Health, Bethesda, Maryland 20892, (telephone: 301/496-9322) will provide a summary of the meeting and a roster of committee members. Dr. George R. Martin, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Maryland 21224, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.886, Aging Research, National Institutes of Health)

Dated: April 3, 1989.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 89-9983 Filed 4-25-89; 8:45 am]

BILLING CODE 4140-01-M

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National Institute of Neurological Disorders and Stroke; Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke, Division of Intramural Research on June 21-23, 1989, Conference Rooms 1B07, Building 36 and 5C101, Building 10, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. to 12:30 p.m. on June 22 in Bldg. 36, Rm. 1B07, and from 1:30 p.m. to 5:00 p.m. in Bldg. 10, Rm. 54C101 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 8 p.m. to 10 p.m. on June 21 and from 9 a.m. until adjournment on June 23 in Bldg. 10, Rm. 5C101 for the review, discussions and evaluation of individual programs and projects conducted by the NINDS. The programs and discussions include consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Mr. David Mineo, Federal Building, Room 1004, 7550 Wisconsin Avenue, Bethesda, MD 20892, telephone (301) 496-9231 or the Executive Secretary, Dr. Irwin J. Kopin, Director, Division of Intramural Research, NINDS, Building 10, Room 5N214, National Institutes of Health, Bethesda, MD 20892, telephone (301) 496-4297 will furnish a summary of the meeting and a roster of committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: April 3, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-9964 Filed 4-25-89; 8:45 am]

BILLING CODE 4140-01-M

Recombinant DNA Advisory Committee; Revision of NIH Guidelines Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee—Revision of NIH Guidelines Subcommittee at the National Institutes of Health, Building 31, Conference Room 6, Bethesda, Maryland 20892, on June 5, 1989, from approximately 9:00 a.m. to adjournment at approximately 5:00 p.m. to discuss the definition of recombinant DNA. This meeting will be open to the public. Attendance by the public will be limited to space available.

Further information can be obtained from Ms. Rachel E. Levinson, Executive Secretary of the Revision of NIH Guidelines Subcommittee, Office of Recombinant DNA Activities, Office of Science Policy and Legislation, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892, telephone (301) 496-9838.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: April 18, 1989.

Betty J. Beveridge,

Committee Management Officer.

[FR Doc. 89-9976 Filed 4-25-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Advisory Committee on Water Data for Public Use; Meeting

Pursuant to Pub. L. 92-463, effective January 5, 1973, notice is hereby given that an open meeting of the Advisory Committee on Water Data for Public Use (ACWDPU) will be held May 23-25, 1989, at the Grenelefe Resort and Confernce Center, 3200 State Road 546, Grenelefe, Florida 33344-9732. The ACWDPU consists of individuals and representatives of water resources-oriented groups, including national, State, and regional organizations, professional and technical societies, and the academic community. Its principal responsibility is to advise the Secretary of the Interior, through the Director of the Geological Survey, by providing the views of the non-Federal community in plans, policies, and procedures related to water-data programs. The Director of the U.S. Geological Survey (USGS) is Chairman of the Committee.

The meeting will convene at 8 a.m. on Tuesday, May 23, 1989. The meeting will commemorate the 25th anniversary of the Federal Water Data Coordinating Program, and the theme will be "Partnerships for Water-Resources Information Coordination." Topics to be considered include non-Federal water-resources priorities, agricultural water-quality information requirements, information-dissemination efforts and plans, and data-collection network operations. The meeting will adjourn at noon on Thursday, May 25, 1989.

The meeting will be open to the public, and anyone wishing to attend or desiring additional information should contact Nancy Lopez, Chief, Office of Water Data Coordination, U.S. Geological Survey, 417 National Center, Reston, Virginia 22092. Her telephone number is (703) 648-5014. A report summarizing the meeting will be available approximately 4 weeks after the meeting.

Date: April 10, 1989.

Bruce Parks,

Acting Chief, Office of Water Data Coordination.

[FR Doc. 89-9963 Filed 4-25-89; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[AZ-050-4333-12]

Arizona; Closure to Camping

AGENCY: Bureau of Land Management, Interior.

ACTION: Close an area near Yuma, AZ, east of Avenue 9E and north of the Interstate 8 north frontage road in Yuma County to camping.

SUMMARY: The following described lands east of Avenue 9E are closed to all types of camping. The area affected by this closure contains 320.04 acres, more or less.

T. 9 S., R. 22 W., Gila and Salt River Meridian,
Sec. 1, Lot 1, S½NE¼, S½NW¼, W½SE¼, SE¼SE¼.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Walt Tegge, Outdoor Recreation Planner, Yuma Resource Area; 3150 Winsor Avenue, Yuma, AZ 85365, 602-726-6300.

SUPPLEMENTARY INFORMATION: Authority for this action is contained in 43 CFR 8364.1. This area is being closed to protect public health and safety. This camping closure shall remain in effect until further notice and shall apply to all persons. Maps of the area are available at the Yuma BLM office.

Dated: April 17, 1989.

Herman L. Kast,

District Manager.

[FR Doc. 89-9966 Filed 4-25-89; 8:45 am]

BILLING CODE 4333-12-M

[AZ-020-4333-08]

Public Meetings and Extension of Comment Period for the Goldwater Amendment to the Lower Gila South Resource Management Plan and Environmental Assessment; Phoenix District, Arizona.

ACTION: Notice of public meetings and extension of comment period.

SUMMARY: The Bureau of Land Management, Lower Gila Resource Area, is going to hold open house public meetings to allow the public to discuss the Goldwater Amendment to the Lower Gila South Resource Management Plan (RMP). The amendment was completed to comply with Pub. L. 99-606 which was passed on November 6, 1986, and requires the BLM to assume resource management responsibilities on the Barry M. Goldwater Air Force Range. This amendment (1) proposes to adopt, with modifications, the existing Luke Air Force Range Natural Resources Management Plan; (2) includes an Environmental Assessment; and (3) guides resource management actions on approximately 1.8 million acres of withdrawn public lands within the Goldwater Range. The public is invited to review, discuss and comment on the completed amendment at the meetings in May. Written comments will be accepted at these meetings or may be sent to BLM during the extended comment period ending June 23, 1989.

Information: The planning area is located in southwestern Arizona and contains 1.8 million acres of public land withdrawn to the Air Force for military use. Public Law 99-606 and military use of the range have placed certain constraints on the planning process and issues that can be included in the process. Uses and issues that cannot occur and are not addressed in this amendment include livestock grazing, mineral exploration, leasing and entry, wilderness, and open areas for off-road vehicles. Management concerns that are addressed include but are not limited to wildlife management, cultural resource management, recreation, ACEC's, and other natural areas.

There will be two open house public meetings to obtain input on the amendment. These meetings will be held in Gila Bend and Yuma, Arizona at the following times and locations.

May 22, 1989, 7-9 p.m.

Base Theater, Gila Bend Air Force Auxiliary Field, Gila Bend, Arizona.

May 23, 1989, 7-9 p.m.

Yuma District Office, Bureau of Land Management, 3150 Winsor Avenue, Yuma, Arizona.

Completed amendments were sent to individuals and groups who had expressed an interest in the amendment. Additional copies of the amendment will be available at the open houses or may be obtained at the Lower Gila Resource Area, 2015 W. Deer Valley, Road, Phoenix, Arizona. The open houses will provide the public and BLM an opportunity to discuss the amendment in an informal setting.

ADDRESS: Send comments to: Bureau of Land Management, Phoenix District Office, Attn: Carole Hamilton, 2015 W. Deer Valley Road, Phoenix, AZ 85027.

FOR FURTHER INFORMATION CONTACT: Carole Hamilton, Area Manager, Lower Gila Resource Area, (602) 863-4464.

Date: April 20, 1989.

Charles Frost,

Associate District Manager.

[FR Doc. 89-9944 Filed 4-25-89; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

Approval for the information collection listed below has been requested from the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the information collection requirement and supporting documentation may be obtained by contacting the Bureau Clearance Officer at the phone number listed below. Comments and suggestions on the information collection should be made directly to the Bureau Clearance Officer, Mail Stop 632, 12203 Sunrise Valley Drive, Reston, Virginia 22091, and to the Office of Management and Budget Interior Department Desk Officer, Paperwork Reduction Project (1010-0078), Washington, DC 20503, telephone (202) 395-7340; with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646; Reston, Virginia 22091.

Title: Oil and Gas and Sulphur Operations in the Outer Continental Shelf, 30 CFR Part 250.

OMB Approval Number: 1010-0078.

Abstract: Rules governing oil, gas, and sulphur operations in the Outer Continental Shelf were consolidated into the revised and updated 30 CFR Part 250 which became effective May 31, 1988. All subparts of the revised rule contain narrative information collection requirements which have been approved by OMB. The Minerals Management Service proposes to increase the information collection requirements contained in Subpart O, Training, by the addition of 1,162 hours. That would increase the annual burden from 2,782 to 3,944 hours of Subpart O. The information is necessary to ascertain the adequacy of personnel training in order to minimize the hazards and increase the level of safety consciousness of personnel working in drilling, well-completion, well-workover, and production operations.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Lessees of Outer Continental Shelf oil and gas and sulphur leases and Training Organizations.

Estimated Completion Time: 5 hours.

Annual Responses: 330.

Annual Burden Hours: 3,944.

Bureau Clearance Officer: Dorothy Christopher, telephone (703) 435-6213.

Date: February 22, 1989.

William D. Bettenberg,

Associate Director for Offshore Minerals Management.

[FR Doc. 89-9968 Filed 4-25-89; 8:45 am]

BILLING CODE 4310-MR-M

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Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Paperwork Reduction Project (1010–0031), Washington, DC 20503, telephone (202) 395–7340, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Reimbursement for Certain Geological and Geophysical Data and Information, 30 CFR 251.13.

OMB Approval Number: 1010–0031.

Abstract: Section 26 of the Outer Continental Shelf Lands Act requires that certain costs be reimbursed to the parties submitting required geological and geophysical (G&G) data and information requested by the Minerals Management Service (MMS). Under the law, lessees and permittees can be reimbursed for the costs of reproducing any G&G data required to be submitted. In order for the Government to determine the propriety and level of reimbursement, lessees and permittees are required to send a request for reimbursement to the Director, MMS, where it will be reviewed and evaluated. Reimbursement will be made according to appropriate criteria.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal oil and gas lessees and permittees.

Estimated Completion Time: 7 hours.

Annual Responses: 300.

Annual Burden Hours: 2,100.

Bureau Clearance Officer: Dorothy Christopher, (703) 435–6213.

Date: March 9, 1989.

William D. Bettenberg,

Associate Director for Offshore Minerals Management.

[FR Doc. 89–9969 Filed 4–25–89; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Walter Oil & Gas Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Walter Oil & Gas Corporation has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 7699 and 7700, Blocks 36 and 37, respectively, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 14, 1989. Comments must be received within 15 days of the publication date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: April 17, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89–9967 Filed 4–25–89; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31430 (Sub-No. 1)]

David L. Durbano and Phillip D. Scott; Continuance in Control Exemption of Arizona Central Railroad, Inc.

David L. Durbano and Phillip D. Scott, noncarrier individuals, have filed a notice of exemption under 49 CFR 1180.4(g) regarding their continuance in control of Arizona Central Railroad, Inc. (ACR), upon the commencement of rail operations by ACR. ACR, a noncarrier corporation controlled by Mr. Durbano and Mr. Scott, has filed concurrently a notice of exemption in Finance Docket No. 31430, *Arizona Central Railroad, Inc.—Acquisition and Operation Exemption—Clarkdale Branch of the Atchison, Topeka and Santa Fe Railway Company*. There, ACR seeks an exemption to acquire by purchase from The Atchison, Topeka and Santa Fe Railway Company and to operate approximately 38.74 miles of rail line located in Arizona. Mr. Durbano and Mr. Scott presently control Wyoming Colorado Railroad, Inc. (WCR). They have also filed a notice of exemption in Finance Docket No. 31440 (Sub-No. 1) relating to their control of Intermountain Western Railroad (IWRR), a noncarrier corporation, which will become a rail carrier upon approval of the notice of exemption for the acquisition and operation of the Oregon Northwestern Railroad in Finance Docket No. 31440. As a result of the above transactions, Mr. Durbano and Mr. Scott will control three rail carriers, ACR, WCR, and IWRR.

Mr. Durbano and Mr. Scott indicate that: (1) ACR, WCR, and IWRR will not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction involves the continuance in control of a nonconnecting carrier, and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Docket Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Any comments must be filed with the Commission and served on: Douglas M. Durbano, Durbano, Smith, Reeve & Fuller, 4185 Harrison Boulevard, Suite 320, Ogden, UT 84403.

Decided: April 19, 1989.

By the Commission, Jane Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–9897 Filed 4–25–89; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Survey of Substance Abuse Programs in the Mining Industry

AGENCY: Office of the Secretary, Labor.

ACTION: Submission of onetime survey for clearance under the Paperwork Reduction Act.

SUMMARY: The Mine Safety and Health Administration, Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C., Chapter 35, 5 CFR Part 1320 (53 FR 16618 to 16632, May 10, 1988)), is submitting a onetime survey on substance abuse programs in the mining industry to the Office of Management and Budget for that Agency's approval. The information is to be collected under the authority of Pub. L. 99–570, The Drug Abuse Act of 1986.

DATE: MSHA has requested an expedited review of this submission under the Paperwork Reduction Act, to be completed on or before May 11, 1989.

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding the survey should be directed to Paul E. Larson, Departmental Clearance Officer, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–1301, Washington, DC 20210 (telephone (202) 523–6331). Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for MSHA, Office of Management and Budget, Room 3208, Washington, DC (telephone (202) 395–5880).

Any member of the public who wants to comment on the information collection clearance package which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

SUPPLEMENTARY INFORMATION: As part of a study on substance abuse in the mining industry, MSHA plans to conduct a survey of randomly selected mining companies to obtain information about the extent and effects of substance abuse, the substances being abused, and policies and programs being used to detect and treat substance abuse. The Agency estimates that approximately 3,600 respondents will be contacted and the burden will be 10 minutes per response for a total of 600 burden hours. The information collected through this study will be used to develop policies, procedures, and training initiatives on substance abuse. The study results will be included in a report to Congress. Copies of the study results will also be given to the Committee representatives from the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism, the Bureau of Mines, and mining industry management and union representatives for their use in the development and evaluation of substance abuse programs.

The following submission for approval of the survey has been submitted to OMB with a request for expedited approval under the Paperwork Reduction Act.

Signed at Washington, DC this 20th day of April 1989.

Paul E. Larson,

Departmental Clearance Officer.

BILLING CODE 4510–43–M

Standard Form 83 (Rev. September 1983)

Request for OMB Review

Important

Read instructions before completing form. Do not use the same SF 83 to request both an Executive Order 12291 review and approval under the Paperwork Reduction Act.

Answer all questions in Part I. If this request is for review under E.O. 12291, complete Part II and sign the regulatory certification. If this request is for approval under the Paperwork Reduction Act and 5 CFR 1320, skip Part II, complete Part III and sign the paperwork certification.

Send three copies of this form, the material to be reviewed, and for paperwork—three copies of the supporting statement, to:

Office of Information and Regulatory Affairs
Office of Management and Budget
Attention: Docket Library, Room 3201
Washington, DC 20503

PART I.—Complete This Part for All Requests.

1. Department/agency and Bureau/office originating request
U.S. Department of Labor
Mine Safety and Health Administration
Office of Information and Public Affairs

2. Agency code: 1219

3. Name of person who can best answer questions regarding this request: Thomas A. Brown
Telephone number: (703)235-1452

4. Title of information collection or rulemaking
Substance Abuse Programs in the Mining Industry

5. Legal authority for information collection or rule (cite United States Code, Public Law, or Executive Order)
30 CFR Part 50 or P.L. 99-570, The Drug Abuse Act of 1986

6. Affected public (check all that apply)
1 ☐ Individuals or households
2 ☐ State or local governments
3 ☐ Farms
4 ☒ Businesses or other for-profit
5 ☐ Federal agencies or employees
6 ☐ Non-profit institutions
7 ☐ Small businesses or organizations

PART II.—Complete This Part Only If the Request is for OMB Review Under Executive Order 12291

7. Regulation Identifier Number (RIN)
___ ___ ___ ___ ___ ___ ___ ___ ___, or, None assigned ☐

8. Type of submission (check one in each category)

Classification	Stage of development	Type of review requested
1 ☐ Major	1 ☐ Proposed or draft	1 ☐ Standard
2 ☐ Nonmajor	2 ☐ Final or interim final, with prior proposal	2 ☐ Pending
	3 ☐ Final or interim final, without prior proposal	3 ☐ Emergency
		4 ☐ Statutory or judicial deadline

9. CFR section affected
_____CFR _____

10. Does this regulation contain reporting or recordkeeping requirements that require OMB approval under the Paperwork Reduction Act and 5 CFR 1320? ☐ Yes ☐ No

11. If a major rule, is there a regulatory impact analysis attached? 1 ☐ Yes 2 ☐ No
If "No," did OMB waive the analysis? 3 ☐ Yes 4 ☐ No

Certification for Regulatory Submissions

In submitting this request for OMB review, the authorized regulatory contact and the program official certify that the requirements of E.O. 12291 and any applicable policy directives have been complied with

Signature of program official — Date

Signature of authorized regulatory contact — Date

12. *(OMB use only)*

Previous editions obsolete
NSN 7540-00-634-4034

83-108

Standard Form 83 (Rev 9-83)
Prescribed by OMB
5 CFR 1320 and E.O. 12291

PART III.—Complete This Part Only If the Request is for Approval of a Collection of Information Under the Paperwork Reduction Act and 5 CFR 1320.

13. Abstract—Describe needs, uses and affected public in 50 words or less
'Alcohol and drug abuse problems; drug treatment; rehabilitation programs.' As part of a study on substance abuse in the mining industry, MSHA plans to conduct a survey of randomly selected mining companies to obtain information about the extent and effects of substance abuse, the substances being abused, and policies and programs being used to detect and treat substance abuse.

14. Type of information collection (check only one)
Information collections not contained in rules
1 ☒ Regular submission
2 ☐ Emergency submission (certification attached)
Information collections contained in rules
3 ☐ Existing regulation (no change proposed)
4 ☐ Notice of proposed rulemaking (NPRM)
5 ☐ Final, NPRM was previously published
6 Final or interim final without prior NPRM
A ☐ Regular submission
B ☐ Emergency submission (certification attached)
7. Enter date of expected or actual Federal Register publication at this stage of rulemaking (month, day, year): _____

15. Type of review requested (check only one)
1 ☒ New collection
2 ☐ Revision of a currently approved collection
3 ☐ Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
4 ☐ Reinstatement of a previously approved collection for which approval has expired
5 ☐ Existing collection in use without an OMB control number

16. Agency report form number(s) (include standard/optional form number(s))
Questionnaire - Mining Industry
Committee on Substance Abuse

17. Annual reporting or disclosure burden

1 Number of respondents	2,880
2 Number of responses per respondent	1
3 Total annual responses (line 1 times line 2)	2,880
4 Hours per response	0.1667
5 Total hours (line 3 times line 4)	480

18. Annual recordkeeping burden

1 Number of recordkeepers	
2 Annual hours per recordkeeper	
3 Total recordkeeping hours (line 1 times line 2)	
4 Recordkeeping retention period	years

19. Total annual burden

1 Requested (line 17-5 plus line 18-3)	480
2 In current OMB inventory	0
3 Difference (line 1 less line 2)	+ 480
Explanation of difference	
4 Program change	+ 480
5 Adjustment	

20. Current (most recent) OMB control number or comment number
None.

21. Requested expiration date
September 30, 1989

22. Purpose of information collection (check as many as apply)
1 ☐ Application for benefits
2 ☒ Program evaluation
3 ☒ General purpose statistics
4 ☐ Regulatory or compliance
5 ☒ Program planning or management
6 ☐ Research
7 ☐ Audit

23. Frequency of recordkeeping or reporting (check all that apply)
1 ☐ Recordkeeping
Reporting
2 ☐ On occasion
3 ☐ Weekly
4 ☐ Monthly
5 ☐ Quarterly
6 ☐ Semi-annually
7 ☒ Annually
8 ☐ Biennially
9 ☐ Other (describe): Onetime survey.

24. Respondents' obligation to comply (check the strongest obligation that applies)
1 ☒ Voluntary
2 ☐ Required to obtain or retain a benefit
3 ☐ Mandatory

25. Are the respondents primarily educational agencies or institutions or is the primary purpose of the collection related to Federal education programs? ☐ Yes ☒ No

26. Does the agency use sampling to select respondents or does the agency recommend or prescribe the use of sampling or statistical analysis by respondents? ☐ Yes ☒ No

27. Regulatory authority for the information collection
_____ CFR _____; or _____ FR _____; or, Other (specify): P.L. 99-570

Paperwork Certification

In submitting this request for OMB approval, the agency head, the senior official or an authorized representative, certifies that the requirements of 5 CFR 1320, the Privacy Act, statistical standards or directives, and any other applicable information policy directives have been complied with.

Signature of program official — Date: 4/6/89
Acting Chief, Records Management Branch

Signature of agency head, the senior official or an authorized representative — Date: 11 APR 89
Director, Office of Information Management

BILLING CODE 4510-43-C

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A. Justification

1. Circumstances That Make the Collection of Information Necessary

The objective of the Mine Safety and Health Administration (MSHA), Department of Labor, is to improve safety and health conditions in the mining industry. Mining traditionally has been, and remains, one of the most hazardous occupations in the United States; the rate of fatal accidents in mining in 1986 (50 per 100,000 workes) was five times the average rate (10 per 100,000) for all industries [1]. Any condition that increases the potential for accidents is a matter of concern.

It has long been recognized that the use and abuse of alcohol and drugs is a serious safety hazard at the work site, contributes to loss of production, and leads to increased absenteeism. Studies have shown that a worker who uses alcohol or drugs is three to four times more likely to have an accident, two and one-half times more likely to be absent, and 25 to 33 percent less productive than one who does not. Estimates of the loss to American industry and the economy due to alcohol and drug abuse range as high as $100 billion per year. Some experts estimate that as many as 20 to 25 percent of the American workforce may be substance abusers. Substance abuse poses a particular safety hazard in mining. The potential danger created by substance abuse in the mining industry is so great that Federal law specifically prohibits the possession or use of alcohol or drugs at mine sites.

Unfortunately, there is little doubt that substance abuse continues to occur in American mines; the extent to which it occurs is not only unknown, it tends to be hidden precisely because it is illegal. Even less is known about the efforts made by the mining industry to detect or treat substance abuse. Previous studies of the question of substance abuse have been either generic studies of all industries (e.g., the Gallup survey for Hoffmann-LaRoche [2]), limited to specific substances (e.g., the recent Bureau of Labor Statistics survey on illicit drugs), or limited to a specific segment of the industry (e.g., the Carnegie-Mellon study of underground bituminous coal mines). In short, we have little direct knowledge of either the extent of substance abuse in the mining industry or the efforts that mining companies and unions may be taking to counteract and treat alcohol and drug abuse.

The problem does exist. In 1985, the interest in and reaction to a series of articles in an MSHA journal led concerned managers and union representatives in the mining industry to form a voluntary committee, The Mining Industry Committee on Substance Abuse, with a charter to assist owners, operators, and employees in the industry in their efforts to deal with the problem. In addition to management and union members, the Committee includes representatives from MSHA, the Bureau of Mines, and the National Institutes on Drug Abuse (NIDA) and Alcoholism and Alcohol Abuse (NIAAA).

This Committee, in cooperation with MSHA, has produced a video tape on substance abuse, published a manual on employee assistance programs, designed and distributed posters and warning stickers, and sponsored seminars and training sessions on the subject. Reaction in the industry to these efforts has been quite positive. At this time, however, Committee members believe that their efforts could be more beneficial and more productive if they were more specifically targeted to actual conditions in the industry. Aside from the personal knowledge of the Committee members, and a variety of anecdotal information, there is no way to obtain specific information other than through this proposed study.

In addition to collecting information for MSHA and the Mining Industry Committee on Substance Abuse, the results of this study will be reported to the Secretary of Labor for inclusion in the report to Congress mandated by the Drug Abuse Act of 1986 (Pub. L. 99–570). This information should supplement the date on illegal drug detection and treatment collected by BLS in their survey of ten industries, including mining.

2. Uses of Information

This study is intended to provide the Mining Industry Committee on Substance Abuse and MSHA with more specific information about the number of mine sites conducting substance abuse programs and training. The information collected through this study will be used to develop policies, procedures, and training initiatives regarding substance abuse in the mining industry. The study results will be reported to the Secretary of Labor for inclusion in the report to Congress. Copies of the study results will be given to the Committee representatives from the National Institute on Drug Abuse, The National Institute on Alcohol Abuse and Alcoholism, the Mine Safety and Health Administration, the Bureau of Mines, and mining industry management and union representatives for their use in the development and evaluation of substance abuse programs.

Failure to conduct the proposed survey will result in the continued absence of accurate information for the development of substance abuse programs, policies, and training programs for the mining industry.

3. Uses of Improved Information Technology

The present state of automation in the mining industry precludes the use of improved information technology to reduce the burden on respondents. We have explored other possible applications of improved information technology and have been unable to identify any feasible alternatives to the methods to be used in this study. Respondents will be offered the option of replying by telephone or facsimile (FAX) transmission rather than in writing.

4. Efforts to Identify Duplication

We have been unable to identify any other sources of information which include the scope of data needed for this study. Various studies are ongoing but too limited in scope for our purposes. The most noteworthy of these is the Bureau of Labor Statistics nationwide survey of employer anti-drug programs (see discussion below, in paragraph 5). In addition to surveying the literature on this topic, we have contacted the U.S. Bureau of Mines, the Mine Health and Safety Academy, the AFL–CIO Occupational Alcohol Program, the Association of Labor-Management Administrators & Consultants on Alcoholism (ALMACA), the National Association of State Alcohol and Drug Abuse Directors (NASADAD), the National Clearinghouse for Alcohol Information, the National Institute on Drug Abuse (NIDA), and the National Institute on Alcohol Abuse and Alcoholism (NIAAA), as well as knowledgeable researchers on the subject. These contacts indicate that no comparable federal or private survey or other source for this information exists. Therefore, there is no duplication of requested information.

5. Reasons Existing Information Cannot Be Used

Previous studies of the question of substance abuse have been either generic studies of all industries, limited to a specific substance, or limited to a specific segment of the industry. The Bureau of Labor Statistics recently completed a survey of employer anti-drug programs, which provides data on the prevalence of drug testing and rehabilitation programs and the number of employees directly affected across the private sector of the U.S. economy. One of the ten industries included in that study is the mining industry, including oil and gas producers; the proposed MSHA study includes coal, metal, and non-metal mines, but not oil and gas producers. The BLS survey does provide some data similar to the data we are requesting, but it does not include data concerning abuse of alcohol or prescription drugs. Private efforts to obtain information on employer drug abuse policies and programs tend to be very limited, involving either case studies or surveys of Fortune 500 firms, none of which can produce representative data for the mining industry as a whole.

6. Minimizing the Burden to Small Establishments

The survey is directed toward a statistical sample of all active mining establishments in the portion of the mining industry for which MSHA is responsible (see Part B for a description of the sample and survey methodology). The BLS survey results indicated that over 75% of the mining industry, 95.9% of establishments with 1 to 9 employees, and 86.6% of establishments with 10 to 49 employees had neither a drug-testing nor an employee assistance program.[3] On that basis, we anticipate that most small mining establishments will not have substance abuse programs, which will allow them to skip up to 33 of the 44 questions. To further minimize the response burden, respondents will be offered the option of replying by telephone or FAX transmission.

The survey questionnaire has been pre-tested on eight (8) selected mining companies that volunteered to assist us. These companies answered all of the questions on the questionnaire, and reported that total time required to read all materials and answer all questions ranged from 10 minutes to 25 minutes, with an average time of about 15 minutes. The total time required to complete the questionnaire by a mining company not having a substance abuse program should be less than 10 minutes.

7. Consequences of Less Frequent Data Collection

The study will be conducted only once.

8. Guidelines of 5 CFR 1320.6

The study will not violate any of the provisions of these guidelines.

9. Consultation With Outside Agencies Regarding the Availability of Data

In addition to the contracts mentioned in paragraph 4 above, we have discussed our study plans with the members of the Mining Industry Committee on Substance Abuse. They have offered some useful suggestions and have expressed interest in the results since the study is unique. We have also pre-tested the survey instrument, and modified those questions that could not be answered without further research.

10. Confidentiality Assurances

Assuring the confidentiality of the data obtained has been a primary concern in developing the methods to be used in this study, and has directly affected the design of the questionnaire. Mine operators believe there may be legal and regulatory implications to revealing specific information about substance abuse in their operations, particularly if their corrective actions may be considered inadequate. In addition to the sensitivity of the subject matter (substance abuse), some concerns have been raised about revealing information concerning union representation (or the lack of representation) to a committee containing union members.

To protect the respondents, the statistics will be compiled by an independent outside contractor and will be reported in summary form only. The returned questionnaires will be destroyed (shredded) after data entry and individual respondent company names will not be entered to the data base or directly associated with the data.

11. Sensitive Questions

Within the mining industry, there is sensitivity and resistance to any kind of government data collection and to questions concerning unionization of the industry. We have attempted to address these questions by conducting the survey through an independent outside contractor, and preventing the data in summary form only.

12. Estimated Cost of the Mail Survey

a. Estimated cost to the Federal Government:

Personnel services	$65,000
Equipment, supplies, postage, and telephone	2,500
ADP charges	9,000
Total	$76,500

b. Estimated cost to respondents:

Burden hours	480
Median hourly wage of respondents	× $21.50
Total cost to respondents	$10,320.00

13. Estimated Reporting Burden

The survey will be mailed to a sample of 3,600 mining companies. The average response time will be 10 minutes. If all 3,600 companies respond, the total reporting burden will be about 600 hours. An anticipated response rate of 80% would result in a reporting burden of only 480 hours.

14. Change in Burden

There are 12,600 hours in the Information Collection Budget for this research project. This estimate was based on the use of two questionnaires, with 100% of the 18,000 mining operations responding to the first questionnaire and 20%, or 3600, being asked to answer a second more detailed questionnaire. Since the time the Information Collection Budget was prepared, the agency decided to use the approach described in this submission, involving a statistical survey of a scientifically selected sample of mining companies, to collect the information. Thus the anticipated burden has been reduced to 480 hours.

15. Plans for Tabulation, Statistical Use, and Publication

The study based on the questionnaire attached as Appendix A will be conducted as soon as possible following OMB clearance. Data will be tabulated and analyzed, and report submitted to MSHA management by June 26, 1989. The survey results will be tabulated by mine type, commodity mined, and mine employment size class, and presented as statistical summaries, counts, and percentages. Separate tabulations will be made for these categories, along with national totals. While the final report will be available upon request, it is intended primarily for internal agency use, and will not be published as a public document.

B. Collection of Information Employing Statistical Methods

1 a. Universe

The universe for this survey will consist of all the approximately 17,000 active mining establishments reporting employment to MSHA in 1988. Contractors are not included. These establishments comprise all those with 1977 Standard Industrial Classification 111 or 121 (coal); 101–106, 109, or 281 (metal); 131, 145, 147, 149, 289, or 299 (non-metal); 141, 142, 324, or 327 (stone); and 144 (sand & gravel).

[1] *Statistical Abstract of The United States 1988*, U.S. Department of Commerce, Bureau of the Census, Table No. 663, page 399.

[2] *Drug Testing at Work: A Survey of American Corporations*, conducted by The Gallup Organization 1986, Sponsored by Hoffmann-LaRoche, Nutley, N.J.

[3] *Survey of Employer Anti-drug Programs*, U.S. Department of Labor, Bureau of Labor Statistics, January 1989, Report 760; Tables 1 and 2, pp. 6–7.

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b. Sample Size

The probability sampling plan to be used in the survey is designed to produce reliable estimates of the proportion of establishments falling into a given category delineated on the questionnaire and of the proportion of employees working at such establishments. Separate estimates are needed for each of the mining groups listed above, as well as for establishments roughly comparable in size. The total number of establishments required to achieve a reasonable level of reliability is calculated to be 3,600. This allows for an overall non-response rate of 20 percent and non-response of about 50 percent.

2 a. Sample Design

The sampling frame will be stratified into 16 strata, comprising four employment size categories for coal, metal, and non-metal, and two size categories for stone and for sand and gravel. Within these strata, geographic location will be randomly allocated but a state code will be recorded as a potentially significant covariate and to enable comparisons among broad regions. To maximize efficiency in estimating the number and proportion of employees at establishments falling into categories specified on the questionnaire, larger establishments will have a greater probability of being included in the sample than smaller ones. Sampling ratios will range from near certainty for mines in the largest employment-size category to approximately ten percent in the smallest. Within each stratum, sampling will be random.

b. Estimation Procedure

For each stratum, a probability design based estimator—in which each unit of the sample is weighted by the inverse of the sampling ratio for its stratum—will be used to estimate totals of establishments for various characteristics of interest. Using total employment reported to MSHA for each stratum, *ratio estimators* will be used to estimate employee totals at these establishments. Estimates of totals at higher tabulation levels will be the sum of the subsumed stratum estimates. At each level of tabulation, proportions will be calculated as the ratio of the appropriate totals. Standard errors will be calculated for all estimates of totals and proportions.

c. Accuracy

Sample sizes for the individual industry strata were calculated to meet a criterion of +/− three percentage points at 95-percent confidence in estimating a proportion of 25 percent. Precision for estimates of proportions of establishments and employees for selected aggregations is anticipated to be roughly as follows:

Aggregation level	Relative standard error of—	
	Proportion of employees (percent)	Proportion of establishments (percent)
Employment-size	5	3
Industry	9	6
Industry X size	14	9
Total	3	2

d. Problems

There are no unusual problems requiring specialized sampling procedures.

e. Frequency

This is a one-time survey.

3 a. Response

To maximize the response rate for this survey, employers will be given a pledge of confidentiality and an explanation of the importance of the survey. A follow-up mailing will be made to the non-respondents of the initial mailing.

b. Nonresponse Adjustment

Within each of the 16 primary strata, supplemented by geographic strata defined by state codes if necessary, a non-response adjustment factor will be calculated and used, along with the stratum's sampling ratio, to weight the results for that stratum.

c. Reliability

Probability sampling methodology will be used in the design and analysis of the survey to control and estimate sampling errors.

d. Tests

A limited pre-test of the survey instrument was completed by eight voluntary mining companies. Modifications were made to the survey instrument, based on their responses and suggestions.

e. Statistical Responsibility

This survey is directed and managed by Tom Brown, Public Affairs Specialist, Office of Information and Public Affairs, MSHA (235–1452). The statistical aspects of this survey are the responsibility of Jon Kogut, Mathematical Statistician, Mine Safety and Health Administration (FTS: 776–2760).

Mining Industry Committee on Substance Abuse

Dear Mine Superintendent: The Mining Industry Committee on Substance Abuse needs your help. The Committee is studying policies and practices in the mining industry concerning job-related alcohol and drug use. This study will help us determine what actions we should take in the future to assist with efforts in dealing with the problems of substance abuse in our industry.

Part of our study is a survey of randomly selected companies in the industry, to obtain information about the extent and effects of substance abuse in our industry; the substance(s) being abused; and the policies and programs you are using to detect and threat substance abuse. Your company has been chosen to participate in this survey.

Your participation is entirely voluntary, but your cooperation is important to our entire industry since your responses will represent many other mining companies. The information you provide will be held in confidence. The data will be compiled and analyzed by an independent management consulting firm, Technical Assistance and Tranining Corporation (TATC). TATC will present their findings in summary form to the Mine Safety and Health Administration (MSHA) and the Committee. Your company will not be identified in any way in the final report. All answers to the questionnaries will be tabulated without identifying the respondent companies, and the questionnaries will be destroyed as soon as the responses are entered to the computer database.

If at all possible, we would appreciate receiving your response within 7 days. Completing the questionnarie should require only a few minutes of your time. If you prefer, you may provide your answers by telephone, by calling the contractor (Technical Assistance and Training Corporation) collect on (202) 333–4282, between 9:00 a.m. and 5:00 p.m., EDT, or you may FAX your completed questionnaire to the contractor on (202) 232–7822. Thank you for your cooperation.

Sincerely,

James Wilcox,

Co-Chairman, Mining Industry Committee on Substance Abuse, International Minerals & Chemical Corporation.

Frank Fantauzzo,

Co-Chairman, Mining Industry Committee on Substance Abuse, Appalachian Council, AFL–CIO.

Burden notice to accompany letter and questionnaire.

MSHA estimates that it will take an average of 10 minutes per respondent to complete this survey. If you have any comments regarding this estimate or any other aspect of the survey, you may send them to the Office of Information Management, Department of Labor, Room N–1301, 200 Constitution Avenue NW., Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project 1219–xxxx, Washington, DC 20503.

Questions and Definitions

1. *Who should answer this questionnaire?* The questionnaire should be completed by the highest ranking company official at the mine site knowledgeable of that site's policies, programs and practices.

2. *What employees are included?* Substance abuse is not limited to one category of employee, and neither is this survey. All company employees, from the board room to the tool room, are included.

3. *What is "Substance Abuse"?* As used in this survey, it is the use of alcohol or any legal or illegal drug, including prescription and over-the-counter drugs, in such a way as to affect or potentially affect an individual's performance or threaten the safety of others on the job. This survey does *not* include use of tobacco or tobacco products.

4. *What drugs are included?* Any substance ingested, inhaled, injected, or absorbed that causes or may cause a change in behavior, either as a stimulant, depressant, or hallucinogen. It includes, but is not limited to, alcohol, over-the-counter or prescription pain medication (codeine, Demerol), tranquilizers (Valium), diet pills, heart or diabetes medication (Enderal), amphetamines, barbiturarates (Nembutal, Seconal, phenobarbitol), or illicit drugs such as heroin (smack), cocaine (crack or coke), marijuana, hashish, methamphetamines, or hallucinogens (PCP, LSD, peyote).

5. *What is an "Employee Assistance Program"?* Any workplace policy, procedure, or program intended to provide counselling, advise, or assistance to employees who experience personal situations or problems that directly or indirectly affect their work performance. The program may be sponsored and administered by the company, the union, or another party, may be conducted on-site or off-site, may include inpatient or outpatient services, or may be provided by contractual agreement with outside private or community sources. The program may provide assistance in a variety of personal (financial, martial, mental health, legal) problems, or be directed at more limited situations such as alcohol or drug abuse. Dependents may be included in some programs. Some programs may be known by other names, such as Help Programs or Wellness Programs. This survey is directed specifically at identifying programs, regardless of name, that include some form of attention to substance abuse problems, whether alcohol abuse, drug abuse, or both.

6. *Will my response be kept confidential?* Yes. The data will be compiled and analyzed by an independent management consulting firm, Technical Assistance and Training Corporation (TATC). All answers to the questionnaries will be tabulated without identifying the respondent companies, and the questionnaires will be destroyed as soon as the responses are entered to the computer database. TATC will present their findings in summary form to the Mine Safety and Health Administration and the Mining Industry Committee on Substance Abuse. Your company will not be identified in any way in the final report.

7. *My mine site is owned by a parent company, and uses the same personnel policies. Should I respond to the questionnaire?* Yes. Your mine site has been selected in a random selection process, which may or may not include your parent company or other mine sites owned by the same company. Your answers represent all other mining companies/mines that are about the same size, in the same general geographical area, and have operations similar to your. We want to try to determine whether practices and experiences are affected by local conditions, such as the availability of counselling or treatment programs.

8. *Is there a difference between a "drug testing" and a "drug screening" program?* Technically, there is a distinction between testing and screening. For the purposes of this survey, however, we are only interested in determining whether your company uses any systematic methods for determining whether an individual is under the influence of alcohol or drugs, or for detecting the presence of drug byproducts in the blood, urine, saliva, hair or other bodily substance of an individual. Drug testing programs normally require collection of samples in a controlled environment, for subsequent laboratory analysis; drug screening programs my include non-intrusive methods, such as breathalyzers, observation of eye movement and reactions, or unusual behaviour patterns.

9. *How can I get copies of the survey results?* The final survey report should be available by the middle of 1989. Address your requests for copies to the Office of Information and Public Affairs, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Room 601, Arlington, VA 22203.

10. *How can I find out more about the Mining Industry Committee on Substance Abuse?* The Mining Industry Committee on Substance Abuse is a voluntary association of representatives from mining management, labor unions, and involved Federal government agencies, formed in 1985 to assist the owners, operators, and employees in the mining industry in their efforts to deal with the issues of alcohol and drug abuse. While our activities have been supported by the Mine Safety and Health Administration (MSHA), of the Department of Labor, we are not an official government committee.

In the past three years, the Committee, in cooperation with MSHA, has taken several positive actions aimed at educating mining industry managers and employees about substance abuse. Together, we have produced and distributed a video tape on the dangers of alcohol and drug abuse, a manual on establishing and managing Employee Assistance Programs (EAP), and anti-abuse posters and stickers, and conducted regional seminars on substance abuse.

If you would like more information about our activities, please contact either of the Committee Co-Chairman, Mr. James Wilcox, IMC Corporation (telephone 505–887–2871), or Mr. Frank Fantauzzo, Appalachian Council, AFL–CIO (telephone 304–345–5811). You may also contact Mr. Tom Brown in the MSHA Office of Information and Public Affairs (telephone 703–235–1452), or use the comments section of our questionnaire to ask someone to contact you.

BILLING CODE 4510-43-M

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MINING INDUSTRY COMMITTEE ON SUBSTANCE ABUSE

This report is authorized by_____. Its purpose is to gather information about the policies concerning substance abuse treatment programs of employers in the mining industry. Your voluntary cooperation is needed to make the results of this survey complete, accurate and timely. The information collected on this form will be used for statistical purposes only and the form will be destroyed immediately after tabulation of statistical summaries. Your response will not be identified with your company in the tabulated results.

Form Approved_____
O.M.B. No._____
Approval expires_____

(Space for mailing label)

RETURN TO:

TATC
2409 - 18th St. N.W.
Washington, D.C. 20009

For assistance call
(202) 333-4262
(Collect calls accepted)
FAX (202) 232-7822

1. Is your facility:
   a. A single-site independent business [ ] a.
   b. Part of a multisite, mining only company [ ] b.
   c. Part of a company that also has non-mining businesses [ ] c.

2. What is the highest number of employees you have had at your mine during the past 12 months?
   a. Salaried [ ][ ][ ][ ]
   b. Hourly [ ][ ][ ][ ]

3. Do you have a written company policy on the possession or use of alcohol or drugs at the work site? Yes [ ] No [ ]

4. If yes, has this written policy been communicated to your employees within the past year? Yes [ ] No [ ]

5. If your employees are represented by a union, what type of agreement on your policy do you have with your employee union(s)?
   a. Formal [ ] a.
   b. Informal [ ] b.
   c. None [ ] c.
   d. Non-union [ ] d.

6. What action(s) do your policies permit the first time an employee is determined to be in possession or under the influence of alcohol or drugs at the mine work site?
   (Check all that may apply, even if appropriate actions are determined on a case-by-case basis, or different actions apply to different situations.)
   a. Immediate dismissal [ ] a.
   b. Suspension [ ] b.
   c. Warning or probation [ ] c.
   d. Referral to company, union, or community program [ ] d.

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7. Do you have a drug testing/screening program? (If yes, answer questions 8 through 16; if no, go directly to question 17) — Yes ☐ No ☐

8. Do you test for alcohol? — Yes ☐ No ☐

9. Do you perform drug tests/screenings in any of the following situations? (Check all that apply)

a.	Preemployment	a. ☐
b.	Just cause	b. ☐
c.	Random announced	c. ☐
d.	Random unannounced	d. ☐
e.	Periodic	e. ☐
f.	After accidents	f. ☐
g.	All employees in a specific job category	g. ☐
h.	Part of "last chance" agreement or treatment follow-up	h. ☐
i.	Other: _____	

(Please answer questions 10,11 and 12 only if you conduct preemployment drug tests/screenings.)

10. How many applicants for employment did you have in the last 12 months? ☐☐☐☐

11. What percent of these applicants for employment were tested/screened for drugs or alcohol in the past 12 months? ☐☐☐ percent

12. Of those applicants for employment who were tested/screened in the past 12 months, approximately what percent tested positive? ☐☐☐ percent

(Please answer questions 13, 14, 15 and 16 only if you conduct employee drug tests/screenings.)

13. What percent of employees did you test/screen for drugs/alcohol in the past 12 months? ☐☐☐ percent

14. Of those employees who were tested/screened in the past 12 months, what percent tested positive? ☐☐☐ percent

15. From the test/screening results, what substances were found to be used by the employees you tested? (Check all that apply)

a.	Alcohol	a. ☐
b.	Marijuana	b. ☐
c.	Cocaine	c. ☐
d.	Other illegal drugs	d. ☐
e.	Prescription Drugs	e. ☐

16. From the test/screening results, which one of the substances listed in Question 14, above, was found to be most commonly used by the employees you tested? (Check only one)

a.	Alcohol	a. ☐
b.	Marijuana	b. ☐
c.	Cocaine	c. ☐
d.	Other illegal drugs	d. ☐
e.	Prescription Drugs	e. ☐

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17. Do your training programs include information on alcohol or drug abuse? Yes ☐ No ☐
(If yes, answer questions 18 through 21; if no, go directly to question 22)

18. To whom is alcohol and drug abuse training provided? (Check all that apply)
- a. Management ☐
- b. Supervisors ☐
- c. Salaried employees ☐
- d. Hourly employees ☐

19. Who conducts your alcohol and drug abuse training? (Check all that apply)
- a. Safety staff ☐
- b. Human resources staff ☐
- c. Counseling service ☐
- d. Training consultant ☐
- e. Medical Department ☐
- f. MSHA Grantee/State Contractor ☐
- g. Other _____

20. How many times per year is alcohol and drug abuse training provided?
- a. More than one time ☐
- b. One time ☐
- c. Less than one time ☐

21. What is your source of training materials for alcohol and drug abuse training? (Check all that apply)
- a. Develop own ☐
- b. Parent company ☐
- c. Commercial source ☐
- d. Outside counselor ☐
- e. Material developed by another company ☐
- f. Community agency ☐
- g. State or local government ☐
- h. MSHA ☐
- i. Other Federal agency ☐

22. Do you have a program to provide employee assistance counseling or treatment to employees with substance abuse problems? Yes ☐ No ☐
(If yes, answer questions 23 through 41; if no, go directly to question 42)

23. Is your program:
- a. A formal program ☐
- b. An informal program ☐

24. How many years have you had your substance abuse program?
- a. Less than one year ☐
- b. 1 - 2 years ☐
- c. 3 - 4 years ☐
- d. 5 years or more ☐

25. Who administers your program? (Check all that apply)
- a. Local management ☐
- b. Parent company management ☐
- c. Outside contractor ☐
- d. Consortium ☐
- e. Union ☐
- f. Non-union employee representative ☐

26. Which employees does your program cover?
- a. All employees ☐
- b. Salaried only ☐
- c. Hourly only ☐

27. Does your program offer assistance to dependents? Yes ☐ No ☐

28. Does your program offer assistance in areas other than substance abuse (such as family, financial, or legal counseling)? Yes ☐ No ☐

29. Does your program have a telephone hotline? Yes ☐ No ☐

30. Who provides counseling services?
- a. Supervisor ☐
- b. Human Resources or personnel staff ☐
- c. Company medical staff ☐
- d. Company EAP staff ☐
- e. Parent company staff ☐
- f. Personal physician ☐
- g. Outside contractor/resource ☐
- h. State/local service ☐

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31. What percent of your employees (excluding dependents) made use of your employee assistance program within the past 12 months? (If unknown, check here___) ☐☐☐ percent

32. What percent of employees in your employee assistance program were self referred? (If unknown, check here___) ☐☐☐ percent

33. Of the employees who used your employee assistance program within the past year, what percent have involved counseling for substance abuse or dependency problems? (If unknown, check here___) ☐☐☐ percent

34. Of employees participating in the employee assistance program for alcohol or drug use, which substance was found to be most commonly used?
- a. Alcohol ☐ a.
- b. Illegal drugs ☐ b.
- c. Prescription drugs ☐ c.
- d. Unknown ☐ d.

35. Who provides alcohol/drug abuse or dependency treatment (detoxification) services?
- a. Company facility ☐ a.
- b. Local hospital or clinic ☐ b.
- c. Specialized treatment facility ☐ c.

36. How are alcohol/drug abuse or dependency treatment (detoxification) services provided?
- a. Inpatient ☐ a.
- b. Outpatient ☐ b.
- c. Either, as appropriate ☐ c.

37. Are the treatment facilities convenient to your work site or most employees' residences? Yes☐ No☐

38. Who provides aftercare services for employees who have completed detoxification treatment? (Check all that apply)
- a. Treatment facility ☐ a.
- b. Counseling service ☐ b.
- c. AA or NA chapter ☐ c.
- d. Company staff ☐ d.
- e. No aftercare services ☐ e.

39 How are costs of treatment paid? (Check all that apply)
- a. Medical insurance ☐ a.
- b. Company funded ☐ b.
- c. Individual ☐ c.
- d. Union benefits ☐ d.

40. Must an employee entering treatment services sign a continuing employment or "last chance" agreement with your company, as a condition of treatment? Yes☐ No☐

41. What percentage of employees have remained chemically free two years after treatment for drug or alcohol abuse? (If unknown, check here___) ☐☐☐ percent

42. Do you formally evaluate or assess the effectiveness of your substance abuse policies and programs? Yes☐ No☐

43. If yes, what factors do you consider? (Check all that apply)
- a. Cost ☐ a.
- b. Utilization rate ☐ b.
- c. Successful return to work ☐ c.
- d. Accident rate ☐ d.
- e. Work attendance ☐ e.
- f. Productivity rate ☐ f.
- g. Employee turnover rate ☐ g.
- h. Other_____

44. How can the Mining Industry Committee on Substance Abuse best support your efforts to eliminate substance abuse from the mining industry?
- a. Videotapes ☐ a.
- b. Seminars ☐ b.
- c. Mining Academy training programs ☐ c.
- d. Written publicity ☐ d.
- e. Other (Please explain) _____

[FR Doc. 89-9935 Filed 4-25-89; 8:45am]
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Mine Safety and Health Administration

[Docket No. M-89-43-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1403-9(a) (shelter holes) to its Blacksville No. 1 Mine (I.D. No. 46-01867) located in Monongalia County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that shelter holes be provided on track haulage roads at intervals of not more than 105 feet unless otherwise approved by MSHA's District Manager for the mine.

2. In order to rehabilitate the shelter holes to meet this requirement, miners would be exposed to unncessary hazards associated with building canopies behind the arches or cribbing to the roof behind the arches. If shelter holes are required to be established, miners will be allowed to travel on foot in the affected areas in numbers 10 and 11 headings while track equipment is present and constantly moving through the rotary dump causing greater chances for injury.

3. As an alternate method, petitioner proposes the following:

(a) Luminous signs designating "Close Clearance" would be posted at the track entrances to affected areas;

(b) No person would be allowed to enter the areas on foot without permission from the dispatcher and dumper;

(c) Telephones would be provided at the entrances to the affected areas;

(d) The dispatcher would notify all locomotive operators or other haulage vehicle operators of the location of work crews in the affected areas; and

(e) The dispatcher and dumper would be notified when the persons leave the affected areas.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 26, 1989.

Copies of the petition are available for inspection at that address.

Date: April 19, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-9954 Filed 4-25-89; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Application No. D-7596 et al.]

Proposed Exemptions; Separate Mortgage and Real Estate Account of New England Mutual Life Insurance Co. et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5671, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Programs, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type required to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Separate Mortgage and Real Estate Account (the Separate Account) of New England Mutual Life Insurance Company Located in Boston, MA

[Application No. D-7596]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of certain mortgage and real estate investments by the Separate Account to the general account of New England Mutual Life Insurance Company (the Company), a party in interest with respect to the plans participating in the Separate Account (the Plans), provided that the terms of sale are not less favorable to the Separate Account than those terms obtainable in an arm's-length transaction with an unrelated party at the time the transaction is executed.

Effective Date: If granted, this exemption will be effective for a 12-month period from the date of grant.

Summary of Facts and Representations

1. The Company's Separate Account was established in 1969 by vote of the Company's Board of Directors. The Separate Account is a pooled separate account maintained in accordance with the insurance laws of the Commonwealth of Massachusetts. There are eight Plans currently participating in the Separate Account. As of December 31, 1987, the assets of the Separate Account were valued at approximately $6.3 million.

2. The Separate Account is composed of seventeen commercial mortgage investments and two ground leases. The seventeen mortgages encumber sixteen real estate properties in sixteen separate locations. The Separate Account has varying interests in each of the mortgages ranging 1.544% to 66.667%. The partial interest in each mortgage gives the respective owner the right to receive a proportionate share of the contracted monthly debt service payment as well as a proportionate share of the loan proceeds at the loan call date. The two ground leases cover a 277,040 square foot warehouse facility located in Bellwood, Illinois and a 511 space mobile home park located in Dominguez, California.

3. The group annuity contracts issued with respect to the Separate Account provide the Plans with the right to request the distribution of all or part of their interests in the Separate Account. At the time the Separate Account was established, the Company planned that any needed liquidity would be provided by cash contributions from other plans, by maturing investments, and in the instance of large withdrawal requests, by transferring a sufficient number of mortgage interests or other investments from the Separate Account to the Company's general account in exchange for cash. The passage of the Act, however, rendered this last alternative originally contemplated for guaranteeing Separate Account liquidity illegal absent administrative relief.

4. One of the Plans participating in the Separate Account, Retirement Plans of Alumax, Inc. (Alumax), whose interest in the Separate Account represent 41% of the total assets of the Separate Account, has requested distribution of its interest in the Separate Account. Both the Company and Alumax would like a cash payment of its interest in the Separate Account to be made as soon as possible.

5. It is represented that none of the other Plans participating in the Separate Account have any desire to purchase Alumax's interest. In addition, in the Company's opinion, it would not be in the best interests of the Plans to sell the Separate Account's investments to unrelated third parties. The transaction costs to the Separate Account in finding such purchasers would be high, involving such items as updated title coverage, underwriting, physical inspections and possible guarantees from the Separate Account or the Company.

6. In order to meet its obligations to Alumax and to the other Plans that are expected to request withdrawal from the Separate Account, the Company requests that it be allowed to sell the assets of the Separate Account to its general account on an ongoing basis over a twelve month period, until the Separate Account assets are liquidated.

7. In connection with its proposal to sell the Separate Account assets to the general account, the Company has retained American Appraisal Associates, Inc. (American Appraisal), to act as an Independent Fiduciary for the Separate Account with respect to the proposed sale of the investments. American Appraisal is the world's largest evaluation consulting firm with clients that include banks, insurance companies, pension funds, savings and loan associations, investment bankers, and developers. American Appraisal is not affiliated with the Company and at no time has more than 1% of its annual billings been received from the Company. Each Plan participating in the Separate Account will be informed of the appointment of American Appraisal and its role in the transactions.

Before any sale from the Separate Account to the Company's general account is consummated, American Appraisal will review the sale transaction and submit a written report summarizing its investigation, both with respect to the specific investment to be sold by the Separate Account and to the price to be paid by the Company's general account. No sale will be made until the Independent Fiduciary has concluded that the valuation of the investment is consistent with current market values, and that the proposed sale is equitable to the Plans participating in the Separate Account.

The valuation process for commercial loans will involve an analysis by American Appraisal of each asset, taking into account, loan amount, remaining loan term, likely holding period, property type, and the interest rate. Due to the differences in interest rates of various assets and current market rates, the pricing analysis will compare loan yields with the most recent average yield of commercial mortgages priced with comparable holding periods. The value of the ground leases was determined by American Appraisal after completing a personal inspection of the two properties.

American Appraisal further represents that as part of its function as independent fiduciary, it has determined the order in which investments will be sold from the Separate Account to the Company's general account. The order of disposition has been developed to maintain the current portfolio characteristics for the remaining contract holders, specifically, the average yield of approximately 10%.

8. In summary, the applicant represents that the transaction will satisfy the statutory criteria of section 408(a) of the Act because:

a. The sale of the Separate Account investments, including the consideration paid, will be reviewed and approved by American Appraisal acting on behalf of the Plans participating in the Separate Account;

b. These sales will provide the Separate Account with the liquidity to satisfy the withdrawal requests of the Plans; and

c. There will be no sales commission or similar consideration paid by the Separate Account to the general account.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Joseph K. Newsom, M.D., P.A. Money Purchase Pension Plan and Trust (the Plan) Located in Cheraw, South Carolina

[Application No. D-7844]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a parcel of real property (the Property) from the Plan to Joseph K. Newsom (Newsom), a party in interest with respect to the Plan, provided the Plan receives no less than the greater of

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$203,000 or fair market value for the Property at the time of sale.

Summary of Facts and Representations

1. Joseph K. Newsom, M.D., P.A., (the Employer) is a South Carolina professional association engaged in the practice of family medicine. The Plan is a money purchase plan for the benefit of the employees of the Employer. As of September 30, 1987, the Plan had approximately 14 participants and total assets of $1,474,830. Newsom is the sole owner of the Employer as well as the Plan trustee and a participant in the Plan.

2. The assets of the Plan include a parcel of real property (the Property) located in Cheraw, South Carolina. The Property consists of approximately 6.7 acres of undeveloped land. The Property is located in an area that is designated as commercial and is situated between two major shopping centers. The Property was bought from an unrelated party for cash in two tracts (in 1981 and 1984) for a total purchase price of $133,000. A small portion (0.23) of the original purchase, which is not part of the subject transaction, was developed into a dental office and is now rented to another party. The Property has not been used by any party in interest with respect to the Plan since the time of purchase.

3. The Plan obtained an appraisal on the Property from C. Lock McKinnon (McKinnon), a real estate appraiser in Lancaster, South Carolina. The applicant represents that McKinnon is independent of the Plan and the Employer. Placing emphasis on the comparable sales approach to value, McKinnon estimated that as of November 7, 1988, the fair market value of the Property was $203,000.

4. The Plan originally purchased the Property for investment purposes. However, the ages and length of service of several of the participants are now such that greater liquidity with respect to Plan investment is needed. The Plan trustee believes that a sale of the Property would provide more liquidity to the Plan and would enhance the diversification of Plan assets. Accordingly, the Plan proposes to sell the Property to Newsom. Newsom will pay no less than fair market value for the Property at the time of sale, based on an updated independent appraisal. The transaction will be entirely for cash and the Plan will pay no fees or commissions in regard to the sale.

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) The fair market value of the Property will be established by a real estate appraiser who is independent of the Employer; (2) Newsom will pay no less than fair market value for the Property at the time of sale; (3) the sale of the Property will be entirely for cash; and (4) the transaction will provide greater liquidity to the Plan and will enhance the diversification of the investments of the Plan.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Dr. Sam W. McCalla, P.A. Profit Sharing Plan (the Profit Sharing Plan) and the Dr. Sam W. McCalla, P.A. Pension Plan (the Pension Plan; collectively, the Plans) Located in Greenville, SC

[Application No. D-7869]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale by the Plans of certain real property (Parcel A and Parcel B), for the total cash consideration of $170,200, to Sam W. McCalla, M.D. (Dr. McCalla), a disqualified person with respect to the Plans, provided the amount paid for Parcel A and Parcel B is not less than fair market value on the date the transaction is consummated.

Summary of Facts and Representations

1. The Plans, which are not disqualified persons with respect to each other, consist of the Profit Sharing Plan and the Pension Plan. Dr. McCalla, an orthopedic surgeon, is the sole participant in each Plan. As of August 31, 1988, the Profit Sharing Plan and the Pension Plan had total assets having fair market values of $196,436 and $118,615, respectively. The trustee of the Plans and the decisionmaker with respect to the Plans' investment is Dr. McCalla.

2. In July 1985, the Plans became inactive. At that time, Dr. McCalla, the sole shareholder of Sam W. McCalla, P.A. (the Employer), decided to dissolve his professional association due to a change in his personal goals. The Employer had been engaged in the practice of medicine in Greenville, South Carolina. As a result of the dissolution of the Employer, two vested employees who participated in the Plans elected to roll their benefits into individual retirement accounts. Although the Employer no longer exists as a legal entity, Dr. McCalla remains in the Plans as their sole participant.[1]

3. Among the assets of the Plans are two parcels of mostly unimproved, contiguous real property that are located on McConnell Road in Greenville County near the City of Greer, South Carolina. Parcel A is owned by the Profit Sharing Plan. It consists of 51.48 acres of land that have been improved with a 1200 square foot framed house, a horse stable and a small storage barn. Since 1979, the house and stable on Parcel A have been leased, on a month-to-month basis, to Ms. Jennifer Jones, an unrelated party, for $500 per month. Parcel B is owned by the Pension Plan. It consists of 53.8 acres of unimproved land. Both Parcel A and Parcel B are adjacent to other real property owned by Dr. McCalla. The applicant represents that neither Parcel A nor Parcel B have been used by or leased to disqualified persons with respect to the Plans.

4. The Plans purchased Parcel A and Parcel B as cotenants of a single tract of land (the Property) in December 1973. The seller of the Property was the Loftis Estate, an unrelated party. The Plans paid $106,162 for the Property. To acquire the Property, the Plans made a total downpayment to the seller of $27,150. Of this amount, $15,280 was paid by the Profit Sharing Plan and $11,890 was paid by the Pension Plan. The Plans financed the remainder of the acquisition price by obtaining a first mortgage loan in the original principal amount of $79,012 from the Bank of Greer located in Greer, South Carolina. The lender was also an unrelated party. The loan was for a duration of five years and it carried interest at the rate of six percent per annum.

5. Between December 1977 and October 1979, the Profit Sharing Plan obtained, in connection with its interest in the Property, three additional loans having an aggregate principal amount of $62,000 from two unrelated banks. No such financing was obtained by the Pension Plan. The applicant represents that all payments due under the original mortgage loan and the three subsequent loans were made by the Plan in a timely manner and there were never any defaults or delinquencies. At present, the Property is unencumbered by outstanding loan obligations of either Plan.

[1] Because Dr. McCalla is the only participant in the Plans and the Employer is wholly-owned by Dr. McCalla, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

6. Although it was originally intended that the Profit Sharing Plan own an undivided 60 percent interest in the Property and the Pension Plan, an undivided 40 percent interest, the deed to the Property failed to reflect the Plans' respective holdings. In 1979, the Property was partitioned into Parcel A and Parcel B to correct the error in the deed. The value of acreage then attributed to Parcel A and to Parcel B corresponded with the proportionate interests of the Plans in the Property. A new deed evidencing the partitioning of the Property was duly recorded. The applicant states that the Property was also partitioned to facilitate its future development and to enable Dr. McCalla to keep more accurate records.

7. Dr. McCalla believes it would be in the best interests of the Profit Sharing Plan and the Pension Plan to dispose of Parcel A and Parcel B. Dr. McCalla cites the following reasons for recommending this action: (a) The high percentage of the Plans' assets that are represented by Parcel A and Parcel B; (b) the possibility that the Plans' continued retention of Parcel A and Parcel B could pose liquidity problems at the time of Dr. McCalla's retirement; and (c) the fact that Parcel A and Parcel B have not appreciated greatly in value since 1973. Accordingly, Dr. McCalla requests an administrative exemption from the Department in order to purchase Parcel A and Parcel B from the Plans. Dr. McCalla proposes to pay the Profit Sharing Plan and the Pension Plan a sales price that will reflect the fair market values of Parcel A and Parcel B as such values are determined by a qualified independent appraiser. Neither Plan will be required to pay any real estate fees or commissions or incur any other expenses in connection with the proposed sale.

8. Parcel A and Parcel B have been appraised by Mr. John C. Kulze (Mr. Kulze), M.A.I., Executive Vice President of Wilkins Norwood and Company of Greenville, South Carolina and an independent appraiser. In appraisal reports dated December 28, 1988, Mr. Kulze placed the fair market value of Parcel A at $104,800 and the fair market value of Parcel B at $65,400. Mr. Kulze was also of the opinion that Parcel A and Parcel B were of no unique or special value to Dr. McCalla by reason of their proximity to other real property owned by Dr. McCalla and, as such, would not warrant Dr. McCalla paying a higher purchase price. Thus, in accordance with Mr. Kulze's determinations, Dr. McCalla will pay the Plans the fair market value of Parcel A and Parcel B on the date of sale.

9. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (a) The sale will be a one-time transaction for cash; (b) the sales prices for Parcel A and Parcel B have been determined by a qualified, independent appraiser; (c) the Plans will not be required to pay any real estate fees or commissions or other expenses in connection with the proposed sale; and (d) Dr. McCalla is the only participant in the Plans who will be affected by the proposed sale and he desires that such transaction be consummated.

Notice to Interested Persons

Because Dr. McCalla is the only participant in the Plans who will be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Written comments and requests for a public hearing are due thirty days following the date of publication of the notice of proposed exemption in the **Federal Register**.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Merrill, Lynch, Pierce, Fenner & Smith Inc. Prototype Individual Self-Employment Retirement Plan (the Plan) Located in Greensboro, North Carolina

[Application No. D-7899]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26 (1975-1 C.B. 722). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale to the Plan of 125 shares of stock (the Shares) in Precision Fabrics Group Inc. (the Company) by Charles H. Flynt, Jr. (Mr. Flynt), the sole participant in the Plan; provided that the sale price for the Shares is no greater than the fair market value of the Shares on the date of the sale.[2]

[2] Because Mr. Flynt is the sole participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Summary of Facts and Representations

1. The Plan is a defined contribution Keogh plan which qualifies as a profit sharing plan for self-employed individuals under the Internal Revenue Code (I.R.C.) section 401(a) and 401(c). Merrill, Lynch, Pierce, Fenner, and Smith, Inc. (Merrill Lynch) established the Plan and is the custodian of the Plan. On October 7, 1983, Mr. Flynt adopted the Plan, which has assets of $865,655.71, as of December 30, 1988. The bulk of the assets in the Plan is attributable to a roll-over contribution from a distribution Mr. Flynt received upon termination of the profit sharing plan of Flynt, Inc., a plan qualified under I.R.C. section 401(a).

2. The Company, a North Carolina corporation, was formed early in 1988 to acquire substantially all of the assets and business of the Precision Fabrics Division of Burlington Industries, Inc. On February 16, 1988, Mr. Flynt acquired 125 Shares of common stock of the Company at a price of $1,000 per share for a total price of $125,000. The Shares are not publicly traded. According to the shareholder's agreement with respect to the purchase of Shares in the Company, dated April 15, 1988, sales, assignments and other transfers or encumbrances of the Shares are restricted, except that transfers to members of the shareholder's immediate family and to other shareholders are permitted; provided certain conditions are met. In addition, the Company (and thereafter each of the other shareholders) has a right of first refusal with respect to any Shares for which a shareholder receives a bona fide offer to purchase such Shares.

3. Brian T. Napier (Mr. Napier), President, A.S.A. of Capital Analysts Inc. Business Appraisals, located in Greensboro, North Carolina, performed an appraisal of the fair market value of the Shares. In a letter dated November 10, 1988, Mr. Napier originally established that the fair market value of the Shares, as of September 30, 1988, fell within the range of from $940 to $1,040 per share. Subsequently, Mr. Napier revised his November 10 letter and established the value of the Shares to be $1,040 per share based upon approximately 10,639 shares of common stock issued and outstanding, as of September 30, 1988, on a fully-diluted basis. Mr. Napier represents that he is independent in that he has no past, present, or intended ownership or financial interest in the Company and that his fee was not contingent upon the conclusions of value stated in the appraisal. Mr. Napier is qualified in that

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he is a senior member of the American Society of Appraisers and has nearly twenty (20) years experience in establishing opinions of value of closely-held companies.

4. An exemption is requested to allow the Plan to purchase the Shares from Mr. Flynt for $130,000 in cash; provided that such price is no greater than the fair market value of the Shares on the date of the sale. It is represented that certificates representing the Shares will be transferred to Merrill Lynch who will hold them as assets of the Plan. It is represented that Merrill Lynch will not act as broker dealer in this matter and will receive no compensation with respect to the transaction. After the exclusion of the sale, the Company will record the transfer of the Shares to the Plan on its stock transfer book and thereafter will recognize the Plan as the legal owner of the Shares.

It is estimated that the value of the Shares after the sale will constitute 16.3% of the total assets of the Plan. The Plan will incur no transfer costs of any kind as a result of the sale.

Mr. Flynt represents that based on his knowledge and experience and familiarity with the operation and financial condition of the Company that the Shares will be an ideal investment for the Plan in that the value of the Shares will grow significantly over the long term and will provide him, as the sole participant, a retirement income greater than that which could be provided by other investments. Mr. Flynt argues that the Company, while functioning as a division of Burlington Industries for many years, was a consistently superior performer. It is represented that because the management team of the Company, under its new ownership consists of the former president and other key executives of Burlington Industries, and because operations of the Company have continued to the present without material change, that there is no reason to believe the Company will not continue to be profitable. Although the Shares are not publicly traded, Mr. Flynt represents that the Shares are nevertheless readily marketable, and that the restrictions on transferability of the Shares would not significantly reduce marketability.

5. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 4975 of the Code because:

(a) The Plan will pay the fair market value of the Shares of the Company as determined by an independent qualified appraiser;

(b) The Plan will incur no transfer costs of any kind in connection with the acquisition of the Shares of the Company;

(c) The sale is a one-time transaction for cash; and

(d) Mr. Flynt is the only participant in the Plan, such that the transaction will only affect Mr. Flynt.

Notice to Interested Persons: Because Mr. Flynt is the only participant in the Plan, it has been determined by the Department that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption in the Federal Register.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Green Mountain Radiology, Inc. Profit Sharing Plan (the Plan) Located in Montpelier, Vermont

[Application No. D-7904]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to a proposed cash sale by the Plan of a certain parcel of unimproved land (the Property) to Dr. James R. Chandler (Dr. Chandler), a party in interest with respect to the Plan, provided that the Plan receives the greater of $16,000 or the fair market value at the time of the sale.

Summary of Facts and Representations

1. The Plan, established on October 1, 1979, is a profit sharing plan with 4 participants. As of September 30, 1988, the Plan had $1,304,409 in assets. As of the same date, Dr. Chandler's assets in his separate account (the Account) in the Plan were $253,711. The Plan permits participants to direct the investments of their separate accounts. The current trustees are Dr. Chandler, Dr. J. Lorimer Holm, Dr. Robert Johnson, and Dr. Barnum Royal (the Trustees). All of the Trustees are participants in the Plan, as well as employees, stockholders, and officers of Green Mountain Radiology, Inc. (the Employer). The employer is a medical corporation engaged in the practice of radiology.

2. On July 23, 1986, the Account purchased the Property from an unrelated third party for $10,042.50. The Property consists of 4 acres of unimproved vacant land located in Berlin, Vermont. The applicant represents that the Property was acquired with the intent to plant 1500 Christmas trees on the property and thereby produce income, but the trees were destroyed within the following two years by a "Bedstraw" weed. The applicant maintains that the cost of weed eradication would be prohibitive and environmentally unsound. The applicant further maintains that the Property is currently unproductive, vacant and unused.

3. The applicant proposes to sell the Property to Dr. Chandler, a party in interest with respect to the Plan. An appraisal of the Property was prepared by Bruce C. Ellison, SRA (Mr. Ellison), a real estate appraiser and consultant with Ellison Appraisal Associates. The appraisal dated October 27, 1988 estimates the fair market value of the Property to be $16,000. Mr. Ellison is independent of the Plan and the Employer. Mr. Ellison is a member of the Society of Real Estate Appraisers, and was twice President of its Vermont chapter. He also represents that he is qualified because he has appraised approximately 200 parcels of land in the central Vermont area. Mr. Ellison, in his appraisal, also addresses the question of whether the ownership of property adjacent to the Property by Dr. Chandler creates a special premium value to Dr. Chandler above a value which may be paid by third parties for the Property. Mr. Ellison maintains that because Dr. Chandler already owns 35 acres, the acquisition of an additional four is not a highly motivating factor for the purchase. However, because his ownership of adjacent land allows Dr. Chandler legal access to the otherwise landlocked Property, Mr. Ellison concludes that some premium should be placed on the value of the Property. The appraisal incorporates such a premium.

4. The applicant represents that the transaction is desirable for the Plan. The transaction would involve 1.2% of the total Plan's assets and 6.2% of Dr. Chandler's separate account. The applicant further represents that the transaction is administratively feasible because the purchase price will be paid completely in cash at the time of the sale and the plan will pay no costs associated with the sale. Also, the transaction is in the Plan's interest as the proposed sale will provide cash for productive reinvestment. It is also protective of the Plan as the fair market value of the Property has been determined by an independent appraiser. There are no outstanding debts or mortgages on the Property. The Property is completely free of liens. The applicant represents that economic hardship will result if the proposed transaction is denied. The Plan will continue to hold an unproductive and illiquid asset that does not yield income. There has been no attempt of sale to another party. The applicant believes that because the Property is landlocked with no right of access it is unmarketable to a third party. The applicant maintains that there is no other purchaser presently available who is ready, willing and able to purchase the Property for its fair market value.

5. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The proposed sale will be a one-time cash transaction;

(b) The price paid to the plan will be the greater of $16,000 as established by an independent appraisal or the fair market value of the Property at the time of the sale;

(c) The Plan will pay no expenses associated with the sale;

(d) The sale will allow the Plan to liquidate its investment portfolio and will provide cash for income yielding investment.

For Further Information Contact: Ekaterina A. Uzlyan of the Department at (202) 523-8194 (this is not a toll-free number).

White River Diagnostic Clinic, P.A. Retirement Plan (the Plan) Located in Batesville, Arkansas

[Application No. D-7907]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).[3] If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale for cash by the Plan of certain real property (the Real Property) to Paul Baxley, M.D., (Dr. Baxley) a disqualified person with respect to the Plan, provided that the price paid be no less than the fair market value of the Real Property as of the date of sale as determined by an independent and qualified appraiser.

[3] The applicant represents that Paul Baxley, M.D., is the sole shareholder, officer and director of White River Diagnostic Clinic, P.A., the Plan sponsor, and that Paul Baxley, M.D. and his wife, Sheila Baxley, are the sole participants in the Plan. Accordingly, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b); However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan sponsored by White River Diagnostic Clinic, P.A. (the Clinic). Dr. Baxley is the sole shareholder, officer and director of the Clinic. Dr. Baxley and his wife, Sheila Baxley, are the only participants in the Plan. As of June 30, 1988 the Plan had $206,746.09 in assets.

2. On April 20, 1982 the Plan acquired the Real Property, a detached frame two-bedroom residence located at 1301 Sidney Street in Batesville, Arkansas, from Dale E. Anderson and his wife, Fionnula Anderson, and Paul T. Wayland and his wife, Vivien Wayland, unrelated third parties, for $26,000 in cash. The applicant represents that the Real Property was acquired as an investment and to produce rental income, but that since 1982 local property values have declined considerably, that the Real Property is currently unrented, and that the Real Property has remained on the market for over thirty-six months without attracting a buyer. The applicant represents that the Real Property has never been rented to or otherwise used by any disqualified person with respect to the Plan.

3. On August 11, 1988, R.L. Carpenter, Jr., an independent and qualified real estate appraiser practicing in Batesville, Arkansas, stated that the fair market value of the Real Property was $22,000.

4. Accordingly, the Plan proposes to sell the Real Property to Dr. Baxley for cash at its fair market value at the date of sale as determined by an independent and qualified appraiser. No commissions, fees, or taxes in connection with the sale will be paid by the Plan.

5. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 4975(c)(2) of the Code because: (a) the Real Property will be sold for its fair market value as of the date of the sale as determined by an independent and qualified appraiser; (b) the sale represents a one-time transaction for cash which can be easily verified; (c) the sale will not require the payment by the Plan of any commissions, fees, or taxes; (d) the Plan will be able to divest itself of property which is declining in value; and (e) Dr. Baxley, the trustee of the Plan, and his wife, the only participants in the Plan, and the only persons affected by the proposed transaction, desire that the transaction be consummated.

Notice to Interest Persons: Because Dr. Baxley and his wife are the only participants in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption in the Federal Register.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Pennfield Precision, Inc. Profit Sharing Plan (the Plan) Located in Sellersville, PA

[Application No. D-7917]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed sale by the Plan of certain unimproved real property (the Property), for the total cash consideration of $70,000, to the John F. Matczak and Carl F. Tate General Partnership (the Partnership), a party in interest with respect to the Plan, provided the amount paid by the Partnership for the Property is not less than fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 58 participants and total assets of approximately $591,177 as of October 12, 1988. The Plan is sponsored by Pennfield Precision, Inc. (the Employer), a Pennsylvania corporation which operates a precision machine shop in Sellersville, Pennsylvania. The trustees of the Plan are Messrs. John F. Matczak and Carl F. Tate (Messrs. Matczak and Tate), both of whom are officers and shareholders of the Employer. Mr. Matczak makes investment decisions for the Plan.

2. The Partnership is a general partnership in which Mr. Matczak holds a 60 percent interest and Mr. Tate, a 40 percent interest. The Partnership was formed in June 1974 for the purpose of

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real estate development. The Partnership is located in Sellersville, Pennsylvania.

3. Among the assets of the Plan is the Property, a parcel containing 59.4 acres of unimproved and unencumbered land located in rural Charleston Township, Tioga County, Pennsylvania. The Property adjoins several parcels of land that are owned by Messrs. Masczak and Tate. The Plan purchased the Property on December 20, 1973 for investment purposes from Mr. and Mrs. Robert J. Patierno, Jr., who were unrelated parties. The Plan paid $29,000 for the Property. The purchase was not financed by any indebtedness. In addition to paying the purchase price, the Plan's only expenditures incurred in connection with its ownership of the Property have been expenses related to the 1973 purchase totaling $469 and real estate taxes of approximately $2,000. The applicant represents that since the time of acquisition by the Plan, the Property has not been used by or leased to parties in interest with respect to the Plan.

4. To provide the Plan with liquidity and the ability to invest in higher income-producing assets, the Partnership requests an administrative exemption from the Department in order that it may purchase the Property from the Plan. The Plan proposes to sell the Property to the Partnership for a total sales price of $70,000. The consideration for the Property will be paid by the Partnership in cash. In addition, all fees and other expenses coincident with the sale will be borne entirely by the Partnership.

5. The Property was valued by Mr. Al Stoltzfus (Mr. Stoltzfus), a licensed real estate broker and an independent appraiser affiliated with Stoltzfus Appraisal Service of Wellsboro, Pennsylvania. As of November 16, 1988, Mr. Stoltzfus placed the fair market value of the Property at $64,000. Mr. Stoltzfus opined that the value placed on the Property took into account its potential for future development. In addition, by letter dated March 7, 1989, Mr. Stoltzfus stated that, as neighboring owners, Messrs. Matczak and Tate would be expected to pay an additional premium that would not exceed $5,000. Thus, the proposed purchase price of $70,000 is in excess of the fair market value of the Property and the premium that would be paid by an adjacent property owner.

6. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The proposed sale of the Property will be a one-time transaction for cash; (b) the sales price for the Property, which will be greater than its fair market value as determined by an independent appraiser and will more than compensate the Plan for all expenses it has incurred in connection with the acquisition and holding of the Property; (c) the Plan will not incur any real estate fees or other expenses in connection therewith; and (d) the proposed sale will allow the Plan to invest the cash proceeds from the Property in higher income-yielding investments.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Ralph Wilson Plastics Employees Retiremeot Plan (the Plan) Located in Temple, TX

[Application No. D-7921]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of a certain parcel of unimproved real property (the Property) to Ralph Wilson Plastics Company (the Company), a party in interest, provided the sales price for the Property is not less than the greater of: (a) the the fair market value of such Property on the date of sale; or (b) the Plan's total acquisition and holding costs with respect to the Property.

Summary of Facts and Representations

1. Premark International, Inc. (Premark), the sponsor of the Plan is a Delaware corporation engaged in the manufacture and marketing of consumer and commercial products under widely-recognized brand names including Tupperware, Wilsonart, Hobart, West Bend, Vulcan and Precor. Premark maintains its principal place of business in Deerfield, Illinois. The Company, a wholly-owned subsidiary of Premark, is engaged in the manufacture of decorative laminate remodeling products for residential and commercial use. The Company is located at 600 Bruce Drive, Temple, Texas.

2. The Plan is a defined contribution plan that was established by the Company in 1959. Since March 31, 1976, the assets of the Plan hve been frozen and the Company has made no further contributions. The Plan, however, continues to qualify as a tax-exempt plan. Employees of the Company who were participants in the Plan at the time it was frozen, still participate in the Plan. As of the plan year ended December 31, 1987, the Plan had total assets of approximately $6,938,541. As of the plan year ended December 31, 1988, the Plan had 388 participants. The Plan presently has twelve trustees (the Trustees), six of whom are permanent and six of whom rotate. The rotating Trustees are appointed by Premark's Management Committee for Employee Benefits for a one year term. The Trustees are officers and employees of Premark and the Company and they have discretionary control over the investment of the Plan's assets.

3. On July 17, 1985, the Trustees met to discuss the possibility of purchasing, on behalf of the Plan, 37.786 acres of unimproved real property that was adjacent to the Company's plant and located directly north of the Temple, Texas Industrial Park on the east of Wendland Road. In accordance with the terms of the Trust Agreement, which authorized the Trustees to make such investments, the Trustees purchased the Property on August 15, 1985 from the Michelin Tire and Rubber Company, an unrelated party, for $340,131. The Trustees believed the Property would be a good investment for the Plan and that it would appreciate in value.

4. The Property is the only real property ever owned by the Plan. Since the date of its acquisition, the Plan has paid a total of $6,351 in real estate taxes, levies and assessments. In addition, the Plan has not leased the Property to Premark, the Company or any party in interest nor has the Plan, Premark, or the Company utilized the Property. Currently, the Property remains unimproved and it is not subject to any lease. Through the 1987 growing season, the Property was leased on an unrelated third party as farmland.

5. On December 4, 1985, the Plan granted a 10 foot right of way easement to the Texas Power and Light Company (Texas Power), an unrelated party. The purpose of the easement was to enable Texas Power to install multiple poles and guy-wire anchorages located along the southeast border of the Property. On April 29, 1988, the Plan deeded a 15 foot public utility easement, a 20 foot right of way easement along the Property's western boundary and a 15 foot right of way easement along the Property's northern boundary to the City of Temple, Texas) the City). These additional easements were granted by the Plan to enable the City to contruct sewer, water, gas and telephone lines on the Property. The Plan was paid $16,000 as consideration for the granting of the easements to the City.

6. Due to a slowing of the economy in central Texas and the availability to prospective purchasers of less expensive property located in the industrial park directly south of the Property, the investment return for the Property that was expected has not been realized. Although the Trustees have considered various options that are available to the Plan with respect to the Property, including practicality of advertising it for sale to the general public, they believe the most appropriate course of action to take is to sell the Property to the Company. In this way, the Trustees believe the sale proceeds can be placed in higher-yielding investment vehicles for the Plan. Therefore, an administrative exemption is requested from the Department.

7. The Company proposes to purchase the Property from the Plan for cash for a sales price that will be no less than the higher of: (a) The fair market value of the Property on the date of the sale; or (b) the Plan's original acquisition cost for the Property, plus all fees, taxes, levies and assessments on the Property and other expenses incurred by and paid by the Plan since August 15, 1985. The Company will pay all costs incurred with respect to the sale of the Property including any fees, commissions or expenses incident to such sale.

8. The Property was appraised by Messrs. Clemo L. Ray, Jr., M.A.I. and Curtis E. Ginnow, Associate (Messrs. Ray and Ginnow), independent appraises affiliated with the appraisal firm of Central Texas Appraisal Company of Temple, Texas. In an appraisal report dated December 15, 1988, Messrs. Ray and Ginnow placed the fair market value of the Property at $342,000 as of December 9, 1988. The appraisal report did not include approximately .853 acres of land that were subject to two of the easements because Messrs. Ray and Ginnow determined that these tracts were not part of the unsable parcel.

By letter dated February 27, 1989, Mr. Ray acknowledged that the excluded acreage could still be considered part of the Plan's fee simple estate. As such, he concluded that the fair market value of the Property would be increased to $348,000. Mr. Ray further certified that the Property would have no unique or special value to the Company warranting the payment of a higher purchase price by reason of its proximity to other property owned by the Company. Messrs. Ray and Ginnow will provide the Company with an updated valuation of the Property that will be effective as of the date of the proposed sale.

9. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction by the Plan for cash; (b) the Plan will sell the Property at the greater of its fair market value as determined by qualified independent appraisers or its total acquisition and holding costs; (c) the Plan will not pay any real estate fees or commissions or other expenses in connection with the sale; (d) the sale will allow the Trustees to invest, on behalf of the Plan, the sale proceeds in higher-yielding investment vehicles; and (e) the Trustees have determined that the sale of the Property is in the best interests of the Plan and is protective of the Plan's participants and beneficieries.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 21st day of April, 1989.

Robert J. Doyle,

Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-9998 Filed 4-25-89; 8:45 am]

BILLING CODE 4510-29-M

[Application No. T-7492]

Proposed Exemption; Wells Fargo Bank, N.A.

AGENCY: Pension and Welfare Benefits Administration, Labor

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Federal Employees' Retirement System Act of 1986 (FERSA).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room, N-5671, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. T-7492. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and

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Welfare Benefit Programs, U.S. Department of Labor, Room N–5510, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing.

SUPPLEMENTARY INFORMATION: The proposed exemption was requested in an application filed pursuant to section 8477(c)(3) of FERSA, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), as amended to apply to FERSA.

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for a complete statement of the facts and representations.

Wells Fargo Bank, N.A., (the Bank) Located in San Francisco, California

[Exemption Application No. TR–7492]

Proposed Exemption

The Department of Labor is considering granting an exemption under section 8477(c)(3) of the Federal Employees' Retirement System Act of 1986 (FERSA) and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), as amended to apply to FERSA. If the exemption is granted the restrictions of section 8477(c)(2) of FERSA shall not apply to the purchase and sale of stocks between the Equity Index Fund sponsored by the Bank and other investment funds advised and/or managed by the Bank or its affiliates, nor to the acquisition, holding and disposition of the common stock of Wells Fargo by the Equity Index Fund under the terms and conditions set forth in this notice of proposed exemption.

Effective Date: February 5, 1988.

Summary of Facts and Representations

1. The Bank is a national banking association regulated by the Comptroller of the Currency. The Bank was appointed as a manager with respect to the Thrift Savings Plan established pursuant to the provisions of FERSA (the Plan) on December 21, 1987. The Bank also provides investment advisory and trustee services to many qualified pension and profit sharing plans qualified under section 401(a) of the Internal Revenue Code (the Code), governmental pension plans as defined under section 414(d) of the Code and other institutional accounts and individuals.

2. Section 8438(b) of FERSA requires that the Federal Retirement Thrift Investment Board (the Board) establish a Common Stock Index Investment Fund (the "C" Fund) to be invested in a portfolio designed to replicate the performance of an index which is a commonly recognized index comprised of common stocks, the aggregate market value of which is a reasonably complete representation of the United States equity markets. The agreement between the Bank and the Board provides that the "C" Fund shall be invested with the objective of replicating the Standard & Poor's 500 Composite Stock Price Index (the S&P 500). Pursuant to this agreement, the Bank currently intends to invest the assets of the "C" Fund in its Equity Index Fund which also has the investment objective of replicating the return of the S&P 500. While this agreement would permit the Board to have the assets of the Plan invested in an individual, "stand-alone" portfolio that satisifes the statutory objective, the Bank currently intends to invest the assets of the "C" Fund in its Equity Index Fund. The Bank will not charge the Plan any additional fees for investing in the Equity Index Fund. The Bank's compensation is derived solely from management fees which it receives from the Plan and which are no more than the fees that would be charged for individual management of a "stand-alone portfolio".

3. The Equity Index Fund is passively managed in that the choice of stocks purchased and sold, and the volume purchased and sold are made according to an independent third party index, the S&P 500, rather than according to active evaluation of investments. Also, the Bank has no direct or indirect beneficial interest in the assets of the Equity Index Fund, and the Bank as trustee of the Equity Index Fund is prohibited from acquiring such an interest by regulations promulgated by the Comptroller of the Currency.

4. Cash contributions which are directed by Plan participants to be invested in the "C" Fund are invested by the Plan in the Equity Index Fund. In exchange for such cash contributions, the Plan receives investment units (Units) evidencing the investment. When a participant is to receive a distribution or wishes to reallocate all or a portion of his or her investent in the "C" Fund to a different investment fund, the Bank may be instructed to liquidate Units and transfer the resulting cash from the Equity Index Fund to the Plan. Transaction costs for investments or withdrawals are allocated among the participants in the Equity Index Fund (which includes the Plan and other employee benefit plans).

5. Investments or wtihdrawals normally occur on "opening" dates. On these openings, which occur at least 4 times a month, the Bank nets the investments (including cash dividends received on stocks held by the Equity Index Fund) and withdrawals from the Equity Index Fund against each other and makes sales and purchases of stocks as the aggregate amount invested in the Equity Index Fund rises or falls. In addition, the S&P 500 will occasionally add or delete a stock or change the relative capitalization weighting of a stock. The criteria for such changes are established and maintained by the Standard & Poor's Corporation. If a stock is deleted from the S&P 500, the Equity Index Fund must sell the stock. These changes in the S&P 500 are infrequent, although radical shifts in the availability of equity stocks occasioned by corporate "takeover" activity have increased the frequency of changes in the S&P 500. With respect to the timing of the above transactions, the Bank states that it attempts to replicate any changes to the Equity Index Fund as quickly as possible, generally within three days of the event.

6. the applicant represents that if the Equity Index Fund is required to engage in a stock transaction because of one of the events described above and must do so in the open market, the Equity Index Fund would incur substantial transaction costs including brokerage commissions, the "marketmakers spread" (the amount charged by the exchange specialists for accepting market risk in the stock price during the transactions) and the possible negative market impact of large block trades. These costs, it is represented, can be substantially reduced if cross-trading is done among the Equity Index Fund and investment funds sponsored by the Bank and or managed by the Bank or its affiliates.

7. The applicant represents that the average brokerage commission paid by the Bank for regular market transactions is 3–4 cents per share. The commission paid for the cross-trades is only 1 cent per share or less, which reflects the record keeping costs charged by brokers. In this regard, the applicant represents that the brokers are able to provide record keeping services more economically than the Bank. Cross-trades will avoid the marketmakers spread and the negative market impact caused by large block transactions.

8. The Bank was previously granted an exemption by the Department under section 408(a) of the Employee Retirement Income Security Act of 1974 and section 4975(c)(2) of the Internal Revenue Code allowing cross-trading between certain plans for which the Bank provides advisory and trust services. See Prohibited Transaction Exemption 87–51, 52 FR 22557, June 17, 1987 (PTE 87–51). The applicant is now requesting that a similar exemption be granted under FERSA. The applicant represents that a large proportion of Equity Index Fund stock transactions are eligible for such cross-trades and that these cross-trades can generate substantial transaction cost savings for the Equity Index Fund and therefore for its participants, including the Plan. The applicant represents that all the brokers used in cross-trades will be unrelated to and independent of the Bank. The applicant further represents that from July 1, 1987 through December 31, 1987, the Equity Index Fund utilizing PTE 87–51 saved approximately $700,000 in brokerage commissions. The Bank uses the closing price on the date of the trade for shares listed on a national exchange or NASDAQ to set the share price for all cross-trades except in situations where a particular stock is added or deleted from the S&P 500, in which case the Bank will use the opening price on the next trading day. The Bank represents that it is necessary to use the opening price on the next trading day, because additions or deletions to the S&P 500 are not typically announced until after the market has closed for the day. By using the opening price on the next day of trading, the Bank states that the transaction price will be more representative of the probable price of a market trade and as a result investment performance-tracking errors may be avoided.

9. Additionally, the applicant represents that on April 29, 1987, Standard and Poor's added Wells Fargo Stock (the Stock) to the S&P 500. Because of concerns over the propriety of acquiring the Stock, the Equity Index Fund has not acquired any of the Stock to date. Although the Stock constitutes only a small fraction of the S&P 500, the Applicant represents that failure to acquire the Stock has led to tracking errors. Further, as stated previously, the Equity Index Fund is passively managed and stocks purchased and sold, including the Stock are made pursuant to an independent third party index. Accordingly, the Bank proposes to acquire and hold the Stock in the Equity Index Fund as required by the S&P 500.

10. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 8477(c)(3) of FERSA because: (a) the Equity Index Fund will buy or sell stocks only when changes are made to the portfolio of stocks held in the S&P 500 and when a participant in the Plan invests in or withdraws from the "C" Fund, (b) the Equity Index Fund will save significant amounts of money on brokerage commissions, (c) the Bank will receive no additional fees as a result of the proposed cross-trades, and (d) the acquisition and holding of Wells Fargo stock will allow the Board to carry out its statutorily mandated investment directive of replicating an index which is a reasonably complete representation of the United States equity markets.

For Further Information Contact: Alan Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 8477(c)(3) of FERSA does not relieve a fiduciary or other party in interest from certain other provisions of FERSA, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 8477(b)(1), which among other things require a fiduciary to discharge his duties respecting the Plan solely in the interest of the participants and beneficiaries of the Plan, for the exclusive purpose of providing benefits to participants and beneficiaries.

(2) Before an exemption may be granted under section 8477(c)(3) of FERSA, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plan.

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of FERSA. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 21st day of April 1989.

Robert J. Doyle,

Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89–9999 Filed 4–25–89; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Multidisciplinary Arts Curriculum Development; Grants and Cooperative Agreements; Availability

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement that will suport the development and piloting by schools or school districts of up to three examples of a multidisciplinary arts curriculum equivalent to one Carnegie unit of high school work. The content will be a course which could be considered fulfilling high school graduation requirements in the arts for all students in grades 9–12. Eligibility to submit proposals is limited to schools or school districts containing grades 9 through 12 or 10 through 12. Schools or school districts are encouraged to collaborate with other institutions, agencies, and associations serving students in grades 9–12 or with institutions of higher education in applying to the Endowment. In all cases, however, a school or school district must be the principal applicant. Those interested in receiving the Solicitation package should reference Program Solicitation PS 89–07 in their request and include two (2) self-addressed labels. No verbal requests for the Solicitation will be honored.

DATES: Program Solicitation PS 89–07 will be available approximately May 1, 1989 with proposals due on June 30, 1989.

ADDRESS: Requests for the Solicitation should be addressed to National Endowment for the Arts, Contracts Division, Room 217, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William I. Hummel, Contracts Division, National Endowment for the Arts, 1100

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Pennsylvania Avenue NW., Washington, DC 20506 (202/682-5452).

Peter J. Basso,

Deputy Chairman for Management, National Endowment for the Arts.

[FR Doc. 89-9961 Filed 4-25-89; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrences for Fourth Quarter CY 1988; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident under an NRC-issued license was determined to be an abnormal occurrence (AO) using the criteria published in the Federal Register on February 24, 1977 (42 FR 10950). The AO is described below, together with the remedial actions taken. The event is also being included in NUREG-0090, Vol. 11, No. 4 ("Report to Congress on Abnormal Occurrences: October-December 1988"). This report will be available in the NRC's Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC about three weeks after the publication date of this Federal Register Notice.

88-14 Medical Therapy Misadministration

The general AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered a abnormal occurrence.

Date and Place—November 17, 1988; Wilkes-Barre General Hospital; Wilkes-Barre, Pennsylvania.

Nature and Probable Consequences—On November 18, 1988, the licensee notified NRC Region I by telephone that a therapeutic misadministration had occurred involving a patient receiving treatment for an endo-bronchial tumor.

A radiotherapy physican had prescribed a therapeutic dose of 750 rads to the right bronchus at a distance of 0.5 centimeters from an iridium-192 source in a remote afterloading brachytherapy device. However, the staff radiotherapy physicist mistakenly developed a treatment plan that delivered 750 rads at 1.0 centimeter from the source. This resulted in a dose of 1800 rads at 0.5 centimeters from the source, rather than the prescribed 750 rads.

The licensee stated that the dose received by the endo-bronchial tumor is within standard treatment protocols for that type of tumor and that no adverse effects are anticipated as a result of the misadministration.

However, the event was of concern because of the large magnitude of error. NRC Region I conducted a special inspection of the license on November 29, 1988, to review the circumstances associated with the event and the corrective actions planned by the licensee to prevent recurrence. In addition, NRC Region I requested an NRC medical consultant to review the event.

Cause or Causes—The cause was attributed to human error. The licensee's staff radiotherapy physicist used the wrong table of the manual used to develop a treatment plan.

Actions Taken to Prevent Recurrence

Licensee—Corrective actions include independent verifications of treatment calculations (one by a dosimetrist and one by a radiotherapist), providing additional the training on a therapy equipment, and providing an additional chart for determining maximum treatment times for each treatment plan.

NRC—On December 16, 1988, NRC Region I sent a Confirmatory Action Letter to the licensee confirming the licensee's corrective action plans. The NRC's consultant confirmed the licensee's statement that the dose received was within standard treatment protocols and that no adverse effects to the patient was anticipated. The report for the November 29, 1988 NRC inspection was issued on February 8, 1989. NRC Region I has scheduled a management meeting with the licensee to review the licensee's corrective actions.

Dated at Rockville, MD this 20th day of April 1989.

For the Nuclear Regulatory Commission.

Samuel J. Chilk

Secretary of the Commission.

[FR Doc. 89-10005 Filed 4-25-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-2061]

Kerr-McGee Chemical Corp.; Availability of Supplement to the Final Environmental Statement for the Rare Earths Facility, West Chicago, DuPage County, IL

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Supplement to the Final Environmental Statement (SFES) prepared by the Commission's Office of Nuclear Material Safety and Safeguards, related to the decommissioning of the Kerr-McGee Chemical Corporation's Rare Earths Facility located in West Chicago, Illinois, is available for inspection by the public in the Commission's Public Document Room at the Gelman Bulding, 2120 L Street, NW., Washington, DC 20555. The SFES is also available for inspection at the Commission's Local Public Document Room in the West Chicago Public Library, 332 E. Washington Street, West Chicago, Illinois 60185. The SFES is being provided to the State Clearinghouse, Bureau of the Budget, Lincoln Town Plaza, 524 S. Second Street, Springfield, Illinois 62706. The SFES is also being sent to the Metropolitan Clearinghouse, Northeastern Illinois Planning Commission, 400 West Madison Street, Chicago, Illinois 60606. Requests for copies of the SFES (identified as NUREG-0904, Supplement No. 1) should be addressed to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082.

The SFES was prepared in response to an order of the Atomic Safety and Licensing Board presiding over this proceeding that the NRC staff should prepare a supplemental environmental impact statement that evaluates permanent disposal of the mill tailings from operation of the Rare Earths Facility. *Kerr-McGee Chemical Corp.* (West Chicago Rare Earths Facility), LBP-85-3, 21 NRC 244 at 286 (1985).

The licensee's engineering report and related documents are also available for public inspection at the above designated locations. The notice of availability of the Draft Supplement to the Final Environmental Statement (DSFES) for the Kerr-McGee Rare Earths Facility and request for comments for interested persons was published in the Federal Register on June 29, 1987 (52 FR 24229). The comments received from federal, state, and local agencies and interested members of the public and the NRC staff's responses to these comments have been included as an appendix to the SFES and are contained in Volume 2.

Kerr-McGee's proposal decommissioning and stabilization plan involves demotion of the existing buildings, removal of building rubble and contaminated soil to an adjacent disposal site, and stabilization of the materials on the adjacent disposal site in an engineered cell. The Kerr-McGee proposed plan and alternatives to the plan are discussed in the SFES. The NRC staff is recommending approval of Kerr-McGee's proposal for onsite stabilization in an engineered disposal cell. The NRC staff believes that disposal of the wastes onsite can be accomplished in a safe and environmentally sound manner.

Dated at Rockville, Maryland, this 19th day of April 1989.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 89-9995 Filed 4-25-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on General Electric Reactor Plants (ABWR); Meeting

The ACRS Subcommittee on General Electric Reactor Plants (ABWR) will hold a meeting on May 10-11, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Wednesday, May 10, 1989—8:30 a.m. until the conclusion of business. Thursday, May 11, 1989—8:30 a.m. until the conclusion of business*

The Subcommittee will continue its review of the GE ABWR. The Subcommittee will also preview Chapters 7, 8, 9, 11, 12, 13, 14 and 17 of the Safety Analysis Report related to GE ABWR.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 301/492-7750) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: April 20, 1989.

Gary R. Quittschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89-10006 Filed 4-25-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

South Carolina Electric & Gas Co. and South Carolina Public Service Authority; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards; Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) for operation of the Virgil C. Summer Nuclear Station, Unit 1, located in Fairfield County, South Carolina.

The proposed amendment to the Virgil C. Summer Nuclear Station Technical Specifications (TS) would reduce the number and severity of starts of the emergency diesel generators, thereby decreasing engine wear and increasing reliability. This proposed change was originally noticed as a proposed no significant hazards consideration on July 17, 1985 at 50 FR 29016 and renoticed on June 4, 1986 at 50 FR 20373, and August 24, 1988 at 53 FR 32295.

By letter dated November 9, 1987, the NRC requested additional information on the proposed changes. The licensee responded with a submittal dated May 16, 1988 that was modified in a July 14, 1988 submittal. These two submittals were referenced in the August 24, 1988 proposed no significant hazards consideration.

The November 18, 1988 submittal modified the note to Table 4.8-1 to indicate that loading the diesel generator was part of the ten tests identified in the note. Therefore, Surveillance Requirement 4.8.1.1.2.a.4 was added to the note. Surveillance Requirement 4.8.1.2 was also modified to indicate that loading the diesel generator (4.8.1.1.2.a.4) was unnecessary in the demonstration of the operability of the A.C. electrical power sources. Finally, Surveillance Requirement 4.8.1.1.3 was modified to indicate that a Special Report is required to be filed with the Nuclear Regulatory Commission for all failures of the diesel generators, valid or non-valid.

The April 5, 1989 submittal modified Surveillance Requirement 4.8.1.2 to delete the term "or verification" from it. In addiiton, the note to TS 3.8.1.2.b was modified to indicate that the ESF Load Sequencer may be deenergized in Modes 5 and 6 provided that the loss of voltage and the degraded voltage relays are disabled.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination is provided below.

The licensee has determined the proposed amendment involves no significant hazards consideration as follows:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because a reduction in frequency and severity of diesel generator test starts will result in less wear and stress on engine parts. This will decrease the probability of an accident due to failure of engine parts, and the consequences of an accident will not change.

The present Technical Specifications do not require the various sequencer actuation signals to be operable in Modes 5 and 6. The defeat of the loss of voltage and degraded voltage relays in conjunction with the sequencer being inoperable will prevent a potential inadvertent overload of the unit and

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require the operator to manually control loading of the unit. A conservative engineering evaluation has shown that there is adequate time for manual operator action. This change will decrease probability of a diesel failure and enhance the operators' capability to respond to a loss of power in Modes 5 and 6.

(2) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the design and function of the diesel generator will not change. Starting and loading of the diesel generator will be manually controlled to reduce the possibility of overloading the unit.

(3) The proposed amendment does not involve a significant reduction in the margin of safety because there will be no change in response times or emergency loads assumed in the accident analysis for Modes 5 and 6.

The NRC Staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and should cite the publication date and page number of the **Federal Register** notice. Written comments may also be delivered to 7920 Norfolk Avenue, Room P–216, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m.

Copies of written comments received may be examined at the Nuclear Regulatory Commission Public Document Room, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 26, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reason why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceedign, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW. Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325–6000 (in Missouri 1 (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 10, 1985, as supplemented December 6, 1985 and May 16, July 14, July 28, and November 18, 1988 and April 5, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Dated at Rockville, Maryland, this 20th day of April 1989.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–9996 Filed 4–25–89; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Conservation and Electric Power Plan; Final Amendments, 1989 Supplement

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council, Council).

ACTION: Notice of final amendments.

SUMMARY: Pursuant to the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (16 U.S.C. 839 *et seq.*), the Council, in April 1983, adopted a Northwest Conservation and Electric Power Plan (Plan) including model conservation standards (MCS). The most recent complete amendment of the Plan was adopted in 1986. Although the Act requires the Council to review the Plan at least every five years, the Council has taken up certain parts of the Plan more frequently, to respond to ongoing changes in the regional energy picture and to incorporate the most recent technology and analysis. The Council has now amended the Plan by updating the technical data on which portions of the Plan depend. The Council has also adopted a response to the public comments received on the Supplement. This notice describes the amendments contained in the 1989 Supplement and explains how to receive copies of the Supplement, its appendices and/or response to comments.

SUPPLEMENTARY INFORMATION: As directed by the Northwest Power Act (16 U.S.C. 839 *et seq.*, the Act), the Council developed and adopted a regional conservation and electric power plan shortly after its formation. The Plan includes an energy conservation program, including, but not limited to, model conservation standards; a recommendation for research and development, a methodology for determining quantifiable environmental costs and benefits; a twenty-year demand forecast; a forecast of power resources that the Bonneville Power Administration will need to meet its obligations; an analysis of reserve and reserve reliability requirements; and a surcharge methodology. The Plan also includes the Fish and Wildlife Program, developed pursuant to other procedural requirements under the Act.

In otder to keep the Plan as up to date as possible, the Council entered a public involvement process in January 1988 by publishing a staff issue paper entitled "Plans for a Technical Update to the 1986 Power Plan." The Council followed this paper with several issue papers on key planning areas, including economic, demographic and fuel price assumptions; demand forecasts; and analyses of the cost and availability of conservation and generating resources. In November 1988, after considerable public comment, the Council published a Staff Draft Update, which covered all the subjects treated in the issue papers. The Draft Update also generated extensive public comment. Most commentors said that while certain technical features of the Plan ought to be updated in the near term, the Draft Update as a whole proposed more fundamental changes in the Plan, some of which touched on basic policy issues, than could be addressed in the relatively short time proposed for the Update process. In particular, commentors, believed that several resources in the draft resource portfolio needed more deliberate consideration. These include cogeneration, and its cost and performance data, transmission and distribution system efficiency improvements, voltage regulation, as well as strategies to back up nonfirm power. Many commentors suggested that the Council identify the more basic policy issues now, but taken them up on a more extended schedule.

Following these comments, the Council revised the Draft Update. In this revision, which was called the Draft Supplement, the Council reduced the more controversial resource portfolio estimates to the values found in the 1986 Power Plan.

Amendments

The amendments to the Supplement highlight the Council's power planning process, including, in particular, its philosophy of and strategies for implementing least cost planning. The Supplement also identifies certain major policy issues proposed for future, more detailed consideration.

The Supplement is chiefly aimed at bringing up to date the demand forecasts contained in the Plan, the estimates of resources available to meet future demand, both conservation and generating resources, and, within the limits noted above, an updated resource portfolio. The Supplement also contains several appendices, which document the revised forecasts of economic, demographic and fuel price assumptions, revised demand forecasts; revised estimates of the cost availability of conservation resources; revised estimates of the cost and availability of new generation (hydroelectric, cogeneration, strategies to improve the use of the existing hydro system by using combustion turbines, and coal, along with a listing of the cost components considered) in the Northwest; and a description of the region's hydroelectric power system.

The Supplement amends the Council's Power Plan, affecting portions of Chapters 1–8 of the 1986 Plan. It does not modify Chapter 9 (the Action Plan). In case of conflict between the Supplement and the 1986 Power Plan, the Supplement supersedes the Plan. In all other instances, the Supplement is an addition to the 1986 Power Plan.

FOR FURTHER INFORMATION CONTACT. If you would like a copy of the 1989 Supplement to the 1986 Power Plan, the Supplement Appendices, and/or the Response to Comments, please contact Judi Hertz in the Council's Office of Public Information and Involvement. The Council's address is: 851 SW. 6th Avenue, Suite 1100, Portland, Oregon 97204. The Council's telephone numbers are: (503) 222–5161 and (toll free) (800)

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222–3355 in Idaho, Montana, and Washington or (800) 452–2324 in Oregon.

Edward Sheets,

Executive Director.

[FR Doc. 89–9957 Filed 4–25–89; 8:45 am]

BILLING CODE 0000–00–M

Northwest Conservation and Electric Power Plan; Draft Amendments to the Commercial Model Conservation Standards

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of proposed amendment to the 1986 Northwest Power Plan model conservation standards for new commercial buildings.

SUMMARY: At its April 12, 1989 meeting the Council voted to distribute for public comment a draft revision of the Model Conservation Standards (MCS) for new commercial buildings. Approximately one year ago, the Council received public comment on proposed revisions, but decided to delay entering rulemaking until new national standards for commercial buildings were completed. The Secretary of the U.S. Department of Energy recently authorized final standards for new federally owned commercial buildings, and the Council believes that the process for updating its standards for new commercial buildings can now proceed.

SUPPLEMENTARY INFORMATION: As directed by the Northwest Power Act (16 U.S.C. 839 *et seq.*, the Act), the Council developed and adopted a regional conservation and electric power plan shortly after its formation. The Plan includes an energy conservation program, including, but not limited to, Model Conservation Standards for new commercial buildings.

Through its experience in implementing the Power Plan, the Council has developed a practice by which it continually reviews and updates, in orderly fashion, elements of the Plan. The frequency with which an element is updated often depends on the availability of new information or changed circumstances. While some proposed amendments are taken up on the Council's own initiative, others are the result of informal suggestions or recommendations from outside parties. In addition, the Council has adopted specific procedures that allow any person to petition for an amendment to the Plan at any time. In this case, the Council granted a petition filed by the Northwest Conservation Act Coalition (NCAC) and the Natural Resources Defense Council (NRDC) that had argued that potentially economically feasible and reigonally cost-effective savings remained beyond the Council's current MCS. The Council, based on its own analysis, on public comments received and on information obtained from consultations with interested parties, has prepared proposed revisions to the MCS for new commercial buildings.

DATES AND ADDRESSES: The Council will accept public comment on the proposed amendments through July 14, 1989. Public hearings will be held in Idaho, Montana, Oregon and Washington. The exact time and location of these hearings will be published in the next issue of the Council's newsletter, *Update!* and can also be obtained by calling the Council's Office of Public Information and Involvement.

INSTRUCTIONS FOR WRITTEN COMMENT: Comments should be sent to the Council's central office, 851 SW. Sixth Suite 1100, Portland, Oregon 97204. Written comments should be clearly marked "COMMERCIAL MCS."

FOR FURTHER INFORMATION CONTACT: If you would like a copy of these proposed amendments, please contact Judi Hertz in the Council's Office of Public Information and Involvement. The Council's address is: 851 SW. 6th Avenue, Suite 1100, Portland, Oregon 97204. The Council's telephone numbers are: (503) 222–5161 and (toll free) (800) 222–3355 in Idaho, Montana, and Washington or (800) 452–2324 in Oregon.

Edward Sheets,

Executive Director.

[FR Doc. 89–9958 Filed 4–25–89; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[34–26741; AMEX–89–5]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc., Relating to Acceleration of Trade Comparison

April 18, 1989.

Pursuant to section 19(b)(1) of the 78s(b)(1), notice is hereby given that on March 8, 1989, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange is proposing that transactions effected on the Exchange be compared or otherwise closed out within one business day from the date of trade, rather than within five business days, as is the current practice. Adoption of new Rule 719 will not affect the settlement of equity transactions, most of which are currently compared and settled within five business days from the date of trade.

Shortening the comparison time frame will improve the efficiency of equity comparisons and clearance and reduce the exposure of members and member organizations to risk due to market fluctuations on uncompared or questioned trades.

For the past year the Exchange and the New York Stock Exchange ("NYSE") have been working with the member firm community and the National Securities Clearing Corporation ("NSCC") to establish operational parameters, systems and rules which will implement next-day comparison. The NYSE has filed a proposed rule change (SR–NYSE–88–36) requiring next-day resolution of open trades and has proposed implementation within 18 months of Commission approval. As in the case of the NYSE, we seek approval of new Rule 719 by the Commission, but would allow up to 18 months to fully implement the rule requirements. This delayed implementation would enable the Exchange to coordinate with the NYSE, NSCC and member firm community the details of additional rules and procedures, and to assure operational readiness when the rule becomes effective.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex.

Exhibit A—American Stock Exchange, Inc.

Proposed Rule Change

Next Day Comparison of Exchange Transactions Rule 719. (a) Notwithstanding any other rule to the contrary, on and after [date], each transaction effected on the Exchange shall be compared or otherwise closed out by the close of business on the Exchange on the business day following the day of the contract.

(b) The provisions of paragraph (a) above shall apply regardless of whether the transaction has been submitted to the National Securities Clearing Corporation ("NSCC") for comparison or settlement, but such provisions shall apply only to contracts for "regular way" settlement in stocks, rights and warrants unless (i) the Exchange determines to apply the provisions to contracts in other securities or contracts for other settlement terms or (ii) the terms of the contract (i.e., "next day settlement") require comparison to be effected on or before the business day following the day of the contract.

(c) To facilitate next day comparison of transactions effected on the Exchange as provide for in paragraph (a) above, by such time following any such transaction as the Exchange may prescribe, each member or member organization which is a party to the contract shall submit, or cause to be submitted, such trade data as may be required by the Exchange or the NSCC in such form as the Exchange or the NSCC shall prescribe, to:

(i) The NSCC; or

(ii) Such facility as the Exchange may develop and implement to facilitate comparison of transactions effected on the Exchange; and,

(iii) In the case where the NSCC will not be used to compare or setttle the transactions, to the party or parties on the other side of the trade.

(d) Members and member organizations shall comply with such other rules and procedures as may be adopted by the Exchange or the NSCC for the comparison or settlement of transactions, for the resolution of uncompared or questioned trades, and for the collection and submission of audit trail data.

All submissions should refer to File No. SR–Amex–89–5 and should be submitted by May 17, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–9914 Filed 4–25–89; 8:45 am]

BILLING CODE 8010–01–M

[34–26740; MCC–89–01]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corporation Relating to the Acceleration of the Processing of Over-the-Counter ("OTC") Trades

April 18, 1989.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 4, 1989, the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This filing is a proposed rule change by Midwest Clearing Corporation ("MCC") which accelerates the processing of Over-the-Counter ("OTC") trades.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule

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change is to accelerate by one business day the processing of OTC trades. The enhancement will also provide for the accommodation of the Automated Confirmation Transaction System (ACT) currently under development with the National Association of Securities Dealers ("NASD").

The OTC acceleration is expected to significantly reduce Participant exposure on potential problem trades by accelerating the trade resolution and reporting process by approximately one day. In addition, acceleration of such trade resolution will better enable Participants to reduce potential financial exposure.

Currently, Participants are generally required to submit OTC trade data to MCC (input) by 3:00 p.m. on the next business day following trade date (T+1). Trade reports (output) reflecting trade data submitted by the Participants and the results of the comparison process are reported by MCC generally by 7:00 a.m. on T+2. (The required cut-off time for submission of trade input is dependent upon the particular method of input, e.g., manual submission, magnetic tape, terminal, etc.)

Under the proposed new procedures, Participants must generally submit trade data by 4:45 p.m. (CST) (manual submission) on Trade Date for comparison and clearance on Settlement Date (Trades submitted on T+1 or later must be submitted as "As-of" trades). MCC will report trade data to Participants by 7:00 a.m. on the morning of T+1. Participants may submit adjustments until 3:00 p.m. on T+1. MCC will issue corresponding output by 7:00 a.m. on T+2.

Finally, the revised procedures accommodate NASD's ACT System (ACT will lock-in transactions as close as possible to the time of trade execution). All ACT locked-in trades will be identified with the acronym "ACT". All ACT trades will be reported to Participants in the form of T+1 Locked-In Contracts by 7:00 a.m. of T+1.

The proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") in that it facilitates the prompt and accurate clearance and settlement of securities transactions by a SEC-registered clearing corporation.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Participants were advised of the proposed rule change in an Administrative Bulletin dated February 15, 1989. No comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 17, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9915 Filed 4-25-89; 8:45 am]

BILLING CODE 8010-01-M

[34-26744; MSTC-89-01]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Company Relating to a New Limited Category of Participation

April 18, 1989.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on April 11, 1989, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Midwest Securities Trust Company's ("MSTC") proposal establishes a new limited participant category.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

During the past several months, management of MSTC has accelerated its efforts to enhance and improve efficiencies in the reconciliation process of Regional Interface Organization ("RIO") or "flipped" trades. ("Flipped" trades are those that are submitted or otherwise "flipped" for ultimate settlement from MSTC to another clearing agency whose clearance and settlement facilities are linked with MSTC). To facilitate this process, MSTC has established a new limited category of MSTC Participant entitled "RIO Participants.".

As proposed in the rule change, a RIO Participant's sole purpose for membership in MSTC is the facilitation of settlement at another clearing agency through RIO. A RIO Participant will not be required to accept book-entry deliveries from another Participant, unless expressly authorized by the RIO Participant or unless such delivery is required by MSTC because, among other things, settlement can not occur at another clearing agency (for example, the security is non-RIO eligible or the other clearing agency ceases to act for the RIO Participant prior to settlement at such clearing agency).

In all other respects, RIO Participants will be subject to MSTC's normal rules and procedures, including those relating to MSTC Article V (Participants) and Article VI (Property Held for Participants).

MSTC believes that the proposed rule change is consistent with the purposes and requirement's of section 17A of the Securities Exchange Act of 1934, as amended, in that it provides for the efficient, prompt and accurate settlement of securities transactions through linked clearing agencies.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have not generally been solicited or received regarding the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities & Exchange Commission, 450 Fifth Street NW. Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to SR-MSTC-89-01 and should be submitted by May 17, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9916 Filed 4-25-89; 8:45 am]

BILLING CODE 8010-01-M

[34-26739; NASD-89-21]

Self-Regulatory Organizations; Notice of Filing and Order Granting Temporary Accelerated Approval to Proposed Rule Change by National Association of Securities Dealers Relating to Limit Order Capabilities for the Association's Small Order Execution System

April 18, 1989.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 14, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Item I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would extend until September 30, 1989 the Securities and Exchange Commission's temporary approval of the limit order capabilities of the Association's Small Order Execution System which were approved for a ninety day period on January 19, 1989.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to extend the Commission's temporary approval of the SOES limit order system until September 30, 1989. This extension will allow the NASD to continue to monitor utilization of the system and will provide an opportunity for the NASD to address concerns as to the operation of the system raised by the Commission in the temporary approval order.[1] To date, the system has been functioning as anticipated. As of March 20, 1989, the NASD completed the phase in of all securities and the system is currently carrying approximately 680 open limit orders. The NASD has experienced no system related problems and no capacity problems during the implementation phase of the SOES limit order file.

The statutory basis for the further development and implementation of SOES is found in section 11A(a)(1)(B) and (C)(i), 15A(b)(6) and 17A(a)(1)(B) and (C) of the Securities Exchange Act of 1934. Section 11A(a)(1)(B) and (C)(i) set forth the Congressional goal of achieving more efficient and effective market operations and the economically efficient execution of transaction through new data processing and communication techniques. Section 15A(b)(6) requires that the rules of the Association be designed to "foster cooperation and coordination with persons engaged in regulations, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market". Section 17A(a)(1)(B) and (C) set forth the Congressional goal of reducing costs involved in the clearance

[1] *See* Securities Exchange Act Release No. 26476 (1/19/89); 54 FR 3081 (1/26/89).

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and settlement process through new data processing and communication techniques. The NASD believes that the modifications to SOES will further these ends by providing enhanced mechanisms for the efficient and economic execution and clearance of limit orders in over-the-counter securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not anticipate that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received with respect to the proposed rule changes contained in this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD has requested that the Commission find good cause pursuant to section 19(b)(2) of the Act for approving the proposed rule change on a temporary basis prior to the thirtieth day after publication in the **Federal Register** and in any event before April 19, 1989 the date the Commission's temporary approval of the Limit Order File expires. The Association believes that the enhancement to the SOES system is benefitting members and their public customers by providing an automated method of processing limit orders for all SOES participants. The NASD believes that the extension will provide the NASD with the opportunity to consider concerns relating to matching of orders at prices between the spread which were raised in the Commission's temporary approval order.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and, in particular, the requirements of sections 11A(a)(1)(B), 15A(b)(5) and 17A(a)(1)(B) and (C) and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of the filing thereof in that accelerated approval will benefit public investors by continuing to provide limit order storage and execution capabilities which can result in more efficient handling of customer orders. The Commission believes that the benefit of extending of the temporary rule change until September 30, 1989 outweigh any potential adverse effects during the period of the rule change's effectiveness.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Steet, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 17, 1989.

It is therefore ordered. Pursuant to section 19(b)(2) of the Act, that the proposed rule change, SR–NASD–89–21, be, and hereby is, approved until September 30, 1989. For the Commission, by the Division of Market Regulation, pursuant to delegate authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz

Secretary.

[FR Doc. 89-9917 Filed 4-25-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-26736; File No. SR-NSCC-89-04]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Securities Clearing Corporation Relating to Acceleration of Trade Comparison Process

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 31, 1989, NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The proposed rule change would amend NSCC's Rules and Procedures.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The primary purpose of the proposed rule change is to redesign the Listed Equity Comparison System to accelerate the comparison process, thus allowing Members to resolve uncompared trades earlier. This change is being made in conjunction with the New York Stock Exchange and American Stock Exchange's proposed automated correction systems and proposed T+1 close out rules.

The T+1 close out rules, as set forth in NYSE proposed rule filing 88–36 and AMEX rule filing 89–5, require that transactions effected on these exchanges be compared or otherwise closed out within one business day from the date of trade, rather than within five business days. NSCC and the exchanges' purpose for this accelerated comparison is to increase the efficiency of post trade comparison and reduce the risk of loss due to market fluctuations on uncompared trades.

As part of this change, the exchanges have developed their own automated correction systems (see NYSE 89–03) which will eliminate the need for the adjustment processing currently performed by NSCC. Exchange Members will be required to input trade adjustments through these systems.

Under NSCC's proposed rule change, Members will be required to input trade data by 2:00 a.m. on T+1 rather than the afternoon of T+1. Members may also input data throughout the trading day. Members will be able to delete, through NSCC, uncompared transactions prior to 2:00 a.m. on T+1. As data is received, NSCC will perform a series of matches using expanded audit trail data, the results of which will be reflected on the Regular Way T+1 Contract List, available by 4:00 a.m. the morning of T+1 for automated output and 7:00 a.m. for print output. NSCC will route the results of the comparison process to the exchanges, where resolution of uncompared trades will occur. The NYSE and AMEX will transmit to NSCC by 5:00 p.m. on T+1, the results of their adjustment processing. These results will be reflected by NSCC on Adjustment Contracts, available to Members by 8:00 p.m. on the evening of T+1.

While it is expected that the exchanges will be able to perform all adjustments once acceleration of input and comparison occurs, NSCC will retain the ability, in the event that the automated adjustment systems are not ready, to process, under accelerated time frames, Advisory Listings, deletes of suggested name, As-Of trades, and will also continue to generate as necessary, pre-printed QT's and DK's. (NSCC may still generate DK's and QT's upon request even after the exchanges' systems are in place.)

Currently, the procedures for comparison of equity and debt transactions executed OTC, as well as debt transactions executed on the NYSE and AMEX, refer to the procedures for comparison of listed equities. The proposed rule change modifies these sections to reflect the fact that the procedures for input, comparison, adjustment and output for each of these transactions are, due to acceleration and redesign of the listed system, different from the listed equity procedures. The proposed rule change also makes certain technical clarifications. The NYSE and AMEX anticipate implementing their automated adjustment processing by June 30, 1989. Due to the interrelationship of NSCC's listed redesign and the exchange correction processing, NSCC's acceleration of input and comparison must coincide with the implementation of the exchanges' correction systems.

(b) The proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions and fosters the cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. Therefore, it is consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not perceive that the proposed rule change will have an impact on or impose a burden on competition.

c. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Members have been advised by Important Notices dated August 19, 1988 (which includes NSCC notice and NYSE notice) February 23, 1989, March 8, 1989 and March 22, 1989. No written comments have been received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, and all written communications relating to the proposed rule change that are filed with Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–NSCC–89–04 and should be submitted May 17, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: April 17, 1989.

[FR Doc. 89-9918 Filed 4-25-89; 8:45 am]

BILLING CODE 8010-01-M

[34-26742; NSCC-89-04]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Securities Clearing Corporation Relating to Acceleration of the Trade Comparison Process

April 18, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 31, 1989, NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend NSCC's Rules and Procedures.

II. Self-Regulatory Organization's Statement of, the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change.

(a) The primary purpose of the proposed rule change is to redesign the Listed Equity Comparison System to accelerate the comparison process, thus allowing Members to resolve uncompared trades earlier. This change is being made in conjunction with the New York Stock Exchange and American Stock Exchange's proposed

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automated correction systems and proposed T+1 close out rules.

The T+1 close out rules, as set forth in NYSE proposed rule filing 88-36 and AMEX rule filing 89-5, require that transactions effected on these exchanges be compared or otherwise closed out within one business day from the date of trade, rather than within five business days. NSCC and the exchanges' purpose for this accelerated comparison is to increase the efficiency of post trade comparsion and reduce the risk of loss due to market fluctuations on uncompared trades.

As part of this change, the exchanges have developed their own automated correction systems (see NYSE 89-03) which will eliminate the need for the adjustment processing currently performed by NSCC. Exchange Members will be required to input trade adjustments through these systems.

Under NSCC's proposed rule change, Members will be required to input trade data by 2:00 a.m. on T+1 rather than the afternoon of T+1. Members may also input data throughout the trading day. Members will be able to delete, through NSCC, uncompared transactions prior to 2:00 a.m. on T+1. As data is received, NSCC will perform a series of matches using expanded audit trail data, the results of which will be reflected on the Regular Way T+1 Contract List, available by 4:00 a.m. the morning of T+1 for automated output and 7:00 a.m. for print output. NSCC will route the results of the comparison process to the exchanges, where resolution of uncompared trades will occur. The NYSE and AMEX will transmit to NSCC by 5:00 p.m. on T+1, the results of their adjustment processing. These results will be reflected by NSCC on Adjustment Contracts, available to Members by 8:00 p.m. on the evening of T+1.

While it is expected that the exchanges will be able to perform all adjustments once acceleration of input and comparison occurs, NSCC will retain the ability, in the event that the automated adjustment systems are not ready, to process, under accelerated time frames, Advisory Listings, deletes of suggested name, As-Of trades, and will also continue to generate as necessary, pre-printed QT's and DK's. (NSCC may still generate DK's and QT's upon request even after the exchanges' systems are in place.)

Currently, the procedures for comparison of equity and debt transactions executed OTC, as well as debt transactions executed on the NYSE and AMEX, refer to the procedures for comparison of listed equities. The proposed rule change modifies these sections to reflect the fact that the procedures for input, comparison, adjustment and output for each of these transactions are, due to acceleration and redesign of the listed system, different from the listed equity procedures. The proposed rule change also makes certain technical clarifications. The NYSE and AMEX anticipate implementing their automated adjustment processing by June 30, 1989. Due to the interrelationship of NSCC's listed redesign and the exchange correction processing, NSCC's acceleration of input and comparison must coincide with the implementation of the exchanges' correction systems.

(b) The proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions and fosters the cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. Therefore, it is consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not perceive that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Members have been advised by Important Notices dated August 19, 1988 (which includes NSCC notice and NYSE notice) February 23, 1989, March 8, 1989 and March 22, 1989. No written comments have been received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, and all written communications relating to the proposed rule change that are filed with Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5. U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-NSCC-89-04 and should be submitted by May 17, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-9919 Filed 4-25-89; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 34-26738; File No. SR-PSE-88-26]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Adoption of a Rule Concerning the Authority of the PSE's Examination's Department

On November 23, 1988, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Commission, pursuant to Section 19(b) of the Securities and Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,[1] a proposed rule change that would clarify the PSE's authority to examine the financial responsibility and/or operational conditions of any member or member organization.[2] The proposal gives the PSE specific authority to require compliance by its members with Exchange requests for information in connection with those examinations.

[1] 15 U.S.C. 78s(b) and 17 CFR 240.19b-4 (1988).

[2] The proposed rule change was noticed in Securities and Exchange Act Release No. 26379, December 20, 1988, 53 FR 52540. No comments were received on the proposed rule change.

The proposed rule change would amend PSE Rule VII, Section 7, by adding paragraph (C). Proposed paragraph (C) states that the PSE shall have the authority to examine the financial responsibility and/or operational conditions of any member or member organization. In conducting such examinations, the proposed rule provides that the PSE may require a member or member organization to furnish requested information. In addition, under the proposed rule if the PSE deems it necessary, members shall make available their books and records as well as provide sworn or unsworn testimony. The proposal also states that all such investigations shall be conducted in a manner consistent with the rules and regulations governing the duty of the Exchange.

The Commission has closely examined the provisions of the proposed rule change and has determined that it is consistent with the requirements of the Act and, accordingly, that it should be approved. In particular, the Commission believes that the proposal is consistent with the requirements under section 6(b)(1) of the Act which provides that an exchange must be so organized and have the capacity to enforce compliance by its members, and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange, and with section 19(g)(1) of the Act which requires that every exchange shall, absent reasonable justification or excuse, enforce compliance with such provisions by its members and persons associated with its members.

As noted above, the proposed rule change will clarify the authority of the PSE to examine the financial responsibility and/or operational conditions of members or member organizations. In particular, it provides the Exchange with specific authority to require members, where necessary, to comply with requests for books and records, and to provide testimony. The authority of the PSE, under the proposed rule, to require a member to provide requested information, make available books and records, and provide sworn or unsworn testimony, is like the examinations authority of other exchanges, such as the New York Stock Exchange ("NYSE") and the Chicago Board Options Exchange ("CBOE"). For example, NYSE Rule 476 provides that if a member is found to have failed to comply with a request from the NYSE or other self-regulatory organization for books and records, or to furnish information, or to provide testimony, the member will be subject to disciplinary sanctions. CBOE Rule 15.3 provides that no member shall refuse to make available to the CBOE such books, records or other information as may be called for under the rules or as may be requested in connection with an investigation by the CBOE. Similarly, CBOE Rule 17.2(b) provides that no member or person associated with a member shall refuse to furnish testimony, documentary materials or other information requested by the CBOE during the course of an investigation. The Commission believes that the proposed rule furthers the objectives of sections 6(b)(1) and 19(g)(1) of the Act in that it will strengthen the PSE's ability to execute its responsibilities to ensure compliance by its members and their associated persons with the Act, the regulations thereunder, and PSE rules.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 17, 1989.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-9913 Filed 4-25-89; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-16929; 811-3579]

Oxford Cash Management Fund; Application for Deregistration

April 19, 1989.

AGENCY: Securities and Exchange Commission ("SEC")

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Oxford Cash Management Fund ("Applicant").

Relevant 1940 Act Section: Section 8(f).

Summary of Applications: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

Filing Dates: The application on Form N-8F was filed on February 13, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on May 12, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington, DC. 20549. Applicant, 200 Park Avenue, Suite 4515, New York, New York, 10017.

FOR FURTHER INFORMATION CONTACT: Patricia L. Copeland, Legal Technician (202) 272-3009, or Stephanie M. Monaco, Branch Chief (202) 272-3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3281 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is an open-end diversified management company organized as a Massachusetts business trust and in good standing with the Commonwealth of Massachusetts. Apicant registered as an investment company under the 1940 Act and filed a registration statement under the Securities Act of 1933 on October 7, 1982. Applicant's registration statement became effective on February 14, 1983, and the initial public offering commended on that date.

2. On December 13, 1988, Applicant's Board of Directors adopted a plan of liquidation. All shareholders of the Applicant redeemed their entire investments at net asset value prior to the adoption of a plan of dissolution. Disposition of the assets of Applicants was made upon maturity of short-term investments in connection with the redemption by shareholders prior to liqudation.

3. Applicant's Sub-Adviser and Administrator, Aquila Management Corporation, will pay all expenses incurred in connection with the liquidation.

4. Applicant states that it currently has no shareholders, has retained no assets, and does not propose to engage in any business activities, other than those necessary for the winding up of its affairs.

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For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-9911 Filed 4-25-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16936; 812-7208]

The Rodney Square International Securities Fund, Inc., et al.; Application

April 20, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: The Rodney Square International Securities Fund, Inc. ("Fund"), Wilmington Trust Company ("TrustCo"), and Edinburgh Fund Managers, plc ("Edinburgh") (collectively, "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of section 15(a).

Summary of Application: Applicants seek an order to permit Edinburgh to receive retroactively its advisory fee for services rendered to the Fund under an interim advisory agreement from January 11, 1989, the date the Fund's Board of Directors approved the agreement in person, until March 1, 1989, the date the Fund shareholders ratified the agreement.

Filing Dates: This application was filed on December 30, 1988, and amended on March 10, 1989, and April 11, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on May 15, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. The Fund and TrustCo, Rodney Square North, Wilmington, Delaware 19890. Edinburgh, 4 Melville Crescent, Edinburgh, Scotland, EH3 7JB.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney, at (202) 272-3028 or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. The Fund, registered under the 1940 Act as an open-end, diversified management investment company, currently consists of one series, the Rodney Square International Equity Fund ("Equity Series"). TrustCo is the Fund's investment adviser and is primarily responsible for investing the Fund's assets. Edinburgh, a registered investment adviser, was organized in 1969 and provides investment management services to a variety of individual and institutional clients.

2. On October 9, 1987, Applicants entered into a consulting agreement ("Former Agreement") whereby Edinburgh would recommend to TrustCo the purchase and sale of securities for the Equity Series, and would place orders for the execution of portfolio transactions. Consistent with section 15(a)(4) of the 1940 Act, the Former Agreement provided for its automatic termination upon its "assignment," as defined in the 1940 Act.

3. On December 8, 1988, Edinburgh announced an agreement with British Investment Trust PLC ("BIT") under which BIT would acquire no less than 50.1 percent but no more than a 55 percent equity interest in Edinburgh. In addition, the boards of directors of Edinburgh and BIT announced an agreement to terms for a cash offer by BIT for all of the common shares of Edinburgh. BIT agreed to grant to Edinburgh its contracts relating to management of approximately 600 million pounds in assets. On December 30, 1988, BIT acquired a controlling interest in Edinburgh, the Former Agreement automatically terminated, and Applicants filed this application.

4. At a telephonic meeting held on December 19, 1988, the Fund's Board of Directors unanimously approved an Interim Consulting Agreement ("Interim Agreement") between and among the Fund, TrustCo, and Edinburgh. On January 11, 1989, the Fund's Board of Directors unanimously approved the Interim Agreement in person. On March 1, 1989, sixty days after the Former Agreement terminated, shareholders of the Equity Series ratified the Interim Agreement and approved a new consulting agreement with Edinburgh.

5. The terms of the Interim Agreement were identical to those of the Former Agreement except that, under the Interim Agreement, Edinburgh agreed to bear all costs and fees associated with the preparation and filing of the exemptive application up to the amount of fees it was to receive under the Interim Agreement. Now, Edinburgh has agreed to bear, without limitation, all costs and expenses of the application and any incremental costs incurred by the Fund in securing shareholder approval of the Interim Agreement.

6. All fees earned by Edinburgh under the Interim Agreement have been placed into escrow to be released to Edinburgh only upon ratification of the Interim Agreement by Fund shareholders and issuance of an order by the SEC on the application. Thus, if an order is not granted, all funds in escrow will revert immediately to the Fund and Edinburgh will relinquish all claims to those fees.

Applicants' Legal Conclusions

The requested order is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act for the following reasons.

1. Although Applicants cannot rely on the limited exemption provided by Rule 15a-4 under the 1940 Act, Applicants claim the concerns of section 15(a) and Rule 15a-4 of preventing trafficking in investment advisory contracts are not present here because Edinburgh's income from its services to the Fund accounted for less than five percent of its management fees prior to its acquisition by BIT, and even less thereafter.

2. Applicants submit that the Interim Agreement is identical in all material respects to the Former Agreement, except for the modifications concerning payment of fees into escrow and Edinburgh's obligations to pay expenses associated with this application. During the period of the Interim Agreement, the Fund received the same investment advisory services, provided in the same manner by the same personnel, as it received prior to the sale of Edinburgh. The change of control of Edinburgh did not result in any change in the officers or employees of Edinburgh, except insofar as its capital and advisory staff may be augmented under the new arrangements. Therefore, according to the Applicants, any consequence to the Fund from the change of control of Edinburgh will be beneficial, since additional personnel and financial resources are likely to be devoted to, or available for the benefit of, the Fund.

3. Applicants state that the Fund's Board of Directors unanimously approved the Interim Agreement in person. Also, the Fund's Board of Directors unanimously determined that retention of Edinburgh as an interim investment adviser, together with the personnel to be retained by Edinburgh, is in the best interest of the Equity Series and its shareholders.

4. Applicants argue that it was not possible for the Equity Series to obtain shareholder approval of a new consulting agreement prior to the sale of Edinburgh. The timing of the sale transaction was governed largely by considerations pertinent to BIT. Edinburgh's negotiations with BIT occurred over a very brief time period and required a high degree of confidentiality. In view of British secrecy laws, the parties to the transaction did not consider it appropriate to give the Fund or Trust Company notice of the negotiations at an early stage.

5. Applicants believe that, due to the escrow arrangement, the Fund shareholders will enjoy the full benefit of the protections afforded by section 15(a) and are not likely to suffer any detriment under the Interim Agreement. However, Applicants state that denial of the requested order would inequitably deprive Edinburgh of its just earnings for a period when it served the Fund with its same high degree of diligence.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. The Interim Agreement contains the same terms and conditions as the Former Agreement and the new agreement, except for the escrow arrangement and Edinburgh's agreement to bear certain expenses, as described herein.

2. Under the Interim Agreement, all fees payable to Edinburgh during the interim period have been held in escrow and will be paid to Edinburgh only upon the issuance of an order of the SEC granting an exemption from Section 15(a). If that condition is not met, the monies in the escrow account will revert to the Equity Series.

3. Edinburgh has agreed to bear without limitation all costs and expenses of the application and any incremental costs incurred by the Fund in securing shareholder approval of the Interim Agreement.

4. Applicants scheduled and have now held a meeting of the shareholders of the Equity Series on March 1, 1989, or sixty days after the termination of the Former Agreement, at which the shareholders approved the Interim Agreement as well as a new consulting agreement with Edinburgh.

5. The fund will not compensate Edinburgh for its services from December 30, 1988, the date the Former Consulting Agreement was assigned, to January 11, 1989.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-9969 Filed 4-25-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Virginia and Maryland

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Tier 1 environmental impact statement will be prepared for a proposed highway project bypassing Washington, DC in Stafford, Fauquier, Prince William, Fairfax, Loudoun, Caroline and King George Counties, Virginia and Charles, Prince Georges, Anne Arundel, Montgomery, Howard and Frederick Counties, Maryland.

FOR FURTHER INFORMATION CONTACT:

In Maryland:

Mr. Herman Rodrigo, Planning, Research, Environmental and Safety Engineer, Federal Highway Administration, The Rotunda—Suite 220, 711 West 40th Street, Baltimore, Maryland 21211, Telephone: (301) 962-4267

or

Mr. Louis H. Ege, Jr., Chief, Project Development Division, State Highway Administration, Room 310, 707 North Calvert Street, Baltimore, Maryland 21202, Telephone: (301) 333-1130

In Virginia:

Mr. George Kirk, District Engineer, Federal Highway Administration, 400 N. Eighth Street, Richmond, Virginia 23240, Telephone: (804) 771-2380

or

Mr. Richard C. Lockwood Transportation Planning Engineer, Virginia Department of Transportation, 1401 E. Broad St., Annex 107, Richmond, Virginia 23219, Telephone: (804) 786-2964

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland State Highway Administration (SHA) and the Virginia Department of Transportation (VDOT) will prepare a first tier Environmental Impact Statement (EIS) to evaluate alternative corridors in which a limited access, high speed bypass of the Washington, DC, metropolitan area is proposed. Potential corridors will be studied for an eastern bypass, a western bypass, and combinations of both. Length of the proposed corridors will vary between 60-120 miles.

Alternatives under consideration for the Washington Bypass project include (1) do-nothing (including transportation system management (TSM) improvements to existing highways in the study area and mass transit options) (2) western corridors beginning at I-95 in Stafford County or Prince William County Virginia and continuing north across the Potomac River north of Washington, DC into Maryland, ending at I-70, either south of Frederick or near Mt. Airy, (3) eastern corridors beginning at I-95 in Caroline County or Prince William County Virginia, crossing the Potomac River south of Washington DC into Maryland and continuing generally along existing U.S. 301 to U.S. 50 in Anne Arundel County, then along MD 3/I-97 Corridor to I-695, the Baltimore Beltway. At U.S. 50 one eastern corridor alternative would include a spur along U.S. 50 to the Bay Bridge.

Because of the rapid rate of development in the metropolitan area, the project location should be established in a timely manner. The development of the traditional environmental impact study (as known in the highway community) for a facility of this scale, would be a lengthy process and would result in a voluminous and unwieldy environmental impact statement. Consequently, the FHWA after consultation with the Council on Environmental Quality, is using a tiered EIS concept to focus on issues which are ripe for decision at this time. The first tier document will examine alternative corridors on a broad scale. The first tier EIS will consider the purpose, need and transportation demand for the project and will provide the basis for FHWA to grant corridor location approval for either or both corridors. However, the approved corridor could vary from a narrow band in some specific areas to a wider, more flexible band in other areas. Upon conclusion of this document, the

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alternatives analyses would be completed and would provide a basis for acquiring or otherwise reserving right-of-way. This approach will benefit the public by avoiding project delays as well as benefit the affected environment and the local communities by minimizing impacts. The first tier EIS will also establish the process for examining the subsequent site-specific impacts and proposed mitigation in more detail. Second tier documents would be prepared for individual project sections. Depending on the magnitude of impacts, the second tier document could be either a second EIS or an environmental assessment.

The basis for establishing the cooridors will be existing information regarding land use, traffic, social and environmental factors and engineering features as well as the location of major public facilities. Typical data being collected to assess the impacts of the proposed corridors includes but is not limited to the following: socia-economic, land use, cultural resources, parkland, wetlands, water quality, traffic paterns, farmland, business and residential relocations, endangered species and hazardous waste sites.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies, and to private organizations and citizens who express interest in the proposal. The tiered EIS concept has been discussed with many Federal agencies, and a scoping meeting was held with the concerned Federal agencies on February 27, 1989. Public meetings began in September 1988 and will continue throughout the study process. Public notices of the time and place of these meetings and required public hearings will be provided. The draft EIS will be available for public and agency review and comment prior to the public hearings. Public involvement and inter-agency coordination will be maintained throughout the development of the EIS.

To insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the EIS should be directed to FHWA or the State at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: April 19, 1989.

A. Porter Barrows,

Division, Administrator, Baltimore, Maryland.

[FR Doc. 89-9985 Filed 4-25-89; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

Date: April 20, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0982.

Form Number: None.

Type of Review: Extension.

Title: Safeguard Procedures and Safeguard Activities Reports.

Description: Internal Revenue Code section 6103(p) requires that IRS provide periodic reports to Congress describing safeguard procedures, utilized by agencies which receive information from IRS, to protect the confidentiality of the information. This section also requires that these agencies furnish reports to IRS describing their safeguards.

Respondents: State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions.

Estimated Number of Respondents: 5,100.

Estimated Burdens Hours Per Response: 5 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 25,5000 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Department Reports, Management Officer.

[FR Doc. 89-9986 Filed 4-25-89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

Date: April 20, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0142.

Form Number: None.

Type of Review: Extension.

Title: Recordkeeping and Confirmation Requirements for Security Transactions.

Description: Requirement provides record of information relevant to purchase or sale of security by national bank or national bank trust department for a customer.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Recordkeepers: 4,714.

Estimated Burden Hours Per Recordkeeper: 5 hours.

Frequency of Response: Recordkeeping.

Estimated Total Reporting Burden: 165,001 hours.

Clearance Officer: John Ference (202) 447-1177, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.

OMB Reviewer: Gary Waxman (202) 395-7340, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89-9939 Filed 4-25-89; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Department Circular—Public Debt Series—No. 11-89]

Treasury Notes of April 30, 1991, Series Y-1991

Washington, April 20, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,250,000,000 of United States securities, designated Treasury Notes of April 30, 1991, Series Y-1991 (CUSIP No. 912827 XL 1), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1 The Notes will be dated May 1, 1989, and will accrue interest from that date, payable on a semiannual basis on October 31, 1989, and each subsequent 6 months on April 30 and October 31 through the date that the principal becomes payable. They will mature April 30, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC. 20239-1500, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, April 26, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, April 25, 1989, and received no later than Monday, May 1, 1989.

3.2. The par value of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield if over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or

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reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Monday, May 1, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, April 27, 1989. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, May 1, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 89-10079 Filed 4-24-89; 8:25 am]

BILLING CODE 4810-40-M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of New Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of matching program—Defense Manpower Data Center records and the Beneficiary Identification and Records Locator Subsystem of the Department of Veterans Affairs.

SUMMARY: The Defense Manpower Data Center (DMDC) will send the Department of Veterans Affairs (VA) a magnetic media file containing identifying information pertaining to U.S. armed forces personnel who were on active duty October 19, 1984. The VA will compare the DMDC file with the Beneficiary Identification and Records Location Subsystem (BIRLS). Results of the computer match will be returned to the DMDC where the data will be used to create two additional magnetic files which, in turn, will be compared with and utilized to update VA educational benefit payment systems.

The goal of this and succeeding computer matches will be to determine which veterans, on active duty October 19, 1984, may have remaining 38 U.S.C. Ch. 34 education benefit entitlement and may be able to convert remaining eligibility from this soon-to-expire program to the 38 U.S.C. Ch. 30, Montgomery G.I. Bill. These matches will also assist in determining which veterans are likely not to be eligible for the aforementioned conversion by virtue of their dates of active duty service. Final eligibility determinations, however, will be made during the adjudication of individual benefit applications.

DATES: Computer matches may commence February 1989. Additional matches of this kind are not anticipated.

ADDRESS: Interested individuals may comment on the proposed match in writing to the Director, Administrative Services Staff (203C3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Behall, Chief, Administrative Systems Division (203C3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telehphone number (202) 233-3461/5723.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided below. This information is required by paragraph 5.f(1) of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided, in duplicate, to the Committee on Government Operations for the U.S. House of Representatives, to the U.S. Senate Committee on Governmental Affairs, and to the Office of Management and Budget.

Approved: April 14, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Report of Matching Program

The Department of Veterans' Affairs (VA) is planning a computer match using a Defense Manpower Data Center (DMDC) magnetic media file containing information on all individuals serving on active duty in the U.S. armed forces on October 19, 1984, and the VA system of records known as the Beneficiary Identification and Records Location Subsystem (BIRLS).

a. *Authority:* Title 38, United States Code, sections 210, 1661, 1411 and 1412.

b. *Program Description*—(1) *Purpose.* To identify those veterans, serving on active duty in the U.S. armed forces on October 19, 1984, who may have remaining 38 U.S.C. Ch. 34 education entitlement and may be able to convert remaining eligibility from this soon-to-expire program to the 38 U.S.C. Ch. 30, Montgomery G.I. Bill. This process will also identify those veterans who are unlikely to be eligible for the

aforementioned conversion because of their active duty service dates. The VA will eventually use this data to update education benefit payment systems.

(2) *Procedures.* (a) The DMDC will provide a magnetic media file containing the names and other identifying information of individuals who were serving on active duty October 19, 1984. The VA will compare that file with BIRLS. The results of this computer match will be returned to the DMDC where the data will be used to create two additional magnetic files. One will contain those who may be able to have their remaining 38 U.S.C. Ch. 34 eligibility converted to chapter 30 benefits of the same title. It will also include veterans who have no matching BIRLS records as well as those having conflicting or incomplete service data. The other file will consist of veterans who appear ineligible for the aforementioned conversion because of their service dates.

(b) The two above-mentioned files will eventually be used to conduct a comparison with and to update VA education benefit payment systems.

c. *Records to be Matched.* The VA will perform a computerized matching program using the magnetic file from DMDC and the following VA system of records:

Veterans and Beneficiaries Identification and Records Location Subsystem—(VA) (38VA23).

d. *Period of Match.* Computer matches may commence February 1989. Additional matches of this kind are not anticipated.

e. *Safeguards.* Access to the BIRLS file which is located at the VA Data Processing Center, Austin, Texas, is restricted to authorized VA employees and vendors. Access to the computer room where the magnetic tape is located within the data processing center is further restricted to specifically authorized employees and is protected by an alarm system, the Federal Protective Service, and other VA security personnel. Records used in the matches and data generated as a result will be safeguarded from unauthorized disclosure. Access will be limited to those persons who have a need for the information in order to conduct the matches or follow-up actions. All of the material will be stored in locked containers when not in use. The matching files to be used in this project will remain under the control of the Veterans Benefits Administration. The matching file will be used and accessed only to match files in accordance with this notice and will not be duplicated or disseminated within or outside the VA unless authorized by the Chief Benefits Director.

f. *Retention and Disposal.* The magnetic tapes provided by DMDC will be returned to DMDC. They will be disposed of in accordance with approved authority from the Archivist of the United States.

[FR Doc. 89-9955 Filed 4-25-89; 8:45 am]

BILLING CODE 8320-01-M

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Sunshine Act Meetings

Federal Register
Vol. 54, No. 79
Wednesday, April 26, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, May 1, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: April 21, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89-10071 Filed 4-24-89; 10:18 am]
BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-89-15]

TIME AND DATE: Tuesday, May 2, 1989 at 3:00 p.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications
4. Petitions and Complaints.
5. Inv. No. 303-TA-19, 20 (F) and 731-TA-391-399 (F) (Antifriction Bearings (other than tapered roller bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

April 19, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89-10050 Filed 4-21-89; 4:49 pm]
BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 2, 1989.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Open Special Conference.

PURPOSE: The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda item. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

MC-C-30090.
National Industrial Transportation League—Petition For Declaratory Order On Negotiated Motor Common Carrier Rates.

CONTACT PERSON FOR MORE INFORMATION: Dennis A. Watson, Office of Government and Public Affairs, Telephone: (202) 275-7242.

Noreta R. McGee,
Secretary.

[FR Doc. 89-10138 Filed 4-24-89; 12:46 pm]
BILLING CODE 7035-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of April 24, 1989.

A closed meeting will be held on Wednesday, April 26, 1989, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendar matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, April 26, 1989, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Institution of injunctive actions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kevin Fogarty at (202) 272-2300.

Jonathan G. Katz,
Secretary.

April 19, 1989.

[FR Doc. 89-10136 Filed 4-24-89; 12:45 pm]
BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 54, No. 79
Wednesday, April 26, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Drug Export; Cardiolite® Kit for the Preparation of Technetium Tc99m Sestamibi

Correction

In notice document 89-8759 appearing on page 14866 in the issue of Thursday, April 13, 1989, make the following correction:

In the second column, in the second complete paragraph, in the third line, "May 3, 1989" should read "April 24, 1989".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 639

Worker Adjustment and Retraining Notification

Correction

In rule document 89-9376 beginning on page 16042 in the issue of Thursday, April 20, 1989, make the following corrections:

1. On page 16045, in the second column, in the first complete paragraph, in the seventh line, "state" should read "stated".
2. On page 16049, in the 2nd column, in the 12th line, "believes" was misspelled.
3. On the same page, in the third column, in the first complete paragraph, in the sixth line, "there" should read "these".
4. On page 16050, in the second column, in the last paragraph, in the eighth line, "critically" should read "critical".
5. On page 16056, in the second column, in the last paragraph, in the ninth line, "examples" was misspelled.
6. On page 16060, in the 1st column, in the last paragraph, in the 12th line, "data" should read "date".
7. On page 16061, in the second column, in the first, second, and third lines, remove the sentence "The paragraph also states that they are to be construed narrowly."; and in the eighth line, remove "of the reason".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No.IP89-02; Notice 1]

Receipt of Petition for Determination of Inconsequential Noncompliance; Fleetwood Enterprises, Inc.

Correction

In notice document 89-8717 beginning on page 14905 in the issue of Thursday, April 13, 1989, on page 14905, in the third column, in the heading, the bracketed number was incorrect and should appear as set forth above.

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Part II

Environmental Protection Agency

Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988; Schedule of Implementation; Notice

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-34000; FRL-3562-2]

Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988; Schedule of Implementation

AGENCY: Environmental Protection Agency (EPA or Agency).

ACTION: Notice.

SUMMARY: On October 25, 1988, the President signed into law the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Amendments of 1988 (FIFRA '88). This notice summarizes the provisions of FIFRA '88 and sets forth EPA's general plan and schedule for implementing them. EPA invites comments on its general approach for implementation.

DATES: Comments on this notice must be submitted by July 25, 1989.

ADDRESS: Comments on this notice should reference the document control number "OPP-34000" and be mailed to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Deborah J. Sisco, FIFRA '88 Task Force (H7501C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1101, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Telephone (703) 557-7372.

SUPPLEMENTARY INFORMATION:

I. Background

A. Regulation of Pesticides Under FIFRA

Under FIFRA, pesticides must be registered (licensed by EPA before they may be sold or distributed in commerce in the United States. Pesticides include insecticides, herbicides, fungicides, rodenticides, disinfectants, plant growth regulators, and other substances intended to control pests. Approximately 35,000 to 40,000 pesticide products are currently registered in the United States. FIFRA requires that pesticides used according to labeling directions perform their intended functions without causing unreasonable adverse effects on people or the environment. In assessing the potential to cause unreasonable risks for pesticide registration decisions, EPA is required by law to take into account the economic, social, and environmental costs and benefits of pesticide uses.

FIFRA was first enacted in 1947. Thousands of pesticide products have since been registered. However, Congress has amended FIFRA several times since 1947, and the standards for pesticide registration have evolved in tandem with advances in science and public policy. In particular, test data requirements for pesticides have become increasingly more stringent in light of advances in such areas as toxicology and analytical chemistry.

Under FIFRA, the registrant or applicant for registration has the responsibility for demonstrating that a pesticide meets all the criteria for registration. The Agency bases registration decisions for new pesticides on its evaluation of test data provided primarily by applicants for registration (usually the companies that produce the pesticide products). Required studies include testing to show whether a pesticide has the potential to cause adverse effects in humans and wildlife, including endangered species. Potential human effects include acute reactions such as toxic poisoning and skin and eye irritation, as well as other effects such as cancer, birth defects, or reproductive system disorders. In addition, EPA must have data to estimate exposure to pesticides, such as data on residues in food and potential worker exposure. Data on environmental fate, or how a pesticide behaves in the environment, are also required so that EPA can determine, among other things, whether a pesticide poses a threat to ground or surface water. Testing to acquire such data must be conducted in accordance with Good Laboratory Practice Regulations and may be subject to audit by the Agency.

In addition to registering new pesticides, EPA is charged with protecting human health and the environment from any unreasonable adverse effects associated with pesticides already registered and in use. FIFRA authorizes EPA to cancel the registration of an existing pesticide if data show that it causes unreasonable adverse effects on human health or the environment. The cancellation process can take 2 years or more to complete. Under certain circumstances, EPA may take action to suspend the registration of a pesticide to prevent an imminent hazard during the cancellation review.

Until the 1988 amendments, EPA was required under FIFRA to accept pesticides suspended and cancelled due to their potential for imminent hazard for disposal at government expense. In addition, an indemnification provision required EPA to reimburse holders of such suspended and cancelled pesticides for financial losses suffered, up to the fair market value of the pesticide.

To ensure that previously registered pesticides meet current scientific standards, FIFRA requires that pesticides originally registered a number of years ago be "reregistered" under current scientific standards. This is a massive undertaking. In the interest of efficiently identifying needed data, obtaining and reviewing those data, and reaching regulatory conclusions regarding the continued registrability of pesticides, EPA initiated its Registration Standards and Data Call-In programs. Through these programs, EPA has been reexamining by current standards the health and environmental safety of pesticides.

Pesticide products are normally formulations of one or more pesticidally active chemicals (the active ingredients) combined with one or more pesticidally inert ingredients. Products are regulated primarily on the basis of their pesticidally active ingredients. There are approximately 1,300 individual active ingredients, which the Agency has combined into basic active ingredient groups that may be regulated together as active ingredient "cases" (e.g., salts and esters of the same chemical). A review of the available data on each active-ingredient case and its use culminates in the issuance of a Registration Standard for the group of individual active ingredients which constitute a case.

A Registration Standard describes the Agency's evaluation of the available data and the conditions registrants must meet in order to reregister pesticide products containing the active ingredient. These conditions typically include requirements for submission of needed additional data; compliance with requirements for product composition and labeling and packaging. Certain changes in application methods or other label directions may also be required, and some uses may be restricted for use by or under the direct supervision of certified applicators as a condition of continued use.

EPA has established priorities for conducting its Registration Standard reviews on the basis of clusters of pesticides registered for similar uses, such as grain fumigants and fungicides. High-volume and food-use pesticides have been among the highest priority clusters. Thus far, 194 Registration Standards have been completed. Because certain active ingredients of the same "chemical family" are grouped into one Registration Standard "case", these 194 Registration Standards represent 350 individual active ingredients. An example of such a grouping is the Registration Standard for 2,4-D, which includes 35 individual active ingredients. Because of the factors considered by EPA in setting priorities for review of registered pesticides, the 194 Registration Standards issued to date represent approximately 85 to 90 percent of the total volume of pesticides used in the United States.

Following receipt of the data called in at the time the Registration Standard is issued, the Agency must complete a comprehensive review of those data and the pesticide's uses before a final decision on whether to reregister the active ingredient and products containing it can be made. This review of data submitted after issuance of the Registration Standard is called a "second round review." In many instances, this second round review shows that additional data are needed before a reregistration decision can be made. Further, once the active ingredient is found to be eligible for reregistration, data on the formulated product (including other ingredients), called product-specific data, must be reviewed before the pesticide product can be reregistered.

B. Legislative History

EPA has not been able to review and reregister existing pesticides as quickly as Congress originally envisioned. Consequently, legislation to revamp the reregistration process has been considered since 1985. In 1986, the House of Representatives and Senate passed similar bills (both of which included provisions on many more subjects than the 1988 amendments as passed), but the differences were not reconciled by the end of the legislative year. Similar bills were reintroduced in the new Congress in 1987. On May 13, 1988, the Senate Committee on Agriculture, Nutrition, and Forestry reported a bill (S. 1516, Senate Report 100-346) that contained essentially all the provisions ultimately enacted, as well as a number of others; the full Senate never voted on S. 1516. On September 16, 1988, the House Committee on Agriculture reported a bill (S. 659) that was essentially identical to the amendments later enacted; it was adopted by the full House in late September and by the Senate shortly thereafter, and signed by the President on October 25, 1988.

C. FIFRA '88

The major provisions of FIFRA '88 became effective on December 24, 1988. FIFRA '88 provides for the following:

1. The acceleration of the process of reregistration by providing deadlines and new procedures.
2. Expedited processing of applications for certain types of registration or amendments to existing registrations.
3. The establishment of a fee system to help pay for accelerated reregistration and expedited processing.
4. The promulgation of regulations for the handling of pesticides, including their storage, transportation, and disposal.
5. An indemnity program to cover certain private-sector costs resulting from suspension or cancellation of pesticides, and requiring specific Congressional appropriations for certain indemnifications.

In addition to these 5 major provisions, FIFRA '88 amends the compliance provisions and criminal penalties under FIFRA and contains a provision relative to the Scientific Advisory Panel. The remainder of this Notice discusses each provision, EPA's schedule for implementation of the major provisions, and the Agency's communication plans to promote effective implementation.

II. Accelerated Reregistration

The reregistration provisions of FIFRA '88 establish mandatory timeframes and duties, applicable to EPA and pesticide registrants, for the reregistration of pesticides. FIFRA '88 requires EPA to complete, over approximately a 9-year period, the reregistration review of each registered product containing any active ingredient first registered before November 1, 1984. Only pesticides for which EPA has determined, between November 1, 1984, and December 24, 1988, that there are no outstanding data requirements, and for which the requirements of FIFRA section 3(c)(5) have been satisfied, are excepted from this requirement. Section 3(c)(5) is the section which provides generally that EPA shall register a pesticide if it can perform its intended function without causing unreasonable adverse effects on people or the environment.

The charge to complete the reregistration review of exiting pesticides in 9 years represents a tremendous challenge to the Agency. Registrants too will be expected to accept part of the burden for the acceleration of reregistration. They will be expected to review their previously submitted data and to supply the remaining required data within prescribed time periods. Pesticide users are also encouraged to work with registrants to assist in the generation of data, where appropriate.

Reregistration of pesticides under FIFRA '88 will be carried out in five phases. These phases establish deadlines for pesticide registrants to identify and supply the test data necessary for EPA to make pesticide reregistration decisions, as well as for EPA to analyze submissions and to determine whether to reregister currently registered pesticides. The phases are described below.

A. Phase 1—Reregistration Lists

In Phase 1 of the reregistration process, the Agency is required to list the names of pesticide active ingredients subject to reregistration in four installments over a 10-month period following December 24, 1988, and to ask registrants of pesticide products containing those active ingredients whether they intend to seek reregistration. The content of these lists is not subject to judicial review. A description of the four lists and the dates by which they are required to be listed appear below.

List A—Pesticide active ingredients for which Registration Standards were issued before 12/24/88.	March 4, 1989
List B—Next 150 active ingredients subject to reregistration.	April 24, 1989
List C—Next 150 active ingredients subject to reregistration.	July 24, 1989
List D—Remainder of active ingredients subject to reregistration.	October 24, 1989

For reregistration purposes, EPA will continue to group chemically-related active ingredients into active-ingredient cases. Lists B and C will each contain 150 active-ingredient cases. In determining which active-ingredient cases to include on Lists B, C, and D, FIFRA '88 requires that, among other criteria, priority be given to those that meet the following criteria:

—Used on or in food or feed and may result in postharvest residues.

—Result in residues of potential toxicological concern in portable ground water, edible fish, or shellfish.

—Determined to have significant outstanding data requirements prior to December 24, 1988.

—Used on sites where worker exposure is most likely to occur, including greenhouses and nurseries.

The Agency will implement Phase 1 of the reregistration process as follows:

1. *List A.* List A, which was published on February 22, 1989 (54 FR 7740),

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contains the names of the pesticide active ingredients for which Registration Standards were issued prior to December 24, 1988. This list includes the Registration Standard case name and the individual pesticide active ingredients covered in each specific Registration Standard. (See Unit I. A for explanation of Registration Standard cases.) Reregistration Phases 2 through 4 do not apply directly to List A. Reregistration of List A active ingredients will be discussed in paragraph E.1. of this unit.

2. *Lists B, C, and D.* Lists B and C will each consist of 150 active-ingredient cases of currently registered pesticides. In developing these lists, the Agency must first determine which chemical substances should be grouped as a single active-ingredient case. The criteria for setting priorities described above (as well as other pertinent factors) will then be used to place active-ingredient cases on List B, C, or D. Because the due dates for several subsequent actions are based on the date each list is published, the Agency intends to issue Lists B, C, and D, as nearly as possible on the exact dates indicated in this unit. Each of the lists will be published in the **Federal Register** with a brief discussion of the following: A description of the various lists; criteria for placement of active ingredients on Lists B, C, and D; time frames for registrant responses; and Agency contacts.

Each list will be sent by certified mail to the registrants holding registrations for products containing the pesticide active ingredients included on the specific lists. EPA will also send instructions to registrants of List B, C, and D pesticides on how to respond in Phase 2.

B. Phase 2—Registrants' Intent to Seek Reregistration

1. *Lists B, C, and D.* In Phase 2 of the reregistration process, the registrants of each pesticide active ingredient identified on Lists B, C, and D are required to respond to the Agency concerning their intent to seek reregistration. If a registrant intends to seek reregistration, the submission must include:

(a) Identification of data required by regulations to support the registration of the pesticide active ingredient.

(b) Identification of data that were previously submitted to support the registration but are inadequate to meet such regulations.

(c) Identification of required data that have not previously been submitted to the Agency.

(d) A commitment to replace or submit any required data or an offer to share in the cost of generating such data within specified periods of time.

For the purpose of a registrant's Phase 2 response, data are to be considered inadequate if the registrant cannot certify the availability of raw data from the study, or if the data were first submitted to EPA before January 1, 1970 (unless the registrant demonstrates to the Agency that such data should be considered).

Registrants of listed active ingredients are required to submit their Phase 2 responses to the Agency within 3 months after publication of the list in the **Federal Register**. If publication occurs on the precise dates indicated in Unit II.A. of this Notice, the Phase 2 responses would be due as follows:

List B Response—July 24, 1989
List C Response—October 24, 1989
List D Response—January 24, 1990

The Agency is given limited discretion to extend these deadlines under extraordinary circumstances beyond the control of the registrant.

If a registrant commits to produce data in its Phase 2 response, the data must be submitted within a reasonable period of time as determined by the Agency but not more than 48 months after the date of the registrant's commitment. Time periods for submission of data will be provided to registrants when the Agency mails each list, as directed by FIFRA '88. EPA is required to suspend the registration of a pesticide if progress is insufficient to ensure the submission of the required data in a timely manner or if the data are not submitted by the date specified. Again, EPA is given limited discretion to extend deadlines under extraordinary circumstances beyond the control of the registrant. The Report of the Senate Committee on Agriculture cites as examples of such circumstances the unintentional loss of laboratory results, the unintentional destruction of laboratory equipment or facilities, major animal loss, or similarly serious unanticipated occurrences.

2. *Cancellation and removal.* If a registrant submits a notice of intention not to seek reregistration of a pesticide, a notice to that effect will be published in the **Federal Register**, and the registrant's response will be treated as a request for cancellation. If a registrant fails to submit the required Phase 2 response within the prescribed time, the Agency is required to issue a notice of intent to cancel the registration. After a 60-day comment period, the Agency may cancel the registration or take other appropriate action without a hearing.

If no registrant satisfies the Phase 2 response requirements for a particular active ingredient, EPA must publish in the **Federal Register** a notice of intent to remove the active ingredient from the list and a notice of intent to cancel the registrations of all products containing the active ingredient. After a 60-day comment period, the Agency may cancel those registrations unless, during that period, another person acquires the rights of a registrant and files a notice of intent to reregister the pesticide and, within 120 days of the **Federal Register** notice, completes the Phase 2 requirements.

C. Phase 3—Registrants' Submission of Information

1. *Lists B, C, and D.* In Phase 3 of the reregistration process, each registrant who is seeking reregistration of a pesticide active ingredient on List B, C, or D shall submit the following information on the specific active ingredient to the Agency:

(a) A summary of each previously submitted study considered by the registrant to be adequate to support registration.

(b) A summary of each previously submitted study that may not comply with the requirements of section 3 of FIFRA and the regulations issued thereunder, but which the registrant asserts should be deemed adequate to support continued registration.

(c) Reformatted data from each summarized study submitted to the Agency prior to January 1, 1982, which concerns chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, teratogenicity, or residue chemistry (including metabolism studies) or, where these studies are not required, reformatted of acute and subchronic dosing data.

(d) Identification of data indicating adverse effects.

(e) Identificiaton of additional data that the registrant believes will support registration.

(f) Certification of access to raw data.

(g) A commitment to submit data to fill outstanding data requirements or an offer to share in the cost of developing such data.

Registrants are required to submit the information outlined above within 12 months after publication of the list on which the active ingredient is identified. If publication occurs on the precise dates indicated in Unit II. A. of this Notice, the Phase 3 responses would be due as follows:

List B Response—April 24, 1990
List C Response—July 24, 1990
List D Response—October 24, 1990

To assist registrants in complying with the requirements of Phase 3, EPA will develop guidance and send it to those who have declared their intent to seek reregistration. Guidelines are discussed in detail in paragraph G of this unit.

2. *Cancellations.* If a registrant of a pesticide fails to submit the information required in Phase 3 within the prescribed time period, the Agency is required to cancel the registration without hearing. If the registrant submits the required information but it does not conform to guidelines established by EPA, the Agency must determine whether the registrant made a good faith attempt to conform its submission to the guidelines, and if so, a reasonable time will be allowed to make necessary changes or corrections. If the Agency finds that a good faith attempt was not made, the Agency may issue a notice of intent to cancel and, unless the registrant requests a hearing within 30 days, cancel the registration. The only matter for resolution at such a hearing shall be whether the registrant made a good faith attempt to conform its submission to the guidelines.

D. Phase 4—EPA Review of Submissions and Identification of Data Gaps

In Phase 4, EPA is required to review the data and information submitted by registrants during Phases 2 and 3, and to identify data gaps independently. To assist in this review, the Agency may require registrants to submit completed copies of studies which have been summarized, but in general, the Phase 4 review will identify data requirements for which already submitted studies are adequate and those which warrant more detailed review. It is possible that a detailed review of the data in Phase 5 will reveal that a study, which appeared adequate based on the Phase 3 submission, needs to be replaced or supplemented.

The Agency is then required to publish in the **Federal Register** the outstanding data requirements for each active ingredient and Lists B, C, and D. Concurrently, a notice under section 3(c)(2)(B) of FIFRA will be issued to registrants requiring the submission of the identified data.

The Agency is required to complete its Phase 4 review of registrant submissions and publish the notice of the data gaps within the time periods specified in FIFRA '88 (assuming the planned list-publication dates, by the dates shown below.

List B Notice—October 24, 1990 (18 months after publication of List)
List C Notice—July 24, 1991 (24 months after publication of List)
List D Notice—July 24, 1992 (33 months after publication of List)

The Phase 4 review process will resemble the process used to review data under the former Registration Standards program. EPA expects, however, that the review will proceed more rapidly and efficiently since the Agency will be reviewing summaries and reformatted data to determine which are good candidates for more detailed review.

E. Phase 5—Final Review and Reregistration

Phase 5 culminates the reregistration process under FIFRA '88. It requires the Agency to conduct a thorough, comprehensive examination of all data submitted in support of reregistration. Based on this review, EPA will either reregister a pesticide or take other appropriate regulatory action.

Once all the required data on an active ingredient have been received, the Agency has 1 year to complete its review and determine whether the pesticides containing the active ingredient are eligible for reregistration. If they are eligible, the Agency must obtain any needed product-specific data prior to reregistering individual pesticide products. Registrants are required to submit these data no later than 8 months after a determination of eligibility for reregistration, unless the Agency finds that a longer period of time is required to generate the data.

Once all the product-specific data have been received, the Agency is required to review those data within 90 days and to reregister the product or take other appropriate action within 6 months after receipt of the required product-specific data.

1. *Phase 5 review of List A chemicals.* The Phase 5 review of List A chemicals highlights some issues which will also arise with the other lists. Of the 194 Registration Standards issued to date, 13 second round reviews of the active-ingredient cases have been issued and three more are in draft. While theoretically the data base for a pesticide active ingredient undergoing a second round review should be complete, or at least nearly so, experience shows that most of these second round reviews identify a number of new data gaps, and a reregistration decision must be postponed until these data are submitted and reviewed. This situation results from several factors, including tier testing (in which the results of one study indicate the need for additional testing); revised guidelines; new data requirements; and inadequate studies submitted by registrants.

For the active ingredients on List A (active ingredients for which Registration Standards have been issued), the Agency will identify chemicals whose data bases are complete enough to conduct a thorough evaluation and make a reregistration decision and those chemicals for which more data are needed before reregistration decision can be made. For active ingredients with essentially complete data bases, the Agency will schedule and conduct second round reviews and issue data call-in notices for product-specific data. For chemicals with less complete data bases, the Agency will develop an efficient process for promptly requiring the additional data needed to evaluate the active ingredients, conducting second round reviews when data are received, and then calling in product-specific data. A system and schedule are being developed for completing reregistration of the List A chemicals as soon as possible within the 9 years provided.

2. *Definition of reregistration.* Registration of a pesticide under FIFRA requires that EPA find that its use will not result in unreasonable adverse effects on people or the environment. In light of the continuing evolution of scientific knowledge, and therefore changing data needs for the evaluation of a pesticide's risks, it will be necessary for the Agency to define a specific set of conditions that, when met, will allow the Agency to make the reregistration decision within the deadlines established in FIFRA '88. Although additional studies not now anticipated may be needed in the future, a reregistration decision can then be made once those conditions have been met. A definition of reregistration might include, for example, completion and satisfactory review of specific categories of studies to provide scientifically valid data which are essential for the Agency to determine that use of a pesticide will not cause unreasonable adverse effects and can be reregistered. However, even after reregistration, the Agency's obligation to consider new data about pesticide's effects continues, and data received after reregistration may serve as the basis for further regulatory action by the Agency.

3. *Form of decision.* The Agency must also decide how to present its decision on reregistration and the procedures and process to be followed in issuing those decisions. Currently, EPA's reregistration review of a pesticide active ingredient is prevented in the

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form of the Registration Standard document. The Registration Standard summarizes EPA's evaluation of data available for each scientific discipline and describes the conditions that must be met before the Agency will consider the active ingredient eligible for reregistration. However, reregistration is not granted through issuance of the Registration Standard for either the active ingredient or individual products.

F. Addressing Impacts on Pesticide Minor Uses

EPA recognizes the potential impact of FIFRA '88 on minor use pesticides. Frequently, there is insufficient economic incentive for pesticide product manufacturers to justify the timely development of data needed to support pesticide registrations for many small scale, infrequently needed, or specialty pesticide uses. As discussed in its Policy Statement on Minor Uses of Pesticides (51 FR 11341, April 2, 1986), EPA recognizes that the continued availability of pesticides registered for minor uses is important for the production of a diverse food supply and has taken an active role in addressing the problem by giving minor uses special attention in its regulatory activities. FIFRA directs EPA to make data requirements for minor uses commensurate with the anticipated extent and pattern of use and degree of exposure of man and the environment to the pesticide. FIFRA '88 also contains provisions for reregistration fee waivers for active ingredients used solely for minor uses, which indicate Congressional intent that minor uses should be accommodated.

Even pior to the enactment of FIFRA '88, reregistration has had an impact on the availability of pesticides for minor uses. Because EPA has given priority to the review of high-volume and food use pesticides, most of the 194 active-ingredient cases for which the Agency has already issued Registration Standards are food use pesticides which had both major and minor uses. Minor uses often lack sufficient market potential to offset the cost of generating data to meet statutory requirements for reregistration. As a result of the Agency's issuing these Registration Standards, for a number of minor uses associated with the old pesticides, registrations have been voluntarily withdrawn by registrants or suspended and cancelled by the Agency for failure to meet data call-in requirements. Many people believe the loss of existing pesticides for minor uses as a result of decisions by registrants not to support reregistration will be accelerated under FIFRA '88.

Low-volume pesticides and low-volume uses of a major pesticides are at risk when the data requirements make the generation of new data economically unacceptable to the registrant. When there is no alternative pest control method for a low-volume use, loss of the registered pesticide is likely to impact users adversely.

In the past, the Agency has pursued policies designed to allow flexibility for minor uses to the extent possible within the context of FIFRA and the Federal Food, Drug and Cosmetic Act (FFDCA). One approach to this problem has been to encourage third party organizations, such as user groups and IR-4 (Interregional Research Project Number 4, a nationwide cooperative effort including EPA, the U.S. Department of Agriculture, state agricultural experiment stations, and industry), to gather data needed to support continued registration of minor uses which are not supported by a registrant.

The Agency is aware that FIFRA '88 may place additional burdens on minor uses, and will consider what can be done to alleviate that burden. The Agency is working with State lead agencies to help ensure that user groups and others are aware of the potential impact of reregistration and of actions that can be taken by users to aid registrants in maintaining registrations. In addition, the Agency is developing guidance for registrants and others on how to determine data requirements for minor uses and how to make the most effective use of the Agency's existing policies.

G. Guidance for Reregistration Under FIFRA '88

FIFRA '88 shifts a substantial portion of the burden for the early review of previously submitted data from EPA to the registrants. In order for the Agency to review the data bases of more chemicals in a shorter time, registrants of List B, C, and D active ingredients are required to make the initial evaluation of their data and to submit the results of their review in the form prescribed in Phase 3. To assist registrants in complying with the Phase 3 requirements, FIFRA '88 requires EPA to issue the following four sets of guidelines. Although the law requires that the four mandated guidelines be issued by December 24, 1989, the Agency wishes to make them available as soon as possible so that registrants will be able to begin preparing their Phase 3 responses.

1. *Guidelines for summarizing studies.* In Phase 3, all previously submitted studies on which a registrant wishes to rely must be summarized in accordance with guidelines to be issued by EPA. This includes both data which the registrant believes to comply with regulatory requirements and data which, although they may not fully comply with requirements, the registrant believes should be relied upon.

2. *Reformatting guidelines.* All studies submitted to the Agency prior to January 1, 1982, which will be relied upon for reregistration and which concern chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, teratogenicity, or residue chemistry of the active ingredient must be reformatted in accordance with guidelines to be issued by EPA. For chemicals whose uses do not require the data listed above, the registrants must reformat acute and subchronic dosing data submitted prior to January 1, 1982, on which they intend to rely.

3. *Guidelines for identifying adverse data.* Guidance must be given for registrants to identify adverse data (required to be reported by FIFRA section 6(a)(2)). An Interpretive Rule specifying what information must be submitted under section 6(a)(2) is expected to be published this year. A brief guidance document will be prepared explaining how to identify adverse data, but the interpretive rule will determine what data must be identified.

4. *Identifying data that may not meet guidelines.* Even though a study may not comply in all respects with EPA's Pesticide Assessment Guidelines, its shortcomings may be sufficiently minor that the data are still of some use to support reregistration. In such a case, the Agency might not reject the data outright. The registrants must be given guidance as to when EPA might accept such data. The Agency is preparing checklists to make it easier for registrants to screen their data for acceptability.

H. 40 CFR Part 158 Data Requirements

In addition to the guidelines specifically required by FIFRA '88 to assist registrants in preparing their Phase 3 responses, the Agency plans to provide guidance for interpreting the data requirements. At the time the lists are sent to registrants, EPA will provide information on how to identify the data required through the regulations pertaining to data requirements (40 CFR Part 158) to support specific use categories, and clarify current data requirements in terms of the conditions under which certain studies are required. For example, while Part 158 indicates that certain studies are "conditionally required" on a case-by-case basis, experience allows the Agency to identify more specifically when the study is necessary. In addition, the Agency will identify for registrants, data routinely required to support registration of a pesticide for specific uses.

The Agency plans to propose an amendment to 40 CFR Part 158 this year, which will include an update of Part 158 to include routinely required data which to date have not been identified specifically in the data tables of Part 158. EPA also expects to propose other amendments to add new data requirements. For example, new storage, transportation, and disposal data requirements provided for in FIFRA '88 will be added. In addition, many of the Pesticide Assessment Guidelines may be updated and new ones developed. For example, the Agency intends to add neurotoxicity and immunotoxicity testing guidelines. (The Senate Committee on Agriculture, on reporting this bill, requested that EPA intensify the degree of testing for neurotoxic and behavioral effects, including testing related to chronic exposure, prenatal, and neonatal effects.) Also, the Agency expects to have in place amended Good Laboratory Practice regulations (GLPs; current regulations are at 40 CFR Part 160) which expand the scope of the testing required to be performed under GLPs.

Revisions to Part 158 to add new requirements will take place over the next few years. While registrants are not required to identify in their Phase 2 response data gaps that result from these anticipated new requirements, such future requirements represent an additional expense which must be taken into consideration when they decide whether they wish to support the reregistration of the pesiticide. Therefore, the Agency intends to provide registrants with a description of the changes in data requirements which it anticipates.

I. Other Guidance

In addition, FIFRA '88 may require changes to some existing regulations and policies. For example, the Agency's prior policy which made voluntary cancellations effective upon receipt (published in the **Federal Register** on March 27, 1987, 52 FR 9937) has been superceded by FIFRA '88. Under FIFRA '88, the Agency must publish in the **Federal Register** a notice of receipt of a request for cancellation or for an amendment to delete one or more uses before approving it. The Agency is evaluating its policies and procedures and will amend them as appropriate to implement the new requirements.

There may also be other guidance which will be appropriate to issue as implementation continues. In some cases regulations must be amended. In others, a **Federal Register** Notice of Policy Statement, new PR (Pesticide Registration) Notice, or Standard Operating Procedure may be appropriate. The Agency is currently evaluating its existing guidance and policies to establish priorities for revising and creating new guidance.

J. Enhancement of Automated Data Processing Systems

Effective management of the process of accelerated reregistration requires that the progress of each active ingredient toward reregistration be monitored from the initial mailing of the chemical lists to registrants to the final reregistration of end use products. Significant modifications to EPA's existing data processing systems, several new systems, and information integration will be required to support this process.

To facilitate the submission and processing of study summaries, reformatted old studies, and new data, EPA will assess the utility of the electronic submission of data to improve efficiency. Systems may also be developed to support the assessment of data and the development and documentation of scientific and regulatory determinations about each active ingredient. In addition, increased automation of EPA laboratory facilities may be required to support the efficient validation of residue methods and other activities related to tolerance reassessment.

III. Expedited Registration

Because of budgetary constraints in 1986 through 1988, EPA was forced to choose among competing priorities. The Agency chose to concentrate its resources on processing applications for new pesticide active ingredients and new uses and on reregistration activities. Processing of applications for registration of pesticide products that are identical or substantially similar to another registered pesticide product (referred to as "me-too" applications) and minor amendments to existing registrations were given a lower priority. This redirection of resources resulted in a predictable backlog of "me-too" applications and amendments.

FIFRA '88 requires that EPA expedite processing of these two classes of applications and authorizes up to $2 million to be allocated from the fees to be collected under the Act for that purpose. Expedited consideration must be given to applications for initial or amended registration of products which are similar to pesticides already registered with EPA. In addition, the Agency is required to expedite certain minor amendments (amendments not requiring scientific review of data).

Under the expedited review provisions, an applicant must be notified, within 45 days after the Agency receives an eligible application, whether the application is complete. Within 90 days after the Agency has received a complete application, the registrant must be notified in writing whether the request is granted or denied. If it is denied, the specific reasons for denial must be given.

As of the effective date of FIFRA '88, the Agency had over 3500 "me-too" applications and over 4500 amendments pending. Based on past years' receipts, the Agency estimates that approximately 6000 to 6500 more applications will have been received by the end of the fiscal year (September 30, 1989).

The short-term approaches to implementing the expedited registration requirements focus on attaining two goals: to handle applications received after December 24, 1988, within the statutory time frames (45 days to determine if the application is complete; 90 days to decide whether to grant or deny the application); and to process as quickly as possible applications that were pending with the Agency prior to the effective date of FIFRA '88 (referred to as backlog applications).

One action already taken which will reduce the number of applications received each year is the promulgation of the regulatory amendments to Pesticide Registration Procedures published in the **Federal Register** on May 4, 1988, and effective in August 1988 (53 FR 15952). These regulatory revisions, often referred to as the "maxi-package", define categories of amendments to registration that do not require review or approval by the Agency prior to implementation by registrants. Such amendments fall into two categories: notifications to a registration that require the registrant to notify the Agency before the modified product is distributed or sold (referred to as "notifications") and modifications not needing Agency approval or notification. Although portions of the maxi-package may have to be revised (e.g., voluntary cancellations, described in Unit II.H. of this notice certain types of amendments that previously required Agency approval now do not need to be reviewed, thereby reducing some demand on Agency resources and

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permitting immediate implementation of some registrant marketing decisions.

The Agency has already taken the first steps necessary to reduce the backlog. The pending applications have been sorted first into broad categories of those requiring either minimal or no administrative review (notifications) and those requiring administrative review (e.g., product chemistry, precautionary labeling, use directions). The Agency intends to reduce substantially the backlog of applicants by the end of September 1989.

To improve the efficiency of processing applications, a front-end processing operation to screen all applications is being developed and will be in place this spring. This centralized processing unit will send only complete applications on for review by the product management teams. If an application is found to be incomplete, the unit will generate a letter within the statutory 45-day time frame enumerating the application's deficiencies and send the application package back to the applicant.

In addition, the Agency is developing guidance for registrants' use in preparing applications for registration of pesticide products. The Agency spends a significant amount of time reviewing applications that are poorly done or that require several resubmissions. Improved guidance will aid applicants in correctly completing the required forms and documents, thereby reducing the Agency's review time and the number of resubmissions necessary. A new instruction booklet will also serve as a training guide for Agency staff and contractors. The agency has sent a draft of the booklet to trade associations and others for comment.

Longer-term plans focus on evaluating the current registration program and identifying areas for improved efficiency. The Agency will focus on the daily operations of the product management teams and identify measures that can be adopted to increase efficiency and productivity. As part of the Office of Management and Budget's (OMB) Productivity Improvement Program, a productivity study is being conducted of the registration process. Results from this study could serve as a basis for potential changes in areas of the registration process to increase productivity.

The evaluation of the registration program will identify operational areas that consume time and resources unnecessarily, and therefore need to be streamlined and improved. This approach will focus on measures to reduce the daily activities on the product management teams so that resources can be used more effectively to processes actions under the expedited processing provisions of FIFRA '88, as well as other program activities (e.g., new chemical and significant new use registrations). In evaluating potential process changes, the Agency will consult with the regulated industry and the public to obtain insights and to identify areas where cooperative activities can lead to improved efficiency, (e.g., automated data submission).

As the Agency seeks to simplify the registration process, additional systems may be needed. The primary data processing support required in the short-term is improvement in and integration of internal application tracking systems and product inventory systems. These improvements will facilitate the handling of the increased information necessary to eliminate the application backlog and to monitor compliance with the new statutory processing times. In addition, a study of the feasibility of providing direct registrant access to tracking information will be conducted.

IV. Fees

Accelerated reregistration and expedited processing of certain registration actions will be resource intensive regulatory processes expected to cost at least $200 million over the 8-year period provided by Congress. Approximately $130 to $150 million of these costs are expected to be met from a continuation of the current service level of EPA's budget for reregistration. The remaining money is to be obtained from two new fees, (1) a reregistration fee for each active ingredient subject to reregistration, and (2) an annual registration maintenance fee for each pesticide registration.

The registration maintenance fees are intended to generate about $64 million per year for each of the next 8 years, and should thus generate about $525 million in total. The reregistration fees have various provisions for exemptions and waivers. Overall, the reregistration fee should generate about $25 to $50 million in revenues. EPA's current budget for reregistration, along with the registration maintenance fees and the reregistration fees, will provide approximately the resources required.

A. Maintenance Fees

FIFRA '88 provides for a yearly registration maintenance fee for each pesticide registration to be paid to EPA. The maintenance fees are applicable to all pesticide registrations. Current EPA records indicate that there are about 35,000 to 40,000 products registered under FIFRA. Congress calculated the initial fee levels to generate $14 million per year based on the number of registrations in EPA records at the time. Initial fees established in the law are $425 per registration for up to 50 registrations held by the same registrant plus $100 per registration for each additional registration up to 200 held by the same registrant.

Although there is no provision for waivers or reductions in maintenance fees, maximum fees per registrant were established. The maximum amount to be paid by a registrant each year with up to 50 registrations is $20,000; for those having more than 50 registrations, the maximum is $35,000.

The authority to levy the registration maintenance fee extends for 8 years. During this time period, the Agency is prohibited from levying any other fee for the registration of a pesticide product. A Federal Register Notice published on March 22, 1988 [54 FR 11922], suspended the registration fees established by regulation on May 26, 1988 [53 FR 19166].

The Agency expects that imposition of annual maintenance fees, as well as the other requirements of FIFRA '88 will result in a number of voluntary cancellations of economically marginal or inactive product registrations. While for many registrants the fees envisioned are not significant, there are some registrations for products which have been out of production for some time or whose sales are not sufficiently large to justify even a modest fee. Therefore, the number of registrations subject to fees, is expected to be smaller than the number in existence when Congress established the initial fee levels. EPA is required by FIFRA '88 to adjust the annual fee levels to generate the $14 million specified in FIFRA '88.

For this first year of registration maintenance fees, the Agency will collect the original fees of $425 and $100. The total to be collected in 1989 is therefore expected to fall short of the target. However, the Agency expects to have enough resources to accomplish what is required the first year.

To collect the first year's maintenance fees, the Agency has updated its product records based on the best information available and has sent a form to over 4500 registrants to complete and to return payment of fees, which were due to EPA by March 1, 1989. The registrant of record on March 1 is responsible for payment of the maintenance fee. If a registrant is in the process of transferring a registration to another registrant, but the transfer is not yet complete, the transferee is the registrant of record. If the fee for a product is not paid by the time prescribed, the Agency, by order and without hearing, may cancel the registration. The filing form also gives registrants the opportunity to request cancellation of a registration in order to avoid payment of fees on a registration the registrant may no longer wish to support.

In future years, the fees will be adjusted to comply with the intent of Congress that, as nearly as possible, $14 million per year be generated. Maintenance fees will be due on March 1 of each year.

B. Reregistration Fees

Additional money will be collected from fees levied on the registrants of each active ingredient which is subject to reregistration, including those active ingredients for which Registration Standards have already been issued by the Agency. The size of the reregistration fees prescribed by FIFRA '88 is related to the amount of Agency review required for reregistration. Active ingredients with major food or feed uses are to be charged $150,000. Active ingredients with no major food or feed uses for which Registration Standards have been issued (those on List A) will be charged $50,000 to $100,000; those for which a Registration Standard has not been issued (those on Lists B, C, and D) will be charged $75,000 to $150,000.

1. *Calculation of the fee.* Consistent with the fee structure described above, all the individual active ingredients which would be included in an active-ingredient case (see Unit I.A.) will be considered to be one "active ingredient" for the purpose of the calculation of reregistration fees.

The reregistration fee is to be paid for each active ingredient subject to reregistration with the exception of the active ingredients eligible for waivers, discussed in Unit IV.B.2. Registrants who are eligible for a Generic Data Exemption because they purchase registered pesticides in order to formulate another registered product are exempt from contribution to the reregistration fee.

When there are two or more sources of the same active ingredient, the fee will be apportioned among all of the nonexempt registrants by market share for the past 3 calendar years. When a registrant chooses to withdraw support for a registered active ingredient and therefore does not contribute to the fee, the fee to be paid shall be reapportioned among the remaining registrants.

Although the reregistration fee is a one-time-only fee, the law provides for Lists B, C, and D fees to be paid in two installments (the first in Phase 2 and the second in Phase 3). The schedule for payment of List A fees is left to the discretion of the Agency but will depend, in large part, on the time required to obtain and process the required information on exempt or nonexempt status and market shares.

Before billing registrants of products containing a particular active ingredient for their proportional share (if any) of the required reregistration fee, the Agency will obtain through Phase 2 responses specific information on whether or not a registrant's source of the active ingredient is another registered product. This will enable the Agency to identify accurately those products which are exempt from the reregistration fee. For those products which are not formulated from a registered source of active ingredient, each registrant will also be required to furnish market share information to be used in calculating the proportional contribution required. Each non-exempt registrant will also be afforded an opportunity to claim eligibility for and submit data supporting a small business waiver. The required contribution by each non-exempt registrant will be generally proportional to that registrant's market share on an active ingredient basis for the preceding 3 years. Nevertheless, a minimum contribution will apply for those non-exempt registrants who have no market share, and the contribution may be reduced for those registrants who are eligible for a small business waiver.

2. *Fee waivers and reductions.* FIFRA '88 contains several provisions for exemptions and reductions, or partial waivers, of the reregistration fees. Small businesses, defined as those firms having 150 or fewer employees and average annual gross sales of chemicals in the prior 3 years not exceeding $40 million will receive a partial waiver of fees depending on their average annual sales of pesticides containing the particular active ingredient.

Antimicrobial pesticide active ingredients having no registered food or feed uses and with production under 1 million pounds of that active ingredient are exempt from the reregistration fee. Antimicrobial pesticides with production levels larger than 1 million pounds of active ingredient or having uses on food or feed sites are subject to the same fees as other types of pesticides.

FIFRA '88 also provides for exemptions from fees for active ingredients which are contained only in pesticides registered solely for agricultural or nonagricultural minor uses. If, for a single active ingredient, regardless of use pattern, the value or volume of use is small, an exemption will be given for that pesticide from the reregistration fee.

C. Management of Funds

FIFRA '88 states that there shall be established in the Treasury of the United States a reregistration and expedited processing fund. All fees collected shall be deposited into the fund and shall be available to the Agency without fiscal year limitation to carry out reregistration and expedited processing of eligible applications.

The fund will be a "Revolving Fund". The formal definition of a revolving fund, as published by the Government Accounting Office (GAO), is a "Public Enterprise Revolving Fund Account: Expenditure account authorized by Congress to be credited with collections, primarily from the public that are generated by, and earmarked to finance, a continuing cycle of business-type operations."

The revolving fund will receive funds from fees paid by registrants. EPA will receive an apportionment (approval to spend funds) from the Office of Management and Budget (OMB) after submission and approval of an apportionment request. However, the Agency is allowed to spend only the amount that is in the revolving fund. Money in the fund not currently needed shall be maintained on deposit or on hand, invested in obligations of the United States or those guaranteed thereby. The investments are made by the Department of the Treasury with input by EPA if requested.

The funds received in the Revolving Fund will be available to EPA for use only for reregistration and expedited processing and will be "No Year" funds. This means that the budget authority remains available for obligation for an indefinite period of time, usually until the objectives for which the authority was made available are attained.

FIFRA '88 requires the Agency to provide Congress with an annual accounting of the fees collected and disbursed from the fund. The revolving fund has been established, and the budget process is underway. The Agency is developing an accounting system to track all funds received and disbursed to meet annual reporting requirements.

V. Storage, Transportation, and Disposal of Pesticides

The 1988 amendments significantly expand EPA's authority to regulate the storage, transportation, and disposal of pesticides. FIFRA '88 provides that EPA may, by regulation or as part of an order

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issued under section 6 of FIFRA (the section dealing with cancellation and suspension of pesticides), issue requirements for storage, transportation, or disposal of pesticides, their containers, rinsates, or other materials which may be contaminated with such pesticides. The Agency may exercise this authority through the imposition of data and labeling requirements for pesticide registration, and through other regulations governing the handling of excess pesticides, containers, rinsates (such as the rinsings from containers), and other materials contaminated by pesticide residues, as well as the institution of recall plans for suspended and cancelled products, which is discussed in Unit VI of this notice.

The authority to regulate storage, transportation, and disposal of pesticides must be exercised in a carefully planned, step-by-step approach, not only because of the resources it will require, but also because the Agency needs more information before priorities can be established and effective procedures, guidance, and regulations can be developed.

Although this regulatory effort will require 3 years or more for full implementation, the Agency will begin in 1989 to facilitate better disposal practices and waste minimization. EPA will explore opportunities for improved disposal, transportation, and storage through its outreach efforts, certification and training program, information exchange, and policy pronouncements. These efforts will help reduce environmental harm and assure the success of the Agency's regulatory efforts when fully implemented.

A. Storage, Transportation, and Disposal

The Agency plans to establish requirements for storage, transportation and disposal of pesticides through revisions to existing regulations (currently in 40 CFR Part 165). In developing regulations, the Agency will take into consideration the regulatory intent of the Resource Conservation and Recovery Act (RCRA), as well as the Agency's experience in that program.

Although EPA will continue to gather information on methods of disposal of excess stocks, which may alter our current knowledge of disposal technology, the Agency plans to begin immediate development of pesticide disposal criteria and procedures to be followed under a section 6 suspension or cancellation order. The revisions to existing regulations are scheduled for completion in December 1991.

B. Labeling

The Agency is also authorized to require pesticide product labeling to include requirements and procedures for the storage, transportation, and disposal of the pesticide, containers, rinsates, or other materials which may contain residues of the pesticide.

The Agency believes that it may be appropriate to require significant labeling changes. However, until procedures and guidance are developed and prescribed by regulations, and until transportation, storage, and disposal data are received from registrants or other sources, major changes in labeling requirements may be premature.

C. Containers and Container Rinsates

To reduce problems associated with pesticide containers, EPA is required to conduct a study to examine the feasibility of returnable/refillable containers, formulations that facilitate the removal of pesticide residues from packaging, and the use of bulk storage facilities. EPA must promulgate regulations for the design of containers which will ensure that pesticide containers will facilitate residue removal, safe use, disposal, and reuse of containers. In addition, EPA must issue regulations prescribing methods of removing pesticides from containers prior to disposal. FIFRA '88 also authorizes EPA to require labeling as described in paragraph B of this unit and to adopt regulations for the storage, transportation, and disposal of containers, rinsates, or other materials used to contain or collect excess or spilled pesticides which have been suspended or cancelled.

1. *Container and rinsate study.* The Agency is required to conduct a study of ways to encourage or require (1) the return, refill, and reuse of pesticide containers; (2) the development of pesticide formulations that facilitate removal; and (3) the use of bulk storage systems to reduce the number of containers for disposal. The Agency must consult with a wide range of affected and interested parties and must determine the feasibility and costs of the alternatives. A report of these findings must be submitted to Congress by December 1990. From Committee testimony and other Congressional guidance, the Agency interprets the container study mandate in broad terms, not limiting scrutiny to agricultural and commercial formulations and associated packaging. The Agency recognizes that certain formulations or packaging may promote the introduction of pesticide residues into the environment (such as leakage into ground water). The Agency believes that such configurations should be identified and eliminated, and that safer designs should also be identified and required.

The Agency will fulfill this requirement using contract support. Interested Federal and State agencies, environmental groups, and private industry met on December 7, 1988, to provide comments on the proposed contract. The contractor's findings will be used in support of planned regulatory changes affecting disposal, transportation, and storage.

2. *Pesticide container design.* By December 1991 the Agency must promulgate final regulations for the design of pesticide containers that will promote safe storage and disposal. The regulations must ensure that the container design facilitate (1) residue removal; (2) safe use (e.g., no "splash-back" or leakage); (3) disposal of containers; and (4) safe refill and reuse of containers.

The results of the container study described in this unit will be used in the formation of these regulations. Full compliance with the provisions of these regulations is required beginning December 1993. A Compliance Strategy will be developed and issued along with the regulations.

3. *Pesticide container residue removal.* By December 1991 the Agency must promulgate regulations prescribing procedures and standards for removal of pesticides from containers. The regulations may provide for: (1) Triple rinsing or the equivalent residue removal standards for pesticide removal; (2) procedures that can be implemented promptly for residue removal; (3) reuse/disposal of rinse water and residue; and (4) coordination of requirements under FIFRA with applicable provisions of the Resource Conservation and Recovery Act of 1976. Using the information gained from the container study, the Agency will promulgate Part 165 regulatory procedures that provide for the minimization or disposal of rinsates.

4. *State primacy.* Under section 26 of FIFRA, States which have approved compliance programs and enforcement procedures have primary enforcement responsibility for pesticide use violations, and under section 4, States with an approved certification plan are responsible for certifying pesticide applicators with respect to that State. Beginning in December 1988, States may not exercise primary enforcement responsibility under section 26 or certify applicators under section 4, unless the Agency finds that the State is carrying out an adequate program to ensure compliance with the new regulations pertaining to pesticide residue removal. A means of reviewing State compliance programs will be developed along with other regulatory revisions.

C. Data Requirements

FIFRA '88 further provides that EPA may require registrants to submit data regarding methods of safe storage and disposal of pesticides. The Agency intends to investigate what data requirements would be appropriate to effect safe storage for excess quantities of pesticide formulations. The Agency has also noted a lack of formulation-specific data on the best methods for disposal and the environmental fate of products that have been disposed of by various methods. The Agency is investigating what data requirement would be most useful and will amend the Part 158 registration data requirements as necessary.

VI. Recall, Storage, and Indemnification of Suspended and Cancelled Pesticides

Under FIFRA '88, if the Agency finds that recall of a pesticide which has been suspended and cancelled under section 6 is necessary to protect health or the environment, a recall must be ordered. The 1988 amendments also deleted from the law the requirement that EPA, upon request, must accept and dispose of suspended and cancelled pesticides at government expense. The costs of storage are now to be shared by the registrant and EPA according to a formula detailed by the Act. In addition, indemnification provisions are altered so that only end users and, under limited circumstances, certain dealers and distributors are automatically entitled to indemnification payments from EPA, and the cost is not to be borne by the Agency budget.

A. Recall Provisions

In general, if the registration of a pesticide has been suspended and cancelled and EPA finds that a recall is necessary, the Agency can initiate either a voluntary or a mandatory recall.

If EPA finds that a voluntary recall may be as safe and effective as a mandatory recall, the Agency must request the registrant to submit, within 60 days, a plan to recall the pesticide. EPA must order the registrant to conduct a recall in accordance with the plan unless the Agency determines after an informal hearing that the plan will not protect health or the environment.

The mandatory recall procedure, issued as a regulation, may require that registrants, distributors, or sellers of the pesticide (a) make storage facilities available to receive pesticides being recalled and inform the EPA Administrator of the location of each facility; (b) accept and store existing stocks of pesticides; (c) on request of persons holding such pesticides, provide transportation of the pesticide to a storage facility; and (d) take reasonable steps to inform holders of the pesticide of the recall regulations, provisions, and transportation arrangements. EPA will define the criteria for acceptable recall plans and all requirements that must be fulfilled through the adoption of regulations.

1. *Financial resources to conduct a recall.* EPA also is authorized to require registrants to give evidence of their financial and other resources demonstrating capability to carry out a prescribed recall and provide for the disposition of the pesticide in the event of suspension and cancellation. The Agency will examine this authority and propose the format and the circumstances where this authority can best be used.

B. Storage Cost Reimbursement

A registrant who wishes to become eligible for reimbursement of storage costs incurred as a result of a recall must submit a plan for storage and disposal of the pesticide that meets criteria established by EPA. The plan must be reviewed and approved by EPA. Through the formula for reimbursement set forth in FIFRA '88, both the Agency and the registrant are given an incentive to complete this process as expeditiously as possible. EPA is required to reimburse registrants for storage costs as follows:

(1) None of the costs incurred before the date of the submission of the plans to EPA.

(2) One hundred percent of the costs incurred after the date of the submission of an acceptable plan or the date of cancellation of the pesticide, whichever is later, but before the approval of the plan by EPA.

(3) Fifty percent of the costs incurred during the 1-year period beginning on the date of approval of the plan or the date of cancellation of the pesticide, whichever is later.

(4) None of the costs incurred during the 3-year period beginning 1 year after the approval of the plan or the date of cancellation, whichever is later.

(5) Twenty-five percent of the costs incurred during the period beginning with the 5th year following the approval of the plan or the date of cancellation, whichever is later, and ending on the date that a disposal plan for the pesticide can be implemented.

Although the provisions for storage reimbursement are generally self-executing, FIFRA '88 does state that any plan for storage and disposal must meet criteria established by EPA by regulation. These criteria will be established through regulations scheduled for completion in December 1991.

C. Indemnification Provisions

The new indemnification provisions require EPA to indemnify end users of pesticides that have been both suspended and cancelled by making payments from a general appropriation called the Judgement Fund (31 U.S.C. 1304), which is used to pay claims against the government. A buyer who is not an end user may obtain reimbursement from the seller of the pesticide for losses caused by either suspension or cancellation, of the registration. The seller must reimburse that buyer unless the seller gave written notice at the time of sale that reimbursement would not be provided. Pesticide dealers and distributors who own a quantity of pesticide which has been both suspended and cancelled are also entitled to reimbursement from the Judgement Fund if they suffer losses because the person who sold to them is insolvent (and that person had not previously given notice that reimbursement would not be provided). These provisions for payment from the Judgement Fund should result in less delay in payment of those entitled to indemnification than has been the case in the past.

Anyone else who suffers losses due to the suspension and cancellation of a pesticide may be reimbursed only if Congress provides a line-item appropriation for that purpose. This new provision was not intended to change EPA's existing obligation to indemnify owners of pesticides that were suspended and cancelled before FIFRA '88 went into effect. The Indemnification provisions of FIFRA '88 are effective on April 24, 1989.

D. Notice Requirements

Section 6 of FIFRA pertains to administrative review, suspension, and cancellation of pesticide registration. Under the new section 6(g) of FIFRA, various registrants, producers, sellers, distributors, and commercial applicators of pesticides which have been cancelled or suspended under FIFRA section 6 must notify the Agency and appropriate State and local governments of such possession, quantities, and the place held.

The Agency, working with the States, will explain how such notification should take place. A Federal Register

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Notice will be published to communicate the notice requirements to the public.

VII. Compliance Provisions

FIFRA previously gave EPA the authority to require producers of pesticides to keep certain records regarding their products, including sale and distribution records, and the data that supported the registrations. Under FIFRA '88, EPA can extend these requirements for recordkeeping to registrants and applicants for registration as well.

FIFRA '88 also gives the Agency clear authority to issue regulations that limit the sale, distribution, and use of unregistered pesticides if necessary to prevent unreasonable adverse effects on the environment, and explicitly provides that violation of any such regulation is an unlawful act. Under the former law, the Agency's authority in this area and ability to take action against violators were not always clearly defined.

A. Books and Records

The Agency may prescribe regulations which require producers, registrants, and applicants for registration to keep records concerning their operations and the pesticides and devices produced, as necessary for effective enforcement of the Act. The current regulations at 40 CFR Part 169 will be revised (scheduled for completion in August 1991) to include registrants and applicants for registration.

B. Unregistered Pesticides

The Agency may, by regulation, limit the sale, distribution, and use of pesticides that are unregistered, or not covered by the provisions of an Experimental Use Permit (section 5) or Emergency Exemption (section 18), if necessary to prevent such activities from causing unreasonable adverse effects on the environment. The Agency, in consultation with States, will determine the need for regulations to address specific situations where the sale, distribution, or use of unregistered pesticides could result in environmental risk.

C. FIFRA Enforcement Response Policy

There are a number of other changes or additions to section 12 or FIFRA, Unlawful Acts. For example, it is now unlawful to:

(a) Refuse to prepare, maintain, or submit records or reports required by various sections of the Act. The current regulations at 40 CFR Part 169 will be revised (scheduled for completion in August 1991) to include registrants and applicants for registration.

(b) Violate suspension orders issued under sections 3(c)(2), 4, or 6.

(c) Fail to notify the Agency or appropriate state if in the possession of a cancelled or suspended pesticide.

(d) Submit false information to the Agency in support of a registration or relating to tests on a pesticide.

(e) Violate a regulation under section 3(a) or 19. A revised FIFRA Enforcement Response Policy will be produced to insure uniform enforcement of these provisions across all EPA regions. The revised policy is scheduled for completion in December 1989.

D. Criminal Penalties

Criminal penalties for knowingly violating any provision of FIFRA by a registrant, applicant for registration, or producer now include a fine of not more than $50,000 or imprisonment for not more than 1 year, or both.

Commercial applicators of restricted use pesticides or other pesticide sellers who knowingly violate the provisions of FIFRA are subject to fines of up to $25,000 or imprisonment for up to a year or both.

VIII. Scientific Advisory Panel

The Administrator's Scientific Advisory Panel (SAP), is a group of independent, non-government experts who convene to advise the Agency on major scientific issues under FIFRA. In the past the SAP was required to be reauthorized by Congress every 5 years. FIFRA '88 makes the SAP permanent.

IX. Communications

Successful implementation of FIFRA '88 will require effective communications on many levels. The Agency plans to communicate major decisions and significant activities according to individual Communication Strategies which will be developed for each action as it occurs. For example, some of the activities for which communications are already being planned are: the issuance of each list in Phase 1, establishment of front-end processing for expediting eligible applications, cancellations (both voluntary and for failure to comply), issuance of guidelines and regulations, major fee announcements, resolution of major issues, and individual active ingredient decisions.

In many cases, actions and decisions will be published in the **Federal Register**. FIFRA '88 requires publication in the **Federal Register** of the chemical lists, all regulations, and certain other notices. In addition, there may be other actions and notices that the Agency will publish in the **Federal Register** to increase their availability.

Communication strategies generally include announcements to the press, mailing information to interested parties, and telephone contact with key affected groups. The pesticide industry (chemical manufacturers, formulators, distributors, and retailers) and their support industries (such as laboratories); pesticide users (farmers, commercial applicators, institutions, and household users); the food industry (growers, processors, and retailers); and environmental and public interest groups, as well as individual concerned citizens—each has an interest in EPA's implementation of this new law. The Congress, EPA Regions, State and local governments, other Federal agencies, and international interests also must be kept informed.

The Agency has compiled an extensive mailing list of organizations known to be interested in various pesticide-related issues. Persons who have a particular interest in one or more planned activities and wish to have their names added to the mailing list may contact the Field Operations Division, Program Communications Branch at the address listed at the beginning of this notice under "**ADDRESS**" (telephone (703) 557–5017). The Agency also is interested in learning what specific types of information various groups would like to receive and suggestions on ways to improve communications among all interested parties.

A number of other activities are planned to help inform various interested groups and individuals. A fact sheet and informational charts describing the law have been distributed to EPA's regional offices, States, and other interested parties. The fact sheet has also been mailed to every pesticide registrant. The Agency plans to participate in seminars, conferences and meetings around the country where the subject of FIFRA '88 and related issues will be covered.

Dated: April 20, 1989.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

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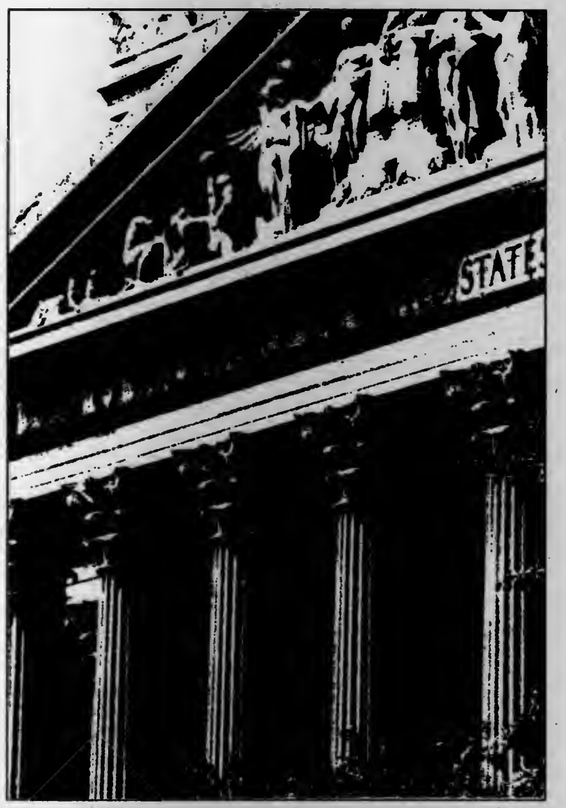
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Rules and Regulations

Federal Register
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Thursday, April 27, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food And Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children (WIC); Funds Use Flexibility for States Implementing Food-Cost-Cutting Systems

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends regulations governing the Special Supplemental Food Program for Women, Infants and Children (WIC) to comply with the mandates of Pub. L. 100–356, enacted June 28, 1988. First, the rulemaking allows State agencies entering the first fiscal year after implementing or significantly changing a competitive bidding, rebate, home delivery, or direct distribution system to carry forward into that fiscal year up to 5 percent of their food grants for the prior fiscal year, net of any food funds backspent or administrative and program services funds carried forward from that year. This authority incorporates, and is not in addition to, the previously established authority to carry forward a maximum of 1 percent of a State's total grant in any combination of food and administrative and program services funds. In the second fiscal year following the year of implementation or significant change to any of the specified food-cost-cutting systems, FNS may exercise discretion to permit a State agency to carry forward up to 5 percent of the State agency's food grant for the previous fiscal year, net of any funds carried forward or backspent under the 1-percent authority. Second, in addition to the authority to convert food funds to administrative and program services funds established by Pub. L. 100–237 and § 246.16(g) of the regulations, a State agency implementing or significantly changing any of the four specified food-cost-cutting systems may convert the amount of food funds necessary to limit to 2 percent any decrease in the State agency's administrative grant per person from one fiscal year to the next resulting from increased program participation due to the State agency's food-cost-cutting system. This additional conversion authority may be exercised beginning with the fiscal year immediately following the fiscal year in which the State last chose to exercise conversion authority established by § 246.16(g). Annual decreases are measured from the formulaic Administrative grant per person (AGP) for the fiscal year during which the State agency implemented or significantly changed its approved food-cost-cutting system. These funding assurances are intended to protect State agencies against the destablizing effects which may accompany implementation of a competitive bidding, rebate, home delivery, or direct distribution system.

DATES: This rulemaking is effective October 1, 1988. Eligible State agencies shall be able to exercise the expanded funds carry-over and conversion authority established by this rulemaking beginning with Fiscal Year 1989, based on the implementation of approved competitive bidding, rebate, home delivery, or direct distribution systems in Fiscal Years 1987 and 1988. Comments on this rulemaking must be received on or before June 26, 1989.

ADDRESS: Comments may be mailed to Ronald J. Vogel, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1017, Alexandria, Virginia 22302. All written submissions will be available for public inspection at this address during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ronald J. Vogel at the above address or at (703) 756–3746.

SUPPLEMENTARY INFORMATION:

Classification

This interim rule has been reviewed under Executive Order 12291, and has been determined not to be major. The Department does not anticipate that this rule will have an impact on the economy of $100 million or more. This rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. Nor will this rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, the Administrator of the Food and Nutrition Service has certified that this interim rule does not have a significant economic impact on a substantial number of small entities. The reporting requirements established by this rulemaking are under review by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Pub. L. 100–356 became effective on June 28, 1988, the date of enactment. Both the funds carry-over mandate and the funds conversion mandate operate on a fiscal year basis, and both are funding mechanisms triggered by State agency behavior in the two immediately proceding fiscal years. Therefore, approved State food-cost-cutting efforts during Fiscal Years 1987 and 1988 must activate the new carry-over and conversion authorities beginning with Fiscal Year 1989. For this reason, the Administrator of FNS has certified that public comment on this rule and post-publication waiting period prior to implementation are impracticable and contrary to the public interest and that, therefore, good cause exists for making this rule effective immediately upon promulgation.

The provisions contained in this rule are all pursuant to legislative mandates and made effective in accordance with legislatively mandated effective dates. For these reasons, prior public comment and publication of this rulemaking not less than 30 days prior to the effective date is not required under 5 U.S.C. 553. However, the Department believes the administration of the rule may be improved by public comment. Therefore, comments are solicited on this rule for 60 days. All comments received will be

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analyzed, and any appropriate changes in the rule will be promulgated in a subsequent final rule.

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule-related notice published June 24, 1983 (48 FR 29114)).

1. Carrying Funds Forward From One Fiscal Year to the Next (Section 246.16(b)(3))

a. Reason for Legislative Increase in Carry-over Authority.—Encouraged in part by Pub. L. 100–237, significant numbers of State agencies have recently begun to implement food-cost-cutting systems. This legislation authorized State agencies to convert from food funds to administrative and program services funds a portion of the savings resulting from approved competitive bidding, rebate, home delivery, and direct distribution systems. This conversion process takes place to the extent that such State agencies increase participation with the savings generated by their systems and incur additional administrative costs in serving more participants. Beginning immediately upon implementation, these food-cost-cutting systems can generate large amounts of savings to be transformed into participation increases. The process of program expansion, however, is a gradual one which must be preceded by adequate planning and staffing adjustments, and which must take place in a controlled manner consistent with sound program management. State agencies may not be able to utilize all of the savings resulting from their food-cost-cutting systems as fast as such savings accrue. Therefore, they may have to return unspent food funds for reallocation.

Past program regulations have provided some protection to State agencies unable to utilize their food grants fully. FNS may reduce the base to which the 95-percent funds utilization test of § 246.16(e)(2) is applied, thus increasing the amount of food funds a State agency can leave unspent in one fiscal year without having its food grant reduced for the following fiscal year. FNS routinely affords this advantage to State agencies in the first year of implementation of their food-cost-cutting systems. In addition to this protection, State agencies have been able to backspend up to 1 percent of their food grants and carry forward up to 1 percent of their total grants in any combination of food and administrative and program services funding. The total amount transferred from any fiscal year cannot exceed 1 percent of the State agency's total WIC grant for that year. However, given the large amounts of savings State agencies can achieve through food-cost-cutting systems listed in Pub. L. 100–237, especially infant formula rebate systems, and the administrative complexities of using these savings to increase participation, Congress determined that the existent protections were insufficient.

b. Nature of Increased Carry-over Authority.—Therefore, section 3(b) of Pub. L. 100–356 increases the amount of unspent *food* funds a State agency can carry forward from one fiscal year to the next. This provision applies only to State agencies which have implemented or significantly changed any of the food-cost-cutting systems specified in Pub. L. 100–237, and only to funds carried forward from the first and second fiscal years following the fiscal year of implementation or significant change to such systems. Food-cost-cutting initiatives not referenced in Pub. L. 100–237, for example, price-based vendor selection systems or breast-feeding promotions, are not covered by the expanded carry-over provision of Pub. L. 100–356. This legislation provides, first, that the State agency may carry forward into the *first* fiscal year following the fiscal year of implementation of its system up to 5 percent of its food grant for the year of implementation. Within this limit, each State agency independently determines how much food funding it will carry forward. Into the second fiscal year following the fiscal year of implementation of its system, the State agency may request the permission of FNS to carry forward food funds beyond the 1 percent of its total grant which it is entitled by Pub. L. 100–237 to carry forward. In response to such a request, FNS may, at its discretion, permit the State agency to carry forward up to an amount equal to 5 percent of its food grant for the first year following the year of implementation.

c. Relationships between Increased Carry-over Authority and Previously Established Funds Transfer Authority.—Before discussing how FNS will respond to such requests, several features of the new 5-percent provision must be stressed and explained. First, this 5-percent limit *incorporates, and is not in addition to*, the previously established 1-percent limit. Under that limit, the State agency could backspend up to 1 percent of its food grant and carry forward in any combination of food and administrative and program services funds up to 1 percent of its total grant, provided that not more than 1 percent of its total grant could be transferred from any fiscal year. The following example includes carryover of administrative funds in order to illustrate all possible combinations of carryover even though, for reasons explained in section 1.d. of this preamble, State agencies which have converted food cost savings to administrative funds will not be able to carry administrative funds forward. Of the State agencies which have implemented any of the specified food-cost-cutting systems, only those which have not converted any part of the resultant savings during a fiscal year will be allowed to carry forward administrative and program services funds from that fiscal year.

Consider the State agency which receives a total WIC grant—including funds allocated for food costs and for administrative and program services costs—of $100. Of this total, $80 is allocated for food and $20 for administration. Under previously established regulatory authority, the State agency can carry forward up to 1 percent, or $1, of its total grant in any combination of food and administrative funds. Since only this 1-percent provision, and not the 5-percent provision, covers administrative funding, the State agency can carry forward a maximum of $1 in administrative and program services funds. Under the newly established 5-percent authority, the State agency can carry forward a maximum of 5 percent of its food grant, or $4. This maximum carry-over of food funds is reduced by any administrative funding the State agency elects to carry over and any funds it elected to backspend. If a State agency carries forward the maximum of $1 in administrative funding, its food funds carry-over is reduced to $3 ($4.00—$1.00=$3.00). If it decides to bring $.50 of its administrative monies into the following fiscal year, it cannot carry forward more than $3.50 in food funds ($4.00—$.5=3.50). If the State backspent $.50 in food funds and opts to carry forward $.25 in administrative and program services funds, it can carry forward a maximum of $3.25 in food funds ($4.00—$.50—$.25=$3.25).

In referring to "not more than 5 percent of the funds allocated under this section to such a State agency for supplemental foods," Congress in Pub. L. 100–356 makes it unequivocally clear that the expanded carry-over authorized by the 5-percent provision applies only to funds allocated to the State agency

for food costs and does not increase the percentage of administrative and program services funds which can be carried over into the succeeding fiscal year. The maximum amount of administrative funds that can be carried forward remains unchanged, as previously established by the 1-percent provision of Pub. L. 99–500 and 99–591. As indicated in the above example, even though the State agency is covered by the new 5-percent provision, it still cannot carry forward more than 1 percent of its total grant, or $1, in administrative and program services funds.

d. Clarification of Authority to Carry Forward Administrative and Program Services Funds.—Pub. L. 100–237 established a restriction on the carry-over of administrative funding that is clarified in this interim rulemaking. In 1986, when Pub. L. 99–500 and 99–591 established the 1-percent carry-over authority, *all* State agencies could be expected from time to time to end a fiscal year with unspent administrative funds. Therefore, the 1-percent carry-over provision applied without restriction to any combination of administrative and program services and food funds. Subsequently, in January 1988, section 8(a) of Pub. L. 100–237 provided that State agencies instituting specified food-cost-cutting systems could convert part of the savings achieved through such systems to administrative funding "for the cost of the State and local agencies associated with increases in the number of persons served." Thus such funds conversion can take place only to the extent that, in the process of increasing participation, the State agency incurs administrative and program services costs in excess of its administrative grant and any administrative funds it may have carried forward into the fiscal year. (This limitation is stated in a new § 246.16(i), which is discussed later in the preamble.) A State agency which converts funds during a fiscal year could not possibly have unspent administrative and program services funds at the end of that fiscal year since funds can only be converted to cover actual costs incurred. Therefore, § 246.16(b)(3)(ii) of this interim rule clarifies that a State agency cannot carry forward administrative and program services funds from a fiscal year during which it engaged in funds conversion under the authority of Pub. L. 100–237 and § 246.16(g) of program regulations. (As will be explained later in this preamble, the same prohibition applies to carry-over of administrative funding from a fiscal year during which a State agency exercises conversion authority under Pub. L. 100–356 and § 246.16(h) of program regulations.)

e. Increased Carry-over Authority in the *Second* Year Following the Year of Food-cost-cutting System Implementation.—As indicated above, expanding the maximum amount of food funds that a State agency can carry forward into the *second* year following the year of implementation of a food-cost-cutting system is an option available to FNS under Pub. L. 100–356. At their own discretion, State agencies can carry forward up to 1 percent of their total program grants. Entering the second year after the year of implementation, FNS decides how much beyond this 1 percent the State agency can bring forward in food funds, the maximum possible carry-over being the difference between 5 percent of the State agency's food grant and any amount of food funds backspent and administrative funds to be carried over. In making this determination, FNS will consider the following four factors:

(1) The number of months the approved food-cost-cutting system operated prior to the fiscal year for which the conversion request is being made. A State agency which has had fewer total months of operation will be more susceptible to the effects of the lag between generation and utilization of food cost savings. Thus it may have greater need to carry forward unspent food funds.

(2) The combined level of penetration of WIC and the Commodity Supplemental Food Program (CSFP) into the State's WIC-eligible population during the fiscal year from which funds would be carried forward. State agencies with a lower penetration can be expected to expand participation faster, and thus to have less need to carry forward food funds than States with higher penetration levels.

(3) The cost reduction achieved by the State agency, net of any funds conversion, during the fiscal year from which the State requests to carry funds forward. A State agency achieving a net savings per can of infant formula of $.98, for example, will be more likely to need expanded carry-over authority than a State agency saving only $.60 per can.

(4) The combined net increase in the participation of women, infants and children in WIC and CSFP in the State during the fiscal year from which the State agency requests to carry funds forward. A State agency which achieved all, or almost all, of the potential for program expansion due to its food-cost-cutting system in the first year of implementation should have less need to carry forward extra food funds from the year following the year of implementation. Regarding States which operate CSFP as well as WIC, FNS will consider the combined net increase in the participation of women, infants and children in the two programs. States in which increased WIC participation has been offset by decreases in the number of women, infants and children participating in CSFP have not established a record of effort which would justify a request for expanded carry-over authority.

f. Timeframes for Increased Carry-over Authority in *Second* Year Following Year of Implementation of Food-cost-cutting System.—State agencies requesting this 5-percent carry-over authority must file written requests, including such information as FNS may require, by January 15 of the fiscal year into which funds would be carried forward. FNS will notify the State agency of its decision concerning the request within 30 days of receipt. These timeframes provide the State agency with adequate time and data upon which to assess its need to carry funds forward. FNS is also assured of adequate time to consider complete data for the previous fiscal year in making its determination. Once notified of this decision, the State agency will, in turn, be able to file its final expenditure report (FNS–269) by the March 1 deadline.

g. Timeframes for Increased Carry-Over Authority in *First* Year Following Implementation of Food-Cost-Cutting Systems, and for Previously Established Funds Transfer Authority.—State agencies which have elected to exercise their right to carry forward and backspend up to 1 percent of their total grants are required to inform FNS in writing of their decision not later than March 1 of the fiscal year following the fiscal year from which funds will be transferred. State agencies exercising their discretion to carry over up to 5 percent of their food grants from the year of implementation of their food-cost-cutting system are also required to inform FNS by this same date. Since these carry-over authorities are exercised unilaterally by State agencies, without FNS involvement, the time available to them to assess their needs should be bounded only by the deadline for submission of the final expenditure report (FNS–269) for the preceding fiscal year.

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2. Conversion of Food Funds to Limit Reduction in Administrative Grant Per Participant (Section 246.16(h))

a. Reason for, and Nature of, Legislative Change.—As increasing numbers of State agencies implement food-cost-cutting systems, an unchanging percentage of the WIC appropriation allocated for administrative and program services costs will have to meet the administrative needs of a program in which food funds are spent more efficiently each year, resulting in the need to spread administrative resources over a continually expanding program participation. Thus the administrative grant per participant (AGP) provided after the administrative funding formula begins to account for participants added as a result of food-cost-cutting systems may be less than the conversion rate which had up to that time generated administrative funding for the new participants. For this reason, a State agency may experience significant reductions in its administrative grant per participant in the years after it ceases to exercise conversion authority under Pub. L. 100–237 and § 246.16(g) of regulations.

In order to compensate for this phenomenon, section 3(a) of Pub. L. 100–356 permits a State agency to convert whatever amount of food funds is necessary to limit to 2 percent any decrease in the State agency's AGP if a larger decrease would otherwise result from increased program participation due to implementation of, or significant change to, an approved competitive bidding, rebate, home delivery, or direct distribution system. This provision confers a second funds conversion authority in addition to that established in Pub. L. 100–237 and § 246.16(g), to be activated when it becomes more advantageous than the first authority in connection with a given system or significant change.

b. Activating 2-Percent Authority.—It is clear that the 2-percent conversion authority was not meant to operate concurrently with the previously established authority in response to a single State initiative or significant change to an initiative. The original conversion authority reduced the number of participants that can be added as the result of a food-cost-cutting system. Concurrent implementation of 2-percent conversion would cause an additional drain on the same source of food funds savings and a consequent further retardation of program expansion. Furthermore, the two conversion authorities would partially offset each other. Funds withdrawn from food savings to limit the reduction in AGP would reduce the State agency's program expansion potential and thus its conversion earnings under § 246.16(g).

If a State agency has not exercised 2-percent conversion authority in a previous fiscal year, the State agency's maximum conversion authority for the current fiscal year will be the greater of: (1) The amount generated through participation increases under § 246.16(g), and (2) the amount of 2-percent authority available under § 246.16(h).

As stated earlier, conversion authorities in §§ 246.16 (g) and (h) do not operate concurrently with respect to *the same* food-cost-cutting initiative or change to a food-cost-cutting initiative. However, the two types of conversion can take place in the same fiscal year, each in connection with *a different* initiative or change. Consider, for example, a State agency which implemented its infant formula rebate system in Fiscal Year 1987 and last exercised conversion authority under § 246.16(g) in Fiscal Year 1988. It begins to convert funds under the 2-percent protection provision of § 246.16(h) in Fiscal Year 1989, yet in that same fiscal year it also makes a significant change to its infant formula rebate system, thus triggering conversion privileges under § 246.16(g) again. In this situation, the two conversion authorities are additive rather than mutually exclusive. FNS will, for accounting purposes, consider the 2-percent authority to have been exhausted before attributing any funds conversion to § 246.16(g) activity.

It should also be noted that 2-percent authorities stemming from separate food-cost-cutting initiatives implemented in *different* fiscal years can be applicable in *the same* fiscal year. For example, consider the State agency which implemented an infant formula rebate system in Fiscal Year 1987 and significantly changed the system in Fiscal Year 1988. Fiscal Year 1989 could be its second year of 2-percent authority based on implementation of the rebate system and its first year of implementation based on system changes. In this event, FNS will apply whichever base year is most advantageous to the State agency in the comparsion of AGP's.

As with funds converted under Pub. L. 100–237, 2-percent conversions under Pub. L. 100–356 are permissible only to the extent that administrative costs are incurred in excess of the State agency's administrative grant and any administrative funds the State agency may have carried forward into the fiscal year. Therefore, there cannot be any unspent administrative funds available for carry-over from a fiscal year in which 2-percent authority has been exercised.

c. Computation of 2-Percent Conversion Authority.—Within 30 days of establishment of an eligible State agency's administrative grant under § 246.16(c)(3) (i)–(iii), if the State agency has experienced a decrease in its formulaic AGP of greater than 2 percent, FNS will provisionally notify the State agency of the maximum amount it can convert. This amount will be determined by comparing the State agency's formulaic AGP for the current fiscal year with its adjusted formulaic AGP for the year it implemented or significantly changed its food-cost-cutting system (i.e., the base year). The base year AGP has been selected as the reference for calculating the 2 percent authority because it represents an AGP unaffected by the significant participation increases that are realized subsequent to significant food cost savings. Selecting an AGP for any later period of time as a reference point allows very limited AGP protection because increases in participation would already have placed major downward pressure and a State's AGP. Therefore, this option was rejected.

AGP derives from the administrative funding formula and equals the quotient of the State agency's administrative grant, including any discretionary funding received under § 246.16(c)(3)(iii), divided by the FNS projection of the State agency's participation for the fiscal year under § 246.16(c)(3)(ii)(B). The same process will be repeated for each succeeding year after the State agency's grant is determined. Pub. L. 100–356 enables State agencies through this additional conversion authority to limit decreases in their formulaic AGP to 2 percent per year. The AGP level to be protected through conversions (i.e., protected AGP) is established by multiplying the formulaic AGP for the year in which the approved cost containment initiative was implemented or significantly changed (i.e., base AGP) by .98 for each fiscal year after this base fiscal year, ending with the fiscal year to which the conversion authority is being applied. The product of each such calculation is the *adjusted* base AGP for the following calculation. A 2-percent reduction in the base AGP is allowed *per year* prior to implementing the 2-percent authority for two reasons. First, as indicated above, Pub. L. 100–356 allows for this level of decline each year. Secondly, to measure the 2-percent protection without considering

intervening years would unduly protect States implementing any of the specified food-cost-cutting initiatives (i.e., competitive bidding, rebates, home delivery, and direct distribution) as compared with States operating other cost containment systems which also permit expanded participation.

The formula for computing the annual maximum that can be converted under this new authority during a fiscal year can be represented as follows:

(1) Formulaic AGP for the fiscal year in which the system was implemented or significantly changed *times* .98, repeating this calculation for each fiscal year thereafter, up to and including the fiscal year to which the new conversion authority is being applied;

(2) Product of step 1 *minus* formulaic AGP for the fiscal year to which conversion authority is being applied; and

(3) If remainder from Step 2 is positive, remainder from Step 2 *times* FNS average monthly participation projection per § 246.16(c)(3)(ii)(B) for the State for the year to which the conversion authority is being applied *times* 12 months *equals* maximum amount to be converted for the fiscal year.

Consider, for example, a State agency which implemented its infant formula rebate system in Fiscal Year 1987, when its formulaic AGP was $8.49. It completed its conversions based on added participants in Fiscal Year 1988 and becomes eligible for the new 2-percent conversion authority in Fiscal Year 1989, for which its formulaic AGP is $7.85. For Fiscal Year 1989, FNS projects an average monthly participation level of 60,000 for the State.

(1) To establish the protected AGP, first multiply the formulaic AGP for the base fiscal year, 1987, by .98, yielding an adjusted base AGP ($8.49×.98=$8.3202). Then repeat this calculation, using the adjusted Fiscal Year 1988 base AGP ($8.3202×.98=$8.1538). This yields the protected AGP for Fiscal Year 1989. The calculation is done twice because the fiscal year in which the new conversion authority is being applied follows the base fiscal year by two fiscal years.

(2) The protected AGP exceeds the AGP for the fiscal year in which conversion authority is being applied ($8.1538−$7.85=$.3038).

(3) Therefore, for Fiscal Year 1989, the State agency will be able to convert under Section 246.16(h) a maximum of $218,736 (i.e., .3038×60,000×12=$218,736).

Assuming for the second year of implementation of this new conversion authority a formulaic AGP of $7.35 and a participation projection of 63,000, the maximum conversion for the year would be calculated as follows:

(1) $8.49×.98=$8.3202×.98=$8.1538×.98=$7.991

(2)$7.991−$7.35=$.6407

(3)$.6407×63,000×12=$484,369.

Formulaic AGP for the current fiscal year will be recalculated and the 2-percent limit adjusted accordingly once during the fiscal year in response to reallocations which take place before the end of the third quarter, except that this adjustment will not be made when it would result in a reduction of the State's 2-percent conversion limit. FNS will notify the State agency of any such adjustment not later than July 31.

If a State agency has converted funds under § 246.16(h)(1)–(2) in a previous fiscal year, it must, within 30 days of being informed regarding its conversion limit, tell FNS whether it intends to exercise this conversion authority during the fiscal year. FNS will incorporate this information into its system for tracking States' program funds utilization.

3. Limit on Funds Conversion (Section 246.16(i))

Section 8(a) of Pub. L. 100–237 provided that State agencies can convert part of the savings resulting from specified food-cost-cutting systems to administrative funding "for the cost of the State and local agencies associated with increases in the number of persons served." Thus States can convert funds under this authority only to the extent that they have allowable administrative and program services costs in excess of their administrative grants and any administrative funding they may have carried forward from the preceding fiscal year. Pub. L. 100–356 provided for additional conversion authority to augment that authorized by Pub. L. 100–237. It follows that this authority should be exercised only to the extent that allowable administrative costs would not otherwise be covered. Whether the two conversion authorities are exercised sequentially pursuant to a single food-cost-cutting initiative or concurrently based on different initiatives, funds can be converted only to cover costs which remain unpaid after the State agency's administrative grant and any administrative carryover funds have been exhausted.

4. Conforming Amendments.

Section 246.16(g)(7) of the previous final rules addressed reconciliation of funds converted and maximum conversion authority. Section 246.16(g)(8) established that the funds conversion process would not affect food and administrative stability grants for the following fiscal year. These provisions were restricted to conversion authority based on participation increases. With the addition of 2-percent conversion authority in this interim rule, it has become necessary to make these provisions applicable to both types of conversion. In order to reflect established FNS procedures, the latter provision is also now applied to conversions under § 246.14(e). To effect these changes, §§ 246.16(g) (7) and (8) have been amended and moved to become Sections 246.16 (j) and (k).

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—Social programs, Infants and children, Maternal and child health, Nutrition education, Public assistance programs, WIC, Women.

For reasons set forth in the preamble, 7 CFR Part 246 is amended as follows:

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

1. The authority citation is revised to read as follows:

Authority: Sec. 212 and 501, Pub. L. 100–435, 102 Stat. 1645 (42 U.S.C. 1786); sec. 3, Pub. L. 100–356, 102 Stat. 669 (42 U.S.C. 1786); sec. 8–12, Pub. L. 100–237, 101 Stat. 1733 (42 U.S.C. 1786); sec. 341–353, Pub. L. 99–500 and 99–591, 101 Stat. 1783 and 3341 (42 U.S.C. 1786); sec. 3, Pub. L. 95–627, 92 Stat. 3611 (42 U.S.C. 1786); sec. 203, Pub. L. 96–499, 94 Stat. 2599 (42 U.S.C. 1786); sec. 815, Pub. L. 97–35, 95 Stat. 521 (42 U.S.C. 1786).

2. In § 246.14, paragraph (a)(2) is revised to read as follows:

§ 246.14 Program costs.

(a) * * *

(2) Except as provided in paragraph (e) of this section and §§ 246.16(g) and 246.16(h) of this part, funds allocated by FNS for food purchases may not be used to pay administrative and program services costs. However, administrative and program services funds may be used to pay for food costs.

* * * * *

2. In § 246.16:

a. Paragraph (b)(2) is amended by removing all text after the first sentence.

b. Paragraph (b)(3) is redesignated as paragraph (b)(4);

c. A new paragraph (b)(3) is added;

d. The title of paragraph (g) is revised;

e. Paragraphs (g)(7) and (g)(8) are removed; and

f. New paragraphs (h), (i), (j), and (k) are added.

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The revisions and addition read as follows:

§ 246.16 Distribution of funds.

* * * * *

(b) * * *

(3) A State agency may transfer funds allocated to it for one fiscal year to another fiscal year under the following conditions:

(i) Not more than 1 percent of the funds allocated to a State agency for food costs incurred in any fiscal year may be expended by the State agency for food costs incurred in the preceding fiscal year;

(ii) Not more than 1 percent of the total funds allocated to a State agency for food costs and for administrative and program services costs in any fiscal year may be carried forward and expended by the State agency for such costs incurred in the subsequent fiscal year, except that State agencies which converted food funds to administrative and program services funds under paragraphs (g) or (h) of this section during a fiscal year shall not carry administrative and program services funds forward into the following fiscal year.

(iii) The total amount of funds transferred from any fiscal year under paragraphs (b)(3)(i) and (b)(3)(ii) of this section shall not exceed 1 percent of the funds allocated to a State agency for the fiscal year.

(iv) A State agency which has implemented any of the food-cost-cutting systems specified in introductory paragraph (g) of this section may carry forward into the fiscal year following the fiscal year of implementation a maximum of 5 percent of the funds allocated to the State agency for food costs for the fiscal year of implementation of such system, less any food funds backspent under paragraph (b)(3)(i) of this section and any food and administrative and program services funds carried forward from the fiscal year under paragraph (b)(3)(ii) of this section.

(v) Upon request from a State agency entering the second fiscal year following the fiscal year of implementation of any food-cost-cutting system listed in introductory paragraph (g) of this section, FNS may, at its discretion, permit such State agency to carry forward from the first fiscal year following implementation up to 5 percent of the funds allocated to such State agency for food costs for such fiscal year. The maximum amount of food funds allowed to be carried forward shall be net of any food funds backspent under paragraph (b)(3)(i) of this section and any food and administrative and program services funds which such State agency has elected to carry forward from such fiscal year under authority of paragraph (b)(3)(ii) of this section. The State agency shall provide such justification for its request to carry forward funds under this paragraph as FNS may require. In determining how much, if any, funding the State agency may carry forward, FNS shall consider the following factors:

(A) The number of months the State agency operated and approved food-cost-cutting system prior to the fiscal year for which the request for carry-over authority under paragraph (b)(3)(v) of this section is being made;

(B) The combined level of penetration of WIC and CSFP during the fiscal year preceding the fiscal year for which the request is made into the population that FNS estimates is eligible for WIC in the State;

(C) The cost reduction achieved by the State agency through its approved system, less any funds converted under paragraphs (g) and (h) of this section, during the fiscal year preceding the fiscal year for which the request is made; and

(D) The combined net increase in the participation of women, infants and children in WIC and CSFP achieved by the State agency during the fiscal year preceding the fiscal year for which the request is made.

(iv) The State agency shall specify in writing to FNS the amount of funds it intends to backspend under paragraph (b)(3)(i) of this section and to carry forward under paragraphs (b)(3)(ii) and (b)(3)(iv) of this section not later than March 1 of the fiscal year following the fiscal year from which funds are to be transferred. The State agency shall specify in writing to FNS the amount of funds it requests permission to carry forward under paragraph (b)(3)(iv) of this section by January 15 of the fiscal year into which the funds are requested to be transferred. FNS will notify the State agency of its decision regarding a request filed under paragraph (b)(3)(iv) of this section within 30 days of receipt of such request.

(vii) Food funds transferred by the State agency from one fiscal year to another shall be used by the State agency only for food costs in the subsequent fiscal year and, in accordance with Section 246.14(a)(2) of this part, shall not be used to cover administrative and program services costs. Any funds carried forward by the State agency for expenditure in the subsequent fiscal year shall not affect the amount of funds allocated to such State agency for the subsequent fiscal year. FNS shall presume that any funds carried forward are the first funds expended by such State agency for costs incurred in the subsequent fiscal year.

* * * * *

(g) *Conversion of food funds needed to manage increased participation.* * * *

(h) *Conversion of food funds needed to limit decreases in administrative grant per participant.* In addition to conversion authority established under paragraph (g) of this section, a State agency which has implemented or significantly changed an approved food-cost-cutting system listed in paragraph (g) of this section may convert from food funds to administrative and program services funds whatever amount FNS specifies is necessary to limit to 2 percent any reduction in the State agency's formulaic administrative grant per participant from one fiscal year to the next resulting from increased participation made possible by the State agency's approved system.

(1) The State agency may convert funds under this paragraph beginning with the fiscal year immediately following the fiscal year in which it last converted funds under authority of paragraph (g) of this section.

(2) FNS will determine the maximum amount the State agency can convert during a fiscal year through the following procedure, based on a comparison of the State agency's formulaic administrative grant per participant for the fiscal year in which it implemented or significantly changed its approved food-cost-cutting initiative, (that is, the quotient of the State agency's administrative and program services grant under paragraphs (c)(3)(i)–(iii) of this section, divided by FNS' projection of the State agency's average monthly participation under paragraph (c)(3)(ii)(B) of this section) with its administrative grant per participant for the current fiscal year.

(i) Formulaic administrative grant per participant for the fiscal year in which the State agency implemented or significantly changed its approved food-cost-cutting system times .98, repeating this calculation for each fiscal year thereafter, up to and including the current fiscal year. The product of each such multiplication shall be used in the succeeding multiplication;

(ii) Final product of paragraph (h)(2)(i) of this section minus formulaic administrative grant per participant for the current fiscal year;

(iii) Remainder from paragraph (h)(2)(ii) of this section times FNS' projection of average monthly participation for the current fiscal year per paragraph (c)(3)(ii)(B) of this section times 12 equals the maximum amount the State agency may convert under this paragraph during such fiscal year.

(3) The following timeframes shall apply to the conversion process under this paragraph:

(i) FNS will notify the State agency of the maximum amount it can convert under paragraphs (h)(1)–(2) of this section within 30 days of announcing the State agency's administrative grant, including any discretionary administrative funding provided under paragraph (c)(3)(iii) of this section;

(ii) If a State agency has converted funds under paragraphs (h)(1)–(2) of this section in a previous fiscal year, it shall, within 30 days of the notification in paragraph (h)(3)(i) of this section, notify FNS if it intends to exercise such authority in the current fiscal year;

(iii) FNS will make one annual adjustment of the State agency's conversion limit under paragraphs (h)(1)–(2) of this section to reflect any reallocations under paragraphs (f) of this section which take place before the end of the third quarter, except that FNS will not reduce a State agency's limit in response to reallocations. FNS will notify the State agency of any increase in its conversion limit not later than July 31.

(4) If a State agency is eligible to convert funds under both paragraphs (h)(1)–(2) and (g) of this section during the same fiscal year based on different food-cost-cutting systems or significant changes to such systems, FNS will consider the maximum allowable amount to have been converted under this paragraph before attributing any funds conversion to the authority established by paragraph (g) of this section.

(5) If a State agency has not exercised conversion authority under paragraphs (h)(1)–(2) of this section in a previous fiscal year, the State agency's maximum conversion authority for the current fiscal year shall be the greater of:

(i) The amount of conversion authority generated through participation increases under paragraph (g) of this section; and

(ii) The amount of conversion authority available under paragraphs (h)(1)–(2) of this section.

(6) If a State agency is eligible in the same fiscal year to convert funds under paragraphs (h)(1)–(2) of this section based on food-cost-cutting systems implemented or significantly changed in different fiscal years, FNS will use in the comparison of administrative grants per participant the base fiscal year which yields the greater conversion authority for the State agency.

(i) The State agency may convert food funds to administrative and program services funds under paragraphs (g) and (h) of this section only to the extent necessary to cover allowable administrative and program services costs which exceed the State agency's administrative and program services grant for the fiscal year and any administrative and program services funds which the State agency has carried forward into the fiscal year.

(j) After the end of the fiscal year, FNS will determine the amount of food funds which the State agency is entitled to convert to administrative and program services funds under paragraphs (g) and (h) of this section. In the event that the State agency has converted more than the permitted amount of funds, FNS will recover from the State agency the amount of excess conversion.

(k) For purposes of establishing a State agency's stability food grant and stability administrative and program services grant under paragraphs (c)(2)(i) and (c)(3)(i) of this section, respectively, amounts converted from food funds to administrative and program services funds under paragraphs (g) and (h) of this section and § 246.14(e) of this part during the preceding fiscal year shall be treated as though no conversion had taken place.

G. Scott Dunn,

Acting Administrator.

Dated: April 20, 1989.

[FR Doc. 89-10145 Filed 4-26-89; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 906

[Docket No. FV-89-017]

Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; Relaxation of the Requirements Governing the Shipment of Oranges and Grapefruit to Approved Citrus Processors

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule allows handlers to ship Texas oranges and grapefruit not meeting minimum grade and size requirements to approved processors for manufacturing into fresh sections and fresh juice without preservative treatment. This rule also adds new safeguards, which firms must meet to become approved processors under the order, so that lower quality fruit could be safely shipped for these purposes without being diverted to fresh markets. These changes are designed to expand markets for Texas oranges and grapefruit by permitting fruit to be shipped for use in fresh sections and fresh juice products.

EFFECTIVE DATE: April 27, 1989.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under the Marketing Agreement and Marketing Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 78 handlers of Texas oranges and grapefruit subject to regulation under the Texas citrus marketing order, and approximately 2,500 orange and grapefruit producers in Texas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The Texas Valley Citrus Committee (committee), which administers the

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order locally, unanimously recommended that §§ 906.120 and 906.123 of the rules and regulations be amended to relax the marketing order requirements for Texas oranges and grapefruit shipped to approved processors for manufacturing into fresh citrus sections and fresh juice. A proposed rule regarding this recommendation was issued March 2, 1989, and published in the **Federal Register** (54 FR 9455, March 7, 1989). The proposed rule provided that interested persons could file public comments through March 22, 1989. No comments were received.

Currently, Texas oranges and grapefruit shipped to approved processors for manufacturing into fresh citrus sections and fresh juice are exempt from handling requirements and assessment obligations under the order if such fruit is preserved by a recognized commercial process. This rule removes the required preservative treatment as a condition for exemption. This will enable handlers to ship fruit not meeting minimum grade and size requirements, such as packinghouse eliminations, to approved processors for conversion into sectioned fruit or fresh juice without preservative treatment. Unless exempted, fresh fruit shipped out of the production area must meet minimum grade, size, and container and pack requirements, and be inspected and certified as meeting the minimum grade and size requirements. In addition, handlers must pay assessments to the committee on such shipments.

This rule also includes safeguards, in addition to those currently specified, to help prevent such fruit from being diverted to fresh market outlets. These new safeguards require the processor, as a condition of approval, to agree to random facility inspections and to certify that the firm has no facilities, equipment, or outlet to repack or sell the fruit in fresh form. These safeguards will enable the committee to monitor approved processors and their facilities to help make sure that exempted fruit was not diverted to the fresh market. The new safeguards also require approved processors, when buying Texas oranges and grapefruit for processing, to hold a license issued under the Perishable Agricultural Commodities Act (PACA), 1930 (7 U.S.C. 499r), and regulations (other than rules of practice) issued under the PACA (7 CFR Part 46). The foregoing statute references have been modified from those in the proposal for clarification and accuracy. This requirement is designed to help make sure that the processor will comply with the requirements which must be met by approved processors under the order. The PACA requires that merchants, dealers and brokers involved in buying, selling, negotiating sales, purchasing or handling consignments of fruits and vegetables in interstate or foreign commerce must be licensed in accordance with the provisions of the PACA. Most of the firms which will apply to the committee to become approved processors under the marketing order will already have a PACA license because they will be performing activities covered under the PACA.

The committee believes that the removal of the current processing limitations for sections and juice will provide additional outlets for fruit not meeting minimum grade and size requirements and promote utilization of the crops. This action should also allow additional firms without pasteurizers and other capital intensive equipment to become approved processors. The committee also believes that with the additional safeguards, exempted fruit can be shipped for these purposes without being diverted to the fresh market.

The industry is gradually recovering from the devastating freezes of the early 1980's. The objective of this action is to expand markets for Texas oranges and grapefruit by permitting fruit not meeting marketing order grade and size requirements to be shipped to processors for the manufacture of fresh juice and sections without preservative treatment.

Section 906.120 of the regulations issued under the order defines the term "processing" and provides for exempting fruit for processing from the provisions of §§ 906.34 and 906.40 of the order, if the fruit is handled in accordance with the provisions of § 906.123. This action will redefine the term "processing" to include in that definition fruit converted into fresh sections and fresh juice. Section 906.123 of the regulations issued under the order defines the term "approved processor" and establishes safeguards which persons must meet to be recognized as approved processors by the committee. This action redefines the term "approved processor" and establishes the additional safeguards which processors must meet to be approved by the committee in order to handle exempted fruit.

Sections 906.120 and 906.123 were issued on a continuing basis subject to modification, suspension, or termination by the Secretary. The committee meets from time to time to consider recommendations for modification, suspension, or termination of the rules and regulatory requirements for Texas oranges and grapefruit. Committee meetings are open to the public and interested persons may express their views at these meetings. The Agricultural Marketing Service reviews recommendations and other information submitted by the committee as well as other available information, and determines whether modification, suspension, or termination of the regulatory requirements will tend to effectuate the declared policy of the Act.

Texas orange and grapefruit shipments to markets in the United States, Canada, and Mexico are regulated under this marketing order. Certain shipments are exempt from the handling requirements effective under the marketing order. Handlers may ship oranges and grapefruit within the production area (the counties of Cameron, Hidalgo, and Willacy) exempt from all marketing order requirements. Grapefruit shipped in gift packages of not more than 500 pounds which are individually addressed and not for resale are exempt from handling requirements. Also, oranges and grapefruit shipped under the minimum quantity exemption provisions, and for relief, charity, and home use are exempt under certain conditions. In addition, oranges and grapefruit shipped to approved processors for conversion into canned or frozen products are not subject to the handling requirements.

Therefore, the Department's view is that the impact of this action will be beneficial to producers and handlers because it will enable handlers to expand the markets for Texas oranges and grapefruit by shipping additional supplies of fruit to approved processors for conversion into fresh sections and fresh juice without preservatives.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

There would be no change in the reporting or recordkeeping requirements as the result of this action that will require submission of such requirements to the Office of Management and Budget (OMB) for approval. The information collection requirements contained in the regulations which are being amended have been approved previously by OMB under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0581–0068.

Pursuant to 5 U.S.C. 553, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) Handlers of Texas oranges and grapefruit are aware of this action, which is based on a unanimous recommendation of the committee made at a public meeting, and they are prepared to operate in accordance with the requirements; (2) shipment of the 1988–89 season Texas orange and grapefruit crops is currently underway; (3) this action needs to become effective promptly so that it will apply to as much of the 1988–89 season crop as possible; (4) this rule relaxes current requirements by allowing handlers to ship Texas oranges and grapefruit not meeting minimum grade and size requirements to approved processors for manufacturing into fresh sections and fresh juice without preservative treatment; and (5) the proposed rule provided a 30-day comment period, and no comments were received.

List of Subjects in 7 CFR Part 906

Marketing agreements and orders, Texas, Grapefruit, Oranges.

For the reasons set forth in the preamble, 7 CFR Part 906 is amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR Part 906 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 906.120 is amended by revising paragraph (b) to read as follows:

§ 906.120 Fruit exempt from regulations.

* * * * *

(b) *Processing.* The term "processing" as used in § 906.42(b) means the manufacture of any orange or grapefruit product which has been converted into sectioned fruit or into fresh juice, or preserved by any commercial process, including canning, freezing, dehydrating, drying, and the addition of chemical substances, or by fermentation. Fruit so processed, if handled in accordance with § 906.123, shall be exempt from the provisions of §§ 906.34 and 906.40.

* * * * *

3. Section 906.123 is amended by revising paragraph (b) to read as follows:

§ 906.123 Fruit for processing.

* * * * *

(b) *Approved processor.* Any person who desires to acquire, as an approved processor, fruit for processing, as set forth in § 906.120(b), shall, prior thereto, file an application with the committee on a form approved by it, which shall contain, but not be limited to, the following information:

(1) Name and address of applicant;

(2) Location of plant or plants where manufacturing is to take place;

(3) Approximate quantity of fruit used each month;

(4) A statement that the fruit obtained exempt from fresh fruit regulations will not be resold or transferred for resale, directly or indirectly, but will be used only for processing;

(5) A statement agreeing to hold a license issued under the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499r), and regulations issued thereunder (7 CFR Part 46) when buying Texas oranges and grapefruit for processing;

(6) A statement agreeing to undergo random inspection by the committee;

(7) A statement that the requesting processor has no facilities, equipment, or outlet to repack or sell fruit in fresh form;

(8) A statement agreeing to submit such reports as are required by the committee.

Such application shall be investigated by the committee staff. After such investigation, the staff shall report its findings to the committee at its next meeting or to its delegated subcommittee. Based upon the staff's report and other reliable information, the committee or delegated subcommittee shall approve or disapprove the application and notify the applicant accordingly. If the application is approved, the applicant's name shall be placed upon the list of approved processors.

* * * * *

Dated: April 21, 1989.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–10028 Filed 4–26–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 916

[Docket No. FV–89–043]

Nectarines Grown in California; Modification of Size Requirements for Nectarines for the 1989 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule relaxes variety-specific size requirements established for May Glo nectarines shipped through May 5, 1989, to the smallest size permitted under variety-specific size requirements. Shipments after May 5, 1989, will be subject to more restrictive requirements currently in effect.

The industry believes that larger sized nectarines provide greater consumer satisfaction than smaller sizes, and that larger sizes are more marketable. However, current information and a field examination of May Glo nectarines grown under desert conditions in the Coachella Valley indicate that such fruit will not develop to the normal size levels expected of that variety in other areas of the State. It was also evident that size development characteristics for desert-grown May Glo nectarines are virtually identical to those of other varieties produced in the valley, subject to less restrictive size requirements.

DATES: This interim final rule becomes effective April 25, 1989, and specifies less restrictive minimum size requirements for May Glo nectarines shipped through May 5, 1989. Comments which are received by May 30, 1989, will be considered prior to issuance of a final rule.

ADDRESS: Interested persons are invited to submit written comments concerning this interim final rule. Comments should be sent to: Docket Clerk, U.S. Department of Agriculture, Agricultural Marketing Service, Fruit and Vegetable Division, P.O. Box 96456, Room 2025–S, Washington, DC 20090–6456. Three copies of all material should be submitted and will be available for public inspection in the office of the Docket Clerk during regular business hours. The comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: George J. Kelhart, Marketing Order Administration Branch, F&V, AMS, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 475–3919.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Marketing Order No. 916 (7 CFR Part 916) regulating the handling of nectarines grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This interim final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-

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major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marekting orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 245 handlers of nectarines subject to regulation under the nectarine marketing order (7 CFR Part 916), and there are approximately 740 producers of nectarines in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California nectarines may be classified as small entities.

Shipments of California nectarines are regulated by grade, maturity, and size under Nectarine Regulation 14 (7 CFR 916.356) as amended and published in the **Federal Register** on March 27, 1989 (54 FR 12423). Because these regulations do not change substantially from season to season, they have been issued on a continuing basis subject to amendment, modification, or suspension as may be recommended by the Nectarine Administrative Committee (committee) and approved by the Secretary. Inspected shipments, in packages, of California nectarines for the 1988 season totaled 17,584,100, and were marketed primarily in the fresh market. In 1988, the production value of California nectarines was about $78,861,000. This interim final rule is based upon a unanimous recommendation of the committee and other available information.

Currently, as specified in paragraph (a)(3) of § 916.356, no handler is permitted to ship any package or container of May Glo variety nectarines unless the nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box, and such nectarines, when packed in any container, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 67 nectarines. For the purposes of this document, these requirements are referred to aa "96" size. Pursuant to paragraph (a)(2), for other specified varieties, no handler is permitted to ship any package or container of such nectarines unless the nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box, and such nectarines, when packed in any container, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 92 nectarines. For the purposes of this document, these requirements are referred to as "108" size.

This interim final rule permits the shipment of "108" size and large May Glo nectarines through May 5, 1989. After May 5 the minimum size requirement for that variety will revert to "96" size as specified in the regulation first issued on May 27, 1988 (53 FR 19232).

In recognition that larger-sized nectarines provide greater consumer satisfaction than smaller sizes, the committee has recommended, and the Secretary has approved, minimum size limits for this fruit. However, reflecting both seasonal and varietal influences which affect average fruit sizes by variety, different minimum size regulations have been issued for different varieties. Because of these influences, smaller minimum sizes generally have been issued for earlier maturing varieties, while later maturing varieties, which tend to attain a larger size at maturity, have been required to meet larger minimum sizes.

The desert area of the Coachella Valley is the earliest growing area in California. The extreme heat in the desert results in a shorter growing season, and thus smaller fruit, than grown in the rest of the State. Nectarines have been grown commercially in the Coachella Valley for about three years.

The May Glo harvest in the Coachella Valley is expected to begin about May 1, 1989. The packing and shipping of May Glo nectarines from the valley is expected to be completed within a few days. May Glo nectarines from other parts of the State will continue to be shipped for another two to three weeks. May Glo nectarines from the Coachella Valley normally have a limited impact on the market conditions of other growing areas in the State.

During the 1988 season, nearly 24 percent of May Glo nectarines shipped from the Coachella Valley were "108" size and 14 percent were "96" size. This compares with industry-wide shipments of May Glo nectarines in 1988 of about 7 percent size "108's" and 19 percent size "96's." The remainder of the May Glo variety shipments were larger sizes. During the 1988 season, May Glo nectarines from the Coachella Valley were permitted to be packed and shipped at the minimum "108" size because the larger "96" size requirement was not effective until May 27, 1988. The action on "96" size was initially issued as an interim final rule on May 27, 1988, and finalized on March 27, 1989 (54 FR 12419).

Committee fieldmen recently visited May Glo and Maybelle nectarine orchards in the Coachella Valley and found that the May Glo orchards have been pruned and thinned more than usual in an attempt to reach the current minimum size for 1989. In addition, many trees were girdled, a practice of removing a layer of bark around the trunk of the tree to keep nutrients in the part of the tree where the fruit grows.

In the rule promulgated in May 1988, the committee recommended, and the Department approved, season long minimum size regulations for May Glo nectarines of "96" size. This determination was based on information available at that time. However, as a result of subsequent information and the field examination, it was determined that the 1989 Coachella Valley May Glo crop will not develop to normal size levels expected of the variety in other areas of the State. In fact, under the conditions observed, the May Glos were developing in a manner virtually identical to Maybelle variety nectarines being produced in the same area. Maybelle nectarines currently are subject to "108" size requirements.

Therefore, the committee unanimously recommended that for the 1989 season, shipments of nectarines through May 5 be subject to the less restrictive variety-specific size requirements specified in paragraph (a)(2) of § 916.356. Shipments after May 5 would be subject to variety-specific size requirements specified in paragraphs (a)(3) through (a)(5) of § 916.356, as applicable. Relaxation of the size requirements for shipments after May 5 would not be necessary because fruit shipped from the later growing areas is expected to reach the size levels contemplated earlier.

The committee recommended relaxation of the variety-specific (named-variety) size requirements for all varieties of nectarines shipped through May 5, 1989. However, this rule revises the size requirements only for the May Glo variety because the May Glo variety is the only variety not regulated at the smallest 108 size requirement that is expected to be shipped from the Coachella Valley on or before May 5, 1989.

The committee indicated that the modification, as authorized in § 916.52 of the order, should assure fairness in the application of the variety-specific size requirements and should not be detrimental to the industry's goal of marketing better quality, larger-sized fruit. Last season, only 7 percent of May Glo nectarines were marketed as size "108." The committee will study the effects of the relaxation this season. Determination on whether to recommend continuation of the relaxation will be decided at next Fall's committee meeting.

It is the Department's view that this relaxation in size requirements for 1989, will provide additional marketing opportunities in the Coachella Valley by recognizing its unique growing conditions.

Based on available information, the Administrator of the AMS has determined that this interim final rule will not have a significant impact on a substantial number of small entities.

After consideration of all relevant information presented, including the committee's recommendation, and other information, it is found that the modification of the size requirements, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that, upon good cause, it is impracticable, unnecessary, and contrary to the public interest to give notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) Shipments of 1989 crop May Glo nectarines in the Coachella Valley are expected to start around May 1; (2) this action relaxes size requirements by allowing shipment of size "108" nectarines through May 5, 1980; and (3) no useful purpose would be served by delaying the effective date of the relaxed requirements.

The committee's recommendation, other information, and all written comments timely received in response to this publication will be considered prior to any finalization of this interim final rule.

List of Subjects in 7 CFR Part 916

Marketing agreements and orders, Nectarines, California

For the reasons set forth in the preamble, 7 CFR Part 916 is amended as follows:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 916 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 916.356 is amended by revising the introductory text of paragraphs (a)(2) and (a)(3) to read as follows:

Note: This action will appear in the Code of Federal Regulations.

§ 916.356 Nectarine Regulation 14.

(a) * * *

(2) Any package or container of May Glo nectarines through May 5, 1989, or Aurelio Grand, Maybelle, Mayfire, or Royal Delight variety nectarines, unless:

* * * * * *

(3) Any package or container of May Glo variety nectarines on or after May 5, 1989, or Early Diamond, or Mayfair variety nectarines, unless:

* * * * * *

Dated: April 25, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89–10231 Filed 4–25–89; 11:50 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1910

Credit Reports on Individuals

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to eliminate reference to "contracting officer" since FmHA contracts credit report service from the General Services Administration (GSA), expand the definition of applicant as it relates to rural housing and farmer program loan applicants. Also, to clarify when and what type of credit reports will be ordered by the County Supervisor, clarify that there will be a one-time fee charged for each initial individual or joint credit report ordered, and to define what a joint credit report is. These actions are necessary due to number of inquiries received from FmHA field offices and an internal review of the proposed rule concerning the ordering of credit reports. This rule is intended to provide FmHA field offices guidance and clarification when ordering credit reports.

EFFECTIVE DATE: May 30, 1989.

FOR FURTHER INFORMATION CONTACT: Reginald J. Rountree, Loan Specialist, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5346, South Agriculture Building, Washington, DC 20250. Telephone 202–475–4209.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined "non-major." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance programs affected by this action are:

10.404 Emergency Loans.
10.405 Farm Labor Housing Loans and Grants.
10.406 Farm Operating Loans.
10.407 Farm Ownership Loans.
10.410 Low to Moderate Income Housing Loans.
10.416 Soil and Water Loans.
10.420 Rural Self-Help Housing Technical Assistance.

For the reasons set forth in final rule related to Notice 7 CFR 3015 Subpart V ((48 FR 2 9115), June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs" are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

10.405 Farm Labor Housing Loans and Grants; 10.416 Soil and Water Loans; 10.420 Rural Self-Help Housing Technical Assistance are subject to EO 12372

This document had been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the

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quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

The Administrator, Farmers Home Administration, USDA, has determined that this action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements.

Background

At the present time there is no distinct guidance to field personnel on whether to order a joint or individual credit report on married applicants when there is only one income in the household. This lack of guidance has resulted in numerous inquiries to the National Office from field personnel as to which type of report to order. These amendments establish the type of report to be ordered by field personnel on married applicants regardless of the number of incomes in the household.

On August 4, 1988, FmHA published in the **Federal Register** (53 FR 29341) a proposed rule for amending its regulations regarding ordering credit reports on married applicants. The comment period ended October 3, 1988. No comments were received. However, in reviewing what had been published as a proposed rule, it was decided that further revisions could be made to better explain the intent of the proposed changes. These revisions have been incorporated in the final rule. They do not alter the substance of what appeared in the proposed rule but merely further clarify the intent of that rule.

List of Subject in 7 CFR Part 1910

Administrative practice and procedure, Credit, Government contracts, Reporting requirements.

Accordingly, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

PART 1910—GENERAL

1. The authority citation for Part 1910 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Credit Reports (Individual)

2. Section 1910.52 is amended by revising paragraph (a) to read as follows:

§ 1910.52 General.

(a) FmHA obtains credit reports from credit reporting companies (Contractors) listed in Exhibit A of this subpart (available in any FmHA office) as authorized by the National Office, FmHA. Furthermore, special reports, supplemental employment reports, commercial credit reports, and special services are not authorized.

* * * * *

3. Section 1910.53 is amended by revising paragraphs (d) and (e) as follows:

§ 1910.53 Policy.

* * * * *

(d) The County Supervisor will determine when and what type of credit report will be ordered in accordance with the provisions of this subpart, except that credit reports will always be ordered when the incomes of both applicant and co-applicant are needed to show repayment ability.

(e) A nonrefundable credit report fee of the amount shown in Exhibit A, *General*, (b) of this subpart (available in any FmHA office) will be a one time charge for each initial credit report ordered.

* * * * *

4. Section 1910.54 is amended by revising paragraph (b) as follows:

§ 1910.54 Definitions.

* * * * *

(b) "Applicant," for other than Farmer Program loans, also includes co-applicant(s), co-signer(s), each individual in an association, and general partner(s) in a partnership. For Farmer Program loans, "applicant" also includes co-signer(s), member(s) of a cooperative, stockholder(s) in a corporation, partner(s) in a partnership, and joint operators of a joint operation.

* * * * *

5. Section 1910.59 is revised to read as follows:

§ 1959.59 Type of credit report to be ordered.

Pursuant to the Equal Credit Opportunity Act (ECOA), credit reporting companies maintain credit information in three different forms on a married couple; individual accounts on each spouse, a joint account covering both spouses, and undesignated accounts (not identified by a creditor as either individual or joint). The County Supervisor will order:

(a) A joint report when the applicant and co-applicant are married, regardless of whether there is only one source of income.

(b) An individual report when the applicant is married and applies as an individual.

(c) An individual report on each the applicant and co-applicant when they are not married.

(d) If credit information is needed on other persons to complete the credit investigation, a separate "individual" report request, which will be paid by the applicant, is prepared for each person as opposed to the more costly "special services" reports.

6. Section 1910.61 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 1910.61 Collecting fees, invoicing, and payments.

(a) * * *

(2) * * *

(ii) By entering the date and amount of the credit report fee collected in column 9 of Form FmHA 1905–4, "Application and Processing Card-Individual."

* * * * *

Date: March 31, 1989.

Neal Sox Johnson,

Acting Administrator, Formers Home Administration.

[FR Doc. 89–10029 Filed 4–26–89; 8:45 am]

BILLING CODE 3410–07–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140 and 145

Commission Western and Southwestern Regional Offices; Change of Address

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule amendments.

SUMMARY: The Commodity Futures Trading Commission is amending its regulations to include new addresses for its recently relocated Western and Southwestern regional offices. Both of these offices, while remaining in the same respective cities, have moved to new locations in Los Angeles, California, and Kansas City, Missouri.

EFFECTIVE DATE: April 27, 1989.

FOR FURTHER INFORMATION CONTACT: Gerry Smith, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254–6090.

SUPPLEMENTARY INFORMATION: Commission regulation § 140.2 is being amended to reflect the fact that the Western and Southwestern Regional Offices of the Commission have been moved. The Western Regional Office of the Commission has moved from 10850 Wilshire Boulevard, Suite 510, Los Angeles, California 90024 to 10880 Wilshire Boulevard, Suite 1005, Los Angeles, California 90024. The telephone number for general information is (213) 209–6783. The Southwestern Regional Office of the Commission has been moved from 4901 Main Street, Suite 400, Kansas City, Missouri 64112 to 4900 Main Street, Suite 721, Kansas City, Missouri 64112. The telephone number for general information is (816) 374–6602.

Certain other provisions of the Commission's regulations contain references to or addresses of the Commission's Western and Southwestern Regional offices. The appropriate changes have been made to reflect the new addresses in each of these provisions.

List of Subjects

17 CFR Part 140

Organization and functions (Government agencies).

17 CFR Part 145

Freedom of information.

Based upon the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j) (1976), the Commission hereby amends Parts 140 and 145 of the Code of Federal Regulations as follows:

PART 140—[AMENDED]

1. An authority citation for Part 140 is added, and the authority citations following individual sections are removed.

Authority: 17 U.S.C. 12a.

2. Section 140.2 is amended by revising paragraphs (c) and (d) to read as follows:

§ 140.2 Region Offices—Regional Directors.

* * * * *

(c) The Western Regional office is located at 10880 Wilshire Boulevard, Suite 1005, Los Angeles, California 90024 and is responsible for enforcement of the act and administration of programs of the Commission in the States of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

(d) The Southwestern Regional office is located at 4900 Main Street, Suite 721, Kansas City, Missouri 64112, with a sub-office at Room 510, Grain Exchange Building, Fourth Street and Fourth Avenue, South, Minneapolis, Minnesota 55415, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, and Texas.

PART 145—[AMENDED]

3. The authority citation for Part 145 continues to read as follows:

Authority: Pub. L. 89–554, 80 Stat. 383, Pub. L. 90–23, 81 Stat. 54, Pub. L. 93–502, 88 Stat. 1561–1564 (5 U.S.C. 552); sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (5 U.S.C. 4a(j)); Pub. L. 99–570.

4. Section 145.6(a) is revised to read as follows:

§ 145.6 Commission offices to contact for assistance; registration records available.

(a) Whenever this part directs that a request be directed to the FOI, Privacy and Sunshine Acts compliance staff at the principal office of the Commission in Washington, DC, the request shall be made in writing and shall be addressed or otherwise directed to the Assistant Secretary for FOI, Privacy and Sunshine Acts Compliance, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. The telephone number of the compliance staff is (202) 254–3382. Requests for public records directed to a regional office of the Commission pursuant to §§ 145.0(c) and 145.2 should be sent to: Division of Economic Analysis, Commodity Futures Trading Commission, One World Trade Center, Suite 4747, New York, New York 10048, Telephone: (212) 466–2061. Division of Trading and Markets, Commodity Futures Trading Commission, Sears Tower, Suite 4600, 233 South Wacker Drive, Chicago, Illinois 60606, Telephone: (312) 353–5990. Division of Trading and Markets, Commodity Futures Trading Commission, 510 Grain Exchange Building, Minneapolis, Minnesota 55415, Telephone: (612) 725–2025. Division of Trading and Markets, Commodity Futures Trading Commission, 4900 Main Street, Suite 721, Kansas City, Missouri 64112, Telephone: (816) 374–6602. Division of Enforcement, Commodity Futures Trading Commission, 10880 Wilshire Blvd., Suite 1005, Los Angeles, California 90024, Telephone: (213) 209–6783.

* * * * *

The foregoing rules shall be effective immediately. The Commission finds that the amendments relate solely to agency organization, practice and procedure and that the public procedures and publication prior to the effective date of the amendments, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, DC, on April 21, 1989, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 89–10010 Filed 4–26–89; 8:45 am]

BILLING CODE 6351–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Rel. No. 33–6833; 34–26747; 35–24868; 39–2213; IC–16931; IA–1163]

Rules Delegating Functions

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission is revising Subpart A, Part 200 of Title 17 with respect to the descriptions of and delegations of authority to the Commission's Director of the Office of Opinions and Review, General Counsel, and Executive Assistant to the Chairman. This action will effect the consolidation of the Office of Opinions and Review and the Office of the General Counsel, and will delegate to the General Counsel and, in certain cases, the Executive Assistant to the Chairman, the authority previously delegated to the Director of the Office of Opinions and Review. The purpose of consolidating the functions of the Office of Opinions and Review into the Office of the General Counsel is to increase the efficiency of the adjudicatory process and make available to that process the resources of the Office of the General Counsel.

EFFECTIVE DATE: April 27, 1989.

FOR FURTHER INFORMATION CONTACT: David C. Mahaffey, Assistant General Counsel, or Thomas M. Selman, Special Counsel, Office of the General Counsel, (202) 272–2428.

SUPPLEMENTARY INFORMATION: On February 9, 1989, Chairman Ruder announced the consolidation of the Commission's Office of Opinions and Review into the Office of the General Counsel, with the establishment of an Adjudication Group in OGC. The Chairman further announced that the preparation of opinions and orders in contested Rule 2(e) cases will be assigned to the Executive Assistant to the Chairman, and that drafting responsibilities in other cases may, as appropriate, be transferred from the General Counsel to the Chairman's staff.

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The Commission finds that this action relates solely to rules of agency organization, procedure or practice, and therefore that prior publication under 5 U.S.C. 553 is not necessary and that the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply. Further, the Commission finds good cause under 5 U.S.C. 553(d)(3) for the action to become effective immediately upon publication in the **Federal Register**, since implementing the rule changes will increase the efficiency of the Commission's adjudicatory process and make available to that process the resources of the Office of the General Counsel. Accordingly, the foregoing action becomes effective immediately upon publication in the **Federal Register**.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, Securities.

Text of Amendments

Title 17, Chapter II of the Code of Federal Regulations is hereby amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Part 200 appearing at the end of the table of contents is removed.

2. The authority citation for Part 200, Subpart A is revised to read as follows:

Authority: Secs. 19, 23, 48 Stat. 85, 901, as amended; sec. 20, 49 Stat. 833; sec. 319, 53 Stat. 1173; secs. 38, 211, 54 Stat. 841, 855; sec. 308, 101 Stat. 1254 (15 U.S.C. 77s, 78d–1, 78d–2, 78w, 79t, 77sss, 80a–37, 80b–11), unless otherwise noted.

§ 200.15 [Removed]

3. By removing § 200.15.

4. By revising § 200.16 to read as follows:

§ 200.16 Executive Assistant to the Chairman.

The Executive Assistant to the Chairman assists the Chairman in consideration of legal, financial, and economic problems encountered in the administration of the Commission's statutes. He or she arranges for and conducts conferences with officials of the Commission, members of the staff, and/or representatives of the public on matters arising with regard to general programs or specific matters. Acting for the Chairman, he or she furnishes the initiative, executive direction, and authority for staff studies and reports bearing on the Commission's administration of the laws and its relations with the public, industry, and the Congress. The Executive Assistant is also responsible for assisting members of the Commission in the preparation of the opinions of the Commission, and to the Commission for the preparation of opinions and decisions on motions and certifications of questions and rulings by administrative law judges in the course of administrative proceedings under Rule 2(e) of the Commission's Rules of Practice (§ 201.2(e) of this Chapter), and in other cases in which the Chairman or the General Counsel has determined that separation of functions requirements or other circumstances would make inappropriate the exercise of such functions by the General Counsel. In cases where, pursuant to a waiver by the parties of separation of function requirements, another Division or Office of the Commission's staff undertakes to prepare an opinion or decision, such Division or Office rather than the Executive Assistant will prepare such opinion or decision, although the Executive Assistant may assist in such preparation. The Executive Assistant is further responsible for the exercise of such review functions with respect to adjudicatory matters as are delegated to him or her by the Commission pursuant to 101 Stat. 1254 (15 U.S.C. 78d–1, 78d–2) or as may be otherwise delegated or assigned to him or her.

5. By amending § 200.21 by redesignating paragraph (b) as (c), revising paragraph (a), and adding new paragraph (b) as follows:

§ 200.21 The General Counsel.

(a) The General Counsel is the chief legal officer of the Commission. He or she is responsible for the representation of the Commission in judicial proceedings in which it is involved as a party or as amicus curiae, for directing and supervising all civil litigation involving the Commission in the United States District Courts, for directing and supervising the Commission's responsibilities under the Bankruptcy Code and all related litigation, and for representing the Commission in all cases in appellate courts. The General Counsel is responsible for the review of cases which the Division of Enforcement recommends be referred to the Department of Justice with a recommendation for criminal prosecution. Together with the Director of the Division of Enforcement, the General Counsel is responsible for granting of access, by delegated authority, to materials contained in Commission files concerning non-public investigatory proceedings in which formal orders of investigation have been entered at the request of domestic and foreign governmental authorities, self-regulatory organizations, receivers, special counsels, and other similar persons appointed in Commission litigation, the Securities Investor Protection Corporation, and trustees and counsel for trustees "appointed" pursuant to section 5(b) of the Securities Investor Protection Act. In addition, he or she is responsible for advising the Commission at its request or at the request of any division director or officer head, or on his or her own motion, with respect to interpretations involving questions of law; for the conduct of administrative proceedings relating to the disqualification of professional persons from practice before the Commission; for the preparation of the Commission comments to the Congress on pending legislation; and for the drafting, in conjunction with appropriate divisions and offices, of legislative proposals to be sponsored by the Commission. The General Counsel is also responsible for the review and clearance of the form and content of articles, treatises, and prepared speeches and addresses by members of the staff relating to the Commission or to the statutes and rules administered by the Commission and is responsible for investigating any claims of staff improprieties. He or she is responsible (with the Director of Personnel) for administering and interpreting the Commission's Conduct Regulation. He or she serves as Counselor to the Commission and its staff with regard to ethical and conflicts of interest questions and acts as the Commission's liaison on such matters with the Office of Personnel Management and the Department of Justice. The General Counsel also is responsible for coordinating and reviewing the interpretive positions of the various divisions and offices. In addition, he or she is responsible for appropriate disposition of all Freedom of Information Act and Privacy Act appeals pursuant to the authority delegated in § 200.30–14 of this Chapter, and is the Commission's advisor with respect to legal problems arising under the Freedom of Information Act, the Privacy Act, the Federal Reports Act, the Federal Advisory Committee Act, the Civil Service laws and regulations, the statutes and rules applicable to the Commission's procurement, contracting, fiscal and related administrative activities, and other statutes and regulations of a similar nature applicable to a number of Government agencies.

(b) The General Counsel is also responsible for assisting members of the Commission in the preparation of the opinions of the Commission, and to the Commission for the preparation of opinions and decisions on motions and certifications of questions and rulings by administrative law judges in the course of administrative law proceedings, except (1) in cases where, pursuant to a waiver by the parties of separation of function requirements, another Division or Office of the Commission's staff undertakes to prepare an opinion or decision, in which cases the General Counsel may assist in such preparation, and (2) with respect to administrative proceedings under Rule 2(e) of the Commission's Rules of Practice (§ 201.2(e) of this Chapter) or other cases in which the Chairman or the General Counsel has determined that separation of function requirements or other circumstances would make inappropriate the exercise of such functions by the General Counsel. In the cases described in clause (2), the Executive Assistant to the Chairman exercises such functions. The General Counsel deals with general problems arising under the Administrative Procedure Act, including the revision or adoption of rules of practice. The General Counsel is also responsible for the exercise of such review functions with respect to adjudicatory matters as are delegated to him or her by the Commission pursuant to 101 Stat. 1254 (15 U.S.C. 78d–1, 78d–2) or as may be otherwise delegated or assigned to him or her.

* * * * *

§ 200.30–8 [Removed]

6. By removing § 200.30–8.

7. By revising the introductory paragraph and adding paragraphs (g), (h), and (i) to § 200.30–14 to read as follows:

§ 200.30–14 Delegation of Authority to the General Counsel.

Pursuant to the provisions of Pub. L. 101–181, 101 Stat. 1254, 101 Stat. 1255, 15 U.S.C. 78d–1, 15 U.S.C. 78d–2, and 5 U.S.C. 552a(d)(2)(B)(ii), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the General Counsel of the Commission, to be performed by him or her or under his or her direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

* * * * *

(g)(1) With respect to proceedings conducted pursuant to the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*), the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a, *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa, *et seq.*), the Investment Company Act of 1940 (15 U.S.C. 80a–1, *et seq.*), the Investment Advisers Act of 1940 (15 U.S.C. 80b–1, *et seq.*), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa, *et seq.*);

(i) To consider an application for review of an interlocutory ruling which an administrative law judge has refused to certify, and to deny such application upon determining that the administrative law judge did not err in refusing to certify the matter.

(ii) To consider an interlocutory ruling which an administrative judge has certified, and to affirm such ruling upon determining that such action is appropriate.

(iii) To issue any order pursuant to an initial decision as to any person who has not filed a petition for review within the time provided, or has withdrawn his appeal, where the Commission has not on its own motion ordered that the initial decision be reviewed.

(iv) Except where the Commission otherwise directs, to issue findings and orders pursuant to offers of settlement which the Commission has determined should be accepted.

(v) To grant petitions for review of initial decisions by a hearing officer.

(vi) To grant motions of staff counsel to discontinue administrative proceedings as to a particular respondent who has died or cannot be found, or because of a mistake in the identity of a respondent named in the order for proceedings.

(vii) To grant requests for the submission of late or additional briefs, or the acceptance of affidavits or other material for inclusion in the record or in support of motions or petitions addressed to the Commission.

(viii) To issue an order dismissing an application for review upon the request of the applicant that the application be withdrawn.

(ix) To issue an order dismissing an exemptive application upon the request of the applicant that the application be withdrawn.

(2) With respect to proceedings conducted pursuant to the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*), the Investment Company Act of 1940 (15 U.S.C. 80a–1, *et seq.*), the Investment Advisers Act of 1940 (15 U.S.C. 80b–1, *et seq.*), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa *et seq.*), to issue findings and orders taking the remedial action described in the order for proceedings where the respondents expressly consent to such action, fail to appear or default in the filing of answers required to be filed; or to grant a request, based upon a showing of good cause, to vacate an order of default, so as to permit presentation of a defense.

(3) With respect to proceedings conducted pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*), to issue an order dismissing an application for review of a denial by a self-regulatory organization of an application by a person subject to statutory disqualification to become associated with a member firm upon receipt of notice from the self-regulatory organization that the firm is no longer a member of the self-regulatory organization.

(4) With respect to proceedings under Sections 19 (d), (e) and (f) of the Securities Exchange Act of 1934 (15 U.S.C. 78s (d), (e) and (f)), to determine that an application for review under those sections has been abandoned under the provision of § 240.19d–3(c) of this Chapter or otherwise, and to issue an order dismissing the application in such event.

(5) With respect to proceedings conducted or reviewed pursuant to the provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78(a), *et seq.*), the Investment Company Act of 1940 (15 U.S.C. 80a–1, *et seq.*), and the Investment Advisers Act of 1940 (15 U.S.C. 80b–1, *et seq.*) to determine applications to stay Commission orders pending appeal of those orders to the federal courts.

(6) With respect to review proceedings pursuant to Sections 19 (d), (e) and (f) of the Securities Exchange Act of 1934 (15 U.S.C. 78s (d), (e) and (f)), to determine applications for a stay of action taken by a self-regulatory organization pending Commission review of that action.

(7) In connection with Commission review of actions taken by self-regulatory organizations, pursuant to Sections 19 (d), (e) and (f) of the Securities Exchange Act of 1934 (15 U.S.C. 78s (d), (e) and (f)), to grant or deny requests for oral argument in accordance with the provisions of § 240.19d–3(f) of this Chapter.

(h) Notwithstanding anything in paragraph (g) of this section, the functions described in paragraph (g) of this section are not delegated to the General Counsel with respect to administrative proceedings under Rule 2(e) of the Commission's Rules of Practice (§ 201.2(e) of this Chapter), or with respect to other proceedings in which the Chairman or the General

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Counsel determines that separation of functions requirements or other circumstances would make inappropriate the General Counsel's exercise of such delegated functions. With respect to such Rule 2(e) and other proceedings, such functions are delegated to the Executive Assistant to the Chairman pursuant to § 200.30–16 of this Chapter.

(i) Notwithstanding anything in paragraph (g) of this section, in any case described in paragraph (g) of this section in which the General Counsel believes it appropriate, he or she may submit the matter to the Commission.

8. By adding § 200.30–16 to read as follows:

§ 200.30–16 Delegation of Authority to Executive Assistant to the Chairman.

Pursuant to the provisions of Pub. L. 101–181, 101 Stat. 1254, 101 Stat. 1255, 15 U.S.C. 78d–1, and 15 U.S.C. 78d–2, the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Executive Assistant to the Chairman (or to such other person or persons designated pursuant to paragraph (d) of this section), to be performed by such Executive Assistant or under the Executive Assistant's direction by such person or persons as may be designated from time to time by the Chairman of the Commission (or by such other person or persons designated pursuant to paragraph (d) of this section):

(a) The functions otherwise delegated to the General Counsel under § 200.30–14(g) of this Chapter, with respect to any proceeding in which the Chairman or the General Counsel has determined, pursuant to § 200.30–14(h) of this Chapter, that separation of functions requirements or other circumstances would make inappropriate the General Counsel's exercise of such delegated functions.

(b) With respect to proceedings conducted pursuant to the provisions of Rule 2(e) of the Commission's Rules of Practice (§ 201.2(e) of this Chapter):

(1) To consider an application for review of an interlocutory ruling which an administrative law judge has refused to certify, and to deny such application upon determining that the administrative law judge did not err in refusing to certify the matter.

(2) To consider an interlocutory ruling which an administrative judge has certified, and to affirm such ruling upon determining that such action is appropriate.

(3) To issue any order pursuant to an initial decision as to any person who has not filed a petition for review within the time provided, where the Commission has not on its own motion ordered that the initial decision be reviewed.

(4) Except where the Commission otherwise directs, to issue findings and orders pursuant to offers of settlement which the Commission has determined should be accepted.

(5) To grant petitions for full review of initial decisions by a hearing officer.

(6) To grant motions of staff counsel to discontinue administrative proceedings as to a particular respondent who has died or cannot be found, or because of a mistake in the identity of a respondent named in the order for proceedings.

(7) To grant requests for the submission of late or additional briefs, or the acceptance of affidavits or other material for inclusion in the record or in support of motions or petitions addressed to the Commission.

(8) To issue findings and orders taking the remedial action described in the order for proceedings where the respondents expressly consent to such action, fail to appear or default in the filing of answers required to be filed; or to grant a request, based upon a showing of good cause, to vacate an order of default, so as to permit presentation of a defense.

(9) To determine applications to stay Commission orders imposing, affirming, or modifying sanctions pending appeal of those orders to the Federal courts.

(c) Notwithstanding anything in the foregoing, in any case described in paragraphs (a) and (b) of this section in which the Executive Assistant believes it appropriate, he or she may submit the matter to the Commission.

(d) Notwithstanding anything in the foregoing, the functions otherwise delegated to the Executive Assistant are hereby delegated to such person or persons, not under the Executive Assistant's supervision, designated by the Chairman, with respect to any proceeding in which the Chairman or the Executive Assistant determines that the Executive Assistant's exercise of such delegated functions would be inappropriate.

By the Commission.

April 20, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89–10031 Filed 4–26–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 86F–0158]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2-bromo-2-nitropropane-1,3-diol as a slimicide in the manufacture of paper and paperboard for food-contact use. This action responds to a petition filed by Betz Laboratories, Inc.

DATES: Effective April 27, 1989; written objections and requests for a hearing by May 30, 1989.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 7, 1986 (51 FR 16896), FDA announced that a petition (FAP 6B3915) had been filed by Betz Laboratories, Inc., Somerton Rd., Trevose, PA 19047, proposing that § 176.300 *Slimicides* of the food additive regulations (21 CFR 176.300) be amended to provide for the safe use of 2-bromo-2-nitropropane-1,3-diol as a slimicide in the manufacture of paper and paperboard for food-contact use.

FDA has evaluated data in the petition and other relevant material. The agency concludes that these data and material establish safety of the level of use of the additive in the manufacture of paper and paperboard, and that the regulations should be amended in § 176.300(c) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before May 30, 1989 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR Part 176 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 176.300 is amended by revising the table in paragraph (c) by alphabetically adding a new entry to the headings "List of substances" and "Limitations" to read as follows:

§ 176.300 Slimicides.

* * * * *

(c) * * *

List of substances	Limitations
* * *	* * *
2-Bromo-2-nitropropane-1,3-diol (CAS Reg. No. 52–51–7).	At a maximum level of 0.6 pound per ton of dry weight fiber.
* * *	* * *

* * * * *

Dated: April 19, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89–10084 Filed 4–26–89; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–058; FRL–3557–9]

Approval and Promulgation of Implementation Plans; Kentucky: Revisions to the Jefferson County Portion of the SIP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves amendments to the Jefferson County portion of Kentucky's State Implementation Plan. These amendments include the deletion of the volatile organic compound (VOC) definition from the following regulations: 6.12 (Standard of Performance for Existing Asphalt Paving Operations), 6.19 (Standard of Performance for Existing Metal Furniture Surface Coating Operations), 6.22 (Standard of Performance for Existing Volatile Organic Materials Loading Facilities), 6.29 (Standard of Performance for Existing Graphic Arts Facilities Using Rotogravure and Flexography), 6.30 (Standard of Performance for Existing Factory Surface Coating Operations of Flatwood Paneling), 6.31 (Standard of Performance for Existing Miscellaneous Metal Parts and Products Surface Coating Operations), 6.32 (Standard of Performance for Leaks from Existing Petroleum Refinery Equipment), 6.33 (Standard of Performance for Existing Synthesized Pharmaceutical Product Manufacturing Operations), 6.34 (Standard of Performance for Existing Pneumatic Rubber Tire Manufacturing Plants) and, 6.35 (Standard of Performance for Existing Fabric, Vinyl and Paper Surface Coating Operations). The Jefferson County Air Pollution Control District revised Chapter 1—General Provisions, to include a Volatile Organic Compound (VOC) definition that is consistent with the EPA-approved VOC definition. Therefore, this revised EPA-approved definition will be applicable to all the aforementioned regulations. Thus, all the VOC definitions contained in these regulations could be deleted. Regulation 5.01—General Provisions, Section 2, is being revised to require that if any equivalent test method is necessary for emissions testing and monitoring, the District must obtain prior EPA approval of this method. Regulation 5.01 additionally is revised to include Section 4—Definitions.

DATES: This action will become effective on June 26, 1989, unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Witten comments should be addressed to Diane Altsman of EPA Region IV's Air Programs Branch. (See Region IV address below.) Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Kentucky Natural Resources and Environmental, Protection Cabinet, Division for Air Quality, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601.

Jefferson County Air Pollution, Control District, 914 East Broadway, Louisville, Kentucky 40204.

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Diane Altsman, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: The Air Pollution Control District of Jefferson

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County submitted revisions to the Jefferson County portion of Kentucky's State Implementation Plan (SIP). The regulations were approved by the Commonwealth of Kentucky's Natural Resources and Environmental Protection Cabinet and became effective on April 20, 1988. On January 19, 1989, the State of Kentucky's Division for Air Quality submitted to EPA the revisions to the Jefferson County portion of Kentucky's State Implementation Plan (SIP).

The revisions include the deletion of the volatile organic compound (VOC) definition from the following regulations: 6.12, 6.19, 6.22, 6.29, 6.30, 6.31, 6.32, 6.33, 6.34, and 6.35. The Jefferson County Air Pollution Control District revised Chapter 1, General Provisions, to reflect the VOC definition that is consistent with EPA's approved definition.

The Commonwealth of Kentucky, also submitted for EPA approval a revision to Regulation 5—Standards for Hazardous Air Pollutants. Regulation 5.01—General Provisions, section 2, is revised to require that if any equivalent test method is necessary for emissions testing and monitoring, the District must obtain prior EPA approval of this method. Regulation 5.01 was additionally revised to include Section 4—Definitions.

Due to the simplicity of these changes, no Technical Support Document has been prepared.

Final Action

EPA approves changes made in Regulation 5.01, 6.12, 6.19, 6.22, 6.29, 6.30, 6.31, 6.32, 6.33, 6.34 and 6.35 of the Jefferson County portion of Kentucky's State Implementation Plan (SIP). This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective 60 days from date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 26, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

Note: Incorportion by reference of the State Implementation Plan for the Commonwealth of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

Date: April 10, 1989.

Lee A. DeHihns, III,

Acting Regional Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart S—Kentucky

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642

2. Section 52.920 is amended by adding paragraph (c)(61) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(61) Revisions in Regulations 5.01, 6.12, 6.19, 6.22, 6.29, 6.30, 6.31, 6.32, 6.33, 6.34, and 6.35 of the Jefferson County portion of Kentucky's SIP were submitted on January 19, 1989, by Kentucky's Natural Resources Division and Environmental Protection Cabinet.

(i) Incorporation by reference.

(A) Amendments to the Jefferson County Regulations 5.01, 6.12, 6.19, 6.22, 6.29, 6.30, 6.31, 6.32, 6.33, 6.34, and 6.35 adopted on April 20, 1988.

(B) Letter of January 19, 1989, from Kentucky's Natural Resources and Environmental Protection Cabinet.

(ii) Other materials-none.

[FR Doc. 89-9380 Filed 4-26-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6829]

Suspension of Community Eligibility, Maryland, et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective date shown in this rule because of noncompliance with the revised floodplain management criteria of the NFIP. If FEMA receives documentation that the community has adopted the required revisions prior to the effective suspension date given in this rule, the community will not be suspended and the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: As shown in fifth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, Federal Center Plaza, 500 C Street SW., Room 416, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the NFIP (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures:

On August 25, 1986, FEMA published a final rule in the **Federal Register** that revised the NFIP floodplain management criteria. The rule became effective on October 1, 1986. As a condition for continued eligibility in the NFIP, the criteria at 44 CFR 60.7 require communities to revise their floodplain management regulations to make them consistent with any revised NFIP regulation within 6 months of the effective date of that revision or be subject to suspension from participation in the NFIP.

The communities listed in this notice have not amended or adopted floodplain management regulations that incorporate the rule revision. Accordingly, the communities are not compliant with NFIP criteria and will be suspended on the effective date shown in this final rule. However, some of these communities may adopt and submit the required documentation of legally enforceable revised floodplain management regulations after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

The Administrator finds that notice and public procedures under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 90- and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to adopt adequate floodplain management measures, thus placing itself in noncompliance with the Federal standards required for community participation.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	Community name	County	Community number	Effective date
Maryland	Betterton, Town of	Kent	240095	May 4, 1989.
Do	Brunswick, Town of	Frederick	240028	Do.
Do	Unincorporated Areas	Caroline	240130	Do.
Do	Crisfield, City of	Somerset	240062	Do.
Do	Emmitsburg, Town of	Frederick	240029	Do.
Do	Unincorporated Areas	Harford	240040	Do.
Do	La Plata, Town of	Charles	240092	Do.
Do	Middletown, Town of	Frederick	240162	Do.
Do	Unincorporated Areas	Montgomery	240049	Do.
Do	Myersville, Town of	Frederick	240116	Do.
Do	Secretary, Town of	Dorchester	240123	Do.
Do	Unincorporated Areas	Somerset	240061	Do.
Do	Walkersville, Town of	Frederick	240032	Do.
Colorado	Unincorporated Areas	Adams	080001	May 17, 1989.
Do	Breckenridge, City of	Summit	080172	Do.
Do	Brighton, City of	Adams	080004	Do.
Do	Delta, City of	Delta	080043	Do.
Do	Eagle, Town of	Eagle	080238	Do.
Do	Evans, City of	Weld	080182	Do.
Kansas	Unincorporated Areas	Chase	200040	Do.
Do	Unincorporated Areas	Clay	200052	Do.
Do	Elmdale, City of	Chase	200042	Do.
Do	Eudora, City of	Douglas	200089	Do.
Do	Gypsum, City of	Saline	200317	Do.
Do	Harper, City of	Harper	200129	Do.
Do	Hunter, City of	Mitchell	200228	Do.
Do	La Crosse, City of	Rush	200308	Do.
Do	Rantoul, City of	Franklin	200107	Do.
Do	Virgil, City of	Greenwood	200122	Do.
Do	Walnut, City of	Crawford	200373	Do.
Do	Unincorporated Areas	Wyandotte	200562	Do.
Nebraska	Allen, Village of	Dixon	310244	Do.
Do	Amherst, Village of	Buffalo	310245	Do.
Do	Avoca, Village of	Cass	310247	Do.
Do	Barneston, Village of	Gage	310090	May 17, 1989.
Do	Bristow, Village of	Boyd	310012	Do.
Do	Ceresco, Village of	Sounders	310197	Do.
Do	Clearwater, Village of	Antelope	310262	Do.
Do	Crete, City of	Saline	310186	Do.
Do	Unincorporated Areas	Dakota	310429	Do.
Do	Unincorporated Areas	Deuel	310430	Do.
Do	Elk Creek, Village of	Johnson	310125	Do.
Do	Elkhorn, City of	Douglas	310075	Do.
Do	Franklin, City of	Franklin	310082	Do.
Do	Fullerton, City of	Nance	310152	Do.
North Dakota	Dodge, City of	Dunn	380027	Do.
South Dakota	Blunt, City of	Hughes	460039	Do.

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State	Community name	County	Community number	Effective date
Do.	Brookings, City of	Brookings	460004	Do.
Utah	Castle Dale, City of	Emery	490059	Do.
Do.	Unincorporated Areas	Carbon	490032	Do.
Do.	Cedar City, City of	Iron	490074	Do.

Issued: April 24, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-10130 Filed 4-26-89; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 64

[Docket No. FEMA 6830]

Suspension of Community Eligibility; Minnesota, et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street SW., Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.** In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date [1]
Region V—Minimal Conversions				
Minnesota:				
Koochiching County, unincorporated areas	270233	July 1, 1974, Emerg.; May 1, 1988, Reg.; May 1, 1989, Susp.	6-1-88	June 1, 1989.
Region VIII				
Colorado:				
Bent County, unincorporated areas	080271	June 26, 1975, Emerg.; June 1, 1988, Reg.; May 1, 1989, Susp.	5-1-89	Do.
Region I—Regular Conversions				
Maine: Rockport, town of, Knox County	230077	July 21, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	May 4, 1989.
New Hampshire:				
Northumberland, town of, Coos County	330036	July 7, 1975, May 4, Emergy.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Tuftonboro, town of, Carroll County	330234	June 15, 1976, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Vermont:				
Brighton, town of, Essex County	500205	Mar. 27, 1975, Emerg.; Sept. 18, 1986, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Reading, town of, Windsor County	500152	May 8, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Region II				
New York: Western, town of, Oneida County	360564	Aug. 17, 1976, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Region III				
Pennsylvania:				
Evans City, borough of, Butler County	420216	Dec. 3, 1974, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Greenwood, township of, Columbia County	421551	July 28, 1975, Emerg.; Mar. 16, 1989, Reg.; May 4, 1989, Susp.	Mar. 16, 1989	5-4-89
Harmony, borough of, Butler County	420217	Apr. 21, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Mars, borough of, Butler County	420220	June 10, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
South Manheim, township of, Schuylkill County	422022	Aug. 6, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Valencia, borough of, Butler County	420223	July 11, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Region V				
Illinois: Hanover, village of, Jo Daviess County	170755	July 21, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Michigan:				
Allegan, city of, Allegan County	260003	Feb. 26, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Garfield, township of, Newaygo County	260469	Mar. 9, 1976, Emerg.; Sept. 29, 1986, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Bangor, city of, Van Buren County	260529	Oct. 27, 1976, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Ashland, township of, Newaygo County	260694	July 6, 1976, Emerg.; Sept. 1, 1986, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Wisconsin:				
Augusta, city of, Eau Claire County	550127	July 7, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Ellsworth, village of, Pierce County	550325	Aug. 28, 1974, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Knapp, village of, Dunn County	550122	Nov. 14, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Woodville, village of, St. Croix County	550390	Aug. 15, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Region VII				
Kansas: Ellsworth, city of, Ellsworth County	200098	July 21, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Region VIII				
Colorado: Montezuma county, unicorporated areas	080285	Feb. 3, 1976, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Wyoming:				
Jackson, town of, Teton County	560052	Aug. 8, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Teton County, unincorporated areas	560094	Apr. 19, 1978, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.
Region X				
Oregon: Fossil, city of, Wheeler County	410246	May 30, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.	5-4-89	Do.

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State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date [1]
Region I				
Maine: South Thomaston, town of, Knox County	230078	July 23, 1975, Emerg.; May 17, 1989, May 17, 1989, Susp.	May 17, 1989	5-17-89.
New Hampshire:				
Colebrook, town of, Coos County	330031	July 18, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Greenland, town of, Rockingham County	330210	May 19, 1976, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Littleton, town of, Grafton County	330064	Sept. 2, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Stratham, town of, Rockingham County	330197	Sept. 26, 1977, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Wolfeboro, town of Carroll County	330239	Nov. 26, 1976, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Region III				
Pennsylvania: Auburn, borough of, Schuylkill County	420766	July 29, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Cass, township of, Schuylkill County	422000	Dec. 8, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Hop Bottom, borough of, Susquehanna County	420812	Oct. 14, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Jessup, township of, Susquehanna County	422084	Jan. 22, 1976, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Liberty, township of, Susquehanna County	422087	Feb. 3, 1976, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
York, township of, York County	421032	Aug. 1, 1973, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
West Virginia:				
Ceredo, town of, Wayne County	540232	Sept. 25, 1976, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Kenova, city of, Wayne County	540221	Apr. 9, 19785, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Region IV				
Georgia:				
Dade County, unincorporated areas	130246	Aug. 6, 1974, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Upson County, unincorporated areas	130407	Feb. 18, 1976, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Knox County, unincorporated areas	210131	July 29, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Thomaston, city of, Upson County	130408	Jan. 21, 1974, Emerg.; Mar. 1, 1976, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Region V				
Michigan:				
Au Gres, city of, Arenac County	260012	July 26, 1973, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Au Gres, township of, Arenac County	260013	May 15, 1973, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Ohio:				
Apple Creek, village of, Wayne County	390642	Dec. 19, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Wayne County, unincorporated areas	390574	June 23, 1976, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Lancaster, city of, Fairfield County	390161	July 28, 1975, Emerg.; April 17, 1989, Reg.; May 17, 1989, Susp.	4-17-89	Apr. 17, 1989.
Region VII				
Iowa: Elliott, city of, Montgomery County	190209	Dec. 26, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	May 17, 1989.
Region V—Minimal Conversions				
Michigan: Ravenna, township of, Muskegon County	26731	Oct. 6, 1982, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.
Minnesota: Waite Park, city of, Stearns County	270461	June 13, 1975 Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.	5-17-89	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.
Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—suspension.

Harold T. Duryee,
Administrator, Federal Insurance Administration.

Issued: April 24, 1989.

[FR Doc. 89-10131 Filed 4-26-89; 8:45 am]
BILLING CODE 6718-21-M

LEGAL SERVICES CORPORATION

45 CFR Part 1626

Restrictions on Legal Assistance to Aliens

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: Revisions to 45 CFR Part 1626 of the Legal Services Corporation's ("LSC" or "Corporation") regulations are intended to conform the rule to changes required by the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603, 100 Stat. 3359 (1986), to LSC's appropriations act for fiscal year 1989, Pub. L. 100-459, 102 Stat. 2223 (1988).

EFFECTIVE DATE: May 30, 1989.

FOR FURTHER INFORMATION CONTACT: Timothy B. Shea, General Counsel, 400 Virginia Avenue SW., Washington, DC 20024-2751, (202) 863-1839.

SUPPLEMENTARY INFORMATION: Notice of proposed revisions to 45 CFR Part 1626 and request for comments was published in the **Federal Register** on October 19, 1988, 53 FR 40914. The revisions were proposed principally to conform the rule to changes required by IRCA and to LSC's appropriations act for fiscal year 1989. Approximately 100 comments from bar associations, LSC recipients, attorneys in private practice, and other interested parties were received and considered by the Corporation.

On November 18, 1988, the LSC Board of Director's Operations and Regulations Committee met to consider the proposed revisions and to hear public comment. After the Committee voted to recommend the proposed rule, with some amendments, to the Board, the LSC Board voted on January 27, 1989, to adopt as final, with one amendment, the Committee's recommendations. Notice of the Board action was furnished to the Appropriations Committees of the House and Senate by letter of February 8, 1989.

Background

Part 1626 was originally promulgated to implement the restrictions on the provision of legal assistance to certain aliens delineated in Pub. L. 97-377, the appropriations act for fiscal year 1983 funds. 48 FR 19750 (May 2, 1983). After comments were received and considered, the final regulation was promulgated on June 20, 1983, 48 FR 28089, and has been in effect since July 20, 1983.

Revisions To Conform to IRCA

A. *Five-Year Restriction.* In November 1986, IRCA was passed, amending the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*, for the purpose of "effectively control[ling] unauthorized immigration to the United States." H. Conf. Rep. 1000, 99th Cong., 2d Sess. 85 (1986). Section 201 of IRCA (Section 245A of INA) provides for the legalization of certain aliens who had been residing illegally in the United States prior to January 1, 1982. However, IRCA also provides in section 201(h) (Section 245A(h) of INA) that such aliens, commonly referred to as "amnesty" aliens, will be ineligible for a period of five years for "any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General." On August 24, 1987, the Department of Justice's Immigration and Naturalization Service (INS) published a proposed rule listing LSC among those programs of financial assistance for which amnesty aliens would be ineligible. 52 FR 31784-31786 (Aug. 24, 1987). The rule, based on IRCA, disqualifies amnesty aliens who become permanent residents from being eligible for legal assistance for a period of five years from the date of grant of temporary resident alien status, unless the alien can qualify independently under another available exception.

Comments to LSC's proposed rule urged that LSC should not be considered a program of financial assistance furnished under Federal law, because LSC recipients do not provide financial assistance to eligible clients; instead, they provide free legal services.

The dispute centers on whether the phrase "program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need" within the meaning of IRCA includes legal services. IRCA, by its terms, appears to answer the inquiry. LSC is not included in IRCA's list of federally funded programs that are excluded from the definition of programs of financial assistance. *See* section 201(h)(4) of IRCA (Section 245A(h)(4) of INA). In addition, section 301(d)(6) of IRCA (Section 210A(d)(6) of INA) specifically exempts LSC from being considered a program of financial assistance for the purposes of Replenishment Agricultural Workers (RAW), so that RAWs are made eligible for legal services. Thus, IRCA clearly indicates that LSC is considered to be a program of financial assistance under the general restriction in section 201(h) of IRCA; otherwise, the exception language for LSC would be wholly unnecessary and reduced to mere surplusage.

Though not an agency, instrumentality, or department of the Federal Government, 42 U.S.C. 2996d, LSC can be described as a program of financial assistance furnished under Federal law. Federal law gives LSC its authority to "provide financial assistance to qualified programs," 42 U.S.C. 2996e(a)(1)(A), and LSC distributes Federal funds to programs to provide services to clients based on financial need. *See* 42 U.S.C. 2996a(3) and 2996f(a)(2).

The fact that LSC recipients provide services rather than cash benefits does not mean that such programs are not programs of financial assistance. Again this construction would render unnecessary the specific exception in section 301(d)(6) making legal services available to RAWs.

Comments urged that only the Attorney General has authority to define which federally funded entities are to be considered programs of financial assistance and that, absent publication of the final rule by INS, LSC has no authority to interpret IRCA as including LSC as such a program. IRCA provides that amnesty aliens are not eligible for any program of financial assistance "as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government." *See* section 201(h)(1)(A)(i) of IRCA (section 245(h)(1)(A)(i) of INA). A final INS rule will constitute a determination by the Attorney General specifying which programs are subject to the rule. However, INS has not yet published its final rule, and LSC recipients need immediate direction as to whether they may represent amnesty aliens who are now eligible to be granted permanent resident alien status. In the event that the Attorney General reaches a conclusion inconsistent with this rule, the Board will revisit the matter.

Comments also suggested that the proposed rule establishing the five-year disqualification period contravenes the spirit of IRCA, because Congress, it was asserted, must have intended to provide free legal assistance to amnesty aliens once they achieve permanent resident

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status. Comments cited IRCA's grant to amnesty aliens of the right to participate in several Federal programs and its general aim that the Attorney General "safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens." Pub. L. 99-603, 100 Stat. 3384 (1986) (sec. 115 of IRCA). Without legal services, the comments reasoned, amnesty aliens would be unable to enforce the rights Congress provided them in IRCA.

The disqualification rule, however, is mandated by the terms of IRCA. LSC cannot "elevate the rhetoric of purpose above the specifics of text," and, therefore, ignore the subtleties and complexities of crafting legislation. *See Common Cause* v. *Federal Election Com'n.*, 842 F.2d 436, 445 (D.C. Cir. 1988).

Finally, setting aside the characterization of LSC as a program of financial assistance, comments insisted that LSC is authorized under its appropriations act to provide legal assistance to amnesty aliens when they receive permanent resident status, regardless of the five-year restriction. Under this view, LSC's appropriations act would provide independent and superior authority for LSC recipients to represent any permanent resident alien, and this authority should not be affected or limited by the IRCA restriction.

The LSC appropriations act does not, by its terms, mandate provision of legal assistance to any class of aliens; it merely forbids legal assistance to certain aliens, principally temporary aliens. The five-year restriction is applicable whether or not amnesty aliens gain permanent status, in part, because IRCA specifically states that its restriction controls "notwithstanding any other provision of law." Section 245A(h)(1) of IRCA, 8 U.S.C. 1255a(h)(1) of INA. Moreover, the rule interprets the five-year restriction in IRCA as being applicable only to the new category of permanent resident amnesty aliens created by IRCA. As noted above, LSC recipients may continue to represent all other categories of permanent resident aliens, as they have in the past.

B. *SAWS, RAWS, and H-2 Agricultural Workers.* IRCA also created three new categories of aliens—Special Agricultural Workers (SAWS), Replenishment Agricultural Workers (RAWS), and H-2 Workers—who are eligible for services from LSC-funded programs. The final rule provides LSC recipients the authority to represent such aliens.

IRCA provides for the adjustment or admittance of special agricultural workers and replenishment agricultural workers. Pursuant to sections 302 and 303 of IRCA, SAWS and RAWS are considered to be permanent resident aliens for all purposes except immigration. *See* 8 U.S.C. 1160(a)(5) and 8 U.S.C. 1161(d)(4). As permanent resident aliens, these agricultural workers are eligible for legal assistance from LSC recipients once their status has been adjusted to that of a SAW or RAW, but not for purposes of attaining such status.

IRCA also created a new non-immigrant sub-category of H-2 workers. These workers are to be considered permanent resident aliens for purposes of receiving assistance from legal services programs with regard to housing, wages, transportation and other conditions of employment under their H-2 contract, but for no other purposes. A new § 1626.11 is included in the revisions to Part 1626 to implement the H-2 worker provisions of IRCA.

Revisions Implementing LSC's Appropriations Act

LSC has adopted a revision to the definition of "on behalf of" in § 1626.3(c) to prevent representation not authorized by LSC's appropriations act. The change will reinforce the prohibition on representation of an ineligible client under the pretense of representing an eligible client. The comments confirmed that there was little disagreement about what the statutory language and the regulation intended; rather, the disagreement focused on the concern that the revision as published in the proposed rule would have added more uncertainty to the rule. Accordingly, the definition was revised to satisfy these concerns by providing that:

> To provide legal assistance "on behalf of" an ineligible alien is to render legal assistance to an eligible client which benefits an ineligible alien and does not affect a specific legal right or interest of the eligible client.

This definition focuses on the identity of the client rather than on whether a benefit flows to either an ineligible or eligible client. Legal assistance that benefits an ineligible alien will be allowed only when an eligible person is in fact the client whose legal interests or rights are advanced by the representation.

Miscellaneous Revisions

A. *Section 1626.4.* The language of § 1626.4(a) has been changed to conform to the language of the appropriations act, which requires an alien to be present in the United States in order to be eligible for legal assistance. Pub. L. 100-459, 102 Stat. 2225 (1988).

The listing of categories of ineligible aliens in § 1626.4(b) has been deleted as unnecessary. An alien who does not fit into one of the categories defined in § 1626.4(a) is not eligible for legal services that are financed by funds appropriated under the relevant appropriations act.

B. *Section 1626.5.* Section 1626.5 has been changed to delete as unnecessary the listing of documents which do not provide evidence of eligible alien status. To be eligible for legal services, an alien must present one of the documents stated in § 1626.5(b).

The new paragraph (c) of § 1626.5 states that a Special Agricultural Worker who presents an INS Form I-688 is eligible for legal services.

Section 1626.5(f), which permits brief advice by telephone, has been revised to clarify that "brief advice" is limited to advice provided by telephone and does not include continuous representation of a client.

C. *Section 1626.10(a).* Paragraph (a) has been revised because the term "Micronesia" is a geographic rather than a political term. This change makes the language of § 1626.10(a) more precise and, in addition, restates congressional intent that residents of these political entities are eligible to be clients of a legal services program.

Technical Corrections

The authority section of Part 1626 has been revised to include LSC's current appropriations act. In addition, all references in Part 1626 to Pub. L. 93-355 have been changed to LSC's fiscal year 1989 appropriations act, Pub. L. 100-459, and "any succeeding act which contains the same restrictions." This revision is necessary to eliminate the necessity of amending the regulation annually.

Reprogramming

Pursuant to Pub. L. 100-459, 102 Stat. 2226 (1988), the Corporation is required to give 15 days notice to the appropriations committees of both Houses of Congress prior to publishing as final revisions to its regulations. Reprogramming letters were duly sent to the appropriate committees, and responses were received from both the House and Senate Subcommittees of the Departments of Commerce, Justice, and State, the Judiciary and related agencies. The Senate committee expressed disagreement with the LSC Board's interpretation of IRCA, and stated that it preferred to withhold consideration of approval until the Attorney General makes a final decision as to whether LSC is a program of financial assistance for the purposes of IRCA. The House committee, also concerned about the statutory authority of the Attorney General to issue a rule on the issue, stated that it could not, at this time, approve the regulations.

After careful analysis, as set out above, the Corporation believes that its recipients need immediate direction as to whether they may represent amnesty aliens who are now eligible to be granted permanent resident alien status. An expression of committee disapproval, while respectfully considered, does not affect the authority of LSC to publish its revisions as final, as only notice, and not approval, is statutorily required. Pub. L. 100-459, 102 Stat. 2226 (1988); 130 CONG. REC. S8588-8589 (daily ed. June 28, 1984); and *Principles of Federal Appropriations Law* 2-29 (GAO ed. 1982).

List of Subjects in 45 CFR Part 1626

Aliens, Legal services, Privacy, Reporting and recordkeeping requirements.

For the reasons set out above, 45 CFR Part 1626 is amended as follows:

PART 1626—RESTRICTIONS ON LEGAL ASSISTANCE TO ALIENS

1. The authority citation for Part 1626 is revised to read as follows:

Authority: Sec. 1006(e); Pub. L. 93-355, 88 Stat. 378 (42 U.S.C. 2996g(e)); Pub. L. 99-603, 100 Stat. 3417; Pub. L. 100-459, 102 Stat. 2186.

2. Section 1626.1 is revised to read as follows:

§1626.1 Purpose.

This part is designed to assist recipients in determing the eligibility and immigration status of persons who seek legal assistance, to provide guidelines for referral of ineligible persons, and to protect the confidentiality of information obtained from clients and prospective clients. This part does not apply to any case or matter in which assistance is not being provided with funds appropriated under Pub. L. 100-459 or any succeeding act which contains the same restrictions.

3. Section 1626.2 paragraph (b) is revised to read as follows:

§ 1626.2 Definitions.

* * * * *

(b) "Ineligible alien" means an alien who does not meet the requirements of §1626.4(a) and who is consequently determined not to be eligible to receive legal assistance under Pub. L. 100-459 or any succeeding act which contains the same restrictions.

* * * * *

4. Section 1626.3 is revised to read as follows:

§1626.3 Prohibition of legal assistance "for or on behalf of" an ineligible alien.

(a) *General.* No funds made available to a recipient by the Corporation under the authority of Pub. L. 100-459 or any succeeding act which contains the same restrictions shall be used to provide legal services for or on behalf of any person unless that person is a citizen of the United States or an eligible alien.

(b) *Prohibited Legal Assistance "for" an Ineligible Alien.* (1) To provide legal assistance "for" an ineligible alien is equivalent to furnishing legal assistance to a client and it shall be deemed to be coextensive with accepting an ineligible alien as a client. Consequently, all recipients are prohibited from using Corporation funds to pay any costs connected with furnishing legal assistance to clients who are ineligible aliens.

(2) Normal intake procedures and referral of ineligible alien clients by the same procedures used to refer other classes of ineligible clients are excepted from this prohibition. If a referral is not possible, an ineligible alien client may not be represented with Corporation funds that contain the same restrictions on such representation. If such an ineligible alien client is referred, a recipient may not participate further in the case using Corporation funds.

(3) The provisions of section 1010(c) of the Legal Services Corporation Act, 42 U.S.C. 2996i(c), do not apply to the expenditure of funds to represent ineligible aliens. Such aliens may be represented if all costs of such representation, including staff time, are funded from non-Corporation sources.

(c) *Prohibited legal assistance "on behalf of" an ineligible alien.* To provide legal assistance "on behalf of" an ineligible alien is to render legal assistance to an eligible client which benefits an ineligible alien and does not affect a specific legal right or interest of the eligible client.

5. Section 1626.4 paragraphs (a) introductory text, (a)(1), and (b) are revised to read as follows:

§1626.4 Alien status and eligibility.

(a) Subject to all other eligibility requirements of the Act, an alien who is present in the United States and who is within one of the following categories shall be eligible for legal services:

(1) An alien lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(20) of the Immigration and Nationality Act (INA) (8 U.S.C. 1101 (a)(20)) except that an alien who has adjusted his status to that of temporary resident alien under the provisions of section 245A of INA (section 201 of IRCA, 100 Stat. 3394, 8 U.S.C. 1255a) shall not be eligible for legal assistance pursuant to the provisions of section 245A(h) of INA (8 U.S.C. 1255a(h)) for a period of five years, which commences on the date the alien is granted temporary resident alien status as determined by INS, whether or not such alien acquires the status of permanent resident alien during the five-year period, unless the alien can qualify independently under another exception to the general restrictions as stated in § 1626.4(a)(2), (3), or (4).

* * * * *

(b) An alien who is not within one of the eligibility categories defined in § 1626.4(a) shall not be eligible for legal services.

6. Section 1626.5 paragraphs (a)(5), (b)(1), (c) and (f) are revised, paragraph (b)(5) is added, and paragraph (a)(6) is removed to read as follows:

§ 1626.5 Verification of citizenship and eligible alien status.

(a) * * *

(5) Baptismal certificate showing place of birth within the United States and date of baptism within two months after birth.

(b) * * *

(1) An alien in the category specified in § 1626.4(a)(1) shall present an Alien Registration Receipt Card (INS Forms I-151 or I-551), a Temporary Evidence of Lawful Admission for Permanent Residence form (INS Form I-181B), or a valid passport and immigration visa.

* * * * *

(5) A recipient may also accept any other authoritative document issued by INS that provides evidence of alien status for the categories of aliens listed in paragraph (b) of this section.

(c) A Temporary Resident Card (INS Form I-688) shall be considered evidence of eligible alien status in the case of a Special Agricultural Worker. *See* § 1626.10(c). This form shall not be considered evidence of eligible alien status in the case of an alien who has obtained an adjustment in status under the General Amnesty provisions of Immigration Reform and Control Act (IRCA), 8 U.S.C. 1255a, unless the alien can qualify independently under another exception to the general restriction as stated in § 1626.4(a) (2), (3), or (4).

* * * * *

(f) No written verification is required when the only service provided for an eligible alien or citizen is brief advice and consultation by telephone. The term "brief advice" is limited to advice provided by telephone and does not include a continuous representation of a client.

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7. Section 1626.6 paragraphs (a) introductory text, (a)(3), and (b)(1) are revised to read as follows:

§ 1626.6 Disposition of cases involving ongoing representation of ineligible aliens.

(a) A recipient may not use funds available to it under the authority of Pub. L. 100–459 or any succeeding act which contains the same restrictions to provide legal assistance to ineligible aliens; other alternatives must be used to dispose of pending cases in which the client is an ineligible alien. Generally three alternatives are available:

* * * * *

(3) Continuance of representation supported by funds available to the recipient either from non-Corporation sources or from unexpended carryover balances of pre-1983 Corporation funds. As such other funds will normally be limited, referral or discontinuance of representation should be chosen wherever not inconsistent with an attorney's professional responsibilities.

(b)(1) Where referral or discontinuance of representation is not possible and no other funds are available, the recipient may permit a staff attorney to complete the case (or bring it to a stage where referral or discontinuance is possible) on an uncompensated basis. In such instances, the attorney may use the necessary minimum of recipient overhead support, but direct expenditures of funds appropriated by Pub. L. 100–459 or any succeeding act which contains the same restrictions will not be permitted.

* * * * *

8. Section 1626.7 paragraphs (a) introductory text and (b) are revised to read as follows:

§ 1626.7 Change in circumstances.

(a) A recipient shall not use funds made available to it under the authority of Pub. L. 100–459 or any succeeding act which contains the same restrictions to provide legal assistance for or on behalf of an alien if:

* * * * *

(b) A recipient shall discontinue representation supported by Corporation funds under the circumstances described in § 1626.7(a), provided discontinuance is not inconsistent with the attorney's professional responsibilities. In discontinuing representation, a recipient shall follow the procedures set out in § 1626.6. In the event of discovery of false information relating to eligibility as set forth in § 1626.7(a)(3), steps to discontinue representation shall be taken immediately.

9. Section 1626.10 paragraph (a) is revised and paragraph (c) is added to read as follows:

§ 1626.10 Special eligibility questions.

(a) *Micronesia.* The alien restriction stated in the appropriations acts is not applicable to the legal services program in the following Pacific Island entitites:

(1) Commonwealth of the Northern Marianas;

(2) Republic of Palau;

(3) Federated States of Micronesia;

(4) Republic of the Marshall Islands.

All citizens of these entities are eligible to receive legal assistance, provided they are otherwise eligible under the Act.

* * * * *

(c) *Special agricultural workers.* An alien who qualified as a special agricultural worker and whose status is adjusted to that of temporary resident alien under the provisions of IRCA is considered a permanent resident alien for all purposes except immigration under the provisions of section 302 of Pub. L. 99–603, 100 Stat. 3422, 8 U.S.C. 1160(g). Since the status of these aliens is that of permanent resident allen under section 1101(a)(20) of Title 8, these workers are eligible for legal assistance. These workers are ineligible for legal assistance in order to obtain the adjustment of status of temporary resident under IRCA, but are eligible for legal assistance after the application for adjustment of status to that of temporary resident has been filed, as long as such application has not been rejected and the applicant is eligible for services under § 1626.4(a)(2).

10. Section 1616.11 is added to read as follows:

§ 1626.11 H–2 Agricultural workers.

(a) Nonimmigrant agricultural workers admitted under the provisions of 8 U.S.C. 1101(a)(15)(H)(ii), commonly called H–2 workers, are considered to be aliens described in 8 U.S.C. 1101(a)(20) and, as such, are eligible for legal assistance regarding the matters specified in section 305 of the Immigration Reform and Control Act of 1986. Pub. L. 99–603, 100 Stat. 3434, 8 U.S.C. 1101 note.

(b) The following matters which arise under the provisions of the worker's specific employment contract may be the subject of legal assistance by an LSC-funded program:

(1) Wages;

(2) Housing;

(3) Transportation; and

(4) Other employment rights as provided in the worker's specific contract under which the nonimmigrant worker was admitted.

11. Section 1626.12 is added to read as follows:

§ 1626.12 Replenishment agricultural workers.

Aliens who acquire the status of aliens lawfully admitted for temporary residence as replenishment agricultural workers under section 210A(c) of the Immigration and Nationality Act, such status not having changed, are considered to be aliens described in 8 U.S.C. 1101(a)(20) and, as such, are eligible for legal assistance.

Timothy B. Shea,

General Counsel.

April 21, 1989.

[FR Doc. 89–10061 Filed 4–26–89; 8:45 am]

BILLING CODE 7050–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1825 and 1852

Interim Changes to the NASA FAR Supplement on Domestic Preference

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: This notice establishes interim amendments to the NASA Federal Acquisition Regulation Supplement, Chapter 18 of the Federal Acquisition Regulations System and invites written comments on these interim amendments. The rule implements section 209 of Pub. L. 100–685, the FY 89 NASA Authorization Act which contains a special domestic preference ("Buy American") provision.

EFFECTIVE DATE: April 30, 1989.

ADDRESS: Comments should be addressed to W.A. Greene, Chief, Regulations Development Branch, Office of Procurement, Procurement Policy Division, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Telephone: (202) 453–8923.

SUPPLEMENTARY INFORMATION:

Background

NASA is issuing interim changes to the NASA FAR Supplement to implement section 209 of Pub. L. 100–685, the FY 89 NASA Authorization Act. For the second time in two years, Congress has placed a domestic preference ("Buy American") provision in the NASA Authorization Act. The provision differs from the Buy American Act in several aspects. The NASA provision applies only to manufactured supplies, while the Buy American Act applies to manufactured and unmanufactured supplies. The NASA provision provides a preference for domestic firms offering domestic products, unlike the Buy American Act which applies only to domestic products. Offers from foreign firms must be evaluated by adding a six percent differential in accordance with this new provision, whereas the Buy American Act also prescribes a twelve percent differential to be applied to the foreign offer when offers from small business or labor surplus area concerns are received.

The NASA domestic preference is to be applied after application of other international acquisition laws. It requires that award be made to a domestic firm if, after the use of competitive procedures, award to a foreign firm is indicated but the following three criteria are met: (1) the final manufactured end product of the domestic firm will be completely assembled in the United States; (2) not less than 50 percent of the final product will be domestically produced; and (3) the domestic offer does not exceed the foreign offer by more than 6 percent.

There are three exceptions. The law need not be applied when (1) application would not be in the public interest; (2) compelling national security considerations require otherwise; or (3) the United States Trade Representative determines that an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. With respect to the third exception, NASA has obtained from the United States Trade Representative a blanket determination that the NASA domestic preference is not to be applied when competitive procedures result in an apparent award to a foreign firm for an end product from a country that has signed the Agreement on Government Procurement ("Code country") or from certain other countries.

Crafting appropriate regulatory implementation of the law has been a lengthy process. NASA considers avoidance of any further delay in complying with the statute to constitute urgent and compelling circumstances. Therefore, the changes are being issued as an interim rule without public comment prior to their effectivity.

Impact

E.O. 12291. The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. This regulation falls within the exemption.

Regulatory Flexibility Act. These revisions will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Moreover, the proposed coverage merely implements a section of Pub. L. 100–685 which is expected to apply to very few, if any, potential contractors during any particular year. Therefore, the Regulatory Flexibility Act does not apply.

Paperwork Reduction Act. This interim rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980.

List of Subjects in 48 CFR Parts 1825 and 1852

Government procurement.

L.E. Hopkins,

Deputy Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Parts 1825 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1825—FOREIGN ACQUISITION

2. Part 1825 is amended by adding Subpart 1825.71 to read as follows:

Subpart 1825.71—NASA Domestic Preference

1825.7100 Scope of subpart.
1825.7101 Definitions.
1825.7102 Policy.
1825.7103 Procedures.
1825.7104 Determination by United States Trade Representative.
1825.7105 Solicitation provision and contract clause.

Subpart 1825.71—NASA Domestic Preference

1825.7100 Scope of subpart.

This subpart implements section 209 of Pub. L. 100–685, the National Aeronautics and Space Administration Authorization Act of 1989.

1825.7101 Definitions.

"Code country," as used in this subpart, means a country that is a signatory to the Agreement on Government Procurement (the "Procurement Code"). The Code countries are Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Hong Kong, Ireland, Israel, Italy, Japan, Luxenbourg, Netherlands, Norway, Singapore, Sweden, Switzerland, and United Kingdom.

"Code country end product," as used in this subpart, means an article that (a) is wholly the growth, product, or manufacture of the Code country, or (b) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply; provided, that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such (see FAR 25.401).

"Components," as used in this subpart, means those articles, materials, and supplies incorporated directly into the end products.

"Domestic firm," as used in this subpart, means a business entity that is organized under the laws of the United States and that conducts business operations in the United States.

"Domestic product," as used in this subpart, means the final manufactured end product of a domestic firm that will be completely assembled in the United States and of which, when completely assembled, not less than 50 percent of the cost of all the components will be domestically incurred.

"Foreign firm," as used in this subpart, means a business entity other than a domestic firm.

"Procurement code," as used in this subpart, means the Agreement on Government Procurement (see FAR 25.400).

1825.7102 Policy.

(a) When the use of competitive procedures to buy an end product (see FAR 6.1 and 6.2) results in an apparent award of a contract to a foreign firm, the contracting officer shall award the contract to a domestic firm offering a domestic product if the domestic offer does not exceed the foreign offer by more than six percent.

(b) Paragraph (a), above, does not apply if—

(1) Such applicability would not be in the public interest;

(2) Compelling national security considerations require otherwise; or

(3) The United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. Examples of such international agreements are the Procurement Code,

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the U.S.-Canada Free Trade Agreement, and the U.S.-Israel Free Trade Agreement.

1825.7103 Procedures.

(a) The NASA domestic preference procedure is to be applied when the use of competitive procedures, including any other domestic preference program or exception thereto, indicates award is to be made to a foreign firm.

(b) The contracting officer shall award the contract to that domestic firm offering a domestic product whose price does not exceed the price of the low foreign firm by more than six percent, unless the contracting officer has documented the file to indicate that one or more of the conditions at 1825.7102(b) applies.

1825.7104 Determination by United States Trade Representative.

The United States Trade Representative has determined that when NASA is procuring supply-type products, application of the domestic preference established by section 209 of the National Aeronautics and Space Administration Authorization Act of 1989 would violate the General Agreement on Tariffs and Trade, and certain international agreements to which the United States is a party, when the following conditions exist:

(a) NASA is using competitive procurement procedures; and

(b) NASA receives one or more offers from foreign firms to supply—

(1) A Code country end product at a price above the Trade Agreement Act threshold;

(2) A Canadian end product (see FAR 25.401) at a price above $35,000 and below the Trade Agreements Act threshold; or

(3) An Israeli end product at a price above $35,000.

1825.7105 Solicitation provisions and contract clause.

The contracting officer shall insert the provision at 1852.225–74, NASA Domestic Preference Certificate, and the clause at 1852.225–75, NASA Domestic Preference, in all competitive solicitations and contracts for supplies for which amounts are made available under the NASA Authorization Act, Fiscal Year 1989.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Part 1852 is amended by adding 1852.225–74 and 1852.225–75 to read as follows:

1852.225–74 NASA Domestic Preference Certificate

As prescribed in 1825.7105, insert the following provision:

NASA Domestic Preference Certificate (April 1989)

(a) For purposes of this provision, the following definitions apply:

"Code country," as used in this subpart, means a country that is a signatory to the Agreement on Government Procurement (the "Procurement Code"). The Code countries are Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Hong Kong, Ireland, Israel, Italy, Japan, Luxenbourg, Netherlands, Norway, Singapore, Sweden, Switzerland, and United Kingdom.

"Code country end product," as used in this subpart, means an article that (a) is wholly the growth, product, or manufacture of the Code country, or (b) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that to the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply; provided, that the value of those incidental services does not exceed that of the product itself. If does not include service contracts as such (see FAR 25.401).

"Components," as used in this provision, means those articles, materials, and supplies incorporated directly into the end products.

"Domestic firm," as used in this provision, means a business entity that is organized under the laws of the United States and that conducts business operations in the United States.

"Domestic product" means the final product of a domestic firm that will be completely assembled in the United States and of which, when completely assembled, not less than 50 percent of the cost of all the components will be domestically incurred.

"Foreign firm," as used in this provision, means a business entity other than a domestic firm.

"Foreign product," as used in this provision, means a product other than a domestic product.

(b) The offeror certifies that it is [ ] is not [ ] a domestic firm.

(c) The offeror certifies that (1) each final product, except those listed below, will be completely assembled in the United States and (2) when completely assembled, not less than 50 percent of the cost of all the components of the final product will be domestically incurred.

Foreign products (also specify if a product is a Code-country, Canadian, or Israeli end product): (End of provision)

1852.225–75 NASA domestic preference.

As prescribed in 1825.7105, insert the following clause:

NASA Domestic Preference (April 1989)

(a) The NASA domestic preference (Pub. L. 100–147, 101 Stat. 866) provides that NASA give preference to domestically produced and assembled final products of domestic firms.

"Components," as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

"Domestic firm" means a business entity that is organized under the laws of the United States and that conducts business operations in the United States.

"Foreign firm" means a business entity that is not a domestic firm.

(b) The contractor, if certified as a domestic firm, shall deliver only the final product of a domestic firm that will be completely assembled in the United States and of which, when completely assembled, not less than 50 percent of the cost of all the components will be domestically incurred. (End of clause)

[FR Doc. 89–10191 Filed 4–26–89; 8:45 am]
BILLING CODE 7510–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 81020–9009]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Specification increase; correction.

SUMMARY: NOAA issues this notice to correct omissions in the previous notices of Atlantic mackerel specification increases which were published on February 23, 1989 (54 FR 7777) and on March 14, 1989 (54 FR 10549). The regulations contained at § 655.21(b)(1)(iv) provide for incidental catch levels of *Loligo* squid and butterfish in relation to the TALFF for Atlantic mackerel. Therefore, IOYs for *Loligo* squid and butterfish are adjusted consistent with § 655.21(b)(1)(v) and the increase in the IOY of Atlantic mackerel. These increases support TALFF fisheries which are conducted in association with joint ventures involving U.S. mackerel fishermen, and are made to produce maximum net benefits to the United States. The following table lists the corrected specifications including the appropriate bycatch amounts for *Loligo* squid and butterfish, which were omitted in the previous notices and reflects the Atlantic mackerel specification increases accomplished pursuant to the previous notices identified above. Specification increases are made for the initial optimum yield (IOY) and total allowable level of foreign fishing (TALFF) for mackerel, *Loligo* squid and butterfish, and the domestic annual harvest (DAH) and joint venture processing (JVP) for mackerel.

EFFECTIVE DATE: April 21, 1989.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, (508) 281–9273.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 21, 1989.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

TABLE.—SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR JANUARY 1 THROUGH DECEMBER 31, 1989

	Loligo squid		Atlantic mackerel		Butterfish	
	Specification	Increase to	Specification	Increase to	Specification	Increase to
Max OY [a]	44,000		[b] N/A		16,000	
ABC [c]	37,000		330,000		16,000	
IOY [d]	22,012	[d] 22,020	74,000	101,000	10,024	[d] 10,041
DAH	22,000		[e] 44,000	[e] 50,000	10,000	
DAP	22,000		20,000		10,000	
JVP	0		10,000	16,000	0	
TALFF [f]	12	[d] 20	[e] 30,000	51,000	24	[d] 41

[a] Maximum OYs as stated in the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP).
[b] Not applicable; see the FMP.
[c] IOY can rise to this amount.
[d] Corrections.
[e] Includes 14,000 mt projected recreational catch.
[f] For every 9 mt TALFF, foreign partner is required to purchase 3 mt JVP and 1 mt U.S. processed product.

[FR Doc. 89–10041 Filed 4–21–89; 5:09 pm]
BILLING CODE 3510–22–M

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Proposed Rules

Federal Register
Vol. 54, No. 80
Thursday, April 27, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1930

Stewart B. McKinney Homeless Assistance Amendment of 1988; Removal of Rent Increase Condition

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed Rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its Multiple Family Housing Management and Supervision regulations to comply with recent legislation enacted by Congress which removes the requirement of incurring operating cost before qualifying for a rent increase. The intended effect is to make it easier and more feasible for the borrower to request a needed rent charge.

DATE: Comments must be received on or before June 26, 1989.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives and Management Branch, FmHA, Room 6348, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Carolyn B. Cooksie, Loan Specialist, Multiple Family Housing Servicing and Property Management Division, Room 5321–S, Farmers Home Administration, USDA, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 382–1599.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined "nonmajor." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or Local government agencies, or geographic regions or significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 92–90, an Environmental Impact Statement is not required.

Intergovernmental Review

The programs listed in the Catalog of Federal Domestic Assistance under number 10.405 Farm Labor Housing Loans, 10.415 Rural Rental Housing Loans, and 10.427 Rural Rental Assistance Payments are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983.)

General Information

Background and Statutory Authority

The Stewart B. McKinney Homeless Assistance Amendments of 1988 rescinded paragraph (h) of (42 U.S.C. 1485) section 515 of the Housing Act of 1949. This removes the requirement that loans approved after November 30, 1983, must incur operating cost before qualifying for a rent increase.

Exhibit C, paragraph III A, and paragraph VI C provides that FmHA 515 Multi-Family Housing borrowers who have loans approved after November 30, 1983, must incur operating cost before qualifying for a rent increase. This revision removes that requirement.

The undersigned has determined that this action will not have a significant economic impact on a substantial number of small entities such as governmental units or special districts with a population of less than 50,000.

List of Subjects in 7 CFR Part 1930

Accounting, Administrative practice and procedure, Grant programs—Housing and community development, Loan program—Housing and community development, Low and moderate-income housing—Rental, Reporting and recordkeeping requirements.

Accordingly FmHA proposes to amend Part 1930, Subpart C, Title 7, Code of Federal Regulations as follows:

PART 1930—GENERAL

1. The authority citation for Part 1930 continues to read as follows:

Authority: 42 USC 1480; 7 CFR 2.33; 7 CFR 2.70.

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

2. Exhibit C is amended by removing paragraph VI C and redesignating paragraph VI D as paragraph VI C and by revising paragraphs III A and IV A 1 to read as follows:

Exhibit C—Rent Changes

* * * * *

III * * *

A. All RRH and LH applicants will be informed at the application stage of the agency's rent change procedure. All borrowers will be advised that all proposed rent changes must comply with this Exhibit. This Exhibit will also apply to rent changes resulting from Housing and Urban Development's (HUD) Automatic Annual Adjustment Factors for units receiving section 8, assistance. Requests for a rental change will be based on a realistic projected budget for the interim year or the ensuing full year.

IV * * *

A * * *

1. Facts demonstrating the need and justification for a rent change in accordance with paragraph III A of this Exhibit.

* * * * *

Dated: March 27, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–10030 Filed 4–26–89; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA–111–86]

Taxable Years Beginning After December 31, 1986; Changes With Respect to Prizes and Awards and Employee Achievement Awards; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to prizes and awards and employee achievement awards. These amendments are proposed to conform the regulations to section 122 of the Tax Reform Act of 1986 (Pub. L. 99–514).

DATES: The public hearing will be held on Friday, June 2, 1989, beginning at 10:00 a.m. Request to speak and outlines of oral comments must be delivered on or mailed by Friday, May 19, 1989.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW. Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (IA–111–86), Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage, telephone (202) 343–0232 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations appearing in the Federal Register for Monday, January 9, 1989, (54 FR 627).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on proposed regulations should submit, not later than Friday, May 19, 1989, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers.

Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89–10021 Filed 4–26–89; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 172

[DoD Instruction 7310.1]

Disposition of Proceeds From Sales of DoD Excess and Surplus Personal Property

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed Rule.

SUMMARY: The part proposes revised and expanded instructions on the collection and disposition of payments received in connection with DoD sales of excess and surplus property made under authority of the Federal Property and Administrative Service Act of 1949. The issuances include new guidance on term bids, use of credit cards and expedited return of negotiable instruments to losing bidders. It also contains expanded guidance on the form of payment required in support of bids and final settlement.

DATES: Comments should be received by May 30, 1989.

ADDRESSES: Office of the Comptroller, DoD, Rm. 3A882, Pentagon, Washington, DC 20301–1100.

FOR FURTHER INFORMATION CONTACT: Mr. Melburn, Telephone (202) 697–6837

SUPPLEMENTARY INFORMATION:

List of Subjects 32 CFR Part 172

Defense contracts, Government property management.

Accordingly, Title 32, Subchapter E, is proposed to be amended to add Part 172 to read as follows:

PART 172—DISPOSITION OF PROCEEDS FROM SALES OF DOD EXCESS AND SURPLUS PERSONAL PROPERTY

Sec.
172.1 Purpose.
172.2 Applicability and scope.
172.3 Policy.
172.4 Procedures.
Appendix A—Effort Associated with the Disposal of Recyclable Material
Appendix B—Disposition of Amounts Collected From Successful Bidders.

Authority: 40 U.S.C. 484 and 485, 10 U.S.C. 2577.

§ 172.1 Purpose.

This part provides revised and expanded instructions on the collection and disposition of cash and cash equivalents received by the DoD Components in connection with the sale of DoD excess and surplus personal property.

§ 172.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, and the Defense Agencies (hereafter referred to as "DoD Components").

(b) This part is applicable to the proceeds resulting from sales made under authority of the Federal Property and Administrative Services Act of 1949. It applies to the following:

(1) Personal property governed by the Defense Disposal Manual, DoD 4160.21–M.[1]

(2) Surplus Government-owned personal property in the possession of contractors as described in 48 CFR Subpart 45.6 of the Federal Acquisition Regulation.

(3) Recyclable material governed by 10 U.S.C. 2577. Such materials would otherwise be sold as scrap or discarded as waste but are capable of being reused after undergoing some type of physical or chemical processing. The recycling of hazardous materials shall be accomplished with due recognition of the types of materials being processed and any applicable regulation governing the handling and disposal of such materials. Qualified recyclable materials do not include the following:

(i) Precious metal-bearing scrap and those items that may be used again for their original purposes or functions without any special processing, for example, used vehicles, vehicle or machine parts, bottles (not scrap glass),

[1] Defense Logistics Agency, Attn. DLA—XPD Alexandria, VA 22304.

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electrical components, and unopened containers of oil or solvents.

(ii) Ships, planes, or weapons that must undergo demilitarization or mutilation prior to sale.

(iii) Scrap generated from DoD industrial fund operations that has been routinely sold with the proceeds being used to offset customer costs.

(iv) Bones, fats and meat trimmings generated by a commissary store or exchange.

§172.3 Policy.

(a) Cash or cash equivalents in the prescribed amounts shall accompany bid deposits for a bid to be considered responsive. Similarly cash or cash equivalents for the total sales price shall be received by the DoD Components or, in authorized cases, by contractors prior to the transfer of physical possession to the successful bidder.

(b) Amounts collected by the DoD Components in connection with the sale of excess and surplus property shall be deposited promptly to the U.S. Treasury accounts prescribed in this Instruction. The use of suspense accounts shall be held to a minimum. If the account ultimately to be credited with the proceeds of a sale can be determined reasonably at the time funds are collected, the deposit shall be made immediately to that account.

(c) The Secretary of each Military Department shall establish qualified recycling programs. The effort associated with the collection, processing and sale of recyclable material is set forth in Appendix A to this part.

(1) Proceeds from the sale of recyclable material shall be used to reimburse installation level costs incurred in operation of the recyclable program.

(2) After reimbursement of the cost incurred by the installation to operate the recycling program, Installation Commanders may use up to 50 percent of remaining sale proceeds for pollution abatement, energy conservation, and occupational safety and health activities. A project may not be carried out for an amount greater than 50 percent of the amount established by law as the maximum amount for a minor construction project.

(3) Any sale proceeds remaining after paragraph (c) (1) and (2) of this section, may be transferred to installation morale of welfare activities. If a nonappropriated funded activity can operate a recycling program for certain material without support from DoD funded activities, an installation commander may transfer applicable material to that activity to dispose of. Applicable collections shall be retained by the nonappropriated fund activity for distribution to morale and welfare activities.

§ 172.4 Procedures.

(a) *Required bid deposits.* When a sale conducted by a DoD Component provides for bid deposit with subsequent removal, the following procedures shall apply:

(1) *Term bid.* This type of bid deposit is applicable when the sale involves the purchase of scrap or disposable material that will be generated over time with periodic removal by the successful bidder. The amount of the bid deposit required to accompany such bids is the average estimated quantity of such material to be generated during a three-month period multiplied by 20 percent of the bid price. The calculation is illustrated as follows:

Estimated quantity of material to be generated each quarter.	3,000	pounds.
Bid price—$1.00 per pound.	× $1.00	
Subtotal	$3,000	
20 percent of bid price	20	percent.
Amount to accompany bid.	$600	

(2) *Other than term bid.* With the exception of term bids, payment in the amount of 20 percent of the bid shall accompany the bid.

(b) *Payment terms.* When a sale conducted by a DoD Component provides for immediate pickup the entire amount of the sales price shall be collected from the buyer at the conclusion of the sale. If the sale provides for a bid deposit, the balance of the bid price shall be paid prior to the delivery of the purchased material to the purchaser:

(c) *Form of payment*—(1) *Cash and certified checks.* When a sale is conducted by a DoD Component cash or its equivalent shall be collected for bid deposits and for remaining amounts due. Guaranteed negotiable instruments, such as cashiers checks, certified checks, travelers checks, bond drafts, postal money orders are acceptable as a cash equivalent.

(2) *Personal checks.* Personal checks may be accepted by a DoD Component only when a bond or a bank letter of credit is on hand that will cover the amount due. If the check is dishonored, amounts due shall be collected from the issuer of the bond or letter of credit.

(i) If a bidder intends to use a bond or letter of credit without an accompanying personal check, the claim against the bond or letter of credit shall be made for any amounts due.

(ii) If personal checks are used, the bond or letter of credit shall be returned intact after the applicable personal checks are honored unless other instructions have been received from the bidder.

(3) *Credit cards.* Approved credit cards may be accepted by a DoD Component for payment.

(i) Prior to intiating any credit card transactions, the selling DoD Component shall enter into an agreement with a network commercial bank. Currently, the Treasury has approved the use of "Master Card" and "Visa" charge cards. Changes or additions to approved credit cards will be announced in DoD Comptroller memoranda or in changes to the Treasury Financial Manual. Except for equipment and communication costs, the Treasury pays any fees normally charged to sellers. If the Treasury policy of paying such charges is changed, any charges for the processing of approved credit card transactions shall be assessed to the buyer.

(ii) If a credit card is used for the bid deposit and authorization is declined, the bid shall be rejected as nonresponsive and other bidders considered.

(iii) Approval for charges against credit cards shall be processed as follows:

(A) The credit card presented shall be passed through the DoD installation's credit card swiper. The swiper is connected electronically with the network commercial bank selected by the DoD Component, and keys are provided to enter the proposed charge amount. If the charge is approved, the swiper will provide an approval number that shall be recorded on the charge slip.

Note: A swiper is an electronic device that is used to capture the magnetic information contained on a credit card and transmit it to the network commercial bank for validation and authorization of a sale. The information captured normally includes the account number, issuing bank, date of expiration of the card, and any credit restrictions that may apply.

(B) The bidder shall sign a standard credit card charge form. The installation shall return a copy of the signed form to the card holder. A copy of the charge slip shall be retained by the selling DoD activity as a record of the sale. On the following business day, the installation Finance and Accounting Officer or the activity providing accounting support shall submit the signed credit card forms with a supporting cover sheet showing the total charges to the network commercial bank. Accounting control must be maintained over such in-transit deposits.

(C) Upon receipt of the credit card charge forms, the network commercial bank will charge the bidder's credit card account and deposit the funds to the Treasury general account. The network commercial bank also is required to forward a copy of the deposit slip to the DoD installation making the sale within one business day. Upon receipt of the deposit slip the in-transit account will be cleared and appropriate accounts credited following the procedures set forth in paragraph (d) of this section.

(iv) If a contractor's bid is provided by message, mail or telephone to the U.S. Government using a credit card in lieu of other forms of payment, the following information is required: account number, bidders name as it appears on the credit card, date of expiration of the card, issuing bank, and the type of card. Any additional cost incurred by the Department of Defense in connection with the use of the charge card, such as telephone calls to obtain approval from the network bank, shall be billed to the purchaser as an additive charge.

(d) *Disposition of proceeds.* (1) Proceeds from the sale of disposable excess and surplus personal property shall be deposited by the collecting DoD Component promptly to the U.S. Treasury accounts prescribed in Appendix B of this part. The use of suspense accounts shall be held to a minimum. If the account ultimately to be credited with the proceeds of a sale can be determined reasonably at the time the funds are collected, the deposit shall be made immediately to that account.

(2) See paragraph (f) of this section for special instructions on the processing of proceeds resulting from the sale of recyclable material.

(e) *Return of bid deposits to unsuccessful bidders.* (1) Cash collected from unsuccessful bidders by a DoD Component shall be deposited to account X6875, "Suspense," and a check shall be drawn on that account to reimburse unsuccessful bidders.

(2) Normally, noncash bid deposits shall be returned to unsuccessful bidders by DoD Components through the mail. However, when a bidder has requested expedited return and has provided the name of a carrier and a charge account number, the designated carrier shall be called to pick up the deposit with applicable delivery costs to bill to the bidder.

(f) *Sales of recyclable material.* The effort associated with collection and processing of Recyclable Material are reflected in Appendix A to this part. When the recycling program is operated by a DoD Component the following Transactions For Others (TFO) procedures apply:

(1) Proceeds from the sale of recyclable material shall be deposited in F3875, "Budget Clearing Account (Suspense)." The deposit to F3875 shall identify the fiscal station and the name of the installation (in clear) that is to receive the proceeds. Deposits that do not provide the necessary information shall be returned formally to the property disposal cashier for provision of the required information.

(2) The Military Department's finance and accounting office receiving the sales proceeds shall mail a copy of the cash collection voucher to the fiscal station shown on the collection voucher. This advance copy shall be used by the fiscal station to record the collection of proceeds to its account and shall be used for follow up purposes as necessary. The copy received through the financial network shall be used to clear the undistributed collection. These vouchers will be mailed in the weekly TFO cycle.

(3) The Military Department's finance and accounting office shall:

(i) Report weekly transactions to the responsible fiscal station cited on the collection voucher, and

(ii) Report the collections within the same month in the Statement of Transactions to the Treasury.

(g) *Contractor retained proceeds.* (1) 48 CFR 245.610 of the DoD FAR Supplement (DFARS) states that a contracting officer may allow a contractor to sell Government Furnished Property and retain the proceeds from the sale. The following procedures shall be used to assure proper accounting for such retained proceeds.

(2) The contractor making the sale may follow normal company policy with respect to bid deposits and form of payment. However, any loss associated with dishonored payment shall be the contractor's responsibility.

(3) The Administrative Contracting Officer (ACO) is responsible for notifying the appropriate accounting office of the amounts collected by the contractor. The ACO also shall notify the accounting office whether such collection shall:

(i) Represent an increase in the dollar value of the applicable contract(s); or

(ii) Be made in lieu of disbursements on the applicable contract(s).

(4) The accounting office for the contract is idenified in the accounting classification code. See chapter 17 of the DoD Accounting Manual, DoD 7220.9-M,[2] for additional information.

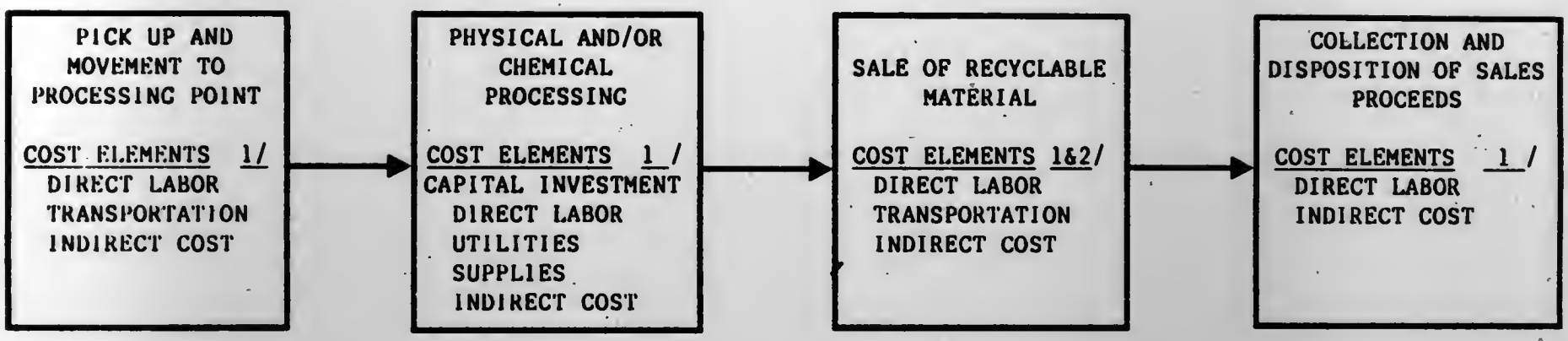
(5) The accounting office shall prepare the source documents necessary to account for the transaction properly. In both alternatives (see paragraphs (g)(2)(i) or (ii) of this section), an accounting entry shall be made to reflect the creation of reimbursable obligational authority and the use of such authority. In addition, the value of GFM or GFE general ledger asset accounts shall be reduced.

BILLING CODE 3810-01-M

[2] National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161.

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APPENDIX A-EFFORT ASSOCIATED WITH THE DISPOSAL OF RECYCLABLE MATERIAL



FOOTNOTE:

1/ The proceeds of sales of DoD purchased materials, labor and assets shall be recouped on the basis of a sale to "Another Federal Agency" as prescribed in chapter 26, DoD Accounting Manual, DoD 7220.9-M (reference (h)). This procedure excludes capital investment costs. However, such costs may be paid from recyclable material sales proceeds in their entirety and, therefore, amortization of capital items is not applicable.
2/ When Defense Logistics Agency (DLA) acts as the disposal agent, the cost of coordinating sales incurred by DLA are not charged to the recycling program.

APPENDIX B-DISPOSITION OF AMOUNTS COLLECTED FROM SUCCESSFUL BIDDERS

Type of Property	Disposition of:	
	(20%) Bid Deposit	(80%) Remaining Balance
1. Scrap turned in by industrial fund (IF) activities	IF	IF
2. Usable personal property purchased by and turned in by IF activities	IF	IF
3. Property purchased with funds from trust fund _X8420, "Surcharge Collections, Sales of Commissary Stores"	__X8420	__X8420
4. Automatic data processing equipment owned by the General Services Administration (GSA) and leased to DoD	__F3875, Budget Clearing Account (Suspense)	__F3875. Upon receipt of the entire amount due from the bidder, a check shall be drawn on the suspense account and forwarded to GSA at the following address: General Services Administration Office of Finance (WBCRC) Collections and Securities 7th and I Streets, NW, Washington, D.C. 20407
5. Property issued under the Military Assistance Program (MAP) and returned as no longer needed, and MAP funded administrative property belonging to Military Assistance Advisory Groups	11__1080, "Military Assistance, Funds Appropriated to the President"	11__1080

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APPENDIX B-DISPOSITION OF AMOUNTS COLLECTED FROM SUCCESSFUL BIDDERS (Con't)

Type of Property	Disposition of:	
	(20%) Bid Deposit	(80%) Remaining Balance
6. Coast Guard property under the physical control of the Coast Guard at the time of sale.	__F3875	__F3875. Upon receipt of the entire amount due from the bidder, a check shall be drawn on the suspense account and forwarded to the Coast Guard at the following address: Commandant U.S. Coast Guard (GFAC) Washington, D.C. 20593
7. Property owned by nonappropriated fund instrumentalities, excluding garbage suitable for animal consumption that is disposed of under a multiple-pickup contract	__X6875, "Suspense"	__X6875. Upon receipt of the entire amount due from the bidder, a check shall be drawn on the suspense account and forwarded to the applicable instrumentality

APPENDIX B-DISPOSITION OF AMOUNTS COLLECTED FROM SUCCESSFUL BIDDERS (Con't)

Type of Property	Disposition of:	
	(20%) Bid Deposit	(80%) Remaining Balance
8. Recyclable material NOTE 1/ 10 USC 2577 limits the amounts which can be held in F3875 at the end of any fiscal year resulting from the program to $2 million. Amounts in excess of $2 million are to be transferred to Miscellaneous Receipts of the Treasury. This instruction provides for immediate distribution of all sales proceeds received from the recyclable program. Therefore no amounts should be transferred to Miscellaneous Receipts.	__F3875 1/	__F3875. 1/ Upon receipt of the entire amount due from the bidder, deposit total proceeds to the accounts designated by the DoD Military Installation that gave the material up for disposal.

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APPENDIX B-DISPOSITION OF AMOUNTS COLLECTED FROM SUCCESSFUL BIDDERS (Con't)

Type of Property	Disposition of: (20%) Bid Deposit	Disposition of: (80%) Remaining Balance
9. Lost, abandoned, or unclaimed privately owned personal property	972651, "Sale of Scrap and Salvage Materials, Defense"	__X6001, Proceeds of Sales of Lost, Abandoned or Unclaimed Personal Property." The owner(s) of lost, abandoned, or unclaimed property may claim net of the proceeds from sale of that property within 5 years of the date of the sale by providing proof of ownership to the government. After 5 years from the date of the sale, any unclaimed net proceeds shall be transferred from __X6001 to general fund miscellaneous receipt account __1060, "Forfeitures of Unclaimed Money and Property."
10. Property owned by a country or international organization	Operation and maintenance appropriation of the DoD Component that sells the property. (This is reimbursement for selling expenses.)	__X6875. Upon receipt of the entire amount due from the bidder, a check for 80% of the sales price shall be drawn on the suspense account and forwarded to the applicable foreign country or international organization.
11. Bones, fats, and meat trimmings generated by a commissary store	Stock Fund	Stock Fund
12. All other property.	972651	972651

BILLING CODE 3810-01-C

APPENDIX B-DISPOSITION OF AMOUNTS COLLECTED FROM SUCCESSFUL BIDDERS (Con't)

Type of Property	Disposition of: (20%) Bid Deposit	Disposition of: (80%) Remaining Balance
13. Government furnished property sold by contractors	1/	1/

NOTE

1/ See subsection D.7. of the basic Instruction.

April 21, 1989.
L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
[FR Doc. 89-10047 Filed 4-26-89; 8:45 am]
BILLING CODE 3810-01-M

POSTAL SERVICE

39 CFR Part 927

Rules of Procedure Relating to Fines, Deductions and Damages

AGENCY: Postal Service.

ACTION: Withdrawal of proposed rule.

SUMMARY: In light of comments received, which are summarized in the Supplementary Information, the Postal Service is withdrawing the proposed rule to increase the civil fines for mail handling irregularities on air routes extending beyond the borders of the United States.

FOR FURTHER INFORMATION CONTACT: H. L. Buckley (202) 268-4361.

SUPPLEMENTARY INFORMATION: On September 27, 1988, the Postal Service published a proposed rule, which would have increased the civil fines levied against air carriers for mail handling irregularities on air routes extending beyond the borders of the United States.

Four comments were received in response to the proposed rule. The commenters stated, among other things, that they felt the increases were not justified since they were far in excess of the current rates of inflation. Others said that the proposal assumed that airlines were capable of performing at one hundred percent of proficiency, which is impossible. They also said that the increases could drive mail business to foreign flag carriers, and possibly upset the current economics for the transportation of certain lower rated military mail.

In view of these comments, the Postal Service has decided to withdraw the proposed rule. The Postal Service will, however, convene a group composed of industry and postal representatives, to continue to study the current procedures pertaining to fines, deductions, and damages in order to determine whether any other adjustments may be appropriate.

Fred Eggleston,
Assistant General Counsel, Legislative Division.
[FR Doc. 89-10045 Filed 4-26-89; 8:45 am]
BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[General Docket No. 89-78; FCC 89-104]

Inquiry Into the Need for a Universal Encryption Standard for Satellite Cable Programming

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Federal Communications Commission is initiating this inquiry pursuant to Congressional instructions in the Satellite Home Viewer Act of 1988. The Act directs the Commission to initiate an inquiry concerning "the need for a universal encryption standard that permits decryption of satellite cable programming intended for private viewing." The Act provides that, if the Commission finds that such a standard is necessary and in the public interest, then "it shall initiate a rulemaking to establish such a standard."

DATES: Comments must be submitted on or before June 5, 1989, comments on or before June 20, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan D. Levy, Office of Plans and Policy, (202) 653-5940.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Inquiry* in General Docket No. 89-78, FCC 89-104, Adopted March 30, 1989 and released April 14, 1989.

The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC 20554. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Notice of Inquiry

The Satellite Home Viewer Act of 1988 directs the Federal Communications Commission to initiate an inquiry concerning "the need for a universal encryption standard that permits decryption of satellite cable programming intended for private viewing." The Act provides that, if the Commission finds that such a standard is necessary and in the public interest, then "it shall initiate a rulemaking to

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establish such a standard. *See* Pub. L. No. 100-667, 102 Stat. 3949, 3958-59 (1988).

Congress directed the Commission to take six factors into account in its standards inquiry. They are—

(1) Consumer costs and benefits of any such standard, including consumer investment in equipment in operation;

(2) Incorporation of technological enhancements, including advanced television formats;

(3) Whether any such standard would effectively prevent present and future unauthorized decryption of satellite cable programming;

(4) The costs and benefits of any such standard on other authorized users of encrypted satellite cable programming, including cable television systems and satellite master antenna television systems;

(5) The effect of any such standard on competition in the manufacture of decryption equipment; and

(6) The impact of the time delay associated with the Commission procedures necessary for establishment of such standards.

Although the Commission concluded in an earlier proceeding that imposition of a government-mandated encryption standard would not serve the public interest, in this inquiry it will undertake a thorough re-examination of the issue of encryption standards. As part of the inquiry, the Commission invites comment on and critique of its earlier analysis. Commenters in this proceeding are also requested to provide any additional information relevant to a public interest determination regarding encryption standards for satellite cable programming.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-10142 Filed 4-26-89; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 54, No. 80

Thursday, April 27, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 21, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who wil be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg. Washington, DC 20250, (202) 447-2118.

Revision

• Animal and Plant Health Inspection Service.

• Black Stem Rust Inspector's Report PPQ 543.

Annually.

State or local governments; Farms; Businesses or other for-profit; Federal agencies or employees Small businesses or organizations; 1,819 response; 635 hours; not applicable under 3504(h).

Andrea M. Elston (301) 436-5100.

Extension

• For and Nutrition Service

Form FNS-155, Receipt and Distribution of Donated Commodities.

FNS Form 155.

Monthly.

State or local governments; 1,008 responses; 2,016 hours; not applicable under 3504(h).

Diane Berger (703) 756-3660.

• Agricultural Stabilization and Conservation Service.

Financial Statement.

ASCS-398.

On occasion

Farms; 8,000 responses; 8,000 hours; not applicable under 3504(h).

Beverly Pritts (202) 447-8374.

Animal and Plant Health Inspection Service.

Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There is Reason to Believe are Plant Pests.

APHIS 2000.

On occasion.

State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 1,076 responses; 2,579 hours; not applicable under 3504(h).

Arnold Foudin (301) 436-7612.

• Agricultural Stabilization and Conservation Service.

ASCS-325, Application For Payment of Amounts Due Persons Who Have Died, Disappeared, or Who Have Been Declared Incompetent.

ASCS-325.

On Occasion.

Individuals or households; 3,000 responses; 1,500 hours; not applicable under 3504(h).

Edna I. Samons (202) 475-5700.

Animal and Plant Health Inspection Service.

Importation of Aminal & Poultry, Animal/Poultry Products, Certain Animal Embryos, Semen and Zoological Animals.

VS 17-6, 17-11, 17-12, 17-20, 17-23, 17-29, 17-32, 17-65A, 17-65B, 17-65C, 17-129, 17-130, 17-135A.

Recordkeeping; Annually

Businesses or other for-profit; 20,841 responses; 5,696 hours; not applicable under 3504(h).

Samuel Richeson (301) 436-8144.

New Collection

• Economic Research Service.

Honey Producers, Importers and Brokers Survey.

None.

On occasion.

Individuals or households; Farms; Businesses or other for-profit; Small businesses or organizations; 2,131 responses; 2,131 hours; not applicable under 3504(h).

Frederic L. Hoff (202) 786-1883.

Reinstatement

• Agricultural Stabilization and Conservation Service.

Contract to Participate in Production Adjustment Programs and Price Support Programs.

CCC-477, 477A, 477B, and ASCS-503.

Annually.

Farms; 1,672,500 responses; 334,500 hours; not applicable under 3504(h).

Martin Smith (202) 382-8757.

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 10027 Filed 4-26-89; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Suitability Studies on the Upper Portions of the White Salmon and Klickitat Rivers, Washington

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for recommending to Congress the suitability or non-suitability of the upper White Salmon and Klickitat Rivers for inclusion into the National Wild and Scenic Rivers System. Both rivers flow into the Columbia River and are located in the State of Washington. The Forest Service invites written comments and suggestions on management of these rivers and the scope of this analysis. The agency gives notice of the full environmental analysis and decision-making process that will occur on these studies so that interested and affected people are aware of how they may participate and contribute to the final recommendation to Congress.

DATE: Comments concerning the management of these rivers should be received by May 15, 1989.

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ADDRESS: Submit written comments and suggestions concerning the management of these rivers to Arthur W. DuFault, Manager, Columbia River Gorge National Scenic Area, 902 Wasco Avenue, Hood River, Oregon 97031.

FOR FURTHER INFORMATION CONTACT: Please direct questions about the proposed action and EIS to Stephen Mellor, Columbia River Gorge National Scenic Area, 902 Wasco Ave., Hood River, Oregon 97031, telephone (503) 386–2333.

SUPPLEMENTARY INFORMATION: The Columbia River Gorge National Scenic Area Act (Pub. L. 99–663), November 17, 1986, instantly designated the lower portions of the Klickitat and White Salmon Rivers into the National Wild and Scenic River System as well as requiring suitablity studies on upper segments of both these rivers. Based on comments on the Draft Gifford Pinchot National Forest Plan, the Forest Service will now be considering the suitability of the White Salmon River to its headwaters, including lands both within and outside the forest boundary. The studies will consider, at a minimum, lands within ¼ mile from each stream bank.

The Secretary of Agriculture is the Responsible Official.

Public participation will be especially important at several points during the management plan process. The first point is the scoping process (40 CFR 1501.7). The Forest Service is seeking information, comments, and assistance from Federal, State and local agencies, the Yakima Indian Nation, individuals and organizations who may be interested in or affected by the proposed action. This input will be used in the preparation of the draft EIS.

Public meetings will be held during April 1989, to inform the public of the planning process and to provide for public participation and involvement. Federal, State, and local agencies as well as the Yakima Indian Nation, user groups, and other organizations who may be interested in the plan will be invited to participate in scoping the issues that should be considered. In addition, a 20-person Task Force representing these interests has been formed to help develop recommendations for future management of these rivers.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA), and available for public review by April 1990. At that time the EPA will publish a notice of availability of the draft EIS in the **Federal Register**.

The comment period on the draft EIS will be 90 days from the date the EPA's notice of availability appears in the **Federal Register**. It is very important that those interested in the management of these rivers participate at that time. To be the most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act of 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978)*, and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS. *Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)*. The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

After the comment period ends on the draft EIS, comments will be analyzed and considered by the Forest Service in preparing the final EIS. In the final, the Forest Service is required to respond to comments received (40 CFR 1503.4). The final EIS is scheduled to be completed by the end of October 1990. The Secretary will consider the comments, responses, and consequences discussed in the EIS, applicable laws, regulations, and policies in making a recommendation to the President regarding the suitability of these rivers for inclusion into the National Wild and Scenic Rivers System. The final decision on inclusion of a river in the National Wild and Scenic Rivers System rests with the United States Congress.

Date: April 14, 1989

David E. Ketcham,

Acting Deputy Chief, Programs and Legislation.

[FR Doc. 89–10057 Filed 4–26–89; 8:45 am]

BILLING CODE 3410–11–M

Nez Perce National Historic Trail Advisory Council; Public Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Nez Perce National Historic Trail Advisory Council will host a 3-day meeting. The purpose of the meeting is to discuss matters relating to the Nez Perce National Historic Trail. Agenda items are; review and identification of the historic route, discussion of state/federal/private landowner coordination needs, preparation of a Comprehensive Plan, and historic intepretation. The council was established in accordance with the provisions of the National Trails Systems Act. The public is invited to attend.

DATE: The meeting will be held on May 9, through May 11, 1989, from 9:00 a.m. to 4:00 p.m.

ADDRESS: The meeting will he held at the Village Red Lion Inn, 100 Madison, Missoula, Montana 59801.

FOR FURTHER INFORMATION CONTACT: Jim Dolan, Project Coordinator, by telephone (406) 329–3582 or by mail USDA, Forest Service, Northern Region, P.O. Box 7669, Missoula, MT 59807.

Date: April 21, 1989.

Christopher Risbrudt,

Deputy Regional Forester.

[FR Doc. 89–10129 Filed 4–26–89; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Waimea-Paauilo Watershed, Hawaii

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the U.S. Department of Agriculture, Soil Conservation Service, gives notice that an environmental impact statement is not being prepared for the Waimea-Paauilo Watershed, Hawaii County, Hawaii.

FOR FURTHER INFORMATION CONTACT: Warren M. Lee, State Conservationist, Soil Conservation Service, 300 Ala Moana Boulevard, Room 4316, Honolulu, Hawaii, 96850, telephone (808) 541–2600.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Warren M. Lee, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for agricultural water management (irrigation and livestock water). The planned works of improvement include the installation of 8,000 feet of collection system by-pass pipelines; 3,100 feet of reservoir supply pipeline; a 133 million gallon storage reservoir; 21,800 feet of irrigation pipeline, and 184,400 feet of livestock water pipelines with pumping stations.

The Notice of a Finding of No Signification Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Warren M. Lee.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Date: April 17, 1989.

Warren M. Lee,

State Conservationist.

[FR Doc. 89–10128 Filed 4–26–89; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Utah Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Utah Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 4:45 p.m., on May 18, 1989, at the State Office Building Auditorium, State Capitol, Salt Lake City, Utah 84114. The meeting, which will involve a community forum, is intended to gather information on the impact in Utah of implementation of the Immigration Reform and Control Act of 1986.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Robert E. Riggs or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 21, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89–10127 Filed 4–26–89; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Survey of Plant Capacity Utilization
Form Number: MQ–C1
Agency Approval Number: 0607–0175
Type of Request: New
Burden: 13,500 hours
Number of Respondents: 9,000
Avg Hours Per Response: 1.5 hours
Needs and Uses: This survey provides information on use of industrial capacity by Standard Industrial Classification (SIC) for manufactured products and is the only statistical series that provides 4-digit SIC data for use in other Government economic series. Government agencies, business firms, trade associations, and research organizations use this data to measure inflationary pressures, capital flows, understand productivity determinants, and analyze and forecast economic and industrial trends.
Affected Public: Business or other for-profit organizations
Frequency: Annual
Respondent's Obligation: Mandatory
OMB Desk Officer: Don Arbuckle, 395–7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Officer Building, Washington, DC 20503.

Dated: April 21, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Mangagement and Organization.

[FR Doc. 89–10107 Filed 4–26–89; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

[A–570–506]

Porcelain-on-Steel Cooking Ware From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by two importers, the Department of Commerce has conducted an administrative review of the antidumping duty order on porcelain-on-steel cooking ware from the People's Republic of China. The review covers one manufacturer and one third-country reseller in Hong Kong of this merchandise to the United States and the period May 20, 1986 through November 30, 1987. The review indicates the existence of dumping margins during the period.

We determined that we were unable to verify adequately the manufacturer's total sales to the United States; and we were unable to verify records of payment for the merchandise exported to the United States by Amerport H.K., the third-country reseller. As a result, we used the best information available for cash deposit and appraisement purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 27, 1989.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 43414) an antidumping duty order on porcelain-on-steel cooking ware ("POS cooking ware") from the People's

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Republic of China ("PRC"). Two importers requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on January 27, 1988 (53 FR 2262). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of POS cooking ware including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. During the review period, such merchandise was classifiable under item 654.0615, 654.0624, and 654.0627 of the Tariff Schedules of the United States Annotated. The merchandise is currently classifiable under HTS item 7323.94.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer in the PRC, China National Light Import and Export Corporation, Shanghai Branch ("CSLI"), and one third-country reseller in Hong Kong, Amerport H.K., who exported the POS cooking ware to the United States and the period May 20, 1986 through November 30, 1987. Verification was conducted at Amerport H.K. from September 28 through September 30, 1988, at CSLI from October 5 through October 9, 1988, and at Amerport U.S. from February 23 through 24, 1989.

CSLI does not maintain journals or ledgers that are product specific. However, to verify total sales to the United States, CSLI provided copies of certain handwritten accounting statements that purportedly represented the total sales of enamelware products, which included POS cooking ware. Upon testing the accuracy of these accounting statements, we found that they did not contain a complete listing of U.S. sales. Based on our findings, we determined that we could not verify CSLI's total sales to the United States.

During the verification in Hong Kong, the Department attempted to verify the records of payment for the POS cooking ware exported by Amerport H.K. to the United States. Amerport H.K. claimed that these documents were maintained by Amerport U.S. and not by Amerport H.K. As a result, the Department conducted a verification at Amerport U.S. At this verification Amerport U.S. claimed that there was a misunderstanding because the records of payment were located at Amerport H.K. Prior to verification in Hong Kong and the United States, we sent verification outlines to both firms. These outlines stated that they were required to provide documentation such as records of payment, accounts receivable ledgers, cash receipts journals, etc. Because Amerport did not provide the data, we were unable to verify the records of payment for sales and we were unable to complete the document traces normally employed for verifying these payments.

As a result, the Department used the best information available for both CSLI and Amerport H.K., which was the rate published in the antidumping duty order (51 FR 43414, December 2, 1986).

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period May 20, 1986 through November 30, 1987:

Manufacturer/Third-Country Reseller	Margin (Percent)
China National Light Import and Export Corp., Shanghai Branch	66.65
China National Light Import and Export Corp., Shanghai Branch/Amerport H.K.	66.65

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication, or the first workday thereafter. Prehearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department has indications that there may be an agreement of reimbursement of antidumping duties between certain parties. Any reimbursement of duties to the importer is to result in an equivalent decrease in United States price pursuant to 353.55 of the Commerce Regulations, and a consequent increase in dumping duties. The Department, in its assessment instructions, will advise the U.S. Customs Service to investigate the *bona fides* of any certificate of non-reimbursement of duming duties which may be filed by the importer. Id no such certificate is filed prior to the liquidation of each customs entry where dumping duties are finally assessed, Customs will be instructed to double the amount of dumping duties on each such entry, to account for reimbursement. The Department will issue appraisement instruction directly to the Customs Services.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. For any further entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after November 30, 1987, and who is unrelated to any reviewed firm, a cash deposit of 66.65 percent shall be required.

These deposit requirements are effective for all shipments of porcelain-on-steel cookware from the People's Republic of China entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §353.53a(a) of the Commerce Regulations (19 CFR 353.53a).

Date: April 19, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-10024 Filed 4-26-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-802]

Initiation of Countervailing Duty Investigation; Aluminum Sulfate From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Venezuela of aluminum sulfate, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of aluminum sulfate from Venezuela materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, we will make our preliminary determination on or before June 22, 1989.

EFFECTIVE DATE: April 27, 1989.

FOR FURTHER INFORMATION CONTACT: Roy A. Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-5414.

SUPPLEMENTARY INFORMATION:

The Petition

On March 29, 1989, we received a petition in proper form from General Chemical de Puerto Rico, Inc., filed on behalf of a U.S. industry producing aluminum sulfate. In compliance with the filing requirements of § 355.12 of the Commerce Regulations (19 CFR 355.12), petitioner alleges that manufacturers, producers and exporters of aluminum sulfate in Venezuela receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since Venezuela is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Venezuela materially injure, or threaten material injury to, a U.S. industry.

Petitioner has alleged it has standing to file the petition. Specifically, petitioner has alleged that it is an interested party as defined under section 771(9)(C) of the Act and that it has filed the petition on behalf of a U.S. industry producing the product that is subject to this investigation. If any interested party as described under paragraphs (C), (D), (E), (F) or (G) of section 771(d) of the Act wishes to register support of or opposition to this petition, please file written notification with the Commerce official cited in the "FOR FURTHER INFORMATION CONTACT" section of this notice.

Initiation of Investigation

Under section 702(c) of the Act, we must make the determination on whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on aluminum sulfate from Venezuela and have found that most of the programs alleged in the petition meet these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether Venezuelan manufacturers, producers, or exporters of aluminum sulfate, as described in the "Scope of Investigation" section of this notice, receive subsidies. However, we are not initiating an investigation on certain programs because they were determined not countervailable in *Final Affirmative Countervailing Duty Determination: Certain Electrical Conductor Aluminum Redraw Rod from Venezuela* (53 FR 24763, June 30, 1988) (*Redraw Rod*) and new facts or information on changed circumstances has not been provided. If our investigation proceeds normally, we will make our preliminary determination on or before June 22, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item number(s).

The product covered by this investigation is aluminum sulfate from Venezuela, which is used in water purification, in waste water treatment, and for other industrial applications. Prior to January 1, 1989, such merchandise was classifiable under item 417.1600 of the *Tariff Schedules of the United States Annotated (TSUSA)*. This merchandise is currently classifiable under HTS item 2833.22.00. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Allegations of Subsidies

Petitioner lists a number of practices by the Government of Venezuela which allegedly confer subsidies on manufacturers, producers, or exporters of aluminum sulfate in Venezuela. We are initiating an investigation of the following programs:

1. Export Bond Program
2. Short-Term FINEXPO Financing
3. Other FINEXPO Programs
4. Preferential Tax Incentives
5. Financing Company of Venezuela Loans
6. Sales Tax Exemptions
7. Other Government Loans and Loan Guarantees
8. Preferential Pricing of Inputs

We are not initiating an investigation of the programs listed below. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for the imposition of a duty under sections 701(a) and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. For the programs listed below, the requirements of section 702(b) of the Act were not met.

1. Exchange of Export Earnings Under Multiple Exchange Rate System

Petitioner alleges that in allocating foreign exchange at preferential rates, the Venezuelan government favors companies that produce for export, produce to displace imports, or are otherwise engaged in activities assigned a priority status. Additionally, petitioner alleges that there is no assurance that the government requires SULFORCA to convert all of its foreign exchange earnings at a 14.50 Bolivares to the dollar exchange rate. This program was found not countervailable in *Redraw Rod*. We are not initiating on this program because petitioner has not alleged new facts or provided information on changed circumstances.

2. The Industrial Credit Fund (FONCREI)

Petitioner alleges that FONCREI provides long-term loans to industrial companies through commercial banks and financial societies. These loans are based on a

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company's projected rate of return. This program was found not countervailable in *Redraw Rod*. We are not initiating on this program because petitioner has not alleged new facts or provided information on changed circumstances.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action, and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 15, 1989, whether there is a reasonable indication that imports of aluminum sulfate from Venezuela materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will be terminated; otherwise, this investigation will continue according to the statutory procedures.

This notice is published pursuant to section 702(c)(2) of the Act.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 18, 1989.

[FR Doc. 89-10025 Filed 4-26-89; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Steel Plate; Request for Comments

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Paragraph 8 of the U.S.-Japan steel arrangement, Article 8 of the U.S.-Austria, U.S.-Brazil, U.S.-EC, U.S.-Korea, and U.S.-Spain steel arrangements, and Article 8 of the U.S.-Finland steel understanding, with respect to certain steel plate used to manufacture large diameter pipe.

DATE: Comments must be submitted on or before May 8, 1989.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products, Article 8 of the U.S.-Austria Arrangement Concerning Trade in Certain Steel Products, the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products, the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, the U.S.-Korea Arrangement Concerning Trade in Certain Steel Products, the U.S.-Spain Arrangement Concerning Trade in Certain Steel Products, and the U.S.-Finland Understanding Concerning Trade in Certain Steel Products, provide that if the U.S. determines that, because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products.

We have received a short-supply request for various structural and API 5LX line pipe grades of steel plate, 0.25 to 1.50 inches in thickness, and 72 to 226 inches in width, for use in producing large diameter pipe.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than May 8, 1989. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce, at the above address.

Dated: April 21, 1989.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 89-10026 Filed 4-26-89; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Negotiated Limit, Guaranteed Access Levels, and Amended Restraint Period for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

April 22, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending a limit and restraint period.

EFFECTIVE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); President's February 20, 1986 announcement of a Special Access Program; Memorandum of Understanding dated March 22, 1989.

During recent negotiations between the Governments of the United States and the Dominican Republic, agreement was reached to establish specific limits for man-made fiber textile products in Category 633, produced or manufactured in the Dominican Republic and exported during the four consecutive agreement periods beginning on June 1, 1988 and extending through May 31, 1992. A formal exchange of notes will follow.

Under the terms of the Memorandum of Understanding dated March 22, 1989 between the Governments of the United States and the Dominican Republic, the United States Government is establishing a limit for Category 633 for the twelve-month period which began on June 1, 1988 and extends through May 31, 1989.

The agreement also establishes Guaranteed Access Levels for Category 633 for three consecutive years beginning on June 1, 1989 and extending through May 31, 1992.

Beginning on May 1, 1989 for goods to be exported from the Dominican Republic on and after June 1, 1989, U.S. Customs will start signing the first section of the form ITA/370P for

shipments of U.S. formed and cut parts in Category 633 that are destined for the Dominican Republic and subject to the Guaranteed Access Level established for Category 633. These products, which are assembled in the Dominican Republic from parts cut in the United States, are governed by Harmonized Tariff item number 9802.00.8010 and Chapter 62 Statistical Note 3 of the Harmonized Tariff Schedule.

Interested parties should be aware that shipments of cut parts in Category 633 must be accompanied by a form ITA-370P, signed by a U.S. Customs officer, prior to export from the United States for assembly in the Dominican Republic in order to qualify for entry under the Guaranteed Access Level.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50070, published on December 13, 1988.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 6595, published on March 4, 1987; and 52 FR 26057, published on July 10, 1987.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of Understanding, but are desinged to assist only in the implementation of certain of its provisions.

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

April 21, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 8, 1988, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of man-made fiber textile products in Category 633, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on June 30, 1988 and extends through June 29, 1989.

Under the terms of the Memorandum of Understanding dated March 22, 1989, you are directed, effective on May 1, 1989, to amend the level for Category 633 to 84,000 dozen [1] for the new restraint period beginning on June 1, 1988 and extending through May 31, 1989.

You are directed to deduct 1,814 dozen from the changes already made to Category 633. Import charges for textile products in Category 633 which were exported during the period June 1, 1988 through June 29, 1988 have been taken into account.

Beginning on May 1, 1989, U.S. Customs is directed to start signing the first section of the form ITA-370P for shipments of U.S. formed and cut parts in Category 633 that are destined for the Dominican Republic and re-exported to the United States on and after June 1, 1989.

Teh Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-10105 Filed 4-26-89; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after May 31, 1988.

Announcement of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Peru

April 24, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing import limits for the new agreement period.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

During negotiations held between the Governments of the United States and Peru, agreement was reached, effected by a Memorandum of Understanding (MOU) dated March 3, 1989, to amend and extend the current bilateral textile agreement. A formal exchange of diplomatic notes will follow.

The MOU establishes limits for certain cotton, wool and man-made fiber textile products for three consecutive agreement periods—May 1, 1989 through December 31, 1989; January 1, 1990 through December 31, 1990; January 1, 1991 through December 31, 1991. The levels for the first period are effective May 1, 1989, based on the agreement reached in the MOU.

A description of the textile and apparel categories in terms of HTS numbers is available in the *Correlation:* Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988).

The letter to the Commissioner of Customs and the actions taken pursuant to it are designed to implement only the levels of the first agreement period of the Memorandum of Understanding dated March 3, 1989.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

April 24, 1989.

Commissioner of Customs, Department of the Treasury, Washington, DC.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Memorandum of Understanding dated March 3, 1989 between the Governments of the United States and Peru; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 1, 1989, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Peru and exported during the eight-month period beginning on May 1, 1989 and extending through December 31, 1989, in excess of the following restraint limits:

Category	Eight-Month Restraint Limit
Limits Not in a Group	
219	9,533,419 square meters.
220	5,910,945 square meters.
226/313	11,146,747 square meters of which not more than 2,102,362 square meters shall be Category 226.
300/607-K [1]	1,209,580 kilograms.
301	755,987 kilograms.
315	2,787,091 square meters.
317/326	11,761,525 square meters of which not more than 4,738,055 square meters shall be in Category 326.
338/339	440,260 dozen of which not more than 314,465 dozen shall be in Categories 338-S/339-S. [2]
410	891,869 square meters.

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Category	Eight-Month Restraint Limit
Cotton Apparel Group 237, 239, 330–336 and 340–359, as a group.	9,754,819 square meters equivalent.
Wool Group 400 and 414–469, as a group.	2,508,362 square meters equivalent.

[1] Category 300 and, in Category 607-K, all HTS numbers except 5509.52.000, 5509.61.0000, 5509.91.0000 and 5510.20.0000.

[2] In Categories 336–S/339–S, only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.3010, 6109.10.0035, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.0068, 6112.11.0030 and 6114.20.0005 in Category 336–S; and 6104.22.0060, 6104.29.2046, 6106.10.0010, 6106.10.0030, 6106.90.2010, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.0070, 6112.11.0040, 6114.20.0010 and 6117.90.0022 in Category 339–S.

Imports charged to these category limits, except Categories 237, 239, 439 and 607–K, for the period May 1, 1988 through April 30, 1989 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–10146 Filed 4–26–89; 8:45 am]

BILLING CODE 3510–DR–M

Negotiated Settlement on an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

April 21, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commission of Customs establishing a limit.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6582. For information on embargoes and quota re-openings, call (202) 377–3715. For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Memorandum of Understanding dated March 21, 1989.

During consultations held between the Governments of the United States and the Republic of Turkey, agreement was reached, effected by a Memorandum of Understanding dated March 21, 1989, to amend the current bilateral textile agreement. A formal exchange of diplomatic notes will follow.

Under the terms of the Memorandum of Understanding, specific limits were established for Categories 336/636 for three consecutive agreement periods beginning September 30, 1988 and extending through June 30, 1991. The United States Government has decided to control imports in Categories 336/636 for the first agreement period which began on September 30, 1988 and extends through June 30, 1989. The remaining agreement periods will begin on July 1, 1989 and July 1, 1990.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (See **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 43468, published on October 27, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of Understanding dated March 21, 1989, but are designed to assist only in the implementation of certain of its provisions.

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 21, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Memorandum of Understanding dated March 21, 1989, between the Governments of the United States and the Republic of Turkey; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 1, 1989, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 336/636, produced or manufactured in Turkey and exported during the period which began on September 30, 1988, and extends through June 30, 1989, in excess of 153,000 dozen.[1]

Textile products in Categories 336/636 which have been exported to the United States prior to September 30, 1988, shall not be subject to this directive.

Textile products in Categories 336/636 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

You are directed to charge 39,659 dozen to Category 336 and 2,733 dozen to Category 636 to the limit established in this directive. These charges are for goods imported during the period September 30, 1988, through February 28, 1989. Further charges will be submitted as data become available.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–10106 Filed 4–26–89; 8:45 am]

BILLING CODE 3510–DR–M

[1] The limit has not been adjusted to account for any imports exported after September 29, 1988.

DEPARTMENT OF DEFENSE

Office of the Secretary

Education Benefits Board of Actuary; Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Board has been scheduled to execute the provisions of Chapter 101, title 10, United States Code (10 U.S.C. 2006(e) et. seq.) The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the GI Bill and determine per capita normal costs to be implemented by DoD and amortization of unfunded liability. Persons desiring to attend the DoD Education Benefits Board of Actuaries meeting must notify Ms. Dorothy Hemby at 696–6336 by May 22, 1989. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: May 25, 1989, 9:00 a.m. to 1:00 p.m.

ADDRESS: Room 1E801 #7, the Pentagon.

FOR FURTHER INFORMATION CONTACT: Benjamin Gottlieb, Acting Executive Secretary, DoD Office of the Actuary, 4th Floor, 1600 Wilson Boulevard, Arlington, Virginia 22209–2593, (202) 696–5869.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 21, 1989.

[FR Doc. 89–10048 Filed 4–26–89; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 23, 1989.

The USAF Scientific Advisory Board Ad Hoc Committee Summer Study on Electronic Combat will meet on 15–20 May 89 from 8:00 a.m. to 5:00 p.m. at the ANSER Corp., 1215 Jefferson Davis Hwy, Arlington, VA.

The purpose of this meeting will be to review the requirements for and the status of Air Force Electronic Combat programs. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89–10137 Filed 4–26–89; 8:45 am]

BILLING CODE 3910–01–M

Defense Logistics Agency

Privacy Act of 1974; Notice of a New Continuing Computer Matching Program Between the Department of Defense and the Department of the Interior

AGENCY: Defense Manpower Data Center (DMDC), Defense Logistics Agency (DLA), Department of Defense (DoD).

ACTION: Notice for any public comment on a proposed new ongoing computer matching program between the Department of Defense (DoD) and the Department of the Interior (DoI) for debt collection purposes under the Debt Collection Act of 1982 (Pub. L. 97–365). The purpose of the match is to locate individuals affiliated with the DoD who are indebted to the U.S. Government under various programs administered by the DoI.

SUMMARY: On October 7, 1987 at 52 FR 37492, the Department of Defense provided public notice of a plan under an interagency agreement to assist Federal creditor agencies in locating delinquent debtors affiliated with the U.S. Government in their debt collection efforts to collect outstanding debts owed by individuals receiving salary or similar compensation from the Federal government. The DMDC (DLA), has assisted a number of Federal agencies in locating individual delinquent debtors via computer matching and now proposes to assist the DoI in its collection effort under a written agreement.

EFFECTIVE DATE: This proposed action is effective on April 27, 1989 and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination.

ADDRESS: Any interested party may submit written comments to Mr. Robert J. Brandewie, Deputy Director, Defense Manpower Data Center, Suite 155A, 99 Pacific Street, Monterey, CA 93940–2453. Telephone: (408) 655–4000; Autovon: 878–2951.

FOR FURTHER INFORMATION CONTACT: Mr. Aurelio Nepa, Jr., Staff Director, Defense Privacy Office, Room 205, 400 Army Navy Drive, Arlington, VA 22202–2803. Telephone: (202) 694–3027; Autovon: 224–3027.

SUPPLEMENTARY INFORMATION: This proposed computer matching program is being conducted by the Defense Manpower Data Center in order to locate by address those individuals, Federally employed or retired, that are indebted and delinquent in their repayment to the U.S. Government under certain programs administered by the Department of Interior.

The Office of Management and Budget (OMB) designated the Financial Management Service of the Department of Treasury, as the Lead Agency to coordinate and monitor the implementation of the U.S. Government's Federal Salary Offset Program. An interagency agreement, restricted exclusively to the implementation of the Debt Collection Act of 1982 (Pub. L. 97–365), established an Interagency Working Group to facilitate computer matching and subsequent salary offset procedures throughout the Federal government under the auspices and oversight of the OMB. This Interagency Working Group consists of the Department of the Treasury, Office of Personnel Management and the Department of Defense. An Interagency Agreement for implementing the Federal Salary Offset Initiative and assigning specific roles and agency responsibilities was signed and published in the **Federal Register** at 52 FR 37492 on October 7, 1987. As a result, a centralized computer data base for computer matching was established from extracted Department of Defense and Office of Personnel Management records for debt collection purposes in order to have a data bank record of active and retired military members, including the Reserve and Guard, and further including OPM government-wide active and retired civilian personnel that are receiving Federal salaries or other Federal benefit payments. The data bank is located in Monterey, CA and maintained by the Defense Manpower Data Center of the Department of Defense. It is available for matching purposes by any Federal creditor agency to locate individual debtors in enforcing the Debt Collection Act of 1982 to collect outstanding debts provided the creditor agency follows the published Interagency Agreement guidelines.

Set forth below is the information required by paragraph 5.f.(1) of the "Revised Supplemental Guidance for Conducting Computerized Matching Programs," issued by the Office of Management and Budget on May 11, 1982 (47 FR 21656, May 19, 1982). An advanced copy of this **Federal Register** notice has been provided to the U.S. House Committee on Government Operations, the U.S. Senate Committee on Governmental Affairs, and to the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on April 18, 1989, pursuant to the above cited OMB Matching Guidelines; paragraph 4b of Appendix I to OMB Circular No. A–130, dated December 12, 1985 (50 FR 52738, December 24, 1985); and subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a) as amended.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 21, 1989.

Report of a New Continuing Computer Matching Program Between the Department of Defense (DoD) and the Department of Interior (DoI)

a. *Authority:* The legal authority under which this computer matching will be conducted is 5 U.S.C. 522a (b)(3), the "routine use" provision under the

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Privacy Act of 1974; 5 U.S.C. 5514, installment deduction of indebtedness; 10 U.S.C. 136, Assistant Secretaries of Defense, appointment, powers and duties; Federal Claims Collection Act of 1966 (Pub. L. 89–508) 31 U.S.C. 952(d); the Debt Collection Act of 1982 (Pub. L. 97–365) 5 U.S.C. 5514, 31 U.S.C. 3711 and 3716–4718; Section 206 of Executive Order 11222; 4 CFR Chapter II, Federal Claims Collection Standards (General Accounting Office—Department of Justice); 5 CFR 550.1101–550.1108, Collection by Offset from Indebted Government Employees—(OPM); Office of Management and Budget, "Revised Supplemental Guidance for Conducting Matching Programs," dated May 11, 1982 (47 FR 21656, May 19, 1982) and "Guidelines on Relationship Between the Privacy Act of 1974 and the Debt Collection Act of 1982," March 30, 1983 (48 FR 15556, April 11, 1983); the interagency Agreement for Federal Salary Offset Initiative (Office of Management and Budget, Department of the Treasury, Office of Personnel Management and the Department of Defense) signed April 1987 (52 FR 37492, October 7, 1987).

b. *Program Description:* The purpose of this computer matching program is to identify and locate those individuals who are indebted and delinquent in their repayment of debts to the U.S. Government under certain programs administered by the Department of Interior in order that the Department can collect the debts by voluntary repayment or, in the alternative, by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982. An Interagency Memorandum of Understanding (MOU) has been accomplished and signed between the Department of the Interior and the Department of Defense as to the applicable procedures. Interior will furnish approximately 1,000 indebtedness/accounts receivable records and these records will be matched against 3 million benefit records and 7 million personnel/employment records of the data base.

The Department of Interior, as the source agency, will provide the Defense Manpower Data Center (DMDC) of the DoD, the matching agency, at Monterey, CA, a computer tape containing the names, social security numbers, and amount owed of all the individual delinquent debtors. Upon receipt of the file of debtor accounts, the DMDC will perform a computer match using all nine digits of social security numbers of delinquents against a DMDC computer data base. The DMDC computer data base, established under the interagency agreement, consists of records of active duty and retired military members, including the Reserve, and all the OPM Government-wide employed civilian and retired civilian records.

Note.—The "Reserve" refers collectively to the Army National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air National Guard and Air Force Reserve.

Matching records, based on "hits" of the social security number, will be furnished to the DoI consisting of the member's name, service or agency, category of employee, salary or benefit amounts, and current work or home address from DMDC's data base records. The "hits" or matching information from DMDC will be referred to the DoI for action to contact the debtors so as to recover the outstanding debt(s) by salary or administrative offset when other collection action, such as voluntary repayment, has been pursued with unsatisfactory results.

The DoI will be responsible for reviewing the "hit" data to assure that each individual is positively identified in the match as the debtor; to assure that the debtor is afforded proper due process under GAO regulation (4 CFR Chapter II) "Federal Claims Collection Standards" and that a proper accounting of any further disclosures outside the DoI shall be maintained in accordance with 5 U.S.C. 552a (c) of the Privacy Act. The DoI is responsible for insuring that the debt is valid and the information is accurate, complete, timely and relevant. Hard copy match records will be used by the DoI to determine any further continued contact or inquiry concerning the debtors. The notification to the debtor shall include information concerning the amount to be collected, and may include the amount of the proposed monthly deductions if offset procedures are contemplated. The debtor shall be given an opportunity to enter into voluntary agreement to repay the debt before any administrative or salary offset measures are initiated. The debtor shall further be given an opportunity to inspect and copy records related to the debt and for review of the decision related to the debt. If no collection action is needed, the DoD record provided by DMDC will not be used by the DoI for any other purpose.

c. *Records to be Matched:* The following systems of records, subject to the Privacy Act of 1974 (5 U.S.C. 552a), containing an appropriate routine use permitting records to be used for computer matching, are as follows:

Department of Interior (Source Agency)

(1) *Interior component:* Office of the Secretary
System identification: Interior/OS–85
System name: Payroll, Attendance, Retirement and Leave Records—Interior, Office of the Secretary–85
Federal Register citation: 51 FR 39918, November 3, 1986
Amended: 53 FR 51324, December 21, 1988

Department of Defense (Matching Agency)

(1) *DoD component:* Defense Logistics Agency (DLA)
System identification: S322.10 DLA–LZ
System name: Defense Manpower Data Center Data Base
Federal Register citation: 53 FR 44937, November 7, 1988
(2) *DoD Component:* Defense Logistics Agency (DLA)
System identification: S322.11 DLA–LZ
System name: Federal Creditor Agency Debt Collection Data Base
Federal Register citation: 52 FR 37495, October 7, 1987
(3) *Agency:* Office of Personnel Management (OPM)
System identification: OPM/GOVT–1
System name: General Personnel Records
Federal Register citation: 49 FR 36954, September 20, 1984
(4) *Agency:* Office of Personnel Management (OPM)
System identification: OPM/CENTRAL–1
System name: Civil Service Retirement and Insurance Records
Federal Register citation: 49 FR 36950, September 20, 1984

d. *Period of the Match:* The initial match will begin as soon as possible after this public notice is published in the **Federal Register** and then conducted no more often than semiannually thereafter.

e. *Security Safeguards:* Automated records at DMDC are stored in limited access computer facilities and accessible only by password. Access to the computer center is by key or picture identification. Hard copy records are maintained in Federal office buildings in lockable file cabinets and accessed only by authorized Federal employees on a need-to-know basis.

f. *Retention and Disposition of Records:* Under a written Memorandum of Understanding (MOU) agreement between the DoD/DMDC and the DoI, it is agreed that any diskette/tapes provided by the DoI for matches shall be destroyed or returned to the DoI upon successful completion of each match and shall be used only for debt collection purposes. Non-hit records will not be used for any purposes. Hard copy matched records (hits) will be used by the DoI to conduct individual reviews and may be used to contact the debtor for payment pursuant to the Debt Collection Act of 1982. Records relating to "hits" will be retained by the DoI until completion of any necessary collection efforts and then be disposed of in accordance with approved records control schedules and/or approved disposition authority. The DoI will maintain a disclosure accounting record, as required by 5 U.S.C. 552a (c) of the Privacy Act, as a result of the match information received from DMDC when contacting other agencies pursuing individual debtors. If no collection action is needed, no DoD record will be used for any other purpose. The DoI tape file will be used and accessed only for the match agreed to. It will not be used to extract information concerning "non-hit" data for any purpose and will not be duplicated or disseminated within or outside the DoD.

[FR Doc. 89–10049 Filed 4–26–89; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before May 30, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: April 21, 1989.

Carlos U. Rice,

Director, for Office of Information Resources Management.

Office of Educational Research and Improvement

Type of Review: New Collection.
Title: Field Test of Dropout Statistics Collection and Reporting Procedures.
Frequency: Non-recurring.
Affected Public: States and local governments.
Reporting Burden:
Responses: 264.
Burden Hours: 1,320.
Recordkeeping Burden:
Recordkeepers: 31.
Burden Hours: 1.5.
Abstract: A field test will be conducted to determine which data collection procedures are the least burdensome and most efficient and technically accurate procedures for collecting national dropout statistics. The Department will make decisions impacting the final data collection methodology and survey instruments based on the result of this field test.

[FR Doc. 89–10039 Filed 4–26–89; 8:45 am]
BILLING CODE 4000–01–M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before May 30, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Reginal Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provides interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the rquests are available from Margaret

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Webster at the address specified above.
Dated: April 20, 1989.
Carlos U. Rice,
Director, for Office of Information Resources Management.

Office of Special Education and Rehabilitative Services

Type of Review: Revision
Title: Report of Federal, State and Local Funds Expended for Special Education and Related Services
Frequency: Annually
Affected Public: State and local government
Reporting Burden:
Responses: 58
Burden Hours: 58,174
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form provides instructions for States to submit the amount of Federal, State, and local funds expended for special education and related services. The Department uses the information collected for program management.

Office of Postsecondary Education

Type of Review: New.
Title: Performance Report for the Grants to Institutions to Encourage Minority partcipation in Graduate Eduation.
Frequency: Annually.
Affected Public: Non-profit institutions.
Reporting Burden:
Responses: 50.
Burden Hours: 100.
Recordkeeping Burden:
Recordkeepers: 50.
Burden Hours: 5.
Abstract: This report is used by State agencies to provide caseload data. The Department uses the information collected to assess the accomplishments and for program management.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: Teacher Followup Survey-Amendment.
Frequency: On Occasion.
Affected Public: Individuals or households.
Reporting Burden:
Responses: 7,192.
Burden Hours: 2,800.
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0.
Abstract: The Teacher Followup Survey is the fifth portion of the Schools and Stafing Survey, to be conducted one year after the base year data collection. The amendment to this survey describes the data collection to be undertaken during the reinterview process for survey evaluation purposes.

[FR Doc. 89-10040 Filed 4-26-89; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Final Consent Order With Howell Corp.

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Final Action on Proposed Consent Order.

SUMMARY: The Department of Energy (DOE) hereby gives the notice required by 10 CFR 205.199J that it has adopted as final the Consent Order with Howell Corporation (Howell), executed on February 23, 1989, and published for comment in 54 FR 11036 (March 16, 1989).

As required by 10 CFR 205.199J, DOE provided a period of thirty days following publication of the Notice of Proposed Consent Order for the submission of comments. The Economic Regulatory Administration (ERA) received no comments in response to this notice. Accordingly, ERA has determined that the Consent Order should be made final without modification. The Consent Order becomes effective as a Final Order of the DOE on the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Dorothy Hamid, Office of Enforcement Litigation, Economic Regulatory Administration, U.S. Department of Energy, Room 3H-017, RG-32, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1699.

Copies of the Consent Order may be obtained free of charge by written request to "Howell Consent Order Request" at the above address or by calling Dorothy Hamid at the above telephone number. Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: On March 16, 1989, DOE published notice in the **Federal Register**, Vol. 54 at Page 11036, announcing the execution of a Proposed Consent Order between Howell and DOE. That Notice summarized the proposed Consent Order and the Relevant facts, as well as contained the proposed Consent Order in its entirety.

As a result of an audit of Howell's compliance with the Federal petroleum price and allocation regulations, the Economic Regulatory Administration (ERA) raised certain issues with respect to Howell's application of the Federal petroleum price and allocation regulations. A Proposed Remedial Order was issued on June 24, 1988, to Howell, Howell Hydrocarbons, Inc. (which operated a refinery in San Antonio, Texas) Howell Industries, Inc., and the Quintana-Howell Joint Venture (hereinafter Joint Venture), a Texas joint venture composed of Quintana Refinery Company and Howell Corporation, which operated a refinery in Corpus Christi, Texas. As consideration for resolution of the Proposed Remedial Order, Howell shall pay a total principal amount of $19,375,000, plus interest. Within thirty (30) days after the effective date of this Consent Order, Howell will pay an initial principal amount of $2,000,000, and the remaining principal sum of $17,375,000, plus interest at the rate of 9.38 percent per annum compounded on the unpaid balance of each scheduled payment interval, will be paid to DOE in eight installments of principal and interest. ERA will petition DOE's Office of Hearings and Appeals to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, to distribute all amounts paid by Howell pursuant to the Consent Order.

As noted, no comments were received in response to the Notice of Proposed Consent Order. Accordingly, ERA has determined to adopt the Proposed Consent Order, without modification, as a final Order of the DOE, pursuant to 10 CFR 205.199J. The Consent Order becomes effective upon publication of this Notice.

Issued in Washington, DC, on April 18, 1989.

Milton C. Lorenz,
Chief Counsel for Enforcement Litigation, Economic Regulatory Administration.

[FR Doc. 89-10013 Filed 4-26-89; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER89-352-000 et al.]

Portland General Electric Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 21, 1989.

Take notice that the following filings have been made with the Commission:

1. Portland General Electric Company

[Docket No. ER89-352-000]

Take notice that Portland General Electric Company (PGE) on April 17, 1987 tendered for filing an Agreement for a transmission capability exchange with the Bonneville Power Administration (BPA), which provides for the use by PGE of 100 MW of transmission capability on BPA's DC Intertie rated transfer capability in return for the use by BPA of 100 MW of transmission capability on PGE's AC Intertie rated transfer capability plus an additional payment by PGE of $250,000, from July 1, 1987 to July 29, 2013.

PGE states the reason for the proposed exchange is to allow a mutually beneficial transaction between the parties.

PGE requests an effective date of July 1, 1987 and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the Bonneville Power Administration and the Oregon Public Utility Commission.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Portland General Electric Company

[Docket No. ER89-351-000]

Take notice that Portland General Electric Company (PGE) tendered for filing on April 17, 1989 an Agreement for a Seasonal Power-for-power Exchange with the Bonneville Power Administration which provides for the delivery by BPA of 20 MW of power to PGE from July 2, 1987 to September 30, 1987, with return by PGE from October 1, 1987 to December 31, 1987 and the delivery by BPA of 40 MW of power to PGE from June 1, 1988 to September 15, 1988 and the return by PGE from October 15, 1988 to January 15, 1988.

PGE states that the reason for the proposed seasonal exchange is to allow a mutually beneficial transaction between the parties.

PGE requests an effective date of July 2, 1987 and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the Bonneville Power Administration and the Oregon Public Utility Commission.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. New York Electric & Gas Corporation

[Docket No. ER89-344-000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on April 13, 1989, tendered for filing pursuant to Section 35.12 of the regulations under the Federal Power Act, as a rate schedule, an agreement with Long Island Lighting Company (LILCO). The agreement provides that NYSEG shall sell excess energy to LILCO. Service under this agreement commenced on March 6, 1989 and shall continue until terminated by either party.

NYSEG requests that the 60-day filing requirement be waived and that March 6, 1989 be allowed as the effective date of the filing.

NYSEG has filed a copy of this filing with Long Island Lighting Company and with the Public Service Commission of the State of New York.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER89-342-000]

Take notice that on April 12, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing changes to Rate Schedule FERC No. 79, between PG&E and the Western Area Power Administration (Western).

The rate schedule change proposes estimated rates for withdrawals of energy previously banked into Energy Account No. 2 (EA2) with PG&E by Western pursuant to Contract No. 14-06-200-2948A. When recorded costs become available the rates will be recalculated and the sales will be adjusted to reflect the recorded cost based rates.

PG&E requests waiver of the Commission's notice requirements to permit an effective date of December 1, 1988, when unbanking from EA2 commenced.

Copies of this filing have been served upon Western and the California Public Utilities Commission. In addition, copies of this filing are available at PG&E's General Office in San Francisco and at PG&E's Sacramento Valley Regional Office in Sacramento.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Public Service Corporation

[Docket No. ER89-350-000]

Take notice that Public Service Corporation (WPSC) on April 17, 1989, tendered for filing a New, executed Service Agreement for partial requirements service to the Manitowoc Public Utilities (MPU), City of Manitowoc, Manitowoc County, Wisconsin. The new Service Agreement revises the initial term of service, and provides for a change of delivery points. The delivery point change results from the company's leasing certain electric facilities from MPU. The company, with the support of MPU, has requested an effective date of March 1, 1989, for the new Service Agreement.

The filing also includes an executed Limited Term Capacity Agreement for the period June 1, 1990, through May 31, 1991, with an option to extend service through May 31, 1992. The company requests that this agreement become effective on June 1, 1990.

WPSC states that copies of the executed Service Agreement and Limited Term Capacity Agreement were sent to MPU, the two other purchases of service under the same or similar tariff as MPU and to the Public Service Commission of Wisconsin.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Power & Light Company

[Docket No. ER89-349-000]

Take notice that on April 14, 1989, Wisconsin Power & Light Company (WPL) tendered for filing a Wholesale Power Contract dated June 28, 1986 and Amendment No. 1 dated March 22, 1989, both between the City of Elkhorn and WPL. Elkhorn is currently taking service from Wisconsin Electric Power Company (WEP).

The purpose of the Contract and Amendment is to define the terms and condition of service. Service under this Contract will be in accordance with WPL's standard W-3 rate schedule. WPL requests an effective date of June 16, 1989, concurrent with the termination date of Elkhorn's wholesale power agreement with WEP.

WPL states that copies of the agreement and filing have been provided to Elkhorn, WEP and the Wisconsin Public Service Commission.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. New York State Electric & Gas Corporation

[Docket No. ER89-348-000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on April 14, 1989, tendered for filing pursuant to § 35.13 of the regulations under the Federal Power Act, as a rate schedule, an agreement with New England Power Company (NEP). The short term agreement provides that NYSEG shall sell surplus capability and associated energy to NEP. Service under this agreement will commence on May 1, 1989 and shall terminate on October 31,

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1989 unless extended in writing by mutual agreement.

NYSEG requests that the 60-day filing requirement be waived and that May 1, 1989 be allowed as the effective date of the filing.

NYSEG filed a copy of this filing with New England Power Company, with the Massachusetts Department of Public Utilities, and with the Public Service Commission of the State of New York.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. New York State Electric & Gas Corporation

[Docket No. ER89-347-000]

Take notice that New York Electric & Gas Corporation (NYSEG) on April 14, 1989, tendered for filing pursuant to § 35.12 of the regulations under the Federal Power Act, as a rate schedule, an agreement with Boston Edison (BECo.). The short term agreement provides that NYSEG shall sell surplus capability and associated energy to BECo. Service under this agreement will commence on May 1, 1989 and shall terminate on October 31, 1989 unless extended in writing by mutual agreement.

NYSEG requests that the 60-day filing requirement be waived and that May 1, 1989 be allowed as the effective date of the filing.

NYSEG has filed a copy of this filing with BECo, with the Massachusetts Department of Public Utilities, and with the Public Service Commission of the State of New York.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. New York State Electric & Gas Corporation

[Docket No. ER89-346-000]

Take notice that on April 14, 1989, New York Electric & Gas Corporation (NYSEG) tendered for filing pursuant to § 35.13 of the regulations under the Federal Power Act, as a rate schedule, an agreement with Long Island Lighting Company (LILCO). The agreement provides that NYSEG shall sell to LILCO firm capacity and energy in the amounts of 125 megawatts, 100 megawatts, and an additional 100 megawatts. Service under this agreement shall begin and terminate as follows: 125 megawatts, April 30, 1989 to October 30, 1989; 100 megawatts, March 27, 1989 to April 29, 1989; the additional 100 megawatts, June 1, 1989 to August 31, 1989. These durations may be extended in writing by both parties.

NYSEG requests that the 60-day filing requirement be waived and that March 27, 1989 be allowed as the effective date of the filing.

NYSEG has filed a copy of this filing with Long Island Lighting Company and the Public Service Commission of the State of New York.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. New York State Electric & Gas Corporation

[Docket No. ER89-345-000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on April 14, 1989, tendered for filing pursuant to § 35.12 of the regulations under the Federal Power Act, an agreement with Rochester Gas and Electric Corporation (RG&E). The short term agreement provides that NYSEG shall sell surplus capability and associated energy to RG&E. Service under this agreement commenced on March 20, 1989 and shall terminate on April 2, 1989 unless extended in writing by mutual agreement.

NYSEG requests that the 60-day filing requirement be waived and that March 20, 1989 be allowed as the effective date of the filing.

NYSEG has filed a copy of this filing with RG&E and with the Public Service Commission of the State of New York.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Nantahala Power and Light Company

[Docket No. ER89-335-000]

Take notice that on April 3, 1989, Nantahala Power and Light Company (Nantahala) tendered for filing the 1988 revised "PL" (COSAC) rate tariff. Included in the filing is a report showing the development of these charges, the capitalization data, and the appropriate data for the year ended December 31, 1988.

Nantahala states that these rates are effective on and after April 1, 1989.

Comment date: May 8, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Arizona Public Service Company

[Docket No. ER89-281-000]

Take notice that on April 3, 1989 Arizona Public Service Company (Arizona) tendered for filing a Notice of Termination applicable to the Firm Transmission Service Agreement (Agreement) between Arizona and Tucson Electric Power Company (APS FERC Rate Schedule No. 91). Service will terminate on May 31, 1989 as provided pursuant to the terms of the Agreement.

Comment date: May 8, 1989, in accordance with Stardard Paragraph E at the end of this notice.

13. Louisiana Power & Light Company

[Docket No. EL89-24-000]

Take notice that on March 15, 1989 Louisiana Power & Light Company (LP&L) filed a Petition for an Order Relating to Disposition of Proceeds of Judgment Against Gas supplier. LP&L states that it has recovered $193,669,000 on a judgement against a fuel supplier and that the Louisiana Public Service Commission has issued an order addressing the disposition of the proceeds of said judgement with respect to its retail customers. LP&L further requests an order addressing the appropriate treatment of the proceeds. LP&L further states that notice thereof was given to the Louisian Public Service Commission, the Council of the City of New Orleans, and those entities that are, from time to time, wholesale customers of LP&L, including Cajun Electric Power Cooperative, and the Towns of Winnfield, Vidalia, Jonesville, and Minden, Louisiana.

Comment date: May 22, 1989, in accordance with Stardard Paragraph E at the end of this notice.

14. Southern California Edison Company v. Arizona Public Service Company

[Docket No. EL89-26-000]

Take notice that on March 30, 1989 Southern California Edison Company (SCE) tendered for filing a complaint against Arizona Public Service Company (APS). SCE submits that APS has improperly charged SCE under the Arizona-Edison Cholla No. 4 Layoff Agreement since December, 1984 and that such improper charges should be refunded with interest. SCE also requests prospective relief under section 206 of the Act as amended by the Regulatory Fairness Act.

Comment date: May 22, 1989, in accordance with Stardard Paragraph E at the end of this notice.

15. City of Watertown, New York v. Niagara Mohawk Power Corp.

[Docket No. EL89-27-000]

Take notice that on April 4, 1989 the City of Watertown, New York (Watertown) filed a request for an order, pursuant to sections 206, 306 and 309 of the Federal Power Act, directing Niagara Mohawk Power Corporation (Niagara Mohawk) to transmit to Watertown its 880 kW allocation of electricity from the New York Power Authority's (NYPA) Niagara Project, as required by the Niagara Mohawk tariff on file, Rate Schedule Nos. 18 and 19, and by Niagara Mohawk's 1961 contract with NYPA. Watertown also requests Niagara Mohawk to make it whole for injury caused to Watertown by Niagara Mohawk's refusal to transmit, which is a plain violation of Niagara Mohawk's contract under the "filed rate" doctrine.

Comment date: May 22, 1989, in accordance with Stardard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10096 Filed 4-26-89; 8:45 am]

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[Docket Nos. CP87-432-008 et al.]

K N Energy, Inc. and Northern Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. K N Energy, Inc. and Northern Gas Company

[Docket No. CP87-432-008]

April 20, 1989.

Take notice that on February 27, 1989, K N Energy, Inc. (K N) and Northern Gas Company (NGC),[1] successor-in-interest to Northern Utilities, Inc., P.O. Box 15265, Lakewood, Colorado 80215, filed a petition in Docket No. CP87-432-008, pursuant to section 7(c) of the Natural Gas Act, to further amend the order issued October 30, 1987, in Docket No. CP87-432-000, so as to amend the terms of its existing authorization to provide an additional exchange delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

K N and NGC state that the order issued October 30, 1987, authorizes them to engage in the exchange of natural gas between two gas supply areas in the State of Wyoming, Beaver Creek and Sand Draw. It is further stated that the order issued October 5, 1988, amended the original certificates to provide for a term of unlimited duration.

K N and NGC state that they are requesting that their existing certificates be amended to authorize an additional exchange delivery point from K N to NGC at an existing point of interconnection between K N and NGC's facilities near Casper, Wyoming. Petitioners are proposing herein to exchange gas at the outlet of K N's Casper Plant in Natorna County, Wyoming. The petitioners state the proposed alternative point would permit NGC to receive gas from K N at a location where NGC can best utilize the exchange gas to meet its customers' requirements in Wyoming in the most efficient and cost effective manner.

Comment date: May 11, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Kentucky West Virginia Gas Company

[Docket No. CP89-1179-000]

April 21, 1989.

Take notice that on April 10, 1989, Kentucky West Virginia Gas Company, (Kentucky West),[2] 340 Seventeenth Street, Ashland, Kentucky 41101, filed in Docket No. CP89-1179-000 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for: (1) Blanket certificate authority with pregranted abandonment authority for the interruptible sale for resale of natural gas supplies, which are in excess of the current and projected needs of Kentucky West's on-system customers, to off-system and on-system purchasers, including interstate and Hinshaw pipelines, local distribution customers, natural gas marketers and direct sale customers pursuant to a proposed new rate schedule, Interruptible Sales Service (ISS), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Kentucky West states that it proposes to charge a negotiated rate for sales under the proposed Rate Schedule ISS ranging between a maximum rate equal to Kentucky West's 100 percent load factor rate found in its Rate Schedule PLS-1 rate and the minimum rate equal to Kentucky West's actual weighted average cost of gas for the month in which the gas is delivered together with a representative amount of out-of-period adjustments, plus all variable costs incurred to provide the service, as well as GRI and Annual Charge Adjustments (ACA) as applicable. Kentucky West states that sales would be made through existing facilities.

Comment date: May 12, 1989, in accordance with Standard Paragraph F at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP89-1204-000]

April 21, 1989.

Take notice that on April 13, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed an application pursuant to section 7(b) of the Natural Gas Act, for authorization to abandon service to Berkshire Gas Company (Berkshire), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By Commission order issued December 15, 1978, in Docket No. CP78-499 (5 FERC ¶ 61,234), Tennessee was authorized, inter alia, to transport natural gas for Berkshire. Tennessee was authorized to transport and deliver up to 21,190 Mcf of gas per day to Berkshire at Tennessee's North Adams sales meter station, Berkshire County, Massachusetts.

The authorized transportation service enabled Berkshire to receive volumes of natural gas equivalent to liquefied natural gas (LNG) purchased by Berkshire from Distrigas of Massachusetts Corporation (DOMAC). In order to effect receipt by Berkshire of equivalent volumes of natural gas, Boston Gas Company (Boston Gas), a customer of Tennessee, receives daily volumes of LNG from DOMAC and releases equivalent volumes of natural gas to Tennessee for Berkshire's account at Tennessee's Arlington sales meter station delivery point to Boston Gas in Middlesex County, Massachusetts. Volumes so made available by Boston Gas to Tennessee at the receipt point are volumes designated by Boston Gas from its contracted demand purchases from Tennessee under Tennessee's Rate Schedule CD-6.

The authorized transportation service is presently rendered under the terms of an Interruptible Transportation Contract (the Contract) made as of December 15, 1978 by and among Tennessee, Boston

[1] NGC is a Hinshaw pipeline, regulated by the Wyoming Public Service Commission.

[2] This notice was previously issued March 13, 1989, but inadvertently was not published in the Federal Register.

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Gas and Berkshire. The Contract has been filed by Tennessee as its FERC Rate Schedule T–80, a copy of which is submitted herewith as part of Exhibit U.

Article XI of Tennessee's Rate Schedule T–80 provides that the Contract shall extend for a primary term ending November 1, 1993 and year to year thereafter unless terminated by any party upon twelve months prior written notice to the other parties.

By this application Tennessee seeks authorization to abandon the transportation service for Berkshire authorized by the Commission's order issued on December 15, 1978, in Docket No. CP78–499. By letter of February 23, 1989, Berkshire and Tennessee have agreed to such termination effective February 1, 1989. Tennessee requests that the authorization to abandon such service be made effective February 1, 1989.

Tennessee has a rate case before the Commission at Docket No. RP88–228–000. It will be Tennessee's position that the abandonment of the transportation service as proposed herein should be considered by the Commission and reflected in the decision of RP88–228–000.

Comment date: May 12, 1989, in accordance with Standard Paragraph F at the end of this notice.

4. Columbia Gas Transmission Corporation

[Docket No. CP89–1205–000]

April 21, 1989.

Take notice that on April 13, 1989, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP89–1205–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to partially abandon service and for pre-granted abandonment authority to Baltimore Gas and Electric Company (BG&E), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia requests permission and approval to abandon: (i) 34,358 dekatherms per day (Dt/d) of contract demand effective November, 1988 [1]; (ii) 20,000 Dt/d of contract demand effective January 1, 1988; and (iii) 45,642 Dt/d of contract demand effective November 1, 1989 under Columbia's CDS Rate Schedule for BG&E [2], together with the abandonment of related Seasonal Entitlements. Additionally, Columbia requests permission and approval for pre-granted abandonment authority for the further abandonment of: (i) Contract demand under Columbia's Rate Schedule CDS by BG&E from time to time but not below 140,000 Dt/d at any time during the first five contract years commencing November 1, 1988, or not below 120,000 Dt/d at any time during the last ten (10) year period the service agreement dated March 10, 1989, between BG&E and Columbia, and (ii) seasonal entitlement of 5 percent per contract year, commencing November 1, 1990 at BG&E's use of reduction and/or conversion rights pursuant to the provisions of section 6 and Appendix A of the March 10, 1989, service agreement.

The abandonment authorization requested would result in the following levels of sales service for BG&E:

Entitlements, effective date	Contract demand (Dt/d) summer season	Seasonal (Dt/year) winter season
Nov. 1, 1988, 39,518,000	263,642	11,206,000
Jan. 1, 1989, 35,760,000	263,642	7,664,000
Apr. 1, 1989, 35,760,000	239,467	7,774,000
Nov. 1, 1989, 30,150,000	[3]193,825	2,380,000
Nov. 1, 1990, 30,150,000 [4] and thereafter	[4]193,825	[4]2,380,000

[3] Under the Service Agreement, BG&E will reduce its contract demand to 215,000 Dt/d or 193,825 Dt/d as of November 1, 1989. BG&E must advise Columbia of the quantity it desires as its contract demand by June 3, 1989.

[4] Subject to Buyer's further reduction or conversion rights reflected in Section 6 of the March 10, 1989, service agreement.

Further, Columbia requests pre-granted authorization to implement the reductions and conversion rights of BG&E as set forth in Section 6 and Appendix of said Service Agreement.

Comment date: May 12, 1989, in accordance with Standard Paragraph F at the end of this notice.

5. Tennessee Gas Pipeline Company

[Docket No. CP89–1210–000]

April 21, 1989.

Take notice that on April 14, 1989, Tennessee Gas Pipeline Company (Tennessee), Post Office Box 2511, Houston, Texas 77252, filed in Docket No. CP89–1210–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Capitol District Energy Center Cogeneration Associates (Capitol District), an end-user, under its blanket authorization issued in Docket No. CP87–115–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee would perform the proposed interruptible transportation service for Capitol District, pursuant to an interruptible transportation service agreement dated December 19, 1988. The transportation agreement is effective for a term of two years and thereafter until firm transportation is made available to Capitol District pursuant to its Precedent Agreement filed with Tennessee and dated December 17, 1987; however, that either party may terminate the agreement at any time upon at least 30 days written notice to the other party. Tennessee proposes to transport 13,900 dekatherms (dth) of natural gas on a peak and average day; and on an annual basis 5,073,500 dth of natural gas for Capitol District. Tennessee proposes to receive the subject gas at various existing points of receipt located offshore Louisiana and in the states of Louisiana, Mississippi and Pennsylvania. The points of delivery and ultimate points of delivery are located in the state of Connecticut. Tennessee avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Tennessee commenced such self-implementing service on April 1, 1989, as reported in Docket No. ST89–3011–000.

Comment date: June 5, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Southern Natural Gas Company

[Docket No. CP89–1221–000]

April 21, 1989.

Take notice that on April 17, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP89–1221–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Texarkoma Transportation Company (Texarkoma), a marketer of natural gas, under Southern's blanket certificate issued in Docket No. CP88–316–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern proposes to transport, on an interruptible basis, up to 2,500 MMBtu equivalent of natural gas on a peak day, 2,000 MMBtu equivalent on an average day, and 730,000 MMBtu equivalent on an annual basis for Texarkoma. It is stated that Southern would receive the gas at existing points on Southern's system in Louisiana, offshore Louisiana, Texas, offshore Texas, Mississippi, and Alabama. It is stated that Southern would deliver equivalent volumes at existing points on Southern's system in Georgia. It is asserted that Southern would utilize existing facilities and that no construction of additional facilities would be required. It is explained that the transportation service commenced March 2, 1989, under the automatic authorization provisions of Section 284.223 of the Commission's Regulations, as reported in Docket No. ST89–2694.

Comment date: June 5, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Panhandle Eastern Pipe Line Company

[Docket No. CP89–1166–000]

April 21, 1989.

Take notice that on April 7, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–1166–000 a request pursuant to §§ 157.205 and 284.223(2)(b) of the Commission's Regulations under the Natural Gas Act for authorization to provide transportation for Amgas, Inc. (Amgas), a shipper and marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle specifically requests authorization to transport up to 1,000 dt equivalent of natural gas per day on an interruptible basis on behalf of Amgas pursuant to a transportation agreement dated January 12, 1989, between Panhandle and Amgas. It is stated that the agreement provides for Panhandle to receive gas from various existing points of receipt on its system in Texas, Oklahoma, Kansas, Colorado, Wyoming, and Illinois. Panhandle would then transport and redeliver subject gas, less fuel used and unaccounted for line loss to Central Illinois Light Company in Tazewell County, Illinois, it is stated. Panhandle states that the estimated daily and annual quantities would be 500 dt and 182,500 dt, respectively. It is further stated that service under § 284.223(a) commenced on March 1, 1989, as reported in Docket No. ST89–2836–000.

Comment date: June 5, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP89–1134–000]

April 21, 1989.

Take notice that on April 3, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP89–1134–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Northern to increase the currently authorized firm entitlement it provides to three of its utility customers, and to realign the currently authorized firm entitlement sold to one of the three utility customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern is proposing to increase firm sales entitlements to St. Croix Valley Natural Gas Company, Inc. (St. Croix) and Municipal Utilities Department, Watertown, South Dakota (Watertown) and to increase and realign firm sales entitlements to Wisconsin Gas Company (Wisconsin Gas). It is stated that the total increase in firm entitlement sought by Northern is 5,032 Mcf per day (Mcfd); 3,213 Mcfd is to be served under Rate Schedule SS–1 and 1,819 Mcfd under Rate Schedule WPS–1, of its FERC Gas Tariff, Third Revised Volume No. 1. Northern states that the proposed changes are to be effective for the 1989–1990 winter heating season. Northern requests that the SS–1 firm sales service for St. Croix, Watertown and Wisconsin Gas become effective on November 1, 1989, and the WPS–1 firm sales service for Watertown and Wisconsin Gas become effective on December 15, 1989, pursuant to their executed service agreements.

Each utility has requested Northern to increase their firm entitlement in the manner and amount set forth below.

[Volumes in Mcfd]

	Existing authority	Proposed authority	Proposed increase
SS–1 Service:			
St. Croix	1,398	2,188	790
Watertown	1,230	1,920	690
Wisconsin Gas	12,496	14,229	1,733
WPS–1 Service:			
Watertown	240	550	310
Wisconsin Gas	2,291	3,800	1,509
Total	17,655	22,687	5,032

Wisconsin Gas is currently realigning the volumes it serves to twenty-one communities, in the manner set forth below.

Wisconsin Gas/ Community	Volumes in Mcfd		
	Existing authority	Proposed authority SS–1	Proposed increase (decrease), SS–1
Almena	90	115	25
Amery	450	420	(30)
Balsam Lake	120	150	30
Barron	370	380	10
Bloomer	345	330	(15)
Cameron	180	250	70
Chetek	240	280	40
Clayton	70	75	5
Clear Lake	230	200	(30)
Frederic	210	200	(10)
Ladysmith	660	750	90
Luck	190	200	10
Milltown	80	110	30
New Auburn	60	55	(5)
Osceola	240	230	(10)
Rice Lake	546	1,842	1,296
St. Croix Falls	250	255	5
Star Prairie	20	30	10
Tomah	747	989	242
Turtle Lake	170	150	(20)
Weyerhauser	75	65	(10)
Total	5,343	7,076	1,733

Northern states that such realignment and/or increase in firm entitlement will more effectively serve the natural gas needs of Northern's utility customers and of their individual customers, and is clearly in the public convenience and necessity. It is further stated that Northern's Form 15, filed with the Commission on April 1, 1988, reflects that Northern has gas supply in excess of its current market requirements to enable it to serve the increased loads proposed herein.

According to Northern, no additional facilities are required to be constructed to accommodate the realigned and increased deliveries of natural gas to the utility customers as proposed herein.

Finally, Northern states that it will utilize its currently effective WPS–1 and SS–1 Rate Schedules for the increased

[1] The abandonment of the 34,358 Dt/d of contract demand results from BG&E's conversion from service under Rate Schedule CDS to Rate Schedule FTS under Order No. 436 and, as a result, BG&E's contract demand effective November 1, 1988 would be reduced from 318,000 Dt/d to 283,642 Dt/d.

[2] The Commission's "Order Approving Abandonment" in Docket No. CP89–514–000 issued March 21, 1989, authorized Columbia to abandon 24,175 Dt/d of Contract Demand under Columbia's Rate Schedule CDS with BG&E, which reduced BG&E's contract demand from 318,000 Dt/d to 293,825 Dt/d effective April 1, 1989.

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level of service proposed, and upon receipt of the authorizations requested herein, Northern will file with the Commission the necessary revised Tariff Sheets reflecting the proposed volume increases.

Comment date: May 12, 1989, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if not motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10022 Filed 4-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6481-001 Oregon]

Roy M. Beyer; Surrender of Exemption

April 21, 1989.

Take notice that Roy M. Beyer, exemptee for the proposed Beyer Hydropower Project, has requested that his exemption from licensing be surrendered. The exemption was issued on August 3, 1982. The project would have had an installed capacity of 24 kilowatts and would have been located on Beaver Creek, at Beyer Pond Dam, in Clackamas County, Oregon. No construction or ground disturbing activities have been initiated at the proposed project location.

The exemptee filed the request on May 8, 1984, and the exemption for Project No. 6481 shall remain in effect through the thirtieth day after issuance of this notice unless that day is Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10023 Filed 4-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-86-001]

Chandeleur Pipe Line Co.; Filing

April 21, 1989.

Take notice that on April 17, 1989, Chandeleur Pipe Line Company (Chandeleur) filed Substitute Original Sheet Nos. 18, 23, 26, 110, and 111, and Original Sheet No. 110-A to its FERC Gas Tariff, First Revised Volume No. 1, to be effective April 1, 1989.

Chandeleur states that these tariff sheets are filed in compliance with the Commission's order of March 31, 1989. Chandeleur states that Substitute Original Sheet No. 18 deletes the language that outlines conditions under which a firm transportation request will be held invalid. Chandeleur states that Substitute Original Sheet No. 23 corrects some typographical errors. Chandeleur states that Substitute Original Sheet No. 26 now states that it will allow any gas to be delivered to satisfy the delivery requirement, that it will apply the extension period in a non-discriminatory manner, and that Chandeleur will excuse gas that is not delivered due to delays in construction or force majeure from the delivery requirements. Chandeleur states it has added language in Substitute Original Sheet Nos. 110 and 110-A which describe the method of scheduling firm transportation when it is unable to accommodate all requested firm transportation service. Substitute Original Sheet No. 111 states that firm transportation will be curtailed on a pro rata basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214. 385.211 (1988)). All such motions or protests should be filed on or before April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10097 Filed 4-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-122-020 and RP87-30-025]

Colorado Interstate Gas Co.; Compliance Filing

April 21, 1989.

Take note that on April 14, 1989, Colorado Interstate Gas Company ("CIG") submitted a revised compliance filing in Docket Nos. RP85-122 and RP87-30.

CIG states this filing reflects compliance with ordering paragraph C of the Commission's March 15, 1989 order which accepted CIG's February 13, 1989 filing in the above dockets subject to refund and conditions. The tariff sheets listed below reflect the following: (1) Deletion of D-2 overrun charge

reference in Rate Schedule SG-1; (2) Reclassification of the return on equity and related taxes related to preferred stock from demand to the commodity component of CIG's rates; and (3) Revision to Substitute Third Revised Sheet No. 10 of CIG's Volume No. 1 Tariff to reflect the elimination of the inconsistency related to CIG's standby service as pointed out in the Commission's March 15, 1989 order. CIG continued to reflect the elimination of the PR-1 Rate Schedule on Second Substitute Third Revised Sheet No. 10 effective November 1, 1988, but eliminated the reference to the standby service on this sheet. The standby service reference has been reflected on Third Substitute Third Revised Sheet No. 10 effective July 14, 1987 which is the effective date of CIG's standby service.

CIG included workpapers supporting base rates effective March 1, 1989, and base rates to be effective May 1, 1989. The March 1, 1989 base rates are based on CIG's February 13, 1989 filing and reflect the above changes before the reclassification of costs related to "certificated" facilities as required by the Commission's February 13, 1987 and February 27, 1989 orders.

The May 1, 1989 base rates reflects the reclassification of "certificated" gathering costs to commodity pursuant to the Commission's February 13, 1987 and February 27, 1989 orders as reflected in CIG's March 23, 1989 compliance filing as revised by the adjustments stated above.

In addition, because other aspects of Opinion Nos. 290 and 290-A are pending judicial review, CIG states that it reserves the right to modify the instant filing based upon the ultimate outcome of such pending judicial review or final Commission action.

Copies of this filing are being served on all jurisdiction customers and interest state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before Apr. 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10098 Filed 4-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-86-002]

Colorado Interstate Gas Co.; Compliance Filing

April 21, 1989.

Take Notice that Colorado Interstate Gas Company ("CIG"), on April 17, 1989, tendered for filing the following tariff sheets to revise its FERC Gas Tariff, Original Volume No. 1:

Substitute Original Sheet No. 61G5
Substitute Original Sheet No. 61G6
Substitute First Revised Sheet No. 61G7
Original Sheet No. 61G7-A
Substitute First Revised Sheet No. 61G8
Substitute Original Sheet No. 61G9
Substitute Original Sheet No. 61G11

CIG states that the above-referenced tariff sheets are being filed in compliance with the Commission's Order issued March 31, 1989 in this docket. CIG also submitted a description of the interest calculations contained in CIG's March 2, 1982 filing as well as support for the Base and Deficiency Periods utilized in that filing.

CIG states that copies of the filing were served upon all of the parties to this proceeding and affected state commissions as well as all of CIG's firm sales customers.

Copies of this filing are being served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10099 Filed 4-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-32-001]

Colorado Interstate Gas Co.; Compliance Filing

April 21, 1989.

Take notice that on April 14, 1989, Colorado Interstate Gas Company (CIG) filed certain tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to be effective March 1, 1989. CIG states that this filing is made pursuant to the Commission's March 31, 1989 letter order in Docket Nos. TQ89-2-32-000 and the directive of the Commission in its order of March 15, 1989 in Docket Nos. RP85-122-018 and RP87-30-022.

CIG states that these tariff sheets reflects, for the appropriate subsections of its PGA clause, modified language that clarifies how the current adjustments for the D-1 and D-2 demand charges are computed consistent with the implementation of the Modified Fixed Variable method of rate design.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10100 Filed 4-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-92-002]

El Paso Natural Gas Co.; Compliance Tariff Filing

April 21, 1989.

Take notice that El Paso Natural Gas Company ("El Paso"), on April 18, 1989, tendered for filing pursuant to Part 154

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of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, and in compliance with the Commission's letter order dated March 31, 1989, at Docket No. RP89-92-000, Substitute Third Revised Sheet No. 232 and Original Sheet No. 232-A to its FERC Gas Tariff, Original Volume No. 1-A.

El Paso states that on March 3, 1989 at Docket No. RP89-92-000, El Paso tendered for filing and acceptance certain tariff sheets in compliance with Order No. 500, *et seq.*, setting forth the method by which firm transportation capacity will be reallocated under § 284.304(c) of the Commission's Regulations in the evident that two or more shippers seek to obtain the firm capacity that one or more shippers offer to relinquish on or across the Outer Continental Shelf.

El Paso states that by letter order of March 31, 1989 in Docket No. RP89-92-000, the Commission accepted and suspended those tariff sheets, subject to refund, effective April 1, 1989, and subject to modification. El Paso was directed to refile its tariff sheets within thirty (30) days of the date of said order so as to include langauge in its tariff which specifically addresses § 284.304(c) of the Commission's Regulations.

El Paso states this filing tenders Substitute Third Revised Sheet No. 232 and Original Sheet No. 232-A contained in El Paso's FERC Gas Tariff, Original Volume No. 1-A to specifically set forth language incorporating El Paso's compliance with the voluntary reallocation of firm capacity, as defined by § 284.304(c) of the Commission's Regulations.

El Paso requested, pursuant to § 154.51 of the Commission's Regulations, that waiver of the notice requirements of § 154.22 of the Commission's Regulations be granted so as to permit the tendered sheets to become effective April 1, 1989.

Copies of the filing were served upon all shippers utilizing the El Paso system and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 351.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 10104 Filed 4-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-94-020]

Natural Gas Pipeline Company of America; Tariff Filing

April 21, 1989.

Take notice that on April 14, 1989, Natural Gas Pipeline Company of America (Natural) filed Substitute Fourth Revised Sheet Nos. 169 and 170 in its FERC Gas Tariff, Third Revised Volume No. 1, to be effective May 1, 1989, in lieu of the tariff sheets filed on March 31, 1989.

Natural states that this proceeding involves its filing to recover transition costs. On March 23, 1989, the Commission issued an order in which it directed Natural to revise its comparison period used in its transition cost recovery scheme by adopting one of two methods recommended by the Commission. One method involved the use of full calendar years only and the other involved making a separate deficiency calculation for the partial year.

Natural states that it made a filing on March 31, 1989, in which, *inter alia*, it adopted the method involving full calendar years in the calculation of the deficiency as recommended by the Commission. Natural states that since making the March 31 filing, it has been contacted by some of its customers complaining about the adverse effects of its revision to the comparison period. Natural states that in order to apportion its transition costs among its customers most fairly, it should split the difference between the two allocation methods recommended by the Commission, and the tariff sheets it has tendered reflects averages of the results of both methods.

Natural requests that the Commission grant it such waivers as are necessary to implement the tariff sheets in accordance with the March 31 filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10102 Filed 4-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-37-001]

Northwest Pipeline Corp.; Change in FERC Gas Tariff

April 21, 1989.

Take notice that on April 17, 1989, Northwest Pipeline Corporation ("Northwest"), in compliance with the Federal Energy Regulation Commission's ("Commission") order issued March 31, 1989 in the above-captioned docket, submitted the following tariff sheet to be a part of its FERC Gas Tariff:

First Revised Volume No. 1

First Amended Forty-Ninth Revised Sheet No. 10

Northwest states First Amended Forty-Ninth Revised Sheet No. 10 was filed to adjust the "Estimated average cost of gas in last scheduled PGA-Commodity" as found on the bottom of Rate Sheet No. 10. The subject tariff sheet amends Forty-Ninth Revised Sheet No. 10, which has been accepted by the Commission for filing and suspended to become effective April 1, 1989, subject to refund. First Amended Forty-Ninth Revised Sheet No. 10 was also filed to be effective April 1, 1989. Northwest also filed additional information in support of its annual PGA filing as required by the Commission's March 31, 1989 order.

A copy of this filing has been served on Northwest's jurisdictional sales customers and affected state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulation Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with § § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary,

[FR Doc. 89-10103 Filed 4-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-66-001]

Pacific Interstate Offshore Co.; Compliance Filing of Proposed Change in FERC Gas Tariff Rate

April 21, 1989

Take notice that Pacific Interstate Offshore Company ("PIOC") on April 14, 1989, tendered for filing the following proposed change to its FERC Gas Tariff, Original Volume No. 1, to be effective April 22, 1989:

Ninth Revised Sheet No. 4

PIOC states that the tariff sheet has been filed in compliance with Ordering Paragraph Two (2) of the Commission's Letter Order dated March 23, 1989 in Docket No. RP88-66-000. PIOC is filing for a reduction in its rate charged to its sole customer, Southern California Gas Company, under Rate Schedule G-10.

Copy of this filing were served on PIOC's suppliers, customers, and the interested State Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary,

[FR Doc. 89-10104 Filed 4-26-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearing and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $8.5 million, plus accrued interest, in alleged crude oil violation amounts obtained from Hood Goldsberry d/b/a Goldsberry Operating Company (Case No. KEF-0118), Meeker and Company (Case No. KEF-0122), Calumet Industries, Inc. (Case No. KEF-0122) and Christmann and Welborn (Case No. KEF-0123). The OHA has determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Applications for refund must be filed by October 31, 1989, and should be addressed to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director; Roger Klurfeld, Assistant Director; Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2094 (Mann); 586-2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the final procedures that the DOE has formulated to distribute crude oil overcharge funds obtained from the four firms listed above. The funds are being held in an interest-bearing escrow account pending distribution by the DOE.

The OHA has decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the states, the federal government, and injured purchasers of refined products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers will be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

Applications for refund must be filed by October 31, 1989, and should be sent to the address set forth at the beginning of this notice. The information which claimants should include in their applications is explained in the Decision, which immediately follows. Any claimant that has already filed a crude oil refund application need not file again.

Dated: April 19, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 19, 1989.

DECISION AND ORDER

Implementation of Special Refund Procedures

Names of Firms:
Hood Goldsberry
Meeker and Company
Calumet Industries, Inc.
Christmann and Welborn

Dates of Filing:
September 19, 1988
October 25, 1988
October 31, 1988
January 18, 1989

Case Numbers:
KEF-0118
KEF-0121
KEF-0122
KEF-0123

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

The ERA has filed four Petitions for the Implementation of Special Refund Procedures for crude oil overcharge funds obtained from Hood Goldsberry d/b/a Goldsberry Operating Company, Inc. (Goldsberry), Meeker and Company (Meeker), Calumet Industries, Inc. (Calumet) and Christmann and Welborn (Christmann). These four firms remitted a total of $8.5 million to the DOE.[1] An additional $1.8 million in interest has accrued on that amount as of March 31, 1989. This Decision and Order establishes procedures for distributing these funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR Part 205, Subpart V. The Subpart V process may

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[1] Goldsberry remitted $433,562.61 to the DOE pursuant to Consent Order 641C00428. Meeker paid $305,928.41 in accordance with Consent Order 6A0C00070, and Calumet paid $859,289.68 in accordance with Consent Order N00S90139. Christmann remitted a total of $6,944,288.49 to the DOE pursuant to (1) a July 10, 1985 Judgement of the United States District Court for the Northern District of Texas, Lubbock Division, *Christmann & Welborn v. DOE*, No. CA-5-79-7; and (2) a Settlement Agreement between Christmann and the DOE in that same litigation, DOE Case Number 676C00102.

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be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We have considered the ERA's requests to implement Subpart V procedures with respect to the monies received from the four firms listed above, and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 Fed. Reg. 27899 (August 4, 1986) ("the MSRP"). The MSRP, issued as a result of a court-approved Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan.), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to 20 percent of these crude oil overcharge funds will be reserved initially to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA announced its intention to apply the Modified Policy in all Subpart V proceedings involving alleged crude oil violations. *See* Order Implementing the MSRP, 51 Fed. Reg. 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings.

On April 10, 1987, the OHA issued a Notice analyzing the numerous comments it received in response to the August 1986 Order. 52 Fed. Reg. 11737. The Notice set forth generalized procedures and provided guidance to assist claimants that wish to file refund applications for crude oil monies under the Subpart V regulations. In that Notice, the OHA stated that all applicants for crude oil refunds would be required to document their purchase volumes of petroleum products during the period of price controls and prove that they were injured by the alleged overcharges. The Notice indicated that end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. Finally, the OHA stated that refunds would be calculated on the basis of a per gallon refund amount derived by dividing crude oil violation amounts by the total consumption of petroleum products in the United States during the period of price controls. The numerator would include the crude oil overcharge monies that were in the DOE's escrow account at the tie of the settlement and a portion of the funds in the M.D.L. 378 escrow at the time of the settlement.

These procedures, which the OHA has applied in numerous cases since the April 1987 Notice, *see, e.g., New York Petroleum, Inc.*, 18 DOE ¶ 85,435 (1988); *Shell Oil Co.*, 17 DOE ¶ 85,204 (1988); *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 (1988), have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals. Various states had filed a Motion with the Kansas District Court, claiming that the OHA violated the Settlement Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. On August 17, 1987, Judge Theis issued an Opinion and Order denying the states' Motion in its entirety. The court concluded that the Settlement Agreement "does not bar OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *In Re: The Department of Energy Stripper Well Exemption Litigation*, 671 F. Supp. 1318 at 1323 (D. Kan. 1987). The court also ruled that, as specified in the April 1987 Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24. The states appealed the latter ruling, and the Temporary Emergency Court of Appeals affirmed Judge Theis' decision. *In Re: The Department of Energy Stripper Well Exemption Litigation*, 857 F.2d 1461 (Temp. Emer. Ct. App. 1988).

II. The Proposed Decision and Order

On February 16, 1989, the OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the alleged crude oil violation amounts obtained from Goldsberry, Meeker, Calumet and Christmann. The OHA tentatively concluded that the funds in those cases should be distributed in accordance with the MSRP and the April 10, 1987 Notice. Pursuant to the MSRP, the OHA proposed to reserve initially 20 percent of the crude oil violation amounts for direct restitution to applicants who claim that they were injured by the alleged crude oil violations. The remaining 80 percent of the funds would be distributed to the states and the federal government for indirect restitution. After all valid claims are paid, any remaining funds in the claims reserve also would be divided between the states and the federal government. The federal government's share ultimately would be deposited into the general fund of the Treasury of the United States.

In the PD&O, the OHA proposed to require applicants for refund to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by crude oil overcharges. The PD&O stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry could use a presumption that they absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. The OHA also proposed to calculate refunds on the basis of a volumetric refund amount, as described in the April 10, 1987 Notice. Comments were solicited regarding the tentative distribution process set forth in the PD&O.

In response to the PD&O, the OHA received comments from Philip P. Kalodner as counsel for six electric utilities, 14 foreign-flag shipping companies, and four pulp and paper manufacturers. Kalodner's clients are all potential recipients of crude oil refunds. In his comments, Kalodner advances once again his contention that the 20 percent reserve for claimants will be insufficient to satisfy all of the legitimate claims that have been or will be filed in these proceedings. Kalodner maintains that the OHA should not distribute any of the crude oil violation amounts covered by this Decision to the states and federal government. Instead, Kalodner asks the OHA to retain all of the funds for claimants in order to rectify the alleged deficiency.

The OHA has addressed various incarnations of Kalodner's comments on numerous previous occasions, and has rejected them at each juncture. As we have prepeatedly indicated, the Stripper Well Settlement Agreement permits the OHA to reserve no more than 20 percent of alleged crude oil violation amounts for direct refunds to injured claimants. *See, e.g., Wickett Refining Co.*, 18 DOE ¶ 85,659 at 88,079–80 (1989); *New York Petroleum*, 18 DOE at 88,701; *A. Tarricone, Inc.*, 15 DOE ¶ 85,495 at 88,893 (1987). Moreover, we have noted that "there is absolutely no evidence to support Kalodner's assertion that the 20 percent reserve will be insufficient to pay claimants." *Amorient Petroleum Co.*, 16 DOE ¶ 85,595 at 88,977 (1988). In the current permutation of his comments, Kalodner has presented no new facts or arguments to justify a reconsideration of those issues in this determination. Accordingly, we will adopt the refund procedures as proposed.

III. The Refund Procedures

A. Refund Claims

After considering the comments received, we have concluded that the $8.5 million in alleged crude oil violation amounts covered by this Decision, plus the $1.8 million in interest which has accrued on that amount as of March 31, 1989, should be distributed in accordance with the crude oil refund procedures previously discussed. As noted above, we will reserve initially the full 20 percent of the alleged crude oil violation amounts, or $2.06 million including interest, for direct refunds to claimants. The amount of the reserve may be adjusted downward later if circumstances warrant such action.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in Subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *MAPCO, Inc.*, DOE ¶ 85,097 (1986); *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986). As in non-crude oil cases, applicants will be required to document their purchase volumes and to prove that they were injured as a result of the alleged violations. Following Subpart V precedent, reasonable estimates of purchase volumes may be submitted. *Greater Richmond Transit Co.*, 15 DOE ¶ 85,028 at 88,050 (1986). Generally, it is not necessary for applicants to identify their suppliers of petroleum products in order to receive a refund.

Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond volumes of product purchased during the period of price controls. *See Tarricone*, 15 DOE at 88,893–96. The end-user presumption of injury is rebuttable, however, *Berry Holding Co.*, 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence which is of sufficient weight to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury. *See New York Petroleum*, 18 DOE at 88,701–03.

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the OHA Report to the district court in the Stripper Well Litigation, 6 Fed. Energy Guidelines ¶ 90,507 (June 19, 1985). Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refunds under Subpart V. *Boise Cascade Corp.*, 16 DOE ¶ 85,214 at 88,411. *reconsideration denied*, 16 DOE ¶ 85,495, *aff'd sub nom. In Re: The Department of Energy Stripper Well Exemption Litigation*, 3 Fed. Energy Guidelines ¶ 26,613 (D. Kan. 1987).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($8.5 million) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). *Mountain Fuel*, 14 DOE at 88,868 n.4. This yields a volumetric refund amount of $0.000004227 per gallon.[2]

Refund applications submitted pursuant to this Decision must be postmarked no later than October 31, 1989, the deadline established in *World Oil Co.*, 17 DOE ¶ 85,568 (1988). As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. *See Allerkamp*, 17 DOE at 88,176. Any party that has previously submitted a refund application in crude oil refund proceedings need not file another application; that application will be deemed to be filed in all crude oil proceedings finalized to date.

To apply for a crude oil refund, a claimant should submit an application for refund. That application should contain all of the following information:

(1) Identifying information including the applicant's name, address, and social security number or employer identification number, an indication whether the applicant is a corporation, the name and telephone number of a person to contact for any additional information, and the name and address of the person who should receive the refund check;

(2) A short description of the applicant's business and how it used petroleum products. If the applicant did business under more than one name, or a different name during the period of price controls, the applicant should list these names;

(3) If the applicant's firm is owned by another company, or owns other companies, a list of those other companies' names and their relationships to the applicant's firm;

(4) A statement identifying the petroleum products which the applicant purchased during the period August 19, 1973 through January 27, 1981, the number of gallons of each product purchased, and the total number of gallons for all products purchased on which the applicant bases its claim;

(5) An explanation of how the applicant obtained the volume figures above, and an explanation of its method of estimation if the applicant used estimates to determine its purchase volumes;

(6) A statement that neither the applicant, its parent firm, affiliates, subsidiaries, successors nor assigns has waived any right it may have to receive a refund in these cases (i.e. by having executed and submitted a valid waiver pursuant to any one of the escrow accounts established pursuant to the Stripper Well Agreement);

(7) If the applicant is not an end-user whose business is unrelated to the petroleum industry, a showing that the applicant was injured by the alleged overcharges (i.e. that the applicant did not pass through the overcharges to its own customers); and

(8) If the applicant is a regulated utility, a certification that it will notify the state utility commission of any refunds received, and that it will pass on the entirety of its refunds to its customers.

All applications should be typed or printed and clearly labelled "Application for Crude Oil Refund." Each applicant must submit an original and one copy of the application, which should be mailed to the following address:

Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Although an applicant need not use any special application form to apply for a crude oil refund, a suggested form has been prepared by the OHA and may be obtained by sending a written request to the address listed above.

[2] Based on the crude oil violations monies previously received by the DOE, the OHA recently announced that it was increasing the refund rate at which meritorious applicants in these proceedings are paid to $0.0008 per gallon. *Crude Oil Supplemental Refund Distribution*, 18 DOE ¶ 2, No. RA272–2 (April 11, 1989). This refund rate will be increased, when administratively expedient, to reflect any additional crude oil violation amounts received by the DOE. The total volumetric refund amount approved to date is $0.0009835287.

B. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the $8.5 million in principal, plus $1.8 million in interest, in alleged crude oil violation amounts subject to this Decision, or $8.24 million, should be disbursed in equal shares to the states and federal government for indirect restitution. Accordingly, we will direct the DOE's Office of the Controller to segregate $8.24 million and transfer one-half of that amount, or $4.12 million, into an interest-bearing subaccount for the states, and one-half into an interest-bearing subaccount for the federal government. In accordance with previous practice, when the amount available for distribution to the States reaches $10 million, we will issue a Decision and Order directing the DOE's Office of the Controller to make the appropriate disbursements to the individual states from their respective subaccount. This future Order is necessary to improve our ability to track the various disbursements to the states. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It Is Therefore Ordered That:

(1) Applications for Refund from the alleged crude oil overcharge funds remitted by Hood Goldsberry d/b/a Goldsberry Operating Company, Inc., Meeker and Company, Calumet Industries, Inc. and Christmann and Welborn may now be filed.

(2) All applications submitted pursuant to paragraph (1) above must be filed no later than October 31, 1989.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer, pursuant to Paragraphs (4), (5) and (6) below, all of the funds from the following subaccounts:

Hood Goldsberry, Account No. 641C00428Z
Meeker and Company, Account No. 6A0C00070Z
Calumet Industries, Inc., Account No. N00S90139Z
Christmann and Welborn, Account No. 67C00102Z

(4) The Director of Special Accounts and Payroll shall transfer $4,124,142.39 of the funds obtained pursuant to paragraph (3) above, plus interest which accrues on that amount from March 31, 1989 to the date of the transfer, into the subaccount denominated "Crude Tracking-States," Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer the same amount of funds as that indicated in paragraph (4) above into the subaccount denominated "Crude Tracking-Federal," Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $2,062,071.20 of the

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funds obtained pursuant to paragraph (3) above, plus interest which accrues on that amount from March 31, 1989 to the date of transfer, into the subaccount denominated "Crude Tracking-Claimants 2," Number 999DOE006Z.

Dated: April 19, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 89-10014 Filed 4-26-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3562-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202 382-2740).

DATE: Comments must be submitted on or before May 30, 1989.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: National User Charge Rate Survey (EPA ICR #1499). This is a new collection.

Abstract: Municipalities with wastewater treatment facilities that have received Construction Grant Program support will be asked to complete a short questionnaire to assess the adequacy of user fees to meet costs and ensure permit compliance and the burden these fees impose on residential users. Response is voluntary.

Burden Statement: The estimated public reporting burden for this collection of information is 1 hour and 20 minutes per respondent, per year. This estimate includes the time for completing the questionnaire.

Respondents: Municipalities.

Estimated No. of Respondents: 600.

Estimated Total Annual Burden on Respondents: 800 hours.

Frequency of Collection: One-time only.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

OMB Responses to Agency PRA Clearance Requests

EPA ICR #1489; Monitoring and Recordkeeping Requirements Under the Sewage Sludge Technical Regulations; was disapproved 3/31/89.

Date: April 21, 1989.

Odelia Funke,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 89-10065 Filed 4-26-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3562-6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202 382-2740).

DATE: Comments must be submitted on or before May 30, 1989.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Recordkeeping and Reporting Requirements for Pesticide Dealers and Commercial Applicators in Nebraska and Colorado (EPA ICR # 0154.03); OMB # 2070-0025. This is an extension of a currently approved collection.

Abstract: Under this ICR, EPA requires restricted-use pesticide applicators and dealers in Nebraska and Colorado to maintain records on pesticide use and disposition. In addition, dealers must report their identity to the Agency within sixty days of entering into business. The records help EPA ensure that only trained and certified persons handle restricted-use pesticides.

Burden Statement: The public reporting burden for this collection is estimated to average 1 and a half hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Applicator/Dealers of Restricted-Use Pesticides.

Estimated No. of Respondents: 4,000.

Estimated Total Annual Burden on Respondents: 6,400 hours.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden to both of the following addresses:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460.

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20503, (Telephone (202) 395-3084).

Date: April 20, 1989.

Odelia Funke,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 89-10066 Filed 4-26-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3562-3]

Science Advisory Board, Environmental Health Committee, Halogenated Organics Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Halogenated Organics Subcommittee, of the Environmental Health Committee, of the Science Advisory Board will be held on May 17th-18th, 1989, at the Howard Johnson's Crystal City Hotel, 2650 Jefferson Davis Highway, Arlington, Virginia. The meeting will be held from 9:00 a.m. to 5:00 p.m. on May 17th and from 9:00 a.m. to 12:00 p.m. on May 18th.

The purpose of this meeting is to review criteria documents for Hexachlorocychlopentadiene and 1,1,2-Trichloroethane.

The meeting will be open to the public. Any member of the public wishing to make a presentation at the meeting should forward a written statement to Dr. C. Richard Cothern, Executive Secretary, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, Washington, DC 20460, or contact him on (202) 382-2552 by May 4, 1989. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes.

Dated: April 20, 1989.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 89-10067 Filed 4-26-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50684A; FRL-3563-3]

Receipt of Notification of Intent To Conduct Small-Scale Field Testing; Genetically Engineered Microbial Pesticide; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document corrects a notice published in the Federal Register of February 22, 1989.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2690).

SUPPLEMENTARY INFORMATION: In the Federal Register of February 22, 1989 (54 FR 7594), EPA issued a receipt of notification of intent to conduct small-scale field testing of a genetically engineered microbial pesticide. This document corrects a sentence in the preamble that was incorrectly stated. On page 7594, column two, the third sentence of the "**SUPPLEMENTARY INFORMATION**" is corrected to read as follows: "A grant proposal supporting this research has been submitted to the EPA Office of Research and Development Terrestrial Biotechnology and Microbial Ecology Program; approval is pending."

Dated: April 21, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticides Programs.

[FR Doc. 89-10243 Filed 4-26-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30296; FRL-3563-1]

Ecogen, Inc.; Applications To Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by May 30, 1989.

ADDRESS: By mail submit comments identified by the document control number [OPP-30296] and the registration/file numbers to: Phil Hutton, Product Manager (PM 17), Public Docket and Freedom of Information Section, Field Operations Programs (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Environmental Protection Agency, Rm. 246, CM#2, Attn: PM 17, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Phil Hutton, PM 17, Rm. 207, CM#2, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included in Any Previously Registered Product

1. *File Symbol:* 55638-I. *Applicant:* Ecogen, Inc., 2005 Cabot Blvd West, Langhorne, PA 19047-1610. *Product name:* Cutlass ™ WP. Insecticide. *Active ingredient: Bacillus thuringiensis* var. *kurstaki* strain 2371 protein toxic 10.0% *Proposed classification/Use:* General. For the control of lepidopteran pests on a variety of crops. (PM 17)

2. *File Symbol:* 55638-O. *Applicant:* Ecogen, Inc. *Product name:* Cutlass ™ OF. Insecticide. *Active ingredient: Bacillus thuringiensis* var. *kurstaki* strain 2371 protein toxic 7.5%. *Proposed classification/Use:* General. For the control of lepidopteran pests on a variety of crops. (PM 17)

3. *File Symbol:* 55638-RN. *Applicant:* Ecogen, Inc. *Product name:* Foil ™ OF. Insecticide. *Active ingredient: Bacillus thuringiensis* var. *kurstaki* strain EG2424 protein toxin 7.5%. *Proposed classification/Use:* General. For use against coleopteran and lepidopteran insects on potatoes. (PM 17)

4. *File Symbol:* 55638-T. *Applicant:* Ecogen, Inc. *Product name:* Condor ™ OF. Insecticide. *Active ingredient: Bacillus thuringiensis* var. *kurstaki* protein toxin 7.5%. *Proposed classification/Use:* General. To control the Gypsy moth and Spruce budworm on forests, shade trees, and shrubs. (PM 17)

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. The procedure for requesting data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703-557-3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: April 21, 1989.

Anne L. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-10244 Filed 4-26-89; 8:45 am]

BILLING CODE 6560-50-M

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[OPTS-68208A; FRL-3662-4]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-89-7. The test marketing conditions are described below.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Heidi A. Siegelbaum, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-613, 401 M Street SW., Washington, DC 20460, (202) 475-8262.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-89-7. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-89-7:

A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME-89-7

Date of Receipt: January 19, 1989.

Notice of Receipt: February 15, 1989 (54 FR 6958).

Applicant: Synthetic Products Company.

Chemical: Melamine amyl phosphate.

Use: Flame retardant.

Production Volume: 1,000 kg.

Number of Customers: 10.

Test Marketing Period: 180 days, commencing on first day of manufacture.

Risk Assessment: A determination could not be made by EPA concerning any adverse human health effects which would arise in conjunction with use of the TME substance. In addition, EPA does not believe there will be any significant human exposure to the TME substance because it will be manufactured and processed in a closed system, and individuals who come into contact with the TME substance will be required to use protective equipment to mitigate any associated risk. EPA identified no significant environmental concerns for the test market substance. Based on the foregoing, the test market substance will not present any unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: April 18, 1989.

John W. Melone,

Director, Chemical Control Divison, Office of Toxic Substances.

[FR Doc. 89-10069 Filed 4-26-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1777]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

April 21, 1989.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor International Transcription Service (202-857-3800). Oppositions to these petitions must be filed May 15, 1989. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (Holiday, Beverly Hills, Chiefland and Micanopy, Florida). Number of petitions received: 1.

Subject: Amendment of § 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules. (MM Docket No. 87-7). Number of petitions received: 2.

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (Anchorage, Alaska) (MM Docket No. 88-29, RM-5798). Number of petitions received: 1.

Subject: Amendment of Part 73 of the Commission's Rules to permit short-spaced FM station assignments by using Directional Antennas. (MM Docket No. 87-121, RM-6015). Number of petitions received: 6.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-10143 Filed 4-26-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Board of Visitors for the Emergency Management Institute; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the Emergency Management Institute (EMI).

Dates of Meeting: May 1-4, 1989.

Place: Federal Emergency Management Agency, National Emergency Training Center, Emergency Management Institute, Conference Room, Building N, Emmitsburg, Maryland 21727.

Time: May 1—7:00 p.m. to 9:00 p.m.; May 2—2:00 p.m. to 4:00 p.m.; May 3—7:00 p.m. to 9:00 p.m.; May 4—8:30 a.m. to 12:00 noon.

Proposed Agenda: Participation in the Region/State T&E Program Managers Conference being held at EMI May 2-5 which will provide the BOV with an opportunity to interact with, and obtain input from, Region and State training staff. BOV meeting sessions will be held in addition to their above stated participation which will include status reports from the BOV task forces on Core Curriculum and Evaluation System Procedures, Response to BOV 1988 Annual Report, and Working Sessions.

The meeting will be open to the public with approximately ten seats available on a first-come, first serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute, Office of Training, 16825 South Seton Avenue, Emmitsburg, Maryland 21727 (telephone number, 301-447-1251) on or before April 26, 1989. Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Director's Office, Office of Training, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, Maryland 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: April 14, 1989.

Dave McLoughlin,

Director, Office of Training.

[FR Doc. 89-10132 Filed 4-26-89; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 3155.

Name: Intercontinental Freight Service Corporation.

Address: 55 Shoreline Drive, Ware, MA 01082.

Date Revoked: April 1, 1989.

Reason: Failed to maintain a valid surety bond.

License Number: 1542.

Name: CF Air Freight, Inc.

Address: 3350 West Bayshore Rd., Palo Alto, CA 94303.

Date Revoked: April 4, 1989.

Reason: Surrendered license voluntarily.

License Number: 2855.

Name: Cunningham & Murray, Inc.

Address: 132 West Bay Street, Savannah, GA 31412.

Date Revoked: April 9, 1989.

Reason: Failed to maintain a valid surety bond.

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 89-10015 Filed 4-21-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Barclays PLC et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughtout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competiton, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 10, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays PLC*, London, England, Barclays Bank PLC, London, England, and Barclays USA Inc., New York, New York; to engage *de novo* through their subsidiary, Barclays De Zoete Wedd Government Securities, Inc. in securities brokerage activities pursuant to § 225.25(b)(15) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198.

1. *Chickasha Bancshares, Inc.*, Chickasha, Oklahoma; to engage *de novo* in credit insurance activities pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 21, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-10073 Filed 4-26-89; 8:45 am]

BILLING CODE 6210-01-M

Fifth Third Bancorp et al.; Formation of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing

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must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 17, 1989.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Fifth Third Bancorp*, Cincinnati, Ohio; to merge with C.S. Bancshares, Inc., Connersville, Indiana, and thereby indirectly acquire Central State Bank, Connersville, Indiana.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Romney Bankshares, Inc.*, Romney, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Romney, Romney, West Virginia.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Easton Bancshares, Inc.*, Easton, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Community Bank of Easton, Easton, Illinois.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Orono Financial Inc.*, Navarre, Minnesota; to acquire 100 percent of the voting shares of Wayzata Bank of the Lakes, N.A., Wayzata, Minnesota, a *de novo* bank.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Chalybeate Springs Corporation*, Hughes Springs, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The 1st National Bank of Hughes Springs, Texas.

2. *Harvey Bancorporation, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Preston Forum National Bank of Dallas, Dallas, Texas.

F. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Moore Financial Group Incorporated*, Boise, Idaho; to acquire 100 percent of the voting shares of First Security Bancorp, Tacoma, Washington, and thereby indirectly acquire First Security Bank, Tacoma, Washington.

Board of Governors of the Federal Reserve System, April 21, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-10074 Filed 4-26-89; 8:45 am]

BILLING CODE 6210-01-M

Greatbanc, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 10, 1989.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Greatbanc, Inc.*, Itasca, Illinois; to acquire Plansmith Corporation, Palatine, Illinois, and thereby engage in the business of marketing and selling personal computer based software to financial institutions pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 21, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-10075 Filed 4-26-89; 8:45 am]

BILLING CODE 6210-01-M

National Westminster Bank PLC et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies, and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 12, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *National Westminster Bank PLC*, London, England; NatWest Holdings, Inc., Wilmington, Delaware; National Westminster Bancorp, New York, New York; and National Westminster Bancorp NJ, Jersey City, New Jersey; to merge with Ultra Bancorporation, Bridgewater Township, New Jersey, and thereby indirectly acquire First National Bank of Central Jersey, Bridgewater Township, New Jersey.

In connection with this application, Applicants also propose to acquire one-third of the interest of Bancorps' International Trading Corporation, Bridgewater Township, New Jersey, and thereby engage in export trading company activities pursuant to § 211.34 of the Board's Regulation K.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Stearns Financial Services, Inc.*, Albany, Minnesota; to become a bank holding company by acquiring 80 percent of the voting shares of Stearns Agency, Inc., Albany, Minnesota, and thereby indirectly acquire 86.87 percent of Stearns County National Bank of Albany, Albany, Minnesota; 100 percent of the voting shares of Financial Services of Evansville, Inc., Evansville, Minnesota, and thereby indirectly acquire 94.67 percent of Farmers State Bank of Evansville, Evansville, Minnesota; 84.13 percent of Security State Bank of Holdingford, Holdingford, Minnesota; and 94.56 percent of Farmers State Bank of Upsala, Upsala, Minnesota.

In connection with this application, Applicant also proposes to engage through these companies in general insurance sales pursuant to § 225.25(b)(8) (iii)(A) and (vi) of the Board's Regulation Y. These activities will be conducted in the communities of Albany, Evansville, and Holdingford, Minnesota.

Board of Governors of the Federal Reserve System, April 21, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-10076 Filed 4-26-89; 8:45 am]

BILLING CODE 6210-01-M

New Hampton Bancshares, Inc.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 89-8132) published at page 13950 of the issue for Thursday, April 6, 1989.

Under the Federal Reserve Bank of Kansas City, the entry for New Hampton Bancshares, Inc., is amended to read as follows:

2. *New Hampton Bancshares, Inc.*, Albany, Missouri; to merge with Security Bancshares, Inc., Albany, Missouri, and thereby indirectly acquire Bank of Gallatin, Gallatin, Missouri, which engages in general lines of insurance in a town with a population of less than 5,000.

Comments on this application must be received by May 10, 1989.

Board of Governors of the Federal Reserve System, April 21, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-10077 Filed 4-26-89; 8:45 am]

BILLING CODE 6210-01-M

Alvin J. Siteman; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 10, 1989.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Alvin J. Siteman*, St. Louis, Missouri, to acquire an additional 5.5 percent of the common voting shares of Mark Twain Bancshares, Inc., St. Louis, Missouri, for a total of 18.0 percent, and an additional 17.9 percent of the preferred voting shares for a total of 32.0 percent.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *John F. Kane*, Bartlesville, Oklahoma; to acquire up to an additional 84.03 percent of the voting shares of CSB Bancorp, Inc., Coffeyville, Kansas, for a total of 84.33 percent, and thereby indirectly acquire Coffeyville State Bank, Coffeyville, Kansas. Comments on this application must be received by May 4, 1989.

2. *J.C. Robinson Seed Co.*, Waterloo, Nebraska; to acquire an additional 11.10 percent, and Edward T. Robinson, Jr., Waterloo, Nebraska, to acquire an additional 11.19 percent of the voting shares of First Kansas Bancorp, Kansas City, Missouri, and thereby indirectly acquire First National Bank and Trust Co., Leavenworth, Kansas.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *David A. Hartman*, El Paso, Texas; to acquire an additional 0.44 percent of the voting shares of Valley Bancorp, Inc., El Paso, Texas, for a total of 11.96 percent and thereby indirectly acquire Montwood National Bank, El Paso, Texas, and The Valley Bank of El Paso, El Paso, Texas.

2. *Lowell M. Irby*, Artesia, New Mexico; to acquire an additional 4.74 percent of the voting shares of Western Bankshares of New Mexico, Inc., Artesia, New Mexico, for a total of 15.05 percent and thereby indirectly acquire Western Bank, Artesia, New Mexico.

Board of Governors of the Federal Reserve System, April 21, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-10078 Filed 4-26-89; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Material Safety Data Sheets

AGENCY: Federal Supply Service, GSA.

ACTION: Requirement for including Material Safety Data Sheets (MSDS) in each shipment.

SUMMARY: The Occupational Safety and Health Administration (OSHA) Hazard Communication Rule 29 CFR 1910.1200 requires that certain information be provided on the Material Safety Data Sheets (MSDS) and that distributors of hazardous material provide their customers with an MSDS for each item. In order to assure that the Federal Supply Service, as a provider of

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hazardous material, complies with that rule. I–FSS–22, Material Safety Data Sheets (MSDS) is being revised to: (1) Require the contractor to include one copy of the MSDS for each unit of issue in the shipment in or on the shipping container and, (2) to provide a contact point for Material Safety Data Sheets. The following clause will be included in all new solicitations. In addition, solicitations issued but not yet awarded will be amended, and existing contracts will be modified to incorporate the following clause:

I–FSS–22, Material Safety Data Sheets (MSDS)

(a) The contractor must prepare an MSDS for each hazardous item as prescribed in Federal Standard No. 313, the edition in effect on the date of solicitation, or for which an MSDS is required by the contract. The contractor must ensure that the contract number, part number/trade name, National Stock Number (NSN), or Local Stock Number (LSN)/Temporary Stock Number (TSN)/Activity Control Number (ACN), and complete specification reference including Type, Grade, and Class are included on the MSDS. This MSDS shall be distributed as specified in Federal Standard No. 313.

(b) For each shipment containing items which are classified as hazardous under the OSHA Hazard Communication Rules—29 CFR 1910.1200, and which are shipped to GSA Distribution Facilities and/or to GSA Customer Supply Centers, the contractor must provide, either in or on each shipping container, one copy of the MSDS for each unit of issue in that shipping container. When affixed to the outside of a shipping container, the MSDS must be placed in a weather resistant envelope.

(c) For items which are classified as hazardous under the Hazard Communication Rule—29 CFR 1910.1200 and which are shipped direct to another Government agency, the contractor must provide one copy of the MSDS in or on each shipping container. When affixed to the outside of a shipping container, the MSDS must be placed in a weather resistant envelope.

(d) For paragraphs B and C above, the contractor may use the MSDS prepared in accordance with Federal Standard No. 313 in paragraph A above, or a copy of the contractor's MSDS prepared in accordance with the Hazard Communication Rule—29 CFR 1910.1200 with the National Stock Number and GSA Contract Number clearly and legibly marked on the MSDS.

(e) For the purpose of this clause, a shipping container is defined as any container or package upon which paragraph 85.2.2.3 of Federal Standard No. 123 requires the name and address of the consignee to be marked.

(f) Offerors are required to designate a person to be their MSDS contact point.

Name _____
Title _____
Address _____
_____
Zip Code _____
Area Code _____
Telephone No. _____
Telex No. _____
TWX _____

End of Clause

DATES: Comments must be received by May 30, 1989. The revised clause is scheduled to become effective on June 7, 1989.

ADDRESS: General Services Administration, Federal Supply Service, Office of Commodity Management (FC), Operations Management Division (FCO), 1941 Jefferson Davis Highway, Crystal Mall Building #4, Room 522, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Claude Cassady, Engineering and Supply Management Branch on (703) 557–1930.

Nicholas M. Economou, CPPO,
Director, Operations Management Division.
April 18, 1989.

[FR Doc. 89–10056 Filed 4–26–89; 8:45 am]
BILLING CODE 6820–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Advisory Council; Meeting

Alcohol, Drug Abuse, and Mental Health Administration

Agency: Alcohol, Drug Abuse, and Mental Health Administration.

Action: Notice of meeting.

Summary: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of a national advisory council in the month of May 1989. The council will be performing review of applications for Federal assistance. Therefore, portions of the meeting will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b) (6) and 5 U.S.C. app. 2 10(d). Notice of this meeting is required under the Federal Advisory Committee Act, Pub. L. 92–463.

Committee Name: National Advisory Council on Alcohol Abuse and Alcoholism.

Date and Time: May 25–26: 10:15 a.m.

Place: National Institutes of Health, Building #1, 3rd Floor, Wilson Hall, 9000 Rockville Pike, Bethesda, MD 20892.

Status of Meeting:

Open—May 25: 10:15 a.m.–5:00 p.m.
May 26: 9:00–9:45 a.m.
Closed—Otherwise

Contact: James Vaughan, Room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4375.

Purpose: The Council advises the Secretary, Department of Health and Human Services regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and adherence to Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

* * * * *

Substantive program information may be obtained from the contact person listed above. The NIAAA Committee Management Officer will furnish upon request summaries of the meeting and a roster of Committee members. Contact Ms. Diana Widner, Committee Management Officer, NIAAA, Room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Date: April 21, 1989.

Peggy W. Cockrill,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89–10083 Filed 4–26–89; 8:45 am]
BILLING CODE 4160–20–M

Food and Drug Administration

Availability of Grants for Clinical Studies of Safety and Effectiveness of Orphan Products; Amendment of Request for Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the notice that announced the anticipated availability of funds for fiscal year 1989 for awarding grants to support clinical trials of safety and effectiveness of orphan products (November 7, 1988; 53 FR 44951). The notice is being amended to notify applicants that the awards will be made as either grants or cooperative agreements and to allow additional time for submission of applications.

FOR FURTHER INFORMATION CONTACT: Carol A. Wetmore, Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rm. 15–61, Rockville, MD 20857, 301–443–4903.

SUPPLEMENTARY INFORMATION: FDA is amending FR Doc. 88–25663, appearing on page 44951 in the Federal Register of Monday, November 7, 1988, as follows:

1. On page 44951, in the first column, under "Summary" and continuing into the second column, the first sentence is revised to read, "The Food and Drug Administration (FDA) is announcing the availability of funds for fiscal year 1989 for awarding grants and cooperative agreements to support clinical trials on the safety and effectiveness of orphan products. * * *"

2. On page 44951, in the second column, under "Dates," the first sentence is removed, and the second sentence is revised to read, "Applications must be received by May 15, 1989. * * *"

3. On page 44953, in the first column, under "V. Mechanism of Support A. *Award Instrument*", the first sentence is revised to read, "Support will be in the form of grant or cooperative agreement awards, which will be subject to all policies and requirements that govern the research grant programs of the Public Health Service, including the provisions of 42 CFR Part 52 and 45 CFR Parts 74 and 92. * * *"

4. On page 44954, in the first column, after the paragraph under the heading "C. *Legend*", the following new section is added:

IX. Delineation of Substantive Involvement

Inherent in the cooperative agreement award is substantive involvement by the awarding agency. Accordingly, FDA will have a substantive involvement in the programmatic activities of all projects funded as cooperative agreements udner this request for application. FDA's involvement may be modified to fit the unique characteristics of each application. The agency's substantive involvement will include, but is not limited to, the following:

1. FDA will appoint a project officer, who will actively monitor the FDA-supported program under each award and assist the principal investigator in communicating with the appropriate FDA reviewing division.

2. In some cases, FDA scientists will collaborate with grantees in determining the methodological approaches to be used in order for the study to comply with requirements for investigations and marketing approval under the act and the Public Health Service Act. As a condition of FDA's funding, FDA may require that changes be made in the study protocol.

Dated: April 20, 1989

John M. Taylor,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–10011 Filed 4–26–89; 8:45 am]
BILLING CODE 4160–01–M

[Docket No. 82N–0058; DESI 11300]

Withdrawal of Approval of Chlorzoxazone in Combination With Acetaminophen; Announcement of Marketing Conditions for Chlorzoxazone 500 Milligrams

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of portions of the new drug application (NDA) that provides for Parafon Forte Tablets containing chlorzoxazone and acetaminophen because the combination product lacks substantial evidence of effectiveness. FDA also announces the conditions for marketing the reformulated product, containing chlorzoxazone 500 milligrams (mg) and no other active ingredient, which has been found to be effective.

EFFECTIVE DATE: May 30, 1989.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with DESI number 11300 and directed to the Division of Drug Labeling Compliance (HFD–310), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drugs (HFD–230), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8041.

SUPPLEMENTARY INFORMATION:

A. Withdrawal of Old Formulation

As part of the agency's drug efficacy program, in the Federal Register of October 15, 1984 (49 FR 40212, amended December 3, 1984 (49 FR 47336)), the Commission of Food and Drugs granted an evidentiary hearing before an administrative law judge on the proposal to withdraw approval of McNeil Pharmaceutical's new drug application (NDA 11–529) containing chlorzoxazone 250 mg and acetaminophen 300 mg. Notices of participation were filed by the following companies:

1. NcNeil Pharmaceutical, Spring House, PA 19477.

2. Lemmon Co., 850 Cathill Rd., Sellersville, PA 18960.

3. Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020.

Subsequently, FDA entered into agreements with the three aforementioned companies and with two other firms (Ferndale Laboratories and Barr Laboratories) marketing generic versions of Parafon Forte to terminate the hearing and resolve the issue of the drug's effectiveness by other means. Pursuant to those agreements, the hearing requests were withdrawn and applications for a reformulation of the drugs to chlorzoxazone 500 mg were submitted to the agency. The applications have now been approved.

Accordingly, as all hearing participants have withdrawn their requests for a hearing, FDA is announcing the termination of the administrative hearing and withdrawn approval of portions of NDA 11–539 that provide for Parafon Forte Tablets containing chlorzoxazone and acetaminophen.

Any drug product that is identical, related, or similar to this product and is not the subject of an approved new drug application is covered by NDA 11–529 and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the Center for Drug Evaluation and Research, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under the authority delegated to him (21 CFR 5.82, finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of NDA 11–529 pertaining to the original formulation of Parafon Forte described above and all the amendments and supplements that provide for that product is withdrawn effective May 30, 1989. Shipment in interstate commerce of the product above or any identical, related, or similar product that is not the

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subject of an approved new drug application will then be unlawful.

B. Conditions for Approval and Marketing of New Formulation

FDA has reviewed all available evidence and concludes that chlorzoxazone 500 mg tablets is effective for the indication in the labeling conditions below.

This drug product is regarded as a new drug (21 U.S.C. 321(p)). An approved abbreviated new drug application (21 CFR 314.55) is a requirement for marketing the drug product. The conditions of approval are as follows:

1. *Form of drug.* This drug product is in tablet form suitable for oral administration.

2. *Labeling conditions.* (a) The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

(b) The drug is labeled to comply with all requirements of the act and regulations and the labeling bears adequate information for safe and effective use of the drug. The indication is as follows:

As an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculoskeletal conditions. The mode of action of this drug has not been clearly identified, but may be related to its sedative properties. Chlorzoxazone does not directly relax tense skeletal muscles in man.

3. *Dissolution test.* The product shall conform to a dissolution test that demonstrates that not less then 75 percent of the drug is dissolved in sixty (60) minutes, employing a medium of 1,000 milliliters (mL) pH 8 Phosphate Buffer at 37 °C and USP apparatus 2 (Paddle) at 75 RPM.

Marketing the drug product before approval of a new drug application will subject those products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.70).

Dated: April 17, 1989.

Carl C. Peck,

Director, Center for Drug Evaluatioin and Research.

[FR Doc. 89-10082 Filed 4-26-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86E-0278]

Determination of Regulatory Review Period for Purposes of Patent Extension; Marinol®

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Marinol® (dronabinol) and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy E. Pirt, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product Marinol®. Marinol® is indicated for the treatment of the nausea and vomiting associated with cancer chemotherapy in patients who have failed to respond adequately to conventional antiemetic treatments. However, as of the date of the new drug application (NDA) approval letter, Marinol® was classified as a Schedule I drug by the Drug Enforcement Agency (DEA), a classification which prohibits commercial marketing. FDA's approval letter, therefore, indicated that the drug could not be marketed until it had been rescheduled by DEA. DEA later rescheduled Marinol® as a Schedule II drug, which allowed Marinol® to be marketed. Subsequent to this rescheduling, the Patent and Trademark Office (PTO) received a patent term restoration application for Marinol® (U.S. Patent No. 3,668,224) from Theodor Petrzilka, and PTO requested FDA's assistance in determining the eligibility of this patent for patent term restoration. FDA, in a letter dated August 22, 1988, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period. The PTO issued a decision denying the application on the ground that the application was not timely. The applicant filed an action in the United States District Court for the District of Columbia challenging the PTO's decision. The District Court ruled that the application had been timely filed. Shortly thereafter, the PTO requested that FDA determine the product's regulatory review period. This is the first permitted commercial marketing or use of the active ingredient, dronabinol.

FDA Has determined that the applicable regulatory review period for Marinol® is 2,417 days. Of this time, 980 days occurred during the testing phase of the regulatory review period, while 1,437 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* October 20, 1978. The applicant claims October 20, 1973, as the date of first exemption granted under 21 U.S.C. 355(i) with respect to the subject product. However, a search of FDA records failed to uncover an investigational new drug (IND) application submitted by the applicant prior to the NDA receipt date. Since the IND number was not included in the application, FDA telephoned the applicant regarding this matter and the applicant advised FDA that the supporting IND was IND No. 14,754. FDA records indicate that IND No. 14,754 was submitted by the National Cancer Institute on September 20, 1978, and became effective 30 days later on October 20, 1978.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* June 25, 1981. The applicant claims September 23, 1982, as the date that the NDA (NDA 18–651) was initially submitted. However, FDA records indicate that the NDA was received on June 25, 1981. The date given by the applicant, September 23, 1982, is the date of resubmission of NDA 18–651, following the applicant's withdrawal of the NDA after its initial submission.

3. *The date the application was approved:* May 31, 1985. The applicant claims May 13, 1986, as the NDA approval date. However, FDA records indicate that NDA 18–651 was approved on May 31, 1985. The date given by the applicant, May 13, 1986, is the date that DEA rescheduled Marinol® (dronabinol) from Schedule I to Schedule II. In identifying the date of approval of the application, FDA looked to the language of the Drug Price Competition and Patent Term Restoration Act of 1984 (hereinafter referred to as "the statute"), which defines "approval phase" of a regulatory review period for a human drug product as "the period beginning on the date an application was initially submitted for the approved human drug product under section 351, subsection (b) of section 505, or section 507 and ending on the date such application was approved under such section." (35 U.S.C. 156(g)(1)(B)(ii).) Moreover, in the preamble to the final rule on patent term restoration regulations (53 FR 7298; March 7, 1988), FDA specifically addressed the question of whether drugs which are regulated by DEA as controlled substances should be considered to be approved when the NDA is approved or when these drugs are scheduled domestically under the Controlled Substances Act. In responding to comments on this very question, FDA concluded that the NDA approval date is the relevant date. The reason for FDA's conclusion was that the statute referred only to section 351 of the Public Health Service Act and to sections 505(b) and 507 of the Federal Food, Drug, and Cosmetic Act in the statute's definition of regulatory review period. The statute made no such reference to the Controlled Substances Act. The Court of Appeals for the District of Columbia Circuit has upheld FDA's interpretation of when a drug is deemed approved under this statute. *Mead Johnson Pharmaceutical Group* v. *Bowen, 838 F.2d 1332, 1333 (D.C. Cir. 1988).*

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, the applicant requests 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 26, 1989, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 24, 1989, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 19, 1989.

Stuart L. Nightingale,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-10085 Filed 4-26-89; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1989:

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: June 21–23, 1989, 9:00 a.m.

Place: Maryland Room, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on June 21, 1989, 9:00 a.m.–10:00 a.m.; Closed for remainder of meeting.

Purpose: To review research grant applications in the program area of maternal and child health administered by the Bureau of Health Care Delivery and Assistance.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Maternal and Child Health Program Coordination and Systems Development, who will report on program issues, congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on June 21, at 10:00 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Pub.L. 92–463.

Anyone requiring information regarding the subject Council should contact Gontran Lamberty, Dr. Ph.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 9A–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Agenda Items are subject to change as priorities dictate.

Date: April 21, 1989.

Jackie E. Baum,

Advisory Committee Manogement Officer, HRSA.

[FR Doc. 89-10012 Filed 4-26-89; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-09; CACA 13781]

California; Realty Action; Partial Termination of Classification for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

SUMMARY: This action partially terminates a Notice which classified 2,172.75 acres of public domain lands as suitable for recreation and public purposes. Due to comments from the public, the City of San Diego and the BLM determined 80 acres of the land is

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unsuitable for recreation and public purposes.

FOR FURTHER INFORMATION CONTACT: Mike Selman, Palm Springs—South Coast Area Office, Bureau of Land Management, 1900 Tahquitz—McCallum Way, Suite B–1, Palm Springs, CA 92262.

1. The Notice of Realty Action, published May 7, 1984, in FR Vol 49 No. 89, pages 19418–19419, which classified certain public domain lands as suitable for recreation and public purposes is hereby terminated as to the following lands:

San Bernardino Meridian

T. 12 S., R. 1 W.,
Sec. 24, E½¼NW¼.

The area contains 80 acres in San Diego County.

2. At 10:00 a.m. on May 12, 1989, the lands described in paragraph 1 will be opened to operation of the public land laws subject to valid existing rights and the provisions of applicable law.

Ed Hastey,
State Director.

[FR Doc. 89–10115 Filed 4–26–89; 8:45 am]
BILLING CODE 4310–40–M

[OR–060–09–6332–02: GP9–144]

Temporary Closure of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of public lands in Lane County, Oregon.

SUMMARY: Notice is hereby given that certain public lands in Lane County, Oregon are temporarily closed to all public use, including recreation camping, shooting, hiking and sightseeing, from May 15, 1989 through October 31, 1989. The closure is made under the authority of 43 CFR 8364.1.

The public lands affected by this emergency closure are specifically identified as follows:

Willamette Meridian, Oregon

T. 16 S., R. 7 W.
Sec. 19: SE¼SE¼, excluding the right-of-way of Oregon State Highway 36
Containing approximately 36 acres.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state, local and federal law enforcement and fire protection personnel; the holders of BLM road use permits that include roads within the closure area; the contractor authorized to construct the Lake Creek Falls Fish Ladder project and their subcontractors. Access by additional parties may be allowed, but must be approved in advance in writing by the Authorized Officer.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

The public lands temporarily closed to public use under this order will be posted with signs at points of public access.

The purpose of this temporary closure is to provide for public safety and the protection of property and equipment during the mobilization, construction and de-mobilization phase of the Lake Creek Falls Fish Ladder project.

EFFECTIVE DATES: May 15, 1989 through October 31, 1989.

ADDRESSES: Copies of the closure order and maps showing the location of the closed lands are available from the Eugene District Office, P.O. Box 10226 (1255 Pearl Street), Eugene, Oregon 97440, or the Coast Range Resource Area Office, 1144 Gateway Loop, Springfield, Oregon 97477.

FOR FURTHER INFORMATION CONTACT: Wayne E. Elliott, Coast Range Area Manage, Eugene District Office, at (503) 683–6999.

Date: April 14, 1989.

Wayne E. Elliott,
Area Manager.

[FR Doc. 89–10123 Filed 4–26–89; 8:45 am]
BILLING CODE 4310–33–M

[NM–060–4351–90]

Roswell District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Roswell District Grazing Advisory Board Meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Roswell District Grazing Advisory Board.

DATE: Wednesday, May 31, 1989, beginning at 10 a.m. A public comment period will be held following conclusion of the agenda.

Location: BLM Roswell District Office, 1717 West Second St., Roswell, NM 88201.

FOR FURTHER INFORMATION CONTACT: David L. Mari, Associate District Manager, or Terry Keim, Public Affairs Specialist, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201, (505) 622–9042.

SUPPLEMENTARY INFORMATION: Agenda items include Monitoring Systems, Polycorders, Prescribed Burning, Ft. Stanton, Carlsbad/Roswell RMP, 8100 Funding, and updates on the Productivity Pilot and the Brush Control EIS/EA. The meeting is open to the public. Interested persons may make oral statements to the Board during the public comment period or may file written statements. Anyone wishing to make an oral statement should notify the Associate District Manager by May 24, 1989. Summary minutes will be maintained in the District Office and will be available for public inspection during regular business hours within 30 days following the meeting. Copies will be available for the cost of duplication.

David L. Mari,
Associate District Manager.

[FR Doc. 89–10124 Filed 4–26–89; 8:45 am]
BILLING CODE 4310–FB–M

[OR–030–09–4320–02: GP9–185]

Vale District Grazing Advisory Board; Meeting

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given in accordance with Pub. L. 92–463 that a meeting of the Vale District Grazing Advisory Board will be held May 25, 1989.

The agenda for the meeting will include: election of officers, White Horse Butte Allotment Management Plan—alternatives, Riparian management initiatives—Trout Creek area, District road maintenance programs—report and recommendations, District noxious weed control program, Report on new billing and collection procedures, Report on litigation affecting livestock grazing on public lands, Holistic Range Management program, the Governor's Watershed Enhancement Board proposal, and Resource area reports on rangeland management activities.

The meeting is open to the public. Interested persons may make oral statements to the Board or may file written statements for the Board's consideration. Anyone wishing to make oral statements may do so at 1:30 p.m. the day of the meeting.

Summary minutes of the Board's meeting will be maintained in the district office and will be available during regular business hours for public inspection, or personal copies may be purchased for the cost of duplication, within 30 days following the meeting.

DATES: The meeting will begin at 10:00 a.m. May 25, 1989.

ADDRESSES: The meeting will be held in the conference room of the District Office, 100 Oregon Street, Vale, OR 97918.

FOR FURTHER INFORMATION CONTACT: Gerard Hubbard, Bureau of Land Management, Vale District, P.O. Box 700, Vale, OR 97918. (Telephone 503 473–3144)

William C. Calkins,
District Manager.

[FR Doc. 89–10125 Filed 4–26–89; 8:45 am]
BILLING CODE 4310–33–M

[CO–920–89–4111–15; COC30493]

Colorado; Proposed Reinstatement

April 17, 1989.

Notice is hereby given that a petition for reinstatement of oil and gas lease COC30493 for lands in Mesa County, Colorado, was timely filed and was accompanied by all the required rentals and royalties accruing from September 1, 1988, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee had paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral lands Leasing Act of 1920, as amended, (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective September 1, 1988, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Joan Gilbert of the Colorado State Office at (303) 236–1772.

Linda L. Huff,
Acting Chief, Fluid Minerals Adjudication Section.

[FR Doc. 89–10059 Filed 4–26–89; 8:45 am]
BILLING CODE 4310–JB–M

[AZ–920–09–4212–12; A–22435]

Arizona; Opening Order; Correction

April 20, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: This notice provides a correction regarding an opening order of reconveyed land to the United States for the State of Arizona. A portion of the land opened was previously found suitable for disposal through exchange under section 206 of the Federal Land Policy and Management Act of 1976.

FOR FURTHER INFORMATION CONTACT: Lisa Schaalman, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 241–5534.

SUPPLEMENTARY INFORMATION: In Federal Register document 89–8289 on pages 14169 and 14170 in the issue of Friday, April 7, 1989, the following reconveyed land was erroneously opened to entry:

Gila and Salt River Meridian

T. 14 S., R. 27 E.,
Sec. 16, SE¼NE¼.
T. 14 S., R. 31 E.,
Sec. 2, lots 3 and 4, S½NW¼, SW¼.
T. 14 S., R. 32 E.,
Sec. 19, N½NE¼;
Sec. 20, N½.

The areas described comprise 760.20 acres in Cochise County.

The land is currently under an exchange application, serial number A–23606, and shall remain closed to the operation of all other public land laws, including the mining laws, in accordance with the realty action notice published in the Federal Register on Thursday, November 10, 1988, on pages 45599 and 45600.

Marsha L. Luke,
Acting Chief, Branch of Lands Operations.

[FR Doc. 89–10122 Filed 4–26–89; 8:45 am]
BILLING CODE 4310–32–M

[CA–060–09; CACA 19159]

California; Amendment of Realty Action

Realty Action: Exchange of public and private lands in San Bernardino County.

Agency: Bureau of Land Management, Interior.

The Notice of Realty Action (CACA 19159) published in the Federal Register November 6, 1986, in Vol. 51, No. 215, page 40359, correctd December 23, 1986, in Vol. 51, No. 246, page 45986, amended July 23, 1987, in Vol. 52, No. 141, page 27732, is hereby amended by deleting the following legal description:

San Bernardino Meridian

T. 1 S., R. 1 W.,
Sec. 35, SW¼
T. 12 S., R. 1 W.,
Sec. 14, SW¼NE¼, E½SE¼, SE¼SE¼;
Sec. 23, N½NE¼.
T. 13 S., R. 1 W.,
Sec. 20, W¼,SW¼SE¼.
T. 10 S., R. 2 W.,
Sec. 19, NW¼NE¼.
Containing 445 acres, more or less.

The segregative effect of the classification terminates at 10:00 a.m. on May 12, 1989.

For further information contact District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

Ed Hastey,
State Director.

[FR Doc. 89–10116 Filed 4–26–89; 8:45 am]
BILLING CODE 4310–40–M

[CA–060–09–4212–14; CA–17912]

California Desert District, Realty Action, Noncompetitive Sale of Public Lands, San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Noncompetitive (Direct) Sale of Public Lands, CA–17912.

SUMMARY: The public land described below has been examined and found suitable for disposal under sections 203 and 209 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1713 and 1719:

San Bernardino Meridian, California

T. 10 N., R. 1 W.,
Sec. 8; NE ¼;
Containing 160.00 acres.

The parcel will be offered by direct sale to the Atchison Topeka and Santa Fe Railway Company. Santa Fe has operated and maintained an authorized waste oil disposal site on the parcel since 1964.

The sale will be made on or about July 1, 1989. The appraised fair market value of the parcel is $48,000.00. All mineral interests will be conveyed with the surface estate. The United States mineral interests offered for conveyance have no known value. At the time of the sale, Santa Fe will be required to deposit a $50.00 nonrefundable application fee for conveyance of the mineral estate.

The parcel is difficult and uneconomic to manage as part of the public lands,

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and is not suitable for transfer to another Federal, State or local agency.

Existing development and current use of the parcel are an integral part of the overall Santa Fe operation in Barstow, California. Speculative bidding could jeopardize future economic viability and control of the waste oil disposal operation. There is a need to recognize the established use which would be threatened if the parcel were purchased by other than the existing authorized user.

Sale of the parcel is consistent with land use planning decisions and current policy. There is no conflict with local plans and zoning. The public interest would be served by completing the sale.

The public land to be conveyed will be subject to the following terms and conditions:

A. Reservation to the United States of a right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 43 U.S.C. 945.

B. *Third Party Rights.* Public land conveyed will be subject to all valid existing rights including the following:

1. Those rights granted to the County of San Bernardino for Irwin Road, a public highway established under Revised Statute 2477, formerly 43 U.S.C. 932.

2. Those rights for a 33kC electric distribution line granted to Southern California Edison Company by Right-of-Way LA-054906 under the Act of March 4, 1911, as amended, 43 U.S.C. 961.

3. Those rights for a 220kV electric transmission line and a 115kV electric transmission line granted by Rights-of-Way LA-0150685 and R-4879 under the Act of March 4, 1911, as amended.

As provided in 43 CFR 2711.1-2, the publication of this notice in the **Federal Register** shall segregate, subject to valid existing rights, the public land described herein from all other forms of appropriation under the public land laws, including the mining laws and the mineral leasing laws. The segregative effect will terminate upon issuance of patent, upon publication in the **Federal Register** of a termination of the segregation, or 270 days from the date of this publication, whichever occurs first.

Additional information about this sale is available at the Barstow Resource Area Office, 150 Coolwater Lane, Barstow, CA 92311 (619-256-3591) and the California Desert District Office, 1695 Spruce Street, Riverside, CA 92507.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager at the above address. In the absence of any objections, this realty action will become the final determination of the Department of the Interior, and the required payments requested from the Atchison Topeka and Santa Fe Railway Company. Payment of the purchase price in full shall be in accordance with 43 CFR 1822.1-2 and 2711.3-3(b).

The land will not be offered for sale for at least 60 days after the date of this notice.

Date: April 18, 1989.

James L. Williams,

Acting, District Manager.

[FR Doc. 89-10110 Filed 4-26-89; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-09-4212-13; CACA 22587]

California Realty Action; Exchange of Public and Private Lands in Riverside County and Order Providing for Opening of Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document and opening order.

ADDRESS: Inquiries concerning the land should be addressed to: Chief, Branch of Adjudication and Records, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

SUMMARY: The purpose of this exchange was to acquire the non-Federal lands located within the Coachella Valley Preserve, a habitat of the Coachella Valley Fringe-Toed Lizard. The exchange will enhance the management capabilities for the Preserve. The lizard is federally listed as threatened and State listed as endangered. The lands acquired do not constitute habitat for the lizard, but provide a sand source required for the continuing production of active sand dune areas that are critical habitat for the lizard.

FOR FURTHER INFORMATION CONTACT: Mike Selman, Palm Springs—South Coast, Resource Area, Bureau of Land Management, 1900 Tahquiz-McCallum Way, Suite B-1, Palm Springs, CA 92262, Telephone (619) 323-4421.

1. The United States issued land exchange conveyance documents to The Nature Conservancy on September 9, 1988, September 30, 1988, March 27, 1989 and March 29, 1989 pursuant to the authority of Sec. 206 of the Act of October 21, 1976 (43 U.S.C. 1716) for the following described lands:

San Bernardino Meridian

T. 5 N., R. 2 W.,
Sec. 20, SW¼NW¼, NW¼SW¼.
T. 4 S., R. 6 E.,
Sec. 30, lot 11, S½NE¼NE¼SW¼, SW¼SE¼NE¼, N½SE¼SE¼NE¼.
T. 8 S., R. 8 E.,
Sec. 14, lots 1, 2, 3, 4.
T. 5 N., R. 13 W.,
Sec. 7, lots 1, 2, 5, 8, 9.
T. 5 N., R. 14 W.,
Sec. 20, NE¼SE¼;
Sec. 21, S½NE¼, SW¼NW¼, NW¼SW¼;
Sec. 22, SW¼NW¼.

The areas described contain 526.75 acres in Los Angeles and Riverside Counties. Additional lands will also be conveyed and published at a later date.

2. In exchange for the lands described in paragraph 1, on January 17, 1989, the United States accepted title to the following described private lands from The Nature Conservancy.

San Bernardino Meridian, California

T. 4 S., R. 6 e.,
Sec. 1 lot 2 of the NE¼ and lot 2 of the NW¼.
Sec. 13, NE¼, W½, and SE¼.
Sec. 14, NW¼, SW¼, SE¼, SW¼NE¼, W½NW¼NE¼, and SE¼NE¼NE¼.
T. 4 S., R. 7 E.,
Sec. 6, lot 2 of the NE¼, E½ of lot 2 of the NW¼, S½ of lot 2 of the SW¼, E½NE¼SE¼, SW¼NE¼SE¼, W½NE¼NW¼SE¼, NW¼NW¼ SE¼, E½SW¼NW¼SE¼, SE¼ NW¼SE¼, and SW¼SE¼.
Sec. 7, E½SE¼SE¼.
Sec. 8, E½, NW¼, and N½SW¼.
Sec. 9, SE¼, W¼NW¼NW¼, SE¼ NW¼NW¼, SW¼NE¼NW¼, and S½NW¼.
Sec. 15, All.
Sec. 16, E½, NW¼.
Sec. 17, NW¼NW¼NE¼, SW¼ NW¼NE¼, SE¼NW¼NE¼, and W½NE¼NW¼NE¼.

3. The above land descriptions contain exceptions too numerous to list here. A precise description of the exceptions is available in the case file CACA 22587 in the California State Office.

4. The non-Federal land is greater in value than the public land, and the excess non-Federal lands are donated to the United States.

5. At 10 a.m. on May 20, 1989, the lands acquired in the exchange shall be open to location under the United States mining laws and to the provisions of the mineral leasing laws, subject to valid existing rights and applicable law. All mineral locators assume the responsibility for assuring that the minerals being located were actually acquired by the United States.

Robert C. Nauert,

Chief, Branch of Adjudication and Records.

[FR Doc. 89-10117 Filed 4-26-89; 8:45 am]

BILLING CODE 4310-40-M

[CA-060-09-4212-13; CA-23937]

California Desert District Realty Action; Exchange of Public and Private Lands in San Bernardino and Inyo Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action CA-23937, exchange of public and private lands.

SUMMARY: The following described public lands in San Bernardino County have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

San Bernardino Meridian, California

T. 3N., R. 4W.,
Sec. 16: NE¼NE¼, S½NE¼, N½SE¼, SW¼SE¼;
Sec. 19: lot 3, NE¼NE¼, S½NE¼, S½ lot 1 of NW¼, lots 1 and 2 of SW¼, N½SE¼;
Sec. 20: S½NE¼, NW¼, NE¼SW¼;
Sec. 21: S½NW¼;
Sec. 30: SE¼NE¼, lot 1 of NW¼, E½W½NW¼, E½NE¼SW¼, E½W½NE¼SW¼, NW¼SE¼;
T. 3N., R. 5W.,
Sec. 24: SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 25: E½NE¼, NW¼NE¼SE¼, N½SW¼NE¼SE¼, E½NE¼NW¼SE¼, NE¼SE¼NW¼SE¼;

Containing 1529.60 acres, more or less.

In exchange for these lands, the ARC-Las Flores Limited Partnership has offered the following non-Federal lands in San Bernardino and Inyo Counties:

San Bernardino Meridian, California

T. 3N., R. 2W.,
Sec. 5: S½NE¼;
T. 3N., R. 3W.,
Sec. 2: lots 5, 6, 11 and 12;
Sec. 3: lots 7, 8, 9 and 10;
Sec. 11: NE¼SE¼;
T. 5N., R. 3E.,
Sec. 16: N½, SE¼;
T. 5N., R. 4E.,
Sec. 13: San Bernardino County Assessors Parcel No. 527-201-05;
Sec. 16: lots 1 through 4, E½W½, E½;
Sec. 36: All;
T. 11N., R. 5E.,
Sec. 1: San Bernardino County Parcel Map 11970, Parcel No. 1;
Sec. 36: All;
T. 20N., R. 7E.,
Sec. 4: lot 4, W½SW¼;
Sec. 5: lots 1 and 2, S½NE¼, SE¼;
Sec. 6: NE¼NE¼;
Sec. 9: N½NE¼, N½S½NE¼, N½N½SE¼SE¼NE¼ (Inyo County Parcel Map 269, Parcel No. 1);
Sec. 10: NW¼NW¼, N½SW¼NW¼, N½N½S½SW¼NW¼ (Inyo County Parcel Map 269, Parcel No. 1);
T. 21N., R. 7E.,
Sec. 32: SE¼SE¼;
Sec. 33: SE¼SW¼;

Containing 4,212.90 acres, more or less.

The purpose of this exchange is to acquire significant natural resources and recreation lands, and to create more manageable public land units in the following areas of the California Desert District: Afton Canyon Natural Area, Grimshaw Lake Natural Area, Johnson Valley Off-Highway Vehicle Area, Juniper Flats Cultural Area.

Disposal of the fragmented and isolated public lands selected by the ARC-Las Flores Limited Partnership is consistent with the land tenure adjustment objectives of the California Desert Plan. The exchange would benefit the general public and the private sector. The public interest would be well served by completing the exchange.

The public land to be conveyed will be subject to the following terms and conditions:

A. Reservations to the United States

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 43 U.S.C. 945.

If Powersite Classification 100 (May 9, 1925) which currently affects the lands described below is not revoked by the time this exchange is completed, the following additional reservation to the United States will apply:

2. The right to itself, its permittees or licensees to enter upon, occupy and use any part or all of the E½NE¼ and NE¼SE¼, section 19 and the SW¼NE¼, Section 20, T. 3N., R. 4W., SBM lying within 50 feet of the centerline of the transmission line right-of-way of the Southern California Edison Company, Serial No. CA-21596, for the purposes set forth in and subject to the conditions and limitations of Section 24 of the Federal Power Act of June 10, 1920, as amended (16 U.S.C. 818).

B. Third Party Rights—Public Lands Conveyed Will Be Subject to the Following

1. Those rights for water pipelines and ditch granted to Mojave Water Agency, Desert Water Agency and Coachella Valley County Water District by Right-of-Way No. R-618 under the Act of February 15, 1901, as amended, formerly 43 U.S.C. 959.

2. Those rights for a 12kV electric distribution line granted to Southern California Edison Company by Right-of-Way No. R-4646 under the Act of March 4, 1911, as amended, 43 U.S.C. 961.

3. Those rights for a 115kV electric transmission line granted to Southern California Edison Company by Right-of-Way No. R-01725 under the Act of December 21, 1928, 43 U.S.C. 617d.

4. Those rights for an aqueduct, access roads, pumps and drainage areas granted to the State of California by Right-of-Way No. CA-3050 under the Act of October 21, 1976, 43 U.S.C. 1761.

5. Those rights for a double-circuit 115kV electric transmission line granted to Southern California Edison Company by Right-of-Way No. CA-21596 under the Act of October 21, 1976.

Lands to be conveyed to the United States will be subject to the following:

1. All mineral rights were previously reserved by the State of California on:

T. 3N., R. 2W., SBM,
Sec. 5: S½NE¼.
T. 5N., R. 3E., SBM,
Sec. 16: N½, SE¼.
T. 5N., R. 4E., SBM,
Sec. 16: lots 1 through 4, E½W½, E½;
Sec. 36: All.
T. 11N., R. 5E., SBM,
Sec. 36: All.

2. A one-sixteenth mineral interest was previously reserved by the State of California on:

T. 20N., R. 7E., SBM,
Sec. 4: lot 4, W½SW¼;
Sec. 5: lots 1 and 2, S½NE¼, SE¼;
Sec. 6: NE¼NE¼.

3. All mineral rights were previously reserved by a private third party on:

T. 11N., R. 5E., SBM,
Sec. 1: San Bernardino County Parcel Map 11970, Parcel No. 1.

4. All geothermal resources were previously reserved by a private third party on:

T. 20N., R. 7E., SBM,
Sec. 9: N½NE¼, N½S½NE¼; N½N½SE¼NE¼;
Sec. 10: NW¼NW¼, N½SW¼NW¼, N½N½S½SW¼NW¼.
T. 21N., R. 7E., SBM,
Sec. 32: SE¼SE¼;
Sec. 33: SW¼SW¼.

5. A fifteen-sixteenths geothermal resources interest was previously reserved by a private third party on:

T. 20N., R. 7E., SBM,
Sec. 4: lot 4, W½SW¼;
Sec. 5: lots 1 and 2, S½NE¼, SE¼;
Sec. 6: NE¼NE¼.

6. Various easements and rights-of-way to third parties.

As provided in 43 CFR 2201.1(b), the publication of this notice in the **Federal Register** shall segregate, subject to existing valid rights, the public lands described herein from all other forms of appropriation under the public land laws, including the mining laws and the mineral leasing laws. The segregative effect will terminate upon issuance of a conveyance document, upon publication in the **Federal Register** of a termination of the segregation, or two years from the

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date of this publication, whichever occurs first.

The values of the lands to be exchanged are in approximate balance. Equalization of values will be achieved by acreage adjustment or a payment to the United States by ARC–Las Flores Limited Partnership of funds in an amount not to exceed 25 percent of the value of the public lands to be conveyed.

Additional information about this exchange is available at the Barstow Resource Area Office, 150 Coolwater Lane, Barstow, CA 92311 (619–256–3591) and the California Desert District Office, 1695 Spruce Street, Riverside, CA 92507.

For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register** interested parties may submit comments to the District Manager, California Desert District at the above address. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 18, 1989.

James L. Williams,

Acting District Manager.

[FR Doc. 89–10118 Filed 4–26–89; 8:45 am]

BILLING CODE 4310–40–M

[ID–943–09–4212–13; I–25616]

Issuance of Land Exchange Conveyance Document; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands.

SUMMARY: The United States has issued an exchange conveyance document to Keith Meyers and Sons, LTD, Limited Partnership, Rexburg, Idaho 83440, for the following-described lands under section 206 of the Federal Land Policy and Management Act of 1976:

Boise Meridian

T. 6 N., R. 38 E.,
Sec. 14, S½SW¼NE¼, N½NW¼SE¼.
Comprising 40.00 acres of public land.

In exchange for these lands, the United States acquired the following-described lands:

Boise Meridian

T. 7 N., R. 38 E.,
Sec. 16, NE¼NW¼.
Comprising 40.00 acres of private land.

The purpose of the exchange was to acquire the non-federal lands which have high public value for elk winter range. The public interest was well served through completion of this exchange.

The values of the federal public land and the non-federal land in the exchange were both appraised at $4,000.

Dated: April 20, 1989.

John Davis,

Deputy State Director for Operations.

[FR Doc. 89–10113 Filed 4–26–89; 8:45 am]

BILLING CODE 4310–GG–M

[WY–060–09–4212–14]

Realty Action; Competitive, Direct, and Modified Competitive Sales of Public Lands in Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, sale of public lands in Grant, Hooker, and Thomas Counties.

SUMMARY: The Bureau of Land Management (BLM) has determined that the lands described below are suitable for public sale. Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 U.S.C. 1713) requires the BLM to receive fair market value for the land sold and any bid for less than fair market value will be rejected. The BLM may accept or reject any and all offers, or withdraw any land or interest on the land for sale if the sale would not be consistent with FLPMA or other applicable law.

The fair market values, planning document, environmental assessment/land report, and memorandums and letters of Federal, state, and local contacts concerning the sale are available for review at the Bureau of Land Management, Newcastle Resource Area Office. All bids and requests for information should be sent to BLM, Newcastle Resource Area, 1501 Highway 16 Bypass, Newcastle, Wyoming 82701, (phone (307) 746–4453).

Parcels

Serial No.	Legal Description	Acreage
	Sixth Principal Meridian	
Grant County		
NEW86265	T. 24 N., R. 36 W., Sec. 6: W½NW¼	80.00
NEW86267	T. 24 N., R. 39 W., Sec. 3: lot 8	7.70
Hooker County		
NEW86271	T. 21 N., R. 31 W., Sec. 1: lots 5, 6	7.81
NEW86272	T. 23 N., R. 31 W., Sec. 1: lots 7, 8	5.32
NEW86273	T. 23 N., R. 31 W., Sec. 12: lots 5, 6	16.83
NEW86274	T. 23 N., R. 31 W., Sec. 13: lots 5, 6	28.18
NEW86275	T. 23 N., R. 31 W., Sec. 24: lots 5, 6	39.61
NEW86276	T. 23 N., R. 31 W., Sec. 25: lots 5, 6	52.10
NEW86277	T. 24 N., R. 31 W., Sec. 23: lot 1	13.73
NEW86278	T. 24 N., R. 32 W., Sec. 6: lot 11; Sec. 7: lot 1	24.78
NEW86279	T. 24 N., R. 32 W., Sec. 13: lot 7	6.24
NEW86280	T. 24 N., R. 32 W., Sec. 32: lot 7; Sec. 33: lot 5	1.30
NEW86281	T. 22 N., R. 33 W., Sec. 2: lots 3, 4	73.64
NEW86282	T. 23 N., R. 33 W., Sec. 34: SW¼NE¼	40.00
NEW86283	T. 21 N., R. 34 W., Sec. 18: lot 1	38.06
Thomas County		
NEW86265	T. 22 N., R. 29 W., Sec. 4: lots 1, 2	81.61
NEW86266	T. 22 N., R. 29 W., Sec. 31: NW¼SE¼	40.00
NEW86267	T. 21 N., R. 30 W., Sec. 6: E½SW¼	80.00
NEW86268	T. 22 N., R. 30 W., Sec. 26: SW¼NW¼	40.00
NEW86269	T. 23 N., R. 29 W., Sec. 34: SE¼SW¼	40.00

The publication of this Notice of Realty Action in the **Federal Register** shall segregate the above public lands from appropriation under the public land laws, including the mining laws. Any subsequent application shall not be accepted, shall not be considered as filed and shall be returned to the applicant if the Notice segregates the land from the use applied for in the application. The segregation effect of this Notice will terminate upon issuance of a conveyance document, 270 days, or when a cancellation Notice is published, whichever occurs first.

Sale Procedures

1. The following sale will be conducted by competitive bidding: NEW86273. This parcel is provided legal access by Hooker County Road No. 2302, which crosses the parcel.

2. The following parcels will be offered by direct sale to the adjoining landowner: NEW86265, NEW86269, NEW86279. The adjoining landowner will be required to submit proof of adjoining landownership before a bid can be accepted.

3. The following parcels will be offered by modified competitive sale to the adjoining landowners: NEW86266, NEW86267, NEW86268, NEW86271, NEW86272, NEW86274, NEW86275, NEW86276, NEW86277, NEW86278, NEW86280, NEW86281, NEW86282, NEW86283, NEW86285, NEW86287. The apparent high bidder will be required to submit proof of adjoining landownership before the high bid can be accepted.

4. All bidders must be U.S. Citizens, 18 years of age or older, corporations authorized to own real estate in the state of Nebraska, a state, state instrumentality or political subdivision authorized to hold property, or an entity legally capable of conveying and holding land or interests in Nebraska.

5. Sealed bidding is the only acceptable method of bidding. All bids must be received in the Newcastle Resource Area Office by 11:00 a.m., July 26, 1989 at which time the sealed bid envelopes will be opened and the high bid announced. The high bidder will be notified in writing within 30 days whether or not the BLM can accept the bid. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, (identify serial number), Sale held July 26, 1989."

6. All sealed bids must be accompanied by a payment of not less than ten (10) percent of the total bid. Each bid and final payment must be accompanied by certified check, money order, bank draft, or cashier's check made payable to: Department of the Interior-BLM.

7. Failure to pay the remainder of the full bid price within 180 days of the sale will disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of the sale. If the apparent high bidder is disqualified, the next highest qualified bid will be honored or the land will be reoffered under competitive procedures. If two (2) or more envelopes containing valid bids of the same amount are received, supplemental sealed bidding will be used to determine the high bid. Additional sealed bids will be submitted to resolve all ties.

8. If any parcels fail to sell, they will be reoffered for sale under competitive procedures. For reoffered land, bids must be received in the Newcastle Resource Area Office by 11:00 a.m. on the fourth (4th) Wednesday of each month beginning August 23, 1989. Reoffered land will remain available for sale until sold or until the sale action is cancelled or terminated. Reappraisals of the parcels will be made periodically to reflect the current fair market value. If the fair market value of a parcel changes, the land will remain open for competitive bidding according to the procedures and conditions of this notice.

Patent Terms and Conditions

Any patents issued will be subject to all valid existing rights. Specific patent reservations include:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated into the patent document, is available for review at the BLM Newcastle Resource Area Office.

3. Parcels NEW86281, NEW86282: If Benjamin and Bernadette French do not purchase parcel NEW86281 or NEW86282, the conveyance will be subject to the existing grazing use of Benjamin and Bernadette French, holders of grazing authorization No. GR–8104. The rights of Benjamin and Bernadette French to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. GR–8104 shall cease on February 28, 1990. The successful bidder is entitled to receive annual grazing fees from Benjamin and Bernadette French in an amount not to exceed that which would be authorized under the Federal grazing fee published in the **Federal Register.**

Compensation for Loss of Range Improvement

Parcels NEW86281, NEW86282: Benjamin and Bernadette French are the grazing lessees (GR–8104) and owners (100 percent interest) of the following authorized permanent range improvements: Project No. 667, a fence. If any persons other than Benjamin or Bernadette French are the successful bidders on the land being offered for sale, those persons shall be required to reimburse Benjamin and Bernadette French for the adjusted value of the range improvement and furnish proof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area, before conveyance can be made. If the bidder and grazing lessee are unable to agree on compensation for the range improvement, the authorized officer shall determine the adjusted value.

For a period of 45 days from the date of this notice published in the **Federal Register,** interested parties may submit comments to the District Manager, Casper District Office, 1701 East E, Casper Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become final.

Dated: April 18, 1989.

Mike Karbs,

District Manager (Acting).

[FR Doc. 89–10126 Filed 4–26–89; 8:45 am]

BILLING CODE 4310–22–M

[CA–940–09–4520–12 and C–11–19]

Filing of Plat of Survey

April 20, 1989.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Humboldt Meridian, Humboldt County

T. 6 N., R. 5 E.

2. This supplemental plat of the southwest quarter of Section 13, Township 6 North, Range 5 East, Humboldt Meridian, California, was accepted April 14, 1989.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Shasta Trinity National Forest.

5. All inquires relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2811, Sacramento, California, 95825.

Herman J. Lyttge,

Public Information Section.

[FR Doc. 89–10119 Filed 4–26–89; 8:45 am]

BILLING CODE 4310–40–M

[MT–940–09–4520–11]

Land Resource Management

AGENCY: Bureau of Land Management, Montana State Office.

ACTION: Notice of filing of plats of survey.

SUMMARY: Plats of survey for the following described land accepted March 28 and March 29, 1989, respectively, will be officially filed in the Montana State Office, Billings, Montana, effective 45 days after publication.

Principal Meridian, Montana

T. 15 N., R. 55 E.

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The plat (in 3 sheets) representing the dependent resurvey of portions of the east and north boundaries, the subdivisional lines, and the adjusted original right and left bank meanders of a channel of the Yellowstone River in section 22, and the survey of the subdivision of sections 2, 10, 22, 26, and 27, the survey of a portion of the present right and left bank meanders of a channel of the Yellowstone River in section 22, and the survey of certain division of reliction lines in section 22, Township 15 North, Range 55 East, Principal Meridian Montana.

Principal Meridian, Montana

T. 11 N., R. 10 W.

The plat representing the dependent survey of portions of the west and north boundaries, and subdivisional lines and the survey of the subdivision of sections 6, 7, 8, and 18, Township 11 North, Range 10 West, Principal Meridian, Montana.

The triplicate original of the above described plats will be immediately placed in the open files and will be available to the public as a matter of information.

If protest(s) against any of these surveys are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). These particular plats will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

These surveys were executed at the request of the Miles City and Butte Districts, respectively.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: April 20, 1989.

Marvin LeNoue,

State Director.

[FR Doc. 89-10120 Filed 4-26-89; 8:45 am]

BILLING CODE 4310-DN-M

[OR-942-09-4730-12; GP9-187]

Filing of Plats of Survey; Oregon

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 15 S., R. 1 W., accepted April 7, 1989
T. 20 S., R. 3 W., accepted March 3, 1989
T. 19 S., R. 4 W., accepted April 7, 1989
T. 30 S., R. 5 W., accepted March 3, 1989
T. 3 S., R. 8 W., accepted April 7, 1989
T. 12 S., R. 8 W., accepted March 17, 1989
T. 15 S., R. 8 W., accepted March 3, 1989
T. 30 S., R. 9 W., accepted April 7, 1989
T. 25 S., R. 13 W., accepted March 17, 1989
T. 25 S., R. 14 W., accepted March 17, 1989
T. 40 S., R. 7 E., accepted April 7, 1989

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 825 NE Multnomah, Portland, Oregon 97208, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N.E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: April 18, 1989.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-10121 Filed 4-26-89; 8:45 am]

BILLING CODE 4310-33-M

[AK-932-09-4214-10; AA-12812]

Notice of Termination of Proposed Withdrawal and Reservation of Lands; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates the segregative effect of a proposed withdrawal and reservation of lands requested by the U.S. Army Corps of Engineers for use as a radio relay site.

EFFECTIVE DATE: April 27, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-3342.

SUPPLEMENTARY INFORMATION: Notice of a proposed withdrawal and reservation of lands for the U.S. Army Corps of Engineers, was published in the **Federal Register** on July 7, 1977 (42 FR 34935). The purpose of the application, serial number AA-12812, was for use as a radio relay site. The Corps of Engineers has cancelled its application involving the following described lands:

Copper River Meridian

A tract of land in protracted T. 7 N., R. 2 E., more specifically described as follows:

Commencing at a point identical with latitude 62°24'17"N., longitude 145°07'45"W.; thence east 165 feet to the true point of beginning for this description; thence south 165 feet; thence west 330 feet; thence north 330 feet; thence east 330 feet; thence south 165 feet to the point of beginning.

The area described contains approximately 2.50 acres.

At 8:00 a.m. Alaska Daylight Time, on the date of this publication, such lands will be relieved of the segregative effect of the proposed withdrawal.

Sue A. Wolf,

Chief, Branch of Land Resources.

[FR Doc. 89-10114 Filed 4-26-89; 8:45 am]

BILLING CODE 4310-JA-M

Minerals Management Service

Development Operations Coordination Document; Stone Petroleum Corp.; Receipt of Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that The Stone Petroleum Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5218, Block 17, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 14, 1989. Comments must be received within 15 days of the publication date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m, Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m, Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: April 17, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89-10060 Filed 4-26-89; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Capital Memorial Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission will be held on Tuesday, May 2, at 1:30 p.m., in the Executive Conference Room at the National Capital Planning Commission, 1325 G Street, NW., Washington, DC.

The Commission was established by Pub. L. 99-652, for the purpose of advising the Secretary of the Interior or the Administrator of the General Services Administration, depending on which agency has jurisdiction over the lands involved in the matter, on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia or its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission evaluates each memorial proposal and makes recommendations to the Secretary or the Administrator with respect to appropriateness, site location and design, and serves as an information focal point for those seeking to erect memorials on Federal land in Washington, DC, or its environs.

The members of the Commission are as follows:

James Ridenour, Chairman, Director, National Park Service, Washington, DC.
George M. White, Architect of the Capital, Washington, DC.
Honorable Andrew J. Goodpaster, Chairman, American Battle Monuments Commission, Washington, DC.
J. Carter Brown, Chairman, Commission of Fine Arts, Washington, DC.
Glen Urquhart, Chairman, National Capitol Planning Commission, Washington, DC.
Honorable Marion S. Barry, Jr., Mayor of the District of Columbia, Washington, DC.
John Alderson, Administrator, General Services Administration, Washington, DC.
Honorable Frank Carlucci, Secretary of Defense, Washington, DC.

The purpose of the meeting will be to review and take action on the following:

I. Review of new memorial proposals introduced into the Congress:

S. 618—A bill to authorize a memorial to Mahatma Gandhi
S. 160—A bill to require the construction of a memorial to honor members of the Armed Forces who served in World War II
H.R. 537—Memorial and museum to honor members of the Armed Forces who served in World War II, and to commemorate that conflict
S. 619 and H.R. 937—Monument to honor Martin Luther King, Jr., by the Alpha Phi Alpha Fraternity
S.J. Res 18 and H.J. Res. 156—Monument to General Draza Mihailovich
H.R. Res. 21—Memorial to members of the American press killed while covering a war or other armed conflict
H.R. 810—Monument in honor of the American Flag, and to display the world's largest American flag at Oxon Cove Park
H.R. 441—A bill to establish a mechanism to provide for nonprofit organizations for merchant marine memorials
H.R. 1310—A bill to redesignate a certain portion of the George Washington Memorial Parkway as the "Clara Barton Parkway"
H.R. 850—To direct the Secretary of the Interior to display the flag of the United States of America at the apex of the Vietnam Veterans Memorial

II. Consideration of a policy governing delegation of responsibilities below those participating members of the National Capital Memorial Commission.

Date: April 19, 1989.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 89-10037 Filed 4-26-89; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-275]

Competitive Position of the U.S. Gear Industry in U.S. and Global Markets

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: At the request of the U.S. Trade Representative (USTR), the Commission instituted investigation No. 332-275 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of assessing the competitive position of the U.S. gear industry in U.S. and global markets. The USTR asked that the commission provide its completed report no later than 12 months from receipt of the request.

EFFECTIVE DATE: April 14, 1989.

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FOR FURTHER INFORMATION CONTACT: Dennis Fravel (telephone 202–252–1404) or Sylvia McDonough (202–252–1393), Machinery and Equipment Division, Office of Industries, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

Background and Scope of Investigation: On March 27, 1989, the Commission recieved a request from the USTR to "conduct an investigation and prepare a report on the competitive position of the U.S. gear industry in U.S. and global markets". As requested by the USTR, the Commission's report will provide, to the extent possible, the following:

—Profiles of the U.S. industry and major foreign industries;

—A descriptive assessment of the global market for gears, to the extent possible, using categories of gear products most useful to the industry;

—A comparison of U.S. and foreign producers' strengths and weaknesses in such areas as: (1) Raw material, labor, and capital availability; (2) technological capabilities; (3) extent of plant and equipment modernization; (4) end-product quality, pricing, and service support; and government involvement.

—U.S. and foreign industry and U.S. consuming industry views on market direction and potential for the U.S. industry.

Public Hearing: The Commission will hold a public hearing in connection with this investigation beginning at 9:30 a.m. on November 1, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. All persons will have the opportunity to appear by counsel or in person, to present information, and to be heard.

Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC, 20436, not later than the close of business (5:15 p.m.) on October 18, 1989. To be assured of consideration by the Commission, a prehearing statement should be submitted not later than the close of business on October 25, 1989. Posthearing statements must be submitted not later than the close of business on November 15, 1989.

If the number of persons requesting an opportunity to appear by counsel or in person is large, limitation of time for presentation of oral testimony is in the public interest to ensure that all viewpoints are aired. Accordingly, in scheduling appearances at the hearing, the time to be allotted to witnesses for the presentation of oral testimony may be limited. The Commission will determine appropriate allocations of time based on the number of persons requesting an opportunity to appear. Questioning of witnesses will be limited to members of the Commission and its staff and witnesses should be prepared to provide additional information in response to such questioning.

Any written materials containing confidential business information presented at the hearing must be submitted in accordance with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6).

Written Submissions: Interested persons are invited to submit written statements concerning the investigation, in lieu of, or in addition to, appearances at the public hearing. To be assured of consideration by the Commission, such submissions must be received in the Office of the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 15, 1989. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6).

A signed original and fourteen (14) copies of each written statement must be submitted to the Commission in accordance with § 201.8(d) of the Commission's rules (19 CFR 201.8(d)). All written submissions, except for confidential business information, will be made available for inspection by the public during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: April 18, 1989.

[FR Doc. 89–10051 Filed 4–26–89; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701–TA–297 (Final) and 731–TA–422 (Final)]

New Steel Rails From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of final countervailing duty and antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701–TA–297 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of new steel rails,[1] that have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Canada. Commerce will make its final subsidy determination in this investigation on or before July 26, 1989.

The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–422 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of new steel rails, that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Commerce will make its final LTFV detemination on or before July 26, 1989.

As provided in sections 705(b) and 735(b) of the Act, the Commission must complete final countervailing duty and antidumping investigations before the later of 120 days after the date of Commerce's affirmative preliminary determination, or 45 days after its final determination, if affirmative.

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by Commission interim rules published in 53 FR 33041–43 (August 29, 1988)), and part 201, subparts A through E (19 CFR Part 201)

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Fred Rogoff (202–252–1179), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the Act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Canada of new steel rails and that exports of such merchandise to the United States are being sold at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673). The investigations were requested in a petition filed on September 26, 1988, by counsel on behalf of the Bethlehem Steel Corporation, Bethlehem, PA. In response to that petition the Commission conducted preliminary countervailing duty and antidumping investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (53 FR 47588, November 23, 1988).

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 2073.3, as amended), each document filed by a party to the investigation must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a), as amended), the Secretary will make available business proprietary information gathered in these final investigations to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report.—The prehearing staff report in these investigations will be placed in the nonpublic record on July 10, 1989, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on July 27, 1989, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary of the Commission not later than the close of business (5:15 p.m.) on July 17, 1989. All persons desiring to appear at the hearing and make oral presentations may file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on July 20, 1989, at the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 20, 1989.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on August 3, 1989. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before August 3, 1989.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary of the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7, as amended).

Parties which obtain disclosure of business information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than August 8, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

[1] For the purposes of these investigations, "new steel rails" include rails, whether or not of alloy steel, provided for in subheadings 7302.10.10, 7302.10.50, and 8548.00.00 of the Harmonized Tariff Schedule of the United States (previously classified in items 610.20, 610.21, and 688.42 of the Tariff Schedules of the United States). Specifically excluded from the scope of these investigations are imports of "light rails," which are 60 pounds or less per yard, such as are used in amusement park rides. "Relay rails," which are used rails that have been taken up from a primary railroad track and are suitable to be reused as rails (such as on a secondary rail line or in a rail yard), are also excluded.

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Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR § 207.20).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: April 20, 1989.

[FR Doc. 89-10052 Filed 4-26-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-295]

Certain Novelty Teleidoscopes; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Juan S. Cockburn, Esq., of the Office of Unfair Import Investigations will be the Commission investigative attorney in the above-cited investigation instead of Deborah D. Sorkin, Esq.

The Secretary is requested to publish this notice in the **Federal Register.**

Respectfully submitted,

Lynn I. Levine,

Director, Office of Unfair Import Investigations, 500 E Street, SW., Washington, DC 20436.

Dated: April 18, 1989.

[FR Doc. 89-10053 Filed 4-26-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-296]

Certain Phenylene Sulfide Polymers and Polymer Compounds, and Products Containing Same; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 20, 1989, under section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. 1337), on behalf of Phillips Petroleum Company, Bartlesville, Oklahoma 74004. Supplemental exhibits to the complaint were filed on April 5 and April 6, 1989. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain phenylene sulfide polymers and polymer compounds, and products containing same, by reason of alleged direct and induced infringement of claims 33 through 36 of U.S. Letters Patent 3,919,177; and that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone 202-252-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

FOR FURTHER INFORMATION CONTACT: George C. Summerfield, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-252-1582.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.12 of the Commission's Interim Rules of Practice and Procedure, 53 FR 33034, 33057 (Aug. 29, 1988).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on April 19, 1989, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain phenylene sulfide polymers and polymer compounds, and products containing same, by reason of alleged direct or induced infringement of claims 33, 34, 35, or 36 of U.S. Letters Patent 3,919,177, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Phillips Petroleum Company
Bartlesville, Oklahoma 74004

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Kureha Chemical Industry Co., Ltd.
1-9-11 Nihonbashi Horidome-Cho
Chuo-Ku, Tokyo, 103 Japan

Hoechst Celanese Corporation
Route 202-206 North Bridgewater,
New Jersey 08807

(c) George C. Summerfield, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Room 401F, Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.21 of the Commission's Interim Rules of Practice and Procedure, 53 FR 33034, 33057 (Aug. 29, 1988). Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules (19 CFR 201.16(d) and 53 FR 33034, 33057 (Aug. 29, 1988)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: April 21, 1989.

[FR Doc. 89-10054 Filed 4-26-89; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-19369]

The Arrow Line, Inc.; Proposed Purchase Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: The Arrow Line, Inc. (Arrow) (MC-1934) seeks an exemption under 49 U.S.C. 11343(e) from the requirement of prior regulatory approval for its purchase of the assets and operating rights of Savin Bus Lines, Inc. (Savin) (MC-1193).[1]

DATE: Comments must be received by April 30, 1989.

ADDRESSES: Send comments (an original and 10 copies), referring to Docket No. MC-F-19369, to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
and

(2) Petitioner's representative: Charles A. Webb, 806 London House, 1001 Wilson Boulevard, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Richard L. Gagnon, (202) 275-7711. [TDD for hearing impaired: (202) 275-1721.]

SUPPLEMENTARY INFORMATION: Petitioner seeks an exemption under 49 U.S.C. 11343(e) and the Commission's regulations in *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982).

Raynald R. Dupuis is president and 51 percent shareholder of Arrow; the remainder of Arrow's stock is held by his mother, Bertha T. Dupuis. Mr. Dupuis is also president and principal shareholder of Arrow Leasing, Inc. (Leasing) (MC-209730), and sole proprietor of R and D Leasing (R and D) (MC-196275). Mr Dupuis' continuance in control of Arrow, Leasing, and R and D was approved in Nos. MC-F-18664 and MC-F-19157.

Arrow, Savin, Leasing, and R and D hold nationwide charter and special operations authority. Arrow is also authorized to transport: (1) Passengers over regular routes in Massachusetts, Connecticut, and New York; and (2) automobiles, in secondary movements, in truckaway service, between named Connecticut, Massachusetts, New York, and New Jersey points, on the one hand, and, on the other, points in Florida. Savin also holds authority to transport passengers over regular routes in southeastern Connecticut, Massachusetts, and Rhode Island.

Under 49 U.S.C. 11343(a)(2), the Commission's prior approval is required for the purchase of a carrier by any number of carriers. Here, Arrow, a regulated carrier, proposes to purchase another carrier. Therefore, this transaction is subject to the Commission's jurisdiction and can be carried out only under its regulation or an exemption from regulation.

Arrow states that Savin's principal shareholder desires to retire and sell his interest in the carrier. It argues that its purchase of Savin will promote the national transportation policy by assuring the continuation of service to the traveling public. It also will enable Arrow to achieve operating economies and efficiencies since the two carriers are small entities. Arrow contends that competition will not be diminished by the proposed purchase because its scheduled and charter services are concentrated in western Connecticut and are not competitive with Savin's.

A copy of the petition may be obtained from petitioner's representative, or it may be inspected in Room 1227, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, DC, during normal business hours, or by pickup from Dynamic Concepts, Inc., in Room 2229 at the same address. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.]

Decided: April 20, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee

Secretary.

[FR Doc. 89-10067 Filed 4-26-89; 8:45 am]

BILLING CODE 7035-01-M

[1] Arrow also requests that the Commission exempt its purchase of Charter Buses, Inc., a Connecticut intrastate motor passenger carrier. However, this aspect of the transaction is beyond the Commission's jurisdiction because it does not involve the purchase of a "carrier" (as defined at 49 U.S.C. 10102(2)) within the meaning of 49 U.S.C. 11343.

[Finance Docket No. 31430]

Arizona Central Railroad, Inc.; Acquisition and Operation Exemption; Clarkdale Branch of the Atchison, Topeka and Santa Fe Railway Co.

Arizona Central Railroad, Inc. (ACR) has filed a notice of exemption to acquire by purchase and to operate the Clarkdale Branch of The Atchison, Topeka and Santa Fe Railway Company (ATSF) extending between Drake, AZ, (milepost 0 + 15 feet), and the Phoenix Cement Plant near Clarkdale, AZ (milepost 38 + 3940.3 feet), a distance of approximately 38.74 miles.[1] The involved transaction was to be consummated on or soon after the effective date of this exemption.

A transaction relating to the continuance in control of ACR by David L. Durbano and Phillip D. Scott is the subject of a notice of exemption filed concurrently in Finance Docket No. 31430 (Sub-No. 1), *David L. Durbano and Phillip D. Scott—Continuance in Control Exemption—Arizona Central Railroad, Inc.*

Any comments must be filed with the Commission and served on: (1) Douglas M. Durbano, Durbano, Smith, Reeve & Fuller, 4185 Harrison Boulevard, Suite 320, Ogden, UT 84403; and (2) Dennis W. Wilson, The Atchison, Topeka and Santa Fe Railway Company, 80 East Jackson Boulevard, Chicago, IL 60604.

ACR must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. *See Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901*, 4 I.C.C.2d 305 (1988).

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: April 20, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-10046 Filed 4-26-89; 8:45 am]

BILLING CODE 7035-01-M

[1] ATSF has retained an easement over both legs of the wye track at Drake, including sidings along those tracks, and over the Clarkdale Branch between milepost 0 + 15 feet and milepost 0 + 3000 feet, for the purpose of interchanging cars or traffic with ACR at Drake, or operating in response to any emergency situation.

[Docket No. AB-290 (Sub-No. 57X)]

Norfolk and Western Railway Co. Discontinuance Exemption; Operations in Chicago, IL

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* to discontinue service over its 1.29 mile line of railroad between milepost 513.87 and milepost 515.16 in Chicago, IL.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with

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any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective May 27, 1989 (unless stayed pending reconsideration). Petitions to stay regarding matters that do not involve environmental issues [1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2)[2] must be filed by May 8, 1989. Petitions for reconsideration must be filed by May 17, 1989, with:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

A copy of any petition filed with the Commission should be sent to applicant's representative:

Roger A. Petersen, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by May 2, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275–7316. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 19, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–9699 Filed 4–26–89; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C.2d 400 (1988). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440–48446).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 88–36]

Nathan Ethridge Pearson, Jr., M.D.; Revocation of Registration

On February 29, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Nathan Pearson, M.D. (Respondent), of Southfield, Michigan. The Order proposed to revoke Respondent's DEA Certificate of Registration pursuant to 21 U.S.C. 824. Dr. Pearson timely filed a request for a hearing which was held before Administrative Law Judge Mary Ellen Bittner in Ann Arbor, Michigan on October 18, 1988.

At the hearing Judge Bittner found that Respondent, while working as a physician at a Detroit weight-loss clinic, was approached by the clinic owners and requested to pre-sign prescriptions for controlled substances. These prescriptions were filled out except for the name of the person who was to receive the prescription. The purpose of these prescriptions was to "raise revenue for operating expenses." Dr. Pearson pre-signed 10–12 pads of prescriptions, a total of approximately 500 prescriptions. These prescriptions were primarily for the controlled substances Desoxyn, Preludin, Percodan and Darvon. The clinic owners sold the prescriptions for $30 each and paid Respondent $5 per prescription or about $250 per prescription pad. Judge Bittner also found that Respondent knew that this scheme was wrong and contrary to accepted medical practice. Respondent recognized the dangers inherent in giving controlled substance prescriptions to individuals who had not been examined by a physician and further was aware that patients receiving these prescriptions might sell them on the street.

On October 21, 1986, Respondent was charged by information in the United States District Court for the Eastern District of Michigan, Southern Division, of misprision of a felony, a violation of 18 U.S.C. 4. He pled guilty to that charge on February 26, 1987.

On June 16, 1987, the Michigan Attorney General filed an Administrative Complaint against Respondent with the Michigan Department of Licensing and Regulation, Board of Medicine. Following a hearing, a Michigan administrative law examiner issued his opinion, finding the Respondent had prescribed controlled substances for other than lawful diagnostic or therapeutic purposes, contrary to Michigan law. On December 8, 1988, the Michigan Board of Medicine issued a Final Order, revoking Respondent's license to practice medicine in Michigan.

Based on these facts, and primarily on the fact that Respondent is not authorized to handle controlled substances in the State of Michigan, the Administrative Law Judge, on January 30, 1989, recommended that Respondent's DEA Certificate of Registration be revoked and any pending applications for renewal denied. The Administrator adopts the recommended ruling, findings of fact, conclusions of law and decision of Judge Bittner, in its entirety. The Administrator has consistently held that an unlicensed physician may not be registered by the DEA to handle controlled substances. *Wingfield Drugs, Inc.*, Docket No. 87–13, 52 FR 27070 (1987); *Robert F. Witek, D.D.S.*, Docket No. 87–54, 52 FR 47770 (1987); and *Bobby Watts, M.D.*, Doekct No. 87–71, 53 FR 11919 (1988).

Accordingly, pursuant to the authority vested in the Attorney General and redelegated to the Administrator of the Drug Enforcement Administration by 21 U.S.C. 824 and 28 CFR 0.100, the Administrator concludes that Respondent's DEA Certificate of Registration should be revoked and any pending applications should be denied. It is therefore ordered that Certificate of Registration AP2425709 previously issued to Respondent be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of that registration be, and they hereby are, denied.

This order is effective April 27, 1989.

John C. Lawn,

Administrator.

Date: April 20, 1989.

[FR Doc. 89–10009 Filed 4–26–89; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Shipyard Employment Standards Advisory Committee; Meeting

AGENCY: Occupational Safety and Health Administration.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Shipyard Employment Standards Advisory Committee, established under the provisions of the Federal Advisory Committee Act (FACA) as amended (5 U.S.C. App. I), will convene on June 6, 1989, at 8:30 a.m. at the Town and Country Hotel, 500 Hotel Circle North, San Diego, California. The meeting will adjourn on June 7, 1989, at approximately 4:00 p.m. The agenda is as follows:

I. Call to order.

II. Review transcript of March 28–29, 1989 meeting.

III. Old Business. Discussion of the following standards:

(a) Confined Space Entry on Vessels and in the Shipyard.

(b) Lockout/Tagout Aboard Vessels and in the Shipyard including 29 CFR Part 1915, Subpart J, Ship's Machinery and Piping System.

(c) CFR 1915, Subpart F, General Working Conditions.

(d) 29 CFR 1910.144, Safety Color Coding for Marking Physical Hazards.

(e) 29 CFR 1910.145, Specifications for Accident Prevention Signs and Tags.

(f) 29 CFR 1910.151, Medical Services and first Aid.

IV. New Business. Discussion of the following standards:

(a) 29 CFR Part 1915, Subpart G, Gear and Equipment for Rigging and Materials Handling covering §§ 1915.111–1915.118.

(b) 29 CFR Part 1910, Subpart N, Materials Handling and Storage, covering 1910.176–1910.184

(c) 29 CFR Part 1915, Subpart H, Tools, and Related Equipment, covering §§ 1915.131–1915.136.

(d) 39 CFR Part 1910, Supart P. Hand and Portable Powered Tools and Other Hand-Held Equipment, covering §§ 1910.241–1910.244.

(e) 29 CFR Part 1915, Subpart K. Portable, Unfired Pressure Vessels, Drums and Containers, other than Ship's Equipment.

(f) 29 CFR Part 1910, Subpart O, Machinery and Machine Guarding, covering §§ 1910.211–1910.219.

V. Planning.

The Committee will consider oral presentations relating to agenda items. Persons wishing to address the Committee should submit a written request to Mr. Thomas Hall (address below) by the close of business, June 1, 1989. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation and an estimate of the amount of timeneeded.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210. (202) 528–8617.

Signed at Washington, DC this 21st day of April 1989.

Alan C. McMillan,

Acting Assistant Secretary.

[FR Doc. 89–10139 Filed 4–26–89; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89–30]

NASA Wage Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Wage Committee.

DATE AND TIME: April 12, 1989, 1:30 p.m. to 3:00 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 7002, Federal Building 6, 400 Maryland Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Remissong, Code NPM, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–2593).

SUPPLEMENTARY INFORMATION: The Committee's primary responsibility is to consider and make recommendations to the NASA Assistant Associate Administrator for Personnel Management, on all matters involved in the development and authorization of a Wage Schedule for the Cleveland, Ohio, wage area, pursuant to Pub. L. 92–392. The Committee, chaired by Mr. John Remissong, consists of six members. During this meeting, the Committee considered and make recommendations on wage survey specifications.

Type of Meeting: Open.

Purpose of Meeting: The NASA Wage Committee recommended to the NASA Wage Fixing Authority the wage specifications to be used for the 1989 Full-Scale Wage Survey.

John Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

April 21, 1989.

[FR Doc. 89–10070 Filed 4–26–89; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting and Hearing

ACTION: Notice of meeting and hearing.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) notice is hereby given of an emergency public meeting and a closed executive session (pursuant to 5 USC APP.I, Sect. 10(d)) of the National Commission for Employment Policy in Hearing Room C, and a public hearing the following day in Hearing Room A, at the Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423.

DATE: Thursday, May 4, 1989 (meeting) 9:00–4:30; Friday, May 5, 1989 (hearing) 9:00–4:30.

Status: This meeting and the hearings are to be open to the public with the exception of the executive session.

Matters To Be Discussed: The purpose of this public meeting is to enable the Commission members to continue discussion and preparation of comments on draft legislation proposing abolishment of the National Commission for Employment Policy. Because of the recent appointment of a new Chairman and upcoming hearings on the proposed legislation, this meeting is deemed an emergency. During the public meeting, the Commission members will also discuss progress on the research agenda, budget and administrative matters. During the executive session, the Commission members will discuss matters solely related to the internal personnel rules and practices of the Commission. Such issues are considered routine administrative matters, of no significance to the public. In addition, the session is closed in order to protect information of a personnel nature, which if disclosed could constitute an unwarranted invasion of personal privacy.

The purpose of the public hearings is to enable the Commission members to

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learn from various segments of the Job Training Partnership Act (JTPA) system their reactions to a draft Commission paper which examines possible explanations for the under-representation of Hispanics in JTPA. Persons invited to testify represent major Hispanic organizations, federal government organizations, and public interest groups involved in JTPA.

Interested parties may submit written testimony either prior to or after the official hearing date, but no later than July 15, 1989 to the Commission headquarters. Additional hearings will be conducted across the U.S. over the next several months. It is anticipated that the results of the first hearing will be incorporated into Commission testimony for presentation to Congress during the month of May. Results from all hearings will be used to develop formal Commission recommendations.

FOR FURTHER INFORMATION CONTACT: Barbara C. McQuown, Director, National Commission for Employment Policy, 1522 K Street, NW., Suite 300, Washington, DC 20005, tel. (202) 724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established pursuant to Title IV-F of the Job Training Partnership Act (Pub. L. 97-300). The Act charges the Commission with the broad responsibility of advising the President, and the Congress on national employment issues. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made. Minutes of the meeting will be available for public inspection at the Commission's headquarters, 1522 K Street, NW., Suite 300, Washington, DC 20005.

Signed at Washington, DC, this 24th day of April 1989.

Barbara C. McQuown,

Director, National Commission for Employment Policy.

[FR Doc. 89-10216 Filed 4-26-89; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee; Closed Meeting

A meeting of the National Security Telecommunications Advisory Committee (NSTAC) will be held on June 8, 1989. The business session of the meeting will be held at the Department of State. An executive session of the meeting will be held at the Old Executive Office Building.

Business Session

—Call to Order
—Welcome from Department of State
—Review of Government Activities
—Review of Ongoing NSTAC Activities
—Report from Industry
—Proposed Amendments to the NSTAC Bylaws
—Strategic Outlook
—Closing Remarks
—Adjournment

Executive Session

—Call to Order
—Discussion with Government Officials
—NSTAC Closing Discussion
—Adjournment

Due to the requirement to discuss classified information in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202) 692-9274 or write the Manager, National Communications System, Washington, DC 20305-2010.

Terrence N. Danner,

Captain, U.S. Navy, Assistant Manager, NCS Joint Secretariat.

[FR Doc. 89-10066 Filed 4-26-89; 8:45 am]

BILLING CODE 3610-05-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-61, issued to Connecticut Yankee Atomic Power Company (CYAPCO, the licensee), for operation of the Haddam Neck Plant, located in Middlesex County, Connecticut.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would provide new Technical Specifications (TS) and revisions to existing TS that provide limiting conditions for operation (LCO) and surveillance requirements in response to Generic Letter 83-37, as applicable to the Haddam Neck Plant. TS have been proposed for the following: (1) Post-Accident Sampling, (2) Sampling and Analysis of Plant Effluents, (3) Containment Pressure Monitor, (4) Reactor Coolant System Vents, (5) Noble Gas Effluent, (6) Containment High-Range Radiation Monitor, and (7) Instrumentation for Detection of Inadequate Core Cooling.

The proposed action is in accordance with the licensee's application for amendment dated July 1, 1988 with revisions by letters dated December 2, 1988 and March 1, 1989.

The Need for the Proposed Action

The proposed change to the TS is required in order for the licensee to comply with Generic Letter (GL) 83-37, "NUREG-0737 Technical Specifications," dated November 1, 1983.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TS. The proposed revisions would provide TS for those items identified in NUREG-0737, "Clarification of TMI Action Plan Requirements," as requiring TS. TS have been proposed for all items found applicable to Haddam Neck per GL-83-37 except Long Term Auxiliary Feedwater System Evaluation (II.E.1.1), Containment Water Level Monitor (II.F.1.5), Containment Hydrogen Monitor (II.F.1.6) and Control Room Habitability Requirements (II.D.3.4). The TS for these items will be resolved in other programs such as the Integrated Safety Assessment Program (ISAP) and the TS Upgrade Program. The addition of these new TS and revisions to certain existing TS would not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this action would result in no significant impact.

With regard to potential non-radiological impacts, the proposed changes to the TS involve systems located within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on November 2, 1988 (53 FR 44263). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

It has been determined that there is no measurable impact associated with the proposed amendment; any alternatives to the amendment will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal operation.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

For further details with respect to this action, see the request for amendment dated July 1, 1988 with revisions dated December 2, 1988 and March 1, 1989. Copies of the request for amendment are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Russell Library, 123 Broad Street, Middletown, Connecticut.

Dated at Rockville, Maryland, this 20th day of April 1989.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-10068 Filed 4-26-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-16]

Detroit Edison Co.; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Possession-Only License No. DPR-9 which currently allows Detroit Edison Company (the licensee) to possess-but-not-operate the permanently shut down Enrico Fermi Atomic Power Plant, Unit No. 1 (Fermi 1). The amendment would renew Possession-Only License No. DPR-9 to extend the expiration date of the license from June 30, 1985 to March 20, 2025.

Description of Proposed Action

Fermi 1 has been shut down since September 22, 1972 and all fuel has been removed from the site. The licensee intends to retain Fermi 1 in a safe storage (SAFSTOR) status until after the Fermi 2 license expires on March 20, 2025, at which time the residual radioactivity will be removed from Unit 1 to levels acceptable for release of the facility to unrestricted access.

Environmental Impacts

Fermi 1 is now maintained in a shutdown status in accordance with the Technical Specifications and ALARA requirements of 10 CFR Part 20. The residual radioactivity (477 curies) at Fermi 1 will decay significantly in the 40-year period of the proposed license renewal. There is very little potential for a release of radioactivity to the environment or a significant radiation exposure of workers because more than 95 percent of the residual radioactivity remains as activated metal components that are sealed within the reactor vessel which is in turn surrounded by a metal containment building.

The 40-year delay in removal of residual radioactivity will reduce potential exposure rates to workers that would dismantle Fermi 1 by a factor of about 100. In addition, the 40-year delay will result in a smaller volume of radioactive waste to be disposed of at the time of decontamination as compared to immediate decontamination. The smaller volume of radioactive waste will result in the use of a smaller area at a waste burial facility.

Finding of No Significant Impact

The staff has reviewed the proposed renewal of the Fermi 1 facility license relative to the requirements set forth in 10 CFR Part 51. Based upon the environmental assessment, the staff concluded that there are no significant environmental impacts associated with the proposed action and that the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission had determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see (1) the application for amendment dated May 17, 1985 as supplemented by letters dated July 23, 1986, September 15, 1986, September 25, 1987, September 15, 1988 and December 22, 1988 and (2) the Environmental Assessment. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 20th day of April 1989.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Standarization and Non-Power Reactor Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-10069 Filed 4-26-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold a meeting on May 11, 1989, Room P-422, 7920 Norfolk Avenue, Bethesda, MD. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy 5 U.S.C. 552b(c)(6). Notice of this meeting was published in the Federal Register on April 20, 1989 (54 FR 16027). The following topics will be discussed:

Thursday, May 11, 1989—8:30 a.m.–5:00 p.m.

- Review of the Site Characterization Analysis for the DOE high level radwaste repository (Open).
- Technical Position on Environmental Monitoring of Low Level Waste Disposal Facilities (Open).
- High-Level Waste Management Research Program and Strategy Plan, including status of the Center for Nuclear Waste Regulatory Analyses (Open).
- Committee Activities—The Committee will discuss anticipated and proposed Committee activities, future meeting agenda, organizational matters, and new members, as appropriate (Open/Closed).

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. The Office of the ACRS is providing Staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACRS as far in advance as practicable so that appropriate arrangements can be made

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to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492–4516), prior to the meeting. In view of the possibility that the schedule for ACNW meeting may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

Date April 24, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89–10144 Filed 4–26–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp.; Withdrawal of Applications for Amendments to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Florida Power Corporation (the licensee) to withdraw two applications for proposed amendments to Facility Operating License No. DPR–72 for the Crystal River Unit 3 Generating Plant, located in Citrus County, Florida.

One of the proposed amendments would have modified the facility Technical Specifications to include the silicon-controlled rectifiers in appropriate surveillance and test sections. The Commission previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on May 23, 1984 (49 FR 21829). However, by letter dated April 11, 1989, the licensee withdrew the proposed change.

The other proposed amendment would have added operability and surveillance requirements for the reactor trip breaker shunt trip attachment. The Commission previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on November 30, 1988 (53 FR 48330). However, by letter dated April 11, 1989, the licensee withdrew the proposed change.

In both cases the licensee committed to incorporate the proposed changes consistent with NRC guidance in the Technical Specification Improvement Program (TSIP), and until approval of the TSIP submittal, to maintain operability requirements and surveillance procedures in accordance with current NRC guidance.

For further details with respect to this action, see the applications for amendments dated January 16, 1984 and March 29, 1985, respectively, and the licensee's letter dated April 11, 1989, which withdrew the applications for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC., at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida 32629.

Dated at Rockville, Maryland, this 20th day of April 1989.

For the Nuclear Regulatory Commission.

Harley Silver,

Project Manager, Project Directorate II–2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10090 Filed 4–26–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–352]

Philadelphia Electric Co. Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–39, issued to the Philadelphia Electric Company, (the licensee), for operation of the Limerick Generating Station, Unit 1, located in Montgomery and Chester Counties, Pennsylvania. The proposed amendment is in response to the licensee's submittal dated February 14, 1986.

The proposed amendment would make administrative changes to the Technical Specifications (TS) to achieve consistency, remove outdated material, make minor text changes, and correct errors. The changes are grouped into four categories.

(1) Category A changes deal with correction of errors or the removal of outdated material. Specifcially, Pages 3/4 7–22 and 6–14 delete a reference to 5% power (at *). Page 3/4 3-85 deletes a reference to initial criticality (at #). These references are no longer applicable. These conditions have been satisfied and the footnotes would be deleted. Page 3/4 3-85 also would add "/" between "1" and "location" for instrument 4. The primary and secondary containment isolation trip functions on the outside atmosphere to reactor enclosure and refueling area. differential pressure low Trip Setpoint and Allowable Value on Pages 3/4 3–21 and 3/4 3–22 (items e. and f.) would use the engineering units "inches of H_2O" to eliminate ambiguity. The reference to Figure B 3/4 4.6–2 on Page 3/4 4–19 (item 4.4.6.1.4) would be deleted because this figure does not exist in the TS. The drywell average air temperature sensor elevation and azimuth locations on Page 3/4 6–10 are provided to give approximate locations. The symbol "~" would be added to these locations. The footnote "*" on pages 3/4 6–47 and 3/4 6–52 will be corrected by replacing the word "and" with the word "or". The referenced penetration "035A" on Pages 3/4 6–23 and 3/4 6–42 will be corrected to "035B". An additional Action c. will be added on Page 3/4 1–2 indicating that "The provisions of Specification 4.0.4 are not applicable", because the reactor must first be in Operational Condition 1 or 2 to perform the surveillance. The number of heat detectors for Fire Zone 25 on Page 3/4 3–94 in incorrect and would be revised from "15" to "13". The two other heat detectors actually are located in the Unit 2 area. The word "positive" on Page B 3/4 6–2, item 3/4.6.1.6, would be deleted, because the allowable containment pressure range is actually both negative and positive.

(2) Category B changes deal with minor text changes to achieve consistency throughout the TS. Specifically, Specification 3.6.3 on Page 3/4 6–17 includes an Action Statement that allows four hours to restore (for example) an inoperable Main Steam Isolation Valve (MSIV), while Specification 3.4.7 on Page 3/4 4–23 allows eight hours to restore an inoperable MSIV. The change would revise Specification 3.4.7 to four hours from the existing eight hour requirement. The change to footnote " ** " on Pages 3/4 5–4 and 3/4 5–5 would add a requirement that "In the event that HPCI system is not successfully demonstrated operable during the twelve hour period, then reactor steam dome pressure is to be reduced to less than 200 psig. In the event that ADS cannot be demonstrated operable during the twelve hour period, then reactor steam dome pressure is to be reduced to less than 100 psig". This would be consistent with the respective Action Statements for each system. The drywell and suppression chamber internal pressure designated in the Limiting Condition for Operation on Page 3/4 6–9 would be corrected to "−1.0 to +2.0" consistent with that specified on Page B 3/4 6–2. The change to Note 17 on Page 3/4 6–42 would include a statement that "Type C test is not required" consistent with other notations in the table and the fact that a Type A test is already indicated. The change to footnote " * " on Pages 3/4 7–9 and 3/4 7–10 would add a requirement that "In the event that RCIC operability is not successfully demonstrated during the twelve hour period, then reactor steam dome pressure is to be reduced to less than 150 psig". This would be consistent with the RCIC Action Statement. The change to Action b. on Page 3/4 8–1 would add a reference to Action e., because Action e. could be overlooked during the performance of Action b. The change to Action Statement 101 on Page 3/4 3–100 would revise the lower limit of detection for gammas to 0.5 micro-microcuries/mL, consistent with the gamma limit specified on Page 3/4 11–2.

(3) Category C changes deal with minor text changes that provide additional limitations or restrictions. Specifically, TS 3.6.2.1.c on Page 3/4 6–12 would be revised by adding an additional limit specifying that "one temperature instrument in each of the eight locations shall be operable". The existing specification calls for the operability of at least eight indicators without denoting their locations. The change to Specification 3.6.3. on Page 3/4 6–17 and 4.3.6.4. on Page 3/4 6–18 would delete "reactor" and reference only "instrumentation" line excess flow check valves. The change allows all instrument line excess flow check valves to be referenced, rather than only the reactor instrument line excess flow check valves.

(4) Category D changes deal with changes that eliminate ambiguity, delete superflous information, correct "information only" designations or add location information.

a. *Page 3/4 3–23*

The addition of TABLE NOTATIONS "(a)" and "**", which the licensee proposes to add to Page 3/4 3–23, Item 1.a.2), adds further clarification to include ≦ 13 seconds response time for associated valves (10 seconds diesel generator starting and 3 seconds sequence loading delays). This change is consistent with the specifications for the Reactor Vessel Water Level low, low-level 2 and the Main Steam Line Isolation response times for radiation, flow, and pressure, which also include the ≦ 13 seconds response time. These added notations eliminate ambiguity and allow for consistent interpretation. The change is justified as a clarification of the existing specifications to allow for consistency.

This proposed change falls within the example category (i) of those provided by the Commission for amendments that are not likely to involve Significant Hazards Consideration, because the proposed change allows for consistence throughout the Technical Specifications.

b. *Page 3/4 6–10*

The drywell average air temperature is the calculated volumetric average of the temperature readings at four drywell elevations. At elevation 330' there are three installed temperature sensors, and also three sensors installed at elevation 320', three at 280', and six at 246'.

The volumetric calculation requires only that one sensor at each elevation be read, without regard to the sensor's (compass) location, i.e., only the elevation location is of interest in the calculation and not the azimuth location. The azimuth has been listed in the surveillance requirements as an information guide, so that the exact location of each sensor is known, even though the azimuth of each sensor is not a factor in the actual calculation. Because the azimuth of each sensor is listed, relocation of any of these sensors at the same elevation would require an amendment to the Technical Specifications, even though the intent of the Technical Specifications clearly does not require this information as a limit. Some readings taken from these sensors could be erroneous if a sensor's azimuth location is not changed, because of nearby hot or cold pipes.

The licensee proposes to revise the identity of drywell temperature sensors at each elevation from "azimuth" to "quantity" to allow sensor azimuth relocation and preclude erroneous drywell readings. This flexibility will eliminate the need for amendments to the Technical Specifications each time a drywell modification calls for the relocation of a temperature sensor. To allow for physical limitations in the installation of equipment, the licensee also proposes to add the word (or symbol) "Approximate" before each elevation.

Because this proposed change merely changes the "information only" designations of "azimuth" to "quantity" at each elevation and adds "approximate" before elevation, it falls within the example category of amendments that are considered not likely to involve Significant Hazards Considerations as they constitute "a purely administrative * * * change in nomenclature."

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The licensee has evaluated the administrative changes that achieve consistency throughout the TS, that remove outdated material, make minor text changes and correct errors against the standards provided above, and has determined that the changes do not involve a significant hazards consideration. These changes provide improvements to the TS by correcting errors, eliminating ambiguities and inconsistencies, or denoting additional limitations or restrictions. The staff agrees with this evaluation.

The Commission has provided examples (51 FR 7751) of amendments that are not likely to involve significant hazards considerations. One of these examples, (i) states that "A purely administrative change to the Technical Specifications for example a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The proposed correction of errors and removal of outdated material listed in Category A, and the minor text changes to achieve consistency throughout the TS listed in Category B, above, are similar to example (i). A second of these examples, (ii), states that "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specification, e.g. a more stringent surveillance requirement." The proposed minor text changes that provide additional limitation or restrictions listed in Category C, above, are similar to example (ii).

The staff has reviewed the licensee's evaluation and determination and agrees with the licensee that this proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555,

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and should cite the publication date and page number of this Federal Register notice.

Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. and 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). the Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler, Director, Project directorate I-2, Division of Reactor Projects I/II: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)((1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 14, 1986, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated at Rockville, Maryland, this 21st day of April 1989.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-10091 Filed 4-26-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-277 and 50-278]

Philadelphia Electric Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company for operation of the Peach Bottom Atomic Power Station, Unit Nos. 2 and 3 located in York County, Pennsylvania.

The proposed amendments would delete certain thermal effluent monitoring requirements from the Environmental Technical Specifications (ETS) in view of the issuance of the National Pollutant Discharge Elimination System (NPDES) permit by the Commonwealth of Pennsylvania in partial response to the licensee's application for amendment dated October 17, 1986.

The proposed amendment would also make other conforming changes of an administrative nature to the ETS. The staff is not granting these proposed changes at this time since they are not adequately supported in the application.

Previous amendments to the ETS have deleted all protection limits and report levels, and all monitoring requirements, except for those relating to thermal effluent monitoring. (See Amendment Nos. 92 and 94 dated February 24, 1984 and Amendment Nos. 102 and 104 August 3, 1984.) As stated in the NRC letter transmitting Amendnemt Nos. 92 and 94, deletion of thermal discharge monitoring requirements was "held in abeyance pending the NPDES 316 proceeding and litigation." This application proposes deletion of the last monitoring requirement (thermal discharge monitoring) since the 316(a) proceeding has been resolved and effective thermal discharge requirements have been incorporated into the NPDES Permit.

Specifically, the licensee's basis for deletion of the thermal monitoring requirement on ETS pages 5, 5a, and 5b is that the revised NPDES Permit provides an effective thermal discharge program for the Peach Bottom Atomic Power Station. The permit establishes operating limits, as well as monitoring and reporting requirements resulting from resolution of the NPDES 316 proceeding. With the conclusion of this proceeding, deletion of the thermal monitoring provisions from the Peach Bottom ETS on current pages 5, 5a, and 5b is appropriate.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis, as provided by the licensee, for this proposed finding is that the proposed amendment does not constitute a significant hazards consideration since it does not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. The thermal discharge monitoring requirements which are proposed for deletion have no safety implications or bases. They do not impact the cooling capability of systems associated with nuclear safety and have no effect on the probability or consequences of any accident.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated because the thermal discharge does not impact the design considerations associated with nuclear safety.

(3) involve a significant reduction in a margin of safety since the requested changes involve no safety margins. The effective NPDES Permit provides the necessary protection of the environment, and essential reporting provisions to the NRC and administrative controls of activities that may impact the environment are retained.

The staff has reviewed the licensee's no significant hazards consideration analysis. Based upon this review, the staff believes that the licensee has met the three standards. Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be addressed to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designating Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for

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leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Att: Docketing and Servicing Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW. Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler, Director, Project Directorate I-2, Division of Reactor Projects I/II: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 17, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Rockville, Maryland, this 21st day of April 1989.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I–2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10092 Filed 4–26–89; 8:45 am]

BILLING CODE 7590–01–M

Power Authority of the State of New York; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–64, issued to the Power Authority of the State of New York (the licensee), for operation of the Indian Point Nuclear Generating Unit No. 3 located in Westchester County, New York.

The amendment would make the following changes in accordance with the licensee's application for amendment dated March 10, 1989.

The amendment would revise the Technical Specifications (TS) to change the testing frequency of the Turbine Steam Stop and Control Valves from monthly to yearly. This test frequency is determined by the methodology presented in WCAP–11525, "Probabilistic Evaluation of Reduction in Turbine Valve Test Frequency," and is in accordance with the established NRC acceptance criteria for the probability of a missile ejection incident at Indian Point 3 (1.0×10^{-4} per year).

The amendment would also revise the Technical Specifications to eliminate the requirements on the turbine independent electrical overspeed protection system (IEOPS). The IEOPS is a redundant turbine overspeed protection system.

Both of the above changes will result in a reduced risk of unplanned plant trips.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment requested involves no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The license evaluated the proposed changes against the standards in 10 CFR 50.92 and has provided the following analysis:

For the reduced testing frequency of the Turbine Steam Stop and Control Valves:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response

The previously referenced Topical Report WCAP–11525 evaluates the probability of turbine missile ejection for the purpose of justifying a reduction in the frequency of turbine valve testing. The WCAP evaluation shows that the probability of a missile ejection incident for turbine valve test intervals of up to one year is significantly less than the established NRC acceptance criteria for generating a turbine missile from an unfavorable-oriented turbine. (This acceptance criteria was established by the NRC for IP–3 at 1.0×10^{-4}, as stated in an NRC letter to J. C. Brons of the New York Power Authority, dated February 26, 1987.) The small change in the probability of generating a turbine missile with longer turbine valve test intervals therefore does not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility of a different kind of accident from any accident previously evaluated?

Response

The proposed amendment reduces the frequency at which turbine valves are tested. Reducing the frequency of turbine valve testing does not result in a significant change in the failure rate, nor does it affect the failure modes for the turbine valves. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed license amendment involve a significant reduction in the margin of safety?

Response

As noted in Response (1) and as shown in WCAP–11525, this change to the Indian Point 3 Technical Specifications will not result in a significant reduction in the margin of safety for turbine missile ejection. The probability of missile ejection remains acceptably small and within guidelines established by the NRC Staff.

For the elimination of the IEOPS:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response

The results of the WCAP-11525 evaluation demonstrate that the probability of missile generation due to overspeed is dominated by valve-related failures and that the probability of missile generation due to overspeed is well within the acceptance criteria for this event. These conclusions are made without taking any benefit for IEOPS. Further, the study demonstrates that the impact of IEOPS on reducing the probability of turbine missiles due to overspeed is minor at best. As such, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

This application seeks to delete LCOs and surveillance requirements applicable to IEOPs. The IEOPs serves as a backup turbine overspeed trip device. The elimination of the IEOPs will not vary or affect any plant or turbine operating condition or parameter. As such, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment invove a significant reduction in a margin of safety.

Response

The total probability of missile ejection due to turbine overspeed and running speed is 2.62×10^{-8} yr. $^{-1}$ which is below the acceptance criteria of 1.0×10^{-4} yr.$^{-1}$. The fault tree modeling and quantification identified valve failures as dominating the missile ejection probabilities. The IEOPS has only a minor impact on reducing the probability of overspeed. The probability of missile generation at overspeed conditions is sufficiently low that the elimination of the IEOPS will not result in a violation of the 1×10^{-4} yr. $^{-1}$ missile ejection acceptance criteria. As such, this proposed change does not involve a significant reduction in a marging of safety.

Based upon the above, the NRC staff proposes to determine that the TS changes proposed for Indian Point 3 involve no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch.

By May 30, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no

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significant hazards considerations. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Capra: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 10, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Local Public Document Room, White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Dated at Rockville, Maryland, this 21st day of April 1989.

For the Nuclear Regulatory Commission.

Joseph D. Neighbors,

Senior Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10093 Filed 4–26–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–333]

Power Authority of the State of New York; Consideration of Issuance of Amendment to Facility Operating License and Proposed No significant Hazardous Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–59 issued to Power Authority of the State of New York (the licensee) for operation of James A. FitzPatrick Nuclear Power Plant located in Oswego, New York.

The proposed amendment would revise the Technical Specifications (TS) Section 3.11.A.3 concerning the Main Control Room Emergency Ventilation System (MCREVS) Limiting Condition for Operation (LCO). The present TS allows the plant to operate for a period of up to seven days with both trains of MCREVS out of service and does not specify an LCO for one train operation. The proposed change would add an allowable out of service time requirement of 14 days with one filter train inoperable and change the allowable out of service time to three days with both trains inoperable.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration.

The Commission has provided guidance concerning the application of criteria for determining whether a significant hazards consideration exists by providing certain examples (March 6, 1986, 51 FR 7751). One of the examples of actions not likely to involve significant hazards considerations is example (ii) which is a change that constitutes an additional limitation, restriction or control not presently included in the technical specifications.

The staff has reviewed the proposed amendment to change the MCREVS Limiting Condition for Operation and concluded that it falls within the envelope of example (ii) because the proposed amendment would result in more restrictive conditions for operation than presently included in the TS.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P–216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene are discussed below.

By May 30, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the

subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards considerations. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Capra: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the licensee's commitment letter dated May 13, 1988, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Local Public Document Room located at State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13216.

Dated at Rockvile, Maryland, this 21st day of April 1989.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10094 Filed 4–26–89; 8:45 am]

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[Docket Nos. 50–272 and 50–311]

Public Service Electric & Gas Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–70 and DPR–75 issued to Public Service Electric & Gas Company, Philadelphia Electric Company, Delmarve Power and Light Company and Atlantic City Electric Company (the licensees) for operation of the Salem Generating Station, Unit Nos. 1 and 2, located in Salem County, New Jersey.

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The proposed amendments would revise the Action Statements for the Reactor Trip System for Modes 3, 4 and 5 with the reactor trip breakers closed and to explicity address the operable requiremets of the diverse trip features as requested in Generic Letter 85-09 in accordance with the licensee's application for amendment dated December 18, 1986.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increse in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment to determine if a significant hazards consideration exists:

A. The probability of occurrence or the consequences of an accident or malfunction or [of] equipment important to safety previuiosly evaluated in the safety analysis report will not be significantly increased.

These changes are proposed in order to achieve consistency with Westinghouse generic design modification to the reactor trip breakers. These modifications and the associated proposed Technical Specifications increase the reliability of the breakers, thereby reducing the probability of malfunction and the consequences of an accident.

B. The possibility of an accident or malfunction of a different type than any evaluated previously in the safety analysis report will not be created.

Since the reactor trip breaker modifications and these proposed changes were initiated to meet staff requirements for improving the breakersm, no new type of accident or malfunction will be created.

C. The margin of safety as defined in the basis for any technical Specification is not reduced.

The proposed change will provide an additional degree of safety in the event that the reactor trip breakers become INOPERABLE during modes 3, 4 or 5 by requiring the trip breakers to be opened. Also, this change explicitly addresses both diverse components of the breakers to achieve consistency with Westinghouse Standard Technical Specifications and the guidance of Generic Letter 85-09. Therefore, it will not reduce the margin of safety for any Technical Specification.

Based on the above evaluation, we have determined that the proposed change does not involve a significant hazards consideration.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be addressed to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-216 Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State commets received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler, Director, Project Directorate I-2, Division of Reactor Projects I/II; petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Conner and Wetterhahn, 1747 Pennsylvania Avenue NW., Washington, DC 20006, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 18, 1986, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Dated at Rockville, Maryland, this 20th day of April 1989.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-2 Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-10095 Filed 4-26-89; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-26746; File No. SR-NASD-89-5]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Prompt Receipt and Delivery of Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") on January 26, 1989, and amended on March 29, 1989, the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Following is the text of the proposed rule change, which would add section 2(b) to the Board of Governors' interpretation on Prompt Receipt and Delivery of Securities (the "Interpretation") following Article III, Section 1 of the NASD Rules of Fair Practice:

(b) No member shall effect a "short" sale for its own account in any security unless the member makes an affirmative determination that it can borrow the securities or otherwise provide for delivery of the securities by the settlement date. This requirement will not apply to transactions in corporate debt securities, to bona fide market making transactions by a member in securities in which it is registered as a NASDAQ market maker or to transactions which result in fully hedged or arbitraged positions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Over the last several years, the NASD Board of Governors has adopted rules providing for additional regulation of short sale practices in the over-the-counter market. In addition, it has amended its Interpretation on Prompt Receipt and Delivery of Securities to establish requirements for accepting customer short sale orders.

The Interpretation currently prohibits members from accepting a short sale order from a customer unless the member makes an affirmative determination that it will receive delivery of the security from the customer or that it can borrow the security on behalf of the customer for delivery by settlement date. The term "customer," as defined in Article II, section 1(f) of the NASD Rules of Fair Practice, excludes brokers and dealers.

The propoosed rule change would impose a similar requirement upon members effecting short sales for their own accounts. Under the proposed rule change, a member would be prohibited from effecting a short sale for its own account in any security unless the member makes an affirmative determination that it can borrow the security or otherwise provide for delivery of the security by the settlement date. The proposed amendment is intended to address unnecessary speculation in connection with the short selling of broker-dealers' proprietary positions caused by the members' ability to go short without securities to cover the short position. The proposed amendment would not apply to transactions in corporate debt securities. It would also not apply to bona fide market making transactions

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by a member in securities in which it is registered as a NASDAQ market maker, or to transactions that result in a fully hedged or arbitraged position. These latter exemptions have been included to recognize that many short selling transactions are engaged in for risk reduction and market liquidity, and to ensure their availability for bona fide purposes only. The NASD has determined not to extend the exemption to non-NASDAQ over-the-counter market makers. Since those market makers are not obligated to make two-sided market, their short selling activities may not be for the purposes of reducing risk or enhancing market liquidity.

The NASD believes that the proposed rule change is consistent with section 15A(b)(6) of the Act. In pertinent part, section 15A(b)(6) mandates that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest, among other things. By requiring members to make an affirmative determination that they can borrow a security or otherwise provide for delivery of the security prior to settlement date before effecting short sales for their own accounts, the proposed rule change will enhance the integrity of the market, correct the anomaly that now exists between the obligations of customers and members, and prevent abuses that harm public investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were solicited in NASD Notice to Members 88-47. A total of four comments were received. Three commentators supported the amendment. The commentator who opposed the amendment expressed the opinion that the proposed amendment would not achieve its purpose to protect against market manipulation. The commentator gave no concrete support for his position but expressed the view that "the ability to manipulate markets decreases as the number of potential participants increases." The NASD does not believe that the proposed rule will have a significant impact on the number of market participants.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change. Persons making written submissions should file six copies thereof with Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 17, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: April 20, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-10032 Filed 4-26-89; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

April 20, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Banco Bilbao Vizcaya
American Depositary Receipts No Par Value (File No. 7-4486)
Prospect Street High Income Portfolio, Inc.
Common Stock, $.01 Par Value (File No. 7-4487)
TIS Mortgage Investment Co.
Common Stock, $.001 Par Value (File No. 7-4488)
Windmere Corp.
Common Stock, $.10 Par Value (File No. 7-4489)
Scandinavia Company, Inc.
Common Stock, $.01 Par Value (File No. 7-4490)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 11, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if its finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-10033 Filed 4-26-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-26752; File No. IDD-89-01]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving Proposed Index Participations Disclosure Document and Designating Index Participations as Other OCC-Issued Securities

On December 17, 1988, the Options Clearing Corporation ("OCC"), in conjunction with the Philadelphia Stock Exchange, Inc. ("Phlx"), American Stock Exchange, Inc. ("Amex"), and Chicago Board Options Exchange, Inc. ("CBOE") [collectively, the self-regulatory

organizations ("SROs")] submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Rule 9b-1 of the Securities Exchange Act of 1934 ("Act"),[1] copies of an Index Participations ("IPs") Disclosure Document ("IDD").[2]

Rule 9b-1 establishes a new disclosure framework for certain options contracts and "such other securities as the Commission may, by order, designate." [3] The Rule 9b-1 disclosure framework requires the delivery of a disclosure document to investors buying and selling such securities. Rule 9b-1 requires further that the disclosure document contain information concerning, among other things, the mechanics of buying, writing, and exercising standardized securities and the risks of trading such securities. Rule 9b-1 also prohibits a broker or dealer from accepting a customer's order for such broker or dealer from accepting a customer's order for such standardized securities, or approving a customner's account for trading, unless the broker or dealer furnishes the customer with a disclosure document.

The OCC requests that the Commission issue an order pursuant to Rule 9b-1(a)(4) of the Act, designating IPs as similar, for disclosure purposes, to "standardized options" under Rule 9b-1.[4] The OCC requests also that IPs be treated as standardized options for purposes of Rules 134a and 153b and Form S-20 under the Securities Act of 1933 ("Securities Act").

The OCC suggests that each of the reasons cited by the Report of the Special Study of the Options Market ("Options Study") [5] for establishing a separate disclosure system for OCC issued securities applies equally to IPs. In addition, the OCC suggests that IPs be treated like other OCC-issued securities for the purpose of calculating Securities Act registration fees because the OCC will remain only a clearing fee based on IP transactions. Moreover, the OCC suggests that additional IP classes be registered on Form 8-A under the Act, rather than Form 10, because Form 10 requires information comparable to a Form S-1 registration statement under the Securities Act. In this regard, the OCC notes that in adopting the current Rule 9b-1 disclosure system the Commission recognized that Form S-1 disclosure requirements are inappropriate when applied to OCC and that it is illogical to revive those requirements in the context of IPs registration under the Act.

The Commission has reviewed the IDD and finds that it is consistent with the requirements of the Act and the rules and regulations therunder applicable to a national securities exchange to treat IPs like other CCC-issued securities for purposes of Rule 9b-1.[6] The Commission believes that IPs are a type of security that falls into the category of "other security" under Rule 9b-1 which the Commission should treat like other OCC-issued securities for purposes of Rule 9b-1 under the Act. In this regard, in amending the definition of the term "stanardized option" in Rule 9b-1 to include "such other securities as the Commission may, by order, designate" the Commission noted that it added the new language "to authorize the Commission, by order, to allow the use of Rule 9b-1 for new investment vehicles that the commission believes should be included within the new disclosure framework." [7]

More specifically, IPs will be issued by OCC, which will interpose itself between buyers and sellers, and is the "issuer" of each contract. Moreover, just as with other OCC issued securities, the Commission believes providing investors with detailed descriptive information regarding the issuer would not be useful. Instead, a disclosure document which provides a discussion of the characteristics and risks of IPs would appear to be substantially more useful to investors.

The Commission believes that the reasons cited by the 1978 Options Study for establishing a separate disclosure system for OCC-issued securities are equally applicable to IPs. First, regular disclosure under the Securities Act focuses on disclosures regarding the issuer of the security. As with other OCC-issued securities, providing this type of disclosure to investors is not useful for IPs. While OCC's solvency is relevant informtion for an investor to know before effecting an IPs transaction, an IPs investor primarily is purchasing an instrument that closely resembles a portfolio of stock. Accordingly, a disclosure document that provides a discussion of the terms and risks of IPs would appear substantially more useful to investors.[8] Second, delivery of a Securities Act prospectus to all IP investors and redelivery of any updated prospectus would be an inefficient and unnecessarily costly way of educating the public regarding IPs.

Accordingly, the Commission designates IPs as "other securities" under Rule 9b-1(a)(4) of the Act.

The Commission believes that the IDD submitted by the OCC in conjunction with the Phlx, Amex, and CBOE satisfies the requisite disclosure framework of Rule 9b-1 [9] for several reasons. First, the IDD explains the characteristics of IPs. The IDD defines terms specifically related to the trading of IPs, such as IP, cash-out value, cash-out privilege, dividend equivalent, and dividend equivalent day, and explains the special features of IPS.

Second, the IDD adequately explains and distinguishes between the various IPs proposed by the SROs.

Third, the IDD describes the risks of buying and writing IPs. These include not only the risks of engaging in an IP transaction, but also questions concerning the margin treatment of IPs and the pendency of litigation involving the Commission's decision to approve IPs trading.

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[1] 17 CFR 240.9b-1 (1988).

[2] On January 26, February 10, and April 14, 1989, in response to Commission comments, the SROs submitted amended copies of the IDD.

[3] Rule 9b-1(a)(4) defines the term "standardized options" as: options contracts trading on a national securities exchange, an automated quotations system of a registered securities association, or a foreign securities exchange which relate to options classes the term of which are limited to specific expiration dates and exercise prices, or such other securities as the Commission may, by order, designate.

[4] Letter from William H. Navin, Schiff Hardin & Waite, OCC legal counsel, to Richard G. Ketchum, Director, Division of Market Regulations, and Linda C. Quinn, Director, Division of Corporation Finance, SEC, dated July 6, 1988 ("Schiff Letter").

[5] *Report of the Special Study of the Options Markets to the Securities and Exchange Commission*, 96th Cong., 1st Sess. (Comm. Print 1978).

[6] Rule 9b-1 provides that the use of a disclosure document shall not be permitted unless the options classes to which the document relates are the subject of an effective Securities Act Form S-20 registration statement. OCC's Form S-20, dated February 1989, as amended April 14 and 20, 1989, covering the IPs discussed in the IDD became effective at 2:00 p.m. on April 21, 1989.

[7] Securities Exchange Act Release No. 19055 (September 16, 1982), 47 FR 41950, 41954.

[8] The Commission notes that prior distribution of the IDD to investors is necessary before a person may effect a transaction in IPs. This prior distribution could be accomplished by physically delivered an IDD to an investor before he effects an IP transaction or by a mass mailing of the IDD to customers who have been approved for options trading, followed by a period of time sufficient to ensure that investors have received the IDD.

[9] Pursuant to Rule 9b-1(c) a disclosure document shall contain, among other things: (1) A glossary of terms; (2) the mechanics of buying, writing and exercising the securities, including settlement procedures; the risks of trading the securities; (4) the market for the securities; and (5) a brief reference to the transaction costs, margin requirements and tax consequences of trading in such securities.

After a careful review of the IDD, the Commission believes that it adequately describes the characteristics and risks of IPs trading and will meet the information needs of prospective IPs investors.

In addition to Rule 9b-1 under the Act, the Commission believes that it is consistent with the protection of investors and in the public interest to treat IPs like other OCC-issued securities for purposes of Rules 134a and 153b and Form S-20 under the Securities Act. More specifically, because Rule 134a incorporates the Rule 9b-1 definition of standardized options (which includes other standardized OCC-issued securities designated by the Commission) it is logical to treat IPs as other OCC-issued securities for purposes of Rule 134a if IPs are treated as other OCC-issued securities for the disclosure purposes of Rule 9b-1. Moreover, the Commission believes it is appropriate and operationally effective to treat IPs like other OCC-issued securities for purposes of Rule 153b and Form S-20 because Rule 153b and Form S-20 were adopted concurrently with Rule 9b-1 and constitute elements of a unified disclosure framework. In addition, Form S-20 registration is a necessary prerequisite to the use of a disclosure document pursuant to Rule 9b-1.[10]

The Commission agrees with OCC that IPs should be treated like other OCC-issued securities for the purpose of calculating Securities Act registration fees because OCC fees which are applicable to IPs are analogous to OCC fees applicable to other OCC-issued securities.

Finally, the Commission believes it is appropriate to make available Form S-A for registration of additional IP classes under the Act. The use of the alternative Form 10 for registration of additional IP classes under the Act would contradict IDD disclosure framework because Form 10 requires information comparable to a Form S-1 registration statement rather than a Form S-20 registration statement.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Dated: April 21, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-10134 Filed 4-26-89; 8:45 am]

BILLING CODE 8010-01-M

[10] *Supra* note 6.

[11] 17 CFR 200.30-3(a)(12) (1988).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

April 20, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

American Building Maintenance Industries, Inc.
Common Stock, No Par Value (File No. 7-4491)

Americus Trust for Philip Morris Shares Scores (File No. 7-4492)

Colonial High Income Municipal Trust
Shares of Beneficial Interest (File No. 7-4493)

General Nutrition Incorporated
Common Stock, No Par Value (File No. 7-4494)

High Income Advantage Trust III
Shares of Beneficial Interest (File No. 7-4495)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 11, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if its finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-10034 Filed 4-26-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16937; 811-1676]

Boston Mutual Fund, Inc.; Application for Deregistration

April 20, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

Applicant: Boston Mutual Fund, Inc.

Relevant 1940 Act Sections: Deregistration under section 8(f) and Rule 8f-1.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company subject to the 1940 Act.

Filing Date: The application on Form N-8F was filed on April 11, 1988 and amended on January 17, 1989 and April 5, 1989. Applicant will submit additional information during the notice period to clarify and reaffirm the representations below concerning the determination of net asset value per share for purposes of the reorganization described.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 17, 1989, and should state the nature of the requester's interest, the reason for the request, and the issues contested. Hearing requests also should be accompanied by proof of service on the Applicant in the form of affidavits or, for lawyers, certificates of service. Requests for notification of a hearing may be made by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, Washington, DC 20549. Applicant, Boston Mutual Fund, Inc., 120 Royall Street, Canton, Massachusetts 02021.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Cathey Baker (202) 272-3033 or Branch Chief Karen L. Skidmore (202) 272-3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application on Form N-8F is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 252-4300).

Applicant's Representations

1. The Applicant was organized as a corporation under Massachusetts law on February 16, 1923. The Applicant was dissolved on May 20, 1988, pursuant to Articles of Dissolution filed with the Secretary of State of the Commonwealth of Massachusetts, having met all of the prerequisites for such dissolution, including a tax good standing certificate from the Massachusetts Department of Revenue.

2. The Applicant registered under the 1940 Act as an open-end, diversified management investment company and filed a registration statement on Form N-8b-1 pursuant to section 8(b) on August 28, 1968. On that date, Applicant registered one million shares of capital stock, $1.00 par value, pursuant to a registration statement on Form S-5 filed under the Securities Act of 1933. The registration statement became effective on February 2, 1968, and the initial public offering commenced on that date.

3. Fidelity Fund, a Massachusetts business trust, was created by a Declaration of Trust dated September 27, 1984, as amended January 14, 1985. The corporate predecessor of Fidelity Fund, Fidelity Fund, Inc., was registered under the 1940 Act. Fidelity Fund assumed the registration statement of its predecessor pursuant to a reorganization effective as of December 31, 1984.

4. On November 14, 1986, the Board of Directors of the Applicant, including a majority of Directors then present who were not interested persons of the Applicant, unanimously approved an Agreement and Plan of Reorganization ("Agreement") between the Applicant and Fidelity Fund and recommended that it be approved by the Applicant's shareholders. The Applicant and Fidelity Fund entered into the Agreement on June 1, 1987. At a meeting of the shareholders of the Applicant on July 14, 1987, the holders of at least two-thirds of the shares, present at such meeting in person or by proxy, approved the Agreement and the transactions contemplated thereby, including the Applicant's dissolution as a Massachusetts corporation and deregistration as an investment company under the 1940 Act.

5. The effective date of the reorganization was September 21, 1987. The net asset value per share of outstanding shares of both the Applicant and Fidelity Fund was determined at 4:00 p.m. on September 18, 1987, the last business day prior to the effective date of the reorganization.

6. As of September 21, 1987, the Applicant had outstanding 652,659.482 shares of capital stock, representing an aggregate net asset value of $6,942,351.72 or approximately $10.64 per share. On that date, pursuant to the Agreement, the Applicant transferred all of its portfolio securities and other assets, except those held in reserve for the payment of its liabilities, to Fidelity Fund. In exchange for $6,942,351.72 of assets transferred, Fidelity Fund issued 363,093.709 shares of beneficial interest at a net asset value per share of $19.12. Thereafter, the Applicant distributed the shares of Fidelity Fund to the Applicant's shareholders in complete liquidation. Upon completion of the reorganization, each shareholder of the Applicant owned shares of Fidelity Fund with the same aggregate net asset value as those shares of the Applicant owned by the shareholder immediately prior to the reorganization. The investment objective, policies and restrictions of Fidelity Fund are similar to those of the Applicant.

7. As noted above, the Applicant established a reserve in the amount of $14,188.53 to cover all of its obligations and liabilities, which, except for reorganization expenses of $32,629.05, were not assumed by Fidelity Fund. Legal, accounting and other expenses in the approximate amount of $48,817.58 relating to the reorganization were borne by the Applicant. Upon consummation of the reorganization, $32,629.05 of these expenses were assumed by Fidelity Fund, as noted above, and paid by Fidelity Fund's investment adviser. The reserve for liabilities was terminated prior to the filing of this Application. Of the $14,188.53 in the reserve, $3,009.13 was disbursed to pay legal fees incurred in connection with the reorganization. The remaining amount of $11,179.40 was transferred to Fidelity Fund in exchange for additional shares of Fidelity Fund issued at the next determined net asset value and distributed pro rata to the former shareholders of the Applicant. No brokerage commissions were incurred in connection with the reorganization.

8. There are no shareholders of Applicant to whom distributions in complete liquidation have not been made. On April 11, 1988, the date of filing of the Application, the Applicant's investment adviser, Boston Mutual Management Corp., held one share of capital stock in order to facilitate the Applicant's dissolution as a Massachusetts corporation. The Applicant was dissolved on May 20, 1988 and has no shareholders at present. No assets have been retained by the Applicant and no liabilities remain outstanding. The Applicant is not a party to any litigation or administrative proceeding, and is engaged only in those business activities necessary for the winding-up of its affairs.

9. As of the date of filing the Application and amendments thereto, the Applicant was current on all filings required to be made under the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-10035 Filed 4-26-89; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application to Withdraw From Listing and Registration; (Guardsman Products, Inc., Common Stock, $1 Par Value, American Stock Exchange) File No. 1-4704

April 21, 1989.

Guardsman Products, Inc. ("Company"), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to remove the above specified security from listing and registration on the American Stock Exchange ("AMEX"). The Company's common stock was recently listed and registered on the New York Stock Exchange ("NYSE"). Trading in the Company's stock on the NYSE commenced on March 1, 1988.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its common stock from listing on the AMEX, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the AMEX. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before May 12, 1989, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless

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the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-10135 Filed 4-26-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-24869]

Filings Under the Public Utility Holding Company Act of 1935

April 20, 1989.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 15, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities et al. (70-7545)

Northeast Utilities ("NU"), a registered holding company, located at 174 Brush Hill Avenue, West Springfield, MA 01090-0010, and two of its proposed wholly owned nonutility subsidiary companies, Charter Oak Energy, Inc. ("Charter Oak") and Charter Oak Paris, Inc. ("Charter Oak Paris") (collectively, "Applicants"), both located at Selden Street, Berlin, CT 06037-1616, have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and Rules 45, 50(a)(5), 87, 90 and 91 thereunder.

A prior notice of the filing of the application-declaration was issued by the Commission on October 27, 1988 (HCAR No. 24736). The Applicants have since amended their application-declaration changing the proposed transaction requiring a supplemental notice.

NU proposes to organize and acquire the capital stock of a new wholly owned subsidiary, Charter Oak. The primary business of Charter Oak will be the investment and participation in qualifying cogeneration facilities and in qualifying small power production facilities as defined by the Public Utility Regulatory Policies Act of 1978 and the rules and regulations promulgated thereunder by the Federal Energy Regulatory Commission. The qualifying cogeneration facilities may be located in any geographic area, but participation by Charter Oak in qualifying small power production facilities will be limited to the service territories of the NU System and other members of the New England Power Pool. The initial financing for Charter Oak will be provided by the acquisition by NU of 100 shares of Charter Oak common stock, par value $1 per share, for $10,000. NU requests authorization to invest up to an aggregate amount of $7.5 million in Charter Oak for each of the four years in the period ending December 31, 1992 for the purpose of financing Charter Oak's preliminary development and administrative costs.

In order to acquire an approximate 10% beneficial equity ownership interest ("Interest") in a 213 megawatt gas-fired cogeneration qualifying facility in Paris, Texas ("Paris Plant"), Charter Oak proposes to organize, acquire the capital stock of, and provide initial financing for Charter Oak Paris, in which Charter Oak will acquire 100 shares of Charter Oak Paris common stock, par value $1 per share, for $10,000. Charter Oak Paris will acquire its Interest in the Paris Plant, at a cost not to exceed $4 million, by acquiring a 25% interest in TENASKA III Partners, Ltd., a limited partnership which owns 40% of the Paris Plant. Charter Oak Paris' investment will be funded by moneys received from Charter Oak, which will in turn receive its funding from NU.

NU's investment in Charter Oak and Charter Oak Paris, $7.5 million and $4 million, respectively, may be in the form of acquisitions of common stock, capital contributions, open account advances and/or subordinated loans ("Investments"). Any open account advances or subordinated loans will bear interest at a rate based on NU's cost of funds in effect on the date of issue, but in no event in excess of the prime rate on such date at a bank designated by NU. In addition, either or both of Charter Oak and Charter Oak Paris may obtain debt financing from unaffiliated third parties ("Debt Financing"), as long as the total of all Investments together with any Debt Financing does not exceed $7.5 million and $4 million, respectively. Such Debt Financing may require a guarantee by NU. Non-affiliate Debt Financing obtained by Charter Oak or Charter Oak Paris will not exceed a term of 15 years or bear a floating interest rate in excess of 125% of the prime rate in effect at the time of issuance or a fixed interest rate more than 350 basis points above that borne by U.S. Treasury Securities of comparable maturities. If any nonaffiliate Debt Financing obtained by Charter Oak or Charter Oak Paris is guaranteed by NU, the term of such Debt Financing will not exceed 15 years and the interest rate will not exceed the prime rate in effect on the date of issue at a bank designated by NU from among the major lenders to the companies in the NU system.

Charter Oak and Charter Oak Paris request an exception from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5) with respect to the proposed issuance of securities in connection with their Debt Financing.

Ohio Power Company (70-7625)

Ohio Power Company ("OPCo"), 301 Cleveland Avenue, SW., Canton, Ohio 44702, a subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application pursuant to sections 2(a)(11)(D) and 9(c)(3) of the Act.

OPCo has acquired in a bankruptcy proceeding 65,061 shares of Class A Preferred Stock ("Preferred") and 101,525 shares of Common Stock ("Common") of Simetco, Inc. ("Simetco") (together, "Stock"), an Ohio corporation. All of the Stock is voting stock, and represents about 6.52% of all of the outstanding voting securities of Simetco. OPCo requests that pursuant to sections 2(a)(11)(D) and 9(c)(3) of the Act, Section 9(a) of the Act will not apply to the acquisition of the Stock, and that the obligations, duties and liabilities imposed by the Act on affiliated companies are not necessary and appropriate under these circumstances.

Prior to 1985, Ohio Ferro-Alloys Corporation ("OFA") operated two plants in Ohio at which silicon metal and ferro silicon were produced. OFA however experienced financial difficulties and on October 30, 1986 filed a petition under Chapter 11 of the Bankruptcy Code. In the proceeding, OPCo was allowed total general unsecured claims of approximately $3.8 million resulting from unpaid bills for electric service provided by OPCo to OFA. The total general unsecured claims pool approximated $13,130,000. Pursuant to a Plan of Reorganization filed with the Bankruptcy Court and confirmed by the Court by its order, dated November 22, 1988 ("Plan"), OFA was reorganized under the name "Simetco, Inc." and holders of general unsecured claims were distributed their pro rata share of 225,000 shares of Preferred and of 350,995 shares of Common. As a result, OPCo acquired the 65,061 shares of Preferred and 101,525 shares of Common.

Holders of Preferred are entitled dividends in the amount of the Distributable Excess Cash Flow, as defined in the Plan. Under the Plan, Distributable Excess Cash Flow will in no event exceed $7,276,500 if the Preferred is redeemed on or before April 30, 1993. If the Preferred is redeemed after that date, the aggregate Distributable Excess Cash Flow to be distributed to the holders of Preferred will equal $5,375,250. Thus, the amount of Distributable Excess Cash Flow to be distributed to the holders of Preferred is subject to both a cap and a minimum. On the redemption date, Simetco, Inc. will redeem the Preferred for $1.00 per share. Thus, at a minimum, assuming that Simetco, Inc. remains a viable enterprise, general unsecured creditors of OFA will receive in cash $5,600,250, or approximately 42 percent of their total allowed unsecured claims. Holders of the Preferred also generally are entitled to one vote for each whole share of such stock and, except as otherwise required, vote together with the holders of the Common as one class on all matters. In addition, with limited exceptions, the Preferred is transferable only with the consent of a majority of the Board of Directors.

Holders of Common are entitled, among other things, to the right to one vote for each share held and to receive dividends and distributions when declared. However, prior to the redemption of the Preferred, no such dividends or distributions on Common may be declared or paid.

In order to preserve a net operating loss carry-forward for Federal Income Tax purposes, the court prohibited the sale, assignment, exchange, disposition or other transfer of Stock owned by a person which controls 5% or more of the voting power of Simetco, Inc. for a period of 3 years from the date of acquisition. Because OPCo controls about 6.52% of the voting power of Simetco, Inc., OPCo is bound by this restriction.

OPCo acquired the Stock as a result of indebtedness acquired in the ordinary course of business and holds such Stock solely as a passive investment. OPCo will sell the Common as soon as the restrictions on sale lapse and market conditions permit. OPCo will not be represented on the Board of Directors of Simetco, Inc. or otherwise seek to change or influence control of Simetco, Inc. In this connection, without authorization from the Commission, OPCo will not vote its Stock.

Simetco, Inc. is an affiliate of OPCo as that term is defined in section 2(a)(11) of the Act, because as discussed above, OPCo controls over 5% of the voting power of Simetco, Inc. However, because OPCo is holding the Stock solely as a passive investment, acquired in the ordinary course of business and not with the purpose of changing or influencing control, OPCo requests that the Commission order, pursuant to section 9(c)(3) of the Act, that section 9(a) of the Act not apply to the acquisition of the Preferred or Common described herein. In addition, OPCo hereby requests that the Commission determine that it is not necessary or appropriate in the public interest or for the protection of investors or consumers that Simetco be subject to the obligations, duties and liabilities imposed by the Act and rules thereunder upon affiliates, or that OPCo be subject to the obligations, duties and liabilities imposed by the Act and rules thereunder as a result of Simetco being an affiliate of OPCo.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-10036 Filed 4-26-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 1105; Delegation of Authority No. 176]

Director General of the Foreign Service; Delegation of Authority

By virtue of the authority vested in me as Secretary of State, including by sections 2656 and 2658 of Title 22 of the United States Code, I hereby delegate to the Director General of the Foreign Service the functions vested in me under section 504 of the Foreign Service Act of 1980, 22 USC 3984.

Notwithstanding any provision of this delegation of authority, the Secretary of State, the Deputy Secretary of State or the Under Secretary of State for Management may at any time exercise the functions herein delegated.

This delegation of authority supercedes any prior delegation on this subject to the extent such delegation may be inconsistent herewith.

Dated: April 14, 1989.

James A. Baker, III,

Secretary of State.

[FR Doc. 89-10112 Filed 4-26-89; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF TRANSPORTATION

[Docket 46261]

U.S.-Japan Route Authority; Order Requesting Comments

Issued by the Department of Transportation on the 21st day of April, 1989.

Federal Express Corporation and The Flying Tiger Line Inc., on December 20, 1988, jointly filed an application in Docket 46025 seeking approval of the transfer of Flying Tiger's operating authority to Federal Express pursuant to section 401(h) of the Federal Aviation Act. In Docket 46026, the same applicants sought a temporary exemption from section 401(h) pending approval of the transaction. In Order 89-1-60, issued January 31, 1989, the Department granted the exemption subject to a "hold separate" requirement. The Justice Department has reviewed the merger transaction and has not challenged it in court. In Order 89-3-21 54 FR 10472, March 13, 1989, issued March 8, 1989, the Department tentatively approved the transfer of certificate and exemption authority subject to certain conditions, and asked interested parties to show cause why that tentative decision should not be made final.

If Order 89-3-21 is made final, Federal Express will be required to surrender its current small package route between the United States and Japan, as a condition to our approval of the transfer of Flying Tiger's operating authority. In the joint application, Federal Express stated its willingness to surrender this route.

This route is dervied from the 1985 Memorandum of Understanding (MOU) between the United States and Japan, which provides for three routes to be served by U.S. carriers in the U.S.-Japan market. Either side may substitute the designation of a small package delivery

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service for one of its three combination services.[1] The Department awarded two MOU routes to combination carriers [2] and reserved the third route for a small package carrier.[3] In a separate proceeding, Federal Express was selected to provide small package delivery service between Portland and Tokyo.[4]

In our Order to Show Cause, we tentatively decided that Federal Express' offer to relinquish its small package authority "should be made a condition of (the Department's) approval of the transaction, lest valuable route rights in a limited entry market go to waste." We "tentatively decided to require the surrender at such time as a replacement carrier begins service, but in any event no later than the end of the start-up period for that replacement carrier." [5] This approach would ensure the route's ready availability for use by a replacement airline.

Should Federal Express commence operations on Flying Tiger's current U.S. -Japan route, it would be in a position to operate unrestricted cargo service in that market, including a continuation of the small package delivery service that it is now providing. As a result, we would like to reexamine the issue of how we might allocate this route so as to best meet the needs of the public for additional service between the U.S. and Japan.

As a threshold matter, we are inclined to make a determination about the type of service that we intend to certificate on this route at the time that we institute a formal proceeding. This would not be the first instance where we have limited applications to a particular type of service. In initally selecting carriers to serve the U.S.-Japan routes provided by the 1985 MOU, we limited one proceeding to combination services and considered only small package carriers in the second case.

Our objective in limiting the scope of this proceeding is to simplify the issues that are to be placed before the Administrative Law Judge and thereby ensure that this case will be processed in an efficient and expeditious manner. The use of this route by a U.S. carrier is a valuable right, and the public interest requires that we be in a position to award authority in this market promptly. We believe that this approach will best ensure that a replacement carrier will be able to begin service on this route, should that prove necessary, as quickly as possible. Parties may comment, in response to this Order, on the desirability of this approach. We also request that interested parties comment on whether the Department should continue to reserve this route for small package service, or instead, consider only applications from combination carriers.

Our decision to request comments on possible procedural options in no way reflects a position with regard to the disposition of the issues under consideration in Docket 46025. We believe that soliciting comments at this stage allows us to further our objective of expediting a potential selection proceeding. In the event that we do not finalize our tentative decision to approve the certificate transfers from Flying Tiger to Federal Express, or should we take any other action that does not result in the surrender of Federal Express' operating authority for Route 534, we will close this Docket.

We request interested parties to submit comments in this docket within 14 days from the service date of this order. Any reply comments must be filed within 7 calendar days after that date.

Accordingly,

1. We request comments from interested parties addressing the topic discussed above on May 10, 1989; reply comments will be due on May 17, 1989;

2. This order will be served on all certificated carriers, the U.S. Department of State, and the Ambassador of Japan to the United States; and

3. This order will be published in the **Federal Register.**

Patrick V. Murphy, Jr.,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-10062 Filed 4-26-89; 8:45 am]

BILLING CODE 4910-62-M

[1] The 1985 Memorandum of Understanding provides that a small package carrier can serve Tokyo on a nonstop basis from any point in the U.S., except Chicago. There are also certain restrictions on the weight of packages, as well as other matters relating to this service.

With respect to combination service, the MOU permits us to select, as a gateway for this route, any point in the U.S. that was not served as a nonstop gateway by the airlines of either the U.S. or Japan as of April 1, 1985. Alternatively, the U.S. may select a carrier to provide service between Honolulu and either Tokoyo or Nagoya.

Both combination and small package services are limited by the MOU to a single daily frequency.

See Order 85-6-74, Appendix, for the relevant provisions.

[2] *U.S.-Japan Gateways Case,* Order 86-10-16, served October 15, 1986. (The combination carriers were American and Delta.)

[3] Order 85-11-29, served November 18, 1985.

[4] *U.S.-Japan Small Package Service Proceeding,* Order 87-12-1, served December 2, 1987.

[5] Order 89-3-21 at 9.

Federal Highway Administration

Environmental Impact Statement; Clackamas County, OR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project on the Clackamas Highway (U.S. 224) between Interstate 205 and Highway 212 on Clackamas County, Oregon.

FOR FURTHER INFORMATION CONTACT: Elton Chang, Environmental Coordinator and Safety Programs Engineer, Federal Highway Administration, Equitable Center, Suite 100, 530 Center NE, Salem, Oregon 97301. Telephone: (503) 399-5749.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to reconstruct a 4.0-mile section of Highway 224 in Clackamas County, Oregon. The project is located within the so-called "sunrise corridor."

The westerly three miles of the project would be a new controlled access highway alignment; the easterly one mile would be on the existing alignment. The Oregon 224/Oregon 212 highway corridor has been designated as an "Access Oregon Highway" corridor, in which a series of projects are proposed which are intended to promote economic development. This project would pass east from the Milwaukie Expressway at Interstate 205 through a newly developing industrial area.

Improvements to this corridor are considered necessary to provide for the existing and projected traffic demand. The section being investigated is approximately 4.0 miles in length and has independent utility.

Alternatives under consideration include the no-build, an alternative with a freeway design and two alternative alignments with an expressway design.

Information describing the proposed action and soliciting comments will be sent to the appropriate Federal, State, and local agencies. Public meetings will be held during project development, and a public hearing will be held. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs" apply to this program.)

Issued on: April 14, 1989.

Elton H. Chang

Environment Coordinator/Safety Program Engineer, Oregon Division, Salem, Oregon.

[FR Doc. 89-10111 Filed 4-26-89; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Customs Service

Implementation of International Coffee Agreement

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice advises the importing public that the Customs Service will now require that appropriate certificates accompany coffee imported from International Coffee Organization (IOC) member countries. Such coffee will not be released from Customs custody without this certificate. This action is being taken upon advice from the Office of the U.S. Trade Represenative, and is being made to achieve more effective enforcement of the International Coffee Agreement relating to imported coffee.

EFFECTIVE DATE: May 11, 1989.

FOR FURTHER INFORMATION CONTACT: Leo Wells, Office of Trade Operations (202-566-7090), U.S. Customs Service, 1301 Constitution Avenue NW., Washington DC 20229.

SUPPLEMENTARY INFORMATION:

Background

In accordance with written instructions dated October 25, 1988, received from the U.S. Trade Representative (USTR); section 1123 of the Omnibus Trade and Competitiveness Act of 1988; section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)); and section 1356k of the Tariff Act of 1930, as amended (19 U.S.C. 1356k), the U.S. Customs Service issued instructions to field personnel on November 23, 1988, to implement the full coffee document control provisions of the International Coffee Agreement to which the United States is a signatory. These instructions from USTR provided a basis for allowing Customs to accept a bond for the required ICO coffee document not accompanying the Customs entry. Upon further review of these procedures, USTR, under its delegated authority to coordinate the implementation of U.S. international trade policy, has instructed Customs to issue new procedures to delete this provision.

Customs Procedural Change

Based upon new written instructions dated March 15, 1989, from the USTR, Customs will not longer allow a bond to be given at the time of entry for production of the required ICO coffee certificate for coffee importations from ICO member countries. Such coffee will no longer be released from Customs custody without this required document. Amended operational procedures will be issued by Customs Headquarters to all field Customs offices to implement these new instructions.

This procedure will apply to all ICO member coffee entered, or withdrawn from warehouse for consumption on or after the effective date of this notice.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service (566-8681). However, personnel from other offices participated in its development.

Date: April 18, 1989.

Michael H. Lane,

Acting Commissioner of Customs.

[FR Doc. 10133 Filed 4-26-89; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act F(44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. USIA is required to submit annual reports to Congress concerning this information collection by January 31 of each year in accordance with Pub. L. 98-164. USIA is requesting approval of an information collection using a form IAP-84, "Travelers Funded by USIA", which has been approved previously by OMB clearance number 3116-0183. Respondents will be required to respond only one time.

DATE: Comments must be received by May 30, 1989.

Copies: Copies of the Request for Clearance (SF-83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Retta Graham-Hall, United States Information Agency, M/AS, 301 Fourth Street, SW., Washington, DC 20547. Telephone (202) 485-7501; and OMB review: Mr. John Horrigan, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. Telephone (202) 395-7340.

SUPPLEMENTARY INFORMATION: Title: "Travelers Funded by USIA".

Abstract: A report is required for submission to the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee listing all individuals, with their organizations, who in the preceding five years made two or more trips involving foreign travel financed in whole or in substantial part by grants from USIA's Office of Private Sector Programs. The information must be obtained from grantees, which necessitates the information collection.

Proposed Frequency of Responses:

No. of Respondents—300.
Recordkeeping Hours—80.
Total Annual Burden—380.

Dated: April 18, 1989.

Ledra Dildy,

Federal Register Liaison.

[FR Doc. 89-10060 Filed 4-26-89; 8:45 am]

BILLING CODE 8230-01-M

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C.

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Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. USIA is required to conduct Teacher Exchange Programs in accordance with the Fulbright-Hays Act (Pub. L. 87–256). USIA is requesting approval of the extension of the program OMB 3116–0161, which provides opportunities for U.S. teachers to exchange positions for an academic year with foreign counterparts or to attend one of a number of short term seminars abroad on a variety of topics. Respondents will be required to respond only one time.

DATE: Comments must be received by May 30, 1989.

COPIES: Copies of the Request for Clearance (SF–83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Retta Graham-Hall, United States Information Agency, M/AS, 301 Fourth Street, SW., Washington, DC 20547. Telephone (202) 485–7501, and OMB review: Mr. John Horrigan, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. Telephone (202) 395–7340.

SUPPLEMENTARY INFORMATION: Title: "Fulbright Teacher Exchange Program".

ABSTRACT: This information collection is intended to facilitate the administration of academic-year exchanges and short-term seminar programs to educators in order to broaden the educators' understanding of other countries and cultures. This understanding, in turn, is expected to be shared with students, colleagues, members of civic and professional organizations and other interested parties in the educators' respective communities here and abroad, thereby promoting mutual understanding and contributing to the academic excellence of participating institutions.

PROPOSED FREQUENCY OF RESPONSES:

No. of Respondents—1200.
Recordkeeping Hours—208.7.
Total Annual Burden—1408.7.

Dated: April 18, 1989.

Ledra Dildy,

Federal Register Liaison.

[FR Doc. 89–10081 Filed 4–26–89; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation; Meeting

The Department of Veterans Affairs gives notice that a meeting of the Veterans' Advisory Committee on Rehabilitation, authorized by 38 U.S.C. 1521, will be held in Room 442, Lafayette Building, 811 Vermont Avenue NW., Washington DC 20420, May 16 and May 17, 1989. The sessions will begin at 9 a.m. The Committee will be discussing issues related to the administration of veterans' rehabilitation programs.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Dr. Carole J. Westerman, Executive Secretary, Veterans' Advisory Committee on Rehabilitation (phone 202–233–6525) prior to May 10, 1989.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 9:30 a.m. on May 17, 1989.

Dated: April 19, 1989.

By direction of the Secretary.

Rose Maria Fontanez,

Committee Management Officer.

[FR Doc. 89–10020 Filed 4–26–89; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 80
Thursday, April 27, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

April 25, 1989.

Clarification of Item No. 2 of Common Carrier Agenda for Open Meeting of April 26, 1989

The Federal Communications Commission previously announced on April 19, 1989 its intention to hold an Open Meeting on *Applications for Review of Common Carrier Bureau's grant of waiver of General Telephone Company of California to construct coaxial cable transport facilities in Cerritos, California.*

The subject matter has been changed to read as follows:

Title: Applications for Review of Common Carrier Bureau's grant of waiver of General Telephone Company of California to construct coaxial cable transport facilities in Cerritos, California, and Application of General Telephone Company of California for authority to construct fiber optic transport facilities in Cerritos, California.

Summary: The Commission will consider three applications for review of Common Carrier Bureau's decision in File No. W–P–C 5927 (3FCC Rcd 2317 (1988)) and an application by GTE California Incorporated for authority to construct fiber optic transport facilities in Cerritos, California (File No. W–P–C–6250).

The prompt and orderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

Action by the Commission April 25, 1989. Commissioners Patrick, Chairman; Quello and Dennis voting to consider this change.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sarah Lawrence, Office of Public Affairs, telephone number (202) 632–5050.

Issued: April 25, 1989.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–10249 Filed 4–25–89; 2:11 pm]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

ACTION: Amendment of notice published 4/26/89, to include an additional proceeding to the conference.

TIME AND DATE: 10:00 a.m., Tuesday, May 2, 1989.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Open Special Conference.

PURPOSE: The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda item. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

MC–C–30090

National Industrial Transportation League—Petition For Declaratory Order On Negotiated Motor Common Carrier Rates

and

Ex Parte MC–177

National Industrial Transportation League—Petition To Institute Rulemaking On Negotiated Motor Common Carrier Rates

CONTACT PERSON FOR MORE INFORMATION: Dennis A. Watson, Office of Government and Public Affairs, Telephone: (202) 275–7242.

Noreta R. McGee

Secretary

[FR Doc. 89–10220 Filed 4–25–89; 10:25 am]

BILLING CODE 7035–01–M

RAILROAD RETIREMENT BOARD

Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on May 3, 1989, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

Portion Open to the Public

(1) Recommendation that the Board Waive Recovery of Benefits Paid Under the Railroad Unemployment Insurance Act—Retroactive Implementation of Waiting Period
(2) Proposed Changes in the RUIA Regulations (Status Report)
(3) Regulations Under the Railroad Unemployment Insurance Act; Part 344, Temporary Rule
(4) Proposed Board Regulations—Part 200 (General Administration) and Part 262 (Miscellaneous)
(5) Proposed Board Regulations—Parts 320 and 340
(6) Proposed Board Regulations—Part 222 (Family Relationships)

Portion Closed to the Public

(A) Appeal from Termination of the Tier I Portion of the Appellant's Annuity, Nancy M. Johnson
(B) Appeal from Termination of the Tier I Portion of the Appellant's Annuity, Claudette P. Johnson
(C) Appeal from Termination of the Tier I Portion of the Appellant's Annuity, Dolores Stroud

The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312–751–4920, FTS No. 386–4920.

Dated: April 24, 1989.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 89–10248 Filed 4–25–89; 2:08 pm]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 1, 1989.

A closed meeting will be held on Tuesday, May 2, 1989, at 2:30 p.m. An open meeting will be held on Wednesday, May 3, 1989, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

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The subject matter of the closed meeting scheduled for Tuesday, May 2, 1989, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

Institution of injunctive actions.

The subject matter of the open meeting scheduled for Wednesday, May 3, 1989, at 10:00 a.m., will be:

Consideration of whether to issue a Supplemental Memorandum Opinion and Order with respect to a post-effective amendment to an application-declaration filed by Eastern Utilities Associates ("EUA"), a registered holding company under the Public Utility Holding Company Act of 1935 ("Act"), and its wholly owned electric utility subsidiary company, EUA Power Corporation ("EUA Power"). EUA and EUA Power propose that the Commission release jurisdiction, as set forth in the Commission's MemoraCAR No. 24641), and authorize EUA Power to issue 17½% Series C Secured Notes ("Series C Notes") on May 15, 1989 in the amount of $26,107,102 and on November 15, 1989, in the amount of $29,145,316, in lieu of the semi-annual cash interest payments due on those dates on EUA Power's outstanding 17½% Series B Secured Notes and Series C Notes. EUA Power further proposes to issue and sell, and EUA proposes to acquire, through May 14, 1990, up to an additional $15.6 million of Class A 25% Cumulative Convertible Preferred Stock ("Preferred Stock") in order to fund EUA Power's share of costs associated with its joint ownership interest in the Seabrook Nuclear Power Project and to maintain EUA Power's debt/equity ratio. In connection therewith, EUA proposes to finance its acquisition of EUA Power's Preferred Stock through the issuance, through December 31, 1989, of up to an additional $15.6 million of short-term notes to banks under its existing lines of credit. For further information, please contact Robert Wason at (202) 272-7684.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Daniel Hirsch at (202) 272-2200.

Jonathan G. Katz,

Secretary.

April 24, 1989.

[FR Doc. 89-10293 Filed 4-25-89; 3:59 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register

Vol. 54, No. 80

Thursday, April 27, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs—Income Eligibility Guidelines

Correction

In notice document 89-9088 beginning on page 15241 in the issue of Monday, April 17, 1989, make the following corrections:

1. On page 15241, in the 3rd column, under **Definition of Income**, in the 16th line, "(90" should read "(9)".

2. On page 15242, in the table, in the section pertaining to the 48 Contiguous United States, District of Columbia, Guam and Territories, in the fourth column, under "Month", the fourth entry should read "1,009".

3. On the same page, in the same table, in the section pertaining to Alaska, in the fourth column, under "Week", the eighth entry should read "488".

4. On the same page, in the same table, in the section pertaining to Hawaii, in the second column, under "Year", the last entry should read "+4,348".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Program Announcement 916]

Public Health Conference Support Grant Program; Availability of Funds for Fiscal Year 1989

Correction

In notice document 89-7747 beginning on page 13435 in the issue of Monday, April 3, 1989, make the following corrections:

1. On page 13435, in the second column, in the first paragraph, in the fifth line "organizations" was misspelled.

2. On the same page, in the third column, in the third paragraph from the bottom, the next to last sentence should read "postmarks shall not be acceptable as proof".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 347 and 348

[Docket No. 78N-021A]

Skin Protectant Products for Over-the-Counter Human Use; Astringent Drug Products

Correction

In proposed rule document 89-7834 beginning on page 13490 in the issue of Monday, April 3, 1989, make the following corrections:

1. On page 13493, in the first column, in the last paragraph, in the sixth line "anorectal" should read "that".

2. On page 13499, in the third column, in the part heading, "Analgesic" was misspelled.

3. On the same page, in the same column, in the line preceding amendatory instruction 6, "348.8" should read "348.3".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 81N-0201]

Pediculicide Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

Correction

In proposed rule document 89-7833 beginning on page 13480 in the issue of Monday, April 3, 1989, make the following correction:

On page 13480, in the second column, in the first line the last word should read "class".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89N-0125]

Animal Drug Export; Virginiamycin

Correction

In notice document 89-8909 beginning on page 15016 in the issue of Friday, April 14, 1989, make the following corrections:

1. On page 15017, in the first column, in the ninth line, "89-192" should not have appeared.

2. On the same page, in the same column, in the last paragraph, in the second line insert an open parenthesis between "'Act" and "section".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No.89E-0097]

Determination of Regulatory Review Period for Purposes of Patent Extension; Ifex®

Correction

In notice document 89-8602 beginning on page 14684 in the issue of Wednesday April 12, 1989, make the following corrections:On page 14684, in the second column, in the subject heading, in the second line; and in the third column, in the first complete paragraph in the second and third lines; and in the second complete paragraph, in the third line; and in designated paragraph 1, in the sixth line, "Ifex" should read "Ifex®".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-14636]

Realty Action; Exchange of Public and Private Lands, Inyo and Los Angeles Counties, CA

Correction

In notice document 89-5263, beginning on page 9902, in the issue of

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Wednesday, March 8, 1989, make the following correction:

On page 9902, in the third column, under "T. 21S., R. 37E.,", in the fifth line "E½N¼NE¼," should read "E½NW¼ NE¼,".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-09-4212-11; CA 15906]

Realty Action; Conveyance of Public Land for Recreation and Public Purposes in Kern County, CA

Correction

In notice document 89-6833 appearing on page 12022 in the issue of Thursday, March 23, 1989, make the following correction:

In the first column, in the SUMMARY, in the land description, the third line should read "Sec. 2, E½SE¼NE¼, E½SE¼;".

BILLING CODE 1505-01-D-

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-09-4212-11; CA-15907]

Realty Action; Conveyance of Public Land for Recreation and Public Purposes in Kern County, CA

Correction

In notice document 89-6834 beginning on page 12022 in the issue of Thursday, March 23, 1989, make the following corrections:

1. On page 12022, in the third column, in the SUMMARY, in the land description, the fourth line should read "Sec. 14, E½NW¼NE¼, S½NE¼,".

2. On page 12023, in the first column, after the second complete paragraph, in designated paragraph 3, in the second line "Air" should read "Aid".

3. On the same page, in the same column, in designated paragraph 4, in the second line, "areas" should read "area".

4. On the same page, in the same column, in the second designated paragraph 1, in the second line "transmissionline" should read "transmission line".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 64

[Order No. 1326-89]

Judicial Administration; Designation of Officers and Employees of the United States for Coverage Under Section 1114 of Title 18 of the United States Code

Correction

In rule document 89-5044 beginning on page 9043 in the issue of Friday, March 3, 1989, make the following correction:

§ 64.2 [Corrected]

On page 9044, in the first column, in § 64.2(v), in the fourth line, "officers" should read "offices" each time it appears.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 541

Control, Custody, Care, Treatment, and Instruction of Inmates; Procedures for Handling of HIV Positive Inmates Who Pose Danger to Others

Correction

In rule document 89-6287 beginning on page 11322 in the issue of Friday, March 17, 1989, make the following correction:

§ 541.67 [Corrected]

On page 11325, in the second column, in § 541.67(c), in the fourth line between "five" and "days" add "working".

BILLING CODE 1505-01-D

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1204

Availability of Official Information

Correction

In rule document 89-4833 beginning on page 8725 in the issue of Thursday, March 2, 1989, make the following correction:

On page 8725, in the first column, in the authority citation, in the second line, "99-507" should read "99-570".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

Generic Letters

Correction

In notice document 89-8993 appearing on page 15039 in the issue of Friday, April 14, 1989, make the following correction:

On page 15039, in the middle column, the fourth line should read "can now be purchased through a".

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

Pay Under the General Schedule

Correction

In the proposed rule document beginning on page 13196 in the issue of Friday, March 31, 1989, make the following corrections:

§ 531.203 [Corrected]

1. On page 13197, in the 2nd column, in paragraph (c)(2)(i), between the 16th and 17th lines insert "rate for the grade in which pay is being fixed, the maximum".

2. On page 13198, in the file line appearing at the end of the document, the document number should read "89-7636".

BILLING CODE 1505-01-D

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federal register

Thursday
April 27, 1989

Part II

Department of Agriculture

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program; Reorganization and Minor Revisions; Final Rule

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program; Reorganization and Minor Revisions

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking is a complete reorganization of 7 CFR Part 225, the rules governing the Summer Food Service Program (SFSP). This revision is intended to resolve any ambiguities or inconsistencies in the regulations; eliminate unnecessary, duplicative, and obsolete provisions; and clarify the regulations' language, style, and organization so that Part 225 is more easily understood. This rulemaking includes one change mandated by the Hunger Prevention Act of 1988 (Pub. L. 100–435)—making public or private nonprofit colleges and universities participating in the National Youth Sports Program eligible to apply for Program sponsorship. In addition, this final rulemaking clarifies several of the discretionary changes to the regulations which were presented in the proposed rule. Finally, based on commenters' input, the Department has decided to withdraw, pending further study, its proposals to eliminate statistical sampling as a means of site monitoring and to eliminate reimbursement for weekend meals served by non-camp sponsors. The discretionary changes incorporated in this final rule have been made in order to clarify the intent of the Part 225 regulations and to improve program accountability and management.

EFFECTIVE DATE: May 30, 1989.

ADDRESS: Copies of all written comments on the proposed rule are available for review during normal business hours at 3101 Park Center Drive, Rom 509, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eadie or Mr. James C. O'Donnell at the above address or by telephone at (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified *not major* because it will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, or Federal, State, or local government agencies; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This final rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to this review, Mr. G. Scott Dunn, the Acting Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

No new reporting and recordkeeping requirements are included in this final rule, and Office of Management and Budget (OMB) approval under the Paperwork Reduction Act (44 U.S.C. 3507) was therefore not required. This program is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V, and final rule-related notice published at 48 FR 29114, June 24, 1983).

Background

The SFSP is authorized by section 13 of the National School Lunch Act (42 U.S.C. 1761). Section 13(g) of that Act requires the Department to issue regulations for the Program each fiscal year. On November 30, 1988, the Department published a proposed rule (53 FR 48369) setting forth the proposed SFSP regulations for 1989. That proposed rule included a complete reorganization of 7 CFR Part 225 which was intended to resolve any ambiguities or inconsistencies in the regulations; eliminate unnecessary, duplicative, and obsolete provisions; and clarify the regulations' language, style, and organization so that Part 225 would be more easily understood. In addition, the Department proposed to change the definition of "sponsor" to conform to the terms of Pub. L. 100–435, the Hunger Prevention Act of 1988. Finally, the Department also proposed several discretionary clarifications of and changes to the Program regulations governing food service management companies, weekend meal service, letter of credit procedures, overclaims against sponsors, administrative funding reviews, and other aspects of the Program. These clarifications and changes were proposed in order to improve program accountability and management.

The Department received a total of 25 comments on the proposed regulations. Commenters included State agencies, Program sponsors, advocacy groups, and other interested parties. All comments received were carefully considered and the issues raised by them are discussed in this preamble to the final rule.

Before analyzing these comments in detail, it is appropriate to mention that several commenters questioned the adequacy of the comment period for the proposed regulation. These commenters believed that the reorganization and the other changes to the regulations which were proposed required more than 30 days to review. One commenter, for example, believed that the changes contained in the proposed rule constituted a "major re-examination of SFSP regulations" and, as such, called for a 90-day comment period. Another commenter expressed concern that the regulations had not been published until the end of November and believed that final regulations would not be promulgated in time to be implemented in the 1989 Program.

While the Department understands commenters' desire to have additional time to consider and respond to the proposed regulations, it is important to note that section 13 of the National School Lunch Act mandates a deadline for publication of the final SFSP regulation which is only 60 days after the required date of publication for the proposed regulation. This very short period necessitates that a 30-day comment period be utilized except under the most extraordinary circumstances. The Department does not believe that the reorganization and the other changes and clarifications which were proposed constituted a "major re-examination" of the SFSP regulations. Almost all of the changes proposed were, in fact, clarifications of extant Program requirements.

Furthermore, the Department believes that this final regulation is being published early enough to allow for implementation during the current Program year. The Department realizes that the date of publication of this final regulation makes it impossible to implement the required changes to the State Management and Administration plans for the 1989 Program, and has therefore added regulatory language which delays implementation of these provisions until 1990. Had the Department allowed a longer period for comment, most of the other provisions in this final regulation could not have been implemented in this year's Program. For all of these reasons, a 30-day period was the maximum amount of time which could be allotted for comments.

I. Reorganization of Part 225

The Department received nine (9) comments on the proposed reorganization and related revisions, all of which were favorable. In order to assist users of these final regulations, a redesignation table has again been included at the end of this preamble which lists both the current and revised location of each paragraph in Part 225. This table should provide readers with a convenient overview of the reorganization and enable them to more easily locate specific parts of the old and new regulations. One commenter believed that § 225.4(k) in the old regulations was erroneously redesignated as § 225.5(f) in the proposed regulation. However, the Department did intend to redesignate former § 225.4(k) as § 225.5(f) in the proposed rule, not § 225.6(f) as the commenter believed.

Several commenters pointed out areas which they believed were changed inadvertently during the course of the Department's reorganization and stylistic revision of the regulations. These areas are discussed in detail in Part IV of this preamble, "Other Comments on Part 225." The Department believes that the real test of the new regulations' utility will come when they are used in next year's Program, and that users of the regulations may continue to find portions of the reorganized and revised Part 225 which they believe to be in error. The Department requests that users of the regulations submit to their state agency or regional office, as appropriate, any suggestions for additional organizational and stylistic improvements. These suggestions will be considered by the Department when it prepares future revisions and reissuances of the regulations.

Accordingly, this final rulemaking includes the reorganization of 7 CFR Part 225 as presented in the proposed rule. Stylistic revisions and technical corrections to the regulation language are discussed in Part IV of this preamble below.

II. Mandatory Change to Part 225

As explained in the preamble to the proposed rule, section 213 of the Hunger Prevention Act of 1988 (Pub. L. 100–435) mandated that public and private nonprofit colleges and universities be allowed to participate in the SFSP as sponsors provided that they are currently participating in the National Youth Sports Program (NYSP) and that they meet the other requirements for Program sponsorship. Public universities offering the NYSP were already allowed to participate in the SFSP as governmental sponsors; private colleges offering the NYSP, however, were previously barred from SFSP sponsorship due to the general ban on most private nonprofit SFSP sponsors resulting from the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35).

The Department received six comments on its proposed implementation of this provision. Four commenters agreed with the Department's proposal, one disagreed, and another raised questions regarding these sponsors' participation which were not specifically addressed in the preamble to the proposed regulation. Although the implementation of this provision is non-discretionary, the Department nevertheless believes that the objection and question raised merit consideration in this preamble.

The commenter who disagreed with the Department's proposed implementation of this provision of the Hunger Prevention Act believed that the NYSP served wealthy children who did not need SFSP benefits. In fact, the NYSP, which is administered by the National Collegiate Athletic Association through grants provided by the Department of Health and Human Services, is designed to provide supervised sports training and competition for low-income children. As a program designed for low-income children, Congress apparently felt that the NYSP serves the same population which the SFSP is designed to serve, and that the ban on SFSP sponsorship by private nonprofit colleges and universities should be modified in this particular instance.

The questions raised about implementation of this new provision involved: (a) Whether public and private nonprofit colleges and universities currently participating in the NYSP would be permitted to sponsor the Program at non-NYSP sites; and (b) whether these same colleges and universities would be eligible to participate in the SFSP if they elected *not* to have their NYSP site(s) participate in the NYSP. Even before passage of the Hunger Prevention Act, public colleges and universities offering the NYSP were eligible to sponsor the SFSP as entities of State government. Thus, public colleges and universities are eligible to participate in the SFSP without reference to their participation in the NYSP and may offer the Program at non-NYSP sites.

Private nonprofit colleges and universities, on the other hand, can only participate as SFSP sponsors if they currently participate in the NYSP. In addition, these private nonprofit colleges and universities may claim SFSP reimbursement only for meals served to NYSP participants.

Accordingly, as previously proposed, this final rule amends §§ 225.2 and 225.14(b) to allow public and private nonprofit colleges and universities participating in the NYSP to be SFSP sponsors.

Finally, as noted in the preamble to the proposed regulation, section 213 of Pub. L. 100–435 also mandated that the Department conduct a pilot project to assess the feasibility of again allowing other types of private nonprofit organizations to sponsor the SFSP. The Department received three comments specifically concerning this demonstration project and five other comments regarding the advisability of readmitting other types of private nonprofit organizations to SFSP sponsorship. Because the demonstration project is just beginning and has no bearing on the issues addressed in this final regulation, the Department will not respond to these comments in this preamble.

III. Substantive Changes to Part 225

A. Food Service Management Companies

The Department received 17 comments from nine different commenters on the proposed clarifications of the regulations pertaining to food service management companies (FSMCs). These clarifications addressed: the differences between "vended" and "self-preparation" sponsors, especially with respect to the added administrative reimbursement earned by self-preparation sponsors; the definition of an FSMC; the practical application of the regulatory prohibition on contracting out for the management responsibilities of the program; whether colleges and universities with year-round FSMC contracts are required to conduct new procurements for their SFSP meal service; whether colleges and universities acting as FSMCs are exempt from registration requirements; and the form of the bid and performance bonds required to be submitted by FSMCs.

1. *Self-Preparation Sponsors and Payment of the Higher Administrative Reimbursement.* The Department received five comments on its proposal to clarify when sponsors should be considered "self-preparation sponsors" and be entitled to receive a higher rate of administrative reimbursement. This clarification involved the proposed

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amendment of the definitions of "self-preparation sponsor" and "food service management company" and the addition of a new definition ("vended sponsor") at § 225.2.

Although none of the commenters disagreed with the Department's premise—that there should be a clearer differentiation between vended and self-preparation sponsors in the regulations—four of the commenters believed that the distinction which the Department attempted to make in the proposed regulations was still confusing. A sponsor from a large metropolitan area, for example, stated that it still did not know whether it would be considered self-preparation or vended and asked whether the distinction between these two types of sponsors is simply whether the sponsor purchases meal components or an entire meal from an FSMC. Another commenter suggested that, in order to further clarify the distinction between vended and self-preparation sponsors, the Department replace the phrase "some or all of its unitized meals, with or without milk" in the definition of vended sponsor with the phrase "entire unitized meals, with or without milk, for some or all of the children served." Finally, another commenter pointed out that § 225.9(d)(7)(iii) allows for payment of the higher administrative reimbursement at self-preparation or rural sites, and believed that the proposed change would prevent a sponsor from collecting the additional reimbursement if it served even a single meal purchased from an FSMC at a single site.

The Department's intent *was* to differentiate between sponsors which purchase from a FSMC entire unitized meals, with or without milk, and sponsors which purchase a portion of a meal (for example, a pre-made sandwich) from a food vendor who happens to be registered as a FSMC. The Department also intended to clarify that a sponsor could not be considered "self-preparation" if it purchased food management services from a FSMC, regardless of whether or not it purchased unitized meals from that management company.

The Department did not, however, intend to impose an undue burden on sponsors with some self-preparation and some vended sites, nor did it intend to discourage sponsors with mostly self-preparation sites from administering one or more vended sites. The Department believes that, consistent with the language at § 225.9(d)(7)(iii), State agencies already possess the authority to approve sponsors' claims for the higher administrative reimbursement at self-preparation sites, in the rare event that the sponsor administers both self-preparation and vended sites. The Department would, however, caution State agencies to use extra care in ensuring that sponsors whose claims include both types of sites are not improperly claiming the self-preparation rate for sites receiving vended meals.

Furthermore, the Department agrees with the comment that the "some or all" language in the definition of vended sponsor could still leave open to question the very issue that the proposed regulation was intended to settle—that sponsors which purchase a portion of their meal from a vendor registered as a FSMC may still be considered self-preparation sponsors. The definition of "vended sponsor" has therefore been amended in this final regulation to read as follows:

"*Vended sponsor*" means a sponsor which purchases from a food service management company the unitized meals, with or without milk, which it will serve at its site(s), or a sponsor which purchases management services, subject to the limitations set forth in § 225.15, from a food service management company.

Accordingly, the definitions of "food service management company" and "self-preparation sponsor" which were presented in the proposed rule are contained in this final rule at § 225.2. In addition, the revised definition of "vended sponsor" set forth above is included in this final rule at § 225.2.

2. *Prohibition on Contracting Out Management Responsibilities.* The Department received four comments on its proposal to clarify that sponsors which contract with FSMCs must retain full responsibility for the performance of all of their duties as sponsors except for the management of their food service operations. Previously, the definition of "food service management company" seemed to contradict the regulations' prohibition on a sponsor contracting with an FSMC "for the management responsibilities of the Program such as monitoring, enforcing corrective action, or preparing Program applications". All of the commenters agreed with the ways in which the Department proposed to clarify this issue in the proposed regulation: to change the words "food service program" to "food service operations" in the definition of FSMC at § 225.2; and to list more fully the management responsibilities which FSMCs *may not* perform at § 225.15.

Accordingly, this final regulation includes the revised definition of "food service management company" as set forth in the proposed regulation at § 225.2 and the list of management functions which sponsors may not delegate to FSMCs at § 225.15.

3. *Food Service Management Company Procurements.* The Department received 7 comments on its proposals to clarify two aspects of the regulations pertaining to colleges and universities participating in the SFSP: (1) Whether these colleges and universities, when they are sponsors with year-round FSMC contracts, are required to conduct a separate procurement for their SFSP meal service; and (2) whether these colleges and universities, when they act as FSMCs for SFSP sponsors, are required to go through the registration process prescribed for most other FSMCs at § 225.6(g)(9).

In the proposed regulations, the Department clarified that when colleges and universities act as FSMCs, they are not required to comply with the registration requirements set forth at § 225.6(g)(9). The Department received two comments on this clarification, both of which were favorable. The proposed clarification of the bidding requirements for colleges and universities acting as sponsors also received generally favorable comment, with four commenters in support and one in opposition to the proposed changes. The commenter who disagreed objected to the wording of § 225.15(g)(5), which states that, "Sponsors which are schools or school food authorities which have an exclusive contract with food service management companies for year-round service * * * shall not be required to comply with these [bid] procedures." This commenter believed that the exclusion from following the specific bid procedures mandated in § 225.15(g)(5) should apply to all sponsors with year-round FSMC contracts.

The Department does not believe, however, that such a broad exclusion from these bidding requirements would be warranted. Local schools and colleges and universities can logically be expected to have contracted for year-round FSMCs since the bulk of their food operations occur at times of the year when the SFSP is not in operation. The same cannot be said of other types of sponsors—entities of government and residential camps—which primarily operate large-scale feeding programs during the summer months.

It has come to the Department's attention that there was a minor omission in the discussion of the procurement requirements pertaining to college and university sponsors in the preamble to the proposed rule. As set forth in the preamble, the Department intended to exclude *all* college and universities acting as SFSP sponsors from conducting a separate procurement for their SFSP feeding operations. However, as set forth in the revised definition of "school food authority," the exclusion would only apply to public colleges and universities acting as governmental sponsors and public and private nonprofit colleges and universities participating in the NYSP and the SFSP. This leaves uncertain the status of certain colleges and universities which sponsor the SFSP as residential camps via the Upward Bound Program. The preamble language implies that college sponsors of Upward Bound would not have to conduct a separate SFSP procurement, whereas the language of the revised definition of "school food authority" would seem to require that such sponsors conduct a separate SFSP procurement.

It was not the Department's intent to place colleges and universities participating in the Upward Bound Program into a different category and require them to conduct separate procurements for their SFSP food operations. Upward Bound "camp" programs are generally held on-campus, with students residing in the college's dormitories and eating in the school cafeteria. Therefore, it would make no more sense for these colleges and universities to conduct a separate procurement for the SFSP than it would for other types of college and university participants in the SFSP. With this in mind, the Department has amended the proposed definition of "School Food Authority" at § 225.2 to clarify that all colleges and universities in the SFSP—regardless of whether they participate as government sponsors, camp sponsors, or NYSP sponsors—are permitted to use their exclusive year-round FSMC contracts for their SFSP feeding operations.

Accordingly, with the minor change mentioned above, the Department has included in this final regulation the amended definition of "School Food Authority" which was set forth in § 225.2 of the proposed regulation. This revised definition will have the effect of allowing colleges and universities to be exempt from conducting a separate FSMC procurement for the SFSP if they already have a competitively procured year-round contract with an FSMC. This change will also exempt colleges or universities acting as food service management companies from the registration requirements at § 225.6(g)(9).

4. *Performance and Bid Bonds.* The Department received one favorable comment on its proposal to clarify that "alternative" forms of the bid and performance bonds required by § 225.15(g)(8) (e.g., certified checks, cash, escrow accounts, or letters of credit) are not acceptable under the SFSP regulations. Accordingly, this final regulation includes the clarifying language in § 225.15(g)(8) as it appeared in the proposed regulation.

B. Weekend Meals

The Department received 13 comments on its proposal to clarify that reimbursement is not allowed for Program meals served on weekend days except in residential camps. Three commenters favored the proposal while 10 either opposed it outright or urged that it be modified.

The responses were wide in variety and ranged from questions of Congressional intent to suggestions that other types of sponsors be permitted to receive reimbursement for weekend meals.

The numerous proposals received on this issue have demonstrated the need for further study on this issue. Consequently, the Department will not, at this time, make final the amendatory language set forth in the proposed rule, and State agencies should follow their current practices in regard to weekend meals.

C. Overclaims for Inadequate Recordkeeping

Seven commenters responded to the Department's clarification that a sponsor's failure to keep records documenting the basis of its claim for reimbursement constitutes adequate cause for the assessment of an overclaim against the sponsor. Six commenters agreed with the proposal and one disagreed, although one of the commenters in agreement raised concerns over potential implementation difficulties. These concerns involved the possibility that the proposed regulation language had "the potential to be misapplied or abused by overzealous or misguided State agency personnel." This commenter felt that it would be easy for a sponsor to misfile or misplace one site's records when the sponsor was administering dozens of sites, or that records which already had been checked as part of a State review could be misplaced or inadvertently destroyed during the required three-year recordkeeping period. Due to these concerns, the commenter recommended that overclaims should only be permitted when there is a "pattern" of fraud or inadequate recordkeeping. Finally, this commenter also suggested that the revised wording of § 225.12(a) be as specific as that of §§ 225.15(c)(1) and 225.9(d)(4) and state that the records which the sponsor must keep are those "which justify all costs and meals claimed."

The Department agrees that the revised language of § 225.12(a) should fully conform to the language of the other Sections cited and will make the suggested modification to the wording of § 225.12(a). However, the Department does not share the commenter's apparent concern that State agencies will misapply this rule. Changing the proposed regulatory language to require that a "pattern" of fraud or abuse exist before initiation of an overclaim would not clarify what constitutes a "pattern" and would not eliminate the possibility of misapplication of the rule. However, in the rare event that unwarranted overclaims are lodged against the sponsor, the Department believes that the sponsor is adequately protected by its appeal rights under § 225.13(a).

The commenter who disagreed with the proposal in principle believed that, when a sponsor lacked records to document a claim, this lack of records was more likely to be the result of a State agency's failure to properly train the sponsor than *prima facie* evidence of fraud, waste, or abuse on the sponsor's part. This commenter further believed that "alternative documentation, including affidavits from parents or some other record", should constitute acceptable proof that the sponsor actually provided the number of meals claimed.

The Department agrees that inadequate recordkeeping may be unintentional and does not necessarily indicate that the sponsor intended to defraud the government or waste federal resources. Nevertheless, it is not logical to assume that every sponsor who fails to keep records is the victim of poor State agency training, unless there is a pattern of sponsor recordkeeping problems within that State. Furthermore, the Department does not believe that "alternative documentation" is a practical substitute for adequate Program recordkeeping, since collecting and determining the accuracy of such "alternative documentation" would be extremely time-consuming and costly to State agencies.

Accordingly, with the exception of the minor change to § 225.12(a) discussed above, this final regulation includes the proposed regulation's language in §§ 225.15(c)(1), 225.9(d)(4) and 225.12(a) which clarifies that, if a sponsor fails to keep records which adequately document the basis of all costs and meals claimed, the State agency may lodge an overclaim against the sponsor.

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D. Letter of Credit (LOC) for Program Payments

The Department received two comments on its proposal to provide FNS with additional time for providing the 65 percent level of LOC funding when a State agency submits its required management and administration plan (MAP) after the February 15 deadline. Both of these comments were favorable. Accordingly, the Department is amending § 225.5(d)(2) as set forth in the proposed regulation.

One statement made in this section of the preamble to the proposed regulation requires additional clarification. In the proposed regulation, a typographical error resulted in a statement which could be misconstrued. The sentence which stated that, "FNS should have 90 days to review, ask for modifications of, and approve the MAP between the time the MAP is submitted and the time by which the State agency must have 65 percent of its estimated Program payment needs in the LOC" incorrectly implied that there is a 90-day period for FNS to review and approve a MAP. Section 225.4(b) clearly requires FNS to review a MAP within 30 days of submission. The statement should have referred to the 90-day period between the deadline for a State agency's submission of the MAP and the deadline by which FNS must, based on the MAP, adjust the LOC to ensure that the State agency has received 65 percent of its estimated administrative and operating funding for the current year.

E. MAP Requirements

Four commenters responded to the Department's proposal to require State agencies to include in their MAPs their plans for carrying out the special monitoring responsibilities in § 225.15 pertaining to food service management company (FSMC) procurements over $100,000 in value. One commenter agreed with this proposal while three disagreed. Of those disagreeing, one commenter seemed to believe that the performance of these monitoring responsibilities was a new requirement (in fact, these requirements previously appeared at former § 225.16(d)(7) and (g)), while another commenter believed that the requirement to discuss monitoring actions in the MAP would be meaningless since State agencies would not know which sponsors would have large FSMC procurements at the time of their MAP submissions.

The Department understands that, at the time of the State agency's MAP submission, it cannot know which sponsors and how many sponsors will have FSMC contracts exceeding $100,000 in value. The requirement to address these monitoring responsibilities in the MAP will necessarily be based on the prior year's Program and will not reflect the actual number and location of procurements requiring special monitoring in the current year. Nevertheless, the Department is aware of instances where some State agencies have failed to perform these functions, resulting in bid protests and irregularities. Therefore, the Department continues to believe that the Program will benefit from the requirement to have State agencies budget staff time and resources for these monitoring functions in their annual MAPs.

Accordingly, this final regulation amends § 225.4(d) by adding a requirement that the State agency's MAP include its plans for performing the special FSMC procurement monitoring functions specified at §§ 225.15(g)(5)(xiii) and 225.6(h)(4), respectively. However, due to this final regulation's publication date, regulatory language has been added to specify that this information will not be a required element of a State agency's MAP until 1990.

F. Health Inspection Funds

The Department received six comments on its proposal to require State agencies to document in their MAPs the need for funding to carry out health inspections and related functions prior to FNS's placement of these funds in the State's letter of credit (LOC). Four commenters disagreed with this proposal and two commenters agreed.

One commenter who disagreed with the proposal believed that it represented an attempt to evade section 13(k)(3) of the National School Lunch Act, which requires the Department to "make available" health inspection and meal quality testing monies to the States. The preamble to the proposed regulation attempted to make clear that this was not the Department's intent. Rather, the Department's proposal was designed to rationalize an inefficient administrative procedure whereby health inspection monies are put into a State's LOC, then later withdrawn, even when the State did not anticipate a need for health inspection funding during the current fiscal year. Thus, the Department proposed to "make available" the funding by placing it in the LOC only when the State's MAP documented a later need for the funding. Although it was not explicitly stated in the preamble to the proposed regulation, the Department would of course also make such funds available to State agencies which discovered, after the submission of their MAPs, that they would, in fact, require such funding.

The other three commenters who disagreed with the proposal believed that the Department needed to clarify whether it now intended to require State agencies to seek free health inspection services or to prove the need for paid health inspections. The Department assumes that State agencies would seek free services from State and local health departments whenever possible, but did not intend to "require" States to do so or to "prove" that they had done so. The Department agrees with the commenter who suggested that the Department clarify its intent in this regard by changing the regulatory language which was proposed. Rather than requiring States to "document" the need for these monies, this commenter believed that the States should be required to "estimate" their need for the monies in the MAP. Since the MAP is a planning document in which one can only make estimates of funding needs, the Department concurs and has changed the wording of §§ 225.4(d)(14) and 225.5(f) to conform with this suggestion.

Accordingly, this final rule incorporates in §§ 225.4(d)(14) and 225.5(f) the requirement that States include in their MAPs an estimate of the amount of funding they will need in the current year to perform health inspections and meal quality tests. As noted above, the wording of this requirement in these two Sections has been modified slightly in order to convey more accurately the Department's intent in initiating this requirement. In addition, due to this final regulation's publication date, regulatory language has been added to specify that this information will not be a required element of a State agency's MAP until 1990.

G. Administrative Funding Reviews

The proposed rulemaking included several clarifications of the requirements pertaining to the conduct of administrative funding reviews. The Department received three comments on these changes, all of which were favorable. Accordingly, the clarifications of the procedures governing these reviews which were included in the proposed rule are adopted without change at § 225.5 of this final regulation.

H. Definition of "Special Account"

The Department received one favorable comment on its proposal to change the definition of a "special account" at § 225.2 of the regulations. Accordingly, this final regulation includes the definition of a "special account" at § 225.2 as set forth in the proposed rulemaking.

I. Deletion of Statistical Monitoring for Site Reviews

The Department received four comments on its proposed deletion of former § 225.9(e)(8) of the regulations which permitted State agencies to use "statistical monitoring procedures in lieu of the site monitoring requirements prescribed in paragraph (e)(2) of this section * * *." Two of the commenters agreed with this proposed change to the regulations while two commenters disagreed.

Although the Department had assumed that statistical monitoring procedures were not being used by the States, one State agency commenter stated that it had used such procedures successfully for ten years and that overclaims based on these techniques had not been challenged or overturned. The second commenter who disagreed with the Department stated that it would use statistical monitoring techniques if the Department would issue updated guidance on them.

The Department is still not convinced that it is appropriate to commit the resources necessary to reissue this guidance simply because one State agency is using these techniques and another is considering the possibility of doing so. Neither, however, does it seem appropriate to eliminate statistical monitoring as a possible alternative without further consideration if it is being used successfully. Therefore, the Department has in this final regulation re-inserted language which offers State agencies the option of utilizing statistical monitoring techniques. The Department will continue to study statistical monitoring's feasibility as a means of fulfilling a State agency's monitoring responsibilities and will address the subject again, if necessary, in a future reissuance of the regulations.

Accordingly, this final regulation restores at § 225.7(d)(8) language which permits State agencies to use statistical monitoring techniques in lieu of the site monitoring requirements set forth at § 225.7(d)(2). The reinsertion of this paragraph means that the paragraph redesignated as § 225.7(d)(8) ("Corrective Actions") in the proposed regulation now becomes § 225.7(d)(9) in this final regulation.

J. Media Release for Camps and other Enrolled Sites

The Department received five comments, all of which were favorable, on its proposal to require the media release issued by camps and other enrolled sites to list only the family size and income standards for reduced price meals. Accordingly, this final regulation amends § 225.15(e) by requiring that the media release issued by camps and other enrolled sites list only the Secretary's guidelines for reduced price eligibility and that these guidelines be labelled "Summer Food Service Program Eligibility Standards."

In addition, the proposed rule would also change the definition of "documentation" at § 225.2 to conform to the change in the media release by removing the phrase "free and reduced price application" and substituting in its place the words "free meal application." Several commenters found other parts of the regulatory language containing wording which required revision in light of the changes being made to the media release and the definition of documentation. These include § 225.6(c)(3)(ii)(A) and the definition of "income standards" at § 225.2.

Accordingly, the wording of the definitions of "documentation" and "income standards" at § 225.2 and the regulatory language at § 225.6(c)(3)(ii)(A) are modified in this final regulation to eliminate references to free meal income standards and to conform to the usage in the media release as set forth in the proposed rule.

K. Record Retention by Food Service Management Companies

The Department received three comments on its proposal to require food service management companies to retain their Program records for the same amount of time as State agencies and sponsors. All of these commenters favored the proposed change.

Accordingly, this final rulemaking amends § 225.6(h)(2)(vii) to clarify that food service management companies are also required to retain their Program records for more than three years when there are unresolved audit or investigative findings pertaining to the company or to a sponsor with which the company contracted.

IV. Other Comments on Part 225

Because the proposed rulemaking represented the first comprehensive reissuance of Part 225 since 1982, a number of commenters took the opportunity to offer input to the Department on topics other than those which were addressed in the preamble to the proposed rule. These additional comments are addressed below under four separate headings: (1) Comments on Provisions Mandated by Law; (2) Comments on Recently-Revised Provisions; (3) Stylistic and Technical Corrections; and (4) Miscellaneous Comments.

A. Comments on Provisions Mandated by Law

Commenters submitted suggested changes to the regulations governing the definition of area eligibility at § 225.2; the mandatory submission by State agencies of a management and administrative plan at § 225.4; the adequacy of the State administrative funding formula at § 225.5(a); the use of Program funds to support nonprofit nutrition programs for the elderly; and the time restrictions on meal service set forth at § 225.16(c)(2). The first four of these are directly mandated by sections 13(a)(1)(C), 13(n), 13(k)(1), and 12(i) of the National School Lunch Act, respectively; the last of these requirements is derived from the language of section 13(b)(2) of that Act, which limits the types and number of reimbursable meals which different types of sponsors may offer. As legislative requirements, these provisions may not be altered by the Department unless Congress amends the National School Lunch Act, and the Department cannot meaningfully comment on them in this preamble.

B. Comments on Recently-Revised Provisions

Four commenters submitted suggestions for changing regulatory provisions which have been amended in the past several years—the limitation on the number of "second" meals which may be claimed for reimbursement by sponsors and the clarification of the application requirements for households which are not categorically eligible for Program benefits.

As stated in the preamble to the final regulation (51 FR 3321) which promulgated the two percent limitation on "seconds", the intent of the National School Lunch Act is to provide one meal to each participating child and that, even given some of the unique characteristics of SFSP feeding sites, the Department bears the responsibility for ensuring that second meals are curtailed to the maximum extent practicable. In the three years since this rule's publication, the Department has received several comments to the effect that the two percent tolerance is too low and that it needs to be adjusted upward to anywhere from five to twenty percent. The Department has no firm evidence that the rule has imposed an unwarranted burden on sponsors or that it has necessitated the denial of meals to children. Therefore, the Department is satisfied that the two percent tolerance

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strikes a balance between the important goals of providing meals to eligible children and ensuring that the Federal funding which supports the SFSP is utilized effectively and efficiently.

In regard to the application requirements for non-categorically eligible households, the commenter apparently believed that the Department's final rulemaking in 1988 (53 FR 4827) represented a departure from past application practices. Specifically, this commenter believed that the Department's requirement that applicant households list the income of each household member by source of income was burdensome and unnecessary. In fact, the regulatory language added at that time was merely intended to clarify the elements of a complete application in the Part 225 regulations and to bring the SFSP application requirements into full conformance with the application requirements set forth for all Child Nutrition Programs at section 9 of the National School Lunch Act. Commenters who provided the input on which the 1988 final regulation was based were generally aware that these requirements had existed prior to the issuance of the final rule and favored making these requirements explicit in the regulations.

C. Stylistic Comments and Technical Corrections

In the course of reorganizing and making stylistic and other revisions in the proposed rulemaking, the Department in several cases inadvertently changed the meaning of the regulatory text. The Department wishes to thank those commenters who brought these cases to its attention and urges users of the regulation during the coming Program year to notify the Department immediately if other apparent errors are discovered. Each of these errors, and the corrective action taken in this final rulemaking, is discussed below.

In addition, in several cases, commenters brought to the Department's attention passages in the old regulations which were transferred verbatim into the new regulation but which should have been revised in the proposed regulation. The Department believes that, because these are minor and non-controversial changes, they may be made in the final rulemaking without having been set forth in the text to the proposed regulation. These changes are also discussed in detail below.

1. *Section 225.7(d)(2)(i).* In revising the wording of this paragraph, which was formerly § 225.9(e)(2)(i), the Department inadvertently deleted wording which indicated that State agencies are required to conduct *both* a sponsor review and a review of an average of 15 percent of the sites for the types of sponsors specified at § 225.7(d)(2)(i) (A) and (B).

Accordingly, the words "conduct both a review of sponsor operations and" are reinserted at § 225.7(d)(2)(i) of this final rulemaking.

2. *Section 225.16(f)(2).* Redesignated § 225.16(f)(2) is based on two paragraphs from the old regulations §§ 225.20 (d) and (e)), both of which detailed requirements pertaining to meal service to children under six years of age. Section 225.20(e), however, dealt only with meal service to children under one year of age, and required that sponsors wishing to serve such children receive approval from the State agency to do so. This requirement was inadvertently omitted from the regulatory text when the two paragraphs were combined.

Accordingly, the requirement for State agencies to approve meal service to children under one year of age is restored in this final rulemaking by making it the second sentence of § 225.16(f)(2) and modifying the last sentence of the paragraph to read, "In both cases, the sponsor shall follow * * *."

3. *Section 225.16(c)(7).* Section 225.16(c)(7) in the proposed rulemaking was identical to § 225.20(a)(6), which stated that, "The sponsor shall serve only the type(s) of meals for which it is approved under its agreement with the State agency." Several commenters correctly noted that sponsors may serve any meals they wish, but may claim for reimbursement only those meals for which it is approved by the State agency.

Accordingly, § 225.16(c)(7) is amended in this final rulemaking to clarify that sponsors may only claim for reimbursement those meals for which it is approved in its agreement with the State agency.

4. *Section 225.6(c)(3)(ii).* This section of the regulations was taken verbatim from former § 225.21(b), except that the specific hearing procedures mandated by the regulations (formerly § 225.21(b)(4) (i)–(xii)) were moved to a separate, new paragraph which was redesignated § 225.6(c)(4). The new § 225.6(c)(3)(ii) set forth six elements required in policy statements submitted by camps and "enrollment programs". However, these six elements are irrelevant to enrollment programs because, after determining the eligibility of the enrolled site, all children at that site receive a free meal. Thus, it is pointless for enrolled sites to discuss in their policy statements their methods of collecting payments or of preventing overt identification of children receiving free meals.

Accordingly, this final regulation amends the wording of the introductory paragraph of § 225.6(c)(3)(ii) to clarify that the six required elements of a policy statement specified at § 225.6(c)(3)(ii) (A)–(F) apply to camps only and not to enrollment programs.

5. *Section 225.6(c)(4).* In revising this paragraph, which is based on former § 225.21(b)(4), the Department inadvertently extended to all sponsors a requirement that, in former § 225.21(b)(4), applied only to residential camps and enrollment programs. As discussed in number 4 above, however, this requirement, too, should not have pertained to enrollment programs. It makes little sense to require such programs to submit copies of their hearing procedures, since household applications are taken at enrolled sites only to establish the site's eligibility to serve meals free of charge.

Accordingly, this final rulemaking amends the introductory paragraph to § 225.6(c)(4) to clarify that only residential camps are required to submit copies of their hearing procedures with their Program applications.

6. *Section 225.9(c).* The introductory paragraph in § 225.9(c) in the proposed rulemaking was identical to the introductory paragraph in former Section 225.11(b). This portion of the regulations sets forth the general procedures for granting advance payments to sponsors. However, unlike the sections which describe start-up payments (§ 225.9(a)) and reimbursements for operating and administrative costs (§ 225.9(d)), the section dealing with advance payments inadvertently fails to state, as do the sections dealing with start-up payments and reimbursements, that sponsors may not receive advance payments *unless* they have executed an agreement with the State agency.

Accordingly, § 225.9(c) is amended in this final rulemaking to include a sentence specifying that sponsors may not receive advance payments unless they have executed an agreement with the State agency to administer the Program.

D. Miscellaneous Comments

Commenters also provided their input on numerous other areas of the Program regulations which were not modified in the proposed rulemaking but which were set forth as part of the overall reissuance of the Part 225 regulations. The number of regulatory provisions commented upon in this fashion was too numerous for the Department to respond to each in great detail. Nevertheless, the following provides (in a "Suggestion/Response" format) a brief response to each of the commenters' suggestions.

1. *Audit Requirement in MAP (Section 225.4(d)(11))—Suggestion:* Remove from this section the words "by auditing", since there is no longer an audit requirement for sponsors with reimbursements under $25,000.

Response: The Department agrees. The language in the regulation is out of date. Accordingly, this final regulation amends § 225.4(d)(11) to require that State agencies include in their MAPs their plans for ensuring sponsors' fiscal integrity. The means of accomplishing this (audit, financial review, etc.) will be left to the State agency's discretion.

2. *Availability of Funds to State Agencies (Section 225.5(b)(1))—Suggestion:* The regulations state that Program funds will be made available to State agencies at the beginning of the fiscal year, but they are often not made available until six or more weeks into the fiscal year. Funds should be made available at the beginning of the fiscal year.

Response: These funds are made available to State agencies as early as is legally possible. In past years, Program monies have often not been appropriated until several weeks or months into the fiscal year. State Administrative Expense (SAE) carryover should provide ample funds for States to operate the Program at the beginning of the fiscal year until the Department receives its appropriation.

3. *Site Information Requirements (Section 225.6(c)(2)(iii))—Comment:* The commenter did not approve of the "change" to this Section. According to the commenter, previous regulations only required camp sponsors to document the number of eligible campers on the first day of each session; the new regulations require earlier submission which, according to the commenter, will result in the submission of inaccurate information.

Response: There is no inconsistency between the new wording—which requires the camp to provide the information "as soon as possible" after submission of its application for sponsorship, but "in no case later than the filing of the camp's claim for reimbursement for each session"—and the old wording, which required submission "prior to filing their claims for reimbursement for each session". If the camp is capable of submitting the information earlier than the first day of the session, it is required to do so; if this is not practical, then the information must be submitted to the State agency no later than the date on which the claim for that session is submitted.

4. *Site Caps (Section 225.6(d)(2))—Suggestion:* Eliminate site caps or *require* State agencies to grant any requests from sponsors for an upward adjustment of their site caps.

Response: The Department believes that the requirement for State agency approval of requests for upward adjustments is a prudent administrative procedure which helps to prevent the type of abuse which previously plagued the SFSP. The Department further believes that the site caps serve an important purpose in encouraging the sponsor and the State agency to work together closely to develop reasonable estimates of anticipated site attendance.

5. *Off-Site Meal Consumption (Sections 225.6(e)(14), 225.11(c)(4)(vii))—Suggestion:* End the prohibition on off-site meal consumption.

Response: The Department strongly believes that the prohibition on off-site meal consumption plays an important role in ensuring that Program benefits are delivered to the children for whom they are intended.

6. *FSMC Registration Requirements (Section 225.6(g)(1))—Suggestion:* If a State agency registers an FSMC which does not have production facilities in that State, that FSMC should not be permitted to bid on contracts within that State unless the sponsor has meal preparation facilities which the FSMC could utilize.

Response: The Department assumes that, under current procurement procedures, a company without production facilities would not be awarded a contract if it could not fulfill the meal production requirements of that contract. No regulatory change is neeeded.

7. *Procedures for Estimating Advances (Section 225.9(c)(3))—Comment:* The commenter stated that he was in agreement with the "change" made by the Department in the procedures for estimating advances.

Response: No change was made. § 225.9(c)(3) is a verbatim restatement of former § 225.11(b)(3).

8. *Income Accruing to the Program (Section 225.9(d))—Suggestion:* The Department received several suggestions on this topic:

(1) That the regulations should include more specific instructions on how sponsors are to deduct income accruing to the Program from combined operating and administrative expenses; and (2) that income from federally-supported programs other than the National Youth Sports Program should be exempted from this requirement.

Response: (1) The Department's intention in the regulations is to provide sponsors with flexibility in making such deductions by not specifying precisely how the deduction would be apportioned among operating and administrative costs; and (2) Income from other federally-supported programs must be deducted only if it is used in support of the food program. If the Department were to categorically exempt other federal funds from being deducted from combined operating and administrative costs, the federal government would be paying twice for the same meal.

9. *Sponsor Administrative Funds (Section 225.9(d)(7))—Suggestion:* Increase the amount of reimbursement to sponsors for administrative expenses.

Response: The Department currently has no evidence to suggest that an increase in administrative reimbursement to sponsors is warranted.

10. *Site Records (Section 225.11(c)(4)(ii))—Suggestion:* Amend this section to allow playground sites to keep their records at the sponsor's office, rather than at the playground site.

Response: The currently regulatory language states only that "adequate records" must be kept at the site. The Department agrees with this commenter that, while it is appropriate to expect that some records (e.g., the current day's meal count and attendance records) will be at the site, other types of records might be kept in the sponsor's office, depending on such factors as the availability of secure storage space at the site. We do not believe, however, that these distinctions need to be made explicit in the regulations. It is not realistic to be concerned that State agencies will attempt to terminate sponsors because all of a site's records are not maintained at that site; this section is intended only to require that records are made available to site reviewers in a reasonable manner.

11. *Household Application Procedures (Section 225.12(f)(1))—Suggestion:* Allow enrollment programs to use household applications from the National School Lunch or School Breakfast Programs as opposed to requiring households to fill out a separate SFSP application.

Response: The Program regulations are derived from the language of section 13(a)(1)(C) of the National School Lunch Act, which allows an enrollment program to document its eligibility from "statements of eligibility based upon income for children enrolled in the program". This language presumes that the determination of eligibility will be based on a household's current

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economic circumstances, not on applications completed nine to twelve months earlier for one of the School Programs

12. *FSMC Procurement Requirements (Section 225.15(g)(5))—Comment:* The commenter approved of the "change" which requires that competitive procurement procedures be followed in contracting with food service management companies.

Response: No change has been made to this section. Section 225.15(g)(5) is a clearer rewording of the former § 225.16(d), but did not change the substantive intent of the latter section. The old § 225.16(d) also stated that the "exceptions" described in that paragraph "do not relieve the sponsor of the responsibility to ensure that normally accepted bidding procedures are followed in contracting with any food service management company."

13. *Age-Adjusted Meal Pattern (Section 225.16(d))—Suggestion:* Adjust the SFSP meal pattern to allow the service of different quantities of food to older and younger children.

Response: Given the less structured nature of food service at open playground sites compared, for instance, to food service in schools or child care settings, the Department has deemed it impractical for sponsors to try to serve substantially different meals to children of different ages and has established a single meal pattern for the SFSP. This meal pattern matches the age-adjusted meal pattern for children ages 6–12 in the Child Care Food Program and establishes minimum requirements for meal service to children participating in the Program. Consistent with § 225.16(f)(2), State agencies may authorize sponsors to serve smaller portions to children under the age of 6 if they are convinced that the sponsor can ensure that the variations in portion sizes are appropriate to the age levels of the children being served. Similarly, if sponsors are capable of serving larger meals to older children, the Department would encourage them to do so, provided that every child receives a meal which meets or exceeds the meal pattern requirements. Thus, in this sense, it is already possible for sponsors to have an "age-adjusted meal pattern" for all children.

List of Subjects in 7 CFR Part 225

Food assistance programs, Grant programs—Health, Infants, and Children.

Redesignation Table

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225.20(h)	225.16(f)(7)
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225.20(k)	225.16(f)(5)
225.20(l)	225.9(b)
225.20(m)	Deleted.
225.20(n)	225.16(a)
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Appendix C	Appendix C

Accordingly, 7 CFR Part 225 is revised to read as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM

Subpart A—General

Sec.

225.1 General purpose and scope.
225.2 Definitions.
225.3 Administration.

Subpart B—State Agency Provisions

Sec.
225.4 Program management and administration plan.
225.5 Payments to State agencies and use of Program funds.
225.6 State agency responsibilities.
225.7 Program monitoring and assistance.
225.8 Records and reports.
225.9 Program assistance to sponsors.
225.10 Audits and management evaluations.
225.11 Corrective action procedures.
225.12 Claims against sponsors.
225.13 Appeal procedures.

Subpart C—Sponsor and Site Provisions

Sec.
225.14 Requirements for sponsor participation.
225.15 Management responsibilities of sponsors.
225.16 Meal service requirements.

Subpart D—General Administrative Provisions

Sec.
225.17 Procurement standards.
225.18 Miscellaneous administrative provisions.
225.19 Regional office addresses.
225.20 Information collection/recordkeeping—OMB assigned control numbers.
Appendix A to Part 225—Alternate Foods for Meals.
Appendix B to Part 225—[Reserved]
Appendix C to Part 225—Child Nutrition (CN) Labeling Program.

Authority: Secs. 9, 13 and 14, National School Lunch Act, as amended (42 U.S.C. 1758, 1761 and 1762a).

Subpart A—General

§ 225.1 General purpose and scope.

This Part establishes the regulations under which the Secretary will administer a Summer Food Service Program. Section 13 of the Act authorizes the Secretary to assist States through grants-in-aid to conduct nonprofit food service programs for children during the summer months and at other approved times. The primary purpose of the Program is to provide food service to children from needy areas during periods when area schools are closed for vacation.

§ 225.2 Definitions.

"*Act*" means the National School Lunch Act, as amended.

"*Administrative costs*" means costs incurred by a sponsor related to planning, organizing, and managing a food service under the Program, and excluding interest costs and operating costs.

"*Adult*" means, for the purposes of the collection of social security numbers as a condition of eligibility for Program meals, any individual 21 years of age or older.

"*Advance payments*" means financial assistance made available to a sponsor for its operating costs and/or administrative costs prior to the end of the month in which such costs will be incurred.

"*AFDC assistance unit*" means any individual or group of individuals which is currently certified to receive assistance under the Aid to Families with Dependent Children Program in a State where the standard of eligibility for AFDC benefits does not exceed the income standards for free meals under the National School Lunch Program (7 CFR Part 245).

"*Areas in which poor economic conditions exist*" means (a) the local areas from which a site draws its attendance in which at least 50 percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program, as determined (1) by information provided from departments of welfare, education, zoning commissions, census tracts, and organizations determined by the State agency to be migrant organizations, (2) by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the areas of Program sites, or (3) from other appropriate sources, or

(b) An enrollment program in which at least 50 percent of the enrolled children at the site are eligible for free or reduced price school meals as determined by approval of applications in accordance with Section 225.15(f) of this Part.

"*Camps*" means residential summer camps and nonresidential day camps which offer a regularly scheduled food service as part of an organized program for enrolled children. Nonresidential camp sites shall offer a continuous schedule of organized cultural or recreational programs for enrolled children between meal services.

"*Children*" means (a) persons 18 years of age and under, and (b) persons over 18 years of age who are determined by a State educational agency or a local public educational agency of a State to be mentally or physically handicapped and who participate in a public or nonprofit private school program established for the mentally or physically handicapped.

"*Continuous school calendar*" means a situation in which all or part of the student body of a school is (a) on a vacation for periods of 15 continuous school days or more during the period October through April and (b) in attendance at regularly scheduled classes during most of the period May through September.

"*Costs of obtaining food*" means costs related to obtaining food for consumption by children. Such costs may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

"*Department*" means the U.S. Department of Agriculture.

"*Documentation*" means (a) the completion of the following information on a free meal application: (1) Names of all household members; (2) social security number of each adult household member or an indication that an adult household member does not possess one; (3) household income received by each household member, identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, and social security) and total household income; and (4) the signature of an adult member of the household; or,

(b) For a child who is a member of a food stamp household or an AFDC assistance unit, "documentation" means completion of only the following information on a free meal application: (1) The name(s) and appropriate food stamp or AFDC case number(s) for the child(ren); and (2) the signature of an adult member of the household.

"*Family*" means a group of related or nonrelated individuals who are not residents of an institution or boarding house but who are living as one economic unit.

"*Fiscal year*" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

"*FNS*" means the Food and Nutrition Service of the Department.

"*FNSRO*" means the appropriate FNS Regional Office.

"*Food service management company*" means any commercial enterprise or nonprofit organization with which a sponsor may contract for preparing unitized meals, with or without milk, for use in the Program, or for managing a sponsor's food service operations in accordance with the limitations set forth in Section 225.15. Food service management companies may be: (a) Public agencies or entities; (b) private, nonprofit organizations; or (c) private, for-profit companies.

"*Food stamp household*" means any individual or group of individuals which is currently certified to receive assistance as a household under the Food Stamp Program.

"*Household*" means "family," as defined in this section.

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"*Income accruing to the program*" means all funds used by a sponsor in its food service program, including but not limited to all monies, other than program payments, received from Federal, State and local governments, from food sales to adults, and from any other source including cash donations or grants. Income accruing to the Program will be deducted from combined operating and administrative costs.

"*Income standards*" means the family-size and income standards prescribed annually by the Secretary for determining eligibility for reduced price meals under the National School Lunch Program and the School Breakfast Program.

"*Meals*" means food which is served to children at a food service site and which meets the nutritional requirements set out in this Part.

"*Milk*" means whole milk, lowfat milk, skim milk, and buttermilk. All milk must be fluid and pasteurized and must meet State and local standards for the appropriate type of milk. Milk served may be flavored or unflavored. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands of the United States, if a sufficient supply of such types of fluid milk cannot be obtained, reconstituted or recombined milk may be used. All milk should contain Vitamins A and D at the levels specified by the Food and Drug Administration and at levels consistent with State and local standards for such milk.

"*Needy children*" means children from families whose incomes are equal to or below the Secretary's Guidelines for Determining Eligibility for Reduced Price School Meals.

"*OIG*" means the Office of the Inspector General of the Department.

"*Operating costs*" means the cost of operating a food service under the Program,

(a) Including the (1) cost of obtaining food, (2) labor directly involved in the preparation and service of food, (3) cost of nonfood supplies, (4) rental and use allowances for equipment and space, and (5) cost of transporting children in rural areas to feeding sites in rural areas, but

(b) Excluding (1) the cost of the purchase of land, acquisition or construction of buildings, (2) alteration of existing buildings, (3) interest costs, (4) the value of in-kind donations, and (5) administrative costs.

"*Private nonprofit*" means tax exempt under the Internal Revenue Code of 1986, as amended.

"*Program*" means the Summer Food Service Program for Children authorized by Section 13 of the Act.

"*Program funds*" means Federal financial assistance made available to State agencies for the purpose of making Program payments.

"*Program payments*" means financial assistance in the form of start-up payments, advance payments, or reimbursement paid to sponsors for operating and administrative costs.

"*Rural*" means (a) any area in a county which is not a part of a Metropolitan Statistical Area or (b) any "pocket" within a Metropolitan Statistical Area which, at the option of the State agency and with FNSRO concurrence, is determined to be geographically isolated from urban areas.

"*School food authority*" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a lunch program in those schools. In addition, for the purpose of determining the applicability of food service management company registration and bid procedure requirements, "school food authority" also means any college or university which participates in the Program.

"*Secretary*" means the Secretary of Agriculture.

"*Self-preparation sponsor*" means a sponsor which prepares the meals that will be served at its site(s) and does not contract with a food service management company for unitized meals, with or without milk, or for management services.

"*Session*" means a specified period of time during which an enrolled group of children attend camp.

"*Site*" means a physical location at which a sponsor provides a food service for children and at which children consume meals in a supervised setting.

"*Special account*" means an account which a State agency may require a vended sponsor to establish with the State agency or with a Federally insured bank. Operating costs payable to the sponsor by the State agency are deposited in the account and disbursement of monies from the account must be authorized by both the sponsor and the food service management company.

"*Sponsor*" means a public or private nonprofit school food authority, a public or private nonprofit residential summer camp, a unit of local, municipal, county or State government, or a public or private nonprofit college or university currently participating in the National Youth Sports Program, which develops a special summer or other school vacation program providing food service which meets the same meal requirements as meals served to children during the school year under the National School Lunch and School Breakfast Programs and which is approved to participate in the Program. Sponsors are referred to in the Act as "service institutions".

"*Start-up payments*" means financial assistance made available to a sponsor for administrative costs to enable it to effectively plan a summer food service, and to establish effective management procedures for such a service. These payments shall be deducted from subsequent administrative cost payments.

"*State*" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"*State agency*" means the State educational agency or an alternate agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and which has been approved by the Department to administer the Program within the State, or, in States where FNS administers the Program, FNSRO.

"*Unit of local, municipal, county or State government*" means an entity which is so recognized by the State constitution or State laws, such as the State administrative procedures act, tax laws, or other applicable State laws which delineate authority for government responsibility in the State.

"*Vended sponsor*" means a sponsor which purchases from a food service management company the unitized meals, with or without milk, which it will serve at its site(s), or a sponsor which purchases management services, subject to the limitations set forth in § 225.15, from a food service management company.

§ 225.3 Administration.

(a) *Responsibility within the Department.* FNS shall act on behalf of the Department in the administration of the Program.

(b) *State administered programs.* Within the State, responsibility for the administration of the Program shall be in the State agency. Each State agency shall notify the Department by November 1 of the fiscal year as to whether or not it intends to administer the Program. Each State agency desiring to take part in the Program shall enter into a written agreement with FNS for the administration of the Program in accordance with the provisions of this Part. The agreement shall cover the operation of the Program during the period specified therein and may be extended by written consent of both parties. The agreement shall contain an assurance that the State agency will comply with the Department's nondiscrimination regulations (7 CFR Part 15) issued under Title VI of the Civil Rights Act of 1964, and any Instructions issued by FNS pursuant to those regulations, Title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973. However, if a State educational agency is not permitted by law to disburse funds to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as the disbursements to public schools within the State by the State educational agency.

(c) *Regional office administered programs.* The Secretary shall not administer the Program in the States, except that if a FNSRO has continuously administered the Program in any State since October 1, 1980, FNS shall continue to administer the Program in that State. In States in which FNSRO administers the Program, it shall have all of the responsibilities of a State agency and shall earn State administrative and Program funds as set forth in this part. A State in which FNS administers the Program may, upon request to FNS, assume administration of the Program.

Subpart B—State Agency Provisions

§ 225.4 Program management and administration plan.

(a) Not later than February 15 of each year, each State agency shall submit to FNSRO a Program management and administration plan for that fiscal year.

(b) Each plan shall be acted on or approved by March 15 or, if it is submitted late, within 30 calendar days of receipt of the plan. If the plan initially submitted is not approved, the State agency and FNS shall work together to ensure that changes to the plan, in the form of amendments, are submitted so that the plan can be approved within 60 calendar days following the initial submission of the plan. Upon approval of the plan, the State agency shall be notified of the level of State administrative funding which it is assured of receiving under § 225.5(a)(3).

(c) Approval of the Plan by FNS shall be a prerequisite to the withdrawal of Program funds by the State from the Letter of Credit and to the donation by the Department of any commodities for use in the State's Program.

(d) The Plan shall include, at a minimum, the following information:

(1) The State's administrative budget for the fiscal year, and the State's plan to comply with any standards prescribed by the Secretary for the use of these funds;

(2) The State's plans for use of Program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's methods for assessing need, and its plans and schedule for informing sponsors of the availability of the Program;

(3) The State's best estimate of the number and character of sponsors and sites to be approved, the number of meals to be served, the number of children who will participate, and a description of the estimating methods used by the State;

(4) The State's schedule for application by sponsors;

(5) The actions to be taken to maximize the use of meals prepared by sponsors and to maximize the use of school food service facilities;

(6) The State's plans and schedule for providing technical assistance and training to eligible sponsors;

(7) The State's plans for monitoring and inspecting sponsors, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently;

(8) The State's plan and schedule for registering food service management companies;

(9) The State's plan for timely and effective action against Program violators;

(10) The State's plan for determining the amounts of Program payments to sponsors and for disbursing such payments;

(11) The State's plan for ensuring the fiscal integrity of sponsors not subject to auditing requirements prescribed by the Secretary;

(12) The State's procedure for granting a hearing and prompt determination to any sponsors wishing to appeal a State ruling, as specified in § 225.13;

(13) Beginning January 1, 1990, the State's plan for ensuring compliance with the food service management company procurement monitoring requirements set forth at § 225.6(h); and

(14) Beginning January 1, 1990, an estimate of the State's need, if any, for monies available to pay for the cost of conducting health inspections and meal quality tests.

§ 225.5 Payments to State agencies and use of Program funds.

(a) *State administrative funds.* (1) *Administrative funding formula.* For each fiscal year, FNS shall pay to each State agency for administrative expenses incurred in the Program an amount equal to

(i) 20 percent of the first $50,000 in Program funds properly payable to the State in the preceding fiscal year;

(ii) 10 percent of the next $100,000 in Program funds properly payable to the State in the preceding fiscal year;

(iii) 5 percent of the next $250,000 in Program funds properly payable to the State in the preceding fiscal year; and

(iv) 2½ percent of any remaining Program funds properly payable to the State in the preceding fiscal year,

Provided, however, That FNS may make appropriate adjustments in the level of State administrative funds to reflect changes in Program size from the preceding fiscal year as evidenced by information submitted in the State Program management and administration plan and any other information available to FNS. If a State agency fails to submit timely and accurate reports under § 225.8(c) of this Part, State administrative funds payable under this paragraph shall be subject to sanction. For such failure, FNS may recover, withhold, or cancel payment of up to one hundred percent of the funds payable to the State agency under this paragraph during the fiscal year.

(2) *Use of State administrative funds.* State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which Program funds are made available. State agencies may also use administrative funds for such other administrative expenses as are set forth in their approved Program management and administration plan.

(3) *Funding assurance.* At the time FNS approves the State's management and administration plan, the State shall be assured of receiving State administrative funding equal to the lesser of the following amounts: 80 percent of the amount obtained by applying the formula set forth in paragraph (a)(1) of this section to the total amount of Program payments made within the State during the prior fiscal year; or, 80 percent of the amount obtained by applying the formula set forth in paragraph (a)(1) to the amount of Program funds estimated to be needed in the management and

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administration plan. The State agency shall be assured that it will receive no less than this level unless FNS determines that the State agency has failed or is failing to meet its responsibilities under this Part.

(4) *Limitation.* In no event may the total payment for State administrative costs in any fiscal year exceed the total amount of expenditures incurred by the State agency in administering the Program.

(b) *State administrative funds Letter of Credit.* (1) At the beginning of each fiscal year, FNS shall make available to each participating State agency by Letter of Credit an initial allocation of State administrative funds for use in that fiscal year. This allocation shall not exceed one-third of the administrative funds provided to the State in the preceding fiscal year. For State agencies which did not receive any Program funds during the preceding fiscal year, the amount to be made available shall be determined by FNS.

(2) Additional State administrative funds shall be made available upon the receipt and approval by FNS of the State's Program management and administration plan. The amount of such funds, plus the initial allocation, shall not exceed 80 percent of the State administrative funds determined by the formula set forth in paragraph (a)(1) of this section and based on the estimates set forth in the approved Program management and administration plan.

(3) Any remaining State administrative funds shall be paid to each State agency as soon as practicable after the conduct of the funding assessment described in paragraph (c) of this section. However, regardless of whether such assessment is made, the remaining administrative funds shall be paid no later than September 1. The remaining administrative payment shall be in an amount equal to that determined to be needed during the funding evaluation or, if such evaluation is not conducted, the amount owed the State in accordance with paragraph (a)(1) of this section, less the amounts paid under paragraphs (b)(1) and (2) of this section.

(c) *Administrative funding evaluation.* FNSRO shall conduct data on the need for Program and State administrative funding within any State agency *if* the funding needs estimated in a State's management and administration plan are no longer accurate. Based on this data, FNS may make adjustments in the level of State administrative funding paid or payable to the State agency under paragraph (b) of this section to reflect changes in the size of the State's Program as compared to that estimated in its management and administration plan. The data shall be based on approved Program participation levels and shall be collected during the period of Program operations. As soon as possible following this data collection, payment of any additional administrative funds owed shall be made to the State agency. The payment may reflect adjustments made to the level of State administrative funding based on the information collected during the funding assessment. However, FNS shall not decrease the amount of a State's administrative funds as a result of this assessment unless the State failed to make reasonable efforts to administer the Program as proposed in its management and administration plan or the State incurred unnecessary expenses.

(d) *Letter of Credit for Program payments.* (1) Not later than April 15 of each fiscal year, FNS shall make available to each participating State in a Letter of Credit an amount equal to 65 percent of the preceding fiscal year's Program payments for operating costs plus 65 percent of the preceding fiscal year's Program payments for administrative costs in the State. This amount may be adjusted to reflect changes in reimbursement rates made pursuant to § 225.9(d)(8). However, the State shall not withdraw funds from this Letter of Credit until its Program management and administration plan is approved by FNS.

(2) Based on the State agency's approved management and administration plan, FNS shall, if necessary, adjust the State's Letter of Credit to ensure that 65 percent of estimated current year Program operating and administrative funding needs is available. Such adjustment shall be made no later than May 15, or within 90 days of FNS receipt of the State agency's management and administration plan, whichever date is later.

(3) Subsequent to the adjustment provided for in paragraph (d)(2) of this section, FNS will, if necessary, make one additional adjustment to ensure that the State agency's Letter of Credit contains at least 65 percent of the Program operating and administrative funds needed during the current fiscal year. Such adjustment may be based on the administrative funding assessment provided for in paragraph (c) of this section, if one is conducted, or on any additional information which demonstrates that the funds available in the Letter of Credit do not equal at least 65 percent of current year Program needs. In no case will such adjustments be made later than September 1. Funds made available in the Letter of Credit shall be used by the State agency to make Program payments to sponsors.

(4) The Letter of Credit shall include sufficient funds to enable the State agency to make advance payments to sponsors serving areas in which schools operate under a continuous school calendar. These funds shall be made available no later than the first day of the month prior to the month during which the food service will be conducted.

(5) FNS shall make available any remaining Program funds due within 45 days of the receipt of valid claims for reimbursement from sponsors by the State agency. However, no payment shall be made for claims submitted later than 60 days after the month covered by the claim unless an exception is granted by FNS.

(6) Each State agency shall release to FNS any Program funds which it determines are unobligated as of September 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 calendar days following demand by FNS, and shall be accomplished by an adjustment in the State agency's Letter of Credit.

(e) *Adjustment to Letter of Credit.* Prior to May 15 of each fiscal year, FNS shall make any adjustments necessary in each State's Letter of Credit to reflect actual expenditures in the preceding fiscal year's Program.

(f) *Health inspection funds.* If the State agency's approved management and administration plan estimates a need for health inspection funding, FNS shall make available by letter of credit an amount up to one percent of Program funds estimated to be needed in the management and administration plan. Such amount may be adjusted, based on the administrative funding assessment provided for in paragraph (c) of this section, if such assessment is conducted. Health inspection funds shall be used solely to enable State or local health departments or other governmental agencies charged with health inspection functions to carry out health inspections and meal quality tests, provided that if these agencies cannot perform such inspections or tests, the State agency may use the funds to contract with an independent agency to conduct the inspection or meal quality tests. Funds so provided but not expended or obligated shall be returned to the Department by September 30 of the same fiscal year.

§ 225.6 State agency responsibilities.

(a) *General responsibilities.* (1) The State agency shall provide sufficient qualified consultative, technical, and managerial personnel to administer the Program, monitor performance, and measure progress in achieving Program goals. The State agency shall assign Program responsibilities to personnel to ensure that all applicable requirements under this Part are met.

(2) By February 1 of each fiscal year, each State agency shall announce the purpose, eligibility criteria, and availability of the Program throughout the State, through appropriate means of communication. As part of this effort, each State agency shall compile a list of potential sponsors which have not previously participated in the Program and shall contact them. State agencies shall identify rural areas, Indian tribal territories, and areas with a concentration of migrant farm workers which qualify for the Program and shall actively seek eligible applicant sponsors to serve such areas. State agencies shall identify priority outreach areas in accordance with FNS guidance and target outreach efforts in these areas. The State agency shall encourage potential sponsors to use, to the maximum extent feasible, their own facilities or the facilities of public or nonprofit private schools for the preparation, delivery, and service of meals under the Program.

(3) Each State agency shall require applicant sponsors submitting Program application site information sheets, Program agreements, or a request for advance payments, and sponsors submitting claims for reimbursement to certify that the information submitted on these forms is true and correct and that the sponsor is aware that deliberate misrepresentation or withholding of information may result in prosecution under applicable State and Federal statutes.

(b) *Approval of sponsor applications.* (1) Each State agency shall inform all of the previous year's sponsors which meet current eligibility requirements and all other potential sponsors of the deadline date for submitting a written application for participation in the Program. The State agency shall require that all applicant sponsors submit written applications for Program participation to the State agency by June 15. However, the State agency may establish an earlier deadline date for the Program application submission.

(2) Each State agency shall inform potential sponsors of the procedure for applying for advance operating and administrative costs payments as provided for in § 225.9(c). Where applicable, each State agency shall inform sponsors of the procedure for applying for start-up payments provided for in § 225.9(a).

(3) Within 30 days of receiving a complete and correct application, the State agency shall notify the applicant of its approval or disapproval. If an incomplete application is received, the State agency shall so notify the applicant within 15 days and shall provide technical assistance for the purpose of completing the application. Any disapproved applicant shall be notified of its right to appeal under § 225.13.

(4) The State agency shall determine the eligibility of applicant sponsors applying for participation in the Program in accordance with the applicant sponsor eligibility criteria outlined in § 225.14. However, State agencies may approve the application of an otherwise eligible applicant which does not provide a year-round service to the community which it proposes to serve under the Program only if it meets one or more of the following criteria: (i) It is a residential camp; (ii) it proposes to provide a food service for the children of migrant workers; (iii) a failure to do so would deny the Program to an area in which poor economic conditions exist; or (iv) a significant number of needy children will not otherwise have reasonable access to the Program.

(5) The State agency shall use the following order of priority in approving applicants to operate sites which propose to serve the same area or the same enrolled children:

(i) Applicants which are public or nonprofit private school food authorities and other applicants which have demonstrated successful Program performance in a prior year;

(ii) Applicants which propose to prepare meals at their own facilities or which operate only one site;

(iii) Applicants which propose to utilize local school food service facilities for the preparation of meals;

(iv) Other applicants which have demonstrated ability for successful Program operations; and

(v) Applicants which plan to integrate the Program with Federal, State, or local employment or training programs.

(6) The State agency shall not approve any applicant sponsor to operate more than 200 sites or to serve an average daily attendance of more than 50,000 children unless the applicant can demonstrate to the satisfaction of the State agency that is has the capability of managing a program of that size.

(7) The State agency shall review each applicant's administrative budget as a part of the application approval process in order to assess the applicant's ability to operate in compliance with these regulations within its projected reimbursement. In approving the applicant's administrative budget, the State agency shall take into consideration the number of sites and children to be served, as well as any other relevant factors. A sponsor's administrative budget shall be subject to review for adjustments by the State agency if the sponsor's level of site participation or the number of meals served to children changes significantly.

(8) Applicants which qualify as camps shall be approved for reimbursement only for meals served free to enrolled children who meet the Program's eligibility standards.

(9) The State agency shall not approve the application of any applicant sponsor identifiable through its organization or principals as a sponsor which has been determined to be seriously deficient as described in § 225.11(c). However, the State agency may approve the application of a sponsor which has been disapproved or terminated in prior years in accordance with this paragraph if the applicant demonstrates to the satisfaction of the State agency that it has taken appropriate corrective actions to prevent recurrence of the deficiencies.

(10) If the sponsor's application to participate is denied, the official making the determination of denial must notify the applicant sponsor in writing stating all of the grounds on which the State agency based the denial. Pending the outcome of a review of a denial, the State agency shall proceed to approve other applicants in accordance with its responsibilities under paragraph (b)(5) of this section, without regard to the application under review.

(11) The State agency shall not approve the application of any applicant sponsor which submits fraudulent information or documentation when applying for Program participation or which knowingly withholds information that may lead to the disapproval of its application. Complete information regarding such disapproval of an applicant shall be submitted by the State agency through FNSRO to OIG.

(c) *Content of sponsor application.* (1) The applicant shall submit a written application to the State agency for participation in the Program as a sponsor. The State agency may use the application form developed by FNS or it may develop an application form for use in the Program. Application shall be made on a timely basis in accordance with the deadline date established under § 225.6(b)(1).

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(2) At a minimum, the application shall include:

(i) A site information sheet, as developed by the State agency, for each site where a food service operation is proposed. The site information sheet shall demonstrate or describe the following:

(A) An organized and supervised system for serving meals to attending children;

(B) The estimated number and types of meals to be served and the times of service;

(C) Arrangements, within standards prescribed by the State or local health authorities, for delivery and holding of meals until time of service, and arrangements for storing and refrigerating any leftover meals until the next day;

(D) Arrangements for food service during periods of inclement weather;

(E) Access to a means of communication for making necessary adjustments in the number of meals delivered in accordance with the number of children attending daily at each site;

(F) The geographic area to be served by the site;

(G) The percentage of children in the area to be served by the site who meet the Program's income standards; and

(H) Whether the site is rural, as defined in § 225.2, or non-rural, and whether the site's food service will be self-prepared or vended.

(ii) Along with its site information sheet for a site that is not a camp, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist.

(A) For those sites at which applicants will serve children of migrant workers, the documentation requirement may be met by providing the State agency with data from an organization determined by the State agency to be a migrant organization which supports the eligibility of those children as a group.

(B) When a sponsor proposes to serve a site which it served in the previous year, documentation from the previous year may be used to support the eligibility of the site. For such sites, applicants shall only be required to obtain new documentation every other year.

(iii) Along with its site information sheet for a site which is a camp, documentation showing the number of children enrolled in each session who meet the Program's income standards. If such documentation is not available at the time of application, it shall be submitted as soon as possible thereafter and in no case later than the filing of the camp's claim for reimbursement for each session.

(iv) Information in sufficient detail to enable the State agency to determine whether the applicant meets the criteria for participation in the Program as set forth in Section 225.14; the extent of Program payments needed, including a request for advance payments and start-up payments, if applicable; and a staffing and monitoring plan.

(v) A complete administrative and operating budget for State agency review and approval. The administrative budget shall contain the projected administrative expenses which a sponsor expects to incur during the operation of the Program, and shall include information in sufficient detail to enable the State agency to assess the sponsor's ability to operate the Program within its estimated reimbursement. A sponsor's approved administrative budget shall be subject to subsequent review by the State agency for adjustments in projected administrative costs.

(vi) A plan for and a synopsis of its invitation to bid for food service, if an invitation to bid is required under § 225.15(g).

(vii) A free meal policy statement, as described in paragraph (c)(3) of this section.

(viii) For each applicant which seeks approval under § 225.14(b)(3) as a unit of local, municipal, county or State government, certification that it will directly operate the Program in accordance with § 225.14(d)(4).

(3) Each applicant shall submit a statement of its policy for serving free meals at all sites under its jurisdiction.

(i) The policy statement shall consist of an assurance to the State agency that all children are served the same meals at no separate charge and that there is no discrimination in the course of the food service.

(ii) In addition, the policy statement for camps that charge separately for meals shall include the following:

(A) A statement that the eligibility standards conform to the Secretary's family size and income standards for reduced price school meals;

(B) A description of the method or methods to be used in accepting applications from families for Program meals. Such methods shall ensure that households are permitted to apply on behalf of children who are members of food stamp households or AFDC assistance units using the categorical eligibility procedures described in § 225.15(f);

(C) A description of the method used by camps for collecting payments from children who pay the full price of the meal while preventing the overt identification of children receiving a free meal;

(D) An assurance that the camp will establish a hearing procedure for families wishing to appeal a denial of an application for free meals. Such hearing procedures shall meet the requirements set forth in paragraph (c)(4) of this section;

(E) An assurance that, if a family requests a hearing, the child shall continue to receive free meals until a decision is rendered; and

(F) An assurance that there will be no overt identification of free meal recipients and no discrimination against any child on the basis of race, color, national origin, sex, age, or handicap.

(4) Each applicant that is a camp shall submit with its application a copy of its hearing procedures. At a minimum, these procedures shall provide:

(i) That a simple, publicly announced method will be used for a family to make an oral or written request for a hearing;

(ii) That the family will have the opportunity to be assisted or represented by an attorney or other person;

(iii) That the family will have an opportunity to examine the documents and records supporting the decision being appealed both before and during the hearing;

(iv) That the hearing will be reasonably prompt and convenient for the family;

(v) That adequate notice will be given to the family of the time and place of the hearing;

(vi) That the family will have an opportunity to present oral or documentary evidence and arguments supporting its position;

(vii) That the family will have an opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(viii) That the hearing shall be conducted and the decision made by a hearing official who did not participate in the action being appealed;

(ix) That the decision shall be based on the oral and documentary evidence presented at the hearing and made a part of the record;

(x) That the family and any designated representative shall be notified in writing of the decision;

(xi) That a written record shall be prepared for each hearing which includes the action being appealed, any documentary evidence and a summary of oral testimony presented at the hearing, the decision and the reasons for the decision, and a copy of the notice sent to the family; and

(xii) That the written record shall be maintained for a period of three years following the conclusion of the hearing, during which it shall be available for examination by the family or its representatives at any reasonable time and place.

(d) *Approval of sites.* (1) When evaluating a proposed food service site, the State agency shall ensure that:

(i) If not a camp, the proposed site serves as an area in which poor economic conditions exist, as defined by § 225.2;

(ii) The area which the site proposes to serve is not or will not be served in whole or in part by another site, unless it can be demonstrated to the satisfaction of the State agency that each site will serve children not served by any other site in the same area for the same meal; and

(iii) The site is approved to serve no more than the number of children for which its facilities are adequate.

(2) When approving the application of a site which will serve meals prepared by a food service management company, the State agency shall establish for each meal service an approved level for the maximum number of children's meals which may be served under the Program. These approved levels shall be established in accordance with the following provisions:

(i) The initial maximum approved level shall be based upon the historical record of attendance at the site if such a record has been established in prior years and the State agency determines that it is accurate. The State agency shall develop a procedure for establishing initial maximum approved levels for sites when no accurate record from prior years is available.

(ii) The maximum approved level shall be adjusted, if warranted, based upon information collected during site reviews. If attendance at the site on the day of the review is significantly below the site's approved level, the State agency should consider making a downward adjustment in the approved level with the objective of providing only one meal per child.

(iii) The sponsor may seek an upward adjustment in the approved level for its sites by requesting a site review or by providing the State agency with evidence that attendance exceeds the sites' approved levels.

(iv) Whenever the State agency establishes or adjusts approved levels of meal service for a site, it shall document the action in its files, and it shall provide the sponsor with immediate written confirmation of the approved level.

(v) Upon approval of its application or any adjustment to its maximum approved levels, the sponsor shall inform the food service management company with which it contracts of the approved level for each meal service at each site served by the food service management company. This notification of any adjustments in approved levels shall take place within the time frames set forth in the contract for adjusting meal orders. Whenever the sponsor notifies the food service management company of the approved levels or any adjustments to these levels for any of its sites, the sponsor shall clearly inform the food service management company that an approved level of meal service represents the maximum number of meals which may be served at a site and is not a standing order for a specific number of meals at that site. When the number of children attending is below the site's approved level, the sponsor shall adjust meal orders with the objective of serving only one meal per child as required under § 225.15(b)(3).

(e) *State-Sponsor Agreement.* Sponsors approved for participation in the Program shall enter into written agreements with the State agency. The agreements shall provide that the sponsor shall:

(1) Operate a nonprofit food service during any period from May through September for children on school vacation or at other times for children under a continuous school calendar system;

(2) Serve meals which meet the requirements and provisions set forth in § 225.16 during times designated as meal service periods by the sponsor, and serve the same meals to all children;

(3) Serve meals without cost to all children, except that camps may charge for meals served to children who are not served meals under the Program;

(4) Issue a free meal policy statement in accordance with § 225.6(c);

(5) Meet the training requirement for its administrative and site personnel, as required under § 225.15(d)(1);

(6) Claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children at approved sites during the approved meal service period, except that camps shall claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children who meet the Program's income standards. The agreement shall specify the approved levels of meal service for the sponsor's sites if such levels are required under § 225.6(d)(2). No permanent changes may be made in the serving time of any meal unless the changes are approved by the State agency;

(7) Submit claims for reimbursement in accordance with procedures established by the State agency, and those stated in § 225.9;

(8) In the storage, preparation and service of food, maintain proper sanitation and health standards in conformance with all applicable State and local laws and regulations;

(9) Accept and use, in quantities that may be efficiently utilized in the Program, such foods as may be offered as a donation by the Department;

(10) Have access to facilities necessary for storing, preparing, and serving food;

(11) Maintain a financial management system as prescribed by the State agency;

(12) Maintain on file documentation of site visits and reviews in accordance with § 225.15(d) (2) and (3);

(13) Upon request, make all accounts and records pertaining to the Program available to State, Federal, or other authorized officials for audit or administrative review, at a reasonable time and place. The records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain, unless audit or investigative findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved;

(14) Maintain children on site while meals are consumed; and

(15) Retain final financial and administrative responsibility for its program.

(f) *Special Account.* In addition, the State agency may require any vended sponsor to enter into a special account agreement with the State agency. The special account agreement shall stipulate that the sponsor shall establish a special account with a State agency or Federally insured bank for operating costs payable to the sponsor by the State. The agreement shall also stipulate that any disbursement of monies from the account must be authorized by both the sponsor and the food service management company. The special account agreement may contain such other terms, agreed to by both the sponsor and the food service management company, which are consistent with the terms of the contract between the sponsor and the food service management company. A copy of the special account agreement shall be submitted to the State agency and another copy maintained on file by the sponsor. Any charges made by the bank

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for the account described in this section shall be considered an allowable sponsor administrative cost.

(g) *Food service management company registration.* (1) With the exception of the exemption described in paragraph (g)(9) of this section, each food service management company shall register with the State by March 15 of each fiscal year. A State agency shall consider a food service management company's application for registration submitted after March 15 of the current year only if the State agency determines and documents that failing to consider the company's application could potentially result in a significant number of needy children not having reasonable access to the Program.

(2) By February 1, each State agency shall notify each food service management company which participated in the State's Program during the previous two years that it must register with the State agency. This notification shall include, at a minimum:

(i) A statement that registration with the State agency is a prerequisite to participation in the Program;

(ii) A list of the items which must be submitted with the application for registration as set forth in paragraph (g)(4) of this section;

(iii) A complete description of the criteria developed by the State agency for determining registrant eligibility; and

(iv) Any other information necessary to apply for registration.

In addition, each State agency shall by February 1 issue a public announcement of the registration requirement, including all the information necessary to apply for registration.

(3) Each State agency shall require food service management companies submitting applications for registration to certify that the information submitted is true and correct and that the food service management company is aware that misrepresentation may result in prosecution under applicable State and Federal statues.

(4) At a minimum registration shall require:

(i) Submission of the food service management company's name and mailing address and any other names under which the company has operated during the past two years;

(ii) A certification that the food service management company meets applicable State and local health, safety, and sanitation standards;

(iii) Disclosure of present company owners, directors, and officers, and their relationship in the past two years to any sponsor or food service management company which participated in the Program;

(iv) Records of contract terminations, disallowances, and health, safety, and sanitation code violations related to Program participation during the past two years;

(v) Records of any other contract terminations and health, safety, and sanitation code violations during the past two years;

(vi) The address or addresses of the company's food preparation and distribution facilities which will be used in the Program and the name of the local official responsible for the operation of these facilities;

(vii) The number of Program meals which can be prepared in each preparation facility during a twenty-four hour period;

(viii) A certification that the food service management company will operate in accordance with current Program regulations;

(ix) A statement that the food service management company understands that it will not be paid for meals which are delivered to non-approved sites, or for meals which are delivered to approved sites outside of the agreed upon delivery time, or for meals that do not meet the meal requirements and food specifications contained in the contract between the sponsor and the food service management company;

(x) Submission of a Certified Public Accountant's audit report if an audit was performed during the prior year; and

(xi) A statement as to whether the organization is a minority business enterprise. A minority business enterprise is a business in which:

(A) The management and daily operations of the business are controlled by a member or members of a minority group (minority groups are Blacks, Hispanics, American Indians, Alaskan Natives, Orientals and Aleuts); and

(B) At least 51 percent of which is owned by a member or members of a minority group. If the business is a corporation, at least 51 percent of all classes of voting stock of the corporation must be owned by members of a minority group; if the business is a partnership, at least 51 percent of the partnership must be owned by a member or members of a minority group.

(5) Prior to approving a food service management company's request for registration, the State agency shall provide for inspection of all food preparation facilities listed on the application for registration, except those located outside the State. The State agency shall promptly notify FNSRO of the name and location of any out-of-State facility, and FNSRO shall ensure that the facility is inspected prior to registration. The purpose of the inspection is to evaluate each facility's suitability for preparation of Program meals. The State agency may waive this inspection requirement if a facility was registered during the previous summer and operated in accordance with Program requirements.

(6) No food service management company shall be registered if the State agency determines that the company lacks the administrative and financial capability to perform under the Program or if it is identifiable through its organization or principals as a food service management company which participated in the Program during any previous year and was seriously deficient in its Program operation. Serious deficiencies which are grounds for non-registration include, but are not limited to, any of the following:

(i) Noncompliance with the applicable bid procedures, contract requirements, or Program regulations;

(ii) Submission of false information to the State agency;

(iii) Failure to conform meal deliveries to meal orders;

(iv) Delivery of a significant number of meals which did not meet contract requirements;

(v) Failure to maintain adequate records;

(vi) Significant health code violations which were not corrected upon reinspection;

(vii) Failure to deliver meals; or

(viii) The conviction of any officer, owner, partner, or manager of the company for a crime in connection with the prior Program operation.

(7) The State agency shall notify in writing each food service management company which applied for registration of its determination within 30 calendar days of receiving the complete application. If the application for registration is denied, the official making the determination must notify the food service management company in writing, stating all the grounds on which the State agency based the denial.

(8) Each State agency shall submit information to FNS regarding registration of food service management companies, as required under § 225.8(d).

(9) The following types of food service management companies are exempt from the requirement for registration: (i) A school or school food authority acting as a food service management company; and (ii) a food service management company which has an exclusive contract with a school or school food authority for year-round service and has no contracts with other Program sponsors.

(h) *Monitoring of food service management company procurements.* (1) The State agency shall ensure that sponsors' food service management company procurements are carried out in accordance with §§ 225.15(g) and 225.17 of this Part.

(2) Each State agency shall develop a standard form of contract for use by sponsors in contracting with food service management companies. Sponsors which are public entities, sponsors with exclusive year-round contracts with a food service management company, and sponsors whose food service management company contract(s) do not exceed $10,000 in aggregate value may use their existing or usual form of contract, provided that such form of contract has been submitted to and approved by the State agency. The standard contract developed by the State agency shall expressly and without exception provide that:

(i) All meals prepared by a food service management company shall be unitized, with or without milk or juice, unless the State agency has approved, pursuant to paragraph (h)(3) of this section, a request for exceptions to the unitizing requirement for certain components of a meal;

(ii) A food service management company entering into a contract with a sponsor under the Program shall not subcontract for the total meal, with or without milk, or for the assembly of the meal;

(iii) The sponsor shall provide to the food service management company a list of State agency approved food service sites, along with the approved level for the number of meals which may be claimed for reimbursement for each site, established under § 225.6(d)(2), and shall notify the food service management company of all sites which have been approved, cancelled, or terminated subsequent to the submission of the initial approved site list and of any changes in the approved level of meal service for a site. Such notification shall be provided within the time limits mutually agreed upon in the contract;

(iv) The food service management company shall maintain such records (supported by invoices, receipts, or other evidence) as the sponsor will need to meet its responsibilities under this Part, and shall submit all required reports to the sponsor promptly at the end of each month, unless more frequent reports are required by the sponsor;

(v) The food service management company shall have State or local health certification for the facility in which it proposes to prepare meals for use in the Program, and it shall ensure that health and sanitation requirements are met at all times. In addition, the food service management company shall provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals being served. These levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals served by other food service establishments in the locality. The results of the inspections shall be submitted promptly to the sponsor and to the State agency;

(vi) The meals served under the contract shall conform to the cycle menus and meal quality standards and food specifications approved by the State agency and upon which the bid was based;

(vii) The books and records of the food service management company pertaining to the sponsor's food service operation shall be available for inspection and audit by representatives of the State agency, the Department and the U.S. General Accounting Office at any reasonable time and place for a period of 3 years from the date of receipt of final payment under the contract, except that, if audit or investigation findings have not been resolved, such records shall be retained until all issues raised by the audit or investigation have been resolved;

(viii) The sponsor and the food service management company shall operate in accordance with current Program regulations;

(ix) The food service management company shall be paid by the sponsor for all meals delivered in accordance with the contract and this Part. However, neither the Department nor the State agency assumes any liability for payment of differences between the number of meals delivered by the food service management company and the number of meals served by the sponsor that are eligible for reimbursement;

(x) Meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(xi) Increases and decreases in the number of meals ordered shall be made by the sponsor, as needed, within a prior notice period mutually agreed upon;

(xii) All meals served under the Program shall meet the requirements of § 225.16;

(xiii) In cases of nonperformance or noncompliance on the part of the food service management company, the company shall pay the sponsor for any excess costs which the sponsor may incur by obtaining meals from another source;

(xiv) If the State agency requires the sponsor to establish a special account for the deposit of operating costs payments in accordance with the conditions set forth in § 225.6(f), the contract shall so specify;

(xv) The food service management company shall submit records of all costs incurred in the sponsor's food service operation in sufficient time to allow the sponsor to prepare and submit the claim for reimbursement to meet the 60-day submission deadline; and

(xvi) The food service management company shall comply with the appropriate bonding requirements, as set forth in § 225.15(g) (6)–(8).

(3) All meals prepared by a food service management company shall be unitized, with or without milk or juice, unless the sponsor submits to the State agency a request for exceptions to the unitizing requirement for certain components of a meal. These requests shall be submitted to the State agency in writing in sufficient time for the State agency to respond prior to the sponsor's advertising for bids. The State agency shall notify the sponsor in writing of its determination in a timely manner.

(4) Each State agency shall have a representative present at all food service management company procurement bid openings when sponsors are expected to receive more than $100,000 in Program payments.

(5) Copies of all contracts between sponsors and food service management companies, along with a certification of independent price determination, shall be submitted to the State agency prior to the beginning of Program operations. Sponsors shall also submit to the State agency copies of all bids received and their reason for selecting the food service management company chosen.

(6) All bids in an amount which exceeds the lowest bid shall be submitted to the State agency for approval before acceptance. All bids totaling $100,000 or more shall be submitted to the State agency for approval before acceptance. State agencies shall respond to a request for approval of such bids within 5 working days of receipt.

(7) Failure by a sponsor to comply with the provisions of this paragraph or § 225.15(m) shall be sufficient grounds for the State agency to terminate participation by the sponsor in accordance with § 225.18(b).

(i) *Meal pattern exceptions.* The State agency shall review and act upon requests for exceptions to the meal

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pattern in accordance with the guidelines and limitations set forth in § 225.16.

§ 225.7 Program monitoring and assistance.

(a) *Training.* Prior to the beginning of Program operations, each State agency shall make available training in all necessary areas of Program administration to sponsor personnel, food service management company representatives, auditors, and health inspectors who will participate in the Program in that State. Prior to Program operations, the State agency shall ensure that the sponsor's supervisory personnel responsible for the food service receive training in all necessary areas of Program administration and operations. This training shall reflect the fact that individual sponsors or groups of sponsors require different levels and areas of Program training. State agencies are encouraged to utilize in such training, and in the training of site personnel, sponsor personnel who have previously participated in the Program. Training should be made available at convenient locations.

(b) *Program materials.* Each State agency shall develop and make available all necessary Program materials in sufficient time to enable applicant sponsors to prepare adequately for the Program.

(c) *Food specifications and meal quality standards.* With the assistance of the Department, each State agency shall develop and make available to all sponsors minimum food specifications and model meal quality standards which shall become part of all contracts between vended sponsors and food service management companies.

(d) *Program monitoring and assistance.* The State agency shall conduct Program monitoring and provide Program assistance according to the following provisions:

(1) *Pre-approval visits.* The State agency shall conduct pre-approval visits of sponsors and sites, as specified below, to assess the applicant sponsor's or site's potential for successful Program operations and to verify information provided in the application. The State agency shall visit prior to approval:

(i) All applicant sponsors which did not participate in the program in the prior year. However, if a sponsor is a school food authority, has been reviewed by the State agency under the National School Lunch Program during the preceding 12 months, and had no significant deficiencies noted in that review, a pre-approval visit may be conducted at the discretion of the State agency;

(ii) All applicant sponsors which, as a result of operational problems noted in the prior year, the State agency has determined need a pre-approval visit; and

(iii) All proposed nonschool sites with an expected average daily attendance of 300 children or more which did not participate in the Program in the prior year.

(2) *Sponsor and site reviews.* The State agency shall review sponsors and sites to ensure compliance with Program regulations, the Department's nondiscrimination regulations (7 CFR Part 15) and any other applicable instructions issued by the Department. In determining which sponsors or sites to review under this paragraph, the State agency shall, at a minimum, consider the sponsors' and sites' previous participation in the Program, their current and previous Program performance, and the results of any previous reviews of the sponsor and sites. Reviews shall be conducted as follows:

(i) State agencies shall conduct both a review of sponsor operations and review an average of 15 percent of the following sponsors' sites during their first four weeks of operation:

(A) Sponsors which have 10 or more sites and which did not operate the Program in the prior year; and

(B) Other sponsors of 10 or more sites which are determined by the State agency to need early reviews.

(ii) In addition, the State agency shall conduct the following reviews at least once during the Program:

(A) For all remaining sponsors with 10 or more sites, an average of at least 15 percent of their sites; and

(B) For 70 percent of sponsors with fewer than 10 sites, an average of at least 10 percent of their sites.

(3) *Follow-up reviews.* The State agency shall conduct follow-up reviews of sponsors and sites as necessary.

(4) *Monitoring system.* Each State agency shall develop and implement a monitoring system to ensure that sponsors, including site personnel, and the sponsor's food service management company, if applicable, immediately receive a copy of any review reports which indicate Program violations and which could result in a Program disallowance.

(5) *Records.* Documentation of Program assistance and the results of such assistance shall be maintained on file by the State agency.

(6) *Food service management company facility visits.* As a part of the review of any vended sponsor which contracts for the preparation of meals, the State agency shall inspect the food service management company's facilities. Each State agency shall establish an order of priority for visiting facilities at which food is prepared for the Program. The State agency shall respond promptly to complaints concerning facilities. If a food service management company fails to correct violations noted by the State agency during a review, the State agency shall notify the sponsor and the food service management company that reimbursement shall not be paid for meals prepared by the food service management company after a date specified in the notification. Funds provided for in § 225.5(f) may be used for conducting food service management company facility inspections.

(7) *Forms for reviews by sponsors.* Each State agency shall develop and provide monitor review forms to all approved sponsors. These forms shall be completed by sponsor monitors. The monitor review form shall include, but not be limited to, the time of the reviewer's arrival and departure, the site supervisor's signature, a certification statement to be signed by the monitor, the number of meals prepared or delivered, the number of meals served to children, the deficiencies noted, the corrective actions taken by the sponsor, and the date of such actions.

(8) *Statistical monitoring.* State agencies may use statistical monitoring procedures in lieu of the site monitoring requirements prescribed in paragraph (d)(2) of this section to accomplish the monitoring and technical assistance aspects of the Program. State agencies which use statistical monitoring procedures may use the findings in evaluating claims for reimbursement. Statistical monitoring may be used for some or all of a State's sponsors. Use of statistical monitoring does not eliminate the requirements for reviewing sponsors as specified in paragraph (d)(2) of this section.

(9) *Corrective actions.* Corrective actions which the State agency may take when Program violations are observed during the conduct of a review are discussed in § 225.11. The State agency shall conduct follow-up reviews as appropriate when corrective actions are required.

(e) *Other facility inspections and meal quality tests.* In addition to those inspections required by paragraph (d)(6) of this section, the State agency may also conduct, or arrange to have conducted: inspections of self-preparation and vended sponsors' food preparation facilities; inspections of food service sites; and meal quality tests. The procedures for carrying out these inspections and tests shall be consistent with procedures used by local health authorities. For inspections of food service management companies' facilities not conducted by State agency personnel, copies of the results shall be provided to the State agency. The company and the sponsor shall also immediately receive a copy of the results of these inspections when corrective action is required. If a food service management company fails to correct violations noted by the State agency during a review, the State agency shall notify the sponsor and the food service management company that reimbursement shall not be paid for meals prepared by the food service management company after a date specified in the notification. Funds provided for in § 225.5(f) may be used for conducting these inspections and tests.

(f) *Financial management.* Each State agency shall establish a financial management system, in accordance with the Department's Uniform Financial Assistance Regulations (7 CFR Part 3015) and FNS guidance, to identify allowable Program costs and to establish standards for sponsor recordkeeping and reporting. The State agency shall provide guidance on these financial management standards to each sponsor.

(g) *Nondiscrimination.* (1) Each State agency shall comply with all requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Department's regulations concerning nondiscrimination (7 CFR Parts 15, 15a and 15b), including requirements for racial and ethnic participation data collection, public notification of the nondiscrimination policy, and reviews to assure compliance with such policy, to the end that no person shall, on the grounds of race, color, national origin, sex, age, or handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, the Program.

(2) Complaints of discrimination filed by applicants or participants shall be referred to FNS or the Secretary of Agriculture, Washington, DC 20250. A State agency which has an established grievance or complaint handling procedure may resolve sex and handicap discrimination complaints before referring a report to FNS.

§ 225.8 Records and reports.

(a) Each State agency shall maintain complete and accurate current accounting records of its Program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, income, claims against sponsors and efforts to recover overpayments, and expenditures for administrative and operating costs. These records shall be retained for a period of three years after the date of the submission of the final Program Operations and Financial Status Report (SF–269), except that, if audit findings have not been resolved, the affected records shall be retained beyond the three year period until such time as any issues raised by the audit findings have been resolved. The State agency shall also retain a complete record of each review or appeal conducted, as required under § 225.13, for a period of three years following the date of the final determination on the review or appeal. Records may be kept in their original form or on microfilm.

(b) Each State agency shall submit to FNS a final report on the Summer Food Service Program Operations (FNS–418) for each month no more than 90 days following the last day of the month covered by the report. States shall not receive Program funds for any month for which the final report is not postmarked and/or submitted within this time limit unless FNS grants an exception. Upward adjustments to a State's report shall not be made after 90 days from the month covered by the report unless authorized by FNS. Downward adjustments shall always be made without FNS authorization, regardless of when it is determined that such adjustments need to be made. Adjustments to a State's report shall be reported to FNS in accordance with procedures established by FNS. Each State agency shall also submit to FNS a quarterly Financial Status Report (SF–269) on the use of Program funds. Such reports shall be submitted no later than 30 days after the end of each fiscal year quarter. Obligations shall be reported only for the fiscal year in which they occur. Action may be taken against the State agency, in accordance with § 225.5(a)(1), for failure to submit accurate and timely reports.

(c) The State agency must submit to FNS a final Financial Status Report no later than 120 days after the end of the fiscal year, on a form (SF–269) provided by FNS. Any requested increase in reimbursement levels for a fiscal year resulting from corrective action taken after submission of the final Program Operations and Financial Status Reports shall be submitted to FNS for approval. The request shall be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves such an increase, it will make payment, subject to availability of funds. Any reduction in reimbursement for that fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 225.12(d), except that amounts recovered may not be used to make Program payments.

(d) By October 15, each State agency shall submit to FNS, on a form provided by FNS, information concerning each food service management company which applied to the State agency for registration for that calendar year's Program. This information shall be made available to State agencies upon request in order to ensure that only qualified food service management companies contract for services in all States. FNS shall allow any food service management company to review the information concerning that company which was submitted to FNS in accordance with this paragraph.

§ 225.9 Program assistance to sponsors.

(a) *Start-up payments.* At their discretion, State agencies may make start-up payments to sponsors which have executed Program agreements. Start-up payments shall not be made more than two months before the sponsor is scheduled to begin food service operations and shall not exceed 20 percent of the sponsor's approved administrative budget. The amount of the start-up payment shall be deducted from the first advance payment for administrative costs or, if the sponsor does not receive advance payments, from the first administrative reimbursement.

(b) *Commodity assistance.* (1) Sponsors eligible to receive commodities under the Program include: self-preparation sponsors; sponsors which have entered into an agreement with a school or school food authority for the preparation of meals; and sponsors which are school food authorities and have competitively procured Program meals from the same food service management company from which they competitively procured meals for the National School Lunch Program during the last period in which school was in session. The State agency shall make available to these sponsors information on available commodities. Sponsors shall use in the Program food donated by the Department and accepted by sponsors.

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(2) Not later than June 1 of each year, State agencies shall prepare a list of the sponsors which are eligible to receive commodities and the average daily number of eligible meals to be served by each of these sponsors. If the State agency does not handle the distribution of commodities donated by the Department, this list shall be forwarded to the agency of the State responsible for the distribution of commodities. The State agency shall be responsible for promptly revising the list to reflect additions or terminations of sponsors and for adjusting the average daily participation data as it deems necessary.

(c) *Advance payments.* At the sponsor's request, State agencies shall make advance payments to sponsors which have executed Program agreements in order to assist these sponsors in meeting operating costs and administrative expenses. For sponsors operating under a continuous school calendar, all advance payments shall be forwarded on the first day of each month of operation. Advance payments shall be made by the dates specified in paragraphs (c) (1) and (2) of this section for all other sponsors whose requests are received at least 30 days prior to those dates. Requests received less than 30 days prior to those dates shall be acted upon within 30 days of receipt. When making advance payments, State agencies shall observe the following criteria:

(1) *Operating costs.* (i) State agencies shall make advance payments for operating costs by June 1, July 15, and August 15. To be eligible for the second advance payment, the sponsor must have conducted training sessions covering Program duties and responsibilities for its own personnel and for site personnel. A sponsor shall not receive advance operating cost payments for any month in which it will participate in the Program for less than ten days.

(ii) To determine the amount of the advance payment to any sponsor, the State agency shall employ whichever of the following methods will result in the larger payment:

(A) The total operating costs paid to the sponsor for the same calendar month in the preceding year; or

(B) for vended sponsors, 50 percent of the amount determined by the State agency to be needed that month for meals, and, for self-preparation sponsors, 65 percent of the amount determined by the State agency to be needed that month for meals.

(2) *Administrative costs.* (i) State agencies shall make advance payments for administrative costs by June 1 and July 15. To be eligible for the second advance payment, the sponsor must certify that it is operating the number of sites for which the administrative budget was approved and that its projected administrative costs do not differ significantly from the approved budget. A sponsor shall not receive advance administrative costs payments for any month in which it will participate in the Program for less than 10 days. However, if a sponsor operates for less than 10 days in June but for at least 10 days in August, the second advance administrative costs payment shall be made by August 15.

(ii) Each payment shall equal one-third of the total amount which the State agency determines the sponsor will need to administer its program. For sponsors which will operate for 10 or more days in only one month and, therefore, will qualify for only one advance administrative costs payment, the payment shall be no less than one-half, and no more than two-thirds, of the total amount which the State agency determines the sponsor will need to administer its program.

(3) *Advance payment estimates.* When determining the amount of advance payments payable to the sponsor, the State agency shall make the best possible estimate based on the sponsor's request and any other available data. Under no circumstances may the amount of the advance payment for operating or administrative costs exceed the amount estimated by the State agency to be needed by the sponsor to meet operating or administrative costs, respectively.

(4) *Limit.* The sum of the advance operating and administrative costs payments to a sponsor for any one month shall not exceed $40,000 unless the State agency determines that a larger payment is necessary for the effective operation of the Program and the sponsor demonstrates sufficient administrative and managerial capability to justify a larger payment.

(5) *Deductions from advance payments.* The State agency shall deduct from either advance operating payments or advance administrative payments the amount of any previous payment which is under dispute or which is part of a demand for recovery under § 225.12.

(6) *Withholding of advance payments.* If the State agency has reason to believe that a sponsor will not be able to submit a valid claim for reimbursement covering the month for which advance payments have already been made, the subsequent month's advance payment shall be withheld until a valid claim is received.

(7) *Repayment of excess advance payments.* Upon demand of the State agency, sponsors shall repay any advance Program payments in excess of the amount cited on a valid claim for reimbursement.

(d) *Reimbursements.* Sponsors shall not be eligible for reimbursements for operating and administrative costs unless they have executed an agreement with the State agency. All reimbursements shall be in accordance with the terms of this agreement. Reimbursements shall not be paid for meals served at a site before the sponsor has received written notification that the site has been approved for participation in the Program. Income accruing to a sponsor's program shall be deducted from combined operating and administrative costs. The State agency may make full or partial reimbursement upon receipt of a claim for reimbursement, but shall first make any necessary adjustments in the amount to be paid. The following requirements shall be observed in submitting and paying claims:

(1) No reimbursement may be issued until the sponsor certifies that it operated all sites for which it is approved and that there has been no significant change in its projected administrative costs since its preceding claim and, for a sponsor receiving an advance payment for only one month, that there has been no significant change in its projected administrative costs since its initial advance administrative costs payment.

(2) Sponsors which operate less than 10 days in the final month of operations shall submit a combined claim for the final month and the immediate preceding month within 60 days of the last day of operation.

(3) The State agency shall forward reimbursements within 45 days of receiving valid claims. If a claim is incomplete or invalid, the State agency shall return the claim to the sponsor within 30 days with an explanation of the reason for disapproval. If the sponsor submits a revised claim, final action shall be completed within 45 days of receipt.

(4) Claims for reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the Reports of Summer Food Service Program Operations required under § 225.8(b). In submitting a claim for reimbursement, each sponsor shall certify that the claim is correct and that records are available to support this claim. Failure to maintain such records may be grounds for denial of reimbursement for meals served and/or administrative costs claimed during the period covered by the records in question. The costs of meals served to adults performing necessary food service labor may be included in the claim. Under no circumstances may a sponsor claim the cost of any disallowed meals as operating costs.

(5) A final Claim for Reimbursement shall be postmarked and/or submitted to the State agency not later than 60 days after the last day of the month covered by the claim. State agencies may establish shorter deadlines at their discretion. Claims not filed within the 60 day deadline shall not be paid with Program funds unless FNS determines that an exception should be granted. The State agency shall promptly take corrective action with respect to any Claim for Reimbursement as determined necessary through its claim review process or otherwise. In taking such corrective action, State agencies may make upward adjustments in Program funds claimed on claims filed within the 60 day deadline if such adjustments are completed within 90 days of the last day of the month covered by the claim and are reflected in the final Program Operations Report (FNS–418). Upward adjustments in Program funds claimed which are not reflected in the final FNS–418 for the month covered by the claim cannot be made unless authorized by FNS. Downward adjustments in Program funds claimed shall always be made without FNS authorization, regardless of when it is determined that such adjustments are necessary.

(6) Payments to a sponsor for operating costs shall equal the lesser of the following totals:

(i) The actual operating costs incurred by the sponsor; or

(ii) The sum of the amounts derived by multiplying the number of meals, by type, actually served under the sponsor's program to eligible children by the current rates for each meal type, as adjusted in accordance with paragraph (d)(8) of this section.

(7) Payments to a sponsor for administrative costs shall equal the lowest of the following totals:

(i) The amount estimated in the sponsor's approved administrative budget (taking into account any amendments);

(ii) The actual administrative costs incurred by the sponsor; or

(iii) The sum of the amounts derived by multiplying the number of meals, by type, actually served under the sponsor's program to eligible children by the current administrative rates for each meal type, as adjusted in accordance with paragraph (d)(8) of this section. Sponsors shall be eligible to receive additional administrative reimbursement for each meal served to participating children at rural or self-preparation sites, and the rates for such additional administrative reimbursement shall be adjusted in accordance with paragraph (d)(8) of this section.

(8) Each January 1, FNS shall publish a notice in the **Federal Register** announcing any adjustment to the reimbursement rates described in paragraphs (d) (6)(ii) and (7)(iii) of this section. Adjustments shall be based upon changes in the series for food away from home of the Consumer Price Index for all Urban Consumers since the establishment of the rates.

(9) Sponsors of camps shall be reimbursed only for meals served to children in camps whose eligibility for Program meals is documented.

(10) If a State agency has reason to believe that a sponsor or food service management company has engaged in unlawful acts in connection with Program operations, evidence found in audits, reviews, or investigations shall be a basis for nonpayment of the applicable sponsor's claims for reimbursement.

(e) The sponsor may claim reimbursement for any meals which are examined for meal quality by the State agency, auditors, or local health authorities and found to meet the meal pattern requirements.

(f) The sponsor shall not claim reimbursement for meals served to children at any site in excess of the site's approved level of meal service, if one has been established under § 225.6(d)(2). However, the total number of meals for which operating costs are claimed may exceed the approved level of meal service if the meals exceeding this level were served to adults performing necessary food service labor in accordance with paragraph (d)(4) of this section. In reviewing a sponsor's claim, the State agency shall ensure that reimbursements for second meals are limited to the percentage tolerance established in § 225.15(b)(4).

§ 225.10 Audits and management evaluations.

(a) *Audits.* State agencies shall arrange for audits of their own operations to be conducted in accordance with the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015). Unless otherwise exempt, sponsors shall arrange for audits to be conducted in accordance with 7 CFR Part 3015. State agencies shall provide OIG with full opportunity to audit the State agency and sponsors. Each State agency shall make available its records, including records of the receipt and expenditure of funds, upon a reasonable request from OIG. While OIG shall rely to the fullest extent feasible upon State-sponsored audits of sponsors, it shall, when considered necessary, (1) make audits on a State-wide basis, (2) perform on-site test audits, and (3) review audit reports and related working papers of audits performed by or for State agencies.

(b) *Management evaluations.* (1) State agencies shall provide FNS with full opportunity to conduct management evaluations (including visits to sponsors) of all operations of the State agency. Each State agency shall make available its records, including records of the receipts and expenditures of funds, upon a reasonable request by FNS.

(2) The State agency shall fully respond to any recommendations made by FNSRO pursuant to the management evaluation.

(3) FNSRO may require the State agency to submit on 20 days notice a corrective action plan regarding serious problems observed during any phase of the management evaluation.

(c) *Disregards.* In conducting management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard overpayment which does not exceed $100 or, in the case of State agency administered programs, does not exceed the amount established by State law, regulations or procedures as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, when there are unpaid claims for the same fiscal year from which the overpayment can be deducted or when there is substantial evidence of violation of criminal law or civil fraud statutes.

§ 225.11 Corrective action procedures.

(a) *Purpose.* The provisions in this section shall be used by the State agency to improve Program performance.

(b) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. The State agency shall maintain on file all evidence relating to such investigations and actions. The State agency shall inform the appropriate FNSRO of any suspected fraud or criminal abuse in the Program which would result in a loss or misuse of Federal funds. The

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Department may make investigations at the request of the State agency, or where the Department determines investigations are appropriate.

(c) *Denial of applications and termination of sponsors.* Except as specified below, the State agency shall not enter into an agreement with any applicant sponsor identifiable through its corporate organization, officers, employees, or otherwise, as an institution which participated in any Federal child nutrition program and was seriously deficient in its operation of any such program. The State agency shall terminate the Program agreement with any sponsor which it determines to be seriously deficient. However, the State agency shall afford a sponsor reasonable opportunity to correct problems before terminating the sponsor for being seriously deficient. The State agency may approve the application of a sponsor which has been disapproved or terminated in prior years in accordance with this paragraph if the sponsor demonstrates to the satisfaction of the State agency that the sponsor has taken appropriate corrective actions to prevent recurrence of the deficiencies. Serious deficiencies which are grounds for disapproval of applications and for termination include, but are not limited to, any of the following:

(1) Noncompliance with the applicable bid procedures and contract requirements of Federal child nutrition program regulations;

(2) The submission of false information to the State agency;

(3) Failure to return to the State agency any start-up or advance payments which exceeded the amount earned for serving meals in accordance with this Part, or failure to submit all claims for reimbursement in any prior year, provided that failure to return any advance payments for months for which claims for reimbursement are under dispute from any prior year shall not be grounds for disapproval in accordance with this paragraph.

(4) Program violations at a significant proportion of the sponsor's sites. Such violations include, but are not limited to, the following:

(i) Noncompliance with the meal service time restrictions set forth at § 225.16(c);

(ii) Failure to maintain adequate records;

(iii) Failure to adjust meal orders to conform to variations in the number of participating children;

(iv) The simultaneous service of more than one meal to any child;

(v) The claiming of Program payments for meals not served to participating children;

(vi) Service of a significant number of meals which did not include required quantities of all meal components;

(vii) Excessive instances of off-site meal consumption;

(viii) Continued use of food service management companies that are in violation of health codes.

(d) *Meal service restriction.* With the exception for residential camps set forth at § 225.16(b)(1)(ii), the State agency shall restrict to one meal service per day:

(1) Any food service site which is determined to be in violation of the time restrictions for meal service set forth at § 225.16(c) when corrective action is not taken within a reasonable time as determined by the State agency; and

(2) All sites under a sponsor if more than 20 percent of the sponsor's sites are determined to be in violation of the time restrictions set forth at § 225.16(c). If this action results in children not receiving meals under the Program, the State agency shall make reasonable effort to locate another source of meal service for these children.

(e) *Meal disallowances.* (1) If the State agency determines that a sponsor has failed to plan, prepare, or order meals with the objective of providing only one meal per child at each meal service at a site, the State agency shall disallow the number of children's meals prepared or ordered in excess of the number of children served.

(2) If the State agency observes meal service violations during the conduct of a site review, the State agency shall disallow as meals served to children all of the meals observed to be in violation.

(3) The State agency shall also disallow children's meals which are in excess of a site's approved level established under § 225.6(d)(2).

(f) *Corrective action and termination of sites.* (1) Whenever the State agency observes violations during the course of a site review, it shall require the sponsor to take corrective action. If the State agency finds a high level of meal service violations, the State agency shall require a specific immediate corrective action plan to be followed by the sponsor and shall either conduct a follow-up visit or in some other manner verify that the specified corrective action has been taken.

(2) The State agency shall terminate the participation of a sponsor's site if the sponsor fails to take action to correct the Program violations noted in a State agency review report within the timeframes established by the corrective action plan.

(3) The State agency shall immediately terminate the participation of a sponsor's site if during a review it determines that the health or safety of the participating children is imminently threatened.

(4) If the site is vended, the State agency shall within 48 hours notify the food service management company providing meals to the site of the site's termination.

§ 225.12 Claims against sponsors.

(a) The State agency shall disallow any portion of a claim for reimbursement and recover any payment to a sponsor not properly payable under this Part, except as provided for in § 225.10(c). State agencies may consider claims for reimbursement not properly payable if a sponsor's records do not justify all costs and meals claimed. However, the State agency shall notify the sponsor of the reasons for any disallowance or demand for repayment.

(b) Minimum State agency collection procedures for unearned payments shall include:

(1) Written demand to the sponsor for the return of improper payments;

(2) If after 30 calendar days the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, a second written demand for the return of improper payments, sent by certified mail, return receipt requested;

(3) If after 60 calendar days following the original written demand, the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, a third written demand for the return of improper payments, sent by certified mail, return receipt requested; and

(4) If after 90 calendar days following the original written demand, the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, the State agency shall refer the claim against the sponsor to the appropriate State or Federal authorities for pursuit of legal remedies.

(c) If FNS does not concur with the State agency's action in paying a sponsor or in failing to collect an overpayment, FNS shall notify the State agency of its intention to assert a claim against the State agency. In all such cases, the State agency shall have full opportunity to submit evidence concerning the action taken. The State agency shall be liable to FNS for failure to collect an overpayment unless FNS determines that the State agency has conformed with this Part in issuing the payment and has exerted reasonable efforts in accordance with paragraph (b) of this section to recover the improper payment.

(d) The amounts recovered by the State agency from sponsors may be utilized to make Program payments to sponsors for the period for which the funds were initially available and/or to repay the State for any of its own funds used to make payments on claims for reimbursement. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this Part.

§ 225.13 Appeal procedures.

(a) Each State agency shall establish a procedure to be followed by an applicant appealing: a denial of an application for participation; a denial of a sponsor's request for an advance payment; a denial of a sponsor's claim for reimbursement (except for late submission under § 225.9(d)(5)); a State agency's refusal to forward to FNS an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim; a claim against a sponsor for remittance of a payment; the termination of the sponsor or a site; a denial of a sponsor's application for a site; a denial of a food service management company's application for registration; or the revocation of a food service management company's registration. Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under § 225.9(d)(5).

(b) At a minimum, appeal procedures shall provide that:

(1) The sponsor or food service management company be advised in writing of the grounds upon which the State agency based the action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also state that the sponsor or food service management company has the right to appeal the State's action;

(2) The sponsor or food service management company be advised in writing that the appeal must be made within a specified time and must meet the requirements of paragraph (b)(4) of this section. The State agency shall establish this period of time at not less than one week nor more than two weeks from the date on which the notice of action is received;

(3) The appellant be allowed the opportunity to review any information upon which the action was based;

(4) The appellant be allowed to refute the charges contained in the notice of action either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by the appellant within seven days of submitting the appeal, must clearly identify the State agency action being appealed, and must include a photocopy of the notice of action issued by the State agency;

(5) A hearing be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter appealing the action. The appellant may retain legal counsel or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official;

(6) If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;

(7) The hearing be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received in accordance with paragraphs (b) (4) and (5) of this section;

(8) The review official be independent of the original decision-making process;

(9) The review official make a determination based on information provided by the State agency and the appellant, and on Program regulations;

(10) Within 5 working days after the appellant's hearing, or within 5 working days after receipt of written documentation if no hearing is held, the reviewing official make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested;

(11) The State agency's action remain in effect during the appeal process. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action; and

(12) The determination by the State review official is the final administrative determination to be afforded to the appellant.

(c) The State agency shall send written notification of the complete appeal procedures and of the actions which are appealable, as specified in paragraph (a) of this section, to each potential sponsor applying to participate and to each food service management company applying to register in accordance with § 225.6(g).

(d) A record regarding each review shall be kept by the State agency, as required under § 225.8(a). The record shall document the State agency's compliance with these regulations and shall include the basis for its decision.

Subpart C—Sponsor and Site Provisions

§ 225.14 Requirements for sponsor participation.

(a) *Applications.* Sponsors shall make written application to the State agency to participate in the Program. Such application shall be made on a timely basis in accordance with the requirements of § 225.6(b)(1).

(b) *Sponsor eligibility.* Applicants eligible to sponsor the Program include:

(1) Public or nonprofit private school food authorities;

(2) Public or nonprofit private residential summer camps;

(3) Units of local, municipal, county, or State governments; and

(4) Public or private nonprofit colleges or universities which are currently participating in the National Youth Sports Program.

(c) *General requirements.* No applicant sponsor shall be eligible to participate in the Program unless it:

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at which it proposes to conduct a food service;

(2) Has not been seriously deficient in operating the Program;

(3) Will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist, or qualifies as a camp;

(4) Has adequate supervisory and operational personnel for overall monitoring and management of each site, including adequate personnel to conduct the visits and reviews required in §§ 225.15(d) (2) and (3);

(5) Provides an ongoing year-round service to the community which it proposes to serve under the Program, except as provided for in § 225.6(b)(4);

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(6) Certifies that all sites have been visited and have the capability and the facilities to provide the meal service planned for the number of children anticipated to be served;

(7) Enters into a written agreement with the State agency upon approval of its application, as required in § 225.6(e).

(d) *Requirements specific to sponsor types.* (1) If the sponsor is not a camp, it shall provide documentation that its food service will serve children from an area in which poor economic conditions exist, as defined in § 225.2.

(2) If the sponsor is a camp, it shall certify that it will collect information on participants' eligibility to support its claim for reimbursement.

(3) If the sponsor administers the Program at sites at which summer school is in session, it shall ensure that such sites are open both to children enrolled in summer school and to all children residing in the area served by the site.

(4) Sponsors which are units of local, municipal, county or State government shall be approved to administer the Program only at sites over which they have direct operational control. Such operational control means that the sponsor shall be responsible for: (i) Managing site staff, including such areas as hiring, terminating and determining conditions of employment for site staff; and (ii) exercising management control over Program operations at sites throughout the period of Program participation by performing the functions specified in § 225.15.

§ 225.15 Management responsibilities of sponsors.

(a) *General.* (1) Sponsors shall operate the food service in accordance with: the provisions of this Part; any instructions and handbooks issued by FNS under this Part; and any instructions and handbooks issued by the State agency which are not inconsistent with the provisions of this Part.

(2) Sponsors shall not claim reimbursement under Parts 210, 215, 220, or 226 of this chapter, or any other Federally-funded program, for Program meals; *provided, however,* that funds provided under the National Youth Sports Program may be used to supplement reimbursement for Program meals. Sponsors which are school food authorities may use facilities, equipment and personnel supported by funds provided under this Part to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 (42 U.S.C. 3001 *et seq.*).

(3) No sponsor may contract out for the management responsibilities of the Program described in this section.

(b) *Meal Ordering.* (1) Each sponsor shall, to the maximum extent feasible, utilize either its own food service facilities or obtain meals from a school food service facility. If the sponsor obtains meals from a school food service facility, the applicable requirements of this Part shall be embodied in a written agreement between the sponsor and the school.

(2) Upon approval of its application or any adjustment in the approved levels of meal service for its sites established under § 225.6(d)(2), vended sponsors shall inform their food service management company of the approved level at each site for which the food service management company will provide meals.

(3) Sponsors shall plan for and prepare or order meals on the basis of participation trends with the objective of providing only one meal per child at each meal service. The sponsor shall make the adjustments necessary to achieve this objective using the results from its monitoring of sites. For sites for which approved levels of meal service have been established in accordance with § 225.6(d)(2), the sponsor shall adjust the number of meals ordered or prepared with the objective of providing only one meal per child whenever the number of children attending the site is below the approved level. The sponsor shall not order or prepare meals for children at any site in excess of the site's approved level, but may order or prepare meals above the approved level if the meals are to be served to adults performing necessary food service labor in accordance with § 225.9(d)(4). Records of participation and of preparation or ordering of meals shall be maintained to demonstrate positive action toward meeting this objective.

(4) In recognition of the fluctuation in participation levels which makes it difficult to estimate precisely the number of meals needed and to reduce the resultant waste, sponsors may claim reimbursement for a number of second meals which does not exceed two percent of the number of first meals served to children for each meal type (i.e., breakfasts, lunches, supplements, or suppers) during the claiming period. The State agency shall disallow all claims for second meals if it determines that the sponsor failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service. Second meals shall be served only after all participating children at the site's meal service have been served a meal.

(c) *Records and claims.* (1) Sponsors shall maintain accurate records which justify all costs and meals claimed. Failure to maintain such records may be grounds for denial of reimbursement for meals served and/or administrative costs claimed during the period covered by the records in question. The sponsor's records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and the State agency for a period of three years following the date of submission of the final claim for reimbursement for the fiscal year.

(2) Sponsors shall submit claims for reimbursement in accordance with this Part. All final claims must be submitted to the State agency within 60 days following the last day of the month covered by the claim.

(d) *Training and monitoring.* (1) Each sponsor shall hold Program training sessions for its administrative and site personnel and shall allow no site to operate until personnel have attended at least one of these training sessions. Training of site personnel shall, at a minimum, include: the purpose of the Program; site eligibility; recordkeeping; site operations; meal pattern requirements; and the duties of a monitor. Each sponsor shall ensure that its administrative personnel attend State agency training provided to sponsors, and sponsors shall provide training throughout the summer to ensure that administrative personnel are thoroughly knowledgeable in all required areas of Program administration and operation and are provided with sufficient information to enable them to carry out their Program responsibilities. Each site shall have present at each meal service at least one person who has received this training.

(2) Sponsors shall visit each of their sites at least once during the first week of operation under the Program and shall promptly take such actions as are necessary to correct any deficiencies.

(3) Sponsors shall review food service operations at each site at least once during the first four weeks of Program operations, and thereafter shall maintain a reasonable level of site monitoring. Sponsors shall complete a monitoring form developed by the State agency during the conduct of these reviews.

(e) *Media Release.* Each sponsor shall annually announce in the media serving the area from which it draws its attendance the availability of free meals. Camps and other programs not eligible under § 225.2 (paragraph (a) of "areas in which poor economic conditions exist") shall annually announce to all participants the availability of free meals for eligible children. All media releases issued by camps and other programs not eligible under § 225.2 (paragraph (a) of "areas in which poor economic conditions exist") shall include: the Secretary's family-size and income standards for reduced price school meals labelled "SFSP Income Eligibility Standards"; a statement that children who are members of food stamp households or AFDC assistance units are automatically eligible to receive free meal benefits at eligible program sites; and a statement that meals are available without regard to race, color, national origin, sex, age, or handicap.

(f) *Application for free Program meals.* (1) For the purpose of determining eligibility for free Program meals, camps and other programs not eligible under § 225.2 (paragraph (a) of "areas in which poor economic conditions exist") shall distribute applications for meals to parents or guardians of children enrolled in the program. The application, and any other descriptive material distributed to such persons, shall contain only the family-size and income levels for reduced price school meal eligibility with an explanation that households with incomes less than or equal to these values are eligible for free Program meals. Such forms and descriptive material may not contain the income standards for free meals in the National School Lunch or School Breakfast Programs. In addition, such forms and materials shall state that, if a child is a member of a food stamp household or an AFDC assistance unit, the child is automatically eligible to receive free program meal benefits, subject to completion of the application as described in paragraph (f)(3) of this section.

(2) Except as provided in paragraph (f)(3) of this section, the application shall contain a request for the following information: (i) The names of all children for whom application is made; (ii) the names of all other household members; (iii) the social security number of all adult household members or an indication that an adult household member does not possess one; (iv) the total current household income and the income received by each household member identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security, and other cash income received or withdrawn from any other source, including savings, investments, trust accounts, and other resources); (v) a statement to the effect that, "In certain cases, foster children are eligible for free meals regardless of household income. If such children are living with you and you wish to apply for such meals, please contact us"; (vi) a statement which includes substantially the following information: "Section 9(d) of the National School Lunch Act requires that, unless you provide a food stamp or AFDC case number for your child, you must provide the social security numbers of all adult members of your household in order for your child to be eligible for free meals. Provision of these social security numbers is not mandatory, but failure to provide the numbers will result in a denial of the application for free meals. This notice must be brought to the attention of all household members whose social security numbers are disclosed. The social security numbers may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application. These verification efforts may be carried out through program reviews, audits and investigations and may include contacting employers to determine income; contacting a food stamp or welfare office to determine current certification for receipt of food stamp or AFDC benefits; contacting the State employment security office to determine the amount of benefits received; and checking the documentation produced by household members to prove the amount of income received. These efforts may result in loss of benefits, administrative claims, or legal action if incorrect information is reported." State agencies and sponsors shall ensure that the notice complies with section 7 of Pub. L. 93-579 (Privacy Act of 1974). If a State or local agency plans to use the social security numbers in a manner not described by this notice, the notice shall be altered to include a description of these uses; and (vii) the signature of an adult member of the household immediately below a statement that the person signing the application certifies that all information furnished is true and correct; that the application is being made in connection with the receipt of Federal funds; that program officials may verify the information on the application; and that the deliberate misrepresentation of any of the information on the application may subject the applicant to prosecution under applicable State and Federal criminal statutes.

(3) If they so desire, households applying on behalf of children who are members of food stamp households or AFDC assistance units may apply for free meal benefits using the procedures described in this paragraph rather than the procedures described in paragraph (f)(2) of this section. Households applying on behalf of children who are members of food stamp households or AFDC assistance units shall be required to provide:

(i) The name(s) and food stamp or AFDC case number(s) of the child(ren) for whom automatic free meal eligibility is claimed; and

(ii) The signature of an adult member of the household below the statement described in paragraph (f)(2)(vii) of this section.

In accordance with paragraph (f)(2)(vi) of this section, if a food stamp or AFDC case number is provided, it may be used to verify the current food stamp or AFDC certification for the child(ren) for whom free meal benefits are being claimed. Whenever households apply for benefits for children not receiving food stamp or AFDC benefits, they must apply for those children in accordance with the requirements set forth in paragraph (f)(2) of this section.

(g) *Food service management companies.* (1) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate that sponsor's participation in accordance with § 225.18.

(2) A sponsor may contract only with a food service management company which is registered with the State in which the sponsor will operate the Program, unless the food service management company is not required to register in accordance with § 225.6(g)(9).

(3) Any sponsor may contract with a food service management company to manage the sponsor's food service operations and/or for the preparation of unitized meals with or without milk or juice. Exceptions to the unitizing requirement may only be made in accordance with the provisions set forth at § 225.6(h)(3).

(4) Any vended sponsor shall be responsible for ensuring that its food service operation is in conformity with its agreement with the State agency and with all the applicable provisions of this Part.

(5) In addition to any applicable State or local laws governing bid procedures, and with the exceptions identified in this paragraph, each sponsor which contracts with a food service management company shall comply with the competitive bid procedures described in this paragraph. Sponsors which are schools or school food authorities and which have an exclusive

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contract with a food service management company for year-round service, and sponsors whose total contracts with food service management companies will not exceed $10,000, shall not be required to comply with these procedures. These exceptions do not relieve the sponsor of the responsibility to ensure that competitive procurement procedures are followed in contracting with any food service management company. Each sponsor whose proposed contract is subject to the specific bid procedures set forth in this paragraph shall ensure, at a minimum, that:

(i) All proposed contracts are publicly announced at least once, not less than 14 calendar days prior to the opening of bids, and the announcement includes the time and place of the bid opening;

(ii) The bids are publicly opened;

(iii) The State agency is notified, at least 14 calendar days prior to the opening of the bids, of the time and place of the bid opening;

(iv) The invitation to bid does not specify a minimum price;

(v) The invitation to bid contains a cycle menu approved by the State agency upon which the bid is based;

(vi) The invitation to bid contains food specifications and meal quality standards approved by the State agency upon which the bid is based;

(vii) The invitation to bid does not specify special meal requirements to meet ethnic or religious needs unless such special requirements are necessary to meet the needs of the children to be served;

(viii) Neither the invitation to bid nor the contract provides for loans or any other monetary benefit or term or condition to be made to sponsors by food service management companies;

(ix) Nonfood items are excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(x) A copy of the food service management company registration determination issued by the State agency is submitted by the food service management company with its bid;

(xi) Copies of all contracts between sponsors and food service management companies, along with a certification of independent price determination, are submitted to the State agency prior to the beginning of Program operations;

(xii) Copies of all bids received are submitted to the State agency, along with the sponsor's reason for choosing the successful bidder;

(xiii) All bids in an amount which exceeds the lowest bid and all bids totaling $100,000 or more are submitted to the State agency for approval before acceptance. State agencies shall respond to a request for approval of such bids within 5 working days of receipt.

(6) Each food service management company which submits a bid over $100,000 shall obtain a bid bond in an amount not less than five (5) percent nor more than ten (10) percent, as determined by the sponsor, of the value of the contract for which the bid is made. A copy of the bid bond shall accompany each bid.

(7) Each food service management company which enters into a food service contract for over $100,000 with a sponsor shall obtain a performance bond in an amount not less than ten (10) percent nor more than twenty-five (25) percent of the value of the contract, as determined by the State agency, of the value of the contract for which the bid is made. Any food service management company which enters into more than one contract with any one sponsor shall obtain a performance bond covering all contracts if the aggregate amount of the contracts exceeds $100,000. Sponsors shall require the food service management company to furnish a copy of the performance bond within ten days of the awarding of the contract.

(8) Food service management companies shall obtain bid bonds and performance bonds only from surety companies listed in the current Department of the Treasury Circular 570. No sponsor or State agency shall allow food service management companies to post any "alternative" forms of bid or performance bonds, including but not limited to cash, certified checks, letters of credit, or escrow accounts.

(h) *Other responsibilities.* Sponsors shall comply with all of the meal service requirements set forth in § 225.16.

§ 225.16 Meal Service Requirements.

(a) *Sanitation.* Sponsors shall ensure that in storing, preparing, and serving food, proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Sponsors shall ensure that adequate facilities are available to store food or hold meals. Within two weeks of receiving notification of their approval, but in any case prior to commencement of Program operation, sponsors shall submit to the State agency a copy of their letter advising the appropriate health department of their intention to provide a food service during a specific period at specific sites.

(b) *Meal Services.* The meals which may be served under the Program are breakfast, lunch, supper, and supplemental food. No sponsor shall be approved to provide more than two services of supplemental food per day. A sponsor shall only be reimbursed for meals served in accordance with this section.

(1) *Camps.* Sponsors of camps shall only be reimbursed for meals served in camps to children from families which meet the eligibility standards for this Program. The sponsor shall maintain a copy of the documentation establishing the eligibility of each child receiving meals under the Program. Meal service at camps shall be subject to the following provisions:

(i) A camp may serve up to four meals each day;

(ii) Residential camps are not subject to the time restrictions for meal service set forth at paragraphs (c) (1) and (2) of this section; and

(iii) A camp shall be approved to serve these meals only if it has the administrative capability to do so; if the service period of the different meals does not coincide or overlap; and, where applicable, if it has adequate food preparation and holding facilities.

(2) *Sites other than camps and those serving migrant children.* Food service sites other than camps shall serve children in areas where poor economic conditions exist, as defined in § 225.2. A sponsor which operates in accordance with this Part shall receive reimbursement for all meals served to children at these sites. Food service sites other than camps and those which primarily serve migrant children may serve either:

(i) One meal each day, a breakfast, a lunch, or a supplement; or

(ii) Two meals each day, if one is a lunch and the other is a breakfast or a supplement.

(3) *Sites which serve children of migrant families.* Food service sites which primarily serve children from migrant families may be approved to serve up to four meals each day. These sites shall serve children in areas where poor economic conditions exist as defined in § 225.2. A sponsor which operates in accordance with this Part shall receive reimbursement for all meals served to children at these sites. A site which primarily serves children from migrant families shall only be approved to serve more than one meal each day if it has the administrative capability to do so; if the service period of the different meals does not coincide or overlap; and, where applicable, if it has adequate food preparation and holding facilities.

(c) *Time restrictions for meal service.* (1) Three hours shall elapse between the beginning of one meal service, including supplements, and the beginning of another, except that 4 hours shall elapse between the service of a lunch and

supper when no supplement is served between lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this paragraph shall not apply to residential camps.

(2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals.

(3) Meals served outside of the period of approved meal service shall not be eligible for Program payments.

(4) Any permanent or planned changes in meal service periods must be approved by the State agency.

(5) Meals which are not prepared at the food service site shall be delivered no earlier than one hour prior to the beginning of the meal service (unless the site has adequate facilities for holding hot or cold meals within the temperatures required by State or local health regulations) and no later than the beginning of the meal service.

(6) The sponsor shall claim for reimbursement only the type(s) of meals for which it is approved under its agreement with the State agency.

(d) *Meal patterns.* The meal requirements for the Program are designed to provide nutritious and well-balanced meals to each child. Sponsors shall ensure that meals served meet all of the requirements. Except as otherwise provided in this section, the following tables present the minimum requirements for meals served to children in the Program.

Breakfast

(1) Children age 12 and up may be served adult-size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section. The minimum amount of food components to be served as breakfast are as follows:

Food components	Minimum amount
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)	½ cup. [1]
or	
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice.	½ cup (4 fl. oz.).
Bread and Bread Alternates [2]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc.	1 serving. [2]
or	
Cold dry cereal	½ cup. [3]
or	
Cooked cereal or cereal grains	½ cup.
or	
Cooked pasta or noodle products or an equivalent quantity of any combination of bread/bread alternate.	½ cup.
Milk [4]	
Milk, fluid	1 cup (½ pint, 8 fl. oz.)
Meat and Meat Alternates (Optional)	
Lean meat or poultry or fish	1 oz.
or	
Cheese	1 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	½ cup.
or	
Peanut butter or an equivalent quantity of any combination of meat/meat alternate.	2 tbsp.

[1] For the purposes of the requirement outlined in this table, a cup means a standard measuring cup.
[2] Bread, paste or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain, enriched or fortified.
[3] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.
[4] Either volume (cup) or weight (oz.), whichever is less
[5] Milk shall be served as a beverage or on cereal, or used in part for each purpose.

Lunch or Supper

(2) The minimum amounts of food components to be served as lunch or supper are as follows:

Food components	Minimum amount
Meat and Meat Alternates	
Lean meat or poultry or fish	2 oz.
or	
Cheese	2 oz.
or	
Eggs	1 large egg
or	
Cooked dry beans or peas	½ cup [1]
or	
Peanut butter or soynut butter or other nut or seed butters.	4 tbsp.
or	
Peanuts or soynuts or tree nuts or seed [2].	1 oz. = 50% [3]
or	
An equivalent quantity of any combination of the above meat/meat alternates.	
Vegetables and Fruit	
Vegetable(s) and/or fruit(s) [4]	¾ cup total
Bread and Bread Alternates [5]	
Bread	1 slice
or	
Cornbread, biscuits, rolls, muffins, etc.	1 serving [6]
or	
Cooked pasta or noodle products.	½ cup
or	
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	½ cup
Milk	
Milk, fluid, served as a beverage.	1 cup (½ pint, 8 fl. oz.)

[1] For purposes of the requirements outlined in the table, a cup means a standard measuring cup.
[2] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
[3] No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purposes of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.
[4] Serve 2 or more kinds of vegetable(s) and or fruit(s) or a combination of both. Full strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
[5] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched, cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour, cereal shall be whole-grain or enriched or fortified.
[6] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.

Supplemental Food

(3) The minimum amounts of food components to be served as supplemental food are as follows. Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food components	Minimum amount
Meat and Meat Alternates	
Lean meat or poultry or fish	1 oz.
or	
Cheese	1 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	½ cup [1].
or	
Peanut butter or soynut butter or other nut or seed butters.	2 tbsp.
or	
Peanuts or soynuts or tree nuts or seeds [2].	1 oz.
or	
An equivalent quantity of any combination of the above meat/meat alternates.	
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)	¾ cup.
or	
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s) and juice.	¾ cup (6 fl. oz.).
Bread and Bread Alternates [3]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc.	1 serving [4].
or	
Cold dry cereal	¾ cup or 1 oz. [5]
or	
Cooked cereal	½ cup.

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Food components	Minimum amount
or	
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	½ cup.
Milk [6]	
Milk, fluid	1 cup (½ pint, 8 fl. oz.

[1] For purposes of the requirements outlined in this table, a cup means a standard measuring cup.
[2] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
[3] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched, cornbread, biscuits, rolls, muffins, etc. shall be made with whole-grain or enriched meal or flour. cereal shall be whole-grain or enriched or fortified.
[4] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.
[5] Either volume (cup) or weight (oz.), whichever is less.
[6] Milk should be served as a beverage or on cereal, or used in part for each purpose.

(e) *Meat or meat alternate.* Meat or meat alternates served under the Program are subject to the following requirements and recommendations.

(1) The required quantity of meat or meat alternate shall be the quantity of the edible portion as served. These foods must be served in a main dish, or in a main dish and one other menu item.

(2) Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but they may not be used to meet both component requirements in a meal.

(3) Textured vegetable protein products, cheese alternate products, and enriched macaroni with fortified protein may be used to meet part, but not all, of the meat/meat alternate requirement. The Department will provide guidance to State agencies on the part of the meat/meat alternate requirement which these foods may be used to meet. If enriched macaroni with fortified protein is served as a meat alternate it shall not be counted toward the bread requirement.

(4) If the sponsor believes that the recommended portion size of any meat or meat alternate is too large to be appealing to children, the sponsor may reduce the portion size of that meat or meat alternate and supplement it with another meat or meat alternate to meet the full requirement.

(5) Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts shall not be used as meat alternates due to their low protein content. Nut and seed meals or flours shall not be used as a meat alternate except as defined in this section under paragraph (e)(3) and in this Part under Appendix A: Alternate Foods for Meals. As noted in paragraph (d)(2) of this section, nuts or seeds may be used to meet no more than one-half of the meat/meat alternate requirement for lunch or supper. Therefore, nuts or seeds must be combined with another meat/meat alternate to fulfill the requirement. For the supplemental food pattern, nuts or seeds may be used to fulfill all of the meat/meat alternate requirement.

(f) *Exceptions to and Variations from the Meal Pattern*

(1) *Meals prepared in schools.* The State agency may allow sponsors which serve meals prepared in schools participating in the National School Lunch or School Breakfast Programs to substitute the meal pattern requirements of the regulations governing those programs (7 CFR Part 210 and 7 CFR Part 220, respectively) for the meal pattern requirements contained in this section.

(2) *Children under 6.* The State agency may authorize the sponsor to serve food in smaller quantities than are indicated in paragraph (d) of this section to children under six years of age if the sponsor has the capability to ensure that variations in portion size are in accordance with the age levels of the children served. Sponsors wishing to serve children under one year of age shall first receive approval to do so from the State agency. In both cases, the sponsor shall follow the age-appropriate meal pattern requirements contained in the Child Care Food Program regulations (7 CFR Part 226).

(3) *Statewide substitutions.* In American Samoa, Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, the following variations from the meal requirements are authorized: a serving of a starchy vegetable—such as ufi, tanniers, yams, plantains, or sweet potatoes—may be substituted for the bread requirements.

(4) *Individual substitutions.* Substitutions may be made by sponsors in food listed in paragraph (d) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods. Such statement shall be kept on file by the sponsor.

(5) *Special variations.* FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(6) *Temporary unavailability of milk.* If emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining milk deliveries, the State agency may approve the service of breakfasts, lunches or suppers without milk during the emergency period.

(7) *Continuing unavailability of milk.* The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases, the State agency may approve service of meals without milk, provided that an equivalent amount of canned, whole dry or nonfat dry milk is used in the preparation of the milk components set forth in paragraph (d) of this section. In addition, the State agency may approve the use of nonfat dry milk in meals served to children participating in activities which make the service of fluid milk impracticable, and in locations which are unable to obtain fluid milk. Such authorization shall stipulate that nonfat dry milk be reconstituted at normal dilution and under sanitary conditions consistent with State and local health regulations.

(8) *Additional foods.* To improve the nutrition of participating children, additional foods may be served with each meal.

Subpart D—General Administrative Provisions

§ 225.17 Procurement standards.

(a) State agencies and sponsors shall comply with the standards prescribed in the Department's Uniform Federal Assistance Regulations at 7 CFR Part 3015, Subpart S, in the procurement of food, supplies, goods, and other services with Program payments.

(b) The State agency shall make available to sponsors information on 7 CFR Part 3015.

(c) Sponsors may use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with Program funds conform with provisions of this section, as well as with procurement requirements which may be established by the State agency, with approval of FNS, to prevent fraud, waste, and Program abuse.

(d) The State agency shall ensure that all sponsors are aware of the following practices specified in 7 CFR Part 3015, with respect to minority business enterprises:

(1) Including qualified minority business enterprises on solicitation lists.

(2) Soliciting minority business enterprises whenever they are potential sources,

(3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by minority business enterprises,

(4) Establishing delivery schedules which will assist minority business enterprises to meet deadlines, and

(5) Using the services and assistance of the Small Business Administration, and the Office of Minority Business Enterprise of the Department of Commerce as required.

§ 225.18 Miscellaneous administrative provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015), Subpart N.

(b) *Termination for cause.* (1) FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency in writing of the termination and reason for the termination, together with the effective date, and shall allow the State 30 calendar days to respond. In instances where the State does respond, FNS shall inform the State of its final determination no later than 30 calendar days after the State responds.

(2) A State agency shall terminate a sponsor's participation in the Program by written notice whenever it is determined by the State agency that the sponsor has failed to comply with the conditions of the Program.

(3) When participation in the Program has been terminated for cause, any funds paid to the State agency or a sponsor or any recoveries by FNS from the State agency or by the State agency from a sponsor shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS and the State agency may agree to terminate the State agency's participation in the Program in whole, or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the State agency for the Federal share of the noncancellable obligation properly incurred by the State agency prior to termination. A State agency may terminate a sponsor's participation in the manner provided for in this paragraph.

(d) *Maintenance of effort.* Expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act and a certification to this effect shall become part of the agreement provided for in § 225.3(c).

(e) *Program benefits.* The value of benefits and assistance available under the Program shall not be considered as income or resources of recipients and their families for any purpose under Federal, State or local laws, including, but not limited to, law relating to taxation, welfare, and public assistance programs.

(f) *State requirements.* Nothing contained in this Part shall prevent a State agency from imposing additional operating requirements which are not inconsistent with the provisions of this part, provided that such additional requirements shall not deny the Program to an area in which poor economic conditions exist, and shall not result in a significant number of needy children not having access to the Program. Prior to imposing any additional requirements, the State agency must receive approval from FNSRO.

(g) *Fraud penalty.* Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Part, whether received directly or indirectly from the Department, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $100,000 or imprisoned not more than five years, or both, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(h) *Claims adjustment authority.* The Secretary shall have the authority to determine the amount of, to settle, and to adjust any claim arising under the Program, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of the Program. This provision shall not diminish the authority of the Attorney General of the United States under section 516 of Title 28, U.S. Code, to conduct litigation on behalf of the United States.

§ 225.19 Regional office addresses.

Persons desiring information concerning the Program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(a) In the State of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 10 Causeway Street, Boston, MA 02222–1065.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rio, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, Corporate Boulevard CN–02150, Trenton, NJ 08650.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, NW., Atlanta, GA 30367.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 50 E. Washington Street, Chicago, IL 60602.

(e) In the States of Arkansas, Louisiana, New Mexico, Oklahoma and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5–C–30, Dallas, TX 75242.

(f) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 1244 Speer Boulevard, Suite 903, Denver, CO 80204.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the North Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearney Street, Room 400, San Francisco, CA 94108.

§ 225.20 Information collection/recordkeeping—OMB assigned control numbers.

Section where requirements are described		Current OMB control number
1988 regulations	1989 regulations	
225.3(b)	225.3(b)	0584–0057
225.5(b)	225.9(b)(2)	0584–0057
225.6(a)	225.4(a)	0584–0057
225.7(k)	225.6(b)(2)	0584–0057
225.8(a)	225.6(c)(1)	0584–0017

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Section where requirements are described		Current OMB control number
1988 regulations	1989 regulations	
225.8(b)	225.6(e)	0584–0057
225.9 (a), (d), (f), (g).	225.6(a)(2), 225.7 (c), (e), (f).	0584–0057
225.9(e)	225.7(d)	0584–0023
225.10(a)	225.8(a)	0584–0280
225.10(b)	225.8(b)	0584–0057
225.11(c)	225.9(d)	0584–0041
225.12(a)	225.10(a)	0584–0057
225.14(a)	225.12(a)	0584–0057
225.15(a)	225.13(a)	0584–0057
225.16 (a), (c), (e), (i).	225.6(g), 225.6(h)(2), (3), (5).	0584–0057
225.16(c)(6)	225.6(g)(3)	0584–0061
225.17	225.17	0584–0057
225.18(f)	225.16(b)	0584–0280
225.19(f)	225.15(c)(1)	0584–0280
225.21(a)(b)	225.6(c)	0584–0057
225.21(b)(4)	225.6(c)	0584–0280
225.22(b)(2)	225.18(b)(2)	0584–0057

Appendix A to Part 225—Alternate Foods for Meals

Vegetable Protein Products

1. Schools, institutions, and service institutions may use a vegetable protein product, defined in paragraph 2, as a food component meeting the meal requirements specified in § 210.10, § 225.16 or § 226.20 under the following terms and conditions:

(a) The vegetable protein product must be prepared in combination with raw or cooked meat, poulty or seafood and shall resemble, as well as substitute in part for, one of these major protein foods. "Substitute" refers to a vegetable protein product whose presence in another food results in the presence of a smaller amount of meat, poultry or seafood than is customarily expected or than appears to be present in that food. Examples of items in which a vegetable protein product may be used include, but are not limited to, beef patties, beef crumbles, pizza topping, meat loaf, meat sauce, taco filling, burritos, and tuna salad.

(b) Vegetable protein products may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form in combination with meat, poultry or seafood. The moisture content of the fully hydrated vegetable protein product shall be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

(c) The quantity, by weight, of the fully hydrated vegetable protein product must not exceed 30 parts to 70 parts meat, poultry or seafood on an uncooked basis. The quantity by weight of the dry or partially hydrated vegetable protein product must not exceed a level equivalent to the amount (dry weight) used in the fully hydrated product at the 30 percent level of substitution. The dry or partially hydrated product's replacement of meat, poultry or seafood will be based on the level of substitution it would provide if it were fully hydrated.

(d) A vegetable protein product may be used to satisfy the meat/meat alternative requirement when combined with meat, poultry or seafood and when it meets the other requirements of this section. The combination of the vegetable protein product and meat, poultry or seafood may meet all or part of the meat/meat alternate requirement specified in § 210.10, § 225.16 or § 226.20.

(e) The contribution vegetable protein products make toward the meat/meat alternate requirement specified in § 210.10, § 225.16, and § 226.20 shall be determined on the basis of the preparation yield of the meat, poultry or seafood with which it is combined. When computing the preparation yield of a product containing meat, poultry or seafood and vegetable protein product, the vegetable protein product shall be evaluated as having the same preparation yield that is applied to the meat, poultry or seafood it replaces.

(f) When vegetable protein products are served in a meal with other alternate food authorized in Appendix A, each individual alternate food shall be used as specifically directed.

2. A vegetable protein product to be used to resemble, and substitute in part for, meat, poultry or seafood, as specified in paragraph 1, must meet the following criteria:

(a) The vegetable protein product (substitute food) shall contain one or more vegetable protein products which are defined as follows:

(1) Vegetable (plant) protein products are foods which are processed so that some portion of the nonprotein constituents of the vegetable is removed. These vegetable protein products are safe and suitable edible products produced from vegetable (plant) sources including, but not limited to, soybeans, peanuts, wheat, and corn.

(b) The types of vegetable protein products described in paragraph 2(a)(1) of this appendix shall include flour, concentrate, and isolate as defined below:

(1) When a product contains less than 65 percent protein by weight calculated on a moisture-free basis excluding added flavors, colors, or other added substances it is a "_____ flour", the blank to be filled with the name of the source of the protein, e.g., "soy" or "peanut".

(2) When a product contains 65 percent or more but less than 90 percent protein by weight calculated on a moisture-free basis excluding added flavors, colors, or other added substances, it is a "_____ protein concentrate", the blank to be filled with the name of the source of the protein, e.g., "soy" or "peanut".

(3) When a product contains 90 percent or more protein by weight calculated on a moisture-free basis excluding added flavors, colors or other added substances, it is a "_____ protein isolate" or "_____ isolated protein," the blank to be filled in with the name of the source of the protein, e.g., "soy" or "peanut".

(c) Compliance with the moisture and protein provisions of paragraph 2(b) (1), (2), and (3) of this appendix shall be determined by the appropriate methods described in "Official Methods of Analysis of the Association of Official Analytical Chemists" (14th edition, 1984).

(d) Vegetable protein products which are used to resemble, and substitute in part for, meat, poultry or seafood shall be labeled in conformance with the following:

(1) The common or usual names for a vegetable protein product used to resemble, and substitute in part for, meat, poultry or seafood shall include the term "vegetable protein product" and may include the term "textured" or "texturized" and/or a term such as "granules" when such term is appropriate. The term "plant" may be used in the name in lieu of the term "vegetable"; and

(2) The vegetable protein products used as ingredients in the substitute food shall be listed by source (e.g, soy or peanut) and product type (e.g., flour, concentrate, isolate) in the ingredient state of the label. Product type(s) listed shall comply with the appropriate definition(s) set forth in paragraph 2(b) (1), (2) and (3), and may include a term which accurately describes the physical form of the product (e.g., "granules") when such term is appropriate.

(e) Vegetable protein products which are used to resemble, and substitute in part for, meat, poultry or seafood shall meet the following nutritional specifications:

(1) The biological quality of the protein in the vegetable protein product shall be at least 80 percent that of casein, such percentage to be determined by performing a Protein Efficiency Ratio (PER) assay unless FNS grants an exception to the PER by approving an alternate test;

(2) The vegetable protein product shall contain at least 18 percent protein by weight when hydrated or formulated to be used in combination with meat, poultry or seafood. ("When hydrated or formulated" refers to a dry vegetable protein product and the amount of water, fat or oil, colors, flavors or any other substances which have been added in order to make the resultant mixture resemble that meat, poultry or seafood);

(3) The vegetable protein produce must contain the following levels of nutrients per gram of protein:

Nutrient	Amount
Vitamin A (IU)	13
Thiamine (milligrams)	0.02
Riboflavin (milligrams)	.01
Niacin (milligrams)	.3
Panthothenic acid (milligrams)	.04
Vitamin B6 (milligrams)	.02
Vitamin B12 (micrograms)	.1
Iron (milligrams)	.15
Magnesium (milligrams)	1.15
Zinc (milligrams)	.5
Copper (micrograms)	24
Potassium (milligrams)	17

(4) Compliance with the nutrient provisions set forth in paragraph 2(e) (1), (2) and (3) of this appendix shall be determined by the appropriate methods described in "Official Methods of Analysis of the Association of Official Analytical Chemists" (latest edition).

(f) Vegetable protein products to be used in the child nutrition programs to resemble, and substitute in part for, meat, poultry or seafood that comply with the labeling and nutritional specifications set forth in paragraph 2(d) (1) and (2) and paragraph 2(e) (1), (2) and (3) shall bear a label containing the following statement: "This product meets USDA–FNS requirements for use in meeting a

portion of the meat/meat alternate requirement of the child nutrition programs." This statement shall appear on the principal display panel area of the package.

(g) It is recommended that, for vegetable protein products to be used to resemble, and substitute in part for, meat, poultry or seafood and labeled as specified in paragraph 2(f) of this appendix, manufacturers provide information on the percent protein contained in the dry vegetable protein product (on an as is basis).

(h) It is recommended that for a vegetable protein product mix, manufacturers provide information on (1) the amount by weight of dry vegetable protein product in the package, (2) hydration instructions, and (3) instructions on how to combine the mix with meat, poultry or seafood. A vegetable protein product mix is defined as a dry product containing vegetable protein products that comply with the labeling and nutritional specifications set forth in paragraphs 2(d) (1) and (2) and paragraph 2(e) (1), (2) and (3) along with substantial levels (more than 5 percent) of seasonings, bread crumbs, flavorings, etc.

3. Schools, institutions, and service institutions may use a commercially prepared meat, poultry or seafood product combined with vegetable protein products to meet all or part of the meat/meat alternate requirement specified in § 210.10, § 225.16 or § 226.20 if the product bears a label containing the statement: "This item contains vegetable protein product(s) which is authorized as an alternate food in the child nutrition programs" (outlined in paragraph 2 of this appendix). This would designate that the vegetable protein product used in the formulation of the meat, poultry or seafood item complies with the naming and nutritional specifications set forth in paragraph 2 of this appendix. The presence of this label does not ensure the proper level of hydration, ratio of substitution nor the contribution that the product makes toward meal pattern requirements for the child nutrition programs.

Appendix B to Part 225—(Reserved)

Appendix C to Part 225—Child Nutrition (CN) Labeling Program

1. The Child Nutrition (CN) Labeling Program is a voluntary technical assistance program administered by the Food and Nutrition Service (FNS) in conjunction with the Food Safety and Inspection Service (FSIS) and Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA), and National Marine Fisheries Service of the U.S. Department of Commerce (USDC) for the Child Nutrition Programs. This program essentially involves the review of a manufacturer's recipe or product formulation to determine the contribution a serving of a commercially prepared product makes toward meal pattern requirements and a review of the CN label statement to ensure its accuracy. CN labeled products must be produced in accordance with all requirements set forth in this rule.

2. Products eligible for CN labels are as follows:

(a) Commercially prepared food products that contribute significantly to the meat/meat alternate component of meal pattern requirements of 7 CFR 210.10, 225.16, and 226.20 and are served in the main dish.

(b) Juice drinks and juice drink products that contain a minimum of 50 percent full strength juice by volume.

3. For the purpose of this appendix the following definitions apply:

(a) "CN label" is a food product label that contains a CN label statement and CN logo as defined in paragraph 3(b) and (c) below.

(b) The "CN logo" (as shown below) is a distinct border which is used around the edges of a "CN label statement" as defined in paragraph 3(c).



(c) The "CN label statement" includes the following:

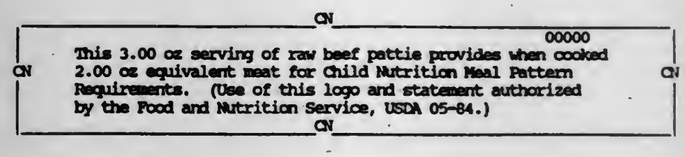
(1) The product identification number (assigned by FNS);

(2) The statement of the product's contribution toward meal pattern requirements of 7 CFR 210.10, 220.8, 225.16, and 226.20. The statement shall identify the contribution of a specific portion of a meat/meat alternate product toward the meat/meat alternate, bread/bread alternate, and/or vegetable/fruit component of the meal pattern requirements. For juice drinks and juice drink products the statement shall identify their contribution toward the vegetable/fruit component of the meal pattern requirements.

(3) Statement specifying that the use of the CN logo and CN statement was authorized by FNS, and

(4) The approval date.

For example:



4. Food processors or manufacturers may use the CN label statement and CN logo as defined in paragraph 3 (b) and (c) under the following terms and conditions:

(a) The CN label must be reviewed and approved at the national level by the Food and Nutrition Service and appropriate USDA or USDC Federal agency responsible for the inspection of the product.

(b) The CN labeled product must be produced under Federal inspection by USDA or USDC. The Federal inspection must be performed in accordance with an approved partial or total quality control program or (d) "Federal inspection" means inspection of food products by FSIS, AMS or USDC.

(c) The CN label statement must be printed as an integral part of the product label along with the product name, ingredient listing, the inspection shield or mark for the appropriate inspection program; the establishment number where appropriate and the manufacturer's or distributor's name and address.

(1) The inspection marking for CN labeled non-meat, non-poultry, and non-seafood products with the exception of juice drinks and juice drink products is established as follows:

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INSPECTED BY THE
U.S. DEPT. OF AGRICULTURE
IN ACCORDANCE WITH
FNS REQUIREMENTS

(d) Yields for determining the product's contribution toward meal pattern requirements must be calculated using the Food Buying Guide for Child Nutrition Programs (Program Aid Number 1331).

5. In the event a company uses the CN logo and CN label statement inappropriately, the company will be directed to discontinue the use of the logo and statement and the matter will be referred to the appropriate agency for action to be taken against the company.

6. Products that bear a CN label statement as set forth in paragraph 3(c) carry a warranty. This means that if a food service authority participating in the child nutrition programs purchases a CN labeled product and uses it in accordance with the manufacturer's directions, the school or institution will not have an audit claim filed against it for the CN labeled product for noncompliance with the meal pattern requirements of 7 CFR 210.10, 220.8, 225.16, and 226.20. If a State or Federal auditor finds that a product that is CN labeled does not actually meet the meal pattern requirements claimed on the label, the auditor will report this finding to FNS. FNS will prepare a report on the findings and send it to the appropriate divisions of FSIS and AMS of the USDA, National Marine Fisheries Service of the USDC, Food and Drug Administration, or the Department of Justice for action against the company. Any or all of the following courses of action may be taken: (a) The company's CN label may be revoked for a specific period of time; (b) The appropriate agency may pursue a misbranding or mislabeling action against the company producing the product; (c) The company's name will be circulated to regional FNS offices; and (d) FNS will require the food service program involved to notify the State agency of the labeling violation.

7. FNS is authorized to issue operational policies, procedures, and instructions for the CN Labeling Program. To apply for a CN label and to obtain additional information on CN label application procedures, write to: CN Labels, U.S. Department of Agriculture, Food and Nutrition Service, Nutrition and Technical Services Division, 3101 Park Center Drive, Alexandria, Virginia 22302.

G. Scott Dunn,
Acting Administrator.

Date: April 20, 1989.

[FR Doc. 89-9956 Filed 4-26-89; 8:45 am]
BILLING CODE 3410-30-M

federal register

Thursday
April 27, 1989

Part III

Office of Management and Budget

Budget Rescissions and Deferrals; Notice

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OFFICE OF MANAGEMENT AND BUDGET

Budget Reecissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report five revised deferrals of budget authority now totaling $649,663,811.

The deferrals affect programs in the Departments of Agriculture, Defense-Civil, Energy, Health and Human Services-Social Security Administration, and Justice.

The details of the deferrals are contained in the enclosed report.

George Bush

The White House,
April 18, 1989.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL NO.	ITEM	BUDGET AUTHORITY*
	Department of Agriculture:	
	Forest Service:	
D89-4A	Cooperative work	508,000
	Department of Defense - Civil:	
D89-5A	Wildlife conservation	1,439
	Department of Energy:	
	Power Marketing Administration:	
D89-6A	Southwestern Power Administration, Operation and maintenance	8,400
	Department of Health and Human Services:	
	Social Security Administration:	
D89-7A	Limitation on administrative expenses (construction)	6,824
	Department of Justice:	
	Office of Justice Programs:	
D89-8A	Crime victims fund	125,000
	Total, deferrals	649,664

* Detail does not add to total due to rounding.

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1989
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Fourth special message:		
New items	---	---
Revisions to previous special messages	---	213,644
Effects of fourth special message	---	213,644
Amounts from previous special messages that are changed by this message (changes noted above)	---	436,020
Subtotal, rescissions and deferrals	---	649,664
Amounts from previous special messages that are not changed by this message	143,096	8,506,511
Total amount proposed to date in all special messages	143,096	9,156,175

D89-4A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D89-4 transmitted to Congress on September 30, 1988.

This revision to a deferral of the Department of Agriculture, Forest Service, Cooperative work account, increases the amount previously reported from $335,263,000 to $508,000,000. This increase of $172,737,000 is composed of repayments to this account of prior year advances to other accounts for firefighting costs that cannot be used this year.

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Deferral No: D89-4A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Agriculture **Bureau:** Forest Service	New budget authority.....*$ 276,199,000 (16 U.S.C. 576b) Other budgetary resources..* 702,491,725 Total budgetary resources..* 978,690,725
Appropriation title and symbol: Cooperative work 1/ 12X8028	Amount to be deferred: Part of year..... $ ____ Entire year.....* 508,000,000
OMB identification code: 12-8028-0-7-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other ____

*Justification: Funds are received from States, counties, timber sale operators, individuals, associations, and others. These funds are expended by the Forest Service as authorized by law and the terms of the applicable trust agreements. The work consists of protection and improvement of the National Forest System. The work benefits the national forest users, research investigations, reforestation, and administration of private forest lands. Much of the work for which deposits have been made cannot be done, or is not planned to be done, during the same year that the collections are being realized. Examples include areas where the timber operators have not completed all of the contract obligations during the year funds are deposited. As a result restoration efforts cannot begin, and the funds cannot be obligated this year. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1988 (D88-5).
* Revised from previous report.

D89-5A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D89-5 transmitted to Congress on September 30, 1988.

This revision to a deferral of the Department of Defense - Civil, Wildlife conservation account increases the amount previously reported from $1,212,125 to $1,439,350. This increase of $227,225 results from the deferral of unanticipated actual balances carried over from FY 1988 and increased FY 1989 receipts.

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Deferral No: D89-5A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Defense - Civil	New budget authority.....* $ 2,100,000 (16 U.S.C. 670F)
Bureau: Wildlife Conservation, Military Reservations 1/	Other budgetary resources.* 1,735,244
Appropriation title and symbol: Wildlife Conservation, Army 21X5095; Wildlife Conservation, Navy 17X5095; Wildlife Conservation, Air Force 57X5095	Total budgetary resources.* 3,835,244
	Amount to be deferred: Part of year..... $; Entire year.....* 1,439,350
OMB identification code: 97-5095-0-2-303	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-Year	**Type of budget authority:** [X] Appropriation; [ ] Contract authority; [ ] Other

Coverage:

Appropriation	Account Symbol	OMB Identification Code	Amount Deferred
*Wildlife Conservation, Army.....	21X5095	21-5095-0-2-303	$1,061,575
*Wildlife Conservation, Navy.....	17X5095	17-5095-0-2-303	136,947
*Wildlife Conservation, Air Force...	57X5095	57-5095-0-2-303	240,828
			1,439,350

*Justification: These are permanent appropriations of receipts generated from hunting and fishing fees in accordance with the purpose of the law -- to carry out a program of natural resource conservation. These programs are carried out through cooperative plans agreed upon by the local representatives of the Secretary of Defense, the Secretary of the Interior, and the appropriate agency

1/ These accounts were the subject of a similar deferral in FY 1988 (D88-9B).
* Revised from previous report.

Deferral No: D89-5A

of the State in which the reservation is located. These funds are being deferred (1) until, pursuant to the authorizing legislation (16 U.S.C. 670f(a)), installations have accumulated funds over a period of time sufficient to fund a major project; (2) until individual installations have been designed and obtained approval for the project, and (3) because there is a seasonal relationship between the collection of fees and their subsequent expenditure, most of the fees are collected during the winter and spring months. Funds collected in a prior year are deferred in order to be available to finance the program during summer and fall months or in subsequent years. Additional amounts will be apportioned when projects are identified and project approval is obtained. This deferral is made under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

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D89-6A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D89-6 transmitted to Congress on September 30, 1988.

This revision to a deferral of the Department of Energy's account for Operation and maintenance, Southwestern Power Administration, increases the amount previously reported from $2,800,000 to $8,400,000. This increase of $5,600,000 results from savings realized during 1988 due to lower costs to purchase power that increased the unobligated balances carried over from 1988 into 1989. These funds cannot be effectively used in 1989 due to continued low costs to purchase power.

Deferral No: D89-6A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	New budget authority..... $ 15,389,000 (P.L. 100-371)
Bureau: Power Marketing Administration	Other budgetary resources..* 34,208,647
Appropriation title and symbol: Southwestern Power Administration, Operation and maintenance 1/ 89X0303	Total budgetary resources..* 49,597,647
	Amount to be deferred: Part of year..... $
	Entire year.....* 8,400,000
OMB identification code: 89-0303-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

*Justification: This account funds the activities of the Southwestern Power Administration (SWPA), an agency that markets wholesale hydroelectric power produced at Corps of Engineers dams in six southwestern states. SWPA activities also include construction, operation and maintenance of approximately 1,660 miles of transmission lines over which power is distributed to customers. The law requires SWPA to deliver power to its customers at the lowest cost consistent with sound business practice. Further, the law requires SWPA to recover all costs from its customers, thus mandating that SWPA carefully examine proposed costs to avoid unnecessary spending. In FY 1988, available funds were in excess of amounts required to purchase power and pay non-Federal utilities to deliver it because of operational changes. As a result, the level of unobligated funds carried into FY 1989 for purchasing power was higher than assumed when the FY 1989 Budget was prepared. The FY 1989 appropriations are sufficient to cover anticipated power and wheeling, construction and maintenance costs. There currently is no plan to use these funds in FY 1989, although the funds will be made available if a significant, unplanned need arises (such as an increase in power and wheeling costs). This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1988 (D88-16A).
* Revised from previous report.

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D89-7A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D89-7 transmitted to Congress on September 30, 1988.

This revision to a deferral of the Department of Health and Human Services, Social Security Administration's Limitation on Administrative Expenses (Construction) account increases the amount previously reported from $6,744,607 to $6,824,461. This increase of $79,854 results from more unobligated funds becoming available at the end of FY 1988 than previously anticipated.

Deferral No: D89-7A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health and Human Services	New budget authority..... $ _____ (P.L. _____)
Bureau: Social Security Administration	Other budgetary resources..* 7,456,461
Appropriation title and symbol: Limitation on administrative expenses (construction) 1/ 75X8704	Total budgetary resources..* 7,456,461
	Amount to be deferred: Part of year..... $ _____
	Entire year.....* 6,824,461
OMB identification code: 20-8007-0-6-651	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund:	Type of budget authority:
[ ] Annual	[X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: This account provides funding for construction and renovation of the Social Security Administration's (SSA) headquarters and field office buildings. The only costs in FY 1989 are for roof repair and replacement projects. It has been determined that obligational authority in the amount of this deferral is not needed at the present time. Some additional obligations will occur in FY 1990 for roof repair and replacement. Should new requirements arise, subsequent apportionments will include revisions to this deferral. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1988 (D88-10A).

* Revised from previous report.

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Supplementary Report D89-8A

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D89-8 transmitted to Congress on September 30, 1988.

This revision to a deferral of the Department of Justice - Crime victims fund account increases the amount previously reported from $90,000,000 to $125,000,000. This increase of $35,000,000 results from a reestimate of the funds to be collected in FY 1989.

Deferral No: D89-8A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Justice
Bureau:
Office of Justice Programs
Appropriation title and symbol:
Crime victims fund 1/
15X5041
OMB identification code:
15-5041-0-2-754
Grant program:
[X] Yes [ ] No

New budget authority.....*$ 125,000,000
(P.L. 100-690)
Other budgetary resources...* 114,567,566
Total budgetary resources...* 239,567,566

Amount to be deferred:
Part of year..... $
Entire year.....* 125,000,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: This appropriation is a special fund which is credited with Federal criminal fines, forfeited appearance bonds, and penalties not to exceed $125 million each fiscal year. From these funds, grants are provided to states for crime victim compensation programs and crime victim assistance programs. Each state receives a small amount fixed by law plus additional amounts based on actual program performance. The carryover from FY 1988 will be obligated early in FY 1989. The estimated FY 1989 collections are deferred and will be obligated in FY 1990. This allows the Office of Justice Programs to know precisely how much money is available for award and avoid overobligating or underobligating fund collections. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1988 (D88-19).

* Revised from previous report.

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federal register

Thursday
April 27, 1989

Part IV

Department of Education

34 CFR Part 300
Assistance to States for Education of Handicapped Children; Final Regulations

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DEPARTMENT OF EDUCATION

34 CFR Part 300

RIN 1820-AA71

Assistance to States for Education of Handicapped Children

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for the Assistance to States for Education of Handicapped Children program. The regulations are needed to implement the amendments to Part B of the Education of the Handicapped Act (Part B) that are included in the Education of the Handicapped Act Amendments of 1986 (1986 Amendments) and in the Handicapped Programs Technical Amendments of 1988 (1988 Amendments). These final regulations: require that State plans include sections dealing with interagency agreements and personnel standards; clarify the responsibility of educational and other agencies to provide special education and related services; add nonsupplanting requirements at the State level; permit the State to use additional Part B set-aside funds for monitoring and complaint investigations; alter program requirements for the Secretary of the Interior; and add technical amendments to the Part B procedures for waiving the supplement not supplant requirement, to the child count procedures, to the procedural safeguards, and to the formula for calculating State allocations.

EFFECTIVE DATE: The regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments, with the exception of §§ 300.152, 300.153, and 300.260. Sections 300.152, 300.153, and 300.260 will become effective after the information collection requirements contained in those sections have been submitted by the Department of Education to and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ms. Lucille Sleger, Division of Assistance to States, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3622-MES 2720) Washington, DC 20202; Telephone: (202) 732-1104.

SUPPLEMENTARY INFORMATION: Part B of the Education of the Handicapped Act (20 U.S.C. 1411, *et seq.*), as amended, authorizes formula grants to States and, through States, to local educational agencies and intermediate educational units to assist them in the education of handicapped children. The purpose of the Education of the Handicapped Act is stated as follows:

> It is the purpose of this Act to assure that all handicapped children have available to them, within the time periods specified in section 612(2)(B), a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children. (20 U.S.C. 1400(c))

The 1986 Amendments amended Part B of the Education of the Handicapped Act. These final regulations implement the changes made to Part B by the 1986 Amendments. On March 14, 1988, the Secretary published a notice of proposed rulemaking for this part in the Federal Register, Vol. 53, No. 49 FR 8390. This notice of proposed rulemaking included a summary of the major issues in the proposed regulations. That summary addressed revisions to the Part B regulatory requirements that: (1) Revised supplanting requirements that require States to assure that Part B funds will not be used to supplant State, local and Federal funds (other than Part B funds); (2) added a new regulation for the development and implementation of interagency agreements; (3) added a new regulation stating that Part B funds shall not be construed to permit a State to reduce assistance or alter eligibility under programs supported by Federal Medicaid and Maternal and Child Health programs; (4) revised terms and conditions of grants to the Secretary of the Interior; (5) added a new requirement allowing State educational agencies (SEAs) to use their Part B set-aside funds to pay increased costs of State-level monitoring and complaint investigations; and (6) revised the child count requirements. The summary in the notice of proposed rulemaking also included a discussion of a proposed addition to the comment following § 300.552 that addressed the general requirements for educating preschool handicapped children in the least restrictive environment and new requirements for establishing State personnel standards. The summary appeared in the notice of proposed rulemaking on pages 8390 and 8391 as published in the Federal Register on March 14, 1988.

As a result of public comments, language is added to § 300.153 to clarify the personnel standards in States for individuals in a State who provide special education and related services under Part B. For the most part, the language in § 300.153 duplicates the language in the statute.

This program will enhance the family life of the participants through parental participation in each handicapped child's educational program.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed rulemaking, 832 parties submitted comments on the proposed regulations. In addition, as noted in the notice of proposed rulemaking, Part H of the Act contains a statutory provision for personnel standards that is virtually identical to the statutory provision in this part. As was indicated in the notice of proposed rulemaking for this part, the more than 1500 comments sent to the Department about the notice of proposed rulemaking for Part H of the Act that addressed the personnel standards provisions proposed for the Part H program also were taken into consideration in drafting the notice of proposed rulemaking and these final regulations for § 300.153. (*See* proposed

34 CFR 303 at 52 FR 44360, December 8, 1987.) Comments received on the notice of proposed rulemaking for the Preschool Grants for Handicapped Children Program (52 FR 44346, November 18, 1987) regarding the implementation of the least restrictive environment requirement for preschool aged children covered by Part B also were considered in preparing the final regulations. An analysis of these comments and a summary of substantive changes in the regulations since publication of the notice of proposed rulemaking follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Minor changes made to the language published in the notice of proposed rulemaking—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Section 300.150 State-Level Nonsupplanting

Comments: Several commenters argued that this section should be changed to specify that the required assurance applies only to Federal, State, and local funds under the direct control of the State educational agency. They argued that the requirement is not enforceable. Commenters stated that this section should be changed to require a description of the SEA's attempts to get non-educational agencies to pay for services required to meet the needs of handicapped children under this part. Some commenters argued that the Department should exempt programs and projects funded under the Chapter 1 State Operated and Supported Programs for Handicapped Children program from this requirement.

Discussion: Section 300.150 of the final regulations uses the language in the statute. The statute does not limit the applicability of this requirement to funds directly under the control of the State educational agency. The statutory nonsupplanting requirement applies to all Part B funds that are distributed in accordance with the statutory formula (20 U.S.C. 1411(d)) to local educational agencies or intermediate educational units. There is no provision for exempting Federal funds such as funds provided under the Chapter 1 State Operated and Supported Programs for Handicapped Children program from this requirement unless a waiver is granted in accordance with § 300.589. This nonsupplanting provision does not apply to Part B funds that are not distributed to local educational agencies or intermediate educational units pursuant to 20 U.S.C. 1411.

Changes: New language is added to the comment following § 300.150 to clarify that the State must assure that the requirements of this section are applied to all Part B funds that are distributed to local educational agencies and intermediate educational units under 20 U.S.C. 1411(d).

Section 300.152 Interagency Agreements

Comments: Several commenters felt that the Secretary should use only the statutory language in this section of the regulation. They felt that the requirement to have State educational agencies include in their State plans a description of the role each agency plays in providing or paying for special education and related service limits the flexibility of State educational agencies to provide or pay for services to children with handicaps because the State educational agency is committed to the projected plan that they submit to the Department as part of the State plan. During the fiscal year, particular circumstances may occur that require novel procedures not covered in the plan. One commenter asked if interagency agreements need to be part of the State plans. Other commenters stated that the Secretary should add requirements for involving local educational agencies in the development of interagency agreements and for timelines for reimbursements.

Discussion: The 1986 Amendments added a new State plan requirement to section 613 of the Act concerning the development and implementation of interagency agreements on financial responsibility for providing free appropriate public education for handicapped children. Because in the past, many States have experienced problems with coordination of responsibility for providing and paying for appropriate services for handicapped children, the Secretary believes that including a description in the State plan of the roles that agencies will play in providing and paying for appropriate services is necessary to implement this new statutory requirement. In order to develop these interagency agreements, the agencies involved will have to identify and agree upon their respective roles and shared responsibility to determine their reasonable proportional share of costs and to ensure that the EHA-B requirements are met. Monitoring reviews of participating States continue to show problems in the provision of free appropriate public education to children with handicaps because of the failure to make clear how children who are the responsibility of more than one agency will be served. The lack of clarity in allocation of fiscal responsibility among such agencies has resulted in situations where some children do not receive needed service, parents are charged for services that are a public responsibility, or litigation ensues because of multiagency disputes over financial responsibilities. The requirement for States to include this information in the State plan will obligate States to resolve any areas of ambiguity in allocation of responsibility among the various agencies and provide information to parents and the involved agencies about the availability of services and other resources. Including the actual interagency agreements in State plans however, seems unduly burdensome. States can amend the descriptions in their State plans to reflect any changes that may occur during the State plan period. The Secretary believes States should decide whether to include local educational agencies in the development of interagency agreements.

Changes: None.

Comments: One commenter asked the Secretary to require States to add a description of the procedures that educational agencies may use to secure reimbursement from agencies that are parties to an interagency agreement to their State plans.

Discussion: The Secretary believes that the development of these procedures is a State responsibility.

Changes: None.

Comments: One commenter asked if the State educational agency must develop agreements with local educational agencies.

Discussion: The preamble to the notice of proposed rulemaking included a discussion of the meaning of the phrase "other appropriate State and local agencies." The preamble to the notice of the proposed regulations stated that:

> Other appropriate agencies are all those State and local agencies other than the SEA that provide or pay for special education or related services for children with handicapping conditions. The regulations require the SEA to describe the role that each of those agencies will play in providing or paying for those services. As required by statute, the regulations also require that SEA policies and procedures provide for the development and implementation of interagency agreements that define the responsibilities of each agency and establish mechanisms for resolving interagency disputes. (Federal Register, Vol. 53, No. 49, 3/14/88, p. 8390).

There is no requirement for SEAs to develop separate agreements with LEAs to satisfy this requirement.

Changes: None.

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Section 300.153 Personnel Standards

Comments: The majority of comments that the Department received in response to the notice of proposed rulemaking addressed this section of the proposed regulations. The following paragraphs summarize these comments, which are classified under the categories that follow. As noted in the preamble, the Secretary also considered concerns raised by commenters about the section dealing with personnel standards in the notice of proposed rulemaking for Part H of the Act.

Appropriate Qualifications of Personnel

Numerous commenters were concerned that hiring individuals who meet the licensure requirements established for a profession or discipline, or the highest State standard for a profession or discipline, would not assure that these individuals would be appropriately trained to work in a school setting. These commenters stated that:

- Related service providers who meet the highest requirements in the State may not have appropriate special education training or instructional skills since these may not be required for licensure or certification.
- The phrase "highest standard" should be changed to read "highest standard appropriate to an educational setting."
- Implementing the "highest requirement" standard would not achieve uniform standards across States, if this is the intent behind the statute.
- Multiple levels of supervision exist in a school setting in order to provide appropriate supervision for school personnel. Because such supervision is not available outside of the schools, individuals in private practice may require advanced degrees and additional training. A high level of competence can be maintained in a school setting because of this formal supervision; thus, current certification standards are appropriate.
- The unintended result of this requirement may be increased specialization which results in less ability to work with regular educators and students in the regular classroom environment.
- Licensure can be used as a barrier to practice and interfere with professional growth.
- The Secretary should recognize the differences in school psychology and school social work as distinct from psychology and social work when considering the highest requirements for training.
- Requiring personnel to meet appropriate qualifications will not necessarily enhance the quality of services available to handicapped children.

Impact on Individuals Currently Working With Handicapped Children

Numerous commenters felt that the personnel standards would place a burden upon individuals who are currently providing special education and related services to handicapped children. These commenters stated that:

- There is no provision for grandfathering into the system personnel who are certified under current State standards and are already employed by the State or by local educational agencies and other State agencies. The Supreme Court has declared that certification to practice a profession in a State is a property right under the U.S. Constitution that cannot be abridged without due process.
- State educational agencies should not have the authority to force individuals who hold SEA certification for a profession or discipline to meet additional standards that exceed the current certification standards.
- Individuals already certified could find it necessary to return to school to qualify for licensure if a State imposed an additional licensure requirement. This could be a financial burden for those individuals or for local and State educational agencies.
- States should include an analysis in the State plan of the current State standards for, and status of personnel in, each profession or discipline in the State and whether these personnel meet the highest standard to determine the impact of these requirements on personnel currently employed in a State.

Personnel Shortages

Numerous commenters pointed out that there is already a shortage of qualified personnel to serve children with handicaps. These commenters stated that:

- Increasing certification and licensure standards would intensify this problem.
- This requirement would divert candidates to clinical employment instead of positions in schools.
- This requirement would adversely affect the ability to attract and secure staff in rural areas.

Increased Burdens on States and School Districts

A number of commenters stated that the requirement to have personnel meet the highest requirements in the State for a profession or discipline would place an added burden on local educational agencies and would preempt the State's authority. These commenters stated that:

- The requirements would result in high education costs for those school systems that pay for additional training for employees.
- The personnel standards at § 300.153 contradict the language of the statute and § 300.600 of the regulations, which states that all programs funded under Part B must meet the education standards of the State educational agency.
- This is an area in which the Federal government should not intervene.
- The Department should be flexible in setting timelines; the need for change in personnel standards will vary among States.

Recommendations to Use Specific Language in the Final Regulations

Numerous commenters suggested changing the language that appeared in the notice of proposed rulemaking for this section. These commenters made the following suggestions:

- The wording in § 300.153 is vague and subject to various interpretations (e.g., "appropriately" and "adequately" describe standards that are distinguishable from "the highest standard").
- Use the same language for personnel standards that the Secretary used in the notice of proposed rulemaking for Part H of the Act.
- The regulations should provide guidance for what the "highest requirements" should be in a State.
- Add the following language if a State employs individuals who do not meet State standards: "(1) The steps the State is taking to require the hiring of personnel that meet standards as determined by the State, and (2) the steps the State is taking to require individuals providing special education and related services who do not meet these standards to meet them."
- Include language to assure that States are taking timely steps to require the retraining or training of personnel that meet appropriate professional requirements and improve their personnel standards by adding the following language at the end of § 300.153(2)(b): "* * * and timelines for accomplishing those steps."
- Define terms such as "profession," "discipline," and "highest requirement."
- Add additional guidelines on how to determine the level of competency within professions.
- Add language to the regulations requiring States to include the timelines in the State plan for retraining or hiring personnel who meet the highest requirement in the State.

Support for the Language in the Notice of Proposed Rulemaking

Numerous commenters supported § 300.153 as it appeared in the notice of proposed rulemaking. These commenters stated that:

- The proposed regulations would assure that handicapped children receive special education and related services from personnel who have been trained according to the standards adopted by a profession regardless of the setting in which services are provided.
- Individuals who do not meet the highest standards for a profession are not qualified to provide special education and related services required under this part.

Discussion: There are two issues States must address in meeting the requirements under section 613(a)(4) of the Act and § 300.153: first, the substantial number of special education personnel who have been issued temporary or emergency teaching certificates; and second, discrepancies between the State's certification standards for personnel providing special education and related services under Part B and the standards for individuals providing similar services in other agencies.

With respect to determining the highest standard for personnel who provide special education and related services, the Secretary agrees with the numerous commenters who stated that the standards required under this part must be based on the highest standards in the State for personnel providing similar services to children and youth with handicaps. Each State must determine the range of occupational categories that are needed for the delivery of services under Part B to children and youth with handicaps. When identifying the highest requirements in the State for each occupational category, the State educational agency must look at the standards appropriate for the responsibilities of and the supervisory controls for personnel providing special education and related services under this part. These standards may be different from those that are appropriate for personnel in other agencies. The Secretary notes, for example, that school psychologists are members of a specific occupational category who have training requirements appropriate for their responsibilities under Part B.

The legislative history for the Act states that:

> The Committee is concerned about the increasing number of personnel providing special education and related services who do not meet the highest State standards established for employment in a specific profession or discipline. For example, many teachers providing special education have been issued temporary teaching certification and do not meet full certification standards related to the area in which they provide instruction. The Committee intends that the States will take steps to ensure that all special education teachers are fully qualified and certified for the areas in which they are providing instruction.
>
> The Committee also is concerned that some States have established education and training requirements for individuals providing services that do not apply to all members of that profession employed by State and local educational agencies. For example, 19 States currently require a speech-language pathologist to have a master's degree to legally provide services to handicapped infants, children, and youth in a nonpublic agency. However, in these same States, the State educational agency allows individuals with less than a master's degree to provide services to handicapped infants, children, and youth in the schools. The Committee hopes that States will take steps to ensure that professionals providing special education and related services meet appropriate professional requirements in the State to practice a specific profession or discipline.

H.R. Rep. No. 860, 99th Cong., 2d Sess., 38–39 (1986)

The intent of the 1988 Amendments is to ensure that only fully qualified personnel provide services to handicapped children in schools.

The Act requires State educational agencies to establish and maintain appropriate standards for those personnel providing special education and related services and to ensure that personnel meet these standards. It also requires that States must include in their State plans the steps that they are taking to require the retraining of personnel who do not meet these standards or the hiring of personnel who meet appropriate requirements. The Secretary believes that these steps must be reached within a reasonable time period to be established by the State.

In addition, the Secretary has determined that the information that the State collects and uses to ascertain the status of personnel standards in the State (*see* § 300.153(d)) must be made available to the public. This requirement conforms to the rule in 34 CFR 76.106(a) that requires States to make available for public inspection "[a]ll State plans and related official materials."

Changes: Section 300.153 has been amended to add definitions of "appropriate professional requirements in the State," "highest requirements in the State applicable to a specific profession or discipline," "profession or discipline," and "State approved or recognized certification, licensing, registration, or other comparable requirements."

Section 300.153(c)(1) (proposed § 300.153(b)) has been changed to make it clear that standards for temporary or emergency certification are among the personnel standards subject to the requirements of this part. This provision also requires that State plans must include procedures for notifying agencies and personnel of the steps that the State is taking and the timelines that it has established for the retraining or hiring of personnel to meet appropriate professional requirements in the State.

The Secretary appreciates that these requirements regarding personnel standards may require retraining or additional training of some individuals currently employed by school systems. Any new personnel standards established by the State would, of course, be implemented in a manner consistent with the legal rights of individual employees to continued employment and due process. In order to monitor the progress of each State in complying with the requirements regarding personnel standards, the Secretary requires States to establish timelines for implementation of these requirements and to describe procedures for giving notice of the changed requirements, including those timelines, in their State Plans.

Language has been added to § 300.153(e) to make it consistent with the definitions of "profession or discipline" and "State approved or recognized certification, licensing, registration, or other comparable requirements" in § 300.153(a) (3)–(4).

The comment following § 300.153 is revised to clarify that each State uses its own existing highest requirements to determine which personnel standards are appropriate for retraining or hiring staff who provide special education and related services to children and youth with handicaps. Each State determines which occupational categories are required to serve handicapped children under Part B. A provision has been added to § 300.153(d) to require that the State make available to the public the information it collects and uses to ascertain the status of personnel standards.

It is important for the Secretary and the public to be able, upon request, to inspect the information used in establishing personnel standards under this part. The State need not, however, append this material to the State Plan submitted to the Department.

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Section 300.370 Use of State Allocations

Comments: Some commenters noted that this section provided sufficient flexibility to allow States to make the administrative arrangements needed to monitor this program. One commenter wanted to add language stating that State educational agencies may employ personnel or contract with intermediate educational units to carry out their monitoring activities.

Discussion: The section, which incorporates statutory language, permits States to use the funds available under this part to employ personnel or contract with intermediate educational units for the administration of monitoring activities.

Changes: None.

Section 300.552 Placements

Comments: A number of commenters felt that the requirements regarding placement in the least restrictive environment should apply to preschool children.

Discussion: The requirements in this part apply to all children aged three through 21 who are eligible for services under this part or who are participating in a program, such as the Chapter 1 the State Operated or Supported Programs for Handicapped Children program, that incorporates the requirements of this part.

Changes: Language is added to the comment following this section to emphasize that the requirement to serve children in the least restrictive environment applies to all preschool children aged three through five with handicaps.

Comments: Some commenters wanted clarification of the definition of "least restrictive environment" for preschool children. These commenters were especially interested in satisfying the least restrictive environment requirements in States that do not provide preschool programs for non-handicapped children. Several commenters felt that a placement decision must be based upon a child's individualized education program. These commenters said that the appropriate placement for a particular child may not be an integrated setting. Other comments pointed out that alternative delivery models, including home-based or center-based programs, should be available for meeting the needs of preschoolers with handicaps.

Discussion: The existing requirements about placements in the least restrictive environment (§§ 300.550–300.556) apply to all children participating in the Part B program. The Secretary notes that the appropriate setting for a particular child may not be an integrated setting. There are a variety of placements that can meet the needs of preschool children with handicaps. The determination about the placement of a particular child must be based upon that child's individualized education program.

Changes: Language has been added to the comment following § 300.552: (1) To emphasize that the requirement to serve children in the least restrictive environment, to the maximum extent appropriate, applies to preschool children and (2) to provide examples of alternative methods of meeting this requirement in States that do not provide preschool programs for non-handicapped children.

Comment: Some commenters wanted to revise the language in these regulations to emphasize the importance of involving family members to assist in their child's development. They stated, for example, that family members should be trained to provide services for their preschool child.

Discussion: "Parent counseling and training" is defined at 34 CFR 300.13(b)(6) as a related service and can be included in an individualized education program if it is determined to be needed to assist a child in benefitting from special education. The regulations implementing Part B also emphasize the role of parents at the meeting held to develop a child's individualized education program. *See* Question 26 in Appendix C to 34 CFR Part 300. Finally, the regulations at 34 CFR 300.370(b)(2) include "parent training activities" under the definition of "support services" for which a State educational agency (SEA) may use its Part B allocation.

The Secretary has consistently supported parental involvement in all educational programs. This includes supporting the important role of parents as active participants in the development and implementation of their child's educational program. States are encouraged to increase efforts to include parents in developing and providing special education and related services to their preschool child with handicaps.

Changes: None.

Comments: One commenter stated that locating classes for preschool children with handicaps in regular elementary schools should not be considered an alternative that promotes the integration of handicapped and non-handicapped children.

Discussion: The continuum of alternative placements described at § 300.551 includes a variety of placements. The statement added to the comment following § 300.552 is consistent with requirements in § 300.551.

Changes: None.

Section 300.702 Limitations and Exclusions

Comments: Several commenters objected to the 12 percent cap on the number of children whom the Secretary may count for the purpose of generating program funds. Other commenters asked the Secretary to add more detailed requirements to this section, for example, to elaborate upon the requirement at § 300.702(b) regarding the availability of funds.

Discussion: The requirement establishing the 12 percent cap is statutory. It applies to the number of children who may be counted for the purposes of generating program funds and does not put any limitations on the number of children who can be served under this part. The only language that is added to the existing language in this section is statutory language that was added to reflect changes made by the 1986 Amendments. The Secretary does not feel that more extensive changes should be made to this section at this time.

Changes: None.

Technical Amendments Added by the 1988 Amendments

Technical amendments have been added in these final regulations that were not published as part of the notice of proposed rulemaking. Amendments are added to § 300.580(a), which deals with the EHA–B supplement and not supplant waiver procedure, and to the comments following § 300.750 and § 300.751. Sections 300.750 and 300.751 describe the requirements State educational agencies must use for submitting child count data to the Secretary. These changes add the statutory changes made by the 1986 Amendments.

Technical Changes Resulting From the 1988 Amendments

Technical amendments are added in the final regulations to reflect amendments made to Part B by the 1988 Amendments. The reference to the State Operated or Supported Programs for Handicapped Children Program is changed so that the title reads "subpart 2 of part D of Chapter 1 of title 1 of the Elementary and Secondary Education Act of 1965 and section 202(1) of the Carl Perkins Vocational Education Act" in § 300.138 and § 300.753(b)(3). Section 300.300(3)(b) is amended to state that the provision does not apply to children aged three through five in any fiscal year for which the State receives a grant under section 619(a)(1) of the Act.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Provision Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedures Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, since the technical changes added to these regulations merely incorporate statutory changes into existing regulations and do not themselves establish new substantive policy, public comment could have no effect on the content of these amendments. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on these amendments is unnecessary and contrary to public interest.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

List of Subjects in 34 CFR Part 300

Administrative practice and procedures, Education, Education of handicapped, Grant programs—education, Privacy, Private schools, Reporting and recordkeeping requirements.

Dated: February 28, 1989.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.027; Assistance to States for Education of Handicapped Children)

The Secretary amends Part 300 of Title 34 of the Code of Federal Regulations as follows:

PART 300—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

1. The authority citation for Part 300 continues to read as follows:

Authority: 20 U.S.C. 1411–1420, unless otherwise noted.

§ 300.138 [Amended]

2. Section 300.138 is amended by removing "section 121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241e–2) section 305(b)(8) of that Act (20 U.S.C. 844a(b)(8)) or Title IV–C of that Act (20 U.S.C. 1831), and section 110(a) of the Vocational Education Act of 1963," and adding in its place "subpart 2 of part D of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965 and section 202(1) of the Carl D. Perkins Vocational Education Act."

3. Subpart B is amended by adding a new § 300.150 to read as follows:

§ 300.150 State-level nonsupplanting.

Each program plan must provide assurance satisfactory to the Secretary that funds provided under this part will be used so as to supplement and increase the level of Federal (other than funds available under this part), State, and local funds—including funds that are not under the direct control of State or local educational agencies—expended for special education and related services provided to handicapped children under this part and in no case to supplant those Federal (other than funds available under this part), State, and local funds unless a waiver is granted in accordance with § 300.589.

(Authority: 20 U.S.C. 1413(a)(9))

Comment. This requirement is distinct from the supplanting provision already contained in these regulations at § 300.230. Under this provision, the State must assure that Part B funds distributed to local educational agencies and intermediate educational units will be used to supplement and not supplant other Federal, State, and local funds (including funds not under the control of educational agencies) that would have been expended for special education and related services provided to handicapped children in the absence of the Part B funds. The portion of Part B funds that are not distributed to local educational agencies or intermediate educational units under the statutory formula (20 U.S.C. 1411(d)) are not subject to this supplanting provision. *See* 20 U.S.C. 1411(c)(3). States may not permit local educational agencies or intermediate educational units to use Part B funds to satisfy a financial commitment for services that would have been paid for by a health or other agency pursuant to policy or practice but for the fact that these services are now included in handicapped children's individualized education programs.

(H. R. Rep. No. 860, 99th Cong., 21–22 (1986))

4. Subpart B is further amended by adding new §§ 300.152 and 300.153 to read as follows:

§ 300.152 Interagency agreements.

(a) Each State plan must set forth policies and procedures for developing and implementing interagency agreements between—

(1) The State educational agency; and

(2) All other State and local agencies that provide or pay for services required under this part for handicapped children.

(b) The policies and procedures referred to in paragraph (a) of this section must—

(1) Describe the role that each of those agencies plays in providing or paying for services required under this part for handicapped children; and

(2) Provide for the development and implementation of interagency agreements that—

(i) Define the financial responsibility of each agency for providing handicapped children with free appropriate public education;

(ii) Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and

(iii) Establish procedures under which local educational agencies may initiate proceedings in order to secure reimbursement from agencies that are parties to the agreement or otherwise implement the provisions of the agreement.

(Authority: 20 U.S.C. 1413 (a)(13))

§ 300.153 Personnel standards

(a) As used in this part:

(1) "Appropriate professional requirements in the State" means entry level requirements that—

(i) Are based on the highest requirements in the State applicable to the profession or discipline in which a person is providing special education or related services; and

(ii) Establish suitable qualifications for personnel providing special education and related services under this part to children and youth with handicaps who are served by State, local, and private agencies (*see* § 300.2);

(2) "Highest requirements in the State applicable to a specific profession or discipline" means the highest entry-level academic degree needed for any State approved or recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline;

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(3) "Profession or discipline" means a specific occupational category that—

(i) Provides special education and related services to handicapped children under this part;

(ii) Has been established or designated by the State; and

(iii) Has a required scope of responsibility and degree of supervision.

(4) "State approved or recognized certification, licensing, registration, or other comparable requirements" means the requirements that a State legislature either has enacted or has authorized a State agency to promulgate through rules to establish the entry-level standards for employment in a specific profession or discipline in that State.

(b)(1) Each State plan must include policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained.

(2) The policies and procedures required in paragraph (b)(1) of this section must provide for the establishment and maintenance of standards that are consistent with any State approved or recognized certification, licensing, or other comparable requirements that apply to the profession or discipline in which a person is providing special education or related services.

(c) To the extent that a State's standards for a profession or discipline, including standards for temporary or emergency certification, are not based on the highest requirements in the State applicable to a specific profession or discipline, the State plan must include the steps the State is taking and the procedures for notifying public agencies and personnel of those steps and the timelines it has established for the retraining or hiring of personnel to meet appropriate professional requirements in the State.

(d)(1) In meeting the requirements in paragraphs (b) and (c) of this section, a determination must be made about the status of personnel standards in the State. That determination must be based on current information that accurately describes, for each profession or discipline in which personnel are providing special education or related services, whether the applicable standards are consistent with the highest requirements in the State for that profession or discipline.

(2) The information required in paragraph (d)(1) of this section must be on file in the State educational agency, and available to the public.

(e) In identifying the "highest requirements in the State" for purposes of this section, the requirements of all State statutes and the rules of all State agencies applicable to serving children and youth with handicaps must be considered.

(Authority: 20 U.S.C. 1413(a)(14))

Comment: The regulations require that the State use its own existing highest requirements to determine the standards appropriate to personnel who provide special education and related services under this part. The regulations do not require States to set any specified training standard, such as a master's degree, for employment of personnel who provide services under this part. In some instances, States will be required to show that they are taking steps to retrain or to hire personnel to meet the standards adopted by the State educational agency that are based on requirements for practice in a specific profession or discipline that were established by other State agencies. States in this position need not, however, require personnel providing services under this part to apply for and obtain the license, registration, or other comparable credential required by other agencies of individuals in that profession or discipline. The regulations permit each State to determine the specific occupational categories required to provide special education and related services and to revise or expand these categories as needed. The professions or disciplines defined by the State need not be limited to traditional occupational categories.

5. Section 300.280 is revised to read as follows:

§ 300.280 Submission of application; approval.

(a) In order to receive a grant under this part, the Secretary of the Interior shall submit an application that—

(1) Meets the requirements in section 612(1), 612(2)(A), 612(2)(C)–(E), 612(4), 612(5), 612(6), and 612(7) of the Act;

(2) Meets the requirements in section 613(a), 613(b), 613(c), and 613(e) of the Act;

(3) Meets the requirements of section 614(a) of the Act;

(4) Meets the requirements of this part that implement the sections of the Act listed in paragraphs (a)(1)–(a)(3) of this section; and

(5) Includes an assurance that there have been public hearings on the application, adequate notice of the public hearings, and an opportunity for members of tribes, tribal governing bodies, and designated local school boards to comment on the application before the adoption of the policies, programs, and procedures required under sections 612, 613, and 614(a) of the Act.

(b) Sections 300.580–300.586 apply to grants available to the Secretary of the Interior under this part.

(Authority: 20 U.S.C. 1411(f))

6. In § 300.300 paragraph (b)(3) is revised to read as follows:

§ 300.300 Timelines for free appropriate public education.

* * * * *

(b) * * *

(3) If a public agency provides education to 50 percent or more of its handicapped children in any disability category in any of these age groups, it must make a free appropriate public education available to all its handicapped children of the same age who have that disability. This provision does not apply to children aged three through five for any fiscal year for which the State receives a grant under section 619(a)(1) of the Act.

* * * * *

7. Section 300.370 is amended by revising the section title and paragraph (a) to read as follows:

§ 300.370 Use of State agency allocations.

(a) The State may use the portion of its allocation that it does not use for administration under §§ 300.620–300.621—

(1) For support services and direct services in accordance with the priority requirements under §§ 300.320–300.324; and

(2) For the administrative costs of the State's monitoring activities and complaint investigations, to the extent that these costs exceed the administrative costs for monitoring and complaint investigations incurred during fiscal year 1985.

* * * * *

8. Section 300.552 is amended by adding a new second and third paragraphs in the comment to read as follows:

§ 300.552 Placements.

* * * * *

The requirements of § 300.552, as well as the other requirements of §§ 300.550–300.556, apply to all preschool handicapped children who are entitled to receive a free appropriate public education. Public agencies that provide preschool programs for non-handicapped children must ensure that the requirements of § 300.552(c) are met. Public agencies that do not operate programs for non-handicapped preschool children are not required to initiate such programs solely to satisfy the requirements regarding placement in the least restrictive environment embodied in §§ 300.550–300.556. For these public agencies, some alternative methods for meeting the requirements of §§ 300.550–300.556 include:

(1) Providing opportunities for the participation (even part-time) of preschool handicapped children in other preschool programs operated by public agencies (such as Head Start);

(2) Placing handicapped children in private school programs for non-handicapped preschool children or private school preschool programs that integrate handicapped and non-handicapped children; and

(3) Locating classes for handicapped preschool children in regular elementary schools.

In each case the public agency must ensure that each child's placement is in the least restrictive environment in which the unique needs of that child can be met, based upon the child's individualized education program, and meets all of the other requirements of §§ 300.340–300.349 and §§ 300.550–300.556.

10. Section 300.589 is amended by revising paragraph (a) to read as follows:

§ 300.589 Waiver of requirement regarding supplement and supplanting with Part B funds.

(a) Under sections 613(a)(9)(B) and 614(a)(2)(B)(ii) of the Act, State and local educational agencies must insure that Federal funds provided under this part are used to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to handicapped children under this part and in no case to supplant those Federal, State, and local funds. The nonsupplanting requirement applies only to funds allocated to local educational agencies (*See* § 300.372).

* * * * *

11. The center heading preceding § 300.600 is revised to read as follows:

General

12. Section 300.600 is amended by adding a new paragraph (c) to read as follows:

§ 300.600 Responsibility for all educational programs.

* * * * *

(c) This part may not be construed to limit the responsibility of agencies other than educational agencies for providing or paying some or all of the costs of a free appropriate public education to handicapped children in the State.

* * * * *

13. Subpart F is amended by adding a new § 300.601 to read as follows:

§ 300.601 Relation of Part B to other Federal programs.

This part may not be construed to permit a State to reduce medical and other assistance available to handicapped children, or to alter a handicapped child's eligibility, under Title V (Maternal and Child Health) or Title XIX (Medicaid) of the Social Security Act, to receive services that are also part of a free appropriate public education.

(Authority: 20 U.S.C. 1413(e))

14. Section 300.701 is amended by revising paragraph (a) to read as follows and removing and reserving paragraph (b).

§ 300.701 State entitlement, formula.

(a) The Secretary calculates the maximum amount of the grant to which a State is entitled under section 611 of the Act in any fiscal year as follows:

(1) If the State is eligible for a grant under section 619 of the Act, the maximum entitlement is equal to the number of handicapped children aged three through 21 in the State who are receiving special education and related services, multiplied by 40 percent of the average per pupil expenditure in public elementary and secondary schools in the United States.

(2) If the State is not eligible for a grant under section 619 of the Act, the maximum entitlement is equal to the number of handicapped children aged six through 21 in the State who are receiving special education and related services, multiplied by 40 percent of the average per pupil expenditure in public elementary and secondary schools in the United States.

(Authority: 20 U.S.C. 1411(a)(1))

(b) [Reserved]

* * * * *

15. Section 300.702 is amended by revising paragraphs (a)(1), (a)(3), and (b) and adding a new paragraph (a)(2). As revised, § 300.702 reads as follows:

§ 300.702 Limitation and exclusions.

(a) In determining the amount of a grant under § 300.701—

(1) If a State serves all handicapped children aged three through five in the State, the Secretary does not count handicapped children aged three through 17 in the State to the extent that the number of those children is greater than 12 percent of the number of all children aged three through 17 in the State;

(2) If a State does not serve all handicapped children aged three through five in the State, the Secretary does not count handicapped children aged five through 17 to the extent that the number of those children is greater than 12 percent of the number of all children aged five through 17 in the State; and

(3) The Secretary does not count handicapped children who are counted under subpart 2 of Part D of Chapter 1 of title I of the Augustus F. Hawkins—Robert J. Stafford Elementary and Secondary School Improvement Amendments of 1988.

(b) For the purposes of paragraph (a) of this section, the number of children aged three through 17 and five through 17 in any State is determined by the Secretary on the basis of the most recent satisfactory data available.

(Authority: 20 U.S.C. 1411(a)(5))

16. Section 300.709 is amended by revising paragraph (b) to read as follows:

§ 300.709 Payments to the Secretary of Interior.

* * * * *

(b) The amount of those payments for any fiscal year is 1.25 percent of the aggregate amounts available to all States for that fiscal year under this part.

(Authority: 20 U.S.C. 1411(f)(1))

17. Section 300.750 is amended by revising the comment to read as follows:

§ 300.750 Annual report of children served—report requirement.

* * * * *

Comment. It is very important to understand that this report and the requirements that relate to it are solely for allocation purposes. The population of children the State may count for allocation purposes may differ from the population of children to whom the State must make available a free appropriate public education. For example, while section 611(a)(5) of the Act limits the number of children who may be counted for allocation purposes to 12 percent of the general school population aged three through 17 (in States that serve all handicapped children aged three through five) or five through 17 (in States that do not serve all handicapped children aged three through five), a State might find that 14 percent (or some other percentage) of its children are handicapped. In that case, the State must make a free appropriate public education available to all of those handicapped children.

18. Section 300.751 is amended by adding a new paragraph (a)(2), and revising paragraphs (a)(3), (a)(4, (c), and (d) to read as follows:

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§ 300.751 Annual report of children served—information required in the report.

(a) In its report, the State educational agency shall include a table which shows:

* * * * *

(2) The number of handicapped children aged three through five who are receiving a free appropriate public education;

(3) The number of those handicapped children aged six through 21 within each disability category, as defined in the definition of "handicapped children" in § 300.5 of Subpart A; and

(4) The number of those handicapped children aged three through 21 for each year of age (three, four, five, etc.).

* * * * *

(c) The State educational agency may not report a child aged six through 21 under more than one disability category.

(d) If a handicapped child aged six through 21 has more than one disability, the State educational agency shall report that child in accordance with the following procedure:

(1) A child who is both deaf and blind must be reported as "deaf-blind."

(2) A child who has more than one disability (other than a deaf-blind) must be reported as "multihandicapped."

* * * * *

(Authority: 20 U.S.C. 1411(a)(3); 1411(a)(5)(A)(ii); 1416(b))

(Approved by the Office of Management and Budget under control number 1820-0043)

§ 300.753 [Amended]

19. In § 300.753, paragraph (b)(4) is amended by removing "section 121" and adding, in its place, "subpart 2 of part D of Chapter 1 of title 1".

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Thursday
April 27, 1989

Part V

Department of Transportation

Coast Guard

33 CFR Parts 166 and 167

Traffic Separation Schemes and Shipping Safety Fairways Off the Coast of California; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 166 and 167

[CGD 83-032]

RIN 2115-AB29

Traffic Separation Schemes and Shipping Safety Fairways Off the Coast of California

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to establish a routing system comprised of amended traffic separation schemes (TSSs) and new shipping safety fairways along the coast of California. The proposed rule will modify the existing TSSs in the approaches to San Francisco, in the Santa Barbara Channel and in the approaches to Los Angeles/Long Beach. It will also establish new shipping safety fairways connecting the San Francisco TSS and the Santa Barbara Channel TSS and overlaying the precautionary areas in the approaches to Los Angeles/Long Beach and San Francisco. The proposed routing measures will increase navigation safety by separating opposing vessel traffic and by preserving a right of way for navigation through areas which are now, or will be, sites of offshore oil and gas development.

DATE: Comments must be received on or before July 26, 1989.

ADDRESS: Comments should be submitted to Executive Secretary, Marine Safety Council (G-LRA-2/3600) (CGD 83-032), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001. Comments may be delivered to and will be available for inspection and copying in Room 3600 between the hours of 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, Project Manager, Short Range Aids to Navigation Division, Office of Navigation Safety and Waterway Services, telephone (202) 267-0415, between 7:30 a.m. and 3:30 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Regulatory Information Number

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Request for Comments

The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice as CGD 83-032, and give the reasons for the comment. Persons desiring acknowledgment that their comments have been received should enclose a stamped self-addressed postcard or envelope.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a subsequent notice if written requests for a hearing are received, and if it is determined that the opportunity to make oral presentations will be beneficial to this rulemaking.

Drafting Information

The principal persons involved in drafting this proposed rulemaking are: Lieutenant (j.g.) Daphne Reese, Margie G. Hegy, Project Manager, and Christena Green, Project Attorney, Office of Chief Counsel.

Background

The Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1223(c), authorizes the Secretary of the Department in which the Coast Guard is operating to establish traffic separation schemes (TSS) and shipping safety fairways, where necessary, to provide safe access routes for vessels proceeding to or from United States ports.

Shipping safety fairways and TSSs are different measures which provide safe port access routes for vessels. Where the primary risk to vessels is collision with offshore structures, a shipping safety fairway is an appropriate routing measure. Where the primary risk is collision with other vessels because of disorganized traffic patterns, a TSS is the preferred routing measure.

A TSS is an internationally recognized routing measure that minimizes the risk of collision by separating vessels into opposing streams of traffic through the establishment of traffic lanes. To be internationally recognized, a TSS must be approved by the International Maritime Organization (IMO). IMO approves TSSs only if the proposed routing system complies with IMO principles and guidelines on ships routing. Vessel use of a TSS is voluntary; however, vessels operating in or near an IMO approved TSS are subject to Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS).

A shipping safety fairway is an area in which no fixed structures, temporary or permanent, are permitted. Vessel use of shipping safety fairways of voluntary and the direction of traffic flow within the shipping safety fairway may be recommended. Shipping safety fairways and inhibit exploration for and exploitation of mineral resources in the designated area. Shipping safety fairways, however, may be a necessary measure to reconcile convenient mineral exploitation needs and concern for navigation safety. Presently there are three IMO approved TSSs and one shipping safety fairway off the coast of California: a three-pronged TSS in the approaches to San Francisco Bay; a TSS through the Santa Barbara Channel; a two-pronged TSS in the approach to Los Angeles/Long Beach; and a shipping safety fairway off Point Hueneme.

Before either a new TSS or shipping safety fairway can be established, the PWSA requires the Coast Guard to conduct a port access route study taking into account all other uses of the area under consideration and ensuring that the interests of all affected parties are considered. These uses include, as appropriate, the exploration for, or exploitation of, oil, gas or other mineral resources; the construction or operation of deepwater ports or other structures; the establishment or operation of marine or estuarine sanctuaries; and activities involving recreational or commercial fishing. Publication of a notice of study advises all bidders in future lease sales that occupancy rights within the study area may be restricted by a routing system developed as a result of the study. In the interest of promoting a multiple use approach to offshore waters, the Coast Guard, as far as practicable, will try to minimize impacts on other uses of the area. Once a shipping safety fairway or TSS is designated under the authority of the PWSA, however, the paramount right of navigation is recognized within the designated area.

Regulatory History

The 1978 amendments to the PWSA required the Coast Guard to undertake a port access route study to determine the need for traffic separation schemes or shipping safety fairways to increase vessel traffic safety in offshore areas subject to the jurisdiction of the United States. The Coast Guard initiated this study by publishing a Notice of

Proposed Study on April 16, 1979 (44 FR 22543).

For the purposes of the port access route study, the U.S. coastline was divided into 32 geographically defined areas. Study area 22 included the coast of southern California and was assigned to the Eleventh Coast Guard District for study. Study areas 23 to 25 included the central and northern California coast and were assigned to the former Twelfth Coast Guard District. Through public participation and government agency consultation, the studies evaluated potential traffic density patterns, waterways use conflicts, and the need for safe access routes in offshore area.

The Study Results for the coast of southern California (area 22) were published on June 24, 1982, at 47 FR 27430. An additional study of the Port Access Routes, Northern Approach to Santa Barbara Channel, was announced on July 26, 1984, at 49 FR 30078, with results of that study published on December 5, 1985, at 50 FR 49861.

The Study Results for the central and northern coast of California (areas 23-25) were published on October 14, 1982, at 47 FR 46043. An additional study on Port Access Routes, Entrance to San Francisco Bay was announced on December 17, 1984, at 49 FR 48946, and the study results were published on May 8, 1986, at 51 FR 17071.

Discussion of Proposal

The port access route studies recommended amendments to the TSSs currently established off the coast of California and the designation of new shipping safety fairways to establish a comprehensive safe routing system for vessels proceeding to, from, or between the ports of San Francisco and Los Angeles/Long Beach. The Coast Guard believes the proposed routing measures are necessary to meet present and future needs of safe navigation by providing clear lanes for vessel traffic between San Francisco and Los Angeles/Long Beach. The proposed routing measures represent the most practicable reconciliation between safe access routes and the needs of all other reasonable uses of the areas involved.

The proposed California offshore routing system includes the following elements:

(1) Los Angeles/Long Beach TSS—amendments to the TSS and precautionary area in the approach to Los Angeles/Long Beach, and establishment of a shipping safety fairway overlaying the Los Angeles/Long Beach precautionary area;

(2) Santa Barbara Channel TSS—an extension of the TSS approximately 18 miles northwest and a shift in the lanes of the southern section of the TSS;

(3) Coastal Fairways—Establishment of two parallel one-mile wide shipping safety fairways along the central California coast connecting the Santa Barbara Channel TSS and the San Francisco TSS; and

(4) San Francisco TSS—amendments to the lanes of the TSS and the precautionary area and establishment of a shipping safety fairway overlaying the reconfigured precautionary area and a new TSS segment in the main ship channel.

The details of each of these elements are discussed below.

Los Angeles/Long Beach TSS

The TSS in the approaches to Los Angeles/Long Beach is comprised of the Southern Approach, the Western Approach and a precautionary area. The TSS was approved by IMO in 1975. As a result of the port access route studies for southern California, the Coast Guard believes navigation safety will be improved if the following modifications are made to this TSS: shifting a lane in the Western Approach to the Los Angeles/Long Beach TSS; reconfiguring the precautionary area; and establishing a new shipping safety fairway overlaying the precautionary area.

Western Approach

At the time of the study, vessels were departing from Long Beach, turning west at the breakwater and crossing through the pilot boarding area to enter the northbound lane of the TSS. The modification to the Western Approach consists of reducing a portion of the TSS separation zone from two miles to one mile in width; relocating the outbound lane one mile to the south; and merging the existing two-mile separation zone at a slightly adjusted turning point in the TSS. This adjustment will alleviate the problems of vessel traffic crossing in and near the pilot boarding area at the harbor entrance. This modification was approved by IMO in 1983.

Precautionary Area

The port access route study found that the eastern side of the precautionary area was not normally used by vessels proceeding in or out of the TSS lanes. The Coast Guard proposes to reduce the size of the precautionary area by moving the eastern boundary away from the coastline, releasing the unused area to offshore oil and gas activities or other uses. The western boundary of the area will be extended to connect with the outbound lane of the adjusted Western Approach TSS. The northern boundary will be moved south to line up with the breakwater. This modification was approved by IMO in 1983.

Shipping Safety Fairway

As a result of the port access route studies, the Coast Guard proposes to designate a shipping safety fairway to overlay the precautionary area. This change is necessary to resolve the potential conflict between vessel navigation and offshore oil and gas activities in the area between the Western Approach TSS lanes and the Southern Approach TSS lanes. At the present time there is no express prohibition against structures being erected within a precautionary area. Establishment of the shipping safety fairway to overlay the precautionary area will prohibit fixed structures in this area.

The Santa Barbara Channel TSS

The TSS in the Santa Barbara Channel, comprised of a north-westbound traffic lane and a south-eastbound traffic lane between Point Vicente and Point Conception, was approved by IMO in 1973. The Coast Guard proposes extending the north-west end of the TSS and shifting the lanes off Anacapa Island.

Lane Shift

The lanes of the Santa Barbara Channel TSS would shift one-half mile southward at a point off Anacapa Island, resulting in a slight shift at the westerly end of the present scheme, and a readjustment of the turning point where it joins the existing TSS "In the Approaches to Los Angeles/Long Beach." This modification is intended to facilitate development of a known oil and gas field while protecting traffic lanes from interference by offshore structures. The modification was approved by IMO in 1983.

Extension to Point Arguello

The Coast Guard originally proposed a thirty mile extension of the Santa Barbara Channel TSS but IMO did not approve the entire extension. Instead IMO approved an extension of the north-west end of the Santa Barbara Channel TSS 18 miles north-west to a point 13 miles off Point Arguello. This extension will carry traffic west of an area expected to undergo offshore development for gas and oil in the future. Exploration in the area shoreward of this proposed extension has revealed large quantities of resources, and platforms are anticipated to be located in this area as development takes place. The modification was approved by IMO in

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1985. The IMO has conditioned extension of the TSS on the placement of a radar beacon and light on platform *"Harvest"*, located at position 34°28.09'N, 120°40.46'W, to ensure vessels can fix their position when entering the TSS.

Shipping Safety Fairways Off California

The Coast Guard had originally considered the establishment of a five-mile-wide shipping safety fairway between the San Francisco TSS and the Santa Barbara TSS. This five-mile width was intended to provide space for designation of TSS lanes if the need arose in the future, and to allow room for adjustment if a narrowing of the shipping safety fairway was the only means of providing access for future offshore development of a particular area. The large number of offshore tracts which could not be leased if a five-mile-wide shipping safety fairway were established caused the Coast Guard to modify its proposal. The Coast Guard determined that two one-mile-wide shipping safety fairways would still serve the purpose of providing obstruction free corridors for coastwise traffic.

This rulemaking proposes two parallel one-mile-wide shipping safety fairways approximately 165 nautical miles long between the southern end of the IMO approved San Francisco TSS extension and the end of the IMO approved extension of the Santa Barbara Channel TSS at Point Arguello. Shipping safety fairways are needed in areas where blocks have been leased off the central California coast in the Santa Maria Basin near Point Conception, and where exploratory drilling has confirmed that the area has promise as a major site for oil and gas production.

A Congressional moratorium and action by California state and environmental groups have limited the Minerals Management Service (MMS) to offering only a few blocks for lease in offshore California. Preliminary indications are that several areas off the coast of California, including the Santa Cruz Basin near San Francisco, are of high interest to offshore developers. Since MMS has adopted an area wide leasing plan, it is impossible for the Coast Guard to identify the exact areas where drilling is likely to be concentrated until leases are actually awarded. Because of expected industry interest and the uncertainties inherent in MMS area wide lease sales, the Coast Guard believes that the proposed shipping safety fairways best meet the mandate of the PWSA that safe access routes be established to reconcile, as far as practicable, the potential for future multiple use conflicts.

The Coast Guard proposes to place the shipping safety fairways in areas where it is essential to guarantee obstruction free routes to vessel traffic during the time of oil and gas exploration and exploitation off California. The shipping safety fairways are especially important in this area where IMO navigational requirements for establishment of a TSS cannot currently be met, but where a right of way for navigation is necessary as offshore areas are leased.

Off San Francisco TSS

The TSS in the approaches to San Francisco, comprised of the Southern Approach, Main Approach, Northern Approach, and a precautionary area, was approved by IMO in 1973. As a result of the port access route studies, the Coast Guard proposes modifying the Southern and Northern TSS segments; renaming the Main Approach segment; reconfiguring the precautionary area; redescribing the separation zone within the precautionary area as an "area to be avoided"; establishing a new TSS segment over the Main Ship Channel into San Francisco; and establishing a new shipping safety fairway to overlay the precautionary area.

Southern Approach

The Southern Approach lanes would be rotated approximately two degrees in a clockwise direction away from the coastline and would be lengthened by approximately 28 miles. This adjustment would have the effect of routing traffic two miles further away from the coast. Vessel traffic would travel no closer than five miles to the coastline. The lengthening of the traffic lanes would help to separate opposing traffic transiting coastwise between San Francisco and the Santa Barbara Channel. It would also provide safe routing for vessels transiting through the Santa Cruz Basin, an area of high interest to offshore oil and gas developers.

Main Approach TSS

Although no modifications are proposed to the original Main Approach TSS segment, it will be renamed the Western Approach.

Northern Approach

The Northern Approach lanes will be slightly rotated in a counterclockwise direction, to keep vessel traffic approximately a mile further offshore and away from the Point Reyes-Farallon Island Marine Sanctuary.

IMO has approved the modifications to these three segments conditioned upon the establishment of a radar beacon at Ano Nuevo, on the central coast of California near the termination of the southern lane of the scheme, to ensure that vessels can adequately fix their position when entering the Southern Approach lanes of the TSS.

Main Ship Channel TSS

A new TSS segment will be established over the Main Ship Channel in the entrance to San Francisco Bay. The present traffic pattern in the Main Ship Channel is divided into separate east and westbound lanes by the arrangement of aids to navigation in the channel and by recommendation of the San Francisco Vessel Traffic Service. The effect of this change will be to make Rule 10 of the 72 COLREGS mandatory on vessels approaching the entrance to San Francisco Bay.

Precautionary Area

The Coast Guard proposes that the existing precautionary area in the Off San Francisco TSS be reconfigured to exclude certain shoal areas that are not suitable for safe navigation. The existing precautionary area is a circular area six miles in radius from the center at the Large Navigation Buoy (LNB). This IMO approved precautionary area may imply to inexperienced mariners that the entire precautionary area is available for navigation. However, the eastern part of this area contains several hazardous shoal areas. The U.S. charts appropriately indicate a break in the circle of the precautionary areas for these shoals. The IMO has approved a reconfiguration of the precautionary area to exclude these shoal areas. This will contribute to safe navigation by clarifying the safe waters when proceeding into San Francisco Bay.

Separation Zone

The Coast Guard proposes to appropriately redesignate the present separation zone under IMO guidelines as an "area to be avoided." The use of a circular separation zone of one-half mile radius centered on the LNB in the IMO approved precautionary area has been effective in keeping mariners away from the buoy. However, a separation zone is intended only to separate opposing lanes of traffic, a function which does not apply in this situation. This modification would not alter the purpose of the area or reduce navigation safety. It would serve only to bring the scheme into alignment with IMO definitions and principles. The redesignation of this area has been approved by IMO.

Shipping Safety Fairway

The precautionary area in the San Francisco TSS is at the junction of four TSS segments. Placement of structures in the precautionary area would create a hazard to navigation. At the present time there is no express prohibition against structures being erected within a precautionary area. A shipping safety fairway overlaying the precautionary area is the most appropriate means of keeping the precautionary area free of obstructions for the paramount right of safety of navigation.

Future Adjustment Process

The Coast Guard is aware of the multiple use conflicts which may arise in the future due to the restrictions and regulations governing shipping safety fairways and TSSs. The PWSA provides discretion for adjusting designating routing measures to accommodate other needs, if the need cannot be reasonably accommodated otherwise. The adjustment, however, cannot unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues. Generally, where vessel traffic lanes (TSS or shipping safety fairway) are one-mile-wide, underlying resources are accessible via directional drilling. In the future, however, adjustments to vessel traffic lanes may be appropriate to allow recovery of known oil, gas, or mineral deposits. If that situation develops, a port access route study would be conducted to determine whether alternative routing is possible through areas where other lease rights may be affected and whether, in the case of a TSS, the proposed adjustment would conform with IMO guidelines.

Regulatory Evaluation

The proposed regulations are considered non-major under Executive Order 12291. They are, however, considered significant under Department of Transportation regulatory policies and procedures (DOT Order 2100.5 of May 22, 1980). A draft regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copies at the Marine Safety Council, U.S. Coast Guard, Room 3600, 2100 Second Street SW., Washington, DC 20593–0001 between the hours of 8:00 a.m. and 3:00 p.m., Monday through Friday except holidays.

The proposed offshore routing system, comprised of shipping safety fairways and traffic separation schemes, is necessary to increase the level of navigation safety along the coast of California. The proposed routing systems recognize the paramount right-or-way for navigation. TSS segments will reduce the risk of vessel collisions in areas of heavy traffic density by separating the vessels into designated directional lanes. The shipping safety fairways will reduce the risk that vessels will collide with oil and gas drilling platforms in areas of offshore development.

Impact on the Shipping Industry

The distance offshore of the proposed routing system varies depending upon the configuration of the California coastline, the complexity of the offshore port approaches, and the extent to which traffic routes can be kept direct. The system is approximately nineteen miles off Point Arguello, thirty miles off Morro Bay, and eight miles off Point Sur.

The proposed routing system follows current traffic patterns along the coast of California, with one exception. In the area off Point Conception, the proposed extension of the Santa Barbara Channel TSS would route traffic slightly further west than its present direct course. The PWSA mandates that routes be established where conflicts with safe navigation are determined to exist. This routing will encourage vessels to navigate clear of the known areas of most concentrated present and expected future drilling activity in the Santa Barbara and Santa Maria Basins.

Since development has not been permitted within a substantial area off the central and northern California coast, it is difficult to assess what effects the proposed lanes will have on vessel traffic patterns. The Coast Guard intends to review the lanes after they have been in place for some time to ensure they are accomplishing their purpose.

Several alternative routing configurations were given consideration during the three port access route studies, the results of which are the basis of this rulemaking. Some of those alternatives considered locating the TSSs and safety fairways as much as fifty miles offshore. However, the further offshore the routing, the greater the impact to the shipping industry in additional hours in transit time between ports, and the likelihood that the routing would not be used.

The Coast Guard anticipates that vessel traffic which operates along the coast of California for navigational and commercial convenience will continue to do so. Vessels which routinely operate further offshore will not move closer to shore to use a routing measure unless there is an advantage in doing so. Similarly, those vessels operating close to shore to take advantage of aids to navigation and a radar return from objects on the shoreline cannot be expected to move further offshore unless it is in their navigational or economic interest.

Neither traffic separation schemes nor shipping safety fairways will be mandatory for vessels. A vessel voluntarily entering an IMO approved TSS becomes subject to Rule 10 of the 72 COLREGS. Rule 10 requires that vessels proceed in the appropriate traffic lane in the general direction of traffic flow for that lane. It also requires that vessels shall not normally enter a separation zone or cross a separation line. Fishing vessels are allowed some latitude to operate in the separation zone, but they shall not impede the passage of any vessel following a traffic lane.

Impact on the Environment

Implementation of the routing system itself will have no direct effect on the environment of the coast off California, and will have only positive effects by reducing the risk of casualties. Implementation of the rule will provide deep draft vessels with established navigation routes between Los Angeles/Long Beach and San Francisco where structures will not be permitted, and where lanes of opposing traffic will be separated.

The proposal will benefit the marine environment to the extent it reduces the risk of pollution from vessel/structure or vessel/vessel casualties.

The shipping safety fairways will prohibit erection of structures in areas of expected offshore development. However, at this time the total number and exact location of future structures is unknown. Therefore, an accurate assessment of the risk of casualties between vessels and structures is difficult because of the limited data on future offshore development. The risk of collision between vessels and structures, with resulting oil spill, has been demonstrated in the Gulf of Mexico. Twenty years of experience with the shipping safety fairway network in the Gulf of Mexico provides some evidence that shipping safety fairways reduce the risk of casualties in areas where offshore structures are numerous along popular navigation routes.

The San Francisco and Santa Barbara Channel TSS amendments will reduce the risk of vessel/vessel casualties by extending the TSS lanes into areas where the need for traffic management was shown to exist by the port access route studies.

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Therefore, the Coast Guard has determined that this action will not have a significant impact on the environment.

A Finding of No Significant Impact (FONSI) is on file in the docket.

Impact on Endangered or Listed Species

The Coast Guard prepared an environmental assessment on the proposed offshore routing system with particular attention given to any potential impact on the California Sea Otter. The assessment concluded that this routing system will have no adverse effect on endangered species or any critical habitat designated as endangered or threatened pursuant to the Endangered Species Act of 1973. The Coast Guard will discuss with the Fish and Wildlife Service any comments on sea otters or other marine life which are submitted in response to this proposed rulemaking.

The modification to the San Francisco TSS, which shifts the northern approach away from the coast, is specifically intended to keep traffic further away from the Point Reyes/Farallon Island Marine Sanctuary.

Impact on Offshore Leasing and Development

The PWSA requires that the Coast Guard establish safe access routes for movement of vessel traffic proceeding to or from U.S. ports. Expected development on the Outer Continental Shelf off the coast of California will result in the acquisition of leases and the uncontrolled placement of structures which would interfere with the establishment of safe routing measures in the future. The Coast Guard, in anticipation of future offshore resource development, is proposing to establish shipping safety fairways and to extend existing TSSs to create a comprehensive system of vessel routing measures. The proposed routing measures reconcile, as far as practicable, the potential conflict between resource development and safety of navigation. The proposal to extend the TSSs and establish shipping safety fairways in advance of extensive offshore development is similar to actions taken by the COE when it first developed its system of shipping safety fairways in the Gulf of Mexico. This proposal will establish safe port access routes with minimal restrictions on future offshore development. This rulemaking has no impact upon present lease holders and the Coast Guard believes it will have the least adverse impact upon future lease blocks.

The primary economic impact of this proposal will be its effect on the Minerals Management Service (MMS) offshore leasing program. Shipping safety fairways prohibit erection of structures such as drilling platforms and could make oil and gas deposits inaccessible. Also, the oil and gas industry is likely to be reluctant to bid on blocks that have surface occupancy restrictions. The perceived value of a block to a prospective bidder would be reduced by the additional costs of operating in areas with these encumbrances. This would result in fewer bids in MMS lease sales and ultimately in reduced oil and gas recovery as well as lost revenues to the Federal Government.

The Coast Guard originally considered establishing a five-mile-wide shipping safety fairway along the coast of California connecting the San Francisco and Santa Barbara TSSs. This was not acceptable to MMS because a large number of offshore tracts would be totally precluded from oil exploration and development. The proposed TSS extensions and the two one-mile wide shipping safety fairways, separated by a two-mile wide non-fairway area, would provide structure-free corridors for coastwise traffic. No single three-mile square lease tract would be entirely foreclosed from exploration or development. The two one-mile wide fairways along the coast will have little or no effect on resource development because industy can explore and develop affected resources form surface areas directly adjacent to the vessel traffic lanes, inlcuding the two-mile corridor separating the northbound and southbound lanes. The Coast Guard invites comments on the potential resource impacts of this proposal.

The Coast Guard also proposes to overlay the San Francisco and Los Angeles/Long Beach precautionary areas with shipping safety fairways. In the San Francisco precautionary area, vessel traffic from eight TSS lanes (four inbound and four outbound) converge and pilots embark and debark vessels, arriving or departing the port of San Francisco. In the Los Angeles/Long Beach precautionary area, two inbound and two outbound TSS lanes converge. This area also has pilot embarking and debarking areas. The entrances to the port of Los Angeles and port of Long Beach are through two openings in the breakwater and all vessels must enter the precautionary area when arriving at or departing from these ports. In these high density vessel traffic areas where mariners are already on notice to navigate with caution, the Coast Guard believes the erection of structures would present an unacceptable additional risk to navigation safety.

The shipping safety fairways overlaying the precautionary areas will prohibit erection of structures and will preclude potential resource development in the San Francisco and Los Angeles/Long Beach precautionary areas. The great majority of the San Francisco precautionary area is already under deferral from leasing by the Farallon Islands National Marine Sanctuary, the Point Reyes Wilderness area, as well as an additional area deferred by the Secretary of the Interior.

MMS estimates that the potential loss of revenues to the Federal Government resulting from this proposal is significantly less than $100 million annually.

The Coast Guard anticipates that future population shifts, changes in transportation routes, knowledge of resource locations, and technological breakthroughs may make adjustment to the fairways desirable. If this occurs, the Coast Guard will restudy the affected areas, and, if appropriate, modify the fairways.

In circumstances where it is asserted that structures must be placed in an area designated as a shipping safety fairway or TSS to gain access to significant quantities of oil or gas, a request for adjustment would be given the appropriate consideration in accordance with the PWSA and rulemaking procedures. A port access route study will normally be required before a rulemaking can commence.

The Coast Guard believes that the proposed routing system effectively meets the mandate of the PWSA to reconcile the need for safe access routes with the needs of all other uses of the area, and minimizes the potential economic impact on MMS's offshore leasing program and future offshore development.

Regulatory Flexibility

The Coast Guard certifies, pursuant to section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164; Pub. L. 96–354), that this proposed rulemaking will not have a significant economic impact on a substantial number of small entities. If any economic impact results from the proposed shipping safety fairways, it will be felt by major oil companies which compete for offshore lease rights in the area affected by the fairway restrictions, and by the Federal government to the degree that revenues from royalties may be deferred while production is inhibited by a shipping safety fairway. A substantial number of small businesses, local governments or organizations will not be economically affected.

Federalism

This proposed rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

33 CFR Part 166

Anchorage grounds, Marine safety, Navigation (water), Waterways, Shipping safety fairways.

33 CFR Part 167

Navigation (water), Vessel, Traffic separation scheme.

In consideration of the foregoing, the Coast Guard proposes to amend 33 CFR Parts 166 and 167 as follows:

PART 166—SHIPPING SAFETY FAIRWAYS

1. The authority citation for Part 166 is revised to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

2. Section 166.300 is amended by redesignating paragraph (b)(1) as paragraph (b)(2) and by adding new paragraph (b) (1), (3) and (4) to read as follows:

§ 166.300 Areas along the coast of California.

* * * * *

(b) *Designated areas*—(1) *Los Angeles/Long Beach Shipping Safety Fairway.* An area overlaying the Los Angeles/Long Beach Precautionary area which consists of the water area enclosed by the Los Angeles/Long Beach breakwater and a line connecting Point Fermin Light at 33° 42'18" N., 118°17'36" W. with the following geographical positions:

Latitude	*Longitude*
33°37'42" N.	118°17'30" W.
33°37'42" N.	118°08'30" W.
33°43'" N.	118°10'48" W.

* * * * *

(3) *California Coastal Shipping Safety Fairways.* (i) Northbound (recommended for northbound and westbound coastwise vessel traffic): The area enclosed by rhumb lines joining points at:

Latitude	*Longitude*
34°26'36" N.	120°51'27" W.
34°28'00" N.	120°37'30" W.
34°31'15" N.	121°01'45" W.
35°00'00" N.	121°18'30" W.
37°00'00" N.	122°30'54" W.
37°00'00" N.	122°32'06" W.
35°00'00" N.	121°19'40" W.
34°30'45" N.	121°03'00" W.
34°27'00" N.	120°58'00" W.
34°25'42" N.	120°51'45" W.

(ii) Southbound (recommended for southbound and eastbound coastwise vessel traffic): The area enclosed by rhumb lines joining points at:

Latitude	*Longitude*
34°23'45" N.	120°52'27" W.
34°25'00" N.	120°58'30" W.
34°28'45" N.	121°05'06" W.
35°00'00" N.	121°22'48" W.
37°00'00" N.	122°34'42" W.
37°00'00" N.	122°36'00" W.
35°00'00" N.	121°24'06" W.
34°29'00" N.	121°08'00" W.
34°24'27" N.	120°50'30" W.
34°22'48" N.	120°52'42" W.

(4) *San Francisco Bay Approach Safety Fairway.* An area overlaying the San Francisco precautionary area bounded to the west by an arc of a circle radius six miles centered upon geographical position 37°45'00" N., 122°41'30" W., and between points at:

Latitude	*Longitude*
37°42'42" N.	122°34'36" W.
37°50'18" N.	122°38'00" W.

and bounded to the east by rhumb lines joining points at:

Latitude	*Longitude*
37°42'42" N.	122°34'36" W.
37°45'34" N.	122°38'00" W.
37°50'18" N.	122°38'00" W.

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

3. The authority for Part 167 is revised to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

4. In Part 167, the heading is revised to read as follows:

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES, PRECAUTIONARY AREAS, AND AREAS TO BE AVOIDED

5. In Part 167, Subpart A is amended by revising § 167.1, by adding new paragraph (e) to § 167.5, and by revising § 167.15 to read as follows:

Subpart A—General

§ 167.1 Purpose.

The purpose of the regulations in this part is to establish and designate traffic separation schemes, precautionary areas, and areas to be avoided to provide access routes for vessels proceeding to and from U.S. ports.

§ 167.5 Definitions.

* * * * *

(e) "Area to be avoided" means a routing measure comprising an area within defined limits in which either navigation is particularly hazardous or it is exceptionally important to avoid casualties and which should be avoided by all ships, or certain classes of ships.

§ 167.15 Modification of traffic separation schemes, precautionary areas and areas to be avoided.

(a) A traffic separation scheme, precautionary area, or area to be avoided described in this part may be permanently amended in accordance with 33 U.S.C. 1223 and with international agreements.

(b) A traffic separation scheme, precautionary area, or area to be avoided in this part may be temporarily adjusted by the Commandant of the Coast Guard in an emergency, or to accommodate operations which would create an undue hazard for vessels using the scheme or which would contravene Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972. Adjustment may be in the form of a temporary traffic lane shift, a temporary suspension of a section of the scheme, a temporary precautionary area overlaying a lane, or other appropriate measure. Adjustments will only be made where, in the judgment of the Coast Guard, there is no reasonable alternative means of conducting an operation and navigation safety will not be jeopardized by the adjustment. Notice of adjustments will be made in the appropriate Notice to Mariners and in the **Federal Register.** Requests by members of the public for temporary adjustments to a traffic separation scheme, precautionary area, or area to be avoided must be submitted 150 days prior to the time the adjustment is desired. Such requests, describing the interference that would otherwise occur to the traffic separation scheme, precautionary area or area to be avoided, should be submitted to the District Commander of the Coast Guard District in which the routing measure is located.

6. In Part 167, the table of contents for Subpart B is amended by revising the heading and by adding additional sections at the end of the existing table to read as follows:

Subpart B—Description of Traffic Separation Schemes, Precautionary Areas and Areas to be Avoided. (Unless otherwise specified all geographic positions are based on North American Datum of 1927)

* * * * *

Pacific Coast

167.500 Los Angeles/Long Beach Traffic Separation Scheme and Precautionary Area.
167.501 Southern Approach.
167.502 Western Approach.
167.503 Precautionary Area.
167.510 Santa Barbara Channel Traffic Separation Scheme.
167.511 Between Point Vicente and Point Conception.

167.512 Between Point Conception and Point Arguello.
167.520 San Francisco Bay Approach Traffic Separation Scheme, Precautionary Area, and Area to be Avoided.
167.521 Southern Approach.
167.522 Western Approach.
167.523 Northern Approach.
167.524 Main Ship Channel.
167.525 Precautionary Area.
167.526 Area to be Avoided.

7. In Part 167, the heading of Subpart B is revised to read as follows:

Subpart B—Descriptions of Traffic Separation Schemes, Precautionary Areas and Areas to be Avoided. (Unless otherwise specified, all geographic positions are based on North American Datum of 1927)

8. In Part 167, Subpart B is amended by adding an undesignated heading, §§ 167.500 to 167.503, §§ 167.510 to 167.512, and §§ 167.520 to 167.526 immediately following § 167.350 to read as follows:

Pacific Coast

§ 167.500 Los Angeles/Long Beach traffic separation scheme and precautionary area.

The specific elements of the Los Angeles/Long Beach Traffic Separation Scheme and Precautionary Area are described in §§ 167.501 to 167.503.

§ 167.501 Southern approach.

(a) A separation zone is established by a line connecting the following geographical positions:

Latitude	Longitude
33°37.7' N.	118°07.7' W.
33°20.0' N.	118°02.2' W.
33°19.5' N.	118°04.6' W.
33°37.7' N.	118°10.1' W.

(b) A traffic lane for southbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
33°37.7' N.	118°11.3' W.
33°19.1' N.	118°06.3' W.

(c) A traffic lane for northbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
33°37.7' N.	118°06.5' W.
33°20.5' N.	118°00.5' W.

§ 167.502 Western approach.

(a) A separation zone is bounded by a line connecting the following geographical positions:

Latitude	Longitude
33°39.7' N.	118°17.6' W.
33°38.7' N.	118°17.6' W.
33°38.7' N.	118°27.8' W.
33°43.2' N.	118°36.9' W.
33°44.9' N.	118°35.7' W.
33°39.7' N.	118°24.8' W.

(b) A traffic lane for northbound coastwise traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
33°40.7' N.	118°17.8' W.
33°40.7' N.	118°24.8' W.
33°45.8' N.	118°35.1' W.

(c) A traffic lane for southbound coastwise traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
33°37.7' N.	118°17.8' W.
33°37.7' N.	118°28.0' W.
33°42.3' N.	118°37.5' W.

§ 167.503 Precautionary area.

The Los Angeles/Long Beach Precautionary Area consists of the water area enclosed by the Los Angeles/Long Beach breakwater and a line connecting Point Fermin Light at 33°42.3' N., 118°17.6' W. with the following geographical positions:

Latitude	Longitude
33°37.7' N.	118°17.8' W.
33°37.7' N.	118°08.5' W.
33°43.4' N.	118°10.8' W.

§ 167.510 Santa Barbara Channel traffic separation scheme.

The specific elements of the Santa Barbara Traffic Separation Scheme are described in §§ 167.511 and 167.512.

§ 167.511 Between Point Vicente and Point Conception.

(a) A separation zone is bounded by a line connecting the following geographical positions:

Latitude	Longitude
34°20.90' N.	120°30.10' W.
34°04.00' N.	119°15.90' W.
33°44.90' N.	118°35.70' W.
33°43.20' N.	118°36.90' W.
34°02.20' N.	119°17.40' W.
34°18.90' N.	120°30.90' W.

(b) A traffic lane for north-westbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
34°21.80' N.	120°29.90' W.
34°04.80' N.	119°15.10' W.
33°45.80' N.	118°35.10' W.

(c) A traffic lane for south-eastbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
33°42.30' N.	118°37.80' W.
34°01.40' N.	119°18.20' W.
34°18.00' N.	120°31.10' W.

§ 167.512 Between Point Conception and Point Arguello.

(a) A separation zone is bounded by a line connecting the following geographical positions:

Latitude	Longitude
34°20.90' N.	120°30.10' W.
34°25.70' N.	120°51.75' W.
34°23.75' N.	120°52.45' W.
34°18.90' N.	120°30.90' W.

(b) A traffic lane for westbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
34°21.80' N.	120°29.90' W.
34°26.80' N.	120°51.45' W.

(c) A traffic lane for eastbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
34°18.00' N.	120°31.10' W.
34°22.80' N.	120°52.70' W.

§ 167.520 San Francisco Bay approach traffic separation scheme, precautionary area, and area to be avoided.

The specific elements of the San Francisco Bay Approach Traffic Separation Scheme, Precautionary Area, and Area to be Avoided are described in §§ 167.521 to 167.526.

§ 167.521 Southern approach.

(a) A separation zone is bounded by a line connecting the following geographical positions:

Latitude	Longitude
37°39.0' N.	122°41.4' W.
37°00.0' N.	122°34.7' W.
37°00.0' N.	122°32.1' W.
37°39.2' N.	122°39.8' W.

(b) A traffic lane for northbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
37°00.0' N.	122°30.8' W.
37°39.3' N.	122°38.7' W.

(c) A traffic lane for southbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
37°39.0' N.	122°42.5' W.
37°00.0' N.	122°36.0' W.

§ 167.522 Western approach.

(a) A separation zone is bounded by a line connecting the following geographical positions:

Latitude	Longitude
37°41.9' N.	122°48.0' W.
37°38.1' N.	122°58.1' W.
37°36.5' N.	122°57.3' W.
37°41.1' N.	122°47.2' W.

(b) A traffic lane for south-westbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
37°42.8' N.	122°48.5' W.
37°39.6' N.	122°58.6' W.

(c) A traffic lane for north-eastbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
37°35.0' N.	122°58.5' W.
37°40.4' N.	122°48.3' W.

§ 167.523 Northern approach.

(a) A separation zone is bounded by a line connecting the following geographical positions:

Latitude	Longitude
37°48.4' N.	122°47.6' W.
37°58.7' N.	123°03.7' W.
37°55.2' N.	123°04.9' W.
37°47.7' N.	122°48.2' W.

(b) A traffic lane for north-westbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
37°48.2' N.	122°48.7' W.
37°58.0' N.	123°02.7' W.

(c) A traffic lane for south-eastbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
37°53.9' N.	123°08.1' W.
37°46.7' N.	122°48.7' W.

§ 167.524 Main ship channel.

(a) A separation line connects the following geographical positions:

Latitude	Longitude
37°45.9' N.	122°38.0' W.
37°47.0' N.	122°34.3' W.
37°48.1' N.	122°31.0' W.

(b) A traffic lane for eastbound traffic is established between the separation line and a line connecting the following geographical positions:

Latitude	Longitude
37°45.6' N.	122°37.7' W.
37°47.5' N.	122°30.8' W.

(c) A traffic lane for westbound traffic is establishing between the separation line and a line connecting the following geographical positions:

Latitude	Longitude
37°48.2' N.	122°37.9' W.
37°46.9' N.	122°35.3' W.
37°48.5' N.	122°31.3' W.

§ 167.525 Precautionary area.

A precautionary area is established bounded to the west by an arc of a circle radius 6 miles centered upon geographical position 37°45.0' N., 122°41.5' W. and between the following geographical positions:

Latitude	Longitude
37°42.7' N.	122°34.6' W.
37°50.2' N.	122°37.9' W.

and bounded to the east by a line connecting the following geographical positions:

Latitude	Longitude
37°42.7' N.	122°34.6' W.
37°45.9' N.	122°38.0' W.
37°50.2' N.	122°37.9' W.

§ 167.526 Area to be avoided.

A circular area to be avoided is centered upon geographical position 37°45.0' N. and 122°41.5' W. with a radius of half a mile.

Dated: March 24, 1988.

Signed:

P.A. Yost,

Admiral, U.S. Coast Guard Commandant.

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2. The relationship between the Federal Register and Code of Federal Regulations.
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

Absence and Leave; Voluntary Leave Bank Program

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is establishing a 5-year voluntary leave bank program that permits employees in approved Executive agencies to contribute annual leave to leave banks for the use of leave bank members in medical or family medical emergency situations. This rule establishes procedures for contributing annual leave to a leave bank, withdrawing contributions of annual leave from a leave bank, and administering a leave bank. This program is authorized by Pub. L. 100–566, the "Federal Employees Leave Sharing Act of 1988," which requires OPM to establish leave bank programs in at least three Executive agencies by July 31, 1989.

In addition, OPM is amending the interim regulations governing the 5-year voluntary leave transfer program established under Pub. L. 100–566. The changes are primarily technical in nature and will serve to facilitate implementation of the program. (The original interim regulations were published in the **Federal Register** on January 31, 1989 (54 FR 4749).)

DATES: This interim rule becomes effective on April 28, 1989 and will expire on October 31, 1993; comments must be received on or before June 27, 1989.

ADDRESS: Comments may be sent or delivered to Barbara L. Fiss, Assistant Director for Pay and Performance Management, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, Room 7H28, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: For information on the voluntary leave bank program, John Cahill, (202) 632–5056; for information on the voluntary leave transfer program, Martha Hoehn, (202) 632–5056.

SUPPLEMENTARY INFORMATION: Pub. L. 100–566, the "Federal Employees Leave Sharing Act of 1988," directs the Office of Personnel Management (OPM) to establish by regulation a 5-year experimental program under which the unused accrued annual leave of employees in approved Executive agencies may be contributed to leave banks for withdrawal and use by leave bank members who need such leave because of a medical emergency. This authority will terminate on October 31, 1993. In Executive agencies or their administrative subunits whose participation is approved by OPM, the program established by these regulations will replace the voluntary leave transfer program also established under Pub. L. 100–566.

Many statutory provisions of the voluntary leave bank program are identical to provisions of the voluntary leave transfer program. Therefore, this interim rule incorporates many provisions of the interim rule for the voluntary leave transfer program published in the **Federal Register** on January 31, 1989.

Affected Agencies. In a separate **Federal Register** notice, OPM will announce the specific Executive agencies or administrative subunits of Executive agencies approved to participate in the voluntary leave bank program. Although OPM will approve each agency's participation, it will not formally review or approve the agencies' policies or procedures.

Objectives. OPM's primary objectives in developing the interim rule were to (1) provide each agency with the flexibility to tailor its voluntary leave bank program to meet its particular needs and circumstances; (2) enable each leave bank board to maintain an adequate supply of annual leave in the leave bank to meet the needs of potential leave recipients to the greatest extent practicable; and (3) ensure that adequate information is available to permit OPM to evaluate the voluntary leave bank experiment.

The key features of the interim rule are:

Enrollment periods. The law directs OPM to establish by regulation an open enrollment period during which an employee may make application to contribute annual leave to the leave bank. An employee may become a leave bank member by contributing, during an open enrollment period established by the leave bank board, at least the minimum contribution of annual leave established by the board. To ensure equitable treatment of employees who (1) move into an organization operating a leave bank or (2) return from extended absences outside the open enrollment period, the interim rule also authorizes leave bank boards to establish individual enrollment periods for such employees.

Because of the varying characteristics of the agencies experimenting with the voluntary leave bank program and because this is the first leave bank experiment conducted in the Federal sector, OPM considers it impractical to prescribe by regulation the exact number, timing, or length of enrollment periods. The interim rule requires that an open enrollment period last at least 30 calendar days to ensure that employees have an adequate opportunity to contribute annual leave and to minimize the need to establish individual enrollment periods for new employees or employees absent from duty during open enrollment periods. Agencies may determine the number and scheduling of enrollment periods. (See § 630.1004 paragraphs (c) through (f).)

Additional contributions of annual leave. To help the leave bank board maintain an adequate supply of annual leave in the leave bank, the interim rule permits an employee to contribute annual leave at any time during the leave year. Agencies are encouraged to take advantage of this provision by appealing for additional voluntary contributions when additional annual leave is needed. Contributions outside the established enrollment periods will not, however, entitle an employee to become a leave bank member. (See § 630.1004(k).)

Time limits for filing application. The interim rule authorizes leave bank boards to establish rules governing the

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timeliness of an application to become a leave recipient. (See § 630.1006(b).)

Response time for applications to become a leave recipient. The interim rule requires the agency to set a time limit on the leave bank board's action on an application to become a leave recipient. (See § 630.1007(e).)

Limitations on withdrawal of annual leave from a leave bank. The interim rule authorizes leave bank boards to set limits on the amount of annual leave that may be withdrawn from the leave bank by a single leave recipient. OPM's review of experience in public sector leave bank programs indicates that such limitations may help agencies ensure that each leave bank maintains an adequate supply of annual leave. Leave bank boards may wish to consider establishing limitations such as (1) a limit on the total amount of annual leave that may be withdrawn from the leave bank by a single leave recipient, (2) a limit on the amount of annual leave a single leave recipient may withdraw during a given time period, or (3) a limit on the amount of annual leave that may be *available* to a single leave recipient at any one time. (See § 630.1007(f).)

Rules of employee movement. The interim rule prescribes general policies governing employee movement into and out of an organization operating a leave bank. For ease of administration, a leave recipient's medical emergency will be considered to have terminated on the date the employee moves. Therefore, unused annual leave withdrawn from a leave bank will be returned to the leave bank when a leave recipient moves out of the organization operating the leave bank. The employee may then (1) apply to become a leave bank member in his or her new organization (if applicable) by making the minimum contribution with accrued annual leave, and (2) apply to become a leave recipient under the voluntary leave bank program or voluntary leave transfer program, as applicable. (See §§ 630.1014 and 630.1015.)

Technical changes in Voluntary Leave Transfer Program. Publication of the interim rule for the voluntary leave bank program has required several technical changes in the interim rule for the voluntary leave transfer program published in the **Federal Register** on January 31, 1989. In addition, the amended rule clarifies the requirement to establish a separate leave account for leave accrued while an employee is in a transferred leave status.

Finally, the new law and interim rule require approved agencies to implement the voluntary leave bank program by July 31, 1989. Until an agency implements its voluntary leave bank program, the voluntary leave transfer program authorized by Pub. L. 100–566 remains in effect.

Pursuant to sections 553(b)(3)(B) and 553(d)(3) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking and for making this amendment effective in less than 30 days. The notice and the 30-day delay in the effective date are being waived because of the need to facilitate the implementation of the voluntary leave bank program by participating Federal agencies.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significnt economic impact on a substantial number of small entities because they will affect only Federal employees and Executive agencies.

List of Subjects in 5 CFR Part 630

Government employees.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending Part 630 of Title 5 of the Code of Federal Regulations as follows:

PART 630—ABSENCE AND LEAVE

1. The authority citation for Part 630 is revised to read as set forth below:

Authority: 5 U.S.C. 6311; Section 630.303 also issued under 5 U.S.C. 6133(a); Section 630.501 and Subpart F also issued under E.O. 11228; Subpart G also issued under 5 U.S.C. 6305; Subpart H issued under 5 U.S.C. 6326; Subpart I also issued under 5 U.S.C. 6332 and Pub. L. 100–566; Subpart J also issued under 5 U.S.C. 6362 and Pub. L. 100–566.

Subpart I—Voluntary Leave Transfer Program

2. In Subpart I, § 630.901(b) is revised; § 630.907 (d) is redesignated as paragraph (e), and a new paragraph (d) is added; a new paragraph (d) is added to § 630.908; § 630.909(a) is revised, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively, and a new paragraph (b) is added; § 630.910(a) (2), (3), and (4) are redesignated as paragraphs (a) (3), (4), and (5), respectively, and a new paragraph (a)(2) is added, to read as follows:

§ 630.901 Purpose and applicability.

* * * * *

(b) *Applicability.* This subpart applies to officers and employees—

(1) To whom subchapter I of chapter 63 of title 5, United States Code applies; and

(2) Who are not employed in agencies or their organizational subunits approved by the Office of Personnel Management to operate a voluntary leave bank program under Subpart J of this part.

* * * * *

§ 630.907 Accrual of annual and sick leave.

* * * * *

(d) If the leave recipient's employing agency makes available at the beginning of the leave year the amount of annual leave the employee normally would accrue during the entire leave year under 5 U.S.C. 6302(d)—

(1) The leave recipient's employing agency shall establish procedures to ensure to the extent practicable that 40 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's weekly scheduled tour of duty) of annual leave are placed in a separate annual leave account and made available for use after the medical emergency terminates; and

(2) The employee shall continue to accrue annual leave while in a transferred leave status to the extent necessary for the purpose of reducing an indebtedness caused by the use of annual leave made available at the beginning of the leave year.

* * * * *

§ 630.908 Limitations on donation of annual leave.

* * * * *

(d) The limitations in this section shall apply to the total amount of annual leave donated or contributed under Subparts I and J of this part.

§ 630.909 Use of transferred annual leave.

(a) A leave recipient may use annual leave transferred to his or her annual leave account under § 630.906 in the same manner and for the same purposes as if he or she had accrued the annual leave under 5 U.S.C. 6303.

(b) Except as provided in § 630.907, during each biweekly pay period a leave recipient is affected by a medical emergency, he or she shall use any accrued annual leave (and sick leave, if applicable) before using transferred annual leave.

* * * * *

§ 630.910 Termination of medical emergency.

(a) The medical emergency affecting a leave recipient shall terminate—

* * * * *

(2) When the leave recipient transfers from an agency or organizational subunit operating a voluntary leave transfer program to an agency or organizational subunit operating a voluntary leave bank program;

* * * * *

3. Subpart J is added to read as follows:

Subpart J—Voluntary Leave Bank Program

Sec.

630.1001 Purpose and applicability.
630.1002 Definitions.
630.1003 Establishing leave banks and leave bank boards.
630.1004 Application to become a leave contributor and leave bank member.
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630.1008 Accrual of annual and sick leave.
630.1009 Use of annual leave withdrawn from a leave bank.
630.1010 Termination of medical emergency.
630.1011 Prohibition of coercion.
630.1012 Records and reports.
630.1013 Nonparticipation in voluntary leave transfer program.
630.1014 Movement between voluntary leave bank programs.
630.1015 Movement between voluntary leave bank program and voluntary leave transfer program.
630.1016 Termination of voluntary leave bank program.

Subpart J—Voluntary Leave Bank Program

§ 630.1001 Purpose and applicability.

(a) *Purpose.* The purpose of this subpart is to establish procedures and requirements for a voluntary leave bank program in approved agencies under which the unused accrued annual leave of an employee may be contributed to a leave bank for use by a leave bank member who needs such leave because of a medical emergency.

(b) *Applicability.* This subpart applies to officers and employees—

(1) To whom subchapter I of chapter 63 of title 5, United States Code applies; and

(2) Who are employed in agencies and their organizational subunits approved by the Office of Personnel Management to operate a voluntary leave bank program under this subpart.

§ 630.1002 Definitions.

"Agency" means an "Executive agency," as defined in 5 U.S.C. 105, or a "military department," as defined in 5 U.S.C. 102, that has been approved by OPM to operate a voluntary leave bank program under this subpart. "Agency" does not include the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, or any other Executive agency or subunit thereof, as determined by the President, whose principal function is the conduct of foreign intelligence or counterintelligence activities.

"Employee" has the meaning given that term in 5 U.S.C. 6301(2), excluding an individual employed by the government of the District of Columbia. Except as otherwise indicated, "employee" means an employee of an agency or organizational subunit of an agency that has been approved by OPM to operate a voluntary leave bank program under this subpart.

"Family member" has the meaning given that term in Subpart I of this part.

"Leave bank" means a pooled fund of annual leave established by an agency under § 630.1003.

"Leave bank member" means a leave contributor who has contributed, in an open enrollment period (or individual enrollment period, as applicable) of the current leave year, at least the minimum amount of annual leave required by § 630.1004.

"Leave contributor" means an employee who contributes annual leave to a leave bank under § 630.1004.

"Leave recipient" means a leave bank member whose application to receive contributions of annual leave from a leave bank has been approved under § 630.1007.

"Medical emergency" has the meaning given that term in Subpart I of this part.

"Paid leave status under subchapter I" has the meaning given that term in Subpart I of this part.

§ 630.1003 Establishing leave banks and leave bank boards.

(a) By July 31, 1989, each agency approved by OPM to participate in the voluntary leave bank program shall, in accordance with the regulations in this subpart—

(1) Develop written policies and procedures for establishing and administering leave banks and leave bank boards;

(2) In consultation with OPM, establish one or more leave bank boards to perform the duties authorized by this subpart; and

(3) Establish and begin operating one or more leave banks.

(b) No more than one leave bank board may be established for each leave bank.

(c) Each leave bank board shall consist of three members. At least one member shall represent a labor organization or employee group.

(d) Each leave bank board shall—

(1) Establish its internal decision-making procedures;

(2) Review and approve or disapprove each application to become a leave contributor under § 630.1004 and a leave recipient under §§ 630.1006 and 630.1007;

(3) Monitor the status of each leave recipient's medical emergency;

(4) Monitor the amount of leave in the leave bank and the number of applications to become a leave recipient;

(5) Maintain an adequate amount of annual leave in the leave bank to the greatest extent practicable in accordance with § 630.1004; and

(6) Perform other functions prescribed in this subpart.

(e) Annual leave may not be borrowed, contributed, or otherwise transferred between leave banks.

§ 630.1004 Application to become a leave contributor and leave bank member.

(a) An employee may make voluntary written application to the leave bank board to become a leave contributor. The application shall specify the number of hours of annual leave to be contributed and any other information the leave bank board may reasonably require.

(b) An employee may request that annual leave be contributed to a specified bank member other than the leave contributor's immediate supervisor.

(c) A leave contributor shall become a leave bank member for a particular leave year if he or she submits an application meeting the requirements of this section during an open enrollment period established by the leave bank board under paragraphs (d) and (e) of this section (or where applicable, during an individual enrollment period established under paragraph (f) of this section).

(d) For the leave year beginning in 1989, the leave bank board shall establish at least one open enrollment period, beginning on the date the agency establishes the voluntary leave bank program. For each leave year beginning after 1989, the leave bank board shall establish at least one open enrollment period.

(e) An open enrollment period shall last at least 30 calendar days. The agency shall take appropriate action to inform employees of each open enrollment period.

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(f) An employee entering the agency or participating organizational subunit or returning from an extended absence outside an open enrollment period may become a leave bank member for the leave year by submitting an application meeting the requirements of this section during an individual enrollment period lasting at least 30 calendar days, beginning on the date the employee entered or returned to the agency or organizational subunit.

(g) Except as provided in paragraph (h) of this section, the minimum contribution required to become a leave bank member for a leave year shall be—

(1) 4 hours of annual leave for an employee who has less than 3 years of service at the time he or she submits an application to contribute annual leave;

(2) 6 hours of annual leave for an employee who has at least 3, but less than 15, years of service at the time he or she submits an application to contribute annual leave; and

(3) 8 hours of annual leave for an employee who has 15 or more years of service at the time he or she submits an application to contribute annual leave.

(h) After consultation with OPM, the leave bank board may—

(1) Decrease the minimum contribution required by paragraph (g) of this section for the following leave year when the leave bank board determines that there is a surplus of leave in the bank; or

(2) Increase the minimum contribution required by paragraph (g) of this section for the following leave year when the leave bank board determines that such action is necessary to maintain an adequate balance of annual leave in the leave bank.

(i) If a leave recipient does not have sufficient available accrued annual level to his or her credit to make the full minimum contribution required by this section, he or she shall be deemed to have made the minimum contribution.

(j) The leave bank board shall deposit all contributions of annual leave under this subpart in the leave bank. The leave bank board shall not return a contribution of annual leave to a leave contributor after deposit in the leave bank.

(k) A leave bank member may apply to contribute additional annual leave at any time. An employee who is not a leave bank member may apply to become a leave contributor at any time.

§ 630.1005 Limitations on contribution of annual leave.

(a) In any one leave year, a leave contributor may contribute no more than a total of one-half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the contribution is made.

(b) In the case of a leave contributor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year under 5 U.S.C. 6304(a), the maximum amount of annual leave that may be contributed during the leave year shall be the lesser of—

(1) One-half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the contribution is made; or

(2) The number of hours remaining in the leave year (as of the date of the contribution) for which the leave contributor is scheduled to work and receive pay.

(c) The agency shall establish written criteria permitting a leave bank board to waive the limitations on contributing annual leave under paragraphs (a) and (b) of this section in unusual circumstances. Any such waiver shall be documented in writing.

(d) The limitations in this section shall apply to the total amount of annual leave donated or contributed during the leave year under Subparts I and J of this part.

§ 630.1006 Application to become a leave recipient.

(a) A leave bank member may make written application to the leave bank board to become a leave recipient. If a leave bank member is not capable of making application on his or her own behalf, a personal representative may make written application on his or her behalf.

(b) The leave bank board may require leave bank members to submit applications under this section within a prescribed period of time following the termination of a medical emergency.

(c) An application by a leave bank member to become a leave recipient shall be accompanied by the following information concerning the potential leave recipient:

(1) The leave bank member's name, position title, and grade or pay level;

(2) The reasons why leave is needed, including a brief description of the nature, severity, anticipated duration, and if it is a recurring one, the approximate frequency of the medical emergency affecting the leave bank member;

(3) Certification from one or more physicians; or other appropriate experts, with respect to the medical emergency, if the leave bank board so requires; and

(4) Any additional information that may be required by the leave bank board.

(d) If the leave bank board requires a leave bank member to submit certification from two or more sources under paragraph (b)(3) of this section, the agency shall ensure, either by direct payment to the expert involved or by reimbursement, that the leave bank member is not required to pay for the expenses associated with obtaining certification from more than one source.

§ 630.1007 Approval of application to become a leave recipient.

(a) The leave bank board shall review an employee's application to become a leave recipient under procedures established by the agency for the purpose of determining whether the employee is a leave bank member who is or has been affected by a "medical emergency," as defined in § 630.902 of this part.

(b) Before approving an application to become a leave recipient, the leave bank board shall determine that the absence from duty without available paid leave because of the medical emergency is (or is expected to be) at least 80 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's biweekly scheduled tour of duty).

(c) In making a determination as to whether a medical emergency is likely to result in a substantial loss of income, the leave bank board shall not consider factors other than whether the absence from duty without available paid leave is (or is expected to be) at least 80 hours.

(d) The leave bank board shall notify the applicant of the action taken on the application. If the leave bank board disapproves the application, notification shall include the reasons for disapproval.

(e) The agency shall establish a time limit for notifying applicants under paragraph (d) of this section.

(f) The leave bank board may establish written policies limiting the amount of annual leave that may be granted to a leave recipient.

§ 630.1008 Accrual of annual and sick leave.

(a) Except as otherwise provided in this section, annual and sick leave shall accrue to the credit of a leave recipient using annual leave withdrawn from a leave bank at the same rate as if the employee were then in a paid leave status under subchapter I of chapter 63 of title 5, United States Code, except that—

(1) The maximum amount of annual leave that may be accrued by a leave recipient while using annual leave withdrawn from a leave bank in connection with any particular medical emergency may not exceed 40 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's weekly scheduled tour of duty); and

(2) The maximum amount of sick leave that may be accrued by a leave recipient while using annual leave withdrawn from a leave bank in connection with any particular medical emergency may not exceed 40 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's weekly scheduled tour of duty).

(b) Any annual or sick leave accrued by a leave recipient while using annual leave withdrawn from a leave bank—

(1) Shall be credited to an annual or sick leave account, as appropriate, separate from any leave account of the employee under subchapter I of chapter 63 of title 5, United States Code; and

(2) Shall not become available for use by the leave recipient and may not otherwise be taken into account under subchapter I of chapter 63 of title 5, United States Code, until, under paragraph (c) of this section, it is transferred to the appropriate leave account of the employee under subchapter I of chapter 63 of title 5, United States Code.

(c) Any annual or sick leave accrued by an employee under this section shall be transferred to the appropriate leave account of the employee under subchapter I of chapter 63 of title 5, United States Code, effective as of the beginning of the first applicable pay period beginning after the date on which the employee's medical emergency terminates as described in § 630.1010(a)(2), (3), and (4).

(d) If the leave recipient's employing agency makes available at the beginning of the leave year the amount of annual leave the employee normally would accrue during the entire leave year under 5 U.S.C. 6302(d)—

(1) The leave recipient's employing agency shall establish procedures to ensure to the extent practicable that 40 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's weekly scheduled tour of duty) of annual leave are placed in a separate annual leave account and made available for use after the medical emergency terminates; and

(2) The employee shall continue to accrue annual leave while using annual leave withdrawn from a leave bank to the extent necessary for the purpose of reducing an indebtedness caused by the use of annual leave made available at the beginning of the leave year.

(e) If the leave recipient's medical emergency terminates as described in § 630.1010(a)(1), no leave shall be credited to the employee under this section.

§ 630.1009 Use of annual leave withdrawn from a leave bank.

(a) A leave recipient may use annual leave withdrawn from a leave bank in the same manner and for the same purposes as if he or she had accrued the annual leave under 5 U.S.C. 6303.

(b) Except as provided in § 630.1008, during each biweekly pay period a leave recipient is affected by a medical emergency, he or she shall use any accrued annual leave (and sick leave, if applicable) before using annual leave withdrawn from a leave bank.

(c) The approval and use of annual leave withdrawn from a leave bank shall be subject to all of the conditions and requirements imposed by chapter 63 of title 5, United States Code, Part 630 of this chapter, and the agency on the approval and use of annual leave accrued under 5 U.S.C. 6303, except that annual leave withdrawn from a leave bank may accumulate without regard to any limitation imposed by 5 U.S.C. 6304(a).

(d) Annual leave withdrawn from a leave bank may be substituted retroactively for any period of leave without pay, or used to liquidate an indebtedness for any period of advanced leave, which began on or after the date fixed by the agency as the beginning of the medical emergency.

(e) Annual leave withdrawn from a leave bank may not be—

(1) Included in a lump-sum payment under 5 U.S.C. 5551 or 5552; or

(2) Made available for recredit under 5 U.S.C. 6306 upon reemployment by a Federal agency.

(f) An agency having employees who earn and use annual leave on the basis of an uncommon tour of duty shall establish procedures for administering the contribution and withdrawal of annual leave by such employees under this subpart.

§ 630.1010 Termination of medical emergency.

(a) The medical emergency affecting a leave recipient shall terminate—

(1) When the leave recipient's Federal service terminates;

(2) When the leave recipient leaves the agency or participating organizational subunit;

(3) At the end of the biweekly pay period in which the leave bank board receives written notice from the leave recipient or from a personal representative of the leave recipient that the leave recipient is no longer affected by a medical emergency;

(4) At the end of the biweekly pay period in which the leave bank board determines, after written notice and opportunity for the leave recipient (or, if appropriate, a personal representative of the leave recipient) to answer orally or in writing, that the leave recipient is no longer affected by a medical emergency; or

(5) At the end of the biweekly pay period in which the agency receives notice that the Office of Personnel Management has approved an application for disability retirement for the leave recipient under the Civil Service Retirement System or the Federal Employees Retirement System.

(b) The leave bank board shall ensure that annual leave withdrawn from the leave bank and not used before the termination of a leave recipient's medical emergency shall be returned to the leave bank.

§ 630.1011 Prohibition of coercion.

(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right such employee may have with respect to contributing, withdrawing, or using annual leave under this subpart.

(b) For the purpose of paragraph (a) of this section—

(1) The term "employee" has the meaning given that term in 5 U.S.C. 6301(2), excluding an individual employed by the District of Columbia; and

(2) The term "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit (such as an appointment or promotion or compensation) or effecting or threatening to affect any reprisal (such as deprivation of appointment, promotion, or compensation).

§ 630.1012 Records and reports.

(a) OPM shall require agencies to maintain records and may require agencies to report pertinent information concerning the administration of the voluntary leave bank program for the purpose of evaluating the desirability, feasibility, and cost of a voluntary leave bank program.

(b) An agency shall maintain the following information for each leave bank:

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(1) The number of leave bank members for each leave year;

(2) The number of applications approved for medical emergencies affecting the employee and the number of applications approved for medical emergencies affecting an employee's family member;

(3) The grade or pay level of each leave contributor and the total amount of annual leave he or she contributed to the bank;

(4) The grade or pay level of each leave recipient and the total amount of annual leave he or she actually used;

(5) The estimated direct and indirect costs of processing applications to become leave contributors and leave recipients, monitoring the use of leave withdrawn from a leave bank, operating leave bank boards, and other activities related to administering the voluntary leave bank program; and

(6) Any additional information OPM may require.

§ 630.1013 Nonparticipation in voluntary leave transfer program.

(a) Beginning on the date an agency or organizational subunit establishes a voluntary leave bank program under this subpart—

(1) An employee may not participate in a voluntary leave transfer program under Subpart I of this part; and

(2) Except as provided in paragraphs (b) and (c) of this section, any annual leave previously transferred under the voluntary leave transfer program shall remain to the credit of the leave recipient and shall become subject to the agency's policies and procedures for administering this subpart.

(b) Upon termination of a leave recipient's medical emergency, any annuall leave previously transferred under the voluntary leave transfer program and remaining to the credit of a leave recipient shall be restored under § 630.911 paragraphs (a) through (d).

(c) Transferred annual leave restored to the account of a leave donor under paragraph (b) of this section shall be subject to the limitation imposed by 5 U.S.C. 6304(a) at the end of the leave year in which the annual leave is restored.

§ 630.1014 Movement between voluntary leave bank programs.

If an employee moves between an agency or organizational subunit operating one leave bank to an agency or organizational submit operating a different leave bank, the following procedures shall apply:

(a) On the date of the employee's move, he or she shall become subject to the policies and procedures of the voluntary leave bank program of the new agency or organizational subunit; and

(b) Nothing in § 630.1010 (a)(2) or (b) of this subpart shall interfere with the employee's right to submit an application to become a leave contributor or leave recipient in accordance with the policies and procedures of the voluntary leave bank program of the new agency or organizational subunit.

§ 630.1015 Movement between voluntary leave bank program and voluntary leave transfer program.

If an employee moves between an agency or organizational subunit covered by a voluntary leave bank program under this subpart and an agency or organizational subunit covered by a voluntary leave transfer program under Subpart I of this part, the following procedures shall apply:

(a) On the date of the employee's move, he or she shall become subject to the policies and procedures of the voluntary leave transfer or voluntary leave bank program (as applicable) of the new agency or organizational subunit;

(b) Nothing in § 630.1010(a)(2) or (b) of this subpart shall interfere with the employee's right to submit an application to become a leave donor (or leave contributor, as applicable) or leave recipient under the voluntary leave transfer or voluntary leave bank program (as applicable) of the new agency or organizational subunit.

§ 630.1016 Termination of voluntary leave bank program.

(a) Each agency shall terminate its participation in the voluntary leave bank program on October 31, 1993.

(b) The leave bank board shall not deposit annual leave in the leave bank after October 31, 1993.

(c) The leave bank board shall treat an application to become a leave recipient submitted to the leave bank board on or before October 31, 1993, as if the voluntary leave bank program remained in effect.

(d) The leave bank board shall not approve an application to become a leave recipient submitted after October 31, 1993.

(e) If the voluntary leave bank program terminates before the termination of the medical emergency affecting a leave recipient, annual leave transferred to a leave recipient shall remain available for use as if the voluntary leave bank program remained in effect.

[FR Doc. 89-10308 Filed 4-27-89; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 663]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 663 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 370,000 cartons during the period April 30 through May 6, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 663 (§ 910.963) is effective for the period April 30 through May 6, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting or their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended [7 CFR Part 910], regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1988-89. The Committee met publicly on April 25, 1989, in Bakersfield, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that demand for lemons is strong.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 910.963 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.963 Lemon Regulation 663.

The quantity of lemons grown in California and Arizona which may be handled during the period April 30, 1989, through May 6, 1989, is established at 370,000 cartons.

Dated: April 26, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89-10393 Filed 4-27-89; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-208-AD; Amdt. 39-6201]

Airworthiness Directives: Aerospatiale Model ATR-42-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR-42-300 series airplanes, which requires repetitive inspections of the engine fuel supply single- and double-shrouded hoses for leakage of fuel, and repair, if necessary. This amendment is prompted by a report of fuel leakage from the fuel hose located between the fuel heater and the nacelle intermediate frame. This condition, if not corrected, could lead to a fuel fire in the nacelle.

EFFECTIVE DATE: May 29, 1989.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a airworthiness directive, applicable to Aerospatiale Model ATR-42-300 series airplanes, which requires repetitive inspections of the engine fuel supply single- and double-shrouded hoses for leakage of fuel, and repair, if necessary, was published in the Federal Register on January 30, 1989 (54 FR 4293).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

Since the issuance of the Notice, Aerospatiale has issued Revision 2 of Service Bulletin ATR42-28-0013, dated January 6, 1989. This revision differs from Revision 1, which was cited in the Notice, in that it contains additional clarifying information. The final rule has been revised to cite this latest revision as applicable service information for procedures relating to the replacement of the fuel supply hoses. The FAA has determined that this change will neither increase the economic burden on any operator, nor increase the scope of the AD.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the change described above.

It is estimated that 38 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $4,560, for the initial inspection. Optional replacement of the fuel line is estimated to cost $1,120 per airplaine for parts.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative.

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on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this regulation and has been placed in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Safety.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR–42–300 series airplanes up to and including serial number 120 which have not been modified in accordance with Service Bulletin ATR–42–28–0013, Revision 2, dated January 6, 1989, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent a fuel fire in the nacelle, accomplish the following:

A. Within 300 flight hours after the effective date of this AD and thereafter at intervals not to exceed 300 flight hours, and at each engine removal/installation, inspect the engine fuel supply boses for fuel leakage in accordance with Aerospatiale Service Bulletin ATR–42–28–0012, dated September 9, 1988. If leakage is found, before further flight, repair or replace the leaking fuel line, in accordance with the service bulletin.

B. Replacement of the engine fuel supply hoses in accordance with Aerospatiale Service Bulletin ATR–42–28–0013, Revision 2, dated January 6, 1989, constitutes terminating action for the repetitive inspections required by paragraph A., above.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM–113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modification required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 29, 1989.

Issued in Seattle, Washington, on April 17, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–10193 filed 4–27–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 88–NM–209–AD; Amdt. 39–6202]

Airworthiness Directives; Aerospatiale Model ATR–42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Aerospatiale Model ATR–42 series airplanes, which currently requires modification of the propeller brake electronic control wiring. That action was prompted by reports of electrical interference causing the brake to engage prior to command. This amendment requires the addition of a relay to the propeller brake control unit to maintain the electrical power supply, and replacement of the push button switch with a two-position mechancial switch. This amendment is prompted by reports of electrical interference causing the brake to engage prior to command, incomplete brake locking due to interruption of the power supply, and unlocking of the propeller brake due to non-latching of the push button switch. This condition, if not corrected, could lead to overheating of the propeller brake and damage to the engine.

EFFECTIVE DATE: May 29, 1989.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM–113; telephone (206) 431–1967. Mailing address; FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by revising AD 88–14–06, Amendment 39–5967 (53 FR 25134; July 5, 1988), applicable to Aerospatiale Model ATR–42 series airplanes, which requires adding a relay to the propeller brake control unit to maintain the electrical power supply, and replacing the push button switch with a two-position mechanical switch, was published in the **Federal Register** on January 30, 1989 (54 FR 4291).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

Since the issuance of the Notice, Aerospatiale has issued Revision 3 of Service Bulletin ATR42–61–0010, dated December 19, 1988. This revision differs from Revision 2, which was cited in the Notice, in that it contains additional clarifying information. The final rule has been revised to cite this latest revision of the applicable service information for procedures related to replacement of the pushbutton switch. The FAA has determined that this change will neither increase the economic burden on any operator, nor increase the scope of the AD.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the change noted above.

It is estimated that 38 airplanes of U.S. registry will be affected by this AD, that it will take approximately 11 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $18,720.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications

to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.19 is amended by revising AD 88–14–06, Amendment 39–5967 (53 FR 25134; July 5, 1988), as follows:

Aerospatiale: Applies to Model ATR–42 series airplanes, as listed in Aerospatiale Service Bulletins ATR42–61–0010, Revision 3, dated December 19, 1988; ATR42–61–0013, Revision 1, dated December 8, 1987; and ATR42–61–0014, Revision 2, dated November 15, 1988, certificated in any category. Compliance is required within 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the propeller brake from overheating and causing damage to the engine, accomplish the following.

A. For the airplanes listed in Aerospatiale Service Bulletin No. ATR42–61–0013, Revision 1, dated December 8, 1987, modify the propeller brake electronic control wiring, in accordance with this service bulletin.

B. For the airplanes listed in Aerospatiale Service Bulletin No. ATR42–61–0014, Revision 2, dated November 15, 1988, modify the propeller brake control unit, in accordance with this service bulletin.

C. For the airplanes listed in Aerospatiale Service Bulletin No. ATR42–61–0010, Revision 3, dated December 19, 1988, replace the pushbutton switch with a two-position mechanical switch, in accordance with this service bulletin.

D. As an alternative to paragraph A., B., and C., above, operators may remove the propeller brake from the airplane in accordance with Aerospatiale Service Bulletin ATR42–61–0016, Revision 1, dated September 1, 1988.

E. An alternate means of compliance or adjustment of the compliance time, which provides an accceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM–113.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

The Amendment amends AD 88–14–06, Amendment 39–39–5967.

This Amendment becomes effective May 29, 1989.

Issued in Seattle, Washington, on April 17, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–10194 Filed 4–27–89; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88–NM–173–AD; Amdt. 39–6200]

Airworthiness Directives; Boeing Model 737–300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive, applicable to certain Boeing Model 737–300 series airplanes, which requires inspection for clearance between the engine fuel feed tube and adjacent thermal anti-ice (TAI) duct, and adjustment or replacement, if necessary. This amendment is prompted by two reports of fuel leaks caused by chafing of the fuel feed tube in the number two engine front right wing strut area. This condition, if not corrected, could result in fuel leakage causing a potential strut fire hazard.

EFFECTIVE DATE: May 30, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen S. Bray, Propulsion Branch, ANM–140S, telephone (206) 431–1969. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 737–300 series airplanes, which requires the inspection and, if necessary, adjustment of the clearance between the engine fuel feed tube assembly and the adjacent TAI duct, was published in the **Federal Register** on December 9, 1988 (53 FR 49678).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The Air Transport Association (ATA), on behalf of its members, noted that the proposed rule references solely the procedures specified in Boeing Alert Service Bulletin 737–28A1077, dated October 6, 1988; however, Boeing Service Bulletins 737–28–1055, Revision 1, dated October 27, 1988, and 737–28A1062, Revision 2, dated September 29, 1988, also address the tube clearance problem. The ATA suggested that the final rule be changed to include the above noted service bulletins as an alternate means of compliance with the requirements. The FAA concurs. Operators who have accomplished the procedures referenced in those service bulletins are considered to have complied with the intent of this AD. The final rule has been revised to indicate that accomplishment of these service bulletins is an approved alternate means of compliance.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require adoption of the rule with the change previously noted. The FAA has

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determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 500 Model 737-300 series airplanes of the affected design in the worldwide fleet. It is estimated that 175 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7.5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $52,500.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities, under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 737-300 series airplanes, listed in Boeing Alert Service Bulletin 737-28A1077, dated October 6, 1988, certificated in any category. Compliance required within three months after the effective date of this AD, unless previously accomplished.

To prevent a fire hazard associated with a fuel leak, due to the fuel feed tube assembly chafing against the thermal anti-ice duct, accomplish the following:

A. Inspect and, if necessary, adjust feed tube assembly clearance, in accordance with Boeing Alert Service Bulletin 737-28A1077, dated October 6, 1988. Replace chafed tubes, before further flight, with a serviceable tube.

B. Accomplishment of the procedures specified in Boeing Alert Service Bulletin 737-28A1062 Revision 2, dated September 29, 1988, or Boeing Service Bulletin 737-28-1055 Revision 1, dated October 27, 1988, is an approved alternate means of compliance for the requirements of paragraph A., above.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 30, 1989.

Issued in Seattle, Washington, on April 13, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certificate Service.

[FR Doc. 89-10195 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-171-AD; Amdt. 39-6203]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplanes Equipped With LH or RH Nose Landing Gear Upper Drag Link Assembly, Part Numbers (P/N) 5716882-1, -501, -503, 5717011-1, -501, or -503

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-8 series airplanes, which requires inspection of the left (LH) and right (RH) nose landing gear (NLG) upper drag link assembly for fatigue cracking and undersized drag link lower lug stiffening web, and modification or replacement, as necessary. This amendment is prompted by three reported failures of the link assembly which resulted in the collapse of the NLG and damage to the NLG and its adjacent structure. This condition, if not corrected, could result in collapse of the NLG during ground handling, takeoff, or landing.

EFFECTIVE DATE: May 29, 1989.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846; Attention: Director of Publications, C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. David Y. J. Hsu, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5323.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to McDonnell Douglas Model DC-8 series airplanes, equipped with LH or RH nose landing gear (NLG) upper drag link assembly, P/N 5716882-1, -501, -503, 5717011-1, -501, or -503, which requires inspection of the drag link assemblies for fatigue cracking and undersized drag link lower lug stiffening web, and modification or replacement, as necessary, was published in the Federal Register on January 13, 1989 (54 FR 1392).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter has no objection to the proposal.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 350 Model DC-8 series airplanes in the worldwide fleet. It is estimated that 256 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7.6 manhours per airplane to inspect for undersized NLG upper drag link lower lug stiffening web and for cracks, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $77,824 for the initial inspection cycle.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-8 series airplanes, equipped with LH or RH nose landing gear (NLG) upper drag link assembly, P/N 5716882-1, -501, -503, 5717011-1, -501, or 503, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent collapse of nose landing gear during ground handling, takeoff, or landing, due to fatigue failure of the LH or RH nose landing gear (NLG) upper drag link lower lug, accomplish the following:

A. Within the next 400 landings after the effective date of this AD, unless already accomplished within the last 400 landings, conduct a magnetic particle or dye penetrant inspection of the LH and RH nose landing gear upper drag link assembly, and measure the lower lug stiffening web for minimum thickness, in accordance with McDonnell Douglas DC-8 Service Bulletin 32-178, dated May 22, 1987.

1. If cracks are found, or if the minimum web thickness measures .100" or less, before further flight, remove and replace the assembly in accordance with paragraph B. or D. of this AD.

2. If no cracks are found and the minimum web thickness measures greater than .100", repeat the inspection in accordance with paragraph A. of this AD at intervals not to exceed 200 landings, unless reworked in accordance with paragraph C. of this AD, or replaced in accordance with paragraph B. or D. of this AD.

B. If the drag link assembly is replaced with a new assembly not modified in accordance with McDonnell Douglas Service Bulletin 32-178, dated May 22, 1987, upon the accumulation of 4,000 landings on the new assembly, perform the initial inspections in accordance with paragraph A. of this AD, and repeat these inspections at intervals not to exceed 200 landings.

C. If the drag link assembly is modified in accordance with McDonnell Douglas DC-8 Service Bulletin 32-178, dated May 22, 1987, upon the accumulation of 800 landings on the modified assembly, perform the initial inspection in accordance with paragraph A. of the AD, and repeat these inspections at intervals not to exceed 200 landings.

D. Replacement of both LH and RH nose landing gear upper drag link assemblies with P/N 5716882-505 and 5717011-505, or modification of the drag link assembly in accordance with McDonnell Douglas DC-8 Service Bulletin 32-178, dated May 22, 1987, and reidentification of the drag link assembly as SR08328002-3, -5, -7, -9, -11, or -13, as applicable, constitutes terminating action for the inspection requirements of this AD.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60).

These documents may be examined at FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

This Amendment becomes effective May 29, 1989

Issued in Seattle, Washington, on April 17, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-10196 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-165-AD; Amdt. 39-6204]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplanes Equipped With Main Landing Gear Attach Fittings, Part Numbers (P/N) 5611425-1 Through -508

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-8 series airplanes, which requires visual inspections of the left (LH) and right (RH) main landing gear (MLG) attach fittings for cracks, and, as necessary, rework and replacement. This amendment is prompted by two incidents where cracks were not detected and grew beyond the allowable crack length. This condition, if not corrected, could result in collapse of the MLG during takeoff or landing.

EFFECTIVE DATE: May 29, 1989.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846; Attention: Director of Publications, C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900

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Pacific Highway South, Seattle, Washington, or 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. David Y.J. Hsu, Aerospace Engineer, Airframe Branch, ANM–122L, FAA, Northwest Mountain Region, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5323.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to McDonnell Douglas Model DC–8 series airplanes equipped with LH or RH main landing (MLG) attach fitting, P/N(s) 5611425–1 through –508, which requires visual inspections of the left and right MLG attach fittings for cracks, and rework and replacement, as necessary, was published in the **Federal Register** on January 13, 1989 (54 FR 1394).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter had no objection to the proposal.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and public interest require the adoption of the rule as proposed.

There are approximately 350 Model DC–8 series airplanes in the worldwide fleet. It is estimated that 256 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to inspect both the LH and RH MLG attach fittings for cracks, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $20,480 for the initial inspection cycle.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC–8 series airplanes, equipped with left (LH) or right (RH) main landing gear (MLG) attach fitting, P/N(s) 5611425–1 through –508, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent severe structural damage to the airplane during takeoff or landing due to stress corrosion failure of the MLG attach fittings, accomplish the following:

A. Within the next 12 calendar months after the effective date of this AD, unless already accomplished within the last 12 calendar months, and thereafter at intervals not to exceed 24 calendar months, except as provided below, perform a visual inspection of the MLG attach fittings for cracks at locations in accordance with Figure 1. of McDonnell Douglas DC–8 Service Bulletin 57–94, Revision 1, dated June 23, 1987 (hereafter referred to as the Service Bulletin).

B. If no cracks are found, apply LPS–3 corrosion inhibiting oil to the fitting in accordance with the Service Bulletin, and repeat inspections for cracks in accordance with paragraph A. of this AD.

C. If cracks are found, accomplish the following:

1. If cracks are located in area 1 or 3, as defined in Figure 1. of the Service Bulletin, before further flight, replace the fitting, P/N(s) 5611425–1, –2, –501, –502, –503, –504, –505, 506, 507, or –508, with respective P/N(s) 5893930–1, –2, –1, –2, –509, –510, –507, –508, –505, or –506.

2. If cracks are located in area 2, as defined in Figure 1. of the Service Bulletin, accomplish the following:

a. If cracks are within limits as prescribed by Figure 1. of the Service Bulletin, apply LPS–3 corrosion inhibiting oil to the fitting in accordance with the Service Bulletin, and repeat visual inspections for crack development at intervals not to exceed 7 calendar days, in accordance with the Service Bulletin.

b. If cracks exceed limits as prescribed by Figure 1. of the Service Bulletin, replace the fitting in accordance with paragraph C.1. of this AD before further flight.

D. Replacement of both the LH and RH MLG attach fittings in accordance with paragraph C.1. of this AD constitutes terminating action for the inspection requirements of this AD.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1–L00 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

This Amendment becomes effective May 29, 1989.

Issued in Seattle, Washington, on April 17, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–10197 Filed 4–27–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 500, 501, 505, 508, 509, 510, 511, 514, 520, 540, 546, 556, 558, 564, 570, and 573

Animal Drugs, Feeds, and Related Products; Editorial Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending certain of its regulations for animal drugs, feeds, and related products to correct cross-references and typographical errors, to update titles, mailing symbols, and addresses of certain organizations, and to remove an outdated section. This action will improve the accuracy and clarity of the regulations.

EFFECTIVE DATE: April 28, 1989.

FOR FURTHER INFORMATION CONTACT: T. Rada Proehl, Regulations Editorial Staff (HFC–222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: FDA is amending certain of its regulations for animal drugs, feeds, and related products to correct cross-references and typographical errors, to update titles, mailing symbols, and addresses of certain organizations, and to remove outdated 21 CFR 505.10. This section is being removed because its warning and caution statements are also included in individually-approved regulations.

The amendments are wholly editorial in nature. For this reason, FDA finds for good cause that notice and public procedure and delayed effective date are unnecessary (5 U.S.C. 553(b)(B) and (d)).

List of Subjects

21 CFR Part 500

Animal drugs, Animal feeds, Cancer, Labeling, Polychlorinated biphenyls (PCB's).

21 CFR Part 501

Animal foods, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

21 CFR Part 505

Animal drugs, Labeling, Over-the-counter drugs.

21 CFR Part 508

Animal foods.

21 CFR Part 509

Animal foods, Packaging and containers, Polychlorinated biphenyls (PCB's).

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 511

Animal drugs, Medical research, Reporting and recordkeeping requirements.

21 CFR Part 514

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

21 CFR Part 540

Animal drugs, Antibiotics.

21 CFR Part 546

Animal drugs, Antibiotics.

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

21 CFR Part 564

Animal foods, Food additives.

21 CFR Part 570

Animal feeds, Animal foods, Food additives.

21 CFR Part 573

Animal feeds, Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 500, 501, 505, 508, 509, 510, 511, 514, 520, 540, 546, 556, 558, 564, 570, and 573 are amended as follows:

PART 500—GENERAL

1. The authority citation for 21 CFR Part 500 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055; 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)).

§ 500.27 [Amended]

2. Section 500.27 *Methylene blue-containing drugs for use in animals* is amended in paragraph (d) by removing "Bureau of Veterinary Medicine, Office of Scientific Evaluation" and replacing it with "Center for Veterinary Medicine, Office of New Animal Drug Evaluation".

§ 500.35 [Amended]

3. Section 500.35 *Animal feeds contaminated with Salmonella microorganisms* is amended in paragraph (a) by removing "Center for Disease Control" and replacing it with "Centers for Disease Control".

§ 500.51 [Amended]

4. Section 500.51 *Labeling of animal drugs; misbranding* is amended in paragraph (c) by removing "Bureau of Veterinary Medicine" and replacing it with "Center for Veterinary Medicine".

PART 501—ANIMAL FOOD LABELING

5. The authority citation for 21 CFR Part 501 continues to read as follows:

Authority: Secs. 4, 6, 80 Stat. 1297, 1299, 1300 (15 U.S.C. 1453, 1455) and secs. 403, 602, 701, 52 Stat. 1047–1048 as amended, 1054–1056 as amended (21 U.S.C. 343, 362, 371).

6. Section 501.3 is amended by revising paragraph (e)(3) to read as follows:

§ 501.3 Identity labeling of animal food in package form.

* * * * *

(e) * * *

(3) A food for which a common or usual name is established by regulation (e.g., in a standard of identity pursuant to section 401 of the act, in a common or usual name regulation and may, in addition, bear a fanciful name which is not false or misleading, and established pursuant to Part 502 of this chapter), and which complies with all of the applicable requirements of such regulation(s), shall not be deemed to be an imitation.

* * * * *

§ 501.105 [Amended]

7. Section 501.105 *Declaration of net quantity of contents when exempt* is amended in paragraph (b)(3) by removing the number "2.150.42" and replacing it with "2,150.42".

PART 505—INTERPRETIVE STATEMENTS RE: WARNINGS ON ANIMAL DRUGS FOR OVER-THE-COUNTER SALE

8. The authority citation for 21 CFR Part 505 continues to read as follows:

Authority: Secs. 502, 503, 506, 507, 701, 52 Stat. 1050, as amended, 1052, as amended, 1055–1056, as amended, 52 Stat. 854; 55 Stat. 851; 59 Stat. 463, as amended (21 U.S.C. 352, 353, 356, 357, 371).

§ 505.10 [Removed]

9. Section 505.10 *Animal drug warning and caution statements required by regulations* is removed.

PART 508—EMERGENCY PERMIT CONTROL

10. The authority citation for 21 CFR Part 508 continues to read as follows:

Authority: Secs. 402, 404, 701, 52 Stat. 1046–1047 as amended, 1048, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 342, 344, 371.

§ 508.5 [Amended]

11. Section 508.5 *Determination of the need for a permit* is amended in paragraph (a)(1) by removing "Bureau of Foods" and replacing it with "Center for Food Safety and Applied Nutrition".

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§ 508.35 [Amended]

12. Section 508.35 *Thermal processing of low-acid animal foods packaged in hermetically sealed containers* is amended in paragraph (c)(1) and the introductory text of paragraph (c)(2) by removing "Bureau of Foods, Industry Guidance Branch" and "Bureau of Foods, Division of Food Technology, HFF–419" and replacing it with "Center for Food Safety and Applied Nutrition, Industry Programs Branch" and "Center for Food Safety and Applied Nutrition, Division of Food Chemistry and Technology, HFF–410", respectively, in paragraph (c)(2)(ii) by removing "Bureau of Foods" and "HFF–419" and replacing it with "Center for Food Safety and Applied Nutrition" and HFF–410", respectively, in paragraph (j)(1) by removing "Bureau of Foods" and replacing it with "Center for Food Safety and Applied Nutrition", and in the introductory text of paragraph (l) by removing "§ 80.61" and replacing it with "§ 20.61".

PART 509—UNAVOIDABLE CONTAMINANTS IN ANIMAL FOOD AND FOOD-PACKAGING MATERIAL

13. The authority citation for 21 CFR Part 509 continues to read as follows:

Authority: Secs. 306, 402(a), 406, 408, 409, 701; 52 Stat. 1045–1046 as amended, 1049 as amended, 1055–1056 as amended; 68 Stat. 511–518 as amended; 72 Stat. 1785–1788 as amended (21 U.S.C. 336, 342(a), 346, 346a, 348, 371).

§ 509.5 [Amended]

14. Section 509.5 *Petitions* is amended by removing "§ 10.65" and replacing it with "§ 10.30".

PART 510—NEW ANIMAL DRUGS

15. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.110 [Amended]

16. Section 510.110 *Antibiotics used in food-producing animals* is amended in paragraph (f) by removing "Antibiotic Form 6" and replacing it with "antibiotic application".

§ 510.112 [Amended]

17. Section 510.112 *Antibiotics used in veterinary medicine and for nonmedical purposes; required data* is amended in paragraph (a) by removing "Room 15B–42" and replacing it with "Room 15–05" and in paragraph (e) by removing "Bureau of Veterinary Medicine" and replacing it with "Center for Veterinary Medicine".

§ 510.301 [Amended]

18. Section 510.301 *Records and reports concerning experience with animal feeds bearing or containing new animal drugs for which an approved application is in effect* is amended in the introductory text paragraph by removing "Bureau of Veterinary Medicine" and replacing it with "Center for Veterinary Medicine".

§ 510.302 [Amended]

19. Section 510.302 *Reporting forms* is amended in paragraph (d) by removing "Bureau of Veterinary Medicine" and replacing it with "Center for Veterinary Medicine".

§ 510.310 [Amended]

20. Section 510.310 *Records and reports for new animal drugs approved before June 20, 1963* is amended in paragraph (f) by removing "Bureau of Veterinary Medicine" and replacing it with "Center for Veterinary Medicine".

PART 511—NEW ANIMAL DRUGS FOR INVESTIGATIONAL USE

21. The authority citation for 21 CFR Part 511 is revised to read as follows:

Authority: Secs. 501, 502, 512, 701 (21 U.S.C. 351, 352, 360b, 371); 21 CFR 5.10 and 5.11.

§ 511.1 [Amended]

22. Section 511.1 *New animal drugs for investigational use exempt from section 512(a) of the act* is amended in paragraphs (c)(1) and (e) by removing "Bureau of Veterinary Medicine" and replacing it with "Center for Veterinary Medicine", everywhere that it appears.

PART 514—NEW ANIMAL DRUG APPLICATIONS

23. The authority citation for 21 CFR Part 514 continues to read as follows:

Authority: Secs. 512(i), (n), 701(a), 52 Stat. 1055; 82 Stat. 343–351 (21 U.S.C. 360b(i), (n), 317(a)); 21 CFR 5.10, 5.11.

§ 514.1 [Amended]

24. Section 514.1 *Applications* is amended in the introductory text of paragraph (b)(6) by removing "Bureau of Veterinary Medicine" and replacing it with "Center for Veterinary Medicine", in the introductory text of paragraph (d)(2) by removing "Information and Education Reso urces Management Staff (HFV–13), Bureau of Veterinary Medicine" and replacing it with "Industry Information Staff (HFV–11), Center for Veterinary Medicine", and in paragraphs (d)(2) (i) and (ii) by removing "Bureau of Veterinary Medicine" and replacing it with "Center for Veterinary Medicine", everywhere that it appears.

§ 514.11 [Amended]

25. Section 514.11 *Confidentiality of data and information is a new animal drug application file* is amended in paragraph (e)(2)(ii)(*a*) by removing "Bureau of Veterinary Medicine" and "Bureau"and replacing it with "Center for Veterinary Medicine" and "Center", respectively, and in paragraph (e)(2)(ii)(*b*) by removing "Bureau of Veterinary Medicine" and replacing it with "Center for Veterinary Medicine".

§ 514.111 [Amended]

26. Section 514.111 *Refusal to approve an application* is amended in paragraph (a)(5)(ii)(*a*)(*6*) by removing "Bureau of Veterinary Medicine" and replacing it with "Center for Veterinary Medicine".

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

27. The authority citation for 21 CFR Part 520 continues to read as follow:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

§ 520.1242a [Amended]

28. Section 520.1242a *Levamisole hydrochloride drench and drinking water* is amended in paragraph (f)(2)(ii)(*a*) by removing "(f)(2)(1)(*a*)" and replacing it with "(f)(2)(i)(*a*)".

§ 520.1660d [Amended]

29. Section 520.1660d *Oxytetracycline hydrochloride soluble powder* is amended in paragraph (d) by removing "§ 566.500" and replacing it with "§ 556.500".

§ 520.2320 [Amended]

30. Section 520.2320 *Sulfanitran and aklomide in combination* is amended in paragraph (b)(1)(iii) by removing "P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044" and replacing it with "2200 Wilson Blvd., Suite 400, Arlington, VA 22201–3301".

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

31. The authority citation for 21 CFR Part 540 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 540.181b [Amended]

32. Section 540.181b *Potassium penicillin G in drinking water* is amended in paragraph (c)(1) by removing "§ 540.280(a)" and replacing it with "§ 540.380(a)".

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

33. The authority citation for 21 CFR Part 546 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 546.110b [Amended]

34. Section 546.110b *Chlortetracycline seed* is amended in paragraph (b)(2) by removing "§ 436.200b" and replacing it with "§ 436.200(b)".

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

35. The authority citation for 21 CFR Part 556 continues to read as follows:

Authority: Sec. 512, 82 Sta. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 556.250 [Amended]

36. Section 556.250 *Estradiol monopalmitate* is amended in paragraph (b) by removing "Bureau of Foods" and replacing it with "Center for Food Safety and Applied Nutrition".

37. Section 556.344 is amended in paragraph (a) by revising the second sentence to read as follows:

§ 556.344 Ivermectin.

* * * * *

(a) *Cattle and reindeer.* * * * The target tissue selected is liver. * * *

* * * * *

CATEGORY II

Drug	Assay limits percent [1] type A	Type B maximum (100x)	Assay limits percent [1] type B/C [2]
Sulfadimethoxine	95–115	5.675 g/lb (1.25%)	85–115/75–125
Ormetoprim (5/3)	95–115	3.405 g/lb (0.75%)	
Ormetoprim (5/1)	95–115	17.0 g/lb (3.75%)	
Sulfaethoxypyridazine	* * *	* * *	* * *

[1] Percent of labeled amount.

[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make a Type C medicated feed.

* * * * *

§ 558.62 [Amended]

40. Section 558.62 *Arsanilic acid* is amended in paragraph (c)(2)(iii) by removing "§ 588.78" and replacing it with "§ 558.78".

PART 564—DEFINITIONS AND STANDARDS FOR ANIMAL FOOD

41. The authority citation for 21 CFR Part 564 continues to read as follows:

Authority: Secs. 401, 701, 52 Stat. 1046, 1055 as amended; 21 U.S.C. 341, 371.

§ 564.17 [Amended]

42. Section 564.17 *Temporary permits for interstate shipment of experimental packs of food varying from the requirements of definitions and standards of identity* is amended in paragraph (k) by removing "Part 4" and replacing it with "Part 20".

PART 570—FOOD ADDITIVES

43. The authority citation for 21 CFR Part 570 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10, 5.61.

§ 570.6 [Amended]

44. Section 570.6 *Opinion letters on food additive status* is amended in paragraph (e) by removing "Bureau of Veterinary Medicine" and "20852" and replacing it with "Center for Veterinary Medicine" and "20857", respectively.

§ 570.35 [Amended]

45. Section 570.35 *Affirmation of generally recognized as safe (GRAS) status* is amended in paragraph (c)(2) by removing "office of the Hearing Clerk" and replacing it with "Dockets Management Branch" and in paragraph (c)(3) by removing "Hearing Clerk" and "Hearing Clerk's office" and replacing each with "Dockets Management Branch".

§ 570.38 [Amended]

46. Section 570.38 *Determination of food additive status* is amended in paragraph (b)(1) by removing "office of the Hearing Clerk" and replacing it with "Dockets Management Branch" and in paragraph (b)(2) by removing "Hearing Clerk" and "Hearing Clerk's office" and replacing each with "Dockets Management Branch".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

38. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

39. Section 558.4 is amended in paragraph (d) in the table entitled "Category II" by revising the entries for "Sulfadimethoxine", "Ormetoprim (5/3)", "Ormetoprim (5/1)", and by revising the name of the drug "Suilfaethoxypyridazine" in the first column to read "Sulfaethoxypyridazine", to read as follows:

§ 558.4 Medicated feed applications.

* * * * *

(d) * * *

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

47. The authority citation for 21 CFR Part 573 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

§ 573.460 [Amended]

48. Section 573.460 *Formaldehyde* is amended by revising footnote 1 to paragraph (a)(1) to read as follows:

[1] Copies of the current edition may be obtained from the Treasurer, Donald H. James, West Virginia Department of Agriculture, Capital Complex/Guthrie Center, Charleston, WV 25305.

§ 573.640 [Amended]

49. Section 573.640 *Methyl esters of higher fatty acids* is amended in paragraphs (b)(4) (i) and (ii) by removing "P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044" and replacing it with "2200 Wilson Blvd., Suite 400, Arlington, VA 22201–3301".

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§ 573.780 [Amended]

50. Section 573.780 *Polyethylene* is amended in paragraph (b)(1) by removing "§ 121.2501(c)" and replacing it with "§ 177.1520(c)".

Dated: April 20, 1989.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-10207 Filed 4-27-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1-89-005]

RIN 2115-AA99

Drawbridge Operation Regulations; Bronx River Bridges, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary and final rules.

SUMMARY: At the request of New York City Department of Transportation (NYCDOT), the Coast Guard is issuing temporary regulations permitting the Bruckner (Eastern) Boulevard (I-278) highway drawbridge over the Bronx River, at mile 1.1, in Bronx County, New York, to remain closed for 36 months from 9 April 1989 through 9 April 1992. This temporary regulation is needed to facilitate the reconstruction of the bascule span. This action will relieve the bridge owner of the burden to open the draw during the reconstruction of the bridge and will only permit marine traffic which can pass under the closed span to transit the waterway. Additionally, the Coast Guard is making a permanent change to this section regarding clearance gages. This change is being made to simplify this section and cross reference it to material in 33 CFR 118.160.

EFFECTIVE DATE: This rule is effective 9 April 1989. Paragraph (a) is suspended for 36 months to 9 April 1992. Paragraph (d) terminates 9 April 1992.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, at (212)668-7994.

SUPPLEMENTARY INFORMATION: On 28 February 1989, the Coast Guard published a proposed rule concerning this amendment. The Commander, First Coast Guard District, also published the proposal as a Public Notice 1-685 dated 27 February 1989. In each notice, interested persons were given until 21 March 1989 to submit comments.

Drafting Information

The drafters of this notice are Waverly W. Gregory, Jr., project officer, and Lt. Robert E. Korroch, project attorney.

Discussion of Comments:

No comments or objections were received to the public notice. No changes have been made in the final rule. The temporary regulations will suspend a portion of the existing regulation and allow the bridge to remain in the closed position from 9 a.m. on 9 April 1989 through 5 p.m. on 9 April 1992, inclusive. On 27 September 1988, the Coast Guard approved the plans to advertise the reconstruction project for the bridge. The existing bridge (built in 1953) is a double leaf bascule bridge. The existing vertical clearance, at mean low and high water, is reported to be 34 and 27 feet, respectively. Consultation with the owner's representative has been performed during the regulatory review process in an attempt to assure the timely opening and completion of the rehabilitation.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. With the completed dredging of the Bronx River in the vicinity of the bridge, approval of this temporary regulation change will not prevent mariners from transiting the bridges but only require advance planning. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that if adopted, it will not have a significant econonic impact on a substantial number of small entities.

Federalism Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this proposed regulation does not have sufficient federalism implications to warrant preparation of federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.771 is revised to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.771 Bronx River.

(a) The draw of the Bruckner Boulevard highway bridge mile 1.1 at New York City shall open on signal; except that, from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. Monday through Friday, the draws need not be opened for the passage of vessels. Public vessels of the United States, state or local vessels used for public safety and vessels in distress shall be passed without delay.

(b) The draw of the Conrail bridge, mile 1.6 at New York City, need not be opened for the passage of vessels.

(c) The owners of the Bruckner Boulevard highway bridge mile 1.1 and the Conrail bridge mile 1.6 both at New York City shall provide and keep in good legible condition two clearance gages designed, installed and maintained according to the provisions of 118.160 of this chapter.

(d) Repair of Bruckner Boulevard Highway Bridge. The draw of the Bruckner Boulevard highway bridge, mile 1.1 at New York City, need not be opened for the passage of all vessels from 9 a.m., April 9, 1989 through 5 p.m., April 9, 1992 inclusive, to effect repair and reconstruction of the bridge.

Dated: April 19, 1989.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 89-10158 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD5-89-20]

RIN 2115-AA99

Drawbridge Operation Regulations: James River, Between Isleof Wight and Newport News, VA

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule with request for comments.

SUMMARY: At the request of the Virginia Department of Transportation, the Coast Guard is issuing a temporary rule governing the operation of the drawbridge across the James River, mile 5.0, between Isle of Wight and Newport News, Virginia. This rule is being issued to require advance notification for all bridge openings during the evening and night time hours for a 120-day period in order to allow the contractor for the Virginia Department of Transportation, owner of the bridge, to add studs to the metal grating on the drawspan, while still providing for the reasonable needs of navigation.

Because of the length of time this temporary rule will be in effect, the Coast Guard requests comments on the rule. The temporary rule may be changed based on comments received.

DATES: This temporary rule is effective from April 21, 1989, to August 21, 1989, unless amended or terminated before that date. Comments on the temporary rule must be received on or before May 22, 1989.

ADDRESS: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments received will be made available for inspection and copying at room 507 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, (804) 398-6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for any recommended changes to the temporary rule. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

Drafting Information

The drafters of this notice are Linda L. Gilliam, Project Officer, and LCDR Robin K. Kutz, Project Attorney.

Discussion of Temporary Rule

At the request of the Virginia Department of Transportation, owner of the bridge, the Coast Guard is issuing a temporary rule governing the operation of the drawbridge across the James River at mile 5.0, between Isle of Wight and Newport News, Virginia. A contractor for the Department has indicated that it will be necessary to place equipment on the deck of the drawspan in order to add studs to the metal grating on the drawspan that will increase traction for motor vehicles crossing the span. However, for safety reasons the equipment must be removed from the span before it is raised. The Virginia Department of Transportation has advised the Coast Guard that it will take 20 minutes to remove the equipment, thereby necessitating a 20-minute advance notification by vessels requiring a bridge opening. The Department requested that the work be approved to begin on April 17, 1989, and continue for a period of 120 days. Since the April 17 beginning date does not give the Coast Guard enough time to issue a public notice or to publish this temporary schedule in the **Federal Register**, the work will begin on April 21, 1989. The Department has been notified of the change in the beginning date.

The work will take place from April 21, 1989 through August 21, 1989, seven days a week, from 6:00 p.m. to 5:00 a.m., with the exception of Federal holiday weekends and Harbor Fest Weekend. Vessels requiring an opening during the work period will be required to notify the bridgetender 20 minutes in advance of their estimated time of arrival, to permit the contractor to remove equipment from the deck. The Virginia Pilots Association has been contacted, and they have expressed no objection to the 20-minute advance notice requirement. Since these repairs are necessary for the safety of vehicular traffic, I find that good cause exists for publishing this temporary rule without publication of a notice of proposed rulemaking, and for making it effective in less than 30 days.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the temporary rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

This temporary rule is considered to be non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that these regulations are not expected to have any effect on commercial navigation or on any businesses that depend on waterborne transportation for successful operations. Since the economic impact on these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and has been placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended as follows:

PART 117—DRAWBRIDGE OPERATIONS REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. A new § 117.1012 is temporarily added to read as follows:

§ 117.1012 James River

(a) The James River Bridge, mile 5.0, between Isle of Wight and Newport News, VA:

(1) From April 21, 1989 to August 21, 1989, from 6:00 p.m. to 5:00 a.m. daily, the draw need not open unless 20 minutes advance notice is given.

(2) From 6:00 p.m. to 5:00 a.m. on Memorial Day Weekend, May 27-29, 1989; on Independence Day Weekend, July 1-4, 1989; and on Harbor Fest Weekend, June 2-4, 1989, the draw shall open on signal.

(3) Shall open on signal at all other times.

Dated April 17, 1989.

H.B. Gehring,

Captain, U.S. Coast GuardCommander, Fifth Coast Guard District, Acting.

[FR Doc. 89-10159 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50568A; FRL-3563-2]

Pentabromoethylbenzene; Significant New Use of Chemical Substance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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SUMMARY: EPA is promulgating a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) which will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of pentabromoethylbenzene (PEB, CAS Number 85-22-3) for any use. EPA believes that this action is necessary because PEB may be hazardous to human health and the environment, and that any use of PEB and activities associated with such use may result in significant human and environmental exposure. The notice will furnish EPA with the information needed to evaluate the intended use and associated activities, and an opportunity to protect against potentially adverse exposure to PEB before it can occur.

DATES: In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern time on May 12, 1989. This rule becomes effective on June 12, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M Street SW., Washington, DC 20460. Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: The SNUR for PEB requires persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of PEB for any use. The required notice will provide EPA with the information needed to evaluate an intended use and associated activities, and an opportunity to protect against potentially adverse exposure to PEB before it can occur. This rule was proposed in the **Federal Register** of November 22, 1988 (53 FR 47228). No public comments were received in response to the proposal.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices (PMNs) under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h) (1), (2), (3), and (5), and the regulations at 40 CFR Part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707. Persons who intend to import a chemical substance are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Persons who import a substance identified in a final SNUR must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR Part 707.

II. Applicability of General Provisions

In the **Federal Register** of September 5, 1984 (49 FR 35011), EPA promulgated general regulatory provisions applicable to SNURs (40 CFR Part 721, Subpart A). On July 27, 1988 (53 FR 28354), EPA promulgated amendments to the general provisions which apply to this SNUR except as provided in § 721.1515(b)(1). The entire text of Subpart A was published in that document; interested persons should refer to it for further information. In the **Federal Register** of August 17, 1988 (53 FR 31252), EPA promulgated the "User Fee Rule" (40 CFR Part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting significant new use notices to submit certain fees to EPA are discussed in detail in that **Federal Register** notice.

III. Summary of this Rule

The chemical substance which is the subject of this SNUR is PEB. EPA is designating any use of PEB as a significant new use. Thus, this rule requires persons who intend to manufacture, import, or process PEB for any use to notify EPA at least 90 days before such manufacture, import, or processing.

IV. Background Information on PEB

Background information on production, use, human health effects, and exposure for PEB appears in the preamble to the proposed rule (53 FR 47228). Interested persons should refer to that document for further information.

V. Objectives and Rationale for this Rule

To determine what would constitute a significant new use of PEB, EPA considered relevant information on the toxicity of the substance, likely exposures and releases associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. Based on these considerations, EPA wishes to achieve the following objectives with regard to the significant new use that is designated in this rule:

1. EPA wants to ensure that it will receive notice of any company's intent to manufacture, import, or process PEB for any use before that activity begins.

2. EPA wants to ensure that it will have an opportunity to review and evaluate data submitted in a significant new use notice before the notice submitter begins manufacturing, importing, or processing PEB for any use.

3. EPA wants to ensure that it will be able to regulate prospective manufacturers, importers, or processors of PEB before any manufacturing, importing, or processing of PEB occurs, provided that the degree of potential health and environmental risk is sufficient to warrant such regulation.

PEB is structurally related to known and suspected carcinogenic substances. Data indicate that absorption occurs when PEB is administered orally. Additionally, evidence exists that PEB persists in the environment and may bioconcentrate. Currently, PEB is not subject to any Federal regulation that would notify the Federal Government of activities that might result in adverse exposures or releases, or provide a regulatory mechanism that could protect human health from potentially adverse exposures or protect the environment from potentially adverse releases before they occur.

EPA believes that the resumption of any use of PEB, and its related manufacture, import, or processing, has a high potential to increase the magnitude and duration of exposure to PEB as well as increasing the probability of environmental releases. Given the potential toxicity of PEB, the reasonably anticipated situations that could result in exposure or release, and the lack of sufficient regulatory controls, individuals and/or the environment could be exposed to PEB at levels which may result in adverse effects.

Because EPA is concerned about potential exposure during the entire life cycle of PEB, EPA is modifying the requirements of § 721.5(a)(2) as applied to this rule to require any prospective manufacturer, importer, or processor of PEB who intends to distribute the substance in commerce to submit a significant new use notice.

VI. Alternatives

In the proposed SNUR, EPA considered regulatory actions for PEB including the use of a TSCA section 4(a)(1)(A) test rule or a section 8(a) reporting rule. No comments were received that addressed the regulatory approach chosen. For the reasons discussed in the preamble to the proposed rule, EPA has decided to proceed with the promulgation of a SNUR for PEB.

VII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule.

EPA believes that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the proposal date of the SNUR rather than as of the effective date of the final rule. If uses begun during the proposal period of a SNUR were considered ongoing as of the effective date of a SNUR, it would be difficult for EPA to establish SNUR notice requirements, because any person could defeat the SNUR by initiating the proposed significant new use before the rule became effective; this interpretation of section 5 would make it extremely difficult for EPA to establish SNUR notice requirements.

Thus, persons who begin commercial manufacture, importation, or processing of PEB for any use between proposal and the effective date of the SNUR must cease that activity before the effective date of this rule. An exception to this general requirement appears at § 721.45(h) (53 FR 28354, July 27, 1988). A person may comply with a proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, importation, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VIII. Test Data and Other Information

EPA recognizes that under TSCA section 5, persons are not required to develop any particular test data before submitting a significant new use notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them.

However, in view of the potential health and/or environmental risks that may be posed by a significant new use of PEB, EPA suggests potential SNUR notice submitters consider conducting tests that would permit a reasoned evaluation of risks posed by PEB when utilized for an intended use. SNUR notices submitted without accompanying test data may increase the likelihood that EPA would take action under section 5(e).

EPA encourages persons to consult with EPA before selecting a protocol for testing PEB. As part of this optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance. Test data should be developed according to TSCA Good Laboratory Practice Standards at 40 CFR Part 792. Failure to do so may lead EPA to find such data to be insufficient to evaluate reasonably the health or environmental effects of the substance.

EPA urges SNUR notice submitters to provide detailed information on human exposure or environmental release that may result from the significant new use of PEB. In addition, EPA encourages persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by potential substitutes.

IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of PEB. EPA's complete economic analysis is available in the public record for this rule (OPTS-50568A).

X. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-50568A). This record contains basic information considered by EPA in developing this rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The proposed rule.
2. The economic analysis of this rule.
3. The three documents listed under REFERENCES (Unit XI of this preamble).
4. Letter from Ethyl Corporation, dated August 18, 1986, informing EPA of their decision to cease production of PEB.
5. ITC report on PEB.
6. This final rule.

A public version of this record containing nonconfidential materials is available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, located at Rm. NE-G004, 401 M St., SW., Washington, DC.

XI. References

1. TSCA section 8(d) document number 878214933.
2. Veith, G.D., DeFoe, D.L. and Bergstedt, B.J. "Measuring and Estimating the Bioconcentration Factor of Chemicals in Fish." *Journal of the Fishery Research Board of Canada*. 38:1040-1048. 1979.
3. Zitko, V. and Carson, W.G. "Uptake and Excretion of Chlorinated Diphenyl Ethers and Brominated Toluenes by Fish." *Chemosphere*. 6:293-301. 1977.

XII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule is not a "major" rule because it will not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the reporting cost for submitting a significant new use

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notice will be approximately $1,400 to $8,000. EPA believes that, because of the nature of the rule and the substance involved, there will be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule will not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule will likely be small businesses. However, EPA expects to receive few SNUR notices for PEB. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*, and has assigned OMB control number 2070–0038.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: April 20, 1989.

Susan F. Vogt,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for Part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding new § 721.1515 to read as follows:

§ 721.1515 Pentabromoethylbenzene.

(a) *Chemical substance and significant new use subject to reporting.* (1) The chemical substance pentabromoethylbenzene (CAS Number 85–22–3) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) The significant new use is: Any use.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph:

(1) *Persons who must report.* Section 721.5 applies to this section except for § 721.5(a)(2). A person who intends to manufacture, import, or process for commercial purposes the substance identified in paragraph (a)(1) of this section and intends to distribute the substance in commerce must submit a significant new use notice.

(2) [Reserved]

(Approved by the Office of Management and Budget under OMB control number 2070–0038.)

[FR Doc. 89–10245 Filed 4–27–89; 8:45am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–468; RM–6009 & RM–6229]

Radio Broadcasting Services; Easton and Delmar, MD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 244B1 for Channel 244A at Easton, Maryland, as that community's first wide coverage area FM service, in response to a petition filed by Clark Broadcasting Company. We shall also modify the license of Station WCEI–FM to specify operation on the higher class channel. The coordinates for Channel 244B1 at Easton are 38–46–13 and 76–04–55. The counterproposal filed by Apex Associates, Inc., proposing the allotment of FM Channel 243A at Delmar, Maryland, has been withdrawn. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 9, 1989.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–468, adopted April 11, 1989 and released April 24, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Maryland is amended by deleting Channel 244A and adding Channel 244B1 at Easton.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–10150 Filed 4–27–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–331; RM–6356]

Radio Broadcasting Services; Duluth, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel *247C2 to Duluth, Minnesota, reserving the channel for noncommercial educational use, in response to a petition filed by Minnesota Public Radio. Canadian concurrence has been obtained for this allotment. The coordinates for Channel *247C2 at Duluth are 46–47–00 and 92–06–48. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 9, 1989.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–331, adopted April 11, 1989, and released April 24, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription. Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Duluth, Minnesota, is amended by adding Channel *247C2.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–10151 Filed 4–27–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–435; RM–6411]

Radio Broadcasting Services; Brookfield, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 245C2 to Brookfield, Missouri, and modifies the license of Station KZBK, Channel 249A, to specify operation on Channel 245C2. This action is taken in response to a petition filed by Dwight Carver, licensee of Station KZBK. The channel can be used at the existing site for Station KZBK, at coordinates 39–50–26 and 93–04–51. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 9, 1989.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–435, adopted April 11, 1989, and released April 24, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended by revising the entry to Brookfield, Missouri, to remove Channel 249A and add Channel 245C2.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–10152 Filed 4–27–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–110; RM–6134, RM–6381]

Radio Broadcasting Services; Los Ybanez and Denver City, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 300C2 to Los Ybanez, Texas, as that community's first local FM service at the request of Israel Ybanez. In addition, this action substitutes Channel 248C2 for Channel 296A at Denver City, Texas, as that community's first wide coverage area FM service and modifies the construction permit of Station KDNC(FM), as requested by Gayle C. Atchley. Channel 300C2 requires a site restriction of 5.8 kilometers (3.6 miles) west of the city at coordinates 32–43–45 and 101–58–09. Mexican concurrence has been obtained for Channel 300C2 at Los Ybanez. Channel 248C2 can be substituted at the current site of Station KDNC(FM). The coordinates are 33–01–53 and 102–48–47. With this action, this proceeding is terminated.

DATES: Effective June 9, 1989; the window period for filing applications for Channel 300C2 at Los Ybanez, Texas, will open on June 12, 1989, and close on July 12, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–110, adopted April 11, 1989, and released April 24, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Texas, by adding Los Ybanez, Channel 300C2; and by adding Channel 248C2 and deleting Channel 296A at Denver City.

Karl. A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–10153 Filed 4–27–89; 8:45 am]

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Proposed Rules

Federal Register
Vol. 54, No. 81
Friday April 28, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 88-118]

Black Stem Rust

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to revise the Black Stem Rust Quarantine and Regulations by restricting the interstate movement of certain regulated articles to areas where they would not present any risk of crop damage, and by protecting certain areas from possible infestation. This action is warranted to reflect the fact that rust-susceptible alternate host plants have been largely eradicated from the northern small grain producing states where black stem rust would be harmful to crops and because preventative measures are necessary to prevent its re-introduction through plant hosts. In addition, the action would prevent the re-introduction of alternate hosts plants into protected areas by prohibiting the entry of certain plants and by prescribing the conditions under which other regulated articles may be moved interstate.

DATES: Consideration wil be given only to comments postmarked or received on or before May 15, 1989.

ADDRESSES: Send an original and two copies of written comments to Helene R. Wright, Chief, Regulatory Analysis and Development, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 88-118. Comments received may be inspected at USDA, 14th Street and Independence Avenue, SW., Room 1141-South Building, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Thomas G. Flanigan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 643, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Background

We propose to amend the "Domestic Quarantine Notices" in 7 CFR Part 301 by revising the Black Stem Rust Quarantine and Regulations (referred to below as the regulations) contained in § 301.38 *et seq.* The regulations quarantine the conterminous 48 states and the District of Columbia to prevent the development of new races of black stem rust.

Black stem rust is one of the most destructive plant diseases of small grains known to exist in the United States. The disease is caused by a fungus which reduces the quality and yield of wheat, oats, barley, and rye crops by robbing host plants of food and water. The fungus lives on a variety of host plants that are species of the genera *Berberis, Mahoberberis,* and *Mahonia,* and can spread from host-to-host by way of wind-borne spores.

In the northern small grain producing states, the black stem rust organism overwinters on wild grasses, grain stubble, and in straw piles. The organism cannot attack small grains in this stage, but will infect *Berberis, Mahoberberis,* and *Mahonia* plants in the spring. The spores that are subsequently produced on the plants' leaves can spread the disease to nearby grain fields.

The cooperative federal-state black stem rust program was initiated in 1918. The program's long range strategy has been to reduce the incidence of black stem rust disease by:

(1) Eradicating *Berberis, Mahoberberis,* and *Mahonia* plants growing in small grain producing areas;

(2) Developing varieties of small grains that will not be seriously damaged if infected with black stem rust disease; and

(3) Regulating the interstate movement of *Berberis, Mahoberberis,* and *Mahonia* plants and plant parts.

Two of these goals have been accomplished. Approximately 98 percent of the wild growing *Berberis, Mahoberberis,* and *Mahonia* plants had been eliminated from small grain producing areas when the eradication phase of the cooperative program officially ended in 1981. Research efforts have also been successful—virtually all of the small grain varieties grown in the United States today are completely, or almost completely, impervious to damage from existing races of black stem rust. These advances have minimized crop damage from black stem rust disease.

Resistance, Susceptibility, and Hybridization

Plant species of the genera *Berberis, Mahoberberis,* and *Mahonia* are categorized as being either rust-resistant or rust-susceptible.

1. *Rust-resistant.* For reasons as yet unknown, the black stem rust organism cannot develop a sexual stage when living on rust-resistant plant species. In these circumstances, the black stem rust organism is "deadended," since it cannot spread to other hosts. More than 90 species and varieties of the genera *Berberis, Mahoberberis,* and *Mahonia* have been tested and found resistant to black stem rust.

2. *Rust-susceptible.* Black stem rust organism living on rust susceptible plants of *Berberis, Mahoberberis,* and *Mahonia* will reach the sexual stage, reproduce, and spread. Currently small grain varieties are resistant to existing races of black stem rust. However, during the sexual stage, spores from different black stem rust organisms may combine to produce entirely new, hybird races of black stem rust. For example, 43 different races of black stem rust were isolated from a single spread of rust from barberry, a plant of the *Berberis* genus, to nearby wheat fields.

The primary threat to the continued success of the cooperative federal-state black stem rust program comes from the black stem rust organism's ability to hybridize on rust-susceptible plant hosts. Hybrid black stem rust races are genetically unpredictable. A hybird could be produced with the ability to successfully attack grain varieties that are not harmed by the "parenting" black stem rust races.

The cooperative federal-state black stem rust program's successful eradication phase eliminated wild-growing plants of the genera *Berberis, Mahoberberis,* and *Mahonia* as a possible source of hybridization in northern grain-producing areas.

However, commercial nurseries continue to propagate and extensively distribute rust-resistant varieties of barberry and other host species of *Berberis, Mahoberberis,* and *Mahonia* throughout the northern states, where they are extremely popular for landscape and hedge use.

Current Regulations

The current regulations restrict the interstate movement of *Berberis, Mahoberberis,* and *Mahonia* plants and plant parts in order to prevent dispersion of rust-susceptible plants. These provisions were written during the pre-1981 eradication phase of the program, however, and do not reflect current conditions and programs needs.

The current regulations quarantine all states within the conterminous United States and the District of Columbia. Those states, or portions of states, that have adopted and are enforcing procedures to eradicate rust-susceptible *Berberis, Mahoberberis,* and *Mahonia* plants are designated "eradication areas." All plants, seeds, fruits, and other parts of plants, capable of propagation, and which belong in the genera *Berberis, Mahoberberis,* and *Mahonia* except *Mahonia* cuttings for decorative purposes, are designated as regulated articles. Certain interstate movement of rust-resistant plant and plant parts of the genera *Berberis, Mahoberberis,* and *Mahonia* is allowed under the conditions set forth in the regulations. Certification or issuance of a permit is usually a prerequisite. Interstate movement of rust-susceptible plants and plant parts of these genera is prohibited.

Overview of Organizational Changes

The following tables represent an overview of the organizational changes contained in our proposal.

DISTRIBUTION TABLE

Current	Proposed
301.38(a)	301.38
301.38(b)	301.38-2
301.38-1	301.38-1
Footnote 1	Deleted
Footnote 2	Deleted
301.38-2	Deleted
301.38-2a	Deleted
301.38.3	301.38-4
Footnote 3	301.38-5(b)(2)
301.38-4	301.38-5
301.38-5	301.38-6
301.38-6	301.38-5
301.38-7	301.38-7
301.38-8	Footnote 1
301.38-9	Footnote 2
301.38-10	301.38-8

DERIVATION TABLE

Proposed	Current
301.38	301.38(a), (b)
Footnote 1	301.38-8
301.38-2	301.38-1
301.38-2	301.38(b)
Footnote 2	301.38-9
301.38-3 [new]	
Footnote 3 [new]	
301.38-4	301.38-4
301.38-5	301.38-4; 301.38-6
Footnote 4 [new]	
301.38-6	301.38-5
Footnote 5	301.38-5
301.38-7	301.38-7
301.38-8	301.38-10

The following paragraphs describe the substantive ways in which the current regulations would be revised under our proposal.

Removal of "Eradication Areas."

We propose to delete the eradication area provisions (current §§ 301.38-2 and 301.38-2a) from the regulations. The term "eradication area" is no longer applicable since all federal eradication operations were discontinued in 1981, when the eradication areas assumed responsibility for nursery inspections.

Addition of "Protected Areas."

We propose to add new provisions to the regulations authorizing the Administrator to designate as a "protected area" any state or county using the following criteria:

1. The state has eradicated rust-susceptible plants of the genera *Berberis, Mahoberberis,* and *Mahonia* under the cooperative Federal-State eradication program and maintains and enforces an inspection program under which all plant nurseries within the state are inspected at least one every year to ensure that plant nurseries are free of rust-susceptible plants.

2. The county is in a state which has eradicated rust-susceptible plants of the genera *Berberis, Mahoberberis,* and *Mahonia* from specific areas under the cooperative federal-state eradication program and intrastate movements are restricted in a manner equivalent to those we are proposing to impose on interstate movements. In addition, the state must maintain and enforce an inspection program under which all plant nurseries within the proposed area are inspected at least once every year to ensure that they are free of rust-susceptible plants.

These areas would be those presently designated as "eradication areas" under the current regulations that maintain the necessary inspection programs and intrastate movement regulations. In addition, a county located in a state containing eradication areas under the current regulations would also be eligible for designation as a protected area if the proposed criteria are satisfied.

3. For a state to qualify as a protected area, or for any county within a state to so qualify, the state must employ personnel having responsibility for the issuance of the certificates required for interstate movement of regulated articles, in accordance with proposed § 301.38-5, in addition to conducting the required nursery inspections. The state must annually submit a written statement to the Animal and Plant Health Inspection Service (APHIS), signed by an inspector, starting that the inspections have been conducted in accordance with the regulations. This statement would be required before January 1st of each year so that APHIS has the necessary assurances before the shipping season, which usually begins in March. We would require in the statement a list of the nurseries inspected and found free of rust-susceptible plants. Those nurseries would be the only ones eligible to ship rust-resistant *Berberis, Mahoberberis,* and *Mahonia.*

During the requisite nursery inspections, all nursery stock would be examined by an inspector. Any variety or species of plant or plant part of the genera *Berberis, Mahoberberis,* and *Mohonia* that is not a rust-resistant variety and true to type would be destroyed. The inspector would also have to verify, by visual inspection, that no wild or domesticated rust-susceptible plants are growing within one-half mile of any nursery growing any rust-resistant plants of *Berberis, Mahoberberis,* and *Mahonia* from seed, since hybridization could occur and may result in germination of new rust-susceptible varieties near the nursery. It is known that the wind can carry seeds of regulated plants up to one-quarter mile. One-half mile is being proposed to add a margin of safety.

The visual inspection would be performed by inspectors, working side by side, 10 to 20 feet apart, who would walk the half mile distance measured from the edge of the nursery so that they could observe all plant growth in the half-mile band. The distance between the inspectors would depend upon the ease and range of visibility of plant growth. In areas with low brush and flat terrain, the inspectors could be the maximum distance of 20 feet apart because they could observe plants growing within 10 feet of them. In areas of high plant growth or hilly terrian the inspectors would have to be closer

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together since their range of visibility would be shorter. This procedure must be repeated so that the entire half mile band, measured from the border of the nursery to the circumference of an imaginary circle having the nursery as its mid-point, is visually inspected.

The proposed protected area classification would serve two purposes. First, it would augment existing state efforts to prevent the introduction or re-introduction of black stem rust by prohibiting the movement of rust-susceptible plants into the state. Second, it would be self-policing, in effect, by requiring yearly inspection of nurseries and surrounding areas in order for states and counties to retain their protected status under the regulations.

A list of those states and counties that the Administrator proposes to designate as protected areas are listed in proposed § 301.38–3(c).

Under our proposal, the following states would meet the criteria to be designated as protected areas based upon their current status as eradication areas under § 301.38–2a and participation in cooperative federal-state black stem rust eradication efforts:

Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, West Virginia, and Wisconsin.

We are proposing to include the Commonwealth of Pennsylvania in its entirety because we believe that Philadelphia and Delaware Counties in that state also meet the crietia to be designated as protected areas although they are not eradication areas under the current regulations.

The following counties in the State of Washington would meet the criteria to be designated as protected areas:

Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.

Removal of Protected Area Status

Under our proposal, the Administrator could determine that a state or county's "protected area" designation should be removed if he or she finds that it no longer meets the criteria. A hearing would be held to resolve any conflict as to any material fact in accordance with rules of practice adopted by the Administrator for the proceeding. If, after opportunity for a hearing, the Administrator finds that removal of protected status is appropriate, we would publish a proposed rule in the **Federal Register**. The Agency's final action on the matter would be published in a final rule in the **Federal Register** after notice and an opportunity for public comment.

Conditions For Interstate Movement of Regulated Articles

We propose to revise the conditions governing interstate movement of regulated articles (currently contained in § 301.38–3) as follows:

1. The quarantine of the conterminous 48 states and the District of Columbia would continue in effect, however, all current requirements relating to interstate movement to, from, or between eradication areas would be deleted.

2. Interstate movement of all *Berberis, Mahoberberis,* and *Mahonia* plants and plant parts would be allowed without restriction into or through any state or county not designated as a protected area. This is because movement restrictions are effective only in those areas where a nursery inspection program exists to protect against interestate, as well as intrastate, dispersal of rust-susceptible host plants through the commercial nursery trade. Rust-susceptible host plants were eradicated during the eradication phase of the cooperative program, however, nurseries continue to grow new varieties of barberry from seed, which, due to hybridization, may not be rust-resistant. We believe that nurseries alone grow new varieties of barberry from seed. Therefore, the inspection program would assure that any rust-susceptible varieties that may be developed are detected and destroyed.

3. Interstate movement of rust-susceptible *Berberis, Mahoberberis,* and *Mahonia* plants and plant parts, into or through protected areas, would be prohibited (except under the narrow circumstances where a limited permit has been issued). Interstate movement of *all Berberis* seedlings and plants of less than 2 years' growth into or through protected areas would also be prohibited because it is not possible to identify whether their species is rust-resistant or rust-susceptible until it has 2 years' growth. This would prevent contamination or re-infestation of nursery stock by rust-susceptible varieties from outside the protected area.

4. Interstate movement of rust-resistant *Berberis, Mahoberberis,* and *Mahonia* plants and plant parts, into or through protected areas, would be allowed if accompanied by a certificate issued and attached in accordance with the regulations. The certificate would verify to protected areas that the plants are rust resistant and do not present any risk of spreading black stem rust.

List of Rust-Resistant Plants

We propose to include in the regulations a list of all of the species and horticultural varieties of the genera *Berberis, Mahoberberis,* and *Mahonia* that have been tested and determined resistant to black stem rust. The test is conducted by the Agricultural Research Service of the United States Department of Agriculture at its Cereal Rust Laboratory in St. Paul, Minnesota. The test is performed in the following manner: In a greenhouse, the suspect plant or test subject is placed under a screen with a control plant—a known rust-susceptible variety of *Berberis, Mahoberberis,* or *Mahonia.* Infected wheat stems, a primary host of black stem rust, are placed on top of the screen. The plants are moistened and maintained in 100% humidity. This causes the spores to swell and fall on the plants lying under the screen. The plants are then observed for 7 days at 20–80% relative humidity. If the rust-susceptible plant shows signs of infection after 7 days and the test plants do not, the test results indicate that the test plants are rust-resistant. This test must be performed 12 times and all 12 tests must yield the same result, before USDA can make a determination as to whether the test plant variety is rust-resistant. The test may be conducted on 12 individual plants, or it may be performed multiple times on fewer plants, *e.g.,* 6 plants tested twice or 3 plants tested 4 times. Based upon 30 years of experience with this test, we believe that 12 is the reliable test sample size on which USDA can make its determination. We do not know of any plant which was subsequently discovered to be rust-susceptible after undergoing this procedure 12 times and determined by USDA to be rust-resistant. The tests must be performed on new growth, just as the leaves are unfolding. Therefore, the tests are usually conducted in the spring or fall, during the growing season. All 12 tests generally cannot be conducted on the same day because of the plants' different growth stage.

Any person seeking to move plants or plant parts of the genera *Berberis, Mahoberberis,* and *Mahonia,* except *Mahonia* cuttings used for decorative purposes, into or through a protected area must know whether they are rust-resistant or rust-susceptible. *Mahonia* cuttings used for decorative purposes do not produce any propagative material and therefore would not be included as regulated articles under this subpart.

Removal of Certain Permit Provisions

We propose to remove the definitions of "restricted destination permit" and "scientific permit" from current § 308–1, and all reference to them in the regulations, as revised, because there is no need for them.

Currently, § 301.38–4 provides for the issuance, by an inspector, or permits authorizing restricted interstate movement of regulated articles not eligible for movement under the Black Stem Rust regulations or other Federal domestic plant quarantines because of possible pest risk. It also provides for issuance of scientific permits authorizing interstate movement of regulated articles under prescribed conditions.

We would continue to authorize issuance of "limited permits" to allow regulated articles to move into or through protected areas to a destination outside the protected area, without a certificate, under conditions that ensure against contamination by or re-introduction of host plants. With a limited permit, regulated articles that are ineligible for certification under the regulations could move into or through a protected area if they are placed in a closed sealed container that prevents the unauthorized removal of the regulated articles and that is kept sealed until the regulated articles reach the final destination stated in the permit. At the final destination, the sealed container must be opened either in the presence of an inspector or with an inspector's authorization obtained expressly for that shipment.

The Department of Agriculture no longer issues scientific permits. Instead, Departmental permits are available for movement of a regulated article for scientific or experimental purposes under the conditions specified on the permit. We are proposing to add a definition of "Departmental permit."

Certificates and Compliance Agreements

The current regulations contain provisions for issuance and withdrawal of the certificates required for interstate movement of regulated articles, and for entry into and withdrawal of a compliance agreement between APHIS and a person engaged in the business of growing, handling, or moving regulated articles.

Under our proposal, protected areas would be responsible for issuance of the certificates necessary for interstate movement of regulated articles. A person who seeks to move interstate a regulated article would obtain the required certificate from an inspector. A state that is designated a protected area or which encompasses a protected area may enter into a compliance agreement with a person who seeks to move regulated articles interstate to facilitate inspections and issuance of certificates. The state would be responsible for enforcement of compliance agreements and the proper use of certificates. In non-protected areas, persons seeking to move regulated articles interstate would obtain certificates from an inspector and may enter into a compliance agreement with APHIS, as under the current regulations.

A person who enters into a compliance agreement with APHIS or with a state would, by entering into the agreement, agree to comply with the provisions of this subpart, to provide inspectors and state or county plant regulatory officials with information concerning the source of any regulated articles acquired each year, and to prevent the unauthorized use of certificates issued for future use under the compliance agreement.

Additionally, any state that enters into a compliance agreement or that has issued a certificate for movement of regulated articles must provide a hearing as a means of resolving conflicts as to any material fact between the protected area and the person with whom it has entered into a compliance agreement or to whom it has issued a certificate, in connection with the cancellation of the compliance agreement or the withdrawal of the certificate.

We are proposing conforming changes and nonsubstantive changes for purposes of clarity. In addition, the following time limitations would apply to the withdrawal of any certificate issued by an inspector and to the cancellation of a compliance agreement: Receipt of a written confirmation and explanation of an oral withdrawal (20 days), an appeal by the holder of a withdrawn certificate or cancelled compliance agreement (10 days), followed by a hearing on an appeal if there is a conflict as to any material fact. In protected areas, the appeal must be granted or denied, in writing, as promptly as circumstances allow, and the reasons for the decision must be stated. In non-protected areas, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision, as promptly as circumstances allow.

Assembly and Inspection of Regulated Articles

Under the current regulations, persons who must obtain a certificate to move regulated articles interstate must request that an inspector examine the regulated articles "as far in advance as possible." We believe it is reasonable to require that requests be made to state or county plant regulatory officials and inspectors no less than 48 hours before the desired interstate movement, in order to permit them to arrange their schedules accordingly.

In the proposed rule, these requirements would be included with the provisions for issuance and cancellation of certificates, because they are a prerequisite to issuance.

The proposed rule would provide that to assist a person requesting a certificate, an inspector may direct that the regulated articles be assembled in a certain manner by that person in order to facilitate the inspection. Allowing an inspector to determine how he or she may best complete inspection of the regulated articles would assist the person who is requesting a certificate since it could be issued faster. If that person does not wish to arrange the regulated articles in the manner suggested by the inspector he or she need not do so, however, this may result in the inspector requiring a longer time to examine the regulated articles proposed for interstate movement.

Costs and Charges

The current regulations contain a disclaimer by the Department for costs other than for the services of an inspector. We propose to clarify this provision by specifying that the services of an inspector "during normal business hours" will be furnished without cost to persons requiring the services. Normal business hours are Monday through Friday, 8 a.m. to 4:30 p.m.

Definitions

We propose to add definitions for the terms "Administrator," "Animal and Plant Health Inspection Service," "Departmental permit," "Protected area," and "Rust-susceptible plants" in order to clarify the use of these terms in the regulations. In addition to removing the terms "Eradicatio area," "Restricted destination permit," and "Scientific permit," as explained above, we propose to delete the following terms and definitions:

1. "Deputy Administrator"—Due to organizational and policy changes, the term "Administrator" is used in place of "Deputy Administrator" wherever it appears;

2. "One year's growth"—The origins of this phrase are unknown. The phrase is neither used in the current regulations nor included in our proposed revision; and

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3. "Treatment manual"—Chemical agents were used to eliminate wild growing plant hosts of *Berberis, Mahoberberis,* and *Mahonia* during the eradication phase of the black stem rust program, but have not been applied since 1981.

Due to organizational and policy changes, we would remove reference to "Plant Protection and Quarantine" wherever it appears, and refer instead to "Animal and Plant Health Inspection Service." The definition of "Inspector" would also be modified to conform with organizational and policy changes.

Miscellaneous

For purposes of clarity, we propose to make certain nonsubstantive changes in the regulations.

Review of Existing Regulations

This proposed rule is part of the scheduled review of Subpart-Black Stem Rust, to meet regulatory review requirements. Executive Order 12291 and Department Regulation 1512-1 require that agencies initiate reviews of currently effective rules to bring about the goal of reduction of regulatory burdens and to minimize impacts on small entities.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The primary impact of our proposed regulatory changes will be on nursery growers of plants of the genera *Berberis, Mahoberberis,* and *Mahonia.* Under our proposal, federal restrictions on interstate movements of these plants and plant parts would be limited to a protected area that includes only 15 states and part of a sixteenth. The substantive interstate movement restrictions applicable to growers within this protected area would not change, in effect, from those of the current regulations, therefore, they will not be affected by the proposed revision of the regulations.

Potential benefits from the revision may accrue, however, to nursery growers in the non-protected areas. Under our proposal, these growers would be able to sell and transport interstate all varieties of *Berberis, Mahoberberis,* and *Mahonia* within the non-protected area without certification or inspection requirements. Under the current regulations, sales of rust-susceptible varieties in non-eradication areas are limited to intrastate transactions. Secondly, under our proposal, persons growing new varieties of *Berberis* in the non-protected area would no longer have to wait for the two-year period necessary to determine rust-susceptibility, as long as the new varieties are moved only in the non-protected area. This would relieve certain growers from the monetary losses resulting from developing new hybrids which are subsequently found to be rust-susceptible, and therefore may only be sold intrastate in non-eradication areas under the existing regulations.

Based upon Small Business Administration (SBA) statistics and the 1982 Census of Agriculture statistics, the most recent statistics available to us, we estimate that 71 percent of the 13,217 growers of nursery products in the United States (9,384), would be in the non-protected areas, and that 29 percent (3,833) would be in the protected areas. Our projections indicate that of this total, 96 percent are small businesses, as classified by the SBA in its Standards (those with $500,000-or-less in annual receipts). The number of small nursery growers dealing in plants of the restricted genera and the proportion of their revenues derived from such plants are unkown, however, due to the absence of specific data. Nevertheless, we believe that because of current restrictions on the interstate movement of rust-susceptible varieties, most growers of nursery products grow rust-resistant varieties primarily, so that they can sell them to a broader market and ship interstate.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Public Comment

Dr. James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that this rulemaking proceeding should be expedited by allowing a 15-day comment period on this proposal. This comment period would allow the Agency to promulgate and implement a final rule on an expedited basis. Earlier implementation of a final rule would allow nursery growers to move interstate, in non-protected areas, rust-susceptible plant varieties during the spring 1989 shipping season without presenting a plant health risk. As explained in the preceding Supplementary Information, we believe the current restriction on this interstate movement is no longer necessary and can be removed from the regulations. Accordingly, good cause exists to expedite this rulemaking.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR 3015, Subpart V.)

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), we have submitted the information collection provisions in this proposed rule to the Office of Management and Budget (OMB) for approval. You may send written comments on these provisions to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to Helene R. Wright, Chief, Regulatory Analysis and Development, PPD, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Black stem rust, Plant diseases, Plant pests, Plants (Agriculture), Quarantine Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we propose to amend 7 CFR Part 301 as follows:

1. The authority citation for Part 301 is revised to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, 164–167; and 450; 7 CFR 2.17, 2.51, and 351.2(c).

2. Subpart—Black Stem Rust (which currently consists of §§ 301.38 through 301.38–10) is revised to consist of §§ 301.38 through 301.38–8 to read as follows:

Subpart—Black Stem Rust

Sec.

301.38 Notice of quarantine; restrictions on interstate movement of regulated articles.
301.38–1 Definitions.
301.38–2 Regulated articles.
301.38–3 Protected areas.
301.38–4 Interstate movement of regulated articles.
301.38–5 Assembly and inspection of regulated articles; issuance and cancellation of certificates.
301.38–6 Compliance agreements and cancellation.
301.38–7 Attachment and disposition of certificates.
301.38–8 Costs and charges.

Subpart—Black Stem Rust

§ 301.38 Notice of quarantine; restrictions on interstate movement of regulated articles.

The conterminous 48 states and the District of Columbia are quarantined in order to prevent the spread of black stem rust. No person shall move interstate any regulated article except in accordance with this subpart.[1]

§ 301.38–1 Definitions.

In this subpart the following definitions apply:

Administrator. The Administrator, Animal and Plant Health Inspection Service (APHIS), or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Black stem rust. The disease commonly known as the black stem rust of grains (*Puccinia graminis*).

Certificate. A document in which an inspector, or a person operating under a compliance agreement, affirms that a specified regulated article has met the criteria in § 301.38–5(b) of this subpart and may be moved interstate to any destination.

Compliance agreement. A written agreement between a state that is a protected area or that encompasses a protected area and a person who moves regulated articles interstate, or in a non-protected area between APHIS and such person, in which that person agrees to comply with this subpart.

Departmental permit. A document issued by the Administrator in which he or she affirms that interstate movement of the regulated article identified on the document is for scientific or experimental purposes, and that the regulated article is eligible for interstate movement under the conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the introduction of rust-susceptible varieties of the genera *Berberis, Mahoberberis,* and *Mahonia* into protected areas.

Inspector. Any APHIS employee or other person authorized by the Administrator in accordance with law to enforce this subpart.

Interstate. From any state into or through any other state.

Limited permit. A document issued by an inspector to allow the interstate movement into or through a protected area of regulated articles not eligible for certification under this subpart to a specified destination outside the protected area.

Moved (movement, move). Shipped, offered to a common carrier for shipment, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved. "Movement" and "move" shall be construed in accordance with this definition.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

Protected area. Those states or counties designated in § 301.38–3(c) of this subpart.

Rust-resistant plants. All plants of the genera *Berberis, Mahoberberis,* and *Mahonia* species, and their progeny, that have proven resistant to black stem rust during testing by the United States Department of Agriculture,[2] and that are listed as rust-resistant under §§ 301.38–2 (b) and (c).

Rust-susceptible plants. All plants of the genera *Berberis, Mahoberberis,* and *Mahonia* species not listed as rust-resistant under §§ 301.38–2 (b) and (c).

Regulated article. Any article listed in § 301.38–2 (a) through (d) of this subpart or otherwise designated as a regulated article in accordance with § 301.38–2(e) of this subpart.

Seedling. Any plant of the genera *Berberis, Mahoberberis,* and *Mahonia* grown from seed and having less than 2 years' growth.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any state, territory or possession of the United States.

Two years' growth. The growth of a plant during all growing seasons of 2 successive calendar years.

§ 301.38–2 Regulated articles.

The following are regulated articles: [3]

(a) All seedlings and plants of less than 2 years' growth of the genus *Berberis.*

(b) All plants, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant *Berberis* species:

B. aridocalida
B. beaniana
B. buxifolia
B. buxifolia nana
B. alliantha
B. candidula
B. cavallieri
B. chenaulti
B. chenaulti "Apricot Queen"
B. circumserrata
B. concinna
B. coxii
B. darwini
B. dasystachya
B. dubia
B. feddeana
B. formosana
B. franchetiana
B. gagnepaini
B. gilgiana
B. gladwynensis
B. gyalaica
B. heterophylla
B. horvathi
B. hybrido-gagnepaini
B. insignis
B. julianae
B. julianae "Nana"
B. julianae "Spring Glory"
B. koreana
B. lempergiana
B. lepidifolia
B. linearifolia
B. linearifolia var. "Orange King"
B. lologensis
B. manipurana
B. media "Park Juwell"
B. mentorensis
B. pallens
B. potanini
B. Renton
B. replicata
B. sanguinea
B. sargentiana

[1] Any properly identified employee of the Animal and Plant Health Inspection Service is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 106 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

[2] Testing is performed by the Agricultural Research Service of USDA as follows: In a greenhouse, the suspect plant, or test subject, is placed under a screen with a control plant, *i.e.*, a known rust-susceptible variety of *Berberis, Mahoberberis,* or *Mahonia.* Infected wheat stems, a primary host of black stem rust, are placed on top of the screen. The plants are moistened and maintained in 100% humidity, causing the spores to swell and fall on the plants lying under the screen. The plants are then observed for 7 days at 20–80% relative humidity. This test procedure is repeated 12 times. If in all 12 tests, the rust-susceptible plant shows signs of infection after 7 days and the test plants do not, USDA will declare the test plant variety rust-risistant. The tests must be performed on new growth, just as the leaves are unfolding.

[3] Permit and other requirements for the interstate movement of black stem rust organisms are contained in Part 330 of this chapter.

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B. sikkimensis
B. stenophylla
B. stenophylla diversifolia
B. stenophylla irwini
B. stenophylla gracilis
B. stenophylla nana compacta
B. taliensis
B. telomaica artisepala
B. thunbergii
B. thunbergii aurea
B. thunbergii argenteo marginata
B. thunbergii atropurpurea
B. thunbergii atropurpurea erecta
B. thunbergii atropurpurea erecta Marshalli
B. thunbergii atropurpurea "Golden Ring"
B. thunbergii atropurpurea "Knight Burgundy"
B. thunbergii atropurpurea nana
B. thunbergii atropurpurea "Redbird"
B. thunbergii atropurpurea "Rosy Glow"
B. thunbergii "Bagatelle"
B. thunbergii "Dwarf Jewell"
B. thunbergii erecta
B. thunbergii "globe"
B. thunbergii "golden"
B. thunbergii "Helmond Pillar"
B. thunbergii "Kobold"
B. thunbergii maximowiczi
B. thunbergii minor
B. thunbergii pluriflora
B. thunbergii "Sparkle"
B. thunbergii "Thornless"
B. thunbergii "Upright Jewell"
B. thunbergii variegata
B. thunbergii xanthocarpa
B. triacanthophora
B. triculosa
B. verruculosa
B. virgatorum
B. workingensis
B. xanthoxylon

(c) All plants, seedlings, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant *Mahoberberis* and *Mahonia* species, except *Mahonia* cuttings for decorative purposes:

(1) General Mahoberberis:

M. aqui-candidula
M. aqui-sargentiae
M. miethkeana

(2) Genera Mahonia:

M. amplectens
M. aquifolium
M. aquifolium atropurpurea
M. aquifolium compacta
M. aquifolium compacta "John Muir"
M. aquifolium "Donewell"
M. aquifolium "Kings Ransom"
M. aquifolium "Orangee Flame"
M. aquifolium "Winter Sun"
M. "Arthur Menzies"
M. bealei
M. dictyot
M. fortunei
M. "Golden Abundance"
M. japonica
M. lomarifolia
M. nervosa
M. pinnata
M. pinnata "Ken Hartman"
M. piperiana
M. pumila
M. repens

(d) All plants, seeds, fruits, and other plant parts capable of propagation from rust-susceptible species and varieties of the genera Berberis, Mahoberberis, and Mahonia, and seedlings from rust-susceptible species and varieties of the genera Mahoberberis and Mahonia, except Mahonia cuttings for decorative purposes.

(e) Any other product or article not listed in paragraphs (a) through (d) of this section, that an inspector determines presents a risk of spread of black stem rust. The inspector must notify the person in possession of the product or article that it is subject to the provisions of this subpart.

§ 301.38–3 Protected areas.

(a) The Administrator may designate as a protected area in paragraph (c) of this section any state that has eradicated rust-susceptible plants of the genera *Berberis, Mahoberberis,* and *Mahonia* under the cooperative Federal-State eradication program. In addition, the state must employ personnel with responsibility for the issuance of certificates in accordance with § 301.38–5, and maintain and enforce an inspection program under which every plant nursery within the state is inspected at least once each year to ensure that they are free of rust-susceptible plants. During the requisite nursery inspections, all nursery stock shall be examined to determine that it consists only of rust-resistant varieties of the genera *Berberis, Mahoberberis,* and *Mahonia,* and that the plants are true to type. Plants that do not meet this criteria must be destroyed. If a nursery within the state raises plants of the genera *Berberis, Mahoberberis,* and *Mahonia* from seed, the state must conduct a visual inspection to verify that no wild or domesticated rust-susceptible plants are growing within one-half mile of the nursery.[4]

(b) The Administrator may designate as a protected area any county within a state, rather than the entire state, if areas within the state have eradicated rust-susceptible plants of the genera *Berberis, Mahoberberis,* and *Mahonia* under the cooperative federal-state program, and:

(1) The state employs personnel with responsibility for the issuance of certificates in accordance with § 301.38–5;

(2) The state is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles, as determined by the Administrator; and

(3) The state maintains and enforces an inspection program under which every plant nursery within the county is inspected at least once each year to ensure that plant nurseries within that area are free of rust-susceptible plants of the genera *Berberis, Mahoberberis,* and *Mahonia,* and that the plants are true to type. Plants that do not meet this criteria must be destroyed. If a nursery grows plants of *Berberis, Mahoberberis,* and *Mahonia.* During the requisite nursery inspections, all nursery stock shall be examined to determine that it consists only of rust-resistant varieties of the genera *Berberis, Mahoberberis,* and *Mahonia* from seed, the state must conduct a visual inspection to verify that no wild or domesticated rust-susceptible plants are growing within one-half mile of the nursery.[4]

(c) The following are designated as protected areas:

(1) The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, West Virginia, and Wisconsin.

(2) The following counties in the State of Washington: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, Yakima.

(d) Each state that is a protected area or that encompasses a protected area must submit annually to the Administrator a written statement, signed by an inspector, assuring APHIS that all nursery inspections have been performed in accordance with this section. The statement must be submitted by January 1st of each year, and must include a list of the nurseries inspected and found free of rust-susceptible plants.

(e) The Administrator may remove a protected area from the list of

[4] Persons performing the inspection must be able to recognize rust-susceptible varieties of *Berberis, Mahoberberis,* and *Mahonia.* Inspectors must work side by side, 10 to 20 feet apart, and walk outward, away from the nursery, a distance of one half mile measured from the edge of the nursery, and observe all plants growing in the half-mile band. The distance between the inspectors may vary within this range depending upon the visibility of plant growth. In areas with low brush and flat terrain, the inspectors may be the maximum distance of 20 feet apart if they can observe all plants growing within ten feet of them. In areas of high plant growth or hilly terrain, the inspectors must be closer together due to limited or obstructed visibility. Each inspector must observe all plants growing between themselves and the mid-point of the distance between themselves and the next inspector. This process must be repeated so that the entire band, measured from the border of the nursery to the circumference of an imaginary circle having the nursery as its mid-point, is visually inspected in this manner.

designated protected areas in paragraph (c) of this section if he or she determines that it no longer meets the criteria of paragraph (a) or (b) of this section. A hearing will be held to resolve any conflict as to any material fact. Rules of practice for the hearing shall be adopted by the Administrator.

§ 301.38–4 Interstate movement of regulated articles.

(a) *Non-protected areas.* (1) Interstate movement of regulated articles into or through any state or area that is not designated a protected area under § 301.38–3(c) is allowed without restriction under this subpart.

(b) *Protected areas.* (1) *Prohibited movement:* The following regulated articles are prohibited from moving interstate into or through any protected area:

(i) All *Berberis* seedlings and plants of less than 2 years' growth, and rust-susceptible *Berberis* plants, seeds, fruits, and other plant parts capable of propagation.

(ii) Rust-susceptible *Mahoberberis* and *Mahonia* plants, seedlings, seeds, fruits, and other plant parts capable of propagation.

(2) *Restricted movement:* The following regulated articles may be moved interstate into or through a protected area with a certificate issued and attached in accordance with §§ 301.38–5 and 301.38–7 of this subpart:

(i) Plants of at least two years' growth, seeds, fruits, and other plant parts capable of propagation of the genus *Berberis* that are designated as rust-resistant in § 301.38–2(b) of this subpart;

(ii) Plants, seedlings, seeds, fruits, and other plant parts capable of propagation of the genera *Mahoberberis* and *Mahonia* that are designated as rust-resistant in § 301.38–2(c) of this subpart.

(c) An inspector may issue a limited permit to allow a regulated article not eligible for certification under § 301.38–4(b)(2) to move interstate into or through a protected area to a specified destination that is stated in the permit and is outside the protected area, if the requirements of all other applicable federal domestic plant quarantines are met. A regulated article moved interstate under a limited permit must be placed in a closed sealed container that prevents unauthorized removal of the regulated article, and that remains sealed until the regulated article reaches the final destination stated in the permit. At the final destination, the sealed container must be opened only in the presence of an inspector or with the authorization of an inspector obtained expressly for that shipment.

(d) The United States Department of Agriculture may move any regulated article interstate into or through a protected area in accordance with the conditions determined necessary to prevent the introduction or spread of black stem rust in protected areas, as specified in a Departmental permit issued for this purpose.

§ 301.38–5 Assembly and inspection of regulated articles; issuance and cancellation of certificates.

(a) Any person, other than a person authorized to issue certificates under paragraph (c), who desires to move interstate a regulated article that must be accompanied by a certificate under § 301.38–4(b), shall, as far in advance of the desired interstate movement as possible (and no less than 48 hours before the desired interstate movement), request an inspector [5] to issue a certificate. To expedite the issuance of a certificate, an inspector may direct that the regulated articles be assembled in a manner that facilitates inspection.

(b) An inspector [5] may issue a certificate for the interstate movement of a regulated article if he or she:

(1) Determines, upon examination, that the regulated article may be moved interstate in accordance with § 301.38–4; and

(2) Determines that the regulated article may be moved interstate in accordance with all other federal domestic plant quarantines and regulations applicable to the regulated article.

(c) Certificates for interstate movement of regulated articles may be issued by an inspector [5] to a person operating under a compliance agreement for use with subsequent shipments of regulated articles to facilitate their movement. A person operating under a compliance agreement must make the determinations set forth in paragraph (b) of this section before shipping any regulated articles.

(d) Any certificate that has been issued may be withdrawn by an inspector, orally or in writing, if he or she determines that the holder of the certificate has not complied with the conditions of this subpart for the use of the certificate. If the withdrawal is oral, the inspector will confirm the withdrawal and the reasons for the withdrawal, in writing, within 20 days of oral notification of the withdrawal. Any person whose certificate has been withdrawn may appeal the decision, in writing, within 10 days after receiving written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate was wrongfully withdrawn. A hearing will be held to resolve any conflict as to any material fact. An appeal shall be granted or denied, in writing, as promptly as circumstances allow, and the reasons for the decision shall be stated. In a non-protected area, appeal shall be made to the Administrator. The Administrator shall adopt rules of practice for the hearing. The certificate will remain withdrawn pending decision of the appeal.

§ 301.38–6 Compliance agreements and cancellation.

(a) Any state that is a protected area or that encompasses a protected area may enter into a written compliance agreement with any person who grows or handles regulated articles in the protected area, or moves interstate regulated articles from the protected area, under which that person agrees to comply with this subpart, to provide inspectors with information concerning the source of any regulated articles acquired each year, and to prevent the unauthorized use of certificates issued for future use under the compliance agreement.[6]

(b) A compliance agreement may be cancelled by an inspector, orally or in writing, whenever he or she determines that the person who has entered into the compliance agreement has failed to comply with the agreement or this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed, in writing, within 20 days of oral notification of the cancellation. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. A hearing will be held to resolve any conflict as to any material

[5] Services of an inspector may be requested by contacting a local APHIS office (listed in telephone directories under Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine). The addresses and telephone numbers of local offices may also be obtained by writing to the Administrator, c/o Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782.

[6] In non-protected areas, compliance agreements may be arranged by contacting a local office of the Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine, or by writing to the Administrator, c/o Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 646, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782.

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fact. An appeal shall be granted or denied, in writing, as promptly as circumstances allow, and the reasons for the decision shall be stated. In a non-protected area, appeal shall be made to the Administrator. The Administrator shall adopt rules of practice for the hearing. The compliance agreement will remain cancelled pending decision of the appeal.

§ 301.38-7 Attachment and disposition of certificates.

(a) The certificate required for the interstate movement of a regulated article must, at all times during the interstate movement, be attached to the outside of the container containing the regulated article except as follows:

(1) The certificate may be attached to the regulated article itself if it is not in a container; or

(2) The certificate may be attached to the accompanying waybill or other shipping document if the regulated article is identified and described on the certificate or waybill.

(b) The carrier must furnish the certificate to the consignee at the destination of the regulated article.

§ 301.38-8 Costs and charges.

The services of an inspector [7] during normal business hours, Monday through Friday, 8 a.m. to 4:30 p.m., will be furnished without cost to persons requiring the services. The United States Department of Agriculture will not be responsible for any other costs or charges.

Done at Washington, DC, this 25th day of April 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-10208 Filed 4-26-89; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV-89-033PR]

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Increase in Base Quantity Reserve

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on increasing the base quantity reserve for the 1989-90 crop year from the required minimum of 2.0 percent to 7.28 percent of the total base quantities currently issued to cranberry producers, in order to update and expand base quantities for the benefit of producers. This would help to facilitate the appropriate and equitable operation of the cranberry marketing order.

DATE: Comments must be received by May 30, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5120.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 929 (7 CFR Part 929), as amended, regulating the handling of cranberries grown in 10 states. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will ot be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 30 handlers of cranberries subject to regulation under the cranberry marketing order, and approximately 950 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of cranberries may be classified as small entities.

This proposed rule invites comments on increasing the reserve base quantity from the minimum 2.0 percent required by the order to 7.28 percent, in order to update and adjust producers' base quantities for the 1989-90 crop year. This proposal was unanimously recommended by the Cranberry Marketing Committee (Committee) at its March 8, 1989, meeting. The Committee is the agency responsible for local administration of the cranberry marketing order.

Each year prior to May 1, the Committee considers its marketing policy for the coming season and estimates a marketable quantity of cranberries. Such quantity is the amount of cranberries deemed necessary to meet the season's total marked demand and provide for an adequate carryover of cranberries to the next season. If annual cranberry production is expected to exceed the desired marketable quantity, and if the Secretary finds, based on a recommendation of the Committee or from other available information, that limiting the quantity of cranberries that may be purchased or handled on behalf of growers would tend to effectuate the declared policy of the Act, the Secretary shall determine and establish the marketable quantity for that crop year. The marketable quantity is then apportioned among all eligible growers by applying an allotment percentage to each producer's base quantity pursuant to § 929.48 of the order. The allotment percentage is established by the Secretary and equals the marketable quantity divided by the total of all producers' base quantities.

Such base quantities are issued to producers: (a) Based on their sales during the period 1968-69 through 1973-74; (b) as a result of transfers of base quantities from other producers; or (c) as part of an annual reserve of at least 2 percent of the total base quantities. The reserve is used annually for the issuance of base quantities to new producers and adjustments in base quantities for existing producers, with 25 percent made available for new growers and 75 percent made available for adjustments for existing producers. Any unallocated portion of the 25 percent available to new producers may, at the discretion of the Committee, be prorated among eligible existing producedrs on an equitable basis.

On March 8, 1989, the Committee held its annual winter meeting to formulate its marketing policy for the 1989-90 crop year. It determined that implementation of § 929.49 (the establishment of a marketable quantity and annual allotment) was not warranted. However, the Committee noted that cranberry production, as in recent years, was projected to exceed the total of all current producers' allotment bases and recommended that additional base be issued to all qualified new and existing producers to the full amount to which each producer requested, contingent on the producer's demonstrated ability to produce and sell cranberries. The increase would make additional base quantity available to new and existing producers by increasing the 2.0 percent minimum base quantity reserve, as currently porovided, to 7.28 percent. This increase would also aid in the updating of base quantities, which would be necessary for any future establishment of a marketable quantity and annual allotment. In addition, this proposed rule is responsive to the U.S. Department of Agriculture's *Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders* which provide for the removal of barriers to entry.

The impact of this regulation on producers and handlers would not be significant because the change represents a relaxation of restrictions by increasing the total amount of base quantity available to producers. The increase in the amount of base quantity to be issued represents the total amount of base quantity requested by qualified new and existing producers for the 1989-90 crop year. The Committee intends to distribute base quantity reserve to approximately 25 new producers and 411 existing producers. This proposed rule would not alter any reporting or recordkeeping requirements currently in effect.

Based on the available information, the Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 929

Marketing agreements and orders, Cranberries, Massachuesetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and New York.

For the reasons set forth in the preamble, 7 CFR Part 929 is proposed to be amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR Part 929 continues to read as follows:

Authority (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

2. Section 929.153 is amended by revising paragraph (a) to read as follows:

Subpart—Rules and Regulations

§ 929.153 Base quantity reserve.

(a) *Establishment.* An annual reserve base quantity equal to 2 percent of total base quantities is hereby established: *Provided*, That, for the 1989-90 crop year, the reserve base quantity shall be 7.28 percent.

* * * * *

Dated: April 25, 1989.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-10229 Filed 4-27-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 998

[Docket No. FV-89-041]

Marketing Agreement 146 Regulating the Quality of Domestically Produced Peanuts; Proposed Expenses, Assessment Rate, and Indemnification Reserve for the Peanut Administrative Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures for administration and indemnification, establish an assessment rate, and authorize continuation of an indemnification reserve under Marketing Agreement 146 for the 1989-90 crop year. Funds to administer this program are derived from assessments on handlers.

DATE: Comments must be received by May 9, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2530-S, Washington, DC 20090-6456, telephone 202-475-3862.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement 146 [7 CFR Part 998] regulating the quality of domestically produced peanuts. This agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (FRA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

There are approximately 68 handlers of peanuts covered under the peanut marketing agreement, and approximately 46,950 producers in the 16 states covered under the agreement. Small agricultural producers have been defined by the Small Business Administration [13 CFR § 121.2] as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. Some of the handlers covered under the agreement are small entities, and a majority of producers may be classified as small entities.

Under the marketing agreement, the assessment rate for a particular crop year applies to all assessable tonnage handled from the beginning of such year (i.e., July 1). As annual budget of expenses is prepared by the Peanut Administrative Committee (committee) and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of peanuts. They are familiar with the committee's needs and with the costs for goods, services and personnel

[7] See footnote 5 in § 301.38-5.

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for program operations and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed at industry-wide public meetings. Thus, all directly affected persons have an opportunity to participate and provide input. The handlers of peanuts who will be directly affected have signed the marketing agreement authorizing approval of expenses that may be incurred and the imposition of assessments.

The assessment rate recommended by the committe was derived by dividing anticipated expenses by expected receipts and acquisitions of farmers' stock peanuts. It automatically applies to all assessable peanuts received by handlers from July 1, 1989. Because that rate is applied to actual receipts and acquisitions, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. The recommended budget, rate of assessment, and the continuation of an indemnification reserve were acted upon by the committee on March 28–29, 1989, and expenses are incurred on a continuous basis. Therefore, this budget and assessment rate approval must be expedited so that the committee will have funds to pay its expenses starting on July 1, 1989.

The committee unanimously recommended a 1989–90 budget of administrative expenses of $850,000 or $34,000 more than budgeted last year. Budget items for 1989–90 which have increased compared to those from 1988–89 (in parentheses) are: Executive salaries, $119,521 ($114,374); field representative salaries, $225,500 ($218,000); clerical salaries, $136,000 ($120,000); employee benefits, $89,000 ($77,000); and office rent and parking, $45,700 ($43,000). All other items are budgeted at about last year's amounts except for staff travel expenses which have been decreased from $11,000 to $5,000. Other budget items have also been decreased slightly. The administrative budget includes a reserve for contingencies amounting to $5,279.

The recommended administrative assessment rate for the 1989–90 crop year is $0.50 per ton of assessable peanuts. Last year the assessment rate was $2.48 per ton ($0.48 for administrative expenses and $2.00 for indemnification expenses). The 1989–90 assessable tonnage was estimated at 1.7 million tons, the same as last year. Application of the assessment rate to this estimate would result in $850,000 for administrative expenses.

An estimated $8.4 million would be carried forward into the 1989–90 crop year as a reserve under the agreement to meet 1989–90 indemnification expense. This reserve is deemed adequate to cover indemnification expenses for the 1989–90 crop year. Therefore, the committee did not recommend an assessment to make monetary additions to the indemnification reserve. The reserve is well within the limits authorized by the agreement. Funding for the indemnification account will also be generated from interest on time deposits.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers signatory to the agreement. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing agreement. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approval and the authorization to continue an indemnification reserve for this program need to be expedited. The committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 998

Marketing agreement, Peanuts.

For the reasons set forth in the preamble, it is proposed that § 998.402 be added as follows:

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

1. The authority citation for 7 CFR Part 998 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 998.402 is added to read as follows:

§ 998.402 Expenses, assessment rate, and indemnification reserve.

(a) *Administrative expenses.* The budget of expenses for the Peanut Administrative Committee for the crop year beginning July 1, 1989, shall be in the amount of $850,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the committee and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the committee for indemnification payments, pursuant to the terms and conditions of indemnification applicable to the 1989 crop, effective July 1, 1989, are not expected to exceed the balance of the indemnification reserve (approximately $8.4 million), such amount being reasonable and likely to be incurred.

(c) *Rate of assessment.* Each handler shall pay to the committee, in accordance with § 998.48 of the marketing agreement, an assessment rate at the rate of $0.50 per net ton of farmers' stock peanuts received or acquired other than from those described in §§ 998.31 (c) and (d). All funds generated from this assessment shall be for administrative expenses.

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to the § 998.48 of the agreement, shall continue. That portion of the total assessment funds accrued from previous crop years and not expended in providing indemnification on the 1989 crop peanuts shall be kept in such reserve and shall be available to pay indemnification expenses on subsequent crops.

Dated April 25, 1989.

William J. Doyle,

Deputy Associate Director, Fruit and Vegetable Division.

[FR Doc. 89–10230 Filed 4–27–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1135

[DA–89–021]

Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to continue a suspension of portions of the Southwestern Idaho-Eastern Oregon Federal milk order. The provisions proposed to be suspended relate to the limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Suspension of the provisions was requested by a cooperative association representing a majority of the producers supplying the market to prevent uneconomic movements of milk. The proposed suspension would continue for the months of June through November 1989 the suspension that has been in effect since December 1988.

DATE: Comments are due on or before May 5, 1989.

ADDRESS: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7183.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under the criteria contained therein.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provisions of the order regulating the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area is being considered for June through November 1989:

In § 1135.13, paragraphs (f) (3), (4), (5) and (6).

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20250–6456, by the 7th day after publication of this notice in the Federal Register. The period for filing comments is limited to 7 days to permit completion of the required procedures to make the action effective for the month of June.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

Dairymen's Creamery Association, Inc. (DCA), an association of producers that supplies much of the market's fluid milk needs and handles much of the market's reserve milk supplies, requested the suspension. The suspension would continue to remove for June through November 1989 the limit on the amount of producer milk that a cooperative association or other handler may divert from pool plants to nonpool plants.

The order provides that a cooperative association may divert up to 80 percent of its total member milk received at all pool plants or diverted therefrom during any month. Similarly, the operator of a pool plant may divert up to 80 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during any month.

DCA indicates that operation of the 80-percent diversion limit would result in over 2,000,000 pounds of milk being unloaded and reloaded each month at another cooperative's Meridian, Idaho, pool supply plant so that it can be transferred as pool milk to nonpool manufacturing plants. Such unnecessary handling, according to the cooperative, would be undertaken for the sole purpose of meeting the delivery requirements of the order. The cooperative states that such unnecessary unloading and reloading takes employee's time, increases the exposure of milk to contamination, and requires additional cleaning of lines and tanks.

DCA states that the requested suspension will allow the pooling of milk of producers who stand ready to supply the fluid milk requirements of the marketing area to be handled without undue expense. The cooperative does not believe that the suspension would encourage the pooling of milk of producers who are not bona fide suppliers of the bottling needs of the market. During the requested suspension, DCA expects to evaluate the advisability of proposing permanent amendments to the order to eliminate such unnecessary handling in the future.

DCA was joined in its request by Western Dairymen Cooperative, Inc. (WDCI), a cooperative association that represents producers whose milk is pooled under the order. WDCI states that it expects to benefit from the proposed suspension in the same way that DCA would because of greatly reduced hauling costs, as well as a reduction of the costs involved in operating the cooperative's supply plant.

List of Subjects in 7 CFR Part 1135

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1135 continues to read as follows:

Authority: Secs. 1–19, 48 stat. 31, as amended; 7 U.S.C. 601–674.

Signed at Washington, DC, on: April 25, 1989.

J. Patrick Boyle,

Administrator.

[FR Doc. 89–10228 Filed 4–27–89; 8:45 am]

BILLING CODE 3410–02–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loans

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pub. L. 100–590, enacted November 3, 1988, amended the *alter ego* rule for development companies so that complete identity of ownership interests would not be required if certain listed family members were owners of the operating business and the so-called *alter ego*, the real estate holding company. This proposed rule proposes an identical change in the regulations for *alter ego* loan guarantees made under section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

DATE: Comments must be submitted on or before May 30, 1989.

ADDRESS: Comments may be mailed to Charles R. Hertzberg, Deputy Associate Administrator for Financial Assistance, 1441 L Street, NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, (202) 653–6574.

SUPPLEMENTARY INFORMATION: On November 3, 1988, Pub. L. 100–590, 102 Stat. 2989, was enacted (1988 legislation). Section 114 of the 1988 legislation amended the Small Business Investment Act of 1958 (15 U.S.C. 697(a)(2)) to lessen the restrictions on the use of the *alter ego* rule in the development company area. Under the old rule, there had to be a complete identity of ownership interests between the applicant real estate holding company (the *alter ego*) and the operating small business concern. The 1988 legislation provided that there did not have to exist a complete identity of ownership interests if one or more of the following classes of relatives have the ownership interests in either the *alter ego* real estate entity or the operating

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small business concern: father, mother, son, daughter, wife, husband, brother or sister. Regulations implementing this change have been promulgated with respect to development companies (54 FR 6265, February 9, 1989).

There is no reason to have a different *alter ego* rule with respect to loans guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)). Up until the present time, the *alter ego* regulations for both the development company area (13 CFR Part 108) and section 7(a) loans (13 CFR Part 120) have been substantially similar. It is proper to interpret that if Congress expressly amended the rule for development companies, the Agency should revise the rule for section 7(a) loans so that the rules would continue to be substantially similar. S. Rep. 416, 100th Cong., 2nd Sess (1988), stated that the former strict rule had prevented a number of meritorious projects from receiving financing. Similarly, while the Small Business Administration (SBA) does not maintain statistics in this regard, it is possible that strict adherence to the complete identity of interest rule has also prevented some meritorious financing in the loan guaranty field.

Section 120.101–2(e)(5) of SBA regulations (13 CFR 120.101–2(e)(5)) would be amended so that the ownership interests between the applicant real estate holding company (the *alter ego*) and the operating small concern would not need to be identical if such ownership was by the father, mother, son, daughter, wife, husband, brother or sister.

For purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)), SBA certifies that this proposed rule, if promulgated in final form, will not have a significant impact on a substantial number of small entities since the preponderance of the Agency's guaranteed loans are not made to *alter ego* applicants of small concerns. Similarly, SBA certifies that this proposed rule does not constitute a major rule for the purposes of Executive Order 12291, since the change is not likely to result in an annual effect on the economy of $100 million or more.

If promulgated in final form, this proposed rule would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

This proposed rule would not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 120

Loan programs/Business.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend Part 120, Chapter I, Title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a)(h).

2. Section 120.101–2(e)(5) would be amended by revising it to read as follows:

§ 120.101–2 Type of business.

* * * * *

(e) *Lending or investment, "Alter Ego."*

* * * * *

(5) It must have ownership interest(s) completely identical with and in the same proportion as the ownership interest(s) in the operating company and agree in writing that such identity of ownership shall remain unchanged until the loan is paid in full or unless SBA gives written approval for an earlier change, *Provided, however,* That SBA shall not decline a loan or a guaranty to an applicant when the ownership interests in the operating small concern and in such applicant holding company are not identical and not in the same proportion solely because one or more of the following members of the same family have such interest or interests in one and/or the other: father, mother, son, daughter, wife, husband, brother or sister. In each such case, SBA shall make a determination that such ownership, such guaranty and the proceeds of such loan will substantially benefit the operating small concern.

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans)

Dated: February 27, 1989.

James Abdnor,

Administrator.

[FR Doc. 89–10180 Filed 4–27–89; 8:45 am]

BILLING CODE 8025–01–M

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13 CFR Part 122

Business Loans

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100–590 (102 Stat. 2989), (the 1988 legislation), enacted November 3, 1988, authorizes the Small Business Administration (SBA) to guaranty loans up to $1,000,000 to eligible small concerns for financing pollution control facilities. This proposed regulation would implement this new authority under section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

DATE: Comments must be submitted on or before May 30, 1989.

ADDRESS: Comments may be mailed to: Everett Shell, Small Business Administration, 1441 L Street, NW., Room 804, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Everett Shell, 202–653–6470.

SUPPLEMENTARY INFORMATION: For ten years, the Small Business Administration (SBA) has had the authority under the Small Business Investment Act of 1958 (15 U.S.C. 694–1) (SBI Act) to guaranty 100 percent of a loan to an eligible small concern to finance pollution control facilities. The 1988 legislation in effect revokes this program and, in lieu thereof, adds this authority to section 7(a) of the Small Business Act (15 U.S.C. 636(a)) while retaining the purpose for such lending as set forth in the SBI Act. There are several effects of this change, First, the amount of a loan that can be guaranteed under the new legislation cannot exceed $1,000,000. (Under the SBI Act, SBA could guarantee up to $5 million.) Second, the funding for the financing under the new legislation comes from the SBA business loan and investment fund applicable to section 7(a). (Under the SBI Act, there existed a separate revolving fund.) This means that other financing under section 7(a) to the small concern will reduce the SBA assistance available for pollution control financing. Third, the fees payable to SBA under the financing available in the SBI Act are eliminated. Instead, the borrower would be liable under section 7(a) for just the 2 percent guaranty fee chargeable for all section 7(a) loans.

Proposed § 122.58–1 would set forth the policy of Congress to authorize SBA to provide guaranteed loans to eligible small concerns for pollution control facilities.

Proposed § 122.58–2 would define a "pollution control facility" as set forth in the SBI Act. Thus, it would mean such property (both real and personal) which is likely to help prevent, reduce, abate or control noise, air or water pollution or contamination by removing, altering, disposing or storing pollutants, contaminants, wastes or heat, and such property (both real and personal) which would be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste, including any related resource recovery property when such recovery property is stated to be useful for pollution abatement by local, State or Federal environmental regulatory authority.

Proposed § 122.58–3 would require that the small concern meet the criteria generally applicable to section 7(a) borrowers: be independently owned and operated, not dominant in its field, and subject to the eligibility rules set forth in Part 120 of SBA regulations. Further, the size standards in Part 121 of SBA regulations applicable to section 7(a) borrowers generally would be applicable to borrowers under this program. The particular size standard in the regulations presently which applied under the SBI Act authority would not be applicable under this new authority since Congress clearly intended to apply the section 7(a) rules and criteria to this program.

Proposed § 122.58–4 would state that the amount that can be guaranteed under this program cannot exceed $1,000,000 which is an expressed statutory exception to the $750,000 applicable to section 7(a) borrowers generally. The proposed section would also ensure that a borrower who has obtained other Section 7(a) financing first will be eligible for pollution control financing up to a limit of $1,000,000 less the amount of previous outstanding SBA section 7(a) financing.

For purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)), SBA certifies that this proposed rule will not, if promulgated in final form, have a significant impact on a substantial number of small entities. This is because, in recent years, when higher guaranty financing has been available, fewer pollution control applications have been submitted to SBA. SBA anticipates even fewer applications under the lower financing maximum proposed here.

For the same reason, SBA certifies that this proposed rule does not constitute a major rule for the purposes of Executive Order 12291, since the change is not likely to result in an annual effect on the economy of $100 million or more.

The proposed rule, if promulgated in final form, would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

This proposed rule would not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 122

Loan programs/Business.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA hereby proposes to amend Part 122, Chapter I, Title 13, Code of Federal Regulations, as follows:

PART 122—[AMENDED]

1. The authority citation for Part 122 is the same:

Authority: 15 U.S.C. 634(b)(6) and 636(a)

2. New §§ 122.58 through 122.58–4 would be added to read as follows:

§ 122.58 Pollution Control Program.

§ 122.58–1 Policy.

The Act authorizes SBA to guaranty loans to assist a small concern to finance the planning, design, or installation of a pollution control facility. No direct financing by SBA is authorized.

§ 122.58–2 Pollution control facility.

A "pollution control facility" means such property (both real and personal) which is likely to help prevent, reduce, abate, or control noise, air or water pollution or contamination by removing, altering, disposing or storing pollutants, contaminants, wastes or heat, and such property (both real and personal) which will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste, including any related resource recovery property when such recovery property is stated to be useful for pollution abatement by a local, State or Federal environmental regulatory authority.

§ 122.58–3 Eligibility.

In order to be eligible for a guarantee for a pollution control facility, the small concern must:

(a) Be independently owned and operated and not dominant in its field;

(b) Be eligible under SBA loan policy as set forth in Part 120 of this Title; and

(c) Together with its affiliates (as defined in § 122.3–2(a)) qualify as a small business as defined for section 7(a) borrowers generally in Part 121 of this Title. The provisions of § 121.4(f) of this Title expressly do not apply to loans guaranteed in this section.

§ 122.58–4 Amount.

The guaranty by SBA shall not exceed $1,000,000 for financing a pollution control facility. The aggregate amount of $1,000,000 available from the business loan and investment fund under this section shall be reduced by any other financing from SBA pursuant to section 7(a) of the Small Business Act.

Dated: February 27, 1989.

James Abdnor,

Administrator.

[FR Doc. 89–10179 Filed 4–27–89; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–NM–46–AD]

Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to Boeing Model 737–100, –200, and –200C series airplanes, which currently requires repetitive ultrasonic inspections of the aft engine mount cone bolt, verification of the cone bolt torque, and mandatory installation of aft engine mount secondary supports and a cone bolt failure indicator. This action would reduce the compliance time for the installation of the aft engine mount secondary supports and cone bolt failure indicator. This proposal is prompted by a recent incident of an aft engine mount cone bolt failure which caused separation of an engine from the airplane.

DATE: Comments must be received no later than May 22. 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 89–NM–46–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Fox, Airframe Branch, ANM–120S; telephone (206) 431–1923.

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Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-46-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On January 27, 1989, FAA issued Telegraphic AD T89-02-53, Revision 1 (RI), which superseded AD 88-01-07-RI, Amendment 39-6044 (53 FR 39250; October 6, 1988), applicable to Boeing Model 737-100, -200, and -200C series airplanes, to require repetitive ultrasonic inspections of the aft engine mount cone bolt, verification of cone bolt torque, and mandatory installation of aft engine mount secondary supports and a cone bolt failure indicator within 4,000 landings after November 17, 1988. That action was prompted by a report of an incident which occurred on January 20, 1989, where an engine separated from a Model 737-200 airplane during flight. The engine separation was attributed to the failure of the aft engine mount cone bolt.

As a result of this incident, which was the second reported engine separation in flight, the FAA has determined that the current compliance time for the requirement to install the improved secondary engine mount safety bolt and cone bolt failure indicator must be reduced to the minimum time required to provide an acceptable level of safety, consistent with the current forecast of parts availability.

Since this condition may exist or develop on other airplanes of this same type design, an AD is proposed that would supersede Telegraphic AD T89-02-53-RI, with a new AD which would retain the repetitive inspections currently required, but would reduce the compliance time for installation of the secondary engine mount safety bolt and cone bolt failure indicator from "4,000 landings" to "within the next 3,000 landings after November 17, 1988, or within 5 months after the effective date of this AD, whichever occurs first."

There are approximately 1,144 Model 737-100, -200, and -200C series airplanes of the affected design in the worldwide fleet. It is estimated that 432 airplanes of U.S. registry would be affected by this AD, that it would take approximately 18 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $311,040.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding telegraphic AD T89-02-53-R1, issued January 27, 1989, which superseded AD 88-01-07-R1, Amdt 39-6044 (53 FR 39250; October 6, 1988), with the following new airworthiness directive:

Boeing: Applies to all Model 737-100, -200, and -200C series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent separation of an engine from the airplane as a result of the failure of an aft cone bolt, accomplish the following:

A. Within the next 150 landings after January 27, 1989 (issuance date of Telegraphic AD T89-02-53-R1), unless previously accomplished within the last 150 landings, and thereafter at intervals not to exceed 300 landings, inspect for cracks in the aft engine mount cone bolt, in accordance with Boeing Alert Service Bulletin 737-71A1212, dated December 22, 1987, using ultrasonic inspection techniques. Replace cracked cone bolts, prior to further flight, with bolts that have been inspected in accordance with the Boeing alert service bulletin, using magnetic particle inspection techniques. Replaced cone bolts must be ultrasonically inspected for internal cracking in accordance with the provisions of this paragraph at intervals not to exceed 300 landings.

Note: Special care should be taken to ensure proper seating of the cone bolt and washers prior to torquing to ensure that torque applied is maintained.

B. At the next ultrasonic inspection, as required by paragraph A., above, unless previously accomplished after cone bolt installation, accomplish a torque check to verify that the cone bolt is torqued to the proper torque limit specified in the appropriate Boeing maintenance manual. This check is to be accomplished without loosening the bolt.

1. If the cone bolt torque is below one half the specified torque, remove the cone bolt and replace it with a serviceable bolt.

2. If the cone bolt torque is equal to or above one-half the specified torque, but below the specified torque, re-torque to the specified level and re-check the torque within the next 300 landings. If, at that time, the torque is below 90 percent of the specified torque, replace the cone bolt with a serviceable bolt.

3. If the cone bolt is within 10 percent of the specified torque, no further torque checks are required.

After every cone bolt installation, accomplish the torque check procedure required by this paragraph, between 150 landings and 300 landings following installation.

C. Within 3,000 landings after November 17, 1988 (the effective date of AD 88-01-07-R1, Amendment 39-6044), or within 5 months after the effective date of this AD, whichever occurs first, accomplish the following:

1. Install an aft engine mount secondary support (2 per airplane), in accordance with Boeing Service Bulletin 737-71-1069, Revision 1, dated May 19, 1988.

2. Install an aft engine mount cone bolt failure indicator, externally, on each engine nacelle, in accordance with Boeing Service Bulletin 737-71-1069, Revision 1, dated May 19, 1988.

3. Following the accomplishment of paragraph C.2., above, inspect the aft mount cone bolt indicator at intervals thereafter not to exceed 3 calendar days (72 hours) on in-service airplanes. Improper alignment indicates a broken aft cone bolt. Broken cone bolts must be replaced with airworthy parts prior to further flight.

Accomplishment of the requirements of this paragraph constitutes terminating action for the requirements of paragraphs A. and B., above.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

Note: Any alternate means of compliance previously approved for paragraph B. of AD 88-01-07-R1, Amendment 39-6044, constitutes alternate means of compliance with paragraph C. of this AD.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 17, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-10198 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-24-AD]

Airworthiness Directives: British Aerospace Model DH/HS/BH/BAE 125 Series Airplanes, Equipped With Sundstrand Turbomach Titan Gas Turbine Auxiliary Power Units (APU), Model T-62T Series, Installed in the Aft Equipment Compartment of the Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to British Aerospace Model DH/HS/BH/BAe 125 series airplanes equipped with certain APU's, which would require a revision to the Airplane Flight Manual Supplement Limitations Section and the installation of a placard in the cockpit prohibiting the use of the APU during flight. This proposal is prompted by an FAA inspection of the APU, installed in accordance with a certain Supplemental Type Certificate (STC), in which it was determined that this unit must be restricted to ground use only. This condition, if not corrected, could result in a fire in the equipment compartment, a puncture of the aft pressure bulkhead, and severance of the flight control cables.

DATES: Comments must be received no later than June 13, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 89-NM-24-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Pasion, Standardization Branch, ANM-113; telephone (206) 431-1977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 89-NM-24-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The FAA recently conducted an inspection of a Sundstrand Turbomach Titan Gas Turbine Auxiliary Power Unit (APU) installation in a British Aerospace Model BAe 125-800A series airplane. The APU was installed in accordance with STC No. SA4710SW. The results of the inspection revealed that the APU was not adequately isolated and installed to minimize the hazards to the airplane in the event of an uncontained rotor failure. This condition, if not corrected, could result in a fire in the aft equipment compartment, a puncture of the aft pressure bulkhead, and severance of the control cables.

These APU's have been installed in accordance with the following Supplemental Type Certificates (STC):

SA674CE
SA1196EA
SA1143EA
SA440NE
SA4710SW
SA1176EA
SA1173EA
SA1923SW

The above-listed STC's may not include all existing approved APU installations; therefore, it is the intent of this AD to apply to all Sundstrand Turbomach Titan APU installations in the aft equipment compartment.

This airplane model is manufactured in the United Kingdom and type

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certificated in the United States under the provision of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other British Aerospace Model DH/HS/BH/BAe 125 series airplanes registered in the United States, modified to locate the subject APU's in the aft equipment compartment, an AD is proposed that would require a revision to the Airplane Flight Manual Supplement (AFMS) and the installation of a placard next to the APU start switch in the cockpit, prohibiting the use of the APU during flight.

It is estimated that 120 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The required placard may be manufactured locally and the cost is expected to be negligible. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $4,800.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($40). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model DH/HS/BH/BAe 125 series airplanes certificated in any category, equipped with Sundstrand Turbomach Titan Gas Turbine Auxiliary Power (APU) Unit, Model T-62T Series, installed in the aft equipment compartment of the airplane.

Note: Installation of the subject APU's has been in accordance with, but are not limited to, the following Supplemental Type Certificates (STC):

SA674CE
SA1196EA
SA 1143EA
SA440NE
SA4710SW
SA1178EA
SA1173EA
SA1923SW

This AD applies to all Sundstrand Turbomach Titan APU installations in the aft equipment compartment. Compliance is required as indicated unless previously accomplished.

To prevent a fire in the aft equipment compartment, puncture of the aft pressure bulkhead, and severance of the control cables, due to an uncontained APU rotor failure, accomplish the following:

A. Within the next 10 days after the effective date of this AD:

1. Revise the Limitations Section in the FAA-approved Airplane Flight Manual (AFM) Supplement to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM Supplement Limitations Section: "APU USE PROHIBITED DURING FLIGHT."

2. Install a placard next to the APU start switch in the cockpit to state: "APU USE PROHIBITED DURING FLIGHT."

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Special Programs Branch, ASW-190, FAA, Southwest Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Special Programs Branch, ASW-190.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of modifications required by this AD.

Issued in Seattle, Washington, on April 14, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-10199 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-40-AD]

Airworthiness Directives; Cessna Model 550 and 551 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Cessna Model 550 and 551 series airplanes, which would require inspection of both engine fuel flow transmitter installations, and replacement, if necessary, of certain defective transmitters. Replacement of transmitters with two-piece electrical connector end fittings would be required. This proposal is prompted by reports of failure of the two-piece electrical connector fitting, resulting in loss of fuel pressure and total engine power loss. This condition, if not corrected, could lead to additional incidents of total engine power loss and the potential for engine compartment fires.

DATES: Comments must be received no later than June 12, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-40-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Cessna Aircraft Company, Citation Marketing Division, P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington; or at the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Pearson, Aerospace Engineer, FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4427.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-40-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The FAA has received reports of failures of the fuel flow transmitters on Cessna Model 550 and 551 series airplanes, which have resulted in total engine power loss due to loss of fuel flow. The failed fuel flow transmitters, Part Number (P/N) 9912031-5, were manufactured with a two-piece brazed electrical connector end fitting. The failures occurred at the brazed joint, permitting separation of the connector end fitting and loss of fuel flow to the engine fuel nozzles. This condition, if not corrected, could lead to additional total engine power losses and the potential for engine compartment fires.

The FAA has reviewed and approved Cessna Aircraft Company Service Bulletin SB550-73-2, dated February 10, 1989, which describes procedures for inspection of the engine fuel flow transmitters to determine whether a two- piece brazed electrical connector end filting is installed, and procedures for continued inspections until fuel flow transmitters having two-piece brazed electrical connector end fittings are replaced. The FAA has also reviewed and approved Cessna Aircraft Company Service Bulletin SB550-73-12, dated February 10, 1989, which describes procedures for replacement of fuel flow transmitters found to have a two-piece electrical connector end fitting.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection for and removal of Cessna Part Number 9912031-5 fuel flow transmitters having a two-piece electrical connector end fitting, and replacement with Cessna Part Number 9912031-6 fuel flow transmitters, in accordance with the service bulletins previously described.

It is estimated that 134 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $21,440.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Cessna: Applies to Model 550 and 551 series airplanes, Unit Numbers -0002 through -0207 and -0209, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of fuel flow transmitter electrical connector end fittings, which could result in total engine power loss or an engine compartment fire, accomplish the following:

A. Within the next 50 hours time-in-service after the effective date of this AD, inspect both engines to determine whether Cessna Part Number (P/N) 9912031-6 fuel flow transmitters are installed, in accordance with Cessna Service Bulletin SB550-73-2, dated February 10, 1989.

B. If Cessna P/N 9912031-6 fuel flow transmitters are installed on both engines, no further action is necessary.

C. If Cessna P/N 9912031-5 fuel flow transmitters are installed, inspect the transmitter electrical connector end fitting for each, in accordance with Cessna Service Bulletin SB550-73-2, dated February 10, 1989.

1. If each Cessna P/N 9912031-5 fuel flow transmitter is determined to have a one-piece electrical connector end fitting, no further action is necessary.

2. Each Cessna P/N 9912031-5 fuel flow transmitter determined to have a two-piece electrical connector end fitting must be replaced, either:

a. Prior to further flight, in accordance with Cessna Service Bulletin SB550-73-1, dated February 10, 1989; or

b. Within 6 months after the effective date of this AD, in accordance with Cessna Service Bulletin SB550-73-1, dated February 10, 1989, provided that the fitting is initially inspected in accordance with Paragraph 5 of Cessna Service Bulletin SB550-73-2, dated February 10, 1989, and inspected thereafter at intervals not to exceed 25 hours time-in-service, and found to be free of cracks between the electrical connector receptacle and the end fitting base. Any transmitter having a cracked fitting must be replaced prior to further flight, in accordance with Cessna Service Bulletin SB550-73-1. Replacement of a transmitter in accordance with Cessna Service Bulletin SB550-73-1 constitutes terminating action for the repetitive inspection requirements of this paragraph for the transmitter replaced.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Wichita Aircraft Certification Office, FAA, Central Region.

Note: If appropriate, the request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Wichita Aircraft Certification Office.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

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All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Cessna Aircraft Company, Citation Marketing Division, P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington; or at the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

Issued in Seattle, Washington, on April 13, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-10200 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ANM-01]

Proposed Amendment, Renton Control Zone, Renton, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Renton Control Zone, Renton Washington, by changing the hours of effectiveness. The rule as written publicizes the Control Zone as effective from 0700 to 2300 hours local time daily. Due to seasonal fluctuations in aircraft operations, specifically winter months, very few operations are made in the control zone after 2200 hours. This proposal would allow for changes in the hours of effectiveness by issuance of Notice to Airmen when minor variations in time of designation are anticipated. This action will bring publications up-to-date giving continuous accurate information to the aviation public.

DATES: Comments must be received on or before June 6, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 89-ANM-01, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined at the same address. An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Jerry Parker, ANM-538, Federal Aviation Administration, Docket No. 89-ANM-01, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2576.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ANM-01." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2A which describes the application procedure.

The Proposal

The FAA proposes an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to change the status of the Renton Airport Control Zone. The Renton Control Tower has modified its hours of operation, and whether observations are not available from 2200-0700 local time daily. The control zone would, therefore, be effective as published except as amended by Notice to Airmen. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12991; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 108(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Renton, WA [Amended]

By deleting the following statement at the end of the present description:

This Control Zone is effective from 0700 to 2300 hours local time daily.

And replacing that statement with the following statement:

This Control Zone will be effective during the specific dates and times established by a Notice to Airman. The effective date and time will thereafter be continuously established and published in the Airport/Facility Directory.

Issued in Seattle, Washington, on March 29, 1989.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 89-10201 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

North Dakota Permanent Regulatory Program; Public Comment Period and Opportunity for Public Hearing on Proposed Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing receipt of a proposed amendment to the North Dakota permanent regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to changes to the North Dakota Century Code (NDCC), Chapter 38-14.1. The amendment is intended to revise the State program to remove the two-acre exemption and to strengthen the State's law dealing with provisions for performance bond forfeiture.

This notice sets forth the times and locations that the North Dakota program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., m.d.t. May 30, 1989. If requested, a public hearing on the proposed amendment will be held on May 23, 1989. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t. on May 15, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. Jerry R. Ennis at the address listed below.

Copies of the North Dakota program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSMRE's Casper Field Office.

Mr. Jerry R. Ennis, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 2128, Casper, WY 82601-1918, Telephone: (307) 265-5776.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 1100 L Street, NW., Washington, DC 20240, Telephone: (202) 343-5492.

North Dakota Public Service Commission, Reclamation Division, Capitol Building, Bismarck, ND 58505-0165, Telephone: (701) 224-4096.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry R. Ennis, Director, Casper Field Office, at the address or telephone number listed in "ADDRESSES."

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior approved the North Dakota program. Information regarding the general background on the North Dakota program, including the Secretary's findings, the disposition of comments, and detailed explanation of the conditions of approval of the North Dakota program can be found in the December 15, 1980 **Federal Register** (45 FR 82246). Subsequent actions taken with regard to North Dakota's program and program amendments can be found at 30 CFR 934.14, 934.15, and 934.16.

II. Proposed Amendment

By letter dated April 11, 1989, administrative record No. ND-I-01, North Dakota submitted a proposed amendment to its program pursuant to SMCRA. North Dakota submitted the proposed amendment at its own initiative. The statutes that North Dakota proposes to amend are: NDCC 38-14.1-37 (1) (Removal of the two-acre exemption.) NDCC 38.14.1-39 (Appropriation of performance bond forfeiture funds.)

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the North Dakota program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Casper Field Office will not be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4:00 p.m., m.d.t. on May 15, 1989. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Date: April 21, 1989.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 89-10222 Filed 4-27-89; 8:45 am]

BILLING CODE 4310-05-M

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3563-4]

Standards of Performance for New Stationary Sources; Amendments to Subpart J (Petroleum Refineries) and Addition of Performance Specification 7 to Appendix B

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment and extension of the public comment period.

SUMMARY: A notice entitled "Amendments to Subpart J (Petroleum Refineries) and Addition of Performance Specification 7 to Appendix B" was published in the **Federal Register** on March 1, 1989 (54 FR 8570). This proposed rule is applicable to fuel gas combustion devices and Claus plants in petroleum refineries that are subject to Subpart J of 40 CFR Part 60. The section of the announcement detailing Performance Specification 7 (PS 7) was inadvertently left out of the publication. The purpose of this action is to propose PS 7 and to extend the public comment period for the proposed Subpart J amendments to allow for complete review of the subject matter.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed rule.

DATES: *Comments.* Comments must be received on or before July 12, 1989.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by May 19, 1989, a public hearing will be held on June 12, 1989 beginning at 10:00 a.m. Persons interested in attending the hearing should call Foston Curtis at (919) 541-1063 to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by May 19, 1989.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-88-24, U.S. Environmental Protection Agency, South Conference Center, Room 4, 401 M Street, SW., Wasington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Emission Measurement Laboratory, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Foston Curtis, Emission Measurement Branch (MD-19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-1063.

Docket. Docket No. A-88-24, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 3:30 p.m., Monday through Friday, at EPA's Central Docket Section, South Conference Center, Room 4, 401 M Street, SW., Wasington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Roger T. Shigehara, Emission Measurement Branch (MD-19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-1063.

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 60

Air pollution control.

Date: April 21, 1989.

Donald Clay,

Acting Assistant Administrator for Air and Radiation.

It is proposed that 40 CFR Part 60 be amended as follows:

PART 60—[AMENDED]

1. The authority for 40 CFR Part 60 continues to read:

Authority: Sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. In Appendix B, by adding Performance Specification 7 as follows:

Appendix B—Performance Specifications

* * * * *

Performance Specification 7—Specifications and Test Procedures for Hydrogen Sulfide Continuous Emission Monitoring Systems in Stationary Sources

1. *Applicability and Principle*

1.1 Applicability.

1.1.1 This specification is to be used for evaluating the acceptability of hydrogen sulfide (H_2S) continuous emission monitoring system (CEM's) at the time of or soon after installation and whenever specified in an applicable subpart of the regulations.

1.1.2 This specification is not designed to evaluate the installed CEMS performance over an extended period of time nor does it identify specific calibration techniques and other auxiliary procedures to assess CEMS performance. The source owner or operator, however, is responsible to calibrate, maintain, and operate the CEMS. To evaluate CEMS performance, the Administrator may require, under Section 114 of the Act, the source owner or operator to conduct CEMS performance evaluations at other times besides the initial test. See Section 60.13(c).

1.1.3 The definitions, installation specifications, test procedures, data reduction procedures for determining calibration (CD's) and relative accuracy (RA), and reporting of Performance Specification 2 (PS 2), Sections 2, 3, 5, 6, 8, and 9 apply to this specification.

1.2 Principle. Reference method (RM), CD, and RA tests are conducted to determine that the CEMS conforms to the specification.

2. *Performance and Equipment Specifications*

2.1 Instrument Zero and Span. This specification is the same as Section 4.1 of PS 2.

2.2 Calibration Drift. The CEMS calibration must not drift or deviate from the reference value of the calibration gas or reference source by more than 5 percent of the established span value for 6 out of 7 test days (e.g., the established span value is 300 ppm for Subpart J fuel gas combustion devices).

2.3 Relative Accuracy. The RA of the CEMS shall be no greater than 20 percent of the mean value of the RM test data in terms of the units of the emission standard or 10 percent of the applicable standard, whichever is greater.

3. *Relative Accuracy Test Procedure*

3.1 Sampling Strategy for RM Tests, Correlation of RM and CEMS Data, Number of RM Tests, and Calculations. These are the same as that in PS 2, Sections 7.1, 7.2, 7.3, and 7.5, respectively.

3.2 Reference Methods. Unless otherwise specified in an applicable subpart of the regulation, Method 11 is the RM for this PS.

4. *Bibliography*

1. U.S. Environmental Protection Agency. Standards of Performance for New Stationary Sources; Appendix B; Performance Specifications 2 and 3 for SO_2, NO_x, CO_2, and O_2 Continuous Emission Monitoring Systems; Final Rule. 48 CFR 23608. Washington, DC, U.S. Government Printing Office. May 25, 1983.

[FR Doc. 89-10246 Filed 4-27-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 148

[CGD 87-069]

RIN 2115-AD02

Marine Transport of Bulk Solid Hazardous Materials

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering amending its regulations concerning the bulk carriage of solid hazardous materials. The amendments being considered would add cargoes carried under Coast Guard Special Permit and cargoes included in the International Maritime Organization's Code of Safe Practice for Solid Bulk Cargoes (IMO Bulk Solids Code), including coal, to the list of hazardous cargoes permitted under the regulations. The Special Permit requirements and requirements of the IMO Bulk Solids Code would be included in the regulations. The amendments being considered would harmonize domestic regulations with international standards, and eliminate the cost of and need to apply for special permits, except for new, or infrequently shipped cargoes.

DATE: Comments must be submitted on or before June 27, 1989.

ADDRESSES: Comments should be submitted in writing to the Executive Secretary, Marine Safety Council [G-LRA-2/3600] (CGD 87-069), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001. Comments may also be delivered to and will be available for inspection or copying at the Marine Safety Council, Room 3600, at the above address, between the hours of 8 a.m. and 3 p.m., Monday through Friday, except holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Mrs. Dawn Anderson, Hazardous Materials Branch, Office of Marine Safety, Security and Environmental Protection, (202) 267-1217.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the earliest stages of this rulemaking procedure by submitting written views, data or arguments. Each comment should include the name and address of the person submitting the comment, refer to the docket number [CGD 87-069] of this advance notice, identify specific issues of this advance notice to which each comment applies, and give reasons for the comments. Receipt of comments will be acknowledged if a self-addressed post card or envelope is enclosed with the comments. All comments received before the expiration of the comment period will be considered before further action is taken. No public hearing is planned, however, one may be held at a time and place to be set in a later notice in the **Federal Register** if written requests for a public hearing are received and the Coast Guard determines that the opportunity to make oral presentations will aid in the rulemaking process.

Interested persons may also participate in the portions of this regulatory action concerning coal transportation by attending meetings of the Chemical Transportation Advisory Committee, Subcommittee on Coal Transportation. These meetings, held in Washington, DC, are open to the public and are announced in the **Federal Register**. The Subcommittee was formed to aid the Coast Guard in developing regulations for the safe carriage of coal.

Drafting Information

The principal persons involved in drafting this advance notice are Mrs. Dawn Anderson, Project Manager, and Lieutenant Commander Don M. Wrye, Project Counsel, Office of Chief Counsel.

Background and Discussion

Bulk solid hazardous materials include those materials grouped into a number of specific classes, the definitions of which are contained in the Department of Transportation Hazardous Materials Regulations (49 CFR 170-189), and also those materials which are hazardous only in bulk, primarily due to their tendency to spontaneously generate heat. A bulk solid hazardous material that is not listed in 46 CFR 148 may only be transported by water if the Coast Guard issues a Special Permit setting forth transportation requirements. Currently there are several standard permits which are issued by the Coast Guard on a regular basis.

The international standard for the marine transport of these materials is the IMO Bulk Solids Code. While the Bulk Solids Code currently is a recommended standard, several countries have adopted it as national regulations. Additionally, amendments have been proposed to Chapter 6 of the International Convention for the Safety of Life at Sea, 1974, as amended, (SOLAS 74/83), to adopt certain general requirements of the Bulk Solids Code as part of the Convention. Of course, if adopted, the proposed amendments to SOLAS 74/83 would become mandatory for those countries signatory to the Convention, including the United States. As a result of the above, many international shipments already comply as a matter of practice with the requirements of the Bulk Solids Code.

The amendments being considered would revise 46 CFR 148 by adding cargoes currently carried under Coast Guard Special Permit and cargoes included in the IMO Bulk Solids Code, including coal, to the list of permitted cargoes. The Special Permit requirements and requirements of the IMO Bulk Solids Code would be included in the regulations. Lastly, the amendments would eliminate conflicts and vagaries in the current regulations.

This advance notice of proposed rulemaking is intended to provide industry and interested parties the opportunity to comment at this early stage in the rulemaking process on how best to conform domestic regulations to existing practice and the proposed amendments to SOLAS 74/83, if adopted. The Coast Guard invites comments on all aspects of the marine transportation of bulk solid hazardous materials, and particularly on the following topics.

1. How can the present regulations be changed to improve the clarity of the regulations and the level of safety they provide?

2. What are the requirements that need to be added to the current special permit requirements to ensure adequate safety of the vessel and its crew? What Special Permits requirements are unnecessary for safety?

The following materials are being considered for inclusion in 46 CFR 148:

A. Materials currently shipped under Special Permit:

a. Ammonium Nitrate Phosphate—containing 70-90% ammonium nitrate and not more than 0.4% combustible material.

b. Ammonium Nitrate—fertilizer grade—as defined in 49 CFR 173.182 footnote #1.

c. Charcoal breeze.

d. Direct Reduced Iron (DRI)—hot molded briquettes.

e. Direct Reduced Iron (DRI)—lumps, pellets and cold molded briquettes.

f. Ferrosilicon—containing 45-70% silicon.

g. Ferrous Sulfate.

h. Hazardous Waste, Solid—designated as such by the EPA.

i. Linted Cotton Seed.

j. Uncalcined Petroleum Coke—at or above 130 °F.

k. Zinc Skimmings.

B. Materials currently listed in the IMO Bulk Solids Code (these materials do not include those already covered by Special Permit):

a. Aluminum Ferrosilicon, powder.

b. Aluminum Silicon, powder, uncoated.

c. Castor Beans.

d. Coal.

e. Fluorspar (Calcium Fluoride).

f. Iron Oxide, spent: Iron Sponge, spent.

g. Metal Sulfide Concentrates.

h. Pitch Prill, Prilled Coal Tar, Pencil Pitch.

i. Seed Cake—containing oil.

j. Silicomanganese.

k. Vanadium Ore.

l. Wood Pulp Pellets, Woodchips.

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3. Which, if any, of the materials listed above can be carried safely without detailed requirements?

4. Which, if any, of the above materials should continue to be considered on a case by case basis and authorized only through the issuance of a Special Permit? Why?

5. Which of the above materials are currently being transported in bulk by water?

6. Are there any materials not listed above or in 46 CFR 148 which should be regulated for bulk transport by water? What are they and why should they be regulated?

The amendments being considered would include the following requirements of the IMO Bulk Solids Code in 46 CFR 148, in order to conform U.S. regulations with existing practice and proposed revisions to Chapter 6 of SOLAS 74/83:

a. General loading and unloading requirements;

b. Provision of information by the shipper, to the master, regarding the nature of the material, chemical hazards, flow moisture point, moisture content, stowage factor, and angle of repose;

c. Trimmimg procedures, including suggested methods for determining the angle of repose, moisture content and flow moisture point of the material; and

d. Precautions to be taken when poisoning or asphyxiation hazards are present.

7. What requirements, if any, in addition to the requirements of the IMO Bulk Solids Code being considered for inclusion in Part 148 are necessary to ensure safety?

8. Amendments being considered include the addition of a list of non-hazardous bulk materials, which would not be subject to the regulations developed, and a list of solid materials too hazardous to be carried in bulk. Should such lists be included? If so, what materials should be included in each list?

9. Which, if any, of the current regulations, or the amendments being considered, are too restrictive for application to unmanned barges trading solely on the inland waters of the U.S.? Why are they too restrictive? What alternatives would provide for an adequate level of safety?

Preliminary Economic Analysis and Certification

At this early stage in the rulemaking process, the Coast Guard anticipates that its final rules will not be considered major under Executive Order 12291, or significant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979).

The primary economic impact of the amendments under consideration would be on shippers and carriers of solid hazardous materials in bulk. However, since the IMO Bulk Solids Code has already been adopted by several countries, most U.S. export shipments are already in compliance with many of the amendments being considered. The amendments being considered would actually simplify export shipments by harmonizing U.S. regulations with international standards, alleviating the need to comply with two separate standards.

Since the purpose of the amendments under consideration is simply to consolidate and update existing regulations, and to conform the regulations to existing practice, the Coast Guard certifies that, if adopted, they will not have a significant economic impact on a substantial number of small entities.

At this time the economic impact of the amendments being considered is anticipated to be minimal. If the Coast Guard learns that the financial impact of these regulations, if adopted, would be more than minimal, a detailed regulatory evaluation will be performed at that time.

Paperwork Reduction Act

Under present regulations shippers must apply for a special permit to ship any bulk solid hazardous material not listed in 46 CFR 148. These permits expire after two years and a new application, along with a record of the shipping history, must be submitted and approved for the continued shipment of the material. The amendments being considered would eliminate the need to apply for (and therefore the need to renew) special permits for most materials. Materials newly classified as hazardous and those shipped infrequently would still require a special permit. Approximately 15 requests are received annually, either for new permits or renewals. These requests, and the recordkeeping necessary for permit renewal, will be eliminated by the amendments under consideration.

Federalism Statement

This advance notice of proposed rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the concepts discussed herein do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Dated: April 20, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-10160 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-90, RM-6679]

Radio Broadcasting Services; Kosciusko, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by G. Michael Comfort, proposing the allotment of FM Channel 271A to Kosciusko, Mississippi, as that community's second FM broadcast service. The coordinates for Channel 271A are 23-06-42 and 89-40-36. There is a site restriction 10.3 kilometers northwest of the community.

DATES: Comments must be filed on or before June 16, 1989, and reply comments on or before July 3, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

G. Michael Comfort, 711 Thorngrove Cove, Columbus, Mississippi 39701.

Larry G. Fuss, Contemporary Communications, P.O. Box 4010, Opelika, Alabama 36801 (Consultant to the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-90, adopted April 11, 1989, and released April 24, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-10154 Filed 4-27-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-91, RM-6659]

Television Broadcasting Services; Billings and Lewistown, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Comanche Enterprises, proposing the allotment of TV Channel 13 to Billings, Montana. The coordinates for Channel 13 at Billings are 45-46-48 and 108-30-18. Canadian concurrence is required for this allotment. The allotment at Billings requires the deletion of Channel 13 at Lewistown, Montana, and a site restriction on Channel 13 (vacant), at Glendive, Montana, 58.4 kilometers (36.3 miles) northwest. The new coordinates for Channel 13 at Glendive are 47-26-32 and 105-18-21.

DATES: Comments must be filed on or before June 16, 1989, and reply comments on or before July 3, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mr. Richard J. Fox, Comanche Enterprises, 2024 Monad Road, Billings, Montana 59102.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-91, adopted April 10, 1989, and released April 24, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-10155 Filed 4-27-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 383

[FHWA Docket No. MC-89-13]
RIN 2125-AB68

Commercial Driver's License Program; Limited Waiver for State of Alaska

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of petition; request for comment.

SUMMARY: The State of Alaska has sought, and the FHWA proposes to grant, a waiver from compliance with certain provisions of 49 CFR Part 383 for drivers in isolated sections of Alaska. The limited waiver requested by Alaska would extend to those commercial motor vehicle (CMV) operators in that State who operate exclusively over roads that meet *both* of the following criteria:

(1) Such roads are not connected by land highway or vehicular way to the land-connected State highway system; and

(2) Such roads are not connected to any highway or vehicular way with an average daily traffic volume greater than 499.

With respect to drivers satisfying the above criteria, the FHWA would grant Alaska a waiver from the following specific portions of 49 CFR Part 383:

(1) The specifications in Subpart H for knowledge test procedures and methods;

(2) All requirements for driving skills tests; and

(3) The requirement for a photograph on the commercial driver's license CDL (section 383.153(a)(4)).

Commercial licenses issued pursuant to this proposed waiver would restrict the driver from operating a CMV over roads other than those specified above, and would also carry a restriction so that the license is not valid for use in CMVs outside the State of Alaska.

Public comments on this proposed limited waiver for the State of Alaska, as well as on the option of expanding such a waiver to include all of 49 CFR Part 383 for the delimited class of drivers in that State, will be accepted through the deadline shown below.

DATE: Written comments must be received on or before May 30, 1989.

ADDRESS: All signed, written comments should refer to the docket number that appears at the top of this document and should be submitted to Federal Highway Administration, Room 4232, Office of Chief Counsel, HCC-10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal holidays. Commenters who want to be notified that the FHWA received their comments should include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Ms. Jill L. Hochman, Office of Motor Carrier Standards, (202) 366-4009, or Mr. Paul L. Brennan, Office of the Chief Counsel, (202) 366-1352, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: In the preamble to the final rule on commercial driver testing and licensing standards (53 FR 27632, July 21, 1988), the FHWA noted "the existence [in Alaska] of many localities that, although physically detached from the State highway

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network and from driver testing facilities, still have CMVs and operators subject to this final rule * * * The waiver process as precribed in the Act and in 49 CFR 383.7 would be the most appropriate forum * * * for this specific local problem."

Accordingly, on January 10, 1989, the State of Alaska petitioned the FHWA for a waiver from selected provisions of 49 CFR Part 383 for drivers operating exclusively in areas that are so remote as to be connected neither to the land-connected State highway system, nor to any highway or vehicular way with an average daily traffic volume greater than 499. The State's petition cited the practical obstacles that would prevent driver applicants from bringing representative vehicles from remote areas to test sites, given the vast distances, inhospitable terrain, and lack of highway connectivity so prevalent in the State. The petition (included, without its attachments, as the Appendix to this notice) contains further evidence supporting the waiver request.

The FHWA has found that the Alaska petition has merit. In proposing this waiver, however, the FHWA has included limitations regarding the provisions to be waived, the class of drivers covered, and the restrictions to be placed upon the licenses affected.

The waiver pertains only to the following provisions of 49 CFR Part 383:

(1) *Knowledge Tests.* For the class of drivers covered, the State would be waived from the requirement that the knowledge tests meet the standards for testing procedures and methods contained in Subpart H of Part 383. However, knowledge tests fulfilling the content requirements of Subpart G would continue to be required of *all* applicants.

(2) *Skills Tests.* For the class of drivers covered, the State would be permitted to omit the driving skills test.

(3) *Photo License.* For the class of drivers covered, the State would be waived from section 383.153(a)(4), and no photograph of the driver would be required.

To be exempted from the above provisions of 49 CFR Part 383, drivers must operate *exclusively* over roads that meet *both* of the following criteria:

(1) Such roads are not connected by land highway or vehicular way to the land-connected State highway system; and

(2) Such roads are not connected to any highway or vehicular way with an average daily traffic volume greater than 499.

The purpose of these two criteria is to include in the commercial driver's license program drivers in such areas as Juneau, which—though isolated from the main highway network—have relatively high traffic volumes.

In addition, any commercial licenses issued under the terms of this proposed waiver must carry two restrictions:

(1) Holders may not operate CMVs over roads other than those specified above; and

(2) The license is not valid for CMV operation outside the State of Alaska.

The purpose of the latter restriction is to avoid confusion in the event that an "off-system" commercial driver's license holder should move to another State that is not fully aware of Alaska's unusual highway network and licensing provisions.

Public comment is also sought on the option of expanding the provisions covered by this waiver to include all of 49 CFR Part 383 for the class of drivers delimited above in the State of Alaska.

Authority: Title XII of Pub. L. 99-570, 100 Stat. 3207-170; 49 U.S.C. 3102; 49 U.S.C. App. 2505; 49 CFR 1.48.

Issued on April 10, 1989.

R. D. Morgan,

Executive Director.

Appendix: Petition by the State of Alaska (January 10, 1989)

(Maps discussed in this petition are available for inspection at FHWA, Room 4232, HCC-10, 400 Seventh Street, SW., Washington, DC 20590.)

Robert Farris, *Administrator, Federal Highway Administration, U.S. Department of Transportation, Room 4218, HOA-1, 400 Seventh Street, SW., Washington, DC 20590.*

Dear Mr. Farris:

Under Section 12013 of the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) and 49 CFR, Part 383.7, this letter is to petition for a waiver from compliance with requirements of the CMVSA for those geographic areas of the State of Alaska where the vehicle is being driven or moved on a road in the State that is not connected by a land highway or vehicular way to the land-connected State highway system, or a highway or vehicular way with an average daily traffic volume greater than 499.

Similar exemption language already is used in AS 28.32.900, the Alaska Statute which defines "commercial motor vehicle" for vehicle inspection purposes, AS 28.10.011, vehicles subject to registration, and AS 28.22.200, vehicles subject to mandatory insurance. It intends to accommodate conditions resulting from the State's under developed, remote, and unique geography.

This petition proposes to allow Alaska to issue an "off-system" license to drive a commercial vehicle in these areas, based upon the administration of a knowledge test, by mail if necessary, waiver of the skills test, and a valid without photo license document. This licensing procedure currently is practiced in many remote areas of Alaska to license drivers of passenger cars and motorcycles. A Public Health nurse administers the vision test. In the event that a driver with an off-system license to drive a commercial vehicle would move to an area that is connected to the State Highway system or has roads with a average daily traffic volume greater than 499, then that driver would have to be re-tested to federal guidelines.

Even though commercial vehicles are few in number in remote communities in Alaska, they do exist; however, conditions in these remote areas make administration of the commercial driver skills test according to federal standards impossible. A major portion of the State is not connected to the main road system, and the few miles of roads in these areas are unpaved and unimproved. Frequently, the need for conventional signs and signals to direct tarffic is minimal, or nonexistent. Further, Alaska, generally, has a limited highway system with very few multi-lane roads.

Currently, there are 34 locations in the State where a driver's license can be obtained. (See Exhibit A in the attachments with this letter.) Of these, 16 are accessible by the highway system, nine by ferry, airplane, or barge, and nine by airplace or barge only. Several of these locations have less than 500 vehicles in the community. In these communities, local police departments, under contract with the Division of Motor Vehicles (DMV), administer tests and issue driver's licenses. Given the frequency of employee turnover of Alaska's local police agencies, continually providing the high level of training required for the issuance of commercial driver's licenses would be extremely difficult and costly.

Numerous communities in Alaska are accessible only by air and do not have a DMV office at all. These areas, too, may have from one to four vehicles that could be classed as commercial. To administer a driver test in these areas would not only be cost prohibitive because of the time and distance involved, but imposaible because conditions suitable to the maneuvers required in the test would not exist. To require all current and new drivers in these communities to fly at their own expense to a community that does have a licensing facility and suitable conditions would be extremely unpopular. Moreover, this would require a driver to train and test for driving conditions which would not be part of his experience in the community where he would be using the licenae.

Exhibit B in the attachments to this letter sheds some light on the problems Alaska must deal with as a result of its remoteness and vast distances between points. Exhibit B is an outline map of the 48 contiguous states overlaid with a map of Alaska drawn to a similar scale. The land area of Alaska approximates a quarter of the land area of the contiguous states and the distance between the State's farthest points spans the United States from coast to coast. That travel in Alaska is both costly and time consuming becomes readily apparent. What may not be so apparent, but equally relevant, is the fact that travel frequently is hazardous or not

possible due to inclement weather conditions or inhospitable terrain.

Given the geographic characteristics of Alaska and the consequent difficulties, and in some cases, impossibilities, to fully comply with the CMVSA and 49 CFR Part 383, the State of Alaska believes it is unrealistic and cost prohibitive to require commercial vehicle drivers that operative only in a rural community environment that has no outside road access to be subjected to the full battery of knowledge and skill tests. The off-system commercial driver's license as proposed above would allow for licensing all commercial vehicle operations without adverse impact of highway safety. This alternative for Alaska's remote areas will ensure the greatest degree of compliance with the CMVSA at any afordable cost.

Thank you for providing Alaska the opportunity to present our case, and for your consideration of this request.

Sincerely,

Jay N. Dulany,

Director, Division of Motor Vehicles, State of Alaska Department of Public Safety.

[FR Doc. 89-10254 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-22-M

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Notices

Federal Register
Vol. 54, No. 81
Friday, April 28, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings; delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB-89-007]

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App. 1) announcement is made of the following committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.

Date: May 25, 1989.

Time: 1:30 p.m.

Place: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Flue-Cured Tobacco Cooperative Stablization Corporation Building, 1306 Annapolis Drive, Raleigh, North Carolina 27605.

Purpose: To discuss the establishment of marketing areas, submarketing areas, selling schedules, opening dates, and related matters for the 1989 flue-cured tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact the Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2567, prior to the meeting. Written statements may be submitted to the Committee prior to or after the meeting.

Dated: April 25, 1989.

J. Patrick Boyle,

Administrator.

[FR Doc. 89-10227 Filed 4-27-89; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

[Docket No. 89-064]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit to Field Test Genetically Engineered Tomato Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to Calgene, Inc., to allow the field testing in the State of California of genetically engineered tomato plants, modified to express an anti-sense endopolygalacturonase (PG) RNA. The assessment provides a basis for the conclusion that the field testing of these genetically engineered tomato plants will not present a risk of introduction or dissemination of a plant pest and will not have any significant impact on the quality of the human environment. Based upon this finding of no significant impact, the Animal and Plant health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESS: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, Department of Agriculture, Room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Schectman, Biotechnologist, Biotechnology Permit Unit, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, Department of Agriculture, Room 845, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8761. For copies of the environmental assessment and finding of no significant impact, write Ms. Linda Gordon at this same address. The environmental assessment should be requested under accession number 88-344-07.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR Part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced in the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

Calgene, Inc., of Davis, California, has submitted an application for a permit for release into the environment, to field test genetically engineered tomato plants modified to express an anti-sense endopolygalacturonase (PG) RNA.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the tomato plant under the conditions described in the Calgene, Inc., application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have any significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by Calgene, Inc., as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS's finding of no significant impact are summarized below and are contained in the environmental assessment.

1. An endopolygalacturonase gene from tomato has been modified and inserted into a tomato chromosome in such a way as to produce anti-sense RNA. In this field trial none of the introduced genes can spread to another plant, because the field test plot is located at a sufficient distance from any sexually compatible plant with which an experimental tomato plant could cross-pollinate. In nature, genetic material contained in a chromosome can only be transferred to another sexually compatible plant by cross-pollination and fertilization.

2. Neither the modified endopolygalacturonase gene itself, nor the derived anti-sense RNA, confers on tomato any plant pest characteristic. The tomato cultivar (UC82B) from which the endopolygalacturonase gene was obtained is not a plant pest.

3. The anti-sense PG gene does not provide the transformed tomato plants with any measurable selective advantage over nontransformed tomato plants in their ability to be disseminated or to become established in the environment.

4. The vector used to transfer the anti-sense endopolygalacturonase gene to tomato plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk therein. The vector, although derived from a DNA sequence with known plant pathogenic potential, has been disarmed: that is, the genes that are necessary for pathogenicity have been removed. The vector has been tested and shown to be not pathogenic to a susceptible plant.

5. The vector agent, the phytopathogenic bacterium that was used to deliver the vector DNA carrying the anti-sense endopolygalacturonase gene into a tomato plant cell, was eliminated and is no longer associated with a transformed tomato plant.

6. Horizontal movement of genetic material after insertion into the plant genome (I.E., into chromosomal DNA) has not been demonstrated. After delivering and inserting the DNA to be transferred into the tomato genome, the vector does not survive in or on the transformed plant. No mechanism is known to exist in nature to move an inserted gene horizontally from a chromosome of a transformed plant to any other organism.

7. The field test plot will be approximately 180 feet by 780 feet, and will be planted in part with the tomato plants described herein and in part with other genetically engineered tomato plants for which a separate permit is pending. The test tomato plants will be separated by a sufficient distance (200 feet) from any other cultivated tomatoes to preclude cross-pollination with those plants.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500-1509), (3) USDA Regulations Implementing NEPA (7 CFR Part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384 and 44 Fr 51272-51274).

Done at Washington, D.C., this 25th day of April 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-10259 Filed 4-27-89; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Mono Basin National Forest Scenic Area Boundary Revision

AGENCY: Forest Service, USDA.

ACTION: Notice of boundary revisions.

SUMMARY: The Secretary of Agriculture has approved minor boundary revisions for the Mono Basin National Forest Scenic Area. On July 28, 1988, at 53 FR 28420, the Forest Service gave notice of a proposal to make two minor revisions in the boundary of the Mono Basin National Forest Scenic Area, which was established by section 301 of the California Wilderness Act of 1984 (98 Stat. 1632). The final revisions are identical to those proposed.

EFFECTIVE DATE: By order of the Secretary, these boundary revisions are effective June 27, 1989.

FOR FURTHER INFORMATION CONTACT: Anne S. Fege, Recreation, USDA, Forest Service, P.O. Box 96090, Washington DC 20090-6090, (202) 447-2422 or John Ruopp, Recreation Staff Officer, Inyo National Forest, 873 N. Main, Bishop, California, (619) 873-5841.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the California Wilderness Act of 1984 (98 Stat. 1632) establishing the Mono Basin National Forest Scenic Area, the Secretary of Agriculture has approved two (2) minor revisions to the boundary of Scenic Area as it was originally shown on a map dated June 1983, and as revised on July 25, 1988. The proposed revisions were reviewed and recommended by the Scenic Area Advisory Board. The proposed revisions were published in the **Federal Register** on July 28, 1988 (53 FR 28420), with a request for comments. One response was received. The comments on the proposed revisions and the agency's response are as follows:

Proposed Revision 1: This proposed revision included 60 acres of patented mining claims and 177 acres of National Forest System land adjacent to the Scenic Area boundary. This parcel was originally excluded from the Scenic Area because of the patented claims. Since then, the property has changed hands, and the new owner has offered the land to the Forest Service in a land exchange proposal. The patented and unpatented mining claims have no proven, present-day economic mineral value.

The Bureau of Mines, United States Department of Interior, suggested that inclusion of this area within the Scenic Area would have major adverse impacts on the availability of future mineral natural resources of these lands, and further stated that Forest Service policy should be to protect the availability of the mineral resource for future potential development.

The Scenic Area is a Congressionally designated area, where management objectives may be different than those found in other portions of the Forest Service System. The Forest Service feels that it is desirable to include the area to protect the scenic values, because operations and activities on this parcel would be seen from other portions of the Scenic area. The enabling legislation for the Scenic area provides that, subject to valid existing rights, all mining claims located within the Scenic Area shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with the protection of the scenic, scientific, cultural, and other resources of the area. Mineral extraction on valid existing claims can continue under the guidelines for the scenic area. Operations on this parcel are seen from other portions of the Scenic Area. While it is true that inclusion will prevent future filings of claims, it should have little effect on existing, valid claims. Therefore, the boundary is revised as proposed.

Proposed Revision 2: This proposed revision included 1280 acres of National Forest System land. It contains cultural values that are connected with cultural values found elsewhere in the Scenic Area. No comments were received on including this parcel. This boundary revision was, therefore, adopted without change.

Summary: Having considered the comments received, the Secretary adopted the revisions as proposed. A copy of the Secretary's order which includes the legal description of the boundary changes appears at the end of this notice. These actions are of limited magnitude as most of the included lands are public lands. The boundary changes will include lands that will benefit and protect the resources and scenic values of the Scenic Area. The private lands involved (Revision 1) are added with the concurrence of the landowner who has

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entered into a land exchange for comparable National Forest System lands within the Inyo National Forest. The net effect is to add approximately 1457 acres of public lands, and approximately 60 acres of private lands.

In addition to publication in the **Federal Register**, notice of these boundary revisions has been submitted to the Committee of Interior and Insular Affairs of the United States House of Representatives and the Committee of Energy and Natural Resources of the United States Senate, as required in the Act. Maps showing the revisions are available at the Office of the Forest Supervisor, Inyo National Forest, 873 N. Main, Bishop, California, and at the office of the District Ranger, Mono Lake Ranger District, Lee Vining, California.

Dated: April 21, 1989.

James O. Overbay,

Deputy Chief.

Revision of Boundaries of the Mono Basin National Forest Scenic Area, Inyo National Forest California

Pursuant to the authority granted to the Secretary of Agriculture by Section 301 of the California Wilderness Act of 1984 (16 U.S.C. 543), I hereby approve the following minor boundary revisions for the Mono Basin National Forest Scenic Area which are depicted on maps on file at the office of the Forest Supervisor, Inyo National Forest, 873 N. Main, Bishop, California, and at the office of the District Ranger, Mono Lake District Ranger, Lee Vining, California.

All descriptions are for the Mount Diablo Base Meridian.

Revision 1

T1N, R25E, unsurveyed, Sec. 1, NW¼, including Mineral Survey (MS) 6052 (10/22/1931); Sec. 2, E½NE¼, including MS 6052.

T2N, R25E, Sec. 36, that portion of MS 6052 within the section.

Revision 2

T1N, R27E, Sec. 35, All; Sec. 36, All.

The net effect is to add about 1,457 acres of public land and 60 acres of private land to the designated Scenic Area. The private land is added with the concurrence of the landowner, who has entered into a land exchange for comparable National Forest System lands within the Inyo National Forest.

These revisions shall become effective 60 days from the date notice is published in the **Federal Register**.

Date: March 30, 1989.

Clayton Yeutter,

Secretary.

[FR Doc. 89-10224 Filed 4-27-89; 8:45 am]

BILLING CODE 3410-11-M

Land Management Planning Program Review

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Forest Service is initiating a comprehensive study of its land management planning policy and processes. The current planning program has been underway since 1979, when the Forest Service began developing Land and Resource Management Plans for each unit of the National Forest System as directed by the National Forest Management Act of 1976. The study is timely because the first generation of plans has been completed for most of the National Forests.

DATES: The study will begin in May 1989 and is scheduled for completion April 1990.

ADDRESS: Persons wishing to receive further notice or be advised of the progress of this study should send their names and addresses to F. Dale Robertson, Chief (1960), Forest Service, USDA, P. O. Box 96090, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT: Questions about the study should be addressed to Gary Larsen, Policy Analysis Staff (202) 447-4867.

SUPPLEMENTARY INFORMATION: The National Forest Management Act of 1976 requires the Forest Service to prepare comprehensive Land and Resource Management Plans for each unit of the National Forest Service and to revise the plans on a 10-year cycle or at least every 15 years. Regulations governing the plans are set forth in 36 CFR Part 219 and direction for Forest Service personnel is issued in Forest Service Manual Chapter 1920 and Forest Service Handbook 1909.12. Since the first generation of plans has been completed for most forests, the agency feels it would be instructive to review its land management planning policy and processes as they have evolved since forest planning first began in 1979. The study will result in recommendations applicable to future planning. The study is being conducted prior to the review of NFMA regulations, which is scheduled to begin in the spring of 1990

A Forest Service steering committee will provide the overall guidance for the study. Under the direction of the steering committee, teams have been formed to conduct individual studies of the following topics:

The usefulness of plans for managing National Forests;

The effectiveness of decisionmaking in the plans;

The effectiveness of public participation in planning;

The effectiveness of analytical tools;

The effectiveness of coordination with State and Federal agencies;

The effectiveness of organization and administration of planning; and

National planning policy and direction.

The study will focus on the national policy and processes guiding forest planning rather than on individual Forest Plans. Analysis and study is expected to begin in May 1989 and conclude in April 1990.

As the study is conducted, requests for public participation and updates will be issued periodically to interested parties through the mailing of a "Request for Participation." Those who are interested in becoming involved and in making a contribution to the study, or those who wish to keep informed of the study as it progresses, should write the Forest Service at the address shown earlier in this notice and provide name, mailing address, and a list of those topics in which they are most interested.

Date: April 19, 1989.

George M. Leonard,

Associate Chief.

[FR Doc. 89-10225 Filed 4-27-89; 8:45 am]

BILLING CODE 3410-11-M

Big Island Management Area Analysis; Chugach National Forest, AK

AGENCY: Forest Service, USDA.

ACTION: Revised comment period on Draft Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service has prepared a draft environmental impact statement (DEIS) for proposed activities to occur under Management Area Analysis for the Big Island Management Areas on the Chugach National Forest, Alaska. The original notice of intent was published in the **Federal Register** October 9, 1987 (52 FR 37808) and revised October 18, 1988 (52 FR 40748). The Environmental Protection Agency published a notice of availability of the DEIS March 10, 1989 (54 FR 10188). Comments were due by April 24, 1989

Many people knowledgeable and interested in Prince William Sound are directly affected by the oil spill near Valdez and are unable to find time to comment on the DEIS. In order to allow sufficient time to comment on the DEIS, the comment period is extended an additional 30 days.

DATE: Comments concerning the DEIS must be received by May 24, 1989.

ADDRESSES: Written comments and suggestions concerning the DEIS must be sent to Dalton Du Lac, Forest Supervisor, Chugach National Forest, 201 E. Ninth Avenue, Anchorage, AK. 99501.

FOR FURTHER INFORMATION CONTACT: Cecil R. Kuhn, Chugach National Forest, 201 E. Ninth Avenue, Anchorage, Alaska 99501, phone 907-271-2558.

Date: April 20, 1989

Peggy Fox

Acting Forest Supervisor.

[FR Doc. 89-10226 Filed 4-27-89; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Coast Pilot Report.

Form Number: NOAA Form 77-6.

Type of Request: Request for extension of OMB approval of a currently cleared collection.

Burden: 500 respondents; 250 reporting hours; average hours per response—.5 hours.

Needs and Uses: The Coast Pilot contains marine information for navigators that cannot be shown on charts. Users of the publication are asked to submit the report form if they find information that should be changed, added, or deleted.

Affected Public: Individuals, state or local governments, business or other for-profit, Federal agencies or employees, non-profit institutions, and small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Russell Scarato 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington DC 20230. Written comments and recommendations for the proposed information collection should be sent to Russell Scarato, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 21, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-10171 Filed 4-27-89; 8:45 am]

BILLING CODE 3510-CW-M

[Docket No. 8102-02]

Order Vacating Temporary Denial Order Microelectronics Research Institute

Discussion

Counsel for the Office of Export Enforcement (The "Agency"), Bureau of Export Administration, U.S. Department of Commerce requested, March 1, 1989, the vacating of a temporary denial order ("Temporary Denial Order") issued at the Agency's request in 1983 and modified three times in 1983 and 1984. The Temporary Denial Order was issued November 23, 1983 (48 FR 54,259 (1983)), and modified December 21, 1983 (48 FR 57,347 (1983)), January 31, 1984 (49 FR 4,810 (1984)), and October 30, 1984 (49 FR 44,229 (1984)). It temporarily denied the U.S. export privileges of two South African respondents, nine South African related persons, and one Swiss related person.

Agency Counsel, in his March 1, 1989 request, stated that, as to one of these two South African respondents, Dr. Athol Mayo Harrison, the Temporary Denial Order has been superseded by a November 16, 1988 Order of the Under Secretary for Export Administration (53 FR 47,239 (1988)), which imposed on Dr. Harrison a twenty-year denial of U.S. export privileges. As for the other respondent, Microelectronics Research Institute, Agency Counsel stated that it has ceased to exist. Consequently, Agency Counsel requested that the Temporary Denial Order be vacated.

The grounds advanced by Agency Counsel for vacating the Temporary Denial Order are sufficient. Accordingly, such vacating shall be ordered.

Order

The Temporary Denial Order—issued November 23, 1983 (48 FR 54,259 (1983)), and modified December 21, 1983 (48 FR 57,347 (1983)), January 31, 1984 (49 FR 4,810 (1984)), and October 30, 1984 (49 FR 44, 229 (1984))—is vacated, effective immediately.

One respondent and one related person named in the Temporary Denial Order will, however, remain on the Table of Denial Orders Currently in Effect in Supplement No. 1 to Part 788 of the Export Administration Regulations.[1] Dr. Athol Mayo Harrison, one of the two respondents, remains subject to the twenty-year denial of U.S. export privileges imposed on him by the Order of November 16, 1988 (53 FR 47,239 (1988)). Manfred Schroeder, one of the nine related persons, remains subject to the ten-year denial of U.S. export privileges imposed on him by the Order of April 20, 1989 published elsewhere in today's Federal Register. For Dr. Harrison, the Order of November 16, 1988 and, for Manfred Schroeder, the Order of April 20, 1989 become the sole bases for their inclusion in the Table of Denial Orders Currently in Effect. The full names and addresses of Dr. Harrison and of Manfred Schroeder, who thus remain on the Table, are as follows:

Dr. Athol Mayo Harrison, Al Sunset Hill, Horak Avenue, Camps Bay 8001, South Africa,
and
P.O. Box 7232, Cape Town 8012, South Africa.

Manfred Schroeder, Lottbeker Weg 176, D 2000 Hamburg 65, Federal Republic of Germany.[2]

For the other respondent named in the Temporary Denial Order, Microelectronics Research Institute, and for the other eight related persons named therein, the vacating of the Temporary Denial Order eliminates it as the basis for their inclusion in the Table of Denial Orders Currently in Effect. The names and addresses of Microelectronics Research Institute and these eight related persons, who are thus removed from the Table, are as follows:

Act-Com Pty, Ltd., Cape Town, South Africa.

Computer Add-ons Pty., Ltd., Cape Town, South Africa.

Dancontrol AG, Zug, Switzerland.

Electronica, S.A. (Pty.) Ltd., 101 Connaught Road, Beaconvale (Parow), Cape Town, South Africa,
and
P.O. Box 7232, Roggebuai, Cape Province 8012, South Africa.

Electronica-Stellsels, 101 Connaught Road, Parow, Cape Town, South Africa,
and
P.O. Box 7232, Roggebuai, Cape Province 8012, South Africa.

[1] The Regulations, formerly codified at 15 CFR Parts 368-399, were redesignated as 15 C.F.R. Parts 768-799, effective October 1, 1988 (53 FR 37751, September 28, 1988).

[2] The address listed for Manfred Schroeder in the Temporary Denial Order was Builenverwachtug Farms, Constantia, South Africa.

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Heppner, Detleff, c/o Electronica-Stellsels, 101 Connaught Road, Parow, Cape Town, South Africa.
Optronix Pty., Ltd., 101 Connaught Road, Parow, South Africa.
Microelectronics Research Institute, P.O. Box 7232 Loop Station, 7th Floor, Motor and General Building, Cape Town, South Africa,
and
Banhock Road, Stellenbosch, South Africa.
SEM Investments Pty., Ltd., Cape Town, South Africa.
Whitton, Clive, 46 Moss Street, Newlands, South Africa.

This Order Vacating the Temporary Denial Order shall be published in the **Federal Register**.

Date: April 25, 1989.

Thomas W. Hoya,

Administrative Law Judge.

[FR Doc. 89-10255 Filed 4-27-89; 8:45 am]

BILLING CODE 3510-FG-M

Export Administration Bureau

[Docket No: 8123-01]

Actions Affecting Export Privileges; Manfred Schroeder (pro se)

Summary

Pursuant to the March 21, 1989 Recommended Decision and Order of the Administrative Law Judge (ALJ), which Decision and Order is affirmed by me, Manfred Schroeder, individually (hereinafter referred to as Respondent), with mailing address at Lottbeker Weg 176, D 2000 Hamburg 65, Federal Republic of Germany, is denied for a period of ten years from the date hereof, all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the direct export of commodities or technical data from the United States to any other destination.

Discussion

On October 20, 1988, the Department issued a Charging Letter against Manfred Schroeder which alleged that Respondent violated the provision of § 387.12 of the Export Administration Regulations (codified at 15 CFR Parts 768–799 (formerly Parts 368–399)) (the Regulations) [1], issued pursuant to the Export Administration Act of 1979 (50 U.S.C. app. § 2401–2420 (1982 and Sup. III 1985), as amended by Pub. L. 100–418, 102 Stat. 1107 (August 23, 1988)).

The Department's Charging Letter alleged that Respondent, as an employee of a person who was denied all U.S. export privileges during all periods relevant to the Charging Letter, participated in a transaction that involved a commodity exported from the United States or which was subject to the export Administration's regulations and that a denied person either obtained some benefit from or had some interest in said transaction, either directly or indirectly. By so doing, Respondent committed one violation of § 787.12 of the Regulations.

Based on the Department's motion for default judgment and evidence submitted therewith, the ALJ correctly found that Respondents committed the one violation of 787.12 of the Regulations as alleged by the Department in its October 20, 1988 Charging Letter. I hereby affirm the ALJ's findings of fact and conclusions of law in that regard. Based on his findings, the ALJ recommended the denial of all of Respondent's U.S. export privileges for a period of ten years, which is five years less than the period of time recommended by the Department.

Order

(A) For a period of ten years from the date of the final agency action, Respondent—

Manfred Schroeder, Lottbeker Weg 176, D 2000, Hamburg 65, Federal Republic of Germany,

and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

(B) Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative or a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for re-export authorization, or any document to be submitted therewith

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

(C) After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

(D) All outstanding individual validated export licenses in which Respondent appears or paticipates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating in any manner or capacity, in any special licensing procedure, including but not limited to, distribution licenses, are hereby revoked.

(E) No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Respondent or any related person, or whereby Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion or any commodity or technical data exported in whole or in part, or to be exported by, to, or for Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward,

[1] Effective October 1, 1988, the Regulations were redesignated as Parts 768–799 of Title 15 of the Code of Federal Regulations. 53 FR 37751 (September 28, 1988). The transfer merely changed the first number of each Part from "3" TO "7". Until such time as the Code of Federal Regulations can be found at 15 CFR Parts 368–399 (1988).

The Regulations governing the violations at issue are found in the 1982, 1983 and 1984 versions of the Code of Federal Regulations. Those Regulations are codified at 15 CFR Parts 368–399 (1982, 1983 and 1984) and, to the degree to which they pertain to this matter, are substantially the same as the 1988 version.

transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

(F) It is thereby ordered that the Respondent shall be denied these privileges for a period of ten years.

This Order constitutes final Agency action.

Dated: April 20, 1989.

Paul Freedenberg,

Under Secretary for Export Administration.

Decision and Order

Appearance for Respondent: Manfred Schroeder (pro se), Lottbeker Weg 176, D 2000 Hamburg 65, Federal Republic of Germany.
Appearance for Agency: Anthony K. Hicks, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, Room H-3329, 14th & Constitution Ave., NW., Washington, DC 20230.

Preliminary Statement

The Office of Export Enforcement ("the Agency"), Bureau of Export Administration, U.S. Department of Commerce issued an October 20, 1988 charging letter against Respondent Manfred Schroeder. The letter was issued under the authority of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420) ("the Act"), and of the Export Administration Regulations ("the Regulations"), promulgated pursuant to the Act.[1] The letter charged that Respondent violated § 387.12 of the Regulations in 1983 by participating, without the required U.S. authorization, in the reexport of a U.S.-origin computer that benefited a party denied U.S. export privileges.

Respondent failed to answer the charging letter, and the Agency moved on February 17, 1989 for a default judgment. In reply to a February 21, 1989 Order to Show Cause why he should not be held in default, Respondent filed a March 2, 1989 letter. Respondent's letter, however, was not in English, and was unaccompanied by a translation into English, and thus failed to comply with the requirement that all such submissions either be in English or be accompanied by an English translation.

Discussion

The Agency introduced evidence that the charging letter had been served on Respondent. As to the Agency's substantive case, it focused on Respondent's participation in an October 1983 shipment of a computer from South Africa to Sweden. The Agency's evidence showed that this computer was obtained from the United States by a South African company and shipped in January 1983 from the United States to South Africa. It was thus a U.S.-origin computer.

This South African company was, according to the Agency's evidence, controlled by a party denied U.S. export privileges. Further according to the Agency's evidence, in October 1983 the computer was shipped from South Africa to Sweden, and the exporter for this shipment was another South African company controlled by this party who was denied U.S. export privileges. Consequently, the Agency asserted that the October 1983 shipment constituted a transaction from which this denied party obtained benefit and in which he had an interest.

As for Respondent's connection with this U.S.-origin computer and its shipment from South Africa to Sweden, the Agency's presentation showed first that Respondent came to South Africa from the Federal Republic of Germany in January 1983, at about the same time that the computer arrived in South Africa from the United States. Respondent, according to the Agency's evidence, was a computer programmer, employed by the denied party, and assigned to set up the computer in South Africa and to write programs on it. For the October 1983 shipment to Sweden, further according to the Agency's evidence, Respondent instructed another employee of the denied party as to how to fill out the export and bank documents, and Respondent himself worked on packing the computer. On the basis of his instruction regarding the documents and of his packing activity, the Agency argued that Respondent participated in the October 1983 shipment.

Finally, the Agency's presentation showed further that the party it claimed was denied U.S. export privileges was in fact a denied party. The Agency's case demonstrated also that Respondent had never obtained the required U.S. authorization to participate in an export of U.S.-origin equipment with which the denied party was connected. For a sanction, the Agency proposed a 15 year denial of U.S. export privileges.

The nature of the Agency's evidence was mainly reports of interviews of three men who were employed by the denied party's companies in South Africa in 1983 and who described Respondent's activities as summarized above. The Agency's evidence included also various documents relating to the shipment of the computer from the United States to South Africa and from there to Sweden.

Conclusion

In the absence of any rebuttal by Respondent, the Agency's presentation is persuasive. It established that the computer at issue was of U.S.-origin and that the computer was reexported in October 1983 from South Africa to Sweden. The Agency's presentation established additionally that a denied party had an interest in and benefited from this reexport, and that Respondent, without the required U.S. authorization, participated in it. Therefore the evidence of record sustains the allegation of the Agency's charging letter: that Respondent violated Section 387.12 of the Regulations by participating, without the required U.S. authorization, in a reexport of a U.S.-origin computer that benefited a denied party.

Such a violation is serious, because it undercuts the effectiveness of the denial sanction. Nevertheless, on the face of this record, the Agency's proposal to deny Respondent's U.S. export privileges for 15 years is a little severe. A denial period of ten years would seem appropriate, and it shall be so ordered.

Order

I. For a period of ten years from the date of the final Agency action, Respondent—

Manfred Schroeder, Lottbeker Weg 176, D 2000 Hamburg 65, Federal Republic of Germany.

and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated or general export license application;

[1] The Act was reauthorized and amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985), and amended by the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100-418, 102 Stat. 1107 (August 23, 1988).

The charging letter alleged that Respondent violated the Regulations during 1983. From October 15 to December 4, 1983 the Regulations were maintained in force by Executive Order 12444 (48 FR 48215, October 18, 1983), issued pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706.

The Regulations, formerly codified at 15 CFR Parts 368–399, were redesignated as 15 CFR Parts 768–799, effective October 1, 1988 (53 Fed. Reg. 37751, September 28, 1988).

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(ii) In preparing or filing any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. All outstanding individual validated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Respondent or any related person, or whereby Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VI. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. § 2412(c)(1)).

Date: March 21, 1989.

Thomas W. Hoya,

Administrative Law Judge.

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave. NW, Room 3898B, Washington, DC, 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 388.23(b), 50 FR 53134 (1985). Pursuant to section 13(c)(3) of the Act, the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

[FR Doc. 89-10256 Filed 4-27-89; 8:45 am]

BILLING CODE 3510-DT-M

Bureau of Export Administration

Automated Manufacturing Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held May 24, 1989, 9:30 a.m. in the Herbert C. Hoover Building, Room 1617F, 14th Street & Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to automated manufacturing equipment and related technology.

Agenda:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Report by Joint Factory Computing & Communications Subcommittee.
4. Discussion of CCL 1091 (Numerically Controlled Machines).
5. Discussion of CCL 1532 (Inspection Machines).
6. Discussion of CCL 1399 (Automatically Controlled Industrial Systems).
7. Discussion of Sensory Control Systems.
8. Presentation by Office of Foreign Availability.

Executive Session

9. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on 202/377-2583.

Dated: April 25, 1989.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 89-10281 Filed 4-27-89; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: April 28, 1989.

FOR FURTHER INFORMATION CONTACT: Bernard T. Carreau or Richard W. Moreland, Office of Countervailing Compliance or Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786/2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with §§ 353.53a (a)(1), (a)(2), (a)(3), and 355.22(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.22(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than March 312, 1990.

Antidumping Duty Proceedings and Firms	Periods to be Reviewed
Colombia:	
All Fresh Cut Flowers—A-301-602	03/01/88-02/28/89
Abaco Tulipanes De Colombia	
Achalay	
Agricola Benilda	
Agricola Bojaca	
Agricola Bonanza	
Agricola De Occidente	
Agricola Del Monte	
Agricola El Jardin	
Agricola Floral	
Agricola Guali	
Agricola Jicabal	
Agricola La Floresta	
Agricola La Fontana	
Agricola Los Arboles	
Agricola Los Gaques	
Agricola Malqui	
Agricola Papagayo	
Agro Imperial	
Agrodex	
Agroindustrial Del Rio Frio	
Agromec	
Agromonte	
Agropecuaria Cuernavaca	
Agrosuba	
Agrotabio	
Arawac	
Arboles Azules	
Astro	
Beall Company	
Bogota Flowers	
Ciba Geigy Colombiana	
Cienfuegos	
Claveles Colombianos	
Claveles De Los Alpes	
Combiflor	
Con Flores	
Cultivos Buenavista	
Cultivos De Caribe	
Cultivos El Lago	
Cultivos Medellin	
Daflor	
De La Pava Guevara	
Del Tropico	
Dianticula Colombiana	
Edir	
El Rancho	
El Trentino	
El Zorro	
Epsilon-Editores	
Exportaciones Bochica	
Fantasia Flowers	
Flamingo Flowers	
Floral	
Floralex	
Floramerica	
Florandia Herrera Camacho	
Flores Agua Clara	
Flores Aguila	
Flores Alcala	
Flores Alfaya	
Flores Andinas	
Flores Aurora	
Flores Bachue	
Flores Calaypao	
Flores Calichana	
Flores Cigarral	
Flores Colombianos	
Flores Colon	
Flores Condor De Colombia	
Flores Corinto	
Flores De Cota	
Flores De Funza	
Flores De Hunza	
Flores De La Pradera	
Flores De La Sabana	
Flores De Las Mercedes	
Flores De Los Amigos	
Flores De Los Andes	
Flores De Los Arrayanes	
Flores De Nemocon	
Flores De Serezuela	
Flores De Suba	
Flores De Suesco	
Flores Del Bosque	
Flores Del Campo	
Flores Del Cauca	
Flores Del Cielo	
Flores Del Cortijo	
Flores Del Lago	
Flores Del Monte	
Flores Del Pinar	
Flores Del Rio	
Flores Del Tambo	
Flores Dos Hectareas	
Flores El Arenal	
Flores El Chircal	
Flores El Gallinero	
Flores El Lobo	
Flores El Puente	
Flores El Rosal	
Flores El Vino	
Flores Estrella	
Flores Galia	
Flores Generales	
Flores Hana Ichi De Colombia	
Flores Intercontinental	
Flores Internacionales	
Flores Juanambu	
Flores Juncalito	
Flores La Conchita	
Flores La Conejera	
Flores La Estancia	
Flores La Macarena	
Flores La Maria	
Flores La Pampa	
Flores La Union	
Flores La Valvanera	
Flores Las Caicas	
Flores Las Palmas	
Flores Llanogrande	
Flores Los Rosales	
Flores Marandua	
Flores Maria Luisa	
Flores Monserrate	
Flores Monte Verde	
Flores Mountgar	
Flores Palimana	
Flores Petaluma	
Flores San Carlos	
Flores Santa Fe	
Flores Santa Rosa	
Flores Sausalito	
Flores Suasque	
Flores Tairona	
Flores Tecnicas	
Flores Tejas Verdes	
Flores Tenerife	
Flores Tequendama	
Flores Tiba	
Flores Timana	
Flores Tokai Hisa	
Flores Tomine	
Flores Tropicales	
Flores Urimaco	
Floresa	
Florex	
Florexpo	
Floricola La Gaitana	
Florlinda	
Hacienda Curubital	
Hacienda La Embarrada	
Horticultura De La Sabana	
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Interested parties are encouraged to submit applications for administrative protective orders as early as possible in the review process.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.53a(c) and § 355.22(c) of the Commerce Regulations published in the Federal Register on December 27, 1988 (53 FR 52354) (to be codified at 19 CFR 355.22).

Dated: April 21, 1989.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 89-10172 Filed 4-27-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council will meet on May 17–18, 1989, at the Ramada Inn, Route 18, East Brunswick, NJ. The public meeting will begin on May 17 at 8:30 a.m., and adjourn on the afternoon of May 18. The meeting may be lengthened or shortened depending upon progress on the agenda.

The Council will dicuss the Bluefish Fishery Management Plan, Atlantic mackerel specifications for 1990, and other fishery management and administrative matters in open session. The Council may also meet in closed session to discuss personnel and/or national security matters.

For further information, contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South and New Street, Dover, DE 19901-6790; telephone: (302) 674-2331.

Date: April 24, 1989.

Richard H. Schaefer,

Director, Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-10173 Filed 4-27-89; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

A technical team for the North Pacific Fishery Management Council will meet on April 24–25, 1989, at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, Building 4, Room 2079, 7600 Sand Point Way, NE., Seattle, WA. The team will meet at 1 p.m., on April 24 to discuss open access options for future management of the Gulf of Alaska and Bering Sea/Aleutian Islands fisheries.

For further information contact Dick Tremaine, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271-2809.

Date: April 24, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, Notional Marine Fisheries Service.

[FR Doc. 89-10174 Filed 4-27-89; 8:45 am]

BILLING CODE 3510-22-M

National Mammals; Issuance of Permit: Sea World, Inc. (P2U)

On February 9, 1989, notice was published in the Federal Register (54 FR 6314) that an application had been filed by Sea World, Inc. for a permit to import one (1) killer whale (*Orcinus orca*) for public display at any of the Sea World parks.

Notice is hereby given that on April 18, 1989, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) the National Marine Fisheries Service issued a Permit for the above importation subject to certain conditions set forth therein.

Issuance of this permit is based on a finding that the proposed taking is consistent with the purposes and policy of the Marine Mammal Protection Act. The Service has determined that Sea World, Inc. offers an acceptable program for education or conservation purposes. The Sea World facilities are open to the public on a regularly scheduled basis and access to the facilities is not limited or restricted other than by the charging of an admission fee.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Room 7324, Silver Spring, Maryland 20910;

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Director, Southeast Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731.

Dated: April 18, 1989.

N. Foster,

Director, Office of Protected Resources.

[FR Doc. 89-10148 Filed 4-27-89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1989 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 29, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

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SUPPLEMENTARY INFORMATION: On January 27 and March 10, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (54 FR 4059 and 10177) of proposed additions to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018).

No comments were received concerning the proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and provide the services at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1989:

Commodities

Sweatshirt
8415–01–234–4420
8415–01–234–4421
8415–01–234–4422
8415–01–234–4423
8415–01–234–4424
Sweatpants
8415–01–234–4409
8415–01–234–4410
8415–01–234–4411
8415–01–234–4412
8415–01–234–4413

Services

Brick Joint Cleaning
Andersonville National Historic Site
Andersonville, Georgia

Janitorial/Custodial
Waterways Experiment Station
Vicksburg, Mississippi

Janitorial/Custodial
Federal Building and U.S. Courthouse
15 Henry Street
Binghamton, New York

Janitorial/Elevator Operator
Navy Yard Annex
Buildings 74, 158, 167, 191, 197 and 202
Washington, DC

Beverly L. Milkman,
Executive Director.
[FR Doc. 89–10257 Filed 4–27–89; 8:45 am]
BILLING CODE 6820–33–M

Procurement List 1989 Proposed; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1989 commodities to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 30, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018):

Cotton, Purified
6510–00–201–3000

Compress and Skullcap, Head Dressing
6510–00–201–7680

Undershirt, Cold Weather
8415–01–227–9547
8415–01–227–9548
8415–01–227–9549
8415–01–227–9550
8415–01–227–9551

Beverly L. Milkman,
Executive Director.
[FR Doc. 89–10258 Filed 4–27–89; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Administrative Publications and Forms Handling Transfer to National Technical Information Service

AGENCY: Department of the Air Force, DOD.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of the Air Force will transfer responsibility for handling all general public requests for Air Force-wide administrative publications and forms to the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. This is presently accomplished by Publishing Distribution Offices at Air Force installations. NTIS will create both foreign and domestic pricing schedules in accordance with the NTIS pricing policy and based on a cost-recovery formula..

EFFECTIVE DATE: June 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. George Harris, SAF/AADPD, Bolling AFB DC 20332, telephone (202) 767–6077.

Patsy J. Conner,
Air Force Federal Register Liaison Officer.
[FR Doc. 89–10214 Filed 4–27–89; 8:45 am]
BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Availability of Draft Environmental Impact Statement on Decommissioning of Eight Surplus Production Reactors at the Hanford Site, Richland, WA

AGENCY: Department of Energy.

ACTION: Notice of Availability of Draft Environmental Impact Statement (EIS).

SUMMARY: The Department of Energy (DOE) announces the availability of a draft EIS on "Decommissioning of Eight Surplus Production Reactors at the Hanford Site, Richland, Washington" (DOE/EIS–0119D). The draft EIS contains information on the potential environmental impacts of alternatives for the proposed decommissioning of eight surplus plutonium production reactors at the Hanford site in Richland, Washington. The DOE has not identified a preferred alternative. Public comments are invited on the draft EIS for consideration in preparing the final EIS. Four public hearings will be held to receive oral comments on the draft EIS.

DATES: Written comments on the draft EIS should be sent to DOE by July 28, 1989, to ensure consideration in preparation of the final EIS. Comments received after that date will be considered to the extent practicable. Public hearings will be held on July 11, July 13, July 18, and July 20, 1989, as described in this notice. Individuals desiring to make oral statements at the hearings should notify Tom Bauman at the address below, so that DOE may arrange a schedule for presentations.

ADDRESSES: Requests for copies of the draft EIS, written comments on the draft EIS, requests to present oral comments at the hearings, and requests for further information concerning this draft EIS should be directed to: Tom Bauman, Office of Communications, Richland Operations Office, U.S. Department of Energy, P.O. Box 550, Richland, Washington 99352, Attention: "SPRD Draft EIS", (509) 376–7501.

For general information on the procedures DOE followed in complying with the requirements of the National Environmental Policy Act (NEPA) contact: Carol Borgstorm, Director, Office of NEPA Project Assistance (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600.

Public Outreach Activities

Prior to the public hearings, public information and outreach activities related to the draft EIS are planned in multiple Northwest locations. The purpose of these activities is to present information on the alternatives and issues discussed in the draft EIS. This information may be helpful in preparing comments on the draft EIS. These activities will also serve to publicize the public hearings that will be held to receive oral comments on the draft EIS. There will be no formal record of the public outreach activities. The dates and locations of these activities will be announced in the news media.

Public Hearings

Public hearings on the draft EIS will be held at the following times and locations:

Federal Building Auditorium, 825 Jadwin Street, Richland, Washington, Date: July 11, 1989, Time: 10:00 a.m. and 7:00 p.m.

Sheraton Hotel, North 322 Spokane Falls Court, Spokane, Washington, Date: July 13, 1989, Time: 10:00 a.m. and 7:00 p.m.

Execulodge Inn (Portland International Airport), 6221 N.E. 82nd Avenue, Portland, Oregon, Date: July 18, 1989, Time: 10:00 a.m. and 7:00 p.m.

Hilton Hotel (Sea-Tac International Airport), 17620 Pacific Highway South, Seattle, Washington, Date: July 20, 1989, Time: 10:00 a.m. and 7:00 p.m.

Members of the public, organizations, and government agencies are invited to present comments on the draft EIS at any scheduled hearing. Persons desiring to make an oral presentation should notify Mr. Bauman at the above address, so that the DOE may arrange a schedule for the presentations. Persons who have not submitted a request to speak in advance may register to speak at a hearing. To ensure that everyone has the opportunity to present comments, five minutes will be allotted to each speaker. Individuals and representatives of organizations or agencies presenting comments are requested, if possible, to have written copies of their comments for the hearing record. Written and oral comments will receive equal consideration in preparation of the final EIS. The DOE will arrange the schedule of speakers and will establish rules and procedures for conduct of the hearings. The hearings will not be adjudicatory and there will be no cross examination of speakers. Any other procedural rules for the conduct of the hearings will be announced by the presiding officer at the beginning of each hearing. A verbatim transcript of the hearing will be prepared, and placed in the reading rooms and libraries indicated below.

The draft EIS and documents referenced in the draft EIS are available for public inspection at the following locations:

U.S. Department of Energy Public Reading Room, Room 157, Federal Building, Richland, Washington 99352, (509) 376–8583.

Multnomah County Library, 801 SW 10th Avenue, Portland, Oregon 97205, (503) 223–7201.

The draft EIS and copies of major references used in preparing the draft EIS are also avilable for public inspection at the following locations:

U.S. Department of Energy, Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6020.

Pasco Public Library, 1320 West Hopkins Street, Pasco, Washington 99301, (509) 545–3451.

Walla Walla Public Library, 238 East Alder Street, Walla Walla, Washington 99362, (509) 525–5353.

Kennewick Public Library, 405 South Dayton Street, Kennewick, Washington 99336, 1–800–572–6251 or (509) 586–3156.

Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352, (509) 943–9117.

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Yakima Valley Main Public Library, 102 North 3rd Street, Yakima, Washington 98901, (509) 452–8541.
Public Reference Center, Washington Department of Ecology, 5826 Pacific Avenue, Lacey, Washington 98503, (206) 459–6675.
Spokane Public Library, West 906 Main Avenue, Spokane, Washington 99201, (509) 838–4226.
Seattle Public Library, 1000 4th Avenue, Seattle, Washington 98122, (206) 386–4636.

SUPPLEMENTARY INFORMATION: The U.S. Government established the Hanford Site in 1943 to produce plutonium for military purposes. Nine water-cooled, graphite-moderated plutonium production reactors were constructed along the Columbia River between the years 1943 and 1963 in a location designated as the 100 Areas. Eight of these reactors are now retired from service (B, C, D, DR, KE, KW, F, and H), have been declared surplus by DOE, and may be decommissioned. The ninth reactor (N) is in a standby mode and its decommissioning is outside the scope of this EIS.

Proposed Action and Scope of the Draft EIS

The proposed action is to decommission the eight surplus reactors. The purpose of the draft EIS is to provide environmental information that will assist the DOE in deciding which alternative action is most appropriate. The scope of the draft EIS includes the reactors, their associated fuel storage basins, and the buildings that house these facilities. All fuel elements have been removed from the reactor cores. The scope does not include the 100-Area cribs, burial grounds, or settling basins. These facilities were evaluated in the "Final Environmental Statement, Hanford Waste Management Operations, Hanford Reservation," U.S. Energy Research and Development Administration, ERDA–1538, 1975. Further, the DOE is presently re-evaluating these facilities as part of DOE's responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

The purpose of decommissioning is to reduce the potential environmental, health, and safety impacts of contaminated facilities; decommissioning actions may include the stabilization, reduction, or removal of radioactive and hazardous materials or the demolition of facilities.

Because the reactors contain irradiated reactor components and because the buildings that house the reactors are contaminated with low levels of radioactivity, the DOE has determined that there is a need for action to ensure the long-term protection of the environment and public health and safety. Alternative actions considered in the draft EIS include:

(1) Immediate one-piece removal (to the 200-West Area) of the reactor-block assembly and the dismantlement and removal of contaminated equipment and components of the fuel storage basins and reactor building;

(2) Safe storage followed by deferred one-piece removal (i.e., continuation of current maintenance activities for up to 75 years followed by "one-piece removal");

(3) Safe storage followed by deferred dismantlement and removal of the reactor-block assembly and other contaminated components;

(4) *In situ* decommissioning (i.e., the sealing and burial of the reactor facilities at their present location under an engineered protective mound); and

(5) No action (i.e., continue present surveillance, monitoring, and maintenance).

Floodplain/Wetlands

Because the reactors are located along the Columbia River, it is necessary to evaluate the effects of any decommissioning actions with respect to flood hazards, floodplain management, and wetlands protection. In accordance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands) and DOE regulations 10 CFR 1022 (Compliance with Floodplain/Wetlands Environmental Review Requirements), DOE has prepared a floodplain/Wetlands assessment for decommissioning of the surplus production reactors (see Appendix B of the draft EIS). No reactor is in a wetland or the 500-year (critical action) floodplain as defined by the regulations. As a part of the review of the draft EIS and in compliance with executive orders and regulations regarding floodplain management and wetlands protection, the DOE solicits public and agency comments on these determinations.

Historic Preservation

The DOE and the Washington State Historic Preservation Officer have determined that the B Reactor is eligible for inclusion in the National Register of Historic Places according to the procedures in 36 CFR 800 (Protection of Historic and Cultural Properties) and the criteria in 36 CFR 60 (Criteria for Inclusion in the National Register of Historic Places). These findings are discussed in Appendix J of the draft EIS. The DOE solicits public and agency comments on whether or not the B Reactor should be nominated for inclusion in the National Register of Historic Places, on the potential impacts of decommissioning on the inclusion of the B Reactor in the National Register, and on means identified to mitigate the potential impacts of the decommissioning action.

Issued in Washington, DC, on April 14, 1989.

Peter N. Brush,

Acting Assistant Secretary Environment, Safety, and Health.

[FR Doc. 89–10239 Filed 4–27–89; 8:45 am]

BILLING CODE 6450–01–M

Floodplain and Wetland Involvement Notification for Proposed Construction of the 7-GeV Advanced Photon Source at Argonne National Laboratory; Argonne, IL

AGENCY: Department of Energy.

ACTION: Notice of Floodplain/Wetland Involvement.

SUMMARY: The Department of Energy proposes to construct the 7-GeV Advanced Photon Source (APS) at Argonne National Laboratory which is situated on Federally owned lands under the jurisdiction of the U.S. Department of Energy. All activities related to the proposed project will be restricted to approximately 80 acres of vacant grassland and forest on the Federally owned property.

SUPPLEMENTARY INFORMATION: The proposed APS will provide a national facility for advancing the frontiers of research in physics, chemistry, biology and the materials and health sciences. The main APS building will be ring-shaped with a circumference of about 3,500 feet. The complex will also include offices, general and special purpose laboratories, clean room laboratories, and service operation areas. Provisions are included for site access roads, parking, service utilities, and miscellaneous site amenities. Recontouring and construction will require the filling of three palustrine wetland areas containing trees or emergent vegetation which are semi-permanent seasonal to intermittently flooded (0.38, 0.67, and 0.70 acres respectively). These wetlands are shallow, isolated depressions not connected to flowing water. They are temporary ponds that contain water from late fall to early spring and remain dry during the summer months. There will be no dredging of wetland areas. In accordance with DOE's regulations for compliance with floodplain/wetlands environmental review requirements (10 CFR Part 1022), DOE will prepare a floodplain/wetland assessment that will be incorporated into an Environmental Assessment. Consultations with the U.S. Army Corps of Engineers (COE) have been initiated, and required permits and mitigation plans will be obtained. Two replacement wetlands are proposed and would be constructed contiguous to the construction site. To provide a viable and natural seed source, soil removed from the subject wetlands will be graded into each new wetland. Herbaceous species which do not regenerate from the wetland soil will be planted in the appropriate vegetative zone. Detailed engineering specifications for the created wetlands will be provided to the COE prior to construction and a five-year monitoring program will follow to observe the wetland development. Maps and further information are available from the address shown below.

DATES: Any comments are due on or before May 15, 1989.

ADDRESS: Send written comments to W.S. White, Environment, Safety, and Health Division, U.S. Department of Energy, 9800 S. Cass Avenue, Argonne, Illinois 60439, (312) 972–2101.

Issued at Washington, DC, April 14, 1989.

Dr. Donald K. Stevens,

Acting Director, Director Divison of Materials Sciences, Office of Basic Energy Science.

[FR Doc. 89–10238 Filed 4–27–89; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[ERA Docket No. 89–02–NG]

Cornerstone Natural Gas Co.; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada and Mexico

AGENCY: Office of Fossil Energy; Department of Energy

ACTION: Notice of Order Granting Blanket Authorization to Import and Export Natural Gas from and to Canada and Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Cornerstone Natural Gas Company (Cornerstone) blanket authorization to import and export natural gas from and to Canada and Mexico. The order issued in ERA Docket No. 89–02–NG authorizes Cornerstone to import up to 100 Bcf and to export up to 100 Bcf of Canadian, Mexican and/or domestically produced natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 12, 1989.

J. Allen Wampler,

Assistant Secretary Fossil Energy.

[FR Doc. 89–10240 Filed 4–27–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP89–1225–000, et al.]

Williams Natural Gas Co., et al.; Natural Gas Certificate Filings

April 24, 1989.

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Company

[Docket No. CP89–1225–000]

Take notice that on April 17, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–1225–000, a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authorization to provide transportation for the City of Auburn, Kansas (Auburn), under WNG's blanket certificate issued in Docket No. CP86–631–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG requests to transport, on an interruptible basis, up to a maximum of 1,200 MMBtu of natural gas per day for Auburn from various receipt points in Kansas, Missouri, Oklahoma, Texas and Wyoming to various delivery points on WNG's pipeline system located in Kansas. WNG anticipates transporting 270 MMBtu on an average day and 98,550 MMBtu on an annual basis.

WNG states that the transportation of natural gas for Auburn commenced on March 17, 1989, as reported in Docket No. ST89–2809–000, for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to WNG in Docket No. CP89–631–000. WNG proposes to continue this service in accordance with §§ 284.221 and 284.223 of the Commission's Regulations.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Transcontinental Gas Pipe Line Corporation

[Docket No. CP89–1206–000]

Take notice that on April 13, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1296, Houston, Texas 77251, filed in Docket No. CP89–1206–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for ANR Gathering Company (Shipper), under the blanket certificate issued in Docket No. CP88–328–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco states that it proposes to transport for Shipper 1,500,000 dt on a peak day, 100,000 dt on an average day, and 3,650,000 dt on an annual basis. Transco also states that it will receive the gas at various existing receipt points in Offshore Louisiana and Offshore Texas and deliver the gas at various existing delivery points in Louisiana.

Transco further states that it commenced this service March 1, 1989, as reported in Docket No. ST89–275–000.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Northwest Pipeline Corporation

[Docket No. CP89–1214–000]

Take notice that on April 14, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89–1214–000 an application pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authorization to provide interruptible transportation service for Marathon Oil Company (Marathon), a producer of natural gas, pursuant to Northwest's blanket transportation certificate issued by Commission order on January 19, 1988, in Docket No. CP88–578–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest states it will receive the gas at various supply sources in the states of New Mexico, Wyoming, Utah and Colorado for transportation and delivery, for the account of Marathon, to various points in the states of Wyoming, Utah and Colorado.

Northwest proposes to transport daily up to 20,000 MMBtu equivalent of gas on

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a peak day, 2,000 MMBtu equivalent of gas on an average day and approximately 730,000 MMBtu equivalent annually. Northeast states the transportation service commenced under the 120-day automatic authorization of § 284.223(a) of the Commission's Regulations on March 1, 1989, pursuant to a transportation agreement dated January 1, 1989, as amended January 1, 1989. Northwest notified the Commission of the commencement of the transportation service in Docket No. ST89-2868-000 on March 31, 1989.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Texas Gas Transmission Corporation

[Docket No. CP89-1186-000]

Take notice that on April 11, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky, 42301, filed in Docket No. CP89-1186-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP88-686-000, pursuant to section 7 of the Natural Gas Act, for Archer Daniels Midland Company (Archer Daniels), all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas proposes to transport on an interruptible basis up to a maximum of 3,000 MMBtu of natural gas per day for Archer Daniels from specific receipt points in various parishes in Louisiana to the existing interconnection between Texas Gas and Columbia Gas Transmission Corporation in Warren County, Ohio. Texas Gas anticipates transporting up to 3,000 MMBtu on a peak day, 1,000 MMBtu average day, and 365,000 MMBtu annually for Archer Daniels. Texas Gas explains that service commenced March 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-2577.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Tennessee Gas Pipeline Company

[Docket No. CP89-1215-000]

Take notice that on April 17, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-1215-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of LL&E Gas Marketing, Inc. (LL&E), a marketer of natural gas, under Tennessee's blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport, on an interruptible basis, up to 50,000 MMBtu per day for LL&E. Tennessee states that construction of facilities would not be required to provide the proposed service.

Tennessee further states that the maximum day, average day, and annual transportation volumes would be approximately 50,000 MMBtu, 50,000 MMBtu and 18,250,000 MMBtu respectively.

Tennessee advises that service under Section 284.223(a) commenced March 1, 1989, as reported in Docket No. ST89-3027.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Williams Natural Gas Company

[Docket No. CP89-1224-000]

Take notice that on April 17, 1989, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-1224-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Osage City (Osage), a local distribution company, under the blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport on an interruptible basis for Osage up to 3,000 MMBtu of natural gas on a peak day, approximately 548 MMBtu on an average day, and 200,020 MMBtu on an annual basis. Williams states that it would transport this gas from various receipt points in Kansas, Missouri, Oklahoma, Texas and Wyoming to various delivery points on Williams' system in Kansas. Williams explains that service commenced under the automatic authorization provisions of Section 284.223 of the Commission's Regulations, as reported in Docket No. ST89-2808-000.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Texas Gas Transmission Corporation

[Docket No. CP89-1218-000]

Take notice that on April 17, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-1218-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for PSI, Inc. (PSI) under Texas Gas' blanket certificate issued in Docket No. CP88-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport on an interruptible basis up to 100,000 MMBtu of natural gas equivalent on behalf of PSI pursuant to a gas transportation agreement dated January 3, 1989, between Texas Gas and PSI. Texas Gas would receive the gas at various existing points of receipt on its system in Texas, offshore Texas, Indiana, Kentucky, Tennessee, Illinois, Arkansas, Ohio, Louisiana and offshore Louisiana and redeliver equivalent volumes, less fuel and lost and unaccounted for volumes, at existing delivery points in Ohio.

Texas Gas further states that the estimated average daily and annual quantities would be 50,000 MMBtu and 18,250,000 MMBtu, respectively. Service under § 284.223(a) commenced on March 2, 1989, as reported in Docket No. ST89-2580-000, it is stated.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Natural Gas Pipeline Company

[Docket No. CP89-1220-000]

Take notice that on April 17, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-1220-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Mitchell Marketing Company (Mitchell), a marketer, under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural states that pursuant to a transportation agreement dated October 24, 1988, it proposes to receive up to 20 billion Btu of natural gas per day for Mitchell and any additional volumes accepted pursuant to overrun provisions of Natural's Rate Schedule ITS at an existing interconnect with the facilities of Lone Star Gas Company located in Panola County, Texas and redeliver the gas at specified points in the states of Illinois and Texas. Natural states that the peak day, average day, and annual volumes would be 20 billion Btu, 10 billion Btu, and 3,650 Billion Btu, respectively. It is stated that on February 24, 1989, Natural initiated a 120-day transportation service for Mitchell under § 284.223(a) as reported in Docket No. ST89-3054-000.

Natural further states that no facilities need be constructed to implement the service. Natural states that the primary term of the transportation service would expire October 31, 1990, but would continue month to month thereafter unless cancelled by five days prior notice by either party. Natural proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Natural Gas Pipeline Company of America

[Docket No. CP89-1219-000]

Take notice that on April 17, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-1219-000 a request pursuant to §§ 157.205 and 284.223(b) of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis for Sun Gas Transmission Limited Partnership (Sun Gas), an intrastate pipeline, under its blanket certificate issued in Docket No. CP88-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural states that it proposes to transport natural gas for Sun Gas between receipt points in Illinois, Louisiana, offshore Louisiana, Texas and offshore Texas and delivery points in Illinois, Louisiana, Texas, New Mexico, Arkansas and Iowa.

Natural further states that the maximum daily, average daily and annual quantities that it would transport for Sun Gas would be 110,000 MMBtu equivalent of natural gas (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS), 60,000 MMBtu equivalent of natural gas and 21,900,000 MMBtu equivalent of natural gas, respectively.

Natural indicates that in a filing made with the Commission on April 17, 1989, it reported in Docket No. ST89-3055 that transportation service for Sun Gas had begun on February 10, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Sea Robin Pipeline Company

[Docket No. CP89-1211-000]

Take notice that on April 14, 1989, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP89-1211-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-824-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Sea Robin proposes to transport natural gas on an interruptible basis for First Energy Corporation (First Energy). Sea Robin explains that service commenced March 14, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-2914. Sea Robin explains that the peak day quantity would be 5,150 MMBtu, the average daily quantity would be 5,150 MMBtu, and that the annual quantity would be 1,879,750 MMBtu. Sea Robin explains that it would receive natural gas for First Energy's account in South Marsh Island, Offshore Louisiana. Sea Robin states that it would redeliver the gas for First Energy's account near Erath, Louisiana to Columbia Gulf Transmission Company, United Gas Pipe Line Company or Faustina Pipeline Company.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Williams Natural Gas Company

[Docket No. CP89-1226-000]

Take notice that on April 17, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-1226-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of the City of Chanute, Kansas (Chanute), a local distribution company, under WNG's blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act, all as more fuly set forth in the request which is on file with the Commission and open to public inspection.

WNG proposes to transport, on an interruptible basis, up to 8,000 MMBtu equivalent of natural gas on a peak day, 1,780 MMBtu equivalent on an average day and 649,700 MMBtu equivalent on an annual basis for Chanute. It is stated that WNG would receive the gas for Chanute's account at various receipt points on WNG's system in Kansas, Missouri, Texas, Oklahoma and Wyoming and would deliver equivalent volumes at various points on WNG's system in Kansas. It is asserted that the transportation service would use existing facilities and would not require the construction of additional facilities. It is explained that the transportation service commenced March 17, 1989, under the self-implementing authorization provisions of Section 284.223 of the Comission's Regulations, as reported in Docket No. ST89-2804.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Williams Natural Gas Company

[Docket No. CP89-1229-000]

Take notice that on April 17, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-1229-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of the City of Iola, Kansas (Iola), a local distribution company under WNG's blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act, all as more fuly set forth in request which is on file with the Commission and open to public inspection.

WNG proposes to transport, on an interruptible basis, up to 6,000 MMBtu equivalent of natural gas on a peak day, 1,425 MMBtu equivalent on an average day and 520,125 MMBtu equivalent on an annual basis for Iola. It is stated that WNG would receive the gas for Iola's account at various receipt points on WNG's system in Kansas, Missouri, Oklahoma, Texas, and Wyoming and would deliver equivalent volumes at various points on WNG's system in Kansas. It is asserted that the transportation service would use existing facilities and would not require the construction of additional facilities. It is explained that the transportation service commenced March 17, 1989, under the self-implementing

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authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-2986.

Comment date: June 6, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10163 Filed 4-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM89-10-20-000; TF89-2-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

April 24, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on April 19, 1989 tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be effective April 1, 1989

Thirty-first Revised Sheet No. 201
Substitute Twenty-sixth Revised Sheet No. 204
Twenty-fifth Revised Sheet No. 205

Proposed to be effective May 1, 1989

Twenty-sixth Revised Sheet No. 205

Algonquin states that it is filing Thirty-first Revised Sheet No. 201 and Twenty-fifth Revised Sheet No. 205 as part of an Interim Purchased Gas Adjustment ("PGA") under section 17 of the General Terms and Conditions and a tracker under section 7 of Rate Schedule F-4, respectively, to reflect the lower cost of purchased gas due to Alonquin's pipeline supplier Texas Eastern Transmission Corporation flexing down of the rates underlying Algonquin's Rate Schedules F-1, I-1, WS-1, E-1 and F-4. The changes represent a decrease in purchased gas costs of approximately $2.9 million for the period April 1, 1989 through May 31, 1989.

Algonquin further states that pursuant to section 7 of Rate Schedule F-4, it is filing Twenty-sixth Revised Sheet No. 205 to concurrently track rate changes made by its pipeline supplier, Texas Eastern in the underlying service, as set forth in Texas Eastern's Quarterly PGA filing date March 31, 1989. The rate changes reflect increases of 1.1 cents per MMBtu in the demand charge and 1.68 cents per MMBtu in the commodity charge over those rates contained in Twenty-fifth Revised Sheet No. 205.

Algonquin states that in a filing dated March 30, 1989 in Docket No. TF89-4-16-000, Algonquin's pipeline supplier, National Fuel Gas Supply Corporation ("National"), made an interim PGA filing to reflect decreases in its estimated cost of purchased gas. Algonquin states that it is filing Substitute Twenty-sixth Revised Sheet No. 204 to concurrently track the rate changes made by National in the service underlying Algonquin's Rate Schedule F-3. Substitute Twenty-sixth Revised Sheet No. 204 represents an increase of 23.0 cents per MMBtu in the demand charge and a decrease of 12.64 cents per MMBtu in the commodity charge from National's Interim PGA dated February 27, 1989 in Docket No. TF89-3-16-000.

Algonquin notes that copies of this filing were served upon the affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before, May 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10212 Filed 4-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2366-000]

Jon H. Miller; Filing

April 25, 1989.

Take notice that on April 7, 1989, Jon H. Miller filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director, Idaho Power Company
Trustee, Northwestern Mutual Life Insurance Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 21 and 214 of the Commissions Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10213 Filed 4-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2671; Maine]

Kennebec Water Power Co.; Intent to File an Application for a New License

April 24, 1989.

Take notice that on December 30, 1988, Kennebec Water Power Company (c/o Central Maine Power Company), the existing licensee for the Moosehead Lake Outlet Dams Project No. 2671, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2671 was issued effective May 1, 1954, and expires December 31, 1993.

The project is located on the Kennebec River in Somerset and Piscataquis Counties, Maine. The principal works of the Moosehead Lake Project include East Outlet Dam with earthfill embankments at both ends and a gated concrete spillway at sill elevation 1,018.5 feet m.s.l.; West Outlet Dam with earthfill embankments at both ends and a gated concrete spillway at sill elevation 1,020.5 feet m.s.l.; a reservoir of about 544,000 acrefeet

storage at elevation 1,029 feet m.s.l. and a drawdown of 7.5 feet; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at Edison Drive, Augusta, ME 04336.

Pursuant to section 15(c)(1) of the Act, each application for a new licensee and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10164 Filed 4-27-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3563-6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 10, 1989 through April 14, 1989 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the Federal Register dated April 14, 1989 (54 FR 15006).

Draft EISs

ERP No. D-AFS-B61017-NH, Rating EO2, Loon Mountain Ski Area, South Mountain Expansion Project, Special Use Permit, White Mountain National Forest, Grafton County, NH.

Summary: EPA has determined that the draft EIS does not evaluate all reasonable alternatives; does not sufficiently address direct, indirect or cumulative impacts; and does not adequately evaluate mitigation measures. Furthermore, EPA believes that the South Mountain Project as proposed would result in significant environmental impacts that must be avoided.

ERP No. D-AFS-L65129-OR, Rating EC2, Shady Beach Fire Recovery Project, Implementation, Willamette National Forest, Lane County, OR.

Summary: EPA believes that additional information is needed to support the final EIS. This information should include documentation for a water quality/fish monitoring plan and a description of how the project will comply with Oregon Water Quality Standards for turbidity.

ERP No. D-NOA-090008-TX, Rating LO, Flower Garden Banks National Marine Sanctuary Establishment, Designation, LA and TX.

Summary: EPA expressed no objections to the proposed alternative as described in this document.

ERP No. D-SCS-C36004-NY, Rating EC2, Virgil Creek Watershed Flood Prevention Plan, Funding and Implementation, Town of Dryden, Town of Harford and Village of Dryden, Tompkins and Cortland Counties, NY.

Summary: EPA has concerns about the potential impacts to the existing functions and values of the rivers and floodplains downstream of the proposed dam. Additionally, the draft EIS does not adequately address the potential impacts associated with sediment removal, sediment disposal, and site geology for the proposed project. EPA has requested that additional information on these issues be included in the final EIS.

Regulations

ERP No. R-AFS-A65158-00, 36 CFR Part 222; Grazing Fees on National Forest System Lands in the Eastern States (54 FR 6425).

Summary: EPA recommends that the final regulation allow the application of grazing fee credits to a wide range of watershed and riparian/wetland restoration activities.

Dated: April 25, 1989.

William D. Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 89-10294 Filed 4-27-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3563-5]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements Filed April 17, 1989 through April 21, 1989 Pursuant to 40 CFR 1506.9.

EIS No. 890091, Draft, NPS, IN, Gary Marine Development, Approval, Indiana Dunes National Lakeshore, City of Gary, Lake County, IN, Due: June 26, 1989, Contact: Dale Engquist (219) 926-7561.

EIS No. 890092, Draft, COE, HI, Kahului Harbor Light Draft Navigation Improvement, Implementation, Island of Maui, Hawaiian Archipelago, HI, Due: June 12, 1989, Contact: Dr. James Maragos (808) 438-2263.

EIS No. 890093, Draft, HUD, PR, Encantada Residential Development, Mortgage Insurance, Dos Bocas Ward, Trujillo Alto, PR, Due: June 12, 1989, Contact: Hector R. Mercado (809) 766-6240.

EIS No. 890094, Draft, IBR, CA, Westlands Water District, Water Supply Project, Intertie Construction, Delta-Mendota Canal to the California Aqueduct, Approval, Alameda County, CA, Due: June 19, 1989, Contact: Wayne Deason (303) 236-9336.

EIS No. 890095, Final, FHW, I-5 Widening, Main Street Interchange to I-205, Funding and 404 Permit, Clark County, WA, Due: May 30, 1989, Contact: B.F. Morehead (206) 753-2120.

EIS No. 890096, Draft, FHW, SC, Northern Outer Bypass Construction, US 501 to US 17, Funding, COE Section 10 and 404 Permits and US Coast Guard Section 9 Permit, City of Conway, Horry County, SC, Due: June 26, 1989, Contact: Charles W. McGiboney (803) 253-3881.

EIS No. 890097, Final, COE, CA, Ox Mountain Sanitary Landfill Expansion, Apanolio Canyon Site, 404 Permit, Apanolio Creek, San Mateo County, CA, Due: May 30, 1989, Contact: Barney Opton (415) 974-0441.

EIS No. 890098, DSuppl, SCS, CO, McElmo Creek Unit, Salinity Control Study, Onfarm Irrigation Improvements, Additional Water Delivery and Management Improvements, Funding and Implementation, Montezuma County, CO, Due: June 12, 1989, Contact: Sheldon G. Boone (303) 964-0295.

EIS No. 890099, Draft, DOE, WA, Hanford Site Eight Surplus Plutonium Production Reactors Decommissioning, Implementation, Richland, WA, Due: July 28, 1989, Contact: Tom Baumen (509) 376-7501.

EIS No. 890100, Draft, COE, CA, Batiquitos Lagoon Enhancement Project, Restoration and Improvement, Implementation, City of Carlsbad, San Diego County, CA, Due: June 12, 1989, Contact: David J. Castanon (213) 894-5606.

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EIS No. 890102, Draft, IBR, CO, Uncompahgre Valley Reclamation Project, AB Lateral Hydropower Facility Construction and Operation, Leasing, Delta and Montrose Counties, CO, Due: June 22, 1989, Contact: Wayne Deason (303) 236–9336.

EIS No. 890103, Final, FHW, CA, Ventura County Routes 23 and 118 Freeway Gap Closure, Rt–23 Freeway at New Los Angeles Avenue to Rt–118 Freeway at College View Avenue, Funding, 404 Permit, Moorpark City, Ventura County, CA, Due: May 30, 1989, Contact: Glenn Clinton (916) 551–1310.

EIS No. 890104, FSuppl, NRC, MT, Rare Earths Permanent Waste Disposal Facility Decommissioning, Alternative Site Analysis, License, DuPage County, IL, Due: May 30, 1989, Contact: Ginny Tharpe (202) 492–0610.

Amended Notices

EIS No. 890090, DSuppl, DOE, NM, Waste Isoaltion Pilot Plant Construction, Updated Geological and Hydrological Information, Eddy County, NM, Due: June 20, 1989, Contact: W. John Arthur III (505) 889–3038.

Published FR 04–21–89—Incorrect due date.

Dated: April 25, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89–10295 Filed 4–27–89; 8:45 am]

BILLING CODE 6560–50–M

[AD–FRL–3560–7]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

ACTION: Notice of open meeting.

SUMMARY: A meeting of the National Air Pollution Control Techniques Advisory Committee will be held at the Sheraton Imperial Hotel and Towers, Royal Ballroom, I–40 Exit 282 at Page Road, Research Triangle Park, North Carolina 27709. The commercial telephone number is (919) 941–5050.

DATES: June 7 and 8, 1989.

FOR FURTHER INFORMATION CONTACT: All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by May 26, 1989. The commercial telephone number is (919) 541–5571, and the FTS number is 629–5571.

SUPPLEMENTARY INFORMATION: The agenda for the meeting is as follows:

June 7 (Wednesday)—9:00 a.m.

Municipal Waste Combustion, Status Report to the Committee on the Development of Standards and Guidelines under Sections 111(b) and (d) of the Clean Air Act.

Municipal Solid Waste Landfills, Status Report to the Committee on Regulatory Development (Section 111 of the Clean Air Act).

Source Category Ranking System, Review of a New Method Being Developed to Prioritize Sources of Air Toxics Emissions for Regulatory Analysis.

Equipment Leaks, Status Report to the Committee on the Use of Regulatory Negotiation to Improve the Current Leak Detection and Repair Regulations for Emissions from Equipment Leaks (Section 111 and 112 of the Clean Air Act).

Industrial Wastewater Facilities, Review of a Draft Control Technology Document.

Solvent Cleaners, Review of a Draft Alternative Control Technology Document.

June 8 (Thursday)—9:00 a.m.

Continuation of June 7—As Required

The dockets containing material relevant to municipal waste combustion (A–89–08) and municipal solid waste landfills (A–88–09) are located in the U.S. Environmental Protection Agency, Air Docket, Room M1500, 1st floor-Waterside Mall, 401 M Street SW., Washington, DC 20460. The dockets may be inspected between 8:30 a.m. and 3:30 p.m. on weekdays, and a reasonable fee may be charged for copying. (Pub. L. 92–463)

Date: April 18, 1989.

Don R. Clay,

Assistant Administrator for Air and Radiation.

[FR Doc. 89–9879 Filed 4–27–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review.

April 21, 1989.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0355

Title: Rate of Return Report

Form Number: FCC 492

Action: Extension

Respondents: Businesses (including small businesses)

Frequency of Responses: Quarterly.

Estimated Annual Burden: 126 Responses; 4,032 Hours.

Needs and Uses: The FCC Form 492 is filed by each local exchange carrier (LEC) or group of carriers who file individual access tariffs. The form contains rate of return information on a quarterly and cumulative basis for monitoring the access tariffs and for monitoring the maximum rate of return prescriptions. The FCC 492 is needed to enable the Commission to fulfill its regulatory responsibilities.

Federal Communications Commission

Donna R. Searcy,

Secretary.

[FR Doc. 10156 Filed 4–27–89; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–823–DR]

Major Disaster and Related Determinations; Texas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–823–DR), dated April 23, 1989, and related determinations.

DATED: April 23, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 2047,2 (202) 646–3614.

NOTICE: Notice is hereby given that, in a letter dated April 23, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.,* Pub. L. 93–288, as amended by Pub. L. 100–707), as follows:

I have determined that the damage in certain areas of the State of Texas, resulting from severe thunderstorms and flooding on March 28–29, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93–288, as amended by Pub. L. 100–707. I, therefore, declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288, as amended by Pub. L. 100–707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Robert D. Broussard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

The Counties of Cass, Cherokee, Gregg, Harrison, Marion, and Rusk for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 89–10223 Filed 4–27–89; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

April 21, 1989.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB contol numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approval collection of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will the submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received on or before May 8, 1989.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency from number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be imspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3822)

Proposed to approve under OMB delegated authority the extension, with revision, of the following report:

1. *Report title:* Regulation G Registration Statement, Deregistration Statement, and Annual Report
Agency Form Number: FR G–1, FR G–2, and FR G–4
OMB Docket Number: 7100–0011
Frequency: On occasion for the FR G–1 and FR G–2; annually for the FR G–4
Reporters: Federal and state credit unions, insurance companies, savings and loan associations, commerical and consumer credit organizations, production credit associations, small businesses, etc.
Annual Reporting Hours: 1154, (137 for the FR G–1, 5 for the FR G–2, and 1,012 for the FR G–4
Estimated Average Hours per Response: 2.5 for the FR G–1, 0.25 for the FR G–2, and 2.0 for the FR G–4
Number of Respondents: 581 (55 for the G–1, 20 for the FR G–2, and 506 for the FR G–4)

Small businesses are affected.

General Description of Report

This information collection is mandatory (in the case of FR G–2 respondents, the information collection is only mandatory if they choose to deregister) [15 U.S.C. 78g,w] and is given confidential treatment [5 U.S.C. 552(b)(4), (b)(6)], except the FR G–2, which is not given confidential treatment.

The FR G–1 is needed to elicit certain background and financial information about a lender (other than banks, brokers, or dealers) and the types and amount of credit activities engaged in with respect to stock market credit. The FR G–2 is necessary to notify the Federal Reserve System that a lender registered under Regulation G wishes to and is eligible to deregister. The FR G–4 is required annually from all lenders registered pursuant to Regulation G in order to enable the Federal Reserve to monitor the amount of stock-secured credit extended by such lenders and to aid the Federal Reserve in administering margin requirements pursuant to the Securities Exchange Act of 1934. The revision to FR G–2 is an addition of the registrant's Internal Revenue Service Identification Number, which is already reported on the other two forms.

Proposal to approve under OMB delegated authority the extension, without revision, of the following reports:

1. *Report title:* Statement of Purpose for an Extension of Credit Secured by Margin Securities by a Person Subject

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to Registration Under Regulation G
Agency Form Number: FR G-3
OMB Docket Number: 7100-0018
Frequency: On occasion (average of 20 per respondent)
Reporters: Federal and state credit unions, insurance companies, savings and loan associations, commerical and consumer credit organizations, small businesses, etc.
Annual Reporting Hours: 1,792
Estimated Average Hours per Response: 10 minutes
Number of Respondents: 560
Small businesses are affected.

General Description of Report

Repondent's obligation to reply is mandatory [15 U.S.C 78g,w] and is not given confidential treatment.

This report is required to ensure that a lender does not extend credit to purchase, or carry securities in excess of the amount permitted by the Federal Reserve Board pursuant to Regulation G and to ensure that a borrower does not violate Regulation X.

2. *Report title:* Statement of Purpose for an Extension of Credit by a Creditor
Agency Form Number: FR T-4
OMB Docket Number: 7100-0019
Frequency: On occasion
Reporters: Individuals, broker and dealers
Annual Reporting Hours: 117
Estimated Average Hours per Response: 10 minutes
Number of Respondents: 700
Small businesses are not affected.

General Description of Report:

Respondent's obligation to reply is mandatory [15 U.S.C. 78g,w] and is not given confidential treatment.

This report is required in order to have a written record of the amount of "non-purpose" credit being extended, the purpose for which the money is to be used, and a listing and valuation of collateral, as well as to ensure that broker/dealers comply with the law.

Board of Governors of the Federal Reserve System, April 21, 1989
William W. Wiles,
Secretary of the Board.
[FR Doc. 89-10206 Filed 4-27-89; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). Since the last scheduled publication for April 21, 1989, the following packages were submitted to OMB:

(For a copy of the packages below, call the FSA Reports Clearance Officer on 202 252-5598.)

(0970-0051) Request for Extension of Approval of Information Collection Requirements Contained in Regulations that Implement the Child Support Enforcement Amendments of 1984.

The information prescribed in the information collection requirements is used by custodial parents, absent parent and the State for a variety of purposes. There are two collection components in this submittal:

(1) Title IV-D State Plan Amendments. Number of Respondents: 54, *Frequency of Response:* 54, *Average Burden of Response:* 43 Minutes, *Estimated Annual Burden:* 38.7 hours.

(2) Notification to the Public of IV-D Services Number of Respondents: 54, *Frequency of Response* 220, *Average Burden per Response:* 400 minutes, *Estimated Annual Burden Hours:* 1,467.

(0970-0065) Provision of Services in Interstate IV-D Cases

This collection continues regulation 45 CFR 303.7 which requires State IV-D Agencies to transmit child support information on either URESA Action Request or Interstate Child Support transmittal form. Respondents will be state agencies involved in child support activities. *Number of Respondents:* 54, *Frequency of Response:* 2,400, *Average Burden per Response:* 2, *Estimated Annual Burden:* 259,200 hours.

OMB Desk Clearance Office: Justin Kopca. Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3201, 1725 17th Street, NW. Washington, DC 20503.

Dated: April 4, 1989.

Sylvia E. Vela,
Deputy Associate Administrator, Office of Management and Information Systems, FSA.
[FR Doc. 89-10157 Filed 4-27-89; 8:45 am]
BILLING CODE 4150-04-M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Department of Health and Human Services (HHS) previously published a list of information collection packages it submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (Pub. L. 96-511). The Health Care Financing Administration (HCFA), a component of HHS, now publishes its own notices as the information collection requirements are submitted to OMB. The HCFA has submitted the following requirements to OMB since the last HCFA list was published.

1. *Type of Request:* Reinstatement; *Title of Information Collection:* Pacemaker Related Data; *Form Number:* HCFA-496; *Frequency:* On occasion; *Respondents:* Businesses or other for profit; *Estimated Number of Responses:* 97,500; *Average Hours per Response:* .16; *Total Estimated Burden Hours:* 15,600.

2. *Type of Request:* New; *Title of Information Collection:* Medicare Influenza Vaccine Demonstration; *Form Number:* HCFA-R-127; *Frequency:* Annually; *Respondents:* Individuals or households, businesses or other for profit, non-profit institutions, and small businesses or organizations; *Estimated Number of Responses:* 28,742; *Average Hours per Response:* .16; *Total Estimated Burden Hours:* 4,790.

This request is for a survey of Medicare beneficiaries regarding influenza immunization status. The survey is part of a demonstration project to determine whether providing influenza immunization to Medicare Part B-enrolled beneficiaries is a cost-effective benefit. The survey will be administered by telephone to a sample of Medicare beneficiaries and by mail to nursing homes where beneficiaries reside. The HCFA has requested expedited review by the Office of Management and Budget. In keeping with the requirements for expeditied reviews, we are attaching a copy of the survey instrument. The public has seven (7) days from date of this notice to comment on this information collection.

3. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Carrier Appeals Report; *Form Number:* HCFA-2590; *Frequency:* Monthly; *Respondents:* Businesses or ohter for profit; *Estimated Number of Responses:* 600; *Average Hours per Response:* 2; *Total Estimated Burden Hours:* 1,200.

4. *Type of Request:* Revision; *Title of Information Collection:* Hospital and Hospital Health Care Complex Cost Report; *Form Number:* HCFA-2552; *Frequency:* Annually; *Respondents:* Businesses or other for profit, non-profit institutions, and small businesses or organizations; *Estimated Number of Responses:* 7,000; *Average Hours per Response:* 54 (Reporting) and 577.5 (Recordkeeping); *Total Estimated Burden Hours:* 380,000 (Reporting) and 4,053,000 (Recordkeeping) = 4,433,560 total hours.

5. *Type of Request:* Extension; *Title of Information Collection:* Payment Adjustment for Sole Community Hospitals, 42 CFR 412.92; *Form Number:* HCFA-R-79; *Frequency:* On occasion; *Respondents:* State/local governments; *Estimated Number of Responses:* 30; *Average Hours per Response:* 4; *Total Estimated Burden Hours:* 120.

6. *Type of Request:* Reinstatement; *Title of Information Collection:* Departmental Clinical Laboratory Survey Report Forum; *Form Number:* HCFA-1557; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 5,500; *Average Hours per Response:* 2; *Total Estimated Burden Hours:* 11,000.

7. *Type of Request:* New; *Title of Information Collection:* Pilot Test of a Home Health Agency Functional Assessment Instrument; *Form Number:* HCFA-R-128; *Frequency:* On occasion; *Respondents:* State/local governments; *Estimated Number of Responses:* 240; *Average Hours per Response:* .18; *Total Estimated Burden Hours:* 431.

8. *Type of Request: Revision; Title of Information Collection:* Survey Report for Examination and Treatment for Emergency Medical Conditions and Women in Active Labor; *Form Number:* HCFA-595; *Frequency:* On occasion; *Respondents:* Individuals or households, State/local governments, Federal agencies or employees, and non-profit institutions; *Estimated Number of Responses:* 1,900; *Average Hours per Response:* .5; *Total Estimated Burden Hours:* 950.

Additional Information or Comments: Call the Reports Clearance Officer on 301-966-2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Herron, New Executive Office Building, Room 3208, Washington, DC 20503.

Date: April 24, 1989.

Louis B. Hays,
Acting Administrator, Health Care Financing Administration.

Survey Questions for Medicare Beneficiaries

Ask to speak with person on label. If not available, record status code XX and schedule callback.

If person on label cannot be interviewed (e.g., bedridden, deaf), you may interview another member of the household (a proxy) about the person.

Hello, I'm ——— calling from Abt Associates, a research firm in Cambridge, Massachusetts. We are working on a study about flu shots for the Health Care Financing Administration, Department of Health and Human Services. We are calling a random sample of people who have Medicare. Your cooperation is voluntary and will not affect your Medicare or any other government benefits. The information you give will be kept strictly confidential.

1. Did (you/person) have a flu shot during the past fall or winter?
   - Yes (skip to Q. 3) 1
   - No 2
   - Don't know/refused (terminate)

2. There are many reasons why people do not get flu shots. Please tell me whether each of the reasons I'm going to read was important for (you/person). Was read item a reason?

	Yes	No	DK/Ref
(You were/person) was healthy and didn't think (you/he/she) needed it	1	2	3
(You were/person) was worried about the side effects	1	2	3
(Your/the person's) doctor did not recommend it	1	2	3
(You/person) didn't want to spend the money	1	2	3
(You don't/person) doesn't like shots or needles	1	2	3
(You/person) never thought about it	1	2	3
(You/person) had a flu shot in the past and got the flu anyway	1	2	3
(You/person) heard that the shot can actually give you the flu	1	2	3
(You/person) heard that you can still get the flu even after you have the shot	1	2	3
(You/person) had a flu shot in the past and didn't think you needed another one	1	2	3
Some other reason (specify) (skip to Q. 5)	1	2	3

3. Where did (you/person) get (your/his/her) flu shot? If necessary, read list. Circle one response.
   - Private practice doctor's office 1
   - Health Maintenance Organization (HMO) 2
   - Clinic run by a government health department 3
   - At a hospital while you were an overnight patient 4
   - At a hospital, but not during an overnight stay 5
   - At a nursing home where (you/person) were staying 6
   - At home by a visiting nurse 7
   - Somewhere else (specify) 8
   - Don't know/refused 9

4. (Were you/Was person) traveling, away on vacation, or living away from home when (you/he/she) got the flu shot?
   - Yes 1
   - No 2
   - Don't know/refused 3

5. Did (you/person) get a flu shot last year, that if for the winter of 198x to 198x?
   - Yes 1
   - No 2
   - Don't know/refused 3

6. Did (you/person) ever get a vaccine for pneumonia?
   - Yes 1
   - No 2
   - Don't know/refused 3

7. How many cigarettes do you smoke daily?
   - None 1
   - 1-19 2
   - 20 or more 3

8. Have (you/person) ever been told by a doctor that (you/person) have a chronic heart condition such as a heart attack, a rheumatic heart condition, high blood pressure, or hardening of the arteries?
   - Yes 1
   - No 2
   - Don't know/refused 3

9. Do (you/person) have asthma, emphysema, tuberculosis, or chronic bronchitis?
   - Yes 1
   - No 2
   - Don't know/refused 3

10. Do (you/person) have diabetes?
    - Yes 1
    - No 2
    - Don't know/refused 3

11. Do (you/person) have a chronic kidney/renal disease?
    - Yes 1
    - No 2
    - Don't know/refused 3

12. Are (you/person) immunosuppressed from any cause, including chemotherapy malignancy, organ transplants, or other disease causing depression in immunity?
    - Yes 1
    - No 2
    - Don't know/refused 3

Closing: That's all the questions. Thank you very much for your time.

Interviewer: Interview was conducted with: Circle one
- Person on label 1
- Proxy 2

Note.—Public reporting burden for this collection of information is estimated to average ten minute per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Office of Financial Management and Procurement, HCFA, P.O. Box 26684, Baltimore, MD 21207; and to the Office of Management and Budget, Paper-

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work Reduction Project (0938-xxxx) Washington, DC 20503.

Mail Survey of Nursing Homes and Residential Facilities

Survey addressed to Administrator of Institution

Dear ———:

The Health Care Financing Administration of the Department of Health and Human Services is conducting a study of influenza immunization among Medicare beneficiaries. All the nursing homes and residential facilities in several parts of the country, including your area, are being surveyed as part of this study. Enclosed is a survey concerning the Medicare beneficiaries currently served in your institution. We would appreciate your cooperation in answering this survey and returning it as quickly as possible. Your cooperation is voluntary and will not affect your Medicare or Medicaid payments or any other government programs. The information you give will be kept strictly confidential.

If you have any questions, please call the survey researchers, Abt Associates Inc., at 1-800- - .

Thank you for your cooperation.

1. How many beds or living units are in your facility?

2. Does your facility have a written policy regarding the encouragement of administration of influenza vaccine to all residents?

Yes

No

Don't Know

3. How many Medicare-eligible persons are currently served in your facility?

4. Of the Part B Medicare beneficiaries in your facility today, what percent received a flu shot within the facility between August of 198x and March of 198x?

Public reporting burden for this collection of information is estimated to average five minute per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Office of Financial Management and Procurement, HCFA, P.O. Box 26684, Baltimore, MD 21207; and to the Office of Management and Budget, Paperwork Reduction Project (0938-xxxx) Washington, DC 20503.

FR Doc. 89-10251 Filed 4-27-89; 8:45 am]

BILLING CODE 4120-03-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on April 21, 1989.

(Call Reports Clearance Officer on 202-245-2100 for copies of package)

1. Targeted Outreach Demonstration Project—AIDS Initial Assessment—0930-0124—The Targeted Outreach Demonstration Project is designed to obtain information on intravenous drug use and sexual behaviors of populations at high risk of AIDS and to test the effectiveness of community-based outreach and intervention strategies in reducing the spread of AIDS among IV drug users, their sexual partners, and prostitutes. This revision is based on improvements and modifications gained through field experience. Respondents: Individuals or households; Number of Respondents: 12,000; Number of Responses per Respondent: 1; Average Burden per Response: 1 hour; Estimated Annual Burden: 12,000 hours.

2. Nutrition Labeling—0910-0177—The large number of processed foods makes it difficult for consumers to choose foods that provide nutrients necessary for good health. Nutrition labeling of processed foods assists (1) the consumer in making appropriate choices, and (2) the manufacturer in marketing nutritious foods. The nutrition labeling regulations place an information burden on manufacturers who provide such labeling. Respondents: Businesses or other for-profit, small businesses or organizations; Number of Respondents: 3,495; Number of Responses per Respondent: 12.95; Average Burden per Response: 107.42 hours; Estimated Annual Burden: 4,860,585 hours.

3. Design and Pilot Test of a Survey of Visits to Hospital Outpatient and Emergency Departments—0920-0233—the purpose of this project is to develop the design for a national survey of patient visits to hospital outpatient and emergency departments. The resulting design will be tested and evaluated through actual data collection in four geographic areas. Results will be used to implement a national survey of hosptial ambulatory services in the future. Respondents: Businesses or other for-profit, non-profit institutions; Number of Respondents: 40; Number of Responses per Respondent: 304; Average Burden per Response: .0575 hours; Estimated Annual Burden: 699 hours.

4. Cosmetic Risk Assessment Exposure Survey—New—A data base is needed on cosmetic usage practices in the United States that can be used by Food and Drug Administration scientists to conduct scientific risk assessments of the possible health effects due to ingredients or contaminants in cosmetic products. Survey information will be used for constructing exposure estimates. Respondents: Individuals or households; Annual Reporting Burden: Since this is a concept clearance, definitive burden estimates are not yet available. These estimates will be provided when the study design and questionnaire are final and the final clearance request is submitted.

5. Basic OCC National Knowledge, Attitude and Behavior Survey—Addendum—0925-0321—Approval is requested for specific variable items for the Basic OCC National Knowledge, Attitude and Behavior Survey. The variable questions will assist the Office of Cancer Communications in planning related to the Clinical Trials Accrual Education Program and the Mammography Education Program. Respondents: Individuals or households; Number of Respondents: 3,763; Number of Responses per Respondent: 1.11; Average Burden per Response: .263 hours; Estimated Annual Burden: 990 hours.

OMB Desk Officer: Shannah Koss McCallums.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Date: April 24, 1989.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89-10215 Filed 4-27-89; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Pub. L. 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on April 21, 1989.

(Call Reports Clearance Officer on (301) 965-4149 for copies of package)

1. Explanation of Determination—0960-0438—The information collected on the form SSA-4268 is used by the Social Security Administration (SSA) to document the claims folder in a claim for disability benefits, and to notify the claimant of the basis for our determination regarding those benefits. The respondents are employees of the State Disability Determination Services who make disability determinations for SSA.

Number of Respondents: 54

Frequency of Response: 77,375

Average Burden Per Response: 20 minutes

Estimated Annual Burden: 1,392,750 hours

OMB Desk Officer: Justin Kopca

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Date: April 24, 1989.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 89-10211 Filed 4-27-89; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-010-09-4410-13; GP9-189]

Lakeview District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: A meeting of the Lakeview District Grazing Advisory Board is scheduled for May 19, 1989. The meeting will begin at 10:00 a.m. in the Lakeview District conference room at 1000 South Ninth in Lakeview and is open to the public.

The purpose of the meeting will be to introduce new board members and elect a chairman for the new term. There will be a discussion of the grazing mitigation measures indentified in the Warner Lakes Plan Amendment for Wetlands and Associated Uplands and other key issues pertinent to the Lakeview District range program.

FOR FURTHER INFORMATION CONTACT: Renee Snyder, Public Affairs Officer, Telephone (503) 947-2177.

Terry H. Sodoroff,

District Manager

[FR Doc. 89-10166 Filed 4-27-89; 8:45 am]

BILLING CODE 4310-33-M

National Park Service

Availability of Plan of Operations and Environmental Assessment; Lake Meredith Recreation Area, TX

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Phillips Petroleum Company a Plan of Operations for plugging and abandonment of its Lee Bivins No. 2W Well, located in the Sanford-Yake Unit of Lake Meredith Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Lake Meredith Recreation Area, 419 E. Broadway, Fritch, Texas; and the Southwest Regional Office, National Park Service, 1220 South St. Francis Drive, Room 347, Santa Fe, New Mexico. Copies are available from the Southwest Regional Office, Post Office Box 728, Santa Fe, New Mexico 87504-0728, and will be sent upon request.

Date: April 17, 1989.

John E. Cook,

Regional Director, Southwest Region.

[FR Doc. 89-10176 Filed 4-27-89; 8:45 am]

BILLING CODE 4310-70-M

General Management Plan; Death Valley National Monument, California and Nevada; Record of Decision

Summary: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and specifically to regulations promulgated by the Council on Environmental Quality at 40 CFR 1505.2, the Department of the Interior, National Park Service has prepared and approved a Record of Decision on the Final Environmental Statement/General Management Plan for Death Valley National Monument, Inyo and San Bernardino Counties, California and Esmeralda and Nye Counties, Nevada. The National Park Service will implement the Proposed Plan, as described in the Draft Environmental Statement/General Management Plan, issued in April 1988, and as modified and corrected in the Final Environmental Statement/General Management Plan, issued in December 1988.

Copies of the Record of Decision may be obtained either from the Superintendent, Death Valley National Monument, Death Valley, CA 92328; or the Western Regional Office, National Park Service, P.O. Box 36063, San Francisco, CA 94102.

Date: April 14, 1989.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 89-10175 Filed 4-27-89; 8:45 am]

BILLING CODE 4310-70-M

[Order No. 6, Amdt. 1]

Superintendents, et al., ; Delegation of Authority

Southeast Region Order No. 6, approved August 30, 1977, and published in the **Federal Register** of November 17, 1977, (42 FR 59428), set forth in section 2 certain authority and limitations on authority to officers and employees. This amendment changes paragraphs (h), (i), (k), and (l) to read as follows:

Section 2. Delegation.* * *

(h), Chief, Land Resources Division. The Chief, Land Resources Division, is authorized to execute the land acquisition program, including contracting for acquisition of lands and related properties, and acceptance of offers to sell to, or exchange with the United States, lands or interests in lands, and to execute all necessary agreements and conveyances incidental thereto; to accept deeds conveying to the United States lands and interests in lands; to approve on behalf of the National Park Service offers of settlement in condemnation cases; to provide relocation assistance; and to approve claims for reimbursement under Pub. L. 91-646, as amended.

(i) Field Land Resources Officers. All Field Land Resources Officers are authorized to execute their land acquisition program, including contracting for acquisition of lands and

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related properties, and acceptance of offers to sell to, or exchange with the United States lands or interests in land when the amount involved does not exceed $250,000; accept deeds conveying to the United States lands or interests in lands; approve claims for reimbursement under Pub. L. 91-646, as amended, when the amount involved does not exceed $20,000.

(k) Delete

(l) Delete

Date: March 2, 1989.

C.W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 89-10177 Filed 4-27-89; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

AGENCY FOR INTERNATIONAL DEVELOPMENT

Housing Guaranty Program; Notice of Investment Opportunity

The Agency for International Development ("A.I.D.") has authorized the guaranty of a loan for the Government of Cote d'Ivoire as part of A.I.D.'s development assistance program. The proceeds will be used to refinance obligations owed by the Government of Cote d'Ivoire in connection with the A.I.D. Housing Guaranty Program. At this time, the Government of the Cote d'Ivoire has authorized A.I.D. to request proposals from eligible lenders for a refinancing loan under this program of $12.308 Million Dollars ($12,308,000). The name and address of the representatives of the Borrower to be contacted by interesed U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Government of the Cote d'Ivoire

Project: 681-HF-002—$12,308,000

Attention: Mr. Leon Naka, Director General, Caisse Autonome d'Amortissement, 01 BP 670, Abidjan 01, Republique de Cote d'Ivoire

Telex No.: 22882 CAA-CI or 23798 CAMOR-CI

Telephone No.: (225) 320611 or 325146.

Interested lenders should submit their bids to the Borrower's representative no later than May 9, 1989. Bids should be received by 8:00 a.m. Abidjan time on Tuesday, May 9, 1989, and should remain open for at least 72 hours. The Borrower reserves the right to reject all bids received.

Bids should also be sent to the following:

Michael G. Kitay, Esq., Agency for International Development, GC/PRE, Room 3328 N. S., Washington, DC 20523.

Telephone: (202) 647-6505.

Telex No.: 892703 AID WSA.

Telefax No.: (202) 663-2552 (preferred communication).

Mr. Stephen Giddings, Assistant Director/West Africa, RHUDO/Abidjan, c/o American Embassy, Department of State, Washington, DC 20520-2010, (street address: 5 Rue Jesse Owens), 01 B.P. 1712, Abidjan, Ivory Coast, Telephone No.: (225)325513 or 325469.

For your information, the bid must include the following terms:

1. *Amount:* U.S. $12,308 million.

2. *Term:* 9 years.

3. *Interest:* Option of either fixed or variable rate, payable semi-annually on February 28 and August 31 of each year, commencing with the first such date to occur after the execution of the loan agreement.

4. *Repayment of Principal:* In eight (8) equal and consecutive semi-annual installments, payable on February 28 and August 31 of each year, commencing on February 28, 1995, and ending on August 31, 1998.

5. *Fees:* None.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D.

The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the interest rate may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of lenders and other aspects of this loan or the A.I.D. Housing Guaranty Program can be obtained from: Peter M. Kimm, Director, Office of Housing and Urban Programs, Agency for International Development, Room 401, SA-2, Washington, DC 20523-0214, Telephone: (202) 663-2530.

Date: April 26, 1989.

William Gelman,

Assistant Director, Office of Housing and Urban Programs, Agency for International Development.

[FR Doc. 89-10381 Filed 4-27-89; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-1 (Sub-No. 228X)]

Chicago and North Western Transportation Co.; Abandonment Exemption in Converse and Natrona Counties, WY; Corrected Notice of Exemption [1]

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 57-mile line of railroad between milepost 533.0 near Orin to milepost 590.0 near Sean Cohee, in Converse and Natrona Counties, WY.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on the line (or a State or local government entity action on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, an employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 13, 1989 (unless stayed pending reconsideration). Petitions to stay that

[1] The notice of exemption served and published in the **Federal Register** on April 14, 1989 (54 **Federal Register** 15030-15031) contained an error in the description of the number of miles of line that are being abandoned. The correct mileage is 57, not 5.70.

do not involve environmental issues,[2] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by April 24, 1989.[4] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by May 3, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Mack H. Shumate, Jr., Chicago and North Western Transportation Company, One North Western Center, Chicago, IL 60606.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by April 18, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275-7316. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 24, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-10221 Filed 4-27-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 8, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 8, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 17th day of April 1989.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
AT&T Network Systems, Microelectronics (CWA).	Radford, VA	4/17/89	3/28/89	22,751	Telecommunication Components.
Aberdeen Sportswear, Inc. (ACTWU)	Trenton, NJ	4/17/89	3/30/89	22,752	Men's Outerwear.
Adobe Resources Corporation (Workers)	Midland, TX	4/17/89	3/13/89	22,753	Oil & Gas.
Ambix Laboratories (Workers)	East Rutherford, NJ	4/17/89	3/29/89	22,754	Pharmaceutical & Cosmetics.
Amperex Electronic Co. (IUE)	Hicksville, NY	4/17/89	3/31/89	22,755	Vacuum Tubes.
Axem Resources, Inc. (Workers)	Denver, CO	4/17/89	3/27/89	22,756	Oil & Gas.
Beef America, Inc. (Workers)	Denison, NE	4/17/89	3/27/89	22,757	Beef & Pork.
Bethlehem Steel Corporation (USWA)	Williamsport, PA	4/17/89	3/27/89	22,758	Wire Rope Products.
Blum & Fink, Inc. (UFCW)	New York, NY	4/17/89	3/29/88	22,759	Jackets & Coats.
Bright Star Industries (IAMAW)	Clifton, NY	4/17/89	4/3/89	22,760	Flashlights, Lanterns & Batteries.
Burwood Products Co. (UAW)	Traverse City, MI	4/17/89	3/27/89	22,761	Clocks & Wall Furnishings.
Cranston Fabrics (Workers)	New York, NY	4/17/89	3/22/89	22,762	Cotton & Synthetic Yarn.
Dana Corp., Spicer Axle Div. (UAW)	Fort Wayne, IN	4/17/89	3/27/89	22,763	Axle Carriers for Trucks.
Decatur Drilling, Co. (Workers)	Decatur, IL	4/17/89	3/20/89	22,764	Oil & Gas.
Dialight Corporation (Workers)	Manasquan, NJ	4/17/89	3/27/89	22,765	Electronic Hardware & Accessories.
Difini Sportswear, Inc. (ACTWU)	Bronx, NY	4/17/89	3/23/89	22,766	Men's Pants.
Eastern Knitting Mills	Philadelphia, PA	4/17/89	3/28/89	22,767	Men & Women's Sweaters.
Eaton Corporation, Specialty Casting Div. (UAW).	Marshall, MI	4/17/89	3/15/89	22,768	Ford Engine Components.
Engineered Yarns, Inc. (Company)	Coventry, RI	4/17/89	3/31/89	22,769	Yarn.
Excelled Sheepskin & Leather Coats (AC&TWU).	Edison, NJ	4/17/89	3/30/89	22,770	Coats.

[2] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C.2d 400 (1988). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[3] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

[4] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

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APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Florence Mining Co. (UMWA)	Indiana, PA	4/17/89	3/29/89	22,771	Bituminous Coal.
Four Star Plastics (ILGWU)	Jersey City, NJ	4/17/89	3/28/89	22,772	Molding Plastic Products.
GLI—United Plastics (Workers)	Madison Heights, MI	4/17/89	3/31/89	22,773	Plastic.
Halliburton Logging Services, Inc. (Company)	Houston, TX	4/17/89	3/20/89	22,774	Wireline Logging & Perforating Equipment
Harrell Exploration Co. (Workers)	Denver, CO	4/17/89	4/3/89	22,775	Oil & Gas.
Heinemann Electric Co. (IBEW)	Lawrenceville, NJ	4/17/89	3/23/89	22,776	Circuit Breakers.
Hummelstown Mfg.—(Workers)	Elizabethtown, PA	4/17/89	3/29/89	22,777	Children's Dresses, Slacks & Blouses.
ICO Positive Seal (Workers)	Odessa, TX	4/17/89	4/17/89	22,778	Oil & Gas.
ICO Spincote (Workers)	Odessa, TX	4/17/89	4/17/89	22,779	Oil & Gas.
Jaclyn, Inc. (LGPNWU)	West New York, NY	4/17/89	3/29/89	22,780	Handbags.
LTV Energy Products (Workers)	Bradford, PA	4/17/89	3/27/89	22,781	Oil & Gas.
Lawrence-Cannon Drilling, Inc. (Workers)	Abilene, TX	4/17/89	3/28/89	22,782	Oil & Gas.
Loadcraft Cooper (Workers)	Brady, TX	4/17/89	3/27/89	22,783	Container Chasses.
Luxury Braid Co. (Company)	Elizabeth, NJ	4/17/89	3/27/89	22,784	Decorative Braids for Shoes.
Magic Marker Ind./Dynamics Ind	Trenton, NJ	4/17/89	3/20/89	22,785	Pens.
Nabisco Brands, Inc. (BC&TW)	Fair Lawn, NJ	4/17/89	3/31/89	22,786	Cookies & Crackers.
O'Donnell Mining Co. (UMWA)	Indiana, PA	4/17/89	2/17/89	22,787	Coal.
Pyramid Drilling Co. (Workers)	Abilene, TX	4/17/89	3/22/89	22,788	Drilling.
R & H Knitting Mills, Inc. (Workers)	Brooklyn, NY	3/25/89	4/17/89	22,789	Knit Sportswear.
R.L.D. Dress (ILGWU)	Cadillac, MI	4/17/89	3/21/89	22,790	Ladies' Dresses & Suits.
Spain Construction (Workers)	St. Elmo, IL	4/17/89	3/28/89	22,791	Oil & Gas.
St. Mary Mfg. Corp. (UE)	N. Tonawanda, NY	4/17/89	3/23/89	22,792	Machine Equipment.
Technical Engineering (Workers)	Ypsilanti, MI	4/17/89	3/27/89	22,793	Employment service.
Texas Instruments, Semiconductor Div. (Workers).	Midland, TX	4/17/89	3/31/89	22,794	Semiconductors.
Textron Lycoming (UAW)	Stratford, CT	4/17/89	3/29/89	22,795	Engines.
Trend International limited (Company)	Denver, CO	4/17/89	3/21/89	22,796	Oil & Gas.
U.S. Enertex, Inc. & Xytec, Inc. (Workers)	Farmington, NM	4/17/89	3/27/89	22,797	Oil & Gas.
Warren Insulation Co. Inc. (Workers)	Hays, KS	4/17/89	3/27/89	22,798	Installation for Tanks, Heaters & Pipes.
Western Atlas International, Atlas Wireline Div. (Workers).	Indiana, PA	4/17/89	3/13/89	22,799	Oil & Gas.
C.E. Natco (Workers)	Williston, ND	11/18/88	11/1/88	[1] 21,696	Oilfield Services.

[1] Investigation reopened.

[FR Doc. 89-10217 Filed 4-27-89; 8:45 am]
BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modification to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I
Alabama:
AL89-8 (Jan. 6, 1989) ..... pp. 16-17
Delaware:
DE89-2 (Jan. 6, 1989) ..... p. 95
Maryland:
MD89-1 (Jan. 6, 1989) ..... pp. 412-414
NC89-7 (Jan. 6, 1989) ..... p. 533
North Carolina:
NC89-11 (Jan. 6, 1989) ..... p. 544
New Jersey:
NJ89-2 (Jan. 6, 1989) ..... p. 617
West Virginia:
WV89-2 (Jan. 6, 1989) ..... pp. 1219, 1231
Listing by Location (index) .. pp. xxv-xxviii; pp. xxx-xxxi; pp. xxxiv-xxxv; p. xxxviii.
Listing by Decision (index) .. pp. lii-lix
Volume II
Iowa:
IA89-5 (Jan. 6, 1989) ..... pp. 42-43; pp. 45-46
Michigan:
MI89-2 (Jan. 6, 1989) ..... p. 449
MI89-3 (Jan. 6, 1989) ..... pp. 564, 468-469
Missouri:
MO89-2 (Jan. 6, 1989) ..... pp. 648, 651
Ohio:
OH89-1 (Jan. 6, 1989) ..... pp. 774-786
OH89-2 (Jan. 6, 1989) ..... pp. 788-807
OH89-29 (Jan. 6, 1989) ..... pp. 870-906b
Texas:
TX89-43 (Jan. 6, 1989) ..... pp. 1110-1111
TX89-44 (Jan. 6, 1989) ..... pp. 1114-1115
TX89-46 (Jan. 6, 1989) ..... pp. 1122-1124
TX89-47 (Jan. 6, 1989) ..... pp. 1126-1127
TX89-48 (Jan. 6, 1989) ..... pp. 1130-1131
Volume III
California:
CA89-2 (Jan. 6, 1989) ..... pp. 47-48
Hawaii:
HI89-1 (Jan. 6, 1989) ..... p. 136
Nevada:
NV89-1 (Jan. 6, 1989) ..... pp. 242, 244-245
NV89-5 (Jan. 6, 1989) ..... pp. 289-290
Washington:
WA89-2 (Jan. 6, 1989) ..... pp. 390-393, 395
WA89-3 (Jan. 6, 1989) ..... p. 402
WA89-6 (Jan. 6, 1989) ..... p. 416
WA89-7 (Jan. 6, 1989) ..... p. 416
WA89-8 (Jan. 6, 1989) ..... pp. 424-425

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 25th day of April 1989.

Robert V. Setera,
Acting Director, Division of Wage Determination.

[FR Doc. 89-10281 Filed 4-27-89; 8:45 am]
BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-89-37-C]

Kilowatt Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Kilowatt Coal Company, Inc., P.O. Box 1270, Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. D-1 Mine (I.D. No. 15-16288) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Due to an uneven roof and a very soft bottom, the use of cabs or canopies would result in a diminution of safety. The cabs or canopies would:

(a) Strike and dislodge roof support;

(b) Severely limit the equipment operator's visibility;

(c) Strike or dislodge electrical cables creating an electrical fire hazard; and

(d) Limit the equipment operator's seating position causing fatigue, thereby creating potential for an accident.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 30, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,
Director, Office of Standards, Regulations and Variances.

Date: April 20, 1989

[FR Doc. 89-10218 Filed 4-27-89; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-89-41-C]

Tri-Star Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Tri-Star Mining Company, Inc., Box 42-B, Grundy, Virginia 24614 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 5 Mine (I.D. No. 15-15552) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine ranges from 41 to 46 inches in height.

3. The use of cabs or canopies would result in a diminution of safety because the cabs or canopies would:

(a) Limit the equipment operator's visibility, causing operators to lean outside of the cab or canopy exposing themselves to the danger of a roof and rib fall, as well as possibly getting

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crushed between the equipment frame and rib;

(b) Strike and dislodge roof bolts; and

(c) Strike, cut or damage electrical trailing cables resulting in an electrical hazard.

4. For these reasons, petitioner requests a modification of the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 30, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: April 20, 1989.

[FR Doc. 89-10219 Filed 4-27-89; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Bloodborne Diseases; Survey

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

SUMMARY: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35; 5 CFR Part 1320 (53 FR 16618 to 16632, May 10, 1988)), is submitting this survey to the Office of Management and Budget (OMB) for that Agency's approval. OSHA is developing a standard to protect workers from occupational exposure to bloodborne diseases, particularly the hepatitis B virus and the human immunodeficiency virus (HIV). The survey will support an assessment of the economic and technological feasibility of a standard by providing data on the population at risk, the extent of exposure, and the extent to which facilities have adopted measures to protect workers. This will be a one time only telephone survey. OSHA estimates that there will be 2869 non-response or screening only respondents requiring 5 minutes per response and 2245 completed surveys from respondents requiring an average of 30 minutes per response for an average of 16 minutes per total responses.

DATE: OSHA has requested an expedited review of this submission under the Paperwork Reduction Act to be completed by May 30, 1989.

FOR FURTHER INFORMATION CONTACT: Comments and questions about this survey or the reporting burden should be directed to Paul E. Larson, Departmental Clearance Officer, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-1301, Washington DC 20210 (telephone (202) 523-6331). Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 3001, Washington, DC 20503 (telephone (202) 395-6880). Any member of the public who wants to comment on the information collection clearance package which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

SUPPLEMENTARY INFORMATION: OSHA has requested expedited review of this submission because of the high priority the Agency has assigned the completion of the standard for bloodborne diseases. To collect the data necessary for the economic and technological assessment of the final standard, OSHA must adhere to the schedule set forth below. As a first step, OSHA is submitting the following clearance package to OMB in a request for approval of the survey contained in Appendix I.

Supporting Statement for Survey and Related Data Gathering to Support OSHA Rulemaking on Bloodborne Diseases

A. Justification

1. Necessity of Data Collection

The Office of Regulatory Analysis of the Occupational Safety and Health Administration (OSHA) is collecting data to support an assessment of the technological and economic feasibility of a standard to protect workers from occupational exposure to certain bloodborne diseases, primarily the hepatitis B virus (HBV) and the human immunodeficiency virus (HIV). Health care and certain other workers are at increased risk for certain infectious diseases due to their exposure to blood and other potentially infectious body fluids. Occupational exposure takes place in a variety of ways, the most common being injuries from needles and other sharp instruments and the contamination of open wounds from blood splash. These exposures are common, not just in medical personnel but in workers indirectly involved in the handling of potentially infectious body fluids.

OSHA has at this time no specific standard regulating exposure to biological hazards such as viruses. In 1983 the agency issued guidelines in conjunction with the Department of Health and Human Services for reducing the risks of occupational exposure to HBV. In 1988 the agency issued enforcement procedures providing uniform inspection procedures and guidelines to be followed when conducting inspections and issuing citations under section 5(a)(1) of the Act for occupational exposure to both HBV and HIV.

OSHA has developed a proposed section 6(b) rule to protect workers from bloodborne diseases. The proposal includes provisions for safe work practices, personal protective equipment, training, post-exposure protocol and, in the case of HBV, a vaccination program.

OSHA's Congressional mandate stipulates that the agency carefully design and study its regulatory proposals. Section 6(b)(5) of the OSHA Act 2d U.S.C. 655 (b)(5) mandates that regulations promulgated by the Agency shall most adequately assure worker safety and health "to the extent feasible on the basis of the best available evidence." They are to be based on "research and the latest available scientific data." Section 6(f) of the Act requires regulations to be justified by "substantial evidence in the record" and authorizes the Secretary of Labor "to enter into contracts, agreements or other arrangements with appropriate public agencies or private organizations for the purposes of conducting studies related to his responsibility under the Act." The courts have endorsed the view that technological and economic factors affect the feasibility of proposed regulations. Thus, OSHA is obligated to gather data on the technological feasibility, cost of compliance, and economic consequences of future standards.

Executive Order 12291 reiterates this obligation by requiring the preparation of preliminary and final Regulatory Impact Analyses for each major rule. The Agency must analyze the potential benefits and costs of the rule and alternative approaches. The Regulatory Impact Analysis may be combined with the analysis required by the Regulatory Flexibility Act. This Act specifically requires an analysis that describes the "impact of the proposed rule on small entities" and significant regulatory alternatives that "take into account the resources available to small entities."

In order to fulfill the Congressional and Presidential mandates and to better evaluate the economic and technological feasibility of the final OSHA standard, OSHA requires a data base that describes current industry practices and identifies situations where potential hazards exist. Thus, in accordance with section 6 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 655, OSHA is planning to gather statistically accurate data through a survey to assess the extent to which the various types of facilities affected have already implemented infection control measures to protect workers from these infectious diseases and the direct and indirect costs associated with each of these measures. As discussed below, none of the available data sources are adequate for this purpose.

To estimate accurately the cost of the standard, data are needed on baseline compliance rates by facility for specific provisions of the standard. OSHA also needs an estimate of the proportion of each type of facility that is at various levels of compliance for each provision of the standard. Currently the data available for estimating the extent to which facilities have adopted measures to protect workers from bloodborne pathogens is extremely limited or outdated. In addition, most of the data available to OSHA are not based on a random sample, and thus their accuracy cannot be judged. The data that do exist are for the most part over a year old, and are mostly from large, urban hospitals in areas which report a high incidence of HBV and HIV infection. In some facility types, notably physicians' offices, there are almost no data on current compliance levels. Moreover, those on compliance that exist do not allow an estimate of the extent to which a facility may have adopted measures which would, at least in part, meet the requirements of the proposed standards.

In addition to estimates of compliance rates, data are needed on a variety of specific aspects of a facility's operation. For example, data on the number of incidents of employee exposure to blood or materials contaminated with blood are needed to estimate the cost of the post-exposure protocol. All existing data on exposure rates are for hospitals or atypical facilities. Similarly, facility-specific data are needed to estimate the number of workers that are at risk.

A timetable for the survey is presented in Figure A-1. The timetable shows that OSHA is attempting to complete the survey within a short period of time in order to permit completion of the final regulatory analysis in conjunction with the final rule. The schedule currently calls for completion of the bulk of the survey effort within a 10-week period. Therefore, we request that an expedited review be performed by OMB.

2. Uses of the Information

The data gathered through this survey will be used by OSHA to make estimates of the direct and indirect costs of the various provisions for safe work practices, personal protective equipment, training, post-exposure follow up and HBV vaccination. The information gathered from all of the data collection efforts will be used by OSHA to prepare a final Regulatory Impact Analysis (RIA) for the final rule. Executive Order 12291 requires preparation of an RIA for each major rule. In an RIA, the Agency must assess the potential benefits and costs of the rule and of alternative approaches.

The discussion below describes in detail the data uses for responses to each set of questions in the survey instrument.

A. *Introduction and Collection of Identification Data.* The first elements of the survey instrument describe the telephone survey in general and determine whether the respondent is in the facility type anticipated by the survey design. If the respondent is not in the anticipated facility type, the survey will be concluded.

Figure A-1—*Schedule for Design and Completion*

Complete design of survey instrument and submit information collection plan to OMB.	April 15, 1989.
Publish Federal Register notice of survey submission to OMB.	April 15, 1989.
Obtain sampling frames for each sample stratum.	April 15, 1989.
Receive OMB approval of survey (expedited).	May 15, 1989.
Mail notification letters to survey targets.	May 16, 1989.
Begin telephone interviewing.	June 1, 1989.
Complete telephone interviewing.	July 1, 1989.
Perform data tabulations.....	July 15, 1989.
Integrate survey results into a draft final report.	August 1, 1989.
Respond to comments and submit final report.	August 15, 1989.

B. *Data Collection on Types of Activities and Employment.* The next questions identify the size of the facility in terms of revenue, specific services performed and employment. This section also collects information on the rate of job turnover and growth in employment in the facilities. These factors have an important effect on the cost of the training and the HBV vaccination program aspects of the proposal.

C. *Questions on Infection Control Policies.* This set of questions identifies whether the facility has written infection control policies and the general nature of those policies. The type of policy will provide a general indication of the facility's compliance level and a quality control check on later responses.

D. *Data on Rates of Employee Exposure.* The next questions ask for estimates of the proportion of workers that are potentially exposed to blood or materials contaminated with blood. In addition, information is solicited on the number of exposed workers employed by subcontractors. The information on these workers and persons not covered by the standard, self employed workers and volunteers, will provide a more complete understanding of the distribution of exposure within facilities.

E. *Questions on Personal Protective Equipment.* The industries covered by this data collection were not included in the OSHA survey on personal protective equipment. Questions are asked here regarding the quantity of various gloves used and the extent to which this use would increase if the facility adopted a policy that followed the elements of the proposed standard. Where appropriate, additional questions are asked regarding the use of masks, goggles, shields and gowns.

F. *Questions on Medical Surveillance.* Questions are asked to determine the percentage of exposed workers who have received the HBV vaccination, the extent to which these workers are offered the HBV vaccine free of charge, and when appropriate, the proportion of workers that accept the vaccine. In addition to the vaccination program, data are collected on the facility's protocol to respond to exposure incidents. To estimate the cost of the post-exposure protocol in the proposed standard, data are collected on the number of incidents in 1988, and the types of tests the facility administers for the source patient and the exposed worker.

G. *Questions Concerning Housekeeping.* The largest potential cost associated with the housekeeping provisions of the proposal concerns the disposal of infectious waste, and needles and other sharp instruments (known in the affected industries as "sharps"). Consequently, data are collected on the quantity of potentially infectious waste now generated and the quantity of waste that would be considered potentially infectious under a policy consistent with the proposal. Data are also collected on the quantity of sharps disposal containers that are

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now used and that would be used under a policy consistent with the proposal.

H. *Questions Concerning Training.* Data are collected on the length and frequency of infection control training provided by the facility. To minimize the burden on the respondent, OSHA will estimate from other sources the reasonable length of time necessary for a training program to cover all the elements called for in the standard.

Because OSHA has not regulated infectious diseases before this time and does not have a substantial amount of experience with the types of workplaces that would be affected, the Agency needs the information that this survey would provide in order to refine the proposed standard.

3. Use of Technology to Reduce Burden

Information for this survey will be collected using a Computer Assisted Telephone Interviewing (CATI) system. Such a procedure will improve the quality and efficiency of the survey in a number of ways and will also reduce respondent burden. First, since the survey is done via telephone, there is no need for scheduling on-site visits to gather the information. This is expected to increase both the response rate and reduce the cost and time of completing interviews. Respondents are also not being asked to fill out a long questionnaire form on their operations.

Further, CATI system responses are entered directly into the computer, eliminating the need for separate recording and coding operations. Also, the computer ensures that the proper sequence of questions is followed automatically. For example, if the response to one question suggests that a follow-up question can be skipped, the computer will automatically move on. The interviewer simply reads the questions as they appear on the screen. In addition, the use of CATI allows the interviewer to omit questions that would not be relevant for the particular industry being questioned. For example, the questions regarding work with concentrated amounts of the hepatitis-B or the AIDS virus would not be asked of establishments such as corrections facilities or police departments. This system produces a smoothly flowing interview and eliminates any pauses or delays by the interviewer to enter responses by hand or to find the next question. In essence, the computer produces a questionnaire tailored to each industry sector. There are no technical or legal obstacles to these plans for reducing the burden.

4. Efforts to Identify Duplication

OSHA and its contractor, Jack Faucett Associates, Inc., have conducted an extensive literature review and have explored sources within governmental and private agencies for data that are to be collected from these surveys. The findings indicate that there are no attempts to gather, in a systematic fashion, data on the work practices and the costs of control measures to protect workers from occupationally related exposures to bloodborne diseases in the various industries and facility types affected by the rule.

5. Availability of the Data from Existing Sources

The Centers for Disease Control (CDC) is preparing a survey of hospital practices in this area. As a consequence, the sample frame proposed in this survey excludes hospitals. Instead, OSHA has suggested to CDC questions that would be useful for the Agency's analysis.

There have been several surveys estimating the level of compliance with some aspects of the standard. The Academy of General Dentistry conducted a survey in September of 1987 of practices regarding infectious disease control in private dental practices. This survey, while useful in developing the preliminary RIA, did not collect data on the usage *rate* of various personal protective equipment and other important information. Most important, it is very likely that compliance rates in dental offices have increased significantly since the AGD survey was conducted.

The Service Employees International Union (SEUI) surveyed workers at a variety of facilities to estimate compliance with various infection control practices. Like the AGD survey, the SEIU data were useful in developing the preliminary RIA but do not cover all the areas of interest. In addition, the small sample size and non-random selection of facilities limits the usefulness of these date.

There have been a number of surveys and studies analyzing the cost effectiveness of HBV vaccination programs, but these studies are limited to specific, non-randomly selected sets of hospitals.

CDC collects information regarding the incidence of bloodborne diseases in their national medial surveillance, but these data lack information regarding occupationally related exposures to these infections, and do not address current work practices or control costs.

6. Minimizing Small Employer Burden

Over 90 percent of the establishments surveyed will be small. To reduce the burden on these facilities, both the total number of facilities surveyed and the number of questions asked have been kept to a minimum.

7. Consequence of Less Frequent Collection

This is a one time only data collection. No plans exist for subsequent periodic follow up of this survey.

8. Consistency with 5 CFR 1320.6

There are no special circumstances that require the collection of information in any manner inconsistent with the guidelines in 5 CFR 1320.6.

9. Expert Review of the Survey Questionnaire

The survey design team has had discussions with industry experts in order to assess the substance of the survey questions. The clarity of instructions and other specific survey design elements have been reviewed by contractor survey experts, OSHA personnel and expert safety consultants in industry.

A. The survey instrument has been reviewed in March of 1989 by:

Dr. Hugh Conway, Office of Regulatory Analysis, OSHA 202–523–7283;
Mr. Larry Braslow, Office of Regulatory Analysis, OSHA 202–523–7283;
Mr. Robert Andrei, Office of Regulatory Analysis, OSHA 202–523–7283;
Mr. Michael Lawrence, Jack Faucett Associates, 301–961–8800;
Mr. Jack Smalligan, Jack Faucett Associates, 301–961–8800;
Dr. Arnold Greenland, Washington Consulting Group, Inc., 202–457–0233;
Mr. Richard Gruberg, Washington Consulting Group, Inc., 202–457–0233;
Dr. Robert Hiett, KCA Research, Inc., 703–642–5220.

B. No major problems arose during this review.

C. Public comment will be solicited through the Federal Register notice for the study, and through notification to the trade associations for the affected industries.

10. Confidentiality

Procedures have been developed to protect the confidentiality of the collected data. These measures are summarized below:

A. All contractor and subcontractor personnel will be given instructions regarding the importance of keeping all information they obtain from respondents confidential.

B. The data will be collected using a Computer Assisted Telephone Interviewing (CATI) system. This technology enables the survey responses to be automatically written to a computer data file. Neither the name of the company nor the respondent will appear in the data file. A listing of respondents will be kept separately in a locked file cabinet at the contractor's office, and will be destroyed when no longer needed. The respondents' names will be linked to the data base through a unique number assigned at the time of the interview.

D. Publication of study results will be of a statistical nature only. Respondents will never be identified in any publication or presentation, nor will their names be made available to other individuals or groups.

11. Sensitive Questions

The proposed survey instrument contains no questions of a sensitive nature.

12. Costs

The total one-time cost to the government of the proposed data collection is $225,000. This estimate includes costs incurred by contractors for administration and operation of the data collection, tabulation of survey results, and subsequent analyses. The total one-time cost to industry is estimated to be $27,505 (using 30 minutes per facility for complete responses and 5 minutes/facility for screening or refusals)].

13. Estimate of Respondent Reporting Burden

The survey instruments have been designed to allow the respondent to provide estimates and approximations. It is not the intent of the survey to require respondents to compile new data. Where data are requested, the survey instruments note that reference is being made to data which the respondent should be able to estimate readily or access easily.

It is estimated that 30 minutes will be required for the completion of the survey. Based on 2,245 respondents, the respondent burden for completed surveys will be approximately 1,123 hours. For non-complete responses (screening or refusals), the burden will be 222 hours. The total respondent burden will be 1,345 hours. The respondent burden is summarized below.

Type of respondent	Number of respondents	Average completion time (min.)	Total burden (hrs.)	Respondent cost [1]
Non-response or screening only	2,669	5	222	$4,540
Complete	2,245	30	1,123	22,965
Total	4,914		1,345	27,505

[1] Based on an administrative wage rate of $20.45 per hour including fringe benefits.

OSHA's 1989 information collection budget (ICB) allocated 1,500 hours to this survey. Because the survey is only expected to require 1,345 hours, the survey will not exceed the hours approved in the ICB.

15. Tabulation/Publication Timetable

The survey results will be placed in the relevant OSHA docket in whole or in part by OSHA as deemed appropriate as soon as complete computer files are finalized. Analysis of the data will appear in the final Regulatory Impact Analysis.

B. Statistical Methods

1. Characterization of the Universe and Sample

To collect data sufficient for the development of a Regulatory Impact Analysis, a probability sample will be taken from each of the 18 industries listed in Table 1.

TABLE 1—SAMPLE STRATIFICATION

Description	SIC [1]
Offices of MD's, Osteopaths, Podiatrists	8011, 8031, 8043
Offices of Dentists	8021
Nursing Homes	805
Medical and Dental Labs	807
Outpatient Care	8082, 8092, 8093
Home Health Care.	
Kidney Dialysis Centers.	
Hospices.	
Drug Treatment Centers.	
Blood Banks and Blood Plasma Centers	8099
Residential Care	8361
Personal Services	7363
Funeral Services	7261
Health Units in Industry	20–48
Research Labs	283, 8221, 8731, 8733
Non-Volunteer Fire and Rescue Services	9224
Correctional Institutions	9223
Police	9221
Medical Equipment Repair	384

[1] Based on 1987 edition of SIC manual.

This universe was reviewed carefully from the perspective of the proposed standard. OSHA considers workers in these industries to have a significant probability of exposure to bloodborne diseases. Hospitals are not included in this data collection effort since the Centers for Disease Control are planning to conduct a similar survey for this particular industry. Company health units are limited to those existing in establishments having 500 employees or more as it is believed that such facilities are most likely to have doctors and nurses employed on the premises.

Universe establishment counts and proposed sample sizes are presented in Table 2. The sources to be used for the sampling of this universe are given in Table 3. Much of this universe is derived from the Dun and Bradstreet database. For those particular industries where the Dun and Bradstreet database is weak (eg., fire and police protection) or does not allow for sampling of highly specialized establishments without extensive screening (eg., bloodbanks), alternative sources are used. During the data collection effort, OSHA intends to contact approximately 4914 firms (of which approximately 3740 are estimated to be "affected") to produce 2245 useable responses. This response rate is based on OSHA's experience with previous surveys of industry employing similar collection methodologies.

TABLE 2.—NUMBER OF FIRMS AND SAMPLE SIZES FOR INDUSTRIES TO BE SURVEYED

Description	Cell	Total facilities	Precision (RSE)	Required completes	Total No. of solicitations
Offices of MD's & DO's	01	179,405	.050	195	325
Offices of dentists	02	94,994	.050	206	343
Nursing homes	03	18,274	.050	196	327
Medical and dental labs	04	12,195	.100	124	207
Outpatient care:					
Home health care	05	7,000	.100	123	205
Hospices	06	812	.100	108	180

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TABLE 2.—NUMBER OF FIRMS AND SAMPLE SIZES FOR INDUSTRIES TO BE SURVEYED—Continued

Description	Cell	Total facilities	Precision (RSE)	Required completes	Total No. of solicitations
Drug treatment	07	3,887	.100	109	182
Dialysis clinic	08	861	.100	109	182
Blood banks and others	09	672	.075	102	170
Residential care	10	20,537	.075	123	205
Personnel services	11	1,615	.075	112	709
Funeral services	12	15,051	.100	67	112
Health units in industry	13	85,350	.075	132	293
Research labs	14	2,146	.075	120	590
Fire and rescue	15	3,174	.100	117	195
Corrections	16	2,333	.100	113	188
Police	17	8,205	.100	123	205
Medical equipment repair	18	2,967	.100	66	296
Total		457,478		2,245	4,914

Note: The total number of solicitation attempts takes into account the anticipated nonresponse rate as well as screening for out of scope units.

TABLE 3.—BLOOD BORNE DISEASES SURVEY—SAMPLING FRAMES

Industry	Source
Physicians	D&B, 1977 SIC definition for 8011 and 8031; 1987 SIC definition for 8043.
Dentists	D&B SIC 8021.
Nursing homes	NCSH 1986 Inventory of Long Term Care Places.
Medical/dental labs.	D&B SICs 8701 and 8072.
Outpatient care:	
Home health care.	D&B SIC 8082 (1987 definition).
Kidney dialysis center.	Health Care Financing Administration Directory.
Hospices	National Hospice Organization.
Durg treatment centers.	National Institute of Drug Abuse Directory.
Blood/plasma/ tissue center:	
Blood banks	National Association for Community Blood Banks List.
Plasma banks	American Blood Resources Association List.
Tissue banks	American Association of Tissue Banks Lists.
Residential care	NCHS 1986 Inventory of Long Term Care Places.
Personnel services	D&B SIC 7361 with screen.
Funeral services	D&B SIC 7261.
Research labs:	
Independent labs.	D&B SIC 7391 with screen.
Drug company labs.	D&B SIC 283 with screen.
Medical schools labs.	
Fire and rescue	National Fire Protection Association.
Corrections	American Corrections Association Directory.
Police	National Association of Police Chiefs.
Health units in industry.	D&B SICS 20–48 (>500 employees).
Medical equipment repair:	
Manufacturers	D&B SIC 384 with screen.
Repair companies.	Health Devices Source Book.

Note: Unless otherwise stated all SIC codes are according to the 1977 definitions.

The estimated total number of solicitations required to achieve the target number of completed interviews in Table 2 is based both upon the expected response rate, as well as upon the anticipated screening process required to reach an affected establishment in each particular industry. For the screening, it is anticipated that 1 in 3.8 establishments in Personnel Services (7361) has employees working with or exposed to blood products (i.e., those providing nursing services); 1 in 3.6 private research labs; 1 in 1.3 establishments for health units in industry; and 1 in 2.9 medical equipment manufacturers.

2. Information Collection Procedures

As described above, independent random samples will be selected from each industry, allowing statistical estimates to be made at levels of precision indicated by Table 2. The precision levels are expressed in terms of relative standard error (RSE), defined as the standard error of the estimate divided by the estimate. All sample sizes have been derived to achieve a confidence level of 95 percent that cost estimates as described below are within plus or minus (1.96 × RSE) of actual values. In general, smaller RSE values were assigned to industries where the expected cost of compliance to the proposed standard constitutes a large fraction of the total cost borne by all affected establishments in all industries. Conversely, larger RSE values were selected for those industries which are not expected to contribute as much to this overall compliance cost.

Sample sizes were derived as follows. The actual (i.e., incremental) cost incurred by a given establishment as a result of the proposed standard may be modeled as the product of two independent random variables. The first variable relates to the *total* compliance cost for the establishment. This includes its baseline costs (costs it currently experiences as a result of its current health safety policies) plus incremental costs (additional costs stemming from new policies it may have to implement based upon the new standard). This total cost is independent of any establishment policy or practice and derives solely from the characteristics of each facility (numbers of employees, numbers of people treated, etc.). The second variable varies between 0 and 1, and measures the establishment's current rate of non-compliance with the proposed standard. Hence, the cost to each establishment as a result of the standard may be modeled as,

$$COST_i + Y_i \times P_i;$$

where,

$COST_i$ = Incremental Cost to Establishment
Y_i = Total Compliance Cost to Establishment
P_i = Establishment's Current Percent Non-compliance to New Standard

and the variance may be expressed as,

$$Var\ (COST) = (E(Y))^2\ var\ (P) + (E(P))^2\ var(Y) + var(P)var(Y).$$

Having split the total variability in cost into two *independent* components, one stemming from the variability in facility characteristics and the other stemming from variability in policy (i.e., current compliance), sample requirements may be estimated based upon various assumptions about the distributions of each.

For the total cost variable, Y, a gamma distribution was assumed. For cells 4 through 18 the alpha (shape) parameter of the distribution was set to a value equal to 2, resulting in a coefficient of variation (CV) of 70 percent. With this value, the distribution is highly skewed and has high variability. For cells 1 through 3 (Doctors' Offices, Dental Offices, and Nursing Homes), OSHA has assumed less variability in the population, using a value equal to 3 for the shape parameter (slightly skewed with moderate variability), resulting in a CV of 57 percent.

For the non-compliance variable, P, a triangular distribution was assumed with endpoints at zero and one. The mean of the distribution (expected non-compliance rate) was determined for each industry based on expert opinion obtained by OSHA. It was assumed here that mean non-compliance would not be lower than 33 percent and would not be higher than 67 percent.

Survey estimators will be self weighting, and will take the form,

$$Y = \Sigma(WGT_i \times NRAF_i \times Response_i),$$

where; WGT is the cell's sampling weight, and NRAF is the cell's non-response adjustment factor based on a mean imputation.

Because the Dunn and Bradstreet universe counts for Physicians' and Dental Offices are approximately 25 to 30 percent lower than similar counts obtained from BLS data, estimates for cells 1 and 2 will be benchmarked to BLS 202 employment data. Such estimates will take the form of a ratio estimator:

$$Y = BLS202_{EMP} \times \Sigma(WGT_i \times NRAF_i \times Response_i) / \Sigma(WGT_i \times NRAF_i \times E_i);$$

where, $BLS202_{EMP}$ is the BLS 202 total employment estimate for the industry, and E_i is establishment employment.

The data from the survey will be collected via a Computer Assisted Telephone Interviewing (CATI) procedure. This methodology allows data to be both edited and entered into a computer database as the survey information is being collected over the telephone. Such a procedure greatly helps to reduce nonsampling error by (1) ensuring that the data for each interview are internally consistent; (2) eliminating the risk of key-punch errors arising from the transcription of hard-copy survey data into machine readable form; and by (3) ensuring that the interviewer follows the correct set of questionnaire skip patterns for each respondent.

3. Methods to Maximize Response Rates

This survey is voluntary and is expected to yield a response rate equal to 75 percent for in scope cases. The CATI collection process will help to improve the overall response rate by:

1. Allowing the direct telephone contact with the respondent.

2. Scheduling and maintaining a detailed record of all necessary call-backs.

Establishments will not be classified as non-responses until five attempts to make contact have been made. Efforts will be made to distinguish between those units that do not respond because they are out of business and those that are "refusals." Non-response adjustment procedures to be used during estimation are discussed in section B.2.

4. Testing

A pretest of nine sample units will be conducted. The information from this procedure will be used to fine-tune the survey instrument.

5. Reviewers

The statistical aspects of the survey have been reviewed by:

Dr. Hugh Conway, Office of Regulatory Analysis, Occupational Safety and Health Administration, (202) 523–9690.

Dr. Arnold Greenland, Mr. Richard Gruberg, The Washington Consulting Group, Inc., 1625 Eye Street, NW., Suite 214, Washington, DC, 20006, (202) 457–02331.

Signed at Washington, DC, this 24th day of April, 1989.

Paul E. Larson,

Departmental Clearance Officer.

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OMB Approval #_____
Expires_____
Sector:

May 16, 1989

OSHA Contact: Robert Andrei
(202) 523-7283

Dear _____:

The Occupational Safety and Health Administration (OSHA) is collecting data to support an assessment of the technological and economic feasibility of a standard to protect workers from occupational exposure to certain bloodborne diseases, primarily the hepatitis B virus (HBV) and the human immunodeficiency virus (HIV). Health care and certain other workers are at increased risk for certain infectious diseases due to their exposure to blood and other materials contaminated with blood.

OSHA has developed a preliminary rule to protect workers from bloodborne diseases and is conducting a survey to further refine its Preliminary Regulatory Impact Analysis. Your facility has been selected to participate in this survey, and an interviewer will be calling you in a few weeks to ask some questions about practices at your facility which provide workers with protection against bloodborne diseases. Participation in the survey is voluntary and all responses will be kept strictly confidential.

We estimate that it will take an average of 30 minutes per complete response for this survey including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information. If you have any comments regarding this estimate or any other aspect of this survey, including suggestions for reducing this burden, send them to the Office of Information Management, Department of Labor, Room N1301, 200 Constitution Avenue, NW, Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Will you help us to expedite our survey process by deciding who at your facility is best qualified to answer questions regarding worker protection from blood and other body fluids? Your cooperation and information will help OSHA to develop the most feasible and effective final standard.

We look forward to talking with you.

Sincerely,

_____
Assistant Secretary

OSHA, BLOODQ, APRIL 18, 1989 COMBINED

[INTERVIEWER INSTRUCTIONS: RECORD THE FOLLOWING INFORMATION]

Interviewer Number
Sequence Number
ZIP Code
Sector Code

INTRODUCTION

Hello. My name is _____ and I'm calling from KCA Research in Virginia/California. We are conducting a survey on behalf of the Occupational Safety and Health Administration of the U.S. Department of Labor to assess current practices regarding handling of potentially infectious materials.

A letter was sent to your organization explaining the project. As the letter indicated, we are interested in obtaining information about the potential for exposure to bloodborne diseases such as hepatitis-B and AIDS in organizations such as yours as well as methods of protection which are commonly used. I would like to emphasize that all responses will be kept strictly confidential and respondents will not be identified by name in any reports or data compilations submitted to OSHA.

We are interested in collecting information for your organization at (list address). Should I direct my questions to you or is there someone in the facility with whom you would prefer that I speak?

[NOTE: This introduction and the wording of the individual questions may vary with industry sector.]

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1. Our records show that your firm is a [give name of sampling sector]. Is that correct?

Yes	1------GO TO Q.3
No	2

2. What type of organization are you?

Physician's office	01
Dentist's office	02
Nursing home	03
Home health care	04
Hospice	05
Drug treatment	06
Kidney dialysis	07
Medical laboratory	08
Dental laboratory	09
Research laboratory	10
Blood/plasma/tissue center	11
Residential care elderly	12
Residential care mentally handicapped	13
Temporary agency/health workers	14
Industry health center/infirmary	15

[OMIT Q.3,4, and 5 for fire or police/corrections]

3. Which of the following best describes the type of ownership of your organization? Is it a sole proprietorship, a partnership, or an incorporated unit?

Sole proprietorship	1-------GO TO Q.5
Partnership	2-------GO TO Q.5
Government	3-------GO TO Q.8
Incorporated	4
Other	5-------GO TO Q.5
Don't know	6-------GO TO Q.5
Refused	7-------GO TO Q.5

4. Are you a for-profit corporation, not for profit, or nonprofit?

For profit	1
Not for profit	2
Non profit	3
Other (specify)	4
Don't know	5
Refused	6

5. Is your organization independent or is it affiliated with other establishments?

Independent	1-------GO TO Q.7
Affiliated	2
Don't know	3-------GO TO Q.7
Refused	4-------GO TO Q.7

[Omit Q.6 for corrections]

6. How many other establishments that are part of your organization, and that are in the same line of business, operate at other locations?

7. Which of the following best describes the total annual revenue at your establishment? Is it less than $250,000 to less than $1,000,000, $1,000,000 to less than $3,500,000, or $3,500,000 or more?

Less than $250,000	1
$250,000 to $1,000,000	2
$1,000,000 to $3,500,000	3
More than $3,500,000	4
Don't know	5
Refused	6

8. Approximately how many patient visits were there at that location in the past 12 months?

9. Are any of the persons working at your establishment, either fulltime or parttime, ever exposed to human blood or other materials contaminated with human blood as part of the performance of their assigned duties either directly, or indirectly through such things as laundry or waste?

Yes	1
No	2-------TERMINATE

10. Are there policies at your establishment regarding infection control?

Yes	1
No	2
Don't know	3-------GO TO Q.15
Refused	4

11. Are these policies written?

Yes	1
No	2
Don't know	3
Refused	4

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12. Does your infection control policy require that all bodily fluids, including blood, saliva, and urine, from all patients be handled as if they were infectious?

Yes	1--------GO TO Q.15
No	2
Don't know	3
Refused	4

13. Does your infection control policy require that blood from all patients be handled as if it were infectious?

Yes	1--------GO TO Q.15
No	2
Don't know	3
Refused	4

14. Does your infection control policy require that only the blood of patients known or suspected of being infected with a bloodborne disease be handled as if it were infectious?

Yes	1
No	2
Don't know	3
Refused	4

15. Are there situations in which the face or body of any of your workers could be splashed or splattered with blood?

Yes	1
No	2
Don't know	3
Refused	4

16. I'm going to read a list of protective equipment often used by organizations such as yours for the purpose of infection control. I'd like you to tell me whether you use any of the following: (Read and check all that apply)

Disposable latex gloves	01
Disposable vinyl gloves	02
Reusable gloves	03
Face protection (masks, goggles, shields)	04
Gowns	05
None of these	06
Don't know	07
Refused	08

(For each type of equipment used, ask Q.17)

17. How many (type of equipment) are purchased by your establishment each month for the purposes of infection control?

18. How many total employees, including full and parttime employees, are presently employed at your establishment?

I'm going to read you a list of separate employee categories and then ask you questions about those categories you have at your establishment.

a. Health care
b. Laboratory
c. Housekeeping
d. Laundry

[NOTE: Specialized categories will be listed for industry sectors other than health care.]

[OMIT Q.19 for fire or police/corrections/funeral homes]

19. How many of the employees would you consider to be health care staff, including doctors, nurses, therapists, and other health care staff?

[IF NONE, GO TO Q.22]

20. Of this number of health care employees, how many only work part time?

21. How many of these health care workers, including full and part time, have been hired within the past 12 months?

[OMIT Q.22 through Q.24 for corrections/funeral homes/fire or police]

22. How many of the total employees would you consider to be laboratory staff?

[IF NONE, GO TO Q.25]

23. Of this number of laboratory employees, how many only work part time?

24. How many of these laboratory workers, including full and part time, have been hired within the past 12 months?

[OMIT Q. 25 through 27 for fire or police/funeral homes]

25. How many of the total employees would you consider to be housekeeping staff?

[IF NONE, GO TO Q.28]

26. Of this number of housekeeping employees, how many only work part time?

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27. How many of these housekeeping workers, including full and part time, have been hired within the past 12 months?

[OMIT Q.28 through Q.30 for fire or police/corrections/funeral homes]

28. How many of the total employees would you consider to be laundry staff?

[IF NONE, GO TO Q.31]

29. Of this number of laundry employees, how many only work part time?

30. How many of these laundry workers, including full and part time, have been hired within the past 12 months?

31. Are there any other employed staff members performing duties which would involve the potential for contact with blood or other materials contaminated with blood?

Yes	1	
No	2	
Don't know	3	-------GO TO Q.35
Refused	4	

32. How many of these other staff members are there?

33. Of this number of other employees, how many only work part time?

34. How many of these other employees, including full and part time, have been hired within the past 12 months?

35. Are there additional workers, other than those directly employed by your facility who face potential exposure to blood or other materials contaminated with blood while at work at your facility?

Yes	1	
No	2	
Don't know	3	-------GO TO Q.40
Refused	4	

36. Are these additional workers employed by another company but work on site, self employed, volunteers, or other? (Accept all that apply)

Another company	1
Self employed	2
Volunteer	3
Other (specify)	4
Don't know	5
Refused	6

37. How many of these additional workers are there?

38. Of this number of additional workers, how many only work part time?

39. How many of these additional workers, including full and part time, have been added within the past 12 months?

[NOTE TO INTERVIEWER: RESPONDENT MUST HAVE AT LEAST ONE EMPLOYEE WITH POTENTIAL EXPOSURE AS A RESULT OF THE POSITIVE RESPONSE TO Q.9]

(For each of the employee categories listed before Q.19, and those volunteered in Q.31 and Q.35 for which there were one or more employees, repeat the following sequence of questions.)

40. How many (type of employee) face potential exposure to blood or other material contaminated with blood as part of the performance of their assigned duties?

[IF NONE, GO TO NEXT EMPLOYEE TYPE AND REPEAT Q.40. FURTHER, IF "NONE" FOR LABORATORY WORKERS, OMIT Q. 102 TO Q.112.]

41. What proportion of these workers are potentially exposed on average at least once a month?

42. Of the disposable latex gloves used, what proportion are used by (type of employee)?

43. Of the disposable vinyl gloves, what proportion are used by (type of employee)?

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44. Of the reusable gloves used, what proportion are used by (type of employees)?

45. Of the face protectors such as masks, goggles, or shields, what proportion are used by (type of employees)?

46. Of the gowns, what proportion are used by (type of employees)?

Some organizations have a policy to insure that protective equipment is used in all situations that could potentially lead to exposure to blood or other materials contaminated with blood. If your organization implemented such a policy and it required replacement of equipment whenever visibly contaminated, torn or punctured, would you increase your use of any of the following:

47. disposable latex gloves
48. disposable vinyl gloves
49. reusable gloves
50. face protection
51. gowns

Yes	1
No	2
Don't know	3
Refused	4

(For each type of equipment which would be increased)

52. - 56. How many additional pairs of gloves or pieces of protective equipment per month would you need if you implemented such a policy?

57. What percentage of the (type of employee) who face potential exposure to blood or material contaminated with blood have been vaccinated against Hepatitis-B?

58. Does your organization offer the Hepatitis-B vaccine to any (type of employee) free of charge?

Yes	1
No	2
Don't know	3-------GO TO Q.62
Refused	4

59. Of the (number of workers of this type) what percentage are offered the hepatitis-B vaccine free of charge?

60. Of the (number of workers of this type) what percentage have accepted the offer of free hepatitis-B vaccination?

61. Are (type of employees) screened for the hepatitis-B antibody prior to vaccination?

62. Do you offer training regarding the characteristics of bloodborne diseases and acceptable practices to prevent occupational exposure to (type of employee?)

Yes	1
No	2
Don't know	3-------GO TO Q.66
Refused	4

63. How frequently is the training provided to (type of employee)?

64. What is the length of the average training sessions for this type of employee?

65. Does the initial training for new employees take place prior to assignment to tasks involving potential exposure to blood or other materials contaminated with blood?

Yes	1
No	2
Don't know	3
Refused	4

66. If an exposure incident is defined as any skin, eye, mucous membrane, or puncture-caused contact with blood or other materials contaminated with blood, how many exposure incidents were reported during 1988 by your (type of employee)?

67. What proportion of these exposure incidents were the result of needle sticks or cuts from other sharp objects?

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68. How many (type of employee) were exposed in these incidents?

[REPEAT Q.40 - 68 FOR EACH TYPE OF EMPLOYEE REPORTED IN Q.19 - 39]

69. Does your facility have a policy or protocol to be followed in the event of an exposure incident?

Yes	1
No	2
Don't know	3
Refused	4

70. If an employee who is not known to have antibody to hepatitis-B is involved in an exposure incident, is an attempt made to test the patient for the hepatitis-B virus?

Yes	1
No	2
Don't know	3-------GO TO Q.73
Refused	4

71. Is that with the patient's permission?

Yes	1
No	2
Don't know	3-------GO TO Q.73
Refused	4

72. What percent of the patients involved in such incidents agree to be tested for hepatitis-B?

73. If an employee is involved in an exposure incident, do you always offer to test the exposed employee for antibody to hepatitis-B virus?

Yes	1-------GO TO Q.75
No	2
Don't know	3
Refused	4

74. Do you offer the test for the exposed employee if the patient is known or suspected of being positive for the hepatitis-B virus?

Yes	1
No	2
Don't know	3-------GO TO Q.76
Refused	4

75. What percent of the employees involved in such incidents agree to be tested for hepatitis-B?

76. If an employee who is not known to have antibody to Hepatitis-B is involved in an exposure incident, is the employee offered Hepatitis-B immune globulin?

Yes	1
No	2
Don't know	3-------GO TO Q.78
Refused	4

77. What percent accept?

78. If an employee is involved in an exposure incident with blood from a known source, is an attempt made to test the source patient for the AIDS virus?

Yes	1
No	2
Don't know	3-------GO TO Q.81
Refused	4

79. Is that with the patient's permission?

Yes	1
No	2
Don't know	3-------GO TO Q.81
Refused	4

80. What percent of the patients involved in such incidents agree to [be tested for the AIDS virus?

81. If an employee is involved in an exposure incident, do you always offer followup testing of the exposed employee for the AIDS virus?

Yes	1-------GO TO Q.83
No	2
Don't know	3
Refused	4

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82. Do you offer the followup testing for the employee if the patient is known or suspected of being positive for the AIDS virus?

Yes	1
No	2
Don't know	3-------GO TO Q.84
Refused	4

83. What percent of the employees involved in such incidents agree to be tested for the AIDS virus?

84. If an employee is involved in an exposure incident, do you always provide post-exposure counseling?

Yes	1-------GO TO Q.86
No	2
Don't know	3
Refused	4

85. If an employee is involved in an exposure incident with blood from someone known or suspected of being infected with the AIDS virus, do you provide post exposure counseling?

Yes	1
No	2
Don't know	3
Refused	4

86. Do you have a separate procedure for disposal of infectious wastes?

Yes	1
No	2-------GO TO Q.90
Don't know	3-------GO TO Q.91
Refused	4

87. Do you dispose of infectious waste in color coded, leak-proof containers?

Yes	1
No	2
Don't know	3-------GO TO Q.89
Refused	4

88. Please estimate the amount of waste that is red bagged or treated as infectious per month?

[Pounds/month]
[Boxes/month]

89. Do you treat as infectious all waste that is known to be contaminated by blood?

Yes	1-------GO TO Q.91
No	2
Don't know	3-------GO TO Q.91
Refused	4

90. If your organization adopted a policy that treated all waste contaminated by blood as though it were infected, by how much would the total volume of waste treated as infectious increase?

[Pounds/month]
[Boxes/month]

91. Does your facility use needles or other sharp items for procedures that would result in the items becoming contaminated with human blood?

Yes	1
No	2
Don't know	3-------GO TO Q.102
Refused	4

92. Do you have a policy prohibiting needle recapping?

Yes	1
No	2
Don't know	3
Refused	4

I'm going to read a list of types of needles and I'd like you to tell me how many of each you purchase in your facility each month. How many _____ do your purchase each month?

93. disposable needles
94. phlebotomy needles
95. acupuncture needles
96. IV catheters
97. other types of needles

98. A Sharps Disposal Container is defined as a closable, leakproof on the sides and bottom, puncture resistant, disposable container that is labeled or color coded. Are such containers available in your [facility/organization]?

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99. How many of these containers are replaced each month?

100. Are these containers available at every reasonably immediate point of use?

Yes	1-------GO TO Q.102
No	2
Don't know	3
Refused	4

101. Would you estimate how many additional Sharps Disposal Containers would be replaced each month if they were installed at every reasonably immediate point of use?

[OMIT Q.102 through Q.111 for those who responded "NONE" for laboratory workers in Q.40.]

102. Does your facility contain a laboratory or an area where laboratory procedures are performed?

Yes	1
No	2
Don't know	3-------GO TO Q.112
Refused	4

103. Do you operate a centrifuge on the premises?

Yes	1
No	2
Don't know	3-------GO TO Q.107
Refused	4

104. Are safety cups used in centrifuge operation for all material?

Yes	1-------GO TO Q.107
No	2
Don't know	3
Refused	4

105. Are safety cups used in centrifuge operation for handling blood, body fluid, and other potentially infectious material?

Yes	1-------GO TO Q.107
No	2
Don't know	3
Refused	4

106. Are safety cups used when handling materials which are known to be infectious?

Yes	1
No	2
Don't know	3
Refused	4

107. Do you work with concentrated amounts of the hepatitis-B or the AIDS virus?

Yes	1
No	2
Don't know	3-------GO TO Q.111
Refused	4

108. Is there a potential for aerosolization of fluid containing these viruses?

Yes	1
No	2
Don't know	3
Refused	4

109. Are hazard warning signs incorporating the universal biohazard symbol posted on all access doors of work areas and all rooms containing these concentrated viruses?

Yes	1
No	2
Don't know	3
Refused	4

110. Is there a sink in the laboratory for hand washing?

Yes	1
No	2
Don't know	3
Refused	4

111. Does the laboratory contain an autoclave?

Yes	1
No	2
Don't know	3
Refused	4

112. For our records, what is your title?

Thank you for your time.

[FR Doc. 89-10247 Filed 4-27-89; 8:45 am]
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MONITORED RETRIEVABLE STORAGE REVIEW COMMISSION

Meeting

The Monitored Retrievable Storage (MRS) Review Commission, pursuant to its authority under Subtitle A of Pub. L. 100–203, the Nuclear Waste Policy Amendments Act of 1987, will hold a meeting on May 25, 1989 from 9:00 a.m.–4:30 p.m. in the Potomac Rooms at the Wyndham-Bristol Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

From 9:00 a.m.–12:00 p.m., U.S. Department of Energy staff will brief the Commission concerning the Department's position on whether a monitored retrievable storage facility should be part of the nation's plan to dispose of high-level radioactive waste. From 1:00 p.m.–4:00 p.m., U.S. Nuclear Regulatory Commission staff will brief the Commission on safguards issues associated with a potential monitored retrievable storage facility.

Members of the public are permitted to attend the meeting only as observers. The meeting will be transcribed and the transcripts will be placed in the MRS Review Commission's Public Document Room.

Persons planning to attend, or who need further information, should contact Ms. Paula N. Alford, Director, External Affairs, by Monday, May 22, 1989 at the Monitored Retrievable Storage Review Commission, 1825 K Street NW., Suite 318, Washington, DC 20006, 202–653–5361.

Jane A. Axelrad,

Executive Director and General Counsel.

April 25, 1989.

[FR Doc. 89–10210 Filed 4–27–89; 8:45 am]

BILLING CODE 6820–BE–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities, NFA&H.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before May 30, 1989.

ADDRESSES: Send comments to Ms. Susan Daisey, National Endowment for the Humanities, Grants Office, Room 310, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202) 786–0494 and Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, National Endowment for the Humanities, Grants Office, Room 310, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202) 786–0494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Title: Younger Scholars Guidelines and Application Forms, Panelist's Review Comments Form, and Final Performance Report Form

Form Number: 3136–0090

Frequency of Collection: Annual

Respondents: Individuals

Use: Application for funding, form for use by reviewers, and form for use by grantees to report accomplishments and evaluation

Estimated Number of Respondents: 951

Frequency of Response: (Once)

Estimated Hours for Respondents to Provide Information:

10 hours per respondent for Application Forms

.6 hour per respondent for Panelist's Review Comments Form

1 hour per respondent for Final Performance Report Form

Estimated Total Annual Reporting and Recording Burden: 9,581

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 89–10165 Filed 4–27–89; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cell Biology "Sub A"; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cell Biology.

Date and Time: May 15, 16, 17, 1989—8:30 a.m. to 5 p.m. each day.

Place: Room 536, National Science Foundation, 1800 G St., NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Maryanna P. Henkart, Program Director, Special Activities, (202) 357–7377, Room 321, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from contact person listed above.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management.

April 24, 1989.

[FR Doc. 89–10167 Filed 4–27–89; 8:45 am]

BILLING CODE 7555–01–M

Directorate for Engineering, Division of Mechanical and Structural Systems; Advisory Committee Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for the Division of Mechanical and Structural Systems.

Date & Time: May 17, 1989 8:30 a.m. to 5:00 p.m. May 18, 1989 8:30 a.m. to 4:00 p.m.

Place: National Science Foundation, 1800 G St., NW., Washington, DC Room 540.

Type of Meeting: Open.

Contact Person: Ms. Hope Duckett, National Science Foundation, Room 1108, Washington, DC 20550, Telephone (202) 357–9542.

Summary Minutes: May be obtained from Contact Person.

Purpose of Meeting: To provide advice and recommendations concerning support for research in the Division.

Agenda:

Wednesday, May 17, 1989

8:40–9:15 a.m. Opening Remarks and Introductions.
9:15–10:00 a.m. Status and Recent Changes in MSS.
10:00–10:15 a.m. Break.
10:15–Noon p.m. Organizational and Strategic Directions.
12:00–1:30 p.m. Lunch.
1:30–5:00 p.m. Discussion of Program Status and Plans.

Thursday, May 18, 1989

8:30–10:15 a.m. Task Group Reports.
10:30–12:00. Discussion and Closing Remarks by Assistant Director for Engineering.
12:00–1:30 p.m. Lunch.
1:30–4:00 p.m. Drafting of Meeting Report and Summary Remarks.
3:00 Adjourn.

M. Rebecca Winkler,

Committee Management Officer.

April 24, 1989.

[FR Doc. 89–10168 Filed 4–27–89; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Ethics and Values Studies; Meeting

The National Science Foundation announces the following:

Name: Advisory Panel for Ethics & Values Studies.

Date/Time: May 15, 1989, 8:30 a.m. to 5:00 p.m., May 16, 1989, 8:30 a.m. to 5:00 p.m.

Place: National Science Fouindation, 1800 "G" Street, NW., Room 642.

Type of Meeting: Part Open—Open May 15, 8:30 a.m. to 10:30 a.m. and May 16, 12:30 p.m. to 1:30 p.m. Closed Remainder.

Contact Person: Rachelle Hollander, Program Director, Ethics & Values Studies, National Science Foundation, Washington, DC 20550, Telephone (202) 357–9894, Room 312.

Summary Minutes: May be obtained from the contact person at the above address.

Purpose of Panel Meeting: To provide advice and recommendations concerning support for research in Ethics & Values Studies in Science, Technology, and Society.

Agenda: Open—General discussion of status and plans for Ethics and Values Studies. Lunch Seminar—Film on Engineering Ethics. Closed—To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

April 24, 1989.

[FR Doc. 89–10169 Filed 4–27–89; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Information, Robotics and Intelligent Systems; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463 as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Information, Robotics, and Intelligent Systems.

Date and Time: May 18–19, 1989, 9:00 to 5:00 daily.

Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, DC 20550

Type of Meeting: All Open.

Contact Person: Dr. Y.T. Chien, Division Director, Division of Information, Robotics, and Intelligent Systems, Room 310, National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Telephone: (202) 357–9572. Anyone planning to attend this meeting should notify Dr. Chien no later than May 15, 1989.

Minutes: May be obtained from contact person listed above.

Purpose of Committee: To provide advice and recommendations concerning support of research in Information, Robotics, and Intelligent Systems.

Agenda: May 18—Overview of Programs, Discusions Focusing on Specific Program Aspects; May 19—Discuss Future Strategy for Programs and Divisonal Initiatives, Committee Business Discussion.

M. Rebecca Winkler,

Committee Management Officer.

April 24, 1989.

[FR Doc. 89–10170 Filed 4–27–89; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–313]

Arkansas Power and Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–51, issued to Arkansas Power and Light Company (AP&L or the licensee), for operation of the Arkansas Nuclear One. Unit 1 (ANO–1) located in Russellville, Arkansas.

The amendment would change the ANO–1 license condition to increase the authorized steady state reactor core power levels to a maximum of 2054 megawatts thermal (80% of full power).

Recently, the licensee informed the NRC of a newly postulated small break in the High Pressure Injection (HPI) System which had not been bounded by existing small break loss of cooling accident (LOCA) analyses. In response to a subsequent AP&L request, the Commission issued emergency Amendment No. 119 authorizing operation for ANO–1 up to an authorized power level of 50% of full power (1284 megawatts thermal), and informed the licensee that a full 10 CFR Part 50 Appendix K analysis of the postulated HPI LOCA would be required as part of an amendment request to increase power above the 50% level. AP&L is currently having Babcock & Wilcox perform such an analysis for an 80% power level and plans to provide the results to the Commisson by May 8, 1989. AP&L has requested exigent processing of this amendment for the following reasons.

AP&L was unaware of the consequences of this new limiting break before March 18, 1989 and could not avoid the current situation. Prior to that time, previous LOCA analyses were considering bounding. Further, AP&L quickly undertook measures to respond to this condition and promptly requested the previous and the current amendment. Exigent processing would facilitate the amendment of this ANO–1 operating license to reflect 80% maximum power promptly following conformation of the results of the Babcock & Wilcox LOCA analysis by the Commission. This would permit a timely increase in power level to minimize the impact of continued derated operation. The staff agrees with

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the licensee's justification for exigent processing and believes the amendment should be issued promptly.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Under the Commission's regulations in 10 CFR 50.92, an amendment request involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequence of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In accordance with 10 CFR 50.92, AP&L has assessed whether the proposed change involves no significant hazards considerations. AP&L has concluded that the proposed change to limit operation to 80% of full power involves no significant hazards considerations because operation of Arkansas Nuclear One, Unit 1 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed.

First, this change does not alter the probability of any previously analyzed accident occuring. The change merely addresses a particular accident scenario without impacting accident-initiating events. Further, this proposed change will not adversely effect the consequences of accidents which have been previously analyzed. Any effect on previously analyzed accidents will remain positive as the reactor will still trip from a lower maximum power level than for accidents previously considered.

Further, the proposed change does not adversely affect the probability of consequences of the postulated HPI small break at issue here. Because an ANO–1 specific ECCS analysis per 10 CFR Part 50 Appendix K has been performed, it has been demonstrated that this break will be fully addressed by available emergency core cooling system (ECCS) mechanisms consistent with applicable ECCS requirements.

Overall, therefore, this change will neither reduce nor adversely impact the probability or consequences of accidents previously analyzed.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

First, the ECCS response to other previously postulated accidents remains unchanged and within previously assessed limits of flow paths and flow distributions. Further, all systems and ECCS coolant delivery mechanisms remain, respectively, within their applicable performance limits and flow delivery capabilities. Thus, system and component performance is not adversely affected by this change, thereby assuring that design capabilities of those systems are not challenged in a manner not previously assessed so as to create the possibility of a new or different kind of accident. The increase in maximum allowable power level would not create the possibility of a new or different kind of accident from any previously analyzed as the possibility of reactor trips at lower power levels had already be considered in previous accident analyses.

(3) Involves a significant margin of safety.

The proposed change to the maximum operating power level would increase the maximum power level at which any transient could occur. However, this proposed power level is still below the level at which ANO–1 was originally licensed. The response to transients terminated at lower power levels is typically milder and more easily controlled than the response to transients terminated at the higher power level at which ANO–1 was originally evaluated. Therefore, this increase of the maximum permissible power level would not involve a significant reduction in the margin of safety previously provided. With respect to the HPI break at issue, the margin of safety provided by the proposed maximum power level now reflects the margins provided by specific application of the conservative assumptions and analytical approaches of 10 CFR 50.46 and 10 CFR Part 50 Appendix K to ANO–1. Thus the inherent margins of safety provided by those criteria are provided for this postulated break.

The staff has reviewed the licensee's assessment and agrees that the proposed amendment involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and should cite the publication date and page number of the FEDERAL REGISTER notice.

Written comments may also be delivered to Room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 15, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of 30-days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Jose A. Calvo: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005–3502

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 24, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Dated at Rockville, Maryland, this 25th day of April 1989.

For the Nuclear Regulatory Commission.

Chester Poslusny, Jr.,

Project Manager, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10233 Filed 4–27–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards, Conseration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Operating License Nos. DPR–39 and DPR–48, issued to Commonwealth Edison Company (the licensee), for operation of Zion Station, Units 1 and 2 located in Lake County, Illinois.

This amendment request dated April 17, 1989, is being made in accordance with Generic Letter 85–09, entitled "Technical Specifications for Generic Letter 83–28, Items 4.3," to change Tables 3.1–1 and 4.1–1 of Technical Specifications for Zion Station. The proposed changes involve addition and/or clarifications to the operability and surveillance requirements for: (1) Manual Reactor Trip; (2) Automatic Reactor Trip Logic; and (3) Reactor Trip and Bypass Breakers.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facilities in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commonwealth Edison has evaluated the proposed amendment and determined that it involves no significant hazards consideration. The licensee's evaluation is provided below.

The proposed amendment involves revisions to the operability and surveillance requirements given in Technical Specification Tables 3.1–1 and 4.1–1 for Zion Station. The changes clarify the operability requirements for Automatic Reactor Trip Logic to include the Reactor Trip Breakers. The changes to Table 4.1–1 clarify the surveillance requirements for the Manual Reactor Trip function to require independent verification of the operability of the Undervoltage and Shunt Trip circuits

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and the operability of the Bypass Breaker circuit; the Monthly Functional Test for the Automatic Reactor Trip Logic has been clarified to require testing each train on alternate months (at a 62-day interval) and to explicitly state where operability of circuit contacts may be verified by the use of indication circuitry. Monthly and Refueling Surveillance Requirements have been defined for Reactor Trip Breakers and Bypass Breakers.

All of the proposed changes have been worded in accordance with the guidelines of NRC Generic Letter 85–09, and are consistent with Technical Specifications in effect for other Pressurized Water Reactors of similar vintage. The clarification notes for the Automatic Reactor Trip Logic Surveillance and the use of the alternate month testing interval are similar to the specifications currently in effect at [other plants.]

(1) *The proposed changes do not involve a significant increase to the probability or consequences of an accident previously evaluated.*

The addition of the requirement for automatic actuation of the shunt trip device provides an alternate method to open the reactor trip breakers. Therefore, when a reactor trip signal is generated, there are diverse mechanisms to provide a reactor breaker trip which should minimize the possibility of an Anticipated Transient Without Scram (ATWS). The proposed changes revise the surveillances to require independent testing of the undervoltage and shunt trip devices for the manual reactor trip and the reactor trip breakers. These surveillances ensure reactor trip breaker operability when required and thus do not involve a significant increase to the probability or consequences of an accident that was previously evaluated.

(2) *The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.*

The proposed changes do not change the manner in which the reactor protection system provides plant protection. The addition of the shunt trip attachment provides an alternate method to open the breakers when a reactor trip signal is generated. Therefore, if one trip mechanism fails, the other trip mechanism is available, which increases the reliability of the reactor protection system and decreases the possibility of an ATWS event and therefore does not create the possibility of a new or different kind of accident that was previously evaluated.

(3) *The proposed changes do not involve a significant reduction in a margin of safety.*

The proposed changes are expected to increase the overall margin of safety because they provide an alternate method to trip the reactor trip breakers, thereby limiting the potential for an ATWS event. The proposed surveillance changes are designed to verify operability of the reactor trip and bypass breakers and therefore do not involve a significant reduction in the margin of safety.

Based upon the above evaluation, Commonwealth Edison concluded that the proposed changes to the Technical Specifications do not involve a significant hazards consideration.

The staff has reviewed the licensee's evaluation and agrees with the licensee that these proposed amendments involve no significant hazards consideration.

Before issuance of Generic Letter 85–09, by letter dated March 25, 1985, the licensee originally requested similar changes to clarify the automatic reactor trip logic testing in accordance with Generic Letter 83–28. The staff issued no significant hazard consideration notice on May 21, 1985 (50 FR 20973). The April 17, 1989, submittal substantially revised the previous submittal dated March 25, 1985. This notice supersedes the previous notice.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice. Written comments may also be delivered to P 223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subjct facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results to the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also indentify the specific aspect(s) of the subject matter of the proceedings as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contention shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed wtih the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10)-days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–432–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller; petitioner's name and telephone number; date petition was mailed; plant number; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel—Rockville, Maryland, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.174(a)(1)(i)–(v) and 2.714(d).

For futher details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC., and for Zion Station, the Waukegan Public Library, 128 N. County Street, Waukegan Illinois 60085.

Dated at Rockville, Maryland, this 24th day of April 1989.

For the Nuclear Regulatory Commission.

Daniel R. Miller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 89–10234 Filed 4–27–89; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–315 and 50–316]

Indiana Michigan Power Co., Donald C. Cook Nuclear Plant, Units Nos. 1 and 2; Withdrawal of Application for Amendment to Facility Operating Licenses Nos. DPR–58 and DPR–74

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Indiana Michigan Power Company (the licensee), to withdraw its February 28, 1986, application for proposed amendment to Facility Operating License Nos. DPR–58 and DPR–74, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2 respectively, located in Berrien County, Michigan.

The proposed amendment would have revised the facility Technical Specifications pertaining to the spray additive system.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on April 23, 1986 (51 FR 15400). However, by letter dated December 29, 1988, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated February 28, 1986, and the licensee's letter dated December 29, 1988, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland this 24th day of April.

For the Nuclear Regulatory Commission.

John F. Stang,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10237 Filed 4–27–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–206]

Southern California Edison Co. et al.; San Onofre Nuclear Generating Station, Unit No. 1; Consideration of Issuance of Amendment to Provisional Operating License and Proposed No Significant Hazards, Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR–13 issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), for operation of San Onofre Nuclear Generating Station, Unit No. 1, located in San Diego County, California. The request for amendments was submitted April 11, 1989.

The proposed amendment would revise Technical Specification 3.5.1, "Reactor Trip System Instrumentation." The revision, if approved, would revise Table 3.5.1–1 to include a footnote relating to Mode 2 of the Applicable Modes column for Item 4, the Intermediate Range, Neutron Flux. The footnote will indicate the startup rate circuit for the intermediate range channels will be enabled at 10^{-4}% of full reactor power instead at 10^{-3}% of full reactor power as presently implied but not specified in the Technical Specifications.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment

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request involves no significant hazards consideration, Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

As required by 10 CFR 50.91(a), the licensee has provided its analysis about the issue of no significant hazards consideration which is discussed below:

Operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated. Operation of the facility has no effect on the accidents analyzed in the UFSAR. The modification of the startup rate reactor trip functions by enabling them at a higher point in the intermediate neutron flux range. Although this enabling at a higher flux level will cause the functions to be actuated at a later time, the delay does not impact accident probabilities as these functions are of a mitigative nature providing reactor core control and protection during transients and accidents. This proposed modification also has no effect on the accident analysis, particularly the Control Rod Withdrawal from Subcritical, since these functions are not credited. These functions will still be acutated sooner than the reactor trip on overpower, the credited trip for the Control Rod Withdrawal from Subcritical accident. Therefore, the accident probabilities and consequences are not affected by this change.

Operating of the facility in accordance with the proposed amendment would not: (2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The modification associated with this proposed change revises the startup rate circuit for the intermediate range channels such that the protective functions are enabled at 10^{-4}% of full reactor power versus 10^{-3}% of full power. The protective functions, high startup rate rode stop and high startup rate power trip, provided by the intermediate range channels are still available and will function as they did previously. Only their time of actuation will be delayed. This modification does not result in a new accident because these functions are of a mitigative nature providing reactor core protection and control. A different kind of accident is not created since these functions are not credited in any of the accident analyses. In the case of Control Rod Withdrawal from Subcritical, these functions are a back-up to the reactor overpower trip. They will still actuate well before the overpower trip occurrence at 118% of full reactor power providing reactor core protection. Therefore, a new or different kind of accident from any previously evaluated is not created.

Operation of the facility in accordance with the proposed amendment would not: (3) Involve a significant reduction in a margin of safety. The modification associated with this change revises the startup rate circuit for the intermediate neutron flux range by moving the enabling setpoint to 10^{-4}% of full reactor power. This change affects the operational margin to some extent because the protective functions provided by the intermediate range channels are actuated at a later time. As previously indicated, this delay has no effect on the accident analysis because there protective functions are not credited. Therefore, the safety margins associated with the accident analyses are not affected. As indicated in Figure 15.8–1 of the Updated Final Safety Analysis Report, the protective function, overpower trip, for the Control Rod Withdrawal from Subcritical, occurs at 17.5 seconds. This timing is not effected by the change because the high startup rate rod stop or the high startup rate trip would have been actuated well before that time. Therefore, the margin of safety is not affected by this proposed change.

The NRC staff has reviewed the analysis and, based on that review, it appears that the three criteria are satisfied. There, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P–216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 1989, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject provisional operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects of the subject matter of the proceeding as to which petitioner wished to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth in reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission may make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, not withstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel-White Flint, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Charles R. Kocher, Assistant General Counsel and James Beoletto, Esq., Southern California Edison Company, P.O. Box 800, Rosemead, California 91770, attorneys for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 21st day of April, 1989.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10235 Filed 4–27–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322]

Long Island Lighting Co., Shoreham Nuclear Power Station, Unit 1; Issuance of Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. NPF–82 to the Long Island Lighting Company (the licensee), for the Shoreham Nuclear Power Station (the facility). The license authorizes the operation of the reactor at power levels not in excess of 2,436 megawatts thermal (100 percent rated power).

The Shoreham Nuclear Power Station is a boiling water reactor located in the town of Brookhaven, Suffolk County, New York. The license is effective as of its date of issuance.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations. Issuance of this license has been authorized by: Partial Initial Decision, LBP–83–57, September 21, 1983; ALAB–788, October 31, 1984; Commission Memorandum and Order, CLI–84–21, November 21, 1984; Memorandum and Order Ruling on Remand Issues, LBP–84–53, November 30, 1984; Partial Initial Decision on Emergency Diesel Generators, LBP–85–18, June 14, 1985; Partial Initial Decision on Emergency Planning (EP), LBP–85–12, April 17, 1985; Concluding Partial Initial Decision on EP, LBP–85–31, August 28, 1985; LBP–87–30, November 6, 1987; CLI–87–12, November 5, 1987; Partial Initial Decision (EP), LBP–88–12, May 5, 1988; Concluding Initial Decision on EP, LBP–88–24, September 23, 1988; CLI–89–02, March 3, 1989. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the License. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the Federal Register on March 18, 1976 (41 FR 11367).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluation in the Final Environmental Statement.

Pursuant to 10 CFR 51.32 the Commission has determined that the granting of the exemptions included in this license will have no significant impact on the environment. These determinations were published in the Federal Register on December 10, 1984 (49 FR 48118); December 10, 1984 (49 FR 48120); December 10, 1984 (49 FR 48119); December 10, 1984 (49 FR 48119; October 3, 1988 (53 FR 38812); October 7, 1988 (53

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FR 39548); and April 17, 1989 (54 FR 15277).

For further details in respect to this action, see (1) Facility Operating License NPF-62 complete with Technical Specifications and Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards, dated October 14, 1981; (3) the Commission's Safety Evaluation Report, dated April 1981 (NUREG-0420), and Supplements 1 through 10 thereto; (4) the Updated Safety Analysis Report and Amendments thereto; (5) the Final Environmental Statement, dated October 1977 (NUREG-0285); (6) the Environmental Report and supplements thereto; (7) the Licensing Board Orders; (8) the Appeal Board Orders; and (9) the Commission Memoranda and Orders.

These items are available at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and Shoreham Wading River Public Library, Route 25A, Shoreham, New York 11786. A copy of Facility Operating License NPF-62 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II. Copies of the Safety Evaluation Report and its Supplements (NUREG-0420) and the Final Enviroamental Statement (NUREG-0285) may be purchased at the current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082.

Dated at Rockville, Maryland, this 21st day of April 1989.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-10236 Filed 4-27-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-341]

Detroit Edison Co. and Wolverine Power Supply Cooperative Inc.; Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-43, issued to Detroit Edison Company and Wolverine Power Supply Cooperative (the licensees), for operation of the Fermi-2 plant, located in Monroe County, Michigan.

The amendment would revise the Technical Specifications sections 3/4.6.5.1 SECONDARY CONTAINMENT and DEFINITION 1.36 to reflect design modifications to the reactor building's railroad bay air lock doors in accordance with the licensees application for amendment dated April 21, 1989. The design change is a result of a concern with the reliability of secondary containment integrity barriers that depend on non-safety related air supply systems.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensees have evaluated the proposed changes to the TS against the above standards as required by 10 CFR 50.92. The licensees concluded that:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the capability and reliability of SECONDARY CONTAINMENT INTEGRITY has been increased. Two railroad bay air lock doors will be required to be closed and sealed during normal operation as opposed to one railroad bay air lock door which is currently required by the existing Technical Specifications. The subject door's seals will be supplied from a safety related, seismically qualified and fully redundant non-interruptible air suppy system. The existing air supply for these door seals is not safety related, not seismically qualified and not redundant. The proposed system will be single failure proof provided both railroad bay air lock doors are closed.

The proposal includes ACTIONS of one of the two railroad bay air lock doors inoperable; in this case, the railroad bay secondary containment penetration is still isolated by the other railroad bay air lock door. The existing ACTIONS are based upon situations where SECONDARY CONTAINMENT INTEGRITY is completely compromised. The 7 day out-of-service time limit on proposed ACTION "b.1." is consistent with Technical Specification 3.6.5.3, Standby Gas Treatment System (SGTS) and the General Electric Standard Technical Specification (GESTS) for the SGTS. The SGTS configuration and function, and the proposed modifications configuration are similar in that both systems support SECONDARY CONTAINMENT INTEGRITY, both systems have 100% redundant capabilities and both systems are safety related. Proposed ACTION "b.2" is consistent with existing ACTION "b" and the GESTS for SECONDARY CONTAINMENT INTEGRITY.

The proposed footnote that will allow ingress and egress through one railroad bay air lock door or routine testing of the doors' alarm/indication instrumentation is based on engineering judgement considering the low probability of a single failure on the closed door, the frequency of a door being open and the low probability of an accident requiring SECONDARY CONTAINMENT INTEGRITY. If within the four or 12 hour time period allowed for one railroad bay air lock door to be open, the closed becomes inoperable because of a loss of door seal pressure (the only component dependent on an active system) control room personnel would immediately receive the low seal pressure alarm. Secondary containment functionality could then be restored by closing the door that was open. The existing Technical Specification allows four hours to recover from a complete loss of SECONDARY CONTAINMENT INTEGRITY before a reactor shut down is required. The footnote's 12 hour time period is only applicable when fuel is received onsite which is only expected to consist of approximately eight shipments in 18 months. The existing 31-day surveillance requirement, 4.6.5.1.b.1, has been modified so that both railroad bay doors are required to be verified closed every 31-days. Therefore, the proposed changes do not significantly increase the probability or consequences of an accident previously evaluated because two railroad bay doors are required OPERABLE and closed and the door seals will be supplied by a safety related and redundant air system. The proposed ACTIONS are consistent with accepted industry standards for related systems or similar redundancy and safety classification which are also required to support SECONDARY CONTAINMENT INTEGRITY.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the capabilities of the railroad bay air lock door system have been increased and the railroad bay air lock door seals will be supplied with safety related air from the existing NIAS System. The NIAS System is safety related, fully redundant and seismically supported. The NIAS System's air compressors are automatically loaded on to the EDGs upon the loss of offsite power to the air compressor(s) electrical bus(es). An engineering evaluation has determined that sufficient capacity exists in the NIAS System to supply the railroad bay door seals concurrent with the system's existing loads. The design modification will provide restrictive orifices and receiver tanks such that a rupture of the railroad bay air lock seals will not affect the function of other equipment which depend on the NIAS System. Control room alarms for low railroad bay air lock door seal pressure will be installed for each door. This will allow continous monitoring by control room personnel of the railroad bay air lock door's SECONDARY CONTAINMENT INTEGRITY. The door seal's pressure provides an excellent indication of the railroad bay air lock's SECONDARY CONTAINMENT INTEGRITY because the seals are the only active component on the doors which rely on active equipment for their OPERABILITY. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the railroad bay air lock door seals will be supplied from a fully qualified air system and the new design will enhance the system's capability and not degrade any related systems or equipment functions.

(3) The proposed changes do not involve a significant reduction in the margin of safety because the previously stated design modifications and proposed Technical Specifications increase the capability and reliability of SECONDARY CONTAINMENT INTEGRITY compared to the existing configuration. The design modification and proposed Technical Specification changes effectively add an "additional barrier" between secondary containment and the environment for the railroad bay air lock. Additionally, the only active component utilized for these redundant barriers will be supported from a fully qualified safety related system.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satifies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the

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facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW. Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John Stefano, Acting Project Director, Project Directorate III–1, Division of Reactor Projects III, IV, V, & Special Projects: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226, attorney for Detroit Edison Company.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555, and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 25th day of April 1989.

For the Nuclear Regulatory Commission.

John Stefano,

Acting Director, Project Directorate III–1, Division of Reactor Projects III, IV, V, & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10340 Filed 4–27–89; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–26755; File No. SR–CBOE–89–5]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to Risk Analysis Procedures

On February 24, 1989, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish minimum risk analysis standards for market maker clearing firms.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 26610 (March 8, 1989), 54 FR 10600 (March 14, 1989). No comments were received on the proposed rule change.

As a result of the October, 1987 market break, the CBOE established a task force to review procedures and practices of options market-maker clearing firms. One result of this review was a determination that minimum risk analysis standards should be established to enable all CBOE market maker clearing firms to project their potential losses for all accounts given specific market movements and/or changes in market volatility.

The proposed rule change will require each CBOE market maker clearing firm to file with the Exchange's Department of Financial Compliance ("Department") written procedures for assessing and monitoring the risk to the clearing firm's capital from the positions in its own market maker accounts and from the positions of independent market makers for whom it performs clearance and guarantee functions. These procedures will include, but not be limited to, an Exchange-approved computerized risk analysis program that would, given certain parameters, enable the clearing firm to generate exception reports that will be used to assess and monitor its potential risk of loss from options market-maker accounts over a specified range of possible market movements.[4]

The rule will require risk analysis to be conducted daily based on positions as of the close of business the prior day, and will provide for the submission to the CBOE of certain risk analysis documentation as requested by the Department on a routine or "as needed" basis.

The CBOE believes that the majority of the 18 Exchange member organizations that clear and guarantee the accounts of options market makers currently are in a position to comply with the proposed rule. The CBOE has recommended, however, an effective date for the rule four months from the date of this approval order to allow all affected members time to prepare adequately to comply with the rule.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, section 6(b)(5) of the Act,[5] which provides, in pertinent part, that the rules of the exchange must be designed to protect investors and the public interest and to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in, securities.

The Commission believes that the CBOE's proposed risk analysis standards will allow the Exchange to monitor the potential risk to each options market-maker clearing firm's capital over a range of possible market movements. The CBOE will be able to review the exception reports generated by the firms and require from a firm detailed explanations concerning its intended actions to resolve certain problems. The Commission believes that the exception reports should provide the CBOE and the clearing firms with information that can be used to assess market exposure and take the necessary action in connection with the exposure. This is particularly important given the clearing firms' responsibilities in the CBOE market-maker system.

The Commission believes that the CBOE's proposed risk analysis standards may provide more financial protection to the securities industry at a time of increased market volatility. The Commission believes that ensuring that both the CBOE and the options market-maker clearing firms are aware of the potential risk to each clearing firm's capital for any or all of its options market-maker accounts may lessen the impact of adverse market movements by allowing the CBOE to require a firm to take corrective action before a net capital problem occurs. In addition, the proposal addresses concerns raised in the Commission staff's Report on the October 1987 Market Break regarding liquidity problems of options market-maker clearing firms during the October 1987 market break.[6]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89–10232 Filed 4–27–89; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1988).

[3] The CBOE provided additional information about the proposal in a letter from Mary L. Bender, First Vice President, Division of Regulatory Services, CBOE, to Mary Revell, Division of Market Regulation, Commission, dated April 17, 1989.

[4] The computerized risk analysis program must comply with the following minimum standards:

(1) The estimated loss to the clearing member organization for each market-maker account must be determined over a specified range of possible market movements.

(2) Volatility must be calculated using an Exchange-approved method and updated at least weekly.

(3) Options prices must be estimated through use of recognized options pricing models.

(4) Written exception reports must be generated that describe for the range of market movements the projected loss from concentrated positions in particular options classes and the projected deficits per market maker account and for all accounts.

[5] 15 U.S.C. 78f(b)(5) (1982).

[6] *See, e.g., The October 1987 Market Break* at 5–32 to 5–48.

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30–3(a) (1988).

Any other Wyoming counties contiguous to Laramie County and not listed above have been previously declared.

The number assigned to the State of Nebraska for economic injury is 674700 and for the State of Colorado the number for economic injury is 674800.

All other information remains the same; i.e., the termination date for filing applications for economic injury assistance is the close of business on July 6, 1989.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Date: April 7, 1989.

James Abdnor,

Administrator.

[FR Doc. 89–10178 Filed 4–27–89; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council Meeting; Alabama Regional Advisory Council

The U.S. Small Business Administration, Region IV Advisory Council located in the geographical area of Birmingham, Alabama will hold a public meeting 11:00 a.m.–12:30 p.m., on Friday, May 12, 1989, at the Mobile Area Chamber of Commerce, 451 Government Street, Mobile, Alabama 36652, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration, 2121 8th Avenue, North, Suite 200, Birmingham, Alabama 35203, Phone (205) 731–1341.

April 17, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89–10162 Filed 4–27–89; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Areas #6665, #6747 & #6748; Amdt. 3]

Wyoming and Contiguous Counties in Nebraska and Colorado; Declaration of Disaster Loan Area

The above-numbered Declaration (53 FR 40619), as amended (53 FR 3893) and (54 FR 6227), is hereby amended to include Laramie County, and the contiguous county of Goshen, in the State of Wyoming; Banner and Kimball Counties in the State of Nebraska; and Larimer and Weld Counties in the State of Colorado, as a result of damages from forest fires which started on July 5, 1988.

Region I Advisory Council; Public Meeting

The U.S. Small Business Administration, Region I Advisory Council, located in the geographical area of Hartford, will hold a public meeting at 8:00 a.m. on Monday, May 1, 1989, at the Yale Inn, 900 East Main Street, Meriden, Connecticut 06450, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Henry A. Povinelli, District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut, phone (203) 240–4670.

April 17, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89–10162 Filed 4–27–89; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2343; Amdt. 5]

Kentucky and Contiguous Counties in the States of Indiana, Ohio, West Virginia, Virginia, Illinois, Missouri & Tennessee; Declaration of Disaster Loan Area

The above-numbered Declaration (54 FR 9584), as amended (54 FR 11602), (54 FR 13283), (54 FR 14723), and (54 FR 16034), is hereby further amended in accordance with the Notice of Amendment to the President's declaration, dated March 24, 1989, to include the counties of Ballard, Hickman, and Hopkins, in the Commonwealth of Kentucky, as a result of damages from severe storms and flooding between February 13 and March 8, 1989.

In addition, applications for economic injury from small businesses located in the contiguous county of Alexander, Illinois, may be filed until the specified date at the previously designated location.

All other counties contiguous to the above-named primary counties and not listed above have been previously declared as primary or adjacent counties for the same storms and flooding and are, therefore, eligible.

All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on April 27, 1989, and for economic injury until the close of business on November 24, 1989.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59006)

Date: April 5, 1989.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 89–10188 Filed 4–27–89; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council; Public Meeting

The U.S. Small Business Administration, Region I Advisory Council, located in the geographical area of Montpelier will hold a public meeting at 4:00 p.m., Thursday, May 18, 1989, at the Holiday Inn, White River Junction, Vermont to discuss such matters as may

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be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Ora H. Paul, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602, phone (802) 828-4422.

April 17, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-10184 Filed 4-27-89; 8:45 am]

BILLING CODE 8025-01-M

Region III—Advisory Council; Public Meeting

The U.S. Small Business Administration, Region III Advisory Council, located in the geographical area of Richmond, Virginia, will hold a public meeting from 1:00 p.m. to 5:00 p.m. on Thursday, June 8, 1989, and from 8:30 a.m. on June 9 until 12:00 Noon, at the Holiday Inn Conference Center, 1021 Koger Center Boulevard, Richmond, Virginia 23235, to discuss such business as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call Catherine S. Marschall, District Director, U.S. Small Business Administraion, P.O. Box 10128, Federal Building, Richmond, Virginia 23240, (804) 771-1741.

April 17, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-10181 Filed 4-27-89; 8:45am]

BILLING CODE 8025-01-M

[Application No. 05/05-5210]

Cactus Capital Co.; Application for a Small Business Investment Company License

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended, section 301(d) (15 U.S.C. 661, *et seq.* (1989)) (the Act) has been filed by Cactus Capital Company (the Applicant), 870 High Street, Suite 216, Worthington, Ohio 43085, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1989).

The officers, directors and stockholders of the Applicant are as follows:

Name and address	Title	Percent of capital stock
Edward C. Liu, 6461 Meadow Brook Cir., Worthington, Ohio 43085	President and Diretor	23.73
Willard J. Mayfield, 2906 Kenrowood Drive, Columbus, Ohio 43231	Investment Consultant	0
Chung Lang Chang, 550 Weldwood Lane, Sylvania, Ohio 43560	Treasurer and Director	18.18
Hsien Jer Hsu, 2437 Sandover Road, Columbus, Ohio 43220	Secretary	04.55
Tson-Kuang Wu, 1399 Timberlane Drive, Lima, Ohio 43805	V.P. and Director	09.09
Strong C. Chuang, 429 Bruce Hills, Cincinnati, Ohio 45224	V.P. and Director	09.09
Mark T. Tsuang, 7416 Ayers Road, Cincinnati, Ohio 45255	Director	09.09
Duane Jang, 8963 Tanglewood Ct., Springboro, Ohio 45066	Director	09.09
Andy Jang, 7755 Parkcreek Drive, Centerville, Ohio 45459	Director	09.09
Chin-Ying Lin, 1617 Leist Ave., Lima, Ohio 45805	Director	09.09

The Applicant, an Ohio Corporation, will begin operations with $1,000,000 of paid-in capital and paid-in surplus. The Applicant will conduct its activities primarily in the State of Ohio but will consider investments in businesses in other areas of the United States.

As an SBIC under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons who participation in the free enterprise system is hampered because of social or economic disadvantage.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the company under their management including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed Application. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of this Notice shall be published in a newspaper of general circulation in the Columbus, Ohio area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 19, 1989.

Robert G. Lineberry,

Deputy Associate Administrator For Investment.

[FR Doc. 89-10185 Filed 4-27-89; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5369]

Ibero-American Investors Corp.; Filing of an Application for Approval of a Conflict of Interest Transaction

Notice is hereby given that Ibero-American Investors Corporation (Ibero-American), 38 Scio Street, Rochester, New York, 14604, a Federal licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to section 312 of the Act and covered by § 107.903 of the SBA Rules and Regulations (the Regulations) governing Small Business Investment Companies (13 CFR 107.903 (1988)) for approval of a conflict of interest transaction falling within the scope of the above Sections of the Act and the Regulations.

Subject to such approval, Ibero-American proposes to provide funds to Best Broadcasting Company, L.P., 234 Roslyn Street, Rochester, New York 14619, for the purpose of obtaining a lower power FM radio station in the city of Rochester, New York.

The proposed financing is brought within the purview of § 107.903(b)(1) of the Regulations because Ms. Wyoma Best is the general partner in Best Broadcasting Company, L.P., and is a member of the Board of Directors of Ibero-American. Best Broadcasting Company, L.P., is considered to be an associate of Ibero-American as defined by § 107.3 of the Regulations.

Notice is further given that any person may, not later than 15 days from the date of the publication of the Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of this Notice shall be published, in accordance with § 107.903(e) of the Regulations, in a newspaper of general circulation in Rochester, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator

Dated: April 17, 1989.

[FR Doc. 89-10189 Filed 4-27-89; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5519]

Zenia Capital Corp.; Issuance of a Small Business Investment Company License

On January 13, 1989, a notice was published in the Federal Register (54 FR 1466) stating that an application has been filed by Zenia Capital Corporation, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1989)) for a license as a small business investment company.

Interested parties were given until close of business February 12, 1989, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-5519 on March 31, 1989, to Zenia Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrotor for Investment.

Dated: April 21, 1989.

[FR Doc. 89-10186 Filed 4-27-89; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0247]

Sigma Capital Corp.; Issuance of a Small Business Investment Company License

On November 25, 1988, a notice was published in the Federal Register (53 FR 47788) stating that an application had been filed by Sigma Capital Corp., Boca Raton, Florida, with the Small Business Administration (SBA), pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1988)), for a license to operate as a small business investment company.

Interested parties were given until the close of business December 24, 1988, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04-0297 on April 11, 1989, to Sigma Capital Corp. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 19, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89-10187 Filed 4-27-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 21, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No.: 46250.

Date Filed: April 17, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 15, 1989.

Description: Application of American Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for amendment of its certificate of public convenience and necessity for Route 137 so as to authorize foreign air transportation of persons, property and mail between a point or points in the United States, on the one hand, and Quito and Quayaquil, Ecuador, on the other hand. American also requests that it be allocated seven of the frequencies available to U.S. Ecuador Air Transport Agreement for Miami-Ecuador services, in order to permit it to institute daily Boeing 727 service between Miami and Guayaquil.

Docket No.: 46252.

Date Filed: April 18, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 16, 1989.

Description: Application of Pacific Interstate Airlines, Inc. d/b/a Carnival Air, pursuant to section 401(d)(1) of the Act, and Subpart Q of the Regulations, requests the issuance of a certificate of public convenience and necessity to authorize it to engage in scheduled foreign air transportation.

Docket No.: 46255.

Date Filed: April 20, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 18, 1989.

Description: Application of United Air Lines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations resubmits request for an amendment of its certificate of public convenience and necessity for Route 130 in order to authorize United to operate (1) nonstop service between Chicago, Illinois, and points in Japan, and (2) between Chicago, Illinois, and points in Asia on Route 130 via Japan.

Docket No.: 46258.

Date Filed: April 20, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 18, 1989.

Description: Application of Air Atlantis, S.A. pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air

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carrier permit to provide charter air transportation of persons and property, separately or in combination, in (1) between points in Portugal and a point or points in the United States (i.e., Third and Fourth Freedom flights) and (2) between points in the United States and a point or points outside the United States (i.e., Fifth Freedom flights) as may be authorized by the Department.

Docket No.: 41894.

Date Filed: April 21, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 19, 1989.

Description: Application of The Flying Tiger Lines Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests renewal of its certificate of public convenience and necessity authorizing scheduled all-cargo service between the United States and Venezuela, Route 451, for a period of at least five years.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89-10253 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-62-M

Aviation Proceedings; Agreements Filed During the Week Ending—April 21, 1989

The following agreement was filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 46248

Parties: Pan American World Airways, Inc.; Aeroflot Soviet Airlines.

Date Filed: April 17, 1989.

Subject: Joint Application of Pan American World Airways, Inc. and Aeroflot Soviet Airlines apply for approval of blocked space agreement, pursuant to Section 412 of the Act.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89-10252 Filed 4-27-89; 8:45 am]

BILLING CODE 6320-62-M

Coast Guard

[CGD 89-036]

Meeting of the Subcommittee on Marine Occupational Safety and Health, Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Notice is given here of a meeting of the Subcommittee on Marine Occupational Safety and Health of the Chemical Transportation Advisory Committee (CTAC). The meeting will be held on Thursday, June 15, 1989, in Room 4234, U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end by 3:30 p.m. During their meeting in December, 1988 the Subcommittee divided into four working groups to begin drafting proposed recommendations in four major subject areas. The working group subjects are: Recognition and evaluation of maritime hazards; control of exposures; training; and program audits and surveys. The purpose of the meeting in June will be to introduce and discuss the first drafts from these four working groups.

FOR FURTHER INFORMATION CONTACT: Lieutenant Joseph Ocken, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second Street, SW., Washington, DC 20593, (202) 267-1577.

Dated: April 21, 1989.

M. J. Schiro,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-10161 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-14-M

[CGD 89-035]

Towing Safety Advisory Committee; Meeting of Subcommittee

AGENCY: Coast Guard, Department of Transportation.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Act (Pub. L. 92-463; U.S.C. App. I), notice is hereby given of a meeting of the following subcommittee of the Towing Safety Advisory Committee (TSAC):

1. The subcommittee on Personnel Manning and Licensing will meet on May 17, 1989 in room 6303, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The meeting is scheduled to begin at 1:00 p.m. and end at 4:00 p.m. The agenda for the meeting follows:

(a) Navigation and Vessel Inspection Circular Regarding Interpretations of Various Issues Regarding Pilots and the Pilot Regulations. Attendance is open to the public.

Members of the public may present oral or written statements at the meeting. Additional information may be obtained from the Executive Director of TSAC at U.S. Coast Guard Headquarters, G-MP-3, Room 2420, 2100 Second Street, SW., Washington, DC 20593-0001 or by calling (202) 267-0449.

Dated: April 19, 1989.

J. D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-10162 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) (Utilized as an Advisory Committee); Reestablishment

Notice is hereby given of the reestablishment of the Radio Technical Commission for Aeronautics (RTCA) as an advisory committee utilized by the Federal Aviation Administration and other Government agencies. The Associate Administrator for Advanced Design and Management Control, Federal Aviation Administration, is the sponsor.

The membership of RTCA comprises over 140 Government and industry organizations. At this time, eight Government agencies, the Departments of State, Commerce, Army, Navy, and Air Force; the Federal Aviation Administration and U.S. Coast Guard of the Department of Transportation; and the National Aeronautics and Space Administration, participate in RTCA. Private sector members include Aeronautical Radio, Incorporated; Air Line Pilots Association; Air Transport Association of America; Aircraft Owners and Pilots Association; General Aviation Manufacturers Association; National Business Aircaft Association; Electronics Industries Association members; and affiliated independent members.

The objective of RTGA is to advance the science of aeronautics through the investigation of all available or potential applications of telecommunications and the adaptation thereof to recognized operational requirements. To achieve this objective, RTCA, through its special committees, seeks solutions to problems involving the application of electronics and telecommunications to aeronautical operations, and frequently recommends technical performance standards and operational requirements for consideration by Government, industry, and aviation users.

The Secretary of Transportation has determined that the utilization of RTCA is necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law. Except as provided in section 10(d) of the Federal Advisory Committee Act (86 Stat. 770), meetings of all RTCA committees, when utilized as an advisory committee, will be open to the public.

Issued in Washington, DC, on March 14, 1989.

John E. Turner,

Associate Administrator for Advanced Design and Management Control.

[FR Doc. 89-10202 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 163, Unintentional or Simultaneous Transmissions That Adversely Affect Two-Way Radio Communication; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the ninth meeting of RTCA Special Committee 163 on Unitentional or Simultaneous Transmissions That Adversely Affect Two-Way Radio Communication to be held May 15-17, 1989, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) approval of the minutes of the eighth meeting, RTCA Paper No. 77-88/SC163-77; (3) review task assignments; (4) review the sixth draft of the MOPS, RTCA Paper No. 79-89/SC163-78; (5) assignment of tasks; (6) other business; and (7) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 18, 1989.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 89-10203 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Executive Committee Meeting; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the Executive Committee Meeting to be held May 19, 1989, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks and introductions; (2) approval of the minutes of the meeting; (3) Executive Director's Report; (4) Special Committee Activities Report; (5) Fiscal and Management Subcommittee Report; (6) Search Committee for Executive Director Successor Report; (7) consideration of proposals to establish new Special Committees; (8) consideration of draft letter on Senate Bill S. 444; (9) consideration of proposal to establish "The RTCA Institute"; (10) other business: and (11) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC., on April 20, 1989.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 89-10204 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 162 Aviation Systems Design Guidelines for Open Systems Interconnection (OSI); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the seventh meeting of RTCA Special Committee 162 on Aviation Systems Design Guidelines for Open Systems Interconnection (OSI) to be held May 23-24, 1989, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) approval of the minutes of the sixth meeting, RTCA Paper No. 443-88/SC162-39; (3) Working Group Activity Reports; (4) reports of related activities being conducted by other organizations; (5) report of the draft guidelines technical editor; (6) review of first part of guidelines document; (7) preparation of plan for completing the guidelines document; (8) other business; and (9) date and location of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson, Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 18, 1989.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 89-10205 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: April 24, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0068.

Form Number: 2441.

Type of Review: Revision.

Title: Child and Dependent Care Expenses.

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Description: Internal Revenue Code section 21 allows a credit for certain child and dependent care expense to be claimed on Form 1040 (reduced by employer-provided day care excluded under section 129). Day care provider must be reported to IRS for both the credit and exclusion. Form 2441 is used to verify that the credit and exclusion are properly figured, and that provider information is reported.

Respondents: Individuals or households.

Estimated Number of Respondents: 6,729,251.

Estimated Burden Hours Per Response/Recordkeeping: Recordkeeping 20 minutes. Learning about the law or the form 12 minutes. Preparing the form 32 minutes. Copying, assembling, and sending the form to IRS 25 minutes.

Frequency of Response: Annually.

Estimated Total Recordkeeping/ Reporting Burden: 9,959,291 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW. Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89-10209 Filed 4-27-89; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register

Vol. 54, No. 81

Friday, April 28, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 2, 1989, 10:00 a.m.

PLACE: 999 E. Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

By direction of the Federal Election Commission, the Open Meeting scheduled for May 5, 1989, is cancelled.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 89-10307 Filed 4-26-89; 9:50 am]

BILLING CODE 6715-01-M

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Wednesday, May 3, 1989, 2:00 p.m.

PLACE: 1776 G Street NW., Board Room, Third Floor, Washington, DC 20006.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Keith Earley, 1759 Business Center Drive, P.O. Box 4115, Reston, Virginia 22090, (703) 759-8414.

MATTERS TO BE CONSIDERED:

Closed—Minutes of the March 27, 1989 Board of Directors' Meeting
Closed—President's Report
Closed—Risk Management Update
Closed—Financial Authorities
Closed—Various Compensation Matters

Date: April 26, 1989.

Maud Mater,

Secretary.

[FR Doc. 89-10425 Filed 4-26-89; 2:32 pm]

BILLING CODE 6719-01-M

BOARD OF GOVERNORS FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, May 3, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: April 25, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-10297 Filed 4-25-89; 4:45 pm]

BILLING CODE 6210-01-M

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Corrections

Federal Register
Vol. 54, No. 81
Friday, April 28, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 89-042]

Varroa Mite Regulations

Correction

In proposed rule document 89-9263 beginning on page 15217 in the issue of Monday, April 17, 1989, make the following correction:

On page 15217, in the third column, in the **SUMMARY**, in the fifth line, "guarantined" should read "quarantined".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 89-044]

U.S. Veterinary Biological Product and Establishment Licenses Issued, Suspended, Revoked, or Terminated

Correction

In notice document 89-8203 beginning on page 14124 in the issue of Friday, April 7, 1989, make the following correction:

On page 14124, in the table, under "Product", in the fifth entry, in the second line, "Parain-fluenza" should read "Parain-fluenza$_3$"#

BILLING CODE 1505-01-D

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Additions

Correction

In notice document 89-8301 beginning on page 14129 in the issue of Friday, April 7, 1989, make the following correction:

On page 14130, in the first column, under the heading **Commodities**, add "7105-00-496-9866" as a final entry under the sub-heading "Mirror, Glass".

BILLING CODE 1505-01-D

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Proposed Additions

Correction

In notice document 89-9633 appearing on page 16148 in the issue of Friday, April 21, 1989, make the following correction:

In the second column under **SUPPLEMENTARY INFORMATION**, immediately following the third paragraph, under "Compress and Bandage, Camouflaged", the first entry should read "6510-00-200-3075".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP89-88-001]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 89-9581 appearing on page 16401 in the issue of Monday, April 24, 1989, the docket number was omitted from the heading and should have read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 78N-0349]

Certain Glycerides; Affirmation of Gras Status; Correction

Correction

In rule document 89-7600 appearing on page 13168 in the issue of Friday, March 31, 1989, make the following corrections:

On page 13168, in the first column, under **EFFECTIVE DATE**, the date should read "May 1, 1989."

On the same page, in the third column, in amendatory instruction 2., in the first line, "Section 184-1101" should read "Section 184.1101".

§ 184.1101 [Corrected]

On the same page, in the same column, in § 184.1101(e), in the fifth line, "diglycerides" was misspelled.

BILLING CODE 1505-01-D

federal register

Friday
April 28, 1989

Part II

Department of Transportation

Coast Guard

33 CFR Parts 151, 155, and 158
46 CFR Part 25
Regulations Implementing the Pollution Prevention Requirements of Annex V of MARPOL 73/78; Interim Rule With Request for Comments

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DEPARTMENT OF TRANSPORTATION

33 CFR Parts 151, 155, and 158

46 CFR Part 25

[CGD 88-002]
RIN 2115-AC09

Regulations Implementing the Pollution Prevention Requirements of Annex V of MARPOL 73/78

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is publishing an interim rule to implement the requirements of the "Act to Prevent Pollution from Ships," as recently amended by Congress. This rule applies to marine craft of any size or type, including commercially operated ships and fishing vessels, uninspected vessels, recreational boats, and oil drilling rigs and platforms. The rule also requires ports or terminals, including recreational boating facilities, commercial fishing facilities, and mineral and oil industry shorebases, to ensure the availability of facilities to receive ship-generated garbage. This rule implements Annex V of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78). The Coast Guard expects that this rule will reduce the amount of plastics, including synthetic fishing nets, and other ship-generated garbage intentionally discharged into the marine environment.

DATES: 1. This interim rule becomes effective on May 30, 1989. 2. The Coast Guard will accept written comments on this interim rule until December 31, 1989.

ADDRESSES:

1. Written comments should be submitted to the Executive Secretary, Marine Safety Council (G-LRA-2/3600), U.S. Coast Guard Headquarters, Room 3600, 2100 Second Street, SW., Washington, DC, 20593-0001 Attention: CGD 88-002. A Final Regulatory Evaluation, Environmental Assessment and copies of the comments received on the Advance Notice and Notice of Proposed Rulemaking are available for inspection and copying at the same address. Normal office hours are between 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

2. Persons desiring to receive a copy of the International Maritime Organization's Report of the Working Group on Optional Annexes (MEPC 26/WP.6 dated September 8, 1988), including the "Guidelines for the Implementation of Annex V, Regulations for the Prevention of Pollution by Garbage from Ships" may obtain one by sending a self-addressed 8½" x 11" envelope with postage paid for three ounces to Commandant (G-MPS-3), U.S Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC, 20593-0001 Attention: Annex V Guidelines.

3. Persons desiring to learn about the specific requirements of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) certification process should write: U.S. Department of Agriculture—APHIS, PPQ, Federal Building—Room 656, 6501 Belcrest Road, Hyattsville, MD 20782 Attention: Dr. Ronald Caffey, or they may contact the local APHIS inspector at the address or telephone number listed in the blue government pages of the local telephone listings under the U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

4. Persons desiring to comment on the information collection requirements in this interim rule should submit their comments to: Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, Attention: Desk Officer, U.S Coast Guard.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Joel R. Whitehead, Project Manager, Office of Marine Safety, Security and Environmental Protection (G-MPS-3), (202) 267-0491, between 7:00 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: For the convenience of the reader, the Supplementary Information explaining this rulemaking is organized as indicated below:

I. Preliminary Information
II. Background
III. Regulatory Approach
IV. Enforcement
V. Section by Section Analysis of the Interim Rule and Public Comments
VI. Regulatory Evaluation and Environmental Impact

I. Preliminary Information

The Coast Guard published an Advance Notice of Proposed Rulemaking in the **Federal Register** on June 24, 1988 (53 FR 23884) and a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on October 27, 1988 (53 FR 43622). In addition, two minor correction notices were published on November 4, 1988 (53 FR 44617) and November 21, 1988 (53 FR 46977).

Three public hearings were conducted by the Coast Guard to give interested persons an opportunity to express their views on the Notice of Proposed Rulemaking. These hearings were held in Washington, DC (November 10, 1988), Houston, Texas (November 14, 1988) and in Seattle, Washington (November 15, 1988).

Drafting Information

The principal persons involved in drafting this interim rule are: Lieutenant Commander Joel R. Whitehead, Project Manager, Office of Marine Safety, Security and Environmental Protection and Mr. Stanley Colby, Project Counsel, Office of the Chief Counsel.

II. Background

The Act to Prevent Pollution from Ships (33 U.S.C. 1901 *et seq.*), hereafter referred to as The Act, requires the Secretary of the Department in which the Coast Guard is operating to administer and enforce Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), done at London on February 17, 1978. Annex V of MARPOL 73/78 is entitled "Regulations for the Prevention of Pollution by Garbage from Ships" and was designed to reduce the introduction of ship-generated garbage into the marine environment. Garbage is defined as "all kinds of victual, domestic and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continually or periodically." A particular focus of Annex V is to prevent the discharge of plastics, including synthetic fishing nets, and other debris which persists in the marine environment.

The International Convention for the Prevention of Pollution from Ships, 1973, was adopted by the International Conference on Marine Pollution convened by the Intergovernmental Maritime Consultative Organization (IMCO), in November 1973. IMCO is now known as the International Maritime Organization (IMO). The Convention was subsequently modified by the Protocol of 1978 and adopted by the International Conference on Tanker Safety and Pollution Prevention, held in February 1978. The Convention, as modified by the 1978 Protocol, is known as MARPOL 73/78.

MARPOL 73/78 was designed to address the problem of marine pollution from ships on a global scale and consists of five annexes, each of which is directed to combat a particular type of marine pollution. States which are parties to MARPOL 73/78 have agreed to implement Annexes I and II which address pollution by oil and noxious liquid substances (bulk liquid chemicals), respectively. Annexes I and II are known as the mandatory annexes and are already in force internationally. By the terms of MARPOL 73/78, Annexes III, IV and V are optional to party states, and they need not be accepted by states at the time they ratify MARPOL 73/78. The United States elected not to be bound by the optional annexes at the time it ratified. Each optional annex, including Annex V, enters into force separately one year from the date on which at least 15 nations, representing a minimum of fifty per cent of the world's shipping tonnage, have ratified them. The U.S. Senate gave its advice and consent to U.S. ratification of Annex V on November 5, 1987 and the President signed Pub. L. 100-220, including Title II, known as the "Marine Plastic Pollution Research and Control Act of 1987" on December 29, 1987. The U.S. Government deposited its instrument of ratification of Annex V at IMO Headquarters in London on December 30, 1987. With U.S. ratification, MARPOL's requirements for Annex V entry into force were met. Accordingly, Annex V entered into force internationally on December 31, 1988.

III. Regulatory Approach

These regulations amend existing regulations in 33 CFR Parts 151, 155, and 158, and 46 CFR Part 25. 33 CFR Part 151 is concerned with the shipboard requirements to prevent pollution and Part 158 concerns the reception facility requirements for ports or terminals. This interim rule adds new subparts and revises the general sections of Parts 151 and 158 to implement the requirements of Annex V, as directed by Pub. L. 100-220. There are no new requirements in these regulations which change Annex I or Annex II requirements, although minor editorial or typographical errors found in those regulations have been corrected. Minor revisions to 33 CFR Part 155 change references in 33 CFR Part 151 which were redesignated. In 46 CFR Part 25, the interim rule requires uninspected vessels to retain garbage generated on board when it cannot be discharged in accordance with these regulations. Although it is duplicative of the requirements in 33 CFR Part 151, this requirement was included in Title 46 because most uninspected vessel operators are more likely to be familiar with Title 46 than Title 33.

In drafting this rule, the Coast Guard considered the comments received and discussions held over the last year with numerous industry representatives, environmental organizations and federal agencies. The Coast Guard also considered the international guidance provided in the Report of the Working Group on Optional Annexes which convened at the 26th Session of the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) in London in September 1988. The Working Group's report contains the "Guidelines for the Implementation of Annex V, Regulations for the Prevention of Pollution by Garbage from Ships" which were approved at that meeting. Persons who desire to obtain a copy of that report may obtain one by writing to the address in the second paragraph of **ADDRESSES** above.

Section 1905(a) of the Act also requires the Coast Guard to consult with appropriate federal agencies in establishing regulations which set the criteria for determining the adequacy of reception facilities. Accordingly, the Coast Guard has consulted with many federal agencies, including the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA), the National Marine Fisheries Service of the National Oceanographic and Atmospheric Administration (NOAA), the Environmental Protection Agency (EPA) and the Minerals Management Service (MMS) of the Department of the Interior. In addition, the Coast Guard advised numerous federal agencies of the ongoing status of these regulations through its active participation on the Interagency Task Force on Persistent Marine Debris, which was chaired by NOAA.

The Coast Guard believes that the regulatory approach it has taken to implement Annex V and the recent amendments to the Act, is a reasonable and prudent one, which recognizes the difficulty of the task at hand. The Coast Guard received numerous comments from both public and private sectors which requested the Coast Guard to reflect in a final rule the lessons learned during the first year of implementation. For this reason, the Coast Guard is publishing an interim rule which will be in effect until a final rule is issued, in early 1990. The Coast Guard expects that the final rule will fine tune this interim rule and will reflect the lessons learned by both ship operators and port or terminal operators during the interim period.

IV. Enforcement

The Coast Guard plans an enforcement scheme which will phase in the most difficult requirements of this rule over the next several months and which is realistic, satisfactorily meets the concerns of the public and industry, and will fulfill our international commitments under Annex V of MARPOL 73/78.

To date, the Coast Guard has enjoyed superb cooperation among all segments of the marine industry and government in developing policy to implement the goals of Annex V of MARPOL 73/78. Despite this cooperation, the Coast Guard is aware that some ports and terminals will have difficulty in immediately providing shoreside reception facilities for garbage which meet APHIS requirements. To account for this, this interim rule allows until August 28, 1989 to acquire APHIS facilities for those ports or terminals which do not already have them. However, the Coast Guard expects that those ports or terminals which do have these facilities available earlier than this date will make them available. Availability of APHIS facilities will, in all likelihood, place these ports in a more competitive position than those nearby which lack them, since those ports or terminals with APHIS facilities will be able to serve the full range of ship's garbage reception needs. Because of this phased-in approach to requiring APHIS reception facilities, until August 28, 1989 some ships will have to retain contaminated plastics regulated by APHIS until they reach a subsequent port or terminal which has APHIS approved facilities. Coast Guard Captains of the Port (COTP's) will work with local ports and terminals, local APHIS field offices, and shipping companies to ensure the availability of APHIS facilities at all ports and terminals which need them by August 28, 1989.

Although the Coast Guard is phasing in certain requirements of these regulations, Annex V of MARPOL 73/78 and the Act are now effective and the Coast Guard will implement them through a variety of enforcement tools. These tools range from on-the-spot corrections, to COTP Letters of Warning, and the assessment of civil penalties. The Coast Guard may also deny ships permission to enter ports or terminals which do not have adequate reception facilities for garbage or do not have Certificate of Adequacy (COA), if required. For gross or willful violations of the law, the Coast Guard will seek the prosecution of violators through criminal sanctions which could include fines of up to $50,000 and imprisonment. The Coast Guard's enforcement strategy will be to cooperatively work with all members of the marine community in an equitable manner, but with the clear expectation that ports, terminals and shipping companies will take action now to achieve full compliance with Annex V. Local COTPs will decide which enforcement strategy is best suited to

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encourage compliance, based upon the progress made by individual ports, terminals, and ships to achieve compliance with these regulations and the intent of Annex V of MARPOL 73/78. Persons who believe a requirement of these regulations is impracticable or unreasonable may submit a waiver request. Waivers are allowed by 33 CFR 158.150 which requires the requestor to state an alternative which provides equivalent compliance with MARPOL 73/78, Annex V.

V. Section-by-Section Analysis of the Interim Rule and Discussion of Comments Received Concerning the Proposed Rules

The rule which was proposed in the Coast Guard's NPRM of October 27, 1988 was changed based upon remarks that were received during the comment period which expired November 28, 1988 and upon oral comments made at three public hearings conducted by the Coast Guard. Each section of the interim rule is described below and is accompanied by a discussion of how and why the regulations proposed in the NPRM were amended.

33 CFR 151.03 Applicability

This section was revised to indicate that the waters and ships to which each annex of MARPOL 73/78 apply are now specified in separate applicability sections, one for each annex of MARPOL 73/78. Before the entry into force of Annex V, one applicability section was sufficient for all ships to which MARPOL 73/78 applied. However, the Coast Guard decided that separate applicability sections for each subpart were appropriate with the entry into force of Annex V, because of the great expansion in the waters to which Annex V applies and the number of additional ships, ports and terminals which will be required to comply with these regulations.

33 CFR 151.04 Penalties for Violation

This section was added as a clear statement of the civil penalties and criminal fines authorized for violations of the regulations in this part, the Act or Annexes I, II or V of MARPOL 73/78. The Coast Guard has added a new § 151.04(b) which did not appear in the NPRM This new section provides notification of the $5,000 civil penalty authorized under the Act for persons who make false or fictitious statements or representations in any matter required to be made to the Coast Guard. This penalty was referred to in the Application for a Certificate of Adequacy for a Reception Facility for Garbage (Form C), but was not specifically mentioned in the penalty section as proposed in the NPRM.

The Coast Guard received four comments relative to this section. One commenter suggested that this section should be located in Subpart A of Part 151 since the penalties and fines apply to all Annexes of MARPOL 73/78, and not just Annex V. The Coast Guard agreed and moved this section from the location proposed in the NPRM (Subpart D) to this section. Another commenter correctly noted that the references to fines and penalties in § 151.181(c) of the NPRM were reversed. The Coast Guard has corrected this error in this interim rule. A third commenter questioned whether the criminal fines as listed in the proposed rule apply per day or per violation. The criminal fines allowed for in the Act apply to each violation, with no additional penalty for each day of a continuing violation, as is the case with civil penalties. The fourth commenter recommended that the Coast Guard remove what appears in this interim rule as § 151.04(d). This section authorizes the Coast Guard to seek criminal fines or civil penalties against a ship *in rem*. This commenter stated that it would be unfair for the Coast Guard to penalize a shipowner, if an individual on board the ship failed to comply with the shipowner's stated policies, provided they were consistent with Annex V. The Coast Guard has retained the wording of the proposed rule, since the statute clearly authorizes *in rem* proceedings. In appropriate cases, the Coast Guard will seek payment of fines or penalties against the ship *in rem*.

33 CFR 151.05 Definitions

This section adds several new definitions relevant to Annex V of MARPOL 73/78 and makes slight revisions in existing definitions. Because of comments received from the public and definitions recently approved by the IMO in the "Guidelines for the Implementation of Annex V," several definitions were added in this interim rule which did not appear in the NPRM "Cargo associated waste," "Dishwater," "Domestic waste," "Garbage," "Graywater," "Harmful substance," "Maintenance waste," "Medical waste," "Operational waste," "Plastic," and "Victual waste" were added to this part in the proper alphabetical sequence and the definitions of "Discharge," "Special Area" and "Terminal" were revised. All are discussed below:

1. "Cargo associated wastes," "Domestic wastes," "Maintenance waste," and "Operational waste." One commenter requested that the Coast Guard further define the three components of the term "garbage" as defined in the NPRM. By that definition, garbage consists of "victual, domestic and operational wastes," of which only "victual waste" had been defined in the NPRM. The Coast Guard agrees that addition of the definitions of "domestic waste" and "operational waste" will clarify what is meant by "garbage" under these regulations. In addition, the definition of "maintenance waste" was added since this term is referred to within the definition of the three major components of garbage. With only minor changes, the Coast Guard has adopted the definitions of these terms as found in IMO's "Guidelines for the Implementation of Annex V, Regulations for the Prevention of Pollution by Garbage from Ships." Persons wishing to receive a copy of these Guidelines should write to the address indicated in paragraph two in **ADDRESSES** above.

Within the definition of "operational waste," the Coast Guard has included "ashes and clinkers" from shipboard incinerators and coal burning boilers. The IMO's "Guidelines for the Implementation of Annex V" specifically note that "ash and clinkers" from incineration of ship-generated garbage and ship boilers are considered "garbage" within the meaning of Annex V since they are "operational wastes." Under this interim rule, ashes and non-plastic clinkers may be discharged at sea (except in a Special Area) outside of 12 nautical miles from "nearest land" in accordance with 33 CFR 151.69(a)(2). Further, those ashes and non-plastic clinkers which can pass through a 25 millimeter (1 inch) screen may be discharged beyond 3 nautical miles from land. "Cargo residues" are also considered to be garbage, since they are "operational wastes" as defined herein.

2. "Discharge." This definition is identical to that found in MARPOL 73/78 and includes any intentional or unintentional discharge of garbage.

3. "Dishwater" and "graywater." The definitions of dishwater and graywater were added to define two important exceptions to the definition of garbage within the meaning of Annex V.

4. "Garbage" is defined as it appears in Annex V of MARPOL 73/78 with the two exclusions for "graywater" and "dishwater," as noted above. The most important concept in this definition is that "garbage," for the purposes of these regulations, must be "generated during the normal operation of the ship" and is liable to be disposed of continuously or periodically.

Two commenters supported the exclusion of the words "fresh fish and parts thereof" from the definition of garbage. This exclusion was provided for in MARPOL 73/78 and is consistent with existing exemptions granted by the EPA in their ocean dumping regulations in 40 CFR 220.1(c). One commenter requested the Coast Guard to apply the Annex V regulations to all garbage, whether ship-generated or not. The Coast Guard disagrees and has retained the existing definition of garbage because the commenter's proposal goes far beyond the scope of MARPOL 73/78 and the Act, which was intended to address only ship-generated sources of pollution Other laws, such as the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 *et seq.*) (MPRSA) and the Refuse Act (33 U.S.C. 407), prohibit the disposal of other material and refuse in general. One commenter requested the Coast Guard to specify in this section that garbage entrained in fishing nets should be considered an exception to this definition and is not required to be retained. Congress clearly indicated in House Report 100-360 (the report of the Merchant Marine and Fisheries Committee on H.R. 940, which became Title II of Pub. L. 100-220) at page 101, that fishermen are not obligated to retain refuse not generated by them but which becomes entrained in their fishing nets. The Coast Guard believes that the definition of "garbage" is sufficient to express this viewpoint and a further regulatory statement is unnecessary.

5. "Harmful substance." As defined by MARPOL 73/78, garbage, including, but not limited to plastics, is considered to be a "harmful substance" since it is liable to "create hazards to human health, to harm living resources and marine life, (or) to damage amenities." One person suggested redefining this term so that plastic fishing nets and traps (which are "harmful substances" under MARPOL 73/78) could be intentionally placed into the ocean as artificial reefs. The Coast Guard has retained the definition as it appeared in the NPRM, since construction of artificial reefs is not within the scope of the Act. Depending on location, these activities are regulated by some states and the U.S. Army Corps of Engineers, which generally requires issuance of a permit for artificial reef construction under 33 CFR Part 322.

6. "Medical waste." This definition was added to clarify those substances for which a ship operator must provide 24-hour advance notice that it desires to discharge to a port or terminal. The definition which appears here is the same as that in the recent amendments to section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362), as enacted by Title III of Pub L. 100-688.

7. "Plastic." This definition is included to provide a technically acceptable and very broad definition of those materials which are totally prohibited from discharge by ships, except to a port or terminal's reception facility. An explanatory note follows this definition and describes, for the nonscientific layman, the types of plastic items which are commonly found on ships which would be included in this definition. The definition is meant to include plastic products, raw resin pellets and composite products in which the plastic component may be a minor, but essential element in its functioning, for example, a plastic-lined paper cup. This definition excludes glass, paints, varnishes, and waxes, all of which might be considered "plastics" by other definitions.

Two commenters, including the EPA, supported the Coast Guard's decision to include the so-called "degradeable" plastics within the meaning of plastic in this rule. "Degradeable" plastics generally consist of synthetic polymers connected by starches. After varying periods of time, often more than six months, the starches degrade and leave smaller pieces of plastic in the marine environment. The Coast Guard specifically intends for these "degradeable" plastics to be included within the meaning of plastic and by this to restrict their discharge, since there could be an undesirable transfer of entanglement related marine deaths to ingestion related ones, especially during a lengthy period of starch degradation. To clarify the status of degradeable plastics, one commenter suggested adding the terms "biodegradeable" and "photodegradeable" plastics to the note following the definition of plastic. While there is no widely accepted definition of either of these terms, the Coast Guard agrees that the addition of the word "degradeable" in the regulation would further clarify the Coast Guard's intent to prohibit their discharge from ships. Accordingly, the Coast Guard has added a statement to this effect in the note following the definition of plastic.

Two commenters objected to the Coast Guard's description in the NPRM's preamble which excluded naturally produced polymers such as chitin from the meaning of plastic. Some plastic materials are produced naturally in the marine environment by living organisms. For example, chitin is a primary component of the shells of crabs, shrimp and lobsters, among others. The Coast Guard's broad definition of plastic is intended to regulate synthetically produced plastics, including chitin-derived and other plastics which have been harvested and adapted for use by man. Several European nations are now manufacturing packaging materials for personal hygiene products which are primarily chitin-derived. While this rule is intended to prohibit the discharge from ships of synthetically produced plastics, it is not intended to regulate the discharge of naturally produced plastics during fishery activities, such as crabshells and others which appear in the marine environment. In the absence of any evidence to indicate that synthetic plastics degrade so quickly in the marine environment that they do not cause environmental harm, these regulations prohibit the discharge of such plastics by ships at sea and in the navigable waters of the United States.

One commenter requested that the Coast Guard revise the definition of plastics to address not only the physical properties of plastics, but also those harmful characteristics which make them dangerous in the marine environment. Because the Coast Guard cannot identify plastics which are discharged into the ocean and which possess characteristics not harmful, or potentially harmful, to the marine environment, this definition has not been changed

8. "Port." The Coast Guard has retained the definition of this term as it appeared before the NPRM. The Coast Guard received one comment stating that the proposed revision to the definition as it appeared in the NPRM would destroy what was previously a clear distinction between the definitions of "port" and "terminal." Under Annexes I and II, a terminal was a single entity, such as a loading terminal, and a port was either a geographic "port" or a cooperative of terminals which wished to be considered a "port" for the purposes of the regulations, allowing them to share reception facilities. The proposed definition of port would have meant that certain individual entities, such as "commercial fishing facilities," "recreational boating facilities" and "mineral and oil shorebases" would be considered ports. The Coast Guard agrees that the definition as proposed in the NPRM needlessly confused this distinction and has therefore retained without change the existing definition of "port" found in 33 CFR 151.05.

9. "Special area." This definition is almost identical to that which appears in MARPOL 73/78 and a new phrase has been added to it indicating the sections in 33 CFR Part 151 which specifically define the Special Areas for each annex. Although Annexes I and II currently

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have the same special areas, the Coast Guard felt that a separate listing in each Subpart would be more clear to the reader and would allow for the addition of new special areas for individual annexes.

10. "Terminal." The definition of this term has not been changed; however, the Coast Guard added an interpretive note to indicate that "commercial fishing facilities," "recreational boating facilities" and "mineral and oil shorebases" are considered "terminals" under these regulations. See the discussion above under the definition "Port" for further explanation.

11. "Victual waste." This term is defined to mean "food wastes;" since this latter term is used throughout Annex V but is not defined therein. "Victual wastes" and "food wastes" are interchangeable terms within the meaning of Annex V, however, the interim rule refers only to the term "victual wastes" for consistency.

33 CFR 151.07 Delegations

This section remains substantively unchanged, however it was reorganized for clarity. Paragraph (b), which had been reserved, and an out of date legal citation were removed.

33 CFR 151.06 Denial of Entry

The Coast Guard added a new paragraph (b) to indicate that the Captain of the Port (COTP) may deny ships entry to ports and terminals which do not provide or ensure the availability of adequate reception facilities for garbage or hold a Certificate of Adequacy if required under § 158.135.

One commenter mistakenly believed that this section would automatically deny entry to any ship entering a port or terminal which does not meet this section's requirements. The new § 151.06(b) merely grants the Coast Guard authority to deny entry when the COTP believes this would be the most effective enforcement tool.

33 CFR 151.09 Applicability

A new applicability section was added to describe which ships must comply with Subpart B, which implements the oil pollution regulations of Annex I of MARPOL 73/78. This applicability section was extracted from the old 33 CFR 151.03 and makes no changes in applicability of ships which must comply with Annex I of MARPOL 73/78. Separate applicability sections for each annex are intended to make it more clear to industry and enforcement personnel exactly which annexes apply to which ships.

33 CFR 151.10 Control of Discharge of Oil

This section was redesignated from its former section, § 151.09. This redesignation was necessary in order to make room for the insertion of the new applicability section for Annex I, which now appears as 33 CFR 151.09.

33 CFR 151.11 Exceptions for Emergencies

This section refers to exceptions for emergencies under Annex I of MARPOL 73/78. The reference to 33 CFR 151.09 in the introductory paragraph was changed to 33 CFR 151.10 to account for the redesignation of 33 CFR 151.09.

33 CFR 151.13 Special Areas for Annex I of MARPOL 73/78

The section title was changed by adding the words "for Annex I of MARPOL 73/78" to clearly indicate that these special areas are for this specific annex of MARPOL. Paragraph (g) was revised by changing the reference to § 151.09 to its new designation, § 151.10. In addition, there were some typographical errors which appeared in the CFR which have been corrected in this revision.

33 CFR 151.30 Applicability

A new applicability section was added to describe which ships must comply with Subpart C, which implements the noxious liquid substance regulations of Annex II of MARPOL 73/78. This section makes no changes in applicability for those ships required to comply with Annex II, since it was extracted from the old 33 CFR 151.03.

33 CFR 151 Subpart D—Garbage Pollution

This new subpart forms the body of the regulatory changes necessary to implement Annex V of MARPOL 73/78 and the recent amendments to the Act. The rule in Subpart D of Part 151 delineates shipboard requirements only.

33 CFR 151.51 Applicability

This section defines the ships that are subject to regulations implementing Annex V of MARPOL 73/78. This subpart applies to all U.S. ships (except certain government owned or operated ships) wherever located, and to foreign flag ships (whether party to MARPOL 73/78 or not) when in the navigable waters of the U.S. or within the 200 mile Exclusive Economic Zone (EEZ) of the U.S. Readers should understand that "ship," as defined in § 151.05, is very broad and includes "all marine craft operating in the marine environment." This definition includes among others, privately owned recreational vessels, uninspected vessels, cargo ships, tankships and barges, passenger vessels, oil drilling rigs and platforms and associated vessels such as derrick barges and pipelaying barges.

Two commenters requested a revision in these regulations to state that recreational vessels must also comply, since they are not specifically mentioned. Although most of these vessels are "operated under the jurisdiction of the United States" since they must be numbered under the requirements of 46 U.S.C. Chapter 123, the Coast Guard agrees that this intent was not made clear in the NPRM. Section 151.51(a)(1) has been changed to specifically indicate that recreational vessels and uninspected vessels must also comply with Annex V.

Five commenters objected to the exemption in § 151.51(b)(1) granted to warships, naval auxiliaries and other ships owned or operated by the United States when engaged in noncommercial service, and requested the Coast Guard to require them to comply with these regulations. The Coast Guard has retained this exemption because it is provided for both in MARPOL 73/78 and in the recent amendments to the Act. As authorized in Section 3(e) of the Act, these vessels have five years to achieve full compliance with Annex V.

33 CFR 151.53 Special Areas for Annex V of MARPOL 73/78

This section spells out the special areas for Annex V. Special areas are waterbodies which require additional protections beyond the normal discharge requirements of Annex V found in 33 CFR 151.69. Currently, the special areas for Annex V are the same as for Annex I of MARPOL 73/78 and include the Mediterranean Sea, Black Sea, Red Sea, Baltic Sea and Gulfs Area (Persian Gulf). In this section, the special areas for Annex V are listed and described by navigational coordinates as an aid to the reader. An explanatory note has been added below this section to advise the reader that while these waterbodies are defined as special areas, the discharge restrictions in 33 CFR 151.71 do not apply in these waters until a sufficient number of party states bordering each special area have notified IMO that adequate reception facilities are available. The IMO must also provide one year's notice to party states as to the effective date. On October 1, 1989, the Baltic Sea will become the first special area under Annex V in which the discharge restrictions of § 151.71 apply.

33 CFR 151.55–151.59 Recordkeeping Requirements, Waste Management Plans, Placards [Reserved]

These sections have been reserved for a separate rulemaking in which the Coast Guard will propose specific requirements for these three items. Congress allowed the Coast Guard until December 31, 1989 to publish a rule to implement these requirements for domestic ships.

Seven commenters urged the Coast Guard to include specific requirements for these three sections in this interim rule. These sections remain reserved; however, the Coast Guard has completed a preliminary study concerning future U.S. regulatory requirements and expects to initiate a proposed rulemaking in 1989 for domestic vessels.

Two commenters requested the Coast Guard to initiate a fishing gear marking, registration and identification system and to develop a monetary bounty system to aid in the recovery of fishing gear. The Coast Guard has determined it does not have the authority to accomplish either of these under Title II of Pub. L. 100.220. As discussed above, however, the Coast Guard is actively considering what recordkeeping requirements would be appropriate for commercial fishing vessels to achieve the goals of Annex V.

33 CFR 151.61 Inspection for Compliance and Enforcement

This section allows the Coast Guard or other authorized federal agencies to inspect vessels to determine if they are operating in accordance with these regulations, the Act and Annex V of MARPOL 73/78.

One commenter recommended that the Coast Guard require all grinders and comminuters to be inspected annually or biennially to determine if they are capable of reducing garbage to a size which will pass through a 25 millimeter (1 inch) mesh screen. The Coast Guard considered this, but determined that a mandatory inspection schedule was not necessary since this section already authorizes inspections to determine the continuing satisfactory service of grinders and comminuters.

33 CFR 151.63 Shipboard Control of Garbage

This section contains the substantive requirements to control garbage on board ships and, in paragraph 151.63(b), contains a partial listing of the factors which are considered by enforcement personnel in evaluating compliance with these regulations. Section 151.63(c) contains a requirement that if shipboard personnel transfer garbage to a port or terminal, it must be properly deposited in the port or terminal's reception facility.

Four commenters objected to the wording of § 151.63(b) as proposed in the NPRM, saying that the presumption of guilt therein placed the master in a position of being guilty until proven innocent. The Coast Guard agrees that the wording of this section was too harsh and has removed it in this interim rule.

Two commenters requested that the Coast Guard define the means by which the master could avoid the presumption of guilt proposed in the NPRM. Although this presumption has been removed in this interim rule, the Coast Guard believes this recommendation has great merit and would promote compliance. Accordingly, a partial listing of the factors which are considered by enforcement personnel in evaluating compliance with these regulations has been added in § 151.63(b).

Two commenters were concerned that ship operators might dump garbage on a pier, or on shore, and requested this rule to prohibit such actions. While the Coast Guard believes such instances would be rare, it recognizes that for these regulations to be effective, they must clearly state the individual responsibilities of both ship operators and port or terminal operators. The Coast Guard is aware that in many ports or terminals, existing contractual arrangements with labor unions will dictate who transports garbage from ships. But in other areas, port or terminal operators will have little control over ensuring that the garbage goes into a reception facility. Because of this, the Coast Guard has added a new § 151.63(c) which states that if ship personnel discharge garbage ashore, they must ensure that the garbage is properly discharged in the reception facilities provided.

Three commenters recommended that the Coast Guard require ships to separate various categories of garbage, to specify that foreign victual waste may be carried ashore only in sealed leakproof containers, and to label the type of ship's garbage coming ashore. Because these suggestions are basically required under the existing regulations enforced by APHIS, the Coast Guard did not incorporate these suggestions in this interim rule.

33 CFR 151.65 Reporting Requirements

This section would require ship operators to advise the port or terminal of its intent to discharge APHIS regulated garbage, medical wastes, or hazardous wastes to a port or terminal's reception facility 24 hours before entering the port. The types of garbage for which an advance report is required have been expanded since the NPRM to include medical wastes and hazardous wastes, as defined by the EPA in 40 CFR 261.3. The Coast Guard believes these reporting requirements are necessary in order to prevent undue delay to ships, which is a requirement of MARPOL 73/78. The reporting requirement of this section would lessen the possibility that ships would be delayed, since port or terminal operators would be given advance notice of the need for these facilities and would then be able to arrange for outside contractor's availability, if necessary.

Three persons commented upon this 24 hour advance reporting requirement. One shipping company representative favored this as a means of preventing delay to ships and two others expressed the concern that in remote areas, more than 24 hours notice may be required. The Coast Guard believes that a 24 hour notice is generally reasonable and that within a short period of time, demand for these services will encourage other waste management firms to enter the marketplace with the ability to remove APHIS regulated wastes within the 24 hours specified in § 158.410.

One commenter requested the Coast Guard to revise what appeared in the NPRM as § 151.65(b) by requiring tonnage or weight instead of "volume." The Coast Guard does not feel this is necessary since volume, expressed in cubic feet or cubic yards, is a familiar concept to waste management firms.

33 CFR 151.66 Operating Requirements: Discharge of Garbage in Navigable Waters Prohibited

This section specifically states that garbage, as defined in this part, may not be discharged from any ship into the navigable waters of the United States. Two commenters and numerous persons at the public hearings indicated that while it was generally understood that the disposal of garbage in navigable waters was prohibited under the Act, the proposed regulations did not clearly state this. The Coast Guard agrees that this was not clearly expressed and has added this new section to clarify this point.

Section 3(b) of the Act applies the discharge restrictions of Annex V of MARPOL 73/78 to the navigable waters of the United States. This section implements Regulation 3 of Annex V which states that a garbage discharge at sea shall be "made as far as practicable from the nearest land but in any case is prohibited if the distance from the

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nearest land is less than 3 nautical miles." This section implements the requirement of Congress to apply the discharge restrictions of Annex V to the navigable waters of the United States.

The use of galley equipment such as garbage disposals in the navigable waters has been raised within the context of Annex V of MARPOL 73/78 and these regulations. A garbage disposal is essentially a grinder or comminuter for victual waste. Because Congress intended to apply the discharge restrictions of the Annex to the navigable waters, victual waste may not be discharged into the navigable waters of the United States through a grinder, comminuter or garbage disposal. However, the Coast Guard does not intend to require the removal of garbage disposals from ships operating on inland waters, since garbage disposals are allowed as a grinder or comminuter described in § 151.75, if used outside 3 miles from nearest land.

One commenter questioned whether "cargo residues" may be discharged into the navigable waters of the U.S., particularly in the Great Lakes. At the 26th Session of Marine Environment Protection Committee (MEPC) in September 1988, it was generally agreed that cargo residues are garbage since they are defined as an "operational waste" in IMO's Guidelines. The Coast Guard concurs with this position. However, the manner in which Annex V would be applied to cargo residues was not fully resolved, and was a source of some disagreement among party states. With respect to the application of Annex V restrictions to the Great Lakes, Canada is not signatory to MARPOL 73/78 and the Coast Guard has been advised that Canada has no laws or regulations which prohibit the discharge of cargo residues into the Great Lakes. Under the revised Great Lakes Water Quality Agreement of 1978, the United States and Canada are obliged to seek compatible regulations for the prevention of pollution on those waters. To resolve the issue of cargo residue discharges on the Great Lakes, the Coast Guard plans to discuss this issue with its Canadian counterparts, toward a goal of achieving compatible U.S.-Canadian pollution prevention regulations.

33 CFR 151.67 Operating Requirements: Disposal of Plastic

This section contains the shipboard operating procedures for disposal of plastics. No person onboard U.S. ships, wherever located, may discharge plastics into the sea or navigable waters of the United States. Also, no person onboard foreign flag ships, either party or non-party to MARPOL 73/78, may discharge plastics into the navigable waters or 200 mile EEZ of the United States. In order to be consistent with MARPOL 73/78, this section indicates that if garbage containing plastic is mixed with non-plastic garbage, then the entire mixture must be treated as though it were all plastic. Plastic which has been incompletely incinerated so that "clinkers," or small lumps of melted plastic, remain, may not be discharged at sea.

One commenter correctly pointed out that this section, as proposed in the NPRM, only prohibited discharge of plastics "at sea." Although Congress has indicated that "sea" includes the navigable waters, the Coast Guard agrees that this was unclear in the proposed regulation and has added the words "or into the navigable waters" for clarification.

One commenter suggested that the Coast Guard should define the term "incinerate" as referred to in §§ 151.67 through 151.73. The Coast Guard did not feel this was necessary in the interim rule because the term has no special meaning beyond the normal dictionary definition, which means to reduce to an ash.

33 CFR 151.69 Operating Requirements: Disposal of Garbage Outside Special Areas.

This section implements Regulation 3 of Annex V of MARPOL 73/78. It establishes three sea zones (measured seaward from the baseline of the territorial sea) where certain types of garbage may be legally discharged from ships, provided the ship is outside the special areas defined in § 151.53. These regulations allow ships to incinerate ship-generated garbage at sea and to dispose of the ash residues outside three miles, provided the ash does not contain incompletely burned plastic, and that the residue can pass through the 25 millimeter (1 inch) mesh screen described in § 151.75.

Eight persons commented on various aspects of incineration of ship-generated garbage at sea. Five commenters recommended that the Coast Guard ban or restrict its use, develop standards for shipboard incinerators, or require incinerator ash to be disposed of at port reception facilities. Two commenters supported the Coast Guard's proposed rule allowing incineration, and another felt the Coast Guard was premature in banning the discharge of incinerator ash within three miles from land and on the navigable waters. The Coast Guard has been advised by the EPA that disposal of incinerator ash and use of incinerators outside the territorial sea is not prohibited by either the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). While the EPA has expressed reservations about the discharge of incinerator residues at sea and of resulting incinerator emissions, it also stated that it was unawere of any data describing the characteristics, either safe or harmful, of ship's incinerator ash or the environmental effects of discharging ash at sea. The Coast Guard is aware that the Minerals Management Service (MMS) of the Department of Interior currently has airborne emissions regulations in force which apply to fixed and floating rigs on the federal Outer Continental Shelf (OCS). Incinerators on these types of facilities already must be in compliance with these MMS regulations.

The Coast Guard has retained those sections allowing the incineration of ship-generated garbage and the discharge of incinerator ash at sea. The Coast Guard believes that the provisions to allow the incineration of ship-generated garbage at sea are realistic since (1) they are not in conflict with the Clean Air Act, Clean Water Act, and the Act to Prevent Pollution from Ships; (2) the IMO's "Guidelines for the Implementation of Annex V" specifically recognize that incinerator ash and clinkers are considered as "garbage" under the Annex and can be discharged at sea; and (3) Congress clearly intended for incineration of ship-generated garbage at sea to be one option available to ship operators and it even encouraged the U S. Navy to consider the use of incineration among other methods of garbage disposal.

However, in the absence of information relating to the characteristics of incinerator ash from ship-generated garbage, the Coast Guard is presently chairing an industry working group of the American Society for Testing and Materials (ASTM) whose goal is to develop an acceptable industry standard for shipboard incinerators. In addition, the Coast Guard has actively participated in two workshops of Panel M-17 (Disposal of Shipboard Wastes) of the Society of Naval Architects and Marine Engineers (SNAME). This Panel has recently focused its activities on shipboard incinerators and other means by which ships may comply with the discharge restrictions of Annex V of MARPOL 73/78. Finally, the Coast Guard raised the issue of the use of shipboard incinerators at the 26th Session of the MEPC in September 1988 and had it placed on the agenda for discussion at the 27th Session in March 1989.

Two commenters requested that the Coast Guard require the offloading of all garbage on board a ship upon arrival at a port or terminal, indicating that the subsequent discharge at sea of this garbage might conflict with the ocean dumping prohibitions of the Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA). The MPRSA prohibits the transportation of materials from the United States for the specific purpose of dumping them into ocean waters, unless authorized by permit from the EPA. House Report 100-360 discusses the relationship of the MPRSA and the Act to Prevent Pollution from Ships (APPS), as amended. The Report states at page fourteen that the MPRSA also "prohibits the transport of any material from the United States for the purpose of dumping it into ocean waters" and noted that this provision does not conflict with the provisions of MARPOL, since MARPOL addresses garbage that is generated during the normal operation of a ship and is hence not transported for the purpose of dumping. See also Senate Report 100-266 (the report of the Committee on Commerce, Science and Transportation on H.R. 940) at page seven. The Coast Guard agrees that if garbage, as defined in the Act, is transported for the exclusive purpose of dumping at sea, the prohibitions of the MPRSA would apply. This would include transfers of garbage from ship to ship, if the intent was to dump at sea. However, the Coast Guard does not have the authority under the Act to require the offloading of ship-generated garbage while in port. While the present rulemaking does not deal with the MPRSA, the Coast Guard does enforce its ocean dumping requirements. Ships which intend to transport garbage to sea for the purpose of dumping would be obligated to first obtain an ocean dumping permit from the EPA.

33 CFR 151.71 Operating Requirements: Disposal of Garbage Within Special Areas

This section implements Regulation 5 of Annex V of MARPOL 73/78. In these areas, only victual wastes may be discharged at sea, and then only by a ship which is located at least 12 nautical miles from the nearest land. No other discharge of garbage will be permitted. A statement was added indicating that these strict requirements are effective in each special area only after (1) the government of each party to the Convention, the coastline of which borders the special area, have assured IMO that reception facilities for garbage are available, and (2) IMO has announced an effective date for each area.

33 CFR 151.73 Operating Requirements: Disposal of Garbage From Fixed or Floating Platforms

This section implements Regulation 4 of MARPOL 73/78. It prohibits the discharge of garbage from all fixed or floating platforms which are engaged in the exploration, exploitation or associated offshore processing of seabed mineral resources, if located within twelve nautical miles from land. Beyond 12 nautical miles, only comminuted or ground victual wastes could be discharged into the sea from platforms or from ships alongside or within 500 meters of the platforms. These prohibitions also extend to all ships, including recreational vessels, alongside or within 500 meters of these platforms. The intent of these stringent requirements is to prevent the seabed beneath stationary vessels such as mobile offshore drilling units (MODU's), fixed or floating platforms, drillships, etc., from being inundated with ship-generated garbage. The Coast Guard interprets the phrase "exploration" to have the same meaning as the definition found in 33 CFR 140.10 and that "exploitation" is intended to mean the actual taking of seabed mineral resources.

Two commenters questioned the wisdom of applying such a restrictive rule to fixed or floating platforms. One commenter suggested this section was unnecessary because fixed or floating platforms are, by definition, "ships" under Annex V, and they should therefore be regulated by the same rules applicable to all ships. The Coast Guard agrees that fixed or floating platforms are ships, but believes this section is very necessary and has retained the wording of this section as proposed in the NPRM. Fixed or floating platforms are a special category of "ship" which have unique garbage discharge problems, as was recognized when Regulation 4 of Annex V was adopted. Ships routinely discharge garbage while underway, but the garbage from those fixed or floating platforms which discharge directly to the sea would be likely to build up in one location. A second commenter stated that garbage from a ship underway is no less dangerous to the environment than the same garbage from a fixed or floating platform, and requested the Coast Guard to reconsider this section. The Coast Guard agrees that the garbage from platforms is no different than that from ships. In absence of special requirements such as those found in this section, the Coast Guard believes that garbage from a fixed or floating platform poses a greater risk to the quality of the marine environment than does garbage from transiting ships because of its accumulation in one location. For this reason, the Coast Guard has retained the restrictions as originally proposed in the NPRM.

Four persons raised the issue of whether the Coast Guard should grant an exemption to fixed or floating platforms which possess a valid EPA National Pollution Discharge Elimination System (NPDES) permit issued pursuant to regulations authorized under the Clean Water Act. NPDES permits issued to fixed or floating platforms prohibit the discharge of floating solid wastes and garbage, but allow sinkable wastes and food to be discharged. Two of the commenters favored and two opposed the idea of waiving these requirements for rigs and platforms which hold a valid EPA NPDES permit. Annex V requires a higher standard for fixed or floating platforms than that allowed by those in possession of an NPDES permit, since no discharge of garbage (except comminuted food wastes beyond 12 nautical miles) is allowed. Therefore, if the Coast Guard granted an exemption to NPDES permit holders, this would in effect authorize discharges of garbage in violation of Annex V of MARPOL 73/78. For this reason, the Coast Guard has not exempted holders of NPDES permits from the restrictions of this section.

One commenter mistakenly thought that all ships associated with the exploration, exploitation or associated offshore processing of seabed mineral resources would be under the same discharge restrictions as fixed or floating platforms engaged in these activities. Ships such as tenders, workboats, crewboats, oceangoing tugs, barges, etc., which are employed in the offshore industries fall under the same restrictions as fixed and floating platforms only when they are within 500 meters of fixed or floating platforms as indicated in § 151.73(a)(2).

Two commenters requested that the Coast Guard allow the discharge of small quantities of food from fixed or floating platforms and also stated that offshore operators should not be required to grind food with a grinder or comminuter. The Coast Guard has retained this section as proposed since the no discharge requirement was taken directly from the wording of MARPOL 73/78 and is also required under the Act.

33 CFR 151.75 Grinders or Comminuters

This section specifies a performance standard for grinders or comminuters used by ships which discharge non-

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plastic garbage between three and twelve miles from nearest land. While this equipment is not required for discharges outside twelve miles from nearest land, if used for closer inshore discharges, it must be capable of grinding garbage so that it can pass through a 25 millimeter (1 inch) screen. The Coast Guard does not intend that each grinder or comminuter must have the mesh screen attached, but ship operators must be able to demonstrate the satisfactory operation of this equipment if requested by an authorized federal official.

The Coast Guard received two comments concerning this section. One commenter favored this section as a reasonable means of allowing limited discharges of garbage for those vessels which operate for several weeks at a time within twelve miles. The second commenter said that if grinders or comminuters are installed on a ship, then the Coast Guard should require their use wherever the ship discharges garbage at sea, including beyond 12 miles from nearest land. The Coast Guard disagrees and has retained the original wording of this section. The use of grinders or comminuters was intended to provide a practical solution for those ships which operate substantial periods of time within twelve miles of nearest land. By using these devices, ships could discharge some garbage and at the same time hasten the assimilation of the garbage into the marine environment. Implementation of this commenter's recommendation would discourage use of grinders and comminuters and would needlessly penalize operators who choose to install this equipment (through extra labor costs, etc.). In addition, it would require a standard in excess of Regulation 3 of Annex V of MARPOL 73/78 and the Act.

33 CFR 151.77 Exceptions for Emergency

This section implements Regulation 6 of Annex V of MARPOL 73/78 and allows, in certain circumstances, garbage discharges which would not normally be allowed. The Coast Guard received four comments relating to this section. Two commenters favored the exemption provided for in § 151.77(c) for the "accidental loss of synthetic fishing nets or the loss of synthetic material during the repair of nets." The Coast Guard wishes to emphasize that this regulation requires "all reasonable precautions" to be taken to avoid these losses. The Coast Guard recognizes that most fishermen are careful to prevent the accidental loss of fishing nets, because of their cost. Under the Act and MARPOL 73/78, all reasonable care must be taken to retain fishing nets which are no longer usable, as well as net fragments remaining after the repair of nets for proper discharge to reception facilities.

Appendix A to Subpart D of Part 151

Appendix A summarizes the garbage discharge restrictions provided by §§ 151.66–151.75. This appendix is added as an aid to direct the reader to the applicable governing regulation. This appendix appeared in the preamble of both the ANPRM and NPRM and several commenters endorsed its publication in the interim rule.

33 CFR 155.350(a)(2) and 155.400(b)(2)

These sections contain minor revisions due to the redesignation of § 151.09 to § 151.10 to allow the insertion of a new § 151.09 "Applicability." These represent no substantive regulatory change.

33 CFR 158.100 Purpose

This section is revised by adding a new paragraph (b)(3) to indicate that the purpose of the subpart is also to show the procedures for certifying the adequacy of reception facilities for garbage.

33 CFR 158.110 Applicability

This section revises the existing applicability section to show that Subparts B, C, and E of Part 158 apply to ports and terminals that receive Annex I and II ships, as well as to ship repair yards. Paragraph (b) was added to indicate that all ports and terminals within, or subject to the jurisdiction of the United States, must comply with the reception facility criteria of Subpart D. For the purposes of Annex V, ports or terminals include, but are not limited to, those facilities which receive ships subject to Annex I or II, or that are commercial fishing facilities, mineral and oil industry shorebases or recreational boating facilities, as defined in § 158.120. House Committee Report 100–360 discusses Congress' specific intent to require deepwater ports, such as the Louisiana Offshore Oil Port (LOOP), to provide reception facilities for ship-generated garbage.

One commenter suggested removing the phrase "non-self propelled" from the phrase "non-self propelled tank vessel" in the proposed § 158.110(a)(1)(i), since a tank barge is by definition "non-self propelled." This wording was retained from the preexisting exemption for Annex II applicability. Although this comment is not germane to the regulatory change to implement Annex V of MARPOL 73/78, the Coast Guard agrees that the term is redundant (see 46 CFR 30.10–65) and has stricken this phrase in the interim rule.

33 CFR 158.115 Penalties for Violation

This section was added as a clear statement of the penalties authorized under the Act for violations of Annex V or this part. The Coast Guard moved this section from the location proposed in the NPRM (in Subpart D) to the general section of Subpart A, since the penalties apply to all violations of MARPOL 73/78 and these regulations. Paragraph (c) of this section in the NPRM has been removed, because, as written, it applied only to violations by ships and this penalty section describes only penalties for violations by ports or terminals.

33 CFR 158.120 Definitions and Acronyms

This section was revised by adding new definitions of "Certificates of Adequacy," "Commercial fishing facility," "Form C," "Garbage," "Harmful substance," "Medical waste," "Mineral and oil industry shorebases," "Reception facility," "Recreational boating facility" and "The Act". Some of these are identical to their definitions in 33 CFR 151.05. Those not previously addressed are discussed below:

1. "Certificate of Adequacy." This term was revised to clarify that this document is issued by the Coast Guard and indicates that the port or terminal's reception facilities meet the requirements of the appropriate subpart for Annexes I, II or V of MARPOL 73/78.

2. "Commercial fishing facility," "Mineral and oil industry shorebase" and "Recreational boating facility." These definitions were added to indicate that they are specific types of terminals which must comply with the reception facility requirements of Annex V.

3. "Form C." This term was added to indicate the name of the application form for a COA for garbage. The persons in charge of most ports or terminals will be required to meet the reception facility requirements in 33 CFR 158.410 and 158.420, but only those ports and terminals indicated in § 158.135 will have to complete Form C and be issued a COA.

4. "Medical waste." This definition was added to clarify those substances for which a port or terminal must ensure the availability of a reception facility if a ship provides 24 hour notice in accordance with 33 CFR 151.65.

5. "Reception facility." This term was revised to include a description specific to an Annex V reception facility. The term is broadly defined but connotes the physical containment in which garbage is stored or conveyed. Annex V reception facilities may be "dumpsters" or other garbage containers, or even mobile facilities, such as a modified ship or barge.

6. "The Act." This term refers to the Act to Prevent Pollution from Ships and was revised by removing an inaccurate legal reference (94 Stat. 2297).

33 CFR 158.130 Delegations

This section was revised by adding paragraph (e)(2), which delegates the COTP authority granted in the Act to deny ships entry to ports or terminals which do not have a COA for Annex V if required, or the reception facilities required under § 158.133.

33 CFR 158.133 Which Ports and Terminals Must Have Adequate Reception Facilities?

This section delineates those ports and terminals which must have adequate reception facilities for oil, noxious liquid substances and garbage. It was added because several remarks made at the public hearings indicated that some persons did not understand that all ports or terminals as defined in § 158.120 must provide reception facilities for garbage. One commenter stated that commercial fishing facilities were being unfairly targeted to provide reception facilities and that municipal and private docks which provide services to fishing vessels should also be required to provide them. These regulations require all ports and terminals to provide adequate reception facilities for garbage.

One commenter questioned whether a state could prohibit the offloading of garbage at a port or terminal. This question was raised in comments received during the ANPRM comment period, however the Coast Guard was unable to address this issue in the NPRM. The Coast Guard has completed its research of this question and has found no case in which a state or locality has absolutely prohibited the offloading of garbage. Some states, including California, do require special treatment of garbage in order for it to be received. An absolute prohibition on receiving ship-generated garbage would be contrary to the Act, and no port or terminal can refuse to receive ship-generated garbage in accordance with these regulations.

33 CFR 158.135 Who Must Have a Certificate of Adequacy?

This section was added to specify which ports and terminals must have a COA for each annex of MARPOL 73/78.

The Coast Guard felt addition of this section was necessary since only certain ports and terminals subject to Annex V will be required to obtain an Annex V GOA. This is a departure from previous practice relating to Annexes I or II, in which all ports or terminals which received ships subject to these annexes were required to obtain a COA. Under this section, ports and terminals will have to hold Annex V COAs only if they receive oceangoing ships subject to Annex I or II, or if they are commercial fishing facilities which receive more than 500,000 pounds of commercial fishery products from all ships during a calendar year. This last requirement was inadvertently left out of the Federal Register of October 27, 1988 (53 FR 43622), due to an administrative error, but was corrected in the Federal Register of November 4, 1988 (53 FR 44617).

Six comments were received concerning the Coast Guard's decision to limit the ports and terminals which must actually obtain an Annex V COA. One commenter favored the approach taken by the Coast Guard and five requested the Coast Guard to issue COAs to all ports and terminals which are subject to Annex V of MARPOL 73/78. The Coast Guard has considered these comments, but has decided not to issue COAs to all Annex V ports and terminals. The number of U.S ports and terminals to which Annexes I and II apply is slightly over 2,000. In contrast, the Coast Guard estimates that Annex V of MARPOL 73/78 will apply to about 9 million ships (including privately owned recreational craft) which utilize more than 10,000 ports and terminals. Because of the large numbers of ports or terminals to which Annex V applies, Congress did not require the Coast Guard to issue COAs to Annex V ports or terminals. In these regulations, the Coast Guard has exercised the discretionary authority provided by Congress, and has limited the number of those ports or terminals required to obtain a COA. This decision balances the Coast Guard's commitment to fulfill its international and domestic obligations under MARPOL 73/78 and the Act against the potential burden on the public and Coast Guard resources, if all ports or terminals were required to apply for COAs.

One commenter requested the Coast Guard to amend this section to require ports and terminals which already receive garbage from ships to continue this practice, and to exempt those terminals not currently providing these services from any obligation to do so.

This suggestion was rejected as being inequitable and contrary to the intent of MARPOL 73/78 and the recent amendments to the Act.

Four comments were received concerning the requirement that commercial fishing facilities obtain COAs. Two favored the concept of requiring COAs for commercial fishing facilities, but indicated that the Coast Guard had not adequately explained the reason 500,000 pounds of fishery products had been set as the threshold for requiring a COA. This commenter suggested that additional terminals should be brought in under this regulation. The threshold figure in the NPRM was obtained through consultations with the National Marine Fisheries Service which indicated that commercial fishing facilities which received greater than this quantity of fish annually service a majority of commercial fishing vessels. This cutoff was based upon the best information available at the time the decision was made and no new information has been received by any person which would indicate this to be an inappropriate threshold. The Coast Guard will, however, consider adjusting this figure based upon credible and relevant information it may receive during the period the interim rule is in effect.

Two commenters stated that the 500,000 pound threshold was unnecessary and requested this provision be removed in the final rule. Because commercial fishing facilities receive a substantial number of fishing vessels which generate nets and net fragments as garbage, the Coast Guard believes it is important to target them and has, therefore, retained this provision in this interim rule.

One commenter questioned why ports and terminals receiving large passenger cruise ships were not specifically required to obtain a COA for garbage. The Coast Guard feels it is unnecessary to specify passenger ship terminals as a specific category, since they generally receive ships greater than 400 gross tons and they would already be required to obtain COAs under § 158.135(c)(i).

Two commenters requested the Coast Guard to clarify whether a port or terminal could obtain a waiver from obtaining an Annex V COA. This interim rule will not authorize a total waiver of the requirement for a port or terminal to have a COA for reception facilities for garbage, if required under § 158 135. However, the local COTP may issue a waiver under § 158.150 of any unreasonable or impractical requirement for a port or terminal's operations, provided alternatives which meet the intent of MARPOL 73/78 are provided.

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33 CFR 158.140 Applying for a Certificate of Adequacy

This section was revised by adding § 158.140(a)(2). The person-in-charge of a port or terminal required by § 158.135(c) to hold a COA for Annex V must apply on Form C, entitled "Application for a Certificate of Adequacy for a Reception Facility for Garbage," to Commandant (G–MPS–1), U.S Coast Guard Headquarters, by August 28, 1989. Coast Guard Headquarters will review and manage the issuance of Annex V COAs until August 28, 1989 in order to relieve local COTPs of this administrative burden. After August 28, 1989 ports and terminals must apply to the local COTP, who will review and issue COAs to those qualifying.

One commenter said it was unclear who must actually file the Form C application. Section 158.140 states that the "person in charge" of a port or terminal must make this application. "Person in charge" is defined in § 158.120 as the "owner, operator, or a person authorized to act on behalf of the port or terminal." Person in charge is defined broadly here, since a given port or terminal could have a myriad of entities responsible for various aspects of a port's operations. The Coast Guard expects that the person who is responsible for the day to day operation of the port or terminal should logically be the person who should file for a COA.

Form C will be available at the offices of the local COTP in early 1989. A copy of Form C appears below for informational purposes.

BILLING CODE 4910-14-M

15 Min. Per Resp.
OMB No. Approved 2115-0543
Exp. Date 12/31/91

APPLICATION FOR A CERTIFICATE OF ADEQUACY

FOR

GARBAGE RECEPTION FACILITIES

FORM C

The Act to Prevent Pollution From Ships (33 USC 1901) authorizes the Department of Transportation to issue certificates to terminals and ports verifying their adequacy to receive operational garbage from ships. Regulations implementing this program are in 33 Code of Federal Regulations Part 158. To continue to receive ships at a port or terminal, an applicant must hold a Certificate of Adequacy for Garbage if it receives oceangoing tankers, or any other oceangoing ship of 400 gross tons or more, carrying residues and mixtures containing oil; if it receives oceangoing ships carrying noxious liquid substances; or if it receives fishing vessels which offload more than 500,000 pounds of commercial fish products during a calendar year. To recieve a Certificate of Adequacy for Garbage Reception Facilities application is required on this form.

Definitions:

"Terminal": an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance. The definition of "navigable waters" for the purposes of this section may be found in 33 CFR 2.05-25. Garbage is considered a harmful substance under MARPOL 73/78.

"Port": (1) a group of terminals that combines to act as a unit and be considered a port for purposes of this part; or (2) A port authority or other organization that chooses to be considered a port for purposes of this part; and (3) a place (i.e. lightering area) or facility that has been specifically designated as a port by the Captain of the Port.

1 ***Complete this section if you are applying as a single "Terminal."***

A. Terminal Section:

Name of Terminal

Street Address

City State Zip

Name of Terminal Person in charge

( ) -
Phone number area code

Name of reception facility (*if subcontracted*)

Location of reception facility (City, State)

2 Check the following boxes if the terminal receives or discharges any of the following commodities from or to ships visiting the terminal:

☐ Oil or petroleum products	☐ Discharge	☐ Receive
☐ Bulk dry cargoes	☐ Discharge	☐ Receive
☐ Bulk chemicals	☐ Discharge	☐ Receive
☐ Fish	☐ Discharge	☐ Receive
☐ Liquified gases	☐ Discharge	☐ Receive
☐ General cargo	☐ Discharge	☐ Receive
☐ Other_____	☐ Discharge	☐ Receive

3 Check the following boxes if the terminal handles or services any of the following ships:

☐ Ships of foreign registry	☐ Unmanned barges
☐ U.S. ships in domestic trade	☐ Chemical ships
☐ U.S. ships in foreign trade	☐ Container ships
☐ Passenger ships	☐ Break bulk ships
☐ Vessels servicing the offshore mineral and oil industry	☐ Ferry boats
	☐ Fishing vessels

After completing this section go to Section C.

1 ***Complete this section if you are applying as a "Port."***

B. Port Section:

Name of Port

Name of Port Person in charge

Street Address

City State Zip

( ) -
Phone number area code

Name of reception facility (*if subcontracted*)

Location of reception facility (City, State)

Number of Terminals which will be members of this Port?_____

Section B continues on the next page ⇨

DEPT. OF TRANSP., USCG-CG-5401C (3-89)
LOCAL REPRO

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B. Port Section: (cont'd)

Ports are to complete the following block entries for each individual terminal which is a member of the Port. If the Port listed in Section B.1. is also one of the terminals which will be using the reception facilities, please complete one of the terminal entries below.

2. Individual Terminal information:
(for terminals who wish to be members of a port)

Name of Terminal

Street Address

City State Zip

Name of Terminal Person in Charge

Phone Number ( ) - area code

Name of Reception Facility (*if subcontracted*)

Location of Reception Facility (City, State)

Signature of Person in Charge of Terminal

Signature indicates person in charge of terminal acknowledges and consents to being considered as a member of the port, described in Section B.1.

3. Check the following boxes if the terminal receives or discharges any of the following commodities from ships visiting the terminal:

☐ Oil or petroleum products	☐ Discharge	☐ Receive
☐ Bulk dry cargoes	☐ Discharge	☐ Receive
☐ Bulk chemicals	☐ Discharge	☐ Receive
☐ Fish	☐ Discharge	☐ Receive
☐ Liquified gases	☐ Discharge	☐ Receive
☐ General cargo	☐ Discharge	☐ Receive
☐ Other_____	☐ Discharge	☐ Receive

4. Check the following boxes if the terminal handles or services any of the following ships:

☐ Ships of foreign registry	☐ Unmanned barges
☐ U.S. ships in domestic trade	☐ Chemical ships
☐ U.S. ships in foreign trade	☐ Container ships
☐ Passenger ships	☐ Break bulk ships
☐ Ships servicing the offshore mineral and oil industry	☐ Ferry boat ships
	☐ Fishing ships

2. Individual Terminal information:
(for terminals who wish to be members of a port)

Name of Terminal

Street Address

City State Zip

Name of Terminal Person in charge

Phone Number ( ) area code

Name of Reception Facility (*if subcontracted*)

Location of Reception Facility (City, State)

Signature of Person in Charge of Terminal

Signature indicates person in charge of terminal acknowledges and consents to being considered as a member of the port, described in Section B.1.

3. Check the following boxes if the terminal receives or discharges any of the following commodities from ships visiting the terminal:

☐ Oil or petroleum products	☐ Discharge	☐ Receive
☐ Bulk dry cargoes	☐ Discharge	☐ Receive
☐ Bulk chemicals	☐ Discharge	☐ Receive
☐ Fish	☐ Discharge	☐ Receive
☐ Liquified gases	☐ Discharge	☐ Receive
☐ General cargo	☐ Discharge	☐ Receive
☐ Other_____	☐ Discharge	☐ Receive

4. Check the following boxes if the terminal handles or services any of the following ships:

☐ Ships of foreign registry	☐ Unmanned barges
☐ U.S. ships in domestic trade	☐ Chemical ships
☐ U.S. ships in foreign trade	☐ Container ships
☐ Passenger ships	☐ Break bulk ships
☐ Ships servicing the offshore mineral and oil industry	☐ Ferry boat ships
	☐ Fishing ships

After completing this section go to Section C.

This page may be locally reproduced to accomodate larger Ports

Section C: Circle the location of the USCG Captain of the Port Office which has authority in your area.

Commanding Officer USCG Marine Safety Office	1 Portland, ME
Commanding Officer USCG Marine Safety Office	2 Boston, MA
Commanding Officer USCG Marine Safety Office	3 Providence, RI
Captain of the Port, Long Island Sound	4 Long Island Sound, New Haven, CT
Captain of the Port, New York	5 New York, NY
Commanding Officer USCG Marine Safety Office	6 St. Louis, MO
Commanding Officer USCG Marine Safety Office	7 Huntington, WV
Commanding Officer USCG Marine Safety Office	8 Louisville, KY
Commanding Officer USCG Marine Safety Office	9 Memphis, TN
Commanding Officer USCG Marine Safety Office	10 Paducah, KY
Commanding Officer USCG Marine Safety Office	11 Pittsburgh, PA
Commanding Officer USCG Marine Safety Office	12 Baltimore, MD
Commanding Officer USCG Marine Safety Office	13 Hampton Roads, VA
Commanding Officer USCG Marine Safety Office	14 Philadelphia, PA
Commanding Officer USCG Marine Safety Office	15 Wilmington, NC
Commanding Officer USCG Marine Safety Office	16 Charleston,SC
Commanding Officer USCG Marine Safety Office	17 Jacksonville, FL
Commanding Officer USCG Marine Safety Office	18 San Juan, PR
Commanding Officer USCG Marine Safety Office	19 Savannah, GA
Commanding Officer USCG Marine Safety Office	20 Tampa, FL
Commanding Officer USCG Marine Safety Office	21 Miami, Fl
Commanding Officer USCG Marine Safety Office	22 Mobile, AL
Commanding Officer USCG Marine Safety Office	23 Morgan City, LA
Commanding Officer USCG Marine Safety Office	24 New Orleans, LA
Captain of the Port, Houston	25 Houston , TX
Commanding Officer USCG Marine Safety Office	26 Galveston, TX
Commanding Officer USCG Marine Safety Office	27 Port Arthur, TX
Commanding Officer USCG Marine Safety Office	28 Corpus Christi, TX
Commanding Officer USCG Marine Safety Office	29 Chicago, IL
Commanding Officer USCG Marine Safety Office	30 Buffalo, NY
Commanding Officer USCG Marine Safety Office	31 Cleveland, OH
Commanding Officer USCG Marine Safety Office	32 Detroit, MI.
Captain of the Port, Grand Haven	33 Grand Haven, MI
Captain of the Port, Sault Ste. Marie	34 Sault Ste. Marie, MI
Commanding Officer USCG Marine Safety Office	35 Duluth, MN
Commanding Officer USCG Marine Safety Office	36 Milwaukee, WI
Commanding Officer USCG Marine Safety Office	37 Toledo, OH
Commanding Officer USCG Marine Safety Office	38 Long Beach, CA
Commanding Officer USCG Marine Safety Office	39 San Diego, CA
Commanding Officer USCG Marine Safety Office	40 San Francisco, CA
Commanding Officer USCG Marine Safety Office	41 Portland, OR
Commanding Officer USCG Marine Safety Office	42 Puget Sound, WA
Commanding Officer USCG Marine Safety Office	43 Anchorage, AK
Commanding Officer USCG Marine Safety Office	44 Juneau, AK
Commanding Officer USCG Marine Safety Office	45 Valdez, AK
Commanding Officer USCG Marine Safety Office	46 Honolulu, HI
Commanding Officer USCG Marine Safety Office	47 Guam

After completing this section go to Section D.

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Section D:

1. Does the terminal or port receive visits from ships arriving from foreign ports (except Canada).
☐ Yes ☐ No *If the answer is "NO" go to question number 4.*

2. Does the terminal or port have facilities, either onboard or on contract, approved by the Administrator, Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, for the disposal of garbage from foreign ports (except Canada) in accordance with 7 CFR 330.400 and 9 CFR94.5.

☐ Yes ☐ No *(If the answer is "No" you may attach a waiver request in accordance with 33 CFR 158 on a separate attached sheet.)*

NAME OF APHIS APPROVED DISPOSAL FACILITY TYPE (INCINERATOR, STERILIZER, AUTOCLAVE, ETC.)

( )
area code
CITY STATE PHONE NUMBER

3. For those terminal(s)/port(s) requiring the services of an Animal and Plant Health Inspection Service approved facility, is the terminal or port capable of receiving all garbage from these ships visiting the terminal/port within 24 hours of vessel after notification of need for such services is given?

☐ Yes ☐ No *(If the answer is "No" you may attach a waiver request in accordance with 33 CFR 158 on a separate attached sheet.)*

4. Is the terminal or port able to receive all garbage as defined in 33 CFR 158.120 which the master or person in charge of a ship desires to discharge, except:
(1) large quantities of spoiled or damaged cargoes not usually discharged by a ship; or
(2) garbage from ships not having commercial transactions with that terminal or port?

☐ Yes ☐ No *(If the answer is "No" you may attach a waiver request in accordance with 33 CFR 158 on a separate attached sheet.)*

The terminal/port person in charge identified in the Application shall notify the U. S. Coast Guard Captain of the Port (COTP) in writing 30 days after any of the terminal/port information identified under 33 CFR 158.165(b)(3) changes.

Civil Penalties. A person who, after notice and an opportunity for a hearing, is found:
a. to have made a false, fictitious or fraudulent statement or representation in any matter in which a statement or representation is required to be made under the Act to Prevent Pollution from Ships, or the regulations thereunder, shall be liable to the United States for a civil penalty, not to exceed $5,000 for each statement or representation; or
b. to have violated the Act to Prevent Pollution from Ships, or the regulations issued thereunder, shall be liable to the United States for a civil penalty, not to exceed $25,000, for each violation. Each day of a continuing violation constitutes a separate

CERTIFICATION

I HEREBY CERTIFY THAT THE INFORMATION PROVIDED IN THIS APPLICATION FOR A GARBAGE RECEPTION FACILITY CERTIFICATE OF ADEQUACY FOR GARBAGE RECEPTION FACILITIES IS COMPLETE, TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

SIGNATURE OF TERMINAL/PORT PERSON IN CHARGE _____

PRINTED OR TYPED NAME OF PERSON IN CHARGE _____

DATE SIGNED _____

ON OR BEFORE AUGUST 27, 1989 MAIL APPLICATION TO:
COMMANDANT (G-MPS-1), U.S. COAST GUARD HEADQUARTERS
2100 SECOND STREET S.W.
WASHINGTON, D.C. 20593-0001
ATTENTION: RECEPTION FACILITY DESK

AFTER AUGUST 27, 1989 MAIL APPLICATION TO:

THE LOCAL U.S. COAST GUARD CAPTAIN OF THE PORT (COTP) OFFICE
(SEE PAGE 3 FOR THE LIST OF COTP OFFICES)

BILLING CODE 4910-14-C

33 CFR 158.160 Issuance and Termination of a Certificate of Adequacy

This section was revised to provide for the issuance and termination of Annex V COAs. This section indicates that the COTP is required to physically inspect Annex I or II reception facilities prior to issuing a COA and that he is required only to review an Annex V reception facility application. However, the Coast Guard intends to examine ports or terminals at regularly scheduled surveys and inspections for those requiring inspections by regulation, and at other ports or terminals at such time as the Coast Guard may visit them in the course of other business, such as casualty investigations or oil or chemical spill investigations.

Two commenters suggested that the Coast Guard should inspect all ports and terminals to determine that reception facilities comply with the regulations. As discussed earlier, the Coast Guard is not required under the Act to inspect Annex V reception facilities. The Coast Guard estimates that there will be at least 10,000 ports or terminals which will have to comply with these regulations throughout the United States and inspection of all of these is impractical on a regular basis.

33 CFR 158.163 Reception Facility Operations

Paragraph (b)(2) was revised by adding the word "operator" to indicate that an operator of a ship, in addition to a master, is authorized to examine a port or terminal's COA.

33 CFR 158.165 Certificates of Adequacy: Change of Information

This section was revised for clarity and it lists those sections of Form C which, if changed, require written notification to the local COTP within 30 days.

33 CFR 158.167 Reporting Inadequate Reception Facilities

This section was added at the request of one commenter to provide procedures for persons to report the inadequacy of required reception facilities to receive oil, noxious liquid substances or garbage. A formally stated mechanism for reporting inadequate reception facilities will aid in Coast Guard enforcement efforts within the United States and will also allow U.S. ship operators to report to the Coast Guard the existence of inadequate facilities in foreign ports.

33 CFR 158.400 Purpose

This section describes the criteria for determining the adequacy for Annex V reception facilities. All ports and terminals, whether or not they must have a COA, must comply with the requirements of §§ 158.410 and 158.420.

33 CFR 158.410 Reception Facilities: General

This section contains the general requirements for all Annex V reception facilities. After August 28, 1989 this section requires all ports or terminals to be capable of receiving APHIS regulated garbage within 24 hours of notification under § 151.65, unless it receives only ships which operate exclusively within the navigable waters of the U.S., or which operate exclusively between ports or terminals in the continental U.S. or between continental U.S. ports and Canadian ports. It also requires them to be capable of receiving medical wastes (defined in § 158.120) or hazardous wastes (defined in 40 CFR 261.3), unless the port or terminal operator can provide to the master, operator or person in charge of a ship the names of persons authorized to receive, properly transport and treat such wastes. This section also requires reception facilities to be arranged so that they do not interfere with port or terminal operations and are convenient to mariners. They must also be situated so that ships' garbage will not reenter the water after it has been discharged to the reception facility. Finally, reception facilities for garbage must meet all federal, state and local requirements for garbage handling. Port or terminal operators desiring to learn more about APHIS requirements should contact APHIS at the address listed in paragraph three of **ADDRESSES** above.

The Coast Guard received five comments concerning the requirement that all ports and terminals be capable of receiving APHIS regulated garbage within 24 hours. Two commenters strongly supported the 24 hour advance notice of arrival requirement and stated this requirement was reasonable to prevent delay to ships because daily operating costs of U.S. ships in port are between $20,000–$30,000 per day. Two commenters stated that many small or proprietary ports or terminals in the Great Lakes and in remote areas such as Alaska do not receive ships with APHIS regulated garbage and should not be required to provide facilities which might never be used. The Coast Guard agrees with this comment and has changed the proposed rule in paragraph (a)(1) so that only those ports and terminals which receive ships subject to APHIS inspection are required to provide an APHIS approved reception facility.

Two commenters desired the rule to be changed so that if no APHIS reception facilities were nearby or feasible, then the Coast Guard would not require them, and would allow ships to go to other ports. The Coast Guard did not incorporate this request in this rule, because to do so would discourage ports to take action to acquire these facilities. The Coast Guard believes that the availability of APHIS facilities in areas where they are needed is critical to preventing the undue delay of ships and promoting compliance with Annex V. As discussed in ENFORCEMENT above, the Coast Guard expects that in ports where APHIS facilities are not immediately available, that they will be made available in the near future and that in all cases, ports requiring them will have them available by (insert date 120 days after publication date).

Five commenters requested that this section should require the posting of signs to indicate where port reception facilities are located and to require reception areas specifically for cables, fishing nets, etc. One person commented on the wording of § 158.410(a)(2) in the NPRM and indicated it needed to be strengthened to emphasize that the reception facilities must be convenient to the mariner so that they will be used. The Coast Guard agrees that this section needs strengthening and added § 158.410(a)(4) to require that the reception facilities be convenient to mariners so that they could easily be located by a person unfamiliar with the port, and convenient enough so as not to discourage their use by mariners. The Coast Guard believes this wording strikes a balance between the needs of a ship operator for reception facilities yet allows the flexibility needed for port or terminal operators, given the variety and type of terminals in existence. Port and terminal operators could use a variety of means to ensure ship personnel knew where facilities were located (such as signs, informational brochures, or direct communications provided by ship agents). The Coast Guard does not see a necessity at this time for a mandatory marking requirement, but will consider this during the comment period if experience gained from ship and port operators indicates that reception facilities for garbage have not been generally accessible and convenient.

One commenter requested the Coast Guard to provide in the regulations a method by which ships could directly contract for garbage services, rather than going through a port or terminal. The Coast Guard sees no need for a statement such as this in the regulations. This would seem to be a contractual

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arrangement which could be made voluntarily between the ship, port or terminal, or private garbage hauler without specific regulatory authority.

The Coast Guard received four comments from port and terminal operators expressing their concern that some ship operators might mix medical wastes, or hazardous wastes regulated under RCRA, with garbage in reception facilities. The Coast Guard has determined that these materials, if generated by ships, are garbage within the meaning of Annex V and that ports or terminals are obligated under the Act to prevent the undue delay of ships which wish to discharge them. Unlike garbage such as contaminated victual wastes, the Coast Guard believes that most ships do not routinely generate medical or hazardous wastes. However, some passenger liners which have hospitals, and large oceangoing ships which perform extensive maintenance while underway, may generate limited quantities of these wastes and have need to discharge them ashore. The Coast Guard also recognizes that reception of these materials generally requires specialized treatment which is not normally available from most port or terminal operators. For this reason, the Coast Guard has added a new § 158.410(a)(2) which provides ports or terminals flexibility by either providing facilities to receive medical and hazardous wastes when called upon, or alternatively, providing the names of persons approved to transport and treat these wastes. The Coast Guard believes this is a reasonable solution which will prevent unnecessary expenses on the part of ports or terminals. Further, based upon discussions with EPA, the Coast Guard believes that the majority of ships, ports or terminals which may generate hazardous wastes, would receive favorable consideration as "small quantity generators" as defined in 40 CFR 261.5.

One commenter stated that the Coast Guard needs to specify in more detail what is expected of a port or terminal with respect to reception facilities for garbage. The Coast Guard believes that this revised rule does just that: a port or terminal must be able to receive all garbage from ships it services, including APHIS regulated wastes within 24 hours. It is also obligated to receive ship-generated medical wastes or hazardous wastes under RCRA, or to provide a list of competent persons able to transport and treat these wastes, if called upon. Ports or terminals must make the reception facilities plainly accessible and convenient to ship operators so as not to discourage their use. Finally, the port or terminal must manage their reception facilities in a manner which will prevent ship-generated garbage from reentering the water and which complies with other federal, state and local laws.

33 CFR 158.420 Reception Facilities: Capacity and Exceptions

Under this section, ports and terminals must ensure the availability of reception facilities for garbage capable of receiving all garbage that the master or person who is in charge of a ship wants to discharge ashore, subject to two exceptions. Ports and terminals will not be obligated to receive large quantities of spoiled or damaged cargoes, or garbage from ships not having commercial transactions with that port or terminal.

Two commenters had recommendations regarding the proposed requirement to require ports and terminals to be able to receive all garbage that ships doing business there might desire to discharge ashore. One supported the Coast Guard decision to drop specific reception facility capacity requirements recommended by IMO. Some ports and terminals had suggested that these formulae tended to overestimate capacity required and the IMO later agreed, when it removed this recommendation from the "Guidelines for the Implementation of Annex V" in September 1988. Another commenter stated that the capacity requirement in this rule is too onerous and that ports or terminals should only be required to receive a quantity of garbage which could have been generated within 25 miles from nearest land, since ships may discharge all garbage, except plastics outside this distance. The Coast Guard hopes to learn more about actual quantities of garbage brought ashore during the interim period after implementation of Annex V, but will not at this time limit the capacity requirements as suggested. The Annex allows ships to discharge garbage at sea, but clearly encourages ships to bring garbage to port reception facilities. Reducing the capacity requirements as suggested would only encourage ship operators to discharge garbage at sea.

One commenter questioned why the Coast Guard granted an exception to the capacity requirements for "large quantities of spoiled or damaged cargoes" and asked what ship operators should do with this garbage in such a case. In granting this exemption, the Coast Guard acknowledges that unforeseen situations do occur in the transportation of goods by ship which are not normal and that it would be unrealistic to expect all ports and terminals to have the capacity to receive a whole ship's cargo as garbage. In such a case, the ship operator could do what was done before Annex V—contact the port or shipping agent and make special arrangements for such special circumstances.

Three persons commented on the provision in § 158.420(b) which exempts ports from the requirement to accept garbage from ships not having commercial transactions with that port or terminal. One commenter favored this concept and two opposed it. The Coast Guard has retained this wording because reception facilities for garbage are an anciliary (though now mandated) service provided by port and terminal operators and it is not their primary reason for being in business and would be inappropriate to establish such a mandate

Subpart E—Port and Terminal Operations

This Subpart, formerly Subpart D of Part 158, was redesignated "Subpart E" in order to allow for the placement of the new Subpart D, "Criteria for Adequacy of Reception Facilities: Garbage." in numerical sequence immediately after Annex I and II requirements. Sections previously numbered 158.400 and 158.420 were redesignated §§ 158.500 and 158.520 respectively.

46 CFR 25.50–1 Criteria

This section will apply the shipboard discharge requirements of Annex V to those ships which are not normally inspected by the Coast Guard. This section will require them to retain garbage generated on board for later disposal ashore, unless the garbage is discharged at sea in accordance with 33 CFR Part 151.

VI. Regulatory Evaluation and Environmental Assessment

Regulatory Evaluation

The Coast Guard considers these regulations to be significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979) and non-major under Executive Order 12291. A final regulatory evaluation has been prepared and placed in the rulemaking docket. Copies of the evaluation may be inspected or copied at the address indicated in the first paragraph of **ADDRESSES** above.

The Coast Guard considered several alternatives in this rulemaking: take no regulatory action except for determining the criteria of adequacy for reception facilities; develop a performance based regulatory program requiring inspection of reception facilities at all ports and terminals before issuing COAs to those which meet standards; or develop a performance based regulatory program requiring all ports and terminals to meet minimal reception facility standards and issue certain ports and terminals COAs after they have certified their compliance with the regulations.

The Coast Guard decided on the final option to implement the requirements of Pub. L. 100–220. The decision was based on several factors. A performance based regulatory program was selected as it was best suited for implementation of legislation prohibiting improper disposal of garbage. Performance standard regulatory programs are more conducive to compliance choices that are custom fitted to individual entities.

The Coast Guard considered the costs of the implementation of these regulations by considering six distinct industry sectors: merchant shipping, the fishing industry, recreational boating, offshore oil and gas operations, research and other miscellaneous classes of vessels, and ports and terminals.

Only those portions of each sector affected by implementation of Pub L. 100–220 were considered. Vessels on the U.S. portions of the Great Lakes and other internal waters of the United States were not considered as they must currently comply with the provisions of the Refuse Act. Ports and terminals were considered in all areas for the additional burden that provisions for additional waste collection would entail. Costs for each of these sectors were projected after an industry profile was constructed and current garbage disposal practices were analyzed to establish baseline costs. Estimates of cost compliance options were made for each sector except ports and terminals, since it was assumed that costs borne by ports would be passed on to vessels, either explicitly in the form of a garbage handling charge, or implicitly in the form of an increase in dockage fees. The vessels are assumed to pay costs sufficient to cover both a land disposal fee for garbage (imposed by the local waste hauler) and an additional surcharge imposed in some form by the port. Estimates of which compliance options each industry sector would choose were made and the total costs were projected based on these compliance options. The total annual projected costs are approximately $41.8 million. This burden is apportioned among the sectors as follows: merchant shipping, $2.9 million; commercial fishing, $33.9 million; recreational boating, $1.5 million; offshore oil and gas, $3.1 million; and miscellaneous vessels, $.3 million.

Most quantifiable benefits, from implementation of Pub. L. 100–220, result from savings due to events of pollution not occurring. One source of benefits would accrue from the reduction of damages to vessels from garbage entanglement in propellers, water intakes or other vessel equipment in contact with the water. Benefits could also be realized through avoidance of fishery losses due to "ghost fishing" by discarded nets and traps that continue to catch fish or mammals. Another large benefit would be the reduction of beach cleanup costs. Beach debris problems tend to be localized to specific areas that receive wastes carried on principal ocean currents or that are in proximity to heavily traveled shipping routes or fishing regions. The quantity of plastic, garbage and other debris discharged in the ocean will be reduced under this rule. However, plastic in the ocean originates from several sources, not solely from the vessels regulated by this action; these other sources are not affected by these regulations. It is uncertain whether beach areas will continue to require cleanup efforts, or if the cleanup efforts can be substantially reduced. Therefore, it is not possible to ascribe a quantitative estimate to reduction in beach cleanup costs. Another benefit closely tied to the reduction in beach cleanup costs is increased tourism and its associated spending in beach areas. Again it is difficult to quantify the change that these regulations will have on tourist spending in beach areas. Finally, one could consider increases in the values of beach properties. A net public gain occurs from improvement in ocean environmental conditions to the extent that beach property increases in value.

Environmental benefits are difficult to quantify but their effects can be considered. These benefits include a reduction in damages by plastic wastes to endangered species and the increased enjoyment of beach areas. Plastic garbage is believed to have deleterious effects on certain endangered species including Hawaiian monk seals and various species of sea turtles. These regulations will limit one source of oceanic plastic garbage affecting these species. Persons visiting a beach will receive increased enjoyment of the resource to the extent that less debris is present.

The potential net benefits of the regulations are estimated to be positive. This estimate results from an analysis that considered the potential costs and benefits.

Regulatory Flexibility Act

A regulatory flexibility analysis was conducted to evaluate the impact of the rule on small entities and it has been made part of the Final Regulatory Evaluation in accordance with the Regulatory Flexibility Act. The Coast Guard adopted the Small Business Administration's (SBA) definition of "small business" used when considering SBA loans to concerns engaging in transportation and warehousing (13 CFR 121.3–10(f)) as a definition for small entities. A concern is considered small, under this definition, if its annual receipts do not exceed $1.5 million.

The Coast Guard does not have accurate information on how many vessels or ports and terminals grouped in the various sectors discussed in the "Potential Costs" portion would qualify as small entities. However, the Coast Guard currently estimates that this will affect 2,200 U.S. flag vessels of less than 1,000 gross tons, 14,800 commercial fishing vessels, 600 offshore service vessels, and 4,400 ports and terminals, including recreational boating facilities.

Vessels which qualify as small entities will decide which option they will choose for compliance:

a. Garbage separation, with storage of plastic waste on board and final disposal ashore;

b. Storage of all garbage and final disposal ashore;

c. Garbage separation, with compaction and storage of plastic wastes on board and final disposal ashore;

d. Garbage incineration;

e. Product substitution.

Ports which qualify as small entities may have to invest in small-scale incineration equipment, equipment for garbage handling, or make contractual arrangements for reception facilities if they do not already have these.

These regulations contain minimal reporting or recordkeeping requirements for small entities. A small minority of all ports and terminals will also be required to complete an application "Form C" for a COA. Most vessels which are small entities would not have to comply with the reporting requirements for disposal of APHIS regulated garbage. Based upon the above factors, the Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities.

As discussed throughout the **SUPPLEMENTARY INFORMATION,** some existing legislation may duplicate, conflict or overlap with the rule. Some of these include the Clean Air Act, Clean Water Act, the Resource Conservation

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and Recovery Act (RCRA), and the MPRSA. The Clean Air Act and RCRA may restrict the use of incinerators as a compliance choice for vessels in U.S. waters. Specifically, the Clean Air Act may restrict emissions from incinerators and RCRA may restrict the shore disposal of clinkers or ashes from vessel incinerators. The Clean Water Act also prohibits the discharge of pollutants, including garbage, in U.S. waters. There is a duplication of this interim rule and the regulations implementing the Clean Water Act for floating garbage, and an inconsistency between them for non-floating solid wastes. In the interim rule the discharge of non-floating wastes from mobile offshore drilling units and platforms is prohibited, while the regulations which implement the Clean Water Act allow this type of discharge.

Environmental Impact

Under Annex V of MARPOL 73/78, the Act, and its implementing regulations, the discharge of plastic from vessels into the sea is prohibited and the discharge of other ship-generated garbage within 25 nautical miles of land is restricted. Ports and terminals where ships call are required to provide adequate facilities for receiving this garbage.

The reception facility rule in this document does not directly affect the marine environment, but it is an essential part of an overall scheme to limit pollution of the marine environment and substantially reduce the need to dispose of plastics and other ship-generated garbage at sea. The facility regulations will affect the locations where ship generated garbage is received by reception facilities and implement the requirement of Regulation 7 of Annex V of MARPOL 73/78 that adequate reception facilities be available to meet the needs of ships without undue delay. If left unregulated, ships would not be able to discharge garbage, especially APHIS regulated garbage, at all ports and terminals because reception facilities would not be readily available. Further, in those ports and terminals where reception facilities would be available, the demand for reception facilities would exceed the supply. This would drive up the cost of disposal, contribute to the delay of vessels, and adversely affect compliance with the discharge requirements of Annex V and the Act.

The regulations are expected to have a positive but not significant environmental impact, as defined in the National Environmental Policy Act. The regulations are expected to contribute to the reduction of the occurrence of plastic in the marine environment as well as other ship-generated garbage. However, the impact of the regulations involves several factors. First, is the source of the marine debris. The regulations apply to U.S. vessels and foreign flag vessels when operating in U.S. waters. U.S. vessels account for less than 5% of the world's oceangoing fleet. Foreign flag vessels which operate in U.S. waters make up a much larger percentage of this fleet. Once outside U.S. waters, foreign flag vessels may continue past disposal practices, unless they are under the control of a country which is signatory to Annex V. Over 1,000 public vessels in noncommercial service, including naval vessels and other government owned or operated ships, must comply with regulations established by their own agencies, rather than these regulations. Further, these regulations do not apply to land based sources which, depending upon the predominant activity in the region, may account for more than half of the debris in the marine environment. Therefore, this action can influence only a rather limited portion of the overall marine debris problem.

The second factor is the marine environment. Several negative impacts from marine debris have been noted on marine wildlife including selected endangered species. The effect of this regulatory program on these impacts will be limited for several reasons. First, the limited influence of these regulations on the overall marine debris problem, as noted above. Second, there is little evidence to suggest that persistent marine debris has had a significant adverse impact on environmental populations. There is ample evidence that entanglement and ingestion of persistent marine debris have had an adverse affect on individual members of many species; however, scientists can identify adverse impacts on only a few wildlife populations, e.g., Northern fur seals and the endangered Hawaiian monk seals. The regulations are expected to contribute to a slight reduction of the incidence of entanglement and ingestion, but only by that amount which occurs as a result of debris which is intentionally discharged from ships. Third, the interim rule does not affect accidental loss of fishing gear or active fishing operations which are major contributors to the incidence of entanglement. Fourth, plastics account for a small portion of the debris disposed of by ships. The bulk of ship-generated garbage is still permitted to be discharged further out at sea. A final environmental assessment and a finding of no significant impact have been prepared and are available as indicated in the first paragraph of **ADDRESSES** above.

Paperwork Reduction Act

These regulations will change the information collection requirements at 33 CFR 151.65 and 33 CFR 158.140. Revisions to existing OMB paperwork approvals have been submitted to the Office of Management and Budget (OMB) for this interim rule. They have been assigned RCS/OMB Control Numbers 2115–0544 and 2115–0543 respectively. These regulations will require masters to give 24 hour notice of the need for an APHIS approved reception facility and for all ports and terminals which meet the requirements of 33 CFR 158.140 to apply for a COA for garbage. Persons desiring to comment on this information collection requirement should submit their comments to the Office of Management and Budget at the address listed in the fourth paragraph of **ADDRESSES** above. A copy of these comments should also be submitted to the Coast Guard at the address shown in the first paragraph of **ADDRESSES** above.

Federalism Statement

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the concepts discussed therein do not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Regulatory Information Number (RIN)

A regulatory information number has been assigned to this regulatory action and it is listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center (RISC) publishes the Unified Agenda in April and October of each year. The RIN number listed at the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

33 CFR Part 151

Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 155

Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 158

Administrative practice and procedure, Harbors, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 25

Fire prevention, Marine safety.

In consideration of the preceding, Parts 151, 155 and 158 of Title 33, Code of Federal Regulations and Part 25 of Title 46, Code of Federal Regulations are amended as follows:

TITLE 33—[AMENDED]

1. The title of Part 151 is revised to read as follows:

PART 151—OIL, NOXIOUS LIQUID SUBSTANCE AND GARBAGE REGULATIONS

2. The authority citation for Part 151 is revised to read as follows:

Authority: 33 U.S.C. 1321(j)(1)(C) and 1903(b), E.O. 11735, 3 CFR, 1971–1975 COMP., p.793, 49 CFR 1.46.

3. Section 151.01 is revised to read as follows:

§ 151.01 Purpose.

The purpose of this part is to implement the Act to Prevent Pollution from Ships, 1980, as amended (33 U.S.C. 1901–1911) and Annexes I, II and V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), done at London on February 17, 1978.

Note: MARPOL 73/78 is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Please include reference number "ADA 168 505" in your request.

4. Section 151.03 is revised to read as follows:

§ 151.03 Applicability.

This part applies to each ship that must comply with Annex I, II or V of MARPOL 73/78.

5. A new § 151.04 is added to Subpart A to read as follows:

§ 151.04 Penalties for violation.

(a) A person who violates MARPOL 73/78, the Act, or the regulations of this part is liable for a civil penalty not to exceed $25,000 for each violation, as provided by 33 U.S.C. 1908(b)(1). Each day of a continuing violation constitutes a separate violation.

(b) A person who makes a false, fictitious statement or fraudulent representation in any matter in which a statement or representation is required to be made to the Coast Guard under MARPOL 73/78, the Act, or the regulations of this part, is liable for a civil penalty not to exceed $5,000 for each statement or representation, as provided by 33 U.S.C. 1908(b)(2).

(c) A person who knowingly violates MARPOL 73/78, the Act, or the regulations of this part, is liable for a fine for each violation of not more than $50,000 dollars, or imprisonment for not more than 5 years, or both, as provided by 33 U.S.C. 1908(a).

(d) A ship operated in violation of MARPOL 73/78, the Act, or the regulations of this part is liable *in rem* for any civil penalty covered by paragraph (a) of this section, or any fine covered by paragraph (b) of this section, and may be proceeded against in the United States District Court of any district in which the ship may be found.

6. Section 151.05 is amended by adding the definitions for the terms "Cargo associated wastes," "Dishwater," "Domestic wastes," "Garbage," "Graywater," "Harmful substance," "Maintenance waste," "Medical waste," "Operational waste," "Plastic," "Victual waste," in the proper alphabetical sequence, by revising the definitions of "Discharge" and "Special Area," and by adding a note following the definition of "Terminal," to read as follows:

§ 151.05 Definitions.

* * * * *

"Cargo associated wastes" means all materials which have become wastes as a result of use on board a ship for cargo stowage and handling. Cargo associated wastes include, but are not limited to dunnage, shoring, pallets, lining and packing materials, plywood, paper, cardboard, wire, and steel strapping.

* * * * *

"Discharge," as defined by MARPOL 73/78 in relation to harmful substances or effluent containing such substances, means any release however caused from a ship, and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying. It does not include—

(1) Dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on November 13, 1972; or

(2) The release of harmful substances directly arising from the exploration, exploitation, and associated offshore processing of seabed mineral resources; or

(3) The release of harmful substances for purposes of legitimate scientific research relating to pollution abatement or control.

"Dishwater" means the liquid residue from the manual or automatic washing of dishes and cooking utensils which have been pre-cleaned to the extent that any food particles adhering to them would not normally interfere with the operation of automatic dishwashers.

"Domestic wastes" means all types of wastes generated in the living spaces on board a ship, except victual wastes.

* * * * *

"Garbage" means all kinds of victual, domestic, and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically, except dishwater, graywater, and those substances that are defined or listed in other Annexes to MARPOL 73/78.

"Graywater" means drainage from dishwasher, shower, laundry, bath, and washbasin drains and does not include drainage from toilets, urinals, hospitals, and cargo spaces.

"Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, harm living resources and marine life, damage amenities, or interfere with other legitimate uses of the sea, and includes any substance subject to control by MARPOL 73/78.

* * * * *

"Maintenance waste" means materials collected while maintaining and operating the ship, including, but not limited to, soot, machinery deposits, scraped paint, deck sweepings, wiping wastes, and rags.

* * * * *

"Medical waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes and potentially contaminated laboratory wastes, dialysis wastes, and such additional medical items as prescribed by the Administrator of the EPA by regulation.

* * * * *

"Operational waste" means all cargo associated waste, maintenance waste, cargo residues, and ashes and clinkers from shipboard incinerators and coal burning boilers

* * * * *

"Plastic" means any garbage that is solid material that contains as an essential ingredient one or more synthetic organic high polymers and is formed or shaped during either manufacture of the polymer or fabrication into a finished product by heat or pressure or both.

Note: Plastics possess material properties ranging from hard and brittle to soft and elastic. Plastics are used for a variety of marine applications including, but not limited to: food wrappings, personal hygiene products, packaging (vaporproof barriers,

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bottles, containers, liners), ship construction (fiberglass and laminated structures, siding, piping insulation, flooring, carpets, fabrics, adhesives, electrical and electronic components), disposable eating utensils and cups (including styrene products), bags, sheeting, floats, synthetic fishing nets, monofilament fishing line, strapping bands, hardhats, synthetic ropes and lines. "Degradeable" plastics which are composed of combinations of degradeable starches and either synthetically produced, or naturally produced plastics which are harvested for the use of man, are considered plastics for the purpose of these regulations.

* * * * *

"Special area" means a sea area, where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic, the adoption of special mandatory methods for the prevention of sea pollution by oil, NLS, or garbage is required. Special areas for the purposes of Annex I of MARPOL 73/78 include those listed in § 151.13 and for the purposes of Annex V of MARPOL 73/78 include those listed in § 151.53.

"Terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

Note: The Coast Guard interprets commercial fishing facilities, recreational boating facilities, and mineral and oil industry shorebases to be terminals for the purposes of Annex V of MARPOL 73/78, since these facilities normally provide wharfage and other services, including garbage handling, for ships.

* * * * *

"Victual waste" means any spoiled or unspoiled food waste.

7. Section 151.07 is revised to read as follows:

§ 151.07 Delegations.

Each Coast Guard official designated as a Captain of the Port (COTP) or Officer in Charge, Marine Inspection (OCMI) or Commanding Officer, Marine Safety Office (MSO), is delegated the authority to—

(a) Issue International Oil Pollution Prevention (IOPP) Certificates;

(b) Detain or deny entry to ships not in substantial compliance with MARPOL 73/78 or not having an IOPP Certificate or evidence of compliance with MARPOL 73/78 on board;

(c) Receive and investigate reports under § 151.15; and

(d) Issue subpoenas to require the attendance of any witness and the production of documents and other evidence, in the course of investigations of potential violations of the Act to Prevent Pollution from Ships, as amended (33 U.S.C. 1901–1911), this part, or MARPOL 73/78.

8. Section 151.08 is revised to read as follows:

§ 151.08 Denial of entry.

(a) Unless a ship is entering under force majeure, no oceangoing tanker or any other oceangoing ship of 400 gross tons or more required by § 151.10 to retain oil or oily residues and mixtures on board while at sea, and no oceangoing ship carrying a Category A, B, or C NLS cargo or NLS residue in cargo tanks that are required to be prewashed under 46 CFR Part 153, may enter any port or terminal under § 158.110(a) of this chapter unless the port or terminal has a Certificate of Adequacy, as defined in § 158.120 of this chapter.

(b) A COTP may deny the entry of a ship to a port or terminal under § 158.110(b) if—

(1) The port or terminal does not have a Certificate of Adequacy, as required in § 158.135 of this chapter; or

(2) The port or terminal is not in compliance with the requirements of Subpart D of Part 158.

§ 151.10 [Redesignated from § 151.09]

9. Section 151.09 (Control of discharge of oil) is redesignated as § 151.10.

10. A new § 151.09 is added to read as follows:

§ 151.09 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to each ship that—

(1) Is operated under the authority of the United States and engages in international voyages;

(2) Is operated under the authority of the United States and is certificated for ocean service;

(3) Is operated under the authority of the United States and is certificated for coastwise service beyond three nautical miles from land;

(4) Is operated under the authority of the United States and operates at any time seaward of the outermost boundary of the territorial sea of the United States as defined in § 2.05–10 of this chapter; or

(5) Is operated under the authority of a country other than the United States while in the navigable waters of the United States, or while at a port or terminal under the jurisdiction of the United States.

(b) This subpart does not apply to—

(1) A warship, naval auxiliary, or other ship owned or operated by a country when engaged in noncommercial service;

(2) A Canadian or U.S. ship being operated exclusively on the Great Lakes of North America or their connecting and tributary waters;

(3) A Canadian or U.S. ship being operated exclusively on the internal waters of the United States and Canada; or

(4) Any other ship specifically excluded by MARPOL 73/78.

Note: The term "internal waters" is defined in § 2.05–20 of this chapter.

11. Section 151.11 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 151.11 Exceptions for emergencies.

(a) Sections 151.10 and 151.13 do not apply to—

* * * * *

12. The section title and paragraphs (a) and (g) of § 151.13 are revised to read as follows:

§ 151.13 Special areas for Annex I of MARPOL 73/78.

(a) For the purposes of this subpart, the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, and the Gulfs Area that are defined as follows:

(1) The Mediterranean Sea area means the Mediterranean Sea proper including the gulfs and seas therein, with the boundary between the Mediterranean and the Black Sea constituted by the 41 °N parallel and bounded to the west by the Straits of Gibraltar at the meridian of 5°36' W.

(2) The Baltic Sea area means the Baltic Sea proper with the Gulf of Bothnia, the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57°44.8' N.

(3) The Black Sea area means the Black Sea proper with the boundary between the Mediterranean Sea and the Black Sea constituted by the parallel 41 °N.

(4) The Red Sea area means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane (12°8.5' N, 43°19.6' E) and Husn Murad (12°40.4' N, 43°30.2' E).

(5) The Gulfs Area means the sea area located northwest of the rhumb line between Ras al Hadd (22°30' N, 59°48' E) and Ras al Fasteh (25°04' N, 61°25' E).

* * * * *

(g) Nothing in this section prohibits a ship on a voyage, only part of which is in a special area, from discharging outside the special area in accordance with § 151.10.

13. By revising § 151.30 to read as follows:

151.30 Applicability.

(a) Except as provided in paragraph (b) of this section this subpart applies to each ship that—

(1) Is operated under the authority of the United States and engages in international voyages;

(2) Is operated under the authority of the United States and is certificated for ocean service;

(3) Is operated under the authority of the United States and is certificated for coastwise service beyond three nautical miles from land;

(4) Is operated under the authority of the United States and operates at any time seaward of the outermost boundary of the territorial sea of the United States as defined in § 2.05–10 of this chapter; or

(5) Is operated under the authority of a country other than the United States while in the navigable waters of the United States, or while at a port or terminal under the jurisdiction of the United States.

(b) This subpart does not apply to—

(1) A tank barge whose certificate is endorsed by the Coast Guard for a limited short protected coastwise route if the barge is constructed and certificated primarily for service on an inland route;

(2) A warship, naval auxiliary, or other ship owned or operated by a country when engaged in noncommercial service;

(3) A Canadian or U.S. ship being operated exclusively on the Great Lakes of North America or their connecting and tributary waters;

(4) A Canadian or U.S. ship being operated exclusively on the internal waters of the United States and Canada; or

(5) Any other ship specifically excluded by MARPOL 73/78.

Note: The term "internal waters" is defined in § 2.05–20 of this chapter.

14–15. Part 151 is amended by adding a new Subpart D to read as follows:

Subpart D—Garbage Pollution

Sec.

151.51 Applicability.
151.53 Special areas for Annex V of MARPOL 73/78.
151.55 Recordkeeping requirements [Reserved].
151.57 Waste management plans [Reserved].
151.59 Placards [Reserved].
151.61 Inspection for compliance and enforcement.
151.63 Shipboard control of garbage.
151.65 Reporting requirements.
151.66 Operating requirements: Discharge of garbage in the navigable waters prohibited.
151.67 Operating requirements: Discharge of plastic prohibited.
151.69 Operating requirements: Discharge of garbage outside special areas.
151.71 Operating requirements: Discharge of garbage within special areas.
151.73 Operating requirements: Discharge of garbage from fixed or floating platforms.
151.75 Grinders or comminuters.
151.77 Exceptions for emergencies.
Appendix A to Subpart D of Part 151—Summary of Garbage Discharge Restrictions.

Subpart D—Garbage Pollution

§ 151.51 Applicability.

(a) Except as provided by paragraph (b) of this section, this subpart applies to—

(1) Each ship that is of United States registry or nationality, or one operated under the authority of the United States, including recreational vessels defined in 46 U.S.C. 2101(25) and uninspected vessels defined in 46 U.S.C. 2101(43), wherever located; and

(2) Each ship, other than a ship referred to in paragraph (a)(1) of this section, while in the navigable waters or the Exclusive Economic Zone of the United States.

(b) This subpart does not apply to—

(1) A warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

(2) Any other ship specifically excluded by MARPOL 73/78.

Note: The Exclusive Economic Zone extends from the baseline of the territorial sea seaward 200 miles as defined in the Presidential Proclamation 5030 of March 10, 1983 (3 CFR, 1983 Comp. p. 22).

§ 151.53 Special areas for Annex V of MARPOL 73/78.

For the purposes of this subpart, the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, and the Gulfs Area that are defined as follows:

(a) The Mediterranean Sea area means the Mediterranean Sea proper including the gulfs and seas therein, with the boundary between the Mediterranean and the Black Sea constituted by the 41° N parallel and bounded to the west by the Straits of Gibraltar at the meridian of 5°36' W.

(b) The Baltic Sea area means the Baltic Sea proper with the Gulf of Bothnia, the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57°44.8' N. The discharge restrictions of § 151.71 are effective in the Baltic Sea on October 1, 1989.

(c) The Black Sea area means the Black Sea proper with the boundary between the Mediterranean Sea and the Black Sea constituted by the parallel 41° N.

(d) The Red Sea area means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane (12°8.5' N, 43°19.6' E) and Husn Murad (12°40.4' N, 43°30.2' E).

(e) The Gulfs area means the sea area located northwest of the rhumb line between Ras al Hadd (22°30' N, 59°48' E) and Ras al Fasteh (25°04' N, 61°25' E).

Note: In accordance with paragraph (4)(b) of Regulation 5 of Annex V of MARPOL 73/78, the discharge restrictions in § 151.71 for special areas will enter into effect when each party to MARPOL 73/78 whose coastline borders the special area has certified that reception facilities are available and the IMO has established an effective date for each special area. Notice of the effective dates for the discharge requirements in each special area will be published in the Federal Register and added to this section.

§ 151.55 Recordkeeping requirements [Reserved].

§ 151.57 Waste management plans [Reserved].

§ 151.59 Placards [Reserved].

§ 151.61 Inspection for compliance and enforcement.

While within the navigable waters of the United States or the Exclusive Economic Zone, a ship to which this subpart applies is subject to inspection by the Coast Guard or other authorized federal agency to determine if—

(a) The ship has been operating in accordance with these regulations and has not discharged plastics or other garbage in violation of the provisions of the Act or Annex V of MARPOL 73/78;

(b) Grinders or comminuters used for the discharge of garbage between 3 and 12 nautical miles from nearest land are capable of reducing the size of garbage so that it will pass through a screen with openings no greater than 25 millimeters (one inch);

(c) Information for recordkeeping requirements, when required under § 151.55, is properly and accurately logged;

(d) A waste management plan, when required under § 151.57, is on board and that the condition of the ship, equipment and operational procedures of the ship meet the plan; and

(e) Placards, when required by § 151.59, are posted on board.

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§ 151.63 Shipboard control of garbage.

(a) The master, operator, or person who is in charge of a ship shall ensure that all garbage is discharged ashore or in accordance with §§ 151.66–151.73.

(b) The following factors, among others, may be considered by enforcement personnel in evaluating compliance with this subpart:

(1) Records, including receipts, of garbage discharges at port reception facilities.

(2) Log entries indicating discharge of garbage in accordance with §§ 151.67, 151.69, 151.71, or 151.73.

(3) The presence and operability of equipment to treat ship-generated garbage, including, but not limited to, incinerators, grinders, or comminuters.

(4) The presence of and adherence to a written shipboard waste management plan.

(5) The absence of plastics in ship stores.

(6) Ongoing educational programs to train shipboard personnel of garbage handling procedures and the need for these.

(7) The presence of shipboard spaces used for collecting, processing, storing and discharging ship-generated garbage.

(c) The master, operator, or person who is in charge of a ship shall ensure that if garbage is transported from a ship by shipboard personnel, it is properly deposited into a port or terminal's reception facility.

§ 151.65 Reporting requirements.

The master or person who is in charge of each oceangoing ship shall notify the port or terminal, at least 24 hours before entering the port or terminal, of the name of the ship and the estimated volume of garbage requiring disposal, if any of the following types of garbage are to be discharged:

(a) Garbage regulated by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture under 7 CFR 330.400 or 9 CFR 94.5.

(b) Medical wastes.

(c) Hazardous wastes defined in 40 CFR 261.3.

§ 151.66 Operating requirements: Discharge of garbage in the navigable waters prohibited.

No person on board any ship to which this subpart applies may discharge garbage into the navigable waters of the United States.

Note: The navigable waters are defined in § 2.05–25 of this chapter.

§ 151.67 Operating requirements: Discharge of plastic prohibited.

No person on board any ship to which this subpart applies may discharge into the sea, or into the navigable waters of the United States, plastic or garbage mixed with plastic, including, but not limited to, synthetic ropes, synthetic fishing nets, and plastic garbage bags. All garbage containing plastics requiring disposal must be discharged ashore or incinerated.

§ 151.69 Operating requirements: Discharge of garbage outside special areas.

(a) When operating outside of a special area specified in § 151.53, no person may discharge, into the sea, garbage that is separated from plastic, if the distance from nearest land is less than—

(1) 25 nautical miles for dunnage, lining and packing materials that float; or

(2) 12 nautical miles for victual wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse, except that, such garbage may be discharged outside of three nautical miles from nearest land after it has been passed through a grinder or comminuter specified in § 151.75. (b) Mixtures of garbage having different discharge requirements under paragraph (a)(1) or (a)(2) of this section must be—

(1) Retained on board for later disposal ashore; or

(2) Discharged in accordance with the more stringent requirement prescribed by paragraph (a)(1) or (a)(2) of this section.

§ 151.71 Operating requirements: Discharge of garbage within special areas.

When a ship is located in a special area listed in § 151.53 that entered into force under Rule 5 of Annex V of MARPOL 73/78, no person may discharge garbage, except that victual waste may be discharged beyond 12 nautical miles from nearest land

§ 151.73 Operating requirements: Discharge of garbage from fixed or floating platforms.

(a) Except as allowed in paragraph (b) of this section, no person may discharge garbage from—

(1) A fixed or floating platform engaged in the exploration, exploitation or associated offshore processing of seabed mineral resources; or

(2) Any ship within 500 meters (1650 feet) of such platforms.

(b) Victual waste may be discharged into the sea from a ship or fixed or floating platform regulated by paragraph (a) of this section if—

(1) It passes through a comminuter or grinder meeting § 151.75; and

(2) That ship or fixed or floating platform is beyond 12 nautical miles from nearest land.

§ 151.75 Grinders or comminuters.

Each grinder or comminuter used to discharge garbage in accordance with § 151.69(a)(2) or § 151.73(b)(1), must be capable of processing garbage so that it passes through a screen with openings no greater than 25 millimeters (one inch).

§ 151.77 Exceptions for emergencies.

Sections 151.67, 151.69 and 151.71 of this subpart do not apply to the following:

(a) Discharges of garbage from a ship for the purpose of securing the safety of the ship and those on board or saving life at sea.

(b) The escape of garbage resulting from damage to a ship or its equipment, if all reasonable precautions have been taken before and after the occurrence of the damage, to prevent or minimize the escape.

(c) The accidental loss of synthetic fishing nets or the loss of synthetic material during repair of nets, provided all reasonable precautions have been taken to prevent such losses.

15. Appendix A to Subpart D to Part 151 is added as follows:

Appendix A to Subpart D of Part 151—Summary of Garbage Discharge Restrictions

Garbage Type	All Vessels Except Fixed or Floating Platforms and Associated Vessels		Fixed or Floating Platforms & Assoc. Vessels [3] (33 CFR 151.73)
	Outside special areas (33 CFR 151.69)	In special areas [2] (33 CFR 151.71)	
Plastics—includes synthetic ropes and fishing nets and plastic bags.	Disposal prohibited (33 CFR 151.67).	Disposal prohibited (33 CFR 151.67).	Disposal prohibited (33 CFR 151.67).
Dunnage, lining and packing materials that float.	Disposal prohibited less than 25 miles from nearest land and in the navigable waters of the U.S.	Disposal prohibited (33 CFR 151.71).	Disposal prohibited.
Paper, rags, glass, metal bottles, crockery and similar refuse.	Disposal prohibited less than 12 miles from nearest land and in the navigable waters of the U.S.	Disposal prohibited (33 CFR 151.71).	Disposal prohibited.

Garbage Type	All Vessels Except Fixed or Floating Platforms and Associated Vessels		Fixed or Floating Platforms & Assoc. Vessels [3] (33 CFR 151.73)
	Outside special areas (33 CFR 151.69)	In special areas [2] (33 CFR 151.71)	
Paper, rags, glass, etc. comminuted or ground.[1]	Disposal prohibited less than 3 miles from nearest land and in the navigable waters of the U.S.	Disposal prohibited (33 CFR 151.71).	Disposal prohibited.
Victual waste not comminuted or ground.	Disposal prohibited less than 12 miles from nearest land and in the navigable waters of the U.S.	Disposal prohibited less than 12 miles from nearest land.	Disposal prohibited.
Victual waste comminuted or ground.[1]	Disposal prohibited less than 3 miles from nearest land and in the navigable waters of the U.S.	Disposal prohibited less than 12 miles from nearest land.	Disposal prohibited less than 12 miles from nearest land and in the navigable waters of the U.S.
Mixed garbage types.[4]	See Note 4.	See Note 4.	See Note 4.

Note 1: Comminuted or ground garbage must be able to pass through a screen with a mesh size no larger than 25 mm. (1 inch) (33 CFR 151.75)
Note 2: Special areas for Annex V are the Mediterranean, Baltic, Red and Black Seas, and Persian Gulf areas. (33 CFR 151.53)
Note 3: Fixed or floating platforms and associated vessels includes all fixed or floating platforms engaged in exploration, exploitation or associated offshore processing of seabed mineral resources, and all ships within 500m of such platforms.
Note 4: When garbage is mixed with other harmful substances having different disposal or discharge requirements, the more stringent disposal restrictions shall apply.

PART 155—OIL POLLUTION PREVENTION REGULATIONS FOR VESSELS

16. The authority citation to Part 155 is revised to read as follows and the authority citations following the sections are removed:

Authority: 33 U.S.C. 1231; 49 CFR 1.46 except 155.450, 155.700, and 155.710 which are issued under 33 U.S.C. 1321(j)(i)(C), E.O. 11735, as amended, 3 CFR, 1971–1975 Comp. p. 793, 49 CFR 1.46. Sections 155.100, 155.110, 155.120, 155.130, 155.350, 155.360, 155.370, 155.380, 155.390, 155.400, 155.430, 155.440, and 155.470 are also issued under 33 U.S.C. 1903(b); 49 CFR 1.46.

17. Section 155.350(a)(2) is revised to read as follows:

§ 155.350 Bilge slops/fuel oil tank ballast water discharges on oceangoing ships of less than 400 gross tons.

(a) * * *

(2) Has approved oily-water separating equipment for the processing of oily bilge slops or oily fuel oil tank ballast and discharges into the sea in accordance with § 155.10.

* * * * *

18. Section 155.400(b)(2) is revised to read as follows:

§ 155.400 Platform machinery space drainage on oceangoing fixed and floating drilling rigs and other platforms.

* * * * *

(b) * * *

(2) Discharge in accordance with § 151.10 (b)(3), (b)(4) and (b)(5) of this chapter.

* * * * *

19. The authority citation for Part 158 is revised to read as follows:

Authority: 33 U.S.C. 1903(b); 49 CFR 1.46.

20. The title of Part 158 is revised to read as follows:

PART 158—RECEPTION FACILITIES FOR OIL, NOXIOUS LIQUID SUBSTANCES, AND GARBAGE

21. The title of Subpart A is revised to read as follows:

Subpart A—General

22. The undesignated center heading for §§ 158.100–158.165, "General" is removed.

23. Section 158.100(b) is revised to read as follows:

§ 158.100 Purpose.

* * * * *

(b) Procedures for certifying that reception facilities are adequate for receiving—

(1) Residues and mixtures containing oil from oceangoing tankers and any other oceangoing ships of 400 gross tons or more;

(2) NLS residue from oceangoing ships; or

(3) Garbage from ships.

* * * * *

24. Section 158.110 is revised to read as follows:

§ 158.110 Applicability.

(a) Subparts B, C, and E apply to each port and each terminal located in the United States or subject to the jurisdiction of the United States that is—

(1) Used by oceangoing tankers, or any other oceangoing ships of 400 gross tons or more, carrying residues and mixtures containing oil, or by oceangoing ships to transfer NLSs, except those ports and terminals that are used only by—

(i) Tank barges that are not configured and are not equipped to ballast or wash cargo tanks while proceeding enroute;

(ii) Ships carrying NLS operating under waivers under 46 CFR 153.491(b); or

(2) A ship repair yard that services oceangoing ships carrying oil or NLS residue.

(b) Subpart D applies to each port and terminal located in the United States or subject to the jurisdiction of the United States.

25. Section 158.115 is added to read as follows:

§ 158.115 Penalties for violation.

(a) A person who violates MARPOL 73/78, the Act, or the regulations of this part is liable for a civil penalty not to exceed $25,000 for each violation, as provided by 33 U.S.C. 1908(b)(1). Each day of a continuing violation constitutes a separate violation.

(b) A person who makes a false, fictitious statement or fraudulent representation in any matter in which a statement or representation is required to be made to the Coast Guard under MARPOL 73/78, the Act, or the regulations of this part, is liable for a civil penalty not to exceed $5,000 for each statement or representation, as provided by 33 U.S.C. 1908(b)(2).

(c) A person who knowingly violates MARPOL 73/78, the Act, or the regulations of this part is liable for a fine for each violation, of not more than $50,000 dollars, or imprisonment for not more than 5 years, or both, as provided by 33 U.S.C. 1908(a).

26. Section 158.120 is amended by adding definitions for the terms "Commercial fishing facility," "Form C," "Garbage," "Harmful substance," "Medical waste," "Mineral and oil industry shorebase," "Recreational boating facility," in the proper alphabetical sequence, by revising the definitions of "Certificate of Adequacy," "Reception facility" and "The Act," and by adding a note after the definition of "Terminal," to read as follows:

§ 158.120 Definitions and acronyms.

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"Certificate of Adequacy" means a document issued by the Coast Guard or other authorized agency that certifies a port or terminal meets the requirements of this part with respect to reception facilities required under the Act and MARPOL 73/78, and has Form A, Form B, or Form C attached.

* * * * *

"Commercial fishing facility" means docks, piers, processing houses, or other facilities which receive commercial fishery products from ships.

* * * * *

"Form C" means the application for a Certificate of Adequacy for a Reception Facility for Garbage, Coast Guard form USCG–CG–5401C. "Garbage" means all kinds of victual, domestic, and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically, except dishwater, graywater, and those substances that are defined or listed in other annexes to MARPOL 73/78. "Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, harm living resources and marine life, damage amenities or interfere with other legitimate uses of the sea, and includes any substance subject to control by MARPOL 73/78.

* * * * *

"Medical waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes and potentially contaminated laboratory wastes, dialysis wastes, and such additional medical items as prescribed by the Administrator of the EPA by regulation. "Mineral and oil industry shorebase" means a place or onshore structure or facility which is a base of operations for ships serving the mineral and oil industry.

* * * * *

"Reception facility" means anything capable of receiving shipboard residues and mixtures containing oil or NLS residue, or receiving garbage, including, but not limited to—

(1) Fixed piping that conveys residues and mixtures from the ship to a storage or treatment system;

(2) Tank barges, railroad cars, tank trucks, or other mobile facilities;

(3) Containers or other receptacles that are used as temporary storage for garbage; or

(4) Any combination of fixed and mobile facilities. "Recreational boating facility" means a facility that is capable of providing wharfage or other services for 10 or more recreational vessels. It includes, but is not limited to, marinas, boatyards, and yacht clubs, but does not include a place or facility containing only an unattended launching ramp.

* * * * *

"Terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

Note: The Coast Guard interprets commercial fishing facilities, recreational boating facilities, and mineral and oil industry shorebases to be terminals for the purposes of Annex V of MARPOL 73/78, since these facilities normally provide wharfage and other services, including garbage handling, for ships. "The Act" means the Act to Prevent Pollution from Ships, as amended, (33 U.S.C. 1901–1911).

27. Section 158.130 is revised to read as follows:

§ 158.130 Delegations.

Each COTP is delegated the authority to—

(a) Conduct inspections at ports and terminals required to have reception facilities under this part;

(b) Issue Certificates of Adequacy;

(c) Grant waivers under § 158.150;

(d) Designate ports; and

(e) Deny entry of ships to any port or terminal, except when a ship is entering under force majeure, that does not have—

(1) A Certificate of Adequacy if required under § 158.135; or

(2) Reception facilities for garbage required under Subpart D of this part.

28. Section 158.133 is added to read as follows:

§ 158.133 Which ports and terminals must provide reception facilities?

(a) A port or terminal which receives oceangoing tankers, or any other oceangoing ship of 400 gross tons or more, carrying residues and mixtures containing oil, must have a reception facility which meets Subpart B of this part.

(b) A port or terminal which receives oceangoing ships carrying NLSs must have a reception facility which meets Subpart C of this part.

(c) All ports and terminals under the jurisdiction of the United States, including commercial fishing facilities, mineral and oil shorebases, and recreational boating facilities, must have a reception facility which meets Subpart D of this part.

29. Section 158.135 is added to read as follows:

§ 158.135 Which ports and terminals must have Certificates of Adequacy?

To continue to receive ships, a port or terminal must hold one or more Certificates of Adequacy to show compliance with—

(a) Subpart B of this part if it receives oceangoing tankers, or any other oceangoing ship of 400 gross tons or more, carrying residues and mixtures containing oil.

(b) Subpart C of this part if it receives oceangoing ships carrying NLSs.

(c) Subpart D of this part if it receives—

(1) The ships under paragraph (a) or (b) of this section; or

(2) Fishing vessels which offload more than 500,000 pounds of commercial fishery products from all ships during a calendar year.

30. Section 158.140 is revised to read as follows:

§ 158.140 Applying for a Certificate of Adequacy.

(a) To continue to receive ships at a port or terminal required by § 158.135 to have a Certificate of Adequacy for its reception facilities, the person in charge must apply to the Coast Guard for a certificate as follows:

(1) Applicants for a Certificate of Adequacy required by § 158.135(a) or (b) must apply to the COTP of the Zone in which the port or terminal is located using Form A or Form B, respectively.

(2) Before August 28, 1989, an applicant for a Certificate of Adequacy required by § 158.135(c) must apply on Form C to: Commandant (G–MPS–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, Attention: Annex V Reception Facility Desk. On or after August 28, 1989 applicants must apply on Form C to the COTP of the Zone in which the port or terminal is located.

(b) Applications for Certificates of Adequacy, Forms A, B, or C, may be obtained from the local Coast Guard COTP.

31. Section 158.160 is revised to read as follows:

§ 158.160 Issuance and termination of a Certificate of Adequacy.

(a) After reviewing an application made under § 158.140(a)(1), the COTP determines by inspection the following:

(1) When the application is made on Form A, whether or not the reception facility meets Subpart B of this part.

(2) When the application is made on Form B, whether or not the reception facility and the port, or the reception facility and the terminal, meet Subpart C of this part.

Note: If in the instruction manual required by § 158.330(b) there is a certification by a registered professional engineer licensed by a state or the District of Columbia that the backpressure requirements under § 158.330(a) are met, the COTP determines whether or not to accept this finding.

(b) After the inspections under paragraph (a) are conducted, and after consulting with the Administrator of the Environmental Protection Agency (EPA) or his or her designee, the COTP.

(1) Issues a Certificate of Adequacy to the person in charge for the port or terminal; or

(2) Denies the application and informs the person in charge in writing of the reasons for the denial.

(c) After reviewing an application made under § 158.140(a)(2), Commandant (G-MPS-1) or the COTP——

(1) Issues a Certificate of Adequacy to the person in charge for the port or terminal; or

(2) Denies the application and informs the person in charge in writing of the reasons for the denial.

(d) In order to remain valid, the Certificate of Adequacy must have attached to it any waivers that are granted under § 158.150 when the Certificate of Adequacy is issued.

(e) Each Certificate of Adequacy remains valid until—

(1) Suspended;

(2) Revoked; or

(3) This part no longer applies to the port or terminal.

32. Section 158.163(b)(2) is revised to read as follows:

§ 158.163 Reception facility operations.

* * * * *

(b) * * *

(2) Available for inspection by the COTP and the master, operator, person who is in charge of a ship, or agent for a ship.

* * * * *

33. Section 158.165(b) is revised to read as follows:

§ 158.165 Certificate of Adequacy: Change of information.

* * * * *

(b) The person in charge shall notify the COTP in writing within 30 days after any information required in the following is changed:

(1) Form A, sections 1, 3B, 3C, 3E, 3F, 3I, or 3J.

(2) Form B, sections 1, 3, 4, 5B, 5D, 5E, 5F or 5G.

(3) Form C, sections A1, B1, B2, or C4.

* * * * *

34. Section 158.167 is added to read as follows:

§ 158.167 Reporting inadequate reception facilities.

Any person may report to the local Coast Guard COTP that reception facilities required by these regulations or MARPOL 73/78 are inadequate. Reports of inadequate reception facilities may be made orally, in writing or by telephone.

Subpart E—[Redesignated From Subpart D]

35. Subpart D of Part 158 is redesignated as Subpart E.

§ 158.500 [Redesignated from § 158.400]

36. Section 158.400 is redesignated § 158.500.

§ 158.520 [Redesignated from § 158.420]

37. Section 158.420 is redesignated § 158.520.

38. Part 158 is amended by adding a new Subpart D to read as follows:

Subpart D—Criteria for Adequacy of Reception Facilities: Garbage

Sec.
158.400 Purpose.
158.410 Reception facilities: General.
158.420 Reception facilities: Capacity and exceptions.

158.400 Purpose.

The purpose of this subpart is to supply the criteria for determining the adequacy of reception facilities for garbage at ports and terminals that receive ships and to comply with the Act and Regulation 7 of Annex V to MARPOL 73/78.

§ 158.410 Reception facilities: General.

(a) Except as allowed in paragraph (b) of this section, the person in charge of a port or terminal shall ensure that each port or terminal's reception facility—

(1) Is capable after August 28, 1989 of receiving APHIS regulated garbage at a port or terminal no later than 24 hours after notice under § 151.65 of this chapter is given to the port or terminal, unless it only receives ships that—

(i) Operate exclusively within the navigable waters of the United States;

(ii) Operate exclusively between ports or terminals in the continental United States; or

(iii) Operate exclusively between continental United States ports or terminals and Canadian ports or terminals.

(2) Is capable of receiving medical wastes or hazardous wastes defined in 40 CFR 261.3, unless the port or terminal operator can provide to the master, operator, or person in charge of a ship, a list of persons authorized by federal, state, or local law or regulation to transport and treat such wastes;

(3) Is arranged so that it does not interfere with port or terminal operations;

(4) Is conveniently located so that mariners unfamiliar with the port or terminal can find it easily and so that it's use will not be discouraged;

(5) Is situated so that garbage from ships which has been placed in it cannot readily enter the water; and

(6) Holds each federal, state, and local permit or license required by environmental and public health laws and regulations concerning garbage handling.

(b) A reception facility for a ship repair yard does not have to meet the requirements of paragraph (a)(1) of this section if it is capable of handling the transfer of garbage from a ship before the ship departs from the yard.

Note: The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) requires victual wastes or garbage contaminated by victual wastes, except from vessels that operate only between the continental United States and Canadian ports, to be incinerated or sterilized in accordance with their regulations in 7 CFR 330.400 and 9 CFR 94.5.

§ 158.420 Reception facilities: Capacity and exceptions.

Each day a port or terminal is in operation, the person in charge of a port or terminal must provide, or ensure the availability of, a reception facility that is capable of receiving all garbage that the master or person who is in charge of a ship desires to discharge, except—

(a) Large quantities of spoiled or damaged cargoes not usually discharged by a ship; or

(b) Garbage from ships not having commercial transactions with that port or terminal.

TITLE 46—[AMENDED]

Chapter I of Title 46 Code of Federal Regulations is amended as follows:

PART 25—[AMENDED]

39. The authority citation to Part 25 is revised to read as follows:

Authority: 33 U.S.C. 1903(b), 46 U.S.C. 3306, 4104, and 4302; 49 CFR 1.46.

40. A new Subpart 25.50 is added to Part 25 to read as follows:

Subpart 25.50—Garbage Retention

§ 25.50–1 Criteria.

Each uninspected vessel must retain all garbage generated on board the vessel for later shoreside disposal, unless it is discharged at sea as specified under 33 CFR Part 151.

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Note: The Act to Prevent Pollution from Ships, as amended [33 U.S.C. 1901–1911], prohibits the discharge of all plastics from U.S. vessels and limits discharges of other types of garbage in these waters. See 33 CFR 151.05 for definitions of "plastic" and "garbage."

Dated: February 9, 1989.

P.A. Yost,

Admiral, Commandant, U.S. Coast Guard.

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Friday
April 28, 1989

Part III

Environmental Protection Agency

40 CFR Part 421

Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards; Proposed Regulation

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 421

[OW-FRL-3774-1]

Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA is proposing amendments to the regulation which limits effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works by existing and new sources that conduct metal manufacturing operations in the metallurgical acid plants subcategory (Subpart I), primary beryllium subcategory (Subpart O), primary molybdenum subcategory (Subpart S), secondary molybdenum and vanadium subcategory (Subpart T), secondary precious metals subcategory (Subpart X), and secondary tungsten and cobalt subcategory (Subpart AC). EPA agreed to propose these amendments in settlement agreements with AMAX Inc., Brush Wellman Inc., Engelhard Corporation, GTE Products Corp., Gulf Chemical and Metallurgical Company, and Johnson Matthey, Inc. The agreements settle disputes between these companies and EPA that were the subject of petitions for review of the final nonferrous metals manufacturing regulation promulgated by EPA on September 20, 1985 (50 FR 38276).

The proposed amendments include: (1) Certain modifications of the effluent limitations for "best practicable technology" (BPT), "best available technology economically achievable" (BAT), and "new source performance standards" (NSPS) for direct dischargers; and (2) certain modifications to the pretreatment standards for new and existing indirect dischargers (PSNS and PSES). After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATE: Comments on this proposal must be submitted on or before May 30, 1989.

ADDRESS: Send comments to Industrial Technology Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Attention: ITD Docket Clerk, Proposed Nonferrous Metals Manufacturing (WH-552).

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) (EPA Library) 501 M Street SW., Washington, DC. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Questions regarding this notice may be addressed to Mr. Ernst P. Hall at (202) 382-7128.

SUPPLEMENTARY INFORMATION: Organization of this notice:

I. Legal authority
II. Background
  A. Rulemaking and Settlement Agreements
  B. Effect of the Settlement Agreements for Nonferrous Metals Forming Regulation
III. Proposed Amendments to the Nonferrous Metals Manufacturing Phase II Regulation
IV. Environmental Impact of the Proposed Amendments to the Nonferrous Metals Manufacturing Regulation
V. Economic Impact of the Proposed Amendments
VI. Solicitation of Comments
VII. Executive Order 12291
VIII. Regulatory Flexibility Analysis
IX. OMB Review
X. List of Subjects in 40 CFR Part 421

I. Legal Authority

The amendments described in this notice are proposed under authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq., as amended by the Clean Water Act of 1977, Pub. L. 95-217). These amendments are also being proposed in response to the Settlement Agreements in *AMAX Inc. v. U.S. Environmental Protection Agency, Brush Wellman Inc., v. U.S. Environmental Protection Agency, Engelhard Corporation v. U.S. Environmental Protection Agency, GTE Products Corp. v. U.S. Environmental Protection Agency, Gulf Chemical and Metallurgical Co. v. U.S. Environmental Protection Agency,* and *Johnson Matthey, Inc. v. U.S. Environmental Protection Agency,* Nos. 85-3560, 86-3072, 85-3694, 85-3625, 86-3039 and 85-3726 respectively (3rd Cir. 1986).

II. Background

A. Rulemaking and Settlement Agreements

On March 8, 1984, EPA promulgated Best Practicable Control Technology Currently Available (BPT) and Best Available Technology Economically Achievable (BAT) effluent limitations guidelines and new source performance standards (NSPS), pretreatment standards for existing sources (PSES) and pretreatment standards for new sources (PSNS) for the twelve subcategories in the nonferrous metals manufacturing (NFM) point source category (49 FR 8714). At that time the Agency recognized that we would regulate additional subcategories in the nonferrous metals manufacturing subcategory at some future date. On June 27, 1984 (49 *FR* 26352) EPA proposed an amendment to establish Best Practicable Control Technology Currently Available (BPT) and Best Available Technology Economically Achievable (BAT) effluent limitations guidelines, New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS) for some twenty-five additional subcategories in the nonferrous metals manufacturing point source category. The final rule amending the nonferrous metals manufacturing industry point source category (i.e., NFMII) was promulgated on September 29, 1985 (50 FR 38276) and established effluent limitations guidelines and standards to control specific toxic, nonconventional and conventional pollutants for twenty new subcategories in the nonferrous metals manufacturing point souce category. Only six of these subcategories (the metallurgical acid plants subcategory (Subpart I), the primary beryllium subcategory (Subpart O), the primary molybdenum and rehenium subcategory (Subpart S), the secondary molybdenum and vandium subcategory (Subpart T), the secondary precious metals subcategory (Subpart X), and the secondary tungsten and cobalt subcategory (Subpart AC)) are affected by today's proposal. The remaining subcategories are unchanged by today's proposal.

B. Effect of the Settlement Agreements for Nonferrous Metals Manufacturing

After promulgation of the amendments to the NFM regulation (September 20, 1985), petitions for judicial review of the final regulation were filed in various United States Courts of Appeals by AMAX Inc., Brush Wellman Inc., Engelhard Corporation, GTE Products Corp., Gulf Chemical and Metallurgical Co., Johnson Matthey, Inc., Remacor Inc., Teledyne WaChang Albany Inc., Oregon Metallurgical Inc. and Tex Tin. On April 9, 1986, these petitions were consolidated in the United States Court of Appeals for the Third Circuit for judicial review. The Agency held extensive negotiations with the petitioners on issues relating to the effluent limitations guidelines and standards for the nonferrous metals manufacturing point source categories. As a result of these negotiations, three petitioners, Teledyne WaChang Albany Inc., Oregon Metallurgical Inc., and Tex Tin withdrew their petitions for review. The Agency took a voluntary remand in response to Remacor's petition. The remaining petitioners entered into comprehensive settlement agreements with the Agency resolving all issues raised in the litigation. In these agreements EPA agreed to propose amendments to the NFM regulation and to solicit comments regarding these proposed amendments. EPA also agreed to propose specific preamble language. The petitioners agreed to move to dismiss their petitions for judicial review within 30 days from the date any final amendments and preamble are published by the EPA provided each provision of the final NFM regulation is substantially the same as that called for by the settlement agreements. Copies of the settlement agreements were promptly sent to EPA's Regional offices and State NPDES permit issuing authorities.

As part of the settlement agreements, EPA and the petitioners jointly requested the United States Court of Appeals for the Third Circuit to stay the effectiveness of those portions of 40 CFR Part 421 that EPA is proposing to amend, pending final action by EPA on the proposed amendments. On June 2, 1987 and June 23, 1987, the Court entered orders staying the following sections of the regulation promulgated on September 20, 1985:

Subpart I—Metallurgical Acid Plant Subcategory

40 CFR Part 421.93—The molybdenum limitations only.
40 CFR Part 421.94—The molybdenum limitations only.
40 CFR Part 421.96—The molybdenum limitations only.

Subpart O—Primary Beryllium Subcategory

40 CFR Part 421.152(d)—All limitations except pH.
40 CFR Part 421.152(f)—Fluoride limitations only.
40 CFR Part 421.153(d)—All limitations.
40 CFR Part 421.153(f)—Fluoride limitations only.
40 CFR Part 421.154(d)—All limitations except pH.
40 CFR Part 421.154(f)—Fluoride limitations only.

Subpart S—Primary Molybdenum and Rhenium Subcategory

40 CFR Part 421.212(a)(e)—The molybdenum limitations only.
40 CFR Part 421.213(a)(e)—The molybdenum limitations only.
40 CFR Part 421.214(a)(e)—The molybdenum limitations only.
40 CFR Part 421.216(a)(e)—The molybdenum limitations only.

Subpart T—Secondary Molybdenum and Vanadium Subcategory

40 CFR Part 421.222(a)(b)—All pollutants except for the pH limitation.
40 CFR Part 421.223(a)(b)—All pollutants.
40 CFR Part 421.224(a)(b)—All pollutants except for the pH limitation.
40 CFR Part 421.226(a)(b)—All pollutants.

Subpart X—Secondary Precious Metals Subcategory

40 CFR Part 421.282 (a)-(i); (k)-(m)—All limitations for gold, platinum and palladium.
40 CFR Part 421.282(j)—All limitations except pH.
40 CFR Part 421.283 (a)-(i); (k)-(m)—All limitations for gold, platinum and palladium.
40 CFR Part 421.283(j)—All limitations.
40 CFR Part 421.284 ()-(i); (k)-(m)—All limitations.
40 CFR Part 421.284(j)—All limitations except pH.
40 CFR Part 421.285 (a)-(i); (k)-(m)—All limitations for gold, platinum and palladium.
40 CFR Part 421.285(j)—All limitations.
40 CFR Part 421.286 (a)-(i); (k)-(m)—All limitations for gold, platinum and palladium.
40 CFR Part 421.286(j)—All limitations.

Subpart AC—Secondary Tungsten and Cobalt Subcategory

40 CFR Part 421.312 (a)-(k)—The Cobalt limitations only.
40 CFR Part 421.313 (a)-(k)—The Cobalt limitations only.
40 CFR Part 421.314 (a)-(k)—The Cobalt limitations only.
40 CFR Part 421.315 (a)-(k)—The Cobalt limitations only.
40 CFR Part 421.316 (a)-(k)—The Cobalt limitations only.

EPA is today proposing to amend these sections in accord with the settlement agreements. All limitations and standards in the final nonferrous metals manufacturing regulation that are not specifically listed in this proposal remain in effect. EPA is not today proposing to delete or modify any effluent limitations guidelines or standards not either stayed or remanded.

III. Proposed Amendments to the Nonferrous Metals Manufacturing Phase II Regulation

In the Settlement Agreements, EPA agreed to propose specific changes to the NFM regulation for the following subcategories: Subpart I—Metallurgical Acid Plants Subcategory, Subpart O—Primary Beryllium Subcategory, Subpart S—Primary Molybdenum and Rhenium Subcategory, Subpart T—Secondary Molybdenum and Vanadium Subcategory, Subpart X—Secondary Precious Metals Subcategory, and Subpart AC—Secondary Tungsten and Cobalt Subcategory. These proposed changes are discussed below.

(A) Primary Beryllium Subcategory (Subpart O)

1. Treatment Effectiveness Concentration for Fluoride Removal

EPA is proposing amendments to the BPT and BAT limitations and NSPS, PSES and PSNS for fluoride in the beryllium hydroxide supernatant building block when fluoride is treated under a specific set of circumstances. EPA promulgated effluent limitations and standards based on fluoride removal using lime, settle and filter model technology. In the promulgated rule, these limitations and standards applied regardless of the composition of the influent being treated (50 FR 38346, September 20, 1985). The petitioners indicated that although they could meet these values for most of their streams, the wastestream from the beryllium hydroxide supernatant process step could not be treated to this level because it contains unusually high concentrations of total dissolved solids (TDS). They stated that TDS at such high concentrations could interfere with the model technology performance by significantly inhibiting the precipitation of fluoride.

EPA has reconsidered the promulgated fluoride limit in the beryllium hydroxide supernatant wastestream which contains reported levels of TDS as high as 200,000 mg/1. Upon further review and analysis of the available data bearing on fluoride treatment effectiveness at such high TDS levels, the Agency has concluded the long term average value of 14.6 mg/l used as the basis for the promulgated limitations is inappropriate for this wastewater stream. Therefore, EPA is proposing to establish a mass discharge allowance for wastewater from the beryllium hydroxide supernatant building block based upon a long term average fluoride treatment effectiveness concentration value of 170.0 mg/l. This revised treatment effectiveness value for fluoride is based upon data from an EPA treatability study of cathode reprocessing wastewater in the primary aluminum subcategory. The reprocessing wastewater there had TDS and fluoride levels comparable to the influent values found for the beryllium hydroxide supernatant process regulated in this subcategory. Therefore, we are transferring the lime settle and filter treatment performance for the beryllium hydroxide supernatant building block from the primary aluminum subcategory.

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The only building block in the primary beryllium subcategory that contains these high TDS and fluoride levels affecting the treatment effectiveness of fluoride is beryllium hydroxide supernatant. Thus, today's proposal is limited to revising the fluoride limit in that building block.

2. Regulatory Flows

EPA is proposing to increase the mass pollutant discharge limits for the beryllium hydroxide filtrate building block. Based on more detailed information, EPA has determined that the regulatory flow allowance used as the basis for developing the discharge limit should be revised from 52,600 to 136,000 l/kkg. The pollutants regulated in this building block and the associated treatment effectiveness values for those pollutants will remain the same as originally promulgated. Additionally, the Agency is clarifying that the production of beryllium hydroxide is additive to the production of beryllium carbonate and both the beryllium carbonate and beryllium hydroxide allowance are applied when beryllium hydroxide is produced.

3. New Building Blocks

EPA is also proposing to add new building blocks for the following six processes in the primary beryllium subcategory: beryl ore gangue dewatering, bertrandite ore gangue dewatering, beryl ore processing (comprises quench pit, scrubber and washdown), AIS area wastewater, bertrandite ore leaching scrubber, and bertrandite ore counter current decantation scrubber. These building blocks were not included in the promulgated rule because the Agency anticipated they would be addressed through permit limits developed on the basis of best professional judgment. As part of the settlement negotiations, however, petitioner requested that EPA establish national regulations for these processes. Today's proposal would regulate the same pollutants as regulated in other primary beryllium building blocks and rely on the same end of pipe wastewater treatment technology. The flow basis for this proposal is as follows: 1,043 l/kkg for beryl ore gangue dewatering; 2,665 l/kkg for bertrandite ore gangue dewatering; 7,303 l/kkg for beryl ore processing; 468,000 l/kkg for aluminum iron sludge (AIS) area wastewater; 1,511 l/kkg for bertrandite ore leaching scrubber; and 101 l/kkg for bertrandite ore counter current decantation scrubber.

4. Monitoring Requirements

EPA has reviewed the processes employed in generating beryllium hydroxide and carbonate and finds that certain building blocks of the manufacturing processes do not use cyanide. If a plant uses these noncyanide processes and does not use cyanide elsewhere in the facility, the requirement for cyanide monitoring may appropriately be reduced. Accordingly, EPA is proposing to allow yearly confirmatory analysis in any beryllium manufacturing plant which discharges to a navigable water or a POTW and which certifies that it does not use or generate cyanide at the facility.

(B) Primary Molybdenum and Rhenium Subcategory (Subpart S) and Metallurgical Acid Plants Subcategory (Subpart I)

1. Treatment Effectiveness Concentration for Molybdenum Removal

EPA is proposing amendments to the BAT limitations, NSPS and PSNS for the metallurgical acid plant subcategory, and BPT and BAT limitations, and NSPS, and PSNS for the primary molybdenum and rhenium subcategories. EPA promulgated effluent limitations and standards based on molybdenum removal using iron coprecipitation model technology. The petitioners have raised technical concerns about the operating data upon which the model technology is based and the ability of that technology to achieve the molybdenum limitations promulgated for these two subcategories.

As part of the settlement, EPA is proposing to suspend the molybdenum limitations and standards for the metallurgical acid plant and the primary molybdenum and rhenium subcategories. Petitioners have agreed, as part of the settlement agreement, to install the model technology (full-scale iron coprecipitation) and beginning on April 30, 1988, provide the Agency with one year of operating data (daily observations for the first three months and weekly observations for the remaining nine months). This information will be provided to the Agency on a monthly basis. EPA has agreed to consider this data in proposing new molybdenum limits for these two subcategories.

Due to the technical concerns raised by petitioners and the absence of specific iron coprecipitation data for this particular subcategory, EPA is unable to propose alternative treatment effectiveness concentrations for molybdenum for the metallurgical acid plant and the primary molybdenum and rhenium subcategories at this time. Petitioners expressed their belief to the Agency that, pending installation of the full-scale model technology, they could achieve a one-day maximum of 60 mg/l and a monthly average of 30 mg/l based on data from the equivalent of a properly operated lime settle and filter system. Based on these representations, any BPJ limitation should not be less stringent than this daily maximum and monthly average.

(C) Secondary Molybdenum and Vanadium Subcategory (Subpart T)

1. Regulatory Flows for the Pure Grade Molybdenum Building Block

EPA is today proposing to establish BPT and BAT limitations, NSPS, and PSNS for a new pure grade molybdenum building block for the secondary molybdenum and vanadium subcategory. This building block applies to the production of pure grade molybdenum from commercial grade molybdenum and is based on a production normalized flow of 23,280 liters per kkg of pure molybdenum produced. This building block was not included in the promulgated rule because the wastewater from this operation was included as part of the flow from the molybdenum filtrate solvent extraction building block. Petitioner has indicated that the pure grade molybdenum process and the molybdenum solvent extraction operations are not directly linked as the Agency had believed. Today's action, therefore, proposes to establish a new building block for the pure grade molybdenum process. As noted below, the regulatory flow for the molybdenum solvent extraction raffinate will be adjusted accordingly.

2. Change in Production Normalized Flows ("PNF")

EPA is proposing to modify the flow allowance for the molybdenum filtrate solvent extraction building block from 60,548 to 58,239 liters per kkg of technical grade and pure grade molybdenum and vanadium produced. This adjustment reflects the establishment of a new pure grade molybdenum building block as discussed above. The Agency is also proposing to modify the flow allowance for the leach tailings building block from 12,540 to 19,511 liters per kkg technical grade and pure grade of molybdenum and vanadium produced. This second change reflects a recalculation of the average flows for this building block and the incorporation of new data.

3. Indicator Pollutants

In the final promulgated rule, the Agency indicated that molybdenum was considered to be an indicator pollutant for operation and removal efficiency of the model technology treatment chain as a whole (50 FR 38306, September 20, 1985). In response to concerns raised by petitioners, EPA has reviewed and reconsidered its earlier preamble statement on the status of molybdenum as an indicator pollutant. Based on this reconsideration, the EPA is clarifying today that the Agency does not consider molybdenum to be an indicator pollutant. Molybdenum is being regulated as a nonconventional pollutant because it is a principal metal produced in this subcategory.

4. Treatment Effectiveness Concentration for Molybdenum Removal

EPA is proposing amendments to the BPT and BAT limitations, NSPS, and PSNS for the secondary molybdenum and vanadium subcategory. EPA promulgated effluent limitations and standards based on iron coprecipitation as the model technology for molybdenum removal. The petitioners have raised technical concerns about the operating data upon which the model technology is based and the ability of that technology to achieve the molybdenum limitations promulgated for the secondary molybdenum and vanadium subcategory.

As part of the settlement, EPA is proposing to suspend the molybdenum limitations and standards for this subcategory to allow an opportunity to develop and gather additional data to address the technical concerns raised by petitioners in the secondary molybdenum and vanadium subcategory as well as in the metallurgical acid plant and the primary molybdenum and rhenium subcategories.

Due to the absence of specific iron coprecipitation data for this particular subcategory, EPA is unable to propose alternative treatment effectiveness concentrations for molybdenum for the secondary molybdenum and vanadium subcategory at this time. Petitioner does not have the model technology in place. However, it does have a solvent extraction system in operation which is capable of achieving molybdenum removal. Petitioner has expressed its belief to the Agency and supplied three months of chemical analysis data indicating that it can achieve a one-day maximum of 66.5 mg/l and a monthly average of 30 mg/l based on operating data from the existing solvent extraction system. Based on these representations, any BPJ limitation should not be less stringent than this daily maximum and monthly average.

(D) Secondary Precious Metals Subcategory (Subpart X)

1. Regulatory Flows for the Preliminary Treatment ("PT") Building Block

EPA is today proposing to establish BPT and BAT limitations and NSPS, PSES, and PSNS for a new preliminary treatment (PT) building block for the secondary precious metals subcategory. The PT building block applies to the pretreatment of non-combustible, nonmetallic-based basis materials containing precious metals and is based on a production normalized flow of 50 liters per troy ounce of precious metals produced. This building block was not included in the promulgated rule because the Agency believed that the Furnace Wet Air Pollution Control (FWAPC) building block accounted for the flows generated by the preparatory processing of basis materials required before these materials can be introduced into the main hydrometallurgical refining system. Petitioners have indicated that while the FWAPC building block applies to the preparatory processing of certain carbon-based basis material through combustion in a furnace, it does not reflect the raw material processing steps required for non-combustible, non-metallic-based basis materials. Today's proposal addresses this aspect of the secondary precious metals manufacturing process and regulates the same pollutants as are regulated in the FWAPC building block. The flow basis for this proposal is based upon information that has been claimed confidential.

This proposal provides that the production normalizing parameter of the PT building block is troy ounces of precious metals produced. The production basis for assigning appropriate flows for this building block may also be calculated as the total of precious metals input into the building block less the amount of precious metals sent to offsite refiners. The Agency expects that either calculation will arrive at essentially the same production value.

2. Change in Production Normalized Flow ("PNF")

EPA is proposing to modify the flow allowance for the palladium precipitation and filtration building block from 3.5 to 6.0 liters per troy ounce of precious metals produced. This change reflects a recalculation of the average flows for this building block and the incorporation of new data.

3. Changes in Applicability

EPA is proposing to amend the applicability provisions of the refinery wet air pollution control (RWAPC) building block to provide separate flow allowances for RWAPC acid and alkaline scrubbers at facilities with both types of scrubbers in operation. The RWAPC building block as promulgated was based upon data from facilities which use alkaline scrubbers for this process. Petitioners have indicated that the RWAPC step in their facilities requires the use of an acid scrubber as well. Today's proposal would modify the promulgated regulation to reflect this information. The promulgated production normalized parameters and flows for this building block would remain unchanged.

In response to an issue raised by petitioners, EPA is also clarifying the Agency's intent that the spent plating solution (SPS) building block applies to gold bearing stripping solutions received by a facility from off-site.

In addition, the Agency is clarifying that it considers the wastewater flows associated with the recovery of molybdenum from a molybdenum precious metal alloy to be outside the scope of this subpart. This pre-precious metal processing step creates the precious metal bearing residue which is then introduced into the precious metal building block process. Flows from secondary molybdenum recovery are regulated under the appropriate subcategory.

4. Treatment Effectiveness Basis for Precious Metals Limitations

EPA is proposing to change the manner of regulating gold, platinum and palladium in the promulgated regulation from 0.1 mg/l (as the maximum for any day) for each of these pollutants to 0.3 mg/l for "combined metals" produced (as the maximum for any day). The term "combined metals" shall mean the sum of the measured amounts of gold, platinum and palladium. Petitioners have indicated that production is variable among these three precious metals depending in part upon whether high or low grade feed materials are used. Petitioners have also indicated concern about the analytical accuracy of certain chemical analysis procedures when used to detect these low levels of regulated precious metals. EPA's proposed change addresses both of these concerns. While the amount of any particular precious metal discharged may increase beyond 0.1 mg/liter, the total amount of precious metals allowed

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to be discharged will not increase beyond 0.3 mg/liter.

(E) Secondary Tungsten and Cobalt Subcategory (Subpart AC)

1. Treatment Effectiveness Concentration for Cobalt Removal

EPA is proposing amendments to the BPT and BAT limitations and NSPS, PSES and PSNS for cobalt in the secondary tungsten and cobalt subcategory (tungsten-cobalt subcategory). EPA promulgated effluent limitations and standards based on cobalt removal using lime, settle and filter model technology. The treatment effectiveness value underlying these promulgated cobalt limits is based upon lime, settle and filter operating data from the porcelain enameling category. The petitioners indicated that the wastewater streams from the tungsten-cobalt subcategory cannot be treated to the same level as porcelain enameling because they contain significantly higher concentrations of complexed cobalt than were found in the porcelain enameling category.

Upon further review and analysis of the available data bearing on cobalt treatment effectiveness at the concentration levels and conditions found in the effluent from the tungsten-cobalt subcategory, the Agency has concluded that the long term average value of 0.03 mg/l used as the basis for the promulgated limitations is inappropriate for these wastewater streams. Therefore, EPA is proposing to establish a mass discharge allowance for wastewater from the tungsten-cobalt subcategory based upon a long term average cobalt treatment effectiveness value of 0.667 mg/l. The one day maximum for BAT from this long term average is 2.76 mg/l and the monthly average for BAT is 1.21 mg/l. The proposed treatment effectiveness concentration is based upon 30 days of lime settle and centrifuge data with associated TSS values supplied by the petitioner based upon the operation of a secondary tungsten and cobalt facility. The revised BPT for this pollutant is based on the assumption that lime and settlement treatment technology will be 30 percent less effective than the lime settle and centrifuge data.

(F) Clarifications

1. In addition to the changes to the regulatory sections described above, the Agency is clarifying the intent of Response No. 11 (Permit Writer Guidance) in Section IX of the preamble to the final regulation (50 FR 38325) by adding the following paragraph:

In developing site specific mass limits related to non-scope flows for nonferrous metals manufacturing for inclusion in a NPDES permit, the permit writer is encouraged to apply the treatment effectiveness concentrations used as the basis for establishing this regulation. However, the permit writer is not necessarily bound to use these concentrations as the basis for the mass limits and he may use other appropriate treatment effectiveness concentrations if the nature of the non-scope flows requires special consideration.

IV. Environmental Impact of the Proposed Amendments to the Nonferrous Metals Forming Regulation

Because of the limited nature of the proposed amendments described above only about 13 facilities are expected to be affected by these amendments. The nature of most of these changes is environmentally neutral because they neither substantially increase nor decrease the amounts of pollutants allowed to be discharged to the environment. For example, the suspension of the molybdenum limits is expected to be for only a short period while confirmative data is collected on the treatment effectiveness for this pollutant. Similarly, the division of one building block into two, the establishment of building blocks for operations that were originally expected to be regulated at the permit level and the summing of certain nonconventional metals into a single value are expected to cause no substantial change in the amount of pollutants allowed to be discharged to the environment. These amendments will allow the discharge of additional pollutants where the treatment effectiveness for a specific pollutant was amended (increased) or where the flow basis for the limitations and standards was revised upward. These changes are projected to allow the discharge of an additional 71.33 kg/yr (156.9 lbs/yr) of toxic pollutants and 2736.5 kg/yr (6020.3 lb/yr) of nonconventional pollutants. These quantities of pollutants are small compared to the estimated 340,800 kg/yr toxic pollutant removed by application of the (1985) regulation.

V. Economic Impact of the Proposed Amendments

The proposed amendments do not alter the model technologies for complying with the nonferrous metals forming regulation. The Agency considered the economic impact of the regulation when the final regulation was promulgated (see 50 FR 38276). EPA concluded at that time that the regulation was economically achievable. Since today's proposed amendments are based on the same model technologies, EPA's conclusions as to economic impact and achievability are unaffected.

VI. Solicitation of Comments

EPA invites public participation in this rulemaking and requests comments on the proposed amendments discussed or set out in this notice. The Agency asks that comments be as specific as possible and that suggested revisions or corrections be supported by data.

VII. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. Major rules are defined as rules that impose an annual cost to the economy of $100 million or more, or meet other economic criteria. This proposed regulation, which modestly reduces regulatory requirements, is not a major rule.

VIII. Regulatory Flexibility Analysis

Pub. L. 96-354 requires that EPA prepare a Regulatory Flexibility Analysis for regulations that have a significant impact on a substantial number of small entities. In the preamble to the August 23, 1985, final nonferrous metals forming regulation, the Agency concluded that there would not be a significant impact on a substantial number of small entities (49 *FR* 8775). For that reason, the Agency determined that a formal regulatory flexibility analysis was not required. That conclusion is equally applicable to these proposed amendments, since the amendments slightly reduce the regulatory requirements.

IX. OMB Review

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Room M2404, U.S. EPA, 401 M Street SW., Washington, DC 20460 from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding Federal holidays.

List of Subjects in 40 CFR Part 421

Metals, Nonferrous metals manufacturing, Water pollution control, Waste treatment and disposal.

Dated: March 24, 1989.

William K. Reilly,

Administrator.

For the reasons stated above, EPA proposes to amend 40 CFR Part 421 as follows:

PART 421—NONFERROUS METALS MANUFACTURING POINT SOURCE CATEGORY

1. The authority citation for Part 421 continues to read as follows:

Authority: Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), 308, and 501 of (the Federal Water Pollution Control Act, as amended (the "Act") 33 U.S.C. 1251 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

2. 40 CFR 421.3 is amended by adding new paragraph (b) to read as follows:

§ 421.3 Monitoring and reporting requirements.

* * * * *

(b) Periodic analyses for cyanide are not required for a facility in the primary beryllium subcategory (Subpart 0) when both of the following conditions are met:

(1) The first wastewater sample taken in each calendar year has been analyzed and found to contain less than 0.07 mg/l cyanide.

(2) The owner or operator of the primary beryllium manufacturing facility certifies in writing to the POTW authority or permit issuing authority that cyanide is neither generated nor used in the beryllium manufacturing process employed at that facility.

3. 40 CFR Part 421.93 is amended by revising the entry for molybdenum to read as follows:

§ 421.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

* * * * *

SUBPART I—METALLURGICAL ACID PLANT—BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of beryllium hydroxide produced as beryllium	
Beryllium	167.280	74.800
Chromium (Total),	59.840	24.480
Copper,	258.400	136.000
Cyanide (Total)	39.440	16.320
Ammonia (as N),	18,128.800	7,969.600
Fluoride,	4,760.000	2,708.400
Total Suspended Solids	5,576.000	2,652.000
pH		
Molybdenum [1]	[Reserved]	[Reserved]

[1] For Molybdenum acid plants only.

4. 40 CFR Part 421.94 is amended by revising the entry for molybdenum to read as follows:

§ 421.94 Standards of performance for new sources.

* * * * *

SUBPART I—METALLURGICAL ACID PLANT—NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum [1]	[Reserved]	[Reserved]

[1] For Molybdenum acid plants only.

5. 40 CFR Part 421.96 is amended by revising the entry for molybdenum to read as follows:

§ 421.96 Pretreatment standards for new sources.

* * * * *

SUBPART I—METALLURGICAL ACID PLANT—PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum [1]	[Reserved]	[Reserved]

[1] For Molybdenum acid plants only.

§ 421.152 [Amended]

6. 40 CFR 421.152(d) is amended by revising all of the values for Beryllium, Chromium (Total), Copper, Cyanide (Total) Ammonia (as N), Fluoride, and Total Suspended Solids to read as follows.

* * * * *

(d) Beryllium Hydroxide Filtrate.

* * * * *

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of beryl ore processed	
Beryllium	1.283	0.574
Chromium (Total)	0.459	0.188
Copper	1.982	1.043
Cyanide (Total)	0.302	0.125
Ammonia (as N)	139.032	61.120
Fluoride	36.505	20.756
Total Suspended Solids	42.763	20.339
pH	(1)	(1)

[1] Within the range of 7.5 go 10.0 at all times.

(1) Bertrandite Ore Gangue Dewatering.

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of bertrandite ore processed	
Beryllium	3.279	1.466
Chromium (Total)	1.173	0.480
Copper	5.064	2.665
Cyanide (Total)	0.773	0.320
Ammonia (as N)	355.245	156.169
Fluoride	93.275	53.034
Total Suspended Solids	109.265	51.968
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(m) Beryl Ore Processing.

(f) Beryllium Hydroxide Supernatant.

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Fluoride	160,308.0	71,201.0

8. 40 CFR 421.152 is amended by adding paragraphs (k) through (p) to read as follows:

* * * * *

(k) Beryl Ore Gangue Dewatering.

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of beryl ore processed	
Beryllium	1.283	0.574
Chromium (Total)	0.459	0.188
Copper	1.982	1.043
Cyanide (Total)	0.302	0.125
Ammonia (as N)	139.032	61.120
Fluoride	36.505	20.756
Total Suspended Solids	42.763	20.339
pH	(1)	(1)

[1] Within the range of 7.5 go 10.0 at all times.

(l) Beryllium Hydroxide Supernatant.

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Fluoride	160,308.0	71,201.0

7. 40 CFR 421.152(f) is amended by revising the entry for fluoride to read as follows:

* * * * *

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BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryl ore processed	
Beryllium	6.963	4.017
Chromium (Total)	3.213	1.315
Copper	13.878	7.303
Cyanide (Total)	2.118	0.876
Ammonia (as N)	973.490	427.956
fluoride	255.605	145.330
Total Suspended Solids	299.423	142.409
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(n) Aluminum Iron Sludge (AIS) Area Wastewater.

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of total beryllium carbonate produced as beryllium	
Beryllium	575.840	257.400
Chromium (Total)	205.920	84.240
Copper	888.200	468.000
Cyanide (Total)	135.720	56.160
Ammonia (as N)	62384.400	27434.800
Fluoride	16360.000	9313.200
Total Suspended Solids	19188.000	9126.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(o) Bertrandite Ore Leaching Scrubber.

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg of bertrandite ore processed	
Beryllium	1.959	0.831
Chromium (Total)	0.665	0.272
Copper	2.871	1.511
Cyanide (Total)	0.438	0.181
Ammonia (as N)	201.416	88.545
Fluoride	52.885	30.069
Total Suspended Solids	61.951	29.465
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(p) Bertrandite Ore Countercurrent and Decantation (CCD) Scrubber.

BPT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg of bertrandite ore processed	
Beryllium	0.124	0.056
Chromium (Total)	0.044	0.018
Copper	0.192	0.101
Cyanide (Total)	0.029	0.012
Ammonia (as N)	13.463	5.919
Fluoride	3.535	2.010
Total Suspended Solids	4.141	1.970
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.153 [Amended]

9. 40 CFR 421.153(d) is amended by revising paragraph (d) to read as follows:

* * * * *

(d) Beryllium Hydroxide Filtrate.

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) or beryllium hydroxide produced as beryllium	
Beryllium	111.520	50.320
Chromium (Total)	50.320	20.400
Copper	174.080	82.960
Cyanide (Total)	27.200	10.880
Ammonia (as N)	18128.800	7969.600
Fluoride	4760.000	2706.400

10. 40 CFR 421.153(f) is amended by revising the entry for fluoride to read as follows:

* * * * *

(f) Beryllium Hydroxide Supernatant.

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide produced from scrap and residues as beryllium	
Fluoride	160,308.0	71,201.0

11. 40 CFR 421.153 is amended by adding paragraphs (k) through (p) to read as follows:

* * * * *

(k) Beryl ore gangue dewatering.

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryl ore processed	
Beryllium	0.855	0.386
Chromium (Total)	0.386	0.156
Copper	1.335	0.636
Cyanide (Total)	0.209	0.083
Ammonia (as N)	139.032	61.120
Fluoride	36.505	20.756

(l) Bertrandite Ore Gangue Dewatering.

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of bertrandite ore processed	
Beryllium	2.185	0.966
Chromium (Total)	0.966	0.400
Copper	3.411	1.626
Cyanide (Total)	0.533	0.213
Ammonia (as N)	355.245	156.169
Fluoride	93.275	53.034

(m) Beryl Ore Processing.

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryl ore processed	
Beryllium	5.988	2.702
Chromium (Total)	2.702	1.095
Copper	9.348	4.455
Cyanide (Total)	1.461	0.584
Ammonia (as N)	973.490	427.956
Fluoride	255.605	145.330

(n) Aluminum Iron Sludge (AIS) Area Wastewater.

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of total beryllium carbonate produced as beryllium	
Beryllium	383.760	173.160
Chromium (Total)	173.160	70.200
Copper	599.040	285.480
Cyanide (Total)	93.600	37.440
Ammonia (as N)	62384.400	27424.800
Fluoride	16360.000	9313.200

(o) Bertrandite Ore Leaching Scrubber.

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg of bertrandite ore processed	
Beryllium	1.239	0.559
Chromium (Total)	0.559	0.227
Copper	1.934	0.922
Cyanide (Total)	0.302	0.121
Ammonia (as N)	201.416	88.545
Fluoride	52.885	30.069

(p) Bertrandite Ore Countercurrent and Decantation (CCD) Scrubber.

BAT LIMITATIONS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg of bertrandite ore processed	
Beryllium	0.063	0.037
Chromium (Total)	0.037	0.015
Copper	0.129	0.062
Cyanide (Total)	0.020	0.008
Ammonia (as N)	13.463	5.919
Fluoride	3.535	2.010

§ 421.154 [Amended]

12. 40 CFR 421.154(d) is amended by revising the entries for Beryllium, Chromium (Total), Copper, Cyanide (Total) Ammonia (as N), Fluoride, and Total Suspended Solids to read as follows.

* * * * *

(d) Beryllium Hydroxide Filtrate.

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide produced as beryllium	
Beryllium	111.520	50.320
Chromium (Total)	50.320	20.400
Copper	174.080	82.960
Cyanide (Total)	27.200	10.880
Ammonia (as N)	18,128.800	7,969.600
Fluoride	4,760.000	2,706.400
Total Suspended Solids	2,040.000	1,632.000
pH		

13. 40 CFR 421.154(f) is amended by revising the entry for fluoride to read as follows:

* * * * *

(f) Beryllium Hydroxide Supernatant.

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide produced from scrap and residues as beryllium	
Fluoride	160,308.0	71,201.0

14. 40 CFR 421.154 is amended by adding paragraphs (k) through (p) to read as follows:

* * * * *

(k) Beryl Ore Gangue Dewatering.

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryl ore processed	
Beryllium	0.855	0.386
Chromium (Total)	0.386	0.156
Copper	1.335	0.636
Cyanide (Total)	0.209	0.083
Ammonia (as N)	139.032	61.120
Fluoride	36.505	20.756
Total Suspended Solids	15.645	12.516
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(l) Bertrandite Ore Gangue Dewatering.

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of bertrandite ore processed	
Beryllium	2.185	0.966
Chromium (Total)	0.966	0.400
Copper	3.411	1.626
Cyanide (Total)	0.533	0.213
Ammonia (as N)	355.245	156.169
Fluoride	93.275	53.034
Total Suspended Solids	39.975	31.960
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(m) Beryl Ore Processing.

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryl ore processed	
Beryllium	5.988	2.702
Chromium (Total)	2.702	1.095
Copper	9.348	4.455
Cyanide (Total)	1.461	0.584
Ammonia (as N)	973.490	427.956
Fluoride	255.605	145.330
Total Suspended Solids	109.545	87.636
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(n) Aluminum Iron Sludge (AIS) Area Wastewater.

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of total beryllium carbonate produced by beryllium	
Beryllium	383.760	173.160
Chromium (Total)	173.160	70.200
Copper	599.040	285.480
Cyanide (Total)	93.600	37.440
Ammonia (as N)	62384.400	27424.800
Fluoride	16380.000	9313.200
Total Suspended Solids	7020.000	5616.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(o) Bertrandite Ore Leaching Scrubber.

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NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg of bertrandite ore processed	
Beryllium	1.239	0.559
Chromium (Total)	0.559	0.227
Copper	1.934	0.922
Cyanide (Total)	0.302	0.121
Ammonia (as N)	201.416	88.545
Fluoride	52.885	30.069
Total Suspended Solids	22.685	16.132
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(p) Bertrandite Ore Countercurrent and Decantation (CCD) Scrubber.

NSPS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg of bertrandite ore processed	
Beryllium	0.083	0.037
Chromium (Total)	0.037	0.015
Copper	0.129	0.062
Cyanide (Total)	0.020	0.008
Ammonia (as N)	13.463	5.919
Fluoride	3.535	2.010
Total Suspended Solids	1.515	1.212
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.156 [Amended]

15. 40 CFR 421.156 is amended by revising paragraph (d) to read as follows:

* * * * *

(d) Beryllium Hydroxide Filtrate.

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide produced as beryllium	
Beryllium	111.520	50.320
Chromium (Total)	50.320	20.400
Copper	174.080	82.960
Cyanide (Total)	27.200	10.880
Ammonia (as N)	16128.800	7969.600
Fluoride	4760.000	2708.400

16. 40 CFR 421.156(f) is amended by revising the entry for fluoride to read as follows:

* * * * *

(f) Beryllium Hydroxide Supernatant.

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryllium hydroxide produced from scrap and residues as beryllium	
Fluoride	160,306.0	71,201.0

17. 40 CFR 421.156 is amended by adding paragraphs (k) through (p) to read as follows:

* * * * *

(k) Beryl Ore Gangue Dewatering

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryl ore processed	
Beryllium	0.855	0.386
Chromium (Total)	0.386	0.156
Copper	1.335	0.636
Cyanide (Total)	0.209	0.083
Ammonia (as N)	139.032	61.120
Fluoride	36.505	20.756

(l) Bertrandite Ore Gangue Dewatering.

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant for pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of bertrandite ore processed	
Beryllium	2.185	0.966
Chromium (Total)	0.966	0.400
Copper	3.411	1.626
Cyanide (Total)	0.533	0.213
Ammonia (as N)	355.245	156.169
Fluoride	93.275	53.034

(m) Beryl Ore Processing.

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of beryl ore processed	
Beryllium	5.988	2.702
Chromium (Total)	2.702	1.095
Copper	9.348	4.455
Cyanide (Total)	1.461	0.584
Ammonia (as N)	973.490	427.956
Fluoride	255.605	145.330

(n) Aluminum Iron Sludge (AIS) Area Wastewater.

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant for pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of total beryllium carbonate produced as beryllium	
Beryllium	383.760	173.160
Chromium (Total)	173.160	70.200
Copper	599.040	285.480
Cyanide (Total)	93.600	37.440
Ammonia (as N)	62364.400	27424.800
Fluoride	16380.000	9313.200

(o) Bertrandite Ore Leaching Scrubber.

PSNS FOR THE PRIMARY BERYLLIUM SUBCATEGORY

Pollutant or Pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg of bertrandite ore processed	
Beryllium	1.239	0.559
Chromium (Total)	0.559	0.227
Copper	1.934	0.922
Cyanide (Total)	0.302	0.121
Ammonia (as N)	201.416	88.545
Fluoride	52.885	30.069

(p) Bertrandite Ore Countercurrent and Decantation (CCD) Scrubber.

Pollutant for pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg of bertrandite ore processed	
Beryllium	0.083	0.037
Chromium (Total)	0.037	0.015

Pollutant for pollutant property	Maximum for any 1 day	Maximum for monthly average
Copper	0.129	0.062
Cyanide (Total)	0.020	0.008
Ammonia (as N)	13.463	5.919
Fluoride	3.535	2.010

18. 40 CFR Part 421.212(a) is amended by revising the entry for molybdenum to read as follows:

(a) Molybdenum sulfide leachate.

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	Reserved	Reserved.

§ 421.212 [Amended]

19. 40 CFR Part 421.212(b) is amended by revising the entry for molybdenum to read as follows:

(b) Roaster SO_2 scrubber.

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

20. 40 CFR Part 421.212(c) is amended by revising the entry for molybdenum to read as follows:

(c) Molybdic oxide leachate.

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

21. 40 CFR Part 421.212(d) is amended by revising the entry for molybdenum to read as follows:

(d) Hydrogen reduction furnace scrubber.

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

22. 40 CFR Part 421.212(e) is amended by revising the entry for molybdenum to read as follows:

(e) Depleted rhenium scrubbing solution.

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

§ 421.213 [Amended]

23. 40 CFR Part 421.213(a) is amended by revising the entry for molybdenum to read as follows:

(a) Molybdenum sulfide leachate.

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

24. 40 CFR Part 421.213(b) is amended by revising the entry for molybdenum to read as follows:

(b) Roaster SO_2 scrubber.

BPT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

25. 40 CFR Part 421.213(c) is amended by revising the entry for molybdenum to read as follows:

(c) Molybdic oxide leachate.

BAT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

26. 40 CFR Part 421.213(d) is amended by revising the entry for molybdenum to read as follows:

(d) Hydrogen reduction furnace scrubber.

BAT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

27. 40 CFR Part 421.213(e) is amended by revising the entry for molybdenum to read as follows:

(e) Depleted rhenium scrubbing solution.

BAT LIMITATIONS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

§ 421.214 [Amended]

28. 40 CFR Part 421.214(a) is amended by revising the entry for molybdenum to read as follows:

(a) Molybdenum sulfide leachate.

NSPS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

29. 40 CFR Part 421.214(b) is amended by revising the entry for molybdenum to read as follows:

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(b) Roaster SO_2 scrubber.

NSPS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

30. 40 CFR Part 421.214(c) is amended by revising the entry for molybdenum to read as follows:

(c) Molybdic oxide leachate.

NSPS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

31. 40 CFR Part 421.214(d) is amended by revising the entry for molybdenum to read as follows:

(d) Hydrogen reduction furnace scrubber.

NSPS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

32. 40 CFR Part 421.214(e) is amended by revising the entry for molybdenum to read as follows:

(e) Depleted rhenium scrubbing solution.

NSPS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

§ 421.216 [Amended]

33. 40 CFR Part 421.216(a) is amended by revising the entry for molybdenum to read as follows:

(a) Molybdenum sulfide leachate.

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

34. 40 CFR Part 421.216(b) is amended by revising the entry for molybdenum to read as follows:

(b) Roaster SO_2 scrubber.

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

35. 40 CFR Part 421.216(c) is amended by revising the entry for molybdenum to read as follows:

(c) Molybdic oxide leachate.

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

36. 40 CFR Part 421.216(d) is amended by revising the entry for molybdenum to read as follows:

(d) Hydrogen reduction furnace scrubber.

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

37. 40 CFR Part 421.216(e) is amended by revising the entry for molybdenum to read as follows:

(e) Depleted rhenium scrubbing solution.

PSNS FOR THE PRIMARY MOLYBDENUM AND RHENIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Molybdenum	[Reserved]	[Reserved].

§ 421.222 [Amended]

38. 40 CFR 421.222(a) is amended by revising all of the values for Arsenic, Chromium, Lead, Nickel, Iron, Molybdenum, Ammonia (as N), Fluoride, and Total Suspended Solids to read as follows.

* * * * *

(a) Leach tailings.

BPT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of technical grade molybdenum plus vanadium plus pure grade molybdenum produced	
Arsenic	40.778	18.145
Chromium	8.585	3.512
Lead	8.195	3.902
Nickel	37.460	24.779
Iron	23.410	11.902
Molybdenum	[2]	[2]
Ammonia (as N)	8078.000	3551.000
Total Suspended Solids	799,950	380.460
pH		

* * * * *

[2] [Reserved].

39. 40 CFR 421.222(b) is amended by revising all of the values for Arsenic, Chromium, Lead, Nickel, Iron, Molybdenum, Ammonia (as N), Fluoride, and Total Suspended Solids to read as follows:

* * * * *

(b) Molybdenum filtrate solvent extraction raffinate.

BPT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of technical grade molybdenum plus vanadium plus pure grade molybdenum produced	
Arsenic	121.720	54.162
Chromium	25.625	10.483
Lead	24.460	11.648
Nickel	111.819	73.964
Iron	69.887	35.526
Molybdenum	[2]	[2]
Ammonia (as N)	24114.000	10800.000
Total Suspended Solids	2387.800	1135.660
pH		

* * * * *

[2] [Reserved].

40. Section 40 CFR 421.222 is amended by adding new paragraph (e) to read as follows:

* * * * *

(e) Pure Grade Molybdenum.

BPT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure molybdenum produced	
Arsenic	48.655	21.650
Chromium	10.243	4.190
Lead	9.778	4.656
Nickel	44.698	29.586
Iron	27.936	14.201
Molybdenum	[2]	[2]
Ammonia (as N)	9638.000	4237.000
Total Suspended Solids	954.480	453.960
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times
[2] [Reserved].

§ 421.223 [Amended]

41. Section 40 CFR 421.223(a) is revised to read as follows:

* * * * *

(a) Leach tailings.

BAT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of technical grade molybdenum plus vanadium plus pure grade molybdenum produced	
Arsenic	27.120	12.097
Chromium	7.219	2.927
Lead	5.463	2.536
Nickel	10.731	7.219
Iron	23.413	11.902
Molybdenum	[1]	[1]
Ammonia (as N)	8078.000	3551.000

[1] [Reserved].

42. Section 40 CFR 421.223(b) is revised to read as follows:

* * * * *

(b) Molybdenum filtrate solvent extraction reaffinate.

BAT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of technical grade molybdenum plus vanadium plus pure grade molybdenum produced	
Arsenic	60.952	36.108
Chromium	21.548	8.736
Lead	16.306	7.571
Nickel	32.031	21.548
Iron	69.887	35.526
Molybdenum	[1]	[1]
Ammonia (as N)	24114.000	10800.000

[1] [Reserved]

43. Section 40 CFR 421.223 is amended by adding new paragraph (e) to read as follows:

* * * * *

(e) Pure Grade Molybdenum.

BAT LIMITATIONS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of pure molybdenum produced	
Arsenic	32.359	14.434
Chromium	8.614	3.492
Lead	6.516	3.026
Nickel	12.804	8.614
Iron	27.936	14.201
Molybdenum	[1]	[1]
Ammonia (as N)	9638.000	4237.000

[1] [Reserved]

§ 421.224 [Amended]

44. 40 CFR 421.224(a) is amended by revising all of the values for Arsenic, Chromium, Lead, Nickel, Iron, Molybdenum, Ammonia (as N), Fluoride, and Total Suspended Solids to read as follows:

* * * * *

(a) Leach Tailings.

NSPS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of technical grade molybdenum plus vanadium plus pure grade molybdenum produced	
Arsenic	27.120	12.097
Chromium	7.219	2.927
Lead	5.463	2.536
Nickel	10.731	7.219
Iron	23.413	11.902
Molybdenum	[2]	[2]
Ammonia (as N)	8078.000	3551.000
Total Suspended Solids	292.665	234.132
pH		

* * * * *

[2] [Reserved]

45. 40 CFR 421.224(b) is amended by revising all of the values for Arsenic, Chromium, Lead, Nickel, Iron, Molybdenum, Ammonia (as N), Fluoride,

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and Total Suspended Solids to read as follows:

* * * * *

(b) Molybdenum filtrate solvent extraction raffinate.

NSPS THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of technical grade molybdenum plus vanadium plus pure grade molybdenum produced	
Arsenic	60.952	36.108
Chromium	21.548	8.736
Lead	16.306	7.571
Nickel	32.031	21.548
Iron	69.887	35.526
Molybdenum	(2)	(2)
Ammonia (as N)	24114.000	10600.000
Total Suspended Solids	873.585	606.868
pH		

* * * * *

[2] [Reserved]

46. Section 40 CFR 421.224 is amended by adding new paragraph (e) to read as follows:

* * * * *

(e) Pure Grade Molybdenum.

NSPS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or Pollutant Property	Maximum for Any One Day	Maximum for Monthly Average
	mg/kg (pounds per million pounds) of pure molybdenum produced	
Arsenic	32.359	14.434
Chromium	8.614	3.492
Lead	8.518	3.026
Nickel	12.804	8.614
Iron	27.936	14.201
Molybdenum	(2)	(2)
Ammonia (as N)	9638.000	4237.000
Total Suspended Solids	349.200	279.360
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.
[2] [Reserved]

§ 421.226 [Amended]

47. Section 40 CFR 421.226(a) is revised to read as follows:

* * * * *

(a) Leach tailings.

PSNS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or Pollutant Property	Maximum for Any One Day	Maximum for Monthly Average
	mg/kg (pounds per million pounds) of technical grade molybdenum plus vanadium plus pure grade molybdenum produced	
Arsenic	27.120	12.097
Chromium	7.218	2.927
Lead	5.463	2.536
Nickel	10.731	7.219
Iron	23.413	11.902
Molybdenum	(1)	(1)
Ammonia (as N)	8078.000	3551.000

[1] [Reserved]

48. Section 40 CFR 421.226(b) is revised to read as follows:

* * * * *

(b) Molybdenum filtrate solvent extraction raffinate.

PSNS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or Pollutant Property	Maximum for Any One Day	Maximum for Monthly Average
	mg/kg (pounds per million pounds) of technical grade molybdenum plus vanadium plus pure grade molybdenum produced	
Arsenic	60.952	36.108
Chromium	21.548	8.736
Lead	16.306	7.571
Nickel	32.031	21.548
Iron	69.887	35.526
Molybdenum	(1)	(1)
Ammonia (as N)	24114.000	10600.000

[1] [Reserved]

49. Section 40 CFR 421.226 is amended by adding new paragraph (e) to read as follows:

* * * * *

(e) Pure Grade Molybdenum.

PSNS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY

Pollutant or Pollutant Property	Maximum for Any One Day	Maximum for Monthly Average
	mg/kg (pounds per million pounds) of pure molybdenum produced	
Arsenic	32.359	14.434
Chromium	8.614	3.492
Lead	8.518	3.026

PSNS FOR THE SECONDARY MOLYBDENUM AND VANADIUM SUBCATEGORY—Continued

Pollutant or Pollutant Property	Maximum for Any One Day	Maximum for Monthly Average
Nickel	12.804	8.614
Iron	27.936	14.201
Molybdenum	(1)	(1)
Ammonia (as N)	9638.000	4237.000

[1] [Reserved]

50. Section 40 CFR 421.261 is amended by adding paragraph (c) to read:

§ 421.261 Specialized definitions.

* * * * *

(c) the term "Combined metals" shall mean the total of gold, platinum and palladium.

§ 421.262 [Amended]

51. 40 CFR Part 421.262(a) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(a) Furnace Wet Air Pollution Control.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	21.54	

52. 40 CFR Part 421.262(b) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(b) Raw Material Granulation.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.902	

53. 40 CFR Part 421.262(c) is amended by removing the entries for gold,

platinum and palladium and adding the entry "combined metals" to read as follows:

(c) Spent Plating Solutions.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.300	

54. 40 CFR Part 421.262(d) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(d) Spent Cyanide Stripping Solutions.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.110	

55. 40 CFR Part 421.262(e) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals"; a footnote 1 is added to read as follows:

* * * * *

(e) Refinery Wet Air Pollution Control.[1]

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	6.300	

[1] This allowance applies to either acid or alkaline wet air pollution control scrubbers. If both acid and alkaline wet air pollution control scrubbers are present in a particular facility the same allowance applies to each.

56. 40 CFR Part 421.262(f) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(f) Gold Solvent Extraction Raffinate and Wash Water.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.189	

57. 40 CFR Part 421.262(g) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(g) Gold Spent Electrolyte.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.003	

58. 40 CFR Part 421.262(h) is amended by removing the entry for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(h) Gold Precipitation and Filtration.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.320	

59. 40 CFR Part 421.262(i) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(i) Platinum Precipitation and Filtration.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.560	

60. 40 CFR Part 421.262(j) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals"; the entries copper, cyanide, zinc, ammonia and total suspended solids are revised to read as follows:

* * * * *

(j) Palladium Precipitation and Filtration.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of palladium precipitated	
Copper	11.400	6.000
Cyanide (total)	1.740	0.720
Zinc	6.760	3.660
Ammonia (as N)	799.800	351.6700
Combined metals	1.800	
Total suspended solids	246.000	117.000
pH		

61. 40 CFR Part 421.262(k) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(k) Other Platinum Group Metals Precipitation and Filtration.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.560	

62. 40 CFR Part 421.262(l) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(l) Spent Solution from PGC Salt Production.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.270	

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63. 40 CFR Part 421.262(m) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(m) Equipment and Floor Wash.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.000	0.000

64. 40 CFR 421.262 is amended by adding a new paragraph (n) to read as follows:

* * * * *

(n) Preliminary treatment.

BPT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy total metals through this operation	ounce of precious produced operation
Copper	95.000	50.000
Cyanide (total)	14.500	6.000
Zinc	73.000	30.500
Ammonia (as N)	6665.000	2930.000
Combined metals	15.000	
Total suspended solids	2060.000	975.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.263 [Amended]

65. 40 CFR Part 421.263(a) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(a) Furnace Wet Air Pollution Control.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.350	

66. 40 CFR Part 421.263(b) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(b) Raw material granulation.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.192	

67. 40 CFR Part 421.263(c) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(c) Spent Plating Solutions.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.300	

68. 40 CFR Part 421.263(d) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(d) Spent Cyanide Stripping Solutions.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.110	

69. 40 CFR Part 421.263(e) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals"; a footnote 1 is added to read as follows:

* * * * *

(e) Refinery Wet Air Pollution Control.[1]

[1] This allowance applies to either acid or alkaline wet air pollution control scrubbers. If both acid and alkaline wet air pollution control scrubbers are present in a particular facility the same allowance applies to each.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.300	

70. 40 CFR Part 421.263(f) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(f) Gold Solvent Extraction Raffinate and Wash Water.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.189	

71. 40 CFR 421.263(g) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(g) Gold Spent Electrolyte.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.0030	

72. 40 CFR 421.263(h) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(h) Gold Precipitation and Filtration.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.320	

73. 40 CFR 421.263(i) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(i) Platinum Precipitation and Filtration.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of palladium precipitated	
Copper	7.680	3.[illegible]80
Cyanide (total)	1.200	.480
Zinc	6.120	2.520
Combined metals	1.800	
Ammonia (as N)	799.800	351.600

74. 40 CFR 421.263 is amended by revising paragraph (j) to read as follows:

* * * * *

(j) Palladium Precipitation and Filtration.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.560	

75. 40 CFR 421.263(k) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(k) Other Platinum Group Metals Precipitation and Filtration.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.560	

76. 40 CFR Part 421.263(l) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(l) Spent Solutions from PGC Salt Production.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.270	

77. 40 CFR Part 421.263(m) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(m) Equipment and Floor Wash.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for Monthly Average
Combined metals	0.000	

78. 40 CFR Part 421.263 is amended by adding a new paragraph (n) to read as follows:

(n) Preliminary treatment.

BAT LIMITATIONS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of total precious metals produced through this operation	
Copper	64.000	30.000
Cyanide (total)	10.000	4.000
Zinc	51.000	21.000
Combined metals	15.000	
Ammonia (as N)	6665.000	2930.000

§ 421.264 [Amended]

79. 40 CFR Part 421.264(a) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(a) Furnace Wet Air Pollution Control.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
Combined metals	1.350	

80. 40 CFR Part 421.264(b) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(b) Raw Material Granulation.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 dDay	Maximum for Monthly Average
Combined metals	0.192	

81. 40 CFR Part 421.264(c) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(c) Spent Plating Solutions.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	0.300	

82. 40 CFR Part 421.264(d) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(d) Spent Cyanide Stripping Solutions.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Combined metals	1.11	

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83. 40 CFR Part 421.264(e) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals"; a footnote 1 is added to read as follows:

* * * * *

(e) Refinery Wet Air Pollution Control.[1]

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.300	
* * * * *		

[1] This allowance applies to either acid or alkaline wet air pollution control scrubbers. If both acid and alkaline wet air pollution control scrubbers are present in a particular facility the same allowance applies to each.

84. 40 CFR Part 421.264(f) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(f) Gold Solvent Extraction Raffinate and Wash Water.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.189	
* * * * *		

85. 40 CFR Part 421.264(g) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(g) Gold Spent Electrolyte.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.003	
* * * * *		

86. 40 CFR Part 421.264(h) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(h) Gold Precipitation and Filtration.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.320	
* * * * *		

87. 40 CFR Part 421.264(i) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(i) Platinum Precipitation and Filtration.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.560	
* * * * *		

88. 40 CFR Part 421.264 is amended by revising paragraph (j) to read as follows:

* * * * *

(j) Palladium Precipitation and Filtration.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of palladium precipitated	
Copper	7.680	3.660
Cyanide (total)	1.200	0.480
Zinc	6.120	2.520
Combined metals	1.800	
Ammonia (as N)	799.800	361.800
Total suspended solids	90.000	72.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

89. 40 CFR Part 421.264(k) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(k) Other Platinum Group Metals Precipitation and Filtration.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.560	
* * * * *		

90. 40 CFR Part 421.264(l) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(l) Spent Solutions from PGC Salt Production.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.270	
* * * * *		

91. 40 CFR Part 421.264(m) is amended by removing the entries for gold, platinum and palladium and substituting the entry "combined metals" to read as follows:

* * * * *

(m) Equipment and Floor Wash.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.000	0.000
* * * * *		

92. 40 CFR 421.264 is amended by adding a new paragraph (n) to read as follows:

* * * * *

(n) Preliminary treatment.

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of total precious metals produced through this operation	
Copper	64.000	30.500
Cyanide (total)	10.000	4.000
Zinc	51.000	21.000
Combined metals	15.000	

NSPS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Ammonia (as N)	6665.000	2930.000
Total suspended solids	750.000	600.000
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.265 [Amended]

93. 40 CFR Part 421.265(a) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(a) Furnace Wet Air Pollution Control.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.350	
* * * * *		

94. 40 CFR Part 421.265(b) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(b) Raw Material Granulation.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.192	
* * * * *		

95. 40 CFR Part 421.265(c) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(c) Spent Plating Solutions.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.003	
* * * * *		

96. 40 CFR Part 421.265(d) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(d) Spent Cyanide Stripping Solutions.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.110	
* * * * *		

97. 40 CFR Part 421.265(e) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals"; a footnote 1 is added to read as follows:

* * * * *

(e) Refinery Wet Air Pollution Control [1].

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.300	
* * * * *		

98. 40 CFR Part 421.265(f) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(f) Gold Solvent Extraction Raffinate and Wash Water.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.189	
* * * * *		

99. 40 CFR Part 421.265(g) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(g) Gold Spent Electrolyte.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.003	
* * * * *		

100. 40 CFR Part 421.265(h) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(h) Gold Precipitation and Filtration.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.320	
* * * * *		

101. 40 CFR Part 421.265(i) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(i) Platinum Precipitation and Filtration.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.560	
* * * * *		

102. 40 CFR Part 421.265 is amended by revising paragraph (j) to read as follows:

* * * * *

(j) Palladium Precipitation and Filtration.

[1] This allowance applies to either acid or alkaline wet air pollution control scrubbers. If both acid and alkaline wet air pollution control scrubbers are present in a particular facility the same allowance applies to each.

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PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of palladium precipitated	
Copper	7.660	3.660
Cyanide (total)	1.200	0.480
Zinc	6.120	2.520
Combined metals	1.800	
Ammonia (as N)	799.800	351.600

103. 40 CFR Part 421.265(k) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(k) Other Palladium Group Metals Precipitation and Filtration.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.560	
* * * * *		

104. 40 CFR Part 421.265(l) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(l) Spent Solution from PGC Salt Production.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.270	
* * * * *		

105. 40 CFR Part 421.265(m) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(m) Equipment and Floor Wash.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.000	0.000
* * * * *		

106. 40 CFR 421.265 is amended by adding a new paragraph (n) to read as follows:

* * * * *

(n) Preliminary treatment.

PSES FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of total precious metals produced through this operation	
Copper	64.000	30.500
Cyanide (total)	10.000	4.000
Zinc	51.000	21.000
Combined metals	15.000	
Ammonia (as N)	6665.000	2930.000

§ 421.266 [Amended]

107. 40 CFR Part 421.266(a) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(a) Furnace Wet Air Pollution Control.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.350	
* * * * *		

108. 40 CFR Part 421.266(b) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(b) Raw Material Granulation.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.192	
* * * * *		

109. 40 CFR Part 421.266(c) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(c) Spent Plating Solutions.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for ny 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.300	
* * * * *		

110. 40 CFR Part 421.266(a) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(d) Spent Cyanide Stripping Solutions.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.110	
* * * * *		

111. 40 CFR Part 421.266(e) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals"; a footnote 1 is added to read as follows:

* * * * *

(e) Refinery Wet Air Pollution Control [1].

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.300	
* * * * *		

[1] This allowance applies to either acid or alkaline wet air pollution control scrubbers. If both acid and alkaline wet air pollution control scrubbers are present in a particular facility the same allowance applies to each.

112. 40 CFR Part 421.266(f) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follow:

* * * * *

(f) Gold Solvent Extraction Raffinate and Wash Water.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.189	
* * * * *		

113. 40 CFR Part 421.266(g) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(g) Gold Spent Electrolyte.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.003	
* * * * *		

114. 40 CFR Part 421.266(f) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(h) Gold Precipitation and Filtration.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.320	
* * * * *		

115. 40 CFR Part 421.266(i) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(i) Platinum Precipitation and Filtration.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.560	
* * * * *		

116. 40 CFR Part 421.266(j) is amended by revising paragraph (j) to read as follows:

* * * * *

(j) Palladium Precipitation and Filtration.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of palladium precipitated	
Copper	7.660	3.660
Cyanide (total)	1.200	0.480
Zinc	6.120	2.520
Combined metals	1.800	
Ammonia (as N)	799.800	351.600

117. 40 CFR Part 421.266(k) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(k) Other Platinum Group Metals Precipitation and Filtration.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	1.560	
* * * * *		

118. 40 CFR Part 421.266(l) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(l) Spent Solution from PGC Salt Production.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.270	
* * * * *		

119. 40 CFR Part 421.266(m) is amended by removing the entries for gold, platinum and palladium and adding the entry "combined metals" to read as follows:

* * * * *

(m) Equipment and Floor Wash.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Combined metals	0.000	0.000
* * * * *		

120. 40 CFR Part 421.266 is amended by adding a new paragraph (n) to read as follows:

* * * * *

(n) Preliminary treatment.

PSNS FOR THE SECONDARY PRECIOUS METALS SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of total precious metals produced through this operation	
Copper	64.000	30.500
Cyanide (total)	10.000	4.000
Zinc	51.000	21.000
Combined metals	15.000	
Ammonia (as N)	6665.000	2930.000

121. 40 CFR Part 421.312(a) is amended by revising the entry for cobalt to read as follows:

* * * * *

(a) Tungsten detergent wash and rinse.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	0.768	0.337
* * * * *		

122. 40 CFR Part 421.312(b) is amended by revising the entry for cobalt to read as follows:

* * * * *

(b) Tungsten leaching acid.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	10.130	4.448
* * * * *		

123. 40 CFR Part 421.312(c) is amended by revising the entry for cobalt to read as follows:

* * * * *

(c) Tungsten post leaching wash and rinse.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	20.263	8.897
* * * * *		

124. 40 CFR Part 421.312(d) is amended by revising the entry for cobalt to read as follows:

* * * * *

(d) Synthetic scheelite filtrate.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	65.644	28.824
* * * * *		

125. 40 CFR Part 421.312(e) is amended by revising the entry for cobalt to read as follows:

* * * * *

(e) Tungsten carbide leaching wet air pollution control.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	6.899	3.029
* * * * *		

126. 40 CFR Part 421.312(f) is amended by revising the entry for cobalt to read as follows:

* * * * *

(f) Tungsten carbide wash water.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	32.832	14.416
* * * * *		

127. 40 CFR Part 421.312(g) is amended by revising the entry for cobalt to read as follows:

* * * * *

(g) Cobalt sludge leaching wet air pollution control.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	140.977	61.901
* * * * *		

128. 40 CFR Part 421.312(h) is amended by revising the entry for cobalt to read as follows:

* * * * *

(h) Crystallization decant.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	164.101	72.055
* * * * *		

129. 40 CFR Part 421.312(i) is amended by revising the entry for cobalt to read as follows:

* * * * *

(i) Acid ash decant.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	75.104	32.977
* * * * *		

130. 40 CFR Part 421.312(j) is amended by revising the entry for cobalt to read as follows:

* * * * *

(j) Cobalt hydroxide filtrate.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	223.189	97.999
* * * * *		

131. 40 CFR Part 421.312(k) is amended by revising the entry for cobalt to read as follows:

* * * * *

(k) Cobalt hydroxide filter cake wash.

BPT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	429.598	188.631
* * * * *		

§ 421.213 [Amended]

132. 40 CFR Part 421.313(a) is amended by revising the entry for cobalt to read as follows:

(a) Tungsten detergent wash and rinse.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	0.538	0.236
* * * * *		

133. 40 CFR Part 421.313(b) is amended by revising the entry for cobalt to read as follows:

* * * * *

(b) Tungsten leaching acid.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	7.096	3.111
* * * * *		

134. 40 CFR Part 421.313(c) is amended by revising the entry for cobalt to read as follows:

* * * * *

(c) Tungsten post leaching wash and rinse.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	14.194	6.223
* * * * *		

135. 40 CFR Part 421.313(d) is amended by revising entry for cobalt to read as follows:

* * * * *

(d) Synthetic scheelite filtrate.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	45.964	20.160
* * * * *		

136. 40 CFR Part 421.313(e) is amended by revising the entry for cobalt to read as follows:

* * * * *

(e) Tungsten carbide leaching wet air pollution contol.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	4.833	2.119
* * * * *		

137. 40 CFR Part 421.313(f) is amended by revising the entry for cobalt to read as follows:

* * * * *

(f) Tungsten carbide wash water.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	22.999	10.083
* * * * *		

138. 40 CFR Part 421.313(g) is amended by revising the entry for cobalt to read as follows:

* * * * *

(g) Cobalt sludge leaching wet air pollution control.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	98.756	43.295
* * * * *		

139. 40 CFR Part 421.313(h) is amended by revising the entry for cobalt to read as follows:

* * * * *

(h) Crystallization decant.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	114.954	50.397
* * * * *		

140. 40 CFR Part 421.313(i) is amended by revising the entry for cobalt to read as follows:

* * * * *

(i) Acid wash decant.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	52.611	23.065
* * * * *		

141. 40 CFR Part 421.313(j) is amended by revising the entry for cobalt to read as follows:

* * * * *

(j) Cobalt hydroxide filtrate.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	156.346	68.543
* * * * *		

142. 40 CFR Part 421.313(k) is amended by revising the entry for cobalt to read as follows:

* * * * *

(k) Cobalt hydroxide filter cake wash.

BAT LIMITATIONS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	300.094	131.094
* * * * *		

§ 421.314 [Amended]

143. 40 CFR Part 421.314(a) is amended by revising the entry both for cobalt to read as follows:

(a) Tungsten detergent wash and rinse.

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	0.538	0.236
* * * * *		

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144. 40 CFR Part 421.314(b) is amended by revising the entry for cobalt to read as follows:

* * * * *

(b) Tungsten leaching acid.

NSPA FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	7.096	3.111
* * * * *		

145. 40 CFR Part 421.314(c) is amended by revising the entry for cobalt to read as follows:

* * * * *

(c) Tungsten post leaching wash and rinse.

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	14.194	6.223
* * * * *		

146. 40 CFR Part 421.314(d) is amended by revising the entry for cobalt to read as follows:

* * * * *

(d) Synthetic scheelite filtrate.

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	45.984	20.160
* * * * *		

147. 40 CFR Part 421.314(e) is amended by revising the entry for cobalt to read as follows:

* * * * *

(e) Tungsten carbide leaching wet air pollution control.

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	4.833	2.119
* * * * *		

148. 40 CFR Part 421.314(f) is amended by revising the entry for cobalt to read as follows:

* * * * *

(f) Tungsten carbide wash water.

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	22.999	10.063
* * * * *		

149. 40 CFR Part 421.314(g) is amended by revising the entry for cobalt to read as follows:

* * * * *

(g) Cobalt sludge leaching wet air pollution control.

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	98.756	43.295
* * * * *		

150. 40 CFR Part 421.314(h) is amended by revising the entry for cobalt to read as follows:

* * * * *

(h) Crystallization decant.

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	114.954	50.397
* * * * *		

151. 40 CFR Part 421.314(i) is amended by revising the entry for cobalt to read as follows:

* * * * *

(i) Acid wash decant.

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	52.611	23.065
* * * * *		

152. 40 CFR Part 421.314(j) is amended by revising the entry for cobalt to read as follows:

* * * * *

(j) Cobalt hydroxide filtrate.

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	156.346	68.543
* * * * *		

153. 40 CFR Part 421.314(k) is amended by revising the entry for cobalt to read as follows:

* * * * *

(k) Cobalt hydroxide filter cake wash.

NSPS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	300.094	131.932
* * * * *		

§ 421.315 [Amended]

154. 40 CFR Part 421.315(a) is amended by revising the entry for cobalt to read as follows:

* * * * *

(a) Tungsten detergent wash and rinse.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	0.538	0.236
* * * * *		

155. 40 CFR Part 421.315(b) is amended by revising the entry for cobalt to read as follows:

* * * * *

(b) Tungsten leaching acid.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	7.096	3.111
* * * * *		

156. 40 CFR Part 421.315(c) is amended by revising the entry for cobalt to read as follows:

* * * * *

(c) Tungsten post leaching wash and rinse.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	14.194	6.223
* * * * *		

157. 40 CFR Part 421.315(d) is amended by revising the entry for cobalt to read as follows:

* * * * *

(d) Synthetic scheelite filtrate.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	45.984	20.160
* * * * *		

158. 40 CFR Part 421.315(e) is amended by revising the entry for cobalt to read as follows:

* * * * *

(e) Tungsten carbide leaching wet air pollution control.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	4.833	2.119
* * * * *		

159. 40 CFR Part 421.315(f) is amended by revising the entry for cobalt to read as follows:

* * * * *

(f) Tungsten carbide wash water.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	22.999	10.063
* * * * *		

160. 40 CFR Part 421.315(g) is amended by revising the entry for cobalt to read as follows:

* * * * *

(g) Cobalt sludge leaching wet air pollution control.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	98.756	43.295
* * * * *		

161. 40 CFR Part 421.315(h) is amended by revising the entry for cobalt to read as follows:

* * * * *

(h) Crystallization decant.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	114.954	50.397
* * * * *		

162. 40 CFR Part 421.315(i) is amended by revising the entry for cobalt to read as follows:

* * * * *

(i) Acid wash decant.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	52.611	23.065
* * * * *		

163. 40 CFR Part 421.315(j) is amended by revising the entry for cobalt to read as follows:

* * * * *

(j) Cobalt hydroxide filtrate.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	156.346	68.543
* * * * *		

164. 40 CFR Part 421.315(k) is amended by revising the entry for cobalt to read as follows:

* * * * *

(k) Cobalt hydroxide filter cake wash.

PSES FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	300.094	131.932
* * * * *		

§ 421.316 [Amended]

165. 40 CFR Part 421.316(a) is amended by revising the entry for cobalt to read as follows:

(a) Tungsten detergent wash and rinse.

PSNS for the Secondary Tungsten and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	0.538	0.236
* * * * *		

166. 40 CFR Part 421.316(b) is amended by revising the entry for cobalt to read as follows:

* * * * *

(b) Tungsten leaching acid.

PSNS for the Secondary Tungsten and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
* * * * *		
Cobalt	7.096	3.111
* * * * *		

167. 40 CFR Part 421.316(c) is amended by revising the entry for cobalt to read as follows:

* * * * *

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(c) Tungsten post leaching wash and rinse.

PSNS for the Secondary Tungsten and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cobalt	14.194	6.223

168. 40 CFR Part 421.316(d) is amended by revising the entry for cobalt to read as follows:

(d) Synthetic scheelite filtrate.

PSNS for the Secondary Tungsten and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cobalt	45.984	20.160

169. 40 CFR Part 421.316(e) is amended by revising the entry for cobalt to read as follows:

(e) Tungsten carbide leaching wet air pollution control.

PSNS for the Secondary Tungsten and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cobalt	4.833	2.119

170. 40 CFR Part 421.316(f) is amended by revising the entry for cobalt to read as follows:

(f) Tungsten carbide wash water.

PSNS for the Secondary Tungsten and Cobalt Subcategory

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cobalt	22.999	10.083

171. 40 CFR Part 421.316(g) is amended by revising the entry for cobalt to read as follows:

(g) Cobalt sludge leaching wet air pollution control.

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cobalt	98.756	43.295

172. 40 CFR Part 421.316(h) is amended by revising the entry for cobalt to read as follows:

(h) Crystallization decant.

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cobalt	114.954	50.397

173. 40 CFR Part 421.316(i) is amended by revising the entry for cobalt to read as follows:

(i) Acid wash decant.

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cobalt	52.611	23.065

174. 40 CFR Part 421.316(j) is amended by revising the entry for cobalt to read as follows:

(j) Cobalt hydroxide filtrate.

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cobalt	156.346	68.543

175. 40 CFR Part 421.316(k) is amended by revising the entry for cobalt to read as follows:

(k) Cobalt hydroxide filter cake wash.

PSNS FOR THE SECONDARY TUNGSTEN AND COBALT SUBCATEGORY

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cobalt	300.094	131.932

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Friday
April 28, 1989

Part IV

Department of the Interior

Office of Surface Mining and Reclamation Enforcement

30 CFR Parts 773 and 843

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Requirements for Permits and Permit Processing; Federal Enforcement; Improvidently Issued Permits; Final Rule

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 773 and 843

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Requirements for Permits and Permit Processing; Federal Enforcement; Improvidently Issued Permits

November 3, 1988.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final Rule.

SUMMARY: This rule adds to the existing regulations governing surface coal mining and reclamation permits and enforcement new procedures for improvidently issued Federal and State permits. It includes general procedures for determining whether a permit was improvidently issued, and for applying appropriate remedial measures. It also includes procedures for the suspension and rescission of improvidently issued permits, and for action by the Office of Surface Mining Reclamation and Enforcement (OSMRE) on improvidently issued State permits. The rule is needed to provide uniform procedures and remedial measures for dealing with improvidently issued permits.

This rule also revises the heading of an existing regulation to further differentiate that regulation from the new procedures for improvidently issued permits.

EFFECTIVE DATE: May 30, 1989.

FOR FURTHER INFORMATION CONTACT: Andrew F. DeVito, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–343–5241 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of the rule and comments
III. Procedural matters

I. Background

A. General Purpose of the Rule

Sections 201(c) and 510(c) of the Surface Mining Control and Reclamation Act of 1977 (the Act or SMCRA), 30 U.S.C. 1211(c) and 1260(c), authorize a regulatory authority to withhold a surface coal mining and reclamation permit from any applicant who either directly, indirectly or through a relationship of ownership or control is in violation of the Act or certain other environmental laws and regulations.

The Office of Surface Mining Reclamation and Enforcement (OSMRE) has implemented these provisions of the Act by regulations at 30 CFR 773.5 and 773.15. Also, under section 503(a)(7) of the Act, 30 U.S.C. 1253(a)(7), and regulations at 30 CFR 730.5 and 732.15, each State regulatory program is required to have regulations that are consistent with §§ 773.5 and 773.15. General procedures governing OSMRE enforcement of this State program requirement appear at 30 CFR Part 843.

Through administrative error, or otherwise, a regulatory authority in some cases may not make the connection between an applicant and an unabated violation or a delinquent penalty or fee in accordance with these provisions, and as a result may improvidently issue a permit. To provide corrective measures for bringing these permits into compliance, this rule adds to Part 773 general procedures governing improvidently issued permits and permit suspension and rescission, and to Part 843 procedures for OSMRE action on improvidently issued State permits.

This rule also revises the heading of existing § 843.13 to further differentiate that section from the remainder of this rule.

B. History of the Rule

This rule initially was proposed by OSMRE on July 16, 1986 (51 FR 25822), along with other provisions in Part 773. The other provisions in §§ 773.15 (b)(1)(ii) and (b)(2) and a portion of § 773.15(b)(3) were promulgated in the October 3, 1988 (53 FR 38868) OSMRE final rule on ownership and control (the ownership and control rule). The remainder of these other provisions will appear in a subsequent final rule.

On September 24, 1986 (51 FR 33905), the comment period for the proposed rule was extended to October 24, 1986. On August 4, 1988 (53 FR 29343) OSMRE reopened the comment period and published a supplement to the proposed rule. As alternatives to initial proposed § 773.20, *Permit rescission*, and § 843.21, *Procedures on improperly or erroneously issued State permits*, the supplement proposed new provisions in § 773.20, *Procedures on improvidently issued permits*, § 773.21, *Permit suspension and rescission*, and § 843.21, *Procedures for improvidently issued State permits*. This final rule derives primarily from those later provisions.

C. Acronyms and Terms of Art

For the sake of brevity this preamble and the rule use a number of acronyms and terms of art, which have the following meanings:

AVS—the computerized Applicant/Violator System instituted by OSMRE to store and retrieve information on permit applicants, violators and violations of the Act, and persons related to them through ownership or control.

CO—a cessation order.

Improvidently issued permit—a surface coal mining and reclamation permit that meets the criteria of § 773.20(b) of this rule or its State program equivalent.

Initial—used to differentiate the *initial*, July 16, 1986, proposed rule from the *later*, August 4, 1988, proposed rule. Where a lack of differentiation would not cause confusion, the qualifying term is omitted.

Later—see *initial*.

NOV—a notice of violation.

Ownership and control rule—the October 3, 1988, OSMRE final rule which added to 30 CFR 773.5 a definition of the terms *owned or controlled* and *owns or controls* and amended the permit application review procedures at 30 CFR 773.15.

OSMRE—the Office of Surface Mining Reclamation and Enforcement.

Person responsible—the person who is directly or indirectly responsible for an unabated violation or a delinquent penalty or fee, which may be either the permittee, another person to whom the permittee is linked by a relationship of ownership or control, or both the permittee and another such person.

Rescission—equivalent to *revocation*, but used to differentiate between the *rescission* of an improvidently issued permit under § 773.21 of this rule and the *revocation* of a permit for a pattern of violations under existing 30 CFR 843.21.

Responsible agency—equivalent to the statutory phrase, "regulatory authority, department, or agency which has jurisdiction over such violation," as set out in section 510(c) of the Act.

Revised Parker Order—an order issued by the United States District Court for the District of Columbia in the case of *Save our Cumberland Mountains, Inc. v. Clark*, No. 81–2134 (D.D.C. January 31, 1985).

Revocation—see *rescission*.

SMCRA or *the Act*—the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

Violation, penalty or fee—a violation, penalty or fee covered by the violations review criteria of the applicable regulatory program.

Violations review criteria—those permitting provisions of a regulatory program under which the regulatory authority reviews the relationship of the applicant to outstanding violations and delinquent penalties and fees and determines whether a permit should be withheld. For the minimum violations review criteria each regulatory program should include, see the list of Applicable Violations Review Criteria under the subsequent heading, II.B.2.a. § 773.20(b)(2).

D. Public Comments

No request was received for a public hearing on the proposed rules, and none was held.

Commenters on the proposed rules included environmental groups, trade associations, Federal and State agencies, the coal industry, and individuals. Eighteen comment letters were received on the initial proposed rule, and three on the later proposed rule, some of which incorporated another of the letters by reference.

Comments were received both for and against the general regulatory scheme of the rule. The individual comments, along with OSMRE responses, are discussed in the following section of this preamble.

II. Discussion of the Rule and Comments

A. General Overview

This rule adds to the existing OSMRE regulations in 30 CFR Title VII new procedures for dealing with improvidently issued surface coal mining and reclamation permits. It includes, in § 773.20, general procedures for improvidently issued permits; in § 773.21, procedures for rescinding an improvidently issued permit; and, in § 843.21, procedures for OSMRE action on improvidently issued State permits.

In addition, to further differentiate existing § 843.13, which governs the suspension and revocation of a permit for a pattern of violations, from new § 773.20, this rule revises the heading of § 843.13 to read: "Suspension or revocation of permits: Pattern of violations."

As noted in the preceding background section of this preamble, this rule derives primarily from the later proposed rule, published on August 4, 1988 (53 FR 29343). A number of changes were made in the final rule in response to public comments, as discussed below. Without changing its general effect, the rule also was reworded in an attempt to eliminate ambiguity, and thus make it easier to understand and apply.

Each section of the rule is discussed in detail under the following headings, along with the comments received on the corresponding sections of the initial and later proposed rules and the OSMRE responses. Several issues and related comments that apply to more than one section of the rule are discussed under the subsequent heading, *F. Statutory Authority and General Comments*, which covers the following topics: (1) the statutory authority for the rule; (2) its relationship to the OSMRE rule on ownership and control; and (3) the rule is not retroactive.

B. Section 773.20 General Procedures for Improvidently Issued Permits

1. Overview

Section 773.20 contains the general procedures a regulatory authority must employ to determine whether a surface coal mining and reclamation permit was improvidently issued and to implement remedial measures. Section 773.20(a) imposes general requirements; § 773.20(b) lists the criteria a regulatory authority must apply in finding that a permit was improvidently issued; and § 773.20(c) sets out four remedial measures, one or more of which a regulatory authority must apply to an improvidently issued permit.

Final § 773.20 derives primarily from § 773.20 of the later proposed rule. The requirement of initial proposed § 773.20(b) for a notice of violation (NOV) was deleted as unnecessary because the remedial measures in final § 773.20(c) provide sufficient and more direct mechanisms for achieving compliance. The permit rescission procedures of initial proposed § 773.20(b) were relocated in revised form in final § 773.21 to emphasize that permit rescission is only one of the four alternative measures a regulatory authority must choose between to remedy an improvidently issued permit.

2. Section 773.20(a) Permit Review

Section 773.20(a) contains general requirements for permit review and review-related compliance. Under this section a regulatory authority which has reason to believe that it improvidently issued a surface coal mining and reclamation permit must review the circumstances under which the permit was issued, using the criteria in § 773.20(b). If the regulatory authority finds that the permit was improvidently issued, the regulatory authority must comply with § 773.20(c).

This section derives from the introductory paragraph of proposed § 773.20(a), which was revised to clarify and set out in a separate paragraph the procedural steps leading to a finding that a permit was improvidently issued. In this section, the term *finds* was substituted for the proposed term *determines* as more precise.

The "reason to believe" standard in § 773.20(a) for prompting action by the regulatory authority is equivalent to the "discovers" standard set out in the preamble to the initial proposed rule, 51 FR 25826. It was adopted to make the terminology of § 773.20 parallel to that of proposed § 843.21, which applies a similar standard to State permits.

Under this "reason to believe" standard the regulatory authority is not required to review all of the permits under its jurisdiction on a regular basis for improvident issuance, but only a particular permit it has some reason to believe was improvidently issued.

Application of Rule to Permit Revisions

One commenter said that while a regulatory authority might properly consider an operator's past history, in the absence of new information it should not use permit *revision* as a trigger to review whether a permit was improvidently issued.

OSMRE agrees. The rule requires a regulatory authority to review the underlying circumstances only when it has reason to believe that a permit was improvidently issued, not as a matter of routine for every permit revision. The OSMRE requirements for permit revision appear at 30 CFR 774.13.

Conditionally Issued Permits

Several commenters said that to facilitate prompt rescission if the permittee fails to comply with a conditionally issued permit, the rule should require the regulatory authority to periodically review and update the information which led to its conditional issuance.

OSMRE did not adopt the commenters' suggestion. As explained in the subsequent discussion of § 773.20(b)(1), this rule does not apply to permits validly issued with conditions, but only to those issued contrary to the violations review criteria of the applicable regulatory program, or issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the responsible agency, but a failure-to-abate cessation order (FTACO) subsequently was issued.

For a permit that was *conditionally* issued, the regulatory authority has the same duty to monitor compliance with its conditions as for compliance with any other requirement of the regulatory program, and has available the same enforcement measures.

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For a permit issued on the *presumption* that a specifically identified violation was being corrected, the regulatory authority has a duty to determine whether abatement in fact occurs, and if not to issue an FTACO which would lead to application of the remedial measures of this rule.

This rule does not require either OSMRE or State regulatory authorities, however, to conduct general, ongoing, systematic reviews of permits under their jurisdiction for improvident issuance.

3. Section 773.20(b) Review Criteria

Section 773.20(b) requires a regulatory authority to find that a surface coal mining and reclamation permit was improvidently issued if the permit meets specified review criteria. These criteria, which derive primarily from the later proposed rule, were modified somewhat in this final rule in response to public comment.

Although not explicitly stated in the rule, OSMRE expects that the regulatory authority will make the required finding in writing as a basis for further action on an improvidently issued permit.

Additional Factors

Several commenters said that later proposed § 773.20 was a major departure from the initial proposal, as well as from the October 1, 1987, OSMRE Directive INE–34, "Guidelines for Responding to Improvidently Issued Permits." Under the later proposal, the commenter said, OSMRE sought to impose additional factors to be considered by the regulatory authority in what, heretofore, had been a straightforward exercise. The commenter concluded that neither the Act nor its legislative history contemplated those additional factors, and that OSMRE had not offered the necessary justification for its change in policy.

OSMRE disagrees that the initial and later proposed rules were in any way deficient to support this final rule, or that the rule in any way is contrary to the Act or its legislative history. This preamble clearly articulates the basis and purpose of, and the legal authority for, the criteria in § 773.20(b), and thus fully supports any change in policy or legal interpretation the rule may embody. Following promulgation of this rule, OSMRE will consider the need to revise its internal directives to reflect any such change.

a. *Section 773.20(b)(1).* The first criterion, in § 773.20(b)(1), is that under the violations review criteria of the regulatory program at the time the permit was issued, either (i) because of an unabated violation or a delinquent penalty or fee the regulatory authority should not have issued the permit; or (ii) the permit was issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation, but a failure-to-abate cessation order (FTACO) subsequently was issued. This section derives from initial and later proposed § 773.20(a)(1).

Section 773.20(b)(1)(i) does not specify any particular unabated violation, delinquent penalty or fee, or ownership or control relationship as the basis for a finding that a permit was improvidently issued. Instead, the regulatory authority is to apply whatever violations review criteria were in force in the regulatory program at the time the permit was issued.

The rule does not require "a demonstrated pattern of willful violations," as specified in section 510(c) of the Act, for which separate procedures exist in 30 CFR 843.13.

Depending on the regulatory program under which a permit is reviewed, the applicable violations review criteria under § 773.20(b)(1)(i) of this rule may include such Federal regulations as those at 30 CFR 741.21(b) and 786.17(c) (1979) for the 1979 permanent program, or at 30 CFR 773.15(b)(1) for the current permanent program, their State program equivalents, definitions of ownership or control relationships, the Revised Parker Order, internal agency directives, and the like.

In response to public comment, OSMRE has concluded that it is best to frame the rule in general terms, referencing the violations review criteria of the applicable regulatory program, and then have the regulatory authority apply its specific violations review criteria on a case-by-case basis. This approach will best account for any differences that may exist between regulatory programs, and give each State regulatory program the status intended by the Congress under primacy. It also will account for any changes that may occur over time in a particular regulatory program.

OSMRE expects that in applying this criterion of the rule, a regulatory authority will interpret its violations review criteria in the same way as they lawfully were, or should have been, interpreted at the time of permit issuance.

The presumption referred to in § 773.20(b)(1)(ii) regarding a notice of violation (NOV) is authorized by § 773.15(b)(1) of the October 3, 1988 (53 FR 38868) OSMRE final rule on ownership and control (the ownership and control rule), which this preamble incorporates by reference. Under this presumption,

[i]n the absence of a failure-to-abate cessation order, the regulatory authority may presume that a notice of violation issued pursuant to § 843.12 of [30 CFR Chapter VII] or under a Federal or State program has been or is being corrected to the satisfaction of the agency with jurisdiction over the violation, except where evidence to the contrary is set forth in the permit application, or where the notice of violation is issued for nonpayment of abandoned mine reclamation fees or civil penalties.

Id. at 38890. Where a permit is issued on this presumption, but an FTACO subsequently is issued, the procedures of this rule apply.

Violations Review Criteria

Because this rule is written in general terms, and the violations review criteria of each Federal or State regulatory program will govern the specific unabated violations, delinquent penalties and fees, and ownership and control relationships to which it will apply, it is appropriate to set out the violations review criteria each regulatory program should include.

The following list sets out these violations review criteria. It covers the types of unabated violations and delinquent penalties and fees for which a regulatory authority should have withheld a permit, as well as the applicable ownership and control relationships. Each item in the list is followed by the effective date after which a regulatory authority should have considered it in reviewing a permit application under its regulatory program. Notwithstanding this list, the violations review criteria of each Federal and State regulatory program at the time of permit issuance will govern the application of this rule.

For a violation, penalty, or fee, the effective date in the list relates to when a permit was issued, not when the violation became unabated or the penalty or fee became delinquent, either of which may have occurred at any time prior to permit issuance. The listed violations, penalties and fees apply regardless of the issuing regulatory authority. Unless otherwise noted, the same criteria apply equally to OSMRE and the States. Some State programs may include more stringent criteria.

Applicable Violations Review Criteria

I. Violations, Penalties and Fees

A. Abandoned Mine Reclamation Fees

Fees included: All delinquent reclamation fees.

Effective date: For Federal permits, from March 13, 1979.

For State permits, from July 5, 1984, the date when OSMRE published the final rule at 30 CFR 773.17(g) (49 FR 27493) making the payment of reclamation fees as required by 30 CFR Subchapter R a permit condition.

B. Air and Water quality Environmental Violations

Violations included: All unabated violations of Federal and State laws, rules and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation.

Effective date: From the outset of each permanent regulatory program.

c. Bond Forfeitures

Forfeitures included: Any bond forfeiture at an interim or permanent program operation involving a violation that was unabated at the time the permit under review was issued. For OSMRE and most States, abatement of the violation negates the effect of a forfeiture under § 773.20(b)(2) of this rule; some States may have more stringent requirements.

Effective date: From the outset of each permanent regulatory program.

D. Cessation Orders

Orders included: All unabated initial and permanent program imminent harm and failure-to-abate cessation orders (FTACO's).

Effective date: From the outset of each permanent regulatory program.

E. Civil Penalties

Penalties included: All delinquent civil penalties imposed under section 518 of the Act, 30 U.S.C. 1268, or the State regulatory program equivalent.

Effective date: For Federal permits, January 31, 1985, the date of the Revised Parker Order.

For State permits: For penalties other than Federal penalties under section 518(h) of the Act, the date when the State regulatory authority first considered nonpayment of Federal or State civil penalties following a final order to be a violation of the Act. For Federal penalties under section 518(h), January 31, 1985.

F. Notices of Violation

1. *Before Presumption on Abatement of NOV's Becomes Effective—Violations included:* Any unabated notice of violation (NOV) which information available to the regulatory authority at the time of permit issuance indicated was not being corrected to the satisfaction of the responsible agency; any unabated NOV for the nonpayment of abandoned mine reclamation fees; and any unabated NOV for which an FTACO was issued.

Effective date: From the outset of the regulatory program until a presumption corresponding to the one under § 773.15(b)(1) of the October 3, 1988 (53 FR 38868) OSMRE final rule (the ownership and control rule) becomes effective in the regulatory program.

Note: Except where the regulatory authority had information to the contrary, an NOV for which an FTACO was not issued is not included prior to the effective date of the presumption because the lack of an FTACO constitutes sufficient historic evidence that the NOV was being corrected to the satisfaction of the responsible agency. Moreover, any subsequent review for improvident issuance should ensure that an FTACO is issued where appropriate.

2. *After Presumption on Abatement of NOV's Becomes Effective—Violations included:* Any NOV to which the presumption did not apply, or for which an FTACO subsequently was issued.

Effective date: From the date the presumption becomes effective in the regulatory program.

II. Ownership and Control Relationships

A. Before Ownership and Control Rule Definition and Revised Review Criteria Become Effective

Relationships included: From a class of persons no less inclusive than specified in section 507(b)(4) of the Act, 30 U.S.C. 1257(b)(4), those persons who in fact own or control the applicant.

Note: For a discussion of the relationship between section 507(b)(4) of the Act and the permit blocking requirements of section 510(c) of the Act and 30 CFR 773.15(b)(1), see the ownership and control rule at 53 FR 38874–38875.

Effective date: From the outset of the regulatory program until the definition of *owned or controlled* and *owns or controls* at 30 CFR 773.5 and the review criteria at 30 CFR 773.15(b)(1) covering operations owned or controlled by either the applicant or by any person who owns or controls the applicant, as set out in the ownership and control rule, or the State program equivalent, become effective in the regulatory program.

B. After Ownership and Control Rule Definition and Revised Review Criteria Become Effective

Relationships included: Those covered by the definition and revised review criteria, or equivalent provisions.

Effective date: From the date the definition and revised review criteria, or equivalent provisions, become effective in the regulatory program.

Specific Criteria Removed

Later proposed § 773.20 (a)(1) and (a)(4)(ii)(B) set out specific types of violations, penalties and fees to which the rule would apply. Several commenters said that the proposal unlawfully differentiated between and limited these types of violations, penalties and fees.

Other commenters said that the rule should not depend solely on information contained in the OSMRE Applicant/Violator System (AVS). Several commenters said that the preamble to the initial proposed rule was incorrect in suggesting that only a failure to abate a "serious" violation constituted a "failure to comply" under section 201(c)(1) of the Act, and that this qualification should be deleted.

The criteria to which the commenters objected were removed from the rule. Final § 773.20(b)(l) does not specify any particular violation, penalty or fee as a basis for a finding that a permit was improvidently issued. Nor is it limited to the information contained in the AVS. Instead it requires a regulatory authority to apply the violations review criteria of the regulatory program at the time the permit was issued.

OSMRE has concluded that because of differences between regulatory programs, as well as in the interpretation of the Act as experience has been gained with its requirements, it is best to adopt general procedures which rely on the specific requirements of each regulatory program for their ultimate interpretation and application. The minimum types of unabated violations and delinquent penalties and fees which the violations review criteria of each regulatory program should cover are set out in the preceding list.

Section 518(f) Penalties

Several commenters said that as the basis for permit rescission § 773.20 should cover any penalty for which a final order was issued to an entity with a common control relationship to a permittee, including penalties assessed under section 518(f) of the Act, 30 U.S.C. 1268(f), or the State program equivalent.

OSMRE agrees. As discussed previously, the rule will apply to all penalties for which a final order was issued under section 518 of the Act or a State program equivalent, including individual civil penalties under section 518(f) or its equivalent.

Other Environmental Laws

One commenter said that the initial proposed rule should apply not only to violations of the Act, but also of other environmental laws.

OSMRE agrees. Under the violations review criteria of the regulatory program at the time the permit was issued, the rule can apply to violations of any Federal or State law, rule or regulation pertaining to air or water quality environmental protection in connection with any surface coal mining and reclamation operation.

Other Compliance

The same commenter said that the rule should require a permit applicant to demonstrate compliance by having appropriate permits, and subsequently to remain in compliance with them.

OSMRE did not adopt the commenter's suggestion. This rule provides remedial measures for permits that were improvidently issued as a result of an unabated violation or a delinquent penalty or fee of a related

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operation at the time of permit issuance. Except for the overall violation of operating under an improvidently issued permit, it does not apply to any environmental or other violation that may arise under the permit itself, or to any violation occurring at another operation after permit issuance.

Future Events

One commenter said that the Act only authorized a regulatory authority to decline to issue a permit based on existing compliance, but neither authorized nor required rescission based on future events.

OSMRE agrees in part. To the extent the "future event" referred to by the commenter concerns compliance with the regulatory program for operations under the permit in question, or to a violation at another operation after the issuance of the permit in question, the rescission procedures of the rule do not apply. A regulatory authority may not use the rule to rescind a permit for any violation, penalty or fee resulting from such operations.

To the extent the rule requires a regulatory authority to consider events following permit issuance it is a reasonable means to identify and remedy improvidently issued permits.

Where a regulatory authority has reason to believe that a permit was improvidently issued, it legitimately may make the finding under this rule and take appropriate remedial measures, regardless of when the information concerning the violation status of the permittee at the time of permit issuance became available. Any other interpretation of the Act potentially would reward a permittee for failing to bring compliance information to light at the time of permit issuance.

Where a permit was issued on the presumption that a notice of violation was in the process of being corrected, and a cessation order subsequently was issued, the lack of abatement following permit issuance is a condition subsequent of sufficient gravity to support rescission of the permit under the Act.

Thus, to the extent the "future event" concerns an ongoing lack of abatement of a past violation, or the delinquency of a penalty or fee for which a regulatory authority should have withheld a permit the rule is authorized by sections 201 (c)(l) and (c)(2) and 510(c) of the Act.

Section 201(c)(1) authorizes OSMRE to rescind a permit for a failure to comply with the Act and its implementing regulations. A failure of a permittee to comply with the permit withholding requirements of Act and its implementing regulations, or the State program equivalents, at the time of permit issuance because of an unabated violation or a delinquent penalty of fee is a failure to comply under section 201(c)(1).

Under section 201(c)(2) of the Act, OSMRE and State regulatory authorities have the authority to correct errors in the issuance of permits through permit rescission and other appropriate remedial measures as a means of carrying out the purposes of sections 201(c)(1) and 510(c).

Except for these limited circumstances, however, and the violation of operating under an improvidently issued permit, the rule does not concern any violation, penalty or fee arising under the permit itself, or arising after permit issuance under an ownership or control link to the permittee.

Relationship to Revised Parker Order

One commenter said that since the Revised Parker Order appeared to be the principal, if not the sole, reason for this rule, OSMRE should limit its application to the limited universe of Federal violations and civil penalties covered by the order. OSMRE disagrees, and did not adopt the commenter's suggestion.

The Revised Parker Order, to which the commenter referred, was issued by the United States District Court for the District of Columbia in the case of *Save Our Cumberland Mountains, Inc. v. Clark*, No. 81-2134 (D.D.C. January 31, 1985), and among other things concerned the implementation and enforcement of section 510(c).

While this rule will facilitate compliance with the Revised Parker Order, it serves the broader purpose of bringing improvidently issued permits into compliance with the more encompassing requirements of the Act. Consistent with this broader purpose, the rule is not limited by the specific violations or penalties covered by the Revised Parker Order.

Pre-1985 Federal Violations

The same commenter said that the rule had the limited purpose of correcting pre-1985 Federal violations covered by the Revised Parker Order, so there was no basis for extending it beyond those violations. To the extent the rule applied to State violations, the commenter said, it was an intrusion into the exclusive domain of State permitting.

OSMRE disagrees. Neither section 510(c) of the Act nor 30 CFR 773.15(b)(1) differentiates between Federal and State violations for purposes of withholding a permit, and this rule is consistent with those requirements.

Statute of Limitations

One commenter said that the five year statute of limitations for the collection of fines and penalties prohibits using the mechanism of permit rescission to force payment of civil penalties for which the statute has tolled.

OSMRE disagrees. While a statute of limitations may act as a defense in a lawsuit filed to collect civil penalties, it does not cancel the underlying debt, and the failure to pay remains an act of noncompliance that is relevant in determining whether a permit was improvidently issued and imposing an appropriate remedial measure under this rule.

Ownership and Control Criteria at Time of Permit Issuance

Later proposed § 773.20(a)(4)(ii)(A) set out specific ownership and control relationships to which the rule would apply. Several commenters said the rule should cover operations that had an outstanding violation, penalty or fee and were in an ownership or control relationship with the permit applicant in a manner consistent with the Act and the regulations at the time of permit issuance. These commenters cited section 507(b)(4) of the Act and the Revised Parker Order to support their interpretation of which relationships were consistent with the Act.

OSMRE agrees with these commenters that the applicable criteria for determining ownership and control relationships under this rule are those in force at the time the permit was issued. As a result of these comments, all specific ownership and control criteria were deleted from the rule.

Instead, the rule requires the regulatory authority to base its finding that a permit was improvidently issued on the violations review criteria of the regulatory program at the time the permit was issued, including those criteria relating to ownership and control. The minimum ownership and control relationships which OSMRE believes the violations review criteria of a regulatory program should include are set out in the preceding list.

Section 507(b)(4) of the Act

Several commenters said that until the ownership and control rule was promulgated and adopted by the States, it appeared that later proposed § 773.20(a)(4)(ii)(A)(1) would, *de facto*, define ownership and control to include those entities listed in section 507(b)(4) of the Act. They said that this was

consistent with the Revised Parker Order, which mandated the use of this standard. They disagreed with the proposed limitation of this standard to "appropriate circumstances."

These same commenters said that the proposed rule was unclear on when in the development of a regulatory program those entities listed in section 507(b)(4) would serve as the basis for an ownership and control determination by a State regulatory authority, which the commenter said should begin with primacy. In addition, they said that under the rule the applicability of the term *owns or controls* in a regulatory program should begin with primacy.

The final rule no longer specifies the ownership and control relationships referred to by these commenters, but instead requires a regulatory authority to apply the ownership and control criteria of the regulatory program at the time the permit was issued. Nevertheless, because their reasoning also might apply to those criteria, it is necessary to explain why OSMRE disagrees with a number of the commenters' conclusions.

OSMRE agrees that the obligation of a State regulatory authority to withhold a permit in accordance with section 510(c) of the Act begins with primacy. OSMRE disagrees, however, with the commenters' interpretation of section 507(b)(4) of the Act and the Revised Parker Order.

For a discussion of the relationship between the requirements of sections 507(b)(4) and 510(c) of the Act in this context, as reflected in the Revised Parker Order, see the ownership and control rule at 53 FR 38874–38875. As stated there, the Congress intended to give a regulatory authority discretion to determine whether any person named under section 507(b)(4) in fact owns or controls a permit applicant.

The Revised Parker Order, which in footnote No. 1 provides that OSMRE shall use no less inclusive a class of persons than is set out in section 507(b)(4) when establishing and implementing the Applicant/Violator System, merely requires OSMRE to consider whether those persons are owners or controllers, not to find inflexibly in all cases that they are.

Corporate Separateness

Several commenters objected to the proposed rule to the extent it broadly applied the concept of ownership and control under section 510(c) of the Act. One said that in doing so the rule ignored established legal concepts of corporate separateness. The commenter said that due to a lack of authority to direct the actions of an affiliated company a permittee who was linked to a violation, penalty or fee through ownership or control would not be able to abate the violation or enter into an abatement plan or payment schedule, as provided by initial proposed § 773.20(b)(2).

OSMRE does not believe that this rule is the proper forum to reconsider the previously established scope of ownership or control relationships under section 510 (c) of the Act or a regulatory program. For the current OSMRE policy and procedures on this topic, see the October 3, 1988 (53 FR 38868) OSMRE final rule on ownership and control.

OSMRE agrees with the commenter that the initial proposed language, which appeared to require a permittee to abate a violation for which the permittee was not responsible, might have placed a permittee in an untenable position. Therefore, the later proposed and final rules were revised to provide that the necessary corrective action may be taken either by the permittee or by the "other person responsible."

Parent-Subsidiary Relationships

One commenter on initial proposed § 773.20 said that ownership and control considerations should apply only down, and not up, the corporate ladder.

OSMRE disagrees. Where the violations review criteria of the regulatory program at the time of permit issuance trace ownership or control up the corporate ladder, they are a legitimate basis for applying this rule. For a discussion of how ownership and control links may be traced up and down a corporate ladder, see the ownership and control rule at 53 FR 38875.

Another commenter objected to initial proposed § 773.20(b)(1) for requiring the issuance of an NOV to a subsidiary permittee where the parent company was responsible for the underlying violation, penalty or fee. The commenter said that a subsidiary company has no authority to dictate what must be done by its parent, and that it was inconceivable that any good could come from penalizing a subsidiary for the actions of the parent.

OSMRE disagrees. While final § 773.20 no longer provides for the issuance of an NOV, it includes other remedial measures which may be imposed on a subsidiary because of an ownership or control link to a parent company. Where such a link exists, the authority of the subsidiary to dictate the actions of the parent is irrelevant. A parent company has a definite economic interest in the continuing viability of its subsidiaries, and the rule will provide a strong incentive for the parent to abate any outstanding violation or pay any delinquent penalty or fee so that a subsidiary can continue to operate.

Coverage of Operators

Other commenters said that OSMRE should revise initial proposed § 773.20(a)(1) to specifically include the operator as having a control link to the permittee.

OSMRE did not adopt this suggestion. As previously discussed, the rule now incorporates the ownership and control criteria of the regulatory program at the time the permit was issued, including the operator in appropriate circumstances. For a discussion of how an ownership or control link may be traced through an operator, see the ownership and control rule at 53 FR 38873.

Attribution of Violations

One commenter said that the essence of this rule and the ownership and control rule was to attribute violations from one legal entity to another. The commenter said that it would be more expedient to seek a court order compelling abatement of the underlying violation than to adopt the passive approach of the rule. Another commenter said that the rule would impute to a permittee third party liability for a violation, penalty or fee.

OSMRE disagrees. As explained more fully in the October 3, 1988 (53 FR 38868) ownership and control rule, neither that rule nor this one makes one legal entity responsible for abating the violation or paying the penalty or fee of another.

As authorized by sections 201(c) and 510(c) of the Act, these rules instead deny persons who through ownership or control are linked to a person responsible for an unabated violation or a delinquent penalty or fee the privilege of obtaining or retaining a surface coal mining and reclamation permit.

Fraud, Misrepresentation and Lack of Knowledge

Several commenters on the later proposed rule said that the criteria of fraud, misrepresentation, lack of knowledge, and good faith on the part of the permittee or regulatory authority in later proposed § 773.20(a)(4) were immaterial. These commenters said that the criteria improperly shifted the focus of the inquiry away from whether an applicant had an outstanding violation to whether the regulatory authority knew or should have known of the violation. The commenters said that use of these criteria would unfairly award abuse or incompetence.

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The proposed criteria concerning fraud, misrepresentation and lack of knowledge, to which the commenters objected, were removed from final § 773.20(b) of the rule. Instead, the regulatory authority is to apply the violations review criteria of the regulatory program at the time the permit was issued.

The criterion concerning good faith, to which the commenters also objected, does not concern permit issuance and was retained in § 773.20(b)(2)(ii) of the rule as a reasonable measure of a permittee's justification for appealing an unabated violation or delinquent penalty or fee for which a regulatory authority should not have issued a permit.

Other commenters said that the later proposed rule defined the term *known or should have known* too narrowly, and that the rule should apply whenever pertinent information becomes known to the regulatory authority. They added that since a permit applicant has an independent responsibility to comply with the Act and its implementing regulations, regardless of any inaction on the part of the regulatory authority, the action taken by a regulatory authority to remedy its prior inaction on an improvidently issued permit would not penalize a permittee.

OSMRE disagrees. Although this explicit criterion was removed from the rule, a regulatory authority's lack of knowledge of an existing violation at the time of permit issuance is a relevant consideration in determining whether a permit was improvidently issued, and is inherent in the violations review criteria of each regulatory program.

Section 510(c) of the Act does not impose on an applicant an unlimited responsibility to submit violations information, as the commenters infer, but is limited to certain notices of violations incurred during a certain period of time preceding the application. And under section 510(c) and 30 CFR 773.15(b)(1) a violations review must be based on information "available to the regulatory authority."

The existence of an unabated violation or a delinquent penalty or fee at the time of permit issuance does not invalidate a determination by a regulatory authority that none existed unless information concerning the violation, penalty or fee was available to the regulatory authority, or should have been available if the permit application were complete and accurate, or if the regulatory authority had made reasonable inquiries. At a minimum, for permits issued after October 1, 1987 such reasonable inquiries would include querying the Applicant/Violator System.

The discovery of a pre-existing violation after permit issuance should not automatically lead to the conclusion that the permit was improvidently issued if the regulatory authority could not reasonably have been made aware of the violation at the time the permit was issued. Similarly, such a discovery does not necessarily mean that an operator's activities under the permit were conducted in violation of the regulatory program. This standard for violations review will not, as the commenters suggested, award abuse or incompetence because it covers not only actual knowledge, but also what the regulatory authority reasonably should have known.

Several commenters asked OSMRE to clarify that the rule will apply not only in situations where a regulatory authority had the information necessary to block a permit at the time it was issued, but also where the information was obtained after the permit was issued.

OSMRE agrees that this is the correct interpretation of the rule in situations where the permit applicant should have provided the information in the permit application, or where the regulatory authority could have obtained the information with reasonable inquiry.

Erroneous AVS Information

One commenter asked how erroneous information in the OSMRE Applicant/Violator System (AVS) would affect the responsibility of a regulatory authority under initial proposed § 773.20(a)(4)(ii) for knowing about outstanding violations, penalties or fees.

Although the rule no longer explicitly includes the criterion to which the comment applies, the question remains relevant. Subject to the review standard set out in the preceding discussion, a regulatory authority may rely on the information in the AVS as up-to-date and accurate.

As explained previously, under section 510(c) of the Act and 30 CFR 773.15(b)(1) a violations review reasonably must cover the information "available to the regulatory authority." Due to its voluminous extent, OSMRE has found it necessary to establish the computer-based AVS as a means to provide access to this information.

Under this rule a proper query of the AVS will constitute a reasonable inquiry of the information available to the regulatory authority, and absent some defect in the violations information provided in the permit application, or inadequate use of other information that actually was known to the regulatory authority, an error in or omission from the information in the AVS will not provide the basis for a finding that a permit was improvidently issued.

b. Section 773.20(b)(2). The second criterion, in § 773.20(b)(2), is that the violation, penalty or fee for which the regulatory authority should have withheld the permit remains unabated or delinquent, and is not the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency.

This criterion is essentially the same as proposed. It is included in the rule because from the standpoint of administrative efficiency it makes little sense to rescind a permit where the underlying violation, penalty or fee would not currently bar the issuance of a new permit. Where the defect in the permit either has been or is in the process of being corrected, this criterion will obviate the unproductive rescission of, reapplication for, and reissuance of what ultimately would amount to the same permit.

As a result of this criterion, abatement of the underlying violation or payment of the delinquent penalty or fee to the satisfaction of the responsible agency subsequent to permit issuance will preclude a finding that a permit was improvidently issued. In addition, if the violation, penalty or fee is the subject of a good faith appeal or payment schedule at the time of permit review under this section, the regulatory authority will not find that the permit was improvidently issued.

If the permittee or other person responsible loses the appeal, however, or fails to comply with the abatement plan or payment schedule, and the regulatory authority did not consider the appeal, abatement plan, or payment schedule and conditionally issue the permit, the procedures of this rule will apply. Where the permit was conditionally issued, the provisions of the regulatory program governing noncompliance with a permit condition, and not this rule, will apply.

c. *Section 773.20(b)(3).* The third criterion, in § 773.20(b)(3), is that where the permittee was linked to the violation, penalty or fee through ownership or control, under the violations review criteria of the regulatory program at the time the permit was issued an ownership or control link still exists between the permittee and the person responsible for the violation, penalty or fee, or where the link was severed the permittee continues to be responsible for the violation, penalty or fee.

This criterion is similar to later proposed § 773.20(a)(3). It was expanded in response to public comment to require a finding of improvident issuance where a permittee continues to be responsible for an unabated violation or a delinquent penalty or fee, notwithstanding the severing of a previous ownership or control link.

Like previously discussed § 773.20(b)(2), this provision is included in the rule for reasons of administrative efficiency. Where no ownership or control link currently exists between the permittee and the person responsible for the underlying violation, penalty or fee, and the permittee has no continuing responsibility for the violation, penalty or fee, and thus the existence of the violation, penalty or fee would not currently bar the issuance of a new permit, it makes little sense to rescind the permit and, inevitably, issue a new one.

If an ownership or control link between a permittee and the person responsible for a violation, penalty or fee is severed after permit issuance, but later reestablished, this section would not preclude a subsequent finding that the permit was improvidently issued.

The requirement of this rule for a current ownership or control link between the permittee and the person responsible, or continuing responsibility on the part of the permittee, recognizes that there is little to be gained by applying the remedial measures of this rule to an existing permit if that critical link or responsibility no longer exists.

A fundamental purpose of section 510(c) of the Act is to ensure that unabated violations and delinquent penalties and fees associated with previous permits are abated or paid before another permit is issued. Where a permittee no longer bears any responsibility for, or has the requisite control to cause the abatement or payment of a previous violation, penalty or fee, however, it is consistent with section 510(c) for the regulatory authority to refrain from taking remedial action against the permit.

Since under section 510(c) a permit *applicant* legitimately may sever his or her ownership or control link with the person responsible for a violation, penalty or fee, and thus receive a permit, it is reasonable to afford a *permittee* a similar opportunity once a permit is issued.

Like § 773.20(b)(1) of this rule, § 773.20(b)(3) bases the continuing existence of an ownership or control link, and of the responsibility of the permittee for a violation, penalty or fee, on the criteria of the regulatory program at the time the permit was issued. OSMRE considered but rejected the alternative of applying the violations review criteria in force at the time a permit is reviewed under this section because it would have subjected the permittee to a standard that might be subject to change or reinterpretation.

Relationship Between Permittee and Violation, Penalty or Fee

To facilitate the interpretation of this rule, it is useful to differentiate three ways in which a permittee can be related to an unabated violation or a delinquent penalty or fee for purposes of section 510(c) of the Act and its implementing violations review criteria. The permittee can be (1) directly responsible for the violation, penalty or fee; (2) indirectly responsible; or (3) linked to the violation, penalty or fee through ownership or control.

Direct responsibility arises where the permittee is cited on the violation notice or penalty assessment, or specifically is identified in a requirement to pay a fee.

Indirect responsibility may arise through an ownership or control link under certain circumstances where the permittee *owns or controls* the person who is directly responsible. Indirect responsibility generally will not arise through an ownership or control link where the permittee *is owned or controlled by* the person responsible.

A link through ownership or control arises where, under the violations review criteria of the applicable regulatory program, the permittee either owns or controls, or is owned or controlled by, the person directly responsible for a violation, penalty or fee.

The use of these three categories to differentiate these possible relationships between a permittee and a violation, penalty or fee is consistent with the relevant provisions of section 510(c) of the Act and its implementing violations review criteria, which preclude the issuance of a permit only where a permit applicant is either directly or indirectly is responsible for, or through an ownership or control relationship is linked to, an unabated violation or a delinquent penalty or fee.

Correcting Defect in Permit

Where a permittee is either directly or indirectly responsible for an unabated violation or a delinquent penalty or fee, he or she cannot avoid this responsibility by severing his or her link with any other person. The only way to satisfy this responsibility is to prevail in an appeal, abate the violation, or pay the penalty or fee. If the permittee or other person responsible does so, this rule will allow the permit to remain in force. (For additional discussion of the circumstances under which a permittee continues to be indirectly responsible for the violation, penalty or fee of a former subsidiary, see the ownership and control rule at 53 FR 38876.)

Where a permittee is linked to a violation, penalty or fee only through ownership or control, and has no direct or indirect responsibility for the violation, penalty or fee, the permittee may correct the defect in the permit and forestall the remedial measures of this rule by severing the ownership or control link. This is because under such circumstances the purpose of this rule is not to compel abatement or payment by the permittee, but to compel abatement or payment by the person responsible.

Where an ownership or control link continues to exist, the purpose of this rule is to prevent the person responsible from evading the prohibition of section 510(c) of the Act by using an intermediary, to which he or she is linked by ownership or control, to obtain and retain a permit which he or she otherwise could not have obtained or retained. Where the link is broken, however, the person responsible no longer has an interest in the permit that would serve to compel abatement or payment.

Current Ownership or Control Link

Several commenters favored the later proposed requirement for a current ownership or control link as a basis for a finding that a permit was improvidently issued. They said that a current link between the permittee and violator would have to exist if this rule were to achieve its stated objective of compelling the abatement of existing violations. One commenter said that in the absence of such a link the rule would place the permittee in a position where compliance would be impossible, and would make the rule more difficult to defend with respect to retroactive application.

OSMRE agrees with the commenter that where a permittee has no direct or indirect responsibility for an unabated violation or a delinquent penalty or fee, a current ownership or control link is a necessary measure of the ability of the regulatory authority to compel compliance, and thus to remedy the defect in the permit. As explained under the subsequent heading, II.F.3. The Rule is not retroactive, however, OSMRE disagrees that the rule in any way is retroactive.

Several commenters on the later proposed rule said that it was contrary to the Act to require a current ownership or control link as a criterion

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that a permit was improvidently issued. They said that this would provide an untimely incentive for permittees to sever links to avoid liability for operations under common ownership or control at the time of permit issuance.

OSMRE disagrees. As explained in the preceding discussion of § 773.20(b)(3), in the absence of any direct or indirect responsibility on the part of the permittee for an unabated violation or a delinquent penalty or fee, the rule requires a current ownership or control link for reasons of administrative efficiency and because there is nothing to be gained by rescinding a permit where the permittee is not responsible for and will not be able to bring about abatement or payment.

Section 510(c) of the Act does not require a regulatory authority to withhold a permit from an applicant who at any time in the past was linked to a violator through ownership or control. Thus, prior to applying for a permit, an applicant may sever his or her link to the person responsible for an unabated violation or a delinquent penalty or fee and legitimately receive a permit.

In the same manner, it is reasonable for this rule to give a permittee an opportunity to sever an ownership or control link to the person responsible, and thereby forestall a finding that the permit was improvidently issued. As long as the link legitimately is severed, and the permittee does not continue to be directly or indirectly responsible for the violation, penalty or fee, the purposes of the Act are fully served.

Several commenters on the later proposed rule said that the withholding of a permit under section 510(c) and the rescission of a permit under this rule had two purposes: (1) To provide an incentive for a coal operator to correct past violations if he or she wished to continue mining coal; and (2) to prevent an operator who failed to comply with the law from mining coal.

The commenters said that regardless of a current link between the permittee and the violator, permit rescission would provide a strong incentive to correct unabated violations and pay delinquent penalties. The commenters said that the rule overlooked the second purpose, and concluded that a current ownership or control link should not be required.

OSMRE agrees with the commenters on the dual purposes of withholding a permit under section 510(c), and for applying the remedial measures of this rule. In response to this comment, § 773.20(b)(3) was revised to require a finding of improvident issuance where a permittee continues to be responsible for an unabated violation or a delinquent penalty or fee, notwithstanding the severing of a previous ownership or control link. This revision will enhance the capacity of the rule to serve the second purpose of section 510(c) by subjecting a permittee who continues to be responsible for an unabated violation or a delinquent penalty or fee to its remedial measures.

OSMRE disagrees with the commenters, however, that requiring a current ownership or control link where a permittee does not continue to be responsible for a violation, penalty or fee is inconsistent with the purposes of section 510(c). As the commenters pointed out, the remedial measures of this rule will provide a strong incentive for a permittee to abate a violation or pay a delinquent penalty or fee for which he or she continues to be responsible and for which the regulatory authority should have withheld a permit.

Where the permittee has no direct or indirect responsibility for the violation, penalty or fee, however, this incentive can arise only where there is a current link between the permittee and the person responsible. Where the link is broken, the permittee is unlikely to have any relationship with the violator that might serve to bring about compliance, and the rule cannot provide the desired compliance incentive.

Notwithstanding its requirement for a current ownership or control link, this rule will effectively serve the second purpose noted by the commenters. It will enable regulatory authorities to prevent non-complying persons from retaining or otherwise continuing to operate under permits they should not have received. And it will give persons responsible an additional incentive to abate violations and pay delinquent penalties and fees because not doing so will prevent them from forming or maintaining viable ownership or control relationships with other prospective permittees.

Where the relevant ownership or control relationship continues to exist, so the violation, penalty or fee legitimately can be linked to the permittee, the rule requires the regulatory authority to take appropriate remedial action. But where the ownership or control link with the person responsible is severed, and the permittee has no direct or indirect responsibility for the violation, penalty or fee, the permittee cannot be considered to have a bad mining record requiring remedial action under this rule.

Severing Ownership or Control Link

Several commenters on the later proposed rule were concerned that the requirement for a current ownership or control link unlawfully would enable a permittee to break his or her connection with a non-complying mining operation and thus retain his or her permit. As examples of how this might be done, the commenters said that a partnership might be dissolved; a mining contract might expire or be terminated; a corporation might be dissolved, or liquidated in bankruptcy; or an operator might convey his or her interest in the operation to another party.

In response to this and a comment discussed under the preceding heading, § 773.20(b)(3) was revised to require a finding of improvident issuance where a permittee continues to be responsible for an unabated violation or a delinquent penalty or fee, notwithstanding any severing of the ownership or control link under which that responsibility arose.

This revision will prevent a permittee who severs such a link from avoiding the responsibility he or she may continue to have for an unabated violation or delinquent penalty or fee. For the reasons discussed under the preceding heading, however, OSMRE disagrees that the requirement of § 773.20(b)(3) for a current ownership or control link in the absence of such continuing responsibility provides any reason for the commenters' concern.

Depending on the review criteria of the applicable regulatory program, an ownership or control link between a permittee and a person responsible for an unabated violation or a delinquent penalty or fee may arise and be severed in a variety of ways. To use the examples cited by the commenters:

The dissolution of a partnership will not relieve the partners of any previously-held responsibility for an unabated violation, or for a delinquent penalty or fee as owners or controllers of the partnership. Nor will the expiration or termination of a mining contract necessarily relieve the parties to the contract of any previously-held responsibility. The dissolution or liquidation of a corporation in bankruptcy will not relieve any officer, director or other owner or controller of the corporation of his or her previous responsibility for operations conducted by, or under the ownership or control of, the corporation.

However, where a permittee has no personal responsibility for a violation, penalty or fee, and effectively severs his or her link with the person responsible, there no longer exists any reason to consider permit rescission or other remedial action under this rule. At that point the slate is as clean as it should have been on the date the permit was issued, and it not only is reasonable, but also fully in compliance with the Act and its implementing regulations, to allow the permittee to retain the permit and continue to operate without interruption.

Inconsistent Terminology

One commenter said that while initial proposed § 773.20(a) referred to any surface coal mining operation owned or controlled by either the permittee or by any person who owns or controls the permittee, this terminology was not consistently carried through the remainder of that section.

OSMRE agrees with the commenter that these same ownership and control relationships should have been included throughout initial proposed § 773.20, as they were in later proposed § 773.20. Rather than explicitly setting out the applicable ownership and control relationships, however, final § 773.20(b)(1) and (b)(3) now refer generally to "the violations review criteria of the regulatory program," which covers any applicable ownership or control relationship.

In addition, § 773.20(b)(2)(ii), (b)(3), (c)(1) and (c)(2), refer to the "person responsible," as do §§ 773.21 and 843.21 of this rule, which covers any person related to the permittee through ownership or control who is responsible for an unabated violation or a delinquent penalty or fee.

4. Section 773.20(c) Remedial Measures

Where a regulatory authority finds, under § 773.20(b) of this rule, that a surface coal mining and reclamation permit was improvidently issued, § 773.20(c) requires it to use one or more of four specified remedial measures: To (1) implement an abatement plan or payment schedule; (2) impose a permit condition; (3) suspend the permit; or (4) rescind the permit. In combination with one or more of these remedial measures, a regulatory authority also may use any other measure available under its regulatory program.

This section derives from later proposed § 773.20(b). It includes four alternative remedial measures because of the diversity of circumstances under which a regulatory authority might find that a permit was improvidently issued, and the resulting need to apply a remedy that not only is administratively appropriate, but also is fair and equitable to the permittee.

Again, from the standpoint of administrative efficiency it is consistent with section 510(c) of the Act to adopt alternative remedial measures through which a regulatory authority can afford a permittee a reasonable period of time to correct the defect in the permit and achieve a state of compliance that neither would have caused the regulatory authority to withhold the permit initially or have led to a finding of improvident issuance under this rule.

While mandatory rescission might in some instances prompt a permittee to achieve compliance more rapidly, in other instances it might, through loss of income or default on contractural or other legal or financial obligations, effectively thwart a permittee's ability to do so.

Moreover, mandatory rescission could produce grossly inequitable results where a permit was improvidently issued through oversight or error on the part of the regulatory authority, and notwithstanding a relatively minor past violation the permittee or its employees would suffer considerable hardship if mining under the permit abruptly were terminated.

In view of the administrative and equitable considerations involved, this rule is intended to strike the reasonable balance sought by section 202(f) of the Act.

Need for Remedies Other Than Rescission

Several commenters on the initial proposed rule objected to permit rescission as the sole remedy for an improvidently issued permit. One commenter said that in circumstances involving a nominal penalty it was inconceivable that the only remedy available to the regulatory authority to accomplish the desired result was to rescind the permit and require reclamation of the operation. The commenter said that rescission would be particularly burdensome to large operators in the west, and recommended revision of the rule to include alternative remedies.

Another commenter said that while permit rescission may at times be warranted and appropriate, the rule should include discretion for permit suspension, both as an independent remedy and as the first step in the rescission process, to give all parties an opportunity to ensure that no errors had been made.

Another commenter said that suspension, rather than rescission, was the more appropriate sanction in most circumstances addressed by initial proposed § 773.20(c). This commenter said that in cases of fraud or misrepresentation rescission was the appropriate sanction, but where a permit was issued through human error or a lack of current information rescission would be unnecessarily harsh. The commenter said that both suspension and rescission would have the desired effect, but only suspension would facilitate the timely resumption of operations.

Another commenter said that the rule should include provision for suspending a permit as provided by section 521(b) of the Act, 30 U.S.C. 1271(b). This commenter said that because of delays in the repermitting process, permit rescission would delay mining at a site for a period of at least six months to two years. The commenter said that this would increase the burden on regulatory authorities because many of the affected operators would become insolvent, and thus default on penalties and fees, as well as forfeit their performance bonds.

A much better solution, the commenter said, was to suspend a permit until the defect in the permit was corrected. This not only would give a permittee a strong financial incentive to correct the defect, the commenter said, but also would increase the likelihood that the regulatory authority would collect the penalties and fees that were owed.

Another commenter said that the additional remedial measures in later proposed § 773.20(b) provided the flexibility necessary to resolve the problem through the most effective means available under each regulatory program.

OSMRE agrees that because of differences in the circumstances involving each improvidently issued permit, alternatives to permit rescission are needed, and has revised the later proposed and final rules accordingly.

Suspension and Rescission as Sole Remedy

Several commenters disagreed with the alternative remedial measures in later proposed § 773.20(b), and said that regardless of what definitions were applied or distinctions were drawn, once it was determined that a permit was issued in violation of section 510(c) of the Act the remedy mandated by law was permit suspension or revocation. These commenters characterized section 201(c)(1) of the Act, 30 U.S.C. 1211(c)(1), as unmistakably mandatory in nature, requiring that the regulatory authority *shall* order the suspension or revocation of the permit.

Likewise, the commenters said, section 510(b)(1) of the Act demands that a permit application be accurate

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and complete and that all of the requirements of the Act and the regulatory program be complied with before the application is approved. Moreover, they said, the requirements of section 510(c) that a permit applicant list any and all notices of violations, and that the regulatory authority not issue a permit under certain circumstances, are equally demanding.

Citing the legislative history of the Act for support, the commenters said that under section 510(b), (b)(1) and (c) of the Act an applicant has a duty to provide information to the regulatory authority on any and all violations of environmental laws, and that absent an affirmative demonstration by the applicant that he or she has met all of the requirements of the Act no permit can lawfully be issued. Based on these provisions of the Act, the commenters concluded that the suspension and revocation of an improvidently issued permit was required regardless of any mitigating circumstances involved in its issuance.

OSMRE disagrees. For the reason why OSMRE prefers to use the term *rescission* in the context of an improvidently issued permit, as opposed to the commenters' term *revocation*, see the discussion of Permit Rescission vs. Revocation under the subsequent heading, II.F.1. Statutory Authority.

Contrary to the commenters' allegations, section 510(c) of the Act does not require an applicant to list all violations, but is limited to certain notices of violations incurred during a certain period of time prior to the date of the application.

Moreover, the commenters' excessively strict reading of section 201(c)(1) of the Act would necessitate permit suspension and rescission for any violation of the Act, which could result in economic hardship and disruption the Congress clearly did not intend to cause despite any mitigating circumstances.

OSMRE concludes that it has sufficient discretion under the Act to adopt procedures which reasonably account for the circumstances under which a permit was improvidently issued, and which include alternative remedial measures that will enable the regulatory authority to consider those circumstances in taking appropriate remedial action against the permit.

Contrary to several commenters' allegations, the term *improvidently issued* is not intended as a euphemism. Rather, OSMRE believes that the term reflects the severity of the problem involved when a regulatory authority should not have issued a permit, while at the same time not foreclosing reasonable flexibility in the adoption of appropriate remedial measures. In a process as complex as the filing and review of a permit application it is unavoidable that some errors may be made, either by the applicant or by the regulatory authority, which will require correction or modification of the permit once it is issued.

The all-or-nothing interpretation of the Act espoused by the commenters would lock this process into a state of rigidity that is contrary to the purposes of the Act and is inconsistent with the efficient and effective administration of its requirements and sound environmental policy. Thus, OSMRE declines to interpret the Act as inflexibly requiring permit suspension and rescission regardless of the circumstances under which a permit was improvidently issued.

Void vs. Voidable Permits

One commenter said that in view of the elaborate and detailed permit review process provided by the Congress, a presumption of validity accompanies a regulatory authority's decision to issue a permit. OSMRE agrees.

Several commenters on the later proposed rule said that sections 510 (b) and (c) of the Act are mandatory provisions, and any failure on the part of a permit applicant to divulge relevant violations renders the permit in violation of the law and subject to mandatory suspension or revocation under section 201(c)(1) of the Act. The commenters said that there is no room for failing to take action to rescind or suspend a permit based on regulatory authority or applicant inadvertance. Citing several court decisions to support this allegation, the commenters said that the issuance of a permit in contravention of the mandatory prerequisites for valid issuance renders the permit *void ab initio* and a legal nullity.

OSMRE disagrees with the commenters that suspension and rescission are the only lawful remedies for an improvidently issued permit. The Congress did not intend the extreme measures in section 201(c)(1) as exclusive remedies. Section 201(c)(2) of the Act provides authority for less extreme measures sufficient to carry out the purposes and provisions of the Act.

Because determining the validity of a particular permit under section 510(c) is not always as clearcut as the commenters allege, OSMRE is reluctant to require permit suspension or rescission in every instance. The case law cited by the commenters to support their allegation concerned Federal agency regulations, not permits, and thus is relevant in this context only by the broadest analogy, upon which OSMRE is reluctant to rely in promulgating a national rule.

This rule need not and cannot conclusively resolve the issue of whether a particular permit is either void or voidable. Through the alternative remedial measures in § 773.20(c), which range from the implementation of an abatement plan or payment schedule to permit rescission, the rule affords the regulatory authority reasonable discretion to consider the circumstances involving a particular improvidently issued permit and to fashion an appropriate remedy.

Rather than specifying in legalistic detail the circumstances under which a regulatory authority must consider a permit void, and thus subject to rescission, this rule reasonably leaves the question to the informed discretion of the regulatory authority for determination on a case-by-case basis.

Although the rule does not require a regulatory authority to use any particular one of the four remedial measures, OSMRE intends that the measure or measures used will be commensurate with the circumstances under which a permit was improvidently issued.

Where a permit was issued through willful fraud or collusion on the part of the permittee, rescission must be given serious consideration as the only appropriate remedy. Where a permit was issued because the regulatory authority itself did not fully implement the violations review criteria of the regulatory program, a remedy other than rescission may be more appropriate.

Where a remedial measure other than rescission is used, and the permittee fails to comply with the measure, the regulatory authority should reconsider its finding, and where appropriate rescind the permit.

This interpretation of the requirements of the Act for permit rescission under section 510(c) is consistent with the analagous requirements of section 521(b) of the Act, which provides that

> in the case of a State permittee who has met his obligations under such permit and who did not willfully secure the issuance of such permit through fraud or collusion, the Secretary shall give the permittee a reasonable time to conform ongoing surface mining and reclamation to the requirements of this Act before suspending or revoking the State permit.

This provision in section 521(b) authorizes OSMRE to use remedial measures other than suspension or revocation when enforcing a defective State permit, as a means of bringing the permit into conformance with the regulatory program. Thus, it is reasonable to conclude that this rule, which includes alternatives to permit suspension and rescission, conforms with the intent of the Congress on how regulatory authorities should deal with improvidently issued permits.

Two-Acre Violations

The same commenters cited the experience of a State regulatory authority under " 'two-acre' permits" as evidence of how a lack of suspension or rescission would pose undesirable risks to the public and the environment. Where notices of violation rather than cessation orders were issued for two-acre violations, the commenter said, the lack of a requirement to immediately cease operations resulted in additional disturbance and subsequent abandonment of the affected sites.

OSMRE disagrees that the context of this rule is analagous to the two-acre situation described by the commenters. In the case of an improvidently issued permit, the underlying violation, penalty or fee did not arise from the mining operation under the permit, but from another operation.

Suspension or rescission of the permit would not necessarily bring about compliance at the other operation any more effectively than the other remedial measures of this rule. Moreover, any violation stemming from operations under an improvidently issued permit itself is subject to enforcement under the applicable regulatory program, including the issuance of a cessation order where appropriate.

Suggested Alternatives to Rule

One commenter on the initial proposed rule said that permit rescission should be made an optional enforcement mechanism. OSMRE has adopted this suggestion by including in § 773.20(c) remedial measures other than permit rescission, one or more of which a regulatory authority must use where it finds that a permit was improvidently issued.

One initial commenter suggested specific alternative procedures for a permit suspension process initiated by an order to the permittee to show cause. Under the alternative, where the permittee failed either to show that the regulatory authority's findings were in error, or to correct the defect in the permit, the permit temporarily would be suspended and the permittee would be required to commence reclamation. If the defect subsequently were corrected, the regulatory authority would reinstate the permit. The commenter concluded that this alternative more closely conformed with the provisions of section 521(a)(4) of the Act, 30 U.S.C. 1271(a)(4), concerning the suspension of permits.

OSMRE disagrees that the suspension procedures suggested by the commenter are preferable to those of this rule. The referenced section 521(a)(4) of the Act applies only to suspension or revocation of a permit for a pattern of violations *under that permit*, not to the improvident issuance of a permit because of an unabated violation or a delinquent penalty or fee *at another operation*. Moreover, the commenter's alternative fails to provide for permit rescission, a necessary remedial measure under appropriate circumstances.

Several commenters said that the rule was unnecessary in view of the enforcement measures already available to OSMRE and State regulatory authorities for dealing with improvidently issued permits. One said that the rule would put numerous contract miners out of work because a large company could not take the risk that a contractor might have failed to abate a violation or pay a penalty or fee in connection with another operation. This, the commenter said, could result in the closing of a large company's mines and the forcing of contract miners out of business.

Another commenter said that the rule created unnecessary obligations, and that a more focused approach to the problem would be a more prudent course. Another said that instead of issuing a new rule, OSMRE should develop a uniform and consistent policy or procedure for progressive enforcement actions against failures to abate violations and the nonpayment of civil penalties or reclamation fees.

The commenter said that instead of permit rescission, the regulatory authority should use existing procedures, such as better enforcement and the issuance of a notice of violation followed by a failure-to-abate cessation order. If compliance, or satisfactory progress toward compliance, were not achieved within ninety days, the earlier permit would be suspended. Failure to reclaim or to comply ultimately would result in bond forfeiture and revocation of the earlier permit.

OSMRE disagrees. This rule is needed to give regulatory authorities specific procedures which the existing regulatory scheme does not provide for dealing with improvidently issued permits. As such, it will provide not only the "focused approach" sought by the one commenter, but also the "uniform and consistent" procedures sought by the other. It will not put any law abiding permittees, operators or contract miners out of business, but will give any permittee whose permit was improvidently issued a reasonable opportunity to bring about the correction of the defect in the permit and thus continue mining.

The threat of alternative enforcement at a previous site with an unabated violation or a delinquent penalty or fee would not have an affect on operations under an improvidently issued permit. The potential rescission of an improvidently issued permit under this rule will give a permittee an incentive in addition to a cessation order or other enforcement action at a previous operation to bring about the abatement of a violation or the payment of a penalty or fee resulting from that operation.

One commenter said that the Congress provided an elaborate and detailed review process by which any objection to a permit decision must be raised. Therefore, the commenter concluded, a presumption of validity accompanies a regulatory authority's decision to issue a permit, and the only remedy for an improvidently issued permit is an appeal under sections 514 and 526 of the Act, 30 U.S.C. 1264 and 1276, and their State program counterparts.

OSMRE disagrees that an appeal is the only lawful remedy. Section 514 of the Act, which gives certain persons a right to appeal a permit decision, neither limits the authority of OSMRE to adopt this rule nor the power of State regulatory authorities over improvidently issued permits. Nor does section 526 of the Act, which applies to judicial review of OSMRE and State regulatory authority actions, place any limitation on the authority of OSMRE or a State to adopt or implement the oversight and enforcement procedures of this rule.

a. *Section 773.20(c)(1).* Section 773.20(c)(1) gives a regulatory authority the alternative of implementing, with the cooperation of the permittee or other person responsible, and of the responsible agency, a plan for abatement of the violation or a schedule for payment of the penalty or fee on which the finding of improvident issuance was based. This section derives from later proposed § 773.20(b)(1).

The cooperation of the permittee or other person responsible, and of the responsible agency, is necessary to insure the initial feasibility of and ultimate compliance with any resulting plan or schedule. If the permittee or

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other person responsible is unwilling to cooperate in implementing an abatement plan or payment schedule, the regulatory authority should use one of the other remedial measures.

Any unwillingness on the part of the person responsible to cooperate with the regulatory authority in this process should not be construed as a lack of ownership or control on the part of the permittee. Otherwise, persons responsible might be induced to withhold cooperation as a means of demonstrating the lack of an ownership or control link.

Cooperation of Responsible Agency

One commenter said that the lack of a reference to the responsible agency in the provision of the later proposed rule corresponding to final § 773.20(c)(1) was inconsistent with later proposed § 773.21(a)(3), which required compliance with an abatement plan or payment schedule to the satisfaction of the responsible agency. The commenter asked whether this lack had any significance.

The lack of an explicit reference to the responsible agency in later proposed § 773.20(b)(1) was an oversight that was corrected in final § 773.20(c)(1). Where an agency other than the regulatory authority has jurisdiction over the unabated violation or delinquent penalty or fee, it is appropriate that the regulatory authority implement any abatement plan or payment schedule with the cooperation of that agency.

b. *Section 773.20(c)(2).* Section 773.20(c)(2) gives a regulatory authority the alternative of imposing on an improvidently issued permit a condition requiring that in a reasonable period of time the permittee or other person responsible abate the violation or pay the penalty or fee on which the finding of improvident issuance was based. This section derives from later proposed § 773.20(b)(2).

The final rule was revised to provide explicitly for a reasonable period of time for abatement or payment. This was done because the permittee otherwise would be in violation of the condition immediately after it was imposed. After this reasonable period of time, lack of compliance would subject the permittee to the enforcement measures of the regulatory program for the violation of a permit condition.

c. *Section 773.20(c)(3).* Section 773.20(c)(3) gives a regulatory authority the alternative of suspending an improvidently issued permit until the underlying violation is abated or the delinquent penalty or fee is paid. This section derives from later proposed § 773.20(b)(3).

A suspension under § 773.20(c)(3) will enable a regulatory authority to terminate mining operations under a permit for an indefinite period of time without subjecting the permittee to the possible financial, legal or other consequences that permit rescission might entail, such as default on financial or contractual agreements.

Unlike § 773.21 of this rule, § 773.20(c)(3) does not set out specific suspension procedures. A regulatory authority which elects to suspend a permit under this section may use any appropriate procedures that are consistent with the regulatory program. Unless sound reasons exist to the contrary, however, OSMRE anticipates that a suspension under this section would at a minimum include a requirement that reclamation of the site continue in a manner consistent with the anticipated duration of the suspension, and provide for administrative appeal.

Permit Suspension Procedures

One commenter said that OSMRE should modify later proposed § 773.20(b)(3) to allow the regulatory authority an appropriate period of time before initiating permit suspension. The commenter said that permit suspension could be more onerous than rescission if it occurred immediately, without an opportunity for the permittee to correct the defect in the permit.

OSMRE did not expressly adopt the commenter's suggestion. Section 773.20(c)(3) does not set out specific suspension procedures, but allows the regulatory authority to use any appropriate procedures that are consistent with the regulatory program, including a reasonable period of time between notifying a permittee of a suspension and when the suspension becomes effective.

The same commenter said that it was unclear whether the permit rescission procedures of § 773.21 applied both to suspension under later proposed § 773.20(b)(3), and to suspension and rescission under later proposed § 773.20(b)(4). The commenter concluded that § 773.21 applied only to rescission under § 773.20(b)(4).

The commenter is correct. As was proposed, final § 773.21 applies only to permit suspension and rescission under § 773.20(c)(4) of this rule. The suspension provision in § 773.20(c)(3) was included in the rule to give a regulatory authority discretion to tailor a suspension to the unique circumstances involving a particular permit, and thus prevent in appropriate cases such potentially onerous consequences as those to which the commenter referred.

To further clarify that § 773.21 applies only to permit suspension as a preliminary step in the permit rescission process, and not to suspension under § 773.20(c)(3), the word *suspension* was deleted from the heading of § 773.21.

d. *Section 773.20(c)(4).* Section 773.20(c)(4) gives a regulatory authority the alternative of rescinding an improvidently issued permit under § 773.21 of this rule.

This section derives from later proposed § 773.20(b)(4). For more on this remedial measure, see the immediately following discussion of § 773.21.

C. Section 773.21—Improvidently Issued Permits: Rescission Procedures

1. Overview

Section 773.21 of this rule sets out the procedures a regulatory authority must use when it elects to rescind an improvidently issued permit. It requires the regulatory authority to serve on the permittee a notice of proposed suspension and rescission which includes the reasons of the regulatory authority for its finding under § 773.20(b) of this rule. In addition, the notice must state (1) when the proposed suspension and rescission will take effect; (2) what proof the permittee must submit to forestall the suspension and rescission; (3) the effect of the suspension and rescission; and (4) the applicable appeal procedures.

This section derives from later proposed § 773.21. To insure that the permittee receiving a notice of proposed suspension and rescission is fully aware of its effect, this rule incorporates all of the requirements of later proposed § 773.21 into the notice itself.

An explicit requirement for the regulatory authority to include in the notice the reasons for its finding under § 773.20(b) of this rule, which was implicit in later proposed § 773.21(a)(1), was added to this section to insure that the permittee is informed of the basis for the finding. In serving a notice of proposed suspension and rescission on a permittee, OSMRE intends that the regulatory authority will follow the procedures of 30 CFR 843.14, or the State program equivalent, for the service of notices of violation, cessation orders, and show cause orders.

2. Section 773.21(a) Automatic Suspension and Rescission

Section 773.21(a) requires a regulatory authority to state in a notice of proposed suspension and rescission that after a specified period of time not to exceed ninety days the permit automatically will be suspended, and not to exceed

ninety days thereafter will be rescinded, unless within those periods the permittee demonstrates to the regulatory authority that the finding on which the notice was based was erroneous at the time it was made, or that he or she subsequently has brought about the necessary corrective action.

The maximum ninety-day notice periods prior to the effect of suspension and rescission derive from later proposed § 773.20(a). Periods shorter than ninety days may be set at the discretion of the regulatory authority as circumstances warrant, and the periods for suspension and rescission may have different durations.

The notice period for permit rescission begins to run on the date a suspension becomes effective, so that under the rule the maximum notice period is one hundred and eighty days. The specified periods include Saturdays, Sundays and holidays.

These notice periods were adopted for several reasons. They will give the permittee adequate time in appropriate cases to take corrective action or to gather and submit the proof required to forestall the proposed suspension and rescission. Such proof may not be readily available to the permittee if the person responsible for the violation, penalty or fee is linked to the permittee through a complex chain of ownership or control.

In view of the potentially severe consequences which permit suspension or rescission may have on the financial and contractual obligations, reputation, and employees of a permittee, and the diversity of circumstances under which a permit may be suspended or rescinded under this rule, it is reasonable to give the regulatory authority discretion to set appropriate periods before the notice takes effect. The notice periods also will enable the permittee to file an appeal as provided for by § 773.21(c) of this rule.

The proof which the permittee must submit to forestall the suspension and rescission of the permit is either that (1) the finding of the regulatory authority under § 773.20(b) of this rule was erroneous; (2) the permittee or other person responsible has abated the violation on which the finding was based, or paid the delinquent penalty or fee, to the satisfaction of the responsible agency; (3) the unabated violation or delinquent penalty or fee is the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; or (4) since the finding was made the permittee has severed any ownership or control link with the person responsible for, and does not continue to be responsible for, the violation, penalty or fee.

Under § 773.21(a)(1) a permittee may submit proof concerning the status of the violation, penalty or fee at the time the finding was made, including any abatement, payment, appeal or abatement plan or payment schedule overlooked by the regulatory authority. Under § 773.21(a) (2) and (3), the permittee may submit proof concerning any abatement, payment, appeal or abatement plan or payment schedule that arose after the finding was made and the notice was issued.

Likewise, under § 773.21(a)(4) the permittee may submit proof that the applicable ownership or control link was severed after the notice of proposed suspension and rescission was issued, and that the permittee does not continue to be responsible for the violation, penalty or fee. This provision was added to make final § 773.21(a) consistent with § 773.20(b)(3), which precludes a finding of improvident issuance under similar circumstances.

Thus, a permittee generally may forestall suspension or rescission under a notice of proposed suspension and rescission by using the waiting period set by the regulatory authority to prove that the finding was erroneous or to remedy the defect in the permit. Again, from the standpoint of administrative efficiency it is consistent with section 510(c) of the Act to afford the permittee a reasonable period of time to submit this proof or correct the defect in the permit, and thereby achieve a state of compliance that neither would have blocked the permit initially or have led to a finding of improvident issuance under this rule.

Ninety-Day Notice Periods

Several commenters said that the proposed ninety-day notice periods prior to suspension and rescission under the rule were unjustified.

OSMRE disagrees. Contrary to the commenters' interpretation, these periods may not exceed ninety days, but can be shorter, as circumstances warrant. As explained in the preceding discussion of § 773.21(a), these notice periods were adopted to give the permittee adequate time in appropriate cases to gather and submit the proof required to forestall the proposed suspension and rescission or take necessary corrective action, to account for the diversity of circumstances under which a permit may be suspended or rescinded under this rule, and to enable the permittee to file an appeal as provided for by § 773.21(c) of this rule.

Several commenters said that the rescission procedures of the initial proposed rule were onerous and uneven, and provided preferential treatment to a permittee who consciously violated section 510(c) of the Act, as compared to one who in good faith provided all information on existing violations. Because the risk of agency error was small compared to the high degree of risk to the public and the environment, these commenters said, the rule should not give a permittee any time to enter into an abatement plan or payment schedule before a permit was rescinded, and that to do so would undercut compliance with section 510(c), encourage and reward fraud in permit application preparation, and place the public and the environment at risk.

OSMRE disagrees. As explained in detail elsewhere in this preamble, from the standpoint of administrative efficiency, and considering the multiple purposes of the Act, it is reasonable and appropriate to give a permittee a realistic period of time to bring his or her permit into compliance before permit suspension and rescission ultimately take effect.

The tiered approach of permit suspension followed by rescission was adopted to give the regulatory authority sufficient discretion to apply this remedial measure in a way that not only will fully protect the public and the environment, but also will reflect the underlying circumstances and the potential impact of these actions on the affected permittee.

Proof Required to Negate Notice

One commenter asked for examples of what would constitute satisfactory proof that the finding of the regulatory authority was erroneous, or that the permittee or other person responsible had abated the violation or paid the delinquent penalty or fee, or had entered into an abatement plan or payment schedule.

Because of the diversity of circumstances under which the rule will apply, it is not possible or appropriate to place strict limitations on what might constitute sufficient proof under § 773.20(a). OSMRE intends that the regulatory authority will evaluate the sufficiency of the proof submitted by a permittee on a case-by-case basis.

Generally, the proof should include a copy of some official written document which confirms that the defect in the permit has been or is in the process of being corrected. It may include, for example, a termination notice issued by a regulatory authority, indicating that the underlying violation had been

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corrected; a cancelled check indicating payment of money owed; or a copy of a suitable abatement plan or payment schedule with accompanying evidence of compliance.

3. Section 773.21(b) Cessation of Operations

Section 773.21(b) requires a regulatory authority to state in a notice of proposed suspension and rescission that after permit suspension or rescission the permittee shall cease all surface coal mining and reclamation operations under the permit, except for violation abatement and for reclamation and other environmental protection measures as required by the regulatory authority. This section derives from later proposed § 773.21 (b).

The phrase "as required by the regulatory authority" in this section refers only to reclamation and other environmental protection measures, and not violation abatement, which is required in any case. This phrase was substituted for the proposed phrase, "required reclamation," to make it clearer that the regulatory authority has discretion to make the reclamation requirement consistent with any substantial likelihood that mining under the permit will resume, and thus relieve the permittee, under appropriate circumstances, from performing unproductive reclamation activities.

The phrase, "and other environmental protection measures," was added to the final rule to enable a regulatory authority to account for environmental effects which may arise where mining has ceased, but complete reclamation has not yet begun. Under such circumstances, the use of other protection measures may be needed to reduce or prevent environmental impacts caused by the cessation of mining or deferral of complete reclamation. The addition of this phrase is consistent with the requirement of later proposed § 773.21(b) that the permittee perform "required reclamation" because the discretion of the regulatory authority to defer complete reclamation necessarily includes discretion to impose measures needed to ensure that the exercise of this discretion does not lead to additional environmental harm.

The regulatory authority may specify in the notice itself any reclamation that the permittee is required to perform, or subsequently may inform the permittee regarding the reclamation requirement. This discretion is not intended to eliminate a reclamation requirement, but to allow temporary deferral of certain reclamation activities under circumstances where the resumption of mining appears probable.

Reclamation Responsibility After Permit Rescission

Several commenters said that since a permit is issued to conduct not only surface coal mining operations, but also reclamation, permit rescission terminates not only the right to mine, but also the right to reclaim. Thus, the commenters said, the requirement of the rule for a permittee to reclaim the site following permit rescission was unfounded.

OSMRE disagrees. As set out in section 102(e) of the Act, 30 U.S.C. 1202(e), it is a purpose of the Act to "assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with * * * surface coal mining operations." In view of this purpose, OSMRE has a duty to interpret the remainder of the Act in a manner that will bring about the satisfactory completion of reclamation in situations where a permit is rescinded.

Following their inclusion in a regulatory program, the environmental protection performance standards in section 515(b) of the Act, 30 U.S.C. 1265(b), including those for reclamation, apply to "*all* surface coal mining and reclamation operations." (Emphasis added.) Thus, the reclamation requirements apply whether an operation is permitted or not.

A permittee who disturbs a site as a result of operating under an improvidently issued permit incurs a reclamation obligation under the applicable regulatory program, which terminates only upon satisfactory completion of reclamation. The rescinding of a permit does nothing to terminate or otherwise affect this obligation to reclaim.

Moreover, although section 506(a) of the Act, 30 U.S.C. 1256(a), requires that "no person shall engage in * * * *any surface coal mining operations* unless such person has first obtained a permit," this requirement for a permit is limited to surface coal mining operations, and does not extend to reclamation operations. (*See Alabama By-Products Corp. and Drummond Coal Co., Inc.* v. *OSMRE*, 103 IBLA 264, 271 72 (1988), and *Citizens for the Preservation of Knox County*, 81 IBLA 209, 218–219 (1984), which conclude that a permanent program permit is not needed to reclaim a site that was mined under an interim program permit; *and* the OSMRE proposed rule at 53 FR 36404 (September 19, 1988) concerning the removal of requirements that an operator obtain or renew a permit when only reclamation activities must be performed.)

Thus, it is consistent with the purpose set out in section 102(e) of the Act and the general authority provided by section 201(c)(2) of the Act for OSMRE to establish procedures requiring reclamation in conformance with the Act following permit rescission.

Postponing Reclamation Requirement

One commenter on the initial proposed rule said that where a permit is rescinded the operator should be given time to cure the defect in the permit before reclamation of all areas is required.

OSMRE agrees with the commenter that after receiving a notice of proposed suspension and rescission an operator should have a reasonable amount of time to cure the defect in the permit before complete reclamation of all areas for which a reclamation obligation exists is required. Thus, final § 773.21 gives a permittee up to ninety days before a permit is suspended, and up to ninety days more until it is rescinded, in which to cure the defect in the permit.

Following permit suspension or rescission, § 773.21(b) requires the permittee to undertake reclamation and other environmental protection measures as required by the regulatory authority. Depending on what the permittee is doing to correct the defect in a *suspended* permit, this would enable the regulatory authority under appropriate circumstances to make reasonable adjustments in the required reclamation schedule. Following permit *rescission*, however, any delay in the commencement or continuation of complete reclamation would not be appropriate.

Full Range of Enforcement Measures

Initial proposed § 773.20(b) provided for the issuance of a notice of violation (NOV) to a permittee as an initial step in the permit rescission process. Provision for this NOV was removed from the later proposed rule, and was not included in the permit rescission procedures of final § 773.21.

One commenter asked whether the full range of enforcement measures would be taken against a permittee issued an NOV under initial proposed § 773.20(b) if an outstanding violation at another site remained unabated. The commenter suggested that it would be inappropriate to do so since the underlying violation requiring rescission of the permit was the result of a failure to abate at a different operation, and presumably had been previously subjected to the full range of alternative enforcement measures.

OSMRE agrees in part, which is one reason why the procedures of the initial proposed rule were changed in the later proposed and final rules.

The commenter is correct that a notice of proposed suspension and rescission, and any subsequent enforcement, would not directly apply to the reclamation of another site. For a violation at another site, alternative enforcement measures are governed by 30 CFR 723.15(b)(2) and 845.15(b)(2), not § 773.21.

Once permit rescission becomes effective, however, the permittee no longer will have the privilege of mining at the site for which the permit was rescinded. If the permittee of the rescinded permit does not comply with the requirement of § 773.21(b) for the cessation of mining operations and for reclamation and other environmental protection measures at the site of the rescinded permit, then the full range of enforcement measures, including the issuance of a cessation order and the assessment of civil penalties, may be taken against the permittee for mining without a valid permit.

4. Section 773.21(c) Right to Appeal

Section 773.21(c) requires a regulatory authority to state in a notice of proposed suspension and rescission the procedures by which the recipient may file an appeal from the notice. This section derives from later proposed § 773.21(c).

Under this section, an appeal from a notice of proposed suspension and rescission may be filed by a permittee under 43 CFR 4.1280–4.1286, or the State program equivalent. The referenced §§ 4.1280–4.1286 generally apply to appeals from those decisions of the Director of OSMRE for which the Act does not require formal adjudication under 5 U.S.C. 554.

Under § 773.21(c) the notice also must state that where OSMRE is the regulatory authority the procedures of 43 CFR 4.21(a) shall not apply to suspend the effect of the notice. This precludes a suspension of the notice both during the time when an appeal of the notice may be filed and while an appeal is pending.

The alternative of allowing the filing of an appeal to stay the effect of the notice pending a decision could defeat the purpose of the notice by enabling mining to proceed to completion. This provision makes the notice effective immediately when issued, and the maximum ninety-day periods before an automatic suspension or rescission are not affected by the filing of an appeal. Nothing in the rule will prevent the recipient of a notice of proposed suspension and rescission from seeking a temporary stay as part of the normal administrative review process.

In an appeal under § 773.21(c), the review authority may allow any person responsible for the underlying violation, penalty or fee through a relationship of ownership or control to intervene. If the permittee does not appeal, but instead chooses another way to forestall suspension and rescission, such as severing the link to the responsible person, any other person may contest in the appropriate forum his or her responsibility for the violation, penalty or fee if that opportunity was not previously provided.

As discussed in the ownership and control rule at 53 FR 38879, questions involving a Federal violation, penalty or fee must be resolved in a Federal forum, and both individuals and organizations may seek to amend incorrect information in the Applicant/ Violator System.

Scope of Appeal

Several commenters on the initial proposed rule said that an appeal of permit rescission should only concern whether the permittee or other person responsible in fact had been cited for the violation on which rescission was based, and not whether the citation itself was lawful, which should have been contested in a separate and timely appeal proceeding following issuance of the violation notice.

OSMRE agrees that an appeal from a notice of proposed suspension and rescission is not the proper forum for direct appeal of the underlying violation, penalty or fee when an earlier opportunity was provided. Generally, however, a permittee should be allowed to contest the basis for the notice. Whether any particular issue can be relitigated in a particular case will depend on the accepted legal principles of *res judicata* and collateral estoppel.

Cessation of Operations Pending Appeal

One commenter objected to later proposed § 773.21 (b) and (c) to the extent they required a permittee to cease operations pending an appeal of a notice of proposed suspension and rescission. The commenter said that since the violation would not have occurred under the permit that was subject to suspension or rescission, operations under that permit should not have to cease, and that when the Congress addressed permit suspension for a pattern of violations in section 521(a)(4) of the Act it provided for a hearing prior to the suspension.

Likewise, the commenter said, under section 521(a)(5) of the Act a cessation order expires if a hearing is not held within thirty days of actual notice to the operator. By not affording a hearing prior to suspension or rescission, the commenter concluded, the rule was contrary to the explicit provisions of the Act, as well as the guarantee of due process under the Fifth Amendment to the Constitution.

OSMRE disagrees. The commenter's objection concerns the provision in later proposed and final § 773.21(b) that requires the permittee to cease operations after permit suspension or rescission becomes effective, and the provision in later proposed and final § 773.21(c) that makes 43 CFR 4.21(a) inapplicable to a notice of proposed suspension and rescission. Absent that later provision, under § 4.21(a) the notice would not be effective during the time in which a person adversely affected might file an appeal, and the filing of an appeal would suspend the effect of the notice pending the decision on appeal, so the permittee could continue mining.

Contrary to the commenter's assertion, a notice of proposed suspension and rescission under § 773.21 is based not only on a previous violation, penalty or fee, but also on a violation associated with the permit in question—namely, operating under an improvidently issued permit. And § 4.21(a) expressly provides for exceptions to its provisions through other regulations such as this rule.

Since operations under an improvidently issued permit should not have commenced in the first place, it is appropriate to impose reasonable restrictions on how long they may continue after a notice of proposed suspension and rescission is issued. If § 4.21(a) applied, a permittee who appealed a notice could continue to mine until the appeal was decided, regardless of the consequences to the public and the environment.

Rather than risk the potentially harmful results that could ensue under an automatic stay under § 4.21(a), the rule gives the regulatory authority discretion to adopt, on a case-by-case basis, notice periods as long as ninety days before suspension and rescission take effect, or an overall maximum of one hundred and eighty days. This will enable the regulatory authority to reasonably balance the rights of the permittee against the need to protect society and the environment from potential adverse consequences. Moreover, it will add to the incentive provided by the rule for the permittee to bring about abatement or payment of

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the violation, penalty or fee on which the notice is based.

As the commenter pointed out, section 521(a)(4) of the Act and the implementing regulations at 30 CFR 843.13 allow a permittee to request a public hearing before a suspension under their provisions becomes effective. Corresponding provisions in section 521(b) of the Act, however, only require the Secretary to give the permittee a reasonable time to conform ongoing operations to the requirements of the Act before suspending or revoking a State permit.

Thus, the Congress did not intend that the procedures in section 521(a)(4) pertaining to a pattern of violations would apply in all circumstances, and this rule legitimately may employ other appropriate procedures. The procedures governing cessation orders in section 521(a)(5) of the Act are limited to that specific context and do not apply to this rule.

Subject only to the limitation that the procedures of 43 CFR 4.21(a) do not apply where OSMRE is the regulatory authority, the rule affords a permittee a reasonable right to file an appeal for administrative review of a notice of proposed suspension and rescission, and does not preclude the granting of a temporary stay of the notice. This is fully consistent with the guarantee of due process under the Fifth Amendment to the Constitution.

D. Section 843.13 Suspension or Revocation of Permits: Pattern of Violations

This rule revises the heading of existing § 843.13, which governs the suspension and revocation of a surface coal mining and reclamation permit for a pattern of violations occurring under that permit. The revision adds at the end of the heading the phrase, "Pattern of violations."

The expanded heading will help to differentiate § 843.13 from new § 773.21, which governs permits that were improvidently issued as a result of an unabated violation or a delinquent penalty or fee at another operation prior to the time of permit issuance.

No comments were received on this revision, which is adopted as proposed.

E. Section 843.21 Procedures for Improvidently Issued State Permits

1. Overview

A State regulatory authority in some instances may not take the action required by § 773.20 of this rule, or the State program equivalent, with respect to an improvidently issued permit. This may result from a lack of equivalent regulations in the State program, or from other causes.

OSMRE is adding to the existing Federal enforcement procedures in 30 CFR Part 843 a new § 843.21 to provide a mechanism for Federal enforcement in these situations. Unless otherwise noted, the provisions of § 843.21 derive from the correspondingly numbered paragraphs of later proposed § 843.21.

If OSMRE has reason to believe that a State surface coal mining and reclamation permit meets the criteria of this rule, or the State program equivalent, for an improvidently issued permit, § 843.21 requires OSMRE to issue to the State an initial notice of that belief, requires the State to respond within a specified period of time, and where the State response is inadequate requires OSMRE to issue to the State a ten-day notice.

If the State does not take appropriate action under the ten-day notice, or show good cause for not doing so, the rule requires OSMRE to take appropriate remedial action, which may include the issuance of a notice of violation (NOV). Where an NOV is issued, the rule allows any person to submit information which may lead OSMRE to either vacate or terminate the NOV. Finally, the rule prohibits OSMRE from assessing a civil penalty for such an NOV.

Jurisdictional Considerations

One commenter said that the initial proposed rule gave the clear implication that it would be used to make the operator the pawn in a chess match between OSMRE and any State which failed to enforce its regulatory program. The commenter was concerned that the rule would enable OSMRE to impose on an operator requirements a State was unwilling to impose, which might result in a domino effect leading to the rescission of permits for other operations owned or controlled by that operator.

OSMRE disagrees that the rule involves any considerations other than legitimate oversight and enforcement of State regulatory programs under the Act.

Section 510(c) of the Act. imposes on an applicant an affirmative obligation to list all notices of violations of the Act and other specified environmental laws and regulations, and requires a regulatory authority to withhold a permit in appropriate circumstances. As revised on October 3, 1988 (53 FR 37165), 30 CFR 773.15(b)(1) requires a regulatory authority to withhold a permit if any operation owned or controlled by either the applicant or by any person who owns or controls the applicant currently is subject to certain unabated violations or delinquent penalties or fees.

This rule requires no more than does section 510(c) and 30 CFR 773.15. A permittee who obtains a permit in contravention of these requirements has no cause to complain that rescission of the permit makes it a pawn in any disagreement that may lie between OSMRE and the issuing State. Where the State should not have issued the permit in the first place, the remedial measures of this rule merely seek to place the permittee in its lawful status.

One commenter, who suggested a previously discussed alternative to §§ 773.20 and 773.21 of this rule based on an order to show cause, said that under the alternative no need would exist for proposed § 843.21 because adequate remedies existed under the Act for OSMRE to contest individual permits or to supersede the State permitting process. The commenter specifically referenced sections 513(b), 514(c), 521(b) and 526(e) of the Act, 30 U.S.C. 1263(b), 1264(c), 1271(b) and 1276(e).

OSMRE disagrees. This rule does not supersede the State permitting process. Neither the suggested alternative nor the cited provisions of the Act minimize the need for this rule, which will provide OSMRE and the States with specific procedures for dealing with improvidently issued permits. The Congress in enacting section 201(c)(2) of the Act recognized the need for OSMRE to "publish and promulgate such rules and regulations as may be necessary to carry out [its] purposes and provisions," and this rule is a necessary and legitimate exercise of that rulemaking authority.

AVS Memorandum of Understanding

One commenter said that initial proposed § 843.21 conflicted with a memorandum of understanding (MOU) between State regulatory authorities and OSMRE concerning the implementation of the Applicant/Violator System. The commenter said that under the MOU, until all necessary State and Federal rule changes have taken place a State is required only to enforce its existing statutes and regulations. If State law prohibited permit rescission, the commenter concluded, it was not appropriate for OSMRE to rescind a State permit.

OSMRE disagrees that this rule conflicts with the MOU. Section 773.20 of the rule applies to the violations review criteria of the regulatory program in force at the time a permit was issued. Section 843.21, which references § 773.20, also applies to the criteria in force at the time of permit issuance. Neither section requires a regulatory

authority to take any action that is inconsistent with its existing regulatory program.

While each primacy State, in due course, must adopt regulations consistent with this rule, the MOU was not intended to preclude the amendment of State programs. Prior to the adoption of consistent regulations by a State, the rule will give OSMRE necessary enforcement power to take appropriate remedial action on an improvidently issued State permit. Such remedial action does not include suspension or rescission of a State permit.

Extensions of Time

One commenter asked if the maximum ninety-day extension of time afforded by initial proposed § 773.20(b)(2) and (b)(3) also applied to the procedures under § 843.21.

As neither final § 773.20 nor § 773.21 any longer provide for an extension of time, this comment is moot. Where an NOV is issued under § 843.21, the deadlines normally associated with an NOV will apply.

Ownership and Control Relationships Covered

One commenter said that initial proposed § 843.21 failed to fully account for relationships of ownership or control, and that § 843.21(c), (c)(2) and (c)(3) should be revised to cover any person responsible for an unabated violation or a delinquent penalty or fee.

OSMRE agrees and has added the phrase, "other person responsible," to this and the later proposed rules where appropriate to cover a relationship of ownership or control.

Review of State Section 510(c) Findings

One commenter asked if OSMRE intended to review all State section 510(c) findings on a day-to-day basis.

OSMRE does not intend to review all section 510(c) findings made by State regulatory authorities, but may sample them in a random manner as part of its oversight role.

2. Section 843.21(a) Initial Notice

As the first step in the Federal enforcement of an improvidently issued State permit, § 843.21(a) requires OSMRE to issue to the State an initial notice. The notice must state in writing the reasons why OSMRE has reason to believe that a State surface coal mining and reclamation permit meets the criteria for an improvidently issued permit in § 773.20(b) of this rule, or the State program equivalent, and that the State must take appropriate action on the permit under State program equivalents of §§ 773.20 and 773.21 of this rule.

Although § 843.21(a) refers to the State program equivalents of both §§ 773.20 and 773.21, as do the subsequent provisions of § 843.21, action by a State under the equivalent to § 773.21 is discretionary. Reference to both sections is included for completeness because under § 773.20(c)(4) one of the appropriate actions a State may take against an improvidently issued permit is rescission, which if elected must occur under the State program equivalent to § 773.21.

This notice is called an "initial notice" to differentiate it from a ten-day notice issued under subsequently discussed § 843.21(c) of this rule. The rule also encourages, but does not require, OSMRE to provide to the permittee a copy of the notice. This discretion was included in the rule to forestall the possibility of invalidating any subsequent enforcement steps taken under this section due to an inadvertent lack of initial notice to the permittee.

Since the initial notice primarily is concerned with State compliance, and since the vacation and termination procedures in subsequently discussed § 843.2l(e) provide ample relief to a permittee in the event of an error, a permittee who fails to receive the initial notice should not suffer any significant hardship. OSMRE will mail, or otherwise deliver, a copy of the initial notice to the permittee at his or her last known address.

Mandatory Ten-Day Notice

Several commenters on the later proposed rule said, without further explanation, that OSMRE was obligated to take enforcement action within ten days after notifying a State that a permit was improvidently issued, and nothing would constitute "good cause" for the State not taking action to suspend the permit. Several commenters said that the initial proposed rule illegally converted the ten day notice under section 521 of the Act into a forty-plus day notice. These commenters said that there was no legal or practical justification for extending the period for State response beyond ten days.

OSMRE disagrees. Section 521(a)(1) of the Act, 30 U.S.C. 1271(a)(1), which applies to "any * * * violation of any requirement of [the] Act or any permit condition required by the Act," does require OSMRE to issue a notice to the applicable State regulatory authority, for which the State has ten days to respond. (For the OSMRE interpretation of the requirements of section 521(a), see the July 14, 1988 OSMRE final rule at 53 FR 26742, which this preamble incorporates by reference.) Section 521(b) of the Act, however, which applies to a deficiency in State enforcement of all or any part of an approved State program, requires OSMRE to give a State thirty days' notice before holding a public hearing.

Since a State's lack of appropriate action on an improvidently issued permit may involve both a potential deficiency in State enforcement of its regulatory program, as well as an individual violation of the Act, it is reasonable for this rule to employ a tiered notice approach which reflects the goals and timing of both sections 521(a)(1) and 521(b). The authority for this regulatory approach, which is consistent with paragraph No. 3 of the Revised Parker Order, is set out under the subsequent heading, II.F.1. Statutory Authority.

3. Section 843.21(b) State Response

Section 843.21(b) gives a State thirty days to respond to an initial notice issued under § 843.21(a) of this rule concerning a potential improvidently issued permit. To forestall further proceedings under this section, the State must demonstrate to OSMRE in writing either that (1) the permit does not meet the criteria of § 773.20(b) of this rule, or the State program equivalent, for an improvidently issued permit; or (2) that the State is in compliance with the State program equivalents of §§ 773.20 and 773.21 of this rule.

As is explicitly provided in subsequently discussed § 843.21(d), a State cannot meet this requirement by demonstrating that the State program lacks equivalents to §§ 773.20 and 773.21.

4. Section 843.21(c) Ten-Day Notice

If OSMRE finds that a State has not made the demonstration required by § 843.21(b) of this rule, § 843.21(c) requires OSMRE to issue to the State a ten-day notice stating in writing the reasons for that finding and requesting that within ten days the State take appropriate action under the State program equivalents of §§ 773.20 and 773.21 of this rule.

This section does not impose any time limit on when OSMRE may make the required finding. OSMRE may make this finding prior to expiration of the thirty-day response period of § 843.21(b) where the State inadequately has attempted to make the required demonstration. If a State does not respond, however, OSMRE will not issue a ten-day notice until after the thirty-day response period of § 843.21(b) has expired.

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5. Section 843.21(d) Federal Enforcement

Section 843.21(d) requires OSMRE to take appropriate remedial action if after ten days a State which is issued a ten-day notice does not take appropriate action under the State program equivalents of §§ 773.20 and 773.21 of this rule, or show good cause for its inaction. Under this section, good cause does not include the lack of State program equivalents of §§ 773.20 and 773.21.

For OSMRE to find that a State is taking appropriate remedial action under this section, the State need not have completed the processing of an improvidently issued permit under the State program equivalents of §§ 773.20 and 773.21. As long as the State has begun a process as effective as that of § 773.20, and is making reasonable progress toward imposing and enforcing any appropriate remedial measures, the State is taking appropriate action.

Appropriate remedial action by OSMRE under § 843.21(d) may include, but is not limited to, the issuance of a notice of violation (NOV) requiring that by a specified date all mining operations shall cease and reclamation of all areas for which a reclamation obligation exists shall commence or continue unless, to the satisfaction of the responsible agency, any violation, penalty or fee on which the notice of violation was based is abated or paid, or an abatement plan or payment schedule is entered into, or any ownership or control link with the person responsible is severed and the permittee does not continue to be responsible for the violation, penalty or fee.

Provision for allowing the permittee to sever his or her link with the person responsible as a way to forestall an NOV if the permittee does not continue to be responsible for the violation, penalty or fee, was added to make § 843.21(d) consistent with § 773.20(b)(3), which precludes a finding of improvident issuance under similar circumstances. As previously discussed, for purposes of section 510(c) of the Act severing the link to the person responsible should have the same effect regardless of when it occurs.

Reclamation Requirement

One commenter objected to the requirement of initial proposed § 843.21(b)(2) for the commencement or continuation of reclamation for all areas for which a reclamation obligation existed. The commenter said that the mere interruption of mining would be sufficient to induce compliance, and that it was unnecessarily harsh to require termination of the operation when interruption would achieve the desired result.

Where a notice of violation was issued under § 843.21, the commenter concluded, the permittee only should be required to meet contemporaneous reclamation requirements, but complete reclamation, such as backfilling the pit, removal or roads and sedimentation ponds, and dismantling of buildings and other structures, should not be required.

OSMRE disagrees in part. To the extent the commenter's concern is based on the requirement of initial proposed § 843.21(b) for the immediate cessation of mining and the commencement or continuation of reclamation upon issuance of a notice of violation (NOV) under that section, later proposed and final § 843.21(d) were revised to temper this excessively stringent requirement. Section 843.21(d) now allows OSMRE to postpone this requirement for "a specified time" following issuance of the NOV in order to give the permittee time to abate the violation.

While a notice of violation issued under § 843.21(d) must include a requirement that complete reclamation commence or continue after a specified date, prior to that date the permittee may continue mining. Thus, the permittee will have notice of, and an opportunity to correct, the defect in the permit before mining is either interrupted or terminated. Only after this reasonable period for abatement expires must mining cease and reclamation commence or continue.

If a substantial likelihood arises that the permittee will be able to correct the defect in the permit after the specified date, although mining must cease OSMRE may amend the reclamation requirement in the NOV to reflect this development. After the permittee has demonstrated an unwillingness or an inability to correct the defect in the permit, however, complete reclamation is in order.

Where an NOV is issued under § 843.21(d) and the permittee or other person responsible has failed to remedy the defect in the permit, a mere interruption of the mining operation would be insufficient to compel compliance. Thus, a requirement to commence reclamation is appropriate.

Cessation of Mining

One commenter said that OSMRE lacks authority to require the immediate cessation of mining, as required by initial proposed § 843.21, in the absence of an inspection which results in a finding of a violation causing "an imminent danger to the health and safety of the environment" or actual or potential "significant, imminent environmental harm to land, air, or water resources."

OSMRE disagrees. The circumstances quoted by the commenter, which are set out in section 521(a)(2) of the Act, 30 U.S.C. 1271(a)(2), govern the issuance of an imminent harm cessation order (CO). Under 30 CFR 843.11(a)(2) operating "without a valid surface coal mining permit constitutes a condition or practice which can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources * * *." Thus, OSMRE has the authority to issue an imminent harm CO to a permittee operating under such circumstances.

Nevertheless, initial proposed § 843.21 did not require, and this rule does not provide for the issuance of an imminent harm CO, but instead an NOV requiring the cessation of mining. And rather than requiring the cessation of mining immediately upon issuance of the NOV, as would have been required by the initial proposed rule, final § 843.21 requires the cessation of mining if by a specified date after the issuance of an NOV the underlying violation, penalty or fee is not abated or paid to the satisfaction of the responsible agency. Thus, a reasonable abatement period is provided.

Although an imminent harm CO and an NOV requiring the cessation of mining are similar in that both would require the cessation of mining, they differ in that they are based on different authority in the Act and are subject to different procedures with different consequences. For example, under section 518(a) of the Act and 30 CFR 845.12 a penalty for a CO is mandatory, but for an NOV may be discretionary. As provided in § 843.21(f) of this rule, no civil penalty will be assessed for an NOV issued under § 843.21.

Under section 521(a)(3) of the Act an NOV must require the permittee to abate the violation on which it is based. For the violation of operating under an improvidently issued permit, abatement may consist of either correcting the deficiency in the permit or ceasing operations.

To account for the alternative of abatement through correction of the deficiency in the permit, § 843.21 of this rule requires the cessation of mining only if the permittee does not correct the deficiency within a specified time. If the permittee does not cease mining as required under the NOV, OSMRE will issue a failure-to-abate cessation order with all of the associated consequences.

OSMRE Discretion

Several commenters said the discretion afforded to OSMRE by later proposed § 843.21(d) for the issuance of an NOV was inconsistent with enforcement actions under the regulatory program.

OSMRE disagrees. As explained in detail elsewhere in this preamble, the potential of this rule for causing economic disruption and hardship as a result of OSMRE action on an improvidently issued permit, as well as administrative considerations involved in the oversight and enforcement of a State permit, necessitate that OSMRE have reasonable discretion in imposing an appropriate remedy. As long as the purposes of the regulatory program are not compromised, it is reasonable for OSMRE to retain sufficient discretion to account for the overall effect of its action.

Meaning of "Good Cause"

One commenter on the initial proposed rule asked what OSMRE would consider good cause for a lack of State action under § 843.21(d).

Under the rule, good cause may consist of any reasonable factual or legal impediment to taking action under State program equivalents of §§ 773.20 and 773.21. As previously noted, however, good cause under § 843.21 does not include the lack of State program equivalents to §§ 773.20 and 773.21. For additional discussion of the types of circumstances which may constitute good cause under this rule, see the July 14, 1988, OSMRE final rule at 53 FR 26728.

Another commenter said that later proposed § 843.21(d) was inherently inconsistent in requiring OSMRE to determine whether a State had taken appropriate action under the State program equivalent of § 773.20, or had shown good cause for not doing so, while also providing that good cause does not include the lack of a State program equivalent to § 773.20. The commenter asked how a State could be considered as not showing good cause when it was not authorized to take such action.

Good cause does not include the lack of State program equivalents to §§ 773.20 and 773.21 because even without such specific procedures each primacy State has the power to correct errors and take remedial action on an improvidently issued State permit. Any other approach might give a State an incentive to delay the adoption of equivalent procedures, and thus decrease the effectiveness of this rule.

Modification of Revised Parker Order Procedures

Several commenters said that under the Revised Parker Order if a State does not initiate permit rescission proceedings OSMRE must issue an NOV to cause the operation to cease until all violations are abated or penalties paid. Later proposed § 843.21, the commenters said, would amend the clear action required by the Revised Parker Order, and allow the State to take "appropriate action" or show good cause why it did not do so. Referencing previous comments on the ten day notice rule and related litigation, the commenters concluded that the proposal was illegal.

OSMRE disagrees. Like §§ 773.20 and 773.21 of this rule, § 843.21 will facilitate compliance with the Act in a manner which is not unduly restrictive and which recognizes that different circumstances may necessitate different remedies. While this rule to a certain extent modifies the procedures of the Revised Parker Order, in many instances it will not interfere with the action specified by paragraph no. 3 of the order.

To the extent the rule modifies the procedures set out in paragraph no. 3 of the Revised Parker Order, it is authorized by paragraph no. 31 of the order, which provides that

[n]othing in this Order shall in any fashion limit or otherwise interfere with the authority of the Secretary of the Interior to * * * revise, amend, or promulgate new regulations under the * * * Act. Once effective, such regulations shall apply to this Order.

6. Section 843.21(e) Remedies to Notice of Violation

Upon receipt from any person of information concerning the issuance of a notice of violation (NOV) under § 843.21(d) of this rule, § 843.21(e) requires OSMRE to review the information and either vacate or terminate the NOV in appropriate circumstances.

Vacation of an NOV issued under § 843.21(d) is required if the NOV resulted from an erroneous conclusion regarding the issuance of the permit.

Termination of an NOV issued under § 843.21(d) is required if (i) the permittee or other person responsible subsequently has, to the satisfaction of the responsible agency, abated any violation or paid any penalty or fee on which the notice of violation was based; (ii) the permittee or other person responsible has filed and is pursuing a good faith appeal of the underlying violation, penalty or fee, or has entered into and is complying with an abatement plan or payment schedule to the satisfaction of the responsible agency; or (iii) subsequent to issuance of the NOV the permittee severs any ownership or control link with the person responsible for, and does not continue to be responsible for, the underlying violation, penalty or fee.

Provision for allowing any person to demonstrate that the permittee has severed his or her link with the person responsible for the violation, penalty or fee as a way to terminate an NOV issued under this rule where the permittee does not continue to be responsible for the violation, penalty or fee was added to make § 843.21(e)(2) consistent with § 773.20(b)(3), which precludes a finding of improvident issuance under similar circumstances. As previously discussed, for purposes of section 510(c) of the Act severing the link to the person responsible should have the same effect regardless of when it occurs.

Incorrect Terminology

One commenter said that the preamble to the initial proposed rule (51 FR 25827) incorrectly stated that OSMRE "could" vacate or terminate a notice of violation issued under § 843.21(c)(1)–(3) for specified reasons, when it should have said "shall," since vacation or termination was mandatory.

OSMRE agrees, and that is the correct interpretation of the word *shall* in final § 843.21(e).

7. Section 843.21(f) No Civil Penalty

Section 843.21(f) bars OSMRE from assessing a civil penalty for an NOV issued under § 843.21(d). If the permittee does not cease mining or otherwise comply by the specified date, however, OSMRE will issue a failure-to-abate cessation order (FTACO) with all of the associated consequences, including any appropriate penalty, and may use other alternative enforcement measures available under the Act.

OSMRE has adopted this provision because as a matter of policy it concludes that any penalty should derive directly from the underlying violation, penalty or fee, and not indirectly through an NOV issued to remedy an improvidently issued permit. This is consistent with section 518(a) of the Act, which does not require a penalty for every NOV, because a penalty would have been assessed where appropriate on the underlying violation.

If an FTACO is issued, however, OSMRE concludes that the failure of the permittee to comply with the NOV constitutes independent justification for any resulting penalty.

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Commenter Support for Similar Provision

One commenter on initial proposed § 773.20 said that since permit rescission was not necessarily the permittee's fault, a penalty should not be assessed for an NOV under that section. Another commenter said that an order for the cessation of operations and reclamation following permit rescission should not lead to additional penalties if complied with by the permittee.

While § 773.20 of this rule no longer provides for an NOV, the issues raised by these commenters also apply to the prohibition of a penalty under § 843.21(f). OSMRE agrees with these commenters, and has revised the later proposed and final rules accordingly.

F. Statutory Authority and General Comments

1. Statutory Authority

A number of commenters on the proposed rule said that the Act did not authorize the rescission of an improvidently issued permit or the promulgation of regulations for that purpose. Other commenters said that the Act provided such authority.

OSMRE concludes that it has the necessary statutory authority to suspend or rescind an improvidently issued permit where it is the regulatory authority, to take oversight and enforcement action on an improvidently State permit, and for this rule in general.

As noted in the preamble to the initial proposed rule (52 FR 25823), sections 201(c)(2) and 412(a) of the Act, 30 U.S.C. 1211(c)(2) and 1242(a), confer upon OSMRE broad rulemaking authority. Moreover, section 201(c)(1) of the Act, 30 U.S.C. 1211(c)(1), authorizes OSMRE to "order the *suspension, revocation,* or *withholding* of any permit for failure to comply with any of the provisions of this Act or any rules and regulations adopted pursuant thereto." (Emphasis added.)

Sections 201(c) and 510(c) of the Act, 30 U.S.C. 1211(c) and 1260(c), authorize a regulatory authority to withhold a permit from any applicant who either directly, indirectly or through a relationship of ownership or control is in violation of the Act or certain other environmental laws. The Congress could not have intended that OSMRE and State regulatory authorities would withhold a permit in accordance with these provisions from an applicant responsible for or linked to an unabated violation or delinquent penalty or fee, but do nothing to remedy a permit that was improvidently issued.

Since section 201(c)(1) covers a failure to comply with any of the provisions of the Act or its implementing regulations, it authorizes the suspension, rescission or taking of other remedial measures against a permit for a failure to comply with the permit withholding requirements of 30 CFR 773.15, or the State program equivalent. Moreover, the underlying failure to abate a violation or to pay a civil penalty or reclamation fee when due also is a "failure to comply" within the purview of this section of the Act.

As stated by the Act in section 102(a), 30 U.S.C. 1202(a), the Act was passed "to protect society and the environment from the adverse effects of surface coal mining operations." As one means to achieve this protection, the Act denies certain persons the privilege of mining. Where through fraud, mistake or otherwise, such a person improvidently is issued a permit, the regulatory authority is required by the Act to protect society and the environment by taking appropriate measures to bring the permittee into compliance. The remedial measures of this rule, with the ultimate sanctions of permit suspension and rescission, will provide an incentive for the permittee or other person responsible to abate any violation or pay any delinquent penalty or fee which should have caused the regulatory authority to withhold the permit.

Authority for this rule also is provided by sections 101, 412(a), 501(b), 504, 506, 507, 511, 518 and 701 of the Act, 30 U.S.C. 1201, 1242(a), 1251(b), 1254, 1256, 1257, 1261, 1268 and 1291.

General Authority

One commenter said that section 201(c)(1) of the Act does not provide general authority for permit suspension and revocation, but only under the circumstances set out in the specific implementing provisions of the Act. For each delegation of authority in section 201(c), the commenter said, the Act included a specific provision governing the circumstances and manner under which OSMRE may exercise that authority. Thus, the commenter concluded, the authority to order the suspension or revocation of a permit under section 201(c)(1) applied only to suspension or revocation under section 521(a)(4) of the Act for a pattern of violations.

OSMRE disagrees. There is nothing in the Act or its legislative history to support the commenter's constrained reading of section 201(c)(1).

If the Congress had intended to give section 201(c)(1) the limited scope suggested by the commenter, it would not have drafted that section as it did in far broader terms than section 521(a)(4). Section 201(c)(1) authorizes the revocation of a permit generally for a "failure to comply with any of the provisions of this Act or any rules and regulations adopted pursuant thereto." Section 521(a)(4) addresses only the limited circumstances where there exists a pattern of violations caused by the permittee, either willfully or by an unwarranted failure to comply with the Act. Since the Congress used broader language in section 201(c)(1) than it did in section 521(a)(4), OSMRE concludes that the Congress intended to give section 201(c)(1) broader scope.

Contrary to the commenter's analysis, section 201(c) is not a mere summary of the subsequent detailed provisions of the Act, but an independent mandate for OSMRE to take the specified actions in appropriate circumstances. Section 201(c)(1), like the general authority for promulgating regulations in section 201(c)(2), is prefaced by the statement, "The Secretary, acting through [OSMRE], shall * * *." (Emphasis added.) This use of the word *shall* gives section 201 independent force and effect which is not subservient to any other provision of the Act.

If the Congress had intended section 201(c) as a summary of other specific provisions, it would have introduced section 201(c) with descriptive language more like that used to set out the purposes of the Act in section 102. Since the Congress did not do so, however, but instead chose to use the term *shall,* OSMRE concludes that the Congress intended section 201(c)(1) as general authority for permit suspension and rescission for a failure to comply with the Act or its implementing regulations.

This conclusion regarding the scope of section 201(c)(1) is consistent with the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *In re: Permanent Surface Mining Regulation Litigation* (*In re: Permanent*), 653 F.2d 514 (D.C. Cir. 1981), *cert. denied,* 454 U.S. 822 (1981). There the court examined the authority of the Secretary of the Interior to require a permit applicant to submit information not specifically identified in section 507(b) of the Act, 30 U.S.C. 1257(b). In analysing the authority provided to the Secretary by section 201(c)(2) of the Act, the court said:

> Appellant urges as a proposition of administrative law that the existence of specific grants must eviscerate a general grant of rulemaking power. That proposition cannot be squared with recent Supreme Court decisions relying on general rulemaking grants to uphold rulemaking authority despite the presence of specific grants in the statutes scrutinized.

Id. at 523 (citations omitted). In view of the general rulemaking authority provided by section 201(c)(2), the court held that

> The Act's explicit listings of information required of permit applicants are not exhaustive, and do not preclude the Secretary from requiring the states to secure additional information needed to insure compliance with the Act.

Id. at 527. Thus, OSMRE may rely on section 201(c)(1) and the broad rulemaking authority provided by section 201(c)(2) to provide for the rescission of an improvidently issued permit under circumstances not specifically set out in the Act.

Notice of Violation

Initial proposed §§ 773.20 and 843.21 included a notice of violation (NOV) as a preliminary step in the permit rescission process. In this final rule, as in the later proposed rule, an NOV is included only in § 843.21, which authorizes OSMRE to issue a Federal NOV to a State permittee if the State does not take appropriate action on an improvidently issued permit or show good cause for its lack of action.

Provision for the issuance of an NOV was deleted from § 773.20 because it is not needed where the regulatory authority can directly impose on a permittee the alternative remedial measures of § 773.20(c). Where OSMRE is enforcing an improvidently issued State permit under § 843.21, however, it cannot directly impose these remedial measures and an NOV is needed if the State does not take appropriate action or show good cause for not doing so. Since OSMRE will not have issued the State permit, and thus cannot rescind it or impose the other remedial measures of § 773.20, a Federal NOV may be needed to bring the permittee into compliance with the applicable regulatory program.

A number of commenters said that the issuance of an NOV for an improvidently issued permit was not authorized by the Act. Some said that OSMRE was not authorized to issue an NOV in a primacy State, that the proposed rule was an unauthorized intrusion into State authority vested by the Act over permitting issues and decisions, and that the rule conflicted with OSMRE regulations recognizing the exclusive jurisdiction of primacy States as regulatory authorities under the Act.

Another commenter said there can be only one regulatory authority at a time in a primacy State, and before OSMRE can issue an NOV it must divest the State of primacy. The commenter said that the rule would require a permittee to meet two different requirements because OSMRE and the State were unable to agree on a single interpretation of the Act.

OSMRE disagrees. To begin with, the violation on which an NOV under § 843.21 is based is not the improvident issuance of the permit, but the permittee's continuing to operate under a permit that is not authorized by the regulatory program. Because the permittee can abate this violation by ceasing to operate or by securing abatement of the violation or payment of the delinquent penalty or fee which should have prevented the issuance of the permit, in the absence of permit rescission or another appropriate remedial measure the issuance of an NOV is a valid enforcement mechanism.

Federal authority for State program oversight and enforcement, including the issuance of a Federal NOV, is well-established. For an OSMRE statement of policy on this general issue, see 48 FR 9199 (March 3, 1983). For detailed analyses of this issue, see the OSMRE "Notice of availability of petition to initiate rulemaking and request for comment," 51 FR 27197 (July 30, 1986); the "Notice of decision on petition for rulemaking," 52 FR 21598 (June 8, 1987) (The denial of this petition with respect to Federal NOV's in primacy States is under appeal in the case of *N.C.A. v Gentile,* No. 87–2076 (D.D.C. 1987)); and the final rule on the evaluation of State responses to ten-day notices (Ten Day Notice Rule), 53 FR 26728 (July 14, 1988). OSMRE incorporates these documents by reference into this preamble.

Thus, OSMRE has the authority to issue a Federal NOV in a State where operations are conducted unlawfully under an improvidently issued State permit.

Another commenter said that OSMRE has no direct authority to interject itself into the State permitting process or to require State action, except through the substitution of Federal enforcement of the State program under section 521(b) of the Act.

OSMRE disagrees that Federal oversight and enforcement of a State program is limited to the specific process set out in section 521(b) of the Act. As discussed in detail in the previously cited references, sections 201 and 521(b) and other provisions of the Act authorize OSMRE to take the individual oversight and enforcement actions provided for in this rule.

Oversight of State Permitting Decisions

One commenter said that even assuming that OSMRE retained authority to issue a Federal NOV in a primacy State, that authority did not extend to enforcement action resulting from OSMRE reevaluation of a State permitting decision. Where a State does not take appropriate action on an improvidently issued permit, the commenter said, OSMRE must either appeal the State decision to issue the permit or initiate Federal enforcement under section 521(b) of the Act.

The commenter said that to read section 521 of the Act as authorizing Federal oversight of individual State permitting decisions disregarded the Federalist scheme of the Act which granted primacy States exclusive jurisdiction to administer and enforce their programs. Citing case law and statutory authority which authorized another agency to veto individual permits, the commenter concluded that OSMRE did not have similar authority, and that primacy States retained complete independence in individual permitting decisions.

OSMRE disagrees. The enforcement provisions of § 843.21 of this rule are in accordance with section 521 of the Act, which provides for Federal enforcement where a State does not take appropriate enforcement action, and section 201(c)(1) of the Act, which gives to the Secretary of the Interior acting through OSMRE broad powers to suspend, revoke or withhold any permit for noncompliance with the provisions of the Act or its implementing regulations. The noncompliance in this instance is both the act of operating under an improvidently issued permit and the underlying noncompliance by the permittee or those owning or controlling the permittee.

Another commenter cited the case of *Haydo v. Amerikol Mining, Inc.,* 830 F.2d 494 (3rd Cir. 1987), to support its contention that the rule was an unauthorized intrusion into the State permitting process. The portion of *Haydo* relied on by the commenter states that

> In the SMCRA, the state is expressly offered "exclusive" jurisdiction to enforce its regulatory program. We have encountered nothing in the statute or the legislative history which leads us to believe that anything other than the ordinary meaning of "exclusive" was intended by the enactors of the SMCRA.

Id. at 497. Citing *In re: Permanent,* 653 F.2d at 519, the commenter said that the decision in *Haydo* followed the views of the U.S. District Court for the District of Columbia that "permit decisions are matters of state jurisdiction in which the Secretary plays no role."

OSMRE disagrees, both with the commenter's characterization of the rule as an intrusion into the State permitting

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process, and that these out-of-context quotations, or the decisions themselves, diminish the legal authority for this rule.

This rule does not improperly intrude into or displace State permitting responsibilities, nor does it in any way modify the permit issuance process. In primacy States, the States themselves will continue to issue and revise permits. Section 773.20 of the rule establishes minimum national standards for State regulatory authorities to implement for dealing with an improvidently issued State permit. State regulatory authorities will suspend, revoke or take the other remedial measures of this rule against an improvidently issued State permit following corresponding State program amendments.

This rule does not authorize OSMRE to take any action that would interfere with State permitting activities. Section 843.21 requires OSMRE to request that the State regulatory authority take the lead role in curing a defective permit. Only where a State does not demonstrate that it has acted appropriately, or show good cause for not doing so, will OSMRE take action.

OSMRE oversight action in such circumstances will not include suspension or rescission of the State permit, a "permitting" action, but instead may include the issuance of a notice of violation, an enforcement action. This limited Federal role is intended to respect the lead role assumed by the States in administering State programs.

With respect to the court decisions cited by the commenter, neither addresses the scope of section 201(c)(1) of the Act, which provides authority for this rule. The sentence from *In re: Permanent*, which the commenter quoted only in part, begins with the qualifying phrase, "Administrative and judicial appeals * * *," which significantly limits its scope. *Id.* at 519. This is consistent with the prior statement of the court in the same decision that

> [o]ur inquiry is narrow. We are called upon to determine only whether the Secretary has rulemaking authority to require that permit applicants submit any items of information beyond those enumerated in the Act.

Id. at 517 (latter emphasis in original, footnote omitted). As noted previously, the court held that section 201(c)(2) of the Act provided authority for requesting information not specifically enumerated in Title V of the Act.

And contrary to the commenter's broad reading, *Haydo* involved the limited procedural

> Question of whether there is subject matter jurisdiction in the federal district court to hear a claim for damages arising from an alleged violation [of the Act] by an operator * * * where a state has submitted and the Secretary of the Interior has approved a program for state regulation as contemplated by the Act.

Haydo, 830 F.2d at 495.

Because *Haydo* concerns a citizen's suit brought under section 520 of the Act, it does not address the Secretary's enforcement responsibilities under section 521 of the Act. The word *"exclusive,"* which the court in *Haydo* quotes, appears in section 503 of the Act, which contains an exception for OSMRE actions under section 521. This exception was not relevant in *Haydo*, but is relevant to and supports this rule.

In view of their limited applicability, neither of these court decisions cited by the commenter supports any limitation on OSMRE authority for adopting this rule.

Good Faith Reliance

One commenter said that the Act did not authorize permit rescission or other enforcement action for a mistake made by a regulatory authority where the permittee was operating in good faith reliance on the regulatory authority's own findings. Another commenter said that where a permit was improvidently issued any responsibility for that occurrence rested with the State regulatory authority and not the permittee.

OSMRE disagrees. Since section 201(c)(1) of the Act uses the term "a failure" generally, without regard to cause, it authorizes the revocation of a permit regardless of whether ultimate responsibility for noncompliance with section 510(c) of the Act in issuing a permit lies with the permittee, the regulatory authority, or some third party, and regardless of any subsequent good-faith reliance on the part of the permittee.

As noted in the preceding discussions of §§ 773.20 and 773.21, however, OSMRE recognizes that under this rule a potential exists for adversely affecting permittees who otherwise are complying with the regulatory program. To limit that potential, while at the same time ensuring that serious violations are abated and delinquent penalties and fees are paid, § 773.20(b) includes carefully selected criteria governing the circumstances under which a regulatory authority may find that a permit was improvidently issued; § 773.20(c) includes alternative remedial measures which will enable a regulatory authority to respond in a manner consistent with those circumstances; and § 773.21 includes a number of safeguards to protect the legitimate interests of the permittee in the rescission process.

Given these features, this rule strikes a reasonable balance between the rights of permittees and the benefits to be derived from abating violations and collecting delinquent penalties and fees associated with improvidently issued permits.

Permit Rescission vs. Revocation

Several commenters said that the Act did not authorize rescission of a permit, only revocation.

OSMRE disagrees. Although section 201(c)(1) of the Act uses the term *revocation* and not *rescission*, these two terms are equivalent.

To differentiate between the revocation of a permit for reasons that existed at the time of permit issuance, and revocation for reasons that subsequently arose, OSMRE applies the term *rescind* to the former and *revoke* to the latter. In either case the ultimate effect of rescission or revocation is identical—the loss of the permit—and the choice of different terms for each is simply a matter of administrative convenience.

Revision of Federal and State Programs

One commenter said that the proposed rule would revise existing State and Federal programs, a result which was not authorized by the sections of the Act cited in the preamble to the initial proposed rule. Another commenter said that until a State amended its regulatory program or OSMRE amended the Federal program for a State, OSMRE had no authority to implement in a particular State the permit rescission process set out in initial proposed §§ 773.20 and 843.21.

As one commenter correctly pointed out, however, section 504 of the Act, 30 U.S.C. 1254, provides specific authority for the promulgation of a Federal program. Likewise, section 504 authorizes OSMRE to revise a Federal program. Thus, to the extent this rule revises Federal programs it is authorized by section 504 of the Act.

As stated in the preamble to the initial proposed rule (51 FR 25827) and in this preamble under the subsequent headings, III. Procedural Matters, Effect in Federal Program States and on Indian Lands, this rule will apply through cross-referencing to the Federal program States. Thus, no further action is needed to incorporate its requirements into Federal programs.

Contrary to the commenters' assertions, this rule does not revise any State program. While § 843.21 refers to "the State program equivalents of §§ 773.20 and 773.21," this rule does not establish any such equivalents, which must be done, where appropriate, in accordance with the procedures set out at 30 CFR 732.17.

Nor does § 843.21 implement in any State program a permit rescission process. While initial proposed § 843.21 was predicated on a State not taking appropriate action under proposed § 772.20(b), and thus appeared to require State compliance with that section, later proposed and final § 843.21 require a State to take appropriate action under the State program equivalents of §§ 773.20 and 773.21.

Finally, § 843.21 does not include procedures for permit suspension or rescission, either at the State or Federal level. Section 843.21 only authorizes OSMRE to impose appropriate remedial measures, including the issuance of an NOV, if a State does not have and does not take appropriate action under State program equivalents of §§ 773.20 and 773.21. Under this rule, only a State may suspend or rescind an improvidently issued State permit.

Need for Inspection

One commenter said that OSMRE authority to issue an NOV generally is predicated on the outcome of a Federal inspection. Thus, for example, the ten-day notice procedures of existing § 843.12(a)(2) came into play "on the basis of any Federal inspection other than one described in paragraph (a)(1) of this section."

OSMRE disagrees. The basis for an NOV is a determination by the regulatory authority that a violation exists, which need not come about as a result of an actual on-site review.

Applicant Information

One commenter said that to the extent initial proposed § 773.20(a)(1) requested information on parties who own or control the applicant it exceeded the authority provided by section 510(c) of the Act.

Neither initial proposed § 773.20(a)(1) nor its final counterpart directly require a permittee to provide any information. The requirements of § 773.20 apply where a regulatory authority has information which gives it reason to believe that it improvidently issued a surface coal mining and reclamation permit. Section 773.20 does not, however, require the permittee to submit any additional information.

2. Relationship to OSMRE Rule on Ownership and Control

Several commenters said that it was not appropriate to propose this rule until after OSMRE published the final ownership and control rule. Some said it was not possible to comment adequately on the proposed rule in the absence of that final rule. Some suggested that OSMRE extend the comment period on the rule until ninety days after the ownership and control rule was promulgated.

OSMRE disagrees, and declined to adopt the commenters' suggestion. Although this rule relates to the concurrently proposed ownership and control rule, for which the final rule was published by OSMRE on October 3, 1988 (53 FR 38868), it does not depend on the specific wording of that rule.

Moreover, the commenters on the August 4, 1988, later proposed rule had the benefit of the last proposal for the ownership and control rule, published on October 5, 1987 (52 FR 37164). Based on the comments received, it is evident that even without the final ownership and control rule interested persons were able to submit focused and meaningful comments on this rule.

One commenter, who had read the preamble to the initial proposed rule as indicating that OSMRE intended to apply the definitions in the final ownership and control rule retroactively, said that the later proposed rule appeared to address this objection, but fell short of resolving the problem completely. The commenter said that the ownership and control criteria set out in the rule did not reflect the date when the underlying violations review criteria became effective in a particular regulatory program.

Citing *United States v. Shelton Coal Corp.*, 829 F.2d 1336, 1339–40 (4th Cir. 1987), the commenter said that operators reasonably relied on the rules in force at the time of permit issuance, and applying a different standard would be unfair and unconscionable. Thus, the commenter concluded, the rule should apply a particular violations review criterion only after it was included in the regulatory program.

OSMRE appreciates the commenter's concern, which is one reason why it published the later proposed rule. As stated in the preceding discussion of § 773.20, this rule applies only to those ownership and control links covered by the applicable regulatory program at the time the permit was issued.

To the extent the commenter may have cited the decision in *Shelton* as precedent for the position that OSMRE lacks authority to adopt a rule requiring the suspension or rescission of permits issued prior to its effective date, OSMRE disagrees that the decision has any bearing on this issue. In *Shelton*, which concerned the liability of an operator under the approved Virginia State program for the payment of reclamation fees, the court said

> [t]here was a basis for * * * reasonable reliance, upon Virginia's exemption, and Virginia's interpretation of the statute was a rational one. There was no indication that the interpretation contravened any federal rule.

Id. at 1339. In the case of an improvidently issued permit, however, there is no corresponding basis for a permittee's reliance on noncompliance with the requirements of section 510(c) of the Act, which directly contravenes the related Federal and State procedures.

3. The Rule is Not Retroactive

Several commenters on the initial proposed rule were opposed to its alleged retroactive application. The commenters said that while some operators temporarily would escape action as a result of not applying the rule to existing permits, this would avoid a tendency of the regulatory authority to reexamine every previously issued permit application, which would cause chaos in the regulated community.

The commenters, concerns are not well-founded. This rule is targeted only at improvidently issued permits, and is not intended to disrupt any permittee operating under a permit that was validly issued.

In response to commenter concern over retroactive application of the initial proposed rule, the later proposed rule included several alternatives. One commenter said that these alternatives should not be considered because they would provide for the rescission of permits properly issued under the regulatory program.

OSMRE is sensitive to such concerns over changes in regulatory program standards after permit issuance. This rule requires no remedial action against a permit that was properly issued in accordance with the regulatory program in effect at the time the permit was issued.

The same commenter said that permit rescission should apply only to permits issued after the effective date of the rule or any corresponding State program amendments. The commenter said that numerous permanent program permits have been issued for ongoing operations, and it would not be fair to subject them to rescission through retroactive application of the rule.

OSMRE disagrees that the rule as adopted is retroactive. This rule does not change any permitting standard, either retroactively or prospectively, but requires the regulatory authority to apply the violations review criteria of

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the regulatory program at the time of permit issuance in determining the current violations review status of a permit. It will not affect any permit for which a previous violations review defect has been corrected or otherwise has ceased to exist.

The rule will apply prospectively to existing Federal permits, and to State permits whenever consistent regulations are approved as amendments to State regulatory programs. *The rule will operate only with respect to violations, penalties and fees that remain outstanding.* Violations may be abated at any time, and once abated their past existence will not result in any proceedings under this rule. Thus, the rule recognizes the commenter's concern and enables the permittee to legitimize activities under an improvidently issued permit through abatement of the underlying violation or payment of the delinquent penalty or fee.

III. Procedural Matters

Effect in Federal Program States and on Indian Lands

Sections 773.20 and 773.21 of this rule will apply, through cross-referencing, to the following Federal program States: California, Georgia, Idaho, Massachussetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee and Washington. The Federal programs for these States appear at 30 CFR Parts 905, 910, 912, 921, 922, 933, 937, 939, 941, 942 and 947, respectively. No comments were received concerning unique conditions in any of these States which would require changes to the national rules or to any of the Federal programs.

The same sections of this rule also will apply, through cross-referencing at 30 CFR Part 750, to surface coal mining and reclamation operations on Indian lands.

By its own terms, § 843.21 of this rule does not apply to Federal program States or on Indian lands, but only to those States with State programs.

Federal Paperwork Reduction Act

This rule contains no information collection requirements, and thus does not require Office of Management and Budget approval under 44 U.S.C. 3501 *et seq.*

Executive Order 12291

The Department of the Interior has examined this rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis.

This rule will impose only minor costs on the coal industry and coal consumers. It will not impose any significant new regulatory burden on operators because it does not change the existing permitting obligations of OSMRE, State regulatory authorities, permit applicants, and operators, but provides regulatory authorities with supplemental procedures for ensuring that operators are in full compliance with existing regulations.

Thus, this rule should not add appreciably to the cost of operating a mine in compliance with an approved regulatory program.

Regulatory Flexibility Act

For the reasons discussed in the previous paragraph, the Department of the Interior also has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this rule will not have a significant economic impact on a substantial number of small entities.

Some initial commenters said that OSMRE did not comply with the Regulatory Flexibility Act in proposing this rule. Others said that OSMRE did not comply with Executive Order 12291. They said that the proposed rule would make it more difficult for United States-based industry to meet foreign competition, and would impose major new costs on the coal industry and on consumers. Another commenter said that the rule would reduce the number of jobs in the surface coal mining industry.

OSMRE disagrees. Executive Order 12291 and the Regulatory Flexibility Act were complied with in promulgating the rule. This rule imposes no new regulatory burden on operators, and will not affect the ability of United States-based industry to compete with foreign operators, nor will it add to the costs of industry or of consumers. OSMRE analyzed the effect of this rule on jobs, small entities, and on other economic factors, and found that it will have only minimal effect, if any.

OSMRE also considered possible significant economic effects on small entities—those operators whose surface and underground coal production does not exceed 100,000 tons annually. Because this rule imposes no direct regulatory burden on operators, the effect of the rule will not be major, and it should have little or no economic effect on small entities who otherwise are in compliance with the Act.

Executive Order 12612

In accordance with section 6(b) of Executive Order 12612, OSMRE has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

One commenter said that the later proposed rule conflicted with OSMRE regulations recognizing the exclusive jurisdiction of primacy States as regulatory authorities, and failed to satisfy the agency's obligations under Executive Order 12612 regarding federalism principles.

OSMRE disagrees. The rule fully recognizes and is consistent with the primary role of State regulatory authorities in administering and enforcing State regulatory programs. The rule does nothing to alter any State program requirement in force at the time of permit issuance. In keeping with the Federalism principles embodied in the Act, the rule gives a State a reasonable opportunity to take appropriate action on an improvidently issued permit.

As discussed elsewhere in this preamble, this rule does not unnecessarily intrude into activities delegated to States, but facilitates the Secretary's mandatory role in the oversight of State regulatory programs as required by the Act.

National Environmental Policy Act

OSMRE has prepared an environmental assessment (EA) and has made a finding (FONSI) that this rule will not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The rule should result in better compliance with the environmental standards of the Act, and therefore result in enhanced protection of the environment.

The EA and FONSI are on file in the OSMRE Administrative Record at the address specified previously (see "**ADDRESSES**").

Author

The author of this rule is Albert A. Kashinski, Division of Surface Mining, Office of the Solicitor, U.S. Department of the Interior, Washington, DC 20240.

List of Subjects

30 CFR Port 773

Administrative practice and procedure, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 843

Administrative practice and procedure, Coal mining, Law enforcement, Reporting requirements, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 773 and 843 are amended as follows:

Date: November 7, 1988.

James E. Cason,

Acting Assistant Secretary—Land and Minerals Management.

PART 773—REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

1. The authority citation for Part 773 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, 16 U.S.C. 470 *et seq.*, 16 U.S.C. 1531 *et seq.*, 16 U.S.C. 661 *et seq.*, 16 U.S.C. 703 *et seq.*, 16 U.S.C. 668a *et seq.*, 16 U.S.C. 469 *et seq.*, 16 U.S.C. 470aa *et seq.*, and Pub L. 100-34.

2. Section 773.20 is added to read as follows:

§ 773.20 Improvidently issued permits: General procedures.

(a) *Permit review.* A regulatory authority which has reason to believe that it improvidently issued a surface coal mining and reclamation permit shall review the circumstances under which the permit was issued, using the criteria in paragraph (b) of this section. Where the regulatory authority finds that the permit was improvidently issued, it shall comply with paragraph (c) of this section.

(b) *Review criteria.* A regulatory authority shall find that a surface coal mining and reclamation permit was improvidently issued if:

(1) Under the violations review criteria of the regulatory program at the time the permit was issued:

(i) The regulatory authority should not have issued the permit because of an unabated violation or a delinquent penalty or fee; or

(ii) The permit was issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation, but a cessation order subsequently was issued; and

(2) The violation, penalty or fee:

(i) Remains unabated or delinquent; and

(ii) Is not the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; and

(3) Where the permittee was linked to the violation, penalty or fee through ownership or control, under the violations review criteria of the regulatory program at the time the permit was issued an ownership or control link between the permittee and the person responsible for the violation, penalty or fee still exists, or where the link was severed the permittee continues to be responsible for the violation, penalty or fee.

(c) *Remedial measures.* A regulatory authority which, under paragraph (b) of this section, finds that because of an unabated violation or a delinquent penalty or fee a permit was improvidently issued shall use one or more of the following remedial measures:

(1) Implement, with the cooperation of the permittee or other person responsible, and of the responsible agency, a plan for abatement of the violation or a schedule for payment of the penalty or fee;

(2) Impose on the permit a condition requiring that in a reasonable period of time the permittee or other person responsible abate the violation or pay the penalty or fee;

(3) Suspend the permit until the violation is abated or the penalty or fee is paid; or

(4) Rescind the permit under § 773.21 of this part.

3. Section 773.21 is added to read as follows:

§ 773.21 Improvidently issued permits: Rescission procedures.

A regulatory authority which, under § 773.20(c)(4) of this part, elects to rescind an improvidently issued permit shall serve on the permittee a notice of proposed suspension and rescission which includes the reasons for the finding of the regulatory authority under § 773.20(b) of this part and states that:

(a) *Automatic suspension and rescission.* After a specified period of time not to exceed 90 days the permit automatically will become suspended, and not to exceed 90 days thereafter rescinded, unless within those periods the permittee submits proof, and the regulatory authority finds, that:

(1) The finding of the regulatory authority under § 773.20(b) of this part was erroneous;

(2) The permittee or other person responsible has abated the violation on which the finding was based, or paid the penalty or fee, to the satisfaction of the responsible agency;

(3) The violation, penalty or fee is the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; or

(4) Since the finding was made, the permittee has severed any ownership or control link with the person responsible for, and does not continue to be responsible for, the violation, penalty or fee;

(b) *Cessation of operations.* After permit suspension or rescission, the permittee shall cease all surface coal mining and reclamation operations under the permit, except for violation abatement and for reclamation and other environmental protection measures as required by the regulatory authority; and

(c) *Right to appeal.* The permittee may file an appeal for administrative review of the notice under 43 CFR 4.1280–4.1286, or the State program equivalent, but where OSMRE is the regulatory authority the procedures of 43 CFR 4.21(a) shall not apply to suspend the effect of the notice.

PART 843—FEDERAL ENFORCEMENT

4. The authority citation for Part 843 continues to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, and Pub. L. 100-34.

5. Section 843.13 is amended by revising the heading to read as follows:

§ 843.13 Suspension or revocation of permits: Pattern of violations.

6. Section 843.21 is added to read as follows:

§ 843.21 Procedures for improvidently issued State permits.

(a) *Initial notice.* If OSMRE has reason to believe that a State surface coal mining and reclamation permit meets the criteria for an improvidently issued permit in § 773.20(b) of this chapter, or the State program equivalent, and the State has failed to take appropriate action on the permit under State program equivalents of §§ 773.20 and 773.21 of this chapter, OSMRE shall issue to the State, and should provide to the permittee, an initial notice stating in writing the reasons for that belief.

(b) *State response.* Within thirty days of the date on which an initial notice is issued under paragraph (a) of this section, the State shall demonstrate to OSMRE in writing either that:

(1) The permit does not meet the criteria of § 773.20(b) of this chapter, or the State program equivalent; or

(2) The State is in compliance with the State program equivalents of §§ 773.20 and 773.21 of this chapter.

(c) *Ten-day notice.* If OSMRE finds that the State has failed to make the demonstration required by paragraph (b) of this section, OSMRE shall issue to the State a ten-day notice stating in writing the reasons for that finding and requesting that within ten days the State take appropriate action under the State

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program equivalents of §§ 773.20 and 773.21 of this chapter;

(d) *Federal enforcement.* After ten days from the date on which a ten-day notice is issued under paragraph (c) of this section, if OSMRE finds that the State has failed to take appropriate action under the State program equivalents of §§ 773.20 and 773.21 of this chapter, or to show good cause for such failure, OSMRE shall take appropriate remedial action. Such remedial action may include the issuance to the permittee of a notice of violation requiring that by a specified date all mining operations shall cease and reclamation of all areas for which a reclamation obligation exists shall commence or continue unless, to the satisfaction of the responsible agency, any violation, penalty or fee on which the notice of violation was based is abated or paid, an abatement plan or payment schedule is entered into, or any ownership or control link with the person responsible for the violation, penalty or fee is severed and the permittee does not continue to be responsible for the violation, penalty or fee. Under this paragraph, good cause shall not include the lack of State program equivalents of §§ 773.20 and 773.21 of this chapter.

(e) *Remedies to notice of violation.* Upon receipt from any person of information concerning the issuance of a notice of violation under paragraph (d) of this section, OSMRE shall review the information and:

(1) Vacate the notice of violation if it resulted from an erroneous conclusion under this section; or

(2) Terminate the notice of violation if:

(i) The permittee or other person responsible has, to the satisfaction of the responsible agency, abated any violation or paid any penalty or fee on which the notice of violation was based;

(ii) The permittee or other person responsible has filed and is pursuing a good faith appeal of the violation, penalty or fee, or has entered into and is complying with an abatement plan or payment schedule to the satisfaction of the responsible agency; or

(iii) Since the notice of violation was issued, the permittee has severed any ownership or control link with the person responsible for, and does not continue to be responsible for, the violation, penalty or fee;

(f) *No civil penalty.* OSMRE shall not assess a civil penalty for a notice of violation issued under this section.

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